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Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Wednesday, July 30, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, give us strength to fulfill our high calling to serve Thee in the present age. May we cherish all that is holiest in heritage and welcome all that is healthiest in innovation. Help us to treasure the wisdom of the past but also be ready for new revelations of Thy will for the future. Keep us so close to Thee that we may ever be alert to the promptings of Thy spirit and never be surprised or trapped by evil powers. Give Thy servants in this body the resources sufficient for their tasks. Grant them the individuality which is creative, the discipline which sustains, the diversity which enriches, and the unity of purpose which accomplishes Thy will for this Nation and the world.

We pray in the name of Him who came to be the servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 30, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

THE JOURNAL

Mr. PROXMIRE. Mr. President, first, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SECOND CHRYSLER LOAN GUARANTEE IS HIGHLY MARGINAL

Mr. PROXMIRE. Mr. President, on July 15, the Chrysler Corporation Loan Guarantee Board approved a commitment to provide up to $300 million in additional guarantees to the Chrysler Corp. At the same time, the Board sent to the Committee on Banking, Housing, and Urban Affairs, which I have the honor to chair, and the other appropriate committees of the Congress a report of the determinations it is required to make pursuant to the Chrysler Loan Guarantee Act.

Under the provisions of the act, Congress has 15 days to consider this report before any guarantees can be issued. The 15-day period lapses today, and I understand that the Loan Guarantee Board has scheduled a meeting for tomorrow, Thursday, July 31, to formally issue the guarantees.

It will come as no surprise to my colleagues that the Board is giving these additional guarantees. After all, the Federal Government already has $500 million tied up in Chrysler—the first installment of guarantees issued just a month ago, on June 24. With so much Government money already at risk, it is inevitable that the Board will turn somersaults and go through contortions to pump in enough money to keep the company afloat.

Nonetheless, Mr. President, I should point out that the July 15 report has a far more negative tone than the two reports issued in connection with the first guaranteed loan. A few quotes will convey the air of melancholy that pervades this latest report.

While reaffirming the determination that Chrysler is viable, the report states on page 13 that:

> The judgment is now a much closer and more marginal one.

It goes on to note that:

> Since May 10 (when the first guarantee was approved), certain of the risks previously identified have materialized, additional risks have been identified, and projected earnings and financial reserves have decreased.

Since the decision on the first loan guarantee was painfully marginal, this is not heartening. Nor am I reassured by the statement on page 24 that—

> Although Chrysler's situation has worsened since May 10, there is a rational basis on which the Board may conclude that the company still has a reasonable prospect of continuing as a going concern in the automobile business.

Let me repeat the key words:

> A rational basis on which the Board may conclude that there still is a reasonable prospect of viability.

Mr. President, that is hardly a resounding vote of confidence. Indeed, a careful reading of the Board's report shows strong evidence for reaching the opposite conclusion. There is a very rational basis for deciding that Chrysler is not likely to make it and thus should not get more guarantees from the Federal Government. Consider the following points, taken directly from the July 15 report:

Chrysler's own estimate of its 1980 loss has risen to $1.039 billion, and its profit projections for 1981–83 have also been reduced. Both the Board and Chrysler's own consultants, Booz Allen & Hamilton, have estimated still higher 1980 losses—over $1.2 billion—which is even more than the disaster year of

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

1979, before the Federal Government stepped in.

Mr. President, I ask unanimous consent that a table prepared by the Banking Committee staff be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CHRYSLER PROFIT AND LOSS PROJECTIONS, 1979–85

[Net earnings/(loss) in millions of dollars]

Chrysler plan date	1979	1980	1981	1982	1983	1984	1985
Oct. 17, 1979	(1,073)	(482)	393	516	610	867	996
Dec. 17, 1979	(1,973)	(493)	370	772	557	856	950
Feb. 27, 1980	NA	(473)	373	811	649	NA	NA
Apr. 17, 1980	NA	(746)	340	741	580	NA	NA
Apr. 28, 1980	(1,102)	(746)	330	695	434	NA	NA
Revised in accordance with the Loan Guarantee Board's determinations as of May 10, 1980	[1] (1,097)	[1] (1,051)	[1] 125	[1] 431	[1] 135	NA	NA
July 10, 1980	(1,097)	(1,039)	247	575	284	799	914
Revised in accordance with the Loan Guarantee Board's determinations of July 15, 1980	[1] (1,097)	[1] (1,225)	[1] 78	[1] 508	[1] 21	[1] 482	1,025

[1] Includes risk identified by Chrysler Corp. Loan Guarantee Board in making determinations pursuant to the act.

Mr. PROXMIRE. That table shows Chrysler's profit and loss projections over time, and it indicates that Chrysler's outlook has deteriorated steadily since the submission of the October 17, 1979, document which formed the basis of the Loan Guarantee Act deliberations. Estimated 1980 losses have almost tripled during this period, while a once-healthy 1981 profit has virtually dwindled away. Post-1981 figures are probably less reliable, but they also show generally negative trends. I really wonder how the Board can conclude that Chrysler is likely to continue as a going concern when the profit and loss projections started out bad and have progressed steadily downward.

Another negative trend shown in the July 15 report concerns the usage and repayment of the Federal guarantees, which are authorized in an amount of up to $1.5 billion. Chrysler's April 28 plan showed it using a maximum of $700 million in guarantees and repaying them in full by 1982.

The Board's May 10 report then raised the estimate to $1.1 billion, to be repaid by 1984. Now, in the July 15 report, the Board is showing as much as $1.2 billion in guarantees which will not be repaid until 1986. This all means increased risk and financial exposure for the Federal Government.

Moreover, it raises the specter of further increases and possibly requests for additional guarantees beyond the $1.5 billion.

The Board's report pinpoints the reason for these negative developments, which is—not surprisingly—that Chrysler cannot sell enough of its cars. Part of this is due to the decline in the U.S. automobile market generally.

But it is also true that Chrysler's share of the market is running lower than projected, indicating a further weakening in the market appeal of Chrysler products. Not only is Chrysler having trouble selling its larger rear-wheel-drive models, but the July 15 report identifies a new risk:

> Market demand for Chrysler's Omni-Horizon line has weakened and the inventory levels of these cars have increased.

This is an especially disturbing development, since the Omnis and Horizons have previously sold well and since they are the only domestic-made vehicles Chrysler sells which meet the current demand for fuel-efficient front-wheel-drive cars. It raises serious questions about the prospective market demand for Chrysler's new K-cars coming out in the fall, which are the key to the company's survival.

Mr. President, the points I have noted are just the major problems cited by the Chrysler Loan Guarantee Board. There are a number of other problems identified in the July 15 report. These include the declining value of the assets securing the guaranteed loans, the uncertainties surrounding the continued importation of Mitsubishi cars sold under the Chrysler label, and the apparent reluctance of dealers and suppliers and others to come up with the necessary amounts of non-Federal aid.

It is particularly interesting to see that Booz Allen & Hamilton, long-time consultants to Chrysler—and, of course, paid by Chrysler—are also striking a more pessimistic note. The Board's report points out that in its draft opinion of July 14, Booz Allen questions Chrysler's future viability in the absence of major further restructuring of its operations. In its earlier opinions, Booz Allen indicated that Chrysler could reasonably expect to achieve viability on the basis of its current plans. Let me quote from the July 14 draft:

> In summary, assuming a recovery in the market and in Chrysler's penetration, the present Operating Plan could give the Company a reasonable prospect of viability. The risks that industry sales and Chrysler market share in 1980 and 1981 will not recover are considerable. To take account of those, the Company is preparing a plan for a substantial restructuring of its operations. In our judgment, the high level of these risks make this essential.

Mr. President, one could well ask why—with the signs all saying "stop"—did the Loan Guarantee Board decide to go full speed ahead with more guarantees to Chrysler? There are two simple answers, as I see it: politics and pious hopes.

As regards the politics, the Board clearly sees its role as being to get the money to Chrysler on whatever terms it can best negotiate, regardless of whether these meet all of the requirements of the law or the standards of financial prudence. This view is reflected in the following statement taken from the July 15 report:

> (The Act) calls for a reasonable prospect of viability, not that it be assured or guaranteed. Congress clearly viewed Chrysler as a turnaround situation as to which normal credit standards applicable to the private sector were not to be used exclusively.

The pious hopes revolve around the new K-car, Chrysler's last best hope. In determining Chrysler's viability, the Board determined that the K-cars will go like hotcakes—that Chrysler can sell all it can make at a good profit. This could happen, but the fact is that Chrysler will face stiff competition from GM's X-cars and from new Ford and GM models coming on line, as well as from imports. The decline in sales of the Omni-Horizon identified by the Board raises doubts about the future sales of the K-car which the Board views with such optimism.

Mr. President, Chrysler may make it, but this is becoming more and more doubtful over time. The Loan Guarantee Board's report makes this abundantly clear, to the point where one has to question its approval of this next loan guarantee to Chrysler. We run a substantial risk here of throwing good money after bad, as Chrysler's problems mount and its financing needs increase.

I have written a letter to the Secretary of the Treasury, who is Chairman of the Loan Guarantee Board, raising the points made in this statement and asking for further information prior to the issuance of this second guarantee. I ask unanimous consent that a copy of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, D.C., July 24, 1980.

Hon. G. WILLIAM MILLER,
Chairman, Chrysler Corporation Loan Guarantee Board, U.S. Department of the Treasury, Washington, D.C.

DEAR MR. CHAIRMAN: The July 15 report of the Chrysler Corporation Loan Guarantee Board, transmitted in connection with the planned issuance of up to $300 million in additional loan guarantees to the Chrysler Corporation, raises a number of disturbing questions.

The crux of the report is that the judgment as to whether the company is viable is now "a much closer and more marginal one." Since I found the previous viability determinations rather marginal, my confidence is not bolstered by the statement that "although Chrysler's situation has worsened since May 10, there is a rational basis on which the Board may conclude that the company still has a reasonable prospect of continuing as a going concern in the automobile business." A careful reading of the Board's report yields substantial evidence to support a rational conclusion that Chrysler may not be viable and thus ought not to qualify for further guarantees.

As Chairman of the Committee on Banking, Housing and Urban Affairs, which has jurisdiction over the Chrysler loan guarantee program, I believe that the Committee has a continuing responsibility to oversee the program and to make certain that the requirements of the Act are met. Accordingly, I would appreciate your responding to the following questions prior to the issuance of any additional loan guarantees to Chrysler.

The first question concerns Chrysler's profit and loss projections, which have grown steadily worse over time. As noted in the Board's report, Chrysler's own estimate of its 1980 loss has increased to $1.039 billion, while both the Board and Chrysler's consultants, Booz Allen & Hamilton, state that the loss could run to over $1.2 billion, which would be higher than the losses in the disaster year of 1979.

Further scrutiny of Chrysler's profit and loss projections, as shown in the attached chart, indicates that Chrysler's situation has deteriorated steadily since the submission of the October 17, 1979 document which formed the basis of the Loan Guarantee Act deliberations.

Projected 1980 losses have almost tripled during this time period, while a once healthy 1981 profit has virtually dwindled away. Post-1981 figures are probably less reliable but they also show some generally negative trends. I request that the Board examine these profit and loss figures and provide the Committee with more detailed information as to how it can conclude that Chrysler is likely to continue as a going concern when these indicators were bad to begin with and have progressed steadily downward.

A second question relates to the usage and repayment of the $1.5 billion in guarantees authorized under the Act. The Board's report shows negative developments in this area which involve increased risk and financial exposure for the Federal Government.

Chrysler's April 28 Plan called for a maximum of $700 million in guarantees as of the third quarter of 1980, to be reduced to $500 million in the following quarter and repaid in full by 1982.

The Board's May 10 report raised the estimate of guarantees to be used to $1.1 billion and said they would be repaid by 1984. Now the July 15 Board report shows up to $1.2 billion in guarantees which will not be repaid until 1986. To what extent do these projected increases in guarantee usage and repayment period cast further doubts on the company's viability, and what is the likelihood that further increases will be needed?

A third question concerns the disturbing trends in the market demand for Chrysler products. Not only are sales of Chrysler's rear wheel drive vehicles lagging behind the Base Case I projections, but the Board's report also identifies a new risk in that "market demand for Chrysler's Omni-Horizon line has weakened and the inventory levels of these cars have increased."

Since these models have previously sold well and since they are the only domestic-made vehicles Chrysler sells which respond to the current market demand for fuel-efficient front-wheel-drive cars, the decline in market demand for Omnis and Horizons raises serious questions about the prospective demand for the new K-cars coming out in the fall which are the key to Chrysler's survival.

The case made by the Board for determining that Chrysler will continue as a going concern rests largely on the assumption that the demand for K-Cars will be strong and that Chrysler can sell all it can make at a good profit, despite increased competition from GM and Ford as well as from imports.

Thus it is important for the Committee to receive from the Board a detailed assessment as to what extent the decline in Omni-Horizon sales represents a shift in consumer demand and to what extent it is a result of the recession which has cut into automobile sales generally. This would involve a comparison with sales of other small car models, both domestic and foreign, over the past year or so and how these sales have been affected by the recession.

A fourth question concerns the liquidation value of the assets placed in the collateral pool as security for the guaranteed loans. The value of this collateral pool appears to be decreasing as the amount of guaranteed loans is increasing, which is not an encouraging development.

According to the Board's July 15 report, the value was estimated at $2.4 billion on May 10, and at $2.1 billion on the June 24 closing date of the first takedown, and is now estimated at about $2 billion on the eve of the second takedown. What is the reason for the decline in liquidation value of the collateral pool, and do you expect it to continue in the coming months?

I look forward to receiving your responses to these questions.

Sincerely,

William Proxmire,
Chairman.

LEADERSHIP REQUIRES COMMITMENT

Mr. **PROXMIRE**. Mr. President, the United States has a long history as a leader for human rights. Indeed our Declaration of Independence and our Constitution are models for the enunciation and protection of these rights. In recent times, we as a nation have repeatedly asked the Communist bloc and many other countries to strengthen their commitments to human rights.

Now the tables have turned. We as a nation, have been asked to ratify the Genocide Convention. And for 31 years, we have declined. The Senate, I should say, has declined, because our Presidents, Republican and Democratic, have all agreed that we should ratify that convention.

Mr. President, if we are to be the leader of the human rights movement, we must renew our commitment to that goal. We should have been the first country to ratify the Genocide Convention, a treaty which has already been ratified by more than 80 countries, virtually every developed major country in the world. But it is never too late to ratify a treaty of this importance.

We trust that the force of this treaty, when in effect, will forever deter genocide, that most basic and gross violation of human rights. Perhaps the key immediate result of our ratification will be that this will indicate clearly to other countries that the United States is lending its full legal and moral support for worldwide cooperation to insure the well-being of all the people on the globe.

Despite the impressive efforts of the current administration in the area of human rights, we cannot deny that the United States continues to lose respect worldwide because of our failure to ratify the Genocide Convention.

Mr. President, I ask that my colleagues proceed promptly to ratify the Genocide Convention, so that we can regain the respect we once had from our friends and potential adversaries alike, and to restore our rightful role as the world's leader in the quest for human rights.

WHY THIS $3 BILLION BOONDOGGLE?

Mr. **PROXMIRE**. Mr. President, yesterday, the Washington Star printed a column by James J. Kilpatrick which puts the Tennessee-Tombigbee Waterway in a proper perspective, and I would like to bring this important article to the attention of the Senate. Kilpatrick makes a good case for pulling the plug on this multibillion-dollar boondoggle, and I could not agree with him more.

He accurately states the worthlessness of the project, which could very well be the most expensive and least useful water project in the Nation's history. It will yield no hydroelectric power or flood control benefits, and its necessity for the region's coal transportation is highly questionable. Kilpatrick raises the valid concern that there are no demonstrable benefits to this albatross.

He also points out the duplicity and downright deception of Army Corps of Engineer estimates, which put a $323 million price tag on the project in 1971, and have only just recently revealed that costs will really be more in the area of $3 billion.

The Senate will soon vote on a water development appropriation act for fiscal 1981. The act would sink another $225 million into what we already know to be a dry well. I second Kilpatrick's motion that we end the waste now and vote against this throwaway.

I ask unanimous consent that this column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Why This $3 Billion Boondoggle?

A critical vote is approaching in the Senate in the matter of the Tennessee-Tombigbee waterway. If this $3 billion boondoggle ever could have been defended, it has become indefensible now. The Senate should kill it.

The Tenn-Tom, as it is known, first was authorized by Congress in July 1946. The idea was to dig a ditch 100 miles long, 170 feet wide and not less than 9 feet in depth, that would connect the Tombigbee River at Demopolis, Ala., with the Tennessee River at a point west of Florence near the Mississippi-Tennessee border.

Proponents never could justify the Tenn-Tom in terms of flood control or hydroelectric power. Some recreational benefits were thrown in as a makeweight, but the project was defended almost entirely for the barge traffic that would be created. Vast quantities of coal and other bulk cargoes, it was said, could be moved down the Tenn-Tom to Mobile at significant savings to shippers and ultimately to consumers. In 1971, when Congress at last got around to appropriating funds to get the work under way, the cost was estimated at $323 million.

The cost now is estimated at $3 billion, and the end is not in sight. Under intense scrutiny from knowledgeable critics, the supposed barge traffic has tended to evaporate. It transpired that one large potential shipper of coal had gone out of business entirely; other prospective users have denied that they would shift their cargoes from the Mississippi. Where are the positive, demonstrable benefits? They cannot be found.

Other objections loom almost as large. Almost from its inception, the Tenn-Tom has been tainted by political and bureaucratic manipulation. The original authorization was for a canal 170 feet wide. Somehow, somewhere, sometime, the Corps of Engineers changed the specifications to read 300 feet instead.

The project would lose most of its value unless the Tombigbee were widened from Demopolis south of Mobile; without specific congressional authorization, somehow this costly addition got factored in. Time after time, the corps has withheld its honest estimates of cost from public consideration.

"I would recommend," wrote the supervising engineer in 1974, "that we hold the federal cost under $1 billion. Say $975 million. Considering the size of the estimate, $975 million is no less accurate than $1 billion, and it has less emotional impact."

At that time, the actual internal estimate within the Corps of Engineers was $1.159 billion.

Perhaps duplicity is too strong a word to apply, but internal memoranda that surfaced during a suit brought by the Louisville & Nashville Railroad, seeking to halt the Tenn-Tom, suggest a pattern of fiscal rejiggering to make benefits fit the spiraling costs. Partly because of this litigation, truly searching inquiries by congressional committee or by the General Accounting Office repeatedly have been stalled.

In the pale light of this murky record, proponents of the Tenn-Tom lately have been reduced to a single bad argument. So much money already has been spent in land acquisition and construction that it would be wasteful to stop now.

To be sure, there are times when it is best to throw good money after bad; the case of the Tellico Dam on the TVA system, which was 95 percent complete when a court order suspended work, provides a melancholy example. But the Tenn-Tom is not even half complete, and the record strongly suggests that the latest $3 billion estimate is as phony as all the estimates that have gone before.

Congress used to be agreeable to going along with such influential Southerners on the Hill as John Stennis and Jamie Whitten of Mississippi. Now support is fading rapidly. On June 25 the Tenn-Tom survived a House test by a margin of 216 to 196. Three days later the Senate kept the project alive in fiscal '80 by a vote of only 47–36. Now a vote is coming up on a water development appropriations act for fiscal 1981. The act would invest another $225 million in the venture.

At a time when the Treasury faces a deficit of $60.9 billion in the current fiscal year and another $29.8 billion next year, surely second thoughts should compel a suspension. In the name of fiscal sanity, enough is enough.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum out of the remainder of my time.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR SCHMITT

The **ACTING PRESIDENT** pro tempore. Under the previous order the Senator from New Mexico is recognized for not to exceed 15 minutes.

Mr. SCHMITT. And does the Senator from Idaho have the same amount of time, Mr. President?

The **ACTING PRESIDENT** pro tempore. The Senator from Idaho will be recognized for not to exceed 15 minutes.

Mr. SCHMITT. I thank the Chair.

THE ALASKA LANDS ISSUE

Mr. SCHMITT. Mr. President, I, as a young boy, and, as an adult, as a geologist, have spent a great deal of my time in and around areas that one would call wilderness or which have in fact been designated as such under various Federal laws and Federal activities.

I also, as a young boy, and as an adult geologist, have had a great deal to do, as has my family before me, in the considered development of some of these lands to the benefit of the people of the State of New Mexico and other States, as well as the benefit of the Nation.

I had the fortunate experience, in the summers of 1955 and 1956, to work in Alaska as a geologist in some of the areas under consideration before this body today, in the Tongass National Forest south of Ketchikan.

With all that in mind, and in spite of ratings to the contrary on the part of certain special interest groups, I consider myself as strong an environmentalist, as strong a lover of the out of doors, wildlife, streams, mountains, and valleys of this great land as anyone.

I also, however, consider myself as a realist, brought on by years of exposure to the technology of the space program and of science in general, a realist who believes that we can provide a balance between the preservation of the wilderness and esthetic values of land and the use of those lands on a case-by-case basis to the benefit of the people of the various States and of the Nation.

Mr. President, this is all preliminary to some remarks that, I hope, will put the Alaska lands issue into the context of broad national policy. As we consider this legislation on Alaska lands, I feel it is important to stress that this is not only legislation on wilderness and related matters, but is also legislation tied directly to our national energy and national strategic minerals policies—indeed, to our national survival. As other wilderness and public lands bills are considered through the coming years, we shall continue to be faced with this question of economic and political survival of the Nation.

The question wilderness-only advocates must answer, as Soviet and other forces in the world gradually restrict or control our access to world energy and mineral resources, is as follows:

Will they then advocate reopening Alaska and other federally controlled lands for rapid exploration and development in the national interest when that national interest so dictates?

Do they recognize that this restriction and control by Soviet and other forces is already a fact of life with which we must deal? If it were not, we would not be worried today about the Middle East; we would not be worried today about South Africa, about Zimbabwe, and other nations of the world from which we derive our critical natural resources and for which there is no current alternative.

There may be irreversible impact on the future of the United States of America if, when creating wilderness areas, Congress does not adequately provide for our long-term economic and security needs, utilizing the technological understanding that now exists today, that can be demonstrated to provide a balance between wilderness and those long-term economic and security needs.

The Energy Committee legislation, S. 9, provides for the creation of pristine wilderness where it appeared to that committee to be appropriate, while correctly allowing for future development of areas of high energy and mineral potential.

I can argue with some of their decisions, but that has been the basic intent and it has been a good intent.

Acceptance of the overly restrictive and ill-conceived amendments offered by the Senator from Massachusetts (Mr. TSONGAS) would have the effect of forcing the Nation into an already accelerating dependency on insecure foreign sources for our critical strategic mineral and energy resources. At the very least, we must permit the exploration of Alaskan and other Federal lands for these sources. I am sure the Senator from Massachusetts and his supporters are sincere, but their understanding and comprehension of the real world of geology, mineral economics, and the nature of threats to our national security appear to this Senator to be inadequate.

Identifying our Nation's mineral resources now will allow us sufficient time for reasonable and logical planning for their future excavation. As new mining technologies are developed, we have become able to explore for and, in many instances, to mine strategic materials while continuing to maintain the significant wilderness values of these lands. Insufficient time to plan this process cautiously may result in the frantic and careless excavation of these minerals during future national emergencies, whatever the designation of the land may be.

Mr. President, the potential of this Nation for growth and good is limited only by the wisdom of our leaders. Nature, science, technology, and most importantly, freedom, have blessed Americans unlike any peoples of this age or any other. All we lack is intelligent, commonsense leadership.

The lessons from the past in mineral supply are the bitter ones, lessons still unlearned as regulation, taxation, and, unfortunately, demogoguery make us more and more dependent on unstable foreign sources of supply.

As we look to solve present and future problems, it is well to remember a few facts of geography, of nature, and of history.

First of all, we are a maritime nation, that is, the oceans, the atmosphere, and now more and more, the new ocean of space, are the determining factors in our commerical and political relations with other peoples and other nations.

Second, nature endowed us with unbelievably vast natural resources, most of which have not been tapped contrary to the uninformed or misguided statements of many in leadership positions.

Third, history shows that geography and nature allowed us to ignore the world for 140 years, then act as the world's benefactor and protector for the next 40 years, then become dependent, believe it or not, upon the whims of others in just the next 25 years. The last 3 or 4 years have been potentially catastrophic in this regard.

As a maritime nation with vast nautral resources and an equally vast and expanding internal market, we could afford to ignore the world for those first 140 years; except insofar as our economy could benefit from exports of our natural riches and the products of our technology.

As technology collapsed the world in upon us, the survival of freedom and, ultimately, the survival of our Nation demanded that we enter the world arena, first as protector in war and then as benefactor in peace. For 40 years we played that dual role as required, and played it with youthful idealism and economic abandon, the like of which the world had never seen.

Then, time, technology, and inexperience caught up with us.

The stalemate in Korea and the failure in Vietnam, combined with the false economics of spending and regulation at home, took away our control of our own destiny in just 25 years. This loss of control has become obvious to all with increasing clarity during the decade of the 1970's.

It did not have to be thus, but it is.

The Senate Committee on Commerce, Science, and Transportation recently held 4 days of hearings on national minerals and materials policy. The need for such an overall policy was explicitly recognized in 1952 when President Truman appointed a President's materials Policy Commission, the Paley Commission, which recommended that a Federal agency at the level of the Executive Office of the President review all areas of the materials field and provide broad guidance in these areas for the President, the Congress, and the executive agencies.

These recommendations were not implemented, unfortunately, and in recent years, materials problems have become increasingly widespread and acute. In addition, the will of Congress, as expressed in the Mining and Minerals Policy Act of 1970, has gone unheeded by the executive branch under pressure from special interests and laws passed by Congress which contradict that act. These special interests and these laws appears to have no apparent interest in balancing their interests with national survival. Increased worldwide demand for materials and lack of growth in productive capacity commensurate with increased demand helped contribute to periodic shortages of various key industrial materials. During 1973–74, shortages of many such materials were further exacerbated by lack of sufficient energy supplies required for their extraction and processing and also by a period of price and regulatory controls that tended to discourage new supply initiatives and to promote movement of available materials to higher priced markets abroad.

Not far in the future awaits sudden recognition of a "materials crisis" with the possibility of more devastating effects than our current "energy crisis." Unfortunately, it apparently will take a major embargo or the fall of South Africa or Soviet overt threats to interdict our supply routes to wake us up to this materials crisis.

In 1960, Mr. President, we imported 52 percent of our nonferrous metal needs. That should have been enough to scare us. According to the Department of Interior, imports rose to 64 percent by 1978. We are now more dependent on foreign countries for our nonferrous minerals than we are for oil and gas. Yet, current policies continue to lead us down the path of impending disaster. We obviously have not yet learned the lessons from the past.

Now, let us look at some relevant facts about the Soviet Union:

First. The Soviet Union is a large continental nation with vast natural and human resources and great ambition.

Second. Although the United States has vast untapped natural resources, by history, economics, and policy we could not now nor could we quickly become self-sufficient in many essential mineral resources.

Third. The sources of the United States and the free world supplies of most strategic mineral imports lie in politically unstable regions of the world.

Fourth. Recent U.S. foreign policy has created a chain of events which, if they proceed unchecked, will result in direct or indirect Soviet control of these sources of supply.

Fifth. Recent U.S. defense policy has made it unlikely that the shipping lanes of the free world can be protected from extensive and prolonged interdictions by Soviet forces.

Recent and continuing restrictions on U.S. mineral exploration, research, and development and our strategic stockpile policies do not recognize the threat we and the free world now face.

I repeat, such policies currently in effect do not recognize the real threat that we in the free world now face.

In an article brought to my attention by the distinguished Senator from Idaho, who is on the floor with us this morning, Simon D. Strauss recently summarized our mineral situation relative to the Soviet Union by focusing on several issues, which I will quote in slightly modified form:

First. Since World II, the Soviet Union emphasizes mineral self-sufficiency. The United States has taken no steps toward improving its position in self-sufficiency and seems to disregard this as a matter of national priority.

In fact, the U.S. tax and regulatory policies have been directly counter to domestic mineral exploration and production, aimed, at least, to self-sufficiency in essential mineral and energy supplies.

Second. The Soviet Union restricts consumption of minerals if necessary to avoid import deficiencies. The United States as a consumer economy places no limitations on consumption outside the marketplace, nor am I advocating that we should. I am only advocating that we should recognize that situation and not ignore it.

Mr. Strauss goes on to say that limited research and development of alternative materials, encouragement of increased recycling, and other conservation policies of the U.S. have been only marginally effective in influencing this situation.

Third. The Soviet Union is a major exporter of minerals and uses mineral exports to obtain foreign currency and influence. The United States imports of minerals are steadily increasing. The net effect of this has been to add to the pressures weakening the U.S. dollar and vulnerability to U.S. foreign policy as now obvious in the Middle East and southern Africa.

Table A—World mineral reserves

[In percent]

Mineral	U.S.S.R.	S.A.	Combined
Chrome	13	86	99
Vanadium	33	64	97
Manganese	45	48	93
Platinum	1	83	*84

*98 percent in Rhodesia is included.

Fourth. Soviet policy in Africa strongly serves Soviet commercial interests since turmoil in Africa will strengthen the prices of Soviet exports and their leverage on U.S. foreign and domestic policies. U.S. policy in Africa is dictated entirely by short-term political considerations and not on an integrated view of all U.S. interests.

The same may be said of our policy toward Alaska.

Fifth. While the Soviet Union expresses sentiments of interest in the Third World, it has in fact not materially assisted developing countries in expansion of their mineral industries. The United States has made capital available on favorable terms and has extended trade concessions which have served to undercut U.S. exploration and production in the absence of an integrated strategic materials policy.

Sixth. Exploration of Soviet mineral deposits is in no way inhibited by environmental considerations. In the United States the proliferation of environmental and safety regulations without balancing tax incentives puts a heavy burden on capital and operating costs on the mineral industries. In some instances these regulations are forcing marginal producers to suspend operations.

Our major strategic materials differences are frightening, when we compare the Soviet Union policies with those of the United States.

The Carter administration is unable to associate the implications of these deficiencies with its so-called foreign, defense and domestic policies. Those policies have destroyed containment of Soviet ambitions, have eliminated our ability to protect sea lanes and have destroyed the incentives to produce alternatives. Those have placed this great Nation on the verge of disaster. Now the administration has placed itself squarely behind the misguided efforts to lock up public lands to appropriate and balanced energy and minerals exploration.

There is not much time left to begin to do things right for a change. The development and implementation of a national minerals and materials policy is critical to national security and economic stability and growth.

The Alaska lands issue must be considered in a much broader context of national policy.

What basic policies should we follow?

First, the policy of geographical containment of Soviet ambitions should be re-instituted and vigorously pursued by both our foreign and defense policies.

Second, the defense forces necessary for a policy of containment and for the defense of the sea lanes must be rapidly procured.

Third, our policy toward the undeveloped world should be one of making it worthwhile to be our friend and undesirable to be our enemy.

Fourth, our Third World policy should be based on the transfer of know how that will bring the nations of that world into the 20th century with the rapid reduction of hunger, disease, poverty, and ignorance.

Fifth, our domestic environmental policy should be balanced through the use of nondestructive technology to rapidly assess the critical strategic mineral potential of Federal lands.

Sixth, our domestic strategic mineral production and stockpile policy should be based on the time-critical nature of specific materials in our economy not just on our defense needs in time of actual global war.

And finally, the bulwarks of all our mineral resource and foreign policies should be just plain common sense and self-preservation.

Mr. President, I would summarize by saying to my colleagues that the Energy Committee bill on the Alaska lands represents what this Senator, and I think the Nation, will recognize as a reasonable compromise between the goals of national security and self-sufficiency and the preservation of pristine wilderness areas for future generations.

It is important enough, in fact, it is critical, that we end up close to the committee's position on this critical matter.

Mr. McCLURE. Mr. President, in 1968, the junior Senator from Idaho, then a Member of the House of Representatives studying the oil import quota program, became convinced that the Nation was headed for an energy crisis. I spoke in the House of Representatives and other places concerning that inevitability based upon policies then in place and then being pursued, and the lack of policy that could have been implemented as long ago as 12 years ago, or even as late as 10 years ago, or 8 years ago, but we did not do it.

I mention that only because the sad truth is that the energy crisis was as predictable as the dawning of a new day with the rising of the Sun in the east.

I mention that today, not for any other purpose than to say that I hope some people will listen to what the Senator from New Mexico has been saying today.

Certainly, the Senator from New Mexico has made a brilliant statement concerning what is going to happen to this country, and the place the Alaska lands bill has with respect to minerals policy in this country.

I think people are aware of the distinguished technical and scientific background of this Member of the U.S. Senate and are, at least, somewhat dimly aware of the contribution he can make to the discussion of national policy.

But they ought to be listening to what he is saying about minerals policy, in the same way the Nation should have been listening in 1968 or 1970 to those of us who were trying to say that there was, indeed, an emerging energy crisis.

The sad truth is, not enough listened. Too many were busy playing bridge, a golf game, a fishing trip, or playing politics as usual, and were unwilling to listen to what were manifest facts.

The Senator from New Mexico, with his background of expertise and experience, is uniquely qualified to comment with respect to minerals policy and the minerals crisis.

I hope more people will listen to the Senator from New Mexico now than listened to the Senator from Idaho then.

Mr. SCHMITT. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. SCHMITT. First of all, a statement of thanks for the Senator's kind remarks, but also, a recognition of what he has tried to do in the time I have been in the Senate and, clearly, before that, to draw attention of his colleagues and of the American people to this problem.

Mr. McCLURE. I thank the Senator.

Mr. SCHMITT. For anyone who wants to go back just a very short time and look at very clear statements of these problems by the Senator from Idaho, they should go back to the debate on the Idaho wilderness bill and the issue of cobalt, which is one of the strategic minerals we are talking about.

Mr. McCLURE. I thank the Senator from New Mexico. I appreciate his reference to the discussion of the Idaho wilderness bill and the issue of cobalt, because that was one of the most frustrating experiences I have ever had in terms of trying to focus upon a national policy with all the facts at hand, with every reason to believe that the intelligent Members of this body would be able to see what the facts were and then respond. But they responded to something different. They responded to the usual game of politics, played the way politics is played in this country, and at the expense of the security of this country.

Mr. President, the Senator from New Mexico has referred to the United States as a maritime nation, and I agree with what he is saying. I will phrase it slightly differently, but I am saying the same thing: We Americans are used to the idea that we are a continental nation; that, within our own boundaries, we can do what we have to do; that, if necessary, we could go it alone; that we are self-sufficient; that we are prepared to do what is necessary for our own economy and our own people with the resources nature has given us and the human resources we have within our own boundaries; and that has been the fact.

However, the present fact is that we are an island nation, that we are no longer secure within our own boundaries, that we are dependent upon greatly increasing supplies of natural resources that come in from foreign countries to fuel our commerce and industry. That realization has not yet come home to the American people, much less to the Members of this body and our companion body across the Capitol. It must come home or, inevitably, we will face the consequences of failures of policy in exactly the same way we are facing the consequences of failures of policy in energy.

If you do not like the price you are paying for gasoline and oil products in this country today, if you do not like the dependency we have upon foreign sources of oil, if you do not like what has happened to us with respect to the distortion of foreign policy as a result of our dependence upon foreign oil, just wait, my friends, until we face the same consequences, with the same economic and policy distortions, as a result of our failures in mineral policy.

Then look back, if you will, to the actions being taken by this body on the Alaska lands bill, where we have an important opportunity to reflect our sense of urgency with respect to minerals policy. But we are still playing politics as usual. The Members of this body are not so much persuaded by the facts and the needs of national security as they are by a handful of telegrams from people in their home States.

The fact is that the conservation-preservation groups, sincere and dedicated as they may well be, have the ability to turn on or turn off communications from people at home that say, "Please vote for the Alaska lands bill," without any idea of what is in the bill or what impact it has—and, what is worse, even with the knowledge of what is involved, still blindly voting that political pressure from home.

This body is supposed to be the body of statesmen. This body is supposed to be the group that, because of the length of our tenure and overlapping terms, can take the long view of public policies. This body, unlike our companions in the House of Representatives, are not under the gun for reelection this year and therefore should be able to say, "Let us take a look at national requirements and national policy in a longer view."

However, the sad fact is that the Senate of the United States has become politically responsive in the way the framers of the Constitution never had dreamed we would; and we all act as though our election was this fall. The result is that we do not look at long-term security risks to this country which are involved in the failure to have a national minerals policy, the failure to look at the Alaska lands bill with a view to what it does to the security of the United States.

It is not just a playground for a few.

It is not just the repository of massive natural wonders. It is also a source of future required minerals and fuels for this country. It is an opportunity for us to reduce our dependence on insecure and sometimes hostile forces overseas.

We should be more concerned about Cuban troops in Central Africa than we are in a brigade of Russian troops in Cuba, because what happens in Central Africa with respect to minerals availability is more vital to the security of this country than most people are willing to recognize today. Still, we persist in taking policy decisions in this body that directly increase our dependence upon the minerals in Central Africa.

I cannot imagine anything more foolish than to spend of our resources without concern or without direction or without an evaluation of the impact it will have on the future of this country.

Yes, I am an environmentalist. No one in this body—I will say this on the record, and I will challenge anybody to disprove it—no one in this body does more backpacking in the hills than I do. I do not believe anyone in this body ever has. No one in this body has spent more time in the hills, hunting and fishing, than I have, and certainly no one loves it more than I do. I want to continue to be able to do exactly that. I want my children to be able to do that. I want my grandchildren to have the same opportunities, a half-century from now, to do the same sort of things I have been able to do in my lifetime.

But it is not simply a question of whether we draw lines around resources on the map and say, "Don't transgress; only visit." It is also a question of whether or not we maintain the military and economic security of this country that will allow our citizens to live in peace.

Can you imagine what it would be like in a Soviet America? Can you imagine that they would respect a wilderness area? Whom are you trying to kid? How many people have even thought of the consequences, in Alaska or otherwise, of somebody else's administration of our sacred heritage?

I do not mean to be overdramatic, but that is the kind of situation we have, and the debate is now going on with respect to the Alaska lands bill.

I thank the Senator from New Mexico for having taken the leadership to initiate this discussion today. It is vital to understanding the issue and the future security of this country.

The PRESIDING OFFICER (Mr. Pryor). The time of the Senator has expired.

RECOGNITION OF SENATOR EAGLETON

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. Eagleton) is recognized for not to exceed 15 minutes.

OIL INDUSTRY PROFITS—AUTOMOBILE INDUSTRY LOSSES

Mr. EAGLETON. Mr. President, once again, the American people have received devastating news about the Nation's two largest industries.

This week, they saw reports of exorbitant profits for the oil industry in the second quarter of 1980—an event which has become routine since oil prices were decontrolled by executive order.

Amid these reports were stories of record losses for America's automobile companies. These events are closely related, for the bonanza big oil reaped once more has helped bring about record losses to our auto makers.

First, let us turn to profit figures for big oil. Exxon's profits are up 24.1 percent or $200 million over the second quarter of 1979. Mobil's profits are up 64.6 or $270 million over the same period. Standard Oil of Ohio's profits increased at an even greater rate of 124 percent or $250 million.

The litany goes on—Arco is up 67 percent over the second quarter of last year for an increase in profits of $375 million. And Sun Oil has increased its profits 48.1 percent, worth $80 million. I could continue adding to this list.

Production increases, however, which were heralded by supporters of decontrol as the major reason for ending Federal control of oil prices, have not been forthcoming.

How much oil has the industry produced while collecting these staggering profits compared to the period before decontrol?

The answer is that we have gained almost nothing in the area of new production.

There has been some increased production from the north slope of Alaska, due mainly to increased transportation capability. But production in the lower 48 has actually decreased 2.1 percent in the second quarter of this year compared to the same period in 1979.

The oil company profits are closely related to the troubles in our Nation's auto industry.

Granted, the car producers were at fault for failing to anticipate consumer demand for small, fuel-efficient cars. The industry made its share of mistakes.

But there was far more involved here than a shift in consumer demand. The plunge in sales of American-made cars resembled consumer panic as the country suddenly found itself faced with soaring prices and lengthening gas lines.

Look at the disastrous effects that excessive gasoline price increases have had on America's automobile industry. General Motors, the Nation's largest auto maker, and American Motors, the Nation's fourth largest producer, have announced record losses.

GM lost $412 million in the second quarter of 1980.

AMC lost $84.9 million, a blow which has had an awesome impact on that company.

And just last night the Ford Motor Co. announced second quarter losses of $468 million.

These losses by far are overshadowed by the recent announcement that Chrysler lost more than $1 billion this past year.

Two industry executives have underscored the relationship between record profits for big oil and record losses for American car producers.

GM Chairman Thomas Murphy and Elliott M. Estes, president of the company, have said that higher gasoline prices were in part to blame for GM losses.

Unless we can resolve the economic impact of soaring profits for big oil and plummeting sales of domestic cars, inflation will continue to ravage us.

Unemployment among auto workers—now at 300,000 employees or 33 percent of the work force—will continue to rise.

I also am appalled at the frequent reminders of how the oil companies are enriching themselves at the expense of the American consumer.

It is as if we are hostages to a domestic OPEC.

Oil is not a luxury item which people can cut out of their lives.

Without fuel, life in our modern society becomes difficult or impossible.

Millions of Americans, indeed, the majority of Americans, cannot afford to continue paying ever-higher fuel prices without reducing their spending in vital areas of their lives.

All this could have been avoided.

During the debate on windfall profits I said we should continue controls on oil prices. Big oil and the Department of Energy, however, convinced a majority in Congress that decontrol would bring increased production at home.

This view prevailed despite warnings from myself and others.

Recent reports from various sources have confirmed my view that decontrol would not increase domestic production.

I will read a sample of statements made by our Nation's energy experts, as quoted in a recent front page article in the Wall Street Journal.

"Unfortunately, as prices get higher, production forecasts get lower," said Lawrence Goldstein of the Petroleum Industry Research Foundation.

And Lisle Reed, an Energy Department oil analyst, noted, "The price is there, the incentive is there, but we aren't getting the oil."

Even a major oil company executive echoed these views in that same Wall Street Journal article.

Robert Baldwin, president of Gulf Oil's marketing and refining unit, said we could not increase production "if crude oil went to $100 a barrel."

The sad fact is that big oil sold Congress a bill of goods. Despite the warnings of myself and others, Congress was in a buying mood. There is only one area in which big oil has increased production—and that is in its own profits.

Our hope for the future in the area of energy is in developing new forms of energy and ways to conserve fuel in our cars, our homes, and in our factories.

President Carter should join in this effort. This is the way to our energy salvation.

Mr. President, at this point, I ask unanimous consent to have printed in the Record two tables illustrating the profits of 11 major oil companies, comparing both the second quarter of this year 1980 against the second quarter of 1979 and the even more glaring comparison comparing the second quarter of 1980 with the second quarter of 1978 because in 1979 prices were already starting to zoom, as we well know. So when we look at the comparisons of second quarter profits, 1980 versus 1979, and then also compare 1980 versus 1978, we really get an eyeful.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SELECTED OIL COMPANY PROFITS (2D QUARTER)

[Dollar amounts in millions]

Company	1978	1979	1979 over 1978 (percent)	1980	1980 over 1979 (percent)	1980 over 1978 (percent)
Exxon	$690	$830.0	20.0	$1,030.0	24.1	49.3
Mobil	293	418.0	38.0	688.0	64.6	134.8
Standard (Indiana)	294	350.2	36.0	488.2	39.0	66.0
Texaco	157	337.5	132.0	502.0	49.0	219.7
Gulf	176	291.1	65.0	370.0	27.1	110.3
Shell	179	277.0	55.0	407.0	46.9	127.4
Arco	211	260.4	24.0	434.8	67.0	111.3
Standard (Ohio)	118	201.4	70.0	451.3	124.0	282.5
Conoco	154	215.8	40.0	249.6	15.7	62.1
Sun	101	166.8	57.0	247.0	48.1	144.6
Tenneco	118	153.0	31.0	186.0	22.0	57.6
Total	2,491	3,501.2	40.6	5,053.9	44.3	102.9

QUARTERLY OIL COMPANY PROFITS[1]

[Dollar amounts in millions, by quarter of year]

	1978				1979					Percent changes in profits[2]				
										1979–78				
	1st	2d	3d	4th	1st	2d	3d	4th	1980, 1st	1st	2d	3d	4th	1980–79, 1st
Exxon	$695	$960	$525	$850	$955	$830	$1,145	$1,365	$1,925	37	20	118	61	102
Mobil	241	293	258	315	449	404	595	514	1,381	81	38	131	72	208
Texaco	170	157	197	328	304	365	612	534	1,003	81	132	211	63	230
Standard (California)	243	256	274	316	343	412	576	524	627	43	61	110	66	83
Gulf	155	176	211	237	249	291	416	366	389	61	65	97	54	56
Standard (Indiana)	274	294	292	217	350	401	434	369	576	28	36	49	70	65
Atlantic-Richfield	150	211	221	223	242	260	320	343	426	61	24	45	54	76
Shell	193	179	249	192	224	277	293	331	373	16	55	18	72	67
Continental	37	154	106	155	162	216	247	191	329	343	40	133	23	103
Tenneco	110	118	103	131	123	154	132	164	178	14	31	28	25	45
Sun	84	101	109	108	128	159	174	223	251	43	57	64	107	96
Phillips	171	149	119	280	177	215	193	306	339	4	44	62	10	91
Occidental	32	(68)	19	23	81	113	186	187	278	174	----------	864	702	236
Union	79	87	93	124	114	128	106	152	153	44	47	14	23	34
Ashland	16	44	62	51	27	395	53	76	47	75	798	(15)	49	74
Amerada-Hess	32	35	31	38	130	115	119	119	199	258	234	290	213	53
Cities Service	55	40	53	30	79	77	86	106	170	42	93	62	253	117
Marathon	50	51	50	74	104	85	80	54	139	61	67	60	(27)	33
Standard (Ohio)	42	118	126	165	168	201	366	451	451	303	70	190	173	169
Getty	76	56	96	102	108	140	174	183	226	42	150	81	80	109

[1] Net income figures for the year may be derived by adding the totals for the 4 quarters together. Figures are provided by the companies and may be slightly revised from earlier estimates to reflect the most recent data available.

[2] The percent change figures compare quarterly net income in the 1st year listed against income for the same quarter in previous year.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

NUCLEAR WASTE POLICY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2189 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2189) to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

The Senate resumed consideration of the bill (S. 2189).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes and Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH AND THE OLYMPIC BOYCOTT

Mr. BAKER. Mr. President, on this, the very day our Nation honors its Olympic athletes on the steps of the Capitol, I rise to commend to my colleagues an article from the July 24 editions of the Morgantown, W. Va., Dominion Post newspaper concerning both those athletes and one of the most distinguished gentlemen to ever grace this Chamber, the Senator from West Virginia (Mr. RANDOLPH).

As many of my colleagues may recall, the president of the International Olympic Committee, Lord Killanin, has made some most ill-advised derogatory remarks with regard to the boycott of the Moscow Olympic games by America and other freedom-loving nations throughout the world.

In his customary, eloquent fashion, Senator RANDOLPH last week responded to Lord Killanin in a speech on this floor.

Unfortunately, while the remarks of Senator RANDOLPH reflected a far greater understanding of the realities of international relations on all levels than those of Lord Killanin, the Senator's statement was not as widely disseminated.

Dominion Post columnist Mickey Furfari, however, has taken appropriate note of them and has, himself, underscored the wisdom of Senator RANDOLPH's words as well as the determination of all Americans to view the world as it is, and not as the Soviet Union would tell us it is.

Thus, I ask unanimous consent that the text of the Dominion Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RANDOLPH'S REBUTTAL IS "RIGHT ON"

Three cheers for Sen. Jennings Randolph.

The veteran lawmaker from West Virginia denounced Ireland's Lord Killanin in a speech on the Senate floor last Monday.

Someone should have, and Randolph obviously had the desire—and courage—to do so. (Politics wasn't a motive, either. He's not on the ballot this year.)

Killanin, retiring as president of the International Olympic Committee, had taken a verbal blast at President Carter and the United States last Friday in Moscow.

He charged that "we wouldn't have had an Olympic boycott" if American football and baseball had been included in the Olympic Games. He said Carter and his aides have virtually no knowledge of any sports except these two.

Randolph, in responding, said Killanin's "unseemly remarks" show a basic misunderstanding of the American political process.

"While our president certainly gave effective leadership and made the basic decisions on the boycott," he declared, "Congress, acting as representatives of the American people, joined in this decision-making process through formal resolutions approved by both the Senate and the House of Representatives."

Randolph also rapped Killanin's failure to mention the Soviet invasion of Afghanistan in his criticism of the boycott.

"It is well to talk about sportsmanship and fair play in the context of the games," Randolph said, "but apparently Lord Killanin feels that Soviet armored attacks on helpless Afghanistan villages have no relationship with the Soviet government hosting the Olympics."

Unfortunately, the senator's remarks weren't given nearly the prominence Killanin's blast received in the media. Perhaps that shouldn't have been surprising, though. Some national reporters seem interested only in the "sensational," regardless of merit.

Lord Killanin's statement about football and baseball was silly, of course. Absence of those sports from the program didn't keep the U.S. from participating in any of the previous Olympic Games. Why would it now?

The Olympic committee president also showed his bias, ignorance and irresponsibility by failing to mention the Afghanistan invasion—the real issue in the U.S.-led boycott.

If his native Ireland rather than Afghanistan had been the victim of such Soviet aggression, would Lord Killanin have reacted to a boycott of the Moscow Games the same way?

That's a question some writer or broadcaster covering the Olympics should have asked him. If anyone did, though, the answer apparently never reached the U.S.

THE EXTENSION OF ERISA LEGISLATION

Mr. BAKER. Mr. President, I would like to take this opportunity to commend and express my appreciation to my good friends, the distinguished Senator from New York (Mr. JAVITS), and the distinguished Senator from New Jersey (Mr. WILLIAMS) for their untiring labors for the last 3 years in behalf of the American worker—labors which culminated last evening in the passage of the Multiemployer Pension Plan Amendments Act.

By the passage of that legislation, we have clarified, extended, and strengthened the Employee Retirement Income Security Act of 1974, of which Senator JAVITS and Senator WILLIAMS were the original sponsors.

More importantly, Mr. President, by last night's overwhelming vote, the Senate has restated its firm resolve to make certain that each of the millions of American working men and women who participate and rely upon private pension plans can do so with the assurance that they will indeed ultimately receive those benefits to which they are entitled.

I know I speak for all my colleagues on both sides of the aisle in saying that this Senate and every working American owes a great debt to Senator JAVITS in this regard. Not only has he worked diligently in behalf of ERISA and the concept upon which it is founded, but he has spent his entire public career in pursuit of a better life, a more secure and tranquil life, for each and every American.

At no time has his dedication and devotion to that cause been more evident or more effective than during the tedious, complex process that resulted in the ERISA legislation 6 years ago and the amendments to that legislation last evening.

As I have done on so very many occasions before, Mr. President, and as I am certain I will do countless times again, I thank the Senator from New York, in behalf of every American.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NUCLEAR WASTE POLICY ACT

The Senate continued with the consideration of the bill (S. 2189).

Mr. ROBERT C. BYRD. Mr. President, as the Senate resumes consideration of the nuclear waste bill, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be equally charged to all sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FOR 1 HOUR TO HONOR THE U.S. OLYMPIC TEAM

Mr. ROBERT C. BYRD. Mr. President, today, beginning at 12 noon, there will be a ceremony on the west front of the Capitol honoring the U.S. athletes who did not go to the Olympics in Moscow. That ceremony will last roughly an hour, I suppose, and Senators may wish to go. There will be a section set aside for Members of the House and Senate.

I, therefore, ask unanimous consent that at 11:45 a.m. today the Chair recess until 12:45 p.m., thus constituting 1 hour of recess, with the understanding that the Senator holding the floor at the time of the recess will be entitled to regain the floor upon the Senate's reconvening at 12:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT

The Senate continued with the consideration of the bill (S. 2189).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum under the same aforementioned conditions.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, first of all, let me, on behalf of the Environment and Public Works Committee, express our appreciation to the distinguished floor manager of the pending legislation, the Senator from Louisiana, his colleague, the Senator from Idaho, and the Energy Committee for a number of counts of forbearance and understanding in our effort to work out a sound public policy for this Nation where nuclear waste is concerned.

The Energy Committee acted on this issue some months ago. It has been eager to go forward with its proposal. The country does need a solution. On the other hand, our committee has certain responsibilities where the regulation of nuclear power in this country is concerned. Over the months, the Senator from Louisiana and his colleagues have been understanding of our interest in participating in this discussion and offering our proposals alongside those of the Energy Committee. This has, I think, required a great deal of understanding on the part of the Senate leadership and on the part of the representatives of the Energy Committee. On behalf of our committee, we appreciate their forbearance and understanding and their willingness to cooperate with us in developing the best policy for our country.

Mr. President, I would like to propose to the Senator from Louisiana that I will offer four amendments explaining and discussing each as they are offered, and then, if it is agreeable to him and the minority floor leader, offer these four amendments to the Senate en bloc at the close of the discussion of all four. I wonder if the Senator from Louisiana would agree to that.

Mr. JOHNSTON. Mr. President, that is perfectly acceptable to me, provided we have the amendment which begins at the end of title III. I think the staff has substitute language on that, that they have worked out that language.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the time start running on the amendment?

UP AMENDMENT NO. 1470

(Purpose: To eliminate an incorrect reference)

Mr. HART. Mr. President, I will offer the first amendment to get the clock running on that amendment, if I may. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. HART), for himself, Mr. SIMPSON, Mr. RANDOLPH, Mr. STAFFORD and Mr. CULVER, proposes an unprinted amendment numbered 1470;
>
> On page 14, line 2, strike "to the statutorily-approved site selection or".

Mr. HART. Mr. President, the Senator from Louisiana is correct. There is an effort underway to resolve a fairly minor difference on one of the amendments, but I think we can go forward with this one. I can briefly outline what it involves.

Mr. President, I ask unanimous consent that the amendment be proposed by myself and the Senator from Wyoming (Mr. SIMPSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, this amendment eliminates the restrictions in S. 2189 upon NRC's authority to analyze alternative sites in its licensing review of any proposal for a long-term retrievable storage facility.

It is our view that alternative analysis is one of the fundamental precepts of NRC's licensing authority and is consistent with the policy of the National Environmental Policy Act.

It is our conviction that nothing should impinge upon NRC's authority to fully protect public health and safety in its licensing review—particularly with respect to a facility with profound consequences for public health and safety. I urge adoption of this amendment to restore the normal authority of the Nuclear Regulatory Commission.

I hope my colleagues from Louisiana and Idaho will agree that by making this change in the proposal we have, in fact, permitted the NRC to exercise its legitimate authority for considering and analyzing sites for long-term retrievable storage.

Mr. JOHNSTON. Mr. President, we are happy to join in accepting this amendment. I want to make clear what it means and why we had the bill originally drawn as we did.

Our original intent was not to squelch a consideration of other sites for treatment and storage, but, first of all, to avoid the consideration of alternate technologies, such as shooting the waste into space, deep ocean, deep drill holes, nuclear transportation, and so forth. We wanted to avoid consideration of those other technologies. Hence, the wording of the bill we originally had.

This amendment will not change that. I will ask the Senator if I am correct.

Mr. HART. The Senator is correct. The amendment is directly related to site alternatives, not technology alternatives. What we want to accomplish here is to permit the NRC to have the authority, and to exercise the authority it presently has, to consider alternative sites given a specified technology, but not to open up a whole range of potential technologies, including those that the Senator from Louisiana has stated.

Mr. JOHNSTON. I thank the Senator.

The second question relates to the sites. We drew our original bill on this question as we did also because we wanted to avoid that Catch-22 of trying to prove the geologic characteristics of the particular salt dome or salt flat or whatever the geologic area was—we wanted to avoid having to prove those characteristics for the next 10,000 or 100,000 years which, by definition, is nonprovable. At least, it is nonprovable in the sense that geologists will not all agree on that. That perhaps is the reason why the flow chart of the Department of Energy shows that you do not put your first waste away in geologic disposals until the year 2020.

So we keep the language in the bill that we do not consider alternatives to the design criteria, the design criteria here are monitored retrievable storage, and it is implicit in monitored retrievable storage that the container of the waste is the primary containment vessel and you need not rely upon the geologic characteristics for infinity. What I am trying to get at is that we are seeking to avoid having to show that the salt dome is going to be there, or that the basalt flat is going to be there, for 100,000 years and consequently delay the operation.

Am I correct that in the consideration of alternative sites you would not have to prove the geologic integrity for 10,000 or more years, provided you proved its practicality as a monitored retrievable storage site?

Mr. HART. I believe the Senator from Louisiana has accurately stated the intent of this amendment, but I want to make clear on behalf of the proponents of this proposal and those with a somewhat different vantage point on this issue that the contrary is also true from the Senator's point of view, namely that long-term retrievable storage technology of whatever type would not be contemplated in this provision and amendment as a substitute for permanent geologic storage. That is to say on the part of the Senator from Louisiana he is concerned that this not give the Nuclear Regulatory Commission the authority to demand the same degree of permanence of the retrievable technology as permanent geologic mine disposal would have.

But on the part of the Senator from Colorado, it is my concern that the intent of Congress be clearly stated not to replace permanent geologic disposal with long-term retrievable technology.

Mr. JOHNSTON. Mr. President, I think the Senator is correct in that we not only do not prohibit permanent geologic storage, we provide and will provide further, in amendments to be offered by the Senator and accepted by us, for further accelerated study on permanent geologic storage. So Congress does not make that judgment.

I appreciate the Senator's explanation of the purpose of the amendment with respect to the geologic characteristics and the consideration of alternative sites. With that assurance, Mr. President, on behalf of the majority, I accept the amendment.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. McCLURE. Mr. President, I thank the Senator for yielding. I understand the thrust and the care with which both the speakers have just addressed this question, because I think it is essential that we understand what we are doing in correctly stating the congressional intent. It is not the intent of the minority or, certainly, the Senator from Idaho, to indicate that we are not interested in developing permanent geologic repositories. I am. We are. While we are doing that, we need to have secure, safe, interim, and long-term storage. That is what we are doing and I think the amendment does not really detract from that. I understand it in that context, that we are going forward with both and that the amendment does not detract from that. Therefore, I am willing to accept the amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. HART. Mr. President, on the grounds that we may be moving toward acceptance of these amendments en bloc, I should like to retain my time and move to the next amendment, on the grounds that my minority colleague (Mr. SIMPSON) is on his way to the floor and may want to make a comment or two on each of these amendments. If agreeable, I should like to set the amendment aside and not yield back all my time in case the Senator from Wyoming wants to comment, and move to the second amendment.

Mr. JOHNSTON. That is fine with me, Mr. President, and I ask unanimous consent that I may retract my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1471

Mr. HART. Mr. President, I send an amendment to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. HART) (for himself, Mr. SIMPSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. CULVER) proposes an unprinted amendment numbered 1471.
>
> At the end of Title III, add the following new sections to read as follows:
>
> SEC. . Section 202(3) of the Energy Reorganization Act of 1974 is amended to read:
>
> "(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes or spent fuel resulting from activities licensed under such Act or spent fuel from foreign reactors transferred under a subsequent arrangement authorized under such Act.
>
> SEC. . Notwithstanding any other provision of this or any other Act, the Commission shall have licensing and related regulatory authority pursuant to chapters 6, 7, 8, and 14 of the Atomic Energy Act of 1954, as amended, for the transportation of spent fuel under section 303(a) shall be subject to licensing and regulation by the Commission as provided for transportation of commercial spent fuel under existing law.

Mr. HART. Mr. President, I should like, first of all, to explain the amendment and see if the language as read by the clerk tracks with the understanding of the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am advised that it is almost right, but staff advises me that the phrase "notwithstanding any other provision of law," could be mischievous here and that the second part of the amendment should read as follows:

> Transportation of spent fuel under section 303(a) shall be subject to licensing and regulation by the Commission as provided for transportation of commercial spent fuel under existing law.

Mr. HART. That is the language that the clerk stated.

Mr. JOHNSTON. There is still some language in there that is not the same.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1471 (AS MODIFIED)

Mr. HART. Mr. President, I send to the desk a modification of the pending amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. CHILES). The clerk will state the modification.

The assistant legislative clerk read as follows:

At the end of title III, add the following new sections to read as follows:

SEC. . Section 202(3) of the Energy Reorganization Act of 1974 is amended to read:

"(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes or spent fuel resulting from activities licensed under such Act or spent fuel from foreign reactors transferred under a subsequent arrangement authorized under such Act.".

SEC. . Transportation of spent fuel under section 303(a) shall be subject to licensing and regulation by the Commission as provided for transportation of commercial spent fuel under existing law.

Mr. HART. Mr. President, this amendment is being offered on behalf of myself and the Senator from Wyoming (Mr. SIMPSON).

There are two parts. I will briefly describe each and then yield to my colleague from Wyoming.

NRC LICENSING OF SPENT FUEL SHIPMENTS AND AFR STORAGE

The first part of this amendment clarifies an ambiguity in existing law by expressly granting the Nuclear Regulatory Commission the authority to license the storage of commercial spent fuel.

The NRC interprets existing statutory language that grants licensing authority over storage of commercial high level wastes as also giving it authority to license the storage of commercial spent fuel. There is some debate, however, over whether spent fuel should be considered high-level waste.

DOE accepts the NRC's construction of existing law and assumes that any Federal away-from-reactor storage facility will be subject to a licensing review by the NRC. This amendment simply removes any uncertainty over statutory interpretation and confirms the expectations of both the NRC and DOE.

The second part of this amendment would provide the Nuclear Regulatory Commission with the authority to license any shipment of spent fuel to a Federal away-from-reactor storage facility or any other type of Federal nuclear waste facility in the same manner that such transportation is presently licensed. That is to say, with regulations promulgated by the Department of Transportation and reviewed and approved by the Nuclear Regulatory Commission.

The Commission currently has the authority to implement those regulations promulgated by the Department of Transportation for private as well as spent fuel from one commercial nuclear powerplant to another. This amendment simply insures that the Commission would have similar authority to license or implement regulations for licensing transportation of spent fuel if, as required by S. 2189, the Federal Government takes title to the spent fuel at the powerplant site and assumes responsibility for its shipment to an away-from-reactor storage facility.

Spent fuel poses similar hazards to the public health and safety whether a commercial firm transports it or the Federal Government transports it. Thus, both types of shipments should fall within the jurisdiction of the NRC, and the Department of Transportation, as existing law provides.

This amendment would make that clear.

It is estimated that the transportation of 1-year's discharge of spent fuel from a 1,000 megawatt nuclear powerplant would require 40 to 60 shipments by truck or 10 to 15 shipments by railroad to an away-from-reactor facility. In many cases these shipments would go several thousand miles through many States. The opening of an AFR facility would increase manyfold the number of shipments of spent fuel as compared to the relatively few shipments between nuclear powerplants that occur today. Surely, the American people deserve the health and safety protection of the NRC from the hazards posed by this dramatic increase in shipments of spent fuel. I urge the adoption of this amendment.

Mr. President, I yield to my colleague from Wyoming.

Mr. SIMPSON. Mr. President, I am pleased to join in the sponsorship of this amendment I want to commend the managers of the bill for their efforts in these intervening hours. I am appreciative of the accommodation they have rendered Senator HART and myself as we serve as chairman and ranking minority member of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee.

The amendment would make two additions to title III of S. 2189 dealing with this question of away-from-reactor storage of spent fuel.

I will just briefly comment that the amendment would, of course, amend section 202 of the Energy Reorganization Act to make it clear that NRC has licensing authority for any Federal away-from-reactor spent fuel storage facility. Second, the amendment would require NRC regulation of spent fuel shipments under this act.

Mr. President, S. 2189 already provides that an AFR authorized under this bill shall be subject to a license under the provisions of section 202 of the Energy Reorganization Act. However, our hearings disclose there is some uncertainty regarding whether NRC now has licensing authority for an AFR under that section. NRC has testified that they believe they have the necessary authority, but that they would welcome specific confirming language. The Department of Energy has testified that there is some uncertainty regarding whether NRC now has this authority, and they would welcome it. Both agencies believe the Commission should have clear licensing authority for these facilities, and I know of no one who has suggested otherwise. This amendment would simply resolve any existing uncertainties regarding the Commission's licensing authority.

Mr. President, under existing law, shipments of spent fuel by private shippers must be subject to NRC's applicable regulatory authority. I believe there are a number of real benefits to having NRC regulation of these shipments. First, NRC regulation assures that the shippers will meet applicable packaging, transportation, and safeguards requirements. In addition, there are some valuable notification requirements that attach with NRC regulation. Under the NRC Authorization Act for fiscal year 1980, Public Law 96–295, notification is provided to each Governor of spent fuel shipments through his or her State. In addition, information is made available to the public on general routes and quantities of such shipments. Together, I believe these requirements provide a significant benefit, both in terms of assuring that the public health and safety is protected and in terms of assuring public confidence and understanding in this highly emotional arena.

S. 2189 would make a fundamental change in this system while at the same time putting in place a Federal program for the interim storage of spent fuel that will vastly increase, over the next several years, the number of shipments of spent fuel and the quantities of spent fuel shipped throughout the country. By giving the Department of Energy the responsibility to take custody of the spent fuel at the reactor site and to handle its shipping to a Federal away-from-reactor storage facility, the bill automatically excludes these shipments from NRC's regulatory authority. Yet, the bill specifies that DOE must utilize by contract private industry for these shipments to the fullest extent possible. Thus, while the same private firms that now handle spent fuel shipments would be responsible for this transportation under S. 2189, suddenly they would be exempt, as contractors of the Department of Energy, from NRC regulation.

Mr. President, this amendment would resolve any uncertainty created by this situation by requiring that any spent fuel transportation under this act would be subject to NRC regulation. I believe this is a useful requirement given the benefits of NRC regulation of these shipments and the sensitivity of the States and the public to the transportation of nuclear wastes.

I am pleased to join as a cosponsor of the amendment, and I urge its adoption.

Mr. JOHNSTON. Mr. President, we have always regarded the licensing of away-from-reactor storage as being required by the law; and if not required, to the extent it is ambiguous, inappropriate; so the first part of this amendment certainly is appropriate.

The second part carries forward or clarifies the regulation of the shipment from the plantsite to the AFR under existing law, and that is suitable to us.

So, for the majority, I accept the amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. Mr. President, on behalf of the minority, I state that I agree with the Senator from Louisiana.

As I read the second part of the amendment, it simply says that no matter who owns the material, no matter who transports the material, it will be subject to the same kind of licensing and regulatory regime under existing law. I certainly concur in that and agree with the Senator from Louisiana. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back.

Mr. HART. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. The Senator from Colorado asks unanimous consent that the pending amendment be set aside. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1472

Mr. HART. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself, Mr. SIMPSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. CULVER, proposes an unprinted amendment numbered 1472:

On page 8, after line 19, insert the following new subsection:

"(e) for adjustment and recalculation of the one-time payment established under subsection (a) of this section; and assessment of any difference to be paid or reimbursed at the time such spent fuel or associated radioactive waste is placed in long-term disposal."

Mr. HART. Mr. President, I offer this amendment on behalf of myself, the Senator from Wyoming (Mr. SIMPSON), the distinguished chairman of the Environment and Public Works Committee (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Iowa (Mr. CULVER), as an amendment to the pending measure, S. 2189.

This amendment would effectively implement the policy of full-cost recovery by the Federal Government for construction and operation of an AFR storage facility or a permanent repository. This amendment permits the Secretary of Energy to assess a single charge against the utility at the time it ships its spent fuel to a Federal AFR. This charge could cover the costs of AFR storage and disposal.

At the same time, however, this amendment recognizes that any charge that attempts to recover the cost of ultimate disposal at this time must necessarily rest on imprecise estimates, since operation of such a facility is at least 20 years away and its design and location are not known. Consequently, it permits the Secretary of Energy to recalculate the charge when the costs of disposal become more clear.

If it turns out that the Secretary initially underestimated true costs of disposal, he must assess utilities for the difference between the initial estimated costs and the true costs. By the same token, if the Secretary overestimated the cost of disposal, he must reimburse the utilities for that difference.

I think this is a reasonable approach to insure that the taxpayers do not get stuck with the bill for unanticipated costs of nuclear waste disposal, and, likewise, that the utilities are not overcharged.

I urge my colleagues to adopt this amendment.

I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I am pleased to join as a cosponsor of this amendment.

Section 304 of the bill requires this one-time fee, and also a required readjustment of the one-time fee for spent fuel storage and disposal as part of the contract between the Federal Government and the utilities. This issue did cause me a great deal of concern, as to how you could arrive at a one-time fee at this time, within 1 year of the effective date of this legislation, which will be effective at the time the repository is ready to accept the nuclear waste. I believe someone—the Federal Government or the utility—would lose in that process of negotiation.

Of course, the bill provides that the Federal Government will enter into those contracts with the utilities in return for that one-time fee paid at the time of shipping from the reactor site. This amendment, as ably drafted by Senator HART, simply adds as a requirement for these contracts that any difference between the estimated charge for storage and disposal made at the time the fuel is shipped—which may be in the near future under some estimates—and the actual costs of disposal would be paid at the time the spent fuel is placed in long-term disposal.

If the Federal Government had underestimated the cost of disposal in its earlier estimates, it would be able to recoup the deficiency from the utility that had supplied the spent fuel. If the Federal Government overestimates the actual cost of disposal, the utility would be reimbursed for its overpayment.

Mr. President, I believe this amendment is helpful to assure that the Federal away-from-reactor program is operated on the basis of full cost recovery, which is one of the significant differences between the original legislation in the Committee on Energy and Natural Resources and the Committee on Environment and Public Works. The feeling within the Environment and Public Works Committee has always been that we should insure, if at all possible, that the Federal Government recovers its full cost. I believe we must reduce Government's role in that area of subsidization.

I urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, we see no problem with this amendment. It is consistent with our desire to charge the utilities the full cost of carrying this waste from the plantsite to the ultimate disposal site.

Frankly, the amount of the charge as compared with the value of electricity will be very minor, probably less than 1 percent. Indeed, 1 percent of the fees that are being charged here would amount to about a billion dollars in scope. I am sure we can find engineers who can design these facilities for less than a billion dollars. But if they cannot, we can come in and get the difference from the utilities, where it belongs, or the utilities would be glad to get a dividend for any overpayments, if there is one.

Mr. President, we are glad to accept the amendment.

Mr. McCLURE Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I have listened to the explanation of the amendment, I have the text of the amendment before me. I have no objection to the amendment.

However, I want to add this much to the discussion—to point out that the amendment adds a new section (e) to section 304; and it should be read in conjunction with the other provisions of section 304, so that we do not take this and read it separately as being, because of its addition at this time, somehow unrelated to the other provisions. I believe that, by the construction of the statute it is very clearly a portion of it and is read with subsections (a), (b), (c), and (d) equally.

And I think that is the intention of the Senator from Wyoming. I see him nodding his head.

With that understanding, we are prepared to accept the amendment.

Mr. SIMPSON. Mr. President, I will now even qualify the nod of the head and say yes that is true to my good colleague from Idaho.

The PRESIDING OFFICER. Are the Senators prepared to yield back their time?

Mr. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, I yield back my time.

Mr. HART. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1473

Mr. HART. Mr. President, I send to the desk on behalf of myself and the Senator from Wyoming an unprinted amendment and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself, Mr. SIMPSON, Mr. RANDOLPH, Mr. STAFFORD, and Mr. CULVER proposes unprinted amendment numbered 1473:

On page 14, strike lines 10 and 11, and insert in lieu thereof "objective of submitting to Congress and the Commission site characterization reports for construction of at least one demonstration repository by January 1, 1985.".

Mr. HART. Mr. President, on behalf of the Senator from Wyoming (Mr. SIMPSON), the chairman of the Environment and Public Works Committee (Mr. RANDOLPH), the distinguished ranking minority member (Mr. STAFFORD), the Senator from Iowa (Mr. CULVER), and myself, I offer this amendment that seeks to implement part of the policy for nuclear waste disposal that was recommended by the President's Interagency Review Group on Nuclear Waste Management, and is being pursued by the Nuclear Regulatory Commission and the Department of Energy.

This amendment requires the Department of Energy to submit to the Nuclear Regulatory Commission by January 1, 1985, reports of characterizing of different sites. Based on these reports, at least one site will be chosen for construction of a demonstration repository.

This amendment would be a substitute for the provision in S. 2189 that requires the Secretary of Energy to construct a demonstration facility for geologic disposal of nuclear waste by January 1, 1988. This amendment is more consistent with the technologically conservative approach taken in S. 2980 to insure that any demonstration of full-scale repository protects public health and safety and the environment.

Past mistakes by the Federal Government in its nuclear waste management program strongly suggest the need for enhanced public confidence if the waste management program is to be successful. Careful study by numerous Federal agencies and outside groups makes it quite clear that such confidence can only result from a step-by-step technologically conservative approach toward development of a repository. To achieve this result, the amendment requires the Commission to have before it several reports on the geologic suitability of several sites before construction on a demonstration repository may proceed.

This approach is extremely important: if the public believes that DOE will proceed with any type of demonstration or full-scale repository at a certain site without first comparing that site with alternative sites, then the public will never believe DOE's assurances that it intends to protect health, safety, and the environment. This amendment will provide an added measure of assurance to the public and avoid the appearance of a "fast-track" approach to solving a problem with such profound consequences to public health and safety that may concern many citizens.

Mr. President, I urge on my own behalf the adoption of this amendment, and I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I join in offering this amendment to section 406 of the bill that would indeed strike the objective of completing a demonstration geologic repository by 1988 and would substitute the objective of preparing site characterization reports for a demonstration repository by 1985.

Mr. President, we believe that the characterization of several sites is an important prerequisite for the development of a geologic repository for high level radioactive wastes. Such an approach has been recommended by the President's Interagency Review Group On Nuclear Waste Management, by the DOE, by the Nuclear Regulatory Commission, the United States Geological Survey, and the Environmental Protection Agency.

Mr. President, I just feel that there are several advantages to characterizing a number of sites. First, this approach takes the burden off of a single State that would otherwise be the focus of efforts to build a geologic repository. Whether that would be my State, Senator JOHNSTON'S State, Senator HART'S State or Senator McCLURE'S State we shall not know, whatever it may be.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. SIMPSON. I yield.

Mr. JOHNSTON. There is no intent by this amendment to upset any existing agreements between the States and the Department of Energy, is there?

Mr. SIMPSON. No, there is not.

As I say, the purpose of the amendment is to take the burden off of a single State that would otherwise be the focus of efforts to build this repository and it would identify possible acceptable sites in several States to spread the responsibility for nuclear waste management more broadly among those several States.

Second, it avoids the other error of putting all the chips on one number. I think that would be a mistake. If we encounter one site with certain problems, as has occurred in the past, we will at least have some other options under detailed review. In fact, this approach may well result in several fully acceptable sites for geologic repositories.

Finally, Mr. President, I believe the approach will, as Senator HART says, help establish public confidence, which is so vitally necessary in this national nuclear waste management program.

For those reasons, and obviously many others, I urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, in view of the Senator's assurance that any existing agreements already perfected between the DOE and States are not to be disturbed by this matter, we are happy to accept the amendment, and I think the Senator has correctly described it and we accept it.

I yield to my friend from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I wish to make two or three points with respect to the amendment.

First of all, in sections 401 through 405 of the bill we have dealt with the question of monitored retrievable storage and in section 406 to which this is an amendment we again are addressing the question of developing the plans for permanent geologic storage.

Perhaps we in the Energy Committee were optimistic and perhaps too optimistic in assuming that a demonstration repository could be ready by January 1, 1988.

I think if things do work well and we do not abandon the ongoing plans which are well advanced at this time, we could still make that date.

As I view the amendment as drafted, it does not inhibit that progress if indeed that progress is possible, and those of us who hope that and who believe that think it is possible. If the administration expedites the planning toward the attainment of that date, I am sure that the report that is required by the amendment could be done before January 1, 1985. It could be supplemented by further reports after that date. We could possibly have a demonstration site ready by 1988 if everything went well. On the other hand, I have no objection to setting a minimal target date for submission of those reports, but I for one will be working with the administration to the extent it is possible to do so to expedite and to advance the attainment of at least one demonstration site prior to the end of this century.

I know the Senator from Colorado in our discussions about this matter and in his public statements on it has mentioned the possibility of a 1997 date, I believe.

Mr. HART. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. HART. Mr. President, the Environment and Public Works Committee bill contains a provision that set a year 2000 deadline for the issuance of new operating permits and construction permits.

But may I just say in that connection—I will let the Senator conclude and then I wish to make just a few remarks.

Mr. McCLURE. Mr. President, I just say that many of us think it is not impossible to move forward with the plans that are well underway now and have one in place by the end of the decade. If we abandon those plans and set them aside and start anew, then indeed something by the end of the century becomes optimum, and I do not view this amendment as saying that we must go one route or the other, but it does say that these reports must be in no later than the date specified in that and removes the provision we had in our bill that at least one demonstration site be in operation by 1988.

I just wish to make clear that for myself I have not abandoned that goal. I think it is still possible. It may be optimistic. But I do not oppose the amendment, and for the minority I am willing to accept the amendment.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. JOHNSTON. Mr. President, I really do not want to get into a long-term discussion here about what we can achieve and what we cannot achieve on geologic storage, but I simply must give my own view which is that I do not believe we can have it in this decade. I think we can have these reports and begin to go well along, but one reason the Energy Committee has come up with monitored retrievable storage is that we can avoid having to prove what the geologic characteristics are for a period of 10,000 years or more of the particular geologic formation.

I personally believe that monitored retrievable storage, certainly for the first 100 years, is superior in virtually every respect to geologic storage, certainly in the sense that geologic storage relies upon the integrity of the geologic formation to contain the waste.

First, you cannot prove those characteristics for such periods of time; and, second, we have easy technology to monitor these wastes where any leak at all can be immediately detected. That technology here is at very low cost, and there is no reason not to do it. It gives greater safety to the public, and greater assurance to the public. I say greater safety, because I think you can store these nuclear wastes safely without monitoring them, but monitoring gives that extra measure of assurance to the public, and that is one of the important things we are trying to achieve here, not just safe disposal, but disposal which is so safe that even the most skeptical antinuclear person can be assured that these wastes are not going to contaminate his water or shoot him with a death ray while he sleeps peacefully at night.

That is what monitored retrievable storage does. After that first 100 years your waste heat is going to be long gone; your gamma rays are going to be for the most part gone, so that only minor shielding would be necessary and, in effect, you have a different scope of problem for permanent storage.

So I hope we can get this done. I have joined in the amendment because it speeds along the investigation of geologic areas. The nice thing about this bill as it is, however, is that it takes that pressure off of having to rely upon the geologic integrity of the area for a period of 10,000 years or more. So we will accept the amendment, Mr. President.

Mr. HART. Mr. President, we will continue to differ in our policies over the role that interim storage will provide or should provide and what the technologies are and are not, and what the proper policy should be, and I suspect future Congresses will want to go back and reconsider this issue when we learn more.

Without subscribing totally to the description of the Senator from Louisiana, his own views, I would just say, Mr. President, I think there have been some inaccurate characterizations of the two schools of thought on this issue in publications which try to characterize those Senators who want to go fast and those Senators who want to go slow.

I yield to no Member of the Senate in my desire to have a permanent solution of the nuclear waste disposal problem. I do not want to delay. I do not want to drag it out. I offered a year 2000 deadline for the opening not of a demonstration facility but a working repository for long-term geologic disposal.

Needless to say, I think this is one of the most serious problems that our society faces. We are going to have to rely on nuclear power and figure out what we are going to do with the waste not only short term or midterm, but long term.

I think this amendment helps in that regard, and it certainly facilitates in the formulation of a policy.

Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. SIMPSON. I just wondered if I might have a personal comment of my own in regard to this area of nuclear waste.

Serving on the Subcommittee on Nuclear Regulation, after having been elected in 1978, my experience on the subcommittee has been an educational process.

The work we have accomplished on the subcommittee during this Congress, I think, has been very balanced. For me, as one who is so-called pronuclear, I have, I trust, what is called creative ambivalence—of being even more pro-human than pronuclear. Therefore, on these issues of nuclear waste, I am convinced that it will not be Three Mile Island or anything of that nature that will break the nuclear industry down, if that should occur, and I hope certainly it does not. It will be simply the failure to deal with the nuclear waste issue that will bring this industry to its knees. That is why this issue is so critically important for me—one who believes deeply in the national commitment to nuclear energy as a very important part of our energy mix.

Mr. HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HART. Mr. President, if it is in order, I move the adoption of the four pending amendments en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The question is on agreeing to the amendments en bloc of the Senator from Colorado.

The amendments (UP No. 1470, UP No. 1471, UP No. 1472, and UP No. 1473) were agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1474

Mr. HART. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) for himself, Mr. RANDOLPH, Mr. SIMPSON, Mr. STAFFORD, and Mr. CULVER, proposes an unprinted amendment numbered 1474.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 6, strike lines 4 through 8 and insert in lieu thereof the following:

"(1) minimizing the need for away-from-reactor storage facilities by encouraging and assisting the storage of spent fuel at the site of each nuclear powerplant to the maximum extent practicable;

(2) accepting Federal custody of spent fuel only in those instances where there is no reasonable expectation that adequate storage capacity therefore can be provided in a timely manner at the site of the nuclear powerplant that generated such spent fuel; and

(3) assuring full cost recovery by the Federal Government for the construction and operation of Federal away-from-reactor storage facilities.".

(b) On page 6, after line 19, add a new Section 303 to read as follows:

"SEC. 303. (a) Any person filing an application for a license to construct and operate an independent spent fuel storage installation at the site of a nuclear powerplant may submit a petition to the Commission for authorization to begin construction of such installation prior to the conduct or completion of any required hearing upon such application. Such petition shall be accompanied by an affidavit or affidavits setting forth such facts as established that (1) there is a reasonable expectation that refusal to grant such petition will prevent the petitioner from providing in a timely manner adequate capacity for spent fuel storage at the site of such plant, and (2) the petitioner has expanded to the maximum extent practicable, the capacity of existing facilities to store spent fuel at the site of such nuclear powerplant.

"(b) The Commission shall grant the petition submitted under subsection (a) if it or its designee determines that—

(1) in all respects other than the conduct or completion of any required hearing, there is a reasonable expectation that the requirements of the Atomic Energy Act of 1954, of the rules and regulations of the Commission, and of the National Environmental Policy Act of 1969 will be met;

(2) there is a reasonable expectation that the design, construction, and operation of such Independent Spent Fuel Storage Installation, as described and analyzed in the license application therefore, will present no significant risk to the public health and safety and the environment, and

(3) the petitioner has established that the conditions described in paragraphs (1) and (2) of the preceding subsection are satisfied.

In no event shall the Commission grant a petition under authority of this section after January 1, 1991.

"(c) The Commission shall require as a condition to the issuance of a license for any nuclear powerplant for which an application for a construction permit has not been filed by June 1, 1980, that such powerplant provide adequate onsite storage capacity for the spent fuel to be generated by such powerplant over its useful life or until such time as the Commission in its discretion determines a repository for the disposal of spent fuel or high-level radioactive waste will be in operation."; and redesignate succeeding sections.

(c) On page 9, strike lines 15 through 25 and insert in lieu thereof the following:

"SEC. 306. (a) The Secretary is authorized to construct or acquire at least one away-from-reactor facility for the interim storage of spent fuel from civilian nuclear powerplants subject to the requirements in subsection (b) of this section.

"(b) The Secretary of Energy shall not enter into any obligation to construct or acquire, whether by purchase, lease or condemnation, any away-from-reactor storage facility for spent fuel until the President has submitted a proposal to construct or acquire the facility to the Congress and period of sixty days of continuous session has elapsed without the passage of a concurrent resolution disapproving the President's proposal: *Provided however*, That the Secretary shall, in no event, enter into any obligation to acquire an existing facility for the purpose of providing away-from-reactor spent fuel storage if such acquisition is not limited to actual spent fuel storage facilities needed for any away-from-reactor facility unless the Secretary specifically determines that the acquisition of actual spent fuel storage facilities only is not practicable. In no event shall such an acquired facility be used for any purpose other than away-from-reactor storage of spent fuel unless such use is expressly authorized by law. Any proposal by the President to construct or acquire an away-from-reactor spent fuel storage facility shall be accompanied by a detailed statement—

(1) describing the spent fuel capacity to be provided by the subject facility;

(2) justifying the need for such capacity through the identification by the Secretary, with the concurrence of the Commission, of specific nuclear powerplants for which there is no reasonable expectation that adequate capacity for onsite storage of spent fuel can be provided in a timely manner in light of the expedited review procedure established by section 303: *Provided, however*, That in the event the Commission fails to act within 45 days of the receipt of a determination by the Secretary that there is no such reasonable expectation, the requirement of concurrence by the Commission established by this paragraph shall be waived;

(3) estimating the cost of constructing and operating the proposed facility and the means by which full recovery by the Federal Government of spent fuel storage costs will be assured;

(4) delineating alternatives to the proposed facility considered by the President, and the costs and benefits of the proposed facility and each alternative considered; and

(5) justifying in detail the need to acquire an existing facility not limited to actual spent fuel storage facilities in the event the President proposes such an acquisition and comparing the respective unit costs of providing spent fuel storage at such facility and at other alternative storage facilities, including storage at the reactor site and at a federally constructed away-from-reactor facility.

"(c) In addition to any other requirements in this title, the Secretary shall not enter into any contract with a person owning or operating a nuclear powerplant to provide interim storage of spent fuel, unless—

(1) the subject nuclear powerplant has been identified in accordance with paragraph (2) of the preceding subsection or

(2) the Secretary shall have determined, with the concurrence of the Commission, that there is no reasonable expectation such person can provide in a timely manner adequate storage capacity at the site of the subject nuclear powerplant in light of the expedited review procedure established by Section 303: *Provided, however*, That in the event the Commission fails to act within 45 days of the receipt of a determination by the Secretary that there is no such reasonable expectation, the requirement of concurrence by the Commission established by this paragraph shall be waived. No determination, concurrence, or noncurrence under this paragraph shall be subject to judicial review.

"(d) Any facility constructed or acquired by the Secretary under Subsection (a) shall be subject to a license under the provisions of section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233).": redesignate subsection (b) on page 10, line 1, as subsection (c).

Mr. HART. Mr. President, this amendment on behalf of myself, the Senator from Wyoming (Mr. SIMPSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Iowa (Mr. CULVER) goes a long way toward implementing the twin policy objectives of minimizing the need for a Federal away-from-reactor storage program by encouraging and assisting utilities to provide additional onsite storage capacity by constructing new pools. It establishes a procedure for expediting the licensing of additional onsite storage pools while the restricting eligibility for a Federal AFR storage program only to those utilities who demonstrate that they must ship their spent fuel to the AFR facility as a last resort to avoid shutting down a nuclear powerplant. This amendment in no way precludes the implementation of a Federal AFR storage program, to the extent it is needed. It merely tailors the program so that it conforms to the universally accepted policy of maximizing onsite storage of commercial spent fuel.

Estimates of the need for Federal away-from-reactor storage have proven notoriously imprecise—certainly far too imprecise to justify the immediate authorization of a $300 million program as required in S. 2189.

In February 1979, DOE estimated that utilities would require anywhere from 270 to 5,030 metric tons of AFR by 1983. In an update of that assessment, released a year later, DOE's estimated need for AFR storage had decreased to 755 metric tons in 1985.

By contrast, the NRC testified before our subcommittee that utilities would probably require only 450 metric tons of AFR storage in 1985.

Finally, the GAO, in a report released over a year ago, estimated that utilities would require only 152 metric tons of AFR storage in 1983, increasing to 1,443 metric tons in 1988.

It is extremely important to note, however, that none of these studies assumed any expansion of onsite storage capacity by the construction of additional storage pools. This failure to factor into the possibility that utilities could construct additional storage pools seriously flaws the reliability of DOE's estimates of need for a Federal AFR program.

Indeed, many utilities have deferred, or avoided considering, plans for building additional onsite storage pools until they know for certain whether or not the Federal Government will accept their additional spent fuel in an AFR facility.

An analysis which I requested from the Office of Technology Assessment of the DOE estimates concluded:

> It appears theoretically possible that no reactor would have to shut down because of lack of spent fuel storage capacity before 1987, by which time it is estimated that new on-site pools could be constructed and licensed if a decision were made now to do so (and there were no obstacles to gaining the necessary approvals). This assessment raises the fundamental question, "Why do we need a Federal AFR program at all?"

The OTA assessment becomes even more significant in light of estimates by the NRC that, absent unforeseen licensing difficulties, additional onsite storage pools could begin operating within 4 to 5 years. These estimates further strengthen the conclusion reached by the GAO that:

> The responsibility for interim spent-fuel storage should be a utility and nuclear industry concern . . . The nuclear industry, with proper encouragement and a firm Federal policy relating to spent fuel storage, is quite capable of handling interim storage requirements.

The OTA analysis also identified serious methodological flaws in DOE's estimates of need for Federal AFR storage. First, it noted that DOE had based its estimates on the utilities' own projections of need, as reflected in their existing plans for expansion of storage capacity. DOE did not even independently inspect utility nuclear plants to determine the actual maximum capacity for expansion at existing storage basins.

I understand, however, that DOE now intends to embark upon such a study. By authorizing a $300 million AFR program carte blanche before DOE has compiled the results of this study, and reestimated its projections of need for an AFR, the Energy Committee bill puts the cart before the horse—at the expense of the American taxpayers.

Far better, I believe, to include the mechanisms in this amendment that would require the President to justify to Congress the need for acquiring or constructing a specific AFR facility, rather than to plunge blindly into such an expensive proposition—and potential bailout for the private industry—as the Energy Committee bill would have us do.

The OTA study also identified methodological flaws that could radically change DOE's conclusion that a Federal AFR storage facility would offer economies of scale for private utilities.

For example, the DOE study does not take into account the fact that the cost of capital to the Federal Government is far less than the cost of capital to private industry.

Thus, in its study, DOE did not use a consistent set of financial assumption. Consequently, OTA concludes that the difference between the per unit costs of on-site storage and a Federal AFR "appears to be the result of differences in financial considerations and operational costs, rather than economies of scale in the capital costs."

The Tennessee Valley Authority, in deciding whether it should build one away-from-reactor facility for its plants, or three on-site storage facilities, decided that any slight increase in economies of scale for AFR storage did not justify building an AFR in light of other factors. The TVA opted for the three on-site storage facilities instead.

DOE's study also does not consider the near-term availability of dry-storage of spent fuel as an alternative to storage in temporary swimming pools either on-site or away-from-reactor. OTA predicts that dry storage technology "offers low front-end capital requirements, a short-lead-time, and the ability to add storage capacity as needed on an annual basis, so as to avoid either undercapacity or overcapacity.

This approach contrasts with fixed-capacity storage pools that have high initial costs and long lead times for construction and licensing. OTA expects this technology to become licensable within 2 years. Congress should not authorize a $300 million Federal AFR storage program without first knowing whether alternative technologies that impose far fewer costs upon the utilities will be available in the next few years.

I propose this amendment requiring the Department of Energy specifically to justify the need for an AFR program before congressional authorizations in concert with an amendment that would minimize the new for such a program by expediting the licensing of additional on-site storage facilities for utilities that need them to avoid shutting down.

I strongly urge the Senate to consider this carefully crafted, rational compromise approach, worked out between the minority and majority members of our committee. In this time of fiscal austerity, Congress cannot afford to throw money into programs without first having a clear justification of need. Report after report have underscored the lack of any justification for a massive Federal AFR storage program.

Moreover, the program as conceived by the Energy Committee bill, financed by a one-time fee assessed user utilities, raises the possibility that it will become another subsidy, perhaps unintentional, of the nuclear industry. This possibility undermines the stated principle of "full cost recovery."

I urge the Senate to reconsider the Energy Committee proposal and move the adoption of this amendment.

I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I am pleased to join in this amendment to the away-from-reactor spent fuel storage program that would make three changes in that program: First, it would expand slightly on the stated policy of the Energy Committee's AFR program by emphasizing that Federal custody of spent fuel in AFR's should be provided only in those cases where adequate onsite storage cannot be provided.

Second, it would provide a mechanism for assessing the need for each individual AFR that is proposed, and for insuring that spent fuel stored in the AFR cannot be stored at the reactor site.

Third, it would provide an expedited NRC review of utility plans to build new on-site capacity that would require that future plants provide expanded capacity at the outset.

Mr. President, the Energy Committee bill already states as its policy maximizing the storage of spent fuel at reactor sites. One little modification there, but essentially that remains. This amendment would give the bill some means of carrying out that policy by reducing some of the uncertainties in building new storage facilities at reactor sites. Under the amendment a utility could begin building a new on-site pool before the conduct of any required hearings, if the necessary statutory findings are made. These findings would assure the protection of public health and safety and the environment.

The length of any required public hearing is probably the single element of planning of a new onsite facility that is associated with the greatest degree of uncertainty. That is where it gets tough.

In addition, the new plants for which applications have not yet been filed would be required to provide sufficient on-site capacity, either for the operating life of the plant or for such lesser time period as the Commission deems necessary until a repository is in operation. Together, these two requirements would do much to maximize the availability of onsite storage capacity. I think that is very critical.

I believe there are several strong reasons why any Federal AFR program should be limited to the fewest number of AFR's possible, consistent with the overriding need to assure adequate storage capacity either onsite or offsite.

First, these AFR's will involve substantial costs, to be borne at least initially by the Federal Treasury. Second, the more AFR's there are, the more transportation of spent fuel there will be through many of our States—a critical issue. Third, maximizing onsite storage means that the State which benefited from the electricity from the plant will also have the burden of interim storage of the fuel, which seems to be a most equitable result.

Our amendment provides a means of assuring that only needed AFR's are built and paid for by the Federal Government without in any way blocking the development of an AFR that is, in fact, needed.

I believe that is the essential point. We want to have a justification for each proposed AFR and we want to have that reviewed on an expedited basis. Then we want to make certain that the fuel being provided to the AFR is from plants that cannot provide adequate onsite capacity. To do this, we propose that a detailed justification accompany a proposal by the President to build or acquire an AFR. That justification should include a listing of the specific plants that cannot provide adequate onsite capacity, which is agreed to by the DOE and the NRC in concurrence.

If the Congress does not disapprove the President's proposal within 60 days, the Secretary of Energy could immediately proceed to develop the facility and to enter into contracts with the utilities listed in the justification. Thereafter, additional spent fuel could be accepted following a similar "need" determination by DOE and NRC.

Mr. President, I believe this "need determination" is a necessary safeguard and a necessary step to assure that we do not end up with a much larger AFR program than we really require. At the same time, the amendment has been drafted to assure that the necessary determinations are made promptly and without extended delay. I think that provides a fair balance, Mr. President, and I feel that it is an essential addition to the bill. I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. JOHNSTON. Mr. President, I do not use the term "killer amendment" lightly. If you use that term around this place too often, people think you begin to cry wolf.

I can tell you this is a "killer amendment." If this amendment passes, Mr. President, the nuclear industry in this country is going to be in deep trouble and you will probably have to shut down reactors.

Let me tell you what it does, Mr. President. First of all it would charge the rate payers of this country some $3.5 billion more. Second, it would create the possibility of a 6½-year hiatus where you do not have any place to store fuel rods and you have to shut down reactors.

Let me explain precisely what I mean, Mr. President. First of all, do we need away-from-reactor storage?

Mr. President, I had the Nuclear Regulatory Commission before my appropriations subcommittee on February 27, 1980, on the question of away-from-reactor storage. Here is what their testimony is.

Question: "What is the NRC current estimate on the need for an AFR in time?"

Mr. Dircks, who is their chief operating officer, testified as follows:

> We figure by 1983 there will be a real need for an AFR in this country.
>
> Senator McClure. What is the time lag in getting one?
>
> Mr. Dircks. Starting right now in 1980, it will be very hard to get a facility in operation by 1983.

Mr. President, the NRC states that they will need an AFR by 1983. They state it will be hard to get one if we commence construction now to get it by 1983. We asked the NRC, pursuant to that testimony, to give us the detailed written justification for the AFR. They have done so. It was included in the record of our hearing.

Mr. President, I ask unanimous consent that an excerpt containing that justification from the hearing of the Subcommittee on Water and Energy Development of the Appropriations Committee held on Wednesday, February 27, 1980, be printed in the Record.

There being no objection, the excerpt was ordered to be printed in the Record. as follows:

Away-From-Reactor Storage

Senator McClure. What is the NRC current estimate on the need for an AFR in time?

Mr. Dircks. We figure by 1983 there will be a real need for an AFR in this country.

Senator McClure. What is the time lag in getting one?

Mr. Dircks. Starting right now in 1980, it will be very hard to get a facility in operation by 1983.

Senator McClure. We forced the administration to take some money for funding of an AFR and they wouldn't spend it. If they haven't spent it already, there is no chance we will make it by 1983, is there?

Mr. Ahearne. That depends, Senator, on whether you are talking about building one or expanding an existing facility.

Senator McClure. Some of these who have an existing facility and do not want it say that is exactly the Government strategy and that is all they can do. Because that is all they are attempting to do, that is all their strategy is. I know that is not totally your concern, but it fits with what several of us have been concerned about.

Senator JOHNSTON. Would the Senator yield? Could we get a written justification to support that 1983 date?

Mr. AHEARNE. Certainly.

Senator JOHNSTON. We have a bill coming up later this year which will include AFR's and the written justification of that need would be very important.

Senator MCCLURE. Not only the written justification for the need, but the written justification for the time estimates.

Mr. AHEARNE. Of course.

[The information follows:]

AWAY-FROM-REACTOR SPENT FUEL STORAGE—BASIS FOR NEED IN 1983

The "Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG-0575) published by the NRC in August 1979 concluded that there would be an increasing need for away-from-reactor (AFR) spent fuel storage beginning in the early- to mid-1980's. More recently, a February 1980 staff assessment—see attachment—of reactors projected to lose full core reserve (FCR) capacity by 1985 continues to indicate a need for some AFR spent fuel capacity beginning in about 1983. Of the reactors identified in the attachment, 10 have not provided any indications of their future actions to alleviate the storage shortfall and another has indicated that its only present option is to construct an on-site storage pool.

REACTORS WITH A SHORTAGE OF SPENT FUEL STORAGE CAPABILITIES, FEB. 27, 1980

Reactor [1]	Type	Date will fill capacity: with FCR [2]	Date will fill capacity: without FCR [3]	Years gained with pending increase [4]
Arkansas 1	PWR	1985	1987	
Big Rock Point 1	BWR	1980	1983	12
Brunswick 1 and 2	BWR	1983	1986	
Calvert Cliffs 1	PWR	1982	1984	10
Crystal River 3	PWR	(5)	1982	15
Dresden 1, 2, and 3	BWR	1982	1984	13
Fitzpatrick	BWR	(6)	1981	11
Fort Calhoun	PWR	1982	1985	
Ginna	PWR	1984	1987	
Hatch 1	BWR	1985	1988	15
Indian Point 2	PWR	1981	1984	
La Crosse	BWR	(6)	1980	17
Maine Yankee	PWR	1983	1986	6
Millstone 2	PWR	1983	1986	
Oconee 1, 2, and 3	PWR	1982	1984	3
Oyster Creek 1	BWR	1983	1987	
Palisades	PWR	1982	1985	
Prairie Island 1 and 2	PWR	1982	1984	5
Quad Cities 1 and 2	BWR	1982	1985	
Rancho Seco	PWR	1984	1987	
Robinson 2	PWR	1980	1983	
Salem 1	PWR	(5)	1982	14
San Onofre 1	PWR	1980	1983	7
Surry 1 and 2	PWR	1982	1984	
Turkey Point 3 and 4	PWR	1985	1987	
Vermont Yankee	BWR	1984	1988	
Zion 1 and 2	PWR	1981	1983	10

[1] For actions to alleviate shortage, see following 2 pages.

[2] Dates for maintaining a full core reserve (FCR) were derived with the assumptions (1) FCR is maintained at multiunit sites, and (2) a PWR and BWR discharge annually ⅓ and ¼ of a core, respectively.

[3] Dates used for filling capacity without full core reserve (FCR) were obtained from NUREG 0020, "Operating Units Status Report," November 1979.

[4] Years indicated are for only those reactors with an application pending (in-house). Out of the 16 reactors remaining, 10 have not given any indication of future actions.

[5] At FCR.

[6] Without FCR.

ACTIONS TO ALLEVIATE SHORTAGE

Arkansas 1.—Have not provided any indication of future actions.

Big Rock Point 1.—Application to increase storage is pending (in-house).

Brunswick 1 & 2.—Have not provided any indication of future actions.

Calvert Cliffs 1.—Submitted application 01-15-80 for poison racks.

Crystal River 3.—Application to increase storage is pending (in-house).

Dresden 1, 2, and 3.—Intrautility shipment until 1983. Application to increase storage is pending (in-house).

Fitzpatrick.—Application to increase storage is pending (in-house).

Fort Calhoun.—Have not provided any indication of future actions.

Ginna.—Licensee has discussed increasing capacity—application not received to date.

Hatch 1.—Application to increase storage is pending.

Indian Point 2.—Licensee has discussed increasing capacity—application not received to date.

La Crosse.—Application to increase storage is pending (in-house).

Maine Yankee.—Application to increase storage is pending (in-house).

Millstone 2.—Have not provided any indication of future actions.

Oconee 1, 2. and 3.—Application to transship fuel to McGuire is pending decision of contested hearing. Application to rerack with poison racks in Unit 1 & 2 pool has been received.

Oyster Creek 1.—Have discussed building a new pool with the staff. No action has been taken.

Palisades.—Have not provided any indication of future actions.

Prairie Island 1 & 2.—Previous rereack heavily contested (Minnesota vs. NRC); application to rerack has been received.

Quad Cities 1 & 2.—Have not provided any indication of future actions.

Rancho Seco.—Have not provided any indication of future actions.

Robinson 2.—Presently shipping to Brunswick—evaluating alternatives—planning to ship to Shearon Harris 1 (1983).

Salem 1.—Application to rerack is pending decision of contested hearing.

San Onofre 1.—Will be shipping 37 MTU to GE Morris to provide space until new unit comes on line.

Surry 1 & 2.—Have not provided any indication of future actions.

Turkey Point 3 & 4.—Have not provided any indication of future actions.

Vermont Yankee.—Have not provided any indication of future actions.

Zion 1 & 2.—Application to rerack is pending decision of contested hearing.

Away from reactor spent fuel storage time estimates for AFR availability

We estimate that it would take about 5 years to get a new AFR on line at a new site. The steps involved include: (1) site investigations, (2) facility design, (3) preparation of the license application (Safety Analysis Report and Environmental Report), (4) staff licensing review, (5) public hearing, (6) facility construction and (7) pre-operational testing. The first three steps would likely take at least one year by the applicant. The staff's licensing review, including issuance of a final environmental impact statement, should be completed in about one year followed by an expected public hearing process (prehearings, discovery, evidentiary hearing, decision) taking at least 7-8 months, frequently longer. Construction should be completed in 18-24 months followed by 2-3 months of pre-operational testing preparatory to receiving the initial spent fuel.

If the independent spent fuel storage facility is proposed for construction on the site of a reactor, the timing could be shortened to about 4 years. Preparation of the application by the applicant would require less time because of available site data and environmental information. Staff licensing review time would be less if an environmental assessment is prepared rather than a full environmental impact statement. Other aspects would be comparable in timing.

The timing for availability of a pre-existing facility should be less than the above cases, but it is dependent upon the modifications or expansions that might be proposed for the facility. A license application (assuming the facility had not been licensed for storage of spent fuel previously) including the applicant's Safety Analysis Report and Environmental Report would be required. The licensing review would require about one year led by the need to issue a final environmental impact statement prior to the expected public hearing. Thus, presuming that required site data were available to the applicant and that construction time for any modification was minimal, the total elapsed time for availability of the facility would be about 2 to 2½ years.

RECESS UNTIL 12:45 P.M.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now stand in recess for 1 hour.

Thereupon, at 11:45 a.m., the Senate recessed until 12:45 p.m., when called to order by the Presiding Officer (Mr. BOREN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time be equally charged against all sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, as we began the recess I had made the statement that this amendment was a killer amendment, and I pointed out that I did not use that term lightly. I said it was a killer amendment because it threatens, first, to shut down reactors; second, to put an extra cost of over $3 billion, $3.5 billion to be exact, a mandated cost on the ratepayers of this country, and which is some four times in size what the cost of an away-from-reactor storage would be; and, third, it continues to leave unanswered and in limbo this whole question of nuclear waste, at least away-from-reactor storage.

I promised to deal in detail with those items to show that there is no question that those arguments are correct.

As we left for the recess, Mr. President, I put in the record testimony from the Nuclear Regulatory Commission on February 27 of this year which makes two points: First, that we will need away-from-reactor storage by 1983; and, second, that in order to get to away-from-reactor storage by 1983 we must begin now.

The Nuclear Regulatory Commission, which cannot by any stretch of the imagination be accused of a pro-nuclear bias, submitted a detailed site-by-site analysis of the storage pool capacity at each reactor to prove that statement. Mr. President, similar testimony has been elicited not only this year but every year for a period of 3 years from the Department of Energy.

The Department of Energy has told us in the Energy and Natural Resources Committee, which has jurisdiction of this matter, that we must have these facilities on line by 1983.

Now, what happens if you need storage capacity for spent fuel rods and you do not have them? Well, Mr. President, you shut down reactors. You cannot continue to put fuel in the core unless you have a place to put it when it comes out.

In our bill, Mr. President, we have language that maximizes and encourages the use of what we call reracking. Reracking is, in effect, putting more fuel rods in existing on-site facilities than we presently have.

Scientific innovations have made possible, in many cases, the storage of more rods in the facility. It is somewhat controversial in that attempts to rerack, such as at one of the Virginia powerplants, I believe it was North Anna, where they attempted to do that, there was an intervention filed from some environmental groups protesting the use of reracking. And so reracking is sometimes controversial.

We incorporated in our bill a maximization of reracking because we believe to the greatest extent possible you ought to rerack and use storage facilities on site because it would involve an extra transportation trip. So we ought to do that. We are committed to that and we put those provisions in the bill.

Mr. President, on the question of whether you need away-from-reactor storage, I think you simply have to look at what the Nuclear Regulatory Commission says and what the Department of Energy says. Disregard, if you will, the urgent calls of the utility systems themselves, but at least do not disregard what the Nuclear Regulatory Commission says and the Department of Energy.

Mr. President, reracking, according to the Department of Energy, in a recent study—a Department of Energy study on spent nuclear fuel dated March 1980—states that reracking takes some 3 years to go through the licensing process in order to get the storage. That is without an intervention, without the usual intervention. I might say that it takes 3 years to rerack, so if we waited around for 3 years just for reracking, then you would miss your deadline by some 3 years at the time you need AFR's.

New pool storage, Mr. President, according to this same study, takes 6½ years. That same study, as I indicated, states that the cost of new pool storage would be four times the amount or an additional $3.5 billion.

In light of the fact, Mr. President, first, that AFR's are required, second, that in order first to explore reracking it takes an additional 3 years, and in order to build new pools it takes an additional 6½ years, let us consider what this amendment does.

The amendment can be attacked on two bases. One is delay and the second is cost. Why do I say delay? It requires a plan, specific analysis of the question of whether you can rerack. Before you can go in and get these plants built, each utility would first of all have to determine financial arrangements for getting new pool storages built which would be in the neighborhood of per plant costs of approximately $30 million to $50 million. So, in order to pursue plans for this, first of all, you have to get your financing. Then you have to get your engineering plans cost.

The drawing of those engineering plans, of course, for a $30 million to $50 million facility takes a great deal of time. I hope not as much time as the building of the new Senate Office Building, even though it is more technologically sophisticated and more complicated. But I leave it to Senators to determine in their own minds how much time it takes you to get one of these plans drawn.

Then you must go, if you are going to build one of these things, to get permission from the Public Utility Commission in your particular State to assess this rate to the taxpayers, because you cannot build without the financing and you cannot get the financing without PUC permission.

Then you go to the NRC for approval. It is true that the NRC can give expedited approval according to this amendment, but you still have to get approval and you are still talking about some 72 existing nuclear units with an additional 90 units to come on line that are already in the licensing process.

After you get all through that process where you get your financing, your engineering plans drawn, your PUC's give it to you on the rate base and the NRC approves it, then you come to Congress. Then the President sends a motion for an approval to Congress with a set of five different findings, describing spent fuel capacity, justifying the need, estimating the cost, delineating the alternatives, and justifying the need to acquire existing facilities. All of those detailed findings must be submitted to the Congress by the President—I do not know how long that would take just independently of these other things—where it would lie over for 60 days and if not vetoed under the terms of that, then, Mr. President, after all of that is approved, you have permission to go to the Appropriations Committees to seek an appropriation for the AFR.

In the meantime, Mr. President, what happens? If you can believe the NRC and if you can believe the DOE, we are in the soup in this country from the standpoint of energy. You take an area like Chicago, Ill., which is 60 percent dependent on nuclear energy and they do not have a place to store the spent fuel rods and they have to shut down the nuclear plants, what do they do? I do not know, Mr. President. You have a hiatus, a delay, a period in which you cannot operate, you cannot store. I do not know what the alternative to that is.

Mr. President, I do not doubt for a minute that the sponsors of this amendment have the best of intentions. When I say it is a "killer amendment," I do not mean that it is motivated by any antinuclear bias, that there is a hidden agenda here to shut down nuclear plants, to stop growth in the country, to require alternative fuels other than nuclear. I do not charge that.

I do charge that the effect of this amendment, however laudatory its intentions are, is to cripple the use of nuclear power, not so much new plants, although that would also be a result, but existing plants, because the NRC, the Nuclear Regulatory Commission, charged by law with the safe operations of plants, says you must have away-from-reactor storage. The Department of Energy says you must have away-from-reactor storage.

Mr. President if we are going to avoid that hiatus, then I say the only way to do it is to do it consistent with the Energy Committee bill. This is now the third time the committee has reported out away-from-reactor storage legislation. And each year the need gets more critical.

The President of the United States has submitted this legislation. Mr. President, I do not think President Jimmy Carter can be accused of a pronuclear bias. The NRC has asked for it on an urgent basis. The Department of Energy has asked for it on an urgent basis.

If we do not do it, Mr. President, then we have made a very sad mistake.

I want to repeat once more that language in our bill requires the maximization of what we call reracking. It minimizes the use of AFRs, but if we do not begin now in this bill to build the AFRs, we will never meet the date on which we will need it and we will be in grave difficulty in this country.

Mr. President, I do not see my opposing numbers on this amendment. I trust that means they have decided not to go through with the amendment. [Laughter.]

Mr. President, I will yield the floor at this point.

The **PRESIDING OFFICER**. Who yields time?

Mr. **JOHNSTON**. Mr. President, I suggest the absence of a quorum and ask that the time be equally allocated to the sponsors and the opponents of the amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SIMPSON. Mr. President, I yield sufficient time to myself to address the pending amendment.

The PRESIDING OFFICER. Is the Senator yielding time to the bill?

Mr. SIMPSON. Yes.

Mr. President, I appreciate the return of the floor manager. I wanted to await his return because I have listened with great interest to his arguments. They are very compelling. I happen to remember my days of legislative experience in the wilds of Cheyenne. I served there in the State legislature for some 13 years. I always remember the great argument about the killer amendments—which is a tool I have used with great skill in my past legislative endeavors. It was always the one that would get the attention of the group—any reference to killer amendments seemed to get the juices flowing pretty well. I have used that device and shall probably use it again, frankly.

Mr. JOHNSTON. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. JOHNSTON. Is the Senator suggesting that he will put in more killer amendments than this one?

Mr. SIMPSON. No, the Senator is not suggesting that. I am suggesting that if you stay in the legislative process long enough, you will eventually be on both sides of every issue.

What I should like to state, very briefly, is this: In no sense do I have any intent of destroying the ability of the nuclear industry to function. I want to be very clear about that. I said that earlier in the debate. I am what is known in the trade as pronuclear. I make no apologies for that. As I say, my conflict comes from the fact that I am probably more prohuman than I am pronuclear. That leads to a great deal of ambivalence, sometimes.

The issue with regard to this amendment is that, if an AFR is needed, it will be built. There is no question about that. There is nothing in this amendment which would prevent that. If it is needed, it will be built.

The amendment makes continual reference to minimizing the need for the AFR storage facility by encouraging and assisting the storage of the spent fuel at the site. That is what the amendment does. We will determine the need for each AFR at the time lack of onsite storage is clear. Continually, we see in the amendment the reference to the phrase "of need." We shall determine the need for each AFR by an analysis of the existing storage capacity onsite. That is what the amendment requires.

In hearing the discussion of the cost and the time limits I believe that we want to be very assuredly presented with the facts that a new onsite pool would probably take a period of construction of 4 to 5 years. We are also told it is very possible that we could have an onsite pool under a standardized design in about 33 months.

We are not given this information by antinuclear people or pronuclear people. We are told this by the respected engineering firm of Stone and Webster, that a 33-month time period for onsite expansion is very likely the circumstance.

Mr. JOHNSTON. Would the Senator yield or would he like to finish his statement?

(Mr. BRADLEY assumed the chair.)

Mr. SIMPSON. I would like to finish my remarks and then we can debate. I would appreciate that.

There really are two fundamental policy differences between the Energy Committee and the Environment and Public Works Committee on AFR's. The first one is that our committee believes that, wherever possible, spent fuel should be stored on site, either by reracking of existing storage pools, or building new storage pools at the reactors.

That is our position. We think that is a reasonable approach.

The process for expanding onsite capacity to the extent it is possible is a way of reducing the need for ARS and reducing the need is what we hope to do. If we build new onsite pools, where possible, as an alternative to an AFR, we minimize the amount of transportation of spent fuel across virtually every States' highways in the Nation.

We deal here, obviously, in a very emotional, highly charged arena. One of the issues in the consideration of AFR's is always transportation. "Do you mean you are going to move that stuff across my State?" That is the issue, and what people are concerned about.

New on-site pools, as I indicated, may well be cheaper than building on AFR, contrary to previous debate. Stone and Webster, an industry architect, had developed a standardized add-on pool for reactor sites.

I think a standardized add-on pool offers substantial cost advantages over AFR's when the cost of transportation is entered into the equation. We see many studies on the subject but they often do not provide the cost of transportation when they are computing in cost of AFR's.

According to Stone and Webster, spent fuel stored in a 1,400 metric ton on-site pool for 20 years would cost $143,000 per metric ton to store the fuel. A 5,000 metric ton AFR would cost $233,000 to store the same metric ton of spent fuel for the same period.

So, contrary to the claims made, AFR's are not cheaper than building new onsite pools. In fact, the cost differential in favor of a new on-site pool may be substantial.

The Tennessee Valley Authority already made the decision to go with new onsite pools to deal with their spent fuel problem as an alternative to going with an AFR.

That is an interesting element. I think it should be injected here.

Why is it that the TVA has gone forward with onsite expansion, believing it is the best method for them? My hunch is that the principal reason why other private utilities have not yet gone this route, might just be the open promise of the President, which is incorporated into the Energy Committee's bill, that the Federal Government is willing to build an unlimited number of AFR's. That is what the Energy and Natural Resources Committee legislation calls for. The utilities, therefore, are waiting, as I suppose I would do, too, to see what will happen here, so they will then not have to go to the issue or expense of building additional onsite pools.

In terms of interim storage, it just makes good sense to store the fuel at the reactor site, whenever possible. That puts the storage burden on the State, which has benefited most from the electricity that generated the waste. It spreads that burden rather than concentrating it in a couple of States.

The second policy is that each AFR ought to be independently justified before a commitment is made to build it or to enter into contracts to fill it.

Mr. President, what we are doing with the pending amendment, and what we tried so diligently to do in the Environment and Public Works Committee, is to streamline the process of determining the need for each AFR. We are not advocating delay. Those of us that know the chairman of the Subcommittee on Nuclear Regulation know he is not about to sanction the tactic of delay. He is impatient to proceed in this area of dealing with nuclear waste. So am I.

So I cannot ascribe to the view that there has been any attempt on the part of the Environment and Public Works Committee to delay. That is not part of the issue.

We have a very carefully crafted amendment here which sets out procedures. Most importantly, the language of the amendment says this, and people are overlooking this in the process:

> The Secretary is authorized to construct or acquire at least one away-from-reactor facility for the interim storage of spent fuel.

So to say it is a killer amendment or that it strikes down AFR's is not borne out by the language of the amendment.

But what the pending amendment does do is state that the Secretary:

> Shall not enter into that obligation to construct or acquire, an away-from-reactor storage facility for spent fuel until the President has submitted a proposal to construct or acquire the facility to the Congress and a period of 60 days of continuous session has elapsed without the passage of a concurrent resolution disapproving the President's proposal: *Provided however*, That the Secretary shall, in no event, enter into any obligation to acquire an existing facility.

So we do not have that problem of picking up an older facility and making it into an AFR without proper notice to Congress.

When we provide for a proposal from the President to construct or acquire an AFR, it shall be accompanied by a statement identifying the need for a facility, which is a critical requirement. We identify the need for the facility and the capacity; we justify the need by examining the existing reactors; and the Secretary identifies those reactors with the concurrence of the Commission, of the specific nuclear powerplants, for which there is no reasonable expectation that adequate capacity for onsite storage of spent fuel can be provided in a timely manner, even with the expedited review process.

The amendment goes on to call for concurrence of the Commission and a further waiver.

The Department of Energy can come up with that list within weeks. There is not any reason why DOE cannot come up with a list of reactors that will require additional storage capacity, even during the 4 or 5 years that would be required to build the onsite storage capacity.

As I say, the President presents the AFR proposal to the Congress, and here we can deal with the issues I have mentioned in a very definitive manner.

So, for these reasons and others that will be debated, I leave my colleagues with a philosophy of this Senator. It seems to me, even though this nuclear industry was created by the Federal Government, and that is assuredly so, through the Atomic Energy Act, I believe it is time to remove some of the paternalism of the Federal Government from this particular area, because I believe that utilities and the industry itself has an obligation of self-help in the area of storage of waste nuclear fuel.

I believe the utilities should be involved. I know that this is not a particularly popular proposal for those who share my philosophy about the basic issue itself. But, in my judgment it is time that the utilities are involved—involved with regard to their capital, their self-interest, and that the Federal Government should simply not say, "We are going to build you an AFR. We are going to take title to the fuel, and we will take care of you." I think that time is past for the nuclear industry.

Mr. JOHNSTON. Mr. President, there is no disagreement on the need to maximize storage at reactor sites. Indeed, we specifically provide for that in our bill. Page 6 of the bill, as amended, states as follows:

> The policy under subsection (a)—

That is, the policy of providing for such storage—

> shall provide for maximizing the storage of such spent fuel at the site of each civilian nuclear power plant by utilization of available spent fuel pools to the maximum practical extent.

So we already have provided for that.

What we would not do, under the Hart-Simpson amendment, is provide AFR space in time.

Mr. President, I have put into the record a list from the Nuclear Regulatory Commission. First of all, I put in their testimony which says that they need this space by 1983; that in order to get it by 1983, you must begin it by 1980. They list, by reactor sites, the date they will fill their capacity, with or without full core reserve.

I point out to my colleagues that full core reserve means the ability to take all your fuel rods and your existing core and take all of them out and have space to put them in, in order to repair your reactor, for whatever reason. It is a measure of safety which I think is absolutely essential.

However, allowing for that full core reserve, this is what the NRC says:

> What would happen at that time is that at Calvert Cliffs, Maryland, by 1982, you run out of space.
>
> At Crystal River, Florida, by 1982, you run out of space.
>
> At Dresden, Illinois, by 1982, you run out of space.
>
> At Fort Calhoun, Nebraska, by 1982, you run out of space.
>
> At Ginna, New York by 1984, you run out of space.
>
> At Hatch, Georgia, by 1985, you run out of space.
>
> At Indian Point, New York, you run out of space in 1981, or in 1984, if you want to proceed without full core reserve.

Mr. President, operating a nuclear plant without a full core reserve is like taking off in a jet plane with just enough gas to get where you are going. You are fine as long as there is no inclement weather or a pileup of traffic, so long as all your navigation gear works properly. But if you run into any of those things, you are in trouble.

If you operate one of these nuclear plants without a full core reserve and anything goes wrong, then you have to shut down the plant and, I suppose, let the people burn up in the summer or freeze to death in the winter or go without lights. It is that simple.

Unless you can take that reserve out and put it somewhere—and you cannot just put it in the back of a truck. You have to put it into a swimming pool, because it has that decay heat. That is what the onsite and reactor storage do. Unless you can do that, you have to shut down the reactor.

I continue with the list:

> LaCrosse, Wisconsin, 1980; Maine Yankee, Maine, 1983; Millstone, Connecticut, 1983; Oconee, South Carolina, 1982; Oyster Creek, New Jersey, 1983; Palisades, Michigan, 1982; Prairie Island, Minnesota, 1982; Quad Cities, Illinois, 1982; Rancho Seco, California, 1984; Robinson 2, South Carolina, 1980; San Onofre, California, 1980; Surry 1 and 2, Virginia, 1982; Turkey Point, Florida, 1985; Vermont Yankee, 1984; Zion 1 and 2, Illinois, 1981.

It is true that the figures I have just read, from the Nuclear Regulatory Commission report, can be extended somewhat if you proceed without the measure of safety which I think is essential—that is, in having a full core reserve.

I ask this of the Senator: Does the Senator dispute any of those individual facts from the Nuclear Regulatory Commission?

Mr. SIMPSON. Mr. President, the Senator does not dispute the figures, but certainly something is lacking in the completion of the presentation, which is a very critical issue.

Let me be very clear on this. I support fully, and so does our committee, the issue of full core reserve. There is no question that the lack of a full core reserve is just as the Senator from Louisiana has described it in the airplane analogy. What is not presented in the Senator's description is so critical that it must be presented at this moment, and it is this: When you run out of space—and that is what has happened as the Senator from Louisiana has ably pointed by giving the dates—then you apply for a reracking proposal.

If we take, for example, Calvert Cliffs, with a capacity date of 1984, we look further in that table and find that the utility has a pending reracking proposal which would give them an additional 10 years of life.

At Crystal River, they have a pending reracking proposal which has given them 15 years of life. The only reason there is a zero behind other plants on the Senator from Louisiana's list is that they have not yet applied for a reracking proposal.

Mr. JOHNSTON. Of course, the Senator is correct, that many of these plants have applied for reracking; and we have specified in our bill that you maximize the use of onsite facilities. We are not in disagreement on that.

The Senator did not tell the Senate that many of these plants have no pending plan.

For example, Arkansas 1 has not provided any indication of future action, and on down the list. Some can; some cannot; some are stopped by a Catch-22 lawsuit.

For example, in the case of State of Minnesota versus the NRC, they applied for expansion of onsite facilities; and the court ruled that they could not expand those facilities until the Government demonstrated confidence that offsite storage would be built. In other words, the courts say that you cannot do what would be provided for in their proposal until the NRC shows that you can build away-from-reactor storage; and you cannot build away-from-reactor storage, under their proposal, until you have gone through all this rigamarole to prove that you have done it onsite. So it is a Catch-22.

Mr. President, the Senator gives us a figure of 33 months, by Stone and Webster, for construction of an onsite facility. That does not include the preparation of the application, nor the design work, and it certainly does not include the interventions and do they get interventions in these cases.

Mr. President, virtually every time they try they get interventions. I am advised that many environmental groups other than those which have actually filed interventions disagree that maximization of onsite is the way to go. They think there are dangers inherent in that, and I cannot speak to what the dangers are onsite.

All I can tell the Senate is we put it in our bill to maximize it, but there is great difference of opinion as to whether it is the most dangerous. I can tell the Senate that the NRC and the Department of Energy say that we need away-from-reactor storage, that we have to begin it now in order to complete it in 1983 when it is needed.

And the Department of Energy says it costs an additional $3.5 million. Maybe someone disagrees with that. I do not doubt that there is some report that says that $3.5 billion is not the correct figure. But, Mr. President, we should leave that to NRC.

We have provided the policy to maximize onsite, and we have given to NRC the duty and the mandate to license. It is their duty to protect safety.

Why should we come here on the floor and in the face of advice from the Department of Energy, the President of the United States, and the Nuclear Regulatory Commission say, "Let us substitute our judgment on safety for that of the NRC, let us substitute our judgment on the need for AFR's, let us substitute our judgment on the question of costs for that which is given by the experts set up by us independently under the law to deal with these questions"?

Mr. President, we cannot approve the amendment and proceed in any rational way with nuclear energy.

Mr. HART and Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, what is the time on the amendment?

The PRESIDING OFFICER. The Senator from Colorado has 16 minutes and 5 seconds; the Senator from Louisiana has 10 minutes and 17 seconds.

Mr. HART. Mr. President, if it is agreeable with my colleague from Wyoming I will yield myself 5 minutes on the amendment.

Mr. SIMPSON. Mr. President, that is certainly agreeable.

Mr. HART. Mr. President, as I understand the arguments made by the Energy Committee and the able floor manager, the Senator from Louisiana, they are essentially twofold.

First, that the approach proposed in the pending amendment by the Environment and Public Works Committee results in unnecessary and unacceptable delay and, second, it results in extraordinary expense which is over and above what the Energy Committee contemplates.

I shall take those arguments in reverse order, if I may, Mr. President, and respond to them briefly.

First of all, the argument by the Energy Committee that the economy for a federally constructed and operated away-from-reactor-site storage facility is much more favorable than that proposed by our committee is not clear. The Department of Energy's calculations upon which this cost is based are based upon a capital cost to the Federal Government of 6½ percent, far less than the current cost of capital to private industry of 10 or 11 percent. The difference would represent, of course, an indirect subsidy from the taxpayer to the nuclear industry, if in fact the approach being proposed by the Senator from Louisiana were accepted; therefore, the taxpayers of the United States would be involved in a very enormous increase subsidization of the private generation of electricity from nuclear power in this country.

May I cite, Mr. President, the calculations done by the Tennessee Valley Authority in this connection?

With regard to the comparative economics in deciding whether to proceed with an AFR program similar to what the Department of Energy is proposing, the Tennessee Valley Authority determined that with the added cost of transportation and new technology such as rod consolidation for expanding existing storage, to quote the TVA, "Economic comparison favors the onsite option in accommodating the early needs."

This is an economic study done by the Tennessee Valley Authority about the storage of its own spent fuel. Consequently, the TVA elected to build three additional storage facilities at the reactor site instead of an AFR facility for its entire system, and that was purely and simply an economic calculation which the TVA itself made, taking into consideration some of the ancillary and corollary costs that I am afraid the Department of Energy study has not done.

In addition, Mr. President, the only architect and engineering firm within our knowledge that studied this question and developed plans for additional onsite storage facilities—known as an independent spent fuel storage installation—estimates that the per unit cost of a 5,000 metric ton AFR is slightly greater than the per unit cost of a 700 metric ton onsite additional storage pool and significantly greater than a 1,400 metric ton onsite storage pool.

Moreover, the economies that are being calculated here do not consider other technologies that the Nuclear Regulatory Commission has under review. For example, the NRC is currently reviewing the first application for rod compaction, a technology that can double existing storage capacity, depending on other structural limitations. That technology could become available within the next year.

In addition, the Office of Technology Assessment argues that dry storage technologies will be available as early as next year as an alternative to building additional onsite wet storage pools. The NRC could license the technology within a year or two in time for use by those utilities with even the most extreme need for additional storage capacity.

There is no reason, Mr. President, to commit to a $300 million AFR program until we know for sure whether these technologies will be available to utilities as an alternative.

These technologies have clear advantages for utilities.

First, the Office of Technology Assessment estimates that dry storage would cost around $40,000 per metric ton of spent fuel, substantially less than the Department of Energy estimate for AFR storage of $130,000 per metric ton. Moreover, to quote the study in that regard, they have "significant potential advantages, these new technologies, in terms of low front-end costs, relatively short lead times, and the ability to expand incrementally." In other words, utilities would not have to commit large amounts to start up the facility.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HART. Mr. President, I yield myself 3 additional minutes.

Rather, these new technologies could permit the utility to spend money incrementally to add the additional onsite storage as the need becomes apparent.

Mr. President, the Senator from Louisiana has initially argued there is unnecessary delay in the approach taken by the Environment and Public Works Committee. Our approach in the pending amendment would permit Congress to authorize an AFR program now as provided in the Energy Committee bill, but before the Department of Energy can buy a reprocessing plant for an AFR storage or to build a new AFR facility, Congress would get 60 days to review a specific proposal submitted by the President justifying the need. This proposal would include an identification of those plants which need AFR storage in the near term.

The amendment also provides an expedited procedure for licensing construction of new onsite storage pools to encourage utilities to proceed with the construction of onsite pools.

Mr. President, the process is now under way to identify the actual need for additional storage and whether that storage should not occur at the reactor site or somewhere else.

We do not in fact have the data base that the Energy Committee seems to feel is conclusive. The record before the Environment and Public Works Committee is quite different as to the immediate or short-term need for away-from-reactor storage, and we know that the potential and the actual necessity for massive transportation of nuclear waste and spent fuel around the country itself poses an enormous potential for delay, and that is what the away-from-reactor proposal that the Energy Committee is suggesting would involve.

Incredible political complications resulting from crossing of almost every State line with vast quantities of nuclear material and spent fuel, that itself would be subject to delay from court suits and challenges by governmental entities, private organizations, and individual citizens.

So the scale of delay is not tilted just one way, Mr. President. Once the American people become familiar with what it is the Energy Committee is proposing here involving extraordinary transportation of hazardous material, I think what we are seeing there is a potential for at least as much if not more delay resulting from the approach being taken by the Energy Committee, and we certainly challenge the economic calculations upon which the Energy Committee's position is based.

Mr. JOHNSTON. Mr. President, there are all kinds of figures.

I am familiar with the TVA study. The TVA study relates to the TVA reactors there under consideration. I do not know whether their figures are accurate with respect to their one or two units. I believe it was at Brown's Ferry. But I do know that the Nuclear Regulatory Commission and the Department of Energy have made studies nationwide.

We are not dealing with TVA here. We are dealing with 72 reactors presently licensed and operating and another 90 in the licensing process.

So when we talk about cost estimates that provide for an additional $3.5 billion, that is not the Energy Committee, that is not our staff; that is the Department of Energy.

Mr. President, it seems to me we should not second guess the Department of Energy and the Nuclear Regulatory Commission on these matters of great import.

To repeat, and I will be ready to yield back the remainder of my time if the Senator from Colorado and the Senator from Wyoming are, but very simply, Mr. President, to repeat, the NRC says we need away-from-reactor storage by 1983; that to get it we need to start in 1980. Under the Hart-Simpson amendment there is no way you can begin in 1980.

Whether it takes 6½ years, as the Department of Energy says, to build more on-site storage, whether you would be hit with the decision in the State of Minnesota versus NRC, which would not allow you to proceed, whether you have interventions that are not built into that 6½ years, whether that figure is precisely right, no one can say. How long it would take Congress to act no one can say, except that we are sure we could not act this session under the Hart amendment.

One thing is clear, we could not meet the dates as specified by the NRC. You cannot do it under their amendment, you just cannot do it.

Mr. President, it is imprudent to disregard the advice of the Nuclear Regulatory Commission and proceed without a full core reserve capacity and that is what you are doing. That is not my opinion, that is not the Energy Committee's opinion; that is the Nuclear Regulatory Commission's opinion, which Commission has been so criticized by the industry for having an antinuclear bias.

However you feel about the NRC, the one thing that is clear is they are independent, charged with the duty of safety.

So I hope, Mr. President, that this Congress will not try to second-guess the President of the United States, the Department of Energy, and the Nuclear Regulatory Commission in their urgent request for the ability to build away-from-reactor storage now in this section in this bill.

If the Senator is ready——

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. Just very briefly.

It is not my purpose at this time to lengthen the discussion concerning the issue because I think it has been pretty thoroughly ventilated, but there are maybe two or three things that might be added to the debate at this point. I do not mean to repeat.

First, is that it is being represented that there is not any urgency, and we need not now, today, make the decision.

NRC's testimony said we need the decision and we need it now, and we do not need to set up a mechanism by which we can arrive at a decision in the future.

The time for the decision is now. There may be some people who want to duck that issue and create a procedure rather than confront the issue and make that decision. and I can understand why they might desire to do it. But it is too late for that. We have already procrastinated too long on this subject matter, and it is time for us to live up to our responsibility and legislate on this issue and, in my opinion, there is only one way to legislate on this issue, constructively and positively, and that is to stay with the Energy Committee position which said, "We know what must be done. Now let us do it."

Instead of ducking the issue and saying. "Well, we are not quite sure what ought to be done and we will set up some kind of a little procedure here that in the future will yield a decision," we know what needs to be done, let us make that decision.

Second, lest people believe that simply is my opinion, I might just relate that in the process of developing the option that the administration might exercise in AFR, I got some additional moneys put in the budget so that they could do that. The administration initially was adamantly opposed to that budget add-on. They did not want the money, they did not need the money. There was not that much urgency.

Under the prodding of Assistant Secretary John Deutch, who supported the need vigorously, openly, emphatically, we did put the money in because we could not wait any longer. If we did not have the money in we could not meet the date that was absolutely necessary to meet. I do not think Secretary Deutch took that position because he wanted to waste the money. I do not think he took that position, because it was an uncomfortable position for him in some respects, going against other spokesmen within the administration. It was a difficult position for him to take, but he supported the necessity of getting started so that we could meet the date.

For it now to be said that we do not need to because there is no urgency flies in the face of the decisions of the Department of Energy and the responsible decisionmaking authorities within DOE. It flies in the face of the unrebutted, unquestioned advice given to us by the Nuclear Regulatory Commission.

I think the time for the Senate to decide has arrived, and I am prepared to vote. I do not intend to prolong the decision any further. I thank the Senator from Louisiana.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I ask for 5 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. In support of the Hart amendment.

Mr. HART. I will yield to the Senator if I might have 2 or 3 minutes to respond to the arguments that have been expressed.

Mr. SIMPSON. I would ask before time is yielded for a couple of minutes.

The PRESIDING OFFICER. The proponents have 8 minutes 13 seconds and the opponents 3 minutes——

Mr. HART. Mr. President, I would like to divide the 8 minutes between myself and the Senator from Wyoming, and then I will yield the Senator 5 minutes from the 3 hours on the overall bill that we have, if that is agreeable.

Mr. PERCY. Mr. President, prior to the tabling motion I would like to make a parliamentary inquiry about the gas rationing plan, and the action I intend to take on that.

Mr. JOHNSTON. Mr. President, may I be recognized to speak on that subject? We are winding down on this amendment which is, I think, 8 minutes on their side and whatever time we take—we have what, 3 minutes left?

The PRESIDING OFFICER. Two minutes 54 seconds left.

Mr. JOHNSTON. So we are winding down. I hope we can get to a vote on that and then go to the Senator's question.

Mr. PERCY. Would it be the understanding, then, that immediately following that vote on the privileged matter, with the clock running on it, that I would then like to take up the motion of a discharge for 30 minutes equally divided?

Mr. JOHNSTON. If we win the tabling motion then I believe we may be ready to go to final passage. If we do not win—without any intervening amendments. I would hope that is so. If we lose the tabling motion then you could go to gas rationing.

Mr. HART. Mr. President, on whose time is the discussion taking place?

Mr. PERCY. That would be agreeable to the Senator from Illinois because I know we are anxious to finish this bill if we possibly can, and I want to cooperate.

Mr. HART. Mr. President, may I inquire from the Senator from Illinois—well, let me respond, if I may—I yield myself 4 minutes—to the Senator from Idaho and the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, this is not an issue of delay. The Senator from Idaho suggested that if you are serious about the nuclear waste problem and you want to move on, then you have no choice but to vote for the Energy Committee proposal. That is not the case. Everybody wants to move forward with disposing of nuclear waste. There are two different ways to do it, that is all. This bill can authorize away-from-reactor storage and, in fact, our amendment contemplates that. The Secretary of Energy can request funds for away-from-reactor storage. There is nothing in our amendment that prohibits that. So I want the record to be clear and I want our colleagues to understand that if you favor getting on with solving the nuclear waste problem you have choices other than just to support the Energy Committee.

Second, Mr. President, I want to reiterate a very important fact.

If we adopt the Energy Committee's proposal and reject the Environment and Public Works Committee's amendment we are voting for massive transportation of nuclear waste and spent fuel all over this country, and when 1 year from now or 2 years from now or 3 years from now Governors rise up in arms, as they are going to do, and city councils rise up and mayors rise up, and citizen groups rise up against the transportation of tons and tons of nuclear waste across those roads up and down the highways, through the towns, through the farmlands, near the schools, and everything else, I hope Senators understand that that is what they are voting for. Away-from-reactor storage as the solution, the immediate solution, to the expanding nuclear waste pile, involves massive transportation of nuclear wastes.

If you do not like that, then you had better think very seriously about this vote.

The amendment proposed by the Committee on Environment and Public Works is consistent with the recommendations of the 14-member Federal Interagency Review Group on Radioactivity Waste Management (IRG) which call for the use of AFR's only where utilities are unable to store onsite. That is not just the DOE, that is the entire administrative branch of our Government.

Our amendment is consistent with the President's February 12, 1980 statement on nuclear waste management which calls for a similar policy on minimizing AFR use. Our amendment is consistent with the June 1979 report by the General Accounting Office entitled "Federal Facilities for Storing Spent Nuclear Fuels, Are They Needed?" which concluded that the private sector is fully capable, both physically and financially, of continuing to store the spent fuel at the reactor site.

Finally, the DOE statistics, which the Senator from Idaho (Mr. McClure) and the Senator from Louisiana (Mr. Johnston) cite, are premised on only expansion or use of existing facilities as reracking. And that is inadequate. Our committee does not quarrel with that.

Our committee proposes expanding onsite capacity by building additional storage capacity. That knocks the DOE and NRC calculations in a cocked hat, because they were premised on a much different approach. I hope Senators understand that.

I yield to my colleague from Wyoming (Mr. Simpson).

(Mr. HEFLIN assumed the chair.)

Mr. SIMPSON. Mr. President, to summarize very briefly, we heard the floor managers discuss the special procedures of this legislation. The real special need here in this situation is that we have the NRC and the DOE in the concurrence process. We need that at this time. We want to look at the reactors and find out what the needs are at each reactor site and see if they can be expanded. That is what we are trying to find out.

So the givens are: We need AFR. There is no argument with me on that. We need speed. We need it now. There is no argument from me on that. We need new capacity. There is no argument on that. We need fuel core reserves. There is no argument there. We need to expedite the process.

What we are really talking about is maximizing onsite storage or going to an AFR with no concurrence of the DOE or NRC.

I think the real key—and when you get through the reasons, you get to the real reasons in this game finally—the real key is that if we think we have problems with intervention on onsite extension—and we have already seen that; we have seen intervention come on onsite expansion—if we think we have seen anything in that area, wait until you see what happens when you try to put your local AFR out there. You are going to find tremendous problems because of the transportation issue. You are going to find worse problems because of the geographical location.

The most fascinating part of it is why not keep the stuff at the site where they have gone through those fires? In other words, there is not a plant in America that has not gone through a most bruising process to get there—a hearing process and intervenors, and they are there.

We are saying, take the nuclear waste and put it there under an expedited process which is going to save months and maybe even years of time under the expedited procedures of this legislation, because new AFR's will go through some real fires of approval of any kind of a facility like that.

Furthermore, do not miss the other issue in this amendment: New facilities coming onstream must have a full lifetime onsite storage capacity—that is great, we need that; we needed it long ago—or else until a permanent repository is available.

So if you really believe in the speed, if you really believe in getting on with it, then go to the maximum onsite use without the hassle, which we have built into this amendment through the expedited process, or go on to the AFR with a guaranteed continuing hassle in the future.

Mr. HART. Mr. President, our colleague from Illinois has requested time. I assume that is for the purpose of addressing the pending issue. Is that correct?

Mr. PERCY. It is. It is to oppose the tabling motion.

Mr. HART. Mr. President, I yield 5 minutes to the Senator from Illinois on the time allocated to the Senator from Colorado and the Senator from Wyoming on the bill.

The PRESIDING OFFICER. The Senator only has 2 minutes remaining on the bill.

Mr. HART. Mr. President, does the Senator from Colorado not have time under the agreement on the bill?

The PRESIDING OFFICER. I am informed, since I have not been here all of this time, that the 3 hours has diminished to 2 minutes.

Mr. HART. Mr. President, I was under the impression that we were debating on the hour and a half on the pending amendment. There was, in fact, a time set aside in the agreement for a Hart-Simpson amendment and it would be from that time that the Senator from Colorado would yield to the Senator from Illinois.

The PRESIDING OFFICER. All of the time the Senator has on the amendment has expired. He has 2 minutes remaining on the bill.

Mr. HART. Mr. President, did the unanimous-consent agreement not include a portion of time for a Hart-Simpson amendment?

The PRESIDING OFFICER. The original agreement provided for one Hart-Simpson amendment for 3 hours. Yesterday's modification changed that to eight Hart amendments at 1½ hours each.

Mr. HART. Mr. President, I ask unanimous consent that the Senator from Illinois be heard for 5 minutes.

Mr. JOHNSTON. Is that in addition to the 2 minutes?

Mr. HART. That 3 additional minutes be added to the 2 minutes remaining for the Senator from Illinois.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PERCY. I thank my distinguished colleague very much, indeed.

I rise only because—if I could have the attention of the managers—there was a failure in the effort to reach some compromise on this issue. I earnestly hoped that it could have been worked out between the distinguished Senator from Colorado (Mr. Hart) and the distinguished floor managers of the bill.

That effort having failed, though a best effort was made on all sides, I must reluctantly come to the conclusion that I oppose the motion to table the Hart amendment, and oppose title III in S. 2189 as it now stands.

Mr. President, to most of the Nation, Morris, Ill., West Valley, N.Y., and Barnwell, S.C., are just three points on the map—small towns, with average people living average lives, and facing average problems.

In point of fact, these are highly extraordinary towns, whose inhabitants are now in the midst of an extraordinary problem, one they have not caused but can do little to stop.

The problem is the possibility, if not the likelihood, of the Department of Energy in the near future, purchasing existing private nuclear waste storage facilities in these communities and turning them into national storage facilities, to hold thousands of metric tons of highly radioactive nuclear spent fuel. None of these away-from-reactor pools, or AFR's, were built with intention of having them sold to and operated by the Federal Government for an indeterminate number of years. None of these facilities were expected to possibly be expanded to three or four times their normal size, so they could accept spent nuclear fuel from reactors thousands of miles away that had depleted their available onsite storage capacity, because it was the original intention at Morris and other facilities that they would become reprocessing centers.

Certainly, no one living in Morris, West Valley, or Barnwell was warned when these facilities were built that they might have to live next to thousands of tons of radioactive waste and spent fuel for the rest of their lives. Yet all these events may come to pass in the very near future if we pass S. 2189, title III today, unamended.

It is well known that the purchase and/or construction of an AFR facility for use in the very near future is one of the Department of Energy's highest priorities at this time. DOE states, in its March 1980 study on spent nuclear fuel storage, that about 755 metric tons of AFR storage capacity will be needed by 1985 if America's nuclear reactors are to continue their daily operations as usual.

In light of this perceived short-term need for AFR's, and the relative economic disadvantage of building a new AFR facility from scratch, the DOE study focuses extensively on the practicality of purchasing any or all of the existing private storage pools I have cited—the Morris operation, owned by General Electric, the Barnwell nuclear fuel plant owned by Allied General Nuclear Service, and the Western New York Nuclear Service Center owned by Nuclear Fuel Services.

Consequently, the 1980 DOE authorization bill contained $300 million for AFR purchase, pending the passage of legislation such as S. 2189 which specifically sanctions the construction or purchase of such a facility. It should be noted, and it is no coincidence, that the estimated total cost for the purchase and expansion of the Morris and Barnwell facilities together is $330 million. This money would enable DOE to increase the size of Barnwell from its present 400-metric-ton capacity to a capacity of 1,750 metric tons. Morris, which DOE wants to purchase for as little as $48 million, could be expanded for $72 million from 700-metric-ton capacity to 1,100-metric-ton capacity. The General Electric Co., present owners of Morris—who operate it in an effective and efficient manner, and I have seen it many times—has stated its interest in seeing the facility bought as quickly as possible, and claims that its total storage capacity can be enlarged to a total of 2,800 metric tons—or over one-third of the total amount of spent fuel currently being stored in the entire Nation.

Mr. President, a debate has raged for years over whether AFR's really are needed to keep America's nuclear industry alive, notwithstanding the warnings of DOE. I make no claim that such facilities will never be needed, or have not been needed to date, and were they based on some measure of proof, I could support DOE's requests to authorize the purchase of an AFR at this time.

But I have seen no real proof of this sort. Indeed, to the contrary, I have seen substantial evidence that the rush to buy an AFR "before it is too late" is not only a premature decision, but it is a potentially dangerous one as well.

The Senate should take note of the fact that the Office of Technology Assessment has declared that the technology exists now which would enable utilities to double their available onsite spent fuel storage capacity. This technology, called pin compaction, is scheduled for a demonstration and initial licensing by the Nuclear Regulatory Commission in 1981. The OTA also points to tremendous strides in the development of dry storage canisters, much cheaper than the "swimming pool" technology now employed. This process, too, may be licensable in the next year or two.

Is there any doubt, Mr. President, what the speed at which new storage technologies are developing will mean for potential AFR's like Morris, West Valley, or Barnwell? No; once purchased by DOE, these facilities are going to be used for a very, very long time. I, for one, have little doubt that the purchase and use of an AFR is going to take so much of the pressure off of DOE to develop a permanent waste disposal strategy, that these "temporary" pools will become de facto permanent repositories in short order. This is an unwarranted scenario that I must do everything in my power to prevent. An amendment passed Monday 83 to 0 that will help tremendously in our work toward permanent disposal with public trust. That amendment should remove one of the great barriers that has been hanging over the heads of the nuclear industry for some 38 years.

We do not want to repeal that initiative. We want to preserve public trust and find a permanent answer soon to the question of where we can most safely dispose of this spent fuel. I have great fears that an open-ended purchase of AFR's will undermine both public trust and our initiatives toward a permanent disposal solution.

What are the specific problems with the legislation before us?

First, the Energy Committee, in its Nuclear Waste Policy Act, has presented us with a bill which presumes that utilities will maximize their onsite spent fuel storage capacity before beginning to use AFR's. The bill, however, offers absolutely no criteria to determine whether a utility has, in fact, exhausted all its onsite expansion opportunities before turning to AFR's. In fact, S. 2189 would require the Federal Government to take title to all spent fuel emplaced into an away-from-reactor facility, thus relieving a utility of all liability in case of an accident, while it allowed the utility to retain any reprocessing rights to this fuel.

Clearly, Mr. President, such a policy not only makes an AFR a highly attractive option for utilities, but it invites a utility to avoid onsite expansion at all costs. It is a policy which takes the true and real costs of nuclear power use out of the hands of a utility and its ratepayers, and places them into the laps of the American taxpayer, and into the daily lives of citizens near the AFR's, who seldom if ever have enjoyed the benefits of the nuclear spent fuel they are now being asked to accept.

The Environment and Public Works Committee has offered us an alternative, one which offers, by contrast, many important safeguards that will limit the size and use by DOE and AFR facilities. The committee's provisions regarding AFR's are far from antinuclear. They merely operate under the highly responsible premise that if DOE wants an AFR, it should be willing to prove it needs one.

Under the Environment Committee proposal, the President would be required to submit to Congress a specific proposal for purchase of an AFR, once the site, size, and need for the facility were established. The proposal would include an analysis of any alternatives to the AFR that had been considered, and the identification of the specific powerplants in need of AFR space, to be approved by the Nuclear Regulatory Commission. Furthermore, the environment proposal would require future utilities requesting construction permits for nuclear reactors to provide adequate onsite storage capacity for the life of the plant, or until a permanent repository had opened.

Mr. President, there are six Senators in this Chamber whose constituents stand to be directly and unduly affected if title III of S. 2189 is accepted today, unamended, and if the Department of Energy proceeds with haste to enter into contracts to buy the private facilities for spent fuel storage at Morris, West Valley, and Barnwell. I am one of these Senators, and I obviously have every concern that the citizens of Illinois do not become victims of a misguided and negligent policy to store nuclear waste within our borders, perhaps unnecessarily, for decades to come.

There should be no mistake about it, however: Every one of the 100 Senators in this body has an obligation to look at the Energy Committee bill's title on AFR headon, and examine whether it really offers a responsible policy on nuclear waste management. I claim that it is the height of irresponsibility to pass legislation leading to the use of tens, if not hundreds of millions of dollars to purchase an away-from-reactor storage facility without knowing exactly how big an AFR is needed. That is what the Energy Committee is asking us to do in S. 2189 today.

I claim that it is very wrong to pass legislation permitting DOE to use an AFR indefinitely, without at least having to show Congress that it needs that AFR in the first place. That is what the Energy Committee is asking us to do in S. 2189 today, as well.

The Environment Committee has offered us a responsible, conservative approach to the purchase of additional storage pools for spent fuel, when needed. The Energy Committee, by contrast, has offered us a bill giving DOE a carte blanche to use AFR's as it wants, and when it wants—the local residents be damned.

The residents of Morris, Barnwell, and West Valley need a showing that Congress is serious about establishing a responsible AFR policy. The nuclear industry needs to gain public trust now just as much, and it can most surely do this through the passage of legislation like the Hart-Simpson amendment which stresses responsiveness to public concern on this crucial issue. Without such trust, our goal of a credible and accepted nuclear power strategy is made that much harder to attain.

I urge support of the Hart-Simpson amendment as the best alternative available to us and thus must vote against tabling.

Mr. RANDOLPH. Mr. President, the amendment before the Senate addresses one of the most critical issues associated with the disposal of nuclear wastes.

It is an issue that is dealt with in both of the bills which have been reported to the Senate. These are S. 2189, the measure now pending, and S. 2980, reported last week by the Committee on Environment and Public Works.

The amendment which we now discuss is patterned largely after the language in S. 2980. We consider it to be complementary to the provisions of the Energy Committee proposal to establish away-from-reactor facilities for the temporary storage of used nuclear fuel.

Mr. President, members of the Committee on Environment and Public Works present this amendment today because of a fundamental difference in philosophy between the provisions of the two bills.

This amendment would in no way prohibit or impair the timely establishment of an away-from-reactor facility. The difference in the two bills is reflected in our amendment which would, in effect, require a needs test for the use of this temporary storage facility.

This amendment provides that away-from-reactor facilities could not be used by utility companies if they have or can readily provide storage capacity at their powerplants—the place where these nuclear wastes are produced.

Mr. President, it is important that we do not build or buy these facilities—at Government expense—and allow the utilities to get rid of their used, but still dangerous, fuel if they are not needed.

I believe that all of us agree that we must move in a responsible, yet expeditious, manner to provide for the permanent disposal of highly toxic, used nuclear fuel. The amendment before the Senate provides part of the incentive to reach that goal. So long as there is ready access to temporary storage, there may not be the urgency to solve the problems of permanent disposal.

There are other advantages of restricting access to the temporary storage.

Requiring maximum storage at reactor sites—again, where the wastes are generated—will reduce the number of times these dangerous materials must be moved. When permanent disposal facilities are ready, they can be moved once and only once, from the reactor to the permanent disposal location.

This would obviously reduce the opportunities for accidents during movement and the resulting potential dangers to people and property.

In addition, the provisions of the Energy Committee—the provisions we seek to amend—would require larger Federal expenditures that would be necessary if large storage capacity is not needed.

Finally, Mr. President, I will make one last point before yielding to others to complete the discussion of our amendment.

Limiting the access to the away-from-reactor facilities would keep nuclear wastes stored where they are generated, as I have said.

If all used nuclear fuels are temporarily stored in Federal away-from-reactor facilities, we could conceivably see a limited number of States as the repositories for all of our country's nuclear wastes. They would, of course, have to be moved again when the permanent disposal facility is completed.

In the interest of fairness, I do not believe we should expect the people of New York, or Illinois, or South Carolina to bear this burden of temporary storage with all of its implications.

Mr. President, I repeat that our amendment will not impair the program envisioned by the Energy Committee bill. Our proposal will, instead, make it a more equitable and responsible program.

The Environment and Public Works Committee has been reviewing and analyzing the regulation and control of nuclear waste for 3 years. Our Subcommittee on Nuclear Regulation, under the very able leadership of Senators GARY HART and ALAN SIMPSON, held a series of incisive hearings and has developed an exhaustive hearing record on these issues. No issue has proved more difficult than Federal away-from-reactor storage of spent reactor fuel.

For this reason, I am confident that the product of our intensive examination of nuclear waste matters, S. 2980, provides an environmentally and fiscally sound approach to the difficult issue of Federal away-from-reactor storage. The amendment now offered by Senator HART and I, together with our distinguished colleagues, Senators STAFFORD and SIMPSON, embodies the essential elements of this careful approach.

No one disputes the need for utilities themselves to expand, so far as is possible, storage capacity for spent fuel at the reactor site. The President, his Interagency Review Group, the Committee on Energy and Natural Resources, as well as our committee, all agree on this important principle. A program of Federal away-from-reactor storage, therefore, should be limited to accommodate those storage requirements the utilities themselves are unable to provide for.

All concerned also agree that such a Federal program must be based on the principle of full cost recovery of program costs. The actual beneficiaries of this storage must bear the real costs of this storage.

The amendment we offer is intended to provide an effective mechanism to implement these principles.

First, the amendment provides for expedited review by the Nuclear Regulatory Commission of license applications to construct new onsite spent fuel storage facilities. If the applicant is unable to provide in a timely manner for adequate onsite storage capacity under conventional regulatory procedures, and there is a reasonable expectation that applicable requirements will be met and that the facility will present no significant risk to the health and safety of the public, the Commission is directed to authorize construction of a new onsite storage pool in advance of the opportunity for a public hearing required by law.

I emphasize that the applicant proceeds with this construction at his own risk pending final disposition of the license application. Operation of the new facility cannot begin until a license is issued. Finally, we fully expect that the Nuclear Regulatory Commission will assure in this expedited procedure the same degree of protection the public is afforded by conventional procedures.

Second, the amendment mandates that the Commission require as a condition of each new license for a nuclear powerplant, that adequate onsite spent fuel storage capacity be provided for the facility's useful life or until the Commission determines a repository for the permanent disposal of spent fuel or high level radioactive waste will be in operation.

Third, the amendment requires the President to submit to the Congress a detailed project proposal for the Secretary of Energy to construct or acquire a facility for away-from-reactor storage of spent fuel. If the Congress did not disapprove the proposal, the Secretary could proceed.

Central to this project proposal is the Secretary's justification for the facility's storage capacity through his identification, with the concurrence of the NRC, of specific nuclear powerplants for which there is no reasonable expectation that adequate onsite storage capacity can be provided in a timely manner in light of an expedited procedure.

This is the same need-based standard the Commission itself would apply in determining the availability of the expedited procedure. Should the Commission be unable to determine in either context that no such reasonable expectation exists, this would in no way modify the Commission's independent responsibility to review a license application to provide additional onsite storage capacity.

If the Congress does not disapprove the project, those nuclear powerplants identified in the proposal would automatically be eligible for storage in the facility. For additional nuclear powerplants to be eligible, they would have to be identified by the Secretary, with the concurrence of the Nuclear Regulatory Commission, under the identical need-based standard.

Significant safeguards are provided to assure that the Commission's role in this process does not result in delay or disruption. The Commission must concur or not concur within 45 days or the requirement of Commission concurrence is waived. Further, no determination by the Secretary, or Commission concurrence or nonconcurrence on the eligibility of additional nuclear powerplants would be subject to judicial review.

Overall, the amendment offers the substantial fiscal advantage of controlling the size of an interim Federal program to the extent possible consistent with the need to guarantee that adequate storage capacity is available either onsite or offsite. This is especially true in light of general recognition that permanent disposal would likely require a major commitment of Federal resources. Further, the amendment offers the important environmental advantage of minimizing the shipment of spent fuel, with its attendant potential risk to public health and safety, since either permanent disposal of spent fuel or reprocessing will ultimately require a considerable number of such shipments. Finally, the amendment is intended to provide assurance that commercial nuclear powerplants will not be forced to suspend operation for lack of spent fuel storage capacity.

Mr. President, as I understand the arguments in opposition to the pending amendment they are twofold: First that its hidden intention is to delay or prevent a Federal away-from-reactor storage program. Second, that the concept of minimizing the need for away-from-reactor through encouraging and assisting the expansion of onsite capacity is unsound.

With respect to this first argument, Mr. President, I speak for all of my colleagues on this amendment when I say categorically that it is not intended to delay or prevent a Federal AFR program, but rather to assure that this program, is both environmentally and fiscally sound.

To require that the Congress review for a period of 60 days the proposed Federal away-from-reactor storage facility cannot be characterized as obstructionist. To require further that this proposal be justified on the basis of specifically identified needs is the essence of fiscal responsibility.

The amendment requires concurrence by the Nuclear Regulatory Commission in the identification of specific nuclear powerplants for which adequate on-site capacity cannot be provided in a timely manner. If the Commission does not take action within 45 days this requirement is waived. Mr. President, I submit that this is not a procedure established by an amendment intended to delay.

If the Congress does not disapprove the proposed project, each nuclear powerplant identified is automatically eligible for away-from-reactor storage at the Federal facility. There would have to be the same concurrence for additional reactors to become eligible subsequently.

Here too, the procedure is designed to expedite matters. The Nuclear Regulatory Commission again has only 45 days to act or the requirement of concurrence is waived. Further, no determination by the Secretary, or concurrence or nonconcurrence by the Commission would be subject to judicial review.

The procedure established by the amendment for expedited construction of new at-reactor storage capacity is another example of the intent to expedite, rather than delay or hinder. Briefly, this procedure allows for construction on new onsite storage pools in advance of the opportunity for a public hearing that is required by law.

Central to this amendment is the motion that onsite storage should be maximized. On this the distinguished floor managers are quite correct. And further, Federal away-from-reactor storage should be available only where additional onsite capacity cannot be provided in time to meet the reactors requirements.

While the fiscal advantages to this approach are obvious, it also affords a considerable advantage in protection of the health and safety of the public. Shipments for the interim purpose of away-from-reactor storage would be minimized. This must be seen against the certainty that a truly large number of shipments will eventually be necessary for permanent disposal or processing if it should be resumed. By minimizing the total number of shipments of spent fuel around the country, this amendment undoubtedly minimizes the chance of accidents in transit with their potential risk to health and safety.

Finally, the amendment would not impose economic hardship. There has been much talk of so-called economies of scale advantage of a Federal away-from-reactor storage facility. This is subject to serious question.

First, it is generally assumed that to meet near-term needs, the Secretary would have to acquire existing storage facilities since these facilities are part of larger complexes and the present owners are unlikely to sell only the storage portion, the price tag may in fact be quite high.

Second, the first license application is now pending with the NRC for a highly cost-effective technique, rod compaction, which can expand the capacity of existing at-reactor spent fuel storage facilities by two times or more.

Third, the TVA has recently completed a study that concluded that cost is not a significant factor in deciding between the construction of one centralized TVA away-from-reactor storage facility and the construction of new storage pools at existing reactor sites. This study which concluded that this latter approach is best for TVA, has been ordered implemented with respect to the first two TVA reactors.

Mr. President, I ask unanimous consent that the able Senator from Iowa (Mr. CULVER) be listed as a cosponsor of the amendment.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. MOYNIHAN. Will the Senator have the kindness to ask that I be made a cosponsor also.

Mr. RANDOLPH. Yes, and I ask unanimous consent for the energetic Senator from New York to be added to that cosponsorship of that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in opposition to the Hart-Simpson-Randolph-Stafford amendment. Among other concerns, there is one provision of this amendment which disturbs me a great deal. This particular provision states that:

> In no event shall an acquired facility be used for any purpose other than away-from-reactor storage of spent fuel unless such use is expressly authorized by law.

As I read this language, Mr. President, this would preclude any reprocessing of spent fuel at a facility which is also being used for AFR storage. If the Department of Energy recommends acquisition of the Barnwell Nuclear Fuel Plant in South Carolina for use as a regional site for away-from-reactor storage of spent nuclear fuel, I feel strongly that the option must be kept open to use Barnwell to reprocess this stored spent fuel at some future date. The debate so far on S. 2189 is clear on the subject of leaving our options open with regard to reprocessing.

The benefits of reprocessing, as I have stated in a number of occasions, are significant. Although spent fuel can be safely disposed of as waste, doing so would be throwing away a valuable resource. Reprocessing results in a more chemically stable form for the waste than existed in the fuel. Also, because of the removal of much of the plutonium by reprocessing, the remaining waste has a lower long-term hazard level. The volume of high-level waste from reprocessing is only about one-seventh that of the spent fuel, which leads to significant cost benefits in waste disposal. Finally, reprocessing opens up the door for future improvements in waste management where spent fuel disposal has limited possibilities for change.

Possible future developments could improve both environmental protection and electric energy costs. It could also permit us to obtain beneficial use of some of the rare, nonradioactive fission products.

Furthermore, Mr. President, we simply cannot afford to waste the energy stored in spent fuel rods. By utilizing a facility such as Barnwell to reprocess spent fuel, we can recover the energy equivalent of 1 million barrels of oil per day. Therefore, as a potential energy source, Barnwell would be equivalent to two-thirds of the Alaskan pipeline. Reprocessing will also reduce our requirements for uranium mining, milling and enrichment. In light of such benefits, it is imperative to keep the reprocessing option open at Barnwell.

If the Hart-Simpson amendment were enacted into law, reprocessing at Barnwell, if Barnwell were being used as an AFR facility, could only go forward if expressly authorized by law. Mr. President, this would require an act of Congress to authorize reprocessing. Obtaining passage of such a law may be an extremely difficult task, given the ability of certain Senators opposing the nuclear energy option to tie up the legislative process. In light of my strong and consistent support for commercial reprocessing, I cannot support this amendment.

Mr. President, as I pointed out yesterday in my floor statement on AFR storage, I strongly support the principle of maximizing onsite storage which Senators HART, SIMPSON, RANDOLPH, and STAFFORD are attempting to implement. I do, however, disagree with their method of implementation, fearing that the approach in their amendment will unduly delay the availability of needed AFR storage until we face the possibility of reactors having to be shut down. As the Senator from Louisiana (Mr. JOHNSTON) has already discussed, there are a number of reactors in need of AFR storage in the early 1980's. Among them are two reactor sites in the State of South Carolina. The Oconee plant, owned by the Duke Power Co., will lose full core reserve in 1982. The Robinson plant, owned by the Carolina Power & Light Co., will run into the same difficulty in 1983. Mr. President, I cannot support an amendment which I fear may result in the shutting off of two major sources of electrical power in my State.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes.

Mr. JOHNSTON. Mr. President, briefly, the President of the United States has requested this legislation in S. 797. The Department of Energy has found in a study that an AFR is necessary by 1983, that we must begin it this year in this bill in order to get it completed.

The Nuclear Regulatory Commission

in testimony in February of this year has similarly testified we need to start it now. We will need it on line in 1983.

On that, all the credible authorities agree.

What this amendment does, Mr. President, is delay decision on the AFR, require another congressional review, establish procedural obstacles, and require new powerplants to become waste isolation sites.

Mr. President, if you want to see something that is going to send the local folks up the wall, it is this, to require a tenfold expansion in those 90 new powerplants now under construction, require a tenfold expansion in those sites, which this amendment would require.

Many of those plants are well under construction. The costs have escalated already. If you had to go back into each one of those proceedings and provide for a 10-time expansion of waste isolation storage capacity, the cost would be astronomic, the delay would be untenable, and I could tell you the public reaction would be incendiary, Mr. President.

Mr. President, this is a killer amendment. This will stop nuclear plants in their tracks.

That is what the NRC says, Mr. President; that is what the Department of Energy says, that we need it by 1983.

We believe we ought to maximize onsite reracking. Our bill so provides. It so provides, Mr. President.

But for anyone who has any doubt about whether this legislation in our bill is needed, I simply invite their attention to the Nuclear Regulatory Commission.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. JOHNSON. Mr. President, I move to table the amendment and I ask for the yeas and navs.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—51

Armstrong
Bellmon
Bentsen
Boren
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Lugar
Magnuson
Mathias
Matsunaga
McClure
Metzenbaum
Morgan
Nunn
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—44

Baker
Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Chafee
Cohen
Cranston
Culver
Durkin
Eagleton
Glenn
Gravel
Hart
Heinz
Javits
Jepsen
Kassebaum
Leahy
Levin
McGovern
Melcher
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Simpson
Stafford
Stevenson
Williams

NOT VOTING—5

Church
Kennedy
Long
Stewart
Talmadge

So the motion to lay on the table Mr. HART's amendment (UP No. 1474) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. I would like to ask my distinguished colleague from the State of Louisiana whether I correctly understand the effect of section 303(b) of the bill concerning the use of a Federal AFR for foreign spent fuel. The acceptance of foreign spent fuel could be a very important part of our nonproliferation policy in some cases. For example, we would be in a far better position in dealing with India today if the spent fuel at the Tarapur reactors was under U.S. control, rather than India's.

It is my understanding that existing law requires a specific authorization for U.S. acceptance of foreign spent fuel and that, in addition, a separate plan would have to be presented to the Congress for review, subject to a congressional veto.

Am I correct that section 303(b) merely states that this bill does not fulfill either of these statutory requirements and am I also correct that the bill takes no position on the appropriateness of foreign spent fuel return in any way?

Mr. JOHNSTON. The Senator's quite correct in his interpretation of this provision. Basically, we are not taking any position on the appropriateness of foreign spent fuel return in any case. We are simply making clear that this bill does not alter the status quo on this issue. The existing statutory requirements would still have to be fulfilled when and if a specific proposal came along for foreign spent fuel return. In essence the question is being left open for future consideration.

Mr. President, I say for the benefit of my colleagues that I believe we are approaching third reading now, unless any Senator has an amendment.

Mr. MAGNUSON. Will the Senator yield?

Mr. JOHNSTON. Could we get third reading?

Mr. MAGNUSON. I may have an amendment.

Mr. JOHNSTON. Very well, I yield.

Mr. MAGNUSON. I am quite concerned about the nuclear waste coming up to the Hanford Nuclear Reservation in Washington, and many people in Washington State are concerned about it.

We are willing to handle our own nuclear waste where we have nuclear powerplants. But we do not want it coming from other parts of the country.

Mr. BURDICK. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. In other words, we will have enough problems with nuclear wastes of our own, taking care of the Hanford reservation nuclear plants, and the Trojan plant in Oregon.

If the State objects to the transportation of nuclear wastes into the State, other than our own waste, what is the procedure in the bill?

Mr. JOHNSTON. Mr. President, this bill, for the first time, solves the problem of State consultation and concurrence in a very constructive way. We have an amendment that satisfied those on all sides of the spectrum—Senator DOMENICI, who for so long has been fighting for some kind of State veto, Senator GLENN, and others.

We provide for an elaborate State consultation and concurrence provision which gives to the State the right to veto. Upon a State veto, after they go through this long, detailed process, if a State veto occurs, the process comes to a halt and can be overridden only by Congress, as provided in the amendment.

Mr. MAGNUSON. Let us get this clear. If they go through this long process and the State still vetoes the importation of nuclear wastes into the State, does that veto stand unless Congress overturns it?

Mr. JOHNSTON. In the case of civilian nuclear waste, the President then could submit to Congress a proposal which either House of Congress could override by a veto. In the case of military waste, the President would have to go two steps further.

First, he would have to make a declaration that this is, in effect, a matter of national security. Then it would require a two-third veto in order to veto the measure. So that there is that possibility for State veto.

In addition, we have a provision whereby States on a regional basis can get together and make an agreement or a compact; and that agreement or compact, upon approval by Congress, is binding.

Those compacts could restrict the importation from one region to the other.

So I think the Senator will find, if he looks carefully at the amendments, that we have provided maximum protection for the individual States. Indeed, the amendment on that subject was adopted by a vote of 83 to 0, which I think is an indication of how far we have gone in satisfying the States.

Mr. MAGNUSON. Let me try to clarify this further.

When the process has been completed and the State still is not satisfied—they say, "We don't want nuclear waste"—does that veto stand until Congress acts?

Mr. JOHNSTON. That veto will stand unless the administration puts forward to Congress a plan and that plan is not vetoed by one House.

Mr. MAGNUSON. Then, suppose the States of Washington, Oregon, and Idaho got together and said, "We're going to handle our own wastes," such as at Hanford. That plan would have to be approved by whom?

Mr. JOHNSTON. By Congress, as a State compact.

Mr. MAGNUSON. As a State compact.

Mr. JOHNSTON. The Constitution puts that requirement. But we encourage the doing of State compacts.

Mr. MAGNUSON. So that if the elaborate process of the bill is gone through and we have a regional problem—say, the State of Washington says, "We don't want importation of nuclear wastes; we have gone through all the hearings and processing and the conference and everything else," does that veto stand? Until when?

Mr. JOHNSTON. The veto of the individual States stands until the President submits to Congress a proposition for the plan for that waste management facility, and one House of Congress, either House of Congress, may veto that, in which event it stops. That is in the case of civilian waste. In the case of military waste, the President must make a finding that it is a matter of national security, and that is a two-House veto.

Mr. MAGNUSON. So that they can have a regional arrangement, if they wish, or, for example, the State of Washington can say, "We don't want any importation of wastes," and that stands until the President submits a new plan?

Mr. JOHNSTON. Submits a plan.

Mr. MAGNUSON. And that has to be approved by Congress?

Mr. JOHNSTON. That is subject to a veto by either House.

Let us say the President submitted a plan. Then the Senate could disapprove that plan, which could stop the plan dead in its tracks.

Mr. MAGNUSON. Why is it not the reverse, so that the veto stands unless Congress takes affirmative action?

Mr. JOHNSTON. This question of State consultation and concurrence has a very long history. Frankly, I did not think we were going to be able to solve it at all, but we came to a solution. The vote indicated the satisfaction of everyone in the Senate, but certainly the major players, those who have been dealing with that concept for a long time.

The one-house veto is more protection than anyone thought we would get. I submit to the Senator that that is a vast amount of protection, particularly when read in light of the procedures leading up to the plan, whereby a State, through its Governor, through the State planning council, has access to all information, all documents. He has the right to appear and to present views. They have procedures for setting up what they call the cooperative agreement to settle disputes, which could include arbitration.

There is what they call a repository review panel, appointed by the Governor. It is an elaborate procedure by which the States have maximum protection.

I invite the Senator to read it, and I believe he will find that it does have that kind of protection.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. McCLURE. There is another facet to the question asked by the Senator from Washington, and that is the regional plan that might or might not be sought, such as a region in the Pacific Northwest.

There has been some discussion of the opportunity for a majority of the States to form an agreement which could be imposed upon an unwilling State within the same area. That is not the case under this bill. That proposal was not written into the bill.

So that if there were a proposal for a regional plan and the State of Washington decided not to join in that regional plan, their failure to join in it would result in a compact submitted to Congress, for approval, which could not be binding upon the State that did not join in the compact.

Mr. MAGNUSON. The point I am making, I say to the Senator from Idaho, is that, in the Pacific Northwest, I believe that we necessarily will have to have a regional plan of some kind, because we will have to take care of our nuclear wastes at Hanford, which is a big job. But then there is the Trojan plant in Oregon, and then there is some nuclear waste that comes out of Idaho.

Mr. McCLURE. And the public power entities have some nuclear plants in process.

Mr. MAGNUSON. We are willing to have a facility to take care of the nuclear waste for the region, but we do not want it shipped from other places, outside the region. We want some other States to bear the burden also. No State wants nuclear waste. No State wants it, no State.

Mr. McCLURE. I say to the Senator from Washington there is a very strong statement in the bill with respect to the responsibility of States to in effect be responsible for those wastes generated within their own States.

Mr. MAGNUSON. Yes.

Mr. McCLURE. But recognizing that we do not necessarily want to end up with 50 separate repositories around the country, we have tried to give the States as much role as is possible under this process up to the point of an absolute veto.

Mr. MAGNUSON. Let me ask another question. We have a peculiar situation in Hanford that is unique, because the nuclear waste dump is on Federal land. It is a Federal reservation. If it were State land then we could necessarily see why the State would say, "We will take care of our own. But, we do not want waste to come from other States." But what would be the situation where the disposal site is on a Federal reservation?

Mr. McCLURE. May I say to the Senator from Washington that that presents a slightly different question with respect to the authority of the Federal Government to do what it wants on Federal lands without concurrence by the State. I share with the Senator from Washington the absolute conviction that the Federal Government has responsibilities as a landholder that are not in every respect dissimilar from those of any other landholder; therefore, the Federal Government in an activity of this kind must be just as subject to the rules as is any other landholder.

Mr. MAGNUSON. I am glad to hear that because, then, if the State did not want the nuclear waste coming to the Federal reservation, then they would pass a law prohibiting transportation to the Federal reservation, I would think. But this presents a unique situation where the nuclear waste dump we have there is on a Federal reservation.

Mr. JOHNSTON. That would not affect the authority of the bill because while it is a Federal reservation it is not a licensed repository as defined under this act. So if Hanford were selected as the site it would still go through the whole process as well as the NRC licensing process.

Mr. MAGNUSON. It would go through the process just the same as if it were a private land or State land or anything else.

Mr. JOHNSTON. The Senator is correct.

Mr. MAGNUSON. Even though it is a Federal reservation.

Mr. JOHNSTON. Yes.

Mr. MAGNUSON. I thank the Senator.

Mr. RANDOLPH. Mr. President, will the manager of the bill yield?

Mr. JOHNSTON. I yield.

Mr. RANDOLPH. Mr. President, I say to Senator JOHNSTON, the manager of the bill, and to all of the Senators on the Energy and Natural Resources Committee that I will support this legislation on final passage. I believe that the Energy Committee members did, in essence, an effective job. If there were disagreements on matters between the Energy and Natural Resources Committee with the Committee on Environment and Public Works that is understandable.

But I do want the Senator from Louisiana to know that I will support this legislation on final passage. The health and safety and well-being of the men and women of this country, as well as the effective operation of the AFR program, were better addressed, as we saw it, through our approach in the amendment that was defeated. I am pleased, however, with the support we received from the Senate on this amendment. But having failed, I hope all in this body will stand with Senator JOHNSTON and Senator JACKSON, the able chairman of the Energy Committee, and others in supporting the bill on final passage.

Mr. JOHNSTON. I thank the Senator.

Does the Senator have an amendment?

Mr. JAVITS. No. I wish to be recognized.

Mr. JOHNSTON. Will the Senator allow us to go to third reading first?

Mr. JAVITS. May I be recognized and then I will allow it?

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. JAVITS. Mr. President, I ask unanimous consent for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I wish to ask the Senator a question if I could have his attention.

Mr. JOHNSTON. All right.

Mr. JAVITS. Mr. President, first I ask unanimous consent that I also may be made a cosponsor of the Hart-Simpson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask the managers how do they intend to see through this interim storage proposition which is very meaningful to us in a State like New York where we have a problem already? And I understand that we are talking about 15 years now. I like the Senator's scheme for permanent storage. It is fine. We have a one-House veto. We have a regularized method of submission. But it seems to me that in the other matter that is in the matter of away-from-reactor storage with such a long period of time intervening we are giving much too much power absolutely to the President. There is no congressional veto, not even a two-House veto, not even if there are the New York conditions. The President has the complete run of it. I ask is that wise and should we who felt the other way, because of our own exigencies, support the Senator's bill under these circumstances? Why should there not be a better way for piping Congress into the problem when we are dealing with 15 years?

I mean the idea of away-from-reactor for storage sounds like a few months, but it is not, for all practical purposes. If one were in another area he would call that permanent. But we do not hear that because of the long-range life of these radioactive materials. But I really think I am sympathetic to what Senators want, just like Senator RANDOLPH, but I think we are entitled to have an explanation as to how that is going to work in a way which will give us some protection also.

Mr. JOHNSTON. Mr. President, the question is a very legitimate one. I am glad to have the opportunity to answer it.

The Nuclear Regulatory Commission says we need away-from-reactor storage by 1983, that in order to get it we need to begin now in 1980. In support of that statement they have submitted a reactor-by-reactor analysis of what the situation is.

Just to give the Senator one example, Indian Point 2 in New York, without full core reserve, and a full core reserve is necessary I believe to be safe, they run out of rack space in 1981, by 1984 without the full core reserve they run out of space in 1984. So if one looks at the plants around the country many of them are in that same kind of position running out of space. We believe they should rerack which means, of course, putting rods in the same swimming pool. But under the bill we maximize reracking, adopt that as an explicit policy under the bill. But the problem is reracking takes about 2 years according to the Department of Energy and their analysis.

Building additional pool space takes up to 6½ years, all of this without litigation and without intervention. The country cannot wait that long.

In addition to that, the Department of Energy says it would take $3.5 billion or more to build new onsite facilities. We believe that is an issue which addresses itself to the Nuclear Regulatory Commission charged under the law with safety, and, having been so charged under the law, they must license this AFR. So safety will be best protected and you will not have to shut down Indian Point No. 2.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent for 2 additional minutes to allow the question to be answered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I do not think my question has been answered, Senator, for this reason: You do provide in the permanent storage only a limited time for the congressional veto when you are dealing even with a period of 3 years, and we can certainly afford 60 days. Why do we not get it here? Why do we not build in a congressional one-House veto, just like you do for the permanent storage, during the 60-day period? Then I think we would all feel a lot more secure.

If we can persuade one of the bodies that it should not go in that particular place, at least we have a chance. The way you are doing it, it goes completely into the hands of the bureaucracy and we have not got a prayer.

Mr. JOHNSTON. I would say to my friend that we just finished a long debate on that very issue. But let me see if I can synthesize the issue for you.

If we went through the kind of procedure leading to the one-House veto, we would delay the construction of AFR's beyond the time when the Nuclear Regulatory Commission, the Department of Energy, and the President all say we need it, so that racking space would not be available.

We are protected by the Nuclear Regulatory Commission. The President cannot go out and build AFR's willy-nilly. They must be licensed by the Nuclear Regulatory Commission.

I might say that the Nuclear Regulatory Commission under the law is charged with the duty of protecting the public health and safety. They are not even given the requirement of balancing economics. They are told to protect health and safety. That is in the law and I believe they will do so. That is where the main protection will come from.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JAVITS. It is very difficult considering the time span. I thank the Senator.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JOHNSTON. Yes.

UNANIMOUS-CONSENT REQUEST—SENATE JOINT RESOLUTION 185

Mr. PERCY. Mr. President, I ask unanimous consent that immediately following the vote on final passage of the pending legislation that I be recognized for the purpose of moving to discharge the Committee on Energy and Natural Resources from further consideration of Senate Joint Resolution 185. This is a resolution of disapproval of the administration's gasoline rationing contingency plan that was transmitted to Congress on June 12, 1980, and I ask unanimous consent for the purpose of advising all of our colleagues that there will be an hour's debate equally divided. I will ask for a rollcall vote on that motion of discharge.

Mr. JOHNSTON. Mr. President reserving the right to object, and I am afraid I must, this will give the notice the Senator wishes. It is a privileged motion, and the Senator will bring it up, and I am advised that the leadership always objects to unanimous consent when you have the right to do it under the rules.

Mr. PERCY. So long as the main purpose of my asking for it is to be certain our colleagues know we will have that, I will ask for recognition immediately following this vote.

Mr. MITCHELL. Mr. President, the nuclear waste legislation now before the Senate addresses one of the most critical issues in the development of nuclear power, that is, the safe disposal of radioactive waste.

Throughout the 30-year history of the Nation's development of atomic energy, the problem of disposing of the resulting nuclear waste has received insufficient attention. During that period, however, the Federal Government itself has generated over 75 million gallons of highly radioactive wastes, temporarily stored in tanks on Federal reservations. These tanks have leaked at least 500,000 gallons of radioactive liquid into the soil.

In addition, commercial nuclear powerplants have generated approximately 8,000 metric tons of spent nuclear fuel, stored primarily at the site of each nuclear reactor.

There is no doubt that nuclear waste, if not regulated and controlled properly, presents significant hazards to the public health and safety and to the environment.

The Committee on Environment and Public Works Committee, of which I am a member, has reported S. 2980, to provide for the first time a regulatory framework for a national nuclear waste management program. I believe that this legislation will restore the public's confidence in our ability to deal with this most pressing problem.

I supported S. 2980 in committee and I still support it. It provides for the storage and disposal of nuclear wastes in a safe and timely manner through the following provisions:

A statutory schedule for the development and operation of the first commercial waste repository in this country, as a permanent method for the disposal of nuclear wastes;

A mechanism for extensive participation by States, Indian tribes, and the public in any decision on the siting of a nuclear waste repository;

A mandate that utilities use their available onsite storage capacity before turning to a Federal away-from-reactor waste facility, to minimize the amount of transportation of these hazardous wastes;

A provision for the careful consideration of alternate sites for a nuclear waste repository, to assure that the facility is proposed in the most environmentally and technologically safe location.

The Energy and Natural Resources Committee has also dealt with the issue of nuclear waste disposal in a separate piece of legislation. That bill, also before us in the Senate now, establishes a national nuclear waste storage program within the Department of Energy. The bill of the Environment Committee, on the other hand, establishes a regulatory program within the Nuclear Regulatory Commission to insure that nuclear wastes are disposed of in a manner protective of public health and safety and the environment.

The approach taken by the Environment Committee represents wiser public policy on an issue which has profound consequences for health and safety.

I support the amendments offered by the Committee on Environment and Public Works, to provide for a safe and environmentally sound national nuclear waste program.

Mr. MAGNUSON. Mr. President, I am very interested in the legislation that is before the Senate today. The storage of radioactive waste is very important to the State of Washington.

As you know, Mr. President, Washington is already the site of a very large quantity of military radioactive waste. In addition, Washington is one of three States that have a low-level radioactive waste disposal site.

I believe that the residents of my State are willing to take the responsibility to take care of the nuclear waste that has been generated in Washington. We have received the benefits of the electricity generated for our region, and we will take care of the waste that has come from our regional plants. In fact, there is currently some discussion in my State about entering into an interstate compact to take radioactive waste from other States in the Pacific Northwest. However, Mr. President, I am strongly opposed to the idea of Washington becoming a national radioactive waste storage site.

Therefore, Mr. President, I would like to address a question to my colleague, the chairman of the Energy and Natural Resources Committee.

It is my understanding that the disposal technology envisioned in this legislation does not depend a great deal on geological factors. These facilities could be located above ground, or near the surface at any location that met certain requirements relating to population density, flood potential, or other hazard.

I assume that the practical effect of this approach would be that these disposal facilities could be located on a regional basis, and that the siting of these facilities would not be limited to several sites that have certain geological characteristics, like salt domes, basalt formations, or granite deposits.

Mr. JACKSON. The Senator is correct. With the type of facility we are talking about in section 402 of this bill, it is very realistic to conceive of a regional system for the disposal of high level waste, with the only siting criteria to be related to population density, flood potential, earthquake faults, and the like. Thus, just as we envision regional away-from-reactor storage capacity to the extent that it is needed, we can achieve high-level waste disposal more closely associated with the reactors that are producing the waste. It is important that no State feel that it has been singled out as the only site for the storage of spent fuel or the disposal of high level waste.

Mr. MAGNUSON. I thank the chairman of the Energy and Natural Resources Committee for that clarification. I believe that it is very important that no State be forced to bear the burden of storing high-level or low-level waste from the rest of the Nation.

The storage facilities described in section 402 will promote the storage of high-level waste on a regional basis, and reduce the chances that Washington or some other State will have to be the site of a national storage facility.

I note that the committee has accepted the amendment by the Senators from South Carolina (Mr. Thurmond and Mr. Hollings) to establish a policy for the disposal of low-level nuclear waste.

This provision sets forth a policy that, first, each State is responsible for the disposal of low-level radioactive waste generated by non-Federal related activities within its borders; and second, low-level radioactive waste can be most safely and efficiently managed on a regional basis.

The amendment sets up a procedure to develop interstate compacts and authorizes Federal financial and technical assistance to the States that are trying to deal with low-level radioactive waste.

Mr. MATHIAS. Mr. President, every living American, indeed every human being, has a vital personal interest in the development of a successful nuclear waste management program.

> The powers of the atom unleashed by science are too startling, too intoxicating, and at the same time too useful as human tools for any of us to wish to abandon the astonishing new technology. But, if we will not abandon it, we must master it.

Mr. President, that is how the late Adlai E. Stevenson saw nuclear energy at its inception. How right he was.

Today, the Senate is asked to take a vital step in the goal of mastering "the astonishing new technology." We are finally taking action to establish a Federal policy to deal with the problems of the byproducts of the technology—nuclear wastes.

I first raised the issue of nuclear waste and a solution to the problem of its management when I introduced the Nuclear Waste Management Act of 1977 on the opening day of the 95th Congress. That was the first action taken by any Member of Congress to confront the problem of nuclear waste management and to deal with it comprehensively.

Mr. President, as I said back in 1977, if we had heard of nuclear waste for the first time last year, it might be excusable for the Federal Government to be floundering about as it gets its bearings on this matter. The fact is, unhappily, that even before we ever split the atom, we knew that something would have to be done with the byproducts of nuclear fission to keep them from poisoning the environment. Today there are over 75 million gallons of high-level nuclear waste from atomic weapons production in temporary storage facilities. And there will be 40 million more gallons of military radioactive waste by the year 2000. In addition, each of the nuclear powerplants in this country produces about 30 tons of spent fuel a year. They have already accumulated over 7,000 tons of radioactive wastes and by the year 2000 as much as 100,000 tons will have accumulated in that deadly stockpile.

Storage space for nuclear wastes is quickly running out. The Calvert Cliffs nuclear powerplant in my State of Maryland has only another 2 years' availability of storage space in the absence of action by the utility company to rerack. This is an untenable situation for thousands of Marylanders who rely on that plant to provide the energy needed to heat, cool, and light their homes. And the manager of this bill has made it abundantly clear today that Maryland is by no means the only State with a powerplant in this situation.

Mr. President, it is clear that the future of nuclear energy depends on a comprehensive approach to solving the problem of nuclear wastes. As was noted last summer in an article in the Progressive:

> The nuclear industry and the Federal Government badly need visible evidence of light at the end of the nuclear waste tunnel. Optimistic predictions, routinely issued for decades are clearly wearing thin—threatening the commercial nuclear power industry and jeopardizing atomic weapons production as well. In recent months, several States have effectively prevented further reactor construction. Along with the shakiness of nuclear energy finances, absence of dependable storage for radioactive waste is key to the growing anti-nuclear sentiment of both the public and its elected officials. Thirty-five years after atomic fission became a reality and more than 5,600 federal studies on waste management later, no solutions have emerged.

Mr. President, I am pleased to be a cosponsor of S. 2189 and would like to commend the members of the Energy Committee for their long and dedicated work on this bill. It is an essential piece of legislation—the future of generations to come rests on it. I urge my colleagues to join me in support of S. 2189.

Mr. DOMENICI. Mr. President, I would like to commend the distinguished chairman of the Energy Committee, Senator Jackson, for his work in fashioning the compromise provision on State participation in the establishment of nuclear waste repositories. He very ably assisted in the discussions regarding the treatment of military versus civilian repositories under this process of consultation and concurrence with the States. As many of my colleagues realize, the need to protect our national security interests has been a major factor in our discussion on military nuclear waste repositories. I might point out that the vote by which this compromise passed, 83–0, clearly shows the overwhelming support for this compromise and the treatment of military repositories.

Mr. President, we are not speaking hypothetically when we discuss the establishment of a military nuclear waste repository. The waste isolation pilot project is an authorized project sited in southeastern New Mexico for the disposal of military transuranic wastes. This project is the first of a kind in many respects. Certainly one of the most important, I believe, is the role of the State of New Mexico in the establishment of the WIPP facility. That role was set out in the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980. That act provided for a written agreement in which the process of how the State and the Secretary of Energy would interact in carrying out the project. I am happy to say that the agreement may almost be finalized and I believe it will be a valuable and useful document not just for New Mexico, but as a model for other cooperative agreements which will be entered into by potential host States.

I am concerned though, Mr. President, that because the WIPP agreement has preceded the compromise passed the other day that we are not applying some of the features of that provision to the WIPP project. To a great extent the WIPP facility is a testing ground for the Federal-State partnership in the disposal of radioactive waste. I would like to ask my colleague, the Senator from Washington, if he would agree with me that the WIPP facility should be treated as we have treated other military repositories.

Mr. JACKSON. Mr. President, in response to the Senator from New Mexico, let me say first that I believe the compromise reached here the other day was a good one. If it is enacted into law, it would provide balance to the need for responsible State participation in the disposal of radioactive wastes with the need to protect our national security interests in the disposal of military wastes. Furthermore, I believe that aspects of the compromise might suitably apply to the WIPP project to the extent that new rights are conferred on the States. However, I am concerned that we cannot properly fashion an amendment that would do that in a constructive way on the bill before us.

Mr. DOMENICI. Would the Senator be willing to explore the development of an appropriate amendment to assure the State of New Mexico the same treatment as other States which may be recipients of military wastes on a future bill providing authorization for the WIPP facility? That will give time for the proper drafting and preparation of an amendment.

Mr. JACKSON. I believe that is an appropriate way to proceed in this matter and I thank the Senator from New Mexico for his suggestion. With this approach the House and Senate Armed Services Committees would have ample opportunity to discuss the issue.

● Mr. RANDOLPH. Mr. President, on July 25, the Committee on Environment and Public Works reported S. 2980, the National Nuclear Waste Regulation and Control Act of 1980.

At that time, the committee had not received the report of the Congressional Budget Office on its review of S. 2980 as required by Section 403 of the Congressional Budget Act of 1974.

That report has now been received and I ask that it be printed in the Record.

The report follows:

Congressional Budget Office,
Washington, D.C., July 28, 1980.

Hon. Jennings Randolph,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2980, the National Nuclear Waste Regulation and Control Act of 1980.

The bill establishes a framework for the development and regulation of nuclear waste storage and disposal facilities. Specifically, it extends the authority of the Nuclear Regulatory Commission (NRC) to license radioactive waste facilities and establishes environmental, safety, and national security criteria for licensing decisions. In addition, it requires the Department of Energy (DOE) and the NRC to carry out a pilot program to audit DOE nuclear waste storage facilities that are not subject to licensing by the NRC.

Further, the bill requires the submission of at least four site characterization reports to the NRC as a prerequisite for NRC consideration of an application to construct a geologic storage or disposal facility. By January 1, 1989, DOE must submit an application to construct a repository, with a January 1, 2000 deadline for NRC issuance of an operating license. If NRC fails to issue an operating license by this date, the bill prohibits the issuance of powerplant construction or operating permits. The bill provides for state, local and Indian concurrence in all stages of facility development.

The bill also specifies conditions for the establishment of any federally owned and operated away from reactor (AFR) storage program. These conditions include a demonstration of need for a federal AFR program, the consideration of alternatives to any proposed facility, and full cost recovery to the federal government for the construction and operation of the facility. To expedite licensing for new spent fuel facilities at reactor sites, NRC is authorized to approve construction activities before all required hearings are complete. Finally the bill requires powerplants filing applications after June 1, 1980 to provide adequate on-site storage capacity for spent fuel generated over their useful lives.

The total cost of the bill is uncertain, and could range from $120 million to $270 million between 1981 and 1985. The largest potential costs result from the site characterization provisions in the bill, which require DOE to undertake more extensive exploratory drilling and testing than currently planned. Based on information from the NRC and DOE, it is estimated that the cost of the additional design, drilling and testing activities for the four site characterizations required to be completed by January 1, 1989 could range from $200 million to $500 million between 1982 and 1988. By 1985, costs for these activities could total between $100 and $250 million. The wide range results from uncertainty about precisely what activities will be required and what geologic media will be used for the site characterization activities

The other major costs are associated with the extension of NRC licensing authority and the assessment and auditing activities required for the pilot program. It is estimated that additional staff and contract funds will be required for these purposes, with costs totaling $21 million between 1981 and 1985. The uncertainty about utility plans to construct on-site storage facilities makes it difficult to project the impact of the expedited licensing procedure provided in the bill. However, it is likely that existing staff would be diverted from the regular application process to meet the requirements of the expedited process and that no additional expenditures would be incurred.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin,
Director.●

● Mr. SCHMITT. Mr. President, for the better part of 30 years, the Federal Government and the scientific community kept the issue of disposal of nuclear waste more or less in the closet. This closet was surrounded in the past by a basic distrust of the public's need to know and understand nuclear energy. Now that we need the public trust so that nuclear energy can fill an important, if not critical, role in our energy future, we find that we do not have that trust; at least not enough of it. Instead of building understanding among the public and politicians we have built suspicion. In no area is this more true than in nuclear waste disposal.

I personally believe, as a geologist, that eventually it can be shown to be technically possible to dispose of nuclear waste in a variety of geological locations. However, I also personally believe, as a U.S. Senator, that geological disposal may be neither the most economical nor the most publicly acceptable method of disposal.

There is an urgent need not only for increased public and technical understanding of experimental salt bed projects like that near Carlsbad, N. Mex., but also of the alternatives to salt bed disposal. There may be an additional need for greatly increased funding so that these alternatives can be evaluated in a timely manner.

The need for a national policy on nuclear waste management has become increasingly critical. It is necessary to conduct full evaluations of the short-, mid-, and long-term implications of the various alternatives for the safe and acceptable disposal of nuclear waste, as well as the potential for nuclear waste utilization. This information will serve as an important part of the extensive evaluation that must be performed to facilitate policymaking processes.

For the past 30 years the management of nuclear waste has been the responsibility of the Federal Government. In the mid-1950's the Atomic Energy Commission, along with the National Academy of Sciences and the National Research Council, were asked to assess the nuclear waste disposal issue. At that time the study involved an evaluation of geological formations and the oceans. The National Academy of Sciences presented recommendations in 1957, which concluded that geologic disposal in salt mines was the most promising option, at least for the near-term. This type of burial was considered more attractive than ocean burial, primarily due to the lack of knowledge of the oceans with respect to all the consequences of such actions.

As a result of this decision, studies on nuclear waste disposal in salt mines were conducted throughout the 1960's and into the early 1970's. Investment in R. & D. during this time period averaged about $5 million per year. It was also during this time that the technology for solidification of nuclear wastes was developed which made the handling of wastes easier; the transportation of wastes safer, and long-term storage of wastes safer.

However, since this direction for handling nuclear wastes was established, many technologies have been developed and new scientific understanding has appeared which have added several possible options to the management of wastes.

First of all, our knowledge of the oceans has increased tremendously, and there have been significant advances in technologies that could be used for implementing this option. The possible international management of nuclear waste may require such an option.

Second, in the 1960's we saw the evolution of our space program, from its infancy in the early 1960's to a mature space program, and looking forward a bit, to the Space Shuttle. This experience in space has opened up the question of the feasibility of burying our wastes in space—another option only very recently considered.

Third, new technologies in chemistry and physics have raised the potential of utilization of nuclear wastes and/or specific isotopes contained in them. Examples of these technologies include laser isotope separation, photochemistry and conversion techniques.

Fourth, in addition to salt formations, there have also been some studies done on the use of granite, shale, limestone. and various volcanic rocks as potential nuclear storage formations.

Finally, new proposals include the potential of very deep geologic disposal by either in situ melting with layer isolation after a glass is formed, or by the implacement of stable crystalline phases containing the waste.

All of these advances, in addition to the technology of salt formations, present interesting possibilities for disposing of or utilizing nuclear wastes in the short, mid-, and long term. It is time to bring discussions of all these alternatives to the public and realistically assess the potential of each one. We must think of not only what must be done for disposing of wastes in the next 10 years, but look to the next 20 years, and even 50 years, and assess what research and development must be done today to make the most attractive options possible.

The issue of nuclear waste disposal options is a controversial and often confusing subject. The existing technology for each option must be distinguished from future technology that needs to be developed. I do not think it is desirable to choose one option and just follow that path, but to open as many options as reasonable. We may exercise one option in the present, and others in the future as economics and technology change.

On March 31, 1973, the Commerce, Science, and Transportation Committee held a hearing on nuclear waste disposal alternatives in Albuquerque, N. Mex. Eleven witnesses presented technical and scientific testimony on the administration's plan for deep geologic disposal of waste in salt formations and possible alternatives to this plan. Several important conclusions can be drawn from this hearing.

Deep geologic disposal in salt was first recommended by the National Academy of Sciences more than 20 years ago. Whole new technologies have evolved since this initial recommendation. It is clear to me that we should not repeat past errors by short-changing these and other alternative approaches to waste disposal or utilization.

During the Albuquerque hearings, Dr. George DeBuchananne, of the U.S. Geological Survey, outlined a number of questions concerning salt as a medium for waste disposal. While it is highly probable that the questions concerning salt can be favorably resolved, the existence of technical uncertainties concerning the main thrust of the disposal program underlines the necessity to seriously pursue alternatives.

Another conclusion that can be drawn from the Albuquerque hearing is that a policy of indefinite deferral of the reprocessing of spent fuel has precluded a number of waste management options. Technical refinements that promise to enhance the safety of waste management, such as the partitioning of wastes into high-level and long-lived waste components and useful isotopes and the possibility of transmitting long-lived radioactive wastes into stable or short-lived isotopes, are now ruled out by the decision to forgo reprocessing. The policy of throwing away spent fuel prevents the recycling of valuable reactor products, such as residual uranium and new plutonium that could be used as nuclear fuel. Other beneficial isotopes could also be extracted.

Other conclusions drawn from the testimony of the March 31, 1978 hearing of the Science, Technology and Space Subcommittee in Albuquerque, N. Mex., are:

First. Deep geologic disposal is still considered by most experts as the most promising alternative for nuclear waste disposal.

Second. Current spending levels reflect a strong preference in the Department of Energy for disposal in salt deposits. The U.S.G.S. has raised a number of potential problem areas which need to be studied further before a final decision is made for permanent disposal of waste in salt. It is not clear from the testimony that adequate attention is being paid to other media for geologic disposal.

Third. Alternatives, such as the space disposal and deep seabed disposal options, offer some advantages over deep geologic disposal. However, there are a sufficient number of unknowns associated with these alternatives, that they do not represent viable near-term options.

Fourth. The administration policy of "indefinite deferral" of the reprocessing of spent fuel precludes options such as beneficial utilization of reactor products, space disposal, partitioning and transmutation. The decision to forgo reprocessing has greatly complicated the waste disposal problem and our relations with the rest of the world. But the testimony of DOE witnesses did not clarify future plans to develop reprocessing technology.●

WASTE CONFIDENCE PROCEEDING

● Mr. SIMPSON. Mr. President, I would like to make an inquiry of the distinguished managers of this bill.

The Nuclear Regulatory Commission has already begun a waste confidence proceeding which has been mandated by the U.S. Court of Appeals for the District of Columbia circuit in State of Minnesota against NRC.

The purpose of this proceeding, as stated by NRC, is—

> To assess generically the degree of assurance now available that radioactive waste can be safely disposed of, to determine when such disposal or off-site storage will be available, and to determine whether radioactive wastes can be safely stored . . . until off-site disposal or storage is available.

In other words, to assure that a method of permanent disposal of nuclear waste will be available when it is needed.

The Nuclear Regulatory Commission believes this is a valuable exercise, and the proceeding is in fact a continuation of previous proceedings conducted by the Commission in this area. The Department of Energy has also found the proceeding a useful one.

My inquiry to the distinguished managers of the bill is this: Am I correct that nothing in this act precludes the Commission from conducting a proceeding to independently determine whether there is reasonable assurance that a suitable technology will exist at the time that it is actually needed for off-site disposal of spent fuel or high-level radioactive waste resulting from civilian nuclear activities?

Mr. JOHNSTON. The Senator is correct.

INITIAL FACILITY UNDER SECTION 402

Mr. SIMPSON. Mr. President, I would like to make an inquiry of the distinguished managers of the bill.

Section 402 of the bill calls for the Secretary of Energy to submit a proposal that includes design and other information for an initial facility to demonstrate the feasibility of long-term retrievable disposal of spent fuel and high-level radioactive waste. Section 406 of the bill directs the Secretary to continue and accelerate a research, development, and demonstration program for geologic disposal in mined repositories of high-level radioactive waste, with the objective of building at least one demonstration repository. These two sections seem to deal with two separate programs.

My question is this: Is my understanding correct that the initial facility described in section 402 of the bill would not be a mined repository for geologic disposal of high-level radioactive waste of the type referred to in section 406 of the bill?

Mr. JOHNSTON. Yes, the long term retrievable monitored system we propose is not envisioned as a deep mined repository—it is not deep geological disposal.

Mr. SIMPSON. I thank the Senator for that clarification.●

● Hr. BAUCUS. Mr. President, what is done cannot be undone. In the 35 years since the first test explosions on the Nevada desert, the Nation has been piling up nuclear waste products at an ever-increasing pace. Indeed, to date an estimated 2,300 metric tons of spent fuel from nuclear reactors have accumulated. While the process cannot be undone, we must deal with the problem.

As the Senate this week considers the first nuclear waste policy legislation ever to reach the floor of either House, I would like to take this opportunity to air the concerns of many Montanans for legislation of this type.

More specifically, the problem facing the country is how to deal with nuclear waste as current storage facilities fill up. Indeed, the Department of Energy predicts that some utilities may begin to run out of storage space at their reactor sites as early as 1983. While other sources suggest that the problem may be avoided until the next decade, the situation is becoming critical.

While maintenance of power generating capacity at existing nuclear plants must be assured in this time of energy shortages, public safety must not take a back seat to any other issue. Because the estimated isolation period for nuclear wastes is 1,000 years, the actions we take today will affect generations to come.

The solution proposed by the Senate Energy and Natural Resources Committee is the creation of "away from reactor" (AFR) storage systems. This plan would provide for interim disposal of nuclear wastes. For the long term, the committee would require a 1-year study to locate a potential site for construction of a Government operated storage facility for nuclear wastes.

In addition, the Energy Commitee suggests the acceleration of the Nation's research effort into improved nuclear disposal technology. Possibilities include the burial of wastes at sea and even rocketing them into outer space.

In considering this legislation and the numerous amendments being proposed, three concerns are foremost in my mind. The first is the matter of the transportation of nuclear wastes since, by definition, any AFR system will require the movement of wastes from reactors to dump sites.

Many Montanans have expressed their very real concern for shipments of nuclear materials through the State. With 1,188 miles of interstate highways crossing the State of Montana, this concern is not unfounded. The potential for accidents in route does exist. Recognizing this threat, the city of Missoula in recent months passed an ordinance banning any shipment of nuclear materials through the city.

Quite frankly, the threat to health and safety presented by nuclear waste transportation makes a good case for ordinances of the type passed by the city of Missoula. However, it is not clear that such an approach can be successful in light of Federal supremacy. Nonetheless, legislation now being considered by the Senate can provide maximum assistance to States such as Montana which must deal with the impacts of transportation of nuclear wastes. This should include assistance in monitoring, inspection, and enforcement of Federal regulations relating to the movement of nuclear wastes. In addition, efforts to improve safety guidelines for the transportation of radioactive materials must be expanded.

Mr. President, my second concern is that States' rights must not be overlooked in the location of storage or disposal facilities for nuclear waste. Fundamental fairness demands that any State being asked to bear the burden of a nuclear waste disposal site be granted the rights of consultation and concurrence in decisions relative to the public health and safety of its citizens. An approach of this nature insures that Federal and State governments will work together in a partnership to insure the protection of our environment and the public's welfare. An additional advantage to active State participation in the siting decisions is the reassurance it will provide to those citizens most directly affected that their concerns are being addressed.

Finally, I must underscore my concern that the full cost of any AFR system be borne by those utilities which benefit from them. Montana, for example, has no nuclear generators within its boundaries. It would, therefore, seem grossly unfair to ask Montana taxpayers to subsidize a project from which they will so minimally benefit. In short, users of electricity produced by nuclear powerplants should bear the economic costs in proportion to the benefits which they derive.

Mr. President, I am certain that all of us would prefer to see the Nation's energy demands met without a costly and threatening reliance on nuclear generation. Until alternative energy sources are further developed, however, I fear that nuclear energy and its attendant waste products will remain with us. By working toward the three objectives mentioned earlier of safety in transportation of nuclear wastes, involvement of States in siting decisions, and user financing of waste disposal facilities, I believe that the legislation now under consideration will better respond to the concerns of my constituents.●

● Mr. RIEGLE. Mr. President, the issue before us today is S. 2189, the Nuclear Waste Policy Act, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants and to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities. Obviously, given the fact that we now have 70 nuclear generating facilities in operation and will have an estimated 160 by the end of this decade, waste disposal is a critical issue regardless of one's position on the other issues surrounding nuclear technology.

Our increasing dependence on nuclear energy is a result of decisions made 10 and 20 years ago. Cost analyses at that time did not fully take into account the cost of disposing of nuclear waste or the cost of constructing facilities that would be accident free. At least as accident free as is humanly possible. The individual risk to a single utility company's financial soundness in case of an accident was also not fully comprehended. As a result, the cost of nuclear facility has skyrocketed.

Meanwhile, the demand for electricity nationally has been going down. As reported in a front page story in the New York Times, April 6, 1980:

> Since 1974, Americans have been using far less electricity than the utility industry had expected, and now some analysts expect the rate of growth to fall even further in the future.

The article goes on to make the following points:

> First, in 1979 electricity consumption rose only 2.8 percent in this country, down sharply from the 7 percent annual rate of growth that the industry routinely experienced with the early 1970's. So far this year, consumption has actually dropped, by 1.4 percent.
>
> Even though the utilities have cancelled more new powerplants than they have ordered, the nation has easily avoided the power shortages that many utilities had predicted. Indeed, nationwide, the industry has twice as much generating capacity in reserve today as the backup of 15 to 20 percent that has traditionally been deemed a prudent margin of safety.

So, from a demand and cost-benefit standpoint, I have grave reservations about nuclear power. With this background, let me state the problems I have with the legislation before us.

First, I agree with the reported comments of my colleague from New Mexico, Senator DOMENICI, that—

> Whether we are contemplating the long-term storage of nuclear waste or its permanent disposal there is one element which will determine if either is to be done in a timely and satisfactory manner: states must play a meaningful role in the development of these facilities.

With respect to the storage and disposal of spent fuel from civilian nuclear powerplants, I believe that the role of the States must be absolute. On an issue of such fundamental importance, I believe it is essential that States be allowed to determine for themselves their own policies—especially when Federal policies may not adequately protect their local safety, health, and environmental concerns. I am pleased that the Senate has approved the Glenn amendment which resolves these concerns.

Second, I believe that the costs associated with the storage and disposal of nuclear waste from civilian activities should be borne "totally"—and not "to the greatest extent possible" as is provided in the legislation—"by the direct beneficiaries of such activities." In this regard I agree with my distinguished colleague from Oregon, Senator HATFIELD, that the language of the bill needs to be tightened.

Third. I am concerned that the proposed away-from-reactor program called for in S. 2189, would require the transportation of large amounts of spent fuel shipments along the public highways between the powerplants and the away-from-reactor storage facilities.

Fourth. I remain unconvinced that the Department of Energy has demonstrated that there is a genuine need for Federal away-from-reactor storage which cannot be filled by utility companies through the expansion of their existing onsite storage pools or the construction of additional storage pools.

As introduced, two sections of the bill would eliminate important environmental considerations. Section 305 of the bill would prohibit: First, any programmatic impact statement under the National Environmental Policy Act on the Secretary of Energy's proposal to Congress for a nuclear waste management system, second, any consideration in an environmental impact statement of alternatives to the specific site or design selected by the Secretary for the initial facility as authorized by Congress, and third, any consideration by the U.S. Nuclear Regulatory Commission of alternatives to the site or design selected by the Secretary of Energy for the initial facility as authorized by Congress. Similarly, section 503 of the bill would prohibit consideration by the U.S. Nuclear Regulatory Commission, either in Commission proceedings or in environmental impact statements, of the need for power or alternatives to nuclear fuel where such issues have been considered by a State public utility commission or an unregulated utility.

I strongly oppose this elimination of a review required under the National Environmental Policy Act and all other streamlining of environmental considerations.

For these reasons, I urge the Senate to carefully consider all aspects of this legislation and develop a waste disposal policy which is consistent with our national goals.●

Mr. PERCY. Mr. President, it is with great reluctance that I must announce my opposition to S. 2189, the Nuclear Waste Policy Act, today.

It was, and continues to be, my greatest hope that the Senate would face the issue of nuclear waste disposal head-on, taking a responsible and deadly serious approach to this issue that for so long has been the bane of the atomic energy industry. In 38 years, 7,700 metric tons of highly radioactive waste have been accumulating in storage tanks across this country, and never has the Federal Government faced this issue with adequate concern. The fate of our vital nuclear industry, and, more importantly, the fate of our Nation, has rested on our ability to construct a comprehensive and a responsible nuclear waste management plan.

It was my hope that this legislation could be the foundation upon which that responsible plan could be based. Last Monday, the Senate by a vote of 83 to 0, approved an amended Glenn-Percy amendment on State participation in nuclear waste disposal planning. That amendment took several years to develop. Such unanimity has seldom been exhibited by this body on an issue of such controversy.

The Senate exhibited a spirit of compromise, and of tremendous responsibility, a spirit I was hoping would spread through this entire legislation.

Nowhere were my hope for a responsible compromise more directed than toward title III of S. 2189, authorizing purchase of an away-from-reactor storage facility. The Hart-Simpson amendment and the Energy Committee bill both had problems, to be sure. It was my hope that the problems between the two versions could be worked out, so that an AFR plan with responsibility and conscience for both the nuclear industry and the residents of areas near AFR's could be preserved.

Such a compromise could not be worked out, however; the move to table the Hart-Simpson amendment has succeeded, and we are now faced with a vote on passage of S. 2189, with the original unamended language of title III in the Energy Committee bill essentially intact. I feel, in all good conscience, that this title is simply an unacceptable approach to the issue of AFR's, which could lead to a tragic, open-ended, and totally imprudent AFR policy.

The Hart-Simpson amendment would have added a showing of proof to the DOE's contention that it needed AFR's now, that it needed them desperately. That showing of proof would have allayed the fears of many Senators, and many citizens living near AFR's, who are so very concerned, and rightly so, that AFR's are not ever used prematurely or unnecessarily.

Without that showing of proof, DOE would be free to decide for itself what spent fuel should be transferred to an AFR; indeed, DOE could decide how many AFR's it needed to store spent fuel. And DOE's judgment would be virtually impossible for Congress to evaluate thoroughly.

I am not opposed to AFR's at all costs. No one concerned with the continued economical generation of energy from domestic sources could be.

I am opposed, however, to the notion of giving DOE a carte blanche to store spent fuel for years, maybe decades to come in the neighborhoods of people who have had nothing to do with the generation or enjoyment of that nuclear power in the first place.

Mr. President, with S. 2189, the people of Morris, Ill., become some of the most likely people in our country to live in the the "spent fuel storage community" of the Nation. They may not know whether DOE really is requiring utilities to go as far as they can to avoid placing spent fuel in their neighborhood. They will not know how much longer DOE plans to use their nearby facility, or how much bigger their facility is likely to become These are unacceptable and unfair costs for us to ask anyone to bear.

Because of the outstanding problems which remain in this highly important title of S. 2189—and because of what passage of this legislation means for the creation, or lack of creation, of a responsible and responsive DOE waste management strategy. I must reluctantly vote against final passage of S. 2189. I am sure the Senate could have done better.

Mr. JEPSEN. Mr. President, I think it is high time that we deal with the issue of the safe disposal of spent fuel and radioactive waste from nuclear reactors. Although civilian nuclear powerplants have generated considerable volumes of spent fuel and other nuclear wastes over the past 20 years, establishment of a Federal policy for long-term storage or disposal of nuclear wastes has consistently been put on the back burner. Time is running out on this nonpolicy of indecision and delay, and it is therefore imperative that we move to construct the facilities necessary to protect public health and safety by isolating these spent fuels and wastes.

Further, we need to expedite research and development, and demonstration programs on a broad range of radioactive waste disposal technologies so that methods will be available for permanent storage of nuclear wastes as soon as possible. A firm and clear policy for the safe management of nuclear wastes is essential. Public concern about the health and safety of our citizens is justifiable and demands action now.

Mr. MATSUNAGA. Mr. President, I should like to take this opportunity to discuss for the record my concern about section 406(b)(3) of S. 2189 which authorizes the Secretary of Energy to continue and accelerate a program of research, development and investigation of alternative technologies for the disposal of high level radioactive wastes.

This particular provision of this section states that such a program shall examine the placement of nuclear waste materials in deep ocean sediments. It is this disposal option involving deep sea burial of nuclear wastes which is of great concern to me, to the people of the State of Hawaii, to all the Americans living in the Pacific region, as well as to the other peoples of the Pacific.

Recently, both the Honolulu Star Bulletin and Honolulu Advertiser reported that the Department of Energy has been conducting a study of the feasibility of using 3,600 square miles of seabed in the Pacific for permanent storage of high-level nuclear wastes. According to the report, this study has been ongoing for 5 years and, most recently, has focused primarily on an area of ocean floor 1,000 miles north of the U.S. territory of Guam and the future U.S. Commonwealth of the Northern Marianas. It is my understanding that all the seabed sites which have been selected for study by the Department of Energy, including a site north of Hawaii, are outside of the 200-mile limits of the Pacific nations, the U.S. Pacific island territories, and Hawaii.

Mr. President, the report that the Department of Energy is contemplating ocean bed storage of nuclear waste materials outside of any U.S. territorial jurisdictions is most disconcerting to the people of Hawaii and of the Pacific Trust

Territories. The fact of the matter is that it is almost as alarming to the people of the Pacific as would be nuclear waste storage within the territorial boundaries of the American Pacific. It is for this reason, Mr. President, that I have chosen to make this statement concerning the nuclear waste disposal option of deep seabed burial.

Mr. President, as my colleagues well know, the Senate is about to approve a comprehensive piece of legislation dealing with nuclear waste management. In this bill, we have adopted language which will establish, for the first time in our Nation's history, a national nuclear waste disposal program which has a specific focus on the role that States and localities are to play in Federal nuclear waste repository planning and development. S. 2189, as amended, provides the States with statutory rights to participate in the Federal nuclear waste repository development program. The bill requires the Department of Energy to consult and cooperate with the States throughout the repository planning and development process pursuant to individual State agreements which would explicitly spell out the Energy Department's obligation to provide notification and relevant information and the State's opportunity to comment on DOE activities. The bill also contains language mandating that the Department of Energy file with the Congress a series of detailed reports on its decisions concerning nuclear waste storage in a State, upon which the State will have full opportunities to comment. Another provision further protects the States by requiring the passage of a resolution by both Houses of Congress indicating that the concerns of the States involved have been adequately addressed.

Clearly Mr. President, S. 2189 goes a long way to protect the citizens of the 50 States from the risks posed by nuclear waste storage within their boundaries.

Mr. President, I would also like to emphasize that the Congress, last year, enacted an amendment which I offered to the omnibus territories authorization bill, which provides specific protection from the risks posed by nuclear waste storage to the people residing in the U.S. territories. My amendment which is section 605 of Public Law 96-205, requires that the Congress be kept fully informed of any actions by the Federal Government involving nuclear waste storage in the U.S. territories and that no transportation or storage of nuclear materials be undertaken unless a formal proposal for such storage is forwarded to the Congress for full review and consideration, and approval by the appropriate committees and the full membership of both the Senate and the House of Representatives has been obtained. In short, my amendment requires an act of Congress before the Federal Government would be authorized to begin the implementation of any plan to store nuclear wastes within the jurisdictional boundaries of any U.S. territory or possession anywhere in the world.

Mr. President, several members of the Energy and Natural Resources Committee, including the distinguished chairman, the Senator from Washington (Mr. JACKSON), the distinguished floor manager of the pending bill, the Senator from Louisiana (Mr. JOHNSTON), and the distinguished Senator from Idaho (Mr. McCLURE), joined me in support of this new law because they shared my strong belief that the residents of the territories are entitled to at least the same protections as those Americans residing in the States.

Indeed, it must be recognized that Congress has a special responsibility for the welfare of those living in the territories and the trust territories because they have limited authority over their own affairs and have no voting representation in the Congress. In order to fulfill its plenary authority for territorial affairs, the Congress must have clear statutory responsibility for nuclear waste disposal involving the territories and my amendment provides the necessary authority.

Mr. President, it is my intention here to point out the fact that due to the "international" nature of deep seabed storage of nuclear waste, that is, such storage not being within the territorial boundaries of any States or U.S. territories, the protections which the Congress has provided to the people of the States and territories may not be effective.

Certainly, there is the potential that the dynamic environment of the ocean, in due time, may cause leakage of the containers of nuclear wastes stored on the ocean floor which may, in turn, be carried by sea currents to the U.S. territories and, in the case of the Pacific, to the State of Hawaii.

In the final analysis, Mr. President, there is no constituency directly involved in the option of storing nuclear wastes in sediment on the ocean floor outside of the jurisdictional boundaries of the United States.

However, it cannot be denied that there is the possibility that such storage could, particularly in the Pacific, pose a significant risk to the health and safety of the Americans living in the Pacific territories and the State of Hawaii.

For this reason, Mr. President, it is my strong belief that the Congress, and, specifically, the Energy and Natural Resources Committee, must remain concerned about this nuclear waste storage option. We must remain fully informed of the progress of the research, development and investigation of the deep sea storage option, as mandated in S. 2189, and closely involved in oversight of these important activities.

I might say, at this point, that I intend to follow very closely the ongoing Energy Department study of deep sea storage and other studies or development of this nuclear waste storage option.

Furthermore, Mr. President, I ask the assurances of the distinguished floor manager of the pending bill, who I know is interested in both the welfare of the peoples of the territories and the possibility of the deep ocean burial option, that before a conscious decision is made by the Federal Government to begin the development and implementation of plans to store nuclear wastes on the ocean floor, extensive hearings be held by the Energy and Natural Resources Committee to insure that the interests and concerns of the people of the Pacific insular areas involved are represented and that such storage will not pose a serious risk to the health and welfare of these people and their precious island environments.

Mr. JOHNSTON. I share the concerns of the distinguished Senator from Hawaii and intend to follow the course of action outlined in his important statement. As one who has long been concerned about the welfare of the peoples of the Pacific, I certainly agree that hearings are necessary before any such decision is made and will be happy to so request the distinguished chairman at the appropriate time.

Mr. MATSUNAGA. I thank the Senator.

The PRESIDING OFFICER (Mr. SASSER). Are there further amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I will ask for the yeas and nays on final passage and will speak for about 30 seconds just to say that this bill is a monumental bill in the history of the nuclear industry in this country.

It has been reported with a maximum regard not only toward safety but for the appearance of safety. We have solved the most difficult problems that we grappled with for years, such as the State concurrence, such as environmental impact, and I think that the bipartisan effort on this bill is unusual in its efficacy.

I thank all the Senators who worked so hard on this bill.

I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time? The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber who wishes to vote who has not voted?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—88

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Pell
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—7

Biden
Durkin
Javits
Moynihan
Nelson
Percy
Proxmire

NOT VOTING—5

Church
Kennedy
Long
Stewart
Talmadge

So the bill (S. 2189), as amended, was passed, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Waste Policy Act".

TITLE I—FINDINGS AND PURPOSE

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) a reliable system adequate to provide sufficient electrical energy to meet the Nation's current and anticipated needs is an essential part of a comprehensive national energy policy and is vital to national security and public welfare;

(b) an adequate electrical system requires a diversified base of primary energy sources in order to avoid excessive reliance upon any single alternative energy source;

(c) a diverse base of primary energy sources can be achieved only if each available source competes on an equal footing in decisions on the siting and construction of facilities for generating commercial electric power;

(d) nuclear energy can—

(1) make a significant contribution to national supplies of electricity;

(2) offer site-specific advantages in environmental impact, cost, and fuel availability over other primary sources of energy; and

(3) help reduce United States dependence on insecure sources of foreign oil;

(e) lack of an effective Federal policy for the interim storage of spent fuel and disposal of nuclear waste from civilian nuclear activities unreasonably burdens the choice of nuclear energy as an alternative primary source in decisions on siting and construction and operation of powerplants and unduly constrains efforts to establish a diverse base of primary energy sources;

(f) the Federal Government has the responsibility for the interim storage of spent fuel from civilian nuclear powerplants and the disposal of high-level radioactive waste from civilian nuclear activities in order to protect the public health and safety and common defense and security;

(g) the costs associated with the storage and disposal of nuclear waste from civilian activities should, to the greatest extent possible, be borne by the direct beneficiaries of such activities and should be considered in the selection or rejection of nuclear energy over alternative primary energy sources; and

(h) the technology exists and is under development which would provide reasonable assurance that spent fuel and high-level radioactive waste can be safely disposed of and that disposal facilities for spent fuel and high-level wastes can be available when needed.

(i) nuclear wastes generated in the national defense program have been accumulating for more than thirty years, and spent nuclear fuel and nuclear wastes from the commercial industry are increasing rapidly;

(j) nuclear waste has become a major issue of public concern, and stringent precautions must be taken to ensure that nuclear wastes do not adversely affect the public health and safety of this or future generations;

(k) the siting, development, and loading of nuclear waste repositories are responsibilities of the Federal Government;

(l) confidence in the ability of the Federal Government to manage a program providing for the safe and permanent disposal of nuclear wastes must be substantially increased if nuclear power is to contribute significantly to meeting the energy needs of the United States in the future;

(m) Federal nuclear waste disposal programs have been ineffective due to—

(A) inadequate coordination among the various Federal agencies and departments which have responsibilities relating to nuclear waste management;

(B) the lack of a policymaking process which integrates the views of all Federal agencies and departments into a comprehensive Governmentwide policy;

(C) the lack of an organizational mechanism which affords States, localities, and the public the opportunity to participate fully in the formulation of Federal nuclear waste management policy; and

(D) the lack of an organizational mechanism which allows States and localities to review Federal plans for the development of nuclear waste disposal facilities, and to ensure thereby that such plans adequately protect State and local interests;

(n) a State Planning Council on Nuclear Waste Management must be established to afford States, localities, and Indian tribes the opportunity to participate fully in the formulation of Federal nuclear waste management policy;

(o) a Nuclear Waste Management Plan which reflects the views of all Federal agencies and departments with responsibilities pertaining to nuclear waste management and the views of the State Planning Council on Nuclear Waste must be developed and periodically updated in order to—

(A) improve the coordination of the activities of Federal departments and agencies with respect to nuclear waste management; and

(B) provide a sound and credible basis for the safe storage and disposal of nuclear waste and spent fuel;

(p) Nuclear Waste Repository Review Panels must be established to ensure the States and localities have adequate opportunities to review plans for the development of Federal nuclear waste disposal facilities; and

(q) the Secretary must increase his efforts to consult and cooperate with States and localities concerning Federal repository siting, development, and loading activities.

PURPOSE

SEC. 102. The purpose of this Act is to—

(a) assume the Federal responsibility for the acquisition and interim storage of spent fuel from civilian nuclear powerplants and for the disposal of high-level radioactive waste from civilian nuclear activities;

(b) establish a definite Federal policy for the disposal of high-level radioactive waste from civilian nuclear activities;

(c) authorize the Secretary to—

(1) acquire or construct at least one facility for the interim storage of spent fuel from civilian nuclear powerplants;

(2) select a technology and design for a system comprised of at least one Federal facility for the disposal of high-level radioactive waste generated by civilian nuclear activities and to select a site and design for the first component of such a system;

(3) finance the construction, operation, and maintenance of nuclear waste storage and disposal facilities; and

(d) accelerate the examination and consideration of alternative technologies for the disposal of nuclear waste;

(e) establish a State Planning Council on Nuclear Waste Management to provide State, local, and Indian tribal views in the area of Federal nuclear waste management policy development;

(f) improve coordination of Federal nuclear waste management programs and to require the preparation of an annual Nuclear Waste Management Plan which reflects the views of all interested parties;

(g) provide for improved consultation and cooperation between the Department of Energy and States and localities concerning Federal repository siting, development, and loading activities subject to congressional review; and

(h) establish Nuclear Waste Repository Review Panels, to ensure that States and localities have adequate opportunity to review Federal plans for the development of nuclear waste disposal facilities.

TITLE II—DEFINITIONS

SEC. 201. As used in this Act the term—

(1) "civilian nuclear powerplant" means a utilization or production facility for the generation of commercial power, as that phrase is used in the Atomic Energy Act of 1954, which is or will be licensed under such Act;

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "disposal" means the long-term isolation of material, including long-term monitored storage which permits retrieval of the material stored;

(4) "environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of section 102(2)(c) of the National Environmental Act of 1969 (83 Stat. 852);

(5) "Secretary" means the Secretary of the Department of Energy; and

(6) "spent fuel" means nuclear fuel that has been irradiated in and recovered from a civilian nuclear powerplant.

(7) "Council" means the State Planning Council on Nuclear Waste Management;

(8) "Department" means the Department of Energy;

(9) "Review Panel" means a Nuclear Waste Repository Review Panel;

(10) "Plan" means the annual Nuclear Waste Management Plan;

(11) "Governor" means the Governor of a State, or successors to the Governor, during their respective terms of office, or their designees;

(12) "nuclear waste" means high-level waste, transuranic contaminated waste, and low-level waste;

(13) "high-level waste" means the highly radioactive wastes resulting from the reprocessing of spent nuclear fuel, and includes both the liquid wastes which is produced directly in reprocessing and any solid material into which such liquid waste is made;

(14) "transuranic contaminated waste" means material contaminated with elements having an atomic number greater than 92, including neptunium, plutonium, americium, and curium, in concentrations of greater than 10 nanocuries per gram;

(15) "low-level waste" means material contaminated with radioactive elements emitting beta or gamma particles or with traces of transuranic elements in concentrations less than 10 nanocuries per gram;

(16) "repository" means a facility for the disposal of high-level waste, transuranic contaminated waste, or spent nuclear fuel, whether or not such facility is designed to permit the subsequent recovery of such material, except for facilities to be used exclusively for research and development purposes containing an insignificant amount of such material;

(17) "storage" means retention of nuclear waste or spent nuclear fuel with the intent to recover such material for subsequent use, processing, or disposal;

(18) "local government" means any political subdivision of a State including any town, city, township borough, parish, village, county, or other general purpose political subdivision of a State:

(19) "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93–638);

(20) "nuclear waste and spent nuclear fuel management" means the transport, storage, and disposal of nuclear waste and spent nuclear fuel;

(21) "main shaft" means the primary vertical access shaft of a nuclear waste repository;

(22) "site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken;

(23) "major nuclear waste facility" means any facility in which will occur the interim storage of spent fuel from a civilian nuclear reactor, the disposal of such spent fuel or of high-level radioactive waste from civilian nuclear activities, or the transportation of such spent fuel or waste, and which will have a total estimated cost to the Federal Government of $5,000,000 or more; and

(24) "test disposal" means the emplacement in a repository of an amount in excess of 100 canisters of spent nuclear fuel, high-level wastes or transuranic contaminated waste.

TITLE III—INTERIM STORAGE OF SPENT FUEL FROM CIVILIAN NUCLEAR POWERPLANTS

SEC. 301. (a) It is the policy of the Federal Government to provide, as soon as possible, an assured and predictable capacity for the interim storage of spent fuel from civilian nuclear powerplants.

(b) The policy under subsection (a) shall provide for—

(1) maximizing, by utilization of available spent fuel pools to the maximum practical extent, the storage of such spent fuel at the site of each civilian nuclear powerplant; and

(2) the establishment of a federally owned and operated system for the interim storage of spent fuel at one or more away-from-reactor facilities.

SEC. 302. The Secretary, the Commission and other appropriate Federal officials shall take such actions as they consider necessary to encourage and expedite the use of available storage at the site of each civilian nuclear powerplant consistent with—

(a) the protection of the public health and safety;

(b) economic considerations;

(c) continued operation of the powerplant;

(d) the sensibilities of the population surrounding such powerplant; and

(e) otherwise applicable law.

SEC. 303. (a) The Secretary, consistent with such criteria as he prescribes under the policy set forth in section 301, shall offer to enter into, and may enter into, contracts with persons owning and operating, or planning to own and operate, civilian nuclear powerplants. Those contracts shall provide that the Federal Government will (1) take title to spent fuel from the powerplants, (2) transport the spent fuel to federally owned and operated interim away-from-reactor storage facilities and store such fuel in the facilities, and (3) dispose of waste products associated with such spent fuel.

(b) Nothing in this Act authorizes the Secretary to take title to spent fuel, transport spent fuel or dispose of spent fuel or the waste products associated with spent fuel from a nuclear powerplant not located within the United States.

SEC. 304. A contract entered into under section 303 shall provide—

(a) for a one-time payment at the time the Federal Government acquires the spent fuel of a charge per unit of spent fuel, as such unit is defined by the Secretary, which charge is determined by the Secretary to be adequate to cover—

(1) the cost of transportation of such spent fuel;

(2) the proportion of the costs of the construction and the operation, maintenance and decommissioning of Federal interim away-from-reactor storage facilities which proportion is associated with such spent fuel; and

(3) a surcharge to reflect the cost of long-term disposal of high-level radioactive waste associated with such spent fuel;

(b) for the retention by the owner of such spent fuel of a nontransferable right to the value of the remaining fuel resource less the costs of recovery, as determined at the time of recovery. The right ends when the Federal Government—

(1) takes action resulting in the recovery of the remaining fuel resource, and

(2) gives to the owner of the right an amount of money equal to the value of the recovered fuel less the costs of recovery;

(c) that title to the spent fuel together with all rights to such fuel, except as otherwise provided in this Act, passes to the Secretary at the site of the powerplant at the time the Secretary takes possession of the spent fuel;

(d) that the contract becomes effective when the interim away-from-reactor storage facility is available as determined by the Secretary by notice in the Federal Register: and

(e) for adjustment and recalculation of the one-time payment established under subsection (a) of this section; and assessment of any difference to be paid or reimbursed at the time such spent fuel or associated radioactive waste is placed in long-term disposal.

SEC. 305. (a) The Secretary shall provide notice of intent to enter into such contracts by publishing notice in the Federal Register not later than one hundred and eighty days after the date of the enactment of this Act. Such notice shall contain such information as the Secretary considers appropriate concerning proposed terms and conditions of such contracts.

(b) The Secretary shall establish the one-time payment charge per unit of spent fuel required by subsection 304(a) on an annual basis, based on calculation of the costs and surcharge listed in subsection 304(a), and shall publish such annual one-time payment charge and the calculation thereof in the Federal Register. Each such annual one-time payment charge shall become effective thirty days after publication and shall remain effective for a period thereafter of twelve months as the charge for the costs and surcharge listed in subsection 304(a) for any spent fuel, title to which is transferred to the Federal Government during that twelve-month period.

SEC. 306. (a) The Secretary shall construct or acquire at least one away-from-reactor facility for the interim storage of spent fuel from civilian nuclear powerplants. The facilities shall—

(1) be made available in adequate capacity and in a timely manner to accommodate all spent fuel for which commitments have been made pursuant to section 303 of this Act; and

(2) be subject to a license under the provisions of section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233).

(b) The Secretary, in providing for tthe transportation of spent fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost. The authority of the Secretary to enter into contracts under this section shall be limited to the extent or in such amounts as are provided in appropriations Acts.

(c) The Secretary and the Commission, on a continuing basis, shall analyze and make projections of the availability when needed of spent fuel transportation casks required to support Federal transportation requirements pursuant to subsection (b). The Secretary and the Commission are authorized and directed to take such actions as the Secretary and the Commission, respectively deem necessary and appropriate to ensure the timely availability when needed of such spent fuel transportation casks.

SEC. 307. When an interim away-from-reactor storage facility is available, the Secretary shall take possession of and transport to a designated storage facility any spent fuel covered by a contract made under section 303 of this Act. The Secretary shall take this action within thirty days after the date on which the owner of such spent fuel provides notice in writing to the Secretary that such spent fuel is available.

SEC. 308. Funds made available to the Secretary for the purpose of—

(a) acquiring plant and capital equipment or land; or

(b) for planning, construction, or modification of facilities,

to make available facilities for the interim storage of spent fuel from civilian nuclear powerplants away from the reactor under any law making appropriations of funds or authorizations for appropriations of funds for the fiscal year ending September 30, 1979, or the fiscal year ending September 30, 1980, including funds authorized and appropriated for Project 79–1–p (Away-From-Reactor Spent Nuclear Fuel Storage Capacity) in legislation authorizing appropriations for the Department of Energy for the fiscal year ending September 30, 1980, shall be available to carry out the purposes of section 306.

SEC. 309 (a). In carrying out the provisions of sections 301 through 308 with regard to any facility for the interim storage of spent fuel from civilian nuclear powerplants which the Secretary is authorized by section 306(a) to construct or acquire, the Secretary shall:

(1) as soon as practicable, but not later than 90 days after enactment of this section, notify in writing the Governor and the legislature of any state in which is located a potentially acceptable site for such a facility or an existing facility potentially suitable for interim storage of spent fuel of his intention to investigate that site or facility;

(2) during the course of investigation of such site or facility, keep the Governor and the legislature currently informed of the progress of work and results of the investigation;

(3) at the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, promptly notify the Governor and the legislature in writing of such selection;

(4) throughout the course of any subsequent work on that site or existing facility, furnish the Governor all relevant information on a current basis and provide him with the opportunity for review and comment from time to time.

(b) If within a reasonable time after the Governor has received notice of selection required by subsection (a)(3), the Governor notifies the Secretary in writing of his objections to the facility, the Secretary shall suspend further work on such facility and promptly transmit the Governor's objections together with the Secretary's comments and recommendations to the President.

(c) Unless within ninety days after receipt of the Secretary's notification under subsection (b) the President determines that such facility is essential to the national interest, the Secretary shall terminate activities specific to the facility. Such determination shall not be subject to judicial or administrative review.

(d) During the regulation and monitoring of the facility, the Governor or his designee shall have the right to be currently informed of all relevant facts and matters, and shall have access to all relevant documents, and have the right to review and comment on such matters from time to time.

SEC. 310. Section 202(3) of the Energy Reorganization Act of 1974 is amended to read:

"(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes or spent fuel resulting from activities licensed under such Act or spent fuel from foreign reactors transferred under a subsequent arrangement authorized under such Act.".

SEC. 311. Transportation of spent fuel under section 303(a) shall be subject to licensing and regulation by the Commission as provided for transportation of commercial spent fuel under existing law.

TITLE IV—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE RESULTING FROM CIVILIAN NUCLEAR ACTIVITIES

SEC. 401. It is the policy of the Federal Government to provide, consistent with section 301, a federally owned and operated system for the disposal of all high-level radioactive waste resulting from civilian nuclear activities.

SEC. 402. Within one year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a proposal for a system consisting of at least one facility for the disposal of high-level radioactive waste resulting from civilian nuclear activities. Such facilities shall be designed to—

(a) accommodate spent fuel from civilian nuclear activities without reprocessing, as well as the high-level radioactive waste from other civilian nuclear activities, including reprocessing of such spent fuel if such reprocessing is undertaken in the United States;

(b) permit continuous monitoring, management, and maintenance of the spent fuel and high-level radioactive waste for the foreseeable future;

(c) provide for the ready retrieval of any spent fuel and high-level radioactive waste for further processing or disposal by an alternative method; and

(d) safely contain such high-level radioactive waste and spent fuel so long as may be necessary, by means of maintenance, including, but not limited to, replacement as necessary, of such facility.

SEC. 403. The proposal shall include—

(a) the general description, cost estimates, and construction schedule for a system which shall be initially designed for a capacity adequate at a minimum to receive in a timely manner the hgh-level radioactive waste produced by all ongoing civilian nuclear activities and the spent fuel from the operation of all civilian nuclear powerplants for which any application for any Federal license or permit has been received prior to the date of the enactment of this Act; and

(b) site-specific designs, specifications, and cost estimates adequate to solicit bids for the construction of an initial facility within the system which will demonstrate the feasibility of long-term retrievable disposal of spent fuel and high-level radioactive waste and which has capacity of at least one thousand spent fuel rods along with a volume of processed high-level radioactive waste from civilian activities limited to the amount sufficient to accomplish the purpose of this subsection.

SEC. 404. In formulating the proposal, the Secretary shall consult with the Commission and the Environmental Protection Agency, and shall transmit their comments on the final proposal to the Congress together with the proposal.

SEC. 405. (a) Preparation and transmittal of the proposal to the Congress is not a major Federal action significantly affecting the environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852) but an environmental assessment shall be prepared on the proposal to accompany such transmittal based upon available information regarding alternative technologies for waste disposal.

(b) When Congress authorizes construction of the initial facility, the requirements of the National Environmental Policy Act shall apply, except that any environmental impact statement in connection with such facility need not consider any alternative to the design criteria set forth in section 402 of this Act as may have been amended by such subsequent congressional authorization.

(c) Any facility authorized under this title shall be subject to a license under section 202(3) of the Energy Reorganization Act of 1974 (88 Stat. 1233), except that in its consideration of the application filed by the Secretary for the initial facility, the Commission may not consider any alternative to the design criteria set forth in section 402 of this Act but shall comply with the requirements of the licensing process as otherwise provided by law.

SEC. 406. (a) The Secretary shall continue and accelerate a program of research, development, and demonstration of the geologic disposal in mined repositories of high-level radioactive waste from civilian nuclear powerplants, with the objective of submitting to Congress and the Commission site characterization reports for construction of at least one demonstration repository by January 1, 1985.

(b) The Secretary shall also continue and accelerate a program of research, development, and investigation of alternative technologies for the disposal of high-level radioactive wastes from civilian and national defense activities. Such program shall include examination of various waste disposal options including, but not limited to—

(1) advanced technologies for the long-term retrievable storage of nuclear waste;

(2) placement in deep ocean sediments;

(3) placement in very deep drill holes;

(4) placement in a mined cavity in a manner which leads to rock melting;

(5) partitioning of reprocessing waste, transmutation of radionuclides, and geologic disposal of radioactive wastes; and

(6) ejection into space.

(c) The programs to be carried out under subsections (a) and (b) include—

(1) collection of baseline data and environmental information about potential disposal sites;

(2) dissemination of fundamental scientific information;

(3) development, analysis, and validation of predictive models;

(4) extensive, independent, objective review of results by scientific experts, and of proposed facilities and operations through the licensing process;

(5) practical experience, including careful monitoring of radioactive waste isolation systems;

(6) a demonstrated capability to take any needed corrective or mitigating actions; and

(7) an ongoing research and development program to increase the state of knowledge about the disposal of nuclear waste.

(d) The Secretary shall report to the Congress his findings and recommendations resulting from the program authorized by this section, as follows—

(1) as a part of the annual report required by section 657 of the Department of Energy Organization Act (91 Stat. 565) the Secretary shall report concerning the status of the program; and

(2) from time to time, the Secretary shall make recommendations arising from his studies concerning the advisability of modifying or replacing the technology adopted under section 402 of this Act.

TITLE V—FINANCIAL ARRANGEMENTS

SEC. 501. (a) There is hereby established in the Treasury of the United States a separate account to provide for (1) the construction and operation of Federal away-from-reactor interim storage facilities for spent fuel, (2) the disposal of such spent fuel or high-level radioactive waste from civilian nuclear activities, and (3) the handling and transportation of such spent fuel or waste. Amounts appropriated under section 308 or otherwise appropriated to the Secretary to carry out any of the purposes of titles III, IV and V of this Act (except section 406), all charges under section 304, receipts derived from the sale of any reprocessed fuel, and the proceeds from any obligations issued pursuant to section 502 of this title shall be deposited into the account.

(b) To the extent or in such amounts as are provided in appropriations Acts, the Secretary may draw on such account to carry out the purposes of titles III, IV and V of this Act (except section 406): *Provided,* That the Secretary shall not construct or acquire any major nuclear waste facility unless the specific expenditure of funds for the initiation of such construction or acquisition is explicitly approved in an appropriation Act.

SEC. 502. (a) To carry out the purposes of this Act the Secretary may borrow money from the Treasury of the United States in amounts provided in Appropriation Acts, but not more than $300,000,000. The Secretary and the Secretary of the Treasury shall agree on terms, maturities, and conditions of the obligations, but the maturities may not be more than thirty years. The Secretary may redeem the obligations before maturity. The Secretary of the Treasury shall decide the interest rate of the obligations considering the average market of outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued. The interest payments on such obligations may be deferred with the approval of the Secretary of the Treasury but any interest payment so deferred shall bear interest. Such obligations shall be issued in amounts and at prices approved by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Secretary issued under this section and for this purpose the Secretary of the Treasury is authorized to use as a public debt transaction of the United States the proceeds from the sale of any securities issued under the Second Liberty Loan Bond Act. Securities may be issued under that Act to purchase obligations from the Secretary under this section.

(b) Appropriations made available pursuant to section 308 of this Act and any other appropriations made to the Secretary to carry out the purposes of Titles III, IV and V of this Act (except section 406) shall be repaid into the General Fund of the Treasury out of the account, together with interest until the date of repayment at a rate determined by the Secretary of the Treasury taking into consideration the average market on long-term obligations of the United States during the fiscal year in which such appropriations are made. The Secretary shall repay such appropriation together with interest within thirty years from the time at which such appropriations become available for expenditure after the date of enactment of this Act, no appropriations to the Secretary are authorized to carry out the purposes of Titles III, IV and V of this Act (except section 406) unless the amounts appropriated are deposited into the account established in section 501(a).

TITLE VI—LOW-LEVEL WASTE

SEC. 601. (a) It is the policy of the Federal Government that—

(1) each State is responsible for the disposal of low-level radioactive waste generated by non-Federal related activities within its borders;

(2) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(b) To carry out the policy set forth in subsection (a), each of the several States, the territories, and possessions of the United States and the District of Columbia, are authorized and encouraged to develop and submit to the Congress, for subsequent review and consent, agreements or compacts with any other State or States relating to the management and disposal of low-level radioactive waste on a regional basis. Compacts or agreements made pursuant to this Act may restrict the use of regional disposal facilities to the disposal of non-Federal low-level radioactive waste generated within the region.

SEC. 602. (a) In order to assist the States in carrying out the policy set forth in section 601 of this Act, the President shall prepare and submit to Congress and to each of the fifty States within one hundred and twenty days after the date of the enactment of this title a report which—

(1) defines the disposal capacity needed for present and future low-level waste on a regional basis;

(2) (A) defines the status of all commercial low-level nuclear waste disposal sites, including those located at:

(i) West Valley, New York,

(ii) Maxey Flats, Kentucky,

(iii) Beatty, Nevada,

(iv) Sheffield, Illinois,

(v) Richland, Washington, and

(vi) Barnwell, South Carolina;

(B) includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level wastes for their hazardous lifetimes, and such recommendations for remedial actions and regulatory reforms as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(3) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level nuclear wastes, including an inventory of types and quantities of low-level wastes, an evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements;

(4) evaluates the capability of the Department of Energy owned and operated low-level waste disposal facilities to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage; and

(5) recommends additional research and development, as needed.

(b) In carrying out this section the Secretary shall consult with the Governors of the several States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Department of Transportation, and such other agencies and departments as he finds appropriate.

(c) The provisions of this Act shall take effect on October 1, 1980.

SEC. 603. The Secretary of Energy is authorized and directed to provide to the several States financial and technical assistance to carry out the policy set forth in section 601 of this Act.

TITLE VII—ESTABLISHMENT, MEMBERSHIP, AND FUNCTIONS OF STATE PLANNING COUNCIL ON NUCLEAR WASTE

ESTABLISHMENT OF THE COUNCIL

SEC. 701. There is established an advisory committee to be known as the State Planning Council on Nuclear Waste (hereinafter referred to in this Act as the "Council").

MEMBERSHIP OF THE COUNCIL

SEC. 702. (a) The Council shall consist of eighteen members. Fourteen members shall be appointed to the Council by the President. Of these fourteen members, eight shall be Governors, five shall be State and local elected officials other than Governors, and one shall be a tribal government representative. The remaining four members of the Council shall be the Secretaries of Energy, Interior, and Transportation, and the Administrator of the Environmental Protection Agency. The Nuclear Regulatory Commission shall participate as an observer in Council activities. Of the members of the Council selected from among elected officials, seven shall be appointed for a one-year term and seven shall be appointed for a two-year term. Appointments, or reappointments, at the expiration of the initial terms shall be for terms of two years. Appointments to fill a vacancy occurring before the end of a term shall be for the balance of the term. No member who is an elected official may continue to serve on the Council if that member ceases to be an elected official. The Chairman with the concurrence of the Council may appoint nonvoting special advisors to the Council.

(b) In appointing members of the Council, the President shall endeavor to ensure representation of a broad range of views with respect to nuclear waste and spent nuclear fuel management and to ensure representation of geographical areas which are users of nuclear power and of geographical areas which are serving or may be likely to serve as locations for nuclear waste and spent nuclear fuel storage or disposal or which may be directly or substantially affected by those activities.

(c) The President shall designate one of the members of the Council as chairman. Only the Governor of a State is eligible for designation as Chairman of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 703. The Council shall provide advice and recommendations to the President, the Secretary of Energy and, as appropriate, other Federal agencies, the Congress and the State and local governments and Indian tribes on nuclear waste management (including management of spent nuclear fuel). In carrying out its advisory functions the Council shall—

(1) recommend procedural mechanisms for reviewing nuclear waste management plans and programs in a way to ensure the timely and effective involvement of State and local governments and Indian tribes;

(2) review the development of the National Nuclear Waste Management Plan and provide recommendations to ensure that this plan adequately addresses the needs of the State and local areas affected;

(3) advise on all aspects of siting facilities for storage and disposal of nuclear wastes, including the review of recommended criteria for site selection and site suitability, guidelines for regional siting, and procedures for site characterization and selection;

(4) advise on an appropriate role for State and local governments and Indian tribes in the licensing, permitting, regulation, and operation of nuclear waste repositories;

(5) advise on proposed Federal regulations, standards, and criteria related to nuclear waste management programs; and

(6) identify and make recommendations on other matters related to the transportation, storage, and disposal of nuclear waste that the Council believes are important.

AUTHORITY OF THE COUNCIL

SEC. 704. The Council shall have the authority to—

(1) designate special advisors;

(2) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, and Indian tribes with or without reimbursement therefor;

(3) accept voluntary and uncompensated services;

(4) enter into contracts, leases, cooperative agreements, or other transactions necessary in the conduct of the Council's functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

(5) transfer funds to and accept funds from Federal agencies to discharge Council responsibilities as set forth in section 703 of this Act.

PERSONNEL AND ADMINISTRATION

SEC. 705. (a) Members of the Council including special advisors, who are not otherwise full-time employees of the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

(b) The Chairman of the Council may appoint and fix the compensation of a staff director and such additional persons as may be necessary to discharge the Council's responsibilities. The Director and staff personnel shall be appointed in accordance with the provisions of title 5, United States Code, covering appointments in the competitive service and should be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. In addition, the Council may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States

Code. Any persons who are Federal employees subject to the civil service laws and regulations at the time of appointment to the staff of the Council, shall retain civil service status without interruption or loss of status or privilege while employed by the Council.

(c) The Director and staff personnel may receive travel and transportation expenses, including per diem in lieu of subsistence, authorized by law.

(d) A vacancy that may occur on the Council shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(e) The provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), except as inconsistent with this Act shall apply to the Council.

(f) The Secretaries of Energy, Interior, and Transportation, and the Administrator of the Environmental Protection Agency shall designate one officer to act on his behalf to attend each meeting of the Council as provided in section 10 of the Federal Advisory Committee Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary. Notwithstanding section 628-1 of title 31, United States Code, the Department of Energy shall transfer funds appropriated pursuant to this authorization to the Council to carry out the purposes of this Act.

EXPIRATION OF AUTHORITY

SEC. 707. The Council shall cease to exist ten years after the date of enactment of this Act.

TITLE VIII—NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

ESTABLISHMENT OF NATIONAL NUCLEAR WASTE MANAGEMENT PLAN

SEC. 801. The Secretary, in consultation with the State Planning Council on Nuclear Waste, the Nuclear Regulatory Commission, the Council on Environmental Quality, the Director of the Office of Science and Technology Policy, the Administrator of the Environmental Protection Agency, the Secretaries of the Interior, Transportation, and State, and the head of any other Federal agency or department designated by the President shall prepare an annual nuclear waste management plan for the fiscal years 1982, 1983, 1984, 1985, and 1986, describing current and planned Federal activities for managing nuclear waste and spent nuclear fuel as follows:

(1) To the maximum extent feasible, the Plan shall incorporate the views of all the above named Federal agencies and the Council. If significant divergencies of opinion exists among such agencies, including the Council, on major issues, the draft Plan shall indicate where such divergencies of opinion exist and shall include the relevant options for consideration by the President following the submission of public and agency comment pursuant to paragraph (2).

(2) The Secretary shall make the draft Plan available for public comment together with any divergent opinions (and relevant options) on the Plan of the above named Federal departments and agencies and of the Council for at least sixty days, and shall thereafter submit the draft Plan, revised as appropriate in light of the public comments received, to the President, concurrent with the submission of the draft Plan to the President, the above named Federal departments and agencies and the Council shall submit their views on the draft Plan to the President.

(3)(A) The President shall review the draft Plan and the comments and views he receives thereon and shall resolve any divergent views presented pursuant to paragraph (1), and may further modify the draft Plan as he deems appropriate.

(B) Protection of the public health and safety shall be foremost among the factors to be weighed by the Secretary in preparing the draft Plan and by the President in reviewing the draft Plan.

(4) Not later than March 1, 1982, and March 1 of each succeeding year thereafter through March 1, 1986, the Secretary shall submit the final version of the Plan for the next fiscal year to the Congress.

(5) Any committee of either House of Congress reporting a bill authorizing funds for nuclear waste and spent nuclear fuel management activities shall consider the Plan and may specify in any report accompanying such bill the extent to which such proposed authorization is consistent with the Plan.

(6) In lieu of preparing an annual Plan for any fiscal year following 1982 the Secretary may prepare an update of a previous Plan, identifying any changes in current and future Federal nuclear waste and spent nuclear fuel management activities from those described in the previous Plan. Such update shall be subject to all the procedures of this title applicable to annual Plans.

TITLE IX—COORDINATION OF STATE REVIEWS AND DEPARTMENT OF ENERGY REPOSITORY SITING, DEVELOPMENT, AND LOADING ACTIVITIES

STATE NOTIFICATION

SEC. 901. (a) The Secretary shall identify the States with one or more potentially acceptable sites for a repository, including test disposal of high-level or transuranic wastes. Within ninety days of such identification, or within ninety days of enactment of this Act, the Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in any affected State of the potentially acceptable sites within such State.

(b) Each affected State and affected Indian tribe notified under subsection (a) shall have the right to participate in a process of consultation and concurrence, based on public health and safety concerns, in all stages of the planning, siting, development, construction, and operation of a repository. The Secretary is authorized and directed promptly to enter into negotiations with each Repository Review Panel described in title X to establish a cooperative agreement under which the Repository Review Panel may exercise such right. Public participation in the negotiation of such agreement shall be provided for and encouraged by the Secretary, the States and the Indian tribes. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with these guidelines shall not be a basis for judicial review.

(c) The cooperative agreement may include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the Repository Review Panel in any stage of the planning, siting, development, construction or operation of such a facility within the State: *Provided, however*, That any such agreement shall not affect the Nuclear Regulatory Commission's authority under existing law.

(d) For the purpose of this part of this title "process of consultation and concurrence" means a methodology by which the Secretary (A) keeps the Repository Review Panel fully and currently informed about the aspects of the project related to any potential impact on the public health and safety, (B) solicits, receives, and evaluates concerns and objections of the Review Panel, with regard to such aspects of the project on an ongoing basis, and (C) works diligently and cooperatively to resolve such concerns and objections.

(e) The Secretary and the Repository Review Panel shall seek to conclude the agreement required by subsection (b) not later than one year after the date of notification under subsection (a). The Secretary shall report to the Congress annually thereafter on the status of the agreement approved under subsection (c). Any report to the Congress on the status of negotiations under subsection (b) or the agreement under subsection (c) by the Secretary shall be accompanied by comments solicited by the Secretary from the Review Panel.

PROPOSED SITE REPORTS

SEC. 902. (a) At such time as the Secretary, following detailed site characterization and investigation activities at one or more specific possible repository sites, proposes that for the purposes of further Department repository development activities any such site be selected as the location for a repository, the Secretary shall prepare and submit to the Congress a Proposed Site Report describing the site in question, the alternatives considered, if any, and his reasons for the selection of the proposed repository site from among any such alternatives.

(b) The Secretary shall not undertake further work toward the development of a repository at any proposed site as described in subsection (a), including the preparation of any necessary license application for any such repository, until forty-five days of continuous session (as defined in section 905) shall have elapsed following his submission to the Congress of the Proposed Site Report specified in subsection (a). The Congress by concurrent resolution may waive this time period.

(c) Prior to his submission to the Congress of the Proposed Site Report specified in subsection (a), the Secretary shall prepare a draft of such report and solicit the views thereon of—

(1) the Repository Review Panel convened in the State containing the repository site;

(2) other interested States, including specifically, the views of the Governor (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by a repository at the proposed site;

(3) the public;

(4) the Council; and

(5) other Federal agencies and departments named in section 801.

The Secretary shall permit at least ninety days for such review and comment.

(d) The Secretary shall prepare a final Proposed Site Report after considering the comments he receives pursuant to subsection (c) and shall submit such final Proposed Site Report together with such comments to the Congress.

REPOSITORY DEVELOPMENT REPORTS

SEC. 903. (a) The Secretary shall—

(1) at the earliest feasible time prior to the intended submission by the Secretary to the Nuclear Regulatory Commission of an application for a license to construct the main shaft of a nuclear waste repository, or

(2) in the event that the Secretary is not required by law to obtain a license from the Nuclear Regulatory Commission for the construction of the main shaft of such repository, at the earliest feasible time prior to understaking site preparation work leading construction of the main shaft of such repository,

prepare a Repository Development Report. The Secretary shall immediately notify the

Repository Review Panel of the State in which such proposed repository would be located of his decision to prepare the Repository Development Report.

(b) The Repository Development Report shall contain—

(1) the license application for the repository prepared by the Secretary for the Nuclear Regulatory Commission, including any relevant environmental impact statements or, in the event the Secretary is not required by law to obtain a license from the Commission for the construction of the main shaft of such repository, a document containing comparable information and analysis;

(2) a plan for the transport of high-level or transuranic contaminated waste or spent nuclear fuel to the repository, including an assessment of anticipated environmental, health, and safety impacts and a description of emergency planning procedures; and

(3) any plan to provide financial assistance to State or local governments or Indian tribes with respect to health, safety, environmental, economic, or social impacts arising from the proposed repository.

(c) The Federal agencies and departments named in section 801 shall assist the Secretary by coordinating with the Secretary's preparation of a Repository Development Report for a proposed repository, the preparation by such agencies and departments of any pertinent Environmental Impact Statements mandated by the National Environmental Policy Act so as to avoid unnecessary delay and duplication of effort. Nothing in this title shall be construed to relieve any Federal agency or department of any duty imposed by that Act.

(d) (1) The Secretary shall prepare the Repository Development Report with respect to such proposed repository in close cooperation with the appropriate Review Panel and shall incorporate the views of such Panel into such Repository Development Report to the maximum extent feasible.

(2) The Secretary shall also consult with the Governor (or other appropriate State officials as specified by State law) of adjacent States that the Secretary determines may be directly and substantially affected by the repository described in the Repository Development Report and with the governing bodies of Indlian tribes in adjacent States that may be so affected, and shall incorporate the views of such officials into the Repository Development Report to the maximum extent feasible.

(3) Upon completing the Repository Development Report, the Secretary shall submit the Repository Development Report to the Review Panel for final review and to the Governor (or other appropriate State officials as may be specified by State law) of adjacent States that may be directly and substantially affected by the repository described in the Repository Development Report, and with the governing bodies of Indian tribes in adjacent States that may be so affected, and shall make the Report available for public comment. The Secretary shall also solicit the comments of the Council on such Report. The Secretary shall allow a period of ninety days for such comments. The Repository Review Panel shall file any formal objections to the Report before the completion of such ninety-day period.

(e) The Secretary shall submit the Repository Development Report for a proposed repository to the Congress, together with the objections of the appropriate Review Panel, if any, the comments of other interested States, including specifically those of adjacent, directly and substantially affected States, and such other comments as the Secretary has received with respect to such report.

(f) (1) The Secretary may not file an application with the Commission for a license to construct the main shaft of a repository, or if no such license is required by law, may not undertake site preparation work leading to the construction of the main shaft of a proposed repository, unless and until he shall have submitted a Repository Development Report for such repository to the Congress.

(2) In addition, if the relevant Repository Review Panel has filed objections to the Report under subsection (d), the Secretary may not file such an application or undertake such site preparation work if during the sixty-day period of continuous session following submittal of such Report either House of Congress passes a resolution pursuant to section 908 stating in substance that the Repository Development Report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such a license is not required by law, to proceed with construction of such repository: *Provided, however*, That if (A) the aforementioned objections have been filed, (B) such repository is a repository primarily for the disposal of high-level or transuranic contaminated wastes produced through the defense activities of the Secretary, and (C) the President notifies both Houses of Congress in writing at the time of submittal of the Repository Development Report of his determination that development of the repository is essential to promote the national security of the United States, then the Secretary may proceed with such site preparation work and may proceed to apply to the Nuclear Regulatory Commission for a license to construct such repository, or if such a license is not required by law, to proceed with construction of such repository unless both Houses of Congress shall within sixty days of continuous session pass a resolution stating that in substance that said report does not sufficiently address State and local concerns to permit the Secretary to apply to the Commission for a license to construct such repository or, if such a license is not required by law, to proceed with construction of such repository. For the purposes of this proviso, a repository primarily for the disposal of high-level or transuranic contaminated wastes produced through the defense activities of the Secretary is one designated by the Secretary in the Repository Development Report covering such repository to contain an amount of such high-level or transuranic wastes which is ninety per centum or more (in terms of curies) of the total amount of nuclear waste and spent fuel to be placed in the repository, and in which any nuclear wastes or spent fuel from nondefense and licensed activities is limited to 2 per centum or less (in terms of curies) of the total amount of such wastes and spent fuel in storage in the United States at the time of such designation.

(g) In the event that either House of Congress passes a resolution as specified in paragraph (f) (or both Houses pass such a resolution pursuant to the proviso in paragraph (f)) with respect to a Repository Development Report the prohibition set forth in subsection (f) shall remain in effect until such time as—

(1) the Secretary shall have submitted to the Congress a revised Repository Development Report with respect to such repository, and

(2) if the relevant Repository Review Panel has filed objections to such revised Report under subsection (d) and the following sixty-day period of continuous session elapses without either House or both Houses of Congress, as the case may be passing a resolution as specified in subsection (f) with respect to such revised Repository Development Report.

Each revised Repository Development Report shall be prepared pursuant to the procedures set forth in this section and in section 1003 pertaining to the preparation of Repository Development Reports.

(h) The Secretary shall not allow designated limits to be breached on percentages of nuclear waste or spent fuel designated in the last sentence of subsection (g) unless specifically authorized by the Congress.

(i) The Secretary shall report annually to the Congress on: (1) the number of curies of radioactivity in domestically stored spent fuel and in nondefense or civilian nuclear waste; (2) the percentages in each repository of nuclear waste (in curies) arising from defense activities of the Secretary in relation to all other nuclear waste or spent fuel (in curies) at such repository.

REPOSITORY LOADING REPORTS

Sec. 904. (a) The Secretary shall—

(1) at the earliest feasible time prior to the submission by any Federal agency or department to the Nuclear Regulatory Commission of an application for a license to emplace significant quantities of high-level or transuranic contaminated waste or spent nuclear fuel into a repository; or

(2) in the event that such agency or department is not required by law to obtain a license from the Nuclear Regulatory Commission in order to emplace significant quantities of high-level or transuranic contaminated nuclear waste or spent nuclear fuel into such repository, at the earliest feasible time prior to beginning the emplacement of such waste or spent nuclear fuel into such a repository,

prepare a Repository Loading Report with respect to such repository.

(b) The Repository Loading Report prepared with respect to such repository shall contain the information required in the Repository Development Report prepared with respect to such repository appropriately updated. The Repository Loading Report for such repository shall identify any significant differences between the plans, descriptions, and analyses contained therein and those presented in the Repository Development Report prepared with respect to such repository. Special emphasis shall be given to assessing the significance of information collected during the course of the construction of the repository to the analyses of the anticipated environmental, health, and safety impacts of such repository. If the foregoing information is contained in an application prepared by the Secretary for a license from the Nuclear Regulatory Commission to load high level or transuranic contaminated waste or spent fuel in such repository, then such application may serve as a Repository Loading Report.

(c) The Secretary shall—

(1) prepare the Repository Loading Report with respect to such repository in close cooperation with the Review Panel of the State in which the repository is located and shall incorporate the views of such Panel into such report to the maximum extent feasible;

(2) the Secretary shall also consult with the Governor (or other appropriate State officials as specified by State law) of such adjacent States as the Secretary determines may be directly and substantially affected by the loading of the repository described in the Repository Loading Report and shall incorporate the views of such officials into the Repository Loading Report to the maximum extent feasible; and

(3) upon completing such Repository Loading Report, the Secretary shall solicit comments on the report from—

(A) the Review Panel,

(B) other interested States, including specifically the views of the Governor (or other appropriate State officials as may be specified by State law) of other adjacent States that the Secretary determines may be directly and substantially affected by the loading of the repository,

(C) the public,

(D) the Council, and

(E) the other Federal agencies and departments named in section 801.

The Secretary shall allow a period of ninety days for the receipt of such comments.

(d) The Secretary may not emplace significant quantities of nuclear wastes or spent nuclear fuel into any repository, unless and until the Secretary shall have submitted to the Congress a Repository Loading Report prepared with respect to such repository, together with the comments of the appropriate Nuclear Waste Repository Review Panel, and a period of forty-five days of continuous session of Congress (as defined in section 905) shall have elapsed. Congress may by concurrent resolution waive this forty-five-day period.

CONGRESSIONAL REVIEW PROCEDURES FOR REPOSITORY DEVELOPMENT REPORTS

SEC. 905. (a) The Secretary shall have a Repository Development Report delivered to both Houses on the same day and to each House while it is in session.

(b) Any time during the period of thirty calendar days of continuous session of Congress after the date on which the Report is transmitted to it, but before any resolution described in section 908 has been ordered reported in either House, the Secretary may make amendments or modifications to the report, to address any concerns raised to it by the appropriate Repository Review Panel which modifications or revisions shall thereafter be treated as a part of the Repository Development Report originally transmitted and shall not affect in any way the time limits otherwise provided for in this Act. The President may withdraw the Repository Development Report any time prior to the conclusion of sixty calendar days of continuous session of Congress following the date on which the report is submitted to Congress.

SEC. 906. For the purpose of the Act (1) continuity of session is broken only by an adjournment or Congress sine die; and (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

SEC. 907. Sections 905 through 911 of this Act are enacted by Congress. (1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 908 of this Act; and they supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 908. For the purposes of the Act "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ——— believes, that the Repository Development Report relating to the proposed development of a repository at ——— within the State of ——— transmitted to Congress by the Secretary of Energy on ———, 19— (as amended by the Secretary of Energy on ——, 19—) does not sufficiently address State and local concerns to permit the Secretary to apply to the Nuclear Regulatory Commission for a license to construct such repository or, if such a license is not required by law, to permit the Secretary to proceed with the construction of such repository.", the blank spaces therein being appropriately filled and the text in parentheses being included if the Secretary has amended the report pursuant to subsection 905(b).

SEC. 909. (a) No later than the first day of session following the day on which a Repository Development Report is transmitted to the House of Representatives and the Senate under section 905, a resolution, as defined in section 908, shall be introduced (by request) in the House by the chairman of the committee to which the Report is referred, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the committee to which the Report is referred, or by a Member or Members of the Senate designated by such chairman.

(b) A resolution with respect to a Repository Development Report shall be referred to the appropriate committees of the House and Senate (and all resolutions with respect to the same report shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within forty-five calendar days of continuous session of Congress following the date of such resolution's introduction.

SEC. 910. If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 909 (or, in the absence of such a resolution, the first resolution introduced with respect to the same Repository Development Report) has not reported such resolution or identical resolution at the end of forty-five calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

SEC. 911. (a) When the committee has reported, or has been deemed to be discharged (under section 910) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

SEC. 912. In considering any Repository Development Report submitted to the Congress pursuant to this title, the Congress may obtain the views and comments of the Nuclear Regulatory Commission on such report. The provision of views by the Commission shall not be construed as binding the Commission with respect to any licensing action pertaining to the repository which is the subject of such Repository Development Report.

SEC. 913. The passage of a resolution by the Congress pursuant to this title shall in no way be considered as binding with respect to any licensing action of the Nuclear Regulatory Commission pertaining to the repository which is the subject of such resolution.

EFFECT ON OTHER LAWS

SEC. 914. (a) Nothing in this Act shall affect the authority of the Nuclear Regulatory Commission to license and regulate high-level or transuranic contaminated waste or spent nuclear fuel storage and disposal pursuant to section 202 of the Energy Reorganization Act of 1974 or byproduct, source, or special nuclear material pursuant to section 201(f) of such Act.

(b) Nothing in this Act shall exempt any Federal department or agency from the requirements of the National Environmental Policy Act.

(c) Nothing in this Act shall affect the authority of States to inspect nuclear facilities as designated pursuant to State law pursuant to section 274 of the Atomic Energy Act.

(d) Nothing in this Act is intended to grant any State any authority with respect to the siting, development, or loading of any repository, except as specifically provided herein.

SEC. 915. In the event that the site of a proposed repository is located on lands which are (1) owned by an Indian tribe or held in trust for such tribe by the Federal Government and (2) within the boundaries of the reservation of such tribe, the tribal organization, as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act exercising the powers of self-government as defined in section 201(2) of the Act of April 11, 1968, shall have the same rights under this title as the Repository Review Panel for such repository.

TITLE X—ESTABLISHMENT, MEMBERSHIP, AND FUNCTIONS OF NUCLEAR WASTE REPOSITORY REVIEW PANELS

ESTABLISHMENT OF NUCLEAR WASTE REPOSITORY REVIEW PANELS

SEC. 1001. (a) Any governmental organization, task force, council, committee or other body established by State law to represent such State in its relations with the Federal Government concerning the siting, development, and loading of nuclear waste and spent fuel repositories shall be deemed to be a Nuclear Waste Repository Review Panel for the purposes of this Act: *Provided, however*, That such panel must include representation for affected Indian tribes.

(b) In the event that within one hundred and twenty days after receipt by the Governor of a State of notification of the Secretary's intention to study an area within such State as a possible site for a nuclear waste or spent fuel repository, pursuant to section 901(a) such State shall not have established by law a governmental body to represent the State as described in subsection (a), the Governor of such State shall establish a Nuclear Waste Repository Review Panel pursuant to section 1002.

(c) The requirements of title IX concerning the preparation of Proposed Site, Repository Development, and Repository Loading Reports and their submission to the Congress, and the prohibitions contained in title IX on repository development and loading activities of the Secretary shall not apply with respect to any repository in a State unless a Review Panel shall have been established in such State pursuant to this section.

(d) A Review Panel established pursuant to section 901(b) with respect to a proposed repository siting, development, and loading activities in a State shall continue to function until—

(1) the Secretary formally notifies the Review Panel that the Federal Government no longer intends to site, develop, or load a repository in such State;

(2) the Secretary formally notifies the Review Panel that a Repository Loading Report prepared with respect to such repository has been submitted to the Congress pursuant to section 903, and the Chairman of the Panel thereafter declares the Panel to be adjourned; or

(3) such time as may be provided by the laws of the State establishing the Review Panel.

MEMBERSHIP OF REVIEW PANELS

SEC. 1002. A Review Panel convened pursuant to section 1001(b) shall consist of—

(1) the Governor convening the Panel who shall serve as the Chairman of the Panel; and

(2) seven additional individuals from the State of the convening Governor to be appointed by the Governor and to serve at the pleasure of the Governor. The convening Governor shall include on the Panel individuals who are local government or Indian tribe officials of the area under study by the Department as a possible site for the proposed repository and may include—

(A) other officials of the State's government including members of the State legislature, and

(B) interested residents of the State, except, that such residents shall be selected so as to ensure representation of a broad range of views on nuclear waste repository siting, development and loading issues.

FUNCTIONS OF REVIEW PANELS

SEC. 1003. (a) A Review Panel established pursuant to section 1001 shall enter into an agreement with the Secretary as specified in section 901 and shall meet regularly to review current and planned actions of the Department with respect to the siting, construction, and operation of the relevant proposed repositories within the State for which the Review Panel has been convened. Representatives of the Secretary shall meet regularly with the Review Panel to explain the Department's activities and to obtain the views of the Panel thereon.

(b)(1) In accordance with its agreement with the Secretary as described in section 901, a Review Panel shall cooperate closely with the Secretary in the preparation of a Proposed Site, Repository Development and Repository Loading Reports prepared pursuant to sections 902, 903, and 904.

(2) Such Review Panel shall, within ninety days after receipt of such reports review the health, safety, economic and social issues raised in the reports concerning the site or repository discussed therein, and may hold public hearings on the reports in support of such review.

(3) Within ninety days after the Review Panel receives any Proposed Site, Repository Development or Repository Loading Report, the members of the Panel shall submit their comments on such report to the Secretary for submission to the Congress.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the bill S. 2189 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR—S.J. RES. 185

Mr. JOHNSTON. Mr. President, I ask unanimous consent that during the consideration of Senate Joint Resolution 185, the gasoline rationing legislation, privileges of the floor be granted to Rick Richard, of my staff, and the following members of the staff of the Committee on Energy and Natural Resources: Dan Dreyfus, Jim Bruce, Ben Cooper, Mike Harvey, Steve Hickok, Dave Swanson, Chuck Trabardt, and Carol Garnett.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF CERTAIN FUNDS TO FUND THE HEAT CRISIS PROGRAM

Mr. BENTSEN. Mr. President, in behalf of myself and Mr. CHILES, Mr. DOLE, Mr. NUNN, Mr. EAGLETON, Mr. MATSUNAGA, Mr. BUMPERS, Mr. PRYOR, Mr. JOHNSTON, Mr. LONG, Mr. TOWER, Mr. JEPSEN, Mr. SASSER, Mr. DOMENICI, Mr. COCHRAN, Mr. DANFORTH, Mr. BOREN, and Mr. BAKER, I send a bill to the desk and ask that it be presumed to have been read twice and that we proceed to immediate consideration.

I shall yield myself 2 minutes, if I might, because I see the distinguished Senator from Kansas and the distinguished Senator from Florida are present.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title. The legislative clerk read as follows:

A bill (S. 2995) to allow the transfer of certain funds to fund the heat crisis program.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

Mr. BENTSEN. Mr. President, when more than 2,000 Americans, most of them elderly and infirm, die in a month from heat-related causes, I think we can all agree that is an emergency. When many of these people die because they cannot afford fans to cool themselves, or cannot afford to run up their electricity bill—even when their very lives are in danger—I think we can all agree that is a national crisis of the first order.

Today, Mr. President, the U.S. Senate has an opportunity to demonstrate that it can deal quickly and effectively with a threat to the well being of our constituents. We have an opportunity to demonstrate that we will not tolerate a situation in which the most vulnerable elements of our population—the poor, the elderly, the ill—become the primary victims of a heat wave because they lack the economic means to protect themselves.

Those of us who have, in the past, attempted to explain the necessity of low income energy assistance for cooling as well as for heating have faced a difficult battle. It is easy enough to dramatize and envision the dangers of death from the cold, but the menace posed by intense heat over a longer period of time somehow lacks impact. It is easy to ridicule cooling assistance as "air-conditioning aid" and see cooling as a luxury.

It has taken 2,000 deaths, 2,000 tragedies—many of them needless—to drive home the fact one can die just as surely and as cruelly from the heat as from the cold. In fact, Mr. President, I cannot recall an incident in which 2,000 people in this country died from cold in the course of a month.

After the events of the past month, I think we can all agree that there is an urgent and obvious need for a program to enable low-income Americans to contend with the sharply higher energy costs involved in cooling. We can agree that heat kills as surely as cold. We can agree that there are millions of Americans in need of assistance; and in need of a fan and the assurance that they can run it without fear of bankruptcy. These Americans do not need help in October or November; they need it today. Before it is too late. Before another needless death occurs.

Fortunately, Mr. President, we have an opportunity to provide that assistance. This bill is being considered in view of the emergency situation confronted by people in every region of this country attempting to cope with a heat wave unprecedented in its severity and duration.

The situation is as follows. The Community Services Administration has extended some $21 million in energy crisis assistance grants to the various States which has not been spent and, effective June 30, can no longer be spent. The assets for urgently needed cooling assistance exist but cannot be utilized. The money will have to be returned by the States to the Federal Government.

My legislation would permit the CSA to borrow a comparable amount—$21 million—from its rural development loan fund and to reimburse the fund from unused energy crisis assistance grants which must be returned from the States.

Section II of my bill would waive the June 30 cut-off date for heat crisis program grants by CSA, enabling the administration to respond to a crisis that has become apparent only during the past month.

Section III insures that any funds expended under this act will be extended to States or areas which have experienced extreme heat conditions for a significant period of time according to CSA and NOAA criteria and contain significant numbers of low income individuals whose health is menaced by heat.

So there are three elements to this legislation, Mr. President: First, authority for CSA to borrow $21 million from the Rural Development Loan Fund, with the assurance that the Fund will be paid back with unused grants; second, a waiver of the June 30 deadline on the expenditure of heat crisis funds; and finally, a guarantee that this money will only be spent to help low-income individuals menaced by conditions of extreme heat.

I want to emphasize, Mr. President, that we are not talking about a program to purchase air conditioners, any more than the current legislation on low-income energy assistance makes heating furnaces available to the poor in the Northeast or Midwest. We are talking about fans and some help with the higher cost of cooling for those unable to pay utility bills.

We are not talking about regional legislation; the victims of the current heat wave are by no means confined to the Sunbelt. This is a national crisis of deep and legitimate concern to every citizen. We are attempting to insure that, in the most compassionate Nation in the world, we shall never again have to open the paper and read about an elderly or infirm American who died from the heat because that person lacked the means to own or operate a fan.

The legislation I am proposing will enable thousands of Americans, all across this country, to cope more effectively with life-threatening heat. I thank Senator Chiles and Senator Eagleton for helping draw attention to this urgent problem with their hearings last week; I thank my colleagues who have joined me in the effort to provide relief, and I thank the leadership of the Senate for their willingness to have this emergency legislation considered on an emergency basis.

Mr. President, I would be pleased to respond to any questions about this legislation, and urge its approval by the Senate.

Mr. President, last winter, we argued strongly that consideration should also be given to trying to help the poor in relieving them from heat and that people could die from heat as well as they could from cold. There are those who held this point of view up to ridicule. Unfortunately, since that time, we have had almost 2,000 people die from heat-related causes. They have been principally the infirm, the elderly, and low-income people who suffered the most. What this particular piece of legislation would do is negate the June 30 cutoff, allow those funds already allocated to be reallocated, and those funds to be used for cold as well as heat at the present time.

I urge the immediate passage of this piece of legislation to show that the Senate can work expeditiously to meet this crisis that we are facing.

I yield to my distinguished colleague (Mr. Chiles).

IMMEDIATE ASSISTANCE FOR HEAT WAVE VICTIMS

Mr. CHILES. Mr. President, I am pleased to join Senator Bentsen in sponsoring this legislation which will allow the Community Services Administration (CSA) to release immediately for allocation any unspent funds under the energy crisis assistance program (ECAP) to use for assistance to victims of this summer's heat wave. Specifically, this bill will give the CSA the authority to spend funds beyond the June 30, 1980, deadline prescribed in Public Law 96–126. This legislation will eliminate the June 30 prohibition.

Mr. President, last Friday, the Senate Committee on Aging held a hearing on the impact of the heat wave on the elderly. Witnesses including Senator Bentsen, confirmed that the majority of the 2,000 deaths caused by the heat were elderly and that most of the thousands hospitalized were older persons. Often these persons were low-income, lived in old, uninsulated housing and had no "cooling devices." Moreover, many who were stricken were found to have fans or window air-conditioning units but were afraid to use them because of the impact on their utility bills. One witness testified that an increase as little as $13 a month was enough to keep some persons from using their fans in heat as high as 110°.

These people need help now. This legislation will enable CSA and the States to get assistance to the victims in a more efficient process. Many of those people hit by the record temperatures of June and July are just now getting those utility bills and will need help in making the payments. For those who will suffer from the heat for at least the next 2 months, the funds can assist in purchasing fans, making utility payments, and thereby, reducing the potential hazards caused by continuous days of excessive heat.

I join with Senator Bentsen in asking for immediate consideration of this measure.

Time is of the essence. I encourage my colleagues to join in the effort to help the CSA and States in assisting the victims of the heat wave as soon as possible. We think it is imperative that we move and move very quickly.

Mr. President, I ask unanimous consent to have printed in the Record the average monthly weather outlook for August 1980.

There being no objection, the material was ordered to be printed in the Record, as follows:

Average Monthly Weather Outlook

Cautionary note: The 30-day Outlook given here is not a special forecast in the usual meteorological sense, but is an estimate of the average rainfall and temperature for the next 30 days. It is based upon an analysis of meteorological observations from a major part of the Northern Hemisphere. While their number runs into thousands, there are still many areas which are relatively uncovered and whose characteristics the meteorologist must estimate before attempting to predict. But even if the world were covered with a dense network of observation posts, meteorologists today would be unable to foretell in detail the weather for the next 30 days. The reason for this lies in the great complexity of the circulation of the atmosphere: weather events in each area affect those in other, even remote, areas in a way yet imperfectly understood. During the past decade extensive research by meteorologist organizations around the world has thrown some light on these complex interactions. The application of this research to problems of 30-day forecasting and the extension of knowledge brought about by concentrated effort and experience over the past decade have enabled the National Weather Service to make general 30-day predictions of temperature and precipitation with some modest success.

Because of the uncertainties involved in present methods, however, the user of the Outlook should feel less secure about the prediction when the area that concerns him lies near the borders of the classes of temperature and precipitation than when the area is well within the boundaries. Although the general pattern of temperature over the United States may frequently be predicted correctly, a displacement of the pattern can produce major errors in certain localities. Too much weight should not, therefore, be given to one forecast and especially to one forecast for a specific point. Thus the Outlook is best adapted to the uses of business concerns with wide sectional or national interests, or to concerns that have a consistent month-to-month use for weather information. In addition, it should be kept in mind that nearly always there are changes in the local weather every few days, sometimes of a sudden and severe nature. Notice of these changes is widely disseminated up to 48 hours in advance in the local daily forecasts and in occasional warnings, both of which are essential as supplements to these Outlooks. In addition, extended forecasts from the National Meteorological Center should be consulted.

The predicted monthly temperature and precipitation patterns outside the United States are by-products of the procedures used to make monthly forecasts for the United States itself. Those procedures require the construction of charts of expected monthly upper-air circulation around the Northern Hemisphere, from which inferences about corresponding surface weather can be made. In areas outside the United States, inferences should be regarded as tentative since they have not been systematically tested by observation and their average accuracy remains unknown. The weather services of many of the nations of the Hemisphere issue tested monthly forecasts for their own territories. Those forecasts should be consulted where available.

TABLE OF NORMALS AND CLASS LIMITS

These class limits have been determined separately for every month and station in such a way that, on the average, three-tenths of the observed temperatures will fall in each of the *above normal* (A) and *below normal* (B) class, while one half of the observed precipitation amounts will occur in each of the *heavy* and *light* classes.

The first column of the table gives in °F the normal temperature, based on data from the period 1941–70. The second column gives the number of °F that must be added to the normal to reach the threshold of the *above* (A) class or subtracted from it to reach the threshold of the *below* (B) class.

Columns three, four, and five show the heating (or, in summer, cooling) degree-day totals corresponding to the temperature normals and class limits. Note that the largest totals of heating degree-days occur with *below* (B) temperatures, the smallest with *above* (A) temperatures. Definition: the number of heating degree-days is the monthly sum of all negative departures of the mean daily temperature from 65°F. Cooling degree-days are summed from positive departures of mean daily temperature from 65°F.

The last column gives in inches the median precipitation, based on data from the period 1948–70, which separates the *heavy* and *light* classes. During the dry season a number of western stations will instead show in parentheses a percentage, 50% or more, of months without precipitation. In these cases, any amounts of .01 inches or more count as *heavy*.

NORMALS AND CLASS LIMITS FOR AUGUST

Station	Temperature		Cooling deg days			Precip median
	Norm	A, B limit	B	Norm	A	
Albany, N.Y	69.6	1.2	140	165	200	2.87
Albuquerque, N. Mex	76.6	.8	340	360	380	1.11
Alpena, Mich	64.2	1.5	70	85	110	2.64
Amarillo, Tex	77.6	1.3	350	391	430	2.70
Anchorage, Alaska	55.9	.8	0	0	0	2.03
Asheville, N.C	72.8	.9	220	244	270	3.93
Atlanta, Ga	77.5	.9	360	388	420	3.11
Augusta, Ga	79.6	.9	420	453	480	3.75
Bakersfield, Calif	81.6	1.2	480	515	550	[1] (83)
Billings, Mont	70.1	1.1	150	173	200	.77
Birmingham, Ala	79.2	1.2	400	440	480	3.76
Bismarck, N. Dak	69.2	1.4	140	165	200	1.51
Boise, Idaho	72.2	1.3	200	235	270	.19
Boston, Mass	71.3	1.0	180	203	230	2.97
Brownsville, Tex	84.4	.6	580	601	620	1.67
Buffalo, N.Y	68.4	1.2	120	138	170	3.47
Burlington, Vt	67.4	1.3	110	123	150	3.59
Burns, Oreg	66.1	1.4	80	102	130	.29
Caribou, Maine	62.3	1.2	30	39	60	3.59
Casper, Wyo	69.6	1.1	140	159	190	.41
Charleston, S.C	79.6	.6	430	453	470	6.08
Charleston, W. Va	73.6	1.0	240	267	300	3.34
Charlotte, N.C	77.7	.8	370	394	420	3.72
Chicago, Ill	73.7	1.3	240	277	310	2.77
Cincinnati, Ohio	74.4	1.1	260	294	330	2.22
Cleveland, Ohio	70.0	1.2	150	172	200	2.71
Columbia, Mo	76.0	1.4	310	346	380	2.57
Columbus, Ohio	71.9	1.2	190	222	260	2.64
Denver, Colo	71.6	.9	180	208	230	1.00
Des Moines, Iowa	73.3	1.5	240	270	310	2.84
Detroit, Mich	70.8	1.3	170	196	230	2.84
Dodge City, Kans	78.1	1.4	360	406	450	2.27
Duluth, Minn	64.1	1.4	60	76	100	3.19
El Paso, Tex	80.5	1.0	450	481	510	.91
Fly, Nev	65.5	1.1	60	77	100	.45
Eureka, Calif	57.0	.8	0	0	0	.08
Evansville, Ind	76.2	1.3	310	347	390	2.67
Fairbanks, Alaska	55.4	1.4	0	6	10	1.81
Fargo, N. Dak	69.2	1.4	140	163	200	1.97
Fort Smith, Ark	81.4	1.5	460	508	550	2.70
Fort Wayne, Ind	71.3	1.2	180	207	240	2.66
Fort Worth, Tex	84.9	1.2	580	617	650	1.39
Fresno, Calif	78.3	1.3	370	412	450	[1] (74)
Grand Junction, Colo	75.4	.9	290	322	350	.82
Grand Rapids, Mich	70.0	1.4	160	182	220	2.25
Great Falls, Mont	67.4	1.2	100	116	140	.87
Green Bay, Wis	67.7	1.5	120	138	170	2.38
Hartford, Conn	70.4	1.1	160	179	210	3.35
Honolulu, Hawaii	80.7	.8	460	487	510	.50
Houston, Tex	83.4	.8	550	570	590	3.14
Huron, S. Dak	72.1	1.4	200	233	270	1.81
Indianapolis, Ind	73.2	1.2	230	259	290	2.55
International Falls, Minn	63.2	1.3	50	56	80	2.62
Jackson, Miss	81.2	1.0	470	502	530	3.08
Jacksonville, Fla	81.0	.5	480	496	510	7.20
Juneau, Alaska	54.3	1.0	0	0	0	4.51
Kansas City, Mo	77.4	1.5	340	388	430	3.34
Knoxville, Tenn	77.3	.9	350	381	410	2.95
La Crosse, Wis	71.4	1.4	190	215	250	2.78
Lander, Wyo	69.0	.9	120	138	170	.28
Las Vegas, Nev	87.4	1.2	660	694	730	.29
Little Rock, Ark	80.6	1.4	440	484	530	2.55
Los Angeles, Calif	69.5	1.0	130	154	190	[1] (74)
Louisville, Ky	75.9	1.2	300	338	380	2.54
Lynchburg, Va	74.4	.8	270	291	320	3.64
Macon, Ga	80.9	.9	470	493	520	3.43
Madison, Wis	68.7	1.4	130	154	190	2.86
Medford, Oreg	70.4	1.3	160	189	230	.21
Memphis, Tenn	80.4	1.2	440	477	510	3.32
Miami, Fla	82.9	.5	540	555	570	6.38
Midland, Tex	81.8	1.0	490	521	550	1.11
Milford, Utah	72.6	1.2	210	242	280	.44
Milwaukee, Wis	69.2	1.4	140	166	200	2.43
Minneapolis, Minn	70.2	1.3	160	182	220	3.02
Missoula, Mont	65.0	1.2	60	71	100	.66
Mobile, Ala	81.5	.7	490	512	530	6.74
Moline, Ill	72.9	1.4	220	255	300	3.13
Montgomery, Ala	80.7	.9	460	487	510	2.85
Nashville, Tenn	78.5	1.2	380	419	460	2.76
New Orleans, La	81.9	.7	500	524	550	5.07
New York, N.Y	74.9	.9	280	307	330	3.75
Nome, Alaska	49.2	1.1	0	0	0	3.29
Norfolk, Va	76.9	.9	340	369	400	5.68
North Platte, Nebr	73.0	1.3	220	256	290	1.74
Oklahoma City, Okla	81.1	1.5	450	499	550	2.47
Omaha, Nebr	73.7	1.4	240	280	320	4.07
Orlando, Fla	82.7	.5	530	549	560	6.39
Pendelton, Oreg	71.5	1.3	190	214	250	.18
Philadelphia, Pa	74.8	.9	270	304	330	3.57
Phoenix, Ariz	89.1	1.2	710	747	780	.79
Pittsburgh, Pa	70.2	1.2	150	177	210	2.82
Pocatello, Idaho	69.5	1.2	140	159	190	.35
Portland, Maine	66.4	1.2	80	99	120	2.45
Portland, Oreg	66.6	1.3	90	106	130	.50
Pueblo, Colo	74.5	.9	270	295	320	1.44
Raleigh, N.C	76.5	.9	330	357	380	4.52
Rapid City, S. Dak	71.6	1.4	190	222	260	1.30
Red Bluff, Calif	79.9	1.3	420	462	500	.04
Reno, Nev	66.9	1.2	90	109	140	.08
Richmond, Va	76.3	.8	330	350	370	4.70
Roanoke, Va	74.1	.8	260	282	310	3.92
Sacramento, Calif	74.1	1.2	250	286	320	[1] (61)
Salt Lake City, Utah	74.5	1.3	260	300	330	.61
San Antonio, Tex	84.7	.8	590	611	640	1.65
San Diego, Calif	71.4	.8	180	201	220	[1] (78)
San Francisco, Calif	63.0	.8	20	22	30	[1] (56)
Santa Maria, Calif	62.3	.8	10	18	30	[1] (70)
Sault Ste. Marie, Mich	63.2	1.5	60	69	90	2.87
Seattle, Wash	63.8	1.0	40	45	60	.90
Shreveport, La	83.2	1.2	530	564	600	2.16
Spokane, Wash	68.0	1.4	120	140	170	.46
Springfield, Ill	74.4	1.4	260	300	340	2.61
Springfield, Md	77.1	1.6	340	381	420	2.33
St. Louis, Md	77.2	1.4	340	378	420	2.21
Syracuse, N.Y	69.7	1.2	140	164	200	3.34
Tallahassee, Fla	81.1	.5	480	499	520	6.54
Tampa, Fla	82.2	.5	520	533	550	7.79
Toledo, Ohio	70.8	1.3	170	198	230	2.83
Tucson, Ariz	83.8	.9	550	583	610	1.96
Washington, D.C	77.1	.8	350	375	400	4.06
Wichita, Kans	79.7	1.6	410	456	500	2.56
Williamsport, Pa	70.9	1.2	170	197	230	3.30
Williston, N. Dak	68.5	1.3	120	144	180	1.15
Wilmington, N. C	79.5	.6	430	450	470	6.03
Winnemucca, Nev	67.8	1.3	110	129	160	.13
Winslow, Ariz	76.1	1.2	310	344	380	1.29
Yakima, Wash	68.6	1.4	130	148	190	.16
Yuma, Ariz	92.8	.9	830	862	890	.09

[1] Percent.

Mr. CHILES. Mr. President, I am afraid that these weather forecasts, just released today, show that we are going to have continued abnormal hot weather, especially in the areas hardest hit, including Texas. I think it is imperative that we try to move on this and move on it now. I am delighted to join the Senator from Texas in his effort.

Mr. BENTSEN. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I should like to make my statement in support of this effort by the distinguished Senator from Texas, the Senator from Florida, and others. part of the RECORD. I think this is a step in the right direction. There may be other things we need to do, and I shall refer to the discussions we had earlier during the windfall profit legislation, when people, more or less, ridiculed the thought that anybody could die from the heat. I think that argument has been laid aside. This bill will offer some help to those in need during times of heat crisis.

Mr. President, in recent weeks we have heard reports of a tragedy of great magnitude that has struck over 2,000 of our Nation's elderly citizens in the Midwest. I am pleased to be a cosponsor of S. 2995 introduced today by the distinguished Senator from Texas, Mr. BENTSEN, which will provide increased funding flexibility within the Community Services Administration in order to address the problems encountered in attempts to assist the victims of our recent heat wave, as well as future victims.

NEED FOR FLEXIBILITY

Mr. President, previously it was not thought necessary to provide funds for cooling assistance to our Nation's low-income citizens, because there was no real concern that people would die from exposure to prolonged periods of heat. During the past few weeks, we have realized the necessity of modifying our priorities to meet the dire needs of our elderly citizens under lengthy exposure to heat wave trends.

It has now become tragically necessary to address the inflexibility of certain provisions within the Community Services Administration authorization. This legislation will authorize unexpended funds from the rural development loan fund to be utilized for emergency services for low-income individuals during heat crises. Such services will include heat shelters, rental of air-conditioners, purchase of fans, payment of utility bills, and any other measures deemed suitable for providing cooling assistance to people suffering from the effects of extreme, high temperatures over long periods of time.

Not only are we now addressing the basic needs of people to keep warm during the cold winter months, but recent weeks have driven home a reverse need—people need to remain relatively cool under conditions of extreme summer heat. Elderly people throughout the Nation are dying by the hundreds and cannot cope with temperatures of over 100 degrees, sometimes approaching 120 degrees. Extremes of heat, as well as extremes of cold, should be addressed in attempts to satisfy energy needs for our most vulnerable group of citizens—the elderly.

ROLE OF COMMUNITY SERVICES ADMINISTRATION

There are funds available for assistance through the Community Services Administration, but we need to provide flexibility in certain procedures that are currently required in prying these funds loose for emergency use. Unexpended funds from other categories should be able to be shifted over for use in providing emergency cooling assistance. These funds are currently available but are not authorized for use in heat crisis situations. Application deadlines for assistance should also be adjusted to cover potential needs during the summer months.

ECONOMIC HARDSHIPS OF OUR NATION'S ELDERLY

At a time when all income groups are groaning under the current domestic crisis, with its shrinking dollar and increased costs in everything including necessities—food, clothing, electricity, and all kinds of energy—our Nation's elderly are the most hard hit, because they are living on fixed incomes and have no possible way to combat the ravages of our perilous economic decline. Low-income individuals have encountered enough hardships in recent years due to economic circumstances beyond their control, without the current development of being forced to live in conditions of extreme heat because they cannot afford a fan—or cannot even afford to pay their electric bills. We cannot even begin to imagine the suffering in isolation that so many of our Nation's elderly have undergone—some with fatal results.

Over 2,000 older Americans have died because they did not receive assistance, and did not even know how to call for help. The prevailing problem has been that of elderly people living in isolation, coupled by fear of going outside because their neighborhoods are unsafe, and they would have to survive a hostile environment outside of their immediate surroundings in order to seek assistance. Many have chosen to remain locked-up and hundreds of such people have been found dead, or near death, as a result of living conditions that became unbearable and triggered existing health problems. Congress cannot allow this to happen when there are funds available that can be channeled into ready emergency assistance.

Mr. President, my home State of Kansas has suffered great hardship as a result of the recent heat wave. Over 70 deaths have occurred in this one State alone, and I know that the death count for a large State like Texas is appalling. From July 4 until July 20, temperatures of well over 100 degrees were recorded. Although there was a brief period of relief, temperatures have again soared to heights of over 110 degrees. Such conditions of extreme heat are unbearable for any human being, but elderly people are far less equipped biologically to cope with the medical implications of being subjected to temperatures of over 100 degrees for extended periods of time. Very few people realize that elderly people lose their capacity to perspire, which provides a release for younger individuals.

It would seem that, while considering ways to assist the elderly older Americans in keeping warm during the cold winter months, it is becoming equally imperative that we protect them from the ravages of heat waves.

LET US END THESE TRAGIC TALES

Mr. President, the distinguished Senator from Texas has introduced legislation, that I am pleased to cosponsor, which attempts to provide much-needed assistance to our Nation's citizens who suffer extreme hardship and health problems due to the impact of prolonged heat waves in certain geographical areas. I am happy to find that the leadership has decided to respond quickly to the current heat crisis by bringing this legislation to the floor for immediate action.

Hopefully, the measures outlined in S. 2995 will be in time to still assist those who need help now, and will be in place to assist those individuals who may need assistance in the future. Let this be one instance where Congress has responded to an emergency need without unnecessary delay. The needless deaths that have occurred in recent weeks cannot be calculated, but we can at least do our best to prevent our Nation's elderly from undergoing such incredible suffering again. Let us do everything we can to put an end to these tales of tragedy.

Mr. MATSUNAGA. Mr. President, earlier this week I joined my distinguished friend from Texas (Mr. BENTSEN) in introducing S. 2978, a bill to revise certain provisions of the Home Energy Assistance Act of 1980 to provide relief, especially to the elderly and infirm. The severity of this national crisis, however, makes necessary this emergency bill for implementation as soon as possible. The necessary dialog has ensued with Members of the House so that it is our belief that a bill can be forwarded to the President by the end of this week. We thus have an opportunity to demonstrate that Congress can act quickly in an energy matter of national urgency.

The plight of the underprivileged in America is becoming increasingly desperate as escalating energy costs now take up more than 20 percent of their income, which is four times more than the 5 percent of income that middle-income families are spending on household energy. Counting gasoline costs, low-income families spend 36 percent of their income on energy, compared with 13 percent for the average family. The poor have had to reduce their energy consumption, to the point where they now use less than half the per capita energy consumption of the Nation.

Thus, when temperature extremes occur, this desperate segment of the population does not have the flexibility to adapt. During the summertime, this means death through heat related causes. A severe winter will produce death through cold. Today, we are faced with extreme heat conditions, and are asking the Federal Government to divert existing funds for cooling assistance. Nearly $2 billion was authorized by Congress last year on energy aid to the poor to counteract wintertime temperatures. This proposed legislation merely seeks 1 percent of the cold weather assistance amount, $21 million versus $2 billion, for an emergency which is already accountable for more than 2,000 deaths, and could very well worsen.

Mr. President, the pending legislation is necessary to treat a serious symptom that could be precursive of future emergencies that will result because of our energy predicament. The real problem, of course, is related to our dangerous dependence on imported petroleum and the inability of the lower income families to meet the increasing price of energy.

Earlier this month I chaired Energy Committee hearings on the energy crisis in the Pacific basin. Every witness from the Pacific islands brought out the extremes of deprivation and even helplessness that can emerge from dependence on imported oil. They told of cutbacks and even curtailments in medical services, in education, in economic development, in the maintenance of the basic infrastructure of Government.

In a way, one can equate the hardships of the Pacific islanders with that faced by the poor in the United States, and more so, project mounting problems for a larger and larger segment of our population. Congress will need to take a closer look at the impact the energy crisis is having on the needy, for in the not too distant future, our entire population could well be faced with similar problems.

Finally, I have on a number of occasions, both on the floor and in the hearing rooms, pointed out the narrowness of energy conservation programs, particularly with respect to weatherization. For example, Hawaii has the dubious distinction of being the only State in the Union to be totally excluded from some of these programs. Granted, we have the best weather in the country. However, we also have the elderly, infirm, and needy who are in nearly equal desperation. I will hope that the lesson we are learning today will at least serve to raise the awareness level of my dear colleagues to understand that energy assistance to the poor should not be limited by geography.

And, Mr. President, I would like to close by reiterating my strong support for the pending bill to allow the appropriate transfer of funds to carry on the proposed heat crisis program.

Mr. BENTSEN. Mr. President, it is rather easy to dramatize the dangers of cold, because you can look at the pictures of Buffalo, N.Y., and see icicles hanging off the roof; it is not easy to picture 110 degrees. Yet each kills. The elderly, the poor, and the infirm suffer from it. I urge immediate passage of this legislation.

● Mr. EAGLETON. Mr. President, I strongly urge my colleagues to support the bill before us to allow the transfer of Community Services Administration funds to provide immediate allocations for the heat crisis program. The heat wave which gripped some 22 States for over a month causing some 2,000 heat related deaths is indeed a national tragedy of major proportions. In my own State of Missouri, the heat related death toll is approaching 300, and although I have no hard statistics, local authorities tell me that the elderly and infirm have borne the greatest brunt of the severe weather conditions. The bill now before the Senate authorizing a transfer of funds from the rural development loan fund and eliminating the existing restriction that prohibits individual cash payments is essential to allow the Community Services Administration to effectively respond to this crisis in a timely fashion.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the bill is ordered to be engrossed for a third reading.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 2995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Community Services Administration is authorized to transfer such funds as may be necessary from its Rural Development Loan Fund, which has been established pursuant to section 731 of the Economic Opportunity Act to its ongoing heat crisis program which program is carried out under the authority of Title II of such Act.

(b) From unexpended funds appropriated for energy crisis activities in Public Laws 96-86, October 12, 1979, 96-123, November 12, 1979, and 96-126, November 27, 1979 there shall be reimbursed to the Rural Development Loan Fund an amount equal to the amount of funds transferred to the heat crisis program.

SEC. 2. To the extent that the Community Services Administration has awarded or will award heat crisis program funds to its grantees, and to the extent that such funds were or will be transferred out of the appropriations cited in section 1 of this Act, and to the extent that the award of such funds are prohibited after June 30, 1980, such prohibition shall not apply.

SEC. 3. To the extent that the funds described in sections 1 and 2 of this Act are available, assistance may be provided to States or areas within States which—

(a) have experienced extreme heat conditions for a significant period of time according to criteria developed for the Community Services Administration by the National Oceanic and Atmospheric Administration; and

(b) contains significant numbers of low income individuals whose health is threatened due to such extended heat conditions.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR CONSIDERATION OF CALENDAR ITEM TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the gasoline rationing matter, the Senate proceed to the consideration of Calendar 738, the Energy appropriation measure. I have cleared this with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO DISCHARGE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES FROM FURTHER CONSIDERATION OF SENATE JOINT RESOLUTION 185

Mr. PERCY. Mr. President, I move to discharge the Committee on Energy and Natural Resources from further consideration of Senate Joint Resolution 185. This is a resolution of disapproval of the administration's gasoline rationing contingency plan that was transmitted to the Congress on June 12, 1980. I am cosponsoring this resolution along with Senators JACKSON and HATCH.

I understand that there is 1 hour of debate on the motion to discharge, equally divided between those favoring and those opposing the disapproval resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, at this time, I should like to give my reasons for opposing the standby gasoline rationing plan proposed by the President of the United States through the Department of Energy.

Mr. President, I am today asking my colleagues to do a very difficult thing. At a time when the Nation is more vulnerable than ever to a sudden and severe cutback in our oil imports, and at a time when we have virtually no energy contingency plans on the shelf, I am asking the Senate to refuse to put the Carter administration's main contingency plan—the coupon rationing plan—on the shelf.

Usually, I can accept the premise that something is better than nothing, and I can appreciate that many of my Senate colleagues feel that way about this rationing plan. I used to feel that way myself about this issue, and I fully expected that I would swallow hard and vote to approve the plan. Lately, however, I have become so worried about our lack of preparedness for an energy emergency—and about whether coupon rationing would be of any real help in such a situation—and I cannot let the matter pass quietly by. Let me briefly explain why.

Over the past several years, we have all become increasingly concerned about the vulnerability of the United States and the rest of the free world to disruptions in the flow of oil. During the 1980's, these disruptions are likely to be more frequent and more severe than they have been up to now. It is no exaggeration to say that the global economy—and world peace—would be in serious jeopardy if we suddenly lost access to 10 million barrels or so of oil from the Middle East. This not only could happen, but a growing number of experts are warning that it someday will happen. We cannot afford to be unprepared when it does.

With these grim facts in mind, I have begun taking a close look at our readiness for an energy emergency. The more I look, the less I find. Let me give you the sad rundown of what little we have on the shelf in case the flow of oil should ever stop. Right from the start, our energy data systems would have serious problems diagnosing and measuring the shortage. We have no workable mechanism in place for preventing a massive runup in world oil prices in the first few weeks or months of the shortage.

Hearings held last week by the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs brought out the fact that DOE's gasoline allocation program would do almost nothing to alleviate gas lines, which could easily be far worse than they were last year. Our strategic petroleum reserve had only a 2 week's supply of imports when this administration stopped filling it 16 months ago, and we have no policy for using what little we have in case of emergency. Our standby Federal conservation plans are tangled in procedural knots. At the moment, we have no contingency plans of any description to accelerate production of coal, natural gas, renewable resources, or nuclear energy to compensate at least partly for sudden cutbacks in our oil imports.

It is on top of all this that we have the proposed gasoline rationing plan. I have no doubt that this plan complies with the letter and spirit of the statutes we enacted that asked the administration to submit a coupon rationing plan. While I might quibble about this or that detail in the plan, I am willing to accept the claim that this may in fact be the best coupon rationing plan that we could have expected under the circumstances. But what I do not accept is that this plan leaves us any better prepared to cope with a severe energy emergency.

Put simply, I have three fundamental problems with the plan. First, it is too expensive. Its preimplementation costs alone would be $103 million, plus another $50 million per year to keep it in an alleged state of readiness. If we ever decided to implement it—which I suspect we would not—it would cost billions.

Second, the plan is so complicated and bureaucratically cumbersome that I have serious doubts whether it would ever work. Given that DOE has not been able to move gasoline around to ease gas lines caused by spot shortages, how can anyone expect that it would successfully distribute billions of coupons to the owners of 153 million vehicles (4 times more than during World War II rationing)? If DOE has trouble enforcing its price and allocation rules today, can anyone expect that it would successfully collect tens of billions of dollars worth of negotiable coupons from 150,000 gas stations? In my view, the answer to both questions is no.

My third objection is the most serious. Even in a desperate national emergency, this plan would require at least 14 months to implement. By the time coupons were distributed, they could easily be worthless. The world price for oil could be $100 or more per barrel, the pump price for gasoline could approach $5, and the market would clear all by itself. We would probably be in the midst of a global depression, so not many people could afford to buy more than a few gallons a week. The administration tells us that by appropriating $103 million and doing a year's worth of preimplementing, we can reduce the leadtime to 3 months. In my view, this plan is too cumbersome ever to be within 3 months of implementation. Even if it were, I am not sure we could afford to wait even that long during a real emergency.

If we were to approve this plan, we would be deluding ourselves and misleading the American people. Ostensibly, we would have addressed and the problem of energy vulnerability, and we would move on to other issues. All we would really have done, however, is create a Maginot Line, an elaborate and expensive paper maché defense against a very real threat.

Mr. President, there are alternatives to coupon rationing which the administration is just getting around to considering. They are less expensive, simpler, and speedier, mainly because they would require neither a vast bureaucracy nor the creation of a second currency. Senator JOHNSTON's rebate/tax proposal, of which I am a cosponsor, is one of several approaches that deserves a closer look. Another is Congressman DAVE STOCKMAN's plan to decontrol all prices and rebate all revenues from a stepped-up windfall profits tax. The main advantage of these more market-oriented approaches is that we could confidently expect them to work in time of crisis—something we cannot expect of coupon rationing, in my view.

But we must remember that the issue is much larger than whether a market-oriented plan beats coupon rationing, or vice versa. We have to move energy preparedness higher on our Nation's list of priorities. Given the inadequate quality of the contingency planning work done to date by the Department of Energy, we should not be surprised to find that this rationing plan is just about the only thing of consequence that has been proposed.

Last week, I asked the General Accounting Office to look into the DOE's present state of readiness for an energy emergency, and I am not very optimistic about what the GAO will find. To my knowledge, the administration has only a few dozen staff in a handful of agencies looking at a relatively small number of policy options to address this issue—on which the fate of the free world may literally depend.

Elmer Staats, the Comptroller General, testified at our hearings that GAO has issued 24 reports on issues related to contingency planning. To date, little has been done by DOE in response to GAO's recommendations.

We in the Senate and our colleagues in the House must share in the blame for America's energy vulnerability. For the most part, we have sat idly by while contingency planning has been given a dangerously low priority. I, for one, shall not let it happen any longer. By asking you to disapprove this rationing plan, I am giving you the opportunity to add your voice to mine.

Before I conclude my remarks, Mr. President, I ask unanimous consent to have the following material printed in the RECORD:

An Aspen Institute report entitled "Petroleum Interruptions and National Security," which addresses America's extreme vulnerability to an oil import disruption;

An article recently published in the Washington Star by two energy experts from Georgetown's Center for Strategic and International Studies. Entitled "Scenario for a World Nightmare," it described just how serious the consequences would be if our oil supplies from Saudi Arabia were ever cut off;

Letters which I sent to Secretary Duncan and three other agency heads, asking them to compare the rebate tax approach with coupon rationing. Two months later, I received just one two-paragraph response to four letters and my 17 specific questions. I would like to insert Mr. Duncan's response—along with responses to the same questions from five private sector energy experts;

A letter I sent to DOE Deputy Secretary Sawhill, raising concerns about the long leadtime for coupon rationing, and asking what contingency plans DOE had for the first 90 days of an energy emergency. I would also like to insert his response in which he referred to several plans in "an early stage of development."

A "Dear Colleague" letter circulated in the House of Representatives by Congressman DAVID STOCKMAN, entitled "There's an Alternative to White Market Coupon Rationing—the Green Market That Already Exists."

My "Dear Colleague" letter is on this same issue.

I thank the Chair. That concludes my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PETROLEUM INTERRUPTIONS AND NATIONAL SECURITY

An Aspen Institute Energy Committee Workshop on "Petroleum Interruptions and National Security" concluded that the U.S. faces a grave security threat from a large oil cut-off. A serious interruption in oil supplies from the Persian Gulf would disrupt mobility, close factories and create an economic crisis comparable to the Great Depression. It would tear at the fabric of the Western alliance and could provoke a dangerous confrontation with the Soviet Union, whose proximity to this unstable region compounds the security risk.

We do not have to accept these grim consequences passively. International efforts to stabilize world oil prices during supply disruptions could reduce many of the economic perils. Use of public and private stockpiles can reduce panic from disruptions, cover a portion of domestic shortfalls, ease world oil price pressures, and buy time for measures short of seizing the oil fields or other precipitous actions. Strategic stockpile purchases should begin immediately at a fill rate designed to create a workable reserve as quickly as possible. The U.S. also desperately needs a workable system to allocate supplies during an emergency. An allocation system that relies on the marketplace to distribute supplies and on existing institutions to distribute equity has a much better chance of working than Federal allocations or gasoline rationing. Equity can be achieved by tax adjustments to capture windfalls arising from inventory profits and higher prices. Although the best system would cover all products, the peculiar characteristics and vulnerability of the transportation system argue for quickly developing a market allocation system as an alternative to gasoline rationing. At the same time, work should proceed on alternatives with broader coverage.

THE NATURE OF THE ENERGY SECURITY THREAT

The experience of the past decade suggests that a small disruption is very probable in the next decade, and that a large disruption is not at all unlikely. The annual U.S. economic costs alone could be $85 billion from a one-year 3 million barrel per day worldwide shortfall, $325 billion from a 10 million barrel per day shortfall, and $685 billion from a 20 million barrel per day shortfall.[1] As large as these estimates are, they are probably conservative. And they do not take into account the debilitating effects a large interruption would have on the world financial system and the U.S. strategic posture.

It is not possible to view the security threats from a supply interruption as purely a domestic problem. Even if the U.S. were able to completely eliminate oil imports,[2] a large supply interruption would threaten American security by weakening our allies who are heavily dependent on imported oil. In addition, by tradition and by international agreements the U.S. is committed to sharing available oil supplies with Europe and Japan on the basis of specified percentage reductions in total consumption. Unless the U.S. decided to abrogate those international agreement the U.S. is committed to during an interruption, it must resign itself to sharing the pain of oil supply shortages. Also, the U.S. cannot afford to ignore the staggering economic and political effects of a disruption on the oil importing, less-developed countries.

To strengthen our national security, we need to reduce both our oil dependency and vulnerability. Energy dependency is defined as the amount of oil imported, particularly from unstable areas. Vulnerability is defined as expected damage from a supply interruption. There are two considerations in assessing vulnerability: the level of shortfall the U.S. would sustain during an interruption and the capacity available to minimize the damage. The physical difference between dependency and vulnerability can be illustrated with a simple example. Since the U.S. has been importing roughly 8 million barrels of oil per day in recent years, a 2 million barrel per day reduction of oil imports would reduce U.S. dependency by a fourth, or 25 percent. But the U.S. share of a shortfall would be higher—currently about 36 percent—since shortfalls have been shared more on the basis of a country's consumption than on its import level.[3] If a shortfall occurred after the U.S.

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[1] "The Energy Problem: Costs and Policy Options," Staff Working Paper, Office of Gas and Integrated Analysis, Policy and Evaluation, Department of Energy.

[2] Reducing U.S. oil imports to zero during the 1980s is considered virtually unattainable. The goal of the Department of Energy is to cut oil imports by 50 percent, down to 4 million barrels per day, by 1990.

[3] Traditionally, major oil companies have allocated shortfalls on the basis of each country's consumption. Likewise, a market system of competitive bidding for supplies by all consumers would achieve roughly the same result. The sharing system of the IEA would allocate most supplies on the basis of consumption for small to moderate interruptions (1–5 million barrels of oil a day). At higher levels of shortfalls, oil would be allocated on the basis of imports as well as consumption. Since this formula favors the U.S., which has lower imports as a percentage of consumption than most IEA members, the IEA agreement would face political opposition from its allies during relatively large supply interruptions.

reduced its imports by 2 million barrels a day, the U.S. share of the shortfall would only decrease from the 36 percent level to 33 percent. Hence, a 25 percent reduction in dependency reduces physical vulnerability by only 10 percent. To reduce vulnerability further required stockpiles and other response measures that can be instituted quickly in an emergency. Thus, the distinction between dependency and vulnerability is vitally important in defining the nature of the energy security threat and leads to the following major conclusion: Reducing dependency is necessary but not sufficient to deal with the U.S. energy security problem.

Reducing U.S. import dependency is important for a number of reasons. Import reductions take pressure off the world oil market, moderate large wealth transfers during an interruption, extend the protection provided by stockpiles, and strengthens the U.S. strategic position in the world community. Wealth transfers to OPEC from consuming nations could be as high as $4.5 billion a day under a complete curtailment of Persian Gulf oil. Public and private actions directed at stemming the decrease in production of domestic supplies of natural gas and petroleum, replacing oil in utility boilers with coal and nuclear energy, expanding coal use in other sectors, and increasing the use of renewable technologies area are all highly desirable. Likewise, steps to reduce consumption can result in the same benefits, and often faster and cheaper. Indeed, the U.S. is already experiencing substantial alterations in energy demand. Recent forecasts of energy demand, both near and long-term, are substantially lower than estimates made only a few years ago due to more prudent use of energy and lower economic growth rates.

Policies that raise energy prices to their true economic value are essential if the U.S. is to continue the trend toward greater energy efficiency and to induce new increments of supply. Policies aimed at achieving certain levels of oil imports should be based on the real economic costs of energy plus consideration of a number of externalities, such as decreased national security, effects of U.S. imports on world oil prices, and impacts on environmental quality. As would be expected, there are different views on how to calculate the values of each of these factors But it is clear that some premium over the value placed in the marketplace should be assigned to import reduction.

Major efforts, most having long lead times, have been directed toward reducing imports. A similar level of effort, however, has not been devoted to reducing vulnerability, which is a more immediate and vital threat. This lack of attention—in the Executive Branch, the Congress and the private sector—has left the U.S. woefully unprepared to deal with supply interruptions. Currently, the U.S. strategic reserve contains only 12 days' supply of imports,* no rationing plan is operational and work is only beginning on more manageable alternatives to allocate domestic shortfalls. Since reducing vulnerability is one area in which government leadership is clearly essential, the development of mechanisms to cope with supply interruptions must gain the highest priority in energy policy. More attention and resources must be directed toward this problem before it is too late.

PRINCIPLES FOR RESPONSE PLANNING

Response measures must be designed to deter interruptions and failing deterrence, to dampen price increases; to buy time to consider the most appropriate diplomatic, energy and, perhaps, military actions; and to reduce direct damages to mobility, jobs and public health. The response mechanisms must be sufficiently flexible to deal with crises which cannot be foreseen with any precision and whose dimensions will be unknown even during the crisis. They must contain a strategy to deal with different stages of an interruption. During the early stages, there must be adequate information to assess the problem; and steps must be taken to meet near-term petroleum needs, minimize panic stockpiling, keep price pressures from getting out of hand, and allow time to define the potential magnitude of the problem. A strategic reserve is uniquely useful at this stage. In the later stages, other actions can then be used to supplement withdrawals from the reserve and private stocks, particularly measures to increase use of abundant energy sources. If the disruption is very serious, or happens before an operating strategic stockpile is created, then domestic allocation of supplies may be necessary.

An emergency or risk management system must be in place prior to an interruption, so that it can be activated quickly and preferably automatically. Establishment of such a system is complex and requires a competent management structure and someone who is clearly in charge—with both adequate resources and authority. It also will require very strong reliance on existing institutions or demonstrated systems. By being ready to go at the time of an interruption, it should avoid, to the extent possible, forcing the Congress or the President to make politically difficult decisions in the midst of the confusion during the early stages of the crisis. The quality of a series of ad hoc, improvised actions is not likely to be nearly as sound as actions thought through in advance. An important objective is to free the political leadership from detailed energy management during a crisis, so that they can deal with other issues of overriding national importance that will almost certainly accompany an interruption, such as the threat of war. Finally, public acceptance of response measures will be a key determinant of their success. To be effective, public education and national leadership will be essential.

WAYS TO REDUCE VULNERABILITY

The measures discussed below are all aimed at preparing the U.S. to reduce vulnerability through emergency management actions. The areas covered include: international actions, stockpiles, fuel switching, emergency conservation and allocation systems, public information and an analytical agenda.

International Actions.—The results from the Iranian shortfall clearly illustrate the problems that can be created by an undisciplined world oil market. A relatively small cutback in oil supplies, by inducing panic stockpiling, led to real shortages in the world oil market. Spiraling prices induced OPEC production cutbacks which encouraged further stock build-up and greater price pressures. This cascading series of events led to more than a doubling of world oil prices, a major blow to the world economy. Short-term windfalls to OPEC were converted into a more permanent change in price and the structure of the world oil market. Beyond higher prices, the U.S. suffered gasoline lines, a trucker revolt, and a potential disruption of the agricultural sector.

A number of steps could minimize price impacts from interruptions and provide greater assurance of supplies. These include strengthening the international allocations system of the International Energy Agency, the use of emergency tariffs or internal taxes at the onset of a disruption to raise prices before OPEC can do so, and the build-up of a coordinated system of Western strategic stockpiles. The most important tactical objectives are to reduce worldwide demand for oil during the interruption and to encourage other producing countries to increase their export levels. Both measures are necessary to bring supply and demand into balance without sharp increases in world oil prices. If the consuming nations could restrain demand by coordinated tariffs, allocations or internal pricing systems, the worst of the economic damages from large OPEC price increases might be avoided. Although the potential stakes are high, any of the potential alternatives to discipline the international oil market will require a major shift in current international practices and attitudes. Accordingly, these measures should be the subject of analysis and consultation now, so that a coordinated system is available for reducing demand and dampening price pressures before the next interruption occurs.

It is hard to exert leadership until our own energy house is in order. The U.S. can only lead in efforts to gain international cooperation by demonstrating strong domestic actions and a determination to do our share. The next section covers those domestic actions.

Stockpiles.—Supply interruptions create economic damages only to the extent that stockpiles are not available or are not used to cover shortfalls. If a large strategic reserve had been in place and used during the Iranian crisis, it might have been possible to prevent spiraling spot market prices caused in significant part by rapid private stockpiling.

The U.S. Government is officially committed to a 750 million to one billion barrel strategic petroleum reserve, but the fill of the reserve has been discontinued since the winter of 1978. The amount of oil currently stored in the strategic stockpile is only 92 million barrels, or 12 days' supply of imports. At the rate of stockpile filling prior to the Iranian revolution, roughly 300 thousand barrels a day, a level of 750 million barrels of fill could have been achieved during 1985. Athough this goal is no longer attainable, an aggressive program could achieve that level in 1987. At a level of 100 thousand barrels a day, it would take over 20 years to reach the 750 million barrel level and 27 years to reach a billion barrels.

Even the original targets envisaged in 1977 may be far from the ultimate optimum size for the reserve. Recent analysis by the DOE suggest an ultimate size up to four times the current one billion barrel objective.[4] The critical decision now, however, is not the ultimate size, but getting on with the job.

It represents a sound investment that will become increasingly valuable over time.

Filling the strategic reserve is of the highest priority to the U.S. national security. No doubt, filling the reserve will place some upward pressures on price that could, if not handled correctly, displease our allies and create tension with Saudi Arabia. But there will never be a "right" or painless time to fill the strategic reserve. Conditions in the world oil market over the next five years are likely to get worse, not better. And, U.S.

Once in place, a large strategic petroleum reserve would have the following benefits:

It could cover a portion of domestic shortfalls, along with meeting U.S. sharing agreements.

It would avoid the panic and stockpiling that results in higher world oil prices.

It could help deter politically-inspired interruptions. Indeed a strategic reserve is most successful if, like our nuclear arsenal, it is never used.

It could buy time during an interruption to consider a wider variety of diplomatic and other actions. Under extreme conditions, its existence might avoid precipitous military action or war.

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*If working levels in refineries are also counted, currently over forty days of crude and product import supply would be available. Current refinery stockpiles are roughly ten to twelve days higher than normal, however.

[4] "An Analysis of Acquisition and Drawdown Strategies for the Strategic Petroleum Reserve," Draft—Staff Working Paper, Office of Oil Policy, Policy and Evaluation, Department of Energy.

delay in filling the reserve only perpetuates an unacceptable level of vulnerability. Accordingly, strategic stockpile purchases should begin immediately, at a fill rate designed to create a workable reserve as quickly as possible.

To minimize adverse international reactions, several arguments can be advanced. A number of domestic import reduction measures—such as crude oil decontrol, conversion of utility boilers from oil to coal, and a range of conservation actions—will reduce pressures on the world oil market. The import reductions from these actions can be "banked" in the strategic petroleum reserve to reduce the West's vulnerability to another supply interruption. The Saudis should have much to gain if the U.S. has more flexible responses to a supply interruption, avoiding a U.S. petroleum "hair trigger" during supply interruptions and the need to place inordinate demands on them to compensate for oil production cutbacks. A strategic reserve is the best assurance our industrialized partners have that the U.S. can meet its sharing commitments during an energy crisis.

While moving ahead on a government strategic petroleum reserve, efforts should also be made to build up private stocks. World oil stocks are at extremely high levels, but high interest rates and lowered demand are creating pressures to draw them down. Considering the current high levels of vulnerability, such drawdown would be a step backward. In addition to maintaining current stock levels, efforts should be made to increase private stocks, particularly at the refinery level. Consideration should be given either to incentives (for example, favorable tax treatment and assurance that stocks will not be subsequently allocated away) or through regulatory requirements to increase stockpiles.

Although primary attention should be given to refinery stocks of crude oil, it is worth examining whether stockpile requirements or incentives also make sense for large utility and industrial users. It may be possible to increase private stockpiles quickly by increasing storage in ocean-going vessels until more permanent arrangements are ready.

Increased Use of Domestic Energy Resources.—During an emergency, possibilities exist for switching from oil to gas, coal, and nuclear energy. During the Iranian shortfall, substitution of oil by natural gas and wheeling of electricity to New England utilities resulted in some oil savings. Further possibilities exist for increased natural gas storage and purchase of dedicated wells for use during an emergency. Wheeling of power is retarded to some extent by lack of electrical interties and current interstate pricing policies. If these barriers were overcome, greater production of electricity produced from coal and nuclear energy could be available during emergencies. By 1985, there could be up to 60 gigawatts of excess electrical capacity; a great deal of thought should be given to how some part of this resource could be tapped during supply interruptions.

During the Iranian emergency, fuel switching did not make a big dent in the shortage, and the savings achieved were mainly in residual fuel oil, which was in surplus supply. Considering the possibility of a larger and much longer interruption in the future, measures to increase supplies for emergency conditions assume greater importance. Insufficient work has been performed to identify these possibilities for tapping additional supply sources and using abundant energy sources as an important component of energy emergency management.

Emergency Curtailment Measures.—Emergency demand reduction measures are designed to stretch out available supplies and minimize hardship. Coupled with stock drawdowns, these measures could avoid the need for Federal allocations during extremely small shortfalls. During larger shortfalls, curtailment measures can minimize the disruption from an allocation system. For example, by reducing petroleum demand, thermostat controls would lessen the amount of supplies that would need to be allocated under gasoline rationing or some other allocation system.

The most feasible emergency demand restraint measures are thermostat controls in commercial buildings and mandatory employer plans for encouraging carpooling and vanpooling. The former, as discussed earlier, would save petroleum outside of the transportation sector; the latter would minimize the damage from restrictions in that sector. Some curtailment measures, such as a vehicle sticker plan for eliminating driving on certain days and weekend closing of gasoline stations, would create significant inequities and burden sharing without associated freedom of choice.

In order to be utilized efficiently and effectively during an emergency, some emergency conservation measures should be tried as experiments ahead of time. For example, several employers could be supported by the Department of Energy to try various methods and incentives for encouraging ride-sharing. The experience gained could be very useful during an actual emergency. Also, the Department of Energy should be supportive of State efforts to develop emergency plans.

Emergency Allocation Measures.—Federal standby price and allocation authorities extend from regulating the distribution of crude oil to refineries, the mix of petroleum products that can be produced, to the allocation of products to end users. Despite these pervasive and awesome authorities, it is unlikely in the current political environment that any product other than gasoline will be extensively allocated, except in the most severe emergencies. During the last two interruptions, petroleum was generally available for uses other than driving. The premises behind the almost complete reliance on gasoline to balance out supply interruptions include concern over public health in cutting back home heating oil, concern over jobs in cutting back industrial supplies, and a tacit assumption that there are substantial discretionary uses of energy in the transportation sector. Another premise that affects contingency planning is that prices of gasoline will, or must, be controlled during an emergency to prevent large wealth transfers from consumers to the oil industry. These premises are widely held and color the alternative tools and strategies presently under consideration by the government in dealing with supply interruptions.

The Workshop participants disputed the contention that allocation measures should only be aimed at gasoline, less than half of total petroleum use in the U.S. Many felt this complete reliance on gasoline to bear the brunt of interruptions created unnecessary limitations on mobility and discouraged more cost-effective reduction possibilities in other energy sectors. An across-the-board policy of raising energy prices during an interruption is likely to achieve a much more balanced use of scarce resources and create fewer distortions in production and marketing decisions.

The two major tools for allocating shortfalls include Federal allocations from refineries to dealers and gasoline rationing. For moderate shortfalls, on the order of 10 percent or less of normal gasoline consumption, Federal allocations could spread out supplies with only minimum disruption. For larger shortfalls, where gasoline lines lengthen, it is generally assumed that gasoline rationing would be used. Despite this ostensible reliance, no operational gasoline rationing plan has yet been developed by the Department of Energy or approved by the Congress.

Gasoline rationing poses an extraordinary management challenge. It requires no less than the creation of a new currency within the period of a few months, complete with open market activities and a checking account system. Special appeals and exceptions will not only be difficult to deal with administratively, but also will raise serious equity problems. The use of 20 billion coupons a year, two-and-one-half times the actual money in circulation, will provide enticing opportunities for counterfeiters. Because of these and many other problems, gasoline rationing is not likely to be workable during a short to medium period interruption, and may not be worth the administrative costs and dislocations for a sustained crisis.

An Alternative to Gasoline Rationing.—The whole purpose of a gasoline rationing system is to assure a fair sharing of reduced supplies. Since the Department of Energy plan calls for a white market, in which coupons can be bought and sold, rationing is basically a market allocation system under a bureaucratic facade. For example, if the controlled price of gasoline per gallon is $1.50 and coupons are selling for $1.50, the market price is $3.00 per gallon. Since rationing coupons have a cash value, another way to achieve similar equity benefits would be through sending motorists actual money, rather than rationing coupons. There do not appear to be any inherent advantages in using coupons over cash to distribute benefits during a supply shortfall.

An allocation system that relies on the marketplace to distribute supplies and on existing institutions to distribute equity seems far more likely to work than gasoline rationing. As an alternative to gasoline rationing, prices could be allowed to rise to a level that would allocate supplies in an efficient manner. The Federal tax system could be adjusted to capture the temporary windfalls accruing to refiners and distributors from the higher gasoline prices. The existing Windfall Profits Tax would continue to apply to any windfalls from domestic crude production.

There were substantial differences among Workshop participants on how funds from an emergency windfall tax might be distributed. The choices ranged from using a simple across-the-board rebate to pinpointing rebates for particular hardships and using the rest as general revenues. Such disagreements may be expected in Congress as well, representing a major impediment to adopting such a plan. However, the prospects of relying on gasoline rationing are so gloomy, it may well be possible to resolve the distribution of these tax proceeds. Certainly, doing so would be a major step forward in reducing our vulnerability to domestic supply disruptions.

Because of the immediate and uncomfortably high probability of a shortfall that would require domestic allocation of supplies, further development and Congressional consideration of an emergency market allocation system should have a very high priority in energy policy. In addition to public consideration of such a proposal, it is equally important that a detailed analysis of alternative systems of collecting windfalls and distribution systems be analyzed, with particular focus on macroeconomic impacts, administrative feasibility, and equity.

Information.—Public support and cooperation are crucial elements in a successful crisis management program. Unless the public receives credible, accurate and timely information on the magnitude of the problem and their role in helping minimize dislocations, then suspicion and panic may ensue. The Federal Government needs a strategy to inform the Congress, the press, and the general public on a periodic basis, not only during an energy emergency, but even prior to a crisis. Candor is necessary; undue optimism can only be counterproductive if government overpromises and under-delivers.

In order to inform the public and manage a crisis, government information systems need considerable improvement. The most critical gap is to know how much petroleum is available to meet needs. Current information systems only pinpoint supplies available at refineries. We do not know what supplies are in transit to the U.S. nor do we know what stocks are available at power plants, industrial plants, or stored in fuel oil tanks in homes. We do not even know how much oil each company has in its possession, since our statistics only describe which company has custody, often in one of its pipelines. Unless we improve our information systems, our ability to manage the crisis and inform the public will be seriously hampered.

Analytical Agenda.—Over the last seven years, the quality of energy analysis has improved immeasurably. We have developed more sophisticated techniques to project supplies, demand, and prices in a surprise-free world. And yet, we face the fact that disruptions and economic shocks may drive the world energy market in the future, making standard projections and analysis of only limited utility. Likewise, most of our policy instruments, derived from our current knowledge base, are aimed at an unrealistically predictable world. Just as we need to shift management and resources to focus on the problems caused by energy disruptions, we likewise need to shift more of our analytical efforts to this area.

Some examples of analytical priorities include:

Study of international mechanisms to help control the rate of oil price increases during a disruption.

Detailed analysis of macroeconomic impacts, administrative feasibility, and equity issues inherent in a tax/rebate or other market system to allocate petroleum supplies.

Optimum systems of filling and withdrawing strategic and other stockpiles, including evaluation of experiences in other countries and with stockpiles of other products.

The social behavior dimensions of energy crises, such as understanding what types of actions cause the public to panic, and how the public could be motivated to cooperate in an emergency.

These are only a few examples of analytical requirements that could help in dealing with supply interruptions. The important point is not to set an agenda in this Workshop summary, but to point out the need for its development. The Department of Energy should take responsibility for the agenda, drawing on the work in academic, business, and other institutions.

The threat posed by energy emergencies now constitutes a central issue of national and international security. And yet, the Federal Government and other institutions have failed to give energy security adequate attention. Measures to build up stockpiles, establish a coordinated front among the allies on energy security matters, and provide a market allocation system to distribute shortfalls can reduce the economic and disruptive impacts of supply interruptions. The most immediate priority should be given to actions that deal with the initial stages of an interruption. To be useful, these response measures must be ready before the interruption occurs and must not pose policymakers with impossible political choices. A program to inform the public and the Congress of how a shortfall will initially be dealt with could be very helpful in eliciting support when an emergency occurs.

No solution within sight can eliminate the large costs that will come with a major oil supply interruption. But, a major shift in direction, resources, and priority may give us a chance to weather a supply interruption without major distress. Continued neglect, on the other hand, can only result in a future catastrophe.

PARTICIPANTS

Alvin L. Alm, J. F. Kennedy School of Government, Harvard University.

Peter Borre, Department of Energy.

The Honorable Bill Bradley, United States Senate.

The Honorable Clarence J. Brown, U.S. House of Representatives.

William H. Corkran, Jr., Wye Institute Fellow.

Paul Doty, Science and International Affairs, Harvard University.

Daniel Dreyfus, Committee on Energy and Natural Resources, United States Senate.

The Honorable Joseph L. Fisher, U.S. House of Representatives.

Robert W. Fri, Energy Transition Corporation.

John H. Gibbons, Office of Technology Assessment.

S. William Gouse, The MITRE Corporation.

Paul Heichman, Times-Mirror Corporation.

William W. Hogan, J. F. Kennedy School of Government, Harvard University.

Barton R. House, Economic Regulatory Administration, Department of Energy.

Lionel S. Johns, Office of Technology Assessment.

Llewellyn King, The Energy Daily.

William Lewis, Department of Energy.

Henry R. Linden, Gas Research Institute.

The Honorable James McClure, United States Senate.

Joseph Nye, J. Kennedy School of Government, Harvard University.

Dana Orwick, Aspen Institute for Humanistic Studies.

Frank M. Potter, Jr., House Subcommittee on Energy and Power.

Meg Power, Subcommittee on Energy, Nuclear Proliferation and Federal Service.

Eric H. Reichl, Conoco Coal Development Company.

Henry Rowen, Graduate School of Business, Stanford University.

Frederick P. Salvucci, Center for Transportation Studies, Massachusetts Institute of Technology.

The Honorable Philip R. Sharp, U.S. House of Representatives.

Elvis J. Stahr, National Audubon Society.

Stephen Stamas, Exxon Corporation.

Chauncey Starr, Electric Power Research Institute.

David Sternlight, Atlantic Richfield Company.

William Taylor, Department of Energy.

Alvin M. Weinberg, Institute for Energy Analysis.

Eric Zausner, Booz-Allen & Hamilton, Inc.

AUDITORS

William E. Colglazier, Jr., J. F. Kennedy School of Government, Harvard University.

David Desse, J. F. Kennedy School of Government, Harvard University.

Gina Despres, Legislative Assistant to Senator Bill Bradley.

Geena Hawryluk, Gas Research Institute.

John McCarthy, Stanford University.

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SCENARIO FOR A WORLD NIGHTMARE

(By Charles K. Ebinger and Richard J. Kessler)

(The beginning of the oil nightmare for the West came just after midnight on Nov. 9, 1980. The House of Saud had fallen in Saudi Arabia. A polyglot government representing disaffected Saudis and the nation's huge numbers of disenfranchised workers—Yemenis, Iranians and Palestinians—had taken power.

(A new Islamic Republic was proclaimed, but it was unable to stop the fighting, looting and sabotage that continued in the country for several months.

(Oil pipelines were broken. Some of the major pumping stations were dynamited. The huge gray oil tankers riding at anchor off the oil port of Ras Tanura, remained empty.

(Finally the new government declared it was breaking all cultural and commercial ties to the west. The black gold would remain in the ground. Saudi Arabia would no longer export oil.)

Just what would happen if the above scenario—imaginary, to be sure—became true? The question happens to be a matter of much concern to Western planners. It clearly would be a nightmare because much of the vital economic machinery of the west runs on Saudi oil.

How much of the machinery would stop? How severe would the devastating economic and political pain be? How well would the international agreements designed to minimize such a shortfall work? These are all open questions that deserve thoughtful consideration, and at the highest levels of Western governments.

What is known is that the U.S. ambassador to Saudi Arabia has said that a drastic cutback in Saudi exports would trigger "the greatest world-wide depression we've ever seen." And he is assuming only a partial cutoff.

CIA analysts who have studied the problem have concluded that there would be little the U.S. could do to cushion itself or its allies from the shock, at least in the near term. The available options are few.

The immediate crunch would be felt first in Western Europe and Japan. Europe gets three million barrels of oil a day from the Saudis—28 percent of its requirements. The years of cheap oil from the Middle East have left their mark on European energy systems: There are oil tanks where the coal piles used to be.

For example in 1977, 51 percent of France's total energy needs were met by imported oil. Of this, 37 percent came from Saudi Arabia.

Japan is in a similar position, importing 1.5 million barrels or 32 percent of its requirements from Saudi Arabia.

Remember the gasoline lines and resulting chaos that happened here from a tiny fraction of the kind of shortfall during the 1973–74 Arab oil embargo? That was roughly a four percent shortfall. Multiply it by a factor of five or six and you will get some idea of what might happen in Europe, Japan and the U.S. as the Western powers struggle to deal with a Saudi shortfall.

A sudden stoppage of Saudi oil would mean much more than gasoline lines. Some highways would be nearly emptied. Some factories would stop. Some buildings and houses would go unheated. The lights of our strongest allies would begin to go out.

At that, they would be relatively well off compared with the Third World countries that are already having severe difficulties meeting their oil bills.

A Saudi cutoff would tempt some OPEC countries to breach their long-term supply contracts and sell oil in the more lucrative spot market. That could make $35-a-barrel crude a distant memory. Seventy dollars a barrel may be more like it.

The developing countries are already in an economic tailspin from the 1979 round of price increases which added $12 billion onto their international debts. Commercial banks that aided them during the 1973–74 crises no longer seem willing to throw good money after bad

The next round of price increases could lead to extremely low growth, extreme political instability, rampant hoarding, and probably famine among the nations that have no domestic energy resources to fall back on.

Under the terms of the emergency oil sharing system of the International Energy Agency (IEA), a system developed in 1974 by the U.S. and 19 other signatories, what oil that remains in the supply pipeline will have to be shared in a crisis.

The largest share in this scenario would probably be the United States. Tankers en route to U.S. East and Gulf Coast ports would have to be diverted to Europe.

The trigger for the emergency sharing system to go in effect is shortfall of 7 percent. In a Saudi cutoff the alarms would be going off all over the place because the average reduction in Europe would be somewhere around 25 percent.

All countries who want aid under this system would have to immediately impose rationing and other controls to cut petroleum demands by at least 10 percent.

SKEPTICISM IN EUROPE

There is some skepticism within Europe over just how much sharing would actually occur in the case of a severe shortfall. The Financial Times, for example, recently quoted a senior French oil executive as saying: "Wait until the next real crisis. You will find governments and companies forgetting all about sharing and scrambling for supplies."

Last year Sweden tried to invoke the emergency sharing agreement, but the governing board of the International Energy Agency ruled the nation's shortfall did not fit all of the requirements of the agreement. In the meantime international oil companies began shipping more oil to Sweden.

In the case of Saudi cutoff, the major's flexibility to handle crises privately simply would not be there.

The failure of Western Europe and Japan to fully support the U.S. in its efforts to free the American hostages in Teheran is another clue to the level of international agreement that can be expected when oil supplies hang in the balance.

While its economy would exhibit the same symptoms manifested in Europe and Japan, the effect here would be delayed. The resiliency of the larger U.S. economy, coupled with our greater abundance of other resources would mean that the U.S. is probably better able to withstand the tremors of a major worldwide depression.

But it would certainly not be business as usual.

The U.S. obtains about 1.8 million barrels a day from Saudi Arabia, while it consumes 18.3 million barrels. The difference between the U.S. and its allies is that while we produce almost 50 percent of our daily oil needs, Europe produces 14 percent and Japan produces nothing.

At any given time there is enough oil in the U.S. system—tankers at sea, crude oil stocks in U.S. refineries and oil stored in the salt caverns of the Strategic Petroleum Reserve—that, in theory, the U.S. could maintain its present rate of consumption for approximately 300 days in the face of a Saudi cutoff.

IN MONTHS, THE CRUNCH

The actual breathing time, however, would be much less than that because some of the incoming oil would have to be diverted to help our allies. The Strategic Petroleum Reserve's 91 million barrels of crude stored in hollowed-out salt domes along the Gulf Coast could give us about 70 days worth of relief from the Saudi loss, but when that supply is exhausted there will be little left to put in the network of pipelines that lead to the industrial upper Middle West and the East Coast.

And that's where the crunch begins because there is nothing else in abundance that can be quickly substituted for oil. Natural gas fills something like 26 percent of our energy needs, giving us the equivalent of 8.9 million barrels a day of oil.

Even if energy prices were increased, there would only be a marginal rise in natural gas production in the short run because gas production in existing fields cannot be accelerated without causing pressure to drop to levels below those required for efficient production.

The largest possible short term supplies of natural gas to help shore up the sagging U.S. energy system would have to come from bargaining with Canada and Mexico.

America is the Saudi Arabia of coal, but in the event of a Saudi oil cutoff, only a small amount of this touted "mother fuel" could be substituted, the equivalent of somewhere between 100,000 and 200,000 barrels a day of oil.

The U.S. produces 700 million tons of coal a year and there is sufficient excess capacity to increase that by maybe another 100 million tons. The immediate problem, though, is not in the production end, but in the consumption end.

Few oil-burning utilities can quickly switch over to coal. They lack room for coal storage, they lack the stokers and the other machinery that must be retrofitted to make their boilers run on coal. Major provisions of the Clean Air Act would also have to be waived to bring coal to the rescue in a substantial way.

In the short run, not much more can be expected from nuclear power either. At the moment there are 67 nuclear plants operating. If Congress declared a national emergency, maintenance on some could be postponed and a few of the shut down plants—for example the sister plant of the one involved in the accident at Three Mile Island—could be brought back on line.

Small as it is, the possible incremental improvement from nuclear power would be relatively large compared to what the nation could expect to get from synthetic fuel production in the short run. Even a crash program would require three to four years before the first substantial production, say the equivalent of 200,000 barrels a day could be pumped into the distribution system.

That means that in the short run the most hopeful way of reducing the economic pain of a Saudi cutoff would be reducing consumption. While we have had a taste of what this would mean during the winter of 1973 and during the summer of 1979, the curtailments required by a full Saudi cutoff would be far beyond that.

Gasoline rationing and shorter work weeks would probably be among the first measures to be tried. Panic buying in some areas would probably overwhelm the allocation systems.

FAIRNESS IMPOSSIBLE

Consider what Energy Secretary Charles W. Duncan is reported to have said a few weeks ago on the subject: "If we lost the Persian Gulf oil tomorrow, I would have to say that I would not be able to administer with equity a coupon gas rationing plan."

Failure of a federal system to spread out the shortages fairly would mean that unfairness would prevail. Siphoning of gas, for example, would become endemic. A new class of security guard—the car watcher—would probably be in strong demand.

Cities would darken at night as only the most necessary street and commercial lighting would escape strict conservation controls. The suburbs, creatures of the automobile, would become disaster areas for businesses. The lack of mobility would probably close down shopping malls long before they were hit by the decline in disposable income resulting from the higher energy bills.

The Library of Congress recently completed a study using a computer model that projected the economic impact of a 1 to 2 million barrel a day reduction of U.S. oil supplies.

It assumes that as domestic and world oil prices rose sharply, the prices of goods and services will be similarly inflated, leading to a reduction in demand and to higher unemployment.

The nation's gross national product would decline by .1 to .2 percent in 1980, a year later the decline would be a whopping 2.3 to 3 percent. The following year the decline would go to 4 percent.

Inflation would jump five more percentage points in two years.

Gasoline would increase by as much as 30 cents a gallon in 1980, another 30 cents a gallon in 1981. Heating oil costs would rise by a similar proportion.

Additional increases that could be triggered by widespread speculative or panic buying cannot really be estimated, only imagined.

SOME LEADING SUFFERERS

Again, only part of the story is reflected in the numbers. If a cutoff the size of a Saudi cutoff persisted, the nation's habits and lifestyles would suffer in ways that are profound.

The rural areas, increasingly cut off from rail, air and bus service, would suffer most. So would the poor and elderly, unable to bid or struggle for the transportation and fuel that is left.

Industry, looking at soaring heating bills, would plan to move to warmer climates, leaving the industrial Northeast and Middle West in a state of unprecedented gloom.

The sunbelt states would also suffer because of their lack of public transit, their urban sprawl and their addiction to air conditioning.

As unemployment worsens, crime would increase in the darkened city streets. Restaurants and night clubs would have difficulty finding customers. There would be stories of police cars and fire engines unable to respond to calls. News commentators would begin to wonder how long our democracy could stand the strain of the growing lawlessness and frustration.

Politicians and editorialists alike would demand scapegoats. Big Oil would suffer. OPEC would suffer. Environmentalists and environmental laws would suffer. The Establishment would suffer.

Many people would be led to believe that the time had come for a strong man, a real Energy Czar, to take control of the nation's faltering economy.

Assuming that the nation's political and economic systems can survive, the nation would not be the same after a prolonged shortfall.

The energy mix would be different. There would be more demands, for nuclear power, possibly even bringing the breeder reactor, which multiplies the available stocks of plutonium, into commercial operation (though it may take at least a decade before the breeder reaches that stage of development).

More and more coal would find its way into synthetic fuel production rather than to electrical generation. The quest for cheap, efficient solar power would be intensified. Oil would be used less for space heating and more for gasoline and to feed the petrochemical plants that make plastics, cosmetics and fertilizers, among a wide spectrum of other oil-related products.

The movement of oil out of home heating will have a great impact on the structure of American society. Small towns will die and bigger ones will feel the strain as people move to be near mass transit systems and industries that provide sources of waste heat, a byproduct that the nation could no longer afford to throw away.

Farm cooperatives will have to figure out how to serve the communities in their area because energy costs will mean that food could no longer be shipped over long distances. Fresh vegetables in the winter will become a thing of the past unless they are grown in greenhouses.

Recycling of many products will become extremely important because the energy will simply not be there to replace them as cheaply. Convenience foods, marginal appliances, time saving amenities will no longer be on the shelves.

Natural fabrics will replace synthetics. Single family homes will be replaced by or rebuilt into multifamily dwellings to cut heating costs.

New housing will be clustered to conserve heat. Dreams of a second home in the mountains or at the seashore will never become more than just dreams.

Resort areas will go into permanent decline and farms, the farms that survive, will become even more mechanized, corporate-style entities.

This gloomy scenario is not just idle speculation, but one that is being seriously considered by academics and government officials. The specter of a revolution takeover of Saudi Arabia—or any other oil-producing country upon which the West relies—is not at all far fetched. The present "mini-glut" of oil supplies in world markets is a temporary bubble and could revert to shortfall very quickly if Iranian production falls below 2 million barrels a day or is switched to markets in Eastern Europe for a sustained period.

While we have painted a bleak picture of the future, an even worse vision is conceivable. A conflagration anywhere in the Middle East could easily spread to neighboring states. Instability in Saudi Arabia could easily lead to war over Saudi territory, Kuwait, the Neutral Zone or the territorial integrity of Bahrain.

Such instability might arise from the rising tide of Islamic revivalism. In part, this religious resurgence is a revolt against the sterility of Western values which we have exported to them in exchange for their oil. The view of democracy which we have exported is one which equates freedom with consumerism. As a result of our failure to realize the inherent incompatibility between a consumer oriented society and the values of Islam, we may not be able to prevent the disintegration of the regimes we now support.

Optimists will argue that it is possible that the oil shortfalls described will never occur; that Saudi Arabia and other Middle Eastern nations will evolve into stable, modern societies. But history has shown that such evolution rarely proceeds peacefully, rather it moves in fits and starts.

We would be ill-advised to continue our present policies on the premise that the best of all possible worlds will result. We would be wise to consider the worst.

COMMITTEE ON GOVERNMENTAL AFFAIRS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., May 8, 1980.

Hon. CHARLES W. DUNCAN, Jr.,
Secretary of Energy,
Washington, D.C.

DEAR MR. SECRETARY: As I understand it, the nation's stocks of crude oil and gasoline are presently very high, and the prospects are good that we can avoid any serious shortage during the upcoming summer driving season. However, the possibility of a blockade of Iranian oil exports underscores the precarious nature of the energy supply situation. It is certainly possible that, as early as this summer or fall, we might find ourselves facing a supply emergency at least as serious as those in 1973–74 and 1979. If so, we may have to resort to some standby measures to distribute the available supplies while maintaining order in the economy.

This, of course, is what the Administration's gasoline rationing proposal was meant to address. This proposal has not yet been submitted to the Congress, for what may be very good reasons. According to press accounts about estimates which a DOE staff report has made, the rationing plan would cost at least $2 billion per year to operate, with significant additional costs incurred by the banking and petroleum industries. Even if the rationing plan is never used, I understand that the pre-implementation costs may be about $117 million. To these cost estimates must be added the administrative complications and public confusion that would almost certainly result from the printing and distribution of what amounts to an entirely new U.S. currency. The risks of theft, fraud, and counterfeiting might be very large. Even if we can create a new banking system to handle the coupons, it may still not necessarily be true that extra "white market" ration coupons would be available, even at a very high cost to individuals or businesses which badly need them.

I understand that your staff study described how an emergency tax/rebate plan could be modeled after the coupon rationing plan. Simply by using dollars bills rather than ration coupons, we could accomplish essentially the same thing while imposing fewer costs on the private sector, removing the need for a second currency, and substantially reducing the risk of fraud or other abuse. Even the pre-implementation costs should be less, a fact of some significance given the commitment by the President and the Congress to balance the fiscal year 1981 budget.

I have long supported the concept of a gasoline excise tax and rebate, especially under emergency conditions. However, I have some questions about how it might be implemented, and what its effects might be. In particular, I would like to pose the following questions:

1. Are you undertaking any systematic analysis of the relative costs and benefits of a tax/rebate plan versus a coupon rationing plan? If so, when can your findings be made available to the Congress? If not, why not?

2. In an emergency, what would be the advantages of having gasoline stations collect ration coupons rather than a fixed amount of money whenever gasoline is purchased? Are these advantages worth the extra costs and administrative complications of creating a second currency?

3. If all exports of crude oil from Iran were halted, creating a worldwide oil shortage and triggering a U.S. shortage pursuant to the I.E A. agreement, how large would an emergency excise tax have to be to enable us to endure this shortage without gasoline lines? Similarly, how large would an emergency excise tax have to be to enable us to survive a complete shut-down of crude oil production in the Persian Gulf?

4. Assuming you had prepared a standby tax/rebate plan in advance, how quickly could it be implemented during a serious national emergency, and how does this compare with your projections for a coupon rationing plan?

5. In your public hearings and written comments on the coupon rationing plan and other conservation proposals, what did you learn about the willingness of the public to accept an emergency tax/rebate plan in lieu of other measures? Did you hear more concerns raised about the price of gasoline during an emergency, or about the availability of gasoline at any price?

6. What might be the long-range conservation effects of an emergency tax plan? Could a temporary gas tax lead to more permanent changes in gasoline consumption habits than a temporary ration plan might do?

Also, I would be grateful if you could immediately send me a copy of the report which your staff recently prepared on this issue, along with some indication as to how confident you are in any budget estimates.

These are important issues which I would hope the Administration would weigh when deciding whether to develop a tax/rebate proposal as a supplement—and possible alternative—to the coupon rationing plan. Also, after I and my colleagues have reviewed the Administration's rationing proposal, many of us would like to see the discussion shift to the relative merits of the tax/rebate approach. In light of all this, I would be grateful if you could provide answers to the questions posed above, along with any other comments you may have about a tax/rebate plan, no later than June 13.

I have sent a similar letter to the Secretary of the Treasury, Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers, posing questions relevant to their special expertise. For your information, I have attached copies of the questions I submitted to each of them.

If your staff has any questions about this matter, please ask them to contact Joseph G. Black, Chief Counsel to the Minority of the Senate Permanent Subcommittee on Investigations, at 224–9157.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

COMMITTEE ON GOVERNMENTAL AFFAIRS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., May 8, 1980.

Hon. CHARLES H. SCHULTZE,
Chairman, Council of Economic Advisers,
Washington, D.C.

DEAR MR. SCHULTZE: As I understand it, the nation's stocks of crude oil and gasoline are presently very high, and the prospects are good that we can avoid any serious shortage during the upcoming summer driving season. However, the possibility of a blockade of Iranian oil exports underscores the precarious nature of the energy supply situation. It is certainly possible that, as early as this summer or fall, we might find ourselves facing a supply emergency at least as serious as those in 1973–74 and 1979. If so, we may have to resort to some standby measures to distribute the available supplies while maintaining order in the economy.

This, of course, is what the Administration's gasoline rationing proposal was meant to address. This proposal has not yet been submitted to the Congress, for what may be very good reasons. According to recent press reports, the Department of Energy estimates that the rationing plan would cost at least $2 billion per year to operate, with significant additional costs incurred by the banking and petroleum industries. Even if the rationing plan is never used, I understand that the pre-implementation costs may be about $117 million. To these cost estimates must be added the administrative complications and public confusion that would almost certainly result from the printing and distribution of what amounts to an entirely new U.S. currency. The risks of theft, fraud, and counterfeiting may be very large. Even if we can create a new banking system to handle the coupons, it may still not be true that extra "white market" ration coupons will be available, even at a very high cost, to individuals or businesses which badly need them.

Alternatively, an emergency tax/rebate plan could be modeled after the coupon rationing plan. Simply by using dollar bills rather than ration coupons, we could accomplish essentially the same thing while imposing fewer costs on the private sector, removing the need for a second currency, and substantially reducing the risk of fraud or other abuse. Pre-implementation costs should also be lower, a fact of some significance given the commitment by the President and the Congress to balance the fiscal year 1981 budget.

I have long supported the concept of a gasoline excise tax and rebate, especially under emergency conditions. However, I have some questions about how it might be implemented, and what its effects might be. In particular, I would like to pose the following questions:

1. If a tax/rebate plan were implemented, what would be the economic impacts of using the following rebate mechanisms;

a. A lump-sum reduction from income tax or social security tax withholding, with direct payments to those who pay no income tax;

b. A proportionate reduction from income tax withholding (perhaps applying only to the first $30,000 of income), with direct payments to those who pay no income tax;

c. A proportionate reduction from social security tax withholding, with direct payments to those who pay no social security tax;

d. Direct, lump-sum payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

2. What would be the economic consequences of a tax that is set too high (i.e., restraining demand too much), a tax set too low, or a rebate mechanism which may not make payments until sometime after the tax is imposed?

3. What consequences would result from the distribution of too few or too many ration coupons, or a delay of several months between the start of a supply emergency and the implementation of a coupon rationing program?

4. How would you compare the effectiveness of the "white market" feature of a coupon rationing program with the ability of a tax rebate plan to ensure that businesses or individuals who badly need gasoline can acquire it at any price?

These are important issues which I would hope the Administration would weigh when deciding whether to develop a tax/rebate proposal as a supplement—and possible alternative—to the coupon rationing plan. Also, as I and my Senate colleagues are reviewing the Administration's rationing proposal, many of us would like to see the discussion include the relative merits of the tax/rebate approach. In light of all this, I would be grateful if you could provide answers to the questions posed above, along with any other comments you may have about a tax/rebate plan no later than June 13.

I have sent a similar letter to the Secretary of Energy, the Secretary of the Treasury, and Director of the Office of Management and Budget, posing questions relevant to their special expertise. For your information, I have attached copies of the questions I submitted to each of them.

If your staff has any questions about this matter, please ask them to contact Joseph G. Block, Chief Counsel to the Minority of the Senate Permanent Subcommittee on Investigations, at 224–9157.

Sincerely,

Charles H. Percy,
U.S. Senator.

Committee on Governmental Affairs, Senate Permanent Subcommittee on Investigations,
Washington, D.C., May 8, 1980.

Hon. G. William Miller,
Secretary of the Treasury,
Washington, D.C.

Dear Mr. Secretary: As I understand it, the nation's stocks of crude oil and gasoline are presently very high, and the prospects are good that we can avoid any serious shortage during the upcoming summer driving season. However, the possibility of a blockade of Iranian oil exports underscores the precarious nature of the energy supply situation. It is certainly possible that, as early as this summer or fall, we might find ourselves facing a supply emergency at least as serious as those in 1973–74 and 1979. If so, we may have to resort to some standby measures to distribute the available supplies while maintaining order in the economy.

This, of course, is what the Administration's gasoline rationing proposal was meant to address. This proposal has not yet been submitted to the Congress, for what may be very good reasons. According to recent press reports, the Department of Energy estimates that the rationing plan would cost at least $2 billion per year to operate, with significant additional costs incurred by the banking and petroleum industries. Even if the rationing plan is never used, I understand that the pre-implementation costs may be about $17 million. To these cost estimates must be added the administrative complications and public confusion that would almost certainly result from the printing and distribution of what amounts to an entirely new U.S. currency. The risks of theft, fraud, and counterfeiting may be very large. Even if we can create a new banking system to handle the coupons, it may still not be true that extra "white market" ration coupons will be available, even at a very high cost, to individuals or businesses which badly need them.

Alternatively, an emergency tax/rebate plan could be modeled after the coupon rationing plan. Simply by using dollar bills rather than ration coupons, we could accomplish essentially the same thing while imposing fewer costs on the private sector, removing the need for a second currency, and substantially reducing the risk of fraud or other abuse. Pre-implementation costs should also be lower, a fact of some significance given the commitment by the President and the Congress to balance the FY 1981 budget.

I have long supported the concept of a gasoline excise tax and rebate, especially under emergency conditions. However, I have some questions about how it might be implemented, and what its effects might be. In particular, I would like to pose the following questions:

1. How long would it take to get a tax collection apparatus in place during an emergency, and how would the tax be collected?

2. How would each of the following rebate mechanisms work, and what would be their respective administrative advantages and disadvantages:

a. Income tax withholding;

b. Social security tax withholding;

c. Direct payments to individuals who do not pay income or social security taxes, as a supplement to (a) or (b) above;

d. Direct payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

3. What theft, fraud, tax evasion, or other enforcement problems would you envision for a tax/rebate plan? How would you compare these problems with the likely consequences of implementing a coupon rationing plan?

These are important issues which I would hope the Administration would weigh when deciding whether to develop a tax/rebate proposal as a supplement—and possible alternative—to the coupon rationing plan. Also, as I and my Senate colleagues are reviewing the Administration's rationing proposal, many of us would like to see the discussion include the relative merits of the tax/rebate approach. In light of all this, I would be grateful if you could provide answers to the questions posed above, along with any other comments you may have about a tax/rebate plan no later than June 13.

I have sent a similar letter to the Secretary of Energy, Director of the Office of Management and Budget, and Chairman of the Council of Economic Advisers, posing questions relevant to their special expertise. For your information, I have attached copies of the questions I submitted to each of them.

If your staff has any questions about this matter, please ask them to contact Joseph G. Block, Chief Counsel to the Minority of the Senate Permanent Subcommittee on Investigations, at 224–9157.

Sincerely,

Charles H. Percy,
U. S. Senator.

Committee on Governmental Affairs, Senate Permanent Subcommittee on Investigations,
Washington, D.C., May 8, 1980.

Hon. James T. McIntyre, Jr.,
Director, Office of Management and Budget.
Washington, D.C.

Dear Mr. McIntyre: As I understand it, the nation's stocks of crude oil and gasoline are presently very high, and the prospects are good that we can avoid any serious shortage during the upcoming summer driving season. However, the possibility of a blockade of Iranian oil exports underscores the precarious nature of the energy supply situation. It is certainly possible that, as early as this summer or fall, we might find ourselves facing a supply emergency at least as serious as those in 1973–74 and 1979. If so, we may have to resort to some standby measures to distribute the available supplies while maintaining order in the economy.

This, of course, is what the Administration's gasoline rationing proposal was meant to address. This proposal has not yet been submitted to the Congress, for what may be very good reasons. According to recent press reports, the Department of Energy estimates that the rationing plan would cost at least $2 billion per year to operate, with significant additional costs incurred by the banking and petroleum industries. Even if the rationing plan is never used, I understand that the pre-implementation costs may be about $117 million. To these cost estimates must be added the administrative complications and public confusion that would almost certainly result from the printing and distribution of what amounts to an entirely new U.S. currency. The risks of theft, fraud, and counterfeiting may be very large. Even if we can create a new banking system to handle the coupons, it may still not be true that extra "white market" ration coupons will be available, even at a very high cost, to individuals or businesses which badly need them.

Alternatively, an emergency tax/rebate plan could be modeled after the coupon rationing plan. Simply by using dollar bills rather than ration coupons, we could accomplish essentially the same thing while imposing fewer costs on the private sector, removing the need for a second currency, and substantially reducing the risk of fraud or other abuse. Pre-implementation costs should also be lower, a fact of some significance given the commitment by the President and the Congress to balance the FY 1981 budget.

I have long supported the concept of a gasoline excise tax and rebate, especially under emergency conditions. However, I have some questions about how it might be implemented, and what its effects might be. In particular, I would like to pose the following questions:

1. What do you see as the two or three most feasible and effective rebate mechanisms that could accompany a tax? How long would it take to implement each of these mechanisms?

2. How much confidence do you have that the government could set the tax and rebate levels at market-clearing rates? Would those levels have to be adjusted over time?

3. Could you compare the costs of a tax/rebate plan with those of a rationing plan in both their pre-implementation and implementation phases?

4. If a rationing plan would in fact cost substantially more to implement than a tax/rebate plan, is that extra cost justified by

any special non-economic advantages to either approach?

5. What Constitutional authority and policy precedent are there for the Congress to grant the President standby power to implement a tax/rebate plan in a supply emergency? In what form might the President request this authority, and how might this standby authority be triggered?

These are important issues which I would hope the Administration would weigh when deciding whether to develop a tax/rebate proposal as a supplement—and possible alternative—to the coupon rationing plan. Also, as I and my Senate colleagues are reviewing the Administration's rationing proposal, many of us would like to see the discussion include the relative merits of the tax/rebate approach. In light of all this, I would be grateful if you could provide answers to the questions posed above, along with any other comments you may have about a tax/rebate plan no later than June 13.

I have sent a similar letter to the Secretary of Energy, the Secretary of the Treasury, and the Chairman of the Council of Economic Advisers, posing questions relevant to their special expertise. For your information, I have attached copies of the questions I submitted to each of them.

If your staff has any questions about this matter, please ask them to contact Joseph G. Block, Chief Counsel to the Minority of the Senate Permanent Subcommittee on Investigations, at 224–9157.

Sincerely,

Charles H. Percy,
U.S. Senator.

The Secretary of Energy,
Washington, D.C., July 7, 1980.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: Thank you for your letter of May 8, 1980, regarding an emergency tax and rebate plan. I am responding on behalf of the Secretary of Treasury, the Director of the Office of Management and Budget, and the Chairman of the Council of Economic Advisers who received similar letters.

The Administration is carefully examining the emergency tax and rebate approach to dealing with petroleum supply interruptions. While his approach may seem very straightforward and simple, it actually entails, as your questions suggest, many complicated questions regarding how the tax would be imposed, the rebate mechanism used, and the associated effects on the Federal budget and the economy. These questions need to be analyzed in depth before the feasibility and merits of the tax/rebate approach can be assessed. This analysis will require several months of effort; when completed, we will be glad to share it with you.

While we recognize that the emergency tax and rebate approach may offer potential, the standby gasoline rationing plan which the President recently sent to Congress is much further along in development. It is critically important that the rationing plan be available for use in the event of a severe interruption in petroleum supplies. We urge you and your colleagues to give the plan your support so that we can proceed with preimplementation. The process of bringing the rationing plan to a state of readiness must not be delayed while other alternative approaches are evaluated.

We look forward to discussing with you and other members of Congress the questions raised in your letter when our study is completed.

Sincerely,

Charles W. Duncan, Jr.

Harvard University,
John F. Kennedy School
of Government,
Cambridge, Mass., June 24, 1980.

Senator Charles H. Percy,
Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

Dear Senator Percy: I have missed the deadline of June 20 for responding to the questions enclosed in your letter to me of June 6, 1980, but will offer you brief answers to some of the questions you posed.

1. Any gasoline rationing system absolutely must provide full and free marketability of the coupons. Every argument I know against marketability is easily refuted. I believe a nationwide market could work easily and smoothly.

2. I know of no coupon scheme that cannot be duplicated, and improved on, by a combination of tax and rebate. The only advantage of a coupon system would be educational; people would quickly learn, as they might not understand in advance, that a marketable-coupon system is merely the clumsy equivalent of a tax-rebate system.

3. I think the experience of the last few years indicates strongly that the public will have a far greater tolerance of gasoline price increases than of shortages, uncertainties, gas lines, favoritism, and all of that. The public has accommodated easily to a 50-cent increase in the price but cannot forget, and is still alarmed by, gasoline lines and physical shortages.

4. The long-run response to higher gasoline prices, whether due to an emergency tax or a permanent conservation tax, will be substantial. It takes time, because it shows up primarily in the turnover of the automobile fleet. It depends crucially on the public's belief that high or even higher prices are here to stay. The price increases of the last few years are already having a substantial effect.

5. To deal with the problem of quick implementation of a tax-rebate plan in an emergency, I would couple it with a permanent tax-rebate system. I would favor an immediate conservation tax of something like 50 cents, with rapid recycle through a simple rebate system; once it has been implemented and is operating it should be flexible enough to be quickly increased in genuine international oil emergencies.

6. I cannot guess how high the tax would have to be if all Persian Gulf oil were blockaded from the world. Much would depend on how we proposed to meet our commitments to allies and other consuming countries under the International Energy Agency. In the very short-run we should have to be prepared for taxes of several dollars per gallon to avoid awkward and wasteful gasoline lines.

7. Many people think that the price system works best in good times but is too harsh in an emergency. I think the opposite, that when shortages are not great we can actually stand the awkwardness and inefficiency of efforts at price control, but in a severe shortage we cannot afford to let desperate demands go unmet, and only the market can get the gasoline to where it is most urgently needed. The worst of the financial impact can always be taken care of with a rebate system. (Note that many of the impacts are already allowed for in the cost-of-living indexing of many benefits already received by the poor and the elderly.)

8. May I urge that you take every opportunity to remind your colleagues in the Congress and the public that most of the decisions about when and, quantitatively speaking, how to respond to a world oil shortage are not matters for unilateral U.S. decision. We have commitments under the IEA that were incurred in good faith and for good reason. A worldwide competitive scramble for scarce oil in an emergency will only drive up the prices that oil producers obtain and demoralize military as well as economic cooperation among the U.S. and our allies. Other countries, including those to whose military defense we are committed, are far more dependent on imported oil than we are; looking out for our own petroleum needs and not those of our allies would undermine the entire system of mutual security that we have been building up for 30 years. I enclose a statement, mostly on the international character of the problem, which I submitted to your colleague, Senator Bennett Johnston, just a few weeks ago.

Sincerely yours,

Thomas C. Schelling.

Xerox Corp.,
Washington, D.C., June 23, 1980.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: Thank you for your letter of June 6 inviting us to comment on the comprehensive national standby gasoline rationing plan submitted to the Congress by President Carter under the provisions of the "Emergency Energy Conservation Act, 1979", Public Law 96–102. We have found it difficult to respond specifically to the set of questions enclosed in your letter because they were addressed to officials of the government and presume information and decision authority which are not available to us as a private corporation.

We would like, nevertheless, to respond to your letter in a general way. We worked with the Department of Energy on the development of the standby gas rationing plan, and submitted formal comments during the hearing process. We raised questions concerning the general difficulty of organizing and implementing a gas rationing plan, as well as specific issues affecting our industry. A gas coupon rationing system appears to be so complex in its implementation that it may be worthless as a means of dealing with emergency gasoline shortages. The distribution, trading and banking of coupons virtually creates a second currency which could complicate the national economy.

The plan does not provide for the distribution of coupons to companies like ours which manage very large national fleets of leased passenger vehicles. Furthermore, there does not seem to be adequate consideration for business use of privately owned passenger vehicles. The three-to-four month adjustment period to accommodate business usage could be devastating to the business community.

By contrast, an emergency tax/rebate system has the potential for immediate implementation, without the need for any additional bureaucracy. The system would fall equally upon all purchasers of gasoline at the pump, and thereby avoid the inequities and complexity of distributing coupons to registered owners of vehicles.

In developing the plan, the Department of Energy was responding to the specific request for a coupon gas rationing system made by the Congress when it enacted the 1979 law. The Department of Energy has done a fairly good job implementing a bad concept.

It is the responsibility of the Congress, if it finds the plan unacceptable, to change the concept and give the Department new directions concerning the development of a standby emergency gas tax/rebate plan. Such a concept is far superior in its simplicity, equity, and impact in an emergency.

Thank you for this opportunity to express our views on this issue.

Sincerely,

James A. R. Johnson,
Manager, Government Affairs.

INTERNATIONAL
BUSINESS MACHINES CORP.,
Washington D.C., June 24, 1980.
Senator CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you very much for your letter of June 6, 1980 in which you discuss the question of a more efficient gas rationing mechanism than coupon distribution.

IBM submitted comments to the U.S. Department of Energy when it asked for public views of its proposed gas rationing plan. A copy of those comments is attached. While they do not deal directly with the question of coupon distribution, they stress the view that gas rationing should be viewed as a last resort to meet a severe fuel shortage after other mechanisms, including reliance on the market mechanism, were considered.

The rebateable fee proposed to replace coupons would contain some features that approximate a market mechanism; market forces presumably would determine the market-clearing price. This would also have the advantage of stimulating conservation.

In addition, the rebateable fee appears to be designed to afford some protection to low-income drivers. Such protection should be a feature of whatever mechanism is adopted.

One aspect of the proposed alternative mechanism that needs further study involves the potentially unsettling sudden money inflows and outflows that might occur under a rebateable fee system. Another, related to it, is whether proposed government rebate channels (Social Security checks, for example) could handle the complicated, rapid adjustments which would be required.

I hope these comments are useful. Please let me know if I may be of further assistance.

Sincerely,

SETH S. GOLDSCHLAGER.

INTERNATIONAL
BUSINESS MACHINES CORP.,
Armonk, N.Y., January 8, 1980.
Hon. HAZEL R. ROLLINS,
Administrator, Economic Regulatory Administration, Office of Public Hearing Management, U.S. Department of Energy, Washington, D.C.

DEAR MS. ROLLINS: The International Business Machines Corporation appreciates the opportunity to comment on the proposed Standby Gasoline Rationing Plan.

If there should be any questions, please feel free to contact Mr. L. D. Simon, IBM director of public affairs, in Washington. He may be reached at 833-6317.

Sincerely,

D. R. MCKAY.

COMMENTS OF THE INTERNATIONAL BUSINESS MACHINES CORP. (IBM) ON THE STANDBY GASOLINE RATIONING PLAN

PRIORITY CLASSIFICATION

1. Service to information-handling equipment should be recognized as a "Priority Class Activity" under Section 570.31.

IBM's business involves the manufacture, sale, lease and service of information handling equipment and systems. IBM employs a large number of people installing and maintaining these systems and providing technical advice, programming or installation support services to its many customers throughout the United States.

Information handling equipment and services are indispensable for operations in the critical areas which the Proposed Standby Rationing Plan has identified as "Priority Class Activities." Emergency and other municipal services, defense, and public transport systems are clearly dependent on those information handling tasks; less obvious but as dependent are energy production processes such as oil exploration, refineries and utilities.

Should rationing be implemented in the event of a severe fuel shortage that could not be managed through market and other mechanisms, IBM agrees that the burdens of rationing should be shared equitably. Yet, these burdens would be minimized if "Priority Class Activities" were maintained. Continual service to information-handling operations of such activities would be required because the equipment and service are interdependent and therefore inseparable.

In other public and private sector activities, operations conceivably could be continued without information-handling products and services, but only at a significantly lower level of productivity. This would have a damaging impact on any economy and a particularly severe impact on an economy that would be weakened already by a shortage of fuels and by the constraints of rationing.

BUSINESS VEHICLES

2. Section 570.34 should specifically recognize business use of personal vehicles as eligible for "Other Supplemental Allotments."

IBM does not maintain a large fleet of company owned cars or provide its employees with company vehicles. Instead, about 35,000 IBM employees now use their personal cars to serve IBM customers. They are reimbursed for this under a "Regular Driver Plan." Under this plan, employees must have their cars available on a daily basis to respond to customer calls. In 1979, the approximately 35,000 "Regular Drivers" averaged about 7,000 miles each on company business.

In order to avoid inequitable treatment of companies like IBM in comparison with those companies which maintain their own fleets or lease their business vehicles, Section 570.34 should recognize business use of personal cars as eligible for supplemental allotments.

3. Section 570.34 should specifically recognize the right of an employer to apply for supplemental allotments for employees using their personal vehicles on business.

In IBM's case, one application would take the place of 35,000 applications. This would encourage employers to become "coupon issuance points" and would simplify control of "Other Supplemental Allotments".

For purposes of this section, as for all other sections, IBM would be willing to establish a special logging and control system for presentation of records of historical use of vehicles for business purposes.

"OTHER SUPPLEMENTAL ALLOTMENTS" TO BUSINESS BASED ON "HISTORICAL USE"

4. A Pre-Plan Registry of "Other Supplemental Allotments" for vehicles used by businesses should be established.

The proposed plan anticipates a phase-in period during which there would be no "Other Supplemental Allotments" for businesses. During this period, the plan would require businesses to seek necessary fuel by purchasing coupons on a white market that is envisioned.

This would run counter to congressional intent that rationing be calculated on an historical use basis. For it would mean that businesses would be required to 'buy back' on the white market those fuels which should have been apportioned to them on the basis of their historical use.

Though a "white market" is envisioned during this period, it is likely that numerous individuals may not immediately sell coupons which they do not need, preferring to wait until the contours of the coupon market are clear. This would eliminate a major source of coupons and could cause major disruption to companies who would need to buy such coupons to obtain fuels adequate to meet their historical use.

A Pre-Plan Registry of "Other Supplemental Allotments" would avoid these problems. It would also obviate considerable disruption during a phase-in period in which public respect for the plan would be eroded.

For these reasons, a list of "Other Supplemental Allotments" to business should be established before the plan is put into effect and appropriate allotments distributed immediately upon enactment.

HARVARD UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Cambridge, Mass., July 25, 1980.
Senator CHARLES H. PERCY,
Committee on Governmental Affairs,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I have enclosed comments on some of the questions you have proposed to Secretary of Enrgy Duncan, Secretary of the Treasury Miller, OMB Director McIntyre, and CEA Chairman Schultze concerning the relative merits of gasoline tax and standby rationing plans. I hope these comments will be helpful to you.

Sincerely,

JOSEPH P. KALT.

COMMENTS ON SELECTED QUESTIONS CONCERNING STANDBY GASOLINE RATIONING PLANS, FROM DR. JOSEPH P. KALT, ASSISTANT PROFESSOR OF ECONOMICS, DEPARTMENT OF ECONOMICS, HARVARD UNIVERSITY

QUESTIONS POSED TO CHAIRMAN (CEA) SCHULTZE

3. A reduction in crude oil available on the world market (e.g., as a result of a termination of Iranian exports) only causes gasoline lines when prices for gasoline in the United States are artificially held down by DOE price and allocation rules, COWPS surveillance, or jawboning. Gasoline lines are always the result of some form of governmental price controls in retail gasoline markets. In the absence of such controls, reductions in the availability of supply produce rising prices but do not produce lines. Hence, in the absence of such controls, the use of an emergency excise tax to prevent lines and guarantee availability would merely reflect confused policy. In the presence of some form of governmental price controls and the consequent gasoline lines during an emergency, an emergency excise tax could eliminate gasoline lines provided that the consumer were required to pay the pump price and the excise tax. The magnitude of the tax needed to do away with gasoline lines would be precisely equal to the price of a ration coupon under a white-market rationing scheme.

6. In general, emergency tax and ration plans would both have little effect on long-range conservation efforts because of their (presumably) temporary existences. Also, in general, the effects of a ration program on gasoline consumption habits would be identical with an appropriately selected gas tax (see answer to No. 3 above).

QUESTIONS POSED TO OMB DIRECTOR M'INTYRE

2. The use of the term "market-clearing" is appropriate here. The market-clearing tax rate (assuming some form of control on retail pump prices) would be equivalent to the price of a ration coupon under a white-market ration plan (see answer to Duncan question No. 3). Market-clearing conditions (i.e., no lines) do not have anything to do with rebate levels. In general a white-market ration plan would automatically guarantee the absence of lines, while a tax plan would require constant fine tuning of the tax rate to avoid gas lines.

QUESTIONS POSED TO CHAIRMAN (CEA) SCHULTZE

2. A tax set too high would not produce gasoline lines, but would induce too much conservation (i.e., too little driving given the costs and benefits of driving). Such a tax

would also tend to drive pump prices downward (i.e., below control levels) and would discourage production of gasoline and exacerbate the supply emergency even more than the governmental price restraints that produced the gas lines in the first place. A tax set too low would fail to eliminate all of the gasoline lines, but would not have any effect on total gasoline consumption since total consumption would be limited to the amount suppliers are willing to make available at *de facto or de jure* ceilings on prices.

(As noted in Duncan's question No. 3, a tax might still be used to restrain consumption in the absence of ceilings. "Too high" and "too low" would then have to be determined by a balance between the amount consumers are willing to pay for marginal gasoline supplies and the sum of all the costs the country bears to acquire or produce those supplies.)

3. Assuming a white-market in ration coupons, too few coupons would cause a higher coupon price, a lower pump price, reduced supplies of gasoline, a higher price of gasoline (pump price plus coupon price) to the consumer, and too little consumption. Too many coupons (assuming price ceilings at the pump) would cause some ration coupons to go unused, but would not affect overall consumption of gasoline. Too many coupons (assuming no price ceilings but a "just-right" level of consumption which is less than the unregulated market would allow) would result in too much consumption, a reduction in the consumer price (pump plus coupon) of gasoline, a rise in the pump price, and a fall in the coupon price.

4. In general, a white-market coupon rationing plan would provide greater (virtually perfect) assurance of availability to any consumer willing to pay the price than a tax plan. The white-market ration plan "fine tunes" itself automatically, while a tax plan will not automatically remove lines and ensure availability (see McIntyre question No. 2 above).

The Brookings Institution,
Washington, D.C., May 29, 1980.
Senator Charles H. Percy,
Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

Dear Senator Percy: I have your letter of May 23rd enclosing questions you have asked the heads of four Federal agencies about gasoline rationing and the alternative of a tax-rebate plan, and asking for my responses to any of the questions that pertain to my field of interest.

Let me say at the outset that, although I have written a paper (enclosed) on the relative merits of rationing and excise taxes as alternative means of restraining demand for specific products, I do not consider myself an expert on energy problems.

One main conclusion of the enclosed paper, applicable to any product, is that there is no difference in principle between a rationing plan in which ration coupons may be bought and sold and an excise tax the proceeds of which are rebated to consumers in the same way that the rations would be allocated. The only difference in principle is that under rationing the quantity is controlled and the market determines the total price (i.e., the sum of the money price of the product and the price of the ration coupons) while under an excise tax it is the quantity consumed that is determined by the market.

Before getting to the questions you asked the agency heads, let me mention that the demand that policy seeks to constrain is the demand for oil, not that for gasoline alone. Therefore, it has never made any economic sense to me to confine the restraint to gasoline alone; to do so shifts some of the demand for gasoline to oil products. (To illustrate one obvious but not the only form of competition between various uses of oil, if gasoline prices rise and the price of heating oil does not, people living in a cold climate who are discouraged by the high cost of gasoline from traveling by car, bus, or air to a warmer place during the winter will use more heating oil.) It may become administratively too complicated to ration all oil products but I have not heard any argument for confining a tax to gasoline that makes sense to me.

Now to the questions you asked of agency heads.

I am not undertaking any systematic analysis of the relative costs and benefits of a tax-rebate plan and a coupon rationing plan.

A possible advantage of rationing over a tax increase is, as mentioned above, that in some situations it might be necessary to control the quantity rigorously rather than to guess how much and how soon a tax increase would restrain consumption. This would be the case if inventories were low so that the quantity limitations would have to be promptly enforced and there was no room for error. I understand that this situation does not exist in the case of gasoline at the present time.

I do not know how large an emergency excise tax would have to be to enable us to endure a shortage resulting from the halting of crude oil exports from Iran or a shutdown of crude oil production in the Persian Gulf.

You asked Secretary Duncan whether a temporary gasoline tax could lead to more permanent changes in gasoline consumption habits than temporary rationing. I do not know the answer to this question, but I wonder why you pose both alternating as temporary. If the problem is expected to be a continuing one, which is my understanding, why should both alternatives not be envisaged as permanent? In general, to solve a continuing problem the tax method seems preferable to me; it allocates a product among consumers in the same way that most goods and services are allocated among consumers, i.e. through price.

I am not qualified to answer the administrative questions you asked Secretary Miller.

As to your second question of Secretary Miller (and your first question of Charles Schultze), on grounds of principle rather than administration, your option (d) would make the tax alternative identical in distribution effects to rationing with marketable coupons. That is one of the major points made in the enclosed paper. However, a reduction in Social Security tax withholding would have an advantage from the point of view of combating inflation. An excise tax would raise the Consumer Price Index, which would presumably add to the pressure for increases in money wages, and a reduction in social security tax withholding would tend to offset that effect. That effect on the Consumer Price Index would not occur in the case of lump sum payments.

In regard to the second question you asked of James McIntire, one could not have much confidence that the government could set the tax levels at market-clearing rates. In any case, it is practically certain that those levels would have to be adjusted over time. Presumably rations would also have to be adjusted over time.

With regard to the cost of administering a rationing plan, I have no special knowledge, but I have estimates that struck me as so high that I could not help wondering whether they were based on extrapolation of the costs of rationing gasoline during World War II. If they are so based, I should like to point out that the World War II rationing system differed from the one now contemplated in a way that may affect the costs. Unused ration coupons were not permitted to be bought and sold and, as a result, the limits on consumption were absolute and a good deal of effort resulted from the need to deal with individual hardship cases. With transferable coupons that should not be a problem. Therefore, if cost estimates for rationing now include a large allowance for dealing with such cases, they may be greatly exaggerated. I do not say that this is actually true of the current estimates because I am not familiar with their derivation, but the point is worth investigating.

Considering together the second and third questions you asked of Mr. Schultze, I think a tax or a rationing system would be discredited if the public regarded the restraint as excessive, but my guess is that a rationing scheme would be more discredited than a tax. In any case, there would always be arguments about what restraint would be "too much". Restraint greater than intended would permit either a more rapid building of inventories than was intended or a greater reduction in imports of crude oil than was intended and to some extent an offsetting greater use of other oil products than was intended, as refiners produced less than the intended amount of gasoline and more of other oil products. In any case, I should expect that adjustments would be required at more frequent than annual intervals.

A tax set too low would of course result in more consumption than was intended and either more imports or less consumption and production of other oil products.

A rebate mechanism which did not make payments until after the tax was imposed would have a repressive effect on total consumption by reducing the purchasing power of disposable income during the period of delay.

The distribution of too many ration coupons would affect the market price of the coupons and/or that of gasoline. The distribution of the effect between these two prices is too complicated a question to go into here.

Regarding the fourth question you asked Mr. Schultze, I see no difference in the effectiveness of the transferability feature of rationing with that of a tax-rebate plan to insure that businesses or individuals who need gasoline can acquire it at some price.

Sincerely yours,
Walter S. Salant,
Senior Fellow Emeritus.

U.S. Senate,
Washington, D.C., May 5, 1980.
Hon. John C. Sawhill,
Deputy Secretary,
Department of Energy,
Washington, D.C.

Dear Dr. Sawhill: I am pleased to hear that the Administration will shortly submit a revised gasoline rationing plan, as requested by the Congress a year ago. As you may know, I favor use of an excise tax over the more cumbersome rationing machinery, but I nonetheless hope that we can shortly have some kind of rationing plan ready for immediate use in case of emergency.

However, I am troubled by DOE's unofficial projections that this plan would take twelve months or longer to implement, even if all crude oil imports were stopped tomorrow. With events in Iran so unpredictable, and with the President raising the possibility of military action in the Persian Gulf, the risk is plain that the nation could face a very serious oil shortage as early as this summer—well before the rationing plan could be implemented.

If we suffer such a shortage, and if the Administration responds with nothing more potent than the retail gasoline allocation program, we might see gasoline lines, industry shut-downs, and even heating oil shortages far more serious than any we have encountered before. The President would have to do something right away, months before rationing could be imposed. Of course, state and local governments would be likely to impose some mandatory conservation measures, but they—like the rest of the nation—would look to the President for leadership during very troubled times.

I understand that the Administration has developed some contingency plans for this purpose—e.g., a "sticker plan" keeping every car out of use one or more days per week, and a "license plate plan" limiting gasoline purchases to once every 7 to 10 days. You may be reviewing some other ideas about which I am not aware. Whatever your list of short-term contingency plans, I trust that you are taking some actions now to analyze what their economic and other effects might be, to coordinate implementation strategies with representatives from state and local governments, and to shorten the lead-times needed to put them in place.

In order to put your soon-to-be-proposed rationing plan in proper perspective, I—and, I expect, many of my colleagues in the Senate and House—would like to have a clearer sense of what the President would do in the first year of a severe supply emergency. In particular, I am interested in learning what actions he might take within the first 90 days. I would also like to know what work is currently underway to develop and analyze plans of this kind.

I would appreciate it if you could send me your response by May 20. This would greatly aid my evaluation of the merits of rationing as you propose it. If you have any questions about this, please contact Jerry Block, Chief Counsel to the Minority of the Permanent Subcommittee on Investigations. He can be reached at 224–9157.

Sincerely,

Charles H. Percy,
U.S. Senator.

Department of Energy,
Washington, D.C., July 3, 1980.

Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Senator Percy: This is in response to your letter concerning the Department's plans for responding to a severe energy supply interruption during the standby gasoline rationing plan preimplementation period.

Since enactment of the Emergency Energy Conservation Act on November 5, 1979, the Department has concentrated its energy emergency planning efforts on developing responsive rationing and conservation plans. The standby gasoline rationing plan has been transmitted by the President to Congress, well ahead of the schedule contemplated by the Act. Because there are over 150 million licensed vehicles and because of the need to provide adjustments for priority and other uses, rationing is necessarily a complicated undertaking. We are preparing for the "preimplementation" planning activities which would follow plan approval and appropriation of funds by the Congress.

Should a severe energy emergency occur during the months necessary to complete preimplementation of the rationing plan, there are several actions that could be taken. Under the existing standby allocation authority the Department could provide for allocation fractions, which would have the effect of limiting the supply of gasoline to retailers. Moreover, gasoline consumption targets have been set for the States and they have been encouraged to develop conservation plans to support the targets. These voluntary targets could be made mandatory if an energy emergency occurred or were anticipated. Then, if the state targets were not met, measures prescribed in the Standby Federal Emergency Energy Conservation Plan could be imposed.

As part of the preimplementation activities, we will also examine rationing alternatives that would be suitable as interim measures until the standby gasoline rationing plan is in operation.

The Department has been assessing a variety of demand restraint measures which could be ready for use in case of an emergency during the preimplementation period. However, these measures, including the ones you mentioned—the "sticker plan" and the "license plate plan"—are in an early stage of development. They will require additional analysis before the Department can decide whether they should be developed into operational plans for possible implementation.

The Department has recently made several substantive management and organizational changes to assure that our planning and responses to energy emergencies will be timely and efficient. These changes include the creation of a Gasoline Rationing Project Office reporting directly to the Chief Financial Officer. This action will provide planning personnel with improved access to Departmental management and greater priority among available resources. The office is under the direction of Mr. Barry Van Lare, Special Administrator for Gasoline Rationing. We have also consolidated the Department's contingency planning activities into the Office of Contingency Planning under the direction of Mr. Bart House, Deputy Administrator, Economic Regulatory Administration. This office is currently developing response plans for a wider range of energy emergencies.

I appreciate your concerns and assure you that we are continuing to develop response options and to prepare for the possibility of an energy emergency.

Sincerely,

John C. Sawhill,
Deputy Secretary.

House of Representatives,
Washington, D.C., July 28, 1980.

Re: There's an Alternative to White Market Coupon Rationing—the Green Market That Already Exists.

Dear Colleague: We all recognize that the emergency gasoline rationing plan would be an unmitigated national nightmare. To wit:

Bureaucracy—It would require a new $2 billion, 20,000 person Federal-state administering agency;

Still Not Ready—After 5 years of work, debate and expensive studies, DOE says it still couldn't get coupons on the streets for another 14 months because too many design features are unresolved and too much data is unavailable;

National Casino—If effective, it would create a wild-west "white market" in which up to $60 billion worth of coupons would be traded every 90 days, transforming Main Street into a vast casino of brokers, traders, coupon sharks, counterfeiters, theft rings and 24-hour per day auctioneering;

Junkyard Millionaires—It would make every junk car that rolls worth $1,000 annually in coupon allotments, and would "solve" the line problem by shifting them from the gas pumps to the bank window;

Wealth Redistribution—It would result in vast flows of wealth from the countryside to the cities, from single-car families to multi-car families, from producers to speculators—in short, spur a reshuffling of the nations' wealth not on the basis of need or merit, but according to the logic of Monte Carlo;

Special Pleading—It would escalate the politics of allocation and special privilege to a fever pitch. Businesses get extra coupons based on "historic use," but there would be 2 million relief petitions contesting the proper "base period;" agriculture, taxi cabs and emergency vehicles get priority status, but what about plumbers, drug company delivery trucks, insulation factories and defense contractors? States will get a 5 percent reserve for "hardship cases," but how can the relative claims of hardship be sorted out, for example, among California's 15 million drivers?

Numbers Noise—States get coupon allotments on the basis of the number of registered vehicles modified by historic use; but due to seasonable and growth factors, externally originated traffic and changed driving responses to crisis conditions, this formula produces not a plausible allocation of supply, but simply random statistical noise.

With all these defects of design, function and impact, supporters of emergency rationing authority have again retreated to the defense of last resort—"managed chaos" is better than the alternative, they insist. But before you concede the argument and cast your reluctant vote on the basis of whether the plan contains a rough semblance of equity between New York taxi drivers and Kansas wheat farmers, I urge you to take one last look at the big picture. Specifically, I would contend that . . .

There is now a strong case, due to changes in domestic petroleum policy and world market conditions, that there is no longer any conceivable shortage or supply interruption scenario in which a coupon rationing plan would work or make any significant difference.

This conclusion follows from four basic features of coupon rationing in the context of a severe supply shortage.

1. Rationing is designed to redistribute bushels of money not barrels of gasoline. In the context of a 20 percent shortage there is no way the government can prevent the scarcity value of gasoline from rising to roughly $3–$4 per gallon. The purpose of rationing is simply to prevent huge windfalls to suppliers of gasoline and massive losses to consumers by creating a two-tier market: gas would be sold at the pump at its low, pre-crisis price (e.g. $1.30 per gallon) but the legal right to fill-up (coupons) would be traded at its full scarcity value ($3–4 minus the controlled pump price). The effect is to shift the financial windfall from gasoline suppliers to consumers with extra coupons, and to mitigate the financial losses to consumers who can get by on their minimum allotment. But this whole system for creating a two-tier market and shifting windfalls from suppliers to consumers will be totally ineffective unless there is an ironclad price control system at every stage of the gasoline market from dealers through jobbers, refiners and domestic producers.

2. The domestic price control/allocation underpinning for coupon rationing is being dismantled and will completely disappear by September, 1981, pursuant to permanent national policy of petroleum decontrol. Yet unless gasoline price controls and the whole apparatus of refinery entitlements, supplier-purchaser freezes and base period allocations is put back on the statute books on a standby basis in the next 10 months, emergency rationing will have no impact—pump prices will quickly rise to $3–$4 per gallon and coupons will be worthless. Moreover, attempting to activate standby petroleum market controls from a cold start in the context of turbulent post-crisis markets would be like trying to change a tire on a car traveling at 45 mph.

3. The world market will beat DOE to the gas pumps in a decontrolled domestic market. Experience during the Iranian crisis of 1979 demonstrates that in the event of major supply outages, OPEC posted prices and non-OPEC contract rates would crumble immediately under a barrage of surcharges and premiums driven by a world-wide scramble for supplies and inventory build-up. In a decontrolled U.S. market, the $60–$70 per barrel oil price which would be reached on world market within weeks would be quickly transmitted to the crude price in Texas and the pump price in Los Angeles. Under these

circumstances, the U.S. government would have two choices: drive down the price to pre-crisis levels with an unwieldy domestic price control/allocation system, or capture the massive extra revenues with a tax mechanism.

4. The existing Windfall Profits Tax will generate $50 billion extra annually under a 20 percent shortage. If the world price surged from its present $32 level to a predictable range of $60–$70 under the postulated 20 percent supply outage, the Federal government would collect nearly 60 percent of the extra revenues on domestic production under the existing windfall tax mechanism. At current production rates this would mean $12 billion every 90 days. By contrast, if the coupon rationing system and iron-clad domestic price controls were effectively imposed, despite the insuperable obstacles, these revenues would not be available because domestic crude prices would be held to the precrisis level.

These considerations suggest a far more logical emergency management approach: instead of relying on a coupon white market based on an untested, not yet ready-for-prime-time, bureaucratic contraption, why not a "green market" based on marketplace, taxation and government income support mechanisms that already exist and already work? Specifically, I would propose the following answer to those who say there is no alternative:

(1) Let the marketplace distribute the available barrels of gasoline;

(2) Siphon off most of the emergency revenue windfall with the windfall profits tax, which will work automatically;

(3) Mitigate consumer hardship by distributing these revenues during the crisis period to consumers through lower Federal tax withholding, increased Social Security and assistance payments and direct subsidies to business sector hardship cases;

(4) Aggressively build up the strategic reserve to lessen the shortage impact in the first place.

There is an alternative to emergency gasoline rationing. I urge you to vote "no" on the standby rationing plan so that we can move forward to plans that have some prospect of meeting the nation's emergency needs.

With all best wishes, I am

Yours very truly,

Dave Stockman,
Member of Congress.

U.S. Senate,
Washington, D.C., July 30, 1980.

Dear Colleague: Today at 2:00 P.M., I shall introduce a motion to disapprove the Administration's gasoline rationing plan.

Over the past several years, we have all become increasingly concerned about the vulnerability of the United States and the rest of the free world to disruptions in the flow of oil. During the 1980's, these disruptions are likely to become more frequent and more severe, and we cannot afford to remain unprepared.

The sad truth, however, is that we are little better prepared than we were seven years ago, at the time of the 1973 oil embargo. This was dramatically brought out during two days of hearings recently held by the Permanent Investigations Subcommittee of the Governmental Affairs Committee. A look at our nation's contingency plans reveals an unfilled strategic reserve, a lack of adequate plans to accelerate energy production, a gasoline allocation program that cannot cope with gas lines, and a set of standby conservation plans that are tangled in procedural knots. On top of all this, we are being asked to accept a costly and unworkable gasoline rationing plan that is more likely to exacerbate our problems than to relieve them.

I do not feel that the coupon rationing plan proposed by the Administration should be allowed to become law because it is "better than nothing." This plan is worse than no plan if it lulls us into a false sense of security. We should not delude ourselves into believing that just because we have a rationing plan available, it will work when called upon. In my view, this plan is little more than a "Maginot Line," an elaborate and expensive papier maché defense against a very real threat.

Here are some of the fundamental problems I have with the proposed plan:

First of all, this plan would require at least 14 months to implement, once the initial $103 million has been appropriated. Even the Administration admits that it would take another three months to implement the plan in the event of a national emergency, though I feel this to be overly optimistic.

Secondly, the costs of the plan would be enormous. In addition to pre-implementation of $103 million, another $50 million per year would be necessary to keep it in an alleged state of readiness. Actual implementation would cost an estimated 2 billion dollars per year.

Finally, the plan is so complex and requires such a large bureaucracy that I have serious doubts about whether it would even work. In view of the Department of Energy's past failures in handling spot shortages, I feel it is unreasonable to expect that the DOE could successfully distribute tens of billions of dollars worth of negotiable coupons to the owners of 153,000,000 cars (4 times more than during World War II rationing), and then eventually collect them from 150,000 gas stations.

There are some alternatives to coupon rationing which the Administration is now getting around to considering. They are simpler, speedier, less expensive, and more workable, mainly because they would require neither a vast bureaucracy nor the creation of a second currency. If we disapprove this plan today, we can get on with the necessary business of developing realistic emergency plans that will serve our purposes when the need arises.

To me, this issue is much larger than whether this plan, standing alone, deserves our endorsement. We *have* to move energy preparedness higher on our nation's list of priorities. The contingency planning work done to date by DOE is totally unsatisfactory. By disapproving this plan, we can send the message that we no longer intend to sit idly by while our economy and national security remain in jeopardy.

At 2:00 PM today, July 30, I shall move to discharge S.J. Res. 185, a resolution of disapproval, from the Energy Committee. This motion will allow the rationing issue to be debated for one hour and voted on by the full Senate. If the Senate votes to withdraw the resolution from the committee, I would be prepared to vote the resolution up or down immediately or enter into a limited time agreement.

If you have any questions about this issue, please call me at 42197, Paul Meagher at 41462 or Bill Strauss at 43586.

Sincerely,

Charles H. Percy,
U.S. Senator.

Mr. PERCY. Mr. President, what I have said does not detract at all from my recognition of the problems faced by Mr. Duncan and Mr. Sawhill, and others in the Department of Energy. I consider them extraordinarily competent and able men. They have inherited a grave, grave problem, and they have been busy putting out emergencies. But they have not had the time to personally devote to the kind of contingency planning that really is necessary in the future.

I do hope that this colloquy and the discussions we will continue to have in this deliberative body will cause the Department of Energy to address the kind of priority and assign the kind of priority that should be assigned to contingency emergency planning in view of the perilous situation faced by this country.

Mr. JOHNSTON. Mr. President, I yield to the distinguished chairman such time as he may desire.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources has been, since its inception, concerned about the state of energy contingency planning in this country. Even before the inception of the Energy Committee, its predecessor, the old Interior Committee, was instrumental in enactment of the Energy Policy and Conservation Act of 1975 on December 22, 1975 which mandated that the President develop energy conservation contingency plans including a coupon rationing plan. That plan, as you know, was submitted by the President and approved by the Senate on May 9, 1979, but defeated by the House.

The Energy Committee—and I should say, Senator Johnston and Senator Domenici in particular, conceived and developed the Emergency Energy Conservation Act of 1979 which provided for the establishment of targets for States to reduce their energy consumption during an energy supply disruption. That act emerged from conference with a second mandate to develop a rationing plan and was enacted on November 5, 1979.

Mr. President, my personal belief in the importance of energy contingency planning in this country is as strong as ever. Our committee has held extensive hearings on the geopolitics of oil and the picture that emerges is sobering. In many ways, the situation is more unstable today than it was 5 years ago when the Congress first mandated the development of a rationing contingency plan. I believe that a major disruption in energy supply to this country is highly probable in the foreseeable future. That is why, Mr. President, I am at a loss to understand this effort to discharge the Committee on Energy and Natural Resources of Senate Joint Resolution 185. I am reluctant to say this to my colleague, but this effort to kill the rationing plan can only be characterized as irresponsible.

Five years ago the Congress first mandated that the President submit a rationing plan to the Congress. The period for congressional review ends in a few hours. Literally on the eve of the plan being placed in readiness, we are now told that we should scrap, not only this plan, but the entire approach of coupon rationing. Never mind that the Senator advocating this motion to discharge voted with a majority of the Senate to direct the President to submit a rationing plan to the Congress just 9 months ago. Never mind that a majority of the Senate including the Senator advocating this motion to discharge voted on May 9, 1979, to approve the last rationing plan submitted by President Carter to the Congress.

I have the highest respect for Senator PERCY. His record as an advocate of energy conservation is respected nationwide, but I must disagree with him on this issue.

What is the alternative to coupon rationing that we are asked to consider?

The exact alternative is not stated but we are told it will involve gasoline taxes. The real alternative to this rationing plan is no contingency plan at all, because I do not believe that the Congress is going to approve emergency gasoline taxes of several dollars per gallon anytime soon, even if it is rebated. Few of us are enamored of gasoline rationing. But we know that it is preferable to no plan at all, because that would entail long lines at the pump or shortage profiteering and more of the kind of violence that we have already witnessed in two shortages.

For those who believe we can do better than gasoline rationing, the responsible approach is clear. Put this rationing plan in place, on the shelf, and then consider alternatives.

Finally, let me say that it is incorrect to characterize this contingency plan as President Carter's rationing plan. The approach of coupon rationing was mandated by the Congress twice; the last time in the Emergency Energy Conservation Act. That act spelled out in considerable detail how the plan was to be structured. I see no evidence that the plan submitted by President Carter fails to comply with the instructions provided by this Congress. To my knowledge, no one has offered any evidence of substantial noncompliance with the congressional mandate.

Therefore, Mr. President, there is no justification at this late hour to discharge the Committee on Energy and Natural Resources of Senate Joint Resolution 185.

Mr. JOHNSTON. I yield myself 5 minutes.

Mr. President, I agree with the Senator from Illinois that this plan is unfair, inequitable, expensive, and takes too long to implement.

I also tell the Senator from Illinois that any plan of gasoline rationing is going to be unfair, inequitable, and expensive, and I hope we can get another plan that we can implement more quickly.

I agree with all the criticism of this plan, but it is the only one we have; and we must have a plan in place if the crisis comes.

We are like a man on a rickety trapeze. He wants to get off—and I want to get off this plan—but not until the next trapeze comes along. Otherwise, we could be squashed on the circus floor. Whereas some would like to see me or perhaps some of my colleagues in that condition, we are talking about the Nation.

The problem here is that when we first passed this gasoline rationing plan in 1975, it looked like we would never have a crunch. It looked like one of those things in the misty future that would not happen. But now, as we look at the contingencies, they are real. Blockade of the Strait of Hormuz, fall of the house of Saud, further revolution in the Middle East—any one of a number of things could happen to trigger the need, the absolute requirement, for gasoline rationing. When that happens, we must have a plan in place.

This plan happens to have been in the making for 7 years, under three administrations. It is not President Carter's plan. This particular plan, as a matter of fact, was submitted in compliance with a statute put together by a bipartisan group in the Energy Committee, the Republican side being headed very ably by the Senator from New Mexico (Mr. DOMENICI). We have had hearings on two versions of the rationing plan. I believe we passed it once in the Senate and now are considering a rationing plan for a second time.

This particular plan was resubmitted by the President on June 12, 1980, in order to accommodate the very detailed changes which we in Congress made in the mandate for a gasoline rationing plan in the Emergency Energy Conservation Act. As a matter of fact, that earlier plan was passed with bipartisan support in the committee; and, if my friend from Illinois will forgive me for saying so, it was passed with his vote as well.

We have a better way to do it, I believe, and I appreciate the fact that the Senator from Illinois has cosponsored my S. 2570, which he has described accurately. We are going to hold hearings on that bill before a Subcommittee on Finance chaired by the Senator from Virginia (Mr. HARRY F. BYRD, JR.). As soon as the conventions are over, we are going to have full-fledged hearings.

We are a long way from getting that bill passed. It involves a long, educational process, and then we may not be able to get it passed. I hope we can.

We dare not leave the Nation with no rationing plan. This is the only one we have. We must keep it in place. If we do not, we put the Nation at great risk.

Mr. President, I hope the Senate will recognize that we have to have a plan in place and will vote against the motion to discharge.

Mr. DOMENICI. Mr. President, will the Senator yield 4 minutes?

Mr. JOHNSTON. I yield 4 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I agree with the Senator from Louisiana that plenty of things are wrong with this rationing plan. But that really is not the point.

We had a proposal that directed the President to send us a rationing plan. We found basic policy faults with it. We threw it out. We modified the law. We insisted on historic use. We insisted on agricultural priority, energy production priority, and a trigger, so that this only would be an emergency plan, not a plan that could be used to allocate long-term shortage.

All those items were included in the amendments in the substantive law, and it was passed hereby a compelling vote. Then the President and his Secretary and Deputy Secretaries have tried their best to deliver to us a plan that they will then implement, to have a rationing plan on the shelf.

My reason for supporting it is very simple. I do not want to be without any rationing plan in the event the United States of America finds itself in an energy disaster. Everyone should know that nobody has invented a plan that can be implemented—at least, a coupon rationing plan—in less than 15 months. When we finish here today, we have to hope that we do not have this disaster before 15 months.

One hundred and fifty million vehicles would have to get coupons to allocate this 20 percent shortage or face an absolute disaster in the streets of America. That is what that kind of plan takes in manpower, computers, and all kind of management skills in order to bring it about.

So if you want to defer, you are deferring not this plan, but you are deferring any plan that presently is authorized, until we pass one, plus the 15 months. I, for one, am not willing to take that chance.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. MELCHER. I am in the dark. The only time I saw any charts that showed how much each State would get per vehicle, Montana got not only less than New Mexico, less than Louisiana, less than Illinois, less than Washington, and less than Maryland, but also, to add insult to injury, less than the District of Columbia, where there is more mass transit, more taxicabs, and availability of transportation, than there is in any part of my State of Montana.

Do we have anything that shows us, right now, what each vehicle would receive, under this plan, in our respective States?

Mr. DOMENICI. I do not believe we do. We have what the Department of Energy was able to put together, based upon historic use information. There is no doubt that since we did not develop our informational data bank based upon coming up with a rationing plan, the facts are deficient. But I believe that every effort has been made to find the historic use in the State of the Senator from Montana and in my State for a reasonable period in past history, and then to attempt to apply that to this plan.

It is hoped that we never will need to implement the plan. But the plan provides a mechanism by which, as the facts are developed and the implementation stages occur, the goal is an equal percentage reduction of historic use.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. JOHNSTON. Mr. President, I yield 1 additional minute to the Senator from New Mexico, to be followed by 5 minutes to the Senator from New Jersey, and to be followed by 5 minutes to the Senator from Arkansas.

Mr. MELCHER. I thank the Senator from New Mexico for his answer.

I only regret that we do not have that information before us. It is pretty difficult to vote on something in the dark. I wish we had it available so that we could review that again—up to date.

Mr. DOMENICI. I think the process for implementation will yield the kind of information and I really do not think this President or any President under the basic generic law is going to be able to play any kind of politics with the State. We built the rules into the bill, and I believe it is going to be as even-handed as any plan of this kind of dimension can be.

I repeat that I wish we did not have to even be considering such a tremendous management problem for such an essential thing as our automobiles, our trucks, and our mobility.

But the truth of the matter is there is no other game in town. In the event of a 20-percent shortfall disaster will occur, and that is the trigger, 20 percent. That is what we are talking about to put this kind of plan in if we are 20 percent short. But if we do not decide to give someone authority to get ready and the event occurs, then there is no game, no plan, and no management skills that I know of that will take care of the problem that is going to ensue here in the United States.

I am hopeful as the months toward implementing this pass we will find some better ways that are not predicated upon coupons, are not predicated upon individual unit allocation, but some other marketplace mechanism. But at this point we do not have it.

So, I urge that the Senate defeat the Percy resolution of disapproval. We will have ample opportunity for oversight in appropriations, oversight in the Energy Committee and other committees, but we should get started down this very difficult 15-month path toward having a plan that could be used.

Mr. MELCHER. I thank my friend again.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, this country faces a very clear and present danger in increased probability of oil supply interruption.

Mr. President, the facts are well known to all Members of the Senate: We get 25 percent of our oil from the Persian Gulf; our allies get close to 60 percent of their oil from the Persian Gulf. The likelihood of an interruption is dramatically high.

We have had two in the last 6 years. The probability in the next few years is that there will be another interruption.

Therefore, what this Congress must do is address the issue of contingency planning, specifically address ways to counter the increased probability of an oil supply interruption and counter the damage that that increased probability will mean for our economy if that interruption should occur.

Specifically, there are a number of policies. One is the strategic petroleum reserve. The strategic petroleum reserve will be filled starting in another few months at 100,000 barrels a day or more.

I wish to ask Senators to check their voting records on that. I wish each Member of the Senate to see where he came down on this great budget debate of last year when the Senate voted not to give the money for the purchase of the strategic petroleum reserve.

And if I may say so, Mr. President, in all respect for my colleague from Illinois, he was not there on that budget vote.

So one issue is the strategic petroleum reserve.

The second way to counter that is through some form of tax, either a disruption tariff or a steady State gasoline tax.

Mr. President, we all know the history of the great import fee gasoline tax in this body. There were but 10 or 12 Senators who came forward to say, yes, we believe that a threat of an oil supply interruption is sufficiently large that we are going to vote for a gasoline tax.

Mr. President, I do not think there are many Senators who will support this amendment who could be counted among that small group, and I know the argument. The argument is we would have voted had it been a 50-cent tax or had it been a $1 tax.

Mr. President, I wish those Senators who voted against the 10-cent tax and who oppose this rationing plan today would stand up in the Chamber today and say they are prepared in the new Congress to vote for a 50 cents, 75 cents, $1 gasoline tax.

So, Mr. President, contingency planning involves the strategic petroleum reserves. It involves the steady State gasoline tax or a disruption tariff.

Or, finally, Mr. President, it involves a rationing plan, a rationing plan which as every Senator who has spoken is clear to state is not perfect, a rationing plan which will involve thousands of local car boards, will involve 5,000 Federal employees, will not deliver coupons to 20 percent of the American people, any number of problems.

But it is the only thing we have at this time and in the absence of commitments from Senators who will oppose this rationing plan, I give them the same choice as I did in the strategic petroleum reserve debate, and that is should the crunch come next month or 6 months from now and the constituents of their area ask them what have they done, if they have voted against the strategic petroleum reserve, against the gasoline tax, against the disruption tariff and for discharging and disapproving of the rationing plan that is before Congress, I would say that they as Senators have a dismal record on the most critical issue facing our country today.

I hope my colleagues will see that although the distinguished Senator from New Mexico, an outstanding member of the Energy Committee, is a stalwart supporter of the rationing plan, for the very reasons that I mentioned today we should look carefully if there is not a whiff of partisanship in this vote. I hope not.

I hope we are not trying to try to embarrass the administration on such a critical issue on the eve of a convention. I hope that Senators are more responsible than that and that they can really get up today in the Chamber and argue why a rationing plan should not be accepted, a gasoline tax should not be accepted, and a disruption tariff should not be accepted and why they voted against a maximum fill of the strategic petroleum reserves.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, the Senator from Connecticut (Mr. WEICKER) and I have been fighting for gas rationing in this country for 4 years now.

In 1976, I first proposed it, and we received 15 votes. I might say they were quality votes as I look back over the list. But Senators were not in the mood for it then. Congress is still not in the mood for it, and it seems to me that the argument of the Senator from Illinois goes to this point.

As an aside, I should note that the Senator from Illinois is usually on the side of the angels, and I am disappointed that he wants to disapprove this rationing plan. It seems to me that his argument is that doing nothing is better than doing something because, No. 1, this something is complex, No. 2, it is expensive, and No. 3, it will take a long time to implement.

There are very straightforward answers to those three objections raised by the Senator from Illinois. The cost might run as high as $2 billion, but even if it does, that does not compare with a savings of $18 billion worth of imported oil a year.

If we assume we are importing 7 billion barrels a day at 20 percent shortfall, a 20-percent savings would be 1,400,000 a day and at $35 a barrel that translates into an $18 billion annual savings.

The trade deficit of the United States this year is now calculated to run $38 billion, as opposed to last year's horrible $24 billion, and inflation continues unabated for that very reason.

Of course, it is complicated. Of course, it will require bureaucracy. Of course, the plan is not perfect. But the next one will not be either.

The sad state of the economy in this country is primarily due to two factors. The first is that we have no control over what OPEC charges us for energy, and, because the President made the miserable and colossal mistake when he said with one stroke of the pen of decontrolling domestic oil prices, not only can we not control what the Arabs charge us for oil, we are going to allow the American oil companies to take advantage of that by charging us the same amount for our own oil. CBO says that about 5 to 7 percent of the inflation in this country is due directly to energy pricing.

The second reason the economy is in such a deplorable state is that the automobile industry, which is now faltering badly, worked in 1977 to defeat the Metzenbaum amendment, that he and I and a few others fought to get through the Senate, to mandate fuel-efficient automobiles. The automobile industry said in 1977, when they killed it in the House of Representatives, "The American people don't like these little cars," and the Japanese and the Germans were unloading them on both coasts as fast as they could get them off ships, and American people were, and still are, standing in line to buy them.

Rationing is an unhappy solution, but

I will tell you one thing about rationing, it is fair and it is certain. Everybody would be treated equally, and you can decide precisely how much you want to save. You may decide you want to save 30 percent instead of 20 percent.

We have reduced demand in this country. Gasoline demand is down on the order of 10 percent this summer from last year. That is because of two things: price and more people driving small cars.

However, we will not solve the basic problem through the pricing mechanism.

It is the cruelest method of all. Let me say, without denigrating a single Member of this body, that if the Senators of the U.S. Senate had to work for $15,000 a year, which is about the median family income in this country, you would hear a lot less about the price of gasoline going to $3 a gallon.

The debate on this plan is unfortunate. We are debating whether to approve a plan merely to put it on the shelf. We should have approved it in 1976, and we ought to be implementing it immediately. The American people would love it.

One of the reasons for the so-called malaise in this country is that the American people have decided that neither the President nor the Congress is going to ask them to do one thing about this, and we have not.

I would like to point out that I introduced a right-turn-on-red piece of legislation DOE said that would save 12,000 barrels a year.

Well, Mr. President, you are not going to encourage people to drive even smaller cars, you are not going to encourage mass transit. You are not going to bring about any of the things we have to do to get control of our energy independence through the pricing mechanism, and you are not going to do this through disapproving this resolution.

Without rationing, we are headed for, as we have been headed for ever since the OPEC cartel was invented, the worst of two worlds, exorbitant prices and total dependence on an imported source of energy. Eighty-five percent of the American people have said they can drive 10 percent less than they are driving now without inconveniencing themselves.

Yet I can assure the American people that no one in Washington is even going to ask them to do it.

I yield back the remainder of my time.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. BENTSEN). Who yields time?

Mr. PERCY. I yield 5 minutes to the Senator from Minnesota.

Mr. MELCHER. Will the Senator from Illinois yield me 3 minutes after Mr. DURENBERGER has finished?

Mr. DURENBERGER. Mr. President, I thank the Chair.

Mr. President, I rise today to join my colleague, Senator PERCY, in opposing the gasoline rationing plan offered by the administration for standby status.

Mr. President, I opposed the rationing plan offered by the administration last year for two reasons. At the time I indicated that I might in the future vote to approve a plan, if these two infirmities were corrected.

The reasons I opposed the plan last year were two: First, it did not include any provision to assure that it would go into effect only in periods of the most severe shortage. That problem has been corrected in this new plan. In legislation passed by this Congress last year, we authorized implementation of the plan only if the United States realized a petroleum shortage of 20 percent or more and that shortage lasted for at least 30 days.

Mr. President, I think this limitation is most appropriate, because gasoline rationing will greatly disrupt normal petroleum markets and impose serious burdens on selected parts of our economy. Shortages that are small or temporary can be more equitably and more efficiently met with other responses, including the allocation system now in place and the usual market clearing mechanisms.

The second reason that I opposed the 1979 plan was that it allocated coupons based on vehicle ownership. Mr. President, I believe that vehicle ownership as a criterion for allocating coupons is extremely unfair.

The Senator from Montana earlier reflected appropriate concern for the accuracy of vehicle ownership information. What we have are the data from the Department of Energy, and this presented to us in support of this plan indicates that vehicle ownership is closely associated with famly income.

Now, rationing, as the Senator from Arkansas has pointed out, may be certain but this rationing plan is not fair.

Those Americans who are better off economically own more vehicles, and nobody ought to be surprised by that fact, and no one should propose that we distribute ration coupons, coupons which will have monetary value in white markets under this plan, in a way that would add to the economic advantages already enjoyed by some Americans.

The DOE data also indicates that business concerns would be net purchasers of coupons in the white market. These coupons are expected to have considerable value, with estimates as high as $1 per gallon. Business will most certainly raise prices to cover the cost of coupon purchases and these higher prices will be paid by all Americans whether they own automobiles or not. But only those with automobiles will be able to offset the price increases by selling coupons in the white market.

Mr. President, the distribution of rationing coupons on the basis of vehicle ownership is most unfair. It caused me to oppose the 1979 rationing plan. This new plan has the same feature, and I will thus be voting once again to deny standby status to the administration's rationing proposal.

The debate on gasoline rationing is now more than a year old. In that time, some Senators have come to new views on the rationing proposal. I might note that the change in attitude seems also to apply to members of the administration. It is known that the Secretary of DOE will accept this rationing plan only reluctantly. He is not confident that it can be fairly and efficiently administered.

There are also rumors that the Carter administration is considering other approaches to meeting the exigencies of an energy shortage. Some of these proposals, like Senator BRADLEY's, and others like the standby gasoline tax, deserve careful consideration by this Congress. It is my hope that we will actively and aggressively explore not compromises to the original administration plan but alternatives to rationing because I am certain that this plan, a plan essentially the same as the plan rejected by Congress last year, cannot do the job.

I hope the year-long debate on gasoline rationing has been an eye-opener for my colleagues in the Senate. I hope the testimony indicating that rationing would take up to 15 months to implement, as Senator DOMENICI pointed out, will convince my colleagues that gasoline rationing will not be an effective response to an energy shortage.

I hope the testimony indicating that rationing coupons may have a value as high as $1 will convince my colleagues that gasoline rationing is no solution to the dramatic price increases that occur during a shortage. I hope that the growing realization that gasoline rationing will be an unfair, inefficient, unworkable, and untimely response to a shortage has taken hold with a majority of this body, and that we will today vote to approve the resolution of disapproval.

Mr. PERCY. I thank my distinguished colleague for his very discerning comments.

I yield 3 minutes to my distinguished colleague from Montana.

Mr. MELCHER. Mr. President, I thank my distinguished colleague from Illinois.

I want to say at the outset that I am for conservation and for the national petroleum reserve, have been for a long time. I am for the development of alternative energy supplies rather than using nonrenewable resources such as oil.

I am also very much for drilling for new oil and gas wells in this country. So I am for many of the things my friend from New Jersey is for, and my friend from Arkansas is for, and my friend from Louisiana and my friend from New Mexico, who had spoken on this subject previously, and for this plan.

But I am certainly not for this plan. I think one of the weakest arguments that could be made to advance this plan is to say, "Well, it is the only plan that is around. Therefore, we have got to buy it, we have got to have it." I think that is a pretty weak argument. It is a very sad commentary on our lack of decent energy policy in this country.

I believe we should refuse this plan outright and get a better one, a much better one, hopefully one that really uses local control a lot more than this plan would.

Second, we ought to have a plan that is going to cost a lot less. Just imagine, it is going to cost $103 million to get this thing started, and after you get it started, it is going to cost at least $2 billion a year. You know, we scrounge and scrape around here all year trying to find how we can get some more research and development money for some alternatives to wasteful uses of energy.

I do not know how many hours I spend just trying to get a few million dollars—just a few million dollars extra for magnetohydrodynamics research and development for coal.

But all of the sudden, the Department of Energy—I should not say "all of the sudden"—it has taken them a long time to get here. But they have a plan for using $2 billion a year just to ration gas, just to send out these coupons.

Well, "Under the plan"—and I am quoting from the DOE news release—"Under the plan, rationing checks would be mailed to each motor vehicle registrant every 3 months." Everyone that had a vehicle registered in this country would get those coupons mailed out to them. I think it is a lousy plan.

Now is the time to do a better job. There are adequate supplies right now. There are adequate supplies of crude. There are adequate supplies of stocks and now is the time to insist with the Department of Energy, when there is not any gasoline shortage, when we know we are in the clear for a few months, for us to look at a much better plan.

The PRESIDING OFFICER. The Senator has used his 3 minutes.

Mr. MELCHER. Mr. President, I ask the Senator for 1 additional minute.

Mr. PERCY. Mr. President, I yield 1 additional minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. MELCHER. Mr. President, there is time to do it now and we owe the country and ourselves the right to ask and demand a better plan. The only way to get that, I am afraid, is to reject this one; just reject it and tell them to go back to the drawing board.

I do not believe, if we let it go by, that somehow the Department of Energy will keep working with it and refine it and come up with something better. I do not believe that. I believe they will just put it on the shelf. As some of the proponents have said, "Something to have on the shelf in case we need it."

I believe that is what they will do. They will put it on the shelf and they will not improve it. I hope we reject it. We cannot even find out how much our State people could expect to get per month per vehicle. I suppose that is true of other States, too.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PERCY. Mr. President, I yield 3 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator from Illinois yielding to me. I congratulate him on taking the lead on this issue. He is 100 percent right, in my judgment in the arguments he has stated so well. Really, there is little I can add to them.

This rationing plan is costly, it is inefficient, it is unfair, and it is unworkable. It cannot possibly succeed. It cannot describe anything to make this Nation energy self-sufficient. All it can do, if it is ever implemented, in my opinion, is to make an existing bad situation worse.

I think it is instructive, as Milton Friedman pointed out in his book "Free to Choose," that at the time of the last OPEC embargo, there were long lines at the gas stations in this country, but no other nation, not in Germany and not in Japan, where they are 100-percent dependent on imported oil. The reason is that they did not have the regulatory bureaucracy that we have in this country. The market was free to allocate the existing scarce supply.

That is the answer to this problem. Let the market do the job. So the bottom line, really, comes down to this: Do we trust the Department of Energy to plan and administer a critical resource such as fuel? Those who do will undoubtedly favor this rationing plan. The Senator from Colorado does not.

In fact, I happen to believe that, if we were to put the Department of Energy in charge of the Sahara Desert, within 2 years we would have a shortage of sand and, not long after that, there would be a proposal surfaced to ration sand.

I think this is preposterous and I think most Senators know that this plan is unworkable. While I do not expect that the motion proposed by the Senator from Illinois will carry, I think history will record that his is the course of wisdom and good judgment. I am proud to support him in this effort.

Mr. PERCY. I thank my able colleague. His vision and foresight in looking ahead to events has been demonstrated before on many occasions. I appreciate his support in this instance.

Mr. President, I yield myself the balance of the time remaining to me.

At this very moment, the House is debating this same issue and will vote at about 4:45. The fight on our side of this particular issue against the gasoline rationing plan developed by the Carter administration is being led by two extraordinary able colleagues of mine, Mr. DAVID STOCKMAN, a Congressman from Michigan, and CLARENCE BROWN, a Congressman from Ohio.

Mr. President, I ask unanimous consent that an extraordinarily fine "Dear Colleague" letter written by DAVID STOCKMAN to his colleagues in the House be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., July 28, 1980.

Re There's an Alternative to White Market Coupon Rationing—The Green Market That Already Exists.

DEAR COLLEAGUE: We all recognize that the emergency gasoline rationing plan would be an unmitigated national nightmare. To wit:

Bureaucracy.—It would require a new $2 billion, 20,000 person Federal-state administering agency;

Still not ready.—After 5 years of work, debate and expensive studies, DOE says it still couldn't get coupons on the streets for another 14 months because too many design features are unresolved and too much data is unavailable;

National casino.—If effective, it would create a wild-west "white market" in which up to $60 billion worth of coupons would be traded every 90 days, transforming Main Street into a vast casino of brokers, traders, coupon sharks, counterfeiters, theft rings and 24-hour per day auctioneering;

Junkyard millionaires.—It would make every junk car that rolls worth $1,000 annually in coupon allotments, and would "solve" the line problem by shifting them from the gas pumps to the bank window;

Wealth redistribution.—It would result in vast flows of wealth from the countryside to the cities, from single-car families to multi-car families, from producers to speculators—in short, spur a reshuffling according to the logic of Monte Carlo;

Special pleading.—It would escalate the politics of allocation and special privilege to a fever pitch. Businesses get extra coupons based on "historic use," but there would be 2 million relief petitions contesting the proper "base period;" agriculture, taxi cabs and emergency vehicles get priority status, but what about plumbers, drug company delivery trucks, insulation factories and defense contractors? States will get a 5 percent reserve for "hardship cases," but how can the relative claims of hardship be sorted out, for example, among California's 15 million drivers?

Numbers Noise—States get coupon allotments on the basis of the number of registered vehicles modified by historic use; but due to seasonable and growth factors, externally originated traffic and changed driving responses to crisis conditions, this formula produces not a plausible allocation of supply, but simply random statistical noise.

With all these defects of design, function and impact, supporters of emergency rationing authority have again retreated to the defense of last resort—"managed chaos" is better than the alternative, they insist. But before you concede the argument and cast your reluctant vote on the basis of whether the plan contains a rough semblance of equity between New York taxi drivers and Kansas wheat farmers, I urge you to take one last look at the big picture. Specifically, I would contend that . . .

There is now a strong case, due to changes in domestic petroleum policy and world market conditions, that there is no longer any conceivable shortage or supply interruption scenario in which a coupon rationing plan would work or make any significant difference.

This conclusion follows from four basic features of coupon rationing in the context of a severe supply shortage.

1. Rationing is designed to redistribute bushels of money not barrels of gasoline. In the context of a 20 percent shortage there is no way the government can prevent the scarcity value of gasoline from rising to roughly $3–$4 per gallon. The purpose of rationing is simply to prevent huge windfalls to suppliers of gasoline and massive losses to consumers by creating a two-tier market: gas would be sold at the pump at its low, pre-crisis price (e.g. $1.30 per gallon) but the legal right to fill-up (coupons) would be traded at its full scarcity value ($3–4 minus the controlled pump price). The effect is to shift the financial windfall from gasoline suppliers to consumers with extra coupons, and to mitigate the financial losses to consumers who can get by on their minimum allotment. But this whole system for creating a two-tier market and shifting windfalls from suppliers to consumers will be totally ineffective unless there is an iron-clad price control system at every stage of the gasoline market from dealers through jobbers, refiners and domestic producers.

2. The domestic price control/allocation underpinning for coupon rationing is being dismantled and will completely disappear by September, 1981, pursuant to permanent national policy of petroleum decontrol. Yet unless gasoline price controls and the whole apparatus of refinery entitlements, supplier-purchaser freezes and base period allocations is put back on the statute books on a standby basis in the next 10 months, emergency rationing will have no impact—pump prices will quickly rise to $3–$4 per gallon and coupons will be worthless. Moreover, attempting to activate standby petroleum market controls from a cold start in the context of turbulent post-crisis markets would be like trying to change a tire on a car traveling at 45 mph.

3. The world market will beat DOE to the gas pumps in a decontrolled domestic market. Experience during the Iranian crisis of 1979 demonstrates that in the event of major supply outages, OPEC posted prices and non-OPEC contracts rates would crumble immediately under a barrage of surcharges and premium driven by a world-wide scramble for supplies and inventory build-up. In a decontrolled U.S. market, the $60–$70 per barrel oil price which would be reached on world market within weeks would be quickly transmitted to the crude price in Texas and the pump price in Los Angeles. Under these circumstances, the U.S. government would have two choices; drive down the price to pre-crisis levels with an unwieldy domestic price control/allocation system, or capture the massive extra revenues with a tax mechanism.

4. The existing Windfall Profits Tax will generate $50 billion extra annually under a 20 percent shortage. If the world price surged from its present $32 level to a predictable range of $60–$70 under the postulated 20 percent supply outage, the Federal government would collect nearly 60 percent of the extra revenues on domestic production under the existing windfall tax mechanism. At current production rates this would mean $12 billion every 90 days. By contrast, if the coupon rationing system and iron-clad domestic price controls were effectively imposed, despite the insuperable obstacles, these revenues would not be available because domestic crude prices would be held to the pre-crisis level.

These considerations suggest a far more logical emergency management approach: instead of relying on a coupon white market based on an untested, not yet ready-for-prime-time, bureaucratic contraption, why not a "green market" based on marketplace, taxation and government income support mechanisms that already exist and already work? Specifically, I would propose the following answer to those who say there is no alternative:

(1) Let the marketplace distribute the available barrels of gasoline;

(2) Siphon off most of the emergency revenue windfall with the windfall profits tax, which will work automatically;

(3) Mitigate consumer hardship by distributing these revenues during the crisis period to consumers through lower Federal tax withholding, increased Social Security and assistance payments and direct subsidies to business sector hardship case;

(4) Aggressively build-up the strategic reserve to lessen the shortage impact in the first place.

There is an alternative to emergency gasoline rationing. I urge you to vote "no" on the standby rationing plan so that we can move forward to plans that have some prospect of meeting the nation's emergency needs.

With all best wishes, I am

Yours very truly,

DAVE STOCKMAN,
Member of Congress.

Mr. PERCY. Mr. President, in conclusion, the problems with gas rationing are as follows:

First. It is not an emergency plan. It would require 14 months before rationing could be implemented, even in a serious national emergency. By this time, the country would have run out of gasoline, and we would be walking to work.

Second. It is tremendously expensive. Rationing would cost at least $2 billion per year to operate and require an army of bureaucrats to run. Billions more in paperwork costs might be imposed on banks, gas stations, and other businesses, which would certainly pass those costs on to their customers. It would take $103 million just to print coupons and compile lists, even before a shortage hits.

Third. It is an administrative nightmare. A 3-months' supply of ration coupons would probably equal half the paper volume—and could roughly equal the value—of all the dollar bills now in circulation. Theft, fraud, and counterfeiting would be very serious problems.

Fourth. The expected "white market" in coupons might not work very well. Motorists should be able to buy and sell coupons to each other. But, I can foresee extra coupons being available in Chicago where we have a mass transportation system, but because downstate and small-town residents depend so heavily on their cars, they may not be able to get extra coupons no matter how badly they need them.

Fifth. It may not be fair—the plan has more priority categories than the plan Congress rejected last year. Each time any special group is allocated extra coupons, the average motorist receives less. The plan also rewards wealthy, multicar families and penalizes those that have conserved, and own only one car.

Sixth. Errors in recordkeeping and addressing will mean that as many as 10 to 15 million Americans will not receive their coupons. How fair can a system be if it guarantees that 20 percent of motorists will be cut off from the coupons they deserve?

Seventh. Rationing may not end gas lines. Coupons may cross State lines in numbers that are impossible to foresee—so even the best allocation rules imaginable may direct supplies to the wrong places. Recent PSI hearings have demonstrated that the allocation program is unable to handle a mild shortage, let alone the 20-percent shortfall that would trigger rationing. The New York State Energy Commissioner testified that the allocation program actually worsens the effects of shortages, instead of alleviating them.

Eighth. Rationing would distort market incentives. People would be encouraged to buy unusable wrecks so long as they could be registered and qualify for coupons.

Ninth. The plan is vague about how businesses or individuals would be able to keep "ration rights" accounts—similar to checking accounts—in banks. The American Banking Association claims that this would be "unmitigated chaos."

Tenth. Local ration boards would be deluged with requests for extra coupons. Either motorists would have to wait months for hearings before these boards, or else the boards would have to act in a very rapid and possibly arbitrary way that might strike many persons as improper.

Eleventh. The administration agrees that rationing would: Cause massive inconvenience; be subject to high levels of fraud and abuse; and would be beset with errors.

In fact, the administration says, so far as the errors of the program are concerned:

> The operation of massive and relatively untested data systems would likely result in may errors being made. For example, DOE estimates that, for the first rationing quarter, as many as 10 million motorists might receive ration allotments to which they were not entitled and as many as 15 million individuals might fail to receive allotments to which they were entitled.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Louisiana is recognized.

The Senator has 4 minutes and 22 seconds remaining.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes.

Mr. President, gasoline rationing is very easy to oppose, particularly for those who have not gone through the many, many months and, I might say, years of hearings. I do not mean to say we have had hearings every day for years, but we have had this under consideration for a period of years. We have thought about it and there is just not a fair way to do it.

I agree with the Senator from Colorado (Mr. ARMSTRONG) that the market mechanism is better. Of course, when he refers to Europe, that is a big tax situation. I do not know whether he means to go the European route of tax plus market, which is the approach of my bill, S. 2570. I hope he will join me in that, because the market is a better allocator.

I do not know how the other Senators are going to feel about that. But I can tell you the kind of comments we have heard here today we have heard for not months, but for years.

The distinguished Senator from Minnesota (Mr. DURENBERGER) says, "Don't give it to automobile owners, give it to the individuals." We have considered that. The Senate voted on it. It is not fair either way. It is not fair to give it to individuals if they live in an area where they do not have a car and they have access to public transportation. It is not fair to give them the same amount of coupons as the fellow living out in Colorado or some rural State where he has to commute long distances to work.

So it is not possible to make it terribly fair and terribly efficient. But this is the best we could do with some 7 years to work on it, with some two bites at the apple here on the floor of the Senate, and with bipartisan support.

We dare not be caught without a plan, Mr. President. If we are caught without a plan and we try to come back and put one together, we will face the same thing we have had here—about 100 different ideas about what is fair and no consensus and no plan. And we are in the soup if we fail to get a plan.

I hope, Mr. President, that we will not vote to discharge the committee. As a matter of fact, at the appropriate time, I will move to table.

At this time, I yield to my distinguished colleague from New Mexico (Mr. DOMENICI) the remainder of my time.

Mr. DOMENICI. Mr. President, I thank my distinguished friend.

I just want to put some dollar facts into perspective here, since everyone is talking about let us do this rationing with a tax bill instead of having a coupon plan on the shelf.

The Department of Energy estimates that, as of today, we would have to impose $170 billion worth of taxes on gasoline in order to effect the kind of savings—20 percent—that we would need in the event of the crisis contemplated by this bill as the triggering mechanism—$170 billion.

We have not been able to pass one at $5 billion, $10 billion, $2 billion. In fact, the highway trust fund is being depleted and we have not added a penny to it, even with the increases in the gasoline tax.

Second, we use 100 billion gallons of gasoline a year. This plan is all the bad things that everybody said, but if we had to use it, it would basically cost 3 cents a gallon to administer it, about $300 million to $400 million a year. That is 3 cents a gallon. If we ever need it, 3 cents would be cheap.

I have just one additional remark.

It seems to me that unless those who oppose this are willing to talk rather quickly about a tax, a contingent tax, of over $150 billion, or unless they have a better plan, we better let this one take its normal course because even that normal course is extremely long and the risk of having nothing is far, far too serious for this country.

This Senator does not want rationing. I do not agree with my good friend from Arkansas. I want it, if we are going to have turmoil in the streets, people shooting each other, because we could not survive with a 20-percent shortfall. I want a rationing plan on the shelf to use.

The last point: If Congress does not like the plan just before a President puts it in, under this law they have 15 days, and either House, way down yonder if it is ever needed, can still vote no and we will not have rationing.

So we are not doing anything untoward and unexpected or giving away our power and authority.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HATFIELD. Mr. President, I have just two questions to ask the Senator from Illinois. First, does he know of a good rationing program? I do not. I readily admit that. I do not look forward to a day when we might need to ration gasoline.

Second, does the Senator know what he will tell his constituents if we experience a catastrophic reduction in our oil supply—something on the order of Saudi Arabian production going out—and we have no standby emergency rationing plan on the shelf? Six and one-half years after the embargo, and no plan to cope with a very severe oil supply interruption?

I have said that I do not believe the President's new plan is necessarily the best kind of plan; I do not contend that rationing, once implemented, would be inexpensive; but, Mr. President, the Congress would be absolutely irresponsible to risk our social and economic order any further by disapproving this plan for standby status.

Congress disapproved a previous plan and then passed a law instructing the administration to come back with a new plan which would meet certain criteria that we saw fit to establish.

To disapprove this plan would not only be irresponsible, Mr. President, it would be two faced.

Let us continue to consider alternatives; let us continue to work on the development of a better standby rationing plan; but let us put the present plan into an active standby status to handle an emergency which we know can happen at any time.

A billion dollars or two billion dollars to implement this plan during such an emergency is going to be a bargain compared to the costs we will experience if we are plunged into the chaos of a very severe oil supply interruption without any plan.

Mr. President, I urge my colleagues to defeat the motion of the Senator from Illinois.

Mr. JAVITS. Mr. President, I share Senator PERCY's frustrations over both the plan's weaknesses and, more important, the failure of the administration to plan for the contingency of the small and large oil cutoffs which I believe to be not only possible, but indeed, highly probable. From testimony before the Senate Foreign Relations Committee last winter to the Aspen Institute report of last month on the urgent need for better emergency energy preparedness, the experts agree that instability in the troubled oil-producing states of the Middle East is likely to disrupt oil flows repeatedly to a greater or lesser degree over the next 5 years. Yet, the Department of Energy has failed to propose workable contingency plans for shortages of less than 20 percent, or for the 90 days its officials tell us it would take to implement coupon rationing. Last January I was briefed with other members of the Foreign Relations Committee and was advised that such options as mandated fuel switching, "no-drive days" for each automobile as was used so successfully in Israel in 1974, limited purchase options, Government van pooling, and similar simple rationing-type schemes were being considered and developed as alternatives. So far, no such plans have been placed on standby for use.

The administration refused to resume fill of our strategic petroleum reserve which now contains less than 5 days of retrievable imports, until the Congress required them to do so by statute. And, unfortunately, the Secretary has chosen the slowest possible fill permitted, using 100,000 barrels a day from the Elk Hills reserve and ignoring the creative devices authorized by Congress for acquisition of further domestic and foreign supplies. At this rate it will take nearly 30 years to fill the reserve.

Further, we learned last week, in hearings of the Permanent Subcommittee on Investigations chaired by Senator PERCY, that the Department of Energy has placed responsibility for all contingency planning in a Deputy Administrator of the Energy Regulatory Administration—a person who, regardless of the skill and competence of the incumbent, lacks the weight to marshal the resources of five Cabinet departments, the Federal Energy Regulatory Commission and the White House Office of Emergency Management. Mr. President, our Nation's need for energy contingency planning is so urgent it cries out for the attention of at least a Cabinet officer of the United States if not the President himself.

The proposed gasoline standby rationing plan stands as a sad testimony to the failure of emergency planning. As my colleague has ably noted—it costs too much; it takes too long; it involves too much bureaucracy; it may ignore important special needs of groups with a legitimate national purpose for travel.

But having said all that, Mr. President, it is still, weak as it is, the only safety net we have. Therefore, I cannot support a resolution of disapproval of this plan. I believe we can put it on the shelf, in our Nation's first-aid kit, as it were, and proceed to draw up a better one. I expect the Congress to continue to try to help. And I personally intend to continue to work for a complete overhaul of our attitude to energy emergencies as well as of our plans for such emergencies. In this dangerous world, there is no other choice.

Mr. DURKIN. Mr. President, I rise—as I have in the past—to voice my strong disapproval of gasoline rationing as a long- or short-term solution to gasoline supply problems. Rationing is not administratively workable nor can it lead to equitable distribution. It is a bad course of action in general, but for the people of my State of New Hampshire and the rest of New England, it would be disastrous.

Regarding the particular rationing plan recently presented to the Congress by the Department of Energy, I can only underscore what I have said many times in the past: I will continue to object to any rationing proposal that places undue hardship on those who live in rural areas and those who must drive long distances to work and have no alternative means of transportation. I will also continue to object to any plan based on car registration rather than on licensed drivers. Rationing based on vehicle registration impacts unduly on lower- and middle-income groups who may own only one car but who depend on that car for their livelihood, as well as our handicapped citizens.

The administration's plan not only discriminates against those who depend on an automobile for their employment, those in rural areas and lower- and middle-income citizens, it adds an additional layer of burdensome bureaucracy to the Federal Government. It will take $103 million and 14 months to set up, and $50 million per year to keep the plan in an alleged state of readiness. This time and money is only for the maintenance of the plan.

The only situation in which a rationing plan makes any sense at all is in a crisis situation. However, under the administration's plan, should a crisis arise, such as the 1973 Arab oil embargo, the plan would take a minimum of 3 months, and an additional $2 billion per year to implement. In a time of crisis this is untenable.

DOE's choice of a rationing plan reflects the administration's persistent failure to realize that the cost of energy is causing extreme economic hardships for millions of hard working Americans. The administration incorrectly believes that higher prices are a solution to the energy crisis. Our present situation in New Hampshire of ridiculously high prices and shortages belies this notion.

I know the people in New Hampshire are willing to sacrifice to solve this energy crisis, just as are the people across this country.

The American people have been and are sacrificing in the belief that their sacrifice will solve this problem. Across New Hampshire, people turned their thermostats down voluntarily years ago to conserve oil, and for their voluntary efforts they deserve our commendation. But the American people will not accept privation if they believe they are being taken advantage of. They will not sacrifice if they believe all segments of our society are not sacrificing equally.

The rationing scheme presented by DOE is missing one vital component—the public's faith that sacrifices are being borne equally, that no group is receiving special benefit. The best drawn plans will not work if this trust is not there. Ill-conceived plans such as the one before the Congress do not deserve the public trust.

For all of the above reasons I urge that my colleague support the motion to immediately discharge Senate Joint Resolution 185—a resolution of disapproval of DOE's gasoline rationing plan—from the Senate Energy Committee.

• Mr. BAYH. Mr. President, I plan to vote against disapproving the administration's standby gasoline rationing plan. This is not a vote I cast with enthusiasm or without reservation. However, I think it is imperative that the country be prepared should we face a massive 20 percent shortfall in supplies of gasoline, home heating oil and diesel fuel over a period of 30 days—which are the conditions under which the Congress would consider whether to go ahead with rationing.

In the past we have seen the devastating psychological and economic effects of shortfalls in the supply of petroleum: gas lines and soaring prices. Every Member of the Senate will gladly decry a shortage and its crippling effects, but it is very difficult to get anyone to agree on a plan for handling that possibility in a fair and equitable manner.

It has been 7 years since the Arab oil embargo of 1973–74, and the quadrupling of oil prices, which sent shock waves through the American economy. Every OPEC oil increase since that time has produced even greater uncertainty and more economic dislocation in the greatest economy in the history of the world. That uncertainty is the result of our intolerable dependence on imported petroleum. Our national security and economic vitality are now held hostage by the sheiks, ayatollahs, and oil barons of the world.

The accident of fate that concentrated most of the world's liquid energy in a small handful of nations has given them a power over our economy that is infuriating and debilitating, and always lurks in the background of our foreign policy decisions. The power these OPEC nations have over our destiny has played havoc with our society and caused many Americans to feel we can no longer control our future.

There are two sides to the axis of power wielded by the Arab oil sheiks over our future. First, they threaten our economic vitality through incessant and unjustified price escalations. Second, they threaten our way of life through their ability to manipulate our dependence on their petroleum by curtailing supplies. Every day we remain dependent upon imported petroleum our national security is threatened, our currency is undermined, our productivity gains are negated, and our future is clouded.

I do not like gasoline rationing one bit. The American people do not like gasoline rationing one bit. However, we both like gasoline lines, economic disruptions and inflation even less. Despite our knowledge of the effects of disrupted supply, we have spent the last 7 years whistling in the dark, hoping that another supply disruption was not on the horizon.

It is true that the American people have done a remarkable job in conserving energy resources in the past 2 years. It is also true that through the efforts of this Congress help is on the way, through greater reliance on alternatives to oil, greater utilization of domestic fuels, and the development of a strong and viable domestic, synthetic fuels industry. But what about the near-term? What would be the effects of a supply disruption in today's economy?

For the answer, Mr. President, we need only to look to 1979 and the shortfall caused by the revolution in Iran. Because we had no effective means of managing that shortfall—which was relatively small—panic erupted in the country. Long gas lines formed and gasoline prices soared.

This sorry episode was not a shortfall of the proportions called for in implementing the present standby gas rationing plan: it amounted to a loss of 600,000 barrels of oil per day, or less than 5 percent of our consumption. To implement the standby gas rationing plan the supply shortfall would have to be four to five times as great. Yet in the face of overwhelming evidence of economic loss caused by supply disruptions which threaten our food supply, employment, and security we are now asked to disapprove any system of fair and equitable distribution of gasoline and to rely on the ad hoc policies of the past.

It may be politically popular, Mr. President, to vote against this proposal because of America's long history of disaffection toward any manner of gasoline rationing. It may win some votes back home to attack this plan for its admitted expense and complexity, especially during days of high crude oil stocks and ample supply of gasoline. But I question the wisdom of not being prepared; of not heeding the lessons of the past; and leaving ourselves open to chaos as well as the whims and fancy of the Arab oil sheiks and their willing partners in the multinational oil companies.

Mr. President, this Nation cannot afford to stand unprotected in the face of the ominous threat of a major shortfall of petroleum products. We cannot invite panic through the lack of preparation. We must provide a system to fairly and equitably distribute gasoline to our priority industries, our businesses, and our citizens in the event of a national emergency. I do not want the crops of this great agricultural Nation to go untended or unharvested because our farmers cannot obtain sufficient supplies of fuel. We cannot allow the catastrophic loss of business caused by an inability to obtain fuel.

And I do not think only the rich should get adequate gasoline supplies, because they can afford to pay black-market prices, while the average citizen is denied gasoline or must pay through the nose for gasoline to get to work, take their kids to the doctor, or drive into town for shopping, and other essential needs. To reject preparation for such an emergency shortfall is to invite disaster and I will not be a party to such a shortsighted policy of political expediency.

Mr. President, the current proposal for a standby gasoline rationing plan is complicated and it is expensive. It does not achieve all of the objectives of any Member of the Senate. The simple fact is that gasoline rationing is a difficult task, as unpleasant and complicated as it is crucial. No amount of political rhetoric will change that unwelcomed fact.

The plan does, however, provide for a fair and equitable distribution of gasoline to the State on the basis of each State's historic use of gasoline. This plan does provide an allotment of gasoline to agriculture, emergency services, public transportation, defense, postal services, energy production, and newspaper distribution on a priority basis. Further, it will allow each registered vehicle in the United States an allotment of gasoline roughly equal to 42 gallons per vehicle per month at reasonable prices, which is enough fuel to allow a vehicle getting 10 miles per gallon to drive 5,000 miles per year; 20 miles per gallon, 10,000 miles per year; and, 30 miles per gallon, 15,000 miles per year.

Mr. President, the plan also contains safeguards. Before any rationing program could be implemented a 20-percent shortfall of gasoline must exist or be likely to exist for a period of 30 days. Further, the President may not implement rationing on his own volition. He must return to Congress, and inform the Congress of the emergency and his intent to implement gasoline rationing. After these events Congress would have 15 days to consider the President's decision and either House could veto the implementation of rationing if it so desired.

Mr. President, this may not be the best of all possible plans, but I do not think we can reject it out of hand without reviewing the possible consequences or suggesting plausible alternatives. To my mind the consequences of rejecting a plan which so closely fulfills past congressional concerns, as expressed in last year's debate, and the public's concerns, expressed through the public comment period on the previous proposal for a standby gas rationing plan, would be foolhardy at best and wreckless at worst.

Mr. President, I will vote against disapproving the standby gasoline rationing plan because our Nation can no longer afford to stand naked in the face of the cruel and cynical manipulations of the OPEC cartel. We must continue to reduce our intolerable dependence upon imported oil and thus reduce our vulnerability to supply disruptions. But, in the near-term we must prepare our Nation to survive an emergency.

Mr. President, I ask that a message of support for the gasoline rationing plan I received from the National Council of Farmer Cooperatives be inserted in the Record following my statement. I point out that a member of this organization is the Indiana Farm Bureau which supplies over 50 percent of the liquid energy needs of Indiana farmers.

The message follows:

Message

The national council has long been concerned with issue of gasoline rationing as it would affect agriculture. While no rationing plan will be perfect for every consumer, current plan is vast improvement over original plan.

Plan provides agriculture with priority classification, defiinition of agriculture expanded to include vital distribution links in food chain.

This nation must put gasoline rationing plan on standby status now, national council believes plan must be integrated with crude oil allocation during rationing period to insure equal and equitable access to crude oil for all refiners in order to maintain timely and reliable gasoline supplies to agriculture and all consumers.●

● Mr. DOLE. Mr. President, I would like to express my support for the effort Senator Percy is making this afternoon to disapprove the administration's gasoline plan.

This emergency plan promises to be an unmitigated disaster. Even if approved, coupons would not be available for 14 months because of unresolved features and unavailable data. The cost of keeping this plan in a state of readiness even if it were never used could reach $50 million per year. The plan's complexity will produce a new $2 billion 20,000 person Federal-State administering agency.

Governmental regulation and interference have contributed, in large part, to our existing crisis. It is foolish to suggest that even more governmental regulation and intervention in the economy is the answer. This plan would give 20,000 bureaucrats the power to make thousands of decisions best left to the marketplace. It would allocate coupons on the basis of historic use, which will lead to an estimated 2 million relief petition contesting the proper base period. States will receive a 5-percent reserve for hardship cases, which will lead to political struggles to define "hardship" in each State. Those groups which fail to receive priority status are sure to be lobbying for a higher rung on the ladder.

This is not the answer to our energy problems. The hardships which gasoline rationing would cause our economy must be avoided. There is no way to insure that each citizen and industry gets its fair share of scarce and precious fuel when there is not enough to go around. The history of this plan is an example.

It has been altered to give groups which were at first ignored—farmers, newspapers, and the handicapped—priority in receiving fuel. But, how many others have been excluded in the shuffle because they did not have the clout.

Mr. President, the Carter administration's energy planners have failed once again to recognize the one essential rule to the success of any endeavor which attempts to cope with the energy problem: Simplicity. One look at the mechanism they have provided clearly demonstrates what a bureaucratic nightmare would be created. Nearly everyone I have talked with, from the bureaucrats to the bankers who must hand out the coupons, are skeptical. Mr. President, this is a large price to pay for irresponsibility in dealing with the energy problem.

I am not saying that we do not need contingency plans. But, we do not need this contingency plan. We do not need to spend $50 million per year for a plan that will be confusing and inefficient should it ever be implemented.

We do not need a plan that will lead to the trading of $60 billion worth of coupons every 90 days and produce a windfall for urban drivers and multicar families.

Given the alternatives to this plan now being considered by the administration and the Congress, I cannot support this gasoline rationing program. I would urge my colleagues to vote for disapproval so that we may refocus our efforts on those proposals which stand a chance of working.●

The PRESIDING OFFICER. All time has expired.

Mr. PERCY. Mr. President, I ask for the yeas and nays.

Mr. JOHNSTON. Will the Senator withhold that? I would hope to move to table.

Mr. PERCY. I have asked for the yeas and nays.

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. There is nothing wrong with him moving to table, even though the yeas and nays have been ordered, is there?

The PRESIDING OFFICER. Ordinarily, the yeas and nays would not preclude the motion to table.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I move to table the motion to discharge the committee and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I will withdraw that motion to table and we will go up or down.

The PRESIDING OFFICER. The Senator withdraws his motion to table. Without objection, it is so ordered.

The question recurs on the motion of the Senator from Illinois to discharge the Committee on Energy and Natural Resources from further consideration of Senate Joint Resolution 185. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Indiana (Mr. Lugar) are necessarily absent.

The result was announced—yeas 31, nays 60, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—31

Armstrong
Baucus
Bellmon
Boren
Boschwitz
Chafee
Cochran
Cohen
Dole
Durenberger
Durkin
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
McClure
Melcher
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Thurmond
Tower
Wallop

NAYS—60

Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
Danforth
DeConcini
Domenici
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Tsongas
Warner
Weicker
Young
Zorinsky

NOT VOTING—9

Baker
Church
Heinz
Kennedy
Long
Lugar
Stewart
Talmadge
Williams

So the motion to discharge the Committee on Energy and Natural Resources from further consideration of Senate Joint Resolution 185 was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was rejected.

The PRESIDING OFFICER. Under

the statute providing for consideration of the motion to discharge, that motion to reconsider is not in order.

Mr. ROBERT C. BYRD. The Chair is right.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the DOE bill the Senate proceed to the consideration of the Nuclear Regulatory Commission bill. It has been cleared with Senator Stevens, the acting Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY AUTHORIZATIONS—CIVILIAN APPLICATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar Order 738, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2332) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Department of Energy Authorization Act for Fiscal Year 1981—Civilian Applications".

TITLE I—FISCAL YEAR 1981 AUTHORIZATIONS

OPERATING EXPENSES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the civilian programs amounts equal to the amounts appropriated and reappropriated for Department of Energy for fiscal year 1980 pursuant to—

(1) title I of the Energy and Water Development Appropriations Act, 1980 (Public Law 96–69) except atomic energy defense activities: *Provided, however*, That the amount authorized to be appropriated for fiscal year 1981 for operating expenses for the Federal Energy Regulatory Commission shall be not to exceed $76,374,000; and

(2) title II of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Public Law 96–126) except for the amount appropriated therein for alternative fuels production,

for each appropriations account, as shown at the total level for that account in said Acts, plus 10 percent.

(b) The anticipated revenues from Uranium Enrichment Activities for fiscal year 1981 and each subsequent fiscal year and authorized to be retained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

PLANT AND CAPITAL EQUIPMENT

Sec. 102. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction amounts equal to the amounts appropriated and reappropriated for plant and capital equipment for Department of Energy civilian programs for fiscal year 1980 pursuant to—

(1) title I of the Energy and Water Development Appropriations Act, 1980 (Public Law 96–69) except atomic energy defense activities; and

(2) title II of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Public Law 96–126),

for each appropriations account, as shown at the total level for that account in said Acts, plus 10 percent.

(b) The anticipated revenues from Uranium Enrichment Activities for fiscal year 1981 and each subsequent fiscal year and authorized to be retained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

(c) There are hereby authorized to be appropriated for plant and capital equipment projects for the civilian programs of the Department of Energy which have been initiated prior to fiscal year 1981 amounts not to exceed the Federal share of the total estimated cost set forth for each such project in budget documents submitted to the Congress in support of the fiscal year 1981 budget. The annual amounts authorized to be appropriated for fiscal year 1981 for said projects shall be deemed to be encompassed within the total amounts authorized to be appropriated by subsections (a) and (b) of this section: *Provided, however*, That for the fiscal year 1981 additional budget authority is hereby deemed to be authorized by this subsection for the following projects as set forth below:

(1) Project 79–1–Q, Solar Energy Research Institute Facility, Golden, Colorado, $1,000,000; and

(2) Project 76–8–G, enrichment uranium production facilities, Portsmouth, Ohio, $170,000,000.

(d) The Secretary shall determine for each of the two proposals presently participating pursuant to his request in the authorization for Project 76–1–B,

(1) whether, for each such proposal, the construction and operation of the demonstration plant would significantly advance toward commercial availability, a process which would convert domestic coal resources into synthetic pipeline gas in an economical and environmentally acceptable way, and in accordance with other criteria of the program established by the Secretary for fossil energy research and development;

(2) whether, for each such proposal, there is a reasonable expectation that the demonstration plan can be constructed and operated successfully and according to the requirements of the Secretary;

(3) whether, for each such proposal, the proponents thereof are willing and able to commit sufficient financial and other resources which, when combined with the Federal resources available, will provide a reasonable expectation that the demonstration plant can be constructed and operated successfully, according to the requirements of the Secretary; and

(4) whether, for each such proposal, the construction and operation of the demonstration plant will significantly improve the ability of the United States to utilize its domestic energy resources.

If the Secretary determines that both proposals satisfy the requirements of this section, then he is authorized to proceed with construction and operation of one project under the authorization for Project 76–1–B and with the second project under the authorization for Project 81–T–406 which is provided by section 104 of this Act.

(e) Within the total amounts authorized to be appropriated in subsection (a), there are hereby authorized to be appropriated for the following plant and capital equipment projects amounts not to exceed the total estimated cost set forth for each such project:

(1) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho, $44,300,000; and

(2) Project 78–5–c, advanced isotope separation pilot plant facility, Richland, Washington, $19,400,000.

(f) Within the amounts authorized to be appropriated in subsection (a), the authorization for Project 77–1–b in Public Law Numbered 95–39 is hereby extended unless modified in a subsequent Act of the Congress.

(g) For the purpose of this Act the "budget documents" shall mean the Department of Energy Congressional Budget Request, Fiscal Year 1981, dated January 1980 (DOE/CR–0011), as amended by the Department of Energy Fiscal Year 1981 Budget Revisions, dated March 1980.

MAJOR INITIATIVES

Sec. 103. In addition to the amounts authorized in sections 101 and 102, in accordance with section 660 of the Department of Energy Organization Act—

(a) there are hereby authorized to be appropriated for fiscal year 1981 for operating expenses for civilian program initiatives, as follows:

(1) Energy conservation:

(A) emergency energy conservation program, $14,000,000; and

(B) energy impact assistance, $100,000,000.

(2) Energy production, demonstration and distribution:

(A) naval petroleum reserve development, $72,732,000; and

(B) commercial nuclear waste remedial action, $43,000,000.

(3) Economic Regulatory Administration:

(A) standby motor fuel rationing program, $103,000,000.

(b) There are hereby authorized to be reappropriated for fiscal year 1981 for operating expenses for civilian initiatives, as follows:

(1) Geothermal Resources Development Fund, $41,982,000; and

(2) Strategic petroleum reserve, $2,403,978,000.

(c) There are hereby authorized to be appropriated for fiscal year 1981 for fossil energy operating expenses relating to coal up to $12 million in Federal assistance to the contractor not selected to proceed to construction on Project 76–1–C, for the purpose of the further design or redesign of the contractor's coal gasification alternative fuels production plant, if the Secretary of Energy determines, in his sole discretion, that the contractor's project would be of value in contributing toward the attainment of the President's goals for the domestic production of alternative fuels. Notwithstanding any other provisions of law, funds previously appropriated for surface coal gasification for operating expenses or plant and capital equipment expenses may be utilized for this purpose.

(d) There are hereby authorized to be appropriated for fossil energy construction relating to coal, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows, for—

(1) Project 79–1–R, SRC II (liquids) Demonstration Plant, West Virginia, an additional sum of $210,000,000 for a total project authorization of $300,000,000; and

(2) Project 78–2–D, SRC I (Solids) Demonstration Plant, Kentucky, an additional sum of $195,000,000 for a total project authorization of $275,000,000.

NEW CONSTRUCTION

Sec. 104. Within the amounts appropriated in fiscal year 1981 pursuant to the authorization provided in section 102, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized for fiscal year 1981 and beyond as set forth below to an amount not to exceed the Federal share of the total estimated cost set forth for each such project in budget documents submitted to the Congress in support of the fiscal year 1981 budget, as follows:

(a) for fossil energy activities:

(1) Project 81–T–401, renovation of South Wing, Building 3, Bartlesville Energy Technology Center, Oklahoma, $1,200,000;

(2) Project 81–T–402, surplus water containment and waste water treatment facility, Pittsburgh Energy Technology Center, Pennsylvania, $3,000,000;

(3) Project 81–T–404, general plant projects, six locations, $6,000,000;

(4) Project 81–T–405, modifications to the component development and integration facility, Butte, Montana, $6,000,000; and

(5) Project 81–T–406, High-Btu synthetic pipeline gas demonstration plant, site undetermined, $275,000,000;

(b) for energy supply research and development activities—

(1) Solar Technology:

(A) Project 81–T–305, ethanol from biomass production/conversion system, location to be determined, $2,500,000; and

(B) Project 81–T–306, solar industrial cogeneration project, location to be determined, $1,900,000;

(2) Nuclear Fission:

(A) Project 81–T–301, general plant projects, $2,000,000;

(B) Project 81–T–302, salt test facility, site undetermined, $30,000,000; and

(C) Project 81–T–310, general plant projects, $11,500,000;

(3) Magnetic Fusion:

(A) Project 81–T–313, general plant projects, $5,400,000; and

(B) Project 81–T–314, MIT plasma fusion building modifications, Cambridge, Massachusetts, $5,000,000;

(4) Environment:

(A) Project 81–E–305, general plant projects, $3,000,000; and

(B) Project 81–E–306, modifications and additions to biomedical and environmental research facilities, various locations, $3,400,000;

(5) Supporting Research:

(A) Project 81–E–301, general plant projects, $300,000;

(B) Project 81–E–304, accelerator improvements and modifications, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $200,000;

(C) Project 81–E–308, energy systems research laboratory (ESRL), Oak Ridge National Laboratory, Oak Ridge, Tennessee, $2,000,000;

(D) Project 81–E–309, rehabilitation of general purpose physical plant, Argonne, Illinois, $15,100,000;

(E) Project 81–E–310, transmission and distribution systems upgrading, Richland, Washington, $12,000,000;

(F) Project 81–E–311, energy science and technology building expansion, Brookhaven National Laboratory, New York, $12,000,000;

(G) Project 81–E–312, environment and energy technology facility, Richland, Washington, $18,000,000;

(H) Project 81–E–313, central energy conservation facility, Brookhaven National Laboratory, New York, $9,100,000;

(I) Project 81–E–314, energy utilization improvements, Brookhaven National Laboratory, New York, $2,000,000;

(J) Project 81–E–315, centralized cogeneration with chilled and hot water distribution, Argonne National Laboratory, Illinois, $7,400,000;

(K) Project 81–E–316, boiler numbered 3 replacement, Brookhaven National Laboratory, New York, $3,000,000;

(L) Project 81–E–317, roof replacement, Idaho National Engineering Laboratory, Idaho, $5,300,000;

(M) Project 81–E–318, upgrade primary substation, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(N) Project 81–E–319, install coal-fired atmospheric fluidized-bed boiler, Argonne National Laboratory, Illinois, $7,100,000;

(O) Project 81–E–320, central supply facility, Argonne National Laboratory, Illinois, $8,500,000;

(P) Project 81–E–321, site utilities project, Ernest Orlando Lawrence Livermore National Laboratory, California, $7,900,000;

(Q) Project 81–E–322, Scoville substation distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000;

(R) Project 81–E–323, fire safety improvements, Argonne National Laboratory, Illinois, and Idaho National Engineering Laboratory, Idaho, $4,100,000;

(S) Project 81–E–324, fire safty and protection improvements, Idaho National Engineering Laboratory, Idaho, $4,400,000;

(T) Project 81–E–325, energy technology laboratory, Sandia National Laboratory, Albuquerque, New Mexico, $20,000,000;

(U) Project 81–E–326, geosciences laboratory, Los Alamos National Scientific Laboratory, Los Alamos, New Mexico, $9,000,000;

(c) for general science and research activities—

(1) High Energy Physics:

(A) Project 81–E–218, Tevatron, Phase I, Fermi National Accelerator Laboratory, Illinois, $39,500,000;

(B) Project 81–E–219, accelerator improvements and modifications, various locations, $6,000,000; and

(C) Project 81–E–220, general plant projects, $5,000,000;

(2) Nuclear Physics:

(A) Project 81–E–221, accelerator improvements and modifications, various locations, $1,600,000;

(B) Project 81–E–222, general plant projects, $2,800,000; and

(C) Project 81–E–223, Argonne tandem-linac accelerator system, Argonne National Laboratory, Illinois, $6,900,000;

(d) for uranium supply and enrichment activities—

(1) Project 81–T–501, isotope research and development laboratory, New Mexico, $16,000,000;

(2) Project 81–T–502, advanced isotope separation laboratory, Ernest Orlando Lawrence Livermore National Laboratory, California, $29,700,000;

(3) Project 81–T–504, general plant projects, $2,970,000;

(4) Project 81–R–501, general plant projects, $18,300,000;

(5) Project 81–R–502, UF–6 cylinders and storage yards, gaseous diffusion plants, $8,000,000;

(6) Project 81–R–503, utilities upgrading, gaseous diffusion plants, $27,000,000;

(7) Project 81–R–504, supervisory control and data acquisition systems, Paducah, Kentucky, and Portsmouth, Ohio, gaseous diffusion plants, $13,000,000;

(8) Project 81–R–505, instrumentation for purge cascades and withdrawal areas, gaseous diffusion plants, $6,000,000; and

(9) Project 81–9–506, environmental protection and safety modifications, phase I, gaseous diffusion plants, $55,000,000; and

(e) for departmental administrative activities—

(1) Project 81–A–601, modifications for energy management, various locations, $28,200,000;

(2) Project 81–C–601, plant engineering and design, $9,000,000;

(3) Project 81–A–602, energy monitoring and control system, Y–12 plant, Oak Ridge, Tennessee, $5,000,000;

(4) Project 81–A–603, energy monitoring and control system, Oak Ridge National Laboratory, Tennessee, $4,000,000;

(5) Project 81–A–604, HVAC heat recovery and night setback, Richland, Washington, $3,000,000; and

(6) Project 81–A–65, automated energy management system, Argonne National Laboratory, Illinois, $3,800,000.

TITLE II—OUT-YEAR AUTHORIZATION

SEC. 201. For each fiscal year beyond 1981, except as provided in sections 202 and 203, funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act as follows:

(a) For operating expenses for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year, plus 10 percent;

(b) For (i) general plant projections and (ii) acquisition and fabrication of capital equipment not related to construction for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year plus 10 percent.

SEC. 202. For each fiscal year beyond 1981, any request for an appropriation for operating expenses for the civilian programs of the Department of Energy which is not within the amount authorized pursuant to section 201(a) for an appropriation account shall require separate authorization.

SEC. 203. For each fiscal year beyond 1981, new plant and capital equipment projects shall be specifically authorized on a line item basis.

Mr. JOHNSTON. Mr. President, I say for the benefit of my colleagues that this is the DOE authorization bill. We expect to deal with it rapidly. It is noncontroversial.

I urge all Senators who have amendments to have them prepared quickly because we hope to finish it in the next 30 minutes or so.

Honestly, it is not a controversial bill. We would not expect that it would provoke a long period of debate. So if there are amendments, I hope my colleagues will get them prepared.

Mr. STEVENS. I have one amendment and I would like to be called when I can bring it up.

Mr. JOHNSTON. We will be ready for the Senator from Alaska as soon as he is ready.

Mr. EAGLETON. I have an amendment.

Mr. JOHNSTON. Mr. President, today the Senate will consider S. 2332, the fiscal year 1981 authorization bill for the civilian programs of the Department of Energy. This bill, reported by the Committee on Energy and Natural Resources on May 8, 1980, is a much different sort of DOE authorization bill from any the committee has previously reported. As I am sure my colleagues know, the Senate has not passed an annual authorization bill for the civilian programs of the Department of Energy for several years. This failure has been the result of several things, but the most important of these has been the irresistible attraction this bill seems to hold for controversial policy amendments. We have been repeatedly faced with the prospect of refighting some of the most difficult policy issues before the Congress in the context of this bill, the simple aim of which is to authorize the programs and activities of the DOE for 1 more year. The strong feelings associated with these policy issues have so disrupted the process of orderly consideration of these program authorizations that no bill ever gets enacted.

We simply must put an end to this free-for-all. The bill before the Senate is an attempt to do that.

In previous fiscal years the Senate Committee on Energy and Natural Resources has reported to the Senate authorization bills which were predicated upon detailed, line-item consideration of all the activities and programs of the Department. This procedure has proven to be excessively time consuming in view of the committee's other workload in the early months of the session, and it has been impossible to comply with the deadline established in the congressional budget process for reporting the bill.

In each fiscal year since enactment of the DOE Organization Act, the administration has proposed a major budget amendment or set of program initiatives in the April–May timeframe, thus seriously complicating the committee's consideration of the President's budget proposal.

Furthermore, the proliferation of detailed floor amendments which are invited by the measure have been a contributing factor in delaying Senate consideration of the bills in prior years.

In the formative years of the Department, some value may have been realized from the detailed oversight of the balance among individual subprograms and project line items which was afforded by the authorization hearings and business meetings. As the ongoing programs and activities reach a relatively stable state, however, the general policy content in an examination of each line item annually is greatly diminished. The process becomes largely a duplication of the examination which must be done by the Appropriations Committees.

The value of an annual authorization procedure rests upon the authorizing committees bringing a different viewpoint to the issues than do the appropriating committees. In general, the attention of the authorizing committees should be directed toward:

The continual review of long-term direction and objectives of programs and activities;

The approval of major new program initiatives and redirections of existing programs which are proposed for the fiscal year;

Approval of the initiation of new projects with particular attention to the overall justification of such projects and the total fiscal commitment over the life of a project which is contemplated for each; and

Special investigation or oversight of specific matters which are thought to have special priority or unusual problems.

The justifications of particular annual levels of expenditure for construction projects in progress or for the continuation of ongoing programs are matters which are considered annually in the appropriations process. Simple efficiency in the utilization of the scarce time and energy of the Members of the Congress dictate that these considerations should not be duplicated by two committees and addressed twice by each House.

The Committee on Energy and Natural Resources, therefore, in considering the fiscal year 1981 authorization, has amended the measure to establish a new approach for compliance with the requirement for annual authorization of the Department's appropriations. This approach is intended to focus future annual authorization hearings and business meetings upon the matters enumerated above and to authorize appropriations for other ongoing programs and activities to be made in amounts which are adequate to continue current levels of activity.

The committee believes that the approval of this measure will provide adequate authority for the operations of the Department and will establish a basis for more effective oversight of the Department in subsequent years.

The bill we have reported does the following things:

First, appropriations for fiscal year 1981 are authorized for operating expenses and for plant and capital equipment for each of the appropriation accounts which are involved.

Second, construction projects which have been authorized in prior years are authorized to be continued. The funding for such projects falls within the amounts authorized for the relevant appropriations account numbers. A ceiling on the total appropriation for each project is established.

Third, additional amounts are authorized to be appropriated for major new program initiatives which are proposed for fiscal year 1981.

Fourth, new construction projects are authorized to be initiated in fiscal year 1981 within the amounts authorized for the relevant appropriations account numbers, and total cost limits are established for each such project.

Fifth, appropriations are authorized for fiscal year 1982 and later years for each appropriations account number in the amount of the actual appropriation which was made in the prior year plus 10 percent.

In other words, where we have an appropriation for this year in a stated amount, then the appropriation in that account for 1982 and later years is the prior year plus 10 percent.

The total amount of appropriations authorized by this measure for fiscal year 1981 for the civilian programs of the Department of Energy would be $9,439,158,000.

Mr. President, I urge the Senate to approve S. 2332 in a timely fashion so that the very necessary policy decisions we must make, for example, on increasing coal use and backing out oil imports, nuclear waste disposal, energy impact assistance, State and local energy management, and the Alaska national interest lands can be addressed in an orderly fashion on other legislation.

When the committee report on S. 2332 was filed, we did not have the budget estimates available from the Congressional Budget Office. I ask unanimous consent that the following CBO budget estimate be inserted at the end of my remarks.

There being no objection, the CBO budget estimate was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 18, 1980.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2332, the Department of Energy Authorization Act for Fiscal Year 1981—Civilian Applications.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2332.

2. Bill title: Department of Energy Authorization Act for Fiscal Year 1981—Civilian Applications.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources May 8, 1980.

4. Bill purpose: Title I of the bill authorizes the appropriation of $7,097 million to the Department of Energy (DOE) for civilian programs in fiscal year 1981. These programs include nuclear, solar, and fossil research and development as well as conservation and regulatory activities. The bill also authorizes the reappropriation of $2.3 billion for the Strategic Petroleum Reserve and $42 million for the Geothermal Resources Development Fund, resulting in a total authorization of $9,439 million in fiscal year 1981. In addition, the bill authorizes the appropriation to DOE of uranium enrichment receipts for fiscal year 1981 and succeeding years. The receipts are estimated to total $1,289 million in fiscal year 1981. The fiscal year 1981 authorization, net of these receipts and power marketing receipts of $267 million, is $7,883 million. This is 7 percent above the President's revised 1981 budget request.

The major initiatives in the bill include funding for energy impact assistance ($100 million), a gasoline rationing program ($103 million), and two solvent-refined coal projects ($405 million). The construction of two high-BTU gas pipeline projects is also authorized, subject to a determination by the Secretary of Energy that both proposed projects currently under review meet certain criteria established by the bill. An authorization of $275 million is provided, in addition to existing appropriations of $230 million available for one of these plants.

Title II of the bill authorizes appropriations for existing DOE civilian programs and new programs established in Title I for fiscal years beyond 1981. The annual authorization level is to be determined by increasing the previous year's appropriation by 10 percent. Funding needs in excess of these amounts will require additional authorizations.

5. COST ESTIMATE

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Estimated authorization level [1]					
Function 250	519	571	628	691	760
Function 270	8,820	7,126	7,839	8,623	9,484
Function 450	100	110	121	133	146
Subtotal	9,439	7,807	8,588	9,447	10,390
Receipts (270)	−1,556	−2,185	−2,464	−2,683	−3,487
Net authorization	7,883	5,622	6,124	6,764	6,903
Estimated outlays:					
Function 250	423	518	592	661	737
Function 270	2,753	8,070	7,286	8,110	8,932
Function 450	15	65	100	120	130
Subtotal	3,191	8,653	7,978	8,891	9,799
Receipts (270)	−1,556	−2,185	−2,464	−2,683	−3,487
Net outlays	1,635	6,468	5,514	6,208	6,312

[1] These estimates are net of projected uranium enrichment revenues of $1,289 million in fiscal year 1981 increasing to approximately $2,900 million by fiscal year 1985, and power marketing receipts of $267 million in fiscal year 1981, increasing to about $460 million by 1985.

While most of the civilian DOE programs fall within budget function 270, the DOE general science research activities fall within budget function 250 and the energy impact assistance program created by the bill falls within budget function 450.

6. Basis of estimate: For the purposes of this estimate, it is assumed that all funds authorized will be appropriated prior to the beginning of the relevant fiscal year. The authorization levels for fiscal years 1982 through 1985 were calculated based on a 10 percent growth rate (as directed by section 201 of the bill) from the fiscal year 1981 authorization levels. This method was not applied in the case of the reappropriations authorized by the bill ($2.3 billion for the Strategic Petroleum Reserve and $42 million for the Geothermal Resource Development Fund), which are assumed to be one-time authorizations.

Estimated outlays for the major DOE programs, other than the Strategic Petroleum Reserve and uranium enrichment, are based on historical spending patterns or on the spendout rate of comparable activities.

Estimated outlays for the Strategic Petroleum Reserve are based on DOE development and oil acquisition schedules (100,000 barrels per day beginning in June 1981, increasing to 250,000 barrels per day in January 1982) and CBO oil price projections (approximately $47.50 per barrel by fiscal year 1982). Because of the availability of previously appropriated funds, the reappropriation authorized will not result in outlays until fiscal year 1982. (This would also be the case if Title VIII of S. 932 which directs earlier resumption of oil purchases were enacted.)

Estimates of uranium enrichment outlays and offsetting collections are based on DOE projections; these collections are assumed to offset expenditures, as allowed by section 101 of the bill.

Power marketing outlays result from both the construction and the operation and maintenance activities of the power marketing administrations. Receipts resulting from the net proceeds from the sale of power are estimated based on DOE production projections. For most of the accounts involved in this authorization, such proceeds go directly to the Treasury and are not used to offset outlays within the account. However, they are a direct result of the power marketing activities resulting from this bill and are therefore included in this cost estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO has transmitted the following cost estimates for the civilian programs of the Department of Energy, fiscal year 1981.

Bill, committee, and date.—

H.R. 6627, titles II, III, V, VII, VIII, House Interstate and Foreign Commerce, May 9, 1980.

H.R. 6627, titles IV, V, VII, House Interior and Insular Affairs, May 12, 1980.

H.R. 6627, titles I, VI, VII, VIII, House Science and Technology, May 15, 1980.

H.R. 7449, House Science and Technology, June 6, 1980.

9. Estimate prepared by Mark Berkman (225–7760).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

I yield to my distinguished colleague from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I rise in support of S. 2332, a bill to authorize appropriations for civilian programs in the Department of Energy for fiscal year 1981.

Before discussing the specific provisions of the bill, I think it is appropriate to inform the Senate about the new overall approach for annual authorizations for the Department of Energy which the Energy and Natural Resources Committee has adopted in this bill.

Section 660 of the Department of Energy Organization Act of 1977 provides that "appropriations to carry out the provisions of this act shall be subject to annual authorization." In previous fiscal years, the Energy and Natural Resources Committee has reported to the Senate authorization bills which were predicated upon detailed, line-item consideration of all activities and programs of the Department. This procedure has proven to be excessively time consuming in view of the committee's other workload in the early months of the session, and it has been impossible to comply with the deadline established in the congressional budget process for reporting the bill. In each fiscal year since the enactment of the DOE Authorization Act, the administration has proposed a major budget amendment or set of program initiatives in the April–May timeframe, thereby seriously complicating the committee's consideration of the President's budget proposal. In addition, the proliferation of detailed floor amendments which are invited by the measure have been a contributing factor in delaying Senate consideration of the bills in prior years.

In the formative years of the Department, some value may have been realized from the detailed oversight of the balance among individual subprograms and project line items which was afforded by the authorization hearings and business meetings. As the ongoing programs and activities reach a relatively stable state, however, the general policy content in an examination of each line item annually is greatly diminished. The process becomes largely a duplication of the examination which must be done by the Appropriations Committees.

The value of an annual authorization procedure rests upon the authorizing committees bringing a different viewpoint to the issues than do the appropriating committees. In general, the attention of the authorizing committees should be directed toward: First, the continual review of long-term direction and objectives of programs and activities; second, the approval of major new program initiatives and redirections of existing programs which are proposed for the fiscal year; third, approval of the initiation of new projects with particular attention to the overall justification of such projects and the total fiscal commitment over the life of a project which is contemplated for each; and fourth, special investigation or oversight of specific matters which are thought to have special priority or unusual problems.

The justifications of particular annual levels of expenditure for construction projects in progress or for the continuation of ongoing programs are matters which are considered annually in the appropriations process. Simple efficiency in the utilization of the scarce time and energy of the Members of Congress dictate that these considerations should not be duplicated by two committees and addressed twice by each House.

The Committee on Energy and Natural Resources, therefore, in considering the fiscal year 1981 authorization, has amended the measure to establish a new approach for compliance with the requirement for annual authorization of the Department's appropriations. This approach is intended to focus future annual authorization hearings and business meetings upon the matters I previously mentioned, and to authorize appropriations for other ongoing programs and activities to be made in amounts which are adequate to continue current levels of activity.

The committee believes that the approval of this measure will provide adequate authority for the operations of the Department and will establish a basis for more effective oversight of the Department in subsequent years. We are anxious to work with each Member in developing a better understanding of this process and to fully assure that programs and projects of specific interest can and will be accommodated within this new framework.

Based on the experience of the last

several years in dealing with annual authorization bills, I would urge the Senate to support the committee's new approach and pass this year's authorization bill in the form and with the substance included in S. 2332.

Let me now turn my attention to the major provisions contained in the bill and explain how this year's bill will accomplish the objective of the committee which I have outlined previously.

The total amount of appropriations authorized by this measure for fiscal year 1981 for the civilian programs of the Department of Energy would be $9,439,158,000. The authorization is accomplished by a series of specific major provisions, as follows:

First. Appropriations for fiscal year 1981 are authorized for operating expenses and for plant and capital equipment for each of the appropriation accounts which are involved.

Second. Construction projects which have been authorized in prior years are authorized to be continued. The funding for such projects falls within the amounts authorized for the relevant appropriations account numbers. A ceiling on the total appropriation for each project is established.

Third. Additional amounts are authorized to be appropriated for major new program initiatives which are proposed for fiscal year 1981.

Fourth. New construction projects are authorized to be initiated in fiscal year 1981 within the amounts authorized for the relevant appropriations account numbers, and total cost limits are established for each such project.

Fifth. Appropriations are authorized for fiscal year 1982 and later years for each appropriations account number in the amount of the actual appropriation which was made in the prior year plus 10 percent.

Let me now explain how these provisions would accomplish the authorization purposes of the bill.

The committee amended S. 2332 to strike everything after the enacting clause and to insert instead a new text and amend the title to comply with the new text. The committee substitute would establish a new approach to annual authorizations of appropriations for the civilian programs of the Department of Energy. The bill, as amended by the committee, has two titles. Title I authorizes appropriations for fiscal year 1981. It also establishes a basis for determining the total costs currently authorized for construction projects which were initiated in prior fiscal years and it authorizes several new construction projects which may be initiated in fiscal year 1980 or future years and establishes a total cost ceiling for each such project.

The fiscal year 1981 appropriations are authorized in sections 101 and 102 on the basis of the appropriations account numbers which were utilized in the fiscal year 1980 appropriations. In each instance the Appropriations Committee would be provided the latitude to fund line items within those appropriations accounts as they determined. The ceilings established by this measure apply to the total for each such account. Specific additional amounts of appropriations are authorized in section 103 for certain major initiatives which are contemplated in fiscal year 1981. These amounts are in addition to the base amounts provided for the relevant appropriations account and would authorize additional appropriations to the extent that the particular initiative is funded in the appropriations acts.

The construction projects which are authorized by this measure in section 104 are thereby made eligible for funding in fiscal year 1981 (and subsequent fiscal years) within the base amounts authorized for the relevant appropriations accounts. No additional appropriations are authorized by section 104.

The total costs indicated for each project establish ceilings on the total amounts which may be appropriated for each such project. In the event that a project requires appropriations to complete it which exceed the authorized ceilings, the ceiling would have to be revised in future authorizing acts. Similar ceilings on the appropriations for total estimated Federal share of the costs are established for previously authorized projects by subsection 102(c).

Title II of the committee substitute authorizes amounts to be appropriated for each appropriation account in fiscal year 1982 and subsequent fiscal years in the amount which has actually been appropriated for each such account in the prior fiscal year plus 10 percent. It should be noted that this authorization is not an overall 10-percent inflator or index. In each fiscal year, 10 percent latitude to the appropriations committee would be provided over the prior year level of actual appropriations. In fiscal year 1982 and subsequent years, therefore, the annual authorization measures would address only major departures from prior year levels of general activity, major new initiatives, new proposed construction project starts, and changes in estimated total costs for ongoing construction projects.

Mr. President, while this bill does constitute a departure from the extremely detailed subprogram-by-subprogram, line-item-by-line-item bill previously brought to the floor by the Energy Committee, the committee is completely convinced that the new approach is the only viable option for annual authorizations for this Department.

I wish to reiterate my commitment and that of the committee to work with each Member in perfecting and refining this new approach and to insure that programs and projects of specific interest to all Members of the Senate have been appropriately considered and reflected in the bill.

Mr. President, I would like to urge the support of the Senate for this year's Department of Energy authorization bill and encourage the passage of this bill in its present form.

Mr. JACKSON. Mr. President, today the Senate will consider the authorizing legislation for civilian programs and activities of the Department of Energy for fiscal year 1981.

S. 2332, the bill reported by the Senate Committee on Energy and Natural Resources to authorize fiscal year 1981 appropriations for civilian programs of the Department of Energy, authorizes a total of $9,439,158,000 for fiscal year 1981, including: $1.3 billion for fossil energy R. & D. and construction; $980 million for energy conservation activities; and $2.4 billion for strategic petroleum reserves.

This bill also establishes a basis for expediting the annual authorization process for fiscal year 1982 and successive fiscal years.

S. 2332 represents a new approach for compliance with the annual authorization requirement for DOE programs. Under this new approach the fiscal year 1981 appropriations for ongoing programs are authorized on the basis of each fiscal year 1980 appropriations category plus 10 percent. The ceilings established by this bill would apply only to the total for each such category. New initiatives represent the only "line items" in the bill. These are outlined in the table printed on pages 10 and 11 of the committee report.

Under title I, fiscal year 1981 appropriations are authorized for operating expenses and for plant and capital equipment for each appropriation category. Construction projects authorized in prior years are to be continued within the overall amounts authorized for construction activities. Additional amounts are authorized for major new fiscal year 1981 initiatives. New construction projects also are authorized to be initiated in fiscal 1981 within the overall amounts authorized for construction activities up to the total estimated cost established for each such project.

Under title II, appropriations are authorized for fiscal year 1982 and successive years for each appropriations category in the amount of the actual prior year appropriation plus 10 percent and new initiatives. In fiscal year 1982 and successive years, the annual authorization measures would address only major departures from prior year levels of general activity, major new initiatives, new proposed construction project starts, and changes in estimated total costs for ongoing projects.

Mr. President, I hope the Senate will agree with the committee that there is a need to pass an annual authorization for the Department of Energy without encumbering the legislation with policy amendments unrelated to the question of the basic funding authorizations for necessary programs. The committee recognized this need in reporting the bill we will consider today. Although many committee members had policy concerns of importance to them, it was agreed that legislative expressions of this concern would be made on other bills. The Senate should adopt the same view.

I am also hopeful that the Senate will recognize the wisdom of avoiding a tedious duplication of the work of the appropriations committees in the authorization process. The Senate has so many important issues to decide that it is simply folly to commit the time of Senators to doing the same thing twice. Yet that is what we have attempted to do in the past in considering authorizing legislation describing energy programs in minute detail, only to shortly thereafter take up separate appropriation bills which contain a similar, although not always entirely comparable, display of spending numbers. Increasingly, the congressional budget process threatens to drag us around this same track yet another time.

This hashing and rehashing of the numbers is not only unproductive, it is downright destructive. It squanders valuable time on trivia and detracts in a particularly unpleasant way from the real mission of the Senate: The establishment of national priorities and enactment of the necessary basic authorities to address national problems.

S. 2332 is a modest attempt to clear away some of the redtape we have tangled around ourselves. I hope the Senate recognizes the value of this effort.

UP AMENDMENT NO. 1475

(Purpose: To authorize funds for projects to demonstrate technology for the upgrading of heavy oil, tar sands materials, and residual oils).

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. Tsongas). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an unprinted amendment numbered 1475.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33 between lines 14 and 15 insert the following:

"(e) There are hereby authorized to be appropriated from funds available under the fossil energy research and development appropriation, up to $30,000,000 for projects to demonstrate technology for the upgrading of heavy oil, tar sands material, and residual oils."

Mr. STEVENS. Mr. President, we are all keenly aware of the need to reduce our crippling dependence on foreign sources for oil. It is widely recognized that one of the best ways we can do that is to look to our own Nation and its resources for the answer. One source of energy which has been sadly overlooked in the past is heavy oil.

As the world has exploited petroleum deposits, the most economical approach has been to develop the most easily refined deposits first. Most of the Nation's and the world's refinery capacity has been designed for and works best on "light" (easily flowing) and "sweet" (low sulphur) crude oils.

As domestic U.S. oil production decreases and we become more dependent upon imported oil, we face the choice of either developing our ability to tap our deposits of relatively heavy, or thick and viscous oil, or seeing our imports increase at a more rapid rate than they otherwise would—while also becoming more vulnerable to price hikes than we would be with greater internal supply capacity.

The Western United States contains large deposits of heavy crude oils. For example, DOE categorized 95 percent of Alaska's proved reserves of about 10 billion barrels of crude oil as heavy and high in sulphur, and over 85 percent of California's proved 3.5 billion barrels as heavy or "sour." These heavier crudes will become much more readily available if they can be processed without leaving a large residue of low value, sludgy "residual" oil. Further, the very thick hydrocarbon materials found in "tar sands" such as those in Utah and Canada are of the sort requiring refining techniques other than those developed for light and "sweet" crude oil.

Consequently, we are now forced to find ways to develop the capacity to refine the more viscous crude oils, with their heavier burdens of carbon, sulfur, and metals, without causing environmental problems.

Because the Western United States has the largest deposits of heavy oils, the need for retrofits of refinery capacity to handle such oils is greatest there. California is in an anomalous position. It has more crude oil underground than is needed to supply its petroleum needs—but insufficient capacity to refine it. Some 1.6 million barrels of oil per day are coming down to west coast refineries from my State of Alaska in addition to that—of which roughly 150,000 barrels must be then sent through the Panama Canal because of the lack of capacity to refine it. This leaves California in the position of having to import lighter crude oil from overseas. This pattern of proper domestic refining capacity for the west coast crude oils strains our balance of payments and, in a shortage situation, drains gasoline supplies from other States.

Boosting our capacity to use heavy crudes for automobiles and household heating purposes, without creating surplus "residual" oil, will give us more elbow room as we work through our transition to greater reliance on coal, solar energy, and other alternative energy sources.

The recent squeeze on gasoline has made obvious that the combination of our existing amount and type of production and refining capacity, its mode of use, OPEC rationing, and instability in the Middle East, all leave us uncomfortably little leeway, or degrees of freedom with which to avoid upsetting and inflationary supply shortages. We need to act promptly.

Mr. President, I believe that my amendment would get us moving in the right direction. It would provide the needed funds for projects to demonstrate technology for the upgrading of heavy oil. Some advances are being made in this technology, but we cannot afford to wait in today's uncertain atmosphere. This amendment is designed to hasten the development of critically needed technology.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. JOHNSTON. Mr. President, as I understand, this amendment provides up to $30 million from the fossil account for R&D for heavy oil. So that what we do is give some discretion to the Department of Energy to use up to this $30 million for that R&D; but to the extent they do not use it, they still can use it in the same account.

Mr. STEVENS. The Senator is correct. It is R&D money for the purpose of demonstrating the processes for commercialization that we feel are there. It is a discretionary authorization.

Mr. JOHNSTON. Mr. President, I believe this is a good amendment, particularly in view of the discretion.

Heavy oils are the wave of the future. Oils throughout the world are increasingly heavy and high sulfur, also in Alaska, particularly in Venezuela. The Venezuelans have given great sums of money in R&D to try to refine the vanadium out of their heavy oil.

I believe there is a real hope that we can build refining capacity to handle Venezuelan oil and have for the first time, on that basis, a real Western Hemisphere oil axis. I do not believe we ever will be able to do it with Mexico or Canada—particularly not with Mexico, which is so sensitive. But if they have the heavy oil in Venezuela, up to a trillion barrels, and we have the only refining capacity that has handled it because we have developed and built it, then we may have a marriage between our two countries.

In short, I believe this is an excellent amendment, and I urge the Senate to adopt it.

Mr. President, I ask unanimous consent that Senator Cranston be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, on behalf of the minority, I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1475) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from Louisiana and the Senator from Oregon.

UP AMENDMENT NO. 1476

(Purpose: To reduce the number of employees at the Department of Energy)

Mr. EAGLETON. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. Eagleton) proposes an unprinted amendment numbered 1476.

Mr. EAGLETON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

Sec. . Notwithstanding any other law, 1000 positions currently allocated by the Secretary of Energy to carry out the programs established under the Emergency

Petroleum Allocation Act of 1973 shall be terminated effective October 1, 1981. No funds may be used by the Secretary of Energy to carry out any programs established under the Emergency Petroleum Allocation Act of 1973 after September 30, 1980.

Mr. EAGLETON. Mr. President, I will not take very long on this amendment.

As the distinguished Senator from Louisiana may recall, some weeks ago we had a debate on this subject matter.

I believe that my feelings on the operations of the Department of Energy are very well known. I believe it has been one of the most ineffective and inefficiently run organizations this Government has ever created. The Department has had the longest record of bungled programs in the history of this Nation, for an agency that has been in existence for such a short period of time. The people of this Nation are tired of the bungling of the Department of Energy and, frankly, so am I.

I also want to make clear that I always have been against the decontrol of domestic crude oil prices. As I stated this morning in a speech on the floor, I believe that the exorbitant profits that the oil companies have realized as a result of decontrol are at the very crux of our Nation's current economic dilemma.

Nevertheless, it is apparent that the intent of the Nation's energy policy is to go through with complete decontrol of crude and product prices and the associated allocation mechanisms.

As we know, all authority for Federal control over petroleum products expires on September 30, 1981, under the terms of the Emergency Petroleum Allocation Act of 1973. An estimated 1,400 to 1,600 Department employees presently are assigned to these functions. My amendment simply provides that when the work which these employees are assigned to do is finished, as it will be on September 30, 1981, there be an equivalent reduction in overall Department personnel.

It is a truism in Government that old agencies never die and seldom fade away. They just grow bigger and fatter every day.

It is hoped that my amendment will establish a precedent and that finally we may be in a position to begin eliminating agencies which have accomplished their goals or have outlived their usefulness.

The estimated savings from this amendment are about $150 million a year. That is significant, but the principle of eliminating unnecessary Federal positions is even more important than the dollars themselves.

Therefore, I urge that my colleagues support this amendment.

If we are on a time allocation, I reserve the remainder of my time; if not, I reserve nothing.

Mr. JOHNSTON. Mr. President, I believe this a very laudable goal, and I support the Senator in wanting to cut down the number of personnel.

Is the Senator aware that under the Emergency Allocation Petroleum Act and laws and regulations enacted pursuant thereto, there presently are claims pending against major oil companies in the size of billions of dollars for alleged overcharges? Frankly, I believe some of those claims are spurious, and they have been much too fast and loose with some of the claims and some of the attendant publicity.

However, I do not believe the Senator from Missouri wants to fire the lawyers and the accountants who are continuing to work on these claims—which this amendment would do. It would say that after October 1, 1981, those people must not be on the payroll and must no longer be working.

Is the Senator aware of that effect?

Mr. EAGLETON. I do know that there are various claims pending in the Department of Energy, and I think the point of the Senator is, in part, well taken. I may redraft my amendment to say except for such positions assigned to that particular endeavor, all positions allocated to the Secretary of Energy, et cetera. I may call the amendment back, and I will put in a precisely drawn exceptions clause that will come after the notwithstanding clause.

Mr. JOHNSTON. Mr. President, there may be other activities under the Emergency Petroleum Allocation Act adjusting various claims, not just claims against the major companies, but claims between various claimants, between refiners, under the entitlements program for allocations and special relief, for example, on bank costs, question of whether how much they had in their bank of costs.

I think it is a good amendment in its purpose, but there are so many of these technical programs that may be involved.

Mr. EAGLETON. I think we can take care of that. I will redraft it. Instead of saying "all positions," we will say "two-thirds of the positions." That will leave the discretion to the Secretary of the Department of Energy as to the one-third that he keeps. He can keep the lawyers, the accountants, and others who might help him in processing the claims. But certainly when the allocation program is expired and when price regulation, et cetera, is all expired, he certainly does not need to keep 1,400 or 1,600 people who used to be doing lots of work in that area and then have no more work to do.

Mr. JOHNSTON. Two-thirds of those who are now employed, not two-thirds of those who will be employed on September 30, 1981.

Mr. EAGLETON. The way the amendment reads now is:

> Notwithstanding any other law, all positions allocated by the Secretary of Energy to carry out the programs established under the Emergency Petroleum Allocation Act of 1973 shall be terminated.

All those positions, I take it, currently now identified as such. It is our information that some 1,400 to 1,600 are so assigned. Frankly, I do not know why we do not know a more precise figure.

Mr. JOHNSTON. The Senator's amendment, as he will redraw it, will not prohibit assigning those persons to other duties?

Mr. EAGLETON. No. My amendment would kick them out. I want them out. I do not want any of this reassignment stuff. That is the oldest bromide. There is nothing to assign them to. These are price regulators and allocators. I am not going to assign them to be atomic energy inspectors. I am not going to assign them to a desk in a boneyard to sit and get paid and do nothing because that is, frankly, what they are doing now. So, no; I want them out the door. The door is slammed on two-thirds of the 1,400, bye-bye, bon voyage. That is what I want.

Mr. JOHNSTON. Does it matter if they have seniority?

Mr. EAGLETON. No; I do not care what their seniority is. Their work is terminated. Out they go. I am not going to have a guy who has a lot of seniority as an allocator bump someone over in atomic energy, inspecting Three Mile Island. I do not want a clod whom we are getting rid of bump someone who could do useful humanitarian and socially prudent work.

Mr. JOHNSTON. Mr. President, since the Senator will redraft his amendment and put it back in, I wish to speak about it more in just a moment.

Mr. EAGLETON. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATFIELD. Mr. President, I yield to the Senator from New Hampshire.

Mr. DURKIN. Mr. President, I thank the Senator from Oregon for yielding to me as it is my understanding he was next in line.

UP AMENDMENT NO. 1477

Mr. DURKIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 1477.

Mr. DURKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 31, line 25, delete the word "and" and on page 32, line 2, delete the period and insert in lieu thereof the following: "; and (C) small hydroelectric construction grants program, $5,900,000."

Mr. DURKIN. Mr. President, I believe this amendment has been cleared on both sides, at least at the staff level, and I anticipate at the Member level.

There is some conflict as to small-scale hydroelectric construction plants.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. JOHNSTON. This is the amendment that provides $5.3 million for small-scale hydro?

Mr. DURKIN. $5.9 million in authorization, yes.

Mr. JOHNSTON. In authorization.

Mr. President, we have long been committed to small-scale hydro. It is time to get on with the demonstration of that. This is only an authorization for it. I think it is appropriate, and I urge the Senate to accept it.

Mr. DURKIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (UP No. 1477) was agreed to.

UP AMENDMENT NO. 1478

Mr. HATFIELD. Mr. President, I send to the desk an amendment and ask for immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1478.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 27, line 3, following "and", add "*Provided further*, That no funds authorized to be appropriated in this subsection may be obligated for construction or acquisition of a major facility for the transportation, storage or disposal of nuclear waste from civilian nuclear powerplants until legislation establishing title transfer, user fees and other program operating procedures has been enacted; and"

Mr. HATFIELD. Mr. President, my amendment will simply keep the nuclear waste cart behind the horse. It prohibits using appropriations authorized in this act for construction or acquiring Federal storage facilities for spent fuel from civilian nuclear powerplants until we enact a Nuclear Waste Policy Act which establishes all the ground rules.

I want to put pressure on the House of Representatives to get its act together on nuclear waste policy as we have in the Senate with the passage S. 2189 earlier today.

But more than that I do not want the Government to be spending large sums of money on this kind of activity before we authorize the program, before we establish who will pay for the service and under what conditions we will take waste off the hands of the nuclear powerplant operators and in what kinds of facilities we will put this waste.

S. 2189 answers these questions, and I want to see such a bill enacted before I am asked as a member of the Appropriations Committee to come up with the big money to operate an AFR program or a long-term retrievable storage program.

I do not know how more simply I can put the proposition that is embodied in this amendment than that.

I repeat it is simply to keep the horse before the cart.

I cannot see how we can legitimately with good conscience and in any kind of modicum of intelligence move ahead and say we are going to appropriate these large sums of money when there is no plan in place, and we are expected then to sign blank checks for large sums of money to make purchases for construction or for storage without any idea of how these bills are going to be paid as it relates to the people who are really creating the waste and who have the responsibility for its disposal.

That is putting it in the most simple terms I know. It is uncomplicated. There is no hidden agenda involved in this at all. It is just simply to try to make sure we have a plan in place of how we are going to handle, how we are going to finance, how we are going to allocate the cost factors in the handling of this particular material.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. Mr. President, I certainly agree with the distinguished Senator from Oregon that we need to establish a program and indeed that is what we have been about in the Senate for the last 3 days, establishing a program as he describes it which establishes title transfer user fees, and other program operating procedures.

My concern with this particular amendment is the effect it might have in the fiscal year 1981 appropriations bill. I hope that we can appropriate money pursuant to S. 2189 just passed and pursuant to its terms, limitations, and conditions.

I am, therefore, wondering whether the Senator would consent to this kind of an amendment in the next to the last line after "facilities," strike the rest and put language as follows:

> Unless said funds are appropriated pursuant to S. 2189 passed by the Senate on July 30, 1980, or pursuant to other legislation establishing title transfer user fees and other program operating procedures as have been enacted.

What this would do, and I would want to call on my friend from Idaho to be sure this does not have any hitches in it, is authorize us then to go ahead in the Appropriations Committee and fund the AFR part of S. 2189, at least fund it in part which we would hope to be able to do at this time.

Mr. McCLURE. Before the Senator from Oregon responds may I ask this further question of the Senator from Oregon, and he might be able to respond to both.

If I understand the thrust of the amendment, and I think I do, it is that we are not going to be involved in the AFR and not going to get involved in the long-term disposal that we have now authorized in the legislation which the Senate has passed, until that becomes law. I share in that conviction that that is proper.

But there are numerous activities underway now at Hanford, at Los Alamos, at Idaho National Engineering Laboratory, and other places in the United States that might come within the broad language of this amendment, and I think it is probably not the intention of the Senator from Oregon to reach those ongoing activities in which we are now involved.

Mr. HATFIELD. Mr. President, first of all, I would like to respond to the Senator from Louisiana on his proposed amendment. I assure the Senator that my simple purpose here is to wait until we have an established policy before we embark upon the construction and acquisition of the AFR's; therefore, because that is the only purpose of this amendment, I can certainly easily accept his proposed amendment to mine. It would achieve the same goal, the same purpose that I had intended.

I would say to the Senator from Idaho this would have no impact on the continuing R&D, programs or other such programs that are in operation now but, rather to restate, it is only prospective, only before we engage in or embark upon the acquisition or construction of such AFR's wait until we really have that policy in place.

It is a simple procedural matter. But, as I indicated in my opening comments, I think this amendment, I would say to the Senator from Louisiana as well, could be a good prod, a positive kind of of prod, to the House to act upon this very important issue as we have already done here on the Senate side. So it has, in effect, almost a twofold purpose.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. HATFIELD. Sure.

Mr. McCLURE. The Senator in his response indicated it is prospective only. When he speaks of prospective he is speaking of the beginning of new major facility construction or acquisition as contemplated in the bill just passed, and not the continuation of activities even though they might be involved in continuing appropriations.

Mr. HATFIELD. The Senator is correct. We have stated in the opening comments that we are referencing this and we are putting it into the context of S. 2189 which the Senate enacted earlier today.

Mr. McCLURE. Yes.

Mr. HATFIELD. It is only within that context. It has nothing to do with impacting upon any existing or continuing program. From the moment of existence we are now dealing with——

Mr. McCLURE. Even if those might be new programs but R&D, in nature, and not major facilities contemplated.

Mr. HATFIELD. That is correct, strictly within the context of S. 2189.

Mr. President, I modify my amendment and I ask unanimous consent to modify my amendment with the language as read by the majority manager of the bill.

THE PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. JOHNSTON. Mr. President, if the Senator will withhold on that, the intent of the amendment as stated would be as explained by the Senator from Oregon but with the proviso that the Appropriations Committee would be free in the fiscal year 1981 Appropriations Committee bill, would be free, that is to say not in violation of this, if we appropriated, say, $10 million to AFR's and referenced this S. 2189, and that is the intention of the proviso; am I correct on that, I ask the Senator from Oregon?

Mr. HATFIELD. I am reading the language again.

Mr. President, let me restate it as we have now modified it, and I would so restate it in order to answer the questions propounded by the Senator from Louisiana.

The amendment, as I read it, and the intent as I understand it proposed here by both of us in modifying my original amendment, is that S. 2189 is the criterion, S. 2189 is the measurement, S. 2189 has to be, or if it has been passed by the House and we have had some minor changes or something, that is the criterion upon which we act; that we do not appropriate funds for construction or acquisition of any major facility outside of the scope of S. 2189 being in place, which then establishes the national policy.

If that is the wording, that is how I read this language now as proposed by the Senator from Louisiana, that certainly would be within my intent as to the original amendment.

Mr. JOHNSTON. If I may give the Senator the scenario, we hope to go to markup on energy and water resources as soon as possible, conceivably later this week. If not then, the first week after the recess—if we are in session next week we will go to markup next week.

We hope to fund at least partially the AFR program under S. 2189 because as that long debate today shows we need to get on with the preliminary work, the negotiation of EIS, and all those other things that will be necessary to meet the 1983 deadline. So we hope to go ahead and put that language in referencing S. 2189.

It may be in a sense legislation on an appropriations bill, but we have done that many times, particularly where we have a Senate-passed bill. So that is what we want to do, and that is what this would permit, this proviso, and that is the reason we have written it out.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. May I just respond? I would say to the Senator I think there are probably many things we can do to set the stage in order to program and be ready for construction or for acquisition.

My amendment simply addresses the point of construction and acquisition, the actual act of contracting or of a contract for construction, a contract for acquisition or for construction. That is what I am addressing.

Mr. JOHNSTON. Consistent with S. 2189.

Mr. HATFIELD. Well, S. 2189 is not established, that legislation is not established, without both Houses of Congress. Nothing becomes official policy on which the Nation may move unless it has been acted upon or something related to it. In other words, I am not saying 2189 as it now stands. There may be some modification by the time the House acts. I am only wanting to preclude the appropriations process from moving ahead without a policy in place and a policy that has been enacted under the legislative process, and that is what I read in this wording.

If the Senator is suggesting—and I am not sure that I understand him to be doing this—that we use S. 2189 to proceed with full appropriation for construction and acquisition, even though the House has not acted on a nuclear waste policy or bill, then I do not see that kind of language here. I hope that is not what he is suggesting, because no policy situation is established in this country under a bicameral system without two Houses acting.

I am not wedded to S. 2189 as far as dotting the i's and crossing the t's, because it may be that we will have had some House action by that time and we will have compromised the differences and we will have a bill dealing with this subject in place and it is then national policy. That is what I am suggesting on the point of construction and acquisition of facilities. Otherwise, we are signing blank checks.

Mr. McCLURE. Mr. President, if the Senator will yield, I agree with what the Senator is saying. We ought not to be signing blank checks to the administration for developing of programs which we have not yet determined.

I think that we may very well be able to telescope this process a little.

I agree with the Senator from Oregon that is is a good incentive for the other body to join with us in the effort that has been thus far well begun in the bill just passed in this body. But we could very easily, in an appropriations bill, make an appropriation and condition it upon exactly the same criteria that we have set up in S. 2189. If the other body acceded in that appropriations bill, we would have had the policy direction even though not in the authorization bill.

I would not want to preclude that possibility. I do not think the Senator from Oregon really wants to preclude that possibility, either.

So I think if we had an understanding that this is not intended to preclude the possibility of an appropriations process, moving within the purview of what we have already passed here, that we might, as a matter of fact, in this rather attenuated and difficult legislation year, be able to gain a year in the process or at least not lose a year.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. Yes; I am happy to yield to the Senator from Louisiana for a comment on that point. I thought maybe if we were at a point of understanding on that, we might be able to get that nailed down. If not, I will proceed to the next point.

Mr. JOHNSTON. One of my concerns here is that the Senator said everything is authorized up to acquisition and construction. I wonder if Senator HATFIELD would be willing to add still a further proviso to the effect that: "Further provided, that all actions leading up to such construction or acquisition are authorized."

The fear here being that no authorizing legislation is passed and we want to proceed with EIS or with negotiations or with other activities leading to acquisition and construction so we do not lose any time. Would the Senator agree to add that proviso?

Mr. HATFIELD. Well, if I understand the Senator's request correctly, he is suggesting we do something here by affirmative authorization that I have done by the absence of addressing the issue at all, because what I have tried to do is pick out the precise steps that I think we must have policy in place before we proceed. I have not listed those steps than can be taken.

As I understand it, the Senator is now asking that we list at least an indication of certain steps that could be taken as considered to be authorized and without coming under the restrictions of this amendment.

Mr. JOHNSTON. I just want to clarify them. I might be willing to go along with this restriction if we are sure that we can do everything leading up to that. There is not very much you can do except things that take time like negotiations and EIS. Surely we ought to be able to proceed at least that far.

Mr. HATFIELD. Mr. President, I want to make the record very clear. I indicated a while ago, and I would like to reiterate, that we are not granting any new authority here. What we are trying to do, in effect, is to limit the authority. We intend to exclude from this restriction all the activities leading up to the point of acquisition or construction. If there is planning, if there is design, if there is EIS involved, whatever these other things are, that is perfectly legitimate. I see no reason why that should fall under the restrictions of this amendment.

All I am suggesting here in this amendment is that, until we have a policy in place that involves literally millions of dollars with allocations of costs responsibilities, before we do that, we have such a policy well defined in law.

If these preliminaries are part of the development the Senator wants to embark upon leading up to acquisition and construction of AFR's, I have no objection to those whatsoever.

But I do not see why we have to add that, because my restriction is precisely addressed to the construction and acquisition.

Mr. JOHNSTON. Mr. President, the answer to the reason to add it is that there is some legal question in the Department about whether or not the Department can proceed with EIS, proceed with a design, or proceed even with negotiations.

Mr. HATFIELD. Can we do that in report language to clarify that we have no concern about restricting those?

Mr. JOHNSTON. We have done that before in report language in the appropriations bill.

Mr. HATFIELD. What does the Senator propose in language?

Mr. JOHNSTON. Something along this line. My language would say: "Further provided, that all actions leading up to such construction or acquisition are authorized."

Mr. McCLURE. Or "all actions preliminary to."

Mr. JOHNSTON. "Preliminary to" is probably better.

Mr. HATFIELD. Is that, in effect, providing new authority?

Mr. JOHNSTON. It is a clarifying statement.

Mr. HATFIELD. Does that authority exist now?

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Mr. President, I have to tell the Senator that there are some lawyers, apparently, in the Department of Energy who say no. Our counsel on energy and water and our staff—most all of the smart people—say yes, they do have that authority. But there are some nitpickers who, frankly, say no.

So if we are going to give you the first part, I think we ought to clarify the last part.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. Mr. President, I suggested, rather than "leading up to," we might use the language "preliminary to," which is perhaps less of a statement that we are going to go ahead with it and still leave them the clear authority to do what is necessary in the preliminary steps.

Mr. JOHNSTON. The Senator, as usual, has cleared up the language by suggesting a word which is more better.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside in order for me to send a technical amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1479

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1479:

On page 29, line 6, strike "$170,000,000" and insert in lieu thereof "$319,000,000".

Mr. JOHNSTON. Mr. President, this is a technical amendment which is designed to correct an error made by staff. The amendment was supposed to have read in the committee bill $170 million plus $149 million for Portsmouth, Ohio, and Richmond facilities, but it got into the bill as only $170 million.

This amendment corrects that by making it consistent with the committee's intent.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1479) was agreed to.

Mr. EAGLETON. Mr. President, I send an amendment to the desk for myself and Senator BOREN, and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will state that the pending business is the amendment of the Senator from Oregon.

Does the Senator from Missouri wish that the Hatfield amendment be temporarily set aside?

Mr. EAGLETON. Mr. President, may I address a question to the Senator from Louisiana?

While they are working on the redrafting of the Hatfield amendment, might it be possible that we could proceed with and dispose of my amendment. Or will that mess things up?

Mr. JOHNSTON. Mr. President, it is up to the Senator from Oregon. I would be glad to go ahead and work on it.

Mr. HATFIELD. That is all right.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Hatfield amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1480

(Purpose: To reduce the number of employees at the Department of Energy)

Mr. EAGLETON. Mr. President, I send an amendment to the desk on behalf of myself and Mr. BOREN, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. BOREN, proposes an unprinted amendment numbered 1480.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. . Notwithstanding any other law, one thousand positions currently allocated by the Secretary of Energy to carry out the programs established under the Emergency Petroleum Allocation Act of 1973 shall be terminated effective October 1, 1981. No funds may be used by the Secretary of Energy to carry out any programs established under the Emergency Petroleum Allocation Act of 1973 after September 30, 1981, except insofar as to pursue and complete matters and claims initiated under the Emergency Petroleum Allocation Act of 1973 prior to September 30, 1981.

Mr. EAGLETON. Mr. President, this is a redrafted version of my earlier amendment. My earlier amendment would have called for the termination of between 1,400 and 1,600 employees of the Department of Energy on September 30, 1981, when the Emergency Petroleum Allocation Act of 1973 will have expired.

As the Senator from Louisiana very properly and sagaciously pointed out, there are some employees in that category who do some work with respect to claims and other litigation which might have been initiated under the act. That is very true.

We have called over to the Department of Energy. There are 229 such people, so we do not want to fire them. And to leave a cushion for other unforeseen contingencies, we have decided, instead of whacking away the full 1,400 or 1,600, we are just going to whack away 1,000. That will leave between 400 and 600 of these employees to do whatever is necessary to wind up work under the Emergency Petroleum Allocation Act or other items and matters not readily foreseen at this particular moment, as we debate this amendment.

Eliminating these thousand employees will save $100 million and will be a small blow for freedom insofar as reducing the burgeoning and bloated size of the Department of Energy. It is not an immaculate cure to the problems of the Department, but at least, it is an identifiable step in the right direction.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would consent to the following additional language: "Unless their position is necessary to pursue new duties and responsibilities not currently existing."

The reasons I make that statement is that there are all kinds of new programs that we thrust on the Department of Energy: The insulation for poor people; the so-called BEP program, which is the building energy performance standards in new-house construction; the new biomass program, where we just gave to the Department of Energy an additional $570 million, as I recall, to pursue a biomass program; another $200 million for urban waste. There are all kinds of new programs that we are giving to them and we certainly ought to have flexibility, if these are new duties, not currently existing, to apply these positions to that.

Would the Senator have objection to that?

Mr. EAGLETON. I am afraid I would, Mr. President. I know the Senator from Louisiana is trying to be reasonable and accommodating, as he always is. But, Mr. President, if I were to accept that modification, that little opening—just a little teensy, weensy opening—becomes the loophole of this amendment. It is through that little opening that all 1,400 to 1,600 employees will suddenly rush.

That modification will insure that not one of these 1,000 people will depart the serene confines of the Department of Energy, and it will insure, as is true of practically every other Federal department, employment into perpetuity regardless of whether the responsibilities for which they were hired are terminated.

Here we have a thousand allocators, Mr. President, a thousand regulators. That is what they have been doing. Their work, by law, is going away. Now we are going to make them biomass experts? This is the very reason that we cannot bring down the size of Federal departments. They will find some desk to put these clowns behind. As sure as we are standing here, they will find them a desk and some typewriters and some telephones and parking places and other accoutrements of their position. That is precisely what I am against. That is what I am trying to get at.

Mr. JOHNSTON. Mr. President, the Senator is from a farm State. He agrees with me as to importance of the gasohol program. We do not have any employees to speak of in the gasohol program right now. Where are we going to find people?

Mr. EAGLETON. I do not want to put these people in charge of gasohol. That is one program where we have a chance. Do not put these allocators in the program on gasohol. That is the kiss of death. Why do you want to destroy this program?

The Senator has dealt with these idiots in the Department. They need their place in the sun—outside the building, at the unemployment line, somewhere, but not in the Department of Energy.

Mr. JOHNSTON. Mr. President, the Senator makes such a compelling case that I am tempted to rush in and accept this amendment, except that, when I read the small print, I find it does not refer to these individuals, it refers to positions or allocations of positions. The Department of Energy has a certain number of positions allocated. These are not people allocated, these are positions.

So we take away 1,000—not people. Not 1,000 regulators; not 1,000 people over in EPAA who are moving entitlements around. We take away 1,000 people.

I do not know how we can start a new program without new people. I do not know how we can get this gasohol program off the ground unless we have people to run it.

Mr. EAGLETON. The word "positions" was advisedly selected by legislative counsel, and I think it makes sense. Here is what can happen to these thousand. They are terminated and they have the going away parties for all of them—nice parties. These guys can turn around and try to get on in a new job in the Department.

If they are able to get on some kind of civil service register and the exallocator becomes the most qualified person to be hired to head up the biomass office in the Department of Energy, then he can get that job. He is not permanently debarred from ever working for the U.S. Government. This is not a bill of attainder, although every once in a while, I think maybe it should be. If he can get on a civil service register and be the most qualified man on biomass or to run our gasohol program, after spending these years allocating and regulating, more power to him. But let him go out of the door and come back and apply and see if he is qualified.

Mr. JOHNSTON. Mr. President, the problem here is if we abolish the allocation of position we just reduce DOE by that number of people.

Mr. EAGLETON. Amen, brother.

Mr. JOHNSTON. While I would like to do that, the reality is we cannot, because we have these programs coming on. I would rather look at that in the Energy Committee.

I have been cutting budgets all year long, with great relish, and been called very stingy by a lot of people because I have been trying to cut budgets. Nevertheless, Mr. President, I do not believe this would work. We ought to get a chance to look at it.

For example, we have language in there that "except insofar as necessary to pursue and complete matters and claims initiated under EPAA"—when is a claim initiated? I do not know. Notice of probable violation is probably not the initial claim. When is the filing of a suit? I do not think we would have the people to finish up that work.

Nevertheless, Mr. President, I would be willing to abide by the will of the Senate in a voice vote and take this to conference, if that is what the Senate insists on. I think it would be a very bad move, but I am willing to let it go to a voice vote. I hope the Senate will exercise good sense and turn it down. If it does not, we shall go to conference and see what happens.

Mr. EAGLETON. That is fine with me, I say to the Senator.

Mr. President, I yield a minute to my colleague (Mr. BOREN).

Mr. BOREN. Mr. President, I thank my colleague from Missouri. I compliment him for taking the initiative in offering this amendment. I am very proud to join with him on it. I think it is time that we do begin to dismantle unnecessary bureaucracies and the burdens which they represent to the taxpayers of the country. The functions of this particular division are due to phaseout and I think, rather than follow the usual tendency to keep these people on the payroll at public expense and transfer them to other duties, we should take advantage of this opportunity to move toward cutting unnecessary spending.

I cannot think of a clearer example of unnecessary spending and waste in Government than the example which has been pointed up by my colleague from Missouri.

I compliment him again on his initiative. I am very proud to join with him. I hope this amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The Chair is in doubt.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, could we have, maybe, just a show of hands?

The PRESIDING OFFICER. All those in favor will rise and be counted. (Putting the question.)

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 1480) of the Senator from Missouri. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Indiana (Mr. LUGAR), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 66, nays 23, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—66

Armstrong
Baucus
Bellmon
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Magnuson
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Percy
Proxmire
Pryor
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—23

Bayh
Bentsen
Bradley
Byrd, Robert C.
Chafee
Chiles
Durenberger
Hatfield
Inouye
Jackson
Javits
Johnston
Levin
Mathias
Matsunaga
McClure
Pell
Randolph
Ribicoff
Sarbanes
Stennis
Stevens
Tsongas

NOT VOTING—11

Baker
Church
Culver
Heinz
Kennedy
Long
Lugar
Pressler
Stewart
Talmadge
Williams

So Mr. EAGLETON'S amendment (UP No. 1480) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will take their seats.

The Senate will be in order.

The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered last evening there will be no more rollcall votes between the hour of 6:30 p.m. today and 8 p.m. today.

Now the question arises, Will there be rollcall votes beginning at 8 p.m.? I will have to answer that in the affirmative.

It is the intention of the leadership to dispose of the Department of Energy bill tonight and to follow the Department of Energy bill with the Nuclear Regulatory Commission bill.

Why is it important that we at least get action on the Nuclear Regulatory

Commission bill? The answer is that the manager of that bill on the minority side has to leave at 4:30 p.m. tomorrow which means that if the Senate has not completed action on the Nuclear Regulatory Commission bill by 4:30 p.m. tomorrow that bill has to be taken down until next week.

I intend to avoid a Saturday session. There will be no Saturday session this week. So it will be necessary to go into the evening today for the reasons stated.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CHILES. Mr. President, I simply wish to observe to the leader that we went until 11:33 p.m. last night. We will have a recess from 6:30 p.m. today until 8 p.m. today.

We had quorum calls that lasted over hours, and I know that is not the majority leader's fault at all. I know he was trying to get up the rollcalls. I know at times the minority cooperates with the majority and the majority cooperates with the minority in setting these kind of times within which there are supposed to be no votes.

But I simply wish to observe that 6:30 p.m. to 8 p.m. does not help me much with my family. I have to go to Virginia. I hardly get a chance to get out there to see my daughter and get back in the time from 6:30 p.m. to 8 p.m., and it just seems to me if we are going to set these times two nights in a row and we are going to go late two nights in a row I do not see why we cannot stack up some votes for tomorrow morning or do something like that.

But I personally do not want to see us enter into other agreements that are going to have this long recess and then go into these late sessions. I wish to be notified so I can come to the Chamber and object to it, or something, because it seems to me if we work all of this out for the parties, I am ready to work something out for my family, and with that kind of thing of having to go two nights in a row in which we do not get a chance to see our families because we are accommodating some political affair, I am going to have lots of politics but I am not going to have anything else to go home to if we do not do better than that.

Mr. ROBERT C. BYRD. I thank the distinguished Senator and I appreciate his observation.

I am not an advocate of having evening breaks, but there come times when it becomes necessary and it does not happen often and in this instance it is a necessity.

I do not think we can finish this bill by 6:30 p.m. today which means that any rollcall votes on this bill would come at 8 p.m.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JOHNSTON. Mr. President, I think we have an excellent chance of finishing this bill without another rollcall vote if Senators could identify what their amendments are, those that we have identified we think we are going to be able to take. So I think we can avoid rollcall votes on that.

Frankly, I have always regarded the vote on final passage as being sort of superfluous anyway. Everyone votes for it. So I would not insist on a rollcall vote on final passage. We may be able to stay here—I am not going to go to a political affair and I do not think my colleague from Oregon is—and finish this bill.

Mr. HATFIELD. I have not been invited.

Mr. JOHNSTON. That is right. We have not been invited. Although we have cash to contribute to whichever party it is, we will keep our money.

So we could probably finish this bill and then maybe lay down the NRC and have our opening statements and then be ready to come back tomorrow on votes on NRC and in that way avoid any votes tonight.

If Senators could tell me what their amendments are, I know about a Ford amendment.

Mr. FORD. Two amendments.

Mr. HATFIELD. Mr. President, we have Mr. CHAFEE on our side who has an amendment and Mr. TSONGAS has an amendment.

Mr. JOHNSTON. I think we are going to be able to take the Chafee amendment and I think we will take the Tsongas amendment. I believe we can take the two Ford amendments.

As to the Pryor amendment, does he wish a record vote on that?

Mr. PRYOR. I do not think I need a record vote on it.

Mr. JOHNSTON. We will try to work it out with Senator PRYOR, but he says he needs no record vote.

Does anyone else have an amendment?

Mr. MORGAN. I have an amendment.

Mr. HATFIELD. I have an amendment.

Mr. JOHNSTON. And the Hatfield amendment I think we have worked out.

Mr. McCLURE. Mr. President, I have an amendment that deals with the study of waste. DOE wants it.

Mr. JAVITS addressed the Chair.

Mr. ROBERT C. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia has the floor and has yielded to the Senator from Louisiana.

Mr. ROBERT C. BYRD. Mr. President, it may be possible to work this situation out.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. It may be possible to work out an arrangement whereby we will not have to come back this evening. Let me see what the feeling of my colleagues may be in this regard.

How many Senators have amendments to the pending measure on which they will request yea and nay votes?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. This Senator wishes to have a rollcall vote on final passage.

Mr. JAVITS. Some other Senators might want rollcall votes, even the proponents, so we have to know what the amendments are.

Mr. ROBERT C. BYRD. Now, as I said, I hope we can complete action—let us go to the other bill for a moment.

Unless we finish the Nuclear Regulatory Commission bill by 4:30 tomorrow it has to come down until next week. Can we get a time agreement on that bill?

TIME-LIMITATION AGREEMENT—S. 2358

Mr. ROBERT C. BYRD. I propose a time agreement——

Mr. HART. Mr. Leader, if I may have the attention of Senators, particularly my colleague from Wyoming (Mr. SIMPSON), for the Subcommittee on Nuclear Regulation it is my belief that the authorization bill for 1981 for the Nuclear Regulatory Commission could be transacted in a period of not to exceed 2 hours and, perhaps, not all that time used. I am unaware of any amendments that will require rollcall votes about which there will be any significant controversy.

Now my colleagues on the other side of the aisle were checking with their colleagues to determine whether there were amendments, and I am not sure that has been done yet.

Mr. ROBERT C. BYRD. Mr. President, I have the floor and I yield to the Senator from Louisiana.

Mr. JOHNSTON. I wonder if the Senator from Colorado has any intention of putting any further amendments on the NRC bill dealing with matters we have discussed in our negotiation and amendments which were originally prepared for introduction on S. 2189?

Mr. HART. There was some consideration, as the Senator from Louisiana knows. The Environment and Public Works Committee had passed a significant regulatory matter that had to do with the handling of nuclear wastes that was not discussed or taken up or offered as an amendment, and there was some consideration to attaching that to the 1981 authorization bill.

At the present time, although I would not want to give the Senator a final answer on that, I think our disposition would be not to do so, but I will look into that and give the Senator a final answer in a minute.

Mr. SIMPSON. Mr. Majority Leader——

The PRESIDING OFFICER (Mr. MATSUNAGA). Will the Senator yield to the Senator from Wyoming?

Mr. ROBERT C. BYRD. Yes.

Mr. SIMPSON. Mr. Majority Leader, I believe we sincerely can reach a time agreement with regard to the Nuclear Regulatory Commission authorization, and I would like to say that, perhaps, it would be 2 hours, and I think we would probably yield back a good deal of that time, with one other amendment with 1 hour on it, which might very likely be yielded back, but I do think we can reach that this evening at your convenience as we discussed it.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I thank the majority leader for yielding. I think our only concern on the NRC bill is whether or not there will be a whole raft of amendments. My understanding, in talking with responsible people on both sides of the aisle, is that nobody knows about any such amendments, with the exception of the one the Senator from Wyoming has already made reference to, and if we can get an agreement limiting the amendments so we know what we are dealing with, then I think there is no problem in getting a very restrictive time limit on the bill because I do not think it will be controversial under those circumstances.

Mr. ROBERT C. BYRD. Very well.

As I understand it, Mr. Simpson will have an amendment?

Mr. SIMPSON. That is correct.

Mr. ROBERT C. BYRD. And Mr. Hart will have an amendment, am I correct, on the Nuclear Regulatory Commission?

Mr. HART. That is correct.

Mr. ROBERT C. BYRD. Are there any other amendments?

Mr. STAFFORD. I would ask for 1 hour equally divided in the event I offer an amendment.

Mr. ROBERT C. BYRD. All right. Would each Senator identify his amendment?

Mr. STAFFORD. I cannot at this time.

Mr. ROBERT C. BYRD. Is it germane?

Mr. STAFFORD. It will be germane.

Mr. ROBERT C. BYRD. Will Mr. Simpson identify his amendment?

Mr. SIMPSON. Yes. My amendment has to do with the removal of intervenor funding on this legislation.

Mr. ROBERT C. BYRD. Mr. Hart, will he identify his amendment?

Mr. HART. The amendment would have to do with a timetable for permanent geologic disposal.

Mr. ROBERT C. BYRD. Mr. Pryor?

Mr. PRYOR. I have an amendment, but I have an understanding that in all likelihood it will be accepted, and I do not think it will take over 2 minutes.

Mr. ROBERT C. BYRD. Will the Senator identify his amendment?

Mr. PRYOR. It is an amendment which deals with the State's role and responsibility on some of these issues.

Mr. ROBERT C. BYRD. All right.

Does any other Senator have any amendment?

Mr. JOHNSTON. What is the Stafford amendment?

Mr. ROBERT C. BYRD. He has not been able to identify his amendment, but he says it will be germane.

Mr. JOHNSTON. Can he say what the general area is? Mr. President, the only thing we want to be sure of is that we do not relitigate in the Stafford amendment matters that were negotiated out in S. 2189. Can you give us a general description?

Mr. STAFFORD. The amendment which the Senator from Vermont was considering is probably very similar to that which Senator Hart has later said he would propose.

Mr. JOHNSTON. Timetable?

Mr. STAFFORD. In the event he does, it is probable that the Senator from Vermont would not offer his amendment.

Mr. JOHNSTON. If it relates to the timetable, that is perfectly agreeable.

Mr. ROBERT C. BYRD. All right.

Is it agreeable that we have 2 hours on the amendment by Mr. Hart or 1 hour on the amendment by Mr. Hart to be equally divided in accordance with the usual form; 1 hour on the amendment by Mr. Simpson to be equally divided in accordance with the usual form? How much for the amendment by Mr. Pryor?

Mr. PRYOR. Twenty minutes.

Mr. ROBERT C. BYRD. Twenty minutes to be equally divided on the amendment by Mr. Pryor; 1 hour on the amendment by Mr. Stafford to be divided in accordance with the usual form; and that there be 30 minutes equally divided on the bill in accordance with the usual form, and that no other amendments——

Mr. HART. One hour on the bill equally divided.

Mr. ROBERT C. BYRD. One hour. No nongermane amendments to be in order.

Mr. DOMENICI. Mr. President, reserving the right to object, since we do not know what all the amendments are, we ought to provide for amendments to the amendments.

Mr. ROBERT C. BYRD. Thirty minutes on any amendment to the amendments.

Mr. DOMENICI. Reserving the right to object further, may I ask the junior Senator from Arkansas is his amendment an amendment which raises the issue of States rights in the location of nuclear waste disposal?

Mr. PRYOR. I would say to the distinguished Senator from New Mexico that I do not have the amendment in hand at this time. I would not call it States rights, but State involvement, State relationship. I would be most proud to bring the amendment and show it to the distinguished Senator when I have it.

Mr. DOMENICI. I am most appreciative of that, but that is the precise issue we spent a day negotiating on with respect to the bill just passed, and that is the issue we raised here. Do you have an amendment attempting to undo what we have just done?

Mr. PRYOR. I do not think it would undo anything, and I understand the amendment has been negotiated out and is in process of being accepted. I am not saying it has been accepted, but I think it undoubtedly will be.

Mr. DOMENICI. Mr. Leader, reserving the right to object, I have the greatest respect for my friend from Arkansas, but I would have to object to a time agreement on his amendment with reference to State concurrence and consultation unless I have seen it because I truly believe we have to know what it says before we can agree to 20 minutes.

Mr. PRYOR. Mr. President, will the Senator withhold that objection for about 1 minute?

Mr. DOMENICI. I will withhold it and remove it as soon as I know what the amendment is.

Mr. ROBERT C. BYRD. Can we proceed with the request in regard to the other amendments?

Mr. STEVENS. This is limited now to which amendments?

Mr. ROBERT C. BYRD. The Stafford amendment, the Simpson amendment, the Hart amendment, and amendments to amendments.

Mr. STEVENS. Does it foreclose any other amendments?

Mr. ROBERT C. BYRD. It is only an agreement with respect to those amendments at this time.

The PRESIDING OFFICER. May the Chair inquire of the majority leader who will control the time?

Mr. ROBERT C. BYRD. Yes. One hour on the bill, the division to be in control in accordance with the usual form.

Mr. STEVENS. I have no objection, Mr. President, as long as we are going to consider the subject of these other amendments. This does not foreclose additional time considerations so far as other amendments are concerned.

Mr. ROBERT C. BYRD. And the time on the bill I will have to state would be under the control of Mr. Hart and Mr. Simpson and Mr. Johnston.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, it was my understanding that this list of amendments that was being drafted was an exclusive list, that there would be no other amendments except amendments to those amendments in order. Is that the understanding of the Senator from West Virginia?

Mr. ROBERT C. BYRD. I make that request. That does not waive the right of Mr. Pryor at the moment to call up an amendment.

Mr. McCLURE. With the exception of the possibility of further negotiation between Senator Pryor and Senator Domenici on that amendment.

Mr. ROBERT C. BYRD. Yes. No other amendments except second-degree amendments. They would have to be germane, the amendments in the first degree.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. ROBERT C. BYRD. Time available for motions, appeals, or points of order, if such are submitted, the time to be limited to 10 minutes, and equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2358 (Order No. 817), to authorize appropriations to the Nuclear Regulatory Commission, and for other purposes, the only amendments in the first degree which shall be in order are those to be offered by the following Senators: the Senator from Wyoming (Mr. Simpson), the Senator from Colorado (Mr. Hart), the Senator from Vermont (Mr. Stafford), the Senator from Tennessee (Mr. Baker), and the Senator from Arkansas (Mr. Pryor), and debate on each of which shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Colorado (Mr. Hart) and the Senator from Wyoming (Mr. Simpson): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, we are still working toward circumstances which would allow the Senate to be sure that there will be no further rollcall votes tonight.

With respect to the Department of Energy bill, there will be a request by Mr. HUMPHREY for a vote on final passage.

I ask unanimous consent that the vote on final passage, if a rollcall vote is ordered, occur tomorrow morning at 10 a.m., and that paragraph 4 of rule XII be waived.

Mr. JAVITS. Mr. President, reserving the right to object, does that imply that there will be no other rollcall votes on amendments tonight? If it does, I object.

Mr. ROBERT C. BYRD. Yes, I was getting to that.

I understand that Mr. GLENN is on his way to the floor and he may have an amendment on which he would want a rollcall vote.

Could we agree that rollcall votes on amendments and final passage go over on the DOE bill?

Mr. JAVITS. I have no objection to that.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if there are any rollcall votes ordered on amendments to the DOE bill and on final passage, with paragraph 4 of rule XII being waived, that the votes begin at 10 o'clock tomorrow morning.

Mr. JAVITS. Mr. President, again reserving the right to object, I just want it understood with the manager of the bill on the side of the minority that I want a rollcall vote on the Ford-Glenn amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is one other possible reason for a rollcall vote tonight. I want the Senate to vote on cloture on the Zimmerman nomination on Friday. In order to have that vote occur on Friday, I intend to go into executive session this evening, call up the Zimmerman nomination, and offer the cloture motion and immediately go back to legislative session. I can avoid that if I get unanimous consent.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only of allowing me to offer the cloture motion, after which, without further motion or debate, the Senate will return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, this matter has been cleared with the Senators involved. We do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is in executive session. The pending question is the nomination of Mr. Don Alan Zimmerman to be a member of the NLRB.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

Robert C. Byrd, Wendell H. Ford, Paul E. Tsongas, Spark M. Matsunaga, Donald W. Riegle, Jr., Abraham Ribicoff, John A. Durkin, J. James Exon, Gaylord Nelson, Thomas F. Eagleton, Gary Hart, George J. Mitchell, Daniel Patrick Moynihan, Bill Bradley, Henry M. Jackson, Howard M. Metzenbaum, Alan Cranston, Jennings Randolph, and John Glenn.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I make this final announcement, and then I will sit down. I thank my colleagues for their indulgence.

Number one, there will be no Saturday session. Number two, Senators who have amendments to the Department of Energy bill must call them up this evening, because beginning at 10 o'clock tomorrow morning the Senate will vote on any amendments on which rollcall votes have been ordered to the DOE bill and on final passage. So action must continue on the DOE bill tonight, with the understanding that amendments not called up tonight, Mr. President, to that bill will not be in order tomorrow morning, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that, upon the disposition of the DOE bill tomorrow morning, the Senate will move to the Nuclear Regulatory Commission bill. Mr. BAKER has an amendment to that bill, I now find, dealing with TVA. There is a request for a 1-hour time limitation on his amendment. I make the request on behalf of Mr. BAKER that there be 1 hour on his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think the Senate can complete action on the Nuclear Regulatory Commission bill by 4:30 tomorrow afternoon by virtue of this agreement. I thank all Senators.

There will be no rollcall votes tonight. There will be a cloture vote on Friday on Mr. Zimmerman's nomination and there will be other measures in the meantime before Friday.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PRYOR. Mr. President, is the Senator from Arkansas protected or not protected in offering an amendment to the Nuclear Regulatory Commission legislation?

Mr. ROBERT C. BYRD. Mr. President, the Senator from Arkansas is protected. The only question is whether or not there will be a time limitation on his amendment. If the Senator is ready to state the contents of his amendment, we may or may not be able to get a time agreement on his amendment.

Mr. PRYOR. Mr. President, I have conferred with the Senator from New Mexico (Mr. DOMENICI) and he still has not ascertained as to whether or not he will keep his objection alive to the time-agreement request.

I inquire of my friend from New Mexico if he has had the opportunity to study the contents of the amendment since we have had our discussion.

Mr. DOMENICI. Mr. President, I say to the Senator that I have not. I read it, but I need someone to look at it in the context of the whole bill. It is a slightly different matter than I thought, but, nonetheless, I am not prepared to agree to it at this point. I might be able to very shortly, but I need additional time.

Mr. PRYOR. Mr. President, I will attempt and our staffs will attempt in every way we can to properly lay out the facts of what we are attempting to accomplish. I would like to have the opportunity of introducing it and discussing it at the appropriate time.

Mr. ROBERT C. BYRD. Mr. President, there is one thing that we should not overlook. That is that the Alaska lands bill is still around, the spirit of it is still with us.

I ask unanimous consent that the Alaska lands bill be laid aside until Monday, temporarily, as we have been doing, and that the majority leader be authorized to go back to that bill at any time beginning with Monday, after consultation with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVING LEADERSHIP TIME UNDER THE STANDING ORDER FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders or their designees under the standing order be waived for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Rhode Island for his courtesy.

ORDER FOR RECESS TODAY UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the action is completed on this bill tonight, the Chair recess the Senate until 9 a.m. tomorrow morning; and that, in the meantime, any Senator may speak as in morning business to introduce measures, et cetera.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ALASKA LANDS BILL TO REMAIN IN TEMPORARILY LAID ASIDE STATUS

Mr. ROBERT C. BYRD. Mr. President, I got an order a moment ago that I had not fully cleared. I therefore ask unanimous consent that the Alaska lands bill remain in temporarily laid aside status until the disposition of the Department of Energy bill, the disposition of the Nuclear Regulatory Commission bill on tomorrow, or until the close of business tomorrow night, whichever is the earliest. This request restores the Alaska lands bill to its original status and does not put it over until Monday. I had not cleared that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9:30 A.M., AND CERTAIN OTHER PROCEDURE, ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the convening hour, which was 9 o'clock tomorrow, be changed to 9:30 a.m.; I ask unanimous consent that the rollcall votes which were to begin at 10 o'clock begin at 10:30 a.m.; and I ask unanimous consent that the time on the amendment by Mr. PRYOR, which was earlier discussed, be limited to 1 hour, to be equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY AUTHORIZATIONS—CIVILIAN APPLICATIONS

The Senate resumed consideration of the bill (S. 2332).

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Hatfield amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1481

Mr. TSONGAS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 1481.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 31, delete "and" on line 19 and the period on line 21 and insert a semicolon and following line 21 the following:
>
> "(c) Energy Management Partnership Act—local programs, $80,000,000.".

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Members will take their seats. Senators will cease conversations on the floor. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I am sorry for causing the disturbance. I am trying to work out something on the amendments so that the Senate can expedite its business. I hope the Chair will indulge me.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. TSONGAS. Mr. President, I yield to the Senator from New Hampshire (Mr. HUMPHREY) for a unanimous-consent request.

Mr. HUMPHREY. Mr. President, I thank the Senator from Massachusetts for yielding. I have an item that can be quickly disposed of.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1481

Mr. TSONGAS. Mr. President, the Energy Act passed by the Senate last week did not make reference to the funding level. That was a function of the budget waiver which referred back to the Department of Energy Authorization Act. What this amendment does is to clarify that, consistent with the understandings that were reached both in terms of the EMPA legislation and in terms of the Budget Act. I believe this has been cleared with the majority and minority managers.

Mr. JOHNSTON. Mr. President, the Senator is correct. This does fund the local programs, part of the Energy Partnership Management Act which was supposed to be in the report but which was deleted in the Energy Committee report by inadvertence. This is a good and proper amendment. We accept it.

Mr. HATFIELD. Mr. President, I will accept it on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1481) was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1482

(Purpose: To provide for an energy conservation diagnosis and retrofit program)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the Hatfield amendment be temporarily set aside.

Mr. CHAFEE. I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1482.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 31, line 21, strike the period and substitute "; and".
>
> On page 31, insert the following between lines 20 and 21:
>
> "(C) To carry out in the Energy Extension Service Program an energy conservation diagnosis and retrofit program, $10,000,000; such program to consist of—
>
> "(i) assistance for projects for the training and operation of teams to provide one-stop services" to residential and small commercial building owners to improve efficiency of energy use by performing energy audits and making energy conserving improvements in such buildings;
>
> "(ii) assistance for acquisition of project materials and equipment to be used by such teams, including thermographic equipment;
>
> "(iii) assistance for project post-installation inspections for the purpose of assuring quality of work, evaluating effectiveness of improvements and change in energy consumption;
>
> "(iv) a limitation on assistance to 50 percent of project costs; and
>
> "(v) a condition on projects assisted that no such project may provide improvements totalling more than $100.00 in costs in any building, unless the owner of such building agrees to pay any costs in excess of $100.00.".

Mr. CHAFEE. Mr. President, the residential sector, in other words, homes in the United States, account for 22 percent of the Nation's total energy use. The amendment I have sent to the desk would provide that there be an energy conservation diagnosis and retrofit program in the Energy Extension Service. In other words, what I provide for is not only the training of those who can spot energy leaks in homes, but also provide for grants to States for teams to go out with the equipment to assess the energy losses from homes. I provide $10 million authorization for this.

We in Rhode Island have such a program that has been very successful in working in this area. This amendment has been shown to the managers of the bill and is acceptable to them.

Mr. President, the amendment I offer

today will establish an energy conservation diagnosis and retrofit program in the Energy Extension Service. It is similar to a bill I introduced in June 1980—S. 2782. The program will consist of Federal assistance for the training and operation of diagnostic and retrofit teams. The teams will provide one-stop services to residential and small commercial building owners to improve the efficiency of energy use by performing energy audits and making conserving improvements to buildings.

Additionally, teams would provide postinstallation inspections for the purpose of insuring the quality and effectiveness of the improvements as well as measuring changes in energy consumption.

There are two important funding limitations in this program. First, Federal funds may provide up to 50 percent of projects costs and second, a project may not provide improvements totalling more than $100 per building, unless the owner agrees to pay any costs in excess of $100.

Energy conservation is now recognized as the single most important strategy we have for reducing our dependence on oil. "Energy Future," the report by the Harvard Business School, "The Least-Cost Strategy," published by the Energy Productivity Center of the Carnegie-Mellon Institute, "Energy: The Next Twenty Years," sponsored by the Ford Foundation and Resources for the Future, along with other prestigious studies point to the key role which conservation must play in order to immediately reduce our energy consumption. For homeowners, the rising price of energy has changed energy conservation from a national priority to an economic necessity.

There is tremendous potential for residential energy conservation. The residential sector accounts for 22 percent of the Nation's total energy use. If residential energy use could be cut by even one-quarter, the equivalent of 1.5 million to 1.8 million barrels of oil would be saved—that equals a reduction of more than 5 percent in total U.S. energy consumption.

The 1978 National Energy Conservation Policy Act provided the first step toward helping homeowners improve home energy efficiency. NECPA established the Residential Conservation Service which requires electric utilities to provide residential and small commercial building owners with a simple energy audit and recommendations for conservation measures. Funds will be provided to support training and certification of energy auditors, known in the trade as "house doctors."

Recognizing the value of this approach, the Senate agreed to provide assistance for auditor training and certification in S. 932, the synthetic fuels bill. These funds can be used for auditor training and certification of energy auditors.

My amendment is designed to expand upon this idea: To take it to a greater level of sophistication. The program I propose today would not only assist in training auditors but also permits them to take immediate steps to reduce energy use in the building.

A successful residential conservation program must be able to effectively deliver services to homeowners. Often, this depends on removing barriers and providing incentives for homeowners to choose less energy-intensive and more efficient means of heating, cooling, and cooking. If a homeowner can immediately realize energy savings—and lower energy bills—from simple, painless conservation measures, he will be motivated to take additional steps which will result in even greater conservation.

The energy savings which can be accomplished through small changes, such as weatherstripping, caulking, and adjustment of heating and cooling systems is accompanied by financial savings. A homeowner can be expected to reduce consumption and increase savings by 10 percent by caulking and weatherstripping doors and windows, 15 percent by installing storm doors and windows, and 20 percent by installing 6 inches of attic insulation. The dollar savings will increase as world energy prices rise.

The projects established by my bill will help homeowners make the best choices—for themselves and for our Nation.

It is critically important for homeowners to be able to count on the diagnosis and retrofit teams to properly identify the paths by which heat flows into and out of their home and, with the homeowners consent, take the proper corrective actions. My amendment provides for teams to be trained to make minor alterations in order to improve energy efficiency. It is equally important for local contractors, who will undoubtedly perform the major alterations, to be well-trained in conservation techniques. It is my intention for project funds to be used to train contractors, thereby insuring the highest quality work.

Post-installation inspections by teams will guarantee homeowners of the quality and effectiveness of improvements. In addition, teams will be able to monitor change in energy consumption. The teams may monitor utility bills before and after their work on a home. This information will not only be valuable to the homeowner, it will provide essential data for energy planners to evaluate the effectiveness of residential conservation techniques.

I do not intend for my amendment to duplicate existing programs. If the auditor training provisions in S. 932 are funded, which I hope will happen, I intend for that program to focus on training and the program authorized by my amendment to focus on implementation of conservation measures. If the auditor provisions of S. 932 are not funded, my amendment would provide the necessary authorization for both training and operation of auditor teams.

Mr. President, I know from firsthand experience that the "house doctor" approach to residential conservation works. In my State, there is a statewide, nonprofit energy conservation corporation called "RISE": "Rhode Islanders Saving Energy." In 2½ years, 6,000 Rhode Island homeowners have received free energy auditors from RISE. Trained RISE auditors spend 2½ hours checking homes for energy waste. They supply homeowners with recommendations for conserving energy, based on the results of their audit. RISE will also be the contractor for conservation measures homeowners elect to make.

The RISE program is an example of the kind of residential energy conservation service that should be available to all homeowners in our Nation. The projects authorized in my bill will help establish new RISE-type programs as well as upgrade the operations of existing ones.

I urge the adoption of my amendment.

I ask unanimous consent that a letter dated June 18, 1980, from the Federation of American Scientists regarding this subject matter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERATION OF AMERICAN SCIENTISTS,
Washington, D.C., June 18, 1980.

HON. JOHN H. CHAFEE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHAFEE: As you know, the Federation of American Scientists strongly supports your bill, S2782, with its intention of securing pilot programs in housing conservation diagnosis and retrofit. We recognize quite well that, without such pilot programs, relevant major programs may not be both sensible or fundable in a number of instances. Moreover, more data in these areas about how various programs work is imperative and needed urgently so that America can get on with the task of housing conservation. With that in mind, we do warmly support also your expressed intention to attempt to amend the Department of Energy Authorization Bill to include major elements of your bill.

Sincerely,

JEREMY J. STONE.

Mr. JOHNSTON. Will the Senator yield?

Mr. CHAFEE. I yield.

Mr. JOHNSTON. Mr. President, is this the same sort of energy auditor training program that we passed as part of the synfuels bill?

Mr. CHAFEE. It goes one step further than that in that it provides for the implementation. In other words, in the synfuels bill it only provided for the auditor training and certification. This goes further and provides for the grants to the States for the equipment and for the actual performance of the work, although only 50 percent of the funds could come from this bill. The States or the local communities would have to come up with the other 50 percent.

Mr. JOHNSTON. Mr. President, this seems to be an appropriate function of the Department of Energy. It does go a step further than we went in synfuels, but it is a modest step, with a total of $10 million. It is a very modest step and I think it would make a good pilot program on this very important issue of retrofit for conservation. We will accept it on behalf of the committee.

Mr. FORD. Mr. President, before the Senator accepts it, I had something to do with the audit provision. How does this compare with the audit provision we took out of the synfuels legislation?

Mr. JOHNSTON. It has nothing to do with the Metzenbaum amendment.

Mr. FORD. If it is not similar to the Metzenbaum amendment, I will have no further questions and will support the amendment.

Mr. CHAFEE. Is the distinguished Senator from Oregon satisfied?

Mr. HATFIELD. On behalf of the minority, we are happy to accept the amendment.

Mr. CHAFEE. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1482) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1483

(Purpose: To conform the superseding of State appliance energy efficiency standards to the date prescribed for promulgation of Federal standards)

Mr. FORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. I ask unanimous consent that the Hatfield amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes an unprinted amendment numbered 1483.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

By adding at the appropriate place a new section:

(a) Section 327(b)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6297 (b)(5) as amended by Section 424(b)(5) of the National Energy Conservation Policy Act is amended by striking out "July 1, 1980" and inserting in lieu thereof: "a rule under Section 325 is prescribed"

(b) And by amending Section 327(b)(2) of the Energy Policy and Conservation Act by adding the following at the end of the first sentence: ": *Provided, however*, that the modification of a State standard prescribed prior to January 1, 1978 shall not constitute the establishing of a State standard after January 1, 1978".

Mr. FORD. Mr. President, this amendment is placed in this legislation to extend the period of automatic preemption of State energy efficiency standards for appliances as they relate to the 13 specified categories of appliances and to conform the superseding of State appliance energy efficiency standards to the date of promulgation of Federal standards.

What we did in the original language in 1978 was we preempted the States until the Department of Energy could put into place those energy appliance standards so they would be uniform nationally. We made a provision for those States that had already put into place appliance standards so that those State standards would be exempted from Federal preemption. That is continued in this amendment.

Mr. President, all this amendment does is to give the DOE additional time, which they predict now is to be December of 1980 instead of July 1, 1980, that they would have the standards set in all 13 categories specified by the Congress.

Mr. President, the purpose of this amendment is to conform the superseding of State appliance energy efficiency standards to the date of promulgation of Federal standards.

The amendment extends the period of automatic preemption of State energy efficiency standards for appliances until Federal standards for those appliances are prescribed.

Clarifies that more modifications to existing State energy efficiency standards for appliances do not constitute new standards that are automatically preempted.

In NECPA, enacted on November 9, 1978, the Congress directed the DOE to enact energy efficiency standards for 13 categories of appliances which would upon prescription preempt any State standards on those categories of appliances. As an incentive to the industry to expedite rather than obstruct the rulemakings, the act provided that any State standards adopted between January 1, 1978 and July 1, 1980 on those 13 categories would be automatically preempted. After July 1, 1980, the States could once again prescribe standards for appliances for which Federal standards were not in place.

The problem is that the NECPA permits DOE to take much longer than July 1, 1980 to adopt Federal standards. DOE intends to prescribe rules for 9 of the 13 categories of appliances by July, 1980 and for the remaining 4 by December, 1980. It would be unfortunate for the industry if states were to prescribe appliance standards after July 1, 1980, while the Federal standards are still in the rulemaking stage.

This amendment extends the period of automatic preemption for each appliance until the Federal standard for that appliance is prescribed.

There is no intention here to signal a lessening of congressional intent to have Federal standards in place as soon as possible.

Senators Johnston, Ford, and Cranston participated in a colloquy on the floor in the debate on NECPA and they agreed that if a State merely modified a State standard that was prescribed before automatic preemption began then the modification, even if made during the period of automatic preemption, would not constitute a new State standard that would be automatically preempted.

This second portion of the amendment codifies that agreement.

Mr. President, I move adoption of the amendment.

I will be glad to attempt to answer any questions about the legislation if anybody has any questions. Otherwise, I hope the managers of the bill will accept the amendment.

Mr. JOHNSTON. Mr. President, all this amendment does, as I understand it, is to make the window for preemption of a State appliance standard coterminous with the date on which a Federal appliance efficiency standard is prescribed for that category of appliances.

It is a proper amendment and we would accept it.

Mr. HATFIELD. Mr. President, I am happy to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1483) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I thank the managers of the bill.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1484

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Morgan) proposes an unprinted amendment numbered 1484:

On page 34, line 15, strike "and"; on line 18, add "and"; immediately after line 18, add "(6) Project 81–T–407, solid peat direct fueled combustion demonstration plant (site undetermined), $3,100,000;"

Mr. MORGAN. Mr. President, this adds a new section on page 34 under the fossil energy activities which provides for slightly more than $3 million for the initial design and engineering work necessary for a peat project in North Carolina. It has been shown to the staff on both sides. North Carolina has an abundance of peat. The State and the rural electric co-ops are interested in a pilot project. This amount was in last year's bill, which, I understand, never got out of committee.

Mr. President, this amendment includes $3.1 million in the 1981 Department of Energy authorization bill for the first year funding of a demonstration solid peat-fired electric generating plant. The funds authorized would permit the initial design and engineering work necessary for the project. This amendment was part of last year's authorization bill, but, of course, that bill never passed the full Congress.

It has long seemed to me that the United States should take a lesson from the Europeans on the direct burning of peat. Finland, Sweden, and Ireland have been producing electricity from peat for years. So has the Soviet Union. Peat is found in abundance in the eastern part of my State, yet North Carolina holds only 2 percent of the Nation's reserve. In fact it has been estimated that the amount of peat in the United States holds the energy equivalent of up to 250 billion barrels of oil, or to put it in plainer language, the equivalent of Saudi Arabia's oil reserves. Now, of course, I am not suggesting that we go right out and dig all of it up and burn it. But I do believe that we have ignored for too long this important energy source, especially in light of our desperate need to cut back on our consumption of foreign oil.

A demonstration generating plant fueled by peat would provide our country with some important and essential information, because it would both test the latest available equipment and measure the environmental effects of harvesting and burning peat. These environmental effects need to be fully documented, but the early signs are most encouraging. For example, peat's sulfur content is even less than that of Western coal, and its burn is cooler than coal, which suggests that other pollutants would be less of a problem. The land that peat would be harvested from can be reclaimed as productive farmland, based on the European experience. Also the projected cost of producing electricity with peat, once the developmental costs are out of the way, is competitive with coal and nuclear energy.

It is the case that utilities are not rushing into the development of peat-fueled plants on their own, and this seems largely because of the new equipment that would have to be developed in the United States. However, in my own State, the North Carolina Electric Membership Corp., representing 28 rural consumer-owned cooperatives, has invested several years and several hundred thousand dollars to study the feasibility of such a plant. Still, my amendment specifies neither the site nor the industry to receive Federal support. I want any award made strictly on a competitive basis.

In short, work has been done, and there are those in the country eager to move ahead with the direct burning of peat. It is time for the Federal Government to seize the initiative and put incentives in place to spur the use of this abundant fuel. We have authorized some $20 billion in the syntheic fuels bill to encourage the production of alternative fuel. My amendment, in a small way, with a small sum, seeks to further that grand enterprise.

Mr. JOHNSTON. Mr. President, the committee has previously looked at this program for the combustion of peat and has previously approved it. It continues to be a good program, in our judgment, and we accept the amendment.

Mr. HATFIELD. Mr. President, on behalf of the minority, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1484) was agreed to.

Mr. MORGAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, does the Senator from Arkansas wish to present an amendment?

Mr. PRYOR. I do have an amendment.

The PRESIDING OFFICER. Does the Senator from Arkansas seek recognition?

Mr. PRYOR. Mr. President, I have an amendment to the bill and I shall send that amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be in order.

Mr. HATFIELD. A parliamentary inquiry, Mr. President, if the Senator will yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. What is the pending question before the Senate at this point?

The PRESIDING OFFICER. The amendment of the Senator from Oregon is the pending business, unprinted amendment numbered 1478.

Mr. HATFIELD. I wonder if the Senator will yield and let us dispose of this, because otherwise, it stands as an obstacle to any other amendment.

Mr. PRYOR. I am happy to yield.

UP AMENDMENT NO. 1478

(Subsequently numbered amendment No. 1952)

Mr. HATFIELD. Mr. President, I believe that now, we have reached accord on the wording of the amendment which I offered some hour and a half ago, relating to the issue limiting appropriated funds to the construction or acquisition of AFR facilities until the public policy is established as embodied in S. 2189 or an agreement has been reached with the House of Representatives on that basis.

I believe we have carefully worded this in such a way as not to restrict in any way the preliminary actions that may be taken leading up to construction or acquisition, but not to include acquisition or construction. The legislative record is such that this has no impact upon research and development projects that are in process sequentially or in completion or needing completion or incrementally proceeding. I hope that covers the waterfront.

Mr. President, I am hopeful that we can dispose of this now with agreement by the leader on the majority side.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I am sorry that my staff had apparently given the impression that the language had been approved. I think it may be still possible to work it out, and I hope we can. If I may say so, I concur with the Senator from Oregon in his desire to prod the Congress into getting authorization legislation for nuclear waste.

Second, I think we ought to appropriate money pursuant to that authorization.

There remains the one narrow problem. That is, we have now passed S. 2189 and I hope to offer in the Appropriations Committee language to begin to fund that program which the NRC tells us must be complete by 1983 if we are to make the deadline. I fear that we may get bogged down by the House. We have not had too good luck this year.

We may appropriate, in the Committee on Appropriations, the beginning of the AFR program and track the provisions of S. 2189 in doing so; then, maybe, lose 2189 with the House. If we can figure out a way so that our appropriation does not fall—which begins with that program, tracking 2189—I can tell the Senator that we do not plan to appropriate all the money for acquisition or for construction, but to begin that program.

Mr. HATFIELD. If the Senator will yield, what does he mean, "begin the program?" I understand that any program of this magnitude will have to have an EIS. It will certainly have to have some design and some planning. I have made amply clear that I have no objection to proceeding to that point. Is the Senator now broadening the agenda to include the actual construction or the actual acquisition without authorization or attempting to——

Mr. JOHNSTON. It is a negotiation.

The DOE has taken the position that they do not have the authority to negotiate. We have three possible sites here, as the Senator knows.

Mr. HATFIELD. That is not my problem. If I may restate my question, I have accepted the possibility of negotiations and conferences and discussions and contacts of all kinds being made. Will the Senator respond to this precise question:

Does the Senator contemplate asking the Committee on Appropriations to appropriate money to acquire, the actual contract to acquire, or an actual contract to construct AFR's before we have a policy in place?

Mr. JOHNSTON. Mr. President, in answer to the Senator's question, what we want to achieve is a negotiation for the site which, I suppose, would have to include authority to acquire the site. We would also like to be able to commit money to begin the design to do the EIS, for construction, and certainly, filling the site would not be required.

I wonder if the Senator would be willing to limit, to say that none of the funds herein can be used to acquire more than one AFR site; and to negotiate for that to begin EIS, to begin design and planning, but no construction. Because, frankly, the construction would not begin until more than a year later, anyway. By that time, I think we shall have a plan in place.

Mr. HATFIELD. Mr. President, I continue to be confused as to the Senator's parameters in which he is trying to operate. I cannot understand why this does not speak specifically and precisely to this point, "that all actions preliminary to such construction or acquisition shall proceed."

Now the Senator keeps maneuvering here with additions and amendments and addenda that confuse the picture, it seems to me, when it is so clear that we can do nothing up to the point of construction or acquisition.

When we talk about acquisition, we talk about a facility. When we talk about construction, we are talking about creating a facility.

Mr. JOHNSTON. Take out the word "acquisition" and we will be all right.

Mr. HATFIELD. I do not want to take out acquisition because I do not want to see us appropriate money to buy something when we still do not have that public policy in place, any more than I want to see money appropriated to construct something when we do not have the public policy in place.

When we take out acquisition it raises in my mind that the Senator has some hidden agenda, he wants to go out and acquire an existing facility, to proceed before we have the public policy as to who will bear the costs, what kind of return and reimbursement, and the other details, that will circumvent the authorization process because it is not in place.

I will not agree to that. I think we had more than that a while ago.

Each time we try to renegotiate, it seems we get an expansion of the agenda.

Why can we not go back to the original? As the record will show, the Senator agreed we would limit any authorization or appropriation to the activities leading up to, or preliminary to, acquisition of facilities that are in place, or construction and creating of new facilities.

We already agreed to that earlier.

Mr. JOHNSTON. Except we had the exception with reference to S. 2189.

The problem is we cannot do any of that until we have a site. We can neither begin design nor begin an EIS.

Mr. HATFIELD. I am not talking about a site. If the Senator wants to buy a site, that is permitted here.

Mr. JOHNSTON. No. The word "acquisition" prohibits that.

Mr. HATFIELD. Acquisition relates to the established facility, some facility that may be already in place.

Mr. JOHNSTON. Well, there are three facilities.

Mr. HATFIELD. From which we can buy one. We will probably buy the one we know about.

Mr. JOHNSTON. Yes. I think we want to give that authority to negotiate between Barnwell, Morris Hill, and West Valley, N.Y.

Unfortunately, that is that first step that leads to all the rest.

There is no hidden agenda. I just want to get on to meet our——

Mr. HATFIELD. I ask the Senator, does he have in mind asking for moneys to purchase Barnwell, if that should become the designated site, is that his intention to do, before we have a policy in legislation, authorization in place?

Mr. JOHNSTON. The Senator is correct that I want to give the authority to purchase, frankly, not fully funded, but funded in part with the authority to purchase so we can begin the process.

Mr. HATFIELD. On an appropriation measure?

Mr. JOHNSTON. That is correct.

Mr. HATFIELD. Well, the Senator and I will certainly be there to do battle on that occasion, as well, because I can give notice now that I will do everything I can to block that effort in the appropriation process. I shall have to exercise every effort I can at this point to block it.

I think we all seemed to be in agreement a while ago, that it does not make sense to go out and write blank checks on a policy that has not been defined and determined. Whether we buy Barnwell or go out and construct something new from scratch is precisely the thing I want to see put into an orderly sequential program here, that we have established a national practice, before we embark on that type of thing.

I think I will have some parliamentary precedent and procedure on my side when we begin to legislate on an appropriation measure, when we begin to authorize on an appropriation measure.

As I understand it, I may be wrong, but I understand the Senator to be saying that he has every intention of going through an appropriation measure in order to buy Barnwell if 2149, or some other form of that bill, is not in place, and to authorize on an appropriation measure.

I think the Senator is embarking upon a very bad course here.

I just want to put everybody on notice that this is something I feel very strongly about.

I would like to negotiate and to meet the Senator. I think the Senator and I have the same objective. We both supported our nuclear waste bill. The Senator and I worked out some amendments. We were managers of the bill. I worked shoulder to shoulder with him. I see no difference in our viewpoints.

I want to see that bill in place. I think the Senator will have to agree it is certainly far wiser legislative policy and procedure to have a policy in place, a procedure in place, before we start an appropriation.

That appropriation process is wrought with all kinds of sticky wickets.

I am sure the Senator will discover that, as he is already so familiar with that process as chairman of our Subcommittee on Appropriations.

Mr. JOHNSTON. Mr. President, the difficult thing is that we do not disagree on any of this. The only purpose I want to achieve is not to shut down plants because we were not able to start the process in 1980. It is possible to lose this matter here in these closing days of the session.

We could provide against construction. I have no objection to that. We could provide against filling the AFR. We could provide against transportation. We could provide against everything if the Senator can tell me a way to begin that process so we do not lose that time.

That is my only concern.

Mr. HATFIELD. I say to the Senator in response that he has a free hand in this wording, in the intent of this amendment, to take every preliminary step necessary for acquisition of Barnwell, that is, negotiating, discussing, getting appraisals, all that will take time, as the Senator knows, and then let that justification be brought back to the legislature, to the Congress, in the legislative process, and given full justification for purchase.

But the Senator says, as I understand it, he has every expectation to move for purchase authority on an appropriation measure, when there may not be in place that kind of authorization.

Mr. JOHNSTON. Mr. President, it is unusual that the Senator from Oregon would not be able to agree on this, since we both agree greatly on the need for a nuclear waste policy. We have worked together very closely in confecting a bill for which we both voted.

We both agree that you should have a policy—that we should not begin to appropriate for construction. Our difference is a narrow one, and it seems that it will have to be settled by a vote, which I suppose either of us could live with, if we vote. It probably is not a world-shaking matter, anyway.

So I ask that we put the matter over for a vote in the morning.

Mr. HATFIELD. Mr. President, I ask unanimous consent to modify my amendment, and I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Unanimous consent is not required.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 27, line 3, following "and", add "*Provided further*, That no funds authorized to be appropriated in this subsection may be obligated for construction or acquisition of facilities, other than for research, in which will occur the interin storage of spent fuel from a civilian nuclear powerplant, the disposal of such spent fuel or of high-level radioactive waste from civilian nuclear activities, or the transportation of such spent fuel or waste, until such funds are appropriated pursuant to an act establishing title transfer, user fees and other program operating procedures: *And provided further*, That all actions preliminary to such construction or acquisition shall proceed.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield the floor?

Mr. JOHNSTON. Yes.

Mr. HART. Mr. President, the Senator from Kentucky (Mr. FORD) will shortly offer an amendment having to do with energy impact assistance, of which I am a cosponsor. I just want the floor managers of this bill to be aware of that. The presentation of our amendment will take a very short time.

I do not want to interfere with the plans of the Senator from Arkansas. Does the Senator from Arkansas intend to offer an amendment?

Mr. PRYOR. Yes, I have an amendment.

UP AMENDMENT NO. 1485

Mr. PRYOR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be in order, and the amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 1485.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 17, insert the following:

PUBLIC AVAILABILITY

SEC. 105. (a) (1) The Department of Energy shall maintain during each month a list of contracts which were entered into within the preceding 24 months or for which contractors have not then completed performance. Such list shall include—

(A) the contract identification number assigned by the agency;

(B) the contractor's name;

(C) the date of award and the initial and current estimated completion date;

(D) the initial and current amount of the contract award;

(E) a brief description of the work to be performed; and

(F) the names of the Government employee who authorized the award of the contract and the employee who is responsible for the program administration of the contract.

(2) The list under paragraph (1) shall be available to the public for inspection and copies shall be available but the agency may charge for duplication costs therefor.

(b) Except where for national security reasons the terms of a contract are lawfully determined to be of a classified nature, all contracts shall be considered public information and shall be available to the public upon request notwithstanding any other provision of law.

(c) Notwithstanding any other provision of law, the following information shall be available to the public upon request:

(1) the name and qualifications of any personnel designated in a contract;

(2) the contractor's experience which is contained in a proposal or other related document and which is offered as a demonstration of a qualification for performing a contract; and

(3) the documents which support an award made on a basis other than formally advertised competition.

(d) The information which subsections (a), (b), and (c) make available to the public shall not be construed to limit the availability of other contract related information.

DISCLOSURE OF INFORMATION CONCERNING THE USE OF CONTRACTORS

SEC. 106 (a) Each report prepared by a contractor, and each report prepared by an agency which is substantially derived from or substantially includes any such report, shall include—

(1) the name and business address of the contractor who prepared or contributed to the report;

(2) the total amount to be paid by such agency under such contract;

(3) the type of procurement process used in the award of such contract;

(4) the name of the office or employee of the agency who authorized such contract;

(5) a brief description of the work performed under the contract; and

(6) in any case in which a contractor used a subcontractor to carry out a substantial portion of the contract, the name and business address of the subcontractor and the amount paid to the subcontractor.

(b) The term "report" means a study, plan, evaluation, analysis, manual, oral or written presentation, or other document, including drafts thereof, which is prepared by a contractor pursuant to a contract with an agency, and which is submitted—

(1) to such agency, or

(2) on behalf of such agency to any other authority of the Government,

but does not include billing documents, invoices, or other routine business transmittals.

Mr. PRYOR. Mr. President, the hour is late and I will try to be as brief as possible. I am going to be very sensitive to the time, and I hope the manager of the bill will give me the opportunity to explain this amendment.

At the present time, the Department of Energy does business with approximately 2,100 contractors and consultants. This is not to say that the Department of Energy has ongoing 2,100 contracts at the present time. This also is not to say that it is absolutely unnecessary for the Department of Energy to have private contractors doing some of the work for the Department of Energy. Also, I am not saying that it is wasteful to hire consultants.

What I am saying at this time—and this amendment expresses my opinion on this, without any reservation—is that we need to have in the Department of Energy better checks and balances, better accounting procedures, a greater degree of disclosure, and a greater dissemination of information as it relates to contracts with private firms.

Today, I stand on the floor of the U.S. Senate after conducting several hearings relating to the Department of Energy's use of consulting firms and contracting firms to perform business for the Department of Energy.

How much money do we spend each year for private consultants and private contractors? No one knows. The President of the United States does not know. the Office of Management and Budget does not know, and the Department of Energy does not know how many contractors we have and how many dollars we expend.

Basically, this amendment requires the Department of Energy to maintain a complete list of procurement contracts, updated on a monthly basis, that they have entered into within the past 24 months for which the contractors have not completed performance. This list will be available, but duplication costs may be charged by the agency.

The list of procurement contracts must contain a minimum of information including the contract identification number assigned by the agency, the contractor's name, the date of the award, the original and present estimated completion dates, the initial and current dollar values of the contract, a brief description of the work to be performed under the contract, and the names of relevant Government contract personnel.

Another section of the amendment provides that the contract document and all terms contained therein are to be considered public information and therefore must be available to the public upon request. This is an effort to allow some sunshine into the invisible world of consulting activity.

Another section of our amendment provides that notwithstanding any other provision of the law certain identified information shall be available to the public. The identified information includes the names and qualifications of any personnel designated within the contract, the contractor's experience which is offered as a demonstration or qualification for performing under a particular contract, and the documents which support an award which is being made on a basis other than formally advertised competition.

This amendment also provides that the provisions of this amendment that requires specific information to be available to the public are not intended to be inclusive of all available information that is contract related. The provisions herein should not be construed as a basis for the limitation of any information lawfully requested which relates to a contract.

The second part of this amendment, Mr. President, requires each written report prepared by a consultant or a contractor that does business with or for the Department of Energy or organization thereof, or any report prepared by an agency but which is substantially derived from or substantially includes any such report must include basic attribution information.

This information must be included within the report as follows: The name and address of the contractor who prepared or contributed to the report, the dollar amount of the contract, the type of procurement utilized in such contract award, the name of the office and employee who authorized such contract, a brief description of the work that was contracted for, and where a subcontractor was used to carry out a portion of the contract the name and business address of that subcontractor and the dollar value of that particular subcontract.

Mr. President, this amendment attemps to go to the heart of what I think has been the main problem with the relationship that the Federal Government has with literally hundreds of contracting and consulting firms. And that main problem is that in the past we have not known how these contracts were awarded, we have not known for what purposes hundreds of these consulting contracts were awarded, and we have not been advised either in the Appropriations Committees or by the proper oversight committees of the House of Representatives and the Senate as to when and why so many sole source or noncompetitive contracts were being allowed.

Mr. President, these are the basic rudiments of the amendment that I am offering at this time to the Department of Energy authorization bill. I think it is a step in the right direction.

Mr. President, I reserve the remainder of my time at this time.

The PRESIDING OFFICER. The Chair wishes to advise the Senator from Arkansas there is no time limit on the amendment.

Mr. JOHNSTON. Mr. President, I congratulate the Senator on his initiative in bringing forth to the public a very serious problem in the Federal Government and that is the profligate use of contractors in doing the business of Government and particularly in the Department of Energy. It is a serious problem.

I would hope that the Senator would however let us consider this amendment early on next year with hearings. The amendment may contain some problem areas. My staff, for example, tells me some of the terms might not be precisely defined. They say that much of the information may violate proprietary information where, for example, information is protected under many, many pages of carefully worked out exceptions with respect to proprietary information that it could violate that.

With respect to national defense, I know there is an exception here where the contract is of a classified nature, but I do not know whether all of our contracts in our nuclear weapons programs are classified or whether they are not classified. I do not know what classified means, whether that means for official use only, or confidential, or secret, or whatever. These are not objections to the thrust of the amendment of the Senator but rather they are matters that should be considered in hearings.

I think we can promise him prompt hearings in the Energy Committee next year and I wish to see the bill passed because I am just as concerned about it or almost as concerned about it as the Senator from Arkansas is. This is not an attempt to derail this move. But I hate to have to take this amendment to conference.

In the first place there could be an amendment similar to this in the House of Representatives and then we would be locked in without really knowing how the definitions operate and whether it creates any problems. If there are any problems I can tell the Senator they can be worked out. I mean they are not serious problems. The Senator does not want to reveal, I am sure, proprietary information. Obviously he does not want to reveal national defense information. But we do want to get the so-called beltway bandits and bring them at least to the light of public scrutiny. I support that view.

So I hope the Senator will agree with us to take a commitment for early hearings in the Energy Committee and let us consider it at that time.

Mr. PRYOR. Mr. President, I only respond to the comments of the distinguished Senator from Louisiana by complimenting him on his approach to this problem, but again hoping that we might be able to work out on the authorization bill some degree of accommodation wherein this language as embodied by my proposed amendment might be included at this time.

I only remind and bring to the attention of the Senator from Louisiana the fact that on four occasions since November 1979, the Subcommittee on Civil Service, which I chair as part of the Committee on Governmental Affairs, has held hearings relative to the use of consultants by the Department of Energy.

Mr. JOHNSTON. Has the Senator held hearings on this bill, though?

Mr. PRYOR. We are holding hearings on the full text of a bill which is S. 2880. We will hold hearings next week on the full text and the full impact of S. 2880 which this amendment that I offer tonight to the Department of Energy authorization bill is simply a part. We are going to hold hearings.

Mr. JOHNSTON. The hearings have not been held on the bill as such but rather on the problem.

Mr. PRYOR. We are going to hold hearings on the bill itself and we are going to have comments from the various agencies.

I just wish to state to the distinguished Senator, my friend from Louisiana, that on July 2, 1980, after S. 2880 was introduced with some 15 sponsors in the Senate, the Office of Management and Budget, thought that some of the language in our legislation was so good that now they are requiring agencies to state, on the cover of all reports containing recommendations to an agency submitted during the performance of a consulting services contract, the same information that we are asking to be revealed under my amendment.

Mr. JOHNSTON. Has the administration taken a position on the bill itself?

Mr. PRYOR. The administration has not taken a position on the bill itself, but we are asking the administration for a position one way or the other.

Mr. JOHNSTON. Let me ask this: What is the relationship between this bill and the Freedom of Information Act? Are all the exceptions and exemptions of the Freedom of Information Act incorporated herein by reference? Is there any inconsistency there?

Mr. PRYOR. The amendment makes certain information available to the public but the requests and the requirements would be subject to the Freedom of Information Act.

Mr. JOHNSTON. Well, Mr. President, again when I say there are problems with this, there is no problem with the intent. We carefully crafted in the Federal Nonnuclear R. & D. Act as well as the DOE Authorization Act a list of information which did not have to be supplied with respect to proprietary interests. I do not know how that is superseded by this. Perhaps it is not. But it is the kind of thing where if staff were given some time, we could work that out, have hearings, allow DOE to come in and say, "That is fine," or "That part is bad and that is good." That is the difficulty of legislating on a bill which has not had any hearings on the bill itself.

I think it would be premature to bring it to a vote. I would hate to vote against it because I am not against this. I support the Senator in what he is trying to do, and I think the big majority of Senators would.

Frankly, I would hate to have Senators put on the spot where they would have to vote against disclosure of this information. A lot of people might come down, read it quickly, vote for it, and then you could have it in the House as well, and we would be stuck with it in conference, and that would not be the responsible way to legislate.

We will give you early hearings. The Senator has a right to ask for a vote, of course, and it might carry. But I just do not think it is the responsible thing to do, particularly not when we on the committee support what you are trying to do, and all we are asking for is a little bit of time, just early next year.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HART). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1486

(Purpose: To authorize a test reactor area liquid radioactive waste cleanup system at the Idaho National Engineering Laboratory)

Mr. McCLURE. Mr. President, I ask unanimous consent that the Pryor amendment be temporarily set aside, that the Senator from Idaho may offer an amendment, and that the Pryor amendment become the pending business thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1486.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 10, after the semicolon, insert the following:

"(d) Project 81-T-303, Test Reactor Area Liquid Radioactive Waste Cleanup System, Idaho National Engineering Laboratory (Phase II), $8,085,000."

Mr. McCLURE. Mr. President, this amendment refers to project 81-T-303 at the test reactor area in Idaho, and would carry forward the work which is in progress, which they desire to do, which is necessary to be done, which has the support of the administrators there, but got caught in a budgetary question.

It involves $8 million out of the total appropriation, and I would urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, I ask the Senator does this area really deserve cleaning up with the money we are going to spend?

Mr. McCLURE. Mr. President, let me assure the Senator that the area is well worth it, the expenditure is well worth it, and the work will ultimately be performed.

Mr. JOHNSTON. Mr. President, with that assurance we will accept the amendment.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1486) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, apparently we have two more amendments, one by Senator PRYOR which is being worked out, and one by Senators GLENN and FORD which is also being worked out.

Mr. President, I ask unanimous consent that the Pryor amendment be further temporarily set aside in order that Senator FORD may be recognized to introduce an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kentucky is recognized.

UP AMENDMENT NO. 1487

(Subsequently Amendment No. 1953)

Mr. FORD. Mr. President, I send an amendment to the desk for myself, Mr. GLENN of Ohio, and Mr. HART of Colorado.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself, Mr. HART, and Mr. GLENN, proposes an unprinted amendment numbered 1487.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, after line 17, add the following:

"TITLE III—ENERGY IMPACT ASSISTANCE

"SEC. 301. That this Title may be cited as the "Energy Impact Assistance Act of 1980".

FINDINGS AND STATEMENT OF PURPOSES

"SEC. 302. (a) FINDINGS.—The Congress finds that—

(1) the protection of public health and welfare and the preservation of national security require greater production and utilization of domestic energy resources in lieu of foreign energy supplies;

(2) there are potential adverse social, economic, and environmental impacts that can accompany rapid or major energy developments;

"(3) the need for public facilities and services often precedes the availability of the government revenues required to finance such facilities and services;

"(4) States and units of local government often lack sufficient technical and financial resources to adequately mitigate against such adverse impacts, in advance; and

"(5) States and units of local government should have increased financial and technical resources to provide necessary public facilities and services prior to the availability of increased State and local governmental revenues necessary to pay for such public facilities and services.

"(b) STATEMENT OF PURPOSES.—The purposes of this title are to provide technical and financial assistance to States, regions, and local governments to foster the development and implementation of programs to prevent and mitigate the potential adverse economic, social, and environmental impacts resulting from major energy development, to finance public facilities and services, and for other purposes.

"AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

"SEC. 303. (a) The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620), as amended, is amended by amending title VI of the Table of Contents to read as follows:

TITLE VI—FINANCIAL ASSISTANCE

SUBTITLE A—ENERGY IMPACT ASSISTANCE

Sec. 600. Definitions.
Sec. 601. Assistance to areas impacted by increased coal or uranium production.
Sec. 602. Energy Impact Development Planning.
Sec. 603. Financial Assistance.
Sec. 604. Regional Commissions.
Sec. 605. Intergovernmental Coordination.
Sec. 606. Administration.
Sec. 607. Appropriations Authorization.
Sec. 608. Miscellaneous Provisions.

SUBTITLE B—OTHER ASSISTANCE PROGRAMS

Sec. 611. Loans to assist powerplant acquisitions of air pollution control equipment.

(b) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting at the beginning thereof, the following:

Subtitle A—Energy Impact Assistance

SEC. 600. Definitions.

Unless otherwise expressly provided, for the purposes of this subtitle the term—

(1) "eligible applicant" means—

(A) a State,

(B) a local government (except for expedited assistance under section 603(e)), with the concurrence of the Governor,

(C) the governing body of an Indian tribe or tribes,

(D) a regional commission pursuant to section 604, which serves a geographic area for which a local planning unit has been selected under subsection 602(b),

(E) a substate district (except for expedited assistance under section 603(e)), with the concurrence of the Governor, or

(F) a public or private nonprofit corporation.

(2) "Federal agency" means an executive agency (as defined in section 105 of title 5 of the United States Code).

(3) "Geographic area" means one or more areas within a State which is a special purpose district or other region recognized for governmental purposes within such State or a unit of local government.

(4) "Governor" means the chief executive officer of a State.

(5) "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Educational Assistance Act (Public Law 93-638).

(6) "Local government" means—

(A) any county, parish, city, town, township, village or other general purpose political subdivision of a State with the power to levy taxes and expend Federal, State, and local funds and exercise governmental powers; and

(B) which (in whole or in part) is located in, or has authority over the energy impacted area.

(7) "Major energy development" means—

(A) any facility or installation used primarily for exploration, production, extraction or processing of depletable energy resources (other than petroleum and natural gas) including synthetic fuel projects;

(B) the construction or operation of an electric generation facility (i) designed to consume coal located in the immediate area of such facility or (ii) for the purpose of meeting the energy needs of a synthetic fuels project;

(C) any major federally funded energy project (including synthetic fuel projects) and uranium processing, nuclear spent fuel storage and waste facilities; or

(D) the Alaska Natural Gas Transportation System as defined in Public Law 94-586.

(8) "Public facilities and services" means facilities and services which (A) are financed, in whole or in part, by any eligible applicant including, but not limited to, highways and secondary roads, parking, mass transit, governmental administration, fire and police protection, water supply, wastewater collection and treatment (including drainage), schools and education, and hospitals and health care and any other facility or service so financed and (B) the Secretary of Agriculture finds are necessary to support increased population.

(9) "Public or private nonprofit corporation" means a public or private organization operating on a not-for-profit basis and providing housing or public facilities or services, or both, to the energy impacted area.

(10) "Regional commissions" means the Appalachian Regional Commission established by the Appalachian Regional Commission Act of 1965, as amended (40 U.S.C. App. 301) or any regional commission established under subtitle D of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3171).

(11) "Secretary" means the Secretary of Energy.

(12) "State" means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(13) "Substate district" means a public organization which—

(A) Encompasses a regional community founded, sustained, and tied directly to local governments through local or State government action, or both;

(B) Is multijurisdictional and multifunctional with legal status and is funded in part or total by member organizations;

(C) Has a governing body which is for the most part composed of local government elected officials, or appointed representatives of local communities and State government, or both; and

(D) Is located (in whole or in part) in, or has authority over, the energy impacted area.".

(c) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is further amended by redesignating section 602 thereof as section 611, by inserting before such redesignated section, Subtitle B—Other Assistance, and by inserting the following new subsections following section 601 of said Act:

SEC. 602. Energy Impact Development Planning

(a) AREA DESIGNATION.—(1) The Governor, or in the case of an area under the control of an Indian tribe, the governing body of such Indian tribe, may designate an energy impacted area if it is found that—

(A) there exists or will exist a major energy development in such community or geographic area or in an adjacent community or geographic area;

(B) as a result of the construction or operation of such development either—

(i) employment in, or population directly related to, energy development activities in such an area has increased by eight (8) per centum or more in any year not more than five (5) years before the date of the designation, over the year immediately preceding the year of employment increase selected by the Governor, or

(ii) employment in, or population directly related to, such activities will increase by twenty-four (24) per centum or more during the three (3) years following the most recent year.

(C) the increases in population or employment resulting from such major energy development requires or will require substantial increases in public facilities and services in such area in the five (5) years succeeding initiation of construction or operation of such major energy development; and

(D) the State and the local governments, or the governing body of an Indian tribe, serving such area, do not possess, and are not expected to possess, the financial and other resources (including resources available under other Federal programs), to meet the immediate or long-term needs for increased public facilities and services identified in subparagraph (C) which cannot be met in a timely manner without assistance under this subtitle.

(2) For the purposes of paragraph (1)(D), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments or Indian tribes, which are associated with the increase in energy activities (including natural gas, petroleum, coal, or uranium development activities) and which are not prohibited from being used by historical precedent or under provisions of law in effect on the date of the enactment of the Energy Impact Assistance Act of 1979 shall be taken into account in determining if a State or local government or Indian tribe lacks financial resources.

(3) The Secretary, in the absence of sufficient information to make a determination under paragraph (1), and with the concurrence of the Governor or the governing body of an Indian tribe, may make an independent determination that due to a major energy development an area is eligible for assistance under this subtitle, provided there are special conditions which, in the opinion of such Secretary, constitute a significant energy development impact.

(4) Rules promulgated pursuant to section 601(a) shall terminate upon publication by the Secretary of Agriculture of a rule pursuant to this subsection.

(5) The Secretary, after consultation with the Secretary of the Interior, Secretary of Labor, and the Secretary of Agriculture shall approve any designation of an energy impacted area under paragraph (1) only if—

(A) the designating official provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and

(B) the Secretary determines the requirements of subparagraphs (1)(A) through (D) have been met.

(6) Any energy impacted area designated and approved pursuant to section 601 shall be deemed a designated and approved energy impacted area for the purposes of this subtitle.

(7) Approval by the Secretary of designated energy impacted areas shall terminate five (5) years following the date of such approval.

(b) Local Planning Unit.—(1) Any Governor, after consultation with appropriate officials of local government, or the governing body of any Indian tribe, as the case may be, shall select a local planning unit to prepare a mitigation plan for each energy impacted area. Staff may be detailed to such unit from the member organizations to carry out its responsibilities pursuant to this section: *Provided,* That such staff shall remain employees of the entity from which they are appointed.

(2) For the purposes of this subsection, a Governor may designate as the local planning unit—

(A) a local development district certified under section 301 of the Appalachian Regional Development Act of 1965;

(B) after consultation with appropriate elected local officials, an economic development district designated under title IV of the Public Works and Economic Development Act of 1965, as amended, for energy impacted areas in whole or in part within such district;

(C) an agency of local government; or

(D) a substate district.

(c) Mitigation Plans.—For each approved energy impacted area the selected planning unit for such area shall prepare a mitigation plan. Such unit shall consult with representatives of the appropriate Federal agencies and with representatives of the owner or operator of each major energy development within such area. Such unit also shall, to the extent practicable, seek the active participation by regional, State and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy within the approved energy impacted area and taken into account in the formulation of such mitigation plan.

(2) A mitigation plan shall—

(A) identify—

(i) the projected impact of each major energy development on the economy of such area, the surrounding communities and the State, for the period of five (5) years following construction or operation of the major energy development;

(ii) the specific needs within such area for public facilities and services resulting from the major energy development for the period of the succeeding five (5) years from the initiation of the construction or operation of the major energy development;

(iii) specific proposals for mitigating such needs, including specific public and private programs, projects, and activities;

(iv) priorities for implementing the proposal specified in clause (iii);

(v) the availability and location of funds and other resources to implement proposals identified in clause (iii);

(vi) any existing or additional legislative or other authority necessary for the State or local government or Indian tribe to carry out the proposals specified in clause (iii); and

(vii) the functions and activities in responding to such needs that the State, local government, or governing body of an Indian tribe is prepared to carry out;

(B) contain assurances satisfactory to the Secretary of Agriculture that the proceeds from any repayment of loans made by a State or Indian tribe under section 603(c) will be returned to the Secretary of the Treasury;

(C) provide for the establishment of a planning process for review and revision, as appropriate, of the mitigation plans; and

(D) be coordinated with, and take into account, planning assisted or required under this subtitle or any other appropriate Federal statute, including the Coastal Zone Management Act of 1976 (Public Law 94-370); the Outer Continental Shelf Act, as amended (Public Law 95-372); title IV of the Intergovernmental Cooperation Act of 1968 (7 U.S.C. 2201 et seq.); the Federal Land Policy and Management Act of 1976 (Public Law 94-565); the National Forest Management Act of 1976 (16 U.S.C. 1609); the Federal Coal Leasing Amendments of 1976 (Public Law 94-377); Payments in lieu of Taxes Act (Public Law 94-565); and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1204).

(3) The mitigation plan described in paragraph (2) shall be in such form, and contain such additional information as the Secretary of Agriculture may by regulation prescribe.

(4) Mitigation plans shall be submitted to the Secretary of Agriculture by the Governor or the governing body of an Indian tribe for approval by such Secretary.

(5) No assistance other than assistance under subsections 601(b) and 603(e) may be made to an applicant under this subtitle for any public facilities and services which are not set forth in an approved mitigation plan and an approved investment strategy. Notwithstanding the preceding sentence, no assistance may be made to an applicant under section 603(e) unless the Secretary of Agriculture determines that the preliminary mitigation plan provides an adequate basis for such aid.

(6) The Secretary of Agriculture shall approve or disapprove a mitigation plan within seventy-five (75) days after receipt of such plan.

Sec. 603. Financial Assistance.

(a) Comprehensive Investment Strategies.—(1) Except as provided under subsections (b) and (c) funds may not be provided pursuant to this section to implement mitigation plans approved pursuant to section 602(c) unless the State or Indian tribe having the approved energy impacted area for which such plan was prepared shall have submitted to the Secretary of Agriculture a comprehensive investment strategy describing the intended use within such State or by such Indian tribe of all financial assistance requested under this subtitle to implement mitigation plans and preliminary mitigation plans and such strategy shall have been approved pursuant to paragraph (2). In formulating the State investment strategy, the Governor shall rely on the priorities developed by the selected local planning units for such areas unless such priorities are found to be inconsistent with the State energy impact mitigation goal and objectives.

(2) The Secretary of Agriculture shall approve a comprehensive investment strategy only if he determines that—

(A) such strategy is based upon the appropriate mitigation plan or plans;

(B) such strategy, to the maximum extent feasible, identifies priorities among the measures identified in the appropriate mitigation plan or plans for possible funding under this subtitle;

(C) such strategy contains satisfactory assurances that other public or private funding is not available on a timely basis for the measures identified in paragraph (B);

(D) such strategy contains levels of funding recommended and type of funding for each project listed; and

(E) the procedures of this subsection have been followed.

(3)(A) The Secretary of Agriculture shall rule on the acceptability of comprehensive investment strategies within forty-five (45) days.

(B) In the event such Secretary does not approve a comprehensive investment strategy he shall notify the State or Indian tribe which has submitted the strategy of the reasons for not doing so. The State or Indian tribe may modify and resubmit the comprehensive investment strategy within forty-five (45) days of such notification.

(4) Subject to the limitations set forth in this subtitle, the Secretary of Agriculture may offer assistance in the form of a combination of grants and loans under this subtitle, or may combine assistance under this subtitle with other Federal, State, and local assistance available to energy impacted areas.

(b) Implementation Grants.—(1) If the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction in a State constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan under subsection (c) for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies, or identified in preliminary mitigation plans pursuant to section 603(e), and if such Secretary further determines that there is no practical alternative for providing financial assistanct to such applicant under this subtitle other than by grant. Then such Secretary upon the request of such applicant may make a grant to such applicant for such purposes.

(2) Notwithstanding the limitations in paragraph (1), if the Secretary of Agriculture finds, in the case of an eligible applicant, that during the period of construction of a major energy development (in no case to exceed a period of ten years) the applicant has or will experience extraordinary short-term increases in demand for public facilities and services, in comparison to the demand for public facilities and services that is likely to continue or occur thereafter as a result result of the operation and use of such development, and if such Secretary further determines that there is no reasonable assurance of repayment wtihin thirty (30) years of financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies; except that such grant shall be restricted to the provision of public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the costs of such services.

(3) Grants made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans and strategies.

(4) Except for grants made pursuant to section 601(b), not more than two (2) per centum of any grant to a recipient under this subtitle may be used for the administrative expenses of such recipient for administering such grant.

(c) IMPLEMENTATION LOANS.—(1)(A) The Secretary of Agriculture is authorized to make direct and insured loans pursuant to this subsection to eligible applicants (i) for the purpose of carrying out the proposals identified in approved mitigation plans and investment stratgeies and (ii) to meet needs for expedited assistance identified in the preliminary mitigation plan prepared pursuant to subsection (e). Loans made under this subsection may be made only if such Secretary determines that there is a reasonable expectation of repayment of the loan.

(B) Direct and insured loans made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans.

(C) Direct and insured loans made pursuant to this subsection may be expended directly by the recipient or may be redistributed by such recipient through financing mechanisms approved by such Secretary to nonprofit public entities in the form of grants, loans, payments to reduce interest on loans, or other appropriate assistance.

(2) The interest rates on direct and insured loans (other than guaranteed loans) for public facilities under this section shall be determined by the Secretary of Agriculture, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average rate on outstanding municipal bonds, plus an additional charge, prescribed by the Secretary of Agriculture, to cover such Secretary's losses and costs of administration, which charge shall be deposited in the Energy Impact Insurance Fund, and further adjusted to the nearest one-eighth of one per centum; except where the population of incorporated areas with local governments and Indian tribes does not exceed 20,000 the interest rate shall not exceed five (5) per centum per annum.

(3) No provision of law shall prohibit issuance by the Secretary of Agriculture of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this Act; any sale by such Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921: *Provided*, That any receipts from such sale of such assets shall be deposited in the Energy Impact Insurance Fund.

(4) If the Secretary of Agriculture finds that any recipient of a loan under this subsection, despite good faith efforts, is unable to meet its obligations, such Secretary may pursuant to regulations—

(A) modify the terms and conditions of such loan;

(B) make a supplemental loan, the proceeds of which shall be applied to the payment of principal or interest due under such loan; or

(C) forgive all or any portion of such loan, only if such Secretary finds that insolvency will otherwise ensue or substantial economic hardship will result and consequently frustrate the purposes of this subtitle: *Provided*, That such Secretary may forgive all or any portion of such loan if such Secretary finds that within ten (10) years following the award of such loan the applicant has as a result of the construction phase of a major energy development experienced extraordinary short-term increases in demand for public facilities and services in comparison to those increases likely to continue or occur thereafter as the result of the operation and use of such development, except that such forgiveness shall be restricted to that portion of the loan for public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the original amount of such loan: *Provided*, That the Secretary of Agriculture shall not forgive any portion of a loan pursuant to this subparagraph if such Secretary finds that by actions pursuant to subparagraphs (A) and (B) such recipient will be able to meet its obligations.

(5) In the event that any recipient of a loan under this subsection is forgiven any loan obligation such recipient shall be ineligible for further loans under this subsection or subsection (e) for a period of two (2) years from the date of such forgiveness. Nothing in the preceding sentence shall be construed to make a State ineligible for continued assistance solely because a loan obligation of a local government or Indian tribe located within such State has been forgiven.

(6) In the event any loan is forgiven under this section by the Secretary of Agriculture, such Secretary shall report to the Secretary the justification for the forgiveness and the Secretary will incorporate this justification into the report prepared under section 606(c).

(d) LOAN GUARANTEES.—(1) The Secretary of Agriculture, with the concurrence of the appropriate Governor or Indian tribe, may guarantee loans to eligible applicants to carry out proposals identified in a mitigation plan approved pursuant to section 602 (c) and pursuant to a comprehensive investment strategy approved pursuant to section 603.

(2) Loan guarantees will be made under such terms and conditions as the Secretary of Agriculture by rule shall prescribe.

(3) Any contract of insurance and guarantee executed by the Secretary of Agriculture under this subtitle shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

(4) The interest rate on any loan made under this subtitle as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary of Agriculture.

(5) The Secretary of Agriculture may purchase, on such terms and conditions as such Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this subtitle: *Provided*, That such Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. Such Secretary may use for such purchases funds from the Energy Impact Insurance Fund. This authority may be exercised only if such Secretary determines that an adequate secondary market is not available in the private sector.

(e) EXPEDITED ASSISTANCE.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State, or in the case of any area under the control of an Indian tribe the governing body of such Indian tribe, may designate an area as an emergency energy impacted area if—

(A) such area is approved as an energy impacted area;

(B) there is serious threat to the public health and safety within such area as a result of the major energy development; and

(C) a preliminary mitigation plan is submitted to the Secretary of Agriculture identifying and addressing the need for expedited assistance. Such preliminary plan shall be the basis for an application for expedited assistance under this subsection.

(2) Subject to the terms and conditions set forth in this subtitle, the Secretary of Agriculture may, at any time, make grants, loans, payments to reduce interest on loans, and loan guarantees to any eligible applicant on an expedited basis for public facilities or public services in a designated emergency energy impacted area if such Secretary finds that such needs cannot be met with other Federal programs or other assistance in a sufficiently timely manner.

(3) The amount of any assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State or to such Indian tribe under the provisions of section 601(d) for that fiscal year. In the event that the amount of assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall exceed the amount of assistance allocated to that State or Indian tribe under the provisions of section 601(d) for the same fiscal year, any such allocation shall be reduced, accordingly, until a total reduction equal to the amount of assistance made available under this subsection shall be obtained.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—(1) Any assistance under this subtitle may not be used to provide the non-Federal portion of costs of any other Federal assistance program.

(2) No financial assistance shall be provided under this subtitle in implementing proposals identified in an approved mitigation plan and investment strategy, except in a designated emergency energy impacted area.

(3) No loan may be made under this subtitle unless, in the opinion of the Secretary of Agriculture, there is a reasonable expectation of repayment within thirty (30) years from the date such loan is made.

(4) No assistance under this subtitle shall be used for interest subsidies in connection

with loans guaranteed under subsection (d) or to establish reserves to cover losses on such loans.

(5) Financial assistance under this section shall not replace other public or private assistance reasonably available on terms that, in the opinion of the Secretary of Agriculture would permit the accomplishment of the project or program.

(6) No funds appropriated to carry out the purposes of this section shall be expended in support of any program, project or activity which is eligible for Federal financial support and funds are available for such support under section 308 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(a)), or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

(g) Nonfederal Share.—The recipient of any grant assistance shall provide funds equal to twenty-five (25) per centum of the total costs of implementing the proposal for which the assistance is made.

(h) Energy Impact Insurance Fund.—(1) There is established in the Treasury of the United States an Energy Impact Insurance Fund (hereinafter in this section referred to as the 'Insurance Fund') which shall be used by the Secretary of Agriculture as a revolving fund for the discharge of the obligations of such Secretary under contracts guaranteeing or insuring energy impact loans made pursuant to section 603: *Provided,* That such obligations shall not exceed $400,000,000 per fiscal year, subject to such limitation on the amount of such obligations as may be contained in appropriations acts.

(2) The Insurance Fund shall be under the same authorities, terms and conditions as the Rural Development Insurance Fund, established by the Consolidated Farm and Rural Development Act.

Sec. 604. Regional Commissions.

(a) Upon application of a Commission, in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the States and the Federal Cochairman, funds may be made available to the Federal Cochairman of such Commission to provide multi-State assistance as described under section 601(b).

(b) Terms and Conditions.—(1) Funds may be made available to a Federal Cochairman under this section only for States whose Governors concur in such action.

(2) The amount of any assistance made available within a State under this section in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State under the provisions of section 606 for that fiscal year.

Sec. 605. Coordination of Federal Programs.

(a) The President shall establish an interagency council, to be chaired by the Secretary of Agriculture pursuant to Section 603 of the Rural Development Act of 1972 (Public Law 92–419) to coordinate and streamline all Federal programs which may provide assistance to meet needs resulting from major energy developments. Such council shall coordinate the various Federal planning processes with the preparation of mitigation plans assisted under this subtitle, in order to minimize duplication of effort or activities and to avoid delay in the consideration or carrying forward of such major energy developments. The Secretary shall cochair such council with respect to the planning processes related to preparation of mitigation plans.

(b) The Secretary of Agriculture shall designate an organizational unit—

(1) to administer the program established by this subtitle;

(2) to provide information to State and local officials and Indian tribes about Federal assistance from programs other than those authorized by this subtitle to prevent or mitigate adverse impacts from energy resource development;

(3) to advise other appropriate Federal agencies of the needs and proposals for public facilities and services identified in energy impact plans and investment strategies;

(4) to make recommendations to other appropriate Federal agencies in order to improve coordination, to minimize duplication of effort, and to streamline procedures in providing assistance under this subtitle or any other applicable Act; and

(5) to provide information and technical assistance, when requested, to States, local governments, and Indian tribes about energy impact mitigation.

(c) The heads of all Federal departments or agencies shall cooperate with the Council in carrying out the purposes of this subtitle and shall review the programs which each administers to determine what assistance is or may be made available to areas eligible for assistance under this subtitle and, to the extent practicable, implement the recommendations made pursuant to subsection (b)(4).

(d) The personnel necessary to implement and administer this program shall not be subject to the provision of Public Law 95–454.

Sec. 606. Administration.

(a) General Rulemaking.—The Secretary of Agriculture in consultation with the Secretary, and the Secretary in consultation with the Secretary of Agriculture, are authorized to promulgate such regulations as necessary to carry out such Secretaries' responsibilities under this subtitle, including (1) terms and conditions for financial assistance pursuant to section 603 including a requirement for assurances of repayment of loans under section 603(c); (2) procedures to carry out the provisions of section 606(b), which shall not be subject to section 554, 556 or 557 of title 5 of the United States Code; and (3) criteria for the allocation pursuant to section 601(d)(3) of funds appropriated under section 607. Such regulations shall be promulgated not later than one hundred and eighty (180) days after the enactment of this subtitle.

(b) Termination of Financial Assistance.—Whenever the Secretary of Agriculture, after affording the State or the governing body of an Indian tribe reasonable notice and opportunity to present views finds that a State or the governing body of an Indian tribe receiving financial assistance under this subtitle has failed to comply with the provisions thereof or with any regulation issued pursuant thereto, such Secretary shall notify the State or governing body of an Indian tribe that such State or governing body of an Indian tribe is no longer eligible to receive all or a portion of the financial assistance provided under this subtitle until such Secretary is satisfied that there is no longer any such failure to comply. Such Secretary may withhold all or part of further financial assistance to such State under this subtitle for so long as such State or governing body of an Indian tribe is deemed not to comply.

(c) Annual Report.—The Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit an annual report to the Congress on the status of the programs authorized under this subtitle.

Sec. 607. Appropriations Authorization.

Authorizations.—(a)(1) There are authorized to be appropriated to the Secretary to carry out the provisions of this subtitle $400,000,000 of which not to exceed $15,000,000 may be used to carry out the purposes of section 601(b), for each of the fiscal years ending September 30, 1982 through 1985: *Provided,* That such authorizations shall be reduced by the amount of receipts pursuant to section 603(c)(3) in the previous year. Appropriated funds shall remain available until expended.

(2) Of the amounts appropriated under paragraph (1) for any fiscal year not more than forty (40) per centum thereof shall be expended in the form of grants.

(3) Not more than fifteen (15) per centum of the funds appropriated under paragraph (1) shall be used to provide expedited assistance under section 603(e).

(4) The total principal amount of loans guaranteed under this subtitle shall not exceed $1,500,000,000, subject to such limitations as may be contained in appropriation Acts.

(b)(1) The Secretary of Agriculture is authorized to deposit into the Energy Impact Insurance Fund $10,000,000 from the amounts appropriated pursuant to subsection (a).

(2) There is hereby authorized to be appropriated to the Secretary such funds as may be necessary for the operation and maintenance of the Energy Impact Insurrance Fund.

Sec. 608. Miscellaneous Provisions.

(a) Prohibition of Delay of Major Energy Development.—No action or failure to act to designate or approve an energy impacted area, to create a local planning unit, to develop or implement an approved mitigation plan, to develop an approved comprehensive investment strategy, to obtain or implement expedited assistance or any other assistance under this subtitle may be used as a legal basis for delaying or prohibiting the obtaining of any licenses, permits, or other authority necessary for the development, construction or operation of a major energy development.

(b) GAO Report.—The General Accounting Office shall prepare and submit to the Congress two years after the date of enactment of the Energy Impact Assistance Act of 1979 an implementation report reviewing the status of the program of assistance provided under this title and analyzing effectiveness of that program in carrying out the purposes of this subtitle.

(c) Reorganization.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this subtitle may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of the Energy Impact Assistance Act of 1979. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department.

CONFORMING AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Sec. 304. (a) Section 601(b) of the Powerplant and Industrial Fuel Act of 1978 is amended by—

(1) amending paragraph (1) thereof by inserting after any State in which the following: , or the governing body of an Indian tribe for which, ;

(2) amending paragraphs (1)(A) and (B) thereof by inserting before activities the following: or major energy development;

(3) amending paragraphs (1), (2), and (3) thereof by inserting "mitigation" before "plan";

(4) amending paragraph (2) by striking "(A)" and subparagraph (B);

(5) Amending paragraph (3) by inserting after "State" the following. ", or governing body of an Indian tribe,"; and

(6) adding at the end thereof the following new paragraphs:

"(4) The Governor of any State receiving a grant under this subsection may make subgrants to local planning units to assist in paying for preparation of mitigation plans required under subsection 602(c) and related management activities to prevent or mitigate the adverse impacts of major energy development.

"(5) If a State receives a grant for the purpose of making subgrants to local planning units, then not less than ninety-five (95) per centum of the grant must be granted to the local planning units.".

(b) Amend section 601(c)(1) of said Act by inserting at the end of clause (B) before the semicolon, "or to major energy development activities".

(c) Amend section 601(d) of said Act by deleting "section" and inserting in lieu thereof "subtitle".

(d) Amend sections 601(d)(3) and 601(h) of said Act by deleting "section" and inserting in lieu thereof "subtitle".

(e) Amend section 601(h) of said Act by adding at the end thereof, "*Provided*, That the amount retained by the Secretary shall not exceed $300,000 per year."

(f)(1) Amend section 601(f) of said Act by inserting before "within" the words "or any major energy development activity,".

(2) Amend section 601(f)(3) of said Act by inserting after "(or uranium)" the words "or energy,".

Mr. FORD. Mr. President, the purpose of the Energy Impact Assistance Act is to build on the experience obtained under section 601 of the Powerplant and Industrial Fuel Use Act of 1978 and expand the present program to provide broader technical and financial assistance to States, regions, and local governments to foster the development and implementation of programs to prevent and mitigate the potential adverse economic, social, and environmental effects resulting from major energy development, to finance public facilities and services, and for other purposes.

We are all aware of the potentially adverse social or economic costs as well as benefits associated with most major developments—not just energy development. When undertaken in a rural area, a major development project can induce rapid population growth as new workers move into the area in expectation of working directly on the project, or to take advantage of the secondary business and employment opportunities related to the new population growth. In some instances, the rapid population growth is enough to strain or even exceed the capacities of existing public facilities and services, before the new tax base, which is necessary to finance new public facilities and services, is established.

New energy development has been singled out for special attention by Congress—and rightfully so—because of both the rapid pace and broad scope of our country's greatly intensified effort to develop new domestic alternatives to imported energy supplies.

During the 95th Congress we enacted the comprehensive energy impact planning program set forth in section 601 of the Powerplant and Industrial Fuel Use Act of 1978. Section 601, which represented an initial judgment of the Congress on a Federal policy for inland energy impact assistance, emphasized planning and new homesite development associated only with expanded coal and uranium production. This measure would amend the current 601 program to reflect the broader needs of State and local governments for public facilities and services associated with energy development, generally.

The single most urgent requirement facing the Appalachian region is to find ways to provide housing for the new workers coming into the coalfields. Housing sites are at a premium because of steep terrain, complications of land ownership and difficulties in obtaining financing. This was the initial and principal objective of the 601 program which terminates with fiscal year 1980 unless extended.

A second, and equally serious, problem is providing adequate health care facilities. This problem is acute and requires a concerted effort among State, local, and Federal governments to assure that adequate planning and resources are available to meet the needs for basic health and personal health care within impacted areas.

A third problem, with broad public health implications, is the need to provide adequate water and sewer capacity to meet both the immediate and future needs in impacted areas.

Finally, we must provide adequate safeguards to protect the quality of the environment. This will require close cooperation among all levels of government and the private sector.

S. 1699 would expand the 601 program in the Fuel Use Act to provide broader financial and technical assistance to States, local governments, and regional agencies and to promote establishment of consolidated State energy impact programs.

SUMMARY OF MAJOR PROVISIONS

The major provisions of S. 1699, as reported by the Committee on Energy and Natural Resources are as follows:

First, the Governor or in the case of an area under the control of an Indian tribe, the governing body of such Indian tribe, may designate for approval by the Secretary of Energy an energy-impacted area which meets specific statutory criteria modeled after existing law;

Second, grants are available from the Secretary of Agriculture to State, local, and regional bodies for the preparation of mitigation plans for approved energy-impacted areas;

Third, a Governor may designate as a local planning unit——

First, a local development district certified under section 301 of the Appalachian Regional Development Act of 1965; second, after consultation with appropriate elected local officials, an economic development district designated under title IV of the Public Works and Economic Development Act of 1965, as amended, for energy-impacted areas in whole or in part within such district; third, an agency of local government; or fourth, a substate district.

Fourth, such planning be coordinated with, and take into account, planning assisted or required under this subtitle or any other appropriate Federal statute, including, for example, the Coastal Zone Management Act of 1976 (Public Law 94–370).

Fifth, the Secretary of Agriculture would be authorized to make direct and insured loans pursuant to this subsection to eligible applicants first, for the purpose of carrying out the proposals identified in approved mitigations plans and investment strategies; and second to meet needs for expedited assistance identified in the preliminary mitigation plan.

Sixth, the Secretary of Agriculture, with the concurrence of the appropriate Governor or Indian tribe, may guarantee loans to eligible applicants to carry out proposals identified in an approved mitigation plan.

Seventh, if the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction in a State constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies, or identified in preliminary mitigation plans, and if such Secretary further determines that there is no practical alternative for providing financial assistance under this subtitle other than by grant; then the Secretary may make a grant up to 45 percent of the cost of such proposal.

Eighth, special provision is made in the bill for the unique problems associated with "boom towns" as grants or forgiveable loans up to 45 percent of the costs for public facilities and services where an energy-impacted area has or will experience extraordinary short-term increases in demand for public facilities and services, in comparison to the demand for public facilities and services that is likely to continue to occur thereafter as a result of the operation and use of such development.

Ninth, emergency energy-impact assistance is authorized in the form of grants, loans, payments to reduce interest on loans, and loan guarantees to any eligible applicant on an expedited basis for public facilities or public services in a designated emergency energy-impacted area if the Secretary of Agriculture finds that such needs cannot be met with other Federal programs or other assistance in a sufficiently timely manner.

Tenth, upon application of a regional commission, in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the States and the Federal cochairman, funds may be made available to the Federal cochairman of such commission to provide multi-State assistance.

Eleventh, the President is required to establish an interagency council, to be chaired by the Secretary of Agriculture, pursuant to section 603 of the Rural Development Act of 1972 (Public Law 92–419) to coordinate and streamline all Federal programs which may provide assistance to meet needs resulting from major energy developments.

Twelfth, for each of fiscal years 1981 through 1982 there is authorized to be appropriated to the Secretary of Energy $400,000,000, of which not to exceed $15,-

000,000 may be used for planning grants, and of the amounts appropriated for any fiscal year not more than 40 per centum thereof shall be expended in the form of any grants.

Thirteenth, the total principal amount of loans guaranteed under this subtitle shall not exceed $1,500,000,000 subject to such limitations as may be contained in appropriation acts.

The legislation before the Senate is needed today—not tomorrow—to respond to our national need for energy-impact assistance attendant on our national quest for greater energy independence. Provision is made for continuation and expansion of the joint Department of Energy and Department of Agriculture 601 program in fiscal year 1981 and beyond.

Mr. JOHNSTON. Mr. President, this amendment, with slight technical changes, has been passed by the Energy Committee. It is a subject which has been before us not only this year but in prior years because it deals with that problem of burgeoning new areas of energy, whether it is lignite in Louisiana, coal in Wyoming, synthetic fuels in another part of the country, and it deals with that very difficult subject I think in a very constructive way.

We have passed on it in committee and support it most enthusiastically and we therefore accept the amendment.

Mr. JAVITS. Mr. President, may we know what this amendment is about?

First, let me ask the Senator from Kentucky a question. How much money is involved in this? What is authorized?

Mr. FORD. A sum of $400 million each year for 5 years.

Mr. JAVITS. So that is a $2 billion bill?

Mr. FORD. That is correct, with $1.5 billion as it relates to loan guarantees.

Mr. JAVITS. Will the Senator state what is the national interest which dictates such a large expenditure?

Mr. FORD. Energy.

Mr. JAVITS. And what is the energy justification? If the Senator will forgive me, I just came into the Chamber as soon as I heard the matter being debated.

Mr. FORD. I thought we were accommodating the Senator and I apologize if I did something other than what we had agreed to.

Mr. JAVITS. No. I was downstairs listening and came up.

If the Senator could just state the purpose of the amendment, whom it benefits.

Mr. HART. Mr. President, will the Senator yield to me?

Mr. FORD. The Senator was asking me a question. Does the Senator wish to answer the question?

Mr. HART. Could I try?

Mr. FORD. Yes.

Does the Senator from New York mind?

Mr. JAVITS. No.

Mr. FORD. Mr. President, the Senator from Colorado (Mr. HART), the Senator from Ohio (Mr. GLENN), and I have now agreed upon the amendment before the Senate.

Mr. HART. If the Senator from New York will indulge me——

Mr. JAVITS. Mr. President, I think I can save some time. I will be briefed. I had a representative in the Chamber.

Is it proper for the Senator from New York to ask for a quorum call?

The PRESIDING OFFICER. Will the Senator from Kentucky yield for that purpose?

Mr. FORD. Does the Senator want to ask for a quorum call?

Mr. JAVITS. Yes, I was going to ask for a quorum call so I could be briefed.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I am pleased to join my colleague, Senator FORD, in the sponsorship of this energy impact assistance amendment.

This amendment is, to a large extent, an outgrowth of a legislative effort I first undertook in 1976. Four years ago, I first proposed comprehensive legislation to provide some limited Federal assistance to States and local governments trying to deal with the often severe social and economic problems caused by rapid energy development. Since my original proposal was for a program to be administered by the Economic Development Administration, that bill was considered by the Committee on Environment and Public Works. Working closely with the administration, the National Governors Association, the National Association of Counties, and other interested groups, the Environment Committee carefully considered this legislation—the so-called Hart-Randolph bill—and ordered it reported in the 95th Congress. The Governmental Affairs Committee which also had jurisdiction over the bill reported a similar version. However, the Senate adjourned before it was able to take any action on the bill.

Although the Senate never considered the comprehensive proposal for energy impact assistance, Congress did enact sections 601 of the 1978 Fuel Use Act, or Coal Conversion Act, which established a limited program of energy impact assistance. That program will expire at the end of this fiscal year.

Not wanting to duplicate the 601 program, Senator RANDOLPH and the other interested members of the Environment Committee joined me in proposing a major change in our bill so that it builds on the base of the established section 601 program. With that change, the Environment Committee relinquished its jurisdiction over the bill and instead worked with the Energy Committee to develop a comprehensive expansion of the 601 program, along the lines proposed in the original so-called Hart-Randolph bill.

I want to congratulate Senator FORD and the other members of the Energy Committee for their gracious cooperation with those of us from the Environment Committee who had earlier proposed our own version of this legislation. The ability of all interested Senators to merge their efforts into a single proposal has been a most constructive step.

The need for this legislation is clear. We all recognize the overriding necessity to increase drastically our domestic production of energy.

However, this development can have serious adverse effects on the local communities where the energy resources are located.

Energy development drastically changes the community. New specialized workers arrive with their families, with the demand for "secondary" jobs to supply new goods and services. The actual population growth can be as much as six times the increase in energy jobs.

This growth has already happened in many places. Craig, Colo., which is in the center of a coal boom, grew by almost 50 percent in 3 years, and will likely double again by 1985.

This boom growth is likely to happen even more frequently in the future, since synthetic fuel plants cause greater impacts than other forms of energy development. The Department of Energy predicts an average 100,000-barrel-per-day facility, for example, will draw 20,000 new people to the facility site.

This sudden population growth causes severe and complex problems, including shortages in public facilities and housing. New residents rapidly overload existing schools, roads, sewers, hospitals, and other facilities.

The Department of Energy's best estimate is that the development costs of the facilities and services minimally necessary for each new resident is $7,000. A synthetic fuels plant drawing 20,000 new people, then, would have an impact price tag on $140 million.

The social and economic disruptions are even worse than the need for new facilities and services.

In Craig, Colo., for example, in 3 years, crimes against people increased by 900 percent, alcoholism cases increased by 623 percent, family disturbances increased by 352 percent, child abuse and neglect cases increased by 130 percent, and child behavior problems by 1,000 percent.

The same problems arise from any energy development. Virtually every State will experience severe impact problems as our domestic energy production accelerates.

The communities' needs far exceed their resources. For example, of 179 communities in Federal region VIII with energy-related impacts, only about 25 have planners. The almost total lack of expertise to deal with rapid growth leaves these communities extremely vulnerable.

While local revenues from taxes on the energy development and related growth will help, they will not be adequate. One study—already outdated—identifies the total national energy impact needs as $80 billion by 1985, while the increased State and local revenues would be only $49 billion.

Much more importantly, however, the revenues do not come in until after the local governments must address the impacts.

The greatest need for expanded facilities and services is before the surging population overruns the existing resources.

A local government often cannot borrow against future revenue to meet its initial needs. Generally, the town has no previous bonding history, and little resources to back any bonds.

Our energy impact legislation is designed to help provide an economic bridge, through limited front-end assistance until the revenues from the energy development begin to come in.

The Federal Government has a clear responsibility to help State and local governments deal with these impacts. The energy will be produced largely on national land. It will be produced in response to national policies. It will be produced to meet national needs. The Federal Government would be irresponsible to accept the benefits of this energy without helping to address the damaging local effects of its production.

The legislation we have proposed will meet this national responsibility. It will set up a 5-year program to encourage State and local governments and Indian tribes to establish mechanisms for addressing the effects of energy-related growth.

This program would be a major expansion of section 601. It would apply to all forms of energy development, not just coal and uranium. The program would be broad and flexible enough to meet the full range of community needs. Its most important provisions are for local planning assistance and improved delivery of assistance under existing programs. These programs will provide most of the Federal assistance for reducing the impacts.

To make these programs as effective as possible, the legislation provides for reviews of existing programs, to see how they can address better the needs of energy impact areas. To help local governments take advantage of these programs, the Farmers Home Administration would help communities tap existing programs matched to their needs.

Only when there are gaps in existing programs would mitigation assistance be available directly under this legislation. That assistance would be available in two ways, both designed to get the maximum return for the Federal dollar.

The first would be State revolving funds established with Federal seed money. A State government would use this revolving fund to make loans to impact areas. Only when loans would not provide any real assistance—such as when the local government cannot tax an energy development in a neighboring jurisdiction, or when there are legal restrictions blocking the local government's ability to receive loans—could this assistance be through grants.

The second form of mitigation funding would be through Federal guarantee of local loans. With minimal Federal money, this will allow local governments to overcome the marketplace reluctance to lend money to the impact communities.

The total Federal outlays for impact mitigation under this program would be a very small percentage of the total need for community planning, facilities, and services. The Nation will enjoy the benefits of the energy being produced. Sharing a small part of the local burdens that go with the energy production is not too much to ask in return.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

Mr. JOHNSTON. What is the pending business, Mr. President?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kentucky (Mr. FORD).

Mr. JOHNSTON. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside in order that we might complete work on the Pryor amendment.

Mr. JAVITS. Mr. President, reserving the right to object, I would like to know how long this will take.

Mr. JOHNSTON. Just a brief time, Mr. President.

Mr. JAVITS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1485, AS MODIFIED

Mr. PRYOR. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 41, line 17, insert the following:

PUBLIC AVAILABILITY

Sec. 105. (a) (1) The Department of Energy shall maintain during each month a list of contracts which were entered into within the preceding 24 months or for which contractors have not then completed performance. Such list shall include—

(A) the contract identification number assigned by the agency;

(B) the contractor's name;

(C) the date of award and the initial and current estimated completion date;

(D) the initial and current amount of the contract award;

(E) a brief description of the work to be performed; and

(F) the names of the Government employee who authorized the award of the contract and the employee who is responsible for the program administration of the contract.

(2) The list under paragraph (1) shall be available to the public for inspection and copies shall be available but the agency may charge for duplication costs therefor.

(B) Any information on a list under (A) (1) and any information relating to a contract included on such a list shall be available to the public, subject to limitations on disclosure pursuant to other laws.

Sec. 106 (a) The Secretary shall require that each report prepared by a contractor, and each report prepared by an agency which is substantially derived from or substantially including any such report, shall include—

(1) the name and business address of the contractor who prepared or contributed to the report;

(2) the total amount to be paid by such agency under such contractor;

(3) the type of procurement process used in the award of such contract;

(4) the name of the office or employee of the agency who authorizes such contract;

(5) a brief description of the work performed under the contractor; and

(6) in any case in which a contractor used a subcontractor to carry out a substantial portion of the contract, the names and business address of the subcontractor and the amount paid to the subcontractor.

(b) The term "report" means a study, plan, evaluation, analysis, manual, oral or written presentation, or other document, including drafts thereof, which is prepared by a contractor pursuant to a contract with an agency, and which is submitted—

(1) to such agency, or

(2) on behalf of such agency to any other authority of the Government,

but does not include billing documents, invoices, or other routine business transmitted.

Mr. PRYOR. Mr. President, the final version of this amendment, as modified, will basically require the Department of Energy to prepare for public listing those contracts of the Department of Energy with private consulting firms and contracting firms, together with basic information regarding those contracts. This will enable a tremendous amount of sunshine to be allowed on these particular contracts and provide greater public scrutiny.

Mr. President, second, this amendment will allow and require that when reports are prepared by contractors and consultants and presented by the Department of Energy, reports which have relied substantially on the utilization of private contractors, the reports shall disclose the use of those contractors. This will enable us for the first time, within this particular Department, to find out how much information has been acquired within the agency vis-a-vis how much preparation and information has not been performed within the Department.

The modification does address itself to the safeguarding of current information that is already protected relative to proprietary rights, and also any information that should not be public in nature. We shall discuss this whole matter, Mr. President, when we continue our hearings on the full legislation on Senate bill 2880, the legislation that has been introduced by myself and 14 of my colleagues, in the coming days.

I ask, Mr. President, that the modification be approved.

Mr. JOHNSTON. Mr. President, the Senator from Arkansas accurately described the amendment. As redrafted, Mr. President, this amendment achieves the purpose that the Senator from Arkansas wanted to achieve, but consistent with these carefully drafted provisions of law with respect to proprietary interest and other exclusions provided by the law. As redrafted and resubmitted, it is an excellent amendment and we accept it, Mr. President.

Mr. PRYOR. Mr. President, I appreciate the remarks of the Senator from Louisiana.

Mr. McCLURE. Mr. President, on behalf of the minority, we are happy with the accommodation that has been reached. I think the form of the amendment is in good shape now. I think the Senator should be commended for having put his finger on a very real problem. This may not be the firm answer to addressing that problem, but it is a good beginning. I compliment the Senator both on bringing the matter to the floor and his willingness to accommodate in the manner to the floor and his willingness to accommodate in the manner he has. We are willing to accept the amendment as now drafted.

Mr. PRYOR. I thank the Senator from Idaho for his accommodation in this matter and for his kind observations.

The PRESIDING OFFICER (Mr. GLENN). The question is on agreeing to the amendment.

The amendment (UP 1485, as modified) was agreed to.

UP AMENDMENT NO. 1487

Mr. JOHNSTON. Mr. President I think the pending business now is the Ford amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, my interest in this matter comes about by virtue of the fact that Senator GLENN, for whom I have great admiration, regard, and affection, presented the issue to the Committee on Governmental Affairs, of which I am a member. After rather considerable discussion on that amendment and after a committee report was issued, the committee divided on a vote of 8 to 4 and reported the measure favorably. That was, roughly speaking, about a month and a half ago. The matter has not been brought up here on the floor.

I might point out, too, that that bill called for $150 million of appropriations to be used for the purposes of the measure, with the right to guarantee $1.5 billion of loans, and the bill related to the period from 1980–1982. So my interest in it is attributable to the discussion which took place at that time.

Second, Mr. President, my interest is aroused, because I come from a major State which is one of the old States and has the great problems of age in this country. It has found itself constantly fighting to stay alive, particularly our national city, as I have called it, New York City, where I personally live and have all my life. The thing that affects me about this measure is this: There is no doubt about the fact, for example, that we properly give impact aid in education because of the impact of Federal activities like Army posts and stations, et cetera, in various parts of the country. But what affected me particularly about this was, here are towns, cities, countryside which were going to be developed and have an impact of people and activity and communications, et cetera, because of the emphasis upon domestic energy in new areas which would be impacted as a result. Then populations would move into these areas, it was expected, and the word, "boomtown," was applied—not in any invidious way, but simply as a symbol of what happens when the community explodes with a development of this kind. Of course, we have had much experience with that in oil regions in this country.

The point was, however, that they were moving into a period of prosperity, a period in which they would become bigger and more financially able to handle the matters which they had to handle. And here we were, being very quick to move into these areas on the ground that the demography would considerably affect them—that is, the movement of population—and to give them aid. However, when you turn the coin around and look at areas which are deteriorating and which need assistance to try to adjust themselves to a different economic world while looking forward to grave difficulties in welfare, in poverty, in infrastructure—the very things that this bill was designed to assist with this kind of development—a contrary attitude has been shown.

For example, countercyclical assistance was absolutely rejected, this year, at a figure of about $1.5 billion. Even denied was an effort to have some compensation aid for the distressed cities, which were entitled to countercyclical aid. This involved some $500 million that my colleague and friend (Mr. MOYNIHAN) made a very valiant fight for and was turned down.

In the formulae under which we derive Federal aid in such places, there is constantly an effort to hold it down and find some way in which other areas might, even if they did not need it, get a share.

Finally, Mr. President, there is a general feeling that somehow we could shift for ourselves, somehow, these demographic changes. As, for example, in New York, where we had a shift in New York City alone in a period of one decade of about 3 million people, 3 million left who were perfectly good taxpayers and solid citizens, and 3 million came in who needed enormous assistance from government in order to get along until they, too, like my own forebears, who were first generation immigrants, could get on to the life and promise America means.

In my native city, for example, streets and sewers and water systems, all kinds of infrastructure, are literally a time bomb, so behind are we in terms of maintenance. In many cases, what needed to be maintained every 20 to 30 years has not been maintained for 100 to 200 years.

So it seemed to me there was no basic sound policy involved here. It is just a matter of getting financial assistance for areas on the way up which were much better able to finance themselves, if anything, than areas which had suffered serious economic reversals, without in any way recognizing the across-the-board nature of these problems or that we had to, at one and the same time, deal with localities which were on their way up and had very bright prospects, in order to nurse them over the period until they began to get the necessary income, and with areas which had seriously declined and which now needed help in order to turn the corner.

This made me feel a grave sense of discrimination. Everybody knows the tremendous struggle which my city of New York had just to stay alive, though it is probably the biggest income producing, or, at least, produces tax income as large as any comparable entity in the United States.

This bill comes along, sort of a consolidation of what Senator FORD and Senator GLENN sought to do in other venues joined by Senator HART, in which we have a system of grants with $60 million the first year and up to $160 million in grants in each of the succeeding years. Now I am for helping, but I am for helping fairly to all that need it, whether because they are going up, as these localities are, or because they are coming down, as, unhappily for me, is a great deal of my locale.

The grants seemed, certainly, to be unnecessary in situations of this kind, where we are running into a boom and not a bust and where there will be great income.

Houston, Tex., certainly, is an amazing example of how an American locality can flourish and develop.

I did not seek a rollcall on these matters because I am unsympathetic or insensitive to the development question. On the contrary, I want our country to flourish and grow.

I have in this Chamber espoused many measures which had no direct relevance to the part of the country from which I came, rivers, dams, water supply, and many other developments which would expand opportunities for Americans.

I feel the same way about this, except that I cannot see how we can be just and fair without, as I say, taking into account both sides of the coin, the bright side, which is the one our colleagues ask us to consider, and the darker side which is the economics of areas which have had great days and which could enjoy them again, but which now need the help of the Nation to change economic direction, and where the demographics, the same reason I stated, except working in reverse, have caused the difficulty and dislocation.

Another example, of course, is the fact that there is no limit in this measure, at least so I am informed by the staff of the Senators who are proposing it, on what any State can get. Yet, in almost every case where we are concerned, and in almost any formula, there is always this big flutter about the fact that, well, no State can get more than 12½ percent, and if it is 15 percent it is big stuff. Yet, we see no limit whatever here, no concern about an elementary question like that.

Mr. President, there is an existing program along these lines. Of course, we must remember, too, that there are EDA loans and grants, and UDAG loans and grants, and the Agriculture Department has loans and grants. There are lots of programs. This is not the only one which could be drawn upon.

But the important point is, and I made that very clear, the discrimination which I see between these areas coming up which now hang their political hats on energy, which is necessary and desirable in the national interest and other areas which have difficulty, because their economic base must be changed into some other economic orientation. Yet, these last find it so very difficult, are always regarded with the greatest scrupulousness here, even suspicion, and are given all kinds of limitations, causing great difficulty, as in dealing with their problems.

So, Mr. President, I have not taken the position I have on this measure of opposition for any captious reason or as a challenge. On the contrary, I glory in the breaking out of America wherever it can break out, in economic growth and in development. But, rather, I read into this measure a lesson of the failure to see both sides of the issue, both sides of the coin, and to make reasonable provisions for it.

Mr. President, we have a certain amount of comity around here. I could have been an awful nuisance and objected to every unanimous-consent request and had a large audience here tonight, and kept us here.

But we all live together. We have to see each other through many problems. I do not believe that there are deaf ears here. I think people hear and understand, and that there is a time and an opportunity for rectification to take place.

So I did not stand in the way. I knew what was coming up in the consideration of this matter. I was perfectly content to see it put to a vote, as it must be, considering what is involved, which is a very large sum of money, as we calculate it, some $2,150,000,000 over a period of years.

Really, it should be debated. We should have a list. Of the present program, what States are the beneficiaries, how much money has been distributed under it, and how it has worked. I hope the Senators who sponsor this amendment will supply it.

I understand that the figures involved are considerably smaller, although I know that the purpose is also smaller than the one involved here. I hope that still will be furnished, because this measure undoubtedly will be in conference, and changes may be made in it, assuming that it is agreed to tomorrow.

Mr. President, finally, it seems to me important in this respect: We hear an awful lot about economy in Government, and we had a lot of fun here earlier this evening voting blindly a cut in a Government department, a thousand employees. It would appear on the record as a great economy vote, while, when this one comes up, there is no one here to even listen, let alone wish to debate. It seems to me that is pretty false economy.

I am running for reelection, and it would be a very easy thing, a nice ride for me, to vote "aye" on cutting a thousand employees. I have little doubt that my opponent will be out tomorrow shouting about how I have supported not cutting the bureaucracy; that when I had a chance to cut 1,000 members of the bureaucracy, I voted "no."

I have been here too long to show such improvidence and such injustice. That kind of thing should be done in the context of an orderly authorization bill, where we know the whole story about a department and what employees do and what it means to the country, and whether they should go or stay and for what good purpose. I never have believed in doing anything else.

So it is in that spirit that I have debated this matter. I know that the Senate will work its will on it tomorrow. But I did want to add my views and what I hope will be some enlightenment to my colleagues in this debate.

I say to the Senator from Kentucky (Mr. FORD) that another great tradition in this body is that Senators do what their consciences and responsibilities dictate. I do it; the Senator from Kentucky does it. I give only honor and respect for that. I have no criticism whatever.

Mr. FORD. I did not expect any criticism from the Senator, because he always has been a gentleman.

Mr. President, coming from both sides, I can understand the trauma we went through to work out the loans for New York City, to help them during their trials and tribulations. Their problems in the past caught up with them. We hope we can prevent these problems in the future with this piece of legislation.

This piece of legislation is not a happenstance piece of legislation. It went through a committee. We worked hard and diligently—from the East, the West, the North, and the South. We put together what I believe is a decent piece of legislation to prevent what has happened in the past.

Not one time did we build a major Federal installation and help the communities after everybody left. Twenty-eight years ago, you finished the atomic energy plant in Paducah, Ky. There were 6,000 to 7,000 employees, and they walked out of town overnight. Our tax collection never caught up with that. So it took at least 16 to 18 years to bring that community back to where they could grow again. That is not a new community. You have heard of Irvin Cobb and Alben Barkley. That was their hometown. So it is not anything new.

The Senator from New York talks about $1.750 billion. That is correct. But we have to take into consideration the formula. We are not giving the money away.

First, we say that the commissioner of agriculture, along with the Farmers Home Administration, must determine that everything that can be done legally is done. When they find that that has been accomplished, they trigger. The first trigger is the loan guarantee, and part of the money in this bill supports a loan guarantee.

Second, if a loan guarantee is not available, they go to a loan.

Third, they go to a grant with a percentage of the total: $150 million, the first year, $400 million each of the next 3 or 4 years.

We have even charged the going interest rates. We have tried some things that never have been used in the past. So we are trying as best we can to produce the energy which, on the bottom line, is the security of this country.

If anyone wants New York's energy price to go up, then do not help the energy-producing areas. Continue to let people outside the shores of this country tell us what the price is going to be.

This is basically the energy ability to give this country security and keep our money at home and plan so that we will not have disruption, as the Federal Government has created in the past.

I say to the Senator from New York that we now have little groups called administration districts—ad districts. They comprise five, six, seven, eight, or nine counties, poor counties, with no money. They have joined to put their funds together, to see if they can make way of life better.

In those ad districts, with prospective synthetic fuels, large extraction areas, they are going about to try to determine what the highway problem will be, what the emergency medical service will be, what the school situation will be, what the imposition will be on the sewer and water system of the community.

In one contract alone, which will be signed the first part of next month, Oak Ridge estimates that within 24 months they will have 3,500 employees on the job, and the city just cannot accept it. It is not a new city. Daniel Boone went through there and organized it. So it is not a relatively new city. That is not a boomtown.

In the interest of seeing that the areas are not inundated with people and cost and additional services that the city cannot provide from its taxes, I hope we give them an opportunity to be helped over that hump; and after we get them over that hump, the energy impact data of 1985 can be looked at.

I believe the Senator from Ohio will lay out the fact that we are not planning to do anything except what is proper. We have in this bill—and with his position in the Senate—oversight of what is going on, what will go on.

So, Mr. President, I hope that our colleagues will support this matter as we move into the areas of Arkansas, Louisiana, Wyoming, Idaho, Montana, West Virginia, Pennsylvania. All States have the opportunity. We should help them.

Pennsylvania is not a new State; Oklahoma is. So we are going to help Pennsylvania in this, and we are going to help Oklahoma. We are going to help Wyoming. It is not a new State, but it is not an old State. We are going to help West Virginia. We are not just limiting this to the new boom towns across the country.

Mr. President, I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, the amendment is modified.

The modified amendment is as follows:

On page 42, after line 17, add the following:

"TITLE III—ENERGY IMPACT ASSISTANCE

"SEC. 301. That this title may be cited as the "Energy Impact Assistance Act of 1980".

"FINDINGS AND STATEMENT OF PURPOSES

"SEC. 302. (a) FINDINGS.—The Congress finds that—

(1) the protection of public health and welfare and the preservation of national security require greater production and utilization of domestic energy resources in lieu of foreign energy supplies;

(2) there are potential adverse social, economic, and environmental impacts that can accompany rapid or major energy developments;

"(3) the need for public facilities and services often precedes the availability of the government revenues required to finance such facilities and services;

"(4) States and units of local government often lack sufficient technical and financial resources to adequately mitigate against such adverse impacts, in advance; and

"(5) States and units of local government should have increased financial and technical resources to provide necessary public facilities and services prior to the availability of increased State and local governmental revenues necessary to pay for such public facilities and services.

"(b) STATEMENT OF PURPOSES.—The purposes of this title are to provide technical and financial assistance to States, regions, and local governments to foster the development and implementation of programs to prevent and mitigate the potential adverse economic, social, and environmental impacts resulting from major energy development, to finance public facilities and services, and for other purposes.

"AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

"SEC. 303. (a) The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620), as amended, is amended by amending title VI of the Table of Contents to read as follows:

TITLE VI—FINANCIAL ASSISTANCE

Subtitle A—Energy Impact Assistance

Sec. 600. Definitions.
Sec. 601. Assistance to areas impacted by increased coal or uranium production.
Sec. 602. Energy Impact Development Planning.
Sec. 603. Financial Assistance.
Sec. 604. Regional Commissions.
Sec. 605. Intergovernmental Coordination.
Sec. 606. Administration.
Sec. 607. Appropriations-Authorization.
Sec. 608. Miscellaneous Provisions.

Subtitle B—Other Assistance Programs

Sec. 611. Loans to assist powerplant acquisitions of air pollution control equipment.

"(b) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting at the beginning thereof, the following:

Subtitle A—Energy Impact Assistance

SEC. 600. DEFINITIONS.

"Unless otherwise expressly provided, for the purposes of this subtitle the term—

(1) "eligible applicant" means—

(A) a State,

(B) a local government (except for expedited assistance under section 603(e)), with the concurrence of the Governor,

(C) the governing body of an Indian tribe or tribes,

(D) a regional commission pursuant to section 604, which serves a geographic area for which a local planning unit has been selected under subsection 602(b),

(E) a substate district (except for expedited assistance under section 603(e)), with the concurrence of the Governor,

(F) a public or private nonprofit corporation, or

(G) a school, water, sewer, highway, or other public special purpose district, authority, or body, with the concurrence of the Governor.

(2) 'Federal agency' means an executive agency (as defined in section 105 of title 5 of the United States Code).

(3) "Geographic area" means one or more areas within a State which is a special purpose district or other region recognized for governmental purposes within such State or a unit of local government.

(4) "Governor" means the chief executive officer of a State.

(5) "Indian tribe" means an Indian tribe, as defined in the Indian Self-Determination and Educational Assistance Act (Public Law 93–638).

(6) "Local government" means—

"(A) any county, parish, city, town, township, village or other general purpose political subdivision of a State with the power to levy taxes and expend Federal State, and local funds and exercise governmental powers; and

(B) which (in whole or in part) is located in, or has authority over the energy impacted area.

(7) "Major energy development" means—

(A) any facility or installation used primarily for exploration, production, extraction or processing of depletable energy resources including synthetic fuel projects;

(B) the construction or operation of an electric generation facility (i) designed to consume coal located in the immediate area of such facility or (ii) for the purpose of meeting the energy needs of a synthetic fuels project;

(C) any major federally funded energy project (including synthetic fuel projects) and uranium processing, nuclear spent fuel storage and waste facilities; or

(D) the Alaska Natural Gas Transportation System as defined in Public Law 94–586.

(8) "Public facilities and services" means facilities and services which (A) are financed, in whole or in part, by any eligible applicant including, but not limited to, highways and secondary roads, parking mass transit, governmental administration, fire and police protection, water supply, wastewater collection and treatment (including drainage), schools and education, and hospitals and health care and any other facility or service so financed and (B) the Secretary of Agriculture finds are necessary to support increased population.

(9) "Public or private nonprofit corporation" means a public or private organization operating on a not-for-profit basis and providing housing or public facilities or services, or both, to the energy impacted area.

(10) "Regional commissions" means the Appalachian Regional Commission established by the Appalachian Regional Commission Act of 1965, as amended (40 U.S.C. App. 301) or any regional commission established under subtitle D of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3171).

(11) "Secretary" means the Secretary of Energy.

(12) "State" means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(13) "Substate district" means a public organization which—

(A) Encompasses a regional community founded, sustained, and tied directly to local governments through local or State government action, or both;

(B) Is multijurisdictional and multifunctional with legal status and is funded in part or total by member organizations;

(C) Has a governing body which is for the most part composed of local government elected officials, or appointed representatives of local communities and State government, or both; and

(D) Is located (in whole or in part) in, or has authority over, the energy impacted area.

(c) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is further amended by redesignating section 602 thereof as section 611, by inserting before such redesignated section, Subtitle B—Other Assistance, and by inserting the following new subsections following section 601 of said Act:

SEC. 602. ENERGY IMPACT DEVELOPMENT PLANNING.

(a) AREA DESIGNATION.—(1) The Governor, or in the case of an area under the control of an Indian tribe, the governing body of such Indian tribe, may designate an energy impacted area if it is found that—

(A) there exists or will exist a major energy development in such community or geographic area or in an adjacent community or geographic area;

(B) as a result of the construction or operation of such development either—

(i) employment in, or population directly related to, energy development activities in such an area has increased by eight (8) per centum or more in any year not more than five (5) years before the date of the designation, over the year immediately preceding the year of employment increase selected by the Governor, or

(ii) employment in, or population directly related to, such activities will increase by twenty-four (24) per centum or more during the three (3) years following the most recent year.

(C) the increases in population or employment resulting from such major energy development requires or will require substantial increases in public facilities and services in such area in the five (5) years succeeding initiation of construction or operation of such major energy development; and

(D) the State and the local governments, or the governing body of an Indian tribe, serving such area, do not possess, and are not expected to possess, the financial and other resources (including resources available under other Federal programs), to meet the immediate or long-term needs for increased public facilities and services identified in subparagraph (C) which cannot be met in a timely manner without assistance under this subtitle.

(2) For the purposes of paragraph (1)(D), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments or Indian tribes which are associated with the increase in energy activities (including natural gas, petroleum, coal, or uranium development activities) or under provisions of law in effect on the date of the enactment of the Energy Impact Assistance Act of 1979 shall be taken into account in determining if a

State or local government or Indian tribe lacks financial resources.

(3) Rules promulgated pursuant to section 601(a) shall terminate upon publication by the Secretary of Agriculture of a rule pursuant to this subsection.

(4) The Secretary, after consultation with the Secretary of the Interior, Secretary of Labor, and the Secretary of Agriculture shall approve any designation of an energy impacted area under paragraph (1) only if—

(A) the designating official provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and

(B) the Secretary determines the requirements of subparagraphs (1)(A) through (D) have been met.

(5) Any energy impacted area designated and approved pursuant to section 601 shall be deemed a designated and approved energy impacted area for the purposes of this subtitle.

(6) Approval by the Secretary of designated energy impacted areas shall terminate five (5) years following the date of such approval.

(b) Local Planning Unit.—(1) Any Governor, after consultation with appropriate officials of local government, or the governing body of any Indian tribe, as the case may be, shall select a local planning unit to prepare a mitigation plan for each energy impacted area. Staff may be detailed to such unit from the member organizations to carry out its responsibilities pursuant to this section: *Provided*, That such staff shall remain employees of the entity from which they are appointed.

(2) For the purposes of this subsection, a Governor may designate as the local planning unit—

(A) a local development district certified under section 301 of the Appalachian Regional Development Act of 1965;

(B) after consultation with appropriate elected local officials, an economic development district designated under title IV of the Public Works and Economic Development Act of 1965, as amended, for energy impacted areas in whole or in part within such district;

(C) an agency of local government; or

(D) a substate district.

(c) Mitigation Plans.—(1) For each approved energy impacted area the selected planning unit for such area shall prepare a mitigation plan. Such unit shall consult with representatives of the appropriate Federal agencies and with representatives of the owner or operator of each major energy development within such area. Such unit also shall, to the extent practicable, seek the active participation by regional, State and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy within the approved energy impacted area are taken into account in the formulation of such mitigation plan.

(2) A mitigation plan shall—

(A) identify—

(i) the projected impact of each major energy development on the economy of such area, the surrounding communities and the State, for the period of five (5) years following construction or operation of the major energy development;

(ii) the specific needs within such area for public facilities and services resulting from the major energy development for the period of the succeeding five (5) years from the initiation of the construction or operation of the major energy development;

(iii) specific proposals for mitigating such needs, including specific public and private programs, projects, and activities;

(iv) priorities for implementing the proposals specified in clause (iii);

(v) the availability and location of funds and other resources to implement proposals identified in clause (iii);

(vi) any existing or additional legislative or other authority necessary for the State or local government or Indian tribe to carry out the proposals specified in clause (iii); and

(vii) the functions and activities in responding to such needs that the State, local government, or governing body of an Indian tribe is prepared to carry out;

(B) contain assurances satisfactory to the Secretary of Agriculture that the proceeds from any repayment of loans made by a State or Indian tribe under section 603(c) will be returned to the Secretary of the Treasury;

(C) provide for the establishment of a planning process for review and revision, as appropriate, of the mitigation plans; and

(D) be coordinated with, and take into account, planning assisted or required under this subtitle or any other appropriate Federal statute, including the Coastal Zone Management Act of 1976 (Public Law 94-370); the Outer Continental Shelf Act, as amended (Public Law 95-372); title IV of the Intergovernmental Cooperation Act of 1968 (7 U.S.C. 2201 et seq.); the Federal Land Policy and Management Act of 1976 (Public Law 94-565); the National Forest Management Act of 1976 (16 U.S.C. 1609); the Federal Coal Leasing Amendments of 1976 (Public Law 94-377); Payments in lieu of Taxes Act (Public Law 94-565); and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1204).

(3) The mitigation plan described in paragraph (2) shall be in such form, and contain such additional information as the Secretary of Agriculture may by regulation prescribe.

(4) Mitigation plans shall be submitted to the Secretary of Agriculture by the Governor or the governing body of an Indian tribe for approval by such Secretary.

(5) No assistance other than assistance under subsections 601(b) and 603(e) may be made to an applicant under this subtitle for any public facilities and services which are not set forth in an approved mitigation plan and an approved investment strategy. Notwithstanding the preceding sentence, no assistance may be made to an applicant under section 603(e) unless the Secretary of Agriculture determines that the preliminary mitigation plan provides an adequate basis for such aid.

(6) The Secretary of Agriculture shall approve or disapprove a mitigation plan within seventy-five (75) days after receipt of such plan.

Sec. 603. Financial Assistance.

(a) Comprehensive Investment Strategies.—(1) Except as provided under subsections (b) and (c) funds may not be provided pursuant to this section to implement mitigation plans approved pursuant to section 602(c) unless the State or Indian tribe having the approved energy impacted area for which such plan was prepared shall have submitted to the Secretary of Agriculture a comprehensive investment strategy describing the intended use within such State or by such Indian tribe of all financial assistance requested under this subtitle to implement mitigation plans and preliminary mitigation plans and such strategy shall have been approved pursuant to paragraph (2). In formulating the State investment strategy, the Governor shall rely on the priorities developed by the selected planning units for such areas unless such priorities are found to be inconsistent with the State energy impact mitigation goal and objectives.

(2) The Secretary of Agriculture shall approve a comprehensive investment strategy only if he determines that—

(A) such strategy is based upon the appropriate mitigation plan or plans;

(B) such strategy, to the maximum extent feasible, identifies and provides the rationale for priorities among the measures identified in the appropriate mitigation plan or plans for possible funding under this subtitle;

(C) such strategy contains satisfactory assurances that other public or private funding is not available on a timely basis for the measures identified in paragraph (B);

(D) such strategy contains levels of funding recommended and type of funding for each project listed; and

(E) the procedures of this subsection have been followed.

(3)(A) The Secretary of Agriculture shall rule on the acceptability of comprehensivce investment strategies within forty-five (45) days.

(B) In the event such Secretary does not approve a comprehensive investment strategy he shall notify the State or Indian tribe which has submitted the strategy of the reasons for not doing so. The State or Indian tribe may modify and resubmit the comprehensive investment strategy within forty-five (45) days of such notification.

(4) Subject to the limitations set forth in this subtitle, the Secretary of Agriculture may offer assistance in the form of a combination of grants and loans under this subtitle, or may combine assistance under this subtitle with other Federal, State, and local assistance available to energy impacted areas.

(b) Implementation Grants.—(1) If the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction in a State constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan under subsection (c) for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies, or identified in preliminary mitigation plans pursuant to section 603(e), and if such Secretary further determines that there is no practical alternative for providing financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for such purposes.

In determining whether no practical alternative for providing financial assistance to such applicant under this subtitle is available other than by grant, the Secretary shall verify that the following alternatives are not available: revenue bonds, special fund bonds, year-to-year leasing arrangements (taking advantage of non-appropriation clauses), and other non-debt borrowing mechanisms which avoid the pledging of the State or localities full faith and credit.

(2) Notwithstanding the limitations in paragraph (1), if the Secretary of Agriculture finds, in the case of an eligible applicant, that during the period of construction of a major energy development (in no case to exceed a period of ten years) the applicant has or will experience extraordinary short-term increases in demand for public facilities and services, in comparison to the demand for public facilities and services that is likely to continue or occur thereafter as a result of the operation and use of such development, and if such Secretary further determines that there is no reasonable assurance of repayment within thirty (30) years of financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies; except that such grant shall be restricted to the provision of public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the costs of such services.

(3) Grants made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans and strategies.

(4) Except for grants made pursuant to section 601(b), not more than two (2) per centum of any grant to a recipient under this subtitle may be used for the administrative expenses of such recipient for administering such grant.

(c) Implementation Loans.—(1) (A) The Secretary of Agriculture is authorized to make direct and insured loans pursuant to this subsection to eligible applicants (i) for the purpose of carrying out the proposals identified in approved mitigation plans and investment strategies and (ii) to meet needs for expedited assistance identified in the preliminary mitigation plan prepared pursuant to subsection (e). Loans made under this subsection may be made only if such Secretary determines that there is a reasonable expectation of repayment of the loan.

(B) Direct and insured loans made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans.

(C) Direct and insured loans made pursuant to this subsection may be expended directly by the recipient or may be redistributed by such recipient through financing mechanisms approved by such Secretary to nonprofit public entities in the form of grants, loans, payments to reduce interest on loans, or other appropriate assistance.

(2) The interest rates on direct and insured loans (other than guaranteed loans) for public facilities under this section shall be determined by the Secretary of Agriculture, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average yields on outstanding interest-bearing marketable public debt obligations of the United States of comparable maturities, and adjusted to the nearest one-eighth of one percentum.

(3) No provision of law shall prohibit issuance by the Secretary of Agriculture of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this Act; any sale by such Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921: *Provided*, That any receipts from such sale of such assets shall be deposited in the Energy Impact Insurance Fund.

(4) If the Secretary of Agriculture finds that any recipient of a loan under this subsection, despite good faith efforts, is unable to meet its obligations, such Secretary may pursuant to regulations—

(A) modify the terms and conditions of such loan;

(B) make a supplemental loan, the proceeds of which shall be applied to the payment of principal or interest due under such loan; or

(C) forgive all or any portion of such loan, only if such Secretary finds that insolvency will otherwise ensure or substantial economic hardship will result and consequently frustrate the purposes of this subtitle: *Provided*, That such Secretary may forgive all or any portion of such loan if such Secretary finds that within ten (10) years following the award of such loan the applicant has as a result of the construction phase of a major energy development experienced extraordinary short-term increases in demand for public facilities and services in comparison to those increases likely to continue or occur thereafter as the result of the operation and use of such development, except that such forgiveness shall be restricted to that portion of the loan for public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the original amount of such loan: *Provided*, That the Secretary of Agriculture shall not forgive any portion of a loan pursuant to this subparagraph if such Secretary finds that by actions pursuant to subpargraphs (A) and (B) such recipient will be able to meet its obligations.

(5) In the event that any recipient of a loan under this subsection is forgiven any loan obligation such recipient shall be ineligible for further loans under this subsection or subsection (e) for a period of two (2) years from the date of such forgiveness. Nothing in the preceding sentence shall be construed to make a State ineligible for continued assistance solely because a loan obligation of a local government or Indian tribe located within such State has been forgiven.

(6) In the event any loan is forgiven under this section by the Secretary of Agriculture, such Secretary shall report to the Secretary the justification for the forgiveness and the Secretary will incorporate this justification into the report prepared under section 606(c).

(d) Loan Guarantees.—(1) The Secretary of Agriculture, with the concurrence of the appropriate Governor or Indian tribe, may guarantee loans to eligible applicants to carry out proposals identified in a mitigation plan approved pursuant to section 602(c) and pursuant to a comprehensive investment strategy approved pursuant to section 603.

(2) Loan guarantees will be made under such terms and conditions as the Secretary of Agriculture by rule shall prescribe.

(3) Any contract of insurance and guarantee executed by the Secretary of Agriculture under this subtitle shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

(4) The interest rate on any loan made under this subtitle as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary of Agriculture.

(5) The Secretary of Agriculture may purchase, on such terms and conditions as such Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this subtitle: *Provided*, That such Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. Such Secretary may use for such purchases funds from the Energy Impact Insurance Fund. This authority may be exercised only if such Secretary determines that an adequate secondary market is not available in the private sector.

(e) Expedited Assistance.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State, or in the case of any area under the control of an Indian tribe the governing body of such Indian tribe, may designate an area as an emergency energy impacted area if—

(A) such area is approved as an energy impacted area;

(B) there is serious threat to the public health and safety within such area as a result of the major energy development; and

(C) a preliminary mitigation plan is submitted to the Secretary of Agriculture identifying and addressing the need for expedited assistance. Such preliminary plan shall be the basis for an application for expedited assistance under this subsection.

(2) Subject to the terms and conditions set forth in this subtitle, the Secretary of Agriculture may, at any time, make grants, loans, payments to reduce interest on loans, and loan guarantees to any eligible applicant on an expedited basis for public facilities or public services in a designated emergency energy impacted area if such Secretary finds that such needs cannot be met with other Federal programs or other assistance in a sufficiently timely manner.

(3) The amount of any assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State or to such Indian tribe under the provisions of section 601(d) for that fiscal year. In the event that the amount of assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall exceed the amount of assistance allocated to that State or Indian tribe under the provisions of section 601(d) for the same fiscal year, any such allocation shall be reduced, accordingly, until a total reduction equal to the amount of assistance made available under this subsection shall be obtained.

(f) Terms and Conditions of Assistance.—(1) Any assistance under this subtitle may not be used to provide the non-Federal portion of costs of any other Federal assistance program.

(2) No financial assistance shall be provided under this subtitle in implementing proposals identified in an approved mitigation plan and investment strategy, except in a designated emergency energy impacted area.

(3) No loan may be made under this subtitle unless, in the opinion of the Secretary of Agriculture, there is a reasonable expectation of repayment within thirty (30) years from the date such loan is made.

(4) No assistance under this subtitle shall be used for interest subsidies in connection with loans guaranteed under subsection (d) or to establish reserves to cover losses on such loans.

(5) Financial assistance under this section shall not replace other public or private assistance reasonably available on terms that, in the opinion of the Secretary of Agriculture would permit the accomplishment of the project or program.

(6) No funds appropriated to carry out the purposes of this section shall be expended in support of any program, project or activity which is eligible for Federal financial support and funds are available for such support under section 308 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(a)), or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

(g) Nonfederal Share.—The recipient of any grant assistance shall provide funds equal to twenty-five (25) per centum of the total costs of implementing the proposal for which the assistance is made.

(h) Energy Impact Insurance Fund.—(1) There is established in the Treasury of the United States an Energy Impact Insurance Fund (hereinafter in this section referred to as the 'Insurance Fund') which shall be used by the Secretary of Agriculture as a revolving fund for the discharge of the obligations of such Secretary under contracts guaranteeing or insuring energy impact loans made pursuant to section 603: *Provided*, That such obligations shall not exceed $400,000,000 per fiscal year, subject to such limitation on the amount of such obligations as may be contained in appropriations acts.

"(2) The Insurance Fund shall be under the same authorities, terms and conditions as the Rural Development Insurance Fund, established by the Consolidated Farm and Rural Development Act.

"(i) To the extent feasible, assistance under this subtitle shall be provided to states for redistribution to other eligible applicants according to approved mitigation plans and statewide investment strategies so as to facilitate statewide planning and coordination of energy impact assistance."

SEC. 604. REGIONAL COMMISSIONS.

"(a) Upon application of a Commission, in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the States and the Federal Cochairman, funds may be made available to the Federal Cochairman of such Commission to provide multi-State assistance as described under section 601(b).

(b) TERMS AND CONDITIONS.—(1) Funds may be made available to a Federal Cochairman under this section only for States whose Governors concur in such action.

(2) The amount of any assistance made available within a State under this section in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State under the provisions of section 606 for that fiscal year.

SEC. 605. COORDINATION OF FEDERAL PROGRAMS.

(a) The President shall establish an interagency council, to be chaired by the Secretary of Agriculture pursuant to Section 603 of the Rural Development Act of 1972 (Public Law 92–419) to coordinate and streamline all Federal programs which may provide assistance to meet needs resulting from major energy developments. Such council shall coordinate the various Federal planning processes with the preparation of mitigation plans assisted under this subtitle, in order to minimize duplication of effort or activities and to avoid delay in the consideration or carrying forward of such major energy developments. The Secretary shall cochair such council with respect to the planning processes related to preparation of mitigation plans.

(b) The Secretary of Agriculture shall designate an organizational unit—

(1) to administer the program established by this subtitle;

(2) to provide information to State and local officials and Indian tribes about Federal assistance from programs other than those authorized by this subtitle to prevent or mitigate adverse impacts from energy resource development;

(3) to advise other appropriate Federal agencies of the needs and proposals for public facilities and services identified in energy impact plans and investment strategies;

(4) to make recommendations to other appropriate Federal agencies in order to improve coordination, to minimize duplication of effort, and to streamline procedures in providing assistance under this subtitle or any other applicable Act; and

(5) to provide information and technical assistance, when requested, to States, local governments, and Indian tribes about energy impact mitigation.

(c) The heads of all Federal departments or agencies shall cooperate with the Council in carrying out the purposes of this subtitle and shall review the programs which each administers to determine what assistance is or may be made available to areas eligible for assistance under this subtitle and, to the extent practicable, implement the recommendations made pursuant to subsection (b)(4).

SEC. 606. ADMINISTRATION.

(a) GENERAL RULEMAKING.—The Secretary of Agriculture in consultation with the Secretary, and the Secretary in consultation with the Secretary of Agriculture, are authorized to promulgate such regulations as necessary to carry out such Secretaries' responsibilities under this subtitle, including (1) terms and conditions for financial assistance pursuant to section 603 including a requirement for assurances of repayment of loans under section 603(c); (2) procedures to carry out the provisions of section 606(b), which shall not be subject to section 554, 556 or 557 of title 5 of the United States Code; and (3) criteria for the allocation pursuant to section 601(d)(3) of funds appropriated under section 607. Such regulations shall be promulgated not later than one hundred and eighty (180) days after the enactment of this subtitle.

(b) TERMINATION OF FINANCIAL ASSISTANCE.—Whenever the Secretary of Agriculture, after affording the State or the governing body of an Indian tribe reasonable notice and opportunity to present views finds that a State or the governing body of an Indian tribe receiving financial assistance under this subtitle has failed to comply with the provisions thereof or with any regulation issued pursuant thereto, such Secretary shall notify the State or governing body of an Indian tribe that such State or governing body of an Indian tribe is no longer eligible to receive all or a portion of the financial assistance provided under this subtitle until such Secretary is satisfied that there is no longer any such failure to comply. Such Secretary may withhold all or part of further financial assistance to such State under this subtitle for so long as such State or governing body of an Indian tribe is deemed not to comply.

(c) ANNUAL REPORT.—The Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit an annual report to the Congress on the status of the programs authorized under this subtitle.

SEC. 607. APPROPRIATIONS AUTHORIZATION.

AUTHORIZATIONS.—(a)(1) There are authorized to be appropriated to the Secretary to carry out the provisions of this subtitle $400,000,000 of which not to exceed $15,000,000 may be used to carry out the purposes of sections 601(b), for each of the fiscal years ending September 30, 1982 through 1985: *Provided*, That such authorizations shall be reduced by the amount of receipts pursuant to section 803(c)(3) in the previous year. Appropriated funds shall remain available until expended.

(2) Of the amounts appropriated under paragraph (1) for any fiscal year not more than forty (40) per centum thereof shall be expended in the form of grants.

(3) Not more than fifteen (15) per centum of the funds appropriated under paragraph (1) shall be used to provide expedited assistance under section 603(e).

(4) The total principal amount of loans guaranteed under this subtitle shall not exceed $1,500,000,000, subject to such limitations as may be contained in appropriation Acts.

(b)(1) The Secretary of Agriculture is authorized to deposit into the Energy Impact Insurance Fund $10,000,000 from the amounts appropriated pursuant to subsection (a).

(2) There is hereby authorized to be appropriated to the Secretary such funds as may be necessary for the operation and maintenance of the Energy Impact Insurance Funds.

SEC. 608. MISCELLANEOUS PROVISIONS.

(a) PROHIBITION OF DELAY OF MAJOR ENERGY DEVELOPMENT.—No action or failure to act to designate or approve an energy impacted area, to create a local planning unit, to develop or implement an approved mitigation plan, to develop an approved comprehensive investment strategy, to obtain or implement expedited assistance or any other assistance under this subtitle may be used as a legal basis for delaying or prohibiting the obtaining of any licenses, permits, or other authority necessary for the development, construction or operation of a major energy development.

(b) GAO REPORT.—The General Accounting Office shall prepare and submit to the Congress two years after the date of enactment of the Energy Impact Assistance Act of 1979 an implementation report reviewing the status of the program of assistance provided under this title and analyzing effectiveness of that program in carrying out the purposes of this subtitle.

(c) REORGANIZATION.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this subtitle may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of the Energy Impact Assistance Act of 1979. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department.

"CONFORMING AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

"SEC. 304. (a) Section 601(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by—

"(1) amending paragraph (1) thereof by inserting after 'any State in which' the following: ', or the governing body of an Indian tribe for which,';

"(2) amending paragraphs (1)(A) and (B) thereof by inserting before 'activities' the following: 'or major energy development';

"(3) amending paragraphs (1), (2), and (3) thereof by inserting 'mitigation' before 'plan';

"(4) amending paragraph (2) by striking '(A)' and subparagraph (B);

"(5) amending paragraph (3) by inserting after 'State' the following: ', or governing body of an Indian tribe, '; and

"(6) adding at the end thereof the following new paragraphs:

(4) The Governor of any State receiving a grant under this subsection may make subgrants to local planning units to assist in paying for preparation of mitigation plans required under subsection 602(c) and related management activities to prevent or mitigate the adverse impacts of major energy development.

(5) If a State receives a grant for the purposes of making subgrants to local planning units, then not less than ninety-five (95) per centum of the grant must be granted to the local planning units.

"(b) Amend section 601(c)(1) of said Act by inserting at the end of clause (B) before the semicolon, 'or to major energy development activities'.

"(c) Amend sections 601(d) of said Act by deleting 'section' and inserting in lieu thereof 'subtitle'.

"(d) Amend section 601(h) of said Act by deleting 'section' and inserting in lieu thereof 'subtitle'.

"(e) Amend section 601(h) of said Act by adding at the end thereof, '*Provided*, That the amount retained by the Secretary shall not exceed $300,000 per year.'.

"(f)(1) Amend section 601(f) of said Act by inserting before 'within' the words 'or any major energy development activity,'.

"(2) Amend section 601(f)(3) of said Act by inserting after '(or uranium)' the words 'or energy'."

Mr. FORD. Mr. President, I yield the floor.

Mr. GLENN. Mr. President, I rise in support of the modified amendment submitted by the Senator from Kentucky.

We had the staff working out this agreement because we did have quite disparate views on the administration of this funding program.

The main concern here is that we get on at the earliest time possible with legislation that will help us in the development of energy.

Some of that, of course, requires the development of very remote areas of the country. It may involve the development of new towns. It may involve the improvement of old towns. Indeed, it is very difficult to predict all of the impacts there will be in these areas.

In the central part of our Nation there are a number of places, such as in my home State of Ohio, Kentucky, and West Virginia, in particular where we have old towns, mining towns, that will feel the impact of increased numbers of people coming in and that will need added facilities. In some cases to do the energy development necessary will mean building new schools, sewers, water mains and so on, which will have a considerable fiscal impact. Some of those local areas just do not have the tax base and do not have the wherewithal to go ahead with this public development; and sometimes neither does the State.

This means that in some areas startup assistance is needed. Let me say this at the outset: Usually a State can handle its own problems without having to resort to coming to the Federal Government. All through consideration of this energy impact assistance legislation my major concern has been that we not open the Federal coffers unnecessarily and let States come in and get their wheelbarrows full of money and go home when they could just as well have financed this from their own State resources or with State borrowing power.

And I would certainly hope that States would follow that procedure in the future. I would like them to know that their Federal Government right now is expecting them to do everything they possibly can to do their own financing, but there is a big if here. If they cannot do that then certainly in the interest of getting energy development onstream at the earliest practicable time, the Federal Government has an obligation to come in and do what it can to help that development be speeded along.

Under this bill the Department of Energy would first have to certify that an area is eligible for this type of impact assistance because of a major energy impact in the area or region of the country.

After this, the assistance program for these areas would be administered through the Farmers Home Administration. Dollars would come from the DOE budget, but they would be distributed by the Farmers Home Administration.

I would hope in providing impact assistance under this bill that the Federal Government and specificaly the FHA—the Farmers Home Administration—would proceed according to the following order of preference, first, a State should have to make every effort, and I mean every effort, to get their own loans or to get their own funding from within the State to meet energy impacts. We had testimony in the committee, for example, from a group of bond lawyers that had been arranging this kind of loan in five States in the West, and they had yet to run into a single situation in which by some combination of revenue bonds or other financing mechanism they could not put together an adequate borrowing program in these States. So I think it should be a reasonably rare instance in which it would be necessary to come to the Federal Government for financing. If that is necessary, if all else fails, then I would say that the first preference for Federal assistance should be a Federal loan guarantee, where we are joint signers of the loan, but the State is basically responsible for repayment.

The next type of Federal assistance in order of preference would be a Federal loan. There we would expect it to be repaid so that it would not ultimately cost the Federal Government anything. Repayment could come out of new energy tax receipts and from the new tax base that would be established within the State by the very fact of the development of the new energy resource. Communities, too would have an increase tax base, so generally, the Federal Government would be able to get its money back.

Then only in the last resort should the Federal Government provide a grant, that is a direct outlay where it would expect to get the money back.

I shall read here for emphasis the key standard in the compromise for determining whether a locality can get a grant instead of a loan or a loan guarantee.

If the Secretary of Agriculture finds that an eligible applicant is unable because of any restriction in a State constitution, and the Secretary of Agriculture is in this because the Farmers Home Administration is part of that Department, and if the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction in a State constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies, or identified in preliminary mitigation plans and if such Secretary further determines that there is no practical alternative for providing financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for such purposes. In determining whether no practical alternative for providing financial assistance to such applicant under this subtitle is available, other than by grant, the Secretary shall verify that the following alternatives are not available: Revenue bonds, special fund bonds, year-to-year leasing arrangements (taking advantage of nonappropriation clauses) and other nondebt borrowing mechanisms which avoid the pledging of the State or locality's full faith and credit.

Mr. President, I shall comment upon this further.

Federal financing as a last resort: This compromise is intended to insure through a variety of mechanisms that the Federal loan and loan guarantees and grants set forth in the bill will not be made available to States and communities until alternative infrastructure financing mechanisms have been adequately utilized.

State and local revenues from energy development in form of severance and production taxes and Federal mineral lease bonus and royalty payments, as well as from increased property sales, and income tax receipts, are already increasing and will continue to do so for the foreseeable future, according to testimony that we received in the Governmental Affairs Committee. I believe that increases in such energy-related revenues should be made available by States and localities to meet energy impact needs before resort is made to Federal assistance under this bill. A number of States, including Colorado, Montana, and Wyoming, have begun returning revenues to impacted areas, and that is as it should be.

As a mechanism for insuring that Federal assistance under this bill is provided as a supplement to reasonable State and local efforts to aid impact areas and not as substitute for such aid, the compromise specifies that any increases, following the date of enactment of this bill, in State and local revenues directly associated with increased energy activity, such as from severance and production taxes and mineral lease royalties, would be deemed to be available for impact assistance to affected communities, unless earmarked by a preexisting State law for other purposes. Thus in determining area eligibility for assistance under this bill and in developing special mitigation plans for those areas, when a calculation was made of resources available to meet expanded infrastructure needs it would be assumed that increased State and local energy revenues had been made available for energy impact needs, whether or not this were in fact the case; only if a financing gap remained once these funds and other State, local, and Federal funding sources were taken into account, would assistance under this bill be available and then only to fill this gap. Increases in Indian tribal energy-related revenues would be treated comparably to new energy-related State and local revenues.

State and local borrowing provides another alternative for financing infrastructure in energy impact areas. While I recognize that access to private capital markets to underwrite public facilities in these areas may be difficult and the Federal loan and loan guarantees may, therefore, be warranted, it is intended that such assistance would not be available until after recourse to traditional private financing mechanisms, that is, municipal bonds, for instance, had been exhausted. The eligibility requirement for assistance providing that an area proposed for designation as an energy-impact area may not possess the resources to meet new infrastructure needs, would require a showing that conventional State and local borrowing were not sufficient for this purpose; a similar showing would have to be included in the mitigation plan for the impact area.

It is also expected that where intrastate jurisdictional mismatches occur—development and taxes on such development paid in one jurisdiction, impacts occurring in another—State-level remedies, such as the creation of multi-jurisdiction taxing districts, would be developed to alleviate such inequities and the need for any Federal assistance under S. 1699 reduced accordingly. Similarly, even where an interstate jurisdictional mismatch occurred, the committee would expect that the area where the impacts occurred would attempt to offset new infrastructure costs through such mechanisms as property, sales, and income taxes and user fees.

Mr. President, I would close with a message to the people in the Department of Energy, the Department of Agriculture, and, specifically, in the Farmers Home Administration. That message to the administrators of this program would be as follows: That it is our intent that they keep complete records, that they become the expert advisers to the States in what financing methods are available so that when applications are made they can adequately ascertain that every remedy possible within the States has been exhausted to finance the projects for which application is made before Federal funds are made available.

I hope, in fact I would declare, it is our intent that Farmers Home keep records so that 1 year after this legislation has passed, and probably each year thereafter, we would be able to conduct oversight hearings into how this bill has been administered and could ask Farmers Home to bring their records before the committee so we can make certain they can justify every single one of the cases where there has been a Federal loan guarantee or a Federal loan and, in particular, where any Federal grant money has been advanced for any purpose or has been sent to any community. It is our intent to help out those communities only where it is absolutely needed.

A major objection to this particular bill has been that it could turn into a raid on the Federal Treasury by those States that come in and apply for grant money, loan money, and loan guarantee money, without exhausting their own means to finance these same projects.

It will be our intent, with adequate hearings and oversight and, perhaps, GAO investigations following up these grants and loans or loan guarantees, to insure the programs are not being abused.

So, Mr. President, I would urge my colleagues to support this program. I think the compromise we have worked out is good. I think the legislative history that has been made with these comments and earlier comments should be able to specify how this program will be administered.

Mr. FORD. Mr. President, if the Senator will yield, you mean implementation grants, not planning grants.

Mr. GLENN. That is correct, implementation grants. Planning grants it is anticipated would be much smaller. I might add that the planning grant portion of this compromise has been included in all the different versions of this energy impact assistance bill. Planning may be especially crucial to the effectiveness of the program. The accountability I was particularly concerned about was, however, with respect to the implementation grants in the program, as the Senator from Kentucky points out.

Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I know the hour is late, and I know the work Senator FORD has put into this legislation.

In no sense to be obstructive or clever, but I do have some questions, and I would like to propose these.

Mr. FORD. The Senator worries me when he says he is not going to attempt to be clever. [Laughter.]

Mr. SIMPSON. I promise.

I do have several questions. The Senator from Kentucky has already offered me a fine forum and offered to express some of these at a hearing which he held, and Senator GLENN has already referred to some, so I will thin out the list extensively.

I think the central question to me, and not with any dog-in-the-manger attitude, is there are many States, and you have covered it thoroughly, which have tremendous impact problems, and they are being met by private industry, they are being met by taxes in the States themselves, severance taxes, all sorts of local effort.

My question is this: Do the sponsors of the amendment have a breakdown on the distribution of funds, how those will be allocated to the States that will qualify?

One of the significant questions to me would be what would be the specific tests for assistance that the Secretary of Agriculture must find? Will those tests consist of having a maximum bonded debt under the State constitution?

Will a State be required to be in maximum bonded debt? Will there be a requirement that the State be at a maximum mill levy or the area to receive the funds; will the State be required to have exercised every effort to implement severance taxes on energy minerals?

What is the State's own impetus or thrust toward aiding its own impacted areas?

Those are some questions I think that are significant to me, and some of those issues we found that, in previous hearings we find, there has not even been addressed, for example, the issue of increasing population but an increase in unemployment, and I think we have to determine not only new jobs but new towns, as Senator GLENN has expressed it, and these are questions I would like to pose and find out really whether we are going to reward local effort in such use of mineral severance taxes or State assistance programs.

Mr. FORD. Does the Senator want to ask the questions one at a time, or permit me to answer as I remember them? I am not sure if you wish to repeat the questions, but if you do I will try to answer them.

Let me say the first thing the area would have to qualify or the way to qualify would be 8 percent increases in employment in 1 year, 23 percent over a 3-year period. That is an increase in employment.

The second thing is that the Secretary of Agriculture, along with the Farmers Home Administration, will determine—it is set out that he will determine—if the State and the local government have exercised every option they have, and I think Senator GLENN set that out; and that before we would trigger in anything from the Federal Government, the first thing after that is triggered in, is a loan guarantee.

Then the second thing would be a loan, and we have gone to straight interest rates. In the bill it was a subsidy for interest. That has been changed so it would be straight interest.

Then the last item on the agenda is some sort of grant or a grant. But there is a maximum of 40 percent of the appropriations that can be used in the grant area.

Mr. SIMPSON. Mr. President, I am particularly interested in the specific tests. Where will those appear? Will they appear in report language? Will they appear through later regulations? That is what I am seeking to find. What are the specific tests? I indicated some. Is it bonded indebtedness? Is it mill levy? Is it efforts at a severance tax? What is it? Industry will often agree in our part of the world to build an entire town. Will that type of thing be considered with regard to the grant or the loan guarantee? That is the kind of thing I am seeking. I am very interested in that.

Mr. FORD. I will say to the Senator that the population increase and employment increase would be the first criteria. Then we have the legislation which sets out the triggering method. The balance of it would be by regulation.

Mr. SIMPSON. In connection with the formation of the legislation, has the Senator reviewed with the Department of Agriculture his views on participation in this reservoir of funds? Has the Senator discussed with the Department of Agriculture what proposed regulations might spring from this legislation?

Mr. FORD. The existing regulations have been in place for 2 years. What we are doing now is just expanding the ability through this piece of legislation, laying out additional criteria as they relate to the availability of funds for the impact aid.

Mr. SIMPSON. I would hope that perhaps in some legislation we might be more specific when we want to set things out.

Mr. FORD. Senator GLENN has made made it very, very clear that 1 year from now he will have oversight, that he will take a long, hard look at what has happened.

We have to take into consideration that oversight will give him the ability to bring in GAO, to bring the agricultural people up, the Farmers Home Administration, to see if all things are on track. If there needs to be some changes, we would see that. We may have it too tight. It may not be accomplishing the end result. The Senator may have a problem that he is satisfied needs help but under the language of law it cannot be helped. The Senator may recommend that we loosen the language some.

On the other side of the coin, we may want to tighten up some things as it relates to the ability of States and local communities. I just think we are going to have to take into consideration that this will not be on track very long until we have oversight to check and see how it is working.

Mr. SIMPSON. I hope that at some point in this debate or before we get to final consideration of this we can come to a categorical expression of the sponsors showing their feelings on the issue of whether a State should be doing at least four things for that State to be recognized for consideration.

Those four things are the issue of bonded indebtedness; its mill capacity, its maximum; the effect of a severance tax, whether they have chosen to do that to themselves or bring that onto themselves, and the creation of State authority to take care of housing and some of the impact initiatives.

Mr. FORD. Does the Senator have a copy of the amendment?

Mr. SIMPSON. Yes.

Mr. FORD. I would ask the Senator to look at page 12, section 602(c)(2), where we develop a plan. I think it sets out pretty well the proposals that will tighten this up fairly well. I am not sure we can go much further than we have without putting us in a position of making real mistakes. And look at page 18 also. The Senator will find the criteria set out, basically, by Senator GLENN and which came out of the Governmental Affairs Committee.

I might say that his colleague, Senator WALLOP, is on the Energy Committee and he worked very diligently to see that this piece of legislation was properly structured. This is the legislation that emerged from the Energy Committee with a few changes as related to tightening up the money, which I think should accommodate both sides.

Mr. SIMPSON. Mr. President, knowing my colleague and having been in struggles with him on associated items, I do believe him, and I will visit with him about some of my concerns. I do not want to take the time of the body tonight, however.

The final thing is to ask what will be the effect of this amendment upon the Federal budget and the authority in the fiscal year 1981 budget? I say this because the Western States believe that they are going to have a piece of the action, or at least some of them do. I hope we do not come up with another empty promise like mineral royalty loans under section 317(c) of the BLM Organic Act, which we have not received a nickel of yet.

Those are the things.

Mr. FORD. I will say to my colleague that in fiscal year 1981 the bill has $150 million in authority, and this piece of legislation just takes that $150 million and does not expand. So the $150 million, which is already authorized in the budget resolution for fiscal year 1981, is all the money. It is already there. What money we are talking about now does not disturb it. It is for the out year.

Mr. SIMPSON. I thank the Senator. I have stated some questions I had in mind, and I may have more later at an appropriate time.

Mr. FORD. Mr. President, a rollcall vote has been asked for on this amendment. I ask unanimous consent that the amendment be set aside until the hour on tomorrow as designated by previous agreement.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. GLENN. I would also reply before we leave this subject that I think it would be good to say that we went through a number of different things that we really expect the States to do, but we did not feel we could possibly make a list of everything because the financial situation, the borrowing power, the indebtedness, the bonded indebtedness, all of this, will vary widely from one State to another. That is the reason why I made some examples in my earlier remarks. But this is to lean very heavily upon the Farmers Home Administration to make sure that they become the experts in this area as to what is available, what type of financing. You can apply that on a State-by-State basis. The objective is that this is not an open sesame, this is not an opening door of the gold hoard at Fort Knox. This is an effort for us to honestly help States which need that kind of help. It is in no way to be construed as being any door that is going to open for raids on the Federal Treasury.

We want the Farmers Home Administration to be responsible in carrying out these responsibilities we are giving them and keeping adequate records so that when we have them up for hearings they can adequately justify that a State really and truly needed this help and could not do it on their own.

Most States that will have energy developed of this kind will be benefiting greatly from this in the future. The tax base will be expanded. There will be more people. They may have additional severance taxes. There are all sorts of opportunity for development in the States which benefit the States in their financial situation. What we are trying to do is to help the impact at the front end of that, the front-end loading on the necessity for money so we can help them get into this business, and when they have ability to develop more money they can repay the loan or whatever particular financing it was that we carry out.

I do not think it is possible at this point to spell out every one of the situations that might occur. I went into that in some detail a while ago.

UP AMENDMENT NO. 1488

Mr. FORD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1488.

Mr. FORD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 17, insert the new title:

TITLE IV—GENERAL PROVISION

SEC. 401. For purposes of this Act, the sums referred to as "the total level for that account in said Acts" in sections 101 and 102 of this Act and "the amount appropriated for each appropriation account for the previous year" in section 201 of this Act shall be adjusted to include:

(a) Estimated yearly receipts of the Department during the current fiscal year, excluding receipts because of overcharges by persons under the jurisdiction of the Secretary of Energy or the Federal Energy Regulatory Commission;

(b) Allowances for pay cost made during the current fiscal year;

(c) Unobligated balances carried over from a previous fiscal year used to reduce the current year program requirements in an appropriation as directed by the Appropriations Committees of the House and Senate;

(d) Adjustments to reflect the current year impact of the transfer, as shown in the Department's budget year request documents, of an entire program from one appropriation to another.

Mr. FORD. Mr. President, this amendment is a technical amendment. It gives the authority to develop an estimated base in each of the categories. I think the minority has checked the amendment and there is no disagreement as it relates to the base language of this amendment.

Mr. McCLURE. Mr. President, we have examined this amendment. It is a technical amendment. As the Senator has said, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 1488) was agreed to.

UP AMENDMENT NO. 1489

Mr. FORD. Mr. President, I have no other amendments. I understand the Senator from Ohio has one.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Is it necessary for me to move to temporarily set aside the present amendment in order for me to submit another amendment?

The PRESIDING OFFICER. That step has already been done. It is not necessary.

Mr. GLENN. I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1489:

On page 27, line 9, strike out the period after the word "percent" and add the following: ", except that additional sums of $324,430,000 and $374,587,000 are authorized to be appropriated for Energy Supply Research and Development Activities—Operating Expenses and Energy Conservation—Operating Expenses and Capital Equipment, respectively."

Mr. GLENN. Mr. President, this amendment will authorize additional appropriations for energy supply research and development and energy conservation activities for fiscal year 1981. These additional funds will emphasize those areas where a breakthrough could significantly improve our Nation's energy situation.

Mr. President, with the doubling of oil prices in the past year, we are spending at a rate of over $90 billion per year for imported oil, representing a cash outflow of over $10 million per hour. Just think, over $90 billion for imported oil in 1980. That is more than enough to purchase the combined assets of General Motors, Ford, IBM, and Dow Chemical; $12 billion more than the net income of the entire Fortune 500; and, nearly 2.6 times larger than the amount we will be spending to equip the Army, Navy, and Air Force in fiscal year 1981.

The task before us is clear. We have to halt the inflationary spiral of energy prices, stop the outflow of dollars, and reduce our excessive dependence on imported oil, which has grown to the point where it threatens our national security. I believe that increased effort in energy R. & D. and energy conservation will help us meet this difficult challenge.

Mr. President, the additions I am suggesting have not been plucked out of thin air. I asked the staff of my Energy Subcommittee of Governmental Affairs, as part of their review of the Department of Energy's organization to examine the Department for the purpose of making recommendations on where additional funds, beyond those requested by the President, would do the most good in terms of the potential for future savings and production of energy.

Experts within the Department of Energy, as well as outside were consulted for their views on these matters. A report listing these recommendations has been completed in detail and will be available in the near future. I ask unanimous consent to have printed at the close of my remarks, a set of tables based on this report which details the impact my amendment is expected to have on specific program areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, the suggested additions in energy R. & D. funds for specific program areas cut across the entire gamut of R. & D. activities, from conservation through magnetic fusion and including all renewable resources. DOE has indicated that these funds would be of great benefit in helping to meet the energy goals of our Nation and in meeting the goals of the associated programs.

I want to emphasize that this is not another Government giveaway that I am proposing. This is an investment in our future. It is an investment that must be made if our national security is to be maintained.

We know that the energy problem does not form a scarcity of physical resources. Rather the problem is in effecting a socially acceptable transition from exhaustible resources such as oil and natural gas to new technologies whose potentials are not now fully developed and whose costs are unpredictable. We need time for planning and time for development. An accelerated program of energy R. & D. and energy conservation will provide for our needs in the long run as well as easing the transition to inexhaustible energy technologies.

EXHIBIT 1

AMENDMENT IMPACT

(Dollar amounts in thousands)

Energy supply research and development activities—Operating expenses

Activity:	*Amendment recommended level*
Solar applications	$183, 786
Solar technology	494, 900
Geothermal	150, 179
Hydrothermal commercialization	20, 174
Hydropower	28, 827
Nuclear	676, 960
Magnetic fusion	368, 117
Electric energy systems and storage	145, 323
Environment	240, 954
Basic research	268, 585
Total	2, 577, 805
S. 2332 total	2, 253, 375
Amendment increase	324, 430

Energy conservation—Operating expenses and capital equipment

Building and community systems	$245, 300
Industrial	74, 500
Transportation	140, 700
State and Local	682, 084
Multi-Sector	40, 200
Energy Information Campaign	50, 000
Energy Impact Assistance	122, 000
Total	1, 354, 784
S. 2332 total	980, 197
Amendment increase	374, 587

Mr. President, since we have the votes on all these set aside until tomorrow——

Mr. FORD. Mr. President, I suggest the absence of a quorum.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Can we leave that as a pending amendment?

The PRESIDING OFFICER. The Senator from Ohio can do that, but it is only rollcall votes which have been set aside. Voice votes can be taken now.

Mr. FORD. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. I think we have an order that was agreed to earlier that would only affect the rollcall votes beginning at 10 o'clock tomorrow. So the Senator from Ohio either has to dispense with his amendment tonight or ask for a rollcall vote on it tomorrow. I do not believe he wants a rollcall vote.

Mr. GLENN. That is correct.

Mr. President, I understand the impact of this amendment, while I think it is necessary and I wish we were in a budgetary mode at this time in Congress so I could hope for this to get through it does have a budgetary impact of some $700 million. Necessary though I think it is in the energy development area, I shall not press for a vote, knowing the mood of the Senate on this. I withdraw the amendment.

The amendment (UP No. 1489) was withdrawn.

Mr. FORD. Mr. President, I believe that is all of the amendments that relate to this particular piece of legislation.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. I wonder if the Chair could state for the information of the Members the rollcall votes which have been ordered for tomorrow on this legislation so we have a summary of that situation.

The PRESIDING OFFICER. There are three votes ordered—on the amendment of the Senator from Oregon (Mr. HATFIELD), on the amendment of the Senator from Kentucky (Mr. FORD), and on the bill itself.

Mr. McCLURE. I thank the Chair. I know of no further amendments to be offered.

Mr. FORD. Mr. President, we are ready to quit.

● Mr. CHURCH. Mr. President, today for the first time in 3 years the Senate again considers the DOE annual authorization bill by which the Congress is to provide funding and direction for ongoing programs. For each of the past 2 years I have been disappointed that the Senate has not been able to consider the DOE annual authorization bill because without it many of the objectives of the Congress in overseeing the activities of the Department have been rendered moot. I believe that we must return to the annual enactment of the DOE authorization bill in order to insure proper congressional direction and oversight to the Department. Failing that, Mr. President, the DOE has the opportunity to behave like a rogue elephant with no clear concern for congressional attitudes. This in part is responsible for the public concern about the effectiveness of DOE to deal with our national energy problem.

Moreover, Mr. President, it is the responsibility of the authorizing committees to provide direction to the Department and not the principal responsibility of the Appropriations Committees. In the absence of an authorizations bill, the only direction the Department receives with regard to its ongoing programs is through the legislative history of the appropriations process. I think it is time that the annual authorization process be reaffirmed by the enactment of S. 2332.

In S. 2332 as reported by the Committee on Energy and Natural Resources there are only authorizations for broad categories of DOE activities. However, the House bill for authorizing DOE's civilian programs contains detailed line iteming to the subprogram level which may in some cases be too controlling in the Department's activities. Thus, enactment of the Senate and House bills would result in a conference committee arriving at a compromise wherein the degree of detail for authorizing DOE's programs will be sufficient to assert a congressional will and intent on the course of these programs during fiscal year 1981.

The preponderance of this bill, Mr. President, is simply to provide funding for research and development activities within the Department of Energy. As Chairman of the Subcommittee on Energy Research and Development, I believe it is important to insure that we authorize these activities in a way which reflects the priorities among our future energy options so that there can be no mistake about the intent of Congress.

We must authorize those projects which the Congress intends to see through to completion for their total estimated cost when they are first presented to the Congress. Projects should only be revisited by the authorizing committees if clear technical problems develop or the cost of the project increases substantially. One of the problems facing the demonstration of technologies in large expensive projects is the budget cutting considerations which we now face and which will continue to be a fact of life for the foreseeable future. For many projects in the past few years, decisions have been made to terminate them at the juncture in the project where rapid large increases in funding are required to meet the project construction schedule.

Naturally, if at an early stage a project does not make proper sense to the national need, it is prudent to cancel the project. However, canceling projects for purely budgetary reasons will confound private industry, which frequently cost shares in demonstration projects, and will result in such a lack of predictability on any project's completion that private industry will be reticent to participate in future projects. Commercialization of the technology will be seriously impaired. In the nuclear energy area alone I can recite several projects which have been terminated by the administration because of, in all likelihood, budgetary pressures as much as or more than national policy reasons.

Mr. President, I would hope that my colleagues in the Senate would refrain from offering policy amendments related to energy, such as natural gas and oil pricing questions, in the consideration of S. 2332. It is, in my view, essential to reestablish the enactment of the annual authorization bill for the Department of Energy, and so-called "killer" amendments which jeopardize the bill's prospects of being signed into law cannot further the purposes of the Congress. I would urge that my colleagues reserve such killer amendments for bills to which they are germane and for which the debate is centered on the very issues which concern my colleagues.

I would like to take a moment to comment on the gross inadequacy of the administration's budget for nuclear energy activities within the Department of Energy in fiscal year 1981 because if it were adopted the administration's budget would result in the wholesale disbandment of many highly specialized technical teams throughout the country. I will be working, as this bill moves through conference with the House and as the appropriations bill is considered, to insure that the nuclear energy programs, particularly the breeder base program, are adequately funded to maintain the strong technical team throughout the Nation. I believe that the administration's past agreement to maintain a strong breeder base program by providing a budget of $520 million in fiscal year 1981 should have been honored and that the Congress must act to increase the breeder base program budget to a level sufficient to maintain the current technical expertise.

I want to express our full support for the administration's proposed geothermal energy budget for fiscal year 1981, $154,684,000. While the committee has not specified this amount in its report, it is my understanding and intent that this authorization be fully supported. Geothermal energy is poised and ready to go, and can add a tremendous amount of energy for electric generation and for industrial and residential heating and cooling purposes.

Some proposals have been made to cut this budget for fiscal year 1981. This would be absolutely the wrong signal to give at this time. The House of Representatives has before it a proposal to do just this. It is our hope that they will not accept any reductions in the geothermal energy budget and will support fully the administration's budget, which was unaltered in their budget amendment. Under the House proposal, funding would be cut for the State-coupled assessment activity, which has been of great importance in the West. Funding would also be cut for new projects relating to the industrial uses of geothermal energy, which is the most promising new applications area and most in need of Federal assistance and direction at this time. In addition, funding is cut for the first geothermal demonstration plant, to be built at Valles Caldera, N. Mex.

This is only a sampling of the reductions that have been proposed, which total $20.5 million overall. I have sent a letter to the Honorable Mike McCormack, the chairman of the House subcommittee with jurisdiction over these matters, expressing my views on these proposed cuts. I hope to express the sense of the Senate that these cuts would be the wrong thing to do at this exciting moment in the development of geothermal energy in the United States.●

● Mr. CRANSTON. Will the Senator yield for a question?

Mr. JOHNSTON. I am delighted to yield to the distinguished Senator from California.

Mr. CRANSTON. Is my understanding correct that this bill provides sufficient funding for, and contemplates the continuation of the 50 megawatt (commercial scale) binary cycle geothermal demonstration project at Heber, Calif., which will begin with fiscal year 1980 funds?

Mr. JOHNSTON. The Senator from California is correct. The bill contains the amount appropriated for energy supply research and development activities in fiscal year 1980, plus 10 percent. This will provide sufficient room for funding by the Appropriations Committee, if the committee so decides.

Mr. CRANSTON. I am delighted to know that. As you know, I believe that this project, which was unnecessarily delayed by the Department of Energy after Congress has repeatedly authorized and appropriated funds for it, is finally moving along. It continues to have support from utilities in California, Oregon, and Idaho, the Energy Power Research Institute (EPRI), as well as the California Energy Commission and the Imperial County government. If this demonstration is successful, as I expect it will be, it will lead to a very significant expansion of the potential use of geothermal energy for electricity generation, in an environmentally improved way.●

THE HANDGUN CONTROL ISSUE

Mr. PERCY. Mr. President, when Republican delegates gathered this month in Detroit for our party's national convention, the agenda included a responsibility in addition to choosing a nominee for President and Vice President of the United States, namely the development and adoption of a platform embodying principles, beliefs, and programs giving content to our party's political message.

The process of preparing the party platform required reaching out to many perspectives and points of view. I am glad that, in this process, the Republican Platform Committee had an opportunity to consider views of Mary Pratt Barringer and Edward O. Welles, both directors of Handgun Control, Inc.

In their statements, Ms. Barringer and Mr. Welles raise important questions on the issue of Federal handgun control legislation. The urgent need to limit the current easy access of criminals to handguns has not abated in the years and decades that this issue has remained pending before Congress. Tens of thousands of Americans are still killed and victimized by handgun crime each year.

Because the issue of handgun control remains before Congress and the Nation as a whole, as well as the Republican Party in particular, I ask unanimous consent that the testimony of Ms. Barringer and Mr. Welles before the Republican Platform Committee be printed in the Record, and I commend them to my colleagues.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

TESTIMONY OF MARY PRATT BARRINGER

Mr. Chairman, I am a Republican in a dilemma. I have been a working member of the party in California, New Jersey, and Delaware and for twelve years I was the Republican Committeewoman in Kennett Township, Chester County, Pennsylvania.

On the other hand, I belong to a large family of sportsmen. Both the family I was born into and my husbands' family have hunted all over this country, in Scotland, Spain, Alaska, Africa—you name it. Though we all own and use shotguns and rifles, there is no conflict in my mind between sport-shooting and handgun control. Therefore in good conscience, I am also a member of the board of Handgun Control, Inc.

Is this a difficult distinction for the Republican Party to make? Must we not recognize that in our America with 220 million citizens, millions of whom live in close packed urban areas, we cannot assume the same attitudes of two centuries ago?

By drafting a simplistic 18th century platform as we did in 1976, did we not ignore the realities of the 20th century? Did we not admit a lack of concern for our city dwellers or those 100 or so million Americans who don't own or don't want to own a handgun?

We quote the Right to Keep and Bear Arms without recognizing and admitting that with that right comes responsible ownership and accountability for that weapon.

By not advocating stricter state and federal handgun controls, are we not opting for the criminal and saying he would be allowed to have a handgun?

Are we saying the Republican Party is unconcerned about the over 20,000 American citizens who die by handguns each year or the quarter of a million people who are wounded, threatened or assaulted by handguns?

Are we admitting the 1 in 5 chance Americans have of being threatened or assaulted by someone with a handgun is an acceptable norm—like 5 percent unemployment or 6 percent inflation?

Can the Republican Party accept that? I can't!

How many friends have each of you lost to handguns? I don't mean acquaintances or public figures that you read of. I am thinking of the two friends of mine whose absence I feel daily. As a good Republican how do I say "I'm sorry" to their families when my party won't take a stand and try to prevent criminal access to handguns?

I am as much a believer in the privileges of our free society as you are, but I firmly believe that with the privilege of handgun ownership goes a need for responsibility and accountability that the Republican Party has seen fit to ignore.

I urge my Republican leadership to unite behind a platform which includes a stand for responsible handgun control that will not infringe the rights or privilages of any law-abiding sportsman or citizen, but which will keep handguns out of the hands of criminals.

TESTIMONY OF EDWARD O. WELLES

Mr. Chairman, we all know our society is presently under severe pressures at virtually every turn. As your committee deliberates and establishes its positions on the vital issues of the day, Handgun Control, Inc. urges at the outset of this new decade that the Republican Party give particular attention to the important issue of handgun control. We believe this matter requires a positive, specific statement on your part because the menace of the handgun threatens each and everyone of us; because the handgun plays such a major role on the criminal scene.

Back in 1976 the Republican convention endorsed a broadly worded plank on gun control that stated mandatory sentences for crimes committed with a lethal weapon as the only effective solution. The right of citizens to keep and bear arms was supported and opposition to Federal registration of firearms was established. With the passing of time and four more years of continuing violence involving handguns, affecting at least 250,000 of our fellow citizens annually, we urge that it is wise to be more specific on the issue. By so doing, and focusing on the handgun issue, the Republican Party will clearly show that its concern for life and limb of our citizens is proven by its position. Is it not time in our history to speak out positively on behalf of all those who have suffered and will suffer because of the uncontrolled proliferation of handguns? Is it not time to acknowledge that we as a people can no longer safely live with a patchwork of state laws and clearly inadequate federal legislation?

Effective federal handgun control legislation does not mean an automatic end to the menace of the handgun, the favorite weapon of the criminal and political assassin. But it does mean we are serious in acknowledging the problem and are conscious of the need for reform. This will only be accomplished by enlightened political leadership, and a willingness to respond to the sentiments of the mainstream of our people. Are we forever going to accept the role of the handgun as seen each day in our press, in FBI statistics, in our hospitals, in our families and in our streets?

To grasp the nettle and show the nation the Republican Party can seize the initiative on this issue. We of Handgun Control, Inc. urge your platform to adopt a position consistent with what our experience leads us to believe adds up to effective control. We suggest the elimination of the manufacture and sale of the Saturday Night Special. We urge that a screening system eliminate illegal purchasers. We suggest a requirement that thefts and losses be reported by manufacturers, dealers and owners. We recommend prudent accountability by manufacturers throughout the channels of distribution. We urge "license to carry" laws in our fifty states—laws that carry a mandatory jail sentence if broken. We endorse a mandatory jail sentence for all convicted of using a handgun in the commission of a federal crime.

We are dealing with a serious matter, ladies and gentlemen—one frankly that has been let slide despite the heavy toll the handgun takes year in, year out. Let us pledge to remedy this predicament by adoption of a plank that fairly and squarely faces up to the issue in a truly responsible manner. Let us go to the heart of the matter by focusing on the deadly handgun. Let us strive to reduce the handgun's very significant role as a purveyor of fear, injury and death in our nation. Together this can be accomplished. Together it must ultimately be accomplished. Now is the opportunity to take a stand. In the name of good sense, victims of the past, both famous and unknown, and the future of our republic, let us do so.

CORPORATE PROFITS: PART II: PROFITS DO NOT STAND ALONE

Mr. PERCY. Mr. President, I am pleased today to speak again on the subject of corporate profits. Chicago radio station WBBM has done the public a great service by airing a series on the importance of profits to our economy and standard of living. Last week I spoke about this series and placed the first of the series in the RECORD. The second of WBBM's editorials will follow my statement today.

As Keith Bromery points out in the WBBM editorial, profits "I do not stand alone. They are affected by such uncontrollable and unpredictable factors as inflation, depreciation, and government regulations * * *." What is more, when profits are reflected as a percent of sales or percent of stockholders' equity, it becomes apparent that they are hardly "obscene," as some critics have charged. The President's 1980 Economic Report shows this: 1978 profits as a percent of sales amounted to just over 5 cents on the dollar.

With the advent of the 1980 recession, we are seeing a significant downturn in corporate profits for most industries. U.S. News & World Report, in its August 4 edition, reported that after-tax earnings in the second quarter of this year fell 16.5 percent from the first quarter. When compared to the second quarter of 1979, there has been a 5.2-percent drop. What is more, when this annual change is adjusted for inflation, we see that there has actually been a 13-percent drop in profits since spring 1979.

This downturn in profits comes at a time when we need to increase our investment and stimulate productivity. Profits play a key role in that strategy. In the next few days, I shall comment on some of the ways we are working toward a revitalization of the economy.

Mr. President, I ask unanimous consent that the second WBBM editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CORPORATE PROFIT: THE CAUSE EFFECT

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or bad thing? The controversy swirls—as the inflation rate soars and corporate profits explode. And in all—perspective seems to have been left behind. . . .

Actuality/Proxmire: "Profit is a beautiful word right up there with love, marriage, honor and all those other goodies. It can be degraded, there's no question about it—dishonest profit, monopoly profit is something else—but honest profit, hard earned in the competitive system, that's the very heart of the economic system and I think we ought to be delighted and proud and happy when it happens. After all profit is the basis for the expansion of businesses; it provides more jobs; it's a reward for good hard work and innovation. It really is what made America the strongest economic country in the history of the world—it provided the best standard of living for all people, than any other country has provided. So profit is right at the heart of our system and we should throw our hats in the air when profits go up."

That's Wisconsin Senator William Proxmire—who sees beauty in something many Americans don't really understand. It is a fact that different Americans looking at Exxon Corporations' $1.92 billion in profits made just over the first quarter of this year, see widely different things. Many see for instance that Exxon's quarter earnings for 1980 were over 100 per cent higher than their first quarter 1979 earnings. But as Professor Houston Stokes of the College of Business Administration at the University of Illinois explains—that admittedly high percentage must be put into perspective . . .

Actuality/Stokes: "If you start out with very low profits and lets say your profits make it . . . almost absurd . . . your profits were a dollar—and next year you made two dollars—you have a hundred per cent gain in profits. So it's a hundred per cent gain over what your profits were the year before. So the per cent gain in profits is a dangerous kind of term because what it does is . . . if you happen to have a very low level of profits the year before, you seem for a certain increase in the dollar amount of your profits, your per cent increase is much greater than if you had a big year before. If you had a big year before and you increased your profits by ten dollars you'd make less of a percentage gain than if you had a very small year."

It is also a fact that profits do not stand alone. They are affected by such uncontrollable and unpredictable factors as inflation, depreciation and government regulations—as further explained by John Ong, Chairman of the Board and President of the B.F. Goodrich Company. . . .

Actuality/Ong: "If a company had a million dollars profit one year and two million dollars the next year, that percentage comparison looks pretty great. But what you really have to look at is how many cents of profit are earned on every dollar of sales . . . that's one very intelligent measurement. And as you probably know in recent years, that's been right around five cents on the dollar—on averages for American manufacturing companies.

"Five cents on the dollar doesn't sound nearly as great as a two hundred per cent increase in profits. Another way to look at it is the investment . . . let's say the equity that the company has or the total assets that it employs in its business and there the average return on equity is probably somewhere around thirteen percent at this point—again not a figure that's going to impress the average person as being exorbitant and let alone obscene."

Exxon Board Chairman Clifford Garvin explained that while his corporation did earn 1.9 billion over the first quarter of this year—the actual net return on money spent was about five cents on every dollar—with Exxon's shareholders netting about a 20 per cent return on their overall investments. This is not considered excessive—especially for a corporation of the size and type of Exxon. And it is a fact that many other industries fared better over this past first quarter.

Corporate profits? What is it? Where does it come from and where does it go? Is it a good or bad thing? The attempt in this report was to separate the myth from the reality in arriving at a definition of exactly what profit is. Our next effort will attempt to explain where profits come from and exactly where they go. With production assistance from Denise Hines.—I'm Keith Bromery.

RETIREMENT OF ROBERT A. MALSTROM

Mr. PELL. Mr. President, I wish to take this opportunity to express both my personal thanks, and my gratitude as chairman of the Senate Rules Committee, to Bob Malstrom who is retiring on July 31, after more than 30 years of loyal and very competent service to the Senate. Each of us has had many occasions to call upon the knowledge, experience, and wisdom of Bob Malstrom in connection with Senate financial matters and has always found him gracious, accurate, and reliable.

I know that Bob entered the Senate Disbursing Office as a young man following his military service during World War II. There are not many who have devoted more years to Senate service in that Office than has he.

His career has been one of constant achievement. He rose from a beginning clerk to the highest position in the Office, which he has held for the past 3 years.

On many occasions, as chairman of the Senate Rules Committee, I have called upon and have received from Bob the kind of skilled professional assistance without which our legislative tasks could not have been so well and so speedily performed. I know that my colleagues on the committee, and I am sure that all of my Senate colleagues as well, join me in expressing our thanks to Bob and in wishing him and his wife Pearl many years of happy retirement.

IVAN HILL, UNRELENTING IN THE PURSUIT OF HONEST GOVERNMENT

Mr. PERCY. Mr. President, the President recently signed legislation into law requiring that the Code of Ethics of Government Service be displayed in Federal offices throughout the Government. The Code was enacted in 1958 but was soon forgotten and, as history will testify, has too often been violated outright.

All memory of the Code might have disappeared had it not been for the persistent efforts and personal commitment of Ivan Hill, head of an organization called American Viewpoint. American Viewpoint is devoted solely to the promotion of ethical behavior.

As can be expected of bureaucracies, the initial reaction to Mr. Hill's suggestion that the Code be reprinted and posted was decidedly negative. Only after American Viewpoint pushed its point in Congress and promised to pay for the entire cost of reprinting the Code of Ethics did the bureaucrats relcnt.

I make particular note of the passage of this legislation, in part because it is within the jurisdiction of the Governmental Affairs Committee, but primarily because Ivan Hill was a long-time resident of Illinois. As an Illinoisan I am particularly proud of him and his determination in an honorable cause. His efforts captured the notice of several newspapers and I ask unanimous consent that two of the articles that were written be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 14, 1980]

One Down And 46 to Go

With Carter, Reagan, Anderson and None Of The Above closely bunched for the lead in the presidential race. I would like to propose a new ticket: Ivan Hill, who is 73, and Rep. Charles E. Bennett (D-Fla.), who is a mere 69.

You can put the two names in a hat and draw one of them as my presidential candidate. The other man can be his running mate.

My enthusiam for these two stems from an article on page A3 of Saturday's Washington Post by staff writer Ward Sinclair. The article was about H.R. 5997, which became law recently.

H.R. 5997 requires that there be posted in every federal office with 20 or more employees a copy of the Code of Ethics of Government Service. The code was passed 22 years ago, mostly because of Bennett's efforts.

The code has received little attention recently, so Bennett and Hill would like to give it greater visibility.

H.R. 5997 was designed to let federal workers see what is expected of them in their dealogue of ethical commandments. Typical of the code's 10 points are the ninth, "Expose corruption wherever discovered," and the tenth, "A public office is a public trust."

The president's signature on H.R. 5997 did not, alas, result in copies being framed and hung in federal offices. In fact copies may never be distributed.

President Carter signed H.R. 5997, but his Office of Management and Budget considers it "too expensive, too duplicative of other laws." The General Services Administration, "which has had its own ugly ethical problem," agreed that it would cost too much and would "be a bother."

How much is "too much" to a government that can't predict the size of its annual deficits within $25 billion? GSA and OMB both estimated that it would cost $200,000 to frame and hang the code of ethics. People who don't want to do something can always think of 47 reasons why it shouldn't be done.

Hill, described by Sinclair as "retired but relentless," heads an organization called American Viewpoint. The purpose of American Viewpoint is to promote ethical behavior everywhere.

The way Hill got Congress to pass H.R. 5997 was to promise that American Viewpoint will pay the cost of printing and laminating 200,000 copies of the code of ethics. Hill says the cost will be $65,000 "at the most."

So that takes care of one of the 47 reasons for not posting the government's code of ethics. Hill must now turn his attention to the other 46.

His first problem, he indicates, is with an agency whose lack of ethical conduct has been spelled out in miles of newspaper stories in recent years. Hill says, "Now the problem is GSA. Nobody down there wants to talk to me about distribution . . . If they think, after all this, that I'm going to leave them alone, they're crazier than hell."

Hill's determination to bring the code of ethics to the notice of federal workers is based on his belief that once the code takes root in bureaucratic minds, it will "create an ethical revolution" that could save taxpayers billions of dollars that are now lost through waste, fraud and absenteeism. "It's going to open whistle-blowing from top to bottom," Hill says.

Well, good luck, pal. I hope you and Rep. Bennett live long enough to see dedication to ethical concepts become the dominant force in government. By my calculations, you'll be 120 years old by then and Bennett will be 116.

POSTSCRIPT

Incidentally, a front page Post news story this weekend began with the words, "The Carter administration, nervous about low farm prices and their possible impact on the election, is moving toward raising farm price supports."

Two questions: If the administration thinks it is unfair to keep farm price supports so low, why didn't it raise them earlier? If it thinks the present level is right, why is it now moving toward raising price supports for a political purpose?

Maybe that Code of Ethics of Government Service needs an eleventh commandment.

[From the Louisville (Ky.) Courier-Journal, July 8, 1980]

U.S. Workers Will Finally Get to Read "Secret" Code

(By John Filiatreau)

Twenty-two years ago, Congress officially approved a code of ethics for government employees and had 10,000 copies printed.

Hardly anyone has seen it since.

The code has been called "one of official Washington's best-kept secrets." On Capitol Hill, only one in 25 lawmakers has it on public display. A 1979 poll found that half the members of Congress were unaware that such a code existed.

When the Supreme Court asked recently for 12 copies of a color poster of the code, only six could be located. And the Government Printing Office was unable to supply more, because it had destroyed all its negatives in 1972.

The ethics code has 10 fairly innocuous parts that recommend honesty and decry corruption.

"As of now, the only time people look at the code is when they want to know if they've done something they can be fired for," gripes Ivan Hill, a retired advertising executive who has headed the Ethics Resource Center in Washington since 1973.

But that situation is about to change. Congress has passed a bill requiring that the code of ethics be displayed in all post offices and U.S. government offices employing 20 or more people.

The Ethics Resource Center, a project of American Viewpoint Inc., has agreed to provide, at no cost to the government, 200,000 red-white-and-blue, laminated, ready-to-hang copies of the code, plus 5,000 copies suitable for framing. The center hopes to recover most of the estimated $50,000 in printing costs from its "corporate friends."

The Ethics Resource Center staff contends optimistically that the posting of the ethics code "may well send ethical shock waves throughout the government and our nation. . . . It may do more to increase government honesty, reduce absenteeism, strengthen employee morale, and generally increase government efficiency than any other law the president has signed."

Posting the code in government offices will lead to a "consensual validation" of the principles it contains, according to Hill, who once was described by The Washington Post as "a man stricken with terminal optimism." Hill says, "When people in a group look at it, it has a tremendously different effect. We know that—we've tested it."

The code says that any person in government service should:

Put loyalty to the highest moral principles and to country above loyalty to people, party or government department.

Uphold the Constitution, laws and legal regulations of the United States and of all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay: giving to the performance of his duties his earnest effort and best thought.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.

Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

Hill and his group—unabashed pro-capitalists—believe that "we need honesty and ethics to preserve freedom. . . . If economic and political freedoms are to survive, such survival has to depend on increased public trust and a clear commitment, especially and first on the part of 'big business,' to an honestly competitive private enterprise economy. . . . No government that is not honest will benefit the people."

It has taken 22 years to get the handwriting on the wall. Here's hoping it won't take that long for it to be read and comprehended.

CONGRESSIONAL MEDALS AWARDED TO U.S. OLYMPIC TEAM

Mr. ROBERT C. BYRD. Mr. President, at noon today Congress awarded congressional medals to the members of the U.S. Olympic team.

Nearly 500 Olympic athletes came to the Capitol to receive these awards. It was an impressive and moving occasion. President Carter joined the congressional leaders during an adjournment of both Houses to pay this tribute. It was appropriate that on a busy day in the middle of a busy week the President and Congress stop our normal business and paused to recognize these outstanding young Americans, their families and friends, and their coaches. It was indeed our honor to pay tribute to them. Their talent, their dedication, and their patriotism cause us all to be proud of them.

The Senator from Colorado, Mr. Hart expressed eloquently the mood on the west steps of the Capitol today. I ask unanimous consent that his remarks at the ceremony be entered into the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Address by Senator Gary Hart to Olympic Athletes

Almost twenty years ago, John F Kennedy said: "There are risks and costs to a program of action. But they are far less than the long-range risks and costs of comfortable inaction."

Those of you here today to receive Congressional medals have taken the risks and accepted the costs of a program of action. You have denied yourselves the pleasures of an easy life, and accepted adversity as a challenge to be met.

You have defeated apathy, indecision, aimlessness. You have believed in yourselves and acted on that belief. You have kept alive for our nation one of its most important values—a sense of excellence.

And those of us whom you represent, respect and admire you

We admire you for your talent—for the exceptional abilities you have found within yourselves, enabling you to reach for unattained goals.

We respect you for your self-discipline: the hours of training with no glory in sight, the commitment which enabled you to take that first step, which strengthened you to take the next, up the long and lonely path toward excellence.

We admire you for your strength and courage, for having pushed back the boundaries of your lives and added to your own personal freedom.

By qualifying for the United States Olympic team—the best in the world—you have proved yourselves to be the best in the world. And for this, your fellow American citizens honor you.

More than that, we are grateful to you.

At a time when America's ability to meet enormous challenges, our commitment to excellence, our strength and courage as a nation are being tested, you prove we have it within us to be exceptional.

At a time when apathy and comfort test our commitment to goals beyond immediate gratification, when avoidance of difficulties threatens to become a way of life, your bright talent and gritty determination are a torch for all of us to see, and light a path toward excellence for all of us to follow.

If, as Shakespeare said, action is eloquence, then your message to America is loud and clear. We hear you—and we thank you.

WILLIAM J. BAROODY, SR.

Mr. HUMPHREY. Mr. President, William J. Baroody, Sr., former president of the American Enterprise Institute for Public Policy Research, died July 28 of a heart attack in Alexandria, Va. We who labor on public policy here in Washington and throughout the United States are better off for having had this man in our midst.

William Baroody personified everything that is great about our country. He was a strong man, an impeccably honest man and a man of his word. He was devoted to his family and devoutly religious. All of his life, William Baroody lived by a principle that was sacred to him, that "the competition of ideas is fundamental to a free society." It was upon that principle that he built the American Enterprise Institute into one of the Nation's most prominent educational and research centers.

On January 29, 1916, William Joseph Baroody was born in Manchester, in my home State of New Hampshire, the son of an immigrant Lebanese stonecutter. He was raised on the importance of hard work, nurtured on the ideals of his religion, brought up with the unswerving conviction that America was great and that freedom was all-important. He was educated in parochial elementary and high schools in Manchester and went on to earn his bachelor's degree from St. Anselm's College in 1936. He did graduate work at the University of New Hampshire and later at American University in Washington. In 1965, he received an honorary doctor of laws degree from his alma mater, St. Anselm's.

He worked at the New Hampshire Unemployment Compensation Agency in the 1930's and supervised the fiscal, research, and legislative planning sections of that agency. He was also director of the statistics division of the New Hampshire War Finance Committee and a research associate of the New Hampshire Legislative Commission on Disability Benefits.

When World War II came, he was already a father but he did not shirk his duty to the country his parents adopted. He served as a lieutenant in the U.S. Navy and was assigned to the jeep carrier *Mission Bay*.

After the war, Mr. Baroody came to Washington and served as chief of the research and statistics division of the Veterans' Administration's Readjustment Allowance Service. In 1950, he left Government service to become executive secretary of the Committee on Economic Security of the U.S. Chamber of Commerce.

In 1954, William Baroody was named executive vice president of a small, business-oriented research center called the American Enterprise Institute. Its annual budget was $80,000. It received little notice here in Washington. But under Mr. Baroody's guidance, first as executive vice president, then as president from 1962 to 1978, and for the past 2 years as counselor and chairman of the development committee, AEI has grown to be one of the most respected "think tanks" in the country. It now has an annual budget that exceeds $11 million.

Mr. Baroody personally attracted some of the top minds in our country on public policy issues, people like Arthur F. Burns, Paul McCracken, Herbert Stein, Milton Friedman, William Fellner, Robert Bork, Irving Kristol and countless others, as well as former President Gerald R. Ford to be part of this vital center for the exchange of ideas.

The Members of Congress are very familiar with AEI. We receive more than 100 publications from AEI each year, we see many of the scholars of the institute before us at committee hearings throughout the year, and many of us have participated in conferences, debates and forums at AEI. With William Baroody ever sounding the battle cry that "competition of ideas is fundamental to a free society," AEI has made an invaluable contribution to the formation of public policy here.

When William Baroody decided to step down as president of AEI 2 years ago, his son, William J. Baroody, Jr., took over the helm and the institute has continued to grow under his leadership.

If William Baroody's only contribution to this country and its institutions was his leadership at AEI, it would be reason enough for we in Congress to mourn his passing. But he was involved in many other worthwhile endeavors over the past 30 years.

He was a former chairman of the board of the Woodrow Wilson International Center for Scholars, a trustee and treasurer of the Institute for Social Science Research, and a founder and executive committee member of Georgetown University's Center for Strategic and International Studies.

He was a member of the board of overseers of the Hoover Institution, a member of the American Revolution Bicentennial Advisory Council, a trustee of the Herbert Hoover Birthplace Foundation, a member of the board of directors of the Near East Foundation, a member of the board of consultants of the National War College, a member of the board of directors of the Government Research Corporation, and a member of the board of governors of the John Carroll Society in the District of Columbia.

His contributions to higher education were just as formidable: He was a trustee of St. Anselm's College; a member of the board of directors of Georgetown University; a member of the Advisory Council to the Virginia Polytechnic Institute's College of Business; a member of the board of advisors of the DeSales Graduate School of Theology; and a member of the advisory board of St. Mary's Seminary and University in Baltimore.

Mr. Baroody was a devout follower of the Melkite Greek Catholic Church and served as a member of the Advisory Committee for Social Development and World Peace of the U.S. Catholic Conference, and as chairman of the diocesan pastoral council of the Melkite Greek Catholic Church. He was also a member of the board of directors of "The Catholic Virginian."

He and his widow, Nabeeha, had seven children and 37 grandchildren. He was named "Grandad of the Year" by the Old Grandad Club in 1976.

Family man, devout religious, the son of immigrant parents who went on to fulfill the American Dream and, most important, a champion of the ideals of America and defender of freedom, these were personified in a great American, William J. Baroody, Sr. We in Congress mourn his passing.

We in New Hampshire sorrow at the loss of a neighbor who contributed so much to our Nation.

THE NEW BUDGET: A FAMILIAR ROAD

Mr. HARRY F. BYRD, JR. Mr. President, the President's new budget estimates for 1981, issued on July 21, seem to be heading the Government down the same road which it traveled in the current fiscal year of 1980—a road paved with ever-increasing spending estimates, leading to an enormous deficit and a record-smashing increase in outlays.

In January the President estimated 1981 spending at $616 billion, in round numbers. But in 6 months he has raised the spending figure to $634 billion.

The deficit was estimated at $16 billion in January. But now the red ink total is set at $30 billion—nearly double the original estimate.

The rising spending and deficit estimates are following the disastrous course of 1980. Since the first budget estimates for 1980, estimated spending for the year has gone up by $47 billion. The result is that for 1979–80 the Government will have the largest single spending increase in history, $85 billion, the second largest deficit on record, $61 billion.

If the Government goes down the same road in 1981, we can look for further huge increases in estimated spending and a deficiet far in excess of the presently estimated $30 billion.

Indeed, some economists have advised the Finance Committee to anticipate a deficit of $50 billion or more in the year ahead.

It is clear that spending is totally out of control.

In my view, until the administration and the Congress find the courage to resist the clamor for ever-increasing spending, the economy of our Nation will continue to be plagued by periods of high inflation and high unemployment.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON MOBILE HOMES—MESSAGE FROM THE PRESIDENT—PM 227

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 626 of the National Mobile Home Construction and Safety Standards Act of 1974, I am transmitting the Fourth Annual Report to the Congress on Title VI of the Housing and Community Development Act of 1974 (Mobile Homes).

JIMMY CARTER.

THE WHITE HOUSE, *July 30, 1980.*

REPORT ON REVISIONS OF DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 228

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Armed Services, and the Committee on Foreign Relations, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two revisions to previously transmitted deferrals increasing the amount deferred by $137 thousand. These items affect programs in the Department of Defense and the International Communication Agency.

The details of the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *July 30, 1980.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:32 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China; and

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 12:45 p.m., a message from the House of Repersentatives delivered by Mr. Gregory, announced that the House has passed the bill (S. 2597) to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. BURLISON, Mr. ZABLOCKI, Mr. MINETA, Mr. ROBINSON, and Mr. WHITEHURST were appointed as managers of the conference on the part of the House; and as additional managers for such matters as fall within the jurisdiction of the Committee on Armed Services under clause 1(c) of rule X of the Rules of the House: Mr. PRICE, Mr. ICHORD, and Mr. BOB WILSON; and as additional managers solely for consideration of such provisions of sections 408 and 409 of S. 2597 and modifications thereof committed to conference as fall within the jurisdiction of the Committee on Foreign Affairs under clause 1(h) of rule X of the Rules of the House: Mr. HAMILTON, Mr. FASCELL, Mr. BROOMFIELD, and Mr. DERWINSKI.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5604. An act to provide for the control of interstate and foreign commerce in fish and wildlife;

H.R. 6626. An act to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing, and for other purposes;

H.R. 7478. An act to facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding;

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes; and

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

The message further announced that, pursuant to the provisions of section 225(b), Public Law 90–206, as amended, the Speaker has appointed Mr. Richard Young of Massachusetts and Mr. Sherman Hazeltine of Arizona as members of the Commission on Executive, Legislative, and Judicial Salaries.

At 5:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5604. An act to provide for the control of interstate and foreign commerce in fish and wildlife; to the Committee on Environment and Public Works.

H.R. 6626. An act to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing, and for other purposes; to the Select Committee on Small Business.

H.R. 7478. An act to facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding; to the Committee on Finance.

H.R. 7631. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

HOUSE MEASURES HELD AT THE DESK

The following bill and joint resolution were read by title and held at the desk, pursuant to order of July 29, 1980:

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election; and

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 30, 1980, he had presented to the President of the United States the following enrolled bill:

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4299. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the laundry/dry cleaning activity of the United States Military Academy (USMA), West Point, New York, and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4300. A communication from the Commanding General, District of Columbia National Guard, transmitting, pursuant to law, the District of Columbia National Guard annual report for fiscal year 1979; to the Committee on Armed Services.

EC–4301. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to complete the evidentiary record in No. 37304, Public Service Co. of Indians, Inc. (Coal) v. Consolidated Rail Corporation, by the May 7, 1980 scheduled statutory due date; to the Committee on Commerce, Science, and Transportation.

EC–4302. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Domestic Aluminum Resources: Dilemmas of Development," July 17, 1980; to the Committee on Energy and Natural Resources.

EC–4303. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on energy efficiency in federal buildings; to the Committee on Energy and Natural Resources.

EC–4304. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the 1980 research and development analysis; to the Committee on Environment and Public Works.

EC–4305. A communication from the Federal and State Cochairmen, Upper Great Lakes Regional Commission; transmitting, pursuant to law, the Commission's 1979 annual report; to the Committee on Environment and Public Works.

EC–4306. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Legislation Allows Black Lung Benefits to be Awarded Without Adequate Evidence of Disability," July 28, 1980; to the Committee on Finance.

EC–4307. A communication from the Director, Office of Administration, Executive Office of the President, reporting, pursuant to law, on a new system of records; to the Committee on Governmental Affairs.

EC–4308. A communication from the Deputy Director, Administrative Office of the United States Courts, transmitting, pursuant to law, reports on the financial condition of the Judicial Retirement System and the Judicial Survivors' Annuities System; to the Committee on Governmental Affairs.

EC–4309. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 873 reports concerning visa petitions which the service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate, and referred as indicated:

POM–818. Joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 70

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to prevent or minimize the harmful economic and social effects of unemployment on employees, local businesses, and local governments caused when business concerns or plants close or undertake changes of operations; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–819. Joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION NO. 29

"Whereas, The maximum amount of nonexcludable resources, such as savings accounts, checking accounts, and savings bonds permitted for eligibility for the SSI/SSP program has been set at one thousand five hundred dollars ($1,500) for individuals and two thousand two hundred fifty dollars ($2,250) for couples; and

"Whereas, This amount has not been increased since the establishment of the program in 1974; and

"Whereas, The maximum amount for all other categories of assests, such as cars and household possessions permitted for eligibility for the SSI/SSP program have been increased since 1974; and

"Whereas, The cost of living has risen approximately 47 percent in the United States and approximately 50 percent in California since 1974; and

"Whereas, The failure to increase the maximum nonexcludable resources for eligibility into the SSI/SSP program has led to genuinely needy elderly persons, upon their initial application, being denied eligibility for the SSI/SSP program; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly.* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a law providing for an increase in the maximum amount of nonexcludable resources permitted for eligibility under the SSI/SSP program; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-820. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Senate Joint Resolution No. 32

"Whereas, Congress is empowered to enact legislation which can mandate municipal service charges which must be borne by business and individuals in order to construct, maintain, and operate new facilities which may be required to meet new federal requirements; and

"Whereas, The Federal Clean Water Act of 1972, as amended, is one such example, in that Section 1284(b)(1) of the Act (P.L. 92-500) requires that municipal service charges be levied; and

"Whereas, Current Federal Tax Laws and Internal Revenue Service Regulations allow business, and individuals with business income, to deduct such charges to the extent that they are business expenses in the calculation of their federal tax liability; and

"Whereas, Current Federal Tax Laws and Internal Revenue Service Regulations prohibit individuals from deducting the same charges when they are associated with their places of residence; and

"Whereas, To the extent that such charges are involuntary, they amount to a tax in all but name; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact a law enabling individuals to generally deduct the cost of such involuntary municipal service charges, imposed by the Congress, from their federal income taxes; and be it further

"*Resolved.* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the District Director of the Internal Revenue Service, and to each Senator and Representative from California in the Congress of the United States."

POM-821. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Senate Joint Resolution No. 36

"Whereas, It has been proposed that social security benefits be made subject to taxation, and that the minimum age for qualifying for social security benefits be increased; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to oppose any legislation which would tax social security benefits or increase the minimum age for qualifying for social security benefits; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-822. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations:

"Senate Joint Resolution No. 41

"Whereas, The Federal Government, with the support of the State of California and local governments in Ventura and Los Angeles Counties, authorized the establishment of the Santa Monica Mountains National Recreation Area and provided for its development to expand the recreational and open-space facilities in the Santa Monica Mountains for the public use and enjoyment year-round by nearby urban millions and future local, state, and national generations of citizens of the United States; and

"Whereas, The present and growing energy shortage with its increasing restraints on travel makes early development of the Santa Monica Mountains National Recreation Area especially important to assure that expanded park and recreational facilities are available for residents of Ventura and Los Angeles Counties as well as American and foreign visitors to Southern California's own particular sunbelt attractions that are beneficial to local, state, and national economies; and

"Whereas, Timely and uninterrupted development is governed by the availability of federal funding under Public Law 95-625, the National Parks and Recreation Act of 1978, and unforeseen national and international situations that may force delays in completion of the Santa Monica Mountains National Recreational Area to the end of the 1980's or beyond; and

"Whereas, The President's proposed anti-inflation budget cuts may involve significant reductions in appropriations from the Land and Water Conservation Fund from which the Santa Monica Mountains National Recreation Area will be funded; and

"Whereas, A delay of possibly another 10 years in the completion of the Santa Monica Mountains National Recreation Area will, due to inflationary impact, inevitably force severe economic losses in purchasing power for parkland acquisitions and development and also will adversely damage the economic well-being of property owners whose property has been publicly scheduled for acquisition by the National Park Service; and

"Whereas, Urban sprawl continues to rapidly threaten the Santa Monica Mountains, particularly for those areas closest to greater Los Angeles, and any further delay in acquisition for and development of the Santa Monica Mountains National Recreation Area may result in additional critical losses of this distinct and valuable natural resource; and

"Whereas, Speculative land prices and continued development pressures may make acquisition and development of the most scenic and recreational usable land impossible, unless full funding is promptly and continuously provided for the Santa Monica Mountains National Recreation Area; and

"Whereas, Reduced funding for the Santa Monica Mountains National Recreation Area will jeopardize the availability of state and local grants pursuant to subsection (n) of Section 507 of the National Park and Recreation Act of 1978. and thereby cripple the effectiveness of the unique grant program component for the recreation area and thus destroy the ability of the local, state, and federal intergovernmental partnership to collectively carry out the objectives for the recreation area; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to restore, as soon as possible, the full appropriation to properly fund the uninterrupted acquisition of land and timely development of the Santa Monica Mountains National Recreation Area according to the original federal authorization; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Interior."

POM-823. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"House Concurrent Resolution No. 127

"Whereas, the site of the Gumm Springs Recreation Area in the Kisatchie National Forest west of Winnfield, Louisiana, is an excellent location for the construction of a federal park for camping, swimming, and recreation; and

"Whereas, the United States Government has jurisdiction over the said Kisatchie National Forest; and

"Whereas, there is a great need for such a park in central Louisiana; and

"Whereas, people from all of the United States would be well served by the construction of such a park.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the members of the Louisiana Legislature hereby urge and request the United States Congress to construct a United States national park for camping, swimming, and recreation at the Gumm Springs Recreation Area in the Kisatchie National Forest, located west of Winnfield, Louisiana.

"Be it further resolved that copies of this Resolution be transmitted to the speaker of the United States House of Representatives, the president of the United States Senate, and the members of the Louisiana congressional delegation."

POM-824. A memorial adopted by the Legislature of the State of Florida; to the Committee on the Judiciary:

"Senate Memorial No. 1348

"Whereas, the Federal Government controls the immigration policies of this nation and polices the nation's immigration laws, and

"Whereas, President Carter has adopted an 'open arms, open heart' policy toward the Cubans, and

"Whereas, Florida received 3,000-4,000 Cubans per month during 1965-1966 as a result of the United States' airlift, and Florida citizens and taxpayers have graciously accepted the burden of assisting these people in finding employment and housing, and

"Whereas, it is reported that in recent months over 10,000 Haitians have entered Florida, that in the 13 days preceding May 7, 1980, over 19,131 Cubans have entered Florida, that currently over 2,000 Cubans are entering Florida daily, and that it is estimated that at the current rate the total number of Cubans entering Florida could exceed one million, and

"Whereas, this influx of Cuban and Haitian refugees is an international problem and the relocation of these refugees is a national problem, and

"Whereas, the President has authorized $10 million in federal funds to help the state and local governments of Florida defray the extraordinary costs incurred as a result of the Cuban refugee influx, but no federal funds have been authorized for the Haitian refugees or for such programs as welfare, hospitalization, housing, and medical treatment, and

"Whereas, the housing supply in South Florida has been exhausted and the extremely overcrowded conditions are imposing a severe burden on the public utilities and other agencies which provide public services, and

"Whereas, the people of Florida have great compassion for those who are suffering under Communist rule and other oppressive governments, and who are denied their personal liberties, and

"Whereas, the people of Florida heartily endorse the President's policy, but feel that all states in the United States should be given an opportunity to participate in the "open arms, open heart" welcome, now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That the Legislature of the State of Florida does hereby make application to the President of the United States and Congress to take immediate action to relocate the refugees throughout the United States.

"Be it further resolved that a copy of this memorial be transmitted to the President of the United States, the presiding officers of the Senate and the House of Representatives of Congress and the members of the Florida Congressional delegation."

POM–825. A memorial adopted by the Legislature of the State of Florida; to the Committee on the Judiciary:

"Senate Memorial No. 17–E

"Whereas, matters relating to immigration and nationality are entirely matters of federal law, and

"Whereas, it has been estimated that 140,000 Cuban and Haitian refugees will have arrived in the United States during the first 8 months of 1980, and

"Whereas, it has been estimated that 60 percent of these refugees will become residents of the State of Florida, and

"Whereas, it has been estimated that at least one-third of these refugees will receive some form of public assistance, and

"Whereas, the Federal Government provides 50 percent of the funding for public assistance normally given and 75 percent of the funding for public assistance not normally given, and

"Whereas, the decision of the Federal Government to allow this influx of refugees places an undue burden on the people of the State of Florida, and

"Whereas, if the people of Florida attempt to meet this burden without outside assistance, all Floridians will suffer a diminution of essential services, and

"Whereas, the people of the State of Florida believe that a government that places a burden on another government should also provide a means for meeting that burden, now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That the Legislature of the State of Florida requests the Congress and President of the United States to take all actions necessary to provide 100 percent federal funding for all public assistance granted to persons who during 1980 left Cuba or Haiti to become residents of the United States.

"Be it further resolved that a copy of this memorial be transmitted to the presiding officers of the United States Senate and the United States House of Representatives, to each member of the Florida Congressional delegation, and to the President of the United States."

POM–826. A resolution adopted by the Senate of the State of Michigan; to the Committee on Finance:

"Senate Resolution No. 676

"Whereas, Prisoners receiving Social Security benefits demonstrate a gross misuse of the Social Security trust fund; and

"Whereas, American taxpayers are already paying approximately $4.4 billion to maintain correctional facilities which house, feed, and clothe more than 400,000 prisoners; and

"Whereas, It is unreasonable to expect the American taxpayer to bear an additional estimated $22 million to $60 million in tax-free federal benefit payments to some 30,000 prisoners across our nation; and

"Whereas, Our Social Security system is on the brink of financial disaster and yet Social Security field representatives are visiting our prisons, actively seeking convicts who might qualify for Social Security benefits; and

"Whereas, The magnitude of these Social Security benefit abuses will be more fully disclosed in a General Accounting Office report to be released in July of 1980; and

"Whereas, Congress is currently debating legislation (H.R. 5610) that would cut off the payment of Social Security disability benefits to prisoners; now, therefore, be it

"Resolved by the Senate, That the Michigan Senate memorialize the Congress of the United States to amend H.R. 5610 to establish a procedure which would allow each state to notify the Social Security Administration of the name, Social Security number, and daily incarceration costs of those persons in the state's correctional facilities; to require the Social Security Administration to deduct the monthly cost of incarceration from grants or portions of grants inuring solely to the benefit of such prisoners; and to remit these deductions directly to each state; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan Delegation to the Congress of the United States."

POM–827. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Governmental Affairs:

"House Joint Resolution 2

"Whereas, It is one of the ironies of American history that our generation, so vociferously vocal in its insistence upon certain constitutional rights and civil liberties, has been singularly neglectful of the veritable capstone of the bill of rights, the all but forgotten Tenth Amendment to the Constitution of the United States, which, boldy and without equivocation, proclaims: 'The powers not delegated to the United States or prohibited by it to the States, are reserved to the States respectively, or to the people"; and

"Whereas, Despite the clear and ringing language of the Constitution with respect to reserved powers, we are witnessing a steady encroachment of the arbitrary power of the federal bureaucracy and a concomitant erosion of State and local autonomy; and

"Whereas, Certain municipalities in the State of Illinois have been denied federal funds to which they are lawfully entitled by the capricious and unwarranted action of certain federal agencies, including the Economic Development Administration and the Department of Housing and Urban Development, which, completely oblivious to the true and original meaning of federalism, have, arbitrarily insisted that each community, instead of being allowed to develop in its own distinctive way according to the aspirations and traditions of its citizenry, must become a microcosm of society at large; therefore, be it

"Resolved, by the House of Representatives of the Eighty-First General Assembly of the State of Illinois, the Senate concurring herein, that we vigorously protest against the arbitrary and unwarranted action of federal agencies, particularly with respect to their discrimination against Illinois municipalities in the granting and withholding of federal funds; that we call for a return to the original concept of federalism; and that we strenuously urge the President and the Congress of the United States of America to use their utmost efforts to curb the broad and unwarranted authority of bureaucratic federal agencies so that they may no longer with impunity infringe upon those powers reserved to the States and to the people; and be it further

"Resolved, That a copy of this resolution be transmitted by the Secretary of State to the President of the United States, to the presiding officers of the Senate and House of Representatives of the Congress of the United States, and to each United States Senator and Congressman from the State of Illinois."

POM–828. A resolution adopted by the Knights of Columbus, Sarasota, Fla.; urging the Federal Communications Commission to rescind its notice of "Inquiry and Proposed Rulemaking" (bearing B C Docket No. 79–219) or to hold field hearings throughout the country during a reasonable time for receiving public comments on its proposal; to the Committee on Commerce, Science, and Transportation.

POM–829. A resolution adopted by the Board of Directors of the San Diego Building Contractors Association, San Diego, Calif., relating to Federal spending and other matters; to the Committee on Governmental Affairs.

POM–830. A resolution adopted by the National Rifle Association, relating to rights of firearms possession, ownership, and use for lawful purposes, including self-preservation and defense, sporting and hunting; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment and an amendment to the title:

S. 2649. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes (Rept. No. 96–876).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, but with a preamble:

S. Res. 491. A resolution to designate October 11, 1980 as "National Jogging Day."

By Mr. ROBERT C. BYRD (for Mr. Kennedy), from the Committee on the Judiciary, with amendments:

S. 453. A bill for the relief of Joe L. Frazier (Rept. No. 96–877).

By Mr CULVER, from the Committee on the Judiciary, with an amendment:

S. 299. A bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes (Rept. No. 96–878).

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment, but with a preamble:

S. Res. 381. A resolution relating to the commemoration of the bicentennial of the Senate of the United States.

By Mr. DOMENICI, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 2412. A bill to amend the Resource Conservation and Recovery Act to further encourage the use of recycled oil (Rept. No. 96–879).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Earl Ben Gilliam, of California, to be U.S. District Judge for the Southern District of California.

By Mr. EXON, from the Committee on Armed Services:

Jack R. Borsting, of California, to be an Assistant Secretary of Defense.

(The above nomination from the Committee on Armed Services was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. EXON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. Joseph Key Bratton, U.S. Army, to be lieutenant general as Chief of Engineers, Lt. Gen. William Burns Caldwell, III (age 54) Army of the United States, to be lieutenant general on the retired list, Lt. Gen. Robert Jacob Baer (age 55) Army of the United States, to be lieutenant general on the retired list; Vice Adm. Joseph P. Moorer, U.S. Navy (age 57) for appointment to the grade of vice admiral on the retired list; and, in the Air Force, Maj. Gen. Walter D. Druen, Jr., U.S. Air Force, to be lieutenant general, Brig. Gen. Thomas B. Bruton, U.S. Air Force, for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force, and Lt. Gen. Devol Brett, U.S. Air Force, (age 56) for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. EXON. In addition, Mr. President, in the Reserve of the Army, there are 536 appointments/promotions to the grade of colonel and lieutenant colonel (list beginning with James A. Anderson); Lt. Comdr. William J. Phillips, Jr., U.S. Navy, for appointment of commander while serving as leader of the U.S. Navy Band, in the U.S. Navy and Reserve of the Navy, there are 33 temporary/permanent appointments/reappointments to the grade of commander and below (list beginning with Janie L. Mines), in the Navy, there are 2,454 permanent promotions to the grade of lieutenant (list beginning with Lloyd V. Abel); in the Marine Corps, there are 1,822 temporary/permanent appointments/reappointments to the grade of lieutenant colonel and below (list beginning with Charles N. Adams); in the Regular Air Force and Reserve of the Air Force, there are 47 appointments / reappointments / promotions to the grade of colonel and below (list beginning with Garbeth S. Graham), and, in the Reserve of the Air Force, there are 56 promotions to the grade of lieutenant colonel (list beginning with Bobby D. Ashworth). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on June 27 and July 1, 1980, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EAGLETON (for himself, Mr. Roth, Mr. Baucus, Mr. Moynihan, Mr. Hatfield, and Mr. Harry F. Byrd, Jr.):

S. 2993. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of government in the United States and of restoring public confidence in government at all levels to the Committee on Governmental Affairs.

By Mr. DeCONCINI:

S. 2994. A bill to confer jurisdiction on the United States Court of Claims with respect to certain claims of the Navajo Indian Tribe; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. Chiles, Mr. Dole, Mr. Nunn, Mr. Eagleton, Mr. Matsunaga, Mr. Bumpers, Mr. Pryor, Mr. Johnston, Mr. Long, Mr. Tower, Mr. Jepsen, Mr. Sasser, Mr. Domenici, and Mr. Cochran):

S. 2995. A bill to allow the transfer of certain funds to fund the heat crisis program; considered and passed.

By Mr. HEINZ:

S. 2996. A bill to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments; to the Committee on Finance.

By Mr. CHAFEE:

S. 2997. A bill to amend the Federal Unemployment Tax Act to provide for a cap on the increase in the Federal unemployment tax in the case of States meeting certain requirements; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. Harry F. Byrd, Jr., Mr. Bentsen, Mr. Wallop, Mr. Moynihan, Mr. Durenberger, Mr. Culver, and Mr. Stewart):

S. 2998. A bill to amend the Internal Revenue Code of 1954 to promote capital investment in small business, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself, Mr. Roth, Mr. Baucus, Mr. Moynihan, Mr. Hatfield, and Mr. Harry F. Byrd, Jr.):

S. 2993. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of government in the United States and of restoring public confidence in government at all levels; to the Committee on Governmental Affairs.

COMMISSION ON MORE EFFECTIVE GOVERNMENT

Mr. EAGLETON. Mr. President, one of the most disturbing developments of recent years has been the growing disaffection of Americans from the Federal Government. Anyone who has run for Federal office knows that the people of their State feel Washington taxes too much, spends too much, regulates too much—and accomplishes too little in return. Anyone who has been elected to Federal office—and who pays attention to what the public writes and says to them—knows that the public expects them to work consistently and creatively to change things for the better.

To some extent, this tension between the Federal Government and the rest of the country is inevitable. In a reaction against the tyranny of England, the Founding Fathers envisioned a system by which the central government would be comparatively weak. For reasons familiar to all of us, that arrangement has been progressively altered over the years, as the complexities of industrial society steadily demanded the involvement of the Federal Government and the uniformity of Federal law in more and more areas previously reserved to the States. And even today, along with the growing dismay about the Federal Government, there remains a strong national consensus that the Federal Government must administer a social security system; that the Federal Government should help subsidize mass transit programs; that the Federal Government should implement and enforce laws to preserve our air and water, and be active in other vital aspects of our society.

Pollsters have long remarked on the public ambivalence toward Government: On the one hand, the public agrees overwhelmingly that the Federal Government has grown too large and intrusive; and yet, the public supports, expects, and even demands continued involvement of the Federal Government—and a level of services—in so many areas that the size of the Government will stay substantial.

I think this seeming contradiction can be explained. I have often stated my view that the American people are not opposed to "big Government," as much as they are opposed to big Government which is stupid, incompetent, or inefficient. They are opposed to Government which has grown like topsy to produce programs, rules and regulations which are often overlapping, inconsistent, or incomprehensible. They support the objectives for which new agencies were created in the past decade, but cannot believe that we needed all those agencies to achieve the objectives, or that we have always successfully balanced the benefits to be attained from those agencies against the costs. More important, there is a justified sense that the Federal Government is just not working well; that too many programs and agencies have been added piecemeal, without a clear sense of how the pieces fit together. Too often individuals and groups in our society find themselves caught bewildered between Federal legislation, Federal regulations and Federal court decisions, each pulling in a different direction.

Today, I am joining with Senators Roth, Baucus, Moynihan, Hatfield, and Harry F. Byrd, Jr. to introduce a bill to establish a blue-ribbon Presidential commission to study the structure and organization of the Federal Government and to recommend changes which will improve and streamline the operation of the Government to better cope with the problems of the coming decades. This legislation was originally proposed by my distinguished colleague from Missouri, Representative RICHARD BOLLING, on January 31, 1980. It also carries forward the objective long championed by Senator ROTH to create a citizens' commission to study the structure of Government. The commission membership would be bipartisan and drawn from a variety of backgrounds. To further broaden its base of knowledge, the commission would tap a full spectrum of experts in management structure and operations—particularly those in the private sector. The commission would be charged with addressing two major issues: First, the proper division of authority and responsibility among the various components of the Federal Government and second, the proper division of responsibilities and resources between the Federal Government and government at the State and local levels.

Let me offer just two examples of the concerns which prompt this proposal: First, since 1970, Congress has created a variety of new Federal agencies, mostly to protect public health and safety. Many of these have overlapping responsibilities, which complicates the task of developing a coherent policy. When a crucial issue, such as controlling carcinogens in the environment, comes to the fore, the Federal Government cannot develop an effective, consistent approach without time-consuming battles between seven or eight agencies. Each of these agencies has a different constituency, set of priorities and approach to the carcinogen problem.

The difficulty of achieving a unified strategy is further compounded by the fact that some of the affected agencies are headed by a single administrator who serves at the pleasure of the President, while others are multimember independent commissions. This difference in structure means that, even if a policy were to emerge which would satisfy most of the agencies and the President, the independent agencies might successfully balk at implementing it, since the scope of the President's legal authority over them is not fully defined.

Second. In the past 15 or 20 years, Congress has enacted countless pieces of legislation, the purpose of which is to deliver Federal money to States and localities. The purposes of these programs have been thwarted by a maze of redtape, and a bewildering and contradictory array of formulas, delivery systems, triggers, administrative procedures, et cetera. The localities usually find that an extraordinary number of hurdles and piles of paperwork stands between them and the funds which are supposedly available to them. For instance, it took one small town in West Virginia 7 years, dealing with five Federal agencies—and $1.7 million—to meet the requirements for a sewer collection and treatment system.

These are but two examples of the many instances in which flaws in present structure of Government may justify public skepticism. It is my hope that the Commission we propose would recommend comprehensive and creative solutions to the problems which now frustrate achievement of the leaner, more efficient, and more effective Federal Government we so clearly need.

I recognize that the public is often skeptical of proposals to submit important issues to expert commissions. I believe that the legislative process is adequate to shed light on and suggest answers to many serious issues. If we establish a commission of the sort we are proposing today, it is inevitable that Congress will consider issues relating to Government structure and organization even as the Commission conducts its study. The press of events—economic and otherwise—sometimes makes such action unavoidable. However, just as it would be a mistake to stand idle, pending a detailed independent reexamination of the Federal Government, so too, would it be a mistake to proceed without one. I envision the commission stepping back from the narrow focus often used to decide pressing policy questions and doing a searching, broad analysis—one which looks at the structure and organization of the Federal Government, how it has evolved to this point and what changes are needed. This necessitates a comprehensive study, outside of the ordinary political process. Proceeding piecemeal has produced the Federal Government as we now know it. Responding piecemeal will not solve the problems.

I hope that legislation we introduce today will receive serious consideration at timely hearings. In particular, it will be most useful to receive testimony on the accomplishments of the first and second Hoover Commission from which our proposal today draws some of its inspiration. The Hoover Commissions—particularly the first Commission, which met in the late 1940's—generally receive credit from both the popular press and scholarly studies for lasting contributions to the cause of governmental efficiency.

As I noted above, this legislation owes its principal debt of gratitude to Congressman BOLLING. I know of no person in American public life whose analysis of the Federal Government, both the executive and Congress, is more thoughtful and incisive than DICK BOLLING's. Typically, in his commission proposal, he has both articulated a serious problem and proposed a serious solution.

Mr. President, I believe that the current disaffection with the Federal Government reflects a dilemma confronting all industrial democracies: How to have a Federal Government strong enough to play a useful role in grappling with the problems of modern society, yet sensitive enough to avoid stifling the individual and economic freedom essential to our society. We need to take a comprehensive look at the Federal Government to see what changes are needed in order to strike this balance. I believe that a commission such as the one proposed here can help accomplish that job.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

SECTION 1. It is the policy of the Congress to develop a blueprint for better government in the United States, to set in motion processes by which the Federal Government can more effectively and responsively serve the people for whom it was created and can more rationally meet its present and future challenges, both national and international, and to encourage and justify the full restoration of public confidence in government at all levels.

ESTABLISHMENT OF COMMISSION

SEC. 2. For the purpose of carrying out the policy set forth in section 1, there is hereby established a commission to be known as the Commission on More Effective Government (in this Act referred to as the "Commission").

IMPLEMENTATION OF POLICY BY COMMISSION

SEC. 3. (a) In carrying out the policy set forth in section 1, the Commission shall consider and study—

(1) the organization, operation, and functioning of the Federal Government in all of its aspects and in the face of all foreseeable situations and needs, giving particular attention to the extent to which the Government under its present programs and institutions and its presently established patterns of action is failing to cope with such situations or effectively meet such needs, or is incapable of meeting or unprepared to meet the demands and challenges which have arisen or may arise therefrom; and

(2) the nature and extent of the total governmental contribution to American society and to individual Americans which is being made by the Federal Government, by State governments, and by local governments, respectively, the nature and extent of the specific contribution being made by each, and the relationships between all such governments in the process of making such contributions, giving particular attention to the extent to which such contributions would be greater or would be more efficiently made if they were differently distributed among the various governments involved or if the relationships between such governments were differently structured.

(b) On the basis of its consideration and study under subsection (a)(1), the Commission shall recommend ways of promoting economy, efficiency, and improved service in the transaction of the public business, in all of the departments, agencies, establishments, and instrumentalities of the executive branch of the Government, by defining and limiting executive functions, activities, and services, eliminating those which are duplicative or overlapping, consolidating those of a similar nature, and abolishing those not necessary to the efficient conduct of government, all with a view to carrying out the policy set forth in section 1 in as effective and expeditious a manner as is possible.

(c) On the basis of its consideration and study under subsection (a)(2), the Commission shall recommend ways of improving the relationships between the Federal Government and the various State and local governments and the distribution of governmental functions, activities, and services among them, including specific proposals for changes in Federal laws, regulations, and administrative practices along with suggestions for actions to be taken by State and local governments (and for methods of encouraging such governments to take the suggested actions), all with a view to maximizing the contributions made, individually and collectively, by the governments involved.

ORGANIZATION OF THE COMMISSION

SEC. 4. (a) The Commission shall be composed of eighteen members as follows:

(1) Six appointed by the President of the United States, three from the executive branch, and three from private life.

(2) Six appointed by the Speaker of the House of Representatives, three from the House of Representatives, and three from private life.

(3) Six appointed by the Senate Majority Leader, three from the Senate, and three from private life.

Members of the Commission shall to the maximum extent possible be chosen from among persons who have particular knowledge and expertise in the major areas of the Commission's consideration and study, but persons with a broad general knowledge and understanding of America, its history, and its problems shall be preferred over those whose knowledge and experience in the areas involved is excessively specialized.

(b)(1) Of the three members appointed by the President from private life under subsection (a)(1), one shall be from the major political party which is not the party of the President and two shall be individuals not affiliated with any political party.

(2) Of the three members appointed from the House of Representatives under subsection (a)(2), two shall be from the political party which is the majority party in the House and one shall be from the other major political party; and of the three members appointed from private life under such subsection, one shall be from the political party which is the minority party in the House and two shall be individuals not affiliated with any political party.

(3) Of the three members appointed from the Senate under subsection (a)(3), two shall be from the political party which is the major party in the Senate and one shall be from the other major political party; and of the three members appointed from private life under such subsection, one shall be from the political party which is the minority party in the Senate and two shall be individuals not affiliated with any political party.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members, and shall adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, its organization, and its personnel.

(d) Ten members of the Commission shall constitute a quorum.

(e) Any vacancy in the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) An individual who is appointed to the Commission in the status of a Member of Congress or in the status of a person in the executive branch of the Government, and who thereafter ceases to have such status, shall nevertheless continue as a member of the Commission and shall (if he has returned to private life except for his membership on the Commission) be treated as an individual appointed from private life for purposes of compensation under section 5.

COMPENSATION OF COMMISSION MEMBERS

SEC. 5. (a) The members of the Commission who are Members of Congress or who are in the executive branch of the Government shall serve on the Commission without any compensation in addition to that received for their services as Members of Congress or in the executive branch. The members of the Commission from private life shall each be paid compensation at a rate equal to the rate of basic pay in effect for level III of the Executive Schedule when engaged in the performance of the duties vested in the Commission.

(b) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

COMMISSION STAFF

SEC. 6. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable to assist in the performance of its duties, without regard to the civil service laws and without regard to the provisions of title 5 of the United States Code (or of any other law) relating to the number, classification, or compensation of employees. The Commission may also procure, without regard to the civil service laws and such title 5, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(b) Service of an individual as a member of the Commission (or of an advisory council or committee under section 7) or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States.

ADVISORY COUNCILS AND COMMITTEES

SEC. 7. The Commission may establish (without regard to the Federal Advisory Committee Act) such advisory councils and advisory committees as it may deem appropriate to provide specialized assistance in the performance of the duties vested in the Commission by this Act. Members of such advisory councils and committees, while attending meetings of such councils or committees or while otherwise serving at the request of the Commission away from their homes or regular places of business (unless otherwise eligible for travel and subsistence expenses under chapter 57 of title 5, United States Code), may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

POWERS OF THE COMMISSION

SEC. 8. (a) The Commission or any member authorized by the Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Commission or such member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(b) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Government such information, suggestions, estimates, and statistics as the Commission may require for the purpose of this Act; and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this Act.

(d) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) No officer or agency of the United States shall have the authority to impose any restriction upon the Commission with respect to the scope, direction, or conduct of its activities, or to require that the Commission submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to the Congress.

REPORT; EXPIRATION

SEC. 9. (a) The Commission shall from time to time submit to the Congress such reports as it may deem appropriate with respect to its activities under this Act. Within ten days after the Ninety-eighth Congress is convened and organized, the Commission shall submit to the Congress its final report with respect to such activities, including all of its findings and recommendations.

(b) Ninety days after the submission to the Congress of its final report under subsection (a), the Commission shall cease to exist.

EXPENSES OF THE COMMISSION

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

● **Mr. ROTH.** Mr. President, we are all very concerned at the direction our Nation will follow throughout the new decade of the eighties. We are facing serious problems as a people which will require strong and effective leadership and a consistent, well constructed set of ideas and policies to guide our efforts. If we set our goals and develop our resources with careful foresight, I believe that we will emerge from the challenges of this decade stronger as a nation than ever before.

To help us cope with developments in this rapidly changing world, however, we must have an effective and coherent set of principles and, most importantly, a governmental structure capable of guiding our Nation's evolution. In my view, there is no task more pressing than to improve the quality and effectiveness of Federal, as well as State and local, service to the American public. We simply can no longer afford to tolerate a Government which is expensive, wasteful, and incapable of balancing the many competing and diverse needs of our society. The American people must have confidence in their Government and its direction. Without that confidence, we stand less chance of making the adjustments and adopting the new ideas and policies we must to cope with the future.

Unfortunately, as we are all too aware, the citizens of our Nation have steadily lost their confidence in Government at all levels. The Advisory Commission on Intergovernmental Relations recently completed its annual survey on citizen attitudes toward government and its findings report, in startling clarity, the extent of public dissatisfaction with government. The Commission found, for example, that almost 40 percent of those surveyed felt the Federal Government has too much power. A plurality of those contacted believed that State and local governments are too fragmented and disorganized to be effective. Even more revealing, for the first time since 1972, the Commission found that the Federal Government was rated far less effective than local governments in "giving people the most for their money."

Mr. President, I believe the American people do want their government, at all levels, to be active, but they also want an effective and efficient leadership capable of identifying the really pressing issues and formulating coherent policies. It is evident to me that the Government has tried to be all things to all people. It has begun to perform functions that are not Caesar's and as a consequence, it has begun to neglect Caesar's primary and important duties. Government is so involved in every conceivable issue that the urgent has begun to displace the necessary and important. We need to reshape our Government and make it manageable as well as more capable of performing its necessary functions.

For these reasons, Mr. President, I am today introducing, with Mr. EAGLETON, a bill to establish an 18-member commission on more effective Government modeled, to some degree, after the two successful Hoover Commissions of the 1950's. The legislation will provide the commission with the tools it needs to study government at all levels and propose effective and I hope fundamental reforms in the governmental process. Similar legislation has already been introduced in the House by Congressman RICHARD BOLLING and it is cosponsored by well over 160 House Members.

This proposal for a Hoover-style commission is one that I have made on several prior occasions. As a Member of the House of Representatives in 1968, I suggested a comprehensive reorganization and simplification effort under the direction of a 10-member commission. One hundred and four House Members joined me as cosponsors of that bill. Several years later, in the Senate, I again initiated a proposal for a major and comprehensive examination structure as part of our effort to reform Federal spending. The same basic approach was included in S. 2925—the Government Economy and Spending Reform Act of 1976—which became known as the Sunset bill. The Sunset bill was reintroduced this year as S. 2 and has 74 cosponsors. Title III of that bill again provides for a commission to study Government structure and functions.

Mr. President, I believe the commission proposed by the bill introduced today by Senator EAGLETON and myself must be made a first priority of the Congress. I believe we need a guide or blueprint to help us reorganize and improve our Government. We have given the President broad authority to reorganize the Government agencies and redirect Government policies. While this authority is important, I do not feel it provides the necessary tools we need to revitalize Government. By their nature, reorganization plans concentrate on specific, often narrow policy and program areas. Broad overviews of the effectiveness of national policies are not possible through the reorganization process because it is designed largely to deal with management or administrative issues and problems. Further, reorganization plans seldom reflect broad public support and strong interest by Members of Congress. Often, such plans fall victim to the vested interests that private and professional interest groups have in existing policies and agency arrangements.

Ultimately, the true champion of reform and reorganization must be the American public in cooperation with both the President and the Congress. Unless there is a solid and recognized commitment by both Congress and the President with strong public backing, the various interest groups can play "reorganization roulette" and offset the intentions of one branch of Government by the actions of another branch. There must be a recognized political imperative to move in the direction of changing our Government in order to overcome the inertia and resistance of the existing chaos. The public mandate must outweigh the preference for inaction or muted reform.

This is why a commission, such as we propose in this bill, is so important. A commission which is jointly established by Congress and the President, and which has half of its members recruited from the general public, would embody a joint committee and joint dedication to reform. It would transform public support and anticipation for reform into a practical mandate for the findings and the final blueprint of the commission. The commission would be in a position to sustain public support for an overhaul of Government structure and objectives by enhancing reform proposals with political balance, objectivity and independence. The opportunity for significant and lasting reforms which presents itself today is one that should be used to the best possible advantage for the lasting improvement of Government at all levels.

Mr. President, there has not been a Government-wide nor intergovernmental examination of Government operation and structure for almost 30 years. A Government which was complex and in need of reform in 1950 is now considerably larger and more complicated but still in need of reform. Some things do not change.

The Federal budget has grown from $45 billion in 1950 to a possible $600 billion or more in the current fiscal year. State and local governments spent a combined total of just over $20 billion in 1950 while they will spend over $350 billion in 1980. In an area in which I am particularly familiar, Federal assistance to State-local governments amounted to only $2.2 billion in 1950 and is projected to reach a level of over $90 billion in the 1981 fiscal year. In terms of sheer size, the problems and complexities of government have been compounded dramatically over the last three decades.

There are even more startling indicators of these dramatic changes. For instance, between the years 1930 and 1939, 149 new Government agencies at the Federal level were created. Only 53 of those agencies were created by the Congress. The rest appeared through executive action of some type or another. By contrast, only 67 existing agencies terminated during that same time period. In the decade of the seventies, 430 new agencies sprang to life, a threefold increase in agency births over the previous decade. Two hundred and sixty-five of those agencies were created by statute and during the same time period only 157 existing agencies were eliminated. Altogether, during the entire nearly half century from 1930 to 1978, 1,307 new agencies were born and only 550 were eliminated. The growth in Government is more than an illusion and it has greatly constrained Government's ability to lead our Nation.

We need another comprehensive review of our system of government. The commission we propose today, like the Hoover Commissions, can provide us with the mechanism to make that review and give us, I believe, a good return on our investment. The first Hoover Commission, for example, established by President Truman, served from 1947 to 1949. It made 273 recommendations to reorder the structure of Government. Seventy-two percent of its recommendations (196) were eventually adopted. There have been estimates that the adoption of these recommendations has saved the taxpayers as much as $5 billion annually.

The second Hoover Commission was established by President Eisenhower and served from 1953 to 1955. It made 314 recommendations and of these 200 or 64 percent were adopted. These improvements have saved the taxpayers an estimated $4 billion a year. The two Hoover Commissions together cost less than $5 million.

I do not want to leave the impression that the commission we are seeking will be only charged with streamlining and reorganizing Government operations. I believe the commission should and does have a far broader mandate. It should review not only the structure but also the substance of government. It should ask fundamental questions such as which level of government should have primary responsibility for a given policy? What is the President's role in directing Federal policies and managing programs? How should Congress restructure itself to reflect changing requirements? How do we establish meshanisms to reconcile the many conflicting national policies? Is the typical agency structure in need of change?

We need, in other words, to fundamentally rethink our attitude toward Government and how it should function in and with our modern day society and economy. I believe the bill Senator EAGLETON and I introduce today can help us rethink our assumptions and, in the final analysis, make Government work better and more effectively in a rapidly changing world.

I would like to take this opportunity to commend Senator EAGLETON for his leadership on this proposal. I am certain with his strong support and that of Congressman BOLLING, we will see the enactment of the legislation in the near future. I know the Senator shares with me my concern about the direction and operation of government at all levels and I sincerely compliment him for his efforts in this area.●

● Mr. HATFIELD. Mr. President, I am delighted to join my colleagues in the introduction of legislation that would establish a bipartisan, independent commission to study proposals for more effective government.

At this point in our Nation's history we are in critical need of a comprehensive approach to governmental reform. The problems facing our institutions have been exacerbated by ad hoc solutions that have taken into consideration only short-term factors. We suffer from a lack of visionary leadership that looks beyond the present to incorporate history, experience and the future in seeking answers to our problems.

Moreover, we have been tempted to provided a quick fix to problems that deserve careful deliberation. Such thoughtless activity has only complicated the task of comprehensive reform and is a disservice to our Nation.

Narrow and parochial interests have pressured political representatives into responding to their demands by providing services that cater to only a small sector of our population. Thrust together in a mishmash of contradictory goals, these programs have overburdened our Government and alienated citizens who seek justice and equity from the system. Neither the ad hoc, nor the quick fix, nor specially targeted solutions are sufficient to respond properly to the current malaise in our Government.

Because our needs are interrelated, our response must be comprehensive. We must address the fact that at present the bureaucracy is designed to foster conflict. One agency defends the environment while another pushes industrial growth. One seeks to spur energy production, another seeks energy conservation. Social needs are pitted against budget ceilings and different agencies reflect different attitudes about the role of Government. We seek the Government's protection, then object to the Government's intrusion into our lives. We call for law and order, then challenge the Government's restriction of freedoms.

I do not believe these interests must always be in conflict. As long as the institutions, programs and policies which embody these various interests are developed and administered in a cohesive, comprehensive fashion, they can be balanced. Unfortunately, our existing structures are not the result of such careful coordination.

For a number of reasons, those of us currently in the structures of power are handicapped in our ability to take a long-term perspective on these issues. The pressures of the electoral process require that we be able to give the constituency tangible evidence of our effectiveness every 2, 4, or 6 years. We also are faced with urgent problems that appear to require instant solutions. We often feel that there is no time available to concern ourselves with the larger picture. The rise in the influence of single issue interest groups has hurt our ability to act on behalf of the whole body politic. Finally, we in the halls of official Washington are aware of our inability to manipulate or affect more than a small segment of the entire government. As a result, we sometimes fail to try. We settle for tinkering rather than revamping.

For these reasons I am convinced of the need for a commission, modeled after the Hoover Commissions of the 1950's, to study ways to achieve a more effective Government. It is needed for many of the same reasons that the two Hoover Commissions were needed and because of the fact that they represented a successful response to the needs of those times.

We need men and women of stature—like the former President—to restate for us our purposes and goals. President Hoover was highly respected. He knew the subject of his study. He was committed to his country and he commanded the respect of the Nation when he spoke about its needs and its potential.

We need men and women of experience—like the former President—who understand the inner workings of Government and who can identify problems and suggest reforms. Herbert Hoover served in numerous capacities throughout the Government before and after his tenure in the White House. There was no better choice of an individual to head what became known as the Hoover Commission. Likewise, we must seek out experienced individuals to examine our present situation.

We need men and women of ability—like the former President—as well. Hoover exhibited unmatched ability to respond creatively to human needs during times of war and peace. Although his approach to economic problems earned him an unjustified reputation as a standpat conservative, his record of success in other areas of famine relief, war preparation and Government reorganization speak for themselves.

Most of all, we need men and women to serve on the Commission who—like the former President—are unencumbered by loyalty to any interest except that of the public as a whole. The individuals must speak forthrightly and bravely, rejecting the labels and slogans of the past.

I am convinced that a bipartisan, independent study of the role of the Federal Government, its agencies, and its relationship to smaller units of government, will be extremely useful. The track record of the Hoover Commissions proves that a commission's recommendations can be implemented.

Moreover, ideas for changes exist. I, myself, am the sponsor of two proposals for major reform of our institutions. My Neighborhood Government Act would restructure the balance of power between Federal, State, and local governments. It would return political power, and the administration of Government services, to the levels of government closest to individual citizens. My simpliform tax bill would simplify the tax code and put an end to what is perceived as a complex and unfair system of taxation.

These types of reforms need to be brought to our attention. Only an independent body of dedicated citizens making a comprehensive examination of our governmental processes can do this task. Therefore, I am delighted to share in the effort to establish a Commission on More Effective Government.●

By Mr. DECONCINI:

S. 2994. A bill to confer jurisdiction on the U.S. Court of Claims with respect to certain claims of the Navajo Indian Tribe; to the Committee on the Judiciary.

● Mr. DECONCINI. Mr. President, the proposed legislation that I am introducing will require the U.S. Court of Claims to hear the merits of a group of claims against the United States filed in 1950 by the Navajo Tribe. These claims were filed pursuant to the Indian Claims Commission Act of 1946, alleging that the United States breached its legal and treaty obligations, as well as its general responsibility to deal fairly and honorably with the Navajo Tribe. The Navajo claims include allegations of mismanagement of tribal resources and specific breaches of the treaty. Jurisdiction over the claims was accepted when they were filed in 1950, reaffirmed by the Indian Claims Commission in 1975 and at the trial level of the Court of Claims in 1978, following their transfer to that court under Public Law 95-69. Ultimately, the claims were dismissed on a further appeal by the Government, without reaching trial on the merits, when the Court of Claims in May 1979, decided on purely technical grounds that its jurisdiction was barred.

The technical dismissal was based on the purported withdrawal in 1969 of seven claims by a former claims attorney for the tribe. Even if the withdrawal occurred its validity is questionable because neither the Navajo Tribal Council nor the Secretary of the Interior approved it, which was a requirement in the claims attorney contract.

The Indian Claims Commission in 1975 permitted the seven claims to be put back in the petition by the present claims counsel because the factual allegations "which were the substance of those claims" had never been withdrawn. After the case was transferred to the Court of Claims, the trial judge to whom it was referred upheld the action by the Commission.

However, on June 13, 1979, the Court of Claims overturned the two previous decisions and held that the tribe was bound by its former counsel's "voluntary dismissal" of the seven claims 10 years previously.

The primary purpose of the Indian Claims Commission Act was to provide a forum where old claims by Indian tribes could be heard on their merits without regard to technical legal restrictions or jurisdiction. The Department of the Interior in recommending passage of the act urged that if those claims were ever to be put to rest, the act must confer jurisdiction broad enough to avoid the "lack of finally attending dismissal of a case by the Court of Claims on technical legal grounds without consideration of the claim on its merit." The Department therefore urged passage of the act to "overcome the defect in the present system under which many of the claims of the Indians are precluded from a hearing on the merits, on technical legal grounds, even though the claims may be such as would challenge the conscience of a court of equity."

The Navajo Tribe was forced to wait nearly 100 years to present its claims to the Indian Claims Commission for a fair hearing. Now, after 30 years of litigation, a fair hearing on a group of those claims has been denied. This bill merely carries out the intent of the Indian Claims Commission Act by insuring that these duly filed claims, like those of other Indian tribes, will have the hearing contemplated by the act.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 2401 and 2501 of title 28, United States Code, or section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on the claims of the Navajo Indian Tribe against the United States which were timely presented under section 2 of the Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70a) and later withdrawn without authority with respect to claims that (1) Navajo reservation lands were taken by the United States or disposed of to others without payment of adequate compensation; (2) the United States failed to fulfill Article 6 of the Treaty of June 1, 1868, 15 Stat. 667, and to deal fairly and honorably with the Tribe in providing educational facilities and services through August 13, 1946, and (3) that the United States mismanaged the lands and resources of the Tribe: *Provided,* That jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within six months after the date of the enactment of this Act.●

By Mr. HEINZ:

S. 2996. A bill to amend the Internal Revenue Code of 1954 to provide that the provisions which increase the Federal unemployment tax in States which have outstanding loans will not apply if the State makes certain repayments; to the Committee on Finance.

● Mr. HEINZ. Mr. President, I rise today to offer legislation dealing with repayment of State loans from the Federal unemployment compensation trust fund.

This proposed legislation is not a bailout of the 15 States, including my own State, with outstanding loans totaling more than $4.3 billion, or the 18 States expected to borrow during the next 2 years. Instead, my legislation would amend current Federal law to provide a method of repayment that is timely, that is conducive to long-term solvency of the Federal and State trust funds, and that does not punish unduly those States that have borne a disproportionate impact of recessions and other national economic problems.

Mr. President, what we are talking about here is saving jobs. Without the modifications I propose, current provisions of the Federal unemployment compensation program will have the perverse, unintended effect of further reducing employment in those States that already have high unemployment.

The potential losses in human terms and lost economic output are staggering. These costs would be borne not only by the taxpayers of my State and other States with outstanding Federal loans but by every Federal taxpayer.

To avoid losing the jobs and the potential contributions of countless American workers, I have drafted legislation based on the following assumptions:

First, States with outstanding loans from the Federal account have made, and are continuing to make, significant progress toward repaying those loans and toward restoring State trust funds to solvency.

Second, outstanding loans to States must be repaid in a timely manner; but the schedule and method of repayment should not disrupt the economies of those States to such an extent that employment problems and State trust fund insolvency are only exacerbated.

Third, the long-term solvency of the Federal and State unemployment trust funds must be restored and maintained; therefore, any easing of the terms of repayment of loans from the Federal account must require that State trust funds are financially solvent.

Fourth, because unusually high levels of unemployment in certain States are a result of Federal economic policies to reduce inflation, negotiate import agreements, and promote exports, those States should not be unduly penalized.

Specifically, the legislation I am today proposing includes the following major elements:

First. Allowing States the option of repaying outstanding Federal loans from State trust funds rather than through increased Federal taxes on employers;

Second. For those States electing this option, "freezing" the escalation of the amount due to be repaid each year—putting a cap on increased Federal employer taxes or the equivalent amount to be repaid out of State trust funds;

Third. Providing incentives for States to maintain financially solvent unemployment compensation programs by making solvency a prerequisite for exercising these liberalized repayment options;

Fourth. Allowing States bearing a disproportionate burden of recessions and other national economic problems to temporarily suspend repayment of loans; and

Fifth. Allowing States with temporary drains on their trust funds such as seasonal unemployment to continue to borrow from the Federal account.

Because this complex problem has been many years in the making, let me explain in greater detail, for the benefit of my distinguished colleagues, the background of the problem, the actions taken by various States to restore their unemployment compensation trust funds to solvency, and the action I believe is necessary at the Federal level.

BACKGROUND OF THE PROBLEM

During the massive unemployment of the midseventies, 25 States borrowed from the Federal unemployment compensation trust fund. As of May 31, 1980, 15 States had outstanding loans, totaling more than $4.3 billion, as shown in the following chart:

(Dollars in millions)

State:	*Loan*
Connecticut	$370.9
Delaware	44.4
District of Columbia	65.5
Illinois	946.5
Maine	36.4
Massachusetts	231.7
Michigan	330.0
Minnesota	1.9
Montana	7.1
New Jersey	651.9
Pennsylvania	1,390.4
Puerto Rico	88.7
Rhode Island	121.2
Vermont	40.7
Virgin Islands	8.8
Total	4,336.3

Further, based on current economic assumptions and assuming no changes in existing financing or benefit provisions, at least 18 States are expected to borrow at some time during the next 2 years. These States are:

*Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Maine, Massachusetts, Michigan, Minnesota, Montana, New Jersey, *New York, Pennsylvania, Rhode Island, Vermont, *Virginia, *West Virginia, Puerto Rico.

As indicated by the above figures, Pennsylvania has by far the largest outstanding loan from the Federal trust fund: some $1.4 billion. This outstanding loan balance reflects a drain on the State unemployment trust fund of over $2 billion within 8 years—in 1970, the Commonwealth's trust fund had a reserve of $841 million. The insolvency of Pennsylvania's trust fund is the result of many factors, most notably: the recession; the fact that Pennsylvania's rate of unemployment has been relatively high and its rate of economic growth relatively low; federally mandated increases in benefit levels and in the number of persons eligible for benefits; and past action by the State government to liberalize benefits without corresponding increases in taxes.

Current law requires that States pay off loans from the Federal account within 2 years—the Federal requirement for repayment of these loans was deferred, however, through 1979. If, after 2 years, a State has not repaid the entire amount of its outstanding loan, all employers within that State lose the Federal Unemployment Tax Act (FUTA) tax credit at the rate of 0.3 percent per year. The effect of the loss of this tax credit is to increase the Federal taxes which employers in the State pay. Whereas employers in most States pay an effective Federal tax of 0.7 percent, the loss of the FUTA tax credit—assuming it continued to escalate—would mean that employers in that State would pay Federal taxes on wages of 3.4 percent.

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*Not currently among States with outstanding loans.

Employers in Pennsylvania and Delaware were liable for the additional 0.3 percent Federal unemployment tax last year, payable January 1, 1980—that is, employers in Pennsylvania and Delaware now pay Federal taxes of 1 percent, compared to 0.7 percent in most States. This year, employers in Pennsylvania and Delaware will be liable for an additional 0.6 percent tax, payable January 1, 1981—that is, employers in Pennsylvania and Delaware will pay Federal taxes of 1.3 percent, compared to 0.7 percent in most States.

Connecticut, District of Columbia, Rhode Island, and Vermont employers are liable for an additional 0.3 percent tax in a past year and will be liable for an additional 0.6 percent tax this year. In addition, employers in other States with outstanding loans will be subject to the additional 0.3 percent tax this year.

Assuming that the FUTA tax credit to Pennsylvania employers is reduced as scheduled, by 1984 employers in the State will be paying Federal unemployment taxes of 3.4 percent.

STATE ACTION TO RESTORE TRUST FUND SOLVENCY

Following the crisis of the 1970's, States which were forced to borrow from the Federal trust fund have made changes to their unemployment compensation systems which have put them on sounder financial footing.

At the same time, however, there is considerable evidence that borrowing has largely resulted from factors beyond the control of the States: Recession and high unemployment resulting from Federal anti-inflation policies, lack of a comprehensive export policy, and trade practices on the part of other nations which the Federal Government has failed to control. A 1978 Northeast-Midwest Institute report concluded:

> On average, the states of the Northeast and Midwest pay higher weekly benefits to jobless workers than other states. However, when these benefits are adjusted for wage variations, the differences are found to be very small. They also assess employers with higher tax bills than states in the South and West. (UI payroll taxes per worker were an average of 33 percent higher in the Northeast-Midwest region than in the South and West from 1973 through 1976. As a percent of total covered wages, average tax rates in the Northeast and Midwest from 1975 through 1977 were 12 percent higher than in the rest of the country.) Yet the Northeast-Midwest region required the largest advances from Federal accounts in order to meet the benefit demands of the recent recession. These excess costs are due primarily to the extent and duration of unemployment in the region—a factor largely beyond the control of the states. (Northeast-Midwest Institute, The Crisis in Unemployment Insurance: A Regional Analysis, August 1978, p. v.)

Whatever the cause of the financial straits in which many State unemployment compensation systems found themselves, States with outstanding Federal loans have taken several steps toward repaying those loans and toward avoiding massive future borrowing. Consider, for example, the case of those three States with the largest outstanding Federal loans: Pennsylvania, $1.4 billion; Illinois, $947 million; and New Jersey, $652 million.

Pennsylvania, on July 8, 1980, enacted legislation increasing State employer taxes and reducing benefits under the State's unemployment compensation system. The net effect of these changes will be an additional $540-plus million per year for Pennsylvania's unemployment compensation trust fund.

As a result of this legislation, State unemployment tax revenues in Pennsylvania will increase $400 million annually by:

First, increasing the taxable wage base (now $6,000) to $6,300, effective January 1, 1980, and to $6,600, effective January 1, 1982:

Second, increasing the maximum tax (now 4 percent) to 4.75 percent, effective January 1, 1980, and to 4.9 percent, effective January 1, 1982;

Third, increasing new employer taxes on construction from 4 percent to 6.5 percent for 1980 and 1981, and to 6.6 percent for 1982, and on nonconstruction from 2 to 3.5 percent;

Fourth, toughening bailout provisions; and

Fifth, increasing the State adjustment factor from 1 to 1.75 percent for 1980 and 1981, and to 1.9 percent for 1982.

Benefit payments in Pennsylvania will be reduced by $140 million during the first full year as a result of the following changes:

First. Instituting a "waiting week" requirement;

Second. Providing a dollar-for-dollar offset of Government and private pensions;

Third. Eliminating the lower end of the benefit schedule;

Fourth. Inserting variable duration of benefits;

Fifth. Changing the movable base year;

Sixth. Tightening eligibility requirements; and

Seventh. Reducing the number of stepdowns for persons not otherwise qualifying for benefits.

Illinois made extensive changes in its tax system in 1977, including a 0.3-percent "surtax" on all employers to help repay the Federal loans and an overhaul of the State experience factor calculation to permit a much quicker response to future recessions. This was in addition to a 43-percent increase in the taxable wage base and an increase in the minimum tax rate from 0.1 percent to 1 percent.

Effective January 1, 1980, Illinois taxable wage base was increased to $6,500, and the maximum tax rate was increased from 4.3 percent to 5.3 percent. Changes to be made this year to redefine "voluntary quits" will save the State system an estimated additional $50 million annually.

New Jersey, in its unemployment compensation law, has an escalating taxable wage base now at $6,900 and estimated to go above $7,200 in 1981. During a previous economic downturn, 1971–72, employer experience rates were redistributed and employer tax rates were increased 6 months in advance of a scheduled rate increase.

This year, legislation pending before the New Jersey State legislature, incorporating the recommendations of the Employment Security Council, would further increase the solvency of the New Jersey fund.

Despite these efforts on the part of States with outstanding loans from the Federal account to restore their unemployment compensation systems to solvency, relief at the Federal level is needed as well. The combination of increased State taxes and the full loss of the Federal unemployment tax credit would prove economically devastating to these States—thus inducing employers to relocate elsewhere and providing a disincentive for new firms to locate in these States.

Ironically, the combination of increased Federal and State taxes would prove counterproductive in terms of restoring the solvency of State trust funds; unemployment problems would be exacerbated in those States whose historically high rates of unemployment caused their current predicament. Employers in Pennsylvania, for example, will be faced with $400 million in increased State taxes in addition to $716 million per year in increased taxes by 1986.

ACTION NEEDED AT THE FEDERAL LEVEL

Having explained the origin of the unemployment compensation system's financing problem and steps being taken by various States to stabilize their unemployment compensation programs, I would now like to address the issue of what legislative changes are needed at the Federal level to insure that State efforts to preserve jobs and restore trust fund solvency are not frustrated.

As I stated earlier, the legislation I am introducing today contains the following major provisions:

First, allowing States the option of repaying outstanding Federal loans from State trust funds rather than via increased Federal taxes on employers;

Second, for those States electing this option, "freezing" the escalation of the amount due to be repaid each year—that is, putting a cap on increased Federal employer taxes or the equivalent amount to be repaid out of State trust funds;

Third, providing incentives for States to maintain financially solvent unemployment compensation programs by making solvency a prerequisite for exercising these liberalized repayment options;

Fourth, allowing States bearing a disproportionate burden of recessions and other national problems to temporarily suspend repayment of loans; and

Fifth, allowing States with temporary drains on their trust funds such as seasonal unemployment to continue to borrow from the Federal account;

Let me briefly explain each of these provisions.

Repayment from State trust funds: Under current law, States with outstanding Federal loans can avoid the automatic increase in the Federal unemployment tax only by repaying the outstanding loan balance in full. The Heinz bill would allow States the option of avoiding increases in the Federal tax levied on employers by repaying the amount that would have been collected by the increased Federal tax from State unemployment trust funds. This provision is similar to that contained in H.R. 4007, which passed the House of Representatives by a vote of 402 to 1 on November 7, 1979.

The justification for this alternative repayment procedure is as follows:

It would require States to repay Federal loans in a manner that is least disruptive of the State's economic climate. States that cannot afford full repayment of outstanding Federal loans would be allowed the option of making partial repayment, thereby avoiding the increased Federal tax on employers.

Funds used to repay loans from the Federal account would be collected through experience-rated taxes, not flat-rated taxes. Under current repayment provisions, the automatic increase in the Federal tax is assessed on all employers in the State. In contrast, State unemployment taxes, the receipts from which flow into State trust funds, are experience rated, that is, they take into account whether an employer has a stable or unstable employment pattern.

Repayment out of State trust funds is preferable to another extension of the deferral period for the repayment of outstanding Federal loans. It is necessary so that Federal and State unemployment insurance trust funds can become solvent.

Freeze on escalations in Federal employer taxes: The Federal tax on employers, which has already escalated in some States with outstanding Federal loans, would be frozen at 0.6 percent.

The rationale for this freeze, is as stated previously, that the combination of increased State and Federal employer taxes would prove economically devastating—thereby decreasing rather than increasing the solvency of State unemployment trust funds. If a State were to subsequently allow its trust fund to become insolvent—that is, if it were to become unable to compensate the Federal account for what would have been collected via increased Federal employer taxes—the loss of Federal tax credits for employers in that State would escalate according to the provisions of current law.

Incentives for State fund solvency: To be able to take advantage of the liberalized repayment terms provided for under the Heinz legislation—that is, repayment out of State trust funds and an effective freeze on the loss of the Federal unemployment tax credit—States would have to have sufficient reserves in their State trust funds to reimburse the Federal Government for what would have been collected via increased Federal taxes, plus any additional borrowing on the part of the State that year. The "carrot" to induce States to restore their funds to solvency is qualification for liberalized repayment benefits. The "stick" to insure that States maintain the solvency of their trust funds is the provision that should a State lose eligibility for these provisions, Federal taxes on employers in that State would escalate to what they otherwise would have been.

As an additional "stick," a State would become ineligible for both the "freeze" and the alternative repayment provision upon a finding by the Secretary of Labor that a State had made changes to its tax and benefit structure that had the effect of making the State unemployment compensation system less solvent.

This approach offers the advantage over alternative proposals that have been discussed of not mandating a specific set of tax increases and benefit reductions by which solvency must be attained. The goal of fiscal solvency is, instead, met in a manner that takes into account the differing economic and political conditions in various States and is consistent with the design of unemployment compensation as a Federal-State program.

Suspension of repayment during periods of high unemployment: In States experiencing unusually high levels of unemployment—as reflected by the fact that the extended benefits trigger had been on for over 6 months in those States—repayment of loans from the Federal account would be temporarily suspended. States would also be allowed a "grace period" during the year following payment of extended benefits in which to restore their trust funds to solvency; during this grace period States would only have to repay half of what their repayment otherwise would have been. During this period in which repayment has been suspended or reduced, States would not be subject to increased Federal taxes on employers. The justification for this suspension is that States with unusually high levels of unemployment are bearing a disproportionate burden of recessions and other national problems resulting from Federal policies.

Allowing continued State borrowing: To be able to take advantage of the provisions of H.R. 4007 allowing Federal loan repayment out of State trust funds, States must have reserves sufficient to finance 6 months of benefits without further borrowing. The Heinz bill recognizes that even a solvent trust fund may have to borrow from the Federal account to cover such problems as seasonal unemployment and therefore contains no prohibition on further borrowing.

Mr. President, I want to emphasize that, important as this legislation is, it does not begin to address the many economic problems manifest in almost all Northeastern and Midwestern States. The legislation I introduce today will keep a bad situation from getting worse. But far more legislative action is needed to address the underlying problems common to our States: Redressing the inequities in Federal fund distribution between sunbelt and snowbelt, higher energy costs, deteriorating urban areas, a shrinking tax base, an inadequate trade policy, the problems of meeting the needs of large minority or disadvantaged populations, a bias in our tax code against the capital intensive industries upon which our economic base depends, and other issues of urgency and concern. Nonetheless, I think passage of this legislation by my colleagues will demonstrate their sense of fairness and concern for our region. In this they will be signifying a more than symbolic commitment to making every region of this Nation a strong and prosperous part of America.

In closing, Mr. President, I therefore urge my distinguished colleagues on the Finance Committee to expedite consideration of this measure so that we can get on with the task of attaining the goals we all share: Maintaining and creating jobs and developing a financially solvent unemployment compensation system for those who are unfortunate enough to lose their jobs.●

By Mr. CHAFEE:

S. 2997. A bill to amend the Federal Unemployment Tax Act to provide for a cap on the increase in the Federal unemployment tax in the case of States meeting certain requirements; to the Committee on Finance.

REPAYMENT OF STATE LOANS IN THE UNEMPLOYMENT COMPENSATION PROGRAM

Mr. CHAFEE. Mr. President, the legislation I introduce today addresses the increasing problem of the repayment of loans made to States in the unemployment compensation program.

As of May 31, 1980, 15 States owed more than $4.3 billion to the Federal Government for unemployment compensation. As our Nation heads for another recession, it is probable that the number of States in debt and the total indebtedness will increase.

I believe that States which borrowed money to meet unemployment insurance (UI) benefit claims should continue to repay those loans. I am concerned, however, that repayment schedules in current law are overly punitive and will result in loss of jobs and industry in indebted States. The bill I am introducing today seeks to ease these schedules while insuring continuous reimbursement of outstanding loans.

There are many reasons why States need to borrow money to meet UI benefit claims. Some factors, such as eligibility requirements, tax and benefit levels, and administrative efficiency, are primarily determined by State law.

States have less control, however, over two additional factors which have a far greater effect on unemployment compensation program costs: the number of unemployed and the duration of unemployment. These factors are influenced by national economic policy far more than by State law. Thus, a combination of State law and the national economic situation determine UI costs in each State.

During the 1974–76 recession, State UI trust fund payments exceeded income because of chronic, high levels of unemployment, coupled with a longer duration of unemployment for most workers. States were permitted to borrow from the Federal UI trust fund in order to meet benefit claims. Repayment of State loans was deferred until 1979.

At that time, indebted States were assessed an additional 0.3 percent of payroll under the Federal Unemployment Tax Act (FUTA)—actually, a 0.3 percent reduction in the FUTA credit. This add-on was earmarked to repay the outstanding loan. The penalty tax is assessed all employers, regardless of their experience rating. For each subsequent year that there is an outstanding loan, the penalty tax increases by 0.3 percent.

The policy of annually increasing the penalty tax assessed employers in indebted States is a perfect example of a "Catch 22." Indebted States are caught in the unenviable position of needing to reduce unemployment and attract new jobs in order to improve the fiscal stability of the UI programs, while being assessed an additional tax in order to repay the loan.

Higher taxes make businesses in the State less competitive, thereby providing an incentive for firms to cut jobs and relocate. Unemployment in the State increases, adding to the State's debt and need to borrow from the Federal Government to meet benefit claims.

This clearly does not make sense. In my view, States should be required to pay back their loans but should not be subject to a steadily increasing tax burden. An additional FUTA tax of 0.9 percent or 1.2 percent is highly punitive. It will force business to leave indebted States, only making matters worse.

The bill I introduce today establishes criteria for a State to qualify for a freeze on the escalating penalty tax. If a State program is sound—according to the criteria in this bill and regulations issued by the Secretary of Labor—the penalty tax would be frozen at a minimum of 0.6 percent. If a State that complies with these requirements is already subject to a higher penalty tax, the tax would be frozen at the higher level.

The reasoning behind my proposal is simple. If a State has a sound State program and has begun to repay its debt through the escalating penalty tax, it should not continue to be penalized. If a State fails to meet the criteria or changes its State program once a freeze is in effect, it would be subject to the penalty tax according to current law.

In order to be eligible for the tax freeze, a State UI program must have: an average tax rate compared to total wages which exceeds the average annual benefit cost for the proceeding 10 years; a minimum tax rate not less than 1 percent of total wages; an average tax rate compared to total wages 50 percent higher than the national average; and a maximum tax rate which exceeds 2.7 percent.

In addition, the State is not allowed to lower its tax rate schedule until the debt is fully repaid, except with the approval of the Secretary of Labor.

Mr. President, the proposal I make today is important not only to my State of Rhode Island, but to many others in the industrialized Northeast and Midwest regions. Those States now in debt include:

	Million
Connecticut	$370.9
Delaware	44.4
D.C.	65.5
Illinois	946.5
Maine	36.4
Massachusetts	231.7
Michigan	330.0
Minnesota	1.9
Montana	7.1
New Jersey	651.9
Pennsylvania	1,390.4
Puerto Rico	88.7
Rhode Island	121.2
Vermont	40.7
Virgin Islands	8.9

According to current economic estimates, at least 18 States are expected to borrow over the next 2 years, including 4 States not currently in debt (Arkansas, Virginia, West Virginia, and New York).

This bill is a reasonable, fair and straightforward way to lessen the impact of escalating taxes on States which are already hard hit by economic downturns.

I urge the speedy adopting of this bill.

By Mr. NELSON (for himself, Mr. HARRY F. BYRD, Jr., Mr. BENTSEN, Mr. WALLOP, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. CULVER, and Mr. STEWART):

S. 2998. A bill to amend the Internal Revenue Code of 1954 to promote capital investment in small business, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INVESTMENT ACT OF 1980

● Mr. NELSON. Mr. President, today I am introducing the Small Business Investment Act of 1980. Senators HARRY BYRD, BENTSEN, WALLOP, MOYNIHAN, DURENBERGER, CULVER, EAGLETON, and STEWART are joining as original cosponsors.

The major features of this measure are:

First. Capital Gains Rollover: A proposal which would allow taxpayers to defer the capital gains tax on the sale of an interest in a qualifying small business, provided the proceeds from the sale are reinvested in another small business within 18 months from the date of sale.

Present tax laws encourage those who own an interest in a small business to sell out to large companies because the acquiring company may exchange its stock for the stock of the small business. The entire transaction is tax free under present law. The small businessman who sells out may defer the immediate payment of capital gains taxes until he ultimately sells his new stock. This same advantage is unavailable if the small businessman sells his business for cash to another independent businessman. In this case he must pay an immediate capital gains tax on the sale.

This proposal would provide greater incentives for reinvesting in small businesses. It would allow anyone owning an interest in a small company with a net worth of $15 million or less to sell that interest for cash, reinvest that money in another small business and defer any capital gains tax on the sale until the proceeds are taken out of the small business and not reinvested within an 18-month period.

Second. Investment Credit for New Issues: A proposal which would provide a new investment tax credit equal to 10 percent of the first $10,000 and 5 percent of the next $40,000 invested in a small business, for a maximum credit of $3,000. In calendar year 1981, the maximum credit would be $1,500 for an individual or $3,000 for a joint return. Beginning in calendar year 1982, the maximum credit would increase to $3,000 for an individual or $6,000 for a joint return.

It is the small business sector of our economy which has the greatest potential for introducing new technology and innovation to our economic base. However, it is also the area of greatest risk for the investor. If investors are to be persuaded to take those investment risks, they must also be persuaded that the rewards will make their risks worthwhile. Unfortunately, over the past decade investors have diverted much of their money to safer investments which yield smaller returns. The net effect has been greater economic concentration in the largest 1,000 companies.

A drastic reduction in the number of new businesses results. If the national interest is to be served and the economy is to remain strong, equity markets must be attractive enough to encourage new investment as well as new investors.

This proposal, by providing a new 10-percent investment credit for investment in small companies with a net worth of under $15 million, will attract greater numbers of individual investors who traditionally have been unwilling to invest in small businesses.

Third. Graduated Corporate Tax Rates: A proposal to expand the graduated corporate tax structure by increasing the surtax exemption from $100,000 to $150,000. The proposal would extend the progressivity of the present graduated corporate rate structure enacted by Congress over the past 4 years.

While preserving the basic five-step corporate tax schedule enacted in 1978, the proposal would reduce the rate from the present 17 percent to 15 percent of the first $25,000 of taxable corporate income.

It would extend the 30-percent tax rate which currently applies to taxable incomes of between $50,000 and $75,000 to an expanded $50,000 to $100,000 tax bracket.

It would also extend the 40-percent rate, currently applying between $75,000 and $100,000, to an expanded $100,000 and $150,000 bracket.

Prior to 1975, corporations paid a 22-percent tax rate on the first $25,000 of taxable income and a 48-percent rate on all taxable income in excess of $25,000.

The Tax Reduction Act of 1975 increased the $25,000 limit or surtax exemption to $50,000. The act applied a new 20-percent tax rate to the first $25,000 of taxable income and a 22-percent rate on the next $25,000 of taxable income. The maximum 48-percent rate applied to taxable income in excess of $50,000.

In 1978 further changes to the rate structure were enacted. The surtax exemption was raised to $100,000 and the current graduated rate schedule was put in place.

As a result of these changes initiated by the Small Business Committee, corporate taxes on the first $100,000 of income were reduced by over $14,000.

These changes represent an excellent start toward providing equity in the corporate tax structure for small businesses.

This proposal would reduce corporate taxes on the first $50,000 of income by an additional $6,000.

Fourth. Subchapter S Shareholder: A proposal to increase the number of permissible shareholders in a subchapter S corporation from 15 to 25.

This proposal is intended to promote increased investment in electing small business corporations or subchapter S corporations.

The legal effect of a subchapter S election is that it permits a business which is organized as a corporation to be treated as a partnership for Federal income tax purposes. One of the consequences is that operating losses from the business can be passed through the corporate entity to individual shareholders. These losses may be entered on individual tax returns as an offset to other income.

The development of new small businesses may take 5 to 10 years. During these formative years, there usually are major expenses for product development, marketing and the like. The subchapter S structure is compatible with this business formation pattern where losses can be utilized by investors and the business can raise needed capital.

The subchapter S structure has considerable potential for assisting new and small businesses to raise the capital they need to generate new jobs, increase sales, create new products and greater competition.

Fifth. Used Equipment Investment Tax Credit: A proposal which would increase the amount of used equipment eligible for the general 10 percent investment tax credit from $100,000 to $200,000. The increase would be phased in over 2 years. In 1981 the amount of equipment eligible for the investment credit could be $150,000 and beginning in 1982 the amount would be increased to $200,000.

The proposal simply doubles the amount of used machinery eligible for the investment tax credit.

In comparison, the amount of new machinery eligible for the investment credit is unlimited. This proposal would adjust the used machinery allowance for the inflation induced increase in the cost of capital equipment of 40 percent that has occurred since the existing allowance was enacted in 1975. It is also intended to provide flexibility to cover anticipated future inflationary increases.

Many small businesses start out by purchasing one or two used machines. New and small firms simply cannot afford to purchase sophisticated new equipment. An increase from $100,000 to $200,000 in the amount of used equipment eligible for the 10 percent investment credit would save these businesses up to $10,000 in Federal taxes per year. This savings can be used for additional purchases and to meet cash flow requirements.

Sixth. Accumulated Earnings Tax: A proposal which would increase from $150,000 to $250,000 the amount of accumulated earnings that a business may retain. The increase would be phased in over 2 years. In 1981 the amount would be increased to $200,000, and beginning in 1982 the amount would rise to the full $250,000.

Under current law, a tax is imposed on corporations improperly accumulating surplus earnings and profits beyond the reasonable business needs of the enterprise. This is a penalty tax, rather than a normal corporate tax on income.

Basically, a corporation is allowed a safe harbor rule whereby it may accumulate up to $150,000 in earnings and profits before the penalty tax is imposed.

The current amount of permissible accumulated earnings was established in 1975.

During the past 5 years, inflation alone has increased the cost of doing business by approximately 40 percent. This indicates that the amount of permissible accumulated earnings should be raised to a minimum of $210,000. This proposal would increase the amount to $250,000 to take into consideration future inflation.

This proposal is particularly beneficial to small innovative businesses which require substantial amounts of capital investment in the early startup years.

Seventh. Elimination of Midyear W–2 Forms: A proposal which would eliminate the requirement that businesses file a midyear W–2 form for employees who leave the business.

Present law requires that whenever a worker leaves a job during the year a W–2 wage report must be issued to him.

In 1979, the National Society of Public Accountants conducted a survey of the unnecessary paperwork and costs involved in issuing these W–2 forms. The survey indicates that about 38 million interim W–2 are issued every year. Of these 38 million forms, approximately 66 percent are lost and must be reissued again at the end of the year. This means approximately 25 million duplicate W–2's are issued annually. The cost of reissuing these forms averages $12 per form, placing the total cost for reissuing 25 million forms at $300 million per year.

This proposal eliminates all of the unnecessary paperwork involved with reissuing lost W–2 forms and saves the business community $300 million per year. It does not cost the U.S. Treasury one penny.

The proposal eliminates the requirement of interim W–2's. The W–2's would all be issued once, at the end of the year, for all employees. Those having special needs to obtain the form early could do so by request.

Eighth. Broker-Dealer Loss Reserve: A proposal which would permit broker dealers in securities to set up a loss reserve for trading losses in qualified small business stock issues.

A major disincentive to small business capital formation is the limited liquidity and marketability that investments in small business typically offer to investors. This proposal provides a solution to this problem by permitting market makers in small business securities (that is broker-dealers who maintain inventories in certain securities and who are willing to purchase or sell those securities to or from investors at published prices) to establish tax-deferred reserves similar to the reserves that are currently available for the banking and insurance industries. Such reserves would permit broker-dealers to defer the payment of taxes on profits from market making activities in small business securities, thus providing broker-dealers with some protection against losses from small business securities transactions.

These incentives would encourage expanded market making activities in small business securities, thereby improving their marketability.

Ninth. Employee Stock Options: A proposal which would permit employees to take stock options in lieu of salary without an immediate recognition of income.

To attract and retain key employees, a small business will frequently desire to provide its key personnel with a share of the business. Under current law, however, if stock is awarded to an employee or is sold to him at a bargain price as compensation for services, the market value of the stock (or in the case of the bargain sale, the difference between the market price and the bargain price) will be taxable to the employee in the year of receipt or purchase at ordinary income rates. Moreover, resale restrictions imposed by Federal and State securities laws often prevent the use of the stock to raise cash to pay the tax.

Stock options may be awarded to avoid a current tax, but the problems for the employee are merely postponed. Not only does the eventual exercise of the option require a cash expenditure by the employee, but if the market value of the stock has increased the employee will also be required to pay tax at ordinary income rates on the difference between the amount paid upon exercise and the fair market value of the stock at the time of exercise.

This proposal provides that a stock option which is granted to an employee would be taxed at capital gains rates when the employee sells the stock. It will allow small companies to attract talented managerial staff at a modest cost.

Tenth. Inventory Accounting: A proposal which would prevent the retroactive application to the year 1979 of the IRS Revenue Ruling 80–60. Under the proposal, the ruling would only apply to taxable years beginning after December 31, 1979.

Eleventh. Excise Tax on Motor Fuels: A proposal which would allow bus operators engaged in intercity, charter, local, and special operations a special exemption from the 4 cents per gallon Federal excise tax imposed on diesel and other special motor fuels. Currently these operators must pay the tax and then file for a refund. The current procedure contributes to a cash flow problem and additional paperwork to the bus industry.

These proposals represent a tax reduction program which Congress and the Nation can afford.

The program is noninflationary, inexpensive, and targeted at increasing productivity in the most important segment of our economy—the small business community. Small businesses which account for a significant percentage of our gross national product and provide more than half of the jobs and technological advancements in the private sector are in desperate need of investment capital not only to expand and grow but merely to survive.

This proposal will provide significant relief to not only small businesses but all businesses in meeting their capital formation requirements.

The study of the problems related to capital formation began some 5 years ago under the auspices of the Senate Select Committee on Small Business. The committee initiated a series of hearings beginning in 1975. Significant legislative proposals were developed based on information gathered at those hearings. Many of these proposals have already been enacted into law. Among them, a substantial reform of the Federal estate and gift tax laws affecting the inheritance of farms and small businesses; an increase in the amount of used machinery and equipment eligible for the 10-percent investment tax credit from $50,000 to $100,000; an increase in the corporate surtax exemption from $25,000 to $100,000; and enactment of the most extensive graduated tax rate structure since the inception of the Federal corporate tax in 1909.

These changes have had a significant impact on easing the capital formation problems of small business. But much more needs to be done if our Nation's innovative and independent business community is to prosper and provide more jobs and increased productivity. Indeed, in the present economic climate, much more needs to be done to insure the very survival of these businesses.

Earlier this year, the first White House Conference on Small Business was held. This conference focused not only on the capital formation requirements of small business, but on such diverse problems as regulatory reform, patent policy, inflation, innovation, and the development of a small business export policy. The delegates to the conference came from every State in the Nation, and they produced a series of legislative recommendations which represent an attempt to inject new capital into the Nation's cash-starved small businesses.

As chairman of the Senate Small Business Task Force, I have joined with members of this committee in introducing and endorsing many of the White House Conference recommendations in the capital formation area. Many of these prosposals are currently pending before the Finance Committee and have been the subject of hearings before the Subcommittee on Taxation and Debt Management.

This measure represents a responsible approach to a productivity related tax cut. It consists of a series of measures which embody the White House Conference recommendations for increasing capital formation for small business. They are properly structured, carefully phased-in, and will not cost much money. Indeed, the fiscal year 1981 revenue loss will be approximately $75 million. In the long run the proposals may actually increase Federal revenues as a result of the new jobs and enhanced productivity they will create.

Mr. President, I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE

(a) Short Title.—This Act may be cited as the "Small Business Investment Act of 1980".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. INCREASE IN NUMBER OF SUBCHAPTER S SHAREHOLDERS.

(a) In General.—Section 1371(a) (defining small business corporation) is amended by striking out "15 shareholders" in paragraph (1) and inserting in lieu thereof "25 shareholders".

(b) Effective Date.—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1980.

SEC. 3. ELIMINATION OF CERTAIN W-2 FILING REQUIREMENTS.

(a) In General.—Subsection (a) of section 6051 (relating to receipts for employees) is amended—

(1) by striking out "on the day on which the last payment of remuneration is made" and inserting in lieu thereof "within 30 days after receipt of a written request from the employee if earlier than such January 31"; and

(2) by adding at the end thereof the following new sentence: "In the case of an employee whose employment is terminated before the close of a calendar year, the employer shall furnish the employee, on the day on which the last payment is made, a general written notice stating that (A) the employee may request in writing that such information be provided within 30 days of such request if earlier than January 31, (B) an amount of Federal taxes has been withheld, and (C) if the employee is entitled to a refund, he must file a Federal income tax return based on information which, unless a request is made by the employee, will be sent to the employee at his last known address before January 31 of the next calendar year.".

(b) Effective Date.—The amendments made by this section shall apply with respect to employees whose employment is terminated after December 31, 1980.

SEC. 4. CREDIT FOR INVESTMENT IN ORIGINAL ISSUE STOCK.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44F. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL BUSINESSES.

"(a) General Rule.—In the case of an individual who is a citizen or resident of the United States, there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount determined under subsection (b) with respect to the adjusted basis (within the meaning of section 1011) of the taxpayer for incentive stock (as defined in subsection (c)) acquired for money during the taxable year.

"(b) Amount of Credit.—

"(1) Individuals.—In the case of individuals, the amount of the credit shall, subject to paragraph (2), be equal to the sum of—

"(A) 10 percent of the first $10,000 of such adjusted basis, plus

"(B) 5 percent of any other amount of such adjusted basis.

"(2) Individual credit not to exceed $3,000.—

"(A) In General.—In the case of an individual, the credit allowed by subsection (a) for any taxable year shall not exceed $3,000 ($6,000 in the case of a married individual filing a joint return).

"(B) Phase-in of amount.—In the case of any taxable year beginning during 1981, subparagraph (A) shall be applied by substituting '$1,500' and '$3,000' for '$3,000' and '$6,000', respectively.

"(c) Limitations.—

"(1) Credit not allowed to certain dependents.—No credit shall be allowed under subsection (a) to an individual with respect to whom a personal exemption deduction is allowable for the taxable year to another taxpayer under section 151(e).

"(2) Credit not allowed if taxpayer controls corporation.—No credit shall be allowed under subsection (a) with respect to the amount of the adjusted basis of the taxpayer for incentive stock in any corporation if at any time during the taxable year possessed 80 percent or more of the total combined voting power of all classes of stock entitled to vote.

"(3) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(4) Certain taxes not considered taxes imposed by this chapter.—For purposes of this section, and tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72 (m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(5) Credit not allowed if taxpayer elects rollover.—No credit shall be allowed with respect to amounts paid for incentive stock with respect to which the taxpayer has elected the application of section 1041 (relating to sales of small business stock).

"(d) Definition of Incentive Stock.—

"(1) In general.—For purposes of this section, the term 'incentive stock' means original issue common or preferred stock registered under section 12 of the Securities Exchange Act of 1934 offered in an unrestricted offer to the public—

"(A) which is issued by a domestic corporation (other than an electing small business corporation as defined in section 1371 (b))—

"(i) which does not, for the taxable year in which such stock is offered, have passive investment income (as defined in section 1372(e)(5)(C)) in excess of the limitation set forth in section 1372(e)(5)(A), and

"(ii) the equity capital of which does not exceed $15,000,000 immediately before such offering, and

"(B) which is part of an issue of stock

the aggregate sale price of which does not exceed $7,500,000.

"(2) CONTROLLED CORPORATIONS.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) of this subsection, as the equity capital of the issuing corporation.

"(3) STOCK ACQUIRED MORE THAN 180 DAYS AFTER ISSUANCE; STOCK ACQUIRED BY UNDERWRITER.—No stock shall be treated as incentive stock for purposes of this section if it is first purchased more than 180 days after the date on which it is issued. No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as an acquisition for purposes of subsection (a).

"(4) CERTAIN REDEMPTIONS AND REFINANCING ISSUES NOT TREATED AS INCENTIVE STOCK.—An issue of stock which, but for this paragraph, would be treated as incentive stock under this section shall not be treated as incentive stock if, within 180 days before the date of issuance, the issuing corporation (or any other corporation which is a member of the same controlled group of corporations, within the meaning of section 1563, as the issuing corporation) has acquired stock (including acquisition by way of redemption) of the issuing corporation or of any other member of the controlled group with an aggregate purchase price in excess of 10 percent of the aggregate sale price of the issue of incentive stock.

"(5) EQUITY CAPITAL DEFINED.—For purposes of this paragraph, the equity capital of a corporation is the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain), less the amount of its indebtedness (other than indebtedness to shareholders).

"(e) DISPOSITION OF INCENTIVE STOCK BEFORE IT IS HELD FOR MORE THAN 6 MONTHS.—

"(1) DISPOSITION BEFORE FILING RETURN FOR TAXABLE YEAR OF ACQUISITION.—No credit is allowable under subsection (a) with respect to incentive stock acquired during a taxable year which is not held by the taxpayer on the date established by law for filing a return of tax for that taxable year.

"(2) OTHER PREMATURE DISPOSITIONS.—If during any taxable year incentive stock is disposed of by the taxpayer before the stock has been held by the taxpayer for more than 6 months, then the tax under this chapter for the taxable year shall be increased by the amount of the credit claimed by the taxpayer for any preceding taxable year with respect to the acquisition of such stock.

"(3) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection shall not apply in the case of the disposition by request or gift unless—

"(A) the request or gift is deductible under section 170 (determined without regard to the limitations contained in subsection (b)), 2055, or 2522, or

"(B) the recipient disposes of the stock before the stock has been held for more than 6 months (including any periods of time during which the stock was held by the original purchaser).".

(b) CREDIT NOT ALLOWED TO ESTATES AND TRUSTS.—Subsection (a) of section 642 (relating to special rules for credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) INVESTMENT IN INCENTIVE STOCK.—An estate or trust shall not be allowed the credit against tax for investment in incentive stock provided by section 44F.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following new item:

"SEC. 44F. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL BUSINESSES.".

(2) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Funds) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980, and to stock acquired after the date of the enactment of this Act. For purposes of the preceding sentence, stock acquired before January 1, 1981, shall be treated (except for purposes of section 44F (c) (3) and (d) of the Internal Revenue Code of 1954) as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1980.

SEC. 5. INCENTIVE STOCK OPTIONS.

(a) IN GENERAL.—Part II of subchapter D of chapter 1 (relating to certain stock options) is amended by adding after section 422 the following new section:

"SEC. 422A. INCENTIVE STOCK OPTIONS.

"(a) IN GENERAL.—Section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise of an incentive stock option if—

"(1) no disposition of such share is made by him within 2 years from the date of the granting of the option nor within 1 year after the transfer of such share to him, and

"(2) at all times during the period beginning with the date of the granting of the option and ending on the day 3 months before the date of such exercise, such individual was an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

"(b) INCENTIVE STOCK OPTION.—For purposes of this part, the term 'incentive stock option' means an option granted to an individual for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but is only if—

"(1) the option is granted pursuant to a plan which includes the aggregate number of shares which may be issued under options, and the employees (or class of employees) eligible to receive options, and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted;

"(2) such option is granted within 10 years from the date such plan is adopted, or the date such plan is approved by the stockholders, whichever is earlier;

"(3) such option by its terms is not exercisable after the expiration of 10 years from the date such option is granted;

"(4) the option price is not less than the fair market value of the stock at the time such option is granted;

"(5) such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

"(6) such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation.

Paragraph (6) shall not apply if at the time such option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option and such option by its terms is not exercisable after the expiration of 5 years from the date such option is granted. For purposes of paragraph (6), the provisions of section 425(d) shall apply in determining the stock ownership of an individual.

"(c) SPECIAL RULES.—

"(1) EXERCISE OF OPTION WHEN PRICE IS LESS THAN VALUE OF STOCK.—If a share of stock is transferred pursuant to the exercise by an individual of an option which would fail to qualify as an incentive stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subsection (b) (4), the requirement of subsection (b)(4) shall be considered to have been met.

"(2) VARIABLE PRICE OPTION.—

"(A) IN GENERAL.—For purposes of subsection (b)(4), the option price of a variable price option shall be computed as if the option had been exercised when granted.

"(B) DEFINITION.—For purposes of this paragraph, the term 'variable price option' means an option under which the purchase price of the stock is fixed or determinable under a formula in which the only variable is the fair market value of the stock at any time during a period of 1 year which includes the time the option is exercised; except that such term does not include any such option in which such formula provides for determining such price by reference to the fair market value of the stock at any time before the option is exercised if such value may be greater than the average fair market value of the stock during the calendar month in which the option is exercised.

"(3) CERTAIN DISQUALIFYING DISPOSITIONS WHERE AMOUNT REALIZED IS LESS THAN VALUE AT EXERCISE.—If—

"(A) an individual who has acquired a share of stock by the exercise of an incentive stock option makes a disposition of such share within the 2-year period described in subsection (a)(1), and

"(B) such disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to such individual,

then the amount which is includible in the gross income of such individual, and the amount which is deductible from the income of his employer corporation, as compensation attributable to the exercise of such option shall not exceed the excess (if any) of the amount realized on such sale or exchange over the adjusted basis of such share.

"(4) CERTAIN TRANSFERS BY INSOLVENT INDIVIDUALS.—If an insolvent individual holds a share of stock acquired pursuant to his exercise of an incentive stock option, and if such share is transferred to a trustee, receiver, or other similar fiduciary in any proceeding under the Bankruptcy Act or any other similar insolvency proceeding, neither such transfer, nor any other transfer of such share for the benefit of his creditors in such proceeding, shall constitute a disposition of such share for purposes of subsection (a) (1).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 421(a) (relating to general rules in the case of stock options) is amended by inserting "422A(a)," after "422(a),".

(2) Section 425(d) (relating to attribution of stock ownership) is amended by inserting "422A(b) (6)," after "422(b) (7),".

(3) Section 425(g) (relating to special rules) is amended by inserting "422A(a) (2)," after "422(a) (2),".

(4) Section 425(h) (3) (B) (relating to definition of modification) is amended by inserting "422A(b) (5)," after "422(b) (6),".

(5) Section 6039 (relating to information required in connection with certain options) is amended—

(A) by inserting ", an incentive stock option," after "qualified stock option" in subsection (a)(1),

(B) by inserting "incentive stock option," after "qualified stock option," in the second sentence of subsection (a), and

(C) by adding at the end of subsection (d) the following new paragraph:

"(4) The term 'incentive stock option', see section 422A(b).".

(6) The table of sections for part II of subchapter D of chapter 1 is amended by inserting after the item relating to section 422 the following new item:

"422A. Incentive stock options.".

(c) Effective Date.—The amendments made by this section shall apply with respect to options granted after December 31, 1980.

Sec. 6. Reserves For Market Making Activities.

(a) In General.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"Sec. 251. Market Making Reserve.

"(a) Allowance of Deduction.—In the case of a corporation which is engaged in market making activities during the taxable year, there shall be allowed as a deduction for such taxable year an amount equal to the amount of additions to a reserve for gains from such market making activities during such taxable year.

"(b) Limitations.—

"(1) Average position.—No deduction shall be allowed under subsection (a) if the amount of the additions to the reserve for the taxable year exceeds 30 percent of the fair market value of average positions carried for market making activities by the taxpayer during the taxable year.

"(2) $1,000,000 reserve.—No deduction shall be allowed under subsection (a) for any taxable year for any addition to the reserve, if, as of the close of the taxable year (after adjustment under subsection (c)), the reserve exceeds $1,000,000.

"(3) Taxable income.—The amount of the deduction allowed under subsection (a) shall not exceed the taxable income of the taxpayer for the taxable year (determined without regard to this section).

"(c) Adjustments to Reserve.—

"(1) Required withdrawals from reserve.—At the close of each taxable year, the taxpayer shall withdraw from the reserve an amount equal to the excess of—

"(A) the amount of the additions to the reserve for which a deduction was allowed for the 10th taxable year preceding such taxable year, over

"(B) any withdrawal from the reserve during any preceding taxable year under paragraph (2) which was treated as a withdrawal of any additions made to the reserve during such 10th preceding taxable year.

"(2) Additional withdrawals.—At the close of the taxable year the taxpayer may withdraw from the reserve any amount in excess of the amount described in paragraph (1). Any such withdrawal shall be treated as a withdrawal of additions to the reserve in the order in which such additions were made to the reserve, beginning with the earliest such addition.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Market making activities.—The term 'market making activities' means the purchase and sale of over-the-counter equity securities by a dealer in securities, or any specialist permitted to act as a dealer, who holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell over-the-counter equity securities for his own account on a regular or continuous basis.

"(2) Gain from market making activities.—The term 'gain from market making activities' means the net gain realized from the sale or exchange of over-the-counter equity securities—

"(A) of corporations which, on the last day of the taxable year of the taxpayer preceding the taxable year of the sale or exchange, had $25,000,000 or less of equity securities in such corporation outstanding, and

"(B) which are held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

"(3) Over-the-counter equity securities.—The term 'over-the-counter equity securities' means any equity security no traded on a registered security exchange.

"(4) Average positions for market making activities.—The term 'average position for market making activities' means the average monthly inventory positions for over-the-counter equity securities of the taxpayer for the taxable year.

"(5) Controlled group of corporations.—For purposes of applying the limitations under subsection (b), all members of the same controlled group of corporations shall be treated as one corporation. In any such case, the deduction allowable by subsection (a) for each such member shall be its proportionate share of net gain from market making activities taken into account in determining the amount of the deduction. For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1).

"(6) Corporate acquisitions.—In the case of the acquisition described in section 381 (a) (1) or (2) of assets of a corporation by another corporation, the acquiring corporation shall not succeed to any reserve established under this section.".

(b) Increases in Suspense Accounts.—Section 81 (relating to certain increases in suspense accounts) is amended—

(1) by striking out "There" and inserting "(a) There"; and

(2) by adding at the end thereof the following new subsection:

"(b) Withdrawals From Market Making Reserves.—There shall be included in gross income for the taxable year the amount of any withdrawal from any market making reserve under section 251(c).".

(c) Technical and Conforming Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 251. Market making reserve.".

(2)(A) The heading for section 81 of such Code is amended by inserting "OR REDUCTIONS IN MARKET MAKING RESERVES" after "ACCOUNTS".

(B) The item relating to section 81 in the table of sections for part II of subchapter B of chapter 1 is amended by inserting "or reduction in market making reserves" after "accounts".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Sec. 7. Increase in Accumulated Earnings Credit.

(a) Increase.—Paragraphs (2) and (3) of section 535(c) (relating to accumulated earnings credit) are each amended by striking out "$150,000" and inserting in lieu thereof "$250,000 ($200,000 in the case of a taxable year beginning in 1981)".

(b) Conforming Amendments.—

(1) Sections 243(b)(3)(C)(1) (relating to qualifying dividends for purposes of the dividends received deduction) and 1551(a) (relating to disallowance of surtax exemption and accumulated earnings credit) are each amended by striking out "$150,000".

(2) Section 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$150,000" and inserting in lieu thereof "$250,000 ($200,000 in the case of a taxable year beginning in 1981)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Sec. 8. Increase in Used Equipment Eligible for Investment Tax Credit.

(a) In General.—Paragraph (2) of subsection 48(c) (relating to dollar limitation in case of used section 38 property) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$200,000 ($150,000 in the case of a taxable year beginning in 1981)"; and

(2) by striking out "$50,000" and inserting in lieu thereof "$100,000 ($75,000 in the case of a taxable year beginning in 1981)".

(b) Effective Date.—The amendments made by this section shall apply to property purchased after December 31, 1980.

Sec. 9. Application of Revenue Ruling 80–60.

(a) In General.—If a taxpayer would (but for this subsection) be required under Revenue Ruling 80–60 and Revenue Procedure 80–5 to change his method of accounting for his first taxable year ending on or after December 25, 1979, such taxpayer shall be required to make such change only for taxable years beginning after December 31, 1979.

(b) Revenue Procedure 80–5.—The consent granted by section 3.01 of Revenue Procedure 80–5 shall also apply to a taxpayer's first taxable year beginning after December 31, 1979.

(c) Exception.—This section shall not apply to a taxpayer to whom Revenue Procedure 80–5 does apply by reason of section 3.06 thereof.

Sec. 10. Exemption of Exercise Tax on Certain Fuels Used in Connection With Intercity, Local and School Buses.

(a) Gasoline.—Subsection (e) of section 4221 (relating to special rule for certain tax free sales) is amended by inserting after paragraph (6) the following new paragraph:

"(7) Intercity, local or school buses.—

"(A) Exemption.—Under regulations prescribed by the Secretary, except as provided in subparagraph (B), no tax shall be imposed on the sale of gasoline by section 4081, if it is used in an automobile bus while engaged in—

"(i) furnishing (for compensation) passenger land transportation available to the general public, or

"(ii) the transportation of students and employees of schools (as defined in the last sentence of subsection (d) (7) (C)).

"(B) Limitation in case of nonscheduled intercity or local buses.—Subparagraph (A) (i) shall not apply with respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).".

(b) Diesel and Special Motor Fuels.—Subsection (g) of section 4041 (relating to exemption from tax on diesel and other fuels) is amended by—

(1) striking "and" at the end of paragraph (3),

(2) striking "." at the end of paragraph (4) and inserting ", and ", and

(3) inserting after paragraph (4) and before the last two sentences the following new paragraph:

"(5) with respect to the sale of any liquid for use in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221 (d) (7) (C),

except subparagraph (A) shall not apply to sales for use in an automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is 20 adults (not including the driver).".

(c) REGISTRATION.—Subsection (1) of section 4041 (relating to registration of certain exemptions) is amended to read as follows:

"(i) REGISTRATION.—

"(1) AIRCRAFT FUEL.—If any liquid is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this section that a tax imposed by this section applies to the sale of such liquid unless the purchaser is registered in such manner (and furnishes such information in respect of the liquid) as the Secretary shall by regulations provide.

"(2) INTERCITY, LOCAL OR SCHOOL BUSES.—If any fuel subject to tax under subsection (a) or (b) is sold by any person for use in furnishing transportation described in subsection (g) (4), it shall be presumed for purposes of this section that a tax imposed by this section applies to the sale of such fuel unless the purchaser is registered in such manner (and furnishes such information in respect of the fuel) as the Secretary shall by regulation provide.".

(d) OVERPAYMENTS IN CERTAIN CASES.—Section 6416(b) (2) is amended by—

(1) striking "or" at the end of subparagraph (M),

(2) striking "." at the end of subparagraph (N) and inserting "; or", and

(3) inserting after subparagraph (M) and before the last sentence the following new subparagraph:

"(D) used or sold for use as fuel in a bus engaged in exempt intercity, local or school transportation as described in section 4221 (e) (7) or section 4041(g) (5).".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1980.

SEC. 11. NONRECOGNITION OF GAIN ON SALES OF SMALL BUSINESS STOCK.

(a) IN GENERAL.—Part III of subchapter D of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—If small business stock is sold, gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the taxpayer's sale price exceeds the cost of small business stock purchased by the taxpayer within 18 months after the date of such sale.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) SMALL BUSINESS STOCK.—The term 'small business stock' means common or preferred stock issued by a domestic corporation or small business investment company (other than an electing small business corporation as defined in section 1371(b))—

"(A) which does not, for the taxable year in which stock which is issued, have passive investment income (as defined in section 1372(e) (5) (C)) in excess of the limitation set forth in section 1372(e) (5) (A),

"(B) the equity capital (within the meaning of the last sentence of section 1244(c) (2)) of which does not exceed $15,000,000.

(2) CONTROLLED CORPORATIONS.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a) (1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1) (A) of this subsection, as the equity capital of the issuing corporation.

"(3) STOCK ACQUIRED BY UNDERWRITER.—No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a purchase for purposes of subsection (a).

"(4) DEFINITION OF SMALL BUSINESS INVESTMENT COMPANY.—The term 'small business investment company' has the same meaning as when such term is used in title III of the Small Business Investment Company Act of 1958 (15 U.S.C. 681 et seq.), except that such term shall not include an electing small business corporation (as defined in section 1371(b)).

"(c) LIMITATIONS.—

"(1) 12-MONTH HOLDING PERIOD.—Subsection (a) shall only apply to gain attributable to sale of small business stock with respect to which the taxpayer's holding period is more than 12 months.

"(2) APPLICATION WITH SECTION 44D.—Subsection (a) shall not apply with respect to any small business stock with respect to which a credit is allowed under section 44D for the taxable year in which it is acquired.

"(d) BASIS OF SMALL BUSINESS STOCK.—The basis of small business stock purchased by the taxpayer during the 18-month period shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one share of small business stock is purchased such reduction in basis shall be applied to each such share in chronological order of purchase. The amount of the reduction applicable to each share shall be determined by multiplying the maximum gain not to be recognized pursuant to subsection (a) by a fraction the numerator of which is the cost of such share and the denominator of which is the total cost of all such shares.

"(e) STATUTE OF LIMITATIONS.—If during a taxable year a taxpayer sells small business stock at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing small business stock which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase property within the period specified in paragraph (2), or

"(C) a failure to make such purchase within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) Section 1223 of such Code is amended by redesignating paragraph (12) as paragraph (13) and by inserting a new paragraph (12) as follows:

"(12) In determining the period for which the taxpayer has held small business stock the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of small business stock, there shall be included the period for which small business stock with respect to which gain was not recognized had been held, and the period such replacement small business stock was held as of the date of such sale or exchange.".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of small business stock.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1981, and to stocks acquired after the date of enactment of this Act. For purposes of the preceding sentence, stock acquired before January 1, 1982, shall be treated as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1981.

SEC. 12. CORPORATE TAX RATE REDUCTIONS.

(a) IN GENERAL.—Subsection (b) of section II (relating to the amount of tax on corporations is amended—

(1) by striking out "17 percent" in paragraph (1) and inserting in lieu thereof "15 percent";

(2) by striking out "$75,000" in paragraph (3) and inserting in lieu thereof "$100,000;",

(3) by striking out "$75,000 but does not exceed $100,000" in paragraph (4) and inserting in lieu thereof "$100,000 but does not exceed $150,000", and

(4) by striking out "$100,000," in paragraph (5) and inserting in lieu thereof "$150,000."

(b) the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1981.

SECTION-BY-SECTION ANALYSIS

Section I. Title "Small Business Investment Act of 1980."

Section II. The bill would provide that qualified small business corporations (subchapter S corporations) could have 25 shareholders (present law allows 15 shareholders).

Section III. Present law requires an employer to furnish to an employee who has terminated employment prior to the close of the calendar year a Form W-2 on the day the employee receives his or her last salary payment.

Under the bill, the employer of an employee who terminates employment prior to the close of the calendar year would be required to furnish the employee a Form W-2 no later than January 31 of the following calendar year (as is the case for other employees), unless the employee requests that it be furnished at an earlier date. If the employee requests that a Form W-2 be furnished prior to January 31, the employer would be required to furnish the form within 30 days after receipt of the employee's written request.

Section IV. The bill would provide a nonrefundable credit against the income tax liability of a citizen or resident of the United States who invests in incentive stock of certain small businesses. The credit would be equal to 10 percent of the first $10,000 of the taxpayer's investment in such stock acquired for money during the taxable year, plus five percent of any investment in excess of $10,000. The maximum credit allowed to an individual in a taxable year would be $3,000 ($6,000 in the care of a married individual filing a joint return). In the case of any taxable year beginning during 1981, the maximum credit allowed to an individual in a taxable year beginning during 1981 would be $1,500 ($3,000 in the case of a married individual filing a joint return). Estates and trusts would not be eligible for the credit.

To be eligible for the credit, an individual would have to first purchase qualifying incentive stock within 180 days of the date of issue. In addition, the individual would be required to hold the stock for specified periods.

The provisions of this section generally would apply to stock acquired in taxable years beginning after December 31, 1980.

Section V. Generally, under present law, an employee is taxed on a compensatory stock option at the time the option is received, or, if the option does not have a readily ascertainable fair market value, at the time it is exercised. The employer has a corresponding deduction as a business expense.

Under the bill, a stock option meeting certain requirements which is granted to an employee would be taxed at capital rates when the employee sells the stock. The employer would receive no deduction. This section would apply to options granted after the date of enactment.

Section VI. Under present law, a securities dealer must recognize any gain on the sale of a security, even if he is making a market for that particular security. The bill would allow securities dealers who are making a market for the securities of small businesses to defer up to $1 million of gain on the purchase and sale of those securities. The gain would be deferred for up to 10 years; at the end of 10 years the deferred gain would be taken into income.

Section VII. Under present law, corporations are generally allowed a minimum accumulated earnings credit of $150,000.

This bill would increase the credit to $250,000. In the case of taxable years beginning in 1981, the credit would be $200,000.

The provisions of this section apply to taxable years beginning after December 31, 1980.

Section VIII. Present law provides a 10-percent regular investment credit. A taxpayer may claim this regular investment credit for the cost of up to $100,000 of used qualifying property acquired by purchase each taxable year. This limitation results in a maximum credit of $10,000 on used property for any taxable year.

The bill would increase the annual cost limitation on used property for purposes of the 10-percent regular investment credit from $100,000 to $200,000. In the case of any taxable year beginning during 1981, the annual cost limitation would be $150,000. The provisions of this section would be effective for qualifying used property purchased after December 31, 1981.

Section IX. In January, 1979, the United States Supreme Court decided the Thor Power Tool Company case in favor of the Internal Revenue Service. The case involved the write-down of excess inventory to what the Thor company's management estimated as its net realizable value. The company claimed an income tax deduction equal to the amount of the inventory write-down. The Service, maintaining that the write-down did not "clearly reflect income", disallowed the deduction. The Supreme Court upheld the Service's position even though it found the write-down to be in conformity with generally accepted accounting principles.

In February, 1980 over one year after the Supreme Court's decision in the Thor case, the IRS issued Revenue Procedure 80-5, governing inventory write-downs. In conjunction with this Procedure, the IRS issued Revenue Ruling 80-60.

The ruling provides that those taxpayers using a method of inventory valuation for excess inventory that is not in accordance with the prescribed method must change their method of accounting for the first taxable year ending after December 25, 1979. Thus, the ruling is mandatory for the first taxable year, whether calendar or fiscal, ending after December 25, 1979.

The bill prohibits the retroactive application to 1979 of the IRS' ruling.

The provisions of this section apply to taxable years beginning after December 31, 1979.

Section X. Under present law, bus operators engaged in intercity, charter, local and special operations must pay the 4 cents per gallon federal excise tax imposed on diesel and other special motor fuels and then file for a refund.

The bill allows such bus operators a complete and direct exemption from the requirements of paying the excise tax.

The provisions of this section apply to taxable years beginning after December 31, 1980.

Section XI. The bill would provide for the elective nonrecognition of an individual's gain from the sale or exchange of certain small business stock if the proceeds were reinvested in other small business stock within 18 months of the sale. Under the bill, gain would be recognized to the extent that the sale price exceeds the cost of the small business stock purchased during the 18 months following the sale. If a taxpayer makes the nonrecognition election, the basis of the small business stock acquired during the 18-month period would be reduced by an amount equal to the unrecognized gain realized on the initial sale or exchange.

The provisions of this section would apply to taxable assets beginning after December 3, 1981, and to stock acquired after the date of enactment of the act. Stock acquired before January 1, 1982, shall be treated as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1981.

Section XII. Under present law, corporate taxable income is subject to tax at graduated rates. The corporate tax rate schedule includes five brackets. The bill, in general, would widen the third and fourth rate brackets and lower the rate in the first bracket. As a result of the changes made by the bill, the tax liability of a corporation with taxable income of $150,000 would be reduced from $49,750 to $43,750.●

ADDITIONAL COSPONSORS

S. 1953

At the request of Mr. YOUNG, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specifically struck gold medal to Louis L'Amour.

S. 2412

At the request of Mr. DOMENICI, the Senator from Wyoming (Mr. SIMPSON), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 2412, a bill to amend the Resource Conservation and Recovery Act to further encourage the use of recycled oil.

S. 2649

At the request of Mr. CRANSTON, the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Carolina (Mr. THURMOND), the Senator from Vermont (Mr. STAFFORD), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children and for other purposes.

S. 2718

At the request of Mr. STEVENSON, the Senator from Minnesota (Mr. DURENBERGER), the Senator from Iowa (Mr. JEPSEN), the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maine (Mr. COHEN), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2732

At the request of Mr. PACKWOOD, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2732, a bill to direct that a clinical investigation of the safety and efficacy of dimethyl sulfoxide as a drug to be used by persons with arthritis be conducted through the National Institute of Arthritis, Metabolism and Digestive Diseases.

S. 2880

At the request of Mr. PRYOR, the Senator from Mississippi (Mr. COCHRAN), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2880, a bill to amend section 3109 of title 5, United States Code, to clarify the authority for appointment and compensation of experts and consultants, to provide statutory guidelines concerning the award of contracts for the procurement of goods and services from consultants and contractors, and for other purposes.

S. 2881

At the request of Mr. BENTSEN, the Senator from Hawaii (Mr. MATSUNAGA) was addesd as a cosponsor of S. 2881, a bill to amend the Internal Revenue Code of 1954 to extend the historic preservation tax incentives.

S. 2900

At the request of Mr. MATHIAS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2900, a bill to amend the Internal Revenue Code of 1954 to exempt officers and crew members of fishing vessels up to 15 tons from the provisions of the Federal Unemployment Tax Act.

S. 2979

At the request of Mr. METZENBAUM, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

S. 2983

At the request of Mr. SCHWEIKER, the Senator from Delaware (Mr. ROTH), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), the Senator from North Carolina (Mr. HELMS), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

SENATE CONCURRENT RESOLUTION 111

At the request of Mr. PELL, the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. HAYAKAWA), the Senator from Michigan

(Mr. Levin), the Senator from Ohio (Mr. Metzenbaum), the Senator from New Jersey (Mr. Williams), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Vermont (Mr. Stafford), and the Senator from Indiana (Mr. Bayh) were added as cosponsors of Senate Concurrent Resolution 111, a concurrent resolution concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the Madrid conference.

SENATE RESOLUTION 494—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING OF "PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION IN 1978 AND 1979"

Mr. RANDOLPH submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 494

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States in compliance with sections 127(d), 202, 306(e), and 313 of Public Law 91-604, the Clean Air Act, as amended, entitled, "Progress in the Prevention and Control of Air Pollution in 1978 and 1979" be printed as a Senate document.

Sec. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED FOR PRINTING

REGULATORY FLEXIBILITY AND ADMINISTRATIVE REFORM ACT OF 1980—S. 262

AMENDMENTS NOS. 1950 AND 1951

(Ordered to be printed and to lie on the table.)

Mr. JEPSEN submitted two amendments intended to be proposed by him to S. 262, a bill to provide for the regulatory analysis of proposed rules and the review of existing rules by the agencies, to make over improvements in regulatory procedures, to reestablish the Administrative Conference of the United States, and for other purposes.

REIMBURSEMENT OF ATTORNEY'S FEES

Mr. JEPSEN. Mr. President, today I am introducing two amendments to S. 262. One provides for the reimbursement of attorneys fees and other reasonable litigation costs to successful defendants against the Federal Government. The other, a more comprehensive effort, would provide for the reimbursement of not only defendants, but also plaintiffs. Also, the first amendment would make reimbursement mandatory while the second would make it discretionary.

My efforts in this area should come as no surprise to my colleagues as these amendments closely follow the language of legislation I introduced last year. As you may recall, on June 21, 1979, I introduced the Small Business and Individual Regulatory Reform Act. Although no action was taken on this bill, my desire to see this addressed has not diminished.

Later, during consideration of the FTC's authorizing legislation, I introduced an amendment to achieve the same goal. While the concept of reimbursement was accepted by the Senate, our colleagues on the House side deleted it in conference.

More recently, Mr. President, my distinguished colleague from South Carolina, Senator Thurmond, offered legislation to provide for the reimbursement of attorney's fees in cases involving OSHA. I am pleased to say that I am a principal cosponsor of this bill.

Mr. President, it is no secret to any of us that the Federal Government has developed a seemingly limitless ability to harass private citizens and small businessmen. The amendments I am introducing today are part of a continuing attempt by me to address this problem. They are an effort to bring some balance into a regulatory process that is overwhelmingly in favor of the Federal Government. The simple fact of the matter is that there is no incentive for individuals to fight back. The cards are stacked so much against the individual and in favor of the Federal Government, that people simply give in even though they know they are innocent.

Much of this harassment is carried out in the name of "consumer protection." What few people seem to realize is that all of these regulations cost the consumer a great deal of money and put honest people out of business. The Office of Management and Budget has estimated that Government regulations cost the American taxpayer $130 billion, and that is just for 1 year. Ultimately, it is the consumer who is going to foot the bill for this "protection."

As we all know, it is the honest person who must pay the price, not only in dollars, but in mountains of bureaucratic paperwork whose only function seems to be giving the bureaucrats something to do. My amendments are an attempt to free the small businessman from these burdens, enabling him or her to concentrate on providing a good product or service. If people think they have been wrongly accused by the Federal Government, then they should be encouraged to seek vindication. These amendments will give them that incentive.

Mr. President, I was hoping that during consideration of S. 262, this question would be addressed. But, unfortunately, after reviewing the final version of the bill, I note that no such provisions were made. I believe that any legislation that is designed to address the problem of regulatory reform in a comprehensive manner, must include reimbursement language. Anything less would do a serious disservice to the American consumer as well as the small businessman. Reimbursement of expenses incurred in seeking justice from the Federal bureaucracy should be mandatory. The Senate is already on record as supporting this approach and I would urge my colleagues to support these amendments.

DEPARTMENT OF ENERGY AUTHORIZATIONS — CIVILIAN APPLICATIONS—S. 2332

AMENDMENT NO. 1952

(Ordered to be printed.)

Mr. HATFIELD proposed an amendment to S. 2332, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes.

AMENDMENT NO. 1953

(Ordered to be printed.)

Mr. FORD proposed an amendment to S. 2332, supra.

NOTICES OF HEARING

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing on S. 2279, to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

The hearing will be held on August 5, at 10 a.m., in room 6226 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to George Dowd, counsel, of the subcommittee staff at 224-2564.

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. MELCHER. Mr. President, I wish to announce that the Agriculture Subcommittee on Environment, Soil Conservation, and Forestry has scheduled a hearing on S. 2861, a bill that would designate certain National Forest lands in North Carolina for inclusion in the National Wilderness Preservation System and would release other National Forest lands for nonwilderness uses. The hearing will be held on Tuesday, August 5 at 9:30 a.m. in room 324 Russell Building.

The subcommittee will hear from invited witnesses only, but statements submitted for the record are welcome. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PRYOR. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 2880, the Consultant Reform Act of 1980 on August 5, 19, and 20. The hearings will be held in room 3302 of the Dirksen Senate Office Building at 10 a.m. each day.

Anyone wishing further information may contact the committee office at 224-4751 or the staff of the Civil Service and General Services Subcommittee at 224-4551.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

A hearing is scheduled for August 26, 1980, beginning at 10 a.m., in room 5110 of the Dirksen Senate Office Building, to receive testimony regarding S. 2952, a bill to provide for the use and distribution of Seminole judgment funds in dockets numbered 73 and 151 before the Indian Claims Commission, and for other purposes.

For further information regarding the hearing you may wish to contact Peter Taylor of the Committee staff at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, the following requests have been cleared with the minority side.

Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a mark-up session on a committee resolution which grants right-of-way to the Florida Gas Transmission Co. for a pipeline in Texas in addition to legislation which designates certain forest lands in the State of Colorado as wilderness lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 31, 1980, to hear and consider nominations and resolutions pending before the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 31, 1980, to hear administration officials on East Asian security implications.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Oversight of Government Management Subcommittee of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 31, 1980, to hold a hearing on IRS collection procedures and its effect on small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TREATING TAIWAN WITH DIGNITY

● Mr. GOLDWATER. Mr. President, on June 28 a fine group of American war veterans met in San Diego, Calif., to celebrate their 26th reunion. The group is known as SACO, the Sino-American Cooperative Organization.

These veterans served behind enemy lines during World War II on mainland China where they engaged in intelligence and guerrilla activities against the Imperial Japanese invaders. The nature of their duties required extremely close cooperation with the Chinese Government. In recognition of the close bonds and trust among the Chinese and Americans, SACO invited two military officers from Taiwan to attend convention events as guests of the American organization.

Traditionally, SACO invites representatives of nearby U.S. naval facilities to join with the veterans at some part of its activities, which are held to perpetuate and continue friendship and fellowship of all those persons who served as members of U.S. Naval Group China during World War II. Every year, until this one, SACO has had the pleasure of receiving U.S. Navy personnel and U.S. Marine Corps or U.S. Air Force officers at its meetings.

However, when Mr. William Baker, the convention chairman of SACO, extended the customary request on behalf of his group to the local San Diego Naval District, it was rejected. Mr. Baker then made a request for unofficial participation by naval personnel, just to have some ranking officer from the Commandant's office mingle with the SACO group in the spirit of friendship and courtesy. Again, his follow-up request was turned down.

Mr. Baker then enlisted the aid of retired Capt. Edward Martin, who is a SACO member and who has lived in San Diego for many years and is well acquainted with the Navy personnel. The efforts of Mr. Martin met with the same negative results as those of Mr. Baker.

Finally, Mr. Baker was informed by an aide of the commandant that the Navy is not allowed to participate in any recognition of the Republic of China on Taiwan, either officially or unofficially, on instructions from Washington.

Mr. President, upon hearing of these events I was astounded that President Carter apparently had instructed branches of our Government and Armed Forces to refrain from any dialog or contact at all with officials from Taiwan, even on an informal basis. I wrote identical letters to the Secretary of the Navy Edward Hidalgo and Secretary of Defense Harold Brown asking for an explanation of why such rude behavior had been shown to a distinguished group of American war heroes and their guests from Taiwan. I recently received a reply from Secretary Hidalgo stating that there "was no intention to show disrespect to any official from Taiwan or to the Sino American Cooperative Organization."

Secretary Hidalgo described this episode as a "misinterpretation" of Government policy.

Mr. President, I am pleased that Secretary Hidalgo is willing to go on the record with an official statement of Government policy clearly authorizing U.S. Government officials, including military officials, to have "social and other unofficial contacts with representatives from Taiwan." This at least is the minimal courtesy we can give to a people who are still trying very hard to remain friends with the United States and who govern a territory of the world which holds great strategic and economic importance to the United States.

Of course, I personally am hopeful that our Government policy will evolve into a restoration of official contacts and not merely informal or unofficial dealings, but the public pronouncement by the Secretary of the Navy at least clarifies that it is not Government policy to shun Taiwan officials.

In order that the official statement of Government policy may be known to the public and in the hope of preventing future embarrassments of the kind that occured in San Diego, I ask that the exchange of letters between myself and the Secretary of the Navy, and a letter to the Navy by SACO, may appear in the RECORD.

The letters follow:

EXHIBIT I

U.S. SENATE,
Washington, D.C., July 7, 1980.

Hon. EDWARD HIDALGO,
Secretary of the Navy, Department of the Navy, Washington, D.C.

DEAR MR. SECRETARY: On June 28, a fine group of American war veterans, who served their country well in extremely dangerous activities during World War II, gathered together at San Diego to hold their 26th reunion. The name of the group is the Sino American Cooperative Organization, known as "SACO."

As you know, these men established intelligence units, commando groups and communications facilities in enemy-held areas and behind enemy lines during World War II, supporting China against the Japanese invaders. Accordingly, in remembrance of the wartime cooperation between the Chinese and Americans engaged in these activities, two officers from Taiwan, Admiral Liu, Ho-shien and General Chang, Shih-chi, visited the United States as guests of SACO.

It has come to my attention that because of the presence of the two military officers from Taiwan, the local United States Navy commander was given instructions from Washington not to have any contacts whatsoever, either on an official or unofficial basis, with the SACO meeting. It is my understanding that an invitation was offered by SACO to meet on a private basis and refused by the local Navy district.

If this is true, I must express my disappointment at the lack of respect shown to a group of American war heroes and their visitors. As you know, the time may come when United States military units will need immediate access and use of the ports and airfields in Taiwan, and we are not doing ourselves any good by alienating a country that is still trying its best to be friendly with us.

It is difficult to understand a national policy that allows the Secretary of State to meet face-to-face with the Soviet Foreign Minister at the same time the Russians are pouring troops into Afghanistan and leaving them in Cuba, but that makes it impossible for even informal contacts to take place with old friends of the United States. I ask if you will give me a full report on this matter and hope that you will see the wisdom of maintaining friendship with the people and government on Taiwan.

Sincerely,

BARRY GOLDWATER.

EXHIBIT II

THE SECRETARY OF THE NAVY,
Washington, D.C., July 22, 1980.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: This is in response to your letter of July 7, 1980 requesting a report on a local United States Navy Commander's attendance at a meeting of the

Sino American Cooperative Organization (SACO) that was held in San Diego on June 28, 1980.

Your letter reflected your relief that Rear Admiral J. E. Langille, the local Navy Commander, was instructed by Washington not to have any contact whatsoever with the SACO meeting because of the presence of two high ranking Taiwan military officers. After checking, I can confirm that this was not the case. Rear Admiral J. E. Langille was unable to accept the invitation to the June 28 meeting because he was scheduled to be out of town on official business on that day.

The Commander's staff, however, was given guidelines concerning United States policy with respect to communication with authorities on Taiwan. As you know, normalization of relations with China has required certain changes in our relationship with the people on Taiwan. Current US Government policy prohibits direct official communication between US Government officials, including military officials, and the authorities on Taiwan. In general, all contact and communication are handled through the American Institute in Taiwan. At the same time, social and other unofficial contacts with representatives from Taiwan may continue.

Finally, I would like to state that there certainly was no intention to show disrespect to any official from Taiwan or to the Sino American Cooperative Organization. I regret this misinterpretation seemingly occurred.

I am certain that the above information will help to clear up this misunderstanding.

Sincerely,

EDWARD HIDALGO.

EXHIBIT III

U.S. SENATE,
Washington, D.C., July 24, 1980.

Hon. EDWARD HIDALGO,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: Thank you very much for your prompt reply to my inquiry into the apparent refusal of Naval officers to meet with members and visitors to the Sino American Cooperative Organization 1980 Convention in San Diego.

It is encouraging to receive your official statement that "social and other unofficial contacts with representatives from Taiwan may continue." Of course, I am disappointed that the Administration has chosen to prohibit most direct contacts between United States officials and representatives of the Republic of China on Taiwan, especially since the top Chinese Communist official, Vice Premier Tenug, personally informed Members of the Senate Foreign Relations Committee in early 1979 that the Chinese had no objection to the local government on Taiwan carrying on the people to people relations with the United States that normalization anticipated. I am hopeful that a pragmatic approach will be taken in the future that will allow increased face-to-face contacts between U.S. and Taiwan officials as occasions may require it.

In any event, I am very pleased that our current policy will allow for expressions of friendship and personal contacts at social or other unofficial events. It is my impression that SACO did make a follow-up request asking if a junior officer might attend some event, even in civilian clothes in order to show minimal respect to their Taiwan guests, and that this was rejected. However, I do accept your statement that a misunderstanding occurred, and that unofficial, social contacts would have been permissible. Again I welcome your early answer to my inquiry.

Sincerely,

BARRY GOLDWATER.

EXHIBIT IV

SINO AMERICAN COOPERATIVE
ORGANIZATION, INC.,
July 7, 1980.

COMMANDANT,
Eleventh Naval District,
Naval Base, San Diego, Calif.

ADMIRAL LANGILLE: In my recent capacity as President of SACO, I asked our Convention Chairman, Mr. W. M. Baker of San Diego, to request U.S. Navy representation to greet our convention members, U.S. Senator Barry Goldwater, Sr. of Arizona and important guests of ours from The Republic of China (Free China in Taiwan). His letter to you dated April 30, 1980 and contact by our Captain Edward Martin, USN (ret.) with your office followed.

SACO is formerly U.S. Naval Group China under the command of Vice Admiral Milton E. Miles. Historically, we invite nearby U.S. naval facility to join us in our annual convocation "to perpetuate and continue friendship, fellowship and fraternization of all those persons who served as members of U.S. Naval Group China during World War II and in collaboration with the SINO American Cooperative Organization." Each year we have had the pleasure of U.S. Navy personnel and U.S. Marine Corp or U.S. Air Force at our meetings. We have been greeted and joined by many senior officers of each service over the years and we have visited naval, military installations and service academies. General Robert H. Barrow, Commandant of the Marine Corp, and a SACO member, was our speaker in 1977.

This year, we have looked forward to participation by your command especially for the reason that Senator Goldwater would be our principal speaker on June 28th and since Vice Admiral Lui Ho-chien, Deputy Commander-in-Chief, Republic of China Navy would be present. Admiral Lui spent several months at the U.S. Navy facility in San Diego as a young officer several years ago and hoped for a welcome which we expected to be given him by our own Navy.

We did not know that instructions from someone in the Carter administration in Washington, D.C. forbids even social contact with people of Free China by your command and other U.S. governmental branches. We first learned of this from your Lt. Weyand.

On behalf of SACO and our country, I have apologized to our invited guests. We did go forward with a commitment made to have luncheon at the Admiral Kidd Club although the absence of your staff was indeed noticeable to all present.

Be assured that you have our sympathy for the position in which you were placed by the present administration. We wish the Navy well and we will endeavor to support the rebuilding of our Navy and other armed forces to meet world conditions and to counter the degradation of our defense capabilities in the past few years.

With kind regards to you and your command from old U.S. Navy comrades, we remain

Sincerely yours,

WILLIAM P. SIMMONS,
Past President.●

OREGON AEROSPACE RESCUE UNIT DESERVES PRAISE FOR ITS WORK

● Mr. PACKWOOD. Mr. President, one of my great concerns in the Senate is directed to the effort to strengthen our conventional Armed Forces. I believe that this Nation's military preparedness is best served by encouraging our service men and women to remain in active service, or in the various military reserve programs, for we benefit greatly by their experience gained through years of training and performance.

I have in mind a prime example of the way experience has paid off for the public good and I want to bring this episode to the attention of my colleagues and the public. I am referring to the excellent work of the officers and enlisted personnel of the 304th Aerospace Rescue and Recovery Squadron, stationed at the Portland, Ore., International Airport, during the early hours of the May 28 eruption of Mount St. Helens.

The 304th ARRS is a reserve unit, and its performance during this disaster provides us with a lesson. It is, simply, that the Nation is well served when units such as the 304th prove themselves fully prepared for both active duty and peacetime emergencies, through the part-time, cost-saving mechanism of the military reserve program.

An article in the recent issue of the Air Reservist magazine vividly tells the story of the 304th's outstanding life-saving efforts in the wake of the Mount St. Helens' eruption. I am proud of this Oregon unit's accomplishments, and commend the dedication and heroism displayed in rescue work after the eruption. I wish to share the story of the 304th.

I submit the article for the RECORD.

The article follows:

FACING THE MOUNTAIN'S FURY

(By Terry Eddleman)

On a quiet morning in May, a serene mountain exploded.

Thundering and murderous, this now world-famous peak in southwestern Washington killed and lay waste all that was before it within a 200-square mile area.

In its aftermath lay a swath of destruction that had altered forever the lives of those who had been near Mount St. Helens that gruesome day of May 18, 1980. Gone were vast forests of stunning evergreen. Gone were the peaceful, uncluttered banks of the Toutle River's north fork. And gone for eternity was limpid Spirit Lake, where generations of families and scouts had camped in the mountain's matronly shadow.

To know what it had all once been, and to see it now, was to bring tears to one's eyes.

But there were those who had no time for tears. They were the rescuers, those who would come to make some sanity out of the madness that was everywhere. And among these rescuers were members of the Air Force Reserve's 304th Aerospace Rescue and Recovery Squadron at Portland International Airport, Ore.—a unit armed with 10 UH–IN and HH–1H helicopters and a crack force of 17 pararescuemen.

Less than an hour and a half after the mountain erupted, the 304th leapt into the fury of ash and searing heat to search for survivors.

"I was on the first helicopter in," recalled TSgt. David Ward, a 304th pararescueman. "The mountain exploded about 8:30 in the morning and we were there by 10 a.m. When I saw what was ahead of us, I couldn't believe it. I was awestruck. We all were."

As Sergeant Ward's helicopter made its way up the Toutle River Valley north of the mountain, its occupants observed a horrific world as eerie as any science-fiction scene of nuclear holocaust.

"There was nothing alive out there," said Lt. Col. Thomas Jones, commander of the

304th. "Not a blade of grass, not an insect, nothing. I've never seen anything like it."

Where forests had grown thick with fir, great gaping fissures now spewed steam and hot ash. Where streams had quietly flowed, mud pots now spit scalding bubbles of liquid earth into the air. The terrain abounded with craters as if struck by an angry meteor shower. "If I hadn't seen it for myself, I never would have believed it," said SrA. Robert Weaver, another 304th pararescueman. "It was the scariest thing I'd ever seen. I kept thinking, this just can't be true."

But the horror was true, and had to be dealt with. Early that fateful Sunday morning, when Mount St. Helens blew one cubic mile of itself into oblivion, the 304th swung into action. Maj. Michael Peters, deputy air commander of the squadron, had already coordinated with the unit's parent organization, the 403rd Rescue Weather and Reconnaissance Wing at Selfridge ANGB, Mich. Within minutes, he was holding a briefing for the 304th's pararescuemen and aircrews. Safety, he cautioned, safety. That was the byword, even though they had to move fast to save whoever might still be alive in the devastated area.

Maps were plotted with tight grid patterns, and the search began. As the hours of that dark Sunday wore on, the 304th began bringing in frightened but relieved survivors. At day's end, 51. "That's not bad," said Major Peters, "when you consider we average about 50 saves in a typical year."

Remarkably, some survivors had to be convinced to leave. "When we first went out there Sunday morning," said Sergeant Ward, "we were walking along the north fork of the Toutle with our helicopter circling above us. All of a sudden we heard this communication from our chopper that there was a wall of mud, 20 feet high and traveling 30 miles an hour, bearing down on us from upstream. I heard somebody say on the radio, 'We're coming in for you. You guys better hurry out of there before you get hit.' As a were running for the chopper, we noticed a vehicle up the road with somebody in it. We ran to it and found a news reporter in there, and we told him about the mud coming. We told him he was coming with us and can you believe it—he didn't want to leave? He said he had to get the story he had been assigned. And besides, he couldn't leave his car—too much valuable photo equipment in it. Well, we dragged this guy kicking and screaming into the helicopter as it touched down near us, and minutes after we took off, this tremendous force and mud smashed everything in sight. It was incredible. His car was completely buried—not a trace."

With a land area of such magnitude and fierceness to be searched, the 304th received some much-needed assistance from the 303rd ARRS at March AFB, Calif. Flying in that Sunday evening, the 303rd brought six pararescuemen and a C–130 aircraft to act as a communications command post. Circling above the volcano at 20,000 feet, and keeping in touch with the helicopters below, the aircraft added a safety margin for the massive air traffic that was moving about Mount St. Helens during those hectic first days of rescue.

Further assisting was the 305th ARRS from Selfridge with four pararescuemen, and both units who had come to help were appalled at the destruction. "It was almost other-worldly," said the 303rd's TSgt. Scott Denton. "You see news coverage of the stuff and you think you'll be used to it when you arrive, but until you walk among it, it's like nothing you've ever experienced. The ash was so light that when you walked in it, rose around you like a cloud."

Other pararescuemen noticed tragedies that went beyond the physical devastation. "The most disturbing thing I found," said SrA. Richard Konopka of the 305th, "was the numbing effect the disaster had had on so many people. A lot of them had spent their lives in those beautiful valleys, and now they were gone. It was so sad. One day we even flew close to some elk near the destroyed area, and they never even moved. Normally our choppers are so loud and scary to animals that they just take off and run. But these elk didn't. It was as if they were saying, so what else can happen to us?"

The initial shock, however, was probably felt hardest by the 304th members, who saw the horror at its earliest. "When we flew in Sunday to the mountain," said pararescueman SSgt. Mitchell Johnson, "I could see the column of ash—60,000 maybe 80,000 feet high. My mouth dropped open. Your imagination just can't conceive it until you see something like that. And I felt so many different emotions. I saw some of the people that had died in the blast, and I felt so sorry for them and their families. But then I saw those that had survived, and it was a wonderful feeling to know they'd been given a second chance."

Of all the survivors, perhaps the most grateful was a family of four that had been caught unawares by the volcano while they slept peacefully in a camp near Fawn Lake. They awoke when the mountain erupted—and the husband, wife, and two small daughters wandered for 30 hours before being sighted by the 304th.

"That's what keeps you going," said Sergeant Johnson, who had been on the rescue crew that saved the four. "The joy of saving an entire family. That's what makes it all worthwhile, even though this job is admittedly a little risky," he said with a smile.

By Tuesday following the Sunday eruption, the total saves had risen to 56, and later it would rise to 61. "That's a respectable figure," said Colonel Jones, "when you consider that the total count for all rescue organizations, including us, came to 92 saves. They do an incredible job, our people. In a way, they're like the volcano—there just aren't enough adjectives to describe them."

And perhaps the innermost feelings of the pararescuemen and aircrews were expressed by the 304th's Sergeant Ward. "We may have hauled some atheists up there," he said, "but we didn't haul any back." ●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN EDUCATIONAL ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Peggy Haberstroh, a member of the staff of Senator Hayakawa, and Dr. Michael J. Copps, a member of the staff of Senator Hollings, to participate in a program sponsored by a foreign educational institution, Tunghai University in Taichung, Taiwan from August 7 to August 15, 1980.

The committee has determined that participation by Ms. Haberstroh and Dr. Copps in the program concerning the economic development of Taiwan, in Taiwan and at the expense of Tunghai University, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Hoyt Purvis, of the Democratic Policy Committee, to participate in a program sponsored by a foreign educational organization, the Friedrich Ebert Stiftung (Foundation), in Bonn, West Germany from June 13 to June 14, 1980.

The committee has determined that participation by Mr. Purvis in the program in Bonn, West Germany, at the expense of the foundation, to attend a workshop on "Current European-American Security Issues" is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request from Senator Dole for a determination under rule 35 which would permit Mr. Roderick DeArment, the Deputy Chief Minority Counsel on the staff of the Finance Committee, to participate in a program sponsored by a foreign educational institution, Soochow University in Taipei, Taiwan from July 6 to July 12, 1980.

The committee has determined that participation by Mr. DeArment in the program in Taiwan, at the expense of Soochow University, to discuss United States-Taiwanese relations, is in the interests of the Senate and the United States. ●

ARTISTS TAX EQUITY ACT OF 1979—S. 1078

● Mr. McGOVERN. Mr. President, I am pleased to join Senator Javits and others in cosponsoring S. 1078, the Artists Tax Equity Act of 1979. Our Nation has an outstanding heritage in art of many kinds—painting, sculpture, photography, music, dance, writing, and even political cartoons. The Artists Tax Equity Act will help insure that this heritage is preserved and artists are encouraged to produce new works.

The United States for decades has been a leader in the world of art. Yet this leadership is threatened by tax laws that discourage instead of encourage our artists. An artist wanting to donate a painting to a museum or a manuscript to a library is permitted to deduct for income tax purposes only the value of the materials used in producing that work. At the same time another individual, whose creative energy did not go into making the object, could get a deduction for fair market value if he first purchased the work and then donated it. Because of this inequity, artists are selling their works instead of donating them to museums or libraries. The effect of this is, far too often, to take the work out of the public domain and make it available to only a few. In addition, collections are splintered so scholars do not have available a body of work of the artist from which to do their scholarly research.

The effect of our estate tax law is equally devastating. An artist's work is valued at fair market value for estate tax purposes. For the heirs of artists who produce many works during a year but sell only a small percentage, this can bring a very substantial estate tax levy, even if evaluators take into account the depressing effect on prices when a block of work is available for sale. However, except for artists of great stature, the sale of work is often greatly dependent on the personal contact of the artist with the buyer, so sales by the estate are often very difficult. The potentially devastating burden of estate taxes has caused more than one artist to destroy works to lessen the encumbrance on his family.

These drastic actions can be avoided by adopting the method used by the French and the Mexicans of permitting the payment of estate taxes in the artist's work. S. 1078 contains such a provision. Under S. 1078, the estate would receive credit on estate taxes for donating works to the Federal Government for display or access by the public. This would mean, for example, that an artist's heirs could donate a work for display in a Federal building in the region where the artist worked. The public would benefit by the enhancement of the building, and the artist's heirs would benefit by having a market for the artist's work.

I urge my colleagues on the Finance Committee to include S. 1078 in any tax reduction measure for 1981. The revenue loss is small, and the benefit to our Nation's artistic heritage is great.●

UNITED STATES-SOVIET RELATIONS

● Mr. KENNEDY. Mr. President, I wish to commend to my colleagues three excellent articles by Leslie H. Gelb, former Director of the State Department's Bureau of Politico-Military Affairs and currently a senior associate at the Carnegie Endowment for International Peace, based on a trip Mr. Gelb recently took to the Soviet Union. Appearing in the New York Times, these articles go straight to the heart of the ongoing debate over United States-Soviet relations.

Mr. Gelb accurately describes the prevailing uncertainty in both the Soviet and American Governments about the future course of their relationship, and focuses on the key issues of Afghanistan and arms control which presently face us. He recommends ways by which we can "maintain our interests and peace" and "sensibly rebuild" our military establishment, predicated on "arrangements with Moscow that are in our mutual interests," even as we make clear to the Soviets that "relations with us in different fields cannot go beyond certain limits until its aggression against Afghanistan is remedied." He believes we should continue to oppose the Soviet occupation of Afghanistan, but we should also pursue the ratification of SALT and reestablishment of a wide range of contacts with Soviet officials.

Mr. Gelb's trip itself—representing one of the increasingly rare contacts between American and Soviet officials and scholars—reminds of the importance of minimizing the risks of misunderstanding and miscalculation between the nuclear superpowers. His thoughtful report on his trip is an important reminder of the need for a steady and balanced relationship with the Soviet Union, based on effectiveness, predictability and prudence in our diplomacy and our defense policies.

Mr. President, I request that the full text of Mr. Gelb's articles, together with an editorial in the New York Times on his report, be printed at this point in the RECORD.

The articles follow:

MOSCOW'S PROBLEMS, DILEMMAS

(By Leslie H. Gelb)

WASHINGTON.—For 20 years of my professional life spent working on foreign policy in and out of Government, the Soviet Union almost always has been at the other end of the rope. It has never been easy to figure out why the rope was being pulled or tugged or made slack, especially now when contacts between Americans and senior Soviet officials are so rare. So when the Institute of the U.S.A. and Canada, an organization that specializes in American affairs, invited me to spend two weeks in June talking with party, military and Foreign Ministry officials, and scholars, and traveling, it was easy to decide to go.

One searing impression from the trip was this: Whether or not the Russians have a master plan to trick the United States and take over the world, there is no question that they are confronting overwhelming problems for which they do not have good answers. They do not have a good idea of how to succeed in Afghanistan, yet they are clear that they cannot afford to lose. While some officials may see opportunity there, others know it is a trap. I could have closed my eyes in Moscow and believed I was back in the Pentagon listening to a debate over Vietnam.

While Soviet officials would like to have both Afghanistan and détente, they are just beginning to appreciate that détente is in shambles and to weigh the costs. I do not doubt that they are in the middle of a slugfest over how to deal with America. Like officials in Washington, they are particularly concerned that conciliatory gestures will be read as signs of weakness and encourage the other side to even greater toughness.

They talk least frankly about their coming bind on resources, but that bind is implicit in most other things they have to say. Economic growth may slow considerably. Oil production will drop, leaving less to export to their Eastern European satellites, putting more strain on those countries' economies and therefore on political relationships with Moscow. They know they may have to increase the very long lines for consumer goods to make even further increases in military spending to match coming Western military outlays. They argue that the military balance cannot be calculated, as we do it, as a comparison of Soviet and American forces. They insist that in calculating the risks of war, Moscow must count in as well the forces of China, Japan and Western Europe. This is their explanation of why their forces are so large—just as American forces used to be one-half again as large as they are today when we had to plan for possibly fighting the Soviet Union and China. Further, how can they count on their Eastern European allies when Rumania refuses to permit Warsaw Pact exercises on its territory, will not let Soviet troops cross its borders, and voted against Moscow on Afghanistan in the United Nations General Assembly?

Moscow's dilemma over Afghanistan was transparent. Moscow feels it must maintain the essence of the new Brezhnev Doctrine, which holds that once in the Communist orbit, always in it. Yet, many policy makers in Moscow also understand that the Afghan guerrillas cannot be made to join a coalition Government headed by President Babrak Karmal, cannot be crushed by the massive application of Soviet power, and that the more force used, the more likely Moscow's position in the Moslem and Western worlds will be seriously jeopardized. Thus, it seemed to me that while Soviet leaders insisted that they could not afford to lose in Afghanistan, they also realized that there would be serious risks in trying to win.

Just as Richard M. Nixon tried to get out of a similar dilemma in Vietnam by going to Moscow, Moscow is now looking for help from Washington. In the early 1970's, President Nixon sought Moscow's aid in putting pressure on Hanoi to slow down the war against South Vietnam in return for which Washington would agree to establish détente. Now, Moscow is seeking Washington's help in tamping down military support for the Afghan guerrillas in return for which Moscow would be willing to re-establish détente. The reasoning is simple: Without détente, everything becomes more costly and more dangerous for Moscow and the West. This time, the only hitch is that Washington is not making this calculation the same way.

In the best of years, a world without détente is nothing Moscow likes to contemplate. It is certainly something the Russians would like to avoid acting upon at this time of their upcoming new five-year plan. The Communist Party Congress is to convene next February to approve the plan. The five-year plan is at the very core of the way Soviet officials control their society. The decisions that party leaders will make this winter will set the framework for the allocation of resources, military and civilian, and will also set general policy toward the United States for the next five years.

Soviet leaders clearly do not want to allocate an even greater share of the pie to the military, but most Western diplomats and correspondents in Moscow are firmly convinced that they can and will. In the meantime, Soviet leaders are casting about for alternatives for ways out of their dilemmas, looking for keys to improve relations with Washington and for fallbacks should this fail.

SOVIET STRATEGIC CHOICES

(By Leslie H. Gelb)

WASHINGTON.—The Russians invited me to visit their country in June to tell me their story, and I went to hear it and to learn if anything else could be detected "between the lines." I returned with the impression that Soviet leaders see themselves as facing some insurmountable problems (not the least of which is trying to complete the devouring of Afghanistan), that they are going through a period of very wishful thinking about the possibilities of improving relations with us after the election, and that they are tied up in knots over whether to prefer Jimmy Carter or Ronald Reagan.

If, and when, they decide who is better for them, they will do what they can to help elect him—perhaps by making or withholding conciliatory gestures to Mr. Carter, just as Nikita S. Khrushchev delayed the return of the captured U-2 pilot Gary F. Powers in 1960 to give John F. Kennedy some edge over Richard M. Nixon and as, in 1972, Moscow did all it could to help Mr. Nixon against George McGovern.

Soviet officials have a prodigious knowledge of what the candidates are saying about foreign affairs and were all eager to discuss the campaign. Several months ago, Soviet officials visiting Washington told me without much hesitation that their ideal outcome would be Mr. Reagan as President ("we'll know where we stand with him even though he'll be very tough" and "he would have the political strength to make deals with us like Mr. Nixon and Mr. Kissinger") and a Democratic Congress ("they would pass whatever the conservative Republicans agreed to with us").

But in my conversations in Moscow, Leningrad and Tbilisi, most Soviet officials, having now learned more about Mr. Reagan and his advisers, seemed perplexed about the probable Carter-Reagan choice. The sum of what they said was this: Mr. Carter is hopeless, but not crazy; Mr. Reagan might represent some hope, but he also might be crazy. "Crazy" is their term for those who believe in fighting and winning nuclear wars.

Most of all, Soviet officials are looking forward to election day. They are thoroughly familiar with patterns in Presidential campaigns: All the candidates tend to harden their positions toward the Soviet Union, and after the election, relations return to a more relaxed state. I sensed that many of these officials did not think that 1980 would be different, did not fully understand that détente had been tried and found wanting and that any President would be more hesitant to try it again.

Some told me that their leaders and ours should look for dramatic breakthroughs, such as proposals previously made by Leonid I. Brezhnev for joint energy-development programs and an agreement to guarantee access to Persian Gulf oil. Others spoke of returning to business-as-usual in arms-control negotiations and trade. Only a few seemed to understand that relations with us are reaching a new low and are likely to have a more modest content in coming years.

Nonetheless, they are all looking at their strategic alternatives in case relations should continue to deteriorate. But Soviet officials, in discussing different approaches to foreign-policy choices in the 80's, talk as if there is no good alternative to trying to re-establish détente with America. The prospects of trying to establish separate détente with Western Europe and Japan and to improve relations with China do not look very promising, and the alternative of going it alone is terribly costly and potentially very dangerous.

They acknowledge that since Western European governments are susceptible to certain blandishments and enticements, they will use these tools. But they also understand, perhaps better than we, that these governments will not stray far from ours. Yet, if Washington puts diplomacy in a deep freeze and proceeds with a massive arms buildup, Moscow's strategy will combine an even-greater Soviet arms buildup and the pursuit of better relations with Western Europe and China.

Soviet officials play the totally aggrieved party. As one put it: "We do not experience any feelings of guilt, because we have done nothing to warrant the U.S. position!" Thus, even though they want to revitalize détente, they are not prepared to make significant concessions to achieve this.

As they described their approach, they want an improvement in "atmospherics" first. They said they would start by withdrawing some troops from Afghanistan and by accepting the Western position on the terms for starting negotiations on missiles in Europe, and they have done this. In return, they want Mr. Carter to tone down his anti-Soviet rhetoric and make a full-faith effort to rally the country to support the strategic-arms treaty. If all this happens, "other good things could follow," it was hinted. This long-range signaling process has begun already. Mr. Carter's comment the other day that the new Soviet position on missile negotiations was "serious" is exactly what Moscow is looking for.

One senior official cut right to the core of all the conversations, problems and strategies. "We are both difficult countries to get along with. And we are caught in a dilemma: We cannot resolve our differences without fighting, and yet we are too strong to fight."

Policies for Washington and for Moscow

(By Leslie H. Gelb)

Washington.—Talking with officials and scholars in the Soviet Union is not very different from talking with their counterparts in the United States. Over the last few weeks, as I listened to officials in both countries talking about Soviet-American relations, I was struck by how they were all long on fears and anxieties but short on answers; by how those who felt it was crucial to try to improve relations were still in the majority but now very much on the defensive; and by how both felt that their societies were drifting toward decisions that would lock them into a long period of high-risk confrontation.

This is not to say or imply that Soviet society, goals and methods are as worthy as ours; on the contrary, we must be careful not to be deluded by the Russians. Rather, it is simply to say that we must not close our eyes, or delude ourselves, about the cold realities.

We are in the grip of an election year in which the principal Presidential candidates are trying to outdo one other in the kind of anti-Soviet rhetoric that succeeds mainly in irritating the Soviet leaders and scaring the Congress. In this hysterical atmosphere, Congress is doing clever things like voting hundreds of millions of dollars to de-mothball a battleship and an aircraft carrier when the Navy cannot even man the ships it already has afloat.

The Soviet Union seems to me on the verge of one of its worst bouts of paranoia about American designs. "What's really going on?" I was repeatedly asked in Moscow. In such a climate, the Russians are readying their next five-year plan, which will set the direction and framework of policy. My impression was that the single most important factor in formulating this plan will be the foreign policy of our next President.

One policy gaining popularity in the United States now—simply to get strong and get tough—is not a serious answer. The Soviet Union is quite capable of staying strong and being tough too, and has far greater discipline than we to do this. But the essential nonsense of the ultra-conservative American position can be found in the mouths of its advocates who insist that nothing we can do in the next few years will enable us to catch up with the Russians militarily. That will take many years, they say. What do these advocates of ultimate strength want us to do in the meantime? Certainly not grovel and bluff, they say.

What can we do in the next few years to maintain our interests and peace as we and our allies sensibly rebuild our military establishments?

First, the United States needs to respond to Afghanistan in a way that Moscow will take seriously, that our allies will follow, and that Americans can support for more than six months. Something that might fit this need would be to treat Afghanistan as the limiting factor in our relations with Moscow, not as the controlling factor. This means that Moscow should be given to understand that relations with us in different fields cannot go beyond certain limits until its aggression against Afghanistan is remedied. It also means that we should not deny ourselves arrangements with Moscow that are in our mutual interests, and that we should not take positions that we and our friends cannot sustain.

Americans have little tolerance for ambiguous relationships. To our European and Japanese allies, however, it is the very stuff of diplomacy both to trade and arm, to agree and disagree. They will not go along with embargoes on trade and diplomacy against the Soviet Union. But they have accepted limitations on trade and diplomacy in the past and will again, if led properly. If we and our allies can agree on limits on grain sales, technology transfers and the like, Moscow will not be able to ignore this. And American farmers and businessmen will not be put at a unilateral disadvantage.

The treaty on limiting strategic arms should also be ratified as soon as feasible. To reduce the risk of nuclear war and to hold Soviet nuclear programs in some check, which is what the treaty does, is in our vital interest despite Afghanistan. Ratification of the treaty is also the central element in preventing a further deterioration in relations, judging by my two weeks of talks with Soviet officials in June.

Second, the United States needs a set of contacts with the Russians to reduce miscalculations and lay the basis for possible future improvements in relations. These contacts should be the kind that American conservatives and liberals alike could support so that they could not be so easily blown away by politics. They could include the following, all of which many Soviet officials told me were agreeable to them:

1. Two regularly scheduled meetings each year between the Soviet Foreign Minister and the United States Secretary of State.

Neither side would have to make the decision to "ask" for a meeting and thus appear "weak." In the last few years, we have spent more time bargaining about whether to meet than negotiating the substance of our problems. This would be the proper forum for discussing high-risk problems like Afghanistan and Iran.

2. An annual meeting—not negotiations—between the Chairman of the Joint Chiefs of Staff and his Soviet counterpart.

Lower-level military contacts in the past have had a mutually beneficial and calming effect that could not have been achieved through civilian intermediaries.

3. A round of meetings—not negotiations—between arms-control experts on both sides about problems of verifying arms agreements in the 1980's.

Future arms-control agreements will be much harder to verify than past ones because of the smaller sizes and greater mobility of new weapons systems and because of the proliferation of conventional and nuclear arms. These problems will be every bit as serious for Moscow as for Washington. If Moscow expects us to take its calls for arms control seriously, it will have to begin to take the problems of verification more seriously.

The Soviet Union—facing some large-scale economic and political problems that do not have ready solutions, and with vast untapped military power—probably presents a greater challenge to the world than ever before. That was demonstrated in its decision to invade Afghanistan, and in what I saw as the decision to stay there for a long time. But I did come away from my conversations in the Soviet Union with the feeling that Soviet leaders, having acted against Afghanistan, are now in a generally reactive mood. I sensed that they expect us to increase military spending and to be more competitive, but that beyond a certain point they will react accordingly. Neither we, nor they, will give up very much, but the choice is basically ours about how far the competition will go in the next few years.

Mirror, Mirror, on the Wall

The very Soviet and American officials who want improved relations now feel their societies "drifting toward decisions that would lock them into a period of high-risk confrontation." Indeed, the Soviet Union—not unlike the United States—seems "on the verge of one of its worst bouts of paranoia."

So writes Leslie Gelb on the opposite page this morning, in the last three notable reports on the mood in both Moscow and Washington. A former high State Department official, Mr. Gelb foresees the total collapse of détente and wants to salvage at least the SALT treaty and some regular diplomatic contacts so that it can be rebuilt another day. But as an experienced reporter, Mr. Gelb also perceives a deeper difficulty beneath the policy rubble—the inability, yet again, of both Russian and American leaders to see the world as it appears to the other side.

Such myopia, of course, was the great calamity of the cold war. For whichever side provoked the 20 years of dangerous tension after World War II—and we decidedly blame the Soviet Union—the tension caused each to behave in ways that reinforced the paranoia of the other. Important agreements were thus delayed until long after they had become ripe, and the nuclear arms race was prolonged at a cost that is still being paid.

If we read him right, Mr. Gelb bears a most important message: Beware Cold War II, precisely because Americans and Russians still don't see how, upon the Soviet invasion of Afghanistan, they drove each other into a policy dead-end.

Afghanistan, to be sure, was merely one event in an escalating pattern of hostility. To Americans, it was an outrageous use of force outside the acknowledged zone of Soviet-occupied nations, and a challenge, whether or not intended, to the West's vital oil supplies in the Persian Gulf. It was a portent of how Soviet military forces will be used on behalf of diplomatic objectives abroad. It was also a climax to a pattern of Soviet outreach, using Cuban troops, into Angola, Ethiopia, South Yemen. And all this came in a time of energetic missile building, posing at least theoretical new threats to Western Europe and to America's land-based missiles.

All true enough, Mr. Gelb suggests, and a perspective that Moscow cannot bring itself to appreciate. But even the most frightened American analysis, he pleads, needs to be balanced by an understanding of the vulnerabilities the Russians feel.

Though not easily confessed, he reports, their anxieties are at least as great. The Russians feel trapped in Afghanistan, unable to impose a satellite regime by force but unwilling to suffer the humiliation of retreat. They acknowledge their growing military might, but worry that even parity with the United States leaves them at a strategic disadvantage against NATO, Japan and China. They will spend more on weapons if they must, but even now face ghastly shortages of food and consumer goods and declining oil production.

Once again, in short, Russians and Americans see mostly weakness on their own side and only strength on the other. Russians, like Americans, have become afraid that conciliatory gestures will be misread as weakness, and in both camps, with or without elections, the get-tough guys are taking charge.

As Mr. Gelb suggests, Afghanistan could and should be an impediment to good relations with Moscow, but that hardly justifies a virtual end of negotiations and the sacrifice of a mutually beneficial arms treaty. The saddest aspect of his report, however, is what it suggests about leadership in both great nations. In such a long, grim contest, what good are captains who cannot properly count or persuasively convey the assets and liabilities of both teams on the field?●

SUPPLEMENTAL F–15 AIRCRAFT EQUIPMENT FOR SAUDI ARABIA

● Mr. NUNN. Mr. President, at the request of Senator Talmadge, I ask that a statement by him relating to the possible sale to Saudi Arabia of advanced supplemental equipment for the F–15 aircraft be printed in the Record.

The statement follows:

Statement of Senator Herman E. Talmadge

I, like many of my colleagues, was very pleased recently to note certain reports that the Administration is not expected to request approval of the Congress this year for the sale of additional equipment to Saudi Arabia to be utilized with the F–15 aircraft purchased by that country two years ago.

A great many of my colleagues have already joined in signing a letter recently to the President voicing their objections to this particular sale of additional equipment of this type. It was pointed out in this letter that the sale of these new items would be inconsistent with specific assurances provided to the Congress in 1978 regarding the original acquisition of the F–15 by Saudi Arabia.

It was my position in 1978 to oppose the original sale of the F–15 because I believe then, as I do now, that the cause of a just and lasting peace in the Middle East will not be served by the continuing introduction in this way of highly sophisticated instruments of war into this critical region of the world. I believe that an objective assessment of the present situation in the Middle East would support the contention that augmenting the offensive capabilities of the Saudi F–15's would be an extremely unwise step on the part of our government.

It appears that the Administration has arrived at the decision not to forward such a request to the Congress this year, and I hope that in the course of the ensuing months, a complete reappraisal of the basis for this proposed sale can be conducted by the Executive Branch.

We, of course, must sustain the sound basis upon which our strategic relationship with Saudi Arabia is built. The measure of our country's ties with any nation cannot be taken strictly by the level of foreign military sales, and as the Majority Leader has said, our relationship with Saudi Arabia should not rise or fall over a matter such as this particular proposal for supplemental aircraft equipment. However, in this case, there seems to be an insufficient justification for adding to the offensive capability of these F–15's in the context of the international and regional security interests of the United States.●

TRIBUTE TO MARTY MANN—A LEADER IN THE ALCOHOLISM FIELD

● Mr. RIEGLE. Mr. President, on July 23, I learned of the death of one of the most outstanding American women of our time, Marty Mann. Through her dedication to changing public attitudes and removing the stigma from alcoholism, she touched the lives of countless people affected by this disease.

Ms. Mann was the first woman to recover from alcoholism with the help of Alcoholics Anonymous. She was an inspiration and helping hand to hundreds of thousands of women who followed her.

She conceived the idea of a national educational campaign to increase understanding and public awareness about the disease of alcoholism. She formed the National Committee for Education on Alcoholism which later became the National Council on Alcoholism (NCA) which she ran for many years.

During Ms. Mann's testimony before the original Senate Subcommittee on Alcoholism and Drug Abuse, then chaired by her friend and colleague Senator Harold E. Hughes, she stated that changing public attitudes was a long-term proposition and would probably take 50 years. Ms. Mann said:

> In 50 years I was quite certain I was not going to be alive, and I wanted to see this happen. . . . Well, at any rate, I wanted to begin. On October 1, 1944, what is now the National Council on Alcoholism opened its doors.

Sadly, Marty Mann was correct in her estimation that she would not be here in 50 years. But she made a magnificent beginning. As chairman of the Subcommittee on Alcoholism and Drug Abuse, I pledge to do my part in seeing that the work so nobly begun by Marty Mann and many other dedicated individuals is continued.

I ask that the following article, which appeared in the July 25, 1980 (vol. VIII, No. 19), edition of the Alcoholism Report, be printed in the Record:

Alcoholism Report

Mrs. Marty Mann, founder of the National Council on Alcoholism (NCA) and one of the prime movers in the modern alcoholism field, died July 22. She was 75.

The first woman to stay sober in Alcoholics Anonymous, Mrs. Mann died of a massive cerebral hemorrhage at St. Vincent's Hospital, Bridgeport, CT, where she was taken after being stricken earlier in the day at her home in Easton.

Mrs. Mann played a key role in the genesis of the federal alcoholism effort and was a major figure in the public policy arena at the national level until the time of her death. She had been a regular attendee at the NIAAA Advisory Council in her capacity as a Special Consultant to the NIAAA Director. Most recently, she was one of two alcoholism field representatives on the special search committee appointed by HHS Secretary Patricia Roberts Harris to screen potential public members of the National Commission on Alcoholism and Other Alcohol-Related Problems.

Following her own recovery from alcoholism in 1939, Mrs. Mann, then an advertising and public relations executive, became interested in the disease concept of alcoholism and embarked on an effort to increase public awareness and understanding of alcoholism. This led to her founding NCA in 1944, during a period when she worked closely with William Wilson, co-founder of Alcoholics Anonymous. She served as Executive Director of NCA from its founding until April, 1968, when she took a less active role in the agency and became Founder-Consultant.

An eloquent speaker, Mrs. Mann traveled through the U.S. and abroad to promote the cause of the alcoholism field. Until recent years, she averaged 200 lectures annually. She made her last public appearance at the 45th anniversary convention of AA in New Orleans July 5.

Mrs. Mann's "New Primer on Alcoholism" is considered a classic in the field and has been translated into Spanish, Japanese, Finnish and Afrikaans. She also wrote extensively for professional journals and popular publications. Her second book "Marty Mann Answers Your Questions About Drinking and Alcoholism," was published in 1970.

During her lifetime, she addressed joint sessions of the state legislatures in South Carolina, Michigan, Tennessee and Utah. She gave frequent testimony before Congressional committees concerned with alcoholism.

Mrs. Mann was the recipient of many awards and honors, including the Elizabeth Blackwell Award "for outstanding service to mankind" presented to her in 1963 by the Hobart and William Smith Colleges, and an honorary degree of Doctor of Humane Letters from Adelphi University in 1975.●

THE SALT SYNDROME AND THE FICTION OF WEAKNESS

● Mr. McGOVERN. Mr. President, for the past 10 months a film produced by the private right wing organization, American Security Council, has been widely distributed. It argues that while the Soviet Union has been moving rapidly ahead in defense capabilities in the past two decades, the United States has been unilaterally disarming or engaging in unilateral restraint. This film "The SALT Syndrome" has been shown in my State and all around the United States. The proclaimed aim of its sponsors is to show it 1,000 times on television 5 times in each of the top 200 TV markets in the United States.

This film is very misleading and is disturbing to many of us who know the facts and see ideas like this, nevertheless, begin to take hold.

First, anyone remotely acquainted with the tremendous increases in the U.S. military capabilities over the past two decades could not conclude, as this film does, that the United States has been standing still.

Second, it is disturbing to see a misguided "rhetoric of weakness" propagated by such a well-funded, widely distributed film. The United States is militarily second to none in the world arena.

Yet the proponents of still larger defense budgets are willing to overflate the Soviet capabilities and undervaluing those of the United States, while in pursuit of their aims at budget time. They do a disservice to the credibility of U.S. military might around the world.

What good does it do for us to construct the world's most powerful military deterrent force, if we weaken its effect by broadcasting to the world—inaccurately—that we are No. 2?

Communist leaders and allies and Third World leaders all look at our words as well as our capabilities. If "SALT Syndrome" propaganda tells the rest of the world that we believe we are weak—even when we are strong—the rest of the world is more likely to believe it and act upon that perception. Such a rhetoric of weakness thus invites foreign adversaries to bolder challenges and increases the risks of military confrontations and war—a dangerous self-fulfilling prophecy.

An analysis of this film has recently been prepared by the national security agencies of the Government. An interagency group composed of representatives of the Department of Defense, Joint Chiefs of Staff, State Department, CIA, U.S. Arms Control and Disarmament Agency, and the National Security Council point out the many errors propagated by "The SALT Syndrome."

I ask that this analysis be printed in the RECORD.

The analysis follows:

THE SALT SYNDROME: CHARGES AND FACTS ANALYSIS OF AN ANTI-SALT "DOCUMENTARY"

CHARGES*	FACTS
[Secretary of Defense Robert McNamara] began to disarm.	While McNamara was Secretary of Defense the US engaged in a massive expansion of its strategic nuclear forces. We introduced Minuteman ICBMs, and Polaris submarines and missiles. We also began the development of a light nationwide ABM system and development of multiple independently targeted warheads (MIRVs) for our ballistic missiles. This was hardly an era of unilateral US disarmament.
1,000 American B-47 strategic bombers were phased out beginning in 1961.	B-47 medium bombers were phased out as obsolete, but were supplanted by vastly more capable long-range B-52s, Minuteman ICBMs, and Polaris SLBMs.
Our supersonic B-58 strategic bombers were deactivated in 1970.	The B-58 medium bomber was retired because it was not cost-effective.
In 1977, [President Carter] cancelled the B-1 bomber, which was to replace our obsolete B-52 bombers.	As an alternative to the B-1, President Carter accelerated the development of the air-launched cruise missile (ALCM). B-52s are not obsolete—they will continue to be effective launch platforms for cruise missiles into the 1990s. While the aircraft design is relatively old, the weapons and avionics of the B-52 are quite modern and are being further improved.
The Soviets are already testing three even newer strategic bombers.	In 1979 the Soviets may have had one or more new bombers under development, but none had yet been flight-tested.
The US has no plans for a new strategic bomber until at least the 1990s.	The US has continued the B-1 program in research and development, as well as other work which will keep open the option to develop a new manned, penetrating bomber in the future. Additionally, the US is considering the deployment of a cruise missile carrier aircraft by the mid-1980s. Meanwhile, ALCM-carrying B-52s will begin joining the force in 1982, and by the mid-1980s, over a thousand ALCMs will be operationally deployed.
The Soviet Union's medium and heavy strategic bomber force now numbers 675, while the US bomber force has been reduced to 414.	Misleading comparison. These figures count medium range Soviet Badgers and Blinders equally with long range US B-52s. In heavy bombers alone the US has a substantial lead.
The number of United States strategic missiles was frozen at the 1967 level.	The United States has not stood still in strategic forces since 1967. Before SALT began, the United States decided to shift from quantitative to qualitative improvements in strategic forces. In the missile force these improvements included the deployment of MIRVs—which accounts for the fact that since 1967 the total number of warheads in the U.S. inventory has more than *doubled*, and the number of missile warheads has quadrupled while the total number of launch vehicles has declined slightly; the Minuteman ICBM upgrade program (MK-12A RV, W78 warhead, guidance improvements, silo upgrade, and Command Data Buffer System); the replacement of Polaris SLBMs with longer range, more accurate, and greater payload Poseidon and Trident missiles. In addition there have been numerous improvements to the B-52 force (new SRAM weapons, new electronic counter-measures, new navigation equipment, improved SRAM guidance, and now the addition of air-launched cruise missiles).

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* Charges are quotations from the film transcript.

CHARGES	FACTS
But the Soviets continued to build missiles even after they passed US numerical limits about 1969.	The Soviets passed us in number of launch platforms, but we were modernizing our missile force by replacing single-warhead missiles with MIRVed missiles, in reality outstripping the Soviets by multiplying the number of nuclear warheads per missile. The Soviets did not begin to deploy MIRVs until the mid-1970s.
President Carter further accelerated our disarmament by cancelling our only ICBM production line.	The MM III line was producing spare and test missiles we had no intention or means of deploying; besides, the US already had a sufficient surplus of MM IIIs. President Carter has approved development of the MX mobile ICBM.
At that time [1978] the Soviets were producing or testing eight new ICBMs.	Untrue. The Soviets were producing or testing three fourth generation ICBMs—the SS–17, –18, and –19.
The Soviets have at least 1400 ICBM launchers to our 1504.	True, but incomplete. The US places about 25 percent of its 9200 strategic nuclear weapons on ICBMs, whereas the Soviets place approximately 75 percent of their 6000 weapons on fixed-silo ICBMs. The other 75 percent of our weapons are dispersed on less vulnerable mobile platforms—bombers and submarines. Only 25 percent of Soviet weapons are deployed on bombers and submarines.
Many of [the Soviet] ICBM silos are designed to be reloaded and refired. . . .	Soviet silos do not appear to be designed for this capability. Even if they were, reload and refire in the middle of a nuclear war would be no easy feat. The Soviets, who do very realistic testing and training, have never trained for this complex task. In any case, US retaliatory capabilities could destroy any ICBM reload facilities long before a second Soviet salvo could be fired from reloaded launchers. SALT II bans any testing of a rapid reload operation, and prohibits the location near silos of additional ICBMs and hardened storage facilities vital to a realistic refire system.
The Soviets have at least 1,000 extra missiles for refire, making their advantage in ICBMs at least 2,400 to our 1,054.	We have over 200 extra missiles ourselves, and believe the Soviets may have several hundred more than that. There are legitimate reasons for keeping retired missiles, such as for obtaining spare parts and for test purposes. It is unlikely that any excess older missiles the Soviets may have would be used for refire. A complex operation with thousands of people and vehicles—all observable—would be necessary to launch these missiles without their silo launchers. There is no evidence of any such infrastructure.
Because of the larger size of the Soviet missiles, they have a six to one advantage over the US in missile firepower.	The Soviets do have an advantage in missile megatonnage; we have a comparable advantage in heavy bomber megatonnage. There are many other indices of strategic military capability more important than simple megatonnage. For example, the US has nearly twice as many nuclear weapons on its total force of ICBMs, SLBMs, and strategic bombers than does the USSR. The reliability and accuracy of US missiles are both better than those of Soviet missiles.
Soviet mobile ICBMs are not included in the ICBM count because they can be hidden from our satellites in any building. So, we don't know how many they have; but, the US has no mobile ICBMs.	We are confident the Soviets have not deployed any mobile ICBMs. SS–16s, the only mobile ICBM they have even partially tested, cannot be further tested, produced, or deployed under the terms of SALT II. If (after Protocol expiration) the Soviets deployed another type of mobile ICBM, any such missiles would be included in the ICBM count—and the Soviets are obligated by SALT II to make them countable. The US is developing MX, a formidable ICBM for deployment in a mobile basing mode.
The number of US sub-launched ballistic missiles was frozen at the 1967 level.	Misleading. As with ICBMs, the US shifted in SLBMs from quantitative to qualitative improvements, replacing Polaris missiles with MIRVed Poseidons, and now replacing Poseidon missiles with new MIRVed Trident SLBMs. The number of US SLBM warheads has increased severalfold since 1967, even though the number of missiles has remained the same.
The Soviet advantage in all types of ballistic missile submarines is now 93 to our 41, more than 2 to 1.	Our advantage in number of SLBM warheads—a more meaningful comparison—is more than 3 to 1. Moreover, US submarines are all nuclear-powered, whereas more than a quarter of Soviet ballistic missile submarines are diesel-powered. US submarines are quieter, at sea more often, and are augmented by superior ASW forces.
The SS–N–8 [has] a range of 5,500 nautical miles, 3,000 miles longer than any of our sub-launched ballistic missiles.	Not true. The new US Trident C–4 missile now being deployed in Poseidon submarines has a range comparable to that of the Soviet SS–N–8.
The first Trident, the comparable US submarine, will not be operational until 1981.	The first Poseidon submarine backfitted with Trident I missiles entered operational service in 1979. Twelve Poseidon SSBNs are being backfitted with Trident I SLBMs. The first US Trident submarine will become operational in 1981, and will be far superior to the Soviet Delta submarine.
The United States Navy in the last ten years has been cut in half. . . In the meantime, the Soviet have vastly built up their Navy.	The US Navy has retired many obsolete WWII ships, and replaced them with fewer but more capable new ships. US ship retirements in the past few years have given us a leaner, more modern, and more capable fleet. In fact, the Soviet Navy, which started far behind us, has also been declining in size recently, not increasing. With regard to large ocean-going surface combatants (over 3,000 tons), the US Navy has deployed more than twice as many platforms as the Soviet Navy since the early 1960s. The US continues to hold superiority over the Soviet Navy in performance of critical missions such as strike warfare, amphibioius warfare, and antisubmarine warfare, as well as in readiness.

CHARGES	FACTS
In attack submarines, the Soviet advantage is 3 to 1.	True in terms of the number of ships, but our attack submarine force is vastly more capable than the Soviet force which relies more heavily on diesel subs. The overall US anti-submarine warfare capability is far ahead of Soviet ASW.
When all types of active combat ships—large and small—are counted, the Soviets' numerical advantage is almost 5 to 1.	A misleading comparison. Our ships are much larger; in total tonnage, we are far superior to the Soviets. The absurd practice of counting all ships—large and small—as equal conceals major force differences. For example, the U.S. has 13 heavy aircraft carriers; the Soviets have two light aircraft carriers, which are equipped with less capable aircraft. Any such comparison should also take into account NATO and Warsaw Pact navies; in that case, the balance is greatly in NATO's favor. Overall U.S. and other NATO navies have twice the naval tonnage and several times the firepower of the Soviet and other Warsaw Pact navies. We are working to counter Soviet ship-borne cruise missiles by improved fleet air defenses and by development of our own Harpoon and Tomahawk weapons. We are also upgrading our naval forces with new classes of destroyers, frigates, and attack submarines. The U.S. Navy enjoys other advantages as well, including geography. The Soviet Union must divide its large naval forces between four separate and widely dispersed fleets. It would be extremely difficult for the Soviet Union to utilize ships from one fleet in another theater in the event of hostilities, since these ships must pass through geographical barriers and bottlenecks which are subject to closure by US/NATO naval operations.
The United States followed Secretary McNamara's theory of no defense, which is called Mutual Assured Destruction.	The bedrock of US nuclear strategy is the ability to inflict an unacceptable blow on an opponent even in retaliation—an assured destruction capability. But US objectives also include crisis stability and essential equivalence—denying the Soviet Union any political or military advantage that might derive from perceptions of relative capabilities. Also, contrary to what many believe, the US has always aimed a majority of its strategic weapons at military—not civilian—targets. In the final analysis, however, neither side has any effective defense of its country against massive destruction in a nuclear war.
HAIG: This is a policy [assured destruction] which I believe to be immoral, self-defeating and devastating in the context of America's ability to manage inevitable crisis.	The US has always targeted heavily against military targets, while also retaining the ability to destroy cities and industry—precisely so that we will not have to rely entirely on our ability to destroy Soviet cities as our only means of nuclear deterrence. The US has capabilities to respond at varied steps on the escalation ladder and to implement limited nuclear options.
The Soviet civil defense program provides shelters for military and civilian leaders and protection for a larger percentage of industry.	The Soviets provide protection for most of their leadership and a large number of key industrial workers. The bulk of the general population, however, must rely on evacuation from urban areas for its protection.
Soviet losses would be dramatically reduced by their civil defense preparations.	CIA estimates that the Soviets would suffer over 100 million prompt casualties—about half of those fatalities—in an all-out nuclear exchange for which they had little or no time to put civil defense measures into effect. With full implementation of their civil defense program, Soviet casualties would be reduced to around 50 million, with fatalities numbering in the low tens of millions. These figures, however, do not reflect the long-term effects of radiation resulting from a massive nuclear attack. Nor do they take account of casualties from the widespread famine and disease which would likely occur in the aftermath of a nuclear war.
The Soviet Union also built a massive strategic defensive weapons system backed by 100 times as many radars as we have. The Soviets built 2,600 fighter interceptors while the US cut back to 309. Their supersonic fighters can overtake our aged B-52s from behind. The Soviets built 12,000 surface-to-air missiles to shoot down bombers while the US cut back to zero.	The Soviets built an extensive air defense because they face a far more significant threat from US (and other) aircraft than we do from theirs. The large Soviet force of fighter interceptors has major deficiencies in performance against low-flying B-52s With electronic counter-measures and other devices, most B-52s can penetrate Soviet airspace and survive. In the 1980s, the air-launched cruise missile will give the B-52 a standoff capability and will significantly complicate the air defense problem for the Soviets. Another reason for the disparity in US and Soviet air defense efforts is our judgment that it is wiser to invest resources in areas other than protection against strategic bombers, particularly since neither side is permitted under the ABM Treaty to deploy a significant defense against the devastating threat posed by ballistic missiles.
KEEGAN: During SALT I we caught the Soviets in a massive violation of that accord by testing the SA-5 in an anti-ballistic missile mode. . . . Now, this missile . . . is capable of defending the Soviet Union against ballistic missiles.	During 1973 and 1974 the US observed Soviet missile tests that led us to believe that the SA-5 radar had been used to track strategic ballistic missiles in flight. The Soviets could have been using the radar in a range instrumentation role to obtain precision tracking. On the other hand, this could have been the first step toward testing the system "in an ABM mode". The Soviets maintained that no air defense radar had been so tested and noted that the use of non-ABM radar for range safety or instrumentation was not limited by the ABM Treaty. In any case, they ceased the activity of concern to us. US intelligence believes that the SA-5 system has no ABM capability now and could not be given one without a great deal of testing which would be observable through our national technical means.

CHARGES	FACTS
Keegan: The Soviets are now on the threshold of deploying a particle beam weapon which would throw giant lightning bolts up at incoming ballistic missiles to simply obliterate them. It is my judgment that the weapon has now been largely perfected and will appear in the field operationally early in the 1980s.	**Kissinger**: We have placed ourselves at a significant disadvantage voluntarily. This is not the result of SALT. It is the consequence of unilateral decisions extending over a decade and a half of a strategic doctrine adopted in the sixties . . . and of the choices of the present Administration. All these actions were unilateral, hence avoidable.
This has been General Keegan's personal crusade for a number of years. This thesis has virtually no support in the US technical and intelligence communities. Particle beam weaponry is considered many years away from becoming a reality, if ever.	The United States is not at a strategic disadvantage to the Soviets. Both sides are roughly equivalent, although to maintain the balance we need the increased programs the Administration has proposed. Our strategic posture today is the result of decisions made over the past four Administrations, and Dr. Kissinger is correct in stating that our position today is not the result of SALT. Rejecting SALT II—and the limitations it imposes on Soviet strategic forces—would make it more difficult not easier for us.
By 1972 the Soviets had already gained a 3 to 2 numerical advantage over the US in ICBMs. This Soviet advantage was accepted by the US in the first SALT agreement.	This charge ignores the fact that the US had a substantial MIRV and warhead lead at the time, and that SALT I did not count long-range bombers where the US maintained a significant advantage in numbers and capability over the USSR. Moreover, SALT II provides for equal numerical limits, thus eliminating the alleged Soviet advantage in SALT I.
Clements: Every one of the US defense programs that was promised in order to get SALT I has now been either cancelled, delayed or stretched out, and it puts us in the position of facing the threat of the 80s with equipment designed for the 60s.	No US weapons program has been slowed by a political or SALT-related decision. MX is on schedule for initial deployment in 1986; Trident SSBNs will be on schedule by the delivery of the sixth boat in 1985, now that management and cost problems have been brought under control; the cruise missile programs are substantially on schedule. Minor delays in the cruise missile programs were due to technical problems. Given the complexity and size of major defense acquisition programs, there are invariably delays in deployment. The B–1 bomber was not put into production because an alternate—the cruise missile—was considered more cost-effective.
Jackson: To enter into a Treaty that favors the Soviet Union, as this one does, on the ground that we will be in a worse position without it, is . . . appeasement in its purest form.	It is not appeasement to enter into a treaty that is in our own interest. And the test of our interest is whether we are better off with the treaty or without it. SALT II benefits the U.S. because it limits the strategic arms race, increases our knowledge—and the predictability—of Soviet forces, and puts some limits on the size of the Soviet strategic forces. It provides these benefits while allowing the U.S. to do all it needs and plans to do to maintain its retaliatory capabilities and the strategic balance. The Treaty does not favor the Soviet Union; it advances the national security of both countries.
Singlaub: From a historical point of view, it's clear that we cannot trust the Soviets to keep SALT II. Out of 27 summit agreements with the Soviet Union, they have broken or cheated on all but one. And that, of course, includes SALT I. I think it's quite clear that we must have some form of positive verification of this treaty.	General Singlaub's statement is nonsense. He does not specify which 27 agreements he is referring to, much less the 26 the Soviets are supposed to have violated (indeed Soviet compliance performance under 14 arms control agreements signed since 1959 has been good). Singlaub's specific charge that the Soviets cheated in SALT I is inaccurate. We raised a number of issues with the Soviets in SALT I—as they did with us—but in every case the activity in question either ceased or subsequent information clarified the situation and allayed our concern. SALT II will actually help us monitor Soviet strategic forces by establishing rules for verification.
Graham· There is no way that intelligence, for instance, can tell you how many of a certain missile are being manufactured in the Soviet Union. We can't verify that We can't verify the range of a cruise missile any more than you can verify how far an automobile will go if you go out and take a picture of it in the parking lot. And furthermore, you can't tell, and this is very important, how many individual warheads are within a Soviet missile nosecone.	Our verification capability can determine Soviet complianace with SALT II—that is, we can detect any Soviet violation before the Soviets could derive any military advantage from such cheating. The US was willing to accept some monitoring uncertainties—over the range of cruise missiles, for example—because it benefited us to have flexibility in developing such systems. As for the number of warheads on Soviet missiles, the US knows how many warheads have been tested from specific Soviet missiles. We follow these tests using a variety of monitoring sources. By counting the number of warheads tested, we can have reasonable confidence that no more would be deployed. If additional warheads were deployed on Soviet missiles without being flight-tested, the Soviets would almost certainly have lower confidence in their reliability than they would for weapons which had been flight-tested. Thus, this kind of Soviet cheating—even if undetected—would not improve their military power.
Middendorf: The trouble with signing these agreements is that as well meaning as we are, we live up to them and the Congress just simply will not vote increased conventional weapons spending following SALT II, as they did not after SALT I.	This is the heart of the critics' case against SALT II. The debate over SALT II, if it has done nothing else, has relieved concerns about euphoria setting in. The Soviet invasion of Afghanistan reinforced this. The United States has committed itself to a significant real annual increase in defense spending over the lifetime of SALT II. The Treaty limits Soviet forces and does not constrain planned US programs. It is up to us to determine how vigorously we will pursue permitted modernization or support programs not subject to SALT limits.
Haig: That agreement will now, in effect, codify some fundamental deficiencies between the United States and the Soviet Union, with grave consequences on America's ability to manage inevitable crisis in the period ahead.	On the contrary, SALT II is an equal agreement that allows us to modernize and correct deficiencies in our forces, while limiting the challenge we face from the USSR. Failure to ratify SALT II would raise doubts among our allies about the US ability to fashion and pursue a coherent foreign policy and provide leadership in world affairs.

CHARGES	FACTS
Graham: SALT II is so lopsided that if we allow the Soviets to get away with this one then we will never be able to get any equitable arms control agreements with the Soviets no matter how hard we try.	An agreement that provides for equal ceilings on numbers of strategic delivery systems, MIRVed launchers, and launchers for fixed-silo MIRVed ICBMs is hardly lopsided. SALT II, when combined with current US modernization programs, will allow the US sufficient retaliatory forces to carry out its strategic missions. Moreover, SALT II is the product of nearly seven years of difficult negotiation. It is a compromise arrived at through tough bargaining on both sides. The way to pursue further arms agreements with the Soviet Union is to ratify SALT II and proceed to SALT III negotiations, not to reject SALT II in the false hope that repeating the negotiation will result in an accord more to our liking.
One of the ways in which the numbers were manipulated to make SALT II look equal was that over 200 B–52s, retired to the aircraft boneyard in Arizona, are counted against the US limits as strategic weapons, even though they would take more than a year to get flying again.	The SALT II data base numbers were never manipulated. It was very much in the US interest to count mothballed B–52s in the aggregate total. Doing so cost us very little, and prevented the Soviets from claiming that some of their strategic forces should not be counted because they were "mothballed." The film here makes a US gain appear to be a concession. Under the Treaty terms, by the end of 1981 the Soviets will have to dismantle 10 percent of their strategic launchers—250 operational bombers or missile launchers to get down to 2250. The US will merely have to complete the dismantling of a few non-operational mothballed B–52s.
. . . the 150 deployed operational Soviet Backfire bombers are *not* counted as strategic weapons in the Soviet limits.	The Backfire has characteristics that fall between those generally attributed to existing heavy bombers and those of medium bombers. (Tactical aircraft and medium bombers on both sides are not covered by the SALT ceilings.) Close observation by US intelligence over a number of years indicates that this bomber is currently being deployed for use in a theater role or against naval forces, not in a strategic role, and is a replacement for older Soviet medium bombers. It is not included in the Treaty ceilings. However, it could reach the US on one-way high-altitude, unrefueled missions, and the Backfire is limited by a binding Soviet commitment made at the Carter-Brezhnev Vienna summit. No more than 30 Backfires can be built per year, and there are limits on upgrading the capabilities of this aircraft. The US has reserved its right to build an aircraft similar to Backfire.
Keegan: We should be concerned because with a range of over 5,100 nautical miles, the Backfire bomber, launching from its bases in Northeastern Siberia, can cover *all* of the United States, recovering in Cuba, Mexico or Latin America.	Backfire does have some inherent intercontinental capability flying certain flight profiles. However, concern about the Backfire threat to the United States is a reason to *support* SALT II, not oppose it. The Soviets have agreed to limit the Backfire production rate and have provided certain commitments against upgrading the aircraft's intercontinental capability. Without SALT II the Soviets could do anything they wanted to do with Backfire to improve its capability.
Rowny: The Treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBMs.	The United States did not want heavy ICBMs when we were entirely free to build them, and would not build them today if we had the right to do so. In 1974 in the context of resolving a number of issues, including the heavy ICBM question, President Ford and Secretary Kissinger were able to gain concessions in other areas, notably equal aggregates (which require the Soviets, but not the US to reduce) and the exclusion of US aircraft in W. Europe and E. Asia which could attack the USSR. We would gain nothing by insisting now on a theoretical right to build a missile we do not need or want. Nor does it make sense to reopen negotiations by insisting on such a theoretical right—at the risk of losing real concessions we have already gained. This point was convincingly made by General Jones (Chairman of the Joint Chiefs) and General Ellis (Commander of SAC) in their Congressional testimony on SALT II.
The 308 Soviet heavy missiles . . . give the Soviets a first-strike capability.	With or without heavy missiles, by the early 1980s the Soviets will have a thoretical capability to destroy a substantial part of our Minuteman ICBM force in a pre-emptive attack—if they ignore our ability to launch under attack, and assume the massive pre-emptive attack would work as planned. However, Minuteman vulnerability does not mean the vulnerability of our overall deterrent US retaliatory capabilities—even after a first strike—will increase by over a thousand additional warheads between 1980 and 1985 due to ALCM deployments. The US would have thousands of surviving warheads on submarines at sea and bombers on alert, even under the most pessimistic scenario of Soviet pre-emptive attack.
In just 17 years, the SALT Syndrome has reduced the U.S. from a position of clear military superiority to one of clear inferiority.	The United States and the Soviet Union are now essentially equivalent militarily. The Soviets lead in some areas; we lead in others. The choice facing us today is not between the sort of nuclear superiority we enjoyed in 1962 and nuclear inferiority, but between two types of nuclear parity—one at a higher level, which would be more expensive and less stable, or one at the lower level established by the limitations of SALT II.

CHARGES	FACTS
The Soviets now have a 2 to 1 advantage over the United States in offensive strategic weapons, a 47 to 1 advantage in defensive strategic weapons, a 2 to 1 advantage in major surface combat ships and submarines, and a more than 4 to 1 advantage in tanks and artillery.	These are misleading statistics which use selected data in comparisons designed to show overwhelming Soviet superiority. These "bean counts" say nothing about the quality of weapons, the scenario, the capabilities of allies, the sufficiency to carry out missions, or the like. A comparable exercise could show the same superiority for the United States. For example, we lead the Soviets by 8 to 1 in heavy bomber weapons. In perhaps the most significant indicator of strategic strength, the United States leads the Soviets by 9,200 strategic nuclear warheads to about 5,000, almost a 2 to 1 edge—just the reverse of the assertion in the film. Overall, in a net assessment of strategic forces, both sides are roughly equal.
Since SALT I, the Communists have accelerated their takeover of other countries, without opposition from the United States. Communism has indeed been succeeding in its move toward world domination . . . If SALT II is ratified without really major changes, we can expect greater coercion everywhere in the world.	This statement is rhetorical nonsense. It disregards many Soviet setbacks and many US advances around the world. The Soviets have certainly proven themselves willing to exploit opportunities for mischief, and we must respond and resist appropriately. But their foreign policy has hardly been an unbroken record of success in recent years: expulsion from Egypt, continuing conflict with China and world reaction to their Afghan invasion, to name just a few difficulties. In any event, neither Soviet successes nor failures are the result of SALTS, as the film implies. Among other benefits, the ratification of SALT II will permit the US to devote more resources and attention to conventional forces which are far more likely to be needed in meeting the threats we will face in the years ahead.●

THE REPUBLICAN PLATFORM

● **Mr. DURENBERGER.** Mr. President, too often, it seems, our society focuses on only parts of the whole. The most controversial element of a program, for example, is selected for detailed analysis, while everything else—often including the most important parts—are ignored.

Such is the case with the platform adopted by the Republican Party in Detroit. My distinguished colleague from Texas, Senator JOHN TOWER, and all the others who put in long and difficult hours on the Platform Committee did a remarkable job.

While the platform has been examined extensively from one or two angles, the importance of the entire document has been completely overlooked. While none of us will agree on each and every plank, the platform in its entirety is a comprehensive and exciting challenge for the 1980s. It is an outline for changing the role of Government at a time when that role demands to be examined and changed to accommodate a new generation.

I am convinced that 1980 is a watershed year for our country, just as 1932 was. Forty-eight years ago, the American public went to the polls and set our country on a new course. The economy and our country's private institutions had failed; in response, America ushered in a new era of delivering social services through the Government.

Inevitably, as the government delivery of services grew, so did Government itself. Soon, Government was setting standards and regulations in almost every area.

Government became the "Godfather" and the "Enforcer." To feed its insatiable appetite, it drained more and more resources from the private sector. In less than half a century we had come full cycle: It is now the Government that has failed, and it is up to individuals and our private institutions to come to the rescue.

That is what the Republican Party's platform speaks to—the reawakening of individualism. The platform offers alternatives for the economy, for our private institutions and for individuals. Instead of falling back on the last generation's solution of more Government, the platform boldly looks ahead to an era of individualized answers.

The platform takes us from collectivized standards to choice, incentives, competition and new authority for every person.

Mr. President, I ask that DAVE STOCKMAN's analysis of the platform be printed in the RECORD.

The analysis follows:

[From the Washington Post, July 15, 1970]

OUR GRAND NEW PLATFORM

The Republican platform combines the moral traditionalism of the earlier Reaganite constituency with the bold policy departures of the newer Reagan idea—supply-side economics. Both are a response to the excesses of the American superstate—the vast accumulation, at the top of our society, of too much governmental machinery; too much control over the incomes of households and firms and the daily commerce of the marketplace; too much usurpation of the institutions of family, neighborhood and local government; too vast an outpouring of state-manufactured rights, entitlements and remedies; and too much political activism and advantage among society's elites at the expense of diminished choice for the citizen of ordinary rank.

Unfortunately, the nation's editors and reporters see in the platform only retreat to a narrow conservatism—a cacophony of cranky, "single issue" causes. But that perception is myopic. Underlying the noisy contention over a few particulars is a radical bid to throw out the premises of liberal government that have brought American society to the brink of economic collapse and social disarray.

We are trying to reverse the excessive politicization of our national life. The tendency to resolve almost everything in the high court or in national legislative and administrative forums has extracted a heavy and unhealthy cost. It has unduly magnified the power of the governing and communications elites. It has burdened our system with unnecessary zero-sum struggles over everything from motor fuel to jobs, investment capital and elementary school rooms. And it has generated a deep frustration and demoralization in the settings where common Americans live, work, struggle and hope.

The platform's statements in defense of private religious schools, in opposition to busing, hiring quotas and the unlimited "right" to abortion, and the non-endorsement of ERA have been widely misunderstood. They spring from a common, principled rejection of the contemporary tyranny of judicial activism, the creation of "rights" out of thin air and the heavy-handed imposition of federal judicial and administrative remedies. These excesses have shattered common notions of fairness and have imperiled the independence of local institutions.

The notion that "social progress," as defined by the elites of bench, bar and progressive sensibility, can be imposed from the top is a destructive illusion. The busing disaster is its bitter legacy, and the proliferation of private schools its inexorable result. It is one reason so many question the Equal Rights Amendment, fearing that its common-sense essence of non-discrimination in employment, credit and education will be contorted by lawsuits and by regulations to incorporate the ideas of its most incorrigible new class proponents.

Likewise, the acrimonious struggle over abortion did not originate in the provinces, but in the arrogance of the Supreme Court. The decision to pluck an absolute "right" out of a Constitution that contained no such thing short-circuited the one process available for tempered resolution of today's most intractable issue of morality: adjustment by the states of their laws to reflect the changing attitudes and differing values among the nation's population.

To be sure, the practical arguments that ERA can be kept on the straight and narrow and that after seven years it is too late to reverse the Supreme Court's abortion dictum appeals to many Republicans, including this writer. But repudiation of the incessant social engineering pursued by the nation's liberals appeals even more strongly.

In a similar vein, the Kemp-Roth plan represents not a narrow recommendation about IRS tables, but a new premise about national economic policy and the ingredients of economic growth, social mobility and non-inflationary prosperity.

Keynesian policy has collapsed because its premise was wrong. Today's policies assume that the basic ingredients of growth—productivity, investment, technological innovation, risk-taking and entrepreneurial efficiencies—can be managed by manipulating the dials of the government's fiscal and monetary machinery. But the last decade is living proof that they cannot be.

By contrast, the Kemp-Roth idea shifts the focus to producer incentives and opportunity, to the miracles of marketplace efficiencies, competence and innovation, and to the fallen flag of a stable monetary standard.

We insist that inflation does not have to be fought with the Carter policies of economic contraction, unemployment and austerity because it is not caused by the greed of consumers, wage-earners, big companies—nor even the weather, OPEC or federal deficits. It is a monetary disorder that must be addressed by altering the mandate of the nation's central bank. Its open-ended license to pursue various goals by means of manipulating aggregate demand, interest rates and business cycle fluctuations must be revoked in favor of a more limited franchise to produce money of stable value.

Again, the sources of real economic expansion lie in releasing the idled energies and untapped ideas of workers and entrepreneurs throughout the vast interior of our $2.5 trillion economy. This is the purpose of the platform's call for steady reduction of tax rates on all producers and for systematic elimination of unnecessary impediments to commerce wherever they appear.

A supply-side program that looks to the people for the ingredients of growth will preclude resorting to that futility the White House is now pleased to call "reindustrialization" policy. The latter is but a polite euphemism for resurrecting a modern variant of the King's Salt Monopoly—a regime in which the few bargain over bail-outs and protections, while the many are burdened by higher taxes, tariffs and prices and the economy is deadened by wasteful deployments of labor and capital and the insatiable demands of the politically privileged.

Our energy policy recommendations similarly reject the statist assumptions now in vogue in government. There is no need for today's congressional struggles over preferred energy brands—coal, nuclear, conservation, synfuels, solar—or for DOE's vast array of promotional subsidies, consumption taxes, efficiency standards, fuel-use orders, bureaucratic cheerleading and the rest.

Society and consumers will be best served not by the maximum quantity of any particular lobby's energy brand, but by the least expensive mixture of fuels, technologies and improved efficiencies wrested out of the daily exchanges and decisions of the marketplace. The one thing we do need—an aggressive strategic storage and stockpiling program to ensure us against interruption of supply—this administration has utterly defaulted upon. The Republican platform makes oil import security—and overall national security—its highest rather than lowest priority.

Much the same thrust is seen in the platform's call for the de-nationalization of the categorical social welfare and public assistance programs. The aim is not simply administrative efficiency or less bureaucracy, but the yielding back of power to those local communities and agencies that are the foundation of our society.

The real problem with grants is not the purposes they are meant to serve or even the economic resources they tap, but rather the power they confer upon Washington's elites and lobbies to impose unwelcome, uniform agendas on local communities. Discrimination against minorities or the handicapped, for instance, can be rooted out far more evenhandedly by strict enforcement of the law than by quotas for minority contractors or 500-page bureaucratic tomes on the removal of architectural barriers.

If the Republican platform is uncongenial to the policy and media establishments, it will be more than welcomed by certain constituencies of the electorate that have been skeptical of our intentions in the past. For the first time, it addresses positively and unequivocally wage-earners' concern about economic security. It pledges to rescue the Social Security system from impending insolvency, to maintain unemployment compensation and other necessary social safety nets, and affirms the centrality of free collective bargaining. Yesterday's planks challenging national labor law and unionism have been finally interred.

Similarly, the proposed enterprise zones program, which would drastically reduce tax and regulatory burdens in order to attract capital, entrepreneurs and jobs to fragile inner-city economies, offers a new idea and more plausible promise to minorities. Our past penchant for diluted renditions of Democratic offers of public sector boodle has been replaced by a broader vision of growth and vitality, and a commitment to ensure that when the train leaves the station no one is left behind.

Since the days of the GE circuit, Ronald Reagan has warned that America would one day run out of economic steam, private energy and confidence and a stable foundation of strong families and healthy local communities if the liberal superstate continued to expand. These prophecies have materialized in today's national decline. The Republican platform provides him a charter to lead us back to economic prosperity, social stability and international strength—a progressive vision for the nation and no cause for heartburn among those self-styled "progressives" who prefer these goals to the vested interests and tattered ideologies of a superstate that has failed.●

THE NATION'S ECONOMIC DECLINE

● Mr. STEVENSON. Mr. President, the preoccupation with weekly statistics blinds Americans to long-term trends. And the conventional economic wisdom affords scant attention to fundamental changes in the competitive position of the United States in the markets of the world.

Two recent articles demonstrate how far the decline has gone. One is an article in the July-August issue of Europe by Geoffrey Carroll which describes the relative decline of U.S. multinationals in the world market. The other is an article in the August 11 issue of Fortune by Louis Kraar which contrasts the performance of the Japanese and United States auto industries. Mr. President, I ask that these articles be printed in the RECORD.

The articles follow:

[From Europe, July–August 1980]

THE MULTINATIONAL MYTH: AMERICANS ARE PAYING THE PRICE

(By Geoffrey Carroll)

Americans are accustomed to thinking that US corporations are by far the largest in the world. Corollaries of this assumption are that these rapacious US multinational companies are able to control industries across national borders, reduce effective competition, and raise prices regardless of market forces, and dominate foreign markets and governments. But the data presented in the accompanying tables show that over the last 20 years foreign-based multinationals, particularly those of Europe and Japan, have sharply increased their shares of world markets at the expense of US multinationals. In addition, competition from state-trading companies in developing nations, from state-trading activities in centrally planned economies, and from nationally owned or closely controlled enterprises in fundamental European industries appears to be making significant changes in the balance of world trade.

The tables compare the size of US corporations and commercial banks with transnational companies and banks of other Organization for Economic Cooperation and Development (OECD) countries. Many of the most internationally active industries are examined, comparing the 10 to 15 largest firms in each industry in 1959 to an equal number in 1978. Although gross sales figures are an inadequate measure of efficiency, they are an accurate indicator of market presence and control.

Foreign enterprises have made such strides that in several traditionally US-dominated industries the largest US firms have been relegated to second or third position. Even in industries in which an American company or companies still retain top ranking, the US percentage share of the world market has often dropped significantly. Although the United States continues to dominate the world market in aerospace engineering and food production, it is rapidly losing its lead in the automotive and paper and wood products industries. Those industries in which the US share of the world market has fallen dramatically are chemicals, commercial banking, electronics and appliances, industrial and farm machinery, metal manufacturing, petroleum products, pharmaceuticals, and textiles.

Ranking	Company and Country	Assets (millions)	Company and country	Assets (millions)
	1960:		1978:	
1	Bank America (United States)	$11,942.0	Bank America (United States)	$94,902.5
2	Chase Manhattan (United States)	9,260.4	Citicorp (United States)	87,190.7
3	Citibank (United States)	8,688.4	Caisse Nationale de Credit Agricole (France)	86,000.5
4	Barclays (United Kingdom)	7,457.1	Deutsche Bank (Federal Republic of Germany)	80,249.6
5	Manufacturers Hanover (United States)	6,126.1	Banque Nationale Paris (France)	78,088.1
6	Chemical Bank (United States)	4,539.9	Credit Lyonnais (France)	73,953.2
7	Royal Bank of Canada (Canada)	4,432.0	Dai-Ichi Kangyo Bank (Japan)	73,446.9
8	Morgan Guaranty (United States)	4,423.9	Societe Generale (France)	66,835.1
9	Midland of London (United Kingdom)	4,377.7	Fuji Bank (Japan)	64,934.1
10	Lloyds (United Kingdom)	4,374.3	Sumitomo Bank (Japan)	63,762.7
11	Canadian Imperial Bank (Canada)	4,345.5	Mitsubishi Bank (Japan)	62,812.1
12	Bank of Montreal (Canada)	3,595.1	Sanwa Bank (Japan)	61,757.5
13	Security First National of LA (United States)	3,593.7	Chase Manhattan (United States)	61,171.5
14	Bankers Trust (United States)	3,430.3	Dresdner Bank (Federal Republic of Germany)	60,990.0
15	Continental Illinois (United States)	3,312.1	Industrial Bank Japan (Japan)	53,357.9

		Millions			Millions	
Ranking	Company and country	Sales	Net income	Company and country	Sales	Net income
	1959:			1978:		
1	U.S. Steel (United States)	$3,643.0	$254.6	U.S. Steel (United States)	$11,049.5	$242.0
2	Bethlehem Steel (United States)	2,055.7	117.2	Nippon Steel (Japan)	9,521.8	56.9
3	Republic Steel (United States)	1,076.8	53.9	Thyssen (Federal Republic of Germany)	9,182.1	61.2
4	Armco Steel (United States)	1,022.4	77.1	Bethlehem Steel (United States)	6,184.9	225.1
5	Alcoa (United States)	858.5	55.6	Pechiney Ugine (France)	6,130.5	57.9
6	Friedrich Krupp (Federal Republic of Germany)	829.5	NA	Friedrich Krupp (Federal Republic of Germany)	5,936.2	NA
7	Jones & Laughlin (United States)	765.7	29.5	British Steel (United Kingdom)	5,673.3	−797.6
8	National Steel (United States)	736.9	54.9	LTV (United States)	5,260.5	39.6
9	Inland Steel (United States)	705.1	48.4	ESTEL (Netherlands)	5,072.2	−133.5
10	American Metal Climax (United States)	668.5	30.8	Nippon Kokan (Japan)	4,837.1	18.8
11	Anaconda (United States)	632.7	59.2	Armco (United States)	4,357.3	198.3
12	Gelsenkirchener AG (Federal Republic of Germany)	609.1	10.4	Kobe Steel (Japan)	4,174.9	21.1
13	Youngstown Sheet & Tube (United States)	608.1	30.9	Sumitomo Metal (Japan)	4,110.6	18.5
14	Tube Investments (United Kingdom)	560.0	18.1	Alcoa (United States)	4,051.8	312.7

		Millions			Millions	
Ranking	Company and country	Sales	Net income	Company and country	Sales	Net income
	1959:			1978:		
1	Unilever (United Kingdom-Netherland)	$3,721.1	$170.4	Unilever (United Kingdom-Netherland)	$18,893.2	$531.3
2	Swift (United States)	2,475.5	19.1	Nestle (Switzerland)	11,001.8	416.1
3	Armour (United States)	1,869.8	14.1	Beatrice Foods (United States)	6,313.9	221.5
4	National Dairy (United States)	1,605.7	49.4	Esmark (United States)	5,827.2	80.1
5	Nestle (Switzerland)	1,280.6	15.4	Kraft (United States)	5,669.9	184.0
6	General Foods (United States)	1,052.9	54.1	General Foods (United States)	5,376.2	169.5
7	Borden (United States)	941.3	25.5	Taiyo Fishery (Japan)	4,518.3	7.0
8	Corn Products (United States)	671.3	33.2	Greyhound (United States)	4,351.2	58.4
9	General Mills (United States)	545.9	16.8	Ralston Purina (United States)	4,058.4	154.6
10	Canada Packer (Canada)	541.4	4.7	Borden (United States)	3,802.6	135.8
11	Ralston Purina (United States)	530.6	17.8	Consolidated Foods (United States)	3,535.6	100.6
12	Campbell (United States)	496.5	34.6	General Mills (United States)	3,243.0	135.8
13	Foremost Dairies (United States)	440.1	10.5	CPC International (United States)	3,221.8	147.3
14	Standard Brands (United States)	434.7	15.9	BSN-Gervais Danone (France)	3,196.3	10.1

		Millions			Millions	
Ranking	Company and country	Sales	Net income	Company and country	Sales	Net income
	1959:			1978:		
1	General Dynamics (United States)	$1,811.8	$31.0	United Technologies (United States)	$6,265.3	$234.1
2	Boeing (United States	1,612.1	12.4	Boeing (United States)	5,463.0	322.9
3	Lockheed (United States)	1,301.6	8.7	McDonnell Douglas (United States)	4,130.3	161.1
4	United Aircraft (United States)	1,080.9	28.6	Lockheed (United States)	3,496.3	64.9
5	North Amercian Aviation (United States)	1,044.9	30.7	Textron (United States)	3,230.6	168.1
6	Douglas Aircraft (United States)	883.8	33.8	General Dynamics (United States)	3,205.2	−48.1
7	Hawker Siddeley (United Kingdom)	728.0	15.5	Aerospatiale (France)	2,114.6	−19.2
8	McDonnell Aircraft (United States)	435.9	10.0	Northrop (United States)	1,829.8	88.4
9	Vickers (United Kingdom)	435.5	8.5	Martin Marietta (United States)	1,758.3	136.0
10	Curtiss-Wright (United States)	329.2	14.3	British Aerospace (United Kingdom)	1,717.0	54.8
11	Textron (United States)	308.2	16.6	Grumman (United States)	1,571.0	19.9
12	Grumman (United States)	288.9	4.9	Rolls-Royce (United Kingdom)	1,464.6	13.7
13	Joseph Lucas Industries (United Kingdom)	283.6	7.0	Avions Dassault (France)	1,404.6	55.1

		Millions			Millions	
Ranking	Company and country	Sales	Net Income	Company and country	Sales	Net income
	1959:			1978:		
1	Bayer (Federal Republic of Germany)	$585.5	$25.1	Hoechst (Federal Republic of Germany)	$12,068.2	$107.6
2	Hoechst (Federal Republic of Germany)	529.0	NA	Bayer (Federal Republic of Germany)	11,392.4	203.9
3	American Home Products (United States)	420.8	46.7	Ciba-Geigy (Switzerland)	5,029.6	202.7
4	Johnson & Johnson (United States)	297.7	15.4	Johnson & Johnson (United States)	3,497.3	299.1
5	Pfizer (United States)	253.7	24.9	American Home Products (United States)	3,062.6	348.4
6	Ciba-Geigy (Switzerland)	234.6	6.2	Warner-Lambert (United States)	2,878.5	207.9
7	Merck (United States)	216.9	29.9	Roche-Sapac (Switzerland)	2,727.8	113.3
8	Sterling Drug (United States)	209.2	20.9	Bristol-Myers (United States)	2,450.4	203.0
9	Parke Davis (United States)	191.5	30.9	Sandoz (Switzerland)	2,419.6	87.8
10	Eli Lilly (United States)	187.0	23.4	Pfizer (United States)	2,362.1	206.3
11	Warner Lambert (United States)	182.8	16.4	Merck (United States)	1,981.4	307.5
12	Upjohn (United States)	156.9	23.2	Eli Lilly (United States)	1,852.1	277.5

Note: The two large German industrial firms, Bayer and Hoechst, are listed under both chemicals and pharmaceuticals because they are heavily involved in both industries, and there is no satisfactory accounting of where one operation ends and the other begins.

		Millions			Millions	
Ranking	Company and country	Sales	Net Income	Company and country	Sales	Net Income
	1959			1978		
1	E.I. Du Pont (United States)	$2,114.3	$418.7	Hoechst (Federal Republic of Germany)	$12,068.2	$107.6
2	Union Carbide (United States)	1,531.3	171.6	Bayer (Federal Republic of Germany)	11,392.5	203.9
3	ICI (United Kingdom)	1,423.8	110.1	BASF (Federal Republic of Germany)	10,732.5	210.2
4	Allied Chemical (United States)	719.6	50.0	E.I. Du Pont (United States)	10,584.2	787.0
5	Olin Mathieson (United States)	708.0	37.4	ICI (United Kingdom)	8,701.4	577.8
6	Dow Chemical (United States)	705.4	62.9	Union Carbide (United States)	7,869.7	394.3
7	Monsanto (United States)	615.3	48.9	Dow Chemical (United States)	6,887.6	575.2
8	Bayer (Federal Republic of Germany)	585.5	25.1	Montedison (Italy)	6,814.9	−312.7
9	American Cyanamid (United States)	583.6	52.3	Rhone-Poulenc (France)	5,6 5.5	52.9
10	BASF (Federal Republic of Germany)	540.0	23.7	Ciba-Geigy (Switzerland)	5,029.6	202.7
11	Hoechst (Federal Republic of Germany)	529.0	20.5	Monsanto (United States)	5,018.7	302.6
12	Montecatini (Italy)	471.5	19.3	Akzo Group (Netherlands)	4,938.4	11.3

In 1967 Jean-Jacques Servan-Schreiber's *Le Défi Américain* predicted that within 15 years the third major industrial power in the world after the United States would be neither Europe nor Japan but US multinationals operating abroad. At the same time that Servan-Schreiber was predicting the US takeover of world markets, Japanese and West European corporations were aggressively capturing traditional US export markets and beginning to compete forcefully with American firms in the US domestic market. By as early as 1971, the expansion rate of foreign manufacturing operations of large European and Japanese enterprises exceeded the rate of large US enterprises. Not only was the growth rate of foreign multinational sales greater than that of US multinationals, but more foreign production outposts were being added to their systems than were being added to the network of US multinationals.

Last year's *Fortune* magazine listing of the 500 largest non-US-based industrial corporations showed that 325 of these enterprises registered 1978 sales in excess of $1 billion, compared to 257 US firms with comparable sales. Of the world's 50 largest industrial companies, 30 are based outside the United States. Not only have these companies challenged US multinational companies operating in their home countries, but also in traditionally US-dominated third-country markets, governments welcomed foreign-based multinationals as alternatives to the US companies. To these governments foreign multinationals brought not only similar products and processes, but they also brought different national flags—flags that did not connote superpower. And, finally, many foreign enterprises are making inroads into the US market—first through exports and then by taking over American companies or constructing new plants and distribution facilities in the United States.

Recent international trends have accelerated this movement of foreign investment to the United States. Political unrest and static economies intensify a corporation's search for geographical diversification and more reliable long-term markets. Economies around the world are slowing down, and good growth opportunities are declining. The immense size of the US market, the political stability, and even the relative cost competitiveness of US labor contribute to increased foreign direct investment in the United States and hence to greater competitive pressure on US corporations even in the domestic market in the years ahead. Foreign direct investment in the United States surged in 1979 according to the US Department of Commerce. There were 1,070 direct investment transactions by foreigners totaling at least $12.5 billion, up from 334 transactions worth $6.1 billion in 1978. The foreign money went mostly into banking, insurance, electric and electronic equipment manufacturers, and transportation equipment makers.

The US commercial banking sector has felt the impact of increased foreign competition as much as any industry. European and Japanese banks that once operated almost solely within their own borders now have offices around the globe. Buoyed by enormous liquidity and stimulated by powerful export-fueled economies, many of these banks are now challenging the US banks for business in third-country markets as well as in the United States. The foreign banking establishment in the United States has recently burgeoned into very big business. As of January 1980, a total of 151 non-US banks, including nearly all of the 50 largest foreign banks, now maintain over 333 offices in the United States. Their assets have increased from $7 billion in 1965 to $162.8 billion in January 1980. Approximately 37 per cent of these offices are European-owned and another 19 per cent are Japanese-owned. Although the $162.8 billion in foreign-held assets still equals only about 45 per cent of the $364 billion in assets held by US banks abroad, foreign bank investment in the United States has been growing much faster than US bank investment abroad in recent years. In addition, foreign interests are increasingly important owners of US banks (5 per cent to 100 per cent of the stock in at least 16 US financial institutions). The main impetus for this increase in foreign banking activity is straightforward. European and Japanese banks have followed their major clients—European and Japanese corporations—into numerous markets around the world, including the United States, in order to service their banking needs.

The industrial nations are entering a new era with respect not only to the developing world but also to relations among themselves. The US economy is still the largest on earth, but it has declined, and it may well continue to decline relative to the economies of its major competitors. This decline is observable in ways other than relative gross national product (GNP) growth rates. The United States is no longer the industrial nation with the highest per capita income; wages and living standards in other industrial countries reached parity with the United States in the 1970's. Other symptoms of this comparative economic decline are the relatively low level of US investment and increasingly smaller percentages of GNP being allocated for research and development in the United States.

The idea that US multinationals dominate both foreign governments and the international commercial environment must be recognized as outmoded. Host governments are becoming increasingly effective in harnessing foreign companies in support of their national policies. The trend is most pronounced in the production and processing of raw materials, but it is also accelerating in manufacturing. The consequence will be the shaping of multinational corporate networks to meet the demands of host countries. US multinationals will find it more difficult to operate as host governments attempt to obtain a bigger share of the profits, jobs, markets, and technical and managerial skills that US multinational companies either create or control.

In spite of the increased foreign demands and restrictions on US corporations, the US Congress has demonstrated a willingness to pass legislation that ultimately restricts the ability of US firms to compete in markets abroad and that could create boomerang effects in the US economy. Areas where existing legislation impedes the international performance of US firms include the Foreign Corrupt Practices Act, antiboycott laws and regulations, export controls, US antitrust laws, and legislation governing the tax environment of US business abroad.

Policies affecting the long-term performance of the US economy need to be made taking into consideration the relevant international as well as domestic aspects. Otherwise, sooner or later the American people will pay the price in terms of higher unemployment and lower living standards.

[From Fortune, Aug. 11, 1980]

JAPAN'S AUTOMAKERS SHIFT STRATEGIES

(By Louis Kraar)

Japanese auto executives have a knack for finding the cloud around any silver lining. These days, though, they are really worried.

They should be raising sake cups in triumphant toasts. This year, for the first time in history, Japan's automakers will turn out more cars and trucks than Detroit—11 million vehicles, vs. nine million for the U.S. They are unsurpassed around the world as manufacturers of the small, fuel-efficient, high-quality cars that consumers everywhere now want, and their factories are working overtime to meet demand. With 8 percent of the German market and 22 percent of the U.S. market, they sell half their production abroad. While Detroit's domestic operations are losing billions, Japan's 11 automakers are doing fine.

Though they grew up in a protected market, Japanese car companies now constitute one of the most formidable national industries anywhere. The leaders are Toyota and Nissan, which control more than half of the Japanese market, and which are the world's third- and fourth-largest producers after GM and Ford. Toyota has unusual financial strength. Unlike most Japanese companies, it has very little long-term debt, and its balance sheet looks like GM's. Nissan, manufacturer of the Datsun line, saw its earnings rise 33.6 percent to $401 million on worldwide sales of $12.5 billion in the fiscal year ended in March. The Japanese export drive gets additional thrust from Toyo Kogyo (which produces Mazdas), Mitsubishi Motors, and Honda.

To the Japanese, however, all this is little reason to celebrate. A senior manager of a big auto manufacturer breaks through the polite indirections that are customary in Japan and says: "We mastered the game, but the rules are changing."

A LIMIT TO EXPORTS

For one thing, the super-growth of the Japanese home market has ended. Its zestful 12-percent annual expansion during the early Seventies has been halved, and auto registrations are expected to increase 2 percent to 3 percent annually by the mid-Eighties—roughly the anticipated pace of sales in the U.S. and Europe.

Japanese companies cannot make up this slack with endless export growth. In Europe they have long since bumped up against high tariffs and national import quotas. Many of the most promising markets elsewhere—from Australia to Mexico—require not only local manufacturing, but often local exporting. These and other new industrial countries around the Pacific, including South Korea and Malaysia, have the fastest-growing demand for cars. U.S. and European automakers have built plants in much of this frontier, and Japan cannot afford to ignore it.

In the U.S., the competition is going to get tougher as Detroit moves belatedly toward a new generation of small, fuel-efficient autos. A Nissan executive says: "We have always tried to fill a special segment—small cars, where our Datsuns had remarkably little U.S. competition. Now that the Big Three are going to concentrate on our old niche, we must find fresh ways to be distinctive." But that will be hard since the quest for fuel economy is reducing product differentiation.

What most worries the Japanese is the possibility that trade barriers will be erected in the U.S., where a fifth of Japan's output is sold. With an auto tariff of 2.9%, America is the only big market in the world that is essentially open. So far, the Administration, seemingly supported by Congress, has backed free trade. But with 36% of U.S. autoworkers laid off and the United Auto Workers and Ford leading a drive for protection, that could change—a possibility underscored by President Carter's visit to Tokyo last month. As Fred G. Secrest, a former executive vice president at Ford, put it in Tokyo recently: "No major nation has yet given up to foreign competition such a fundamental productive sector as the auto industry. The U.S. is hardly likely to be the exception."

This message is getting through. Naohiro Amaya, vice minister of the Ministry of International Trade and Industry, remarks, "While Chrysler and maybe Ford are in the hospital, I keep warning Toyota and Nissan to walk more softly in the corridors." He criticizes efforts to "fix things up with Band-Aids and tranqualizers," and his agency has made contingency plans for a "voluntary" restriction of auto exports to America.

To compete with the U.S. manufacturers'

new-generation cars, Nissan is considering broadening its U.S. line to include mid-size models cramed with electronics. A preview of the possibilities can be seen in Japan, where the company markets its deluxe Cedric and Gloria models. Their microprocessors cut fuel consumption by 10%, automatically prevent the car from skidding, and even activate a gentle, simulated woman's voice to remind forgetful drivers: "Please turn off your lights." Toyota, by contrast, may extend its line downward to include a sporty two-seat model for commuters.

As for the rising tide of protectionism, the Japanese sometimes act as if they could talk it into ebbing. Nissan Chairman Katsuji Kawamata has publicly complained: "The trend toward protectionism is becoming more pronounced in the U.S., and excessive demands are being made on Japan." He assailed the "world car" concept, under which manufacturing is spread among many countries, as a drain on U.S. capital and jobs.

But such talk is mostly a smokescreen. The Japanese recognize that the day of manufacturing at home and selling abroad is passing. Willy-nilly, they are beginning to pursue an international strategy like that of Ford or GM, which for decades have manufactured in the countries where they sell their cars. Each of the Japanese 11 has its own approach—contrary to the stereotype of a monolithic Japan Inc.

AN END TO DOCKSIDE ASSEMBLY

Nissan, reluctantly, is now pursuing what Masataka Okuma, its executive vice president, calls "our strategy of internationalization." To improve access to crucial foreign markets, the company is making big manufacturing investments abroad. Nissan has moved out farther faster than arch-rival Toyota partly because it has been unable to boost domestic market share beyond about 24 percent, vs. Toyota's 31 percent. To grow, Okuma says, "we have to do more business overseas."

Nissan has also been pushed abroad. In May the U.S. Customs Service ruled in effect that the practice of shipping in a truck cab and chassis, then bolting on a cargo bed (often at dockside) is a ruse to pay the 4 percent duty on automotive parts rather than the 25 percent duty on trucks. The decision threatened Datsun's share of the mini-truck market it had pioneered in the U.S.

Several weeks before that widely anticipated ruling came down, Nissan announced it will set up a plant in the Great Lakes region or in the Southeast to make 10,000 trucks a month, starting in 1983. Says Okuma, "It would be telling a lie if I deny there is a relationship to the U.S. tariff." He plans to acquire enough land to add an auto-assembly operation—just in case.

An attraction of the American plan is its potential relationship with Nissan's truck factory in Mexico. Sounding like an American executive, Okuma says: "We're planning to exchange components between our U.S. and Mexican plants to gain the benefit of greater production volumes." Nissan now ships most of the engines it makes in Mexico back to Japan.

Nissan is using several bold approaches to hurdle trade barriers in Europe. To push its European truck sales beyond the 21,000 level of 1979, the company this year bought 35.8 percent of Motor Ibérica, an ailing truck manufacturer based in Barcelona. This is the first Japanese automotive investment in a European producer. Nissan is getting ready for Spain's entry into the European Community by adding to the Spanish assembly line Datsun's Jeep-like Patrol and its Vanette mini-van.

To sell more than its present 195,000 passenger cars a year in E.C. markets, Nissan plans to build cars in southern Italy in collaboration with Alfa Romeo. The two automakers have agreed to set up a plant that would produce 60,000 vehicles a year beginning in 1983. Though Fiat is fighting this coalition, approval by the Italian government is expected soon.

Nissan's global reach plainly entails risks. Most Japanese auto executives fear what they delicately term "the quality of labor" in other lands, especially the U.S. Nissan hopes to preserve the quality of its products made outside Japan by intensively automating its factories.

LORD TOYOTA AT HOME

Toyota is resisting pressures for international manufacturing because it has the most to lose by producing abroad. In comparable efficiency enables the No. 1 Japanese automaker to land subcompacts on American shores at a unit cost $500 less than that of similiar U.S. models.

One of the company's biggest strengths is a band of suppliers that perform almost like feudal vassals for Lord Toyota. Its 250 primary suppliers, backed by 15,000 subcontractors, provide about 70 percent of the cars' value. (By contrast, GM makes more than half of its own components in terms of value.) Another strength is Toyota's devoted and highly flexible labor force, hired for life and never laid off. The brunt of sales downturns is borne by the subcontractors, who trim payrolls and thus serve as economic shock absorbers for the industry.

Most Japanese automakers use similar techniques, but not as effectively as Toyota Motor Co. does at the production headquarters of its fiefdom, Toyota City. The automaker does not have to maintain inventories of parts; suppliers deliver right to the assembly lines at the precise times and places specified by Toyota. By insisting that components be made to much finer tolerances than those in the U.S., the company gains greater reliability in its products.

At one of the ten Toyota City plants, Tsutsumi, three models of passenger cars (Corona, Celica, and Carina) roll down the assembly line. Much of the body welding is done by robots, but the final assembly is handled impressively by Toyota's people. Cross-trained to do several jobs, they begin by intently inspecting the tasks performed at the previous work station. As a result, quality-control inspectors at the end of the line find defects in fewer than 1 percent of the finished autos.

Toyota's enthusiastic workers are not cheap. Counting such company benefits as housing, holiday resorts, and semi-annual bonuses, they get $9.26 an hour—about the same as most auto workers in Western Europe and nearly two-thirds as much as U.S. auto workers. Toyota supervisors spend a lot of time getting to know their subordinates—for instance, foremen customarily take their 120 floor workers on weekend outings. This policy has helped the company build an enviable labor-relations record; Toyota hasn't had a strike for 27 years.

This spring, when the UAW began demanding that Toyota establish a plant in the U.S., the company was conducting a little-noticed campaign in Japan to promote its "Global Ten" strategy—aimed at producing 10 percent of the world's cars and trucks in Japan by 1986. The target appeared reachable since the company's present share is more than 7 percent. Now Toyota dismisses the campaign, which it pushed actively, as a morale-building exercise for its employees. Shigenobu Yamamoto, an executive vice president, says: "I don't think it's very realistic for us to set a certain global share. That will depend on the market and our competitors."

Toyota is hardly sitting still. It has increased its annual capital spending 50 percent to $825 million for the next several years—"mainly," Yamamoto says, "to improve the quality and fuel-efficiency of products." He adds: "Considering the technical power of GM, we're sure it will come out with very sophisticated small cars. We must raise our own engineering level." Toyota is also increasing its production capacity by about 7 percent.

Only when there is no other way to penetrate vital markets does Toyota ship components to local assemblers in 13 nations. It has invested in five other local companies, including a small operation in Long Beach, California, that puts cargo beds on pickup trucks. The overseas plants, one executive complains, "just barely make ends meet."

To dampen protectionist sentiment in the U.S., the company uses diplomacy and delaying tactics. In June, Toyota privately broached the idea of joint production with Ford, which owns 25 percent of Toyo Kogyo. But Toyota's executives must have known that the U.S. automaker could not consider such an arrangement unless it involved Toyo Kogyo. Ford almost immediately rejected the idea, but Toyo can point to its proposal as evidence of a sincere interest in U.S. production. Toyota has also invested $1 million with two U.S. research firms and one in Japan to study the economic feasibility of an American plant. Skeptics in the U.S. dismiss this as an effort to study the idea to death.

NIPPON'S NONCONFORMIST

The only Japanese automaker eager to build cars in the U.S. and Britain is Honda, the industry's lively nonconformist. Soichiro Honda, its founder, transformed a workshop that mounted war-surplus engines on bicycles into the largest producer of motorcycles on earth—and then into a formidable automaker. Last fiscal year its net income rose 97 percent to a record $111 million on sales of $5.2 billion. Kiyoshi Kawashima, who succeeded Honda as president, enjoys saying that as newcomers to the automobile business, "we could look at cars from the viewpoint of what they should be, rather than what they were."

The company has earned its reputation as a maverick through technical innovations (such as the clean, fuel-efficient CVCC engine) and its attitude toward overseas marketing. Having assembled motorcycles in 30 nations to promote their sales, Honda's leaders find it perfectly natural to extend the technique to cars. Hideo Sugiura, an executive vice president, explains, "Becoming quite localized is our way of being able to stay in a place."

Beginning next year, BL Ltd., the British manufacturer, will assemble a new Honda-designed car using the Japanese company's production methods, engines, and transmissions. Under a licensing agreement, BL will make 85,000 autos annually for sale exclusively within the E.C.

By 1982, Honda expects to have its own integrated auto-manufacturing plant going in Marysville, Ohio, where it is investing $200 million—more than all the company's other investments outside Japan. The factory will have an initial capacity of 10,000 cars a month—half the minimum number that major Japanese automakers say is required to be competitive. Sugiura explains, "If we pursued the conventional way of thinking, it certainly would be impossible to expect a profit out of 10,000 cars a month. But with the production technology that we have developed and the experience gained overseas, we can do it."

Honda's technology includes not only highly automated equipment and a car designed for easy assembly, Sugiura adds, "but such intangible things as how to manage employees." Unlike Toyota and Nissan, Honda has no qualms about bringing these elements together in alien lands. Honda's Ohio motorcycle plant, which opened last fall, is turning out products of the same quality as those made in Japan. Thus Honda is confident that its U.S.-made cars will be indistinguishable from those rolling out of its Japanese factories.

Honda's statement of management policy

includes such principles as, "Enjoy your work and always brighten your work atmosphere. Strive constantly for a harmonious flow of work." It may sound inane to Westerners, but Honda earnestly spreads its philosophy and gets results.

BELTLESS AND BUTTONLESS

Its plant in Suzuka, Japan, is almost as quiet and clean as an electronics factory, but produces a smooth, unhurried flow of motorcycles, Civic cars, and minitrucks. On the motorcycle line, a Nigerian—one of 35 trainees from abroad—works alongside Japanese employees, who are also his neighbors in a Honda dormitory. Their average age (29) is lower than that of the work force at Japan's Big Two. The managers are young too, because Honda does not strictly observe the Japanese industry's practice of promotion on the basis of seniority. It is not unusual for high-level managers to pitch in and work with their hands alongside engineers.

The company encourages workers to think of themselves as team members. Everyone, including managers, wears spotlessly white uniforms with Honda caps. The outfits also serve a practical purpose, having no belt buckles or buttons that could scrape against the vehicles.

Honda, which exports 40% of its cars to the U.S., is counting on clever engineering and management to keep it thriving. The company also has distinctive ideas about its U.S. product line, made up entirely of subcompact, front-wheel-drive cars. Sugiura says that a wider range of Honda models is possible "without losing our cost competitiveness." At the Suzuka plant, in fact, the company is efficiently building both cars and minitrucks on the same assembly line.

The future success of Honda and its fellow automakers will depend on their ability to create a new kind of Japanese export—not cars, but the production efficiency and smooth labor relations they have cultivated so well in their island nation.

THE "INFANT" U.S. AUTO INDUSTRY NEEDS IMPORT CURBS

(Long a champion of free trade, Ford Motor Co. is now calling on Washington to curb imports of Japanese autos, which have lately swamped the U.S. market. Election-year considerations appear to be softening President Carter's opposition to protectionism. Before his trip to Japan in early July, the President made a symbolic stopover in Detroit, promising to speed up a government study that could result in import restrictions. This possibility isn't lost on Toyota, which recently offered to join Ford in producing small cars in this country.

(Fortune's Edward Meadows discussed Ford's new protectionist stance with Fred G. Secrest, who retired in June as the company's executive vice president for environmental, safety, and industry affairs. Secrest remains with Ford—for which he has worked 32 years—as a consultant.)

Q. Why do you want import protection for the car industry?

A. Even the classical economists readily concede the case for protecting infant industries.

Q. Are you calling the automobile industry an infant industry?

A. The American auto industry and its customers lived behind a kind of tariff wall for years and didn't know it. That was cheap gasoline. For decades it was cheap in this country though it was always expensive in the rest of the world. All of a sudden that went away. The industry was faced overnight with removal of protection that had caused it to make cars averaging 12 to 15 miles per gallon.

Q. And protection is the only remedy?

A. I see no way in which the industry, physically or financially, can change its product fast enough to meet what appears to be the current market requirement for small cars. For three to five years there will be a lag between the mix of cars the industry can produce in this country and what people want.

Q. You criticize the government for artificially holding down the price of gasoline, but aren't you asking the government to invoke the same principle by sheltering the auto industry from foreign competition?

A. We need to look at whether it is in the national interest to maintain a presence in the U.S. of an automotive-manufacturing industry. You don't see that industry being abandoned in any of the other big industrial countries.

Q. Why not?

A. You could offer the national-defense argument, but you could also just state the magnitude of the industry. If all cars and trucks were imported, one out of 12 manufacturing workers would be without a job. Maybe that's not too high a price to pay. But if we're dealing with a transition period, occasioned either by management stupidity or—as in my view—the unpredictability of fuel prices, some temporary assistance may be a worthwhile price to pay.

Q. But in doing so we'd be raising the price of cars and making it tougher for people to conserve gasoline.

A. The Council of Economic Advisers says imported-car prices would go up 5 percent for each 250,000 imported cars that are kept out of the U.S. market. If we restricted imports by a half million cars a year, import prices would rise 10 percent, but by my calculation this would raise the consumer price index only .06 percent. The inflationary effect is *de minimis*.

Look at what's happening now. First, we face an $11-billion automobile trade deficit this year. That is inflationary. What are we doing to the inflation picture by spending more than a billion dollars this year in special compensation for workers who were thrown out of work by imports? Would we be worse off if those people went back to work?

As for oil consumption, removing half a million Japanese imports from the U.S. car market would only increase it by an amount of oil equal to 13 minutes' worth of national oil consumption per month. We think even that estimate, derived from a study by the Council of Economic Advisers, is overstated.

Q. By restricting imports you also deny consumers what many consider the superior quality of imported cars.

A. If you want to criticize American auto management, it is true that in the details of fit and finish, in real attention to quality, we have some homework to do.

Q. Wouldn't a new round of protectionism spark a trade war?

A. I hear that talk, but I haven't heard anybody describe exactly what they think the Japanese would do if we negotiated on a government-to-government basis a temporary and relatively modest restriction on their cars. I find it hard to believe we'd have a trade war. The British have restricted Japanese imports to 10 percent of their market; the French hold them to 3 percent; the Italians have a limit of 2,000 cars a year. Brazil and Mexico don't let the Japanese or anyone else into their markets unless they manufacture a lot of parts there. Even relatively free markets such as Germany and Canada have automotive tariffs that are more than three times as high as the U.S. tariff.

Q. Aren't you using the same logic as the 11-year-old daughter who wants to wear lipstick because all the other girls do?

A. We no longer have the ability to set world trade rules, so we don't have the power to determine whether other people's daughters can wear lipstick. In the automotive case, if the rest of the major markets of the world have barriers that restrict the Japanese and if the Japanese, acting in a rational way, want to export as many cars and trucks as possible to pay their oil bill, where are they going to go? You can't blame the Japanese for concentrating on the single major market where the barriers are lowest.

Q. Usually trade problems correct themselves as resources are shifted from uncompetitive products to ones that can sell in the world market. Why won't this happen now in cars?

A. Yes, most of the critics of a new import policy say everything is going to be fine. Any minute you folks in Detroit will come out with those dandy new small cars and then the problem will be over. But this self-correction requires at an absolute minimum that we complete an enormous retooling program, which can be privately financed only if we sell a lot of cars and trucks.

Q. If the U.S. car industry can't make itself more efficient, won't resources—workers and capital—simply shift to more efficient industries?

A It may be that in a perfect world all the world's steel production is in the lowest-cost country and all the world's automotive production is likewise. I don't know what the U.S. is lowest-cost in, except soybeans. Where are the auto workers going to go? Are they going to grow soybeans? Isn't there a limit to how many you can put to growing soybeans?

If imported cars and trucks is to be the national policy, then let's get on with it. Ford and GM can proceed to close their plants in Michigan, Ohio, Illinois, and Missouri and move them to Brazil and Korea and wherever. I happen to think that is not good U.S. policy, because the cost of keeping a viable U.S. auto industry is less than the cost to the country of finding and subsidizing other forms of work for all the disemployed people. It's different when you're dealing with millions of workers.

Q. But already we have seen the spectacle of bureaucrats telling Lee Iacocca how to sell cars.

A. Exactly. That's what you get when you are unwilling to face questions before they become so severely disastrous that they can be solved only by the kind of approach that has been taken in the Chrysler case.

Q. Why has Ford stopped arguing for free trade, as it argued for many years?

A. I think we still do, in this sense: A whole series of tariff walls that requires 100% self-sufficiency in each country bears a price in terms of inefficiency that shouldn't be paid. We have always felt that a long-term successful auto market at the lowest world cost warrants a great deal of shipment back and forth of components and vehicles. On the other hand, we have never believed it is sound corporate policy to have an enormous unfavorable trade balance in any major market area. If year after year you sell a lot of products in a country without contributing anything in the way of employment or balance of trade, history tells you that sooner or later you're going to have to consider a different way of doing it.

So the Ford concept is, why not put up a world-scale axle plant in Country A and a world-scale suspension plant in Country B, and so on. There are very few major countries in which we sell products where we haven't also found it desirable to have a manufacturing presence.

Q. How much import restriction do you think is needed?

A. There is no way to prove in advance what percentage of customers now buying Japanese cars would buy the best of the available American models instead. We ought to try it and see. We'll find out something on August 21, when the tariff on small-truck imports is going to rise from 4% to 25%, unless President Carter cancels the decision to raise it.

Q. What if the amount of protection you get isn't sufficient to get U.S. cars selling, and at higher prices?

A. What have we lost? Has the country been severely injured? There wouldn't be any more people out of work than there were before. You would have a few people who would have been driving new Datsuns but are instead driving old Plymouths. Inflation and oil consumption would have risen a little. But if it was a mistake, would it be a critical mistake? The alternative of doing nothing risks the kind of scenario in which in ten years or so there would be no basis for a continuing domestic automobile industry.●

CAREER DEVELOPMENT CONFERENCE OF DISTRIBUTIVE EDUCATION CLUBS OF AMERICA

● Mr. PRESSLER. Mr. President, this year I had the privilege of attending the Career Development Conference of Distributive Education Clubs of America—DECA. High school students from every State in the Nation competed in the areas of marketing and distribution. The theme of the 34th annual conference, "Free Enterprise—It's Working," was truly evident in the enthusiasm and involvement of the 6,000 attending DECA students.

As chairman of DECA's congressional advisory board, I was pleased to be able to participate with these students who best exemplify DECA's principles—vocational understanding, civic consciousness, leadership ability and social intelligence. These ideals and goals are symbolically represented in DECA's insignia—the diamond. I was also extremely proud to be present for the DECA award of excellence program. Mr. President, I ask that the following excerpts from the awards ceremony be reprinted in the Record.

The material follows:

The DECA Award of Excellence for:

Leadership ability.—Colonel Frank Borman has been a leader in every aspect of his illustrious career. From an astronaut to his position with Eastern Airlines, Colonel Borman has always encouraged young people to set their sights on a goal and work to reach that goal.

Civic consciousness.—Phillips Petroleum is a company that cherishes our heritage of an enterprising system. DECA salutes Phillips Petroleum for their continuing interest and support of economic education, young people and the promotion of free enterprise.

Social intelligence.—Senator Larry Pressler learned the values of persistence and determination in the farm community where he grew up. As DECA's voice in the U.S. Senate, Senator Pressler has demonstrated honesty and integrity as an example for students and all people.

Mr. President, I would also like to commend the student national officers and the dedicated DECA staff who skillfully planned and conducted this conference. Student organizations like DECA are inspiring young people to strive for achievement and leadership in their careers and in their communities. I join the other members of the congressional advisory board and DECA's national advisory board which includes numerous prestigious corporations in saluting DECA students—future leaders in our free enterprise system.●

SUPPORT FOR TWO SOVIET PENTECOSTAL FAMILIES

● Mr. ARMSTRONG. Mr. President, on July 28 I added my name as a cosponsor to S. 2890, a bill to assist the two Soviet Pentecostal families who have sought refuge in the American Embassy in Moscow. This legislation will issue American visas to the two members of the Maria Chymykhalov family and the seven members of the Peter Vashchenko family so they will attain permanent residence status in the first step toward becoming U.S. citizens.

June 27, 1980, marked the second anniversary on which the Vashchenko and Chymykhalov families sought refuge in the Embassy in their effort to emigrate from the Soviet Union. During these 2 years the status of their situation has changed little. The two families live together in one small room, with little access to the outside world. While the Embassy provides them with food, clothing, and other necessary services, reports indicate that attempts are being made to further isolate the families from the press, the public, and Embassy staff. At the same time that this alienation exists within the Embassy, no progress is being made toward obtaining the necessary exit visas from the Soviet Union. One of the stumbling blocks seems to be a confusion on the part of the State Department personnel as to the correct immigration status of these families.

Clearly it is time to end this stalemate. S. 2890 giving these people permanent residence status should help alleviate some of the strained relationship within the Embassy at this time, and will allow our diplomats to proceed in a more orderly and forceful manner in convincing the Soviets to grant them exit visas.

Because of concerns that this could lead to similar events at other diplomatic posts around the world, this legislation is tightly constructed so as not to become a broad precedent for others who seek residence in the United States in this manner.

Two years is far too long for this situation to have existed. If we are going to convince the Soviets to give these families exit visas, we must clarify the situation and improve the conditions of these two families so we can move ahead in these efforts.●

JOBS FOR YOUTH: BALTIMORE WORKS

● Mr. MATHIAS. Mr. President, unemployment, and particularly youth unemployment, is one of the most serious problems on our national agenda, and it is getting worse by the day.

Too many young people are standing idle on the streets of Baltimore, of Washington, and of other cities across the land. Too many of our Nation's youth are standing idle week after week, month after month, and year after year. This Nation cannot afford those endless, wasted days on the street—wasted days that eventually add up to wasted lives.

This month the Bureau of Labor Statistics reported that unemployment last month among white teenagers was 16.4 percent. At the same time, 34.4 percent of the Nation's minority teenagers were unemployed.

Translated into human terms, these figures mean that minority teenagers are twice as likely as white teenagers to be unemployed.

This problem has been with us for a long time—but as unemployment rises, the problem deepens. "Social dynamite" is how Dr. James B. Conant, president emeritus of Harvard University, characterized it in his keynote address before the Conference on Unemployed Out-of-School Youth in Urban Areas in 1961.

Today, I am concerned that America will continue to underestimate the destructive potential of such widespread joblessness among young people. We must not abandon any of this Nation's youth and brand them as failures. Young people make up two-fifths of our population, but they make up all of our future.

Far too little is being done to address this critical employment problem in a comprehensive way. Despite nearly two decades of experience with youth employment and training programs, the solutions to youth unemployment remain elusive.

Juan Williams, a member of the editorial page staff of the Washington Post, has written an insightful article about the success of the summer jobs program in Baltimore. I commend it to those who want to know about a jobs program that works.

Mr. President, I ask that the article be printed in the Record.

The article follows:

[From the Washington Post, July 27, 1980]

THOSE SUMMER JOBS: BALTIMORE WORKS, WASHINGTON FAILS

When congressmen and U.S. Labor Department officials talk about a good summer jobs program, they talk about the program in Baltimore. When they talk about a bad program, they look out of their Capitol Hill offices and point down—at Washington. When it comes to summer jobs programs, Baltimore and Washington, about 40 miles apart, might as well be on different planets.

The Washington program flounders from year to year with the same problems. It has trouble signing up young people for jobs despite high unemployment; it has trouble finding places for the young people to work; and there is always trouble getting the youngsters to work sites and getting them paychecks. Typically, after all the trouble, Washington youth are found spending their time at work playing ball or they show up only once a week, on Fridays, to get their checks.

In Baltimore, city officials take a visitor on a tour to show the houses that have been renovated, the parks that have been cleaned, the park benches that have been built by summer jobs workers. City government agencies in Baltimore compete to get more young people during the summer, while in Washington city-agency heads groan and protest about accepting young people for the summer.

Why does Baltimore's program work?

First, you should know, there is no magic in Baltimore's success. The city has about the same population as Washington, it has the same 50 percent black youth unemployment, it is also a mostly black city and its private employers give practically no jobs to the summer program.

But Baltimore's program is different from Washington's in one all-important respect: it is just one part of a well-managed program to give jobs to poor young people all year—9,000 throughout the year and an additional 9,000 in the summer. Washington's program of the same size is a summer-only effort that has trouble getting started every spring.

Another reason for Baltimore's success is that Mayor William Donald Schaefer sees the program as a free tool, put in his hand by the federal government, to help revitalize the city. And he does not want to waste it by paying young people to do nothing. Summer jobs are not considered an investment in riot prevention in Baltimore.

"Summer jobs, CETA (the federal government's Comprehensive Employment and Training Act) aren't something off to the side here," says Marion Pines, the energetic woman who manages Baltimore's youth-jobs program. "The jobs are part of the city's renaissance. We're using them to build up the city."

Pines reports on the jobs program, summer and winter, directly to Schaefer. She has no counterpart in the District, where the summer program and year-round jobs programs are headed by different people. And those people are hidden in the middle of the District's Labor Department bureaucracy.

"We have two major goals in the summer jobs program," says Stephen D. Kaiser, an assistant to Pines. "One, we want as many of the jobs as possible to be of tangible help to someone in the neighborhood or to make some lasting improvement to the city. That way, when the kids drive down the street in November they can say 'that's what we did in the summer jobs program.' Two, we want to make demands on the kids for good work habits and a good attitude, demands as tough as any private employer. That way, they know what it is to hold a job."

City officials in Baltimore are able to get young people to work hard to improve the city because their jobs program demands respect. Young people are suspended without pay and sometimes fired. So are supervisors who don't do their jobs.

"They're serious around here, they don't be playing," said Devor Redfern, who works as a butcher in a supermarket and attends special classes during the summer under the jobs program. "They be firing people out of here all the time. I watch myself . . . my mother told me I'd better work or pack my clothes. I want this job."

To get young people to do their best work, city officials also try to place as many youth as possible in jobs in their own neighborhoods. The idea, according to Marion Pines, is to get young people into situations where they can take pride in what they are doing and show it off to their parents and friends. In the District, there is an effort to assign young people from Southeast to Northwest while people from Northwest are assigned to Southeast. Requests to be placed at a job site near home are turned down by District officials for fear that employers and teenagers would know each other and play around instead of working.

Even the registration for summer jobs is different in Baltimore city agencies that regularly deal with poor young people—the housing department, the recreation department and the schools—are asked to submit the names of young people who would qualify for the program. The young people fill out a form and have their parents sign it to verify that their family income is below poverty level. In the District, city agencies are not asked to make referrals. Parents must accompany young people to registration centers, often taking time off work, to verify family income.

And unlike the District, where planning for jobs that start in July is taking place in April and May, Baltimore begins its planning for the same number of summer jobs the September before—at the end of the previous summer's program. As a result, when the District is suffering its annual May-June headache of signing young people up and assigning them to work sites, Baltimore has been finished with all registration for four months—since February.

"The difference between Baltimore and the District is good management," says Jodie Allen, deputy assistant secretary for policy evaluation and research in the U.S. Labor Department. "The summer program is an outgrowth of a city's other programs and the District's programs are usually badly managed. If you look around the District, you may find some well-managed job sites, but they are rare. In Baltimore, a well-managed job site is typical. That tells you the city government is doing a good job managing the summer program from the top on down."

Good management means that supervisors at each work site in the Baltimore program are specially trained by the city, unlike in the District. The head of a neighborhood program that is the site of a summer jobs program is not usually the head of the summer program, either, as is the case in the District. And in Baltimore, employees of city government agencies compete to qualify as supervisors of summer employees. The regular city workers who are chosen get a small increase in pay.

One other difference is that Baltimore makes no effort to get private businesses to pledge jobs for the summer program. In Washington, there is a yearly fight between the city government and the Greater Washington Board of Trade over how many jobs the board of trade has really located for young people.

"It was an annual farce here with the NAB (National Alliance of Businessmen) pledging private sector jobs that they never came through with," says Pines. "We didn't need that aggravation."

Even so, Baltimore has been chosen for the past two years to receive a $27,000 grant from Xerox to pay for summer jobs for 25 kids. Last year, the youths paid by Xerox built a park for the city. This year, they are laying out vegetable gardens in abandoned city lots.

The essence of Baltimore's approach to the summer jobs program is written on cardboard inserts that will be put in the young people's pay envelopes. One of the inserts reads: "Baltimore is proud of you. Not only for what you've done so far, but how you've done it. Especially for showing up on time when you felt like sleeping late . . . because when you make the city a better place to be, you're making your home a better place to live." ●

RECESS UNTIL TOMORROW, JULY 31, 1980, AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 9:30 a.m. tomorrow morning.

Whereupon, at 9:14 p.m., the Senate recessed until tomorrow, Thursday, July 31, 1980, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 30, 1980:

THE JUDICIARY

Howard F. Sachs, of Missouri, to be U.S. circuit judge for the eighth circuit, vice Floyd R. Gibson, retired.

NATIONAL COUNCIL ON THE ARTS

The following-named persons to be Members of the National Council on the Arts for terms expiring September 3, 1986:

Kurt Herbert Adler, of California, vice Leonard L. Farber, term expiring.

Margo Albert, of California, vice Sandra J. Hale, term expiring.

Robert Joffrey, of New York, vice Harry M. Weese, term expiring.

Toni Morrison, of New York, vice Dolores Wharton, term expiring.

Ieoh Ming Pei, of New York, vice James E. Barnett, term expiring.

Lida Rogers, of Mississippi, vice Harvey Lavan Cliburn, Jr., term expiring.

Erich Leinsdorf, of Massachusetts, to be a Member of the National Council on the Arts for the term expiring September 3, 1986, vice George Crossan Seybolt, term expiring.

HOUSE OF REPRESENTATIVES—*Wednesday, July 30, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, even as we praise You for Your daily blessings, we admit that we too often have neglected our faith and only assumed our religious traditions. Help us, O Lord, to experience your presence new each morning and to acknowledge our needs and dependence on You. In spite of the demands of time, the complexities of decision and the diversion of self-interest, enable us to recall that true strength and greatness come from You. Ever remind us of how Your mighty acts throughout history have brought nations' peoples to the perspective of Your purpose for them. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3904. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes; and

H.R. 7664. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 7664) entitled "An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints as conferees Mr. TALMADGE, Mr. McGOVERN, Mr. HUDDLESTON, Mr. LEAHY, Mr. MELCHER, Mr. BOREN, Mr. HELMS, Mr. DOLE, Mr. HAYAKAWA, and Mr. COCHRAN; solely for the consideration of title III of the Senate amendment, Mr. WILLIAMS, Mr. NELSON, Mr. SCHWEIKER, and Mr. JAVITS.

COMMENDATION OF DISTRICT OF COLUMBIA POLICE AND U.S. PARK POLICE FOR HANDLING OF IRANIAN GROUPS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I want to commend the District of Columbia Police and U.S. Park Police for their handling of the different Iranian groups last Sunday. Force had to be used to restore order after the pro-Khomeini demonstrators turned violent and began throwing rocks and other dangerous missiles.

It would appear to me that most of the Iranians that were jailed are in this country illegally or most certainly have violated the provisions of their visas following their violent acts on Sunday.

Mr. Speaker, what we should do is load up these nameless Iranians on a commercial airline and fly them to Tehran and see if we can swap the 200 demonstrators for our 52 fellow Americans in captivity.

NAVY F-18 HORNET

(Mr. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD. Mr. Speaker, on July 26, 1980, I had the pleasure and privilege to fly the Navy F-18 Hornet.

In my first term of office, funding to start the F-18 program was a controversial issue on which I cut my teeth. Today, the F-18 is still immersed in controversy. Some of the reasons are: F-14, aircraft companies feeling the bite of competition, and there are those in Congress who have chosen to speak against this weapon system.

These actions do a disservice to the test pilots who are charged with being completely honest about every discrepancy they may find, no matter how minute.

Personally, I choose to let the detractors of defense flexibility and advanced technology nitpick flight test results. I prefer to ask, "What can the F-18 do that similar aircraft cannot? As a pilot, would you like to fly the Hornet in combat?"

Those are the important questions. And let me state, having personally flown the F-18 far beyond the so-called speed and "g" force limits recently published, the aircraft has no restrictions. It will be one of the world's best fighters and attack aircraft. The F-18 Hornet will provide the Navy and Marine Corps with unparalleled combat capability for the future, and I envy the pilots who will fly it.

REPUBLICANS OPPOSE GASOLINE RATIONING PLAN

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, yesterday the House Republican Policy Committee voted unanimously to support the resolution to disapprove the administration's latest gasoline rationing plan.

The basic reason for our opposition, Mr. Speaker, is that this so-called plan is not a plan at all—it is merely an outline of what the Department of Energy may or may not do. But beyond that, Mr. Speaker, even the outline is unacceptable. This latest plan is essentially the same plan that the House resoundingly rejected last year. As in the old plan, this latest plan will:

First. Grant coupons based on how many vehicles an individual owns;

Second. Create a new currency in coupons; and

Third. Cost over $500 million just to get ready and $2 billion annually to operate.

This plan is a blank check payable to the bureaucrats at the Department of Energy and drawn on the funds of the American taxpayer. If we do not reject this plan, Congress will be abdicating its responsibilities. We have the duty to insist that the President consult fully with the legislative branch and to withhold our approval until the full details of the President's plan become known.

BILLY CARTER RESOLUTION OF INQUIRY SHOULD BE BROUGHT BEFORE THE HOUSE

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, yesterday an overwhelming and bipartisan majority of the House Committee on Foreign Affairs voted to report favorably the resolution of inquiry regarding the matter of Billy Carter, which I and 98 other Members of the House cosponsored.

The Judiciary Committee will consider it this morning. I hope that they will follow suit and also approve this resolution. Because of the action of the committee, this matter can only be brought before

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the House this week if the Democratic leadership so desires.

I suspect that if it is voted on by the House, it also will be overwhelmingly approved.

I would urge the leadership to schedule this matter before we adjourn Friday for the next 2-week recess. The House should be able to agree with the President and request from him all the information regarding the Billy Carter matter. That will give him the opportunity to tell all, as he says he wants to.

The House certainly deserves the right to vote on this issue.

I hope, Mr. Speaker, the Chair will agree with my suggestion.

APPOINTMENT AS MEMBERS OF COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

The SPEAKER. Pursuant to the provisions of section 225(b), Public Law 90-206, as amended, the Chair appoints as members of the Commission on Executive, Legislative, and Judicial Salaries the following members from private life: Mr. Richard Young, of Wellesley, Mass., and Mr. Sherman Hazeltine, of Scottsdale, Ariz.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. TRAXLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7591) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. Traxler).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 1, answered "present" 1, not voting 72, as follows:

[Roll No. 440]

YEAS—359

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Ritter
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—1

Lloyd

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—72

Ambro
Anderson, Ill.
Applegate
Badham
Boggs
Bonior
Bonker
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Byron
Cavanaugh
Chisholm
Collins, Ill.
Conyers
Coughlin
Daschle
Davis, S.C.
Deckard
Dingell
Dixon
Dornan
Dougherty
Duncan, Oreg.
Eckhardt
Ertel
Fithian
Ford, Mich.
Ford, Tenn.
Gaydos
Gephardt
Goldwater
Gonzalez
Gramm
Heckler
Holt
Jeffries
Jenrette
Johnson, Colo.
McCloskey
McDonald
McEwen
McKay
Martin
Mathis
Mavroules
Mikulski
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nowak
Oakar
Pepper
Preyer
Rahall
Rangel
Rinaldo
Roberts
Rodino
Runnels
Scheuer
Stack
Steed
Stewart
Thompson
Vander Jagt
Walker
Waxman
Wilson, Bob
Wydler

☐ 1020

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7591, with Mr. Corman in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, July 29, 1980, the Clerk had read through line 9 on page 49. Pending was an amendment offered by the gentleman from New York, Mr. Rosenthal.

PARLIAMENTARY INQUIRY

Mr. FOLEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOLEY. Is it correct that at the close of the business of the Committee yesterday, pending was an amendment offered by the gentleman from New York (Mr. Rosenthal) against which the gentleman from Mississippi (Mr. Whitten) had reserved a point of order?

The CHAIRMAN. The gentleman is correct. There is a point of order reserved against the amendment at this time.

Mr. FOLEY. Are other reservations of points or orders available at this time?

The CHAIRMAN. Yes.

Mr. FOLEY. I reserve a point of order against the amendment of the gentleman from New York.

The CHAIRMAN. The gentleman is protected.

Does the gentleman from New York wish to be heard on his pending amendment?

Mr. ROSENTHAL. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 49, line 9, after the "period" add the following:

"No part of the funds appropriated herein shall be used by the Commission to deny to subcommittees of the House of Representatives or of the Senate, acting at the direction of and as an agent of a full committee, any information in the possession of the Commission relating to the amount of commodities purchased or sold by such trader as provided by Sec. 8(e) of the Commodity Exchange Act to be made available to any committee of either House of Congress acting within the scope of its jurisdiction."

□ 1030

Mr. FOLEY. Mr. Chairman, I reserve a point of order against the amendment.

Mr. ROSENTHAL. Mr. Chairman, I will not belabor the point and repeat the arguments that were made yesterday. But, for those who were not here, I would rather just briefly explain the situation.

Mr. Chairman, the subcommittee that I have the honor to chair, the Subcommittee on Commerce, Consumer, and Monetary Affairs, has oversight jurisdiction over the Commodity Futures Trading Commission.

The Committee on Government Operations as a full committee, has oversight jurisdiction over all the Federal agencies and by rule of that committee responsibility has been delegated to the Subcommittee on Commerce, Consumer, and Monetary Affairs for jurisdiction over the Commodities Futures Trading Commission.

As part of our responsibility, we requested from that Commission certain documents that were in their possession. Section 8 of their authorizing legislation says that they shall furnish to committees of the Congress such information as committees request. On two separate occasions we requested this information that was in their possession which was relative to our investigation. They refused. They took a vote. The vote was 3 to 1 and they refused.

Thereafter we proceeded by way of subpena and in both cases they responded fully and fairly to the subpena.

Mr. Chairman, I think the issue is important.

The issue resolves itself into something quite simple. The theory of the denial of the information absent the subpena by the CFTC was that they required to give this information only to a committee and that our subcommittee did not fit into their legal definition of a committee and thus they felt entitled to this denial.

Mr. Chairman, in our judgment this runs contrary to accepted legal principles, court decisions that I cited to the committee yesterday, opinions of the Attorney General of the United States, and, in itself, the precedents of the House.

Mr. Chairman, the rules of the House and the rules of the Committee on Government Operations vested in subcommittees all the right, title, and authority that committees have to pursue their responsibilities. If this were not the case then it would indeed become burdensome and awkward for subcommittees to pursue their mandated responsibility. They could not do it without consuming a great deal of time.

There is no question the procedure is available to issue subpenas but the issuing of subpenas causes the conveing of the committee, it causes an additional meeting, and I find myself in a unnecessarily awkard position. It is my position subpenas by the Congress should be issued sparingly so that they maintain the full force and integrity that we want them to have. Mr. Chairman, we have offered this amendment in the hope that the Commodity Futures Trading Commission would fully and clearly understand the direction and intent of the House of Representatives and that they would be encouraged to comply.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. Mr. Chairman, I yield to the gentleman from Georgia who originally brought this issue up. Perhaps the gentleman from Georgia can contribute more to what I have already said.

Mr. LEVITAS. Mr. Chairman, I thank my colleague from New York for yielding. I commend the gentleman for bringing forth this amendment and bringing this matter to the attention of the House of Representatives.

Mr. Chairman, I think what occurred here is an outrageous situation where a commission stonewalled the committee having oversight jurisdiction in connection with an extremely important investigation; namely, the manipulation of the silver market, which almost brought the entire financial structure of the country crashing down.

Mr. Chairman, the law specifically provides that the Commission shall make available the information requested, to committees of the Congress. It says nothing about subpenas. It says it shall be made available.

Mr. Chairman, I find it incredible that there are some members of this body who feel that it is appropriate to let a commission of unelected bureaucrats, required by law to turn over information, insist on being subpenaed when the other body's subcommittees had the same information turned over to them without recourse to a subpena.

Mr. Chairman, I would hope that if for no reason other than defending the integrity of the investigative function of the Committee on Government Operations of this House, that the Members will overwhelmingly support the amendment of the gentleman from New York.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Washington (Mr. FOLEY) insist on his point of order?

Mr. FOLEY. Mr. Chairman, I insist on my point of order.

I make a point of order against the amendment in that it constitutes legislation on an appropriations bill. The amendment of the gentleman from New York does not track the statute which sets out specific conditions under which information may be required of the Commodity Futures Trade Commission.

Mr. Chairman, the Commission is authorized to release information to any judicial body or congressional committee and is required to do so only at the request of a committee of the House of Representatives or the Senate. What the gentleman from New York seeks to do is to substitute an additional requirement that, when acting at the direction and as an agent of the committee, a subcommittee may request such information.

Mr. Chairman, all subcommittees act at the direction of and as agents of full committees or they do not act properly because they are creatures of full committees. This in fact does not change the situation that a subcommittee is a subcommittee and not a full committee. It requires an additional limitation on an appropriation other than a limitation of funds and constitutes a violation of the rule against legislation on appropriation bill.

Second, Mr. Chairman, it would be necessary under this language for the Commission to make a determination as to whether or not the subcommittee was acting specifically at the direction of and as an agent of a full committee of the Congress, which constitutes a judgment and decision which must be made by an executive officer or other officer under an appropriation bill, and also constitutes an additional requirement and legislation on an appropriations bill.

Mr. Chairman, I insist upon the point of order, that the amendment is out of order and should be ruled out of order.

The CHAIRMAN. Does the gentleman from New York wish to be heard on the point of order?

Mr. ROSENTHAL. I do. Mr. Chairman.

Mr. Chairman, I respectfully would like to bring to the attention of the Chair page 342 of Deschler's Procedures, section 10.9:

While it is not in order in an appropriation bill, under the guise of a limitation, to impose additional burdens and duties on an executive of the federal government, amendments requiring the recipients of funds carried in the bill to be in compliance which existing law have been permitted, on the theory that the concerned federal officials are already under an obligation to oversee the enforcement of existing law and are thus burdened by no additional duties by the amendment.

An additional response to the point made by the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY) on page 343, section 10.11 reads as follows:

While all limitations on funds on appropriation bills require federal officials to construe the language of that law in administering those funds, that duty of statutory construction, absent a further imposition of an affirmative direction not required by law, does not destroy the validity of the limitation.

Additionally, section 10.13 reads as follows:

An amendment prohibiting the payment of expenses from funds in an appropriation bill, and containing language descriptive of the persons to whom the restriction applied, was held in order as a limitation on the use of funds in that bill which did not directly impose affirmative duties upon executive officials. 120 Cong. Rec. 21046, 93d Cong., 2d

Sess., June 25, 1974 (H.R. 15544, Treasury, Postal Service, and executive office appropriations, fiscal 1975), where an amendment providing that no funds shall be expended for persons during periods of their refusal to comply with valid congressional subpenas was held in order as a valid limitation which did not directly require executive officials to make determinations as to the validity of those subpenas.

□ 1040

As to the other point raised by the distinguished chairman of the Agriculture Committee, the U.S. District Court of Appeals, in *Barenblatt* v. *U.S.* (240 F. 2d 75, 1975) said the following:

> It is also contended that the indictment is fatally defective in that it alleges a refusal to answer questions before a subcommittee of a committee, and that Congress did not intend to make it a crime to refuse to answer questions of a subcommittee. We disagree. We can only construe the statute in light of the obvious purpose for its enactment. That purpose was to discourage the impairment of the vital investigative function of Congress. The function Congress sought to protect is as often committed to subcommittees as it is to full committees of the Congress, as indeed it must be. Construing the statute in a manner consistent with its obvious purpose, we hold that Congress intended the word "committee" in its generic sense, which would include subcommittees.

There is one other point I want to make, Mr. Chairman; that the Government Operations Committee has coexisting jurisdiction on oversight with all standing committees of the House. In a case of the Commodity Futures Trading Commission, the Agriculture Committee, of which Mr. FOLEY serves with great distinction as chairman, has jurisdiction over that Commission. In the particular investigation that caused the service of the subpena and the lack of responsiveness of the Commission, our subcommittee was the only subcommittee or committee in either this body or the other body that had oversight jurisdiction not only of the Commission, but of other relevant Federal organs and commissions that were involved in the situation, such as the Internal Revenue Service, the Department of the Treasury, the Securities and Exchange Commission, and others. In other words, by inhibiting the efficacy of this subcommittee, if the point of order is sustained, you would severely impair the authority of subcommittees not only of Government operations but of other subcommittees in this House, to pursue their valid responsibilities.

I respectfully and very sincerely urge that the point of order be overruled.

Mr. FOLEY. Mr. Chairman, the gentleman from New York is speaking to policy questions that are not involved in the parliamentary question of whether the amendment is or is not in order. As a matter of fact, if one wishes to speak to the policy question, the subpena exists for the purpose of subcommittees or committees obtaining information from executive and other agencies necessary to their legislative functions, oversight, or otherwise.

In fact, in the case they cited, the information was received by subpena. This is an attempt to use the appropriation process to obtain information without the use of a subpena, and in violation of the terms of the statute, which must be construed, as each statute must, on its own terms. The statute in question requires the Commission to provide such information to particular committees. It does not mention subcommittees. The Chair has already ruled an amendment out of order which sought to include subcommittees, offered by the gentleman from New York and the gentleman from Georgia. This, in effect, is the same amendment in different guise, since it supposes some action on the part of the committee in delegating authority to a subcommittee, which the statute does not provide for. Thus, it is an additional requirement in violation of the rule against legislation on an appropriation bill.

The CHAIRMAN. The Chair is ready to rule.

The Chair is confronted with the language of a specific statute, and the fact that the amendment deviates from the statute must have some effect, it would be assumed to expand the terms of the law absent a conclusive showing to the contrary and therefore it would be legislation on an appropriation bill, and the point of order is sustained.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: On page 49, line 7, strike the figure "$16,366,000" and insert in lieu thereof the figure "$15,366,000".

Mr. LEVITAS. Mr. Chairman, I offer this amendment to cut by $1 million the appropriation to the Commodity Futures Trading Commission as a means of at least sending a very strong message to the bureaucrats in that Commission that they cannot arrogantly flaunt a committee of this House. I think I detect in some of the debates surrounding this a mystifying reluctance on the part of some Members of this body to want to see the investigative oversight committee that was involved in this matter proceed with its important duties. This question of turf comes to mind here.

Mr. FOLEY. Mr. Chairman, will the gentelman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. FOLEY. I think the gentleman's remarks, although obviously couched in delicate language, make it clear that he believes the Agriculture Committee is trying to interfere with the jurisdiction of the Committee on Government Operations in investigating matters relating to the Commodity Futures Trading Commission. The gentleman need not be so delicate about it. If he wishes to make that point, I think we should make it straightforwardly.

I would say to the gentleman that nothing is farther from the truth. The only thing that we insist upon is that the statute be observed; and the statute gives to committees—to the Committee on Government Operations, if you will, as well as the Committee on Agriculture—oversight authority over this Commission in appropriate cases. It does not give that authority to subcommittees of either Agriculture or of Government Operations. The statute in question is a bill passed by this House, and if the gentleman feels that subcommittees of all appropriate committees should be included, he should have offered such an amendment at the time and made it specific, rather than complaining about bureaucrates. He is complaining about his failure and the failure of others who have this view to change the law.

Mr. LEVITAS. I will reclaim my time to respond in two particulars. First of all, the distinguished chairman of the Agriculture Committee, who is concerned about a subcommittee of the House of Representatives receiving this information, is strangely silent in commenting, referring to or noting the fact that this same Commission turned over without subpena the information to a subcommittee of the other body. I suggest they did that because they felt they were dealing with a friendly subcommittee rather than one which would diligently investigate the scandal that was at hand. I wish the distinguished chairman of the House committee would be as concerned about seeing the House receive this information to one of its subcommittee as the fact that the other body's subcommittee did in fact receive it.

Mr. FOLEY. As a member of the Government Operations Committee of the House of Representatives, is the gentleman suggesting to this body that the full Government Operations Committee is not diligent in pursuit of its investigative responsibilities?

Mr. LEVITAS. The distinguished gentleman from Washington knows quite well from the record that this particular subcommittee in the full Government Operations Committee perhaps is the ideal of investigatory oversight. However, the gentleman also knows and is well aware that with all of the mess that has to be investigated in the Federal Government, it could not be accomplished unless there were vigorous subcommittees pursuing it.

□ 1050

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, I would suggest that what we are talking about here is a simple letter, over the signature of a chairman of a full committee of appropriate jurisdiction, to this agency. What the gentleman is suggesting is that the investigation cannot proceed somehow because it is awkward or difficult for a subcommittee of the Committee on Government Operations to get the full committee and the chairman thereof to sign a letter.

Mr. Chairman, that I believe is a blatant reflection on the House of Representatives.

Mr. LEVITAS. Mr. Chairman, I will reclaim my time in order to point out again that the gentleman from Washington is strangely silent on the point that in this situation the Commodity Futures Trading Commission was interested in finding a friendly court or a friendly judge, and they stonewalled the House committee and insisted upon a subpena being issued and at the same time voluntarily responded to a request by a subcommittee of the other body.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has expired.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have enormous respect for the gentleman from Georgia (Mr. Levitas); but, frankly, I think his own distinguished record in the Congress is not lustered by this amendment. It is, obviously and clearly, by the gentleman's own description, a totally puntive amendment to strike $1 million in order to punish this agency because apparently it did not provide to a subcommittee of the Committee on Government Operations information requested.

The statute which we have legislated and passed says that the Commission must provide such information to any committee of appropriate jurisdiction, in other words, to the Committees on Appropriations, Agriculture, Government Operations, or whatever. The simple way to get that information is to request it through a letter signed by the chairman on behalf of the committee requesting it. That is not an enormously difficult task, and if the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations cannot persuade the full Committee on Government Operations to authorize that such a letter be sent, I am perplexed.

Mr. Chairman, discretion is given the Commodity Futures Trading Commission under the statute to make information available to congressional bodies, subcommittees, and committees. It can also make information available to judicial bodies. However, it is not required to make information available, except to full committees, other than by subpena.

I agree with the gentleman from New York that subpenas should be limited; but the subpena power is appropriate to subcommittees, under the House rules, as well as to full committees. This power was, in fact, exercised in this case, and the information required was supplied pursuant to the subpena to the Subcommittee on Commerce, Consumer, and Monetary Affairs. Nothing was denied to them.

What they seek to do through the appropriation process is legislate policy. This is a perfectly appropriate matter on which to legislate, but not in an appropriations bill. Under the circumstances, I feel we should wait until legislation affecting the Commodity Futures Trading Commission comes along, as it does quite regularly.

We have not given the Commodity Futures Trading Commission permanent legislation. We keep it on a fairly short leash. An authorization bill was passed in 1978, as a matter of fact. It is appropriate to add in an amendment to section 8(e) of the Commodity Exchange Act the words, "or subcommittee thereof." That would be a perfectly appropriate thing to do. But we should not use the denial of funds in an appropriations bill as a method of getting information contrary to the law and thwarting the usual process of subpena.

We will probably have other amendments offered along this line if this amendment is judged in order or is adopted. We will have amendments denying funds to securities agencies and other agencies of the Government, for example, unless they provide information.

We ought to zealously protect the legal requirement of responding to a subpena rather than creating a new "back-door subpena" not currently recognized in law that does not require votes. To do so would set a dangerous precedent if it were made in order.

It is, in fact, not in order; that is, the previous amendment was not. Now we have another amendment to strike $1 million, ostensibly to show the pique of the House of Representatives. Frankly, I do not think this amendment does credit, to its author's record of legislative statesmanship or, in the event it is adopted, to the reputation of the House.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I rise in opposition to this amendment, and I would say that if this is agreed to, there will be several other amendments offered along these lines.

In my observation, this is an intramural fight in the Committee on Government Operations, and it ought not to be addressed in this appropriation bill. What I suggest is that we ought to have a meeting of the full committee and resolve the dispute there.

Mr. LEVITAS. Mr. Chairman, that is not the issue, if the gentleman will yield.

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, first of all, insofar as the use of appropriations or the lack thereof as a means of controlling operations of agencies of the Government, I think the power of the purse is one of the most effective ways in which to accomplish that purpose.

But I would again ask a question of the gentleman from Washington (Mr. Foley), for whom I am sure he knows I have the greatest respect and admiration.

Mr. FOLEY. That is mutual, and I hope the gentleman understands that.

Mr. LEVITAS. Mr. Chairman, will the gentleman please comment on the aspects of this very important investigation involving the silver scandal in which the Commodity Futures Trading Commission cooperated with a subcommittee of the other body and stonewalled the investigative subcommittee of this body? Would the gentleman just make some reference to that?

Mr. FOLEY. Mr. Chairman, I am not aware of all the details to which the gentleman refers. I understand, however, that he feels the subcommittee of the Committee on Government Operations was, as he said, stonewalled, and that the subcommittee of the Senate was accommodated.

The CHAIRMAN. The time of the gentleman from Washington (Mr. Foley) has expired.

(By unanimous consent, Mr. Foley was allowed to proceed for 3 additional minutes.)

Mr. FOLEY. Mr. Chairman, I do not know the specifics of the matter in order to respond to the gentleman, but I would say this: The Committee on Government Operations has, as a committee, chosen to give to its distinguished subcommittees, including the subcommittee of investigations, the power of subpena.

The Committee on Agriculture, in contrast, has chosen to deny all of its subcommittees any subpena authority. That is an individual judgment of committees, and it is within the rules of the House for the committees themselves to decide this question. Only the full Committee on Agriculture can issue a subpena, and then, only by a constitutional majority vote of its members.

The fact is that this subcommittee of the Committee on Government Operations has subpena authority. It used that authority and got the information. Since that information was obtained through the normal and legal process, I see no reason why the gentleman wants to engage in the punitive action of denying the agency $1 million because of what he feels is a difference in its treatment of the House and Senate.

The subcommittee of which the gentleman is a member has subpena authority; it has exercised that authority and it has obtained the information. That is the appropriate and legal way to proceed.

If the gentleman wishes to require the agency to respond without subpenas to subcommittees as well as committees, I suggest that he offer an amendment to that effect to the authorization act at the appropriate time. To do it here in the context of an appropriations bill is clearly out of order.

Further, Mr. Chairman, as to the main purpose of this amendment, I maintain that it is ill conceived because it is a puntive amendment striking $1 million, merely to get someone's attention.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I do not know if this amendment would punish the Commodity Futures Trading Corporation because it did not reply to a subcommittee of the Congress or because it did not follow its statutory authority and continued to let certain rip-offs go on, such as happened in the silver industry.

I have here a letter dated January 3, 1980, signed by the chairman of the Committee on Government Operations, the gentleman from Texas, Mr. Jack Brooks. If the gentleman from Washington would listen, this is a letter—and I suggest that he hear this—from the chairman of the full committee to Mr. James Stone, Chairman of the CFTC, as follows:

January 3, 1980.

Hon. James M. Stone,
Chairman, Commodity Futures Trading Commission, Washington, D.C.

Dear Mr. Chairman: Your staff has requested verification of the jurisdiction of the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations in order to prepare the Commodity Futures Trading Commission's response to a subpoena authorized by the Subcommittee on December 19, 1979, signed by me on December 20, and served on you on December 21.

House Rule X, Clause 1(i) establishes the jurisdiction of the Committee on Government Operations. Subsection (2) of that Section provides that the Committee on Government Operations has jurisdiction over "the overall economy and efficiency of government operation and activities, including Federal procurement." This provision gives the Committee on Government Operations oversight jurisdiction over all Executive Branch departments and agencies and independent regulatory agencies. In addition, Clause 2 of Rule X reads as follow:

'The Committee on Government Operations shall review and study, on a continuing basis, the operation of government activities at all levels with a view to determining their economy and efficiency."

Our committee rules, adopted on February 1, 1979, at our first meeting during the 96th Congress, provide that "There shall be seven subcommittees with appropriate party ratios which shall have fixed jurisdictions." At that same meeting, the committee approved a motion by the Honorable L. H. Fountain setting forth the titles, membership, and jurisdictions of the seven subcommittees. This action is duly recorded in both the transcript and the minutes of the February 1 meeting. Attachment A of the minutes lists the Commodity Futures Trading Commission under the jurisdiction of the Commerce, Consumer, and Monetary Affairs Subcommittee.

I hope that in the future the Commodity Futures Trading Commission will be more cooperative with the Committee on Governments Operations and its subcommittees in providing information needed to enable us to carry out our oversight responsibilities.

With best wishes, I am,

Sincerely,

JACK BROOKS,
Chairman.

Mr. Chairman, in that letter the committee chairman set forth the jurisdiction of the rules is, and they still did not respond to letters from the chairman on this matter.

What these downtown bureaucracies do on many occasions is, they will pick a most favored committee, one that they deal with daily, one whose members they know on an intimate basis because then they can explain things almost on a very ad hoc basis, and let it know what is going on.

The subcommittee which I chair has been "stiffed" by the FAA time and time again. We do not like to have to resort to subpena. They shall give to a full committee certain information, so why should they not give it to a subcommittee, because nothing prohibits from giving duly requested information to a subcommittee of this House? They are a bunch of arrogant "bleeps" down there who feel that they know better than a subcommittee of the House of Representatives, and that really we are privy to all of their inside information and we should not get this.

☐ 1100

Why should a full committee have to call itself into meeting to get a letter authorized by a full committee, by a majority, when there is other work to be done by the House, when a subcommittee of the Congress requests it? What do they have to hide that they cannot give it to a subcommittee? What do they have to hide? Why did they not want to do it? Because they knew this was not going to be a pocket situation for them, this was going to be an adversary proceeding. And I think that all oversight hearings should be adversary.

They look for friends of the court, they look for a most favorite judge, they look for a district attorney who is married to somebody's sister, and then they can go in and explain, "Well, this really does not look as bad as it seems, and we do not want to take up all of this time." I think it is outrageous that this bureaucracy that is doing a hell of a job in watching the American taxpayers and traders get ripped off by the special interest forces, they do little to protect them, and then when somebody wants to hold their feet to the fire, they say, "We do not want a blowtorch, we are going to look for somebody who has got a match that does not work, one of Mr. MOAKLEY's cigarettes that has burned out."

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Washington.

Mr. FOLEY. I think it is a very simple matter, if the gentleman wishes to have this information, mandatorily provided to subcommittees, to make that a requirement of law. I do not think we should legislate punishment of the agency for not responding to subcommittees when they are not required by law to do so.

Mr. JOHN L. BURTON. Wait. But they are not prohibited from doing it. I would ask the distinguished chairman, why does not the gentleman bring a bill up and put it on suspension and pass it next Monday which does that? Would the gentleman do that?

Mr. FOLEY. If the gentleman will introduce the bill, we will certainly consider it.

Mr. JOHN L. BURTON. No. Will the gentleman do it? Well, that is the typical CFTC. The Agriculture Committee, in its beautiful wisdom, created this, and they do not like Government Operations looking at them, maybe. I do not know. There is nothing that prohibits them from responding to a committee of the Congress. Common courtesy and wisdom would deem them to do that.

Mr. FOLEY. If the gentleman will yield, I do not know about the gentleman's chairmanship of the subcommittee, but as chairman of the Committee on Agriculture, I cannot promise anybody in the well of the House that a bill will be reported by the committee and brought up under suspension.

Mr. JOHN L. BURTON. The gentleman is not without some influence on that committee.

Mr. FOLEY. That is true.

Mr. JOHN L. BURTON. They call the gentleman "Iron Hand Foley."

Mr. FOLEY. On that the gentleman is very, very correct.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Georgia.

Mr. LEVITAS. I think the gentleman from California has very accurately stated what the problem is.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. LEVITAS and by unanimous consent,, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. If the gentleman will yield further, the gentleman has accurately stated what the problem is.

I must confess to being mystified why there are certain Members of this body, distinguished Members of this body, who are not only protecting the bureaucrats at the CFTC from this type of investigation, but somehow, by their words, are supporting the friendly court, the company union of the other body, rather than aggressive, diligent investigatory functions.

However, I do not believe that the imposition of a $1 million fine is adequate punishment for this type of arrogance, and I do not think that makes any difference. So, therefore, I am not going to—to the extent that I have the ability—insist on a vote on this amendment. But I can assure the Members that from this point forward the people at the Commodity Futures Trading Commission are either going to shape up or they are going to get to know the Government Operations Committee very intimately in the next few years.

Mr. JOHN L. BURTON. If I could just reclaim my time, does the gentleman know if the subcommittee of the other body subpenaed this information?

Mr. LEVITAS. It was not subpenaed.

Mr. JOHN L. BURTON. All right. So it is a pure affront to the subcommittee of the people's House of Representatives. That is all it is. They were looking for a favorite court. They were afraid to face the people in an adversary hearing. They are not prohibited from doing this. If they get a request, it makes sense for them to do this. I know that the iron-fisted chairman of the Committee on Agriculture, if a bill is introduced by a member of the Committee on Government Operations, could probably schedule it and have it on the floor in a half hour.

I will be happy to yield to the gentleman.

Mr. FOLEY. I would just say again that I would not deign to try to distinguish the agency's motives in responding to subcommittee and committees.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has again expired.

(On the request of Mr. FOLEY and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 1 additional minute.)

Mr. FOLEY. I would say this, and I hope I can make it as clear as the English language permits: I have no intention as chairman of the Committee on Agriculture, by word or action to go against the authority, responsibility, or investigative zeal of the Government Operations Committeee. However, the gentleman is seeking to substitute subcommittee for full committee authority under the statute, through the appropriation process rather than by the recognized and time-honored method of legislating through amendments to the regular authorization. That is the only point I want to make.

Mr. JOHN L. BURTON. I think the point we are missing is that as a matter of courtesy they can respond. They are not prohibited from giving the subcommittee that information. I would like to see them not give information to a letter from my good friend, the gentleman from Mississippi. They would be out working in a tent in the next month.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

I would like to ask if my colleague, the gentleman from Georgia, would give some thought to withdrawing his amendment.

The gentleman referred to his amendment as being adequate punishment. May I say that if this Commission is given too little money to operate, the folks who suffer are the public. The agency has a duty to perform. There are those who think that they overdo it; there are those who think they do not do enough. But they do have an obligation fixed by law.

I will say to my colleague, the gentleman from Washington, that we are caught in the middle. We did not include this large reduction in the bill. This amendment was offered here. I respectfully, Mr. Chairman, would make the point here that, while I have not made any thorough study of this matter, in an effort here to help my colleagues, who seem to have a just cause insofar as the end result is concerned, I suggested the language "where the subcommittee acts at the direction of and as an agent for the full committee." For practical purposes it is the committee. I would respectfully urge that if that matter is studied fully that those words would have the intended effect. You did not say the full committee has to ask for it. But that decision has been made. I would hope that the chair would reserve for the future the right to review this after further studv. Such a review might show that this would be true. But that is beside the point at the moment.

The point I make is that I do not think my friend, the gentleman from Georgia, has thought this through when he tries to cut the funds from an agency that he feels is not properly discharging its function now. He would make it less able to carry out its function. I just think that when he uses the word "punishment," that in itself shows that this is not the way to do it.

I do not want to get caught between two legislative committees or between two friends, and I wish my friend would give some thought to withdrawing the amendment because it defeats the very thing that the gentleman is trying to do and that I have been trying to help him to do.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I have listened attentively to the remarks of my dear friend, the gentleman from Mississippi. I think the gentleman is absolutely correct.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. WHITTEN. I appreciate that.

I want to say for the record that I can appreciate the feelings of the folks here. It is a most difficult job. And I say to my colleague, the gentleman from Washington, I hope he will also exercise his committee in connection with the Farmers Home Administration, where we badly need some limitations and some restrictions by law. We are also trying to correct it through the Appropriations Committee. The gentleman and I have met with the top people. But that agency, unless we find some way to straighten it out, is going to defeat its very necessary operation in the field of agriculture.

We are good friends and respect each other, but I know the feelings of my colleagues on this committee because we, in turn, on the Appropriations Committee are forced sometimes to try to do that which we think somebody else should have done.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I respectfully accept the advice of the distinguished gentleman from Washington, the chairman of the Committee on Agriculture, and I will introduce a bill today, maybe tomorrow, if we cannot get to it today, to add "subcommittee" into the authorizing legislation. It will go to the gentleman's committee, and I know that it will be expeditiously considered.

The point that I thought would be useful to make—and I would hope that the gentleman from Wasnington would bear with me for a moment—there is an enormous distinction between the role and the responsibility of an investigative oversight committee and an authorizing committee such as the Agriculture Committee. Although the rules of the House require every legislative committee to have an investigative oversight subcommittee—and they all do a very, very good job—the principal mission of the Government Operations Committee is an oversight responsibility to review the efficiency and economy of all of the agencies.

□ 1110

It becomes cumbersome in terms of subpenas. In the gentleman's committee, the gentleman says the committee decided subcommittees cannot issue subpenas. In an investigating oversight committee, it is absolutely essential that the subcommittees have the authority to do this. Sometimes when one is in hot pursuit of an inquiry, if one loses 3 to 4 weeks or sometimes even longer than that for a full committee to participate in the vote on a subpena, one has lost all the thrust of the advantage that down-the-road investigation takes.

I really did want the gentleman from Washington to understand that not only is there a unique distinction between the role and responsibility of an investigating committee and an authorizing committee, but in this case, as the gentleman from California read the letter from the gentleman from Texas (Mr. BROOKS), the gentleman from Texas was forced to send them a letter saying that the subcommittee had full authority and responsibility to request this information and that he, as chairman of the full committee, requested them to give the information. They were in fact being extraordinarily recalcitrant in responding. I do not want to make an accusation of choosing forums or things like that, but they did everything they could to impede our investigation which was carried out pursuant to the rules and responsive to the rules.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Washington.

Mr. FOLEY. I would like to say I think the gentleman from New York has been a most distinguished chairman of the subcommittee, and has contributed enormously to the oversight functions of this Congress, as well as the House, and everyone in this Chamber knows that.

I will be glad to assure the gentleman that his proposed legislation will be considered.

I do think, without getting into judgments on motives, that it is difficult for an agency to respond over and above the requirements of the law to a subcommittee of one committee and not to others that might ask for such. The gentleman, I think, would agree that all the gentleman from Texas (Mr. BROOKS) had to do is just change that letter a little bit and say, "As chairman of the Committee on Government Operations, and on behalf of the Committee on Government Operations, I request this information," and it would have been provided.

What the committee sought to do is to have the Commodities Future Trading Commission respond to a subcommittee rather than a committee when the same letter could have produced the same information.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

As I stated earlier, I think the wisdom of the gentleman from Mississippi has prevailed, and that at the proper time I will withdraw the amendment; but there are two points that have to be made. There are other ways that we are going to be able to get cooperation or response from the CFTC, and we will do that. Mark that down.

But I want to tell my dear friend from Washington that he misses the point. He says one cannot give it to one subcommittee and not to others. In this particular instance, as part of the CFTC's stonewalling, they, in fact, turned it over to another subcommittee.

Why could they not have turned it over to this subcommittee? And the reason is very simple. They were stonewalling this investigation because it was too much in hot pursuit.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Washington.

Mr. FOLEY. That is the gentleman's opinion and he is entitled to it. I am not even going to quarrel with the gentleman about it. I do not know the facts of the matter in order to quarrel about it. But the simple problem is that we created the law. All of us in the Congress created the law that requires this agency to respond, requires it to respond to full committees. If we want them to respond to subcommittees as well, then we should change the law. We should not abuse them for following the law and not volunteering something the law does not require. We obviously do not depend on their cooperation with the full committee. We insist on it. If we want to insist on their cooperation with the subcommittees, we have it in our power to do so.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

I do this to urge my colleagues to please let us move ahead.

Our appropriations bills are being handled piecemeal and as a result it is taking about five times as long as usual. Although we have been ready for 6 or 8 weeks, we are caught here where we may be left without getting the appropriations bills through.

I have been advised we are going to be interrupted again today. I have urged the leadership to, for goodness sakes, give us a day and let us get through and get through quickly and let Congress get on about its business. I hope Members will refrain and wait until some other time to speak on extraneous matters. I do this because I feel we owe it to the country to go ahead with the appropriation bills, because unless we do, we may end up facing adjournment without any appropriations bills being settled between the two Houses.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—GENERAL PROVISIONS

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. REGULA: On page 49, after line 16, add a new section and renumber the subsequent sections accordingly:
>
> SEC. 601. The expenditures of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Mr. REGULA. Mr. Chairman, Members of Congress are increasingly aware of the waste involved in the contracting bureaucracy. Yet the most frustrating part of the problem to me is our inability to obtain reliable information on just how many consultants work for the Government and what they cost.

In response to a Presidential request for an accounting of consultants used by Government agencies, OMB first estimated that there were 2,000. It changed the figure to 6,000 then to 34,000 and currently claims there are 19,000 consultants employed by the Government.

One might expect an examination of the Commerce Business Daily would reveal the number of consultant contracts awarded. However, as a recent article in the Washington Post pointed out, many contracts are never even advertised at all.

There are estimates that almost 8 million people work for companies under contract to the Government as compared to 2.5 million Federal employees. I think it is time we found out what these 8 million people are doing to justify Government expenditures of over $9 billion a year for their services.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I would respectfully submit that we on this side are familiar with the amendment. The amendment has been adopted in a number of other appropriation bills. We would have no objection to accepting the amendment.

Mr. REGULA. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. On this side of the aisle we are totally familiar with the amendment. It moves in the proper direction. We would be happy to accept it.

Mr. REGULA. I thank the gentleman.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that title VI be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MILLER of Ohio: Page 51, after line 26, add:
>
> SEC. 613. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure: *Provided,* That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

Mr. MILLER of Ohio. Mr. Chairman, I will not take the 5 minutes.

This is the standard 2 percent amendment that I have offered on the other appropriations bills. The nonmandatory section of the $22 billion bill is about $19 billion. The 2-percent reduction would be $380 million.

That amount could be removed from the food stamp section alone, which as of this year will be increased almost $1 billion.

□ 1120

It is anticipated that because of the regulations that set the amount of dollars allowed for food stamps for one family for 1 month, that sometime in 1981 a family of four making $15,000 per year will be allowed to have $250 per month for food stamps.

The regulations and the economic changes that we are having every year have caused the food stamp expenditures to go to almost $10 billion. Approximately one-half of the money in this bill will be used for food stamps.

I would hope that we could have an affirmative vote on the 2-percent reduction.

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, people who do not understand the effect of the Miller amendment may not realize my reasons for voting in opposition to this approach.

First, let me repeat the language of the amendment:

> Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from obligation and expenditure: *Provided,* That of the amount provided by this Act for each appropriation account, activity and project, for payments not required by law, the amount withheld shall not exceed five per centum.

WOULD SLASH BASIC AGRICULTURE PROGRAMS

Let us see how dangerous this amendment is: It would cut the food stamp program by up to nearly half a billion dollars at a time when soaring unemployment makes it doubtful that there will be enough in the bill as it is. It could slash up to 5 percent of soil conservation, 5 percent of the emergency conservation program, 5 percent of the rural electrification, and 5 percent of the Farmers Home Administration. It could cut water and sewer grants and the agricultural conservation program. Not only that, it would seriously cut the programs of the Food and Drug Administration. The Nation would suffer major social and economic dislocations through the mandated pro-ration of food stamp benefits; 5 percent of food stamp recipients is more than 1,100,000 people who depend on the program for their very survival.

It would be up to the White House and executive officials to determine which programs and projects are eliminated. The amendment could cut grants for rural development, rural housing grants, rural community fire protection, and very low-income housing repair grants. Conservation programs which protect the productivity of the land our children will inherit could be slashed. Programs to control disease and pestilence—from tuberculosis and cholera through fire ants and salmonella—could be severely curtailed. Federal grain inspection and marketing services for food distribution would suffer. The amendment could take away hundreds of meat and poultry inspections. The grading of agricultural commodities and services to protect the wholesomeness of our food could be reduced.

At the conclusion of my remarks, I will provide a list showing the effect of the amendment on agricultural programs.

EXECUTIVE IMPOUNDMENT OF FUNDS

Mr. Chairman, the most disturbing aspect of this amendment is that it would allow the executive branch to select where to make the reductions—executive impoundment in effect—a concept rejected by the Congress with the passage of the Congressional Budget Control and Impoundment Act of 1974.

The Agriculture, Rural Development and Related Agencies Appropriations Subcommittee spent 2 months in daily hearings. Our 6 volumes contain 5,582 pages of testimony from 275 witnesses. The subcommittee considered all that testimony in arriving at the recommendations reported to the House. This amendment would ignore all the congressional hearings and deliberations involved in arriving at a bill that was assembled by account, project by project. All this would be ignored and the executive branch would adopt whatever reductions they wanted to without regard for what the consequences might be.

The executive impoundment allowed by the amendment could mean the end of the agricultural conservation program, rural fire protection grants, rural development grants, rural water and waste disposal grants, and housing grants. The Rural Electrification Administration, Farmers Home Administration, Soil Conservation Service, and Agricultural Stabilization and Conservation Service could be stripped of their effectiveness so that the Office of Management and Budget could fully fund the programs which it favors.

Our burden as legislators is to make Government work for the people, rather than against them. In Congress, we are directly responsible to the people and the committee's appropriations bills are responsive to their needs and wishes. The Office of Management and Budget does not have to answer to the people and should not be granted blanket impoundment authority.

CONSTITUTIONAL RESPONSIBILITY

Members of this body have sworn an oath to support and defend the Constitution—the same Constitution which vests the "power of the purse" in the House of Representatives. If the Members of this body were to allow the amendment to be adopted, they would be shirking their constitutional responsibility by relinquishing the "power of the purse" to the executive branch.

Mr. Chairman, government is too big. We must cut back on Federal expenditures. But we must not cut the taxpayers' throats in a misguided attempt to protect their pocketbooks. As legislators, our responsibility is to cut expenditures with dogged determination where savings need to be made, not to shirk our duty by unleashing the Office of Management and Budget to make rabid attacks on programs our constituents tell us they need and want.

	Budget authority, fiscal year 1981 House bill	5-percent reduction
Programs most probably subject to the Miller amendment:		
Office of the Secretary	$4,810,000	$240,500
Departmental Administration	12,950,000	647,500
Governmental and Public Affairs	9,063,000	453,150
Office of the Inspector General	27,752,000	1,387,600
Office of the General Counsel	11,609,000	580,450
Federal Grain Inspection Service	22,457,000	1,122,850
Science and Education Administration	886,396,000	44,319,800
Economics, Statistics, and Cooperatives Service	94,803,000	4,740,150
World Food and Agricultural Outlook and Situation Board	1,731,000	69,240
Foreign Agricultural Service	60,535,000	3,026,750
Office of International Cooperation and Development	2,000,000	100,000
Public Law 480	1,228,930,000	61,446,500
Agricultural Stabilization and Conservation Service:		
Salaries and Expenses	195,671,000	9,783,550
Agricultural Conservation Program	190,000,000	9,500,000
Emergency Conservation Program	10,000,000	500,000
Water Bank	10,000,000	500,000
Forestry Incentives Program	10,000,000	500,000
Rural Clean Water Program	20,000,000	1,000,000
Rural Electrification Administration	27,719,000	1,385,950
Farmers Home Administration:		
Salaries and Expenses	239,684,000	11,984,200
Very Low-income Housing Repair Grants	25,000,000	1,250,000
Rural Community Fire Protection Grants	3,500,000	175,000
Rural Development Grants	10,000,000	500,000
Rural Housing Grants	1,500,000	75,000
Rural Development Planning Grants	5,000,000	250,000
Rural Water and Waste Disposal Grants	200,000,000	10,000,000
Rural Housing for Domestic Farm Labor	25,000,000	1,250,000
Soil Conservation Service:		
Conservation Operations	283,001,000	14,150,050
Resource Conservation and Development	34,046,000	1,702,300
Watershed Planning	10,660,000	533,000
River Basin Surveys and Investigations	17,442,000	872,100
Watershed and Flood Prevention Operations	167,524,000	8,376,200
Great Plains Conservation Program	19,987,000	999,350
Animal and Plant Health Inspection Service	253,324,000	12,666,200
Agricultural Marketing Service	52,408,000	2,620,400
Food Safety and Quality Service	292,818,000	14,640,900
Food and Drug Administration	347,788,000	17,389,400
Commodity Futures Trading Commission	16,366,000	818,300
Food Stamp Program	9,739,276,000	486,963,800
Food Program Administration	82,000,000	4,100,000

Mr. REGULA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

I would like to mention to the gentleman who stated what could be cut, that if all of the items that he mentioned were cut 5 percent, we would take several billions of dollars out of the bill. The 2-percent reduction reduces the bill only $380 million; so it would not be necessary to cut all of the items that he cited by 5 percent. One or two or three could be cut 5 percent, but the food stamp program alone, could be cut 5 percent. That would take the total amount of the reduction, because 5 percent of the increase in the food stamp program would be more than the $380 million reduction that we spoke of.

Now, another point that was made was that the responsibility for cuts would be removed from the committee. What we are talking about doing is the same as the process of reconciliation the Budget Committee requested and had approved by the House. The conferees could do that same thing. The reconciliation method, which we are suggesting in the amendment, is already a fact of life.

Mr. KAZEN. Mr. Chairman, will the gentleman from Ohio (Mr. REGULA) yield for a question?

Mr. REGULA. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I would like to ask the gentleman from Ohio (Mr. MILLER) if the gentleman's amendment earmarks the food stamp program for reduction in his amendment?

Mr. MILLER of Ohio. No. It does not earmark any item, only the nonmandatory items, generally, which make quite a list—as a matter of fact, it is most of the bill. But the food stamp program could be cut, and we used it as an example. The total amount of the amendment of $380 million is only about one-third of the increase in the food stamp program alone from fiscal year 1980 to fiscal year 1981.

Mr. KAZEN. Well, I would hope that in the gentleman's explanation, the gentleman would forget about the food stamp program, or we are going to be in here several times asking for supplementals, because the gentleman understands, that there are more people coming under the program every day and more funds are going to be required; so I would hope that it was not the intention of the gentleman to specifically single out the food stamp program for the cut because as far as this Member is concerned, that is a very major item in my district.

Mr. MILLER of Ohio. It is something that is very important for those that need it. If the gentleman from Texas was here at the time, he heard me remark that in 1981, by all indications, because of the cost-of-living increase, a family of four with income of $15,000 will be allowed to have $250 per month in food stamps. So we seem to be increasing. The food stamp program is costing so much because of regulations and the increase in the Consumer Price Index.

Mr. KAZEN. The only reason we increased it, I would say to the gentleman, is because it was needed.

☐ 1130

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Let the Chair announce that there is to be a ceremony honoring the U.S. Olympic team on the west front. It is the Chair's understanding that there will be no record votes after 11:45 and, should there be a request for one, the chairman of the Appropriations Committee would then move to rise at that point so that Members may attend the ceremony.

PARLIAMENTARY INQUIRY

Mr. WHITTEN. Mr. Chairman, may I ask the Chairman, I did not understand what the timing was on the record votes. Was it beginning at 12? I did not understand.

The CHAIRMAN. It was to begin at 11:45 and a record vote that was requested at 11:45 or after that time, would be delayed until after the ceremony, which I understand is to be relatively brief.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, sometimes, and I guess the public thinks many times, we do not realize the full implications of what we do. I do not know that any of us can, at this time, fully recognize what we have done to ourselves in imposing a budget ceiling.

If the gentleman's amendment should prevail, it would, to a great degree, be cutting out those things essential to protecting our own country. It will be cutting out those programs where we have already overridden the President 28 consecutive times to save the wealth of this country. Whatever our financial problems are, we are fortunate in this country to be backed up by a land rich in physical resources.

Our committee met in conference with the other body from 2:30 in the afternoon until 2:30 the following morning trying to bring the supplemental appropriation bill forth for the current fiscal year within the limits fixed by the ceiling. We were able to do that despite a whole lot of problems and a lack of total satisfaction on all our parts about the end result.

But if the gentleman's amendment should prevail here, he will not necessarily save money because in the other instances, while we have saved the money in the one place, then bills have come to the floor and taken it and given it for increases for foreign aid. So if the gentleman should prevail here he is cutting money for programs that are essential to supporting all of the Government, including our people, food, economy, and just about everything worthwhile in the world. And he is cutting it. What he cuts is available then under the ceiling and is likely to be spent on items which are not basic and essential.

So I respectfully submit that we should certainly defeat this cut. Let us keep looking after our own country and try to hold these other things down. Otherwise somebody will come in here and take what the gentleman from Ohio (Mr. MILLER) has cut here and use it for foreign aid or something else. That is the condition we have here, and it is an additional reason why, by all means, we should vote this amendment down.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had consulted with my colleague from Ohio (Mr. MILLER) and had thought that I might be able to support his amendment. Indeed, if my colleagues will look at the CONGRESSIONAL RECORD they will see where I had planned to offer an amendment to cut the appropriation by 5 percent.

I want to suggest to the gentleman and my colleagues that perhaps a better approach might be for the gentleman to introduce some language to target the procurement section of the Department of Agriculture to bear the burden of his 2-percent cut. That would have been the intent of my amendment. My 5 percent would have been, though I know we cannot compel the agency to do it, but I wanted to establish a history on the floor that I wanted it to go to procurement to cut procurement in the Department of Agriculture.

I will tell my colleagues why I wanted to do that. We passed a law in this Congress, Public Law 95-507, and that law was signed by President Carter on October 24, 1978. Under the terms of the law every agency of Government before it signs off on a contract of a certain dollar volume must insure that there is a mandated plan for the involvement of small business and the involvement of disadvantaged businesses.

That law was in consonance with many of the recommendations that came out of the White House Conference on Small Business. What has happened since that time? In the subcommittee of the House Small Business Committee where we had hearings, the first time we brought the agencies in they had blatantly defied the law. They had let contracts in excess of $4 billion, ignoring the provisions of law. They gave justifications at that time, saying that the law was so new, it was the end of the year, the beginning of a fiscal year, they made mistakes, they would do better.

Then they came back 3 months later before our subcommittee for an oversight hearing and, instead of doing better, they had increased the amount from $4 billion to $8 billion that they had let in defiance of the law.

I would respectfully suggest that one of the chief violators of the law was the Department of Agriculture, and it continues to be such a violator. There is no justification for a child stealing a bicycle on the street, and then we turn our heads and say, "Oh, it was just an accident." We do not permit that. We just do not permit lawlessness on the streets. We do not permit lawlessness in this body. But here we are permitting lawlessness in some of the agencies of the Government, those agencies which are not complying with Public Law 95-507 and have not done so and apparently have no intention to do so.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Might I say I recognize the point the gentleman makes, but I would repeat what I said to my colleague from Georgia, punishment is not the best way to correct this, because in the act of punishment we are making even less available. I could not help but hear and pay attention to the statement made about food stamps. Luckily, because the Congress has gone along with the recommendations of our committee, we have a country where food is available. Food stamps are of no help unless you have the food first.

I am just telling the gentleman when you cut off that part which provides food for food stamps, unless there is some food in the counters and in the stores, they are no good. I am just saying you are shooting in the wrong direction, in my opinion.

Now, this is not an exact science. The committee has worked for many, many years holding things in line as best we know how. In this case, after we have reached a decision, we have a man who has not studied this at all, and for whom I have the highest respect, come in and say that, well, we have not cut enough, just cut it some more. I would say you are cutting not just expenditures but you are cutting out of that which looks after our country. You are then making it available for other programs that we have in the Government that have a lower priority.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent Mr. MITCHELL of Maryland was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of Maryland. I want to reply to the distinguished chairman. The gentleman says this is not the way to do it and this is not the way I want to do it. But what do we do? What recourse do we have as Members of Congress when the agencies come in and say, "We are not complying with the law"? What do we do when they do not obey an Executive order of the President of the United States? What other recourse do we have?

Mr. WHITTEN. Will the gentleman yield further?

Mr. MITCHELL of Maryland. I yield to the gentleman.

Mr. WHITTEN. The gentleman has asked me a question. I cannot tell the gentleman what to do. I can tell him what not to do. Do not make it worse.

Mr. MITCHELL of Maryland. My point is I do not want to hurt food stamps or any of the other valuable programs. That is why I would think that if we established a legislative history saying that this cut ought to be applied to the procurement section, though it is not binding on the agencies if, indeed, they go ahead and cut in other areas, then it is another example of their absolute contempt not only for the law but for the lawmakers.

Mr. WHITTEN. As I told my colleague, I do understand his feelings about the matter. I do differ about the direction in which his efforts are made.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to my colleague from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding. This will be the only opportunity I have to make an additional point which I failed to make in the well. If the gentleman will indulge me, I will attempt to get him more time.

I strongly oppose the amendment. The difficulty with the amendment is that it mandates 2 percent in nonentitlement programs and up to 5 percent in any one particular category.

□ 1140

The gentleman who is the maker of the amendment has told us where he would like to see perhaps that cut come. I want to say that unfortunately the gentleman did not offer the amendment to specifically make that cut. He could have. He could have targeted that category if he chose. He did not. Therefore, he leaves it to the agency to make the decision. Where will the agency make the decision? Let me tell you where they will make the decision—in those areas where this subcommittee and the full Committee on Appropriations have restored funds that the administration chose to omit or cut. That is good psychology. That is what they are going to do. We know it, and they know it, and I hope the maker of the amendment knows it.

Mr. MITCHELL of Maryland. May I reclaim my time because we are going to rise in 5 minutes and there are other Members who want to speak. First, I want to make a statement. It was my understanding that we could not target where the cuts would be made because that would be legislation on an appropriation bill, and all that we can do would suggest strongly, and I would do so, that it be taken out of procurement because they are not complying with Public Law 95-507.

Mr. PEYSER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Let the Chair note that this will be a live quorum. There will be no votes recorded after that until after the brief ceremony honoring the Olympics team.

Mr. WHITTEN. Mr. Chairman, may I make a statement. It will be our purpose on the subcommittee to move that the Committee do rise upon the completion of the rollcall until 2 o'clock when I understand this subject will again come up.

PARLIAMENTARY INQUIRY

Mr. MITCHELL of Maryland. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MITCHELL of Maryland. Am I correct in understanding that when we do resume I will be able to use the balance of whatever time I have left?

The CHAIRMAN. That will be the regular order and the Chair's commitment to the gentleman.

Mr. MITCHELL of Maryland. I thank the Chair.

The CHAIRMAN. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 441]

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bowen
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dougherty
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Quayle
Quillen
Railsback
Ratchford
Regula
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zeferetti

□ 1150

The CHAIRMAN. Three hundred and forty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BOLLING) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7591) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Mr. BOLLING. The Chair wishes to announce that the ceremonies in connection with the Olympics are beginning on the west front of the Capitol and that Members who desire to be in attendance should proceed there.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON THURSDAY AND FRIDAY DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit Thursday and Friday while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1200

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, and that I may include tables, charts, and other extraneous material, on the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7724), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. McDade) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Yates).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7724, with Mr. Mineta in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois (Mr. Yates) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. McDade) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Yates).

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset I would like to explain to the Members of the Committee the anomalous situation in which I and other Members of the Committee find ourselves in presenting this bill. We are in general debate, and we will proceed to complete general debate. Under what can be considered as a unanimous-consent agreement, there will be no rollcalls pending the completion of the ceremonies which are taking place with the members of the Olympic team on the outside of the Capitol.

I propose to continue with general debate until it is completed, and if the time period for the ceremony has not been completed, what I should like to do is to start reading the bill until such time as a contest appears or until a point of order is made. At that time, I would propose that the Committee rise in order to permit the members of the Rules Committee to present a rule for this bill to the House for its approval. With that understanding, I now propose to discuss the bill.

I am pleased to bring this Interior appropriations bill to the floor, Mr. Chairman. As the bill has often been described, it is the "all-American bill." It is the bill that provides for the investment by the Government of the United States in the lands and in the resources that belong to the people of the United States. It is the bill for America and for all Americans. It supports the heritage of all Americans—the national parks, the national forests, the public lands, the cultural and historic preservation; our national heritage, if you please, that we propose to pass along to our children, and we hope and expect and intend that this bill will provide a heritage better for our children than the one we now enjoy.

The bill provides total appropriations of $10,470,959,000. It is $1,021,825,000 below the amount requested by the President. It is $1,092,041,000 below the allocation of the first budget resolution. It is broken down as follows:

It includes $4,054,734,000 recommended for the Department of the Interior; $1,554,752,000 recommended for the U.S. Forest Service; $3,573,578,000 for the Department of Energy and other appropriations for related agencies.

The bill addresses itself, and I think in a very solid manner, to the crisis of vulnerability in the field of energy which our Nation faces. Last year—and I say this with pride—the committee initiated the $19 billion energy security reserve even before it was created in order to stimulate the development of an alternate fuels program. And, in the recently passed supplemental, the committee provided funds to permit the Department of Energy to continue development of the alternate fuels program while the Synthetic Fuels Corporation goes through the growing pains of becoming operational.

In this bill, the committee has dared to include legislative language in order to expedite the continued development of national petroleum reserves in Alaska, and I use the phrase, "dared to include," because the committee does not like to include legislative provisions; and yet in this instance, because the national petroleum reserve in Alaska contains such promise, such hope for another major petroleum find, the committee has included funds to continue exploratory drilling by the Government under a program that was commenced while the reserve was under the control of the Navy, and a reserve that is now under the control of the Department of the Interior.

Approximately $147.7 million has been included to continue that program, and at the same time the committee has included language—legislative language, admittedly—which will permit the Secretary of the Interior to develop Navy Pet-4 for private exploration. Bills to permit that are pending in both the House and the Senate, but neither body has passed an appropriate bill for that purpose. That is why the committee included language for that purpose.

I am told by members of the House Committee on the Interior that if that language is withdrawn, they have every intention of bringing their bill to provide for the private exploitation of Navy Pet-4 to the floor immediately for consideration, and will press it for passage through the Senate. The administration has been concerned about the cost of the drilling. We, too, are concerned about that cost, but when one considers the possibility of a major strike on Navy Pet-4, which is fairly close to Prudhoe Bay—and the House knows full well what the implications of that would be—we think that the funds that we are placing in the bill are worth the investment.

The committee is also recommending continued development of coal gasification and liquefaction demonstration plants that have been under design and in pilot observation for a number of years.

The committee has also gone beyond the administration's request in providing for an expanded cut of our timber resources. We have increased the cut from 11.9 billion board feet to 12.2 billion board feet in 1981, and in the expectation that the recession will have run its course by that time, and that the housing demand will have accelerated severely, the committee has provided the initial funds for a 12.4 billion board feet cut for fiscal year 1982.

□ 1210

The committee also recommends increases of $159.2 million over the budget for the land and water conservation fund, the major increase for which is in the State assistance program.

May I say, Mr. Chairman, that one of the reasons for including that additional amount for that fund for the State assistance program is because last year the committee recommended a reduction in the program for State assistance, and at that time we gave assurances that this year we would try to make up for the reductions that had taken place last year.

There is also $50 million that the committee has included above the budget for compensation to the former owners of the Redwood National Forest. Under the agreement with the owners, the National Park Service is supposed to obtain appraisals of the value of the timber that was taken by the Government legislatively under a program that will not be completed for several years. Because it is agreed by everybody, without exception, that the amount of compensation that will have to be paid by the Government will far exceed the amount that is made available in this bill, the committee decided that it was only fair that the owners be paid this amount of money, the $50 million.

The committee, too, has recommended $45 million for the urban park and recreation program, which, with the $45 million deferred from fiscal year 1980, will provide $90 million for fiscal year 1981. The committee considers this program to be a worthy one because it will provide for the expansion of recreation facilities at home and will buttress the statement made by the administration that a program of this type will keep our people at home and not use the roads for their recreation, thereby saving gasoline.

The committee has recommended a provision in the land and water conservation fund that no Federal funds, except those identified in the coordinated Inter-Governmental Act, such as shared revenues and payments-in-lieu-of-taxes, be used as a match for the State assistance portion of the land and water conservation fund. Roughly 79 percent of the total costs of 500 projects that were reviewed by GAO at the request of our committee were financed with Federal funds. The committee believes that this was not a good practice, and that is the reason the limitation was inserted.

The committee continues its interest in the development of the Nation's capital. This year, in addition to providing funds for activities on the Mall and the Capitol grounds, a general provision is recommended which would establish an advisory group to the Secretary of the Interior to review the effect of growth and development of the National Capital Area and some of the features that make the National Capital Area unique. The committee is to make recommendations that will protect those features.

This is a most sensitive area because it involves the jurisdictions of the Commonwealth of Virginia, the State of Maryland, the District of Columbia, county governments, and city governments, as well as the executive branch and the Congress of the United States. So the committee believes that it is important that it have a coordinating group that will try to keep uniform the recommendations for the continued growth and beautification of the Nation's Capital.

The committee continues its program to provide adequate schools and hospitals for the Indian people of the United States. The committee has developed a priority system for the construction of schools and for hospitals and clinics, and it has adhered scrupulously to that priority system, resisting the recommendations of Members of the House and the Senate who have asked for special preference in constructing such schools and clinics in their areas. We have established a list of priorities, and we have adhered to it.

So far, Mr. Chairman, I have discussed the increases that have taken place. Such increases would have been very difficult to present without corresponding decreases, and I shall offer amendments at suitable times to reduce this bill by an additional $5 million. Overall the committee has made reductions in 132 separate programs which total $1,890 million.

I will direct the attention of the Members to pages 5 and 6 of the committee report, and I suggest to the Members of the Committee of the Whole that they may want to see the list of new programs and initiatives which were begun in earlier fiscal years. On the basis of the testimony—and we had 43 days of testimony—the committee has made many difficult decisions, and we believe we have brought to the House a strong, balanced bill for its consideration.

I would also like to call your attention to the table on page 3 that shows that this bill will generate receipts of $10.8 billion in 1981 so that it generates over $300 million more in receipts than is appropriated. I would like now to highlight the committee recommendations, program by program.

DEPARTMENT OF THE INTERIOR

The committee recommends a continued strong program for management of lands and resources for the Bureau of Land Management. Minor reductions are proposed principally in the areas of administration, but initiatives in cadastral survey, range management, and recreation management are continued. BLM is responsible for the multiple use management protection and development of about 417 million acres of public lands onshore, 840 million acres of federally owned subsurface rights and 1.1 billion acres of Outer Continental Shelf. For management of these resources, the committee is recommending a total of $530,230,000, an increase of $1,162,000 over the budget request.

For the Office of Water Research and Technology, the committee is recommending $30,485,000, a reduction of $2,128,000 below the budget request. This reduction in no way reflects a waivering in the determination of the committee to pursue an aggressive water research program. The committee has provided substantial increases in this program over the last 3 fiscal years and the reduction recommended herein has no significant impact on the development of a strong water research program.

For the Heritage Conservation and Recreation Service the committee recommends a total of $485,440,000, an increase of $211,430,000 over the amended budget request. It is in this area that the committee took strong exception to in the President's budget; 77 percent of the Interior Department reductions proposed in the budget amendment were in the grant programs of HCRS: The urban park and recreation program, the land and water conservation fund, and the historic preservation fund. The committee action maintains a sense of balance not reflected in the President's amended budget. The $45 million provided for the urban park program, which when added to $45 million deferred, would provide a total of $90 million in 1981.

The land and water conservation fund is about $160 million over the amended budget request, but it is still $117 million below the 1980 appropriation and $187.8 million below the January budget request.

The committee recommends $32,500,000 for the historic preservation fund, an increase of $7,500,000 above the amended budget request. With $10 million recommended for deferral from 1980, this will provide a total of $42,500,000 in fiscal year 1981, compared to an adjusted 1980 level of $45 million.

For the U.S. Fish and Wildlife Service, the committee recommends $271,665,000, a reduction of $5,289,000 below the budget request. The recommendation includes $2 million for the migratory bird conservation account.

The committee recommends $468,516,000 for the National Park Service, a reduction of $35,203,000 below the budget request. This reduction is in two significant items in two separate accounts. The committee reduced the amount requested for management and development of newly established national monuments in the State of Alaska by $8,400,000 and reduced the construction program by a net of $27,812,000. As you can tell from the report the Park Service construction program has substantial unobligated balances and this reduction should have no significant impact on an orderly construction program in fiscal year 1981.

The committee is concerned with the expansion of the number of areas within the jurisdiction of the Fish and Wildlife Service and the Park Service without an adequate standard of operation and maintenance having been met on existing units. The level of maintenance at wildlife refuges, fish hatcheries, and units of the National Park System is actually decreasing with inflation because of the new units that have been added to both systems over the past 10 years. The committee believes it would be well to take stock of the new expanded system so that the agencies can bring existing units under control. An alternative would be for the administration to budget for the operation and maintenance and development of the new areas. Thus far the committee has seen no evidence of such an effort on the administration's part.

The recommendation for the Geological Survey is $671,388,000, an increase of $149,776,000. That increase includes $147,750,000 for exploration of the national petroleum reserve in Alaska as discussed before and a net increase of $2 million for surveys, investigations, and research. That includes an increase of $1,500,000 for a world energy assessment offset by a reduction of $1 million for uranium resource assesment and $4,350,000 increase for data collection and preparation for competitive private lease sales in the NPRA.

The sum of $140,678,000 is recommended for the Bureau of Mines. This includes an increase of $800,000 to do supply interruption studies for critical minerals—platinum, manganese, and chromium. The committee again recommends a rescission of $47,500,000 of permanent contract authority for the helium fund which will become available in fiscal year 1981. Present supplies are adequate for the foreseeable future. The committee proposal also includes $16 million for Interior reclamation projects to be provided from the abandoned mine reclamation fund. This is recommended because the Office of Surface Mining has not been able to meet its obligations in this area, particularly in using the abilities and skills available in the Bureau of Mines.

For the Office of Surface Mining, $186,296,000 is recommended, a reduction of $1,535,000 below the budget request. The reduction is in State and Federal programs and Federal inspection and enforcement. Substantial increases of over 80 percent remain in these areas. The State reclamation program grants are reduced by $16 million since most States will not be eligible for mine fund grants until late in fiscal year 1981. This amount is provided for transfer to the Bureau of Mines as discussed earlier.

For the Bureau of Indian Affairs, the committee recommends $1,019,234,000, an increase of $27,081,000. A total of $48,252,000 is recommended for the construction program for Indian schools, an increase of $28,252,000 over the budget. The recommendation includes funds for those schools in which children would be 100 percent unhoused and thus are the highest priority. Funds are also recommended to continue construction of schools begun in 1980.

For territorial affairs, the committee recommends $178,188,000, an increase of $17,345,000. The administration has submitted a budget amendment in the amount of $13,612,000 for fuel costs and operation of the Federated States of Micronesia, which the committee added to address these critical needs of the trust territories. The committee concurs with the administration's proposal that the territories provide at least 10 percent of the cost of construction projects from local revenues.

For the Office of the Secretary of the Interior and the Solicitor of the Department of Interior, the committee recommends $72,614,000, a reduction of $2,319,000 below the budget request. Separate appropriations are recommended for the Office of Construction Management and the Office of Inspector General.

FOREST SERVICE

As I mentioned earlier, the committee has provided an increase over the budget of $96,616,000 for the Forest Service. This provides a total of $1,554,752,000. This is $59,904,000 over the 1980 appropriation level and will provide 12.2 billion board feet of timber to be prepared and offered for sale in 1981 and 12.4 billion board feet to be scheduled for sale preparation in 1982. The proposal will provide for 10.5 billion board feet to be harvested in 1981. The timber produced from the National Forest lands represents about one-fourth of the total timber and 30 percent of the softwood timber cut for industrial purposes annually. This is equivalent to the construction of about 1 million average size homes. The committee has included $11,900,000 in total for the Boundary water, Canoe Area, an increase of $510,000 over the amount budgeted by the administration.

DEPARTMENT OF ENERGY

For the Department of Energy, the committee recommends $3,573,578,000. I will be offering an amendment at an appropriate time to reduce this by $5 million based on items approved in the recent supplemental.

The committee recommendation for the Department of Energy is $1,436,000,000 below the budget request. The largest reduction is $1.2 billion for the strategic petroleum reserve, made to offset an equivalent appropriation made in the Energy Security Act, Public Law 96–294. This recommendation still permits work to proceed on two solvent refined coal demonstration plants, a low-medium Btu gasification demonstration plant and two high Btu gasification plants. Reductions of $172 million are proposed in the energy conservation area primarily in the Energy Management Partnership Act, which is not authorized, energy impact assistance, and the energy information paid advertising campaign. The committee feels that it is more important to proceed on development of the fossil fuels programs and conservation technology than pursue these areas at the levels requested.

The low-income weatherization program is funded at the budgeted level of $189,950,000. There have been problems with this program over the past 2 years, but the committee feels they have been eliminated and the program is working well now.

The sum of $1 billion is provided for the purchase of oil for the strategic petroleum reserve, allowing for filling at the highest feasible rate. As previously stated, the Energy Security Act sets up a fund and appropriates from it to the reserve. The amount anticipated to accrue to the fund, $1 billion, plus the $1,075,000,000 provided in this bill, is adequate to fill the reserve at a rate of at least 200,000 barrels per day beginning October 1.

OTHER RELATED AGENCIES

For the Indian Health and Education program, the committee recommends $764,130,000, an increase of $11,191,000 above the budget requested. This includes an increase of $16 million for sanitation facilities for homes that will be built by HUD and the BIA and $12.2 million for Indian hospitals, health clinics, and personnel quarters. The committee is at a loss to explain why the administration does not budget adequately for these important health facilities. A reduction of $19,270,000 is recommended in the Indian education program. The committee feels that an evaluation of these programs should be completed before a significant program expansion is supported.

The committee recommends $12,900,000, the budget request, for the Institute of Museum Services.

The committee recommends $133,817,000 for the programs of the Smithsonian Institution. No appropriation is recommended for planning for the "south quadrangle complex."

The committee recommends the budget estimate for the National Gallery of Arts, $24,464,000. This will permit the Gallery to continue its ambitious exhibition program for which the new east building was designed and constructed with private funds.

The budget request of $1,795,000 is recommended for the Woodrow Wilson International Center for Scholars.

The committee recommends the full amount requested for the National Endowments for the Arts and Humanities, $312,301,000. These organizations will be 15 years old in October of this year. They meet an important need in our lives.

For the Pennsylvania Avenue Development Corporation, the committee recommends $31,677,000.

The recommendation for the Federal inspector for the Alaska gas pipeline of $21,483,000 is a reduction of $4,385,000 below the budget request. Plans for this pipeline have been delayed and are not well enough developed to merit providing the full budget request for the Federal inspector.

Mr. Chairman, this is a good bill, a balanced bill, and I recommend that it be adopted.

The following table compares the 1981 amounts recommended compared to the amended budget request and the 1980 appropriation:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1981

Agency and item	New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981[1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1980	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1981
TITLE I—DEPARTMENT OF THE INTERIOR LAND AND WATER RESOURCES					
Bureau of Land Management:					
Management of lands and resources	$301,896,000	$352,500,000	$349,662,000	+$47,766,000	−$2,838,000
Acquisition, construction, and maintenance	16,343,000	14,568,000	14,568,000	−1,775,000	
Payments in lieu of taxes	108,000,000	81,000,000	85,000,000	−23,000,000	+4,000,000
Oregon and California grant lands (indefinite, appropriation of receipts)	55,000,000	57,500,000	57,500,000	+2,500,000	
Range improvements (indefinite, appropriation of receipts)	10,620,000	13,500,000	13,500,000	+2,880,000	
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000	300,000		
Service charges, deposits, and forfeitures (indefinite, special fund)	13,750,000	9,600,000	9,600,000	−4,150,000	
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000		
Total, Bureau of Land Management	506,009,000	529,068,000	530,230,000	+24,221,000	+1,162,000

				Bill compared with—	
Agency and item	New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981 [1]	New budget (obligational) authority recommended in bill	New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981
Office of Water Research and Technology: Salaries and expenses	30, 781, 000	32, 613, 000	30, 485, 000	−296, 000	−2, 128, 000
Total, Land and Water Resources	536, 790, 000	561, 681, 000	560, 715, 000	+23, 925, 000	−966, 000
FISH AND WILDLIFE AND PARKS					
Heritage Conservation and Recreation Service:					
Salaries and expenses	15, 351, 000	16, 010, 000	15, 755, 000	+404, 000	−225, 000
Urban park and recreation fund	125, 000, 000		45, 000, 000	−80, 000, 000	+45, 000, 000
Land and Water Conservation Fund (indefinite)	509, 194, 000	233, 000, 000	392, 185, 000	−117, 009, 000	+159, 185, 000
Historic preservation fund	55, 000, 000	25, 000, 000	32, 500, 000	−22, 500, 000	+7, 500, 000
Total, Heritage Conservation and Recreation Service	704, 545, 000	274, 010, 000	485, 440, 000	−219, 105, 000	+211, 430, 000
U.S. Fish and Wildlife Service					
Resources management	206, 641, 000	227, 306, 000	225, 354, 000	+18, 713, 000	−1, 952, 000
Construction and anadromous fish	58, 757, 000	39, 898, 000	34, 561, 000	−24, 196, 000	−5, 337, 000
National Wildlife Refuge Fund		9, 500, 000	9, 500, 000	+9, 500, 000	
Migratory bird conservation account (definite, repayable advance)	15, 000, 000		2, 000, 000	−13, 000, 000	+2, 000, 000
Development and operation of recreation facilities (indefinite, special fund)	200, 000	250, 000	250, 000	+50, 000	
Total, U.S. Fish and Wildlife Service	280, 598, 000	276, 954, 000	271, 665, 000	−8, 933, 000	−5, 289, 000
National Park Service:					
Operation of the national park system	382, 775, 000	422, 297, 000	415, 163, 000	+32, 388, 000	−7, 134, 000
Construction	112, 154, 000	62, 015, 000	34, 203, 000	−77, 951, 000	−27, 812, 000
Appropriation to liquidate contract authority	(15, 500, 000)			(−15, 500, 000)	
Road construction (rescission of appropriation to liquidate contract authority)	(5, 552, 000)			(−5, 552, 000)	
Planning, development, and operation of recreation facilities (indefinite, special fund)	16, 217, 000	15, 007, 000	14, 750, 000	−1, 467, 000	−257, 000
John F. Kennedy Center for the Performing Arts	4, 030, 000	4, 400, 000	4, 400, 000	+370, 000	
Total, National Park Service	515, 176, 000	503, 719, 000	468, 516, 000	−46, 660, 000	−35, 203, 000
Total, Fish and Wildlife and Parks	1, 500, 319, 000	1, 054, 683, 000	1, 225, 621, 000	−274, 698, 000	+170, 938, 000
ENERGY AND MINERALS					
Geological Survey:					
Surveys, investigations, and research	452, 055, 000	475, 111, 000	477, 137, 000	+25, 082, 000	+2, 026, 000
Exploration of national petroleum reserve in Alaksa	175, 627, 000	46, 501, 000	194, 251, 000	+18, 624, 000	+147, 750, 000
Total, Geological Survey	627, 682, 000	521, 612, 000	671, 388, 000	+43, 706, 000	+149, 776, 000
Bureau of Mines:					
Mines and minerals	132, 753, 000	140, 248, 000	140, 678, 000	+7, 925, 000	+430, 000
Helium fund (permanent contract authority)		47, 500, 000			−47, 500, 000
Total, Bureau of Mines	132, 753, 000	187, 748, 000	140, 678, 000	+7, 925, 000	−47, 070, 000
Office of Surface Mining—Reclamation and Enforcement:					
Regulation and technology	84, 687, 000	100, 346, 000	98, 811, 000	+14, 124, 000	−1, 535, 000
Abandoned mine reclamation fund (definite, trust fund)	94, 916, 000	87, 485, 000	87, 485, 000	−7, 431, 000	
Total, Office of Surface Mining—Reclamation and Enforcement	179, 603, 000	187, 831, 000	186, 296, 000	+6, 693, 000	−1, 535, 000
Total, Energy and Minerals	940, 038, 000	897, 191, 000	998, 362, 000	+58, 324, 000	+101, 171, 000
INDIAN AFFAIRS					
Bureau of Indian Affairs:					
Operation of Indian programs	789, 051, 000	816, 190, 000	815, 019, 000	+25, 968, 000	−1, 171, 000
Construction	89, 374, 000	71, 338, 000	99, 590, 000	+10, 216, 000	+28, 252, 000
Road construction	66, 479, 000	48, 625, 000	48, 625, 000	−17, 854, 000	
Alaska Native fund	30, 000, 000	30, 000, 000	30, 000, 000		
Trust funds (definite)	3, 000, 000	3, 000, 000	3, 000, 000		
Trust funds (indefinite)	23, 000, 000	23, 000, 000	23, 000, 000		
Salt River Pima-Maricopa settlement	3, 917, 000			−3, 917, 000	
Total, Bureau of Indian Affairs	1, 004, 821, 000	992, 153, 000	1, 019, 234, 000	+14, 413, 000	+27, 081, 000
TERRITORIAL AFFAIRS					
Office of Territorial Affairs:					
Administration of territories	86, 661, 000	81, 384, 000	84, 384, 000	−2, 277, 000	+3, 000, 000
Trust Territory of the Pacific Islands	113, 785, 000	79, 459, 000	93, 804, 000	−19, 981, 000	+14, 345, 000
Total, Office of Territorial Affairs	200, 446, 000	160, 843, 000	178, 188, 000	−22, 258, 000	+17, 345, 000
SECRETARIAL OFFICES					
Office of the Solicitor: Salaries and expenses	15, 741, 000	16, 796, 000	16, 113, 000	+372, 000	−683, 000
Office of the Secretary:					
Departmental Management	49, 344, 000	58, 137, 000	39, 251, 000	−10, 093, 000	−18, 886, 000
Office of Construction Management			8, 750, 000	+8, 750, 000	+8, 750, 000
Office of Inspector General			8, 500, 000	+8, 500, 000	+8, 500, 000
Salaries and expenses (special foreign currency programs)	1, 000, 000			−1, 000, 000	
Total, Office of the Secretary	50, 344, 000	58, 137, 000	56, 501, 000	+6, 157, 000	−1, 636, 000
Total, Secretarial Offices	66, 085, 000	74, 933, 000	72, 614, 000	+6, 529, 000	−2, 319, 000
Total, title I, new budget (obligational) authority, Department of the Interior	4, 248, 499, 000	3, 741, 484, 000	4, 054, 734, 000	−193, 765, 000	+313, 250, 000
Consisting of:					
Appropriations	4, 248, 499, 000	3, 693, 984, 000	4, 054, 734, 000	−193, 765, 000	+360, 750, 000
Definite appropriations	3, 620, 118, 000	3, 332, 227, 000	3, 516, 799, 000	−103, 319, 000	+184, 572, 000
Indefinite appropriations	628, 381, 000	361, 757, 000	520, 685, 000	−107, 696, 000	+158, 928, 000
Permanent contract authority		47, 500, 000			−47, 500, 000
Appropriation to liquidate contract authority	(15, 500, 000)			(−15, 500, 000)	
Rescission of appropriation to liquidate contract authority	(5, 552, 000)			(−5, 552, 000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1980 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1981—Continued

				Bill compared with—	
Agency and item	New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981 [1]	New budget (obligational) authority recommended in bill	New budget (obligational) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981
TITLE II—RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service:					
Research	108, 795, 000	124, 100, 000	124, 100, 000	+15, 305, 000	
State and private forestry	72, 879, 000	64, 577, 000	71, 466, 000	−1, 413, 000	+6, 889, 000
National Forest System	825, 532, 000	864, 444, 000	881, 821, 000	+56, 289, 000	+17, 377, 000
Construction and land acquisition	423, 412, 000	353, 415, 000	405, 465, 000	−17, 947, 000	+52, 050, 000
Youth conservation corps	54, 000, 000	39, 700, 000	60, 000, 000	+6, 000, 000	+20, 300, 000
Acquisition of lands for national forests:					
Special acts (special fund, indefinite)	325, 000	754, 000	754, 000	+429, 000	
Acquisition of lands to complete land exchanges (special fund, indefinite)	155, 000	446, 000	446, 000	+291, 000	
Rangeland improvements (special fund, indefinite)	5, 900, 000	6, 800, 000	6, 800, 000	+900, 000	
Construction and operation of recreation facilities (indefinite, special fund)	3, 850, 000	3, 900, 000	3, 900, 000	+50, 000	
Total, Forest Service	1, 494, 848, 000	1, 458, 136, 000	1, 554, 752, 000	+59, 904, 000	+96, 616, 000
DEPARTMENT OF ENERGY					
Alternative fuels production	20, 000, 000, 000			−20, 000, 000, 000	
Fossil energy research and development	746, 627, 000	687, 650, 000	674, 605, 000	−72, 022, 000	−13, 045, 000
Fossil energy construction	103, 250, 000	445, 835, 000	445, 300, 000	−342, 050, 000	−535, 000
Energy production, demonstration, and distribution	111, 221, 000	178, 737, 000	176, 337, 000	+65, 116, 000	−2, 400, 000
Energy conservation	628, 702, 000	1, 024, 284, 000	851, 607, 000	+222, 905, 000	−172, 677, 000
Reappropriation	158, 750, 000			−158, 750, 000	
Economic regulation	152, 879, 000	155, 971, 000	141, 999, 000	−10, 880, 000	−13, 972, 000
Strategic petroleum reserve		103, 978, 000	101, 918, 000	+101, 918, 000	−2, 060, 000
Reappropriation		2, 300, 000, 000	1, 075, 000, 000	+1, 075, 000, 000	−1, 225, 000, 000
Energy Information Administration	87, 273, 000	113, 223, 000	106, 812, 000	+19, 539, 000	−6, 411, 000
Total, Department of Energy	21, 988, 702, 000	5, 009, 678, 000	3, 573, 578, 000	−18, 415, 124, 000	−1, 436, 100, 000
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Health Services Administration:					
Indian health services	538, 874, 000	591, 319, 000	593, 619, 000	+54, 745, 000	+2, 300, 000
Indian health facilities	74, 302, 000	60, 670, 000	88, 831, 000	+14, 529, 000	+28, 161, 000
Total, Indian health	613, 176, 000	651, 989, 000	682, 450, 000	+69, 274, 000	+30, 461, 000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education: Indian education	75, 900, 000	100, 950, 000	81, 680, 000	−5, 780, 000	−19, 270, 000
Departmental Management: Institute of Museum Services	10, 900, 000	12, 900, 000	12, 900, 000	+2, 000, 000	
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION					
Salaries and expenses	950, 000	1, 180, 000	1, 180, 000	+230, 000	
SMITHSONIAN INSTITUTION					
Salaries and expenses	103, 781, 000	119, 590, 000	118, 838, 000	+15, 057, 000	−752, 000
Museum programs and related research (special foreign currency program)	4, 200, 000	4, 450, 000	3, 650, 000	−550, 000	−800, 000
Construction and improvements, National Zoological Park	6, 250, 000	3, 290, 000	3, 290, 000	−2, 960, 000	
Restoration and renovation of buildings	5, 250, 000	8, 039, 000	8, 039, 000	+2, 789, 000	
Construction	20, 600, 000	500, 000		−20, 600, 000	−500, 000
Subtotal	140, 081, 000	135, 869, 000	133, 817, 000	−6, 264, 000	−2, 052, 000
Salaries and expenses, National Gallery of Art	22, 241, 000	24, 464, 000	24, 464, 000	+2, 223, 000	
Salaries and expenses, Woodrow Wilson International Center for Scholars	1, 611, 000	1, 795, 000	1, 795, 000	+184, 000	
Total, Smithsonian Institution	163, 933, 000	162, 128, 000	160, 076, 000	−3, 857, 000	−2, 052, 000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES					
National Endowment for the Arts:					
Salaries and expenses	97, 000, 000	114, 495, 000	114, 495, 000	+17, 495, 000	
Administrative expenses	12, 000, 000	12, 865, 000	12, 865, 000	+865, 000	
Subtotal	109, 000, 000	127, 360, 000	127, 360, 000	+18, 360, 000	
Matching grants (indefinite)	45, 400, 000	32, 700, 000	32, 700, 000	−12, 700, 000	
Total, National Endowment for the Arts	154, 400, 000	160, 060, 000	160, 060, 000	+5, 660, 000	
National Endowment for the Humanities:					
Salaries and expenses	100, 300, 000	106, 522, 000	106, 522, 000	+6, 222, 000	
Administrative expenses	11, 400, 000	12, 219, 000	12, 219, 000	+819, 000	
Subtotal	111, 700, 000	118, 741, 000	118, 741, 000	+7, 041, 000	
Matching grants (indefinite)	38, 400, 000	33, 500, 000	33, 500, 000	−4, 900, 000	
Total, National Endowment for the Humanities	150, 100, 000	152, 241, 000	152, 241, 000	+2, 141, 000	
Total, National Foundation on the Arts and the Humanities	304, 500, 000	312, 301, 000	312, 301, 000	+7, 801, 000	
COMMISSION OF FINE ARTS					
Salaries and expenses	268, 000	290, 000	285, 000	+17, 000	−5, 000
ADVISORY COUNCIL ON HISTORIC PRESERVATION					
Salaries and expenses	1, 350, 000	1, 603, 000	1, 523, 000	+173, 000	−80, 000
NATIONAL CAPITAL PLANNING COMMISSION					
Salaries and expenses	1, 975, 000	2, 362, 000	2, 300, 000	+325, 000	−62, 000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION					
Salaries and expenses	40, 000	30, 000	40, 000		+10, 000

Agency and item	New budget (obligatonal) authority, fiscal year 1980	Budget estimates of new (obligational) authority, fiscal year 1981 [1]	New budget (obligational) authority recommended in bill	Bill compared with— New budget (obligational) authority, fiscal year 1980	Bill compared with— Budget estimates of new (obligational) authority, fiscal year 1981
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION					
Salaries and expenses	1, 856, 000	2, 716, 000	2, 508, 000	+652, 000	208, 000
Land acquisition and development fund (borrowing authority)	17, 000, 000	15, 000, 000	15, 000, 000	−2, 000, 000	
Public development	20, 110, 000	14, 169, 000	14, 169, 000	−5, 941, 000	
Total, Pennsylvania Avenue Development Corporation	38, 966, 000	31, 885, 000	31, 677, 000	−7, 289, 000	−208, 000
FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE					
Permitting and enforcement	10, 600, 000	25, 868, 000	21, 483, 000	+10, 883, 000	−4, 385, 000
Total, title II, new budget (obligational) authority, related agencies	24, 706, 108, 000	7, 771, 300, 000	6, 436, 225, 000	−18, 269, 883, 000	−1, 335, 075, 000
Consisting of:					
Appropriations	24, 530, 358, 000	5, 456, 300, 000	5, 346, 225, 000	−19, 184, 133, 000	−110, 075, 000
Definite appropriations	24, 436, 328, 000	5, 378, 200, 000	5, 268, 125, 000	−19, 168, 203. 000	−110, 075, 000
Indefinite appropriations	94, 030, 000	78, 100, 000	78, 100, 000	−15, 930, 000	
Reappropriation	158, 750, 000	2, 300, 000, 000	1, 075, 000, 000	+916, 250, 000	−1, 225, 000, 000
Borrowing authority	17, 000, 000	15, 000, 000	15, 000, 000	−2, 000, 000	
RECAPITULATION					
Total, new budget (obligational) authority, all titles	28, 954, 607, 000	11, 512, 784, 000	10, 490, 959, 000	−18, 463, 648, 000	−1, 021, 825, 000
Consisting of:					
Appropriations	28, 778, 857, 000	9, 150, 284, 000	9, 400, 959, 000	−19, 377, 898, 000	+250, 675, 000
Definite appropriations	(28, 056, 446, 000)	(8, 710, 427, 000)	(8, 784, 924, 000)	(−19, 271, 522, 000)	(+74, 497, 000)
Indefinite appropriations	(722, 411, 000)	(439, 857, 000)	(598, 785, 000)	(−123, 626, 000)	(+158, 928, 000)
Reappropriation	158, 750, 000	2, 300, 000, 000	1, 075, 000, 000	+916, 250, 000	−1, 225, 000, 000
Borrowing authority	17, 000, 000	15, 000, 000	15, 000, 000	−2, 000, 000	
Permanent contract authority		47, 500, 000			−47, 500, 000
Appropriation to liquidate contract authority	(15, 500, 000)			(−15, 500, 000)	
Rescission of an appropriation to liquidate contract authority	(5, 552, 000)			(−5, 552, 000)	

Mr. Chairman, I reserve the balance of my time.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7724, making appropriations for the Department of the Interior and related agencies and to urge its approval by the House. It is a good bill, one which gets right to the heart of the core issues which concern all Americans. It invests tax dollars in the development of new energy technology. It manages lands held in trust for the people of this Nation by their Government. It creates new opportunities for increased leisure time for millions of Americans. It reaches out to the thousands of Native Americans and residents of the trust territories with health, education and job-creating programs which sustain their lives. It combats inflation by our new initiatives in increased timber yield. And it does these things while achieving what I consider to be a most significant result—it generates more new revenues than it expends. That fact alone makes this bill worth supporting.

Mr. Chairman, we are guided in our deliberations by the skill and patience of the gentleman from Illinois (Mr. YATES), a Member whose understanding of the complexities contained in this bill is unmatched anywhere. He is a can do chairman. He has allowed each of the members of the subcommittee the opportunity to maximize their contribution to our work. The result is an end product that bears the stamp of each member of the subcommittee.

Additionally, we are privileged to have an excellent staff. Without their dedication, hard work, and expertise, this bill would suffer greatly.

I especially want to pay tribute to one of our Members who will be leaving the committee this year, the gentleman from Oregon (Mr. DUNCAN). BOB DUNCAN has contributed so much to the understanding and the implementation of our natural resource budget that his place will be impossible to fill. What success we have enjoyed in the formidable task of shaping our budget for the Forest Service we owe to his expertise. All of us shall miss him and all of us wish him well.

Mr. Chairman, we bring you a bill that is not only self-liquidating, but which is substantially below the budget request. We are $1 billion below the amount requested by the administration. Later we shall be offering committee amendments which will reduce the budget by another $5 million. We reduced 132 programs cutting $1.890 billion in waste and fat. We added funds for 92 priority programs totalling $868 million.

In the process of reshaping the budget that was submitted to our committee one fact stands clear. Again this year the Congress was presented with a budget, especially in the critical area of energy, that was completely inadequate and totally indefensible for a Nation in the throes of an energy crisis.

All of you have heard the term energy crisis used over the past several years here on the floor of the House and everywhere else. Well, let me tell you about one little corner of our Nation where no energy crisis exists. Indeed, there is not even a mild sense of emergency. It is in the preparation of the Nation's energy budget. This year, like last, we were submitted a budget which completely fails to live up to the grand public pronouncements this administration gives to the need for an all-out war for energy independence. For a moment I would like to focus with you on what your committee has done this year to lead this Nation out of our energy mess in the absence of such leadership downtown.

Last year, with your support, we launched the Nation's first alternative fuels program. While Congress and the administration wrestled with the arduous task of creating the Energy Security Corporation and the Energy Mobilization Board, we went forward with a $20 billion program in the Department of Energy, a program with maximum flexibility backed up by tax dollars. Thanks to the labors of this committee we have a synthetic fuels program underway and working in the Department of Energy.

In fact while the administration was signing S. 932 on the White House lawn, the Department of Energy was approving the first round of private sector funding to produce synthetic fuels. This was the first effort ever aimed at stimulating our Nation's vast private sector technology to producing alternate sources of high-priced foreign crude.

It was only possible because the Members of this House stuck with us, stopped talking about an energy crisis, and started doing something about it.

Earlier this month we took the second giant step forward when in the fiscal year 1980 supplemental appropriations bill we earmarked the entire $18 billion energy security funds for the existing DOE program and the still unformed Energy Security Corporation on a schedule which insures that there will be no delays in the existing DOE program.

In this bill we are taking a new and what we hope will be a successful initiative regarding the national petroleum reserve in Alaska, popularly known as pet IV. This 24 million square acres located adjacent to Prudhoe Bay on the North Slope of Alaska contains what scientists in and out of Government believe to be the most promising source of petroleum and natural gas available to the continental United States. We have estimates that there may be 10 billion barrels of oil underground on NPRA. At the present time we have a modest drilling program in place there sponsored by the U.S. Geological Survey. Each year we have had to add millions of dollars to keep drilling for oil because we have an administration that opposes spending tax dollars to search for oil. And while the administration proposes to open the area for private leasing, it was not until early this year that any legislation was sent to the Congress to accomplish this drilling. So this committee has added $150 million to keep this program going. There has already been a significant find in that area.

While this limited drilling program shows promise, it is certainly no substitute for the more comprehensive private development program that all of us favor. So what we are undertaking here, and what we will do with your help, is to break the logjam that has held up drilling on the NPRA and initiate a private leasing program. If you will support us here today with your votes we will begin a leasing program in 20 months. If we are unsuccessful, then it is the taxpayers of our Nation who will be the big losers because we will be denying them energy from a tract of land which they own, but which because of committee squabbling and administration slowness is not going to be brought into production for at least 5 more years unless we act today.

The third vital component of our energy program found here is the strategic petroleum reserve. We are providing $1 billion for the procurement of oil to be stored in various sites across the South and Southwest. This money, when coupled with the $1.75 billion appropriated directly to the reserve, will enable the Government to fill the reserve at the rate of the 200,000 barrels per day beginning October 1. This new money will reinforce the congressional mandate contained in the Energy Security Act that the administration stop dragging its feet and start filling the reserve. Original plans called for filling the reserve to the point where there would be 500 million barrels in the ground by the end of 1981. Regrettably, there has been no active purchase of oil made by the United States since March of 1979. So today we have only 91.7 million barrels of oil in storage. Concern for the stability and future availability of foreign oil has not lessened in this time. The only thing that has lessened is the administration's will to fill the reserve.

Mr. Chairman, this bill contains $3.57 billion to fund the construction, conservation, and fossil energy programs in the Department of Energy. I hope that the Members will take some time to read our report so that they may better understand how frustrating it is to try to shape energy policy in this Nation. I especially commend to the Members one such case study on page 73 of our report. As an indication of the frustration we face with an administration that publicly commits itself to energy developments and then refuses to fund its commitments. When you read the report you will see that we were forced to add $45 million to the low Btu gasification program, which administration press releases cite as one of the most promising technologies available anywhere for creating industrial gasification capacity.

You will note the same scenario in the area of direct combustion where despite reams of testimony and countless public assurances regarding the great promise of the so-called fluidized bed boiler technique for direct, clean-burning coal, the administration simply refuses to provide the funds to advance this important technology. So Congress must reshape the budget and add $20 million to keep this work on schedule.

The committee gave special attention to the energy conservation programs of the Department of Energy this year. We tried to put our dollars into areas where we would achieve the results most quickly. The industrial conservation program has long been viewed as the one hope for converting major users of oil to alternative fuels. We added $24 million here to implement new ways to make industrial process more efficient, new programs of waste energy, and industrial cogeneration where we recapture energy that we are currently losing for additional uses.

The committee also was forced to restore significant amounts to the urban parks and the land and water conservation fund programs. While these activities are the major components of our Nation's recreation programs, they are more meaningful this year than ever. Visitations are down in many of our national parks. With the energy crunch and the recession, most Americans are already making plans to stay closer to home this year. Without an active urban parks program in our Nation's cities and without increased recreational opportunities in our small towns, they will not be able to enjoy that opportunity. We refused to allow the administration to gut the urban parks program restoring $45 million to bring the total program level for fiscal year 1981 to $90 million. This will allow an additional two rounds of funding. The committee also restored $159 million to the land and water conservation fund—$78 million for the States, $80 million for the Federal—bringing the total level of funding for the States to $228 million and $158 million for Federal acquisitions. By providing these funds we will assist in the effort to conserve energy by bringing recreation closer to home.

Mr. Chairman, one additional item is worth mentioning—the additional funds provided to the U.S. Forest Service. The committee has been most aggressive and most generous over the past several years in attempting to increase the timber cut on the national forests through additions to the Forest Service budget. This year is no exception. We added $65 million in funds above the budget to increase the timber sale in 1981 to 12.2 billion board feet. Another 12.4 billion board feet will be scheduled for sale in 1982. These additions will enable the Forest Service to harvest 10.5 billion board feet of timber in 1981.

We did these things in the hope that we can continue to make a major contribution in the fight against inflation. Because of the increases we propose quantities of timber will be cut equal to 1 million average size homes. Items which all of the Members on both sides of the aisle have supported to strongly in the past several years such as additional forest research, construction of new forest roads, and the preservaiton of the very popular YCC program are all maintained here. Because we restored the funds in this bill for YCC, 38,000 young people will be working in our national parks and forests next year doing conservation work which returns $1 to the Treasury for every dollar we invest.

Mr. Chairman, this bill represents in our estimation a major contribution to the energy, cultural, renewable, and human resources of this Nation. We commend it to you for support. We think it will fund a better life for all Americans.

Mr. Chairman, this bill contains a number of initiatives that are of great importance to the people of northeastern Pennsylvania. I want to commend the committee for its support of several amendments which I proposed to allow these programs to go forward.

The bill contains an appropriation of $16 million to the U.S. Bureau of Mines to continue its very successful work in the field of mine subsidence control. The committee undertook this action as an expression of concern over the slow pace with which the transfer of funds from the Office of Surface Mining to the Bureau of Mines is taking place. While the program in OSM is relatively new the subsidence control program in the Bureau of Mines has been underway for several years. This program has been a tremendous success in stabilizing surface and subsurface areas in the Appalachian States, the Midwest, and in the Far West. For each dollar spent to conduct this research, additional millions of dollars in private property in the form of homes, schools, churches, and public buildings are protected.

Mr. Chairman, the committee also supported my amendment to provide $750,000 for various activities in the Delaware Water Gap National Recreation Area. These funds will meet a critical need that has come about in the park because of the multiyear delays we have faced in the overall development of the park. These funds will be used to preserve and restore historic structures in the park which are being ravaged by vandalism and the threat of arson. This year, with this money, the Park Service will restore the Foster Armstrong house, the Neldon schoolhouse, the Charles Pierce home, and the Zion Church. In addition, funds will be available to restore and rehabilitate beach areas in Milford and Smithfield Township.

Also contained here is a $200,000 amendment to enable the Forest Service to participate with the Soil Conservation Service and the Pennsylvania Department of Transportation in a research and demonstration program to test new forms of trees and shrubbery that will be best suited for planting on abandoned mine lands. For some time the Forest Service has been involved in such research and with the ever-expanding commitment our Nation has undertaken to restore abandoned mine lands we are hopeful that this research will be moved further along by this new initiative.

Mr. Chairman, I am pleased that the committee also accepted my amendment to add $330,000 for law enforcement assistance to the Fish and Wildlife Service as part of its endangered species program. Testimony before our committee revealed that the service is extremely shorthanded in its ability to cope with the ever expanding multimillion dollar, illegal importation of endangered animals smuggled into this country and then used for pelts. This money will enable the Fish and Wildlife Service to hire an additional 10 inspectors, thereby beefing up its law enforcement complement.

Again this year the committee has reaffirmed the strong congressional support of our efforts to expand the Gifford Pinchot home, known as Grey Towers, and make it into an environmental education center of national significance. The committee agreed to add $580,000 to the budget of the Forest Service to help us plan for a national environmental education conference, to keep the YCC day camp in place at Grey Towers and to allow for the furtherance of the research work done at the center.

This beautiful facility located in Milford, Pa., recently hosted a distinguished group of dignitaries headed by Vice President MONDALE, Secretary Bob Bergland, and Chief Max Peterson on the occasion of the 75th anniversary of the founding of the Forest Service. Gifford Pinchot was its first head and gave the service a long and proud legacy of stewardship for the preservation of our national resources. That legacy guides the Forest Service today and all of us have a special pride in the achievements of this great Pennsylvanian. The programs at Grey Towers will again go forward this year with the committee's support.

☐ 1230

Mr. Chairman, I am delighted to yield such time as he may consume to my friend from California (Mr. BURGENER), who has made such a great contribution to this bill.

Mr. BURGENER. I thank the gentleman for yielding.

I rise in wholehearted and enthusiastic support of this bill. I want to commend our chairman, the gentleman from Illinois (Mr. YATES), and the ranking member, the gentleman from Pennsylvania (Mr. McDADE), for continuing to provide excellent stewardship and leadership in this particular matter.

There are just a couple of brief items I would like to mention.

The bill does produce revenues, as was stated, some $10.7 billion, which is larger than the total expenditure of the bill. About $9½ billion of that comes from oil revenues, both Outer Continental Shelf and the Naval Petroleum Reserve and the other $1.2 billion from timber sales, as has been mentioned.

I would like to touch just for a moment on land acquisition. In this bill, if I have added up the figures correctly, we have about a half billion dollars, around $500 million, in purchasing land for the public. What kind of land? Is this enough? Well, it is beaches. It is parks. It is wildlife refuges. It is all kinds of things for the public, for posterity for the future. It would be nice, it would be desirable, and the committee would like to have put $2 billion in the bill, $5 billion in the bill, even the entire $10.7 billion that we receive in oil revenues and timber sales and so on with which to reinvest in the land if we could. Our economy will not stand that, so we were forced to agree on a figure of some $1½ billion.

When one looks at that in context of the total budget, it really is not very much at all. We tried to select the items that had the highest priority, those in the greatest danger of encroachment by private development, those in the most sensitive areas. I think we have done that fairly well. But to put it in perspective of the overall budget, land acquisition is less than one-tenth of 1 percent of the overall $600 billion-plus budget.

But I would call attention to the fact that we have this half a billion dollars roughly in acquisition of new and very much needed public lands for the future, but it is desperately short of the real need.

One final item, if I may, Mr. Chairman. We struck out the money in here for advertising for the Department of Energy. Now that was not without controversy, but I think we did the right thing. It was originally requested at $50 million for the Department of Energy to tell people to save fuel. Then it was reduced $25 million. We finally agreed on zero. I think that is wise, because I do just picture in my mind a scene of an elderly couple in a rather cold living room each with a couple of sweaters on, pretty chilly because of the price of fuel, and a television announcer comes on, and he says, "Turn down your thermostats, you unpatriotic clods." I do not think that would be well received. I think it would be much better, and the committee thought it might be better perhaps if that money could be taken out, perhaps used to help the poor pay their fuel bills. I think we did the right thing in that particular regard.

Mr. McDADE. May I say, it is an interesting contrast that they were willing to spend $50 million on what we believed to be a dubious paid advertising campaign and at the same time they cut $45 million to build the plant that will be the first commercial gasification plant in the United States of America. They first cut the money. Then after they restored it, they put out press releases saying what a grand plant it was.

Mr. BURGENER. The administration proposes, and the Congress disposes. I think we have disposed rather well.

Mr. McDADE. Without the help of the gentleman from California from this committee, it would be a lesser committee. We are grateful for his contribution.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I have no further requests for time.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I just want to bring up a point at this time. I will have an amendment to try to correct the situation.

In the reorganization plan of the Fish and Wildlife Service, one of the things that has happened, is that they have eliminated region 2, and the regional office is in Albuquerque.

Let me first say that region 2 has jurisdiction over four States: Arizona, New Mexico, Oklahoma, and Texas. Let me tell the Members that is a lot of distance between points in those States. However, by eliminating region 2 and moving that region into region 6, which regional office is located in Denver, we will then have a regional office whose jurisdiction extends all the way from the Canadian border down to the Mexican border. Now that really does not make a lot of sense if the purpose of a Government agency is to provide services to the constituency.

Now they tell us that it will be a savings. They have taken out $700,000 in order to accomplish this.

I am going to offer an amendment to try to put those $700,000 back in. It really will not be a savings, because not one single person will be taken off the rolls of the Fish and Wildlife Service. What they are going to do is just distribute them around other places.

I will not go into all the arguments at this point, but I did want to make this particular point, because it really does not make a lot of sense to have a regional office whose jurisdiction extends from one end of the country to the other.

Mr. McDADE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA), a very able member of this committee.

Mr. REGULA. Mr. Chairman, when I speak to school groups, I like to say to the students that as citizens of the United States their share of the public lands owned by this great Nation amounts to about 3 acres, and even though they have an undivided one/two hundred twenty-five millionth of the total, if you take the public land and divide by the population, it figures out to about 3 acres per citizen of this Nation.

The management of this great resource of our people is vested in this Congress and particularly in the Subcommittee on Interior in terms of allocation of funds for the management purposes. Perhaps the importance of land and the resources that go with it are more fully emphasized in the recent global 2000 report to the President of the United States, in which it is pointed out that by the year 2000, the world land assets are going to be seriously overtaxed. As I recall, the population estimates by 2000 are somewhere in the neighborhood of 6.3 billion.

☐ 1240

In this report that looks into the future, it is emphasized that the need for productivity on our land resources throughout the world will be especially great. Therefore, we in the Congess, particularly through the activities of this subcommittee in this bill, have a great responsibility to the future to manage the land resources well. The 750 million acres plus of public lands are really untold treasures in terms of our Nation's wealth. The forest, the mineral wealth, the water and the management of the water resources, the grazing in the case of some portions of the public lands are all vital to the ability of ourselves to feed and maintain not only people in the United States, but the rest of the world.

In this report it is pointed out that among other things, there is going to be an increasing shortage of fiber, particularly of wood.

Again, contained in this bill, and I appreciate the support of the chairman and the ranking member in this area, are the resources to manage our forests well. I think the forest assets covered by this bill will continue to grow in terms of importance. Wood fiber is a renewable resource and in this day and age when we are so painfully conscious of the shortages in the resources such as petroleum that are not renewable, suddenly we realize how precious the soil and the products that it produces are.

We are stewards of the land as a people today and we have a tremendous responsibility to future generations to leave them the same potential we have in terms of the ability of our land to produce.

We heard the statements during discussion of the agriculture appropriations bill about how vital our agricultural resources are. Much of the world depends on the United States for fiber, for food, and for the things produced by the water and soil of our Nation.

What we have attempted to do in the appropriations process in the Interior Subcommittee is make sure that we manage this heritage well, that the generations that follow will have access to the necessary resources. Particularly, and this is on a more short-term basis, the cost of housing has escalated considerably. Part of that is due to the increased cost of wood fiber. The national forests are a very great part of our wood fiber resources. Therefore, it is extremely important that we put the necessary funds into forest management practices.

This bill contains the necessary funds to do that, to have a renewable resource, to manage our forests in such a way that our consumption is no greater than our production, to have a sustained yield.

Mr. Chairman, I urge all my colleagues to support this appropriation. It is one of the things that we do in this Congress that is extremely constructive in terms of the Nation's food and the heritage we owe to future generations.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have yielded myself this time for the purpose of engaging in a colloquy with the chairman of the committee.

Mr. Chairman, I want to express my concern, and I know that it reflects that of the chairman, that as we try to encourage our industries to convert from oil and gas to coal, that the Department of Energy utilize the latest available technology that demonstrates how to burn coal in environmentally acceptable ways. To that end, our subcommittee has substantially increased funds for fossil fuels, atmospheric fluidized bed boilers, industrial cogeneration and commercialization demonstrations.

I would like to ask our distinguished chairman if the institutional-sized industrial coal-fired atmospheric fluidized bed boiler exemplar in the Nation's Capital is a prime industrial demonstration that could demonstrate cogeneration of electricity as an integral part of the project?

Mr. YATES. Well, Mr. Chairman, as far as I know, on the basis of the information that has been furnished me, I would think it would be reasonable for the Department to consider the addition of cogeneration.

I would hope that they would consider it to see whether the additional capacity could advance commercialization and the implementation of industrial cogeneration.

Mr. McDADE. Mr. Chairman, I thank my friend, the gentleman from Illinois. I feel the same way. Cogeneration is one of the main conservation measures we can immediately implement and one which has received a great deal of attention in our deliberations. It seems to me that the quicker we move ahead with it, the better the Nation will be.

I thank my chairman for his response.

Mr. YATES. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. McDADE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, insurance on official motor vehicles, aircraft, and boats operated by the Bureau of Land Management in Canada; and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; $10,000 for payment, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the general fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended on a reimbursable basis for (1) surveys of lands other than those under the jurisdiction of the Bureau of Land Management and (2) protection of lands for the State of Alaska: *Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangeland productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within 30 days after receipt of a final grazing allotment decision or 90 days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within 2 years after the appeal is filed.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. YATES. Mr. Chairman, I make a point of order against the language on page 6, line 23, beginning with the word "Provided" through page 7, line 18.

Mr. Chairman, is this the appropriate time to make the point of order?

The CHAIRMAN. This is an appropriate time for the gentleman from Illinois to make that point of order.

Mr. YATES. Mr. Chairman, I make the point of order against that language, because it is in clear violation of clause 2, rule XXI, that no appropriation shall be reported in any general appropriation bill for any expenditures not previously authorized by law or contain any provision which changes existing law, except if the language shall retrench expenditures. These provisions not only do not retrench expenditures, but impose significant additional administrative duties and functions on the executive branch that are not currently authorized by law. The Bureau of Land Management would be required by law to review on a case-by-case basis each action taken to reduce livestock grazing on public domain lands and to process each appeal of reductions in excess of 10 percent within 2 years after the appeal is filed. As I indicated, these additional administrative functions and responsibilities have no basis in law.

The CHAIRMAN. The gentleman from Illinois raises a point of order. I assume that is to go to the period on line 18, page 7.

Mr. YATES. The Chair is correct.

The CHAIRMAN. And beginning with the word "Provided" on line 23, page 6.

Mr. YATES. Following the word "Provided."

The CHAIRMAN. Following the word "Provided."

Mr. YATES. Line 23, with the "Pro-" and divided on line 24 and then continuing through the words "appeal is filed" on line 18 of page 7.

The CHAIRMAN. Does any other Member care to be heard on this point of order? If not, the Chair is ready to rule. The Chair rules that the language is legislative in nature and the point of order is sustained.

The Clerk will read.

The Clerk read as follows:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations protection, and utilization of sport fishery and wildlife resources except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; and maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, $225,354,000, of which not to exceed $4,000,000 shall remain available until expended: *Provided*, That funds in this appropriation may be used to issue regulations that will permit modification to the habitat of a threatened or endangered species when the net effect of the modification is equal to, favorable to, and not adverse to the protection of the species.

□ 1250

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: Page 11, line 17, strike out "$225,354,000" and insert in lieu thereof "$226,054,000".

PARLIAMENTARY INQUIRY

Mr. LUJAN. Mr. Chairman, it was my understanding the Committee was going to rise at this time. Is that correct?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman.

Mr. YATES. The Committee does not intend to rise at this point unless the gentleman is going to call for a vote. Personally, I would like to hear what the gentleman has to say. I think it may be possible to work this out.

Mr. LUJAN. Mr. Chairman, this amendment adds $700,000 to the resources management section of this bill. The reason for this is that $700,000 have been taken out in order to reduce the regional office of the Fish and Wildlife Service in Albuquerque to an area office, and to move the regional office up to Denver.

What will happen in that case, Mr. Chairman, is that the regional office today services Arizona, New Mexico, Oklahoma, and Texas. That is an area of approximately 1,500 miles wide from east to west. If we are going to close this and combine it with region 6, we are going to end up with a regional office that extends all the way from the Mexican border to the Canadian border. I do not know how many miles that is, but that is a substantial amount of territory that will be serviced by this office.

The reason they say they are doing this is because they want to save money. So they say they are going to save $700,000. In the first place, if we are going to reduce an office from a personnel level of about 200 down to an area office with a personnel level of 15, and they say they are going to give an opportunity to everyone that is working there to relocate, then we are not going to move 200 people or 185 people from Albuquerque to other places and still call that a savings. That has not been taken into consideration.

It is a false savings anyway, Mr. Chairman, because there is no reduction of personnel for the Fish and Wildlife Service. It simply is combining more territory to be serviced by one office.

Let me also say, Mr. Chairman, that it is particularly bad to take the Albuquerque Regional Office for closure instead of one of the other offices. I do not want to pick on any of the other offices, but in Albuquerque there is not the opportunity for these 200 employees to move to other Federal agencies. In Denver for example there is a multitude of agencies. As a matter of fact it is getting so congested in Denver with Federal agencies that they are moving their research laboratory out of Denver because the GSA is objecting to them having all of those wild animals within the city limits.

Private enterprise provides a good, good opportunity in place like Denver or Atlanta or some of the other regional offices. Those opportunities are not present in the Albuquerque area. We can say that people are going to move and that is all right for the professionals, the engineers, the realty specialists, the finance officers who could move to other regional offices around the country, but that is not the bulk of the employees. The bulk of the employees are in the low levels of Government.

So, Mr. Chairman, my amendment calls for restoring these $700,000. If the Fish and Wildlife Service gets the $700,000 back, that is out of a figure of $225 million. When we talk about $700,000 in that context, it is not a very big amount. So let us put the $700,000 back into the bill, leave the operation as it is, which no one is complaining about. It is just that they say they are going to save $700,000, and that is false anyway because there is no savings.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman.

Mr. YATES. There has to be some savings because the gentleman proposes to put $700,000 back in the bill. Would the gentleman permit the office to remain open without putting the money back in?

Mr. LUJAN. I woud be happy to accept what will happen if the Fish and Wildlife Service says that without the $700,000 they will not be able to put it in, and that is the only vehicle.

Mr. YATES. But that is a savings, then, is it not? They are saving $700,000.

Mr. LUJAN. That is what they say, but where is the savings going to come from if no one is going to be let go, if the personnel level is not going to be reduced? Where are they going to save if they have to move people all across the country? As a matter of fact, I will tell the gentleman that it is probably going to be more expensive. I think this is just a shuffling of the cards around that really does not make a lot of sense, and it is going to be a terrible impact, I will tell the gentleman, a terrible impact upon those young people there in Albuquerque.

Mr. YATES. I respect the gentleman's argument. I think he may have a point.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(At the request of Mr. YATES and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

Mr. YATES. If the gentleman will continue to yield, I think the gentleman maybe has a point. What I would like to do is have an opportunity of discussing this with the Fish and Wildlife Service itself to see what additional expenses would be, what the total would be, and what the additional burden would be to Denver. I am impressed by the gentleman's arguments. May I say that if I find that the Service has not been able to provide us with the kind of a case that the committee thought it had provided for, I would be willing to listen sympathetically to such an amendment in the other body.

Mr. LUJAN. Let me tell the gentleman that this whole reorganization is due to go into effect on the 1st of August. Let me discuss this with the gentleman a little bit, if I may.

Mr. YATES. May I say to my friend from New Mexico, we would propose to discuss this within the next day or two with the Fish and Wildlife Service and if, as the gentleman says, it would create such a hardship, and it would not result in the savings that the Service says would be saved, I think perhaps something could be worked out.

Mr. LUJAN. Could we do this, could I just visit with the gentleman a little bit, and could we do this, could the gentleman agree to put the $700,000 in, discuss it with the Service, and see if they can do it without the $700,000? If they cannot, then I will join the gentleman and we will take it out.

Mr. YATES. Why do we not just let the other body put it in with that kind of an agreement? I think it would be better that way because I do not really want to open up the bill if I do not have to open up the bill. I would tell the gentleman I am very serious and would speak to the Service about this and see what the impact would be in reference to the gentleman's statement.

Mr. LUJAN. The gentleman has always been very cooperative. I know that the gentleman is concerned and so I will do that.

Mr. YATES. If the gentleman will yield further, I want to assure the gentleman that we will be in touch with the gentleman with respect to our conversations with the Service very promptly.

Mr. LUJAN. I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

□ 1300

Mr. PATTEN. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman a question. Looking on page 71 of the committee report in the bottom paragraph, it looks to me as if fuel cells are limited to 40 kilowatts. Is it correct that the technical development of future concepts is not limited to just 40 kilowatts?

Mr. YATES. If the gentleman will yield, the gentleman is correct.

Mr. PATTEN. I thank the gentleman.

Mr. CONTE. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I have been a member of the Appropriations Committee for all of my 22 years in the House and for most of these years I have served on the Labor-HEW, Transportation, and Foreign Operations Subcommittees. I am naturally well acquainted and quite fond of these particular subcommittee bills. This year was only my second opportunity to sit with the Interior Appropriations Subcommittee in consideration of their bill and I must say, Mr. Chairman, that this is a bill close to my heart and one which I believe is very, very important to the American people. It deserves our support.

It has been a pleasure to work with the chairman, the gentleman from Illinois (Mr. YATES), one of the most outstanding Members of the House of Representatives.

Mr. YATES. Mr. Chairman, will the gentleman yield on that true phase he just uttered?

Mr. CONTE. I yield to the gentleman.

Mr. YATES. I thank the gentleman for yielding. I just want to say it has been a pleasure to work with the gentleman from Massachusetts (Mr. CONTE) as well. It has been one of the delights of my service in the House to be able to work with the gentleman.

Mr. CONTE. I appreciate those kind remarks.

And, of course, it has been a pleasure to work with my ranking minority member, the gentleman from Pennsylvania, (Mr. McDADE). I have tremendous admiration for both of these men and respect both of these men for their knowledge of the programs in this bill and for the cooperation they show in getting the job done.

Mr. McDADE. Mr. Chairman, will my friend, the gentleman from Massachusetts, yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding. I just want to thank my friend, the gentleman from Massachusetts (Mr. CONTE), for his kind comments. But I want to say to him that he may have spent 22 years on Labor-HEW, and, God bless him, on Foreign Operations and Transportation, but for 22 years he has taken a keen interest, a vital interest in this particular bill. Now as ranking member he sits and helps us mark up the bill and helps us shape it and make it a better bill. But even when he was not the ranking member, he was a member of the committee. I have been on it for 16 years, and for 16 years I have known the gentleman's intense interest in the natural resources of this country, whether they be our woodlands, wildlife refuges, energy programs, or whether it be the destiny of the petroleum reserves so vital to our security. I want to commend him for all of his attention to these details.

Mr. CONTE. I certainly appreciate all those kind remarks.

Mr. Chairman, the Interior and related agencies appropriations bill is a very special bill because it is through this bill that we protect the heritage of this Nation. No duty, except perhaps that of national defense, is so important to the American people than the protection, enhancement, and proper management of our natural and cultural resources. These resources, which include our national parks and forests, scenic rivers, mineral deposits, and wildlife habitat, are the treasures of this land. They are for the most part irreplaceable.

The Government may use "per capita income" to define our standard of living but I believe most Americans see the richness and vastness of this Nation's natural resources and their continuing access to these resources as a better indicator of our standard of living.

The bill before us contains funding recommendations for the programs and activities of many diverse agencies including the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, the Forest Service, the Smithsonian, the National Foundation for the Arts and Humanities, and much of the Department of Energy. More meaningful, however, than the list of agencies funded in this bill are the examples of how moneys appropriated for the various programs are actually being utilized to protect and enhance our living environment.

Of special meaning to me are the funds made available in this bill for the restoration of the Atlantic salmon, a prized food and sporting fish; funds to protect from development of the Appalachian Trail so that our children may continue to enjoy access to one of the most memorable outdoor recreation opportunities along the east coast; and funds to breathe new life into a once almost forgotten mill town which is exemplary of American life during the industrial revolution. An examination of this bill will yield hundreds of other examples of how these programs are having a tremendous impact on our understanding and appreciation of this Nation's natural and cultural heritage.

Nevertheless as important as this bill is to the preservation of our natural and cultural resources, it also serves another immediate and vital purpose. That purpose is the promotion of economic growth and stability. Many of the Federal activities supported in this bill actually return money to the Treasury. The committee report indicates that more than $10.7 billion in revenue receipts are expected to be generated by various activities supported in this bill.

Also as I mentioned earlier, this bill funds many of the programs of the Department of Energy. The committee's recommendations with respect to the programs of DOE were made only after the most careful study of program accomplishments and tireless questioning of administration witnesses. All of the committee's recommendations are geared toward developing as quickly and efficiently as possible this Nation's domestic energy capacity.

You will recall that last year during consideration of the fiscal year 1980 interior appropriations bill, the committee identified the need to move forward as quickly as possible with a viable synfuels program. We asked your indulgence and your cooperation in allowing us to include in our bill the language and funds necessary to get a synfuels program off the drawing board. You gave us your support and because of your support, this Nation has in operation today a synfuels program. This year we are asking for your indulgence, cooperation, and support again. It is a matter that once again touches on our domestic energy independence. I am referring to the need to develop a leasing program for private exploration of the national petroleum reserve in Alaska.

The national petroleum reserve in Alaska is one of the few remaining relatively unexplored onshore areas of the United States with potential for a significant discovery of oil. It has been said that the possibility exists of a find on the NPRA as large as that on Prudhoe Bay. Yet, despite all that such a find would mean to our domestic energy program, the administration has proposed time and time again to terminate Government exploratory drilling and thus discontinue any further exploratory activity on the reserve until such time as private leasing activities can take over, a delay which is estimated to be at least 30 months.

The committee agrees with the administration that exploration and development of the reserve by the private sector is preferable to continued Government drilling but we cannot agree with the administration that all exploratory activity should cease for whatever length of time it might take to get the necessary authorizing legislation—which is presently tied to the Alaska lands bill—through the Congress and then to gear up a private leasing program.

Given our dependence on an uncertain world oil market, the potential of the national petroleum reserve for domestic energy supplies is just too important to the energy security of this country to discontinue exploratory activities altogether. It is also too important an issue to remain a bone of contention between the Congress and the administration any longer.

Therefore, the committee has made the difficult decision not only to provide funds not requested by the administration to allow for continued Government exploratory activities on the NPRA but also to include in this bill the necessary authority to put into motion a private leasing program on the reserve.

The Rules Committee has granted us the rule we requested to bring this matter before the House. I hope you will give us your support so that we may seize this opportunity to resolve this matter and to take action which the American people will recognize as significant and in their best interests.

I urge your support of H.R. 7724.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address, if I may, a comment to the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. YATES). I note in the bill and in the committee report there are some $54 million dealing with the Redwood National Park expansion. In the committee report I note that there are some funds that would be set aside to deal with the cruises in that area. My staff has led me to believe, and the National Park Service staff—and I have conferred with them and have had my staff's view confirmed by an appropriate person of the Justice Department—that to fully fund as best they do understand this cruise, which is in the best interests of protecting the taxpayers' interests, the amount of $5 million rather than $4 million is necessary. It would not be my intention to offer an amendment to increase the overall amount, but it is my intention, if I can succeed in this respect, to ascertain if the distinguished chairman, the gentleman from Illinois (Mr. YATES) would be willing to see that $5 million rather than $4 million be made available for such a cruise.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding. Certainly the committee is as anxious as is the gentleman from California that the appraisals on the lands and timber taken by the Government for the Redwood Park should be done as expeditiously as possible. It was for that reason that the committee placed in the bill $50 million above the budget. We believed it was only fair that compensation be paid, and it was obvious that this would certainly be a minimum payment for what would ultimately have to be paid by the Government for acquiring the land. The committee at the time received assurances that the $4 million for cruises would be adequate. If $5 million or more is necessary, those moneys should be spent because the surveys and the cruises have to be completed. That is the only way this whole package can be completed fairly for the former owners and the Government. I would assure the gentleman that if $5 million or more is needed and the Senate restores the $1 million or whatever amount of money is necessary to perform the cruise as promptly as possible, I am quite sure that our committee would look favorably on that.

Mr. PHILLIP BURTON. Where are we in the event they stay with the same $54 million figure?

Mr. YATES. If the gentleman will yield further, I would venture to predict the Senate will put in whatever amount is appropriate. I would say the information we have at the present time is that $4 million is not inadequate.

Mr. PHILLIP BURTON. I will not pursue this item further. I fully respect the gentleman from Illinois and our colleague, the gentleman from Pennsylvania (Mr. MCDADE), and their concern in this respect.

There is one other footnote I would like to add that is a little more of a self-serving note rather than one that is perhaps of the greatest national import. That is, given all of my duties and the rest of the concerns regarding the National Park System, I find myself in a regrettable current situation that I hope will be corrected as this legislation works its way through the other body and in the conference committee and as it reaches the President.

According to conversations with the land acquisition person in the western region, Point Reyes has virtually no money at all that is unobligated. That circumstance I gather is altered from the timeframe within which the subcommittee sought information, and the GGNRA as of this minute has only $1 million in unobligated moneys that will be obligated entirely before the end of the year. Both of these units, the Golden Gate more than Point Reyes, need some acquisition money and there literally is none available except for reprograming the amount of $600,000 that in itself is not adequate. Finally, the administration did recommend that there be some $1.4 million for development in the Golden Gate National Recreation Area. I would hope that the administration request could be respected by the other body, and if it is, would be accepted by the House.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PHILLIP BURTON was allowed to proceed for 1 additional minute.)

Mr. PHILLIP BURTON. I would like to just make or underscore two points with respect to the GGNRA. As I am sure my colleagues know, it is now the most visited unit of the National Park System, bar none, and in this day of the need to conserve energy, to me it is evident that we should be sure that these units of the National Park System right within the bowels of a major metropolitan area like the San Francisco Bay area, should have adequate development. We are confronted in the instance of Fort Mason, one of the units of the Golden Gate National Recreation Area, with the fact that without the $1.4 million requested the reclamation will not proceed. Half of this land has been resodded, with the old, temporary war housing having been torn down, and the half nearest Bay Street has sand dunes swirling about, getting into the windows of a great amount of passing traffic. So they have need for some money to just resod the balance of Fort Mason and put up a few picnic tables.

I take full responsibility for not having brought this emphatically to the subcommittee's attention, but I hope it can be corrected.

The CHAIRMAN. The Clerk will continue to read.

The Clerk continued to read the bill.

□ 1310

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent to return to page 8, line 17 of the bill for the purpose of permitting the gentleman from Minnesota (Mr. OBERSTAR) to offer an amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENTS OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer amendments, and I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(The portion of the bill to which the amendments relate is as follows:)

LAND AND WATER CONSERVATION FUND

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including $7,708,000 for administrative expenses of the Heritage Conservation and Recreation Service during the current fiscal year, and acquisition of land or waters, or interest therein, in accordance with the statutory authority applicable to the State or Federal agency concerned, to be derived from the Land and Water Conservation Fund, established by section 2 of said Act, as amended, to remain available until expended, $392,185,000, of which (1) $228,745,000 shall be available for payments to the States in accordance with section 6(c) of said Act; (2) $1,135,000 shall be available to the Bureau of Land Management; (3) $35,166,000 shall be available to the Forest Service; (4) $16,420,000 shall be available to the United States Fish and Wildlife Service; and (5) $103,011,000 shall be available to the National Park Service: *Provided*, That not to exceed $6,000,000 of the amount provided for State assistance may be available as a contingency reserve to be administered by the Secretary to meet unforeseen needs of the States.

Notwithstanding any other provision of law except as may be expressly provided in specific limitations of section 6(f)(1) of the Land and Water Conservation Fund Act of 1965 (Public Law 88–578, 78 Stat. 897, as amended (16 U.S.C. 4601 8(f)(1) 1976)), no payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal grant-in-aid program or activity, and no financial assistance may be given under any other Federal grant-in-aid program or activity for or on account of any project with respect to which such assistance has been given or promised under this part. For purposes of this section, the term "Federal grant-in-aid program or activity" has the same meaning as "grant or grant-in-aid" under the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201(6)). The Secretary may make payments from time to time in keeping with the rate of progress toward satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurances from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

The Clerk read as follows:

Amendments offered by Mr. OBERSTAR: Page 8, line 25, strike out "$392,185,000" and insert in lieu thereof "$394,685,000".

Page 9, line 3, strike out "$35,166,000" and insert in lieu thereof "$37,666,000".

Page 34, line 20, strike out "$881,821,000" and insert in lieu thereof "$883,971,000".

Page 34, line 20, strike out "$193 539,000" and insert in lieu thereof "$195,689,000".

Page 35, line 4, strike out "$405,465,000" and insert in lieu thereof "$405,665,000".

Page 35, line 5, strike out "$21,789,000" and insert in lieu thereof "$21,889,000".

Page 35, line 6, strike out "$389,181,000" and insert in lieu thereof "$381,281,000".

Mr. OBERSTAR. Mr. Chairman, the purpose of these amendments, which I offer en bloc, is to restore to the request for the Boundary Waters Canoe Area Wilderness, funds that have been promised by this Congress in passing the BWCA Wilderness Act. That act converted to total wilderness the Boundary Waters Canoe Area in my district. In that act the Congress made commitments to buy out resorts which would be adversely affected, to develop recreational opportunities in the balance of the Superior National Forest outside of the wilderness area, and to improve the timber harvest throughout the balance of the Superior National Forest outside of the BWCA.

Those are three specific commitments for which funds were assured by this Congress in passing the Wilderness Act. The people of my district did not want the wilderness proposition. They wanted to be left alone. Or they preferred, in the alternative, legislation that I offered. We did not prevail in this body.

Mr. Chairman, this body, in passing the wilderness plan, made a commitment to make whole the people of the area who would be adversely affected.

Mr. Chairman, I will discuss those amendments in the order in which they are offered. First, the resorts. The resorts that cannot use motorboats in the summertime for their clientele, who cannot use snowmobiles during the winter months to serve their clientele in the Boundary Waters Canoe Area and who have lost business, which is off as much as 60 percent in many areas. Some resorts just have flatly had to close. They cannot operate under these restrictions.

The Government has said, "We will buy you out under those conditions," and yet the administration asks for only $1 million to buy out the resorts this year. Some 14 resorts are asking to be bought out at a cost of $3.5 million, for which appraisals in many cases have already been made, negotiations are in various stages of completion within the U.S. Forest Service and now the administration pulls back and says, "We will not put out the money to buy the resorts."

Mr. Chairman, what these small business people have is a license to starve. They have not the wherewithal to continue operations. The Government will not buy them out. They cannot get a small business loan from the Small Business Administration. They cannot get a bank loan. They are just simply going down the tube with no help.

Mr. Chairman, what I think is only fair and only just is that this Congress restore the funds for the buyout of the resorts.

The second area. Timber and timber haul roads. A commitment was made to develop the resources outside of the Boundary Waters Canoe Area in the balance of the Superior National Forest and the Chippewa National Forest so we would have adequate timber supplies for the pulp and paper industry in northern Minnesota and for the saw timber required for lumber mill operations. The administration again refused to put adequate funds into the budget to fulfill that commitment.

Mr. Chairman, to get into the forest, to undertake the logging and to improve the timber in the forests, you need timber haul roads and that requires up-front money which is the most costly aspect of timber harvesting. I am asking $400,000 for the Forest Service in addition to the rather modest amount that is in the bill to open up those areas, to provide access to the pulpwood and saw timber stands.

Finally, Mr. Chairman, in the area of recreation: All of the people who live on the fringes of the Boundary Waters Canoe Area, whether it is on the north shore of Lake Superior, up along the Gunflint Trail in the eastern reach of the BWCA, or along the Fernberg Road, the access area from Ely, or farther west in the Lac La Croix area have been denied motorized access to all but a few of the BWCA lakes. They were told during the 1978 BWCA debate, that there is an abundance of recreational potential on the Superior National Forest outside of the BWCA. The Congress said: "We will make access available to you so that you can have campgrounds and recreation opportunities and hiking trails and snowmobile trails outside of the Boundary Waters Canoe Area," and they have done not a thing. Nothing has been done outside this wilderness area to accommodate the interests of the people who live there year round and who have been denied motorized access to the BWCA.

Mr. Chairman, the subcommittee has been very helpful on this appropriation matter. I want to commend the chairman of the Interior Appropriations Subcommittee, the gentleman from Illinois (Mr. YATES) for the courtesy with which he has received our appeal for funds and the gentleman from Pennsylvania (Mr. McDADE), who has been most understanding, as well as the other members of the subcommittee. They have been constrained by this reluctant administration budget. This inadequate, penurious, impecunious budget. All I am saying is, restore the equity that was promised to the people of the district that I represent.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. This is not an enormous request, it is not an overburdensome request, it is not going to break the budget, but it is a measure of equity. I know the gentleman from Illinois has been understanding and very considerate. The gentleman has tried, within the constraints of the overall budget, to be accommodating. However, you have to live in northern Minnesota during the winter months and experience the emptiness and the loneliness of a long winter with limited outdoor activity. The wilderness advocates wanted silence in the Boundary Waters Canoe Area. My goodness, they have it. There is not a sound. The people are not going in there and the resorts are going out. The towns on the fringes of the BWCA have experienced economic hardship: I'm speaking of the smallest businesses which are dependent upon the tourist trade.

In the summer months, not only the resorts cannot operate economically, but the local residents have limited recreational opportunities of which to avail themselves for their summer vacation from working in the taconite plants in the area.

☐ 1320

So, I just make this appeal, that this modest sum which I have included in these three amendments be included in the budget.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FISHER) having assumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 509 PROVIDING ADDITIONAL PROGRAM AUTHORITY FOR EXPORT-IMPORT BANK

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 757 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 757

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank, in the House as in the Committee of the Whole.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Missouri (Mr. TAYLOR) for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 757 provides for the consideration of House Joint Resolution 589 in the House as in the Committee of the Whole. Thus, under this rule, we will dispense with general debate but the joint resolution will be debatable and open to amendment under the 5-minute rule.

Mr. Speaker, the House joint resolution provides additional program authority for the export-import bank. The Eximbank is financially self-sustaining and operates at a profit. It receives no appropriations, but Congress does limit its total program activities, its direct loan program, and its administrative expenses in annual appropriations acts.

The Eximbank has reached its spending limit for its direct loan program and has therefore had to defer some $2 billion in loans for U.S. exports.

The Appropriations Committee has recommended in House Joint Resolution 589 an increase in total program activity for the Eximbank of $525,750,000 for a grand total of $5,873,095,000. Of the increase, $251,000,000 would be for direct loans and $274,750,000 for guaranteed loans, bringing the total direct loan authority to $4,001 million, with the remaining loan authority for guaranteed loans.

Mr. Speaker, this legislation is vital to the American economy. It supports American exports by providing direct loans to foreign purchasers of U.S. goods and services. The dollars never leave the United States, however, because they are disbursed to the U.S. supplier at the time of shipment. The loans are then repaid in the United States in dollars, with interest.

The guaranteed loan program provides guarantees against political and commercial risks to U.S. private financial institutions on their loans to foreign purchasers of U.S. exports. There is also an insuranace program which insures the U.S. exporter directly for political and commercial risks on export sales.

In the last fiscal year, the Eximbank supported $13.6 billion in U.S. export sales. Since every billion dollars of exports supports some 40,000 U.S. jobs, these exports generated approximately 544,000 American jobs. In turn this generated billions of dollars paid in taxes to Federal, State, and local entities by workers and their companies. The Eximbank paid $35 million in dividends last year to the U.S. Treasury from profits through interest on its loan program.

This is the kind of program that all of us can support with enthusiasm. I urge adoption of House Resolution 757 so that the House may proceed to the consideration of House Joint Resolution 589.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 757 provides for the consideration of House Joint Resolution 589, which increases the program authority for the Export-Import Bank by almost $526 million for the current fiscal year.

Under this rule, the joint resolution will be considered in the House as in the Committee of the Whole, a procedure that is used occasionally to simplify floor action by greatly reducing general debate.

According to the parliamentary footnotes to section 424 of Jefferson's Manual, the modern practice of the House for this procedure is that the joint resolution will be considered as having been read for amendment and will be open for amendment and debate under the 5-minute rule. There will be no general debate.

This means that unless there are amendments, and the managers of the joint resolution expect none, the House will move immediately to the question of passage.

As the Members will recall, $30 million in additional program authority for the Export-Import Bank was dropped from the 1980 supplemental appropriations bill (H.R. 7542) when a controversy developed over foreign aid funds.

The Export-Import Bank does not receive an appropriation, but the Congress does place a limit on its total activities in the annual appropriations acts and the Bank is included in the Federal budget.

The Bank is currently operating under a continuing resolution which provides for a total program activity level of $5,347,345,000. House Joint Resolution 589 from the Committee on Appropriations, provides for a total program activity level of $5,873,095,000. This is an increase during the remainder of fiscal year 1980 of $525,750,000.

The rule was supported by minority members of the Committee on Appropriations in testimony before the Committee on Rules, and there is apparently no disagreement on the need for the adoption of the joint resolution.

Mr. Speaker, having no further request for time, I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7591) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Whitten).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7591, with Mr. Vento, Chairman pro tempore, in the chair.

☐ 1330

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, title VI was open to amendment at any point. Pending was an amendment offered by the gentleman from Ohio (Mr. Miller).

The Chair recognizes the gentleman from Maryland (Mr. Mitchell), who had 1 minute remaining.

The Chair notes that the gentleman from Maryland is not present.

Does any other Member seek recognition?

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. Without objection, the gentleman from Mississippi (Mr. Whitten) is recognized.

There was no objection.

Mr. WHITTEN. Mr. Chairman, as I pointed out earlier, the Miller amendment to this bill and a similar amendment to other bills have been offered by the gentleman from Ohio (Mr. Miller) for a number of years. But in this instance we are dealing with the subject under somewhat different conditions, due to the fact that we have imposed on the Congress a budget ceiling.

The amendment as offered would fall more heavily on the nonmandatory activities of the Department, which would tend to cut the things that make food available for the child feeding and other nutrition programs.

The reduction that may be made by the amendment as offered would not necessarily go into the Treasury. We now have a budget ceiling as I pointed out earlier. We spend about 12 straight hours without a break in an effort to reconcile the supplemental appropriations bill. We had to go back, after we thought we had gotten through it, and make further reductions against our wishes to maintain a balance between the overall restrictive ceiling and the amounts that we recommended in the conference between the House and Senate.

When we brought the bill back, as the record will show, amendments were offered, and the savings that we made were practically all taken up by an amendment that was first adopted and then set aside. That would have taken the savings we had made and applied them to increases in foreign aid.

Whatever the merits of that may be or whatever the merits may be in the next instance, I would point out that the savings here, after this committee has worked all these years and reached a conclusion as to how far we should go, may not be realized. This bill is under the budget, and it is under the budgetary ceiling as set by the target and by the restrictions proposed by the Congress, and which are subject to further agreement yet.

We are now asked to make this percentage cut which would apply in some instances and not in others. I think we should vote it down this time because it is my belief it would not necessarily have the effect the gentleman from Ohio (Mr. Miller) thinks it would. I do not think it would be sound to make a reduction here in this appropriation bill which looks after the Nation, its soil, its water, its timber, its ability to produce food, and its biggest earner in world trade. This is the biggest market for industry and labor, and it is the chief bargaining weapon the American people have in the way of purchases.

Mr. Chairman, to further restrict that activity, when the funds could well be used by some other agency or department as may be determined by the Congress, is not wise. It makes me believe the amendment under present conditions would be wholly unsound, and I trust it will be defeated.

The CHAIRMAN pro tempore. Is there further discussion on the amendment?

If there is no further discussion, the question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The amendment was rejected.

The CHAIRMAN pro tempore. Are there other amendments to title VI?

The Chair will inquire, does the gentleman from Mississippi seek recognition?

Mr. WHITTEN. Mr. Chairman, I make the point of order that a quorum is not present.

Earlier, Mr. Chairman, it was announced that we would convene at 2 o'clock. I am afraid some of our friends may have taken that announcement as seriously as I did at the time because they have not returned, so I make the point of order of no quorum.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. ANNUNZIO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. ANNUNZIO. Mr. Chairman, a vote is not pending after the quorum call? The Chair has already ruled on the Miller amendment?

The CHAIRMAN pro tempore. The gentleman is correct.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 442]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
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Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
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Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
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Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
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Michel
Miller, Calif.
Miller, Ohio
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Mitchell, Md.
Mitchell, N.Y.
Moakley
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Moorhead, Calif.
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Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
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Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
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Railsback
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Robinson
Rodino
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Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

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The CHAIRMAN pro tempore. Three hundred and sixty-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 51, after line 26, insert the following:

SEC. 613. No part of any appropriation contained in this Act shall be expended, by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I just wanted to ask the gentleman from Virginia (Mr. HARRIS) whether or not he had cleared this amendment with his friend, President Carter.

I withdraw my reservation of objection, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, the amendment I am offering today is a simple amendment, yet it would have the effect of insuring that contract actions which violate existing law and regulations will not be funded through appropriations under this act. It has been drafted in order to conform to the House rules in that it merely requires adherence to existing law and regulations.

An investigation by my subcommittee has exposed numerous instances of agency noncompliance with revised OMB Circular A-76, which is executive branch policy guidance for acquiring commercial or industrial products and services, and OMB Circular A-120, which provides guidelines for the use of consulting services. These revised guidelines were issued by the Office of Federal Procurement Policy under authority granted by Public Law 93-400.

A-76 requires that determinations concerning the source of commercially available products and services shall be based on the results of a rigorous, uniform cost comparison analysis. The purpose of this policy is to insure that the taxpayers receive the best return on their tax dollars.

On Tuesday, Department of Energy officials informed my subcommittee that a $5 million support service contract was let in May of 1980 without the benefit of the required cost comparison analysis. DOE officials were unable to explain why the requirement was ignored a full year after its effective date. This is just one of many examples which my investigation has uncovered.

At the same hearing we discovered that the Department of Energy was improperly using contract consultants in the formulation of national policy in violation of circular A-120. Most shocking of all was the revelation that these very same consultants who were improperly influencing national energy policy have undisclosed ties with the energy industry and the OPEC oil cartel.

Noncompliance with existing requirements is not limited to the Department of Energy. GSA spent a quarter of a million dollars more than necessary on a contract because of restrictive personnel ceilings in direct violation of A-76. HEW awarded 1,203 contracts during the 5-month period subsequent to the effective date of A-76. None of these actions were based on the required cost comparison analysis.

The list goes on and on.

Perhaps the most frustrating problem I have encountered in my year and a half investigation of Federal contracting is the lack of complete and accurate information concerning the extent of the Government's contracting activity. Although regulations require procurement actions to be reported to a central repository (Federal Procurement Data Center), a recent GAO report prepared at my request shows that agencies have not fulfilled this requirement.

In fact, when I requested a list of contractual obligations for fiscal year 1979 for all executive agencies, HUD was listed as showing no contractual obligations for that year.

I can understand why an agency can have startup difficulties in establishing a new program. But I cannot understand or condone noncompliance with a direct legislative mandate fully 5 years after that mandate was enacted into law.

The amendment I am offering would have the effect of requiring adherence to legislative mandate and executive regulation in these vital areas. It is time for this Congress to use its power over the purse strings to insure that its mandates are effectively implemented. I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. Does the gentleman from Indiana (Mr. MYERS) wish to pursue his point of order?

Mr. MYERS of Indiana. After understanding which amendment is being offered at this time, Mr. Chairman, I withdraw my reservation.

AMENDMENT OFFERED BY MR. WHITTEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HARRIS

Mr. WHITTEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN as a substitute for the amendment offered by Mr. HARRIS: On page 51, after line 26, add the following new section:

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

Mr. WHITTEN. Mr. Chairman, the amendment as offered provides that at the end of it, "and regulations promulgated thereunder."

In my experience here I have seen many regulations that were not authorized by the law under which they were supposed to have been issued. I have been in conferences where the Members on the other side of the Capitol insisted that regulations had the force of law, and yet the regulations derived their power from the act itself, and if the act did not provide for the regulations, the regulations were out of order.

So what I attempt to do is strike out the last line, "and regulations promulgated thereunder." I would hope that the author of the amendment might accept it, because goodness only knows, in view of my experience, and I am sure in the gentleman's also, we have no way of knowing what kind of regulations would be issued under any clause here. That being true, I would hope that the gentleman would accept the amendment to his amendment. If so, I would in turn agree to the amendment, as amended.

Mr. HARRIS. Mr. Chairman, would the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I think the amendment is preferable the way I offered it, but I have such a deep abiding respect for the chairman of the Committee on Appropriations, and I find his assistance in these matters so invaluable, that I would accept his amendment.

Mr. WHITTEN. I appreciate the gentleman's kind statement.

The CHAIRMAN. Let the Chair clarify the situation.

Now that I have seen it in writing, I understand the gentleman's amendment is a substitute, not an amendment to the amendment. So after debate, the vote will be first on the Whitten substitute, unless there are further amendments offered.

☐ 1400

The question is on the amendment offered by the gentleman from Mississippi (Mr. WHITTEN) as a substitute for the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on amendment offered by the gentleman from Virginia (Mr. HARRIS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 51, after line 26, insert the following:

SEC. 614. In the case of any agency which has, for the period beginning on October 1, 1980, and ending on July 31, 1981, obligated less than 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, the amount of funds which shall be available to such agency and which may be apportioned to such agency under section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) for the period beginning August 1, 1981, and ending September 30, 1981, shall be reduced by an amount equal to 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, reduced by the amount of funds obligated by such agency under this Act during the period beginning on October 1, 1980, and ending on July 31, 1981.

Mr. MYERS of Indiana. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The gentleman from Indiana (Mr. MYERS) reserves a point of order on the amendment.

Mr. HARRIS. Mr. Chairman, I rise to offer an amendment to the agriculture, rural development and related agencies fiscal year 1981 appropriations bill. My amendment would establish firm controls over wasteful yearend spending sprees by limiting agency spending to 20 percent during the last 2 months of the fiscal year.

My Subcommittee on Human Resources has conducted an intensive investigation and received testimony from a wide variety of groups, individuals, and Government agencies concerning the problem of yearend spending. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, much of the funds are being pushed out in the final weeks of the fiscal year on questionable contracts, grants, and other spending.

GAO investigations, done at my request, are documenting the fact that funds are being diverted from the purpose laid out by Congress, causing millions, perhaps billions, of dollars, to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal has stated that yearend spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The administration has expressed concern about this wasteful yearend spending and has repeatedly issued directives to agencies in an effort to curb the abuses. Each summer since 1977, President Carter and OMB Director James McIntyre have urged agencies to avoid yearend spending sprees. Despite these directives, the yearend spending remains a major abuse. In fiscal year 1979, seven major Federal agencies spent more than 20 percent of their single year appropriations in the last 2 months of the fiscal year: 47.2 percent at HUD, $16 billion; 41.7 percent at EPA, $2.2 billion; 22.9 percent at HEW, $14.3 billion; 30.3 percent at Commerce, $907 million; 23.1 percent at Interior, $1.3 billion; 22.1 percent at Postal Service, $3.2 billion, and 22.8 percent at DOT, $1.4 billion. If these seven agencies had limited spending to 20 percent in the last 2 months of the fiscal year, they could have saved $13 billion. I am convinced that a substantial portion of this amount could have been returned to the Treasury with minimal adverse effect on congressionally mandated programs.

In addition, I recently received a GAO study which I requested because of my concern that in-house capability was not being considered prior to contracts being let for consulting services. While the report showed that in-house capability was indeed not considered in many instances, it also noted that 54 percent of the consulting contracts examined were awarded during the final quarter of the fiscal year. In fact, 35 percent of those actions were initiated during the final 90 days. Senator PRYOR and I have been working closely on the widespread problem with consultant services and we hope to introduce legislation in this area later this month.

I have also requested a major GAO study specifically on yearend spending which is due to be completed in June. An interim report, which I received from the GAO on May 1, documented further evidence of the serious problem of yearend spending at HUD. According to GAO, HUD has been overstating its legal commitments at the end of a fiscal year and then canceling them later. The HUD procedure reflects the "use it or lose it" attitude of Federal agencies to commit any remaining funds at yearend so that Congress will not trim their budget the following year. It has also allowed HUD to create a multibillion dollar surplus of funding authority at a time when Congress is struggling to trim Federal expenditures and balance the budget.

Quite simply, the flurry of obligations at the end of the fiscal year is a very poor management practice. Increased yearend obligational activity places Government negotiators in a very poor bargaining position and results in contracts and grants being let and goods being purchased without adequate consideration. This "rush" to award contracts and grants seriously impairs the objectiveness as well as the thoroughness of the proposal evaluation process. In addition, I am particularly concerned that a large number of the contracts being let at the end of the year are sole-source to big firms ostensibly based on "unique qualifications' and "time exigency." This type of yearend giveaway effectively bars firms without the "connections" and is "wired" against small businesses, which do not have the "inside track."

Direct congressional action to halt the yearend spending sprees must be taken. The waste clearly has not been eliminated administratively. As a matter of fact, it appears that while OMB has been monitoring outlays, it has been ignoring obligation rates. It makes no sense to me for OMB to check funds already "spent" while ignoring the even more important task of monitoring funds which could be saved. As a result, the practice of obligating "use it or lose it" funds at the end of the fiscal year has continued unabated.

Congressional support to limit yearend spending has been widespread. The House and Senate Budget Committees have included language in the fiscal year 1980 second concurrent resolution stating:

> The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at the yearend . . . the conferees urge the appropriate committees to consider the need for language in FY 81 spending bills to control the obligation rates for federal programs or consider alternative legislative remedies for this program.

The conferees for the second budget resolution clearly felt Congress must take action to eliminate yearend spending abuses in all Federal agencies. In the report on the budget for fiscal year 1981, the House Budget Committee reaffirmed its concern about yearend spending and recognized that it is an area where savings can be made.

In addition, the Department of Defense has had a yearend spending limitation on its annual appropriation bill since 1953. And the Department of Health, Education, and Welfare had a yearend spending limitation in its fiscal year 1980 appropriation bill. Finally, my legislation—H.R. 4717 and H.R. 7287—to control yearend spending has bipartisan support from over 75 Members.

A yearend spending limitation has also been endorsed by the General Accounting Office in recent testimony before the Government Operations Committee:

> We support the temporary use of a limitation on yearend spending as a means of conveying Congress concern—not only with yearend spending itself—but with the need to strengthen the budget execution procurement process.

At a time when Congress is struggling to trim Federal expenditures and balance the budget, we cannot ignore this uncontrolled area of Federal spending. The abuse in yearend spending is widely recognized—let us not let it continue in fiscal year 1981. I strongly urge your support of my amendment to the agriculture, rural development, and related agencies fiscal year 1981 appropriations bill, H.R. 7591.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I would be happy to yield to my colleague, the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding. I again rise in support of the amendment addressing yearend spending abuses. If we are truly interested in saving taxpayer dollars, this is an important initiative and an important first step in resolving many of the abuses involved in contracting out.

So many of our agencies circumvent our budgetary limitations by this abuse that it needs attention by the Congress.

I applaud the gentleman's initiative and join with him and urge my colleagues to support the amendment.

Mr. HARRIS. Mr. Chairman, I thank my colleague for his comments.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I would be happy to yield to my colleague and good friend and ally here in the House of Representatives.

Mr. MYERS of Indiana. Mr. Chairman, we all understand what the gentleman is attempting to do.

I ask the question: Can the gentleman give this committee assurances that there will be a savings if the amendment is adopted?

Mr. HARRIS. I do not think there is any question that there will be a savings.

Mr. MYERS of Indiana. How much savings would it be?

Mr. HARRIS. Mr. Chairman, if I may answer the question, we have conducted an extensive survey by our own subcommittee and the General Accounting Office has just yesterday turned over a report that indicates that there is a potential savings of millions, perhaps billions of dollars, if this type of discipline is placed on such expenditures.

How much will be saved next year, I cannot give that figure; but I can tell the gentleman that if this provision had been in law in fiscal year 1979, we would have saved $13.2 billion.

I am saying that if we put this discipline on this coming year, we are going to save millions, perhaps billions of dollars, by putting the proper type of management discipline on expenditures.

Mr. MYERS of Indiana. Mr. Chairman, if the gentleman would continue to yield, the gentleman uses words as "perhaps" or "could." That is not really definite.

We could have all of it, I guess, by not appropriating it. What assurances do we have that there will be a savings?

Mr. HARRIS. The assurances I can give to my colleague, are the assurances, No. 1, of the General Accounting Office that supports this type of legislation and the assurance of the former Secretary of the Treasury who says that we can save millions, perhaps billions of dollars, if we put this kind of discipline on.

Mr. MYERS of Indiana. Well, Mr. Chairman, if the gentleman would continue to yield for one more question.

Mr. HARRIS. I would be happy to yield.

Mr. MYERS of Indiana. There are funds appropriated and provided for in this appropriation bill that carry forward from previous years and will carry forward from this fiscal year. A number of those funds provide that they will be made available until expended. What will happen to those funds?

Mr. HARRIS. Exactly the same thing as would happen to any funds; it would not stop them from being carried forward.

May I say to my colleague, this has been a surprising thing to me, that even the no-year funds, the funds that did not expire, would get obligated in the last months of the fiscal year. I knew, it was clear to me why they were obligating the other funds—in the last months of the fiscal year was because they were going to lose them. It was the old "use them or lose them" philosophy.

But why were they hurrying up on no-year funds. In the case of one department obligating almost 28 percent of their funds in the last months of the fiscal year?

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, the answer is that they want to come back to Congress and say, "We have used it all up, so appropriate some more."

What I am saying to the gentleman is that the funds will continue to carry over. They just simply cannot obligate them in a rush in the last months of the fiscal year.

Mr. MYERS of Indiana. They would be carried over so they would be available the next fiscal year then?

Mr. HARRIS. Exactly.

Mr. KAZEN. Mr. Chairman, will the gentleman yield for a question?

Mr. HARRIS. I would be happy to yield to my colleague, the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, let me ask the gentleman if he cannot conceive of a situation that would make it an emergency that they have to spend more than this particular percentage during the last 2 months. If any emergency in say the international picture changed and we have to use some of this money in a hurry and it happens to be in the last 2 months, will this provision in the law prohibit the department from spending that kind of money?

Mr. HARRIS. I think this is an excellent question and a question that obviously is the first thing that a responsible legislator must address.

First. This limitation applies to the agency agencywide. It does not apply to individual programs.

Second. It does not apply to any supplemental funds that are appropriated. It applies only to those funds appropriated in this act.

Third. We can, I am sure, in negotiations with the other body, come up with waiver provisions of the type that are in the legislation that I have introduced. It is not appropriate for us to try to do it here today on the floor in this environment, but it can be done. I want to go on record as personally supporting such an approach.

Mr. KAZEN. Well, Mr. Chairman, I appreciate the gentleman's attitude, because that may be the case, not as a regular thing, but there may be an emergency of some type somewhere down the line.

Mr. HARRIS. I agree with my colleague, there could be.

Mr. KAZEN. I just do not want that absolute prohibition in the law in the face of an emergency.

I appreciate the gentleman's answer.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague, the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I want to support what my colleague, the gentleman from Virginia, is proposing. This is a change, a reform long, long overdue.

Those of us who have lived in the midst of the bureaucrats for many years know this full well. There is no question about it.

I want to point out that what this does is prevent the rush to spending at the end of the fiscal year. Frequently that is not planned and is ill-considered spending and ought not be be done.

Now, if an agency has really got its program planned out, as it should, ahead of time, it will not be hurt by this amendment. It can spend over the period of the 12 months in an orderly planned way the full amount.

☐ 1410

So the amendment does not hurt the agency that is really doing a careful job. It is intended to check this last rush of spending, just to get the money out so as to be in a position to get more next year. It is well designed to do just that.

Furthermore, the proposal does permit somewhat more in the last 2 months, 20 percent, than a strict monthly prorated amount would be, which would come to 16⅔ percent. It does allow that amount of flexibility, but does not open the gates wide to the agency that is poorly managed or trying to pull a fast one on the Congress.

So I do, indeed, support my colleague's proposal. It is long overdue and I think we ought to pass it as an amendment to this appropriation bill and on all of the other appropriation bills for which it would be logical.

Mr. HARRIS. I thank my colleague for his comments and yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. WHITTEN. Mr. Chairman, it is my understanding the point of order is still pending.

The CHAIRMAN. The gentleman is correct. It is. Does the gentleman insist on his point of order?

Mr. MYERS of Indiana. I do, Mr. Chairman.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. MYERS of Indiana. I desire to be heard.

POINT OF ORDER

Mr. MYERS of Indiana. Mr. Chairman, this amendment, as the author has expressed here, is not new to us. It has been around. On two previous questions similar language has been held not in order.

The gentleman has seriously attempted to remedy the problems he had with the previous amendments but, Mr. Chairman, I think neither the form nor effect of a limitation is really a limitation in this case. It is a straightforward direction to the executive.

Whether this amendment is in order appears to depend on the application of the Holman rule, as the gentleman explained it. This is an exception to rule XXI, clause 2, which permits germane legislation, which I will challenge in a moment, which entrenches expenditures by one of three methods specified in the rule.

The methods are: First, by the reduction of the number and salary of the officers of the United States; second, by the reduction of the compensation of any person paid out of the Treasury of the United States; and third, by the reduction of the amount of money covered by the bill.

This amendment does change existing law—that has been conceded by the author of this amendment—where none exists today. It does not, however, affect or reduce the number or salary of officers of the United States, nor does it reduce the compensation of any officer of the United States or any person paid out of the Treasury, on the face of it.

The question then comes as to the last question: Does it qualify under the third rule and does the amendment retrench expenditures by the reduction of amounts of money covered by the bill, as retrenchment has been defined by the precedents of the House?

Mr. Chairman, the amendment would operate as follows: If, during the first 10 months of the fiscal year 1981, any agency obligates less than 80 percent of the funds available to that agency for that year, then and only then would the apportionment to that agency in the last 2 months of the fiscal year be reduced. Not during the entire year, but it is the last 2 months.

In this regard, I respectfully direct the attention of the Chair to section 844 of the House Rules and Manual, and I quote:

> The reduction of expenditure must appear as a necessary result in order to bring an amendment or provision within the exception to the rule.
>
> It is not sufficient that such reduction would probably, or would in the opinion of the Chair, result therefrom.

One of the precedents cited in Cannon's Precedents, volume VII, section 1530, where the Chairman of the Committee of the Whole, William L. Wilson of West Virginia, referred to a ruling in the 44th Congress which concerns the question and the point of order before the Committee at this time.

I speak from what Speaker Kerr laid down on the rule which was:

> * * * that in considering the question whether an amendment operates to retrench expenditures, the Chair can look only to what is properly a record before him—that is, the pending bill, the specific section under consideration, the law of the land so far as it is applicable, and the parliamentary rules and practice of the House; and beyond these he is not permitted to go in deciding the question.

Mr. Chairman, based on the record before the Committee, the amendment changes existing law and this, the gentleman concedes, and we all do, affects agriculture at the date of the enactment of this bill.

Also based on the record before the Committee, any retrenchment of the expenditures under this amendment is wholly speculative, not assured, depending on the rate of obligation of an agency during the first 10 months of the year. A speculative and conditional retrenchment of expenditures is not consistent with the doctrine of retrenchment as defined by the precedents of the House.

Mr. Chairman, as the gentleman has said, there is a possibility that a year from today or a year from tomorrow, on the 31st or the 30th day of July, would be the first month in the last quarter as the General Accounting Office usually apportions these bills. At that time and only at that time would we know if this amendment would take effect and, even then, it would take some calculations on the part of the Executive to go back and refigure just how much they had spent. In fact, it would be contrary to every rule we find here, Mr. Chairman. It would put it right down to the last moment.

Now, Mr. Chairman, I think there is a question of germaneness. If the gentleman will allow me to proceed, the amendment directs that the apportionment made to an agency be reduced. Apportionments are made to an agency by the Office of Management and Budget, an agency not included in this bill.

The amendment affects funds and activities in other acts, clearly, as explained in the gentleman's amendment and, therefore, is not germane to this bill. It does affect other bills.

So, Mr. Chairman, under all of these precedents of the House pertaining to the Holman rule, which the gentleman has brought this amendment, the point of order should be sustained, that the amendment is out of order on an appropriation bill for the Department of Agriculture and other related agencies.

The CHAIRMAN. Does the gentleman from Virginia wish to be heard on the point of order?

Mr. HARRIS. Yes, Mr. Chairman.

Mr. Chairman, I, with all due respect, can tell and very much suspect the weakness of my colleague's case by the length of his argument. Quite clearly this is a retrenchment amendment.

The procedure is quite clear. On a date certain a computation is made as to what percentage of the funds the agency has expended. At that point, of course, the 80-percent rule applying, which is a percentage certain, the one is subtracted from the other, and the total annual appropriation is then deducted by that amount.

I will give my colleague an example so he will understand it. If $1 billion is appropriated in the bill as a hypothesis, 80 percent of that is $800 million. If, as of August 1, only $700 million had been expended, that would leave $100 million, and the total annual appropriation would be reduced by that much so as to achieve a limitation of 20 percent in the last 2 months.

With regard to the precedents relevant to the amendment as drafted I would cite Deschler's Procedures, chapter 25, section 11:

> Section 11.5. To a bill appropriating funds for NASA [which had, under its authorizing legislation, authority to use appropriations for capital expenditures providing that the Committee on Science and Astronautics of the House was notified of the proposed expenditure], an amendment specifying that no funds therein appropriated could be used for capital items until 14 days after the notification required by law, was held to be a limitation upon the expenditure of funds and in order. 105 Con. Rec. 12125, 86th Cong. 1st Sess., June 29, 1959 [H.R. 7978].

In addition, the Chair stated:

> The amendment contains a period of notice of 14 days. However, this does not impose a new duty because it is a limit upon the expenditure of the funds within a period of 14 days.

Deschler's Procedures, chapter 25, section 11:

> Section 11.4. An amendment to an appropriation bill, terminating the use of funds therein after the passage of certain legislation pending before the Congress, is a valid limitation and in order.

If a valid limitation states that funds may be obligated after the occurrence of an unspecified event, then it is equally valid that only some of the funds can be obligated after a specific date. I would say that this is a case specifically in point.

Deschler's Procedures, chapter 25, section 11:

> Section 11.1. It is in order, by way of a limitation on an appropriation bill, to make an appropriation contingent upon a future event such as congressional action, so long as the contingency is germane to the appropriation and the restriction does not change existing law.
>
> Section 11.3. An amendment to an appropriation bill prohibiting the use of funds therein for stream channelization projects under the Secretary of Agriculture unless construction had begun by a date certain was held not to impose additional affirmative duties on the Secretary and in order as a limitation on the use of funds in the bill. 117 Cong. Rec. 21649, 92d Cong. 1st Sess., June 23, 1971 [H.R. 9270].
>
> Section 11.7. Notwithstanding legislation providing that funds when appropriated shall be available "until expended" or "without regard to fiscal year limitation," the Committee on Appropriations may nevertheless limit the availability of funds to the fiscal year covered by the bill absent a clear showing that the amounts in the general appropriation bill are required by law to remain available without such limitation. 120 Cong. Rec. 21040, 21041, 93d Cong. 2d Sess., June 25, 1974 [H.R. 15544].

□ 1420

While the Chair ruled that this amendment which limited the availability of funds to a certain fiscal year was held in order, it should follow that my amendment, which limits the availability of some funds to 10 months, should also be in order. I have additional precedents, Mr. Chairman, but the fact of the matter is this, this amendment is very germane to the bill. It is saving that we have a problem with regard to appropriation funds which we seek to correct by making sure that those funds are scheduled in an appropriate manner.

The question is then raised, are we certain, are we absolutely certain, that this will cause a reduction of funds? All of our experience, all of our investigations indicate that they will in fact cause a reduction of funds. They will cause a reduction of expenditures and make these savings. The fact, Mr. Chairman, is there have been points of order made against this amendment not because of the fear of what it would do to us procedurally but for a fear of what it would do to the Office of Management and Budget.

The Office of Management and Budget is like a little lady robin that builds her nest with a hole in the middle. She loves to lay eggs, but she just hates to raise little birdies. But the Office of Management and Budget, after it once forms a budget, hates to manage it. I am saying, Mr. Chairman, that we should have an amendment here that says we will not wait until the last 2 months and spend all the money appropriated, whether it is for a good cause or not. I think it is absolutely essential to hold this amendment in order, but if we do not, I have another one, Mr. Chairman.

Mr. MYERS of Indiana. Mr. Chairman, may I respond to the gentleman's response. On Monday of this week the Chair ruled that a similar almost identical amendment offered by the gentleman was out of order, and in that ruling the Chair ruled that the burden of proof was for the author to present his case and prove his case. Now the gentleman from Virginia (Mr. HARRIS) has made a valiant attempt here to justify and prove his point. However, the citations he has given to us are not relevant to the amendment he is offering today.

I close with this from Jefferson's Manual, citing section 844 under the Holman Rule Retrenching Expenditure.

> The term "retrenchment" means the reduction of the amount of money to be taken out of the Federal Treasury by the bill, . . .

The gentleman earlier conceded that there would not be any reduction of the amount of money taken out of the Treasury available for use at a future date, so the bill would not comply with the requirements of the Holman rule.

Second, and I quote again from the same proceedings:

> Legislation to bring about the particular retrenchment which in turn shows on its face an expenditure the amount of which is not apparent, the Chair is unable to hold that the net result will retrench expenditures.

Mr. Chairman, this is exactly what the case is here. On its face there is no apparent assurance that there will be retrenchment. There will be no savings in the Treasury, by the admission of the author of this amendment. Respectfully, Mr. Chairman, I urge the Chair to sustain the point of order

Mr. WHITTEN. Mr. Chairman, I agree with my colleague, the gentleman from Indiana (Mr. MYERS). I would like to add a little icing to the cake. I have not studied the authorities in connection with this amendment as has my friend, the gentleman from Indiana (Mr. MYERS), but I have read the amendment. Let me read it to you.

> In the case of any agency which has, for the period beginning on October 1, 1980, and ending on July 31, 1981, obligated less than 80 percent of the funds.

Than you restrict it. So the amendment is directed to early spending. As many of us realize, we are operating on borrowed money. Money is not taken out of the Treasury until it is spent. This amendment would cause them to take the money out early, that is, in the first 10 months. As a result you start early the payment of interest on the money. So may I say not only is the gentleman correct that it does not save money on the face of it, but there is the temptation to spend even more money.

Mr. MYERS of Indiana. Certainly, Mr. Chairman, there is not a retrenchment under anv definition for retrenchment.

The CHAIRMAN. Does the gentleman from Virginia wish to be heard further?

Mr. HARRIS. No, Mr. Chairman.

The CHAIRMAN (Mr. CORMAN). The Chair is ready to rule.

The gentleman from Indiana makes the point of order that the amendment offered by the gentleman from Virginia constitutes legislation on an appropriation bill and does not constitute a retrenchment on expenditures so as to fall within the Holman rule exception allowing certain legislation to be added to an appropriation bill.

The Chair is aware of the precedents cited by the gentleman from Indiana, which stand for the proposition that in order to constitute a retrenchment, the language of the amendment or paragraph must show an apparent and not a conjectural reduction of the amounts carried in the bill. The Chair does not feel that those precedents stand for the proposition that the amount of the reduction must be specific and certain at the time the amendment is offered. The reduction of amounts in the bill available for expenditure will be a certainty, under the amendment, as of July 31, 1981.

As indicated in volume VIII, Cannon's Precedents, section 1491, if the obvious effect of an amendment is to reduce expenditures, it is not necessary that it provide for such reduction in definite terms and amount in order to come within the exception, which should be liberally construed in the interest of retrenchment.

In Cannon's VII, 1505 it was held not essential that the reduction may be effected instantly, but could take place at a future time.

Furthermore, all the language contained in the amendment directly contributes to the reduction of funds carried in the bill. The Chair would point out that the amendment specifically requires a reduction in funds available for use by agencies funded in the bill. It is confined to use of funds in the bill and is germane, and is clearly distinguishable from those precedents involving a change in the law which might retrench expenditures but which do not by their terms reduce appropriations.

The Chair overrules the point of order.

AMENDMENT OFFERED BY MR. WHITTEN TO THE AMENDMENT OFFERED BY MR. HARRIS

Mr. WHITTEN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Whitten to the amendment offered by Mr. Harris: Strike period and add: ", except that this limitation shall not apply to emergency or disaster programs of the Farmers Home Administration and the Agricultural Stabilization and Conservation Service and programs for the control of infectious or contagious diseases of humans and animals carried out by the Food and Drug Administration and the Animal and Plant Health Inspection Service.".

POINT OF ORDER

Mr. HARRIS. Mr. Chairman, I would like to make a point of order on that amendment.

The CHAIRMAN. Does the gentleman wish to reserve a point of order or raise a point of order?

Mr. HARRIS. I would just like to go ahead and make the point of order, win or lose.

I feel the amendment is clearly legislation on an appropriation bill and does in fact do violence to my amendment.

The CHAIRMAN. Does the gentleman from Mississippi (Mr. Whitten) wish to be heard on the point of order?

Mr. WHITTEN. It is an exception to the provision, I would respectfully submit. May I say that I notice the Chair's ruling did not cover the point that I made in connection with the point of order awhile ago, which was that if the money is not spent, there is the temptation to spend more money, and I do think that should have been covered, with all due fairness to my colleague.

We have provided that which the country badly needs, and while that does not go to the matter of the point of order, I would point out that in the absence of this section we would have a bad situation. Turning to Deschler's Procedure, chapter 25, section 9.7:

> An exception to a valid limitation in a general appropriation bill is in order, providing the exception does not add language legislative in effect.

I do not consider that this adds legislative language to the amendment. It is an exception to the limiting provision as offered. I respectfully submit that it is in order and should be considered.

The CHAIRMAN (Mr. Corman). The Chair is ready to rule.

An exception to a limitation or a retrenchment which does not add legislation is clearly in order under the precedents, and the point of order is not sustained.

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Chairman, I shall not dwell on my own interpretation of the language, which has been dealt with. I do say that since the amendment before us could impose restrictions which might lead to tying the hands of the Government in meeting emergencies and disasters, and since it could well strike at the soundness of the Agricultural Stabilization and Conservation Service, and programs for the control of infectious and contagious diseases of humans and animals, then certainly if the amendment is to be considered by the House I think we would clearly improve the gentleman's amendment by these exceptions. If the exceptions do not occur, they cannot meet them. If they do, I think we all can agree they should be made.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Does my colleague feel that we can in fact go ahead and adopt the amendment if these exceptions are placed?

Mr. WHITTEN. If these are accepted, I see no reason why not to.

Mr. HARRIS. Mr. Chairman, I feel that these exceptions are for an emergency nature and would not do violence to the basic purpose of the amendment, and I would be willing to accept the amendment.

□ 1430

The CHAIRMAN. Does the gentleman from Virginia withdraw his reservation of a point of order.

Mr. WHITTEN. Mr. Chairman, I can only speak for myself. I have no poll of the committee, but since there has been provision on other bills for these exceptions, I personally would have no objection.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I will speak on the amendment by the gentleman from Virginia (Mr. Harris). I do not think anyone would disagree that we need to put some kind of protective mechanism in, avoiding the situation where an agency would on a crash program in the last month or two spend all the funds available to it if there were large sums of money concerned. I do not think there is any law we can pass or limitation that will legislate good sound judgment on the part of heads of agencies. I think that is really the remedy for all of our problems.

Mr. Chairman, the one thing that worries me about the amendment offered by the gentleman from Virginia is the fact that usually appropriated funds are apportioned by OMB by quarters.

His amendment does not provide for quarters so a year from now, in 1981 on July 31 or in the last week of July, suddenly an agency realizes it has not spent enough money and it then crashes into a program at that point to make sure they comply with the amendment of the gentleman. The amendment of the gentleman would not accomplish what the gentleman intends to accomplish, as desirable as that would be. In fact on May 15. the Committee on Government Operations issued a report on limitation of year-end obligations. Their conclusion on the amendment by the gentleman was that it may, but would not necessarily, save Government funds. It does not make clear to administrative departments and agencies that Congress is concerned about unwise expenditures accelerated in the last quarter. It is the committee's hope that money obligated in the last 2 months will be more wisely spent through more cautious careful evaluation.

We can do that by other means.

The chairman of the committee, the gentleman from Mississippi (Mr. Whitten) has attempted here and does have an amendment that would provide for escape for necessary agencies in the Department of Agriculture but I notice the gentleman has by no means covered all of them.

An example would be the Federal Grain Inspection Service. There is a possibility President Carter or a future President might lift the embargo against Soviet Russia and suddenly in October or September of next year, we would rush in to use all available ships in the shipment of grain, thereby causing FGIS to have an extra burden at that particular time.

The amendment presented by the gentleman from Virginia (Mr. Harris) would not permit the Department of Agriculture to hire these people and put them on board.

The Federal Crop Insurance Corporation could well have a disaster. I hope not. They could have a disaster in the last quarter and that could pay out large sums of money and be responsible for administrative loan programs and insurance programs.

The Commodity Credit Corporation dealing with losses is not protected under either of the amendments.

Earlier in the week or rather, last week, when we were considering the appropriations for State, Justice, Commerce, and the Judiciary, I did not object to a similar amendment offered by the gentleman from Virginia because with the type of apportionment they have in State and Justice, I did not feel it would cause particular problems. However, I think this will seriously tie the hand of agencies within the Department of Agriculture to do a good job and to do the most economical job. We are pushing them to spend unwisely when money might not need to be spent at that time.

Mr. Chairman, I think good supervision by committees of this Congress can do a better job than any legislation.

Mr. Chairman, respectfully, I hope we will defeat both of these amendments because I do not think the amendments will accomplish what either Member intends for them to accomplish. This is the important thing. We want money to be spent wisely. Only good supervision and good administrators can do this. This legislation will not provide this.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, the gentleman makes a point that what is likely to happen is that agency heads who now commit money in a rush in the last part of September, under the bill being considered, would simply move that back a couple of months and have a rush to spend money 2 months earlier.

Mr. Chairman, the foregoing is possible but, as a former administrative officer in a Federal agency, my reaction would be, "If I do that, they will just move it back another month or so. The thing for me to do is get my house in order and pace out the spending, except for the emergency type things, pace out the spending over the full 12 months."

Mr. Chairman, that is exactly what we want to make happen. This would impose on the agency greater discipline and planning in their expenditures.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. Mr. Chairman, I cannot take exception to what the gentleman says. The admission is that the amendment will not do what the author thinks it will do or what the author intends for it to do. I think this is obvious on the face of it. This is the reason I raised the retrenchment because under the true context it is not retrenchment and I am sorry to see the Chair did not rule on that particular objection that we posed. It was somewhat out of context with the point of order. Nevertheless, I am not going to challenge the Chair on that ruling. I would rather speak to what it will accomplish or actually do. The amendment will not do what is expected of it.

I cannot speak for other committees but our Committee on Appropriations always asks the agency about the spending pattern. We have had agencies tell us they did not spend their money and returned the money to the Treasury.

There are agencies downtown that are willing to do a good job and try to protect the taxpayers' dollars. We have not done it through legislation but again I reiterate, these amendments will not do what the authors are attempting to do.

Mr. Chairman, none of us will disagree with the intent of the amendments.

Mr. FISHER. Will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, my colleague from Virginia (Mr. HARRIS) is not so much trying to prevent spending no matter what. He is trying to prevent spending that is rush, last minute, wasteful spending. That is the important point to keep in mind here.

Mr. MYERS of Indiana. It is just a matter of when wasteful spending occurs, I maintain.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the chairman of the Committee on Appropriations.

Mr. WHITTEN. Let me say, I did not sponsor the amendment as such but since it has been ruled in order, the exceptions I presented were the ones that came to mind.

I would point out that the gentleman has made a point here that I think is well founded. I would point out, however, the Commodity Credit Corporation is not a Government agency. It is a corporation and is governed by a corporate charter. The gentleman's amendment would not affect that. I think, again, this amendment will not do what the author thinks it will do but if it is to be in this bill I felt that these exceptions should be noted at this time.

Mr. MYERS of Indiana. I will substitute the Rural Clean Water Act, where you cannot dig water lines in January, February, and March in lots of areas in the country so you will have to spend the money when weather permits. This would cut funds off so you could not do that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. WHITTEN) to the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 13, noes 6.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SKELTON: On page 51, insert the following new section after line 26:
>
> SEC. 612. None of the funds appropriated by this Act shall be used to publish or to distribute copies of the publication entitled "Nutrition and Your Health: Dietary Guidelines for Americans", or in any way to publicize or disseminate any information concerning that publication, until such time as there has been a complete review of all conclusions contained in the guidelines and they have been established as fact.

□ 1440

Mr. WHITTEN. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. A point of order is reserved.

Mr. SKELTON. Mr. Chairman, the purpose of my amendment is to prevent the further publication and distribution of the pamphlet entitled "Nutrition and Your Health: Dietary Guidelines for Americans," pending a complete review of the nutritional advice contained in the pamphlet.

Mr. Chairman, when Congress authorized USDA to conduct nutritional research and disseminate nutrition information, it was our clear intent that any nutrition recommendations be based on conclusive research findings. Such is not the case with the dietary guidelines contained in the pamphlet issued in February. Indeed, contradictory research findings on several of the recommendations in the guidelines have left consumers more confused than ever about a proper nutritional diet, and have left farmers concerned about the Government's role in the release of recommendations based on insufficient or erroneous data.

As a case in point, let me quote from an April 4, 1980, letter to Secretary Patricia Harris of then HEW from Dr. James Sammons, executive vice president of the American Medical Association. In commenting on the dietary guideline relating to fat and cholesterol. Dr. Sammons wrote:

> High levels of blood cholesterol are associated with an increased risk of heart attack but the high blood levels of cholesterol do not necessarily reflect dietary practices.

The AMA reiterated this view on July 16, 1980, in testimony before the Subcommittee on Agriculture, Rural Development, and Related Agencies of Senate Appropriations Committee. Dr. Philip L. White, testifying on behalf of AMA. stated:

> A high blood level of cholesterol in individuals does not necessarily reflect or result from dietary practices.

He added further:

> The AMA believes that the USDA has a vital role to play in providing accurate information on food composition and dietary practices for the healthy population. Certain recent USDA ventures into "nutrition" policymaking have not well served the American consumer (or the agency), however, because they have not been based on sound science and have not promoted indisputable

> information. The consumer would be best served by USDA's return to the valuable services it has historically provided. Despite the agencies' laudable intentions, we believe that publishing official government guidelines directed to the general public that reflect only one point of view is objectionable.

Likewise, a report entitled "Diet Modification: Can It Reduce the Risk of Heart Disease?" prepared by the American Council on Science and Health states as follows:

> No strong relationship has been established between specific dietary factors and coronary heart disease. Human studies have shown that recommendations of decreased dietary intake of saturated fats and cholesterol and increased intake of polyunsaturated fats are not enough by themselves to reduce the risk for developing coronary heart disease, or if coronary heart disease is already apparent, to improve the chances of survival.

In May of this year, only a few months after the issuance of the guidelines, the food and nutrition board, a panel of scientists formed by the National Academy of Sciences, issued a report concluding, among other things, that current scientific evidence does not show any reason for healthy Americans to cut their intake of fat and cholesterol to prevent heart disease.

In addition, Mr. Chairman, the Members of the House should be aware of the work of Dr. Margaret Flynn, professor of family and community medicine at the University of Missouri, Columbia. For the last 11 years, she has been keeping thorough records on the health and history of 600 faculty and staff members in a study designed to identify the risk of heart disease. I want to emphasize that this is a long-term study, using human subjects, not laboratory animals. Among Dr. Flynn's conclusion is that diet has little effect on the amount of cholesterol in the blood of a healthy person. This conclusion is based on the fact that her subjects could spend weeks eating a lot of high-cholesterol, high-fat foods with no change in blood cholesterol, provided they had normal cholesterol levels to begin with.

Mr. Chairman, the issuance of these guidelines was premature at best. It is akin to sentence being pronounced before the jury has come in. These guidelines have contributed to confusion about the proper role of diet and health, and they have helped cause further discouragement among our food producers who are already beset by record high production costs, low prices, and the effects of the grain embargo. Moreover, the guidelines raise the issue of the proper role of the U.S. Government in telling its citizens what they can and cannot eat and its farmers and the food industry just what kind of food they can produce. Certainly, if there is no conclusive scientific demonstration or even a consensus among scientists, the Federal Government has no business in this area. Such is the case with the dietary guidelines. Their publication and distribution should be suspended. I urge the adoption of my amendment.

● Mr. WAMPLER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Missouri.

The dietary guidelines represent the response by the Departments of Agriculture and Health and Human Services to the very legitimate concern of many American citizens about the food they eat and its effects on their health. In fact, I think it can safely be said that the concern of the public about the safety of its food supply represents more than just concern; it is indicative of a real hunger in this country to peg a cause for killer diseases.

However well intentioned the Departments may have been in releasing these guidelines, I feel the scientific base for some of the directives are faulty, or not proven, at least. Practically everyone can agree to such general directives as "eat a well-balanced diet," or "watch your weight," but when it comes to specifics on recommended safe cholesterol intake or sodium intake, there is wide variance of scientific opinion. We should be careful that the directives put forth in these areas are not given as absolutes; but rather, should be given in the cautionary vein of "in light of today's knowledge."

There surely will be much action in the food-consumer-health safety area in the 1980's. In such action the dilemma for both Government and industry will be to sort out real public demand from advocate demand for change and to assess real risk versus hypothetical risk. If Government and industry deal wisely with this dilemma, the reward will be a better informed, healthier public. We should not succumb to change for the sake of change.●

● Mr. GRASSLEY. Mr. Chairman, I rise in support of the amendment of my colleague from Missouri.

I join those who want to see the best available knowledge on nutrition made available for the consumer, but I think we have to be careful in the rush to get some nutrition information out to him that it is the best available, scientifically supported data that there is. I think we should stop short of making recommendations when there is variance of opinion and no clear-cut resolution of the issue can be determined, as in the diet/heart disease linkage area.

We certainly cannot say to the concerned consumer, "Take an aspirin and come back in 20 years when I may know the answer." But then, neither can we say with surety, "Reduce your cholesterol intake and you will not suffer from heart disease." Rather, in areas such as this, we must prescribe for the individual based on the best available knowledge, but pointing out that the prescription may not help and may even ultimately be proved incorrect.

It is also important to indicate that in most diet/health controversies, humans have different propensities for disease development. What is a safe sodium intake for one individual may not necessarily apply for another. Therefore, guidelines for the so-called "healthy public" must be taken simply as that, just guidelines; and individuals should seek the advice of their physicians for further refinement of the general directives.

There is a danger that Government-endorsed dietary guidelines will be perceived by the public as a cure-all for all major diseases. This simply is not so. Nutrition is a relatively young science; therefore, it is not astounding that there is little unanimity in much of its research findings. This is all the more reason why we should proceed with caution in making dietary guideline directives for the "healthy public."●

Mr. WHITTEN. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Would the gentleman like to be heard?

Mr. WHITTEN. Mr. Chairman, the amendment, section 612, which is presented by our colleague from Missouri provides as follows:

> SEC. 612. None of the funds appropriated by this Act shall be used to publish or to distribute copies of the publication entitled "Nutrition and Your Health: Dietary Guidelines for Americans", or in any way to publicize or disseminate any information concerning that publication, until such time as there has been a complete review of all conclusions contained in the guidelines and they have been established as fact.

Mr. Chairman, I make a point of order against the amendment on the grounds it proposes to change existing law and is legislation on a general appropriation bill and, therefore, violates clause 2 of rule XXI.

The gentleman's amendment mandates that none of the funds may be used until such time as there has been a complete review and I emphasize the word "until."

Mr. Chairman, I would like to cite Cannon's Procedures for the ruling of Chairman Frederick C. Hicks, of New York, on January 8, 1923, in which he stated:

> As a general proposition whenever a limitation is accompanied by the words "unless," "except," "until," "if," "however," there is ground to view the so-called limitation with suspicion, and in case of doubt as to its ultimate effect the doubt should be resolved on the conservative side.

Furthermore, Mr. Chairman, the gentleman's amendment would require several determinations to be made by the Executive. For example, the amendment specifies that none of the funds may be used to publicize or disseminate any information contained in the dietary guidelines. This requirement could result in a requirement for a detailed review of every document released by USDA or FDA including all scientific papers on nutrition research. The amendment also mentions "a complete review of all conclusions" and concludes with the requirement that they must "have been established as a fact." None of these determinations are required by existing law.

Chapter 25, section 11.2 of Deschler's states:

> Where an amendment, in the guise of a limitation, imposes additional duties on an executive, it may be ruled out as legislation on a general appropriation bill in violation of Clause 2 Rule XXI.

Therefore, Mr. Chairman, I ask for a favorable ruling by the Chair.

The CHAIRMAN. Does the gentleman from Missouri wish to be heard?

Mr. SKELTON. I certainly do.

There is nothing incumbent upon any Government agency to take the review upon themselves. They do not have to do it. It does not require them to do it, but it can only be published unless this distinction has been made.

☐ 1450

Mr. Chairman, this does not require additional duties. They may do nothing and hence not publish or not appropriate or spend money for this particular purpose. They do not have to do a thing. If they do a thing, they do not spend the money, and the taxpayers are not obligated.

The CHAIRMAN (Mr. CORMAN). The Chair is prepared to rule.

The gentleman from Mississippi (Mr. WHITTEN) has accurately stated the rules of the House as interpreted under the precedents, and the point of order is sustained.

Mr. SKELTON. Mr. Chairman, may I be recognized?

The CHAIRMAN. The Chair is going to recognize the gentleman from Maryland (Mr. MITCHELL), because when the Committee rose earlier, he had 1 minute remaining and there was some confusion about the time. The Chair feels obligated at this time to recognize the gentleman.

For what purpose does the gentleman from Maryland (Mr. MITCHELL) rise?

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL of Maryland. Mr. Chairman, let me state to my colleagues that through an unusual development, I was advised that the House would resume at 2 p.m. We were engaged in a colloquy on the amendment offered by the gentleman from Ohio (Mr. MILLER), and when I got back, I found that miraculously, the amendment had been acted upon even before 2 o'clock.

In my discussion with the gentleman from Ohio (Mr. MILLER) and other Members on his amendment, I was attempting to point out why I wanted to reduce the appropriation for the Department of Agriculture. I think I have made my initial points. I will reiterate them briefly.

We have a law, Public Law 95-507, signed into law by the President of the United States in 1978. The agencies continue to violate that law despite the fact that they all give lipservice to a White House Conference on Small Business, and despite the fact that the Members of this Congress are constantly standing up and defending small business, saying that it is the backbone of America, we are letting some of the agencies of Government simply violate the law.

I would suggest to the Members that one agency of Government that has done this consistently has been the Department of Agriculture. That is why I wanted to cut the appropriation.

Based on the vote on the amendment offered by the gentleman from Ohio (Mr. MILLER), my amendment would probably be defeated. Let me make one point. It is not just minority business we are speaking of; it is small business in general, small business and disadvantaged business. So it is white small businesses that are also being denied opportunities to participate because of the violation of law by the Department of Agriculture.

I just want to call the attention of the Members to one thing. It is my recollection that this House voted to deny incarcerated offenders certain Federal benefits. I think we did vote on that legislation, and we did deny them benefits. We have now an agency of Government which is an offender. It violates the law, and we are going to continue to give the money in an unabated fashion, thereby condoning this violation of law.

I think the Committee on Appropriations has a responsibility here. I really do, Mr. Chairman. I think when an agency comes before the Congress or any subcommittee of the Congress and says, "We have not complied with the law," the Committee on Appropriations ought to use its ultimate weapon, and that is to cut funds until such time as that agency is in compliance with the law. I know that the authorization committee has a responsibility, and I hope it will meet that responsibility in the next authorizing legislation.

What do we expect of the American people in terms of law and order if we let an agency or government defy the law with impunity and continue to fund it?

Mr. Chairman, this is a no-win battle for me, I know, and I am not going to press my amendment at this time. However, I commit myself to trying to get the agencies to be as law abiding as we demand our citizens to be.

Mr. Chairman, the Members of this body are all too familiar with numerous instances in which the intent of a law has been lost or circumvented during implementation. The amendment which I had planned to offer, but will not so do, is an attempt to address the issue of noncompliance with Public Law 95-507 by the U.S. Department of Agriculture.

Public Law 95-507 amends the Small Business Act and the Small Business Investment Act. It was signed into law by President Carter on October 24, 1978. Its intent is to afford small and socially and economically disadvantaged businesses the opportunity for full participation in this country's economic mainstream by facilitating the provision of greater opportunities for these businesses to secure a fair share of Federal contracts. The historical significance of Public Law 95-507 cannot be overstated. For nearly 10 years prior to the law's enactment, the Federal Government made hollow promises to assist socially and economically disadvantaged businesses. By way of illustration, these businesses received less than 2 percent of the total Federal procurement dollar in 1977. While small businesses had a far better record, they also suffered from a lack of full commitment by the Federal Government.

Nearly 2 years have passed since the enactment of Public Law 95-507. While a few agencies have taken initiative and are attempting to comply with the spirit and intent of this monumental law, the vast majority are continuing to ignore the will of Congress and the President of the United States.

The House Small Business Committee's Subcommittee on General Oversight and Minority Enterprise has a task force on minority business enterprise. As chairman of this task force, I initiated hearings on the implementation of Public Law 95-507. These oversight hearings began on April 10, 1979, and to date, we have heard from several agencies, including the Departments of Energy, Transportation, Defense, Commerce, and the Army. It is the very formidable objective of the task force to call in each and every Federal agency with procurement capabilities to see that the provisions of Public Law 95-507 will be implemented effectively and in an expeditious fashion.

I am disheartened that several of our agencies have either found ways to actually circumvent the intent of Public Law 95-507, or have merely avoided the law's implementation completely. I have with me an account of just how two agencies have blatantly violated this Public Law (attached—oversight hearings proceedings—Departments of Energy and Commerce). An overall assessment, of general agency compliance shows that in December of 1979 Federal agencies published solicitations and signed contracts worth nearly $4.5 billion which did not contain the subcontracting provisions mandated by Public Law 95-507. This failure was in direct violation of the law. In a follow-up hearing in February 1980, this figure had increased to $8 billion.

Small businesses are indeed the backbone of the U.S. economy. As clearly stated in the April 1980 White House Conference on Small Business "new and existing small companies in recent years have provided an astonishing 86.7 percent of the Nation's new jobs in the private sector." Quoting further, "through its inventive talents and endless experimentation, small business provides the seedbed for growth." Public Law 95-507 offers a unique opportunity to expand even further the role of small and socially and economically disadvantaged business in the strengthening of this country's economic fabric. Its passage and the subsequent oversight activities by the task force on minority business enterprise has added credence to the Congress examination of those forces which impact adversely upon minority businesses. Moreover, the law's passage and the validity of legislative oversight has provided the impetus for critical congressional involvement in seriously aiding minority and small businesses. It is indeed unfortunate that many of the Federal agencies to which we have delegated responsibility to enforce the laws of the United States fail to recognize the role of small and minority business in our economy.

The amendment before you will call for reductions in those departments within USDA which have procurement responsibilities and have failed to comply with Pubic Law 95-507. These reductions will constitute an approximate 2 percent overall reduction in the total appropriation for fiscal year 1981. The amendment focuses specifically on procurement activities within the Department of Agriculture so as not to detract any further from the available resources for the many excellent programs within this agency. I certainly realize and am supportive of the important activities which continue under the auspices of the the Department of Agriculture. However, this agency is one of several which has simply failed to comply with the provisions of a public law. In fiscal year 1977 the USDA awarded only 2.4 percent of its procurement dollar to socially and economically disadvantaged businesses.

In fiscal year 1978, this percentage decreased to 1.6 percent. Fiscal year 1979 showed that only 2 percent of the contracts awarded went to these businesses. Unless we find ways of encouraging compliance with this and other public laws which represent the will of the Congress and the U.S. President, we are making a mockery of the legislative process and oversight function, as well as, the complimentary relationship which is supposed to exist between the congressional and bureaucratic levels.

I do hope that my colleagues will carefully evaluate and consider the broad and specific implications of certain agencies' failure to comply with Public Law 95-507. Unless we check such failures, we run the risk of setting a dangerous precedent for the implementation of existing and future laws. Please join me in my effort to encourage USDA's responsiveness to the wishes of Congress, the President, and to small and socially and economically disadvantaged businesses in this country.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 51, after line 26, insert the following:

SEC. 612. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Mr. LEVITAS. Mr. Chairman, the amendment I am offering would prevent the use of any funds by the departments and agencies funded by this bill for the implementation of any regulations or actions which have been vetoed by Congress using the specific veto procedures provided by applicable law. This amendment is identical to the amendment which I offered, and the House accepted, on the State, Justice, and Commerce appropriations bill.

There are several programs and agencies funded under this bill which are subject to some sort of legislative veto. The Commodity Futures Trading Commission (CFTC) is subject to a congressional veto on the fees it is authorized to collect to cover the costs of regulations. Export controls on agricultural commodities are also subject to legislative veto. Under the terms of the Export Administration Act of 1979, the Secretary of Agriculture must approve any export controls the President wishes to impose because of short supplies of a commodity, and the Congress has the right to veto these controls, if it so chooses. Furthermore, the Child Nutrition Amendments of 1980 (H.R. 7664 and S. 2675) passed in both the House and Senate last week. Both the House and the Senate versions of the bill contain a provision for veto over rules and regulations issued in regard to child nutrition programs which are administered by the Department of Agriculture.

The basic issue here, however, transcends the question of legislative veto. Even the few Members who still do not support legislative vetoes, surely must support the doctrine of following the law when legislative vetoes are enacted and then duly exercised.

I have offered this amendment because the administration has stated its intention not to obey the law. This approach has been the position of the administration concerning legislative vetoes. But, this unfortunate circumstance became concrete after Congress recently vetoed four sets of regulations proposed by the Department of Education. In response, the administration, through Attorney General Civiletti and Secretary Hufstedler, announced a decision to ignore those vetoes. In short, the administration has said it will not obey the law, providing for legislative veto of these regulations, as it was duly enacted by Congress and signed by the President.

The law in this case is very simple. It is very explicit. It says that where both Houses of the Congress have adopted a congressional veto, the regulations become null and void.

However, the problem is not just with the Department of Education. It is the general policy of the administration. If they are wlling to disregard the law in one case, they will do so in others, according to their own statements. Hence, in the case of the Department of Agriculture, CFTC and other agencies covered by this bill where legislative vetoes exist, we must be sure the law is followed.

The administration's action makes the issue one of whether or not we in Congress are going to allow the law to be ignored. I do not believe any Member of Congress can stand by and allow our mandates to be treated in such a cavalier fashion. The Constitution of the United States requires the President of the United States to faithfully execute the laws. He is not given the authority to pick and choose those laws he wants to implement and those that he does not want to implement.

It is not for the executive branch to decide what laws will be enforced. There is a very important case that illustrates that point, Kendall against United States, decided by the Supreme Court in 1838. In that instance, the President of the United States directed the Postmaster General not to pay a certain sum required to be paid by Congress to a contractor with the Post Office, and in issuing the writ of mandamus, the Court said:

> To contend that the obligation imposed on the President to see the laws faithfully executed implies a power to forbid their execution is a novel construction of the Constitution and entirely inadmissible.

No, the President of the United States does not have the power or the right or the prerogative not to enforce the laws. Where such disputes exist the proper forum for resolving them lies within the court system and ultimately within the jurisdiction of the Supreme Court. The administration's questions about this provision of the law should be resolved in that arena, not by noncompliance.

Mr. Chairman, this is a simple proposition. Once a legislative veto has been exercised, it is a disobediance of the law by those charged with the responsiblity of executing the law to disregard it, and I do not think we ought to give them money to disobey the law. The only way we can effectively enforce these provisions of the law is to provide a limitation for fundng so that no funds can be used for purposes of implementing disapproved or vetoed actions.

That is the reason I have offered this amendment, Mr. Chairman. We are facing a significant challenge to our constitutional powers, and we must rise to meet it. My amendment will do so in a simple direct fashion. I urge every Member of this body to support its passage.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield to me?

Mr. LEVITAS. I am happy to yield to the committee chairman.

Mr. WHITTEN. Mr. Chairman, we have read this amendment, and if I understand it properly, I do not believe that I have any objection to it. I wonder at this time just what the full meaning of it might be, but as I interpret it, I personally would have no objection to it.

I do not know if this amendment has had the attention of my colleague, the gentleman from Indiana (Mr. MYERS), or not.

Mr. MYERS of Indiana. Mr. Chairman, if the gentleman will yield, apparently on the face of it, there would be no authority to appropriate funds for something that is disapproved anyway, so the minority has no objection to the acceptance of this amendment.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill and urge its passage.

Mr. Chairman, the report from the

Committee on Appropriations (Rept. No. 96-1095) to accompany H.R. 7591 contains language on the food labeling activities of the Food Safety and Quality Service and the Food and Drug Administration that requires further explanation.

Because controversy does exist as to the public health significance of many product ingredients, I believe agencies should regulate on the basis of proven medical and nutritional science. The purpose of food labeling is to provide unbiased and objective information so that consumers can make intelligent food choices. In order to insure that labeling is truly informative and objective, the agencies' food labeling revisions should be based on substantiated scientific evidence. In no instance should safe product ingredients be labeled selectively on the basis of controversial value judgments as to their public health significance.

Furthermore, I understand that the agencies plan to propose new food labeling regulations during the remainder of fiscal year 1980, and I would hope they be guided by the language in the committee's report for fiscal year 1981.

● Mr. FOLEY. Mr. Chairman, I commend the gentleman from Mississippi (Mr. WHITTEN) and the hard-working members of his appropriations committee for the serious consideration they have given to the problems of agriculture in developing their appropriations for fiscal year 1981.

Many serious problems confront us in food and agriculture today. Weighing priorities and apportioning scarce resources within the framework of a balanced budget is a frustrating and demanding task—yet an essential one. We owe a debt of gratitude to our colleagues for their conscientious efforts in developing the bill before us.

I cannot disagree with the essential outlines of this bill, recognizing the serious constraints we all must face in this difficult budget year. Yet there is one disquieting aspect of the bill which particularly bothers me. This is what I consider to be the inadequate funding of agricultural research, extension, and teaching proposed for fiscal year 1981.

We are dealing here not with a current cash-flow type of expenditure, which can be cut back in a belt-tightening year and compensated in a later year without lasting damage. We are talking about an investment-type expenditure which involves a cumulative building process essential to the long-range welfare of our food and fiber industry. We are talking about the technical lifeblood of our unparalleled U.S. food system.

For a number of years we have been draining the blood from this system through a process of hold-the-line budgeting which has not kept pace with essential cost increases. A year ago we took a step in the right direction by providing more meaningful increases for agricultural research, extension, and teaching programs. I was hopeful that we would build on this progress, at least modestly, again in fiscal year 1981.

Instead, the increase proposed for agricultural research in USDA is under 7 percent above fiscal year 1980—less than half the rate of inflation. Increases for basic formula-funded programs to the land-grant colleges average closer to 5 percent. And total cooperative research funds are 7 percent less than a year ago, reflecting the proposed complete elimination of the competitive grants program. Bankhead-Jones funds for agricultural teaching are unchanged.

Mr. Chairman, I believe we all should be concerned about this situation. The programs I have cited are not major dollar items in the agricultural budget—they are only 3.7 percent of the total. Yet they are items of critical importance to the future well-being of United States and world food supplies.

Recently a group of independent scientists looked at all the studies conducted during the past 20 years on the benefits of public research and concluded that annual rates of return on agricultural research are on the order of 50 percent. They attributed this phenomenal success rate to the close tie between basic science and technical application. They singled out the decentralized land grant college system as the key to this success, with extension and teaching programs providing important links between the scientists and users of research (Science magazine, September 1979).

The rate of growth in agricultural productivity in the United States began an alarming decline during the decade of the 1970's. With inflation an overriding concern, we must reverse this trend in the 1980's. We can sustain productivity growth in agriculture only if our research, extension and teaching programs continue to feed new scientists and new knowledge into the system.

Mr. Chairman, I realize we must make hard choices and set hard priorities in this most difficult of economic times for our Nation. I do not plan to offer any amendments to this bill. However, I am convinced that our basic research, extension, and teaching programs must receive higher priority than in recent years.

Next year, the Congress will review the progress made on the basis of the language of the 1977 act as it relates to our total research, extension and teaching system. It is my intention, and I believe the intention of the majority of the Agriculture Committee, to insure that greater progress is made in maintaining the cutting edge of U.S. agriculture's leadership in the world. We cannot allow a coasting in programs that increase our productivity and our ability to supply food for our fellow citizens and a hungry world.

I would also urge my colleagues on the Appropriations Committees in the appropriations process for next year to give even more careful attention to this matter, and specifically to placing higher priority on this important area.

And I would urge all of my colleagues in the House to join in this effort.●

● Mr. FITHIAN. Mr. Chairman, in passing this agricultural appropriation bill, the House is again affirming its support of a conservation and environmental program, the agricultural conservation program (ACP). As a strong supporter of the ACP, I am pleased to see that the appropriation is maintained at the $190 million level. While this appropriation represents fewer dollars in real terms, farmers and ranchers are facing new and often expensive requirements for nonpoint pollution control mandated by the Clean Water Act. These practices are needed to clean up our Nation's waters and often provide little or no onfarm benefits to the farmer.

During 1979, ACP funds were used for conservation practices which stressed lasting solutions to critical soil, water, and agricultural pollution problems. Those practices whose primary purpose was to increase production were eliminated. Funds previously used for those kinds of practices were redirected to special projects targeting on specific conservation or pollution problems. Of the $233 million used in fiscal year 1979 for cost sharing with 365,000 farmers, roughly 60 percent went for the prevention of soil loss from water and wind erosion. Another 20 percent helped pay for solutions to water conservation problems, and 18 percent went to pay for solutions to water quality problems. In my State of Indiana 5,600 farmers were assisted with about 5.6 million of cost share assistance. Eighty-five percent of this money was used for conservation practices leading to the prevention of soil loss from water and wind erosion, and for conservation practices leading toward solution to water quality problems.

I have lived on a farm most of my life and can tell my colleagues that conservation practices which solve conservation problems on one farm will not necessarily solve those problems on an adjacent farm. Recognizing this, ACP funds are administered by three-person committees in every rural or partly rural county in the Nation. These committees are elected by county farmers, and one must be a producer to serve on a county committee of the Agricultural Stabilization and Conservation Service (ASCS). This assures that local conservation decisions will not be made in Washington, D.C.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7591, the legislation before the House to provide new budget authority in fiscal year 1981 for the U.S. Department of Agriculture and for related agencies.

This bill funds a wide variety of programs of interest not only to the farmer and the consumer, but also to labor and industry. It is extremely important to the national and local development of a strong and healthy agriculture.

In the agricultural sector, we have recently made great strides in attempting to lower the high cost of imported food products. Our goal of increased agricultural self-sufficiency is an important one. The efforts of the Government to achieve that goal can be seen daily in the many programs of the Department of Agriculture in Puerto Rico. These programs will be increased and enhanced by the passage of this measure before us today.

The domestic food programs of the Federal Government have a dramatic impact in Puerto Rico. More than half of our population participates in the nutritional benefits of the Federal food stamp program. We do strive to reduce this figure and as we become more developed and self-sufficient we expect to lower our level of participation. But, until then, the fact remains that there are many needy families in Puerto Rico and elsewhere in the Nation who rely on the benefits of the food stamp program. At the moment their participation in this program is the only way for them to receive an adequate nutritional diet.

Other domestic food programs of the Department of Agriculture (USDA), such as the women, infant, and children (WIC) program, the school lunch program and the special milk program utilize the bounty of the Nation's agricultural output to assure our schoolchildren adequate daily nourishment and also help mothers of infant children provide a healthy food intake for their children.

In mentioning the Department's efforts to help provide an adequate nutritional diet, we do not forget that its other programs have State and national economic impact also.

Other programs improve the environment and maintain and conserve our soil, water, forests, and other natural resources. The Department's rural development policy and its credit and loan programs, are key ingredients in our policy of carrying out a sustained local program of islandwide growth.

Over the years, our people have made wise and efficient use of the rural housing programs of the Department, through its Farmer's Home Administration. It has made home ownership a reality for low income familes who otherwise would have never achieved that American dream.

The committee's foresight in providing a $100 million increase over the administration's request for rural housing loans reaffirms our commitment to facilitate a home for each family.

The sound and progressive programs and policies of the U.S. Department of Agriculture are continued in this bill. They keep our Nation moving forward. They develop and strengthen Puerto Rico's infrastructure.●

● Mr. WAMPLER. Mr. Chairman, I am pleased that Chairman WHITTEN and the Appropriations Committee have seen fit to fund the agricultural conservation program at the level of fiscal 1980, rather than reduce its funding as recommended by the administration.

Over the years, this program has proven its worth to farmers and consumers alike. The objectives of ACP are to control erosion and sedimentation from agricultural land, conserve water resources, improve water quality in rural America, control pollution from animal waste, encourage farmers' voluntary compliance with point and nonpoint pollution control standards and requirements, facilitate sound resource management systems through soil and water conservation, help achieve national environmental goals and contribute to the assurance of a continuous, adequate supply of food and fiber.

This is a program that is constantly evolving in terms of the needs of local producers, rural communities and the Nation, and we must strive to make it more responsive as those needs and objectives change over time. The program supports enduring practices such as permanent vegetative cover, terraces, sod waterways, and other techniques that contribute to the long-term conservation of our soil and water resources.

Through ACP cost sharing, agricultural producers in all 50 States, Puerto Rico, and the Virgin Islands are provided financial assistance to help deal with a wide range of agricultural conservation and environmental problems. Each year some 350,000 farmers, ranchers, and woodland owners take part in the program.

According to ASCS records, since the inception of ACP in 1936, more than 2.4 million water impoundment reservoirs have been constructed, terracing has occurred on some 35 million acres, stripcropping has been established on more than 115 million acres, trees or shrubs have been planted on nearly 7 million acres, and sediment pollution-abatement structures or runoff control measures have been undertaken on more than 14 million acres.

In addition, of course, the Soil Conservation Service of USDA conducts a number of programs that focus on specific resource conservation problems. The SCS provides technical assistance to district cooperators and landowners, soil and water inventory and monitoring, soil surveys, snow surveys, operates plant materials centers, conducts river basin surveys and investigations as well as watershed and flood prevention operations, and carries out such programs as the Great Plains conservation program and the resource conservation and development program.

It is difficult to quantify the return to the American people from the funds expended on these activities. On some of them a short-term cost/benefit analysis might not look so good, but these are essentially long-term programs to preserve and protect the natural resources on which the continued agricultural productivity of our Nation depends.

Again, I want to commend Chairman WHITTEN, the Agriculture Appropriations Subcommittee and the full Appropriations Committee for their understanding and appreciation of the importance of these conservation programs, and their efforts to recommend adequate funding for them under the current budgetary pressures.●

● Mr. ALBOSTA. Mr. Chairman, I have long been a supporter of the agricultural conservation program (ACP) and I want to speak today in support of adequate funding for this important program administered by the Department of Agriculture. As a farmer, I know the value of ACP in helping to promote good land conservation practices in cooperation with farmers around the country.

The cost-sharing provisions in ACP encourage farmers to participate in conservation projects that help preserve the land for everyone's benefit. In the current tight fiscal situation we are in, I believe it is a major victory that the ACP program is being funded at the same level of last year which is $190 million. The benefits provided by ACP far outweigh its cost and I strongly feel this House should approve this funding level provided in the 1981 agriculture appropriations bill. The need is certainly present as seen by the over 339,500 farmers, ranchers and woodland owners that participated in the program last year.

During the past decade we have all seen what the effects of fuel shortages can be in this country. Soil and water can also be in limited supply in the future unless we take action now to promote good conservation. I urge my colleagues to support adequate funding for this effective and needed program and approve the $190 million appropriation for ACP in fiscal year 1981. It is a wise investment for this and future generations of Americans.●

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendations that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7591) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 7591, AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 7591, the Clerk be authorized to correct section numbers, punctuation, cross references, and make other necessary technical adjustments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FOURTH ANNUAL REPORT ON TITLE VI OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (MOBILE HOMES)—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance, and Urban Affairs.

(For message, see proceedings of the Senate of today, Wednesday, July 30, 1980.)

☐ 1500

TWO REVISIONS TO PREVIOUSLY TRANSMITTED DEFERRALS INCREASING THE AMOUNT DEFERRED BY $137,000—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-348)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, July 30, 1980.)

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 589.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PROVIDING ADDITIONAL PROGRAM AUTHORITY FOR THE EXPORT-IMPORT BANK

Mr. WHITTEN. Mr. Speaker, pursuant to the rule previously adopted, I call up the joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank, and ask for its immediate consideration in the House as in the Committee of the Whole.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. Res. 589

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limitation on program activity of the Export-Import Bank is increased as follows:

Export-Import Bank of the United States

limitation on program activity

In addition to amounts otherwise authorized for such purposes for the fiscal year 1980, not to exceed $525,750,000 (of which not to exceed $251,000,000 shall be for direct loans) is authorized for the fiscal year 1980 for other than administrative expenses.

Mr. WHITTEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I present House Joint Resolution 589 providing additional program authority for the Export-Import Bank of $525,750,000 of which $251,000,000 would be for direct loans and the remainder, $274,750,000, would be for guaranteed loans.

The Export-Import Bank is currently operating under a continuing resolution which provides for a total program activity level of $5,347,345,000 of which $3,750,000,000 is for direct loans with the remainder for guarantees.

This resolution will provide for a total program activity level of $5,873,095,000 of which $4,001,000,000 is for direct loans.

The additional amount for guarantees of $274,750,000 will generate a total additional program of guarantees of $1,099,000,000 since only 25 percent of the total guarantee program is required to be authorized.

NEED FOR THE FUNDS

The present economic situation cries out for corrective measures to turn the economy around and increase production. Unemployment continues to rise at alarming rates. The U.S. trade deficit reached in excess of $30 billion last year and is currently running at an annual rate of over $40 billion for 1980. American goods are being displaced by foreign competition not because they are technologically superior but because they are being subsidized by the foreign governments and the exporters can receive more favorable terms to export these foreign products. This is a time to provide additional financing to promote increased U.S. exports and that is the purpose of this resolution.

HISTORY AND PURPOSE OF THE BANK

The Export-Import Bank is an independent agency whose purpose is to facilitate the export of U.S. goods and services. Established by an Executive order in 1934 and incorporated by Congress in 1945, Exim has assisted in the sale of more than $100 billion of U.S. exports. Its programs maximize the private financing of exports, assume commercial and political risks that cannot be undertaken by exporters or private financial institutions, overcome maturity and other limitations in private export financing, and assist in meeting foreign official export credit competition. The direct loans provided by the Bank are repaid in the United States in dollars, with interest. The guarantee programs of Eximbank provide guarantees against political and commercial risks to U.S. private financial institutions on their loans to foreign purchasers of U.S. exports. The insurance program insures the U.S. exporter directly for political and commercial risks on his export sales.

BENEFITS FROM THE BANK'S OPERATION

The Export-Import Bank is now essentially out of funds for its direct loan program and, according to the Bank, has been forced to defer some $2 billion of loans for U.S. exports that could otherwise have been made if sufficient funds were available.

The amounts recommended in this resolution will allow Eximbank to meet the bulk of the approved preliminary commitments which it has made for the remainder of fiscal year 1980.

Let me make the following points which illustrate the benefits occurring from the Bank's operation.

In fiscal year 1979 the Bank's programs supported $13.6 billion of U.S. export sales.

These exports generated 544,000 American jobs. These workers, and their companies, paid billions of dollars in Federal, State, and local taxes.

The Bank makes a profit in its operations. Last year its profit was $158.7 million.

Eximbank pays dividends to the U.S. Treasury out of its earnings. Last year the Bank paid $35 million in dividends and since 1945 has paid a total of over $1 billion in dividends to the Treasury.

Eximbank funds never leave the United States because they are disbursed to U.S. suppliers. The Bank is repaid in dollars in the United States by the foreign purchaser of the U.S. exports.

The passage of this resolution is essential and I urge its immediate adoption.

At this time I yield to my colleague, the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. I appreciate the gentleman's yielding.

Mr. Speaker, I think one of the things that we ought to tell the Members of the House is that the Export-Import Bank not only facilitates the export of American products, thereby creating job opportunities here at home, but the Export-Import Bank returns a net profit annually to the U.S. Treasury. It is one of the best investments we have. The millions of dollars in profits go back to the U.S. Treasury. So we get a double benefit from the Export-Import Bank.

Mr. WHITTEN. We certainly do.

Mr. Speaker, at this time I yield to the distinguished gentleman from Maryland (Mr. LONG), who is chairman of the Appropriations Subcommittee which deals with the Export-Import Bank.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Speaker, we bring before you today House Joint Resolution 589, a supplemental bill providing an additional $525,750,000 in lending authority for the Export-Import Bank in fiscal year 1980.

Regular funds for the Export-Import Bank are provided in the foreign aid appropriations bill. But because the fiscal year 1980 conference report has not been passed, most programs have received lower funding levels in the continuing resolution than would otherwise have been the case. We attempted to provide additional funds for the Eximbank and other programs in the recent supplement but that effort was not successful.

The Export-Import Bank is now essentially out of money for its direct loan program, having exhausted its authority of $3.75 billion. The Bank reports that some $2 billion of loans for U.S. exports have been deferred that could have otherwise been made if sufficient funds were available. Funds in this bill will take care of a large portion of these needs.

The $525,750,000 in the bill consists of two parts—$251,000,000 in direct loans and $274,750,000 in guaranteed loans. The amount for guaranteed loans will generate a level of $1,099,000,000 since only 25 percent of the total guarantee program is required to be authorized. Thus the funds in the bill will provide a total additional authority of $1,350,000,000.

The amounts recommended in this bill will allow Eximbank to meet the bulk of the approved "preliminary commitments" which it has made for the remainder of fiscal year 1980.

Some important facts to note in considering this measure include the following:

In fiscal year 1979, the Bank's programs supported $13.6 billion of U.S. export sales.

These exports generated 544,000 American jobs. It is estimated that every billion dollars of exports supports 40,000 U.S. jobs.

The Eximbank makes a profit in its operations. Last year the profit was $158.7 million.

Eximbank pays dividends to the U.S. Treasury out of its earnings. Last year the Bank paid $35 million in dividends and since 1945 has paid a total of over $1 billion in dividends to the Treasury.

This bill is within the budget ceiling set forth in the amended second concurrent resolution.

This bill has support from both sides of the aisle. The subcommittee and full committee votes to pass this resolution were unanimous.

Mr. Speaker, I urge my colleagues within the House to support this bill and forward the matter to the Senate for their consideration and action.

I would also say, Mr. Speaker, that this is the highest level of funds that can be provided under the present budget resolution and that I would resist any efforts to increase this amount.

The SPEAKER pro tempore. The time of the gentleman from Mississippi (Mr. Whitten) has expired.

(By unanimous consent, Mr. Whitten was allowed to proceed for 2 additional minutes.)

Mr. WHITTEN. Mr. Speaker, I yield to my colleague, the gentleman from North Carolina (Mr. Neal).

Mr. NEAL. Mr. Speaker, this resolution represents a small but essential step toward relieving the budget squeeze on the Export-Import Bank. It raises the current ceiling on Exim's lending authority by $251,000,000, and the ceiling on Exim's total program activity by $525,000,000. These are not huge amounts, but they are desperately needed. For all of this year the Eximbank has had to live within the limitation set by a continuing resolution from fiscal 1979. That ceiling is woefully inadequate to meet the current needs of U.S. exporters. The Eximbank has virtually exhausted its authority to finance U.S. exports under the current ceiling. Unless it is raised, U.S. exporters will have to face the competition of heavily subsidized foreign exporters without any recourse whatsoever to assistance from the Export-Import Bank.

Support for exports is one of the major policy initiatives the Government can take to mitigate the current recession. And it is one of the few such steps which seem to command wide political support. To make that support concrete Exim must be given adequate authority to meet the demand for export finance. If, instead, we put Exim out of business, for the rest of this year, through failure to pass this resolution, the United States will lose badly needed exports, and our trading competitors will judge our export policies to be all rhetoric, no action.

Mr. Speaker, the administration is now attempting to negotiate a major reform in the International Arrangement on Export Credits. Those rates are too low, compared to market rates around the world. Our trading competitors are quite willing to continue subsidizing their exports by offering export credit at these unjustifiably low rates. We do not approve of such subsidies, and would like to negotiate changes in the international arrangement to abolish them, or at least minimize them.

The Declaration of the Venice Economic Summit pledged the participants "to strengthen the international arrangement on export credits with a view to reaching a mutually acceptable solution * * * by December 1, 1980." This reform of the international arrangement is supposed "to bring its terms closer to current market conditions and reduce distortions in export competition * * *." While this declaration of intent is welcome, it falls short of a commitment to abolish subsidies. It offers ample leeway to our competitors to try to preserve some of the unfair advantages they derive from their credit subsidies.

Our attempts to reduce these subsidies, through negotiations, will depend on our ability to convince our trading competitors that they cannot continue to take business away from the United States by subsidizing their own exports. To do that, the Export-Import Bank must be in a position to offer U.S. exporters competitive financing, on a carefully selected, case-by-case basis, wherever they face unfair foreign credit competition.

Instead, the administration has been forced to negotiate from a position of potentially fatal weakness, since our competitors know Exim has no authority left for lending this year, and they probably doubt it will be funded in time, at an adequate level, to counter their own predatory financing practices in fiscal year 1981.

Mr. Speaker, there is only one solution. Immediate relief from Exim's budget squeeze must be granted by the Congress. I strongly urge the House to adopt this resolution.

Mr. WHITTEN. Mr. Speaker, I appreciate the gentleman's support.

Mr. YOUNG of Florida. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the minority members of the subcommittee are in strong support of this resolution. Our balance of trade deficit this year, according to what administration witnesses have told us, will be something like $40 billion, a record balance of trade deficit, which is certainly adverse to the economy of the United States and the economy of the workers and the earners in the United States.

We believe the Export-Import Bank is a strong tool to aid American businesses to be at least marginally competitive with the rest of the world, and we strongly support this measure.

We are of the opinion, most of us, another approach would be a little better. This resolution provides for loan guarantee authorities. We are of the opinion that we could make our industry even more competitive if we were to go to a direct loan program which the Export-Import Bank uses on many occasions.

However, in the interest of time, in an effort to get this measure approved by the House and through the other body and to the President, it was our intention to offer an amendment to make this loan guarantee authority to convert it to direct loan authority. However, in the interest of time, we are not going to do that. We hope the Members will approve this resolution. It is in the interest of American industry, and I think it will help to strengthen our economy in a period when our economy needs strengthening.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to my colleague, the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I think it should be cited here that there was no intention of not providing this authority. It was left out hurriedly one night here when a preferential motion was made by the gentleman from Massachusetts (Mr. O'Neill), and this particular program was left out of that preferential motion, thereby requiring this action today.

I do not think the chairman has said that these are not requiring new funds for this $275 million. There will be over $1 billion generated because we only have to put up 25 percent of the guaranteed funds. So we are really generating extra dollars. It is not appropriated dollars. It is not going to cost the taxpayer.

It has been a very fine program, one that we need to really strengthen and to improve because, as the gentleman from Florida has said, our exporters are having trouble enough right now, and our balance of trade is unfavorable; so we need to do everything we can in this line to help American manufacturers and exporters to do a better job and to do a bigger job.

☐ 1510

We wholeheartedly support this particular action today.

Mr. YOUNG of Florida. The gentleman from Indiana is exactly correct.

As our distinguished colleague from Massachusetts (Mr. Conte) and our distinguished colleague from North Dakota

(Mr. ANDREWS), have told us, the Export-Import Bank has in fact returned cash to the U.S. Treasury, and that, Mr. Speaker, in itself is extremely unusual. We think the Eximbank, with a few minor problems that they have on some loans that they make that we think maybe were not too smart politically—the Murdoch loan for example—however, generally the Eximbank operates well, and we are in support of the resolution.

Mr. WYLIE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I have been a strong and consistent supporter of the Export-Import Bank. As has been pointed out here before, the Eximbank has done an outstanding job. This bill will cost the taxpayers of the United States no money. It will only increase the bank's loan authorization to use its own money. It may be one of the few agencies, maybe the only agency, ever created by Congress which has cost the taxpayers no money and has indeed made money.

As other gentlemen have said, the purpose of the Eximbank is to finance exports of American-made products. It provides loans to purchasers in other countries of American-made products.

In looking at the fiscal year 1979 Eximbank budget, I notice that it supported $13.6 billion of United States export sales which helped to create 544,000 jobs in the United States. Since we are being hit so hard by unemployment at the present time, I find it hard to ignore a program which creates this many jobs, and I urge adoption of the measure immediately.

I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 589, a bill to provide additional authority for the Export-Import Bank.

Many of you will recall that during the final moments of debate on the fiscal year 1980 supplemental appropriations bill, the funding for Eximbank became the victim of the revenue-sharing program. I pledged then, along with other Members of this House including the distinguished chairman of the Appropriations Committee, to secure the funds so desperately needed by the Export-Import Bank. This bill is the manifestation of that pledge.

Mr. Speaker, it is no exaggeration to state that the economic situation we are embroiled in is nothing less than perilous. Unemployment continues to skyrocket, reaching levels not paralleled since 1941. Our balance, or more rightly, imbalance of trade, has registered a deficit of $20 billion for the first 6 months of this year. At the same time, American goods are displaced daily by foreign products both in the United States and the international market. These three closely linked trends can and must be reversed—and the means by which to do so is to increase U.S. exports.

Before sounding overly simplistic about such a solution, I would like to point out that there is a fundamental reason for the decline in the U.S. share of trade, and it is a reason which we can begin to correct today.

And that reason stems not from any deterioration in the quality of American goods. No, Mr. Speaker, U.S. goods are still technologically and qualitatively superior to most products of our trading partners. The problem in large part rests with inadequate financing of U.S. exports precisely at a time when the other industrialized nations are providing their exporters with lucrative terms for financing. And I am sad to say that as a result, millions of dollars in sales have been lost—losses which are reflected in declining levels of employment at home.

We have an opportunity today to begin to rectify this situation. While I am not going to promise you that this appropriation will solve the financing problem, I will tell you that it is a first step in what I would like to see as stronger U.S. support for both Eximbank and U.S. exports. The $251 million in direct loan authority will enable Eximbank to finance a portion of the $2 billion in sales currently pending—sales which could be completed if financing were available. In addition, $274,750,000 in guarantees will allow the Private Export Funding Corporation to finance sales of $1.1 billion on top of that.

Mr. Speaker, last year Eximbank supported $13.6 billion worth of export sales. In terms of employment this translates into 544,000 jobs. In terms of our balance of trade, it enables us to counterbalance the phenomenal outflow of U.S. dollars for oil imports. And in terms of the value of the dollar, increased demand keeps its worth high. I would also like to point out that since its inception, Eximbank has returned approximately $1 billion to the U.S. Treasury.

Eximbank's need for the funds is obvious to me as is the U.S. economy's need for Eximbank. If we are as committed to grappling with the problems of unemployment, the balance of trade and loss of U.S. markets as we claim, we will pass this legislation today.

● Mr. BONKER. Mr. Speaker, as we consider this resolution which increases the lending ceiling of the Export-Import Bank by $525.7 million for the remainder of fiscal year 1980. I want to call to the attention of my distinguished colleagues once again the sorry state of democratic freedoms in South Korea.

Currently the Export-Import Bank has preliminary commitments of approximately $450 million in export value for direct loans to the Government of South Korea.

According to the language of Public Law 95-630, the Export-Import Bank Act of 1945 as amended, the Export-Import Bank should deny application for credit in cases where the President determines that—

> Such action would clearly and importantly advance U.S. policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights.

I am saddened to report that the new military regime in South Korea continues its repressive policies with a vengeance. Action is needed now if there is to be any hope of encouraging the military to move toward the restoration of civilian rule. Public and private expressions of concern have not worked. The time has come for the President to act forcefully and instruct the Export-Import Bank to deny the proposed credits to South Korea.

Such action will be a very clear message to the military government that the United States has not wavered from its announced policy of support for democratic constitutional rule in South Korea. Such action will also be consistent with the recent activities of the House Appropriations Committee. In approving military credit sales for South Korea they stated that it must be used for defense and not for the enforcement of martial law.

Several months ago, when I visited that country, I was impressed by the determination of most segments of Korean society to work together to bring about greater progress toward democracy. Every sign pointed in the direction of instituting a truly democratic system. In meeting after meeting, Koreans from all walks of life, in and out of government, expressed the hope that the provisional government would be able to manage an orderly and constitutional transition under civilian rule. They spoke of looking forward to the constitutional changes and free elections which would give them a new government broadly supported by all segments of Korean society. All of us who advocate the cause of human rights in the world were encouraged by what seemed to be a very promising situation leading to the political liberalization of South Korea.

Today, these hopes lie shattered as the Korean military moved quickly to reinstate a severe martial law, which curbed the incipient political process, led to the closing of the national assembly and universities, forced the abandonment of all political activity, and led to the arrest of many major political figures.

I had the pleasure of meeting most of the civilian leaders but one of them, Kim Dae Jung, is easily the most popular figure in Korea. There is great fear about his safety. Since the repressive crackdown, nothing has been heard about his whereabouts or any of the other imprisoned leaders. Their families have not been allowed to see them and with each passing day, concern grows about their health and well-being. Now the surrogate government has announced that in early August, Kim Dae Jung and 36 other political leaders in its custody will be tried on charges of violating the antisedition, national security and anti-Communist laws. A conviction could lead to their execution or confine them to long imprisonment.

Our Government must make it clear that this would be a terrible mistake. Force should not be the answer to legitimate dissent. Discontent in South Korea will not disappear until all Koreans are assured the full protection of their basic human rights and a fair voice in their government.

South Korea's national security is dependent on stability and stability can be best insured by a broad national consensus. In fact, South Korea's future growth and development are dependent on the support of the people rather than on measures which restrict their civil and political liberties.

If the South Korean Government is perceived by its own people as a renegade government, who will defend it if an emergency should arise? Facing a hostile enemy, how will it survive if its own population is hostile as well?

Our democratic ideals and our security interests make it essential for us to use our influence to guide South Korea back on the road to constitutional reform, elections and a new government with broad support from the Korean people. Unless this takes place, it will be increasingly difficult to justify to the American people the continuation of our close relationship.

Our Government must call for the release of political leaders such as Kim Dae Jung. We must call for the reopening of the national assembly and the universities and, above all, we must call for an end to the day-to-day involvement of Korean generals in the political affairs of the country.

I want to reiterate that the denial of Export-Import Bank credits will not only show the military that we mean business concerning the above but this is also an action without any destabilizing security implications.

I share with my colleagues a deep commitment to the political independence and territorial integrity of South Korea and I look with pride on the mutually productive relationship that has developed between our two countries. I feel compelled, however, to remind all that it has never been the lack of weapons but internal discord and insensitivity to human needs that threaten repressive governments, and often, our own security.●

● Mr. HARKIN. Mr. Speaker, I rise in support of this bill, but I would like to take this opportunity to discuss the situation in South Korea, where the Export-Import Bank has been particularly active.

Today we are voting on funds for the Export-Import Bank, which has a larger exposure in South Korea than any other country in the world. The Bank's $4.3 billion in loans and commitments comprise one-sixth of South Korea's total foreign debt.

I believe the President should exercise the significant leverage of the Exim bank by denying further credits to the Government of Korea from these funds, in keeping with section 2(b)1(B) of the Export-Import Bank Act of 1945 until civilian government is restored which will protect human rights and the due process of law in that country.

The Republic of Korea is today facing the most severe crisis of its 32-year history—not from external aggression but from the acts of its own military leaders who presume to rule it. The military junta of Gen. Chun Two-whan came to power at the cost of over a thousand lives in Kwangju. It suspended the National Assembly, closed the nation's universities, strangled the press, and arrested most of the nation's most democratic spokespeople. The junta is now preparing to stage a mock trial against the most prominent of Korea's political leaders, Mr. Kim Dae-jung on trumped-up charges of sedition and pro-Communist activity.

When Mr. Kim was arrested in May, his home city of Kwangju revolted against the military government. If he is killed, there will be no guarantee of peace and security in Korea for a long, long time and the United States will be drawn increasingly into the efforts of an unstable military dictatorship to maintain power by brute force.

Anger at the weakness of the U.S. reaction to the Chun takeover has already spread widely in Korea and threatens to eat away the residue of goodwill between the Korean and American people. Unless the United States acts promptly and strongly, we are in danger of losing our natural allies in South Korea—the democratically inclined people of that country.

The Exim bank has made preliminary commitments of $450 million to the Chun government, but has a total of nearly $4 billion in preliminary commitments outstanding around the world. The money we are appropriating here is not nearly enough to meet all of the Exim bank's obligations. I urge the administration to help the Exim bank set its priorities in using these funds: Scarce resources should not go to bolstering the regime of Chun Two-whan. It is my hope that the administration will use this important leverage in furthering the goals of a free and just South Korea.●

Mr. WHITTEN. Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NEAL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 14, not voting 19, as follows:

[Roll No. 443]

YEAS—400

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson,
  Calif.
Andrews, N.C.
Andrews,
  N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
  schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
  Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze

Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzen
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—14

Ashbrook
Bauman
Bennett
Crane, Daniel
Crane, Philip
Dannemeyer
Hansen
Kindness
Lewis
McDonald
Marlenee
Mottl
Paul
Weaver

NOT VOTING—19

Anderson, Ill.
Bonior
Davis, S.C.
Dougherty
Ford, Mich.
Ford, Tenn.
Hillis
Howard
Ichord
McCloskey
Madigan
Mathis
Mavroules
Mikulski
Musto
Runnels
St Germain
Steed
Zeferetti

☐ 1530

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Madigan.
Mr. Mavroules with Mr. Runnels.
Mr. Musto with Mr. Hillis.
Mr. Bonior of Michigan with Mr. Dougherty.
Mr. Howard with Mr. McCloskey.
Ms. Mikulski with Mr. Ichord.
Mr. St Germain with Mr. Mathis.
Mr. Steed with Mr. Ford of Tennessee.
Mr. Ford of Michigan with Mr. Davis of South Carolina.

Mr. LEWIS changed his vote from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 6613, MARITIME LABOR AGREEMENTS ACT OF 1980

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6613) to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. That this Act may be cited as the "Maritime Labor Agreements Act of 1980".

SEC. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by adding, at the end of that section, the following:

"The term "maritime labor agreement" means any collective bargaining agreement between an employer subject to this Act, or group of such employers and a labor organization representing employees in the maritime or stevedoring industry, or any agreement preparatory to such a collective bargaining agreement among members of a multiemployer bargaining group, or any agreement specifically implementing provisions of—such a collective bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group."

SEC. 3. The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"SEC. 15. Every common carrier by water, or other person subject to this Act, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements, but does not include maritime labor agreements or any provisions of such agreements, unless such provisions provide for an assessment agreement described in the fifth paragraph of this section.".

SEC. 4. Section 15 of the Shipping Act, 1916, as amended, is further amended by inserting between the fourth and fifth paragraphs thereof, the following new paragraph:

"Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, or to operate to the detriment of the commerce of the United States. The Commission shall issue its final decision in any such complaint proceeding within 1 year of the date of filing of the complaint. To the extent that any assessment or charge is found, in such a complaint proceeding, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. Such adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of section 22 or any other section of this Act, or of the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control in any matter involving assessment agreements described herein.".

SEC. 5. Section 45 of the Shipping Act, 1916 (46 U.S.C. 842), and all references thereto, is redesignated section 46 and a new section is added as follows:

"SEC. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.".

SEC. 6. The changes made to existing laws by the provisions of this Act shall not affect any claims for reparation, if any, based upon conduct occurring prior to the date of enactment of this Act or formal Commission proceedings commenced prior to the date of enactment of this Act.

Amend the title so as to read: "An Act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.".

☐ 1540

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Ohio could explain what this maritime bill is about and what the purport of his request is.

Mr. ASHLEY. Mr. Speaker, I promised the gentleman from Michigan (Mr. DINGELL) that I would not intrude upon his time. Therefore I will withdraw my unanimous-consent request and proffer it within the next hour or so.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) withdraws his unanimous-consent request.

DISAPPROVE ADMINISTRATION'S NEW GAS RATIONING PLAN

PRIVILEGED MOTION OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. BROWN of Ohio moves to discharge the Committee on Interstate and Foreign Commerce from further consideration of House Joint Resoltuion 575 as provided in Section 551 of the Energy Policy and Conservation Act (Public Law 94–163) as amended by the Emergency Energy Conservation Act (Public Law 96–102).

The SPEAKER pro tempore. Is the gentleman from Ohio in favor of the joint resolution?

Mr. BROWN of Ohio. I am, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Michigan opposed to the joint resolution?

Mr. DINGELL. Mr. Speaker, I am opposed to it, and I request recognition for 30 minutes.

The SPEAKER pro tempore. Pursuant to section 552(d), Public Law 94-163, as amended, the gentleman from Ohio (Mr. Brown) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. Dingell) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 6 minutes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, will the gentleman from Ohio defer for just a minute so I might make a parliamentary inquiry?

Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. DINGELL. Mr. Speaker, as I understand the statute under which we proceed, time is allocated 30 minutes to both the gentleman from Ohio (Mr. Brown) and to the gentleman from Michigan (Mr. Dingell). As I understand it, the gentleman from Ohio (Mr. Brown) is recognized for purposes of using that time himself or yielding that to Members of both the majority and the minority who are in favor of the resolution, and I am recognized for 30 minutes for the purposes of yielding to those who are opposed to the resolution of both the minority and the majority; is that correct?

The SPEAKER pro tempore. The gentleman's statement is correct.

Mr. DINGELL. I thank the Chair, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I have moved, along with my New York colleagues, Mr. Ambro and Mr. Gilman, to discharge the Committee on Interstate and Foreign Commerce from further consideration of House Joint Resolution 575, as provided for in the Energy Policy and Conservation Act as amended, so the full House will have an opportunity—its only opportunity—to consider the standby gasoline rationing plan. I strongly urge my colleagues to vote favorably on this motion and thereby cast their vote against this ill-conceived rationing plan.

It is important that you support this motion to discharge and House Joint Resolution 575 to reassert that the House of Representatives will not blindly approve an inequitable and unworkable gasoline rationing plan just because the Department of Energy said that it is the "best" plan that it could come up with.

House Joint Resolution 575 would disapprove the standby gasoline rationing plan submitted for congressional consideration. I trust that during the past few weeks my colleagues have been able to review this plan. Whether you believe rationing is a necessary program to protect the average driver from being cheated during an emergency—or a well-intended, but unworkable concept—you should vote for this resolution, then vote down this plan.

It is clear to me that DOE has done nothing to remedy the essential faults of its previous rationing plan—which this House wisely rejected last year by a vote of 159 to 246. Instead, DOE has redrafted the same plan into the vaguest of language, added special provisions for special-interest groups, and has made more complex an already overly complex plan. In short, the administration has failed its obligation to the Congress and to the American people to prepare a fair and effective emergency preparedness.

In fact, Mr. Speaker, the more I examine this plan, the more it looks like Billy Carter wrote it.

Let me remind you of some of the plan's fundamental flaws—so serious that the plan is no plan at all:

It is a blank check—by DOE design, the real plan comes after congressional consideration.

This plan will not prevent "rationing-by-price"—it will fuel its fire through the "white market" of negotiable ration coupons.

The number of ration coupons is estimated at 20 billion—2½ times greater than the supply of money in circulation—according to a critical report by the Aspen Institute.

This plan is essentially a sketchy redraft of the one we rejected last year—except that a few special-interest groups are given vague promises of special treatment. Any special treatment for special groups necessarily comes out of the pockets—or gas tanks—of the average citizen.

This plan is not ready for "standby" and will not be ready for 14 months according to DOE.

It will cost $103 million just to print the easily counterfeitable coupons and compile the basic highly inaccurate vehicle list. Implementation will take another 3 months and $464 million.

Administration of this plan if ever implemented—will cost $2 billion per year, and will require tens of thousands of bureaucrats. The plan is based, as the last one was, on vehicle registrations which have a 10-20 percent inaccuracy percentage and allows for getting extra gas through buying junker cars.

As responsible Representatives of our constituents, we cannot escape our responsibility for an unfair and unworkable plan which would only worsen the serious shortage it is intended to manage. Only by killing this proposal can we give life to alternatives which are equitable and workable. If this rationing plan is approved, the only sure result is a waste of taxpayers money and the dangerous prospect of creating a false sense of security.

Mr. Speaker, last May I supported the successful rejection of the first standby gasoline rationing plan. I also supported the Emergency Energy Conservation Act of 1979 which reauthorized the administration to go back to the drawing board and design a more workable and more equitable rationing plan. The administration has squandered away more than 1 year—far past the deadline provided in the statute—kicking this plan back and forth from the basement of DOE to the White House, adding on special treatment for this group or that but correcting no basic flaws. The administration has not lived up to its obligation, and the House of Representatives should not acquiesce in his charade.

The vote on my motion to discharge is a test of our resolve: Will we fall for unfair and unworkable emergency preparedness or insist on responsible planning?

Mr. Speaker, I strongly urge my colleagues to vote "yes" on the motion to discharge and "yes" on House Joint Resolution 575 to disapprove the standby gasoline rationing plan.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Connecticut (Mr. Moffett).

Mr. MOFFETT. Mr. Speaker, I think it is important in the first minute or two of my time to very quickly go over the history of this issue in the past year or so. We rejected a plan that was sent up here by the President in May of 1979. In that process there were some very legitimate concerns, but one of the things we demonstrated is that 535 people absolutely cannot write a plan. Many of the criticisms you will hear from the opponents of the plan today are criticisms that are valid. Many of the criticisms, however, are ones that can never fully be resolved. If we could have reached the consensus on whether we should have coupons by license driver or by vehicle, it would have been resolved and put into law. One of the reasons there is difficulty with what the President can do is because it is a reflection that we cannot write a plan and we cannot agree on everything, but it is safe to say that almost without exception the groups that were upset and opposed to the plan in May of 1979 are working for the plan today.

Agriculture. They were upset about the priorities. They are working for the plan today. The farm co-ops and other groups.

Business groups. Traveling salesmen. Commercial fishing groups. Trucking groups. Taxicab companies, bakers, the American Bakers Association. The United Parcel Service, UPS, they are all working for the plan. They are not just for the plan that is in being, they have been doing a constructive thing to get this plan through and there is nothing in it for them. There is nothing in it for anyone as a matter of fact individually or in terms of a lobby to put this plan up on the shelf or to vote for this plan.

Why should we vote for the plan and against the motion of the gentleman from Ohio today?

The embargo in 1973 represented a cut, of what? Eleven percent? Ten percent? This plan says it does not go into action unless there is a 20-percent shortfall. If you thought we had a nightmare of a situation in 1973 with 10 percent or 11 percent, what do you think it would be like at 20 percent? In fact it can go in sooner but not unless the Congress checks off through a one-House veto mechanism on the President's trying to implement it.

There have been concerns about rural areas and I might say that the decision to go on a per vehicle basis benefits rural areas. There have been concerns by the bank. The American Banking Association and the gentleman from Michigan and the gentleman from Ohio (Mr. ASHLEY) can and will address those concerns. For Members who are concerned about that, we have a printed rebuttal handout.

There are legitimate concerns about the affect on poor people, but I must say no rationing plan, no shortage of energy tends to benefit poor people. They tend to get the worst of it.

This plan and the flexibility in it tends, though, to accommodate the poorer people as best we possibly can.

It will be said that the windfall profit tax revenues should be used to set up a tax rebate system and so forth. I think the gentleman from Michigan (Mr. STOCKMAN) is the best proponent of this view but we all know how unrealistic that is at this time. It does not get you over the problems of bureaucracy. It does not get you over the problems of assuring a fair allocation. If it becomes such a good idea we can always put this rationing plan right where it is on the shelf and go on to another plan.

The fact is, Mr. Speaker, we cannot afford to reject this plan. The worse thing that has happened to us was when we had lists of States circulating around this floor in May of 1979, many Members saying, "If my State wins I will be for it. If my State loses I will be against it."

My State loses under the numbers being circulated here today. I might add they are very hypothetical numbers because the numbers will not be created for that State until rationing goes into effect. My State will lose gasoline and so will others. Every State is going to have to cut its supply. That is what rationing is about.

We must keep in mind that this bill keeps rationing as a last resort.

The distinguished gentleman from Texas (Mr. GRAMM) and the distinguished gentleman from the other body, Senator BENNETT JOHNSTON, the distinguished subcommittee chairman, the gentleman from Michigan (Mr. DINGELL) and myself have worked actively along with other subcommittee members to try to put in a component that would be reasonably fair.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. MOFFETT. We are trying to be sensitive to Members' views that rationing should be a last resort. I might say that this gentleman has come to the view that rationing should be a last resort. Some people have talked very cavalierly over the years: Yes; let us put rationing in right away. I have come, in studying the issues, to understand the economic fallout that comes from rationing. I am not for rationing per se and therefore S. 1030 which most of you voted for, particularly on the Democratic side, indicates rationing is a last resort, but before that we will have State targets and State conservation, and that is where we are.

Mr. Speaker, we have not done a bad job this year. We have passed a synfuels bill that has biomass provisions and conservation provisions. We have passed a windfall profit tax. I was not for decontrol, but there is no question we have passed decontrol or approved it and it has some benefits with regard to production.

There are but two things we can do immediately, two things that we can go home and tell our people we have done in the immediate sense. One is to force the administration to resume its filling of the strategic petroleum reserve and the second is to get a rationing plan on the shelf. It will never be perfect, it will never be totally fair, but I must say if you have wanted energy policymakers in this body and the other body to try to hammer out the best possible deal, this is it and it is the only chance you will have to vote for a rationing bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I have voted for a rationing plan before, and I may well again, but I would like to ask a question: Why is it so terribly expensive to administer? Did it cost this much in World War II?

Mr. MOFFETT. Many things did not cost this much in World War II.

Mrs. FENWICK. Why is it so expensive?

Mr. MOFFETT. It is expensive because you are setting up a massive distribution system. Because of comments from Members setting up State and local boards to help insure equity.

Mr. Speaker, I thank the gentlewoman for her support.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Mr. Speaker, those of us who support the resolution of disapproval are seeking, of course, the concurrence of our colleagues and their yes vote for the motion to discharge the committee, just so that this House may fully debate the provisions of the standby gasoline proposals submitted by the President.

Under the tortured and convoluted procedures contrived to stifle debate, the rejection of this resolution in effect means the ratification by Congress of this so-called plan. The acceptance of this resolution means at least that we can review fully the many ingredients offered and at least in the view of those of us who seek your affirmative support, show clearly what we have here is a blueprint for horror.

Contemplation of this proposal should end the pretense that a standby rationing plan prepares the country for an oil emergency. It prepares it for nothing more than an expensive divisive uneconomic conflict.

I did not say that. The Washington Post editorial said it on June 15, 1980. Its conclusion, along with that of many other respected editorialists, that of Alvin Alm, this very administration's former Assistant Secretary of Energy, now at Harvard, is, the best we can hope for in this plan is that it will stall out in an emergency and practically everyone else who has taken the time to analyze these proposals in depth have come to this sad conclusion.

□ 1600

I say this to anticipate the argument that those of us who oppose this proposal oppose any form of rationing. I, for one, accept and endorse the idea of having a simple, applicable, economical, and effective plan on the shelf, ready to be implemented in the case of an emergency. But I, for one, reject the notion that this plan does any of that.

This offering seems to be the result of seething obstinacy, like the child who has been asked to draw a cat by his teacher, and has had its three-eared, six-legged picture rejected twice. The brat then has his adoring parent accost the school principal, whom the parent berates, bullies, and blasts into demanding that the principal force the teacher to accept the child's work.

Here, we have the administration, as has been the case so many other times, attempt to foist upon us the handiwork of this errant child, which we in this body have twice rejected, under the contrived guise that this is the best possible scheme and that this is certainly better than nothing. Make no mistake, it is not. In practically every aspect it is a three-eared, six-legged cat, but only a yes vote on this motion will permit us to fully explore the grotesque aspects of this incorrigible child's work, and only then shall we see the cataclysmic potential they have wrought.

Yes, every single aspect of this proposal, from its underlying foundation established in the guidelines of the Emergency Energy Conservation Act, to its specific elements, it could not have been a worse mess. To reduce gas lines at the pump, it creates two sets of lines, the other at banks. To reduce confusion by gas station personnel, it creates more confusion with bank personnel. To reduce costs, it increases annual governmental expenditures, among others, by $2 billion a year. To reduce the bureaucracy it increases enforcers by at least a hundred thousand persons. To assure fairness and equity, it allocates unfairly by distributing coupons based on automobile ownership, a third of which turn over each year.

It encourages jalopy purchases, which delights used car salesmen, and severly discriminates against rural and urban residents who, incidentally, the administration claims are too rich anyway, by treating them with the same gasoline quotas as those who come from areas with mass transportation alternatives. And, to add insult to injury, its attempts at equity take the form of legalizing the black market, the creation of an unexplainable system called ration banking, which indeed has bankers amazed and stunned, since it can destroy the entire banking system.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. AMBRO. I have not seen the printed rebuttal handout, but here is a telegram from the American Banking Association, so I did not say it—they did.

This actually authorizes both the Department of Energy and, through them, the States, to sell ration coupons. If Tantalus reached for the grape, believe me, the prospects of fortunes in the form of the sale of ration coupons is overwhelming. Visions of sugarplums must dance in a thousand—a hundred thousand—prospective governmental employees' heads. But, of course, there is no corruption in this country so we do not have to worry about that.

And, that is the good news. My friend from Connecticut told us about the bad news. A trigger, at 20 percent shortfall of product, laying to waste the Nation. Why are we doing this? We know, the whole thing is ludicrous. Even the President at first did not want that trigger. By the time we arrive at the level of shortfall this country will be immobilized.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 additional minute to the gentleman from New York.

Mr. AMBRO. So, in conclusion, for reasons best known to you and your constituents, do at least permit debate on this proposal for reasons of opening the dialog, to at least test the notion that this proposal is better than nothing—and it is not—and the idea that we really can do better. In the ensuing debate, if we carry this resolution we shall offer a range of alternative plans. Therefore, the only explainable vote on this resolution is "yes."

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my distinguished colleague from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I appreciate the eloquence of my friend from New York, but the fact of the matter is that we rely on a very tenuous supply of oil to keep the machinery of our country going, to keep our people at work. Of the many OPEC countries that contribute to that supply, virtually every one of them is unstable. Any one of them might go out at any time, creating the specter of chaos within our country, of which the gaslines that occurred in 1973 are a good example.

It is just essential that we have some kind of plan for an allocation of that shortfall, as painful as it is, on the desk. Now, there is not a plan that allocates pain that is going to make people happy. There is no question that no matter what plan we put up, there would be the Mr. Ambros, who would be here saying, you know, that this is a dreadfully inequitable system, and the people in my part of the country, the suburban people, the truckers, the farmers, are not going to have enough to be able to do business. That is the problem with any kind of rationing system.

I think that this is a rational system. I think there are many flaws in it, but I think the essential fact of the matter is, comes an emergency we have got to have that kind of system available to us. Therefore, I would strongly urge that this House reject the motion to discharge the committee.

This plan does contain several important improvements over the last plan that we rejected. States will be given broader authority in administering hardship allotments. Residential users can receive additional ration coupons at no cost through a hearing procedure with a local board. Supplemental allotments will be provided to businesses based on historical consumption, in contrast to allotment based on motor vehicle registration, which occurred in the last bill. A real effort has been made to address the objections in that last bill, but I will tell the Members that this is needed, and none of us can take the responsibility of having nothing available to this country should a shortfall occur.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of the motion to discharge the Committee on Interstate and Foreign Commerce from further consideration of House Joint Resolution 575, a resolution disapproving the administration's gasoline rationing plan, which is similar to my resolution of disapproval, H.R. 571.

I am confident, Mr. Speaker, that my colleagues will not evade their responsibility to vote up or down on the important issue of the President's rationing contingency plan. I urge my colleagues to vote for this motion to discharge if they believe the House should consider this issue squarely. We should either take responsibility for this plan or take responsibility for rejecting it—but let us not avoid that responsibility on a procedural vote.

Mr. Speaker, I oppose this proposed plan because it is unfair, because it is not acceptable to the American people, and because it gives the administration a blank check to continue to tinker with it without effective supervision.

This plan is unfair because it lumps together an entire State, in which the regions are quite heterogenous, giving each driver within a State an identical entitlement. Such an allotment flies in the face of all sense of fairness—which requires that each American be cut back in an equivalent proportion.

For example, how can it be fair for an exurban driver in Orange County, N.Y., to receive a different allocation than a driver across the State line in Pike County, Pa., but the same allocation as one in distant Buffalo?

The Energy Department should have devised a plan whereby entitlements would be made by smaller than whole State units. Surely the necessary data could be developed in a timely manner.

The Energy Department labored long and hard over this plan—but it brought forth only a mouse—a clone to the plan submitted and rejected by this House last year.

I anticipated that this would happen, Mr. Speaker. Last year, my colleagues will recall, I resisted efforts to bypass the Congress completely in the promulgation of such an emergency plan. I was concerned that if the threat of disapproval did not hang over its head, the Energy Department could send up the kind of inadequate program we have before us today.

The Department of Energy seems to think that this plan is fair to people living in suburbs and rural mass-transit-poor areas. They say that those people have plenty of cars and will therefore receive double portions of ration rights because they are usually two-car families.

That rationale may be fine statistically, but it ignores the reality of life for many Americans—people who are not so well off, who live on the fringes of our cities, in our suburbs, and who have one car. These people will be forced to go, hat in hand, to a local rationing board to try to get extra ration rights, or they will be forced to buy them on the "white market" from people who have two or three cars and can't use all of their coupons.

Mr. Speaker, this plan is just an outline—a skeleton. The Energy Department which has brought us this fiasco, wants additional authority to tinker with it and to flush it out. I hope my colleagues will reject that request.

Rejecting this plan today should not cause any unacceptable delay in getting a plan on-line.

I recall that after the last plan was rejected, DOE did not rush to prepare another plan—rather, the department tried to gain wider authority to impose one. Now, they come to us with practically an identical plan.

The Department has been cooking up this plan for an awfully long time, and I suspect they probably have a few alternatives up their sleeves that they will be able to produce in short order if we ask them to.

I believe that my colleagues are prepared to adopt a rationing contingency plan—provided that plan is fair and equitable.

Accordingly, I urge my colleagues to support this discharge motion so that we can then vote to send this plan back to the DOE and insist that a better one be evolved expeditiously.

□ 1610

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I appreciate very much being yielded this time by the distingiushed gentleman from

Michigan, the chairman of the subcommittee.

I would like to ask the gentleman a series of questions.

First of all, as the gentleman from Michigan is aware, the banking community supports the concept of gas rationing in the event of a national emergency. The banking community is quite upset, however, about the details of this rationing plan and their criticisms, in my opinion, need to be addressed.

The Department of Energy has indicated in their proposed plan that gasoline rationing coupons will be distributed at some 60,000 centers across the country. This, not coincidentally, happens to be the number of commercial banks in the United States. Does this mean, as indeed the bankers fear, that they will bear the major, if not the entire burden, of issuing gas rationing coupons? Or, will other institutions such as Government offices, post offices and businesses, also issue rationing coupons? It seems to me important that we have as many coupon issuance points as possible to minimize delays and to insure that no single institution bear a disproportionate share of the burden. Does the gentleman understand that other institutions can and, in fact, will be made use of under this plan?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. Indeed I will.

Mr. DINGELL. Mr. Speaker, the answer to the question is, "Yes." The Department of Energy can and should and intends to use other businesses and other Government offices for the purpose of issuing gas coupons. That is DOE's intent, as set forth in a letter to me which is available here at the desk and which will be inserted in the RECORD at the appropriate point.

Mr. ASHLEY. Certainly, Mr. Speaker, I wonder if the gentleman can tell me if the Department intends to stagger the mailing of rationing checks to avoid overloading both the postal system and the coupon issuing points?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the answer to the question is, "Yes." That is the way they intend to do it.

Mr. ASHLEY. Third, Mr. Speaker, and perhaps most importantly, the banks are very concerned that the ration checking account system provided in the plan, if fully activated, could overwhelm the banking system and interfere with their ability to provide regular banking services. At the extreme, almost 170 million consumers and businesses would be eligible to establish such accounts; this compares to the present total of about 100 million checking accounts currently in existence. The addition of 170 million new accounts clearly would overload the current capacity of the banking system. So my question is whether the plan contemplates separate ration accounts handled by commercial banks for all individuals and business concerns or whether the plan provides for the establishment of limitations on the number or size of accounts.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I am reading now from a letter from the Department of Energy, with respect to your first question on coupon issuance points:

> To encourage the widest participation in coupon issuance, the DOE will provide full compensation to those firms that agree to act as issuance points. No business will be required to act as an issuance point involuntarily. The Department intends to work with the ABA—

And that is the American Bankers Association—

> and similar groups during the preimplementation period to develop equitable reimbursement arrangements.

Mr. Speaker, the communication further says with respect to ration accounts:

> The banking organizations have indicated that if only such firms open accounts they will be able to handle them. In order to assure that the number of accounts is limited to manageable proportions, DOE intends to establish minimum deposit requirements. These requirements will be developed during preimplementation and will be determined, in part, by the banking industry's estimate of its capacity to provide this service.

Mr. Speaker, I would point out further that it is DOE's intention to structure the program so that only large users will require the establishment of accounts and so structure the program to meet the banks' concerns on this particular point.

Mr. ASHLEY. Mr. Speaker, I thank the distinguished chairman of the subcommittee for his clarification.

It seems to me, Mr. Speaker, that the United States needs a standby rationing plan for its own protection. Nothing could be more abundantly clear. This plan is not perfect; no rationing plan can or will be.

In fact, I might well oppose passage of the plan if it were to be implemented without the suggestion the subcommittee chairman and I have discussed. I would oppose it simply because it might well be unworkable.

The SPEAKER pro tempore (Mr. DE LA GARZA). The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

Mr. DINGELL. Mr. Speaker, I yield 30 additional seconds to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. But, Mr. Speaker, I would say to the gentleman from Michigan (Mr. DINGELL) that, based on the comments made by him and on the fact that his subcommittee will be overseeing implementation of the plan, I do support passage, and I feel that the banks should be reassured that their cause will be fully addressed during the preimplementation stage.

Mr. DINGELL. The letter from the Department of Energy that I previously referred to is as follows:

DEPARTMENT OF ENERGY,
Washington, D.C., July 30, 1980.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: We understand that members of the Congress have received communications from the banking community expressing concerns about the role of commercial banks in the gasoline rationing program. I can assure you that the Department is aware of these concerns and has been working with the American Bankers Association and other bank representatives to see to it that they are dealt with fairly in the preimplementation process.

A principal concern of the banking community is that the Department of Energy will rely solely on banks as coupon issuance points. The Department does not intend to limit coupon issuance points to commercial banks alone. We recognize the need for a variety of such facilities, and we fully intend to include other businesses and governmental organizations, such as savings and loans, credit unions, large employers and post offices, as coupon issuance points.

To encourage the widest participation in coupon issuance, the DOE will provide full compensation to those firms that agree to act as issuance points. No business will be required to act as an issuance point involuntarily. The Department intends to work with the ABA and similar groups during the preimplementation period to develop equitable reimbursement arrangements.

The other major concern expressed by the banking community is whether the number of ration banking accounts that will be established will exceed the capacity of the banks to handle them. Under the plan only marketers and large users of gasoline will have a need for ration banking accounts. The banking organizations have indicated that if only such firms open accounts they will be able to handle them. In order to assure that the number of accounts is limited to manageable proportions, DOE intends to establish minimum deposit requirements. These requirements will be developed during preimplementation and will be determined, in part, by the banking industry's estimate of its capacity to provide this service. Banks will be able to charge those firms that open ration accounts a service fee adequate to cover all costs, as they often do currently with ordinary checking accounts.

The Department has recently completed a two day meeting with the ABA to explore the concerns of the banking community and to begin a process designed to resolve them. We expect to continue to work with the bankers and a wide variety of other groups to see that their views are fully considered in the preimplementation of the plan.

Sincerely,

HAZEL R. ROLLINS,
Administrator,
Economic Regulatory Administration.

☐ 1620

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. SHELBY).

Mr. SHELBY. Mr. Speaker, let us not be fooled by this gas rationing plan. We had it last year. It was rejected by this House. We have had it in the subcommittee on which I serve with the gentleman from Michigan, who is the chairman of our Subcommittee on Energy and Power, and the gentleman from Ohio (Mr. BROWN), whose motion is before the House to discharge the Commerce Committee, which we are all members of.

What is this rationing plan, and who is going to administer it?

Think about it just a second.

The Department of Energy.

What has the Department of Energy administered since you have been in Congress to anyone's satisfaction, much less the overwhelming thing that they would have to oversee here?

Do you believe for one second that the banks in this country are ready to do this? Have you thought about the cost of it? Have you really thought about the need for it?

I come from an area in the Deep South of Alabama, a relatively rural area, some of the Birmingham suburbs and a lot of rural farm areas. Do you think this plan is going to work for them, where they drive 40 and 50 miles a day to work? I say to you that it will not work. We do not need it at this time, and the plan is just a warmover of what we had last year.

What is the real thought in it? I will tell you one, and that is the white market plan. Can you imagine the futures trading of the coupons here? And who does it discriminate against? This plan is not for the people who live out in the suburbs who have no mass transportation, such as buses or subways, or who live in the rural areas of the Northwest and the Southwest and the South. Let us think about it like that. This would create the biggest futures market you have ever seen. The recent silver speculators will not be anything compared to this.

The plan is not based on need, it is not going to be accepted by the American people, it does not have a sense of fairness in it. It is not in it anywhere. And I ask you to support the motion of the gentleman from Ohio to discharge the committee.

I yield back the balance of my time, Mr. Speaker.

The SPEAKER pro tempore. The gentleman yields back 30 seconds.

Mr. BROWN of Ohio. I retain the balance of the time, Mr. Speaker.

Mr. DINGELL. Mr. Speaker, how much time do we have remaining on this side?

The SPEAKER pro tempore. The gentleman from Michigan has 15½ minutes remaining.

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in opposition to the motion offered by my good friend and colleague to discharge the committee.

Both the Subcommittee on Energy and Power and the full Commerce Committee have voted against this resolution, after very careful hearings in which we have gone into all of the questions which have been raised here. The House has earlier considered a gasoline rationing plan, and I do not intend to dwell on that. But I would like to make it clear that this plan meets, to the best of the ability of the Department of Energy, every single complaint that was raised with regard to the earlier plan. The private organizations and groups which previously opposed that plan now are in support of this.

Unless both Houses pass a joint resolution of disapproval, the plan will be available to the President as standby authority.

Now, let us look at this. First of all, there is no such thing as a good rationing plan. Nobody is going to be satisfied. But it is designed to meet a major crisis. And I would have my friends here know that the only thing worse than a rationing plan in the midst of a crisis is no rationing plan in the midst of a crisis, where everyone, business, government, emergency services, ordinary citizens, rich and poor alike, are thrown at the mercy of a distorted market.

Now, the plan differs in many significant ways from the way in which the previous plan was submitted. Priority use categories have been expanded to include taxicabs for hire, mail, small parcel delivery, energy production, telecommunication activities and newspaper distribution. The agricultural priority included to insure full supply to our farmers in the agricultural community has been expanded to include processing, distribution of food and commercial fishing.

State and local boards are created to ease the hardship of a plan administered solely from Washington and to permit a greater measure of discretion to States in meeting the peculiar needs and hardships of citizens.

A standby rationing plan is a last resort measure. It should be used only in the most severe emergency. A 20-percent shortage has to occur before this can come into play and before the President can send the plan up here to be subject to congressional approval. It must be recalled that the Congressional Budget Office has pointed out that a shortage of less than 20 percent would cost the economy of this Nation more than $200 billion in gross national product in 1 single year. What we need to do now is to prepare against an event which is almost a certainty, and that is a major shutoff of supply.

While there are other alternatives to rationing, and while I might prefer others, the hard fact of the matter is that the time to fix the roof is during the time of sunshine; the time to prepare for winter, as the grasshopper learned to his sorrow, is during the summertime. We now have energy supplies which are not shut off. But I cannot tell my colleagues when such shutoff might occur.

I urge my colleagues to vote no on the motion to discharge the committee. If you want to be prepared for a time of major supply dislocation, troublesome though this plan is, subject though it is to criticism, I would say that it is far preferable to not having a plan. I would say that, in contrast to the previous plan or indeed most other plans, despite its faults and failures, it looks rather good and will look vastly better in times of crisis and shortage of supply.

Remember, this is not something to go into place at once. Rather, it is to put into place a standby plan on which this Nation may rely and know that at least the Government will have a mechanism to assure basic fairness to our people. I would urge my colleagues to remember that this is not a proposal which allows rationing to go into place immediately, but rather, it is one which allows for a measure of congressional supervision of those circumstances.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I have a number of fancy reasons for opposing this rationing plan, but I would just like to give the House one basic one. In my view, it is absolutely pointless to put this on standby because, despite 5 years of effort on a rationing plan, despite millions of dollars worth of contractor and design studies, this plan before us is not yet ready for prime time.

DOE told us it would take 14 more months of development work to put this in the street. Now, that takes us to November 1981. And the unfortunate thing is that the law that creates the authority for this plan expires in September 1981, which means that it could never be legally implemented.

I know the Members of the House will say, "We could extend the authority." But I would just remind the House that we did that last summer, it took up 47 pages worth of conference report to do it, and if we were to take up an extension of authority for rationing next year, the law would require the plan to be totally redevised and redesigned. So this is absolutely useless. It would never be used.

The second point I would make to the House is that this plan could never work. If it were actually triggered into implementation, this plan would fall flat on its face, splatter all over the floor, and leave the American economy and the American motorist defenseless. The reason for that is that a white market coupon plan cannot work unless it is accompanied by price controls at every level of the gasoline market, from the dealer all the way back to the refinery. But price controls are expiring next September.

We have a national policy of permanent decontrol, and without those controls you will not have a two-tier market, a low price for gasoline with coupons, a high price on the white market; you will have a one-tier market, a high price, the coupons will be worthless, and the whole plan will be a charade.

Finally, I would suggest to the House that, despite everything we have heard from some members of the committee, there is a better alternative for the country, and that is to get off of our duffs right now and start buying oil for our strategic reserve so that if an interruption does occur we can pump oil into our economy, not useless pieces of paper.

Now, it seems to me that that is what we ought to be doing, rather than continuing to go round the mulberry bush on these plans that simply will not work.

Furthermore, I would point out to the House that the real purpose of coupon rationing is to provide financial relief for hard-hit motorists. We can do that without rationing. We can do that by using the enormous sums of money, $12 billion, every 90 days that would be collected during the 20-percent shortage, an extra $12 billion, with the windfall profit tax. We could turn that money right back into financial relief, to higher assistance payments, lower taxes, and so forth.

□ 1630

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that I be permitted to revise and extend my remarks and include extraneous matter in connection with my earlier comments, and that all Members may have 5 legislative days in which to revise and extend their remarks in the matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my distinguished friend and colleague, the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I urge my colleagues to vote "no" on this motion to discharge. Some speakers today have asked us to vote "yes" because in principle they do not believe we should ever use rationing in a shortfall. That is an understandable position. They are correct to vote "yes" at this time.

I think we should continue to pursue other alternatives, but we ought to also be ready to ration if that is what the will of the American people is at the time of that shortfall.

Second, some speakers ask us to vote "yes" on this petition because they want to trigger a greater understanding of the plan before us, trigger the 10 hours of debate that will be possible if we vote "yes" here.

Do we seriously think we will have the sustained interest in this plan if we vote "yes" on this motion?

Third, some people have asked us to vote "yes" on this motion because they do have some objection to some part of the plan, and it is hard to quibble with some of the objections that are made. But we have lived in this process, most of us, for several years now. We have come to appreciate how difficult it is to make collective decisions on anything, especially on something like rationing that allocates peoples' rights and addresses peoples' economic needs.

To vote "yes" today is a recipe for delay. It is a recipe for no plan. It is a recipe not to be prepared when an emergency comes.

I believe that we owe it to the American people, we owe it to the future Congresses and to the future Presidents of this country to prepare the tools now so that if we do have a severe shortfall, there will be some plan that could be implemented if, in the wisdom of the people at that time who are in charge, they say we should do it.

Let us not quibble. Let us not delay further. Let us get this issue behind us. Let us vote "no."

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I compliment the gentleman from Ohio (Mr. BROWN) for the resourcefulness of his motion which I support.

First. This plan will not alleviate a gasoline crisis. It will relieve the American taxpayer of an estimated $2 billion. This disaster plan—or should I say plan for disaster—should be nipped in the bud.

Second. As the gentleman from Alabama said, nothing is said in the plan about gasoline being made available on the basis of need.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield briefly to the gentleman from California.

Mr. ROUSSELOT. Did the gentleman say it is going to cost $2 billion?

Mr. WYLIE. That is the estimate of the Department of Energy.

Mr. ROUSSELOT. That is $2 billion. They are usually under, are they not?

Mr. WYLIE. If I may reclaim my time, I thank the gentleman for his contribution.

Mr. Speaker, financial ability would, in effect, be the criteria for rationing. The low-income, elderly and the family who needs the one car it has for the breadwinner to go to work are placed in a situation of diminishing mobility, while those with wealth can take advantage of a system tailor made for multicar households and the use of more than a needed share of gasoline. Where is the equity in that? There are other examples of inequity.

Third. But, as a member of the Banking Committee, the coupon system presents a rather befuddling example of Government economics. I read in one report where DOE estimated the cost of one coupon, to a willing purchaser could reach as much as $1.22 not including the cost of the gasoline. This new U.S. Government fiat currency, with its uncontrollable exchange patterns, invites the single biggest boon to bootleggers since prohibition. Hoarding, theft, counterfeiting, insider trading, and any number of other scams would inevitably spring up from the creation of this artificial monetary system. Of course, the administration could then come back to Congress and request the establishment of a "coupon exchange commission" to regulate the trading and sale of those coupons; requiring another new bureaucracy and adding thousands of new Government employees.

Fourth. The first tier, State-by-State allocations, will, for the most part be geared to "historic" use. This sounds fine, but it does not take into account seasonal changes as well as population or industrial changes within the States. From these allocations, individual allotments will be based on motor vehicle registration—irrespective of the State's ability to carry this out.

Fifth. Financial institutions and local gasoline merchants, many of whom are independent small businessmen, are honored with the privilege of collecting, accounting, and distributing ration coupons on a day-to-day basis. This could be a costly, time consuming, and non-productive problem, crippling to these businesses.

Sixth. The notion of sharing the burden of crisis equitably is further distorted when one views the supplemental and priority allocation provisions. For instance, why are such groups as taxicab owners preferred over defense contractors? Why are short-term vehicle rental agencies given preference over plumbers? And so on. It would seem that when subjected to the harsh light of real life possible crisis situations, this plan loses all sense of equity.

Seventh. If we need a rationing plan which operates outside the free market system, a point I am not willing to concede, can we devise one more fully grounded in fairness than the one presented. Can we not devise a plan which does not give a governmental agency such broad, and truly vague powers. I think so.

May I suggest an "aye" vote on the motion so we can debate the issues fully.

Mr. DINGELL. Mr. Speaker, I have no requests for time at this moment, and I would like to reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the motion to discharge. The plan as proposed is operationally unworkable, inequitable, and overly costly. I would suggest that, contrary to the suggestion that the plan is a three-eared, six-legged cat, as the gentleman from New York (Mr. AMBRO) suggested, or as the other gentleman from New York (Mr. GILMAN) proposed, a mouse, it is in reality a camel. A camel, as the Members all know, is a horse designed by a committee, and maybe that is an appropriate animal—one indigenous to many OPEC countries—to use to describe the predicament we are in.

The American Bankers Association, who supported the previous rationing plan, says this one is "worse than no plan at all." They claim that commercial banks will have to hire some 150,000 additional tellers. They say that it can add 170 million banking accounts to the process, causing insurmountable problems.

Now, perhaps they will be reassured by the DOE "trust me" letter that has been sent to the chairman of the subcommittee. I doubt it.

As has already been pointed out, the plan will cost $2 billion per year, will require the employment of thousands of Federal bureaucrats and will lead to all kinds of dislocations in the economy and in the lives of our constituents.

I have a letter from the business and transportation agency of the State of California that I will insert in the RECORD. I would like to read portions from it.

They say that "the basic thrust of the plan proposes a development of a national vehicle registration file." They go on to say:

> We question whether California or for that fact any other State's electronic computer system would be compatible with the Federal system adopted. Each State could incur tremendous expenses in modifying or making additions to their existing systems.

They go on to say:

> Our recommendation would be to allow each State to administer the rationing plan utilizing their individual computer systems and/or vehicle registration files. Such a method would avoid the development of a Federal system that in nearly each case duplicates systems now in place and working in each State.

Mr. DINGELL. Mr. Speaker, I yield myself 1 minute simply for purposes of commenting on the remarks made by my distinguished friend who has just spoken.

Mr. Speaker, the gentleman has described the plan as a camel. I think that is an appropriate symbol because it is going to function in times of shortage and drought and a time when liquid fuels are not available. I think it is entirely appropriate that we should substitute a camel for a horse during such times.

Beyond that, Mr. Speaker, I would point out that the Department of Energy has suggested that banks will not be compelled to participate in this plan, but will only do so voluntarily, only do so subject to full compensation, and only do so under such circumstances as will limit the number of potential applicants and holders of the special rationing accounts to the very large users, as opposed to the individual household users, who account for the vast bulk of the population which drives and which would be considered under this plan.

My point is that the needs of the banks are well met under the plan.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I would like to join with my other colleagues from both sides of the aisle in stating my opposition to the administration's latest gas rationing proposal.

I remain opposed to gasoline rationing in any form. My own State of South Dakota relies heavily on the automobile/highway system for conducting the business of everyday life. We have neither rail passenger service nor the luxury of tax-supported mass transit systems to ease the burden.

Our farmers, already suffering the tragic effects of the drought, high interest rates and low crop prices would be further burdened. Our small businessmen, who must travel back and forth between communities that are located at great distances between one another, would be seriously affected. In addition, our elderly and our rural poor who rely on the auto in order to obtain health and medical services, as well as employment opportunities, would find rationing impossible to cope with.

Rationing would also be expensive. The DOE would need at least an additional $103 million in fiscal year 1981 just to print the coupons and forms needed to implement the plan. It would also cost taxpayers $2 billion a year to operate and add 2 cents a gallon to the price of gasoline. In addition, at least 4,000 to 5,000 new Federal employees would be needed to run the rationing program. The only result of all this would be a new layer of unresponsive bureaucratic overkill.

I remain unconvinced that this administration can devise a rationing plan that would be in the best interest of this Nation or the people of South Dakota.

Mr. SHUMWAY. Mr. Speaker, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from California.

Mr. SHUMWAY. Mr. Speaker, I wish to speak today in support of the motion to disapprove the proposed gasoline rationing plan.

As we all know, Congress turned down the administration's last attempt, in 1979, to get a standby gasoline rationing plan approved. At that time, I voted with the majority to defeat a poorly conceived, ridiculously complex, outrageously costly and totally unfair program. Unfortunately, the plan before us today is plagued with many of the same problems.

Even the Department of Energy concedes that while the plan is the best they could devise, it would be expensive—about $2 billion a year—and "enormously complex." DOE further admits that the use of rationing "would involve, in effect, creating an entirely new currency." The magnitude of the distribution system required to provide coupons every 3 months to motor vehicle operators would far exceed any other program—including the social security system which mails out 35 million checks each month.

Especially impacted, should the plan go into effect, will be the Nation's banks. The plan singles out banks for the burden of issuing gas rationing coupons. Such an arrangement could create congestion and manpower problems within the country's 60,000 banking offices.

Under the plan, banks are responsible for establishing "rationing rights accounts" into which motorists could deposit Government authorization for coupons—that is, 160 million separate ration accounts, one for each automobile in the country. A second type of account would be used by gas retailers and distributors to replenish their inventories. While it is not clear whether banks will be required to participate, the intent is there—and this intent is alarming bank officials who maintain that the standby plan is "actually worse than no plan at all."

I urge my colleagues to consider the potential results of such a plan. With embarrassing regularity, Federal meddling has proven to make bad situations worse, with little fairness and enormous taxpayer cost. When we begin talking about millions of coupons and billions of dollars, not to mention untold numbers of bureaucrats, we can be relatively assured of another Federal nightmare.

Our responsibility, as Members of Congress, should be to develop and support legislation to promote energy independence—energy production. I advocate decontrolling the entire energy industry—thus removing the Federal Government from the energy business completely. We must allow the energy industry to do what it does best—produce energy. Through positive efforts such as decontrol and the expansion of alternative fuel sources, we can work to resolve our current energy dilemma and, thereby, avoid the need for gas rationing.

I strongly recommend that the gas rationing plan be disapproved.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Speaker, I strongly disapprove of this gasoline rationing.

Mr. Speaker, today the House can go on record as disapproving the costly gas rationing plan recently submitted for approval by the Department of Energy. Such an inefficient and complicated plan could have been constructed by Rube Goldberg.

Look at the cost to the taxpayers. DOE's rationing program would cost $103 billion to begin. American taxpayers would pay $2 billion each year just to keep this massive coupon system rolling. Every person would pay a fee of 2 cents per gallon each visit to the service station to pay for this added redtape. As is the habit in Washington, where bureaucracy breeds more bureaucracy, the DOE suggests a new office to run the plan. An additional 5,000 Federal employees and as many as 15,000 State and local workers would be required to mail 153 million ration checks every 90 days.

Look at the burden to the banking system. Banks would have to hire at least 50 percent more tellers. A 150 percent increase in the number of accounts just to include "ration rights checking accounts" could add 160 million "new" accounts. Banking institutions would face incredible space problems, not to mention delays in check processing and other normal banking transactions.

Look at the inconvenience to the consumers. This plan simply doubles the lines they would wait in during a shortage. People would stand in line at the bank and then take their place in line at the gasoline pumps. If you resented waiting in line at service stations for a fill-up last summer, think of wasting time in line at your bank for the very same purpose.

The DOE's gasoline rationing plan is a bureaucratic nightmare which would needlessly increase paperwork, burden the banking system, inconvenience all consumers and result in a wasteful expenditure of hard-earned taxpayers dollars. I strongly urge you to disapprove this unworkable gasoline rationing boondoggle.

□ 1640

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I would like to begin at the end of this long debate by talking about where we are and how we got here.

In 1975, the Congress of the United States voted overwhelming approval of the Energy Policy and Conservation Act, which mandated that the President of the United States prepare a standby gasoline rationing plan and that that plan come to the Congress to be approved, to be put on the shelf.

I was not here in 1975. I do not know how I would have voted; but many who are here today voted to mandate that such a plan be devised.

The President sent the Congress a

plan. Every car got the same number of coupons, people in downtown Manhattan would have had the same number of coupons that the people in the suburbs of Dallas would have had. It was totally unworkable. Our committee rejected it.

We rejected the second plan because it had no limitation on Presidential power; so what the President said is, "You all mandated that we devise a plan. Show me you can do better."

So the Congress of the United States wrote the Emergency Energy Conservation Act of 1979, that again the great majority of people in this body voted for. What that bill did is set out a guideline for a standby rationing plan, not a rationing plan, but a plan to be put on the shelf to be used in a catastrophic shortfall period. The President and the Department of Energy have complied with the regulations, with the specifications for that plan that we set out and that the majority of the Members of this body voted for.

We have heard today that what we really need is a simple, equitable and inexpensive plan. We may need that, but we need nickel beer and gold money. We do not have either. We are not going to have a simple, equitable plan, because that cannot possibly exist. No rationing plan is good. Every rationing plan is inequitable.

The fact is, if we have a 20-percent shortfall, there are not going to be a lot of good options.

We have heard discussion today about the fact that a white market for coupons is going to be expensive and inefficient; but a black market for coupons would be more expensive and more inefficient and it would have a catastrophic impact on the daily lives of every American.

We have heard that this plan is not ready to play in prime time, but no plan that has ever been devised outside of the market system was ever able to play in prime time in this country or anywhere else with any good reviews.

The point is that we are mandated to put a plan on the shelf. This is as good a plan as we are going to write. This plan, within our limits to specify, has as good a specification to provide equity as is going to be provided. It has ironclad limitations on Presidential powers.

I think having passed a bill in 1975 saying we wanted it, having passed a bill in 1979 specifying what we wanted it to be, then today we have a proposal that falls within those two legislative mandates.

I think to fail to put it on the shelf now would be strictly political.

A final point: If I believed with a 20-percent shortfall that the American people would allow price to allocate, I would vote for this discharge petition; but I know they are not going to do that. I know the American people, in a catastrophic shortage, are going to demand rationing.

So why not have a plan that has a logical underpinning to it? Why not have a plan that limits Presidential power?

I think a strong case can be made for this plan, with the limitations it has. I think if anything has brought justification to the wisdom of limiting Presidential powers to ration, the study by the DOE and the debate here today shows that that was a wise move.

So I think given that people are going to demand rationing, why not have a reasonable plan there in case we are required to use it?

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. GRAMM. I would be happy to yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I would like to say to the gentleman from Texas that it has been a great pleasure, to say the least, to work with the gentleman over months and years on this issue. The gentleman and I at times are not in agreement on energy policy, but we have come together, as has the gentleman from the other body, Senator Johnston of Louisiana, and even the gentleman from the other side of the aisle, Senator Domenici.

We have recognized that what the gentleman says is absolutely true. You cannot have a perfect plan. We have gone out of our way since May 10, 1979, to try to accommodate the legitimate gripes, complaints and constructive criticisms of taxicabs and the agricultural community.

The SPEAKER pro tempore. The time of the gentelman from Texas (Mr. Gramm) has expired.

Mr. MOFFETT. Mr. Speaker, I yield the gentleman from Texas 1 additional minute.

Mr. Speaker, the fishermen, as the gentleman knows, have the farm coop people working actively, UPS working actively, and I think that it is really a great lesson in the way in which coalitions can be made by people of sometimes differing philosophies from rural and urban areas and so forth.

I just hope that this spirit will drift over to the other side of the aisle, where we have had over 150 of 159 Republicans, if I am not mistaken, vote against rationing in the past.

I really make a plea, and I think the gentleman would do the same thing, that this spirit of putting aside our philosophies and our politics, with a small "p," and our partisan politics, that we can put a rationing plan on the shelf that a Democratic President or a Republican President may have to implement.

I thank the gentleman for his hard work on this matter.

Mr. BROWN of Ohio. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. Corcoran).

Mr. CORCORAN. Mr. Speaker, I urge my colleagues to support the motion of my friend, the gentleman from Ohio, for several reasons; but principally because the President's rationing program is not needed. As we get closer to November he is changing his position on virtually every issue. On Monday he changed his position on the farm support program. Today we learn that he is following the recommendations of the Congress and filling finally at the proper rate the strategic petroleum reserve. That means we do not need this program. I would urge my colleagues to support my friend from Ohio.

Mr. Speaker, I rise in support of the motion to discharge the Interstate and Foreign Commerce Committee from further consideration of House Joint Resolution 575, to disapprove the administration's latest gasoline rationing plan. Further, if the House discharges the committee, I urge my colleagues to vote for House Joint Resolution 575, of which I am an original cosponsor.

In testimony before the Energy and Power Subcommittee, on which I serve, Department of Energy witnesses stated that this plan would cost over $100 million to "preimplement" and almost $2 billion per year to implement. Up to 20,000 Federal and State and local employees would be utilized in connection with this plan.

Since the House rejected the President's first rationing plan in May of last year by a vote of 159 to 246, the Department of Energy has gone back to the drawing boards and simply attempted to paper over the problems with last year's plan by devising a series of special treatments for certain groups, most of which opposed the previous plan.

This approach is unacceptable. Instead of concocting a plan as unworkable as this, I urge the administration to cease stalling and follow clearly expressed congressional intent to begin filling the strategic petroleum reserve. The SPR now has only about 2-weeks' supply. We need a cushion to guard against supply disruptions, and, in my opinion, the SPR is a far better approach than the ill-conceived rationing plan before us.

Mr. Speaker, as an original cosponsor of Mr. Brown's House Joint Resolution 575, I urge my colleagues to discharge the Commerce Committee and to support House Joint Resolution 575, to disapprove the administration's latest gasoline rationing plan.

Mr. Speaker, note with interest the following article from the Indianapolis Star which is an excellent review of how gasoline rationing did not work during World War II:

[From the Indianapolis Star, Sept. 2, 1979]

WWII Rationing, '79 Crisis Compared

(By Don McLeod)

Washington.—In those days, nearly 40 years ago, when people spotted a gasoline tanker truck wending its ways through city streets, motorists would form a line, sometimes a mile long, and follow it to its destination.

That was World War II. Today we have what President Carter calls the moral equivalent of war. He and the late Franklin D. Roosevelt faced the same problem—how to mobilize an energy-dependent people to solve an energy crisis.

In World War II, if you didn't have a war job, or a medical degree or some other exemption, you got two gallons of gasoline a week, maybe. If you parked outside a theater, you could be turned in for joyriding and your ration books were forfeited.

Bicycles were rationed and you could buy only two pairs of shoes a year. Tires? Forget it.

But President Carter shares one of President Roosevelt's biggest problems—breaking up the romance between the American and his car. There are other parallels—the same doubt and suspicion, business reluctance, Congressional wariness, costs, taxes, bureaucracy.

In World War II, for the first time, Americans were told they would have to change their lifestyle, make do with less. Just about everything went to war—mom's nylons, dad's garden hose. Energy was just part of it. There were other shortages: tobacco, sugar, ice cream, meat, all foodstuffs. Eventually, 40 percent of the country's vegetables were produced in backyard Victory Gardens.

Travel? Impossible. You couldn't drive, needed a priority for a plane ticket. No express buses. You stood in line for hours for a train ticket and likely, all the way to Florida or wherever.

But even in wartime many citizens took the restrictions and regulations grudgingly. Everyone had a bagful of excuses for more gasoline, more meat and a private phone.

World War II was the best thing to happen to hijackers since Prohibition, and the black market boomed. Counterfeiting ration stamps was such a prosperous operation that the mobs took it over.

In 1943, when the war was entering a critical stage, the government banned all pleasure driving to conserve fuel. But the public uproar was so great, it was revoked before the year was out—at the very moment the Allies were stocking up for the Normandy invasion.

When gasoline rationing began on the East Coast in 1942 because of tanker losses to German submarines, no fewer than 200 Congressmen demanded and got "X" priorities, allowing themselves unlimited gasoline.

Although rationing was necessary for the whole country to conserve fuel and rubber, Mr. Roosevelt delayed imposing it until after the 1942 elections, almost a year after Pearl Harbor.

Leon Henderson, the director of the Office of Price Stabilization who drew up the rationing plan, became the most unpopular man in America and was forced out of office.

Mr. Roosevelt got practically nothing out of Congress in the way of preparedness before Pearl Harbor. Even after the attack it took a full year to get the first war finance tax bill passed. Small wonder Mr. Carter is having trouble getting standby rationing authority and a windfall profits tax out of a peacetime Congress.

Mr. Carter has proposed three new agencies to manage his war. Mr. Roosevelt created more than the alphabet could bear.

The War Production Board was the big one. The WPB had to forge a reluctant civilian economy, still recovering from the Great Depression, into a mighty war machine.

Forty years ago, violent events began in Europe which took America to war, and with war came a severe oil and gasoline shortage. Herewith is a look backward: two Presidents, four decades apart, and how they faced a crisis with balky businesses and a recalcitrant citizenry.

For the automobile industry 1941 was the first boom year since the crash of '29. It wanted to sell all the civilian cars it could. The same was true for other businessmen. Just when people were starting to buy, Uncle Sam was asking them to stop.

It was Henry L. Stimson, Mr. Roosevelt's Republican secretary of war, who finally hit on the secret formula for cooperation.

"If you are going to try to go to war, or prepare for war, in a capitalist country," Stimson said, "you've got to let business make money out of the process or business won't work."

It's the same argument today. Let oilmen make money and they will provide the energy we need. Mr. Carter has started a phased decontrol of domestic petroleum prices which the oil industry says will encourage exploration and production.

Mr. Carter also has called for an Energy Mobilization Board, the key agency in his plan, which he says, "like the War Production Board in World War II, will have the responsibility and authority to cut through the red tape, the delays and the endless roadblocks to completing key energy projects."

The three-member board Mr. Carter proposes would have the authority to set deadlines for federal, state and local action on energy proposals and could waive procedural steps if it feels speed is in the national interest. Other than that, it would rely on jawboning, moral persuasion or public embarrassment to get the job done.

The WPB—with 15,000 employees and hundreds of sub-agencies and committees—was virtually all-powerful. It could close plants, build them, set priorities, ration and distribute raw materials, manage labor supply, set production quotas for war goods and limit manufacture of civilian items.

To goad industry into war production, the WPB stopped the manufacture of many civilian goods. The last private automobile rolled off Ford's assembly line on Feb. 10, 1942. By May, production had been stopped on more than 400 different metal items.

With industry reluctant to retool for war, the government built new plants and leased them to private firms. It also assured industry that war work would be profitable, through cost-plus contracts which guaranteed a set profit on top of production costs. The government took all the risks.

The results were spectacular. By 1943 corporate profits exceeded the last pre-Depression boom year of 1929. Grumman Aircraft's business rose from $19 million in 1940 to $390 million in 1943. Productivity soared and industrial production increased 96 percent.

American industry turned out more than 300,000 military aircraft during the war years, 5,200 merchant ships, more than 87,000 warships, 100,000 tanks, 2.5 million trucks and 44 billion rounds of small arms ammunition.

When the war reached its peak in 1944, American industry, which had started from scratch, was outproducing the enemy in munitions by better than 50 percent.

And despite the invitation to greed built into cost-plus contracting efficiency actually improved dramatically. The cost of a Browning machine gun was cut from $667 each to $141 through the efficiency of mass production technology.

The biggest problem, though, was rubber. The Japanese seized the source of 90 percent of the world's rubber supply in the first three months of the war.

Mr. Roosevelt turned to a plan similar to Mr. Carter's proposal for the current fuel shortage, a crash program of synthetics.

Under the influence of the farm bloc, Congress adopted a program to make rubber from grain alcohol, although it would be more expensive than the petroleum method.

Finally, Mr. Roosevelt vetoed the Congressional plan and moved ahead with petroleum-based synthetics. The government built the plants, and by 1944 they were producing 80 percent of the 800,000 tons of rubber consumed by the war effort.

Mr. Carter has called for an Energy Security Corporation, with authority to issue up to $5 billion in bonds, to start a similar crash program to produce synthetic fuels. Four decades after Mr. Roosevelt, he is running into the same objections.

Rationing also was a big part of the rubber war because less driving meant longer-lasting tires. But it became a critical part of the fuel solution. Mr. Roosevelt also set the national speed limit at 35 miles per hour, while today's drivers scoff at 55.

Heating fuel was another problem. While Mr. Carter has ordered thermostat adjustments in public buildings to the howls of an air conditioned generation, Mr. Roosevelt had to cut back home heating fuel.

An elaborate formula cut the average home's supply by one-third while aiming to keep temperatures at 65 degrees. As now, hardest hit were the coastal areas heavily dependent on oil tankers, but coal and even firewood also were rationed.

Unlike Mr. Carter, however, Mr. Roosevelt did have the advantage of abundant oil reserves. And with government encouragement, the industry increased production by 25 percent between 1940 and 1944.

But all of this cost money, and lots of it. In the first year of the war the Treasury was pumping out $300 million a day. A good estimate is that World War II cost more than $300 billion.

President Carter's energy program is priced at $142 billion over 10 years, less than a fourth of the wartime spending rate, not even allowing for inflation since then.

Financing the war took massive taxation. The excess profits tax slapped on industry reached 90 percent, compared to the 50 percent Mr. Carter asked for the energy war.

The income tax became virtually universal for the first time, and withholding was invented. On top of that there was a graduated surtax ranging as high as 82 percent, and an across-the-board "Victory Tax" of 5 percent.

Still, taxes paid for only about 40 percent of the war costs. For the most part it was fought with massive deficit spending. The national debt shot from $43 billion to $269 billion.

At the same time personal income soared. Wages rose about 47 percent during the war, and kept ahead of prices. Unemployment was wiped out.

To head off inflation Mr. Roosevelt's war agencies regulated wages and prices, rationed or banned products to prevent a runaway market, encouraged savings and taxed heavily.

Mr. Carter must organize his war in the midst of a "taxpayers' revolt," raging inflation and resurging unemployment. He has pledged not to invoke wage-price freezes, and political pressures probably will hold him to his word.

The recent gasoline lines showed the American motorist as unwilling as ever to relinquish his right to drive, while the country is on the verge of becoming as dependent on foreign petroleum as it was on imported rubber in 1941.

Many of Mr. Roosevelt's weapons are, therefore, denied Mr. Carter, in addition to the inevitable partisan and special interest conflicts which plagued FDR. Even with bombs falling Mr. Roosevelt had a hard time pulling the country together. Can Mr. Carter do it without a Pearl Harbor?

Mr. DINGELL. Mr. Speaker, I have no requests for time at this moment. I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as may remain.

I yield to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Speaker, I support the motion offered by the gentleman from Ohio (Mr. BROWN).

Mr. Speaker, last October, the House passed the Emergency Energy Conservation Act of 1979. This measure directed the President to prescribe a rationing plan that would be both fair and equitable, but sufficiently simple in the interests of efficient administration and enforcement.

The gasoline rationing plan currently before Congress is the most recent of three attempts by the Department of Energy. While I applaud DOE's efforts to develop a more equitable plan, I must oppose this particular attempt because it is unduly costly, extremely cumbersome, and incapable of addressing the problem of a fuel shortfall.

The plan would be a stand-by measure, only to be used in an oil supply shortfall of 20 percent. According to the proposal, DOE would estimate the amount of fuel available and would tailor coupon allotment to that estimate. Initially the plan would provide both an agricultural reserve and a national reserve to be used in extreme emergencies. The remainder of the coupon allotment would be distributed among the States proportionate to a State's historical consumption. Each State would be directed to set up a State ration reserve (5 percent of each State's total allotment) to be used in alleviating hardship cases.

Under the plan, ration checks would be sent to motorists once every 3 months. Vehicle owners would then exchange their checks for coupons at banks or any other issuance point and would present these coupons upon purchase of gas. The proposal includes the establishment of a "white market," so that additional coupons could be bought from persons not using their full allotment of coupons.

I applaud this most recent DOE proposal for striving to ration more equitably gasoline allotments among the States, by basing their State allocations on historical use. Moreover, by giving individual States greater flexibility and authority in administering details of the plan, DOE is allowing local officials to tailor the plan to the States' specific needs. I also commend the revised plan for its provision of supplemental appropriations to high priority users. These businesses require greater quantities of fuel than average consumers of gasoline, especially in emergency situations. Such revisions of past proposals have helped to bring the administration's gasoline rationing plan closer to approval by this body.

Nevertheless, despite the fact that some basic flaws have been removed from the earlier proposals, I believe this third attempt still contains some major shortcomings.

In striving for a more equitable plan, the Carter administration has developed a complex and complicated framework. In fact, I would suggest to my colleagues that this proposal could be most aptly characterized as an administrative nightmare. One example is the provision calling for the creation of a national motor vehicle registration file. Implementing such a provision would require the creation of a huge data base that involves putting together the registrations of almost 153 million motor vehicles. Such action would only serve to duplicate records at the State level.

Not only would this plan become an administrative nightmare, it would require exorbitant administrative costs to implement and maintain. DOE estimates that it would cost almost $103 million to construct a national motor vehicle file just to prepare the plan for operation. Operation of the proposal per quarter is targeted at $474.4 million. Overall, the cost of the plan for three calendar quarters could run as high as $2 billion, to be financed by a user fee added to the price of each gallon of gasoline. This fee is estimated at 3 cents per gallon, a fee that would further increase the already high price of gasoline.

Mr. Speaker, I ask you if it is worth $2 billion to the drivers of the United States to establish an emergency plan that would take as long as a year and a half to fully implement. What greater concern is there to victims of emergencies than expeditious relief? In the event that there is a 20-percent shortfall of the oil supply after September 1981, when the deregulation of oil prices is completed, the explosion of world oil prices could wreak havoc on this lethargic, administrative boondoggle.

As a Representative of the citizens of the State of Maine, my greatest criticism lies with the severe inequity that remains in the DOE plan. Despite the fact that allocation to States would be performed on the basis of their historical consumption, rural and lower-income groups would be treated unfairly. Urban dwellers, with access to mass transportation, would receive the same allotment as suburban and rural drivers with no access to public transportation. Presently, Maine has only four public transportation networks, and all of them are inter-city bus lines. An average Maine worker travels 25 miles to his place of employment each day in a car that gets approximately 14 miles to the gallon. Under the present proposal, in the event of a supply shortfall, 42 gallons would be the approximate allocation per vehicle per month. A Maine worker would only be able to drive to work 12 days each month. The average Maine worker could not afford to stay home from work the greater part of a month during any emergency. This particular proposal would devastate both the workers and the businesses of my State.

Officials at DOE have suggested that, in such hardship cases, the individual States would use their gasoline ration reserves. These reserves, however, account for only 5 percent of each State's total allotment. In my opinion, such a superficial solution would inadequately address Maine's hardship cases.

Given these concerns, I feel that this present proposal requires our serious evaluation. Specifically, the plan before us unfairly discriminates against rural areas. Although I support rationing to relieve chaos and to prevent an unfair redistribution of income, this particular proposal is unduly costly, extremely cumbersome, and incapable of addressing the problem of a fuel shortfall.

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Michigan, the chairman of the committee (Mr. DINGELL) put it very well. He said that this plan has been devised "to the best of the ability of the Department of Energy." Well, that tells the whole story.

The plan will not be ready for 18 months. It will cost $2½ billion the first year that it is implemented. The coupons are easily counterfeitable, according to the expert testimony we got before our committee. The plan is not fair or workable, according to the Bankers Association and the bankers would have to administer the plan.

Mr. Speaker, I urge my colleagues to vote "yes" on discharging the committee, and thereby against this rationing plan.

The gentleman from Michigan (Mr. DINGELL) and I have agreed then that we will then take somewhere around an hour or more than 2 hours at the most of debate rather than the full time allowed under the rule to discuss the options to this rotten rationing idea.

Mr. Speaker, I urge a "yes" vote on the discharging of the committee.

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I just want to observe that 5 years ago in the passage of the Energy Policy and Conservation Act, we mandated a plan of this sort.

Last year we passed legislation which again mandated the President to submit a plan. Last year we rejected a plan submitted by the President and we laid out certain reasons for our objections. The administration has met those. We face imminent crisis with the possibility of a shutoff of energy at any moment from the Persian Gulf or from other countries which are unstable and which produce and supply us with our foreign imports of oil, which come close to 40 percent. A war or any kind of catastrophe could shut off a major part of the U.S. supply.

□ 1650

A supply cutoff of significant proportions could cost this economy $200 billion in gross national product.

I do not plead the perfection of this plan, but I do plead to my colleagues that they should recognize that the failure to have a plan there when such disaster strikes invites two things. First of all, that our people, our economy, and the priority users under this plan would be thrown onto the open market with all of the hardships that that would entail, particularly in view of the economic distortions which would apply at that time.

I ask my colleagues to keep in mind something else. This plan is one which maintains close controls on the Executive and requires that the Executive submit its plan to us for approval before it goes into place. I urge my colleagues to keep those thoughts clearly in mind. This is not something which allows frivolous or unwise use of the rationing mechanism. It is something which allows and requires careful congressional control. It is something which puts in place on a standby basis the best plan that is possible to conceive at this particular time, and assures a modicum of fairness not only to agriculture and industry, and to priority users, public safety, but also assures the ordinary citizen his government is going to be there if and when it is needed in connection with a major shutoff.

Mr. BEDELL. Mr. Speaker, I rise in support of the administration's standby gasoline rationing plan, albeit with some reservations.

In consideration of this rationing plan, it seems to me that one concern predominates over all others: It is imperative that the Nation have a contingency plan in place for the distribution of gasoline supplies in the event of a severe fuel shortage. Given the extent of our reliance on foreign oil, the extreme instability of our foreign suppliers, and our inability at the present time to substitute any substantial amount of our foreign oil consumption with domestic energy supplies, we would be foolhardy to let ourselves remain vulnerable to a severe supply interruption.

This rationing plan will not achieve complete equity. I do not believe it is possible to develop a rationing plan that is perfectly fair. The plan would, however, assure motorists minimum supplies in the event of a 20-percent or greater shortfall. It would also assure priority users, such as agriculture, the additional supplies they would need to continue to function. Such assurances would mean a great deal against the backdrop of chaotic conditions that a 20-percent shortfall would surely bring.

Further, it is important to note that under the rationing plan we are considering today, States have the flexibility, by increasing the size of their State ration reserves, to develop programs to mitigate any inequities in their areas or, if they choose, to develop a separate rationing program of their own.

Nevertheless, I do have some serious concerns about certain aspects of the administration's rationing plan that are not specifically addressed in the rather broad outline with which we have been presented. First, the plan must not rely solely on our Nation's banks for distribution of ration coupons. The large majority of banks in this country, particularly smaller community banks, could not possibly equip themselves to deal effectively with the tremendous administrative problems that would accompany coupon distribution, and it would be grossly unfair to ask them to do so. It is imperative that a sufficient number of issuance points be targeted, including a wide variety of establishments, so that banks are not relied upon to bear an impossible burden.

Second, it would be very unwise to allow individuals and firms to establish "ration rights checking accounts" at participating banks. Such a blanket policy would effectively create a second, nationwide checking account system. Consumers would be ill-served by such a policy, and, again, it would be unconscionable to ask our banks to bear such an enormous burden.

I would like to ask unanimous consent to insert into the RECORD a letter I received from the American Banking Association that outlines these and other legitimate concerns of the banking industry in regard to the administration plan.

Upon receiving this letter I checked with administration officials, and have been assured that no bank will be required to handle rationing coupons unless they wish to do so, and the handling of ration coupons will be completely voluntary.

I believe that without such assurances the concerns of many bankers would be completely justified, and without such assurances I would have had great difficulty supporting this plan, in spite of what I consider to be our urgent need to have a standby plan in place in case of an emergency.

As the Department of Energy develops the specifics of a standby rationing plan over the next year, I intend to do all I can to see that principles of equity are followed so that one segment of our society is not unreasonably inconvenienced. I urge my colleagues to assume such oversight responsibilities as well, and to support this necessary contingency plan.

AMERICAN BANKERS ASSOCIATION,
Washington, D.C., July 11, 1980.

Hon. BERKLEY BEDELL,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BEDELL: As you are aware, the Standby Gasoline Rationing Plan presently pending before Congress will become final if not disapproved by joint resolution of both Houses of Congress by July 30. The American Bankers Association is strongly opposed to this version of the gas rationing plan and we urge you to support H.J. Res. 575 to disapprove the plan, which, we understand, will be offered first in the Interstate and Foreign Commerce Committee and then on the floor of the House of Representatives before July 30. We strongly urge that you actively oppose the plan, that you contact your colleagues to urge their disapproval, and that you consider cosponsoring the Resolution of Disapproval.

For the last seven years, the American Bankers Association has consistently supported various versions of gas rationing plans developed by the Department of Energy. Last year, we supported the plan submitted to Congress and stated that, with minor modifications, the plan could be made workable in the event of a serious gasoline shortage. Unfortunately, the present plan is the worst ever proposed to Congress by the Department of Energy. It cannot be made workable without major amendments. It is our view that the present plan is actually worse than no plan at all.

Attached to this letter are copies both of our oral statement and of our written testimony on the gas rationing plan before the Subcommittee on Energy and Power of the House Interstate and Foreign Commerce Committee. They more fully detail the reasons why we are asking for disapproval of the rationing plan.

In brief, the problems we see with the rationing plan are three. First, because the plan would rely almost entirely on commercial banks to distribute gas ration coupons, there would be lines at banks added to lines at service stations in a gas crisis. Commercial banks would have to hire approximately 150,000 additional tellers just to give out gas rationing coupons, and there is insufficient lobby space in banks today for either the tellers or the customer lines. These customer line problems would impact most adversely in unit banking states where there are fewer banking offices per members of the driving public than in branch banking states.

Second, the proposal would allow any individual or firm to establish a "ration rights checking account" into which they could deposit gas ration coupons and on which they could draw "ration rights checks" denominated in gallons of gasoline. The major problem with these accounts is logistical. There are only about 100 million total checking accounts in the country today and this proposal could add as many as 170 million more. The burden of these new accounts could literally swamp the nation's payments processing system.

Our third concern is with the legal status of the gas rationing program. Under the Uniform Commercial Code, "checks" cannot be denominated in gallons of gasoline. In fact, the Department of Energy's proposed "ration rights checking accounts," "Treasury ration checks" (checks sent by Treasury entitling recipients to exchange them for gas ration coupons), and "redemption accounts" (checking accounts into which service station operators would deposit used gas ration coupons and on which they would draw checks denominated in gallons to replenish their gasoline supplies) have no legal status whatsoever.

Our Association wishes to emphasize that, over the years we have continually supported past versions of the gas rationing plan. This is the first plan we have opposed, and our opposition is wholly based on the unmitigated chaos that would result from the plan's implementation. We strongly urge you to support the Resolution for Disapproval of the plan.

Sincerely,

GERALD M. LOWRIE.

● Ms. MIKULSKI. Mr. Speaker, I urge my colleagues to support House Joint Resolution 575, a resolution which would disapprove the proposed standby gasoline rationing plan. This will be our only opportunity to express our disapproval of a plan which I consider to be unfair and unworkable.

As a Member of Congress who served on the original Ad Hoc Energy Committee throughout 1977, and as a member of the Commerce Committee, I am deeply concerned with the effects on American society of the present energy situation. I totally understand the need to reduce our dependence on imported oil, and I realize that a standby gas rationing plan is important to such a goal.

However, the Department of Energy has given us nothing more than a warmed-over version of its original plan, allocating gasoline to registered vehicles, which was soundly defeated in the Congress because it was inequitable.

This proposal would wreak havoc on working class families and elderly citizens. It penalizes low-income households where many people use the same car in favor of the well-to-do multicar household. It rewards people who have been using more than their share of gasoline and punishes people who have tried to conserve. It is unfair, inequitable and will ultimately be counterproductive.

The American people are willing to make sacrifices—if they believe that sacrifice is equally shared. They are willing to conserve on gasoline—in fact they are already using less gasoline—so long as they believe that the entire country is faced with a real emergency. But this plan makes a mockery of such efforts. It carries the message that people with more cars—and more money—do not have to live up to the same rules as everyone else.

The Urban Environment Conference points out that "Rationing gasoline based on the number of cars a person owns is like rationing food based on how many refrigerators a person owns."

The American Bankers Association, the key institution in society which the Department of Energy is depending upon as its distribution source for gas ration coupons calls this plan: "One of the worst yet developed by the Energy Department and one which comes close to being impossible to implement." The chairman of the American Bankers Association's Gas Rationing Task Force, Mr. T. C. Welman, has worked on every proposed plan which has ever been developed since 1973 to the present. Mr. Welman stated that "Unless the major operational deficiencies stated or implied in the present plan are remedied by the Department of Energy during the preimplementation period, we feel certain that few banks will be willing to participate in the implementation of gas rationing. And even if every bank were to participate, we are not at all certain that the full implementation of the present plan in a time of severe supply shortages would provide any less economic disruption, social chaos and personal dislocation for the motoring public than no plan at all."

Because the plan is inequitable and because the plan is impossible to implement, I urge my colleagues to support House Joint Resolution 575, the resolution of disapproval.●

● Mr. GOLDWATER. Mr. Speaker, I rise in strong support of the motion to discharge from committee House Joint Resolution 575, which would disapprove the President's standby gasoline rationing plan. I also support the resolution itself.

I have never supported a gasoline rationing plan and I do not support a gasoline rationing plan now. We are in an energy crisis because we have been allowing the Federal Government, and not private industry, to dictate energy policy. In the event of a severe energy shortage, I am concerned about allowing another layer of bureaucracy to dictate this country's energy policy. Maybe it does not worry others, but it does me when I think of thousands of bureaucrats in the Department of Energy controlling our fragile energy supplies. What is even more frightening is the realization that we are being asked to approve a program still in the planning stages.

It will cost the taxpayer over $464 million and another 12 to 14 months to prepare this contingency plan for implementation, plus an additional $100 million to print the gasoline rationing coupons and compile the lists of those who qualify for the program. If this program is ever implemented it will cost over $2 billion annually. I urge my colleagues to consider that it is the taxpayer who will suffer from this mistake. There will always be the privileged few who profit at the expense of others. Furthermore, by creating a "white market" for gasoline coupons, we encourage a system which rations by price. Those institutions which would be responsible for distributing the coupons to the consumer tell us they cannot handle the additional burdens imposed by this plan.

Mr. Speaker, in light of all of the problems inherent in this plan, I urge my colleagues to support the resolution, and therefore vote against careless, inequitable energy policy.●

● Mr. QUAYLE. Mr. Speaker, in May 1979, this House wisely rejected a proposed gasoline rationing plan. We would be equally wise to reject the one the Department of Energy has now set before us.

The Energy Department is asking us to accept a "grab bag" rationing plan. DOE is asking that we agree to this plan and then watch the details be unwrapped.

I reject the notion that we should accept this rationing proposal because this plan is better than no plan at all. This plan is not detailed, DOE has not gathered data; in fact, DOE will still need $103 million from the taxpayers and 12 to 15 months to fill in the blanks for this plan. It is the same as a student coming to a teacher with a takehome exam and asking the teacher for a passing grade, even though none of the questions have been answered.

I object to this rationing plan because it will increase the bureaucracy. The Department of Energy estimates that at least 4,500 to 5,000 new Federal employees will be required and that, nationwide, State and local governments will need 15,000 employees. DOE admits that rationing would be a "massive and extremely complex undertaking." At a time when the citizens of this Nation are calling for a reduction of Federal involvement in their personal lives, we are considering a measure to control a fundamental ingredient to American life, mobility.

Not only will rationing be a burden to individuals, it will be a burden to American business. Take for example the banking institutions. They must create whole new systems of checking to redeem coupons used to distribute gasoline ration rights. Instead of waiting in line at the pump, drivers will be waiting in line before a bank teller's window.

Consider, too, for the moment the impact of rationing on the petroleum industry. The petroleum industry is facing the prospect at long last, of being freed from Government price controls on production. These controls have stifled production of domestic conventional sources and development of alternative sources. Rationing would reimpose or retain controls on an industry that has suffered due to see-sawing policies on energy, instead of receiving clear signals to plan for the future. Government controls have already been shown to contribute adversely to last summer's supply problems.

Rationing will be costly to the taxpayers. In addition to the preimplementation funding required by DOE, the annual cost of permitting this plan to sit on the shelf will be $25 to $39 million. Should the plan be implemented, it will cost almost $2 billion each year to administer. This is far too steep a price to pay for the inconvenience and inherent unfairness of rationing.

Rationing does not distribute gasoline supplies. Rather rationing distributes the right to purchase gasoline. Consumers would pay for coupons for the right to purchase gasoline, and then pay for the gasoline. This is a double-tiered system. It makes more sense to pay for just one commodity, gasoline, in the first place.

There are questions, important questions, that the Department of Energy has not answered. For example, DOE states mobilization of the rationing plan would take 3 months. What type of market conditions are going to exist for those 3 months? What is to prevent hoarding and stockpiling during this 3-month period? Can DOE project that the 20-percent shortfall will exist 3 months after it has been determined to occur? Is it fair to have an individual with a gasoline-powered car to be allotted his gasoline, while the individual with a diesel-powered vehicle can fill up? If we have gasoline rationing, I expect to see a boom in diesel-powered vehicle sales.

Finally, Mr. Speaker, I oppose this rationing plan because it will not solve our energy problems. Rationing will not create one more gallon of gasoline or one more barrel of crude oil. This Nation needs to free itself from foreign energy sources and to do that we need more domestic sources of energy. We also need to encourage conservation of those sources we already have. However, the people of this Nation do not need to be forced into conservation or be told how much gasoline they can buy through bureaucratic and expensive means. All the bureaucratic effort and all the taxpayers' dollars expended on rationing would more prudently be spent on producing more energy.

I urge my colleagues to approve this resolution disapproving the gasoline rationing plan and to then set about the business of solving our energy problems with constructive programs for production and conservation.●

● Mr. KEMP. Mr. Speaker, I join my colleagues in opposing this new gasoline rationing plan. And I would like to point out that, despite the modifications made, this plan is just as bad as those we have been voting down for the past 6 years. No matter how you "redesign" it, gas rationing is going to be a disaster.

I oppose this plan on behalf of the people of New York State and particularly the elderly and the working men and women in my Buffalo area. Any attempt to allocate gasoline to registered vehicles means that low-income households, where many people use the same car, will lose out, while well-to-do multicar households gain. Rationing gasoline according to the number of cars a person owns is like rationing food according to the number of refrigerators a person owns. Gas rationing is unfair, and it would be a tragedy for the poor people of this country.

I oppose this plan on behalf of the States of the Northeast. The amount of gasoline a State gets under this plan is based on its historic use—so States that use more gasoline per auto are rewarded: States that have tried to conserve are punished. Northeastern States fall in the lower half of the gas-use spectrum, and would come up short when the gas coupons are finally handed out. In this respect, the plan before us is no different than the one we overwhelmingly rejected 1 year ago.

And I oppose this plan on behalf of simple commonsense—commonsense should warn that this plan will be a fiasco. After 5 years of work, debate and expensive studies, DOE still is not ready to get coupons out on the streets. They say they need another 14 months because too many design features are unresolved, too much data is unavailable. They say they also need a new $2 billion, 20,000 person Federal-State bureaucracy to administer the program. I say we should stop this scheme now before we have another full-fledged bureaucratic monster on our hands.

But the real question here is not how many cars or drivers per household should qualify for coupons, how much gasoline each business should get, how the adjustment for historical use by States should be computed, or what groups and industries should get high priority. We could debate these details for years and still not solve the problem. No gas rationing plan, no matter how well designed, can do what we want it to do. It is time to step back and take another look at the whole question of an emergency energy management plan and to ask: Is gas rationing our only alternative?

Let us go back to the beginning. Congress wanted an emergency plan, one that would kick into effect with a 20 percent gasoline shortfall, for the following reasons:

To reduce disorders in the gasoline distribution system (gas lines);

To keep the price of gasoline to consumers from skyrocketing;

To prevent the oil industry from reaping vast windfall profits when prices go up; and

To mitigate losses in employment and production at home, and to maintain our national security and standing abroad.

Suppose that we do have a stand-by gasoline rationing plan, and that international crude oil production drops by 5 million barrels a day. What would happen? The 1979 experience shows us that, no matter where and why the shortage occurs, it will be felt almost instantly worldwide. Petroleum users will scramble to line up supplies and build inventories. Within days or weeks the price of every uncontrolled barrel of crude oil and every market priced gallon of product—from Tokyo to Riyadh to Hamburg to San Francisco—will escalate until it reaches a level sufficient to squeeze excess demands out of all national markets.

The U.S. oil market cannot be shielded from this lightning-fast worldwide price-rationing process, even if we immediately imposed an air-tight system of controls, allocations, entitlements, and rationing coupons on domestic oil and gasoline.

Up to one-third of our crude supply would be derived from the world market, and these supplies, priced at world market levels, would have to ripple through the cost structure of the controlled domestic petroleum market. Attempts to control the price of these imports would only drive them elsewhere and worsen our shortage.

The crucial question we have to ask about a gas rationing plan is whether it can be effectively implemented in time. Can we shift from a completely decontrolled domestic market to a comprehensive allocation and price control system—stretching from the import terminals to the gas pumps—within 30 days after a world oil supply interruption?

Experience suggests that the answer is no. A look at the 1973–74 interruption and the 1979 Iranian cutback indicates that such an attempt would promote absolute chaos in the Nation's complex, multistage petroleum production, refining and distribution system. World market prices and domestic market conditions would be changing so rapidly that price and allocation rules would be obsolete before they could be published. DOE would be engulfed with tens of thousands of relief and adjustment petitions instantaneously.

There would be huge gaps and bottlenecks in the physical distribution system, with some towns dry and others well supplied; some grades of product available and others nonexistent; some marketers reaping bonanzas and others forced into such absurdities as buying gas at $3 and selling at $2.75. The world market would beat DOE to the gas pumps, and the Government would be forced to try to drive the price of gasoline down with an unwieldy domestic price control/allocation system.

Moreover, whether we have gas rationing or not, a 20-percent shortfall in energy supplied will devastate the U.S. jobs market, our industrial capacity, our national security. The key point is that no rationing scheme can do more than allocate the shortage and ameliorate the financial hardships and inequities. To reduce the aggregate economic damage, we would need a reserve of spare crude oil supply.

Are we left, then, with a dismal choice between "managed" and "unmanaged" chaos? This is what the administration would have us believe—that there is no alternative to gasoline rationing, and so despite its flaws, it should be passed—that some plan is better than nothing at all.

Mr. Speaker, I reject the administration's doom and gloom approach, and suggest instead that we have a logical, efficient alternative within reach—one that relies on the marketplace, taxation and Government income support mechanisms that already exist and already work. I would like to join today with my colleague from Michigan, Mr. STOCKMAN, in proposing the following emergency plan:

Let the marketplace and the price mechanism distribute our gasoline supply. Gas lines, market disorders, and bottlenecks would be quickly eliminated by market forces, and most supply/demand/price imbalances would be quickly arbitraged.

Use presently existing taxes or a new operator tax to siphon "excess" profits caused by energy price hikes. With a 20-percent oil shortfall, and the ensuing price increase, the present windfall profit tax would bring in an additional $46 billion a year.

Use these revenues to reduce the financial hardships that consumers will undergo in such an energy emergency. The money can go out to those truly in need through lower Federal withholding, increased social security and assistance payments, and direct subsidies to business sector hardship cases.

Aggressively build up the petroleum strategic reserve to lessen the shortage impact in the first place. These excess supplies will help reduce the impact of a shortfall on overall economic growth, job creation, and our national security and standing abroad.

This is a real alternative to gas rationing, one that has a chance of working. I urge you to vote for this positive approach, instead of returning to the kind of price controls, allocations, and Government bureaucracy that caused the long gas lines of 1979 and our energy crisis in the first place. Join me in rejecting this inequitable, inefficient, and unworkable gas rationing plan, so that we can move toward instituting an emergency energy management plan that can help all members of our society—poor and rich, young and old, businessman and consumer—make it through our next energy crisis.●

● Mr. PATTERSON of California. Mr. Speaker, I have consistently opposed the implementation of a gasoline rationing plan or a higher cost per gallon for gasoline as undesirable methods to reduce consumption of fuel. I much prefer the marketplace to work in an unrestricted manner to determine the supply/demand and price of products. Unfortunately, we are not energy independent in regard to gasoline in this country and have been subjected on two occasions in the decade of the 1970's to scarce supplies of oil and gasoline from foreign countries.

I find myself today having to support the administration's revised standby gasoline rationing plan because the alternative is to have no plan at all. The consequences of being unprepared in a time of emergency are far worse than the objectionable parts of this standby gasoline rationing plan. The Congressional Budget Office has estimated that our gross national product could suffer a reduction of more than $200 billion in 1 year in the event of a fuel shortage of under 20 percent. Last year's shortage amounted to only 8.5 percent, yet the impact in my State of California was quite substantial.

Under the proposal, the President could not implement gasoline rationing unless there was a 20-percent shortage of gasoline and heating oil supply. This is approximately double the shortage of last year when we had long gas lines in California and in other States. Even then Congress could overrule the President's decision.

I realize that the final answer to the gasoline shortage problem is to have an energy-independent America. This can be accomplished by new technology, synthetic fuels, improved oil production, and by voluntary conservation. However, it will take time to become energy independent and we cannot allow our great country to be blackmailed by foreign countries who control large quantities of oil. This plan is far from perfect, but it is an improvement over prior plans. Also, under the Emergency Energy Conservation Act, the President can amend an approved rationing plan, provided that Congress is consulted and does not oppose the change. For these reasons, Mr. Speaker, I reluctantly cast my vote in support of the administration's standby gasoline rationing plan.●

● Mr. HARRIS. Mr. Speaker, I support the proposed rationing plan and oppose the resolutions of disapproval. Unless both Houses of Congress pass a joint resolution of disapproval, the plan will be available to the President as a standby authority. The President's decision to ration could not be implemented unless he found that there was a 20 percent shortage of gasoline and heating oil supplies. The President's decision to ration would then be subject to a one-House veto.

Rationing is not desirable at any time. At best, it is a stopgap measure in times of severe energy emergency. But a fair and equitable plan could minimize the negative effects of a severe gasoline shortage for the majority of the American people. It is crucially important that priority users such as police and fire departments, mass transportation, and mail service are assured an adequate supply of gasoline during such a drastic shortage. It is also important that each motorist be assured of at least some supplies at a reasonable price.

A standby rationing plan is a last resort measure, to be used only in the most severe emergency. A 20 percent shortage would bring about chaotic conditions in the market which would be far worse than anything experienced during previous shortages. It is imperataive that we develop a carefully prepared plan now rather than wait for a shortage to be upon us.

I believe this proposed rationing plan provides a flexible, responsible framework in which to handle a supply shortage. The plan should be allowed to go on standby status so that the Nation will have the tools it needs to deal with a future energy supply crisis.●

● Mr. RINALDO. Mr. Speaker, I support the resolution of disapproval, and I would like to express briefly my reasons for opposing the proposed standby gasoline rationing plan.

This plan differs very little from the gasoline rationing plan which was rejected by the House last year. My strong objections to that plan have not been answered by the one before us today.

The plan would unfairly handicap those people, including large numbers in my congressional district, who must use their cars to get to work. It would also work to the disadvantage of one-car families, since ration checks would be issued on the basis of motor vehicle registration, rather than licensed drivers. And it would favor the affluent, who could afford to purchase additional ration coupons on the "white market", while driving up the price of gasoline for the average citizen.

The plan would also create a bureaucratic nightmare and would be extremely costly to put in place and implement. The Department of Energy estimates that it will cost $103 million just to get the plan ready for "standby" status. It will cost another $464 million to get the plan ready for implementation, and the cost of administering the plan, should this come to pass, is estimated at approximately $2 billion per year.

In short, I think that this plan is a disaster, and I urge the passage of the resolution of disapproval.●

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of House Joint Resolution 575, a resolution disapproving of the standby gasoline rationing plan submitted to the Congress by the administration.

The mere fact that we have had to address the issue of a gasoline rationing plan for a second time this Congress clearly demonstrates that something is inherently wrong with the approach this Congress and this administration is taking in terms of addressing our energy problem.

The legislation we have passed during the 96th Congress has not been responsive to the needs and demands of the American people. The laws we have passed have not been directed toward the production of energy, they have only resulted in the production of more bureaucracy. We Americans have tightened up our belts, we have sacrificed, we have paid higher prices for energy, and we have suffered humiliation nationally and internationally. It is time that we start producing energy. It is time to stop creating more paperwork and bureaucracy as a response to a malignant problems facing our Nation.

I urge my colleagues to support House Joint Resolution 575 the resolution of disapproval for the administration's standby gasoline rationing plan. It is expensive, it is complex, it is inequitable, and it is not a responsive plan relative to the needs of the American people.●

PARLIAMENTARY INQUIRIES

Mr. BROWN of Ohio. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, as I understand it, on this issue the vote is automatic and a "no" vote terminates further discussion, the plan would then go into effect. An "aye" vote would open it up for further limited debate on whether or not we ought to have a rationing plan. Is that correct?

The SPEAKER pro tempore. The gentleman is correct with the exception that it is not an automatic rollcall. The gentleman has stated the aye and the nay positions correctly.

Mr. OTTINGER. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. OTTINGER. Mr. Speaker, if we do have to go into debate on this, am I correct that there is 10 hours of debate that we would have to suffer on this issue?

The SPEAKER pro tempore. The Chair would state to the gentleman unless it is further limited the gentleman is correct.

The question is on the privileged motion offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OTTINGER. Mr. Speaker, on that I demand a recorded vote.

The SPEAKER pro tempore. Those in favor of taking this vote by the yeas and nays will rise and remain standing.

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 205, nays 209, not voting 19, as follows:

[Roll No. 444]

YEAS—205

Abdnor
Ambro
Andrews, N.Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Heckler
Hinson
Holt
Hopkins
Horton
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenrette
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Porter
Pritchard
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Walker
Wampler
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—209

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Conyers
Corman
Cotter
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hefner
Heftel
Hightower
Holland
Hollenbeck
Hubbard
Huckaby
Hughes
Hutchinson
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Sharp
Simon
Skelton
Solarz
Spellman
Stack
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—19

Alexander
Anderson, Ill.
Bonior
Crane, Philip
Davis, S.C.
Ford, Mich.
Ford, Tenn.
Harsha
Hawkins
Hillis
Holtzman
Howard
McCloskey
Mathis
Mavroules
Mikulski
Railsback
Runnels
Steed

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Hawkins for, with Mr. Bonior of Michigan against.

Ms. Mikulski for, with Mr. Steed against.

Mr. Runnels for, with Mr. McCloskey against.

Until further notice:

Mr. Ford of Tennessee with Mr. Railsback.

Mr. Alexander with Mr. Harsha.

Mr. Davis of South Carolina with Mr. Hillis.

Mr. Ford of Michigan with Mr. Philip M. Crane.

Mr. Howard with Ms. Holtzman.

Mr. Mavroules with Mr. Mathis.

Messrs. BREAUX, BONER of Tennessee, and SEIBERLING changed their votes from "yea" to "nay."

So the privileged motion to discharge was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. I am sure the Members are aware of the rules concerning this motion. There is no motion to reconsider. Such a motion would not be in order under the law.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7724, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 750 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 750

Resolved, That during the consideration of the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived: beginning on page 7, line 19 through page 8, line 2; beginning on page 10, line 11 through page 11, line 8; beginning on page 14, lines 3 through 20; beginning on page 15, lines 10 through 13; beginning on page 17, line 3 through page 18, line 21; beginning on page 20, lines 3 through 6; beginning on page 33, lines 9 through 23; beginning on page 39, line 1 through page 49, line 21; beginning on page 50, line 19 through page 51, line 3; and beginning on page 54, line 12 through page 56, line 20.

The SPEAKER. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 750 waives certain points of order against H.R. 7724, the Department of the Interior and related agencies appropriation for fiscal year 1981. The rule specifically waives points of order against the bill for failure to comply with clause 2 and clause 6 of rule XXI of the Rules of the House.

Clause 2 prohibits the consideration of provisions in an appropriations bill unless an authorization has been enacted into law and also prohibits the consideration of legislation in an appropriations bill. There are numerous violations of this clause throughout the bill, but the Committee on Rules has granted this waiver to provide for the expeditious and orderly consideration of the programs contained in H.R. 7724. Most notably, the bill contains appropriations for Department of Energy programs. While authorizing legislation has been reported to the House by the authorizing committees, to date those authorizations have not been enacted into law. Because H.R. 7724 provides specific funding for unauthorized programs within the Department of Energy, the waiver of clause 2 is necessary. In addition, the committee has provided funding for the continued exploration of the naval petroleum reserve in Alaska. This provision is a violation of the prohibition against legislation in an appropriations bill and necessarily requires the waiver of clause 2.

Clause 6 of rule XXI prohibits the consideration of reappropriations of unexpended balances of appropriations. The bill specifically continues the availability of $1.075 billion in unobligated funding from fiscal year 1979 for the strategic petroleum reserve, in violation of clause 6. However, while the bill as reported provides for $1.075 billion of fiscal year 1979 funds to be reappropriated, action taken on the fiscal year 1980 supplemental appropriation will make it necessary for the Committee on Appropriations to offer an amendment to this portion of the bill. The supplemental, which was passed subsequent to the full committee markup of H.R. 7742, rescinded $2 billion of the original fiscal year 1979 appropriation of $2.3 billion. As a result, the Committee on Appropriations will offer an amendment to reappropriate the remaining $300 million from the 1979 appropriation and add $775 million in new budget authority to provide the $1.075 billion figure for funding of the strategic petroleum reserve.

Mr. Speaker, H.R. 7724 recommends appropriations of $10.5 billion for the Department of Interior and 13 related agencies and institutions for fiscal year 1981. The bill contains major energy initiatives that are vital to our economic and military security, as well as programs that are of great value to the maintenance of our national parks and forests, our museums and the pursuit of the arts, and historical landmarks. I would urge my colleagues to adopt this rule so that the House may proceed to the consideration of this important appropriation.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to echo the words of the gentleman from Texas (Mr. FROST). The gentleman has masterfully described the rule and in keeping with my custom of trying to abbreviate the activities of the House, I will not repeat the gentleman. I would only want to praise the gentleman from Illinois (Mr. YATES) and the gentleman from Pennsylvania (Mr. MCDADE) for their work on this bill and particularly for the attention paid to section 304 dealing with the lead shot issue which is of such great interest to the State of Maryland and hunters across the Nation.

The gentlemen will recall that earlier this year I wrote to each member of the Appropriations Subcommittee urging them to include this exemption from the Federal requirement to use steel shot instead of lead shot in waterfowl hunting. The State of Maryland's general assembly has decided by a huge majority that our State should take advantage of this exemption from the Federal rules and if the bill did not contain this exemption Maryland would once against be under this rule. Frankly, steel shot is not the answer and I am not convinced that proof does exist that lead shot and the alleged poisoning it causes is a problem at all.

I thank the subcommittee for responding to my request which is certainly very important to hunters in Maryland and all over the Nation.

□ 1720

There are many good parts of this bill, as will be elucidated at length by the two gentlemen, and others who will debate this, and I urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Yates).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7724, with Mr. Brown of California (Chairman pro tempore), in the chair.

The Clerk read the title of the bill.

Th CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the Clerk had read through line 4 on page 16, and pending were amendments en bloc offered by the gentleman from Minnesota (Mr. Oberstar).

Mr. VENTO. Mr. Chairman, I rise in support of the amendments offered by Mr. Oberstar.

Mr. Chairman, as the principal sponsor of the Boundary Waters Canoe Area Wilderness Act of 1978, I am pleased that Congressman Oberstar is offering this amendment to the Interior and related agency appropriations bill to increase funding for the program authorized by the act.

When Congress considered Public Law 95–495, recognition was given to the fact that the act would alter previous uses in the boundary waters canoe area wilderness. In some areas such as the prohibition of logging, specific sums were authorized for the programs to offset the timber losses. For other programs, such as the voluntary resort buy out, the Congress authorized such sums as may be necessary to meet these particular provisions.

In so doing, Congress intended to provide the U.S. Forest Service with the flexibility to meet the particular needs that arise. The approach approved by Congress provides the mechanisms to meet the changing situation.

Under such a situation, however disagreement can arise as to how much assistance is required. For fiscal year 1980, the Interior Appropriations Subcommittee increased the administration's request. This funding increase, which I supported, provided for a more complete implementation of the act and was fully utilized by the Forest Service, I might add. Unfortunately, acting under the current budgeting constraints, the committee has not provided sufficient funds to continue with the progress that has been made.

I believe that the amendments offered by my colleagues from Minnesota will enhance the implementation of the act. I would say that these funds can be completely utilized by the Forest Service, which will help in the ongoing adjustment to the new law and will offer some protection for this national resource.

I and Friends of the Boundary Waters Canoe Area, the coalition of Minnesota environmental groups, urge the Members' support for the Oberstar amendments. At this time, I would like to include in the Record a letter from the Friends supporting this funding:

Friends of the Boundary
Waters Wilderness,
May 9, 1980.

Re Boundary Waters Canoe Area Wilderness Act, Public Law 95–495, appropriations.

Hon. Sidney R. Yates,
Chairman, Interior Appropriations Subcommittee, House Appropriations Committee, Washington, D.C.

Dear Congressman Yates: We, as members of the coalition supporting protective legislation for the Boundary Waters Canoe Area in the 95th Congress, urge that the Interior Appropriations Subcommittee appropriate the monies necessary to carry out the provisions of PL 95–495.

We are concerned that adequate funding be made available for all of the provisions of the law for they were designed to mitigate any adverse effects of the legislation in the local area. Of particular concern to us are the following items (references are to Sections in PL 95–495):

I. ACQUISITIONS

Section 7(d) extends the Thye-Blatnik Act of 1948 to all areas of the Boundary Waters Canoe Area Wilderness (BWCAW), providing for the orderly acquisition of private inholdings within the wilderness additions made under PL 95–495. At the time of passage of the conference report on this legislation on October 14, 1978, Congressman Phillip Burton discussed some of these additions and the necessity for their prompt acquisition.

Section 5 provides that funds be authorized for the acquisition of any resort which the owner requires the Secretary to purchase. If a resort owner feels that he cannot operate under the management provisions for the BWCAW under the new legislation, or if he does not wish to help him adjust, he has a final option of requiring a buyout by the government. It is our understanding that it is the funding for these sections, which is made from the Land and Water Conservation Fund, that is now in the most jeopardy. In our view, this funding should be given the highest priority by the Congress in their appropriations, and by the Forest Service in the internal allocation of their funds, so that all of these transactions can proceed as expeditiously as possible and all parties can be dealt with fairly. In these times of economic cutbacks, we should strive to achieve them in a manner which minimizes the effects on individuals wherever possible.

II. RECREATION

Section 18 provides for expansion and development of the recreation potential in the Superior National Forest outside the BWCAW. It also provides for a new system of hiking and cross-country ski trails within and adjacent to the BWCAW. Ensuring a diversity of recreational opportunities allows an expansion of use without putting further strain on canoe routes and will allow resorts to offer additional recreational possibilities to their guests. It is the provision of these alternative recreational options that is the best long-term solution to relieving the pressures for incompatible uses within the wilderness.

III. BUSINESS AND COMMUNITY ASSISTANCE

Section 19 provides for technical and financial assistance to area resorts and outfitters in order to improve economic opportunities for tourism and recreation-related businesses in a manner which is complementary to the management of the wilderness. Properly implemented, such a program should help these businesses realize and maximize the benefits of their unique position of proximity to a national wilderness coupled with the availability of a broad range of other recreational activities outside the wilderness. Assisting businesses to adapt their operation to wilderness minimizes the pressures to adapt wilderness management to conform to economic purposes.

IV. FORESTRY

Section 6 provides for a program of reforestation and intensified forestry in northern Minnesota outside the BWCAW. Such a program has long been necessary and implementation should not be postponed.

In summary we strongly support the appropriation of such sums as may be necessary for the full and fair implementation of PL 95–495.

SPONSORS

Minnesota Division, Izaak Walton League of America, North Star Chapter, Sierra Club, League of Women Voters of Minnesota, Minnesota Environmental Control Citizens Assn., Minnesota Public Interest Research Group (MPIRG), Friends of the Boundary Waters Wilderness, Audubon Chapter of Minneapolis, Clear Air, Clear Water, Unlimited, Minnesota Canoe Association, and Minnesota Rovers Outing Club.

Mr. Chairman, I would just close by suggesting that I think that the response by the Subcommittee on Appropriations for Interior Department and Related Agencies and Chairman Yates has been good to date. I think that the implementation of this act has been good, and that the use of the BWCAW that has been demonstrated in the last year has been surprising in spite of the gas shortages and in spite of the obvious other constraints that might exist with regard to the economy.

But obviously, the time limitation in which the funding legislative authority is limited, the voluntary resort buy out as on example, is but 5 years of legislative authorization, so therefore the money that is necessary to fund that has to be in place these 5 years. In addition to that, the provisions providing for softwood production and providing for other timber production in the 3-million acre Superior National Forest, has only a 10-year time frame of special legislative authorization. Therefore, if we inadequately fund these provisions, the production that was anticipated to offset the loss of the timber in the Boundary Waters Canoe Area Wilderness and the enhancement of the forests in the Chippewa and Superior National Forest will not be specifically addressed for a long time. The shortfall will exist, so it is very important that in these years we fully fund and adequately fund this law so that these programs that are anticipated by the BWCAW Act, for the Superior National Forest, and the cooperative program with the State, can meet that need and commitment.

Congress can keep these commitments, and to date we have done a pretty good job, but we must continue to do a good job. I think the credibility of Congress and those of us in Minnesota who sponsored these modifications and are effected by the new law, is on the line, so I would appeal to the chairman of the Appropriations Committee to consider this particular amendment with these commitment concerns and objectives in mind.

AMENDMENTS OFFERED BY MR. YATES AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. OBERSTAR

Mr. YATES. Mr. Chairman, I offer an amendment as a substitute for the amendments.

The Clerk read as follows:

Amendment offered by Mr. YATES as a substitute for the amendments offered by Mr. OBERSTAR: Page 8, line 25, strike out "$392,185,000" and insert in lieu thereof "$394,185,000".

Page 9, line 3 strike out "$35,166,000" and insert in lieu thereof "$37,166,000".

Mr. YATES. Mr. Chairman, the purpose of this amendment is to make available an additional $2 million for the purpose of land acquisition in the Boundary Waters Canoe Area in Minnesota. We consider that to be only fair and equitable in view of the fact that the land has been taken for some time, and this money is necessary in order to compensate the former owners of the land. For that reason, I have talked to the gentleman from Minnesota (Mr. OBERSTAR), and I understand that the substitute is acceptable. Is that correct?

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman.

Mr. OBERSTAR. Mr. Chairman, I want to thank the chairman and the ranking minority member for their consideration of the request that I have made. While it is not the whole loaf, it is a very sizable half a loaf, and one that will provide substantial relief where it is needed the most.

In connection with this, Mr. Chairman, if I may ask the gentleman a further question; in the administration of the funds allocated to the State of Minnesota for timber stand improvement, there is $3 million Federal and $750,000 State matching funds. The Forest Service requires the State not only to lay out first its $750,000 match, but also the $3 million, and to be reimbursed by the Federal Government after it has laid out $750,000 plus $3 million to carry out the timber stand improvement program, which is not the way the Congress intended it.

Does the gentleman agree with me that this is an unfair means of carrying out the program?

Mr. YATES. The gentleman's description of that practice seems to me to describe one that is unduly oppressive. If the gentleman wants me to, I will be very pleased to discuss the matter with the Forest Service.

Mr. OBERSTAR. I think the State of Minnesota and the Minnesota forest products industry would be very grateful for a more reasonable means of administering the program, and I thank the chairman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to concur with the action taken by my chairman. I think it is a wise one, and on this side we have absolutely no objection to it and concur with the decision.

Mr. YATES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES) as a substitute for the amendments offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment offered as a substitute for the amendments was agreed to.

☐ 1730

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. OBERSTAR), as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN. The Clerk will read.

Mr. YATES. Mr. Chairman, I ask unanimous consent that the bill be read by titles, and that title I be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against the remaining parts of title I?

The Chair hears none.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, and for conducting, pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, $194,251,000, to remain available until expended: *Provided*, That (1) activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); (4) bidding systems used in lease sales shall be based on bidding systems included in section 205 (a)(1) (A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629); (5) lease tracts may encompass identified geological structures; (6) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (7) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (8) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided*, That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b). construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

The Clerk read as follows:

Amendment offered by Mr. UDALL: Page 17, line 6, (1) strike the words "and for conducting, pur-" and all of lines 7, 8, and 9, and (2) change the colon after "expended" on line 10 to a period and strike all that follows through the period on page 18, line 21.

Mr. UDALL. Mr. Chairman, the subcommitee headed by the great gentleman from Illinois (Mr. YATES) and, on the minority side, by the gentleman from Pennsylvania (Mr. McDADE) is one of my favorite organizations in this legislative body, and I hate to differ with them in their outlook on a particular amendment in this situation because they have been fair to us and we have worked well together.

There is a serious question whether we are going to get going on a meaningful drilling program in the national petroleum reserve on the Arctic Slope in Alaska. We have before us in the Committee on Interior and Insular Affairs now a bill approved by and sent up by the administration which would give up the program we have had of Federal drilling and authorize competitive bidding so that the private oil companies and the private sector will get in and do the job.

This amendment seeks to do the same thing. I would have tried to head it off in the Committee on Rules, but there was a failure of communication and I do not think the Rules Committee would have waived a point of order had there not been.

But, Mr. Chairman, we are for oil exploration. We think it ought to be done, but it ought to be done in the best and most orderly way. It should be done in the legislative committee process. I hope that the Members will support this amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio, who is chairman of the Subcommittee on Public Lands.

Mr. SEIBERLING. Mr. Chairman, I think we do need to dilate upon this subject a little bit more. Not only does the language in the committee bill which the gentleman's amendment would strike invade the jurisdiction of the Committee on Interior and Insular Affairs and the Subcommittee on Public Lands which I chair, but it also is, of course, legislation in an appropriations bill and is, therefore, objectionable on that ground. It would indeed have been subject to a point of order had not the Rule waived points of order.

The bill, H.R. 6630, to which the gentleman from Arizona (Mr. UDALL) referred that the administration sent up and which is now pending in the Committee on Interior and Insular Affairs is a 29-page bill dealing with some rather complex matters that are dealt with in this bill in a one-and-a-half-page amendment.

I would just like to mention some of the things that are not dealt with in this bill that need to be addressed and that are dealt with in the bill that is pending before the Committee on Interior and Insular Affairs. The administration's bill provides for the management of this area by the Bureau of Land Management under the Land Policy and Management Act, which, of course, is the proper act. That is not mentioned in the appropriations bill except to exempt the program from certain features of that act.

The bill before our committee provides for an accelerated planning process. That is not even mentioned in the appropriations bill.

It provides for the creation of special management areas, for four different areas of high environmental sensitivity and sensitivity in the terms of game and fishery sources for the population up there. It provides also for a study of the lands for possible designation of national wildlife refuges.

It provides for a wide range of competitive bidding systems, and there are provisions for obtaining fair market value for the oil and gas. That is also not even referred to in the provisions of the appropriations bill.

It provides for permitting and leasing of minerals other than oil and gas, and that is not even mentioned in the appropriations bill. There are provisions to benefit Alaskan Natives through payments to the Native fund and provisions for the continuation of subsistence uses in the area. That also is not mentioned in the bill of the Committee on Appropriations.

There is authority to provide access to transportation and to provide for the creation of an advisory committee, with representatives of the State of Alaska, affected local governments, and other units to assist in land use planning.

Mr. UDALL. Mr. Chairman, I would hope that the committee would stay with us. I would add one other thing.

We passed the Alaska Lands Act (H.R. 39) a year and a half ago in the House, and we have language very close to that in that bill. The Senate is beginning to take up that bill, and they are at a sensitive place in their negotiations on it.

We are all for getting the Government drilling program ended and getting the private oil companies active in the National Petroleum Reserve. The country needs it, it ought to be done, and it should be done before we adjourn. It should be accomplished through the legislative committee.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I would like to state to the gentleman from Arizona (Mr. UDALL), since he is the chairman of the full Committee on Interior and Insular Affairs, that as chairman of the subcommittee, I pledge that if the Alaska lands bill does not emerge from the Senate within the next 2 or 3 weeks, including the weeks of the recess, or if it does and it does not contain the language in the House-passed bill which provides for this kind of a program in the National Petroleum Reserve, then I personally will guarantee that my subcommittee will promptly hold hearings on the administration's bill, H.R. 6330, and do all I can to report it out, assuming we get a majority in support of it, of course, which I am sure we can do.

Mr. Chairman, I assume the chairman of the full committee will make a similar pledge.

Mr. UDALL. Mr. Chairman, I will make a similar pledge with regard to the action of the full committee.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. UDALL) has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I hate to keep the gentleman standing. I know that he has had a foot problem, and I hope his foot is not hurting him while he is standing there.

Mr. UDALL. As long as it does not hurt my amendment.

Mr. SEIBERLING. Mr. Chairman, if the gentleman would not mind and if the gentleman will yield back the balance of his time, I would like to move to strike the requisite number of words and get my own time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the features of this bill which I think is the most controversial—indeed, probably the only controversial feature, if the bill the administration sent up is taken up in the House and the Senate; and it is also pending in the Senate, I might add—is the provision for a 50-50 split of the oil revenues, if oil is found in the National Petroleum Reserve, between the Federal Government and the State of Alaska.

It also happens, of course, that the State of Alaska gets all of the benefits from the Prudhoe Bay oil. They are entitled to get 90 percent of the oil revenues, the net oil revenues from the public lands in Alaska, if oil and gas are developed there under existing law. The only place where the State of Alaska does not, under present law, have any right to participate in the oil and gas revenues is the National Petroleum Reserve. That was part of the legislation that we passed in the Congress several years ago to open up the petroleum reserve to development.

Now, if anyone thinks this is not a controversial matter, I would just like to point out the incredible position the State of Alaska is now moving into as "the OPEC of America," if you will. The revenues already accruing to the State of Alaska from Prudhoe Bay oil are simply fantastic.

I have here in my hand an article from the Fairbanks Daily News Miner of July 21, 1980, and I would like to read part of it. It says this:

> Soaring oil prices mean Alaska will receive about $400 million more in petroleum income than the Legislature counted on when it made up this year's budget, the Department of Revenue says.
>
> Instead of the record $3.8 billion anticipated by lawmakers when they adjourned last month, new department projections estimate revenues at $4.2 billion. And the estimate for next year is more than $5.7 billion.

Mr. Chairman, this is the State of Alaska, a State in the Union.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will yield in a minute, because I can understand the gentleman's agitation.

Mr. YOUNG of Alaska. Mr. Chairman, I want to know what this has to do with the amendment offered by the committee chairman.

Mr. SEIBERLING. It has everything to do with the amendment.

Mr. YOUNG of Alaska. It has nothing to do with the amendment.

The gentleman has said the amendment offered by the committee chairman to the bill before the committee would expedite the process of the drilling of oil, and now the gentleman is bringing up the fact that the State of Alaska is being blessed for a time, instead of what would happen with the offering of the gentleman's amendment.

Mr. SEIBERLING. Mr. Chairman, I would point out that I have not yet yielded to the gentleman, but I will yield when I have finished.

What this has to do with this bill is that this provision in the bill would treat Alaska as though somehow they needed additional oil revenues, and it would provide that they would get one-half of all the oil revenues from the Alaskan National Petroleum Reserve.

□ 1740

Now, the fact is that oil prices and oil revenues to the State of Alaska are going up so fast that the State Legislature cannot even appropriate the money fast enough, as is brought out in this article that I just referred to. And what is more, the State this year not only has abolished its income tax, but provided for rebates to the residents of Alaska of past income taxes. That is how much money they have. But that is not all. I have another article from the Daily News-Miner, Fairbanks, Alaska, of Tuesday, February 26, 1980, concerning the States' own forecast, which says this:

> Based on several basic assumptions, including one that the current government growth rate will remain stable, the forecast projects the state will take in $32 billion in revenue during the next five years.
>
> By the end of 1995 the forecast projects the state will have received $125.5 billion in revenue and will have accumulated a treasury surplus of $40 billion—

That is in the next 15 years.

I say to the Members that that revenue is coming from oil that you and I and the rest of this country are paying for. The $40 billion surplus that the State is expected to have at the end of 15 years is the equivalent of $100,000 for every man, woman and child in the State of Alaska. And when Prudhoe Bay gives out, after 15 or 20 years, then, according to this same article, the State expects that, nevertheless, the bonanza is going to continue on into the next century because of the State's revenues from the offshore oil which is starting to be developed.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. There is an article that I placed in the RECORD yesterday, at page H6709, which points out that by 1983 the per capita income of the State of Alaska will be $15,982, which will place it ahead of Sharjah, which is the Arab Emirate which has the highest per capita income of any country in the world. That official State forecast has their general fund accumulating to a surplus of $184.1 billion by the year 2000, which is $469,000 for every man, woman and child in Alaska.

Now, it seems to me that it is nothing less than obscene to provide in this bill that is before us that, on top of everything else, we are going to give the State of Alaska 50 percent of all of the oil revenues that may result from the development of the Nation's petroleum reserve in Alaska. For that reason alone, this provision ought to be stricken out of the bill.

Mr. McDADE. Chairman, I rise in opposition to this amendment.

Mr. Chairman, let me deal with this situation that we are in in a parliamentary way. And I regret very much that we are indeed in a turf fight with my friend, the gentleman from Arizona, the chairman of the Committee on Interior and Insular Affairs, for whom I have the highest regard. His work in the House is a symbol for all of us. He does great work.

But let me emphasize to the Members one thing. There is something more important in this Congress than turf fights. We are in the middle of an energy crisis. Some of us ought to have heard about it. Some of us ought to be concerned about it. We brought out to this floor, this is the third time, the issue of whether or not we ought to have a drilling program in Alaska on what is described by every geologist, be he public or private, as the United States' most promising oil province in the Continental United States. For 3 years in a row the administration has asked us not to appropriate one dollar of taxpayers' funds to continue this project. For 3 years in a row this project has been on dead center because they have not had legislative authority to go to the private side and put it out for bid.

Now, we are before you today, under the authority of the Rules Committee with a waiver, with legislation in this bill that will permit us to get the private side involved as promptly as possible. In fact, if the Members will read the act, it says within 20 months after enactment, assuming that the environmental impact statement is finished, we will bring in the private side and try to replace the Federal Government which is now in the position of drilling in this province. And let me tell the Members something: Every time they have drilled a well, they have had a show of hydrocarbons. They now have one that is described as a significant gas find in this petroleum reserve.

Just ponder for a moment what it might mean to this Nation if in this area of Prudhoe Bay we were able to come up with a find that would equal the Prudhoe Bay area. Ponder what it would do to the security of this Nation and international affairs and ask yourselves what is more important, moving this Nation ahead toward some kind of energy reliance, stable reliance on our own, developing an oil province that belongs to the people of the United States, or sitting around and quibbling for the third year about when we are ever going to get legislation.

Now, can anybody honestly say that in the few remaining days of this Congress we are going to see legislation passed to open up this reserve? I say to the Members that this committee has had this bill since February, and they have yet to hold a hearing on it. Not one witness has appeared; not one hearing has been held. I tell the Members that we as members of the Appropriations Committee have listened to testimony for at least 4 years on the question of what we ought to do to properly handle this petroleum reserve which was set aside as a petroleum reserve back in 1910 and transferred to the Department of the Interior after the Arab embargo in 1976. We do not have to go back, I do not think, and recount the impact of what that one action had on the Nation. At that time this Congress, all of you, decided that this ought to be a petroleum reserve, that it ought to be developed, and that is what we are doing. We are about that process now. We have $154 million in this bill. The Members voted on this three or four times in the last couple of Congresses, on whether or not you wanted to stop that completely or to continue.

Well, we are continuing it, and we are also providing the necessary legislative mechanism to say, as the administration requests us to say, "We now want to bring the private side in as promptly as possible." Twenty months, as I said, is the statutory goal in this bill. Within 20 months we want them in, we want them drilling, we want them developing, so that we do not have to put up that front-end money. But in the meantime, let me tell the Members what happens if you stop this program. I have not had the pleasure of examining all of the areas of Pet-4 in Alaska, but it is an area approximately the size of the State of Indiana. There probably is no more hostile environment in our Nation than the environment that exists in Petroleum Reserve No. 4.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. McDADE) has expired.

(By unanimous consent, Mr. McDADE was allowed to proceed for 3 additional minutes.)

Mr. McDADE. The logistical window for moving supplies from the west coast up to Petroleum Reserve No. 4 is a very narrow one, and if you stop this program today, you will not see it active again until 1985, 1986 at best. Think of it. We will close down operations on our most promising petroleum reserve for 5, maybe 6 years. Think of what kind of a message that is going to send to OPEC, think of what kind of a message that is going to send to the world, think of what kind of a message that is going to send to the American people—that we in the Congress once again are much more concerned about matters of turf and committee jurisdiction than we are in solving problems that affect this Nation as it relates to our energy policy.

This is a program that is the most promising drilling program on the public lands of the United States of America. It is estimated by the U.S. Geological Survey that there is a potential of 10 billion barrels of oil sitting in Petroleum Reserve No. 4, and that is the low figure. That is the low estimate.

□ 1750

Nobody owns a magic dowser to go out and tell anyone where it is. One has got to punch holes in the turf. That is what we are doing currently under a contract to a company called Husky Oil that was competitively bid some years ago. They have drilled exploratory wells on a scale of 1 per 1,000 miles. This year, for the first time, they will attempt to focus just a bit more on the seismic hot spots that they have found in Pet-4, and remember what I said: Every well has shown a flow of hydrocarbons. They now have at least one significant gas find, and where they have it is an area where the geological formations suggest right beneath it is an oil find which they have yet to define.

So I say to the Members, if you want to go home to you constituents and say you voted to cut off exploring for oil on land that you own, then vote for the amendment that has just recently been offered; but if you want to go home and say that you have invested your taxpayers' dollars in a program that will carry us through the interim to explore for oil, to try to find another Prudhoe Bay, to break the chain of OPEC, to stop shillyshallying in this Congress and say we are going to move forward with an energy problems, then the vote you have got to cast is against this amendment. I hope it is resoundingly defeated. It has been before this body on three occasions. This body defeated it before. The time to vote a continuing energy program on Pet-4 is now. Let us see if we cannot keep America somewhat sufficient in energy and develop our own resources.

Mr. McKAY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Pennsylvania. We have been working on this thing for a long while. We have been concerned about it. We have talked about grants in the committee and how we get research and all the rest to get oil. At some point it gets lost in administration and studies and studies, and we do not get oil.

Now we are moving, and we are getting some drilling done. We had not ought to stop it. The fact that we get the private into it at some point, is fine, but in the meantime we do not want a hiatus in which there is nothing being done; and that is the danger if we adopt this amendment, that there will not be a transition period to continue.

Another little point I would like to make is we created the Geological Survey many years ago, and they have performed a great function in that they have surveyed and drilled and done studies about the lay of the land where minerals are, where oil is, where gas is, and those studies have been then opened to the public for prospectors or whoever to go out and find where the most logical places are to find the wealth of this country for its economic need.

Now, this is no different, and these people will use it; and those who oppose it, maybe the reason they do not want this to happen is because when they have to come to bid for that lease and you have found oil that they may have to bid higher.

There are those in this Congress who have proposed that the Geological Survey do all the drilling and then lease what is found later. I do not propose we do that, but I think we need to move ahead so we can find what is there and not guess what is there until someone else can move in and keep this going. Time is of the essence, both economically and for security reasons. I ask the amendment be defeated.

Thank you, Mr. Chairman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman has mistaken this amendment for the next amendment. This amendment does not touch the money that is in the bill for continuing the drilling by the Government's contractor, Husky Oil. All it does is take out the language that directs the Secretary to implement a private leasing program. The reason is very simple. The House already voted a year ago last May to direct the Secretary to implement a private leasing program in 20 months. The only reason why that is not the law today is because it is in the Alaska lands legislation which was not taken up in the other body until last week. It is now pending in the other body. It is in a very delicate stage of negotiations. And in all likelihood we will either have an Alaska lands bill within a week after the end of the recess, or we will not get a bill.

If we do not get such a bill, then we have pending in both the House and Senate the same general language in H.R. 6630. That bill was introduced by Chairman Udall on February 26 of this year. The only reason we have not moved with it is because we already had similar legislation in the Alaska lands bill that passed the House last year.

If we do not get an Alaska lands bill with that provision in it, the Chairman and I have both assured the House that we will move promptly to get out legislation dealing with this subject, which we have already done in the Alaska lands bill. That itself demonstrates the concern of our committee to expedite a private exploration and development program in the national petroleum reserve. It is simply a question of the most orderly way to do it.

Mr. McKAY. I appreciate the gentleman's comments. The history, however, would indicate we were going to get that bill last year and we did not; and things could break down again. So we do not have that hiatus occur, our concern is to continue it until such time as what the gentleman says is delivered. That is our only concern here.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Let me say, under the existing law under that House-passed bill—and there are not many of us who know that—we ought to understand what happened.

This province was transferred to the Fish and Wildlife Service. It was no longer a petroleum reserve. It was transferred to the Fish and Wildlife Service as a refuge. The manager of this petroleum reserve, our most promising in the United States of America, would be the Fish and Wildlife Service. All leasing would have to be conducted under the Mineral Leasing Act of 1920. One could not lease in sizes over 640 acres.

The CHAIRMAN. The time of the gentleman from Utah (Mr. McKay) has expired.

(At the request of Mr. McDade and by unanimous consent, Mr. McKay was allowed to proceed for 3 additional minutes.)

Mr. McDADE. If the gentleman will continue to yield, the size of the tracts would be limited to 640 acres. What we need and do in our statute is to move those sizes up to 50,000 and 60,000 acres. This is an enormous tract, and as I said, in a highly hostile environment. It limits the bidding system, the old Mineral Act. The statute that we are passing today, if this body votes with us, gives the administration total authority to pick any type of leasing arrangement that they choose.

The statute, by the way, also says that when the Secretary of the Interior conducts these operations, he must do so in a manner that treats this petroleum reserve with the greatest possible reverance, with the greatest possible environmental concern, if you will; but it permits him the flexibility to do what he has asked us to do, to do what he has asked the Committee on Interior and Insular Affairs to do, but to do what he cannot do today. He does not have the statutory authority to do any of those things. We are giving him that statutory authority. We are giving him the money to do so in the interim, in an interim program; and unless we do that, as my friend from Utah says, in a coherent way, we risk closing down this property for 5 to 6 years. I do not think any of us wants to do that.

Mr. DICKS. Mr. Chairman, I rise in opposition to the amendment

I want to commend the gentleman from Pennsylvania and my colleague from Utah for supporting the leasing program, which I believe will expedite this program. In my judgment, what they have done will make the amendment which I will offer next even more acceptable to the House.

My amendment has been discussed at some length. What I am trying to do is to expedite the leasing program so that we can bring the private sector in to develop the resources on the NPRA.

We received testimony this year from the major exploration companies that the best thing that could happen would be to have a multicompany approach on the NPRA.

□ 1800

I agree with this testimony and that is why I am going to be offering an amendment to provide for more seismic research, but to stop drilling on the NPRA in fiscal year 1981.

If we pass my amendment, which comes after the amendment now being considered on the floor, we will save the taxpayers $125 million in a year when we have other priorities that I think deserve the money more and, in my judgment, provide a better return for the taxpayer. We can save that money, if this amendment is defeated, because then we will know that we have a program in place that is going to be accelerated, and, therefore, it reduces the necessity for continuing a highly costly; expensive program of drilling on the NPRA.

Mr. McDADE. Mr. Chairman, will my friend, the gentleman from Washington, yield?

Mr. DICKS. Of course, I yield to my friend.

Mr. McDADE. Mr. Chairman, when the gentleman says he is supporting my proposal and that of the gentleman from Utah, the gentleman is referring to the language that is contained in our committee bill?

Mr. DICKS. It is in our bill.

Mr. McDADE. And in opposition to the amendment of the gentleman from Arizona.

Mr. DICKS. Yes, I oppose the amendment of the gentleman from Arizona. The gentleman from Pennsylvania (Mr. McDade) was one of the prime sponsors of the subcommittee language.

Mr. McDADE. We had a unanimous vote in the subcommittee as the gentleman will recall.

Mr. DICKS. That is right.

Mr. McDADE. I am happy to claim credit for it.

Mr. DICKS. Well, I think the gentleman deserves great credit, because he is going to make it possible, I think, for the House to save in a few minutes $125 million of precious taxpayer money.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield to me?

Mr. DICKS. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, if the gentleman's amendment passes, which takes out all of the money for the continuation of the Interior Department's drilling program, then the very thing that the gentleman from Utah feared will come true. There will be a hiatus, because the drilling program will end before the private leasing program begins.

Mr. DICKS. No. We will continue to do the seismic work. I have provided money in here to do the seismic work.

All the exploration companies that testified before our committee said that getting better seismic information was much more critical to expediting the exploration program than drilling four more wells.

We are talking about a huge area. Four more wells for $125 million is a terrible waste of the taxpayer's money.

Mr. SEIBERLING. Well, all I can say is that how does the gentleman feel about the 50–50 division of the oil revenues between the State of Alaska and the Federal Government which is in this bill, which is not required by existing law, which is a giveaway of billions of dollars of potential income?

Mr. DICKS. It used to be a 90–10 split.

Mr. SEIBERLING. No. It is a 90–10 split everywhere but in the National Petroleum Range, where the State of Alaska has no royalty rights whatsoever; so the gentleman is giving them 50 percent that under existing law you do not have to give at all.

Mr. DICKS. Well, this is one of the difficult political judgments that has to be made.

Mr. SEIBERLING. I say to my friend from Washington, they are already wallowing in money, they cannot spend it all, they are getting it so fast.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield, of course.

Mr. McDADE. Mr. Chairman, let me say to my colleagues in the House that had we not enacted this particular provision in the law that requires a 50–50 share, the statutory formula would have been 90–10; but we enacted a statutory formula that put Alaska in exactly the same position, and this is the administration's recommendation, as every other State in the Union. It is a 50–50 share.

Mr. DICKS. Does the gentleman mean that Alaska would have gotten 90 percent of the money?

Mr. McDADE. They would have gotten 90 percent. It is 50–50, and if Montana or Utah or somebody else comes up with oil shale and it is on public lands, they will get 50–50 also. This just puts Alaska on a parity with all the other States.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I think we need to clarify this point. At the present time, it is not in the law. The law is that as far as any revenues from the petroleum range are concerned, the State of Alaska has no right to get any of that revenue. The 90–10 applies to the public lands outside the National Petroleum Reserve in Alaska; so the gentleman is giving away Government assets without necessity, and it is not in the existing law, and the gentleman is giving it away to a State that already bids fair to be the oil rich State of the whole Union, when they already have more money than they need and they do not know what to do with it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, my good friend, the gentleman from Ohio, the chairman of the Public Lands Subcommittee, has seen fit to drag a red herring across this whole issue of the 50–50 split with the State of Alaska.

Yes; we are blessed with a considerable amount of money, thanks to this Congress, because we did not have an energy policy. We are blessed because we are a State and we picked lands that did have oil reserves to be provided to this Nation.

I have not heard my good friend, the gentleman from Ohio, mention one thing about a 50–50 split with the OPEC nations. I have not heard one positive suggestion in developing a new energy source in this great America of ours.

We do know we are exporting $100 billion to buy oil today. As an American, not as an Alaskan, let us just forget Alaska wallowing in money. If the gentleman thinks that is a good feeling, he may think it is, but right now we are being shot at, picked at, and if you look at what is happening on the Senate side on the Alaska lands, being kicked at. Think about that for a moment; but think of America. We need the oil in Pet–4.

I have heard my good friend, the gentleman from Ohio, say there is a bill in the committee, the chairman of the full committee said we will have hearings. We have 37 days left. That bill has been languishing in that committee for approximately 6 months.

Let me tell you what the administration bill does. It is a nothing bill. It allows no development of oil. It elevates the Fish and Wildlife Department into supreme commander of those lands. They set aside special areas, and if that department sees one chance of wildlife being damaged, there shall be no drilling.

Mr. Chairman, this is not a productive piece of legislation. It is a nothing bill. I have introduced a contrary bill, very similar to what the gentleman from Washington and the gentleman from Utah and the gentleman from Pennsylvania have got in this bill today. If this body wants a production of oil, then the amendment should be defeated. It should be defeated resoundingly, because this is the only positive gesture that this Congress is going to make in the remaining 37 days to relieve that great drain of dollars to foreign countries.

There is a possibility that there is 10 to 15, 20, yes, 40 billion barrels of oil in this Pet–4 of 23½ million acres, bigger than the State of Indiana. It is there. We need to get private industry into it. We need to get it on line, because it is in close proximity to the pipelines in existence today. If the amendment is adopted, I can assure you again we are another year behind.

The last energy legislation that passed this Congress was in 1973, the trans-Alaskan pipeline. It was fought then by the same gentlemen that are offering this amendment today. Today that is providing us with 15 percent of the oil that our domestic market is consuming; so I am asking you, let us not fight over turf. Let us look at the potential of oil for this Nation which we so badly need.

Defeat the amendment. Let us get on with the show. Let us produce the oil that we know is there and is available for all Americans, not Alaskans, but Americans. If you believe that we are in an energy crunch and we need it now, and we ought to get off the yoke of the OPEC nations, if you do not believe that, if you want to continue to bow and to scrape to the bearded wonder over there holding 50 hostages, then you vote for this amendment.

Vote against this amendment. Kill it and let us get the oil where it belongs, in America.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe a little history of the action of the committee is appropriate at this time. As the gentleman from Pennsylvania so well said, for a number of years we have had to face the opposition of the administration in making funds available for the drilling program on Pet-4.

Some years ago the U.S. Navy, under the authority of legislation, hired the Husky Oil Co. to undertake a drilling program for I believe it was 26 holes, to determine whether or not oil existed in the reserve. That program will be completed by the drilling of the four holes that are provided for in this bill.

☐ 1810

But each year there was opposition by the administration to placing approximately $140 million in the bill to continue that program.

The reason our committee placed the money in the program was because the testimony before the committee showed that if the drilling program were terminated a long delay would occur. It is required that legislation be passed to provide for private exploration of oil on Navy Pet-4, and then an environmental impact statement has to be filed and a leasing program would have to be fashioned by the Department of the Interior, the sum total of all that time would be between 4 and 5 years. Our committee believed that it did not make sense to stop the drilling program that was going on. That is the reason we inserted the money in this bill. We inserted $160 million in this bill to continue that drilling program because of the excellent findings that Husky Oil Co. has made at various places throughout Navy Pet-4.

But we still had the opposition of the administration and we still had to face an amendment which the gentleman from Washington proposes to offer to strike out the money to continue that drilling program.

If the gentleman's amendment is successful it will terminate the drilling program. He will recommend $69 million, I believe, for termination and for seismic exploration of Navy Pet–4 and we will still then have to wait for passage of the legislation by the Congress and for the time period that is necessary in order for a private drilling program to come into existence, which is another 4 or 5 years.

The gentleman referred to the person who initiated this amendment. I conceived the idea of invading the turf of the legislative committee. The reason I thought of that was because last year this committee dared to invade the turf of the Committee on Science and Technology and of the Committee on Interstate and Foreign Commerce in order to initiate an alternate fuels program. The House accepted that initiative of the committee.

This year, in order to expedite bringing private exploration to Navy Pet–4, we introduced legislation, to which my good friend from Ohio is objecting, that would permit private exploration at the same time as we continue trying to find out if there is additional oil on Navy Pet–4.

I did not want to place legislation in this bill. I have been on the Appropriations Committee for 30 years and I have a real opposition to placing legislative language in an appropriation bill. That has been the training of the members of the committee all of that time. But it seemed to me that we were going to help the legislative committee by undertaking the initiative as we did.

I did not invade the province of the legislative committee without checking with the chairman. I called the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), and I said, "Mo, this is what our committee intends to do, if it is all right with you. We think that we can move this Navy Pet–4 faster and provide private exploration if we put this legislative language in the bill. Do you have any objections to that?"

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. YATES. We asked that question of the gentleman from Arizona (Mr. UDALL) and he said "No." Excuse me, he did not say no. He said, "Let me think about it."

I did not hear from him again. I assumed that he had no opposition to it. The next thing that I heard was when we filed a request before the Rules Committee for an appropriate waiver for this legislative provision, the Rules Committee received a letter signed by the gentleman from Arizona (Mr. UDALL) and by the gentleman from Ohio (Mr. SEIBERLING) objecting to this language.

I appeared before the Rules Committee. I related the story of what had occurred in the same way as I am telling the House about it today. This is a true story of everything that happened. There is nothing venal, there is not attempt to grab power by our committee.

The only purpose of proposing the legislative language at the time I spoke to the gentleman from Arizona was to find out from him whether he had any basic objection to it. When I did not hear from him after that, I assumed that no objection was forthcoming. I must say in all honesty that I was a little shocked when his letter appeared before the Rules Committee.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. YATES. I see that the gentleman wants me to yield and I will be glad to yield to him.

Mr. UDALL. The gentleman from Illinois is one of my favorite people in this institution, and I think he knows that. Essentially he states the situation correctly. I did not get back to him. It was an oversight. When the matter was called to my attention later, I checked with the subcommittee chairman and others; and it appeared to us that this was a situation where we ought to oppose the Appropriation Subcommittee going forward.

Earlier I did send a letter to the Chairman of the Appropriations Committee spelling out our present position. But, if the gentleman will permit me just to say this, I do not want a turf battle. The gentleman has been very good to us over the years, and I do not want to leave anyone with the idea that we are against drilling. We are all for drilling, the majority and the minority, on our committee. I think we have to get in there since it is one of the most promising areas in the country. We are going to need that oil. The question is how do you go about it, and this was a very complex statute. We have the expertise. We have promised to take this up and move quickly on it through the regular legislative process if we do not get it in the Alaska lands bill which is pending in the other body.

So there is no disagreement about drilling. JOE McDADE said that it will set the program back 5 years. It is not going to set the program back 5 years, because if we do not get action on this very shortly from the Interior Committee, I personally will withdraw my objections to this provision going forward in this way.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I just want to say to my dear friend, for whom I have the highest regard, chairman of the Committee on Interior and Insular Affairs (Mr. UDALL) it is 5 years if one analyzes what happened, because if this drilling program gets terminated, as may happen if this amendment passes in a little bit, that means that the company that is up there drilling right now, Husky Oil Co., has to fold its tent and leave. The cost of doing that, by the way, is about $60 million, just to destabilize them.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. It costs, as I related to my friend, about $160 million to keep them going. But the problem is, after the legislation is passed, then there must be an environmental impact statement filed, and that is going to require not less than 18 months. We, in the legislation we carry today, say that we can get this drilling program going within 20 months, not conditioned upon that environmental impact statement.

We will, from the date of that legislation, particularly if we have destabilized Husky and taken him out, we will have about 3 years right there before even going into the bid procedure before we even begin to try to gather materials at Puget Sound or wherever on the northwest coast we want to try to get into Alaska. We are looking, I would say to my friend, and we have looked at this intensely in the committee, at 4, 5, or 6 years' delay before we can get private companies actually onsite with rigs exploring aggressively for oil.

As my friend, the Chairman, has said, that is our common goal. Everyone in this House has that goal, so let us defeat this amendment and let us move on in a hurry. Let us get America drilling for oil.

Mr. YATES. I just want to say that when we appeared at the Rules Committee—and may I say I related the history of what occurred exactly as I am telling the House to the Rules Committee as well—the Rules Committee had under consideration a letter from Chairman UDALL and the gentleman from

Ohio (Mr. SEIBERLING). I told the Rules Committee the only purpose of our committee inserting language of this type was to expedite the possibility of discovering additional oil in Alaska. The Rules Committee, knowing of the objection of the Committee on Interior and Insular Affairs, nevertheless granted us the rule.

Subsequent to that the gentleman from Arizona (Mr. UDALL) and the gentleman from Ohio (Mr. SEIBERLING) came to me and said that they hoped that I would consent to an amendment which would strike the language in accordance with the amendment offered by the gentleman. I told them that after they had represented that they would bring the bill to a hearing promptly, and would see that it was passed and push it through the House and the other body, I said, "I have no objection to that. That sounds all right to me." I said I would tend to favor that.

□ 1820

After I had discussed this with members of my subcommittee, I found that I was alone on my subcommittee in this respect, so I thought in all fairness and in all frankness I ought to tell the House what the background of our discussions were.

The gentleman from Pennsylvania (Mr. McDADE) has been most eloquent in stating the position of our subcommittee in respect to the position we have taken. He makes a very good argument.

I was unaware, may I say, to my friend, the gentleman from Ohio (Mr. SEIBERLING), that no hearings had yet been held on the bill, and I would assume that that would not be a factor that would hold the gentleman up unduly in bringing a bill out. But my committee thinks it is a factor.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. I thank the gentleman for yielding. I would just like to say to my good friend, the gentleman from Illinois, that somehow the impression has been given in this debate that the Interior Committee has been stalling this type of legislation. The exact opposite is true. Our chairman, the gentleman from Arizona (Mr. UDALL) and I personally have been up to the Alaskan National Petroleum Range. We have visited Husky Oil Co.'s facilities. We have walked over the tundra. My subcommittee has held oversight hearings on the Government exploration program. We have a great deal of familiarity and background information on this.

What is more, it was my subcommittee and the Chairman's own bill that put the provision in the Alaska lands legislation to mandate the private leasing program. That bill passed the House 14 months ago. If we do not get an Alaska lands bill by the end of the week after we get back from the recess we will move promptly to hold hearings on H.R. 6630 and move it to the floor of the House.

Incidentally, the gentleman from Alaska was in error when he said that the administration's bill, H.R. 6630, which we got in February, would put this under the Fish and Wildlife Service. Right on page 2 it makes it clear that the preserve would be under the Bureau of Land Management which is directed to develop a very comprehensive program.

I am so strongly of the belief that we must proceed with all deliberate speed to develop this resource that I will oppose strenuously the next amendment to be offered by the gentleman from Washington (Mr. DICKS) to take out the money to continue the Government program. The "window" that the gentleman from Pennsylvania (Mr. McDADE) referred to about getting equipment up there during the open season when there is no ice, will be closed before we can get any bill passed this year. If we get out a new bill, this fall or even early next year, we will have plenty of time to make use of next year's window so failure to include it in this appropriations bill will not set the program back any significant period of time.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

I would point out that we are only talking about 7 percent of the land area in Alaska. We are talking about an area that has been identified as having petroleum potential, the National Petroleum Reserves in Alaska——

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. REGULA, and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. REGULA. If the gentleman will yield further, I would point out that the bill clearly provides strenuous protection for environmental considerations. It says that the activities undertaken pursuant to this act shall include or provide for conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably feasible and significantly adverse effects on the surface resources of the National Petroleum Reserve.

I would point out also that in this bill we change the split from 90 for Alaska and 10 for the United States to 50 for Alaska and 50 for the United States, a 40-percent improvement. It makes the division identical to what it is in the other 49 States.

If you believe that we need to get on in exploring our own petroleum reserves, you should vote against this amendment and for the language that is in the bill. A vote no is to move ahead in exploring this 7 percent of the Alaska land area and to find out and develop what is there in reserves that we desperately need to free ourselves from blackmail by the OPEC countries.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. BURGENER. I thank my chairman for yielding.

Due to the leadership of our chairman and our ranking member in our committee, we are in the business of proving what could well be one of the greatest oil reserves in the world. These amendments interfere with that. It is not in the national interest. I urge that the amendment be defeated.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding.

I want to say that I have been to Alaska five or six or seven times, I believe five times since I have been a Member of Congress. I have not found three people up there who want to do what the gentleman from Ohio wants to do. If you let them alone, they will lock up the country.

You heard what the gentleman from Minnesota (Mr. OBERSTAR) said today about his canoe wilderness area. They were not to allow motorboats.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROBERTS, and by unanimous consent, Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. YATES. I yield to the gentleman.

Mr. ROBERTS. They were not going to allow motorboats. Now they do not allow snow cats, and the snow gets about 8 feet deep. So all of his people are broke. You heard him today here asking for money to bail out his people. Be reasonable and listen to what the people of Alaska want to do, and do not ruin this country.

I am certainly opposed to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

The amendment was rejected.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: At page 17, line 10, strike the first word, "$194,251,000," and insert in lieu thereof, "$69,001,000,".

Mr. DICKS. Mr. Chairman, I rise with an amendment today to strike $125 million in this budget which is earmarked for the national petroleum reserve in Alaska for drilling four additional wells. I have been investigating this program for several years now. Up to this point, we have drilled 24 wells on the National Petroleum Reserve. We have more drilling information about this area than we have had for almost any other area that we have leased and developed in the history of this country.

What is in the budget for next year is money for four additional wells at a cost of $160 million to the American taxpayers. We have already spent close to three-quarters of a billion dollars on the National Petroleum Reserve in Alaska. I think it is time to end the Government's program in the reserve and to open this area up to private leasing as soon as possible.

My amendment would provide for the appropriation of $46.5 million for close-out costs of the Government's exploratory drilling program and $22.5 million for high quality, detailed seismic work. In these times of fiscal restraint, my proposal would save the American taxpayers $125 million in fiscal year 1981. This alternative proposal would redirect the Government program to detailed seismic exploration in lieu of continued Government drilling.

The subcommittee also received strong industry testimony favoring termination of Government exploration. The administration and private industry agree that the most efficient and successful exploration will be conducted by a multicompany, competitive, exploratory effect.

Mr. Chairman, we have already spent enough in public money on the reserve. Let us turn this program over to private leasing. Let the private sector invest the money necessary for exploration. It will not just be the kind of exploration we are doing here, which is very minimal. It will be complete commercial exploration which I think makes a lot more sense, and can save the American taxpayers a lot of money.

I would also like to mention that the drilling we are doing is not likely to determine whether there is really a commercial quantity of oil available. This is merely just to do exploratory work in various areas of the reserve. The resource assessment based on the 24 wells to be drilled through 1980, plus the 12,500 miles of geophysical data collected through 1980, I think is adequate to do the job. I do not think we need to invest this additional amount of public money.

By adopting my amendment, the public interest would be better served by ending the Government drilling program and instead concentrating our efforts on gathering the detailed seismic information which is necessary to allow for a smooth and speedy transition to private leasing.

I am told by the Department of the Interior that completion of the 24-well program provides an adequate basis for assessing the resource potential of the National Petroleum Reserve in Alaska and planning for leasing. I am also told that the most important element in a transition to private exploration activity and early production is high quality, detailed seismic information suitable for making private leasing, exploratory drilling decisions, and for Government tract evaluation.

Potentially, the public will receive greater payback from seismic exploration than additional drilling, and at significantly reduced cost. The Department of the Interior estimates that a 3-year seismic program prior to leasing would cost about $40 to $60 million; a 3-year drilling program would cost about $454 million.

The administration's position is to terminate Government drilling on NPRA and to open this area up to private leasing as soon as possible. In the budget justification for the geological survey for fiscal year 1981, it states:

> Exploration of NPRA by a number of private companies will provide a more expeditious basis for assuring early oil and gas production from the reserve than will continuation of the Government exploration program.

It has been argued that Federal drilling should continue while the questions of how the reserve should ultimately be developed is being debated. The implication is that continued Federal exploratory drilling will, somehow, reduce our national dependence on foreign oil.

The fact is, by directing the Federal Government to continue their drilling efforts, we only put off the date when the private sector can use the reserve to drill for oil to be used commercially.

The President has instituted a national policy to significantly decrease our dependence on foreign oil. We, as Members of Congress, are all committed to this goal. By opening the reserve to private exploration and development activities at the earliest possible date, as the President intends to do, we will have taken a positive step toward making this country energy independent.

In summary, Mr. Chairman, I say it is time to stop this program and to stop spending the taxpayers' money unnecessarily. It is time to let the private sector develop these oil wells. I urge you to support my amendment and vote with me to cut funding for the continuation of a Federal exploratory program on the National Petroleum Reserve in Alaska.

□ 1830

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, this amendment does not make sense at all to me or to any member of the committee. It does not make sense to the gentlemen who were advancing the last amendment, who were advocating different legislation. This is an amendment which is truly pennywise and pound-foolish. The drilling program that has taken place has shown, already, that there are places in the Navy Pet-4 that are among the most promising areas in the world as far as oil and gas discoveries are concerned.

Most of the wells drilled have provided indications of hydrocarbons. The last well drilled resulted in finding significant amounts of natural gas. Even without discovery of major deposits, and major deposits have not yet been found, the wells have provided significant information on the characteristics and potential of the reserves. It could enhance the attractiveness of the reserve to potential private bidders. As a matter of fact, if one of the wells that is to be drilled showed that a real find in oil existed, the amount of money that the Government had invested would be peanuts compared to the amount that could be realized through the bidding program.

The maximum likelihood for finding oil is to do both the interim Government program and the proposed leasing program. We want to do what the gentleman wants to do and that is to put a private leasing program into effect. However, in the interim, why lose the 4 or 5 years that are necessary to do that?

The gentleman speaks about continuing with the seismic program. We go ahead and do that with respect to the funds that we provide as well. There is money in our program for the seismic program, too, but in addition to that, in order to maximize the greatest potential of Navy Pet-4, we think we should continue as well with the drilling.

I urge the defeat of the amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YATES. Of course I will yield to my good friend from the State of Washington.

Mr. DICKS. Mr. Chairman, I want to say to the chairman of our subcommittee that there is no one in the House whom I hold in higher regard. I think the gentleman does a great job as chairman of this committee. The gentleman is always fair and is a strong advocate.

I would like to point out that even Husky Oil this year did not come in and ask for this program to be continued. They did not come in and suggest we continue this program.

Mr. YATES. If the gentleman will yield back, that may be true, but we have an opinion as well. We think Husky should do it. We think they should continue. That is why we placed the money in.

Mr. DICKS. Mr. Chairman, will the gentleman yield further?

Mr. YATES. Of course.

Mr. DICKS. Is it not true—and the chairman was very kind to hold a special hearing on this—that each one of the exploration companies that came in said it would be better for the private sector to come in and develop the NPRA?

Mr. YATES. We agree with that. That is why we have the language in the bill, but they agreed as well that the drilling program has been of benefit to the Government, it has been of benefit to the oil companies, the findings of Husky Oil will be made available to the oil companies and will benefit those who do bid on the program.

I yield to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman, I thank my chairman for yielding. The hour is getting late. Let me remind the House the last time we voted on this issue the record vote was 409 to 3 against my dear and persistent colleague of the State of Washington.

Mr. DICKS. That was not on my amendment.

Mr. McDADE. As my chairman said, this is an amendment that does not belong on the floor of the House. It does not deserve consideration. If we adopt this amendment, we have closed down Alaska for about 5 or 6 years at a time when we are giving the OPEC nations, exporting $100 billion a year.

Let me remind the gentleman what is in this bill in the way of energy upon which you are going to vote upon. $3.5 billion in high technology projects that we hope will pay off in 1985 and 1990, are well down the road. The program of which we speak and that my chairman is referring to in opposing this amendment is underway today and as I said in general debate, every well that has been drilled has had a show of hydrocarbons and the U.S. Geological Survey reports to us one significant gas find already, when they have yet to define what are the parameters of the oil underneath it.

Now my friend represents the administration's position and if I have ever seen a myopic position by an administration, this is it. There never was a time to cancel this program in Alaska. This is the kind of a program that we should be pursuing with all the diligence, with all of the efforts that we can muster. If we are going to worry about $160 million when we are exporting $100 billion to the OPEC nations, then we have our sense of values really turned around. If we are going to worry about spending $160 million for putting bits in the ground to find oil tomorrow, when we are spending $3.5 billion in this bill to bring new technologies on the line in 1985 and 1990, if we are going to worry about that, then indeed we have tunnel vision. I hope we defeat the amendment resoundingly.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. YATES. Before I continue to yield to the gentleman from Washington, let me say that the gentleman from Pennsylvania (Mr. McDADE) did not refer to the gentleman from Washington as being myopic. I wanted to clear that up, because the gentleman has been a very valuable and constructive member of our committee.

Mr. McDADE. When I referred to my friend from the State of Washington I said he was persistent, and he is, and he does a fine job.

Mr. DICKS. Mr. Chairman, would the chairman yield?

Mr. YATES. Of course I yield.

Mr. DICKS. I guess the question really comes down to this. Private companies have testified that the oil and gas potential of the NPRA is of such significant magnitude to warrant a vigorous and prompt exploratory effort. The most efficient and most successful exploration will be conducted by a multicompany, competitive exploratory effort. The continuance of a Government drilling program will cause delays and a disincentive to rapid creation of a functioning private enterprise effort. The phaseout of the Government program would be smoothly accomplished and the cost to the Government will be minimized.

This transition to a free enterprise leasing program may be officially achieved.

I would like to say one thing to my chairman. The chairman has been a leader in trying to reorder priorities in this country. In 1981 we are going to have to cut programs like food stamps. We are going to have to cut back on unemployment compensation. We cannot afford to take care of youth unemployment problems in this country. One of the reasons is, we do not have enough money to take care of everything. If we did have money to take care of everything then I might agree with the gentleman, but I really think on the basis of our priorities, on the basis of a very difficult year where we are trying to achieve a balanced budget, that this is a waste of money. The administration is against it. Every major responsible company who came in and testified said it was a waste of taxpayers money and I hope that the House will take another look at this.

Mr. Chairman, I believe this would save $125 million and help balance the budget and provide some money for those human programs that are much more important to the American people.

Mr. YATES. Mr. Chairman, may I say to the gentleman that I hope his prediction is wrong, but even assuming for the purpose of argument it is correct, the fact remains we are sending out $100 billion a year for the purchase of oil across the sea and we ought to try to develop our own resources and that is the reason we put this money in.

Mr. DICKS. The best way to do that is to get the private sector in there to develop it.

Mr. YATES. My friend from Washington has the right to his opinion.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield now to the gentleman from Alaska.

□ 1840

Mr. YOUNG of Alaska. Mr. Chairman, I just rise in opposition to the amendment.

Mr. Chairman, I would like to commend the members of the House Appropriations Committee for their diligent work on this bill. I urge my colleagues in the House to support the action taken by the members of the Subcommittee on Interior Appropriations with respect to the program designed for the National Petroleum Reserve in Alaska (NPRA).

This Nation must take action in developing its energy resources. The NPRA is an area with significant promise in terms of oil and natural gas potential. To deny indentification of the resources in this area, as does the amendment offered by the gentleman from Washington, would do a great disservice to the American people. I believe very strongly that every effort should be made to bring these domestic resources in Alaska, to all Americans.

The $194.3 million designated by the committee for drilling additional wells—four—and finishing wells already in progress are critical toward taking an inventory of the 24-million-acre NPRA. The benefits that will be realized from this interim program will be enormous. By investing time, money, and effort in the NPRA, Americans will eventually obtain more energy. The longer we wait to identify these resources, the longer Americans will have to wait for energy development. During a time when we are importing almost 50 percent of our energy, when we are locking up Federal lands that have significant energy potential, when we are doing little to improve our energy standing as a nation, I am pleased to see a positive action taken by the Appropriations Committee in supporting energy development.

My colleague from Washington is concerned about saving taxpayers $125 million this year. When the United States is spending nearly $100 billion each year to obtain foreign oil, I would say that spending $194.3 million to identify and develop our domestic energy resources is a pretty good investment on behalf of American taxpayers.

The estimated energy reserves in the NPRA range from 1 to 15.8 billion barrels of oil in place and from 2.5 to 27 trillion cubic feet of natural gas. By comparison, Prudhoe Bay contains approximately 10 billion barrels of oil and 27 trillion cubic feet of natural gas. It is obvious that the NPRA may be able to ease our energy burden if timely and sensible steps are taken today.

I would like to see the NPRA open to private leasing as soon as possible and I support the language contained within the pending legislation. Earlier this year I introduced legislation that would provide for a workable management plan for the NPRA. In 1976, Congress gave jurisdiction of the National Petroleum Reserve—Alaska (formerly named the Naval Petroleum Reserve No. 4) to the Department of the Interior and directed the DOI to submit a management plan for the area. The plan proposed by the administration was seriously flawed, and as a result, I introduced legislation that would provide for an effective private leasing program. The Department of the Interior has admitted that if activity were stopped today, the interim period of inactivity would be at least 30 months before private leasing would take place in the NPRA. Americans cannot afford to wait.

Therefore, all things considered, I urge my colleagues to support the legislation proposed by the Appropriations Committee. This measure provides for an effective program which will create a basis so that private leasing can take place in a timely and expeditious manner. When you vote for the provisions in this bill, you are voting to send American energy to businesses and homes in your district. I am certain the people you represent will thank you for it.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I just want to point out to the House that this committee is bringing us a bill that is currently $1 billion under the budget right now, with the expenditure included, of course, to continue what we believe to be a program of imperative national significance. Yet, we are $1 billion under the budget. Let us vote down this amendment and move on.

Mr. DICKS. Mr. Chairman, will the gentleman yield further?

Mr. YATES. I yield.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. Dicks and by unanimous consent, Mr. Yates was allowed to proceed for 1 additional minute.)

Mr. DICKS. I know my distinguished friend from Pennsylvania is a lion for fiscal responsibility and has worked toward a balanced Federal budget. If he could tell us that in fiscal year 1981 we are going to have a balanced Federal budget, I would not be offering an amendment to reduce the budget by $125 million. But I want to bring us closer to the balanced budget, that I know he wants so desperately. That is why I am offering this amendment.

Mr. YATES. Obviously, if we cut out the appropriations for defense, there would be a balanced budget, too.

Mr. DICKS. We will talk about that when the defense bill comes up.

Mr. YATES. No, you do not advocate that. Why do you not advocate an energy program, too? Why should we cut essential funds for an essential program?

Mr. DICKS. Because the private sector can perform the work more expeditiously, that is why.

Mr. YATES. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Dicks).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DICKS. Mr. Chairman, I demand a recorded vote, and pending that, I make a point of order that a quorum is not present.

Can I make a conditional withdrawal on getting 25 Members to stand up?

The CHAIRMAN. The gentleman withdraws his request. The gentleman asks for a recorded vote?

Mr. DICKS. Yes, I ask for a recorded vote.

The CHAIRMAN. The Chair will count for a recorded vote. Twenty-four votes, an insufficient number for a recorded vote.

So the amendment was rejected.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, a parliamentary inquiry. As I understand it, title I has been read. Are there other amendments to title I?

The CHAIRMAN. Are there other amendments to title I? If not, the Clerk will read.

The Clerk proceeded to read title II.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YATES. Mr. Chairman, I move to strike the last work.

I yield to the gentleman from Texas (Mr. Wyatt).

The CHAIRMAN. Are there points of order in title I? If not, the gentleman from Illinois is recognized for 5 minutes.

Mr. YATES. I yield to the gentleman from Texas.

Mr. WYATT. Mr. Chairman, I thank the distinguished gentleman from Illinois. I would like to ask the gentleman from Illinois about portions of the committee report on page 21:

> The committee is concerned that the hatcheries and refuges are understaffed and not adequately maintained. The Service should bring existing areas up to an acceptable standard of staffing and maintenance before new units are added.

Mr. YATES. I would agree with the gentleman and we share his concern, because the Fish and Wildlife Service has broad legislative authority to establish and expand refuges administratively, and it certainly has the responsibility to exercise that broad power responsibly. Our committee expressed our concern in a statement of the managers on the 1980 appropriations bill, and in the 1980 committee report, by asking the legislative committee to review this problem. We think it is a problem. We want the legislative committee to review it, and we agree that it is a problem and we do share the gentleman's concern and want to do our best to try to make sure that the Fish and Wildlife Service does administer its jurisdiction responsibly.

Mr. WYATT. If the gentleman would yield further, I certainly want to say that I agree with the position of the committee and the distinguished gentleman from Illinois. In my own district, in the last several days I have, in traveling, learned that a 19,000-acre national wildlife refuge has been created. It has been created with the use of these two documents I hold in my hand here, one made by Rogers C. B. Morton in 1971 which talks about Matagorda Island, Tex., as an area where the whooping crane resides. The whooping crane resides in my district, and we are glad to have it. We are delighted that we have made great strides in protecting this endangered species, but let me point out that at no time, Mr. Chairman, has the whooping crane ever been on Matagorda Island. They have been in the marshlands near Matagorda Island, marshlands owned by the State of Texas.

The Department of the Interior has continually and consistently attempted to state that the whooper is on the island. They now have taken 19,000 acres of property, have declared it a national wildlife refuge. I think it is unfortunate that they have done this. The State of Texas is desirous of this property. They would utilize it for a State park and for other purposes.

We can save money, save more money for needed programs in this country, and I think that this should be made known to the committee at this time.

Mr. YATES. Well, I am glad that the gentleman took the floor to acquaint the committee with the problem in Texas. I want to assure the gentleman that our committee will look at this refuge very carefully.

Mr. WYATT. I thank the gentleman.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

(TRANSFER OF FUNDS)

From the appropriation of $19,000,000,000 made to the "Energy Security Reserve" under this head in Public Law 96–126, an additional amount of $4,020,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels: *Provided*, That (1) of these funds, an additional $3,000,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, or (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities, according to the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5901 et seq.), or the provisions of the Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.): *Provided further*, That of these funds up to $3,000,000,000 shall be available for carrying out the provisions of the Defense Production Act of 1950, as amended: *Provided further*, That if authority to immediately use Defense Production Act provisions, as authorized by section 104 and 105 of S. 932 or equivalent legislation, ceases to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation, or equivalent, corporation, is established and fully operational, unobligated or uncommitted balances shall be available for carrying out the provisions of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, for the purposes of (a) and (b): *Provided further*, That responses to solicitations or other applications accepted for processing under Defense Production Act authority, shall, if such authority ceases to be effective, be considered responses to solicitations under the Federal Nonnuclear Energy Research and Development Act, as amended; and (2) of these funds an additional $1,010,000,000 shall be available immediately to the Secretary of Energy, to remain available until expended, to support preliminary alternative fuels commercialization activities of which (a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards and those provided with funds appropriated in Public Law 96–126 not to exceed $10,000,000: *Provided further*, That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility; (b) not to exceed $900,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements and those entered into with funds appropriated in Public Law 96–126 not to exceed $100,000,000, to support commercial scale development of alternative fuels facilities: *Provided further*, That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production; and (c) not to exceed $10,000,000 shall be available for program management; and (3) of these funds not to exceed $10,000,000 shall be available for startup costs and administration of the United States Synthetic Fuels Corporation only upon enactment into law of S. 932 or similar authorizing legislation.

For the purposes of this appropriation the term "alternative fuels" as defined in

Public Law 96–126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and the direct burning of urban waste.

All provisions of Public Law 96–126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Within thirty days of enactment of this Act the Secretary of Energy shall issue a solicitation for applications for purchase commitments, price guarantees or loan guarantees utilizing the $3,000,000,000 made available for that purpose in this Act and the $2,000,000,000 made available for that purpose in Public Law 96–126.

Upon enactment of S. 932 or equivalent legislation and upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation), or equivalent organization, projects or actions initiated by the Department of Energy with appropriations under this head may be transferred to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds for feasibility studies, cooperative agreements, program management, and projects for which funds have been obligated or committed which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided*, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy whether or not the Corporation would otherwise have authority to do so); and (2) proposals received in response to solicitations for loan guarantees, price supports, and/or purchase commitments provided for herein, for which financial assistance is not provided from funds provided herein or in Public Law 96–126 to the extent they meet the eligibility criteria for funding by the Corporation shall be considered as responses to a solicitation of the Corporation.

Unexpended balances of funds obligated for projects may be transferred to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 39, line 4, after (transfer of funds), strike all beginning on page 39, line 4 through page 43, line 9, and insert the following:

"For the purposes of Public Law 96–304 and Public Law 96–126, the term "alternative fuels" as defined in Public Law 96–126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and the direct burning of urban waste."

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. YATES. Mr. Chairman, my amendment deletes the comprehensive interim alternative fuels program originally proposed by the committee. This program was included in the fiscal year 1980 supplemental appropriation after intense negotiations with the Senate which also produced agreement on funding for the Synthetic Fuels Corporation and biomass and alcohol fuels programs in the Departments of Agriculture and Energy.

The amendment also includes a revision of the definition of alternative fuels which was to be included in the supplemental and was addressed in the statement of managers, but was inadvertently omitted from the bill.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), $674,605,000, to remain available until expended: *Provided*, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 43, line 14, strike "$674,605,000" and insert in lieu thereof "$670,605,000".

□ 1850

Mr. YATES. Mr. Chairman, my amendment would delete $4 million for the magnetohydrodynamics program as was agreed to by the conferees on the recently passed fiscal year 1980 supplemental appropriations bill (Public Law 96–304). That bill provided $4 million for this program as an advance on fiscal year 1981 funds so that work could continue as rapidly as possible in fiscal year 1980, and therefore a reduction is appropriate.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $851,607,000, to remain available until expended: *Provided*, That of the total amount of this appropriation, not to exceed $1,100,000 shall be available for a reserve to cover any defaults from loan guarantees issued for electric or hybrid vehicle research, development, and production as authorized by section 10 of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended (15 U.S.C. 2509): *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $21,500,000: *Provided further*, That none of the funds provided for State energy conservation grants shall be available to any jurisdiction that has not implemented section 362(c)(5) of Public Law 94–163.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 44, line 9, strike "$851,607,000" and insert in lieu thereof "$850,607,000".

Mr. YATES. Mr. Chairman, my proposed amendment would delete $1 million for the transportation program to take into account the deferral until 1981 of a like amount which was accomplished in the fiscal year 1980 supplemental appropriation. This amendment thus does not reduce the amount of funds available for fiscal year 1981 from the amount originally recognized by the committee.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendent was agreed to.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163), $101,918,000, to remain available until expended: *Provided*, That $1,075,000,000 of unobligated balances remaining from funds appropriated under the head in Public Law 95–465 shall remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 45, line 8, strike "$101,918,000" and insert in lieu thereof "$876,918,000".

And on page 45, line 10, strike "$1,075,000,000" and insert in lieu thereof "$300,000,000".

Mr. YATES. Mr. Chairman, my proposed amendment adjusts amounts in the strategic petroleum reserve account to reflect actions taken in the fiscal year 1980 supplemental appropriation. The overall amount available does not change, but since $2 billion was rescinded in the fiscal year 1980 supplemental, the reappropriated amount for fiscal year 1981 must be reduced by $775 million to $300 million and the new appropriation increased by $775 million. The total available to the Department of Energy for the purchase of oil for the reserve is thus preserved at the level recommended originally by the committee.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The amendent was agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk proceeded to read title III.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment relates is as follows:)

TITLE III—GENERAL PROVISIONS

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 58, after line 20, add a new section as follows:

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

And renumber the following sections accordingly.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. DICKS. Mr. Chairman, reserving the right to object, I would like to hear what the amendment says.

Mr. REGULA. Mr. Chairman, if the gentleman will yield, I will explain the amendment.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. REGULA. Mr. Chairman, the rapidly expanding use of private consultants by Federal agencies has, in recent months, become a matter of concern to many of us. With over $9 billion spent last year on these outside studies, it would be negligent for us to continue to allow these contracts to go unmonitored. Millions of dollars are spent each year on studies that are never used or even examined by the agencies who contracted for them. A contracting officer at the Department of Energy recently explained that they were so busy shoveling money out the door that they did not have time to see what happened to it once it left.

It appears that outside consultants and contractors are conducting most of the work at DOE, since 87 percent of its budget is spent on contracting out. Now I realize that it would be inefficient to hire agency staff for each area of expertise that must be handled in our Federal agencies. This is especially true in DOE where the issues are of a highly technical nature. But, as Senator PRYOR recently learned, there is no reasonable rationale for hiring a consultant to answer letters sent to officials at DOE by Members of Congress.

This is why I offer this amendment. Only by bringing a little sunshine into consulting practices will we be able to determine which work is necessarily performed by outside experts and which could be done in-house at less cost to the taxpayer. If the research is necessary and done in a cost-effective manner, agencies can justify expenditures for consultant contracts. But we will not continue to tolerate the waste that is involved in many of these contracts.

Requiring public disclosure is an important first step in identifying the vital and cost-effective work that is done by consultants. That will allow us to begin weeding out those improper and unnecessary research studies that are a waste of the taxpayers' money.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, does this require them to present a consultant's budget as part of their budget submission?

Mr. REGULA. No, it does not.

Mr. DICKS. Why does it not?

Mr. REGULA. Because we are limited by the rules, and we cannot include any language adding additional burdens on an appropriation bill. Therefore, we are limited as to what we can require.

However, I have checked with the Parliamentarian, and the language I am offering here goes as far as possible in requiring disclosure and still conform to the rules on an appropriations bill. In this way we at least can get an opening and get some public record of these outside consulting contracts.

Mr. DICKS. Would this be for everyone within the jurisdiction of the bill?

Mr. REGULA. That is correct.

Mr. DICKS. And they would have to present a list of outside consulting contracts?

Mr. REGULA. They would have to make it available by way of publication so anybody could ascertain these facts.

The President when he took office asked OMB to determine how many consultants were in the Government. OMB started out by saying there were 2,000. Then it said that maybe there were 6,000, then it said that there are possibly 34,000, and then finally it said maybe there are 19,000.

We have no way of knowing. All we want to do is to get this on the record.

Mr. DICKS. Mr. Chairman, I support the amendment.

Mr. YATES. Mr. Chairman, if the gentleman will yield, we are willing to accept the amendment on this side.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to commend my friend, the gentleman from Ohio (Mr. REGULA), for offering this amendment. We commend him for his diligence, and we support the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

● Mr. CAVANAUGH. Mr. Chairman, I rise in support of H.R. 7724, Interior appropriations for fiscal year 1981. Though I have consistently supported a balanced budget and reduced Federal spending, I believe that the decisions to be made to achieve those goals must be thoughtfully conceived and executed fairly. The bill under consideration does an excellent job of achieving those goals.

I was disappointed when budget estimates asked programs for land and water conservation, fish and wildlife, recreation and the arts to take a disproportionate share in our budget-cutting efforts. I am encouraged by the actions taken by this committee in these key areas.

I am also personally grateful for an action taken by the committee which affects my constituents.

In its March reestimates of the fiscal year 1981 budget, a recommendation was made by the Department of the Interior to close the Midwest regional office of the National Park Service in Omaha, Nebr. The office serves 10 Midwestern States and 27 parks within its region and is the only regional office of the Park Service between Denver and Philadelphia. The decision of the Park Service was preciptous, arbitrary, would have achieved questionable cost savings, and could possibly have been detrimental not only to my constituents, but to the effective operation of our national parks, monuments, and historic area.

The committee, after hearing testimony from the Park Serivce, from the gentlemen from Nebraska (Mr. BEREUTER) and myself, voted to restore funding for the Midwest regional office and included the following language in the report to accompany the bill:

The committee does not concur with the recommendation to close and relocate the Omaha, Nebraska Regional Office and requests the Service to keep the office open.

The action by the Appropriations Committee to restore funding for the Midwest regional office and request its continued operation was in line with the actions of the authorizing committee and this Congress when we approved H.R. 3, the omnibus parks bill, on May 20, 1980, by a vote of 300 to 102, which contained therein section 501, a directive to the National Park Service to maintain its current level of operations in its regional offices until October 1, 1981, and to conduct a comprehensive cost-effectiveness study on ways to achieve budgetary savings and maintain effective administration in its regional offices.

This action by the House approving H.R. 3 and the Appropriations Committee in directing the Park Service to maintain the Midwest regional office was necessary to correct an egregious error and an unreasonably hardline attitude of the Department of the Interior and the National Park Service. The Park Service pressed ahead to close the Midwest regional office despite the fact that no study was done on ways to save money in the operation of its regional office and no study was done on realinement of the region or responsibilities necessary in order to achieve the best, most cost-effective service and the least disruption in service to the parks. The action of the Department was in direct contravention of a 1975 study by senior officials of the Service which recommended that the Omaha office remain open because of its central location and that other offices be closed. It was clear to the authorizing committee and to the Appropriations Committee that such a drastic decision to completely eliminate a regional office without studying the effects on the region or having the data available concerning whether or not actual savings could be achieved was unjustifiable and arbitrary.

The actions by the House in repudiating the decision of the National Park Service sends a distinct message to the Federal departments and agencies that while we are anxious to reduce overhead and administrative costs we are not anxious to do so in a precipitous manner.

Secretary Cecil D. Andrus of the Department of the Interior by way of letters to Senator Edward Zorinsky of Nebraska and myself states that the Department will comply with the actions of the Congress in directing that the office remain open. I insert a copy of Secretary Andrus' letter at this point in the Record.

I thank the chairman, Mr. Yates, and the Interior Subcommittee of the House Appropriations Committee for their concern and their actions in this matter, and I urge passage of the bill.

U.S. Department of the Interior,
Washington, D.C., June 24, 1980.
Hon. Edward Zorinsky,
U.S. Senate,
Washington, D.C.

Dear Senator Zorinsky: Thank you for your letter of June 2 concerning the closing of the Midwest Regional Office in Omaha, Nebraska.

As I have explained in previous correspondence, I support the President's efforts to balance the fiscal 1981 budget. Accordingly, the National Park Service took certain actions, one of which resulted in the proposed closing of the Midwest Regional Office. While I am aware that this proposal has received some negative responses from Members of Congress, which are evidenced by the requirements of Section 501 of H.R. 3 as passed by the House of Representatives, I still feel strongly that this action is justified. However, should H.R. 3 be passed by both chambers and signed into law by the President, I will comply with Section 501 of the law. Also, on June 10, the House Appropriations Subcommittee took action to restore the $1 million funding for operation of the Omaha office. Should this action be sustained through the full House, Senate, and signed by the President, the office will remain open.

In the meantime, however, the National Park Service will continue planning the closing of the Midwest Regional Office in accordance with its budget as amended and submitted to Congress in April.

I appreciate your interest in the National Park Service.

Sincerely,

Cecil D. Andrus,
Secretary.

U.S. Department of the Interior,
Washington, D.C., June 26, 1980.
Hon. John J. Cavanaugh,
House of Representatives,
Washington, D.C.

Dear Mr. Cavanaugh: Thank you for your letters of April 29 and May 20 to me and your letter of May 20 to the Director of the National Park Service concerning the proposed closing of the Park Service's Midwest Regional Office in Omaha, Nebraska.

As we have explained in previous correspondence, we are totally committed to the President's efforts to balance the fiscal 1981 budget. Accordingly, the National Park Service took certain actions, one of which resulted in the proposed closing of the Midwest Regional Office. While we are aware that this proposal has received some negative responses from Members of Congress, as evidenced by the requirements of Section 501 of H.R. 3 as passed by the House of Representatives, we still strongly believe that the action is justified. Should H.R. 3 be passed by both chambers and signed into law by the President, we will comply with Section 501 of the law. In the meantime, however, the National Park Service will continue planning the closing of the Midwest Regional Office in accordance with their budget as amended and submitted to Congress in April 1980.

Sincerely,

Cecil D. Andrus,
Secretary.●

● Mr. GOLDWATER. Mr. Chairman, I would like to draw my colleagues' attention to two specific programs in H.R. 7724, the Department of the Interior and related agencies appropriations bill, 1981, which I feel are worthy of special merit.

The firefighting resources of southern California organized for potential emergencies (Firescope) system, which the Appropriations Committee has seen fit to fund at the $2.4 million level as requested by myself and other concerned colleagues, is a proven, cost-effective program that has been absolutely essential in helping California tackle its severe forest and brush fires. Firescope, which does much more than handle fire mitigation programs, was seriously threatened this year by administration proposals to virtually eliminate funding for this critical program. Only 25 percent completed, Firescope nevertheless contributed substantially to the saving of over 5,000 acres and many homes during the 1979 California fire season. Because of Firescope's efficiency, another $100,000 resulted in direct cost savings. Firescope is a Federal, State, county, and local government cooperative effort and will be completed by 1986. I want to commend the Appropriations Committee for their foresight in realizing that the success of Firescope in California will greatly increase our chances for a nationwide firefighting program and effort in future years.

Mr. Chairman, I am also concerned however, with the fiscal year 1981 funding for the Santa Monica Mountains National Recreation Area. This great natural resource stretches for over 50 miles of prime California land and contains many unique varieties of plant and animal life. Its over 200,000 acres of open space has the potential to provide matchless recreational opportunities for those who enjoy mountain wilderness. It is for these reasons that I am concerned about the Appropriations Committee's action to reduce the original budget recommendation of $35 million to $15.9 million. With funds of $14 million deferred from last year, total amounts of $29.9 million are earmarked for the Santa Monica Mountains in fiscal year 1981. Frankly, Mr. Chairman, I am disappointed. Although the State of California has contributed over $60 million toward the contribution of this effort, skyrocketing land prices and pressures to develop this beautiful area are making it more difficult for us to preserve the natural beauty of the Santa Monica Mountains. I urge my colleagues on the Appropriations Committee to accept budget recommendations in future years so that we will be able to preserve the Santa Monica Mountains Recreation Area.●

● Mr. DUNCAN of Oregon. Mr. Chairman, needless to say, I strongly support this bill. I would like to commend the efforts of the chairman of our committee and the ranking minority member (Mr. McDade) in crafting a bill which addresses the need for fiscal restraint while at the same time taking significant initiatives in the areas of energy technology development—coal liquifaction and gasification, fuel cells, enhanced oil recovery, and advanced energy conservation technologies. In the time that I have had the pleasure to serve on this committee, we have taken substantial strides in preserving and enhancing our forest, range, and fish and wildlife resources, and under the capable leadership of our chairman, I am proud to observe that our fiscal year 1981 bill continues those initiatives. We have increased the Forest Service budget alone by $96.6 million above the administration request in order to sustain our past efforts.

More importantly, this is a balanced bill—as has been said many times before, a bill for all America—which enhances not only the productive and esthetic value of this Nation's natural resources, but also nurtures our cultural and recreational and historical resources. To not but a few of these initiatives, the committee has recommended to continue the urban park and recreation program, providing $45 million for this purpose despite the fact that the administration had requested no funds for the program. We have increased the appropriation for the land and water conservation fund which provides grants to State and local governments for planning, acquiring, and developing outdoor recreation projects—by $159.1 million above the administration's request.

Incredibly, despite the significant initiatives which we have taken, the new budget authority contained in this legislation is over $1 billion below that which the administration had originally requested. This largely reflects a reduction of over $1 billion in the budget estimate for the strategic petroleum reserve.

Finally, Mr. Chairman, it is with a great deal of pride to note the honor it has been for me to have served on this committee. It is my profound hope that the accomplishments and initiatives which I have had the pleasure to participate in over the past years will be continued into the future—and I have every confidence that this will be the case.●

The CHAIRMAN. Are there further amendments to title III?

If not, the Chair recognizes the gentleman from Illinois (Mr. Yates).

Mr. YATES. Mr. Chairman, as I understand it, we have completed consideration of the bill.

Therefore, Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7724) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 61, not voting 38, as follows:

[Roll No. 445]

YEAS—334

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Heckler
Hefner
Heftel
Hightower
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Matsui
Mazzoli
Mica
Michel
Miller, Calif.
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stockman
Stokes
Studds
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Tex.
Winn
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—61

Archer
Bouquard
Brodhead
Broyhill
Butler
Campbell
Collins, Tex.
Conable
Crane, Daniel
Dannemeyer
Davis, Mich.
Devine
Dicks
Edgar
Evans, Ga.
Evans, Ind.
Fenwick
Fowler
Frenzel
Gephardt
Gramm
Hagedorn
Hall, Tex.
Hance
Holland
Hubbard
Ichord
Jacobs
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Latta
Leath, Tex.
Lee
Lewis
Loeffler
Luken
Lungren
McDonald
Madigan
Marlenee
Martin
Mattox
Miller, Ohio
Mottl
Pashayan
Paul
Pickle
Sensenbrenner
Shuster
Solomon
Spence
Stenholm
Stump
Weaver
Wirth
Wyatt
Wydler

NOT VOTING—38

Anderson, Ill.
Bafalis
Barnes
Biaggi
Bingham
Bonior
Bowen
Broomfield
Crane, Philip
Davis, S.C.
Dodd
Ford, Tenn.
Giaimo
Harsha
Hawkins
Hillis
Holtzman
Howard
McCloskey
Mathis
Mavroules
Mikulski
Mitchell, Md.
Moorhead, Pa.
Nedzi
Price
Pritchard
Rangel
Rhodes
Rosenthal
Runnels
Schroeder
Steed
Stratton
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wolpe

☐ 1910

The Clerk announced the following pairs:

Mr. Giaimo with Mr. Bafalis.

Mr. Hawkins with Mr. Bob Wilson.

Mr. Howard with Mr. McCloskey.

Mr. Mavroules with Mr. Broomfield.

Mr. Rosenthal with Mr. Rhodes.

Mr. Rangel with Mr. Williams of Ohio.

Mr. Mitchell of Maryland with Mr. Hillis.

Mr. Biaggi with Mr. Harsha.

Mr. Bingham with Mr. Pritchard.

Mr. Bonior of Michigan with Mr. Philip M. Crane.

Mr. Nedzi with Mr. Runnels.

Mr. Price with Mr. Steed.

Mr. Moorhead of Pennsylvania with Mr. Charles H. Wilson of California.

Mr. Mathis with Mr. Wolpe.

Mr. Stratton with Mr. Davis of South Carolina.

Mr. Dodd with Mr. Bowen.

Mr. Ford of Tennessee with Mr. Barnes.

Ms. Holtzman with Ms. Mikulski.

Mrs. Schroeder with Mr. Anderson of Illinois.

Mr. MADIGAN and Mr. KRAMER changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL PORT WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 551) authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does this mean all ports in the United States?

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. GARCIA. As far as I can gather, the answer is "yes," all ports.

Mr. ROUSSELOT. Including the Baltimore port?

Mr. GARCIA. I would hope it would include the port of Baltimore.

Mr. ROUSSELOT. Then I can clearly be for it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 551

Whereas the past development of the public ports of the United States is the result of a fruitful partnership in which State and local authorities have assumed major responsibilities for land-based port development with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States;

Whereas the economic, social, and cultural developments in the history of the port cities and States has mirrored the conditions of the ports of the United States;

Whereas ports serving the United States waterborne commerce are responsible for the creation and continued employment of more than one million workers and an annual contribution in excess of $56,000,000,000 to our Nation's economic well-being;

Whereas the development of our Nation's ports is indispensable to our foreign trade and vital for the achievement of a favorable balance of trade;

Whereas viable United States ports are necessary to national security and the maintenance of an adequate defense;

Whereas the continued development of the ports of the United States is being adversely affected by economic, physical, and other factors, including the problems associated with the adequacy of the harbors and channels;

Whereas the ability of the public ports to continue their vital contribution to national security and welfare may be in question; and

Whereas there is an urgent need for continuing attention to the needs of the public ports of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, is authorized and requested to issue a proclamation designating the seven-day period beginning October 5, 1980, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Sec. 2. The Secretary of Commerce shall report annually to Congress on the conditions of the public ports of the United States, including, but not limited to, their economic and technological development, the extent to which they contribute to the national security and welfare, and those factors which may impede the continued development of the public ports of the United States.

● Mr. MURPHY of New York. Mr. Speaker, the original cosponsors of House Joint Resolution 551, to proclaim "National Port Week," Congressmen Bizz Johnson, Bill Harsha, and Pete McCloskey, join me in thanking the 219 Members who joined us in support of this commemorative measure to honor America's ports. The commerce generated by and moving through this country's ports accounts for a sizable portion of our gross national product both in terms of goods and services. Thus our economic stability is heavily reliant upon the economic good health of ports. To underline our strong feeling that all Americans need to know the importance of ports in their lives, we introduce each year a "National Port Week" resolution proclaiming the week of October 5 a time to celebrate ports as the great natural and economic resources they are. The 1980 resolution (H.J. Res. 551) passed the House by unanimous consent today.

We would like to point out that we received a quicker and more enthusiastic response to our call for cosponsors from our colleagues than we have ever had in the past. We are grateful for this, as it will enable the ports and State and local governments to have the time to plan the festivities which will take place during "National Port Week."

We now urge our colleagues in the other body to hasten passage of the companion measure, Senate Joint Resolution 176, so that the proclamation can be signed and "National Port Week" made official.

We extend our thanks again to the following Members who cosponsored House Joint Resolution 551:

H.J. Res. 551 Cosponsors

Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Alexander, Mr. Ambro, Mr. Anderson of California, Mr. Andrews of North Carolina, Mr. Andrews of North Dakota, Mr. Annunzio, Mr. Archer, Mr. Bafalis, Mr. Bailey, Mr. Barnes, Mr. Bauman, Mr. Beard of Rhode Island, Mr. Bevill, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mrs. Boggs, Mr. Boland, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Bonker, Mr. Bowen, Mr. Breaux, Mr. Brooks, Mr. Buchanan, Mr. Burgener, Mr. John L. Burton, Mrs. Byron, Mr. Campbell, Mr. Cavanaugh, Mr. Chappell, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mr. Coelho, Mr. Conyers, Mr. Corcoran.

Mr. Corman, Mr. Corrada, Mr. Cotter, Mr. Coughlin, Mr. D'Amours, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Davis of Michigan, Mr. Davis of South Carolina, Mr. de la Garza, Mr. Dellums, Mr. Derrick, Mr. Dicks, Mr. Dingell, Mr. Dodd, Mr. Donnelly, Mr. Dornan, Mr. Dougherty, Mr. Downey, Mr. Duncan of Oregon, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of Alabama, Mr. Emery, Mr. Evans of Delaware, Mr. Evans of the Virgin Islands, Mr. Fary, Mr. Fascell, Mr. Fazio, Mrs. Fenwick, Ms. Ferraro, Mr. Fish, Mr. Fithian, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Fuqua, Mr. Gephardt.

Mr. Giaimo, Mr. Gibbons, Mr. Gilman, Mr. Ginn, Mr. Goldwater, Mr. Gonzalez, Mr. Gramm, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Hance, Mr. Hanley, Mr. Harris, Mr. Harsha, Mr. Hawkins, Mrs. Heckler, Mr. Hefner, Mr. Heftel, Mr. Hollenbeck, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Huckaby, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of North Carolina, Mr. Kazen, Mr. Kemp, Mr. Kostmayer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lederer, Mr. Lent, Mr. Levitas, Mr. Livingston, Mr. Lloyd.

Mr. Long of Louisiana, Mr. Long of Maryland, Mr. Lott, Mr. Lowry, Mr. Lungren, Mr. McCloskey, Mr. McCormack, Mr. McDonald, Mr. McEwen, Mr. McHugh, Mr. Markey, Mr. Marks, Mr. Mathis, Mr. Matsui, Mr. Mavroules, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Moakley, Mr. Montgomery, Mr. Moore, Mr. Moorhead of Pennsylvania, Mr. Mottl, Mr. Murphy of Illinois, Mr. Murphy of Pennsylvania, Mr. Musto, Mr. Myers of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. Nolan, Mr. Nowak, Ms. Oakar, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pashayan, Mr. Patten, Mr. Patterson, Mr. Pepper.

Mr. Peyser, Mr. Price, Mr. Pritchard, Mr. Preyer, Mr. Pursell, Mr. Rahall, Mr. Railsback, Mr. Rangel, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Rostenkowski, Mr. Roth, Mr. Royer, Mr. St Germain, Mr. Santini, Mr. Scheuer, Mr. Shannon, Mr. Shumway, Mrs. Snowe, Mr. Snyder, Mr. Solarz, Mr. Solomon, Mr. Spence, Mr. Stack, Mr. Stanton, Mr. Stark, Mr. Stewart, Mr. Stokes, Mr. Stratton, Mr. Swift, Mr. Synar, Mr. Tauzin, Mr. Thompson, Mr. Traxler.

Mr. Trible, Mr. Van Deerlin, Mr. Vander Jagt, Mr. Walgren, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Whitley, Mr. Bob Wilson, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Wolff, Mr. Won Pat, Mr. Wyatt, Mr. Yatron, Mr. Young of Alaska, Mr. Young of Florida, Mr. Young of Missouri, Mr. Zablocki, Mr. Zeferetti, and Mr. Mica.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

☐ 1920

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, I wish to explain my absence from the first vote this morning, the approval of the Journal. I had the incredible experience today of piloting one of the greatest fighter aircraft ever built by this great Nation, the magnificent new F–18 Hornet. As you know, my friend, the engines are made near the Speaker's district, and the majority of critical sections like the Hughes radar, the fuselage and entire cockpit are made in my fabulous beach district city of El Segundo.

I also would like to take this opportunity to express the honor that I felt in stepping aside 3 days ago to let a distinguished senior California Member fly this great Navy fighter aircraft ahead of me. I had been assigned the first flight privilege before any Member of either body by our Navy but like most can not bear to see a grown person break down and cry. It was with deep respect for age and for a wonderful brown shoe sailor, who fought for my right to breathe free that I quickly, quickly deferred first flight honors to the distinguished, the honorable gentleman from California, Mr. Lloyd. That I was able to step aside and let this senior Member fly what I predict will become the greatest attack fighter in U.S. Navy history was a thrill I will not soon forget. I know how deeply moved the gentleman from Covina was when I piloted the incomparable B–1 Peacemaker months before the Air Force let him near it. Northrop, your F–18 design is a wonder. McDonnell Douglas, your Navy adaptation is aerodynamic perfection. F–18 test pilots, you are the greatest. Jim Lloyd, you are a living legend. I salute a senior.

MARITIME LABOR AGREEMENTS ACT OF 1980

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6613) to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. That this Act may be cited as the "Maritime Labor Agreements Act of 1980".

SEC. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by adding, at the end of that section, the following:

"The term 'maritime labor agreement' means any collective bargaining agreement between an employer subject to this Act, or group of such employers and a labor organization representing employees in the maritime or stevedoring industry, or any agreement preparatory to such a collective bargaining agreement among members of a multiemployer bargaining group, or any agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group.".

SEC. 3. The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"SEC. 15. Every common carrier by water, or other person subject to this Act, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements, but does not include maritime labor agreements or any provisions of such agreements, unless such provisions provide for an assessment agreement described in the fifth paragraph of this section.".

SEC. 4. Section 15 of the Shipping Act, 1916, as amended, is further amended by inserting between the fourth and fifth paragraphs thereof, the following new paragraph:

"Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, or to operate to the detriment of the commerce of the Untied States. The Commission shall issue its final decision in any such complaint proceeding within 1 year of the date of filing of the complaint. To the extent that any assessment or charge is found, in such a complaint proceeding, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. Such adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of section 22 or any other section of this Act, or of the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control in any matter involving assessment agreements described herein.".

SEC. 5. Section 45 of the Shipping Act, 1916 (46 U.S.C. 842), and all references thereto, is redesignated section 46 and a new section is added as follows:

"SEC. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.".

SEC. 6. The changes made to existing laws by the provisions of this Act shall not affect any claims for reparation, if any, based upon conduct occurring prior to the date of enactment of this Act or formal Commission proceedings commenced prior to the date of enactment of this Act.

Amend the title so as to read: "An Act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.".

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do not want to ask the gentleman what the bill does, because I already know; but since I asked the gentleman earlier and did not get a response, I want to make it clear that I do not oppose the bill or the gentleman or the maritime industry or anything else at this point.

I am pleased that the gentleman has called the bill up again.

Mr. ASHLEY. Mr. Speaker, if the gentleman will yield, I think it is very important that be on the record. I appreciate the gentleman's taking the time to advise the House and the constituency at large as to his sentiments with regard to H.R. 6613.

Mr. BAUMAN. Mr. Speaker, does the gentleman know what the bill does, though?

Mr. ASHLEY. I have got a piece of paper here that describes that.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio that the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WINN. Mr. Speaker, I ask unanimous consent that all Members may have 10 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

TRIBUTE TO THE HONORABLE KEITH G. SEBELIUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. WINN) is recognized for 60 minutes.

Mr. WINN. Mr. Speaker, some people probably believe that just about anybody could serve in the House of Representatives.

Those of us who have spent time here, however, know that it takes hard work, dedication, an ability and willingness to listen, and a belief in the principles that have made this Nation strong.

It has been said that "a politician thinks of the next election; a statesman, of the next generation."

For the last 12 years, the "big First" District of Kansas has been ably represented in this body by a man who fits the description of statesman. Truly, his thoughts and actions are for future generations.

KEITH SEBELIUS, our friend and colleague, has been a pillar of strength in his defense of the Nation's farmers and rural Americans. Each of us here knows that his priority list has always been headed by a deep concern for the future of American agriculture—an industry whose health and survival are critical to the continued vitality of the country.

Virtually every one of us has consulted KEITH at one time or another on agricultural legislation. In fact, few farm-related bills have passed without his having had significant input and impact.

But KEITH's interests have not rested solely with agriculture. His work on the Interior Committee has also been outstanding. Again, his interests have been geared to the future—the preservation and protection of our natural resources in the National Park System.

On a more personal level, I have found KEITH consistently working for the interests and well-being of our native State of Kansas. Perhaps that stems from an abiding belief we both share that Kansans are deeply dedicated to the preservation of basic American values and traditions.

On countless occasions in meeting with groups of Kansans, I have seen him communicate on a personal level that few Members ever achieve. He is a man who has not lost touch with the people he represents. And they know it.

With Keith, what you see and hear is what you get.

Keith has chosen to leave us at the end of this year. His good humor, his courage and his spirit of compromise and cooperation will be sorely missed.

Keith, I join your many friends and colleagues in saluting you for a job well done and in wishing you health, happiness and Godspeed to you to better in your retirement.

And I want to leave you with one more thought old buddy—

"Always remember to mess up your bread."

Mr. Speaker, at this point, I would like to insert an article from the Salina, Kans., Journal Sunflower into the Record:

SEBELIUS SWAPS SPOTLIGHT FOR BACKSTAGE ROLE

Norton.—The Norton County Courthouse, its smooth stone pillars reaching up toward a spacious Western Kansas sky, has dominated the political life of this town since 1929. It also has played a major role in the private and public lives of Keith Sebelius.

It was in the Courthouse where Sebelius had his first law office, and it was here he served as Norton County attorney.

It was in the Courthouse where he met his future wife, Bette Roberts.

And, it was on the front steps of the Courthouse where Sebelius announced all his future political plans.

Those plans have included 12 years in the U.S. House of Representatives. But, at the close of this Congressional session, Sebelius will walk away from the nation's capitol—this time for good. He will retire to the single-story brick home he and Bette built more than 20 years ago

At 63, Sebelius, who is recovering from a bout with cancer of the prostate, will shed the political limelight.

"You stop and add up what you have done and life is marching on. There are so many things you want to do.

"I always said I'd quit by 65. I'd be 65 by the time I finished another term. So, this is just part of fulfilling what I had in mind. You've got to cut the rope somewhere."

Sebelius was born in Almena, a small town about 11 miles northeast of Norton. His father—the town dentist—died when he was only 7 years old.

"We were a close family," says Sebelius' younger sister, Maxine, who still teaches at Almena. "Keith was always full of nervous energy. He won't sit still and twiddle his thumbs.

"He wanted to be a minister, but he decided he didn't like funerals. He always liked politics."

Sebelius, one of six children, learned many childhood lessons that have stayed with him to this day.

A TEAM

"We were a team," he says about his family. "We did anything to make money. We trapped skunks and I worked as a janitor at the school. They didn't have Aid for Dependent Children then. We like to tell ourselves it gave us some extra fiber others didn't have."

Sebelius received a bachelor's degree from Fort Hays State University and a law degree from the George Washington University Law School at the age of 22. He worked for the government during the day and attended classes at night.

"We had to do college on our own, but we did it," Maxine says.

Sebelius still believes hard work is the key to success.

"I wasn't the smartest kid in class, but I was always willing to be involved. Determination still is more important than finances."

Sebelius suspects he was born with a "sense of public service." He helped bring Valley Hope, an alcoholism treatment center, to Norton. He also has been involved in many other community development projects.

"I don't remember my father," Maxine says, "but I always heard he was a pillar of the church and the community. It was a sense of pride we were going to carry on."

"These things I love to do," Sebelius adds. "It gives you a sense of satisfaction you don't get otherwise. If you're not active in making it a better life, you can't complain or bitch if someone else doesn't do it."

Another lesson Sebelius learned in Almena was the law of supply and demand. During his early teens, he raised about a dozen rabbits.

"I raised a lot more rabbits than I could sell in a town of 600," he remembers. "I learned the law of supply and demand real fast."

The childhood hobby has since been a standing joke in the Sebelius family. A recent interview in a Kansas newspaper described the congressman as a "former small-time rabbit farmer."

Sebelius says he has no complaints about the way he has been treated by the Kansas press "because of the times they overlooked my shortcomings."

HUMAN KINDNESS

It's a typical statement from Sebelius, one of the top vote-getters in the state. The motto of his office, he says, "is smother them with the milk of human kindness."

When supporters of the American Agriculture Movement staged their first massive lobbying effort to Washington in 1978, they used Sebelius' office as headquarters. He sent a staff member out to buy a five-gallon coffee pot and $10 worth of cookies. The movement was strong in Sebelius' district.

"They had a real problem," the congressman remembers. "They came pouring in and they had no place to go. We arranged appointments for them." His staff also arranged for many of the farmers to testify at Congressional hearings.

During the ill-fated tractorcade a year later to Washington, Sebelius was out on the streets of Washington negotiating with police.

As a Congressman, Sebelius sees himself as a peacemaker, a man of compromise. "Fifty percent of something is better than 100 percent of nothing," he says.

In 1968, Sebelius described himself as a "positive conservative." The label still fits, he says.

"All of these (social) programs have merit, but we can't continue to grant them all. We have almost bankrupted the nation. We can't do everything on the federal rolls."

In agriculture, for example, Sebelius says a "proper blend" of government and free enterprise is needed. Support prices must be high enough to act as a buffer against hard times, but not so high they guarantee a profit.

In theory, the congressman says, no federal funds are used because "the market price should be above it (government support levels). That's the magic level you try to seek out."

Sebelius admits he has softened on some of the public assistance programs. There are citizens—the elderly, the disabled, the blind who need help.

His own experiences also have altered his opinion on certain issues.

For years, Sebelius has been an outspoken opponent of the Delaney Amendment, which outlaws any substance that has been proven in tests to cause cancer. The law has been a nightmare for pork producers because of an attempt by the U.S. Department of Agriculture to ban nitrites, a salt preservative used in pork products.

Now, after his own brush with cancer, the congressman says: "I still think the Delaney Amendment needs to be redefined and modified, but I'm more aware now. I always thought it (cancer) would happen to someone else.

"I don't buy every defense program that comes along. We need to send Russia a message, but I demand more in the way of proof on some of these programs.

"Whenever I'm in doubt, I vote no. We need to get as much bang for the buck as we can."

Sebelius says the day is past when he could "look up and see how Bella Abzug voted, vote the opposite way and stay out of trouble." He has learned that the promotion of agriculture is a two-way street with the problems of urban dwellers.

"My area is pretty homogeneous. Salina is the biggest city in the district and its economy is pretty closely tied to the rural areas. I don't have the city versus ranch problem. This made it easy to be myself."

Even though Sebelius has never been a farmer, he understands the problems of rural life. One veteran observer of the House Agriculture Committee maintains Sebelius is a factor in any farm bill. Many consider him the second most powerful Kansan in Congress, next to Sen. Robert Dole.

Sebelius holds the title of ranking Republican on both the livestock and grains subcommittee of the House Agriculture Committee and the parks subcommittee of the Interior Committee.

He admits to sometimes introducing legislation that doesn't stand a chance of being passed. His rationale for the action is simple: "It gives you a chance to say, 'I did it'—it puts you on the record. Besides, how do you know if you don't try?"

The congressman is proud of the fact he has made an honest effort to represent his entire district and not just his party.

"I think everyone felt he had a congressman, regardless of party. I have tried to be part of my district."

Sebelius has never felt comfortable "beating his own drum."

In World War II, he worked for U.S. intelligence in the Caribbean, where German submarines had been sighted. His spy alias was "Keith Sampson." He recalls the venture with typical good humor:

"Can you imagine a person who looks as American as I do and was about draft age—you really had to be nimble.

"I wanted to be where the action was, but they kept me down there. As the war went on, the work got more routine. There was no hero stuff. They won the war in spite of us."

His campaign style has been low key. Instead of sounding his own horn, Sebelius says, he has taken the approach, "I want to do this; would you help me?"

He also is a firm believer in taking his campaign to the people. During one of his first political attempts, he spent a week in a Salina motel. He walked the streets, going from door to door, to enlist support.

MEET PEOPLE

"I have learned—you have to go out and meet people," he says.

Bette has never liked the campaign trail. Nor has she been especially fond of the Washington social scene.

She reared two sons, Doug and Gary—who both followed in their father's footsteps and became attorneys—and kept the home fires burning while her husband followed his political ambitions.

Many times, the job wasn't an easy one.

Several years ago, the Sebelius home in Washington was broken into and $20,000 worth of belongings taken. Included were a set of silverware, a gift from Sebelius to his wife, and a pair of men's white shoes.

"Those shoes always hurt my feet." Sebelius says. "I always hoped that guy put those shoes on and got what he deserved—blood poisoning."

"I never belonged to the Congressional Wives Club, because I felt they only wanted to gripe and I never thought I had anything to gripe about," she says.

Still, she couldn't be happier her husband has decided to retire from public life.

"I was so unsettled, I couldn't concentrate on anything," Mrs. Sebelius says of her 12 years as a congressional wife. "I always told Keith I made every rut on that road between here and Washington. It was like living in limbo."

Sebelius has never liked to fly—mainly because of an ear problem. For seven years, he wore a hearing aid and, this summer, he intends to wear one again.

He has refused to endorse a Republican successor, even though his longtime assistant, Pat Roberts of Dodge City, is a candidate. The congressman wants no hint of political favoritism.

Sebelius has started a foundation in case "some community project should come along." He also will be a Ronald Reagan delegate to the Republican National Convention this summer.

Sebelius would like to be named to the National Parks Advisory Committee and "my only chance," he says, "is with a Republican president."

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. WINN. I would be glad to yield to my colleague, the gentleman from Kansas.

Mr. WHITTAKER. Mr. Speaker, I thank my colleague from Kansas.

Mr. Speaker, a true friend of American agriculture will not be answering the first quorum call when the 97th Congress convenes next January. My good friend and fellow Kansan, Keith Sebelius, will retire at the end of the session after 12 years of unfailing service to the First District and the Nation.

As a leading member of the House Agriculture Committee, Keith Sebelius has played a key role in just about every significant farm debate in recent memory. Every vote Keith has cast has been shaped by his thorough knowledge of farming and farm economics and his uncanny knack for getting down to the root of an issue.

In this my first term in Congress, Keith's guidance and support has been invaluable. I will miss him, his "Big First" District and our State will miss him, and America's farmers will miss his strong hands at the "wheel" of agriculture in this land.

A hearty thanks, Keith, and may you and Bette enjoy many healthy and happy years in retirement.

□ 1930

Mr. WINN. I thank the gentleman and yield to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. I thank my colleague for yielding and applaud him for calling this special order.

Since I first came to the Congress in 1977 and Keith Sebelius befriended me, and basically taught me most of what I know about agriculture, which was very limited at the time, I have come to know Keith not only as a colleague from Kansas but a friend. He is an enormously successful Congressman and represents his district with integrity and with courage. He is a devout friend of agriculture and of our National Park System, and one of the most impressive things I see about Keith Sebelius is that he is liked by all of his colleagues. That is probably the highest tribute that anybody can pay to him or to any Member of Congress is that he is respected and liked. He has no enemies here. Will Rogers once said, "I have never met a man I did not like." Since I have been in Congress I have never met a man or woman who did not like Keith Sebelius.

I wish my best both to him and to Bette and his entire family. I thank the gentleman.

Mr. WINN. I thank the gentleman for those comments.

Mr. JEFFRIES. Mr. Speaker, will the gentleman yield?

Mr. WINN. I am glad to yield to another gentleman from Kansas.

Mr. JEFFRIES. Mr. Speaker, when I heard the news that our colleague and friend, Keith Sebelius, was retiring from Congress, I was first concerned that we would be losing one of our most able and hard working Members.

But Keith has served Kansas and the Nation for a good long time, and I fully understand his desire to spend more time with his family and with the people in Kansas whom he has served with such distinction and dedication.

It goes without saying that he will certainly be missed here in the Halls of Congress. But I would like to say that even though I have been here myself only a short time, it will be difficult to think of the Kansas congressional delegation without thinking of Keith Sebelius. It will take quite some getting used to.

I know I can rely on Keith's other good friends in Congress to recount his many accomplishments, and justly praise his efforts here, especially his efforts on behalf of agriculture and the Kansas farmers, so I would just like to interject a few personal words if I may.

I have relied on Keith for his sound advice many times, and for his guidance during difficult moments. There are few men whose judgment is as solid, and whose vision is as clear as Keith's. It is not mere flattery to suggest that Keith is one of the finest examples of the best in public servants that Kansas has contributed to our country. I am proud to count he and his wife Bette among my friends.

Frankly, I am extremely grateful for the privilege of having served in the same Congress with Keith Sebelius, and I will be sorry to see him leave. But even so, Keith's service will continue to be an example to me, and to others, of what dedicated public service really means.

God bless you, Keith.

Mr. WINN. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WINN. I am happy to yield to the minority whip.

Mr. MICHEL. I appreciate the gentleman yielding to me.

Mr. Speaker, I am honored to have this opportunity to say a few words about our distinguished colleague Keith Sebelius.

The 12 years he has served the people of the First District of Kansas have been historic in their profound influence on American agriculture. Perhaps no other similar time period in our history has seen such a series of dramatic events in agriculture. Wheat deals with the Soviet Union, grain embargoes, fluctuating prices, farmers' protest marches—all of these and more have occurred in the space of 12 short years. The people of Kansas—and the American people in general—have greatly benefited by having Keith Sebelius in Congress during this historic period.

He represents what we all know is the largest wheat-producing congressional district in the United States. For many of us he has long been an indispensable source of knowledge and advise on matters concerning the enormously important area of agriculture in general and wheat in particular. Indeed, to most Members he is known as "Mr. Wheat." I remember seeing him wearing a bread wrapper around his arms to symbolize the small amount of money wheat farmers get out of the price of a loaf of bread. That symbolic gesture was only a small part of his contribution to farmers, however; for 12 years he also brought to debate on the floor and in committee a detailed and enviable grasp of intricate agricultural matters.

Mr. Speaker, I am certainly going to miss the good friendship on a daily basis of Keith being here on the floor, and the good advice that he has given me from time to time when we have had to rely on his good judgment. He has just been one of the most cordial friends we have come to know in our association here, and I guess that is what makes this body what it really is, knowing good people and developing those friendships over a period of time, warm, lasting, enduring friendships that we have come to know in people like Keith Sebelius. So we wish, naturally, that he and Bette have a very enjoyable retirement for many years to come. I hope he will come back and visit us from time to time, particularly when we have those "Former Member Days." We will look forward to having him back.

I thank the gentleman for yielding.

Mr. WINN. I thank the gentleman.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from California.

(Mr. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I am pleased and proud to participate in this special order. I really want to commend the gentleman from Kansas (Mr. Winn) for having initiated this special order on behalf of our good, kindly, and congenial colleague from Kansas, Keith Sebelius

Keith, as you know, served as our ranking minority member on the subcommittee having jurisdiction over the park and recreation facilities of this country. When we try to think of words that describe Keith Sebelius and the manner in which he has conducted himself, they come down to about three words: conscientious, concerned, and very, very courageous.

KEITH SEBELIUS was truly dedicated to the conservation of our pristine areas in the Nation and dedicated, as my colleagues know, to the protection of our natural resources as he served in that capacity on the committee.

Everyone remembers him really as a champion of agriculture, as has been described by some of the speakers that have preceded me. But also I would like to describe him as a true champion of conservation in America in all of its forms.

We can all remember, and our distinguished minority whip just alluded to some of his conversations when he came to the floor of the House, and how many of my colleagues, how many will ever forget the impassioned speeches delivered in the well of this House as only KEITH SEBELIUS could deliver them? This man came out as a champion of the wheat farmers and he would tell that story like no other man I have ever heard. I can remember when he told us that story about if you cannot do anything to help the wheat farmer, when you go down to that restaurant and look at the biscuit on your plate, do not just turn it back, mess it up a little bit if you want to help my wheat farmers out there.

This man is not only a great friend, but I am convinced that all of my colleagues in this House will remember KEITH SEBELIUS for the service he provided as one of the finest, most dedicated, and most conscientious Members to ever serve. I do not know what we are going to do without him when he leaves our committee, because we can always rely upon KEITH SEBELIUS to make an evaluation of the legislation pending, and then present, in a very forthright manner, what his evaluation actually is.

So to KEITH and Bette we want to wish them well in retirement. But I can tell you one thing, this ranking minority member of the Interior Committee is going to continue to call upon him for advice and counsel in the future.

Mr. WINN. I thank the gentleman.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. WINN. I am glad to yield to the gentleman from Iowa.

Mr. BEDELL. I want to also commend the gentleman from Kansas (Mr. WINN) for calling this special order so that we might have a chance to let KEITH SEBELIUS know what he means to all of us.

☐ 1940

I came to the Congress some 5½ years ago, and as I went on the Committee on Agriculture, I did not know the people who were there, but one of them who was there was KEITH SEBELIUS. I soon learned KEITH's expertise, his dedication, and his capability. It is true we were on opposite sides of the aisle, but I never saw that make any difference at all as far as KEITH SEBELIUS was concerned. He was always there trying to be helpful and certainly trying to do whatever was in the best interests of American agriculture.

I feel that so many times as we go through life we do not really tell people how much we appreciate what they have done for us and the contributions they have made. I am particularly grateful to the gentleman in the well for the fact that he has given us this opportunity to let KEITH know how much we appreciate what he has done and that it comes from both sides of the aisle. We so greatly appreciate both the service that he has performed and the fairness that he has shown, and the dedication that he has shown, as he has served his country and State and all of the people of this great land of ours in the Congress of the United States.

Mr. WINN. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

I, too, want to express my appreciation to our colleague, the gentleman from Kansas (Mr. WINN) for taking this time to say to KEITH SEBELIUS, "Thank you for your fine service in the Congress," not just waiting until he left or had gone beyond to some other activity, but taking that time now and saying that we do appreciate his service. As has already been expressed, and I will not try to review all of the things that have been said, he has been an extremely able legislator in the several areas in which he served. We have already heard mention of his tremendous dedication in the field of agriculture and on the Interior Committee where my colleague, the gentleman from California (Mr. CLAUSEN), mentioned his real understanding of what we were doing in that area and his very precise contribution to the Interior legislation. I know from firsthand experience that he approached his constituent action with great care. Many times he would send over to us farmers from his district and say, "Go see JOHN ROUSSELOT," or whoever it was from another State. "They may not understand our problems in Kansas, so go see them." Whenever KEITH SEBELIUS sent members from his constituency or from Kansas as a whole to see you, you made darned sure you listened to them because he was dead serious in sending them, and you knew that those constituents had a message that they wanted you to understand.

But I think, above and beyond all that, most of us also appreciated, when he took the well of the House, that he had a real understanding of what he was talking about. Beyond that, he brought a sense of humor to what he was dealing with that really got to the point, and I think that is what I appreciate so much about KEITH. He was able to give—and, Lord knows, we need it around here—a sense of humor when he was making a point, driving home an issue even more clearly in the way that he would discuss it.

So, KEITH, we say, thank you for the service you performed, not only for your district in Kansas, for Kansas wheat farmers, but also for helping the rest of us better understand what the points were you were making. You did it with a sense of humor that we all enjoyed. We are grateful to you for your service to the Congress and to the country, and I just hope that whoever follows in your footsteps brings the kind of capability that you have given us.

Mr. Speaker, we thank our colleague, the gentleman from Kansas (Mr. WINN) for taking this time. We do appreciate it.

Mr. WINN. I thank the gentleman.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, I would also like to join in the accolades for KEITH SEBELIUS, but I would not want anyone to go away from here thinking that KEITH's interests were provincial. We all knew him as "Mr. Wheat," and we all knew his tremendous interest in representing the people of Kansas. But I had many experiences with KEITH, and one of them was having him come to my State on a field trip. A lot of Members kind of take that as being a courtesy to a Member, and they go up and sit and listen. But KEITH took a real interest in the problems of our State. They are quite contrasted. Our rolling hills are not quite what you find in Kansas, and we do not have wheat on the hillsides or in the valleys. But we do have our own problems, and KEITH took an interest in supporting the resolution of some of the problems we have that are not really consistent with his. I cannot ever remember a time when anyone voted against him because he was so convincing. I deeply appreciate his service. It meant a lot to me as well a lot to other Members who served on the Committee on Agriculture and the Interior Committee, and his other friends in this body.

Thus, Mr. Speaker, I join in honoring my friend and colleague KEITH SEBELIUS on his retirement from Congress. In the 12 years that KEITH has been a Member of this body, he has won the respect and admiration of us all. KEITH, it is fair to say, always has the interest of his people in mind and not just the party.

Those of us who have worked closely with KEITH know that his counsel is invaluable. Certainly those of us who serve with him on the Agriculture Committee know that KEITH is a factor in any farm bill. He understands American agriculture, and he is practical in his approach to problem solving. I think that his office motto best exemplifies his commitment to Agriculture: "Be fair to the farmer, he is the backbone of the Nation."

I could run through a list of KEITH's many accomplishments in his 12 years in Congress, but the record speaks for itself. We will miss him and Congress will be losing a respected Member.

Thank you, KEITH, for the service you have provided your State, your district, and the Nation. Our best wishes go to you and Bette on your return to Kansas.

Mr. WINN. I thank the gentleman.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

I want to thank the gentleman from Kansas (Mr. Winn) for making it possible for us to join in honoring our distinguished colleague whose district shares 300 miles of border with my congressional district.

Mr. Speaker, it was with great regret that I learned of the retirement of my dear friend and colleague from Kansas, Keith Sebelius. He has served many distinguished years in the House and his district has been well represented during his presence here.

I am very glad to have this opportunity to honor my fellow Member and neighbor, whose big First District shares 300 miles of border with my Third District in Nebraska. Keith has long been a particularly loyal and close friend of mine, consistently supporting legislation to serve the best interests of not only the people of his own district, but of the people of Nebraska, and of the Nation as well. For example, he understands the great value of the O'Neill irrigation project and has lent his full support to my efforts to complete this project as well as many other water-planning projects throughout the United States. He was also a major sponsor of my bill to establish the Trails West National Historical Park, demonstrating his deep concern for conserving the land, and again, the true interests of the people.

I have had the pleasure and privilege of working closely with Keith, and we have consulted each other often on various important matters. He is an honest man, carefully assessing the issues and at all times voting his conscience. His voting record reflects this, as well as his sound judgment.

On many occasions Keith has graciously taken the time to speak enthusiastically in my behalf, and I have been delighted to have had the opportunity many times to return the favor, lending him my full support and friendship. His strong convictions are the basis for his serious determined efforts to reduce big Government bureaucracy and restore the faith that people have lost in public officials.

Keith has played a key role in introducing legislation supporting rural interests, endeavoring to make big Government more responsive to the needs of rural America. He has demonstrated time and again his firm belief that the farmer is the backbone of the Nation. Appropriately, he has served on the House Committee on Agriculture, and is the ranking Republican member of the Livestock and Grains Subcommittee, promoting grain exports and providing agriculture disaster relief programs. As a member of the Family Farm and Rural Development Subcommittee he has been the major sponsor of numerous farm bills and authored many amendments to important farm legislation.

A hard-working and unpretentious man, Keith has always taken his appointments to the Agriculture and Interior Committees very seriously. He is also the ranking minority member of the National Parks and Insular Affairs Subcommittee and has arduously worked to preserve and protect our beautiful national parks. His dedication has been repeatedly illustrated by choosing to spend many of his vacations visiting our national parks, examining their problems firsthand and observing the work being done.

Keith has made substantial contributions to both the House and the people he represents, handling the large responsibility of holding public office with a great deal of competence and integrity. It has been a pleasure and an honor to serve with him. His dedication in the House has been outstanding and I am sure I am voicing the sentiments of the entire House when I say that I will miss his presence and leadership here a great deal.

Mr. WINN. I thank the gentlewoman.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman from Kansas for yielding, and I would like to congratulate him for requesting this special order for Keith Sebelius.

Like so many of us, I was sorry to learn of Keith's announcement that he would be retiring at the end of this Congress. We will all miss him, as he is truly one of the great Congressmen of this age.

As I have been sitting here, I have heard many members identify Keith Sebelius as a great leader in Congress for agriculture. He has been referred to, I believe, as "Mr. Wheat." I want to say that his expertise in other areas have extended his leadership role beyond the realm of agriculture.

I represent a metropolitan district far from Keith's beloved State of Kansas, and I want to say that, in California, we consider him great, too. Even though my 32d District is not directly involved with agriculture, we have certainly come to consider him a good friend. The adjectives that we use to describe Keith are the same as those which would be heard in his own district: Dedicated; concerned; hard-working; conscientious; a man of integrity.

When a man who can be fairly described in that manner leaves an institution, a void is created which is difficult to fill. His absence will create such a void when the 97th Congress convenes. Because it is only over a period of time that a Member can earn the kind of respect that Keith has earned and so richly deserves.

My wife Lee and I will miss Keith and Bette. And we wish them nothing but the best in the years ahead.

Mr. WINN. I thank the gentleman.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding, and I compliment the gentleman from Kansas (Mr. Winn) for having this special order.

Mr. Speaker, I consider it a great privilege to have this opportunity to lend my voice in praise of a great Congressman and a great American, a great friend, Keith Sebelius. I consider myself lucky indeed to have had the opportunity to serve on both the House Agriculture and the House Interior Committees with Keith, where he distinguished himself as an able legislator and an articulate spokesman for his Kansas constituency and the country as a whole.

On the Agriculture Committee, Keith has been a champion of the farmer, always quick to defend the marketplace in which farmers must subsist. The agricultural community will miss his counsel and leadership. He has been no less of a champion for the National Park System in the Interior Committee, and he deserves the thanks of the millions of American citizens who travel to our country's national parks each year. Keith has been instrumental in making our National Park System superior to any parks on the face of the Earth.

I, for one, will miss Keith Sebelius' familiar face in the Halls of this body, and I know that this Nation will miss his contributions toward a better America.

Mr. WINN. I thank the gentleman.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to be able to participate in this special order to honor a colleague I respect and admire, Keith Sebelius.

When I first came to Congress almost 4 years ago, Keith Sebelius spent some of his valuable time in teaching me the workings of the House as well as the two committees on which we both serve—Agriculture and Interior. I soon came to realize the excellence of the teacher I had. But most importantly, I gained a close friend.

Keith is a well-respected member of the House Agriculture and Interior Committees, from which he has steered the policies which promoted and encouraged a better rural America. His knowledge and hard work has gained him the respect from Members on both sides of the aisle. I know firsthand of his fierce fight to save the family farm and to preserve our productive farmlands for future generations. Actions in this regard have won him respect and notoriety not only in his district and State, but throughout the West and the Nation.

Even as a leader he was always ready to help aid and assist me, even when I was the lowest ranking member of the Agriculture Committee. On one occasion when I was a freshman, Keith made that long trip to Montana with me. We talked to the press, we talked to the farm groups and we talked to three different packed houses. When we left Montana I and my constituents had a new understanding of the legislative problems we faced and I understood how valuable it is to have friends and leaders who are willing to take their personal time to enhance and counsel a fellow Member. Not only will I truly miss his counsel, but the House of Representatives will be losing one of its ablest Members. I know all my colleagues in both parties join with me in wishing KEITH and Bette the best in everything. I will miss him, Montana will miss him.

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Mr. WINN. I thank the gentleman. Mr. Speaker, I yield to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I thank the gentleman for yielding. I thank the gentleman for taking out this special order for a really outstanding Congressman.

A lot could be said and a lot has been said about KEITH SEBELIUS. An agricultural expert, defender of the wheat farmer, conservationist. Out of the northwest Indiana they will remember KEITH SEBELIUS for quite another thing. I would invite you all sometime to come out to see the Indiana Dunes National Lakeshore Park which without the help of KEITH SEBELIUS, his understanding and his bipartisan approach to an extraordinarily difficult legislative matter, one of the most intricate and difficult that I have seen and wrestled with since I have been in the House, without KEITH SEBELIUS's understanding and dedication to the principles of conservation over all of those years that the Indiana Dunes legislation has been in and out of the floor of this House, there just would not really be an Indiana Dunes Park in the fashion that it is now. I, therefore, rank KEITH SEBELIUS with the great Paul Douglas who originally conceived the idea and many others who have worked on it. It has been an extraordinary pleasure for me to have not only the personal experience of working with KEITH on the Indiana Dunes legislation but to work with him in the Committee on Agriculture. The House will be somehow absent his contribution. Kansas and Bette and those who will have more of his time will obviously gain a plus. I salute a great Congressman and a great American, KEITH SEBELIUS.

Mr. WINN. Mr. Speaker, I yield to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I thank my colleague from Kansas for yielding to me and commend him for taking the initiative and providing for this special order.

Mr. Speaker, it is customary, on the retirement of one of our Members to take a few moments to extoll his virtues and review his accomplishments. As his constituents in the First District of Kansas will agree, however, in the case of KEITH SEBELIUS, it is hard to exaggerate.

A champion of the farmer and a leader in the effort to make Government more responsive to the needs of rural America, KEITH SEBELIUS in his 12 years in Congress, has produced more for American agriculture than most Members in a lifetime on Capitol Hill. Serving as ranking minority member of the Livestock and Grains Subcommittee, and on our Family Farm and Rural Development Subcommittee, he has sponsored important farm legislation and has authored numerous amendments to farm bills—and has seen a good many of them enacted into law.

Included in KEITH's achievements on behalf of American agriculture is legislation to expand U.S. grain exports abroad, promote and improve rural health programs, expand water resources, provide more effective disaster relief for farmers, beef up commodity support programs, develop better food safety legislation, and promote beef as a staple in the American diet—just to mention a few.

Although KEITH's awards have been many over the years, including one as "Wheat Man of the Year" from the Kansas Association of Wheat Growers in 1975 and others for his work in behalf of small business and the American taxpayer. I am sure none are more satisfying than the knowledge that he has been an outstanding Representative in Washington of Kansas' First District. I guess that is what we are trying to say here today: KEITH, thanks for being a great guy and for a job well done.

I congratulate KEITH SEBELIUS on packing a full and fruitful congressional career into 12 years. He has indeed been a friend to the farmer, to the elderly and the youth of this Nation—and to the people of Kansas and rural America. Not the least of all, Mr. Speaker, he has been a good friend to me and, along with my colleagues on the House Committee on Agriculture and in this House, I will miss him.

Finally, Mr. Speaker, I am now serving my 16th year as a Member in the House of Representatives. During that period of time I have been privileged to serve with a large number of outstanding men and women. I have not been here as long as some but longer than most and I must say in all good conscience, of all the outstanding men and women with whom I have been privileged to serve in this House, there is none I hold in higher personal esteem and affection than that of KEITH SEBELIUS. I wish for KEITH and his wife, Bette, and all of his family, the very best that the future can hold.

Mr. WINN. I thank the gentleman and yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman from Kansas yielding to me. I want to join in this tribute which is so richly deserved by our colleague, the gentleman from Kansas.

There have only been in the history of the United States some 12,000 men and women who have served in the Congress of the United States and they all, I am sure, in their own way, have made their mark on their colleagues and established a record which has lived on after they have gone. Much of the very distinguished record that KEITH has compiled has been laid before you in previous remarks tonight.

I wanted to address a somewhat different experience I have had with him. That is, as one human being in this Congress who treats his fellows with respect and who is in every sense a very gentle man. I have served with him on the Committee on Interior and Insular Affairs and on the Subcommitee on National Parks. I remember one instance when I tried to explain to him a matter regarding the Assateague seashore that is located in my district, in part, and I could not really tell him that much about it because he had already been there. He knew how big the mosquitoes were in the summertime, he had seen the sand dunes, and few of us perhaps know he has traveled all over these United States looking at the proposed national parks, seeing for himself what needed to be done in legislation, as the gentleman from Indiana (Mr. FITHIAN) just referred to. He has played an instrumental role in preserving literally hundreds of thousands of acres for future generations in our national park system. With it all, he has been very much the country he represents, a big area with great Americans in this heartland of America. He has come here and treated each of us with a kind of attitude that I think we would all like to foster. There are not that many people in public life in the rough and tumble of politics who are still able to retain the kind of quality he has shown since the first day he came here. I owe him a great deal.

When I first ran for special election in 1973, I was surprised to open an envelope one day in my campaign headquarters before I was elected to Congress, and there was a check from KEITH SEBELIUS, hoping that I get elected to Congress. That is the greatest tangible support that a fledging politician can ever receive. It was a small kind of gesture that is so typical of this man. He wants to help others, and literally in his career he has helped hundreds of thousands of Americans in his own district and many, many more thousands perhaps who never even knew his name. He will be remembered by me very fondly and by men and women on both sides of the aisle for the very enviable record that will serve as his monument in future generations.

Mr. WINN. Mr. Speaker, I yield to the gentleman from the Virgin Islands (Mr. EVANS).

Mr. EVANS of the Virgin Islands. Mr. Speaker, as a freshman Member of the House I have not had the privilege of knowing KEITH SEBELIUS for a length of time but in the very short time that I have known him I have developed the respect and admiration so eloquently expressed by my colleagues here in the House. My only regret is that the time of association has been so short. I certainly want to associate myself with the remarks of others and to wish Keith and his wife a very, very happy retirement.

Mr. WINN. Mr. Speaker, I now yield to the gentleman from California (Mr. Royer).

Mr. ROYER. Mr. Speaker, I thank the gentleman for yielding. I certainly want to commend the gentleman for taking this special order, giving us an opportunity to say a few words about our good friend, Keith Sebelius.

Mr. Speaker, I rise to join a host of my colleagues to pay tribute to Representative Keith Sebelius, who is retiring from the House of Representatives at the conclusion of the 96th Congress.

I have been privileged to serve as a colleague of Keith's for only a short period of time, this being my first term in Congress. However, I value my relationship with Keith, both personal and professional, and count it as being among the most rewarding that I have had. A gentleman of the highest caliber, he has provided me with insight and expertise as I have progressed through the legislative process of the 96th Congress.

Through all of the strident tones and angry debate, he has stood, calmly and coolly, as an island of reason and patient advocacy. His constituents will surely miss his abilities and representation of their interests on the Agriculture and Interior Committees. Surely the voters of Kansas have been truly and ably served during Keith's tenure.

Mr. Speaker, I count myself fortunate to have known and served with Keith as a Member of Congress. I shall miss him, but I shall perpetuate his legacy, hopefully, in my own service here.

Keith, good luck in all of your future endeavors—and thanks for all of your dedicated service. Each American has benefited from your many fine works.

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Mr. WINN. I thank the gentleman.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. WINN. I will be glad to yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Speaker, I wish to commend the gentleman in the well for what I consider to be a fine gesture to a fine man and providing the opportunity to all of us to have this time to express our feelings and our sentiments with regard to our good friend, Keith Sebelius.

I know Keith as "Mr. Wheat" and "Mr. Kansas." He has been "Mr. Agriculture" in many respects here in the Congress of the United States. I am going to miss the bread that he has sent out from time to time. He, I think, has been somewhat Biblical in helping to remember the adage about bread.

I feel that his service on the Interior and Agriculture Committees, which I had the privilege of serving on in the 1960's, was indicative of his desire not to be serving in flashy capacities, but in those substantial capacities where you build a nation, you build the roots of a nation in the farms and in the growth of the natural resources and the development of a country.

I think that Keith is known among all of us for being a fine and always natural person, with sound convictions and much commonsense. He is known among his friends as just a good guy, but a very capable person, and we are going to miss him. But, he has left his mark and legacy in many great accomplishments which make Kansas and the Nation and all of us better for his years of faithful service as a Member of this great body, the Congress of the United States.

Mr. WINN. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman. I certainly commend him for taking this time to talk about our beloved colleague, Keith Sebelius.

I first became well acquainted with Keith when I joined the House Interior Committee, on which he has served for more years than I; and I quickly learned about his dedication to our National Park System and the fact that he personally made it a point to go around and visit as many units of the National Park System as he could all across the country, and his understanding of the lore of the national parks and their background and their personal characteristics.

His concern that we make this the best system that the American people could possibly have permeated everything he did on the National Park Subcommittee, of which he was the ranking Republican.

Of course, his dedication also to American agriculture and the interests of farmers was not something that you had to be on the Agriculture Committee to understand. I remember when we were dealing with the Alaska lands legislation back the first time around, which was back in 1978, when one of the concerns of Keith was to make sure that we did not impair the ability to develop the agricultural potential of that State, which despite its climatic extremes, a lot of people do not realize is one of the potentially great agricultural producing areas of the world.

But, beyond all that, Keith Sebelius is just a wonderful, warm, and wise human being. The fact that he is of a different political party than some of the rest of us did not make any difference in the way he would approach problems that had the interests of the country involved. He was a patriot first. He is a patriot. He is a person of sensitivity and of intellect, and all I can say is that although we are going to miss him terribly on the committee, I know that the country and we are going to be able to call upon him when we need his wisdom and advice for many years to come. I hope he will spend some time coming around here so that we can take advantage of his knowledge and his thoughtfulness.

I appreciate the gentleman from Kansas giving me this time to express a few thoughts about our dear friend, Keith Sebelius.

Mr. WINN. I thank the gentleman.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I would only add that I especially cherish my 2 years as a freshman Member of this body. I was appointed to the House Interior Committee, and as such had an opportunity to get much in the way of good advice from Keith Sebelius. To me Keith is a beautiful man, warm, dedicated human being, a person who cares for his family, who cares for his community and State and his Nation. We will all miss him.

Mr. WINN. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for yielding and for taking this time. It has not been my privilege to serve on a committee with Keith Sebelius, but as a Member of this House who has observed him day after day for all these years, as someone who is more aware of the fact that as the whole is equal to the sum of its parts, a nation is equal to the sum of its parts, I am more aware that Keith Sebelius was a part of the strength and the hope of this Republic both in his personal life and to each of us as a friend in his public life.

He has been a credit to his congressional district, to himself, and to his country, and we all have profited from his service here. We shall greatly miss him, but I would like to express appreciation to the people of his district for sharing with us this truly fine public servant, an American of whom we can all be proud.

Mr. WINN. I thank the gentleman.

● Mr. RHODES. Mr. Speaker, I join my colleagues today with a tinge of regret, that one of our esteemed fellow House Members has decided to leave these Halls in which he has served for a dozen years.

Keith Sebelius came to the 91st Congress, and has been a hard-working Member, both for the First District of Kansas and the national interest. He has represented well a large district, the heart of America's wheat bin. His hometown truly is the heartland of America, being just a few miles from the geographical center of the United States. It is a country rich in the history of Dodge City, and the early cattle drives. Today it is a full-fledged participant in our search of more oil.

Keith Sebelius has been a tireless worker for sensible farm legislation, and for a coordinated, workable national energy policy. It has been my privilege to work with him over the past 12 years, and I have found him to be affable, reasonable, and very well informed on legislative problems and processes. As minority leader over the past 6½ years, I have been pleased and proud to have him on our Republican team in the House.

I know that we will miss him in the

97th Congress, and I join colleagues from both sides of the aisle in wishing him a long, fulfilling and happy retirement, and future success in whatever endeavor he turns his talents and energies to after leaving the House.●

● Mr. KEMP. Mr. Speaker, it is with sadness that I rise tonight to bid farewell to my good friend and colleague, Mr. Sebelius from Kansas. Yet I know that the gentleman from Kansas reached his decision to retire after serving his country in the House of Representatives for 12 years after much deliberation.

In his six terms in the Congress, Keith Sebelius has served his constituents in the First District of Kansas with a view toward helping the farmers of Kansas and the Nation, and reducing waste in Federal spending. His positions in favor of reducing the tax burden on the American public, for a strong defense, and for a strong American posture in energy production have made him a valuable Member of Congress.

I wish him well in his new life, and I extend to him my request that he continue to provide us with his respected counsel after he leaves the House of Representatives.●

● Mr. PICKLE. Mr. Speaker, many people think a lot of grandiose things about the life of a Member of Congress. They recognize it is a great honor to serve. They think we go around in a blaze of glory, relaxing in huge offices with paneled walls, getting served by big staffs, driving around in big limos. Some folks figure we meet a few times a month and that we are on easy street.

But nothing could be further from the truth. Members of Congress have early and late hours. They are resigned to hard work, long hours and involvement in projects that do not win many headlines.

Most of the time, we work on individual cases or problems. We listen to constituents, try to respond to complaints and maintain the commitment to reflect the concerns of our Federal Government to the needs of an individual. We do not go around touting our hard work in this area—it is something expected of us. And an individual problem or case does not belong in the newspapers.

Often, the real work done around here is done by Members truly dedicated to the public interest. The role I have described has been filled in superior form by our friend, Keith Sebelius of Kansas. Since the beginning of his career in 1969, Keith has been a quiet, dignified voice in this Chamber, highly respected by his colleagues and earnestly supported by his friends and constituents back home.

It has been a privilege to serve with Keith Sebelius. Never once has he done anything that did not meet with the approval of his colleagues and constituents.

As an attorney, Keith has followed the operations of Congress in a scholarly manner. As a Representative of a farming State, Keith has gained power and credibility in the Agriculture Committee, so crucial to the daily lives of his people.

If you were to sit down with some paper and a No. 2 pencil and were asked to epitomize the best of Congress, featuring hard work and respect and talent, your final product would be a Keith Sebelius.

We will miss this outstanding man, but we wish him well in future pursuits.●

● Mr. ABDNOR. Mr. Speaker, back in South Dakota we place a very high stock in our neighbors. There is no greater blessing than a good neighbor, and this is true in Congress no less than in South Dakota.

One of the very best neighbors anybody could ever have is Keith Sebelius, and he has been a good neighbor and good friend to me since before I came to Congress.

I first met Keith when I came to Washington for a candidate's campaign school.

Keith recognized me for the congressional greenhorn I was and took me in tow. He was determined to try and make something of me as a Congressman and has kept at it ever since.

Since my election Keith and I have been office neighbors on the second floor of the Longworth Building. The first 2 years we were on the same corridor, and I can remember the feelings we both shared when it turned out that we were the only Republicans on that corridor surviving the election of 1974.

Keith Sebelius' district and mine are among the largest wheat producing areas in the United States. His able service on the House Agriculture Committee has benefited not only his district but all of rural America. His insights and advice on agricultural issues have had a singular expertise which have earned him the respect and admiration of his colleagues on both sides of the aisle. The same can be said of his service on the Interior Committee.

Keith has always talked about going back to Kansas and practicing law with his sons. While we all greatly respect his desire and realize how richly he has earned this privilege, we are going to miss him here in the Congress.

Like the rest of my colleagues, I am going to miss this good neighbor from Kansas.●

● Mr. YATRON. Mr. Speaker, I join with the many friends and admirers of Congressman Keith G. Sebelius, in paying tribute to a man who is recognized by his colleagues and constituents as an individual of unparalleled integrity, respect, and leadership.

I have had the privilege and honor of knowing Keith for 12 years. We began our service in the House of Representatives together and through the years he has always commanded by greatest admiration and respect. For Keith, his efforts on behalf of the people of the First Congressional District of Kansas, have been a labor of caring. He has always given freely of his time, talent, and energy to make life richer and more rewarding for his constituents and the American people.

It is indeed fitting that we should honor this outstanding legislator for his years of service in the House. I know that all my colleagues in the U.S. Congress will join me in wishing him the very best in the years to come. It has been my privilege to have worked with him and to know him. He will be sorely missed when he retires at the end of the 96th Congress.●

● Mr. DERWINSKI. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to Keith Sebelius, who will be leaving the Congress at the close of this session. We have been fortunate to have Keith as a colleague and to benefit from his extraordinary legislative ability.

During his 12 years in Congress, Keith has served the people of Kansas' First District with dedication and great distinction. He is stepping down from his duties here in Congress knowing that he has served well and contributed significantly to the legislative process.

Keith Sebelius has distinguished himself as a man of integrity and ability and he has been a champion for the State of Kansas, and for the Nation. His work on the Agriculture Committee has done much to revitalize governmental programs in rural areas, and he has played a major role in the consideration and passage of legislation that would benefit the farmer. His efforts and achievements on the Interior and Insular Affairs Committee are also of special significance.

My wife, Pat joins me in wishing Lou and Bette and their family, health, happiness, and good fortune in the years ahead. Keith will be greatly missed by all his friends in the House. I certainly hope that his future brings only the best.●

● Mr. MITCHELL of New York. Mr. Speaker, I would like to join my colleagues in the House in their recognition of the distinguished career of Keith Sebelius. As a Representative from a rural area of New York State, I would like to express the appreciation of my numerous constituents engaged in agriculture and the food industry for the outstanding leadership that Keith Sebelius has provided as the ranking minority member of the House Agriculture Committee. His reasoned and responsible advocacy of American agriculture has been a boon to farmers throughout our country. He has always been available to share his rich expertise in agriculture with his colleagues in the House.

When I first arrived in Washington, Keith was one of the senior Members who was always ready to help acquaint new Members with the rules of the House and the Washington scene generally. I am honored to say I consider Keith Sebelius a personal friend. He is one of those rare individuals that has the ability to make the day seem brighter with a greeting, a smile and his generally upbeat attitude.

He will be missed.●

● Mr. WALKER. Mr. Speaker, I would like to join with my colleagues in paying respect to Congressman Keith G. Sebelius of Kansas, who has announced his retirement from the House of Representatives at the end of the 96th Congress.

It has been a distinct privilege and honor for me to serve with Keith these past 4 years; however, prior to my election to the Congress, I was well aware of his election as Congressman from Kansas, and his service in the Congress, inasmuch as I was an employee of the House when he arrived on the national scene.

KEITH SEBELIUS came to Congress in 1968, bringing sound judgment and wisdom along with his staunch Republican conservatism. Unlike many Members of Congress, KEITH SEBELIUS says, a lot of people did not urge him to run for public office. He had always felt he was destined for community service, and after serving as city councilman, city attorney, and mayor of his hometown of Almena, Kans., he went into county government as county attorney of Norton County, Kans.; then to the Kansas State Senate where he served for 6 years.

The U.S. House of Representatives was simply the next step for him to take. After 12 years of serving Kansas, most effectively as the ranking minority member of the House Agriculture Committee and a member of the Interior and Insular Affairs Committee, KEITH could have remained in the Congress indefinitely, judging from the loyalty of the constituency he represents and his voting record; however, a few months ago, his doctors told him he had cancer. Immediately KEITH announced that he would not seek reelection.

It is with great thanksgiving that I understand that after treatment, KEITH has been given a clean bill of health, but he insists that now is the time for him to retire and return to his family and his law practice. He has always dreamed of practicing law with his two sons, Gary and Doug, and since Doug has already hung out his shingle in the SEBELIUS hometown, KEITH will soon realize at least part of his dream.

Those of us who have worked with KEITH will miss his enthusiastic and practical approach to problems. His well-known goal of helping make government more responsive to the needs of rural America has been reflected in his work with agriculture, small business, and other programs that apply to Kansas. However, his fiscal conservatism has served us all well as he has supported cut-backs in wasteful governmental programs affecting the entire country. KEITH has received five Watchdog of the Treasury awards from the National Association of Businessmen for his insistence on balancing the budget and doing away with unproductive, wasteful programs.

Other awards presented to KEITH consist of the Wheat Man of the Year award from the Kansas Association of Wheatgrowers in 1975, and five Man of the Year awards from the National Federation of Independent Business for service to small businessmen in his State.

It will be difficult, if not impossible, for anyone to step into KEITH's shoes and do the tremendous job he is doing for his State and the Nation. He will indeed be sorely missed by his many friends in Washington and on Capitol Hill—particularly by me, who witnessed his arrival, his good works, and now his departure—but he returns to Kansas with our very best wishes for continued good health and a long life ahead to do so many of the things he feels he is "destined" to do.●

● Mr. GOODLING. Mr. Speaker, it is with regret that I note the forthcoming retirement of my colleague from Kansas, KEITH SEBELIUS. His departure creates a space that will be difficult to fill. KEITH has given 12 years of hard work to the people of Kansas, to the Congress, and to this country. As a member of the Agriculture and Interior Committees he has effectively dealt with numerous issues facing the House, while placing special emphasis on programs concerning food safety regulations, agriculture disaster relief, rural development, national parks, water resources, and commodity price supports.

His leadership will be sorely missed. It has been an honor and a pleasure to serve with KEITH, and I wish him well in all future endeavors.●

● Mr. LEE. Mr. Speaker, it is with regret that I note the retirement of my colleague Representative KEITH G. SEBELIUS from six terms of dedicated service to the people of the United States in the House of Representatives. As a champion of conservation, Representative SEBELIUS was a continual source of inspiration for those of us involved in the struggle to protect the natural environment from decay and destruction. His leadership in the effort to restore and continue the rural environment conservation program as well as his role in establishing one of the first Youth Conservation Corps Project is highly commendable.

Representative SEBELIUS' active concern for the farmer and all aspects of rural life was staunchly reflected in his legislative program. His attentiveness to the needs of the American farmer and the environment was likewise reflected in his diligent performance on both the House Committee on Agriculture and the Interior Committee. With the retirement of Congressman SEBELIUS, we are not only losing a colleague and friend, but the American people are losing a dedicated and faithful public servant.

I join with my colleagues in wishing KEITH SEBELIUS a happy and healthy retirement.●

● Mr. JOHNSON of California. Mr. Speaker, it has been my privilege to serve in this august body with our colleague KEITH SEBELIUS during his 12 years of service, as well as sharing a spot on the House Committee on Interior and Insular Affairs for several years, and I am pleased to join in this much deserved tribute.

KEITH has served his country well—in the military and at the local, State, and Federal levels of government. His contituents in Kansas' First Congressional District will miss his fine representation, but the dedication and diligence he displayed in the performance of his duties has set a fine example for all of us, as well as for his successors. He has been a public servant in the highest tradition and I have been proud to count him among my friends.

Although I know they are anxious to return home to Kansas, we hate to see them leave. My wife Albra and I think the world of KEITH and Bette and we surely will miss them, but we want to wish them the best of everything. Good luck, KEITH and Bette, in whatever the future holds for you. You deserve it.●

● Mr. JONES of North Carolina. Mr. Speaker, it is with mixed emotions that I learned that my good friend, KEITH SEBELIUS has announced his retirement from the U.S. Congress. First, I shall personally miss him as a true friend. On the other hand, I wish for him and his family many years of health and happiness for he certainly is entitled to a well-earned rest.

As many Members know, I am chairman of the Subcommittee on Tobacco. During the selection of the subcommittees, we had a rather difficult time securing the necessary number of Members from the minority side to complete this subcommittee. Being the fine gentleman that he is, he agreed to serve on this subcommittee, and as we all know he has no direct interest whatsoever in the agricultural product known as tobacco. But during his tenure on this subcommittee, I found few if any Members more loyal or interested than my good friend, Congressman SEBELIUS. It became necessary to hold a series of hearings in three or four Southern States, and he attended each and every one, and made a most favorable impression on all with whom he came into contact.

In addition to what I consider a serious loss to the U.S. Congress, the people who he represents from the great State of Kansas shall miss his dedication to constantly trying to improve the income and status of the American farmer.

In closing, I just want to personally thank Congressman SEBELIUS, first for his friendship, and most especially his understanding of all agricultural problems. Again, to him and his family, much happiness in the years ahead.●

● Mr. COUGHLIN. Mr. Speaker, it is a pleasure for me to have this opportunity to acknowledge the retirement of my friend, the Honorable KEITH G. SEBELIUS, from the House of Representatives. We began our Congressional careers together 12 years ago.

While diligently serving the First Congressional District of Kansas for 12 years, KEITH sought to give rural America a stronger voice, by advocating legislative programs that dealt with agriculture, small business and senior citizens. His success in formulating these programs was far-reaching, and KEITH appropriately became heralded as the champion of the farmer and rural interests.

As a representative from the Nation's largest wheat producing district, KEITH contributed his expertise to the House Committee on Agriculture, as the ranking minority member of the Livestock and Grains Subcommittee, and also by serving on the Family Farm and Rural Development Subcommittee. He formed an integral part of these committees and authored important farm legislation.

KEITH's concerns did not end with rural America. Another of his interests, conservation, was exemplified by his service on the Interior Committee, as the ranking minority member of the National Park and Insular Affairs Subcommittee, and as a member of the new Subcommittee for Pacific Affairs.

As an advocate for conservation, KEITH sought to restore and continue the rural environmental conservation program, and was also a major factor in locating one of the first Youth Conservation Corps projects at Fort Hays State University.

I must say that the presence of our friend from Kansas, KEITH SEBELIUS, will greatly be missed in the House. I will personally feel the loss of a special friend, as well as a fine Congressman. His service, knowledge and his commitment to his constituents are qualities that we, as other Members of the House, will remember him for, and seek to emulate.●

● Mr. LOEFFLER. Mr. Speaker, KEITH SEBELIUS has served both his constituency in Kansas and this body with great distinction. He has devoted his career to the furtherance of the agricultural industry in this country, and to the preservation of our great public lands. I know I speak for all of my colleagues when I say he will be sorely missed in the House of Representatives. I wish him Godspeed.●

● Mr. COELHO. Mr. Speaker, the retirement of KEITH SEBELIUS is a great loss for this body, for the House Agriculture Committee and for the fine people of the First Congressional District of Kansas. KEITH has always been a special asset to the House membership. I have admired the deep concern he has had for his constituents, particularly those with problems in the agricultural sector, the backbone of his State's economy. The constituents which he so ably represents have been fortunate to have a man of his caliber here in Washington.

I was a Capitol Hill staffer when KEITH was elected 12 years ago. I was impressed then, and remain so today, with the way he goes about his business in a quiet unassuming way.

As a member of the House Agriculture Committee, KEITH has made important contributions to the benefit of all Americans. I wish KEITH the very best in the years ahead. He may no longer be with us in this Chamber, Mr. Speaker, but his impression has been indelibly set.●

● Mr. LENT. Mr. Speaker, it is with great pride that I join many of my colleagues in paying tribute to the distinguished service of our colleague from Kansas, KEITH SEBELIUS. We all were sorry to hear that KEITH has announced his retirement from the House of Representatives at the end of the 96th Congress. It has been an honor to have served in the House with KEITH. I am sure I share the sentiments of constituents he has served in the First Congressional District of Kansas and those with whom he worked in the House of Representatives when I say that KEITH will be missed.

Mr. Speaker, KEITH's strong commitment to his First Congressional District of Kansas and to the Congress of the United States has been a source of admiration and inspiration to all of his colleagues.

The theme of KEITH's six terms in office has been, "Be fair to the farmer, he is the backbone of the United States," a fitting theme for the Nation's largest wheat producing district. Appropriately, he is a member of the House Committee on Agriculture and ranking minority member of the Livestock and Grain Subcommittee. He has played an important role in structuring farm legislation, authorizing many amendments to farm bills and sponsoring important farm legislation. In addition, Congressman SEBELIUS' membership on the House Interior Committee, where he became a member of the National Parks and Insular Affairs, afforded the opportunity to further his keen interest in conservation and development of the National Park System.

KEITH has committed himself to the goal of making the Government more responsive to the needs of rural America. Congressman SEBELIUS' dedicated service has not gone unnoticed in his district. In appreciation of his efforts, SEBELIUS has received the Wheat Man of the Year Award from the Kansas wheatgrowers in 1975. He has received five Watchdog of the Treasury awards from the National Association of Businessmen and five Man of the Year Awards from the National Federation of Independent Businessmen for service to small businessmen in Kansas.

Mr. Speaker, I know my colleagues join me in saluting KEITH SEBELIUS for a job well done. We will miss KEITH but we hope that he and his lovely wife, Bette, may enjoy the most pleasant of retirement years. When KEITH reflects on his many years of devoted service to his country, may he enjoy the feeling of pride and satisfaction that stems from total commitment to one's work.●

● Mrs. HECKLER. I am pleased to add my remarks in honor of our colleague from Kansas, KEITH SEBELIUS. KEITH's legislative record speaks for itself. Dedication and careful concern for his constituents and for the Nation have been hallmarks of his work in Congress for the past 12 years. In addition to a long and distinguished career as a legislator, we are all familiar with KEITH's warmth, good nature, wit and kindness. I have had the privilege of serving with KEITH on the Agriculture Committee for many years, and I can recollect many a hearing where a wise and cheerful comment from KEITH broke the tension, saved the day or brought forth a smile or a chuckle from his weary colleagues.

In June of last year, I was invited to spend a few days in Kansas as part of a project sponsored by the Kansas Farm-City Council. KEITH arranged for me to be a guest of a most delightful and knowledgeable couple, Earl and Ernestine Hayes. I learned more about Kansas farming from these fine people than any number of briefings with officials.

One story captures a facet of KEITH's character that would make his constituents particularly proud and happy. During a debate on agricultural policy hearings, KEITH pointed out that people from the East just did not understand the problems of the wheat farmers. He said that easterners were always on diets and consequently did not eat enough bread. While dieting is good for the waistline, he pointed out, it certainly was not good for the Kansas wheat farmers. He suggested that if we would just muss the rolls a little bit, literally break the bread, even if we did not eat it, his constituents would not have to bear the brunt of America's dieting mania.

KEITH makes an effort to see the amusing side of many difficult situations and makes us see the less serious side of ourselves.

Congress will miss his balancing perspective. We will miss his charm. As the old saying has it, "Happiness is the natural flower of duty." I cannot think of a person who has brought both these qualities to Congress in a finer way than KEITH SEBELIUS.●

● Mr. CORRADA. Mr. Speaker, I am happy to join my colleagues in honoring a proud and distinguished son of Kansas who has served his district and his State with great dedication over the past 12 years, our friend KEITH SEBELIUS.

I have had the privilege of serving with KEITH on the Interior and Insular Affairs Committee where he has been the ranking member of the Subcommittee on National Parks and Insular Affairs. In that capacity, he has been very instrumental in legislation which directly affects Puerto Rico and the territories. Puerto Rico has been fortunate in having such a good friend and he will be sorely missed.

In an area of closer and greater interest to KEITH, he served on the House Committee on Agriculture where he is the representative of the Nation's largest wheat-producing district. His leadership and work on farm legislation has been consistent and valuable. At a time when we are specially aware of the tremendous problems and vulnerability of the farmer to the cruelties of the weather, KEITH's office motto of "Be fair to the farmer, he is the backbone of the Nation," becomes particularly poignant.

We wish KEITH, and his wife Bette, the best of health and happiness back home. When Kansas becomes too cold and windy during the winter, KEITH should remember that the beautiful beaches and balmy weather of Puerto Rico will always be there to welcome him. We would be very happy to see him down there.●

● Mr. KELLY. Mr. Speaker, I rise in respect for the gentleman from Kansas. Protocol demands that important people sit at the head of the table. But protocol sometimes comports with the natural order of things as it has on the House Agriculture Committee. There our colleague sits at the head of the rostrum at the left hand of the ranking minority member. And that is as it should be.

KEITH SEBELIUS has been a good colleague.

He is a steady Member of Congress who meets his duty as he sees it without waiver or excuse.

He conscientiously on every occasion represents the people of his district and has earned the right to be called friend of the farmer.

The farmers are losing a friend in Congress. We are losing a valued colleague. But KEITH and Bette are getting something they have earned: Time to enjoy life. And that too is as it should be. We are better Members for having served with him.●

● Mr. FORSYTHE. Mr. Speaker, I would like to take this time to pay tribute to our colleague from Kansas, KEITH SEBELIUS, who has announced his retirement after 12 years in the House of Representative at the end of the 96th Congress. As a fellow Member of the freshman class of the 91st Congress, it has been an honor and a privilege to serve with KEITH. Sharing with him the common interests of farming and conservation, I fully appreciate his hard-working and effective participation on the House Agriculture and Interior Committees and on the floor of the House. The citizens of the First District of Kansas will be hard pressed to find such an able and constructive person to fill KEITH's shoes in the U.S. Congress.●

● Mr. LUJAN. Mr. Speaker, Kansas and the Nation will both lose a dedicated and effective statesman when my close friend, KEITH SEBELIUS, retires at the end of the 96th Congress.

KEITH and I came here at the same time in the 91st Congress and I have had the good fortune to serve on the Committee on Interior and Insular Affairs with him for the past 10½ years. His previous 6 years of legislative experience in the Kansas State Senate had prepared him to take a very active and effective role in the shaping of laws and programs so vital to the Western States, and his knowledge and legislative expertise will be sorely missed on that committee.

No Congressman has a better record for close service to his district and his State than does KEITH SEBELIUS, but his decade of service in this body has covered a far broader span of legislation than just the parochial or regional bills affecting the West and Midwest. KEITH's indepth grasp of the core issues in bills of national and international significance, and his effectiveness in delineating and debating those issues, have placed his personal stamp on hundreds of laws which are stronger and better because of his work.

While I deeply regret the loss of such a hard-working colleague who could always be depended upon to have done his homework, I am even more deeply regretful for the loss of a highly esteemed personal friend. But I am certain that the loss is temporary, because I cannot believe that his knowledge, expertise, and talent for government will not be called upon for further service to his country, whether in the legislative or executive branch, at some time in the future.

In the meantime, I join my colleagues in saying, "Well done, KEITH," for his excellent and effective work in the House of Representatives.●

● Mr. MAZZOLI. Mr. Speaker, I would like to join with other Members of the House in commending our colleague and friend from Kansas, the Honorable KEITH G. SEBELIUS, who has decided to retire after serving in the House with great distinction for 12 years.

KEITH was my next door neighbor in the Longworth Building for several years. He was as thoughtful and helpful a neighbor as he is a thoughtful and helpful Member of Congress.

KEITH has always commanded my respect—indeed the respect of all of us—for his leadership in championing the causes of conservation, small business, family farm, and rural interests.

His leadership in fiscal conservatism and his dedication to the farmer will be sorely missed by the Congress in these days of economic uncertainty.

I wish KEITH and his family the best of health and happiness as well as success in his future endeavors. And, I hope he will come back frequently to see his old friends on the Hill.●

● Mr. DRINAN. Mr. Speaker, the many friends of Congressman KEITH SEBELIUS both in the Congress and throughout the Nation will be grateful for the 12 years of devoted service which he has given to the Congress of the United States.

He had already finished a distinguished career before he came to the Congress. He was a graduate of the George Washington University Law School and a member of the bar, both in Kansas and in the District of Columbia. He practiced law in Kansas and served the public as city councilman, mayor, city attorney, and county attorney. He was, in addition, a State Senator for 6 years.

KEITH had also distinguished himself by military service in World War II and in the Korean conflict, entering as a private and emerging as a major.

Coming to Congress in 1969, KEITH has served with great devotion and distinction on the Agriculture and Interior Committees.

The departure of Congressman KEITH SEBELIUS diminishes all of us. His work and his accomplishments over 12 years have enriched the Congress and the country, and all of us are deeply grateful.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, today I rise to pay tribute to my distinguished colleague from Kansas, the Honorable KEITH G. SEBELIUS, who is retiring after 12 years of service to us and to our country. Fortunately I have been able to have spent 12 of my 22 years in Congress working with KEITH. His dedicated career as an ardent supporter of agricultural interests and conservation has deservedly earned him his title as "Champion of the Farmer." The House of Representatives will surely miss KEITH SEBELIUS as a colleague and a friend, and the great services he has rendered this body. He is a Member whom all of Kansas and all of the country can be proud.●

● Mr. WHITEHURST. Mr. Speaker, when I came to Washington with the 91st Congress in January of 1969, one of my classmates was KEITH SEBELIUS of Kansas. Most of that class have for one reason or another terminated their congressional careers. Like all classes that have come here, the 91st has steadily shrunk.

Fortunatelv, we have had KEITH SEBELIUS with us for 12 years. His contributions to his district, his State, and the Nation have been substantial. In agricultural affairs, he has been tireless in his labor on behalf of the American farmer. He has endeavored to work harmoniously with several administrations in the Department of Agriculture. Aside from BILL WAMPLER, the ranking minority member of the Agriculture Committee, no one has had more of an influence on my thinking in agricultural matters than KEITH.

In a personal sense, I lament his leaving. His friendly manner and lack of pretense have made him one of the easiest colleagues in the House to work with. KEITH embodies the characteristic virtues of the American heartland: Directness, honesty, and a down-to-earth attitude. All of us, not only in the 91st club but senior and more junior Members alike, wish KEITH well as he and Bette return home, but the 97th Congress will be diminshed by his absence.●

● Mr. JACOBS. Mr. Speaker, kindness, affability, and principles. Those are some of the outstanding qualities of our colleague, KEITH SEBELIUS. And they are some of the reasons KEITH will be sorely missed as he retires from the Congress at the end of this year. All Members of Congress who have worked with him wish him well and are in his debt for the enrichment he has brought to our lives on Capitol Hill.●

● Mr. PEYSER. Mr. Speaker, I have had the opportunity of serving on the Agriculture Committee in the past with KEITH SEBELIUS. There was certainly no one more dedicated to representing the agriculture community and in particular his congressional district in Kansas than KEITH. I will personally miss him in the next Congress, however, I know that he will continue in his own way to serve the people he has represented in the past.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Kansas, LARRY WINN, JR., for taking this special order so that I, along with the rest of my colleagues can pay tribute to KEITH SEBELIUS of Kansas, who has announced his plans to retire to the brick home he and his wife Bette built over 20 years ago.

As the ranking minority member of the National Parks and Insular Affairs Subcommittee, KEITH has paid particular interest in legislative matters which dealt directly with his rural western Kansas district. Throughout his 12 years of service, he has been associated with legislation such as: The historic preservation program, food for peace, and land and water conservation legislation in funding national park acquisition and outdoor recreation programs.●

● Mr. COLLINS of Texas. Mr. Speaker, KEITH SEBELIUS' retiring from Congress will be a great loss. He has served Kansas and our country well. KEITH has been a diligent and active Member during his 12 years of service in Congress.

Certainly the wheat farmers have never in their history had a more articulate or valiant fighter for all of their causes. If there was any issue on agriculture on the floor, KEITH was always in the middle of the fight. I will never forget the midnight session when he made the impassive plea to eat more bread and keep that wheat growing. I always admired Keith because on the tough votes in Congress that required courage, he was always there. I liked him because he had such an outgoing, open character that personified the friendly Midwest.

I admired his outspoken and effective leadership in the Republican Policy Committee. Everytime he spoke out, he knew his facts, and his economics were basic and fundamental.

Losing Keith Sebelius is a great loss to Congress. His spirit and influence will stay with us in Washington as part of the finest of the Kansas tradition.●

● Mr. BALDUS. Mr. Speaker, one of the pleasures that I have had while serving in the Congress has been to work with my good friend from Kansas, Keith Sebelius. We do not always see eye-to-eye, but we have always enjoyed working together.

Of course, since we serve on the House Agriculture Committee together, we have frequently found ourselves to be in agreement. Many times I have sat at committee meetings and admired Keith for the forthrightness and earnestness with which he has addressed agricultural problems.

Keith has always been known for his undying devotion to improving the position of his grain farmers. In fact, he has never passed up an opportunity to personally press Secretary of Agriculture Bob Bergland for higher target and loan prices.

I remember one time in particular. Keith and I had joined Secretary Bergland on a mission to Southeast Asia. We were talking informally with one of our Japanese hosts about the pressures that build to increase Government support prices. Our host related a story to us about a Japanese legislator who felt so strongly about the need to increase the price support that he killed himself in protest. The Secretary quickly turned and said, "Keith, if you are really serious about grain supports * * *."

Of course, we are all glad that Keith was not quite that serious. Keith, we will miss you in committee. I hope you will now have a chance to reap what you have sown.●

● Mr. ANDREWS of North Dakota. Mr. Speaker, I would like to join my many colleagues in paying tribute to Keith Sebelius, upon his retirement.

He will be missed by his colleagues, his many friends, but especially by the constituents he has served so well. They will have a hard time finding a man of his caliber to replace him.

I have had the privilege of knowing Keith since he came to Congress and have worked with him on many occasions for the benefit of the American farmer and our farming communities. The farmers in his district, and in the Nation as a whole, have had a strong voice for agriculture. I know that his interests in agriculture will continue, but those of us who will continue to fight for a fair break for our agricultural communities will miss him sorely.

Keith has earned the respect of his colleagues and the admiration of his constituents. It is a pleasure for me to join in wishing him the best in his retirement.●

● Mr. FUQUA. Mr. Speaker, I appreciate this opportunity to add my comments on the career of our colleague Keith Sebelius and the impact his presence has had on this body and on many of us as individuals.

It was not long after Keith Sebelius arrived in Washington at the start of the 91st Congress, after 6 years service in the Kansas State Senate and other contributions to his native State, that his diligent attention to business and his intelligent approach to difficult issues started earning him the respect of members of both parties.

As a Republican, Keith Sebelius represents the highest and best traditions not only of his own party, but of the two party system.

His earnest and well researched arguments as a member of the "loyal opposition" have never failed to live up to the standards of this body.

He has rejected rhetoric in favor of reason.

He has spurned sensationalism in favor of scholarship.

He has shunned self-aggrandizement in favor of service.

Keith Sebelius has been a man for the decade and it was a difficult decade.

With other difficult decades ahead we will all miss his presence and his contributions, but he has served well and deserves his well-earned rest.

Though his presence will be missing, his standards will live on in this House and the memories of its Members.●

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to pay tribute to a dedicated colleague and fine friend, Representative Keith Sebelius of Kansas. Keith recently announced his retirement from the House at the end of the 96th Congress and I am sure I share the sentiments of my distinguished colleagues in this Chamber when I say we will all miss his expertise and friendship.

The American's farmer's ability to produce the finest farm products in the world year after year is certainly one of our Nation's greatest achievements. In the 12 years Keith has served with distinction in Washington, he has done his best to insure that the American farmer be given all the support necessary in order to continue to feed our country and scores of others. Representing the Nation's largest wheat producing district, Keith has served, not surprisingly, on the House Committee on Agriculture and is the ranking minority member of the Livestock and Grains Subcommittee, as well as serving on the Family Farm and Rural Development Subcommittee. Indicative of his time spent fighting for the needs and concerns of the farmer, he has authored numerous amendments to farm bills and has been the major sponsor of important farm legislation.

Certainly not a one issue Congressman, Keith's interests have included small business, senior citizens, and Government programs as they apply to rural areas. His interest in conservation and parks is well known, he appropriately serving on the Interior Committee. He is the ranking minority member of the National Parks and Insular Affairs Subcommittee and serves on the new Subcommittee for Pacific Affairs.

Keith's work has been recognized time and time again by various national and local organizations. He received the Wheat Man of the Year award from the Kansas Association of Wheatgrowers in 1975 and has been the recipient of five Watchdog of the Treasury awards from the National Association of Businessmen. In addition, he has received five Man of the Year awards from the National Federation of Independent Businessmen for service to small businessmen in Kansas.

Keith has served the U.S. Congress well in the 12 years he has been here, and though I do not know what he plans to do upon leaving Washington, I am quite sure he will put into his future the intensity and hard work he shared with us here. I wish him and his family the best of luck and good health in the years to come.●

● Mr. HIGHTOWER. Mr. Speaker, Congress is made up of many different types of people. We approach problems and public service in many different ways. I do not know of a Representative that does a better job of working for the people of his congressional district than Keith Sebelius of the First District of Kansas. He would be A-1 in anybody's book.

Keith Sebelius has been one of those Congressmen that is able to understand both the needs of the Nation and of his district and blend them together. We have never had enough Members with this talent.

Agriculture will lose a friend, a spokesman, and one of its best advocates in Congress when he retires at the end of this session. We will miss his sincere voice of experience, and of reason, for the farmers and ranchers, both in the Agricultural Committee and on the floor of the House of Representatives. We really cannot afford to let him go.

Will Rogers said it best, I think, when he stated "you must judge a man's greatness by how much he will be missed." If we use that yardstick on Keith Sebelius, the House of Representatives, Agriculture, and Kansas will all recognize him as a great man.●

GENERAL LEAVE

Mr. WINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. Bailey). Is there objection to the request of the gentleman from Kansas?

There was no objection.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CAPITAL FORMATION, MODERNIZATION AND PRODUCTIVITY OF THE U.S. STEEL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 60 minutes.

Mr. BENJAMIN. Mr. Speaker, on Tuesday evening, under a special order taken by Mr. GAYDOS of Pennsylvania, the members of the Steel Caucus discussed the general difficulties and import penetration problem affecting the U.S. steel industry. This evening, it is our intent to focus on capital formation, modernization, and productivity of the steel industry; more specifically, on capital formation needs for the 1980's in the current shortfall; discussion of the impact of faster capital recovery on the ability of the industry to modernize and improve productivity, and finally a discussion of the development of new technology through coordinated industry, labor, and government efforts, including Federal assistance in demonstration projects.

Mr. Speaker, much of the discussion that would have otherwise ensued this evening will undoubtedly be incorporated in the RECORD because of the lateness of the hour. However, I do not in any way indicate that the present lack of verbalization minimizes the significance and importance of the contributions of those who will offer written colloquy this evening on the plight of the steel industry, particularly in relation to modernization, technological improvement, and capital recovery.

The Nation was told yesterday that manufacturing productivity fell at a 3.2 percent rate in the second quarter, the largest drop since 1974.

The recession caused industrial output to drop at a 20.8 percent rate, a new record. The number of hours worked fell at a 18.2 percent rate while wages rose at a 10.7 percent rate.

The productivity decline was almost offset by the cut in hours worked. However, it remained the sixth consecutive quarterly decline—the longest string since seven declining quarters in 1973–74.

The U.S. steel industry has not had adequate labor productivity growth—in fact, there was no growth between 1973 and 1979.

On the other hand, autoworker productivity increased significantly during the same period while steelworker wages increased slightly more than that of the autoworkers. However, under the terms of the steel collective-bargaining agreement of April, participation teams, similar to Japanese quality circles, are being established to improve productivity. The experimental teams of management and employees are to help improve department performance, employee morale and dignity and working conditions.

Japanese employee groups increased productivity 15 percent in 1979 compared to 1.5 percent for American steelworkers. On a 20-year basis, Japanese productivity doubled that of Americans.

While lifetime employment guarantees contribute to Japanese productivity, Japanese investment in modern facilities is undoubtedly more important.

The U.S. steel industry has plotted two scenarios for the 1980's.

"Aggressive revitalization" portrays circumstances, including appropriate Government policies, in which individual producers would improve their earnings, generate more capital, devote much greater resources to modernization, efficiency improvements, and expansion of capacity, and over the longer term provide significant benefits to steel consumers.

"A continuation of current trends," portrays what could happen with no significant changes in Government policies: unpredented reliances on imported steel, a huge steel trade deficit, an accelerating decline in the industry's efficiency and competitiveness, further facility closedowns, and substantial job losses in both steel manufacturing and related support industries.

The modernization and revitalization program needed to realize the first scenario would involve annual capital requirements substantially greater than the industry's average annual capital spending of $2.9 billion (1978 dollars) during the last decade. Stated in 1978 dollars, the industry's total average annual requirements should approximate $4.4 billion for the modernization and replacement of steelmaking facilities, $0.5 billion for expansion of capacity, $0.8 billion to meet environmental and health-related demands, and $1.3 billion for nonsteel and other requirements such as debt servicing—a total of $7 billion per year on average.

A number of conditions must exist for the American steel industry to meet capital requirements averaging $7 billion per year. Of critical importance, rates of return must be improved and measures must be implemented to encourage and enhance rapid capital recovery.

According to the Office of Technology Assessment, Government policies should encourage technological innovation and modernization because the ability of large integrated steelmakers, hard hit by aging facilities, poor capital recovery and high costs of environmental regulation, to supply most of the Nation's steel with profitability has reached its limits.

The creation and adoption of new technology are hampered by inadequate capital formation, inadequate R. & D. high regulatory compliance costs and the threat of unfairly traded imports.

Federal policies have affected costs, prices, and profitability. Steelmakers have been slow to pursue cost reductions through better technology. Federal and industry policies have led to underinvestment in capital plant, R. & D. and innovation. The industry has not emphasized long-range planning for technologicial innovation, nor has it kept its costs as low as might have been possible. It has chosen to pay high dividends during periods of declining profits.

According to the OTA, Federal trade and tax issues need examination. Policies are needed to deal directly with technology issues.

OTA suggests the following Federal options:

Provide greater capital formation to be used for investment in steelmaking through faster depreciation, investment tax credits, loan guarantees or subsidized interest loans.

Provide incentives for industrial R. & D. and increase Federal support of basic research and large-scale demonstration projects, particularly those which use environmentally cleaner technologies.

Coordinate Federal energy development programs with the needs of industry—such as the development of synfuel or coal gasification technology with direct reduction of iron ore.

Reach a better understanding of the benefits of Federal environmental and occupational health and safety regulations with the costs to communities of a shrinking industry, the industry's capital and modernization needs, and the regulatory barriers to technological innovation.

Examine the costs and benefits of limiting the export of energy-embodying ferrous scrap.

Examine the feasibility and adverse impacts of Federal targets for ferrous scrap use, and compare these targets with alternative mechanisms such as incentive investment tax credits for adopting new technology that uses less energy.

Reexamine trade practices to assess the impact of unfairly traded steel imports on the industry's ability to make long-term commitments to new technology and additional capacity.

Promote increased exports of high-technology steels.

Emphasize long-term assistance to steel plants capable of technological rejuvenation, and at the same time provide short-term assistance to workers and communities impacted by closing old facilities.

The OTA scenario resembles that pronounced by the AISI in January 1980. The Steel Tripartite Committee appears to conceptually agree with the OTA and AISI.

Its working group on technological research and development advocates progress on continuous, closed-system processes for steel manufacturing.

The working group found that a continuous, closed-system operation promises significantly progress in manufacturing productivity, energy utilization, environmental protection, and worker health and safety. It believes this movement warrants tripartite planning and support for research and development and technology utilization.

However, it states a tripartite commitment will only be effective if there is cooperative tripartite action on capital formation within the steel industry. Full utilization of important technologies such as continuous casting requires large amounts of capital. If R. & D. is pursued without assuring the capability for implementation, the program will only succeed in generating knowledge and experience for overseas producers to utilize for their competitive advantage. Consequently, it noted, any tripartite agreement on continuous operations must formulate a program that is fully consistent with the capital available for the complete innovation cycle from R. & D. through plant investment.

The working group further recommended:

Continued tripartite cooperation for planning Federal support of R. & D. in steel technology.

Increased demonstration plant funding by the Departments of Commerce, Energy, Interior, Environmental Protection Agency and National Institute for Occupational Safety and Health and the National Science Foundation.

The working group on modernization and capital formation, assuming a 4 percent annual replacement rate and replacemet cost of $1,130 per shipped ton, estimated that the industry will require an average of $4.7 billion annually, over the period 1980–84, to modernize existing steel capacity and $870 million to retrofit to meet environmental, safety and health requirements. With an annual increase of $100 million for working capital and dividends of $450 million per year, the industry's total annual capital uses over the 5-year period would average approximately $6.1 billion.

The group also assumed industry shipments of 85 million tons (76 percent utilization) in 1980 and shipment levels averaging 90 percent capacity between 1981–84 to provide $4.1 to $4.4 billion of capital sources each year.

Accordingly, the industry's capital uses to modernize existing steel capacity and retrofit to meet environment, safety and health requirements would exceed the available capital sources for those purposes by an average of approximately $1.7 to $2 billion annually over the period 1980–84.

The group compared the shortfall with possible changes in current tax law and possible increase in real revenues. It found that with the current low profitability of the steel industry, and consequent low tax liabilities, any tax proposal which merely reduces or eliminates the tax liability, including 10–5–3 or an increase in the investment tax credit, would have no significant effect on the shortfall during the 5-year period. A real revenue increase of $16.50 per shipped ton would be necessary under current tax law to reduce the annual shortfall to between $0.4 and $0.1 billion. The same real revenue increase with the proposed 10–5–3 would eliminate the shortfall. A 10 percent refundable investment tax credit would reduce the annual shortfall during the period to between $1 and $1.3 billion.

The group's assessment, although based on average data for the steel segment of the industry without expansion, demonstrates the practical difficulty in finding an industrywide solution for capital formation and accents the necessity of a workable tripartite concensus.

Finally, any capital formation would have to be tailored to encourage modernization of existing facilities rather than to have further retrenchment to the detriment of steelworkers and communities.

□ 2010

Mr. Speaker, I now yield to the distinguished chairman of the Steel Caucus, a member of the Pennsylvania delegation, the gentleman from Pennsylvania (Mr. GAYDOS), who will contribute certainly to this presentation.

Mr. GAYDOS. Mr. Speaker, I want to thank the chairman of the executive committee, for the hard work, the persistence, and the foresight which he has so ably demonstrated in the Steel Caucus.

Mr. Speaker, the terms "depreciation," "amortization," and "capital recovery" are certainly not very provocative words to the average person. Every homeowner who purchases his property with a mortgage fully understands that his monthly mortgage payments serve to amortize the amount of a mortgage over a period of years.

Even the carowner realizes that his car loses its value with time. He does not see it actually depreciate on a day-to-day basis, but realizes the loss in value when he sells his car.

Both of these concepts are extremely significant to a businessman who wants to succeed, and when viewed in the context of our current tax laws, demonstrate the very situation confronting our domestic steel industry.

The Steel Co. of Canada, Ltd., is constructing a fully integrated steel plant on the north shore of Lake Erie, while an American steel company cannot justify an expenditure for a similar plant on the south side of Lake Erie.

What is the explanation?

Very simply, the tax law of Canada allows the Canadian steel company to amortize its capital expenditures over a 2½-year period, while the tax laws of the United States allow an American company to amortize its capital expenditures over a 10-year period. This means that the Canadian company would experience a return on investment at least one-third higher than an American company. Furthermore, the Canadian steel company can more rapidly adjust to new technology which might occur and more efficiently serve the needs of its consumers. But even more important, there are Canadian workers employed, receiving wages and contributing to the gross national product of Canada.

On the other hand, the absence of the American steel company on the south side of Lake Erie means unemployed workers, loss of production to the economy with the resultant reduction in our gross national product.

Let us consider the harm that has already accrued to the American steel industry as a result of its inability to more rapidly writeoff for tax purposes its capital expenditures. Over the past 10 years plant and equipment costs have just about doubled. This means that over a 10-year period only 50 percent of the initial cost of the plant equipment is recovered—inflation has eaten up the other half. This has resulted because the U.S. tax laws are based on the concept of "useful life." Other countries do not use this concept, but rather emphasize rapid capital recovery to promote increased productivity, with its resultant increase in goods and employment.

In the United Kingdom, capital expenditures are treated the same as any other expenditures, wages, supplies, et cetera. In Canada, as I previously mentioned, it is 2½ years as compared to 10 years in the United States.

The true impact of this extended period of capital recovery in the United States is graphically demonstrated by the fact that during the period from 1974 to 1978, the American steel industry invested $14 billion in plants and equipment. Under current law, the industry could have recovered $4 billion, or 29 percent of the investment during the period. The capital cost recovery bills which are currently before the Ways and Means Committee would have allowed a recovery of $9.5 billion, or 68 percent of investment.

When we realize that current capital expenditures in the domestic steel industry have averaged $2.9 billion per year, while it is projected that future needs will amount to $7 billion per year, the obvious question is:

Where will these funds come from?

A change in the U.S. tax laws to allow a more rapid recovery of expenditures for capital investment could go a long way in meeting these needs.

I have sponsored legislation which addresses this problem. It would establish three classes of capital investment, with each having a different period of time for capital cost recovery:

Class I. Ten years—general applicable to all investment in buildings and structural components of buildings.

Class II. Five years—generally applicable to investment in all machinery and equipment, except for class III.

Class III. Three years—applicable to investment in automobiles and light-duty trucks, to the extent of the first $100,000 of investment in each year.

The bill further provides a transition provision which would allow a 5-year period for phasing-in class I and class II, the 10- and 5-year capital recovery periods. The class III 3-year period would become effective immediately upon enactment.

The bill does not change any of the rules governing the character of the property eligible for the investment tax credit.

I would like to observe at this time that if the American steel industry is not given the tools to accumulate and to attract capital, we are going to live through the very same difficult times that Canada has lived through over the past 50 to 60 years. She had become the target of considerable foreign investment. Monied interests throughout the world during the last 50 to 60 years have invested heavily in Canada. Everybody in the world ran to Canada, including American corporations.

Today Canada has established the CDC, the Canadian Development Corp. whose main purpose is to buy out foreign investments in Canada.

There is a reason for that. The Canadian people understood that they are not the masters of their own house.

They had to depend upon direct foreign investment to provide the necessary capital for acquisition, expansion, modernization and replacement of productive facilities.

We, in this country, fought a war some 200 years ago to throw off the yoke of foreign control of our Nation. Today we are practically the only major industrialized nation in the world that has no limitation on foreign capital coming into the country and buying up our mills and factories.

I do not have to go into a lengthy explanation to show that this is intrinsically bad, because if it continues, this country is going to lose control of its own destiny in much the same manner as Canada had.

For instance, here is something that many people do not realize. In Mexico, supposedly a poor, antiquated, backward country—forgetting about its oil deposits and that potential—today they have a national policy and legislation in place that has limitations on foreign investments in Mexico.

Why? To protect themselves from the same fate that Canada experienced.

We can go to any major country in the world and see the same thing. Japan is a good example. Today, in Japan, no foreign investor can, under any circumstances, under any arrangement, obtain control of a Japanese corporation.

All of these things indicate that this country is far overdue in addressing itself to the problem of capital formation.

Mr. Speaker, I again want to commend the chairman of the executive committee, and all those who participated here today.

I believe the persistence of our colleagues in the House will go a long way toward solving our problems.

Mr. Speaker, I want to thank the committee chairman for allowing me to make these remarks.

☐ 2020

Mr. BENJAMIN. I thank the gentleman for his enlightening and rational commentary, and of course I again recognize his continuing efforts on behalf of the steel industry and the reindustrialization of this country.

Mr. Speaker, I now recognize the distinguished vice chairman of the Steel Caucus, the gentleman from Alabama (Mr. Buchanan).

Mr. BUCHANAN. I thank the distinguished gentleman for yielding and as chairman of our executive committee for taking this special order, and I am pleased to join other members of the Congressional Steel Caucus in this discussion of the problems of capital formation, modernization, and productivity as they relate to the American steel industry.

Steel is one of the world's most important building and engineering materials. Each nation's military defense depends upon steel, since almost every kind of military equipment contains steel components for which there is no substitute. No industrial society can remain strong and secure without an adequate and continuing supply of steel products.

Today, the American steel industry faces a series of critical problems. Central to these problems are the issues of capital formation and the modernization of steel production facilities.

Recently, the Office of Technology Assessment completed a detailed examination of the issues surrounding technology and steel industry competitiveness. I commend this study to my colleagues.

In this report, OTA warns that continued low profitability and detrimental Government policies could result in our Nation becoming vulnerable to high priced and increasingly scarce foreign steel imports. OTA projects that by 1990 steel imports could account for approximately 40 percent of the domestic market, compared with recent levels of 15 to 20 percent. I view this projection as being very conservative. Indeed, the American Iron and Steel Institute projects that by 1988 imports could be as much as 50 million net tons, with 85 to 90 million net tons of domestic shipments; that is about 40 percent of the domestic market.

This a frightening scenario. I would ask my colleagues to imagine for a moment what our country's position would be if a we had to rely on high priced, unreliable foreign sources of steel, as we currently do for half our oil. This is not a fantasy, but a devastating reality which is literally racing toward us.

If we want to prevent this from happening, we must act now to address the critical problems of the American steel industry. The American Iron and Steel Institute's Orange Book, "Steel at the Crossroads," outlines a program of modernization and revitalization of the American steel industry. This program would involve annual capital requirements substantially greater than the industry's annual capital spending of $2.9 billion—in 1978 dollars—during the last decade. The AISI estimates the industry's total average annual capital requirements at $4.4 billion for modernization and replacement of existing facilities, $0.5 billion for environmental and health related demands and $1.3 billion for other requirements such as debt services. This is a total expenditure of approximately $7 billion on an annual average which is 150 percent above what is currently being spent.

The OTA white paper suggests that steelmakers must increase capital spending on production facilities by at least 50 percent over the next decade, to approximately $3 billion per year—in 1978 dollars—in order to modernize existing mills, modestly expand capacity and bring profitability up to the level of other domestic industries.

These studies, although differing in the amount needed, both agree on one salient point—the absolute necessity of increasing the amount of capital available to the steel industry for modernization of facilities and equipment.

The American steel industry desperately needs legislation which would remove capital cost recovery from the "useful or physical life" concept which we are now using and provide more rapid capital cost recovery than is currently possible under existing legislation.

The Jones-Conable (10-5-3) Capital Cost Recovery Act embodies many of the features that the American steel industry considers essential. The Jones-Conable bill would provide a uniform, simple method of tax depreciation by establishing a 10-year writeoff for commercial and industrial real estate, a 5-year writeoff for most business equipment, and a 3-year writeoff for automobiles and general purpose trucks.

If enacted, this legislation would go far toward making the American steel industry more competitive financially with foreign steel industries which not only receive early writeoffs but are often heavily subsidized by their respective governments.

The Office of Technology Assessment study includes a paragraph which I believe puts this problem into a very clear perspective. It states:

> A well designed and vigorously implemented government policy has nurtured the Japanese steel industry's expansion and adoption of new technology. The U.S. steel industry, on the other hand, has been hurt by a long series of federal government policies that have frequently been uncoordinated, contradictory and inattentive to critical issues.

Mr. Speaker, I have taken the floor of this House many times in the past 3 years to plead for a new relationship between Government, business, and labor with respect to the steel industry. For far too long now, we have seen adversary relationships prevail in our country, while our competitors overseas act in literal partnerships. The need for such a positive relationship between Government and business in the United States has never been greater. Unless we act now to generate it, we will surely see grave times ahead for the American economy in general and the steel industry in particular.

Mr. BENJAMIN. Mr. Speaker, I thank the gentleman from Alabama for his eloquence and for his contribution on behalf of the steel industry and the communities in which the steel industries are located.

Mr. Speaker, I now recognize the gentleman from the executive committee of the Steel Caucus, the gentleman from Utah (Mr. McKay).

Mr. McKAY. I thank the gentleman for yielding, and I appreciate his initiative in bringing this to the fore. I think if we do not recognize a little history, we will be back in the same pot. It seems to me that those who remember World War II will remember that we were in such a plight that the Congress had to move ahead and build steel plants in this country to take care of our own war effort. We were in such a plight that we could not meet our own strategic needs at that time. So there were many steel plants which were built in this country under the old War Production Board that were then, after the war, sold back to the steel companies, United States Steel, Republic, et cetera.

Now, that thing can occur to us again. We have been through this process. We are doing the same thing in the sugar industry, we did it the oil industry. We decided that we would pour it out and just take imports forever, and then we destroy our capability, and you cannot build that overnight. It takes years. For example, it will take 5 years to develop one major coal mine. You can find the coal, but until you get that mine open and get it producing at a level at which it can be a real major force, it takes 5 years. The same thing with any major oil well. And it takes anywhere from 5 to 10 years as a minimum to build a major steel plant, to say nothing about the capital which we are talking about here tonight. It takes some bunch to get it together and time to get through the permitting and all of the regulation factors that enter into it. We are at a crisis point. So in my remarks I would like to leave with the Members a few of those thoughts, and I welcome this opportunity to address this body on the pressing issue of the steps needed to return to vitality an ailing American steel industry.

I believe it is fortunate that a Congressional Steel Caucus now exists to organize and direct this important debate. This give-and-take is necessary if we are to lay the groundwork for any long term and workable program for the recovery and modernization of our steel sector.

There must be no mistake about the seriousness of the present situation in steel. The industry has been limping along under numerous handicaps now for several years in a row. A trend has been set, and that trend is toward the collapse of a significant segment of our domestic steelmaking capacity. Today, we are on the verge of a calamitous realization of that trend.

This should be a sobering thought for all Americans because America's steel industry is a basic industry. It is a national security industry. Just as with our present predicament in oil, a crisis in steel or a crisis in minerals would creep slowly upon us until conditions were ripe for the same kind of flashpoint that we had in 1974 with the Arab oil embargo.

We are on the verge of a crisis of just that kind in minerals. The entire Western World could be brought to its knees within a year if the Soviet Union formed a cartel with a handful of Third World nations for a handful of key minerals. As a nation we absolutely cannot afford to limit our steelmaking capacity and further expose ourselves to the political whims of overseas suppliers of our economy's most basic commodity.

Another factor which must be considered when it comes to steel is the fact that defense needs throughout this decade and beyond are going to add greatly to our domestic requirements for steel. Our Appropriations Subcommittee on Military Construction is concerned, in particular, that American steelmaking capacity be ready when the MX missile deployment projects gets underway.

Our naval shipbuilding program will also make demands on our ability to produce steel—demands which will severely strain our mills and our economy if our steel industry goes into a damaging retrenchment period between now and then.

I am convinced that the U.S. steel industry can compete with any mills in any country in the world, in spite of our higher costs, if we take the necessary steps right now. Good old fashioned American efficiency, ingenuity and hard work can offset the apparent cost advantages some foreign producers have in today's market.

But the American steel industry, more than most other industries, has caught on the chin just about every punch aimed at the American economy over a dozen years. Everything from falling profits, to unfair foreign competition, to resource shortages, to environmental regulation. The pessimism and caution one sometimes finds in the industry today is certainly understandable.

The importance of steel to any nation's economy tempts every government, sooner or later, to patronize the industry and to cushion it from hard times. We have seen France take dramatic steps toward nationalization of its steel industry.

This is but an extension of past policy when that government secretly rebated its value-added tax to its steelmakers. The West Germans are notorious for using similar devices.

All told, some 55 percent of current world steel production is controlled outright by governments. It will probably be up to 80 percent by 1985. In Japan, the controls and the subsidies are so pervasive and so time-honored that the Japanese sincerely are puzzled to hear our complaints about the unfairness of it all.

The Japanese Trade Ministry has no formal "buy Japanese" policy; they do not need one. As a target industry, the Japanese steel industry gets anything it wants.

This ocean of difference in the way foreign steelmakers operate calls to mind the story about the man who inspected some prime ocean-front property with home attached and dismissed the package deal by saying, "Take away the ocean, and what have you got?"

Of course, we have reasons for not wanting such a cozy relationship between Government and private manufacturers. We do not want a kept and coddled domestic steel industry here.

But we do indeed have to face the fact that our steel industry is desperately lacking the investment capital needed for plant modernization.

Because this problem is aggravated by Government-mandated pollution control spending, Government in fairness should allow earlier depreciation of capital investments.

The steel industry makes up a great chunk of the bedrock of our economy. Its productivity and its inventiveness over the years have contributed notably to America's greatness.

But America has been guilty of taking its bedrock industries for granted, not comprehending the need for these industries to modernize, to grow and to adapt.

Times have changed since American automakers and American steel mills were unchallenged anywhere around the world. Markets have changed. Competition has stiffened. Technology has burgeoned. But American tax and regulatory policies have not recognized these changing conditions.

The result has been a sponging away of industrial creative energy and capital through overlay upon overlay of Federal regulation and environmental related capital requirements. The Council on Wage and Price Stability has studied the steel industry and found that steel is regulated by 27 agencies which have issued more than 5,300 regulations. The most revealing discovery of this study is that 20 of these 27 agencies have been created since 1970.

This is an era in which the steel industry should be investing heavily in the future. Instead, real capital expenditures have been falling. Excluding nonsteel and environmental expenditures, capital spending by American steelmakers fell from $2.6 billion in constant 1978 dollars for the period 1959–68 to $2.1 billion for the most recent 10-year period.

Again in 1978 dollars, capital investments per annual ton of shipments declined from $33 in the 1960's to $25 in the 1970's, and the replacement cycle has been stalled, and is getting slower.

About 20 percent of the industry's facilities today are due for replacement and thus are economically vulnerable.

When modernization falls behind, so does productivity improvement. Labor productivity in the industry grew at only 2 percent per year over the preceding decade. A further consequence of the decline in real capital investment has been no increase in production capability in the American steel industry since 1969 and a decline in production capability since 1976.

Of course, the reason that these desperately needed investments have not been made is that these uses of capital make no sense to investors who have better places to put their investment dollars. Tax laws, and especially depreciation schedules, make such massive investments impossible for the industry to make out of scant earnings.

The Nation's pitiful savings rate and persistently high inflation rates combine to make powerful marketplace arguments of their own against these commitments of capital.

The evidence which this caucus will present before the House this week argues strongly for remedies, both immediate and otherwise, to relieve the current crisis in the industry and the longer-term problems which we know are coming. What kind of remedies? Remedies which would establish clear policy directions, enabling long-term planning by the industry and its investors.

At a minimum, these remedies should include a sensible reworking of the depreciation schedules to encourage investment in new plant and equipment. There are other creative tools at the disposal of this Congress which can be invoked to permit and encourage industrial revitalization—the matter under discussion today.

Various members of the Steel Caucus already have suggested many of these during the course of this 96th Congress, and other proposals will be forthcoming. I urge my colleagues to appreciate the depth of the crisis at hand. Renewal will come sooner or later for the steel sector.

If we allow it to be later, it is likely to mean great unemployment and economic dislocation. If, through our actions, it is sooner, the medicine can be considerably less painful.

□ 2030

Mr. BENJAMIN. I thank the gentleman for his eloquence and for sharing his reflections on the military application and national defense necessity of a viable steel industry.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Illinois (Mr. O'BRIEN), a member of the executive committee.

Mr. O'BRIEN. Mr. Speaker, yesterday, as a member of the House Steel Caucus, I addressed this body on the subject of trade penetration in the domestic steel market. Today, as we continue our colloquy on the problems of the domestic steel industry, I will speak on the problems of capital formation, modernization and productivity.

Three recent studies, each having been commissioned by a different interest group, have arrived at the same conclusions on the problems of the American steel industry and the remedies which will correct those problems. Succintly, the industry does not have enough cash to finance the renovation and expansion program necessary to make it competitive in the world marketplace. The only way industry will get that money is by reducing its tax burdens and/or regulatory requirements. Or, drastically increasing its prices. Since that is not a realistic approach considering the inflation aspect, that leaves us with reducing taxes and/or regulatory relief.

Although H.R. 4646 has been pending for almost 2 years and has over 300 cosponsors, the Ways and Means Committee has not even scheduled hearings. The subject of accelerated depreciation schedules will be addressed only cursorily during tax reduction hearings this week.

While accelerated depreciation will help all American businesses and, ultimately the labor force and the consumer, the steel industry will receive a large amount of relief under the proposal. Because of its very nature, high capital intensity, steel depreciation schedules based on useful life are longer and subject to the greatest harm caused by inflation. By enacting H.R. 4646, we would enable this industry to recover the vast amount of financial resources it needs to modernize and expand.

With modernization and expansion comes increased productivity and along with that the additional funds necessary to pursue innovative technology. It is a continuous cycle that once begun will feed on itself and continue to improve. But to begin, we, in the Congress, must take that bold first step and repeal old, outdated tax laws based on ancient Government policies and enact brave, new legislation which will give the steel industry the financial means to become a profitable and viable business once again.

We are the only nation in the world which does not recognize the new economic order. We are the only nation in the world that has not realized that the well being of all its citizens will only continue if its industry is also healthy. They feed upon each other. Our job in Government is to insure the continued health of both by providing the appropriate assistance at the appropriate time. For the domestic steel industry, that time is now.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from Ohio (Mr. REGULA), chairman of the executive committee.

Mr. REGULA. Mr. Speaker, today we are at a crossroads in our industrial policy and we must decide if we are to move aggressively to reindustrialize or continue to allow our basic industries to decline with a serious loss of jobs.

William DeLancy, chairman of the board of Republic Steel, recently outlined the decline of the steel industry:

He said:

> In the fifties, imports represented a 2.3 percent share of the domestic market, while industry after tax earnings averaged 6.5 percent of sales.
>
> In the decade following—the 60's—import market share rose to 9.3 percent while the industry return on sales dropped to 5.3 percent.
>
> And in the seventies, imports rose to no less than 15.3 percent of the U.S. market while earnings continued to plunge to a mere 3.3 percent of sales. Even more ominously, during the most recent three-year period we have seen imports rise to take 17 percent of the market while return on sales has dropped to a negligible 1.7 percent.

The American Iron and Steel Institute has projected that if these trends continue, imports could account for 40 percent of our domestic steel needs by 1990, setting us up for a situation similar to the energy problem with the possibility of increased prices and reduced supplies.

I believe the steel industry is vital to our national security and economic prosperity and this decline in the industry must be reduced. Government policy should be directed toward helping industries modernize and increase productivity.

Capital formation, which is vital to modernization, has been lagging. For example, total savings in the United States between 1975 and 1978 averaged 4 percent. The recent budget deficits have caused the Government to compete with businesses for the dollars available. The record rate of inflation has served as a disincentive to save, causing many individuals to reduce savings as real income decreases. The recent decrease in the inflation rate and reduction in consumer debt may lead to a higher rate of savings.

Capital formation is also adversely affected by our tax laws which now permit businesses to charge off only the original cost of facilities. In inflationary times, rates of recovery are overstated because recovery is based on historical cost rather than replacement cost. Enactment of the Capitol Cost Recovery Act would provide a stimulus to businesses which wish to expand facilities.

The inadequate rate of modernization in the steel industry has resulted in an increase in labor productivity of only 2 percent during the seventies compared to 3.6 percent per year during the sixties. Furthermore, there has been no increase in production capability in the steel industry since 1969 and a decline in productive capability since 1976.

The Steel Tri-Partite Committee, composed of representatives of government, industry, and labor, has stated that the steel industry will need annually over the period of 1980–84 an average of $4.7 billion to modernize existing facilities and $870 million annually to meet existing health and environmental requirements. The committee estimates that the shortfall, based on 90-percent capacity utilization, would be between $1.7 billion and $2 billion annually during 1980–84.

The committee concluded that, because of the phase-in provisions, the Capital Cost Recovery Act would be of limited help. The easiest way to provide the industry with the capital needed would be to increase the price of steel per ton $16.80 or to provide an increased investment tax credit. In today's economy it is difficult to raise prices.

The recent report by the Office of Technology Assessment summed up the situation in these words:

> A well-designed and vigorously implemented government policy has nurtured the Japanese steel industry's expansion and adoption of new technology. The U.S. steel industry, on the other hand, has been hurt by a long series of federal government policies that have frequently been uncoordinated, contradictory and inattentive to critical issues. A federal policy that coordinates the industry's needs, the nation's interests and specific technical concerns is an important option.

We should tackle this challenge with Pogo's sage observation in mind: "We have met the enemy, and it is us." If the problems facing industrial America, in particular the steel industry, were simple, then the solutions would also be simple. But the problems are complicated and so are the solutions. We must address the need to reindustrialize America. Many people see reindustrialization as a concerted effort to help our country's "economic losers." But that is in large part, what we have been doing; it doesn't work. We have attacked the consequences of the decline in industrial America—unemployment, business failures—instead of the reasons.

The main reason our industries are declining is because they have lost their competitiveness. Reindustrialization policies should be directed at making our industrial sector competitive once again.

A healthy economy is a vital necessity for a healthy steel industry.

A modern economy cannot and should not be expected to maintain a constant structural mix over time. The infrastructure of an economy will change over time as a result of new technology, changing demographics, the relative power of workers versus employers, international competition, domestic and foreign governmental policies, and changes in the tastes and preferences of the population. In this country, for example, the changeover from goods-producing to service-producing jobs has been dramatic. In 1940, 41 percent of the jobs were goods-producing; in 1960, that figure had hardly changed—dropping to 38 percent—but by 1970, the ratio had dropped to 33 percent and this year the figure is below 30 percent. During the 1970's, 90 percent of the growth in employment has been in the services-producing sector of the economy.

Recognizing the dynamic nature of the structure of a complex, modern economy is one thing; crafting policies to deliberately change the structure is something else. Business Week, in a recent edition, says it rather well:

> We recognize that a reindustrialization plan must be carefully conceived because it can easily be botched so badly that it will accelerate the decline in the U.S. economy rather than arrest it. The great danger is that the U.S. political system will translate reindustrialization into some brand of "lemon socialism" whose main focus will be to save the lemons—obsolete jobs and companies that are going bankrupt because they are too inefficient to compete in world markets. That's what happened in Britain and Italy, although Britain is trying to change its ways. It is not what has happened in Germany and Japan, where the emphasis is on building the strength of companies that can compete effectively.

Restoring industrial America to competition will clearly depend on a large infusion of capital. But capital, as with all resources, is scarce. To the extent Western economic democracies foster economic growth by permitting the market system to operate, capital will seek and find its highest level of economic use. Because capital is relative free to be employed in its highest and best use, capital has been allocated to nonindustrial business enterprises and in many cases to foreign industrial development, where the expected return is higher. Capital has also been diverted to that enormous and growing nonbusiness sector—government—in order to finance its programs, most of which are not wealth producing. There can be no doubt, however, that government policies have in part contributed to the flight of capital from our industrial-producing sector. The most obvious example is our presently inadequate Tax Code with regard to capital cost recovery.

It is against this fact of life—capital scarcity—that capital formation for the steel industry must be considered. Many people regard government as a source of capital. But this view misses the point that government wealth must first be lifted from the private economy. With transfer payments already compromising 60 percent of the budget, we hardly need more of the same. But holding down the size of government can produce—perhaps restore is a better word—a lot of capital for the private sector, capital sorely needed in the steel industry. In a $3 trillion economy, which we are approaching, a 1-percent share of GNP is worth $30 billion. Reducing the share of government from its present level of around 23 percent to 20 percent would provide the private sector with an additional $90 billion each year.

The Government can also contribute to capital formation through that part of Federal activities that barely shows itself in the budget, yet imposes considerable costs on industry. I am referring to the world of regulations and all the nonproductive costs it brings to the business world, especially capital intensive industries. No reasonable person wants to eliminate all government regulation, but there have clearly been excesses.

We have made three major mistakes in the area of environmental regulation; first, there has been a strong tendancy not to look for alternative, less costly ways to achieve the desired goals; second, the desired goals have not always been justified with sufficient evidence; and third, the costs of achieving the goals are infrequently or unfairly compared with the expected benefits; consequently, the Government is not only requiring nonproductive investment, but also socially inefficient and uneconomical investment.

I have mentioned five areas where Government policies should be changed in order to facilitate and stimulate more capital investment and formation. These are:

First, restraining the growth of Government and reducing its share of total economic activity;

Second, by new tax policies that are consistent with real world costs of capital recovery;

Third, by controlling inflation through responsible fiscal and monetary policy;

Fourth, by lowering uncertainty associated with weak, indecisive leadership and unpredictable policies and policy shifts; and

Fifth, by reducing the burden of governmental regulation.

Much of what I have said relates directly to what many believe to be the Nation's No. 1 economic problem—sagging productivity. Yesterday's headlines continue the story we have been hearing with steady and alarming frequency—for the sixth straight quarter, productivity has actually dropped, this time at the phenomenal annual rate of 4.1 percent. The issue of productivity is inseparable from the issues of capital cost recovery, investment, and reindustrialization.

Our inability to get back on the track of productivity growth has profound economic and social impacts. Lack of productivity growth makes it difficult to fight inflation and lowers real incomes weak or negative productivity growth will make it difficult to create the 15 to 20 million new jobs that will be needed in the 1980's in this country; lack of productivity growth also makes it difficult to maintain a favorable balance of trade, the best way to protect U.S. jobs from foreign competition; and, without greater productivity the demographic imperative of an older population will make it extremely difficult to meet the projected costs of social programs in the future. In short, without a turnaround of productivity trends, the quality of living for most Americans will decline.

A substantial amount—around 40 percent—of the decline in this country's productivity is a statistical phenomenon that stems from structural shifts away from manufacturing into services. As I have already discussed, I am not particularly concerned about these kinds of changes in our economy. But experts say as much as 30 percent of the decline in productivity may be directly caused by economic policies. If this is true, and I suspect many believe this estimate to be low, there is considerable potential for new policies directed at reversing the present productivity trend—policies that will contribute positively to reindustrialization and to solving the related problems of inflation, investment, and capital-cost recovery.

Most observers believe that productivity increases will occur if we increase our investment in plant and equipment. Our total investment rate has remained fairly constant at 10 percent over the recent past while required nonproductive investments—for example, for pollution control equipment—have increased. Germany's rate of 15 percent and Japan's 20-percent rate no doubt contribute to their superior productivity performance as well as their relatively lower inflation even in the face of a much greater dependency on imported oil than the United States. Only part of this difference stems from what I would call an unfair advantage—the Japanese and Germans contribute less to defense, as a percent of their GNP's, than does the United States. Even so, the Japanese, in particular, have paid a high price in terms of what we would call affluence for their high investment rate.

In this talk I have focused primarily on the proper roles that Government can play in helping to restore vitality to our country's ailing industrial base, especially the steel industry. As I have already noted, this is a complicated problem that can only be solved by a team effort.

□ 2040

Mr. BENJAMIN. Mr. Speaker, I thank the gentleman for his proficient articulation on the necessity for reindustrializing America and for his dedicated service to the Steel Caucus as the vice chairman of the executive committee.

Mr. Speaker, I now yield to the gentleman from New York (Mr. NOWAK), a member of the executive committee of the Steel Caucus.

Mr. NOWAK. Mr. Speaker, I thank the gentleman.

First of all, let me add my congratulations to the gentleman for arranging this time on a very, very important and certainly timely topic. We know that there are problems and many of the problems of the steel industry and our other industrial sector industries have been talked about.

We also realize, I think, the interrelation of the steel industry to our whole economy. The steel industry certainly is a segment of our whole economy whose role is critical to the growth and certainly the maintenance of this country's wealth and global position.

Mr. Speaker, as we confront the pressing economic problems of the current recession, our attention is drawn particularly to two of our largest, and most crucial industries, the automotive and steel industries.

Western New York, which includes the 37th Congressional District which I am privileged to represent, is heavily dependent on these two industries for a healthy economy. Conversely, during recessionary periods such as the one we are experiencing, the Buffalo, N.Y., area has thousands of auto and steel workers on the unemployment rolls. It is often said, regrettably, that industrialized communities like ours in western New York, too, often are the first to feel the adverse impacts of a recession and the last to feel any relief.

I wish we could pass a law to ban recessions. More realistically, I would hope that we could establish national economic policies that encourage a flourishing auto and steel industry, policies that insure these industries' workers have jobs rather than unemployment checks and policies that protect such key industries from unfair import competition.

It is to stimulate the development of exactly those kinds of policies that my colleagues and I who are active in the Congressional Steel Caucus have scheduled these 3 days of discussions on the problems and perils confronting this vital domestic industry.

The steel industry is a segment of our economy whose critical role in the growth and maintenance of this country's wealth and global position is now threatened by crippling foreign competition.

Steel naturally is the backbone of any industrialized nation. On its shoulders rests the security of other critical industries such as manufacturing, construction, mining, energy, transportation, and defense.

Yet, America, the superpower of the free world, is the only major industrial nation incapable of entirely fulfilling its own domestic demand for steel. Lessons learned by our dealings with the OPEC nations should suffice to make clear our need for self-sufficiency in critical materials like steel.

Unfortunately, the current trends within our Nation's fourth largest industry point to further shrinkage in domestic steel production unless steps are taken soon to reverse the situation.

Already 15 percent of the American market is supplied by foreign sources of steel. By 1988, that market share could be expanded to 40 percent—it has been predicted—leaving us shockingly vulnerable both economically and in terms of our national security.

Under those conditions, not only would we be unable to meet the steel needs of the private sector but our military could be faced with shortages, particularly in the areas of specialty steels, the high technology metals used in jet aircraft and nuclear power sources. The number of plants capable of meeting the special requirements are few and depend on both commercial and Government orders to remain economically viable.

Currently, the steel industry employs more than 600,000 persons, with raw steel producing plants in 36 States and 133 cities throughout this country.

In 1978, according to the American Iron and Steel Institute, American steel companies paid $12.4 billion in wages and salaries, supplied about 40,000 metalworking plants, purchased nearly $26 billion in materials, supplies, and services from others, paid $533 million in dividends to 800,000 stockholders, and earned $1.3 billion on revenues of $46.9 billion.

There is hardly a congressional district in the Nation whose economy is not directly affected by the relative health of this country's steel industry.

Earlier, my colleagues traced the national dimensions of the current tragic impact the recession has had on our Nation's steel industry.

In New York's 37th Congressional District, Bethlehem Steel Corp. operates a steelmaking complex in Lackawanna, N.Y., a city appropriately dubbed "the Steel City." Bethlehem currently reports that corporationwide it has approximately 10,000 workers—related to steelmaking operations—on layoff.

This includes approximately 2,800 who have been laid off at the Lackawanna plant. The current work force at the plant has dwindled to 6,300.

In addition, Republic Steel Corp. has 642 workers laid off at its Buffalo facilities, plus another 120 on reduced work-weeks. The remaining work force totals approximately 2,000.

Just this week, two other Buffalo steelmakers—Shenango Inc. and Hanna Furnace Corp.—announced an indefinite shutdown until economic conditions improve. More than 500 workers have been idled as a result.

Despite the obstacles confronting American steel, the industry is still competitive in today's markets. Its position, however, is being eroded steadily by forces and trends which, if allowed to continue, would permanently shrink U.S. capacity to produce steel.

I would like to discuss two key trends—inadequate capital formation and the steady increase of imported steel—and suggest the parameters of remedial action.

In recent years, corporate as well as individual savings have been very low. The detrimental effect of this trend has struck the very heart of our economy. Thus, key industries such as auto and steel have suffered severely from inability to save and generate reinvestment capital. As a consequence, they have fallen behind in applying the latest technology, energy efficiencies, material usage, productivity, cost competitiveness and rates of return.

This can be alleviated in part by specially targeted tax incentives which encourage reinvestment. For instance, I have sponsored tax legislation which would allow corporations to amortize federally mandated pollution control facilities and equipment over 3 years, rather than 5. This bill, H.R. 6694, would permit speedier recovery of capital costs related to pollution control and, thus, allow more capital for investment in production-oriented, job-creating plants and equipment.

Estimates vary but there is general agreement that the steel industry alone will need to spend billions per year to meet environmental and modernization needs during the next decade.

The Bethlehem plant in my district illustrates just how costly the dimensions of this rejuvenation process will be. A local newspaper last weekend reported that Bethlehem will have to spend between $50 million and $75 million to rehabilitate its coke ovens at its Lackawanna facilities. That's only one component of a massive complex.

There is growing belief that the domestic steel industry will need substantive tax relief to enable it to modernize its facilities and totally regain its competitive edge.

Imports have also been a vexing factor in the deterioration of our steel industry, not import competition per se but unfair, inequitably priced imports. Such predatory pricing hurts the American steel industry in the short run. In the long-run, it could affect the world supply of steel as unsound economic practices eventually catch up with those steel producers who employ them.

As a stopgap measure, the administration should reconsider its position and reinstate a streamlined trigger price mechanism (TPM) to stem the tide of unfairly priced imports. That decision to restore the TPM should be accompanied by the fortitude to enforce it vigorously. We support free trade and fair trade. But if certain trading partners are not fair, we must show that we are firm in resisting practices that damage our domestic industries.

Simultaneously, we must strengthen and sustain the trade adjustment assistance programs that help workers adversely affected by import competition weather the economic storm.

Mr. Speaker, no single cause can be identified as the culprit for the problems confronting the domestic steel industry. At the same time, no single solution will rectify matters. What the Steel Caucus hopes to accomplish by this 3-day dialog is greater recognition that a serious problem exists and that there is a need for the public and private sectors—labor and management—to work together to find solutions. Together, we will.

□ 2050

Mr. BENJAMIN. I thank the gentleman from New York for his reflective, thoughtful, persuasive, and cogent comments on the part of the steel industry, and for his dedication as a member of the caucus.

I now recognize the gentleman from Pennsylvania, a member of the caucus (Mr. RITTER).

Mr. RITTER. Mr. Speaker, I would like to thank the executive committee of the Steel Caucus for bringing this very important issue to the floor of the U.S.

Congress. I would like particularly to thank my colleague from Indiana (Mr. BENJAMIN) and my colleague from Pennsylvania (Mr. GAYDOS) for taking this issue to the floor.

Mr. Speaker, on several occasions I rose to voice my concern about the problems related to the steel industry and the thousands of people directly affected by the decline of the industry in this country. Today I would like to again express my views regarding the time of trial confronting the American steel industry and the need for modernization.

The U.S. steel industry is undergoing pressure for more job cutbacks both from the threat from international forces—including foreign-subsidized competition, and domestic conditions. I believe as Members of Congress we can no longer permit the dismantling of the domestic steel industry product by product, or sector by sector. Rather, we need to develop a national steel policy to strengthen our domestic industry and make it self-sufficient and competitive. I reject the notion that America should be strongly dependent on foreign producers to meet its steel needs. The United States, in my view, must maintain an active and competitive steel industry.

On several occasions I have strongly urged that we avoid the example of Great Britain and several other West European industrial countries. Their governments and steel industries did not correctly face the current challenge of modernization, reinvestment, need for new equipment, cost reduction, and updating of plants, basic processes, and methods of production. This dangerous trend is already reaching crisis proportions in our domestic steel industry.

There are many reasons for this steel crisis—in fact, it is a part of a world crisis in steel cutbacks and layoffs. Inefficient obsolete plants cannot compete with modern efficient plants abroad. The general state of the economy, imports, government regulatory policies, tax and investment policies, insufficient productivity to meet rising personnel costs are all to blame.

In every country, regardless of its economic system, investment in new and better plant and equipment has been an extremely important factor in increasing productivity and raising the standard of living. But growth in such investment has recently been very slow in this country. Too small a share of our Nation's income is saved for investment in tools of production because the incentives and rewards are not there. The 1979 Economic Report of the President shows that during the period 1960–78, the United States lagged behind the major Western economic powers in capital investment. Japan invested approximately twice as much of a percentage of its GNP as the United States. And during the seventies the U.S. rate of productivity staggered to an average increase of 2 percent per year. What is clear is that in order to increase our productivity we must increase our capital formation and investment.

Inadequate savings lead to inadequate spending for plant and equipment. Such spending has also been adversely affected by the tax law limiting depreciation to historical cost and by inflation. Inadequate plant and equipment spending has contributed to lagging productivity, double-digit inflation, inadequate job creation, and lagging economic growth. Insufficient capital formation in the economy in general has been particularly harmful to the steel industry because two-thirds of steel shipments go to capital goods industries. Capital investment by the American steel industry has declined sharply in recent years. The results have been aging facilities, a decline in the rate of improvement in output per man-hour, and reduced cost competitiveness.

While many factors contribute to productivity improvement, the most important is investment in new, modern, more efficient tools of production. The slowdown in the rate of improvement in output per man-hour has gone hand-in-hand with the slowdown in the rate of spending, in constant dollars, for new and better tools of production; both have substantially declined since the 1960's.

Moreover, it is apparent that spending for new plant and equipment is directly and closely related to the preservation of existing jobs and to the creation of new jobs. During those years of healthy increases in spending for tools of production, U.S. employment also rose substantially. This is only logical since it takes many people to design, build, transport, install, break in, and operate new plant and equipment. Conversely, when spending for new tools of production lags, employment also lags.

The American steel industry has fallen behind the Japanese in energy efficiency, has been losing ground in labor productivity, and is having difficulty remaining cost competitive. All of these problems are in large measure a result of inadequate levels of capital expenditures by the American steel industry which, in turn, relate to the capital formation problems facing all American industry. Friends in the industry tell me that the Japanese are dismantling a facility built in 1962 because it is not productive enough.

The pride of the Bethlehem Steel Co.'s operations at Burns Harbor was built in that year. Having been a metallurgist before coming to Congress, I have numerous colleagues in the business of developing new steel technology. These new technologies will sit on the shelf until the capital is available to put those technologies into practice.

The decline in real capital expenditures in the 1970's helps explain why labor productivity in the American steel industry grew at only 2 percent per year over the past decade as compared to 3.6 percent per year over the preceding decade. The American steel industry needs to make substantial expenditures for new plant and equipment during the next decade in order to remain cost competitive. For the domestic industry to have the resources for substantially higher capital expenditures, additional profitability and improved capital cost recovery allowances are sorely needed. Enactment of the Conable-Jones Capital Cost Recovery Act would provide a major boost.

It is clear as outlined in the excellent AISI report that the American steel industry is at a crossroads. However, I believe that with appropriate Government policies and improved profitability, steel companies will be motivated to make substantially increased capital expenditures. Installation of modern and effective facilities will contribute to the health of the domestic economy by improving labor and energy efficiency, which in turn will help to control inflation, maintain employment levels, and reduce reliance on imports, without appropriate Government tax and investment policies, there will be insufficient capital expenditures aging equipment, lagging productivity, increased plant closing, more lost jobs, an increased reliance on imports, a growing steel trade deficit and substantial price escalation.

Again, Mr. Speaker, I urge my colleagues to focus their attention on the threat to the U.S. steel industry and take the initiative to help restore this vitally needed sector of our economy back to a position of competitive strength and growth.

Thank you.

□ 2100

Mr. BENJAMIN. I thank the gentleman for his acute and astute commentary which he has shared with us during these proceedings this evening, and for his contribution to the Steel Caucus.

Mr. Speaker, studies have conclusively shown that the steel industry must improve its productivity to survive. Increased productivity is predicated on technological improvement which is contingent on research, development and capital formation. Capital formation follows profits, tax incentives and fair market treatment. Profits are related to productivity. The connection is obvious. The factors are known. It is time for the administration and the Congress to act. The House Steel Caucus is prepared to act—hopefully with the assistance and support of the Tripartite Committee—otherwise alone. The Nation, its communities and steelworkers can no longer patiently tolerate a deteriorating situation—and neither can we—the Congress. We must provide Government support which encourages productivity, invokes modernization and provides capital to get the job done.

● Mr. APPLEGATE. Mr. Speaker, there is an urgent need in this country for a comprehensive policy for the domestic steel industry. The basic importance of this industry to our Nation's economic health cannot be underestimated.

The current economic problems of the steel industry can be directly attributed to persistent importation of foreign steel, a chronically ill U.S. auto industry, a depressed housing industry, and continued aggravation over Government regulations. In the past 6 months the steel industry as a whole has fallen from 90-percent production capacity to less than

60 percent. Over 33,500 employees in the steel industry, both salaried and hourly, have lost their jobs in the last year, and the "all employees" total this past April reached its lowest level since June 1933 indicating excessive unemployment throughout the industry. Unless corrective action is taken immediately, the situation will only further deteriorate.

The demand for steel has dropped far below the pre-1975 levels and the basic steel industry is currently in the worst financial condition since the economic recession of 1975. As examples of the depressed steel industry, one only needs to look at the cases of Wheeling-Pittsburgh Steel and Weirton Steel, a division of National Steel both in my district of Wheeling-Pittsburgh's 14,508 employees, over 3,100 are laid off. About 30 percent of Wheeling-Pittsburgh Steel goes to the automobile industry which only makes matters worse. Weirton has over 3,000 of its 12,000 employees on layoff status and both firms are operating at less than 60-percent capacity.

The importation of steel mill products for the first half of 1980 are 7.8 percent higher than the level during the same period in 1979 and the basic steel industry has made capital expenditures to date of approximately $4.384 million for pollution control with another $1.242 million already committed—representing 18 percent of all steel industry capital expenditures going for pollution controls. Annual projections of capital expenditures for pollution control by the industry will average at least $700 million through 1984.

The current tax laws do not provide the basic steel industry with the proper incentive to initiate an extensive modernization program on its own. We are killing our own industries because of current policies in the areas of Government regulation and trade policies. We cannot continue on this course or the current economic winds will surely break us.

Just last week, I introduced a resolution, House Resolution 747, expressing the sense of the House that Congress shall formulate and the executive branch shall implement a comprehensive and intensive rehabilitation program designed to correct current economic adversities in the basic steel industry; that a policy calling for the implementation of a 12-month import quota and tariff system designed to limit imported products in the United States and provide economic stability to the Nation's economy be adopted. There should be granted temporary suspensions or easing of certain existing Government rules and regulations that are deemed cost ineffective to the steel industry as well as to other industries and a permanent restraint on such future rules and regulations. Congress should also immediately adopt a revision of the current tax structure as it pertains to business and industry as is outlined in the Capital Cost Recovery Act of 1979, H.R. 4646.

I believe it is time that Congress and the administration wake up to the potential disaster that lies ahead and take drastic measures to restore stability to the economy. The American pottery industry, the first great industry to succumb to foreign imports, never regained its economic stability because of the American Government's direction to build foreign business at our expense. Others to follow have been leather goods, electronics, clothing, and jewelry.

I call upon my colleagues to see the handwriting on the wall and take positive steps toward restoring this Nation's productivity before it is too late.•

• Mr. MOLLOHAN. Mr. Speaker, it is indeed appropriate that we take this time to focus the attention of the House on the grave problems facing our domestic steel industry.

Those of us who represent steel-producing areas know just how bad the situation is.

Thousands of our people are out of work.

In many areas, older plants are being closed forever and new ones are not being built to replace them.

A host of economic, trade, and environmental issues lie at the root of the industry's problems.

But we must not lose sight of the fact that a healthy steel industry means more than just jobs for our people and a boost for our economy.

A healthy steel industry is also absolutely vital to our national security.

It is appalling that America today is the only major industrial nation unable to supply all of its own steel requirements.

World War II taught us how difficult it is to protect the sealanes. Now, 40 years later, the sealanes are even more difficult to protect.

If we become dependent upon a thin line of supply ships for our most basic steel requirements, our national security will be compromised and we will be in grave difficulty.

We have a chance to prevent this, but time is running short.

We need a rational, effective and successful national steel policy, and we need it now.

We need a policy that addresses the industry's capital formation needs, its legitimate problems with regulatory overkill, and the serious difficulties it faces from unfair imports.

These are the issues that must be resolved if we are to have any hope of revitalizing our steel industry and providing for the long-term security of our Nation.•

• Mr. WALGREN. Mr. Speaker, the steel industry in the United States faces many complex problems. Recent statistics indicate that steel industry production is down, unemployment is rising and the general vitality of the industry is slipping away. We must work with the steel industry to reverse this trend and launch the industry on the road to recovery.

As part of this special order, Mr. Speaker, I would like to draw the attention of my colleagues to one part of the problem, declining coke production here in the United States. I mention this problem because coke is a principal ingredient in the production of steel. I take special interest in this aspect of steel production because one quarter of U.S. coke oven capacity is located in my home State of Pennsylvania.

During 3 of the last 6 years coke demand has outstripped domestic supply. In 1978 coke consumption in the United States was 16 percent higher than supply. A recent study entitled "Analysis of the U.S. Metallurgical Coke Industry" predicts the shortage of coke will grow more acute in the next 3 to 5 years and possibly result in a 20-percent shortfall by 1985.

This problem does not spring from a shortage of metallurgical coal. Rather, it results from the declining amount of coke producing capacity. Almost one-half of the coke producing facilities in this country are 20 years or older. Compared to newer coke ovens, the older ovens produce less coke, generate more pollution, and require more maintenance. It is widely accepted that the effective lifespan of a coke oven is 25 and 30 years. Thus, the steel industry finds itself in the position of having a major portion of its coke oven capacity falling into complete obsolescence. These facts are even more startling when compared to foreign countries. About two-thirds of all coke ovens in Western Europe are less than 20 years old and 70 percent of the coke ovens in Japan are 10 years old or less.

In order to meet coke demand steel companies have turned to foreign sources to make up the difference. In 1978 coke imports amounted to 5.2 million tons or 10 percent of domestic needs. Including freight and insurance charges these imports cost $500 million. It is sad to think that if these same 5.2 million tons were produced in the United States there would be an additional 3,400 jobs at coke ovens and 6,000 jobs in coal mines.

Mr. Speaker, the decline in coke producing capacity has serious implications for the steel industry and illustrates the need for teamwork by Government and industry to encourage capital investment to increase production capacity.•

Mr. BENJAMIN. Mr. Speaker, I yield back the remainder of my time.

MODERNIZATION AND CAPITALIZATION OF THE STEEL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, the time that I have requested and which was allotted to me was to be used as backup time. The caucus has spoken. I would like to make just one remark at this time before I yield back the remainder of my time.

I want to commend the members of the Steel Caucus and, the executive committee, who have taken the time to speak out on the problems involved in the steel industry.

It is my very fervent hope that the Steel Caucus can effect a change in the administration's attitude toward the steel problem. I take this opportunity to put on record, that we are expecting the establishment and enunication of a steel policy by the administration that we could support and embrace.

In a different yet related matter, I would like to bring out another point that should be addressed by the administration regarding international lending institutions that we support in Congress to the tune of billions of dollars.

I refer to the World Bank and AID, the International Development Agency, IDA, and to the Asian Development Bank, the Inter-American Development Bank, and the African Development Bank, all supported by the Congress, and all of which in the last analysis contribute to the problem. By way of illustration, recently we had before the executive committee of the Steel Caucus an individual complaining—complaining bitterly—about difficulties his corporation had encountered with the World Bank in attempting to compete on a bid to manufacture steel rails for a Mexican project. Unfortunately, through a loophole, the domestic producer lost the bid even though his price was competitive with the foreign steel producer. This just does not sound right, and it cannot be supported by any stretch of the imagination. These are the things—and I could go on and on—that the Steel Caucus had brought before it.

Mr. Speaker, I do not want to take any more time. We will continue this discussion tomorrow. I want to congratulate all the members of the Steel Caucus who took the time at this late hour to participate in this most important proceeding.

Mr. Speaker, I yield back the balance of my time.

THE U.S. OLYMPIC TEAM—AMERICA'S PRICELESS SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, the young men and women of the U.S. Olympic team have given us priceless support in America's response to Soviet aggression in Afghanistan. They are also a part of Olympic history in a unique way.

The poet Stephen Spender said:

> History is the ship carrying living memories to the future.

While these talented young people will not have memories of competition and triumph, the world will remember them for the same qualities they would have shown in the events in Moscow. History will reflect their courage, their determination, and the pride we feel in their sacrifice. Years from now these athletes will be remembered for triumphs that are much more important than those won on the track and field. These team members are champions of peace and human rights. I would like to specifically mention those members of the U.S. team that are from the 10th Congressional District of Massachusetts: Boris Djebrassi of Raynham, John Everett of South Easton, Susan Marcellus of Somerset, Kurt Sommerville of Wellesley, and John Steele of Middleboro. Along with their team members, these men and women are, this day, the pride of Americans everywhere.●

TAIWAN CRACKS DOWN ON POLITICAL DISSENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. LEACH) is recognized for 30 minutes.

Mr. LEACH of Iowa. Mr. Speaker, I should like to bring to the attention of my colleagues a series of developments in recent months on Taiwan which raise basic questions for that island's future political stability, economic prosperity, and amicable relations with the United States. The Iranian hostage crisis and the Soviet invasion of Afghanistan have so dominated the headlines that we have given insufficient attention to other serious international developments. One of these which merits our close attention is the increased political repression on Taiwan, which began last December and continues unabated today.

The people of the United States have maintained close relations and real affection for the people of Taiwan despite the changed circumstances dictated by our diplomatic recognition of the People's Republic of China (PRC) and unilateral termination of the United States-Taiwan Mutual Defense Treaty.

It is, of course, presumptuous for a citizen of one country to give advice to the government of another. It is particularly presumptuous when we as Americans are partly responsible through our ham-handed diplomacy for jeopardizing political stability on the island.

But the United States and Taiwan share a common philosophical heritage and common strategic interests.

The courage and conviction of great men such as Thomas Jefferson and Dr. Sun Yat-sen transcend national borders. In the absence of formal diplomatic relations, it is extremely important that informal ties between our two societies are not only maintained, but enhanced. While it is understandable that the precipitous manner in which the Carter administration recognized the Peking government should occasion increased anxiety on Taiwan, the movement suggested by recent events toward a more repressive society in Taiwan can only serve to impair the possibility of a strengthened new relationship between our peoples.

In international politics, Taiwan is considered by some to be an independent nation-state, by others a province of the People's Republic of China, by itself, and a very few others, as the seat of the government of all of China.

But in essence, it is none of these. Taiwan cannot realistically be considered a nation-state if its own government refuses to accept this status. It cannot be considered a province of the People's Republic of China as long as the people and government of the island refuse to embrace Peking's claim to hegemony. Nor can the authorities on Taiwan continue their pretender role as the government of all of China when neither the Chinese people nor the vast majority of the peoples of the world sanction their claim. Taiwan is an international pariah—a people without a country; a government without a basis of legitimacy.

Taiwan bases its foreign policy on strong unofficial ties with the United States, and in turn our Government is committed to the proposition that the Taiwan issue be settled peacefully. The United States is prepared to assist Taiwan in maintaining appropriate defense capabilities. No change in the international status of Taiwan can properly be countenanced without the active consent, democratically expressed, of the majority of people on the island. Such consent must never be the subject of coercion, either from an elitist domestic political leadership or a threatening PRC. Accordingly, the United States must be prepared to sell Taiwan such weapons as may be required to maintain a credible defense against foreign aggression, including the FX fighter aircraft, but not weaponry exclusively applicable to maintaining repressive control over the civilian population.

Historically, trade and investment have played a crucial role in United States-Taiwanese relations. American firms have invested more than $650 million on the island, and Taiwan is our seventh largest trading partner with a two-way trade in 1979 in excess of $9 billion. Taiwanese prosperity is heavily dependent on the American market, with 40 percent of total Taiwanese exports sold to the United States.

Mr. Speaker, as a Republican and long-time supporter of Taiwan, I have followed political developments on the island with special interest. It saddens all of us concerned for the future of Taiwan to see a pattern of growing political repression which, if not reversed, could jeopardize the impressive economic and social progress that Taiwan has made in recent decades.

By way of background, it should be noted that under President Chiang Ching-kuo the native Taiwanese majority which represents 85 percent of the island's population has achieved a slightly greater voice in the Taiwanese political system than allowed under Chiang Kai-shek. A few native Taiwanese have been recruited into senior positions in the Government and non-Kuomintang party candidates have been allowed to hold positions in the Taiwan Provincial Assembly and to serve in some instances as mayors and county executives.

Nevertheless, an oppressive range of political restrictions are in force in Taiwan. The Kuomintang is the dominant political party and no real opposition party is permitted to function freely. The President has almost unlimited emergency powers, under which martial law and firm security measures are in effect. Certain political views cannot be expressed, such as support for the independence of Taiwan, opposition to the government's claim to represent all of

China and advocacy of improved relations with the PRC. In the national legislative Yuan (Taiwan's equivalent to Congress) the vast majority of representatives are mainlanders, elected more than 30 years ago from various provinces now controlled by the PRC.

For years critics of the Taiwanese Government have urged greater political participation for native Taiwanese. But the issue is not simply one of numbers. A few native Taiwanese can be appointed to office without any expansion of political freedom occurring. The key is to lift martial law and allow the sweeping protections of individual rights contained in the 1946 Constitution of the Republic of China to come into force. Single party governments are seldom democratic governments, the Taiwanization of those in authority must be accompanied by the protection of alternative points of view.

The recent internal political problems in Taiwan originate in the efforts of a group of government critics to use the monthly magazine Formosa to express their political views and to organize a framework of opposition to the ruling KMT party. This "nonparty" opposition was perceived by KMT authorities to carry the seeds of a dangerous quasi-party alternative to single party government.

Many Taiwanese opponents of the KMT, including some elected officials, associated themselves with Formosa magazine. Eleven offices of the magazine were opened throughout Taiwan, a series of rallies were held in 1979 and the circulation of Formosa, which published four issues, grew to 90,000. The increasing popularity of Formosa and the growing political boldness of its leaders became a source of mounting concern to the ruling party and to certain conservative elements within the military and police hierarchy.

On December 10, the magazine sought to sponsor a rally and march in Kaohsiung, Taiwan's second largest city, to commemorate International Human Rights Day. Violence ensued, with the Government claiming that 183 policemen were injured by rioting demonstrators While there is considerable debate as to whether the Government sought to provoke an incident to justify a crackdown on the opposition or whether some of the Government's critics wanted a confrontation in order to dramatize their views, there can be no question that the incident and the way it has been handled represent a major setback to broadened political participation in Taiwan.

I have personally reviewed at length a transcript of speeches delivered at the Kaohsiung rally and would like to stress that I find no credible evidence for the Government's claim that those arrested advocated sedition or violent overthrow of the Government. Repeatedly speakers appealed for calm. Typical admonitions were:

WANG TUO. We want to prevent all violence. Don't let those troublemakers stir up violence among you.

SHIH MING-TE. Let the Taiwanese soldiers go. Don't beat the Taiwanese soldiers.

YAO CHIA-WEN. . . . the problems of struggling for human rights and political rights cannot be solved in a brawl . . . we must all demonstrate that we are calm and rational, that it isn't true that we can only fight, that we want to calmly struggle for our human rights and political rights.

LU HSIU-LIEN. . . . we use only words, not guns.

CHANG CHUN-HUNG. Everyone stop moving! . . . Stop! The troops are coming forward. Everybody stop moving. Nobody move! (repeated 16 times)

K'ANG NING-HSIANG. I want to tell you that the most important thing today is not to have a conflict with the riot troops . . . As I stand here today, I plead and I hope that everyone will stay calm. Commander of the riot troops, please don't haphazardly take action. If you do, then I can only repeat what I've already said: you will be the first in the history of Taiwan (to attack your own people when they are quietly listening to a lecture).

HUANG HSIN-CHIEH. Everyone, please don't move, don't be so noisy. Commander of the riot troops, you will have to take all the responsibility for what happens.

The early part of the rally was characterized by chants ("Long live the Taiwanese people * * * oppose the one-party dictatorship") and by the singing of songs. One entitled "I Hope You Come Back Soon" was an allusion to political prisoners and "Hoping for the Spring Wind" expressed an understood desire for political change. From an American's perspective, the most interesting was a variation of the civil rights anthem of the 1960's: "We Shall Overcome." The Kaohsiung refrain went: "We will stand up, we will stand up someday. In my heart I do believe, without any doubt, we will stand up someday."

While it is true that a number of statements made by the rally's leaders were contentious and critical of the government, with few exceptions, mostly from the crowd, violence was decried. Speakers commented on everything from the safety hazards surrounding nuclear plant placement to the juridical history of Taiwan. Taxation without representation was a theme. "They (the KMT) collected 30 years worth of our taxes, but we have no one to oversee their spending." Chi Wan-sheng argued.

Historical analogies were frequent: "Remember that in the Ch'in Dynasty the king burned the books and killed the intellectuals. What about today? We can be arrested for saying one word; we cannot say one sentence of criticism without risking arrest and, 3, 5, or 10 years in prison." (Hung Ch'wan-ch'i.)

As the knot of riot police tightened. the observation of Chang Chun-nan was particularly poignant: "In the old days, if you wanted to capture a castle, you would always blockade one gate. leaving three open for people to escape."

Unfortunately there was no escape gate for the participants at the Kaohsiung rally, as there is no institutional escape valve for popular feelings in any society that lacks democratic representation and the freedom to speak and assemble.

A total of 51 persons were indicted in connection with the Kaohsiung incident and were tried in three groups in what is the most significant series of political trials in recent Taiwan history.

The first group of eight defendants, all leaders of the Taiwanese democratic opposition, were tried from March 18 to 28 by a military court on charges of sedition. They were accused of attempting to overthrow the Government of Taiwan; of fomenting violence by holding frequent illegal rallies; endangering Taiwan's security; destroying its economy; of plunging the island's society into chaos; and of serving as tools of the Chinese Communists and seditious elements abroad by advocating the independence of Taiwan.

According to the indictment against the eight, the leader, Huang Hsin-chieh, asked a Taiwanese businessman to arrange to import eel fry from China through Japan for sale in Taiwan with the profits to be used for seditious political purposes. The businessman visited Peking and returned, the prosecution alleged, with a PRC promise to make Huang governor of an autonomous Taiwan province under Communist rule. The military prosecutor requested death sentences, the maximum penalty for sedition, for all eight.

A brief identification of each of the eight defendants shows a common background of non-Communist political opposition to the KMT government:

Huang Hsin-chieh, 51; senior opposition leader and member of Taiwan's Legislative Yuan; publisher of Formosa.

Chang Chun-hung, 42; member of the Taiwan Provisional Assembly; chief-editor of Formosa and other opposition magazines barred by the government; former member of the KMT central committee.

Ms. Chen Chu, 30; writer human rights leader and deputy director of the Kaohsiung office of Formosa.

Lin Hung-Hsuan, 37; Ph. D. candidate in theology at Drew University; executive of the Kaohsiung branch office of Formosa.

Lin Yi-hsiung, 38; member of the Taiwan Provincial Assembly; lawyer; co-author of two books on elections in Taiwan and an outspoken critic of the KMT government. Circulation manager of Formosa.

Ms. Lu Hsiu-lien, 36; prominent women's rights leader in Taiwan; holds master's degree from the University of Illinois and studied at Harvard Law School, where she researched a book, "Taiwan's Past and Future," which is banned in Taiwan. Deputy director of Formosa.

Shih Ming-teh, 39; manager of Formosa; found guilty of sedition for political activities and sentenced to life imprisonment in 1959. His sentence was reduced to 15 years in 1975 and he was released in 1977.

Yao Chia-wen, 42; well known lawyer, who has defended prominent political cases in Taiwan; chairman of Formosa

Foundation; coauthor of two books on elections in Taiwan.

The conduct of the trial was remarkably open by Taiwanese standards. Press and foreign observers, including representatives of the American Institute in Taiwan and Amnesty International, were allowed to attend. The defendants and their lawyers were permitted to argue their cases at length. Most remarkable of all, the government permitted the censored press to run almost verbatim accounts of the proceedings which provided them an unprecedented public forum for expression of their political philosophy.

The trial received wide international attention. The prosecutor's case, on which the eight were found guilty, was built on technical, legal grounds concerning the definition of sedition in Taiwan's military law. The confessions, on which the court relied heavily, were obtained during several months of interrogation under what were, by Western standards, harsh conditions.

Emphasis in the government's case and in the sentencing was placed on the group's alleged intentions and acts to overthrow the government by "illegal means" specified as publishing Formosa, opening branch offices, for the magazine contacting government critics abroad and inciting the Kaohsiung riot. These conspiratorial acts were allegedly led by a "five man group" which had "short range and long range power seizure plans."

The defense, rather than challenging the court's interpretation of the law, instead pointed out that the confessions had been obtained under duress and used the courtroom as a forum for political debate. To a considerable extent the defendants succeeded in convincing outside observers that they were not engaged in subversive activities, and that the government was using Taiwan's strict martial law against them for essentially political purposes. Outside observers simply could not fault the desire of the defendants to promote freer political expression, to establish responsible opposition to the dominant KMT party, to publish a noncensored political magazine, to abolish martial law, and to bring about gradual change in the archaic political institutions on Taiwan. While these objectives might be viewed by KMT leaders as radical, they appeared moderate and responsible in the context of Western democracies as well as Asian ones like Japan and Singapore.

Almost all of the defendants noted that their confessions were not made voluntarily, that they were extracted in the course of exhausting interrogations in which they were allowed very little sleep over many days and that they had been threatened with death if they did not sign. While none claimed openly to have been tortured, it seems clear that at a minimum they were subject to severe psychological pressure, intimidation and harassment during their lengthy interrogations. During this interrogation process, the defendants did not have access to lawyers. They were kept isolated from each other and denied visits from relatives and friends. However, during the trial itself lawyers were allowed to assist in the defense.

On April 18, the eight defendants were found guilty of seditious intentions and activities. Shih Ming-teh, who led the December 10 rally, was sentenced to life imprisonment, a sentence required since he was on parole from a previous life sentence. National Assemblyman Huang Hsin-chieh received 14 years and the remaining six were sentenced to 12 years each. These included Lin Yi-Hsiung, whose mother and twin 7-year-old daughters were brutally knifed to death under mysterious circumstances shortly before the trial commenced. The murders are still unsolved despite the very large reward for information being offered by the authorities.

The second Kaoshiung trial of 33 defendants, indicted on charges other than sedition, began before a civil court on April 16. The defendants in this trial had varied backgrounds—some were active with Formosa, some were critics of the government with only loose connections to the magazine, and others were mere passersby who were caught up in the demonstration. Like the military trial of the eight, this trial was also open and observed by press and outside representatives, including the American Institute in Taiwan.

The defendants denied many of the allegations the prosecution made against them. Several testified they were abused during their interrogations in efforts to force them to sign prepared confessions. Several noted they were forced to eat salty rice and drink salt water which prevents normal bowel movements and causes serious bloating. Some admitted to being beaten. One defendant, who was illiterate, was forced to sign his confession, even though he could not read its contents.

Another was only allowed 30 minutes to an hour of sleep at a time during the interrogation process. Another, interrogated for 45 days, was told that if he did not sign, there were three ways to force him to do so—by beating him until he was faint, by binding his hands and feet or by having a doctor give him an injection.

Sentences handed down on June 2 for the 33 defendants averaged 4 to 6 years imprisonment for most. Several received lighter sentences and one was found "not guilty."

The third group of 10 Kaoshiung defendants was not directly involved in the December 10 incident but was charged with either helping Shih Ming-teh to hide or failing to report his whereabouts to the authorities. Five of the 10 were indicted on April 28 under a sedition statute, and were subsequently tried by a military court.

The most prominent member of this group is Dr. C. M. Kao, general secretary of the Presbyterion Church of Taiwan. Dr. Kao is an internationally respected clergyman whose sudden arrest on April 24 shocked his Christian colleagues in this country and elsewhere.

Dr. Kao's arrest also sparked concern that freedom of worship might be as jeopardized as the right of free speech and assembly has been on Taiwan. Several of the other defendants are Presbyterian activists, including Lin Wen-chen, a single parent of two U.S. citizen daughters, who might still be in the United States had she not returned to Taiwan 2 weeks before her naturalization hearing to care for her ailing mother.

Dr. Kao explained his actions in helping Shih Ming-teh at the time the latter was sought by the police as dictated by his conscience as a Christian. His efforts along with those of other church members, were rewarded June 5 with prison terms of 7 years, in Dr. Kao's case, 5 years for Miss Lin and lesser penalties for most of the others.

The Government of Taiwan is to be commended for the open manner in which trials of the various defendants took place. There is, however, a distinction between openness and fairness, and it is difficult for an outside observer to be anything except disappointed about the treatment of the prisoners and the severity of the sentences meted out.

Accordingly, I wrote President Chiang Ching-kuo last April urging clemency for the Kaohsiung defendants, the release of Dr. Kao and the rescheduling of local elections postponed since December 1978. In my view and that of many analysts and observers of events in Taiwan, such steps are essential to restore the trend of political liberalization evident prior to the Kaohsiung incident. In their absence, I fear that political instability on the island will increase with the possibility of the Taipei Government following the path of the Government in Seoul.

It is in the interest of the United States to promote constructive political change in Taiwan before the alternatives of radicalism and repression preclude moderate solutions.

In this regard, it should be noted that the government's options are complicated further by far right opposition as well as that springing from those whose position is associated with the magazine Formosa. Unfortunately the right wing pronationalist activists are increasingly resorting to violence and slanderous propaganda to achieve their aims. In recent months, for example, commentators from several rightwing newspapers have been especially strong in leveling unsubstantiated charges against the anti-KMT Taiwanese political activists and, around the time of the Kaohsiung incident, a series of violent attacks against the offices and homes of Taiwanese dissidents took place.

To broaden political participation without precipitating violence will not be easy. It is, however, imperative to try, for as the government's claim to the mainland becomes less meaningful in the eyes of the world, a new basis for legitimacy must be found.

Generally speaking, legitimacy derives from either historical claim or consent of the governed. There is a distinction between a government in exile and a government claiming to represent the political aspirations of the Taiwanese people. U.S. recognition of the PRC implies our assessment that the civil war in China is over. The Nationalist claim to the mainland is fictional and its basis of consent on the island lacking democratic test.

Governmental authority in any society is based either on force or consent. The former implies violence and injustice; the latter cooperation and stability. The choice of approach at this juncture in Taiwan's history belongs exclusively to the government, not the dissidents. People do not rebel against themselves, only their institutions. If institutions reflect popular will, violence will be obviated.

Accordingly, friends of Taiwan are convinced that the time has come to establish a new basis for legitimacy—that of "consent of the governed." In the words of Dr. Sun Yat-sen:

> Such a government will be the most complete and the finest in the world and a State with such a government will indeed be of the people, by the people, and for the people.

Taiwan is at a watershed in its history. Time would appear to be on the side of the moderates both inside and outside the government who favor steady progress toward greater participatory democracy, but time is most assuredly not on the side of those who seek either a return to the heavyhanded repression of the past or precipitous and violent political change.

The Taiwan Relations Act of 1979 clearly states that—

> The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

The repressive political trend evident on Taiwan for the past several months should give the United States serious pause to question whether both our national interest and the legislation we passed are being well served.

If compassion can be extended to those imprisoned and broadened political participation authorized for all the people of Taiwan, the future may be brighter than the situation would now seem to warrant.

Fortunately, people learn through experience. The Kaohsiung incident provides an unhappy lesson for both sides. One of the reasons the rally got out of hand is that neither the Taiwanese authorities nor the dissidents had adequate experience in dealing with democratic political rallies. No one seemed to understand that the collective action of a crowd can sometimes be very different than the individual judgments of the majority of its members. Repetition of the December 10 violence is less likely because each side has learned from its mistakes.

In addition, President Chiang has moved forthrightly to reschedule the elections postponed since December 1978 and decreed that the number of seats reserved for Taiwanese in the legislative Yuan will be doubled.

In a recent speech Chiang Ching-kuo called on the nation to "heal the wound," "bind up the injury and eradicate the scar" created by the events surrounding the Kaohsiung incident. The way to heal the wound, President Chiang observed, "lies in taking the enlightened modern road of democracy. We know that only by following the sound route of democratic government can we harmoniously rectify extreme tendencies and accommodate conflicting views."

These are wise words, and it is the hope of all concerned citizens of the world that they can be given the meaning of example on Taiwan.

Finally, speaking personally, I must express serious concern for the recent outbreak of violence against KMT supporters in this country, particularly the recent shameless killing of the brother of the mayor of Kaohsiung in Los Angeles.

As a personal friend of three of those imprisoned in the wake of the Kaohsiung rally, I am deeply apprehensive that terrorist acts committed within this country will prove counter-productive to achieving their release and, more importantly, the goals of greater participatory democracy on the island. Violence begets violence and it is all too likely that terrorist acts by one side in America will be countered by terrorist acts of the other in Taiwan.

It is the responsibility of the U.S. Government to maintain law and order for our citizens as well as for any foreign residents. I would call upon all appropriate U.S. law enforcement agencies to give highest priority to investigating the recent terrorist bombings committed against pro-KMT families in this country. I would also call upon these agencies to provide special protection for any families or Taiwanese Government officials in this country who may feel threatened by terrorists.

Terrorism is cowardly. It should never be rewarded. It would be a tragedy if the irrationality of a few in America causes an overreaction in Taiwan and thus adversely affects the future of an entire people.

Mr. Speaker, I yield back the balance of my time.

☐ 2130

FREE THE SCHOOLS: THE EDUCATION IMPROVEMENT ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

● Mr. ASHBROOK. Mr. Speaker, I have been a member of the Committee on Education and Labor for 20 years. The members of this committee have had some sharp disagreements over the years, but today there is one thing we can all agree on: American education, especially at the elementary and secondary levels, is in a state of crisis.

Public confidence in the schools, as measured by the annual Gallup education poll, is at an all-time low. Teachers feel powerless and frustrated. Students are more intractable than ever, more prone to insubordination and vandalism—yet a survey of recent graduates reveals that they think their courses were too easy and their teachers too lenient.

Most bitterly ironic of all, for those who struggled to make the Federal Government a tool for educational excellence, is the fact that academic achievement has declined steadily ever since we passed the Elementary and Secondary Education Act in 1965.

If there is one educational concept which all of us in the committee and in this House as a whole have honored—at least in word—it is the concept of local control.

It is a concept enshrined in the 10th amendment to the Constitution, and repeatedly reaffirmed in statutory language. Even the law creating the new Department of Education contains a provision which supposedly prevents Federal control of local educational decisions.

Unfortunately, our actions have taken us in precisely the opposite direction. Each succeeding reauthorization of the Elementary and Secondary Education Act has made it more complex and convoluted—a delight for bureaucrats, consultants, and lobbyists, but a nightmare for real educators. I doubt there is a single Member of this House who has actually read the current text of title I alone in its entirety.

I defy anyone to prove that the increased bulk of this statute has produced improved performance by education agencies at any level of government. On the contrary, it is becoming overwhelmingly clear that State education officials, local school superintendents, and classroom teachers are finding their schedules besieged and their energy drained by a mind-numbing army of obscure Federal requirements.

As of October 1, 1979, the Code of Federal Regulations contained more than 1,400 pages of fine-print regulations governing Federal education programs. A substantial portion of this material has been made obsolete by further regulatory changes within the last 9 months.

The National Center for Education Statistics estimates that State and local educators will devote nearly 10 million hours during the 1980–81 school year to the task of coping with Federal paperwork.

The new Department of Education starts with a payroll of more than 5,000 employees—not including temporary or part-time personnel, people detailed from other agencies, consultants, or employees of the overseas schools serving military dependents.

In a survey conducted by the National Institute of Education 3 years ago, school principals ranked the Federal paperwork burden as their most serious problem in trying to run their schools. The paperwork burden has grown worse since then, so it should come as no surprise that a more recent survey found that two-thirds of a sample of "exceptional" principals are planning to leave their jobs. By forcing them to work as petty clerks for the Federal colossus, we are driving our most dedicated educators right out of the profession.

Congress did not create all of our educational problems, and Congress cannot solve them—not alone. But Congress can effectively prevent their being solved by choking local enthusiasm and creativity in a tangle of redtape. That is precisely what we are doing as long as we allow the status quo to continue, and that is why the overwhelming need of the moment is for us to consolidate, streamline, and simplify.

Today, I introduce a bill, the Education Improvement Act of 1980, which is designed to do exactly that. It does not cut a single penny from the Federal kitty for education, but it combines a lot of little programs into a few big programs so as to make the whole structure easier for State and local officials to handle. Like a machine with a minimal number of moving parts, this new structure will work more efficiently for everyone.

It will also allow more discretion to State and local authorities, since it relies less on personal judgments by officials in Washington for directing the flow of Federal education dollars, and more on objective population formulas.

Let me stress several things which this bill does not do. It does not change the Federal statutes for handicapped education, vocational aid, impact aid, or postsecondary programs. It does not change the funding formula for title I of ESEA, which allocates aid to meet the special needs of educationally disadvantaged children according to family-income statistics. It does not remove or weaken any of the requirements for equitable participation by students in private schools. And it does not require the States and localities to drop a single program.

What this bill does do is to take 27 of the existing ESEA's 35 separate programs and consolidate them into two authorizations. The first of these is a somewhat simplified version of today's title I. The second combines under a single title the programs which are now spread throughout titles II and IX.

These are the titles that contain the little bundles of Federal money for narrow categorical programs like "metric education," "consumer education," "law-related education," and "arts in education." By dividing the kitty into these narrow subcategories, and by forcing the schools to apply for them on a discretionary-grant basis, Washington guarantees that Federal priorities will override local concerns—just the opposite of what we say when we pay lipservice to local control. Each of these specialized programs is fiercely guarded by its own bureaucracy, which quickly learns the power of deliberate obscurantism. Two months ago, for example, the Federal Register published regulations for the law-related education program: The authorizing statute for this program is 275 words long, but the regulations ran to 4,400 words.

Mr. Speaker, the Education Improvement Act will cut through this type of bureaucratic pettifogging. It will trim back the Rube Goldberg array of Federal officials, consultants, guidelines, regulations, and reports; it will free millions of dollars and hours which are currently spent on administrative make-work; and it will allow local principals, teachers, and students to get back to their true mission: the pursuit of wisdom.●

LEGISLATION TO PROHIBIT MASTER UTILITY METERING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BEILENSON) is recognized for 5 minutes.

● Mr. BEILENSON. Mr. Speaker, I am today introducing legislation to prohibit the use of master meters for gas and electricity supplied to new buildings which have more than one unit. Passage of this bill would cut back on the considerable amount of energy currently wasted in apartments and commercial buildings with master metering.

As we all realize, the need for our Nation to save energy is absolutely essential. Our reliance on imported oil makes us politically and militarily vulnerable and causes severe economic problems that contribute to unemployment, inflation, the deflated value of the dollar, and our balance-of-payments deficit.

In our efforts to cut back on our use of imported oil, we have greatly neglected one abundant source of energy—conservation. Conservation is our cheapest, cleanest, and most readily available energy alternative. And, conservation does not have to mean undue sacrifice—recent studies show that the United States can use 30 to 40 percent less energy than it now does with no reduction in our standard of living. Conservation is thus the equivalent of an alternative energy source: it is far cheaper and easier to save a barrel of oil than to produce or import one.

At the present time the gas and electricity usage of the majority of tenants in the United States is metered at a single point for an entire building. When such "master metering"—rather than individual metering—is used, tenants' utility expenses are included in their total rent charges; as a result, individual tenants are not directly aware of the amount of their gas and electricity consumption and thus have no economic incentive to cut back on usage. Not surprisingly, a tenant has a tendency to use less energy when he has to pay directly for it—as is the case when he receives a monthly utility bill that reflects his own individual consumption of energy.

The wasteful habits of tenants who receive their utility services by means of master metering have long been recognized by both utility company personnel and apartment owners and managers.

This considerable and unnecessary waste of energy was confirmed in a 1975 report prepared for the former Federal Energy Administration. After an extensive study of master metering of electrical servvice in apartment houses in ten major cities, the conclusion was reached that residential customers whose electrical service was provided through master meters consumed about 35 percent more electricity than those in similar apartments who received service through individual meters and who thus paid directly for the energy used. Had the customers with master meters used the same reduced amount of energy as the individually-metered customers, they would have saved 7 billion kilowatt hours in a year—the equivalent of 13 million barrels of oil. This bill calls for individual metering of gas, as well as electricity, so the savings would be even greater.

The evidence provided in the FEA study is supported by officials at the Department of Housing and Urban Development, who state that a 35-percent reduction in electricity use occurred in public housing projects when the projects were converted from master metering to individual metering. In 1976 HUD issued regulations which required the conversion of all public housing projects to individual metering, where the conversion would be cost effective, by November 1978.

Laws which restrict the use of master meters in multifamily dwelling have been enacted in seven States: California, Florida, Maryland, Minnesota, North Carolina, Oregon, and Texas. None of the utility commissions in those seven States report any major problems with the implementation of such laws.

The feasibility of totally eliminating master metering from residential service has also been proven in Chicago, Ill., where a Commonwealth Edison Co. policy of refusing to serve new residential customers through master meters has been in effect for 25 years. That policy has been successfully defended in the Illinois courts, and the company has established workable practices for the maintenance and servicing of their distribution systems in large buildings.

In most cases, conserving energy by installing individual metering would not cause undue sacrifice for tenants or cramp their lifestyles: A large proportion of the excess energy used in buildings with master metering occurs when air-conditioning and heating units are left to operate at high levels while tenants are away from their apartments during the day or for vacations.

Since 40 percent of the total housing stock that will be available in the United States by the year 2000 will be built in the next 20 years, truly significant energy savings could be made through more energy-efficient building design requirements, including individual utility metering. We must use every reasonable means possible to reduce energy use starting immediately, and I believe that this legislation will contribute significantly to an effective energy conservation effort.●

THE FCC CABLE TELEVISION AND COPYRIGHT LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, last week the Federal Communications Commission, by a vote of 4 to 3, moved to abolish syndicated exclusivity and distant signal rules.

The Commission's action constitutes merely another chapter in a 20-year history of attempts to define the legal framework within which the cable industry is to operate. The focus of this evolving history has shifted from time to time from the courts to the regulatory agencies to Congress and back again. And, unfortunately, we have yet to fashion a statutory and regulatory context which satisfies all elements of the complicated business triangle which constitutes the cable industry. This triangle consists of cable companies, broadcast stations, and creators of video programing.

My own interest in the issue arises out of my chairmanship of the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, which has for many years exercised jurisdiction over copyright law. Copyright law, of course, defines the basic property rights in the ephemeral programing which is the stock in trade of the broadcast and cable industries. One of the reasons there has been so much confusion over the law of cable television is that the technologies on which the industry is based developed faster than the law governing the rights of each of the parties in the business triangle which makes cable television possible. Copyright principles, for example, were until 1976, governed by an archaic statute enacted in 1909. Because of this legal void, and because the Supreme Court failed to stretch the old copyright law to fill the void, the Federal Communications Commission in 1972 moved to use its powers to stabilize the balance between the broadcast, program production, and cable industries. This was the genesis of the syndicated exclusivity and distant signal rules which the Commission voted last week to repeal.

Unfortunately, the Commission's action may have been premature and may have again thrown the cable industry into a legal state of confusion.

The 1976 Copyright Act for the first time defined the scope of copyright protection for television programing which is picked up off the air and transmitted to distant markets by cable systems. That act recognized the legal interest of the copyright owner in cable use of his programing, but assured the cable system operator of a compulsory license to use the copyrighted programing at a price set by statute without the permission of the copyright owner. Further, the copyright royalty tribunal was given limited powers to adjust the statutory rate schedule at periodic intervals.

These provisions of the 1976 Copyright Act were not written in a vacuum. They were written with a clear understanding that the rights of broadcasters, cable companies, and program owners were also limited by Federal Communications Commission rules. We specifically recognized this fact in the copyright law itself by authorizing the copyright royalty tribunal to review copyright royalties in the light of changes in FCC distant signal and exclusivity rules. We did not anticipate the complete abolition of FCC rules.

On March 13 of this year I wrote to the Honorable Charles Ferris, Chairman of the Federal Communications Commission, with a request that the Commission delay cable deregulation until the copyright royalty tribunal gains more experience in carrying out its responsibilities under the existing statutory structure, and until the Congress has had more time to consider changes in the 1976 Copyright Act.

The Commission did not observe my request, and, of course, they are not obligated to do so. However, the result has been renewed pressure to reopen the cable provisions of the 1976 Copyright Act.

While it is impossible to give full attention to the problems created by the FCC decision in what remains of the 96th Congress, I am sure that my colleagues will find themselves under vastly increased pressure to provide relief to those industries which make up the portion of the business triangle adversely affected by the FCC decision. While the FCC is empowered to lift the limitations of broadcast regulations which have encumbered the cable industry, only Congress can remove the statutory restrictions which limit the rights of copyright owners. The FCC decision of last week undoubtedly constituted only a first round in a renewed struggle to establish a permanent legal structure for the cable industry.●

SUPPORT THE AGRICULTURAL CONSERVATION PROGRAM (ACP)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, today we will finish consideration of H.R. 7591, the agricultural, rural development, and related agencies appropriations for 1981. While the whole bill is worthy of support and beneficial to agriculture, I would like to call special attention to the section dealing with the agricultural conservation program (ACP) which is so important to the future of our Nation.

The ACP program was established in 1936. Since that time, our Nation's farmers have donated their own funds, supplemented by Federal moneys, to carry out the conservation practices so necessary to the Nation's conservation effort. No group of individuals has more devotion, understanding, and concern for land than the American farmer. The ACP program helps in stabilizing the current agricultural land base while preserving it for future generations.

We have all experienced the frustrations of the petroleum shortage and anger at the high price of fuel. These experiences should make us more aware, more protective, and more appreciative of our great resources: Productive land and natural water. Unlike the mineral cartels which eventually will exhaust their resources, America's land of gold will always provide for us if treated with proper care and conservation.

In 1979, more than 300,000 farmers, ranchers, and woodland owners participated in the ACP program. Our goal should be to increase this participation. The Agricultural Appropriations Subcommittee, of which I am a member, voted to fund this project for conservation at $190 million for fiscal year 1981, the same level of funding at which it was authorized last year.

In a time of budget trimming, the subcommittee felt that our agricultural future could not be short changed. I urge my colleagues to support the funding level for the ACP program and support H.R. 7591.●

JAMES BROAD: OLYMPIC ATHLETE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

● Mr. HUGHES. Mr. Speaker, it is, indeed, my great pleasure to have the opportunity to publicly praise a worthy American. James Broad is a 22-year-old heavyweight boxer who has dedicated the past 3 years of his life to achieve the lofty goal of becoming a member of the U.S. Olympic team. That he has attained his goal is a credit to his talent and perservance. The effort he has put forth as well as the maturity of his attitude in accepting the disappointment of not being able to compete in the Moscow games was closely observed by the citizens of his hometown of Wildwood and will long be held out to young people as a source of inspiration.

So, Mr. Speaker, on behalf of the citizens of Wildwood, the State of New Jersey, and all Americans, I take great pride in commending James Broad, Olympian, for accomplishing this great personal goal, providing an excellent example for youth, and drawing favorable attention to his hometown and State. We are proud of James Broad and we thank him.

THE BIOMASS RESEARCH AND DEVELOPMENT ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

● Mr. FITHIAN. Mr. Speaker, I am pleased today to join with my distinguished colleague from Hawaii (Mr.

HEFTEL) in introducing the Biomass Research and Development Act of 1980.

The purpose of this bill is to provide a sense of urgency and direction to the Federal Government's chaotic and fragmented biomass research and development program. I will not pretend that the development of biomass energy will, by itself, solve the crucial economic and national security problems involved in our continued dependence on foreign oil, but the development of biomass energy is an important part of that solution.

According to the administration's domestic policy review of solar energy, wood, and other forms of biomass currently contribute between 1.8 and 2.4 quads of the Nation's 78 quad energy budget. By 2000, biomass is projected to contribute more energy than any other renewable source; up to 7 quads under the administration's "high base case."

The Harvard Business School's recent report, "Energy Future," concluded that well-developed, locally based biomass technologies could provide 6 percent of U.S. energy needs by the year 2000 rather than the 2 percent they provide today. Stressing the need for Federal support for small- and medium-scale biomass projects, the report concluded that a major Federal effort to familiarize foresters, farmers, and businessmen with the benefits and potential of biomass is now needed.

Finally, the Congressional Office of Technology Assessment's recent report, "Energy From Biological Processes," stated that:

> Depending on a variety of factors, including the availability of cropland, improved crop yields, the development of efficient conversion processes, proper resource management, and the level of policy support, bioenergy could supply as few as 4 to 6 Quads/yr, or as many as 12 to 17 Quads/year by 2000 (or up to 15 to 20 percent of current U.S. energy consumption).

Assuming, that biomass could contribute, conservatively, between 6.2 and 6.8 quads of energy by the turn of the century, biomass would supply as much energy as:

Eight percent of our total energy consumption last year;

One-third of our imported oil last year;

Half again as much energy as the President's original synthetic fuels program called for;

Nearly three times as much energy as was produced in Alaska's North Slope oil fields last year; or

More than twice as much energy as all the nuclear powerplants in the United States produced last year.

Recognizing the importance of at least one type of biomass energy development, President Carter announced a major alcohol fuel initiative on January 11, 1980. Many of its provisions were incorporated into the synfuels bill which was signed into law several weeks ago, and the windfall profit tax bill which became law earlier this year. These initiatives which included tax incentives for alcohol production and a proposed $1.2 billion Federal credit program, are aimed at a sixfold increase in fuel alcohol production capacity by the end of next year. While these initiatives are steps in the right direction, they fall short of meeting the need for development of a comprehensive biomass program.

Our current biomass plan focuses on conversion of agricultural commodities to ethanol using conventional fermentation and distillation technologies. Having studied the economics and energy efficiency of this type of alcohol fuel production at some length, I am satisfied that the facilities which will be built under the program will be both energy and cost efficient. Nevertheless, recent scientific developments in biomass conversion technology lead me to the conclusion that a moderate Federal investment in research and development could dramatically increase the efficiency and reduce the cost of alcohol and other biomass-based fuels.

Ironically, the President noted in his January 11 statement on alcohol fuels that biomass research and development, "is important for improving the competitive viability of alcohol fuels as well as the net energy balance." Unfortunately, the $9 million for alcohol production systems and the $3 million for fermentation research provided in the fiscal year 1981 budget request will not get the job done.

I note that efforts within the Department over the past several months to obtain supplemental funding for ethanol R. & D. have been consistently rejected by the Office of Management and Budget.

Finally, the administration as a whole has yet to formulate a plan for the demonstration and commercialization of other promising biomass energy technologies. As you can see from chart A, ethanol production from agricultural commodities represents only one small part of the enormous biomass resource base in this country. Indeed, the recently released Office of Technology Assessment report, "Energy From Biological Processes," noted that—

> The bioenergy conversion processes that would be most efficient in displacing large quantities of oil are direct combustion and gasification process heat and steam and home heat.

CHART A.—NEAR-TERM MARKET PENETRATION FOR BIOMASS

Technology	Sector	Fuel resource	Maximum potential energy impact by 1985 [1] [2]
Direct combustion to steam	Industry	Wood residues	1.7–2.0 quads per year.
Cogeneration	Industry/utility	do	.3–1.1 quads per year.
Direct combustion to electricity	Utility	do	.01– .2 quads per year.
Gasification	Industry	do	2.2–3.0 quads per year.
Direct combustion to space heat	Residential	do	.5–1.0 quads per year.
Anaerobic digestion	On-farm	Animal manure	.3– .4 quads per year.
Gasification	do	Agricultural residues	1.3–1.6 quads per year:
Fermentation	Industry/on-farm	Crops	3.0–4.7 billion gallons per year (ethanol equivalent).
Total			6.6–9.7

[1] Mitre, Technical Inputs to Phase II Commercialization Readiness Assessment, U.S. D.O.E. Draft, March 1979.

[2] Broadened Program Plan, U.S. DOE, Residue and Waste Fuels, February 1978.

We are confident that our bill will stimulate a lively interest in Congress in the vast potential of biomass based fuels, and urge cosponsorship of the measure by our colleagues in the House.●

GOVERNOR REAGAN'S REMARKS AT GOP CONVENTION

(Mr. RHODES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RHODES. Mr. Speaker, on Thursday, July 17, 1980, in Detroit, Mich., a great speech was delivered by Gov. Ronald Reagan who spoke to the 1980 Republican Convention and to millions of people throughout the world:

RONALD REAGAN'S ACCEPTANCE SPEECH

Mr. Chairman, delegates to this convention, my fellow citizens of this great nation:

With a deep awareness of the responsibility conferred by your trust, I accept your nomination for the presidency of the United States. I do so with deep gratitude.

I am very proud of our party tonight.

This convention has shown to all America a party united, with positive programs for solving the nation's problems; a party ready to build a new consensus with all those across the land who share a community of values embodied in these words: family, work, neighborhood, peace and freedom.

I know we have had a quarrel or two in our party, but only as to the method of attaining a goal. There was no argument about the goal.

As President, I will establish a liaison with the 50 governors to encourage them to eliminate, wherever it exists, discrimination against women. I will monitor federal laws to insure their implementation and to add statutes if they are needed.

More than anything else, I want my candidacy to unify our country; to renew the American spirit and sense of purpose.

I want to carry our message to every American, regardless of party affiliation, who is a member of this community of shared values.

Never before in our history have Americans been called upon to face three grave threats to our very existence, any one of which could destroy us.

We face a disintegrating economy, a weakened defense and an energy policy based on the sharing of scarcity.

The major issue of this campaign is the direct political, personal and moral responsibility of Democratic Party leadership—in the White House and in Congress—for this unprecedented calamity which has befallen us.

They tell us they have done the most that humanly could be done. They say that the United States has had its day in the sun; that our nation has passed its zenith.

They expect you to tell your children that the American people no longer have the will to cope with their problems; that the future will be one of sacrifice and few opportunities.

My fellow citizens, I utterly reject that view.

The American people, the most generous on earth, who created the highest standard of living, are not going to accept the notion that we can only make a better world for others by moving backwards ourselves.

Those who believe we can have no business leading the nation.

I will not stand by and watch this great country destroy itself under mediocre leadership that drifts from one crisis to the next, eroding our national will and purpose.

We have come together here because the American people deserve better from those to whom they entrust our nation's highest offices, and we stand united in our resolve to do something about it.

We need a rebirth of the American tradition of leadership at every level of government and in private life as well.

The United States of America is unique in world history because it has a genius for leaders—many leaders—on many levels.

But back in 1976, Mr. Carter said, "Trust me." And a lot of people did.

Now, many of those people are out of work. Many have seen their savings eaten away by inflation. Many others on fixed incomes, especially the elderly have watched helplessly as the cruel tax of inflation wasted away their purchasing power.

And, today, a great many who trusted Mr. Carter wonder if we can survive the Carter policies of national defense.

"Trust me" government asks that we concentrate our hopes and dreams on one man; that we trust him to do what's best for us.

My view of government places trust not in one person or one party, but in those values that transcend persons and parties.

The trust is where it belongs—in the people. The responsibility to live up to that trust is where it belong, in their elected leaders.

That kind of relationship, between the people and their elected leaders, is a special kind of compact; an agreement among themselves to build a community and abide by its laws.

Three-hundred and sixty years ago, in 1620, a group of families dared to cross a mighty ocean to build a future for themselves in a new world.

When they arrived in Plymouth, Massachusetts, they formed what they called a "compact"; an agreement among themselves to build a community and abide by its laws.

The single act—the voluntary binding together of free people to live under the law—set the pattern for what was to come.

A century and a half later, the descendants of those people pledged their lives, their fortunes and their sacred honor to found this nation. Some forfeited their fortunes and their lives; none sacrificed honor.

Fourscore and seven years later, Abraham Lincoln called upon the people of all America to renew their dedication and their commitment to a government of, for and by the people.

Isn't it once again time to renew our compact of freedom; to pledge to each other all that is best in our lives; all that gives meaning to them—for the sake of this, our beloved and blessed land?

Together, let us make this a new beginning. Let us make a commitment to care for the needy; to teach our children the values and the virtues handed down to us by our families; to have the courage to defend those values and the willingness to sacrifice for them.

Let us pledge to restore, in our time, the American spirit of voluntary service, of cooperation, of private and community initiative; a spirit that flows like a deep and mighty river through the history of our nation.

As your nominee, I pledge to restore to the federal government the capacity to do the people's work without dominating their lives.

I pledge to you a government that will not only work well, but wisely; its ability to act tempered by prudence, and its willingness to do good balanced by the knowledge that government is never more dangerous than when our desire to have it help us blinds us to its great power to harm us.

The first Republican President once said, "While the people retain their virtue and their vigilance, no Administration by any extreme of wickedness or folly can seriously injure the government in the short space of four years."

If Mr. Lincoln could see what's happened in these last three and a half years, he might hedge a little on that statement.

But, with the virtues that are our legacy as a free people and with the vigilance that sustains liberty, we still have time to use our renewed compact to overcome the injuries that have been done to America these past three and a half years.

First, we must overcome something the present Administration has cooked up: a new and altogether indigestible economic stew, one part inflation, one part high unemployment, one part recession, one part runaway taxes, one part deficit spending and seasoned by an energy crisis.

It's an economic stew that has turned the national stomach. It is as if Mr. Carter had set out to prove, once and for all, that economics is indeed a "dismal science."

Ours are not problems of abstract economic theory.

These are problems of flesh and blood; problems that cause pain and destroy the moral fiber of real people who should not suffer the further indignity of being told by the White House that it is all somehow their fault. We do not have inflation because—as Mr. Carter says—we have lived too well.

The head of a government which has utterly refused to live within its means and which has, in the last few days, told us that this year's deficit will be $60 billion, dares to point the finger of blame at business and labor, both of which have been engaged in a losing struggle just trying to stay even.

High taxes, we are told, are somehow good for us, as if, when the government spends our money, it isn't inflationary, but when we spend it, it is.

Those who preside over the worst energy shortage in our history tell us to use less, so that we will run out of oil, gasoline and natural gas a little more slowly.

Conservation is desirable of course, for we must not waste energy. But conservation is not the sole answer to our energy needs.

America must get to work producing more energy. The Republican program for solving economic problems is based on growth and productivity.

Large amounts of oil and natural gas lie beneath our land and off our shores, untouched because the present Administration seems to believe the American people would rather see more regulation, taxes and controls than more energy.

Coal offers great potential. So does nuclear energy produced under rigorous safety standards, it could supply electricity for thousands of industries and millions of jobs and homes.

It must not be thwarted by a tiny minority opposed to economic growth which often finds friendly ears in regulatory agencies for its obstructionist campaigns.

Make no mistake. We will not permit the safety of our people or our environmental heritage to be jeopardized, but we are going to reaffirm, that the economic prosperity of our people is a fundamental part of our environment.

Our problems are both acute and chronic, yet all we hear from those in positions of leadership are the same tired proposals for more government tinkering, more meddling and more control—all of which led us to this state in the first place.

Can anyone look at the record of this Administration and say, "Well done?" Can anyone compare the state of our economy when the Carter Administration took office with where we are today and say, "Keep up the good work"? Can anyone look at our reduced standing in the world today and say, "Let's have four more years of this?"

I believe the American people are going to answer these questions in the first week of November—and their answer will be, "No, we've had enough."

And, when the American people have spoken, it will be up to us—beginning next January 20th—to offer an Administration and congressional leadership of competence and more than a little courage.

We must have the clarity of vision to see the difference between what is essential and what is merely desirable; and then the courage to use this insight to bring our government back under control and make it acceptable to the people.

We Republicans believe it is essential that we maintain both the forward momentum of economic growth and the strength of the safety net beneath those in society who need help. We also believe it is essential that the integrity of all aspects of Social Security be preserved.

Beyond these essentials, I believe it is clear our federal government is overgrown and overweight. Indeed, it is time for our government to go on a diet.

Therefore, my first act as chief executive will be to impose an immediate and thorough freeze on federal hiring.

Then, we are going to enlist the very best minds from business, labor and whatever quarter to conduct a detailed review of every department, bureau and agency that lives by federal appropriation.

We are also going to enlist the help and ideas of many dedicated and hard-working government employees at all levels who want a more efficient government as much as the rest of us do. I know that many are demoralized by the confusion and waste they confront in their work as a result of failed and failing policies.

Our instructions to the groups we enlist will be simple and direct.

We will remind them that the government programs exist at the sufferance of the American taxpayer and are paid for with money earned by working men and women.

Any program that represents a waste of their money—a theft from their pocketbooks—must have that waste eliminated or the program must go—by executive order where possible; by congressional action where necessary.

Everything that can be run more effectively by state and local government we shall turn over to state and local government, along with the funding sources to pay for it.

We are going to put an end to the money merry-go-round where our money becomes Washington's money, to be spent by the states and cities only if they spend it exactly the way the federal bureaucrats tell them to.

I will not accept the excuse that the federal government has grown so big and powerful that it is beyond the control of any President, any Administration or Congress.

We are going to put an end to the notion that the American taxpayer exists to fund the federal government. The federal government exists to serve the American people and to be accountable to the American people. On January 20th, we are going to reestablish that truth.

Also on that date we are going to initiate action to get substantial relief for our taxpaying citizens and action to put people back to work.

None of this will be based on any new form of monetary tinkering or fiscal sleight-of-hand. We will simply apply to government the common sense we all use in our daily lives.

Work and family are at the center of our lives; the foundation of our dignity as a free people.

When we deprive people of what they have earned, or take away their jobs, we destroy their dignity and undermine their families. We cannot support our families unless there are jobs; and we cannot have jobs unless people have both money to invest and the faith to invest it.

These are concepts that stem from the foundation of an economic system that for more than 200 years has helped us master a continent, create a previously undreamed-of-propserity for our people and has fed millions of others around the globe.

That system will continue to serve us in the future or our government will stop ignoring the basic values on which it was built and stop betraying the trust and good will of the American workers who keep it going.

The American people are carrying the heaviest peacetime tax burden in our nation's history—and it will grow even heavier, under present law, next January. This burden is crushing our ability and incentive to save, invest and produce. We are taxing ourselves into economic exhaustion and stagnation.

This must stop. We must halt this fiscal self-destruction and restore sanity to our economic system.

I have long advocated a 30 percent reduction in income tax rates over a period of three years. This phased tax reduction would begin with a 10 percent "down payment" tax cut in 1981, which the Republicans in Congress and I have already proposed.

A phased reduction of tax rates would go a long way toward easing the heavy burden on the American people. But, we should not stop here.

Within the context of economic conditions and appropriate budget priorities during each fiscal year of my presidency, I would strive to go further.

This would include improvement in business depreciation taxes so we can stimulate investment in order to get plants and equipment replaced, put more Americans back to work and put our nation back on the road to being competitive in world commerce. We will also work to reduce the cost of government as a percentage of our Gross National Product.

The first task of national leadership is to set honest and realistic priorities in our policies and our budget and I pledge that my Administration will do that.

When I talk of tax cuts, I am reminded that every major tax cut in this century has strengthened the economy, generated renewed productivity and ended up yielding new revenues for the government by creating new investment, new jobs and more commerce among our people.

The present Administration has been forced by us Republicans to play follow-the-leader with regard to a tax cut. But, we must take with the proverbial "grain of salt" any tax cut proposed by those who have given us the greatest tax increase in our history.

When those in leadership give us tax increases and tell us we must also do with less, have they thought about those who have always had less—especially the minorities?

This is like telling them that just as they step on the first rung of the ladder of opportunity, the ladder is being pulled up. That may be the Democratic leadership's message to the minorities, but it won't be ours. Our message will be: We have to move ahead, but we're not going to leave anyone behind.

Thanks to the economic policies of the Democratic Party, millions of Americans find themselves out of work. Millions more have even had a fair chance to learn new skills, hold a decent job, seize the opportunity to climb the ladder and secure for themselves and their families a share in the prosperity of this nation.

It is time to put America back to work; to make our cities and towns resound with the confident voices of men and women of all races, nationalities and faiths bringing home to their families a decent paycheck they can cash for honest money.

For those without skills, we'll find a way to help them get skills.

For those without job opportunities, we'll stimulate new opportunities, particularly in the inner cities where they live.

For those who have abandoned hope, we'll restore hope and we'll welcome them into a great national crusade to make America great again.

When we move from domestic affairs and cast our eyes abroad, we see an equally sorry chapter in the record of the present Administration.

A Soviet combat brigade trains in Cuba, just 90 miles from our shores.

A Soviet army of invasion occupies Afghanistan, further threatening our vital interests in the Middle East.

America's defense strength is at its lowest ebb in a generation, while the Soviet Union is vastly outspending us in both strategic and conventional arms.

Our European allies, looking nervously at the growing menace from the East, turn to us for leadership and fail to find it.

And, incredibly more than 50 of our fellow Americans have been held captive for over eight months by a dictatorial foreign power that holds us up to ridicule before the world.

Adversaries large and small test our will and seek to confound our resolve, but the Carter Administration gives us weakness when we need strength; vacillation when the times demand firmness.

Why? Because the Carter Administration lives in the world of make-believe. Every day, it dreams up a response to that day's troubles, regardless of what happened yesterday and what will happen tomorrow. The Administration lives in a world where mistakes, even very big ones, have no consequence.

The rest of us, however, live in the real world. It is here that disasters are overtaking our nation without any real response from the White House.

I condemn the Administration's make-believe; its self-deceit and—above all—its transparent hypocrisy.

For example, Mr. Carter says he supports the volunteer army, but he lets military pay and benefits slip so low that many of our enlisted personnel are actually eligible for food stamps.

Re-enlistment rates drop and, just recently, after he fought all week against a proposal to increase the pay of our men and women in uniform, he helicoptered out to our carrier the USS *Nimitz*, which was returning from long months of duty. He told the crew that he advocated better pay for them and their comrades. Where does he really stand, now that he's back on shore?

I'll tell you where I stand. I do not favor a peacetime draft or registration, but I do favor pay and benefit levels that will attract and keep highly motivated men and women in our volunteer forces and an active reserve trained and ready for an instant call in case of an emergency.

An Annapolis graduate may be at the helm of the ship of state, but the ship has no rudder.

Critical decisions are made at times almost in Marx Brothers fashion, but who can laugh? Who was not embarrassed when the Administration handed a major propaganda victory in the United Nations to the enemies of Israel, our staunch Middle East ally for three decades, and then claimed that the American vote was a "mistake," the result of a "failure of communication" between the President, his Secretary of State and his UN ambassador?

Who does not feel a growing sense of unease as our allies, facing repeated instances of an amateurish and confused Administration, reluctantly conclude that America is unwilling or unable to fulfill its obligations as leader of the free world?

Who does not feel rising alarm when the question in any discussion of foreign policy is no longer, "Should we do something?" but "Do we have the capacity to do anything?"

The Administration which has brought us to this state is seeking your endorsement for four more years of weakness, indecision, mediocrity and incompetence.

No American should vote until he or she has asked: Is the United States stronger and more respected now than it was three-and-a-half years ago? Is the world today a safer place in which to live?

It is the responsibility of the President of the United States, in working for peace, to insure that the safety of our people cannot successfully be threatened by a hostile foreign power. As President, fulfilling that responsibility will be my No. 1 priority.

We are not a warlike people. Quite the opposite. We always seek to live in peace. We resort to force infrequently and with great reluctance—and only after we have determined that it is absolutely necessary.

We are awed—and rightly so—by the forces of destruction at loose in the world in this nuclear era.

But neither can we be naive or foolish. Four times in my lifetime America has gone to war, bleeding the lives of its young men into the sands of beachheads, the fields of Europe and the jungles and rice paddies of Asia.

We know only too well that war comes not when the forces of freedom are strong, but when they are weak. It is then that tyrants are tempted.

We simply cannot learn these lessons the hard way again without risking our destruction.

Of all the objectives we seek, first and foremost is the establishment of lasting world peace. We must always stand ready to negotiate in good faith, ready to pursue any reasonable avenue that holds forth the promise of lessening tensions and furthering the prospects of peace.

But let our friends and those who may wish us ill take note: the United States has an obligation to its citizens and to the people of the world never to let those who would destroy freedom dictate the future course of human life on this planet.

I would regard my election as proof that we have renewed our resolve to preserve world peace and freedom. This nation will once again be strong enough to do that.

This evening marks the last step—save one—of a campaign that has taken Nancy and me from one end of this great land to the other, over many months and thousands and thousands of miles.

There are those who question the way we choose a President; who say that our process imposes difficult and exhausting burdens on those who seek the office. I have not found it so.

It is impossible to capture in words the splendor of this vast continent which God has granted as our portion of his creation. There are no words to express the extraordinary strength and character of this breed of people we call Americans.

Everywhere we have met thousands of Democrats, Independents and Republicans from all economic conditions and walks of life, bound together in that community of shared values of family, work, neighborhood, peace and freedom.

They are concerned, yes, but they are not frightened. They are disturbed, but not dismayed. They are the kind of men and women Tom Paine had in mind when he wrote—during the darkest days of the American Revolution—"We have it in our power to begin the world over again."

Nearly 150 years after Tom Paine wrote those words, an American President told the generation of the Great Depression that it had a "rendezvous with destiny." I believe this generation of Americans today also has a rendezvous with destiny.

Tonight, let us dedicate ourselves to renewing the American compact. I ask you not simply to "trust me," but to trust your values—our values—and to hold me responsible for living up to them.

I ask you to trust that American spirit which knows no ethnic, religious, social, political, regional or economic boundaries; the spirit that burned with zeal in the hearts of millions of immigrants from every corner of the earth who came here in search of freedom.

Some say that spirit no longer exists. But I have seen it—I have felt it—all across the land; in the big cities, the small towns and in rural America. The American spirit is still there, ready to blaze into life if you and I are willing to do what has to be done; the practical, down-to-earth things that will stimulate our economy, increase productivity and put America back to work.

The time is now to limit federal spending; to insist on a stable monetary reform and to free ourselves from imported oil.

The time is now to resolve that the basis of a firm and principled foreign policy is one that takes the world as it is and seeks to change it by leadership and example; not by lecture and harangue.

The time is now to say that while we shall seek new friendships and expand and improve others, we shall not do so by breaking our word or casting aside old friends and allies.

And, the time is now to redeem promises once made to the American people by another candidate, in another time and another place.

He said, "For three long years I have been going up and down this country preaching that government—federal, state and local—costs too much. I shall not stop that preaching. As an immediate program of action, we must abolish useless offices. We must eliminate unnecessary functions of government. . . .

"We must consolidate subdivisions of government and, like the private citizen, give up luxuries which we can no longer afford.

"I propose to you, my friends, and through you that government of all kinds, big and little, be made solvent and that the example be set by the President of the United States and his Cabinet."

So said Franklin Delano Roosevelt in his acceptance speech to the Democratic National Convention in July 1932.

The time is now, my fellow Americans, to recapture our destiny, to take it into our own hands. But, to do this will take many of us, working together. I ask you tonight to volunteer your help in this cause so we can carry out message throughout the land.

Yes, isn't now the time that we, the people, carried out these unkept promises? Let us pledge to each other and to all America on this July day 48 years later, we intend to do just that.

I have thought of something that is not a part of my speech and I'm worried over whether I should do it.

Can we doubt that only a divine providence placed this land, this island of freedom, here as a refuge for all those people in the world who yearn to breathe free: Jews and Christians enduring persecution behind the Iron Curtain, the boat people of Southeast Asia, of Cuba and of Haiti, the victims of drought and famine in Africa, the freedom fighters of Afghanistan and our own countrymen held in savage captivity.

I'll confess that I've been a little afraid to suggest what I'm going to suggest—I'm more afraid not to—that we begin our crusade joined together in a moment of silent prayer. God Bless America.●

TRIBUTE TO THE LATE BILL GAUL

(Mr. O'NEILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, I think it is fitting that the gentleman from Kentucky took the well on Monday to inform the House of the loss of one of its most valuable committee employees. As Members know, the legislative process of this body depends upon the "grassroots" work of the committees; and the success of a committee depends in large measure on the quality of its professional staff that works quietly behind the scenes to develop the issues and perfect the language that results in the legislation. Bill Gaul exemplified the highest quality of professionalism in his committee work. He knew his subjects and the procedures required to secure their enactment, and many of the higher education measures enacted in the last 10 years reflect his participation on the Subcommittee of Higher Education of the Committee on Education and Labor. His expertise extended to programs for vocational rehabilitation, arts and humanities, child nutrition, Head Start, and early childhood education. Whenever bills on any of these subjects were brought to the floor of the House, Members on both sides of the aisle relied on his judgment and professional advice with respect to the intracacies of the bills before the Committee of the Whole.

I have heard many comments about the special qualities of his role as husband and father of eight children and know of the deep faith that sustained him and his family during the period of his illness.

His death constitutes a real loss to the House; and as the Speaker, I know I reflect the sense of loss of many Members and of a host of friends among the staff of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MIKULSKI (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. BAFALIS (at the request of Mr. RHODES), for today, after 6:30 p.m. and tomorrow on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EVANS of the Virgin Islands) to revise and extend their remarks and include extraneous material:)

Mrs. HECKLER, for 5 minutes, today.

Mr. LEACH of Iowa, for 30 minutes, today.

Mr. EVANS of the Virgin Islands, for 20 minutes, August 1.

Mr. ASHBROOK, for 10 minutes, today.

(The following Members (at the request of Mr. GARCIA), to revise and extend their remarks and include extraneous matter:)

Mr. BEILENSON, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. MICA, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. FITHIAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RHODES, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,179.

Mr. GRASSLEY, to insert remarks at the end of Skelton amendment in support of Skelton amendment in the Committee of the Whole today.

Mr. VENTO, and to include extraneous matter, in the Committee of the Whole today.

(The following Members (at the request of Mr. EVANS of the Virgin Islands) and to include extraneous material:)

Mr. ROUSSELOT.

Mr. BROWN of Ohio.

Mr. EVANS of Delaware.

Mr. GRADISON.

Mr. PORTER.

Mr. JOHNSON of Colorado.

Mr. LEACH of Iowa.

Mr. DERWINSKI in three instances.

Mr. SHUSTER in two instances.

Mr. FISH.

Mr. WILLIAMS of Ohio.

Mr. DUNCAN of Tennessee.

Mr. FINDLEY.

Mr. PAUL.

Mr. ASHBROOK in three instances.

Mr. QUAYLE.

Mr. ROTH.

Mr. YOUNG of Alaska.

Mr. GOLDWATER.
Mr. KEMP.
Mr. HANSEN.

(The following Members (at the request of Mr. GARCIA) and to include extraneous matter:)

Ms. MIKULSKI.
Mr. WOLFF in two instances.
Mr. SKELTON.
Mr. UDALL.
Mr. HAMILTON.
Mr. ENGLISH.
Mr. BONER of Tennessee.
Mr. FAZIO.
Mr. STARK.
Mr. BONKER.
Mr. STUDDS.
Mr. JOHN L. BURTON.
Mr. HOWARD.
Mr. GRAY.
Mr. BLANCHARD in two instances.
Mr. SOLARZ.
Mr. MITCHELL of Maryland.
Mr. HARRIS in three instances.
Mr. VANIK.
Mr. MOTTL.
Mr. DODD in two instances.
Mr. WON PAT.
Mr. PATTERSON.
Mr. LEHMAN.
Mr. WEISS.
Mr. JENRETTE.
Mr. HALL of Ohio.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

ENROLLED BILL SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on July 29, 1980, present to the President, for his approval, bills of the House of the following titles:

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters; and

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

ADJOURNMENT

Mr. McKAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Thursday, July 31, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4939. A letter from the Secretary of Energy, transmitting the first semiannual report on the alternative fuels production program, pursuant to title II of Public Law 96–126; to the Committee on Appropriations.

4940. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a study has been conducted of the custodial services function at the Air Force Academy, Colorado, and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4941. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Saudi Arabia (Transmittal No. 80–74), pursuant to section 813, of Public Law 94–106; to the Committee on Armed Services.

4942. A letter from the Secretary of Education, transmitting proposed final regulations to govern the college housing program, pursuant to section 431(d) (1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4943. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 80–74), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4944. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to Tunisia (Transmittal No. 80–85), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4945. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting reports on the financial condition of the judicial retirement system and the judicial survivors' annunities system, pursuant to Public Law 95–595; to the Committee on Government Operations.

4946. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4947. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Interior and Insular Affairs.

4948. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting proposed regulations to exempt new small industrial boiler fuel facilities from the incremental pricing program required by section 201 of the Natural Gas Policy Act of 1978, pursuant to section 206(d) of the act; to the Committee on Interstate and Foreign Commerce.

4949. A letter from the Administrator of General Services, transmitting a revised prospectus proposing the acquisition of space by lease for the consolidation of the Securities and Exchange Commission in Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4950. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Washington, D.C., for the partial consolidation of the headquarters of the Department of Education and to provide expansion space for the National Aeronautics and Space Administration and the International Communications Agency, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4951. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease for the Merit Systems Protection Board in Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4952. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition by lease of space for a Veterans Administration outpatient clinic in Los Angeles, Calif., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4953. A letter from the Comptroller General of the United States, transmitting a report on energy health and safety regulation (EMD–80–52, July 24, 1980); jointly, to the Committees on Government Operations, Education and Labor, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 6550. A bill to amend Public Law 90–553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes; with amendment (Rept. No. 96–1208). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5003. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United Sates for the Ramah Band of the Navajo Tribe (Rept. No. 96–1209). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 6806. A bill to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 regarding the treatment of public utility property and to provide a transitional rule with respect thereto; with amendment (Rept. No. 96–1210). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARNES: Committee on the Judiciary. H.R. 5160. A bill to amend the act entitled "An act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson"; with amendment (Rept. No. 96–1211). Referred to the Committee of the Whole House.

SUBSEQUENT ACTION ON A BILL INITIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X, the following actions were taken by the Speaker:

The Committee on Interior and Insular Affairs consideration and the Committee on

Interstate and Foreign Commerce consideration of the bill (H.R. 7418) to establish a research, development, and demonstration program for the disposal of radioactive wastes, extended for additional periods ending not later than August 22, 1980, and August 27, 1980, respectively.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McCORMACK (for himself, Mr. Fuqua, and Mr. Wydler):

H.R. 7865. A bill to provide for an accelerated and coordinated program of light water nuclear reactor safety research, development and demonstration, to be carried out by the Department of Energy; to the Committee on Science and Technology.

By Mr. BEILENSON:

H.R. 7866. A bill to prohibit the use of master meters for gas and electricity supplied to new buildings having more than one unit, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 7867. A bill to provide flexibility in administration of the dairy price support program to forestall further increases in retail and wholesale dairy prices as a result of price support operations, to avoid unnecessary Government acquisitions of surplus dairy products, thus reducing costs to the taxpayer, and to preserve the integrity of the dairy price support program; to the Committee on Agriculture.

By Mr. FORD of Michigan (for himself, Mr. Perkins, Mr. Hawkins, Mr. Clay, Mr. Dingell, Mr. Murphy of Pennsylvania, Ms. Mikulski, Mr. Moffett, Mr. Conyers, Mr. Sabo, and Mr. Ratchford):

H.R. 7868. A bill to amend the Farm Labor Contractor Registration Act of 1963; to the Committee on Education and Labor.

By Mr. FRENZEL:

H.R. 7869. A bill to authorize a feasibility study of a second lock at locks and dam 26, Mississippi River, Alton, Ill., and Missouri; to the Committee on Public Works and Transportation.

By Mr. GIBBONS:

H.R. 7870. A bill to amend the Internal Revenue Code of 1954 to allow individuals a 50-percent credit for their contributions to individual retirement plans and to otherwise encourage, expand, and simplify independent individual savings for retirement; to the Committee on Ways and Means.

H.R. 7871. A bill to amend the Internal Revenue Code of 1954 to liberalize the earned income credit; to the Committee on Ways and Means.

H.R. 7872. A bill to amend the Internal Revenue Code of 1954 to exclude the first $75,000 a year of earned income for an American working abroad, and for other purposes; to the Committee on Ways and Means.

By Mr. HUGHES:

H.R. 7873. A bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol; to the Committee on the Judiciary.

By Mr. PAUL:

H.R. 7874. A bill to repeal the privilege of banks to create money; to the Committee on Banking, Finance and Urban Affairs.

H.R. 7875. A bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for individuals and businesses in depressed areas, and for other purposes; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 7876. A bill to amend title 39 of the United States Code to prohibit the Postal Service from limiting regular daily mail delivery to fewer than 6 days each week, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LONG of Louisiana:

H.R. 7877. A bill to provide a credit against crude oil windfall profit tax for royalty owners; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 7878. A bill to authorize the transfer of certain naval vessels; to the Committee on Armed Services.

By Mr. ROUSSELOT:

H.R. 7879. A bill to amend title II of the Social Security Act to prevent payment, in certain cases, of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction, and to deem convicted felon to have refused rehabilitation services under certain circumstances; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 7880. A bill to amend the Internal Revenue Code of 1954 to make permanent certain rules relating to travel expenses of State legislators; to the Committee on Ways and Means.

By Mr. ASHBROOK:

H.R. 7881. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans; to the Committee on Education and Labor.

H.R. 7882. A bill to consolidate and simplify the administration of Federal aid for elementary and secondary education authorized by the Elementary and Secondary Education Act of 1965, as amended, in order to eliminate unnecessary paperwork and undue Federal interference in our schools, and for other purposes; to the Committee on Education and Labor.

By Mr. CLAY:

H.R. 7883. A bill to provide that no Federal funds are authorized for, or may be apportioned, expended, or obligated for, construction of the North South Distributor Freeway in St. Louis, Mo.; to the Committee on Public Works and Transportation.

By Mr. HEFTEL (for himself and Mr. Fithian):

H.R. 7884. A bill to provide for an accelerated program of biomass energy research and development, and for other purposes; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. FITHIAN (for himself and Mr. Heftel):

H.R. 7885. A bill to provide for an accelerated program of biomass energy research and development, and for other purposes; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. PETRI:

H.R. 7886. A bill to amend the Internal Revenue Code of 1954 to treat adoption expenses in the same manner as medical expenses; to the Committee on Ways and Means.

By Mr. ROBERTS (by request):

H.R. 7887. A bill to amend title 38 of the United States Code to authorize the Administrator to approve the release of name and address information from VA records systems for the purpose of bona fide research; to the Committee on Veterans' Affairs.

By Mr. VANDER JAGT (for himself, Mr. Corman, and Mr. Conable):

H.R. 7888. A bill to amend section 119 of the Internal Revenue Code of 1954 to provide that meals furnished by an employer to an employee may be considered furnished for the convenience of the employer if the meals are furnished on the business premises of the employer generally, except under certain conditions whereby meals may be furnished off the business premises of the employer; to the Committee on Ways and Means.

By Mr. DODD (for himself, and Ms. Holtzman):

H. Con. Res. 394. Concurrrent resolution urging the President to instruct the U.S. delegation to the Madrid Conference on Security and Cooperation in Europe to request that the case of Raoul Wallenberg be placed on the agenda of the Conference; to the Committee on Foreign Affairs.

By Mr. SEIBERLING:

H. Con. Res. 395. Concurrent resolution expressing the sense of the Congress with respect to the well-being of the American hostages in Iran; to the Committeeee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

516. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to the Kisatchie National Forest; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 7889. A bill for the relief of Rose Fu (a/k/a Chung Lok); to the Committee on the Judiciary.

By Mr. LEDERER:

H.R. 7890. A bill for the relief of Eduardo B. Manuyag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 365: Mrs. Fenwick.

H.R. 654: Mr. Derrick and Mr. Jacobs.

H.R. 1180: Mr. Robert W. Daniel, Jr., Mr. Mollohan, and Mr. Daniel B. Crane.

H.R. 3895: Mrs. Chisholm.

H.R. 4576: Mr. Cheney, Mr. Quayle, Mr. Evans of Georgia, Mr. Bob Wilson, Mr. Roe, Mrs. Holt, Mr. McClory, Mr. Boner of Tennessee, Mr. Edwards of Alabama, Mr. Harsha, Mr. Erdahl, Mr. Winn, Mr. Bowen, Mr. Pickle, Mr. Jenkins, Mr. Howard, Mr. English, Mr. Symms, Mr. Andrews of North Carolina, Mr. Derwinski, Mr. Anthony, Mr. Synar, Mr. Stockman, Mr. Foley, Mr. Beard of Tennessee, Mr. Kazen, Mr. Alexander, Mr. Jeffries, Mr. Brown of Ohio, Mr. McKay, Mr. Roth, Mr. Moorhead of California, Mr. McCormack, Mr. Lee, Mr. Satterfield, Mr. Breaux, Mr. Fish, Mr. Glickman, and Mr. Michel.

H.R. 6008: Mrs. Chisholm.

H.R. 6034: Mr. Luken, Mr. Lundine, Ms. Mikulski, Mr. Moffett, and Mr. Scheuer.

H.R. 6257: Mr. Stangeland.

H.R. 6380: Mr. Cheney and Mr. Heftel.

H.R. 6540: Mr. Oberstar, Mr Fithian, and Mr. Applegate.

H.R. 6895: Mr. Forsythe.

H.R. 6964: Mr. Anderson of California.

H.R. 7085: Mr. Quayle.

H.R. 7127: Mr. Weaver, Mr. Deckard, Mr. Bafalis, and Mr. Andrews of North Dakota.

H.R. 7286: Mr. Applegate.

H.R. 7307: Mr. Luken.

H.R. 7332: Mr. Bedell and Mr. Oberstar.

H.R. 7594: Mr. Frenzel.

H.R. 7596: Mr. Jeffords and Mr. Charles Wilson of Texas.

H.R. 7643: Mr. Mollohan, Mr. Won Pat, and Mr. Charles Wilson of Texas.

H.R. 7676: Mr. Stump.

H.R. 7688: Mr. Jim Leach of Iowa, Mr. Ottinger, Mr. Jeffords, Mr. Lloyd, Mr. Nolan, Mr. Nichols, Mr. Barnes, Mr. Moakley, Mr. Murphy of New York, Mr. Mottl, Mr. Bingham, Mr. Udall, Mr. Wolpe, and Mr. Boland.

H.R. 7745: Mr. Murphy of Pennsylvania, Mr. Young of Alaska, Mr. Yatron, Mr. Rahall, Mr. Duncan of Tennessee, Mr. Wampler, Mr. Clinger, Mr. Bevill, Mr. Musto, Mr. Murtha, Mr. Kogovsek, and Mr. Mollohan.

H.R. 7787: Mr. Scheuer, Mr. Young of Missouri, Mr. Skelton, Mr. Ford of Tennessee, Mr. Volkmer, Mr. Winn, Mr. Coleman, Mr. Drinan, Mr. Evans of the Virgin Islands, Mr. Studds, Mr. Rangel, Mr. Pepper, Mr. Simon, Mr. Nolan, Mr. Garcia, Mrs. Chisholm, Mr. Watkins, Mr. Lederer, Mr. Bethune, Mr. Hammerschmidt, Mr. Fish, Mr. Pickle, Mr. Horton, Ms. Mikulski, and Mr. Lloyd.

H.J. Res. 69: Mr. Spence and Mr. Fary.

H.J. Res. 311: Mr. Luken and Mr. Moorhead of Pennsylvania.

H.J. Res. 511: Mr. Stockman, Mr. Young of Alaska, Mr. Thomas, Mr. de la Garza, Mrs. Fenwick, Mr. Bob Wilson, Mr. Regula, Mr. Stump, Mr. Jones of North Carolina, Mr. Hansen, Mr. Montgomery and Mr. Latta.

H.J. Res. 575: Mr. Ambro and Mr. Gilman.

H. Con. Res. 385: Mr. McHugh.

H. Res. 745: Mr. Clinger.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

402. By the SPEAKER: Petition of the Democratic Executive Committee of Jefferson County, Ohio, relative to coal; to the Committee on Interstate and Foreign Commerce.

403. Also, petition of the Democratic Executive Committee of Jefferson County, Ohio, relative to steel; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7765

By Mr. LATTA:

—In title II (relating to Committee on Education and Labor), strike out section 207 (page 8).

In title III (relating to Committee on Interstate and Foreign Commerce), strike out the following sections:

331 (page 25)
332 (page 28)
334 (page 35)
335 (page 38)
336 (page 39)
337 (page 39)

In title VIII (relating to Committee on Ways and Means; expenditure reductions), strike out the following sections:

802 (page 166)
804 (page 175)
805 (page 176)
806 (page 176)
807 (page 182)
808 (page 187)
809 (page 187)
817 (page 196)
819 (page 197)
820 (page 197)
823 (page 201)
824 (page 202)
830 (page 208)
833 (page 213)
846 (page 218)
850 (page 224)
851 (page 224)
853 (page 226)
866 (page 268)
868 (page 282)

By Mr. MICHEL:

—On page 420, after line 23, insert the following new title:

TITLE X—CEILING ON FISCAL YEAR 1981 EXPENDITURES

Sec. 1001. Expenditures and net lending during the fiscal year ending September 30, 1981, under the budget of the United States Government shall not exceed the total outlays as finally agreed upon by Congress in the second concurrent resolution on the Budget, as defined by section 310(a) of Public Law 93-344, for Fiscal Year 1981.

Sec. 1002. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditures and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending September 30, 1981, within the limitation specified in section 1.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from appropriations and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget), except that—

(1) no reservations shall be made from amounts available for interest, and payments from social insurance trust funds, and

(2) no reservations from authority available for any functional category or subfunctional category shall have the effect of reducing the total amount available for any specific program or activity within that particular category by a percentage which is more than 10 percentage points higher than the net percentage of the overall reduction in expenditures and net lending resulting from all reservations made as required by subsection (a).

(c)(1) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of the Impoundment Control Act (Public Law 93-344) unless made in accordance with the proportional reservation and percentage requirements of subsection (b).

(2) In order to assist the Congress in the exercise of its functions under this title with respect to reservations made to carry out the provisions of subsection (a), the Comptroller General shall review each such reservation and inform the House of Representatives and the Senate as promptly as possible whether or not, in his judgment, such reservation was made in accordance with the requirements of subsection (b).

(d) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation of continuation of which has been authorized by Congress.

Sec. 1003. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

H.R. 7831

By Mr. ANDERSON of California:

—Page 13, after line 14, insert the following:

BICYCLE PROGRAMS

For carrying out the provisions of subsection (c) of section 141 of the Surface Transportation Assistance Act of 1978, $5,000,000 out of the Highway Trust Fund, and $5,000,000 out of any other money in the Treasury not otherwise appropriated.

By Mr. MILLER of Ohio:

—Page 34, after line 19, add:

Sec. 318. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

EXTENSIONS OF REMARKS

UNITED HELLENIC AMERICAN CONGRESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● **Mr. DERWINSKI. Mr. Speaker, I would like to direct the Members' attention to several resolutions that were adopted by the executive committee of the United Hellenic American Congress (UHAC) at their meeting of June 14. These resolutions pertain to key issues that are of special interest to the Greek American community, such as Cyprus, Greece, the Patriarchate, the hostages in Iran, and the Olympic games.**

Mr. Andrew A. Athens, national chairman of the UHAC, is an outstanding leader of this organization, and has been responsible for the vitality and effective representation of the special concerns of the millions of Americans of Greek origin.

Therefore, I insert these very pertinent resolutions at this point.

UNITED HELLENIC AMERICAN CONGRESS EXECUTIVE COMMITTEE

RESOLUTION

Whereas, Turkey has illegally invaded and occupied the independent republic of Cyprus since 1974; and

Whereas, United Nations Resolution #3212, the Council of Europe, Amnesty International, and other respected and recognized international bodies have all condemned Turkey for her violations of human rights and for her continued and illegal occupation and colonization of the independent republic of Cyprus; and

Whereas, the Congress of the United States of America has on numerous occasions called upon Turkey to withdraw its troops and colonists from Cyprus and has supported the territorial integrity, sovereignty, and independence of the republic of Cyprus; and

Whereas, Turkey has been totally uncooperative in United Nations efforts to locate the missing 2,100 Greek-Cypriots; and

Whereas, Turkey continues to maintain an occupation army holding 40% of the territory of the republic of Cyprus and refusing to permit 200,000 Greek-Cypriot refugees to return to their homes and properties in violation of international law;

Whereas, We are greatly concerned that the Turkish occupation forces in occupied Cyprus prohibit Greek Orthodox worship on a regular basis and have desecrated Greek Orthodox Churches; now, therefore, be it

Resolved, by the members of the executive committee of the United Hellenic American Congress that the illegal invasion, continued occupation, and colonization of the republic of Cyprus by Turkey is condemned; and, be it further

Resolved, That the Secretary General of the United Nations, the President and Secretary of State of the United States of America, and the Chairman of the appropriate Congressional Committees be urged to take all steps within their power to bring about a peaceful resolution of the tragic situation that confronts the people of Cyprus in accordance with the principles of international law, the United Nations Charter, and United Nations Resolution No. 3212; and, be it further

Resolved, that a suitable copy of this resolution be presented to the Secretary General of the United Nations, the President and Secretary of State of the United States of America, and the Chairman of the appropriate committees of the United States Congress.

Adopted by the members of the Executive Committee of the United Hellenic American Congress this 14th day of June, 1980 at Chicago, Illinois.

RESOLUTION

Whereas, Turkey has since her illegal invasion and occupation of Cyprus in 1974, created the army of the Aegean to confront and threaten Greece and the Greek Islands in the Aegean; and

Whereas, Turkey has made provocations against Greece in the Aegean, both with respect to the control over air space and with respect to seabed mineral rights on the continental shelf of Greece and the Greek Islands in the Aegean; and

Whereas, Turkey has refused to submit the issues relating to her new claims in the Aegean to binding international resolution by the World Court, but instead insists upon exploiting these issues as political matters thereby heightening the level of tension in the area; and

Whereas, Turkey has objected to the reintegration of Greece with the unified NATO military command for purely political purposes unrelated to the best interests of NATO; now, therefore be it

Resolved, by the members of the executive committee of the United Hellenic American Congress that the Turkish provocations against Greece in the Aegean, the refusal of Turkey to submit its claims to the World Court, and the objections to the reintegration of Greece with the NATO military command by Turkey are condemned; and, be it further

Resolved, That the Secretary General of the United Nations, the President and Secretary of State of the United States of America, the Foreign Ministers of all NATO countries, and the Chairman of the appropriate Congressional Committees be urged to take all steps within their power to bring about a peaceful resolution of the claims of Turkey in the Aegean in accordance with the principles of international law and that satisfactory arrangements be made for the reintegration of Greece within the military command of NATO with or without the consent of Turkey; and, be it further

Resolved, That a suitable copy of this resolution be presented to the Secretary General of the United Nations, the President and Secretary of State of the United States of America, the Foreign Ministers of the NATO countries, and the Chairman of the appropriate Congressional Committees of the United States Congress.

Adopted by the members of the Executive Committee of the United Hellenic American Congress this 14th day of June, 1980 at Chicago, Illinois.

RESOLUTION

Whereas, Iran has illegally seized the American embassy in Tehran and taken its personnel hostage; and

Whereas, Iran has been ordered by the International Court of Justice and has been called upon by the overwhelming majority of the members of the Security Council and General Assembly of the United Nations to release the American hostages; and

Whereas, The taking and holding of diplomatic personnel as hostages violates the laws of Islam as well as international law and acceptable standards for the conducting of international relations; and

Whereas, No useful purpose can be served by the continued detention of the American hostages in view of the worldwide attention that has already been given to the grievances which the militant students and the Iranian government claim to have against the United States government and the former Shah; now, therefore, be it

Resolved, by the members of the executive committee of the United Hellenic American Congress that the illegal seizure of the American embassy and the taking and continued holding of its personnel as hostages is condemned; and, be it further

Resolved, That the Secretary General of the United Nations, the representatives of the government of Iran, the President and Secretary of State of the United States of America, and the Chairman of the appropriate Congressional Committees be urged to take all steps within their power to bring about a peaceful resolution of the tragic situation that confronts the American hostages in Iran in accordance with the rulings of the World Court, the principles of international law, and the United Nations Charter and resolutions; and, be it further

Resolved, That a suitable copy of this resolution be presented to the Secretary General of the United Nations, to the representatives of the government of Iran, to the President and Secretary of State of the United States of America, and to the Chairman of the appropriate committees of the United States Congress.

Adopted by the members of the Executive Committee of the United Hellenic American Congress this 14th day of June, 1980 at Chicago, Illinois.

RESOLUTION

Whereas, The modern Olympic Games were reestablished and the first modern Olympics were held in Athens, Greece; and

Whereas, The Olympic Games have become the subject of political exploitation and such extravagant expenses that the true Olympic ideals are threatened; and

Whereas, Greece has indicated a willingness and ability to provide a permanent home for the Olympic Games where they may be held in the true spirit of their founding; now, therefore, be it

Resolved, by the members of the executive committee of the United Hellenic American Congress that the Olympic Games be permanently held in Greece where they may be conducted in a manner and in an atmosphere conducive to the true and ancient ideals of the Olympic movement; and, be it further

Resolved, That the appropriate representatives of the United States of America, Greece, the International Olympic Committee, and the United States Olympic Commit-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tee be advised of this resolution; and be it further

Resolved, That a suitable copy of this resolution be presented to the aforesaid authorities.

Adopted by the members of the Executive Committee of the United Hellenic American Congress this 14th day of June, 1980 at Chicago, Illinois.

RESOLUTION

Whereas, The Greek Orthodox Archdiocese of North and South America is an eparchy of the most Holy, Apostolic, and Ecumenical Patriarchate of Constantinople; and

Whereas, The Ecumenical Patriarchate is by canonical and historical right the unending source of the spiritual life and inspiration of the Orthodox faithful who comprise this Archdiocese; and

Whereas, The ability of the Ecumenical Patriarchate to carry on its holy mission, to serve the spiritual needs of the Orthodox faithful in Turkey, to guide, nurture, and edify the religious and ethical life of the Orthodox faithful outside of Turkey and to continue its valued historic and greatly needed leadership, inspiration and assistance to the cooperative efforts of other Christian Churches and other religions for greater mutual understanding and actions are all seriously hampered and impeded by the onerous and crippling restraints imposed by the Turkish government upon its basic and fundamental activities; and

Whereas, The continued harassment of the Greek Orthodox minority living in Turkey in general and the religious leaders of the Greek Orthodox Church in particular has resulted in a reduction in the number of Greek Orthodox Communicants during the past twenty-five years from in excess of 100,000 to less than 3,500; and

Whereas, The World Council of Churches and other international bodies have documented the systematic denial of religious freedom to minorities in Turkey in general and the harassment and repression of the Greek Orthodox Church in Turkey in particular; and

Whereas, Amnesty International has recently issued a report documenting the fact that torture is now "widespread and systematic" in Turkey; now, therefore, be it

Resolved, by the members of the executive committee of the United Hellenic American Congress that we do hereby again declare our undying and unswerving allegiance to the Ecumenical Patriarchate of Constantinople; and, be it further

Resolved, That we do hereby again call upon the United Nations, the World Council of Churches, the National Council of Churches, the National Conference of Christians and Jews, the Reverend Patriarchs and Archbishops of all other Orthodox jurisdictions, His Holiness Pope John Paul II, His Grace, the Archbishop of Canterbury, the presiding authorities and judicatories of all other Christian Churches, the American Council of Jewish Synagogues and the International Organization of Human Rights to be convened in Madrid to earnestly concern themselves with the unjustifiable and devastating restraints, restrictions, and harassments imposed by the Turkish Government upon the Ecumenical Patriarchate of Constantinople and the Greek Orthodox minority living in Turkey and to use to the fullest extent possible their good offices with the Turkish Government to end such restrictions, constraints, and harassment and to allow the Ecumenical Patriarchate of Constantinople and the Greek Orthodox minority in Turkey to function and live in peace and without interference.

Adopted by the members of the Executive Committee of the United Hellenic American Congress this 15th day of June, 1980 at Chicago, Illinois.●

KEEP YOUR EYES OPEN

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. JOHNSON of Colorado. Mr. Speaker, the process of registering our young men for the draft continues and it is proper that we continue to focus on the foolishness, self-deception, and danger inherent in this process.

Our young people, and indeed all those who care about them, should be aware that registration for the draft inevitably will lead to the draft itself. This warning is well expressed by the following editorial published by the Daily Reporter Herald in Loveland, Colo. This editorial, published July 23, 1980, is an insightful analysis of this ill-conceived, cynical process being carried out at the Nation's post offices.

I commend it to my colleagues.

GO AHEAD AND REGISTER—BUT KEEP EYES OPEN

Young men unfortunate enough to have been born in 1960 or 1961 have been lining up at their local Post Offices this week, filling out registration forms for the Selective Service. Although it's only registration at this time, it should be clear to everyone that it's probably only the first step toward resumption of the draft, which was halted five years ago during the debacle of Vietnam.

The current registration law, which may or may not be declared unconstitutional because it exempts women, was passed by Congress earlier this year and signed by President Carter, in response to possible military developments affecting the lives of many Americans. The generally poor condition of the current military establishment, the invasion of Afghanistan by the Soviets and the seizure of our hostages in Iran have turned many government officials from doves into at least lukewarm hawks.

The current registration is only a symbol of that desire to beef up our presence around the globe even though it won't really accomplish much. The Soviets probably won't be too frightened by the fact that we have millions of registration cards on file in Washington and the Iranians aren't likely to give back our hostages from fear of being invaded by a massive horde of 20-year-old inductees.

Even a draft, were it to come tomorrow, wouldn't solve the real problem in our military. We probably have enough bodies, but what the military of tomorrow needs is brainpower, service personnel who have been trained to handle sophisticated weaponry and equipment. A draft can call up a large army of bodies for the infantry, but the next war we fight, assuming it's for something important and not another Vietnam, will probably not be fought with rifles and bayonets.

The Supreme Court almost certainly will rule that the current law imposes sex discrimination on men. If that ruling comes later this year, Congress will have to go back into session and start all over again, which makes us wonder just how serious our leaders think the "crisis" is if we can afford that kind of delay.

So what are we accomplishing by the current registration drive? Well, we may reelect a few Congressmen who are pushing the draft as a way to solve our military needs and thus convince their constituents they really are sincere about defending our shores, even though some of them have consistently voted against money for new weaponry. And we'll also help out the accountants in Congress who are pushing the draft because slave labor is cheaper than paying our soldiers a living wage, therefore convincing their constituents before November that they really are concerned about balancing the budget.

But other than that, what we have is a meaningless, shallow, cynical draft registration law which our young men will have to obey or face a $10,000 fine or five years in the slammer. Our only advice at this point is that it's not worth five years in jail to protest what may not happen, so we hope these youths will go ahead and register and hope for the best.

We also hope the rest of us are a little more watchful than we were 20 years ago about what our government, especially our military, is up to. Eternal vigilance is still the price of liberty, and we should all make sure the current hysteria/war fever accompanied by Selective Service registration won't lead us into the quagmire of another Vietnam.

All we have so far is registration. But we don't have to like it. And we don't.●

ALASKA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. STUDDS. Mr. Speaker, the House last May, in bipartisan fashion, demonstrated its support for strong legislation to protect the pristine wilderness areas of our 49th State.

This achievement, despite similar bipartisan efforts now underway, has not yet been matched by the Senate. In support of the dedicated efforts of a fellow member of the Massachusetts delegation, Senator PAUL TSONGAS, and his like-minded colleagues, I would like to submit the following article by another distinguished citizen of our State:

[From the Boston Globe, July 26, 1980]

ALASKA: GRANDEUR AT STAKE . . .

(By Francis W. Hatch, Jr.)

Alaskans have been looking east this week because the fate of millions of acres of their state, the most spectacular, unspoiled, resource-laden land in the world, was being debated by the Senate in Washington.

And they were looking to Massachusetts in particular because the man leading the charge to halt further wholesale destruction of this country's largest remaining, unspoiled, natural wilderness is Sen. Paul Tsongas. He is sponsoring five amendments to strengthen the Senate Energy Committee's proposal, which guts a strong Alaska lands bill passed by the House last year.

The stakes are boggling. In December 1978 President Carter set aside more than 100 million acres of Alaska's public lands as national monuments or as acreage to be managed by federal agencies. Legislative approval is needed to reinforce the President's executive orders.

More than 16 million acres of climax forest are involved, the only large stand of virgin timber left in this hemisphere. Enormous sitka spruce and western hemlock, some of which are six centuries old, reach nearly 200 feet into the sky. Beside them, the largest elms on Boston Common would look like ornamental shrubbery.

This primeval forest, and the river mouths, valley bottoms and stream beds it borders, are the fulcrum of a delicately balanced ecological seesaw. On one side are the salmon and steelhead, which depend on gin-clear, unpolluted streams for spawning; the ever-present eagles, grizzly bear, and, of course, the overwhelming scenery.

Lumber and development interests are on the other. Carefully planned timber cuts and sensitive development will keep the fragile ecosystem in balance. However, the heavy clearcuts of river mouths, valley bottoms and virgin forest envisioned in the Energy Committee bill would destroy this balance forever.

There is good reason if the foregoing sounds like the doctrinaire logic of the already-committed. I was lucky enough to spend two unforgettable weeks last month exploring southeast Alaska's towering coastline on foot and by kayak.

I expected to enjoy the experience. But I did not expect it to kindle an Olympic flame which would still be burning a month later. Everything was bigger than life, at least the one I'm used to: trees, fish, eagles and 6000-foot mountains rising out of the sea.

Most people and politicians who live in an area affected by environmental legislation usually oppose it bitterly, at least at first, particularly when they have an economic stake in its immediate and irresponsible exploitation. Certainly too much familiarity and lack of understanding of the long-range values of one's local natural resources often breed lack of concern for their welfare.

Alaska is no exception. Its congressional delegation and many citizens resent Sen. Tsongas' attempts to protect national parkland within their state, even though unprecedented amounts of land, millions of acres, were given to Alaska by the federal government within the last decade.

In Juneau, I heard the same talk about land "lock-up" and trampling of state's rights as I did when the Cape Cod National Seashore was first being discussed in the fifties by local selectmen and property owners. The fact is that adoption of the Tsongas Amendments makes as much sense economically as it does environmentally. The so-called Southeast Amendment illustrates the point.

Nearly 50,000 people work in Alaska's fishing industry, the state's largest employer. Fishermen are a ferociously independent group, scattered along the coast, unable to lobby effectively.

By contrast, only 1.5 percent of the work force, or 2,900 people, half of whom are seasonal employees from outside Alaska, work in the timber industry. And virtually all of the finished logs they produce are sold not to the United States but to Japan at bargain prices.

Annual timber management and road costs in southeast Alaska are $24 million. All the federal government receives in return from timber revenues is $1.1 million. Each timber job presently costs the federal government between $3,000 and $6,000 per year. Without this subsidy the industry would collapse.

Is it any wonder salmon fishermen are nervous when the Senate energy committee bill authorizes an annual cut of 520 million board feet and includes the river mouths and streams where two-thirds of their salmon spawn? These fishermen received $30 million for salmon they caught last year, a renewable resource which could be ruined if these vital spawning areas disappear.

These are only a few of the burning issues. Others range from the aesthetic effect of heavy clearcutting on Alaska's already burgeoning tourist industry to exempting 5 percent of the promising onshore oil and gas acreage from drilling to preserve—at least until remaining 95 percent of the land is drilled—the caribou's wintering ground on the arctic range.

Two things are clear: if Alaska weren't so sparsely populated (400,000 in a state one-fifth the size of the United States) and so remote, these unique forests would have been declared wilderness areas long ago.

The other is that if Sen. Tsongas succeeds in his mission to preserve a major portion of this national treasure. Alaska's Tlinket Indians will include him among their heroes when they carve contemporary history on their totem poles.●

ART KAMIN HONORED

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HOWARD. Mr. Speaker, on August 6, a very fine journalist from my district will be honored for his outstanding contributions to his field and to the people he serves in Monmouth County, N.J.

Arthur Z. Kamin, president and editor of the Daily and Sunday Register, has earned a reputation as a fair-minded and talented writer and editor. Through his editorial policies, he has spoken for those who have no voice, drawing attention to and solving many local problems.

We have in the past joined in unofficial alliances to thwart government actions that could be harmful to Monmouth County. Under Art Kamin's direction, the Register zeros in on a problem and publicizes it and together we develop a constituency to fight it. The battle to save jobs at Fort Monmouth is a case in point.

Art Kamin is a man with a conscience and a commitment to abiding by the ethics of journalism. As an elected official, I cannot say that I have been happy with every story that has appeared in the Register. But I have always been offered a fair hearing and an opportunity for rebuttal. That to me is what freedom of the press is all about.

Many young journalists have been offered their first big chance at the Register and it is clear that Art's employees appreciate and respect him as a journalist and a human being. He is involved in many civic activities and devotes much of his free time to community service projects.

I am pleased to be able to honor him in this way.●

ADVISABILITY OF A TAX CUT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ROUSSELOT. Mr. Speaker, for the past 2 weeks, the Committee on Ways and Means has been holding hearings on the advisability of a tax cut. While many of us on the committee are convinced of the need for the immediate passage of a tax reduction bill, with an effective date of January 1, 1980, other committee members seem to fear legislating in the "overheated atmosphere of a Presidential election period." The testimony presented yesterday by Dr. Paul Craig Roberts serves to reinforce the position of those who advocate acting on a tax bill now and his remarks should also reassure those who are fearful that responsible tax legislation is not possible before November 4.

Paul Craig Roberts is the senior fellow in political economy in the Center for Strategic and International Studies at Georgetown University, professor of business administration and professor of economics at George Mason University, a columnist for the Wall Street Journal, and a contributing editor to Harper's.

Dr. Roberts has held numerous appointments, served on congressional staffs in both the House and Senate—he was on the staff of the Joint Economic Committee—and was associate editor of the editorial page at the Wall Street Journal. Craig was educated at Georgia Tech, and received his doctorate in economics from the University of California at Berkeley. He was also a member of Merton College, Oxford University. Craig is the author of two books and has published numerous articles in journals of scholarship and the popular press.

All of my colleagues, both those who serve on the tax-writing committee and others, should read Dr. Roberts' testimony. It is reasoned, incisive, and convincing. If we truly intend to take actions which will help to move the economy toward increased productivity and stability, Dr. Roberts' comments should be required reading.

The Advisability of Enactment of a Tax Cut This Year To Be Effective in 1981

Mr. Chairman, distinguished members of the Committee, policymakers are caught on the horn of a dilemma. They are wondering how we can cut taxes in the face of a large budget deficit. At the same time they don't see how we can sit and do nothing in the face of rising rates of unemployment. I have come here today to offer you a solution.

In 1980 the United States will have a GNP of about $2.5 trillion, producing federal tax revenues of around $525 billion. In spite of this the government is still $60 billion in the red with no reserves with which to strengthen our defenses or to put the Social Security system on a sounder footing. This is because the federal government has been relying on the growth of its budget to provide employment rather than on the growth of the private economy.

Since 1950 the growth of the economy has averaged about 3.5 percent a year in real terms. Other major industrial countries have grown at higher rates over this period, with France averaging 4.9 percent and Japan 8.3 percent.

If the United States had grown an average 1.5 percent faster each year, that is, if the economy had grown at an average rate of 5 percent instead of 3.5 percent since 1950, today the GNP would be about $4 trillion instead of $2.5 trillion. The growth of the economy would have provided privately for many of the people that you are trying to feed and house through the federal budget. Not only would your need for tax revenues be less, you could take a smaller percent of GNP in taxes and still have more revenues. For example, it takes 21 percent of a $2.5 trillion economy to produce $525 billion in tax revenues, but only 15 percent of a $4 trillion economy produces $600 billion in tax revenues. That would have balanced the 1980 budget and left you with a surplus with which to begin paying down the national debt, thus reducing the interest drain on your revenues.

The economy would have grown at a higher rate if fiscal policy had focused on increasing aggregate supply instead of increasing aggregate demand. Fiscal policy has assumed that the way to maintain full employment is to increase demand or spending to take up the slack in existing productive capacity. Therefore over the years demand has been raised relative to productive capacity, contributing to an ever higher level of prices. Policymakers have noticed that the "Phillips curve" trade-offs between inflation and unemployment get worse and worse. Yet still they are pre-occupied with the impact of fiscal policy on aggregate demand. (Some economists, convinced that the economy doesn't work the same way anymore, want more spending to increase demand, supplemented with controls to hold down wages and prices. That policy would only result in suppressed inflation, which means shortages, rationing and waiting in lines to buy goods and services. The more people wait in lines, the less they produce; so the situation has a way of automatically getting worse.)

I am convinced that a tax cut at this time or next year that is primarily designed to increase spending or the level of demand in the economy will have disastrous effects on the inflation rate, interest rates, capital investment, and the exchange value of the dollar. The rapid rise in the price of gold would reflect the world's lack of confidence in such a policy.

However, if you were to legislate a tax cut designed to raise the level of aggregate supply in the economy, you could expect lower inflation and interest rates, higher capital investment, better productivity, and a stronger dollar.

The key to a successful tax cut—one that will provide more savings and a higher growth rate—is a uniform reduction in the marginal rate of taxation on personal income and reform of the depreciation rules so that businesses can recover in depreciation sums that are closer to the replacement cost of their assets. If in addition you took other measures to increase personal savings, you would have a good package. An ideal package would be the Kemp-Roth bill, "10-5-3," and Rep. Bud Brown's savings bill.

Now you will want to know about the revenue loss, the deficit and all of that.

When you reduce the marginal rate of taxation on personal income, you change two important relative prices. You change the price of leisure in terms of the amount of income you give up by not working, and you change the price of current consumption in terms of the future income you give up by not saving and investing. When taxes go up, both leisure and consumption become cheaper in terms of foregone income. (In Sweden high tax rates have produced such a preference for leisure that the policymakers are discussing how to discourage leisure by taxing it. What they should be doing is reducing the rate of tax on income, and the leisure problem would cure itself.)

When you lower marginal tax rates you make leisure and current consumption more expensive in terms of the income people have to give up in order to engage in these activities. Therefore, you have changed the incentives that they face. They now have incentives to work a little more and to save and invest a little more. As people respond to these incentives the aggregate supply in the economy increases.

It is important to understand that you cannot change these relative prices, increase these incentives or raise aggregate supply through tax cuts that simply lower the average rate of tax. The purpose of the tax cut is not to give people more money to spend, but to let them keep more of any additional income that they earn. Tax rebates, earned income credits, and a larger personal exemption and zero rate bracket have little or no effect on the marginal rate of tax on additional income earned, so they have no general incentive effects to speak of and do not produce a greater level of supply.

A reduction in the marginal rate of tax, which does raise the level of supply, is self-financing (at least in part) in two ways: The larger supply means a greater tax base, and this feeds back some of the revenues lost by lowering the rates. Second, the larger personal savings that result mean an automatically larger pool of private funds with which to buy the bonds that the government must sell in order to finance any deficit from a revenue loss.

Keep in mind that increased depreciation deductions flow directly into business savings, so if you have taken measures to increase both corporate and personal savings, you have significantly increased the pool of savings with which to finance any deficit that might result from the tax cut. Therefore, the deficit does not produce the inflationary pressures that a Keynesian budget deficit would.

The economic growth rate was higher in the 1960's than it was in the 1950's. The Kennedy tax cuts reduced the marginal rates of taxation and increased the level of aggregate supply. In the 1970's the growth rate fell off. The reason, I believe, is that the guns and butter policy of the Johnson Administration set off an inflation that pushed people higher in the tax brackets, thus offsetting the effects of the Kennedy cuts. In addition, the Great Society programs reduced work incentives.

Some people claim that it is not possible to cut taxes without adding to demand and inflationary pressures. The argument is made that the Kemp-Roth bill, for example, by reducing the marginal rates of taxation on income also reduces the average tax rate or the amount of taxes people pay on existing earnings, thereby leaving them with more money to spend. (It is possible to reduce the marginal rates of tax without lowering the average rate by simultaneously eliminating or reducing the personal exemption and/or some of the deductions and credits.)

It does not necessarily follow that people have more money to spend. That depends upon what the government and the monetary authorities do. If the tax rates are reduced and the government keeps on spending the same amounts as before and the Federal Reserve does not print money to cover the deficit, people in the aggregate do not have more money to spend. The extra money in the private sector paychecks (from the lower average tax rate) is used up in the private sector's purchase of the bonds that the government must sell to finance its deficit. Therefore, there are no demand effects to cause inflationary pressures.

This makes it clear that inflation depends upon the behavior of government spending and the monetary authority. It is possible to have a supply-side tax reduction without adding to inflationary pressures. Of course, it would be unfortunate if the increase in private savings which a supply-side tax reduction makes possible, were to be fully preempted by an increase in government spending and borrowing. If the Congress were to cut tax rates and simultaneously reduce the growth in government spending, the increased supply of goods resulting from the higher investment would reduce the pressure on the price level. In economic terms, the aggregate supply schedule would shift relative to the aggregate demand schedule, allowing (in the absence of money creation) a lower price level.

If the Congress is worried about rising rates of unemployment and intends to stimulate the economy by increasing aggregate demand, you should keep in mind that the way to get an increase in real (as opposed to nominal) aggregate demand is to increase real income through the production of a larger supply of goods and services. Remember that investment is a component of aggregate demand, and we are talking about raising aggregate demand by raising that component.

If you do not soon take action to significantly raise the after-tax rewards to production, you may find yourselves unable to do so. The economy is faced with an enormous burden of transfer payments and entitlements that are rapidly mounting in the future. Under the present tax code the very presence of these future claims reduce the incentives to work and to invest. Unless you intend to pay off these claims by promoting divisive class warfare of wealth confiscation and income redistribution, you must immediately begin efforts to increase the rate of economic growth. Only through a higher rate of growth—producing a large tax base—can you meet these future claims. That requires that you enlist the incentive effects of fiscal policy that have been too long ignored.

There would be one other great advantage of a proper supply-side tax reduction. A properly designed tax cut, properly explained to the people at home and the world abroad would send a signal that we do, after all, believe in our system and intend to restore it to its former leadership position. A clear signal that we intend to increase economic growth by rewarding producers would lower inflation expectations, attract savings and investment from all over the world and restore some of the lost value to the dollar.●

OLEMA HOTEL

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, just recently the Olema Hotel in West Marin County has been reopened.

I would like to share some history of that area with my colleagues.

Olema and Its Hotel

Midstride through the 19th century, Olema was lively and its hotel known statewide. It was one of three hotels in a community that included a race track, post office and butcher shop, which is now a permanent exhibit at the Smithsonian in Washington, D.C. Olema's population and commerce were enough that the town was considered a possible site for the Marin County seat.

Then, as now, the primary economy was ranching and dairy farming. Logging also was a significant industry. Coastal schooners loaded up in Tomales Bay and Drake's Estero for the trip to San Francisco's markets. Summer brought vacationers to Olema, known as the sunbreak of West Marin. They came first by coach and later train to Point Reyes Station where they were picked up and delivered to the summering places—Olema, Inverness and the Pacific Union Club in Bear Valley.

European settlement of the area had begun with Raphael Garcia. As reward for services that lifted the Mexican soldier to the rank of sergeant and commander of the San Raphael mission guard, Garcia retired to a 9,000-acre land grant extending north from Bolinas in 1836. Illiterate and too casual about land records, his holdings diminished before the wave of 49'ers drawn to California's promise.

One of the first of these, Benjamin Winslow, built a hotel, saloon and post office on Garcia land. Winslow is credited with giving Olema its name, meaning coyote in the Miwok Indian dialect. By 1866, there were two hotels where two of Garcia's sons were bartenders.

With Garcia's death in 1866, lands that had not already passed to others were divided up among his seven children. One of them, Felix, built a saloon, scrawling "Felix Garcia will open on the Fourth of July, 1876" on one wall. The graffiti (photograph included) was uncovered during restoration 100 years later.

John Nelson, a Swede whose stagecoach to San Raphael kept Olema in touch with the world for years, had already built one hotel. In 1879, when creditors descended upon Garcia, Nelson took over the building. He added rooms, named it the Olema Hotel (it was also known as Nelson's) and soon had a thriving business. It also served as a local bank and stage stop. Following his death, two generations of Nelsons operated the hotel until World War II, when it was used by the government as an army barracks.

The hotel was a popular spot in the county in the early days. The register shows many visits from families and individuals from Petaluma, in particular. In addition, many old San Francisco names appear in the register as well as visitors from statewide, other states and from abroad.

With his usual flourish, writer Jack London and his wife arrived in a buggy drawn by two white horses. John Steinbeck, an amateur marine biologist was drawn to collecting specimens at the Bolinas reef when he stayed in the hotel. Gov. Hiram Johnson was a regular. The register also includes the name of Edwin Booth of New York, believed to be the actor and brother of John Wilkes Booth. Indeed there was a fairly steady stream of musicians, actors and minstrel showmen who apparently played in the nearby Druids Hall.

Little is known of Andrew Howe, the carpenter and original builder. He is believed to have been Swedish. He built with a high degree of craft and employed shipbuilding methods suggesting he may have been a ship's carpenter. The building's grace, symmetry and proportion suggest 18th century New England colonial design.●

A NEED FOR EXPORT SAVVY. H.R. 7230

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BONKER. Mr. Speaker, I would like to bring to the attention of my colleagues this excellent article which recently appeared in the Asian Wall Street Journal.

It points graphically to one of the key factors in our growing balance of trade deficit: American companies simply do not have the expertise, the savvy, to compete in the world export markets.

I have introduced legislation, H.R. 7230, which attempts to address this problem by fostering the creation of export trading companies. These companies would act as middlemen, providing the financial and legal resources, the marketing and research services that many medium size to smaller companies simply do not have.

Unless we do something to increase our exports, the United States risks chronic trade imbalances, constant pressure on the dollar, higher domestic inflation, and a diminished capacity to pay for our addiction to foreign sources of energy.

I would urge my colleagues to read this worthwhile article, and I would then urge them to join me in seeing that Congress takes the leadership in addressing this problem:

[From the Asian Wall Street Journal, July 14, 1980]

U.S. Companies Seen Failing To Score in Asia Because They Don't Know Rules of the Game

(By E. S. Browning)

Hong Kong.—Export agent Ira Kaye likes to tell the story of how a large U.S. textile mill blew a $4 million sale last year.

Mr. Kaye says he learned in October that a big Hong Kong clothing manufacturer needed two million tons of corduroy. He says he immediately sent a telex to the chairman of one of the largest family-owned textile mills in the U.S., who had recently visited the colony and had discussed exports. The message, which didn't mention price, simply suggested that the U.S. company might like to make a bid.

Mr. Kaye, who owns a Hong Kong company called Lark International Ltd. and who is active in the American Chamber of Commerce in Hong Kong, was surprised when he received no reply. He says he sent another telex, which also went unanswered. "The company, Murjani Industries Ltd., finally bought the goods from other sources, Japanese primarily," says Mr. Kaye.

FUNDAMENTAL FAILURE

The story illustrates what critics of U.S. export performance say is the fundamental reason why American companies have lost out on many opportunities for sales in Asia. Many U.S. firms, they say, simply aren't competent exporters.

A number of Asian importers say they would like to buy more U.S. products, which are usually of high quality. But often, importers and other businessmen say, U.S. companies aren't interested in adapting their products to local needs, servicing them once they're sold, or, in some cases, even taking the trouble to sell them in the first place.

U.S. government officials and businessmen abroad say they're worried that the U.S. isn't keeping up with the heavy competition from Western Europe and Japan. In absolute terms, U.S. trade with Asia, which has increased at an annual rate of around 20 percent in recent years, looks healthy. But according to Sen. Lloyd Bentsen, who headed a congressional study mission to Asia this year, the U.S. share of total exports to East Asia fell to 34 percent in 1979, from 41 percent in 1960.

"UNFAIR" COMPETITION

Some businessmen and government officials blame the problem on restrictive U.S. laws or on "unfair" competition from Japan. They say, for example, that among major exporters only the U.S. levies taxes on the salaries and benefits of its citizens overseas and requires exporters to comply with a foreign corrupt practices act.

Since the U.S. Justice Dept. hasn't been able to define exactly what a corrupt practice is, and since Asian business practices and mores are often different from those in the U.S., businessmen say that many American companies choose to stay out of Asian markets altogether.

But Thomas Shoesmith, U.S. consul general in Hong Kong, says that despite such difficulties, American companies that have made the effort to adapt to Asian markets have done well. "For those that aren't already in the market," he adds, "the problem is lack of effort and desire."

A 1978 survey by the U.S. Consulate in Hong Kong of the experiences of American businessmen in the colony found that "the biggest problem (hindering U.S. exports) is not the Japanese, but the lack of export awareness in the United States and the lack of understanding of what it takes to compete effectively in export markets." Consulate officials and some businessmen say they believe that the conclusions are still applicable.

SAD TALES

Government officials and businessmen tell sad tales of U.S. companies that try to sell consumer goods without using foreign language labels or instructions, or that offer sophisticated equipment when the buyer wants simpler machinery.

Stories are told of shoes offered in "the wrong styles, wrong colors and wrong sizes," or of textile companies that take orders but then send seconds or fail to fill the orders because of sudden sales opportunities in the U.S. They mention companies that sell computers but then infuriate buyers by failing to provide spare parts or quick service.

They also cite statistics showing that the percentage of defects in U.S. automobiles is several times higher than that of Japanese cars.

Because of disappointing American export performance world-wide, increased oil import prices have thrown the U.S. into a heavy trade deficit. Until this decade, trade deficits were almost unknown in the U.S., but in 1977, 1978 and 1979 the nation ran trade deficits well above the $20 billion level.

SENATORIAL WARNING

Sen. Bentsen warned after his trip to Asia that unless the U.S. improves its performance it risks "chronic, massive trade imbalances, constant pressure on the dollar, higher domestic inflation and a diminished ability to pay for imported energy." "Eventually," he said, "I think it means the status of a second-class world economic power if we don't turn the thing around, because it's a tough, high-stakes competition for world markets."

Sen. Bentsen and the U.S. Chamber of Commerce officials with whom he and his mission met in Asia focus heavily on the need for changes in U.S. law. American businessmen have a litany of grievances against the Federal government. With U.S. taxes on salaries and benefits, they say, it costs them almost 50 percent more to employ a U.S. citizen overseas than it does to hire a non-American.

DETERING CLIENTS

Antitrust legislation makes it hard for a group of U.S. companies and banks to work together in bidding for major projects, as many foreign companies and governments do. The U.S. Export-Import Bank, they charge, isn't as aggressive as foreign export agencies, which—unlike the Ex-Im Bank—aren't required to be selfsupporting.

The Ex-Im Bank, they say, can deter prospective clients with lawyers, forms and

* * * * *

and human rights policies can require them to observe U.S. standards in countries that don't abide by them.

Many other analysts argue, however, that these problems are manifestations of a more basic fact: U.S. companies and the American government simply aren't as interested in exports as the West Europeans and Japanese.

"Generally, U.S. manufacturing concerns have not regarded exporting as a high priority activity," says a report published this year by the U.S. Export Competitiveness Project of the Center for Strategic and International Studies of Washington's Georgetown University.

MORE EXPORTS NEEDED

The U.S., according to this report, exports just 6.7 percent of its Gross National Product, while West Germany exports 23 percent, Britain 20 percent, France 17 percent and Japan 12 percent. Although the U.S. Chamber of Commerce and the U.S. government recently have been stressing the need for more exports, the results have been slow in coming.

Some signs of improvement are beginning to show up. U.S. officials are considering relaxing antitrust laws to permit banks and other businesses to establish trading companies to sell U.S. goods overseas, a system Japan has long used for its exports.

Donald A. Furtado, U.S. deputy under secretary of commerce for international trade, says that the creation of such companies could help medium-sized U.S. concerns.

Strong complaints from textile traders like Mr. Kaye have recently sparked a move into Hong Kong by U.S. textile concerns. A year ago, only one U.S. textile exporter had an office in Hong Kong, and in 1979, the U.S. provided just 2 percent of Hong Kong textile imports.

But since then, six textile firms have decided to open offices in the colony and several others are studying the possibility.

"If they're sending high powered people out here, they've got to be serious," Mr. Kaye says hopefully. "It's costing them too much money."●

REPUBLICANS CALL FOR BI-PARTISAN SUPPORT ON 1 MINUTE RULE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. SHUSTER. Mr. Speaker, beginning last Thursday, the Speaker pro tempore unilaterally used his power to curtail the rights of the minority to be heard on the House floor by altering the House custom of allowing 1-minute speeches at the beginning of each day's session. Although it now appears that this matter has been rectified, the House Republican Policy Committee believes that it is a matter of high principle that such an incursion on the rights of freedom of speech not occur again in the future. Consequently, the policy committee unanimously adopted the following resolution and I call upon our Democratic colleagues to join us in supporting its passage:

[Statement No. II-15, July 29, 1980]

REPUBLICANS CALL FOR BIPARTISAN SUPPORT ON ONE MINUTE RULE

Resolved: The Minority calls upon the Majority to join in bipartisan action to incorporate into the House Rules the House custom of the one minute speeches at the beginning of each day's session, whereby the Speaker recognizes Members from the Majority and Minority on an alternating basis, said rule to be waived only by the Speaker with the concurrence of the Minority Leader.●

SOLVING THE WRONG PROBLEM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. STARK. Mr. Speaker, Mr. Sam F. Segnar, president and chief executive officer of InterNorth, Inc., is the author of a very fine essay, "Solving the Wrong Problem," printed in the July, August, September 1980 issue of Leaders magazine.

In that article, Mr. Segnar writes:

> We, as businesses, are in the best position to solve the problems facing us today because we have the required knowledge and the capability. After all, problem solving is what business management is all about. But we cannot attack the problem by attacking government. Business will succeed only when it attacks the problem. We shall begin to make significant progress when business and government begin to work in partnership.

I share these sentiments, Mr. Speaker. Business and Government do not always see eye to eye on issues. When there is an irreconcilable conflict, our political decisionmaking institutions must be supreme. But business and Government do not always have to be at each other's throat. They can collaborate to the benefit of the American people.

Mr. Segnar acknowledges that the Government is the umpire. He says it is a mistake for business to challenge many of the calls rather than accepting them and getting on with the game. I applaud his statement, the text of which follows:

SOLVING THE WRONG PROBLEM

(By Sam F. Segnar)

Have you ever seen this situation: It's a tight, tense baseball game. The pitcher is facing a tough hitter at the plate. He's got to get this guy out. He throws his best pitch, which appears to fool the batter, curving right over the plate. "Ball three," cries the umpire. The pitcher questions the call. He's obviously upset. He really needed that one. He continues to moan about the decision, and as a result, the next pitch hits dirt * * * He's lost the batter.

The mistake the pitcher made was obviously in concentrating on the umpire, when the problem he faced was the batter. Business has been doing the same thing. We've been attacking the umpire—government—instead of facing the hitter—sales, production and management.

THE BEST PROBLEM SOLVER

We, as businesses, are in the best position to solve the problems facing us today because we have the required knowledge and the capability. After all, problem solving is what business management is all about. But we cannot attack the problem by attacking government. Business will succeed only when it attacks the problem. We shall begin to make significant progress when business and government begin to work in partnership.

Business has witnessed the changing role of government during the past 20 years. Societal concerns for environmental protection, worker safety, equal employment opportunities, consumer protection and energy have been added to a growing list of governmental responsibilities. There is no denying that government continues to grow increasingly bigger, more powerful and more influential.

Many may long to return to a simpler time, when there were fewer regulations, when enterprise was freer. Although the idea of returning to a free-market society is attractive, however, it is unrealistic to think that government is going to turn back.

CHARITY DOESN'T WORK ANYMORE

The reason the role of government has changed so much is because society has changed. The problems are real. Protecting the environment, worker safety, equal employment, concerns for energy and the care of the poor and the elderly are all legitimate social concerns. In the age of individualism, charity was often the answer. But modern society has decided that government can and should provide more effective answers.

So if society and the nature of government have changed, then we in business must also change. We must concentrate on making the system work. Many would argue that the system has some very real problems, which it does. Congress, after absorbing the public's demands, will create or expand a bureaucracy to regulate business, which we shall not always like. But changes are made; the system works.

How will business in the 1980s be able to work with government to solve the problems we face? Government should turn to business as the agent for solving them. Business is best equipped to deal efficiently with these complex issues, which may require dealing with government bureaucrats rather than with politicians and officeholders.

It is only after legislation is enacted that problems arise. Government staffs are typically buried in the problems of translating law into workable programs. Things then come to look like—and are—a hopeless mess. But this is precisely the opportunity for business to step in, providing our experience and expertise in establishing workable programs. Had business taken a part in drawing up the present-day regulations, it would be far easier to live with those requirements today. Business, working with government, can help to implement these programs without the duplications and conflicts we see today.

LEARN TO ANTICIPATE

Besides working with government, another important area where business can improve its position as a problem solver in society is to learn to anticipate. We must learn to act, instead of only reacting.

If, for example, business had recognized earlier than it did that Ralph Nader's first books about the auto industry, or that Rachel Carson's *Silent Spring,* would be forerunners to major, nationwide movements in auto safety and environmental concerns, respectively, business would have been in a better position to be in on the solutions to those problems from the ground level. Instead, business was pushed into a defensive position.

At InterNorth, we have begun what we call an "Environmental Scanning Program." It is an organized attempt to gather information that appears to indicate trends in the making. These trends may be social, political or business-oriented. If this effort is successful, it will go a long way toward putting us on the offensive in problem solving, instead of on the defensive. This, in turn, will put business in the position to work as the partner of government, instead of waging an ongoing war with it.●

COAL: A NEGLECTED SOURCE OF ENERGY?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, July 30, 1980, into the CONGRESSIONAL RECORD:

COAL: A NEGLECTED SOURCE OF ENERGY?

There is a new enthusiasm for coal as a source of energy.

Coal now provides only 18 percent of the energy consumed in the United States, yet it is indisputable that the Nation has plenty of coal to burn. Estimates of America's recoverable reserves of coal run up to a staggering 438 billion tons, one-third of the world's known supplies and a full nine-tenths of all our domestic fossil fuels. This coal could last us for centuries even in the face of increased demand.

Optimism about coal is based on more than a mere survey of statistics. The Massachusetts Institute of Technology (MIT) recently released a study, *Coal—Bridge To The Future,* which concludes that coal can supply from one-half to two-thirds of all the additional energy the world will require between now and the year 2000. Even if the oil-exporting countries hold down production, and even if utilities continue to have trouble expanding their nuclear power facilities the United States and Australia together may be able to lead the way out of the energy crunch by tripling the world's output of coal. The 18-month study by experts from 16 nations also concludes that the alternatives to coal are simply not good enough: conservation, while very worth while, cannot turn the tide; nuclear power is encountering stout resistance; solar power and other renewable sources of energy, our best options in the long term, cannot be developed and marketed with sufficient speed. Consumer needs and the conditions of economic growth will have to be met by coal.

There are many indications that coal may begin to figure prominently in a solution to the energy problem. At the Venice Summit, for example, the seven leaders of the industrialized democracies vowed to overcome their dependence on foreign oil by increasing the use of coal. On the domestic front, the synthetic fuels program just approved by Congress will create the need for an extra 150 million to 250 million tons of coal through this decade. Another bill moving through Congress would make federal funds available to utilities so that they could switch more rapidly from oil to coal. In the area of international trade, the possibilities of coal as an export have been overlooked. The United States has by far the greatest potential for export, and it is already experiencing a surge in world demand that has long been expected. The Department of Energy claims that world demand for our coal will rise from the 2.5 million tons exported last year to more than 10 million tons by 1990. Many experts believe that coal could become the nation's single largest export within a decade. It could be a most significant factor in our balance of trade.

The future of coal looks bright, but its expanded use has long been blocked by the problems of mining and burning it. The greatest problem may be the so-called "green-house effect," the possibility that the carbon dioxide produced by burning coal might trap the sun's heat in the atmosphere and eventually cause catastrophic changes in the world's climate. Another major problem, that of "acid rain," results when natural precipitation mixes with the airborne products of coal combustion. Still other environmental problems are water pollution and the scarring of the land. Then, too, coal mining is one of the most dangerous occupations. Mine disasters and black-lung disease are just two of the factors that must be addressed.

Although the mining and burning of coal are risky, most of the problems can be handled. The MIT study, for example, states that the technology is available to allow compliance with the most stringent environmental standards at a cost that will leave coal competitive with oil. Oil is now so expensive that it is economical to clean up coal for widespread use. The cost of using coal in the United States, even after the strictest environmental standards are applied, is approximately $60 per ton. The equivalent amount of energy from oil would cost $165. The difference gives coal an enormous price advantage that will permit us to tighten up environmental standards even further if we find it necessary.

Another major obstacle to the increased use of coal is the general disrepair of our transportation system. In fact, a whole new infrastructure for a coal-based economy must be built. New mines, more miners, revived railroads, improved port facilities, and additional coal-carrying vessels will be indispensable. A nationwide system of coal-slurry pipelines may have to be constructed. Large quantities of water will be required to cool coal-fired power plants, produce synthetic fuels from coal, and move coal through the pipelines. Long-term contracts may be the key to these far-reaching improvements. After all, investors will want assurances that their heavy commitment of capital will pay off.

There is a growing consensus that America needs coal, and plenty of it, to kick the foreign oil habit. It is becoming more apparent every day that we must have greater diversity in our energy supplies. Too much dependence on foreign oil carries grave risks, but domestic reserves of coal can help guarantee our continued prosperity until solar power and other renewable sources of energy are ready to be brought on line. Our nation is blessed with the most ample reserves of coal on earth. We must see that our coal brings us a better measure of energy security in a very insecure world.●

SOVEREIGN GRAND MASTER OF THE INDEPENDENT ORDER OF ODD FELLOWS

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ENGLISH. Mr. Speaker, the State of Oklahoma is honored to be the home of the sovereign grand master of the Independent Order of Odd Fellows, one of our Nation's most active charitable and fraternal organizations. Many members of this body have been active members of the IOOF and know, as I do, of the generosity of this worthy fellowship, and of its thousands of members throughout the world.

On May 4 of this year, Hon. Eugene Mount, sovereign grand master of the IOOF, continued a tradition begun in 1934 in delivering a memorial address at the Tomb of the Unknown Soldier. I believe that the thoughts expressed in this statement are a fitting tribute to the many who have died to help keep our Nation free, and I believe that it will be of great interest to my colleagues.

Mr. Speaker, I submit the text of this statement to be inserted into the RECORD at this point.

SOVEREIGN GRAND MASTER EUGENE MOUNT'S ADDRESS AT THE TOMB OF THE UNKNOWN SOLDIER

Brother Chairman, Members and Friends of the Independent Order of Odd Fellows:

As I anticipated the responsibility of giving this address, many thoughts have been with me. The hallowed ground on which we stand at the Tomb of the Unknown Soldier is a symbol of all the fallen heroes whose graves bear no name. To die, especially in the act of defending our great country and lie without identification waiting for burial, is not something that Americans can forget. It is reassuring that God knows the identity and that each American family can claim the memory of their hero for its own through the continuation of this beautiful, peaceful spot and the vigil of the honor guard throughout the year. The memory of the unknown heroes by the dedication of this sacred ground in Arlington is important to all of us.

The inscription we read expresses the thought well. "Here rests in honored glory an American soldier known but to God." World War I and II, the Korean War, and all the conflicts were won for our country at the expense of young lives and the heartbreak of families. Death is sadness, even with honor. At this time of the year with the earth coming alive with signs of the growing season, those of us gathering to remember can renew our memories and look ahead to strong determination to do everything in our power to keep the world a safe place. These young men are not lost, but have gone before us to the final resting place. We must dedicate ourselves to remembering their shortness of years, but remember, too, the tremendous contribution they gave to our country. The tragedy of war is a lesson for the mature, but it also can serve as a reminder of our commitment to the young that we will endeavor to avert such tragedy.

We have not forgotten. For 112 years, since that day in May of 1868, when this Day originated to pay tribute to the dead of all American Wars, the ceremony on these grounds has been held among the rows and rows of white crosses. On this day our flag still flies across our nation. A time for reflection. A time for remembering.

A time when we as Odd Fellows and Rebekahs can look with pride, that we are a part of this heritage, that made our country strong and free. There are those who say that patriotism is old fashioned, that there must be a new world in which there is no room for love of country, love of family, or love of God. I feel that we, as representatives of the several jurisdictions, prove that we are concerned citizens, who believe that this is a great and glorious country we are privileged to live in.

Today, the Independent Order of Odd Fellows will again, as it has every year since 1934, demonstrate visibly that patriotism, love of God and country are indeed—not dead. In our annual pilgrimage each year, we demonstrate, for all the world to see, that our Order does indeed remember that the freedom and liberty we all enjoy in this country were obtained at a very high price.

In representing the Independent Order of Odd Fellows in its traditional part of the ceremony I speak for over 100 Million members who since 1842 have kept alive through international efforts a determination to recognize the good of people and through benevolent projects give recognition for the kinds of things that create peace and understanding. Since 1819 our Lodge No. 1 in Baltimore, Maryland near here has served as the origin of this tradition that began in the medieval times of war and strife. Our Order rededicates itself today in the memory of the fallen unknown heroes. But we look ahead, also, to the message we must give to the living who must strive to deserve the sacrifice of these young lives.

In the words of John Wesley:

"Do all the good you can,
By all the means you can,
In all the ways you can,
In all the places you can,
At all the times you can,
For all the people you can,
As long as ever you can."

Thank you.●

ENERGY CONSERVATION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. FAZIO. Mr. Speaker, since energy conservation will be critical to our Nation's future, and since conservation savings will be the result of many people making many decisions with conservation in mind. I thought my colleagues would be interested in the considerable progress being made on this front by the California State University and College system.

The California State University and Colleges, which has 19 campuses located throughout California, has gained national recognition for its innovative efforts to conserve energy and has made great strides in disseminating information regarding energy conservation measures to the public. The Academy for Educational Development recently awarded the CSUC statewide energy consortium $10,000 in recognition of outstanding achievements in energy education and assistance. The consortium, which is headquartered at the Fullerton campus, maintains a roster of competent individuals who can provide technical assistance to businesses, industry, State, and local governments, the public, and other schools. In addition to promoting the development of energy education materials, the consortium administers the Department of Energy's appropriate energy technology grants program for the State of California in cooperation with the U.S. Department of Energy's regional office. The program awards to small businesses, individuals, nonprofit agencies, educational institutions, Indian tribes, and Government offices to support a wide range of technologies used in solving energy problems. The consortium has also sponsored several statewide energy conferences and has worked with the State energy commission in designing educational materials relating to the State's energy conservation building standards. The energy-saving award from the Academy for Educational Development was sponsored by the Claude Worthington Benedum Foundation and Atlantic Richfield Foundation.

Another energy conservation award was received by California State Polytechnic University, Pomona. The award was made by the National Association of College and University Business Officers and the United States Steel Foundation for energy-efficient outdoor lighting which was installed by Pomona.

California State University, Hayward, received an award from Pacific Gas and Electric for cutting its gas use by half and its electricity use more than 7 percent by turning thermostats down in winter and up in summer and changing fluorescent lighting to smaller wattages. In 1979, Hayward placed first among educational and governmental users in energy conservation usage.

Energy-saving activities are taking place on all CSUC campuses. For example, San Diego State University is in the planning stages of a cogeneration project which will generate 2,650 kilowatts of electricity by two gas-turbine-driven generators from which the exhaust will enter two waste heat boilers capable of producing variable steam up to 30,000 pounds per hour. This energy source is expected to supply 95 percent of the campus electricity needs and 100 percent of the need for steam at a savings of $1.2 million per year.

The fans for the solar greenhouse at California Polytechnic State University, San Luis Obispo are run by a 60-foot windmill. Also at San Luis Obispo, two professors are developing a passive solar energy handbook believed to be the first of its kind. The handbook will show nonexperts how to use weather changes and design and building materials to cool and heat living space. With a Department of Energy grant, researchers in the School of Environmental Studies and Planning at Sonoma State University have discovered that using waste heat from a clothes dryer to preheat water for clothes washing can theoretically save commercial laundries 15 percent on their natural gas bill and save the Nation 10 million barrels of oil a year.

In cooperation with industry, California State University, Fullerton, conducted workshops for laymen on do-it-yourself home solar conversion. Over 2,500 individuals have already attended sessions which show them how to install a device which will provide 70 percent of a household's need for heated water.

Efficient planning for energy conservation is another important part of implementing energy-saving methods. Students at California State University, Chico, are preparing a computer simulation which will evaluate energy use of a large campus building hour by hour for an entire year. The resulting data will be used to determine how much energy would be saved by retrofitting or redesigning the building for energy conservation. With a grant from the Department of Energy, San Francisco State University has also installed a computerized energy management system to reduce heating and lighting costs in four campus buildings and to convert the university's swimming pool to solar heat. The project is expected to result in savings in energy costs of $100,000.

These are but a few examples of the hundreds of energy-related projects underway at the California State University and Colleges. This large educational system is determined to maintain its leadership in helping the country conserve on the use of energy and has begun this effort by conserving on its own campuses and reaching out to businesses and the general population.●

REPUBLICANS OPPOSE CARTER GAS RATIONING PLAN

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. SHUSTER. Mr. Speaker, yesterday afternoon, the House Republican

Policy Committee unanimously adopted a statement in support of House Joint Resolution 575, a resolution of disapproval of the administration's latest gasoline rationing plan. The basic reason we oppose the plan is that the plan is not a plan at all—it is merely an outline of what the Department of Energy may or may not do. It is a blank check, payable to the bureaucrats at the Department of Energy and drawn on the funds of the American taxpayer. So that my colleagues may more fully understand the rationale of the policy committee, I am attaching the text of the committee's statement:

[Statement No. II-16, July 29, 1980]

Republican Policy Committee Opposes Gasoline Rationing Plan

The House Republican Policy Committee opposes the implementation of the Carter Administration's latest gasoline rationing plan. Consequently, the Policy Committee urges all Members of Congress to support H.J. Res. 575, a Resolution of Disapproval. In order to give the House the opportunity to work its will, the Policy Committee exhorts all Members to support a procedural motion to discharge the Commerce Committee from further consideration of H.J. Res. 575.

Only by passage of both the motion to discharge and H.J. Res. 575 can the House of Representatives reassert that it will not blindly approve an inadequate and unworkable plan just because the Department of Energy said that it is the best that it could do.

The plan now pending before Congress is essentially the same plan that was presented in 1979. Congress rejected that previous plan by a vote of 159 to 246. The 1980 plan contains some cosmetic changes consisting largely of a series of special treatments for certain groups. The majority of Americans, however, would receive no better treatment. As in the old plan, the latest plan will:

1. Grant coupons on the basis of how many vehicles an individual owns;
2. Distribute coupons based on a national file of vehicle owners, a file which does not exist and cannot exist for 14 months and then would be 20 percent inaccurate;
3. Create a new currency in coupons which would escalate the price of gasoline above the market price through a "white market";
4. Cost over $100 million to prepare this plan for further planning, $464 million to ready for use and $2 billion annually to operate by DOE's own estimates.

The fundamental changes in the new plan hailed by the Administration are merely a series of undefined promises to one group or another. Although these changes appear at first glance to answer some of the criticisms of the earlier plan, a closer inspection reveals that they are vague promises. The additional allocation would not be automatic but, rather, would require every farmer and business to apply to either the Department of Energy or to a local rationing board for additional coupons. This would entail a review of each applicant's past tax receipts and would create a bureaucratic nightmare that could not possibly work either fairly or quickly. Despite the complexity and improbability of managing this program successfully, the Administration is attempting to buy support for its plan by promising that the plan will:

1. Provide supplemental allotments to businesses based on historical gasoline consumption;
2. Expand the definition of agricultural priority to include agricultural processing and distribution, as well as production, and includes commercial fishing and forestry;
3. Enlarge the number of priority categories to include taxicabs, short-term rental vehicles, certain telecommunications, newspaper distribution, public utilities, search and rescue operations, for-hire mail and parcel delivery, and energy production.

The most basic reason to oppose the rationing plan, and to support H.J. Res. 575, is that the new plan is virtually a blank check. It is nothing but a sketchy outline of what the Energy Department may or may not do—leaving many critical factors unresolved until the time of emergency, which may be too late. The plan presented to Congress for approval will require an additional 12-15 months work just to place it at the "standby" level. It would require still another 3 months work to actually ready the plan for implementation.

If Congress fails to act now, it is abdicating its responsibilities to the faceless bureaucracy of the executive branch. Congress has the duty to insist that the President consult fully with the Legislative Branch and to withhold its approval until the full details of the President's plan become known. The Republican Policy Committee, therefore, urges all Members to support H.J. Res. 575, a Resolution to disapprove the standby gasoline rationing plan.●

THE 1980'S: DECADE OF INVESTMENT OPPORTUNITIES IN THE DEVELOPING WORLD

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. PORTER. Mr. Speaker, I would like to direct my colleagues' attention to a speech delivered by Mr. Alfred F. Miossi, executive vice president of the Continental Illinois National Bank & Trust Co. of Chicago, before the participants of an Overseas Private Investment Corp. seminar entitled "Investment in the Developing World."

Mr. Miossi's remarks afford a revealing insight into the problems, complexities and dilemmas American companies encounter in doing business in Third World countries. Given the financial imperative for the United States to improve its balance-of-payments problem and increase its overseas markets, his speech is of special relevance and certainly worth everyone's attention:

Statement of Alfred F. Miossi

It is a pleasure to be here today and to participate in this very useful and important seminar organized by the Overseas Private Investment Corporation. I am sure that many of the companies represented here have taken advantage of OPIC programs. I know that at Continental Bank, we have used them frequently. Certainly, OPIC is an essential component of many corporate decisions to invest in the Third World.

As I am sure you will find during today's program, Third World investment offers your companies an excellent opportunity for rapid growth. It enables you to diversify your markets, increase sales, and stabilize earnings by reducing your dependence on the U.S. economy. Other speakers today will describe in detail the OPIC programs that can help you defray the political risks associated with such investments. Since the rest of this seminar will focus more intently on these subjects, I would like, instead, to take a broader look at some of the economic and political issues involved in Third World investment.

The major message I'd like to get across this morning is that we cannot ignore the business opportunities in the Third World in a future environment that seems to indicate growing economic problems at home in the U.S.

The industrialized nations, with 15 per cent of world population and 53 per cent of global income, cannot ignore the very basic human needs that too often go unmet in developing countries. The standard of living that has come to symbolize the industrial world is not our exclusive domain, and we must recognize that disparity, and acknowledge that the free world cannot survive amidst such extreme inequities. We cannot turn our backs on the world's poor even when we seem besieged by our own economic problems.

This is by no means a question of charity. Substantial business opportunities for U.S. companies in the Third World hold tremendous potential for productive interaction between developed and developing countries and, in turn, for raising the standard of living of poorer societies. Indeed, the sum of government aid and private investment in these countries ultimately is returned to the United States many times over in the form of new and growing markets for U.S. products. This is particularly important given our ever-rising oil import bill.

I would like to make one point which most of you who export to or operate in these nations already realize, but that frequently is forgotten. Developing nations are not an undifferentiated mass but rather individual countries with their own strengths and weaknesses which must be recognized individually, and treated accordingly. Some are at the higher end of the scale or per capita income and may be termed "semi-industrialized." Other nations are poor yet have "modernizing sectors" which have the capacity to participate in industrial or commercial operations.

Nonetheless, in a general sense, all of these countries look to advanced, industrial societies for help in raising their standard of living. At the same time, in many countries there is a deep and, I think, understandable fear of modernization as a process that will destroy national traditions and identity. This concern—nowhere more evident today than in the Moslem countries—makes it especially important that foreign companies operating in developing nations do so with great sensitivity to local culture and customs.

Our obligation is not to guarantee all Third World countries a quantum leap into the 20th century; it is simply to participate in a process that ultimately will help reduce the poverty that plagues so many of these societies. One need only look at Brazil, Mexico, Hong Kong, South Korea, Thailand, and Taiwan for examples of the growth that investments in developing countries can stimulate. The U.S. and other advanced countries have invested millions of dollars in these countries. In South Korea alone, U.S. companies had direct equity investments of $172 million in 114 projects by the end of 1978, according to OPIC figures. Based on a thriving agricultural sector, the Thai economy has grown at a rate of 7.6 per cent a year since 1960. In 1979, Taiwan experienced a growth rate of 8.5 per cent, and South Korea, a rate of 8 per cent. These last two figures are down from 1978 when both countries recorded growth rates of more than 12 per cent. Despite their recent decline, they are impressive compared to the performance most western economies have been turning in.

If ever there was a time when we must be international—rather than parochial—in outlook, when world stability hinges on interaction with other nations, it is now. The 1970s breathed new life into the truism that we are all part of a shrinking, interdependent world, and I think we must take this concept seriously. Look closely at the last decade. The list of events that reverberated around the globe is impressive: Iran, OPEC, the deepest recession since World War II, dramatically fluctuating commodity and financial markets and currencies.

Certainly, within this context, investing in developing countries carries a special risk. Few nations can match the stability of the business climate in the U.S., least of all, developing countries. The overthrow of the Shah last year stunned the U.S. business community, with its heavy investment in Iran's economy, and recent history offers numerous examples of expropriations of foreign-owned concerns by nationalist groups. The process of development and modernization is not necessarily peaceful—even though the end result may be an enduring stability—and that is why agencies like the Overseas Private Investment Corporation are needed to make direct investment feasible.

Our response to political turmoil in some of these nations must not be to throw up our hands and retreat. One hears more about the notorious disasters than the triumphs, but a look at the numbers would surely show many more successes in foreign investment than failures. The lessons of Iran are: caution, advance planning, contingency planning, and OPIC protection. The careful combination of public resources, like OPIC, and the private capital and skills of U.S. business enterprises is perhaps the most effective approach to forging links between developed and developing economies.

Realistically, most companies will not undertake such investment without some protection against losses due to war, revolution, insurrection, expropriation, or nationalization—nor should they be expected to. There clearly is an overall benefit to American society as a whole in having peaceful, friendly, and productive ties with the Third World, and U.S. business certainly cannot shoulder the risks of forming and maintaining these ties alone.

OPIC protection is not a substitute for sound, tough business judgment, or a bailout for bad decisions, and few of us in the business community would welcome such an intrusion of government into free enterprise. Nor is it a guarantee of profits, for OPIC primarily protects only against the big disasters. But there is a point where public and private interests meet, and where cooperative efforts can be both legitimate and successful. Other industrialized countries provide even greater support of private business ventures considered politically desirable, and from a competitive point of view, if American companies do not seize the opportunities, companies from other countries surely will. It is, I think, safe to assume that the demand will not go unmet. We must not be lulled by the size of our domestic markets into thinking that Third World markets are not our concern. If we are to maintain our competitive edge, we must be aggressive about seeking opportunities as they arise.

Direct investment in the Third World used to be viewed as the bailiwick of the multinational giants. And, indeed, a few large U.S. companies were the first to recognize the tremendous potential in these areas, and their investments have helped contribute in large measure to the economic growth that has occurred there. It has been estimated that today U.S. and foreign multinationals employ over 30 million people and account for $750 billion of world production.

The transnational corporation also has been a stimulus for the development of economic infrastructures in previously traditional societies and the creation of new markets that now make the Third World an attractive place for smaller companies to invest. This is where OPIC can be particularly useful. Directed by Congress to assist small- and medium-sized companies to take advantage of opportunities in friendly, less-developed nations, OPIC services include long- and medium-term loans, political risk insurance, pre-investment assistance, and access to reliable business information.

The need for U.S. companies to participate in the development process is made more pressing by the latest round of OPEC oil price increases that once again threatens to undermine the hardearned economic gains many Third World countries have made. The path to prosperity is a difficult one, and, increasingly, it is obstructed by soaring oil prices, worldwide inflation, and the all-encompassing task for paying for food and fuel alone.

Oil deficit countries have few real alternatives as they stretch to pay their oil bills. They must export. Ultimately, however, the increasingly restrictive policies we are seeing in developed nations will slow down world trade, frustrating developing countries in their attempts to expand exports to pay for oil. In the U.S., we already are feeling growing protectionist pressures to guard some of our industries against imports from developing countries, and, certainly, we are not alone in succumbing to the temptations of this approach.

All this points to hard times for developing countries, and we will not be immune from their troubles. A slowdown in the exports of developing countries and the resulting balance of payment problems also will affect markets in the developing world for products of industrialized countries. Already, about one-third of all U.S. exports go to developing nations, and we will do well to remember that fact as protectionist pressures grow here.

Developing countries are going to have problems paying for their imports. As their foreign debt builds, loans for developing nations will be harder to get because of high interest rates and debt-servicing difficulties. And because of these, there also will be problems of recycling petrodollars to developing countries who need these to pay their oil bills. The growing demand for credit by Third World countries—and I am well aware of the crucial link between the availability of credit and successful economic development—is one of the most difficult issues in international banking today. As the cumulative stress of financing oil builds in developing nations, the question of whether or not the international banking system will be able to finance this debt becomes more and more problematic.

Recycling—or the path of oil-payment dollars from importer to OPEC to the banking system and out again as investment or credit—became the issue of the day in 1973 and 74 when OPEC's quadrupled oil prices amounted to an unparalleled overnight transfer of wealth that the international banking system successfully managed to absorb and recycle. It again is an issue today following the large oil price increases during the past two years. For many borrowing countries, however, recycling is not an automatic process that brings petrodollars back into their economies as investment. Rather, it is a treadmill process of accumulating debt simply to pay for oil. This debt is not financing investments that will further economic development; it only drains developing countries of badly needed resources.

As these factors squeeze harder on developing economies, I think we will see the International Monetary Fund playing a growing and stronger role. The IMF has considerable financial resources, and, of particular importance now, it has the political capacity to require the adoption of appropriate internal policies as a condition for gaining access to its credit. This is significant for two reasons. The ever-increasing demand from developing countries for credit to sustain growth in the face of climbing oil prices threatens to overload the commercial banking system, and developing countries are piling up an enormous and largely unproductive debt. Through the IMF, there is a better chance of achieving the right balance between internal economic adjustments and foreign financing.

Despite these short- and medium-run difficulties, the fact remains that the developing world, especially the Latin American and Southeast Asian countries, is full of profitable opportunities for American companies willing to break into new territories. OPIC is well-positioned to help guide you through the unfamiliarities of such investment and to provide the risk insurance that will help make it feasible.

The continuing potential for productive business relationships between countries, and especially between countries of strikingly different cultures, is a bright spot on today's admittedly difficult international scene. Perhaps one of the most difficult but important signals we should be receiving from the political turmoil that has rocked so much of the Middle East and other parts of the Third World is that we must persist in establishing commercial and industrial ties with friendly societies less modern than our own. What your business instincts should be telling you is not that it is too risky and unfamiliar to do business in the Third World, but that it is well worth the effort of finding out where and how you can operate successfully in this large, profitable, and growing market.●

LORD KILLANIN'S GRACELESS EXIT FROM THE INTERNATIONAL OLYMPIC COMMITTEE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BIAGGI. Mr. Speaker, for the past 8 years, the International Olympic Committee has been under the leadership of Lord Killanin from Ireland. Lord Killanin is leaving the position of president of the IOC but not before he managed to disgrace the committee with his unwarranted vitriolic attack on the United States for its boycott of the Moscow summer Olympic games.

The renowned sports columnist from the New York Times, Red Smith, in a column on Killanin entitled "His Lordship's Tantrum," said: "Living in a playpen does something to full grown men. It isolates them from the real world; it subordinates facts to fantasy." Lord Killanin, in unleashing an attack on President Carter's decision to boycott the Olympics—an action endorsed by the Congress and scores of other nations—reflects a mentality which has been too far removed from the realities of the world. The decision by the United States was not an easy decision—we were all cognizant of the sacrifices we were asking of our athletes. Yet, the provocation of the Soviet Union's invasion of Afghanistan in flagrant violation of all principles of international law, made a boycott essential.

Competition between nations in the Olympic games is on an international scale involving an international community. To have the United States compete in the Olympic games sponsored by a nation which operates outside the international community would be at best inappropriate.

How inappropriate it would be for this Nation to compete in the 1980 Olympics in the Soviet Union. We would be viewed as ignoring, or worse, sanctioning the Soviet actions in Afghanistan. Yet apparently in the eyes of Lord Killanin—the world can put everything aside during the Olympic games. The days of viewing the world from rose colored glasses has passed whether Lord Killanin knows it or not.

Tomorrow this Congress will honor the patriotic men and women who comprise our Olympic team. It will be a highly significant event. We in America are united in our opposition to the spread of Communism around the world. The Olympic boycott is a dramatic demonstration of the intensity of our feelings. It is an action of principle. Lord Killanin with his attack on the boycott has displayed an alarming absence of principle.

At this point in the Record I wish to insert the aforementioned Red Smith column from the New York Times.

His Lordship's Tantrum

"For the great Gaels of Ireland," Chesterton wrote, "are the men that God made mad, for all their wars are merry and all their songs are sad."

Lord Killanin, the departing president of the International Olympic Committee, may have fit that description once. Not now. Not recently. When his lordship ascended to the position of chief playground director, he brought with him a reputation as an urbane, whisky-drinking Irish wit whose scholarship matched his sense of humor. He goes out on a note of petty spite, having a tantrum because the United States chose not to attend his farewell party.

"If they understand other matters as well as they understand sport, God help us all," Lord Killanin said on the eve of the Summer Olympics in Moscow. He was talking about the Americans, who were not present. They are not there because President Carter and most of his countrymen, repelled by what is euphemistically called the Soviet "intervention" in Afghanistan, decided that playing games with the aggressor is not the most suitable response to armed aggression.

"They did not understand how sport is organized in the world," Lord Killanin said, still throwing rocks at the United States. "They did not understand how the national Olympic committees work, or the working of the I.O.C.

"To my mind, they had no knowledge of sport other than American football and baseball. If football and baseball had been in the Olympic Games, perhaps we would not have had a boycott."

Living too long in a playpen does something to full-grown men. It isolates them from the real world, it subordinates facts to fantasy.

Before he won star billing in the Olympic waxworks, Lord Killanin knew that since the modern Games began in 1896, those people with no knowledge of sport other than football and baseball had won more medals in track and field, rowing, swimming, basketball, boxing and weight lifting than anybody else.

Those people who do not understand how the I.O.C. and national Olympic committees work ran the Winter and Summer Games of 1932 and the Winter Games of 1980 and are preparing to hold the Summer Games of 1984.

Lord Killanin's predecessor as dominant penguin in the Olympic colony was an America, the unmitigated Avery Brundage. Slavery Avery, as the athletes called him, was not the chief custodian of sandbox and blocks forever. It only seemed that way. But he had the job long enough to set the intellectual pattern.

It would not be accurate to say that Lord Killanin's countrymen had no knowledge of sport other than hurling and Gaelic football, but the fact is that when a young Irishman wants to learn footracing, he comes over to Villanova.

The arrogance of the I.O.C. and the people who head the organization surpasses understanding. It isn't generally known that there are no United States representatives on the committee. The I.O.C. is a super government and citizenship works in reverse. Two of its members represent it in the United States.

It goes without saying that nobody can choose the name, anthem or flag of a country except the people of that country. If some international body decided that the United States should be known henceforth as New Spain, that the flag should be a tricolor of red, blue and green and the anthem a ditty by Arlo Guthrie, somebody named Reagan or Carter or something might raise a holler. Little things like that don't daunt the I.O.C.

Lord Killanin was in a sweat to bring China into the Olympic family during his administration, but Peking insisted that there could be only one China. The Chinese on Taiwan call their nation the Republic of China. Making the political decision that there was no such country, the I.O.C. told the people on Taiwan to change their name, flag and anthem or get out.

Now the United States Government tells the Soviet Union and the I.O.C. that it doesn't want its flag raised and anthem played in the closing ceremony of the Moscow Games. It is the custom to do this in salute to the country that will hold the Games four years hence.

Lord Killanin says it doesn't matter what the United States wants. "My own view," he says, "is that we should stick to protocol because this has to do with the next Games and not the present Games."●

THE STONEMANS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BONER of Tennessee. Mr. Speaker, it is with great pleasure that I rise to recognize an outstanding Tennessee family who recently became goodwill ambassadors for the United States to the people of Canada. I refer, Mr. Speaker, to the annual blue grass festival held in Waterford, Ontario, and sponsored by the Lions Club of Waterford. The Stoneman family from Nashville, Tenn., was singled out by the Lions Club from other participants in a letter of tribute to the President of the United States. This letter is reproduced below.

Mr. Speaker, I know the entire Congress joins with me in recognizing the good work, musical professionalism, and good will displayed by the Stonemans in their trip to Canada. The letter from the Lions Club follows:

Lions International Club,
Waterford, Ontario, July 16, 1980.

The President of the United States,
The White House,
Washington, D.C.

Mr. President: For the past few years, the Lions Club of Waterford, a cozy community of 2,500 men, women, and children, has presented a Blue Grass Festival. Annually, the Festival draws thousands of young and old Canadians who have become fans of the foot-tapping tunes that came out of the United States.

Musicians from the length and breadth of North America are invited to perform, and no group of musicians exemplifies better the spirit of Blue Grass—its honesty, its earnestness, its love of a good old-fashioned time—than the splendid Stoneman Family from Nashville, Tennessee.

Had you searched the corridors of Congress you could not have found finer ambassadors to send to our fair town, and we thought you might like to know that every time they come back to visit with us the members of the Stoneman Family bring a huge supply of American good-will.

Yours respectfully,

Len Bergen,
President, The Lions Club of Waterford.
Brian Babineau,
Secretary, The Lions Club of Waterford.
Peter Schira,
Chairman of the Blue Grass Committee, The Lions Club of Waterford.●

CAPTIVE NATIONS WEEK—1980

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. DERWINSKI. Mr. Speaker, as in previous years, the 1980 Captive Nations Week was highlighted by many outstanding observances. However, in this year's commemoration, the persistent threat of Soviet Russian imperio-colonialism was made especially clear by the Soviet invasion of Afghanistan.

I insert in the RECORD several examples of the observance across the country of Captive Nations Week. The first is a proclamation by the Honorable Lamar Alexander, Governor of the State of Tennessee, which is followed by a proclamation by Mayor J. Kenneth Blackwell of the city of Cincinnati. Also included are articles from the Catholic Standard of July 10, and from the June 26 edition of America, from Philadelphia, Pa.

This material follows:

PROCLAMATION BY LAMAR ALEXANDER, GOVERNOR OF TENNESSEE

Whereas, over the past 91 years, millions of immigrants have passed under the flaming torch of the Statue of Liberty with gratitude for the promise of freedom for which this grand monument stands; and

Whereas millions of Americans are grieved for their kinsmen and for persons of the same nationality or of other nationalities who are held in bondage and imprisoned for their beliefs; and

Whereas Americans long for the day when freedom loving people around the globe will enjoy the liberties which are basic to the rights of self-government and to the dignity of human beings;

Now, therefore, I Lamar Alexander, as Governor of the State of Tennessee, do hereby proclaim the week of July 13-19, 1980, as Captive Nations Week in Tennessee and do urge all our citizens to join with me in this observance.

PROCLAMATION BY J. KENNETH BLACKWELL, MAYOR OF CINCINNATI

Be it proclaimed:

Whereas many nations throughout the world have been made captive by the forceful and aggressive policies of Soviet communism; and

Whereas the peoples of the Soviet-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent; and

Whereas it is appropriate and proper to manifest to the peoples of the captive nations the support of the Government and the people of the United States of America for their just aspirations for freedom and national independence; and

Whereas by a joint resolution approved July 17, 1959, the Congress has authorized a proclamation designating the third week in July as "Captive Nations Week", and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world:

Now, therefore, I, J. Kenneth Blackwell, Mayor of the City of Cincinnati, do hereby proclaim the week of July 20 through July 26, 1980, as Captive Nations Week in Cincinnati and I invite the people of Cincinnati to observe this week with appropriate ceremonies and activities, and I urge them to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations.

[From the Washington (D.C.) Catholic Standard, July 10, 1980]

CAPTIVE NATIONS

In recent years Captive Nations Week, which begins this Sunday, has slipped by virtually unnoticed, perhaps because it comes in the middle of summer when our attention span and energy are diminished. But Captive Nations Week is important. It is a reminder that there are, literally, captive nations, nations that have been taken over by Communist powers. Freedoms have been obliterated and replaced by oppression in the service of an all-powerful state.

This Sunday we are asked to pray for those living in the captive nations, and this is a request we should welcome. We also should ask our government to do all that it can to intercede for these victims and to discourage the oppressors from their inclination to add to the already long list of captive nations. We who are not captives have a duty to those who are.

[From America, June 26, 1980]

TWENTY-FIRST ANNIVERSARY OF "CAPTIVE NATIONS WEEK RESOLUTION"

This coming July 13, 1980 Americans of all national backgrounds will observe the 21st anniversary of the "Captive Nations Week Resolution," which was enacted on July 17, 1959 and became Public Law 86-90.

At the time U.S. legislators, concerned with the ever-increasing expansion of Russian colonialism and imperialism, voted this all-important document to warn the world that Moscow was bent on the conquest of the whole world, and provided this resolution as a legal reminder to the American people that the United States does not and will not recognize the encroachments of Moscow upon new territories in Europe and Asia.

The history of the last two decades has fully vindicated the "Captive Nations Week Resolution." None other than the late Secretary of State Dean Acheson, stated that historically the Russian state was always and imperial state, and that the Soviet Russian Politburo has inherited this tradition and is continuing to build up despotic empire upon the conquered lands and peoples. The latest example is the Soviet Russian invasion of Afghanistan.

The present rulers of the Soviet Russian empire and some Russian exiles have been denouncing the "Captive Nations Week Resolution" as directed against "Holy Mother Russia." Recently, Alexander Solzhenitsyn, the celebrated Russian novelist, assailed the concept of the captive nations and even defended the policies of Russification of the non-Russian peoples. He said that the overall usage of the Russian language in the U.S.S.R. is not a sign of Russification, but rather a "mechanical procedure." He also denied that the Russians are the dominant element in Soviet politics, and that the present leaders of the U.S.S.R. are a mixture of Russian, Ukrainian and Byelorussian men and women, who rule the Soviet Union.

But he conveniently omitted the fact of official Russification, the destruction of non-Russian language and cultures, annihilation of the national and cultural traditions of Ukraine, Byelorussia and the Baltic States, and the insidious drive to create a "Soviet man," and a common "Soviet language," which in the last analysis will be the converted "Russian man" and "Russian language."

Therefore, this year's Captive Nations Week must be especially emphasized and widely observed to demonstrate that Moscow is a threat to the free world.

The plight of the captive nations should and must not remain a matter of indifference.

Five years ago, the United States and Canada signed the Helsinki Agreement with the Soviet Union and 32 European governments, under which the U.S.S.R. agreed to relax its iron rule and allow "freer movement of ideas and people" between East and West. In exchange, the West recognized the political status quo and the permanent division of Europe into Communist and non-Communist spheres, dooming the captive nations to Soviet Russian slavery and despotism.

Moscow never kept the Helsinki Agreement, but instead began persecuting the Helsinki monitoring groups throughout the U.S.S.R.

It is important that on this 21st anniversary of Captive Nations Week, Americans of all backgrounds demonstrate to the captive nations their sympathy and moral support in their quest to regain their freedom and national independence.●

BALANCED BUDGETS AND PHONY NUMBERS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. GRADISON. Mr. Speaker, today's Washington Star includes an important commentary on off-budget programs written by Steven Hofman, executive director of the House Wednesday Group, and Rhonda Brown of the Carnegie Endowment for International Peace. I am including this article in today's RECORD, as I am sure it will be of interest to my colleagues:

BALANCED BUDGETS AND PHONY NUMBERS

With inflation at double-digit levels, and the economy in the midst of a major recession, balancing the 1981 federal budget has become a major national concern. Both the House and Senate, supported by the president, have passed a budget resolution that appears to meet this goal.

However, a closer examination reveals that, despite administration rhetoric and the vast cuts recommended by Congress, talk of a "balanced budget" is both misleading and untrue. The federal government will outspend its 1981 revenues by an estimated $35.8 billion. This is on top of the Fiscal Year '81 deficit, announced by the president, last week. Where this money comes from and is going to is no secret to anyone—except, perhaps, the general public.

The additional $35.8 billion deficit is created by two categories of federal programs called "off-budget programs" and "government-sponsored enterprises." Although neither is included in the budget, they are funded directly by the Treasury and from the pocket of the American taxpayer. They have an economic impact virtually identical to the spending included in the budget.

The deficits created by these two categories of programs, while not included in the annual federal deficit totals, are included in calculations of the gross national debt, which is rapidly approaching $1 trillion.

Of the $35.8 billion deficit not reported, off-budget programs account for $18.1 billion. The Federal Financing Bank—which finances borrowing by many U.S. agencies and departments—is the largest of these. According to the Congress' own research arm, the Congressional Research Service, the existence of off-budget programs "disguises the size of the federal government's activities," and has misled the public as to the size of the federal budget deficit.

Off-budget programs, like programs that are listed in the budget, are completely controlled by the federal government. They were created in the early 1970s when the budget, at the recommendation of the President's Commission on Budget Concepts, was changed from an administrative to a unified process.

The Congress did this to circumvent impoundments of congressionally appropriated funds by the Nixon administration. Since that time impoundments have stopped, but off-budget programs have not. To date, they have added $41.3 billion to the national debt and will add an estimated $62.9 billion by 1983.

Why are these programs not included in the budget? No one seems sure. According to the House Budget Committee, "there appears to be no clear or consistent distinction between on- and off-budget entities." Moreover, the fiscal activities of these have gone significantly above levels envisioned when they were created. In 1973 they accounted for only $100 million, but by 1979 they had grown to over $12.4 billion.

The remaining $17.7 billion extra deficit not reported in the budget is accounted for by "government-sponsored enterprises." Like off-budget programs, they were created at the recommendation of the President's Commission on Budget Concepts and, according to the Office of Management and Budget, were designed to carry out loan programs, "either by lending their funds, directly for specifically authorized purposes, or by buying loans originated by the private groups that they are established to assist."

Like off-budget entities, money for these programs comes directly from the Treasury and their impact is similar to all federal fiscal activities included in the budget.

Since 1973, such government-sponsored enterprises as the Student Loan Marketing Association and the Federal Credit Administration, have required the American taxpayer, through the Treasury, to come up with $102.7 billion. Quoting from the president's own budget document, "The outlays of the government-sponsored enterprises have grown considerably—from relatively small amounts in the early 1960s to an average of $14.6 billion (equal to 3.6, per cent of budget outlays) during 1975–79. Their loans primarily support housing, but they also support agriculture and higher education. The operations of the government-sponsored enterprises are not subject to the federal budget review process."

Again, the House Budget Committee is clear as to the impact of these programs. "The effects of the U.S. government on capital markets include not only the on-budget debt that has to be financed, but also the debt of these sponsored corporations. The operations of the credit enterprises impact on interest rates as well as on the availability of public goods financed by them."

Talk of a "balanced budget" that carefully skirts these two debt categories is clearly misleading. These programs may be necessary, but if the U.S. government wishes to bring the economy under control a true and complete picture of the budget situation must be displayed.

The political rhetoric of a "balanced budget" that increases the national debt and neither fights inflation nor stems the tide of recession may fool a trusting American public. But its ultimate economic consequences will not.●

RETHINKING THE ENERGY MOBILIZATION BOARD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. UDALL. Mr. Speaker, as my colleagues are aware, on June 27, the House overwhelmingly voted to send the conference report on the Energy Mobilization Board back to conference. Many of us who voted in favor of the motion to recommit felt that the conference report had taken a basically good idea, that Federal coordination was needed to expedite decisions on vital energy projects, transformed it into a behemoth new bureaucracy with unprecedented powers.

Now that the dust has settled a bit, I urge my colleagues to reexamine their thinking on this critical issue. I continue to support the idea of an Energy Mobilization Board but I believe that the purpose of the Board should be to coordinate the efforts of existing Federal and State agencies. We do not need another energy agency that sets itself up as a decisionmaker; we need a Board that oversees the performance of those agencies already charged with the task of permitting energy facilities.

To this end, I encourage you to read the following article by Robert R. Nathan. The article describes the structure and operation of World War II mobilization efforts and draws a compelling analogy between the bureaucratic response to problems created by the war and proposed efforts to respond to the exigencies of our present energy crises.

The article follows:

CONTINGENCY PLANNING FOR AN ENERGY EMERGENCY—COSPONSORS: SE$_2$ AND THE HOOVER INSTITUTION, PALO ALTO, CALIF.

SESSION ONE: AMERICAN RESPONSES TO THE WORLD WAR II CRISIS

The Institutional Structure of War Time Mobilization

(By Robert R. Nathan)

Just forty years ago President Roosevelt established the National Defense Advisory Commission, headed by William Knudsen of General Motors and Sidney Hillman of the Amalgamated Clothing Workers. Parts of Europe were already at war and the prospects for confining active warfare to Europe became increasingly dim. Many Americans charged Roosevelt with being a warmonger, even though the President said he favored a growing defense effort because he sought peace through strength. If anything, the United States was late and slow in mobilizing our defenses. Less than one and a half years after the Commission was established, Pearl Harbor was attacked and the United States was at war.

With respect to the energy crisis, in just four more months we will mark the seventh anniversary of the oil embargo and long gas lines and the first public concern about our growing dependence on imported oil. Soon after the embargo there came the quadrupling of oil prices by OPEC and our inflation troubles worsened. For the first time in our peacetime history we suffered double-digit inflation. But, despite these adversities and their ominous sins, we have done very little to cope with the energy crisis. We have fallen behind schedule on established goals.

It is interesting to recall that the United States had lots of unemployment and idle industrial capacity in 1940, although we did purposefully, and fortunately, initiate an early expansion of our steel and aluminum capacity and of our facilities to produce machine tools. Today we have no such elbow room with respect to energy. Talk of an oil glut has only the most transient relevance. Any cut-off of Middle East oil could put us into a straitjacket of such gravity as to threaten the stability of the United States and certainly raise serious doubts about our very security as a nation.

The purposes of my introductory remarks and of this session are not to draw precise parallels or distinctions between World War II and the current energy crisis, with or without the cut-off of Middle East oil. Rather, my purpose is to describe American responses to the World War II crisis from organizational and institutional points of view. Whether or not those World War II responses can be replicated in 1980 with respect to energy is properly debatable. But, I firmly believe that the World War II experiences should be of great interest and help to those who should be and those who supposedly are coping with the energy crisis.

The institutional structure or, more accurately, structures of World War II mobilization should be especially pertinent. I will describe briefly the character and changing patterns of those institutions as well as the policy and performance implications of those structures.

The National Defense Advisory Commission, though rather loosely organized and faced with the limitations of mobilizing for defense rather than for war, did a good first stage job. It wasn't taken too seriously by our military leaders but it did accomplish some good initial planning and achieved some expansion of productive capacity in key industries.

I believe it was near the middle of 1941 when Roosevelt established the Office of Production Management with Donald M. Nelson as its single responsible Chief. The country was becoming deeply fearful that the war would soon involve the United States. France had fallen and a complete Nazi victory in Europe was a more and more distressing prospect. Nelson and OPM gave a new thrust to the mobilization task. The pace of preparedness accelerated.

However, there was no institutional structure which could effectively coordinate and monitor the various organizations most directly involved in the mobilization task. So Roosevelt established the Supplies, Priorities and Allocation Board (SPAB) with Henry Wallace as Chairman. Its principal task was one of tying all the loose ends together.

Serious goal-setting was already underway. Jean Monnet, a French national and later the leader of the United Europe effort, had been sent by Churchill to the United States after the fall of France to serve without portfolio in the British Supply Mission. He early recognized that American production was the key to victory over the Fascist forces. It was his genius that led to the development of the Victory Program, namely, a set of ambitious war production goals, and its presentation to President Roosevelt immediately before Pearl Harbor. Monnet got strong support from WPB and SPAB. I had the good fortune to work with Monnet on the Victory Program. That is a long story in itself and need not be spelled out here. However, I do think the very existence of OPM and SPAB was of great significance in those pre-Pearl Harbor days because the groundwork for the huge Victory Program goals proved invaluable once we were actively in the war.

When war came in December 1941 the debates over whether or not to move into all-out mobilization vanished. The issue was how to do the very best job as fast as humanly possible. Roosevelt created the War Production Board (WPB) with Nelson as Chairman and SPAB went out of existence. The key mobilization agencies, including the military establishments, were represented on WPB. Nelson had direct access to the President and the WPB was supported by the White House when its authority was questioned or challenged in those early months of World War II.

The WPB dealt with the key issues of setting production goals and priorities, cutting back civilian consumption, allocating scarce materials, coordinating and monitoring the mobilization-related functions of other government agencies, identifying and helping break bottlenecks, and generally formulating and implementing relevant policies and programs. It did not seek to substitute itself for various governmental operating agencies, but it did demand and generally succeeded in getting effective performance from these agencies. It set up and operated a materials distribution system but it avoided most other operating functions. It did a fine job in launching and accelerating the all-out mobilization of America's resources for World War II.

As an active participant, I will briefly describe just one example of important WPB achievements. The Victory Program encompassed very ambitious production goals for key materiel categories. As soon as Roosevelt announced these large goals publicly, immediately after Pearl Harbor, the military departments and bureaus went overboard in asking and getting phenomenally huge appropriations and in placing widespread unprecedentedly large orders for new facilities and for quantities of armaments. It took only a few weeks to see clearly that the military contracts called for deliveries that were far beyond feasibility. I was Chairman of the Planning Committee and quite early in 1942 we felt compelled to undertake a Feasibility Study which called for ambitious but feasible goals. The nation needed to achieve prompt maximum effective production. This could not be achieved by allowing each department or bureau to proceed largely independently in getting total production commitments that were way beyond what was feasible. If that happened, the country would end up with all kinds of idle processing facilities and seriously unbalanced supplies of parts and components and even a lack of balance in end products needed for military operations. The Feasibility Study was bitterly attacked by some high military officers but the War Production Board supported the policies and the feasible but ambitious goals set forth in the Study. It was a critical issue and a very valuable decision was reached.

As the months went by and war production zoomed, conflicts emerged within the WPB as leaders jockeyed for authority and prestige. Some differences in policies emerged. Some agencies increasingly maneuvered for greater independence. Also, problems increased in areas that were somewhat unrelated to WPB's main task of production of materiel for war. Production and stabilization policies didn't always mesh, although Leon Henderson, head of the Office of Price Administration (OPA) and Don Nelson worked well together. International issues and diplomacy considerations did not always fit in with WPB major functions.

In early 1943 Roosevelt established the Office of War Mobilization (OWM) under James Byrnes. The WPB was not changed, but some of the high level policy coordinating functions moved to OWM. Byrnes established a small staff made up of just a handful of top level individuals. OWM worked quietly and effectively without a great deal of public exposure. Byrnes' deputy was the exceptionally talented General Lucius Clay. By the time OWM was fully underway, war production was approaching peak levels. The task was one of maintaining momentum, assuring military-civilian production balance and effective production mobilization coordination within the military establishment. Changes in personnel occurred. By 1944 the mobilization of America's resources for war turned the tide for the Allies.

There is one more institutional change to note. Roosevelt took cognizance of the more favorable prospects in the war and changed the name of the Office of War Mobilization to that of the Office of War Mobilization and Reconversion (OWMR). Fred Vinson, later to become Secretary of the Treasury and then Chief Justice of the Supreme Court, was named to replace Byrnes shortly before Roosevelt's death. I returned to the Government as Deputy Director of OWMR the week Roosevelt died. Vinson stayed for a few months and then became Secretary of the Treasury. He was replaced by Truman's close friend, John Snyder.

The reconversion of the economy from war to peace was achieved with much greater rapidity than expected. On the production front it went better than in the stabilization area. A variety of institutional changes were made and the wartime machinery was quickly dismantled. Peace came to the economy with some production disruption but less than was contemplated. Inflation was rampant but after a time even that slowed down.

That is a rather brief sketch of the institutional structure of wartime mobilization. Nothing of a similar nature has been set up to deal with the energy crisis. The Department of Energy has been established, pulling together a good many agencies and bureaus concerned with diverse energy problems and functions. Most observers of the DOE are critical of the limited success achieved to date in welding the Department into an effectively functioning entity. The DOE performance leaves much to be desired. There is no evidence that it can or will serve to solve our energy problems as the wartime institutions served to mobilize the nation's resources for victory over Germany, Japan and Italy.

What is clearly needed for the energy crisis is a high level organization close to the Office of the President with direct access to the President. It must have the authority and prestige to achieve much more conservation and much more energy output from domestic sources. It has to be above the Cabinet level. It should not serve as a conventional operating agency but rather as a top level goal setter, policy formulator, program determiner and expeditor.

We need an Energy Mobilization Board or Energy Production Board that will do much more than just expedite synthetic fuels projects as now contemplated. It should be more like the War Production Board than the presently proposed Energy Mobilization Board. If the energy crisis is truly "the moral equivalent of war" then we must establish wartime-like mobilization institutions that will rapidly and greatly improve efficiency in energy utilization; increase measurably the use of domestic coal, nuclear facilities and natural gas; expand our research and development efforts with respect to new supplies of energy sources and the much safer uses of coal and nuclear power. We will have to undertake a herculean effort to achieve the progress so greatly needed. It will not happen without the needed top-level organizational structures such as those developed for World War II mobilization. But as yet there are no signs of such an effort, such a determination, and such an institutional structure.●

IN MEMORY OF VICKI J. LINDSEY

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. DUNCAN of Tennessee. Mr. Speaker, it is with heartfelt grief that I inform my colleagues of the accidental death of Vicki J. Lindsey, a young woman who served on my staff for some 8 years.

Vicki was an extremely intelligent and competent woman who constantly maintained a sense of humor and amiable personality in even the most difficult situations. During her 28 years she developed a vast circle of friends, which was a direct reflection of her strength of character and compassion for other people.

Vicki's avid interest and capabilities in politics had promised her a bright future in Government service, and there is no doubt that her presence and talents will be sorely missed for years to come.

I am truly honored and grateful to have had the opportunity to know and work with Vicki as long as I did. In addition, I must say that to myself, my family and staff, Vicki will eternally have a place in our hearts.●

TIME TO EMBARGO THE REPUBLICANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. WOLFF. Mr. Speaker, the Republican platform calls for drastic increases in defense spending, for the supposed purpose of achieving military superiority over the Soviet Union. The United States, the Republicans say, must be tough with the Soviets and be prepared to make the sacrifices which such a massive peacetime military buildup would necessitate.

In the light of the stated Republican position on defense spending, and on United States-Soviet relations in general, the platform's opposition to the maintenance of the current grain embargo is initially puzzling. It is by means of a close examination of this position of the Republican platform that one uncovers what is implicit in much of what the Republicans call a sound program for the future of our country: pure election year posturing. The call for increased defense spending can be easily made, for every American wants his country to be strong and secure, and the sacrifices required to carry out this policy are spread across the entire taxpaying populace. The grain embargo, however, calls for sacrifices to be made from what appears to be only one sector of American society. The Republicans claim that the embargo is ineffective, and Americans are paying the price of it rather than the Soviets. This claim is unfounded. I have recently received the Department of Agriculture's report on the embargo which demonstrates the very real price the Soviets are paying for their military rape of Afghanistan. I insert this Department of Agriculture report into the RECORD at this point.

USDA REPORTS ON EFFECTS OF U.S. AGRICULTURAL SALES SUSPENSION ON THE SOVIET UNION

WASHINGTON, July 25.—"Official Soviet statistics, Soviet press reports and Western observers in the Soviet Union confirm that the Soviet livestock industry has been set back substantially primarily because of the poor 1979 Soviet grain and forage harvest and the U.S. trade suspension," Howard W. Hjort, the U.S. Department of Agriculture's director of economics, policy analysis and budget, said today.

Summarizing a just-released USDA report on the effect of President Carter's agricultural sales suspension, Hjort said, "The suspension prevented the Soviets from obtaining all the grain they had intended to import to compensate for their 1979 grain shortfall. As a result, the Soviets were denied about 10 percent of their feed grain requirements for the 6-month period before they could draw on newly harvested 1980 feed supplies.

"Total Soviet meat production for the first half of 1980 is 1.2 percent below the amount produced in the first half of 1979," Hjort said. In 1979, the Soviets produced 15.5 million tons of meat and lowered their goal for 1980 production from 17.3 million tons to 15.7 million. We now project, however, the Soviets will not achieve any increase in meat production in 1980 and, in fact, will produce slightly less than in 1979.

"Beef production on Soviet state and collective farms in June 1980 was 16 percent less than it was a year ago and pork production was off 10 percent," Hjort said. "Total meat production for the month was 11 percent less than for June 1979." State and collective farms generally account for about three-quarters of USSR meat output.

"The effects of the reduced meat production have shown up in press reports of work stoppages and labor unrest prompted by shortages of meat and dairy products," Hjort said. He noted the Soviet government denies reports of unrest related to short food supplies.

The report lists other developments attributable, at least in part, to the trade suspension.

Milk production on state and collective farms for the first half of 1980 was 4 percent below the year-earlier level. Milk cow productivity was off 5 percent for the same period.

Hog inventories on July 1 were 1.8 percent below what they were on the same date in 1979 and are likely to remain below year earlier levels for the remainder of 1980.

The rate of growth in Soviet cattle and poultry inventories appears to have been checked. Cattle numbers on July 1 were 0.6 percent above a year ago, compared with increases of 1.2 percent and 1.8 percent registered on the same date in 1979 and 1978, respectively. Poultry numbers were up 2.7 percent, compared with a 6.3 percent increase July 1, 1979, and a 7.9 percent gain for the same date in 1978.

Average slaughter weights for hogs and cattle were considerably lighter in the first half of 1980 than in the first half of 1979.

The Soviets are likely to import a record amount of meat in 1980.

Soviet per capita meat consumption is expected to decline to 57 kilograms in 1980, well below the goal for this year of 63 kilograms the Soviets announced in 1975.

The import of substitute grains from other sources, in ships considerably smaller than the large bulk carriers the United States employs, has caused severe congestion in Soviet ports.

[EDITORS' NOTE.—A limited number of free copies of the report, "Update: Impact of Agricultural Trade Restrictions on the Soviet Union," FAER-160, can be obtained by writing the ESCS Publications, Room 0054-So., U.S. Department of Agriculture, Washington, D.C., 20250. Please include your zip code.]

Thus, the Republicans should rethink their platform. The American voter is not the gullible fool that the Republicans seem to think he is. The American people cannot be deceived by clearly self-serving political rhetoric such as this year's Republican platform. The embargo is working in a manner that no military measure possibly could to bring pressure on the Soviet leadership. It is causing internal dissent among the workers of the Soviet Union who are sick of being told that their system is the best way to improve their standard of living. The effects of Soviet public opinion must not be underestimated in the period preceding the coming succession crisis. Most importantly, the embargo is demonstrating our resolve to impose tough painful sanctions on the Soviet Union and to make them stick. In addition, the world can see that the simple American decision to not sell the bountiful products of our economy to the U.S.S.R. profoundly affects the operation of that nation's closed society and planned economy. The embargo of the sale of American grain to the U.S.S.R. must continue until that nation's brutal invasion of Afghanistan has been terminated.●

WARREN WOODS HIGH SCHOOL CHOIR

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BLANCHARD. Mr. Speaker, I am pleased to publicly recognize an upcoming tour of Romania, Bulgaria, and Greece by the Warren Woods High School choir of Warren, Mich.

These young men and women are using the medium of music to build a bridge of friendship between our great country and the people of other lands. When people of diverse ethnic backgrounds learn to share and appreciate our common interests, then the barriers of mistrust and misunderstanding can be broken.

As the young people of Warren, Mich., dance and sing their way across Europe, we hope that they might ignite a spark of trust to unite more of the world in friendship and understanding.●

H.R. 5604, THE LACEY ACT OF 1980

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. EVANS of Delaware. Mr. Speaker, I want to congratulate the House for its passage of H.R. 5604, the Lacey Act of 1980.

I am pleased to be a cosponsor of this badly needed wildlife conservation measure, and I commend the chairman and ranking minority member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Congressmen BREAUX and FORSYTHE, for their efforts in bringing this legislation to the floor.

The last years of the 19th century were a grim time for wildlife in America. The buffalo had been all but exterminated, and species such as the passenger pigeon were on the brink of extinction. Our Nation's abundant waterfowl and shore bird populations were severely depleted by indiscriminate market hunters supplying railroad cars full of game for restaurants in Chicago and New York City.

Although there were some laws on the books to conserve and regulate the taking of fish and wildlife, such laws were widely ignored or unenforced. The jurisdictions of those individual States which had wildlife laws did not extend across State lines. Thus, it was nearly impossible to regulate the massive traffic in waterfowl and other game birds and animals. In response to this untenable situation, Iowa Congressman John F. Lacey offered the first version of the Lacey Act in 1900.

The basic purpose of the Lacey Act then, as is true today, was to provide a Federal ban on the interstate traffic in wildlife taken illegally in their State of origin. In other words, the Lacey Act provides Federal law enforcement power to help individual States carry out fish and wildlife conservation programs.

The original Lacey Act has been revised and expanded since 1900, and it remains a basic tool in the field of wildlife law enforcement. Unfortunately, given the great potential for profit, the penalties of the Lacey Act and the related Black Bass Act are no longer a deterrent to those who deal in illicit fish and wildlife. A maximum fine of $200 and 3 months in jail, as is the case for the Black Bass Act, is not much of a deterrent when the profit potential is often in the hundreds of thousands of dollars.

The Merchant Marine and Fisheries Committee revision of the Lacey Act, which incorporates the Black Bass Act, would establish criminal penalties for knowing violations with a maximum fine of $20,000 or 5 years in jail. I hope these penalties will be a real deterrent to those who would callously sell a nearly extinct animal just to make another buck.

In revising the Lacey Act, my colleagues have broken new ground by extending the sanctions of the Lacey Act to include interstate and foreign commerce in plants threatened with extinction and taken in violation of State laws. Many plant species, such as the cactuses of our desert Southwest, are very popular among plant collectors, and their indiscriminate taking is severely depleting species with limited distributions. Although States such as Arizona have plant conservation laws on the books, they are unable to effectively control interstate traffic, just as was true with wildlife at the turn of the century.

By extending the sanctions of the Lacey Act to include plants, we are giving the States an important new tool in their effort to conserve threatened plant species. I am hopeful that in the future the committee will carefully monitor the situation with respect to plant populations, especially on our public lands, and will consider additional steps to promote their conservation.

Mr. Speaker, this Nation has a rich and priceless wildlife legacy. Most of our citizens value that legacy and abide by our State fish and wildlife conservation laws. The Lacey Act is an important tool, however, in the fight to protect our wildlife legacy from those who would coldly squander it for the sake of illegal profits.●

TRIBUTE TO DOMINIC J. BIANCULLI

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. MOAKLEY. Mr. Speaker, I rise in memory of a very good friend of mine and all the citizens of the Commonwealth of Massachusetts—Mr. Dominic J. Bianculli. Dominic died in Boston at the age of 62, after a long illness.

Dominic played a very large role in the administration of the affairs of the Commonwealth of Massachusetts for the past quarter century. Serving as administrative secretary to the Massachusetts Governor's Council for the past 10 years, Dominic touched each of the Commonwealth's last 10 Governors with his administrative efficiency coupled with his good heart and sound judgment.

Dominic's tenure as administrative secretary to the Governor's Council in Massachusetts was marked by his intense personal involvement in the scores of issues that came to his attention. His dedication to the welfare of the Commonwealth's citizenry was legendary. His concern for the quality of life in the State and its impact on each and every citizen serves as a model to all public officials throughout the Nation.

Dominic's activity and involvement ran far beyond just the political and governmental realm. A director of the St. William's CYO band in Dorchester, Dominic also served on the governing board of the Boston Archdiocesan CYO Board. He was active in many other Catholic organizations, such as the Knights of Columbus, the Holy Name Society of St. William's parish, the Catholic Boys Guidance Center, and the Italian-American Charitable Society.

Dominic's intense concern for the welfare of the State's youth is reflected in his wide range of membership in youth-related activities such as the South Boston Boy's Club, coach of several CYO swim teams and a wide range of involvement in musical areas.

Dominic's leadership role in both the political and social arenas in which he was so active will be sorely missed. However, his legacy in both areas will be the countless numbers of individuals that he touched in such a personal way throughout his years of public service.

To his wife, Charlotte, and his family, I extend my most profound sympathies.

Thank you.●

TIME IS RUNNING OUT

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. GRAY. Mr. Speaker, the following interview with Bishop Tutu of South Africa appeared in the July 7 issue of Newsweek. Bishop Tutu is an articulate and outspoken opponent of the apartheid system. In the light of the recent violence in South Africa, it is especially important to take serious note of the bishop's observations and to remember what apartheid means in the lives of 20 million people.

I offer this interview for my colleagues' review:

"Freedom Is Around the Corner"—Interview: Bishop Desmond Tutu

Bishop Desmond Tutu, head of the South African Council of Churches, has emerged as one of his country's most important black leaders. In an effort to stifle his criticism of apartheid, the government has withdrawn the bishop's passport, and a month ago he was arrested for protesting the recent police crackdown. Awaiting trial in Johannesburg, Bishop Tutu spoke with Newsweek's Helen Gibson about South Africa's racial unrest. Excerpts:

Gibson. In recent months there have been attacks on police stations, riots in Cape Town and now labor strikes in Port Elizabeth. To what do you attribute this unrest?

Tutu. Blacks are saying we have had enough of a system that consigns us to perpetual serfdom.

Q. Is there any merit to government claims that agitators aided by outside agents have caused the trouble?

A. There may be, but I don't need an agitator to tell me that I am forced to live in a ghetto, even if I do have a rather nice house in that ghetto.

Q. A year ago, Prime Minister Pieter Botha promised to make reforms in apartheid and told whites they must "adapt or die." Do you think any progress has been made?

A. I have commended Mr. Botha on his courage. He certainly has a better grasp of reality than any of his predecessors, and the military has told him that under no circumstances could South Africa win a war, conventional or unconventional, with 80 per cent of the population disaffected. On the whole, we have had a great deal of rhetoric—important rhetoric, because it is not the sort you expect to hear from a National Party Prime Minister. But very little of that has been translated into action.

Q. What effect has Prime Minister Robert Mugabe's resounding victory in Zimbabwe had on black as well as white thinking in South Africa?

A. People are influenced by what happens elsewhere, and events in Angola, Mozambique and, above all, Zimbabwe have told blacks that freedom is around the corner. I think whites are still shocked from their discovery that there can be so much magnanimity in Mugabe, who they thought was an ogre. We keep telling the whites that we have the opportunity in South Africa of arriving at precisely the goal Mugabe reached in Zimbabwe, but without the bloodshed and the violence. The whites must take the chance while they have it.

Q. Are they willing to take it?

A. History does not supply us with examples of anybody giving up power voluntarily, and South Africa is very powerful militarily. It believes it will be able to hold out much longer than anyone else. The government is trying to make adjustments in the system—shifting the furniture around in a room that remains the same—so people overseas do not apply too much pressure.

Q. Are you in favor of economic sanctions against South Africa?

A. The West should apply diplomatic, political and economic pressure. But you must decide for yourselves whether economic pressure should include sanctions. If people want to invest in South Africa, I would like to see them apply certain very stringent conditions. They should insist that workers are housed in family-type accommodations near the place of work. This would immediately weaken the migratory-labor system. Black trade unions should be recognized. If there is real trade unionism, the worker must be free to sell his work wherever he wishes, and therefore you cannot have influx control. If companies want to invest in South Africa, they should also be required to invest massively in black education and training.

Q. Do you think American companies here are doing enough?

A. No. They have been trying to improve—instead of change—the situation.

Q. You recently predicted that South Africa would have a black Prime Minister in five to ten years. Do you really believe this?

A. Yes. I have no doubt that we are going to be free, and it is a freedom that will embrace everyone—black and white. At the present time, whites are not free either. They pretend they are because they think they can have separate freedoms, but it is impossible to have separate freedoms—and they are spending too much time protecting those freedoms to be able to enjoy them. The whole logic of history, even the history of the Afrikaners themselves, points to the fact that once people determine to be free, they will succeed. The whites must decide whether freedom will come peacefully or through bloodshed and violence.

Q. But the current regime is so strong economically and militarily that it could remain in power for a long time.

A. To some extent that is true, but certain factors make it increasingly unlikely. The government would have to accept a civil war and decide to use any and every method, however vicious, to win. I am not sure the government is ready to jeopardize its relationship with the West to that extent. Also, the whites are very divided, particularly the Afrikaner community. Afrikaner academics are now calling into question very seriously the morality and even the practicality of apartheid. And some whites are beginning to realize that their security cannot lie in military strength. General Magnus Malan (commander of the defense forces) has said that our crisis in South Africa is 20 percent military and 80 percent political. I would not underestimate the spirit of this generation of young blacks. South Africa will never have real peace until there is political power-sharing.

Q. What would the government have to do to make the non-white majority believe they could hope for change?

A. Four concessions would change the atmosphere. One, a commitment to a common citizenship in an undivided South Africa. Two, abolition of the pass laws, even a phased abolition. Three, a halt to all populations-removal schemes. Four, a uniform education system. This would be a beginning, and if the government looked as though it intended to carry out these steps, I would use my influence in South Africa to restrain the militants. But the scenario changes if the Prime Minister thinks it is more important to preserve the unity of the National Party and of the Afrikaners. Then we are headed for the high jump.●

URBAN INSTITUTE CALLS THE REAGAN WELFARE PROGRAM A MAJOR POLICY SUCCESS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ASHBROOK. Mr. Speaker, FBI revelations about the enormous amount of fraud in the medicaid program make it clear that this country could reap huge benefits from the cleanup of Federal social-welfare programs promised by Ronald Reagan and the Republican platform. A study released this week by the Urban Institute, a nonprofit Washington research group, shows that Mr. Reagan can deliver on those promises. The study, quoted in the New York Times, states unequivocally that the Reagan welfare reform program in California was a success. We watch with dismay as the total failure of the Carter administration to control the scandalous waste of taxpayer money and provide for real benefits to those who need them exposed. But it is comforting to know that, next January 20, we will have a President whose ability to reverse those failures has been proven in the biggest State in the Union.

Reagan's record in California is good news both to taxpayers and to those who need the help Carter's incompetence is denying them. In California, family benefits increased by 43 percent, and welfare spending was actually decreased between 1972 and 1973. This was not done by any miraculous quick-fix, but by hardheaded, thoughtful and, above all, competent administration, the kind of administration so desperately needed in Washington today.

The simple fact is that even Mr. Carter's strongest supporters shrink from saying that he has shown competence in administering the huge social service programs of the Federal Government. They have claimed, and will continue to claim, that any real control over the runaway fraud and waste is impossible. Mr. Reagan has demonstrated that this is not true, but facts will not influence those who, after 4 disastrous years, are determined to have Carter in the White House another term.

The Reagan administration will not perform any miracles, but after Carter, his accomplishments will probably seem like something magical. He will cut Government spending and increase benefits to those who really need them, as he did as Governor. He will get results instead of excuses, and our President will tell us how we will overcome our problems, instead of accusing Americans of producing a "national malaise." After Carter, a simple return to the old American tradition of competence and confidence will seem like a miracle. In our depressed and troubled times, we can certainly use a little of that kind of magic.

The complete text of the article on Governor Reagan's welfare reform study, from the July 24, 1980, New York Times, follows:

REAGAN WELFARE REFORM CALLED "MAJOR POLICY SUCCESS"

(By Peter Kihss)

Ronald Reagan's welfare reform program in California is being called "a major policy success" in a report by the Urban Institute, a nonprofit Washington research group, which said the program had reduced California's welfare rolls 6 percent below what they would otherwise have been while increasing maximum grants.

The report noted that the program, which was enacted in 1971 in Mr. Reagan's second term as Governor, had substituted "a demonstration program of required work" in place of work incentives. It said this stemmed from the belief by Governor Reagan and his welfare director, Robert B. Carleson, that existing incentives for welfare families "did little to promote work and served only to extend benefits to persons who had earned income."

The institute is circulating the report by Frank Levy, one of its senior research associates, in its current newsletter, Mr. Levy said in the report that there were "big symbolic differences in the rhetoric" between what Mr. Reagan accomplished and liberal proposals for welfare reform but that the substantive differences "are much smaller than he or they are likely to admit."

For example, Mr. Levy said, "all 'liberal' proposals for welfare reform now call for monthly reporting of income."

California had 769,000 people in the program of Aid to Families with Dependent Children, the largest welfare category, when Mr. Reagan was elected Governor in 1966, Mr. Levy said. Mr. Reagan's first four attempts to change the welfare program were rejected by the California Legislature, and by 1970 the state had 1,490,000 people receiving funds under Aid to Families with Dependent Children. By the next year, when the California Welfare Reform Act was passed, the number had risen to 1,608,000. In the next three years the total declined to 1,330,000.

The Reagan program, Mr. Levy said, was "reoriented toward fiscal control," but "on balance, more recipients appear to have been helped than hurt."

SMALLER FAMILIES A FACTOR

The law, which took effect on Oct. 1, 1971, tightened eligibility restrictions and required each household to mail a signed postcard form every month certifying income and membership. The maximum welfare grant had been raised from $172 a month for a family of three in early 1971 after Federal litigation to $204, and under the new law it was increased to $235.

Only the required-work program failed, Mr. Levy said, with only 9,600 people assigned to jobs in three years while the rolls averaged 350,000 cases.

The reduction of 300,000 recipients, Mr. Levy said, could be attributed in part to smaller families as the birth rate fell; in the first three years, there was a 17 percent decline in recipients and a 9 percent drop in cases.

In addition, Mr. Levy said, the end of the recession in 1971 brought down the unemployed parent segment of the family category. In California, this category declined by 56 percent from 1971 to 1974; in the rest of the country it declined by 34 percent.

Mr. Carleson, who became the state welfare director at the start of Governor Reagan's second term in 1971 and later served as a special assistant for welfare under President Ford, has also written about the Reagan welfare program.

In the summer issue of The Journal of the Institute for Socioeconomic Studies, a White Plains quarterly, Mr. Carleson said that from the start of administrative reforms in March 1971 until Mr. Reagan ended his governorship in 1974, there were 850,000 fewer people on family welfare and general assistance, or home relief, programs than projected by legislative and other experts before 1971.

While family benefit levels increased by 43 percent and California enacted state supplements to the Federal Supplemental Security Income program for the aged, the blind and disabled poor, Mr. Carleson said welfare spending in California dropped in the fiscal years 1972 and 1973.●

TRIBUTE TO ATTORNEY LEO M. ASCHERMAN

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. WILLIAMS of Ohio. Mr. Speaker, on Friday, August 8, a group of admirers and well-wishers will gather in Youngstown, Ohio, to honor a remarkable man. I am privileged to join with them to celebrate the 80th birthday of Attorney Leo M. Ascherman.

Born in New York City in 1900, he moved to Cleveland, Ohio, in 1911, where he graduated from high school with honors as class orator in 1918. Attending night school and working as a clerk-typist in law school to help support his four sisters and three brothers after the death of their mother, Mr. Ascherman was educated at John Marshall and Ohio Northern University where he received his LL.B. degree and was admitted to the bar in 1922.

Mr. Ascherman practiced before the U.S. district tax court and in 1964 was granted the honored privilege of practicing before the U.S. Supreme Court. In 1968 he received his doctor of law degree from John Marshall Law School.

In 1938 Mr. Ascherman was appointed State senator to serve in the 93d general assembly. The Ascherman Act, passed in 1939, provided the mechanism for the trial, examination, commitment, treatment, and discharge of mentally ill criminals. From 1939, to 1980 more than 35,000 offenders were dealt with under that act.

The late Thomas A. Burke, mayor of Cleveland, appointed Mr. Ascherman to represent the Jewish community on a committee to develop a cooperative employment practice by employers in Cleveland, and in 1963 he was honored for 25 years of service to the Cleveland Jewish Welfare Fund.

Forty years ago he founded the Mahoning Lumber Center with Samuel L. Gerson in Youngstown, Ohio, and since then has maintained an unexcelled reputation for his dealings with all the Youngstown businessmen. The gathering August 8 will mark not only the beginning of his ninth decade of life, but also his nearly 80 years of promoting understanding among the people with whom he has come in contact.●

EXPANDING UTILIZATION OF THE WORLD COURT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BINGHAM. Mr. Speaker, on June 4, the gentleman from Washington, Mr. PRITCHARD, and I introduced a resolution designed to increase utilization of the International Court of Justice and thereby promote international justice and peace through law. This resolution is identical to Senate Concurrent Resolution 85, which was introduced by Senator ALAN CRANSTON, Democrat of California, in April of this year.

This resolution would increase access to the World Court by establishing a Special United Nations Committee authorized to seek an advisory opinion of the Court, upon request from a national court empowered to do so, on questions of international law. The resolution would also encourage the President to propose legislation authorizing Federal courts to request advisory opinions from the World Court. The resolution would also ask that legislation be passed to define to what degree the United States accepts the expanded jurisdiction of the International Court of Justice.

The distinguished former judge on the International Court of Justice, Philip C. Jessup, recently made an excellent case for enabling national courts to seek advisory opinions from the International Court of Justice in a letter to Prof. Louis B. Sohn of Harvard Law School. In this letter, Judge Jessup expressed his support for efforts to gain ABA endorsement for such procedures and highlighted the importance of such advisory opinions by pointing to a specific example in which attempts to interpret a treaty in our Nation's courts may result in an interpretation contrary to the understanding of other parties to that treaty. He also pointed out that other countries have already adopted procedures for obtaining advisory opinions from an international court.

Judge Jessup served on the International Court of Justice from 1961–70. He has also served as a distinguished professor of international law at Columbia and has written several books on international law.

Judge Jessup's letter follows:

NORFOLK, CONN., *July 8, 1980.*

Prof. LOUIS B. SOHN,
Bemis Professor of International Law, Harvard Law School, Cambridge, Mass.

DEAR LOUIS: I am very glad that the ABA Section of International Law has endorsed and is recommending to the ABA House of Delegates a proposal that the International Court of Justice be enabled to provide advisory opinions on international law issues referred to it by national courts of member states. I have recommended for a good many years the adoption of some such procedure.

Such advisory procedures would be particularly helpful in the interpretation of multipartite treaties. The current international negotiations for a comprehensive treaty on the law of the sea afford a good example since the objective of the negotiating conference is to attain uniformity on the treatment of global problems.

The most recent stage of the litigation between the Federal Government and the State of California regarding the extent of California's ownership of submerged lands and natural resources under the Submerged Lands Act furnishes an example since it involved an interpretation of the 1958 Convention on the Territorial Sea and the Contiguous Zone. A point at issue was whether the Convention provided that the seaward edge of certain piers projecting from the coast should be taken as the base line from which the three mile limit is to be measured. The argument dealt with the travaux préparatoires in the International Law Commission and the translations of various terms, particularly the French "jetées" as the equivalent of "piers" and the English "harbours" for the French "ports". California called attention to the use of the French text of the Warsaw Convention on liability in aircraft disasters by the Court of Appeals in *Reed* v. *Wiser* (555 F.2d 1079) and to the views of Diplock L.J. in the *Thames Estuary* case (2 Q.B. 752,757) but the Supreme Court declined to join the dispute over such linguistic differences and held against the California position. The resulting interpretation of the 1958 Convention may put the United States at odds with other Parties to the Convention since California was informally advised by the Governments of several other States, parties to the 1958 Convention, that they shared the California view that the seaward ends of piers should be taken as base points in applying the Convention.

In the Jacob Blaustein Lectures which I delivered at Columbia University in 1970 (later published under the title "The Price of International Justice") I mentioned the practice already adopted in the European Community: "On a regional basis, a group of States have already put into operation a procedure whereby an international court gives an authoritative interpretation of a treaty for the guidance of national courts in deciding controversies. By Article 177 of the Treaty Establishing the European Economic Community, signed March 25, 1957, the Court of Justice of the Community is given jurisdiction to pass upon certain international legal problems which may arise in litigations in the national courts of the 6 Members of the Community. For example, if in a litigation in a national court a question is raised as to the interpretation of the Treaty of Establishment, the lower court in any State Member of the Community may, at its option, request the Community Court of Justice to give a 'preliminary decision' concerning the interpretation of the Treaty. If the question arises in a national court from which no appeal lies, the national court is obliged to refer the question of treaty interpretation to the Community Court. Although not specifically provided in the Treaty, it has been accepted that the interpretation of the Community Court does not in any way purport to decide the merits of the case in which the question of interpretation arose. When a Dutch Court of Appeal referred a question which involved a specific application to a particular case, the Community Court of Justice rephrased the question to enable it to give an abstract interpretation 'without interfering with the competence of national courts to decide controversies.' Thus the national court proceeds to decide the dispute before it, utilizing the interpretation of the treaty which the Community Court has declared."

I also noted that the International Court of Justice can if requested, act by summary procedure and that Chambers of the Court may also be used to expedite a proceeding.

If the proposal to provide for the use by national courts of advisory opinions of the International Court of Justice is adopted and put into effect, it would not only enhance the utility of the International Court but would serve the interest of justice in this and other countries.

Sincerely yours,

JUDGE PHILIP C. JESSUP,
Member International Court of Justice 1961-70.●

IN SUPPORT OF STANDBY GAS RATIONING PLAN

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. DODD. Mr. Speaker, I am opposed to the discharge petition that would allow consideration of House Joint Resolution 575, a resolution disapproving the standby gasoline rationing plan. Passage of House Joint Resolution 575 would mean the scrapping of a rationing plan that is the only insurance our Nation would have against a 20 percent or more shortage of oil and gasoline supplies.

The gas lines and panic of the gas shortage experienced during the summer of 1979 occurred as a result of only a 5-percent shortfall in oil supplies. The rationing plan that has been proposed would be implemented only in the event of a severe energy emergency. Our Nation must be prepared for similar and more serious cutoffs of oil supplies, and we must be prepared with a plan that has been drafted and organized well in advance of actual implementation.

The proposed standby rationing plan would allow our Government the leadtime to ready and then maintain the extensive distribution system for coupon rationing that will be necessary. The gas rationing proposal is not flawless. It is expensive, but there are 153 million motor vehicles now in use in our country. That will result in four times as many mailings as the entire social security system now distributes.

The plan is complex, but it is also a plan that insures the widest range of individuals, businesses, and public services a measure of gasoline when supplies are hard to come by.

Many critics of the standby plan say that it is no different and no better than its predecessor that was defeated last year. This allegation is not true. Many groups that formerly opposed the plan now support its establishment. For example, positive changes have been made in the distribution of coupons. The priority users list has been expanded to include taxicabs, UPS, and other small parcel deliveries, energy production, newspaper deliveries, and commercial fishing operations. Emergency services, public transportation, and agricultural operations will all receive additional allotments of coupons and States will have their own ration reserves to provide extra coupons for hardship cases.

If Congress rejects this rationing plan it could be years before another plan will be submitted to Congress. What do we do in the meantime? Do we leave ourselves vulnerable to future shortages?

It would be both irresponsible and foolhardy of Congress to deny the President the authority to implement a rationing plan. Our Nation can no longer afford the luxury of prolonged debate over the rationing program. Our dependence on foreign energy is too great and the instability in the Mideast is too apparent to delay reimplementation of gasoline rationing.

For the sake of our Nation, the stability of the American economy, and the security of the American people, I would urge my colleagues to support the gas rationing plan and vote against the discharge petition motion.●

JOHN G. McMILLIAN, PRIME MOVER BEHIND THE ALASKA NATURAL GAS PROJECT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, yesterday the Wall Street Journal featured an article on the prime mover behind the Alaska natural gas project, John G. McMillian, chairman of Northwest Energy Co. Mr. McMillian is, at times, a controversial figure. However, I think his record of accomplishments speaks for itself. As he will preside over the largest privately financed project in history, I insert the article at this point for the Members' attention:

TOUGH AND TESTY CHIEF AT NORTHWEST ENERGY BATTLES OIL GIANTS OVER ALASKA GAS PIPELINE

(By Richard D. James)

SALT LAKE CITY.—John G. McMillian, who once wrestled drilling pipe as a West Texas roughneck, now is grappling with three oil industry heavyweights for a piece of one of the world's largest energy projects—the proposed Alaska Natural Gas Pipeline.

It isn't a polite battle, but tact isn't Mr. McMillian's strong suit. A former associate says the crusty chairman of Northwest Energy Co. offers his employees a simple choice: "My way or the highway."

Mr. McMillian's current adversaries are used to more respect. They are Exxon Corp., Atlantic Richfield Co. and Standard Oil Co. (Ohio). Between them, they own nearly all the natural gas discovered in the rich oilfields of Alaska's Prudhoe Bay. Northwest Energy is a pipeline company based in Salt Lake City.

WHO PAYS?

The issue that divides the three oil giants and Northwest Energy is this: Who's going to pay the cost of building the Alaska segment of the proposed 4,800-mile pipeline that would channel gas from the North Slope across Western Canada to the U.S. West Coast and Midwest?

By itself, the project is enormously complicated. At $23 billion (the estimated cost was $10 billion two years ago) the project would clearly be the most expensive privately financed construction job in history. Negotiations between two sovereign governments and potential antitrust conflict involving pipeline ownership by the gas producers have only muddied the waters.

Adding spice to all this is Mr. McMillian's bull-in-a-china-shop style, best illustrated by his pithy assessment of Exxon: "I respect the company. You have to when they make money like they do. But I don't like the bastards."

MILLIONAIRE AT 39

Mr. McMillian's earthy language reflects his early experience as an oil-field roustabout. A millionaire at 39 years old in the high-risk world of the independent oil producer, he once attempted a dicey drilling venture in the jungles of New Guinea and later outlasted all parties in a six-year court fight to win control of a pipeline company that formed the base of Northwest Energy. Taking on the oil giants over the Alaska pipeline is the biggest bite yet.

In 1977, President Carter surprised the industry by awarding construction of the pipeline's Alaska segment, a 743-mile leg running from Prudhoe Bay to the Yukon border, to a five-member consortium headed by Northwest Energy.

The White House said Northwest Energy's bid was superior on economic and environmental grounds. Others suggested that Mr. McMillian's friendship with Carter administration officials, especially Robert Strauss, Mr. Carter's reelection chairman, may have eased the way. Mr. McMillian, 54, freely acknowledges the White House connection but says it wasn't a factor in the pipeline competition.

GUARANTEES SOUGHT

Political ties don't count for much in raising funds, however, and the Northwest Energy group has come up well short of the $7.9 billion it has budgeted for construction and equipment. Congress has ruled out federal help, so the logical partners are the three oil companies that own the gas—Exxon, Arco and Sohio. Specifically, the consortium wants the energy companies to ease the anxiety of insurance companies and other institutional lenders by guaranteeing to cover possible cost overruns.

But even assuming that the government grants antitrust waivers, the oil companies don't want to put in money without an ownership stake in the pipeline. This rankles the independent-minded Mr. McMillian. He fears the energy companies, particularly Exxon, might wind up running the show by virtue of sheer financial muscle.

"John wants control. He likes to operate," says a longtime associate.

Mr. McMillian operates pretty much as a one-man show. He makes decisions quickly, shuns ceremony and committee meetings and abhors paperwork. Memos he doesn't like are apt to be returned with a terse sentence scrawled across the bottom: "Blue bird this idea." Politely translated, that's oil field slang for "Fly away and don't come back."

FOCUS OF AUTHORITY

"I know people say I'm curt and hard, but I'm just trying to get them to work on substantive matters," says Mr. McMillian. "Exxon operates by committee. We don't. Our structure gives a single point of authority, and they aren't attuned to that."

It's just this personal style that convinces many that Mr. McMillian is the man to get the project built. "Fellows like him want to leave their mark on Earth with big projects," says a former government official. "You don't have that same motivation with an organization like Exxon. The romance of building the biggest energy project isn't all that exciting to them."

Exxon and Arco refused comment about Mr. McMillian, but he won a grudging compliment from Paul D. Phillips, a Sohio senior vice president. "He's accomplished a hell of a lot. He's a very bright, sharp individual who knows what he wants and goes after it very tenaciously."●

ANOTHER VICTORY FOR SMALL BUSINESS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. MOTTL. Mr. Speaker, another big victory for small business has been chalked up recently as a result of the "Pistol of Peace" which is manufactured by the Med-E-Jet Corp., which is located in my congressional district in Cleveland, Ohio. Because of Med-E-Jet's accomplishments, Grenada, a new island nation in the Caribbean, claims to be the first country in the world to be 100 percent immunized.

It is a tribute to Med-E-Jet that Grenada postage stamps picture the "Pistol of Peace" along with a listing of seven diseases against which natives of Grenada have been immunized. It is hoped that development of this immunization gun can allow other nations to easily inoculate their populations.●

BIOMASS RESEARCH AND DEVELOPMENT ACT OF 1980

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HEFTEL. Mr. Speaker, today I am pleased to join with my distinguished colleague from Indiana, Mr. FITHIAN, in introducing the Biomass Research and Development Act of 1980.

The object of this bill is to bring costs of biomass energy—currently one of the most promising of all renewable energy technologies—down to a level at which biomass energy can compete with conventional energy sources. It would do so by establishing a 6-year, stepped-up research and development program in the Department of Energy with the stated goal of making biomass energy cost-competitive and subsequently ending Federal subsidies for biomass energy systems.

Mr. Speaker, as you know, the term biomass refers to all organic material, plant or animal. Biomass is a form of energy that can be used directly as a solid fuel or converted to a variety of liquid, gaseous, or other solid fuels.

Interestingly, energy derived from biomass has been used throughout history. Until the late 19th century, it was the major source of energy in the United States, and even now supplies over one quad of energy per year—the equivalent of 500,000 barrels of oil per day. The domestic policy review of solar energy concluded that biomass energy could displace as much as 3½ million barrels of oil a day by the year 2000. Biomass-derived fuels are potential substitutes for all fuels, and hence biomass could serve all energy end use sectors. Of all the solar technologies, it represents the most practical means of obtaining liquid fuels. It also can provide an alternative to petrochemical feedstocks. Significantly, biomass includes many different resources and conversion processes.

The legislation we are introducing is aimed at accelerating the Department of Energy's research effort into the multifaceted character of biomass energy; namely, the feedstock and conversion elements of the program and the end uses of biomass. Although the comprehensive synfuels legislation just enacted by Congress provides funds for a biomass to alcohol/gasohol commercialization program, there are many other biomass technologies which may require further development to maximize their energy yield and process efficiency. There is a wide variation in the state of development of the technologies involved in production, conversion and use of biomass energy. This legislation should result in the more rapid demonstration and commercialization of these many and varied technologies.

Specifically, our biomass legislation provides financial assistance to private industry and emphasizes reduction of biomass energy costs as a principal program goal. It provides for an accelerated Federal research and development effort over a 6-year time frame. That time frame provides the certainty of Federal support required to encourage private industry to commit sizable resources of its own to the design of better and more cost effective biomass energy systems. The legislation requires the maximum possible encouragement of small business participation in the program. In this field, as in other solar technologies, small businesses have provided a number of important innovations. Finally, the bill aims at the production of three quads of energy from biomass—the equivalent of 1½ million barrels of oil a day—by 1986.

Mr. Speaker, we believe that the need for this legislation is clear. At a time when there is increasing concern over the stability of our foreign oil supplies and continuing controversy over the use of coal and nuclear power, it is vitally important to accelerate Federal programs for research and development of renewable sources of energy. We hope that our colleagues will join us in developing biomass, a multifaceted resource with boundless potential to contribute to our Nation's energy future.●

BOLSTERING EQUALITY

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, recently the Supreme Court decided that the set-aside amendment in the Local Public Works Act of 1977 was constitutional. In reaching this important historical decision the Court ruled that Congress does have the power to make special provisions designed to assist the minority business community in their quest for economic parity in America.

Evidently the opinion of the Court is shared by other private and public institutions. Evidence of such support is reflected in a recent editorial in the Post, published daily in West Palm Beach, Fla. Because I believe it is important that such support be known to the Congress and the American people, I am submitting the following article entitled "Bolstering Equality" for my House colleagues' perusal:

BOLSTERING EQUALITY

Upholding a provision in the 1977 public-works laws requiring that at least 10 percent of the work generated be channeled to minority contractors, the U.S. Supreme Court issued a timely morale-boosting endorsement of affirmative-action programs.

In light of what had seemed to be the court's retreat from racial justice, the 6–3 vote is an important reaffirmation of the national commitment to black citizens to wipe out the last vestiges of segregation.

The minority business enterprise provision, which was attached to the 1977 public works program by Rep. Parren J. Mitchell (D-Md.), was attacked by numerous construction trade associations as some sort of "reverse discrimination." But the court properly viewed it as a limited, remedial program to place minority-controlled businesses on a more equitable footing in obtaining public-works contracts. To put it simply, the provision was designed to introduce scores of minority subcontractors to the general contractors who were bidding on the projects.

That the program worked was demonstrated by studies of the Economic Development Administration which found minority construction businesses managed to obtain $625 million, or 15 percent, of all contracts let. That figure does not include mere fronts.

New Jersey, which emulated the federal action, found its minority businesses similarly received important boosts. The court's decision ought to encourage additional states, such as Florida, to offer similar inducements to spread the work.

Those who argue that race-conscious remedies constitute a new, invidious discrimination against the white majority ignore history and the reality of the black economic condition. They are really arguing that the effects of past discrimination should be forever woven into the nation's social, economic and political fabric. The 1977 Congress rejected those arguments as did the nation's founding fathers, who sought constitutional protection from the dominant European nobles of their time.

The Supreme Court has upheld the right of Congress to offer meaningful incentives to make necessary changes. It is a decision to be applauded.●

SPIRIT OF HELSINKI, VIGIL 1980

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. FISH. Mr. Speaker, as a dedicated participant in the Spirit of Helsinki, the vigil of 1980, I would like to take this opportunity, in view of our upcoming August recess, to remind Members of the House that, while we have made progress in our vigilant efforts to assist Soviet dissidents in fighting human rights violations, another distinguished freedom fighter has been temporarily silenced by the Soviet authorities.

On July 4, just prior to the opening of the Olympic games, Vladimir Kislik, prominent physicist, long-term refusnik, and Jewish activist, was arrested on charges of malicious hooliganism, detained for 15 days and finally transferred to a psychiatric hospital in Kiev.

A refusnik since 1974, Kislik has been repeatedly harassed by Soviet authorities for his anti-Soviet behavior and his activities. His applications for a visa to emigrate have been repeatedly denied. His wife and son were granted permission to emigrate and have lived in Israel since the early 1970's.

Today I am writing to Soviet President Brezhnev and Ambassador Dobrynin to urgently request that Vladimir Kislik be immediately released from confinement and be allowed to join his wife and child in Israel. Kislik suffers from a heart ailment and the loneliness and harassment which he endures daily have rapidly worsened his health.

The case of Vladimir Kislik is not unique. He is one of many Soviet activists who, for freely expressing his religious and political convictions, has been isolated and at least temporarily silenced by the Soviet authorities. His arrest and confinement on trumped up charges of hooliganism and mental disorder is a typical example of Soviet adherence to the Helsinki accords.

Thus, we must remain diligent in our efforts to continuously demand that the Soviet Union comply with the international human rights standards. Refusniks and prisoners of conscience need our reassurance that our congressional vigil in this regard will continue to be a top priority in all our contacts with the Soviet Government.

I would like to also take this opportunity to pay tribute to another prisoner of conscience, Ida Nudel. Known as the guardian angel for her activities on behalf of Soviet Jewish prisoners of conscience, she was arrested in June 1978, for hanging a banner from her apartment window publicizing her request for permission to emigrate to Israel. For this crime she was sentenced to 4 years internal exile.

Throughout her ordeal Ida has remained resolute. I am pleased to report that several weeks ago, two activists were granted permission to visit Ida in the labor camp in which she is confined. It was their observation that her condition seemed to have improved despite a record of poor health in recent years.

Ida, like Vladimir Kislik, has been imprisoned for her crimes of religious conviction, courage, and the desire to join her loved ones in Israel. While we cannot directly effect the release of these prisoners of conscience, we can vow to never grow lax in our commitment to vehemently protest the human rights violations which occur daily within the Soviet Union.

In closing I would like to share with you the lyrics to a song dedicated to Ida written by Naomi Shemer, a leading song writer in Israel today, entitled, "Shalom Ida Nudel."

Shalom Ida Nudel

(English translation: Aviva Marks)

We both were born in the same year, from one people come,
And though we two have never met
Nor may I bid you welcome yet—
Allow me for all that to call you sister,
And tell you in a tongue ancient as time—
Your people are my people, your G-d mine.

A tiny woman in a snow-bound desert
A pail of water in her frozen hand
And in her hut, to cold and hunger prey
In solitude she struggles, abandoned to the fray—
And yet against all reason, in some strange and curious way
It may be said that she, she is my only hope today.

I who dwell in comfort and in shelter
With shade in summer and with autumn's stove
And honey with any morning bread and butter,
And she has nothing, save despair and cold,
And all the stubbornness and all the quiet
And all the arid dryness after storm—
A tiny woman, and her cry—a whisper
A stranger to me, yet for all that, sister.

The family tree we both do share is ancient,
The wind that moves it blows beyond the pale,
One is the wind that soars across the borders
Of the Siberian frost—to Eretz Yisrael.

That wind it is that moves your silent lips now
And pledges us to seal one with the other
A covenant of sister souls.
And whispers to me as I write to wish you well
To wish you all the blue and light of Eretz Yisrael—
That I believe the long awaited day is soon to come
When I may bid you welcome, and when one enormous sun
Will shine upon the two of us, dear sister.●

ADDRESS OF HON. WILLIAM J. RANDALL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. SKELTON. Mr. Speaker, Hon. William J. Randall, who formerly represented the Fourth District of Missouri, delivered the principal address at the Harry S. Truman Library in Independence, Mo., on July 4. I was pleased to have been present to hear his speech. I include it herewith so that my colleagues can read it and give renewed thought to our military preparedness:

Speech of William J. Randall

It is a privilege which I appreciate to be here this morning on the grounds of this magnificent Truman Library to participate in this observation of our greatest national holiday. July 4th is so important, the day changers who have tinkered with other holidays have not dared to touch this one.

1980 has been a year I shall never forget. Early in May, on these steps, you were good and kind enough to present us with a certificate of appreciation for our years as your United States Representative. Then the Patriotic Council graciously requested us to speak on their behalf at Woodlawn Cemetery on Memorial Day. Now to be honored a third time in one year is much like the words of the biblical prophets, "our cup runneth over". For Margaret and myself please be assured we are most grateful.

The celebration we continue here on these steps was first observed on July 4, 1959. That was the day the replica of the Liberty Bell, which was given to Independence by the people of Anecy, France, in 1950, was moved from the memorial building to these grounds. Mr. Truman personally conducted these observances, here at the library, from that year of 1959 through 1966. Since 1967 there have been a dozen most distinguished speakers who have appeared at this podium. I am humbled to follow in their steps.

What we commonly call the Fourth of July is just the informal description of our Independence Day—the day our Declaration of Independence was signed in Philadelphia. While the bells rang out in celebration, we should remember our country then consisted of only thirteen small and weak colonies, starting out upon a dangerous venture. They were challenging the authority of their own sovereign. They were defying what was then the most powerful nation on earth. Our revolutionary fathers were fearless, resolute men. They were brave. They were gallant, with an indifference to danger. They had a plucky spirit with the heart to face unfavorable odds.

On July 4, 1776, they announced a revolutionary idea—that all men are created equal and are endowed with God-given rights which man cannot deny. You know the words—the cherished rights of life, liberty, and the pursuit of happiness to be guaranteed by the creation of a government of, by, and for the people.

The handiwork of our founding fathers was truly revolutionary. All governments up to that moment had prescribed that man was the servant of the state. Thomas Jefferson noted it was a "great experiment" for the state to exist to serve man and, moreover, to trust men to govern themselves without a master.

The history of our struggle for independence is filled with stories of fortitude, moral strength, resistance to adversity, and the mettle to face hardships. Mr. Truman said many times the teaching of American history to our youth should be mandatory—in order that our children know the sacrifices of those patriots and know that freedom not only has to be won but, also, to be preserved. Our youth should be taught—even to memorize—the words of Thomas Paine who put it best when he said, "Those who expect to reap the blessings of freedom, must undergo the fatigue of keeping it".

Thomas Jefferson believed that government should do only those things for the people they cannot do for themselves. He recognized that the one thing the people cannot do for themselves but must rely upon government to do for them is to provide for the common defense. With your indulgence I will address my remaining remarks to that subject.

Let me emphasize that whatever I say about our defense posture is in no way intended to be partisan. National defense is too important for partisanship.

The United States is today at a crossroads in its history, the kind of response we make to our present international challenges will determine whether we remain a free nation and ultimately the survival of our way of life.

We are at these crossroads because for many years we have been too good for our own good. We cancelled the B-1 bomber, and laid aside the neutron weapons. This course might be called pre-emptive concession. We have unilaterally disarmed ourselves without gaining a single concession—we even gave away the Panama Canal without the slightest concession gained from anyone.

After World War II we were respected as the leader of the world. We had more military might than all of the rest of the world put together. Today we have lost our credibility as the strongest nation on earth. Some in the world conceive of us to be a paper tiger. This view is held not only by some of our enemies but by some "relucant allies" who hesitate to side with US—because for their own interest they want to be on the side where the power is. They fear we have lost the will to assert ourselves.

If you've ever wondered why the Japanese risked their attack on Pearl Harbor, the answers have now been given by a commission which visited Japan to try to find out why the attack was ordered. The Japanese have told us they had observed that we had scrapped 200 of our good ships just to prove we had no hostile intentions against anyone. But what persuaded them to act was the passage of the draft by one vote. That was a signal to them we were too weak in our resolve to defend ourselves from attack. This is just another instance in history which proves that the appearance of weakness invites attack.

It is an easy thing to say we must take action to reverse the trend of our declining military posture. But we cannot do it by speeches and editorials. It will take definitive decisions followed by quick action. Even this spring our track record is not very good. While the Russians were parading their newest weapons in Red Square on May Day, our own House of Representatives handed them a present on May 1st which added joy to their celebration. On that day the House defeated by 82 votes an amendment to add a badly needed $5.1 billion to the defense budget.

Noting the presence of our own United States Representative, Ike Skelton, here on the podium, gives me privilege to digress from my prepared remarks, to report to you that Ike was one of only four members of the Missouri delegation, who on May 1st voted to provide our Armed Forces the additional funding so badly needed to strengthen our defense posture. It was not an easy vote for him. He was pressured by special interest to vote more money for social welfare programs, but he resisted the pressures. For my part, I'm proud of him. We all owe him a debt of gratitude. His courageous vote merits and deserves your commendation.

Let me take one more moment to inform you that Ike Skelton is the only Member of Congress in our entire Midwest area who has stressed that more funding be provided for civil defense. If you are not aware, since the ABM treaty of 1974, our country has become hostage to missiles from the Soviet Union. For awhile we had the consolation—the Soviets were hostage to our missiles but now they have dispersed their industries and constructed thousands of hardened shelters. They say they can, by such civil defense measures, save more than half of their population. The only way we can save our population is by doing what they are doing in Russia. Ike has exhibited strong leadership in civil defense. He should be saluted for his good work.

On May 1st the debate centered on the issue of guns versus butter or defense dollars versus dollars for such social welfare programs as CETA, food stamps, and welfare payments. Now I'm mindful there are some good social programs. There are also a lot that are not needed. But in that context there is one paramount consideration—we should never forget—and that is that the most important social program of all, the one with the highest priority, is self-survival. Without a free country all and every social welfare program is meaningless.

Norway learned a bitter lesson in World War II. They enjoyed every social welfare program under the sun. Yet the Nazi war machine overran their country in two short days because they had no defense. When the good Norwegians, under the Nazi yoke, had time to think, they realized their legislators had enacted those popular programs to perpetuate themselves in office. It was not too long thereafter that the bodies of several of those members of the national legislature were found hanging from trees.

Today we should no longer entertain any doubts about the intentions of the Russians. The invasion of Afghanistan should be final proof of their intentions for aggression. With proof positive before our eyes—we now have the strongest reason for an urgency to quickly restore our military strength to meet their worldwide challenge.

We should be warned that it is a delusion to think we can catch up cheaply. Certainly we must eliminate waste in our Armed Forces and make them more efficient. But the big increases which are necessary are well within the capacity of our American economy. In all of the Eisenhower years we spent on the average 10 percent of our total production on defense. We were vigorous then—we had little inflation. We did not regard that 10 percent as an oppressive burden. In 1979 we spent 4.9 percent of our GNP on defense. The most expensive thing in the world is a cheap army and navy. The old cliche applies, "you get what you pay for".

I truly hope and fervently pray we have learned our lesson from the stingy budgets that have starved our armed services for the past 10 years. My late chairman, Mendel Rivers, repeated so many times these words: "there is no education in the second kick of a mule". He also said, "there is no second prize in national defense". John F. Kennedy once said, "there is no second place in military power—only first place and last place. If we ever become last, the free world will have lost its leader."

There is one more quotation I think we must not let ourselves forget. It is from that great American, Teddy Roosevelt, who in 1913 said, "Speak softly but carry a big stick." Today we carry a very small stick. For that reason our leaders should lower the decibel of their rhetoric. Issuing tough statements is no way to deal with the Russians. In Moscow actions speak louder than words.

Now I am going to make a strong statement which I am convinced is true—it is, that our security and therefore our freedoms are in greater danger today than at any time since the end of World War II. As of this very year, we really have only two options—one, to rapidly rebuild our military forces so that we will be strong enough to assure our own survival or to take the other option—to prepare ourselves to live under whatever conditions the masters of the Soviet Union dictate to us.

If we fail to act decisively and soon, we risk the Finlandization of all the Western Europe. We risk the loss of our oil life-line in the Persian Gulf. We risk the demoralization of our allies in the Middle East, Egypt, and Israel—all from the intimidation of an adventuresome and now proven to be aggressive Soviet Union.

In my judgment the hour is late. Yet there is still time; 2,500 years ago Athens was about to be overrun from the north by Phillip of Macedonia. The year was 500 B.C. Demosthenes, the greatest orator of all time, gathered together the Athenian leaders. His words apply equally well to us here in America today, in 1980. He said, "Oh Greeks, black as is the peril, you are not defeated. Your greatest danger is that you have not bestirred yourselves. If you do bestir yourselves, the enemy does not exist who can conquer a free people."

If you patriots here this morning bestir yourselves, and get busy to bestir your elected representatives to begin now to work hard and fast to build a strong defense, pray God we may prevent a third world war.●

THE INCREASE THAT DECREASES BENEFITS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. SOLARZ. Mr. Speaker, a recent article in the Washington Post spoke of the very sad case of an elderly woman in Washington, D.C., who was caught in the struggle to exist on the income from Federal assistance programs. Rachel Manley's life, as described in the Post article, has not been easy and she welcomed the recent increase in her social security benefits. Her relief was short-lived, however, since she was soon notified that her already meager food stamp allowance was being reduced due to the increase in her social security benefits. Rachel Manley is not alone—there are literally thousands of similar cases here in Washington, in my district in Brooklyn, N.Y., and all across our Nation. My community offices have been beseiged by senior citizens concerned and confused by the recent changes in benefit programs.

Mr. Speaker, this confusing state of affairs occurs every year due to the fact that each Federal assistance program is adjusted for inflation independent of the other benefit programs. I believe it is important to remember that older Americans are not looking for a handout or an easy life at the expense of the taxpayer. Many senior citizens worked long and hard for most of their lives and feel they have earned the right to a peaceful retirement. But the benefits they are al-

lowed to collect are usually so low that many of our Nation's elderly exist in abject poverty, as was shown in the Post article.

Our economy is facing hard times, I would not dispute this fact for a moment, and life will become more difficult for all of us. But it seems to me that we are asking senior citizens—who have been particularly hard hit by inflation—to bear more than their share of the burden. Federal retirees are now being asked to go without one of their two yearly cost-of-living adjustments, and a provision recently put into practice reduces and often eliminates unemployment compensation for anyone receiving a pension. Our society has made retirement, which should be a period of peace, into a fight for survival.

I would like to have the Washington Post article about Rachel Manley put into the RECORD at this time, and I would ask my colleagues to take note of this sorry situation. These people need our help and understanding—with the inequities in the benefit program outlined in the article, with retirement benefits and unemployment compensation—if they are ever to have the decent and dignified existence they so deserve.

POVERTY'S CRUEL IRONY: MORE BECOMES LESS

(By Kathleen Ennis)

When Rachel Manley received notice from the Social Security Administration of a $40 cost-of-living increase in her $213 monthly check, she "thanked the Lord" for the extra income.

But her happiness was cut short when a letter arrived from the District's Department of Human Resources a month later.

"As a result of an increase in your Social Security benefits," the letter read, "your food stamp benefits have been recomputed."

In less than 30 words, the department notified Manley that her $54-a-month food stamp allowance had been cut by $13, or nearly 25 percent.

"It gripes me, but what can I do?" the 62-year-old Manley asks. "I don't beef about it because I don't want to get in trouble. What if they cut off the little I have?"

Like so many other elderly people in the District and elsewhere, Manley, a childless widow, is struggling to live on federal assistance programs—Supplemental Security Income and food stamps—that fail to keep pace with inflation.

For most of the 15,000 persons over 65 in the District who receive SSI benefits, the check they receive each month—about $238 on the average—is their sole source of income. Many are also enrolled in the federal food stamp program, which takes into account increases in income once a year to determine a family or individual's monthly allowance.

Like many other elderly people, Manley's health complicates her situation. For years she was a nurse's aide until declining health, diabetes and heart disease, forced her to quit in 1950. In 1963, after a series of heart attacks, she learned she also had cancer. Since then, she has undergone 15 operations for bone, breast and lung cancer. Now, three days a week she makes the 20-minute walk from her efficiency apartment near 14th and R streets NW to Howard University Hospital for chemotherapy treatment that leaves her "horribly weak and nauseated."

"My life ain't been no bed of roses," the North Carolina native says simply as she discusses her life.

Her husband, a janitor, died several years ago. She went into debt to bury him when his insurance did not cover the undertaker's bill. Finally, after she pleaded for understanding, the mortician dropped the last $200.

Manley's tiny efficiency is dominated by her bed and dining table. All her worldly possessions encircle her, most of them within arm's reach.

Her life is necessarily simple; the only luxury a carton of cigarettes a month. Even necessities must be cut sometimes. Of the $253 she now receives in SSI benefits, $10 is being automatically deducted each month because of an overpayment during her last hospital stay earlier this year. She pays $100 a month rent, her biggest expense. It has gone up four times since 1973.

After the rent payment, $143 is left to pay the utilities, transportation, medication and personal items.

Manley spreads several utility bills over a wooden table, solemnly submitting them for inspection. She shakes her head slowly as she recites the figures.

For the month of June, Manley paid C&P Telephone $10.75, Washington Gas $9.31, and PEPCO $5.87. She is left with $117 after utilities.

Food is her second largest expense. Her food stamps arrive the 8th of the month; she runs out of stamps by the middle of the month. The remainder of the check is spent on items not covered by food stamps: toliet paper, dedorant, soap, detergent, household cleaning items.

She has no money left to save, and cannot afford any entertainment.

A tray filled with pills and other medicines is placed near her neatly-made bed that nearly blocks the curtained entrance to her bedroom. She explains that while most of her medication is paid by Medicaid, she must pay for her B-vitamins.

"They want over $3 for it," she says incredulously, "and I just don't have it now."

During an interview, Manley rummaged through her vinyl purse to show a reporter its contents: 75-cents.

Once a year, she allows herself to "splurge" and buys clothing—a pair of shoes, a shirt and blouse—but generally, she just window shops.

"I go downtown and I see a nice little skirt or something," Manley says, "but I pass it on by, pass it on by."

Almost the same can be said for her grocery shopping. On a recent shopping trip shortly after she received her food stamps, Manley bought a head of lettuce, three tomatoes, a package of Safeway cookies, four apples, salad dressing, and a large jar of instant coffee. She handed the check-out woman a $10 dollar food stamp, and received 13-cents change.

"I can't afford to buy meat," she says, "but I know I need it. I'm so sick of chicken, but it's the chicken that's cheap."

She estimates that the remaining $31 in food stamps last her until mid-week, when her sister takes her to do her major shopping. When she does run out of food, which she frequently does, parishioners at her church, St. Stephen of the Incarnate, pack her a basket.

A religious woman, Manley has lined the peeling green walls of her apartment with religious items. In spite of her miniscule budget, she donates $1 each Sunday to the church.

"Rachel is part of the St. Stephen's family, and she's much loved," the Rev. Jack Woodard, pastor of St. Stephens, says of her. "The whole parish is indignant" about the cut in her food stamps. He and others in the District's religious community are planning to "go to war" with the system for Manley, he says.

"If I had to explain the system to her, it would be hard," Jack Schmulowitz, a spokesman for the Social Security office, said. "It's two systems tied to income—one goes up and the other stays the same."

Schulowitz adds that things should get easier for people like Manley when food stamp allowances increase in January. But for Manley and others, it probably will be only an increase of a few dollars.

Portia Dixon, chief of field services in the D.C. food stamp program, said her office has received numerous complaints about the July notice.

"Many have called to question getting an increase in one (public assistance) program and a cut in another," she said. "For most of our clients it's a hardship."

As for the future, Manley's greatest concern is her rent—it has gone up four times since 1973 and she expects another increase in the next few months. Despite it all, she still manages a sense of humor that surprises her doctors and friends.

"I just laugh at it," she says, "as if it was a bad joke."●

PRICE-WATERHOUSE DATA ON EFFECTIVE CORPORATE TAX RATES AFTER INFLATION ADJUSTMENTS IS FUNDAMENTALLY FLAWED

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● **Mr. VANIK. Mr. Speaker, at the Ways and Means Committee hearing on July 29, 1980, a representative of Price-Waterhouse submitted the results of a study recently completed by that firm purporting to analyze the data on inflation-adjusted income which is now available in corporate annual reports. The witness reported that the study had found that after inflation adjustments "real" incomes and returns on investment were much lower than reported, and that tax rates were much higher.**

The witness did not explain, however, that the study was seriously flawed in its approach to the data—so much so as to make its conclusions valueless. The following analysis by the Tax Reform Research Group of Public Citizens disputes the Price-Waterhouse data:

The study found that "real" income was substantially lower than reported income after adjusting depreciation and other deductions for inflation—only 60 percent of reported income, for example, for industrial corporations. But the figures in the study ignored the income gains experienced by most companies from inflation's reduction in their real debt liabilities—although this information is also included in the annual reports. As the study itself was forced to admit in its text, if those gains had been included, "real" income "would have been higher for all industries except the finanical companies and, in several instances, would have exceeded 100 percent of historical [reported] income."

In calculating "effective tax rates," the study included both "current taxes"—that is, the taxes actually paid—and "deferred taxes"—that is, the taxes which were sheltered by tax subsidies like accelerated depreciation. Such an approach yields grossly inflated "effective tax rates" which are essentially meaningless. To illustrate, the 10-5-3 depreciation plan, which would cut corporate tax liabilities in half, would have no effect on "effective tax rates" as computed by the Price-Waterhouse method.

Finally, the effective tax rates used in the Price-Waterhouse study are not U.S. federal taxes on domestic pre-tax income. Instead, they include all the income taxes paid on worldwide income. This means that state and local income taxes are included, and, more important, that high foreign tax rates can distort the findings substantially. This latter factor is most significant for the oil industry, whose foreign "taxes"—or royalties—are frequently at 70 or even 80 percent rates.

To illustrate the magnitude of the distortions which the Price-Waterhouse methodology results in, here are a few examples:

In 1979, Gulf Oil paid $104 million in U.S. federal, state, and local income taxes on its domestic pre-tax income of $1,103 million—for an effective U.S. tax rate of 9.4 percent. Under the Price-Waterhouse approach, the focus would be on Gulf's pre-tax worldwide income of $3,082 million. Added to the $104 million in current U.S. taxes would be $267 million in "deferred" U.S. taxes, $10 million paid to Puerto Rico, and $1,379 million in current and deferred foreign taxes. This would yield and "effective rate" of 57 percent—even before inflation adjustments.

Then, Price-Waterhouse would reduce Gulf's reported income by $673 million to allow for the effects of inflation, primarily on depreciation write-offs. But it would ignore an offsetting gain of $421 million due to inflation adjustments to debt. The Price-Waterhouse result would be to show Gulf with "adjusted" pre-tax income of $2,409 million, and an "effective tax rate" of 73 percent!

If the calculations are done properly, the result is substanitally different. Adjusting the U.S. pre-tax income of $1,103 million for inflation's effects on both depreciation and debt reduces it by only $140 million—to $963 million. This changes the current effective tax rate by only 1.4 percentage points, from 9.4 percent to 10.8 percent.

In 1979, J. C. Penney reported pre-federal tax income of $394 million. Its current U.S. tax bill was $76 million, for an effective rate of 19.3 percent. Under the Price-Waterhouse approach, the tax bill would include $74 million in "deferred taxes" and $7 million in state and local taxes, for an effective rate of 41.4 percent, even before inflation adjustments.

Then Price-Waterhouse would reduce J. C. Penney's income by $158 million to allow for inflation's effects on inventory and by another $53 million to allow for inflation's effects on depreciation deductions. But it would ignore an offsetting gain of $138 million due to inflation adjustments to debt. The Price-Waterhouse result would be to show Penney with "adjusted" pre-tax income of $190 million, and an "effective tax rate" of 87 percent!

In fact, if the debt adjustment is made, the net effect of inflation is to reduce domestic profit by only $73 million, and to increase the effective tax rate by only 4.4 percentage points, from 19.3 percent to 23.7 percent. Furthermore, Penney states in its annual report that it believes that adjusting inventory by general inflation is inappropriate in the retailing industry. Using the adjustment Penney recommends, the net effect of inflation is to increase its real profit by $54 million, and to lower its effective current tax rate to only 17 percent.●

SUPPORT FOR THE BAN ON STEEL LEG-HOLD TRAPS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BLANCHARD. Mr. Speaker, almost 18 months ago H.R. 1297, a bill to discourage the use of steel leg-hold traps on animals in the United States, was first introduced in the House. Over 80 Members have added their names to the list of cosponsors of this important legislation. This growing support for the bill demonstrates the concern of many of my colleagues, who share my belief that trappers need not resort to the the use of leg-hold traps in the practice of their trade.

In a society that considers itself to be among the most just and civil, the inhumane use of the steel leg-hold trap is a tragedy. Its elimination will not harm the fur industry, for other more humane approaches have been used successfully for years. Rather the removal of the steel leg-hold trap will free the practice of trapping animals from needless cruelty and violence.

It is for this reason that I wish to express my hope that the Subcommittee on Transportation and Commerce, where the bill was assigned for study, will give serious consideration to H.R. 1297.

In addition, I would like to include with my remarks an article by Michael Kilian, which will serve to further clarify the concerns of those of us who oppose the use of the steel leg-hold trap.

The article follows:

LEGHOLD TRAP—A BARBARITY MOST NATIONS WON'T ALLOW

WASHINGTON.—It had not occurred to me that Uganda might be a more civilized country than the United States.

But it is. So are Austria, Costa Rica, Denmark, West Germany, Great Britain, Hungary, Ireland, Israel, Norway, Portugal, Sweden, and Switzerland. So are Bangladesh, Burundi, Chile, Gambia, India, Upper Volta, and more than two dozen countries.

These are countries that, unlike the United States, ban the use of the leghold trap for capturing and killing fur-bearing animals. They ban it for just one simple but very civilized reason: it is a very painful and cruel device.

It was invented in .1823—at a stage of American civilization in which the penalty for perjury in Louisiana was cutting off a piece of the tongue, and when no fewer than 11 crimes, including forgery, robbery, and burglary, were punishable by death in Mississippi.

The leghold trap works by snapping shut with violent force upon the limb of any creature that steps into it—including dogs and cats, American bald eagles, and small children. The trappers claim that the traps are relatively gentle, and that, after being trapped, animals simply lie down and go to sleep.

For a better idea of what it's like, slam a door on your finger and leave it there for several hours.

If the creature's limb is not broken, it is badly bruised and bloodied. Often—suffering from cold, hunger, thirst, pain, and fear—the animal will chew the limb in two to free itself. Those that remain in the trap are often dispatched by strangling, that is, the trapper stand on the animal's throat.

The trappers justify this barbarism with some extraordinarily absured arguments, not the least of which is the assertion that trapping controls disease.

But traps are extremely unselective about what they trap. They do not distinguish between the sick and the well.

Another argument used is that trapping is an economic necessity. So, for some, was slavery. That didn't justify it.

Furs are only adornment, satisfying the vanity of exhibitionist women and effeminate men. "Trendies" buy "fun furs," which—unlike ranch-grown mink—come from the victims of leghold traps; are the products of pain.

Congressman Clarence Long of Maryland has been working for five years to curb the use of the leghold trap, if not ban it altogether. He has a measure, HR 1297, pending in the House Interstate and Foreign Commerce Committee, which would forbid the shipment of animal skins if they come from any state or country that does not ban the leghold trap.

His measure has more than 80 cosponsors. A recent survey showed that 57 percent of all Americans oppose the killing of animals for fur and 78 percent are opposed to leghold traps. But, unlike Israel and Burundi, we may not be ready for something like Mr. Long's bill. Ours is a backward country only 200 years old.●

WEST TENNESSEE RESOURCES IN REVIEW

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I was recently in my home district in west Tennessee to participate in a review of an intensified effort there to bring soil erosion under control. Most of us are well aware that the Tennessee Valley Authority and others did a marvelous job on halting serious erosion in the Tennessee River Basin a generation ago. But changing cropping practices in recent years, brought on partly by changing economic conditions, caused soil erosion to once again become a major problem in west Tennessee and parts of nearby States.

I discussed my concerns with various people 2 or 3 years ago, and found that my concerns were shared by others. But nowhere did I encounter greater response than from the top officials of the Tennessee Valley Authority. TVA Board Chairman S. David Freeman led his agency in refocusing many of its activities to give priority attention to the soil erosion problem.

Several U.S. Department of Agriculture agencies—especially the Agricultural Stabilization and Conservation Service and the Soil Conservation Service—quickly joined hands and have performed outstandingly doing much work beyond the call of duty. Additionally, the University of Tennessee Cooperative Extension Service and various State and local units of government have been 100 percent involved.

One of the most significant aspects of the program is the extent of interagency cooperation—enthusiastic cooperation. This is proving to be the most important element in solving our erosion problem. The Tennessee Valley Authority and the U.S. Department of Agriculture signed a formal memorandum of agreement that set the stage for much of this cooperation, but the cooperation is wider. It involves a whole range of agencies and organizations working with farmers, local leaders, and various interested groups.

My deepest sense of appreciation goes to citizens and farmers of west Tennessee who have taken our pleadings to heart. All across the region they are investing their own time and money in the soil conservation effort. Without their cooperation the entire west Tennessee soil erosion program would be useless.

At the conservation dinner that climaxed the review of erosion control programs, TVA Director Richard M. Freeman addressed the nature of this cooperation and how TVA views its impact. Norman Berg, Chief of the Soil Conservation Service, also addressed the dinner, and I enter both their comments in the Record.

Remarks by Richard M. Freeman, Director, Tennessee Valley Authority

Fifteen months ago, when I was a newcomer to the TVA Board, one of my first official duties was to visit Raymond McCurdy's barn at Dyer, Tennessee. It was a rainy day in March, and the occasion was the signing of a new memorandum of agreement between TVA and the USDA.

There was a bit of history in that ceremony, and the rain against the barn roof helped me to focus on our place in that history. Rain nourishes the soil—and it destroys the soil. It can bring either prosperity or destruction. So, in a sense, it is the rain that brings us together this evening.

Just as TVA has spent a good portion of its efforts over the past 47 years to make the water in our rivers work for us and not against us, so we join with our partners in West Tennessee to make the rain work for us, and not against us.

We at TVA couldn't be more pleased with the progress over the past year. I believe that's a direct result of your enthusiasm and dedication.

But I think we are realistic about what remains to be done. This is a beginning—a good beginning, but it's just a start toward what we can and must do.

Improvements on the land are coming at a good pace—terraces, grassy waterways, silting basins, diversions, no-till cultivation, better management practices. Most important, people are beginning to recognize that there is a serious problem—and that we can solve the problem working together.

But there needs to be a lot more awareness.

People who don't deal directly with food production either don't know or don't care enough about what's happening to the land. The fellow who lives in a concrete city seldom turns his city mind to country thoughts—except maybe as a place to escape once in a while.

Soil erosion is not the kind of story that makes front page or the six o'clock news. To most people what happens on the farm is "the farmer's problem—not mine."

But there are some common grounds on which we can make our case. Many people are concerned about the environment—and that includes land. Everybody is concerned about the price of food and where it's coming from—and that's land.

We need to remind the city dweller that the price he or she pays for food—and that their children and grandchildren will pay—depends on how well we take care of the land.

So, as we all use our talents to save our soil here in West Tennessee, we've also got to tell our story every chance we get. If the people don't know, they won't care.

But when they know and when they care, then the good things that you've accomplished in the past year can make a great difference in the years to come.

Remarks by Norman Berg, Chief, Soil Conservation Service

Sen. Sasser, Cong. Jones, Rep. of Sen. Baker's office, Richard Freeman, longtime Governor and friend John Wilder, all head table guests, ladies and gentlemen, co-workers, this will be a memorable occasion for me. First and foremost, this is quite a gathering of people who have expressed an interest in conservation of your soil and water resources. I was told some years ago in my career that it was next to impossible to get people interested in erosion control, especially erosion control in west Tennessee where soils are deep and fertile. Your presence here has dispelled that myth.

The second reason that this will be a memorable occasion for me is that I am visiting in the home territory of my good friends and two of the nations top champions of conservation, Sen. James Sasser and Cong. Ed. Jones. They both have been staunch supporters of conservation on capitol hill.

I bring you greetings from Secretary of Agriculture Bob Bergland, who I believe most of you know and have met, as he has been in west Tennessee on three occasions in the last two years. Bob has asked me to represent him on reviewing the Memorandum of Understanding which he personally signed March 22, 1979, along with David Freeman, Chairman of the TVA Board of Directors, understand that this special event and signing ceremony occurred in a tool shed on Robert McCurdy's farm near Dyer, Tennessee, the site of the Save Our Soil (SOS) face-lift field day which occurred last fall. Both events are bench mark occasions and marked the beginning of a renewed conservation effort.

The Secretary of Agriculture and I salute you and all of the many agencies, groups, and individuals who put countless time and resources into the work we have seen. But the battle for erosion control, water quality improvement and income maintenance has just begun. And that's why we are here tonight—to look toward the future.

We need to examine and take pride in our accomplishments. I am aware that there have been many these past months. Now we need to renew our efforts for the decade of the 80's and continue the "spirit of cooperation in solving resource problems".

The West Tennessee Erosion Control program, including parts of southwest Kentucky and northwest Mississippi is more than just another program without action. It is a spirit of cooperation to solve a "regional resource problem". It brings together leadership thru people here to work on problems identified by you, the landowners and users.

More than this, the west Tennessee effort has been the ultimate in public involvement and the "grass roots" decision making process. It is an example for others to follow. You are being watched by other parts of the country and even other nations. A major reason that the delegation from the Peoples' Republic of China recently came to Tennessee was your West Tennessee Erosion Control effort and the spirit of cooperation shown by the save our soil field day, the work of the many USDA agencies and local organizations to achieve a common goal of erosion control, water quality improvement, and the maintenance and improvement of the economic conditions of farmers.

This spirit of cooperation is evident in the way that your state Rural Development Committee so ably headed this year by Dr. Lloyd Bownen, Agricultural Extension Service has performed and with active participation of the (1) Soil Conservation Service, (2) Agricultural Stabilization and Conservation Service, (3) Farmer's Home Administration, (4) U.S. Forest Service, (5) Economics, Statistics and Cooperative Service, (6) Tennessee Valley Authority, (7) Environmental Protection Agency, and other federal agencies. In addition, numerous state agencies, such as (8) Tennessee Department of Agriculture, (9) Tennessee Department of Conservation, (10) Water Quality Division of Tennessee Public Health, (11) Tennessee Wildlife Resources Agency, (12) Tennessee Association of Conservation Districts, and such local regional agencies as the (13-14) Obion-Forked Deer Basin Authority, The Chickasaw Basin Authority, and the Chickasaw-Shilo RC&D Council has also been active and provide help and leadership in bringing about a change in concerns and actions. In addition, the West Tennessee Area Rural Development Committee and the local rural development committees in each county along with county soil conservation districts, county ASC committees, and other interested groups have provided the "grass roots" support in focusing on the problems and opportunities in the region.

The spirit of cooperation is evident in the 1979 statement of interest Memorandum of Understanding between the U.S. Department of Agriculture and the Tennessee Valley Authority. The memorandum states in part, "The basis for cooperation and coordination between USDA and TVA is the fact that although the congressional charge given to each is different, there are complementary functions and areas of common interest that permit and call for joint endeavors". Today Mr. Freeman and I reviewed that Memorandum of Understanding and we pledge to continue the spirit of cooperation and to move together with program actions to solve the erosion problem.

Another area that is the ultimate spirit of cooperation is the leadership provided by the Tennessee Congressional delegation who support conservation legislation and to provide funds. Both Senators Sasser and Baker and Congressmen Jones, Beard, and Ford, who represent the west Tennessee region along with strong support of Congressman Jamie Whitten of Mississippi and Congressmen Carroll Hubbard and Bill Natcher of Kentucky and Bill Nichols of Alabama have been long time supporters of the conservation movement and they especially emphasize the need for agency cooperation. With leaders such as these providing the "spirit of cooperation" there can be little doubt that a solution to the erosion and water management problem will be developed and supported. Such support is already evident in the accomplishments of the six point program for erosion control in west Tennessee.

Let's turn our attention to the future. Where do we go in the decade of the 80's? How do we continue this spirit of cooperation and accomplishment? Certainly we are going to experience competition for funds snd resources. Economic conditions of this country will be foremost on the minds of most Americans.

A few ideas have been discussed as program goals. These are by no means complete and I ask that you provide some thoughts and input into these program goals for the 80's.

(1) We should continue with a strong education and information program. This includes a continuation of the West Tennessee Erosion Control Office where all agencies can utilize to exchange ideas, to coordinate work ideas and assist each other. This includes the use of the office by both federal and state agencies.

(2) We need to continue to emphasize the resource management conservation farms and accelerate the selection and technical assistance available to these farms. It is here that records are kept and detail data becomes available for the information and education programs, plus it provides conservation leadership at the community levels.

(3) We need to complete the soil mapping in west Tennessee. There are three counties that need to get a soil survey program under way and seven counties that need to complete their soil surveys that are started. This area can be accelerated greatly. In addition, we need to complete the digitization and interpretation of soil maps for all counties in the region. TVA has the leadership in this program and has completed four counties. Identification of prime farm lands, wet lands, and interpretation of soil limitations are so important in the production of food and fiber and in the development of communities.

(4) A major area that needs attention is in the research area. There is a need to develop improved soil and water conservation management practices. Other than no-till or minimum-till, I don't believe we have added a new method or practice since the early days of the conservation movement. We need research especially in the economics of conservation for both the short-run and long-run time to come and this needs to include on-site and off-site evaluations. Both methods and techniques need to be developed and models built.

(5) A special program to provide both cost-sharing and technical assistance throughout west Tennessee, northwest Mississippi and southwest Kentucky is needed.

This program could include legislation that provides new incentives and directions. Congressman Jones has been working on a piece of legislation that would include not only the region that I just mentioned, but seven other regions in the U.S. that have your concerns of erosion, water quality and income maintenance.

In conclusion, the decade of the 80's will be challenging but exciting. I look forward to the continued spirit of cooperation between USDA agencies; Federal, State and local government; and between USDA and TVA. I believe that Speaker McWherter summed it up best with his quote in the program that you have "Government at all levels, and the general public—both consumers and producers—must be committed to serving through conservancy."

I propose to you that the theme for your program for the 80's be "Serving through Conserving."

"Let's Rediscover Conservation."

Thank you! ●

WE MUST PROTECT THE ELDERLY FROM THE RAVAGES OF INFLATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HARRIS. Mr. Speaker, during a recent debate on the 1981 first concurrent budget resolution, it was argued by some that the Consumer Price Index, as it is presently computed, overstates the impact of inflation on older Americans. In fact, some have suggested that cost-of-living adjustments for programs like Federal retirement and social security should be limited to increases substantially less than 100 percent of the CPI as an offset against this alleged overcompensation.

The basis of these arguments is that the Consumer Index measures the effects of inflation on all consumers regardless of age. Since the spending patterns of the elderly vary significantly from their younger counterparts, it is argued that the effects of inflation on these people also vary. The questionable assumption here is that spending patterns of those under 55 suffer the effect of inflation more than those of older persons. In fact, one item which is often singled out as evidence of this is the housing component of the Consumer Price Index, which is apparently much higher for younger persons than for the elderly.

I was intrigued by these arguments, and asked my staff to take a closer look at the available data on this question. The results of our research were most interesting.

Based on recent studies, we found that, yes indeed, the overall Consumer Price Index does not accurately measure the impact of inflation on the elderly, and that various components of the CPI do vary substantially with different age groups.

However, contrary to popular opinion, we found the Consumer Price Index, as it is presently computed, substantially understates the impact of inflation on older Americans.

While it is true that the housing component often increases at a higher rate for those under 55 than those over 55, those core necessities on which the elderly spend a greater percentage of their income rose at a substantially higher rate than the overall CPI. Compared to younger consumers, the elderly spend more of their income for food at home, fuel and utilities, and out-of-pocket health costs. These are precisely the categories of expenditures which have had the most rapid rise of inflation during the last decade. Between 1970 and 1979, the Bureau of Labor Statistics' all-urban CPI rose at an average annual rate of 7.2 percent compared to 8.3 percent for food at home, 9.4 percent for fuel and utilities, and 7.9 percent for medical care. According to a recent study commissioned by the American Association of Retired Persons, in the next decade this trend will continue unabated.

For the information of my colleagues, I am including a table excerpted from this study which demonstrates historical and anticipated rates of inflation for consumers based on age categories. I am also including an article from the Washington Post about the study itself.

In conclusion, Mr. Speaker, I believe I speak for most of my colleagues in saying that we assume future budget resolutions will continue to project cost-of-living adjustments at 100 percent of the Consumer Price Index.

The material follows:

TABLE IV-1.—HISTORICAL AND FORECAST AGE-SPECIFIC RATES OF PRICE INFLATION FOR CONSUMERS

Age of head	1967–70	1970–73	1973–75	1975–80	1980–85	1985–90
Under 55	5.1	4.5	10.3	8.2	7.9	7.0
55 to 61	5.0	4.7	10.6	8.3	8.1	7.1
62 to 64	5.0	4.7	10.6	8.3	8.1	7.1
65 to 71	5.0	4.8	10.6	8.3	8.2	7.2
72 and over	5.1	4.9	10.7	8.4	8.2	7.2

ON INCOMES, STUDY SAYS ELDERLY SEEN LOSING GROUND ON INCOME

(By Nancy L. Ross)

Older Americans stand to lose during the 1980s half the income gains they made in the 1970s, according to a study released yesterday by the National Retired Teachers Association and the American Association of Retired Persons.

The $150,000 study, entitled "Inflation and the Elderly," was done by Data Resources Inc., a Massachusetts economic research firm. Martin Duffy, the project director, said DRI acted completely independently and used only government data.

The study has a dual purpose, said NRTA-AARP Director Cy Brickfield: to turn public opinion away from the popular notion that the elderly are living quite well despite inflation and to provide data for future government action such as an attempt to cap Social Security cost-of-living benefits.

Brickfield admitted that "for the most part, the elderly were able to keep pace with inflation during most of the past decade." DRI found that the average income of those over 65 climbed from a low of 48 percent of that of younger persons in 1966 to 57 percent today.

Despite the gains, average elderly income did not regain the 61 percent of younger person's income it had reached in 1950, the researchers said. In the decade 1967-77, average elderly income rose by 7.7 percent annually, while the consumer price index rose just 6.1 percent, it added.

This phenomenon was due to unique circumstances, including substantial increases in Social Security benefits between 1968 and 1971 and the inadvertent double indexing of benefits from 1972 to 1978 because of a technical oversight in the Social Security law.

But inflation, factored by DRI at 11 percent in the 1980s, will cut back the income gains of the 1970s by half—to 52 percent in 1990—unless structural changes like tax incentives are made in the system, the study concluded.

NRTA-AARP supports removal of the earnings test to encourage older persons to work more. At present, Social Security benefits are reduced one dollar for every two dollars over $5,000 a person aged 65-72 earns a year.

On the expense side, elderly consumers spend larger portions of their budgets for food at home, medical care, heating fuel and utilities. For instance, the elderly this year will spend 19 percent of their income on average to feed themselves, while people under 55 will spend 14 percent, DRI estimated. Health care was estimated at 8 percent and 4 percent, respectively.

During the 1970s, the price of these core necessities rose more than did transportation, shelter, clothing and entertainment on which people under 65 spend proportionally more than older people. Food at home went up 105 percent during the '70s, and health care increased 99 percent, while clothing rose a mere 44 percent and nonnecessities 77 percent.

Certain groups like the NRTA and AARP have recommended a special consumer price index for senior citizens. DRI's hypothetical CPI for the elderly rose 91.2 percent during the past decade, while its CPI for persons under 55 rose 87.9 percent.

DRI says creation of a special index by the Bureau of Labor Statistics could open a "Pandora's box of controversy" . . . with possible demands for indexes for different regions or urban areas or by sex.

Critics of the CPI maintain that it overstates the rate of inflation for the elderly—as well as many other Americans—because it counts housing costs as though everyone bought a house every month. Very few elderly persons purchase homes, because 60 percent of them own their own homes.

But DRI contends that, even when the cost of buying a home is excluded, the costs of running a household—such as property taxes—still have risen faster than the CPI and therefore do affect the elderly.

For psychological reasons, the elderly are not inclined to tap accumulated equity in their homes to pay their bills or better their standard of living, the researchers said. They either want to save something to pass on to their children or to pay for a catastrophic illness.

Their other principal sources of accumulated wealth—savings, and investments in stocks, bonds and annuities—have been "seriously impacted" by inflation since 1967, the report adds.

"Personal net worth per household has not advanced since 1965 despite significant new savings, averaging about 6 percent a year, since that time," DRI said.●

UNITED STATES SHOULD HOMEPORT CARRIER IN GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. WON PAT. Mr. Speaker, as I have repeatedly done in the past, I am once again obligated to call attention to a serious defense problem in the western Pacific.

I refer to the gradual but steady decline of U.S. military forces in that part of the world. As you know, the Pentagon has begun what appears to be an irreversible pulldown of forces from the Pacific for other theaters, most particularly the Indian Ocean.

For many years, I have been concerned with Pentagon plans in the Pacific. I and many others share a common concern that America could well find itself as unprepared for war in the Pacific as we were on that fateful day of December 7, 1941.

To my charges that we are leaving hundreds of thousands of Americans who live in the Pacific undefended and that we are exposing the entire U.S. west coast to attack, I am told that this is not true. I further hear comments that we only have so many ships, planes, et cetera. to go around and they cannot all be in the Pacific.

One example of a national defense policy which I contend is ignoring the potential dangers in the Pacific is that which station a U.S. aircraft carrier in Australia. The news of such a proposal was announced recently with the rationale supposed to be support for our new base in the Indian Ocean. Putting a carrier in Australia is, in my opinion, just another case of the United States once again placing our eggs in the wrong basket. Why must we always think that homeporting our forces in foreign nations is the answer to our defense needs?

While no one can argue against the undeniable fact that the good people of Australia are some of America's best friends anywhere, have we not learned from the recent past that stationing our forces on foreign soil means that they will have to live by the rules of the host nation? Is this the best way to run our military? I think not.

I propose placing a carrier in Guam for the best possible reason: Guam is 100 percent American and this country will not have to listen to anyone when it comes to deciding how best to utilize our forces for the best interests of Americans. Nor will any American forces in Guam ever have to face a hostile foreign leader, running for office, on an anti-American platform. On Guam we are all Americans and we are proud of this fact.

As a matter of principle there is nothing wrong in placing our forces in friendly nations. But we must pay a price for this benefit. In Japan, for instance, our ships and planes are forbidden to carry nuclear arms. Not so in Guam.

In the Philippines, the same is true. Not so in Guam.

When we station American forces in Guam, we also halt the flow of U.S. dollars out of the country. A dollar spent in Guam is a dollar spent in America by Americans.

I am pleased to say that the Guam Council of the Navy League of the United States agrees with me. They have asked the U.S. Navy to homeport a carrier in Guam and I ask that their Resolution No. 1-80 be placed in the RECORD at this time. Thank you.

Resolution No. 1-80—Relative To Requesting the President of the United States to Take Cognizance of the Advantages in Homeporting an Aircraft Carrier on Guam

Whereas, the object and purpose of the Navy League of the United States shall be educational and to that end, to spread before the citizens of the United States information as to the conditions of the Naval Forces and equipment of the United States, and to make an interest and cooperate in all matters tending to aid, improve or develop their efficiency; and

Whereas, the Guam Chapter of the Navy league of the United States is aware that Guam is being considered as the homeport for an aircraft carrier; and

Whereas, the territory of Guam has had a long, friendly and mutually beneficial relationship with the United States Navy; and

Whereas, the territory of Guam is American soil, its people are American citizens and the dedication to American dedication to American democratic principles cannot be questioned; and

Whereas, Guam's strategic western Pacific location is unique under the American Flag; and

Whereas, the facilities at Apara Harbor, coupled with the great desire of the civilian population to welcome with open arms the crew of a carrier of the United States Navy would appear to be an important consideration weighing on the decisions as to where the aircraft carrier should be homeported; Now, therefore, be it *Resolved*, That the Guam Chapter of the Navy League of the United States pledges that it will do all within its power to make the officers and men of a carrier of the United States Navy most welcome within the territory of Guam should it be decided that such a carrier should be homeported here.

Be it further *Resolved*, That the President of the Guam Chapter of the Navy League of the United States certify and the Secretary thereof attest to the adoption hereof and that copies of the same be thereafter transmitted to Jimmy Carter, President of the United States, Antonio B. Won Pat, Delegate of the United States Congress, Edward Hildago, Secretary of the Navy, Admiral Thomas B. Hayward, Chief of Naval Operations, Admiral Robert R. Fountain, Commander, Naval Forces Marianas, and to Paul M. Calvo, Governor of Guam.

Certified by:

JOHN H. BRANDENBURG, *President.*

Attest:

DONALD L. KARSTEN, *Secretary.*●

ABORTION AND THE RIGHT TO LIFE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. FINDLEY. Mr. Speaker, the Supreme Court's 1973 decision on abortion has caused more controversy in the United States than any other decision in the last 20 years. Not since Brown against Board of Education and the school integration cases of the 1950's has the citizenry of our Nation been so divided.

Frankly, I was appalled by the sweeping nature of the Court's action. I have always personally opposed abortion and in most cities and towns in my district it is not possible, even today, to get an abortion.

As soon as the Court announced its decision, I asked the chairman of the House Judiciary Committee to schedule hearings on all those bills aimed at overriding its effect. I renewed my request in the strongest possible language in each succeeding Congress.

Responding to my and other requests, the committee held extensive hearings over a 2-month period. Before those hearings got underway, I wrote to the pastors of many churches in the 20th District. I asked each to circulate petitions so that I could show the Judiciary Committee how my constituents feel about this important issue. Many responded, and I was able to give the committee members petitions containing the names of over 6,000 Illinoisans who deeply oppose abortion. I also included a question on my annual survey of district opinion, which is sent to all households in the district, to get their opinion of the Supreme Court's decision. Over 20,000 households responded. I am taking a similar survey this year.

Despite those hearings, the thousands of pages of testimony, and the significant support for right-to-life legislation, there was no agreement by the committee on what should be done.

One of the issues troubling the committee is the wording of the amendment proposed by the Illinois Federation for Right to Life and similar organizations around the country. The amendment drafted and currently supported by the right to life movement does not make an exception allowing an abortion even when necessary to save the life of the woman. Instead, it leaves it to individual State legislatures to decide whether or not to permit abortions to save the mother's life.

Today, the debate and focus has shifted to a different front. The use of Federal funds to pay for medicaid abortions for the poor and members of the military and their families has stirred up a controversy which blocked final consideration of several comprehensive Federal money bills containing funds for unrelated programs important to Illinois and the Nation.

At issue has been whether to ban Federal funding of abortions for the poor or to permit certain exceptions. Some Members of Congress—a small minority to be sure—hold the position that no abortions should be permitted, not even to save the life of the woman, and have voted accordingly. Others feel that one exception only should be permitted—to save the life of the woman. Still others feel that other exceptions should be allowed, and it is here where most of the controversy has developed.

The compromise language included in Federal funding measures for the past several years allows abortion where pregnancies result from rape, incest, or if the mother's health would be seriously and permanently damaged. I have supported the prohibition on federally funded abortions with these very limited exceptions, and as a result the number of federally funded abortions has decreased by approximately 98 percent. Each time there has been an amendment offered to allow medicaid abortions on demand I have voted against it. However, it seems to me that victims of rape and incest—just because they are poor—should not be denied medical treatment, including abortion.

In fact, rape is one of the fastest growing crimes in America. FBI statistics show that a forcible rape occurs every 9 minutes and that 1 out of every 13 women is raped in her lifetime. Over a quarter of a million women are raped each year. And the number of rapes is increasing each year. Rape produces brutal injury, physical damage, and in many cases permanent psychological or mental illness. But worst of all, in 4 percent or more of the incidents pregnancy results from rape. In fact, a recent Pennsylvania study of agencies that deal with rape victims showed that 5.4 percent of women raped become pregnant. Each year, as many as 9,000 victims of rape become pregnant. To bear a child which is the result of destructive violence usually causes prolonged emotional trauma and sometimes even attempts at suicide by the victims. It seems to me that the alternative of abortion should remain available to the families of those who experience this most brutal and degrading act.

Statistics show that 1,300 cases of forcible rape occurred last year in the 20th Congressional District. Using the Pennsylvania study data, this means that 70 women in the 20th Congressional District last year became pregnant as the result of forcible rape.

If there is a crime even more morally corrupt than rape, it is incest, which most often involves fathers forcing themselves on their young daughters. Victims of incest are unlikely to report this violation of themselves. The average girl forced to this dreadful act is only 11, and often she does not even recognize her pregnancy until after some time has elapsed. The National Center for Child Abuse and Neglect estimates that there may be as many as 100,000 cases of incest per year. Other professionals believe the number is much higher—over a quarter of a million. In 1973, a Senate subcommittee heard testimony that one out of every four girls is sexually abused at some point during childhood, "primarily by a close family member or family friend." Whatever the true number, it is a staggering problem, far worse than rape. It creates enormous mental and emotional stress on the children who are victims, intense shame—and unspeakable fear.

But the traumatic consequences of incest are not limited to these psychological disturbances. Pregnancy, even among preteenage girls, regularly occurs. In fact, the possibility of pregnancy is greater than in rape because victims are usually unprotected and the act generally occurs repeatedly, time after time.

Even when pregnancy results from incest and rape, I do not recommend abortion. That decision should be left to those most directly involved. My point is that in these circumstances abortion should not be outlawed. The amendment which I supported is so tightly drawn as to require such acts—both incest and rape—to be reported promptly to a law enforcement agency or public health service. As a matter of fact, very few abortions were performed for these pregnancies during the last reporting year, but I think those exceptions should be allowed.

I remain, as I always have been, absolutely opposed to abortion on demand. I do feel, however, that the carefully limited exceptions I have noted are reasonable, compassionate, humane, and fully in accord with the basic moral precepts of our society. They represent less than 2 percent of abortions previously funded, yet to the woman directly involved they are important exceptions.

I hope this detailed explanation will help you to understand why I voted as I have. I remain openminded and welcome comments and suggestions. This is an issue that requires all of the thought, compassion, decency, and determination that we can muster.●

AN OPEN CONVENTION—A MISNOMER AND A MOCKERY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BIAGGI. Mr. Speaker, this morning's Wall Street Journal contains a most incisive editorial on the current controversy about the upcoming Democratic convention. It is my unequivocal contention that the proposals being put forth to open the convention constitute a serious regression for the Democratic Party, a reversion if you will to the era of the boss-filled, smoke-filled rooms.

An open convention, as put forth by the proponents of this idea, is both a misnomer and a mockery. It is a misnomer in that by opening the convention—you are opening it only for those skilled at backroom dealings. It is a mockery in that some 19 million Americans in 35 States cast ballots in Democratic primaries for one of the two candidates and the outcome is clear—President Carter won fair and square more than the required number of delegates to capture the nomination on the first ballot.

Are we going to propose to Democrats—that because their primary was held in February or March that the results are no longer valid. Were the votes they cast tentative or final? When was it said that they could be released of their commitment if situations change?

The Wall Street Journal editorial said it right when they state "* * * its plain that the talk of an open convention is an attempt to swipe a nomination he (Carter) won in a fair fight." True Democrats should reject the hypocrisy of an open convention.

I now insert the Wall Street Journal article for the close consideration of my colleagues.

WHERE THERE'S SMOKE

The Democrats are starting to gather in their smoke-filled rooms to try to depose Jimmy Carter at the Democratic National Convention. The President—partly in caucuses, but mainly in primary elections—won some 1,971 delegates, handily enough to clinch the nomination. Party rules require these delegates to vote for Mr. Carter on the first ballot. But Senator Kennedy is sore because he lost in the primaries. Younger and flightier Democrats are growing nervous over the Billy Carter affair. Nearly all Democrats are dismayed by the President's low standing in the polls. So the movement is growing for what is being called an "open convention."

We have several problems with this. The first is the political calculation. Do the Democrats really think they will do better with another candidate? Who is this paragon, and where has he been hiding? Beyond the lack of an obvious answer to that question, any other candidate nominated would have to bear the burden of having stolen the nomination. And Mr. Carter, who does not strike us as the forgiving type, would still be in the White House with his hands on its levers of power. All in all, the idea of boosting Democratic fortunes by deposing the President strikes us as the most cockeyed idea since the Republicans' "dream ticket."

The next problem is tastelessness. The phrase "open convention" sounds nice. Delegates would be released from troublesome party rules that would otherwise force them to vote on the first ballot for the candidate to whom they're pledged. Instead, they could "vote their consciences." However nice it sounds, though, such an open convention would really be a closed convention, closed to the voters who spoke clearly in primaries. It would make a mockery of the "reforms" the Democrats have recently been touting and turn the convention over to the old pols who—puffing and chomping on their stogies, flakes of tobacco dribbling down their chins—would be able to horse-trade up a ticket they could vote for "in conscience."

To get to more substantive problems, dumping Carter would be a dodge. To the degree that the dump Carter campaign has picked up steam, it has done so directly in response to the embarrassment of the Billy Carter affair. We can see where Billy Carter's Libyan lobbying is an embarrassment, but we don't see it as the most serious issue in this campaign. The issues are Mr. Carter's economic program at home, a program designed to fight inflation by raising taxes, and Mr. Carter's foreign policy, a policy that has met the enemy and concluded that he is us. Mr. Carter in four years has sketched a view that emphasizes America's limitations. His opponent, Governor Reagan, is sketching a view that emphasizes its potential. It is a choice that ought to be laid unobscured before the voters in November.

Our biggest problem, however, has to do with the way America replaces its President. For a generation now, Americans of both major parties have been preaching to the world, not to mention to American voters at home, the virtues of the Democratic system. Here is a system, goes the boast, where leaders are selected out in the open by free and uninhibited voting.

Yet since 1960 we have seen one President, John F. Kennedy, assassinated. The next, Lyndon B. Johnson, was prevented from running for reelection by the passions arrayed against him. Richard M. Nixon was driven from office by the anger of the Congress, press and public. Gerald Ford, who was appointed to office by one man, was rejected by the electorate. Are we now to see Mr. Carter stabbed in the back in the smoke-filled rooms of Madison Square Garden by ambitious party colleagues bent on rewriting the rules at the last minute? Does this society solve the problem of succession by orderly elections, or by banana republic coups and intrigues?

We carry no brief for President Carter, but it's plain that the talk of an "open convention" is an attempt to swipe a nomination he won in a fair fight. And, what's more, this intrigue is mounted by a lot of the same folks who created the primary system in which he won it. Where there's a smoke-filled room, the saying goes, there's a fire. We suspect that if this effort succeeds, the Democrats themselves will be burned. Beyond that, all of us will think a bit less of our society and the way it governs itself.●

A FEW SIMPLE FACTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ASHBROOK. Mr. Speaker, liberals tell us that the way to end the arms race is to cut our defense spending. The fact is that our steady reduction of America's military strength throughout the 1970's has been met with the greatest expansion of Soviet military might since World War II. Our weakness provides the Soviets with an opportunity to expand communism by force, and they are taking advantage of it.

Liberals tell us that a tax cut would increase the deficit and bring on a runaway inflation. In 1964, the only time in recent history that we tried a tax cut, the result was the exact opposite: Federal revenues increased and employment soared. Today, Puerto Rico is using a similar tax cut policy, and again government revenues are increasing steadily and employment is rising.

There are other examples of liberals denying reality, but these are the most important. In the critical areas of our domestic economy and international policy, liberals keep insisting that what will happen is what does not happen.

I do not know in what world the Washington establishment thinks we are living, and frankly nothing interests me less. In the real world, tax cuts have meant prosperity and military weakness has invariably led to Communist expansion, and it is in the real world that America will live or die.●

MONETARY FREEDOM ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. PAUL. Mr. Speaker, today, I am introducing the Monetary Freedom Act, a bill which, if enacted, would bring monetary order out of the present monetary chaos that threatens to bring our economy down.

The bill is quite simple and straightforward, consisting of eight short titles which I would like to explain briefly.

Title I requires the Secretary of the Treasury to perform a full assay, inventory, and audit of the gold reserves of the United States. This thorough study is to be completed within 6 months of the passage of the bill and then doublechecked by the General Accounting Office. The results of the study are to be sent to Congress, so that the representatives of the people will learn, for the first time in almost 30 years, the true status of our gold reserves. The Congress would, in turn, release the information to the American people.

Although present law requires an annual inventory of our gold reserves, the law is not being complied with, and only a small portion of the reserves are audited each year. As any businessman knows, that is no way to conduct an inventory, and this title would correct that deficiency. Such a complete audit, inventory, and assay of our reserves would lay to rest the persistent rumors that gold is missing from our national stockpile or that the gold we have is of inferior quality. It would also provide the information needed in order to begin redeemability of Federal Reserve notes—the green currency we all carry in our pockets—for gold, as provided by title V of the bill.

The second title would prevent the Government from selling any of our national stockpile of gold bullion while the audit required by title I was being performed.

For almost 3 years the Federal Government conducted regular sales of gold bullion, most of which was purchased by large foreign bankers. American citizens, unless they were wealthy, could not buy the U.S. gold at such sales, simply because the minimum amount sold was 100 ounces. This title would prevent such sales from occurring, and would require the Treasury to keep our gold so that it can be used to redeem the greenbacks now in use.

Title III of the bill repeals two provisions of present law which give—unconstitutionally—the Federal Government the power to seize privately owned gold coins and bullion. These laws were passed in 1917 and 1934 as parts of a wartime measure to control trading with the enemy and in order to legitimize the calling in of privately held gold by the Roosevelt administration during the depression.

Whenever governments want to get more money to spend without raising taxes, they resort to a policy quite similar to counterfeiting, which is a crime if engaged in by private persons. In 1917, the Wilson administration needed money to fight World War I, yet it did not want to raise taxes for fear that the American people would not support its policies. So the administration increased the money supply—the newly created Federal Reserve System helped—so that it could spend more money without raising taxes. This new money decreased the value of the "old" money held by the people, thus raising prices throughout the economy.

In 1934, the Roosevelt administration did the same thing. After commanding that all privately owned gold be turned in to the Treasury, the President decreased the value of the dollar by 40 percent. In 1932, a dollar was one-twentieth of an ounce of gold. In 1934 it became one-thirty-fifth of an ounce. The Government, in effect, shortened the monetary yardstick, thus providing itself with many more "yards" of money to spend.

It is extremely important that the Government be prevented from doing this in the future, and that is why this title also recognizes and reaffirms the right of the people to own, hold, or use gold in any lawful manner, free of Government interference.

The fourth title of the bill repeals all legal tender laws on the lawbooks of the Federal Government. Perhaps you have never noticed it, but each dollar bill in your pocket bears the following sentence: "This note is legal tender for all debts, public and private." Even if someone wanted to make a contract in something other than these paper bills, they could not do so, for the courts would declare such a contract void. Suppose, for example, that a worker wanted to work for 3 ounces of gold per week in 1970. Gold then was $35 per ounce so he would have been making—in terms of dollars—about $105 per week. As a matter of fact, that was about the average wage in 1970. Let us further suppose that this worker had signed a contract with his employer saying that he would work for 10 years with no pay raise. In 1980 he would still be getting 3 ounces of gold per week. Of course, in 1980, that would be about $1,800 per week, 18 times as much as the worker was making in 1970—in dollar terms. Instead of an annual income of $5,000, the worker would have had an income of $90,000. But what would his employer have done? If there were no legal tender laws, he would have to pay the worker 3 ounces of gold. But since there are these legal tender laws—which interfere with lawful contract—the employer would have been able to pay his employee $105 per week, rather than what the contract called for.

That is what legal tender laws do. They allow debtors to pay off their debts in increasingly worthless money, and since the Federal Government is the largest debtor in the country, it has a great stake in being able to force everyone to accept its paper money. Repeal of these laws will restore monetary freedom to the American people and will permit the emergency of a stable money unit, a unit that cannot be manipulated by the Government to its own advantage.

Title V of the bill established the program for redeeming our paper dollars for honest money, gold.

Not so long ago, any American with a paper bill could go to his bank and ask for gold in exchange for the bill. Then, because it wanted to increase our money supply in order to spend more money, the Government broke its promise to pay gold for its paper money. But the people could still get silver for their paper dollars. The Government wanted to print more dollars that it could redeem in silver, so about 13 years ago it stopped paying silver for our paper dollars. Each dollar bill used to say—and you may still have some that do—that the bill was redeemable on demand in lawful money; that is, gold or silver.

Now that is no longer on the bills. They are irredeemable. This allows the Federal Government to print as many of these paper dollars as it needs to spend on its thousands of bureaucracies. It also explains why prices are continually rising. It is not that everything is getting more and more valuable, but that the dollar bill is getting less and less valuable. Every time the Government prints more bills, their value goes down, and the cost of living goes up.

Making these notes redeemable once again will stop this debasement of our money and stop the cost of living from continually rising.

Under the program of redeemability, a person could take his paper money to his bank and ask for gold coins, which the Government would then give to him. The worth of a dollar bill would be determined on the market, thus insuring that the Government would have enough gold to pay everyone who asks for it, and its worth would be permanent, not changing from day to day. The title sets up requirements for the program of redemption, such as making sure the gold is of good quality. It also provides for the minting of gold coins for the first time since the early 1930's, and for the ending of the printing of paper bills. In short, it would shift our economy from a paper base to a sound, honest, monetary system.

Title VI of the bill simply provides that if a bank, or any other institution or person, makes a promise to pay a deposit or a sum of money on demand, then the bank must keep that money on hand in order to pay the depositor. Not many people are aware of it, but when a bank receives money on a deposit, it does not keep it in its vaults, but loans it out or invests it in other ways. If everyone who had money in a bank went to the bank and asked for their money—as the bank has promised to give them—they would not get their money, for it is not there. The banks bet that they can guess how many people will come in for their money, and they keep only that much money on hand. This is dishonest, and it led to the bank runs of the 1930's and it could do so again today. Title VI would prevent these disastrous bank runs from occurring.

The second part of this title would allow anyone who wished to get into the business of banking to do so simply by filing the legal papers. This is the same procedure that is used to form corporations at the State level, and it eliminates any special privileges or advantages that some might have because of whom they know in the Government. The Government could not use its powers to favor any group or person or to limit entry into the business of banking.

The last two titles of the bill, VII and VIII, merely state how the courts are to interpret and apply the provisions of the Monetary Freedom Act and state its effective date. They add nothing new to the bill.

It is clear that the double-digit inflation, nearly double-digit unemployment, record interest rates, falling productivity, and disappearing profits cannot continue much longer without catastrophic consequences for every American. We can no longer muddle through as we have been for years. What we need is a well-thought-out solution to our economic difficulties, and I believe the Monetary Freedom Act is that solution.●

BILLY'S BATTLE OVER BIG BUCKS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HANSEN. Mr. Speaker, Libya passed the buck—220,000 of them to Billy Carter. Southern style pork barrel in the Carter White House has been expanded to unprecedented proportions.

Billy's lever seems to have been in getting C-130 aircraft for the Libyans in return for financial favors. Jimmy is said to have provided concessions on F-15 aircraft to Saudi Arabia for financial benefits for the peanut warehouse and its beleaguered Georgia bank.

Whatever facts may be established, U.S. foreign policy throughout the critical Middle East area has been drastically and dangerously affected by a White House portraying an image of corruption—a Midas policy where every decision must have the "golden touch."

The following article in today's Milwaukee Sentinel by Washington correspondent Richard Bradee further spells out the continued tragedy our hostages in Iran are apparently suffering because of an incompetent, confused, self-serving, and possibly corrupt foreign policy.

White House Slammed Door on One Effort to Free Hostages

On the day the White House slammed the door on congressional efforts to free the American hostages in Iran, President Carter's brother, Billy, and national security adviser, Zbigniew Brzezinski, were secretly using Billy's Libya connection in an effort to free the hostages.

The revelations about Billy Carter's role undermine the criticism last November of Rep. George Hansen (R-Idaho) and Rep. Henry S. Reuss (D-Wis.), who discussed congressional hearings as a price to be paid if the hostages were released.

At the time, the White House said that the State Department, not private citizens, should negotiate with the Iranians.

"And I was a congressman, Billy Carter was a service station operator," Hansen said in an interview this week.

Jody Powell, Carter's press secretary, strongly criticized Hansen and Reuss on Nov. 26, 1979, for Hansen's suggestion that Reuss' House Banking Committee hold hearings if the hostages were released.

Powell said that it did not make sense for private citizens to make statements to the Iranians. The State Department, he said, should speak for this country.

Last week, Powell confirmed that on Nov. 27, Brzezinski, Billy Carter and a representative of Libya met to work out an arrangement in which Libya would seek the release of the American hostages.

Rosalynn Carter suggested the move sometime between Nov. 20 and Nov. 27, Powell said.

The president met with the same representative of Libya on Dec. 8, Powell said.

Hansen said he now suspects that President Carter did not want the hostages released last November. The boycott of Iran, he said, provided more markets for Libya's oil and aided bankers in this country holding frozen Iranian assets.

He is convinced that there was a chance that the hostages would have been released if the White House and congressional leaders had not shot down the plan for Reuss to hold hearings.

"If they had let Reuss and I put together what we had going, on a people to people basis, it would have precluded the kangaroo hearings they are talking about for the hostages now," he said.

Reuss was stung by the White House reaction to his statement in November about Hansen's call for hearings on Iran.

At the time, he said, "With regard to his (Hansen's) proposal that the release of the hostages be conditioned on my commitment to hold hearings by the Committee on Banking, Finance and Urban Affairs, I replied that my reaction in principle was positive."

Powell apparently misinterpreted the statement to mean that Reuss would hold hearings before the hostages were released.

Records in the banking committee indicate that former Secretary of State Cyrus Vance told Powell to "cool it" and that Powell apologized, privately, to Reuss through a committee staff member.

The Administration, however, did not relent publicly in its position that it frowned on Hansen's visits to Iran and the hostages because he would confuse officials there.

"People like myself were willing to seek the hostages' release for nothing; Billy would do it for $500,000," Hansen said.

Hansen continues to maintain that the Iranians were willing to talk to congressmen and private citizens rather than officials of the Carter administration.

"If Carter would have allowed that extra door to remain open, we might have solved the problem. I'm not sure he wanted it solved," he said.●

ALABAMA MOURNS DEATH OF RALPH "SHUG" JORDON

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BEVILL. Mr. Speaker, the State of Alabama has suffered a great personal loss with the recent death of one of its leading citizens, Ralph "Shug" Jordon.

Shug Jordon will be remembered, by supporters and adversaries, as the southern gentleman of college football. He was well respected by all for his quiet, but strong leadership as head football coach at Auburn University for over two decades and in the role he played for the betterment of Auburn through his total dedication and commitment to the school and its people, as a member of the board of trustees.

Jordon served his country with dedication and pride during World War II, and continued his dedication to his country through his outstanding examples of citizenship.

His leadership was not only displayed on the football field, but also in the guidance and inspiration he gave to those who had the opportunity to work with him and know him as a friend.

Shug Jordon will be extremely missed by the State of Alabama for his development of Auburn University and for the outstanding service he gave unselfishly to his State.

Words are inadequate to describe such a man of great stature, but we all know that he will live forever in the memories and hearts of those who had the honor of knowing Ralph "Shug" Jordon.

I extend my deepest sympathy to his wife, Evelyn, and to his other family members.●

CONGRESSMAN MARIO BIAGGI SPEAKS IN TAIWAN ON CAPTIVE NATIONS WEEK OBSERVANCE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. DERWINSKI. Mr. Speaker, Captive Nations Week is celebrated with special spirit in the Republic of China, with several rallies being held throughout the week in support of freedom for those nations enslaved under the bondage of communism. One of the featured speakers during this year's commemoration held in Taipei, Taiwan, was our own distinguished colleague, MARIO BIAGGI of New York.

Congressman BIAGGI delivered a most significant address, which I wish to share with the other Members. I consider it a statesmanlike expression of recent foreign policy developments. It is a most thoughtful and pertinent speech, which touches on several important points that our Nation would benefit from heeding.

In view of the occupation of Afghanistan, the importance of this mass rally against communism and the participation of Congressman BIAGGI in this cause, provides moral support to all those held captive under oppressive Communist rule. Congressman BIAGGI's address follows:

Speech of U.S. Congressman Mario Biaggi

It is indeed a high honor to address you in this university setting. As a member of the United States Congress, I serve on the postsecondary education subcommittee where laws are approved to provide American students with an opportunity to attend colleges and universities.

I also had the pleasure of serving as a visiting professor in my own city's university. Higher education, I have learned, is vital to personal advancement and development, and an essential tool for all enlightened civilizations. The great British leader Benjamin Disraeli, once observed, "A university should be a place of light, of liberty and of learning." These tenets should be preserved in all universities of the world. I hope that your relationship with your university is both productive and enriching as mine has been. As members of the educational community, we all have an obligation to work to insure this learning freedom survives.

It has been my distinct pleasure to be a guest in your nation for the past several days. And visit with my old friend Dr. Ku—

whom I was privileged to share the speakers platform several times as he addressed the people of America. I am here participating in the 22nd annual observance of "Captive Nations Week". I am here with my youngest son Mario—a recent graduate of Columbia, one of our nation's most prestigious universities. While this is his first trip to Taiwan I am not new to your country. I remain, as always impressed with your spirit and hospitality. You are industrious hardworking people who enjoy great prosperity in a world which is otherwise witnessing hard economic times.

During this Captive Nations Week, it is important to note that we in the United States enjoy fundamental freedoms as a matter of right. We understand and appreciate freedom because we have earned it—we have fought for it—and many have died for it. Captive Nations Week exists because there are millions of our fellow men for whom freedom is but an elusive dream. They too have struggled for freedom and many have even died for it. Sadly, these same people are forced to live under the tyrannical yoke of Communism—a system which abhors freedom of any kind.

Through my 12 years in the United States House of Representatives, I have been one of your nation's most vocal supporters. This support stems from my firm belief that the security of your nation is vital to the security of my nation. I joined a number of my colleagues in congress in opposing the initial efforts to normalize relations with the "People's Republic." This process, you may recall, commenced with former President Nixon's celebrated trip to mainland China in 1972. The normalization was officially achieved in late December of 1978 with the issuance of a joint United States-People's Republic communique.

From the outset I was opposed to any and all efforts at normalization which would jeopardize the security of your nation. In March of 1979, Congress passed H.R. 2479, legislation in effect implementing the normalization agreements.

AMENDMENTS

Your congressional friends and I voted for this legislation only after several critical improving amendments were adopted. These included:

An amendment which clarified and bolstered the provision that the United States will maintain its capacity to resist any force or other forms of coercion that would jeopardize the security of Taiwan.

An amendment which states that the President must inform Congress of any threat to the peace and stability of the Western Pacific area or any danger to the U.S. interests arising from threats to the security of Taiwan.

An amendment which assures that the U.S. will make available to Taiwan conventional defense articles in the event of a threat to its security.

I am pleased to say that more then one year after the commencement of normalization, your nation seems not to have been adversely affected. On June 10, 1980, the Department of State, speaking for the President, testified before Congress on the status of United States-Taiwanese relations one year after normalization. The following observation was made, "we can look back with considerable pride and satisfaction at the developments of the past year. Even the Taiwan authorities have acknowledged that substantive relationships between the United States and the people of Taiwan have not suffered."

The following supporting facts were presented:

—Taiwan's overall foreign trade last year increased 31 percent over 1978 levels, while U.S. investment two-way trade increased by 15 and 23 percent respectively.

Tensions are markedly down in the Taiwan Strait.

Travel to the United States from Taiwan increased by 60 percent in 1979.

Total United States arms sales to Taiwan in 1970 were valued at some $800 million with another $280 million expected in 1980.

The administration's statement also acknowledged "The nature and form of Taiwan's ultimate relationships with the mainland of China are for the Chinese on both sides of the strait to determine. It would be presumptuous for Americans to attempt to do so, nor would we impede the process of their reconciliation."

ECONOMIC STABILITY

Economic stability as well as political stability are the order of the day in Taiwan. Much of the credit for continued political stability in Taiwan goes to your President Chiang Ching-kuo who has demonstrated sound leadership and policy-making decisions while expanding the scope of Taiwan's economic activities. He is also to be commended for his unwavering devotion to the principles of universal freedom in your nation.

CRISIS IN IRAN

My country just observed its 204th anniversary of freedom. Our own celebration of Independence Day was tempered by the continuing crisis in Iran where 53 of our citizens have been held hostage for more than nine months. The government of Iran has disavowed every principle of international law and basic morality in their seizure of our citizens. The United States has been bolstered by the support we have received from your nation for which we are deeply grateful and others in the free world who have condemned the government of Iran for their actions. As a nation we are united in our support of the safe release of our hostages. There is no higher national priority than the return of our American diplomats to freedom.

The 1980 observance of Captive Nations Week has special significance. In the past year, a new nation forcibly joined the ranks of countries enslaved by Communist domination. I refer to Afghanistan which fell to an invasion by the Soviet Union late last year. The Soviets, using the age-old spurious claim that they were "invited" into Afghanistan to provide "assistance" unleashed a furious invasion and occupation which was, and still is being gallantly resisted by Afghan rebels.

GRAPHIC TERMS

The Soviet invasion of Afghanistan proves in graphic terms, that Communism has always been a way of life which must be forced on people in order to be accepted. Freedom on the other hand must often be fought for and once obtained, is coveted like a rare jewel.

From Albania to the Ukraine, there are now 30 captive nations. More than half of these acquired their status after World War II when Soviet imperialism began to demonstrate its force in the world community. In the particular cases of Hungary and Czechoslovakia—it took full scale invasions by Soviet forces to conquer them. Yet the very fact that so many in the free world observe "Captive Nations Week" brings very real hope to the millions of captive peoples that they may in fact also someday be free.

And finally on this occasion, we cannot afford to sleep peacefully until the cause of the captive nations has been made popular before the eyes of the entire free world.●

GERTRUDE SCHWARTZ—CARSON'S SPIRITED COMMUNITY LEADER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ANDERSON of California. Mr. Speaker, on the night of August 15, 1980, a very special dinner will be held in Carson, Calif., in honor of one of this community's most outstanding citizens, Gertrude Schwartz. Today, I take this time to join in paying tribute to this fine woman and her dedication to community service by sharing with my colleagues some highlights of her long career in voluntary public service.

Many people are identified with the early efforts to incorporate Carson as an independent city within the county of Los Angeles. Many can claim a longtime devotion to the welfare of this city extending to its inception in 1967. But there are few who have worked so hard and so long in this cause as has Gertrude Schwartz. Years before the time when Carson became an incorporated city, this woman was leading the effort to eliminate blight and to beautify the community that later became a city. During this period, she made many trips into downtown Los Angeles to appear before the county planning commission, repeating her plea for orderly and esthetically pleasing growth in the area in which she had lived for over 50 years.

After the city's incorporation, a newly elected city council decided to tap her knowledge of planning and her dedication to community betterment by appointing her as one of the city's initial planning commissioners. She served in this capacity continuously until her recent retirement from the commission. As commissioner, Gertrude Schwartz continued her fight for orderly and community minded growth. She developed a reputation as a tireless worker with a keen sense of fairness which she applied to every issue that came before her.

In addition to her work in community planning, she devoted her spare time to other activities and other organizations. Gertrude Schwartz has been active in the Carson Women's Club, the anniversary celebration committee, the annual neighborhood cleanup campaign, the arbor day tree planting program, and the Friends of the Library.

Mr. Speaker, without doubt, this woman truly deserves the praise she is about to receive from her many friends and associates in Carson. What she has done for the Carson community is truly impressive. Because of her steadfast adherence to her ideals through all the many years of her involvement in civic affairs, Carson will be a much better place to live for its present and future residents. My wife, Lee, joins me in congratulating Gertrude Schwartz on achieving such a fine record of community service. We also take this moment to extend to Gertrude Schwartz and her two children, Alfred and Helen, our very best wishes for a future of success and happiness.●

PHILIPPINE FREEDOM, AMERICAN SECURITY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HALL of Ohio. Mr. Speaker, Raul S. Manglapus, former Foreign Minister of the Philippines and president of the Movement for a Free Philippines, has written an important and timely article about the need for a change in U.S. policy toward the Marcos regime in the Philippines.

In the Washington Post edition of July 30, 1980, Prof. Manglapus discusses the instability of the Marcos government and the implications of that instability for Filipinos and Americans alike. He makes an effective argument for the earliest possible restoration of the democratic processes in the Philippines.

Given the crucial sensitivity to the United States of the Marcos regime, Prof. Manglapus contends that a peaceful transition to democracy in the Philippines can be encouraged by a timely signal that the United States is ready to bend in its flagrant support of Marcos. Such a signal, he notes, is the Hall-Wolff amendment to reduce the administration's request for military aid for the Philippines by $5 million. In the words of Raul Manglapus:

> A cut of the seemingly insignificant sum of $5 million could begin to spell the difference between violent and peaceful change in the Philippines and between security and disaster for America in Southeast Asia.

I commend the comments of Professor Manglapus to the attention of my colleagues:

PHILIPPINE FREEDOM, AMERICAN SECURITY

Somewhat belatedly, the United States has just recalled its ambassador and withdrawn military aid in protest against the military coup in Bolivia. And now from Peru, The Post reports the inauguration of a freely elected president after "steps the Carter administration took to ensure that the military here stuck to the timetable."

Why not apply a variation of this formula to the dictatorship of Ferdinand Marcos in the Philippines before it is too late? Because, it is argued, unlike Bolivia and Peru, the Philippines is vital to U.S. security. Therefore, the regime "must not be rocked because it is providing stability."

What stability? The Central Bank governor has reported that the country's external debt increased to a disastrous $10.438 billion at the end of March 1980. The Food and Nutrition Council has admitted that "80 percent of the population suffer from malnutrition." The ministry of labor records current underemployment at 25 percent.

Official corruption has made the Marcos family "perhaps the richest in the world," according to Cosmopolitan. The authors of an underground study entitled "Some Are Smarter Than Others" (the cynical reply by Imelda Marcos to a question on corruption) now believe the Marcos family "makes $5 million a day."

Marcos and President Nixon were on overseas telephone a few days before the Marcos coup in September 1972. The American Chamber of Commerce in Manila sent Marcos a congratulatory telegram the morning after. But the euphoric acclaim has now soured.

Frost & Sullivan, Wall Street forecasters, have just come out with an 18-month prediction of devaluation, expropriation of international business and "a nationalistic, left-wing or military takeover." The Far Eastern Economic Review notes "a surge of foreign divestments."

This is the "stability" that the U.S. government would like to preserve in opposing a symbolic cut (actually a "deferral") of $5 million in the current $105 million proposal for military aid. The aid is part of the five-year $500 million deal of January 1979, when the United States, in order to keep military bases to which it already possessed treaty rights until 1991, backed down before a Marcos bluff.

Democratic Reps. Tony Hall and Lester Wolff have stressed that the cut is not so large that it will destabilize the country. But it does meet the suggestion by Republican Rep. James Jeffords "to send a strong message to Marcos that unless certain things are done, there is going to be a change in the relationship," for "martial law and the denial of free elections threaten U.S. security in the Phillippines.

The nagging question "after the dictator, what?" carries for the Philippines no ominous implication of a chaotic void. Decades of democratic practice have produced a rich harvest of leaders of high integrity and national stature. Sen. Benigno Aquino Jr., released from seven years of detention for a heart operation in the United States, indubitably is the rallying point for democratic forces today.

These united leaders can head off the growing popular outcry for violent action only if Marcos and/or the armed forces can be made to cooperate. The Catholic Church, embracing 86 percent of the people, is doing its part, with Jaime Cardinal Sin publicly asking Marcos to step down "lest there be violence." The Philippine military, once apolitical, is now the most important political instrument of Marcos.

Marcos, for all his occasional anti-American bluster, has betrayed a crucial sensitivity to the United States. He spends vast sums on U.S. public relations agents. A chance meeting between President Carter and Imelda Marcos at the recent Ohira funeral in Tokyo was splashed on Manila front pages with the headline "Carter Cites Son's Good Word for the Philippines," linking the encounter to Jeff Carter's lavish comparison of Imelda with his mother.

Marcos and his army can be "nudged to reform," but the time for rhetoric is over. U.S. condemnatory language without supplementary action merely amuses, indeed emboldens, Marcos and his pampered officers, and is regarded by Filipinos with mounting cynicism. Filipino leaders perceive in the Hall-Wolff amendment, which passed the House and is pending in conference committee, as the first timely signal that the United States is ready to bend in its flagrant support of Marcos in order not to scuttle their efforts for a peaceful transition to democracy.

President Carter, in a letter to Marcos accompanying the 1979 agreement, said only that he would "exert" his "best efforts" to secure the appropriation of the $500 million package. A cut of the seemingly insignificant sum of $5 million could begin to spell the difference between violent and peaceful change in the Philippines, and between security and disaster for America in Southeast Asia.●

U.N. VOTE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. WEISS. Mr. Speaker, international antisemitism reached a new high yesterday when the U.N. General Assembly voted 112 to 7—with 24 abstentions—to call on Israel to withdraw from occupied Arab territories by November 15 or suffer expulsion from the General Assembly. In addition, the Assembly endorsed for the first time the right of Palestinians to found "an independent sovereign state" in those territories.

I reject this move to pressure Israel and to resolve complex international matters through ultimatum.

The adoption of this resolution, the product of the drive of the anti-Israel Arab League, pits the majority of the U.N. delegations against the state of Israel and threatens its survival and right to defensible borders. The action of the General Assembly is nothing but an anti-Jewish push and interferes with ongoing negotiations on the Palestinian question.

The Congress and the administration must remain steadfast in support of Israel—especially in the current atmosphere of rank antisemitism.

I want to commend President Carter, Secretary of State Muskie and the U.S. Representative to the U.N., Mr. McHenry, for their support of Israel on this critical vote.●

SUPPORT OUR FARMERS

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. JENRETTE. Mr. Speaker, much of the reason that I have had the opportunity to serve in the Congress as a Representative of the Sixth Congressional District in South Carolina is due to the efforts, support, and faith that has been placed in me by the farmers. When I came to Washington, my first choice for a committee assignment was the House Agriculture Committee, not just because I was raised on a small farm myself, but because I realized the importance of agriculture to my district and to the Nation. Since then, I have had the opportunity to be named to the prestigious Appropriations Committee, headed by the distinguished JAMIE WHITTEN, and on the Agriculture Subcommittee, which he also chairs. I have also been fortunate to have a farming community that understood their part in our form of government and have gone to great lengths to work with me and my office to see that agriculture was properly represented.

Their faith in me was reaffirmed even more so when last month, the farmers in the district worked hard during my reelection efforts. No group showed more dedication to the Democratic process and the American way by their hard work during that primary election. And I can say with great thankfulness that no group was more instrumental in making my renomination possible.

These are but a few of the reasons that I come before this body now to speak on behalf of the agriculture appropriations bill that is being considered today. Even though farmers make up about 4 percent of the population, they provide the economic base as well as the nutritional provisions for 96 percent of the population. Our Nation's farmers also provide a major part of our Nation's base of trade with the world.

Nevertheless, the farmer and particularly, the small farmer, is often overlooked. As the chairman of the Agriculture Subcommittee and the full Appropriations Committee pointed out yesterday, returns to equity for our farmers in 1979 was 4.1 percent while return to equity for manufacturers was 16.7 percent. Yet, the interdependence of agriculture, labor, industry, and the consumer is such that we cannot heed to the needs of one and ignore any of the others.

For these reasons, I believe this appropriations bill for 1981, which we are considering today, represents the best way of showing our support and meeting the needs of America's oldest institution. I am particularly proud of many of the portions of the bill, which have strong bearing on the farmers in my district.

For tobacco production research, the committee has again taken a strong stand against the ill-advised recommendation of the White House and restored $1,048,000 that had been eliminated. This administration cannot and will not pursue a course of funding antitobacco programs while letting the tobacco farmer go down the drain. Tobacco has brought more than $75 billion to the Federal treasury and more than $425 million to the treasury of my State of South Carolina.

In addition, the committee has increased by $182,000, the amount of money available for research on tobacco insects, making the total $797,000.

The committee has also committed $2.5 million for the control of the imported fire ant. For those of you who represent the South and the Southeast, you know the threat to farms and individuals from the dreaded fire ant. The administration had completely removed funds for the control of this insect. Perhaps President Carter has forgotten what it is like to live in that part of the country which is plagued by the fire ant. It has become a hazard to both humans and livestock and is considered one of the chief enemies of the farmer.

The committee has also increased the amount provided for cooperative agricultural extension work by more than $17 million over the amount recommended by the administration and an increase of $13 million over the 1980 appropriation. Farmers in South Carolina realize the importance of the Clemson Extension Service. They know that its research often results in greater crop production and, in some instances, new crops for our farmers to expand their marketing capabilities.

The committee has also increased rural development programs by $837 million over that recommended by the administration. This includes money for loan program authorizations which can often be a lifesaver for the farmer.

These are but a few of the portions of the bill which are important to the Sixth Congressional District of South Carolina. Others which I have not mentioned specifically here are food and nutrition programs.

The bill is not perfect. However, considering the fiscal restraints on the budget this year, it is a bill that the committee, this Congress, and the agriculture community can be proud of. But it is not such that we can stand on our laurels and do nothing from here on.

I urge my colleagues in both Houses of the Congress to support this bill. But let us not forget that the farmers' share of the food dollar is continuing to drop; that prices paid by farmers have continued to increase at a more rapid rate than prices received for their crops; and that the family farmer is feeling this crunch more than most of the farm community. Since the family farm is the heart of our agriculture economy and the very basis of our agricultural tradition, this is a matter of dire concern.

At the end of this year, farm debt was $158 billion, up 15 percent in 1 year. The number of farms continue to decline. We must continue to make our urban colleagues aware of these problems and make them realize that the farmer's problems are their problems also, if they wish to continue to provide America with an adequate food supply.●

SOVIET BLOC DEBTS TO WEST

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. ROTH. Mr. Speaker, I would like to apprise my colleagues of a most serious and potentially dangerous situation which has arisen between this country and its allies, and the Soviet Union. In our concern for providing the conventional military means to thwart the expansionist tendencies of the Soviet Union, we have overlooked a Soviet weapon Moscow holds over our heads which could devastate the West without a shot ever being fired.

Since the mid-1970's the Soviet bloc has piled up a debt to the West estimated at almost $60 billion. Western bank claims on the Soviet Union and six Eastern European countries have grown from $14.9 billion in 1974 to $59.6 billion in 1979. These figures represent hard currency debt to the West.

Loans have been extended to the Soviet bloc countries on faith. I for one seriously question the faith we can put in the Soviet Union. These loans have increased inflation in the West. The Soviets have gotten priceless technology, grain, and machinery in return for a totally unenforceable assurance that someday they will pay us back. Can the Soviet bloc ever generate enough hard currency to repay their debts? Do the Soviets have any intention of repaying us?

Let us not forget that just last November Iran refused to repay the $10 billion it owed American banks. Luckily, American banks were able to recover most of their money. I shutter at the impact on this Nation's financial community if the Soviet bloc were to default on amounts six times greater than the debt Iran refused to pay. The amount of money owed Western banks almost equals the total assets of Exxon and General Motors combined.

I ask my colleagues: Has not the West been put in a most untenable position? Goods and money have been moving in one direction. Western banks are being used increasingly to finance Communist modernization attempts. We have created loans to pay ourselves for what we send to the Soviets. What is to stop the Soviets in a possible future time of severe confrontation from simply defaulting outright on these loans and bringing about the collapse of our banking system.●

U.N. MID-DECADE CONFERENCE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. LEHMAN. Mr. Speaker, I would again like to indicate my concern about the U.N. Mid-Decade Conference now being held in Copenhagen. While the aim of the Conference is to evaluate the current situation of women throughout the world, the Conference has again turned into another vehicle of political abuse against Israel.

Yesterday, the House joined the Senate in calling for the U.S. delegation to the Copenhagen Conference of the U.N. Decade for Women to support appropriate resolutions on the principal agenda items relating to health, education, and employment and to oppose any resolutions or amendments on issues which do not relate directly to the goals of the Conference, such as the separate issue of Palestinian women. The Conference has already been politicized by this propaganda issue. A walkout was staged during the speeches of Mrs. Sadat and Israeli Ambassador Hareli, and efforts to condemn Israel dominated the Conference.

Five years ago, in Mexico City, a similar subversion of an international conference on women took place. The adoption of a resolution equating Zionism with racism and condemning Israel by the U.N. Conference on the International Women's Year caused divisiveness which robbed attention from the pressing needs and problems of women around the world. A repeat performance at the July 1980 Mid-Decade Conference in Copenhagen has again stolen attention from the important problems of women.

The agenda item entitled "The Effects of Israeli Occupation on Palestinian Women Inside and Outside the Occupied Territories" was slated for discussion on two separate committees during three separate sessions of the Conference. Since this agenda item overlaps the session on women as refugees, domination of the Conference by this topic was virtually assured. Any discussion of Palestinian women should have been properly placed within the session on women and refugees.

The agenda item on Palestinian women focuses on a report prepared by the U.N. Economic Commission for Western Asia, a group which includes in its membership Arab States and the Palestinian Liberation Organization. Its exclusion of Israel, a member state of the U.N. and geographically part of the region, is in violation of the U.N. Charter principle of universality and sovereign equality of members. The document, drafted by this fanatically anti-Israel coalition, is another distorted account of the history of the Arab-Israeli conflict. Israel is referred to as "1948 occupied Palestine." The report is the first official document accepted by a United Nations international forum which argues against the legitimacy of the Israeli State. The report does not address the needs of Palestinian women which are unique to women in Arab culture nor does it analyze in any credible way the socioeconomic conditions of Palestinian women. Indeed, the 1979 State Department report on human rights practices, based on an impartial study, comments on the position of Palestinian women in the occupied territories:

> The status of women in the occupied territories reflects traditional Palestine values and practices. Laws governing marriage, family, and personal status discriminate against women. Changes are taking place, however. Since 1967, the proportion of women in school has steadily increased so that now they comprise roughly half the school population. Exposure to education, and to a basically egalitarian attitude toward women by Israelis, is changing the traditional status of women. Traditionally unenfranchised, women are permitted to vote in municipal elections. The younger generation of women is growing up with different expectations about its status. . . . Women who work in Israel proper or for Israeli firms receive the benefits of Israeli labor laws and practices.

A few months ago, I sought clarification during House Appropriation Foreign Operations Subcommittee hearings on what the U.S. role at the Conference would be. I learned that while the United States opposed singling out Palestinian women for special consideration at the Copenhagen Conference discussion in the U.N. General Assembly last year, and voted with Israel against including the item on the agenda, its inclusion was supported by 118 other U.N. member nations.

At the preparatory meeting prior to the Conference, Assistant Secretary for International Organizational Affairs Richard McCall objected strongly to using a document which challenges the legitimacy of a member state of the United Nations. The open attack on the sovereignty of a member nation is a perversion of the concept of such an international conference whose purpose is to improve the status and opportunities for women worldwide and to achieve greater participation by women in the process of economic and social development. Mr. McCall assured me that the U.S. delegation would fight any kind of resolution that would be anti-Israel in any way.

Promoting the view of the Palestine Liberation Organization at American taxpayers' expense violates legislation prohibiting U.N. programs which seek to further the interests of the PLO. It is my hope and expectation that the United States will do all it can to contain the debate within the scope of the Conference and to actively work with other delegations in defeating any anti-Israeli resolutions.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 31, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 1

9:30 a.m.

Joint Economic

To hold hearings on the mid-year economic review, and on the employment-unemployment situation for July.

6226 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to continue markup of S. 2236, to provide Federal law enforcement agencies full authority to investigate certain criminal activities, relating to the illegal movement of currency; H.R. 7340, to encourage payment in cash by providing certain discounts; H.R. 2255, S. 380, and S. 39, bills limiting bank holding companies in selling insurance as principals, agents, and brokers; S. 1533 and 1940, bills to provide an exemption for qualified small business venture capital companies to reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and to encourage large investors to make a portion of their capital resources available to small business; and Senate Concurrent Resolution 106, expressing the sense of the Congress that the Board of Governors of the Federal Reserve System should pursue monetary policies to reduce inflation, and facilitate economic growth.

5302 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold hearings on S. 2734, to provide for the transfer of certain land and facilities used by the Bureau of Mines located at Carnegie-Mellon University in Pittsburgh, Pennsylvania.

3110 Dirksen Building

Finance

International Trade Subcommittee

To resume hearings on the trade and economic issues confronting the United States, and on an international trade strategy for the United States.

2221 Dirksen Building

Foreign Relations

European Affairs, and Arms Control, Oceans, International Operations and Environment Subcommittees

To hold closed joint hearings on developments in theater nuclear arms control.

S-116, Capitol

Labor and Human Resources

To hold hearings on the nominations of John B. Slaughter, of Washington, to be Director of the National Science Foundation, and James E. Jones, Jr., of Wisconsin, to be Chairman of the Special Panel on Appeals.

4232 Dirksen Building

AUGUST 4

9:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Lindsay D. Norman, Jr., of Maryland, to be Director of the Bureau of Mines, and John D. Hughes, of Texas, to be a member of the Federal Energy Regulatory Commission.

3110 Dirksen Building

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 2967, to provide for equitable Federal estate and gift tax laws in an effort to preserve family-owned businesses; and other miscellaneous tax bills, S. 2775, 2805, 2818, 2904, and H.R. 7171.

2221 Dirksen Building

10:00 a.m.

Select on Small Business

To hold hearings on H.R. 5612, to extend through September 30, 1982, certain programs administered by the Small Business Administration to develop small business concerns owned by socially and economically disadvantaged persons, and to clarify and expand the scope of agency reporting requirements.

424 Russell Building

AUGUST 5

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 336, 1247, and 1877, bills providing special tax treatment for married couples and single persons.

2221 Dirksen Building

9:30 a.m.

Judiciary

To hold hearings on the nominations of George Howard, Jr., to be U.S. District Judge for Eastern and Western Districts of Arkansas; Susan C. Getzendanner and Charles P. Kocoras, each to be a U.S. District Judge for the Northern District of Illinois; John E. Sprizzo, to be U.S. District Judge for the Southern District of New York; David V. Kenyon and Consuelo B. Marshall, each to be a U.S. District Judge for the Central District of California; and other pending nominations.

2228 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold hearings on S. 2861, designating certain lands in the State of North Carolina for inclusion in the National Wilderness Preservation System.

324 Russell Building

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on S. 2926, proposed Magnetic Fusion Energy Engineering Act.

3110 Dirksen Building

Governmental Affairs

To hold hearings on the nomination of James B. Thomas, Jr., of Virginia, to be Inspector General, Department of Education.

3302 Dirksen Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 19

10:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian housing programs.

5110 Dirksen Building

AUGUST 20

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

AUGUST 26

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities.

324 Russell Building

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

AUGUST 27

9:00 a.m.

Finance

Health Subcommittee

To hold hearings on S. 2809, to provide for a comprehensive system of noninstitutional long-term care services for the elderly and disabled.

2221 Dirksen Building

CANCELLATIONS

AUGUST 1

9:30 a.m.

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold oversight hearings on the activities of the National Health Service Corps.

4232 Dirksen Building

SENATE—*Thursday, July 31, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, we lift our hearts to Thee in thanksgiving for many blessings, but especially for this good land which Thou hast given us for our heritage. Help us to prize highly and to conserve carefully the rich endowment of natural and human resources and to use both for the common welfare.

Look upon all who serve in the Government of this Nation, giving them wisdom and strength for public action, and spiritual renewal and inspiration for home and family life. Bind leaders and people together for united action in concerting those measures which shall best further the kingdom of righteousness and peace befitting a "nation under God."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,
Washington, D.C., July 31, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF SENATOR BAKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee (Mr. BAKER) is recognized for not to exceed 15 minutes.

Mr. BAKER. I thank the Chair.

Mr. President, first of all, it is my purpose this morning to put the Republican platform in the RECORD. Before we start that, and the colloquy that I feel sure will ensue, I would like to yield to the acting majority leader so that he may proceed with any housekeeping details that may be necessary.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. I thank the distinguished Senator from Tennessee for yielding.

THE JOURNAL

Mr. PRYOR. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, before we commence our colloquy on the platform, I will yield to the assistant Republican leader briefly, then I will yield to the Senator from Wisconsin briefly, and then to the Senator from Idaho.

(The remarks of Mr. STEVENS, Mr. PROXMIRE, and Mr. MCCLURE are printed in the RECORD following the colloquy concerning the Republican platform, by unanimous consent.)

Mr. STEVENS. Mr. President, I yield to the minority leader's control the special order that is in my name.

Mr. BAKER. I thank the assistant Republican leader.

REPUBLICAN PARTY 1980 PLATFORM

Mr. BAKER. Mr. President, as our Democratic colleagues prepare to travel to New York City in a few days for their party's national convention, we on this side of the aisle wish them well and hope they are as cordially received by the people of that great city as we were by the great people of the great city of Detroit.

And we also extend to them our best wishes for a successful convention. For they shall surely need as successful a Democratic Convention as has ever occurred if they hope to even be competitive with our Republican candidates on November 4.

In that regard, Mr. President, we would now like to submit for our Democratic colleagues' edification the text of the platform adopted by the Republican Convention some 2 weeks ago.

This document, so resoundingly approved by the Republican delegates, establishes a broad frame of reference—a groundwork, if you will—of Republican philosophy that will lead our party and our Nation into the 1980's.

From the foundation of this platform, our splendid nominee for President Ronald Reagan, and his most worthy running mate, George Bush, will most assuredly advance to victory.

From this broad spectrum of our basic beliefs, distinguished Republican men and women across this country will most assuredly gain control of the Congress.

And from this bedrock of Republican philosophy, the new President and the new Congress will forge a government that works once again—that will indeed make America great again.

In a few moments, several of my colleagues from this side of the aisle will note for the Senate many of the highlights of the Republican platform. In anticipation of their presentations, I will make mention of only one specific item contained in the document—that being the restatement of Republican support for the concept of revenue sharing. By that statement, we have let the American people know which party is serious about improving Government services and checking the spread of Federal intervention into their lives.

Before concluding my remarks, Mr. President, I would be most remiss if I did not take note of the enormous contributions several of my Republican colleagues made in formulating the Republican platform and in insuring the success of our convention.

First and foremost, I must applaud the distinguished Senator from Texas (Mr. TOWER) for his absolutely magnificent performance as chairman of the platform committee. His patience and direction molded weeks of testimony, thousands of words, and considerably divergent viewpoints and positions into the platform document. Its overwhelming adoption is testimony to the skill and leadership of JOHN TOWER.

In addition, the distinguished Senator from Kansas (Mrs. KASSEBAUM) served most ably as the convention's temporary chairman and was but one of several of my colleagues who so eloquently addressed the convention. All of these Members of this body helped make the 1980 Republican National Convention one of the most unified and successful such gatherings in my memory. And all of them will be due a large measure of the credit for the resounding victory I am certain we are about to achieve.

Mr. President, I ask unanimous consent that the text of the platform adopted by the Republican National Convention in Detroit be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPUBLICAN PLATFORM

A PREAMBLE

The Republican Party convenes, presents this platform, and selects its nominees at a time of crisis. America is adrift. Our country moves agonizingly, aimlessly, almost helplessly into one of the most dangerous and disorderly periods in history.

At home, our economy careens, whiplashed from one extreme to another. Earlier this year, inflation skyrocketed to its highest levels in more than a century; weeks later, the economy plummeted, suffering its steepest slide on record. Prices escalate at more than 10 percent a year. More than eight million people seek employment. Manufacturing

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

plants lie idle across the country. The hopes and aspirations of our people are being smothered.

Overseas, conditions already perilous, deteriorate. The Soviet Union for the first time is acquiring the means to obliterate or cripple our land-based missile system and blackmail us into submission. Marxist tyrannies spread more rapidly through the Third World and Latin America. Our alliances are frayed in Europe and elsewhere. Our energy supplies become even more dependent on uncertain foreign suppliers. In the ultimate humiliation, militant terrorists in Iran continue to toy with the lives of Americans.

These events are not isolated, or unrelated. They are signposts. They mark a continuing downward spiral in economic vitality and international influence. Should the trend continue, the 1980s promise to be our most dangerous years since World War II. History could record, if we let the drift go on, that the American experiment, so marvelously successful for 200 years, came strangely, needlessly, tragically to a dismal end early in our third century.

By far the most galling aspect of it all is that the chief architects of our decline—Democratic politicians—are without program or ideas to reverse it. Divided, leaderless, unseeing, uncomprehending, they plod on with listless offerings of pale imitations of the same policies they have pursued so long, knowing full well their futility. The Carter Administration is the unhappy and inevitable consequence of decades of increasingly outmoded Democratic domination of our national life. Over the past four years it has repeatedly demonstrated that it has no basic goals other than the perpetuation of its own rule and no guiding principle other than the fleeting insights provided by the latest opinion poll. Policies announced one day are disavowed or ignored the next, sowing confusion among Americans at home and havoc among our friends abroad.

Republicans, Democrats, and Independents have been watching and reading these signs. They have been watching incredulously as disaster after disaster unfolds. They now have had enough. They are rising up in 1980 to say that this confusion must end; this drift must end; we must pull ourselves together as a people before we slide irretrievably into the abyss.

It doesn't have to be this way; it doesn't have to stay this way. We, the Republican Party, hold ourselves forth as the Party best able to arrest and reverse the decline. We offer new ideas and candidates, from the top of our ticket to the bottom, who can bring to local and national leadership firm, steady hands and confidence and eagerness. We have unparalleled unity within our own ranks, especially between our presidential nominee and our Congressional membership. Most important, we go forth to the people with ideas and programs for the future that are as powerful and compelling as they are fresh. Together, we offer a new beginning for America.

Our foremost goal here at home is simple: economic growth and full employment without inflation. Sweeping change in economic policy in America is needed so that Mr. Carter's promise of hard times and austerity—his one promise well kept—can be replaced with Republican policies that promise economic growth and job creation. It is our belief that the stagflation of recent years not only has consigned millions of citizens to hardship but also has bottled up the enormous ingenuity and creative powers of our people. Those energies will not be released by the sterile policies of the past: we specifically reject the Carter doctrine that inflation can be reduced only by throwing people out of work. Prosperity will not be regained simply by government fiat. Rather, we must offer broad new incentives to labor and capital to stimulate a great outpouring of private goods and services and to create an abundance of jobs. From America's grassroots to the White House we will stand united as a party behind a bold program of tax rate reductions, spending restraints, and regulatory reforms that will inject new life into the economic bloodstream of this country.

Overseas, our goal is equally simple and direct: to preserve a world at peace by keeping America strong. This philosophy once occupied a hallowed place in American diplomacy, but it was casually, even cavalierly dismissed at the outset by the Carter Administration—and the results have been shattering. Never before in modern history has the United States endured as many humiliations, insults, and defeats as it has during the past four years: our ambassadors murdered, our embassies burned, our warnings ignored, our diplomacy scorned, our diplomats kidnapped. The Carter Administration has shown that it neither understands totalitarianism nor appreciates the way tyrants take advantage of weakness. The brutal invasion of Afghanistan promises to be only the forerunner of much more serious threats to the West—and to world peace—should the Carter Administration somehow cling to power.

Republicans are united in a belief that America's international humiliation and decline can be reversed only by strong presidential leadership and a consistent, farsighted foreign policy, supported by a major upgrading of our military forces, a strengthening of our commitments to our allies, and a resolve that our national interests be vigorously protected. Ultimately, those who practice strength and firmness truly guard the peace.

This platform addresses many concerns of our Party. We seek to restore the family, the neighborhood, the community, and the workplace as vital alternatives in our national life to ever-expanding federal power.

We affirm our deep commitment to the fulfillment of the hopes and aspirations of all Americans—blacks and whites, women and men, the young and old, rural and urban.

For too many years, the political debate in America has been conducted in terms set by the Democrats. They believe that every time new problems arise beyond the power of men and women as individuals to solve, it becomes the duty of government to solve them, as if there were never any alternative. Republicans disagree and have always taken the side of the individual, whose freedoms are threatened by the big government that Democratic idea has spawned. Our case for the individual is stronger than ever. A defense of the individual against government was never more needed. And we will continue to mount it.

But we will redefine and broaden the debate by transcending the narrow terms of government and the individual; those are not the only two realities in America. Our society consists of more than that; so should the political debate. We will reemphasize those vital communities like the family, the neighborhood, the workplace, and others which are found at the center of society, between government and the individual. We will restore and strengthen their ability to solve problems in the places where people spend their daily lives and can turn to each other for support and help.

We seek energy independence through economic policies that free up our energy production and encourage conservation. We seek improvements in health care, education, housing, and opportunities for youth. We seek new avenues for the needy to break out of the tragic cycle of dependency. All of these goals—and many others—we confidently expect to achieve through a rebirth of liberty and resurgence of private initiatives, for we believe that at the root of most of our troubles today is the misguided and discredited philosophy of an all-powerful government, ceaselessly striving to subsidize, manipulate, and control individuals. But it is the individual, not the government, who reigns at the center of our Republican philosophy.

To those Democrats who say Americans must be content to passively accept the gradual but inexorable decline of America, we answer: The American people have hardly begun to marshal their talents and resources or realize the accomplishments and dreams that only freedom can inspire.

To those Democrats who say we face an "age of limits," we ask: Who knows the limit to what Americans can do when their capacity for work, creativity, optimism, and faith is enhanced and supported by strong and responsive political leadership and ideals.

To those who, with Mr. Carter, say the American people suffer from a national "malaise," we respond: The only malaise in this country is found in the leadership of the Democratic Party, in the White House and in Congress. Its symptoms are an incompetence to lead, a refusal to change, and a reluctance to act. This malaise has become epidemic in Washington. Its cure is government led by Republicans who share the values of the majority of Americans.

Republicans pledge a restoration of balance in American society. But society cannot be balanced by the actions of government or of individuals alone. Balance is found at society's vital center, where we find the family and the neighborhood and the workplace.

America will not, however, achieve any of these goals on its present course nor under its present leadership. The uncharted course of Mr. Carter will lead surely to catastrophe. By reversing our economic decline, by reversing our international decline, we can and will resurrect our dreams.

And so, in this 1980 Republican Platform, we call out to the American people: With God's help, let us now, together, make America great again; let us now, together, make a new beginning.

FREE INDIVIDUALS IN A FREE SOCIETY

It has long been a fundamental conviction of the Republican Party that government should foster in our society a climate of maximum individual liberty and freedom of choice. Properly informed, our people as individuals or acting through instruments of popular consultation can make the right decisions affecting personal or general welfare, free of pervasive and heavy-handed intrusion by the central government into the decisionmaking process. This tenet is the genius of representative democracy.

Republicans also treasure the ethnic, cultural, and regional diversity of our people. This diversity fosters a dynamism in American society that is the envy of the world.

Taxes

Elsewhere in this platform we discuss the benefits, for society as a whole, of reduced taxation, particularly in terms of economic growth. But we believe it is essential to cut personal tax rates out of fairness to the individual.

Presently, the aggregate burden of taxation is so great that the average American spends a substantial part of every year, in effect, working for government.

Substantial tax rate reductions are needed to offset the massive tax increases facing the working men and women of this country. Over the next four years, federal taxes are projected to increase by over $500 billion due to the Carter Administration's policies. American families are already paying taxes at higher rates than ever in our history; as a result of these Carter policies, the rates will go even higher. The direct and indirect burden of federal taxes alone, imposed on the average family earning $20,000, has risen to $5,451—over 27 percent of the family's gross income. During the Carter term, the federal tax alone on this family will have risen $2,000.

The Republican Party believes balancing the budget is essential but opposes the Democrats' attempt to do so through higher taxes. We believe that an essential aspect of balancing the budget is spending restraint by the federal government and higher economic growth, not higher tax burdens on working men and women.

Policies of the Democratic Party are taxing work, saving, investment, productivity, and the rewards for human ingenuity. These same tax policies subsidize debt, unemployment, and consumption. The present structure of the personal income tax system is designed to broaden the gap between effort and reward.

Therefore, the Republican Party supports across-the-board reductions in personal income tax rates, phased in over three years, which will reduce tax rates from the range of 14 to 70 percent to a range from 10 to 50 percent.

For most Americans, these reduced tax rates will slow the rate at which taxes rise. This will assure workers and savers greater rewards for greater effort by lowering the rate at which added earnings would be taxed.

These reductions have been before the Congress for three years in the Roth-Kemp legislation. The proposal will not only provide relief for all American taxpayers, but also promote non-inflationary economic growth by restoring the incentive to save, invest, and produce. These restored incentives will in turn increase investment and help reinvigorate American business and industry, leading to the creation of more jobs. In fact, Governor Reagan and Congressional Republicans have already taken the first step. Working together, they have boldly offered the American people a 10 percent tax rate cut for 1981, which will stimulate growth in our economy, and a simplification and liberalization of depreciation schedules to create more jobs.

Once tax rates are reduced, Republicans will move to end tax bracket creep caused by inflation. We support tax indexing to protect taxpayers from the automatic tax increases caused when cost-of-living wage increases move them into higher tax brackets.

Tax rate reductions will generate increases in economic growth, output, and income which will ultimately generate increased revenues. The greater justification for these cuts, however, lies in the right of individuals to keep and use the money they earn.

Improving the welfare system

The measure of a country's compassion is how it treats the least fortunate. In every society there will be some who cannot work, often through no fault of their own.

Yet current federal government efforts to help them have become counterproductive, perpetuating and aggravating the very conditions of dependence they seek to relieve. The Democratic Congress has produced a jumble of degrading, dehumanizing, wasteful, overlapping, and inefficient programs that invite waste and fraud but inadequately assist the needy poor.

Poverty is defined not by income statistics alone, but by an individual's true situation and prospects. For two generations, especially since the mid-1960s, the Democrats have deliberately perpetuated a status of federally subsidized poverty and manipulated dependency for millions of Americans. This is especially so for blacks and Hispanics, many of whom remain pawns of the bureaucracy, trapped outside the social and economic mainstream of American life.

For those on welfare, our nation's tax policies provide a penalty for getting a job. This is especially so for those whose new income from a job is either equal to, or marginally greater than, the amount received on welfare. In these cases, due to taxes, the individual's earned income is actually less than welfare benefits. This is the "poverty trap" which will continue to hold millions of Americans as long as they continue to be punished for working.

The Carter Administration and the Democratic Party continue to foster that dependency. Our nation's welfare problems will not be solved merely by providing increased benefits. Public service jobs are not a substitute for employable skills, nor can increases in the food stamp program by themselves provide for individual dignity. By fostering dependency and discouraging self-reliance, the Democratic Party has created a welfare constituency dependent on its continual subsidies.

The Carter Administration has proposed, and its allies in the House of Representatives actually voted for, legislation to nationalize welfare, which would have cost additional billions and made millions more dependent upon public assistance. The Democrats have presided over—and must take the blame for—the most monstrous expansion and abuse of the food stamp program to date. They have been either unable or unwilling to attack the welfare fraud that diverts resources away from the truly poor. They have sacrificed the needy to the greedy, and sent the welfare bills to the taxpayers.

We categorically reject the notion of a guaranteed annual income, no matter how it may be disguised, which would destroy the fiber of our economy and doom the poor to perpetual dependence.

As a party we commit ourselves to a welfare policy that is truly reflective of our people's true sense of compassion and charity as well as an appreciation of every individual's need for dignity and self-respect. We pledge a system that will:

Provide adequate living standards for the truly needy;

End welfare fraud by removing ineligibles from the welfare rolls, tightening food stamp eligibility requirements, and ending aid to illegal aliens and the voluntarily unemployed;

Strengthen work incentives, particularly directed at the productive involvement of able-bodied persons in useful community work projects;

Provide educational and vocational incentives to allow recipients to become self-supporting; and

Better coordinate federal efforts with local and state social welfare agencies and strengthen local and state administrative functions.

We oppose federalizing the welfare system; local levels of government are most aware of the needs in their communities. We support a block grant program that will help return control of welfare programs to the states. Decisions about who gets welfare, and how much, can be better made on the local level.

Those features of the present law, particularly the food stamp program, that draw into assistance programs people who are capable of paying for their own needs should be corrected. The humanitarian purpose of such programs must not be corrupted by eligibility loopholes. Food stamp program reforms proposed by Republicans in Congress would acomplish the twin goals of directing resources to those most in need and streamlining administration.

Through long association with government progams, the word "welfare" has come to be perceived almost exclusively as tax-supported aid to the needy. But in its most inclusive sense—and as Americans understood it from the beginning of the Republic—such aid also encompasses those charitable works performed by private citizens, families, and social, ethnic, and religious organizations. Policies of the federal government leading to high taxes, rising inflation, and bureaucratic empire-building have made it difficult and often impossible for such individuals and groups to exercise their charitable instincts. We believe that government policies that fight inflation, reduce tax rates, and end bureaucratic excesses can help make private effort by the American people once again a major force in those works of charity which are the true signs of a progressive and humane society.

Veterans

Republicans recognize the very special sacrifice of those who have served in our nation's armed forces. Individual rights and societal values are only as strong as a nation's commitment to defend them. Because of this our country must never forget its appreciation of and obligation to our veterans.

Today the veteran population numbers 30 million. This is the largest veteran population in our nation's history. We recognize the major sacrifices they have made for their fellow Americans.

We will maintain the integrity of the Veterans Administration. We will seek to keep it separate and distinct from other federal agencies as the single agency for the administration of all veterans' programs. In particular we feel it is of vital importance to continue and expand the health programs provided to veterans through the Veterans Administration hospitals. Here we see the need for increased access to care, especially for older veterans.

We further advocate continued and expanded health care for our Vietnam veterans and consider it vital for the Veterans Administration to continue its programs for the rehabilitation of the disabled as well as its job training efforts.

We are committed to providing timely and adequate adjustments in compensation for service-disabled veterans and the survivors of those who died as a result of their service. We are also committed to maintaining the pension program for those who have served during a period of war, for those who were disabled and impoverished, and for their widows and orphans.

We will support measures to provide for every veteran at death a final resting place for his remains in a national cemetery, and for costs of transportation thereto.

Veterans preference in federal employment in all departments and agencies will be continued and strictly enforced.

Retired military benefits deserve more than the cursory attention given them by a Department of Defense otherwise interested in on-going programs. We believe that such benefits should be administered by the Veterans Administration.

Private property

The widespread distribution of private property ownership is the cornerstone of American liberty. Without it neither our free enterprise system nor our republican form of government could long endure.

Under Democratic rule, the federal government has become an aggressive enemy of the human right to private property ownership. It has dissipated savings through depreciation of the dollar, enforced price controls on private exchange of goods, attempted to enforce severe land use controls, and mistreated hundreds of thousands of national park and forest inholders.

The next Republican Administration will reverse this baneful trend. It will not only protect the cherished human right of property ownership, but will also work to help millions of Americans—particularly those from disadvantaged groups—to share in the ownership of the wealth of their nation.

Transportation—Personal mobility

Americans enjoy greater personal mobility than any other people on earth, largely as a result of the availability of automobiles and our modern highway system. Republicans reject the elitist notion that Americans must be forced out of their cars. Instead, we vigorously support the right of personal mobility and freedom as exemplified by the automobile and our modern highway system. While recognizing the importance of fuel efficiency and alternate modes of transportation, we quickly acknowledge that for millions of Americans there is no substitute on the horizon for the automobile. We reaffirm our support for a healthy domestic automobile industry, complete with continued support for the highway trust fund, which is the fairest method yet devised for financing America's highway system.

Republicans recognize the need for further improvement in highway safety. Projections indicate that highway fatalities may exceed 60,000 per year in the coming decades. Republicans support accelerated cost-effective efforts to improve highway, automobile, and individual driver safety.

Privacy

The essence of freedom is the right of law-abiding individuals to life, liberty, and the pursuit of happiness without undue governmental intervention. Yet government in recent years, particularly at the federal level, has overwhelmed citizens with demands for personal information and has accumulated vast amounts of such data through the IRS, the Social Security Administration, the Bureau of the Census, and other agencies. Under certain limited circumstances, such information can serve legitimate societal interests, but there must be protection against abuse.

Republicans share the concerns of our citizens as to the nature, use, and final disposition of the volume of personal information being collected. We are alarmed by Washington's growing collection and dissemination of such data. There must be protection against its misuse or disclosure.

The Republican Party commits itself to guaranteeing an individual's right of privacy. We support efforts of state governments to ensure individual privacy.

Black Americans

For millions of black Americans, the past four years have been a long trail of broken promises and broken dreams. The Carter Administration entered office with a pledge to all minorities of a brighter economic future. Today there are more black Americans unemployed than on the day Mr. Carter became President. The unemployment rate of black teenagers is once again rising sharply. And the median income of black families has declined to less than 60 percent of white family income.

Republicans will not make idle promises to blacks and other minorities; we are beyond the day when any American can live off rhetoric or political platitudes.

Our Party specifically rejects the philosophy of the Carter Administration that unemployment is the answer to inflation. We abhor the notion that our cities should become battlegrounds in the fight against inflation and that the jobs of black Americans should be sacrificed in an attempt to counterbalance the inflationary excesses of government. Nor are we prepared to accept the practice of turning the poor into permanent wards of the state, trading their political support for continued financial assistance.

Our fundamental answer to the economic problems of black Americans is the same answer we make to all Americans—full employment without inflation through economic growth. First and foremost, we are committed to a policy of economic expansion through tax-rate reductions, spending restraint, regulatory reform, and other incentives.

As the Party of Lincoln, we remain equally and steadfastly committed to the equality of rights for all citizens, regardless of race. Although this nation has not yet eliminated all vestiges of racism over the years we are heartened by the progress that has been made, we are proud of the role that our Party has played, and we are dedicated to standing shoulder to shoulder with black Americans in that cause.

Elsewhere in this platform, we set forth a number of specific proposals that will also serve to improve the quality of life for blacks. During the next four years we are committed to policies that will:

Encourage local governments to designate specific enterprise zones within depressed areas that will promote new jobs, new and expanded businesses, and new economic vitality;

Open new opportunities for black men and women to begin small businesses of their own by, among other steps, removing excessive regulations, disincentives for venture capital, and other barriers erected by the government;

Bring strong, effective enforcement of federal civil rights statutes, especially those dealing with threats to physical safety and security which have recently been increasing; and

Ensure that the federal government follows a non-discriminatory system of appointments up and down the line, with a careful eye for qualified minority aspirants.

Hispanic Americans

Hispanics are rapidly becoming the largest minority in the country and are one of the major pillars in our cultural, social, and economic life. Diverse in character, proud in heritage, they are greatly enriching the American melting pot.

Hispanics seek only the full rights of citizenship—in education, in law enforcement, in housing—and an equal opportunity to achieve economic security. Unfortunately, those desires have not always been fulfilled; as in so many other areas, the Carter Administration has been long on rhetoric and short on action in its approach to the Hispanic community.

We pledge to pursue policies that will help to make the opportunities of American life a reality for Hispanics. The economic policies enunciated in this platform will, we believe, create new jobs for Hispanic teenagers and adults and will also open up new business opportunities for them. We also believe there should be local educational programs which enable those who grew up learning another language such as Spanish to become proficient in English while also maintaining their own language and cultural heritage. Neither Hispanics nor any other American citizens should be barred from education or employment opportunities because English is not their first language.

The handicapped

The Republican Party strongly believes that handicapped persons must be admitted into the mainstream of American society. It endorses efforts to enable our handicapped population to enjoy a useful and productive life.

Too often in the past, barriers have been raised to their education, employment, transportation, health care, housing, recreation, and insurance. We support a concerted national effort to eliminate discrimination in all these areas. Specifically we support tax incentives for the removal of architectural and transportation barriers. We pledge continued efforts to improve communications for the handicapped and to promote a healthy, constructive attitude toward them in our society.

Women's rights

We acknowledge the legitimate efforts of those who support or oppose ratification of the Equal Rights Amendment.

We reaffirm our Party's historic commitment to equal rights and equality for women.

We support equal rights and equal opportunities for women, without taking away traditional rights of women such as exemption from the military draft. We support the enforcement of all equal opportunity laws and urge the elimination of discrimination against women. We oppose any move which would give the federal government more power over families.

Ratification of the Equal Rights Amendment is now in the hands of state legislatures, and the issues of the time extension and rescission are in the courts. The states have a constitutional right to accept or reject a constitutional amendment without federal interference or pressure. At the direction of the White House, federal departments launched pressure against states which refused to ratify ERA. Regardless of one's position on ERA, we demand that this practice cease.

At this time, women of America comprise 53 percent of the population and over 42 percent of the work force. By 1990, we anticipate that 51 percent of the population will be women, and there will be approximately 57 million in the work force. Therefore, the following urgent problems must be resolved.

Total integration of the work force (not separate but equal) is necessary to bring women equality in pay;

Girls and young women must be given improved early career counseling and job training to widen the opportunities for them in the world of work;

Women's worth in the society and in the jobs they hold, at home or in the workplace, must be reevaluated to improve the conditions of women workers concentrated in low-status, low-paying jobs;

Equal opportunity for credit and other assistance must be assured to women in small businesses; and

One of the most critical problems in our nation today is that of inadequate child care for the working mother. As champions of the free enterprise system, of the individual, and of the idea that the best solutions to most problems rest at the community level, Republicans must find ways to meet this, the working woman's need. The scope of this problem is fully realized only when it is understood that many female heads of households are at the poverty level and that they have a very large percentage of the nation's children.

The important secret about old age in America today is that it is primarily a woman's issue, and those over 65 are the fastest growing segment of the population. With current population trends, by the year 2020, 15.5 percent of our population will be over 65; by 2035, women in this age group will outnumber men by 13 million.

In 1980, 42 percent of women between 55 and 64 are in the work force. Half of the six million elderly women who live alone have incomes of $3,700 or less, and black women in that category have a median income of $2,600. How do they survive with the present rate of inflation? The lower salaries they earned as working women are now reflected in lower retirement benefits, if they have any at all. The Social Security system is still biased against women, and non-existent pension plans combine with that to produce a bereft elderly woman. The Republican Party must not and will not let this continue.

We reaffirm our belief in the traditional role and values of the family in our society. The damage being done today to the family takes its greatest toll on the woman. Whether it be through divorce, widowhood, economic problems, or the suffering of children, the impact is greatest on women. The importance of support for the mother and homemaker in maintaining the values of this country cannot be over-emphasized.

In other sections of this platform, we call for greater equity in the tax treatment of working spouses. We deplore this marriage tax which penalizes married two-worker families. We call for a reduction in the estate tax burden, which creates hardships for widows and minor children. We also pledge to address any remaining inequities in the treatment of women under the Social Security system.

Women know better than anyone the decline in the quality of life that is occurring in America today. The peril to the United States and especially to women must be stressed. Women understand domestic, consumer, and economic issues more deeply because they usually manage the households and have the responsibility for them. With this responsibility must also come greater opportunity for the achievement and total equality toward solution of problems.

Equal rights

The truths we hold and the values we share affirm that no individual should be victimized by unfair discrimination because of race, sex, advanced age, physical handicap, difference of national origin or religion, or economic circumstance. However, equal opportunity should not be jeopardized by bureaucratic regulations and decisions which rely on quotas, ratios, and numerical requirements to exclude some individuals in favor of others, thereby rendering such regulations and decisions inherently discriminatory.

We pledge vigorous enforcement of laws to assure equal treatment in job recruitment, hiring, promotion, pay, credit, mortgage access, and housing.

Millions of Americans who trace their heritage to the nations of Eastern, Central, and Southern Europe have for too long seen their values neglected. The time has come to go beyond the ritual election year praise given to Ethnic Americans. We must make them an integral part of government. We must make recognition of their values an integral part of government policy. The Republican Party will take positive steps to see to it that these Americans, along with others too long neglected, have the opportunity to share the power, as well as the burdens of our society. The same holds true of our Asian-American citizens from the cultures of the Orient.

As a party we also recognize our commitment to Native Americans. We pledge to continue to honor our trusted relationship with them and we reaffirm our federal policy of self-determination. We support the assumption by Indians, Aleuts, and Eskimos themselves of the decisions and planning which will affect their lives and the end of undue federal influence on those plans and decisions.

Puerto Rico has been a territory of the United States since 1898. The Republican Party vigorously supports the right of the United States citizens of Puerto Rico to be admitted into the Union as a fully sovereign state after they freely so determine. We believe that the statehood alternative is the only logical solution to the problem of inequality of the United States citizens of Puerto Rico within the framework of the federal Constitution, with full recognition within the concept of a multicultural society of the citizens' right to retain their Spanish language and traditions. Therefore we pledge to support the enactment of the necessary legislation to allow the people of Puerto Rico to exercise their right to apply for admission into the Union at the earliest possible date after the presidential election of 1980.

We also pledge that such decision of the people of Puerto Rico will be implemented through the approval of an admission bill. This bill will provide for the Island's smooth transition from its territorial fiscal system to that of a member of the Union. This enactment will enable the new state of Puerto Rico to stand economically on an equal footing with the rest of the states and to assume gradually its fiscal responsibilities as a state.

We continue to favor whatever action may be necessary to permit American citizens resident in the United States territories of the Virgin Islands and Guam to vote for President and Vice President in national elections.

Abortion

There can be no doubt that the question of abortion, despite the complex nature of its various issues, is ultimately concerned with equality of rights under the law. While we recognize differing views on this question among Americans in general—and in our own Party—we affirm our support of a constitutional amendment to restore protection of the right to life for unborn children. We also support the Congressional efforts to restrict the use of taxpayers' dollars for abortion.

We protest the Supreme Court's intrusion into the family structure through its denial of the parent's obligation and right to guide their minor children.

STRONG FAMILIES

The family is the foundation of our social order. It is the school of democracy. Its daily lessons—cooperation, tolerance, mutual concern, responsibility, industry—are fundamental to the order and progress of our Republic. But the Democrats have shunted the family aside. They have given its power to the bureaucracy, its jurisdiction to the courts, and its resources to government grantors. For the first time in our history, there is real concern that the family may not survive.

Government may be strong enough to destroy families, but it can never replace them.

Unlike the Democrats, we do not advocate new federal bureaucracies with ominous power to shape a national family order. Rather, we insist that all domestic policies, from child care and schooling to Social Security and the tax code, must be formulated with the family in mind.

Education

Next to religious training and the home, education is the most important means by which families hand down to each new generation their ideals and beliefs. It is a pillar of a free society. But today, parents are losing control of their children's schooling. The Democratic Congress and its counterparts in many states have launched one fad after another, building huge new bureaucracies to misspend our taxes. The result has been a shocking drop in student performance, lack of basics in the classroom, forced busing, teacher strikes, manipulative and sometimes amoral indoctrination.

The Republican Party is determined to restore common sense and quality to education for the sake of all students, especially those for whom learning is the highway to equal opportunity. Because federal assistance should help local school districts, not tie them up in red tape, we will strive to replace the crazyquilt of wasteful programs with a system of block grants that will restore decisionmaking to local officials responsible to voters and parents. We recognize the need to preserve, within the structure of block grants, special educational opportunities for the handicapped, the disadvantaged, and other needy students attending public and private nonprofit elementary and secondary schools.

We hail the teachers of America. Their dedication to our children is often taken for granted, and they are frequently underpaid for long hours and selfless service, especially in comparison with other public employees.

We understand and sympathize with the plight of America's public school teachers, who so frequently find their time and attention diverted from their teaching responsibilities to the task of complying with federal reporting requirements. America has a great stake in maintaining standards of high quality in public education. The Republican Party recognizes that the achievement of those standards is possible only to the extent that teachers are allowed the time and freedom to teach. To that end, the Republican Party supports deregulation by the federal government of public education, and encourages the elimination of the federal Department of Education.

We further sympathize with the right of qualified teachers to be employed by any school district wishing to hire them, without the necessity of their becoming enrolled with any bargaining agency or group. We oppose any federal action, including any action on the part of the Department of Education, to establish "agency shops" in public schools.

We support Republican initiatives in the Congress to restore the right of individuals to participate in voluntary, non-denominational prayer in schools and other public facilities.

Our goal is quality education for all of America's children, with a special commitment to those who must overcome handicap, deprivation, or discrimination. That is why we condemn the forced busing of school children to achieve arbitrary racial quotas. Busing has been a prescription for disaster, blighting whole communities across the land with its divisive impact. It has failed to improve the quality of education, while diverting funds from programs that could make the difference between success and failure for the poor, the disabled, and minority children.

We must halt forced busing and get on with the education of all our children, focusing on the real causes of their problems, especially lack of economic opportunity.

Federal education policy must be based on the primacy of parental rights and responsibility. Toward that end, we reaffirm our support for a system of educational assistance based on tax credits that will in part compensate parents for their financial sacrifices in paying tuition at the elementary, secondary, and post-secondary level. This is a matter of fairness, especially for low-income families, most of whom would be free for the first time to choose for their children those schools which best correspond to their own cultural and moral values. In this way, the schools will be strengthened by the families' involvement, and the families' strengths will be reinforced by supportive cultural institutions.

We are dismayed that the Carter Administration cruelly reneged on promises made during the 1976 campaign. Wielding the threat of his veto, Mr. Carter led the fight against Republican attempts to make tuition tax credits a reality.

Next year, a Republican White House will assist, not sabotage, Congressional efforts to enact tuition tax relief into law.

We will halt the unconstitutional regulatory vendetta launched by Mr. Carter's IRS Commissioner against independent schools.

We will hold the federal bureaucracy accountable for its harassment of colleges and universities and will clear away the tangle of regulation that has unconscionably driven up their expenses and tuitions. We will respect the rights of state and local authorities in the management of their school systems.

The commitment of the American people to provide educational opportunities for all has resulted in a tremendous expansion of schools at all levels. And the more we reduce the federal proportion of taxation, the more resources will be left to sustain and develop state and local institutions.

Health

Our country's unequalled system of medical care, bringing greater benefits to more people than anywhere else on earth, is a splendid example of how Americans have taken care of their own needs with private institutions.

Significant as these achievements are, we must not be complacent. Health care costs continue to rise, farther and faster than they should, and threaten to spiral beyond the reach of many families. The causes are the Democratic Congress' inflationary spending and excessive and expensive regulations.

Republicans unequivocally oppose socialized medicine, in whatever guise it is presented by the Democratic Party. We reject the creation of a national health service and all proposals for compulsory national health insurance.

Our country has made spectacular gains in health care in recent decades. Most families are now covered by private insurance, Medicare, or in the case of the poor, the entirely free services under Medicaid.

Republicans recognize that many health care problems can be solved if government will work closely with the private sector to find remedies that will enhance our current system of excellent care. We applaud, as an example, the voluntary effort which has been undertaken by our nation's hospitals to control costs. The results have been encouraging. More remains to be done.

What ails American medicine is government meddling and the strait-jacket of federal programs. The prescription for good health care is deregulation and an emphasis upon consumer rights and patient choice.

As consumers of health care, individual Americans and their families should be able to make their own choices about health care protection. We propose to assist them in so doing through tax and financial incentives. These could enable them to choose their own health coverage, including protection from the catastrophic costs of major long-term illness, without compulsory regimentation.

Americans should be protected against financial disaster brought on by medical expenses. We recognize both the need to provide assistance in many cases and the responsibility of citizens to provide for their own needs. By using tax incentives and reforming federal medical assistance programs, government and the private sector can jointly develop compassionate and innovative means to provide financial relief when it is most needed.

We endorse alternatives to institutional care. Not only is it costly but it also separates individuals from the supportive environment of family and friends. This is especially important for the elderly and those requiring long-term care. We advocate the reform of Medicare to encourage home-based care whenever feasible. In addition, we encourage the development of innovative alternate health care delivery systems and other out-patient services at the local level.

We must maintain our commitment to the aged and to the poor by providing quality care through Medicare and Medicaid. These programs need the careful, detailed reevaluation they have never received from the Democrats, who have characteristically neglected their financial stability. We believe that the needs of those who depend upon these programs, particularly the elderly, can be better served, especially when a Republican Administration cracks down on fraud and abuse so that program monies can be directed toward those truly in need. In the case of Medicaid, we will aid the states in restoring its financial integrity and its local direction.

We welcome the long-overdue emphasis on preventive health care and physical fitness that is making Americans more aware than ever of their personal responsibility for good health. Today's enthusiasm and emphasis on staying well holds the promise of dramatically improved health and well-being in the decades ahead. Additionally, health professionals, as well as individuals, have long recognized that preventing illness or injury is much less expensive than treating it. Therefore, preventive medicine combined with good personal health habits and health education, can make a major impact on the cost of health care. Employers and employees, unions and business associations, families, schools, and neighborhood groups all have important parts in what is becoming a national crusade for better living.

Youth

The Republican Party recognizes that young people want the opportunity to exercise the rights and responsibilities of adults.

The Republican agenda for making educational and employment opportunities available to our youth has been addressed in detail in other sections of this platform.

Republicans are committed to the enactment of a youth differential in the minimum wage and other vitally needed incentives for the creation of jobs for our young.

In addition, we reaffirm our commitment to broaden the involvement of young people in all phases of the political process—as voters, party workers and leaders, candidates and elected officials, and participants in government at all levels.

We pledge, as we have elsewhere in this platform, efforts to create an environment which will enable our nation's youth:

To live in a society which is safe and free;

To pursue personal, educational, and vocational goals to the utmost of their abilities;

To experience the support, encouragement, and strength that come from maintenance of the family and its values; and

To know the stimulus of challenge, renewal through encouragement, provision of opportunities, and the growth that comes from responsible participation in numerous aspects of our society.

Older Americans

Inflation is called "the cruellest tax." It strikes most cruelly at the elderly, especially those on fixed incomes. It strikes viciously at the sick and the infirm, and those who are alone in the world.

Inflation has robbed our elderly of dignity and security. An entire generation of responsible and productive citizens who toiled and saved a full working life to build up a retirement nest egg now finds that it cannot survive on its savings. Today's inflation rates dwarf yesterday's interest rates, and the pensions and annuities of our elderly citizens cannot keep up with the rising cost of living. Millions of once-proud and independent elderly Americans face a future of welfare dependency and despair.

We propose to assist families, and individuals of all ages, to meet the needs of the elderly, primarily through vigorous private initiative. Only a comprehensive reduction in tax rates will enable families to save for retirement income, and to protect that income from ravaging inflation. Only new tax exemptions and incentives can make it possible for many families to afford to care for their older members at home.

Present laws can create obstacles to older Americans' remaining in the family home. Federal programs for the elderly, such as Medicare and Supplemental Security Income, must address, humanely and generously, the special circumstances of those who choose to stay with thir families rather than enter a nursing home or other institution.

Social Security is one of this nation's most vital commitments to our senior citizens. We commit the Republican Party to first save, and then strengthen, this fundamental contract between our government and its productive citizens.

Republicans consider older Americans a community asset, not a national problem. We are committed to using the sadly wasted talents of the aged throughout our society, which sorely needs their experience and wisdom. To that end, and as a matter of basic fairness, we proudly reaffirm our opposition to mandatory retirement and our long-standing Republican commitment to end the Democrats' limitation on earnings for elderly Social Security recipients. In addition, the Republican Party is strongly opposed to the taxation of Social Security benefits and we pledge to oppose any attempts to tax these benefits.

Republicans have resisted Democratic electioneering schemes to spend away the Social Security trust funds for political purposes. Now the bill has come due, and the workers of America are staggering under their new tax burdens. This must stop.

Precisely because Social Security is a precious lifeline for millions of the elderly, orphaned, and disabled, we insist that its financing be sound and stable. We will preserve Social Security for its original purpose.

The problems of Social Security financing are only an aspect of the overriding problems of the economy which Democratic mismanagement has produced. There is but one answer, the comprehensive tax rate reduction to which Republicans are committed. To save Social Security, we have no choice but to redirect our economy toward growth. To meet this country's commitments to Social Security recipients, present and future, we need more people at work, earning more money, thereby paying more into the trust funds. That same growth can balance the federal budget with lower taxes, over time reducing inflation, which falls so cruelly on senior citizens whose income is fixed by the size of their public or private pension.

We pledge to clean up the much-abused disability system. We will also expand eligibility for Individual Retirement Accounts to enable more persons to plan for their retirement years.

The Welfare System

The Republican agenda for welfare reform has been discussed in a previous section, but we think it important to stress that central to it is the preservation of the families the system is designed to serve. The current system does not do this. Neither would guaranteed annual income schemes. By supplanting parental responsibility and by denying children parental guidance and economic support, they encourage and reward the fragmentation of families. This is unconscionable. The values and strengths of the family provide a vital element in breaking the bonds of poverty.

Ultimately, the Republican Party supports the orderly, wholesale transfer of all welfare functions to the states along with the tax sources to finance them.

The Family Economy

It is increasingly common for both husbands and wives to work outside the home. Often, it occurs out of economic necessity, and it creates major difficulties for families with children, especially those of pre-school age. On one hand, they are striving to improve the economic well-being of their family; on the other, they are concerned about the physical and emotional well-being of their children. This dilemma is further aggravated in instances of single parenthood due to death or divorce.

Recognizing these problems, we pledge to increase the availability of non-institutional child care. We see a special role for local, private organizations in meeting this need.

We disapprove of the bias in the federal tax system against working spouses, whose combined incomes are taxed at a proportionately higher rate than if they were single. We deplore this "marriage tax" and call for equity in the tax treatment of families.

We applaud our society's increasing awareness of the role of homemakers in the economy, not apart from the work force but as a very special part of it: the part that combines the labor of a full-time job, the skills of a profession, and the commitment of the most dedicated volunteer. Recognizing that homemaking is as important as any other profession, we endorse expanded eligibility for Individual Retirement Accounts for homemakers and will explore other ways to advance their standing and security.

Family protection

In view of the continuing efforts of the present Administration to define and influence the family through such federally funded conferences as the White House Conference on Families, we express our support for legislation protecting and defending the traditional American family against the ongoing erosion of its base in our society.

Handicapped people

Republicans will seek every effective means to enable families more easily to assist their handicapped members and to provide for their education and special medical and therapeutic needs. In the case of handicapped children particularly, flexibility must be maintained in programs of public assistance so that, whenever possible, these youngsters may remain at home rather than in institutions.

Targeted tax relief can make it possible for parents to keep such a child at home without foregoing essential professional assistance. Similarly, tax incentives can assist those outside the home, in the neighborhood and the workplace, who undertake to train, hire, or house the handicapped.

SECURE AND PROSPEROUS NEIGHBORHOODS

The quality of American neighborhoods is the ultimate test of the success or failure of government policies for the cities, for housing, and for law enforcement.

Obsessed with the demands of special interest groups and preoccupied with the design of expensive "comprehensive" programs, the Democrats in Congress and the Administration have lost sight of that simple but important criterion. They have proposed more social and fiscal tinkering with our cities and towns.

Republicans will address the real problems that face Americans in their neighborhoods day by day—deterioration and urban blight, dangerous streets and violent crime that make millions of Americans, especially senior citizens, fearful in their own neighborhoods and prisoners in their own homes.

In the summer of 1980, Americans suffer a rising national unemployment rate, now at nearly eight percent, and double-digit inflation and interest rates. As Republicans meet in Detroit, the policies of the Carter Administration and the Democratic Congress have pushed the economy into recession and have resulted in unemployment approaching 20 percent in our host city.

The people of Detroit have worked long and hard to revitalize their city, and the evidence of its rebirth is impressive. Their efforts have been severely set back by Carter Administration policies outside or this or any city's control. The grim evidence is manifested in jobs lost as a direct consequence of bankrupt economic policies which have fostered this recession. Republicans will address and resolve the real problems of today's economy, problems that destroy jobs and deny even the hope of homeownership to millions of American families. We are, moreover, committed to nurturing the spirit of self-help and cooperation through which so many neighborhoods have revitalized themselves and served their residents.

Neighborhood self-help

The American ethic of neighbor helping neighbor has been an essential factor in the building of our nation. Republicans are committed to the preservation of this great tradition.

To help non-governmental community programs aid in serving the needs of poor, disabled, or other disadvantaged, we support permitting taxpayers to deduct charitable contributions from their federal income tax whether they itemize or not.

In contrast, the Democrats' assault against Meals-on-Wheels highlights their insensitivity to the neighborly spirit that motivates so many Americans. For over 25 years, voluntary Meals-on-Wheels organizations have been feeding needy homebound citizens—usually the elderly—with funding from local private charitable sources. Promising for the first time to "help" these neighborhood volunteer efforts in 1978, the Democratic Congress and Administration instead used the carrot of federal funding and the stick of federal regulation to crowd out private ventures.

Government must never elbow aside private institutions—schools, churches, volunteer groups, labor and professional associations—in meeting the social needs in our neighborhoods and communities.

Neighborhood revitalization

The city is the focus for the lives of millions of Americans. Its neighborhoods are places of familiarity, of belonging, of tradition and continuity. They are arenas for civic action and creative self-help. The human scale of the neighborhood encourages citizens to exercise leadership, to invest their talents, energies, and resources, and to work together to create a better life for their families.

Republican economic programs will create conditions for rebirth of citizen activity in neighborhoods and cities across the land. In a Republican economic climate, America's cities can once again produce, build, and grow.

A Republican Administration will focus its efforts to revitalize neighborhoods in five areas. We will:

Cut taxes, increase incentives to save, restore sound money, and stimulate capital investment to create jobs;

Create and apply new tax incentives for employees and employers alike to stimulate economic growth and reduce red-tape for business ventures. Local government will be invited to designate specific depressea areas as jobs and enterprise zones;

Encourage our cities to undertake neighborhood revitalization and preservation programs in cooperation with the three essential local interests: local government, neighborohood property owners and residents, and local financial institutions;

Replace the categorical aid programs with block grant or revenue sharing programs and, where appropriate, transfer the programs, along with the tax sources to pay for them, back to the state and local governments; and

Remain fully committed to the fair enforcement of all federal civil rights statutes and continue minority business enterprise and similar programs begun by Republican Administrations but bungled by overregulation and duplication during the Carter Administration.

Republican programs will revitalize the inner cities. New jobs will be created. The federal government's role will be substantially reduced. The individual citizen will reclaim his or her independence.

The revitalization of American cities will proceed from the revitalization of the neighborhoods. Cities and neighborhoods are no more nor less than the people who inhabit them. Their strengths and weaknesses provide their character. If they are to grow, it is the people who must seize the initiative and lead.

Housing and homeownership

Our citizens must have a real opportunity to live in decent, affordable housing. Due to the disastrous policies of the Carter Administration and the Democratic Congress, however, the goal of homeownership and all that aspiration entails is now in jeopardy. These irrational policies have been catastrophic to the housing industry. The highest home mortgage interest rates in the history of the United States have depressed housing starts to the lowest level since World War II. Democratic policies guarantee shotages in owner-occupied and rental housing.

As many as 1.4 million people who depend upon homebuilding for work may lose their jobs in this recession. Many already have. In addition to the toll taken on millions of American families, intolerable pressures will build on state, local, and federal budgets as tax revenues decline and expenditures increase to aid the unemployed.

We support financing and tax incentives to encourage the construction of rental housing as an essential addition to our housing inventory.

Prospective first-time home buyers simply cannot afford to buy. The affordability of housing has become a crisis. The high rates of inflation have driven mortgage payments, house prices, and down-payment requirements beyond the means of close to 80 percent of young American families. In order to assist the record number of young families who wish to become home buyers, we propose to implement a young family housing initiative, which would include several elements such as: urban homesteading, savings and tax reforms, and innovative alternate mortgage instruments to help meet monthly payment requirements without federal subsidies. To assist older homeowners, again without federal subsidy, we urge more extensive availability of the reverse annuity mortgage which allows older homeowners to withdraw the substantial equity they have built up in their homes and thus supplement their retirement income. In order to slow increases in housing costs, regulations which artificially limit housing production and raise housing costs must be eliminated.

We favor expansion of the Republican-sponsored urban homesteading program as a means of restoring abandoned housing. This innovative program is locally administered, returns property to the tax rolls, and develops new ownership and stability within our neighborhoods.

The collapse of new home production and the distress of the housing finance system are closely related. The stop and go economic policies of the past year have created extreme volatility in financial markets which have made it impossible for thrift institutions to supply housing credit at a reasonable cost.

A set of policies aimed at higher and more stable levels of housing production will simultaneously reduce housing costs and unemployment in the economy. To assure a stable and continuous flow of funds for home mortgage fiinancing, we pledge to allow responsible use of mortgage revenue bonds. We will work to change the tax laws to encourage savings so that young families will be able to afford their dreams.

Specifically, we will support legislation to lower tax rates on savings in order to increase funds available for housing. This will help particularly to make homeownership an accessible dream for younger families, encouraging them not to despair of ever having a home of their own, but to begin working and saving for it now. We oppose any attempts to end the income tax deductability of mortgage interest and property taxes.

Republicans will also end the mismanagement and waste that has characterized the Department of Housing and Urban Development during the Carter Administration. As presently structured, HUD programs present local governments and developers with a maze of bureaucracy, complicated applications, and inflexible requirements, often unsuited to local needs. Such programs often infringe upon the right of local governments to retain jurisdiction over their own zoning laws and building codes. As a result, their cost is so high that relatively few of the needy are ultimately housed or helped. Republicans will replace many of HUD's categorical programs with decentralized block grants to provide more efficient and responsive housing assistance to the elderly, the handicapped, and the poor. In remaining programs, particular emphasis should be given to rehabilitation and preservation of existing housing stock as a priority in federal housing policy.

Crime

Safety and security are vital to the health and well-being of people in their neighborhoods and communities. Republicans are committed to ensuring that neighborhoods will be safe places in which families and individuals can live, and we support and encourage community crime fighting efforts such as neighborhood crime watch and court monitoring programs.

First, we believe that Republican economic proposals, more particularly those proposals which strengthen society and smaller communities discussed elsewhere in this document, will go a long way toward stabilizing American society.

Second, we support a vigorous and effective effort on the part of law enforcement agencies. Although we recognize the vital role of federal law enforcement agencies, we realize that the most effective weapons against crime are state and local agencies.

Just as vital to efforts to stem crime is the fair but firm and speedy application of criminal penalties. The existence and application of strong penalties are effective disincentives to criminal actions. Yet these disincentives will only be as strong as our court system's willingness to use them.

We believe that the death penalty serves as an effective deterrent to capital crime and should be applied by the federal government and by states which approve it as an appropriate penalty for certain major crimes.

We believe the right of citizens to keep and bear arms must be preserved. Accordingly, we oppose federal registration of firearms. Mandatory sentences for commission of armed felonies are the most effective means to deter abuse of this right. We therefore support Congressional initiatives to remove those provisions of the Gun Control Act of 1968 that do not significantly impact on crime but serve rather to restrain the law-abiding citizen in his legitimate use of firearms.

In recent years, a murderous epidemic of drug abuse has swept our country. Mr. Carter, through his policies and his personnel, has demonstrated little interest in stopping its ravages. Republicans consider drug abuse an intolerable threat to our society, especially to the young. We pledge a government that will take seriously its responsibility to curb illegal drug traffic. We will first and most urgently restore the ability of the FBI to act effectively in this area. Republican government will work with local law enforcement agencies to apprehend and firmly punish drug pushers and drug smugglers with mandatory sentences where appropriate. We support efforts to crack down on the sale and advertising of drug paraphernalia. Private, nonprofit drug abuse rehabilitation agencies have taken the lead in fighting drug abuse, and they deserve greater cooperation and flexibility from federal, state, and local agencies and grant programs. We pledge the enactment of legislation to ban the utilization of federal funds by grantees of the Legal Services Corporation to render their services in cases involving the pushing or smuggling of drugs as well as in cases of repeat offenders. We commend the religious leaders, community activists, parents, and local officials who are working with fervor and dedication to protect young Americans from the drug plague.

Urban transportation

The complex problems of mobility, congestion, and energy resources demand creative solutions if we are to improve the living conditions of our urban areas. Many urban centers of our nation need dependable and affordable mass transit systems. The first line of responsibility must lie with the local governments. They must be given the latitude to design and implement the transportation system best suited to their singular circumstances. Republicans believe we should encourage effective competition among diverse modes of transportation. The role of the federal government should be one of giving financial and technical support to local authorities, through surface transportation block grants. Because of the long planning and construction times inherent in bus, rail, and other mass transit systems, a consistent and dependable source of revenue should be established.

Mass transportation offers the prospect for significant energy conservation. In addition, both management and labor agree that ease of access to the workplace is an important factor in employment decisions and industrial plant location. Lack of adequate access is a major reason why businesses have moved out of crowded urban areas, resulting in lower tax bases for cities. To encourage existing businesses to remain in urban centers and to attract new businesses to urban areas, it is vital that adequate public and private transportation facilities be provided.

Rural transportation

Republicans recognize the importance of transportation in the rural areas of America.

Public transit is becoming more significant to rural areas as the costs of energy rise. While public transit will not replace the importance of private vehicles in rural America, it can serve as a vital adjunct to transportation in neighborhoods throughout rural America.

JOBS AND THE WORKPLACE

We propose to put Americans back to work again by restoring real growth without inflation to the United States economy. Republican programs and initiatives detailed in this platform will create millions of additional new jobs in the American workplace. As a result of Mr. Carter's recession, more than eight million Americans are now out of work.

Sweeping change in America's economic policy is needed. We must replace the Carter Administration's promise of hard times and austerity—one promise which has been kept—with Republican policies that restore economic growth and create more jobs.

The Democratic Congress and the Carter Administration are espousing programs that candidate Carter in 1976 said were inhumane: using recession, unemployment, high interest rates, and high taxes to fight inflation. The Democrats are now trying to stop inflation with a recession, a bankrupt policy which is throwing millions of Americans out of work. They say Americans must tighten their belts, abandon their dreams, and accept higher taxes, less take-home pay, fewer jobs, and no growth in the national economy.

We categorically reject this approach. Inflation is too much money chasing too few goods. Shutting down our nation's factories and throwing millions of people out of work leads only to shortages and higher prices.

We believe inflation can only be controlled by monetary and spending restraint, combined with sharp reductions in the tax and regulatory barriers to savings, investment, production, and jobs.

The need for growth and its impact on workers

The Republican Party believes nothing is more important to our nation's defense and social well-being than economic growth.

Since 1973, the U.S. economy has grown in real terms at a rate of only 1.9 percent a year. This is barely half of the 3.7 percent annual growth rate we experienced between 1950 and 1973 and well below the 4.6 percent growth rate we enjoyed between 1961 and 1969. If our economy continues to grow at its current rate of less than two percent a year, our Gross National Product (GNP) will barely reach $3 trillion by 1990.

But if we can regain the growth we experienced during the economic boom of the 1960s, our GNP will reach nearly $4 trillion by the end of the decade, nearly one-third higher.

With this kind of economic growth, incomes would be substantially higher and jobs would be plentiful. Federal revenues would be high enough to provide for a balanced budget, adequate funding of health, education and social spending, and unquestioned military preeminence, with enough left over to reduce payroll and income taxes on American workers and retirees. Economic growth would generate price stability as the expanding economy eliminated budget deficits and avoided pressure on the Federal Reserve to create more money. And the social gains from economic growth would be enormous. Faster growth, higher incomes, and plentiful jobs are exactly what the unemployed, the underprivileged, and minorities have been seeking for many years.

All working men and women of America have much to gain from economic growth and a healthy business environment. It enhances their bargaining position by fostering competition among potential employers to provide more attractive working conditions, better retirement and health benefits, higher wages and salaries, and generally improving job security. A stagnant economy, which Democratic policies have brought about, decreases competition among business for workers, discourages improved employee benefits, reduces income levels, and dramatically increases unemployment.

Savings, productivity, and jobs

Savings and investment are the keys to economic growth. Only that part of national income which goes into savings and which is not consumed by government deficits is available to finance real economic growth.

Americans now save less than any other people in the Western world because inflation and the high rates of taxation imposed by the Carter Administration and the Democratic Congress have destroyed their ability and incentive to save and invest. This has strangled economic growth, choked off private initiative, pushed up prices, and retarded productivity and job creation.

The sharp drop in the growth of American productivity is the main reason why Americans' average real weekly earnings are no more than they were 19 years ago. This problem has worsened to the point that workers earn eight percent less in real purchasing power as the Carter term comes to a close than they did when it began.

The 25 years of Democratic domination of the Congress have cost us a generation of lost opportunities. The Carter Administration in particular has opposed every Republican effort to restore the health of the economy through lower taxes on work effort, savings, and the modernization of America's productive machinery.

Republicans are committed to an economic policy based on lower tax rates and a reduced rate of government spending.

Therefore, the Republican Party pledges to:

Reduce tax rates on individuals and businesses to increase incentives for all Americans and to encourage more savings, investment, output and productivity, and more jobs for Americans;

Provide special incentives for saving by lowering the tax rates on savings and investment income;

Revitalize our productive capacities by simplifying and accelerating tax depreciation schedules for facilities, structures, equipment, and vehicles;

Limit government spending to a fixed and smaller percentage of the Gross National Product; and

Balance the budget without tax increases at these lower levels of taxation and spending.

We also oppose Carter proposals to impose withholding on dividend and interest income. They would serve as a disincentive to save and invest and create needless paperwork burdens for government, business, industry, and the private citizen. They would literally rob the saver of the benefits of interest compounding and automatic dividend reinvestment programs.

Unless taxes are reduced and federal spending is restrained, our nation's economy faces continued inflation, recession, and economic stagnation. Tax rate reductions and spending restraint will restore the savings and investment needed to create new jobs, increase living standards, and restore our competitive position in the world.

Employment safety-net

To those individuals who have lost their jobs because of the Carter recession, we pledge to ensure that they receive their rightfully earned unemployment compensation benefits.

The Republican Party recognizes the need to provide workers who have lost their jobs because of technological obsolescence or imports the opportunity to adjust to changing economic conditions. In particular, we will seek ways to assist workers threatened by foreign competition.

The Democratic Administration's inability to ensure fairness and equity between our nation and some of our trading partners has resulted in massive unemployment in many core industries. As we meet in Detroit, this Party takes special notice that among the hardest hit have been the automotive workers whose jobs are now targeted by aggressive foreign competition. Much of this problem is a result of the present Administration's inability to negotiate foreign trade agreements which do not jeopardize American jobs. We will take steps to ensure competitiveness of our domestic industries to protect American jobs. But for workers who have already lost their jobs, we will provide assistance, incentives for job retraining and placement, and job search and relocation allowances. Toward this end, we will pursue specific tax and regulatory changes to revitalize America's troubled basic industries. We will also seek the aid of private individuals, businesses, and non-profit organizations to formulate creative new self-supporting answers to training and placement problems as well as non-governmental sources of temporary financial support.

The Republican Party believes that protectionist tariffs and quotas are detrimental to our economic well-being. Nevertheless, we insist that our trading partners offer our nation the same level of equity, access, and fairness that we have shown them. The mutual benefits of trade require that it be conducted in the spirit of reciprocity. The Republican Party will consider appropriate measures necessary to restore equal and fair competition between ourselves and our trading partners.

The international exchange of goods and services must take place under free and unfettered conditions of market entry.

Training and skills

Unemployment is a growing problem for millions of Americans, but it is an unparalleled disaster for minority Americans. As this country's economic growth has slowed over the past decade, unemployment has become more intractable. The gravity of the crisis is so severe that as we entered the present recession, unemployment was over six percent for the entire labor force but it was 33 percent for minority youth. In addition, the black unemployment rate was 10.8 percent and youth between the ages of 16 and 24 continued to account for about one-half of the total unemployed.

Despite the almost $100 billion spent on well-intended public sector employment and training programs, the structural unemployment problem continues to fester among minorities and young people. In addition to providing a growth climate for job creation, specific and targeted programs must be developed to alleviate these problems.

Since four out of every five jobs are in the private sector, the success of federal employment efforts is dependent on private sector participation. It must be recognized as the ultimate location for unsubsidized jobs, as the provider of means to attain this end, and as an active participant in the formulation of employment and training policies on the local and national level. Throughout America, the private and independent sectors have repeatedly helped in the creation of minority business through donated counseling and consulting services. They have encouraged equal opportunity hiring practices within their own industries and have built nonprofit, self-supporting training centers where the products produced during training are sold to support the programs.

A coordinated approach needs to be developed which maximizes the use of existing community resources, offers adequate incentives to the private sector, focuses on both large and small business, and minimizes red tape.

In recognizing the seriousness of the youth employment problem, Republicans also realize that a job alone will do very little to move a disadvantaged young person beyond the poverty line. Republicans support the creation of comprehensive programs for disadvantaged youth which would offer preemployment training, education, instruction, and job placement and retention services. Republicans support efforts to establish and maintain programs which seek to match the needs of the private sector and our young people as efficiently and effectively as possible. We also support expansion of proven skill training practices, such as apprenticeship, as well as private schools and trade schools. These methods can provide quality training and point toward the acquisition of specific job skills leading to specific employment goals.

We will encourage and foster the growth of new organizations operated by public-private partnerships to help forge a closer link between the schools and private employers. These institutions can afford in-school and out-of-school disadvantaged youth the opportunity to upgrade basic skills, acquire work habits and orientation to work, and move directly from successful completion of the program to private unsubsidized jobs.

We believe that present laws create additional barriers for unemployed youth. One of the keys to resolving the youth unemployment problem is to reduce the cost to private employers of hiring young people who lack the necessary skills and experience to become immediately productive. Unfortunately, current government policy makes it too expensive for employers to hire unskilled youths. We urge a reduction of payroll tax rates, a youth differential for the minimum wage, and alleviation of other costs of employment until a young person can be a productive employee.

Small business

Small business is the backbone of the American economy, with unique strengths and problems which must be recognized and addressed. For more than half of all American workers, the workplace is a small business. Small business is family business both in the sense that many of them are owned and operated by single families, and also because most American families rely not only on the goods and services, but on the jobs produced there for their livelihood and standard of living.

Republicans have demonstrated their sensitivity to the problems of the small business community. The Carter Administration held a conference to learn what Republicans have long known. In the Congress, we have been working to pass legislation to solve small business problems and achieve the very goals later identified by that conference. A 1978 initiative by the late Representative Bill Steiger reduced the capital gains tax rates which were destroying capital formation in America. Under the leadership of Republicans in Congress, efforts to simplify and liberalize the restrictive depreciation schedule are a top priority. Another proposal long advocated by our Party is the drive to encourage the entrepreneur by reform of the regulatory laws which stifle the very life of business through fines, threats, and harassment. Republicans realize the immediate necessity of reducing the regulatory burden to give small business a fighting chance against the federal agencies. We believe that wherever feasible, small business should be exempt from regulations and, where exemption is not feasible, small business should be subject to a less onerous tier of regulation. We have offered legislation to reimburse small businessmen who successfully challenge the federal government in court. Republicans believe the number one priority for small business in America is the achievement of lower business and personal tax rates for small businessmen and women and we intend to work to secure them.

All of these initiatives will receive immediate attention from a Republican Administration and Congress. Without such changes as these, the small entrepreneur, who takes the risks which help make the economy grow and provides over 90 percent of all new jobs annually, will be an endangered species.

By fostering small business growth, we are promoting permanent private sector solutions to the unemployment problem. We will continue to provide for small business needs by enacting a substantial increase in the surtax exemption. The heavy estate tax burden imposed on the American people is threatening the life savings of millions of our families, forcing spouses and children to sell their homes, businesses, and family farms to pay the estate taxes. To encourage continuity of family ownership, we will seek to ease this tax burden on all Americans and abolish excessive inheritance taxes to allow families to retain and pass on their small businesses and family farms.

We will reform the patent laws to facilitate innovation and we will further this goal by encouraging a greater share of federal research and development be done by small businesses. Finally, we will reform those tax laws which make it more profitable to break up a small business or merge it into a conglomerate than to allow it to grow and develop as an independent business.

Fairness to the worker

The Republican Party is committed to full employment without inflation. We will seek to provide more jobs, increase the standard of living, and ensure equitable treatment on the job for all American workers by stimulating economic growth.

We reaffirm our commitment to the fundamental principle of fairness in labor relations, including the legal right of unions to organize workers and to represent them through collective bargaining consistent with state laws and free from unnecessary government involvement. We applaud the mutual efforts of labor and management to improve the quality of work life.

Wage demands today often represent the attempt of working men and women to catch up with government-caused inflation and high tax rates. With the blessing of the Democrats' majority in Congress, the Council on Wage and Price Stability has put a de facto ceiling of seven to eight and one-half percent on workers' wages, while the Administration devalues their paychecks at a rate of 13 to 15 percent. The government, not the worker, is the principal cause of inflation.

We recognize the need for governmental oversight of the health and safety of the workplace, without interfering in the economic well-being of employers or the job security of workers.

The Republican Party reaffirms its longstanding support for the right of states to enact "Right-to-Work" laws under section 14(b) of the Taft-Hartley Act.

The political freedom of every worker must be protected. Therefore, the Republican Party strongly supports protections against the practice of using compulsory dues and fees for partisan political purposes.

Fairness to the consumer

The Republican Party shares the concerns of consumers that there be full disclosure and fairness in the marketplace. We recognize that government regulation and taxes add significantly to costs of goods and services to the consumer, reducing the standard of living for all Americans. For example, safety and environmental standards, some of which are counterproductive, increase the average price of a new car by over $700. Compliance with those regulations alone costs motorists as much as $12 billion a year.

Fairness to the consumer, like fairness to the employer and the worker, requires that government perform certain limited functions and enforce certain safeguards to ensure that equity, free competition, and safety exist in the free market economy. However, government action is not itself the solution to consumer problems; in fact, it has become in large measure a part of the problem. By consistent enforcement of law and enhancement of fair competition, government can and should help the consumer.

An informed consumer making economic choices and decisions in the marketplace is the best regulator of the free enterprise system. Consumers are also taxpayers, workers, investors, shoppers, farmers, and producers. The Republican Party recognizes the need for consumer protection but feels that such protection will not be enhanced by the creation of a new consumer protection bureaucracy. Just as there can be no single monolithic consumer viewpoint, so the Republican Party opposes the funding of special self-proclaimed advocates to represent consumer interests in federal agency proceedings.

Fairness to the employer

The Republican Party declares war on government overregulation. We pledge to cut down on federal paperwork, cut out excessive regulation, and cut back the bloated bureaucracy.

In addressing these problems we recognize that overregulation is particularly harmful to America's small businesses whose survival is often threatened by the excessive costs of complying with government rules and handling federal paperwork.

While we recognize the role of the federal government in establishing certain minimum standards designed to improve the quality of life in America, we reaffirm our conviction that these standards can best be attained through innovative efforts of American business without the federal government mandating the methods of attainment.

The extraordinary growth of government, particularly since the middle 1960s, has brought mounting costs to society which, in turn, have added to inflationary pressures, reduced productivity, discouraged new investment, destroyed jobs, and increased bureaucratic intrusion into everyday life.

Regulatory costs are now running in excess of $100 billion each year, or about $1,800 for every American family. Federal paperwork annually costs businesses from $25 to $32 billion. According to official figures, it takes individuals and business firms over 143 million man-hours to complete 4,400 different federal forms each year. Government regulation produces many indirect immeasurable costs as well and has led to increased bureaucratization of industry. Regulation also restricts personal choices, tends to undermine America's democratic public institutions, and threatens to destroy the private, competitive free market economy it was originally designed to protect.

Government reform

In the face of a crisis of overregulation, the Carter Administration and the Democrats who control Congress have failed to recognize the problems facing workers, employers, and consumers and seem unable to come to grips with the underlying causes. While belatedly supporting transportation deregulation programs initiated by previous Republican Administrations, they have embarked on ambitious new schemes to tighten Washington's hold on energy and education. They have ignored or sidetracked Republican proposals to eliminate wasteful and outmoded spending programs and regulations. They have combined to push through more legislation and create additional programs which expand the size and power of the federal bureaucracy at the expense of ordinary taxpayers, consumers, and businesses. In contradiction to 1976 Carter campaign promises to cut back on regulation, the number of pages in the Federal Register devoted to new rules and regulations has increased from 57,072 in 1976 to 77,497 in 1979 and will approach 90,000 by the end of 1980.

The result of Democratic rule in both the White House and the Congress is that government power has grown unchecked. Excessive regulation remains a major component of our Nation's spiraling inflation and continues to stifle private initiative, individual freedom, and state and local government autonomy.

The Republican Party pledges itself to a comprehensive program of government reform. We propose to enact a temporary moratorium on all new federal regulations that diminish the supply of goods and services and add significantly to inflation. Such a moratorium will be consistent with the goal of achieving a safe and healthy working environment We shall work to reduce substantially the regulatory and paperwork burdens on small businesses.

We encourage management and labor to form joint safety and health committees to make the workplace a better place to produce goods and services. At the same time we believe that the arbitrary and high-handed tactics used by OSHA bureaucrats must end. OSHA should concentrate its resources on encouraging voluntary compliance by employers and monitoring situations where close federal supervision is needed and serious hazards are most likely to occur. OSHA should be required to consult with, advise, and assist businesses in coping with the regulatory burden before imposing any penalty for noncompliance. Small businesses and employers with good safety records should be exempt from safety inspections, and penalties should be increased for those with consistently poor performance.

Agriculture

In no American workplace is there to be found greater productivity, cooperation, neighborly concern, creative use of applied science, information and relevant research, honesty, perseverance, hard work, and independence than on the farm and ranch.

The Republican Party takes pride in the ability of American farmers to provide abundant, high quality, and nutritious food and fiber for all our citizens including those most in need and to millions throughout the world, and at the same time to supply the largest single component in our export balance of trade.

Crisis in Agriculture

Four years of the Carter Administration and 25 consecutive years of a Congress controlled by Democrats have brought farmers and ranchers to the brink of disaster and the hardest times they have known since the Great Depression. In the last four years, more than 100,000 family farms have failed as farm income has plummeted. Even the present Administration's own figures show a decrease in real net farm income of some 40 percent in the last year alone—from $33 billion in 1979 to less than $22 billion projected for 1980.

The Democratic Party and the Carter Administration have abused their authority and failed in their responsibility to provide sound agricultural policies. Republicans pledge to make life in rural America prosperous again. We will:

Increase net farm income by supporting and refining programs to bring profitable farm prices with the goal of surpassing parity levels in a market-oriented agricultural economy;

Control inflation by adopting sound fiscal and monetary policies and by eliminating excessive and unnecessary federal regulations;

Expand markets at home by effectively utilizing the advantages of the energy potential for farm, forestry, and other biomass products. We encourage the continued innovative efforts in developing alcohol and other renewable energy sources and equipment for both on-farm and commercial use;

Aggressively expand markets abroad by effectively using the Eisenhower Food for Peace program and revolving credit incentives, working to remove foreign restraints on American products, and encouraging the development of dependable new markets in developing countries;

Assure a priority allocation of fuel for U.S. agriculture, including food and fiber production, transportation, and processing; and

Combine efforts to encourage the renewable resource timber production capability of privately-owned forests and woodlands with a federal program committed to multiple-use (timber, recreation, wildlife, watershed and/or range management) where federal land has not been designated as wilderness.

Rural America

Attention to the quality of life in our rural areas is a vital necessity because rural Americans impart a special strength to the national character. It is our goal to assure that all rural citizens—whether they are farmers or not—have the same consideration in matters of economic development, in energy, credit and transportation availability, and in employment opportunities which is given to those who live in towns and cities. The opportunity for non-farm jobs enhances the ability of people to live and work in rural America in the decade ahead, and our dedication to a prosperous and energetic rural America is part and parcel of our commitment to make America great again.

Expand Export Markets

Agriculture's contribution to the U.S. trade balance makes it especially fitting that an aggressive market development program to establish dependable new markets for farm exports will be a vital part of the policies to restore profitability to American agriculture. Republicans will ensure that:

International trade is conducted on the basis of fair and effective competition and that all imported agricultural products meet the same standards of quality that are required of American producers;

The General Agreement on Tariffs and Trade becomes a meaningful vehicle for handling agricultural trade problems and grievances;

An aggressive agricultural market development program and the streamlining of the export marketing system is given top national priority;

Government-to-government sales of agricultural commodities be eliminated, except as specifically provided by law;

The future of U.S. agricultural commodities is protected from the economic evils of predatory dumping by other producing nations and that the domestic production of these commodities, so important to the survival of individuals and small rural communities is preserved; and

The important and productive potential of the commercial seafood industry is given encouragement.

Farmer-Held Reserves

We support farmer-owned grain reserves, should they become necessary, and adamantly oppose government-controlled reserves.

Grain Embargo

We believe that agricultural embargoes are only symbolic and are ineffective tools of foreign policy. We oppose singling out American farmers to bear the brunt of Carter's ill-conceived, ineffective, and improperly implemented grain embargo. The Carter grain embargo should be terminated immediately.

Excessive Regulation of Agriculture

The crushing burden of excessive federal regulations such as many of those imposed on farmers, ranchers, foresters, and commercial fishermen by OSHA, EPA, the Departments of Agriculture, Labor, Justice, Interior, and other government entities are unrealistic and unnecessary.

We pledge a sensible approach to reduce excessive federal regulation that is draining the profitability from farming, ranching, and commercial fishing. Especially high on the agenda for changes in policy under Republican leadership are such regulatory issues as the Interior Department's ineffective predator control policies, EPA and FDA's excessive adherence to "zero risk" policies relative to the use of pesticides, herbicides, antibiotics, food additives, preservatives, and the like.

Soil and Water Conservation

We believe the strong soil and water conservation stewardship to which farmers, ranchers, watermen, and rural Americans are devoted is exemplary, and encourage appropriate local, state, and federal programs to give conservation practices vitality. Voluntary participation with adequate incentives is essential to the effective conservation of our soil and water resources.

Water Policy

The conservation and development of the nation's water resources are vital requisites for rebuilding America's national strength. The natural abundance of water can no longer be taken for granted. The impending crisis in water could be far more serious than our energy problems unless we act now. A dynamic water policy, which addresses our national diversity in climate, geography, and patterns of land ownership, and includes all requirements across the spectrum of water use, including Reclamation policy, will be a priority of the Republican Administration working with the advice and counsel of state and local interests. We must develop a partnership between the federal and state governments which will not destroy traditional state supremacy in water law. Further, there must be cooperation between the Executive Branch and Congress in developing and implementing that policy. Lack of such partnership has resulted in four years of bitter confrontation between the states and the obstructive policies of the Democratic Administration. The Congress has been frustrated in its efforts to conserve and develop our water resources. Working together, the states and the federal government can meet the impending water crisis through innovative and alternative approaches to such problems as cleaning our lakes and rivers, reducing toxic pollution, developing multiple-use projects, and achieving a workable balance between the many competing demands on our water resources.

Agricultural Labor

Comprehensive labor legislation, which will be fair to American workers and encourage better relations with our neighbors in Mexico and Canada with whom we wish to establish a working North American Accord, is an essential endeavor. We deplore disruptive work stoppages which interrupt the supply of food to consumers.

Taxation

Federal estate and gift taxes have a particularly pernicious effect on family farms. Young farmers who inherit farm property are often forced to sell off part of the family farm to pay taxes. Once these taxes are paid, young farmers often must begin their careers deeply in debt. Our tax laws must be reformed to encourage rather than discourage family farming and ranching.

We deplore the imposition of present excessive estate and gift taxes on family farms. We support the use of lower, productivity-based valuation when farms are transferred within the family. Further, we believe that no spouse should pay estate taxes on farm property inherited from a husband or wife. We support the Republican tax cut proposal which provides accelerated depreciation and expanded investment tax credits to farm vehicles, equipment, and structures. Finally, we support legislation which would remove tax advantages foreign investors realize on the sale of U.S. forests, farmland, and other real estate.

Rural Transportation

It is essential to the well-being and security of our nation that an adequate rural transportation system be restored as a vital link between rural areas and their markets, both domestic and export. Overall, we pledge to eliminate those rules and regulations which restrict the free flow of commerce and trade of agricultural products and encourage an environment that will enhance the private development and improvement of all modes of transportation to move agricultural production swiftly, safely, and economically. Recognizing the inherent advantages of each mode of transportation, the Republican Party will work to encourage and allow those advantages to be utilized on a balanced and equitable basis.

We believe the federal 55 miles per hour speed limit is counterproductive and contributes to higher costs of goods and services to all communities, particularly in rural America. The most effective, no-cost federal assistance program available would be for each state to set its own speed limit.

A Strong USDA

We pledge an Administration dedicated to restoring profitability to agriculture. A top priority will be the selection of a qualified and effective Secretary and policy staff who will speak up for American farmers—and a President who will listen.

America's preeminence in agriculture is rooted in a system of agricultural research, extension, and teaching—unique and unequalled in the world. Land Grant Universities focus on problems of national, regional, and local concern. Cooperative extension, operating in every county of the United States and its territories, brings the results of USDA and Land Grant University research to farmers and ranchers, rural women, consumers, agribusiness, and to youth through 4-H programs.

Food Safety

The Republican Party favors a legislative effort to revise and modernize our food safety laws, providing guidelines for risk assessment, benefit assessment, peer review, and regulatory flexibility which are consistent with other government health and safety policies.

Cooperatives

We believe farmer cooperatives and rural electric and telephone cooperatives provide essential benefits to farmers and the rural Americans they serve, and we support exclusive jurisdiction of USDA in the effective administration of the Capper-Volstead Act.

We Republicans pledge ourselves to work with farmers, ranchers, and our friends and neighbors to make America great again.

THE NATION

Though a relatively young nation among those of western civilization, we are possessed of one of the oldest institutions of government extant. Steeped in the Judeo-Christian ethic and in Anglo-Saxon theories of law and right, our legal and political institutions have evolved over many generations to form a stable system that serves free men and women well. It governs a people of multifarious heritage dispersed across a great continent of marked geographical contrasts. It presides over a diverse economy that in its collective whole is the largest, most powerful, and most resilient in the world. In the two centuries of its life, though it has from time to time been sorely tested by constitutional, economic, and social crises, it has stood and not been found wanting. Its timeless strength, coupled with and reinforced by the faith and good will, the wisdom and confidence of the people from whom it derives its powers, has preserved us as a nation of enormous vitality.

The intent of the Founders, embraced and reflected by succeeding generations of Americans, was that the central government should perform only those functions which are necessary concomitants of nationality, preserve order, and do for people only those things which they cannot do for themselves. The durability of our system lies in its flexibility and its accommodation to diversity and changing circumstance. It is notable as much for what it permits as for what it proscribes. Government must ever be the servant of the nation, not its master.

Big government

Under the guise of providing for the common good, Democratic Party domination of the body politic over the last 47 years has produced a central government of vastly expanded size, scope, and rigidity. Confidence in government, especially big government, has been the chief casualty of too many promises made and broken, too many commitments unkept. It is time for change—time to de-emphasize big bureaucracies—time to shift the focus of national politics from expanding government's power to that of restoring the strength of smaller communities such as the family, the neighborhood, and the workplace.

Government's power to take and tax, to regulate and require, has already reached extravagant proportions. As government's power continues to grow, the "consent of the governed" will diminish. Republicans support an end to the growth of the federal government and pledge to return the decisionmaking process to the smaller communities of society.

The emergence of policies and programs which will revitalize the free enterprise system and reverse the trend toward regulation is essential. To sustain the implementation of such policy, it is necessary to raise the public awareness and understanding that our free enterprise system is the source of all income, government and private, and raise the individual's awareness of his or her vested interest in its growth and vitality.

The Republican Party believes that it is important to develop a growing constituency which recognizes its direct relationship to the health and success of free enterprise, and realizes the negative impact of excessive regulation. Education and involvement in the system are the best means to accomplish this. To this end, we will actively pursue new and expanding opportunities for all Americans to become more directly involved in our free enterprise system.

Government reorganization

The Republican Party reaffirms its belief in the decentralization of the federal government and in the traditional American principle that the best government is the one closest to the people. There, it is less costly, more accountable, and more responsive to people's needs. Against the prevailing trend toward increased centralization of government under the Democrats, Republicans succeeded in the 1970s in initiating large scale revenue sharing and block grant programs to disperse the power of the federal government and share it with the states and localities.

Our states and localities have the talent, wisdom, and determination to respond to the variety of demands made upon them. Block grants and revenue sharing provide local government with the means and the flexibility to solve their own problems in ways most appropriate for each locale. Unlike categorical grants, they do not lock states and localities into priorities and needs perceived by Washington. They are also more efficient because block grants and revenue sharing relieve both local government and the federal government from the costly and complicated process of program application, implementation, and review associated with the categorical grant system.

We pledge to continue and redouble our efforts to return power to the state and local governments. The regionalization of government encouraged by federal policies diminishes the responsiveness of state and local governments and impairs the power of the people to control their destiny.

While Republican efforts have been focused on sharing revenue and the power that goes with it, the Carter Administration has been preoccupied with the reorganization and consolidation of central authority. As a result, we have the Departments of Energy and Education, for example, but no more oil and gas, or learning, to show for it.

When we mistakenly rely on government to solve all our problems we ignore the abilities of people to solve their own problems. We pledge to renew the dispersion of power from the federal government to the states and localities. But this will not be enough. We pledge to extend the process so that power can be transferred as well to non-governmental institutions.

Government reform

We favor the establishment of a commission of distinguished citizens to recommend ways of reorganizing and reducing the size and scope of the Executive Branch. Federal departments, agencies, and bureaus should be consolidated where possible to end waste and improve the delivery of essential services. Republicans pledge to eliminate bureaucratic red tape and reduce government paperwork. Agencies should be made to justify every official form and filing requirement. Where possible, we favor deregulation, especially in the energy, transportation, and communications industries. We believe that the marketplace, rather than the bureaucrats, should regulate management decisions.

The unremitting delegation of authority to the rule-makers by successive Democratic Congresses and the abuse of that authority have led to our current crisis of overregulation. For that reason, we support use of the Congressional veto, sunset laws, and strict budgetary control of the bureaucracies as a means of eliminating unnecessary spending and regulations. Agencies should be required to review existing regulations and eliminate those that are outmoded, duplicative, or contradictory. They must conduct cost-benefit analyses of major proposed regulations to determine their impact on the economy, on public health and safety, on state and local government, and on competition. We recommend legislation which would eliminate the present presumption of validity in favor of federal regulations. We also support legislation to require the federal government to provide restitution to those who have been wrongfully injured by agency actions. We oppose the use of tax monies by any federal agency to pay the expenses of intervenors in the rule-making process.

We recognize that there are dangers inherent in the rapid growth of the federal bureaucracy, especially the arbitrary nature of its discretionary power and the abuses of procedural safeguards. Accordingly, we pledge to work for fundamental changes in the federal Administrative Procedures Act in order to give citizens the same constitutional protections before a government agency that they have in a courtroom. Among these reforms are requirements that agencies publish in the Federal Register all rules and statements of policy before they are adopted, that a person be guaranteed written notice and the opportunity to submit facts and arguments in any adjudicatory proceeding, that an agency decision be consistent with prior decisions unless otherwise provided by law, and that a person may seek judicial review without first exhausting his or her administrative remedies. At the same time we urge the Congress to strengthen its oversight to ensure that the agencies comply with the deadlines, report filing, and other requirements mandated by law.

We propose to repeal federal restrictions and rewrite federal standards which hinder minorities from finding employment, starting their own businesses, gaining valuable work experience, or enjoying the fruits of their own labors.

Because there are too many federal employees in comparison to private sector employees, there should be no further increase in the number of civilian federal employees if that would increase the ratio of federal employees to private sector employees over the present ratio.

Election reform

The Republican Party has consistently encouraged full participation in our electoral processes and is disturbed by the steady decline in voter participation in the United States in recent years. We believe that the increased voter turnout during the past year in Republican campaigns is due to dissatisfaction with Democratic officials and their failure to heed popular demands to cut taxes, restrain spending, curb inflation, and drastically reduce regulation.

Republicans support public policies that will promote electoral participation without compromising ballot-box security. We strongly oppose national postcard voter registration schemes because they are an open invitation to fraud.

Republicans support public policies that encourage political activity by individual citizens. We support the repeal of those restrictive campaign spending limitations that tend to create obstacles to local grassroots participation in federal elections. We also oppose the proposed financing of Congressional campaigns with taxpayers' dollars as an effort by the Democratic Party to protect its incumbent Members of Congress with a tax subsidy. We prefer the present system of having the states and party rules determine the presidential nominating process to the concept of a uniform national primary which would only add to the already high costs of, and excessive federal intrusion into, presidential campaigns.

We support the critical roles of competitive political parties in the recruitment of candidates, the conduct of campaigns, and the development of broad-based public policy responsive to the people. We urge Congress and state legislatures to frame their regulations of campaign finance, their nominating systems, and other election laws to strengthen rather than weaken parties.

Arts and humanities

Recent Republican Administrations led the way in bringing together private support and governmental encouragement to effect a tremendous expansion of artistic and scholarly endeavor. The Carter Administration has crudely politicized these programs, lowering their standards of excellence and increasing federal control over them.

The Republican Party will restore the sound economy which is absolutely necessary for the arts and humanities to flourish. We will restore, as well, the integrity of federal programs in this area. Most important, to ensure the continued primacy of private funding for the arts, we reiterate our support of broader tax incentives for contributions to charitable and cultural organizations.

Transportation

America's transportation system must be designed to meet the requirements of the people, not to dictate what those requirements should be. Essential to any industrialized country is a transportation system which provides efficient and reliable service for both the movement of people and freight, urban and rural, domestic and foreign. Our nation has one of the finest transportation systems in the world but there is a danger that it will be unable to meet the future needs of a growing America.

Present levels of public and private investment will not preserve the existing system. For example, highways are deteriorating twice as fast as they are being rebuilt and inadequate rehabilitation will soon cost users more in reduced service levels than the cost of adequate rehabilitation.

The demand for transportation will grow dramatically in the next two decades with people-miles travelled increasing by over 50 percent and freight ton-miles more than doubling.

Government overregulation is inhibiting the return on investment necessary to attract capital for future growth and jobs creation.

A maze of federal agencies, Congressional committees, and conflicting policies is driving up costs and retarding innovation.

A lackluster energy policy, impeding production of oil, coal, and other forms of energy is endangering transportation's ability to keep up with demand.

Consequently, the role of government in transportation must be redefined. The forces of the free market must be brought to bear to promote competition, reduce costs, and improve the return on investment to stimulate capital formation in the private sector. The role of government must change from one of overbearing regulation to one of providing incentives for technological and innovative developments, while assuring through anti-trust enforcement that neither predatory competitive pricing nor price gouging of captive customers will occur.

Increased emphasis must be placed on the importance of having a well-balanced national transportation system where highways, passenger vehicles, buses, trucks, pipelines, and rail, water, and air transportation each provide those services which it does best, while offering the widest range of reasonable choices for both passenger and freight movement. A sound transportation system is a prerequisite for the vision of America that Republicans embrace—a prosperous, growing nation where dreams can still come true.

Energy

Energy is the lifeblood of our economy. Without adequate energy supplies now and in the future, the jobs of American men and women, the security of their lives, and their ability to provide for their families will be threatened and their standard of living will be lowered. Every American is painfully aware that our national energy situation has deteriorated badly over the past four years of Democratic control. Gasoline prices have more than doubled. Our oil import bill has risen 96 percent. Our energy supplies have become increasingly vulnerable because U.S. oil production outside of Alaska is now 23 percent below 1973 levels. The threat of sudden shortages, curtailments, and gas lines has become a recurring reality.

This steady deterioration has not only compounded our economic problems of inflation, recession, and dollar weakness, but even more importantly, it has infected our confidence as a nation. Energy shortages, spiraling costs, and increasing insecurity are beginning to darken our basic hopes and expectations for the future.

The National Association for the Advancement of Colored People has very accurately focused on the effects that a no-growth energy policy will have on the opportunities of America's black people and other minorities. The NAACP said that "a pessimistic attitude toward energy supplies for the future . . . cannot satisfy the fundamental requirement of a society of expanding economic opportunity."

In commenting on the Carter energy proposals, the Association said, "We cannot accept the notion that our people are best served by a policy based upon the inevitability of energy shortage and the need for government to allocate an ever diminishing supply among competing interests. . . . (The plan) reflects the absence of a black perspective in its development."

Three and one-half years ago, President Carter declared energy the "moral equivalent of war" and sent Congress 109 recommendations for action, including the creation of a new Department of Energy. Since then, the federal budget for government's energy bureaucracy has grown to about $10 billion per year and more than 20,000 pages of new energy regulations and guidelines have been issued. But these have not fostered the production of a single extra unit of energy.

The Democratic Congress has joined in the stampede, taking action on 304 energy bills since 1977. As a result, the federal bureaucracy is busy from coast to coast allocating gasoline, setting building temperatures, printing rationing coupons, and readying standby plans to ban weekend boating, close factories, and pass out "no drive day" stickers to American motorists—all the time saying, "we must make do with less." Never before in the history of American government has so much been done at such great expense with such dismal results.

Republicans believe this disappointing cycle of shrinking energy prospects and expanding government regulation and meddling is wholly unnecessary. We believe that the proven American values of individual enterprise can solve our energy problems. This optimism stands in stark contrast to the grim predictions of the Democrats who have controlled Congress for the last 25 years.

They seem to believe not only that we are a nation without resources, but also that we have lost our resourcefulness. Republicans believe in the common sense of the American people rather than a complex web of government controls and interventions that threaten America's ability to grow. We are committed to an alternative strategy of aggressively boosting the nation's energy supplies; stimulating new energy technology and more efficient energy use; restoring maximum feasible choice and freedom in the marketplace for energy consumers and producers alike; and eliminating energy shortages and disruptions, which are a roadblock to renewed national economic growth, rising living standards, and a reawakening of the hopes and dreams of the American people for a better and more abundant future.

We believe the United States must proceed on a steady and orderly path toward energy self-sufficiency. But in the interim, our pressing need for insurance against supply disruption should not be made hostage to the whims of foreign governments, as is presently the case under the Carter Administration. We believe it is necessary to resume rapid filling of strategic oil reserves to planned levels of 500 million barrels in the short-term and ultimately to the one billion barrel level and to ensure that non-contiguous areas of the United States have their fair share of emergency oil reserves stored within their respective boundaries, as authorized by the Energy Policy and Conservation Act of 1975.

In order to increase domestic production of energy, Republicans advocate the decontrol of the price at the well head of oil and gas. We believe that the so-called windfall profits tax (which is unrelated to profit) should be repealed as it applies to small volume royalty owners, new oil, stripper wells, tertiary-recovery, and heavy crude oil, and that the phase-out of the tax on old oil should be accelerated. This tax legislation should be amended to include a plowback provision. We will seek decontrol of prices on all oil products and an end to government authority to allocate petroleum supplies except in national emergency. We also believe that market restrictions on the use of natural gas should be eliminated.

Coal, our most abundant energy resource, can bridge the gap between our other present energy sources and the renewable energy sources of the future. The coal industry has been virtually ignored by the Carter Administration and the Democratic Congress. In 1977, President Carter promised to double coal production by 1985. Instead, because of obstructionist actions of the Administration, coal production has increased by only 11 percent to date and future prospects are dim. Today, thousands of coal miners are out of work and without hope for the future.

Republicans support a comprehensive program of regulatory reform, improved incentives, and revision of cumbersome and overly stringent Clean Air Act regulations. This program will speed conversion of utility, industrial, and large commercial oil-burning boilers to coal to the greatest extent feasible, thus substantially cutting our dependence on foreign oil. This program must begin immediately on a priority basis and be completed at the earliest date possible.

To effectively utilize this vast resource, our coal transportation systems must be upgraded and the government controls on them relaxed. Government regulation regarding the mining and use of coal must be simplified. We will propose a policy which will assure that governmental restraints, other than necessary and reasonable environmental controls, do not prevent the use of coal. We also reaffirm that mined lands must be returned to beneficial use and that states, in accordance with past Congressional mandate, have the primary responsibility to implement rules concerning the mining of coal which are adapted to the states' unique characteristics.

Coal, gas, and nuclear fission offer the best intermediate solutions to America's energy needs. We support accelerated use of nuclear energy through technologies that have been proven efficient and safe. The safe operation, as well as design, of nuclear generating plants will have our highest priority to assure the continued availability of this important energy source. The design and operation of these plants can be guaranteed in less than the 10 to 12 year lead time now required to license and build them. We believe that the licensing process can and should be streamlined through consolidation of the present process and the use of standardized reactor designs.

The Three Mile Island incident suggests the need for certain reforms, such as in the area of operator training, but illustrates that properly designed and operated nuclear plants do not endanger public health or safety. We further encourage the research, development, and demonstration of the breeder reactor, with its potential for safely contributing to our nation's future energy supplies.

Nuclear power development requires sound plans for nuclear waste disposal and storage and reprocessing of spent fuel. Technical solutions to these problems exist, and decisive federal action to choose and implement solutions is essential. The Democratic-controlled Congress and Administration have failed to address the spent fuel problem. A Republican Congress and Administration will immediately begin to implement plans for regional away-from-reactor storage of spent fuel with the goal of implementation of a program no later than 1984.

Republicans are committed to the rapid development of permanent storage facilities for nuclear wastes. Since waste disposal is a national responsibility, no state should bear an unacceptable share of this responsibility.

Republicans will also move toward reprocessing of spent fuel.

Republicans will continue to support the development of new technologies to develop liquid, gaseous, and solid hydrocarbons which can be derived from coal, oil shale, and tar sands. The decontrol of oil and gas prices will eliminate any necessity for government support for a synthetic fuel industry except possibly for limited demonstration projects. Clean air, water, waste disposal, mine reclamation, and leasing rules must be made rational and final to accelerate private investment.

Gasohol is an important, immediately available source of energy that is helping to extend our petroleum reserves. We encourage development of a domestic gasohol industry.

We also believe the government must continue supporting productive research to speed the development of renewable energy technologies, including solar energy, geothermal, wind, nuclear fusion, alcohol synthesis, and biomass, to provide the next generation of energy sources.

Conservation clearly plays a vital role in the consideration and formulation of national energy policy. Republicans reject, however, the position of the Democrats which is to conserve through government fiat. Republicans understand that free markets based on the collective priorities and judgments of individual consumers will efficiently allocate the energy supplies to their most highly valued uses. We also believe that the role of government is best performed by structuring creative cost-effective incentives to achieve energy efficiency and conservation.

We reject unequivocally punitive gasoline and other energy taxes designed to artificially suppress energy consumption.

Much inefficient energy use results from government subsidization of imported oil and holding the price of natural gas substantially below its market value. When the price of energy is held artificially low, there is no incentive for conservation. This kind of energy consumption stems not from the excesses of the public, but the foolish policy distortions of government. Every BTU of genuine energy "waste" in our economy would rapidly disappear if we immediately and completely dismantle all remaining energy price controls and subsidies.

A Republican policy of decontrol, development of our domestic energy resources, and incentives for new supply and conservation technologies will substantially reduce our dependence on imported oil. We reject the Carter Administration's incessant excuse that the high price of imported oil and OPEC are the primary cause of inflation and recession at home and a weak dollar and declining balance of payments abroad. The fastest way to bring international oil prices under control is to stop printing so recklessly the dollars in which those prices are denominated. Fully 60 percent of the world oil price increase since 1973 represents the depreciation of our dollars rather than an increase in the real price of oil.

Virtually all major environmental legislation in the past decade reflected a bipartisan concern over the need to maintain a clean and healthful environment. While the new environmental policies have resulted in improving air quality, cleaner waters, and more careful analysis of toxic chemicals, the price paid has far exceeded the direct and necessary cost of designing and installing new control technology. In the energy area, the increased complexity of regulations, together with continual changes in the standards imposed, have brought about tremendous delays in the planning and construction of new facilities ranging from electric power plants to oil refineries, pipelines, and synthetic fuel plants.

Republicans believe that an effective balance between energy and environmental goals can be achieved. We can ensure that government requirements are firmly grounded on the best scientific evidence available, that they are enforced evenhandedly and predictably, and that the process of their development and enforcement has finality.

Republicans condemn the Democrats' withdrawal of a massive amount of the most promising federal lands from prospective energy development, including the rich potential of our Outer Continental Shelf. It has been estimated that by the end of the 1980s resources from government-controlled acreage could yield over two million barrels of oil per day and four trillion cubic feet of gas per year, the equivalent of nearly all of our imports from OPEC countries. It is clear that restrictive leasing policies have driven us further to depend on OPEC by severely impairing the exploration for, and development of, domestic oil, gas, and coal resources, thereby aggravating our balance of trade deficit and making our country less secure. Republicans will move toward making available all suitable federal lands for multiple use purposes including exploration and production of energy resources.

Republicans believe that in order to address our energy problem we must maximize our domestic energy production capability. In the short term, therefore, the nation must move forward on all fronts simultaneously, including oil and gas, coal, and nuclear. In the longer term, renewable resources must be brought significantly on line to replace conventional sources. Finally, in conjunction with this all-out production initiative, we must strive to maximize conservation and the efficient use of energy.

The return to the traditions that gave vitality and strength to this nation is urgent.

The free world—indeed western civilization—needs a strong United States. That strength requires a prospering economy. That economy will be secure with a vigorous domestic energy industry. That vigor can only be achieved in an atmosphere of freedom—one that encourages individual initiatives and personal resourcefulness.

Environment

The Republican Party reaffirms its longstanding commitment to the conservation and wise management of America's renewable natural resources.

We believe that a healthy environment is essential to the present and future wellbeing of our people, and to sustainable national growth.

The nature of environmental pollution is such that a government role is necessary to ensure its control and the proper protection of public health. Much progress has been made in achieving the goals of clean air, clean water, and control of toxic wastes. At the same time, we believe that it is imperative that environmental laws and regulations be reviewed and, where necessary, reformed to ensure that the benefits achieved justify the costs imposed. Too often, current regulations are so rigid and narrow that even individual innovations that improve the environment cannot be implemented. We believe, in particular, that regulatory procedures must be reformed to expedite decisionmaking. Endless delay harms both the environment and the economy.

We strongly affirm that environmental protection must not become a cover for a "no-growth" policy and a shrinking economy. Our economy can continue to grow in an acceptable environment.

We believe that agricultural policy should give emphasis to the stewardship of the nation's soil and water resources. The permanent loss of productive farm land is a growing problem and we encourage states and local communities to adopt policies that help maintain and protect productive agricultural land as a national asset.

Immigration and refugee policy

Residence in the United States is one of the most precious and valued of conditions. The traditional hospitality of the American people has been severely tested by recent events, but it remains the strongest in the world. Republicans are proud that our people have opened their arms and hearts to strangers from abroad and we favor an immigration and refugee policy which is consistent with this tradition. We believe that to the fullest extent possible those immigrants should be admitted who will make a positive contribution to America and who are willing to accept the fundamental American values and way of life. At the same time, United States immigration and refugee policy must reflect the interests of our national security and economic well-being. Immigration into this country must not be determined solely by foreign governments or even by the millions of people around the world who wish to come to America. The federal government has a duty to adopt immigration laws and follow enforcement procedures which will fairly and effectively implement the immigration policy desired by the American people.

The immediate adoption of this policy is essential to an orderly approach to the great problem of oppressed people seeking entry, so that the deserving can be accepted in America without adding to their hardships.

The refugee problem is an international problem and every effort should be made to coordinate plans for absorbing refugee populations with regional bodies, such as the Organization of American States and the Association of South East Asian Nations, on a global basis.

The judiciary

Under Mr. Carter, many appointments to federal judgeships have been particularly disappointing. By his partisan nominations, he has violated his explicit campaign promise of 1976 and has blatantly disregarded the public interest. We pledge to reverse that deplorable trend, through the appointment of women and men who respect and reflect the values of the American people, and whose judicial philosophy is characterized by the highest regard for protecting the rights of law-abiding citizens, and is consistent with the belief in the decentralization of the federal government and efforts to return decisionmaking power to state and local elected officials.

We will work for the appointment of judges at all levels of the judiciary who respect traditional family values and the sanctity of innocent human life.

Taxes and government spending

Elsewhere in this platform, we have pledged for the sake of individual freedom and economic growth to cut personal income tax rates for all. Republicans believe that these tax rate reductions should be complemented by firm limitations on the growth of federal spending as provided by the Roth-Kemp Bill. The Republican Party, therefore, pledges to place limits on federal spending as a percent of the Gross National Product. It is now over 21 percent. We pledge to reduce it. If federal spending is reduced as tax cuts are phased in, there will be sufficient budget surpluses to fund the tax cuts, and allow for reasonable growth in necessary program spending.

By increasing economic growth, tax rate reduction will reduce the need for government spending on unemployment, welfare, and public jobs programs. However, the Republican Party will also halt excessive government spending by eliminating waste, fraud, and duplication.

We believe that the Congressional budget process has failed to control federal spending. Indeed, because of its big spending bias, the budget process has actually contributed to higher levels of social spending, has prevented necessary growth in defense spending, and has been used to frustrate every Republican attempt to lower tax rates to promote economic growth.

The immediate burden of reducing federal spending rests on the shoulders of the President and the Congress. We believe a Republican President and a Republican Congress can balance the budget and reduce spending through legislative actions, eliminating the necessity for a Constitutional amendment to compel it. However, if necessary, the Republican Party will seek to adopt a Constitutional amendment to limit federal spending and balance the budget, except in time of national emergency as determined by a two-thirds vote of Congress.

Government lending

Not only has the Democratic Congress failed to control spending, but in the last 10 years federal credit assistance programs have soared out of control.

Many federal loan guarantees and related credit programs are off-budget. As a result, no one knows the nature and extent of our obligations or the effect such practices have on our economy. The best estimate is that outstanding federal credit is now close to $600 billion.

Runaway government lending can be just as dangerous as runaway federal spending.

The Republican Party will establish a workable federal credit policy that will bring order to the reckless lending practices of the past.

Inflation

We consider inflation and its impact on jobs to be the greatest domestic threat facing our nation today. Mr. Carter must go! For what he has done to the dollar; for what he has done to the life savings of millions of Americans; for what he has done to retirees seeking a secure old age; for what he has done to young families aspiring to a home, an education for their children, and a rising living standard, Mr. Carter must not have another four years in office.

In his three and one-half years in office, Mr. Carter has presented and supported policies which carried inflation from 4.8 percent in 1976 to a peak of 18 percent during 1980.

He has fostered a 50 percent increase in federal spending, an increase of more than $200 billion, boosting spending in an era of scarce resources, and driving up prices.

He has through both inaction and deliberate policy permitted or forced tax increases of more than 70 percent, more than $250 billion, directly increasing the cost of living and the costs of hiring and producing. This has crippled living standards, productivity, and our ability to compete in the world. It has led to reduced output, scarcity, and higher prices.

He has imposed burdensome regulations and controls on production which have reduced the availability of domestic goods and energy resources, increased our dependence on imports, particularly in the energy area, driven down the value of the dollar, and driven up prices.

He has permitted continuing federal budget deficits and increased federal borrowing, forcing higher interest rates and inflationary money creation, increasing prices.

The inflation policies of the Carter Administration have been inconsistent, counterproductive, and tragically inept. Mr. Carter has blamed everyone from OPEC to the American people themselves for this crisis of inflation—everyone, that is, but his own Administration and its policies which have been the true cause of inflation.

Inflation is too much money chasing too few goods. Much can be done to increase the growth of real output. But ultimately price stability requires a non-inflationary rate of growth of the money supply in line with the real growth of the economy. If the supply of dollars rapidly outstrips the quantity of goods, year in, year out, inflation is inevitable.

Ultimately, inflation is a decline in the value of the dollar, the monetary standard, in terms of the goods it can buy. Until the decade of the 1970s, monetary policy was automatically linked to the overriding objective of maintaining a stable dollar value. The severing of the dollar's link with real commodities in the 1960s and 1970s, in order to pursue economic goals other than dollar stability, has unleashed hyper-inflationary forces at home and monetary disorder aboard, without bringing any of the desired economic benefits. One of the most urgent tasks in the period ahead will be the restoration of a dependable monetary standard—that is, an end to inflation.

Lower tax rates, less spending, and a balanced budget are the keys to maintaining real growth and full employment as we end inflation by putting our monetary policy back on track. Monetary and fiscal policy must each play its part if we are to achieve our joint goals of full employment and price stability.

Unfortunately, Mr. Carter and the Democratic Congress seek to derail our nation's money creation policies by taking away the independence of the Federal Reserve Board. The same people who have so massively expanded government spending should not be allowed politically to dominate our monetary policy. The independence of the Federal Reserve System must be preserved.

The Republican Party believes inflation can be controlled only by fiscal and monetary restraint, combined with sharp reductions in the tax and regulatory disincentives for savings, investment, and productivity. Therefore, the Republican Party opposes the imposition of wage and price controls and credit controls.

Controls will not stop inflation, as past experience has shown. Wage and price controls will only result in shortages, inequities, black markets, and ultimately higher prices. We reject this short-sighted and misguided approach.

PEACE AND FREEDOM

Prologue

At the start of the 1980s, the United States faces the most serious challenge to its survival in the two centuries of its existence. Our ability to meet this challenge demands a foreign policy firmly rooted in principle. Our economic and social welfare in the 1980s may depend as much on our foreign and defense policy as it does on domestic policy. The Republican Party reasserts that it is the solemn purpose of our foreign policy to secure the people and free institutions of our nation against every peril; to hearten and fortify the love of freedom everywhere in the world; and to achieve a secure environment in the world in which freedom, democracy, and justice may flourish.

For three and one-half years, the Carter Administration has been without a coherent strategic concept to guide foreign policy, oblivious to the scope and magnitude of the threat posed to our security, and devoid of competence to provide leadership and direction to the free world. The Administration's conduct of foreign policy has undermined our friends abroad, and led our most dangerous adversaries to miscalculate the willingness of the American people to resist aggression. Republicans support a policy of peace through strength; weakness provokes aggression.

For three and one-half years the Carter Administration has given us a foreign policy not of constancy and credibility, but of chaos, confusion, and failure. It has produced an image of our country as a vacillating and reactive nation, unable to define its place in the world, the goals it seeks, or the means to pursue them. Despite the Administration's rhetoric, the most flagrant offenders of human rights including the Soviet Union, Vietnam, and Cuba have been the beneficiaries of Administration good will, while nations friendly to the United States have suffered the loss of U.S. commercial access and economic and military assistance.

The threat to the United States and its allies is not only a military one. We face a threat from international terrorism. Our access to energy and raw material resources is challenged by civil unrest, Soviet-sponsored subversion, and economic combinations in restraint of free trade. Our first line of defense, our network of friendly nations and alliances, has been undermined by the inept conduct of foreign affairs.

American policy since World War II has rested upon the pillars of collective security, military and technological superiority, and economic strength, and upon the perception by our adversaries that the United States possesses the will to use its power where necessary to protect its freedom. These tenets have enabled a commonwealth of free and independent nations to enjoy the benefits and confidence that come from expanding economic interchange in peace and bilateral and multilateral support in time of war. The entire structure of peace was guaranteed by American and allied military power sufficient to deter conflict, or to prevail in conflict if deterrence should fail.

The Administration's neglect of America's defense posture in the face of overwhelming evidence of a threatening military buildup is without parallel since the 1930s. The scope and magnitude of the growth of Soviet military power threatens American interest at every level, from the nuclear threat to our survival, to our ability to protect the lives and property of American citizens abroad.

Despite clear danger signals indicating that Soviet nuclear power would overtake that of the United States by the early 1980s, threatening the survival of the United States and making possible, for the first time in post-war history, political coercion and defeat, the Administration reduced the size and capability of our nuclear forces.

Despite clear danger signals indicating that the Soviet Union was using Cuban, East German, and now Nicaraguan, as well as its own, military forces to extend its power to Africa, Asia, and the Western Hemisphere, the Administration often undermined the very governments under attack. As a result, a clear and present danger threatens the energy and raw material lifelines of the Western world.

Despite clear danger signals indicating that the Soviet Union was augmenting its military threat to the nations of Western Europe, American defense programs such as the enhanced radiation warhead and cruise missiles, which could have offset that buildup, were cancelled or delayed—to the dismay of allies who depend upon American military power for their security.

The evidence of the Soviet threat to American security has never been more stark and unambiguous, nor has any President ever been more oblivious to this threat and its potential consequences.

The entire Western world faces complex and multi-dimensional threats to its access to energy and raw material resources. The growth of Soviet military power poses a direct threat to the petroleum resources of the Persian Gulf now that its military forces deployed in Afghanistan are less than 300 miles from the Straits of Hormuz, through which half the free world's energy supplies flow.

Soviet efforts to gain bases in areas astride the major sea lanes of the world have been successful due to their use of military power, either directly or indirectly or through Cuban and other Soviet bloc forces. Since the Carter Administration took office in 1977, the Soviets or their clients have taken over Afghanistan, Cambodia, Ethiopia, and South Yemen, and have solidified their grasp on a host of other nations in the developing world. The Soviet noose is now being drawn around southern Africa, the West's more abundant single source of critical raw materials.

The failure of the United States to respond to direct threats to its security has left American citizens vulnerable to terrorist assaults as well. American diplomatic personnel have been subject to seizure and assault by terrorists throughout the world without drawing a meaningful Administration response.

No failure of the Administration has been so catastrophic as its failure of leadership. Mired in incompetence, bereft of strategic vision and purpose, the President's failure to shoulder the burden of leadership in the Western alliance has placed America in danger without parallel since December 7, 1941. The United States cannot abdicate that role without inducing a diplomatic and eventually a military catastrophe.

Republicans realize that if the challenges of the 1980s are not met, we will continue to lose the respect of the world, our honor, and in the end, our freedom. Republicans pledge to meet these challenges with confidence and strength. We pledge to restore to the United States and its people a government with conviction in our cause, a government that will restore to our great nation its self-respect, its self-confidence, and its national pride.

NATIONAL SECURITY

Defense budget trends

In the late 1960s, the Republicans returned to the White House, inheriting a war in Southeast Asia. Because of this war, they also inherited a Fiscal Year (FY) 1968 defense budget which, if calculated in constant 1981 dollars to account for inflation, had risen to over $194 billion from $148 billion in FY 1961, the last Eisenhower year. By the beginning of the second Nixon Administration, U.S. forces were totally disengaged from Southeast Asia. The FY 1974 defense budget had dropped back to $139 billion, and the country had reaped its desired "peace dividend" of an over $50 billion reduction in annual defense spending. During this period, between 1969 and 1973, the Democrats who controlled Congress, led by Senators Mondale and Muskie, cut almost $45 billion from Nixon defense requests. Until 1975, Congress continued to ignore long-range defense needs, and made severe cuts in Republican defense proposals. The Ford Administration, however, succeeded in reversing this trend. From a low point of $134 billion in FY 1975, the FY 1976 defense budget rose, in response to President Ford's request, to $139 billion; and in FY 1977 it rose again to $147 billion.

Despite the growing sentiment for a stronger defense, candidate Carter ran on a promise of massive cuts in U.S. defense spending, one promise he has kept. In his first three years in the White House, Mr. Carter reduced defense spending by over $38 billion from President Ford's last Five Year Defense Plan. Now, in his last year in office, faced with the total collapse of his foreign policy, and with his policy advisers and their assumptions disgraced, he has finally proposed an increase beyond the rate of inflation in defense spending. But this growth for 1981 will be less than one percent.

We deplore Mr. Carter's personal attempts to rewrite history on defense budgets. His tough speeches before military audiences cannot hide his continuing opposition to Congressional defense increases. The four chiefs of the armed services have each characterized the Carter defense program as "inadequate" to meet the military threat posed to the United States. We associate ourselves with the characterization by Democratic Congressional leaders of the President's behavior on defense as "hypocritical." We would go further; it is disgraceful.

Mr. Carter cut back, cancelled, or delayed every strategic initiative proposed by President Ford. He cancelled production of the Minuteman missile and the B–1 bomber. He delayed all cruise missiles, the MX missile, the Trident submarine and the Trident II missile. He did this while the Soviet Union deployed the Backfire bomber and designed two additional bombers equal in capability to the B–1, and while it deployed four new large ICBMs and developed four others.

Mr. Carter postponed production and deployment of enhanced radiation (neutron) warheads while the Soviet Union deployed the SS–20 mobile missile and the Backfire bomber against Western Europe. He cut President Ford's proposed shipbuilding plan in half. He vetoed a nuclear aircraft carrier. He did this while the Soviet Union pursued an aggressive shipbuilding program capable of giving them worldwide naval supremacy in the 1980s unless current trends are reversed immediately. Mr. Carter opposed efforts to correct the terribly inadequate pay rates for our military personnel and stood by as the alarming exodus of trained and skilled personnel from the services quickened. At the same time, the Soviet Union increased its military manpower to a level of 4.8 million, more than double that of the United States.

Recovery from the Carter Administration's neglect will require effort, but Americans know that effort is the unavoidable precondition to peace and economic prosperity. The Soviet Union is now devoting over $50 billion more to defense annually than the United States, achieving military superiority as a result. We have depleted our capital and must now devote the resources essential to catching up. The Secretary of Defense has stated that even if we were to maintain a constant increase in our spending of five percent in real terms, it would require 40 years for us to catch up.

Republicans commit themselves to an immediate increase in defense spending to be applied judiciously to critically needed programs. We will build toward a sustained defense expenditure sufficient to close the gap with the Soviets, and ultimately reach the position of military superiority that the American people demand.

Defense strategy

More is required than reversing our military decline alone. We have seen in recent years how an Administration, possessed of dwindling but still substantial strength, has stood paralyzed in the face of an inexorable march of Soviet or Soviet-sponsored aggression. To be effective in preserving our interests, we must pursue a comprehensive military strategy which guides both the design and employment of our forces. Such a strategy must proceed from a sober analysis of the diverse threats before us.

Republicans approve and endorse a national strategy of peace through strength as set forth in House Concurrent Resolution 306. We urge speedy approval of this legislation by both the U.S. House of Representatives and the U.S. Senate as a means of making clear to the world that the United States has not forgotten that the price of peace is eternal vigilance against tyranny. Therefore we commend to all Americans the text of House Concurrent Resolution 306 which reads as follows:

The foreign policy of the United States should reflect a national strategy of peace through strength. The general principles and goals of this strategy would be:

To inspire, focus, and unite the national will and determination to achieve peace and freedom;

To achieve overall military and technological superiority over the Soviet Union;

To create a strategic and civil defense which would protect the American people against nuclear war at least as well as the Soviet population is protected;

To accept no arms control agreement which in any way jeopardizes the security of the United States or its allies, or which locks the United States into a position of military inferiority;

To reestablish effective security and intelligence capabilities;

To pursue positive non-military means to roll back the growth of communism;

To help our allies and other non-Communist countries defend themselves against Communist aggression; and

To maintain a strong economy and protect our overseas sources of energy and other vital raw materials.

Our strategy must encompass the levels of force required to deter each level of foreseeable attack and to prevail in conflict in the event deterrence fails. The detailed analysis that must form the intellectual basis for elaboration of such a strategy will be the first priority of a Republican Administration. It must be based upon the following principles.

Nuclear forces

Nuclear weapons are the ultimate military guarantor of American security and that of our allies. Yet since 1977, the United States has moved from essential equivalence to inferiority in strategic nuclear forces with the Soviet Union. This decline has resulted from Mr. Carter's cancellation or delay of strategic initiatives like the B–1 bomber, the MX missile, and the Trident II submarine missile programs and from his decisions to close the Minuteman production line and forego production of enhanced radiation weapons.

As the disparity between American and Soviet strategic nuclear forces grows over the next three years, most U.S. land-based missiles, heavy bombers, and submarines in port will become vulnerable to a Soviet first-strike. Such a situation invites diplomatic blackmail and coercion of the United States by the Soviet Union during the coming decade.

An administration that can defend its interest only by threatening the mass extermination of civilians, as Mr. Carter implied in 1979, dooms itself to strategic, and eventually geo-political, paralysis. Such a strategy is simply not credible and, therefore is ineffectual. Yet the declining survivability of the U.S. ICBM force in the early 1980s will make this condition unavoidable unless prompt measures are taken. Our objective must be to assure the survivability of U.S. forces possessing an unquestioned, prompt, hard-target counterforce capability sufficient to disarm Soviet military targets in a second-strike. We reject the mutual-assured-destruction (MAD) strategy of the Carter Administration which limits the President during crises to a Hobson's choice between mass mutual suicide and surrender. We propose, instead, a credible strategy which will deter a Soviet attack by the clear capability of our forces to survive and ultimately to destroy Soviet military targets.

In order to counter the problem of ICBM vulnerability, we will propose a number of initiatives to provide the necessary survivability of the ICBM force in as timely and effective a manner as possible. In addition, we will proceed with:

The earliest possible deployment of the MX missile in a prudent survivable configuration;

Accelerated development and deployment of a new manned strategic penetrating bomber that will exploit the $5.5 billion already invested in the B–1, while employing the most advanced technology available;

Deployment of an air defense system comprised of dedicated modern interceptor aircraft and early warning support systems;

Acceleration of development and deployment of strategic cruise missiles deployed on aircraft, on land, and on ships and submarines;

Modernization of the military command and control system to assure the responsiveness of U.S. strategic nuclear forces to presidential command in peace or war; and

Vigorous research and development of an effective anti-ballistic missile system, such as is already at hand in the Soviet Union, as well as more modern ABM technologies.

For more than 20 years, commencing in the mid-1950s, the United States has maintained tactical nuclear weapons in Europe for the purpose of assuring against deep penetrations into the West by the Soviet forces. Since 1977, however, the Administration has allowed our former superiority to erode to the point where we now face a more than three-to-one disadvantage.

A Republican Administration will strive for early modernization of our theater nuclear forces so that a seamless web of deterrence can be maintained against all levels of attack, and our credibility with our European allies is restored. In consultation with them we will proceed with deployments in Europe of medium-range cruise missiles, ballistic missiles, enhanced radiation warheads, and the modernization of nuclear artillery.

Conventional forces

The greatest single result of our loss of nuclear parity has been the manifest increase in the willingness of the Soviet Union to take risks at the conventional level. Emboldened by the Carter Administration's failure to challenge their use of surrogate Cuban forces in Africa and the later Soviet presence in Angola, Ethiopia, and South Yemen, the Soviets, for the first time in postwar history, employed their own army units outside of the Soviet bloc in a brutal invasion of Afghanistan. The invasion presents chilling evidence of the mounting threat and raises fundamental questions with respect to United States strategy.

We believe it is not feasible at this time, and in the long term would be unworkable, to deploy massive U.S. ground forces to such areas as the Persian Gulf on a permanent basis as we do in Europe and elsewhere. A more effective strategy must be built on the dual pillars of maintaining a limited full-time presence in the area as a credible interdiction force, combined with the clear capability to reinforce this presence rapidly with the forces necessary to prevail in battle. In addition, the strategy must envision military action elsewhere at points of Soviet vulnerability—an expression of the classic doctrine of global maneuver.

The forces essential to the support of such a strategy must include a much-improved Navy, the force most suitable for maintaining U.S. presence in threatened areas and protecting sea lines of communication. In addition, we will require a substantial improvement in the air and sea mobility forces and improved access to regional installations. A Republican Administration will propose their substantial improvement, to include the establishment of a permanent fleet in the Indian Ocean. We will also improve contingency planning for the use and expansion of our commercial maritime fleet and a new rational approach to emergency use of our civil aircraft fleet.

The budget cuts imposed by Mr. Carter on the Army and his restoration of the supremacy of systems analysis in the Pentagon have resulted in slowdowns, deferrals, and cost increases in nine vitally needed Army procurement programs in armor, firepower, air defense, and helicopters. These critical and long-delayed modernization programs must be restored to economical production rates and must be speeded into the field. Of equal importance is the need to bring our stocks of ammunition, spare parts, and supplies—now at woefully inadequate levels—to a standard that will enable us to sustain our forces in conflict.

In addition to the strategic programs needed for our Air Force, we pledge to restore tactical aircraft development and procurement to economical levels and to speed the achievement of 26 modernized wings of aircraft able to conduct missions at night, in all weather conditions, and against the most sophisticated adversary.

We pledge to increase substantially our intra- and inter-theater airlift capability and to increase our aerial tanker fleet through procurement and speedy modernization.

Of all of the services, the Navy and Marines have suffered most from Mr. Carter's cuts. Their share of the defense budget has shrunk from 40 to 33 percent during the Carter Administration. Mr. Carter slashed President Ford's 157 ship, five-year construction program to 83. He has slowed the Trident submarine and requested only one attack submarine each year in spite of a Soviet three-to-one advantage. He vetoed the Fiscal Year 1979 Defense Authorization Bill because it included an aircraft carrier which a year later Congress forced him to accept. For the fourth straight year he has requested fewer than half of the 325 aircraft needed annually to stay even with peacetime attrition and modernization requirements. He has requested fewer than one-third of the amphibious ships needed just to keep the current level of capability for the Marines, and he has opposed Marine tactical aircraft and helicopter modernization.

The current Chief of Naval Operations has testified that, "We are trying to meet a three ocean requirement with a one-and-a-half ocean Navy." Republicans pledge to reverse Mr. Carter's dismantling of U.S. naval and Marine forces. We will restore our fleet to 600 ships at a rate equal to or exceeding that planned by President Ford. We will build more aircraft carriers, submarines, and amphibious ships. We will restore naval and Marine aircraft procurement to economical rates enabling rapid modernization of the current forces, and expansion to meet the requirements of additional aircraft carriers.

Defense manpower and the draft

The Republican Party is not prepared to accept a peacetime draft at this time. Under Mr. Carter, the all-volunteer force has not been given a fair chance to succeed. The unconscionable mismanagement and neglect of personnel policy by the Carter Administration has made a shambles of the all-volunteer force concept.

Perhaps the most compelling vulnerability of our forces results from the dramatic exodus of the core of highly skilled men and women who form the backbone of our military strength. This loss is the direct result of neglect by the Commander-in-Chief.

The sustained malign neglect of our military manpower is nothing short of a national scandal. This Administration's active assault on military benefits and military retirement has been accompanied by an enforced pay-cap set at half the inflation rate. The average military family has lost between 14 percent and 25 percent in purchasing power over the past seven years. Officers and skilled enlisted personnel are leaving in droves, and 250,000 of our servicemen qualify for public assistance. Many of our career people earn less than the minimum wage. The services are currently short 70,000 senior enlisted personnel. This scandal is the direct result of Mr. Carter's willful downgrading of the military and inept mismanagement of personnel policy. As a top priority, the Republican Party pledges to end this national disgrace.

We pledge to restore a national attitude of pride and gratitude for the service of our men and women in the armed forces. We will act immediately to correct the great inequities in pay and benefits of career military personnel. Specifically, we support immediate action to:

Provide for an increase in military pay targeted in particular toward the career grades now experiencing the greatest attrition;

Increase enlistment and reenlistment bonuses;

Improve continuation bonuses for aviators;

Increase per diem travel allowances;

Increase the allowance for moving mobile homes;

Provide family separation allowances for junior personnel; and

Expand benefit entitlement under the CHAMPUS program.

A Republican Administration will index military pay and allowances to protect military personnel from absorbing the burden of inflation. We pledge that the profession of arms will be restored to its rightful place as a preeminent expression of patriotism in America.

In order to attract recruits of high ability, a Republican Administration will act to reintroduce G.I. Bill benefits for those completing two years active service. We will press for enactment of legislation denying federal funds to any educational institution that impedes access of military recruiters to their students. We regard as a serious loss the decision of many of our finest institutions of higher learning to discontinue their military officer training programs. The leadership of our armed forces must include the best trained minds in our nation. Republicans call upon our colleges and universities to shoulder their responsibilities in the defense of freedom. We will investigate legislative inducements toward this end. We will not consider a peactime draft unless a well-managed, Congressionally-funded, full-scale effort to improve the all-volunteer force does meet expectations.

Reserve forces

The armed forces of the U.S. are today critically dependent upon our nation's Reserve components for both combat arms and combat support. The Army Reserve and National Guard provide one-third of the Army's combat divisions, 80 percent of its independent combat brigades, one-half of its artillery battalions, and one-third of its special forces groups. The Navy Reserve provides 90 percent of the Navy's ocean mine sweeping and two-thirds of its mobile construction battalions. The Air Force Reserve and Air National Guard provide all of our strategic interceptors, 60 percent of our tactical airlift, and one-third of our tactical fighters. Reserve and National Guard units may be mobilized for even the smallest of conflicts and many such units today are expected to deploy immediately with the active duty units they support.

Today, however, the reserves are ill-equipped, underpaid, and undermanned by several hundred thousand personnel. Proper equipment, realistic, challenging training, and greater full-time support must be made available. We must ensure that all Americans take note of the proud and vital role played by the Reserve and National Guard components of the Armed Forces of the United States.

Readiness and industrial preparedness

History records that readiness for war is the surest means of preventing it. Lack of preparedness is the most dangerously provocative course we can take. Yet funding requests for sufficient fuel, spare parts, ammunition, and supplies for U.S. war reserves have been cut each year for the past four years from the minimum quantities the armed services have stated they need. This has left the U.S. Armed Forces at their lowest state of preparedness since 1950, seriously compromising their ability to sustain a military conflict.

Crippling shortages of spare parts, fuel, and ammunition compromise the ability of the armed forces to sustain a major military conflict. Some critical types of ammunition could not support combat operations for more than a week although we are committed to holding a 90-day inventory of major ammunition types. In addition, critical facilities such as airfields, ammunition depots, maintenance installations, and living quarters for our troops are in serious disrepair. The backlog of deferred maintenance and the underfunded purchase of vital combat consumables is so vast that years of effort will be required to rebuild U.S. forces to the required level of readiness.

The problem of maintaining the day-to-day combat readiness of the U.S. Armed Forces is compounded by the reduced ability of American industry to respond to wartime contingencies. Reduced acquisition of equipment for the modernization of the armed forces and the Carter Administration's failure to maintain combat readiness have eroded the incentive of American industry to maintain capacity adequate to potential defense requirements.

Republicans pledge to make the combat readiness of U.S. Armed Forces and the preparedness of the industrial base to a top priority.

Research and development

Research and Development (R & D) provides a critical means by which our nation can cope with threats to our security. In the past, the United States' qualitative and technological superiority provided a foundation for our military superiority. Yet we are now on the verge of losing this advantage to the Soviet Union because of Mr. Carter's opposition to real increases in the R & D effort. Delays imposed on the R & D process now allow seven to 10 years or more to elapse between the time when a new weapon system is proposed and when it becomes available.

The Soviet Union now invests nearly twice as much in military research and development as does the United States. This disparity in effort threatens American technological superiority in the mid-1980s and could result in Soviet breakthroughs in advanced weapon systems.

Republicans pledge to revitalize America's military research and development efforts, from basic research through the deployment of weapons and support systems, to assure that our vital security needs will be met for the balance of the century. We will seek increased funding to guarantee American superiority in this critical area and to enable us to deal with possible breakthroughs in anti-missile defense, anti-satellite killers, directed energy systems, and the military and civilian exploitation of space.

America's technological advantage has always depended upon its interaction with our civilian science and technology sector. The economic policy of the Carter Administration has severely encumbered private research and development efforts, thereby depriving both our civil and military sectors of the fruits of scientific innovation.

Underfunding of beneficial government-sponsored research efforts in basic and applied scientific research has disrupted the benefits of years of effective effort. In particular, America's preeminence in the exploration of space is threatened by the failure of the Carter Administration to fund fully the Space Shuttle program (with its acknowledged benefits for both the civil and military applications) as well as advanced exploration programs. Republicans pledge to support a vigorous space research program.

Management and organization

The Republican Party pledges to reform the defense programming and budgeting management system established by the Carter Administration. The ill-informed, capricious intrusions of the Office of Management and Budget and the Department of Defense Office of Program Analysis and Evaluation have brought defense planning full circle to the worst faults of the McNamara years. Orderly planning by the military services has become impossible. Waste, inefficiency, and paralysis have been the hallmarks of Carter Administration defense planning and budgeting. This has resulted in huge cost overruns and in protracted delays in placing advanced systems in the field.

National intelligence

At a time of increasing danger, the U.S. intelligence community has lost much of its ability to supply the President, senior U.S. officials, and the Congress with accurate and timely analyses concerning fundamental threats to our nation's security. Morale and public confidence have been eroded and American citizens and friendly foreign intelligence services have become increasingly reluctant to cooperate with U.S. agencies. As a result of such problems, the U.S. intelligence community has incorrectly assessed critical foreign developments, as in Iran, and has, above all, underestimated the size and purpose of the Soviet Union's military efforts.

We believe that a strong national consensus has emerged on the need to make our intelligence community a reliable and productive instrument of national policy once again. In pursuing its objectives, the Soviet Union and its surrogates operate by a far different set of rules than does the United States. We do not favor countering their efforts by mirroring their tactics. However, the United States requires a realistic assessment of the threats it faces, and it must have the best intelligence capability in the world. Republicans pledge this for the United States.

A Republican Administration will seek to improve U.S. intelligence capabilities for technical and clandestine collection, cogent analysis, coordinated counterintelligence, and covert action.

We will reestablish the President's Foreign Intelligence Advisory Board, abolished by the Carter Administration, as a permanent nonpartisan body of distinguished Americans to perform a constant audit of national intelligence research and performance. We will propose methods of providing alternative intelligence estimates in order to improve the quality of the estimates by constructive competition.

Republicans will undertake an urgent effort to rebuild the intelligence agencies, and to give full support to their knowledgeable and dedicated staffs. We will propose legislation to enable intelligence officers and their agents to operate safely and efficiently abroad.

We will support legislation to invoke criminal sanctions against anyone who discloses the identities of U.S. intelligence officers abroad or who makes unauthorized disclosures of U.S. intelligence sources and methods.

We will support amendments to the Freedom of Information Act and the Privacy Act to permit meaningful background checks on individuals being considered for sensitive positions and to reduce costly and capricious requests to the intelligence agencies.

We will provide our government with the capability to help influence international events vital to our national security interests, a capability which only the United States among the major powers has denied itself.

A Republican Administration will seek adequate safeguards to ensure that past abuses will not recur, but we will seek the repeal of ill-considered restrictions sponsored by Democrats, which have debilitated U.S. intelligence capabilities while easing the intelligence collection and subversion efforts of our adversaries.

Terrorism

In the decade of the seventies, all civilized nations were shaken by a wave of widespread, international terrorist attacks. Time and again, nations and individuals have been subjected to extortion and murder at the hands of extremists who reject the rule of law, civil order, and the sanctity of individual human rights. Terrorism has been elevated to the level of overt national policy as authorities in Iran, encouraged by the Soviet Union, have held 53 Americans captive for more than eight months. Comprehensive support of international terrorist organizations has been a central, though generally covert, element of Soviet foreign policy.

Republicans believe that this tragic history contains lessons that must serve as the basis for a determined international effort to end this era of terrorism. We believe that certain principles have emerged from incidents in which states have defeated terrorist attacks, and we believe the United States should take the lead in a multilateral drive to eliminate the terrorist threat. A first requirement is the establishment of a military capability to deal promptly and effectively with any terrorist acts. We cannot afford, as in the abortive Iranian rescue mission, to allow months to pass while we prepare responses.

The United States must provide the leadership to forge an international consensus that firmness and refusal to concede are ultimately the only effective deterrents to terrorism. The United States should take the lead in combating international terrorism. We must recognize and be prepared to deal with the reality of expanded Soviet sponsorship of international terrorist movements. Development of an effective anti-terrorist military capability and establishment of a Congressional and Executive capability to oversee our internal security efforts will no longer be neglected.

The role of arms control in defense policy

The Republican approach to arms control has been markedly different from that of the Democratic Party. It has been based on three fundamental premises:

First, before arms control negotiations may be undertaken, the security of the United States must be assured by the funding and deployment of strong military forces sufficient to deter conflict at any level or to prevail in battle should aggression occur;

Second, negotiations must be conducted on the basis of strict reciprocity of benefits—unilateral restraint by the U.S. has failed to bring reductions by the Soviet Union; and

Third, arms control negotiations, once entered, represent an important political and military undertaking that cannot be divorced from the broader political and military behavior of the parties.

A Republican Administration will pursue arms control solely on the principles outlined above.

During the past three and one-half years, the Carter Administration's policy has been diametrically opposed to these principles. First, by its willful cancellation or delay of essential strategic military programs such as the B–1, the MX missile, and the Trident submarine, it has seriously damaged the credibility and effectiveness of the U.S. deterrent force. Second, by not insisting upon corresponding concessions from the Soviet Union it has, in effect, practiced unilateral disarmament and removed any incentives for the Soviets to negotiate for what they could obviously achieve by waiting. The Republican Party rejects the fundamentally flawed SALT II treaty negotiated by the Carter Administration.

The Republican Party deplores the attempts of the Carter Administration to cover up Soviet non-compliance with arms control agreements including the now overwhelming evidence of blatant Soviet violation of the Biological Warfare Convention by secret production of biological agents at Sverdlovsk.

In our platform four years ago, we stated that, "The growth of civilian nuclear technology and the rising demand for nuclear power as an alternative to increasingly costly fossil fuel resources, combine to require our recognition of the potential dangers associated with such development." We called for the formation of new multilateral arrangements to control the export of sensitive nuclear technologies. Unfortunately, the Carter Administration has failed to provide the leadership and creative diplomacy essential to forging effective international safeguards and cooperation in this vital area. In particular we oppose and deplore the pending delivery to India of nuclear material which can be directed to the manufacture of weapons.

The Republican Party reaffirms its commitment to the early establishment of effective multilateral arrangements for the safe management and monitoring of all transfers and uses of nuclear materials in the international market.

FOREIGN POLICY

U.S.-Soviet relations

The premier challenge facing the United States, its allies, and the entire globe is to check the Soviet Union's global ambitions. This challenge must be met, for the present danger is greater than ever before in the 200-year history of the United States. The Soviet Union is still accelerating its drive for military superiority and is intensifying its military pressure and its ideological combat against the industrial democracies and the vulnerable developing nations of the world.

Republicans believe that the United States can only negotiate with the Soviet Union from a position of unquestioned principle and unquestioned strength. Unlike Mr. Carter, we see nothing "inordinate" in our nation's historic judgment about the goals, tactics, and dangers of Soviet communism. Unlike the Carter Administration, we are not surprised by the brutal Soviet invasion of Afghanistan or by other Soviet violations of major international agreements regulating international behavior, human rights, and the use of military force. And, unlike the Carter Administration, we will not base our policies toward the Soviet Union on naive expectations, unilateral concessions, futile rhetoric, and insignificant maneuvers.

As the Soviet Union continues in its expanionist course, the potential for dangerous confrontations has increased. Republicans will strive to resolve critical issues through peaceful negotiations, but we recognize that negotiations conducted from a position of military weakness can result only in further damage to American interests.

A Republican Administration will continue to seek to negotiate arms reductions in Soviet strategic weapons, in Soviet bloc force levels in Central Europe, and in other areas that may be amenable to reductions or limitations. We will pursue hard bargaining for equitable, verifiable, and enforceable agreements. We will accept no agreement for the sake of having an agreement, and will accept no agreements that do not fundamentally enhance our national security.

Republicans oppose the transfer of high technology to the Soviet Union and its Eastern European satellites, such as has been done in the past, permitting development of sophisticated military hardware which threatens the United States and our allies. The Carter Administration has encouraged the most extensive raid on American technology by the Soviet bloc since World War II. The Soviet Union has gained invaluable scientific expertise in electronics, computer sciences, manufacturing techniques, mining, transportation, aviation, agriculture, and a host of other disciplines. This has contributed to the ability of the Soviet Union to divert investment and manpower from their civilian economy to their armed forces. The fruits of Soviet access to American technology will improve the performance of the Soviet military establishment for years to come. The matter is compounded by the practice of subsidized financing of much of the Soviet bloc's acquisition of American technology through U.S. financial institutions.

Republicans pledge to stop the flow of technology to the Soviet Union that could contribute, directly or indirectly, to the growth of their military power. This objective will be pursued by a Republican Administration with our allies and other friendly nations as well. We will ensure that the Soviet Union fully understands that it will be expected to fulfill all of the commercial and diplomatic obligations it has undertaken in its international agreements.

We oppose Mr. Carter's singling out the American farmer to bear the brunt of his failed foreign policy by imposition of a partial and incompetently managed grain embargo. Because of his failure to obtain cooperation from other grain exporting countries, the embargo has been a travesty and a substitute for policy. We call for the immediate lifting of this embargo.

We reaffirm our commitment to press the Soviet Union to implement the United Nations Declaration on Human Rights and the Helsinki Agreements which guarantee rights such as the free interchange of information and the right to emigrate. A Republican Administration will press the Soviet Union to end its harassment and imprisonment of those who speak in opposition to official policy, who seek to worship according to their religious beliefs, or who represent diverse ethnic minorities and nationalities.

Republicans deplore growing anti-semitism in the Soviet Union and the mistreatment of "refuseniks" by Soviet authorities. The decline in exit visas to Soviet Jews and others seeking religious freedom and the promulgation of ever more rigorous conditions inhibiting their emigration are a fundamental affront to human rights and the U.N. Charter. Republicans will make the subject of emigration from the Soviet Union a central issue in Soviet-American relations. Human rights in the Soviet Union will not be ignored as it has been during the Carter Administration. As a party to the Helsinki Conference Final Act, a Republican Administration will insist on full Soviet compliance with the humanitarian provisions of the agreement.

Republicans pledge our continued support for the people of Cuba and the captive nations of Central and Eastern Europe in their hope to achieve self-determination. We stand firmly for the independence of Yugoslavia. We support self-determination and genuine independence for new captive nations of Africa and Latin America threatened by the growing domination of Soviet power.

A Republican Administration will end the sustained Carter policy of misleading the American people about Soviet policies and behavior. We will spare no efforts to publicize to the world the fundamental differences in the two systems and will strengthen such means as the International Communications Agency, the Voice of America, Radio Free Europe, and Radio Liberty actively to articulate U.S. values and policies, and to highlight the weaknesses of totalitarianism.

We pledge to end the Carter cover-up of Soviet violations of SALT I and II, to end the cover-up of Soviet violation of the Biological Warfare Convention, and to end the cover-up of Soviet use of gas and chemical weapons in Afghanistan and elsewhere.

NATO and Western Europe

Since its inception three decades ago, the North Atlantic Treaty Organization has expressed the collective will of free nations to resist totalitarian aggression. As a cornerstone of the Western Alliance, NATO has stood on the firm foundations of American strategic strength, joint Allied defense efforts, and cooperative diplomacy based on shared interest and close consultations. The Republican Party recognizes that NATO serves the vital interest of the entire Western world and over the years we have continued to give the Alliance our undiminished and bipartisan support.

Republicans deplore the current drifts toward neutralism in Western Europe. We recognize that NATO and our Western Allies today face the greatest array of threats in their history, both from within and from without. Through its inept policies, the Carter Administration has substantially contributed to the evident erosion of Alliance security and confidence in the U.S. A Republican Administration, as one of its highest priorities and in close concert with our NATO partners, will therefore ensure that the United States leads a concerted effort to rebuild a strong, confident Alliance fully prepared to meet the threats and the challenges of the 1980s.

The chief external threat to NATO is that of developing Soviet military superiority. In a period of supposed "detente," the NATO nations have too often cut back or delayed essential defense programs and too often placed excessive hopes in arms control negotiations, while the Soviet-dominated Warsaw Pact has been transformed into the world's most powerful offensive military force.

Three-and-a-half years of Carter Administration policies have resulted in an increased threat to vital Alliance security interests. Mr. Carter's unilateral cancellations, reductions, and long delays in the B–1, Trident, MX, cruise-missile, and ship-building programs have increased the vulnerability of the U.S. strategic triad and have contributed to a developing strategic imbalance which undermines the foundation of Western deterrent and defense capabilities. His fundamentally flawed SALT II treaty would have codified Western inferiority. His reversals on the development and deployment of the "enhanced radiation" or neutron weapon, his treatment of future theater nuclear force modernization negotiations, and his manner of dealing with terrorist actions directed against Americans abroad, further undermined Alliance solidarity and security.

These Carter Administration inconsistencies have caused disunity in the Alliance. We have seen confusion in the fields of trade, fiscal, and energy policies. The lack of close coordination regarding Iran, the Middle East, Afghanistan, the Olympic boycott, nuclear proliferation, East-West trade, human rights, North-South issues, and a host of other international issues affecting Alliance interests, has reinforced Allied concerns. Republicans are concerned that these Carter Administration actions have increased Allied temptation to conduct independent diplomacy and to seek accommodation in the face of pressure from the Soviet Union. In this regard, we categorically reject unilateral moratoria on the deployment by the U.S. and NATO of theater nuclear weapons. Further, Republicans will oppose arms control agreements that interfere with the transfer of military technology to our allies.

In pledging renewed United States leadership, cooperation, and consultation, Republicans assert their expectation that each of the allies will bear a fair share of the common defense effort and that they will work closely together in support of common Alliance goals. Defense budgets, weapons acquisition, force readiness, and diplomatic coordination need to be substantially increased and improved. Within Europe as well as in areas beyond Europe which affect the shared vital interests of the Alliance, we will seek to increase our cooperative efforts, including increased planning for joint actions to meet common threats.

The Republican Party recognizes the vital importance of countries defending the regions of NATO. We will search for an early resolution of problems that currently inhibit the effective participation of all the nations of NATO's southern region and we call for the integration of Spain into the North Atlantic Alliance.

Middle East, Persian Gulf

In the past three years, the nations of the Middle East and Persian Gulf have suffered an unprecedented level of political, economic, and military turmoil. The Soviet Union has been prompt in turning these sources of instability to its advantage and is now in an excellent position to exploit the chaos in Iran and to foment similar upheavals in other countries in the region. Today, the countries of the Middle East and Persian Gulf are encircled as never before by Soviet advisers and troops based in the Horn of Africa, South Yemen, and Afghanistan. Moreover, the Soviets have close political and military ties with other states in the region.

The Soviet goal is clear—to use subversion and the threat of military intervention to establish a controlling influence over the region's resource-rich states, and thereby to gain decisive political and economic leverage over Western and Third World nations vulnerable to economic coercion. The first signs of Soviet success in this undertaking are already evidenced in the recent proposal by European countries to associate the Palestinian Liberation Organization in the West Bank autonomy talks.

Republicans believe that the restoration of order and stability to the region must be premised upon an understanding of the interrelationship between Soviet and radical Palestinian goals, the fundamental requirements of stable economic development and marketing of the area's resources, and the growing ferment among Islamic radical groups. Republicans believe that a wise and credible United States policy must make clear that our foremost concern is for the long-term peaceful development of all states in the region, not purely a self-serving exploitation of its resources. Our goal is to bring a just and lasting peace to the Arab-Israeli conflict.

With respect to an ultimate peace settlement, Republicans reject any call for involvement of the PLO as not in keeping with the long-term interests of either Israel or the Palestinian Arabs. The imputation of legitimacy to organizations not yet willing to acknowledge the fundamental right to existence of the State of Israel is wrong. Repeated indications, even when subsequently denied, of the Carter Administration's involvement with the PLO has done serious harm to the credibility of U.S. policy in the Middle East and has encouraged the PLO's position of intransigence. We believe the establishment of a Palestinian State on the West Bank would be destabilizing and harmful to the peace process.

Our long- and short-term policies for the area must be developed in consultation with our NATO allies, Israel, Egypt, and other friends in the area, and we will spare no effort in seeking their consultation throughout the policy process, not merely demand their acquiescence to our plans.

The sovereignty, security, and integrity of the State of Israel is a moral imperative and serves the strategic interests of the United States. Republicans reaffirm our fundamental and enduring commitment to this principle. We will continue to honor our nation's commitment through political, economic, diplomatic, and military aid. We fully recognize the strategic importance of Israel and the deterrent role of its armed forces in the Middle East and East-West military equations.

Republicans recognize that a just and durable peace for all nations of the region is the best guarantee of continued stability and is vital to deterring further Soviet inroads. Peace between Israel and its neighbors requires direct negotiations among the states involved. Accordingly, a Republican Administration will encourage the peace process now in progress between Egypt and Israel, will seek to broaden it, and will welcome those Arab nations willing to live in peace with Israel. We are encouraged by the support given to the Middle East peace process by Sudan and Oman and the progress brought about by the strong and effective leadership of their governments.

We applaud the vision and courage of Egyptian President Anwar Sadat and we pledge to build our relationship with Egypt in cultural affairs, economic development, and military cooperation.

Republicans recognize that the Carter Administration's vacillations have left friend and foe alike unsure as to United States' policies. While reemphasizing our commitment to Israel, a Republican Administration will pursue close ties and friendship with moderate Arab states. We will initiate the economic and military framework for assuring long-term stability in the internal development of regional states and an orderly marketplace for the area's resources. We will make clear that any reimposition of an oil embargo would be viewed as a hostile act. We will oppose discriminatory practices, including boycotts, and we will discourage arms sales which contribute to regional instability.

Republicans believe that Jerusalem should remain an undivided city with continued free and unimpeded access to all holy places by people of all faiths.

The Americas

Latin America is an area of primary interest for the United States. Yet, the Carter Administration's policies have encouraged a precipitous decline in United States relations with virtually every country in the region. The nations of South and Central America have been battered by the Carter Administration's economic and diplomatic sanctions linked to its undifferentiated charges of human rights violations.

In the Caribbean and Central America, the Carter Administration stands by while Castro's totalitarian Cuba, financed, directed, and supplied by the Soviet Union, aggressively trains, arms, and supports forces of warfare and revolution throughout the Western hemisphere. Yet the Carter Administration has steadily denied these threats and in many cases has actively worked to undermine governments and parties opposed to the expansion of Soviet power. This must end.

We deplore the Marxist Sandinista takeover of Nicaragua and the Marxist attempts to destabilize El Salvador, Guatemala, and Honduras. We do not support United States assistance to any Marxist government in this hemisphere and we oppose the Carter Administration aid program for the government of Nicaragua. However, we will support the efforts of the Nicaraguan people to establish a free and independent government.

Republicans deplore the dangerous and incomprehensible Carter Administration policies toward Cuba. The Administration has done nothing about the Soviet combat brigade stationed there, or about the transfer of new Soviet offensive weapons to Cuba in the form of modern MIG aircraft and submarines. It has done nothing about the Soviet pilots flying air defense missions in Cuba or about the extensive improvements to Soviet military bases, particularly the submarine facilities in Cienfuegos, and the expanded Soviet intelligence facilities near Havana.

Republicans recognize the importance of our relations within this hemisphere and pledge a strong new United States policy in the Americas. We will stand firm with countries seeking to develop their societies while combating the subversion and violence exported by Cuba and Moscow. We will return to the fundamental principle of treating a friend as a friend and self-proclaimed enemies as enemies, without apology. We will make it clear to the Soviet Union and Cuba that their subversion and their build-up of offensive military forces is unacceptable.

Republicans recognize the special importance of Puerto Rico and the United States Virgin Islands in the defense of freedom in the Caribbean. We believe that Puerto Rico's admission to the Union would demonstrate our common purpose in the face of growing Soviet and Cuban pressure in that area.

Republicans recognize the fundamental importance of Mexico and restoration of good working relations with that country will be of highest priority. A new Republican Administration will immediately begin high-level, comprehensive negotiations, seeking solutions to common problems on the basis of mutual interest and recognizing that each country has unique contributions to make in resolving practical problems.

Republicans pledge to reestablish close and cooperative relations with the nations of Central and South America and repair the diplomatic damage done by the Carter Administration. We pledge understanding and assistance in the efforts of these nations, and their neighbors, to deal seriously with serious domestic problems.

We pledge to ensure that the Panama Canal remains open, secure, and free of hostile control.

The reservations and understandings to the Panama Canal treaties, including those assuring the United States of primary responsibility of protecting and defending the Canal, are an integral part of those treaties and we will hold Panama to strict interpretation of the language of the treaties, clearly established by the legislative history of Senate adoption of amendments, reservations, and understandings at the time of Senate approval of the treaties.

We would remind the American taxpayers that President Carter gave repeated assurances that the Panama Canal treaties would not cost the American taxpayers "one thin dime," and we emphasize the fact that implementing the Panama Canal treaties will cost them $4.2 billion.

We will work closely with Canada as our most important trading partner in the hemisphere. We will foster the deep affinity that exists between our two nations and our policies will be based on mutual understanding and complete equality.

We will seek a North America Accord designed to foster close cooperation and mutual benefit between the United States, Canada, and Mexico.

A new Republican Administration will, in close cooperation with its neighbors, seek to work together to build prosperity and to strengthen common efforts to combat externally produced revolution and violence.

Asia and the Pacific

The United States is and must remain a Pacific power. It is our vital interest to maintain U.S. guaranteed stability in the area. Republicans recognize the dangerous shifts in power that have accelerated under the current Democratic Administration. The balance on the Korean peninsula has shifted dangerously toward the North. Soviet naval forces in Asia and the Pacific have steadily increased and are now at least equal to U.S. naval forces there. Unilateral cancellation by the United States of the mutual defense pact with Taiwan and the abrupt announcement of withdrawal of U.S. ground forces from Korea, have led countries throughout the region to question the value of alliance with the United States.

A new Republican Administration will restore a strong American role in Asia and the Pacific. We will make it clear that any military action which threatens the independence of America's allies and friends will bring a response sufficient to make its cost prohibitive to potential adversaries.

Japan will continue to be a pillar of American policy in Asia. Republicans recognize the mutual interests and special relationships that exist between the two countries in their commitment to democracy and in trade, defense, and cultural matters. A new Republican Administration will work closely with the Japanese government to resolve outstanding trade and energy problems on an equitable basis. We strongly support a substantially increased Japanese national defense effort and reaffirm that our long-range objectives of military security and a balancing of the expanded Soviet military presence in the region are of mutual interest.

Republicans recognize the unique danger presented to our ally, South Korea. We will encourage continued efforts to expand political participation and individual liberties within the country, but will recognize the special problems brought on by subversion and potential aggression from the North. We will maintain American ground and air forces in South Korea, and will not reduce our presence further. Our treaty commitments to South Korea will be restated in unequivocal terms and we will reestablish the process of close consultations between our governments.

We reaffirm our special and historic relationships with the Philippines, Singapore, Malaysia, Indonesia, Thailand, New Zealand, and Australia. Republicans will recognize the long friendship with these countries and will cultivate and strengthen our diplomatic and trade relationships.

We deplore the brutal acts of Communist Vietnam against the people of Cambodia and Laos. We recognize that the suffering of refugees from these ravaged countries represents a major moral challenge to the world and one of the great human tragedies of modern times. A Republican Administration will work actively to bring relief to these suffering people, especially those who have sought refuge in Thailand. We value the special contribution the people of Thailand have made to the refugees by opening their borders and saving hundreds of thousands of them from death, and we pledge to provide full economic aid and military material to assist Thailand in repelling Vietnamese aggression.

We believe that no expanded relations with Communist Vietnam should be pursued while it continues its course of brutal expansionism and genocide. We pledge that a Republican Administration will press for full accounting of Americans still listed as missing in action.

Recognizing the growing importance of the People's Republic of China in world affairs, Republicans—who took the historic initiative in opening the lines of communication with that nation—will continue the process of building a working relationship with the PRC. Growing contacts between the United States and the People's Republic of China reflect the interests of both nations, as well as some common perceptions of recent changes in the global military balance. We will not ignore the profound differences in our respective philosophies, governmental institutions, policies, and concepts of individual liberty.

We will strive for the creation of conditions that will foster the peaceful elaboration of our relationship with the People's Republic of China. We will exercise due caution and prudence with respect to our own vital interests, especially in the field of expanding trade, including the transfer of sophisticated technology with potential offensive military applications. The relationship between the two countries must be based on mutual respect and reciprocity, with due regard for the need to maintain peace and stability in Asia.

At the same time, we deplore the Carter Administration's treatment of Taiwan, our long-time ally and friend. We pledge that our concern for the safety and security of the 17 million people of Taiwan will be constant. We would regard any attempt to alter Taiwan's status by force as a threat to peace in the region. We declare that the Republican Administration, in strengthening relations with Taiwan, will create conditions leading to the expansion of trade, and will give priority consideration to Taiwan's defense requirements.

Africa

The Republican Party supports the principle and process of self-determination in Africa. We reaffirm our commitment to this principle and pledge our strong opposition to the effort of the Soviet Union and its militant allies to subvert this process. Soviet bases, tens of thousands of Cuban troops, and Soviet-bloc subversion are unacceptable.

We recognize that much is at stake in Africa and that the United States and the industrial West have vital interests there—economically, strategically, and politically. Working closely with our allies, a Republican Administration will seek to assist the countries of Africa with our presence, our markets, our know-how, and our investment. We will work to create a climate of economic and political development and confidence. We will encourage and assist business to play a major role in support of regional industrial development programs, mineral complexes, and agricultural self-sufficiency.

Republicans believe that African nations, if given a choice, will reject the Marxist, totalitarian model being forcibly imposed by the Soviet Union and its surrogates including Cuban and Nicaraguan troops as well as East German secret police. We believe that they know the Communist powers have relatively little to offer them and that, for the most part, the African peoples are convinced that the West is central to world stability and economic growth on which their own fortunes ultimately depend.

A Republican Administration will adhere to policies that reflect the complex origins of African conflicts, demonstrate that we know what U.S. interests are, and back those interests in meaningful ways. We will recognize the important role of economic and military assistance programs and will devote major resources to assisting African development and stability when such aid is given on a bilateral basis and contributes directly to American interests on the continent.

In Southern Africa, American policies must be guided by commonsense and by our own humanitarian principles. Republicans believe that our history has meaning for Africa in demonstrating that a multiracial society with guarantees of individual rights is possible and can work. We must remain open and helpful to all parties, whether in the new Zimbabwe, in Namibia, or in the Republic of South Africa. A Republican Administration will not endorse situations or constitutions, in whatever society, which are racist in purpose or in effect. It will not expect miracles, but will press for genuine progress in achieving goals consistent with American ideals.

Foreign assistance and regional security

The United States has included foreign assistance and regional security as a major element of its foreign policy for four decades. Properly administered and focused, foreign assistance can be an effective means of promoting United States foreign policy objectives, and serve to enhance American security by assisting friendly nations to become stronger and more capable of defending themselves and their regions against foreign subversion and attack.

The threat posed to individual Third World nations is beyond the means of any one of them to counter alone. A Republican Administration will seek to strengthen and assist regional security arrangements among nations prepared to assume the burden of their defense.

No longer should American foreign assistance programs seek to force acceptance of American governmental forms. The principal consideration should be whether or not extending assistance to a nation or group of nations will advance America's interests and objectives. The single-minded attempt to force acceptance of U.S. values and standards of democracy has undermined several friendly nations, and has made possible the advance of Soviet interests in Asia, the Middle East, Africa, and in the Western Hemisphere in the past four years.

American foreign economic assistance is not a charitable venture; charity is most effectively carried out by private entities. Only by private economic development by the people of the nations involved has poverty ever been overcome. U.S. foreign economic assistance should have a catalytic effect on indigenous economic development, and should only be extended when it is consistent with America's foreign policy interest. America's foreign assistance programs should be a vehicle for exporting the American idea.

A Republican Administration will emphasize bilateral assistance programs whenever possible. Bilateral programs provide the best assurance that aid programs will be fully accountable to the American taxpayer, and wholly consistent with our foreign policy interests.

The effort of the Carter Administration to diminish the role of American military assistance and foreign military sales in our foreign policy has had several negative effects:

It has resulted in the export of many thousands of American jobs as the Soviet Union, Britain, and France have taken sales prohibited to American manufacturers;

It has reduced the ability of friendly nations to defend their independence against Soviet-sponsored subversion, resulting in several cases in abject takeovers by overtly pro-Soviet regimes; and

It has weakened the fabric of the U.S. alliance structure by making the U.S. appear to be an unreliable ally, a trend which can only lead to the undesirable attempt by nations fearful of their security to seek to acquire their own nuclear weapons.

Decisions to provide military assistance should be made on the basis of U.S. foreign policy objectives. Such assistance to any nation need not imply complete approval of a regime's domestic policy. Republicans pledge to strengthen America's presence abroad by well-constructed programs of military assistance to promote national and regional security.

The manipulation of foreign arms sales has been one of the most seriously abused policy initiatives of the Carter Administration. The establishment of arbitrary ceilings on foreign sales, and the complex procedural and policy guidelines governing such sales have impeded the support of U.S. foreign policy objectives abroad. Friendly and allied nations alike have had to turn elsewhere for arms. This has stimulated the growth of a new arms industry in developing nations. Republicans pledge to reform and rebuild U.S. military assistance and foreign arms sales policies so that they will serve American interests in promoting regional security arrangements and the individual defense needs of friendly nations.

INTERNATIONAL ECONOMIC POLICY

International trade and economic policy

The American economy has an abundance of human and material resources, but nevertheless, it is part of a larger global economy. Our domestic prosperity and international competitiveness depend upon our participation in the international economy. Moreover, our security interests are in part determined by international economic factors. Yet the Carter Administration has largely ignored the role of international economics in relations between the United States and friendly nations throughout the world. The Administration has conducted its international economic policy at cross-purposes with other dimensions of its foreign policy, resulting in strains within the Western alliance and a general decline in the domestic prosperity. Under a Republican Administration, our international economic policy will be harmonized with our foreign and defense policies to leave no doubt as to the strategy and purpose of American policy.

The economic policy of the Carter Administration has led to the most serious decline in the value of the dollar in history. The ability of Americans to purchase goods and services or to invest abroad has been diminished by Carter Administration policies devaluing the dollar. Republicans will conduct international economic policy in a manner that will stabilize the value of the dollar at home and abroad.

The Republican Party believes the United States must adopt an aggressive export policy. For too long, our trade policy has been geared toward helping our foreign trading partners. Now, we have to put the United States back on the world export map. We helped pull other countries out of the post-World War II economic chaos; it is time to remedy our own crisis. Trade, especially exporting, must be high on our list of national priorities. The Republicans will put it there and will promote trade to ensure the long-term health of the U.S. economy.

Exports can play a key role in strengthening the U.S. economy, creating jobs and improving our standard of living. A $15 billion increase in exports can increase employment by 1,000,000, the Gross National Product by $37 billion per year, and private investment by $4 billion per year. Nevertheless, the Carter Administration has placed exporting at the bottom of its priority list. The present Administration's trade policies lack coordination, cohesiveness, and true commitment to improving our export performance. Rather than helping to create strong exporters in the United States and thereby create more jobs for Americans, the Carter Administration's trade policies have discouraged traders. At best, the Administration has adopted a passive approach to trade, merely reacting to changing world economies, rather than actively seeking to promote a global structure that best addresses America's needs. As a result, we lag seriously behind our foreign competitors in trade performance and economic strength. Export promotion will be a central objective of international economic policy in a Republican Administration.

A Republican Administration will emphasize a policy of free trade, but will expect our trading partners to do so as well. The failure of the Carter Administration energetically to pursue negotiations designed to improve the access of American exports to foreign markets has contributed, in part, to protectionist sentiment.

Domestic problems—over-burdensome government regulations, excessive taxation, inflationary monetary policy, and an unstable economy—have contributed to the protectionist sentiments as well. We realize that protectionist legislation has engendered retaliation by America's trading partners in the past resulting in "beggar thy neighbor" policies that had such disastrous consequences in the 1930s.

Republicans are committed to protect American jobs and American workers first and foremost. The Republican Party believes in free trade, and we will insist that our trade policy be based on the principles of reciprocity and equity. We oppose subsidies, tariff and non-tariff barriers that unfairly restrict access of American products to foreign markets. We will not stand idly by as the jobs of millions of Americans in domestic industries, such as automobiles, textiles, steel, and electronics are jeopardized and lost. We pledge to strengthen trade agreements and to change the Carter economic policies that have undermined the capability of American agriculture and industry to compete abroad.

Republicans believe that this nation's international trade balance can be improved through the elimination of disincentives for exporters. Statutory and regulatory requirements that inhibit exports should be reviewed and, where practical, eliminated. We further recognize that government can play a role in promoting international trade by establishing incentives for exports, especially those for small and medium size business. We pledge also to work with our trading partners to eliminate subsidies to exports and dumping.

The ability of the United States to compete in foreign markets is hampered by the excessive taxation of Americans working abroad who contribute to our domestic well-being by promoting international trade. Increased exports to our trading partners result in jobs and a rising standard of living at home. Carter Administration policy has the effect of discouraging the presence of American businessmen abroad due to the unfairly high level of taxation levied against them. A Republican Administration will support legislation designed to eliminate this inequity so that American citizens can fully participate in international commerce without fear of discriminatory taxation.

Our nation must have a strong, competitive, and efficient merchant marine to meet the needs of our international commerce and our national security. We must arrest the significant decline of recent years in the ability of American-flag shipping to compete effectively for the carriage of world commerce. A Republican Administration will revitalize our merchant marine through a responsive and sustained policy. We will encourage the development and maintenance of an American-flag ocean transportation system, staffed with trained American personnel and capable of carrying a substantial portion of our international trade in a competitive and efficient manner. We will promote the development and support of a domestic shipbuilding and ship-repair mobilization base adequate to both the commercial and the national security requirements of the United States.

The security of energy and raw materials access

The security of America's foreign sources of energy and raw material supply can no longer be ignored. The United States imports 50 percent of it domestic petroleum requirements, and depends upon foreign sources for 22 of the 74 non-fuel raw materials essential to a modern industrial economy. Nine of the most critical raw materials are almost entirely (i.e., more than 90 percent) located abroad. In contrast, the Soviet Union imports only two critical minerals at a level in excess of 50 percent of domestic consumption.

Reducing reliance on uncertain foreign sources and assuring access to foreign energy and raw materials require the harmonization of economic policy with our defense and foreign policy. Domestic economic and regulatory policy must be adjusted to remove impediments to greater development of our own energy and raw materials resources. Democratic policies for federal land management, taxation, monetary policy, and economic regulation have served to increase America's dependence on foreign sources of energy and raw materials. Republicans pledge to work to eliminate domestic disincentives to the exploitation of these resources.

Multilateral negotiations have thus far insufficiently focused attention on U.S. long-term security requirements. A pertinent example of this phenomenon is the Law of the Sea Conference, where negotiations have served to inhibit U.S. exploration of the seabed for its abundant mineral resources. Too much concern has been lavished on nations unable to carry out sea-bed mining, with insufficient attention paid to gaining early American access to it. A Republican Administration will conduct multilateral negotiations in a manner that reflects America's abilities and long-term interest in access to raw material and energy resources.

Resource access will assume an important place in defense and economic planning under a Republican Administration. Since America's allies are, in most cases, more dependent than the U.S. on foreign sources of energy and raw materials. they too have a vital interest in the defense of their access to these critical resources. Republicans pledge to promote allied defense cooperation to assure protection from military threats to overseas resources.

Mr. BAKER. Mr. President, there are three special orders for this morning, are there not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. And those special orders, as I recall, are for the Senator from Tennessee, the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER).

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, in recognition of the fact that the distinguished Senator from Texas (Mr. TOWER) is in the Chamber, that he was chairman of the platform committee, and that he has one of the special orders, I ask unanimous consent that all the time under the special orders be aggregated and assigned to him for control, for the remainder of the time allotted.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE REPUBLICAN PLATFORM

Mr. TOWER. Mr. President, I express my thanks to my distinguished leader, Senator BAKER, for his very kind words about my work in connection with the platform committee. I must say, however, that credit goes to a number of people who were determined to work in a spirit of harmony to reach not only for tional consensus on a number of vital issues that confront the American people in the election campaign this year.

I believe that we were successful in trying to achieve that objective, and our platform does address itself to a number of vital concerns of the American people.

We recognize that, on some matters of moral or philosophic conviction or constitutional concept, there may be some differences and some disagreements among Republicans; but the gratifying thing is that we were able to achieve consensus on vital economic, governmental, foreign policy and national defense issues.

I believe that the platform that has been included in the RECORD is a very progressive platform. It is in no way strident or partisan in terms of its treatment of vital issues. I commend it not only to my colleagues on both sides of the aisle but also to the American people.

It sometimes has been said that platforms have little value, that nobody reads them. I fervently hope that will not be the case this year. I hope that the platforms of both major political parties will be published and widely distributed throughout the country. I believe that this should be an issue-oriented election and that it is incumbent upon the voters to inform themselves, to the extent possible, on vital issues. I know that the Republican platform was formulated with the hope that it would be read and that people would concentrate and focus on issues and make the right decision at the polling places this fall.

Mr. President, a number of my colleagues wish to speak with respect to the platform. While awaiting their arrival in the Chamber, before I conclude my remarks, I suggest the absence of a quorum, on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, one of the distinguished members of the platform and the chairman of its subcommittee on agriculture was Senator DOLE, who had considerable hand in the writing of agricultural platform.

Considering the fact that agriculture accounts for a vital part of our export trade and prevents us from having an absolutely disastrous imbalance of trade, considering the fact that the American people spend a lower percentage of their disposable income on food than any other people in the world, I believe it is appropriate that we recognize him at this point to discuss the manner in which our platform deals with various aspects of the economy.

I yield to the distinguished Senator from Kansas (Mr. DOLE) such time as he may require.

REPUBLICAN PLATFORM

Mr. DOLE. Mr. President, I thank the distinguished Senator from Texas, and again I congratulate him on his efforts at our convention in helping make certain that the Republican Party fulfills its responsibility, as any party should, in giving the American people an opportunity to know, through our platform, our party's positions on the issues. Perhaps not everyone in our party was in total agreement, but there was general agreement.

Much of the platform we are discussing this morning was shaped and formed by the distinguished Senator from Texas (Mr. TOWER), and other members and officers of the platform committee.

The Republican platform that emerged from Detroit reaffirms the commitment of the Republican Party to all Americans: women as well as men, blacks and Hispanics as well as whites, the handicapped, the young, the old, and the poor. It is consistent with the concerns that I have heard expressed by citizens all over the country. Mr. President, Americans are concerned about the decline of their country. They object to the pernicious effects on their lives of excessive Government spending and burdensome overtaxation. The Republican platform addresses and responds to these concerns.

AGRICULTURE

This Senator had the pleasure of serving as a member of the platform committee of the Republican National Convention and as chairman of the agriculture subcommittee of the platform committee, as the Senator from Texas has indicated. State Representative Alice

Olson of North Dakota served as cochairman of the subcommittee on agriculture.

Agriculture is very important to this Nation. As one farmer told me, "If you eat, you're involved in agriculture." Farmers are the backbone of the Nation and represent those values of honesty, hard work, independence, neighborly concern, productivity, and cooperation that have helped make America great.

Our agricultural platform subcommittee met during a time when a severe crisis exists in agriculture. We were fully aware of the frustration, anger, and fear that exists in the hearts of many farmers because of the economic disaster facing them.

We stated in our platform—

> Four years of the Carter administration and 25 consecutive years of a Congress controlled by Democrats have brought farmers and ranchers to the brink of disaster and the hardest times they have known since the great depression.

The root of the problem was very obvious to us as we stated:

> The Democratic Party and the Carter administration have abused their authority and failed in their responsibility to provide sound agricultural policies. Republicans pledge to make life in rural America prosperous again.

I do not suggest for a moment that either party—Republican or Democratic—has all the wisdom. But I do suggest that in our deliberations and in our consideration of what was good for agriculture, what was good for the American consumer, we spoke from experience. We had Republicans from 13 States serving on our subcommittee. So it was a broad-based committee: The South, the Mid-West, the Southwest, and the Northwest were all represented.

This committee was not dominated by Members of Congress; in fact, besides myself, there was only one other Member of Congress serving on this committee. We found that those who served on the committee were wives and active farmers and others who reflect the views of farmers in their States and consumers in their States. But above all, we found that all of us felt the same about the agriculture policies of the Carter administration and their harmful effects on agriculture.

PROFIT

We pledged in the platform to bring profit back to agriculture. Profits for agriculture have been few and far between the past few years. We pledged to—

> Increase net farm income by supporting and refining programs to bring profitable farm prices with the goal of surpassing parity levels in a market-oriented agricultural economy.

Profitability will be the key to agriculture programs under the new Republican administration. Profits are necessary for a healthy agriculture. A healthy agriculture is necessary for a healthy America.

One way profit can be brought back to agriculture is to "control inflation by adopting sound fiscal and monetary policies and by eliminating excessive and unnecessary Federal regulations."

EXPAND EXPORT MARKETS

Republican administrations have worked to expand export markets. Farmers need access to all markets in all corners of the world. The farmer's contribution to the U.S. trade balance makes it especially fitting that an aggressive market development program, to establish dependable new markets for farm exports, be a vital part of our policies to restore profitability to American agriculture.

In our platform, Republicans pledged that:

First. International trade will be conducted on the basis of fair and effective competition and that all imported agricultural products meet the same standards of quality that are required of American producers, and

Second. An aggressive agricultural market development program and the streamlining of the export marketing system will be given top national priority.

GRAIN EMBARGO

The agriculture committee felt strongly that Governor Reagan had taken the right course of action in opposing the Carter grain embargo. The platform said:

> We believe that agricultural embargoes are only symbolic and are ineffective tools of foreign policy. We oppose singling out American farmers to bear the brunt of Carter's ill-conceived, ineffective, and improperly implemented grain embargo. The Carter grain embargo should be terminated immediately.

We are proud that our candidate for President, Governor Reagan, has taken the leadership in recognizing the folly of this action by President Carter.

MAKE AMERICA GREAT AGAIN

We closed the agriculture platform by pledging all Republicans to, "work with farmers, ranchers, and our friends and neighbors to make America great again."

I believe that under the leadership of the Reagan administration this can be accomplished. I have talked to Governor Reagan about the crisis in agriculture. He has assured me of his interest and that his administration will give top priority to dealing with the crisis.

Farmers do not have short memories. They will not forget the past 3½ years. I believe we will find most farmers supporting the Republican Party in November and joining the Reagan-Bush team.

Farmers can look forward to better times when Governor Reagan is President. He believes in the free market agricultural system and in profit for agriculture. Governor Reagan supports the agriculture platform adopted in Detroit and will see that it is implemented by a strong Secretary of Agriculture; a Secretary that will support and stand up for farmers, and who will create a strong Department of Agriculture.

I believe we have a strong agriculture platform—one that Governor Reagan can run on and win on.

INFLATION

Mr. President, Republicans and most Americans believe that inflation is still the No. 1 domestic problem facing this country. However, we reject the notion that we should fight inflation with unemployment. Over 8 million of our citizens are out of work. This is intolerable. Only a healthy, growing, producing economy can stop inflation. Such an economy is also the best prescription for unemployment.

At the same time that we build up the private sector, we must reduce Government spending. The Federal Government is now spending over 22.5 percent of our gross national product. The fiscal year 1980 budget contains the largest spending increase in our history and, if we include off-budget spending, the largest deficit ever. We spent over $61 billion more than we took in in 1980 and I believe the 1981 figures will be in the fifties by next summer. The Republicans recognize that this trend must be reversed and we pledge to do something about it.

TAX REDUCTIONS

Our platform is concerned with tax reductions for both individuals and businesses. An excessive tax burden, aggravated by double-digit inflation, has been a primary concern of Republicans, year in and year out—and not just in election years. The centerpiece of the Republican platform on tax policy is a commitment to a 10-percent reduction for individuals, combined with accelerated depreciation for business plants and equipment, beginning January 1, 1981. We also reaffirm our commitment to indexing the individual income tax system.

The Republican tax cut proposal has been the focus of much attention in hearings in both the House and Senate these past 2 weeks. Many of the witnesses—including distinguished economists and leaders of business and Government—have stressed that a tax reduction would be less inflationary over the next few years than adhering to the status quo of tax rates that destroy personal and business incentive.

The public must understand that Republicans will not push for a one-shot tax reduction that will rekindle inflation. Our platform stresses the urgent need for a tax rate reduction so that workers of all income levels will be rewarded for their extra effort. The platform further recognizes the need to rebuild our industrial base and modernize plants and equipment. To do that, we advocate a system of accelerated depreciation, which will both offset the distortions of inflation and give businessmen extra incentive to make new investment.

Together, these major revisions in our tax structure will put us on the path to higher productivity, stable growth, more jobs and less inflation. Those goals are not easy to achieve, but the Republican platform on taxes will help unleash the productive forces of the American economy that can bring them about. To do nothing—while our economy lies in the vise-grip of inflation and unemployment—is irresponsible.

ENERGY SELF-SUFFICIENCY

The Republican platform also contains a detailed plan for a sensible program for energy self-sufficiency which warrants careful study by all Americans.

This Senator has long advocated many of the free-market solutions and limited Government incentives set forth in the energy plank. Republicans in both Houses are proud to have already authored and supported a number of pieces of legislation designed to carry out many of the platform's energy proposals. We strongly support a commitment to filling the strategic petroleum reserve. This is a key element of the Republican effort to protect against the shutoff of OPEC oil supplies. We support numerous measures to provide tax credits for the development of alternate sources. The alcohol fuels amendment to the windfall profit tax bill which received the support of all Republicans, provided a broad range of tax incentives and regulatory reforms to encourage the development of a domestic gasohol industry, another key part of the Republican energy plan.

During the consideration of the so-called windfall profit tax, I warned against the imposition of the tax on small royalty owners and a number of price-sensitive categories of oil such as newly discovered oil, stripper oil, tertiary recovery oil, and heavy oil. I am proud that my party's platform would eliminate the hardship that this tax imposes on small royalty owners and the self-defeating economic distortion that it brings to bear on the price-sensitive categories of oil. Already the Senate has acted to reopen the windfall tax to address some of these concerns. This Senator hopes that process will continue, as the Republican platform suggests.

DECENTRALIZING WELFARE

I am also pleased with the statements on welfare policy which point out the urgent need to decentralize our welfare programs. I have long supported the return of responsibility for public assistance decisions to a level of government which is closer and more responsive to the needs of the poor. I feel certain State and local governments will do a more efficient and effective job of running welfare programs than the Federal Government, thereby protecting both the taxpayers and the recipients. For that reason, I authored the block grant legislation which will give the States more flexibility to run family welfare programs. This bill will also allow the States to require work as a condition of eligibility for welfare, which in turn will help people to be responsible for themselves rather than make them more dependent on government. The platform endorses this concept in this bill.

Mr. President, in addition to the major issues of agriculture and economics, I want to mention two other issues of particular interest to me. I was pleased that the Republican Platform Committee adopted my amendments addressing Hispanic Americans and the handicapped.

HISPANIC AMERICANS

The Republican platform committee adopted an amendment I offered which addresses one of the most rapidly increasing minority groups in this country, the Hispanic American.

The Hispanic American has long contributed to the cultural, social, and economic achievements and developments of this great country.

As the 1980 Republican platform states:

> Hispanics seek only the full rights of citizenship—in education, in law enforcement in housing—and an equal opportunity to achieve economic security. Unfortunately, those desires have not always been fulfilled: as in so many other areas, the Carter administration has been long on rhetoric and short on action in its approach to the Hispanic community.

BILINGUAL EDUCATION

Mr. President, I would like to speak briefly about one of the major concerns of the Hispanic community, that is, the concept of bilingual education. Bilingual education has been a learning process for all of us during the last 15 or 20 years—and we are now at the stage of recognizing that our efforts of the past were aimed at the tip of the iceberg—and we will soon have to attack the iceberg itself.

Mr. President, I know that we still have not convinced the majority of Americans of the value of bilingualism or the multicultural society. But, I know, too, that more and more Americans every day understand that in a world which is multicultural and multilingual, our Nation is strengthened and enriched every time we expand our own multicultural traditions. We can no longer afford to waste the talents and the cultural heritage of our varied ethnic groups.

We have a long way to go before we reach the kind of understanding and appreciation about the "other language" child in America.

Bilingual education is making a difference—it is opening minds, opening doors of opportunity, and broadening the understanding of people in many places.

I know that we have not solved all the problems—but we are beginning to understand the problems. To this end I am proud to have been a part of the development of national policy to create this kind of change in bilingual education in America.

Mr. President, the 1980 Republican Party platform plank on the handicapped continues to express the firm commitment of the national party to equal rights for this special segment of our population. During the last decade, we have witnessed remarkable progress in the movement to maintsream our Nation's disabled citizens. They have come far in being able to have access to transportation, communication, education and employment—but there is still work to be done.

REMOVAL OF BARRIERS

We have been pursuing the avenues of tax incentives to help in the removal of architectural and transportation barriers. There may be ways to strengthen the initiatives that we have already taken, and we should continue to look for new ways to make the path of handicapped individuals relatively barrier-free.

Once architectural and transportation barriers, as well as communication barriers, have been overcome to the greatest extent possible, equal access to community life, education, and employment will follow as a matter of course. Hopefully, along the way people will realize that handicapped individuals are capable of contributing their talents to society and the employment force, and make room for them to enter as full fledged citizens with the rights to enjoy everything that able-bodied people take for granted.

Local communities have dealt with the porblems of the handicapped far more effectively and creatively, in some instances, than can readily be imagined, and it is time that we recognized possible alternatives in accomplishing the goal of accessible transportation services. The new provisions of section 504 of the Rehabilitation Act of 1973 enable communities of varying populations and needs to develop their own services to suit their individual needs, while still protecting the disabled in large metropolitan areas by requiring full implementation of accessible mass transit systems.

ROOM FOR FUTURE ACHIEVEMENT

Mr. President, as with almost every area of human accomplishment, there are always ways to improve what has already been done. The Republican Party looks forward to the International Year of Disabled Persons in 1981, with a determination to explore ways that we might further aid handicapped individuals in their transition from isolation to the mainstream of society. We shall continue to search for new avenues to implement change that will enable them to become full members of our society.

Mr. President, these are just some of the areas of this platform that deserve mention. I am proud of my involvement in writing the sections on blacks, Hispanics, and handicapped Americans. I am proud of the energy, economic and tax planks, and, of course, I am proud of the agriculture section. More than anything else, Mr. President, I am proud of the spirit of rebirth and optimism that runs through this document. Republicans understand that together we can make America great again and we are anxious to begin the process.

Finally, Mr. President, I would like to commend the fine work of Senator TOWER, the chairman of the platform committee, as well as Chairman Brock and all those who worked on the platform. I strongly commend this document to all of my colleagues.

Mr. TOWER. Mr. President, I thank the distinguished Senator from Kansas for his contribution.

Another Member of this body who served with distinction on the Republican platform committee was the distinguished Senator from Wyoming (Mr. WALLOP) who served as a member of the energy subcommittee and made some very constructive contributions to our platform.

I yield to him such time as he may require.

THE REPUBLICANS AND ENERGY

Mr. WALLOP. Mr. President, I certainly thank the Senator from Texas and echo the statement not only of my colleagues but all of the members of the platform committee who gathered in Detroit for a week of hard work before the convention. Senator TOWER did an extraordinarily good job of keeping a difficult situation on course and on track.

Also, I mention in passing folks with whom I worked, both Congressmen

TRENT LOTT, who was Senator TOWER's chief assistant from the House of Representatives, and Congressman DAVE STOCKMAN who was the chairman of our energy platform plank committee subcommittee and Senator MCCLURE who served on that with me.

Mr. President, the pleasure of serving with capable men and women throughout our great Nation on a subcommittee on energy was an intense one for me and one that came as something as a surprise as I had left Wyoming with the idea in mind that I would not particularly enjoy extra work in Detroit wrangling over issues and found to my surprise and delight that I did.

The result of the intense days and nights of discussion is an energy plank that is viable, timely, and above all optimistic, as the plank that Senator DOLE was talking about in agriculture, and one that I am personally proud to have been a part of.

It is not, and I repeat "not," a plank of Federal gasoline allocations, punitive energy taxes, or complicated price controls. Instead, it is a plank that challenges the creative ingenuity and commonsense attributes of Americans instead of preaching defeatism and acquiescence to them. It is a plank of the future instead of an epitaph to the past. It is a plank for all America.

For the last 4 years, energy policy in the United States has been based on incorrect assumptions about people, about the physical world, and about economics. The Republican Party proposes a new set of assumptions on which to build an energy policy adequate to the needs of a free and strong nation.

The first incorrect assumption in our past has been that people are unable and unwilling to make proper choices about energy use. Occasionally the people are blamed for being uninformed; occasionally they are accused of being stupid and acting against their own interests. In fact, people in our party and in Detroit contend that people know far more about energy and its effects on their daily lives than do bureaucrats, and if people do not act as bureaucrats would have them, that is because their interests are different from those of bureaucrats.

The second incorrect assumption has been that energy, particularly in this country, is scarce, that its exhaustion is imminent. In fact, the Republican Party contends, the supply of energy will continue to be adequate to the demand, if political interference is minimized. "Scarcity" as talked about in the popular press, is not an economic concept, but a political one. It means that something costs more than a politician thinks it should. Republicans are willing to rely on technology and human ingenuity to supply adequate energy, and to provide sensible incentives to creative conservation.

The third incorrect assumption has been that Government can manage the allocation of "scarce" energy better than markets can. The abject failure of every attempt has not discouraged those who hold this assumption. But the Republican Party rejects it out of hand. We hold that market forces will produce a fairer, more equitable allocation of increasingly expensive energy, and will produce alternatives—including conservation—much more quickly and much more cheaply than will Government planners.

It is often contended that Government must step in where "there is no free market in energy because of the OPEC cartel."

In fact, we believe that Government interference has created the cartel and creates the circumstances which maintain it and which maintains it in power through its restrictions and inhibitions on potential competitors to OPEC. It is in the presence of cartels that markets work best, to allocate scarce supplies and to call forth alternatives. OPEC is not a justification for the Department of Energy, but the best argument against it.

This Republican platform includes these three assumptions in its energy plank:

First, people are informed about energy and able to make rational choices based on what is best for them, not on what some bureaucrat thinks is best for them;

Second, energy remains available in this country, in the form of traditional sources of coal, oil, natural gas, and nuclear fuel, in the form of sources not yet widely used but potential, such as solar energy, hydrogen, biomass, and others yet to be developed, and in the form of energy saved through conservation, which offers the best immediate prospect for reducing demand for foreign energy;

Third, free individuals acting through free markets can best solve our energy problems, using the time-tested principles of competition and individual initiative, without "benefit" of government interference.

I would just like to read one passage of it:

> As a result, the federal bureaucracy is busy from coast to coast allocating gasoline, setting building temperatures, printing rationing coupons, and readying standby plans to ban weekend boating, close factories, and pass out "no drive day" stickers to American motorists—all the time saying, "we must make do with less." Never before in the history of American government has so much been done at such great expense with such dismal results.
>
> Republicans believe this disappointing cycle of shrinking energy prospects and expanding government regulation and meddling is wholly unnecessary. We believe that the proven American values of individual enterprise can solve our energy problems. This optimism stands in stark contrast to the grim predictions of the Democrats who have controlled Congress for the last 25 years.
>
> They seem to believe not only that we are a nation without resources, but also that we have lost our resourcefulness. Republicans believe in the common sense of the American people rather than a complex web of government controls and interventions that threaten America's ability to grow. [We are committed to an alternative strategy of aggressively boosting the nation's energy supplies; stimulating new energy technology and more efficient energy use; restoring maximum feasible choice and freedom in the marketplace for energy consumers and producers alike; and eliminating energy shortages and disruptions, which are a roadblock to renewed national economic growth, rising living standards, and a reawakening of the hopes and dreams of the American people for a better and more abundant future.]

With that I again thank my colleague from Texas for all the guidance he provided us and for the splendid job he did in hammering together a platform which I think almost any party in the country would be pleased to have in its pockets and, unfortunately for our opposition, we have it in ours.

Mr. TOWER. Mr. President, I thank my distinguished friend from Wyoming for his contribution and for his kind remarks about me.

In conclusion, Mr. President, may I note that Republicans in the development of the platform process did something that I think has not been done by political parties before. We held some 10 regional hearings which provided a broad base of testimony and recommendations from all sectors of the country, all elements of our society and our economy. We listened very carefully to what people had to say, and many of the recommendations that they made to us were incorporated in our platform.

Our deliberations in Detroit ran smoothly and finished nearly a day ahead of schedule, which demonstrates the unity not only of thought but unity of purpose of those who were gathered there to formulate and finally recommend to the convention a platform. Even on controversial issues there was every effort made to arrive at agreement and to preserve harmony and again to try to identify areas of consensus.

This platform is a departure from the usual format. It is a thematic approach because it was our belief that public policy issues should be related to people in their capacity as individuals, in their capacity as family members, as residents of their neighborhoods, as functionaries of the workplace, as citizens of a great nation, and citizens concerned with the peace and security and the ultimate freedom of all people of this world. That is the thematic approach that was followed by our platform.

In terms of specific issues, I ask unanimous consent to have printed in the RECORD a bulletized version of the specific positions and recommendations of that platform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPECIFICS

Platform concentrates on issues of most importance to all Americans:

ECONOMY

Across-the-board reductions in personal income tax rates, phased in over 3 years to reduce tax rates from range of 14 to 70 percent to range of 10 to 50 percent (Roth-Kemp).

Indexing to end "tax bracket creep."

Tax incentives to promote saving, investment, productivity, home buying, revitalization of inner cities.

Reduce federal spending and limit to percentage of GNP.

Replace categorical aid programs with block grants or revenue sharing (return power to state and local authorities).

Oppose wage and price controls.

Reduce federal regulation.

DEFENSE

Attain military and technological superiority over Soviets.

Beef up nuclear strength with MX, manned strategic bomber, cruise missiles, ABM (peace through strength).

Correct inequities in pay and benefits for career military personnel.

Strengthen conventional forces; expand airlift capacity.

Improve intelligence capabilities.

Beef up military R&D.

ENERGY

Boost energy supplies by stimulating new energy technology, more efficient energy use, restore freedom of choice in marketplace.

Repeal windfall profits tax as it applies to small royalty owners, strippers, new oil, etc.

Expedite coal conversion.

Decontrol of oil and gas prices at wellhead.

Utilize suitable federal lands for energy development.

JOBS

Reduction of payroll taxes, enactment of youth differential wage.

Pre-employment training, educational instruction, job placement especially for disadvantaged youth.

Insure competitiveness of domestic industries to protect American jobs.

AGRICULTURE

Lift grain embargo.

Increase farm income with goal of surpassing parity levels in a market-oriented agricultural economy.

Expand agriculture markets at home and abroad.

Mr. PERCY subsequently said: Mr. President, I am sorry I could not get to the Chamber sooner.

Having served as chairman of the Republican platform committee in 1960, I am fully appreciative of the problems John Tower had as chairman of that committee. He did an absolutely outstanding job. I supported the platform in its main thrust, the thrust of a strong defense, a credible foreign policy, and economic policy that will rebuild the strength of the American economy.

I disagreed at the convention with certain planks of the platform with respect to the provision on the selection of judges, ERA, and the 55-mile-per-hour speed limit. But I voted for the platform because no one can have any platform exactly as that person would want as an individual. We all have the right to take certain exceptions, but on balance I approve the overall major thrust of this Republican platform.

I congratulate the committee on what it was able to accomplish under the able leadership of Senator Tower. I feel that it is a winning platform that will offer a great deal to increase and enhance the strength of this country in the years ahead.

ECONOMIC POLICY

● Mr. ROTH. The Republican platform commits our party to a policy of economic expansion through tax rate reductions, spending restraint, regulatory reform, and other incentives. The platform pledges to seek full employment without inflation through economic growth.

The platform calls for sweeping change in America's economic policy, and categorically rejects the Carter administration's attempt to reduce inflation by throwing millions of people out of work.

The platform calls for an economic policy based on lower tax rates and a reduced rate of Government spending to encourage savings, investment, productivity, and more jobs. Specifically, the Republican Party pledges to:

Reduce personal income tax rates across the board as proposed in Roth-Kemp bill.

Provide special incentives for savings.

Revitalize our productive capacities by simplifying and accelerating tax depreciation schedules.

Limit Government spending to a fixed and smaller percentage of the GNP.

The platform pledges to insure that workers who have lost their jobs because of the Carter recession will receive unemployment compensation benefits. We also pledge to seek ways to assist workers threatened by foreign competition.

In addition to providing a growth climate for jobs creation, the platform calls for specific and targeted programs to alleviate structural unemployment among minorities and youth. The platform calls for programs which offer pre-employment training, education, instruction, and job placement and retention services. In addition, we call for a reduction in payroll tax rates, and a youth differential for the minimum wage to reduce the costs of employing young people.

For small business, the platform calls for lower business and personal tax rates, an increase in the small business surtax exemption, an easing of the estate tax burden, and an immediate reduction in the regulatory burden.

In other tax areas, the platform addresses the following points:

A reaffirmation of our support for tuition tax credits for elementary, secondary, and postsecondary education;

A halt to the unconstitutional vendetta launched by Mr. Carter's IRS against independent schools;

Our strong opposition to any attempt to tax Social Security benefits;

Our opposition to Mr. Carter's proposal to impose withholding on interest and dividend income;

Deplores marriage tax and calls for equity in the tax treatment of families;

Expanded eligibility for Individual Retirement Accounts;

Opposes any attempts to end the income tax deduction for mortgage interest payments and property taxes;

Calls for new tax incentives to help revitalize inner cities;

Removes tax advantages foreign investors realize on the sales of U.S. farmlands;

Eases excessive estate tax burden on family farms and abolish estate tax spouse must pay on farm property inherited from husband or wife; and

Supports legislation to ease the high level of taxation imposed on Americans working abroad.

The platform specifically says that the tax rate reductions should be complemented by firm limitations on the growth of Federal spending.

The platform pledges to halt excessive Government spending by eliminating waste, fraud, and duplication.

We believe the congressional budget process has failed to control Federal spending. A Republican President and Republican Congress can balance the budget and reduce spending, eliminating the necessity for a constitutional amendment. However, if necessary we will seek to adopt a constitutional amendment to limit Federal spending and balance the budget.

The platform also pledges to control the expansion of Federal credit assistance programs.

The Republican platform states that inflation and its impact on jobs is the greatest domestic threat facing our Nation. For what he has done to the life savings of millions, for what he has done to retirees seeking a secure old age, for what he has done to young families aspiring to a home, an education for their children, and a rising living standard, Mr. Carter must go. He must not have another 4 years in office.

The inflation policies of the Carter administration have been inconsistent, counterproductive, and tragically inept. He has increased spending more than $200 billion, increased taxes more than $250 billion, imposed regulatory burdens and controls, and permitted continuing budget deficits.

The Republican Party believes inflation can be controlled only by fiscal and monetary restraint, combined with reductions in the tax and regulatory disincentives for savings, investments, and productivity.

The platform opposes the imposition of wage and price controls and credit controls, and states that the independence of the Federal Reserve System must be preserved.

Mr. President, in short, the Republican Party platform is a prescription for long-term economic growth. It seeks a fundamental change in economic policy, a policy based on lower tax rates, less Federal spending, and a balanced budget.●

ALASKA'S MINERAL RESOURCES

Mr. STEVENS. Mr. President, the Senate was very fortunate yesterday to hear Senator Harrison Schmitt and Senator James McClure discuss one of the more important issues in the Alaska lands debate. I want to take this opportunity to thank these two Senators for their comments on the role that Alaska's mineral resources can play in insuring our Nation's continued prosperity and security.

The Senator from New Mexico has devoted a great deal of his time and energy to the task of alerting the Senate to the dangerous and growing dependence of the United States on foreign mineral sources. His training and experience as a geologist makes his analysis of our Nation's mineral posture particularly incisive.

Senator McClure of Idaho is one of the Senate's leading authorities on natural resource matters. He has made major contributions to the development of national land and mineral policies. His commitment to dealing with the substance of land use issues such as the Idaho wilderness bill and the Alaska lands bill has become even more important in recent years as emotional rhetoric over land use policy has escalated.

As the two Senators noted yesterday, the extreme environmentalist lobby's approach on the Alaska lands and other land use issues will not lead to the development of a rational Federal policy to deal with our Nation's dependence on foreign mineral suppliers and the economic and national security problems it engenders. Alaska can make major contributions to the U.S. mineral posture without destruction of its environment. Even though the evaluation of Alaska's mineral resources has barely begun, a recent publication of the State of Alaska's division of geological and geophysical surveys confirms that Alaska possesses significant reserves of cobalt, platinum-group metals, tin, asbestos, and many other strategic and critical minerals. The United States currently depends on foreign sources like Zaire and South Africa for 90 percent of its cobalt and platinum needs and for over 80 percent of its tin and asbestos needs.

Mr. President, I have heard some individuals argue that it is possible to close large areas of Alaska to mineral exploration and then reopen them, during a national emergency, for rapid exploration and development. This sort of argument betrays a total misunderstanding of the nature of mineral exploration and development. It is not possible for Congress to implement restrictive and rigid land policies in Alaska now and, at the same time, expect that when the State's resources are urgently needed in the future it will only have to turn the spigot and production will begin. Wise exploration and development requires tremendous leadtime. Crash development schemes will lead to nothing but needless environmental degradation.

We should be planning now for the evaluation and possible development of Alaska's mineral resources. The Energy and Natural Resources Committee Alaska lands bill provides the best set of guidelines presently available on this matter. In my opinion, the closure of vast areas of Alaska without an adequate evaluation of all of their resources, including minerals, is an irresponsible act.

Mr. President, I hope that the other Members of this body will head the well-founded comments of Senator McClure and Senator Schmitt and closely examine the merits of the Alaska lands issue. We have a brief opportunity to develop a rational minerals policy before a crisis begins. I hope we will use that opportunity.

Mr. President, I ask unanimous consent that this article in the State of Alaska's division of geological and geophysical surveys' Mines and Geology Bulletin be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Strategic and Selected Critical Minerals in Alaska Summarized

(By Thomas K. Bundtzen, Gilbert R. Eakins, and John T. Dillon, DGGS mining geologists)

INTRODUCTION

Since the turn of the century, Alaska has added significant amounts of so-called "strategic" and "critical" materials to United States domestic mineral production during the First, Second, Korean, and Vietnam Wars as well as during times of unusual shortages caused by technological change or disruption of critical foreign sources. Alaska's contribution includes tin, tungsten, platinum-group metals, antimony, mercury, chromium, and minor amounts of asbestos (table 1). This paper defines what strategic and critical minerals are, summarizes Alaska's past strategic-minerals contribution and known reserve base, and discusses strategic and critical minerals availability with respect to lands open or closed to mineral entry and development.

STRATEGIC VS CRITICAL

Not all mineral experts agree on the definitions of both "strategic" and "critical minerals," and many view the two terms as synonomous. The best available general definitions have been provided by Thrush (1968):

Strategic minerals are those commodities essential to the national defense for the supply of which, during war, we are wholly or in part dependent upon sources outside the national boundaries of the United States, and for which strict measures controlling conservation and distribution are necessary.

Critical minerals are those essential to the national defense, the procurement of which in war, while difficult, is less serious than those of strategic minerals (because they can either be domestically produced or obtained in more adequate quantities from reliable foreign sources) and for which some conservation measures may be necessary for nondefense uses.

It follows that a "strategic" mineral is one in which a chronic domestic shortage exists. On the other hand, potentially economic reserves of "critical" minerals may be relatively abundant within the United States, but for social, economic, environmental, or political reasons, the country relies heavily on foreign sources of raw ore. Conservation and recycling of mineral materials could help alleviate the minerals supply problem and may reduce our dependence on foreign sources of materials in future years, but the United States has not been able to provide an adequate supply for defense. Also, many mineral uses are "dissipative" and thus industrial consumption must always, to some degree, be supplemented by primary mineral extraction.

The lists for "strategic" and "critical minerals have changed over time. In 1941, "strategic" minerals were aluminum, antimony, chromium, manganese, optical mica, platinum, nickel, mercury, tin, and tungsten. Minerals important to space-age technology such as cobalt, nibium, cesium, and various rare-earth elements have been added to the list since World War II.

The 1975 Conference on Strategic and Critical Minerals held in Farley, Virginia listed 20 "critical" minerals, of which 17 are designated "strategic" according to the definitions of Thrush (1968) adopted here. They are: Optical mica, Niobium, Cesium, Manganese, Tantalum, Cobalt, Bauxite, Platinum-group metals, Asbestos, Chromium, Tin, Fluorine, Nickel, Mercury, Tungsten, Antimony, Selenium.

Fourteen of the 17 are found in varying amounts in Alaska. Also found in the 49th State are significant reserves and resources of seven selected critical minerals—cadmium, zinc, barium, titanium, gold, silver, and gypsum (table 2).

ESTABLISHED RESERVES OF STRATEGIC MINERALS LISTED

Since World War II, private industry and limited federally subsidized exploration have delineated economic or "near"-economic reserves of 10 of the 17 strategic minerals defined here: cobalt, nickel, tin, platinum-group metals, asbestos, mercury, fluorine, tungsten, antimony, and chromite. Of the rest, promising resources of selenium, optical mica, nibium, and tantalum are found in mineralized regions in Alaska; however, commercially viable reserves of bauxite (aluminum), manganese, and cesium are not known to exist anywhere in the state. Estimated reserve bases of strategic and critical minerals are summarized in tables 1 and 2; approximate locations of selected deposits are shown in figure 1.

A 63-million-lb proven reserve of cobalt metal contained within four deposits in the Southeastern Panhandle—Brady Glacier, Yakobi Island, Mirror Harbor, and Funter Bay (52, 53, 54, 57; table 1)—amounts to about 3 years of annual U.S. cobalt consumption. If the inferred reserve—another 55 million lb—is included, the total would amount to 5½ years of present U.S. consumption. The same four deposits contain an estimated 1.12-billion-lb (561,000-ton) proven reserve of nickel, equal to 1.2 years of current U.S. consumption; adding the inferred reserve increase the total amount to about 4 years of present domestic consumption.

Proven and inferred reserves of 938,000 oz of platinum-group metals at Goodnews Bay, Brady Glacier, Yakobi Island, and Salt Chuck (36, 52, 53, 67; table 1) amount to about 6 months at present rates of U.S. consumption. Except for the Stillwater-complex resources in Montana, Alaska has the largest economic reserves of platinum-group metals in the U.S.

The most obvious land-use conflict with respect to strategic minerals in Alaska is found in the nickel-cobalt-copper-platinum group metal deposits of the Southeastern Panhandle. Ninety-eight and one-half percent of the Alaska's cobalt reserves (equivalent to one-sixth of U.S. reserve base), 99.4 percent of Alaska's nickel reserve (equivalent to one-fifth of the U.S. reserve base) and 50 percent of Alaska's platinum-group metal reserve (one-fourth of the nation's known economic platinum reserves) are located either in Glacier Bay National Monument or section 204 withdrawals in the Tongass National Forest (West Chichagof-Kakobi Wilderness proposal). Insufficiently evaluated reserves at Spirit Mountain (45, table 1) and Bornite (11, table 1) are in Wrangell National Monument and on state-selected lands, respectively.

Alaska has 131 million lb (66,500 tons) of proven and inferred reserves of tin in deposits on the western Seward Peninsula, in the Manley-Tofty area, and at the Purkey Pile prospect in the southern Alaska Range (13, 14, 18, 29, table 1), which are the largest known reserves of primary tin in the U.S.; this amounts to about 1 year of current U.S. usage. Most of Alaska's known tin reserves are outside existing national monuments or lands withdrawn from mineral entry, but three promising tin belts—the Chulitna, Sithylemenkat, and the Old Crow-Bear Mountain areas (28, 8, 22, table 1)—lie partly within Denali National Monument, in a small portion of Lake Clark National Monument, in southern additions to the Arctic National Wildlife Refuge, and in part of the proposed Kanuti National Wildlife Refuge.

Inferred reserves of antimony in the Fairbanks and Kantishna districts (21, 26, 27, table 1) amount to about 55,000 tons of metal (contained in low-grade ores) and represent about 14 months of U.S. consumption. Roughly one-third to one-half of Alaska's potential antimony resources are contained in mines in Denali National Monument (Kantishna Hills); the Fairbanks deposits are largely on lands where mineral development is permitted.

TABLE 1.—PRODUCTION AND RESERVE BASE OF SELECTED STRATEGIC MINERALS IN ALASKA[1]

Mineral	1979 U.S. net import reliance (percent)	Major foreign source	Past production	Proven reserve	Inferred reserve	Major Alaskan deposits or districts with past production, reserves, or promising resources[2]	Remarks	Major industrial uses[3]
Columbite (niobium).	100	Brazil, Canada, Thailand, Malaysia.	----------	----------	----------	Bokan Mountain (68), Rapid River (8), Lost River (14), Tofty Tin Belt (18), and Ruby (17) contain potentially recoverable niobium.	----------	MHD generators; energy converters, biological research.

Mineral	1979 U.S. net import reliance (percent)	Major foreign source	Past production	Proven reserve	Inferred reserve	Major Alaskan deposits or districts with past production, reserves, or promising resources[2]	Remarks	Major industrial uses[3]
Optical and sheet mica.	100	India, Brazil, Madagascar.				Promising resources at Sitkan Island (66), Silver Bay (61), and general Seward Peninsula.		Electronics.
Manganese	98	Gabon, Brazil, Australia, South Africa.				Sinuk deposits (15), Nation River area (23), central Alaska Range all contain unevaluated manganese resources.	Not now important	Steel alloys, batteries, chemicals.
Tantalum	96	Thailand, Canada, Brazil, Malaysia.				Tofty Tin Belt (18), Lost River (14), Bokan Mountain (68), Rapid River (8), Ruby placers (17) all contain unevaluated resources.	Tantalum could be recovered at Tofty today.	Electronics, miscellaneous machinery, alloys.
Cobalt	90	Zaire, Zambia		63,600,000 lb	55,703,400 lb	Brady Glacier (52), Yakobi Island (53), Mirror Harbor (54), Funter Bay (57), Spirit Mountain (45), Bornite (11).	18% of U.S. reserve base; potential for reserve-base expansion in Panhandle deposits and at Bornite.	Aerospace, electrical, catalysts, classified military uses.
Chromium	90	South Africa, U.S.S.R., Turkey.	36,849 tons (38–42% Cr_2O_3) 1944–58, 1976).	215,570 tons (23–42% Cr_2O_3).	127,950 tons (12–38% Cr_2O_3).	Red Mountain (38), Claim Point (39), Bernard Mountain (44), Kanuti River (22), De Long Mountains (4), Eklutna (41-42), Union Bay (65).	Potential nationally significant resources statewide; present reserve not important.	Metallurgical industry, construction, refractories, transportation.
Platinum—group metals.	89	South Africa, U.S.S.R.	569,500 oz (dominantly platinum) (1928–76).	760,000 oz	171,895 oz	Goodnews Bay (36), Brady Glacier (52), Salt Chuck (67), Yakobl Is (53), Mirror Harbor (54), zoned mafic-ultramafic rocks in southeast and southwest Alaska, miscellaneous placer camps statewide (as by-product of gold mining).	Past production largest in the United States; 50% of U.S. recoverable reserves found in Alaskan depostits (except for platinum resource of Stillwater complex). Potential for significant reserve-base expansion in Panhandle deposits.	Catalysts, electronics, dental, chemical.
Asbestos	85	Canada, South Africa, Turkey.	3,000 lb tremolite asbestos (1942–44).	Not released	Not released	Doyon's Slate Creek (25), Shungnak (3), Nyac (33), Eastern Alaska Range (47).	Doyon's Slate Creek asbestos deposit one of the largest in the United States.	Fireproof cement,, friction product, gaskets, textiles.
Tin	81	Canada, South Africa, Indonesia, Bolivia.	4,556,157 lb (1905–79).	125,973,000 lb	5,046,000 lb	Western Seward Pen (13, 14), Tofty belt (18), Boulder Creek (Purkey Pile) (29), Rapid River (8), Chulitna belt (28), Sithylemenkat (22).	80% of U.S. reserve base; excellent chance for reserve-base expansion at Lost River (14) General Alaskan tin potential is excellent.	Containers, electronics, construction, solder, bronze.
Fluorine	81	Mexico, South Africa, United Kingdom, Italy, Spain.		4.94 million tons		Lost River (14), Porcupine Lake (7), Groundhog-Glacier Basin (63), Sinuk deposits (15).	25% of U.S. reserve base: excellent chance for reserve-base expansion at Lost River.	Steel industry, hydrofluoric acid.
Nickel	77	Canada, Norway, New Caledonia, Dominican Republic.		1,123 million lb	950,561,500 lb	Brady Glacier (52), Yakobi is (53), Mirror Harbor (54), Funter Bay (57), Spirit Mountain (45).	20% of U.S. reserve base (one of the largest nickel-sulfide reserves in United States).	Electroplating, batteries, stainless steel.
Mercury	62	Algeria, Spain Italy, Canada.	2,300,000 lb (1942–74).	Unknown	1,500,000 lb	Red Devil (32), Cinnabar Creek (34) White Mountain, De Coursey Mountain (31), numerous other prospects in southwest Alaska.	During 1950's Alaskan miners contributed 10% of U.S. production; reserves difficult to block out in mercury deposits. Alaskan production could resume with high prices.	Scientific control instruments, batteries, chloro-alkali industry, medicine.
Tungsten	59	Canada, Republic of Korea, Bolivia.	276,000 lb WO_3 (1916–58, 1977–79).	19,345,560 lb WO_3	34,008,000 lb WO_3	Lost River (14), Gilmore Dome (21), Hyder (64), Big Hurrah (16), Chichagof (55), Majorie Glacier (50), Kanuti River, Upper Hodzana (22), Golden Horn (30), miscellaneous placer districts (by-product), Charley River-Circle area (24), Willow Creek (40), Chulitna (28).	20% of U.S. reserve base. By-product production from Lost River very significant; Upper Hodzana-Kanuti River, Charley River and Circle areas are important tungsten provinces.	Nuclear, space, and aircraft "super alloys," electronics, tool steel.
Antimony	43	China, Mexico, Bolivia, Yugoslavia.	10,493,360 lb (1915–79).	Not released	110 million lb	Scrafford Treasure Creek (21), Stampede (26), Slate Creek (27), Sawtooth Mountain (19), Stibnite Creek (47), Wiseman, and Nome areas, Chulitna (28), Red Devil (32).	Past production—18% of all historical U.S. production. Inferred reserves (30% of U.S. reserve base) are largely low-grade ores.	Fire retardant, babbitt, solder, batteries, refractories.

The proven and inferred reserves of tungsten at Lost River, Big Hurrah, Hyder, Gilmore Dome, and Majorie Glacier (14, 16, 64, 21, 50, table 1) amount to about 1 year of annual U.S. consumption of WO_3. Most of Alaska's known economic[1] tungsten reserves are on lands open to mineral development; however, areas showing promise of being important tungsten provinces are in withdrawn areas such as the upper Hodzana River-Kanuti River trend, the Charley River drainage in the Yukon-Tanana Uplands, and the Old Crow-Bear Mountain area in east-central Alaska.

The inferred reserve of high-grade chromite ore and concentrates in deposits near Seldovia, equal to about 300,000 tons of 28 percent CR_2O_3 (38, 39, table 1), amounts to

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[1] Proven and inferred reserves and resources based on definitions supplied by Thrush (1968, p. 578, 872, 914). Reserves for each commodity have been lumped to avoid disclosure of confidential information derived from unpublished private-Industry data. Other strategic minerals—cesium, bauxite, and selenium—are judged not to be significant in Alaska.

[2] Numbers in parentheses denote locations in fig. 1.

[3] Uses derived from USBM "Commodity Summary—1980" and "Metals Week."

about 6 weeks of present U.S. consumption. These reserves are on state and federal lands open to mineral entry; however, most of the remaining Alaskan chrome resources have been withdrawn from mineral entry. We judge that the best potential chromite belts in Alaska, besides the Seldovia-Eklutna trend, are, in descending order: (1) the Caribou Mountain occurrences (part of Kanuti National Wildlife Refuge proposal), (2) the Bernard Mountain trend (partly in Wrangell National Monument), and (3) the Baranof Island occurrences in Southeastern Alaska (partially in a section 204 withdrawal) (22, 44, 58, table 1). Although the De Long Mountain deposits (Noatak National Monument) are judged to be too remote to be viable today, the potential chrome resources there appear to be very large (4, table 1).

The most promising Alaskan asbestos deposit is on lands explored by Doyon, Inc. near Eagle (25, table 1), and is open to development. Many other asbestos occurrences in the state are also on lands where development is allowed.

Alaska's 4.94 million tons of fluorite, contained mainly in high-grade ores on the Seward Peninsula (14, table 1), amounts to 5 years of present U.S. consumption. The possibility of expanding Alaskan fluorite reserves, which represent one-fourth of the US reserve base, is excellent. The fluorite prospects on the Seward Peninsula are primarily on lands open to mineral entry. However, significant fluorite shows to the east of the Pipeline Haul Road, near Porcupine Lake in the eastern Brooks Range (7, table 1), are located in proposed additions to the Arctic National Wildlife Refuge.

There are almost no areas of conflicts regarding Alaska's mercury reserves or resources; none of the significant past producing mines in the Kuskokwim River region (31, 32, 34, table 1) are in federal conservation units.

Much of the state's known potential for optical and sheet mica is included in the Misty Fiords National Monument and in a section 204B withdrawal in the Tongass National Forest, both in the Southeastern Panhandle of the state (61, 66, table 1).

Significant niobium and tantalum resources exist at Bokan Mountain in Southeastern Alaska, in the Manley-Tofty district, in the Ruby mining camp, and at Lost River on the Seward Peninsula; all are open to mineral development (68, 18, 17, 14, table 1). Two areas with reported niobium anomalies have been withdrawn from mineral entry: Serpentine Hot Springs (Bering Land Bridge National Monument) and the Old Crow area (proposed addition to the Arctic National Wildlife Refuge) (12, 8, table 1).

On the basis of present geological knowledge, the potential for development of the remaining strategic commodities—cesium, manganese, bauxite, and selenium—are judged to be not affected by federal lands withdrawn from mineral entry.

SELECTED CRITICAL MINERALS IN 49TH STATE

Significant reserves and resources of seven critical minerals—titanium, zinc, cadmium, barium, gold, silver, and gypsum—are known in Alaska.

Although there are no measured titanium reserves in Alaska, resources in low-grade titanium-iron deposits in the Southeastern Panhandle and in southwestern Alaska (49, 60, 35, table 2) and in beach placers at Lituya Bay (51, table 2) contain an in-place resource of millions of tons of titanium metal. The latter placers are in Glacier Bay National Monument, whereas the former deposits are both inside of and outside of federal conservation units.

TABLE 2.—PRODUCTION AND RESERVE BASE OF SELECTED CRITICAL MINERALS IN ALASKA

Mineral	1979 U.S. net import reliance (percent)	Major foreign source	Past production	Proven reserve	Major deposits or districts with production, reserve base or promising resources	Remarks	Major industrial uses
Rutile or limenite (titanium).	100	Australia, Japan, India.			Lituya Bay (beach placers) (51), Klukwan (49), Snettisham (60), Kemuk Mountain (35).	Millions of tons, titanium metal in low-grade iron ore are potential nationally significant resource. Lituya Bay placers contain significant by-product platinum and gold as well.	Jet engines, airframes, classified missile uses.
Zinc (includes cadmium).		Canada, Honduras, Mexico, Spain, Germany.	520,000 lb zinc metal (intermittently since WW majority as a by-products.	6,900,000 tons zinc metal.	Mahoney Creek (69), Lik (1), Red Dog (2–3), Arctic (10), Sun (9), Mo & Udall (20), Greens Creek (58), Glacier Creek (48), Kantishna (26–27), Alaska Range, numerous areas statewide.	15% of U.S. reserve base; significant by-product cadmium production possible. Alaskan zinc potential very large.	Galvanization, alloys, brass, electrical equipment.
Gold	56	Canada, U.S.S.R.	30,150,336 oz (1867–1979).	1,500,000 oz	Greens Creek (58), Berners Bay (56), Fairbanks (21), Willow Creek (40), Ambler Mineral Belt (9–11), Ulamna Belt (37), Chulitna (28), numerous camps statewide.	Current reserve 2% of U.S. reserve base; 1979 production of 65,000 ounces was 6% of U.S. production.	Electronics, dental, jewelry, arts.
Silver	45	Canada, Mexico, Peru, United Kingdom.	20,084,510 oz	192,500,000 oz	Greens Creek (58), Ambler Mineral Belt (9–11), Noatak deposits (1–2), Kantishna (26–27), Ruby (18), other camps statewide.	13%–15% of U.S. reserve base. Alaskan mines could account for 30% of current U.S. production by 1992.	Electronics, electroplating, solder, photography, brazing alloys.
Barite	40	Mexico, Peru	750,000 tons (1915–16; 1964–79).		Petersburg (62), Lime Point (69), Red Dog (2), Atigun (6), Glacier Creek (48).	"Millions of tons" of barite in western Brooks Range.	Well-drilling mud, numerous other uses.
Gypsum	33	Canada, Mexico, Jamaica.	510,000 tons (1905–26; 1950's).	650,000 tons, 25% $(CaSO_4\cdot 2H_2O)$.	Iyoukeen Cove (59), Sheep Mountain (43), Baultoff (16).	Past production significant; however, present reserves <0.5% of U.S. reserve base.	Portland cement, various agricultural uses.

Economic and near-economic reserves of zinc metal in Alaska exceed 6.9 million tons, equivalent to about 15 percent of the U.S. reserve base. Several copper-zinc deposits in the Ambler mineral belt in the western Brooks Range (3, 10, 11, table 2) are outside federal withdrawals, but one major deposit in this belt, the Sun (Picnic) ore body (9, table 2), is partially within the Gates of the Arctic National Monument. Large zinc reserves at the Lik deposit north of Kotzebue are outside of federal conservation withdrawals, but the highly regarded Red Dog and Drenchwater deposits are in proposed additions to Noatak National Park (1, 7, 5, table 2). The zinc reserve at Greens Creek is in Admiralty Island National Monument. An unmeasured but significant by-product reserve of cadmium could be recovered from many of the zinc deposits.

Significant barite reserves in the Southeastern Panhandle (including a producing mine near Petersburg) are on lands where mineral development is permitted. There are also large resources of barite in the western Brooks Range, but they are mostly within areas that are not only withdrawn from mineral entry and development, but extremely remote (62, 69, 1, 2, 48, table 2).

Many promising and productive gold-silver mining regions throughout the state are on lands where mineral development is permitted. Notable exceptions include the metal reserves at Greens Creek (Admiralty Island National Monument), which amounts to more than 20 million oz of gold-silver bullion; parts of the Chulitna and all of the Kantishna gold-silver mineral belts (Denali National Monument); the newly discovered Iliamna mineral belt (part of proposed addition to Katmai National Monument and Iliamna National Wildlife Refuge of HR39); and the major reserve of silver at the Sun deposit in the Ambler Mineral Belt, on the western boundary of Gates of the Arctic National Monument (58, 28, 26, 27, 37, 9, table 2). The Stanford Research Institute (Staff, 1978) included the Green Creek and Sun deposits in their evaluation and calculated in their mine development model that Alaska could annually produce over 12 million ounces of silver and 90,000 oz of gold by 1992, equal to about 31 percent and 9 percent of current U.S. annual production, respectively.

Unmeasured but significant resources of former producing gypsum deposits on Chichagof Island (59, table 2), in the Southeastern Panhandle are on lands open to mineral development. An estimated 650,000 tons of 25- to 30-percent gypsum ore grade at Sheep Mountain west of Glennallen are partially within state lands classified for critical Dahl sheep habitat. An unevaluated gypsum occurrence at Baultoff in the northern Wrangell Mountains (46, table 2) is within Wrangell National Monument.

DISCUSSION

It has been said many times and is worth saying again—Alaska has not been adequately explored for mineral resources.

Moreover, recent public land classifications in Alaska have not only withdrawn nationally significant reserves of strategic and critical minerals but have also discouraged or prohibited mineral entry and development in several promising mineral belts throughout the state.

According to a University of Alaska Mineral Industry Research Laboratory report (Metz, et al 1978), only 17 percent of the public domain in Alaska (federal, state, and

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[1] Majorie Glacier by-product tungsten reserve in Glacier Bay National Monument is judged to be subeconomic

municipal) is open to mineral entry. Other strategic and critical mineral deposits on lands open to mineral entry could not be developed during a national emergency or critical shortage in less than the better part of a decade.

Strategic and critical mineral production should be encouraged on lands where economic development is permitted. Additionally, it would be prudent to inventory all Alaskan strategic and critical mineral deposits in terms of the national interest—even within federal conservation units—as well as on state and federal lands open to mineral entry.

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THE GENOCIDE OF TRIPURA

Mr. PROXMIRE. Mr. President, in June of this year, the tiny, northeast Indian state of Tripura was rocked by violence. More than 400 Bengalis—ethnic immigrants from Bangladesh—were slaughtered by native Indian tribesmen, who resent the presence of foreigners in their remote border state.

Fighting broke out for several weeks, as indigenous hill people attacked the ethnic immigrants, who have become a majority in Tripura since 1971 when war and starvation drove them across the border from their homes in Bangladesh. In addition to an estimated 400 dead, 50,000 were left homeless after dozens of refugee villages were destroyed.

Tripura's chief minister said the mass killings had assumed "genocide" proportions.

Although the slaughter in Tripura would probably not fall under the terms of the International Convention on the Prevention and Punishment of Genocide, it might come very close.

However, this type of violence is exactly what the treaty intends to curb—the harassment and extermination of racial, religious, and ethnic minorities.

For 31 years, the Senate has sat idly by while a hundred Tripura-style slaughters occurred. The genocide convention may not stop such incidence of regional violence, but it will raise the world's consciousness and bring international pressure to bear against those who let such slaughters occur. It will provide an impetus for all civilized nations to protest, punish, and hopefully prevent mass killings.

It is time we confront the realities of death and destruction that faces mankind in every corner of the globe. Let us join the forces against genocide. Let us at last join a fight that has enlisted 83 other nations as allies. Let us finally ratify the genocide convention.

CAMPAIGN ACTIONS OF THE CARTER ADMINISTRATION

Mr. McCLURE. Mr. President, after the close of the Republican convention, the Carter administration took all of 24 hours to turn another Federal official into a campaign huckster for the Democratic ticket.

Alan K. Campbell, the head of the Office of Personnel Management, called a press conference to denounce the Republican nominee's acceptance speech the day after it was delivered.

Although the administration has frequently cited Mr. Campbell's grave responsibility for the integrity of the civil service system he made himself the partisan star of a campaign media event that he personally set up.

This sort of hypocrisy from the administration that brought us the Marston affair and the Nimitz incident is not, I admit, going to shock anyone.

Nor is Campbell's comparison of Ronald Reagan's comprehensive hiring freeze with Jimmy Carter's half-heated "Two for One" freeze going to grab headlines. After all, what is one more misleading statement from the administration that promised to balance the budget and fight inflation without lowering unemployment?

What is shocking, however, is the boldness and speed with which a onetime civil service reformer turned himself into a political point man.

It is obvious that the Campbell ploy is part of a carefully conceived administration plan to "maximize the incumbency" and abuse the powers of the U.S. Government for Jimmy Carter's reelection.

I think it is essential—at the outset of this campaign—that the American people and those of us in Congress who support Ronald Reagan make something plain: We will not sit by while Jimmy Carter and his cracker barrel acolytes undermine the civil service system, abuse the power of the executive branch and demean the office of the Presidency.

Therefore, I have written today to ranking members of the Civil Service Oversight committees in both the House and Senate and requested that they query Mr. Campbell on the following points:

First. Was Campbell ordered by operatives of the Carter-Mondale campaign to set up his news conference? Did he resist political pressure or did he willingly cooperate? Was he threatened with reprisals?

Second. Was Campbell at any time—in written form or verbal—warned by other civil servic personnel about the harmful effects his political hucksterism would have on the integrity and reputation of the civil service system?

Third. What meetings and communications during the past few months has Mr. Campbell had with operatives for the Carter-Mondale ticket?

Fourth. Will Mr. Campbell continue his brazen political activity? Will the House and Senate place restrictions on his campaigning?

By now, it is clear that Jimmy Carter intends to make the coming campaign a very tough, very emotional one. In 1976, Jimmy Carter engaged in cruel personal attacks on Senator Jackson, Senator Humphrey, and President Ford. This year, Jimmy Carter has already engaged in similar personal attacks on Senator Kennedy, even going so far as to impugn his patriotism.

In addition to irresponsible personal attacks, it is clear the Carter administration—to the extent it is permitted to do so by the media and the American people—intends to use Federal tax dollars and Government officials to hide its disastrous record and engage in irresponsible attacks on the Republican ticket.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boren). Without objection, it is so ordered.

DEPARTMENT OF ENERGY AUTHORIZATIONS—CIVILIAN APPLICATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the pending business which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2332) to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. JOHNSTON. Mr. President, I might say for the benefit of my colleagues, the current order under which we are proceeding provides that there will be three votes this morning beginning at 10:30. There are two amendments. One amendment is by Senators Ford, Glenn, and Hart with respect to the impact aid assistance.

This amendment has been previously approved by the Committee on Energy and Natural Resources.

Mr. WALLOP. Will the Senator yield for a moment?

Mr. JOHNSTON. I yield.

Mr. WALLOP. Mr. President, under the special order, there is still time remaining to the minority side. I ask unanimous consent that Senator Stevens, or anyone else who wishes to use a portion of that allotted time, be permitted to use their time under the standing order. But in the interest of moving on, I ask that the Senator from Louisiana be permitted to proceed.

The PRESIDING OFFICER. Is there objection to the Senator's request? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, as I was saying, there are about 15 minutes remaining until the vote, and I was just using the time to describe the situation we are in. Some would say the plight we are in, but I would say the situation we are in.

Beginning at 10:30 we will vote on two amendments. One amendment is an impact aid assistance amendment by Senators Ford, Hart, and Glenn, which the committee has accepted. It has been a matter that has been considered over a long period of time, and we think well perfected. We have accepted that amendment.

The other amendment is an amendment by Senator HATFIELD, which the committee opposes, not because we oppose the underlying idea, which is to urge the Congress to get a nuclear waste policy together and to do that before we appropriate funds. We certainly are more than in sympathy with that. We have urged that.

But we believe that that amendment would undo what we voted on yesterday with respect to away-from-reactor (AFR) storage facilities, which are of such crucial need to the country at this time.

We will vote on those two matters commencing at 10:30, followed by final passage of the DOE authorization bill.

Then I believe we will proceed to the Nuclear Regulatory Commission authorization bill.

I say this for the benefit of my colleagues.

I also say for the benefit of my colleagues there is time remaining if anyone wants to make a political statement, a governmental statement, a substantive statement, or the usual kind of statement. They may do so.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, so long as we have this time, I will get an item of minor irritation off my chest.

That concerns an article in the Washington Post this morning describing our efforts of yesterday, calling it stopgap legislation.

Mr. President, this is certainly a mischaracterization. This is a bill which deals comprehensively with nuclear waste policy from the generating unit to the final disposal. It deals with AFR's, it deals with monitored retrievable storage, and it puts on line an accelerated R&D program for permanent geologic storage, as well as low-level waste disposal.

I do not know how you could deal with it more comprehensively. It is certainly not stopgap.

I would invite my friends at the Post to take another look at the bill. I understand the difficulties of writing an article when we mumble some amendments here and they are not printed. I understand those difficulties. But I hope on more sober reflection they will recognize that this is comprehensive legislation.

Mr. WALLOP. Will mv colleague yield?

Mr. JOHNSTON. I yield.

Mr. WALLOP. I could not agree more. It is the first time since I have been here that I have seen the Congress get on track toward resolving a major problem with regard to the production of energy from nuclear sources.

I would also say that, in my opinion, it is way overdue. It is not stopgap legislation. Because of it, we will have a viable, safe, productive nuclear capacity in this country for at least the rest of this century, and probably well on into the future, because we have laid down the track. Far from stopping gaps, we have laid down a track which it can follow.

I compliment the Senator from Louisiana, not only on that but for the rest of the assistance he provides for all of us by way of leadership on the Energy Committee.

Mr. JOHNSTON. Mr. President, I thank the Senator for his kind remarks. I am not always pleased with articles in the paper. Henceforth, if the paper will check with us and let us write or correct those articles, they will be more accurate and more pleasing to us.

Mr. WALLOP. It would certainly be better informed.

Mr. JOHNSTON. And it would certainly serve the national interest in a better way.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the second and third rollcall votes, which will be back to back, they be 10 minutes each.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, that is a satisfactory arrangement.

It is my understanding that the distinguished Senator from Oregon (Mr. PACKWOOD) has a concern in respect of 10-minute votes. But since these are back-to-back votes and the first vote will be 15 minutes and the next two votes will be 10 minutes, I do not expect an objection, and I will not object at this time.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. THURMOND. Mr. President, I support the Hatfield amendment to the fiscal year 1981 Department of Energy Authorization bill because I believe it offers the most responsible course for proceeding with Federal Government acquisition and/or construction of away-from-reactor (AFR), temporary storage of civilian nuclear powerplant wastes.

Just yesterday the Senate passed legislation of great public policy significance—S. 2189, the Nuclear Waste Policy Act of 1980—and I supported that bill. Among other things, S. 2189 authorized Federal acquisition and/or construction of several AFR facilities, established the basic policy framework governing AFR storage of nuclear waste, and provided a "user pays" system under which the electric power generating utilities will bear the greatest portion of the cost of such facilities. In connection with the AFR issue, the Senate adopted an amendment which I principally authored to provide a much-needed process of consultation with officials of any State in which an AFR facility might be located. During the consideration of that amendment, I indicated that part of the motivation for my offering it was the knowledge that the Barnwell Nuclear Fuel Plan in South Carolina is one of the potential AFR sites under consideration. It is critical, in my judgment, that the concerns of the people of South Carolina, or any other State in which an AFR faciltiy may be located, be heard and very carefully considered during the decisionmaking process.

Against this background, Mr. President, I believe the Hatfield amendment is the wisest method of moving forward on this very sensitive and important AFR storage issue. I realize the growing necessity of AFR's and the urgency of prompt, responsible action, especially since two utilities which serve the citizens of South Carolina—Duke Power Co. and Carolina Power & Light Co.—are among those which will soon exhaust all available storage space for spent fuel and may have to cease operations if AFR storage is not made available.

This amendment allows the Department of Energy to move ahead without delay to study and plan for construction and/or acquisition of AFR's. It simply requires that the basic policy framework, S. 2189 or comparable legislation, be enacted before the Department of Energy signs a contract to purchase or build an AFR facility. I believe it makes good sense for Congress to establish the policy guidelines on AFR's before permitting the Energy Department to make binding contractual commitments for putting these storage facilities into place. Adoption of the Hatfield amendment should spur the House to pass S. 2189 this session, so that these governing policies can be written without undue delay.

Additionally, Mr. President, I am concerned about a possible headlong plunge by this administration to purchase the Barnwell plant for AFR storage to the preclusion of its use as a reprocessing unit. I have made it clear that I think the Carter administration's indefinite deferral of spent nuclear fuel reprocessing is most unwise, and that the Barnwell plant should be used for that purpose, as intended by its present owner, Allied General Nuclear Services. If it is determined that the Barnwell facility age (and I make no judgment on this matter at the present time because many factors must be thoroughly considered), I do not want that decision to in any way should be used for temporary AFR stor- preclude the use of Barnwell as a reprocessing center. Frankly, Mr. President, I think there are some officials in this administration who want to get their hands on the Barnwell plant as quickly as possible with the hopes that they can head off later use of the plant for reprocessing. As I see it, these considerations are also relevant to the pending amendment. The proposal of the distinguished Senator from Oregon allows the Energy Department to proceed with all deliberate speed on AFR storage, but it does not allow final funding commitments by executive branch officials until the basic policy framework, as determined by Congress, is in place. I view the establishment of these congressional policies as a most important check on the possibility of too hasty, unwise action by the Department of Energy. This amendment is the proper, responsible way to proceed, and I hope it will be adopted.

AMENDMENT NO. 1952

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now proceed to vote on the Hatfield amendment, which will be followed by a vote on the Ford amendment, and then a vote on final passage of S. 2332.

The yeas and nays having been ordered, the clerk will call the roll on the Hatfield amendment.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—48

Armstrong
Baucus
Biden
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Chafee
Cohen
Dole
Domenici
Durkin
Eagleton
Gravel
Hart
Hatfield
Heinz
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Stevenson
Thurmond
Tsongas
Williams

NAYS—46

Baker
Bayh
Bellmon
Bentsen
Boren
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini
Durenberger
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Lugar
Magnuson
Mathias
McClure
Morgan
Pell
Ribicoff
Sasser
Schweiker
Stennis
Stewart
Stone
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—6

Church
Cranston
Culver
Kennedy
Long
Talmadge

So Mr. HATFIELD's amendment (No. 1952) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the motion of the Senator from Oregon.

Mr. JOHNSTON. Mr. President, I move to reconsider and ask my colleagues if we could have about 10 minutes' debate, 5 minutes on each side, equally divided.

The PRESIDING OFFICER. The motion to reconsider has been entered. The Chair was putting the question on the motion to table the motion to reconsider.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. Debate is not in order on the motion to table.

Mr. JOHNSTON. I ask unanimous consent that we be allowed to debate this for 10 minutes, 5 minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered. There shall be 10 minutes of debate, 5 minutes on each side.

Will the Senate be in order? The Senate will be in order so that debate will be heard.

The Senate is still out of order. Senators will continue conversations outside of the Chamber.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, very briefly, yesterday we passed a comprehensive nuclear waste disposal bill. As part of that bill we passed authority for what we call an AFR, away-from-reactor storage facility.

Away-from-reactor storage is that interim step between the time that you leave the reactor and the time you go to a long-term or permanent storage.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senator will suspend until the Senate is in order. Members will clear the well and continue conversations in the cloakroom or outside the Chamber.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in part of that comprehensive bill yesterday we had a section on away-from-reactor (AFR) storage which is that interim step between the time you leave the reactor and the time you go to a more permanent storage.

I think we built a convincing record yesterday that we need those AFR's on line by 1983. The Nuclear Regulatory Commission has said that we do; the Department of Energy has said that we do.

We had an amendment on that yesterday. We debated that question, and the Senate decided that, yes, we do need AFR's.

Now what this amendment would do is achieve a principle that all of us believe in and that is that you do not appropriate funds without authorization. But if we are going to meet the 1983 date we need to put the first dollars in an appropriation bill this year for the environmental impact statement (EIS) and to begin negotiation. We will agree to put it in pursuant to S. 2189 so it will be consistent with that policy, but we need to get started if we are going to meet the deadline.

Having marched up the hill with S. 2189 yesterday which said we will get a comprehensive policy of which AFR is an integral part and probably the most urgent part, we need to begin funding that now.

I am sympathetic with what the Senator from Oregon wants to do, that is, get an authorization bill. No one has tried harder than we in the Energy and Natural Resources Committee to do so. But we ask for little flexibility to get the program started this year. The result could be otherwise, that we could lose a whole year.

I hope the Senate will allow us to begin this process this year.

I reserve the remainder of my time, Mr. President.

Mr. HATFIELD. Mr. President, the Senate worked hard on hammering out the nuclear waste policy yesterday, as the Senator from Louisiana has indicated, and I supported that, and I support it today.

But in that, let me remind ourselves, we established very carefully the criteria, the guidelines, the policy, and who shall pay. Until that is in place what the Senator from Louisiana is proposing is that we give the Department of Energy a blank check to go ahead and establish this nuclear waste program without guidelines, without criteria, unless the House of Representatives has acted on this same issue before we get to the appropriations process.

In the long term we have to face the possibility that the Department of Energy, if handed this blank check, will set this up at full Federal funding and the private utilities and other such units which have helped to create such waste will escape their share of providing for the costs of storage.

We provided for that in our nuclear waste bill, but there are no other requirements existing today that would put the private utilities and other units operating today these reactors into the cost-sharing activities unless my amendment prevails.

I think the Senator makes a good point that we have to expedite, but not to run down a blind alley without knowing how the Department of Energy is going to set guidelines or policy or criteria or assessment for costs remuneration of the expenses of waste storage.

Therefore, I want to say this: I have provided in this amendment only for the construction and the contract for acquisition. In other words, we can do all the preliminaries of design, of site selection, of negotiations, and all the other things necessary to get up to the point of contract or purchase for Barnwell or whatever we might decide to purchase, for the contract for construction of a new facility.

We are not going to get much further down the road anyway by adopting this amendment, by putting in place our program and policies before we hand a blank check otherwise to the Department of Energy.

I reserve the remainder of my time, and I yield to the Senator from Colorado.

Mr. HART. Mr. President, I had not thought to get involved in this debate, but the Senator from Louisiana made a statement that he made yesterday several times, and I think it deserves to be clarified. He said the Nuclear Regulatory Commission agrees with this policy. The Nuclear Regulatory Commission does not agree with this policy.

The Nuclear Regulatory Commission said if you accept the Department of Energy's calculation about existing onsite storage capacity, using only reracking, then there is a need for away-from-reactor storage. But there is the potential as we debated yesterday, for expanding onsite storage capacity for spent fuel.

The Nuclear Regulatory Commission does not agree that the Department of Energy's calculations are the only way to solve short-term nuclear waste dispersal nor does the President of the United States nor does the Interagency Review Group. To say that the President and the NRC and every other agency agrees that this is the only alternative is just factually incorrect.

Mr. JOHNSTON. Mr. President, how much time is remaining.

The PRESIDING OFFICER. Two minutes, thirty-three seconds.

Mr. JOHNSTON. Mr. President, I am sorry to get off on an extraneous issue, but the Senator from Colorado is dead wrong. Let me quote from Mr. Dirck's testimony to my subcommittee:

> We figure by 1983 there will be a real need for an AFR in this country.

Further quoting:

> Starting right now in 1980, it will be very hard to get a facility in operation by 1983.

That is on page 548 of the Senate hearings before the Energy and Water Subcommittee of the Senate Appropriations Committee.

We further asked them for written justification of the need, which they furnished and with their figures. It is right here. I put it in the Record yesterday beginning at page 20340. That is a side issue, but it is in the Record and I will let the record speak for itself.

Mr. President, the problem is you cannot have an EIS until you have a site selection. You cannot select a site until you negotiate: you cannot negotiate until you have some money. It just works that way. I hope you will give us the chance to get started on this thing so that we do not lose a year.

Mr. President, I yield to my friend from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding. Very briefly, I do not want to get involved in this issue of whether we need an AFR, because we yesterday decided in the Senate we did, and even the opposition, the people who were on the other side of the issue, yesterday said we need an AFR.

The question is when, and do we have the time to take the chance to wait another year.

I would ordinarily agree with my friend from Oregon that we ought to do it in the orderly step-by-step process. Let me say to my friend from Oregon in the event his amendment is not adopted I will do what I can through the appropriations process to attach to the appropriations bill the conditions that are set forth in S. 2189.

There are two ways to do this: either put it on appropriations or try through the appropriations process to get something done in the event the Hatfield amendment passes and the House fails or refuses to act on S. 2189.

But the fact is, Mr. President, that we need to act this year. There is no substitute for action this year, and I think that is the fundamental that drives me to be in the position of opposing the amendment of my good friend from Oregon. I think it is a close and difficult question, but I have to come down on the side that we must take that step this year. We cannot wait longer.

Mr. HATFIELD. Mr. President, I am reminded of a person who put on a blindfold and said, "Let's go full steam ahead."

I do not know that the action is going to be important unless we know the direction and we have the course laid out.

There is no question about the AFR. I am not arguing that point. I support the AFR in this bill. But I do reject the idea that any action is better than careful action. I have not restricted action. We can negotiate, we can go out and look for the sites. We can go out and we can negotiate for a design, for an EIS, we can do all these things under my amendment. We are not losing a year. We are putting in place a policy before we commit ourselves.

This Government spends more of its time trying to undo unwise actions than performing wise actions. Oftentimes it is because we do not have a blueprint, we do not have a carefully thought-out program.

Yesterday we set forth such a policy, and all I am saying is put it in place before we start going out here rushing in all directions because we believe that action is equivalent to some kind of performance and some kind of achievement. It simply is not in every case, and I challenge those in this particular instance to prove it would be.

The PRESIDING OFFICER. All time has expired——

Mr. NUNN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NUNN. I would just like to pose a question to the Senator from Oregon and the Senator from Louisiana. What is the likelihood of having the Senate bill or some bill that would be very similar to that bill become law this year? It seems to me that is relevant to this discussion.

Mr. JOHNSTON. I do not know. I hope there is a good chance. The Post said yesterday there was a good chance. I hope they are right.

Mr. HATFIELD. I would only say it is important that we get this action to the House of Representatives, and I really frankly believe my amendment will help the House in terms of action because it will be a prod to the House to get their policy enacted in place so that we can get the appropriations. But that is pure conjecture.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this rollcall vote be a 15-minute rollcall vote. I think when we spoke about 10-minute second and third rollcall votes we did not contemplate a procedural problem. So if it is agreeable—some Senators have strayed from the floor—I ask unanimous consent that this rollcall vote be 15 minutes, and then the next two, if they are back-to-back, be 10 minutes.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. What is the pending question?

The PRESIDING OFFICER. The pending question is a motion to table the motion to reconsider the vote by which the Hatfield amendment was agreed to.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Time having expired, the question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the Hatfield amendment was agreed to. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Iowa (Mr. Culver), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. Laxalt) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 46, nays 47, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—46

Armstrong
Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Byrd,
Harry F., Jr.
Chafee
Cohen
Dole
Domenici
Durenberger
Durkin
Eagleton
Glenn
Hart
Hatfield
Heinz
Javits
Jepsen
Kassebaum
Leahy
Levin
Matsunaga
McGovern
Melcher
Mitchell
Moynihan
Nelson
Packwood
Percy
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Stevenson
Thurmond
Tsongas
Warner

NAYS—47

Baker
Bellmon
Bentsen
Boren
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Lugar
Magnuson
Mathias
McClure
Metzenbaum
Morgan
Nunn
Pell
Pryor
Ribicoff
Sasser
Schweiker
Stennis
Stewart
Stone
Tower
Wallop
Weicker
Williams
Young
Zorinsky

NOT VOTING—7

Church
Cranston
Culver
Kennedy
Laxalt
Long
Talmadge

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to reconsider the vote by which the Hatfield amendment (No. 1952) was agreed to.

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—48

Baker
Bellmon
Bentsen
Boren
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Lugar
Mathias
McClure
Metzenbaum
Morgan
Nunn
Pell
Pryor
Ribicoff
Riegle
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—46

Armstrong
Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Byrd,
  Harry F., Jr.
Chafee
Cohen
Dole
Domenici
Durenberger
Durkin
Eagleton
Glenn
Hart
Hatfield
Heinz
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Mitchell
Moynihan
Nelson
Packwood
Percy
Pressler
Proxmire
Randolph
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Thurmond
Tsongas
Williams

NOT VOTING—6

Church
Cranston
Culver
Kennedy
Long
Talmadge

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment. The yeas and nays are automatic on the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 49, nays 44, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—49

Armstrong
Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Chafee
Cohen
Dole
Domenici
Durenberger
Durkin
Eagleton
Glenn
Hart
Hatfield
Heinz
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Stevenson
Thurmond
Tsongas
Williams
Young

NAYS—44

Baker
Bellmon
Bentsen
Boren
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
Danforth
DeConcini
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Lugar
Magnuson
Mathias
McClure
Morgan
Nunn
Pell
Ribicoff
Sasser
Schweiker
Stennis
Stewart
Stone
Tower
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—7

Byrd,
  Harry F., Jr.
Church
Cranston
Culver
Kennedy
Long
Talmadge

So Mr. HATFIELD's amendment (No. 1952) was agreed to.

Mr. JOHNSTON. Mr. President, I do not intend to move to reconsider. We voted enough on this issue. I hope it will not mean a delay of 1 year.

I frankly think Senators have been confused all along. Perhaps those who voted with me were as confused as they were on the other side.

There is no reason for all these switches. But I have had enough of all this voting on this particular issue, and I will try to live with this result which seems to undo what we did yesterday, at least in part.

So I will live with the result.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair will say that debate is not in order.

Mr. JAVITS. Mr. President, I have a unanimous-consent request.

The PRESIDING OFFICER. The Senator will state it.

AMENDMENT NO. 1953

Mr. JAVITS. Mr. President, I ask unanimous consent, in view of the importance of the next vote, that we have a 10-minute debate, 5 minutes on a side, preceding the vote.

Mr. FORD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. That is on the Ford amendment?

Mr. JAVITS. That is correct.

Mr. FORD. Mr. President, reserving the right to object, and I shall not object, we worked for about an hour-and-a-half on this particular amendment last night. The Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), and myself arrived at a decision, and we compromised and modified our amendment.

So, Mr. President, I do not mind the 10 minutes but I just want the Senate to know that we did work a long, long time last night, including the distinguished Senator from New York.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. JOHNSTON. Mr. President, what is the request?

The PRESIDING OFFICER. Is there objection to the request that there be 10 minutes of debate, 5 minutes on each side, on the Ford amendment?

Mr. JOHNSTON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. Objection has been heard.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Is there objection?

Mr. JAVITS. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, is the quorum call called off?

The PRESIDING OFFICER. Is there objection to the request?

Mr. JAVITS. I reserve the right to object.

Mr. ROBERT C. BYRD. Mr. President, the Senator cannot reserve the right to object.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there be 10 minutes' debate, 5 minutes for the Senator from New York and 5 minutes for the Senator from Kentucky.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I hope this will be allowed, but I see happening just exactly what I thought last night would happen. The nuclear regulatory bill is going to have to be pulled down at 4:30 today, and I wanted to get going last night, get some momentum, dispose of this bill last night, and finish that other bill today. As we can see this is going on and on on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself 2 minutes and then I will yield to Senator HOLLINGS 2 minutes.

Mr. President, this amendment involves—could we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senator will suspend until the Senate is in order.

The Senate is not in order. Members who are conversing please refrain from doing so or leave the Chamber.

The Senator from New York.

Mr. JAVITS. Mr. President, this amendment involves $1.7 billion. We have debated it in the absence of anybody last night, and if I had not insisted on it, we would not have had a rollcall on it. Why did I insist on it? There is a bill on the calendar which deals with this whole question, which has been reported from Governmental Affairs, and the matter should be debated. What it is is a proposal to give in loans and grants, and the grants amount to, as I am informed, 40 percent of $400 million for 4 years after the first year, so that is a neat $160 million a year for the purpose of helping with various public utilities, and so forth, because of the impact of additional population, and so forth, on towns or other localities where you are dealing with energy, such as the extraction of coal.

The point I make, Mr. President, is that it is a one-sided bill. It deals with areas where prosperity is looking ahead of them because they are going to have some kind of an industry or some kind of business out of energy, and nothing is done, Mr. President, about the countercyclical problems. Nothing is done about countercyclical problems of other areas like my own, which are declining and which also need the same kind of help for other reasons.

I pointed out the stickiness of the countercyclical effort, including an effort to get even $500 million to recompense for countercyclical aid, which was taken away.

For those reasons, Mr. President, I oppose the amendment. It deserves deliberation and, at the proper moment, I will move to table it because I do not believe it needs to be or should be dealt with on the merits within this context.

I yield the remaining time to Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, there is a letter from the committee which I discussed with the Senator from Colorado, Senator HART. I apologize for this letter in the context that we had not raised this point, as the Senator from Colorado said, on the away-from-storage reactor bill, and the Senator from Colorado asking why did we raise it on this one. They both have out-year funding implications that are not consistent with the assumptions of the first budget resolution.

From the viewpoint of the Budget Committee there are important differences between the two bills. First and most important, there is off-budget financing in the Ford amendment. Second, the authorization levels are much higher in the Ford amendment: $1.6 billion compared to $300 million.

As the Senator from New York has emphasized, to go further than existing law and provide Federal funding for all manner of community facilities in boom cities where the money is being made and, generally speaking, those States are ending up with large surpluses, the Budget Committee did not approve those amounts, and I was not wrong in not being consistent. Perhaps it is better in the Budget Committee that we do not take positions on those, but we thought, for fiscal soundness, that we should admonish our colleagues that we are getting into a budget-buster in the context of $400 million for 4 years. We used the $2 billion figure in the letter and that, too, was wrong, for which I apologize, but I support Senator JAVITS in the tabling of this particular amendment.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. JAVITS. Do we have any time left?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FORD. Mr. President, I have 5 minutes, and I would like to yield myself 2 minutes.

Mr. President, I understand, I think, where the Senator from New York is coming from, but what we did in the committee was to reduce the amount of money to meet the Budget Committee's request. In this bill it is $150 million, that is true.

Last night, and I think the Senators understand, we put into place the ability to see that the States and the communities do everything they can do. When they get to the point that they cannot do any more, the Secretary of Agriculture, along with the Farmers Home Administration, trigger—and, first, we say they can get loan guarantees. Everybody agrees with that. Second, we then would give them loans at the current interest rate, almost 8 percent. That reversed it from the bill.

Third, we help them through grants, the very last thing.

Now, $150 million is in the bill. The amendment complies with that.

We can take it out or do whatever we want to in conference.

There is the appropriations ability to do it. So here we sit trying to help instead of hinder, trying to develop a pattern by which our communities can develop for the good of the people who are moving in to develop energy that this country needs, and they say, "No, we don't want to do it."

One study, for example, estimated that the cost of providing all basic public facilities service, State or local road programs, to support population growth associated with all new energy development would be $80 billion by 1985, and we are talking about a paltry $150 million and $400 million for each of the 4 years out there, subject to the conference committee, subject to the Budget Committee, and subject to the appropriations.

I yield 1 minute to my friend from Wyoming (Mr. WALLOP).

Mr. WALLOP. Mr. President, I thank the Senator from Kentucky.

Yes, there is prosperity in energy-producing States, but not without agony. And now, in this Congress, we have sought to limit the in-lieu-of-tax payments, which was a contract between the Federal Government and the States on public lands. We have taxed States the 50-percent Federal mineral royalty under the windfall profit tax. We seek to limit States severance taxes and their ability to deal in their own way with their own problems. Such action seeks to stop the self-help procedures individual States have put in place.

The Federal programs funding formulas do not fit small rural towns which suddenly triple or quadruple in population. Somebody has to provide sewage disposal and housing for these people. Somebody has to help provide police and other public services until the communities get on their feet. That is what this impact assistance is all about. Energy impact assistance is not meant to be in the way of the East or any other area of the Nation's countercyclical unemployment. It is trying to take care of a problem that exists due to the development and production of energy.

Mr. FORD. I yield to my colleague from Colorado.

Mr. HART. Mr. President, 3 years ago, based on experiences in my State, along with the Senator from West Virginia, Mr. RANDOLPH, I undertook to begin some sort of Federal assistance through a loan program to the 300 communities identified by the Department of Commerce in Appalachia and in the Rocky Mountain area that would suffer, as the Senator from Wyoming has said, the effects, both natural and human, from incredibly rapid energy developments.

Today we have that measure on the floor with the support of the Senator from West Virginia, Mr. RANDOLPH, the Senator from Kentucky, Mr. FORD, and others.

Mr. President, we have had experience in this country in Appalachia, about what happens to an area that is not properly prepared for that kind of development. The tax base will not be there in these communities for 5 years. They need schools; they need hospitals; they need sewage treatment plants; they need human resource assistance. That is what this modest measure would provide. Mr. President, this is not a giveaway. This is in the national interest, helping us to develop our energy resources.

I think the people of this country ought to help these communities over that threshold. I hope the Senate will resist the motion to table.

Mr. PERCY. Does the Senator have time to yield for one question?

Mr. FORD. I have less than 1 minute left. I will be glad for a question.

Mr. PERCY. Will the Senator reaffirm what Senator GLENN said on the floor last night, that there are rare instances when grants have to be made?

Mr. FORD. That is the last thing we do. The States and communities have to do everything they can do. That would trigger the Secretary of Agriculture and the Farmers Home Administration. Then we go to the loan guarantee, then to the loan with the high interest rates, and finally to grants over the 5-year period. The intent of the language was to be on budget, not to be off budget. We reduced our budget. We say the insurance fund shall be under the same terms and conditions as the rural development insurance fund. If they want to change it, they can change it in conference. And it is subject to appropriation. I think we have locked in everything that is necessary.

Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the Ford amendment to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR CONGRESSIONAL OVERSIGHT OF ENERGY IMPACT ASSISTANCE PROGRAMS

● Mr. PERCY. Mr. President, the problems of "boom town" growth are well documented by the statistics of increased crime and other social ills that have plagued many communities which were unprepared for rapid population increases. The roots of most of these problems can be found in the lack of adequate facilities and services which most Americans take for granted. Housing, schools, health care facilities, and roads are among the various necessities that are lacking during the early stages of rapid growth. Mr. President, it is necessary that we be sensitive to the problems caused by the lack of such facilities in our "booming" energy committees. This is especially true since the residents of these areas will be vital in helping our Nation to become substantially more energy independent.

Assistance for these communities can take many forms. However, I feel that the most appropriate form of assistance is "self-help." Based on the substantial revenues that will eventually result from energy development, many communities will be able to utilize mechanisms such as municipal bonds to finance their needed growth. In addition, I expect that energy-related State revenues, such as severance taxes, will be available for alleviating "boom town" conditions.

I feel that Federal assistance should be considered only after all other financing mechanisms have been exhausted. States and localities should help themselves first, and turn to Washington only as a last resort.

Mr. President, the compromise amendment developed by Senators FORD, GLENN, and HART reflects my views in this regard. It makes clear that Federal funding should only be used when a legitimate State or local need has been established. Moreover, if Federal assistance is shown to be necessary, the amendment requires that loan guarantees and loans be used as "first lines of defense." Grants would only be provided after it is demonstrated that no other assistance mechanisms are available.

All too often, congressional intent is not adequately incorporated into the administration of Federal programs. In spite of the amendment's clarity about the last-resort nature of Federal assistance, mismanagement of this program could result in an irresponsible allocation of Federal dollars. I feel, as does Senator GLENN, that the future administration of this program must be fully scrutinized by the Congress. My support for this amendment is based on the knowledge that such scrutiny will be applied in the form of hearings, oversight of the Department of Energy and the Farmers Home Administration, and perhaps, GAO investigations.

As the ranking minority member of the Governmental Affairs Committee, I will personally take part in these oversight activities. Although this amendment will establish a needed and worthwhile program, I fully intend to insure that it will be administered in a fiscally responsible manner.●

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. JAVITS. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Kentucky. The yeas and nays have been ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—44

Baker
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Chafee
Chiles
Cohen
Danforth
Dole
Durenberger
Durkin
Eagleton
Goldwater
Hayakawa
Helms
Hollings
Humphrey
Javits
Jepsen
Kassebaum
Leahy
Levin
Mitchell
Moynihan
Nelson
Packwood
Pell
Proxmire
Ribicoff
Riegle
Roth
Sarbanes
Simpson
Stafford
Thurmond
Tower
Warner
Weicker
Zorinsky

NAYS—50

Armstrong
Baucus
Boren
Burdick
Byrd, Robert C.
Cannon
Cochran
DeConcini
Domenici
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Johnston
Laxalt
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Nunn
Percy
Pressler
Pryor
Randolph
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stevenson
Stewart
Stone
Tsongas
Wallop
Williams
Young

NOT VOTING—6

Church
Cranston
Culver
Kennedy
Long
Talmadge

So the motion to lay on the table Mr. FORD's amendment (1953) was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kentucky. The yeas and nays have been ordered——

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 1953) was agreed to.

Mr. GLENN. Mr. President, during debate on the Department of Energy authorization bill, I submitted an amendment and made some remarks about it. I later withdrew that amendment because it involved a total expenditure of some $700 million, and I knew it was not realistic to think we could get it through on the floor of the Senate at this time, much though I believe it is needed.

Mr. President, I wish to address some remarks to the need which I think was expressed in that amendment because it involved additional appropriations for energy supply research and development, and energy conservation activities for fiscal year 1981. These additional funds would have emphasized those areas where a breakthrough could significantly improve our Nation's energy situation.

The reason I bring it up, even though I withdrew that amendment, is because I think there are discretionary funds available, and funds that could be shuffled around within the Department of Energy which could accomplish some of the things I think are desperately needed to improve our whole energy picture.

We have done some things to encourage drilling for oil and natural gas and we do have some increased production. We have also done some things to encourage conservation, and they have been somewhat successful. For example, last year our gasoline consumption was down by some 8 percent and the consumption rates indicate that we may be down by 10 percent for this year. However, we have a long way to go.

Mr. President, with the doubling of oil prices in the past year, we are spending at a rate of over $90 billion per year for imported oil. The greatest single transfer of wealth, probably in the history of mankind, is occurring year in and year out to the OPEC nations. That $90 billion per year represents a cash outflow of over $10 million per hour—per hour. Just think of that. Over $90 billion for imported oil in 1980.

That is more than enough to purchase the combined assets of General Motors, Ford, IBM, and Dow Chemical; $12 billion more than the net income of the entire Fortune 500 for 1979; and nearly 2.6 times larger than the amount we will be spending to equip the Army, Navy, Air Force, and Marine Corps in fiscal year 1981.

I just reel off those comparisons to show some idea of the enormity of the problem.

So the task before us is clear, it seems to me. We have to halt the inflationary spiral of energy prices. We have to stop the outflow of dollars. We have to reduce our excessive dependence on imported oil, which has grown to the point it threatens our national security.

I believe that increased effort in energy R. & D., and energy conservation can and will help us meet this very difficult challenge.

Mr. President, the additions I suggested in that amendment yesterday were not plucked out of thin air. I asked the staff of my Energy Subcommittee of Governmental Affairs, as part of their review of the Department of Energy's organization, to also go ahead and examine the Department's R. & D. programs for the purpose of making recommendations on where some additional funds, beyond those requested by the President, would do the most good in terms of potential for future savings and production of energy.

Experts within the Department of Energy, as well as outside, were consulted for their views on these matters. A report listing these recommendations has been completed in detail and will be available in the near future.

Mr. President, I ask unanimous consent to have printed at this point in my remarks a set of tables based on this report which details the impact my amendment would have had on specific program areas.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT IMPACT

(Dollar amounts in thousands)

Energy supply research and development activities—Operating expenses

Activity	*Amendment recommended level*
Solar applications	$183,786
Solar technology	494,900
Geothermal	150,179
Hydrothermal commercialization	20,174
Hydropower	28,827
Nuclear	676,960
Magnetic fusion	368,117
Electric energy systems and storage	145,323
Environment	240,954
Basic research	268,585
Total	2,577,805
S. 2332 total	2,253,375
Amendment increase	324,430

Energy conservation—Operating expenses and capital equipment

Building and community systems	$245,300
Industrial	74,500
Transportation	140,700
State and local	682,084
Multi-sector	40,200
Energy information campaign	50,000
Energy impact assistance	122,000
Total	1,354,784
S. 2332 total	980,197
Amendment increase	374,587

Mr. GLENN. Mr. President, the suggested additions in energy R. & D. funds for specific program areas cut across the entire gamut of R. & D. activities, from conservation through magnetic fusion and include all renewable resources.

The Department of Energy has indicated these funds would be of great benefit in helping meet the energy goals of our Nation and in meeting the goals of the associated programs.

I want to emphasize that this is not another Government give-away program that I am proposing. This is an investment in our future. It is an investment that must be made if our national security is to be maintained.

We know that the energy problem does not arise from a scarcity of physical resources. Rather, the problem is in effecting a socially acceptable transition from exhaustible resources such as oil and natural gas to new technologies whose potentials are not now fully developed and whose costs are unpredictable. We need time for planning and time for development. An accelerated program of energy R. & D. and energy conservation is the best way to go in providing for our needs in the long run as well as easing the transition to inexhaustible energy technologies.

Mr. President, this list covers such things as solar applications, solar technology, geothermal, hydrothermal commercializaiton, hydropower, nuclear magnetic fusion, electrical energy systems and storage, about which I will make some additional remarks, and some funding for very basic research.

Mr. President, in connection with the area of electrical energy storage, if I could challenge the people in this room to think about what they would like to have if one energy wish for our Nation could be granted before midnight, what would that wish be? Would it be that you would have an oil well on your lot at home? Would it be that we would have a new gas well, or that we would find a new method of nuclear fusion that could be applicable to electrical energy production?

If I were to reply as to the particular item I think would be most important and which I would wish for tonight, my wish might surprise you.

My wish would be that we would have better electrical energy storage. You may have to think about that one for just a moment. Better electrical energy storage would mean that electrical automobiles, for the first time, would become really practical. Certainly, we border on that now, but we have not yet made that last breakthrough that would let them be completely practical, at least to take care of the 92-percent of the driving that we do in this country—the noncommercial driving—that is done within 20 miles of our homes.

Our best electric automobiles typically have a 50- or 60-mile range, but that is in good weather, with average temperatures, not with the battery at half capacity and at a temperature of zero or 10 degrees. In order to have a practical electric automobile, we have to have something that, in normal temperature conditions, will have a range of, say, 125 or 150 miles. We have not quite made that step yet.

So this area of electrical energy storage is of particular interest, not only for electric automobiles but in a different way as well.

You can hardly pick up a magazine these days, or any periodical that has anything to do with energy, without reading about windmills with 50-foot arms which generate so many hundred kilowatts of electricity. We also see things listed in Popular Mechanics or Popular Science as to how wave action can be used to articulate a generating mechanism. We read about wind power, wave power, tidal power, solar power, photovoltaic power, and so forth. These are different physical phenomena which may be converted to electricity. The question is, "Why are we not moving more rapidly to use these means of conversion to electric energy that we now have available to us?"

There is one reason. When I want to turn on my TV when I go home at night, it is dark and the Sun is not shining in order to provide for photovoltaic conversion, or the wind is not always blowing to provide for wind conversion.

What do we need? We need better storage. If we had a better storage mechanism, there is absolutely no doubt that we could be making much better use of, for example, solar photovoltaic conversion, windpower, and tidal power. By converting these to electricity and efficiently storing it, we could have enough electricity to power the electric automobiles that I believe will become practical one of these days, and in which we need a bit more R. & D., to make them practical.

That is why if I could have but one energy wish granted before nightfall tonight, it would be that we would have better means of electrical energy storage, the concentrated storage necessary to make a practical electrical automobile and to store massive amounts of electrical energy that we can generate from windpower, tidal power, and sun power. It seems to me that it is very critical that we get on with the research to make that kind of breakthrough.

Let me add as a side issue here that we are very concerned about automobile production in this country and that we have several hundred thousand people unemployed in the automobile industry at the present time. If we think we have problems now with Japanese imports, just wait until the Japanese produce the world's first practical electric automobile. We can make Detroit into some great national park if that happens.

A year and a half ago, I was in Japan and spoke to some of the officials at MITI. They said that two of their automobile companies are working on a priority development program to produce a practical electric automobile; and they will have no compunction about flooding world markets with it if they get it on the market before we do.

If we think we have problems in the automobile industry now—and secondary problems as a result of this in the steel industry—we have seen nothing yet if we let some other nation develop the first practical electric automobile. We will see ourselves run out of the electric automobile business; electric automobiles which could provide the 92 percent of the noncommercial driving that is done within 20 miles of our homes.

If we were to make a breakthrough in this one area it would do more to solve our energy difficulties in a short time than probably anything else we could do.

Let me address this electrical energy storage problem further with an excerpt from an article of mine which was published in the Public Utilities Fortnightly:

> Of particular interest is electrical energy storage. Just one major breakthrough in this area would have an incalculable impact on our long-term energy supply picture. With enhanced storage capability, we could produce electricity from solar, wind, and tidal energy (as well as from other intermittent sources) and spread the supply evenly over a 24-hour period. The significance of this is revealed in the fact that the reserve capacity of electrical utilities in the United States is, in average, about 34 per cent of peak-load demand. In other words, much of the power produced by an electric utility is used to satisfy the peak demand of the evening hours. If we could find a way to

> store the energy produced by the utilities' generators, far fewer new power plants would be needed to meet that demand. Moreover, it is estimated that such storage systems could result in an energy savings equal to almost one million barrels of oil per day by the year 2000.

I add to the remarks I made in this article that with electric utilities being on line at about 50 percent of their capacity on the average in a 24-hour period, if we could store that energy and run those utilities at near peak rates all the time, we probably would not have to spend billions to build either nuclear, coal fired or any other kind of electric generating plant for maybe the next 10- or 15-year period. Just think how much that would save on our electric utility bills.

But on with the prepublished remarks:

> There is at present only one well-established electrical storage system: pumped hydroelectric storage. Less than 2 per cent of all U.S. electrical energy is currently obtained in this manner and most analysts are dubious that this amount can be appreciably increased. There are, however, a number of new energy storage concepts being tested. One of these, involving the pumping of compressed air into an underground reservoir, recently became operational near Bremen, West Germany. The facility can generate 290,000 kilowatts for a maximum of about two hours.

That is a very substantial generating capacity. Continuing:

> Perhaps the energy storage system with the most potential feasibility for electrical utilities is one based on rechargeable batteries. Such storage systems could be attractive on several counts: Both their input and output would be entirely electric and could be made to respond rapidly to load changes; storage plant capacity could be increased in modular increments and the batteries themselves could be produced and installed rapidly when they were needed. For my money, the most intriguing new electrical energy storage concept is being developed at the NASA-Lewis laboratories near Cleveland. Called the Redox system, it consists of a "battery" whose anode and cathode consist of enormous tanks of chemicals separated by a membrane along which ion-flow occurs. Preliminary results from the laboratory's working scale model indicate an impressive 70 to 75 percent rate of efficiency for the system.

By "rate of efficiency" we mean the electrical energy output for the amount of electrical energy input into the system in the first place. In other words, what you put in you get 70 percent back out of this system because this battery's capacity apparently is limited only by the size of the tanks. It could also prove highly practical for electrical utilities, because the anode and cathode, that is, the plus and minus of this battery are two liquids, and you keep them apart. But it is obvious you could make one side of this battery a liquid container as big as the capacity of this Chamber or the size of the Pentagon if you wanted to. They think at the present time that there will be no scaling up problems as far as making a storage system that can perhaps handle a 1000-megawatt plant capacity during nonpeak load periods. Continuing:

> Equally important, of course, are the potential "spin-offs" from these research and development efforts. In mid-May, for example, the Gulf and Western Corporation announced that work by the Electric Power Research Institute had resulted in a breakthrough in battery technology which might provide efficient electric automobiles by the end of the decade. Since 92 percent of America's noncommercial driving takes place within 20 miles of home, the realization of vehicular electric propulsion would go far toward freeing us from the straitjacket of dependency on foreign oil.

I have not meant to imply that an expanded energy R. & D. program will necessarily solve every aspect of our Nation's long-term energy problem. However, I certainly do believe that providing the research and development community with increased resources and a clear mandate will significantly ameliorate many of those problems. One thing is certain: If we wish to leave future generations a hopeful and prosperous tomorrow we must redouble our efforts today.

Mr. President, I call upon the Department of Energy to try and use some of their discretionary funds to put into these areas that I have outlined and the areas listed in the attachment to my statement which will go into the Record.

I do not know that we can put in amounts that will cover all of these areas. But I know that in some particular areas, especially electrical energy storage systems, we have not been doing nearly enough as far as I am concerned.

At a time when we are sending some $90 billion to OPEC, what do you think we will be spending next fiscal year on energy research and development—$15 billion, $12 billion, $10 billion? Certainly we should be that concerned about energy R. & D. to get alternate sources of fuel on stream and start supplementing our dwindling supplies of oil and gas for the future. But what are we actually proposing to spend on energy R. & D. at the same time we are sending out $90 billion? We will spend only $3.9 billion, a pittance for a problem that threatens our American economy, the whole free world economy, and our national security.

Let me carry this on a little further. We will spend some $3.9 billion on energy research and development. And what do you suppose we will spend on energy storage of all kinds next year? All energy storage including flywheels, compressed air, and other methods, comes to a grand total of only $71.8 million.

Mr. President, I submit just by way of comparison that we in this body are building a new office building over here, the Hart Office Building. Its cost has gone up drastically through the years. Of course, it is used as a scale of comparison here only, not that we do not need the space around here—we certainly do—but its cost is now going to be somewhere around $140 million to $150 million. In other words, we are spending on one office building here twice what we will spend on energy storage research of all kinds in fiscal year 1981.

These current figures are a pittance, and I mean a pittance compared to the potential that we could have if we could make any breakthroughs in the area of electrical energy storage.

I referred a moment ago to the Japanese. I return to them. I was told by some people in Japan that one reason that the Japanese have such an ambitious nuclear energy electrical generating program underway in Japan, with quite a number of plants planned, is because they are very confident they will in fact have a practical electrical automobile in the near future. Consequently, they want the generating capacity to be there so they can charge up all those batteries, that is, so that they can make electric automobiles practical.

I repeat once again. If we think we have trouble with our automobile industry today, just wait until some other nation beats us to the world's first practical automobile. We will once again be wringing our hands and saying how awful it is that the heads of companies in Detroit were not smart enough to see this coming up and put the research into it. Yet some of this is in the high technology research area, and we do definitely need to put Government funds in for some of these very uncertain R. & D. areas. Yet we have refused to do so on a large enough scale.

If there is one area—I repeat myself again—one area in which I think a break through would give us more energy independence for the future than any other single thing that could happen, it would be the area of electrical energy storage. We could then have the world's first practical electric automobile and, in addition, we would have the means of storing the massive amounts of electrical energy that can well be developed by windmills, by solar, and by other renewable sources. We are doing very little. We are depending too much upon our private developers in this area although our companies are, thank heaven, doing all they can to give us this kind of independence.

Mr. President, I once again call upon the Department of Energy to do more, even though we are in a tight bind as far as the budget goes at this present time. I hope that they can see fit to fund more adequately out of existing funds and out of some of their discretionary funds this important area of very basic research and development that I think is so vital.

So, Mr. President, I will close my remarks by just once again hoping that in the very earliest time period possible we can see more money going into this area. I think it is vital for the future of our country, not only for our economy but it is vital for the security of our country, and I just hope we can see more support.

We have been depending on private industry so far in this area. The Government has done very little. I think we have been shortsighted in this area. We are concentrating on the shorter-range problem. We have done very little about this area that can be of such vital concern to us for the future.

I thank the Chair and I yield the floor.

● Mr. PERCY. Mr. President, I want to comment briefly on the DOE authorization bill we are voting on today. Much in this bill is highly commendable, showing a sensitivity to the progress of new and vital energy technologies which are so necessary at this point in our Nation's life.

I want to applaud the Energy Committee, first of all, for its clear interest in seeing the funding continued for two highly promising synthetic fuel processes that can help our country enormously in the next several years in our efforts to get off of our intolerable dependence upon foreign oil. The synthetic fuel processes to which I refer are the COGAS process, being developed by the Illinois coal gasification group (ICGG) for Perry County, Ill., and the CONOCO gas plant being developed for Noble County, Ohio by the CONOCO Coal Development Co.

Mr. President, for 3 years now, these two synfuel plants, both being developed for the production of high-Btu coal-gas, have been involved in a head-to-head competition to determine the relative worth and potential of their technologies. This was to have been the year that DOE determined which of these plants would receive priority treatment for future funding, and which would be, essentially, set aside for future analysis.

The Energy Department has given both these ventures their serious attention. I know that DOE has taken considerable time to study the merits of both plans, so that its crucial decision as to which project deserved priority funding would be correct. Recently, DOE announced that it would continue the competition between the two projects for another year.

The DOE authorization bill, I am pleased to report, recognizes the plain fact that the projects are different, both are necessary, and both are extremely worthy of funding. The ICGG process would make 18 million cubic feet per day of gas, and 2,200 barrels of fuel and heating oil, from 2,200 tons of coal daily. The CONOCO process, called slagging Lurgi, would produce 19 million cubic feet of synthetic gas from 1,250 tons of coal daily.

Mr. President, under the conditions of this authorization bill, both projects would be funded for full-speed development if the Secretary of Energy determined that they were both capable of being built and operated successfully, economically, and in a way that would significantly improve America's utilization of domestic energy resources. The word from ICGG and CONOCO is that both efforts are proceeding at a pace and quality that will allow them to totally satisfy these requirements.

To date, Mr. President, DOE has spent $36.5 million on the CONOCO effort, and $39 million on the ICGG COGAS effort. The funding for these projects that is authorized in this legislation should speed these projects on the road to fruition, with both serving as the Nation's first advanced demonstration plants for producing synthetic gas from coal. I applaud the Energy and Natural Resources Committee, and especially the efforts of the junior Senator from Ohio (Mr. METZENBAUM), for emphasizing the need for continuation of both these essential ventures.

Mr. President, I also want to note that the Energy Committee has offered new and crucially needed funding for several programs at the Argonne National Laboratory in Argonne, Ill. Seven new projects, in fact, have been authorized for Argonne this year, most of them directed toward one of the most important areas of spending that every national laboratory has—plant maintenance and improvement. It is a tragic fact, Mr. President, that as funds for most of our other national laboratories have kept pace with their need for expansion and maintenance, Argonne's has lagged far behind.

This year, the Energy Committee is presenting the Senate with an authorization bill which includes impressive sums for general plan operations: $15 million is authorized for rehabilitation of the physical plant, including repairs and improvements of roads, fences, and grounds; cleaning of laboratory sewer systems; and improvement of the lab's refrigeration equipment. Over $8.4 million is being earmarked this year for construction of a new centralized storage warehouse, to replace the dilapidated 25-year-old quonset huts that Argonne has to endure for far too long. In addition. Argonne is provided $4.1 million to totally revamp and improve the quality of its fire safety system.

This bill will help Argonne in its internal energy conservation and off-oil campaign, too. The lab is authorized $7.4 million to install a new steam-driven cogenerating system. The cogenerator will provide a portion of the laboratory's power requirements as well as chilled or hot water for 10 of Argonne's main buildings. Energy savings are conservatively estimated at 33,000 barrels of oil per year, with a cost reduction of $930,000 annually. The lab, additionally, is provided $7.1 million for installation of a coal-fired fluidized bed boiler that will be utilizing high-sulfur Illinois coal exclusively.

Generally, the work of a national laboratory can be expected to be no better than the condition of the laboratory itself. Cramped storage and work quarters, clogged sewers, and pot-holed roads can only impair the professionalism and efficiency that our national laboratories must have to succeed.

For years, Argonne has succeeded in spite of itself: while the physical plant has received far too little attention by Congress, the work of the lab in breeder reactor research, coal combustion, and solar and alternative energy has continued to excell. Argonne's proven quality under adverse work conditions, however, it is not a reason to deprive it of the plant maintenance funding to which it is entitled.

The funding levels for upkeep of Argonne's physical plant are impressive starts. They are unlikely to be enough, however. Our national laboratories are among America's most important scientific assets. They cannot be allowed to deteriorate. I emphasize the need to pass this authorization bill, in part, to keep the necessary improvement funds for Argonne National Laboratory, and our Nation's other Federal laboratories.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD: I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Georgia (Mr. TALMADGE), the Senator from Alabama (Mr. HEFLIN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "yea."

Mr. FORD. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. MITCHELL). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 78, nays 14, as follows:

[Rollcal Vote No. 337 Leg.]

YEAS—78

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—14

Armstrong
Boschwitz
Cochran
Durenberger
Durkin
Garn
Goldwater
Helms
Humphrey
Laxalt
Lugar
Proxmire
Roth
Wallop

NOT VOTING—8

Church
Cranston
Culver
Heflin
Kennedy
Long
Pryor
Talmadge

So the bill (S. 2332) was passed, as follows:

S. 2332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Authorization Act for Fiscal Year 1981—Civilian Applications".

TITLE I—FISCAL YEAR 1981 AUTHORIZATIONS

OPERATING EXPENSES

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the civilian programs amounts equal to the amounts appropriated and reappropriated for Department of Energy for fiscal year 1980 pursuant to—

(1) title I of the Energy and Water Development Appropriations Act, 1980 (Public Law 96–69) except atomic energy defense activities: *Provided, however,* That the amount authorized to be appropriated for fiscal year 1981 for operating expenses for the Federal Energy Regulatory Commission shall be not to exceed $76,374,000: *Provided further,* That no funds authorized to be appropriated in this subsection may be obligated for construction or acquisition of facilities, other than for research, in which will occur the interim storage of spent fuel from a civilian nuclear powerplant, the disposal of such spent fuel or of high-level radioactive waste from civilian nuclear activities, or the transportation of such spent fuel or waste, until such funds are appropriated pursuant to an Act establishing title transfer, user fees, and other program operating procedures: *And provided further,* That all actions preliminary to such construction or acquisition shall proceed; and

(2) title II of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Public Law 96–126) except for the amount appropriated therein for alternative fuels production,

for each appropriations account, as shown at the total level for that account in said Acts, plus 10 percent.

(b) The anticipated revenues from Uranium Enrichment Activities for fiscal year 1981 and each subsequent fiscal year and authorized to be retained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction amounts equal to the amounts appropriated and reappropriated for plant and capital equipment for Department of Energy civilian programs for fiscal year 1980 pursuant to—

(1) title I of the Energy and Water Development Appropriations Act, 1980 (Public Law 96–69) except atomic energy defense activities; and

(2) title II of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1980 (Public Law 96–126),

for each appropriations account, as shown at the total level for that account in said Acts, plus 10 percent.

(b) The anticipated revenues from Uranium Enrichment Activities for fiscal year 1981 and each subsequent fiscal year and authorized to be retained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

(c) There are hereby authorized to be appropriated for plant and capital equipment projects for the civilian programs of the Department of Energy which have been initiated prior to fiscal year 1981 amounts not to exceed the Federal share of the total estimated cost set forth for each such project in budget documents submitted to the Congress in support of the fiscal year 1981 budget. The annual amounts authorized to be appropriated for fiscal year 1981 for said projects shall be deemed to be encompassed within the total amounts authorized to be appropriated by subsections (a) and (b) of this section: *Provided, however,* That for the fiscal year 1981 additional budget authority is hereby deemed to be authorized by this subsection for the following projects as set forth below:

(1) Project 79–1–Q, Solar Energy Research Institute Facility, Golden, Colorado, $1,000,000; and

(2) Project 76–8–G, enrichment uranium production facilities, Portsmouth, Ohio, $319,000,000.

(d) The Secretary shall determine for each of the two proposals presently participating pursuant to his request in the authorization for Project 76–1–B,

(1) whether, for each such proposal, the construction and operation of the demonstration plant would significantly advance toward commercial availability, a process which would convert domestic coal resources into synthetic pipeline gas in an economical and environmentally acceptable way, and in accordance with other criteria of the program established by the Secretary for fossil energy research and development;

(2) whether, for each such proposal, there is a reasonable expectation that the demonstration plant can be constructed and operated successfully and according to the requirements of the Secretary;

(3) whether, for each such proposal, the proponents thereof are willing and able to commit sufficient financial and other resources which, when combined with the Federal resources available, will provide a reasonable expectation that the demonstration plant can be constructed and operated successfully, according to the requirements of the Secretary; and

(4) whether, for each such proposal, the construction and operation of the demonstration plant will significantly improve the ability of the United States to utilize its domestic energy resources.

If the Secretary determines that both proposals satisfy the requirements of this section, then he is authorized to proceed with construction and operation of one project under the authorization for Project 76–1–B and with the second project under the authorization for Project 81–T–406 which is provided by section 104 of this Act.

(e) Within the total amounts authorized to be appropriated in subsection (a) there are hereby authorized to be appropriated for the following plant and capital equipment projects amounts not to exceed the total estimated cost set forth for each such project:

(1) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho, $44,300,000; and

(2) Project 78–5–c, advanced isotope separation pilot plant facility, Richland, Washington, $19,400,000.

(f) Within the amounts authorized to be appropriated in subsection (a), the authorization for Project 77–1–b in Public Law Numbered 95–39 is hereby extended unless modified in a subsequent Act of the Congress.

(g) For the purpose of this Act the "budget documents" shall mean the Department of Energy Congressional Budget Request, Fiscal Year 1981, dated January 1980 (DOE/CR–0011), as amended by the Department of Energy Fiscal Year 1981 Budget Revisions, dated March 1980.

MAJOR INITIATIVES

SEC. 103. In addition to the amounts authorized in sections 101 and 102, in accordance with section 660 of the Department of Energy Organization Act—

(a) there are hereby authorized to be appropriated for fiscal year 1981 for operating expenses for civilian program initiatives, as follows:

(1) Energy conservation:

(A) emergency energy conservation program, $14,000,000;

(B) energy impact assistance, $100,000,000;

(C) Energy Management Partnership Act—local programs, $80,000,000; and

(D) to carry out in the Energy Extension Service Program an energy conservation diagnosis and retrofit program, $10,000,000; such program to consist of—

(i) assistance for projects for the training and operation of teams to provide one-stop services to residential and small commercial building owners to improve efficiency of energy use by performing energy audits and making energy conserving improvements in such buildings;

(ii) assistance for acquisition of project materials and equipment to be used by such teams, including thermographic equipment;

(iii) assistance for project post-installation inspections for the purpose of assuring quality of work, evaluating effectiveness of improvements and change in energy consumption;

(iv) a limitation on assistance to 50 per centum of project costs; and

(v) a condition on projects assisted that no such project may provide improvements totalling more than $100 in costs in any building, unless the owner of such building agrees to pay any costs in excess of $100.

(2) Energy production, demonstration and distribution:

(A) naval petroleum reserve development, $72,732,000;

(B) commercial nuclear waste remedial action, $43,000,000; and

(C) small hydroelectric construction grants program, $5,900,000.

(3) Economic Regulatory Administration:

(A) standby motor fuel rationing program, $103,000,000.

(b) There are hereby authorized to be reappropriated for fiscal year 1981 for operating expenses for civilian initiatives, as follows:

(1) Geothermal Resources Development Fund, $41,982,000; and

(2) Strategic petroleum reserve, $2,403,978,000.

(c) There are hereby authorized to be appropriated for fiscal year 1981 for fossil energy operating expenses relating to coal up to $12 million in Federal assistance to the contractor not selected to proceed to construction on Project 76–1–C, for the purpose of the further design or redesign of the contractor's coal gasification alternative fuels production plant, if the Secretary of energy determines, in his sole discretion, that the contractor's project would be of value in contributing toward the attainment of the President's goals for the domestic production of alternative fuels. Notwithstanding any other provisions of law, funds previously appropriated for surface coal gasification for operating expenses or plant and capital equipment expenses may be utilized for this purpose.

(d) There are hereby authorized to be appropriated for fossil energy construction relating to coal, including planning, construction, acquisition, or modification of facilities, including land acquisition, as follows, for—

(1) Project 79–1–R, SRC II (liquids) Demonstration Plant, West Virginia, an additional sum of $210,000,000 for a total project authorization of $300,000,000; and

(2) Project 78–2–D, SRC I (Solids) Demonstration Plant, Kentucky, an additional sum of $195,000,000 for a total project authorization of $275,000,000.

(e) There are hereby authorized to be appropriated from funds available under the fossil energy research and development appropriation, up to $30,000,000 for projects to demonstrate technology for the upgrading of heavy oil, tar sands material, and residual oils.

NEW CONSTRUCTION

SEC. 104. Within the amounts appropriated in fiscal year 1981 pursuant to the authorization provided in section 102, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized for fiscal year 1981 and beyond as set forth below to an amount not to exceed the Federal share of the total estimated cost set forth for each such project in budget documents submitted to the Congress in support of the fiscal year 1981 budget, as follows:

(a) for fossil energy activities:

(1) Project 81–T–401, renovation of South Wing, Building 3, Bartlesville Energy Technology Center, Oklahoma, $1,200,000;

(2) Project 81–T–402, surplus water containment and waste water treatment facility, Pittsburgh Energy Technology Center, Pennsylvania, $3,000,000;

(3) Project 81–T–404, general plant projects, six locations, $6,000,000;

(4) Project 81–T–405, modifications to the component development and integration facility, Butte, Montana, $6,000,000;

(5) Project 81–T–406, High-Btu synthetic pipeline gas demonstration plant, site undetermined, $275,000,000; and

(6) Project 81–T–407, solid peat direct fueled combustion demonstration plant (site undetermined), $3,100,000;

(b) for energy supply research and development activities—

(1) Solar Technology:

(A) Project 81–T–305, ethanol from biomass production/conversion system, location to be determined, $2,500,000; and

(B) Project 81–T–306, solar industrial cogeneration project, location to be determined, $1,900,000;

(2) Nuclear Fission:

(A) Project 81–T–301, general plant projects, $2,000,000;

(B) Project 81–T–302, salt test facility, site undetermined, $30,000,000;

(C) Project 81–T–310, general plant projects, $11,500,000; and

(D) Project 81–T–303, test reactor area liquid radioactive waste cleanup system, Idaho National Engineering Laboratory, (phase II), $8,085,000;

(3) Magnetic Fusion:

(A) Project 81–T–313, general plant projects, $5,400,000; and

(B) Project 81–T–314, MIT plasma fusion building modifications, Cambridge, Massachusetts, $5,000,000;

(4) Environment:

(A) Project 81–E–305, general plant projects, $3,000,000; and

(B) Project 81–E–306, modifications and additions to biomedical and environmental research facilities, various locations, $3,400,000;

(5) Supporting Research:

(A) Project 81–E–301, general plant project, $300,000;

(B) Project 81–E–304, accelerator improvements and modifications, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $200,000;

(C) Project 81–E–308, energy systems research laboratory (ESRL), Oak Ridge National Laboratory, Oak Ridge, Tennessee, $2,000,000;

(D) Project 81–E–309, rehabilitation of general purpose physical plant, Argonne, Illinois, $15,100,000;

(E) Project 81–E–310, transmission and distribution systems upgrading, Richland, Washington, $12,000,000;

(F) Project 81–E–311, energy science and technology building expansion, Brookhaven National Laboratory, New York, $12,000,000;

(G) Project 81–E–312, environment and energy technology facility, Richland, Washington, $18,000,000;

(H) Project 81–E–313, central energy conservation facility, Brookhaven National Laboratory, New York, $9,100,000;

(I) Project 81–E–314, energy utilization improvements, Brookhaven National Laboratory, New York, $2,000,000;

(J) Project 81–E–315, centralized cogeneration with chilled and hot water distribution, Argonne National Laboratory, Illinois, $7,400,000;

(K) Project 81–E–316, boiler numbered 3 replacement, Brookhaven National Laboratory, New York, $3,000,000;

(L) Project 81–E–317, roof replacement, Idaho National Engineering Laboratory, Idaho, $5,300,000;

(M) Project 81–E–318, upgrade primary substation, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(N) Project 81–E–319, install coal-fired atmospheric fluidized-bed boiler, Argonne National Laboratory, Illinois, $7,1000,000;

(O) Project 81–E–320, central supply facility, Argonne National Laboratory, Illinois, $8,500,000;

(P) Project 81–E–321, site utilities project, Ernest Orlando Lawrence Livermore National Laboratory, California, $7,900,000;

(Q) Project 81–E–322, Scoville substation distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000;

(R) Project 81–E–323, five safety improvements, Argonne National Laboratory, Illinois, and Idaho National Engineering Laboratory, Idaho, $4,100,000;

(S) Project 81–E–324, fire safety and protection improvements, Idaho National Engineering Laboratory, Idaho, $4,400,000;

(T) Project 81–E–325, energy technology laboratory, Sandia National Laboratory, Albuquerque, New Mexico, $20,000,000;

(U) Project 81–E–326, geosciences laboratory, Los Alamos National Scientific Laboratory, Los Alamos, New Mexico, $9,000,000;

(c) for general science and research activities—

(1) High Energy Physics:

(A) Project 81–E–218, Tevatron, Phase I, Fermi National Accelerator Laboratory, Illinois, $39,500,000;

(B) Project 81–E–219, accelerator improvements and modifications, various locations, $6,000,000; and

(C) Project 81–E–220, general plant projects, $5,000,000;

(2) Nuclear Physics:

(A) Project 81–E–221, accelerator improvements and modifications, various locations, $1,600,000;

(B) Project 81–E–222, general plant projects, $2,800,000; and

(C) Project 81–E–223, Argonne tandem-linac accelerator system, Argonne National Laboratory, Illinois, $6,900,000;

(d) for uranium supply and enrichment actvities—

(l) Project 81–T–501, isotope research and development laboratory, New Mexico, $16,000,000;

(2) Project 81–T–502, advanced isotope separation laboratory, Ernest Orlando Lawrence Livermore National Laboratory, California, $29,700,000;

(3) Project 81–T–504, general plant projects, $2,970,000;

(4) Project 81–R–501, general plant projects, $18,300,000;

(5) Project 81–R–502, UF–6 cylinders and storage yards, gaseous diffusion plants, $8,000,000;

(6) Project 81–R–503, utilities upgrading, gaseous diffusion plants, $27,000,000;

(7) Project 81–R–504, supervisory control and data acquisition systems, Paducah, Kentucky, and Portsmouth, Ohio, gaseous diffusion plants, $13,000,000;

(8) Project 81–R–505, instrumentation for purge cascades and withdrawal areas, gaseous diffusion plants, $6,000,000; and

(9) Project 81–R–506, environmental protection and safety modifications, phase I, gaseous diffusion plants, $55,000,000; and

(e) for departmental administrative activities—

(1) Project 81–A–601, modifications for energy management, various locations, $28,200,000;

(2) Project 81–C–601, plant engineering and design, $9,000,000;

(3) Project 81–A–602, energy monitoring and control system, Y–12 plant, Oak Ridge, Tennessee, $5,000,000;

(4) Project 81–A–603, energy monitoring and control system, Oak Ridge National Laboratory, Tennessee, $4,000,000;

(5) Project 81–A–604, HVAC heat recovery and night setback, Richland, Washington, $3,000,000; and

(6) Project 81–A–605, automated energy management system, Argonne National Laboratory, Illinois, $3,800,000.

REDUCE NUMBER OF EMPLOYEES OF DEPARTMENT OF ENERGY

SEC. 105. Notwithstanding any other law, one thousand positions currently allocated by the Secretary of Energy to carry out the programs established under the Emergency Petroleum Allocation Act of 1973 shall be terminated effective October 1, 1981. No funds may be used by the Secretary of Energy to carry out any programs established under the Emergency Petroleum Allocation Act of 1973 after September 30, 1981, except insofar as to pursue and complete matters and claims initiated under the Emergency Petroleum Allocation Act of 1973 prior to September 30, 1981.

STATE APPLIANCE ENERGY EFFICIENCY STANDARDS

SEC. 106. (a) Section 327(b)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(5) as amended by section 424 (b)(5) of the National Energy Conservation Policy Act is amended by striking out "July 1, 1980" and inserting in lieu thereof: "a rule under section 325 is prescribed".

(b) Amend section 327(b)(2) of the Energy Policy and Conservation Act by adding the following at the end of the first sentence: ": *Provided, however,* That the modification of a State standard prescribed prior to January 1, 1978, shall not constitute the establishing of a State standard after January 1, 1978".

PUBLIC AVAILABILITY

SEC. 107. (a)(1) The Department of Energy shall maintain during each month a list of contracts which were entered into within the preceding twenty-four months or for which contractors have not then completed performance. Such list shall include—

(A) the contract identification number assigned by the agency;

(B) the contractor's name;

(C) the date of award and the initial and current estimated completion date;

(D) the initial and current amount of the contract award;

(E) a brief description of the work to be performed; and

(F) the name of the Government employee who authorized the award of the contract and the employee who is responsible for the program administration of the contract.

(2) The list under paragraph (1) shall be available to the public for inspection and copies shall be available but the agency may charge for duplication costs therefor.

(b) Any information on a list under (a) (1) and any information related to a contract included on such a list shall be available to the public, subject to limitations on disclosure pursuant to other laws.

DISCLOSURE OF INFORMATION CONCERNING THE USE OF CONTRACTORS

SEC. 108. (A) The Secretary shall require that each report prepared by a contractor, and each report prepared by an agency which is substantially derived from or substantially includes any such report, shall include—

(1) the name and business address of the contractor who prepared or contributed to the report;

(2) the total amount to be paid by such agency under such contract;

(3) the type of procurement process used in the award of such contract;

(4) the name of the office or employee of the agency who authorized such contract;

(5) a brief description of the work performed under the contract; and

(6) in any case in which a contractor used a subcontractor to carry out a substantial portion of the contract, the name and business address of the subcontractor and the amount paid to the subcontractor.

(B) The term "report" means a study, plan, evaluation, analysis, manual, oral or written presentation, or other document, including drafts thereof, which is prepared by a contractor pursuant to a contract with an agency, and which is submitted—

(1) to such agency, or

(2) on behalf of such agency to any other authority of the Government,

but does not include billing documents, invoices, or other routine business transmittals.

TITLE II—OUT-YEAR AUTHORIZATION

Sec. 201. For each fiscal year beyond 1981, except as provided in sections 202 and 203, funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act as follows:

(a) For operating expenses for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year, plus 10 percent;

(b) For (i) general plant projects and (ii) acquisition and fabrication of capital equipment not related to construction for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year, plus 10 percent.

Sec. 202. For each fiscal year beyond 1981, any request for an appropriation for operating expenses for the civilian programs of the Department of Energy which is not within the amount authorized pursuant to section 201(a) for an appropriation account shall require separate authorization.

Sec. 203. For each fiscal year beyond 1981, new plant and capital equipment projects shall be specifically authorized on a line item basis.

TITLE III—ENERGY IMPACT ASSISTANCE

Sec. 301. This title may be cited as the "Energy Impact Assistance Act of 1980".

FINDINGS AND STATEMENT OF PURPOSES

Sec. 302. (a) Findings.—The Congress finds that—

(1) the protection of public health and welfare and the preservation of national security require greater production and utilization of domestic energy resources in lieu of foreign energy supplies;

(2) there are potential adverse social, economic, and environmental impacts that can accompany rapid or major energy developments;

(3) the need for public facilities and services often precedes the availability of the government revenues required to finance such facilities and services;

(4) States and units of local government often lack sufficient technical and financial resources to adequately mitigate against such adverse impacts, in advance, and

(5) States and units of local government should have increased financial and technical resources to provide necessary public facilities and services prior to the availability of increased State and local governmental revenues necessary to pay for such public facilities and services.

(b) Statement of Purposes.—The purposes of this title are to provide technical and financial assistance to States, regions, and local governments to foster the development and implementation of programs to prevent and mitigate the potential adverse economic, social, and environmental impacts resulting from major energy development, to finance public facilities and services, and for other purposes.

AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Sec. 303. (a) The Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620), as amended, is amended by amending title VI of the table of contents to read as follows:

"TITLE VI—FINANCIAL ASSISTANCE

"Subtitle A—Energy Impact Assistance

"Sec. 600. Definitions.
"Sec. 601. Assistance to areas impacted by increased coal or uranium production.
"Sec. 602. Energy Impact Development Planning.
"Sec. 603. Financial Assistance.
"Sec. 604. Regional Commissions.
"Sec. 605. Intergovernmental Coordination.
"Sec. 606. Administration.
"Sec. 607. Appropriations-Authorization.
"Sec. 608. Miscellaneous Provisions.

"Subtitle B—Other Assistance Programs

"Sec. 611. Loans to assist powerplant acquisitions of air pollution control equipment.".

(b) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is amended by inserting at the beginning thereof, the following:

"Subtitle A—Energy Impact Assistance

"Sec. 600. Definitions.

"Unless otherwise expressly provided, for the purposes of this subtitle the term—

"(1) 'eligible applicant' means—

"(A) a State,

"(B) a local government (except for expedited assistance under section 603(e)), with the concurrence of the Governor,

"(C) the governing body of an Indian tribe or tribes,

"(D) a regional commission pursuant to section 604, which serves a geographic area for which a local planning unit has been selected under subsection 602(b),

"(E) a substate district (except for expedited assistance under section 603(e)), with the concurrence of the Governor,

"(F) a public or private nonprofit corporation, or

"(G) a school, water, sewer, highway, or other public special purpose district, authority, or body, with the concurrence of the Governor.

"(2) 'Federal agency' means an executive agency (as defined in section 105 of title 5 of the United States Code).

"(3) 'Geographic area' means one or more areas within a State which is a special purpose district or other region recognized for governmental purposes within such State or a unit of local government.

"(4) 'Governor' means the chief executive officer of a State.

"(5) 'Indian tribe' means an Indian tribe, as defined in the Indian Self-Determination and Educational Assistance Act (Public Law 93-638).

"(6) 'Local government' means—

"(A) any facility or installation used priship, village or other general purpose political subdivision of a State

"(A) any county, parish, city, town, township, vilage or other general purpose political subdivision of a State with the power to levy taxes and expend Federal, State, and local funds and exercise governmental powers; and

"(B) which (in whole or in part) is located in, or has authority over the energy impacted area.

"(7) 'Major energy development' means—

"(A) any facility or installation used primarily for exploration, production, extraction or processing of depletable energy resources including synthetic fuel projects;

"(B) the construction or operation of an electric generation facility (i) designed to consume coal located in the immediate area of such facility or (ii) for the purpose of meeting the energy needs of a synthetic fuels project;

"(C) any major federally funded energy project (including synthetic fuel projects) and uranium processing, nuclear spent fuel storage and waste facilities; or

"(D) the Alaska Natural Gas Transportation System as defined in Public Law 94-586.

"(8) 'Public facilities and services' means facilities and services which (A) are financed, in whole or in part, by any eligible applicant including, but not limited to, highways and secondary roads, parking, mass transit, governmental administration, fire and police protection, water supply, wastewater collection and treatment (including drainage), schools and education, and hospitals and health care and any other facility or service so financed and (B) the Secretary of Agriculture finds are necessary to support increased population.

"(9) 'Public or private nonprofit corporation' means a public or private organization operating on a not-for-profit basis and providing housing or public facilities or services, or both, to the energy impacted area.

"(10) 'Regional commissions' means the Appalachian Regional Commission established by the Appalachian Regional Commission Act of 1965, as amended (40 U.S.C. App. 301) or any regional commission established under subtitle D of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3171).

"(11) 'Secretary' means the Secretary of Energy.

"(12) 'State' means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

"(13) 'Substate district' means a public organization which—

"(A) Encompasses a regional community founded, sustained, and tied directly to local governments through local or State government action, or both;

"(B) Is multijurisdictional and multifunctional with legal status and is funded in part or total by member organizations;

"(C) Has a governing body which is for the most part composed of local government elected officials, or appointed representatives of local communities and State government, or both; and

"(D) Is located (in whole or in part) in, or has authority over, the energy impacted area.".

(c) Title VI of the Powerplant and Industrial Fuel Use Act of 1978 is further amended by redesignating section 602 thereof as section 611, by inserting before such redesignated section, "Subtitle B—Other Assistance", and by inserting the following new subsections following section 601 of said Act:

"Sec. 602. Energy Impact Development Planning

"(a) Area Designation.—(1) The Governor, or in the case of an area under the control of an Indian tribe, the governing body of such Indian tribe, may designate an energy impacted area if it is found that—

"(A) there exists or will exist a major energy development in such community or geographic area or in an adjacent community or geographic area;

"(B) as a result of the construction or operation of such development either—

"(i) employment in, or population directly related to, energy development activities in such an area has increased by eight (8) per centum or more in any year nor more than five (5) years before the date of the designation, over the year immediately preceding the year of employment increase selected by the Governor, or

"(ii) employment in, or population directly related to, such activities will increase by twenty-four (24) per centum or more during the three (3) years following the most recent year.

"(C) the increases in population or employment resulting from such major energy development requires or will require substantial increases in public facilities and services in such area in the five (5) years succeeding initiation of construction or operation of such major energy development; and

"(D) the State and the local governments, or the governing body of an Indian tribe, serving such area, do not possess, and are not expected to possess, the financial and other resources (including resources available under other Federal programs), to meet the immediate or long-term needs for increased public facilities and services identified in subpargraph (C) which cannot be met in a timely manner without assistance under this subtitle.

"(2) For the purposes of paragraph (1)(D) increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments or Indian tribes, which are associated with the increase in energy activities (including natural gas, petroleum, coal or uranium development activities) or under provisions of law in effect on the date of the enactment of the Energy Impact Assistance Act of 1979 shall be taken into account in determining if a State or local government or Indian tribe lacks financial resources.

"(3) Rules promulgated pursuant to section 601(a) shall terminate upon publication by the Secretary of Agriculture of a rule pursuant to this subsection.

"(4) The Secretary, after consultation with the Secretary of the Interior, Secretary of Labor, and the Secretary of Agriculture shall approve any designation of an energy impacted area under paragraph (1) only if—

"(A) the designating official provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and

"(B) the Secretary determines the requirements of subparagraphs (1) (A) through (D) have been met.

"(5) Any energy impacted area designated and approved pursuant to section 601 shall be deemed a designated and approved energy impacted area for the purposes of this subtitle.

"(6) Approval by the Secretary of designated energy impacted areas shall terminate five (5) years following the date of such approval.

"(b) Local Planning Unit.—(1) Any Governor, after consultation with appropriate officials of local government, or the governing body of any Indian tribe, as the case may be, shall select a local planning unit to prepare a mitigation plan for each energy impacted area. Staff may be detailed to such unit from the member organizations to carry out its responsibilities pursuant to this section: *Provided*, That such staff shall remain employees of the entity from which they are appointed.

"(2) For the purposes of this subsection, a Governor may designate as the local planning unit—

"(A) a local development district certified under section 301 of the Appalachian Regional Development Act of 1965;

"(B) after consultation with appropriate elected local officials, an economic development district designated under title IV of the Public Work and Economic Development Act of 1965, as amended, for energy impacted areas in whole or in part within such district;

"(C) an agency of local government; or

"(D) a substate district.

"(c) Mitigation Plans.—(1) For each approved energy impacted area the selected planning unit for such area shall prepare a mitigation plan. Such unit shall consult with representatives of the appropriate Federal agencies and with representatives of the owner or operator of each major energy development within such area. Such unit also shall, to the extent practicable, seek the active participation by regional, State and local agencies and instrumentalities and the private sector through public hearings in cities and rural communities and other appropriate means to insure that the views and proposals of all segments of the economy within the approved energy impacted area are taken into account in the formulation of such mitigation plan.

"(2) A mitigation plan shall—

"(A) identify—

"(i) the projected impact of each major energy development on the economy of such area, the surrounding communities and the State, for the period of five (5) years following construction or operation of the major energy development;

"(ii) the specific needs within such area for public facilities and services resulting from the major energy development for the period of the succeeding five (5) years from the initiation of the construction or operation of the major energy development;

"(iii) specific proposals for mitigating such needs, including specific public and private programs, projects, and activities;

"(iv) priorities for implementing the proposals specified in clause (iii);

"(v) the availability and location of funds and other resources to implement proposals identified in clause (iii);

"(vi) any existing or additional legislative or other authority necessary for the State or local government on Indian tribe to carry out the proposals specified in clause (iii); and

"(vii) the functions and activities in responding to such needs that the State, local government, or governing body of an Indian tribe is prepared to carry out;

"(B) contain assurances satisfactory to the Secretary of Agriculture that the proceeds from any repayment of loans made by a State or Indian tribe under section 603(c) will be returned to the Secretary of the Treasury;

"(C) provide for the establishment of a planning process for review and revision, as appropriate, of the mitigation plans; and

"(D) be coordinated with, and take into account, planning assisted or required under this subtitle or any other appropriate Federal statute, including the Coastal Zone Management Act of 1976 (Public Law 94–370); the Outer Continental Shelf Act, as amended (Public Law 95–372); title IV of the Intergovernmental Cooperation Act of 1968 (7 U.S.C. 2201 et seq.); the Federal Land Policy and Management Act of 1976 (Public Law 94–565); the National Forest Management Act of 1976 (16 U.S.C. 1609); the Federal Coal Leasing Amendments of 1976 (Public Law 94–377); Payments in Lieu of Taxes Act (Public Law 94–565); and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1204).

"(3) The mitigation plan described in paragraph (2) shall be in such form, and contain such additional information as the Secretary of Agriculture may by regulation prescribe.

"(4) Mitigation plans shall be submitted to the Secretary of Agriculture by the Governor or the governing body of an Indian tribe for approval by such Secretary.

"(5) No assistance other than assistance under subsections 601(b) and 603(e) may be made to an applicant under this subtitle for any public facilities and services which are not set forth in an approved mitigation plan and an approved investment strategy. Notwithstanding the preceding sentence, no assistance may be made to an applicant under section 603(e) unless the Secretary of Agriculture determines that the preliminary mitigation plan provides an adequate basis for such aid.

"(6) The Secretary of Agriculture shall approve or disapprove a mitigation plan within seventy-five (75) days after receipt of such plan.

"Sec. 603. Financial Assistance.

"(a) Comprehensive Investment Strategies.—(1) Except as provided under subsections (b) and (c) funds may not be provided pursuant to this section to implement mitigation plans approved pursuant to section 602(c) unless the State or Indian tribe having the approved energy impacted area for which such plan was prepared shall have submitted to the Secretary of Agriculture a comprehensive investment strategy describing the intended use within such State or by such Indian tribe of all financial assistance requested under this subtitle to implement mitigation plans and preliminary mitigation plans and such strategy shall have been approved pursuant to paragraph (2). In formulating the State investment strategy, the Governor shall rely on the priorities developed by the selected local planning units for such areas unless such priorities are found to be inconsistent with the State energy impact mitigation goal and objectives.

"(2) The Secretary of Agriculture shall approve a comprehensive investment strategy only if he determines that—

"(A) such strategy is based upon the appropriate mitigation plan or plans;

"(B) such strategy, to the maximum extent feasible, identifies and provides the rationale for priorities among the measures identified in the appropriate mitigation plan or plans for possible funding under this subtitle;

"(C) such strategy contains satisfactory assurances that other public or private funding is not available on a timely basis for the measures identified in paragraph (B);

"(D) such strategy contains levels of funding recommended and type of funding for each project listed; and

"(E) the procedures of this subsection have been followed.

"(3)(A) The Secretary of Agriculture shall rule on the acceptability of comprehensive investment strategies within forty-five (45) days.

"(B) In the event such Secretary does not approve a comprehensive investment strategy he shall notify the State or Indian tribe which has submitted the strategy of the reasons for not doing so. The State or Indian tribe may modify and resubmit the comprehensive investment strategy within forty-five (45) days of such notification.

"(4) Subject to the limitations set forth in this subtitle, the Secretary of Agriculture may offer assistance in the form of a combination of grants and loans under this subtitle, or may combine assistance under this subtitle with other Federal, State, and local assistance available to energy impacted areas.

"(b) Implementation Grants.—(1) If the Secretary of Agriculture finds that an eligible applicant is unable, because of any restriction in a State constitution existing on the date of enactment of this subtitle relating to the incurrence of debt, to accept a loan under subsection (c) for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies, or identified in preliminary mitigation plans pursuant to section 603(e), and if such Secretary further determines that there is no practical alternative for providing financial assistance to such applicant under this subtitle other than by grant. Then such Secretary upon the request of such applicant may make a grant to such applicant for such purposes. In determining whether no practical alternative for providing financial assistance to such applicant under this subtitle is available other than by grant, the Secretary shall verify that the following alternatives are not available: revenue bonds, special fund bonds, year-to-year leasing arrangements, (taking advantage of non-appropriation clause), and other nondebt borrowing mechanisms which avoid the pledging of the State or localities full faith and credit.

"(2) Notwithstanding the limitations in paragraph (1), if the Secretary of Agriculture finds, in the case of an eligible applicant, that during the period of construction of a major energy development (in no case to exceed a period of ten years) the applicant has or will experience extraordinary short-term increases in demand for public facilities and services, in comparison to the demand for public facilities and services that is likely to continue or occur thereafter as a result of the operation and use of such development, and if such Secretary further determines that there is no reasonable assurance of repayment within thirty (30) years of financial assistance to such applicant under this subtitle other than by grant, then such Secretary upon the request of such applicant may make a grant to such applicant for the purpose of carrying out proposals identified in approved mitigation plans and investment strategies; except that such grant shall be restricted to the provision of public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the costs of such services.

"(3) Grants made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans and strategies.

"(4) Except for grants made pursuant to section 601(b), not more than two (2) per centum of any grant to a recipient under this subtitle may be used for the administrative expenses of such recipient for administering such grant.

"(c) IMPLEMENTATION LOANS.—(1)(A) The Secretary of Agriculture is authorized to make direct and insured loans pursuant to this subsection to eligible applicants (i) for the purpose of carrying out the proposals identified in approved mitigation plans and investment strategies and (ii) to meet needs for expedited assistance identified in the preliminary mitigation plan prepared pursuant to subsection (e). Loans made under this subsection may be made only if such Secretary determines that there is a reasonable expectation of repayment of the loan.

"(B) Direct and insured loans made pursuant to this subsection may be used for the acquisition, construction, rehabilitation, alteration, expansion, or improvement of public facilities and services which are necessary to carry out the proposals identified in such mitigation plans.

"(C) Direct and insured loans made pursuant to this subsection may be expended directly by the recipient or may be redistributed by such recipient through financing mechanisms approved by such Secretary to nonprofit public entities in the form of grants, loans, payments to reduce interest on loans, or other appropriate assistance.

"(2) The interest rates on direct and insured loans (other than guaranteed loans) for public facilities under this section shall be determined by the Secretary of Agriculture, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average yields on outstanding interest-bearing marketable public debt obligations of the United States of comparable maturities, and adjusted to the nearest one-eighth of 1 per centum.

"(3) No provision of law shall prohibit issuance by the Secretary of Agriculture of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this Act; any sale by such Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921: Provided, That any receipts from such sale of such assets shall be deposited in the Energy Impact Insurance Fund.

"(4) If the Secretary of Agriculture finds that any recipient of a loan under this subsection, despite good faith efforts, is unable to meet its obligations, such Secretary may pursuant to regulations—

"(A) modify the terms and conditions of such loan;

"(B) make a supplemental loan, the proceeds of which shall be applied to the payment of principal or interest due under such loan; or

"(C) forgive all or any portion of such loan, only if such Secretary finds that insolvency will otherwise ensue or substantial economic hardship will result and consequently frustrate the purposes of this subtitle: *Provided*, That such Secretary may forgive all or any portion of such loan if such Secretary finds that within ten (10) years following the award of such loan the applicant has as a result of the construction phase of a major energy development experienced extraordinary short-term increases in demand for public facilities and services in comparison to those increases likely to continue or occur thereafter as the result of the operation and use of such development, except that such forgiveness shall be restricted to that portion of the loan for public facilities and services to meet the peak demand for such services and in no event may be greater than forty-five (45) per centum of the original amount of such loan: *Provided*, That the Secretary of Agriculture shall not forgive any portion of a loan pursuant to this subparagraph if such Secretary finds that by actions pursuant to subparagraphs (A) and (B) such recipient will be able to meet its obligations.

"(5) In the event that any recipient of a loan under this subsection is forgiven any loan obligation such recipient shall be ineligible for further loans under this subsection or subsection (e) for a period of two (2) years from the date of such forgiveness. Nothing in the preceding sentence shall be construed to make a State ineligible for continued assistance solely because a loan obligation of a local government or Indian tribe located within such State has been forgiven.

"(6) In the event any loan is forgiven under this section by the Secretary of Agriculture, such Secretary shall report to the Secretary the justification for the forgiveness and the Secretary will incorporate this justification into the report prepared under section 606(c).

"(d) LOAN GUARANTEES.—(1) The Secretary of Agriculture, with the concurrence of the appropriate Governor or Indian tribe, may guarantee loans to eligible applicants to carry out proposals identified in a mitigation plan approved pursuant to section 602 (c) and pursuant to a comprehensive investment strategy approved pursuant to section 603.

"(2) Loan guarantees will be made under such terms and conditions as the Secretary of Agriculture by rule shall prescribe.

"(3) Any contract of insurance and guarantee executed by the Secretary of Agriculture under this subtitle shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

"(4) The interest rate on any loan made under this subtitle as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary of Agriculture.

"(5) The Secretary of Agriculture may purchase, on such terms and conditions as such Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this subtitle: *Provided*, That such Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. Such Secretary may use for such purchases funds from the Energy Impact Insurance Fund. This authority may be exercised only if such Secretary determines that an adequate secondary market is not available in the private sector.

"(e) EXPEDITED ASSISTANCE.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State, or in the case of any area under the control of an Indian tribe the governing body of such Indian tribe, may designate an area as an emergency energy impacted area if—

"(A) such area is approved as an energy impacted area;

"(B) there is serious threat to the public health and safety within such area as a result of the major energy development; and

"(C) a preliminary mitigation plan is submitted to the Secretary of Agriculture identifying and addressing the need for expedited assistance. Such preliminary plan shall be the basis for an application for expedited assistance under this subsection.

"(2) Subject to the terms and conditions set forth in this subtitle, the Secretary of Agriculture may, at any time, make grants, loans, payments to reduce interest on loans, and loan guarantees to any eligible applicant on an expedited basis for public facilities or public services in a designated emergency energy impacted area if such Secretary finds that such needs cannot be met with other Federal programs or other assistance in a sufficiently timely manner.

"(3) The amount of any assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State or to such Indian tribe under the provisions of section 601(d) for that fiscal year. In the event that the amount of assistance made available within a State or to an Indian tribe under this subsection in any fiscal year shall exceed the amount of assistance allocated to that State or Indian tribe under the provisions of section 601(d) for the same fiscal year, any such allocation shall be reduced, accordingly, until a total reduction equal to the amount of assistance made available under this subsection shall be obtained.

"(f) TERMS AND CONDITIONS OF ASSISTANCE.—(1) Any assistance under this subtitle may not be used to provide the non-Federal portion of costs of any other Federal assistance program.

"(2) No financial assistance shall be provided under this subtitle in implementing proposals identified in an approved mitigation plan and investment strategy, except in a designated emergency energy impacted area.

"(3) No loan may be made under this subtitle unless, in the opinion of the Secretary of Agriculture, there is a reasonable expectation of repayment within thirty (30) years from the date such loan is made.

"(4) No assistance under this subtitle shall be used for interest subsidies in connection with loans guaranteed under subsection (d) or to establish reserves to cover losses on such loans.

"(5) Financial assistance under this section shall not replace other public or private assistance reasonably available on terms that, in the opinion of the Secretary of Agriculture would permit the accomplishment of the project or program.

"(6) No funds appropriated to carry out the purposes of this section shall be expended in support of any program, project or activity which is eligible for Federal financial support and funds are available for such support under section 308 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(a)), or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201).

"(g) NONFEDERAL SHARE.—The recipient of any grant assistance shall provide funds equal to twenty-five (25) per centum of the total costs of implementing the proposal for which the assistance is made.

"(h) ENERGY IMPACT INSURANCE FUND.—(1) There is established in the Treasury of the United States an Energy Impact Insurance Fund (hereinafter in this section refered to as the 'Insurance Fund') which shall be used by the Secretary of Agriculture as a revolving fund for the discharge of the obligations of such Secretary under contracts guaranteeing or insuring energy impact loans made pursuant to section 603: *Provided*, That such obligations shall not exceed $400,000,000 per fiscal year, subject to such limitation on the amount of such obligations as may be contained in appropriations Acts.

"(2) The Insurance Fund shall be under the same authorities, terms and conditions as the Rural Development Insurance Fund, established by the Consolidated Farm and Rural Development Act.

"(1) To the extent feasible, assistance under this subtitle shall be provided to States for redistribution to other eligible applicants according to approved mitigation plans and statewide investment strategies so as to facilitate statewide planning and coordination of energy impact assistance.

"SEC. 604. REGIONAL COMMISSIONS.

"(a) Upon application of a Commission, in accordance with established decisionmaking and operational procedures which require the affirmative vote of a majority of the States and the Federal Cochairman, funds may be made available to the Federal Cochairman of such Commission to provide multi-State assistance as described under section 601(b).

"(b) TERMS AND CONDITIONS.—(1) Funds may be made available to a Federal Cochairman under this section only for States whose Governors concur in such action.

"(2) The amount of any assistance made available within a State under this section in any fiscal year shall be deducted from the amount of assistance which would otherwise be allocated to such State under the provisions of section 606 for that fiscal year.

"SEC. 605. COORDINATION OF FEDERAL PROGRAMS

"(a) The President shall establish an interagency council, to be chaired by the Secretary of Agriculture pursuant to Section 603 of the Rural Development Act of 1972 (Public Law 92-419) to coordinate and streamline all Federal programs which may provide assistance to meet needs resulting from major energy developments. Such council shall coordinate the various Federal planning processes with the preparation of mitigation plans assisted under this subtitle, in order to minimize duplication of effort or activities and to avoid delay in the consideration of carrying forward of such major energy developments. The Secretary shall cochair such council with respect to the planning processes related to preparation of mitigation plans.

"(b) The Secretary of Agriculture shall designate an organization unit—

"(1) to administer the program established by this subtitle;

"(2) to provide information to State and local officials and Indian tribes about Federal assistance from programs other than those authorized by this subtitle to prevent or mitigate adverse impacts from energy resource development;

"(3) to advise other appropriate Federal agencies of the needs and proposals for public facilities and services identified in energy impact plans and investment strategies;

"(4) to make recommendations to other appropriate Federal agencies in order to improve coordination, to minimize duplication of effort, and to streamline procedures in providing assistance under this subtitle or any other applicable Act; and

"(5) to provide information and technical assistance, when requested, to States, local governments, and Indian tribes about energy impact mitigation.

"(c) The heads of all Federal departments or agencies shall cooperate with the Council in carrying out the purposes of this subtitle and shall review the programs which each administers to determine what assistance is or may be made available to areas eligible for assistance under this subtitle and, to the extent practicable, implement the recommendations made pursuant to subsection (b)(4).

"SEC. 606. ADMINISTRATION.

"(a) GENERAL RULEMAKING.—The Secretary of Agriculture in consultation with the Secretary, and the Secretary in consultation with the Secretary of Agriculture, are authorized to promulgate such regulations as necessary to carry out such Secretaries' responsibilities under this subtitle, including (1) terms and conditions for financial assistance pursuant to section 603 including a requirement for assurances of repayment of loans under section 603(c); (2) procedures to carry out the provisions of section 606 (b), which shall not be subject to section 554, 556 or 557 of title 5 of the United States Code; and (3) criteria for the allocation pursuant to section 601(d)(3) of funds appropriated under section 607. Such regulations shall be promulgated not later than one hundred and eighty (180) days after the enactment of this subtitle.

"(b) TERMINATION OF FINANCIAL ASSISTANCE.—Whenever the Secretary of Agriculture, after affording the State or the governing body of an Indian tribe reasonable notice and opportunity to present views finds that a State or the governing body of an Indian tribe receiving financial assistance under this subtitle has failed to comply with the provisions thereof or with any regulation issued pursuant thereto, such Secretary shall notify the State or governing body of an Indian tribe that such State or governing body of an Indian tribe is no longer eligible to receive all or a portion of the financial assistance provided under this subtitle until such Secretary is satisfied that there is no longer any such failure to comply. Such Secretary may withhold all or part of further financial assistance to such State under this subtitle for so long as such State or governing body of an Indian tribe is deemed not to comply.

"(c) ANNUAL REPORT.—The Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit an annual report to the Congress on the status of the programs authorized under this subtitle.

"SEC. 607. APPROPRIATIONS AUTHORIZATION.

"AUTHORIZATIONS.—(a)(1) There are authorized to be appropriated to the Secretary to carry out the provisions of this subtitle $400,000,000 of which not to exceed $15,000,000 may be used to carry out the purposes of section 601(b), for each of the fiscal years ending September 30, 1982 through 1985: *Provided*, That such authorizations shall be reduced by the amount of receipts pursuant to section 603(c)(3) in the previous year. Appropriated funds shall remain available until expended.

"(2) Of the amounts appropriated under paragraph (1) for any fiscal year not more than forty (40) per centum thereof shall be expended in the form of grants.

"(3) Not more than fifteen (15) per centum of the funds appropriated under paragraph (1) shall be used to provide expedited assistance under section 603(e).

"(4) The total principal amount of loans guaranteed under this subtitle shall not exceed $1,500,000,000, subject to such limitations as may be contained in appropriation Acts.

"(b)(1) The Secretary of Agriculture is authorized to deposit into the Energy Impact Insurance Fund $10,000,000 from the amounts appropriated pursuant to subsection (a).

"(2) There is hereby authorized to be appropriated to the Secretary such funds as may be necessary for the operation and maintenance of the Energy Impact Insurance Fund.

"SEC. 608. MISCELLANEOUS PROVISIONS.

"(a) PROHIBITION OF DELAY OF MAJOR ENERGY DEVELOPMENT.—No action or failure to act to designate or approve an energy impacted area, to create a local planning unit, to develop or implement an approved mitigation plan, to develop an approved comprehensive investment strategy, to obtain or implement expedited assistance or any other assistance under this subtitle may be used as a legal basis for delaying or prohibiting the obtaining of any licenses, permits, or other authority necessary for the development, construction or operation of a major energy development.

"(b) GAO REPORT.—The General Accounting Office shall prepare and submit to the Congress two years after the date of enactment of the Energy Impact Assistance Act of 1979 an implementation report reviewing the status of the program of assistance provided under this title and analyzing effectiveness of that program in carrying out the purposes of this subtitle.

"(c) REORGANIZATION.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this subtitle may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of the Energy Impact Assistance Act of 1979. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department.".

CONFORMING AMENDMENTS TO THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 304. (a) Section 601(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by—

(1) amending paragraph (1) thereof by inserting after "any State in which" the following: ", or the governing body of an Indian tribe for which,";

(2) amending paragraphs (1) (A) and (B) thereof by inserting before "activities" the following: "or major energy development";

(3) amending paragraphs (1), (2), and (3) thereof by inserting "mitigation" before "plan";

(4) amending paragraph (2) by striking "(A)" and subparagraph (B);

(5) amending paragraph (3) by inserting after "State" the following: ", or governing body of an Indian tribe,"; and

(6) adding at the end thereof the following new paragraphs:

"(4) The Governor of any State receiving a grant under this subsection may make subgrants to local planning units to assist in paying for preparation of mitigation plans required under subsection 602(c) and related management activities to prevent or mitigate the adverse impacts of major energy development.

"(5) If a State receives a grant for the purpose of making subgrants to local planning units, then not less than ninety-five (95) per centum of the grant must be granted to the local planning units.".

(b) Amend section 601(c)(1) of said Act by inserting at the end of clause (B) before the semicolon, "or to major energy development activities".

(c) Amend sections 601(d) of said Act by deleting "section" and inserting in lieu thereof "subtitle".

(d) Amend section 601(h) of said Act by deleting "section" and inserting in lieu thereof "subtitle".

(e) Amend section 601(h) of said Act by adding at the end thereof. "*Provided*, That the amount retained by the Secretary shall not exceed $300,000 per year.".

(f)(1) Amend section 601(f) of said Act by inserting before "within" the words "or any major energy development activity,".

(2) Amend section 601(f)(3) of said Act by inserting after "(or uranium)" the words "or energy,".

TITLE IV—GENERAL PROVISION

SEC. 401. For purposes of this Act, the sums referred to as "the total level for that account in said Acts" in sections 101 and 102 of this Act and "the amount appropriated for each appropriation account for the previous year" in section 201 of this Act shall be adjusted to include:

(a) estimated yearly receipts of the Department during the current fiscal year, excluding receipts because of overcharges by persons under the jurisdiction of the Secretary of Energy or the Federal Energy Regulatory Commission;

(b) allowances for pay cost made during the current fiscal year;

(c) unobligated balances carried over from a previous fiscal year used to reduce the current year program requirements in an appropriation as directed by the appropriations committees of the House and Senate;

(d) adjustments to reflect the currrent year impact of the transfer, as shown in the Department's budget year request documents, of an entire program from one appropriation to another.

The title was amended so as to read:

A bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. PERCY. Mr. President, I supported the Hatfield amendment to S. 2332, which would prohibit any authorization of funding for the construction or purchase of an away-from-reactor nuclear waste storage facility, or AFR, before the Nuclear Waste Policy Act passed by the Senate yesterday becomes law.

Mr. President, I was very concerned by the Senate's decision yesterday to reject, the Hart-Simpson amendment to title III of S. 2189, an amendment that would have assured responsible safeguards on the Department of Energy's ability to obtain and fill temporary storage pools for nuclear waste and spent fuel. The Senate's rejection of the Hart-Simpson amendment left such an open-ended and uncheckable storage policy in the hands of DOE.

Therefore I cast my vote against final passage of S. 2189. I support nuclear power, and I know the nuclear industry strongly endorsed this legislation. I did not feel, however, that it was responsible for me to endorse a bill which leaves as many questions regarding spent fuel storage unanswered.

The Hatfield amendment to S. 2332 intends only to prevent the cart from going before the horse on this legislation. It does not prevent DOE from conducting environmental impact studies of sites under consideration for AFR's; it does not prevent DOE from contacting residents and officials in areas that are candidates for AFR usage. It only prevents DOE from buying an AFR until the bill which mandates AFR's becomes law. That is a responsible and necessary expectation. Before we embark on the highly controversial path of indefinitely placing spent fuel in temporary facilities thousands of miles from their source of origin, before we obligate funds to purchase these facilities, we must have a plan in place to determine how we will proceed on this course. S. 2189 contains an AFR provision that is already insensitive to the residents of areas to be affected by AFR's. To allow for the purchase of AFR's without having the policy of S. 2189 in place would be imprudent.●

ORDER TO PROCEED TO CONSIDERATION OF HOUSE JOINT RESOLUTION 589

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority leader and others.

I ask unanimous consent that upon the disposition of S. 2358, relating to NRC authorizations, the Senate proceed to the consideration of House Joint Resolution 589, the supplemental appropriations for the Eximbank and that the Alaska lands bill continue to be in a temporarily laid aside status until the disposition of House Joint Resolution 589 or until the close of business today whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees have been recognized under the standing order, Messrs. ROBERT C. BYRD, FORD, CRANSTON, and INOUYE be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Senators tomorrow morning be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2358) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum and since my good colleague from Colorado, who is the cofloor manager of this legislation, is not present, I ask that he be notified that this is ready for presentation, and I ask unanimous consent that the time on the quorum call be divided equally. I say that with some trepidation. I will end it shortly if he does not arrive.

Mr. FORD. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. FORD. Mr. President, I inform the Senator that Senator HART is on his way. He will be here shortly. If the Senator from Wyoming wishes to proceed, we will not lose any time, so we can go right ahead.

Mr. SIMPSON. Mr. President, after hearing the distinguished Senator from Kentucky in his efforts over the last 2 days being so exceedingly persuasive, I shall proceed, thus saving the time of the body, because I know that the time agreement is important to the ongoing business of the Senate.

Mr. FORD. Mr. President, if the Senator will yield one more time, I do not have his eloquence. I only come armed with silver-tongued truth.

Mr. SIMPSON. Mr. President, it is too bad the record cannot disclose my facial gesture at this time.

I thank the Senator from Kentucky whom I have come to enjoy greatly. He is a very enjoyable and valuable Member of the body.

Mr. President, I speak in support of S. 2358, the Nuclear Regulatory Commission authorization bill for fiscal year 1981.

Mr. President, this bill is much less ambitious in its scope than last year's NRC authorization bill. Members of the body will remember that in last year's authorization bill we included a great deal of substantive legislation because of the tenor of the time with regard to Three Mile Island.

Perhaps we included too much legislation in an annual authorization bill, but I frankly do not feel we erred. There were many issues related to the operation of the Nuclear Regulatory Commission to be addressed at this time last year. So this legislation, S. 2358, includes a number of useful provisions, but not nearly the same number included in the past year's NRC authorization bill.

This bill calls for the development of a substantive safety goal by the Nuclear Regulatory Commission. This goal should be useful in identifying the various factors that the Commission and its staff should consider in making their licensing and regulatory determinations, and it should help to improve the consistency of the NRC regulatory process.

Second, the bill does provide for a monitoring and assessment program for dealing with a serious uranium mill tailings problem in the vicinity of Edgemont, S. Dak.

In addition to these items, the bill provides support for the many activities of the Commission in responding to the Three Mile Island accident.

The Commission has now made substantial progress in mapping out its plans for addressing the deficiencies identified by the accident, and the bill provides the necessary support to NRC to move ahead swiftly in making the technical and regulatory changes that are needed.

The bill also provides support for the

continuing efforts by the Commission in the area of nuclear waste regulation, which is certainly something that has commanded the attention of the Senate in the past few days. This is a very necessary component of any national nuclear waste management program.

Finally, the bill contains important research programs, including those related to advanced reactor technology. Although we certainly get into serious emotional arguments about the advantages or disadvantages of proceeding with advanced reactor technologies, it is important to proceed in that area, and the committee has so determined.

Mr. President, in developing this legislation I think we have also been true to the expressed principle which is so often espoused so capably by our colleagues, Senator HOLLINGS and Senator BELLMON, in their continual importunings to us. We have heard their plea. We have exercised fiscal restraint. Under the able leadership of my colleague from Colorado, the chairman of the Nuclear Regulation Subcommittee, we have carefully scrutinized the NRC's budget request and we have made some adjustments.

Particularly, we recommend a 5 percent across-the-board reduction of the NRC's budget ceiling. We believe that represents a fair balance of the need to get on with the job of addressing the problems arising from the Three-Mile Island accident—as well as the agency's other regulatory responsibilities—and the similarly critical need to reduce Government spending.

I am particularly pleased that we were able to strike a balance between those two important objectives.

Mr. President, there is one other provision in the bill that I have some difficulty with, and that is the pilot program on intervenor funding. I will be offering today a technical amendment to remove the authorization for such a program from this bill. This amendment, of course, would not preclude other action—and I want to strongly emphasize this—this amendment would not preclude other action on the intervenor funding question in a more generic sense through other legislation—legislation other than an authorization bill.

I have had serious concerns about intervenor funding programs, as the Senator from Kentucky well knows, and I do not believe the Commission should undertake such a program at this time.

I hope the Commission will not undertake such a program without specific authority from Congress, even though there have been some rumblings in various other Federal agencies in Washington that they feel destined to proceed with that kind of activity even though Congress, in its laggard way, has not really given them the authority.

Mr. President, so with this, a brief review of S. 2358, the fiscal year 1981 Nuclear Regulatory Commission authorization bill legislation, I ask at this time unanimous consent that the following staff members of the Committee on Environment and Public Works be granted the privilege of the floor during the consideration of and voting on S. 2358: John Yago, Paul Leventhal, Philip Cummings, Larry Roth, Bailey Guard, James Asselstine, Jean Schrag, Keith Glaser, Laura Worby, Richard Harris, and Marianne Klink of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I certainly yield to my distinguished colleague from Colorado, and just to make one brief comment: That in the first 18 months of my first term in this place, Senator HART and I have been placed in a situation of working very closely together—particularly because of the Three Mile Island incident. I have come to greatly admire the methods by which he pursues the issues that concern him, and I have greatly enjoyed the cooperative effort of Senator HART and his staff. I feel that at least one clear activity has provided graphic evidence of that cooperative spirit, that is, the report on Three Mile Island, prepared under the auspices of the Subcommittee on Nuclear Regulation, which has been addressed by both critics and proponents as a very balanced piece of work. I was privileged to participate in that.

Mr. HART. Mr. President, first of all, I want to thank my colleague from Wyoming for his generous remarks. They apply equally well from me to him. I think the work of our committee and, hopefully, the Senate in this area has benefited from his wise counsel and generosity.

I want to further thank him for moving forward and introducing the measure before us, and I join the Senator from Wyoming in offering this bill to authorize the Nuclear Regulatory Commission for fiscal year 1981, and for the Senate's consideration.

This is a critical time in our Nation's efforts to assure adequate safety and control of the commercial nuclear power program. More than a year after the accident at Three Mile Island, NRC is still getting its house in order, and is playing an important role in the ongoing recovery operations at the Three Mile Island nuclear power station.

Major reforms intended to assist the agency in these tasks already have been incorporated into the NRC Authorization Act for the current fiscal year, which was signed by the President into law on June 30, 1980. The major problems encountered during and after the accident by the NRC, the nuclear industry and the State of Pennsylvania, are described in considerable detail in the report to the Senate, "Nuclear Accident and Recovery at Three Mile Island," to which the Senator from Wyoming has referred. That report was prepared and conducted by our subcommittee over the past year. Both the act and the report focused in particular on grave deficiencies in the abilities of the agency, the industry and the State to anticipate and to respond effectively to a nuclear accident. The principle reforms of the fiscal year 1981 Authorization Act require improvement in NRC's emergency response program, in emergency planning by States, in regulations for the siting of new nuclear powerplants and in the monitoring and assessment of day-to-day nuclear powerplant operations.

NRC estimates that the TMI-related cost to the agency will be $85 million for fiscal year 1980 and $100 million for fiscal year 1981.

I might say, parenthetically, Mr. President, when our constituents and our fellow taxpayers around the country wonder about the increased costs of Government, this is a classic example of one of those unanticipated costs to the taxpayer that one cannot budget for. The Federal Government has responsibilities in the area of safety, and when an accident of this sort occurs the price of insuring that safety, of course, goes up.

The Committee on Environment and Public Works faced a difficult task balancing the need to assure adequate resources for NRC to do its job effectively and efficiently and the need to hold down Federal spending in this difficult period of fiscal austerity. The committee recommended a budget ceiling 5 percent below the administration's fiscal 1981 request for NRC, a funding level incorporated in the Senate budget resolution earlier this year. The application of this 5-percent cut as provided in our bill represents a rational approach to the difficult task of adequately meeting nuclear safety needs within the bounds of fiscal restraint.

S. 2358, as reported by the Committee on Environment and Public Works authorizes $445.1 million for salaries and expenses for the Nuclear Regulatory Commission. The bill permits an increase of 150 positions, or 5 percent, in permanent staff positions from 3,240 in fiscal year 1980 to 3,390 in fiscal year 1981.

The Office of Nuclear Reactor Regulation would receive $68,775,000. This amount represents a decrease of $5,442,000 from last year's authorization. The primary objective of this program is to assure adequate safety and environmental protection in the issuance of construction permits and operating licenses for nuclear powerplants. The decrease should be viewed in relation to the large supplemental increase of $16,290,000 received by the Office in fiscal year 1980, to respond to the increased workload following the Three Mile Island accident. It is obviously not intended to place a lower priority on the work of this important office.

The bill authorizes $53,049,000 for the Office of Inspection and Enforcement, an increase of $8,053,000 over last year's authorization. The Office's primary objective is to assure, through field inspection and investigation, that nuclear reactors, fuel cycle facilities, and nuclear materials, are used in a safe manner and in full compliance with NRC license, rules, and regulations. Increases in funding and personnel for this Office provide additional support for the resident inspector program, the performance appraisal team, and for increased attention to fuel facilities and materials and full-time staffing for the NRC accident-response operations center.

The bill authorizes $210,208,000 for nuclear regulatory research, $8,053,000 higher than last year's authorization. Of the total, $2,800,000 is earmarked for gas-cooled thermal reactor safety research and $19,700,000 is for fast breeder reactor safety research. The bill directs the earmarked funds for fast breeder reactor research shall not be used unless Congress enacts legislation appropriating funds for fiscal year 1981 breeder reactor program of the Department of Energy, including funding for a demonstration breeder reactor plant project. The regulatory research program, which accounts for approximately one-half of the Commission's total budget, consists of six major elements, the largest of which is reactor safety research. With an authorization request of $159,300,000, this program is developing analytical methods, and performing separate effects and integral tests to assess the safety of nuclear power reactors.

Under our bill, program technical support receives an authorization of $18,511,000, an increase of $1,136,000 over last year's figure. Most of this increase will be allocated to the newly created Office for Analysis and Evaluation of Operation Data, which was established in response to the Three Mile Island accident and recommendations from GAO, the Kemeny Commission, and the Rogovin report. These investigations as did the special investigation of the Committee on Environment and Public Works, concluded that the failure to effectively collect, analyze, and disseminate operating experience data was a fundamental problem in NRC's regulation of operating reactors. The new Office's responsibilities include gathering, analyzing, and disseminating information collected from operating reactors and all licensed facilities and should go a long way toward rectifying this problem.

The bill authorizes $36,897,000 for program direction and administration, $1,923,000 above last year's authorization. The Office of Administration received nine additional positions, six of which are requested for the Division of Contracts, in response to criticisms in a GAO report that was prepared for the Subcommittee on Nuclear Regulation. GAO found inadequacies in the Commission's administration of contracts and procurement practices. Of the total authorized for program direction and administration $150,000 is earmarked for an intervenor-funding pilot program.

Our bill contains a number of additional provisions, directing the Commission's attention to specific problems within its jurisdiction that have become apparent in the past few months.

First, the bill requires the Commission to develop a safety goal for nuclear reactor regulation that delineates clear subjective criteria, supplemented to the extent possible by quantitative criteria, necessary to assure protection of public health and safety. The Commission is to report to the Congress on the safety goal by June 30, 1981.

An unprecedented number of new regulatory requirements for nuclear powerplants have resulted from the accident at Three Mile Island and the vast reservoir of potential new requirements under study. Collectively these requirements will have a significant impact on nuclear reactor safety. The committee strongly supports the NRC's effort to upgrade safety requirements following the accident, but is concerned that there is a persistent lack of criteria and objectives to provide coherence and direction to the definition of new regulatory requirements and their application to existing and future nuclear powerplants. The lack of a safety goal inhibits, and may preclude, addressing the threshold question of whether a particular new requirement is necessary to achieve the desired level of safety. In the absence of a goal such determination must be made on a case-by-case basis without clear and consistent guidance from the Commission on the standards that should be applied.

NRC's Lessons Learned Task Force, the Advisory Committee on Reactor Safeguards, and the Kemeny and Rogovin reports all stress the need for a clear statement of safety policy. In spite of these recommendations, the Commission has not aggressively pursued this task.

Indeed, it has relegated NRC development of an NRC policy statement on safety to section V of the Three Mile Island action plan, with no established priority, schedule, or resources.

In light of these recommendations, the development of a safety goal should be a matter of high priority among the Commission's activities for fiscal year 1981.

Second, the bill includes a provision that directs the Commission to perform a study, within 1 year, on the ability of strategic analysis techniques, as applied to nuclear material accounting, to enhance the safeguarding of nuclear materials. The provision reflects concern that the NRC's current safeguards systems, particularly its material accounting techniques, may not adequately detect and deter possible diversions of weapons-grade nuclear material. The study will determine whether one suggested alternative to improving safeguards is a viable alternative, and whether the Commission should incorporate this approach into its existing safeguards systems.

This provision is prompted by the fact that 17 plants licensed by the NRC to process weapons-grade material have suffered chronic patterns of unexplained inventory differences. During the past 4½ years, the NRC has conducted 803 inventories at these plants. Nearly half of these inventories (375) revealed losses that exceeded the amounts the NRC attributes simply to measurement or bookkeeping errors or losses anticipated in the production process. Absent any direct evidence of thefts or diversion of nuclear materials, however, the NRC assumes all these losses were innocent.

Strategic analysis, represents one possible means for improving upon the effectiveness of NRC's present material accounting and physical protection systems for weapons-grade nuclear materials. The study required by the bill incorporates specific recommendations from the NRC staff, the Lawrence Berkeley Laboratory staff that conducted a preliminary study, and the peer group that reviewed the Berkeley study.

Finally, the bill requires the NRC to coordinate and to conduct preliminary planning for the management of uranium mill tailings near Edgemont, S. Dak., in consultation with the Environmental Protection Agency, Housing and Urban Development, Tennessee Valley Authority, and the State of South Dakota.

The provision addresses concerns raised by the discovery of at least 44 homes and other structures in and around Edgemont with radiation levels which may be significantly above natural background level. NRC has identified uranium mill tailings, used as fill in the basement walls of these buildings, as a likely source of radiation in many of these buildings.

The provision requires the identified agencies to submit to Congress, within 30 days, a memorandum of understanding describing each agency's responsibility. Within 120 days after enactment, the bill requires NRC to submit a detailed description and cost estimate of the remedial action required for each location.

The Edgemont uranium mill which was licensed by NRC at the time the Uranium Mill Tailings Radiation Control Act became law, did not qualify for remediation under the act.

A major obstacle to reaching a solution to the problem has been a lack of coordination among the various Federal and State agencies with responsibilities with regard to radioactive materials. The provision provides a mechanism to insure interagency coordination and a framework for identifying actions which must be taken to protect public health and safety in the Edgemont area.

Mr. President, this bill addresses major challenges facing the NRC, and provides the agency with adequate resources to meet those challenges, during this critical period in the commercial nuclear power program. I urge its passage by the Senate.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. Until the committee amendments are acted upon, floor amendments are not in order. Does the Senator ask that they be agreed to en bloc and considered as original text?

Mr. SIMPSON. I do request that they be considered as original text for the purpose of further amending.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc and considered as original text.

The committee amendments were agreed to as follows:

On page 2, beginning with line 3, strike through and including line 4;

On page 2, line 5, strike "101" and insert "1";

On page 2, line 11, strike "$468,490,000" and insert "$445,100,000";

On page 2, line 14, strike "$69,385,000" and insert "$68,775,000";

On page 2, line 16, strike "$53,889,000" and insert "$53,049,000";

On page 2, line 19, strike "$43,680,000" and insert "$41,930,000";

On page 2, line 21, strike "$228,228,000," and insert in lieu thereof the following: $210,208,000; of the total amount appropriated for this purpose, $2,800,000 shall be available for gas-cooled thermal reactor safety research, and $19,700,000 shall be available for fast breeder reactor safety research: *Provided, however*, That the latter amount shall not be so available if the Congress fails to enact legislation appropriating funds for fiscal year 1981 for the Department of Energy Breeder Reactor Program, including funding for a demonstration breeder reactor plant project,

On page 3, line 7, strike "$18,861,000" and insert "$18,511,000";

On page 3, line 9, strike "$38,057,000," and insert in lieu thereof the following: $36,897,000; of the total amount appropriated for this purpose, $150,000 shall be available for a pilot program for funding intervenors in initial or renewal license proceedings, including site permit, construction permit, operating license and amendment proceedings, and in selected rulemaking proceedings conducted by the Commission: *Provided, however,* That in the judgment of the Commission intervenors shall qualify for such funds on the basis of financial need and the potential for making material contribution to the development of facts, issues, or arguments in any such proceeding: *And provided further,* That the Commission shall make such funds equally available to qualified parties taking contrary positions on a fact or issue in controversy in any such proceeding. The Commission shall report to the Congress not later than March 31, 1981 on the progress in implementing such pilot program, and shall report to the Congress not later than September 30, 1981, on the results of such program.

On page 4, beginning with line 4, strike through and including line 15, and insert in lieu thereof the following:

(b) No amount appropriated to the Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefor by paragraphs (1) through (7) of such subsection, if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless—

(1) a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee before the expiration of such period has transmitted to the Commission a written notification that there is no objection to the proposed action:

Provided, however, That no addition to or reduction from the amount expressly authorized to be appropriated for any purpose in accordance with this subsection shall reduce the amounts available for gas-cooled thermal reactor safety research, fast breeder reactor safety research, and the pilot program for funding intervenors specified in paragraphs (5) and (7) of subsection (a).

On page 5, line 23, strike "102" and insert "2";

On page 6, line 4, strike "103" and insert "3";

On page 6, line 9, strike "104" and insert "4";

On page 6, beginning with line 13, insert the following:

SEC. 5. (a) After notice and opportunity for public hearings in accordance with section 553 of title 5, United States Code, the Commission is authorized and directed to develop a safety goal for nuclear reactor regulation. Such goal shall delineate clear subjective criteria, supplemented to the extent possible by quantitative criteria, necessary to assure protection of the public health and safety.

(b) In development of the goal required by the preceding subsection, the Commission shall consider the application thereof to the development of new regulatory requirements for nuclear power reactors and to decisions on the retroactive application of new or current requirements to existing plants.

(c) The Commission shall report to the Congress by June 30, 1981, on the proposed safety goal.

SEC. 6. (a) From the sums authorized to be appropriated under section 1(a)(5), the Commission is authorized and directed to establish a study of the applications of strategic analysis techniques to the safeguarding of nuclear materials. The study shall specifically address the applications of strategic analysis to the treatment of inventory differences in material accounting. The study shall include, but not be limited to:

(1) an evaluation of the costs and benefits of various responses to inventory differences that incorporates the perspectives of those involved in such decisionmaking, such as NRC and industry management;

(2) an evaluation of the sensitivity of response to varying levels and types of uncertainty associated with inventory differences;

(3) an assessment of the ability of strategic analysis to reduce uncertainties in the determination of and response to inventory differences; and

(4) a determination of the steps required to implement strategic analysis techniques as a decisionmaking tool.

The study shall incorporate the work of the Materials Accounting Upgrade Rule Development Team.

(b) The Commission shall report to the Congress, within one year after the date of enactment of this section, on the findings of the study required by the preceding subsection.

SEC. 7. (a) The Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct preliminary planning for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such planning shall provide for necessary monitoring at such locations and the establishment of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

(b) Not later than thirty days after the date of enactment of this section, the Commission, the Environmental Protection Agency, the Department of Housing and Urban Development, and the Tennessee Valley Authority shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the preliminary planning authorized by subsection (a) of this section.

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

On page 9, beginning with line 10, strike through and including line 14;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1981 to remain available until expended $445,100,000, to be allocated as follows:

(1) For "Nuclear Reactor Regulation", $68,775,000,

(2) For "Inspection and Enforcement", $53,049,000,

(3) For "Standards Development", $16,390,000,

(4) For "Nuclear Material Safety and Safeguards", $41,930,000,

(5) For "Nuclear Regulatory Research", $210,208,000; of the total amount appropriated for this purpose, $2,800,000 shall be available for gas-cooled thermal reactor safety research, and $19,700,000 shall be available for fast breeder reactor safety research: Provided, however, That the latter amount shall not be so available if the Congress fails to enact legislation appropriating funds for fiscal year 1981 for the Department of Energy Breeder Reactor Program, including funding for a demonstration breeder reactor plant project,

(6) For "Program Technical Support", $18,511,000,

(7) For "Program Direction and Administration", $36,897,000; of the total amount appropriated for this purpose, $150,000 shall be available for a pilot program for funding intervenors in initial or renewal license proceedings, including site permit, construction permit, operating license and amendment proceedings, and in selected rulemaking proceedings conducted by the Commission: Provided, however, That in the judgment of the Commission intervenors shall qualify for such funds on the basis of financial need and the potential for making material contribution to the development of facts, issues, or arguments in any such proceeding: And provided further, That the Commission shall make such funds equally available to qualified parties taking contrary positions on a fact or issue in controversy in any such proceeding. The Commission shall report to the Congress not later than March 31, 1981 on the progress in implementing such pilot program, and shall report to the Congress not later than September 30, 1981, on the results of such program.

(b) No amount appropriated to the Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefor by paragraphs (1) through (7) of such subsection, if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless—

(1) a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee before the expiration of such period has transmitted to the Commission a written notification that there is no objection to the proposed action:

Provided, however, That no addition to or reduction from the amount expressly authorized to be appropriated for any purpose in accordance with this subsection shall reduce the amounts available for gas-cooled thermal reactor safety research, fast breeder reactor safety research, and the pilot program for funding intervenors specified in paragraphs (5) and (7) of subsection (a).

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments hereunder shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 5. (a) After notice and opportunity for public hearings in accordance with section 553 of title 5, United States Code, the Commission is authorized and directed to develop a safety goal for nuclear reactor regulation. Such goal shall delineate clear subjective criteria, supplemented to the extent possible by quantitative criteria, necessary to assure protection of the public health and safety.

(b) In development of the goal required by the preceding subsection, the Commission shall consider the application thereof to the development of new regulatory requirements for nuclear power reactors and to decisions on the retroactive application of new or current requirements to existing plants.

(c) The Commission shall report to the Congress by June 30, 1981, on the proposed safety goal.

SEC. 6. (a) From the sums authorized to be appropriated under section 1(a)(5), the Commission is authorized and directed to establish a study of the applications of strategic analysis techniques to the safeguarding of nuclear materials. The study shall specifically address the applications of strategic analysis to the treatment of inventory differences in material accounting. The study shall include, but not be limited to:

(1) an evaluation of the costs and benefits of various responses to inventory differences that incorporates the perspectives of those involved in such decisionmaking, such as NRC and industry management;

(2) an evaluation of the sensitivity of response to varying levels and types of uncertainty associated with inventory differences;

(3) an assessment of the ability of strategic analysis to reduce uncertainties in the determination of and response to inventory differences; and

(4) a determination of the steps required to implement strategic analysis techniques as a decisionmaking tool.

The study shall incorporate the work of the Materials Accounting Upgrade Rule Development Team.

(b) The Commission shall report to the Congress, within one year after the date of enactment of this section, on the findings of the study required by the preceding subsection.

SEC. 7. (a) The Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct preliminary planning for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such planning shall provide for necessary monitoring at such locations and the establishment of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

(b) Not later than thirty days after the date of enactment of this section, the Commission, the Environmental Protection Agency, the Department of Housing and Urban Development, and the Tennessee Valley Authority shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the preliminary planning authorized by subsection (a) of this section.

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

UP AMENDMENT NO. 1490

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes an unprinted amendment numbered 1490.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 3, line 9, strike the remainder of paragraph (7) after the figure "$36,897,000;".

(b) On page 5, strike lines 20 through 22, and insert the following: "search and fast breeder safety research specified in paragraph (5) of subsection (a).".

Mr. SIMPSON. Mr. President, I offer a technical amendment to remove from the bill the direction that the Commission undertake a pilot program to fund intervenors in NRC licensing and rulemaking proceedings.

Mr. President, I would expect the Commission will heed this deletion and I caution them not to undertake an intervenor funding program without expressed statutory authority from Congress to do so.

Mr. HART. Mr. President, although I do not share the views of the Senator from Wyoming as to the merits of a small pilot intervenor-funding program for the NRC, the Senator's technical amendment to strike the provision from our bill is consistent with my view that consideration of it now would be premature in view of the important work now being done by the Governmental Affairs and Judiciary Committees on legislation to provide generically for public assistance to intervenors throughout the Federal Government.

I would like to inquire of the Senator from Wyoming whether I am correct in my understanding that his offering of this amendment is in no way intended to prejudice further consideration of this issue at some point in the future?

Mr. SIMPSON. Mr. President, I want to assure my colleague from Colorado that that is the case. I have no desire, through this amendment, to prejudice any further review, any further hearings on this subject. The generic consideration of this issue at some later time, I think, is very important.

I will join with my colleague in assuring that we address this at an appropriate later time in an appropriate generic way.

I appreciate his view and concur in the view that, at this time, on this authorization bill, it is not the most timely place for discussion of the intervenor funding issue.

Mr. HART. Mr. President, given the understanding and the statement of the Senator from Wyoming, I am prepared, under those circumstances, to accept his amendment.

Mr. THURMOND. Mr. President, I am strongly in support of Senator SIMPSON's amendment deleting an intervenor funding provision from the Nuclear Regulatory Commission authorization bill for fiscal year 1981. This provision would provide $150,000 for establishment of a pilot program for funding of intervenors in NRC licensing and rulemaking proceedings. I am adamantly opposed to such programs being established in this or any other piece of legislation.

Mr. President, the minority members of the Judiciary Committee have been involved in an ongoing struggle over several years to prevent passage by the committee of intervenor funding legislation. We have so far been successful in those efforts. The regulatory reform bill reported earlier this year by the Judiciary Committee does not contain such a provision. The Governmental Affairs Committee bill on regulatory reform does, however, establish an intervenor funding program for agency proceedings on a Government-wide basis.

S. 262, as reported by Governmental Affairs, would authorize $10,000,000 for such a program for the fiscal year ending September 30, 1981, and $20,000,000 for each of the 3 succeeding fiscal years. As I am sure my colleagues are well aware, these two committees are currently attempting to work out a compromise regulatory reform bill, which might be brought to the Senate floor following the August recess.

I have made it absolutely clear during the negotiations that I would, under no circumstances, support a regulatory reform bill containing intervenor funding and would, instead, work actively to defeat any measure containing such an authorization.

Mr. President, the purported justification for intervenor funding programs is to provide interested members of the public who lack the financial resources an opportunity to participate in agency proceedings. I contend, first of all, that such programs are unnecessary to insure adequate representation of the public interest. That is precisely what agencies, such as the Nuclear Regulatory Commission, were created to do.

Congress has specifically charged the NRC and its staff with the responsibility to assure that nuclear facilities do not present a danger to public health and safety. If agencies, such as the NRC, are not properly discharging these duties, Congress should investigate and take appropriate action, rather than use taxpayer dollars to pay outside groups to intervene in public regulatory proceedings.

Second, Mr. President, I am opposed to intervenor funding because these programs are obviously subject to a great deal of abuse. Past experience has shown that such abuses have indeed occurred. Some agencies have tended to dole out Federal funds primarily to public interest groups supporting the agency point of view. Rather than giving the money to interested, individual members of the public, agencies have typically awarded funds to established public interest groups, who may have close connections with particular agency officials. Obviously, this type of activity does nothing to insure balanced agency proceedings and to protect the public's best interest.

Furthermore, such funds can and would undoubtedly be used to hire attorneys to delay certain agency proceedings. The licensing of nuclear reactors is an excellent example of the type of often controversial agency proceeding which Government-paid intervenors could endlessly obstruct. I wonder whether members of the public would think their interests had been adequately "protected" by intervenors if such taxpayer-funded individuals or groups so delayed important NRC decisions that parts of the country suffered from shortages of electric power?

Mr. President, I am very pleased to learn that Senator Simpson has persuaded the other members of the Environment and Public Works Committee of the wisdom of deleting this dangerous provision, so that the NRC authorization bill may go forward. I would, however, like to advise those Senators who do support such programs that efforts to include intervenor funding provisions in future legislation will be met with very stiff opposition.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming (Mr. Simpson).

The amendment (UP No. 1490) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that it be in order for the Senator from South Dakota (Mr. Pressler) to offer an amendment and that further, with regard to the time agreement entered into by the majority leader yesterday, that this amendment be in lieu of an amendment that would have been offered and for which time has been reserved by the Senator from Vermont (Mr. Stafford).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, as cofloor manager of the legislation, I am aware that Senator Stafford will relinquish his time for that purpose. I have been advised of that by his staff. I concur in the unanimous-consent request.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I thank the Senator from Colorado and the Senator from Wyoming for accommodating this amendment.

UP AMENDMENT NO. 1491

Mr. PRESSLER. Mr. President, I send an amendment to the desk on behalf of myself and Senator McGovern and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler), for himself and Mr. McGovern, proposes an unprinted amendment numbered 1491.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 8, line 6, insert "the Department of Energy," before "the"; On page 8, line 8, strike "preliminary planning" and insert in lieu thereof, "a monitoring engineering assessment and remedial action program"; On page 8, line 12, strike "planning" and insert in lieu thereof "program"; On page 8, line 13, insert "at engineering assessments" before "at"; and on page 8, line 13, insert "and performance" after "establishment".

(b) On page 8, beginning on line 20, amend subsection 7.(b) to read as follows:

"(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

"(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards association with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated.

"(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(A) establish general objectives and priorities for the program;

(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

"(3) the Department of Energy shall provide any necessary technical assistance and consultation in the performance of the monitoring, engineering assessment and remedial action program established by subsection (a).".

(c) On page 9, after line 9, add the following new subsection:

"(d) The Commission shall provide, as part of its Annual Report, a report on the progress of the monitoring, engineering assessment and remedial action program established by subsection (a).".

(d) On page 2, line 19, after $41,930,000", insert the following: "of the total amount appropriated for this purpose, $500,000 shall be available for the monitoring, engineering assessment and remedial action program established by section 7 of this Act,".

Mr. PRESSLER. Mr. President, the purpose of the amendment I am offering which is cosponsored by my distinguished colleague from South Dakota (Senator McGovern) would modify a provision already contained in S. 2358. Since the time that bill was reported, we have received further information regarding progress made by the involved agencies.

Mr. President, the citizens living in the community of Edgemont, S. Dak., have been the victims of a unique set of circumstances. In January 1980, the Environmental Protection Agency notified the Nuclear Regulatory Commission that residents of a house being monitored by EPA in Edgemont, S. Dak., were receiving potentially high radiation exposures due to radon which was being emitted from material located around the basement walls. The radiation levels inside this home were substantially above the maximum levels allowed for uranium miners.

Since that time, other houses around Edgemont have been identified which may have radiation levels significantly above the natural background level. NRC believes that the radiation in many of these structures is coming from uranium mill tailings that were used as fill under and around the basement walls of the buildings. It is believed these uranium mill tailings come from an inactive uranium mill near Edgemont. While the present licensee of the inactive mill, the Tennessee Valley Authority, is responsible for remediating the millsite, they are under no legal responsibility to clean up the offsite locations of tailings generated by the mill before TVA owned it.

In the past, special legislation was enacted to address a similar problem in Grand Junction, Colo. More recently, the Uranium Mill Tailings Radiation Control Act of 1978 was enacted to remediate similar sites at approximately 20 locations. Because of a unique situation—the fact that the inactive Edgemont uranium mill was licensed by NRC at the time the Uranium Mill Tailings Radiation Control Act became law—it did not qualify for remediation under title I.

Chairman Ahearne of the NRC advised the Subcommittee on Nuclear Regulation that "The most significant problem in reaching a final solution to the problems at offsite tailings use locations in Edgemont is that no one agency is clearly responsible for performing the extensive monitoring required or for taking the remedial actions which might be identified."

S. 2358 gives the NRC the responsibility for coordinating the various agencies involved through a memorandum of understanding. We have been advised by the NRC that this step is essentially complete and a formal MOU is not necessary. The agencies are now prepared to proceed with actual remediation of the houses in and around Edgemont.

Several houses in Edgemont have already been identified, through monitoring, which need remediation. NRC believes cleanup of these houses would be a relatively easy task and could begin immediately. This amendment would authorize them to begin that remediation.

Mr. President, the citizens of Edgemont have been caught in a difficult situation and have suffered considerably from uncertainty and delay. This amendment would assure these people that their problems will be addressed as soon as possible.

Mr. President, it would be useful to provide some additional description of the responsibilities of the various agencies for carrying out the monitoring, engineering assessment, and remedial action program, as modified by our amendment. First, we would hope that in setting its general standards for cleanup of the offsite locations at Edgemont, EPA would resolve differences between standards heretofore applied in Edgemont under the HUD mortgage clearance program and standards proposed recently by EPA for the exact same kind of situations at the other inactive sites under UMTRCA, title I. A general position shall also be taken concerning what are acceptable monitoring methods and protocols.

Second, we would expect NRC to:

Establish the general approach to be taken which assures that priority of attention is based on degree of contamination.

Approve a specific monitoring and engineering assessments program to be conducted by TVA to:

First. Identify where remedial action is required.

Second. Define in detail what remedial action shall be taken.

Third. Verify compliance with EPA standards after cleanup.

Third, we would expect that TVA would:

First. Perform Program of Monitoring and Engineering Assessments under contract to NRC; and

Second. Take remedial action under oversight of NRC.

Fourth, we would expect NRC to consult with the State of South Dakota on:

First. Program of Monitoring and Engineering Assessments.

Second. Identification of contaminated structures.

Third. Definition of required remedial action.

Fourth. Verification of cleanup.

Finally, we expect HUD would lift any restrictions currently in force in connection with radiological contamination in Edgemont, S. Dak., and surrounding areas. The establishment and funding of a remedial action program by Congress obviates the need for such a program—all structures needing cleanup will get it.

With that, I complete my presentation on this amendment. I again want to thank the Senator from Colorado and the Senator from Wyoming for their outstanding leadership, and also the Senator from Vermont, who made arrangements under the time agreement for this time in cooperation with the majority and minority leaders in regard to this bill.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, on behalf of the majority, I believe this is a useful amendment which will expedite remedial actions on the Edgemont, S. Dak., mill tailings problem more efficiently than the original provision contained in the bill.

Rather than requiring the involved agencies to spend time developing a memorandum of understanding, the Pressler-McGovern amendment establishes the agency's respective responsibilities by law.

While the original provision required only plans and cost estimates for remedial actions, this amendment would earmark $500,000 for actual monitoring, engineering assessment, and remedial action, so that the cleanup efforts can begin much more quickly.

Colorado's similar experience with uranium mill tailings mismanagement in Grand Junction and elsewhere makes me especially sympathetic to the Senators' effort to resolve this problem as quickly and competently as possible.

We would accept the amendment.

Mr. SIMPSON. Mr. President, I appreciate the effort the Senator from South Dakota has gone to to take the general language of the authorization bill and to create now a much more specific addressing of the problem he presents. On behalf of the minority in connection with the management of the bill, we accept his efforts.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HART. I yield back the remainder of my time.

Mr. PRESSLER. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1491) was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 1492

(Purpose: To require the promulgation of procedures for Nuclear Regulatory Commission consultation and cooperation with appropriate State officials regarding public health and safety concerns in connection with nuclear powerplant operation)

Mr. PRYOR. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 1492.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 10, add the following new section:

SEC. 8. Not later than 270 days after the date of enactment of this section, the Commission shall by rule promulgate procedures for consultation and cooperation with appropriate State officials regarding the public health and safety concerns of a State in connection with the operation of utilization facilities located therein that are required to be licensed under sections 103 and 104 b. of the Atomic Energy Act of 1954. The Commission shall include in the annual report submitted to the Congress pursuant to section 251 of such Act an analysis of such procedures and the reasons for their promulgation.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the amendment at the desk offered by the Senator from Arkansas be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1493

(Purpose: To impose criminal sanctions for unauthorized tampering with nuclear power plant operations)

Mr. BAKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1493.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, after line 9, add a new section to read as follows:

"SEC. 8. Section 236 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 236. Sabotage of Nuclear Facilities or Fuel.—"Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act,

"(2) any nuclear waste storage facility licensed under this Act,

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility, or

any person who causes or attempts to cause a mechanical interruption of normal operation of any production facility, utilization facilty or nuclear waste storage facility licensed under this Act through the unauthorized use of or tampering with machinery, components, or controls of any production facility, any utilization facility, or any nuclear waste storage facility licensed under this Act, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

Mr. BAKER. Mr. President, I offer an amendment that would impose a criminal sanction for any person who willfully and intentionally causes or attempts to cause a mechanical interruption of normal operation of a nuclear powerplant or nuclear waste storage facility through the unauthorized use of or tampering with machinery, components or controls of the plant.

Mr. President, during Senate consideration of the conference report on the NRC Authorization Act for fiscal year 1980, now enacted as Public Law 96–295, the distinguished Senator from Colorado, the chairman of the Nuclear Regulation Subcommittee, and I discussed this question. We discussed at the time the fact that a provision in that act imposed a criminal penalty for any person who willfully and intentionally caused or attempted to cause physical damage to a nuclear powerplant. I raised the concern then that this provision would not cover the situation in which a person interrupts the plant's operations by merely tampering with, rather than physically damaging or destroying, the plant's controls.

Mr. President, such actions can cost the utility's customers millions of dollars in replacement power costs and may well risk the public safety. I believe the criminal penalty provision enacted in last year's authorization should cover this type of situation, and that is what amendment would do. At the same time, the amendment has been narrowly drawn to restrict the criminal sanction to these categories of actions that could jeopardize safety or result in serious economic harm to the utility and its customers. I urge the adoption of the amendment.

Mr. President, I would also add that this came up as a result of an experience with the Tennessee Valley Authority at its Browns Ferry Plant in which there was an interruption in the normal operation of a nuclear reactor by the action of a plant worker. No damage was done. Indeed, the plant shut itself down automatically and safely. But it really is a frightening thought to think that such an intentional act—which was not related to the great controversy of nuclear versus nonnuclear power, but rather, as I understand it, a dispute between workers and their supervisor—could occur and that it is not covered by existing law.

It is at the behest of TVA and on the basis of that concern that I had the previous colloquy with the distinguished Senator from Colorado which impelled me to offer this amendment at this time.

Mr. President, I would hope that the distinguished manager of this bill for the majority and the manager on behalf of the minority might consider viewing this amendment favorably.

I reserve the remainder of my time.

Mr. HART. Mr. President, I wonder if the distinguished minority leader would help my understanding of his amendment by responding to two or three questions regarding the intent of his amendment.

Am I correct, I would ask my colleague, in my understanding that the use of the phrase in this amendment "unauthorized use" means use without permission of the licensee?

Mr. BAKER. Mr. President, that is precisely what is meant and what is intended by this amendment, and precisely what did happen in the situation I briefly described to the Senate.

Mr. HART. I thank the Senator.

I would further inquire whether I am also correct in my understanding that the Senator from Tennessee uses the word "tampering" to mean altering for improper purposes or in an improper way?

Mr. BAKER. Mr. President, that is also correct.

Mr. HART. Finally, since, under this language, there is no physical injury involved or intended, am I correct in my understanding that "mechanical interruption" means a discontinuation of electricity generation which will result in substantial economic harm or cost to the licensee?

Mr. BAKER. Mr. President, the distinguished majority manager is absolutely correct. In the case I cited, the TVA case, which actually did happen as I said earlier, the reactor shut down automatically. As a result of that shutdown and before it could be put back on line, going through the sequences that are necessary to insure that it is safe and secure, the Tennessee Valley Authority had to buy nearly three million dollars worth of power. Interruption of the generation of electricity or the continuation of the generation of electricity, under these circumstances, is what I have in mind, as the majority manager has described.

Mr. HART. Mr. President, with that information and with those understandings and clarifications, I am prepared, in behalf of the majority, to accept the amendment offered by the Senator from Tennessee.

Sabotage at commercial nuclear powerplants has been a growing problem in recent years. Over the past year, there have been at least two instances of sabotage that have imposed substantial costs on the utilities and, ultimately, on the ratepayers.

As a response to the problem of sabotage, the Nuclear Regulatory Commission authorization bill for fiscal year 1980 included a carefully constructed amendment to the Atomic Energy Act that subjected to Federal criminal penalties:

> Any person who intentionally and willfully destroys or causes physical damage to, or attempts to destroy or cause physical damage to (1) commercial production facilities or nuclear powerplants, (2) commercial nuclear waste storage facilities, or (3) nuclear fuel for, or spent fuel from, nuclear powerplants.

Although this provision addressed the problem of intentionally caused physical damage, it did not address the problem of acts of sabotage that may not cause physical damage but still may result in a substantial economic cost to the owner of the powerplant, particularly if the plant shuts down and the owner must purchase expensive replacement power. This amendment, as I understand it, would fill that gap.

This amendment seeks to provide a disincentive against acts that intentionally interrupt or attempt to interrupt the normal operation of a commercial nuclear powerplant. I have always been concerned about such acts because, in many cases, they can cost a utility—and, more important, a utility's ratepayers—enormous sums of money. I expect this amendment will go a long way toward lessening these unnecessary costs to the ratepayers. On behalf of the ratepayers, I accept it.

Mr. BAKER. Mr. President, I thank the Senator from Colorado, who has given this matter his characteristic careful attention and thought.

Let me say parenthetically that, while he and I are on different sides of the aisle politically, I express my admiration for the way he and the Senator from Wyoming have conducted themselves in the several inquiries and concerns that have been presented to their Subcommittee on Nuclear Power. They have done an extraordinarily good and careful job, a highly responsible job, in a highly emotionally charged atmosphere.

Mr. HART. I thank the Senator.

Mr. SIMPSON. Mr. President, may I, on behalf of the minority manager of this bill, thank the minority leader very much for his efforts? He is a very creative member of the subcommittee and, with his other duties, which take precedence, I assure you, he still manages to participate vigorously in the work of the committee at all times.

As a member of the Judiciary Committee, I commend Senator BAKER for contributing to and increasing our awareness of this issue, because we are dealing with a similar situation in the Criminal Code legislation reported by the Judiciary Committee. I think that, with this amendment and the one we have in the Criminal Code bill—if the Senate gets to consideration of that legislation before the end of the session—we shall have a very fine procedure to prevent the kind of activity described here, which causes such tremendous cost to these utilities.

As a junior member of the Environment and Public Works Committee and, yet, as the ranking member of the Subcommittee on Nuclear Regulation, I have deeply appreciated the efforts of the minority leader in acclimating me to my duties and bringing me on stream in this most important area, which has been an education in itself. I thank him for that sincerely.

I certainly join in accepting the amendment.

Mr. BAKER. Mr. President, I shall not take more than a further moment. I do want to thank both the Senator from Colorado and the Senator from Wyoming for their remarks, particularly for the generous remarks just made by my colleague from Wyoming. I only observe, Mr. President, that the Senator from Wyoming is the most junior member of the committee of ranking members on the Republican side. He is the only freshman Senator on our side who sits in that regular council of senior Republicans—that is, the senior Republicans on standing committees. He conducts himself with grace and efficiency.

He and I share something in common: We are both congressional brats. The father of the distinguished Senator from Wyoming served in the Senate and both my father and mother served in the U.S. Congress. I hope that his father will read these words and know that the Senator from Wyoming is a chip off the old block and is doing well indeed.

Mr. SIMPSON. Mr. President, I assure you I shall send him a copy of those remarks.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1493) was agreed to.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I understand that the Senator from Arkansas has an amendment he would like to bring before the body.

UP AMENDMENT NO. 1492

Mr. PRYOR. I thank the Senator from New York for yielding to me.

Mr. President, it is correct that I have an amendment which I think has been sent to the desk. I should like to have the opportunity of sending at this time a modification to that amendment to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The modification will be stated.

The legislative clerk read the amendment as modified, as follows:

On page 9, line 10, add the following new section:

SEC. 8. Not later than 270 days after the date of enactment of this section, the Commission shall by rule promulgate procedures for consultating with and responding to appropriate State officials regarding the public health and safety concerns of a State in connection with the operating of utilization facilities located therein that are required to be licensed under sections 103 or 104 b. of the Atomic Energy Act of 1954. The Commission shall include in the annual report submitted to the Congress pursuant to section 251 of such Act an analysis of such procedures and the reasons for their promulgation.

Mr. PRYOR. Mr. President, the purpose of this amendment is very simple. It is to clarify the role of the States in the operation of nuclear powerplants. It is my understanding that this amendment is acceptable to the Nuclear Regulatory Commission and to the managers of S. 2358. I deeply appreciate the cooperation the managers of this legislation have extended to me in this particular endeavor.

Mr. President, on Saturday, May 10, one of two nuclear powerplants located at Russellville, Ark., was closed after a faulty cooling pump seal began leaking radioactive water.

A few days later, as the utility company began releasing the radioactive gas which had accumulated, the State of Arkansas registered its request with the utility company that the release be delayed. However, because the utility had earlier obtained approval of the release from the NRC, it went forward with its scheduled timetable for release. You can imagine the confusion and public concern which this matter caused.

Mr. President, my amendment is a simple one. It would only formalize the lines of communication between State and Federal Governments in a situation that might arise like this. This amendment would provide for a mechanism for consultation and cooperation between the NRC and the appropriate State officials. It does not give the States any veto over NRC decisions but simply makes sure their views are considered and listened to. It would allow the States to register their health and safety concerns so that these questions could be given proper consideration by the NRC. It is my hope and my intent that this dialogue will prevent another confused situation such as we experienced in Arkansas this spring.

This amendment makes no attempt to restructure the oversight function of the NRC in the critical area of nuclear power regulation. It does not affect State involvement in site selection nor the State's role in the disposition of nuclear waste which we have debated at some length in this Chamber in the past few days.

It is my intention that this amendment address the legitimate interests of States in which nuclear powerplants are located. Through a clear channel of communication, we can be assured of a smooth flow of information which will help to alleviate some of the fears created by the inability to convey local concerns. I urge the support of my colleagues for this attempt to define a means of State input in the important area of nuclear energy regulation.

Mr. MOYNIHAN. Mr. President, on behalf of the managers of the bill—and I am sure I speak for my friend and colleague (Mr. SIMPSON)—I thank the able and distinguished Senator from Arkansas for bringing forward this amendment.

If we learned anything from our experience of the last quarter century with nuclear powerplants, it is that the protection of the health and safety of the employees and the residents of the area has got to involve a partnership between the Federal Government, which is the licensing authority, the utility industry, private utilities, that in the main, operate them, and the State governments which have the legal responsibility in most of those matters of public health that are raised by the operation of these reactors.

If that is to be an equal partnership, it can only succeed if there is equal access to information on both sides.

The State government cannot advise with respect to problems they are not aware of. They cannot give their best advice in the absence of the best information.

What the Senator from Arkansas asks is that they be able to fulfill the role which commonsense and the Constitution imposes upon them.

We think that the Senator's citing a specific experience in his own State within weeks, as it were, is a very precise example of the purposes of his amendment.

We are more than happy to support it and wish to express our appreciation for his bringing it forward to be part of this body of law.

I see my colleague is rising to his full height.

Mr. SIMPSON. I thank the Senator very much.

I appreciate the Senator so capably filling in for our distinguished colleague from Colorado. I appreciate the Senator's grasp of the importance of the amendment. I appreciate his acceptance, and I join in it.

I appreciate Senator PRYOR's efforts to insure Commission cooperation with the States.

We have clarified the role of the States. The amendment is narrowly drawn, so we do not impinge on the NRC's current responsibility, which principally protects the public health and safety, while still allowing State's participation.

Senator PRYOR is a member of the class of 1978, along with myself, although not of my political faith. I find he has balance and reason and rare perception—except sometimes when he does not.

I find him a very authentic and engaging person. I often find myself joining with him on many issues.

I thank him for his efforts here.

Mr. PRYOR. Mr. President, I thank both my colleagues, the Senator from New York (Mr. MOYNIHAN) and the Senator from Wyoming (Mr. SIMPSON). I deeply appreciate the cooperation and support they and their staffs have given this particular endeavor.

Earlier today, a colleague of ours asked me if this amendment was intended to lead to procedures involving formal hearings and intervenors and lengthy proceedings of delay in the communications between the States and the NRC.

I can answer that question unequivocally—no. This amendment is not intended to do that. In fact, to the contrary. It is intended to establish that procedure where a flow of communication could adequately take place, and a flow of communication that would certainly allay some of the concerns and fears of the people on the local level.

With that, Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 1492), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, is the time for the quorum call running equally against both sides?

The PRESIDING OFFICER. It is not.

Mr. MOYNIHAN. I ask unanimous consent that the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield to the Senator such time as he requires.

Mr. McCLURE. I thank the Senator.

Mr. President, section 7 of S. 2358, as amended by the Pressler amendment, will establish a remedial action program for uranium mill tailings in the vicinity of Edgemont, S. Dak. The amended section would place the program in the NRC.

It is correct that this program is not intended to duplicate the DOE program under title I of Public Law 95–605 but, rather, is intended solely to deal with the unique circumstances at the Edgemont site?

Mr. SIMPSON. That is correct.

Mr. McCLURE. Is it also correct that section 7 does not in any way modify the provisions or implementation of title I of Public Law 95–605?

Mr. SIMPSON. That also is correct.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I thank the Chair.

I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is not authorized to call up an amendment under the agreement.

Mr. MOYNIHAN. Mr. President, the Chair is correct and the Senator from New York apologizes for confusing the sequence here.

The Senator from New York first asks unanimous consent that he be authorized to call up an amendment for which Senator HART has reserved time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I thank the Chair.

UP AMENDMENT NO. 1494

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for Mr. HART and Mr. BRADLEY, proposes an unprinted amendment numbered 1494.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 10, add the following new section:

"SEC. 8. The Comptroller General of the United States, in cooperation with the Commission, is directed to conduct a detailed study of the system of the General Public Utilities Corporation regarding its financial viability and its future role as a provider of electric power in Pennsylvania and New Jersey. In connection with such study, the Commission shall provide all possible assistance in fully developing the regulatory responsibilities of the Commission as they relate to the restart, clean-up and re-commissioning of the Three Mile Island units, and shall move as quickly as possible, while taking all necessary steps to protect the public health and safety, to consider and act on the question of restarting Three Mile Island Unit. 1. The Comptroller General shall report to the Congress no later than February 1, 1981 on the results of the study, including a statement of any specific actions to be taken by the utilities or Federal agencies and any recommendations to the Congress."

Mr. MOYNIHAN. Mr. President, I note that this amendment is submitted on behalf of Senator HART and Senator BRADLEY, the Senator from New Jersey.

Mr. President, I have a statement with respect to this matter.

Mr. President, on January 18, 1980, the chairman and the ranking minority member of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works requested the Comptroller General to examine certain aspects of the financial and operating status of the General Public Utilities Corp. (GPU) and its operating companies as a result of the accident at the Three Mile Island (TMI) nuclear plant.

The Comptroller General recently submitted his report entitled "Three Mile Island: The Financial Fallout" (EMD–80–89 dated June 7, 1980). In the report, the Comptroller General concluded that the nuclear accident at TMI raises serious questions about the financial abilities of GPU to clean up and repair the damaged reactor facility while continuing to provide reliable electric service to its customers.

Financial insolvency of the company is not imminent and power supplies are assured for the immediate future. However, the loss of earning capability by the company makes it questionable whether it can fund its share of the cleanup costs and maintain system reliability without large rate increases or some external financial assistance.

On pages 60 through 62, the Comptroller General concludes that further examination of the TMI aftermath is warranted and makes certain recommendations.

Mr. President, today I am introducing an amendment to S. 2358, the NRC authorization bill for fiscal year 1981, to implement the thrust of the recommendations of the Comptroller General. The bill is very simple. The amendment would direct the Comptroller General, in cooperation with the Commission, to conduct a detailed study of the GPU system regarding its future role as a provider of electric power in Pennsylvania and New Jersey. In connection with such study, the NRC shall provide all possible assistance in fully developing the regulatory responsibilities of the Commission as they relate to the restart, cleanup and recommissioning of the Three Mile Island units and shall move as quickly as possible, while taking all necessary steps to protect the public health and safety, to consider and act on the question of restarting Three Mile Island unit No. 1. The Comptroller General shall report to the Congress on the results of the study no later than February 1, 1981.

Mr. President, on behalf of my colleague, Senator BRADLEY, I offer this as a floor amendment because the Comptroller General's final report was published after the subcommittee and the committee had reported out S. 2358. However, the need for this amendment is fully justified by the subcommittee's own exhaustive investigation and recent report to the U.S. Senate entitled "Nuclear Accident and Recovery at Three Mile Island." This amendment, and the actions which it requires, will assist the subcommittee in considering more comprehensive legislation next year.

I summarize the purpose of the amendment which is to carry forward a study of the fiscal conditions of the utility which owns and is responsible for the operation of the nuclear powerplant at Three Mile Island. GPU as it is known. It is the General Public Utilities Corp.

The Comptroller General has judged that the events at Three Mile Island pose serious financial questions for the utility, with respect particularly to its capacity to bear the cost of the cleanup and the recommissioning of the units that are now closed down.

The purpose of this amendment is to direct that a detailed study of the fiscal conditions of the GPU system and its future role as a provider of electrical power in Pennsylvania and New Jersey should be carried out by the Comptroller General in cooperation with the Nuclear Regulatory Commission.

This amendment is acceptable to our side, and I believe that is also the case with respect to my distinguished friend from Wyoming.

It is almost odd to speak of sides with respect to matters in which we are in such close accord and in which there is not a particle of partisan distinction between our views.

Mr. SIMPSON. Mr. President, let me just verify with my fellow comanager of the legislation if I am correct. I do not want to see any amendment which would impede the progress and the processes of the Nuclear Regulatory Commission, and I do not feel that this language does. I would like the assurance of my colleague from New York that it is not intended here in any way to impede or to interfere with by statutory law the duties of the Commission as it goes about its principal mission—that is undertaking all necessary steps to protect the public health and safety. That is the principal mission of the Nuclear Regulatory Commission.

As I perceive this, we will simply be going ahead with the general policy, and there is no intent to impede the clean-up process underway. There is no intent to be detrimental to the GPU, which is in dire financial straits, or to the Commission. Is that the Senator's conception of the amendment also, I ask my colleague?

Mr. MOYNIHAN. I am happy to respond to my friend from Wyoming that this is precisely our understanding of this amendment. Neither more nor less than you have stated. In particular, it is in no way intended to interfere with the primary responsibilities of the Commission as you have so accurately stated them.

This amendment requests the cooperation of the Commission with a GAO study, which cooperation would under any ordinary circumstances be forthcoming, such is the nature of the Commission in its concern with these matters.

May I make a slight amendment to my friend's statement. The financial condition of this public utility is, perhaps, not for us to characterize prior to the study which we are authorizing. I think there has been some concern on their part about that, which I can understand. I am sure the Senator would, too.

Mr. SIMPSON. I would adjust my remarks to the original language of the amendment, the issue of a study of GPU's financial viability, and we will leave it to see what that is.

Mr. MOYNIHAN. Precisely.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I would be delighted to yield.

Mr. McCLURE. As I understand the explanation of the amendment and the language of the amendment, this is not intended to be statutory direction to the Commission. It is not substantive law. It does not establish new requirements for the Commission.

Mr. MOYNIHAN. None whatever.

Mr. McCLURE. I think it might be read by some as implying that, and I wonder if, as a matter of fact, the managers of the bill could assure the Senator from Idaho that as this moves through conference with the other body, if there should be an effort made to change the substantive law with respect to the Commission's responsibilities or the standards upon which they do the work, that the manager of the bill on behalf of the Senate would abandon the amendment or at least make certain that it was not intended to be a change in any substantive part of the procedural requirements of the Commission.

Mr. MOYNIHAN. As the Senator from Idaho knows, the Senator from New York is not the manager of the bill. I am a member of the subcommittee and am here in place of the Senator from Colorado, who has to be at another place.

But that certainly is our intention, and while I cannot speak for the chairman, I know he will be on the floor before the passage of this bill, and I am sure he would be willing to give the Senator that commitment.

Mr. McCLURE. I wonder if the Senator from Wyoming might respond to that question.

Mr. SIMPSON. Mr. President, if I felt that was the case, I can assure the Senator that in no way would I move to accept this amendment. If what my colleague from Idaho suggests might be the emphasis placed on this legislation, that would be, I think, an affront to this body and it would certainly be an affront to me because I assure the Senator that not only would I join in abandoning the amendment, but I would join in defusing it and defanging it totally.

Mr. McCLURE. Might I say to both of the Senators who have responded to my question I thank both of you for the response.

Might I suggest that the legislative history at this point as to the intent of the amendment would make it very clear that any attempt to engraft changes on the basis of this amendment would be outside the scope of the conference and, therefore, subject to a point of order on return to this body.

Mr. MOYNIHAN. I will be happy to accept that condition and make it part of the legislative record.

I am inclined to amend my earlier remark. It was my understanding that the Senator from Colorado would be able to get back from the other legislative business which now detains him, but I learned he cannot, and we are about to move to a third reading, and I cannot make the commitment when I suggested he would be on the floor before final passage. But I have every reason to believe that it is his understanding and in his absence he would understand that I would accept the legislative history which the Senator from Idaho proposes.

Mr. McCLURE. I thank the Senator from New York.

Mr. SIMPSON. Mr. President, I might add that I would certainly also concur that if there was any attempt in conference to place any statutory emphasis or any legislative emphasis on this language that it would clearly be outside the scope of the conference.

Mr. McCLURE. I thank both Senators.

I have no objection to the amendment. I think it is a constructive amendment within the parameters outlined in this discussion, and I thank both Senators.

Mr. MOYNIHAN. Mr. President, I yield back all time remaining on our side on the amendment.

Mr. SIMPSON. I also yield back the time of the minority on this amendment.

Mr. MOYNIHAN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. STEWART). The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (UP No. 1494) was agreed to.

Mr. RANDOLPH. Mr. President, today action is being taken on very important legislation in the consideration of the Nuclear Regulatory Commission authorization for fiscal year 1981.

I wish to refer very correctly to the able leadership of Senators GARY HART and ALAN SIMPSON, the chairman and ranking member of our Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works.

In this time of reexamination, Mr. President, of the manner in which we assure protection of the health and safety of the public in our nuclear power program, the leadership of such men as I have mentioned, and other members of the committee and, in fact, of Senators, has enabled us to proceed with responsibility and in an effective manner.

With the important initiatives directed by the Nuclear Regulatory Commission Authorization Act for the fiscal year 1980, the fiscal 1981 bill sensibly avoids the temptation of going too fast and too soon.

S. 2558 does, however, provide the funding essential to the pursuit of such fiscal 1980 legislative initiatives, and these are noted, such as the resident inspector program and the new reactor siting regulations.

Funding is, as we know, provided for post-Three Mile Island objectives, as the newly created office for analysis and evaluation of operation data and the development of an overall safety goal for reactor operation.

I take this point in my remarks to indicate that the investigation, the study, the review, the recommendations which came from the work of our committee and the special investigation that was carried forward with intensive hearings, visitation, and counseling efforts, that report having been given in accordance with the time allowed to the United States and for the information of the public, that that effort also reflects the cooperative spirit of understanding and objectivity of Senators HART and SIMPSON, as well as other Members.

Funding is provided in this measure before us for the implementation of important legislative initiatives—I keep using the word "initiatives" because it is proper to do so—of the recent past as the Uranium Mill Tailings Radiation Control Act of 1976 is considered and remembered, the development of nuclear waste management standards and criteria, and the improved reactor safety research goes forward.

Mr. President, the enactment of the pending measure I feel is required if we are to continue realistically the effort to improve the quality of nuclear regulation.

The PRESIDING OFFICER. Is there further amendment? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MOYNIHAN. Mr. President, I yield back all time remaining on our side on the legislation.

Mr. SIMPSON. I also yield back the time of the minority on this legislation.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass?

So the bill (S. 2358), as amended, was passed, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1981 to remain available until expended $445,100,000, to be allocated as follows:

(1) For "Nuclear Reactor Regulation", $68,775,000,

(2) For "Inspection and Enforcement", $53,049,000,

(3) For "Standards Development", $16,390,000,

(4) For "Nuclear Material and Safety Safeguards", $41,930,000, of the total amount appropriated for this purpose, $500,000 shall

be available for the monitoring, engineering assessment and remedial action program established by section 7 of this Act,

(5) For "Nuclear Regulatory Research", $210,208,000; of the total amount appropriated for this purpose, $2,800,000 shall be available for gas-cooled thermal reactor safety research, and $19,700,000 shall be available for fast breeder reactor safety research: *Provided, however,* That the latter amount shall not be so available if the Congress fails to enact legislation appropriating funds for fiscal year 1981 for the Department of Energy Breeder Reactor Program, including funding for a demonstration breeder reactor plant project,

(6) For "Program Technical Support", $18,511,000,

(7) For "Program Direction and Administration", $36,897,000.

(b) No amount appropriated to the Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefor by paragraphs (1) through (7) of such subsection, if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless—

(1) a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee before the expiration of such period has transmitted to the Commission a written notification that there is no objection to the proposed action:

Provided, however, That no addition to or reduction from the amount expressly authorized to be appropriated for any purpose in accordance with this subsection shall reduce the amounts available for gas-cooled thermal reactor safety research and fast breeder safety research specified in paragraph (5) of subsection (a).

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments hereunder shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 5. (a) After notice and opportunity for public hearings in accordance with section 553 of title 5, United States Code, the Commission is authorized and directed to develop a safety goal for nuclear reactor regulation. Such goal shall delineate clear subjective criteria, supplemented to the extent possible by quantitative criteria, necessary to assure protection of the public health and safety.

(b) In development of the goal required by the preceding subsection, the Commission shall consider the application thereof to the development of new regulatory requirements for nuclear power reactors and to decisions on the retroactive application of new or current requirements to existing plants.

(c) The Commission shall report to the Congress by June 30, 1981, on the proposed safety goal.

SEC. 6. (a) From the sums authorized to be appropriated under section 1(a)(5), the Commission is authorized and directed to establish a study of the applications of strategic analysis techniques to the safeguarding of nuclear materials. The study shall specifically address the applications of strategic analysis to the treatment of inventory differences in material accounting. The study shall include, but not be limited to:

(1) an evaluation of the costs and benefits of various responses to inventory differences that incorporates the perspectives of those involved in such decisionmaking, such as NRC and industry management;

(2) an evaluation of the sensitivity of response to varying levels and types of uncertainty associated with inventory differences;

(3) an assessment of the ability of strategic analysis to reduce uncertainties in the determination of and response to inventory differences; and

(4) a determination of the steps required to implement strategic analysis techniques as a decisionmaking tool.

The study shall incorporate the work of the Materials Accounting Upgrade Rule Development Team.

(b) The Commission shall report to the Congress, within one year after the date of enactment of this section, on the findings of the study required by the preceding subsection.

SEC. 7. (a) The Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to coordinate and conduct a monitoring, engineering assessment and remedial action program for the management of byproduct materials, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct materials, consistent with requirements promulgated by the Commission under section 84 of the Atomic Energy Act of 1954 and standards promulgated by the Administrator of the Environmental Protection Agency under section 275 a. of such Act.

(b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a)—

(1) the Administrator of the Environmental Protection Agency shall propose, not later than sixty days after the date of enactment of this Act, standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at the locations described in subsection (a). Such proposed standards shall be applicable on an interim basis until finally promulgated;

(2) the Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(A) establish general objectives and priorities for the program;

(B) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(C) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954 and conforms with the general standards established under paragraph (1) of this subsection; and

(D) provide funding through contract for an approved monitoring, engineering assessment and remedial action program at the locations described in subsection (a).

(3) the Department of Energy shall provide any necessary technical assistance and consultation in the performance of the monitoring, engineering assessment and remedial action program established by subsection (a).

(c) As soon as practicable, but not later than one hundred and twenty days after the date of enactment of this section, the Commission shall submit a report to the Congress on the preliminary planning authorized by subsection (a), including a detailed description for each location of any required remedial action and an estimate of the cost of such remedial action.

(d) The Commission shall provide, as part of its annual report, a report on the progress of the monitoring, engineering assessment and remedial action program established by subsection (a).

SEC. 8. Not later than two hundred and seventy days after the date of enactment of this section, the Commission shall by rule promulgate procedures for consulting with and responding to appropriate State officials regarding the public health and safety concerns of a State in connection with the operation of utilization facilities located therein that are required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. The Commission shall include in the annual report submitted to the Congress pursuant to section 251 of such Act an analysis of such procedures and the reasons for their promulgation.

SEC. 9. Section 236 of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act,

"(2) any nuclear waste storage facility licensed under this Act,

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility, or any person who causes or attempts to cause a mechanical interruption of normal operation of any production facility, utilization facility or nuclear waste storage facility licensed under this Act through the unauthorized use of or tampering with machinery, components, or controls of any production facility, any utilization facility, or any nuclear waste storage facility licensed under this Act, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

SEC. 10. The Controller General of the United States, in cooperation with the Commission, is directed to conduct a detailed study of the system of the General Public Utilities Corporation regarding its financial viability and its future role as a provider of electric power in Pennsylvania and New Jersey. In connection with such study, the Commission shall provide all possible assistance in fully developing the regulatory responsibilities of the Commission as they relate to the restart, clean-up and recommissioning of the Three Mile Island units, and shall move as quickly as possible, while taking all necessary steps to protect the public health and safety, to consider and act on the question of restarting Three Mile Island Unit. The Controller General shall report to the Congress no later than February 1, 1981, on the results of the study, including a statement of any specific actions to be taken by the utilities or Federal agencies and any recommendations to the Congress.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT-IMPORT BANK PROGRAM AUTHORITY

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 589, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank.

The Senate proceeded to consider the joint resolution.

Mr. GARN. Mr. President, now that we are considering this emergency legislation to provide additional program activity for the Export-Import Bank, I think it would be worthwhile to detail the history of this matter, detailing what we have tried to do for the Bank since the original budget submission, and the administration's response to those efforts.

In the latter part of February and early March of 1979, there were extensive discussions between staff members of the Appropriations and Banking Committees concerning the levels necessary for direct loan activity of the Export-Import Bank. Considerable time was spent going over the numbers to try and determine what was necessary.

What was the administration doing? They were testifying before Congress that the $4.1 billion they had requested was enough for their needs.

Last summer it became clear that in excess of $9 billion in direct loan authority could be used and was in fact needed if the Bank were to continue a normal operation.

What was the administration doing? They were insisting that $4.1 billion was enough.

In September, I and others drew up an amendment which would have given the Export-Import Bank a total of $8 billion in direct loan authority.

What was the administration doing? They were telling us $4.1 billion was enough.

In late September, when we went to the floor of the Senate with the fiscal year 1980 foreign operations appropriations bill, it became clear that the budgetary situation was such that we were forced to reduce our amendment to $6 billion for direct loan authority. This amendment was cosponsored by myself, Senator INOUYE, and Senator MATHIAS, and had been strongly urged by various members of the Banking Committee, including Senators STEVENSON and HEINZ. It was accepted by the Senate.

What was the administration doing? They opposed our amendment and kept insisting that $4.1 billion was enough.

The conference on the foreign aid bill began in late October, but did not conclude until late February, partially due to the fact that the Senate conferees refused to give in to the demands of the House and the administration that we reduce our number back to $4.1 billion. Finally we concluded with a $5 billion compromise.

What was the administration doing? Over this protracted conference, we had to fight both the House and the administration who were insisting that $4.1 billion was enough. However, with the fiscal year 1981 budget submission on January 28, the administration did suggest a standby, off-budget agreement with the Federal Financing Bank, which incredibly enough would have been used and disbursed not in accordance with Ex-Im rules and regulations but in accordance with directions given by a combination of OMB, the Department of Treasury and Ex-Im.

On March 3, the Budget Committee put the reestimates into the scorekeeping system thus making any additional appropriation measures subject to a point of order under the Budget Act. This situation did not change until June when Congress finally passed a third resolution. With room thus available, the conference report could then have been called up, but for various reasons, the House refused to take it up. At that time, Congress was also considering the supplemental appropriations bill, and Senator INOUYE and I took it upon ourselves to suggest the addition of the conference report, in its entirety, to the general supplemental. This was an unusual procedure, but one which we felt was necessary in order to allow Congress to work its will on the conference report. Without the adoption of the conference report programs would operate under the continuing resolution at fiscal year 1979 levels, which for Ex-Im direct loan authority meant a level of $3.75 billion, an amount then nearly exhausted. This was done at a time when the administration was urging us to include in the supplemental only those differences between the continuing resolution and the conference report, except for the difference between the Export-Import number in the continuing resolution in the conference report. In other words, they were still insisting on the $4.1 billion, and still suggesting the off-budget FFB approach.

Mr. President, my colleagues are aware of what then happened with respect to the supplemental bill. While we were successful on the Senate side by including the entire conference report in the supplemental, the House not only refused to go along with that, but approved a very small amount for function 150 items, excluding funds for the Export-Import Bank. Thus that institution is now out of funds, and without this bill they would be required to shut down their operations until October 1.

Shortly after the July 2 debacle on the House floor, I put together a proposal which would alleviate the Export-Import Bank's situation and this proposal, which was released on July 10, was subsequently cosponsored by the chairman and ranking members of the full Appropriations Committee, the Foreign Operations Appropriations Subcommittee, the Subcommittee of Banking which authorizes the Eximbank, and several other distinguished Members of the Senate. Only after my proposal was made known did the administration then meet, and wonder of wonders, they again decided to push their original position, except now it would call for $4 billion in direct loan authority, a $100 million reduction, with their new angle being additional guarantees.

Now, Mr. President, here we are again. The House has sent over the administration's proposal, and the administration is asking us to accept it. I have compromised enough on this matter, going, as I have said, from an original position of $8 billion in direct loan authority down to $5 billion in direct loan authority, at a time when the administration has not changed its position one iota.

Mr. President, what are the deficiencies in the administration's proposal? First, it is direct loan authority that is needed, not more guarantees. Second, under the administration's proposal we have been informed that only those preliminary commitments carrying 8¾ percent will be financed, thus pushing forward the majority of outstanding PC's which in fact carry interest rates lower than 8¾ percent. Third, the administration's proposal represents a planned loss of money, which is clearly not the direction we want to go. Too much of this sort of thing and the Bank will have to come up to Congress for appropriations, and, as all of us have repeated time and time again, the best argument for this institution has been that it is self-sustaining and does not require the appropriation of taxpayers funds. Fourth, the administration's proposal has already given opponents of Ex-Im Bank ideas with respect to getting rid of direct loan authority and substituting therefor guarantees. This simply exacerbates the situation, and runs contrary to what we have been trying to do both in a budget sense and in trying to impose the programs of Ex-Im. Fifth, the administration's proposal makes this program a prisoner of private interest rates, and as I am sure most of my colleagues know, the majority of economists are predicting that those interest rates are going to go back up again, perhaps to new heights. Sixth, Mr. President, is a concern I have with respect to the possibility that what some in the House are saying is a virtual certainty, that the entire foreign aid program will once again be on a continuing resolution. If this is so, the direct loan authority number would be the $4 billion provided by the administration's proposal. That is not enough, and it further exacerbates the situation.

Mr. President, I think it might be worthwhile to point out that despite the administration's continuing opposition to higher numbers for the Export-Import Bank, the president of the Bank, Mr. Moore, in a public board meeting held on Monday of this week stated that what was needed over the 2 year period was $15 billion. The administration is proposing $4 billion in 1980 and $4.3 billion in 1981, which is $6.7 billion below what Mr. Moore said is needed.

Mr. President, I trust that the Senate will support the proposition that we have made, rather than the woefully inadequate and deficient measure the administration is suggesting. While I must admit it has not been a very joyous thing for me to do over these many months, given the opposition I have received from the administration, nonetheless the Export-Import Bank is a vital institution, one which is needed so badly today not only to promote exports, but also to give more Americans jobs.

Mr. President, I thank the chairman of the subcommittee (Mr. Inouye) for his faithful help and support in this matter. It is fair to say that, without him, we would not have been able to do what we were able to do. I also thank the many cosponsors and others over the past months who have supported our efforts to secure the needed additional authority for this most important institution.

Mr. President, it is my view that now what we should do in order to save time is simply substitute the language of the Senate Joint Resolution 191 for the language in the House Joint Resolution and send that back to the House without asking for a conference. I am hopeful that they will then accept our version, and send it down to the President.

UP AMENDMENT NO. 1495

(Purpose: To substitute language of S.J. Res. 191)

Mr. GARN. Mr. President, in behalf of myself and the chairman on the Foreign Operations Subcommittee (Mr. Inouye) and others, I should like to call up my amendment, which is at the desk. It simply makes the substitution I have just mentioned.

Mr. INOUYE. Will the Senator yield?

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. Garn) (for himself, Mr. Inouye, Mr. Magnuson, Mr. Young, Mr. Stevenson, Mr. Heinz, Mr. Mathias, Mr. Javits, Mr. Cranston, Mr. Roth, Mr. Percy, Mr. Schweiker, Mr. Leahy, Mrs. Kassebaum, and Mr. Tsongas), proposes an unprinted amendment numbered 1495:

Strike all after resolving clause and insert in lieu the following: That the limitation on program activity of the Export-Import Bank of the United States is increased as follows:

Export-Import Bank of the United States

LIMITATION ON PROGRAM ACTIVITY

(1) In addition to amounts otherwise authorized for such purpose for the fiscal year 1980, not to exceed $251,000,000 is authorized for the fiscal year 1980 for other than administrative expenses of the Export-Import Bank of the United States, which amount shall be available for direct loans.

(2) In addition to the amount authorized by paragraph (1), not to exceed $664,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans: *Provided*, That the amount authorized by this paragraph shall not be available for disbursement before October 1, 1980.

(3) In addition to the amounts authorized by paragraphs (1) and (2), not to exceed $335,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans: *Provided*, That the amount authorized by this paragraph shall not be available for obligation or disbursement before October 1, 1980.

Mr. INOUYE. Mr. President, I commend my dear friend from Utah for his perseverance and his patience.

As all of us are aware, Mr. President, this problem has been before the Senate now for over 19 months. Nineteen months ago, the Subcommittee on Foreign Operations began its first hearings. Since then, we have heard from countless numbers of witnesses. We have had 22 markups for the subcommittee, 2 markups for the full committee. I think we have done everything possible. We have been operating under a continuing resolution. In the meantime, the American industry has had to suffer from competitive industries abroad. This is the one measure that will provide them with some assistance. I hope the Senate will concur.

I realize that there are those who will say that the adoption of this amendment would raise havoc with the present situation, but I doubt that.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I support the amendment of the Senator from Utah (Mr. Garn), which incorporates the intent, the language, the specifics, indeed, of Senate Joint Resolution 191 which he, Senator Magnuson, and 12 other Senators have introduced.

Mr. President, I think that it would be useful, at this point, to review the history of the two proposals for Eximbank supplemental appropriations, Senate Joint Resolution 191, introduced by Senators Garn, Magnuson, myself, and 12 other Senators, and House Joint Resolution 589, the administration's proposal, in order to better understand the choice which we must make today. Senate Joint Resolution 191 is now before us as unprinted amendment No. 1495.

Eighteen months ago the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs, of which Senator Stevenson is chairman and I am the ranking minority member, issued a report based upon a yearlong study of export policy, entitled "U.S. Export Policy." That report estimated that the demand for Eximbank direct loans in fiscal year 1980 might be as high as $12 billion, fully three times the level recommended by the Office of Management and Budget.

In a letter on June 14, 1979, to Senator Inouye, chairman of the Appropriations Subcommittee on Foreign Operations, Senators Stevenson, Garn, Danforth, and I noted that negotiations with other major exporting nations seeking agreements to restrain officially supported export credit competition had broken down in March 1979 because other nations were unwilling to exercise restraint. We also noted that because of Government disincentives and rising foreign competition, among other factors, the need for Eximbank direct loans was not expected to rise as fast as the International Finance Subcommittee report has estimated, but that the demand would still be at a level which would substantially exceed the administration's recommended level of $4.1 billion for fiscal year 1980. We argued that the United States must be fully prepared to meet competition in the months ahead, both for the sake of garnering export business and to demonstrate to other nations that we will not sit idly by while they seize markets with unlimited government-backed credit offers. Our recommendation was for a direct credit level of $6 billion, a 50-percent increase over the administration's recommendation; unchanged despite the credit negotiations breakdown since its original submission 5 months earlier.

That $6 billion direct credit limit for fiscal year 1980 was subsequently adopted by the Senate in an amendment offered by Senator Garn on the Senate floor during the Foreign Assistance and debate in October 1979. Unfortunately, the House stayed with the administration's recommended direct credit limit of $4.1 billion, and this, among other things delayed agreement on a conference report until February 25, 1980. Then, before the foreign assistance conference report containing the compromise $5 billion direct credit limit for Eximbank could be brought before either Chamber for approval, the spending limits contained in the second concurrent budget resolution were reached, and no further appropriations measures could be considered pending a third budget resolution.

On March 20, 1980, Senators Stevenson, Garn, nine other Senators and I wrote to the Budget Committee urging that enough room be allocated in the third resolution to accommodate the conference report's approved direct credit limit for Eximbank. Noting the fact that multilateral credit negotiations were about to resume, we argued:

> Negotiations are resuming in a few weeks for the purpose of setting new market-related minimum interest rates for government-supported export credits and to limit certain predatory export financing practices. We pray these talks succeed; export credit subsidies are a wasteful burden on taxpayers in all major nations. But to reduce Eximbank credits at this time would signal our foreign competitors that the United States is no longer willing to match their credit offers. We would no more counsel unilateral disarmament as an approach to negotiating trade issues with our allies than we would recommend it for dealing with the Russians on global security.

The third budget resolution enabled the Congress to consider an emergency supplemental appropriations bill. On June 18, Senator Stevenson and I wrote to the Appropriations Committee once again, reminding them of the plight of the Eximbank, operating under a continuing resolution and about to exhaust its direct credit limit. In part we said:

> As of the Eximbank Board Meeting on June 10, 1980, direct loan commitments totalling $3.673 billion have been made. Since the Bank is operating under a Continuing Resolution direct loan ceiling of $3.75 billion for fiscal year 1980, only $77 million remains for the remainder of the fiscal year, hardly enough to keep the loan window open past the end of this month.
>
> Because of the financial constraints under which the Bank has been operating during the current fiscal year, many direct loan commitments have been postponed or segmented, with portions pushed over into fiscal year 1981 and succeeding years, whenever possible. Through this technique of creating "deferred commitments" for the following fiscal years, approximately $2.5 billion has already been committed for fiscal year 1981. Assuming that Congress authorizes the $4.35 billion in direct credit authorization requested by the Administration for that year, more than half of that credit would have already been allocated. Clearly, the Bank cannot continue to operate in such a fashion. . . .
>
> The Foreign Assistance and Related Programs Appropriations Act, agreed to by the Senate-House Conference Committee on February 25, 1980, contained $5 billion in direct credit authority for the Eximbank. That amount would go a long way toward solving Eximbank's credit shortfall during the current fiscal year, since it would provide $1.25 billion in additional authority. Of course, any additional direct credit authority beyond that amount would not only assure that the Bank will be able to satisfy the American exporting community's credit demands this fiscal year but also allow the bank to reverse its policy of mortgaging its future by carrying over current year's commitments into succeeding fiscal years.
>
> The American exporting community and foreign purchasers of U.S. products consider preliminary commitments of Eximbank as moral commitments to provide funds when sales are consummated and ready for financing. If Eximbank were to be forced to renege on such commitments due to inadequate credit authorization by Congress, our nation's credibility as a reliable supplier of goods and services would be severely damaged. This would be inexcusable in any year, but at a time of $30 billion trade deficits and eight percent unemployment it would be the height of folly.

Mr. President, we are all too painfully aware of subsequent events. Under Senator GARN's and Senator INOUYE's leadership, the Senate included the fiscal year 1980 foreign assistance conference report as part of its Emergency Supplemental Appropriations Act. The Eximbank seemed to be saved from the brink of disaster. But—after an all-night conference with the House and a day of acrimonious debate on the House floor—the fiscal year 1980 Foreign Assistance Act and, hence, the additional Eximbank direct credit authority was rejected on the last day before the July 4 recess. The Senate had no alternative but to accept the House rejection of the foreign assistance portion of the emergency supplemental act, in view of the many other urgently needed programs contained therein.

One question that must be asked is, What was that administration doing during the period I have just reviewed? Despite all the accusations of inconsistency and vacillation in the area of foreign affairs against this administration, one would have to admit that it remained steadfast, unmoved, impervious to events and to the cries for assistance coming from the American exporting community.

Back in February 1979, the OMB approved a $4.1 billion direct credit limit for Eximbank in fiscal year 1980, and the administration has adhered to that level ever since. Through two rounds of failed multilateral credit negotiations, through significantly increased American export sales, through predatory forays against U.S. export markets by our trade competitors, through month after month of multibillion dollar trade deficits, and despite repeated pleas by its own Eximbank that its credit limit was inadequate to service demand, the administration hewed to its original fiscal year 1980 direct credit limit. The only perceptible change over the last 18 months is that the latest administration proposal contains $100 million less for fiscal year 1980 than originally recommended for Eximbank direct credit.

Let us examine with some care the administration proposal contained in House Resolution 589. It provides the Bank with an additional $250 million in direct credit authority for fiscal year 1980, to bring the Bank's overall direct credit limit for the current fiscal year to $4 billion.

Additionally, it provides $1 billion in guarantee authority which would be used to guarantee loans made by a private, affiliated agency PEFCO (Private Export Funding Corporation). By the Bank's own internal estimates, it will need a minimum of $12 billion in direct credit authority to service the anticipated credit demand during the current fiscal year and the fiscal year 1981. The $5 billion level for fiscal year 1980 added to the administration's recommendation of $4.35 billion for fiscal year 1981 still falls $2.65 billion short. House Joint Resolution 589 would allow the Bank to scrape by during the remaining 2 months of fiscal year 1980, but just barely. What the Bank will have to do in order to service loan demand is to offer a mixture of direct credit from its own resources and PEFCO loans with Eximbank guarantees. But, in order to service the preliminary commitments which the Bank has already made at rates ranging from 7.75-percent per annum to 9.25 percent, the Bank will be forced to subsidize the interest rates out of its operating revenues. For example, if the Bank has committed itself to offer an 8-percent loan, in order to service that loan under the administration scheme there will have to be a mixture of 10 percent PEFCO funds with 6 percent Eximbank direct loan funds. That would be a 50/50 mix, but the administration proposal gives the Bank $1 billion of PEFCO authority and only $250 million of direct credit authority, a 4-to-1 ratio. Therefore, it is difficult to imagine how the Bank will be able to offset PEFCO rates of 10 percent (or whatever the private market rates are at the time of borrowing) in order to get the overall rate of the loan down to a competitive level. Conceivably, in some cases, the Bank might have to go down as low as 2 percent in the direct credit portion of a loan in order to get the overall mix down to 8 percent.

Mr. President, this is clearly not the road we should want the Bank to take. Why should the Bank be forced into the business of subsidizing interest rates unnecessarily? Previously, the Eximbank has been a moneymaker for the Federal Treasury, paying over a billion dollars in dividends into the Treasury since it was formed 46 years ago. Now, if we go the route proposed in House Joint Resolution 589, the Bank will dramatically reverse its moneymaking tradition.

Another unfortunate effect of the administration "solution" would be to force the Bank to push into fiscal year 1981, and subsequent years, all those preliminary commitments with interest rates too low to service with a direct loan/PEFCO mix. Presently, as much as $2 billion of such loan commitments could get delayed in funding, with the very real possibility of cancellation in some cases. As Senator STEVENSON and I noted in our letter of June 18, 1980, America's reputation as a reliable supplier of goods and services could be severely damaged by such action.

Enemies of the Eximbank—and some well-meaning friends—have already seized on the guarantee concept to suggest that perhaps more of the Bank's lending ought to be done through PEFCO or some private market source, with Eximbank guarantees, because the Bank's impact on the overall Federal budget outlays is reduced thereby. Eximbank guarantee authority does not count against outlays, and only one of every four guarantee dollars is counted for purposes of budget authority—hence, the appeal.

However, I must emphasize that what the Eximbank needs in fiscal year 1980 and fiscal year 1981, now more than ever before, is direct credit authority not guarantee authority. If the Bank gets into the business of subsidizing loan rates and losing money, it is likely to be far more conservative in offering loan rates which are competitive with those of our principal trade competitors. Such conservatism would be justified and prudent, but it is not the sort of behavior that is likely to win contracts for American exporters in highly competitive situations—precisely those situations in which an aggressive Eximbank can make a difference in winning or losing a contract. Is this the sort of behavior we want to promote at a time of 8-percent unemployment and $30 billion trade deficits?

Mr. President, the case for preferring Senate Joint Resolution 191 over House Resolution 589 is overwhelming. It should be obvious to my colleagues and to the American exporting community that the only reason why the administration favors House Resolution 589 is that it will have less of an outlay effect on the Federal budget this year and next. What the administration will not admit is that, for the sake of the bookkeeping advantages of House Resolution 589, it is willing to undermine the competitiveness of the Eximbank and hence that of the American exporting community.

Mr. President, because of the recalcitrance of our colleagues in the House and because of the budget constraints imposed under the third budget resolution, we are being asked to accept the half-loaf represented in the House Resolution 589. We should not do it. It is at best a stopgap measure. If it becomes the basis for a fiscal year 1981 continuing resolution, the Eximbank will be in even more trouble next year than this. Instead, I urge my colleagues to support the approach in Senate Joint Resolution 191.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the letters referred to earlier.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS
Washington, D.C., June 18, 1980.

Hon. DANIEL K. INOUYE,
Chairman, Foreign Operations Subcommittee, Committee on Appropriations, Washington, D.C.

Hon. JAKE GARN,
Ranking Minority Member, Foreign Operations Subcommittee, Committee on Appropriations, Washington, D.C.

DEAR DANNY AND JAKE: We are concerned that the Export-Import Bank is on the verge of exhausting its direct credit authority in FY 1980, and that it will be forced to cease operations for the last three months of the fiscal year if new authority is not granted in the Supplemental Appropriations Act which your Committee is now considering. A quick review of the facts indicates that the Bank's situation has reached crisis proportions.

As of the Eximbank Board Meeting of June 10, 1980, direct loan commitments totalling $3.673 billion have been made. Since the Bank is operating under a Continuing Resolution direct loan ceiling of $3.75 billion for FY 1980, only $77 million remains for the remainder of the fiscal year, hardly enough to keep the loan window open past the end of this month.

Because of the financial constraints under which the Bank has been operating during the current fiscal year, many direct loan commitments have been postponed or segmented, with portions pushed over into FY 1981 and succeeding years, whenever possible. Through this technique of creating "deferred commitments" for the following fiscal years, approximately $2.5 billion has already been committed for FY 1981. Assuming that Congress authorizes the $4.35 billion in direct credit authorization requested by the Administration for that year, more than half of that credit would already have been allocated. Clearly, the Bank cannot continue to operate in such a fashion.

The Bank staff has estimated that even with maximum deferrals into later years, a minimum of $820 million in preliminary commitments will be converted into direct credits during the remainder of the fiscal year. Past experience (during FY 1978 and FY 1979) indicates that an approximately equal amount of direct loans will be needed during the same period for projects which will not go through the preliminary commitment process—export contracts which are consummated with short lead times and are in need of immediate funding. Adding these two categories of probable demand provides a fairly accurate estimate of the Bank's needs for the remainder of the fiscal year: $1.7 billion. But with only $77 million in direct credit authority remaining, the shortfall is likely to be $1.623 billion.

The Foreign Assistance and Related Programs Appropriations Act, agreed to by the Senate-House Conference Committee on February 25, 1980, contained $5 billion in direct credit authority for the Eximbank. That amount would go a long way toward solving Eximbank's credit shortfall during the current fiscal year, since it would provide $1.25 billion in additional authority. Of course, any additional direct credit authority beyond that amount would not only assure that the Bank will be able to satisfy the American exporting community's credit demands this fiscal year but also allow the Bank to reverse its policy of mortgaging its future by carrying over current year's commitments into succeeding fiscal years.

The American exporting community and foreign purchasers of U.S. products consider preliminary commitments of Eximbank as moral commitments to provide funds when sales are consummated and ready for financing. If Eximbank were to be forced to renege on such commitments due to inadequate credit authorization by Congress, our nation's credibility as a reliable supplier of goods and services would be severely damaged. This would be inexcusable in any year, but at a time of $30 billion trade deficits and eight percent unemployment it would be the height of folly.

We urge you to consider these facts during the coming mark-up of the Supplemental Appropriations Act and to do whatever is possible to provide additional credit authority for the Bank in the current fiscal year.

Sincerely,

ADLAI E. STEVENSON,
Chairman, Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs.
JOHN HEINZ,
Ranking Minority Member, Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs.

COMMITTEE ON BANKING, HOUSING,
AND URBAN AFFAIRS,
Washington, D.C., June 14, 1980.

Hon. DANIEL K. INOUYE,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, Washington, D.C.

DEAR SENATOR INOUYE: We understand your subcommittee will soon mark up the Foreign Assistance and Related Programs Appropriations bill for fiscal year 1980. Included in the Administration's proposed legislation is a limitation of $4.1 billion on issuance of direct credits by the Export-Import Bank of the United States.

We believe the level of Eximbank loans proposed by the Administration is too low to enable Eximbank to fulfill its statutory mandate to facilitate U.S. exports and meet foreign government-supported export credit offers. U.S. exports are expected to grow rapidly in fiscal year 1980—as they must to help pay for imported oil and stabilize the international value of the dollar—but foreign competition will be fierce. Other countries are going all out to win export business with government-backed cut-rate loans.

Pursuant to amendments to the Export-Import Bank Act adopted last year, the Administration undertook high level negotiations with other major exporting nations seeking agreements to restrain officially-supported export credit competition. The negotiations broke down because other countries were unwilling to agree to exercise restraint.

The President's message reporting the failure of the negotiations notes:

The lack of progress requires us to reexamine our own efforts to assure we remain competitive in the export credit field. Our examination may well indicate that we should modify some of our own programs and policies until such time as there is more willingness among our trading partners to impose the needed self-discipline on export credit practices.

The United States must be fully prepared to meet competition in the months ahead, both for the sake of garnering export business and to demonstrate to other nations that we will not sit idly by while they seize markets with unlimited government-backed credit offers.

The Subcommittee on International Finance in its report in March on "U.S. Export Policy" estimated that Eximbank, given sufficient authority, could issue as much as $12 billion in direct credits in fiscal year 1980. For a number of reasons, including government disincentives to U.S. exports, and rising foreign competition, the need for Eximbank loans is now expected to increase less rapidly than anticipated by the Subcommittee report, but at a rate which will exceed substantially the level proposed in the Administration bill. Accordingly, we urge the ceiling on Eximbank direct credit activity for fiscal year 1980 be increased to at least $6 billion.

With appreciation for your consideration,

Sincerely,

ADLAI E. STEVENSON,
Chairman.
JOHN HEINZ,
Ranking Minority Member.
JOHN C. DANFORTH,
U.S. Senator.
JAKE GARN,
Ranking Minority Member.

U.S. SENATE,
Washington, D.C., March 20, 1980.

Hon. EDMUND S. MUSKIE,
Chairman, Senate Committee on the Budget, Washington, D.C.

Hon. HENRY BELLMON,
Ranking Minority Member, Senate Committee on the Budget, Washington, D.C.

DEAR ED and HENRY: We urge you to give careful consideration to budget authority and outlay levels of the Export-Import Bank when marking up the Third Concurrent Budget Resolution for FY '80 and the First Concurrent Budget Resolution for FY '81. Overly stringent restrictions on the Bank's ability to support U.S. exports during the next eighteen months would risk conceding major capital equipment markets to foreign producers for decades to come, at a cost of billions of dollars in sales and hundreds of thousands of U.S. jobs, for the sake of relatively slight reductions in actual outlays during FY '81 and the remainder of FY '80. Paradoxically, failure to sustain Eximbank lending at this juncture is likely to undermine prospects for internationally agreed limits on official export credits, condemning the world to increasing export credit competition and leaving future Congresses to choose between ever more costly export subsidies and ever larger trade deficits.

Eximbank loan commitments have been growing rapidly since 1977 in order to help U.S. exporters meet stiff competition from European and Japanese capital goods manufacturers who receive heavily subsidized export credit from their own governments. A forthcoming GAO report notes that foreign nations support a significantly higher percentage of their exports with government-backed credit, and at rates which average three percentage points lower than those offered by Eximbank.

Demand for Eximbank financing has greatly exceeded the Administration's estimates. C. Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, and John L. Moore, President and Chairman of Eximbank, in testimony before the International Finance Subcommittee of the Senate Banking Committee on February 22nd, noted that the Bank had committed in the first one-third of FY '80 two-thirds of the $4.140 billion direct loan level originally requested. Consequently, the Administration requested an increase of $1.6 billion in the Bank's direct credit authority for FY '80 (or its equivalent in financial guarantees and off-budget Federal Financing Bank standby authority), for a total FY '80 authority of $5.8 billion. Chairman Moore conceded, however, that the $5.8 billion level would be adequate in FY '80 only if $1.5 billion of expected loan demand could be deferred to FY '81.

U.S. exporters do not believe the Administration's revised request for FY '80 or the $6.200 billion level proposed for FY '81 are adequate. They point to $14 billion in outstanding Eximbank preliminary commitments, many of which could be converted to actual commitments in FY '80 or FY '81 as U.S. firms win contracts, and to surveys of U.S. exporters which identify the total need for direct loans in FY '80 to be $7.2 billion, with $8.1 billion projected for FY '81. The FY '81 figure was calculated by totalling the projected need in various key sectors: $2.9 billion for aircraft; $1.7 billion for nuclear plant and equipment sales; $2 billion for other power generating equipment sales; $500 million for locomotives; and $1 billion for all other sectors. It should be noted that these figures did not include an increment for inflation and, hence, should be considered to be quite conservative.

Aircraft competition is particularly intense, as U.S. manufacturers of airframes and engines fight for orders against the European Airbus Industrie consortium and Rolls Royce, both backed by government export credits. Orders won or lost within the next eighteen months will determine who builds most of the commercial jet aircraft to be built for the rest of this century, as foreign airlines hasten to replace their aging fleets with new, fuel-efficient jets. One U.S. airframe manufacturer estimates that its estimated orders alone could use all of Eximbank's remaining direct credit authority for FY '80.

The Administration's request for FY '80 and '81 contained no allowance for export credits to the People's Republic of China, yet Vice-President Mondale pledged in Peking in August 1979 that Exim credit of $2 billion would be available over the next five years. Other nations have offered $22 billion in export credits to China. U.S. companies are currently negotiating major sales to China, but without Eximbank financing they will be forced to source those sales from plants in Europe, Canada and Japan, with obvious implications for U.S. jobs and tax revenues. Future U.S. exports to Asia's largest market—and America's reputation—are on the line.

The stakes far exceed the budget impact in FY '80 or '81. As you know, Eximbank loan commitments disburse slowly over a period of several years. The first year outlay impact of $1 billion in Exim loan commitments is approximately $50 to $70 million (sic). Loan commitments made during the remainder of FY '80 will experience only modest disbursements during FY '81 and practically none in FY '80. But the loan commitments are essential during the next eighteen months to avoid losing billions of dollars in sales forever, and to preserve a chance to curb subsidized export credits through international agreement.

Negotiations are resuming in a few weeks for the purpose of setting new market-related minimum interest rates for government-supported export credits and to limit certain predatory export financing practices. We pray these talks succeed; export credit subsidies are a wasteful burden on taxpayers in all major nations. But to reduce Eximbank credits at this time would signal our foreign competitors that the United States is no longer willing to match their credit offers. We would no more counsel unilateral disarmament as an approach to negotiating trade issues with our allies than we would recommend it for dealing with the Russians on global security.

Eximbank will close its credit window by June 1, if the third Concurrent Budget Resolution makes no room for a higher ceiling on FY '80 loan commitments than that provided by the continuing appropriations resolution under which the Bank is now operating. Eximbank will need at least as much credit authority for FY '81 as FY '80, and more if deals consummated in FY '80 are carried over to FY '81, and if exports to China are included. The economy of the United States will be better served by sustaining the Bank's authority to match foreign export credit competition in FY '80 and '81 than by cuts which weaken U.S. export performance.

With best wishes,

Sincerely,

John Heinz, Jake Garn, Warren G. Magnuson, Henry M. Jackson, Jacob K. Javits, William V. Roth, Adlai Stevenson, Paul E. Tsongas, Lloyd Bentsen, Alan Cranston, Patrick J. Leahy, John F. Chafee

Mr. HEINZ. Mr. President, I want simply to commend Senator GARN and Senator INOUYE for their leadership in this matter. We all know how important the Export-Import Bank is. I fear that if this substitute—in effect, S.J. Res. 191—does not prevail, we shall virtually destroy the Exim Bank. We shall see our trade deficit increase from $30 billion, a figure that was as large as our budget deficit until it was reestimated. We shall see an acceleration of predatory financing by our trading partners, who, in this instance, are our competitors.

It is absolutely vital that we have a strong Export-Import Bank. That is the best way of deterring aggression against our export trade. I would no more ask the Export-Import Bank to go out with the original version of this, as passed by the House and sent to us, than I would go to the bargaining table of the SALT talks preaching unilateral disarmament. We must have the ability to defend our legitimate trading interests throughout the world. Senator GARN's amendment does it. The bill he is substituting it for does not.

I thank the Senator for yielding.

Mr. GARN. Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, the Senator from Oklahoma has been acquainted with the history of a proposed program ceiling increase for the Export-Import Bank since it was first proposed by Senator GARN last October as an amendment to the fiscal year 1980 foreign assistance appropriation bill. I am also acquainted with the serious financial limitations the Eximbank faces for the remainder of this year. Essentially, Eximbank has less than $25 million to support direct credit loans for the rest of fiscal year 1980. That amount is not much, considering the scale of export packages which Eximbank is asked to support. Eximbank has not converted any of its outstanding preliminary commitments into confirmed credit loans for more than a week and if it does not receive the critical fiscal year 1980 supplemental funding contained in both the House-passed version and the Garn substitute, U.S. exporters must delay, with the possibility of losing, some $2 billion worth of new export deals for the rest of fiscal year 1980. Even if these export sales are delayed, they could have a very disruptive impact on the Bank's fiscal year 1981 financial programs, Senator GARN has worked admirably to secure increased Eximbank resources to support U.S. exports in the face of large foreign government subsidies for their own exporters, Senator GARN's efforts to help U.S. business and strengthen the tools for reducing the imbalance in the U.S. balance of trade have been tireless. I applaud his efforts to help U.S. producers be competitive with foreign exporters.

I am compelled however, laudable as Senator GARN's objective is, to make one simple fact clear to the entire Senate. The Garn measure will add $500 million in outlays on top of an already badly strained fiscal year 1981 budget resolution. The implications of adding an additional one-half billion dollars to fiscal year 1981 outlays are obvious to all Members I should add that this $500 million in additional fiscal year 1981 outlays for the Eximbank resulting from the Garn substitute would be on top of a $700 million reestimate increase attributable to Eximbank activities involving support for U.S. aircraft sales abroad. This $700 million already exists for the second budget resolution to deal with. Thus, new fiscal year 1981 outlays of $500 million resulting from the Garn substitute would contribute to an added outlay total of $1.2 billion for the Budget Committee to deal with in the international affairs function.

Speaking as the ranking member of the Budget Committee, it is my opinion that an outlay increase in fiscal year 1981 of $500 million resulting from a fiscal year 1980 action may be difficult for the Senate to accommodate in the second budget resolution without causing severe problems for the entire international affairs function which contains the Eximbank funding. There is no guarantee that the function would be increased to accommodate such an amount, raising the specter—I think this is important for the Senator from Hawaii to hear—that other international programs which the Senate has already endorsed would be squeezed to accommodate Eximbank.

Mr. President, this action will require tough choices in this function as the Foreign Operations Subcommittee, the full Appropriations Committee, and the full Senate undertake to deal with the fiscal year 1981 appropriation for foreign assistance.

Mr. President, I feel it is necessary to call the attention of the Senate to this problem. This $500 million increase may force us to reorder funding priorities in the international affairs function. It is a choice we may wish to make, but we should make it with our eyes wide open, because there is not $500 million lying around unasked for or unwanted. It means we are going to have to make this decision carefully and decide now whether we feel the money is better used here or somewhere else.

Mr. GARN. Mr. President, the Senator from Oklahoma has correctly detailed the 1981 budgetary impact of this proposal.

The numbers associated with this measure are identical to what was provided by the conference report on the foreign assistance appropriations bill for fiscal year 1980. As I am sure the Senator knows, this amount is $1 billion less than the Senate had approved when it passed the foreign assistance bill last October.

Thus, the budgetary effect of this measure is $1 billion less in budget authority, and $455 million less in outlays than it would have been given the same circumstances and given the Senate's original position.

Mr. President, as I said, the Senator is correct: there is some squeeze here. That is what happened at Exim this year as we went through the whole process of passing it in the Senate and going to conference. Exim was left to the last consistently. World Bank had a huge recommended increase from the administration. Many other functions had increases as large as 37 percent in real dollars, not in inflated dollars. Poor Exim sat at the bottom of the barrel. So I am perfectly willing, I say to my distinguished colleague from Oklahoma, if the squeeze comes, to do what I tried to do all year long, to take it out of some of these other functions which were increased tremendously over last year's budget and put it into Exim.

So the Senator correctly outlines the problem.

I am perfectly willing to do that, if that is necessary. We made that effort over and over and over again.

I think it should also be said that Exim, although these budget figures are correct as outlined by the Senator from Oklahoma, brings in money. We have a trade deficit. We have a problem in many cases selling many of our products in competition with foreign manufacturers because of predatory financing by their governments, and we have lost sales.

So when we make sales, whether Boeing Aircraft, or United Technologies, equipment that is soild, money comes back to this country, people are hired to manufacture those airplanes, and they pay taxes.

So the budget figures are correct. There is no estimate included as to how much these outlays for Exim bring back in.

Although I cannot prove it with particular figures today, in most cases I think we can find it brings in more money than the outgo. That, certainly, is not true of a good number of foreign assistance programs we are talking about that I am perfectly willing to squeeze.

But I thank my colleague, who always operates in a very dignified manner in his position as ranking minority member of the Senate Budget Committee, who looks out for the taxpayers' dollars.

I appreciate the fact that on the principle of the issue, he supports my position in trying to help the Eximbank.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, first, let me thank my colleagues, Senator INOUYE and Senator GARN, for their usual courtesy in allowing me to have a word about this measure.

This debate today brings to mind the night of July 2, when, it may be recalled, we had a debate here, very late, about the fact that the House had thrown back at us the supplemental appropriations bill without any provision for the Eximbank, and we estimated—I estimated and others did—that this would cost us a billion dollars in exports. Our protest late in the evening of July 2 produced action by the House, which could result in a bill if the House Members chose to want one.

Now, Mr. President, we face a somewhat similar situation, in this way: Senator GARN, who has given this matter his devoted attention for a long time, has fashioned what I believe is an admirable measure for the Eximbank. At this moment, my intelligence—and I believe it is pretty good on this subject—indicates that when the matter gets over to the other body, it is very unlikely to get anywhere. I hope and pray that Senator GARN is right and that we will get somewhere.

However, my information is that, come tomorrow night, the House is very likely to go out and leave us exactly where we were on the night of July 2: frustrated, angry, and the country disappointed and disheartened at the fact that this kind of tugging and hauling, within the House, in the obscurity of parliametary tangles, leaves our country behind the eight ball in terms of so vital an activity as financing export trade through the Eximbank.

Mr. President, if I were managing the bill, I would try to make my deal with the House of Representatives and get something done and sent over to them that I know they would accept because I think the country really needs this measure, and I just see written large the same frustration that we faced before.

But I stand as one with my colleagues—they have not done this; it is the House of Representatives that has done it.

So I will not seek a rollcall, and I will not delay the proceedings, but I will follow his judgment and that of Senator INOUYE in letting the matter go over to the other body. I hope again that the broad interests of the Nation will prevail over narrow interests which dictate tying this thing up again as we saw before.

I believe that the measure that the House of Representatives sent us is a feasible solution. It can be worked out. It is not as much in the interest of our export trade as is the Garn solution, but frankly it does avoid some of the budgetary problems of the Garn approach. The House measure is a feasible solution and will get us out of the box we are in respecting outlays in function 150 in the year 1981.

The House measure avoids the possibility of having to choose between an increase in 1981 budgetary outlays or drastic cuts in other measures coming under function 150, which will also be harmful to the national interests, which we will have to do in order to accommodate the 1981 outlay effect of the Garn solution.

What should happen here is that the House of Representatives and the Senate should immediateley appoint conferees. They should get together this afternoon, and they should stay on the job as late as many of us have, on other bills. I know that Senator INOUYE and Senator GARN are prepared, if necessary, to do this. In the past when we had something to settle we stuck with it and settled it, and that is what should be done in this case.

I am deeply concerned about whether we will have the time to get this bill through. I do not, however, wish to stand in the way of even a possibility of a compromise.

So that, Mr. President, is how I feel about it. I think it is, as I said once before on July 2, "shocking and shameful" that we should have to deal with so important a matter within so tiny a context, a parochial context, but there we are. There is nothing to be done about it. Out of the sheer decency and respect for our body and for the Senators who have devoted such time and attention and effort to trying to work out what they consider to be a decent offer to the House of Representatives, that I will not ask for a rollcall vote.

Mr. GARN. Mr. President, I thank my distinguished colleague from New York for his, as usual, wise counsel. I do not know what the outcome will be in the House of Representatives. There is an element of risk. There is no doubt about that. But this is after 19 months of negotiating with the House of Representatives and conferences that literally went on for months and finally a conference report agreed to, but then not able to bring it before the Senate or the House of Representatives, and every compromise having been made by the Senate, even compared to my proposal today, $1 billion less for Eximbank than the Senate passed overwhelmingly last October. So we finally reach a point to where does one body totally dictate, never make any concessions whatsover, and I am sorry that they have taken that position.

I would hope they would be willing to make some compromises because this proposal by Senator INOUYE and me today is certainly a huge compromise from our original position.

But I thank the Senator for his comments.

Mr. President, I ask unanimous consent that Senator HEINZ be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. ROTH. Mr. President, I strongly urge my colleagues to approve UP amendment No. 1495, which is the language of Senate Joint Resolution 191, to provide supplemental appropriations for the Export-Import Bank of the United States. Eximbank has run out of lending authority, and our exporters, our businesses and labor, indeed our whole economy will suffer as a result. We must keep this institution in business by providing additional funding if we are to enable our exporters to compete in the international marketplace.

Eximbank has been a success story in our Nation's export effort and has contributed to improvements in our domestic economic health. In fiscal year 1979, the Bank's program supported over $13 billion in U.S. export sales, which, in turn, generated employment for over 550,000 American workers. By helping build and maintain employment, the Bank improved the welfare of workers in our economy and helped generate increased tax receipts. Moreover, Eximbank is a profit-making operation that pays dividends to the U.S. Treasury out of its earnings. Since its establishment in 1945, the Bank has paid over $1 billion to the Treasury. We should view the Bank not as a drain on our economy but as a vital contributor to our Nation's economic strength which deserves our active support.

This joint resolution would help put Eximbank back in business for fiscal year 1980 and would help it remain active in the future. While the resolution would also increase budget outlays by over $540 million in fiscal year 1981, we can make room in the budget for the Bank to expand its good work. Earlier this year, I submitted a number of proposals to the Budget Committee which would more than compensate for increased Eximbank authority. Through grant consolidation and reductions in Government regulation, travel and filmmaking, we could save 10 times the amount of additional funding required under this resolution.

We must place increased Eximbank authority high on our list of national priorities. We must support our exporters' efforts to secure lucrative contracts overseas which will, in turn, help improve our economy at home.●

The PRESIDING OFFICER (Mr. PRYOR). The question is on agreeing to the amendment of the Senator from Utah.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I wish to move passage of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1495) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I move the passage of the resolution, as amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 589) was passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4 P.M.

Mr. INOUYE. Mr. President, I move that the Senate stand in recess until 4 o'clock this afternoon.

The motion was agreed to; and at 3:27 p.m. the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

SENATE CONCURRENT RESOLUTION 112—RELATIVE TO ADJOURNMENT TO A DATE CERTAIN DURING THE REMAINDER OF THE 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution on behalf of myself and Mr. BAKER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 112

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91–510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, nor adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. ROBERT C. BYRD. Mr. President, for the record, what this does, it waives the law which requires the Congress to adjourn sine die by not later than the close of business on July 31 in even-numbered years.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 113—PROVIDING FOR A RECESS OF THE SENATE FROM AUGUST 6 TO AUGUST 18, 1980, AND AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM AUGUST 1 to AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a recess concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business on Wednesday, August 6, 1980, it stand in recess until 11:00 o'clock a.m. on Monday, August 18, 1980, and that when the House completes its business on Friday, August 1, 1980, it stand adjourned until 12:00 o'clock noon on Monday, August 18, 1980.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

ORDER TO HAVE THE ALASKA LANDS BILL REMAIN TEMPORARILY LAID ASIDE THROUGH THE CLOSE OF BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Alaska lands bill remain in a temporarily laid aside status throughout the end of today, the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALCOHOL FUEL

Mr. STEWART. Mr. President, the expanded use of alcohol fuel will benefit all Americans by stretching our supply of motor fuels and reducing our dangerous and excessive dependence on foreign oil. In addition to providing a new source of income, alcohol fuels offer the farmer a stable, renewable supply of energy. In a larger sense, alcohol fuels bear the promise of energy self-sufficiency for rural America.

It does not take a genius to recognize the elementary logic of refining raw agricultural materials into precious fuel and enriched feed. Raising the production process to a new and higher level of economic activity means jobs, wealth, and an increased standard of living for all. Unfortunately, simply logic and plain commonsense do not always carry a lot of weight around here.

One Member of the Senate who has

never had any difficulty in recognizing these simple truths about the enormous potential of alcohol fuels is George McGovern. It has been my privilege to stand shoulder to shoulder with Senator McGovern on the Agriculture Committee and battle for the interests of the family farmer who has such a significant contribution to make in this area.

One of the most appealing aspects of alcohol fuels is that there are distinct economic advantages to small-scale, on farm operations. The cost of transporting raw materials and the mechanics of utilizing the protein byproducts produce certain diseconomies of scale which favor the small farm and community scale plant. There is a viable place in our future energy universe for alcohol fuel producers of many different sizes. I feel strongly, however, that the small-scale plant has a central role to play in bringing the farmer real energy self-sufficiency, and in serving as a building block and feeder to large-sized alcohol fuel plants.

At this point, I ask unanimous consent to have printed in the Record a guest column authored by Senator McGovern which recently appeared in Rural America. This lucid article discusses the grassroots contribution alcohol fuels can make toward revitalizing our rural communities and liberating our farmers from their hopeless dependence on powerful outside groups to meet their energy needs. I commend this article to all of my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

Can Alcohol Fuel a Rural Revival?

We all are becoming increasingly aware of the role alcohol fuels can play in cutting down on our oil imports. But an equally important advantage of this energy source has been all but overlooked: the production of alcohol for fuel could help ignite a sputtering rural economy.

Farmers, and by extension the rural communities they help support, today confront some harsh economic realities. Land values, interest rates and operating costs for farmers have hit record highs, while the prices farmers receive for their crops and livestock have failed to keep pace. One of the cruelest burdens has been the cost of energy, which has shot up to nearly double the price of only a year ago. The decontrol of oil, approved by the Carter administration, will cost the average family an extra $1,100 a year in fuel costs.

It is little wonder, then, that many rural Americans are looking to alcohol fuels as a solution to their economic and energy woes. While alcohol fuels are no panacea, they provide a measure of hope for the beleaguered rural resident—especially if they are produced by small-farm and community-scale plants. Alcohol, unlike fossil fuels, can be produced as efficiently in a small plant as in a large one, and, by taking the small-scale route, we will be regenerating rural America's economic health from the bottom up.

Can small-scale alcohol plants work? There are three areas to be considered: the costs of producing alcohol, the impact of alcohol production on the supply and price of food, and its effects on employment.

Production costs, for their part, are decreasing rapidly as heat recuperators and other energy-efficient equipment are put into operation. The Shroder Still in Campo, Colo., for instance, uses only one unit of fuel for every 2.8 units produced. As the technology of distillation grows more sophisticated, such ratios will become the order of the day.

Food price and supply is not a problem, either. Our country is in the enviable position of having a surplus of corn. Moreover, when alcohol is produced, a high-protein byproduct, usable as feed, is generated. And prices will rise only slightly. According to a study by the Solar Energy Research Institute, if corn is used to produce 3 billion gallons of alcohol a year, which would put one-third of the nation's cars on a gasohol diet, the price of the grain would go up only 5 percent. Many other crops and biomass products can be substituted for corn in the distilling process, making it possible for the local alcohol and food industries to coordinate efforts to ensure their mutual well-being.

Finally, alcohol production will be a boon to rural employment through the jobs it will create in building and operating the distilleries and in supporting industries. For once, fuel dollars will be spent at home rather than exported out of the community and country.

But all this is possible only if some changes are made in our present monetary and agricultural policies. Farmers need capital to build alcohol facilities and to withstand pressures to sell out to agribusinesses and oil companies; yet for years, tax and investment incentives have been written with the large corporation and wealthy investor in mind, and family farmers have had to lean heavily on credit to keep going. The perpetuation of this crippling economic environment guarantees that family farmers will miss out on the opportunities alcohol fuels offer.

Legislation I have introduced will help farmers and small businessmen obtain the necessary financing to get the small-scale alcohol-fuel industry off the ground. I have inserted language in the Energy Supply Act, a comprehensive energy bill that sets aside $200 million exclusively for the development of small-scale energy facilities in rural areas, which are most suited to alcohol production. The money would be channelled through existing programs, such as the U.S. Department of Agriculture's (USDA) Farmer Home Loan Program. And, to encourage innovations in small-scale technology and to hasten their appearance in the marketplace, I also am proposing an increase in grants for demonstrating and testing distillation equipment.

As well, I favor a proposal that would allow USDA to guarantee industrial-revenue bonds to finance alcohol-fuel projects during periods of tight money and high interest rates. USDA's Farmers Home Administration (FmHA) has offered such guarantees from time to time to rural communities that need to raise relatively low-cost capital for rural-development projects. These bonds give rural communities full access to the bond market while virtually eliminating the risk to the bond holder. The need for a renewable energy source such as alcohol is ample reason for extending this FmHA program to include the production of these fuels.

These steps will go a long way toward stimulating an alcohol fuel industry in rural America—one that will both reduce our dependence on foreign oil and provide a much-needed economic boost to our rural communities.

MARIHUANA

Mr. BAKER. Mr. President, in the last 5 years, an epidemic of marihuana use by young people has prompted grave concern among parents, teachers, and scientists. Each of these groups has been gathering information and enhancing our knowledge of the effects of marihuana use.

Last January, Senator Mathias, as ranking minority member of the Criminal Justice Subcommittee, brought 40 of these experts together to present their findings. The record from these hearings has become an important source of information about marihuana, and I applaud my colleague for his initiative in holding these hearings and for his efforts to make this information available to the public.

An article appeared in the Baltimore Sun last month which reviewed these hearings. It provides an excellent summary of the hearings as well as the various alternatives that are before Congress. I commend this article to the attention of my colleagues.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, June 29, 1980]

Why Pot Is Not Harmless Smoke

(By Richard Gilluly)

If ethyl alcohol were a newly discovered tranquilizer, it wouldn't have a ghost of a chance of getting past the Food and Drug Administration's barriers against drugs with too many harmful side effects. Indeed, Americans might cheer the FDA for protecting them from such a hazardous substance.

But alcohol is man's oldest known tranquilizer, and the FDA would no more attempt to interfere with Americans' right to consume it than they would with their right to brush their teeth. The national experiment with prohibition made it clear that however desirable it might be to ban alcohol, long custom makes any effort to do so self-defeating folly.

U.S. culture thus seems to be stuck with widespread alcoholism (an estimated 10 million alcoholics nationwide), the fetal alcohol syndrome and other ugly side effects. Probably the most that Americans concerned over alcohol abuse can do is to make it known to their friends and acquaintances that they consider excessive drinking a sign not of a swashbuckling devil-may-care spirit but rather of serious illness—and to limit the consumption of alcohol as much as possible through defeating measures to extend its availability, such as bills to allow sale of alcoholic beverages in supermarkets.

But there is a lot more they can still do to oppose the abuse of another so-called "recreational" drug that may be even more harmful, marijuana. They can strongly insist that marijuana never be approved for legal use except for certain narrowly circumscribed medical purposes. They can make certain that even though one hazardous "recreational" drug is available on the legal market, the number will never multiply.

It is, of course, precisely in the realm of a comparison with alcohol that the advocates of legal marijuana believe they have their strongest argument. It is "hypocritical," they say, to allow legal use of alcohol while not allowing legal use of marijuana. They add that marijuana is probably less harmful than alcohol.

The first argument is nonsense. One can oppose abuse of both alcohol and marijuana and also recognize that while there is no practical hope of banning alcohol there may still be a chance of preventing marijuana use from becoming as widespread as alcohol use.

The stakes involved in keeping marijuana illegal are far higher than is commonly imagined. While organizations such as the National Organization for the Reform of Marijuana Laws (NORML) work hard to convince Americans that marijuana is nearly harmless (though even NORML is moderating its once vehemently pro-marijuana stance), scientists are discovering otherwise. The truth now is clear. Marijuana is anything but the "harmless giggle" that ex-Beatle John Lennon insists it is.

Maryland Senator Charles McC. Mathias's criminal justice subcommittee recently heard from a variety of expert witnesses on the topic. Although a few of the scientists testifying took a pro-marijuana stance, not a single witness disagreed that marijuana causes at least some harm to users, especially children.

Some of the harmful effects include a buildup of THC (the psychoactive component of marijuana) in fatty tissues, including the brain, where it interferes with memory and concentration; interference with both male and female reproductive systems; bronchitis; and cancer. Due presumably to selective breeding of the plants, the THC content of marijuana has increased markedly in recent years.

Marijuana impairs driving skills, perhaps as much as does alcohol. When smoked by expectant mothers, it may harm the health of unborn children. Unlike alcohol, THC is not flushed out of the body in a day or so; a residue remains in fatty tissues for days (or, in the case of regular users, for as long as regular use continues).

But perhaps outweighing all of these side effects in seriousness is something the scientists call the "amotivational syndrome," which may afflict even moderate users. Characterized by decreasing interest in constructive activity, the amotivational syndrome resembles alcoholism in almost uncanny ways.

Alcoholism experts have known for years that as an alcoholic becomes progressively more addicted to alcohol his interests focus more and more on getting and consuming his favorite beverage. If he is a student, he forgets his schoolwork. If he is an employee, he may hang on to his job for a time because he needs money for alcohol, but eventually he will begin failing to show up for work.

A marijuana user in the grip of the amotivational syndrome manifests almost precisely the same behavior. When youngsters who once performed well in school and were active in extra-curricular activities start smoking marijuana, their marks often fall precipitously and extra-curricular activities cease altogether.

Another common alcoholic symptom which also characterizes many marijuana smokers is the use of the drug to defer facing life's problems. Experts say that alcoholics in their thirties often have emotional problems more characteristic of adolescents. Likewise, family counselors say that 16-year-olds on marijuana often act, and think, like 12-year-olds.

The Mathias hearings made it clear that youthful marijuana users in the United States now number in the millions—and that the age of first use is declining.

Most of them have no idea of the harmful effects. Marijuana users, like alcoholics often are oblivious to their own self-destructive behavior. The accepted unwisdom in the youth drug culture thus is that marijuana is harmless. That unwisdom is promoted by various irresponsible and highly visible advocates of marijuana use such as Mr. Lennon. Youth publications ridicule opponents through such devices as describing the drug as "(gasp!) marijuana."

Advocates also attempt to equate a broadminded attitude toward marijuana with liberal social views in general. If you didn't like the war in Vietnam," they seem to suggest, "then you'll love marijuana."

One of the more bizarre manifestations is users' tendency to imagine that their "right" to smoke marijuana is on a par in social importance with, say, voting rights for blacks in the South. Marijuana, more than anything else, has trivialized political activity among American youth.

There is a legitimate case to be made for lessening the penalties for marijuana use to avoid brutal incarceration or stigmatizing criminal convictions for young people who otherwise might have promising futures once they give up the drug. But there is no excuse for anything but the most vigorous, hard-hitting law-enforcement campaign against *purveyors*, and parents and schools should be demanding such campaigns.

As for the absurd proposals to legalize the drug that still crop up from time to time, it is all too easy to imagine a legal marijuana industry with all the resources of say, the liquor industry for convincing people to use its products. It would be a national nightmare.

THE DEATH OF WILLIAM J. BAROODY, SR.

Mr. BAKER. Mr. President, I, like so very many present and past Members of the Senate, was fortunate to enjoy the counsel and advice of William J. Baroody, Sr., the former president of the American Enterprise Institute for Public Policy Research.

And I, as well as those colleagues and predecessors, have been much the wiser for his advisement and his friendship.

Thus, it was with particular sadness that I learned of Mr. Baroody's passing on Monday of this week.

I have lost a good friend.

This Nation has lost a great patriot.

I shall not now attempt to recount for the Senate the many arenas of accomplishment and distinction of Bill Baroody. The distinguished Senator from New Hampshire (Mr. HUMPHREY), from whose magnificent State Bill Baroody hailed, most eloquently recalled them for us all yesterday.

Suffice it to say that, for more than 3 decades, Bill Baroody gave richly of his time and talents to any and all who sought, as he did, to make this Nation and this world a better place.

He will be long missed and long remembered.

I know I speak for every Member of the Senate and the countless others who will forever benefit from Bill Baroody's labors in expressing our sincere sympathies to his family.

THE 1980 DEMOCRATIC PLATFORM

Mr. MOYNIHAN. Mr. President, it has been 136 years since our Nation's political parties first adopted platforms, and since that year of 1844, which saw the election of the ticket of James K. Polk and George M. Dallas, we have established an institution that has spread throughout the democratic world.

For more than a century and a quarter, the members of our political parties have met regularly to consider, articulate, and commit themselves to the ideas that guide and distinguish them one from another.

It is thus with especial pride that I present to the Senate today "The Report of the Platform Committee to the 1980 Democratic National Convention," standing as it does with its counterparts of our other parties as the most recent example, and the continuation, of a remarkable and valued tradition.

The report follows:

REPORT OF THE PLATFORM COMMITTEE TO THE 1980 DEMOCRATIC NATIONAL CONVENTION

PREAMBLE

In its third century, America faces great challenges and an uncertain future. The decade that America now enters presents us with decisions as monumental and fundamental as those we faced during the Civil War, during two World Wars, and during the Great Depression. Our current task is different from each of these historic challenges. But in many ways the challenge is the same: to marshall the talents and spirit of the American people, to harness our enormous resources, and to face the future with confidence and hope.

The task now before us is as global as the worldwide energy shortage, and as local as the plight of children in Appalachia. It reaches from the condition of older Eastern cities and the industries of the snowbelt, to the complex new demands of our sunbelt region and the special needs of our Western states. It is as basic as the entitlement of minorities and women to real equality in every aspect of the nation's life. It is as immediate as the refugee crisis in Miami and the natural disaster at Mount St. Helens. It is as futuristic as the exploration of space and the oceans. It is as idealistic as the spirit of liberty which imbues our Constitution. It requires nothing less than a continued dedication to Democratic principles by each element in our society—government, business, labor, and every citizen—to the promise and potential of our nation.

We live in a time when effective policy requires an understanding of the web of competing values and interests which exist in our country. We must combine compassion with self-discipline. We must forego simplistic answers for long-term solutions to our problems.

With the Republican leadership closing its eyes to the realities of our time and running for the Presidency on a program of the easy answer . . . of the pleasant-sounding political promise, it is time to take a page from Adlai Stevenson's 1952 presidential campaign—it is time "to talk sense to the American people." It is time to talk bluntly and candidly about our problems and our proposed solutions; to face up to our problems and respond to them.

If we fail in this important task . . . if we fail to lay the issues squarely before the American people, we could well allow the federal government to revert to four years of Republicanism—neglect of the poor and disadvantaged, disdain for working men and women, compassion only for the rich and the privileged, failure to meet the challenges of energy, inflation and unemployment, and a breakdown of the partnership among local, state and federal governments. We as Democrats must not let this happen.

After nearly four years in office, we Democrats have not solved all of America's problems.

Most of these problems we inherited. Eight years of Republican politics left this nation weak, rudderless, unrespected and deeply divided.

As a result of this legacy, despite our progress, inflation still erodes the standard of living of every American.

As a result of this legacy, despite our progress, too many Americans are out of work.

As a result of this legacy, despite our progress, complete equality for all citizens has yet to be achieved.

As a result of this legacy, despite our progress, we still live in a very dangerous world, where competing ideologies and age-old animosities daily threaten the peace.

As a result of this legacy, our nation is still subject to the oil pricing and production decisions of foreign countries.

We will not run from these problems, nor will we fail. The record of the past four years is a testament to what the Democrats can do working together.

Time and time again in these past four years, a Democratic Congress and a Democratic President proved that they were willing to make the tough decisions.

Today, because of that Democratic partnership, we are a stronger nation.

Today, because of that Democratic partnership, we are at peace.

Today, because of that Democratic partnership, we are a more just nation.

Today, because of that Democratic partnership, honor and truth and integrity have been restored to our government and to our political process.

And so this party looks to the future with determination and confidence.

We have been and we shall remain the party of all Americans. We seek solutions that not only meet the needs of the many, but reaffirm our commitment to improve the conditions of the least fortunate in our society.

In this platform we offer programs and solutions that represent our dedication to Democratic principles. They define a spirit as well as a program . . . a set of beliefs as well as a set of ideas. Time and events may alter their priority or prospects. But nothing will alter the defining spirit and values of the Democratic Party.

The platform of the Democratic Party is a contract with the people. We believe that accountability for Democratic principles goes hand in hand with dedication to those principles. The Democratic Party is proud of its historic heritage of commitment to the people of America. Fulfilling this platform will permit us to keep faith with that tradition.

CHAPTER I: THE ECONOMY

Economic strength

While the past three and a half years of Democratic leadership have been years of growth for our economy, we now find ourselves in a recession.

The Democratic Party is committed to taking the necessary steps to combat the current recession. However, we cannot abandon our fight against inflation. We must fight both of these problems at the same time; we are committed to do so. We will continue to pursue the fight against inflation in ways not designed or intended to increase unemployment.

In all of our economic programs, the one overriding principle must be fairness. All Americans must bear a fair share of our economic burdens and reap a fair share of our economic benefits. High interest rates impose an unfair burden—on farmers, small businesses, and younger families buying homes. Recession imposes an unfair burden on those least able to bear it. Democratic economic policy must continue to assure fairness for workers, the elderly, the poor, minorities and the majority who are middle income Americans. In 1980, we pledge to continue a truly Democratic economic policy to secure a prosperous economic future.

Our current economic situation is unique. In 1977, we inherited a severe recession from the Republicans. The Democratic Administration and the Democratic Congress acted quickly to reduce the unacceptably high levels of unemployment and to stimulate the economy. And we succeeded. We recovered from that deep recession and our economy was strengthened and revitalized. As that fight was won, the enormous increases in foreign oil prices—120 percent last year—and declining productivity fueled an inflationary spiral that also had to be fought. The Democrats did that, and inflation has begun to recede. In working to combat these dual problems, significant economic actions have been taken.

Two tax cuts have been enacted, in 1977 and 1978, reducing taxes on individuals and businesses by an amount equal, this year, to about $40 billion.

While meeting our national security and pressing domestic needs, the Democratic Partnership has restrained the increase in government spending in ways which have steadily reduced the deficit we inherited.

Airline and banking regulatory reforms have been enacted; further regulatory reforms are now under consideration.

In the effort to restrain inflation, a voluntary pay advisory committee has been established with labor, business, and public representatives pursuant to a National Accord.

The first national export policy was developed; export and trade responsibilities were reorganized and strengthened; the Multilateral Trade Negotiations were completed; and the MTN Agreement was approved by the Congress.

To ensure a greater impact for scarce federal dollars, grant and loan programs have been redirected to the areas of greatest need, and the formula programs have been redesigned to *target* the areas with the most serious problems.

As a result of these economic actions:

Employment—More than 8.5 million new jobs have been added to the workforce; about 1 million of those jobs are held by Blacks, and nearly an additional 1 million are held by Hispanics. Gains have been made by all groups—more men, more women, more minorities, and more young people are working than ever before in our history. Despite these gains, current unemployment is too high and must be lowered.

Inflation—A strong anti-inflation program has been initiated and pursued aggressively, to deal both with the short-term inflation problem and with the long-term causes of inflation. The effects of the short-term effort are now evident: inflation is beginning to come down. Although some interest rates remain high, they are falling at record rates. This progress will continue as short-term actions continue to work and long-term initiatives begin to take hold.

Economic Growth—Despite the economic declines of the past few months, for the first three years of the Carter Administration our economy was strong. For the 1977–1979 period:

Gross National Product increased by 11.8 percent in real terms.

Real after-tax income per person increased by 10.3 percent.

Industrial production increased by 14.8 percent.

Dividends increased by 36 percent.

Real business fixed investment increased by 22.9 percent.

Energy—Our dependence on foreign oil has decreased—in 1977 we imported 8.8 million barrels of oil per day, and our nation is now importing approximately 6.5 million per day, a decline of 26 percent.

Solving our economic problems

The Democratic Party commits itself to a strong economic program—one that builds on the progress we have made to date, one that corrects the very real problems we face now, one that is responsible, one that offers realistic hope, and one that can unify our Party. Such a Democratic program would contrast dramatically with the simplistic rhetoric and the traditional economic policies of the Republican Party.

Full Employment—We specifically reaffirm our commitment to achieve all the goals of the Humphrey-Hawkins Full Employment Act within the currently prescribed dates in the Act, especially those relating to a joint reduction in unemployment and inflation. Full employment is important to the achievement of a rising standard of living, to the pursuit of sound justice, and to the strength and vitality of America.

Anti-Recession Assistance—The Democratic Party is committed to taking the actions needed to combat the recession and reduce its serious effect on working people, just as we did to end the recession inherited from the Republicans in 1976. The existing countercyclical and anti-recessionary programs were initiated and enacted by Democrats. Fiscal assistance, trade adjustment assistance, public works, public service jobs, youth jobs, summer jobs, unemployment insurance, food stamps, Medicaid, AFDC, and SSI are now helping to protect those who need aid and assistance from the Federal government. Unless unemployment abates quickly, these programs will be expanded and strenghened, and further programs may be necessary. The Democratic Party is committed to this effort because of our concern about putting people back to work.

National Accord—The National Accord with Labor must be strengthened and continued. This enhances the unique opportunity afforded by a Democratic Administration for government, labor and business to work together to solve our inflationary and other economic problems.

Tax Reductions—We commit ourselves to targeted tax reductions designed to stimulate production and combat recession as soon as it appears so that tax reductions will not have a disproportionately inflationary effect. We must avoid untargeted tax cuts which would increase inflation. Any tax reduction must, if it is to help solve pressing economic problems, follow certain guiding principles:

The inflationary impact must be minimized;

Reductions provided to individuals must be weighted to help low and middle income individuals and families, to improve consumer purchasing power, and to enhance a growing economy while maintaining and strengthening the overall progressive nature of the tax code;

Productivity, investment, capital formation, as well as incentives, must be encouraged, particularly in distressed areas and industries;

The effect on our economy must be one which encourages job formation and business growth.

Federal Spending—Spending restraint must be sensitive to those who look to the federal government for aid and assistance, especially to our nation's workers in times of high unemployment. At the same time, as long as inflationary pressures remain strong, fiscal prudence is essential to avoid destroying the progress made to date in reducing the inflation rate.

Fiscal policy must remain a flexible economic tool. We oppose a Constitutional amendment requiring a balanced budget

Interest Rates—The Democratic Party has historically been committed to policies that result in low interest rates in order to help our nation's workers, small businesses, farmers and homeowners. Therefore, we must continue to pursue a tough anti-inflationary policy which will lead to an across-the-board reduction in interest rates on loans.

In using monetary policy to fight inflation, the government should be sensitive to the special needs of areas of our economy most affected by high interest rates. The Federal Reserve shall use the tool of reserve requirements creatively in its effort to fight inflation. The Federal Reserve should also take particular care to make certain that it is aware of the concerns of labor, agriculture, housing, consumers and small business in its decision-making process. Finally, its Open Market Committee should continue to provide regular information to the public about its activities.

Regulatory Reform—Consistent with our basic health, safety, and environmental goals, we must continue to deregulate over-regulated industries and to remove other unnecessary regulatory burdens on state and local governments and on the private sector, particularly those which inhibit competition

Targeting and Regional Balance—From the time of Franklin Roosevelt, the Democratic Party has dedicated itself to the principle that the federal government has a duty to ensure that all regions, states and localities share in the benefits of national economic prosperity and that none bears more than its share of economic adversity.

Our 1976 platform stated: "Even during periods of normal economic growth there are communities and regions of the country—particularly central cities and urban areas—that do not fully participate in national economic prosperity. The Democratic Party has supported national economic policies which have conscientiously sought to aid regions in the nation which have been afflicted with poverty, or newer regions which have needed resources for development. These policies were soundly conceived and have been successful. Today, we have different areas and regions in economic decline and once again face a problem of balanced economic growth. To restore balance, national economic policy should be designed to target federal resources in areas of greatest need."

A Democratic Administration has welcomed and encouraged the substantial growth of the West and Southwest in recent years. Policies now in place ensure that this growth will continue and bring the greatest benefits to the nation as a whole.

At the same time, a Democratic Administration will be committed to the economic growth and prosperity of the other regions of the nation. The era of federal policies directed exclusively to the development of one region or another should be succeeded by government-wide policies designed to bring about balanced and shared growth in all regions.

To restore balance, we must continue to improve the targeting of federal programs in order to maximize their benefit to those most in need. To involve the private sector in solving our economic problems, and to reduce the burden on government, we must leverage federal dollars with funds from the private sector.

Rebuilding American Industry by Increasing Economic Productivity and Competitiveness—The Democratic Party has a long tradition of innovation, foresight, and flexibility in creating policies to solve the nation's most urgent economic needs. We now stand at another watershed in our economic history which demands our party's full attention, creative powers, resources, and skills. To revive productivity and revitalize our economy, we need a national effort to strengthen the American economy. It must include new tax depreciation rules to stimulate selective capital investment; a simplified tax code to assist business planning; removal of governmental regulations which are unnecessary and stifle business initiative; effective incentives for saving that do not discriminate against low and middle income taxpayers; reform in patent rules and new incentives for research and development, especially by small business; cooperative efforts with labor and management to retool the steel, auto and shipbuilding industries; and strengthened worker training programs to improve job opportunities and working skills.

Encouraging investment, innovation, efficiency and downward pressure on prices also requires new measures to increase competition in our economy. In regulated sectors of our economy, government serves too often to entrench high price levels and stifle competition. Regulations must balance protective benefits against potentially adverse effects on competitiveness. Necessary regulations should be achieved at minimum cost and at reduced burden to industry. In unregulated sectors of the economy, we must increase antitrust enforcement; greatly improve the speed and efficiency of antitrust litigation; and renew efforts to prevent the concentration of economic power—both in specific industries and across the economy as a whole—which operate to stifle growth and to fuel inflation.

United States non-farm exports have risen 50 percent in real terms in the last three years. A Democratic President and a Democratic Congress have recognized and strengthened the export trade functions of the federal government. To create new markets for American products and strengthen the dollar, we must seek out new opportunities for American exports; help establish stable, long-term commercial relationships between nations; offer technical assistance to firms competing in world markets; promote reciprocal trading terms for nations doing business here; and help insure that America's domestic retooling is consistent with new opportunities in foreign trade.

One of our main goals in this effort will be to enable American industry to compete more effectively with foreign products. We must intensify our efforts to promote American exports and to ensure that our domestic industries and workers are not affected adversely by unfair trade practices, such as dumping. We must make international trade a major focus of our domestic and international policy. We will continue to support the development of trading companies which will compete more effectively in world markets. We must ensure that our efforts to lower tariff barriers are reciprocated by our trading partners. We recognize the superior productivity of American agriculture and the importance of agricultural exports to the balance of trade. We support continuing efforts to promote agricultural exports.

ENSURING ECONOMIC EQUITY

Budget

The budget policy that has been put forth by the Democratic Party traditionally has been based on providing adequate federal resources to meet our nation's urgent needs. The current Democratic Partnership has continued that tradition while restraining the growth of the federal budget.

We have increased support for vital domestic programs. We have increased funding for education by 75 percent over the Ford budget. We have increased Head Start by 73 percent, basic skills programs by 223 percent, bilingual education by 113 percent, Native American education by 124 percent, summer jobs by 66 percent, Job Corps by 157 percent, employment and training programs by 115 percent, Medicare by 54 percent, National Health Service Corps by 179 percent, Child Nutrition by 43 percent, and Women, Infants and Children (WIC) Program by 300 percent.

We have been able to do this, while restraining the growth in federal spending, because the country has had a growing economy; tax cuts have been moderate; waste and fraud have been reduced; and aid has been targeted to those most in need.

International events have required increased defense spending. The Soviet challenge cannot be ignored. We have had to reverse the steady decline in defense spending that occurred under the Republican Administration. A Democratic Administration and a Democratic Congress has done this; real defense spending has increased, in part through the elimination of waste and the emphasis on increased efficiency.

In the eight years preceding the first Carter budget, real federal spending had been growing at an average rate of 3 percent each year. By contrast, between FY 1978 and 1981, real federal spending will have *declined* at an average annual rate of 0.6 percent.

The federal budget has not been and must not be permitted to be an inflationary nor a recessionary force in our economy, but it also must not be permitted to ignore pressing human needs.

We support the discipline of attempting to live within the limits of our anticipated revenues. Government must set the example of fiscal responsibility for all our citizens who are helping in the fight against inflation. Spending discipline allows us to concentrate our resources to meet our most pressing human needs.

We as Democrats will continue our policy of opposing drastic cuts in social programs which impose unfair burdens on the poor and the aged, on women, on children and on minorities. We have always opposed and will continue to oppose imposition of ever greater burdens on the poor, who can least afford them.

We also recommit ourselves to operating our government more efficiently, and concentrating our efforts on eliminating waste, fraud, and abuse in government programs to make our tax dollars go further.

Worker protection

The Democratic Administration has worked with Congress to take actions which protect our nation's workers from declining incomes, unsafe working conditions, and threats to their basic rights. The Democratic Party remains committed to policies that will not produce high interest rates or high unemployment.

But much more needs to be done to protect our nation's workers. The Democratic Party has a long and proud tradition in this area and we must pledge to continue our efforts over the next four years.

Over a generation ago this nation established a labor policy whose purpose is to encourage the practice and procedure of collective bargaining and the right of workers to organize to obtain this goal. The Democratic Party is committed to extending the benefit of this policy to all workers and to removing the barriers to its administration.

In the future the Democratic Party will concentrate on the following areas.

Our labor laws should be reformed to permit better administration and enforcement, and particularly to prevent the inordinate delays and outright defiance by some employers of our labor laws. We can no longer tolerate the fact that certain employers are willing to bear the cost of sanctions which are in our current laws in order to violate the rights of those attempting to organize.

OSHA protections should be properly administered, with the concern of the worker being the highest priority; legislative or administrative efforts to weaken OSHA's basic worker protection responsibilities are unacceptable. OSHA has significantly reduced workplace accidents and facilities. We will not limit its scope for any reason, including the size of business, since all workers face significant workplace dangers. The Democratic Party strongly opposes and urges all actions to defeat legislation which weakens OSHA's critical protections.

Hatch Act reforms should be enacted to give federal workers their basic First Amendment rights. We must protect federal workers from interruptions in their pay due to delays in the federal appropriations process and must seek ways to assure the comparability of pay scales between the federal and private sectors.

We support the right of public employees and agricultural workers to organize and bargain collectively. We urge the adoption of appropriate federal legislation to ensure this goal.

Legislation must be enacted to allow building trades workers the same peaceful picketing rights currently afforded industrial workers.

All fair labor standards acts, such as the minimum wage and Davis-Bacon protections, must continue to be effectively enforced against employers seeking to circumvent their worker protections.

Section 14-b of the Taft-Hartley Act should be repealed.

Special assistance should be made available for unemployed workers in distressed industries, such as the automobile, steel, and shipbuilding industries.

We must improve and strengthen our trade adjustment assistance programs.

We support federal legislation designed to give protection and human rights to those workers affected by plant closings.

Just as we must protect workers in their workplace, so must we protect them when they are disabled by accidents or sicknesses resulting from their work. The Democratic Party supports federal legislation to assure adequate minimum benefit levels to those who are unemployed, including expansion of coverage to all wage and salary workers and extended benefits for the long-term unemployed. It must not artificially disregard those who have already been unemployed for a long time.

We will continue to oppose a sub-minimum wage for youth and other workers and to support increases in the minimum wage so as to ensure an adequate income for all workers.

Small business

The prosperity of small business is an important national priority. Over half of the major innovations in the past twenty years have come from firms with less than 1,000 employees, and technological innovation has accounted for nearly half of America's economic growth. Small firms have a cost-per-scientist or engineer half that of larger firms. Ninety-six percent of the six million jobs created in the private sector between 1968 and 1976 came from small businesses—primarily firms in business less than four years, employing less than 20 workers. In contrast, the biggest 500 manufacturing companies—accounting for 80 percent of national output—employed precisely the same number of workers in 1968 as they did in 1976.

Of course, larger firms may offer other economic benefits to society, but the contribution of small business is vital and unique, and no overall program for economic recovery will succeed unless it relies heavily on small businesses. For this reason, the Democratic Party commits itself to the first comprehensive program for small business in American history. That program will include the following measures.

A prompt review and response for the recommendations of the White House Conference on Small Business.

Legislation to transfer from the SBA to the Farmers Home Administration responsibility for providing loans to farmers in financial need.

Allocation of a fair percentage of federal research funds to small business.

Protection of small and independent businesses against takeover by giant conglomerates.

Continued efforts to end federal regulations which reinforce barriers to entry by new and small firms, and which thereby entrench the dominance of market leaders.

A review of regulations and requirements which impose unnecessary burdens upon smaller firms. Results should provide relief for smaller firms which now pay $12.7 billion a year to fill 850 million pages of government paperwork. We will adopt regulatory requirements to meet the needs of smaller firms, where such action will not interfere with the objectives of the regulation.

Minority business

A Democratic Congress and a Democratic Administration have worked together to increase opportunities for minority businesses, which have suffered from inadequate capitalization. Enormous progress has been made in the last four years.

Federal procurement from minority-owned firms has increased by nearly two and a half times.

Federal deposits in minority-owned banks have already doubled.

Minority ownership of radio and television stations has increased by 65 percent.

Almost 15 percent of the funds spent under the Local Public Works Act went to minority-owned firms.

The Section 8(a) program operated by the Small Business Administration has been reformed and strengthened.

The Democratic Party pledges itself to advance minority businesses, including Black, Hispanic, Asian/Pacific Americans, Native Americans and other minorities to:

Increase the overall level of support and the overall level of federal procurement so that minority groups will receive additional benefits and opportunities.

Triple the 1980 level of federal procurement from minority-owned firms as we have tripled the 1977 levels in the past three years.

Increase substantially the targeting of Small Business Administration loans to minority-owned businesses.

Increase ownership of small businesses by minorities, especially in those areas which have traditionally been closed to minorities, such as communications and newspapers.

Expand management, technical, and training assistance for minority firms, and strengthen minority capital development under the SBA's Minority Enterprise Small Business Investment Company (MESBIC) program.

Establish a Minority Business Development Agency in the Department of Commerce under statutory mandate.

Implement vigorously all set-aside provisions for minority businesses.

Women in business

The Democrats have exercised effective leadership in the field of support to women-owned businesses. A national policy was developed to support women's business enterprises, and SBA created the first program to help women entrepreneurs. President Carter has issued an Executive Order creating a national women's business enterprise policy and prescribing arrangements for developing, coordinating, and implementing a national program for women's business enterprise.

Support of this program must be expanded through effective implementation of the Executive Order to ensure an equitable distribution of government prime and subcontracts to women business owners. Cabinet Secretaries and agency heads, working with the Office of Federal Procurement Policy, must monitor realistic goals established for the award of government business and financial support to women-owned businesses.

As the key office within the federal government for these programs, the Office of Women's Business Enterprise in SBA must be strengthened through adequate staffing and funding, and should receive continued emphasis by key White House and Office of Management and Budget personnel.

Women and the economy

We pledge to secure the rights of working women, homemakers, minority women and elderly women to a fair share of our economy. A sound economy in the next four years is of vital importance to women, who are often at the bottom of the economic ladder. But if our economy is to be truly fair, additional steps are required to address the inequities that women now face.

Special attention must be paid to the employment needs of women. Today, women who can find work earn, on average, only 59 cents for every dollar earned by men.

The Democratic Party, therefore, commits itself to strong steps to close the wage gap between men and women, to expand child care opportunities for families with working parents, to end the tax discrimination that penalizes married working couples, and to ensure that women can retire in dignity.

We will strictly enforce existing anti-discrimination laws with respect to hiring, pay and promotions. We will adopt a full employment policy, with increased possibilities for part-time work. Vocational programs for young women in our high schools and colleges will be equalized and expanded. Fields traditionally reserved to men . . . from construction to engineering . . . must be opened to women, a goal which must be promoted through government incentives and federally-sponsored training programs.

Perhaps most important, the Democratic Party is committed to the principle of equal pay for work of comparable value. Through new job classification studies by the Department of Labor, job reclassification by the Office of Personnel Management and new legislation from Congress if necessary, we will ensure that women in both the public and private sectors are not only paid equally for work which is identical to that performed by men, but are also paid equally for work which is of comparable value to that performed by men.

The Democratic Party must lead the way in ensuring that women and minorities are afforded real equality in the workforce, neither displacing the other. As the nation's single largest employer, the hiring and promotion practices of the federal government must set an example. Every branch of government will be mandated not only to hire qualified women and minorities, but also affirmatively to seek out able minorities and women within the government for training and promotion. Opportunities for part-time work will be expanded and pay equalized to reflect the value of the work which is done.

Economic inequities facing minorities

We must expand jobs and job training including apprenticeship training programs for those who have special problems—groups such as the young, veterans, older workers, minorities, those with limited fluency in English, and the handicapped. The Democratic Party pledges that anyone who wants to learn the skills necessary to secure a job will be able to do so.

We also must improve the quality of the programs designed to help the structually unemployed. We must give trainees a better sense of what work will be like, assure a higher level of training, and undertake greater efforts to place people in jobs and help them adjust to the world of work. We should explore several methods for making such improvements, including performance funding. More money should go to those training programs which prove most successful. Particular emphasis should be given to training programs run by community-based organizations which have a superior record of success.

Where public agencies have trouble reaching those who seem unemployable, and where the training they provide is not effective, we should assist business to provide that training. We should ensure that business is not paid merely for hiring those that would be hired anyway, and that federal subsidies are truly training subsidies and not disguised wage subsidies.

A major effort must be undertaken to address youth employment. Half the unemployed are under 25. Teenage inner city unemployment is at disastrous levels of 50 percent or higher. The problem is one of both employment and employability—a lack of jobs and a lack of skills.

We need new combinations of work experience and training for young people, new links between schools and the workplace, new ways to reach out to those who are out of school and out of work, but who have special need for skill development and job experience.

Consumer protection

Since the first administration of Franklin Roosevelt, the Democratic Party has stood as the Party which championed consumer rights. It is our tradition to support and enact policies which guarantee that the consumer is sovereign in the market place. It is our history to institute necessary government programs to protect the health, safety and economic well-being of the American consumer. And it is our way of governing to ensure that consumers have full opportunity to participate in the decision-making processes of government.

Working together, the Democratic Administration and Congress have maintained that tradition. Prominent consumer advocates have been appointed to key government positions. A new National Consumer Cooperative Bank has been created, and a Fair Debt Collection Practices Act has been enacted. Each federal agency has been directed to establish procedures so that consumer needs and interests are adequately considered and addressed on a continual basis. The basic consumer protection authorities of the Federal Trade Commission have been preserved.

Over the next four years, we must continue to guarantee and enhance the basic consumer rights to safety, to information, to choice and to a fair hearing.

Government must continue its efforts to create a strong independent voice to ensure that the consumer's interest is considered in government proceedings. We pledge continued support for an independent consumer protection agency to protect the rights and interests of consumers. Until one is created, we must ensure that each department and agency of the government has established and adequately funded a consumer program which complies with the requirements of Executive Order 12160. Each agency must provide ample opportunity for public involvement in its proceedings and should strive to adopt a program to provide funds for consumers and small businesses to participate in those proceedings.

We must continue our support of basic health, safety, environmental and consumer protection regulatory programs and must undertake the following new initiatives to provide additional basic protections to consumers:

Comprehensive review of food safety and drug statutes, with particular emphasis on food labeling which discloses product ingredients.

Requirements for full warranties for new automobiles.

Class action reform to remove unnecessarily burdensome and expensive procedures.

Reform of requirements for legal standing to seek judicial redress.

Protection for consumers against dangerous products, including standards for automobile safety, clothing flammability, new drugs and chemicals, and food and children's products.

Vigorous enforcement of truth-in-lending, anti-redlining, and fair credit reporting laws.

Curtailment of abuses in sale of credit life insurance.

While consumer regulatory programs are necessary to achieve social goals, we recognize that an effective competition policy frees the market place from regulation. Therefore, we support vigorous enforcement and strengthening of the antitrust laws. Legislation should be enacted to overturn the *Illinois Brick* case and allow consumers who are injured as a result of a violation of the antitrust laws to seek redress, whether or not they have dealt directly with the violator.

We are committed to ensuring that America's poor do not suffer from lack of food. To this end, we support continued funding of the Food Stamp Program and expansion of the Women, Infant and Children (WIC) program.

We support the efforts of the National Consumers Cooperative Bank to assist grassroots consumer organizations to undertake self-help programs.

We support a nationwide program of consumer education to enable citizens to fully understand their rights in the market place, to be informed of the opportunities for participation in government decision-making, and to be equipped to make intelligent, rational consumer decisions.

Antitrust enforcement

America must commit itself to a free, open and competitive economy. We pledge vigorous antitrust enforcement in those areas of the economy which are not regulated by government and in those which are, we pledge an agency-by-agency review to prevent regulation from frustrating competition.

To accomplish these goals, we must:

Enact the *Illinois Brick* legislation.

Permit consumers and other interested parties to seek enforcement of consent decrees issued in antitrust cases brought by government.

Prevent anti-competitive pricing by firms in concentrated industries, and combat price signalling and other forms of anti-competitive conduct which do not fall into the current legal categories of either monopoly or collusion.

Control conglomerate mergers, when such mergers undermine important economic, social and political values without offsetting economic benefits.

Reform antitrust procedures to speed up cases and deter dilatory conduct by any party.

Provide strong support for antitrust enforcement by the federal enforcement agencies.

Provide technical and financial support for the antitrust enforcement efforts of the state attorneys-general and other state antitrust agencies.

Develop a "single stop" clearance procedure to allow exporters to determine whether specific export agreements are permissible under the antitrust law.

CHAPTER II: GOVERNMENT AND HUMAN NEEDS

The Democratic Party has properly been known as the Party of the people. We Democrats believe in making government responsive to the needs of the people . . . making it *work* for the people. We do not claim that government has all the answers to our problems, but we do believe that government has a legitimate role to play in searching for those answers and in applying those answers.

The Democratic Party has a proud record of responding to the human needs of our citizens. After eight years of Republican government and systematic Republican efforts to dismantle all of the hard-won New Frontier and Great Society social programs, the Carter Administration and the Democratic Congress have resurrected, preserved and strengthened those programs which have proven effective.

In the areas of health care, housing, education, welfare and social services, civil rights, and care for the disabled, elderly and veterans, a Democratic President and a Democratic Congress have put the federal government back in the business of serving our people.

Our progress has been significant, and in many areas unprecedented. In 1980, the people must decide whether our country will continue that progress, or whether we will allow the federal government to revert to four years of Republicanism—which means neglect of the poor and disadvantaged, disdain for working men and women, and compassion only for the rich and the privileged.

We will not allow this to happen. We pledge to build on the Democratic record of the past four years—to continue the process we have begun.

Health

The Carter Administration and the Congress have worked closely together to improve the health care provided to all Americans. In many vital areas, there has been clear progress.

The United States spent over $200 billion for health care in 1979. Despite these high expenditures and although we possess some of the finest hospitals and health professionals in the world, millions of Americans have little or no access to health care services. Incredibly, costs are predicted to soar to $400 billion by 1984, without improvement in either access to care or coverage of costs. Health care costs already consume ten cents of every dollar spent for goods and services.

The answer to runaway medical costs is not, as Republicans propose, to pour money into a wasteful and inefficient system. The answer is not to cut back on benefits for the elderly and eligibility for the poor. The answer is to enact a comprehensive, universal national health insurance plan.

To meet the goals of a program that will control costs and provide health coverage to every American, the Democratic Party pledges to seek a national health insurance program with the following features:

Universal coverage, without regard to place of employment, sex, age, marital status, or any other factor;

Comprehensive medical benefits, including preventive, diagnostic, therapeutic, health maintenance and rehabilitation services, and complete coverage of the costs of catastrophic illness or injury;

Aggressive cost containment provisions along with provisions to strengthen competitive forces in the marketplace;

Enhancement of the quality of care;

An end to the widespread use of exclusions that disadvantage women and that charge proportionately higher premiums to women;

Reform of the health care system, including encouragement of health maintenance organizations and other alternative delivery systems;

Building on the private health care delivery sector and preservation of the physician-patient relationship;

Provision for maximum individual choice of physician, other provider, and insurer;

Maintenance of the private insurance industry with appropriate public regulation;

Significant administrative and organizational roles for state and local government in setting policy and in resource planning;

Redistribution of services to ensure access to health care in underserved areas;

Improvement of non-institutional health services so that elderly, disabled, and other patients may remain in their homes and out of institutions; and

Child health assurance program

We must continue to emphasize preventive health care for all citizens. As part of this commitment, we call for the enactment of legislation during the 96th Congress to expand the current Medicaid program and make an additional 5 million low-income children eligible for Medicaid benefits and an additional 200,000 low-income pregnant women eligible for pre-natal and post-natal care.

Mental Health Systems Act

We must enact legislation to help the mentally ill, based on the recommendations of the President's Commission on Mental Health. The legislation should focus on deinstitutionalization of the chronically mentally ill, increased program flexibility at the local level, prevention, and the development of community-based mental health services. It is imperative that there be ongoing federal funding for the community-based mental health centers established under the 1963 Mental Health Act and that sufficient federal funding be provided for adequate staffing. We also endorse increased federal funding for ongoing training of mental health personnel in public facilities.

In the 1980's we must move beyond these existing health care initiatives and tackle other problems as well.

Long-Term Care

We must develop a new policy on long-term care for our elderly and disabled populations that controls the cost explosion and at the same time provides more humane care. We must establish alternatives to the present provisions for long-term care, including adequate support systems and physical and occupational therapy in the home and the community, to make it unnecessary to institutionalize people who could lead productive lives at home.

We must support legislation to expand home health care services under Medicare and other health programs. Visits from doctors, nurses and other health personnel are a cost-effective and necessary program for the elderly who often cannot travel to medical facilities. Without home health services, many elderly citizens would be forced to give up their homes and shift their lives to institutions.

Multilingual Needs

We must support the utilization of bilingual interpreters in English-Spanish and other appropriate languages at federal and state-supported health care facilities. In addition, we support broader, more comprehensive health care for migrants.

Health Care Personnel

This nation must maintain an adequate supply of health professionals and personnel. Particular emphasis should be given to programs which educate nurses and other health professionals and related personnel, especially for the traditionally underserved rural and inner city areas.

The rising cost of education in health fields bars many who wish to enter these fields from doing so. In order to expand representation in the health professions of traditionally underrepresented groups, we support programs of financial assistance such as capitation grants. These programs must increase the presence of men and minorities in nursing, and must be targeted toward women and minorities in other health professions.

Minority and Women Health Care Professionals

We recognize the need for a significant increase in the number of minority and women health care professionals. We are committed to placing greater emphasis on enrollment and retention of minorities and women in medical schools and related health education professional programs.

We are also committed to placing a greater emphasis on medical research and services to meet the needs of minorities, women and children.

Reproductive Rights

We fully recognize the religious and ethical concerns which many Americans have about abortion. We also recognize the belief of many Americans that a woman has a right to choose whether and when to have a child.

The Democratic Party supports the 1973 Supreme Court decision on abortion rights as the law of the land and opposes any constitutional amendment to restrict or overturn that decision.

Furthermore, we pledge to support the right to be free of environmental and worksite hazards to reproductive health of women and men.

We further pledge to work for programs to improve the health and safety of pregnancy and childbirth, including adequate prenatal care, family planning. counseling. and services, with special care to the needs of the poor, the isolated, the rural, and the young.

Financially Distressed Public Hospitals

Frequently, the only source of medical care for much of the inner city population is the public general hospital. The ever-increasing costs of providing high quality hospital services and the lack of insurance coverage for many of the patients served here jeopardized the financial stability of these institutions. Immediate support is required for financially distressed public hospitals that provide a major community service in urban and rural areas.

In underserved areas where public hospitals have already been closed because of financial difficulty, we must explore methods for returning the needed hospitals to active service.

We must develop financial stability for these hospitals. Our approach should stress system reforms to assure that more primary medical care is provided in free-standing community centers, while the hospital is used for referral services and hospitalization.

Medicaid Reimbursement

The Democratic Party supports programs to make the Medicaid reimbursement formulae more equitable.

Unnecessary Prescriptions

We must reduce unnecessary prescribing of drugs and guarantee the quality and safety of products that reach the market through improved approval procedures.

Substance abuse

Alcoholism and drug abuse are unique illnesses which not only impair the health of those who abuse those products, but impose costs on society as a whole—in production losses, in crimes to supply habits, and in fatalities on the highway.

The Democratic Partnership has worked to reduce the serious national problem of substance abuse, and progress has been made.

As a result, in part, of a major adolescent drug abuse prevention campaign, levels of drug abuse among adolescents have begun to decline. However, as long as abuse still exists, we consider it a major problem requiring our attention

Because of a coordinated, concerted attack on drug trafficking, heroin availability in the U.S. over the past four years has decreased by 44 percent; heroin-related injuries have declined by 50 percent.

Progress made since 1977 must be continued.

We must continue to focus on preventing substance abuse in the early years of adolescence by working with grassroots organizations and parent groups throughout the country.

Special efforts must be made to strengthen prevention and rehabilitation resources in the major urban areas that are so acutely affected by drug and alcohol abuse problems because of the cumulative effect of joblessness, poor housing conditions and other factors.

We must provide adequate funding for alcohol and drug abuse research and treatment centers designed to meet the special needs of women, and end the currently widespread discrimination, based on sex, age, race, and ethnicity, in alcohol and drug abuse programs.

We must treat addiction as a health problem and seek flexibility in administering Medicare and Medicaid for substance abuse treatment, especially alcohol and drug services.

We must reduce the availability of heroin and other illicit narcotics in this country and in the source countries.

We must conduct investigations leading to the prosecution and conviction of drug traffickers and to the forfeiture of financial and other assets acquired by their organizations.

Older Americans

In other sections of this platform (for example, health and the extensive section on Social Security), we have listed programs and commitments for improving the status of older Americans. As a Party, we are aware of the demographic and biomedical developments that call for a high priority approach to the issues of retirement, work, and income maintenance for the growing number of older citizens.

The Democratic Party stands for the achievement and maintenance of the quality of life for Americans in their later years. We speak for our future selves, as well as for the elderly of today.

There has been substantial progress, but much remains to be done. Too many senior citizens (especially among minority groups) live close to or below the poverty line, in isolated conditions, and without access to needed services.

The Democratic Party pledges to continue to improve the policies and programs which ensure a high quality of life for older Americans. This includes the following measures.

All Americans, regardless of age, must be afforded an opportunity to participate in the mainstream of society, and in activities at local and national levels, as useful citizens. The 1967 Age Discrimination in Employment Act, and the milestone amendments to that Act in 1978, are concrete examples of this principle. So are programs such as senior centers, nutrition services, and home attendants, as well as those programs under ACTION, the Administration on Aging, and the Community Services Administration.

Such programs have helped to diminish the conditions of dependency, isolation, and unnecessary institutionalization. We propose to continue and expand these programs to reach underserved areas and all segments of the elderly.

The Democratic Party is proud of the passage of legislation to protect and improve private pensions through the Employees Retirement Income Security Act (ERISA), as well as current proposals to extend such protection to larger numbers of workers. No worker, after long years of employment should lose his or her pension rights because of mobility, poor management, or economic reasons.

Other priorities include working with the private sector to assure maintenance and expansion of employer-employee pension systems and continuing support of the federal-state partners in SSI (Supplemental Security Income) for the least fortunate.

A comprehensive program of long-term care services is a goal of the Democratic Party. The fastest growing segment of our population is the "very old" and the "frail elderly." The Democratic Party will continue to be concerned with the provision of services for these groups, increasingly composed of women without access to family care. This will include home attendant care, day centers, and quality institutional care for those elderly with functional disabilities who cannot rely on non-institutional alternatives.

For many older citizens, continuing participation in the mainstream means continuing employment, or a return to the labor force as a result of widowhood or the "empty nest." In addition to increasing employment opportunities by raising the allowable mandatory retirement age, we must continue existing, and create new, programs for the retention and re-entry of adult and older Americans in our labor force, including the private and community service sectors.

The Democratic Party will encourage the development of services by the public and private sectors to provide meals-on-wheels for those who need them; senior day centers; friendly visiting services; and similar supportive, educational-recreational, and outreach services.

We pledge to make the elderly secure in the necessities of life. The Democratic Party pledges that it will seek to increase the number of meals served under Title III of the Older Americans Act until it covers at least a quarter of all older people at or near the poverty level while at least maintaining current services for those who are not in poverty. The Democratic Party will seek expanded funding provided for the Section 202 housing program for the elderly.

Social security

No group in our society deserves the commitment and respect of the Democratic Party more than the elderly. They have built the factories and mills of the nation. They have fought to defend our country. They have paid taxes to finance the growth of our cities and towns. They have worked and sacrificed for a lifetime to give their children a better chance to achieve their dreams. They have a continuing reservoir of talent, skill and experience to contribute to our future.

The basic program and guarantee for older citizens is Social Security. It is the single most successful social program ever undertaken by the federal government. 95 percent of those reaching 65 are eligible for this program; without it, 60 percent of the elderly would have incomes below the poverty level.

The Democratic Party will oppose any effort to tamper with the Social Security system by cutting or taxing benefits as a violation of the contract the American government has made with its people. We hereby make a covenant with the elderly of America that as we have kept the Social Security trust fund sound and solvent in the past, we shall keep it sound and solvent in the years ahead.

In 1977, the Social Security system faced bankruptcy. The Carter Administration and the Congress enacted legislation ensuring the Social Security system's financial stability and making certain that each of the 35 million recipients received his or her monthly check without interruption. They also worked together to strengthen the benefits provided to Social Security recipients. As a result of our actions:

Workers have been protected against inflation;

Minimum benefit payments have been reformed to protect low-paid, long-time participants;

A 3 percent increase in primary benefit amounts has been added;

The retirement test has been liberalized.

Despite our efforts, much remains to be done if the elderly are to receive the respect and dignity they have earned. Elderly households have only half the income of younger households. For women, the annual median income of those over 65 is only $2,800. One out of seven persons over 65 lives in poverty. Three quarters of all elderly unmarried, widowed, or divorced women live in poverty. Millions of elderly persons live in special fear of crime. Health care costs for the elderly are now three and a half times the level for younger people. Actual out-of-pocket health expenditures for the elderly today are greater in real dollars than when Medicare was enacted.

In the 1980's we must continue to work for a financially strong Social Security system. The levels and types of benefits, as well as rates and systems of financing, must be continually reviewed in light of current circumstances. Decisions affecting Social Security benefits should be measured by the standards of Social Security's goals, not by the program's impact on the federal budget.

The Democratic Party is responsible for the adjustments of Social Security benefits to keep pace with increases in the cost of living. We remain committed to ensuring that these adjustments continue. We oppose any caps on Social Security benefits.

We oppose efforts to raise the age at which Social Security benefits will be provided. Our Party seeks to protect and assist those most in need. We continue to be sensitive to the economic and physical plight of the older worker and the elderly. We therefore stand unalterably opposed to the taxation of any portion of Social Security benefits. Taxing Social Security benefits would mean real hardship for millions of retired Americans. If government needs to expand the tax base, additional taxation should be borne by those most able to pay.

While these steps are critically important, they will not, standing alone, secure adequate income for the elderly women of this nation. To reach this goal, we must also move immediately to eliminate all the gender-based classifications in the Social Security system. We must consider the special needs of elderly women in future benefit increases. We must end the unfairness in the current system that penalizes two-worker families. We must devise a practical way for the Social Security system to recognize the contributions of homemakers, and thus ensure the resources they need to live in dignity in old age.

Finally, the Democratic Party vehemently opposes all forms of age discrimination and commits itself to eliminating mandatory retirement. With the surety of a guillotine, mandatory retirement severs productive persons from their livelihood, shears their sense of self-worth, and squanders their talents.

Pensions

Our nation's complex and uneven pension system is a continuing source of concern. To help address this important problem, President Carter created a Presidential Commission on Pension Policy, charged with developing recommendations to improve public and private, federal, state and local pension systems. We applaud this initiative. We must achieve an equitable pension system with improved benefit safeguards and adequate benefit levels.

We urge the Commission to give special attention to recommendations which address the discrimination and hardships imposed on women in pension plans. Problem areas include pension rights in divorce proceedings, lack of pension benefits for survivors when a worker dies before retirement age, the rules for establishing Individual Retirement Accounts, the vesting rules, and participation in pension plans.

We support strong programs of portability in teacher and other public employee retirement programs and private pension plans in order to offer employees involved in geographic employment moves the opportunity to continue retirement security.

Welfare reform

The nation's welfare system continues to be inequitable and archaic. The existing organization of our delivery system is chaotic. The roles of the federal, state, and local governments, and of the courts are scrambled, with each vying for power and control over delivery. This confusion lends credence to public outrage.

States and cities which make an honest effort to meet the welfare crisis find themselves in deepening fiscal difficulty. In the past few years, the federal share of welfare costs in many of these states has actually declined.

The fiscal crisis of welfare recipients has also deepened, since states and localities are unable or unwilling to adjust benefits to prevent inflation from robbing them of their worth.

The fiscal crisis for taxpayers continues, as states have little ability or incentive to reduce welfare error rates.

Incentives continue that cause families to break apart and fathers to leave home so that children may survive. Disincentives continue for welfare families to seek work on their own; no regular method links welfare recipients to the work force.

We are at a crossroad in the delivery of welfare. Serious reform is necessary if the inequities are to be remedied and administration improved.

The various components must be reorganized and simplified, with each level of government performing those services most suited to its organizational structure, taking advantage of economies allowed by large-scale delivery where appropriate, and of customized services where they are required, always treating each person with fairness and equity.

The components of an effective human service delivery system are these.

Employment—We must require work or necessary training leading to work of every capable person, except for the elderly and those responsible for the care of small children. However, we cannot make this requirement effective unless we can assure employment first through the private sector and, if that is insufficient, through public employment. We must provide an income floor both for the working poor and the poor not in the labor market. We must adopt a simple schedule of work incentives that guarantees equitable levels of assistance to the working poor.

The training and job program must emphasize supported work programs, in which welfare recipients receive intensive training, personnel counseling and help in the job search. Such services can lead to large increases in job placement, lower government expenditures and more productive workers.

Income Transfer—For those persons who cannot work and who have no independent means of support, we must provide assistance in an integrated, humane, dignified, and simple manner. These problems are national in scope and require a unified, national response.

Social Services—As society becomes more complex and faster paced, people such as senior citizens, handicapped, children, families, and those who need protection are under greater pressure and find it more difficult to find the help they need. As these issues vary among communities, communities should take the lead in design and provision of these services.

Social services must continue to be developed and operated at the local level, close to the users, with knowledge of and sensitivity to both the particular problems of each case and the community's unique infrastructure resources, and support networks.

We must develop a community-level system for coordinating existing public and voluntary programs that support the family and individual initiative, and develop programs to fill existing gaps in order to provide the variety and extent of social services appropriate for each locality.

Food Stamps—Hunger is one of the most debilitating and urgently felt human needs. A government pledged to a fairer distribution of wealth, income, and power, and to holding as a guiding concern the needs and aspirations of all, must also be a government which seeks to alleviate the hunger that results from economic conditions or personal circumstances. Over the years, the Food Stamp Program, expanded and made more responsive by a Democratic Congress and Administration, has become the bulwark of this nation's efforts to relieve hunger among its citizens.

The only forms of assistance which is available to all those in financial need—food stamps—provides an important cushion for poor people, including those whose incomes are temporarily disrupted by layoffs or regional unemployment, or whose age or physical handicap leaves them unable to work.

As state and local governments modify other benefit programs on which low-income people depend, the Food Stamp Program becomes increasingly important. We will continue to work toward full employment in recognition of the importance of self-support. Until that goal can be attained, and for those who cannot be self-supporting, we remain committed to our current policy of full funding for the Food Stamp Program.

Medical Care—Provision of medical care for the poor remains essential. This is a crtical part of the national health debate, and should be handled as such.

These reforms may require an additional investment, but they offer the prospect of stabilization of welfare costs over the long run, and the assurance that the objective of this expenditure will be accomplished.

Toward these goals, President Carter proposed welfare reform to the Congress in the form of the Work and Training Opportunities Act and the Social Welfare Reform Amendments Act. These two Acts would lift over two million people out of poverty by providing assistance to individuals and families to enable them to meet minimum income standards and by providing employment to those able to work. We must continue to work to ensure the passage of these two very important Acts.

As a means of providing immediate federal fiscal relief to state and local governments, the federal government will assume the local government's burden of welfare costs. Further, there should be a phased reduction in the states' share of welfare costs.

Welfare policies significantly affect families. Most persons receiving Aid to Families with Dependent Children, for example, are children or the mothers of young children. Many of these young mothers want to work. So, too, many others receiving welfare are well-suited to work and want to work. A companion to any effective welfare reform must be provision for adequate and available child care, so that parents can participate in training programs and in the work force.

Government should not encourage the break-up of intact families. On the contrary, we must provide the help a family needs to survive a crisis together. In 1962, America took an action which has been one of the greatest contributors to family stability in the history of federal policy. For the first time, states were permitted to provide assistance to families with both parents, and still be eligible for federal reimbursement. We reaffirm our support for the 1962 action and urge that states not providing assistance to unified families begin to do so. We must treat stable and broken families equally.

The thirty-day waiting period for placement on the welfare rolls poses serious problems for individuals and families in dire need of assistance. We support efforts to streamline processing of new welfare recipients which also attempt to address the problem of administrative errors. Simplified rules and better administrative machinery would significantly improve the operation of the welfare system.

Low income energy assistance

Our citizens see their family budgets stretched to the breaking point by an explosion of energy costs, while the profits of oil companies multiply to record levels. Last year's 120 percent increase in energy prices by OPEC led to a drastic decrease in the ability of needy families to pay for other necessities of life. The recently enacted low income energy assistance legislation is helping, but it provides only $1 of help for every $4 in increased costs that have been imposed upon the poor. Significant expansion in this program is urgently needed, and we support such action as a major priority of our Party.

Veterans

This Administration has worked to strengthen the federal government's commitment to our nation's veterans. The Veterans Administraiton has been given Cabinet level participation. There have been three consecutive annual increases in VA compensation. The Veterans' and Survivors' Pension Improvement Act has assured veterans of an adequate minimum income. A treatment and rehabilitation program has been established for veterans with alcohol and drug-dependency disabilities. G.I. educational benefits have been considerably expanded. Unemployment among Vietnam veterans has been reduced. Veterans' health care has been improved. A process has been initiated for veterans to upgrade less than honorable discharges from the Vietnam War era.

During the 1980's, we must commit ourselves to:

Equal opportunity and full voluntary participation in the military regardless of sex. We oppose quotas and/or percentages, rules, policies and practices which restrict or bar women from equal access to educational training and employment benefits which accrue during and after military service.

Continue improving education and training benefits and opportunities for veterans, especially those who are economically or educationally disadvantaged and those who are disabled.

Initiate and complete comprehensive epidemiological studies on veterans exposed to certain defoliants used during the Vietnam War as well as on veterans or civilians exposed to above-ground nuclear explosion. We then must establish appropriate and sensitive VA health care programs for those determined to have suffered from such exposure or service.

Complete promptly the current Cabinet-level study on Agent Orange.

Strive to maintain and improve quality health care in an independent VA health care system.

Continue priority care to veterans with service-connected disabilities and seek ways of improving and developing special treatment for the ever-increasing aging veterans population, including burial benefit programs sensitive to the needs of veterans and their families in rural areas.

Provide authority for the construction of a memorial in the nation's capital to those who died in service to their country in Southeast Asia.

Education

Perhaps the single most important factor in spurring productivity in our society is a skilled work force. We must begin to thing of federal expenditures as capital investments, favoring those which are productive and which reduce future costs. In this context, education must be one of our highest priorities. Education is also the indispensible prerequisite for effective democracy. As Daniel Webster said, "On the diffusion of education among people rests the preservation and perpetuation of free institutions."

The Democratic Party is strongly committed to education as the best hope for America's future. We applaud the leadership taken by a Democratic President and a Democratic Congress in strengthening federal programs for education.

In the past four years:

Federal aid to education has increased by 73 percent—the greatest income increase in such a short period in our history;

Strong financial and administrative support has been provided for programs that enhance educational opportunities for women, minorities, American Indians and other native Americans, the handicapped, and students with limited English-speaking ability and other special needs:

The Middle Income Student Assistance Act was adopted, expanding eligibility for need-based student financial aid to approximately one-third of the students enrolled in post-secondary education;

A number of legislative, regulatory, and other administrative actions were taken to enhance benefits received by private school children from federal education programs; and

A new Department of Education was created to give education a stronger, more direct voice at the federal level, while at the same time reserving control over educational policymaking and operations to states, localities, and public and private institutions.

Over the next four years, we pledge to continue our strong commitment to education. We will continue to support the Department of Education and assist in its all-important educational enterprise that involves three out of ten Americans.

In this regard, we endorse the language of the legislation which emphasized the intent of Congress "to protect the rights of state and local governments and public and private institutions in the areas of educational policies and administration of programs . . ."

It is now a decade and a half since the passage—by a Democratic Congress at the behest of a Democratic Administration—of the landmark Elementary and the Secondary Education Act of 1965. At the time, there were sound and compelling reasons to undergird all federal aid to education with specific purposes. The specific purposes remain compelling and the specific programs addressed to them must be maintained.

Federal aid to education plays a significant role in guaranteeing that jurisdictions of differing financial capacity can spend equal amounts on schooling. We favor a steady increase in federal support with an emphasis on reducing inter- and intra-state disparities in ability to support quality education. The federal government and the states should be encouraged to equalize or take over educational expenses, relieving the overburdened property taxpayer.

The Democratic Party renews its commitment to eliminating discrimination in education because of sex and demands full and expeditious enforcement of Title IX of the 1972 Education amendments.

The Democratic Party strongly urges that the federal government be sensitive to mandating state and local programs without adequate provision for funding. Such mandates force the state and/or local governments to increase taxes to fund such required programs.

Equal educational opportunity is at the heart of the Democratic program for education. Equality of opportunity must sometimes translate to compensatory efforts. For the disadvantaged, the handicapped, those with limited English language skills, American Indians/Alaska Natives, Native Hawaiians, and other minorities, compensatory programs require concentrated federal spending.

The Democratic Administration and Congress have supported a comprehensive program of compensatory education and have expanded it to include secondary education. We will continue to target categorical assistance to low income and low achieving students.

We reaffirm our strong support for Title I concentration grants for remedial instruction for low income students. The Democratic Party pledges to achieve full funding of concentration grants under Title I and to expand the Headstart and follow-through programs.

The Democratic Party will continue to advocate quality education in the Bureau of Indian Affairs and in tribally contracted schools to meet American Indian educational needs. The Democratic Party opposes the closing of schools serving American Indians and Alaska Natives without consultation with the tribes involved.

The Democratic Party recognizes the need to maintain quality education for children in school districts affected by federal activities and installations. We therefore will continue to be sensitive to the financial problems of these school districts.

School desegregation is an important tool in the effort to give all children equal educational opportunity. The Democratic Party continues to support programs aimed at achieving communities integrated both in terms of race and economic class through constitutional means. We encourage redrawing of attendance lines, pairing of schools, utilizing the "magnet school concept" as much as possible, and enforcing fair housing standards. Mandatory transportation of students beyond their neighborhoods for the purpose of desegregation remains a judicial tool of last resort.

We call for strict compliance with civil requirements in hiring and promotion in school systems.

We support an effective bilingual program to reach all limited English-proficiency people who need such assistance.

The Democratic Party supports efforts to broaden students' knowledge and appreciation of other cultures, languages and countries.

We also support vocational and technical education through increased support for teacher training, personnel development, and upgrading and modernizing equipment and facilities to provide the skill and technical training to meet the workforce needs for business, industry, and government services. Increased emphasis on basic skills is essential to the success of vocational and technical training. Vocational and technical education is a viable tool for establishing people in their own business through entrepreneurship programs. Vocational and technical education contributes to the economic development and productivity of our nation by offering every person an opportunity to develop a marketable skill.

The Party reaffirms its support of public school education and would not support any program or legislation that would create or promote economic, sociological or racial segregation. Our primary purpose in assisting elementary and secondary education must be to assure a quality public school system for all students.

Private schools, particularly parochial schools, are also an important part of our diverse educational system. The Party accepts its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in schools which do not racially discriminate, and excluding so-called segregation academies. Specifically, the Party will continue to advocate constitutionally permissible federal education legislation which provides for the equitable participation in federal programs of all low and moderate income pupils.

The Democratic Party reaffirms its commitment to the concept and promise that every handicapped child should have a full and appropriate public education in the least restrictive environment. To assure the best placement and program for handicapped students, we support maximum involvement of the regular classroom teacher in placement planning for handicapped students with assurance of barrier-free access. We further support increasing the federal share of the costs of education for the handicapped.

We applaud the actions taken by the government in strengthening federal programs for higher education. The nation must continue to ensure that our colleges and universities can provide quality higher education in the coming period of declining enrollment and rising operating costs.

We are especially interested in extending post-secondary opportunities to students from low and middle income families, older students, and minorities. We believe that no able student should be denied a college education for reason of cost.

The Democratic Party is committed to a federal scholarship program adequate to meet the needs of all the underprivileged who could benefit from a college education. When those who are qualified for post-secondary education cannot afford to enter college, the nation ignores talent we cannot afford to lose. Basic Education Opportunity Grants, which offer both access to a college education and the choice of a college, must continue to be strengthened and should be funded at full payment schedule.

Likewise, campus-based programs of aid must be supported. With a coordinated and reliable system of grants, loans and work study, we can relieve the crisis in costs that could close all but the affluent colleges and universities.

Since entry to institutions of higher learning is dependent upon a student's score on a standardized test, we support testing legislation which will assure that students will receive sufficient information relative to their performance on the test to determine their strengths and weaknesses on the tests.

Our institutions of higher education deserve both public and private backing. The Party supports the continuation of tax deductions for charitable gifts, recognizing that such gifts represent the margin of excellence in higher education and foster scholarly independence within our institutions of higher learning.

The Democratic Party commits itself to the strengthening of graduate education and the support of basic and applied research. Graduate education, scholarship and research are of immense importance to the nation's economic and cultural development. Universities conduct most of the nation's basic research. Their graduate and research programs are the training grounds for the research personnel and professionals who discover knowledge and translate that knowledge into action.

The federal role is critical to the quality of these endeavors. We reaffirm the federal responsibility for stable support of knowledge production and development of highly trained personnel in all areas of fundamental scientific and intellectual knowledge to meet social needs.

High priority should be assigned to strengthening the national structure for graduate education, scholarship and research and ensuring that the most talented students, especially women and minorities, can gain access to these programs.

Historically Black colleges and universities have played a pivotal role in educating minority students. The Democratic Party affirms its commitment to ensuring the financial viability and independence of these worthy institutions and supports expanded funding for Black institutions. The Democratic Party pledges to work vigorously for significant increases in programs which have traditionally provided funding for historically Black colleges and universities. Particular attention should be given to substantially increasing the share of funding Black colleges receive. We will substantially increase the level of participation of Black colleges in all federal programs for which they are eligible. In addition, we urge the establishment of an office within the Office of the Secretary of Education to ensure full executive implementation of the President's Black college directive. Similarly, colleges serving Hispanic, American Indian/Alaska Native, and Asian/Pacific Islander students should receive equal consideration in federal policies affecting their survival.

Finally, educational quality should be strengthened through adequate support for libraries, federal leadership in educational research and development, and improved teacher training.

The Democratic Party further urges the federal government to take into account the geographical barriers to access to educational and library materials which particularly affect the noncontiguous territories of the United States. A study should be conducted to review the possibility of sending airmail, at surface mail rates, said materials to and from the mainland U.S. and the noncontiguous territories of the U.S.

The Party believes that improved teacher in-service training, building upon the successful "Teacher Center Model" implemented under this Administration, could contribute substantially to educational quality. We support the establishment of federally funded teacher centers in every state and will work toward a steady increase in the number of teachers served. Teacher centers should address such issues as bilingual, multicultural, non-racist, and non-sexist curricula.

The Party continues to support adult education and training to upgrade basic skills.

We propose federally financed family-centered developmental and educational child care programs available to all who need and desire them.

We support efforts to provide for the basic nutritional needs of students. We support the availability of nutritious school breakfast, milk and lunch programs. Students who are hungry or malnourished can experience serious learning difficulties. The Democratic Party affirms its commitment to restore fair eligibility requirements for this program and to set fees at a level which does not unfairly deny students the ability to participate.

The Democratic Party recognizes the importance of family and community involvement in public schools, and the impact their involvement can have on the quality of a child's educational environment. We support initiatives that will encourage parents and all members of the community to take an active interest in the educational future of our children.

Child care

While the American family structure has changed radically in recent years, the family remains the key unit of our society. When the needs of families and children are ignored, the nation as a whole ultimately suffers. It is not only morally right, but also far less expensive, for government to assist children in growing up whole, strong and able, than to pay the bill later for children and adults with health, social and educational problems. Government cannot and should not attempt to displace the responsibilities of the family; to the contrary, the challenge is to formulate policies which will strengthen the family.

The Democratic Party shall seek vigorously to enact an adequately funded, comprehensive quality child-care program based upon national commitment to meet the health, safety, and educational needs of *all* children. Such a program shall provide for alternative low-cost child care arrangements so that parents may decide what is in the best interests of their children. To ensure the availability of choices, the Child Care Tax Credit shall be revised to benefit low and moderate income families. National policies shall ensure the availability of child care services for all parents. Our programs shall also address themselves vigorously to the issues of flex-time work programs, job sharing, and incentives for child care in private industry, in recognition of the social responsibilities of all citizens to children and their parents as the guardians of our future.

Juvenile justice

Juvenile delinquency and other problems of young people, like truancy and running away, are often manifestations of serious problems in other areas—family, school, employment, or emotional disturbance. We are committed to maintaining and strengthening the Juvenile Justice and Delinquency Prevention Act of 1974 and the Runaway Youth Act to help deal with these problems. In particular, we reaffirm our commitment to ending unnecessary institutionalization of young people who have not committed serious crimes and strengthening preventive efforts and other services at the community level to help young people and their families in the sometimes difficult transition to adulthood. Equally important, we are committed to continuing reform in the juvenile courts to assure right of due process and adequate counsel to young people who become enmeshed in the juvenile justice system.

We must continue and strengthen efforts at prison reform to upgrade the safety of our penal institutions. Our penal institutions enhance rehabilitation to offenders, and lower the recidivism level.

Families

The Democratic Party supports efforts to make federal programs more sensitive to the needs of the family, in all its diverse forms.

Housing

Since 1976, the Administration's efforts in the area of housing have concentrated on achieving an adequate housing supply. From 1977–1979, housing starts increased substantially over the level of the prior Republican Administration. Additionally, increased emphasis has been placed on saving our existing housing stock through rehabilitation.

But the momentum to increase the housing supply for the 1980's has been threatened by the high rate of inflation. The downturn in economic activity during the first half of 1980 has created a period of severe difficulty for the housing industry and for those Americans in need of housing. These circumstances make it imperative that the Democratic Party redouble its efforts to meet the goal of a decent home in a suitable environment for every citizen. It is essential that we expand the construction and availability of affordable housing in order to match the growing needs of Americans during the 1980's and to help stabilize housing costs.

Housing shortages and deterioration, and the need for economic development, are among the most critical problems facing local government today.

Through a patchwork of programs and tax incentives developed over the past fifty years, this nation is now spending between $25 and $30 billion each year on housing and economic development. These funds must be redirected in a cogent manner, to provide a comprehensive response to the housing problem. This effort should be pressed forward with the same national will that put a man on the moon, and will be a major step toward the revitalization of our local economies.

During the 1980's, we must work to meet the nation's need for available, affordable housing by:

Achieving steady, high levels of production;

Continuing progress toward a non-inflationary environment with lower interest rates;

Pursuing monetary and credit policies which are especially sensitive to the needs of the housing and construction industries in order to help provide jobs;

Continuing progress toward eliminating sub-standard housing and meeting the housing needs of this nation's low and moderate income families, the elderly, and the handicapped, including a substantial increase in the authorization for public housing and Section 8 rental housing assistance;

Expanding the coverage of the Fair Housing laws to prohibit discrimination against single parents or single persons;

Ensuring that federal housing projects meet the needs of single-parent families;

Strengthening our efforts to provide higher levels of multi-family housing production to meet the rental housing needs of the postwar generation in the 1980's;

Continuing the development and expansion of new financial instruments designed to attract increased capital to the housing sector throughout the interest rate cycle;

Continuing to improve the efficiency and management of our housing programs;

Continuing support for efforts to improve our housing codes;

Expanding urban homestead and rehabilitation programs which will preserve neighborhoods in our cities for the people who live there;

Financing moderate income housing at below-market interest rates;

Adopting condominium conversion policies which protect tenants, particularly the elderly, against unfair and unreasonable conversion practices; and

Assisting cities, counties, and states which have effective programs to combat the growing and dangerous problem of housing abandonment.

Transportation

Since 1977, the Carter Administration has worked closely with the Congress to improve all the transportation modes so essential to our nation. These efforts have resulted in the elimination of unnecessary regulations, the expansion of the federal commitment to mass transit, and the savings of billions of dollars for consumers. In the 1980's we must continue our efforts in the same direction.

The Democratic Party commits itself to a balanced, competitive transportation system for the efficient movement of people and goods.

The trucking industry must be deregulated, and legislation to do that is now in place. This legislation would open entry to new truckers, lift restrictions on the goods truckers may haul and the routes they must use, promote vigorous price competition, reduce regulatory delays and improve road safety.

To improve their long-term viability, we must give railroads more flexibility in setting rates, without burdening excessively shippers dependent on rail service. Congress is now progressing on comprehensive legislation in this area. We expect regulatory reform of the railroad industry to speed the elimination of wasteful regulations and improve the facilities and equipment of railroads.

Coal is a centerpiece of our nation's energy policy. We are concerned about the cost of transporting coal to its markets, particularly the cost of rail transportation. Within the context of regulatory reform, we must therefore be especially sensitive to the effects of railroad rates on coal. A healthy rail industry is of critical importance to our economy and our society.

We must ensure, through such efforts as completion of high speed rail passenger service in the Northeast Corridor, that railroads are an efficient means for personal travel. The decline in the nation's railroad system must be reversed. Tracks must be rehabilitated, equipment modernized and maintenance improved if the nation is to have a rail system that adequately meets the needs of passengers and shippers. We must ensure that flexibility in setting rates does not become a license either for anti-competitive pricing at the expense of consumers, or for anticompetitive mergers that create or maintain inordinate market power at the expense of consumers.

The vital artery of urban America is mass transit. It saves energy by providing fuel-efficient alternatives to the automobile. For the poor, the elderly, the disabled, and many other city dwellers, there is no other transportation. If they are to travel at all, to go to work or to shop, they must rely on mass transit. Mass transit serves them, as well as the employers for whom they work and the businesses where they shop. It aids all of us, by unclogging our cities, cleansing our air, and increasing the economic health of our urban areas.

The Democratic Party pledges to strengthen the nation's mass transit systems. Federal funds must be provided for maintenance and repair of deteriorating systems, and for new equipment purchases for growing systems. Federal aid formulae should be amended to give greater weight to ridership in the allocation of dollars. Reasonable operating subsidies must be provided to help subsidize rider fares.

Mass transit is a high priority in our national transportation policy. We pledge support for significant increases in capital and operating subsidies for mass transit to enhance the reliability, safety, and affordability of existing and expanding systems.

The auto industry and its workers must be assisted during this difficult time. We are committed to an intensive review of the automobile industry's fundamental problems, and to prompt, effective action to help ameliorate those problems. We are also committed to a strong trade adjustment program to help currently unemployed auto workers.

To meet the needs of international commerce and national security, this nation must have a strong, competitive and efficient American-flag ocean transportation system. In recent years, there has been a significant reduction in the ability of our merchant marine to compete for the carriage of world commerce because of economic policies pursued by other nations. Action must be taken to revitalize our merchant marine.

To achieve this objective, we must develop a coherent, consistent, and responsive maritime policy which will encourage the development and maintenance of an American-flag ocean transportation system, staffed with trained and efficient American personnel, and capable of carrying a substantial portion of our international trade in a competitive and efficient manner. Our maritime policy must also lead to the development and maintenance of a domestic shipbuilding and ship repair mobilization base adequate to satisfy the commercial and national security requirements of the United States. Furthermore, we pledge continued commitment to the Merchant Marine Act of 1970 and greater utilization of the private merchant marine by the Navy for its support functions.

Urban policy

During the campaign of 1975–1976, our nation's great cities and urban counties were mired in a depression. Unemployment was well above ten percent in many cities and counties; private sector investment and jobs were leaving the great urban centers; poverty and other serious social problems were left unattended; a severe budget squeeze was causing layoffs and cutbacks in essential city services; and the public works of our cities had been allowed to decay. The nation's mayors spent a portion of the year urging Congress to override the Republican Administration's veto of vitally important antirecession programs. Most seriously, the leadership and citizens of our great urban centers had lost the hope that the future would be better.

Upon taking office, the Democratic Administration responded to these conditions immediately with an $11 billion antirecession package and, one year later, with the nation's first comprehensive urban policy. The urban policy was the product of a unique effort which actively involved the elected officials of state and local government, representatives of labor, neighborhood organizations, civil rights groups and the members of Congress.

These deliberations produced a blueprint to guide federal actions toward cities. The Democratic Administration, in partnership with the Democratic Congress, has moved aggressively to implement parts of the urban policy. Some of these programs have already begun to contribute to the revitalization of the nation's older cities and to assure the continued health of the nation's growing cities. For example, the urban policy has:

Created the Urban Development Action Grant (UDAG) Program to encourage private investment and jobs to locate or remain in our nation's major cities. UDAG, which is funded at $675 million annually, has already leveraged more than $7 billion of private investment and created more than 200,000 permanent jobs;

Targeted federal government procurement, facilities and jobs to the high unemployment central cities;

Increased funding for the Community Development Block Grant program by more than thirty percent and proposed a formula change that provides substantial new aid to the older, more distressed cities and urban counties; and

Proposed a massive increase in the urban development programs of the Economic Development Administration.

Although many gains have been made, we recognize that a great deal more remains to be done. This is especially true in those cities which have borne the brunt of the current recession. We recognize that no urban policy can completely succeed in a period of high inflation and deepening recession.

In this platform, the Democratic Party dedicates itself to the strength and survival of urban America. We are committed to developing imaginative, compassionate steps to deal with the causes and effects of rising unemployment, to make our cities fiscally strong, to provide jobs and economic growth, to preserve neighborhoods and communities and to meet the basic human needs of urban residents.

Our policies must include the following features:

A strong jobs policy which supports productive employment of people in the public sector and encourages employment in the private sector by attracting and strengthening business in the cities;

Public works programs which help rebuild our cities' infrastructure and which provide the unemployed with the opportunity to rebuild their own neighborhoods;

Incentives for energy conservation by residents, business and industry in urban areas including incentives to convert oil facilities to coal and the construction of new coal-fired replacement plants;

Increased education and training programs with special attention to employment of youth, women, and minorities and to training people for private sector jobs;

National economic policies intended to maintain growth in our economy and reduce the inflation rate, thereby easing the fiscal burden on cities and their residents;

Prompt enactment of the Carter Administration's proposal to expand the economic development initiative programs of the Department of Commerce. When fully implemented, this initiative will provide more than $1 billion in new loan guarantees to our urban centers and will double the amount of economic development grants available;

Prompt enactment of the Administration's five-year extension of the local government revenue sharing program, including a $500 million transitional aid program for the areas most in need;

A serious examination of the urban impact of the federal tax code, to ensure that businesses have substantial incentives to invest in our nation's neediest locales; and

Renewed efforts to consolidate existing grants-in-aid programs in order to provide state and local governments with the flexibility to use these programs efficiently.

In the last analysis, we must recognize that American's cities are centers of people with needs . . . needs for jobs, decent housing and health care, affordable mass transit, quality education and streets where they can walk in safety. Each is a crucial part of any effective urban program. The Democratic Party is committed to placing the highest priority in our budgets and our programs on meeting these needs of city-dwellers.

Neighborhoods

From the beginning of the Carter Administration, the government has worked to revitalize neighborhoods and to make them a central component of urban life. As a result of these efforts, the federal government now has a strong neighborhoods policy.

During the 1980's we must continue to strengthen neighborhoods by:

Making neighborhood organizations partners with government and private sectors in neighborhood revitalization projects;

Continuing to make neighborhood concerns a major element of our urban policy;

Developing urban revitalization programs that can be achieved without displacing neighborhood residents; and

Continuing to reduce discriminatory redlining practices in the mortgage and insurance industries.

Small community and rural development

This Democratic Administration instituted the nation's first comprehensive small community and rural development policy. This policy establishes specific goals, directs numerous organizational and management changes, and initiates an extensive program of action to improve the quality of life for all rural Americans including American Indians/Alaska Natives, rural Hispanics, rural Blacks, and other minorities. Its principles emphasize the need for a strong partnership between the public and private sectors and among all levels of government. Recognizing rural America's great diversity and the limits of the federal role, the Administration's policy invites the nation's governors to establish rural affairs councils to define state rural development strategies and to advance federal-state coordination in addressing priority needs.

Since assuming office in 1977, the Democratic Administration has acted to increase rural access to credit and capital, expand job opportunities, alleviate persistent rural poverty, rehabilitate substandard housing, address the shortage of health professionals in rural areas, improve the mobility of the rural transportation disadvantaged, and enhance educational and training opportunities for disadvantaged rural youth. For example, we have:

Addressed the problem of substandard housing through substantial increases in rural housing and community development assistance, and through revisions in minimum property standards to permit housing construction which is less expensive and better suited to rural conditions.

Improved rural access to credit and capital by tripling the economic development resources of the Farmers Home Administration.

Alleviated rural unemployment by doubling Department of Labor employment and training assistance to rural areas.

Addressed the shortage of doctors and other health professionals in rural areas through the Rural Health Clinic Services Act and a special initiative to construct 300 rural primary care health clinics by the end of 1981 in medically underserved areas.

For the future, we must move aggressively to address longstanding rural problems and to implement fully the Administration's small community and rural development policy, with emphasis on:

Synthesizing efforts to improve the quality of life for American Indians/Alaska Natives. We must provide incentives for the development of an economic base that will improve the quality of life on reservations;

Ensuring that federal programs are administered in ways which encourage local solutions to local problems; target assistance to communities and individuals most in need; make federal investments in ways that leverage private sector investments and complement local and tribal investments; and make federal programs more accessible to rural jurisdictions, better adapted to rural circumstances and needs, and better coordinated in their administration and delivery;

Promoting rural energy self-sufficiency through improved rural transit and the application and alternative energy technologies on farms and in our rural homes and communities;

Passing satisfactory welfare reform legislation, with special attention to the needs of the rural disadvantaged;

Protecting prime agricultural land as rural populations and the rural economy continue to grow;

Continuing to upgrade substandard rural housing to make it safe, decent, and sanitary;

Giving full attention to the health, education, and other basic needs of rural citizens, especially the young, the old, and the poor; and

Providing low cost electric and telephone services to rural areas through the Rural Electrification Administration and the hundreds of rural cooperatives that provide these services.

Science and technology

The Nixon-Ford Administration permitted serious decline in the state of science and technology in our country.

There had been a decade of erosion of federal support of research and development. The funding of basic research in particular was far below its peak level of the mid-1960's.

Science and technology advice had been seriously downgraded and removed from the White House, until pressures from the science and engineering community had it restored through an act of Congress.

The previous decline in support had affected opportunities in science and engineering. It had resulted in the inadequate replacement of facilities and instrumentation and their growing obsolescence in the face of new scientific advances and needs.

Not only the work of our academic research centers, but also our technological innovation and economic competitiveness were impaired by this erosion of federal support.

To counter these conditions and help revitalize the country's science and technology, the Carter Administration, working with Congress, has taken a number of steps. The Office of Science and Technology Policy has been strengthened and upgraded. Growth has been restored in the budgets for federal research and development activities. Basic biomedical research has been strengthened to increase our fundamental knowledge of health and disease.

These are just a few of the innovations that have been made. Our scientific and technological agenda remains unfinished. The 1980's offer great promise. During the next four years, we will work to:

Continue to strengthen our science and technology and provide for continuity and stability of support to research and development;

Continue to monitor the flow of talent into science and engineering and provide the appropriate training and opportunities to ensure an adequate number of well-trained scientists and engineers in the coming years, with particular emphasis on women and minorities;

Pay continued attention to the support of research facilities to make certain they remain among the best in the world;

Successfully launch the Space Shuttle, take advantage of the many opportunities it offers to make space activities more economic and productive, and release new resources for the future scientific exploration of space; and

Expand our programs of cooperation in science and technology with all nations who seek development and a stable, peaceful world.

In sum, we must continue to expand our scientific and technological capabilities and apply them to the needs of people everywhere.

The arts and the humanities

The arts and humanities are a precious national resource.

Federal commitment to the arts and humanities has been strengthened since 1977 by expanding government funding and services to arts institutions, individual artists, scholars, and teachers. The budgets for the National Endowment for the Arts and the National Endowment for the Humanities have increased substantially. The Federal Council on the Arts and Humanities has been reactivated. Policies of the Carter Administraton have fostered high standards of creativity across our nation. The Administration has encouraged the arts and humanities through appropriate federal programs for the citizens of our smallest communities, as well as those of our largest cities. During the 1980's, the Party is committed to:

Continuing federal encouragement and support for institutions relating to the arts and to learning in the humanities;

Encouraging business participation in a comprehensive effort to achieve a truly mixed economy of support for the arts and humanities by individuals, foundations, corporations and governments at every level;

Exploring a variety of mechanisms to nurture the creative talents of our citizens and build audiences for their work;

Supporting strong, active National Endowments both for the Arts and the Humanities, and strengthening the Public Broadcasting System; and

Seeking greater recognition for the rich cultural tradition of the nation's minorities. We will work to meet the cultural needs of minorities, encourage their greater participation in the performing arts on a national level, and provide grants for the arts in low-income neighborhoods.

ENSURING BASIC RIGHTS AND LIBERTIES

Equal rights amendment

The Democratic Party recognizes that every issue of importance to this nation and its future concerns women as well as men. As workers and consumers, as parents and heads of households, women are vitally concerned with the economy, energy, foreign policy, and every other issue addresed in this platform. The concerns of women cannot be liimted to a portion of the platform; they must be reflected in every section of our Party's policy.

There is, however, a particular concern of women which deserves a special emphasis—their entitlement to full equality in our society.

Women are a majority of the population. Yet their equality is not recognized in the Constitution or enforced as the law of the land. The choices faced by women—such as whether to seek employment or work at home, what career or profession to enter, and how to combine employment and family responsibilities—continue to be circumscribed by stereotypes and prejudices. Minority women face the dual discrimination of racism and sexism.

In the 1980's, the Democratic Party commits itself to a Constitution, economy, and society open to women on an equal basis with men.

The primary route to that new horizon is ratification of the Equal Rights Amendment. A Democratic Congress, working with women's leaders, labor, civil and religious organizations, first enacted ERA in Congress and later extended the deadline for ratification. Now, the Democratic Party must ensure that ERA at last becomes the 27th Amendment to the Constitution. We oppose efforts to rescind ERA in states which have already ratified the amendment, and we shall insist that past recissions are invalid.

In view of the high priority which the Democratic Party places on ratification of the ERA, the Democratic National Committee renews its commitment not to hold national or multi-state meetings, conferences, or conventions in states which have not yet ratified the ERA. The Democratic Party further urges all national organizations to support the boycott of the unratified states by not holding national meetings, conferences, or conventions in those states.

Furthermore, the Democratic Party shall seek to eliminate sex-based discrimination and inequities from all aspects of our society.

Civil rights

The Democratic Party firmly commits itself to protect the civil rights of every citizen and to pursue justice and equal treatment under the law for all citizens.

In the 1960's, enormous progress was made in authorizing civil rights for all our citizens. In many areas, the promises of the civil rights efforts of the 1960's have been met, but much more remains to be done.

An effective affirmative action program is an essential component of our commitment to expanding civil rights protections. The federal government must be a model for private employers, making special efforts in recruitment, training, and promotion to aid minority Americans in overcoming both the historic patterns and the historic burdens of discrimination.

We call on the public and private sectors to live up to and enforce all civil rights laws and regulations, i.e., Equal Employment Opportunity Programs, Title VI and Title VII of the Civil Rights Act, the Fair Housing Laws, and affirmative action requirements.

We advocate strengthening the Office of Civil Rights in the Department of Education and in the Department of Health and Human Resources.

We oppose efforts to undermine the Supreme Court's historic mandate of school desegregation, and we support affirmative action goals to overturn patterns of discrimination in education and employment.

Ethnic, racial and other minorities continue to be victims of police abuse, persistent harassment and excessive use of force. In 1979, the Community Relations Service of the Department of Justice noted that "alleged use of deadly force by police and the reaction of minorities was a major force of racial unrest in the nation in 1978." In response to this finding:

We call for the Department of Justice's Civil Rights Division to develop uniform federal guidelines and penalties for the use of undue force by local law enforcement agencies;

We call for the Department of Justice's Civil Rights Division to establish civil rights units at appropriate U.S. Attorneys' offices; and

We call on the Department of Justice to move concurrently with federal prosecutors so that if a failure to obtain conviction takes place at the state or local level, federal prosecution can occur swiftly.

The Democratic Party strongly condemns the Ku Klux Klan and American Nazi Party. We pledge vigorous federal prosecution of actions by the Klan and American Nazi Party that violate federal law, including the creation of such laws in jurisdictions where they do not exist. We further condemn those acts, symbols, and rituals, including cross-burnings, associated with anticivil rights activities. We urge every state and local government to pursue vigorous prosecution of actions by the Klan and Nazi Party that violate state or local law.

The Democratic Party asserts that the Immigration and Naturalization Service, in enforcing the immigration laws, must recognize its obligation to respect fully the human and constitutional rights of all within our borders. Such respect must include an end to practices affecting Hispanic, Caribbean, and Asian/Pacific American communities such as "neighborhood sweeps" and stop and search procedures which are discriminatory or without probable cause.

Our commitment to civil rights embraces not only a commitment to legal equality, but a commitment to economic justice as well. It embraces a recognition of the right of every citizen—Black and Hispanic, American Indian and Alaska Native, Asian/Pacific Americans, and the majority who are women—to a fair share in our economy. When that opportunity is denied, and the promise of social justice is unfulfilled, the risks of tension and disorder in our cities are increased. The Democratic Party condemns violence and civil disorder wherever they occur. But, we also pledge to attack the underlying injustice that contribute to such violence so that no person need feel condemned to a life of poverty and despair.

The Democratic record provides a solid basis for future progress. There should be little doubt that virtually no progress would occur under a Republican Administration. Over the next four years, our Party must strengthen and improve what has already been accomplished.

Both the ERA and District of Columbia Voting Rights Amendments to the Constitution must be ratified and our full commitment must be given to those efforts.

The Fair Housing Act must be amended to give the Department of Housing and Urban Development greater enforcement ability, including cease and desist authority.

The Equal Pay and the Age Discrimination Acts must be strongly and effectively enforced by the Equal Employment Opportunity Commission.

To end discrimination against language minorities, we must enforce vigorously the amendments to the Voting Rights Act of 1975 to assist Hispanic citizens. We must recognize the value of cultural diversity in education, expand bilingual facilities, and guarantee full protection of the civil and human rights of all workers.

We must affirm the dignity of all people and the right of each individual to have equal access to and participation in the institutions and services of our society. All groups must be protected from discrimination based on race, color, religion, national origin, language, age, sex or sexual orientation. This includes specifically the right of foreign citizens to enter this country. Appropriate legislative and administrative actions to achieve these goals should be undertaken.

We are concerned about the opportunity for minorities to be adequately represented on trial juries if the trend toward smaller juries continues. Efforts must be initiated to correct this possible underrepresentation.

Civil liberties

The Democratic Party has been actively committed to protecting fundamental civil liberties. Toward that end, over the past four years, the Carter Administration and the Democratic Congress have enacted legislation to control the use of wiretaps by the government in the pursuit of foreign intelligence; developed the government's first comprehensive program to protect privacy; and worked to enact a criminal code which scrupulously protects civil liberties..

As we enter the 1980's, we must enact grand jury reform; revise the Uniform Code of Military Justice; enact charters for the FBI and the intelligence agencies which recognize vital civil liberty concerns while enabling those agencies to perform their important national security tasks; shape legislation to overturn the Supreme Court *Stanford Daily* decision; and enact a criminal code which meets the very real concerns about protecting civil liberties, and which does not interfere with existing workers' rights.

We call for passage of legislation to charter the purposes, prerogatives, and restraints on the Federal Bureau of Investigation, the Central Intelligence Agency, and other intelligence agencies of government with full protection for the civil rights and liberties of American citizens living at home or abroad. Under no circumstances should American citizens be investigated because of their beliefs.

We support the concept that no employee should be discharged without just cause.

Privacy

Social and technological changes are threatening our citizens privacy. To meet this challenge, the Carter administration has developed the first comprehensive privacy policy. Under this policy administrative action has been taken to cut the number of federal files on individuals and legislation has been passed to protect the privacy of telephone conversations and bank accounts.

In the 1980's we must complete this privacy agenda. Broad legislation must be enacted to protect financial, insurance, medical, and research records. We must have these safeguards to preserve a healthy balance between efficiency and privacy.

Federal legislation is also necessary to protect workers from the abuse of their rights and invasion of their privacy resulting from increased employer use of polygraphs and other so-called "truth test" devices. Workers should have the right to review all records retained by their employers relating to medical and employment information.

Appointments

One of President Carter's highest priorities has been to increase significantly the number of women, Blacks, Hispanics and other minorities in the federal government. That has been done.

More women, Blacks and Hispanics have been appointed to senior government positions than during any other Administration in history.

Of the six women who have served in Cabinet positions, three have been Carter appointees.

More women, Blacks and Hispanics have been appointed to federal judgeships during the Carter Administration than during all previous Administrations in history.

Of the 39 women federal judges, 35 have been Carter appointees; of the 38 Black federal judges, 19 have been Carter appointees; of the 14 Hispanic judges, 5 have been Carter appointees.

This record must be continued. The Democratic Party is committed to continue and strengthen the policy of appointing more women and minorities to federal positions at all levels including the Supreme Court.

Handicapped

Great strides have been made toward ending discrimination against the handicapped, through increased employment and education opportunities and greater access to public facilities and services.

In the 1980's, we must continue to work towards the goals of eliminating discrimination and opening opportunities.

All federal agencies must complete their Section 504 regulations and implement them effectively.

We must continue to expand opportunities for independent living.

The Fair Housing Act and Title VI of the Civil Rights Act must be amended to include the handicapped.

We must face the task of making federal facilities and modes of transportation fully accessible.

Job opportunities and job training for the handicapped, including apprenticeship training programs, must be expanded.

We must make the most basic American civil right—the right to vote—fully available to the handicapped

Dr. Martin Luther King, Jr.

Dr. Martin Luther King, Jr. led this nation's effort to provide all of its citizens with civil rights and equal opportunities. His commitment to human rights, peace and non-violence stands as a monument to humanity and courage. To honor this outstanding national leader, we must enact legislation that will commemorate his birthday as a national holiday.

Domestic violence

Each year, 3 to 6 million Americans are injured in acts of domestic violence. To combat this violence the Carter Administration has initiated a government-wide effort to assist and educate victims and rehabilitate victimizers, including:

The formation of a new Office of Domestic Violence in the Department of Health and Human Services; and

Amendments to the Child Abuse Prevention and Treatment Act which provides funds to state and community groups.

The President has signed the Protection of Children Against Sexual Exploitation Act; HUD has developed demonstration projects for shelters for battered women; the Community Services Administration has established a pilot Family Crisis Center Program to assist low-income battered women and children; and the U.S. Commission on Civil Rights held a Consultation on Battered Women in 1978.

Existing federal programs have been coordinated through the Interdepartmental Committee on Domestic Violence, chaired by the Secretary of Health and Human Services. The Democratic Administration must continue to support the passage of the legislation before the Congress, H.R. 2977, which would provide direct, immediate assistance to victims effectively and sensitively.

Insular areas

We must be firmly committed to self-determination for the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands, and vigorously support the realization of whatever political status aspirations are democratically chosen by their peoples. The unique cultures, fragile economies, and locations of our Caribbean and Pacific Islands are distinct assets to the United States which require the sensitive application of policy. We are committed to pursuing initiatives we have begun to stimulate insular economic development, enhance treatment under federal programs, provide vitally needed special assistance and coordinate and rationalize policies. These measures will result in greater self-sufficiency and balanced growth.

Puerto Rico

We are committed to Puerto Rico's right to enjoy full self-determination and a relationship that can evolve in ways that will most benefit U.S. citizens in Puerto Rico. The Democratic Party respects and supports the desire of the people of Puerto Rico to associate, by their own will freely expressed in a peaceful and democratic process, in permanent union with the United States either as a commonwealth or as a state, or to become an independent nation. We are also committed to respect the cultural heritage of the people of Puerto Rico and to the elimination of discriminatory or unfair treatment of Puerto Ricans as American citizens under federal programs.

American Indians

The Carter Administration has upheld and defended the historic special relationship between the federal government and Indian tribes. In addition, it has strongly supported the policy of self-determination and the right to practice the ancestral religions that are important to many tribal members. More than $24 million over the next ten years has been committed to assist Indian tribes with energy resources in making decisions about the development and protection of these resources. The Administration has firmly reiterated its fundamental opposition to the policy of termination which was so detrimental to Indians and their relationship with the federal government.

These policies must continue as the federal government finds better means of dealing effectively and compassionately with Indian tribes and individuals. The federal government must honor its treaty commitments. The federal government must redouble its efforts to improve the housing, health care, education, and general welfare of Indians. Finally, the federal government must work as an equal partner with tribes as they decide for themselves the best means of managing their substantial energy resources.

Ethnic America

President Carter has stated that the composition of American society is analogous to a beautiful mosaic. Each separate part retains its own integrity and identity while adding to and being part of the whole.

America is a pluralistic society. Each of us must learn to live, communicate, and cooperate with persons of other cultures. Our public policies and programs must reflect this pluralism. Immigrants from every nation and their descendants have made numerous contributions to this country, economically, politically and socially. They have traditionally been the backbone of the labor movement and an integral part of the Democratic Party.

Ethnic Americans share the concerns of all Americans. They too are concerned about decent housing, health care, equal employment opportunities, care of the elderly, and education. In addition, ethnic Americans have some concerns of their own. They want to preserve the culture and language of their former homeland. They want to be integrated into the political, social and economic mainstream of American society, but at the same time they are concerned about the foreign policy issues that affect their native countries. We as a nation must be sensitive to their concerns.

President Carter established the Office of Ethnic Affairs and charged it with a broad and diverse mission. The predominant functions of the office are to link the Administration and its ethnic constituents, to foster the concept of pluralism, and to enable all Americans to partake equally in the American way of life.

Americans living abroad

Almost three million American citizens live overseas, both as government employees and private citizens. We know only too well the dangers and sacrifices some of these government officials face in serving their country. With the threat of terrorism and political unrest always present, we are committed to improving the security of our embassies and missions abroad. Our government must work with other governments to ensure that Americans are protected while performing their vital duties in the interest of the United States.

We also recognize the contributions of private citizens living overseas in bringing ideals and culture to other lands and in helping the U.S. economy by promoting exports and increased trade with other countries.

The President's Export Council has recommended that in order to encourage American exports and redress trade imbalances, the United States should conform with the practices of other major trading nations. Existing disincentives should be removed, so that Americans working abroad can compete more equitably and effectively with citizens from other nations.

The Administration must continue to support changes in the law which make it simpler for American parents to ensure that their children born overseas are not denied U.S citzenship.

We also believe that Medicare should be made available to Americans abroad who are eligible for Social Security.

CHAPTER III: GOVERNMENT OPERATION AND REFORM

Making government effective and efficient

The Democratic Party has long stood for an active, responsive, vigorous government. Democrats of our generation have a special obligation to ensure that government is also efficient and well managed.

We understand full well the importance of this obligation. We realize that even the most brilliantly conceived federal programs are doomed to failure if they are not intelligently and efficiently managed.

The kind of government we Democrats stand for is a government that *cares* and knows how to translate that caring into effective action; a government whose heart and head are working in concert.

Over the last four years the Democratic Administration and the Democratic Congress have built a dramatic government reform record. In the years ahead we must carefully implement the changes we have made, and we must pursue additional measures to provide the efficient government the people have a right to expect.

Regulatory reform

Federal regulations are needed to protect consumers and providers in the areas of health, safety, and the environment. Four years ago, however, the overall regulatory machine desperately needed an overhaul. Some rules served only to protect favored industries against competition, at the public's expense. Others imposed conflicting or needlessly costly requirements.

For decades, the economy has been hamstrung by anticompetitive regulations. A Democratic Administration and a Democratic Congress are completing the most sweeping deregulation in history. Actions already taken and bills currently pending are revamping the rules governing airlines, banking, trucking, railroads, and telecommunications. Airline deregulation in its first year of operation alone has saved passengers over 2.5 billion dollars.

For the regulatory programs our country does need, the Administration has established a new management system. Under Executive Order 12044, agencies are reviewing and eliminating outdated rules and analyzing the full impact of new rules before they are issued. They are developing alternative regulatory approaches which can reduce compliance costs without sacrificing goals. They are increasing public participation in the regulatory process. The Regulatory Council is publishing the first government-wide list of upcoming rules, the Regulatory Calendar, and is using it to eliminate conflict and duplication.

The challenges of the Eighties will place great demands on our regulatory system. The reforms we have put in place are building machinery that can meet those challenges. However, much work lies ahead to implement the steps we have taken and go further.

We must continue to conduct an agency-by-agency review to make regulation less intrusive and more effective.

We must find and remove barriers that prevent steady progress toward competition in each industry.

On the management side, we must increase the use of cost-effective regulatory techniques, without adversely affecting worker health or safety.

We must strengthen our research programs to ensure that we set sensible priorities for regulatory action.

We must eliminate those delays, layers of review, and litigation that unduly tie up the process.

We must make the regulatory process accessible to all members of the public who are affected.

We must oppose special interest efforts to undermine the ability of federal agencies to protect consumers, the environment, or public health and safety.

Tax reform

In 1976, this Party pledged to seek fundamental tax reform, for we believed that our tax system had lost much of its needed fairness and equity. President Carter honored that pledge by proposing to Congress the most comprehensive and far-reaching set of tax reform proposals ever made by any Administration. That proposal would have closed over $9 billion worth of tax loopholes, simplified our tax laws, and provided funds for substantial tax reductions for low and middle income taxpayers.

Once again, we call on Congress to legislate meaningful tax reform. We cannot any longer allow the special interests to preserve their particular benefits and loopholes at the expense of the average taxpayer. The fight for tax reform must go forward, and the Party pledges to be a part of that important effort. Therefore, we pledge to seek tax reforms which:

Encourage savings by low and middle income taxpayers;

Close tax loopholes which benefit only special interests at the expense of the average taxpayer and use the proceeds to bring relief to low and middle income Americans;

Simplify the tax code and ease the burden on taxpayers in the preparation of their tax returns;

Encourage capital formation, innovation and new production in the United States;

Curb tax deductions, like those for three-martini lunches, conventions, first class travel, and other expense account deductions, which encourage consumption, discourage saving, and thus impede productivity;

End tax discrimination that penalizes married working couples; and

End abuses in the tax treatment of foreign sources, such as special tax treatment and incentives for multinational corporations that drain jobs and capital from the American economy.

Capital formation is essential both to control inflation and to encourage growth. New tax reform efforts are needed to increase savings and investment, promote the principle of progressive taxation, close loopholes, and maintain adequate levels of federal revenue.

Management

The need to restrain federal spending means that every dollar of the budget must be spent in the most efficient way possible. To achieve this, the Democratic Partnership has been working to streamline the management of the federal government and eliminate waste and fraud from federal programs. Real progress has been made in these important areas.

While these reforms have produced substantial savings for the taxpayers, they must be sustained in the coming years to realize their full potential.

The Civil Service Reform Act can be used to encourage improved productivity of the federal government.

More business-like control of our assets, placing the government's operations on a sound financial basis, must be used to produce real savings.

Special investigations and improved accounting systems must be used to attack fraud, abuse and wasteful practices.

Efforts must be continued to improve the delivery of services to citizens through greater accountability, consolidation and coordination in program administration, and elimination of unnecessary red tape and duplication.

Government openness and integrity

Under the Nixon-Ford Administration the federal government was closed to all but a privileged few and the public had lost faith in the integrity of its public servants.

The Democratic Party takes pride in its long and outstanding record of leadership in opening up the processes of government to genuine participation by the people, and in making government truly responsive to the basic needs of all the American people.

For the last four years, the Carter Administration and the Democratic Congress have devoted a great deal of time and resources to opening government processes and ensuring the integrity of government officials.

The Ethics in Government Act now requires all senior government officials to make a full financial disclosure and severely limits the "revolving door" practice that has developed former federal employees of representing private parties before the federal agencies in which they recently held significant positions.

A statutory provision has now been made for the appointment of a special prosecutor in cases of alleged wrong-doing by senior government officials.

"Whistle-blowers" in the federal government (those who report waste and illegalities) have now been given special statutory protection to prevent possible retribution.

An Executive Order has been issued significantly reducing the amount of classified information, and increasing the amount of classified material to be released over the next decade by about 250 million pages.

As a result of actions such as these, trust and confidence in government officials have been restored. In the coming years, we must ensure full implementation of these initiatives. We must also work toward lobby law reform which is needed to ensure full disclosure of Congressional and executive lobbying activities.

Law enforcement

Numerous changes were necessary when the Democrats took office in 1976. The essential trust between police officers and the public they protect had deteriorated. Funds committed by Congress had been terribly misspent during the eight Republican years.

The Carter Administration has taken solid steps toward correcting this serious problem. It has formalized the relationship between federal and state law enforcement officials to ensure maximum cooperation between federal and state agencies. It has taken long strides toward creating and implementing uniform national guidelines for federal prisons and encouraging state penal institutions to use the same guidelines.

The Democratic Party supports the enactment of a revised federal criminal code which simplifies the currently complex federal criminal law in order to make our federal criminal justice efforts more effective, and repeals antiquated laws while fully protecting all civil liberties. As that effort proceeds, we must ensure that the rights of workers to engage in peaceful picketing during labor disputes are fully protected.

The Democratic Party affirms the right of sportsmen to possess guns for purely hunting and target-shooting purposes. However, handguns simplify and intensify violent crime. Ways must be found to curtail the availability of these weapons. The Democratic Party supports enactment of federal legislation to strengthen the presently inadequate regulations over the manufacture, assembly, distribution, and possession of handguns and to ban "Saturday night specials."

Most important, the government has used its own resources to resolve satisfactorily concerns over the use of deadly force. The Administration has made progress toward the preparation of uniform guidelines for all police departments. They have also utilized the conciliation services available through the Community Relations Service to establish closer working ties among the police and community organizations.

The Democratic Party is pledged to continuing its strong record of providing needed assistance to local law enforcement. The new Law Enforcement Assistance Act, enacted by a Democratic Administration and a Democratic Congress, provides an important framework for this purpose. We are committed to using this framework effectively, in close cooperation with state and local law enforcement authorities.

We affirm our support for the Juvenile Justice and Delinquency Act and the Runaway Youth Act as responses to the serious challenge of youth crime.

We must continue and strengthen efforts at prison reform, to upgrade the safety of our penal institutions, to enhance rehabilitation of offenders, and to lower the recidivism level.

We support federal assistance to the victims of crime, including special programs to assist the elderly and to aid the victims of rape and domestic violence. Further efforts should be made to demonstrate the feasibilty of restitution by the perpetrators of crime.

As we work toward improved law enforcement, we must not permit or sanction excessive or illegal police force.

Minorities in some areas have been discriminated against by such police actions, and we must take every action at the federal, state, and local level to prevent that from happening in the future, including a renewed commitment to affirmative action in the hiring of law enforcement personnel, establishment of civil rights units at appropriate U.S. Attorneys' offices, and swift investigation and prosecution of suspected civil rights violations.

Paperwork reduction

Over the years the federal government has imposed more and more paperwork on the private sector. The Carter Administration has stopped that trend and worked to cut the paperwork burden. We have eliminated unnecessary forms, simplified and consolidated needed forms, and discouraged creation of new paperwork requirements. As a result the federal paperwork burden has been cut 15 percent, or 127 million manhours.

The Administration is currently putting into place the tools we will need to continue and expand this program. In November, 1979, President Carter signed an Executive Order that created the first "paperwork budget." This program will limit the reporting time each agency can impose on the public. In addition, the President has ordered agencies to tailor their forms to reduce the burden on individuals and small business.

We need further legislation. We urge a continuation of the effort to reduce government documents to simple English, easily understandable by all. The Administration is working with Congress to pass a Paperwork Reduction Act, which will close wide loopholes in the current oversight process.

Election reform

Recent reforms in the election process have aided immeasurably in opening the process to more people and have begun to reduce the influence of special interests. The limitations on campaign contributions and the public financing of Presidential elections are two reforms which have worked very well. Business political action committees continue to spend excessively, however. Further reform in this area is essential. In the 1980's we need to enact reforms which will:

Provide for public financing of Congressional campaigns;

Lower contributions limits for political action committees;

Close the loophole that allows private spending in Presidential elections contrary to the intent of the election law reforms;

Encourage voter participation in elections through use of simplified procedures for registration in states that lack mail or election day registration procedures, and by resisting efforts to reduce access to bilingual ballots; and

Increase opportunities for full participation in all areas of party and government affairs by the low and moderate income majority of Americans.

Postal service

The private expression statutes guarantee the protection and security of the mail for all Americans. They are essential to the maintenance of a national postal system, which will require an adequate public service subsidy to assure the delivery of mail to all Americans.

CHAPTER IV: ENERGY, NATURAL, RESOURCES, ENVIRONMENT AND AGRICULTURE

Energy

For the past four years, the Democratic Party's highest legislative priority has been the development of our nation's first comprehensive energy policy. Our actions were necessitated by the Republican Administration's policy that fostered dependence on foreign oil. This Republican legacy led to America's petroleum paralysis, which weakened our security, undermined our strength abroad, threatened our environment and endangered our economic health.

In perhaps no other domestic area did we inherit such a dangerous situation:

Domestic production of oil and natural gas was steadily declining, with price controls discouraging exploration and production.

Natural gas shortages were regularly plaguing parts of our country;

Our dependence on foreign oil was increasing every year;

Wasteful energy practices existed in our industries, homes and transportation;

Solar and other renewable energy resources were being almost completely ignored;

Synthetic fuel production had been stalled;

The federal government was not promoting energy conservation;

Our allies were unwilling to make adequate efforts to reduce their energy consumption; and

Our energy policy was being made by nearly a dozen different agencies and bureaus throughout the federal government.

The struggle to develop an energy policy was difficult and time-consuming. Tough decisions, especially in the area of oil price decontrol, were necessary to reduce our dependence on foreign oil.

Not all of our energy problems have been solved. Yet the achievements of the past four years leave little doubt that we are finally serious about the problems caused by our excessive reliance on foreign oil. As a result of our national energy policy, oil imports will be cut in half by the end of this decade, saving our nation hundreds of billions of dollars. A framework is now in place that will permit further progress in the 1980's. Our economic security demands that we drastically reduce the massive flow of dollars into the OPEC treasuries and oil company bank accounts at the expense of American consumers and business.

Our progress on energy has been realized because we have achieved four principal goals:

Incentives have been provided for the production of new energy sources;

Incentives for new oil production have been added, together with a windfall profits tax, which will fund low income energy assistance and energy research and development;

Incentives have been provided to encourage conservation of our existing energy resources; and

Improved international energy cooperation has reduced our dependence on OPEC.

These actions have produced enormous energy benefits to our nation:

We are importing one million barrels of oil a day less than last year;

Domestic natural gas exploration and production are at record-high levels;

Domestic oil exploration is at a 20-year high, and the decline in domestic production has been averted;

Per capita energy consumption is decreasing;

Use of solar energy has increased considerably, and gasohol production has increased by 600 percent;

Coal production has increased, and foreign markets for our coal have been developed;

Gasoline consumption is 8 percent less than last year.

In the 1980's, this program can be improved, as the framework laid in the last four years is used to ensure our energy security for all time.

America's energy future requires a continued strong national policy based on two fundamental principles: efficient use of energy that will conserve our resources, preserve our economy and creat jobs for Americans; and development of secure, environmentally safe and reasonably priced energy sources.

It is—and must be—the goal of the Democratic Party to mobilize this nation to use energy efficiently without asking Americans to suffer the loss of our strong economy and hard-earned standard of living. Energy efficiency, especially in buildings, transportation, and industrial production, must be made this nation's top priority.

The following specific actions must be taken.

We must make energy conservation our highest priority, not only to reduce our dependence on foreign oil, but also to guarantee that our children and grandchildren have an adequate supply of energy. If we can convince one of every four drivers exceeding the 55 mile per hour speed limit to reduce their speed, we can save 100,000 barrels a day. Conservation is the cheapest form of energy production.

We must establish a massive residential energy conservation grant program. We must provide subsidized loans, direct financial assistance, and other substantial incentives to make all residences in the United States energy efficient, through upgraded insulation, heating, cooling and waterheating. Special incentives should be afforded for the use of renewable energy resources such as passive and active solar energy systems. Our goal should be to ensure that all economically justified energy efficiency investments are made by 1990.

We should use our energy programs to aid in rebuilding the industrial heartland. Industry must be given financial incentives to improve the energy efficiency of industrial processes and to build substantial amounts of generating capacity through co-generation.

We must implement mandatory Building Energy Performance Standards (BEPS) to encourage the design and construction of energy efficient buildings. Energy efficiency standards should apply to *all* new construction. Implementation of energy efficiency standards should begin with federal government buildings. In addition, the federal government should lead the way in implementing solar and energy efficiency improvements programs through its loan and insurance agencies by requiring energy conservation standards for federally assisted properties.

In recognition of the potential for substantial energy savings if our most efficient methods of transportation are utilized, we must provide direct economic assistance where private capital is unavailable to improve those means of transport.

Major new efforts must be launched to develop synthetic and alternative renewable energy sources. In pursuing a strong program of synthetic fuel plants we must also be sensitive to environmental and water concerns. The federal government must help eliminate red-tape involved in the construction of vital energy facilities. The Energy Mobilization Board, an essential mechanism to speed the construction of vital energy facilities, should be able to override state and local substantive law only with the consent of Congress and the President.

The Democratic Party regards coal as our nation's greatest energy resource. It must play a decisive role in America's energy future. We must increase our use of coal. To accomplish this, we must see that shippers are not overburdened with excessive rates for transportation. Severance taxes levied for depletion of natural resources should be equitable. We must make clean coal conversion a reality. To this end, we will assist utilities that are large enough to permit coal conversion while maintaining or improving air quality. We must also provide incentives for industrial boiler coal conversion. Coal conversion can and must be accomplished in a manner that protects public health, nationally, regionally and locally. It can and must increase the use of coal, reduce the demand for oil, and provide employment where jobs are needed the most.

The federal government should accept its responsibility as trustee for the American Indian and Alaska Native tribes to ensure that tribal resources develop at a pace that preserves the existing life-style and that the tribes participate in the contracting process for resource development with full knowledge of the environmental tradeoffs. The federal government must continue to cooperate with tribal governments in such matters as changes in the use of sacred and religious areas. The Democratic Party believes that

American Indian and Alaska Native reservations should remain the permanent homeland for these peoples.

We recognize that Hawaii, U.S. territories and Trust territories in the Pacific Basin are particularly vulnerable because of their total dependence on imported oil for meeting their energy needs. These insular areas do not have access to the alternative sources of energy that are available elsewhere. Consequently, the Democratic Party recommends that these areas, where feasible, be chosen as sites for demonstration and/or pilot alternative energy projects, especially ocean thermal energy conversion, solar and wind.

We must lead the Western World in developing a program for increased use of coal in Europe, Japan, and the developing nations.

Oil exploration on federal lands must be accelerated, consistent with environmental protections.

Offshore energy leasing and development should be conditioned on full protection of the environment and marine resources. Lease sales should proceed only after appropriate safeguards necessary to preserve and protect vital natural resources are put in place. The determination of what safeguards are needed must be based on a complete assessment of the effects of offshore activity on the marine and coastal environment, and must be made in conjunction with the Environmental Protection Agency and the National Oceanic and Atmospheric Agency, the federal agencies charged with protecting our nation's fishery and other environmental resources.

Solar energy use must be increased, and strong efforts, including continued financial support, must be undertaken to make certain that we achieve the goal of having solar energy account for 20 percent of our total energy by the year 2000.

We must develop other promising alternatives, including biomass, fusion, geo-pressure, co-generation, geothermal, wind and hydro power. The Democratic Party vigorously supports substantial funding for the construction of an engineering test facility for fusion technology. Fusion energy is a safe, clean alternative source of energy which can be used to generate electricity efficiently.

We must encourage research and development of hydrogen or electric powered vehicles. We must fully commit ourselves to an alcohol fuel program. The federal government should expand its use of alcohol fuels in government and military vehicles. This will help reduce surplus feed grain and help to stabilize prices. The Democratic Party pledges that production of fuel-grade alcohol will be increased until at least a target of 500 million barrels of ethanol by 1981 is achieved.

A stand-by gasoline rationing plan must be adopted for use in the event of a serious energy supply interruption. In times of supply interruption, rationing is essential for equitable and prompt distribution of gas to the public. The Strategic Petroleum Reserve should be filled as market conditions permit, consistent with the requirements of existing law.

Legislation must be enacted to prohibit purchases by oil companies of energy or non-energy companies unless the purchase would enhance competition.

The major oil companies must be responsible and accountable in their production, importation and distribution of fossil fuels. Oil is as basic to our economy, defense, and general welfare as electric power and money. Consequently, the oil companies must be invested with public purpose. To accomplish this objective, we support strengthened leasing regulations, reporting requirements and monitoring by the Departments of Energy and Justice.

Thorough investigations of the compliance of the oil companies with energy price laws and regulations must be continued, and tough penalties imposed in the event of noncompliance. The Department of Energy, consistent with the law, should share its energy data with the Department of Justice and the Federal Trade Commission.

We must make conservation and renewable energy our nation's energy priorities for the future. Through the federal government's commitment to renewable energy sources and energy efficiency, and as alternative fuels become available in the future, we will retire nuclear power plants in an orderly manner.

We must give the highest priority to dealing with the nuclear waste disposal problem. Current efforts to develop a safe. environmentally sound nuclear waste disposal plan must be continued and intensified.

The NRC shall issue no licenses or permits for new nuclear plants until the Kemeny Commission recommendations are fully implemented.

Existing plants must be required to meet the safety recommendations of the Kemeny Commission. The Democratic Party supports prompt implementation of their recommendations. No plant unable to meet these standards can be allowed to operate.

Safe permanent disposal of all high level radioactive waste and transuranic waste should be the primary responsibility of the federal government, in consultation and concurrence with state, local, tribal, and territorial governments throughout the entire decision-making process, including the actual siting and operation of repositories. Every state should be responsible for the management and disposal of all low-level waste generated by non-defense sources within its boundaries. Where appropriate, this responsibility should be exercised through state regional compacts. There should be more federal funding for research and development of safer, more efficient methods of radioactive waste disposal.

Funds generated by the Windfall Profits Tax must be used to expand mass transit. Federal assistance should be provided for construction and operation costs.

Environment

We are charged with the stewardship of an irreplaceable environment. The Democratic Party must continue to be as environmentally progressive in the future as it has been in the past. Progress in environmental quality—a major achievement of the 1970's—must continue in the 1980's. The environmental problems we face today are, if anything, more challenging and urgent than those of ten years ago.

The great strides we have taken during the past few years are the best evidence of our commitment to resource conservation and environmental restoration. We have compiled a proud record.

During the next four years, we must carry forward vigorously with these important policies, and move to address a series of new challenges.

We must move decisively to protect our countryside and our coastline from overdevelopment and mismanagement. Major efforts are now underway to solve such problems as disappearing farmland and development on our barrier islands. These efforts should help forge a strong national consensus behind the realization that protection must be balanced with the need to properly manage and utilize our land resources during the 1980's.

We must develop new and improved working relationships among federal, state, local, tribal, and territorial governments and private interests, to manage effectively our programs for increased domestic energy production and their impact on people, water, air, and the environment in general. All of our energy development efforts should be carried out without sacrificing environmental quality.

We must continue on the path to a sustainable energy future—a future based increasingly on renewable resources and energy conservation. Our national goal of having 20 percent of our energy from renewable resources in the year 2000 must become a working target, not a forgotten slogan. Conservation must remain the cornerstone of our national energy supply.

New efforts at home and abroad will be required in the early 1980's to face squarely such global problems as the destruction of forests, the loss of countless irreplaceable species, growing world population, acid rain, and carbon dioxide buildup.

Passage by Congress of the hazardous waste cleanup proposal will provide the basis for a major effort beginning in 1981 to clean up the thousands of hazardous waste dump sites across the country. Toxic chemicals are a serious threat to the health of our people. We must continue our programs to improve agency performance in many areas, such as protection of groundwaters, in order to better protect the public.

We must strive to ensure that environmental regulations cost no more than necessary and are streamlined to eliminate waste, duplication and delay. We must not lose sight of the fact that the benefits of these regulations far outweigh their costs. We must work to reform regulation without deforming it.

We support the allocation of resources to the Environmental Protection Agency and other environmental agencies sufficient to carry out their mandates.

We support strict adherence to automobile pollution standards.

We support policies to eliminate acid rain pollution from power plant emissions.

We will commit ourselves to efficient transportation alternatives, including mass transit, car pooling, van pooling, employer based commuter plans, and hydrogen and electric commuter vehicles.

We will continue to fight noise pollution in our urban centers and job sites.

We will encourage the recycling of municipal solid waste.

We will seek a strong "super-fund" law financed by government and industry.

We must continue to pursue offshore energy leasing to stimulate our domestic oil and gas production and reduce our dependence on foreign oil consistent with environmental and marine concerns.

We will fund adequately the Land and Water Conservation Fund to protect our national park system.

We will implement vigorously the Toxic Substances Control Act.

Often, actions by one nation affect the economic growth and the quality of life in other nations. Such actions can be influenced by international agreement and incentives.

To defend against environmental risks that cross national frontiers, international cooperation must be extended to new areas, such as acid rain, deforestation and desertification, buildup of carbon dioxide in the atmosphere, thinning of the ozone shield, air and water pollution, oil spills, chemicals in the environment, and disposal of radioactive waste.

Water

Water is a necessity to all, and represents life itself to much of the American Union. We recognize especially the singular dependence of the Western states on scarce water supplies. The development of navigation, irrigation, flood control, and hydroelectric projects is vital to the economic health of the West, and correspondingly to the entire nation.

Working with Congress, the Democratic Administration will implement a national water policy which recognizes the special needs of the West. Toward this end, we support the modern standards and valid cost-benefit analysis suggested by the Federal Water Resources Council. We support a federal study, in partnership with the affected states, to explore possibilities and recommend alternatives relative to importation of water into arid and semi-arid states. We also support state, local, and tribal participation in all phases of water programs within their respective jurisdictions.

Recently, water programs across the nation have become enmeshed in controversy and conflicting values. It is not unusual for a federal water project to take a generation from the time it is authorized to the time construction actually begins.

Yet the national need for expanded and accelerated investment in water development grows ever more pressing, and is increasingly acknowledged. If, as but one example, we are to develop our unequaled coal resources as a substitute for imported oil, we will require expansion of water transportation and improvement of seaports beyond the imagination of even those early Americans who sensed the path to empire in our inland waterways. The development of synthetic fuels, which must of necessity be concentrated in states with sparse water supplies, is an enormous challenge to engineering and science.

Similarly, the task of reindustrialization requires that we recognize the water development needs of all sections of the nation.

Water to supply steel mills and automobile factories, to provide for the needs of commercial cities and associated suburbs, makes a legitimate and pressing claims on national priorities.

We recognize the need to develop a truly national water program which responds to the needs of each region of our country in an active and effective manner and which recognizes the social effects of water projects.

The Democratic Party strongly supports the desalinization of sea water and the development of water resources in those areas of the country where water is scarce.

Agriculture

America's farmers are among the most vital economic forces of the nation. Because of their extraordinary productivity, America's farm workers provide more food and fiber per person at a lower cost than their counterparts in any other country. American consumers have a more certain food supply than consumers in any other nation, even though a third of our farm production is sold abroad each year.

In 1977, the Democratic Administration inherited a farm economy marked by serious over-production and badly outdated price support programs. Farm prices and incomes were plummeting, partly in response to misguided attempts at price controls. The livestock sector was in its third straight year of loss, and a herd liquidation of unprecedented scale was underway.

Because of actions taken by the Democratic Administration and Democratic Congress, this situation was turned around in 1978 and 1979. U.S. agriculture was put back on a track of steady, sustained growth and improvement. The sharp decline of farm prices and farm incomes was reversed. An aggressive program of export promotion resulted in record high agricultural exports in each of the past three years.

Recently, however, the nation's farm economy has been hurt by reduced prices; high costs of production, including energy, inflation, equipment, and high interest rates. As a result, our nation's farmers are facing a time of hardship.

Agricultural policy in the 1980's must strengthen the forces which made American farmers the most productive in the world and American agriculture the hope of hungry people everywhere. In this way, we can ensure a decade of prosperity for farmers and of agricultural abundance for America's consumers.

The Democratic Party pledges itself to the following goals.

Continued Attention to Expanding Farm Exports

American agriculture's long-run interests remain firmly tied to the sale of U.S. farm products abroad. Despite the significant progress made to date, it is important that we continue to work at breaking down barriers to trade and capitalizing on our nation's enormous advantage in the production of food and fiber.

If food is to be used as an instrument of foreign policy, it is imperative that farm income be protected. Farmers must have access to free markets.

Recognizing the patriotic sacrifices made by the American farmer during the agricultural embargo protesting the invasion of Afghanistan, we commend the agricultural community's contribution in the field of foreign affairs. Except in time of war or grave threats to national security, the federal government should impose no future embargoes on agricultural products.

Protecting Farm Prices and Farm Income

Rapidly rising costs of production, especially energy costs, make it imperative that we increase the level of support for farm prices and income by increasing target prices to cover the cost of production. For those farm products not covered by target prices, such as soybeans, cattle, hogs, poultry, sugar cane, and sugar beets, we pledge support programs that will maintain viable domestic production. Low cost farm credit should be extended with the least possible delay in times of stress from decreased farm income or disasters.

It is in the nation's long-run interest that returns to farmers keep pace with rising costs to ensure a fair return on investment.

Measures To Protect and Further Enhance Agricultural Productivity

Although agricultural productivity remains high in comparison with productivity in the nonfarm sector, its rate of increase has slowed over the past two or three decades. This trend must be reversed through greater attention to the effects of regulatory actions, increased support for agricultural research, and intensified efforts to conserve our vital land and water resources.

Rebuilding Our Agricultural Transportation System

The transportation system which moves our agricultural products to their final markets, including ports for export shipment, has been strained to the limit. While needed improvements have begun, through such measures as trucking and rail deregulation and the expansion of Lock and Dam 26 (on the Mississippi River at Alton, Illinois), more intensive efforts will be required in the future. In the case of railroads, a rebuilding effort will be required.

Protecting Our Soil Resource

American agriculture is critically dependent on the productivity of its soil. Without careful and consistent stewardship of this important resource, it can become depleted. an assessment of our nation's conservation needs is now underway. We must be prepared to act on the findings of this assessment. Emergency procedures should be enacted to increase soil conservation incentives for construction of watersheds, tile intake terraces, and other soil saving practices.

Protecting Family Farms

The real genius of American agriculture is the role and prominence of the farm family. It is this form of organization that provides agriculture with its vitality, independent spirit, and progressiveness. We must protect farmers from land speculators, giant farm combinations, and foreign buyers. We support laws requiring disclosure of all foreign ownership of farmland and we will continue to monitor such ownership to determine its impact on our farms.

While we recognize the need to modernize the 1902 Reclamation Act, we reaffirm our support for its intent—to assure that the federal subsidy program assists only family farmers.

We support reforms in the estate tax to strengthen the stability of family farms.

Farmer Involvement

There is a continuing need to devise better ways of involving people in the decisions of their government, particularly in those decisions that have direct and important effects on their lives. We realize the need for a strong cattle industry and for ranchers' involvement in the development of farm programs. Considerable progress has been made in this regard, but more is required.

Capper-Volstead Act

We reaffirm our strong support for agricultural cooperatives and bargaining associations to engage in vigorous programs to pack, process and market their members' crops as provided for in the Capper-Volstead Act.

Farm Labor

We must vigorously enforce existing laws relating to farm labor organization and recognize the right of farm workers to bargain collectively, while ensuring the legal rights of farmers.

Farm Mechanization

We support retraining programs for farm workers displaced by mechanized farming.

Forestry

America's national forests contain a national treasure that provides recreation, wilderness, fish and wildlife, and timber products.

We reaffirm the Democratic Party's traditional support for multiple-use management to ensure the survival of these precious resources for this generation and generations to come.

We call for the speedy resolution by Congress of the Roadless Area Review and Evaluation, stimulated by this Administration, to determine which areas are best suited for wilderness and which should be released for timber harvest and multiple-use management.

We support continued assistance to private nonindustrial forest owners to increase their management potential.

On federal lands identified as part of our timber resource, we support:

Management policies which, consistent with sound, complete land management plans, will result in the highest timber yields, when trees are mature, and which can be sustained over the long term;

Concentration of timber sales on areas of greatest potential;

Management of these irreplaceable and environmentally unique areas to maintain perpetually their value; and

Provision of adequate access facilities for all of these uses.

We shall insist that administration of public lands by the Department of Interior be fair and equitable. The interest of the state within which such public lands lie must be of paramount importance in the decision-making process. We encourage all federal agencies to consult with the states on such matters.

Fisheries

Under the Democratic Administration the U.S. fishing industry has made substantial progress, as evidenced by the following:

Commercial landings of fish in 1979 were up 45 percent in value and 21 percent in quantity compared with 1977;

The U.S. share of the catch in our 200-mile fisheries conservation zone increased from 27 percent in 1978 to 33 percent in 1979;

Over the same period, the foreign catch of fish in the U.S. 200-mile zone dropped 6 percent, and 29 percent from the average for the five preceding years;

The U.S. has moved from fifth in the

world in 1977 to fourth in 1978 in total commercial fish landings; and

Exports of U.S. edible fishery products in 1979 were up 116 percent in value and 67 percent in quantity compared with 1977.

While such trends are encouraging, there remains a tremendous potential for growth. By volume, 67 percent, and by value, 34 percent, of the harvest in the fishery conservation zone is still taken by foreign vessels. The value of the catch to foreign fishermen was $470 million in 1979.

The need for more rapid growth of the U.S. fishing industry is illustrated by the fact that imports of fisheries' products outweighed exports by $1.7 billion last year. With full development of our industry, this deficit could be erased. Moreover, 43,000 new jobs could be created.

One-fifth of the world's fish are found in waters off the United States. We pledge to continue the development of our fishing industry so that the U.S. achieves self-sufficiency in this sector and fully utilizes the valuable and abundant fisheries resources off our shores. To this end, continuing effort in the following areas is needed:

Develop a balanced U.S. harvesting, processing and marketing capability on a geographical and fishery-by-fishery basis;

Continue to phase out foreign fishing within our 200-mile zone;

Target efforts to stimulate and expand those fisheries that are presently unutilized and underutilized;

Increase research and development through cooperative federal-private efforts with emphasis on industry initiatives;

Encourage the availability of capital in sectors where it is particularly needed;

Promote market development, and to that end, continue to allocate surplus fishery resources of the U.S. 200-mile zone to foreign nations in order to stimulate improved access to their markets for our fish products;

Enhance conservation and management of U.S. fishery resources and in that effort, increase observer coverage of foreign fishing operations in the 200-mile zone;

Work toward ensuring that a fair share of the costs of conservation, management, research and enforcement in the 200-mile zone is borne by foreign fishermen who enjoy access to our surplus fishery resources;

Assist the U.S. distant-water fleets through international agreements;

Support an international ocean regime for fisheries management through successful completion of Law-of-the-Sea negotiations;

Encourage development of a diversified U.S. aquaculture industry;

Protect, restore and enhance fish habitats;

Continue support for research, propagation and management of our anadromous fish resource; and

In recognition of its economic and recreational importance, accord a high priority to maintaining and improving marine sports fishing.

CHAPTER V: FOREIGN POLICY

Introduction

When the Democratic Party came into office almost four years ago, the most dangerous threat to America's position in the world was the profound disillusionment and mistrust which the American people felt for their own government. This had reached the point where the very term "national security" became synonymous with the abuse of power, deceit and violation of public trust. It undermined our capacity to defend our interests and to play our proper role in the world at a time when Soviet power was continuing to grow.

The hallmark of the previous eight years of Republican Administration had been to emphasize the primacy of power politics irrespective of compatibility with American values and with the increasing power of the Soviet Union. The result was disrespect abroad and discontent at home.

The Democratic Party was determined to make our values a central factor in shaping American foreign policy. The one-sided emphasis of the previous Republican Administration had led many Americans to a suspicion of power, and in some respects, even to rejection of military strength. The American people longed to see their country once again identified with widespread human aspirations. The Democratic Party understood, if the Republicans did not, that this is essential to preserve our long-term interests in the world.

The Democratic Administration sought to reconcile there two requirements of American foreign policy—principle and strength. Both are required to maintain a constructive and secure relationship between America and the rest of the world. We have tried to make clear the continuing importance of American strength in a world of change. Without such strength, there is a genuine risk that global change will deteriorate into anarchy to be exploited by our adversaries' military power. Thus, the revival of American strength has been a central preoccupation of the Democratic Administration.

The use of American power is necessary as a means of shaping not only a more secure, but also a more decent world. To shape a decent world, we must pursue objectives that are moral, that make clear our support for the aspirations of mankind and that are rooted in the ideals of the American people.

That is why the Democrats have stressed human rights. That is why America once again has supported the aspirations of the vast majority of the world's population for greater human justice and freedom. As we continue to strive to solve our own internal problems, we are proud of the values for which the United States has always stood. We should continue to be a beacon of liberty around the world and to effectively and positively state America's case for freedom to the world through various governmental and nongovernmental channels.

A foreign policy which seeks to blend our ideals and our strength does not easily reduce itself to simple statements.

First, we must consistently strengthen our relations with likeminded industrial democracies. In meeting the dangers of the coming decade the United States will consult closely with our Allies to advance common security and political goals. As a result of annual summit meetings, coordinated economic policies and effective programs of international energy conservation have been fashioned. With the cooperation of rich and poor nations alike, a new international trade agreement has been reached which safeguards our free enterprise system from protectionism and gives us greater economic opportunity in the world, while it gives the developing world a stake in the stability of the world's economy.

Second, we must continue to improve our relations with the Third World by being sensitive to their legitimate aspirations. The United States should be a positive force for peaceful change in responding to ferment in the Third World. Today, thanks to a number of steps that have been taken—strengthening the international aid institutions, the Panama Canal treaties, the Zimbabwe settlement, the normalization of relations with China—the United States has a healthier and more productive relationship with these countries.

Our third objective must be peace in the Middle East. The Carter Administration has pursued this objective with determination and together with the leaders of Israel and Egypt, has overcome great obstacles in the last three years. America made this commitment for two fundamental reasons—morality and national security.

Our nation feels a profound moral obligation to sustain and assure the security of Israel. That is why our relationship with Israel is, in most respects, a unique one. Israel is the single democracy, the most stable government, the most strategic asset and our closest ally in the region.

To fulfill this imperative, we must move towards peace in the Middle East. Without peace, there is a growing prospect, indeed inevitability, that this region will become radicalized, susceptible to foreign instrusion, and possibly involved in another war. Thus, peace in the Middle East also is vital for our national security interests.

The strength of these two impulses—our moral commitment and national security—has sustained the Democratic Administration in many difficult trials. The result has been the first peace ever between Israel and an Arab country, as well as the eventual prospect of a wider comprehensive agreement which will assure peace and security to all parties concerned. Our goal is to make the Middle East an area of stability and progress in which the United States can play a full and constructive role.

Our fourth major objective is to strengthen the military security of the United States and our allies at a time when trends in the military balance have become increasingly adverse. America is now, and will continue to be, the strongest power on earth. It was the Democratic Party's greatest hope that we could, in fact, reduce our military effort. But realities of the world situation, including the unremitting buildup of Soviet military forces, required that we begin early to reverse the decade-long decline in American defense efforts.

In 1977, the United States joined with NATO to develop, for the first time in the history of the Alliance, a long-term defense program calling for three percent annual real growth in our collective defense efforts. This is being fulfilled. In the first year, the Democratic Administration decided that the U.S. needed an enhanced strategic posture and policy to deal with the increased first strike capability of the Soviet Union. To this end basic commitments were made regarding U.S. strategic capabilities for the late 1980's, in particular, the MX land-based mobile ICBM deterrent. Finally, development is now underway of a rapid development force capable of defending our interests and protecting our friends in those parts of the world where American military forces are not regularly present.

At the same time, the Democratic Administration has determined to cut waste in defense spending. The B–1 bomber was cancelled because it was technologically obsolete. A defense bill containing unnecssary expenditures for a new nuclear carrier, while neglecting the readiness of our day-to-day forces, was vetoed and the veto was sustained. These decisions involved difficult choices, but the result is a leaner, stronger American military posture.

As a fifth objective the Democrats have been and remain committed to arms control, especially to strategic arms limitations, and to maintain a firm and balanced relationship with the Soviet Union. Our resolve to pursue this goal remains as strong as ever.

To avoid the danger to all mankind from an intensification of the strategic arms competition, and to curb a possible acceleration of the nuclear arms race while awaiting the ratification of the SALT II Treaty, we endorse the policy of continuing to take no action which would be inconsistent with its object and purpose, so long as the Soviet Union does likewise.

Arms control and strategic arms limitation are of crucial importance to us and to all other people. The SALT II Agreement is a major accomplishment of the Democratic Administration. It contributes directly to our national security, and we will seek its ratification at the earliest feasible time.

Defense

America's military strength is and must be unsurpassed. The Democratic Administration has moved to reverse the threatened decline in America's world position. While claiming concern for our nation's defense preparedness, the Nixon-Ford Administration presided over a steady decline of 33 percent in real U.S. military spending between 1968 and 1976.

As a result of the joint efforts of the Democratic Administration and Congress, there has been a real increase in our defense spending in every year since 1976. This increase is necessary in order to compensate for the decline in U.S. military strength over the previous eight years and to assure a high quality of military personnel, an effective nuclear deterrent capability, a capable conventional fighting force and an improved intelligence capability. We will act to further improve intelligence gathering and analysis.

We must be careful that our defense dollars are spent wisely. We must make sure that we develop and deploy practical weapons and that we have the resources to ensure that the men and women who must operate these weapons have the skill to do so.

The serious question of manpower shortages must be addressed promptly. In order to prevent the necessity of a peacetime draft, the all-volunteer force must have wage standards which will retain experienced personnel or recruit new personnel upon whom an increasingly sophisticated military heavily depends.

We will upgrade the combat readiness of our armed forces. We will give the highest priority to combat training, to an effective Reserve and Guard force, and to sufficient supplies, spare parts, fuel and ammunition. Registration of 19-year-old men has been undertaken in order to enable the United States to mobilize more rapidly in the event of an emergency. We do not favor a peacetime draft or the exclusion of women from registration. We will seek ways to expand voluntary service in both the armed forces and non-military programs such as VISTA, the Young Adult Conservation Corps, and the Peace Corps.

We need to go forward to protect our retaliatory capabilities in the face of continuing Soviet advances in their strategic forces.

The nation has moved to modernize its strategic deterrent through the MX, Trident, and cruise missile systems. The MX missile deployment will enhance the survivability of our land-based intercontinental ballistic missile force. Cruise missiles will modernize our strategic air deterrent, and the new Trident submarine, with a missile range of over 4,000 miles, will both improve and help guarantee the invulnerability of our nuclear deterrent.

The United States has acted to correct the dangerous military imbalance which had developed in Europe, by initiating and obtaining Allied support for a long overdue NATO long-term defense program and proceeding toward the deployment in Europe of long-range theater nuclear deterrents to counter the Soviet buildup of such weaponry in Europe. Our commitment to increase defense spending by at least three percent per year is crucial to the maintenance of Allied consensus and confidence in this regard. We need to modernize our conventional military capabilities so that we can better protect American lives and American interests abroad.

The Democratic Administration has acted to improve our ability to make rapid responses to contingencies by organizing and supporting rapid deployment forces capable of responding to military problems in any part of the world where our vital interests are threatened. To that end, we favor the development and production of a new fleet of cargo aircraft with intercontinental range, the design and procurement of a force of Maritime Prepositioning ships that will carry heavy equipment and supplies for three Marine Corps brigades, and an increase in regional military exercises, in cooperation with friendly states. We have given particular attention to developing the facilities and capabilities to further support the policy of the United States with regard to the Persian Gulf enunciated by President Carter in the State of the Union address on January 23, 1980: "Let our position be absolutely clear: an attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America and such an assault will be repelled by any means necessary, including military force."

We are confident that the negotiation of American overseas military facilities in support of this effort as well as other areas of the world will be conducted with respect for the independence, integrity and cultural values of the host countries.

The Democratic Party recognizes the strategic value of Israel and that peace in the Middle East requires a militarily secure Israel. Because Middle East nations that have not joined the peace process have been able to purchase the latest sophisticated Soviet and other weaponry, the technological advantage which Israel holds over its adversaries has been jeopardized. The progress of the peace talks means that Israel has gained considerable security advantages from peace with Egypt. At the same time, Israel will lose some of the tactical advantages previously provided by territory occupied in 1967. Any further war Israel fights could take place close to its population centers. Therefore, we pledge a continued high level of U.S. military support for Israel.

Our military supply relationship with other nations of the Middle East is also important to our national security. It should continue to be carried out in a manner which does not jeopardize the security of Israel.

U.S.-Soviet relations

A strong, consistent, and principled policy toward the Soviet Union is a vital element of our foreign policy everywhere. The Democratic Administration will use all its resources—including both firm diplomacy and military power—to deter adventurism and to make restraint the only acceptable course available to our adversaries.

We stand ready to pursue good faith negotiations with the Soviet Union at every opportunity on a wide range of issues including strategic arms, forces in the European theater, and other matters which would contribute to peace and a more genuine and reciprocal detente.

At the heart of our policy toward the Soviet Union must be a clear recognition of the reality of Soviet power. We must reject the easy mythology that the Soviets see the world as we do. A long-term strategy for the 1980's requires a clear view of the Soviet Union, a view without illusion that our adversary is either benign or omnipotent.

The Soviet attack on Afghanistan, the murder of its leaders, and the ruthless effort to exterminate those resisting the Soviet invasion have violated all norms of international law and practice and have been thoroughly condemned by the international community.

This attempt to subjugate an independent, nonaligned Islamic people as a callous violation of international law, the United Nations Charter, and the principle of restraint which underlies detente.

This invasion places the Soviet armed forces within fighter aircraft range of the Straits of Hormuz, the lifeline of the bulk of the world's exportable oil.

It creates fear and instability among our friends in the region who are already buffeted by the disintegration of Iran as a stabilizing force.

More broadly, the success or failure of Soviet military aggression will affect present and future Soviet leaders' readiness to use force to gain their ends.

Hence, it is a threat not only to our strategic interests in the region but to world peace.

A strong American response to the illegal and brutal invasion of Afghanistan serves our nation's security interests. It must and will be sustained, as long as Soviet troops remain there.

In response to the Soviet invasion, the United States has cut grain exports, curbed high technology trade and interrupted scientific and cultural relations.

The United States has also committed itself to a boycott of Moscow as the site of the Olympic Games. To attend while the Soviet armed might brutally seeks to crush the national liberation movement in Afghanistan would be a travesty of the Olympic spirit.

We must continue to support U.S. actions such as the Olympic boycott and trade restrictions in order to show determined opposition to Soviet aggression. We insist on immediate Soviet withdrawal from Afghanistan and the reestablishment of a non-aligned, independent government which is supported by the people of Afghanistan. The Soviet invasion of Afghanistan makes it extremely important that the United States be ready to aid those in the Third World resisting Soviet, Cuban, and East German domination.

While the invasion of Afghanistan has sidetracked our pursuit of a productive relationship with the Soviet Union, the Democratic Party supports efforts to strengthen ties to the nations of Eastern Europe. Treating each of those nations with sensitivity to its individual situation, the U.S. has steadily improved relations with the people of Hungary, Poland, and Romania. While Soviet conduct has profoundly damaged East-West relations, the U.S. should continue to draw distinctions, to the extent possible, between the sanctions it imposes on economic dealings with Moscow and similar relations with some other members of the Warsaw Pact, as long as they are not diverting that trade, in grain or items under export control, to the use of the Soviet Union and as long as they are willing to maintain a constructive dialogue on issues of concern and significance to the United States.

Through the measures now being taken, including both denial of economic benefits and the Olympic boycott, as well as our efforts to enhance the security of the region more directly affected, the objective should be to make the Soviets pay a price for their act of international aggression. We should continue to do so along with efforts to strengthen our national defense. We cannot permit this attack across an international border, with the threat it poses to the region and thus to the strategic balance, to go unanswered. Only firmness now can prevent new adventures later.

The Democratic Administration will also seek to reverse the recent sharp downturn in Soviet Jewish emigration and to obtain the release of dissidents now detained in the Soviet Union, including 41 members of the Helsinki Watch Groups who are in Soviet prisons, labor camps and banishment for their human rights activity. We will pursue our human rights concerns as a necessary part of overall progress on the range of political, military and economic issues between the United States and the Soviet Union—including the possibility of improved, mutually beneficial economic relations between our two countries.

Consideration of human rights should be a permanent feature of U.S.-Soviet relations. We salute those Soviet citizens active in the Moscow, Ukrainian, Lithuanian, Armenian, and Georgian Helsinki Monitoring Groups, assert our support of the courageous human rights advocate, Nobel Peace Prize Winner, Dr. Andrei Sakharov, and call for Dr. Sakharov's release from forced exile as well as the release of all political prisoners in the U.S.S.R.

We pledge that a Democratic Administration will raise the question of the Soviet violation of human rights at all appropriate international forums.

Arms control

The SALT II Treaty also serves our security interests. It is a vital step in an arms control process that can begin to lift from humanity the shadow of nuclear war. That process, also, must be sustained.

Soviet aggression against Afghanistan has delayed the course of ratification of the SALT II Treaty, but we must continue to pursue both security priorities; deterrence of Soviet aggression and balanced arms control agreements. Both the response to Afghanistan and the SALT II Treaty serve this purpose.

The SALT Treaty is in the U.S. interest because it is an important way of restraining Soviet behavior.

Without SALT II, the Soviets could have hundreds more missiles and thousands more nuclear warheads than the Treaty permits. Under the Treaty, they would have to eliminate many nuclear weapons they already have.

The Treaty helps sustain a strong American position in the world. Our Allies and other nations around the world know the SALT II Treaty serves their security interests as well as ours. American support for arms control is important to our standing in the international community, the same community that has rebuked the Soviets for their attempted suppression of Afghanistan. It is also important to our efforts to organize an enduring response to the growing threat to Europe of the Soviet SS-20 nuclear missiles and to Soviet aggression in Afghanistan.

Along with support for SALT, we seek to maintain a stable conventional and theater nuclear balance in Europe. We will support modernization programs in which European countries bear their fair share of the cost and other burdens. At the same time, we will ensure that no possibility for effective limits on theater nuclear weapons is left unexplored. The Democratic Administration will join with our NATO allies in making far-reaching, equitable and verifiable proposals for nuclear and conventional arms control in Europe.

The Democratic Party wants an arms control process to continue, just as it wants to sustain strong policies against Soviet aggression in Afghanistan. We understand that both build peace and make our nation more secure. Accordingly, we must persist in a strong policy regarding the Soviet aggression, and we must seek ratification of SALT as soon as it is feasible.

A Democratic Administration will not accept an indefinite deferral of strategic arms control. On the basis of review and planning of U.S. security requirements in the coming decade, we are determined to pursue negotiations with the Soviet Union, aimed at the achievement of strategic stability and, for the first time, of major reductions and qualitative limits on strategic systems. The American SALT proposals in March 1977 were the first effort to seek such reductions, which remain the goal and justification of arms control. A Democratic Administration will treat the Soviet government's readiness to negotiate verifiable, substantial and significant reductions and qualitative limits as a test of its seriousness about arms control and the compatibility of its approach to arms control with that of the United States.

We will pursue other arms control opportunities that can enhance both our national security and the prospects of peace. In particular, the Democratic Administration will pursue a Comprehensive Nuclear Test Ban Treaty. Such a treaty is vital to our hopes to control the proliferation of nuclear weapons. Following the 1980 Review Conference on the Nuclear Non-Proliferation Treaty, we will step up our efforts to expand adherence to the treaty, to strengthen international safeguards and controls over nuclear materials, equipment and technology, and to forestall the spread of nuclear explosive capabilities. In any peaceful nuclear supply, we will continue to seek the full application of international safeguards and undertakings not to explode nuclear devices.

We have placed significant limits on our conventional arms transfers and will vigorously press other arms suppliers and recipients to accept mutual restraints.

The Democratic Administration has increased our capacity to counter international terrorism, both on a national basis and in coordination with other governments, and to deal with acts of terrorism including hostage-taking committed either by individuals or by governments. We will strengthen multilateral arrangements for contingency planning, information sharing, military coordination, and the isolation of countries that harbor terrorists.

Human rights

In the area of international affairs, the Democratic Administration has placed America's power in the services of a more decent world by once again living up to our own values and working in a formal, deliberate way to foster the principles set out in the Universal Declaration of Human Rights.

This has been accomplished through a strong commitment to human rights, which must be seen not only as a moral imperative but as the only secure and enduring basis upon which a truly stable world order can be fashioned. There have been successes in Asia, Latin America, and elsewhere in the world. We must be undaunted by the increasing repression in the Soviet Union. We support measures designed to restrict trade with the Soviet Union until such time as Soviet emigration policy is made fair and non-restrictive.

We must be vigilant about human rights violations in any country in which they occur including South Africa. We note in particular that many of the Communist-dominated countries are persistent violators of the most basic human freedoms—the right to free speech, the right to religious freedom, the right to travel and emigrate, and the right to be free from arbitrary harassment.

We support Senate ratification of the Genocide Convention and the International Covenants on Human Rights as soon as possible.

We support continuation of the leadership role taken by the United States in the area of human rights and urge that the Democratic Administration continue to speakout openly and forcefully on human rights violations whenever and wherever they occur.

We will fulfill the letter and the spirit of current law by denying assistance to governments that violate fundamental human rights, except for that aid which is clearly humanitarian. We also recognize the exception for assistance that is required for overriding security purposes, but that exception should not be used as an excuse for ignoring abuses of human rights.

We will provide additional assistance and support, as needed, to governments that strive successfully for greater political liberty and protection of human rights.

Refugees and migration

America's roots are found in the immigrants and refugees who have come to our shores to build new lives in a new world. The Democratic Party pledges to honor our historic commitment to this heritage.

The first comprehensive reform of this nation's refugee policies in over 25 years was completed with the signing in March 1980 of the Refugee Act of 1980, based on legislation submitted to Congress by the Carter Administration in March 1979.

This Act offers a comprehensive alternative to the chaotic movement and the inefficient and inequitable administration of past refugee programs in the United States. We favor the full use of refugee legislation now to cope with the flow of Cuban and Haitian refugees, and to help the states, local communities and voluntary agencies resettle them across our land. We urge that monies be distributed to voluntary agencies fairly so that aid is distributed to all refugees without discrimination.

The Administration also established the first refugee coordination office in the Department of State under the leadership of a special ambassador and coordinator for refugee affairs and programs.

The new legislation and the coordinator's office will bring common sense and consolidation to our nation's previously fragmented, inconsistent, and, in many ways, outdated refugee and immigration policies.

A Select Commision on Immigration and Refugee Policy is now at work to further reform the system. We pledge our support to the goals and purposes of the Commission, and we urge the Adminitration to move aggressively in this area once the Commission submits its report.

Once that report has been completed, we must work to resolve the issue of undocumented residents in a fair and humane way. We will oppose any legislation designed to allow workers into the country to undercut U.S. wages and working conditions, and which would re-establish the bracero program of the past.

World population projections, as well as international economic indicators—especially in the Third World—forewarn us that migration pressures will mount rapidly in many areas of the world in the decade ahead. Our own situation of undocumented workers underscores how difficult it is to deal with economic and employment forces that are beyond any nation's immediate control. Most of Europe, and many parts of Latin America and Asia, face similar dilemmas. For example, Mexico faces the pressure of migration from Central America.

We will work with other nations to develop international policies to regularize population movement and to protect the human rights of migrants even as we protect the jobs of American workers and the economic interest of the United States. In this Hemisphere, such a policy will require close cooperation with our neighbors, especially Mexico and Canada.

We must also work to resolve the difficult problems presented by the immigration from Haiti and from the more recent immigration from Cuba. In doing so, we must ensure that there is no discrimination in the treatment afforded to the Cubans or Haitians. We must also work to ensure that future Cuban immigration is handled in an orderly way, consistent with our laws. To ameliorate the impact on state and local communiites and school districts of the influx of new immigrants from Cuba and Haiti, we must provide the affected areas with special fiscal assistance.

We support continued financial backing of international relief programs such as those financed by the United States, the International Red Cross, UNICEF and the private, non-profit organizations to aid the starving people of Kampuchea. We also endorse such support for the Cambodian refugees and encourage participation in the campaign of the National Cambodian Crisis Committee.

We support, through U.S. contributions to the UN High Commissioner for Refugees and other means, aid for the mounting Afghan refugee population in Pakistan and other desperate refugee situations.

The Middle East

When the Democratic Administration began in 1977, the prospects for peace in the Middle East were bleak. Despite efforts over thirty years, Israel still faced an Arab world that was totally hostile to it; it was still denied any movement towards its dream of living at peace with its neighbors, behind secure and recognized frontiers.

Almost immediately after his inauguration, President Carter undertook to move the peace process forward. Following the historic visit of President Sadat to Jerusalem, the Administration's efforts led to Camp David, where the two Presidents and Prime Minister Begin in thirteen days created the Camp David Accords—the most promising effort in three decades for creating a genuine and lasting peace in the Middle East.

Following President Carter's trip to the Middle East in March 1979, Prime Minister Begin and President Sadat signed the Israel-Egypt peace treaty at the White House. A year later, that treaty has led to the transfer of two-thirds of the Sinai to Egypt—along with the Sinai oil fields; ambassadors have been exchanged; borders have been opened; and normalization of relations is well underway. Israel has finally gained peace with its largest Arab neighbor. In sum, this Democratic Administration has done more to achieve Israel's dream of peace than any other Administration in thirty years.

Negotiations are continuing under the Camp David framework on full autonomy for the inhabitants of the West Bank and Gaza, in order to preserve fully Israel's security while permitting the Palestinians living in the territories to participate in determining their own future. The United States is a full partner in negotiations between Israel and Egypt to provide for a five-year transitional regime in the West Bank and Gaza.

It is recognized that the Democratic Administration has to proceed with special care and sensitivity resulting from its deep engagement in the delicate process of promoting a wider peace for Israel.

At the same time, the United States' commitment to the independence, security, and future of Israel has been strengthened. Nearly half of all U.S. aid to Israel since its creation as a sovereign state—more than $10 billion—has been requested during the last 3½ years. We provide Israel with modern military equipment and we fully support Israel's efforts to create a just and lasting peace with all of its Arab neighbors.

U.S. policy is—and should continue to be—guided also by the following principles.

UN Security Council Resolution 242, unchanged, and the Camp David Accords are the basis for peace in the Middle East.

We support Israel's security, and will continue to provide generous military and economic aid to that end.

We pledge not to provide Israel's potential enemies with sophisticated offensive equipment that could endanger the security of Israel.

Jerusalem should remain forever undivided, with free access to the holy places for people of all faiths.

We oppose creation of an independent Palestinian state.

We will not negotiate with or recognize the Palestinian Liberation Organization, unless and until it accepts Israel's right to exist and UN Security Council Resolution 242 and 338. It is also long past time for an end to all terrorism and other acts of violence against Israel.

We have not and will not use our aid to Israel as a bargaining tool; and we will never permit oil policies to influence our policy toward peace or our support for Israel.

As stated in the 1976 platform, the Democratic Party recognizes and supports "the established status of Jerusalem as the capital of Israel, with free access to all its holy places provided to all faiths. As a symbol of this stand, the U.S. Embassy should be moved from Tel Aviv to Jerusalem."

Elsewhere in the Middle East, we support the improvement of relations with moderate Arab states. We support the independence, sovereignty, and integrity of Lebanon. We call upon all states in the region to support the historic efforts of Israel and Egypt to build a comprehensive peace.

We believe a cooperative effort among the nations of the Middle East and the United States can help provide needed assistance to Israel and her Middle East neighbors engaging in the peace process with Israel in the vital areas of refugee resettlement, agricultural development, water development, health and medical facilities, and productivity and trade. A planning group should be created to pursue an effort to provide this type of assistance.

The Democratic Administration will also take needed measures to protect American interests in the Persian Gulf, including energy security, regional stability, and national independence. This will require sophisticated diplomacy as well as military capability. We will seek both to counter external threats and to encourage necessary political and economic development. In the end, our allies have an equal or greater interest than we in the security of oil supply and regional stability, and the Democratic Administration will continue to cooperate with them in a common strategy and to share common burdens.

We condemn the government of Iran for its outrageous conduct in the taking of our diplomatic personnel as hostages. We insist upon respect for the principle—as repeatedly enunciated by the UN Security Council and the International Court of Justice—of the inviolability for diplomatic personnel. We call upon all governments to abide by and uphold this basic tenet of civilized international conduct.

In the region as a whole, we must end our dangerous dependence on foreign oil. Only in this way can our foreign policy counter effectively the pressures of OPEC and of Soviet power poised above the Persian Gulf in Afghanistan. The Democratic Administration will fulfill its commitments to the Strategic Petroleum Reserve to protect America against oil embargo. As we reduce oil consumption and dependence on OPEC, we will be able to bargain on equal terms with the OPEC states for an assurance of more certain supplies of oil at more stable prices.

Europe and Japan

America and her allies must continue the mutual confidence and commitment, the sense of common purpose, that marked our relations for decades. The problems we face are global in scope. We cannot begin to solve them if each of us goes a separate way. We must learn to work in partnership, on an increasing range of problems, in areas such as Africa and the Persian Gulf, and on worldwide economic and security issues.

The Democratic Administration will be committed to a strong NATO and a stable military balance in Europe. We will pursue both modernization of NATO conventional and nuclear forces and equitable limitations between NATO and the Warsaw Pact.

The Democratic Administration will seek collective solutions to the common economic problems of inflation, unemployment, energy, trade and monetary relations which confront us and our allies. This will require increased cooperation and coordination among all OECD countries.

The Democratic Administration will continue to support the growth and cohesion of the European community, and will increase our support for Greece, Spain and Portugal, which have rejoined the ranks of democracy.

We have been particularly concerned about the need to maintain strategic stability in the Eastern Mediterranean. To this end, we have worked with Congress toward the resolution of differences between Greece and Turkey over Cyprus and other divisive issues. We have worked toward a balanced treatment of both countries in our assistance programs.

We will give priority to the reintegration of Greece into NATO's military structure and to the strengthening of NATO's southern flank, including the economic progress of each of our allies in southern Europe.

We have worked towards a fair settlement of the Cyprus issue by giving our support to the United Nations efforts to encourage intercommunal talks. We agree with Secretary General Waldheim's opinion that such talks, if properly used, represent the best possible solution to a just and lasting political settlement of the Cyprus problem based on the legitimate rights of the two communities.

We must do all that is possible, consistent with our interest in a strong NATO in southern Europe and stability in the eastern Mediterranean, to encourage a fair settlement of the Cyprus issue, which has caused so much suffering in that area.

We will press strongly for the full implementation of U.N. Resolution 3212 in order to bring about an agreed resolution to the magic conflict in Cyprus, including the withdrawal of all Turkish military forces from Cyprus, the same return of all refugees to their homes, full cooperation of all parties with a negotiated solution and a full peace and respect for human rights in Cyprus.

Consistent with our traditional concern for peace and human rights, the next Democratic Administration will play a positive role in seeking peace in Northern Ireland. We condemn the violence on all sides. We will encourage progress toward a long-term solution based upon consent of all parties to the conflict, based on the principle of Irish unity. We take note of the Saint Patrick's Day statement ". . . that the solution offering the greatest promise of permanent peace is to end the division of the Irish people" and its urging of ". . . the British Government to express its interest in the unity of Ireland and to join with the government of Ireland in working to achieve peace and reconciliation." New political structures which are created should protect human rights, and should be acceptable to both Great Britain and Ireland and to both parts of the community of Northern Ireland.

Our relations with Japan have moved to a new level of maturity and cooperation. The United States is able to deal with patience and understanding on a range of difficult and contentious economic issues. In the foreign policy and security area, Japan's record in support of U.S. foreign policy objectives is second to none. We will continue to nurture this relationship.

The international economy

A vigorous American foreign policy and a sustained defense effort depend on the strength of the U.S. economy and its ability to compete in the international marketplace.

Through annual economic summits in London, Bonn, Tokyo, and Venice, we have established a sound basis for economic progress in the 1980's by improving the coordination of our economic policies. We have sought to strengthen international institutions to deal with our common problems; to reduce worldwide inflation, which undermines Western security and prosperity; to encourage investment and innovation to increase productivity; and simultaneously to find ways to reduce unemployment, especially among our youth. We have made substantial progress, but the battle continues.

The Democratic Administration, which has wrestled with these issues over the past three and a half years, pledges a renewed effort to revitalize the world economy and to maintain our position as the leader of the free world's economic forces.

Trade

In 1976, we called for trade policies that would benefit economic growth. Trade promotes new jobs for American workers, new markets for farmers and businessmen, and lower prices for consumers. But trade can also cause dislocations within the economy, and we have sought—and will continue to seek—ways to ease the burden of adjustment to foreign competition without impeding the process of structural change so vital to our economic health. We favor a free international trading system, but that system must also be fair. We will not allow our workers and industries to be displaced by unfair import competition. We have entered orderly marketing agreements and other arrangements in areas such as color television, footwear and textiles, to help promote the competitive position of American industry. Others may be necessary.

Last year, we successfully concluded the Multilateral Trade Negotiations, an ambitious set of negotiations designed to reduce barriers to international trade. Before the Democratic Administration took office, these negotiations had proceeded at a snail's pace, and there had been a growing risk of failure which could have sparked a trade war damaging to our interests. It was the imaginative leadership of this Administration which breathed new life into an otherwise somnolent negotiation.

To strengthen the U.S. economy and improve our competitive position in the world economy, U.S. export-import policy must be based on the principle of fair trade that will enhance our exports while safeguarding domestic industry from unfair trade practices. In assuring orderly foreign trade, the U.S. must require observance of our trade laws, as well as cooperation with our trade policies if economic disruption is to be avoided. This will require:

Encouragement of export expansion through vigorous negotiations to open foreign markets and enforce U.S. rights;

The government to take swift, effective anti-dumping actions and enforce all U.S. trade laws to assure an end to unfair trade practices that lead to the export of American jobs;

Regulations of imports of textiles and apparel in accordance with current laws and agreements;

Enforcement of customs laws through the assessment of appropriate penalties. Imports, exports, technology transfers, money flows and investments must be reported in accordance with current laws, monitored and regulated to protect U.S. interests; and

Implementation of the government procurement code only as negotiated and on a truly reciprocal basis.

We bargained long and hard to obtain concessions which would benefit Americans and open new markets to U.S. producers of both agricultural and industrial goods. The agreements, which won the overwhelming support of the U.S. Congress, achieved that objective. They represent a sensible balance of benefits. At the same time, they will ensure a liberal, but fair, international trading environment for the 1980's.

Monetary affairs

We will continue to take whatever actions are necessary to maintain a sound and stable dollar. We will cooperate with other nations to minimize exchange rate disturbances. We fully support efforts underway to strengthen the ability of international financial institutions to adapt to changing needs and to facilitate the recycling of funds from the surplus oil-producing nations to those countries facing large, oil-induced deficits. We will urge OPEC countries to participate constructively in this process.

International energy cooperation

We have cooperated with other industrial countries, at summit meetings and in the International Energy Agency, in developing joint programs to conserve oil and increase production of alternative energy sources. Only through a truly global effort can the present imbalance between energy supply and demand be redressed. We will continue to support such efforts, showing our leadership by continuing the actions that have reduced oil consumption and imports by a greater proportion in the U.S. than in any other industrial country in the last year. We will work with our partners abroad to elicit increased effort by them, even as we seek increased U.S. effort at home, to the same ends.

The developing world

Under the previous Republican Administration, the nations of the Third World viewed the United States as uninterested in or hostile to the need to treat the North-South economic issues which are of greatest importance to developing countries. Since then, the United States has adopted a range of economic policies on trade (MTN, Generalized System of Preferences expansion), commodities (Common Fund, sugar, coffee, tin), aid (International Financial Institutions replenishments) which have demonstrated that the Carter Administration is responsive to the aspirations of peoples in developing countries.

But this task is only begun. We share the globe with more than 4 billion people, more than three-quarters of whom live in developing nations, most of them poor. By the end of this century, the population of developing countries will grow by about 1.7 billion people. Their prospects for jobs, food, and peace will increasingly affect our own prospects. These nations can be the fastest growing market for our exports, as they are today, or they can become sources for new immigration and hostility toward the industrial democracies.

Thus, America's defense, energy, and economic security depend on stability and growth not only among our allies, but among our friends in the Third World. It is unacceptable that the United States ranks 13th among 17 major industrial powers in percentage of GNP devoted to development assistance.

The Democratic Administration will work with the Congress to develop and sustain policies and programs of economic cooperation with the developing nations, guided by the test of mutual interest. We will approach the global negotiations next year on economic relations between the industrial North and developing South in this positive spirit. We will contribute the United States' fair share to the capital of the multilateral development banks and agencies, and we will continue substantial and innovative U.S. programs of direct development assistance to low-income countries.

These policies will be reflected in further concentration of U.S. development assistance in countries that make good use of aid and on programs that address the basic needs of poor people, especially food, health, and voluntary family planning services. We will increase U.S. and multilateral technical and financial assistance to oil-importing nations for the development of their energy resources. The participation of U.S. private enterprises in the economic growth of developing nations will be selectively encouraged, with due regard for our own employment objectives.

We are deeply concerned about the growing problem of world hunger as reported by the President's Commission on World Hunger. We are determined to increase our resources, and to seek a similar increase on the part of other nations, with a view toward solving this problem by the end of the century.

Together with our allies, the Democratic Administration will challenge OPEC and the Communist nations to reach a new collective worldwide commitment to economic development. All sides must increase their contributions for this development, so that the world may escape the spectre of international bankruptcy from rising energy costs and rising burdens of debt. Development in the Third World is vital to international political and economic stability and therefore to our own national security.

In all our relations with developing nations, we will actively promote the cause of human rights and express America's abhorrence of the denial of freedom.

Our security depends critically on events in the Middle East, Asia, Latin America, and Africa, events marked by either the pursuit of goals common to or conflicting with our interests. We will continue to cooperate with key friendly developing nations in security relations and in economic measures ensuring our mutual security. Great care will be exercised in our security assistance activities to avoid stimulating regional arms races or needlessly diverting resources from development to armament.

The Third World

Under the previous Republican Administration relations with the Third World were at their nadir. The United States appeared hostile and indifferent to the developing world's aspirations for greater justice, respect, and dignity. All this has changed.

Latin America and the Caribbean

In stark contrast to the policies of previous Republican Administrations, this Democratic Administration has begun to forge a new, collaborative relationship with nations of Latin America and the Caribbean; one resting on a firm commitment to human rights, democratization, increased economic and industrial development, and non-intervention.

We must now move innovatively to strengthen our ties with our neighbors in the Western Hemisphere, first to obviate any vacuum for outside intervention and second to promote bilateral approaches for social progress and economic development including energy resources.

Through systematic and structural high level attention to the problems of the Western Hemisphere we will mobilize the resources of our government to achieve this end. One such possibility to be considered is to appoint an Under Secretary of State for the Western Hemisphere. This would encourage both economic and political freedom throughout the Hemisphere.

We have given particular attention to developing a more balanced relationship with Mexico, a country with which we share so many important interests and also problems.

The successful negotiation of the Panama Canal Treaties—after fourteen fruitless years of effort—was seen as an indication of our willingness to treat Latin America on the basis of mutual respect. With those treaties ratified, the United States in 1980 is not only identified with the cause of human rights and democracy, but also we have opened a new chapter in our relations with the nations of this Hemisphere. Moreover, through regular multilateral consultations at all levels, more balanced relationships with the nations in the region have been forged.

The United States has worked hard to encourage the expansion of democracy in Latin America, respect for human rights, and the preservation of national independence and integrity from the threat of Soviet and Cuban intervention.

For the first time, an approach has been developed and tailored to the unique needs and aspirations of the Caribbean area. The Administration has supported change within a democratic framework; more than doubled aid programs; and worked with twenty-nine other nations and fifteen international institutions to establish the Caribbean Group for Cooperation in Economic Development, which has quadrupled external aid to the region.

Through strengthened relations with the Caribbean Community and the Andean Pact, the Administration has worked to enhance subregional cooperations as well.

President Carter has worked for peace in the region. By signing Protocol I of the Treaty of Tlatelolco, President Carter has demonstrated his support for nonproliferation objectives in the Hemisphere. We support its ratification. By supporting regional efforts at arms restraints, the United States has taken the lead in trying to reduce the possibilities for conflicts in the region.

We reaffirm our commitment to the protection of universally recognized and fundamental human rights throughout the Americas by urging that the Senate ratify the American Convention on Human Rights, which was signed by President Carter in June 1977. We will join with other like-minded states in pursuing human rights, democracy, and economic development throughout the region. We will uphold our own law and terminate all aid except for clearly humanitarian purposes to human rights violators. In our relationships with Argentina, Chile, El Salvador, Guatemala, Haiti and others throughout the Hemisphere we will press further for respect for human rights and political liberalization. In Central America especially, we will align ourselves with those who are trying to build a better future out of the aftermath of tyranny, corruption and civil war.

We will oppose a spiral of confrontation with Cuba, for its own sake, but we will not evade the real issues between that country and the United States. Under no conditions will we accept a Soviet military offensive capability based in Cuba or anywhere else in the Hemisphere.

In order to permit the pursuit of normal relations between our countries, Cuba should stop its disorderly movement of those seeking to leave; it should cooperate with the international community to develop a fair and orderly emigration program; it must withdraw its armed forces from Africa; it must cease subversive activities throughout the Hemisphere; and it should follow the principles of the American Convention on Human Rights.

Asia

The establishment of normal diplomatic and economic relations with China is an historic foreign policy achievement.

Progress in U.S.-China relations was stalled in 1977, but with patience, political courage and historic vision, the deadlock was broken by this Democratic Administration.

In the fifteen months since normalization, the benefits of normalization have already become clear: trade, travel, cultural exchange, and, most important of all, the security and stability of the Pacific region is greater now than in any time in this century.

The Democratic Party commits itself to a broadening and deepening of our relationship with China in a way that will benefit both our peoples and the peace and security of the world. We will continue to seek new areas where the United States and China can cooperate in support of common interests. We have not and will not play "China cards" or other dangerous games; nor will we allow our relationship with any other country to impede our efforts to continue the process of normalization of relations with China.

In 1976, the so-called Koreagate affair had badly hurt our ties to Korea. A friendly and increasingly frank dialogue with the Korean government has been promoted. We will continue not only to fulfill our commitment to security, but equally to the promotion of a more democratic government. North and South Korea have renewed their dialogue and made a difficult but hopeful start down a long, uncertain road. In our relationships with the Philippines, Taiwan and others in the region, we will also press for political liberalization and human rights.

With ASEAN, the Democratic Administration has developed a coherent and supportive approach, encouraging the cohesion of those five nations just at the time when their unity was being tested by the Vietnamese aggression in Kampuchea. ASEAN now stands as one of the most viable regional organizations in the world. The Democratic Party recognizes the important role the U.S. territories and other emerging island states in the Pacific Basin play in the solidification of defense and economic ties with the ASEAN nations. The Democratic Party commits itself to humanitarian aid to the people of East Timor.

Africa

Africa will be of central importance to American foreign policy in the 1980's. By the end of the previous Republican Administration in 1977, the United States had little credibility in Black Africa for they had made little or no attempt to see African problems from an African perspective. Our policy had no clearly defined goals. As a consequence, our attempts to bring an end to the war in Southern Africa were ineffective. We were becoming, in African eyes, irrelevant—even antagonistic—to African aspirations.

The Democratic Administration developed a long-term African policy—a policy that is viable on its own merits and does not treat Africa as an appendage to great power competition. It recognized the need for a new approach to the Continent, an approach based on mutual respect, fundamental concern for human rights and the necessity for economic justice.

Considerable success has been achieved, perhaps most notably in Southern Africa. Our diplomatic efforts there have been instrumental in helping to bring about a peaceful settlement in Rhodesia—now Zimbabwe—while lessening Soviet/Cuban influence in the area. We will continue to assist in the reconstruction and development of an independent Zimbabwe, as a means of promoting stability in the region.

Much remains to be done. Many of the fifty African nations are politically unstable and economically weak—partially as a result of their colonial heritage, but increasingly due to endemic drought and the economic dislocation resulting from ever-rising energy costs.

The Democratic Party pledges itself to continue efforts to improve U.S. relations with all African nations, on the basis of mutual respect and a mutual commitment to enhance economic justice and human dignity everywhere, with particular emphasis on the recurrent problem of drought and starvation. U.S. aid in the form of grain and foodstuffs must be continued but, in addition, we must seek with African governments ways of removing famine permanently from the African Continent.

The Democratic Party pledges itself to the process of economic reconstruction in Zimbabwe within the context of a coherent multi-donor development plan for all the cooperating nations of the Southern African region.

The Democratic Party pledges active support for self-determination in Namibia, and for full social and economic justice for all the peoples of Southern Africa.

The Democratic Administration will press for the withdrawal of Soviet and Cuban troops.

In Southern Africa, we will exert our influence to promote progress toward majority rule and to end the racist system of apartheid. We condemn the brutal suppression of Black Native African people in Soweto and Capetown by the South African regime and support increased political and economic pressure of this oppressive regime, through legal sanctions.

We support increased pressure through legal diplomatic sanctions on the oppressive South African regime. Initially we will divest, under legal procedures, South African holdings of all public institutions and deploy full legal economic sanctions until that government abandons its undemocratic apartheid system.

Following the removal of Cuban troops from Angola, we will seek to normalize relations with Angola. We will strengthen relations with nations committed to the objectives of economic development, respect for human rights and political liberalization. In the western Sahara we will support a negotiated settlement to the conflict.

The United Nations and international agencies

In each of the regions of the globe, international organizations and agencies will be tested in the coming decade and will play an increasingly crucial role. The United Nations remains the only forum where rich and poor, East and West, and neutral nations can come together to air their grievances, participate in respected forums of world opinion, and find mechanisms to resolve disputes without resort to force. In particular, in recent months the UN has been a forum for expressing the world's condemnation and rejection of both the hostage-taking in Iran and the Soviet invasion of Afghanistan.

The United Nations is also vital in other ways—through its international refugee-efforts, coordination of development assistance, support for agricultural research, and worldwide eradication of disease.

In the next decade, international monetary and development institutions will also be under increasing pressure. Their efforts must be expanded to meet more fully the urgent needs of the two-thirds of the world's population which suffers the damaging and depressing effects of underdevelopment.

The United Nations and these agencies perform a vital role in the search for peace. They deserve America's continuing support—and they will receive it from the Democratic Administration. We support the U.S. position on freedom of the press to be voted again in Belgrade during the 1980 UNESCO meeting.

We support the call in Section 503 of the Foreign Relations Authorization Act of 1978, for the United States to make "a major effort toward reforming and restructuring the United Nations system."

We also endorse that portion of the President's report to Congress in March, 1978 on U.N. reform and restructuring which calls for the Senate "to re-examine the Connally reservation," "the creation of a U.N. Peacekeeping Reserve composed of national contingents trained in peacekeeping functions," the establishment of "a new U.N. senior post as High Commissioner of Human Rights," and the development of autonomous sources of income for the international community.

We will work toward new structures which will enhance the U.N. in the fields of economic development, including international trade organizations, higher education, volunteer service, mediation and conciliation, international disarmament, implementation of the Law of the Sea Agreement, and controlling international terrorism.

Into the 1980's

As we look to the 1980's, we have a full and challenging agenda.

With our Allies, we face the challenge of building greater unity of action while preserving the diversity of our democracies. Europe is increasingly united and is finding its own identity and voice. We must forge new links of consultation and revive the political process within the North Atlantic Alliance so that Europe remains America's partner in meeting the challenges to our common security and economic interests. We must find ways to include Japan in this process, broadening the mechanisms for cooperation which exist in current international forums, such as the Seven-Nation Summit.

With the Third World countries, we must continue to do our part in the realization of their aspirations for justice, respect, and freedom. We must continue to work for full political participation by all in Southern

Africa, including independence and majority rule in Namibia. We must work to strengthen democracy in the Caribbean and Central America in the face of efforts by the Cubans to export their failed revolution. Throughout Latin America, we must continue to cooperate for the realization of greater human rights and the fulfillment of basic human needs. In Asia, we must continue to strengthen our relationships with our friends and Allies as they confront the twin dangers flowing from the Soviet invasion of Afghanistan and the Soviet-backed invasion of Cambodia.

We must persevere with the Middle East peace process. There is no viable alternative. We can welcome initiatives from other countries so long as they contribute to the Camp David process that is leading toward a comprehensive peace in that region. But we will oppose efforts that undermine Camp David while offering no viable alternative. Our goal is to see the achievement of a comprehensive peace for all parties.

With our defenses, we will continue to meet the requirements of the Administration's five-year defense program, including the deployment of the MX missile, cruise missiles, the Trident submarine, and long-range theater nuclear forces in Europe. At the same time, we intend to increase readiness and strengthen the All-Volunteer Force with a standby system of draft registration. We will continue with our Allies to meet the commitments of the long-term NATO defense program and, as we strengthen our military capabilities and presence in Southwest Asia and the region of the Persian Gulf, we will look to our Allies to assume more of the burden for the defense and security of Europe. Finally, we must recognize that development assistance represents a crucial part of our national security. As such, we may have to make a greater contribution of resources to these programs.

In the field of arms control, in addition to ratification of SALT II, we must proceed to more comprehensive and drastic reductions and qualitative limitations on strategic nuclear forces. SALT III must also include effective limitations and reductions in long-range theater nuclear forces based on the principle of equality. We must pursue to a conclusion a comprehensive test ban, effective curbs in the international traffic of conventional arms and a more rigorously effective international regime to prevent the spread of nuclear weapons and weapons technology. We must bring to at least an initial conclusion the negotiations for mutual and balanced force reductions in Europe. The decade of the 1980's is not to become the decade of violence. We must make renewed efforts to stabilize the arms competition and widen the scope of arms control arrangements.

As we look to the future, we hope the progress in arms control and the strength and determination we shall demonstrate in the face of Soviet aggression in Afghanistan will soon result in the fashioning of a stronger, more productive relationship with the Soviet Union. We favor a genuine detente—one with equivalent benefits to ourselves and the Soviets, one that is based on genuine restraint, one that benefits all mankind by harnessing the enormous potential of our two societies for cooperation rather than competition and confrontation. This will take patience, but we shall persevere for the prize is peace.

By reaffirming America's values as the centerpiece of our foreign policy and by pursuing realistically the requirements of military strength, the Democratic Party is forging a new and broader consensus among the American people in support of our foreign policy. We are turning the tide against the paralysis of despair that came from a tragic war in Asia and political scandal at home. We are restoring America to its rightful place, not only as the strongest nation in the world, but as the nation which is the champion of human justice and freedom.

MINORITY REPORTS

CHAPTER I: THE ECONOMY

Minority Report No. 1

(The language in pages 1–7 should be deleted up to the heading "Ensuring Economic Equity", and the following language inserted in its place.)

Economic growth without inflation

The Democratic Party will take no action whose effect will be a significant increase in unemployment—no fiscal action, no monetary action, no budgetary action—if it is the assessment of either the Council of Economic Advisers or the Congressional Budget Office that such action will cause significantly greater unemployment.

We specifically affirm that we will reach the goals of the Humphrey-Hawkins Full Employment Act by the date now specified in the Act. We will take all actions necessary to reach the specified employment level by that date.

Immediately, we must undertake a short-term antirecession program to reverse the tide of deepening recession and rising unemployment. Each percentage point increase in the unemployment rate adds $25 billion to the federal deficit.

A Democratic anti-recession program must recognize that Blacks, Hispanics, other minorities, women, and older workers bear the brunt of recession. We pledge a $12 billion anti-recession jobs program, providing at least 800,000 additional jobs, including full funding of the counter-cyclical assistance program for the cities, a major expansion of the youth employment and training program to give young people in our inner cities new hope, expanded training programs for women and displaced homemakers to give these workers a fair chance in the workplace, and new opportunities for the elderly to contribute their talents and skills.

Coupling our need to rehabilitate our railroads with the need to create new job opportunities, we must commit ourselves to a $1 billion railroad renewal program which can employ 20,000 workers.

We must take steps to restore the housing industry, including effective implementation of the Brooke-Cranston program, and the addition of 200,000 new units a year for low and moderate income families.

For those who are out of work, we must reverse the formula changes which have meant the disqualification of a million workers for extended unemployment compensation.

To revive productivity and revitalize our economy, we need a national effort to reindustrialize America. It must include new tax depreciation rules to stimulate capital investment; a simplified tax code to assist business planning; removal of governmental regulations which stifle business initiative; effective incentives for saving that do not discriminate against low and middle income taxpayers; reform in patent rules and new incentives for research and development, especially by small steel and auto industries; and an American Reindustrialization Corporation, empowered to borrow and to lend, to aid innovation and to sell shares in the economic future of the nation.

To stimulate investment, innovation, efficiency, and downward pressure on prices also requires new measures to increase competition in our economy. We must increase antitrust enforcement; greatly improve the speed and efficiency of antitrust litigation; and renew efforts to prevent the concentration of economic power—both in specific industries and across the economy as a whole—which operate to stifle growth and to fuel inflation.

To create new markets for American products and strengthen the dollar, we need a central trade agency which will gather information about trading opportunities abroad; seek out new opportunities for American exports; help establish stable, long-term commercial relationships between nations; offer technical assistance to firms competing in world markets; promote reciprocal trading terms for nations doing business here, and help insure that America's domestic retooling is consistent with new opportunities in foreign trade.

Together with other nations, we should establish an International Trade Organization, which would encompass the functions of both GATT and UNCTAD and promote fair trade among both developed and developing nations.

All of these programs must be implemented in an economy free of constraint price escalations.

We believe that the fair and effective way to deal with inflation is a freeze and then controls on prices, wages, interest rates, profits, dividends and rents.

In all of our economic programs, the one overriding principle must be fairness. All Americans must bear a fair share of our economic burdens and reap a fair share of our economic benefits. High interest rates impose an unfair burden—on farmers, small businesses, and younger families buying homes. Recession imposes an unfair burden on those least able to bear it. Democratic economic policy must assure fairness for workers, the elderly, women, the poor, minorities, and the majority who are middle income Americans. In 1980, we pledge a truly Democratic economic policy to secure a prosperous economic future.

Minority Report No. 2

(The following language should be inserted at the beginning of page 1, before the heading "Economic Strength."

A commitment to economic fairness

The Democratic Party will take no action whose effect will be a significant increase in unemployment—no fiscal action, no monetary action, no budgetary action—if it is the assessment of either the Council of Economic Advisers or the Congressional Budget Office that such action will cause significantly greater unemployment.

In all of our economic programs, the one overriding principle must be fairness. All Americans must bear a fair share of our economic burdens and reap a fair share of our economic benefits. High interest rates impose an unfair burden—on farmers, small businesses, and younger families buying homes. Recession imposes an unfair burden on those least able to bear it. Democratic economic policy must assure fairness for workers, the elderly, women, the poor, minorities and the majority who are middle income Americans. In 1980, we pledge a truly Democratic economic policy to secure a prosperous economic future.

Minority Report No. 3

(The following language should be inserted on pages 3–4 in place of the paragraph entitled "Anti-Recession Assistance.")

Anti-recession assistance

Immediately, we must undertake a short-term anti-recession program to reverse the tide of deepening recession and rising unemployment. Each percentage point increase in the unemployment rate adds $25 billion to the federal deficit.

A Democratic anti-recession program must recognize that Blacks, Hispanics, other minorities, women, and older workers bear the brunt of recession. We pledge a $12 billion anti-recession jobs program, providing at least 800,000 additional jobs, including full funding of the counter-cyclical assistance program for the cities, a major expansion of the youth employment and training program to give young people in our inner cities new hope, expanded training programs for women and displaced homemakers to give these workers a fair chance in the workplace, and new opportunities for the elderly to contribute their talents and skills.

Coupling our need to rehabilitate our railroads with the need to create new job opportunities, we must commit ourselves to a $1 billion railroad renewal program which can employ 20,000 workers.

We must take steps to restore the housing industry, including effective implementation of the Brooke-Cranston program, and the addition of 200,000 new units a year for low and moderate income families.

Minority Report No. 4

(The following language should be inserted on page 8 after the first sentence of the section entitled "Worker Protection.")

The Democratic Party will not pursue a policy of high interest rates and unemployment as the means to fight inflation. We will take no action whose effect will be a significant increase in unemployment, no fiscal action, no monetary action, no budgetary action.

CHAPTER II: GOVERNMENT AND HUMAN NEEDS

Minority Report No. 5

(The following language should be inserted on page 20 between lines 5 and 6.)

While we recognize the need for fiscal restraint—and have proposed specific steps toward that goal—we pledge as Democrats that for the sole or primary purpose of fiscal restraint alone, we will *not* support reductions in the funding of any programs whose purpose is to serve the basic human needs of the most needy in our society—programs such as employment, income maintenance, food stamps, and efforts to enhance the educational, nutritional or health needs of children.

Minority Report No. 6

(The following language should be inserted on page 20 after the words "following features" on line 28.)

The Democratic Party favors enactment of a complete national health insurance program in a single comprehensive bill specifying the phase-in of benefits over a reasonable time period.

As part of such national health insurance legislation, the Democratic Party favors comprehensive budgeting and cost controls on hospital and physician expenditures.

Minority Report No. 7

(The following language should be inserted on page 27 after line 36, following the words "Social Security benefits.")

No change in the index which determines cost of living adjustments should be made which results in smaller adjustments than those granted under the current index.

Minority Report No. 8

(The following language should be inserted on page 31 between lines 18 and 19.)

The cost of Aid to Families with Dependent Children should be completely borne by the federal government, and completely lifted from the cities and states which are currently paying for a large share of the cost of this program. The Democratic Party pledges to introduce legislation to accomplish this purpose in the next year.

Minority Report No. 9

(The following language should be inserted on page 45 after line 39, following the words "in the cities.")

This jobs policy—and the need to guarantee a job for every American who is able to work—is our single highest domestic priority, and will take precedence over all other domestic priorities.

Minority Report No. 10

(The following language should be inserted on page 51 on line 26, following the words "ratified the ERA.")

The Democratic Party shall withhold financial support and technical campaign assistance from candidates who do not support the ERA.

Minority Report No. 11

(The following language should be inserted on page 55 between lines 2 and 3.)

The Democratic Party recognizes reproductive freedom as a fundamental human right. We therefore oppose government interference in the reproductive decisions of Americans, especially those government programs or legislative restrictions that deny poor Americans their right to privacy by funding or advocating one or a limited number of reproductive choices only.

Specifically, the Democratic Party opposes involuntary or uninformed sterilization for women and men, and opposes restrictions on funding for health services for the poor that deny poor women especially the right to exercise a constitutionally-guaranteed right to privacy.

CHAPTER III: GOVERNMENT OPERATION AND REFORM

Minority Report No. 12

(The following language should be inserted on page 62 before the section entitled "Tax Reform.")

We must oppose special interest efforts to undermine the ability of federal agencies to protect consumers, the environment or public health and safety; and efforts to enable federal agencies to override or exempt state or federal protections of the environment or public health and safety.

Minority Report No. 13

(The following language should be inserted on page 63 between lines 34 and 35.)

Repeal the $5.2 billion in oil subsidies in the form of special reductions for intangible drilling and development costs, and the percentage depletion allowance.

CHAPTER IV: ENERGY, NATURAL RESOURCES, ENVIRONMENT AND AGRICULTURE

Minority Report No. 14

(The following language should be inserted on page 71 between lines 17 and 18.)

The Democratic Party rejects the use of federal gasoline taxes, oil import fees, or any other authority to artificially increase the price of gasoline.

Minority Report No. 15

(The following language should be inserted on page 72 between lines 11 and 12.)

The price of world oil is currently determined by a cartel of oil-producing nations rather than by competition. The Democratic Party rejects the notion that the prices fixed by OPEC are fairer, more rational, or more freely determined by the market than prices controlled by our own government. Only our government, through a flexible system of price controls, can properly balance the competing priorities of increased domestic energy supply and increased protection for the economy against the sudden price shocks of OPEC. In any event, the average price of domestically produced oil in the U.S. should not be permitted to rise faster than the average wage of the American worker as long as a sysetm of voluntary or mandatory wage and price restraints are in effect.

Minority Report No. 16

(On page 73, the sentence beginning "We must develop other promising alternatives . . ." on lines 37–39 should be deleted and replaced with the following language.)

To insure that we reach the 20 percent goal, the Democratic Party commits itself to a federal program for solar or other renewable resources that exceed the federal commitment to synthetic fuels. A greater share of federal funds should be committed to basic research and must be devoted to the development of renewable energy resources and fusion research and development. Moreover, we support the commercialization of solar, wind, low-head hydro, biomass and other renewable resources as quickly as possible through direct assistance, investment and loan guarantees in addition to moneys available from the solar bank.

Minority Report No. 17

(The following language should be inserted on page 74 between lines 14 and 15.)

We must impose a moratorium on the acquisition of competing coal companies and solar energy companies by major oil companies.

Minority Report No. 18

(The following language should be inserted on page 75 after the words "repositories" on line 12.)

Neither the federal government nor the state or tribal or territorial governments should be permitted to act in a manner that forces an unsafe resolution of this problem or prevents a safe resolution from being accomplished. It is, therefore, essential that state and tribal governments, acting according to their constitutional processes, have the power to reject unsafe sites within their borders. Clear standards should be developed so that the courts may determine whether the federal government or a state or tribe is acting in an arbitrary manner.

Minority Report No. 19

(The following language should be inserted on page 75 before the section entitled "Environment.")

Federal chartering of oil companies

With the same justification that the several states charter utilities and by the same constitutional principles that our federal government charters the National Banks, we must enact legislation to federally charter the major oil companies and assure that they act responsibly and with accountability in their production, importation and distribution of fossil fuels. Oil is a commodity as basic to our economy, defense and general welfare as electric power and the control of money. Consequently, the oil companies must be invested with public purpose.

The purpose of this legislation is not nationalization of the oil industry but to assure access to basic information necessary to formulate coherent, equitable and viable national energy policies and strategies.

Among conditions necessary for maintaining such charters would be the following:

Full disclosure of data on reserves, supplies and costs of production (see 1976 platform);

Detailed reports on finances, pricing patterns and dealings with foreign nations must be supplied periodically to the Securities and Exchange Commission, the Federal Trade Commission and the Department of Energy;

Price increases must be justified by substantiated costs increases;

Advertising costs used to influence public policy will be borne by stockholders and not by consumers;

Corporate executives will accept individual responsibility for their acts, decisions and reports;

The majority of the directors may be elected by shareholders but none will be allowed to be interlocked with other major industries and the SEC will appoint significant consumer representation to the boards;

Board of directors will be required to maintain full-time staffs to monitor executive performances;

Should it become the policy of the United States to form or participate in a consumer cartel to buy all imported oil through a system of sealed bidding or "single purchasing contracts," full cooperation by the oil company will be a necessary condition for maintaining its charter.

Should it become the policy of this nation to develop a portion of our oil reserves by the establishment of a TVA-type facility, full technical cooperation by the oil company will be a necessary condition for maintaining its charter; and

Cooperation in implementing any energy policy adopted by our nation will be a necessary condition for maintaining an oil company's charter.

CHAPTER V: FOREIGN POLICY

Minority Report No. 20

(Delete the language on lines 8 and 9 on page 88 which reads ". . . in particular the MX land-based mobile ICBM deterrent.")

(Insert the following language on page 88 prior to the section entitled "Defense.")

Our only objective in maintaining a credible, powerful, strategic nuclear arsenal is to enhance security. We recognize that at some point increasing that arsenal becomes counter-productive, by producing new risks which outweigh apparent military advantage. We therefore oppose deployment of the MX missile.

(Delete the sentence on page 89, lines 41–43 which reads "The MX missile deployment will enhance the survivability of our land-based intercontinental ballistic missile force.")

(Delete the following words on page 112, last line, ". . . including the deployment of the MX missile.")

Minority Report No. 21

(The following language shall be inserted on page 88, between lines 27 and 28.)

In order to stop the nuclear arms race while awaiting the completion of negotiations on strategic arms limitations, the Democratic Administration will pursue an immediate freeze, applying to all nuclear weapons states, on all further testing and deployment of nuclear weapons and delivery systems, within the limits of verifiability.

Minority Report No. 22

(Delete the sentence on page 89, lines 28–30 beginning "Registration of . . ." and insert the following language.)

In the personnel area, we will oppose merely symbolic measures such as peacetime registration for the draft. The major problem ahead is not recruitment, but the retention of skilled military personnel.

Minority Report No. 23

(The following language should be inserted on page 89 at the bottom of the page.)

The Democratic Administration will oppose accelerated development of the land-mobile MX missile system, and conduct a complete and impartial analysis of all feasible alternatives to this system—including the Shallow Underwater Mobile (SUM) System, the Navy/Air Force common missile, and mobile Minuteman III's. And we will thoroughly review all basing structures before we make any final decision on which system will best serve our security.

THE SRC–II DEMONSTRATION PROJECT

Mr. ROBERT C. BYRD. Mr. President, this is a historic day for our Nation and the State of West Virginia.

This morning, President Carter and the Ambassadors from Japan and West Germany signed an agreement making the construction of the SRC–II plant, which will be located near Morgantown, W. Va., an international venture.

Representatives of private interests from the three nations and Secretary of Energy Duncan, signed separate agreements outlining their participation in this important project.

Mr. President, the energy crisis is an international crisis. It can be solved only with the cooperation of the United States and our allies. This agreement is another part of that cooperative effort.

Mr. President, I commend President Carter for his help in making this project a reality. This project is an important part of our national synthetic fuels program. Under the combined leadership of the Congress and the President, we now have the most comprehensive synthetic fuels program in our history, and are moving to put coal back into the energy mainstream of America.

Mr. President, the SRC–II demonstration project is important to America and to West Virginia. It is being carried out to demonstrate the economic, technological, and environmental feasibility of the solvent refined coal liquefaction process on a commercial scale. In 1984, when the first module of this plant is expected to be completed, this plant will produce the equivalent of 20,000 barrels of oil each day, and move us one step closer to breaking the bonds of oil dependence on the OPEC nations.

Mr. President, this plant is also important because it will greatly increase the use of high-sulfur coal, which is found in large quantities in West Virginia and other Eastern States. This plant will use about 2 million tons each year to produce synthetic fuels.

By demonstrating successfully this process on a commercial scale, it will be possible to accelerate the widespread use of this technology and make a significant contribution toward achieving our national energy goals.

This synthetic fuels project, as well as the others which will be constructed, will also provide thousands of jobs for our people and will help stimulate our economy.

Mr. President, this project is a symbol of our cooperation with other nations. By cooperating with our allies, and using our own initiatives, we will create a "new energy era" in the United States of America.

GOVERNMENT SPENDING AND TAX REDUCTION

Mr. HARRY F. BYRD, JR. Mr. President, yesterday Mr. Lane Kirkland, President of the AFL–CIO, testified before the Senate Committee on Finance. I hoped that the leader of this great organization would present to the committee some fresh ideas and some worthwhile suggestions as to what the committee should do pursuant to a mandate given to it by the members of the Democratic caucus of the U.S. Senate. The Democratic Caucus almost unanimously, not totally so, but almost unanimously, mandated the Committee on Finance to submit to the Senate by September 3 proposed tax reduction legislation. The Republicans in the Senate have already submitted a proposal to reduce taxes.

Mr. Kirkland opposed a reduction in taxes, especially in the business field, where many Members of the Senate, a majority of the Senate, feel that some adjustments need to be made in order to stimulate additional business activity and create additional jobs.

In listening to Mr. Kirkland's testimony, and reading carefully his prepared statement, I analyzed his views to be, to put it concisely, in favor of more Government spending and against any reduction in the tax burden of the American people.

I think that is the opposite way in which this country should go. I think we need to reduce the spending. We need to reduce the cost of Government, which is such a burden on the American working men and women.

(Mr. LEVIN assumed the chair.)

Mr. HARRY F. BYRD, JR. There was one aspect, however, of Mr. Kirkland's testimony which I found to be a piece of good news. In a colloquy which I had with Mr. Kirkland it went like this:

> Mr. KIRKLAND. I believe that unemployment is inflationary. Unemployment throws this budget out of balance and creates a deficit which common wisdom, I think, regards as inflationary, relatively.
>
> Senator BYRD. I am glad to hear you say that. I did not realize from your public statements that you regarded deficits as inflationary. So that is a good piece of news today.

Then I went on to say, having read his statement carefully and listened to his testimony, that his statement was one of opposition to any reduction in the higher taxes facing the American people today, and simultaneously advocating more and more Government spending.

I then made this statement to Mr. Kirkland:

> To me that is the old New Deal philosophy which I think is out of date these days. Obviously you do not think so.

And Mr. Kirkland replied, "No, sir."

Well, I guess it is a matter of judgment as to whether the New Deal philosophy of more and more taxes and more and more spending is in tune with public sentiment today. I happen to believe it is not. Mr. Kirkland apparently believes that it is.

I might mention this: In my judgment that view does not represent the thinking of the majority of the working men and women of our Nation today. The leaders of the AFL–CIO have opposed me and sought to defeat me in every campaign in which I have been involved. I am glad to note that the leaders did not prevail. The rank and file working people, the blue collar workers, those who work in our factories, have given me strong support. I am convinced that the majority of the working people share my deep belief that Government has got too big, that Government is spending too much money, that it is too costly, and that we need to balance the budget of the Federal Government just as each individual family is required to balance its budget.

I am convinced that the large majority of the people in our Nation today, and certainly that is the case of the large majority in the State of Virginia, want this Congress and this administration to get spending under control. Government spending is totally out of control.

In this year of 1980, the Federal Government will have the second largest deficit in history. In this year of 1980 the Federal Government will have the highest increase in spending of any year in the history of our Nation. For the upcoming year 1981 the financial picture for the Federal Government is likewise very bleak.

I note an Associated Press report which quotes Speaker O'NEILL as telling reporters today that there are difficulties "in approving a 1981 budget before the election, and that the plan is not to be at the present time." Thus he is preparing for a "lame duck" session.

The leadership in the House of Representatives seems prepared to scrap the budget process and not have any budget until after the elections.

Now, probably that is a very good political ploy because with these huge spending proposals now before the Congress in which the Congress, if it comes to a vote, very likely will enact, the people of this country may very well rise up against the Congress at the polls in November.

So while it may be politically advantageous to Members of the Congress to put off enacting the budget until after the election, it is not good news from the point of view of the taxpayers. If the budget is not enacted before the election, then the taxpayers are going to be in even worse shape when the pressures of the election are removed from the Members of the Congress.

So to this Senator, the comments of the able Speaker of the House of Representatives is not very encouraging.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (HARRY F. BYRD, JR.). Without objection, it is so ordered.

FATHER EDICIO DELA TORRE

Mr. LEVIN. Mr. President, the opportunity for us to meet with a former political prisoner, on whose behalf many of us have worked, is all too infrequent an occasion. This week we have the good fortune to be able to greet Father Edicio dela Torre, a Catholic priest from the Philippines who was released from prison just this April, after spending more than 5 years in prison on charges of conspiring to commit rebellion and possession of subversive materials. He was never tried on any charges and he actually served more time in prison without a trial than he would have had he been sentenced to the minimum sentences to which he would have been subject.

Last year 31 of us in the Senate joined in asking the Secretary of State to become personally involved in this matter. And he did so.

In January of this year I went to the Philippines and met Father Ed at Bicutan Prison located outside of Manila. When I returned to the United States, I wrote to President Marcos of the Philippines and suggested that Father dela Torre be released and allowed to go to Rome to pursue his religious studies. The State Department has been helpful throughout this process, as have so many Members of this Senate and so many outside persons, groups, individuals, organizations in this country who have struggled so long for Father Edicio's release.

After 2 long months, and just before President Marcos' trip to a speaking engagement in Hawaii, we learned of Father dela Torre's release. On April 18, 1980, he left prison. On May 31, he arrived in Rome. For the last few weeks, Father dela Torre has been a welcome guest in the United States. He visited his sister, Irene, in Illinois, went to California and New York, and is now in Washington.

His release is a most welcome action. We are appreciative for all the support of groups and individuals around the world who have encouraged his release. His freedom is cherished by all who know him.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 229

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the twenty-first quarterly report of the Council on Wage and Price Stability. The report contains a description of the Council's activities during the fourth quarter of 1979 in monitoring both prices and wages in the private sector and various Federal Government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies. It also describes the Council's activities of monitoring wages and prices as part of the anti-inflation program.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage, price and other developments that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *July 31, 1980.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts:

On July 30, 1980:

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

On July 31, 1980:

S. 1647. An act to establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066, and for other purposes.

MESSAGES FROM THE HOUSE

At 10:11 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 6613) to amend the Shipping Act of 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission.

At 1:28 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 827) to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service.

The message further announced that the House agrees to the amendments of the Senate numbered 3, 6, and 7 to the bill (H.R. 2538) to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes; and that the House agrees to the amendments of the Senate numbered 1, 2, 4, and 5 to the bill, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7018) to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. DE LA GARZA, Mr. BROWN of California, Mr. FITHIAN, Mr. SKELTON, Mr. GLICKMAN, Mr. ENGLISH, Mr. WAMPLER, Mrs. HECKLER, Mr. GRASSLEY, and Mr. MADIGAN were appointed as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 7102) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7591. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7591. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4310. A communication from the Secretary of Energy, transmitting, pursuant to law, the first semiannual reports on the activities undertaken by the Department of Energy to implement the alternative fuels production portion of the Interior and Related Agencies Appropriation Act for Fiscal Year 1980 (Public Law 96-126); to the Committee on Appropriations.

EC-4311. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 15 construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC-4312. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Army's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4313. A communication from the Chief, Forest Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report pertaining to the adjustment of the boundaries for a portion of the Middle Fork of the Feather Wild and Scenic River, California; to the Committee on Energy and Natural Resources.

EC-4314. A communication from the Under Secretary of the Interior, transmitting a draft of proposed legislation to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Energy and Natural Resources.

EC-4315. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, regulations which would exempt new small industrial boiler fuel facilities from the incremental pricing program required by Section 201 of the Natural Gas Policy Act of 1978 (NGPA); to the Committee on Energy and Natural Resources.

EC-4316. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the leasing of 250,000 feet of office space in downtown Washington, D.C.; to the Committee on Environment and Public Works.

EC-4317. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition of space by lease for the Merit Systems Protection Board in Washington, D.C.; to the Committee on Environment and Public Works.

EC-4318. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the acquisition by lease of 107,000 square feet of space for a Veterans Administration outpatient clinic in Los Angeles, California; to the Committee on Environment and Public Works.

EC-4319. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a revised prospectus for the consolidation of the Securities and Exchange Commission (SEC) in Washington, D.C.; to the Committee on Environment and Public Works.

EC-4320. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4321. A communication from the Vice President, Farm Credit Banks of Baltimore, transmitting, pursuant to law, a report regarding the operation of the Retirement Plan sponsored for employees of the Farm Credit Banks and Associations in the second Farm Credit district; to the Committee on Governmental Affairs.

EC-4322. A communication from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC-4323. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting, pursuant to law, a draft of proposed legislation to provide for Seabed Boundary Agreements between the United States and any coastal State and the immobilization of the seabed boundary of any State; to the Committee on the Judiciary.

EC-4324. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, involving suspension of deportation of an individual under the provisions of the Immigration and Nationality Act of 1952, as amended; to the Committee on the Judiciary.

EC-4325. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the private sector initiative program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Special report entitled "Special Report of the Committee on Energy and Natural Resources Pursuant to Section 302(b) of the Congressional Budget and Impoundment Control Act of 1974—Fiscal Year 1981" (Rept. No. 96-880).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Stephen M. Goldfeld, of New Jersey, to be a member of the Council of Economic Advisers.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 2999. A bill for the relief of George Hook Wo Young; to the Committee on the Judiciary.

By Mr. SCHMITT:

S. 3000. A bill to amend the Internal Revenue Code of 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. JACKSON):

S. 3001. A bill to establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself, Mr. BENTSEN, Mr. CANNON, Mr. ROTH, and Mr. RIBICOFF):

S. 3002. A bill to recognize the importance of service to the U.S. economy, enhance the competitiveness of U.S. service firms, provide a means for promoting cooperation between the U.S. Government and the service sector, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 3003. A bill to establish a program in the Department of Commerce to promote U.S. service industries, enhance their competitiveness, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHMITT:

S. 3000. A bill to amend the Internal Revenue Code if 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

SAVINGS AND INVESTMENT INCENTIVES ACT OF 1980

● Mr. SCHMITT. Mr. President, it has become widely recognized that America must increase its rates of savings and investment if we are to have economic growth in the decade ahead.

A significant factor in the declining performance of the U.S. economy in the past decade has been falling rates of saving by the American public. Personal savings as a percentage of disposable personnel income has undergone a steady decline from 7.7 percent in 1975 to 3.7 percent in the first quarter of this year. In every year since 1975, the amount of personal savings has fallen lower than the previous year. The overall reduction is in excess of 50 percent.

It is generally recognized that savings is the source for investment and that investment is the generator of increased productivity and employment. Investment means new plants and equipment and new jobs to build new production facilities and operate new machinery. If the critical element of personal savings is absent from this equation, then production and employment suffer. To achieve the economic goals of full employment and price stability that are the express goals of our national economic policy, it is crucial that our economy generate increased investment through increased savings.

The legislation I am introducing today would permit taxpayers to exclude from taxation 25 percent of combined interest and dividend income up to a maximum of $50,000. A taxpayer at the maximum interest and dividend level of $50,000 could exempt 25 percent or $12,-

500 from taxation and then pay full tax on the remainder. The 25 percent exemption would be phased in at 5 percent a year over a period of 5 years beginning in fiscal year 1981. According to the Joint Committee on Taxation, the saving to the taxpayer would be about $1 billion in the first fiscal year and $5 to $7 billion when fully operative. Because the 25-percent exemption becomes effective gradually at 5 percent per year, it will minimize revenue loss in the early years while maximizing the increase in savings and investment.

Dr. Martin Feldstein, professor of economics at Harvard University, recently wrote an op-ed piece for the Wall Street Journal which recommends an approach similar to the one I am proposing today. Dr. Feldstein points out that the phased-in exemption of interest and dividend income would create a strong incentive for households to start saving now in order to take advantage of the lower tax rate when it becomes fully effective.

Dr. Feldstein's article is entitled "Tax Incentives Without Deficits." I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The 25-percent exclusion of additional interest and dividends has the effect of reducing the tax rates on additional savings income by one-quarter. For example, an individual in the 28 percent tax bracket would see the effective marginal tax rate on savings income fall to 21 percent. The 40-percent bracket would effectively fall to 30 percent, and the 70-percent bracket to 53 percent. This would result in substantial increases in saving, a switch out of tax shelters, reduced interest rates and less pressure on the Federal Reserve to create money. It is a progrowth, anti-inflationary step of great effectiveness.

A larger exemption for income derived from interest and dividends is essential if the economy of the 1980's is to be one strong, real growth. Full employment and low inflation can only be achieved if there is sufficient capital to finance the investments required to make new discoveries, technologies, and build new plants.

A complete view of the economy reveals an interdependency of all its components; components which interact with each other. It would be shortsighted to assume that one part of this system could be altered without impacting on the system as a whole. According to estimates made by the Joint Committee on Taxation and the Department of Treasury, Federal taxes paid by Americans will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall oil profits and inflation induced tax increases. Other estimates exceed $2 trillion. These will be the greatest tax increases in American history, as much as $200 billion per year. Those who contend that the economy can absorb these increases without creating dislocations are advocating a dangerous course. It is a course that may lead the United States down the road of indefinite, slow growth—or no growth at all.

This massive transfer of resources to the Government is of crucial importance to the economy, particularly since it comes at a time when we are already experiencing declining productivity and negative growth in the economy. It is, therefore, essential that the Congress take action to offset the effect of these taxes; and more importantly to create new incentives for savings and investment.

Recent studies have shown a close correlation between rates of growth and the rates of savings and investment. It is, therefore, no coincidence that the United States, with the lowest rate of savings among major industrailized nations, is also affected with stagnating economic growth. The U.S. rate of savings as a percentage of national income in 1976 was only 4.9 percent compared to rates of 7.1 percent in England; 12.4 percent in France; 13.0 percent in Germany; and 20.9 percent in Japan. The anemic level of U.S. savings as compared to the leading industrial nations of the world accounts, in part, for the declining GNP growth rate and high inflation rate of the United States as measured against these same nations. It is interesting to note that each of these countries offer considerably greater incentives to savings and investment than does the United States.

COMPARISON OF SAVINGS RATES, INFLATION RATES, FEDERAL DEFICIT, AND GNP GROWTH AMONG MAJOR INDUSTRIALIZED NATIONS

Year	United States	Japan	France	Germany	United Kingdom
Rate of consumer price inflation:					
1976	5.8	9.3	9.6	4.3	16.5
1977	6.5	8.1	9.4	3.6	15.9
1978	7.5	3.8	9.1	2.8	8.3
1979	11.3	3.6	10.7	4.1	13.4
Federal Government deficit as percentage of GNP:					
1976	3.3	2.0	0.8	2.7	5.5
1977	2.7	6.1	0.8	1.9	3.2
1978	2.1	6.5	0.8	2.0	5.2
1979	1.2	5.3	NA	1.9	NA

Year	United States	Japan	France	Germany	United Kingdom
Savings as percentage of national income:					
1976	4.9	20.9	12.4	13.0	7.1
1977	5.7	20.3	12.8	12.9	8.4
1978	6.5	20.0	13.5	14.0	8.3
1979	NA	NA	NA	NA	NA
GNP growth rate:					
1976	5.9	6.5	4.6	5.1	3.6
1977	5.3	5.4	3.0	2.6	1.4
1978	4.4	5.6	3.3	3.4	3.3
1979	2.3	6.0	NA	4.8	NA

Source: IMF; OECD; U.S. Department of Commerce, International Economic Indicators, March 1980.

This table shows the relationship between savings rates and the rates of inflation and GNP growth among several major industrialized nations. In 1978, for example, the rate of personal savings in Japan was 20 percent, more than three times that of the United States. At the same time, Japan's inflation rate was 3.8 percent, almost exactly half the U.S. inflation rate of 7.5 percent. In addition, the rate of economic growth in Japan, as measured by GNP, was 26 percent higher than the U.S. rate.

In other words, even while maintaining a deficit more than three times greater than the United States on a percentage basis, Japan was still able to hold inflation down and to enjoy high rates of growth. One explanation for this phenomenon is that the high rate of personal savings fueled by savings incentives provided by the Japanese Government, insures that there are adequate funds available for investment purposes even when the central government may need to borrow significant amounts to finance a deficit.

In the United States, where personal savings has been lower than any other major industrialized country for several years, when the Treasury taps the capital markets to finance a deficit, the pressure generated on the market drives up interest rates—making it difficult for corporate borrowers to afford to borrow—and forces the Federal Reserve to inject funds into the system to maintain stable interest rates. The result is more inflation and a shortfall in investment which inevitably impacts on overall economic growth. The alternative is to develop appropriate incentives for savings and investment to produce fresh inflows of funds into our financial institutions and capital markets that will act as a stabilizing force with regard to inflation, while spurring greater investment in the plant and equipment needed for future economic growth.

NEW YORK STOCK EXCHANGE STUDY ON INVESTMENT

The Office of Economic Research at the New York Stock Exchange (NYSE) recently published a study entitled "Building a Better Future—Economic Choices for the 1980's." This study, conducted with the assistance of Prof. Lawrence Klein of Wharton Econometrics and Prof. John W. Kendrick of George Washington University and drawing upon the expertise of a number of other economists, demonstrates in detail the need to stimulate investment in the economy in order to generate economic growth. I ask unanimous consent that the text of this study be printed in full at the conclusion of my remarks. The NYSE study analyzes the impacts of three possible economic scenarios. The first of these alternatives assumes that the ratio of nonresidential fixed investment to GNP remains constant at its current level of 10.2 percent. Nonresidential fixed investment includes both personal and business investment for nonresidential purposes. The effects of these "base case" assumptions on the economy of the 1980's is as follows:

Base case scenario, 1980–90

	Percent
Ratio of non-residential fixed investment/GNP	10.2

Real growth in GNP (average per year)	2.4
Inflation rate (GNP deflator, average per year)	7.7
Productivity growth (average per year)	1.1
Unemployment rate (average per year)	6.7

Under the second set of assumptions, the "pessimistic" scenario, the level of investment is assumed to fall to 9.6 percent. The effects of such a decline are significant. Unemployment would rise from 6.7 to 8.9 percent. Productivity growth would fall from 1.1 percent growth per year to 0.9 percent. The inflation rate, as measured by the GNP deflator, would rise from 7.7 to 8.9 percent. As the NYSE study states:

> The pessimistic model underscores the direct relationship between low investment in plant and equipment and the one-two punch of fewer new employment opportunities and high rates of inflation.

Low growth scenario, 1980–90

	Percent
Non-residential fixed investment/GNP	9.6
Real growth in GNP (average per year)	2.0
Inflation rate (GNP deflator, average per year)	8.9
Productivity growth (average per year)	0.9
Unemployment rate (average per year)	8.9

The third scenario analyzed by the NYSE study contains the same assumptions as the "base case" and the "pessimistic" simulations with regard to oil prices, Federal Government defense expenditures, and monetary policy.

However, this scenario assumes that tax policies are implemented that would increase the investment/GNP ratio to 12.1 percent. In addition, it was assumed that Government regulation was eased somewhat such that productivity growth would increase by one-half of 1 percent over the period 1980–90. The impact of these policy changes is powerful. The following table shows the effect of an improvement in the investment/GNP ratio on inflation, productivity, unemployment, and economic growth:

High growth scenario, 1980–90

	Percent
Non-residential fixed investment/GNP	12.1
Real growth in GNP (average per year)	3.4
Inflation rate (GNP deflator, average per year)	6.7
Productivity growth (average per year)	2.0
Unemployment rate (average per year)	5.8

The result is a full percentage point increase in GNP growth over the base case scenario, accompanied by improvements in productivity, reduced inflation and an unemployment level of 5.8 percent, a level considered to be very near "full employment" by many economists. The following table compares the economic impact of three different levels of investment over the coming decade:

3 SCENARIOS, 1980–90

[In percent]

	Pessimistic	Base case	Optimistic
Investment to GNP	9.6	10.3	12.1
Real growth in GNP	2.0	2.4	3.4
Inflation (GNP deflator)	9.5	7.7	6.4
Unemployment rate	8.9	6.7	5.8

Clearly, the levels of economic growth, unemployment, productivity, and price stability achieved through the higher ratio of investment to GNP represent the most desirable outcome for the future.

Mr. President, the key variable in achieving the economic goals of full employment and low inflation is the rate of investment. Low investment leads to poor productivity growth, which results in high inflation and reduced GNP growth. These effects combined with increased unemployed produce lower personal savings. A shortfall in personal savings means fewer funds for investment, and the cycle repeats itself. This vicious circle must be broken and the most effective means of breaking it is to create new economic incentives that will encourage individuals to shift economic activity from consumption to savings and investment. The bill I am introducing today will help accomplish this goal. This legislation will affect every American with a savings account or investments.

Over 44 million Americans will benefit from reduced taxes on interest and dividends. Low- and moderate-income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth, and overall increase in economic prosperity that will result. Older Americans on fixed incomes, facing high inflation, will benefit through an improved rate of return on their savings. In short, all aspects of the economy and all segments of our population will benefit from this proposal.

I urge my colleagues to join me in this effort to improve the rate of return our people receive on their savings and investment, for this is the key to economic growth in the decade ahead.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Savings and Investment Incentive Act of 1980.

SEC. 2. (a) Paragraph (1) of subsection (b) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusions of interest and dividends received by individuals) is amended to read as follows:

"(1) MAXIMUM AMOUNT.—

"(A) IN GENERAL.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed the sum of—

"(i) $200 ($400 in the case of a joint return under section 6013), plus

"(ii) 25 percent of so much of the amount of interest and dividends received during the taxable year which are not taken into account under clause (i) as does not exceed $50,000.

"(B) TRANSITIONAL RULE.—For purposes of applying subparagraph (A)(ii) for taxable years beginning before January 1, 1985, the following percentages shall be substituted for '25 percent' in the case of taxable years beginning in the calendar year to which each such percentage applies:

Calendar year:	*Percentage*
1981	5
1982	10
1983	15
1984	20.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.

TAX INCENTIVES WITHOUT DEFICITS

(By Martin Feledstein)

Despite the best efforts of the Carter administration, the tax cut debate has fortunately moved from "whether" to "what kind." There is of course the danger of a quick-fix election year tax cut aimed at stimulating employment and camouflaging next year's Social Security tax rise. But what is really needed is a multi-year program of tax cuts that will reduce some of the existing strong disincentives to capital formation and production. And if it is done in the right way, a multi-year tax cut could bring immediate increases in investment, saving and individual effort without any increases in the government deficit now or in the future.

The most important thing to consider in a tax-cut strategy is that all important economic decisions are based on expectations. What matters for current actions—investment, saving, the choice of jobs—is not the current tax rates but the rates that are expected.

Congress can therefore improve current incentives without any increase in the current deficit by enacting now a schedule of future tax cuts. These precommitted tax cuts can be financed as they occur out of the automatic revenue increases produced by inflation and out of the savings that could result from a slowdown in the growth of government spending. The commitment to a schedule of future tax cuts would give Congress and the government agencies time to shape their spending plans to the lower lever of available revenue. Thus, while an immediate tax cut generally means an increased deficit, precommitted future tax cuts can change incentives without any deficits.

STIMULATING SAVING

Consider the problem of stimulating individuals to save more. Today the combination of inflation and high tax rates makes the real after-tax return negative for many individuals. To stimulate saving, the key requirement is to raise the real after-tax return that savers can expect to receive in the future on additions to their assets. One simple and direct way to achieve this would be to treat interest and dividends like capital gains—i.e., exclude 60 percent of all interest and dividends from taxable income. Of course, if this 60 percent exclusion were allowed all at once in 1981, the revenue loss would probably exceed the increased saving. The government's borrowing to finance this revenue loss would then absorb more than all of the increased saving—and the amount available for investment in plant and equipment would actually be reduced.

But what if the 60 percent exclusion were enacted now with its effective date postponed until 1985? The government would clearly lose no revenue in the next four years. But households would have a strong incentive to start saving more immediately in order to have more assets on which to take fuller advantage of the lower tax rate when it becomes effective. Starting with a small exclusion in 1981 and allowing it to rise to 60 percent by 1985 would make the prospect of the full future exclusion more credible without changing the fundamental point that the immediate increase in saving can be substantially greater than the concurrent increase in the deficit.

The same idea of a precommitted tax cut can work to stimulate investment. Consider the effect of a major cut in the corporate tax rate—say from 46 percent to 36 percent—that is enacted now with an effective date in 1985. Although there would be no change in tax rates from 1981 through 1984, firms would have a substantial incentive to increase their investment spending immediately. Investments made during the next four years would benefit from depreciation at high tax rates while the subsequent profits would be subject to lower tax rates. Again, a gradual phase-in of the tax rate reduction would increase the credibility and visibility of the future rate reductions.

There are other ways to stimulate investment with little or no decrease in tax revenue. Replacing the existing historic cost depreciation method with an indexed depreciation system for all future investment would immediately raise the after-tax yield on all prospective projects. Indeed, at the current high rate of inflation, indexed depreciation would offer a greater stimulus to investment than the Conable-Jones 10-5-3 plan for accelerated depreciation. Indexed depreciation would involve no immediate revenue loss, and the future revenue losses would rise only slowly as the eligible capital stock grew.

For personal rate cuts, a slow but certain phasing in would also achieve most of the benefits of a large immediate rate cut without the large revenue loss. An individual who is deciding whether to change jobs, to relocate, to "invest" in more schooling or training, or just to work harder in the hope of better promotions will look at these future tax rates. Because a gradual phase-in could be financed by the automatic inflation tax windfalls and by a gradual reduction in the growth of government spending, tax rates could be reduced by 30 percent over a few years without any deficits.

Because of the progressivity of the tax schedule, a 10 percent rise in total personal income raises individual income tax collections by about 16 percent—and thus permits a 6 percent "tax cut" without any reduction in the ratio of taxes to personal income. Over four years, the cumulative tax "reduction" would be nearly 25 percent. Pruning the share of personal income that goes in federal personal taxes back to the ratio of 20 years ago would permit an additional real tax cut of 13 percent. The total real tax cut—combining inflation givebacks and real reductions—can be between 30 percent and 40 percent over the next four years. This provides a unique opportunity for a series of tax changes that combine across-the-board reductions in personal rates with specific incentives for saving and investment.

The supply side tax-cut goal of increasing incentives without budget deficits can be achieved in this way without depending on a miraculous response of labor supply or productivity. And to the extent that increases in individual effort and in capital accumulation raise national income over time, there will be greater tax revenues with which to finance either government spending or further tax reductions.

OLD-FASHIONED TAX CUT

Although this is a uniquely good time to begin a series of precommitted tax cuts focused on strengthening incentives, much of the talk in Washington is about an old-fashioned countercyclical tax cut. The advocates of such a policy seem to have forgotten that economists and forecasters just don't know enough to use tax cuts to attenuate the business cycle.

For a tax cut to reduce the current rise in unemployment, it would have to have been passed last year, long before the beginning of the recession was clearly in sight. A tax cut now would probably have its impact in 1981 and 1982 when the recession is past and the economy is expanding. Of course, the recession may potentially be worse than it now looks and output may continue to fall well into 1981. We know too little about just where the economy is going—and about the magnitude and timing of the impact of a tax cut—to recommend a countercyclical reduction in taxes.

The experience of the past 30 years shows that attempts at countercyclical fiscal policy have actually worsened the business cycle—expansionary policies overstimulating the economy and fiscal contractions deepening the recessions. The lesson of this experience is that attempts at fiscal stabilization should be avoided in the short swings of the business cycle and saved as the ultimate economic weapon to be unleashed only if the economy falls into a deep and protracted depression. That is not a reason to avoid a tax cut now but it does imply that the current tax cut should be aimed at long-run goals rather than at the current recession.

Our nation's economic survival and success in the 1980's will depend on the type of tax system we have. Now is the time to begin a serious restructuring that will restore incentives for saving, investment and individual effort. A firm legislative commitment to a gradual phasing-in of these tax changes can provide a major stimulus to current capital formation and individual productivity without any unwanted increase in the government deficit.

[From the New York Stock Exchange, Office of Economic Research, December 1979]

BUILDING A BETTER FUTURE—ECONOMIC CHOICES FOR THE 1980'S

PREFACE

Poised on the threshold of a new decade, it is only natural to wonder what the future may hold for the American economy. Will the 1980s mirror the slow growth and persistent inflation of the 1970s or will we be able to wind down inflation and resume healthy growth? The answer is up to us. We can build a better future if we make the right economic policy choices.

This study addresses the central economic policy issue of the 1980s—how to move the American economy onto a path of faster growth and less inflation. It carries forward the analysis of productivity and growth presented in a New York Stock Exchange study published earlier this year *. That study concluded that low growth rates reflected, chiefly, inadequate capital investment and research and development outlays; the negative impact of government regulation; and the cyclical instability of over-all economic activity. It showed how declining productivity growth multiplies inflation over the longer run, how it weakens the dollar internationally, and how it freezes living standards at home. The analysis underscored the importance of improving the relationship between risks and rewards as a means of improving the environment for capital formation and economic growth.

This study was conducted with the active cooperation of the University of Pennsylvania's Wharton Econometric Forecasting Associates. Their economic simulations of the U.S. economy provided the basis for analyzing various scenarios and developing policy options to achieve better economic performance in the 1980s.

Reduced economic growth combined with runaway inflation has left family incomes at the end of the decade not far above those at the beginning. As the decade ends, the dollar is under attack and interest rates are at record levels. Productivity levels are actually falling.

This is a far cry from the decade of the 1960s when price rises were more moderate (2.3 percent per year in the 1960s versus 7.1 percent in the 1970s), growth in output was faster (4.1 percent per year versus 2.8 percent), productivity gains were higher (2.9 percent per year versus 1.4 percent), interest rates were lower (5.3 percent on average versus 8.1 percent) and unemployment less (4.8 percent versus 6.2 percent). These decade averages conceal even worse statistics on growth and inflation today.

Despite this bleak economic picture, our analysis offers ample cause for optimism. A better life for all Americans is achievable. Faster productivity gains, higher real growth, less inflation, higher levels of employment, and improved living standards can be attained.

There is one catch, however. To achieve the brighter economic future that all Americans desire, it will be essential to shift the emphasis in national economic policy from consumption to investment. If our rate of investment does not rise, the prospect is for continued stagflation and fewer new job opportunities—a particularly dismal prospect for families on the lower half of the income scale and young people entering the labor force.

But while economic policy must focus on shifting resources from consumption to investment, a rising investment rate, in itself, will not assure economic vibrancy. The problem is that the rate at which investment is converted into growth has been in a long-term decline. To dramatize the problem, NYSE economists have developed a new measure—the Investment Efficiency Ratio (IER). The IER measures how much real growth the economy has achieved for each dollar of new investment.

To raise the IER will require a resurgence of entrepreneurship. We will have to create an environment that can stimulate all-out efforts to develop new technologies, new processes, and new products and services, not only by new enterprises, but by established businesses as well. Our best projections for the 1980s show that we can raise the IER through policies designed to enable and encourage business to marshal and utilize our vast physical and human resources more effectively, and to reorganize work patterns in ways that will motivate workers to realize their full creative potential.

Of course, unpredictable and uncontrollable events can, at least in part, contravene even the most carefully designed economic policy prescriptions. The price and supply of energy, to cite an obvious major example, may fluctuate in response to political decisions by OPEC. Agricultural supplies are always at the mercy of the forces of nature. International economic and political developments can have major repercussions on our economy. But to the extent that we can control our own economic destiny, the decade ahead can bring higher real growth and less inflation than the one now ending. As this study demonstrates, greater investment, efficiently implemented, is the key to building a better future.

The study was conceived and directed by Dr. William C. Freund, Senior Vice-President and Chief Economist of the New York Stock Exchange, with the able collaboration of NYSE staff economists Mel Colchamiro, Eugene Epstein and Ira Gelb.

We deeply appreciate the major contributions of the Wharton Econometric Forecasting Associates, Inc.—particularly Professor Lawrence Klein and his colleagues, Dr. Gene Guill and Dr. George Schink. Our special thanks, also, to Professor John W. Kendrick, of George Washington University, for his valuable comments along the way, and for his specific policy suggestions for encouraging investment and improving the Investment Efficiency Ratio. To a number of other economists who were kind enough to review the manuscript, we have already expressed our appreciation privately.

The Exchange, of course, accepts full responsibility for the analysis and study conclusions and for any errors or omissions.—William M. Batten, Chairman, New York Stock Exchange, Inc.

SUMMARY AND CONCLUSIONS

[Charts mentioned in text not reproducible in RECORD]

With the aid of Wharton's econometric model, we analyzed three possible economic paths for the 1980s. The results clearly show that raising the level and efficiency of capital investment can both reduce inflation and raise growth. What is needed is a national consensus to redirect a small portion of output from consumption to additional investment and to make investment more productive.

It may seem ironic that we must limit the proportion of output consumed now to be able to expand our consumption over the longer term. But that emerges as the clearest prescription for marshalling the resources needed to increase output and create conditions more favorable to satisfying consumer needs and wishes, and to lowering personal taxes.

Three specific economic scenarios were simulated and studied.

The base case illustrates what would happen if current policies remained largely unchanged.

The pessimistic simulation shows the economic impact of diminished investment relative to GNP and further declines in productivity growth.

The optimistic case assumes the adoption of economic policies that will spark an increase in investment as a percentage of GNP, and some relaxation of government regulation of the economy.

The results of the three economic simulations are presented in summary form below, with each measure expressed as an average for the decade 1980–1990. The results indicate that policies designed to stimulate investment can in fact increase the investment/GNP ratio.

For the economy to perform at even minimally acceptable levels in the 1980s, U.S. capital requirements will be enormous—$1.8 trillion (in 1972 dollars). Both debt and equity financing needs in the 1980s will be significantly higher than in the 1970s, as shown.

This study introduces a new measure, the Investment Efficiency Ratio (IER). It measures the amount of real output created by a dollar of investment. A primary determinant of the IER is the level of entrepreneurship—the activity required in any market economy to develop new technologies, new processes and new products and services. The entrepreneur has the primary burden of converting investment into growth. If the entrepreneur's activities are stifled, the IER is likely to fall. And, in fact, the IER declined from 30.2 cents of real growth for each new investment dollar in the 1950s to only 12.8 cents in the 1970s.

One possible—but unlikely—reason for the decline might be that, as a nation, we have become less entrepreneurial. But the evidence does not really support that conclusion. The real problem seems to be that tax and regulatory policies have discouraged and hampered entrepreneurship and have been a drag on the IER in other ways as well. Inflation has also played a role by discouraging longer-term and riskier, but potentially high-reward, investments and by lowering real rates of return on all investments.

The capital gains tax increases enacted in 1969 and 1976 lowered the after-tax returns on investments in high-growth companies and made it more difficult for them to attract investment funds. The shift of resources away from high-growth companies helped lower the IER.

Regulation of the economy has helped pull down the IER by diverting resources away from directly productive uses. There is no doubt that regulation can improve health, safety and consumer protection. But regulatory overkill impedes entrepreneurial initiative in two ways. First, since government agencies frequently have the power to approve or disapprove a new venture, the entrepreneur runs the risk that a proposed venture will encounter costly delays—or that it may even be forbidden. Second, regulatory compliance raises costs, may unintentionally mandate operational inefficiencies, and can discourage entrepreneurs from entering new markets.

The study presents a variety of policy alternatives for raising the IER and realizing the optimistic growth scenario. Since specific proposals for bolstering economic growth are numerous and complex, they require careful examination and analysis. Our final chapter presents the high-growth policy options offered by Professor John W. Kendrick, a widely respected authority on the close relationship between productivity and economic growth. His recommendations include:

Ways to stimulate capital investment.

Techniques for promoting innovative research and development.

Proposals for improving labor force quality and efficiency.

Measures to offset the declining quality of our natural resources.

Ideas for increasing the mobility of capital and labor.

Suggestions for reducing swings in economic activity.

Recommendations for easing the burden of regulation.

We believe this study can contribute to the national discussion on appropriate economic policies for the decade of the 1980s. The right policies can enable consumers to enjoy both greater consumption and lower taxes without an inflation penalty.

THREE VIEWS OF THE U.S. ECONOMY IN THE 1980'S

We all tend to project our most recent experiences into the future. In terms of the economy, we usually expect good times to continue indefinitely; and we are generally pessimistic about the prospects for climbing out of a slump. If inflation has been rising, we assume the upward spiral will continue. When productivity and family income growth do poorly and the rate of unemployment is high, the nationwide mood projects more of the same.

Today, there is a widespread, but mistaken, belief that the basic forces that have generated inflation and slow growth in the 1970s cannot be reversed in the 1980s. But while there is no magic formula for instantly reversing a long inflationary trend or the forces that have limited national economic growth, neither is there any reason to be trapped by past policies. Trend is not destiny.

If we are willing to learn from experience, the future can be better than the recent past. America's economic future is very much in its own hands. Our ability to grow and prosper will depend largely on our ability to recognize the forces at work—and our will to reshape national policies.

The Exchange's analysis of the economy in the 1980s is based on a sophisticated mathematical model of the economy developed by the Wharton Econometric Forecasting Associates, Inc., under the direction of Professor Lawrence Klein. Three different simulations were developed from each of three fundamentally different sets of assumptions about the thrust of national economic policy in the 1980s. These simulations are not predictions; they are projections of the likely over-all consequences of three alternative courses national economic policy could take in the decade ahead.

Modeling the future

The study's point of departure was a series of questions about what the American economy would be like in the 1980s if we:

Maintain the status quo with respect to national economic policies.

Pursue policies which discourage saving, capital investment and productivity growth, and further inhibit entrepreneurship.

Implement new policies to encourage saving, capital investment, productivity and entrepreneurship.

Based on these alternative assumptions, three simulations of the economy in the 1980s were developed. The results show that one of the most—perhaps the most—important variable in determining national economic prospects is the proportion of national output devoted to non-residential fixed investment; i.e., investment in new plant and equipment. That type of investment accounted for 10.5 percent of real GNP in 1979.

In our model representing the status quo, the rate of capital investment averages 10.2 percent for the decade 1980–1990. In the "pessimistic" scenario, it averages 9.6 percent for the decade, falling to 8.5 percent in 1990; in the "optimistic" scenario it averages 12.1 percent.

TABLE 1.—*Base case scenario, 1980–90*

	Percent
Real growth in GNP (average per year)	2.4
Inflation Rate (GNP deflator, average per year)	7.7
Productivity Growth (average per year)	1.1
Unemployment Rate (average per year	6.7
Ratio of Non-Residential Fixed Investment/GNP	10.2

Key assumptions are discussed below. A separate paper detailing the underlying assumptions of all three economic simulations is available on request.[1]

Maintaining the status quo

What happens if we simply adhere to existing policies and allow present trends to continue? If, for example:

No new policies are adopted to stimulate investment beyond a $20 billion countercyclical reduction in personal and corporate taxes assumed by Wharton Econometrics for 1980.

Foreign oil prices rise an average of 10 percent annually.

Wage rates continue to increase an average of 9½ percent annually.

Government defense expenditures rise 3 percent annually in real terms through 1985 and 2 percent annually thereafter.

Monetary policy accommodates the rise in output and is neither particularly restrictive or expansive.

The result is a lackluster economy that continues the current trend of poor productivity growth, slow economic growth, and high inflation. Because the economy fails to absorb the increase in the labor force, both the number of unemployed and the unemployment rate rise. Gains in real incomes are very limited, keeping a tight lid on living standards.

More specifically, real growth hobbles along at a 2.4 percent annual rate.

Inflation, as measured by the consumer price index, rises at 8.1 percent a year over the decade, and by 7.7 percent in terms of the GNP price deflator. Productivity for all industries increases by a meager 1.1 percent annually. The unemployment rate averages 6.7 percent of the labor force.[2]

Sluggish economic growth, accompanied by high inflation and high unemployment, does little to improve the purchasing power of American families. Disposable household income would rise by only 0.9 percent per year in real dollars. At that rate it would take a generation to raise real family incomes by barely one-quarter. More precisely, in 1979 purchasing power, disposable household income would rise from an average of $20,800 in 1979 to $23,150 in 1990.

What if things turned worse?

It would not take much economic mismanagement to worsen the situation in the 1980s. The "pessimistic" scenario assumes much the same set of national economic policies as in the base case with respect to:

Oil prices;

Footnotes at end of article.

Federal government defense expenditures;
Monetary policy;
Federal tax cuts.

However, wage rates are assumed to rise a bit faster, at an annual rate of 10.5 percent. The rate of investment drifts downward, averaging only 9.6 percent per year over the decade, dropping to 8.5 percent by 1990.

This set of assumptions produces a more dismal economic outlook. Real GNP growth averages a mere 2.0 percent per annum. Productivity growth drops to 0.9 percent per year. Inflation runs close to 9.5 percent annually, measured by the consumer price index, and 8.9 percent annually, measured by the GNP price deflator.

Unemployment would average an unacceptable 8.9 percent annually, with real economic growth too low to absorb an expanding labor force. Inevitably, younger, unskilled and less well educated workers would be hardest hit.

The steep rise in consumer prices would almost completely wipe out the assumed 10.5 percent increase in nominal wages, leaving purchasing power virtually unchanged. Real disposable household income in 1979 dollars would rise from $20,800 per family in 1979 to $21,500 by the end of the decade—a negligible 0.3 percent annually.

The pessimistic model underscores the direct relationship between low investment in plant and equipment and the one-two punch of fewer new employment opportunities and high rates of inflation.

TABLE 2.—*Low growth scenario, 1980–90*

	Percent
Real Growth in GNP (average per year)	2.0
Inflation Rate (GNP deflator average per year)	8.9
Productivity growth (average per year)	0.9
Unemployment Rate (average per year)	8.9
Non-Residential Fixed Investment/GNP	9.6

TABLE 3.—*High growth scenario, 1980–90*

	Percent
Real Growth in GNP (average per year)	3.4
Inflation Rate (GNP deflator (average per year)	6.7
Productivity Growth (average per year)	2.0
Unemployment Rate (average per year)	5.8
Non-Residential Fixed investment/GNP	12.1

A more favorable alternative

In our "optimistic" scenario, assumptions were the same as in the "base case" and "pessimistic" simulations regarding:

Oil prices;
Federal government defense expenditures;
Monetary policy.

Further, we assumed wage increases averaging 9½ percent per year, as we did in the base case. However, the optimistic simulation does reflect two major policy assumptions that were not inputs in the first two simulations:

Tax policies were implemented in the expectation of raising the investment/GNP ratio. In fact, these tax changes did raise the ratio—from 10.5 percent in 1979 to 11.9 percent in the period 1980–1985 and to 12.4 percent between 1985 and 1990—or an average of 12.1 percent for the entire decade.[3]

An easing of government regulation was assumed and imposed upon the model such that the national productivity growth would increase by one-half of one percentage point over the period 1980–1990.

Energy supply is, of course, a major factor in our economy. Underlying the high-growth alternative is the conclusion that energy needs can be met with strenuous efforts to conserve and to stimulate new energy supplies, particularly by heavier reliance on abundant coal. Appendix 1 of this study examines the energy demand supply situation.

The results of the third simulation again indicate that the rate of business investment is critical. The policies implemented lead to a satisfactory rate of real growth, less inflation, faster productivity growth and higher levels of employment.

The Summary table below provides destination signs on three divergent paths through the eighties. The policies we implement at the beginning of the decade will help determine where we end up.

The table tells us one striking thing: Higher investment rates are essential for creating a larger economic pie for all to share. But are these higher rates realistic and achievable? The answer is yes—if. They are achievable if we adopt policies explicitly designed to encourage them. That does not mean turning on the Federal spending tap. It does mean new policies to raise aftertax returns on investment and to encourage entrepreneurship.

If, on the other hand, the rate of investment is allowed to stagnate or drift downward, it will lower the efficiency of U.S. output. This, in turn, would restrain real growth and raise unemployment, with the added problem of accelerating inflation, making it particularly difficult for lower-to-middle-income families to make ends meet. Clearly, the key to avoiding this downward spiral is to develop effective ways to spur investment and encourage entrepreneurship as the first steps toward curing our national economic ills.

TABLE 4

[In percent]

	3 scenarios, 1980–90		
	Pessimistic	Base case	Optimistic
Real growth in GNP	2.0	2.4	3.4
Productivity growth	.9	1.1	2.1
Inflation (GNP deflator)	9.5	7.7	6.4
Unemployment rate	8.9	6.7	5.8
Investment to GNP	9.6	10.3	12.1

ENTREPRENEURSHIP AND THE INVESTMENT-EFFICIENCY RATIO

Introduction

> The bourgeoisie, during its rule of scarce one hundred years, has created more massive and more colossal productive forces than have all preceding generations together. Subjugation of nature's forces to man, machinery, application of chemistry to industry and agriculture, steam-navigation, railways, electric telegraphs, clearing of whole continents for cultivation, canalization of rivers, whole populations conjured out of the ground—what earlier century had even a presentiment that such productive forces slumbered in the lap of social labor?—Karl Marx and Friederich Engels, The Communist Manifesto, 1848.

That statement by two of the staunchest enemies of the market system remains an eloquent tribute to the entrepreneurial spirit that the market system uniquely nurtures.

Yet at the time they wrote these words the revolution in man's productive forces had barely begun. What seemed "massive" and "colossal" in 1848 would appear puny by the standards of the next 130 years. If Marx and Engels could be so impressed by the achievements of capitalism in 1848, then how much more impressed would they be if they were alive today? Who knows—they might even have written a Capitalist Manifesto.

That is what we want this report to be. Some say that we have entered an era of environmental "limits" in which economic growth must cease—that it is time for the elements of dynamism so characteristic of capitalism to retire from the stage of history. Others say that even though a static economy is not desirable, the problems of "stagflation" make it unavoidable. But, in fact; a very different future is possible. The productive forces that have brought the achievements of the past two centuries can scale new heights. By unleashing entrepreneurial drive we can provide society with expanded output and an improved environment. Someday it should be possible to write, echoing Marx and Engels, that the advocates and prophets of no growth lacked "even a presentiment that such productive forces slumbered in the lap of social labor."

Investment-efficiency ratio defined

It is axiomatic that investment fuels growth—and that higher levels of investment bring higher levels of growth. But efforts to understand and explain what has been happening to the American economy in recent years—and to prescribe effective policies for improving the national economic performance—have been hampered by the lack of a simple, yet effective, measure of the relationship between capital investment and real growth.

The new measure introduced in the following pages, the Investment-Efficiency Ratio (IER), remedies that deficiency. In effect, the IER shows how much real growth the economy has produced for each new dollar invested. The higher the real growth produced by each investment dollar, the higher the IER; the lower the real growth for each investment dollar, the lower the IER.

The IER enables us to measure the rate at which investment is converted into growth, with particular attention to whether that rate has been increasing or decreasing over the long term. In a sense, the IER is a "rate of return" for the economy as a whole. Just as the businessperson seeks profit returns on investment, so the economy, over all, seeks growth return on investment. The IER measures the aggregate growth returns. The IER concept is similar, though distinctly different from, the concept of labor productivity, the subject of the Exhange's last economic report. The differences between the concepts are explained in Appendix 2.

Role of entrepreneurship

Since entrepreneurs play the key role in converting investment into growth, the degree of entrepreneurship is a prime determinant of the level of the IER.

Prof. Nathaniel H. Leff has defined entrepreneurship as the "capacity for innovation, investment and activist expansion in new markets, products and techniques."[4] While entrepreneurs are often regarded simply as people who start new businesses, entrepreneurship is, in fact, far more widely practiced—among established firms as well as new ones; among large firms as well as small. Whenever capital is put at risk to produce something new, or to develop a new way of producing something that is already in production, or to expand the marketable amount of an existing product, an entrepreneur is at work.

Entrepreneurship is not the same thing as management. The manager takes given inputs and directs the process by which these inputs produce predetermined outputs. The entrepreneur, on the other hand, alters the structure of inputs and outputs.

As Irving Kristol has suggested:

> More and more chief executive officers of corporations refer to themselves as "managers," sometimes even "professional managers." Well, if that indeed is what they are—and some presumably fit the description—then they are wildly overpaid. A good CEO, even of a very large corporation, is above all an energetic and shrewd entrepreneur, seeking out—no, better; creating—new opportunities for profitable economic transactions. It is only the possession of this talent—and, like all talents, it is relatively uncommon—that justifies the high salaries they receive.[5]

The role of the entrepreneur is also different from the role of the inventor. Inven-

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Footnotes at end of article.

tion is often a vital prerequisite to entrepreneurship; but it becomes entrepreneurship only when it is extended to become part of the production process. For example, while the Americans invented the transistor, it was the Japanese who reaped many of the benefits from manufacturing, selling, and adapting it to new products. In that case, while the Americans were the inventors, the Japanese were, to a large extent, the entrepreneurs.

The higher the degree of entrepreneurship, the higher the IER. Entrepreneurs who do their job well will net a higher rate of return—i.e., growth—from a given level of investment than entrepreneurs who do their job poorly. This can be illustrated by imagining how the American economy would have grown without the development of the electric, petroleum and automobile industries. Without a high level of entrepreneurship, the same level of investment would have produced a far slower rate of growth.[6]

Professor Leff has written that "entrepreneurship is so important for economic development that it has sometimes been conceptualized as a 'fourth factor of production'."[7] Accordingly, public policies that stifle entrepreneurship are likely to cause a decline in the IER.

The disturbing fact is that the IER has been declining over the long term—and the decline has accelerated sharply in the 1970s. Each investment dollar is simply yielding less real growth than it used to.

Chart 8 summarizes the story. For every dollar invested, the economy has produced:

30.2 cents of real growth from 1950–59; 27.1 cents of real growth from 1960–69; 12.8 cents of real growth from 1970–78.

In other words, between 1970 and 1978, the IER declined to less than half of what it was in the 1960s and even farther below the levels of the 1950s.

Calculating the IER

The investment component used in determining the IER for each decade is nonresidential fixed investment—i.e., all private sector investment that adds to the stock of productive capital. Nonresidential fixed investment not only includes investment in manufacturing and agricultural plant and equipment but also in such things as retail and service industries.[8]

The growth component used in calculating the IER is the increase in real GNP—that is, GNP adjusted for inflation. This figure was reduced by the GNP growth attributable to manhours worked. The two primary contributors to GNP growth are labor input and capital input. Reducing the growth in GNP by the growth in manhours worked eliminates the contribution of the labor input, leaving GNP growth primarily attributable to capital input. It is this growth that we need in order to have an accurate measure of the investment-efficiency ratio. Chart 9 shows what this "adjusted" growth of real GNP was in the 1950s, '60s, and '70s. The "labor-adjusted" growth figure is then divided by the investment figure to calculate the IER for each decade.

Change in GNP/Capital Investment=IER

A variety of statistical definitions of investment and growth were tested (see Appendix 3). The important point is that no matter what investment and growth figures are used, the long-term trend looks the same: The IER of the 1970s is significantly below the IER of prior decades.

Reasons for the decline in the IER

Two significant developments—both of which have substantially stifled entrepreneurship—have accompanied the IER decline.[9]

1. Regulation of the economy has increased. A regulated economy raises entrepreneurs' costs of pursuing opportunities. Inevitably, some of the opportunities will not be seized. Excessive regulation also diverts capital to nonproductive uses.

2. Tax impediments to risk investment have increased. Specifically, higher capital-gains tax rates lowered the after-tax return on growth-oriented investments as compared with the return on income-oriented investments. Therefore, some growth-oriented investments are unable to compete for funds. Since growth-oriented investments tend to be more innovative than income-oriented investments, the IER necessarily declines. In addition, high capital-gains taxes reduce capital mobility.

High rates of inflation have exacerbated the decline in the IER in the 1970s by discouraging longer-term and riskier, but potentially high-reward investments and by lowering real rates of return on all investments. Conversely, a higher IER in the 1980s can contribute to lessening inflation which in turn, will itself encourage more investment and real growth.

Increasing the rate of economic growth

There are two primary ways to increase the economy's rate of growth.

Increase the level of investment. To the extent we can raise the share of GNP that goes for capital investment, the rate of growth will increase without an increase in the IER.

Increase the IER. To the extent we can raise the IER, the rate of growth will increase without an increase in the level of investment.

Both factors are vitally important. If, for example, the level of investment rises substantially in the 1980s and the IER remains unchanged, the resulting growth rate will not match that of the 1960s, simply because the current level of the IER is so low. Similarly, if an increase in the IER is not accompanied by an increase in the level of investment, the overall growth rate will lag behind the 1960s' growth rate. Significant improvement in the growth rate will require both higher investment levels and an increase in the Investment Efficiency Ratio.

The econometric projections cited in Chapter 1 indicate that the level of investment and the IER can both be increased. The "high growth" alternative suggests that a 3.4 percent GNP growth rate is a meaningful target. This can be achieved through an increase in the percentage of GNP devoted to investment as well as through an increase in the IER.

The IER in the 1980s

The three simulations of the economy permit us to calculate the IER in the 1980s in each of the three cases. As one would expect, in the "optimistic" case the IER jumps significantly from its 1970–1978 level of .128. In fact, it jumps almost 50 percent—to .199. Under the assumptions generating the "pessimistic" and "base" simulations, predictably, the IER fares less well—.096 and .143, respectively.

Scenario	IER
Pessimistic	.096
Base	.143
Optimistic	.199

Thus we can adopt policies which will net us 19.9 cents worth of growth for each of our investment dollars in the 1980s or policies which will net us 14.3 cents or even only 9.9 cents. The choice is ours.

FEDERAL TAX POLICY AND ECONOMIC GROWTH IN THE 1980'S

Both theory and practice show that lower tax rates can spur saving and investment and help raise the Investment-Efficiency Ratio. Furthermore, there is little controversy that capital investment must be encouraged if we are to raise long-term productivity and economic growth. Since the goals of enhanced productivity and economic growth are not in dispute, why is there so much debate over the direction of tax policy? Why is there resistance to tax policies to increase investment?

Conflicting tenets of tax policy: A policy dilemma

It is almost universally agreed that tax policy is a legitimate and useful means of promoting economic growth and stability. The problem is, unfortunately, that tax measures which would directly promote saving, investment, and economic growth often run headon into the principle of tax equity; that is, what is perceived as a fair and equitable distribution of tax burdens.

This conflict is often expressed in two major theoretical principles, or desirable characteristics, of a tax system:

Economic Neutrality. Taxation should not alter economic decision-making by individual members of society.

Equity.—People in like circumstances should be taxed equally. People in unlike circumstances should be taxed unequally; that is, progressivity should be built into the tax structure.

Economic Neutrality.—While the concept may be attractive, the fact is that no tax policy is completely neutral. Every tax impinges upon economic decisions in one of three ways:

By affecting consumer choices among competing goods;

By readjusting the perceived relative desirability of work and leisure;

By altering the distribution of production between consumption and investment.

It is the third way that concerns us here. If a given rate of capital formation is needed by society to achieve its economic goals, taxes should be structured accordingly. If a higher rate of capital formation is regarded as desirable, tax policies should be altered to encourage capital formation. Tax neutrality should not stand in the way of achieving broad societal goals.

Equity.—Economics textbooks reflect a general consensus about progressivity in the tax structure—that people with greater income should be taxed at a higher rate than people with lower income. This consensus has little to do with the logic of economics; it stems, rather, from an underlying philosophical belief that progressivity is "fair."

This is the root of the conflict over tax policy. If we are, in fact, to lower taxes on investment, then what happens to the principle of fairness? Since, in the short run, investment tax incentives almost always provide direct or indirect tax relief mainly for middle and upper-income persons, is it "fair" to lower taxes in ways that lessen the progressivity of the tax structure? Unfortunately, the question avoids the real issue: whether, over the longer run, higher productivity gains, more jobs and less inflation outweigh the societal "cost" of reducing the progressivity of our tax structure.

We do not purport to be able to demonstrate with numerical precision the extent to which the societal benefits of greater investment outweigh the societal costs. We do know, however, that the burden of a slow-growth high-inflation economy falls most heavily on lower-income people. Those with the least education, training, experience and seniority are usually the first to be let go when the economy slows, and the last to be hired when the economy rebounds.

The fact is that as a result of a relatively slow rate of economic growth and virulent inflation in the 1970s, real weekly earnings were actually lower at the end of the decade than at the beginning. The income-inflation treadmill is frustrating enough for most Americans, but it is worst for low-income groups. Simply put, those who are trying to "make up ground" lose the most when real income stagnates or advances very slowly.

Clearly, the best way to improve the economy's performance and to raise living standards for all is to adopt policies that will spur economic growth over the long term; and

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Footnotes at end of article.

the evidence indicates that lower investment taxes can, in fact, provide the needed long-run stimulus to capital investment growth that other fiscal-policy measures have failed to develop.

Fiscal policy and economic growth

Higher rates of capital investment are necessary for high rates of output growth in the long run. The Federal government can contribute to increasing the investment rate through fiscal policy in three ways:[11]

It can adopt a policy of budget surpluses when the economy is operating at full employment.

It can increase the rate of investment in physical and human capital directly through its own expenditures.

It can adopt tax measures that provide stimulus for private saving and investment.

When the Federal government runs a budget surplus, it adds its own saving to that generated by the private sector, and puts downward pressure on interest rates.

However, budget surpluses have been few and far between and it would be unrealistic to assume that the Federal government will be generating surpluses in the coming decade. In the post-war period, Federal government surpluses occurred in only 8 out of 33 years, 6 of them before 1960. Moreover, the two Federal surpluses in the last 20 years—in 1960 and in 1969—totaled a slim $3.5 billion. Over the same period, 18 deficits totaled $372 billion.[12]

As for the second possibility—government investment in physical and human capital—public investment generally takes the form of investment in human capital rather than in factories and equipment.[13] Unlike foreign governments, the U.S. government only rarely invests directly in the bricks and mortar of factories and offices.

The third method—tax incentives for private saving and investment—may well be the most effective means by which public policy can influence long-term economic growth.

In the early 1960s, a host of business tax reforms were instituted in an attempt to spur our national rate of investment and economic growth. In 1962, the investment-tax credit was introduced and more liberal depreciation practices permitted. In 1964, the top corporate-income tax rate was lowered from 52 percent to 50 percent (and to 48 percent in 1965). These initiatives spurred additional investment in the private sector, as indicated by a significant increase in the percentage of national income devoted to capital investment in the years immediately following.

The ratio of non-residential fixed investment to GNP had averaged 9.2 percent during 1947–1963 and only 8.8 percent during 1958–1963. Directly after the new investment incentives took effect the rate jumped—from 8.8 percent in 1963 to 9.3 percent in 1964, 10.3 percent in 1965 and 10.8 percent in 1966 (see chart above). Since then, the rate of investment has generally moved lower.[14]

With the Investment-Efficiency Ratio down sharply, the need for increased levels of investment has become more urgent.

Further evidence of the responsiveness of saving and investment to favorable tax changes and increased rates of return comes from the findings of an important study by Professor Michael J. Boskin[15] of Stanford University and the National Bureau of Economic Research. Unlike most other studies in this area, which do not adjust for inflation and taxes, Professor Boskin used real after-tax rates of return. He estimated that the elasticity of savings to be positive, about 0.4. This means that a 10 percent increase in real after-tax returns on investment will induce a 4 percent increase in savings. Professor Boskin therefore concludes that high taxes on investment returns reduce the dollars available for investment in plant and equipment, lower the rate of economic growth and slow gains in national income below what could have been achieved.

Federal tax policy and the investment-efficiency ratio

Lower investment taxes can not only spur savings and investment, they can also influence the IER in two ways:

By encouraging capital mobility, especially by reducing the "lock-in" effect.

By encouraging investment in high-growth companies.

Encouraging capital mobility.—High taxes on capital gains prompt investors to lock themselves in to long-term investments. The prospect of paying high taxes discourages investors from selling appreciated capital assets. Since capital is limited and its constant redeployment is crucial to satisfying changing needs, high capital-gains taxes hinder economic efficiency. And, in fact, the two increases in capital-gains tax rates during 1969–1976 helped accelerate the decline in the Investment-Efficiency Ratio.

Internal Revenue Service data on capital-gains realizations by income groups indicate that those in the highest tax-rate brackets were increasingly reluctant to sell appreciated capital assets after the 1969 and 1976 tax-rate increases. Their unwillingness to realize gains, of course, withheld substantial amounts of capital from reinvestment opportunities elsewhere. These rate increases affected individuals in the 50 percent and over brackets; that is, those with adjusted gross income of $50,000 or more. Thus, if there were to be any evidence of an increase in the lock-in effect, it would show up as a lessening of realizations in the upper-income classes. Table 5 indicates that they did, in fact, cut back their realizations relative to those groups that were unaffected by the rate increases.

As the table shows, the percentage of realizations of the top income group fell from 43.8 percent to 39.9 percent after the increase in rates, indicating a worsening of the lock-in effect. When IRS data become available for 1978 and 1979, it will be possible to begin to judge the effects of the 1978 reduction in capital-gains tax rates.

TABLE 5.—THE EFFECT OF INCREASES IN CAPITAL-GAINS TAX RATES ON REALIZATIONS OF LONG-TERM CAPITAL GAINS 1964–76

[In percent]

	1964–69 average	1970–76 average[1]	Change
Income class:			
0 to $49,999	56.2	60.1	+3.9
$50,000 or more	43.8	39.9	−3.9
Total	100.0	100.0	

[1] Latest available data.

Source: U.S. Department of the Treasury, Internal Revenue Service.

Further evidence of the lock-in effect comes from the results of a recent study by Professor Martin Feldstein.[16] Based on 1973 IRS data. Professor Feldstein concludes that the selling of corporate stock is, in fact, very sensitive to capital-gains tax rates. The study indicates that limiting the top rate on capital gains to 25 percent, for example, would have nearly doubled the realization of gains from corporate stock sales—from $29.2 billion to $49.5 billion.

As we will see in the next section, when rates were lowered in 1978, money flowed to companies with potential for high growth, indicating that the selling of appreciated assets in 1978 and 1979 may well have accelerated.

Encouraging Investments in High-Growth Companies—Investments in corporations are usually motivated by the hope of earning profits from either dividend income or capital appreciation or both. Investments whose earnings potential depends mostly on capital appreciation are more sensitive to changes in capital-gains tax rates than investments whose profit potential is more directly related to dividend distributions. This is because dividend income is taxed at regular rates and is unaffected by changes in the capital-gains rate.

Thus, when the 1978 Tax Reform Act lowered the top rate on capital gains from 49 percent to 28 percent, it eased the tax bite on earnings from gowth-based investments relative to dividend and interest-income investments. Theoretically, therefore, this reform should have encouraged additional savings to flow into prospective high-growth investments. And it did!

One measure of this flow is the extent of capital raised by so-called venture capital firms for investment in promising new companies with high-growth potential. Chart 11 shows the striking effect of the lower capital-gains tax rates. Capital raised by professionally managed venture-capital firms soared to $215 million in 1978 ($165 million of it in the fourth quarter) from $40 million in 1976 and $19 million in 1977. A further increase, to $275 million, is estimated for 1979. As expected, money flowed to high-risk, high-growth investments because the lower capital-gains tax rates raised the after-tax rate of return and lowered the risk premium associated with such investments.

The decline of the IER

Before passage of the Tax Reform Act of 1978, tax policy in the 1970s had blunted the beneficial effects of the investment tax reforms of the early 1960s. The 1969 Tax Reform Act had increased the top rate on capital gains and instituted the so-called "minimum" tax. Together, these measures raised the effective top rate on capital gains from 25 percent to 42½ percent. The 1976 Tax Reform Act effectively raised the top rate to just over 49 percent.

The two increases lowered after tax returns on appreciated capital assets and diverted funds away from potentially high-growth ventures. Thus, despite the fact that the economy's rate of investment had increased a full percentage point, the extra investment was generating less economic growth than in the past. In other words, Federal tax policy unintentionally contributed to lowering the Investment-Efficiency Ratio.

Thus, there is much evidence to support the thesis that saving and investment, as well as the critical Investment-Efficiency Ratio, are responsive to changes in tax rates. Lower investment taxes do, in fact, help increase rates of real-output growth. If after-tax rates of return on savings and investment are raised, we can expect the American economy to:

Increase its rate of saving and investment.

Increase the IER.

Increase its rate of growth.

Decrease its rate of price rises.

Lasting economic benefits can only be achieved through capital investment. Consumer and government spending do little to provide a foundation for future production and jobs. We must devote a sufficient proportion of our resources to build for the future. Our goal should be a more bountiful economy in which all can share. The view that our resources are too limited to achieve this goal is a myth. Realistic, long-term tax policies can contribute both to expanding the base of resources and to utilizing them more efficiently.

ECONOMIC REGULATION AND ECONOMIC GROWTH

Government regulation of the economy acts as a drag on economic growth. It does this in two principal ways: first, by diverting resources away from directly productive uses, and second, more intangibly, by stifling entrepreneurial initiative. This chapter will elaborate on both.

Footnotes at end of article.

But, first, a disclaimer is in order. By looking solely at the costs of government regulation, we do not mean to imply that regulation does not bring with it many benefits. On the contrary, a good society is inconceivable without a large measure of government regulation. Where we mention particular regulatory programs, we are in no way making a judgment about the wisdom of these programs. Any such judgment of a regulatory program must take into account its benefits as well as its costs.

As we will shortly document, a movement toward deregulation is taking hold in Washington. This brief discussion is meant as general background to the complex problems that this movement must cope with.

Extent of regulation

One way of estimating the extent of regulation is to calculate the cost to the public sector of administering regulation and to the private sector of complying with it. The most comprehensive cost estimates available are those of the Center for the Study of American Business in St. Louis, which has calculated the cost of regulation at more than $100 billion a year.[17] The Center separates its cost estimates into two categories: administrative and compliance.

Compliance costs—which account for about 95 percent of the total—are those the private sector incurs in meeting regulatory requirements. Paperwork accounts for approximately 40 percent of estimated compliance costs: Busineses spend tens of thousands of man-years completing literally millions of copies of some 4400 different forms associated with government regulation. The remaining 60 percent of compliance costs is accounted for by a whole range of mandatory and voluntary responses to government regulation that serve to boost prices. For instance, price regulation of the dairy industry keeps fresh milk more expensive than it otherwise would be. The artificial price imposes a cost on consumers that is estimated at $1 billion a year. To take another example, import quotas prevent goods from coming into the country that could be produced more cheaply than domestic goods; consumers are thereby forced to pay the higher price for the domestic goods. These are just two examples among many.

Administrative costs—which account for about 5 percent of the total—are the direct costs to the taxpayer of running the federal regulatory agencies: the Environmental Protection Administration, Federal Energy Administration, Federal Trade Commission, Interstate Commerce Commission, Securities and Exchange Commission, Civil Aeronautics Board, and so on.

Critics have recently challenged the $100 billion figure as being too high.[18] But even if the true figure were half the $100 billion estimate, the costs of regulation would still be substantial. In other words, a fact beyond dispute is the enormous presence of government regulation in the economy.

No estimates exist for regulatory costs in earlier decades. However, there is little question that the costs were smaller, both in real dollars and as a percentage of GNP. The reason is simply that a whole range of regulatory agencies and laws did not exist in the 1950s and through most of the 1960s. These agencies and laws are mostly the result of the "new wave" of federal regulation in the area of consumer product safety, job safety, personnel practices, and environmental protection.[19]

Estimating the "growth drag"

The figures cited above were estimates of the financial cost of government regulation. The effect of this regulation on retarding economic growth is a somewhat different matter. Unfortunately, there are no comprehensive estimates as to the full "drag" that regulation has imposed on the growth of GNP. However, given the sheer magnitude of the expense, the growth drag must be substantial.

As stated earlier, one way government regulation retards economic growth is by diverting resources from directly productive uses. In this regard, productivity expert Edward Denison estimated the cost to business productivity attributable to meeting governmental pollution and job safety requirements—just two aspects of regulation among many. He found that in 1975 the level of productivity was 1.4 percent lower than it otherwise would have been—the equivalent of approximately $20 billion in GNP.[20] Professor John W. Kendrick, of George Washington University, came up with similar estimates.[21]

The other way in which government regulation retards economic growth is by stifling entrepreneurial initiative. Suppose someone (either an established business or an investor backing a new business) decides to introduce a new product or a new production process:

One problem he might face is the risk that the government will not approve the innovation—or that it may simply delay approval for so long that the venture becomes prohibitively costly. For instance, the President's Energy Resources Council pointed out that this problem plagued the infant synthetic fuel industry. Reguatory activity generally, the Council concluded, "could easily hold up or permanently postpone any attempt to build and operate a synthetic fuels plant." [22]

Another problem the enterpreneur might face is all the additional expense of complying with government regulation once the venture is operating. That additional expense could mean the difference between launching or abandoning a particular project.

There is yet another way in which government regulation stifles entrepreneurial initiative. This has to do with the influence on pension fund investment of the Employment Retirement Income Security Act of 1974 (ERISA). In his book on regulation, Murray Weidenbaum writes that the Act "shifted much of the concern of the management of pension funds from maximizing the return on contributions to following a more cautious approach of minimizing the likelihood that the fund managers will be criticized or even sued for their investment decisions." One result is that the pension fund manager develops a strong bias against potentially profitable, innovative investments. As Weidenbaum points out, the rules "thereby deprive smaller, newer, and riskier enterprises of an important source of venture capital." [23]

Move toward deregulation

A recently published Congressional study, of regulation concludes that alternative kinds of regulation, or no regulation at all, might be better in some cases:

"Simply because a problem exists and, in theory is remediable, does not mean that regulation or other government intervention is desirable. Controls should only be undertaken where there is a clearly identified problem that cannot otherwise be solved, and where the anticipated achievements are significant and not vitiated by projected adverse consequences." [24]

Even in the area of environmental improvement—where there is little question that regulation is vital—it might be possible to bring about cutbacks. It may well be that, for a particular industry, an environmental clean-up that is 95 percent effective will add to that industry's cost by 40 percent, but that an environmental clean-up that is 85 percent effective will add to that industry's costs by only 15 percent. The question then arises whether that extra 10 percent in environmental improvement is worth the steeply higher costs. The Environmental Protection Agency must have had this kind of consideration in mind when in 1978 it adopted new "cost reasonableness" standards for water clean-up.[25] The EPA predicts that these new standards will save companies substantial amounts in the purchase of clean-up equipment.

The action of the EPA is only one event among many in the general move toward deregulation.[26] For instance:

The Airline Deregulation Act of 1978 opened up competition for airline routes.

The Interstate Commerce Commission recently stopped requiring railroads to charge fixed rates for hauling fresh fruits and vegetables.

The Transportation Department's Federal Railroad Administration recently decided to revise freight-car safety standards with a view toward eliminating, "unnecessary and burdensome maintenance and inspection requirements."

The Federal Communications Commission has proposed to abolish rules that limit the activities of cable-television operators, radio broadcasters, and telephone companies.

President Carter has created the Regulatory Analysis Review Group, headed by Charles Schultze, Chairman of the Council of Economic Advisers, and Alfred Kahn, Chairman of the Council on Price and Wage Stabilization. Its purpose is to prevent the imposition of excessive regulation, with particular emphasis on monitoring the effect of regulation on inflation.

In response to a requirement of the Carter Administration, regulatory agencies now file economic impact statements when they propose rule changes. The economic impact statement is filed when the estimated costs of the rule change to private industry will be $100 million or more; the statement tries to weigh the benefits against the costs.

Thus, the move toward deregulation has clearly begun. So long as it takes a balanced view of both the benefits and costs of government regulation, society as a whole will be the better for it. The move toward deregulation can raise the IER, bring significant increases in economic growth, and can help to unwind inflation over time.

FINANCING NEEDS AND ECONOMIC GROWTH IN THE 1980'S

Most corporate external financing needs are met through debt rather than equity financing. One reason is that the after tax cost of debt financing is generally lower than that of equity financing. Interest payments on debt are tax-deductible while dividends—the equity equivalent of interest—are not. A dollar raised through debt, therefore, costs a corporation less on an after-tax basis, than a dollar raised through equity. A second reason is that bond financing avoids dilution of earnings and ownership control.

In recent years, stagnant equity prices and high interest rates on bonds have made debt financing seem more attractive to investors. But heavy reliance on debt financing has created some unpleasant balance-sheet problems as the 1980s approach.

Rising debt levels have made corporations more vulnerable to swings in earnings. This is especially true of newer corporations, which typically rely heavily on debt. In periods of weak profitability, corporations with high debt/equity ratios may experience a cash squeeze that can reduce managerial flexibility and endanger their ability to innovate and even to survive.

Trends in debt versus equity financing

Just as the economy must maintain a proper balance between saving and consumption to insure growth and create jobs, so must corporations maintain a proper balance between debt and equity financing to insure their own financial health.

Chart 12 shows how debt has consistently dwarfed equity financing. Over the years, debt has accounted for over 90 percent of new funds raised in the capital markets, and equity for less than 10 percent. In 1977, 1978

Footnotes at end of article.

and early 1979, equity accounted for less than 3 percent of all funds raised externally.

Another important measure of corporate financial health, the relationship between liquid assets and short-term debt, also has deteriorated. As shown in Table 6, the ability of corporations to pay short-term debt has diminished significantly.

Debt financing has accelerated throughout the post-war period. As Chart 13 shows, corporate debt oustanding rose at an annual rate of 8.1 percent in the 1950s, 9.3 percent in the 1960s and 10.7 in the 1970s. Corporate reliance on debt has created a huge debt service obligation.

LIQUIDITY RATIO OF NONFINANCIAL CORPORATIONS

[Dollar amounts in billions]

	Liquid assets [1]	Short-term debt	Liquid assets as a percentage of short-term debt
1967	$62.0	$62.0	103.0
1968	67.0	68.6	97.4
1969	67.8	81.4	83.3
1970	68.7	87.9	78.2
1971	76.6	90.4	84.5
1972	84.0	103.2	81.4
1973	94.4	126.7	74.5
1974	99.1	157.3	63.0
1975	116.6	150.4	77.5
1976	132.1	159.9	82.6
1977	132.9	186.2	71.3
1978	142.0	217.4	65.3
1979 1st quarter	[2] 150.2	[2] 263.1	[2] 57.1

[1] Demand deposits, time deposits, U.S. Government securities. State and local obligations, and commercial paper.

[2] Preliminary.

Source: Board of Governors of the Federal Reserve System. Flow of funds.

The ability of corporations to pay fixed interest charges out of current profits (interest coverage) deteriorated sharply during 1955–1973. Annual corporate profits were only five times yearly interest charges in the 1970s, compared with much safer margins in previous periods (Chart 14).

The broadest measure of the corporate debt burden is the debt-to-equity ratio. This ratio was significantly higher in the 1970s (42.6 percent) than in the 1960s (29.5 percent). Thus, during the 1960s, U.S. manufacturing corporations averaged $2.35 worth of debt for each dollar of equity, compared with $3.39 in the 1970s.

These trends signal a significant warning. The current mix of debt/equity financing could severely limit future economic expansion. High debt/equity ratios may have contributed already to the slowdown in capital spending by raising risk premiums. The effect of increased risk due to large debt positions is difficult to quantify. However, non-residential fixed investment (in 1972 dollars) increased by 5.3 percent per year during 1958–1968, but only by 2.8 percent per year during 1968–1978. Undoubtedly, some investment projects were abandoned because the overhang of debt made further borrowing to finance new projects imprudent. With taxes stacked against equity financing, and with equity prices stagnant and price-earnings ratios low, capital spending suffered.

Continuing restraints on equity financing could force American corporation to continue to keep a tight rein on expansion, restricting America's ability to accommodate the growth needs of the 1980s.

Debt and equity financing needs of the 1980s

Based on the Wharton projections, U.S. capital requirements in the 1980s will be enormous, even for the economy to perform at minimally acceptable levels. The "base case" projects non-residential fixed investment at a staggering $1.8 trillion (in 1972 dollars), in the decade of the 1980s. This is what corporations will have to spend on replacement, modernization, and expansion of the productive capital stock.

Together, debt and equity financing have historically accounted for roughly 52 percent of all plant and equipment spending, while 48 percent has been financed out of retained earnings. If the 52 percent figure holds in the 1980s, corporations will have to incur $846 billion of additional debt and raise $97 billion (in 1972 dollars) worth of new equity, if the historical 90 percent/10 percent ratio of debt/equity financing remains constant.[27] If, however, the proportion of externally funded plant and equipment spending rises for whatever reason—a slippage in corporate profitability, for example—U.S. corporations will face a still heavier external financing burden.

The projected $97 billion equity financing requirement for the 1980s represents an annual average of nearly $9 billion, significantly higher than what has been raised in the past. During 1970–1979, for example, net new equity financing averaged only $6 billion per year (in 1972 dollars). Thus, the task of achieving even mediocre economic results in the 1980s will require 50 percent more real net new equity financing than in the 1970s.

Debt needs in 1972 dollars will average $77 billion a year in the 1980s, compared with $50 billion per year in the 1970s. On top of the problem arising from servicing current debt levels, these additional debt requirements may well restrict the ability of corporations to finance new investment projects. This constraint may cause a retrenchment of capital expansion and economic growth if equity financing cannot be made more attractive. Thus, the equity financing needs projected here, high as they may seem, may not be high enough.

POLICY CHOICES FOR THE 1980'S—AN OVERVIEW

Introduction

Our analysis has shown that two broad policy reforms would provide a major impetus to economic growth in the 1980s: an easing of the tax burden on investment and an easing of government regulation. They would speed growth by inducing a higher rate of investment and by encouraging entrepreneurial initiatives. In addition, the better control we can get over inflation, the more effective these measures will be in lifting investment.

The Exchange asked Professor John W. Kendrick [28] to consider specific tax, regulatory and other types of reforms that could boost economic growth. Highlights of his report follow.[29]

Tax policies

In his analysis, Professor Kendrick notes that capital investment is undertaken only when the net return on new investment is expected to exceed the cost of capital. The cost of capital includes the level of risk as well as the actual cost of money. The net return depends on before-tax profits and the effective rate of taxes on business profits. He points out that the 1979 Annual Report of the Council of Economic Advisers stresses the importance of tax policy in stimulating investment (pp. 130–131):

"If the investment needed to reach our economic goals . . . is to be realized, policy actions are required that will strengthen investment incentives and reduce investment costs and risks. Tax policy is one instrument that can encourage investment by lowering the rental cost of capital, or raising its after-tax return. . . . Over the longer term . . . opportunities for further general tax reduction emerge."

This viewpoint is reinforced by the Joint Economic Committee in its 1979 Report (pp. 21 and 61):

"From a longer run perspective, we need improved incentives to foster savings and investment and job creation."

". . . We agree with the Council of Economic Advisers that further steps to strengthen investment are needed. We favor policies that will raise real business fixed investment to 12 percent of real GNP."

Professor Kendrick summarizes the major alternatives for stimulating capital investment as follows:

Reduce taxes on business by:

Increasing depreciation allowances;

Increasing the investment-tax credit;

Reducing the corporate tax rate;

Reducing the double taxation of corporate income.

Reduce taxes on personal income by:

Reducing the steep graduation of tax rates;

Reducing personal income tax rates;

Reducing the top rate on 'unearned income.

Reducing the top rate on "unearned income" to 50 percent to bring it in line with rates on "earned" income.

Pursue policies that would tend to raise equity prices and reduce the cost of equity financing by:

Lowering taxes on personal income;

Providing "roll-over" treatment of capital gains that would defer the tax on gains when proceeds from sales of appreciated assets are reinvested;

Reducing capital-gains tax rates;

Taxing only inflation-adjusted capital gains;

Reducing double taxation of corporate income;

Increasing capital loss offsets against ordinary income.

Reduce the real (inflation-adjusted) rate of interest by encouraging saving (apart from the above measures) by:

Eliminating the Federal Reserve System's Regulation Q and permitting interest rates on savings accounts to be determined competitively;

Exempting some portion of investment income from taxation;

Encouraging personal saving by broadening the scope of Keogh and IRA-type tax-deferral plans on savings;

Encouraging Federal, state and local governments to build budget surpluses when private investment demand is strong and unemployment is low.

Professor Kendrick believes that the various options for reducing the cost of equity financing are particularly attractive in view of the high debt-equity ratios discussed earlier in this report. Higher real after-tax returns on capital assets would increase the demand for equities and reduce the cost of equity financing. Though the capital-gains tax cuts incorporated in the 1978 Tax Reform Act were a step in the right direction, additional tax incentives are needed if the enormous equity needs of the 1980s are to be met. The fact is that the 1978 capital-gains tax rate cuts left the top rates higher than they were in 1969.

The issue of the double taxation of corporate income is deserving of increased attention. Kendrick and others [30] point out that given the urgent need for equity capital, it is absurd to single out corporate income for especially burdensome tax treatment. It is taxed once, as it is earned by a company, and, a second time, when dividends are paid to the company's shareholders. The problem could be solved through either a credit against personal taxes for corporate taxes paid on dividends received, or by deducting dividends from the corporate-income tax base. Increasing the dividend exclusion would help ease the problem.

Easing government regulation

The effort to ease regulation of the economy should include the following:

Reduce the regulatory paperwork burden, as recommended by the President's Commission on Paperwork.

Eliminate or modify economic regulation to promote efficiency and innovation in

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Footnotes at end of article.

transportation, communications, public utilities and other heavily regulated industries.

Where rate regulation is deemed essential, companies that can demonstrate above-average productivity gains should be permitted a higher rate of return on invested capital.

Subject noneconomic regulations to cost-benefit analyses.

Work toward the reduction of tariffs, quotas and other forms of price supports and controls.

Curb practices which serve to restrict output, price competition, innovation and investment.

Promoting advances in technological knowledge and innovation

Research and development outlays are the fountainhead of technological progress. New processes and producers' goods are the chief elements in reducing costs and, thus, increasing productivity. Historically, advances in technological knowledge have contributed most importantly to productivity advances. Almost half of R&D is Federally financed, and privately financed R&D is influenced by government tax and other policies. Consequently, government policy with respect to R&D support is of major importance. Among steps that might be taken are:

The investment-tax credit could be expanded to cover business expenditures for R&D.

The present investment-tax credit for laboratory equipment could be increased and expanded to include construction.

A Federal organization could be established to promote and support cooperative business-university R&D projects.

Patent laws could be revised to strengthen protection of "intellectual-property rights." (Great Britain recently increased patent protection from 18 to 20 years.)

Dissemination of foreign and domestic technical information to U.S. businesses could be expanded and strengthened.

Antitrust laws and regulations could be modified to permit cooperative R&D programs by U.S. firms.

Governmental procurement programs could be used more extensively and vigorously to stimulate product and process innovations.

Increasing the quality of labor

More effective use of investment in education is necessary to improve training of scientists, engineers and other skilled technicians, as well as public and business managers, who make the decisions to innovate and are responsible for improving the ability of the work force to use increasingly complex technology.

Not only can more effective education and training enable many individuals to qualify for more highly-skilled jobs, but it can enable people to perform more efficiently with less supervision. Better education simulates receptivity to new ideas for performing work. It is essential to keep labor skills abreast of shifts in the needs of the job market. A bad fit between skills and occupational needs is an impediment to growth.

Improving the health of individuals also increases production and productivity by increasing working life, reducing time lost due to illness or accident, and increasing vitality. Continued progress in this area would be beneficial.

Among many steps that could help improve labor force quality:

Create a strong Federal focal point for coordinating Federal programs to promote productivity in the private sector and in government itself at all levels.

The Department of Labor could take the lead in assisting firms to establish joint labor-management productivity teams or other types of productivity-improvement programs.

Private productivity and quality-of-work-life centers could receive the broadest possible support in their efforts to improve productivity in industry.

Provide funds to enable the Bureau of Labor Statistics to expand its monitoring and analysis of productivity.

Efforts to promote economic education in the schools and in adult education programs could be expanded.

Greater use of technology in teaching, through computer-assisted instruction, closed-circuit TV, and the like could be promoted.

School systems could place greater emphasis on career counseling, including interest and aptitude-testing, to help students choose careers that they will find the most rewarding.

Vocational educational curricula could be more frequently reviewed and revised to reflect labor and market needs.

Congress could consider legislation to remove incentives to early retirement.

Workers' expectations and attitudes have changed considerably over the years. Complaints today are just as apt to focus on "depersonalization" and "lack of challenge" as on money and economic security, and these dissatisfactions quickly translate into lower morale and weaker performance. It is important to find ways to build job interest and to use workers' individual talents and abilities more effectively. New organizational approaches to work should focus more on drawing on workers' knowledge in formulating decisions. The principles underlying the "quality-of-work-life" approach—encouraging greater worker involvement in determining job organization and working conditions—merit fuller exploration and implementation.[31]

Increasing the mobility of labor and capital

The ability to redeploy capital and human resources as needed, is an important element in assuring economic efficiency and growth. As noted earlier, tax policy modifications are crucial to improving the mobility of capital. But additional steps can be taken to further encourage the mobility of resources.

While the Department of Justice should vigorously enforce the antitrust laws, it should give greater weight to the prospects for technological innovation in evaluating proposed mergers.

Joint R&D ventures should be permitted when there is no reason to assume any intent to restrict markets or to fix prices.

Improving the general economic climate

A relatively stable rate of growth increases growth more than otherwise by avoiding the dislocations and reduced capital formation that accompany recessions. It also improves opportunities for economies of scale which, in turn, fosters faster growth.

In the past, economic policy has been largely concerned with short-term stabilization problems, with primary emphasis on aggregate demand. Much more attention must be paid paid to policies for attaining longer-term economic objectives, with particular regard to supply-side capabilities and incentives.

More generally, business confidence and, therefore, business capital spending, and stable economic growth would be improved by government actions aimed at reducing inflation. The 1979 Economic Report of the President stated (p. 117):

"Perhaps the most important single contribtuion to this objective [increasing capital investment] would be lower inflation. . . . Indirectly, reduced inflation would have even larger effects on financial markets. With declining inflation, we could look forward confidently to a marked fall in short- and long-term interest rates, to strongly rising stock prices, and hence to a reduction in the cost of both debt and equity capital."

For too long, our nation has down-played those economic policies which promise to build a sounder economy. The need to strengthen America's productivity is made all the more pressing by unsettled political and economic conditions abroad.

If we are to build a better economic future—and this study obviously, contradicts the pessimists who say we cannot—the public and private sectors, as a first prerequisite, will have to agree to conduct a frank and searching dialogue.

This study points to alternative courses of economic policy action for the 1980s. A better future can be achieved by raising capital formation to 12 percent of GNP, by easing regulatory burdens where costs exceed benefits, and by stimulating in a variety of ways entrepreneurship and innovation. Such policies will not produce overnight miracles. But they will, in time, lead to a gradual unwinding of inflation, restore greater confidence in the future of the American economy and bring a fair share of new prosperity into every American home.

Clearly, we can achieve a better economic future—IF we have the will and the discipline to work together to lift our national economy out of its current lethargy.

FOOTNOTES

*Reaching a Higher Standard of Living, NYSE, Office of Economic Research, January, 1979.

[1] Available for Dr. William C. Freund, Office of Economic Research, The New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005.

[2] The unemployment rates derived in this study are based on labor force participation rates lower than those assumed in the Wharton model. The participation rates used fall within the moderate and low parameters of the latest Bureau of Labor Statistics' three-scenario-high-moderate-low participation rate projections for the 1980s. Higher participation rate assumptions will lead to higher rates of unemployment. The actual rates used are available on request.

[3] A wide variety of tax policy combinations could yield a 12 percent investment/GNP ratio—for example, larger investment tax credits, liberalized depreciation, capital-gains or other personal rate cuts, and dividend exclusions and tax credits, among others.

We assumed 1981 increases in the investment tax credit, a shortening of depreciation tax lives, and a decrease in personal income tax rates. Also assumed were personal income tax rebates in 1986-1990 so as to effectively index individual income tax bracket rates. These assumptions were selected not because of any preference but because the Wharton model could best accommodate them as a means of raising the investment/GNP ratio. The sole objective of this combination of tax changes, therefore, was to boost the investment/GNP ratio to 12 percent. Many other tax changes and combination of tax changes could also accomplish this goal. We do not mean to imply that the NYSE or Wharton Econometric Forecasting Associates, Inc., endorses or expects this or any particular tax package to be implemented.

[4] "Entrepreneurship and Economic Development: The Problem Revisited," Nathaniel H. Leff, Journal of Economic Literature, Vol. XVII (March 1979), p. 47.

[5] "Business vs. the Economy?" Irving Kristol, Wall Street Journal, June 26, 1979.

[6] For an excellent history of the importance of entrepreneurship in fueling growth, see The Enterprising Americans: A Business History of the United States, by John Chamberlain, New York, 1963.

[7] Leff, op. cit., p. 47.

[8] This figure excludes inventory accumulation.

[9] One possible reason for the decline in the JER might be that the skill level of the labor force had declined. When the GNP growth rate was adjusted for the growth in the number of man-hours worked, we did not take into account the possibility of a decline in labor force skill levels. However,

analysis shows that the labor force of the 1970s is, in fact, more skilled than the labor force of prior decades. See Reaching a Higher Standard of Living, Office of Economic Research, New York Stock Exchange, January, 1979, p. 39.

[10] This section draws in part from John F. Due, Government Finance, An Economic Analysis, 1963, especially Chapter 6, "The Principles of Taxation" (pp. 102–121).

[11] Joseph A. Pechman, Federal Tax Policy, The Brookings Institution, 1977, p. 24.

[12] There has been a steady increase in Federal spending as a share of GNP in the post-war period, much of it accounted for by transfer payments. As noted by Michael E. Levy in a September 1979 Business Economics article ("Shedding the 'Free Lunch' Syndrome: A New Federal Budget Policy"): "The sharp escalation in the share of GNP accounted for by direct and indirect transfers to individuals—largely transfers from producers to non-producers—dates from the mid 1960s. These transfers, which had amounted to 3.5% of GNP in the late 1940s, rose to about 5% of GNP by 1965. After sharp increases during the next decade, they have ranged from about 9.5 percent to almost 10.5 percent in recent years."

[13] Physical investment by government normally is restricted to public works such as roads, sanitation systems and the like.

[14] Part of the reason for the downtrend has been the adverse effect of inflation on investment. A recent study by the National Bureau of Economic Research shows that taxes now take two-thirds of the total real income on corporate capital (Martin Feldstein and Lawrence Summers, "Inflation and the Taxation of Capital Income in the Corporate Sector," NBER Working Paper No. 312, January 1979). The distorting effects of inflation have returned corporate taxes to the level of the mid-1950s before accelerated depreciation and the investment tax credit began to reduce the tax burden. As the author of the NBER study recently stated ("Inflation and Saving: The Role of Taxes," Address by Martin Feldstein, President, NBER, and Professor of Economics, Harvard University, before the National Association of Manufacturers, March 29, 1979, p. 5): "The implication of a 66 percent effective rate of tax on corporate income is clear. Since the real rate of return on corporate capital before federal taxes is approximately 12%, the net rate of return after tax is only one-third of this or four percent. A net return of four percent is just not enough of an incentive to sustain the desirable level of saving and risk taking."

[15] Michael J. Boskin, "Taxation, Savings, and the Rate of Interest," Journal of Political Economy, April, 1978, pp. 3–27.

[16] Martin Feldstein, Joel Slemrod and Shlomo Yitzhaki, The Effects of Taxation on the Selling of Corporate Stock and the Realization of Capital Gains, National Bureau of Economic Research, Working Paper No. 250, June 1978.

On the "lock-in" effect, see also "Inflation and the Excess Taxation of Capital Gains," by Martin Feldstein and Joel Slemrod, NBER Working Paper No. 234, 1978, and the summary of that study in "How Inflation Distorts the Taxation of Capital Gains," Harvard Business Review, Sept.–Oct., 1978.

[17] See The Cost of Federal Regulation of Economic Activity, by Murray L. Weidenbaum and Robert DeFina (American Enterprise Institute, Report No. 88, May 1978), and The Future of Business Regulation, by Murray Weidenbaum (American Management Association, New York, N.Y., 1979).

[18] See "A Challenge to Murray Weidenbaum," by Mark Green and Norman Waitzman, N.Y. Times, October 28, 1979.

[19] The Occupational Safety and Health Administration (OSHA) was created in 1973, the Environmental Protection Agency (EPA) in 1970, and the Equal Employment Opportunity Commission (EEOC) in 1972. In addition, according to Edward Denison, "Legislation relating to pollution passed prior to the mid 1960's . . . did not importantly affect business costs. Subsequent legislation did." ("Effects of Selected Changes in the Institutional and Human Environment upon Output per Unit of Input," Survey of Current Business, January 1978, p. 23.)

[20] Denison, ibid., p. 21, 1975 is the last year for which Denison provides estimates.

[21] Cited in NYSE Study, January 1978, op. cit., p. 16.

[22] Synfuels Interagency Task Force, Recommendations for a Synthetic Fuels Commercialization Program, report submitted to the President's Energy Resources Council, Vol. 1 (Washington, D.C.; GPO, 1975), pp. C–22, 134 cited in Weidenbaum op. cit., p. 24.

[23] Weidenbaum, op. cit., p. 28.

[24] Study of Federal Regulation, Committee on Governmental Affairs, U.S. Government Printing Office, 1978, Vol. VI, p. xi.

[25] See "Federal Agencies Ease, Lift Some Regulations that Burden Business," Wall Street Journal, Sept. 4, 1979, pp. 1.

[26] Ibid.

[27] This allows only for the "base case" level of capital investment and economic growth. The "optimistic" scenario points to even higher needs—$120 billion of net new equity financing and $1.1 trillion of new debt financing.

[28] Dr. Kendrick is Professor of Economics at George Washington University. He is one of the country's leading authorities on productivity and its links to economic growth.

[29] A copy of Dr. Kendrick's full report can be obtained from Dr. William C. Freund, Office of Economic Research, New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005.

[30] See Morgan Guaranty Trust Company of New York: Monthly Survey, September 1979.

[31] For a further discussion of this subject, the reader is referred to The Dean's Lecture by William M. Batten, Chairman and CEO, NYSE, Commitment to Productivity: An Economic Act of Faith, Wharton School, Nov. 13, 1979. Copies are available on request from the NYSE.

Appendix 1: Energy Supplies, 1980–1990

The economic slowdown of 1979–1980 will dampen the demand for energy and may diminish the gap between supply and demand for a time.[1] It would be wrong to draw long-term interferences from such a period. We must not allow ourselves to be lulled into a sense of security by this short-term improvement in market conditions.

It is anticipated that over the long run—through the next decade, for example—we will require increased supplies of energy, even with all-out conservation.

One recent analysis of the growing longer-run demand for energy concludes: "The average of the most reliable estimates that we've been able to review would indicate that our country's total consumption of energy is going to grow from about 80 quads today to approximately 100 quads by 1990, and perhaps 125 quads by the year 2000."[2]

After thus projecting an increase of 31 percent in energy consumption between 1980 and 1990, the analysis continues:

"This growth in energy consumption assumes no deep economic depression, a population growth to approximately 245 million people by 1990, and continued annual growth in real GNP on the order of 3.5 percent. . . . It also assumes a continued and dedicated effort to conserve and use energy more efficiently."[3]

Perhaps an increase of somewhat less than 31 percent over the decade would suffice if a herculean effort to conserve energy is launched. But the need for increasing supplies by some 25 percent is apparent.

Will our country be able to raise the supply of energy from 80 quads to, say, 100 quads in the next ten years?

It may be noted that there is less reason to be concerned about the adequacy of supply by the year 2000 than during 1980–1990, since new sources of energy and new technology, are likely to be developed by the year 2000. But it takes from five to ten years to bring major new production on stream, whether through new sources of supply or new technology. Delays also result from the long process of regulatory and judicial review.

The prospects for additional energy supplies in the coming decade can be clarified by identifying, first, the current sources of energy supply:

Table 7 shows that, of a total current supply of 79 quads, oil presently contributes 37, gas 20, coal 14, and uranium and hydroenergy 4 quads each.

TABLE 7.—*Sources of energy supply, 1979*

(Quadrillion BTUs)

Oil	
Domestic	18
Other	19
	37
Gas	
Domestic	18
Other	2
	20
Uranium	4
Hydro	4
Coal	14
Total	79

What can we expect by 1990, assuming that the total supply needed to fuel the American economy increases to approximately 100 quads of energy?

One scenario assumes that the oil supply will remain at the present level—that OPEC and other sources will be constrained not to exceed present production levels, because of their general reluctance to pump more of their limited resources.

President Carter announced publicly that our country would try to do better than merely hold oil imports steady. In his July, 1979, energy message, he pledged a goal "of cutting our dependence on foreign oil by one-half by the end of the decade—a saving of over four and a half million barrels of imported oil per day." Whether this goal is achievable remains to be seen. In our projections, we assume that oil imports will fall slightly or remain level rather than decline sharply by 1990.

Gas is assumed to increase to 25 quads, largely from foreign sources of supply. The assumption that uranium will rise from 4 to only 5 quads is probably realistic in light of the Three Mile Island incident. Hydropower is a small source and will remain so in the future.

That scenario leaves primarily coal to balance the supply-demand equation over the decade of the eighties. Fortunately, the U.S. has enormous reserves of coal. It is possible to double the supply of energy from coal. but that would require some modification of environmental standards and/or huge expenditures for anti-pollution investments. In any case, under the assumptions made here, the supply of energy from coal would have to rise from 14 to roughly 30 quads by 1990.

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[1] Of course, supply always equates to demand either through price or through allocations. But the demand at a given level of price can exceed the supply.

[2] Remarks by W. J. Bowen, Chairman, Transco Companies, before the New York Society of Security Analysts, April 11, 1979. A quad of energy is a quadrillion BTUs, or British Thermal Units, a measure of heat. A quadrillion is a thousand trillion.

[3] Ibid.

Above all we must realize that our country will require increased energy supplies in the 1980s to achieve the economic growth projected by the optimistic scenario described in this study. That means, inevitably, that the U.S. must embark on a determined effort to break through existing barriers to increasing domestic supplies, especially from coal and shale. The optimistic scenario is achievable only through greater conservation and increased energy supplies.

TABLE 8.—*Project sources of energy supply, 1980*

(Quadrillion BTUs)

Oil	
Domestic	18
Other	19
	37
Gas	
Domestic	16
Other	9
	25
Uranium	5
Hydro	5
Coal	30
Total	102

APPENDIX 2: THE IER CONCEPT VERSUS THE LABOR PRODUCTIVITY CONCEPT

How is the concept of the Investment-Efficiency Ratio (ITR) different from the concept of labor productivity (the conventional way in which the productivity concept is used)? Labor productivity is a ratio between an economy's total output and total manhours; thus it is a measure of output per manhour. The IER is a ratio between an economy's growth of output and level of capital investment; thus it is a measure of growth returns per investment dollar. The following two equations summarize the matter:

Labor productivity equals Total Output/Manhours

Investment-Efficiency Ratio equals Output Growth/Capital Investment

Labor productivity can rise while the IER falls. Say that the level of investment increases faster than the increase in the number of manhours worked. Almost inevitably, the result will be an increase in labor productivity; since labor will have more capital to work with, total output should increase faster than manhours worked. On the other hand, there will not necessarily be an increase in the IER. The higher level of investment will almost certainly bring a higher level of growth—but the question is how much higher. If the increase in investment is greater than the increase in growth, then the result will be a decline in the IER; the growth returns per investment dollar will be lower.

The above example highlights a major difference between the two measures. Capital formation significantly influences the level of labor productivity. By contrast, the IER is more sensitive than labor productivity to the level of entrepreneurship. A high degree of entrepreneurship is what brings a high-growth return per investment dollar.

APPENDIX 3: CALCULATION OF THE INVESTMENT EFFICIENCY RATIO (IER)

The accompanying tables show different approaches to calculating the IER.

Part A of Table 9 shows the calculation of a "simple" IER—the ratio between dollars of growth and dollars of investment. Note that the IER for the 1970s is substantially below the IER for prior decades.

Part B shows how GNP growth is adjusted for growth in manhours worked. When the percentage growth in manhours is subtracted from the percentage growth in GNP, the result yields a percentage growth of GNP not attributable to manhour growth.

Part C shows how dollar figures are derived that correspond to the "labor-adjusted" percentage rates of growth derived in Part B. The percentage rates of growth in the second column (taken from the last column in Part B) are multiplied by the constant dollar GNP figure for the base year immediately preceding each decade (column 1). This yields a "labor-adjusted" growth of GNP for each decade in constant dollars.

Part D shows how the IER that appears in the text (p. 11) is calculated. (The figures in the second column are taken from the last column in Part C.) Note that the IER in this case shows a constant downtrend from the 1950s.

Part E introduces the factor of capital stock "discards"—capital that is retired from productive use. Column two lists the dollar worth of the capital stock retired from production in each decade. Subtracting these figures from the investment figures in column one yields nonresidential fixed investment net of discards (column three). This provides a fairly accurate measure of net new additions to the capital stock.

Part F calculates an IER with the use of the figures for additions to the capital stock derived in Part E. Here again, the IER shows a continuous downward trend from the 1950s.

TABLE 9.—CALCULATION OF THE IER

	(1) Real nonresidential fixed investment, 1972 dollars (billions)	(2) Growth of real GNP, 1972 dollars (billions)	(3) ([2]÷1] ×100) "Simple" investment-efficiency ratio
Part A:			
1950–59	$580.9	$228.7	39.5
1960–69	884.5	358.4	40.5
1970–78	1098.6	306.3	27.9

	(1) Growth of real GNP (percent)	(2) Growth of man-hours worked (percent)	(3) ([1—2]) GNP growth not attributable to man-hour growth (percent)
Part B:			
1950–59	46.8	11.0	35.8
1960–69	49.8	16.5	33.3
1970–78	28.4	15.4	13.0

	(1) "base year" GNP, 1972 dollars (billions)	(2) GNP growth not attributable to man-hour growth (percent)	(3) ([2] × [1]) "Labor adjusted" growth of real GNP, 1972 dollars (billions)
Part C:			
1949	$490.7	35.8	$175.7
1959	720.4	33.3	239.9
1969	1078.8	13.0	140.2

	(1) Real nonresidential investment, 1972 dollars (billions)	(2) "Labor adjusted" growth of real GNP, 1972 dollars (billions)	(3) ([2÷1]× 100) "Labor adjusted" investment-efficiency ratio
Part D:			
1950–59	$580.9	$175.7	30.2
1960–69	884.5	239.9	27.1
1970–78	1,098.6	140.2	12.8

	(1) Real nonresidential fixed investment, 1972 dollars (billions)	(2) Capital stock discards, 1972 dollars (billions)	(3) ([1—2]) Nonresidential fixed investment net of discards, 1972 dollars (billions)
Part E:			
1950–59	$550.9	$308.9	$272.0
1960–69	884.5	436.5	448.0
1970–78	1,098.6	553.7	554.9

	(1) Nonresidential fixed investment net of discards, 1972 dollars (billions)	(2) "Labor adjusted" growth of real GNP, 1972 dollars (billions)	(3) ([2÷1]× 100) Investment-efficiency ratio
Part F:			
1950–59	$272.0	$175.7	64.6
1960–69	448.0	239.9	53.5
1970–78	554.9	140.2	25.7

Sources: GNP and Investment Statistics: "The National Income and Product Accounts of the United States, 1929–74." Statistical tables and updates from various issues of Survey of Current Business. Bureau of Economic Analysis.

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By Mr. MAGNUSON (for himself and Mr. JACKSON):

S. 3001. A bill to establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington; to the Committee on Environment and Public Works.

PROTECTION ISLAND NATIONAL WILDLIFE REFUGE

Mr. MAGNUSON. Mr. President, I rise to introduce the Protection Island National Wildlife Refuge Act, on behalf of myself and Senator JACKSON.

Mr. President, Protection Island covers about 400 acres, with a maximum width of 0.6 mile and a length of 1.8 miles. The island is located 1.7 miles off Diamond Point in the Strait of Juan de Fuca, west of Port Townsend.

I am informed that the island has only three permanent human residents. But the island is inhabited by 60 to 90 harbor seals. The island is also the home of 21,000 pairs of nesting seabirds.

In fact, over 70 percent of all the seabirds within the inland waters of Washington nest on Protection Island.

The U.S. Fish and Wildlife has provided me with a list of the species that nest on Protection Island and the percentage of the total Washington bird population that live on Protection Island. I ask that this list appear at this point in the RECORD.

Species	Nesting pairs	Percent o Washington State tota
Rhinoceros Auklet	17, 108	97
Tufted puffin	33	64
Glaucous-winged gull	4, 300	43
Pelagic cormorant	194	39
Pigeon guillemot	180	24
Black oyster catcher	6	11

The auklets represent about half the breeding population in the United States. The only other significant breeding grounds are nearby—Smith Island in the Strait of Juan de Fuca with 600 pairs and Destruction Island off the Washington coast with 16,162 pairs. Both of these islands are National Wildlife Refuges.

The glaucous-winged gull colony is the largest in the State of Washington. Within the entire Puget Sound basin, the nesting range of the tufted puffin is limited to only four other islands, and the pelagic cormorant nests on only 10 others.

According to the Fish and Wildlife Service:

> The greatest threat to the island is the potential development of some 800 homesites. A development of this magnitude would be incompatible with the nesting seabirds of the island and would either eliminate or greatly reduce most nesting populations. The island and its wildlife resources are not adequately protected at the local, state or federal level. Habitat protection based solely on Fish and Wildlife Service influence would not insure that the island's integrity would be preserved.

Aside from the 48-acre Zella M. Schultz Seabird Sanctuary, which the Washington State Game Department bought in 1974, the bulk of Protection Island is subdivided into small lots averaging 9,000 square feet each. I am told that only 12 of these lots have improvements (with a total assessed value of $72,745). According to the Fish and Wildlife Service, lots sold in the early 1970's for $4,000 to $10,000. They now have an average assessed valuation of $1,955. Valuations were cut 50 percent after Jefferson County imposed in 1974 a building moratorium that will remain in effect until a State- and county-approved water supply is found and provided.

Thus, water is the key development issue. Two efforts to solve the problem are underway. The Protection Island Beach Club, which is a property owners' association, has hired a driller who is sinking a well on the island now. And several months ago the island's major property owner announced renewed efforts to deliver potable water to the island via an underwater pipeline from Diamond Point.

The island's assessed valuation is $1.6 million. The Fish and Wildlife Service estimates that acquisition would require $2 million to $4 million unless water is obtained, which could increase the total cost to $15 million.

Uncontrolled public access is affecting the bird population of the island, especially during the spring-summer nesting period. The presence of free-roaming dogs, despite a leash law, is an additional problem. Hikers, birdwatchers, photographers, and the curious visitor are known to trample auklet burrows by walking on the fragile, honeycombed southern slopes of the island where the auklets nest in great profusion.

The Fish and Wildlife Service says that perhaps the most ominous threat is the introduction of predators. The absence of nest predation is an essential element to the success of most ground nesting seabirds. The introduction of rats, feral cats, snakes, skunks, et cetera, could have irreversible and disastrous consequences.

Mr. President, I would like to read from a letter I received from Mr. Joseph R. Blum, area manager of the Fish and Wildlife Service in Olympia, Wash., dated July 7, 1980. The letter was to inform me that the Service had completed a protection strategy study for Protection Island.

The letter states that:

> The report indicates that 1) the marine bird resources on the island are substantial enough for a federal interest; 2) application of existing laws and regulations will not protect these resources; 3) other commitments prevent other Federal, State, local and private agencies from acquiring and managing the island; and 4) support for Service acquisition appears to be forthcoming.
>
> The report recommends preparation of decision documents, including an environmental impact statement, to more fully examine all aspects of acquisition. These decision documents are used by the Director to determine whether to pursue acquisition. The strategy study was prepared by this Area Office and approved by our Regional Office. Our national office in Washington, D.C. has indicated an interest by recently directing us to prepare the decision documents on Protection Island.
>
> We intend to begin work on these documents shortly, and to include a substantial public involvement effort. Experience indicates that preparation of decision documents will take at least one year. It is unfortunate that the present developer is now drilling for water on the island. If potable water is located, acquisition costs will rise considerably.

Now, Mr. President, I want to make it clear that the introduction of this legislation is just the first step in this process. We want to make sure that all the parties that are interested in this legislation including the landowners on Protection Island have an opportunity to testify on this bill before the Congress takes any action.

We expect that hearings will be held to receive comments from the U.S. Fish and Wildlife Service, the Washington State Game Department and everyone else who owns land on the island or who has interest in the resource values of Protection Island.

Based on the contacts my office has received on this matter, it would appear that the national wildlife refuge idea enjoys a great deal of support from a variety of organizations. However, we want to make sure we understand all of the property rights issues associated with creating a national wildlife refuge.

Mr. President, I am pleased to announce that similar legislation is being introduced today in the House of Representatives by Congressmen BONKER, SWIFT, LOWRY, MCCORMACK and PRITCHARD. Senator JACKSON and I look forward to working with our colleagues in the House on this legislation.

Mr. President, I ask unanimous consent that the text of the Protection Island National Wildlife Refuge bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection Island National Wildlife Refuge Act."

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) Protection Island, which provides habitat for a large number of waterfowl and other wildlife species, including the nesting grounds for 72 percent of the entire nesting seabird population of Puget Sound and the Strait of Juan de Fuca, is a nationally significant environmental resource;

(2) this island is located close to a large metropolitan area and, accordingly, is of great value as a source of environmental education, recreational opportunities, that are compatible with wildlife resources and interpretive programs; and

(3) this island is currently threatened with spoilation removal public access and ecological downgrading through residential and related development.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act to preserve Protection Island through the establishment of a Protection Island National Wildlife Refuge as part of the National Wildlife Refuge System.

SEC. 3. As used in this Act—

(a) The term "refuge" means the Protection Island National Wildlife Refuge that includes those lands and waters, and interests therein, located in Jefferson County. State of Washington, that are depicted on the map entitled "Protection Island National Wildlife Refuge", dated ———, 1980, and on file at the United States Fish and Wildlife Service.

(b) The term "Secretary" means the Secretary of the Interior.

SEC. 4. The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiency administrable refuge have been acquired.

SEC. 5. Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this Act.

SEC. 6. There are authorized to be appropriated $4 million to carry out this Act.

By Mr. INOUYE (for himself, Mr. BENTSEN, Mr. CANNON, Mr. ROTH, and Mr. RIBICOFF):

S. 3002. A bill to recognize the importance of service to the U.S. economy, enhance the competitiveness of U.S. service firms, provide a means for promoting cooperation between the U.S. Government and the service sector, and for other purposes; to the Committee on Governmental Affairs.

SERVICE INDUSTRIES DEVELOPMENT ACT

● Mr. INOUYE. Mr. President, the United States is a service-oriented economy. Seven out of ten working Americans are employed in the service sector, and about 65 percent of the gross national product is service-derived.

Services include widely divergent industries, ranging from technologically advanced industries such as data transmission to ordinary personal services such as cleaning. The term is generally defined as "invisibles," or industries which do not produce tangible manufactured or processed goods. Much of the resistance to the growth of a service-dominated economy has derived from the outmoded concept of services as being principally traditional labor-intensive industries rather than the modern high technology services such as communications, insurance, and banking. It is this competitive component, however, that is exposed to foreign competition and which needs U.S. Government support.

The significance of the emergence of a service-dominated American economy in the postwar period appears to have escaped the attention of many government policymakers. Except in selected industries such as tourism, communications, and transportation, consideration of the problems and needs of the service sector has been inadequate. Moreover, even when Government agencies have devoted sufficient attention, funds, and personnel to service industries under their jurisdiction, there has been little attempt to devise a comprehensive national policy or set of interrelated policies toward services.

Although the absence of clear and comprehensive U.S. Government policies toward the service sector is seen and felt most acutely in the international trade area, it is by no means limited to trade. Domestically, Government organization does not provide appropriate fora for analysis and consideration of service sector issues. Personnel and funding generally do not reflect the significance of services to the economy. Data collection programs often ignore service industries while concentrating on manufacturing.

Deficiencies in the international trade area have been glaring. The Tokyo round of the multilateral trade negotiations touched on service issues only tangentially although U.S. negotiators had authority to negotiate service trade barriers.

Today, the export and import of services account for a major fraction of total U.S. trade in goods and services. In 1978, the United States compiled a surplus of approximately $25 billion in services, which helped to offset the horrendous merchandise trade deficit of $35 billion (cost-insurance-freight basis).

In 1979, service exports were even more important to our balance of payments. The surplus in service accounts amounted to approximately $34.8 billion and helped narrow the current account deficit to a near balance. The importance of the service sector in our international trade appears to be increasing with the passage of time and mitigates our disastrously poor merchandise trade performance.

Economic policymaking processes do not reflect this fact. Except in certain service industries such as transportation and communications, little attention is paid to services and even less effort to enhance their competitiveness. Even in the transportation and communications fields, we maintain policies which do not reflect the competitive challenge from other industrialized countries and sometimes inadvertently surrender our advantages without reciprocal benefits.

Moreover, when the executive branch tries to promote a service industry without private sector support and coordination, failure is often the result. The U.S. Travel Service of the Department of Commerce is a case in point.

Federal Government personnel and financial resources are disproportionately low compared to the importance of the service sector to the American economy. Currently the Department of Commerce has only nine individuals in the Office of Finance, Investment, and Services working on service issues. As the significance of services becomes more apparent to Government policymakers and managers, they will have to review their budgets and personnel policies to determine whether their agencies' objectives and priorities reflect sufficiently the needs of service industries.

We need an integrated set of national policies toward the service industries which both recognize their economic significance and also actively promote domestically based service firms, and through them, the national welfare. We need a clear set of priorities which accords services the attention which they deserve. One can be certain that other industrial countries give their service firms far greater support than does our Government.

The importance of services to the U.S. economy is increasingly being acknowledged. The U.S. Chamber of Commerce held the first conference on service for April 15 here in Washington and the International Chamber of Commerce held one in New York on May 5. The Department of Commerce, pursuant to the Trade Agreements Act of 1979, has announced the formation of an industry sector advisory committee (ISAC) for services. The Office of the U.S. Trade Representative likewise is creating an industry policy committee to advise it on trade policy issues affecting service industries.

While these are commendable steps, more can and must be done. Therefore, today I am introducing the Service Industries Development Act (SIDA). The bill would do three things.

First, it would give the Department of Commerce lead responsibility on service industry issues within the Federal Government and prescribe a work program to assist and promote those service industries which do not really fall under the existing jurisdiction of Federal agencies. The Department would be expected to work within the trade policy structure already established under the USTR.

Second, it would establish a 12-member private sector advisory committee under the Secretary of Commerce. This committee would not duplicate the functions of the ISAC because its mandate would be to examine domestic service issues and to coordinate its activities regarding international trade issues with the ISAC and USTR.

Third, it would establish an interagency committee responsible to the Economic Policy Group to develop, evaluate, and coordinate executive branch service policies. The committee would be chaired by the Secretary of Commerce, with the U.S. Trade Representative serving as vice chairman. It would have as its objective the development of policies to promote competitive U.S. service industries, recognition of service sector problems and issues within U.S. Government agencies, coordination of the development and implementation of service sector policies, and review of the adequacy of financial and personnel resources of Federal agencies allocated to service industries under their jurisdiction.

Mr. President, this bill is not designed to solve particular sectoral problems of the service industries at this time but rather it looks to the future. We in the U.S. Government will rely on representatives of the private sector to identify their problems, to work with us to promote American services, and to eliminate impediments to the sale of American services. If enacted, this measure will set out an agenda of action, make administrators more sensitive to the service sector, and provide the institutional mechanisms to encourage coordination of policies affecting the service center.

The bill would not cost much to implement, but it has the potential for providing our crucial service industries with formal support of the U.S. Government and expanding the scope of Government policymaking in a constructive manner.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Service Industries Development Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) The United States is a service-oriented economy, in which seven of ten working Americans are employed in the service sector and approximatly 65 percent of the Gross National Product derives from services;

(2) the importance of services in commerce has been overlooked in the development of United States economic analysis and policy.

(3) services, including investments, are an important factor in the United States' international trade, accounting for almost 30 percent of total United States trade and providing the United States with a current account surplus of more than $34 billion in 1979; and

(4) American service industries are encountering increased foreign competition and impediments to international operations and require the support of the United States Government to maintain their international competitiveness.

DECLARATION OF PURPOSE

SEC. 3. The Congress declares that—

(1) the governmental organization to assist and promote American service industries can and should be improved in order to study and collect information, focus attention on industries' problems and assist in the resolution of such problems, and develop service-related policies which promote the national interest;

(2) the Department of Commerce shall have, in coordination with other appropriate agencies, lead responsibility in the executive branch for developing and implementing policies to enhance the competitiveness of American service industries and for achieving the objectives of this Act;

(3) the United States Government should make available adequate financial resources and personnel to implement the objectives of this Act; and

(4) it is the objective of the United States Government to promote the free world trade in services to the maximum extent feasible and to utilize the full resources of the Government to obtain reciprocal rights and benefits for United States traders and investors.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "Secretary" means the Secretary of Commerce;

(2) "Department" means the Department of Commerce;

(3) "United States" means the 50 States, the District of Columbia, Puerto Rico, Guam, Samoa, and the Virgin Islands; and

(4) "services" means economic outputs which are not tangible goods or structures, including, but not limited to, transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, finance, insurance, real estate, professional services, entertainment, and tourism.

ESTABLISHMENT AND PURPOSES OF PROGRAM

SEC. 5. (a) The Secretary is authorized to establish in the Department a service industries development program.

(b) The purposes of the program shall be to—

(1) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(2) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(3) develop a data base for policy-making pertaining to services;

(4) collect and analyze information pertaining to the international operations and competitiveness of United States service industries;

(5) analyze—

(A) United States regulation of service industries;

(B) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(C) antitrust policies as they affect the competitiveness of United States firms;

(D) treatment of services in commercial and non-commercial agreements of the United States; and

(E) adequacy of current United States financing and export promotion programs.

(6) document trade impediments to United States service firms and seek to resolve complaints by such firms;

(7) provide staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(8) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies towards the service sector;

(9) monitor significant Federal and non-Federal governmental activities affecting the service sector;

(10) conduct sectoral studies of domestic service industries;

(11) collect comparative international information on service industries and policies of foreign governments toward services;

(12) develop policies to strengthen the competitiveness of domestic service industries relative to foreign firms;

(13) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(14) provide statistical, analytical and policy information to State and local governments and service industries.

SERVICE SECTOR CONSULTATIVE COMMITTEE

SEC. 6. (a) The Secretary is authorized to establish a service sector consultative committee to promote the development and competitiveness of United States service firms. The purposes of such Committee shall be to—

(1) extend priority in its deliberations to issues which are not principally trade-oriented;

(2) advise the Department on ways in which governmental support can be extended to enhance the competitiveness of the private sector;

(3) advise the Department on developments affecting foreign service industries which do or could affect the international competitiveness of United States firms;

(4) communicate government decisions and policy to the private sector and the views of the private sector to the Department;

(5) assist in developing further detailed information on the size and characteristics of service industry participation, problems, and opportunities in world markets;

(6) provide a forum for the discussion of service sector issues;

(7) maintain communications between other advisory committees within the United States Government on service-related issues; and

(8) discuss and study domestic service-related matters which relate to economic policy. Program initiatives shall emphasize service industries which are not already adequately represented in and by existing government agencies.

(b) (1) The Service Sector Consultative Committee shall consist of 12 members, who shall be selected and appointed by the Secretary based on their experience and familiarity with the service sector and international economic issues. Members of the Committee shall include seven representatives of service businesses; including at least one to represent small business; two representing organized labor; one representing the academic community; and two representing trade associations.

(2) The Secretary shall provide such services as may be necessary for the operations of such Committee, including furnishing a meeting place, secretarial services, duplicating services, stationery supplies, and communications facilities.

(3) The Committee shall meet at least once every three months or more often upon the call of the Secretary, and shall report to the Secretary annually on its findings and recommendations.

(4) The members of the Committee shall be appointed no later than 60 days after enactment of this Act and shall meet within 30 days thereafter.

(c) Not later than March 31 of each calendar year, the Secretary shall submit to the Congress an annual report which documents the activities of the Department during the preceding calendar year directed to promoting American service industries. The report shall include data regarding trade issues and problems related to the service sector, the program undertaken by the United States Government to promote and enhance the international competitiveness of American service industries, and such other service issues as may be appropriate.

INTERAGENCY COMMITTEE ON SERVICES

SEC. 7. (a) The President of the United States is authorized to establish an interagency committee (hereinafter the "committee") to discuss and make recommendations on service sector issues. Such committee shall report and be responsible to the Economic Policy Group or to such economic entity as the President shall designate.

(b) The committee shall be composed of the Secretary, who shall serve as chairman; the United States Trade Representative, who shall serve as vice-chairman; the Secretary of State; the Secretary of the Treasury; the Secretary of Labor; the Director, Office of Management and Budget; the Chairman, Council of Economic Advisers; and the heads of such other agencies, serving on a permanent or temporary basis, as the President deems appropriate. Members of the committee may authorize representatives to attend meetings in their behalf, except that no individual so authorized may be below the level of deputy assistant secretary or his equivalent.

(c) The committee shall—

(1) develop policies, strategies, and initiatives for the promotion of competitive United States service industries;

(2) encourage recognition of service sector problems and issues within agencies of the United States Government;

(3) coordinate the development and implementation of service sector-related policies within the United States Government;

(4) identify programs which can be used to promote United States services relative to foreign competitors;

(5) review the adequacy of financial and personnel resources of United States Government agencies allocated to the service industries under their jurisdiction;

(6) seek to eliminate disparate treatment between manufacturing and service industries.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the activities authorized by this Act.●

ADDITIONAL COSPONSORS

S. 1862

At the request of Mr. MCCLURE, the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

S. 2521

At the request of Mr. DOLE, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2736

At the request of Mr. SIMPSON, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 2736, a bill to exclude certain lands from the Grand Teton National Park.

S. 2788

At the request of Mr. INOUYE, the Senator from Tennessee (Mr. SASSER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2788, a bill to require the disclosure of information relating to reports prepared for excutive agencies by experts or consultants.

S. 2790

At the request of Mr. INOUYE, the Senator from Nebraska (Mr. ZORINSKY), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2790, a bill to limit the amount that may be obligated by any agency of the Federal Government for contracts in the last 3 months of any fiscal year.

S. 2823

At the request of Mr. BOSCHWITZ, the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

S. 2848

At the request of Mr. DOLE, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 2848, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2922

At the request of Mr. HEINZ, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2922, a bill to amend the Congressional Budget Act of 1974 to limit the level of total budget outlays in any fiscal year and to require compensation for additional costs imposed on State and local governments, and for other purposes.

S. 2983

At the request of Mr. SCHWEIKER, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

SENATE JOINT RESOLUTION 176

At the request of Mr. INOUYE, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Joint Resolution 176, a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

AMENDMENT NO. 1953

At the request of Mr. FORD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 1953 proposed to S. 2332, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981 and fiscal year 1982, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to examine the role of U.S. foreign policy in assuring an adequate supply of oil for the United States at a reasonable price.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold hearings on S. 2774, underground coal gasification research legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold hearings on H.R. 2743, a bill to provide a national policy for materials research and development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE INVESTIGATING ACTIVITIES OF INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. HART. Mr. President, I ask unanimous consent that the Subcommittee Investigating the Activities of Individuals Representing the Interests of Foreign Governments of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. HART. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to consider the nomination for Assistant Secretary for Indian Affairs and to consider S. 2126, a bill relating to certain coal leases on the Northern Cheyenne Reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS AND THE SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS AND ENVIRONMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs and the Subcommittee on Arms Control, Oceans, International Operations and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, August 1, to hear administration officials on developments in theatre nuclear arms control.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the rescheduling of an open business meeting before the Senate Select Committee on Indian Affairs.

An open business meeting is rescheduled for August 1, 1980, beginning at 11 a.m., in room 4200 of the Dirksen Senate Office Building. The following is to be considered for markup: S. 2126, a bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation; and, the nomination of Thomas W. Fredericks to be an Assistant Secretary of Indian Affairs for the Department of the Interior.

For further information regarding the business meeting, you may wish to contact Max Richtman of the committee staff on 224-2251.

ADDITIONAL STATEMENTS

A LATE PAYMENTS BILL IS NECESSARY

● Mr. SASSER. Mr. President, I want to announce today that I have joined in sponsoring S. 2910—the Late Payments Act of 1980. If you are a small business who has had the occasion to deal with the Federal Government by selling or servicing certain material and you have failed to receive prompt payment, you would say that such a legislative move is "long overdue."

The purpose of the Late Payments Act is clear: to make the Federal Government do what most businesses do when they receive a bill for goods or services rendered—pay it within a reasonable period of time, 30 days. If a Federal agency does not pay the bill within 30 days after receiving an invoice, interest would be charged.

Such a measure is particularly needed by small businesses. The need is underscored by the current economic crisis, which already threatens the solvency of small businesses.

Large corporate contractors who deal with the Government have the financial and administrative ability to cope with occasional late payments and past due accounts receivable.

Small businesses do not—particularly those businesses "in the field" that do not have the opportunity to secure large, broad-based contracts with Federal agencies and large grantees. An order from a Federal agency to a small firm may be the largest order that such a firm receives. If the Federal agency, or a large grantee, fails to make prompt payment for its order after receiving an invoice, it can cause serious cash-flow problems for small business.

Adoption of a 30-day time period in which the Federal Government must pay its bills or face interest charges makes good business sense, and it implements what is regarded as a universal procedure in the American business community.

All the major credit card companies charge interest after 30 days. Most of the major retail operations in the Nation charge interest after a 30-day period.

The same small business that suffers heavy carrying costs because of a late payment from the Federal Government would receive little solace or sympathy from its own creditor if it attempted to explain away an overdue payment by saying: "Well, since I wasn't paid on time, neither will you * * * and you won't charge interest, either."

Perhaps the Late Payments Act of 1980 would not be necessary if the record of all Federal agencies in its payment procedures was good.

Senator Nelson, chairman of the Senate Select Committee on Small Business, has pointed out, however, that a recent General Accounting Office study of the problem of late payments showed that late payments—or payments made after 30 days by the Federal Government—represented almost 40 percent of the total invoices, and almost 20 percent of the dollar volume of the invoices involved.

Small businesses simply do not have the cash flow capability or administrative resources to pursue overdue accounts the way large corporations do.

For many small businesses, the practice of late payments by the Federal Government is part of a double standard. They will tell you that the Internal Revenue Service would not look as kindly on small businesses if they made quarterly payments at the same rate at which the GAO study showed that Federal agencies made payments on its invoices.

Put another way, small businesses feel what they believe is a disproportionate share of the burden of Federal rules, regulations and guidelines at the same time they suffer disproportionately from poor business practices by the Federal Government.

They see part of their revenues—through taxes—going to pay for Federal agencies, and another part of their revenues going to cover the carrying charges wrought by late payments on the part of the Federal Government.

Frankly, I think small businesses in America have been extraordinarily reticent on this issue. I suspect that one of the reasons for this is that they have been working overtime to make up for profits lost through late payments, and they have not had the time to be more assertive.

Mr. President, I say let us correct this imbalance through the passage of S. 2910, the Late Payments Act of 1980. It is a measure that would encourage the Federal establishment to put its books in order, to be no less businesslike than the businesses that serve it. And I urge my colleagues to give their support to S. 2910 as well.●

DO WE NEED A COUNCIL ON WAGE AND PRICE STABILITY?

● Mr. HEINZ. Mr. President, as you recall, on June 2, the Senate accepted an amendment which I offered to the Council on Wage and Price Stability (COWPS) authorization bill that denied the President's request to triple the resources available to this agency.

Instead, the Senate granted the Council merely a cost-of-living increase so that it could keep pace with the rising cost of living which it has had so little success in reducing.

At the time, many felt that even this modest increase was far too generous in view of COWPS' dismal track record in terms of reducing inflation, reforming Federal regulations, and improving productivity. To many, the Council's system of wage and price guidelines seemed to be a cruel hoax because it in effect pins the blame for inflation on those who are really its worst victims: American workers and businessmen. At a time when many pressing social needs are being sacrificed because of the need for fiscal austerity, it seemed inappropriate to extend the life of a Federal program whose major effect was in the form of nuisances imposed on business and labor.

In the end, however, we voted to extend for another year the life of this Federal agency. In part, we were swayed by arguments such as that made by Arthur F. Burns of the American Enterprise Institute, who—conceding that "COWPS has accomplished very little"—offered the view that—

> The only reason for extending is that its discontinuance at this time may be interpreted by the general public as an indication of lack of concern over inflation by the Congress.

Since the Senate vote, COWPS itself has circulated a letter soliciting comments on the future design of its voluntary pay and price guidelines program—including the possibility of terminating the program.

In response to this letter, Dr. Herbert Stein has taken the Council at its word and suggested that COWPS be allowed to die a natural death. His letter, which was printed in the July 29 Wall Street Journal, presents some compelling arguments for not extending the life of the Council. These arguments include the ineffectiveness of COWPS' guidelines program; the inequities and inefficiencies inherent in any guidelines program; and that the guidelines are inconsistent with the economic and political freedoms which form the basis of the American enterprise system.

In view of Dr. Stein's letter, I would suggest that my distinguished colleagues who serve on the Appropriations Committee might want to take a second look at where some savings from the Federal budget might be realized. So that my distinguished colleagues on the Appropriations Committee can have the benefit of Dr. Stein's view, I ask that the text of his letter be printed in the Record.

The text follows:

Dear C.O.W.P.S.

Dear Council on Wage and Price Stability: This is in reply to your circular of July 8 in which you invite suggestions for the future operation of the voluntary wage-price guidelines program, including the possibility that the program should be terminated. I congratulate you on your open-mindedness in recognizing this possibility. I wish that many other agencies would follow your example, and I hope that they will not be deterred from doing so by my answer to you.

Not to beat around the bush, I think it would be best if you wound up the guidelines program now.

Since the program was initiated almost two years ago the rate of inflation has accelerated greatly and has far exceeded the targets set for the program. You present calculations to show that the inflation rate in the sectors of the economy covered by the guidelines was 1 to 1½ percentage points lower during the first 18 months of the program than it would have been without them. But we both know how difficult and unreliable such calculations are. To make a reliable estimate of the effect of the guidelines we would need a good model of the U.S. economy which would permit estimation of what the rate of inflation would have been if "everything else" had been the same but there had been no guidelines. Of course, such a model does not exist. Surely if we tried we could find an econometrician who would "prove" that the guidelines had increased, rather than reduced, inflation.

I must say, or admit, however, that such calculations do not impress me. Even if it were demonstrably true that the guidelines had reduced the inflation measurably in the past and would surely continue to do so in the future, I would recommend that you should go out of business now. The bedrock fact, from which no statistics will move me, is that I do not like price-wage guidelines.

MORE THINGS IN HEAVEN

There are more things in heaven and earth than are dreamt of in your econometrics, C.O.W.P.S., or, to paraphrase another poet, let us not measure out our policy in teaspoons.

The guidelines violate the rules of the economic and political game we play here. An argument that you can win, in some pragmatic sense, by violating the rules of the game would not prove that is the proper thing to do. You might demonstrate, statistically, that baseball pitchers who spit on the ball have lower earned run averages than pitchers who don't, but I would still believe that the spit-ball was improper. There is a strong belief in this country that playing by the rules is more important than winning.

The game we play here is the free economy-constitutional democracy game. The centrality of free prices to this game is shown by the frequent description of it as a free-price system. The rules of this game do not bar governmental intervention in the price system. The rules do say, however, that such interventions should be confined to limited and special cases, that they should be authorized by legislation which establishes standards, and that the intervention should be subject to judicial review. All of these rules are, of course, violated by your program. Your price standards apply to about 60% of the economy, selected mainly because it is possible to get at that part of the economy, not because it is guilty of anything. Your action has only vague legislative authorization and no legislative standards. There is no judicial review. Enforcement relies on penalties never intended for the purposes for which they are now being used. In order to obtain the cooperation of organized labor with the program, the administration has entered into a treaty with the heads of some large labor unions in which the administration has agreed to some aspects of economic policy that the union leaders found acceptable. I believe that this was the first time the U.S. government entered into a treaty with U.S. citizens.

You may find use of the "game" analogy frivolous. We are dealing with serious matters. But I am really talking about the need to abide by the rules and inherent logic of the system. In fact, the trouble with inflation, the dragon you are commissioned to slay, is that it breaks the rules. It is cheating. It confounds the expectations that people had every right to hold. But the voluntary guidelines are cheating in that sense also. They deprive people of freedom they had every reason to expect when they made investments and other commitments.

I would not maintain that all games are equal and that the only necessity is to play by the rules of whatever game happens to be in season. Some people may not like this game. If so they should say that clearly and advocate a deliberate change in the system. We should not be slithering into a different system. I fear that we are slithering. The voluntary guidelines are a slither. The automobile industry "government-labor-business" concert is a slither. All the talk about reindustrialization, and about a new partnership between government and the private sector, is in the same direction. We seem to be sliding into a mushy syndicalism, which may have the support of "conservatives" because the power of the government bureaucracy will be shared with the bureaucracy of big business and big labor. If that is what people want they should say so.

A SATISFACTORY GAME

But I am among many Americans who don't want to change the system. The free economy-constitutional democracy game we have been playing has been an extraordinarily satisfactory one. It has yielded high incomes, freedom, opportunity and ability to choose a preferred life style. From time to time we are swept by the idea that there is a better system "out there." Mussolini made the trains run on time, French indicative planning yielded economic growth, Japan had the secret of high-tech society. The earlier fads passed. Perhaps the Japanese fad will not pass. Perhaps they really do have the secret of productivity. If so I would still not like it. I would not like to live in a society run by the American equivalent of a public-private network of Tokyo University classmates.

I suppose that is the hard core of my answer to your question. I believe that the guidelines program should be terminated because it violates the rules of an economic-political-social game that I like. Probably not much more than that can be said about many public issues.

There is nothing personal about you in this conclusion. I have been there myself, and I know how easy it is to feel that you alone have your finger in the dike against inflation. But surely there must be moments when you feel how bizarre it is to be sitting there in the Executive Office Building directing the affairs of millions of people who have invested their savings and work in enterprises and occupations about which they know much more than you do. Those are your moments of revelation. Be guided by them.

Sincerely yours,

HERBERT STEIN.●

VIETNAM VETERANS

● Mr. MOYNIHAN. Mr. President, I should like to bring to the attention of my colleagues a recent article which appeared in the Buffalo Evening News. Written by Mr. Steve Banko III, who is himself a decorated combat veteran, it is an eloquent and forceful commentary about the experience of those who served in the armed services during the Vietnam war. While much has been written about the war and those who fought it, rarely has it been expressed with the clarity that Mr. Banko achieves in his article. I recommend it highly to my colleagues, and ask that it be printed in the RECORD.

The article follows:

VIET VETS ARE HOME—WITH A CLEAR, UNIFIED VOICE

(By Stephen T. Banko III)

There is an old Australian ballad that tells the tragic story of a young lad who is called to serve the Crown after the outbreak of the First World War. Having reached the age of 18, the youth hears and accepts the call to duty and is sent off to do battle with the Turks.

The song then tells of the terrible and bloody saga of the Gallipoli campaign—events which include the loss of both the young hero's legs to a Turkish shell. It then relates the sad and dreaded journey of the youth back to his native Australia together with "the armless, the legless, the blind, the insane . . ."

And as the torn and twisted survivors of the horror of that awful conflict are carried down the ship's gangway, the lad sings:

". . . and thank God there was no one there waiting for me . . ."

And while the song, "And the Band Played Waltzing Matilda," deals with the savagery and the horror and suffering of a war some 65 years ago, it nonetheless, carries a special meaning to the survivors of another war, no less horrible but much less celebrated. It is the lyrics of this World War I ballad that come closest in prose or verse to describing the feeling that beset most young men returning from the Vietnam experience.

Rather than coming home en masse to the tumult and the celebration of a grateful nation, we straggled home one by one. We were rightly confused about what we had done, for whom we had to do it and why we had done it at all. Our victories were personal as were our defeats. They couldn't be shared because we didn't know how to share them and the people didn't know how to understand them. Coming home in one piece was a major triumph for some; coming home at all was for others.

And contrary to the popular misconception that Vietnam veterans craved the parades and the celebrations that marked other home comings of veterans of other wars, we understood and shared the relief of that young Aussie of 65 years ago who thanked his God there was "no one there waiting for me."

There should be little wonder as to that emotion.

Fighting for goals not clearly delineated against an enemy never clearly identified, without guidelines as to the rules of warfare, we coped with tragedy that was common to us all in very individual ways. Our own confusion and the misconceptions of those who thought they could learn about war and the men who fight in them from the six o'clock news rendered all of us sterile in the attempt to share our experience, our suffering and our grief.

The result was a protracted period of limbo in which the Vietnam veteran was depicted as a crazed killer or a pyschopath.

That period has ended. Its passing has been signaled in many ways. Not the least of them has been the willingness of the Vietnam veteran to come out of the closet, to join veterans' organizations and to take lead roles in them. A month ago, 600 Vietnam veterans and their supporters gathered in the Golden Ballroom of the Statler Hotel to call attention to the contributions of veterans to their community, the special problems we still face, and the concerns that are common to us all.

Emerging as leaders of this activist movement are articulate and courageous spokesmen such as Bobby Muller of New York City, the founder of Vietnam Veterans of America, and Dennis Joiner, national vice-commander of the DAV, who spoke in Buffalo.

Their voices have been raised in concert with thousands of Vietnam veterans across the country and with them so has the consciousness of what Vietnam was and who shouldered its terrible burden.

As they become more comfortable with their past and more confident about the present, Vietnam veterans are emerging as leaders in business, government and in the community at-large. The unified voice and the common purpose of Vietnam veterans is responding to the call of our comrades just as we responded to our nation's call more than a decade ago.

We have rallied to help our brothers stricken by Agent Orange and alerted the country to its detrimental affects. We have convinced state government that this insidious poison is just as dangerous to us today as bullets and bombs and booby traps were ten years ago. We have motivated congressional leaders like Sen. Pat Moynihan to articulate our concerns on Capitol Hill. We have taken our case to the nation that ignored us once but now listens when we speak.

The success that has greeted the Vietnam veterans movement in this country has fueled an even more aggressive posture that recognizes the political clout that we can wield in the battle to gain equal footing among the veterans of other wars. We are prepared to exert our clout as a concerted constituency to elect those candidates who are sympathetic to our problems and responsive to our solutions to them.

As we move forward in the political arena, other Viet vets are providing impetus in other areas as well. Jim Webb has done much to disspel the negative notion of Vietnam veterans as "whackos" "crazies" and "baby killers." With the deft hand of realism and the vibrant colours of experience, Webb has given the country the real picture of Vietnam and the men who fought there in his novel, "The Fields of Fire."

As Vietnam veterans assume the "doer" roles throughout society, veterans of all wars can feel a sense of achievement. For through their activity and their increasing political awareness, the Vietnam veteran will soon take the lead role in assuring that those who have borne the brunt of war receive the gratitude of the nation.

The feeling of unity, of courage, of comraderie that sustained us in the dirty hot months of fighting in Vietnam and comforted us in our isolation has not resurfaced to bring us together to work to improve the quality of life for all veterans.●

CONCERN FOR LENINGRAD JEWS

● Mr. BOSCHWITZ. Mr. President, along with 12 of my colleagues, I signed and sent the following letter to Leonid Brezhnev, signaling our great concern for the health and welfare of three Leningrad Jews who have been imprisoned for a decade now. Aleski Murzhenko, Iosif Mendelevich, and Yuri Federov sought for many years to emigrate from the Soviet Union, as is their right. When this avenue was closed off to them, they sought freedom by an irregular method, hijacking an airplane. This desperate action, by men seeking to realize their right to emigrate came only after repeated denial of their requests of visas to Israel, is more a reflection upon the Soviet policy of human rights than upon the character of the three members of the "Leningrad Group." If the Soviet commitments at Helsinki mean anything, they should release these three men, and allow them to emigrate.

I submit the letter for the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 7, 1980.

LEONID BREZHNEV,
Chairman, Presidium of the Supreme Soviet, the Kremlin, Moscow, U.S.S.R.

DEAR MR. CHAIRMAN: We are writing to express our deep concern for the well-being of Iosif Mendelevich, Aleski Murzhenko, and Yuri Federov—the three men who still remain in prison from the so-called Leningrad group. We ask for the early release of these three men, on the tenth anniversary of their arrest, on the grounds of justice as well as humanitarian concerns.

In the past year you have released and pardoned seven Soviet prisoners who were being held on charges arising from the same incident that led to the convictions of Mendelevich, Murzhenko, and Federov.

Iosif Mendelevich, an orthodox Jew, refuses to eat any non-Kosher foods. His daily diet is inadequate and his health is rapidly deteriorating. Also, Federov and Murzhenko are suffering from a variety of illnesses including chronic bronchitis and tuberculosis.

We urge you to re-examine the cases of these three men and grant them an early release. Such an act would signal the nations of the world that the Soviet Union has reaffirmed her commitment to the Helsinki Final Act.

Respectfully yours,
Rudy Boschwitz, Birch Bayh, Richard Stone, John A. Durkin, Richard G. Lugar, Paul S. Sarbanes, Claiborne Pell, Lawton Chiles, Gary Hart, S. I. Hayakawa, Daniel Patrick Moynihan, Roger W. Jepsen and Frank Church, U.S. Senators.●

GENERAL SEIGNIOUS ON NATIONAL SECURITY

● Mr. EAGLETON. Mr. President, at the request of Senator KENNEDY, I ask that a statement by him entitled "General Seignious on National Security," together with a speech by General Seignious, be printed in the RECORD.

The statement and speech follow:

GENERAL SEIGNIOUS ON NATIONAL SECURITY

(Statement by Senator KENNEDY)

In the 1980s, we will face many challenges to our security in economics, energy and defense. For us to meet all of these challenges, we must continue to prevent nuclear war. The new SALT treaty makes an essential contribution to this end.

In a recent speech before the Rotary Club of Atlanta, General George M. Seignious, former director of the Arms Control and Disarmament Agency and presently a member of the President's General Advisory Committee on Arms Control and Disarmament, made a persuasive case for the contribution of SALT II to our national security. As General Seignious points out, "Without negotiated limits, the Soviet warhead total will double, triple, possibly even quadruple by the end of the decade. I find it is a strange way to punish the Soviets for invading Afghanistan by allowing them to field an unlimited number of nuclear warheads against our nation."

At the same time, SALT II will allow us to focus our defense resources where they are most crucially needed—on improving the quality and readiness of our general purpose forces. I agree with General Seignious that "spending defense dollars sensibly means a great deal more emphasis on personnel, operations, training, maintenance—the unglamorous but fundamental necessities of a strong defense. . . . Nuclear-tipped missiles sitting in silos in Montana are not the right weapon to stop Soviet tanks moving towards the Gulf."

NATIONAL SECURITY IN THE WAKE OF AFGHANISTAN

(By George M. Seignious II)

Good afternoon, ladies and gentlemen. I am pleased and honored to be back in Atlanta today. A year ago I was privileged to address the Armed Forces Day luncheon sponsored by the Chamber of Commerce. As some of you may remember, my subject then was national security.

I feel compelled to address this subject again, because many, at home and abroad, believe that our nation is reeling from crisis to crisis with no clear purpose, direction, or confidence. This perception makes our task more difficult as we seek to secure America and a more hospitable world.

Part of the reason that many sense this drift is the difficulty we as a nation have in arriving at a judicious balance between hard-nosed pragmatism and idealism. The conflict between these two courses is a basic thread in our history. But todav, with nuclear war a threat to every American, we must arrive at some way to weave them together. Our survival requires both, not one or the other.

I want to begin my discussion of this dilemma with the words of Andrei Sakharov. This man—a Russian whom we should all salute—continues to be a voice of courage, conscience, and power, despite his exile, despite his round-the-clock guards. Just two weeks ago, the New York Times published one of his letters. In it he warned:

"The world is facing very difficult times and cruel cataclysms if the West and the developing countries trying to find their place in the world do not now show the required firmness and consistency in resisting the totalitarian challenge."

But the same man who called us to resist the Soviet system also said:

"Despite all that has happened I feel that the questions of war and peace and disarmament are so crucial that they must be given absolute priority even in the most difficult circumstances. Most urgent of all are steps to avert a nuclear war, which is the greatest peril confronting the modern world."

Ladies and gentlemen, the central problem we face today is to stand firm against Soviet aggression while simultaneously preserving peace and stability in a nuclear world. Our resolution of this problem will be more than just a measure of our nation; it could well be the key to our continued existence, as individuals and as a nation.

We must begin by forming a durable national consensus for a strong defense. But this durable national consensus will not be present unless two conditions are met: sensible defense spending combined with every possible ounce of political imagination to control the threat these military measures are designed to confront. These are prerequisites that the public expects from its leadership.

There is no question of the threat. The Soviet Union—for nearly two decades—has relentlessly increased its military power. Its leaders are using this power—for influence, for support of political activities, and most recently to invade a neighboring Islamic nation. In Afghanistan, the Soviets used massed military forces in combat outside the Soviet Bloc for the first time since 1945. It will happen again if the Soviets misjudge our determination and strength.

To meet the reality of increasing Soviet military power, we must undertake a steady and responsible buildup of our own military forces. I strongly support our nation's planned increase in defense spending over the next five years, and I am pleased to see that draft registration has been adopted. It is a necessary, preparatory step.

Our military response will require consistency and constant purpose, for the proper answer to the Soviet invasion of Afghanistan does not consist of wild gyrations, panic programs, or posturing with power we do not fully intend to use. Nor should we respond by purchasing every new piece of military hardware in the salesman's catalogue. We must also start getting more from what we have.

Last summer, during the Senate hearings on the SALT II Treaty, many of the opponents said that SALT would lull the American people into complacency about the ominous trends in Soviet Military power. I never believed that argument, and I venture to say that there are few complacent Americans after Afghanistan. However, I also do not believe that the American people are about to sign a blank check for defense. They want their money well spent, and in today's economy—when we must face hard choices in national priorities—they will insist on it.

Several weeks ago we witnessed a spectacle of the President and the Congress arguing over the defense budget. Money was thrown at the military for projects they didn't want; dollars were shuffled from budget to budget for political expediency or to meet a percentage increase without due regard for the enhancement of national security. Playing politics with the defense budget when there is an economic squeeze on everyone is a sure way to squander the good will of the American public.

It is doubly important that we now spend wisely and carefully for defense, because—after a decade of questioning the need and utility of military force—there is an emerging defense consensus in the nation. If we squander this good will, if we waste this moment, then the opportunity for consensus will be lost, and we will have robbed the security of America.

Spending defense dollars sensibly means a great deal more emphasis on personnel, operations, training, maintenance—the unglamorous but fundamental necessities of a strong defense. I have heard that in some cases half the planes in squadrons of our newest aircraft are in the shop for repair. And no amount of technology, no numbers of weapons, will defend us if we keep losing our trained, skilled personnel because in today's economy they just cannot afford to remain in the service. An Air Force fighter pilot with twelve years in service has received pay, training, and experience worth close to $1.5 million. Yet, he leaves because he can't make ends meet. Which one of you, in running your business, would throw away a $1.5 million investment to save a few thousand dollars a year? And in what business do skilled technicians have to use food stamps to make ends meet?

Spending defense dollars sensibly also means targeting our response on the Soviet conventional military challenge—with better airlift, sealift, and rapid deployment forces. Nuclear-tipped missiles sitting in silos in Montana are not the right weapon to stop Soviet tanks moving toward the Persian Gulf. This is one reason why I am in favor of the SALT II Treaty. It offers us a chance to put a lid on the nuclear arms race and concentrate on countering Soviet conventional forces. Without this treaty, we will certainly have to add to our nuclear arms, and that will mean less attention and less resources to meet the Soviets where I think they pose the greatest and most immediate threat.

This leads me to the second, essential task as we seek security in a decade of increased Soviet military power, and the second prerequisite that the public expects from its leadership today. We must preserve a stable balance of strategic forces and prevent the outbreak of nuclear war. The plain fact is that nuclear weapons leave us no other practical choice.

We cannot, however, provide for our security simply by minimum deterrence. The threat to destroy a certain number of Soviet cities is not enough. We must be able to deter the entire range of Soviet threats with a response appropriate to the provocation. And it must be clear to nations around the world, friend and foe alike, that we are the equal of the Soviet Union and intend to remain so.

But I am under no illusions that nuclear war would be anything less than a disaster for our country and for the Soviet Union. For those who survived, such a war would as surely extinguish our freedoms as Soviet troops upon our streets.

Albert Einstein once said:

> "On the assumption that a third world war must excalate to nuclear destruction, I can tell you what the fourth world war will be fought with—bows and arrows."

There are some today who imagine that our two nations can trade selective nuclear strikes and limit the damage. That is sheer fantasy. Any soldier who has been in combat will tell you that even the best plans can go up in smoke in the midst of battle. I do not imagine for a moment that an American President would be allowed—even if he wanted—to stand by in the face of a "selective" Soviet strike upon our missiles, with a thousand megatons exploding on our soil, and anywhere from two to twenty million U.S. casualties.

No conceivable national interest can be served by nuclear war. The purpose of these weapons is to defend by deterrence. If they are put to use, then in truth they will have failed.

Today the nuclear arsenals of the United States and the Soviet Union are steadily increasing. We have over 9,000 deliverable strategic nuclear warheads; the Soviets over 6,000. It will require our utmost energies, dedication, and patience to restrain this race—especially in the atmosphere generated by Soviet actions such as their invasion of Afghanistan. But these actions—with the potential for conflict and escalation they pose—make SALT and limits on nuclear weapons more—not less—important than ever before. If this is to be a decade of competition and worldwide instability, then security and survival demand that we not compete in the uncertain shadow of an all-out nuclear arms race.

Limiting nuclear arms goes to the essence of our national security. This is not routine legislation to be shelved upon the requirement of political expediency. For this reason, I am deeply disturbed that the political mood in this country has forced the SALT II agreement to be placed on the shelf for 1980. We cannot, we should not, have business as usual with the Soviet Union. But SALT is unusual business. It is in our interest, and it is not based on trust.

Time is running out. Both our nations are now making major decisions for weapons systems that will last into the next century. Without negotiated limits, the Soviet warhead total will double, triple, possibly even quadruple by the end of this decade. These are cold, hard figures, not scare stories. If we reject SALT now, we will reward the Soviets by removing restraint on these warhead totals. I find it a strange way to punish the Soviets for invading Afghanistan by allowing them to field an unlimited number of nuclear warheads against our nation.

We would then be forced to equal the Soviets, but the result would be no greater security than we have today.

And the nuclear arms race sure to follow without SALT will not be easy or cheap. We will run that race when we could have avoided it.

There are some today who say the Soviet Union is stretched thin, that all we have to do is spend them into submission. That is also fantasy. You can't have it both ways—saying that the Soviets have a massive strategic buildup that we must match, and then saying that the Soviets won't be able to spend what it takes to keep even. Anyone who looks at the Soviet buildup and concludes that it won't continue unabated without SALT II is taking a rosey view of the Kremlin to which I cannot subscribe.

This is a fundamental point. In an arms race without limits, we can build more, but so can the Soviets. SALT is the only way I know that we can limit the number of Soviet missiles and warheads targeted at our country.

And SALT II does limit Soviet forces:

Without SALT, by 1985 we can expect an increase of 800 Soviet strategic missile launchers and heavy bombers over what they will have under SALT. Their production lines, are open, ready to go;

Without SALT, the Soviets could quickly exceed the negotiated limit of 820 launchers of land-based intercontinental ballistic missiles with multiple independently-targetable warheads—their most threatening weapon. By the end of the decade, this 820 could be many hundreds higher;

Without SALT, the Soviets will be able to put many thousands more warheads on their land-based missile force. One SALT provision alone prevents the possible addition of 6,000 Soviet hydrogen warheads on just a single type of missile;

Without SALT, the Soviets would be free to conceal their strategic forces. We could find it much harder to determine how many strategic missiles and bombers they are deploying, and what their military capabilities and characteristics are. No leader, military or civilian, wants to plan with less rather than more information about an adversary.

For the United States, by contrast, SALT II will not limit any planned strategic weapons programs and will not require any reductions in our operational strategic forces. With thirty-five years of service for my country, I could not come before you and advocate any agreement that did not let us have the necessary capabilities to defend ourselves.

Failure to proceed with SALT, failure to ratify this agreement negotiated by three administrations over seven long years, failure would deny us not only the clear advantages SALT II provides for our military security, but we would forfeit also a painstakingly constructed platform for future negotiations. For the past decade, these arms control negotiations have been the centerpiece of superpower relations. A new generation of leaders is about to come to power in the Soviet Union. Do we want these leaders to operate in an unconstrained, nuclear arms race, or do we want to deal with them in a relationship wherein the most important element—the one that involves the very survival of our two societies—is subject to regulation and stability?

And this is not just a question between us and the Soviet Union. It is additionally a question of leadership among our allies. Since World War II, the Europeans have looked to us for leadership in the nuclear field. This means not only that we provide the nuclear weapons necessary for our joint defense, but also that we show imaginative leadership in the control of these weapons. SALT has become for the Europeans an important test of this leadership. Today newspaper stories tell of the erosion of the NATO alliance and our position as leader. Our allies troop off, one after another, to Moscow. There are obviously many reasons for these developments. But I can assure you that whether we lead—or whether our allies seek their own ways to survive—will ultimately depend in no small fashion how we meet the test that SALT has posed. It would be an unexpected and dangerous dividend for the Soviets if their aggression in Afghanistan was rewarded by the demise of our own leadership for peace and security.

This brings me to the final point I want to stress today. The pursuit of American security in the decade to come will require joining the interests of many nations.

When I was a boy growing up in South Carolina, the world outside was a far-off place, as it was for most Americans. Scarcely a decade before, the country had rejected the League of Nations. We were a relatively self-sufficient island.

The world—as every one of you knows—will never again be so easy or so hospitable to the demands of our economy and our well-being. And the luxury of choice between isolationism and internationalism is ours no longer.

The plain reality is that we are deeply dependent on the world around us for raw materials, for markets for our farm products, indeed for the stability and order of our very way of life.

We are not vulnerable just to oil shortages. In 1950, we imported more than half of our domestic requirements for only four of our industrial and strategically important minerals. By 1976, the four had risen to 23. For example, the United States is almost completely dependent upon foreign supplies for manganese, an essential ingredient in steel prouction. The cutoff of access to these materials could threaten our defense in time of war as surely as one hundred more Soviet divisions.

Today, even with the clear urgency of naked Soviet aggression in Afghanistan staring us in the face, we cannot abandon the requirements of interdependence as we meet Soviet action with appropriate counteraction. Nations of the world—many faced with problems more urgent to them than the U.S./Soviet conflict—will not permit us to focus only on a military response or even on the single adversary that is our military equal.

Today—as we stand with other nations—we must acknowledge the world of revolutionary change. Much is misguided, but much is constructive. Much is exported Communism, while much is a genuine search for liberty and independence. If we stand as a wall against change, we will exhaust our resources on the wrong enemy. Therefore, our emphasis on ideals and rights is not misguided or weak, nor is it a substitute for a firm, tough, effective foreign policy. It is a part of that policy. The strong and the confident can afford to be just, and humane, and compassionate.

Today—as we face multiple challenges—we must muster the strengths of our allies. They have immense political, economic, and social resources that can be brought to bear on the problems that create opportunities for Soviet expansion.

The plain fact is that from now on security for our nation—short of the forces of nuclear Armageddon—will be a function of our allies and friends. We can no longer draw the wagons in a circle against a hostile world. Therefore, the imagination and the skill by which we join together with our friends will be the final measure of success for our foreign policy in the decade ahead.

Ladies and gentlemen, as I close today, I ask you to remember the Great Seal of our nation on the dollar bill in your wallet. That American eagle is holding two things—an olive branch and a bundle of arrows. Our problem today is to determine the proper relation between the two, but never to forget that they belong together. Our founding fathers—wise beyond their time—put them there for a reason. We too must be wise in our time and keep them together.

Thank you.●

RETIREMENT OF ROBERT A. MALSTROM

● Mr. DOLE. Mr. President, I would like to take this time to pay tribute to a fine, dedicated employee of the U.S. Senate. Mr. Robert A. Malstrom. Mr. Malstrom has served in the Senate disbursing office for over 30 years before retiring as financial clerk this July 31. Mr. Malstrom was born in Escanaba, Mich., entered the military for 5 years during World War II, and attended George Washington University before he was hired as a clerk in the disbursing office in May of 1950. Mr. Malstrom worked his way up in the disbursing office and for the last 3 years has been the financial clerk of the Senate.

At this time, both my staff and I would like to express our sincere thanks for all the assistance he has given to us the past 11 years. Bob Malstrom has been not only an indispensable employee of the U.S. Senate, but a true friend who kept us aware and in line with all the requirements of the disbursing office, a job which I may add is not an easy one. Mr. Robert A. Malstrom will be missed, and we want to wish both he and his wife all the best in the years to come.

To Bob, I will only say that your service to the Senate has been exemplary and you should be proud that you are able to leave to your successor, Mr. Stuart Bladerson, an efficient and highly professional operation.●

CONSUMER PRODUCT SAFETY COMMISSION—ATLA INFORMATION EXCHANGE: A BAD IDEA

● Mr. SCHMITT. Mr. President, I, as a member of the Senate Commerce, Science, and Transportation Committee, am very disturbed by an article which appeared in the July 1980 edition of the American Bar Association Journal. The article by James Podgers disclosed that Commissioner Statler spoke to the American Trial Lawyers Association (ATLA) in April during a conference on product liability. During his speech, the Commissioner proposed that the Commission and ATLA begin a formal information exchange program and staff discussions are already underway on this subject concerning implementation.

The Consumer Product Safety Commission has the duty to insure that commercial products are safe. Successful tort lawsuits under our theory of jurisprudence make victims whole via damage awards and collaterally such suits encourage irresponsible manufacturers to avoid marketing unsafe products. While it may be true that the Consumer Product Safety Commission could utilize information about unsafe products provided by ATLA or any other citizen, it is my opinion that a formal information sharing program would be a bad idea.

Like every Government agency, the Consumer Product Safety Commission has to appear unbiased in its actions. By entering into such an arrangement with a segment of the organized bar that earns its livelihood from successful lawsuits on behalf of injured parties, the Commission could indirectly be used to facilitate settlements favorable to a particular class of plaintiffs. The leverage of initiating a Commission investigation could only be heightened by a formal arrangement between the ATLA and the Commission. The public could not and would not be assured that the Commission's decisions are being made solely to further the public interest rather than to serve a private purpose. A formal agreement between any special interest and a Government agency should be resisted no matter how worthwhile the goal.

Mr. President, I ask that the article be printed in the Record.

The article follows:

ATLA, Fed Agency Link Hit by Defense Lawyers

Representatives of the Association of Trial Lawyers of America (ATLA) and the federal Consumer Product Safety Commission are exploring the formation of an information exchange program that they say will help protect consumers from harmful products. But some tort defense lawyers and insurance industry representatives warn that such a program would put the commission and ATLA, which is composed primarily of tort plantiff lawyers, into a bed that they should not be sharing.

The information exchange program was proposed in April by Stuart Statler, one of the five Consumer Product Safety Commission members, in a speech at a conference on product liability sponsored by ATLA in Chicago. Statler said the commission and tort plaintiff lawyers "share a common goal" of improving product safety. But, he added, "the quality of the working relationship to date between the Consumer Product Safety Commission and ATLA is only a fraction of what it could be. Given our common aims, these two organizations can and must do a better job of working together."

According to Statler, the commission's efforts to collect and analyze product and injury information are "of paramount interest to attorneys engaged in product liability law." At the same time, he said, "the information ATLA collects" through its information programs "could add immeasurably to our knowledge of both emerging and extant hazards. If we're not alerted to your suspicions about potential product risks, there may be lengthy delays before we address them."

Since Statler's speech, ATLA and the commission have begun staff-level discussions on implementing an information exchange program. Under the program, says Michael Starr, ATLA general counsel, ATLA would serve as "an early warning system" for the commission by providing information on product problems the commission may investigate. In return, he says, the commission would supply ATLA with published materials that could be distributed to its members more quickly than usual. Starr and Jeff Stone, a commission special assistant, emphasize that the commission would be dealing in material available to the public under Freedom of Information Act provisions and add that no formal proposal has yet been developed.

However, defense lawyers and insurance industry representatives view the possibility of formal information exchanges between the commission and ATLA with concern. According to a lawyer on the staff of an insurance company, "There is a one-hand-washing-the-other kind of syndrome there. This is putting the government in bed with a segment of the bar that has an axe to grind, and that is a scary situation." Another defense lawyer suggests that the commission, by providing plaintiff lawyers with easier access to information, may be helping them engage in "a little ambulance chasing." He adds that information access under the Freedom of Information Act "is hardly a substitute for good, sound day-to-day communication."

Harley McNeal, a Cleveland defense lawyer and president of the Bar Association of Greater Cleveland, expresses concern that the proposed exchange program could cause the commission to violate its neutrality by providing information that could be used by lawyers "to achieve a successful lawsuit. To me that is improper," he said, regardless of what group of lawyers may be involved. But other defense lawyers suggest that the commission should consider developing similar information exchange programs with the defense bar.

Stone, while agreeing that improved exchanges of information with industry and its defense lawyers may be helpful, points out that manufacturers "have not been overjoyed about turning information over to us. They don't necessarily see their interests as being compatible with ours." Defending the proposed information exchange program with ATLA, Stone says: "In my mind, I do not see the impropriety. It is a valid question to raise, but no, I do not see any impropriety."●

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has the time for morning business expired?

The PRESIDING OFFICER. It has.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for morning business be extended for 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. BELLMON. Mr. President, for those of us you have worked with on the budget process, one of the most difficult problems is to explain how the 1974 Budget and Impoundment Act is intended to work. I am continually reminded by events that, even after over 5 years, many Members of the Senate still harbor serious misconceptions about the budget process.

One of the clearest, most succinct, explanations of the budget process I have read appeared in a series of three articles printed in the Albuquerque Journal of July 16, 17, 18, 1980. These articles, written by Senator Peter Domenici of New Mexico, one of the most knowledgeable and valuable members of the Senate Budget Committee, not only provide basic facts about the act but also valuable insights that I believe would be helpful to Members of the Senate as well as other interested persons. I commend Senator Domenici for his lucid, comprehensive explanation and ask unanimous consent that the three articles be printed in full in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Act Ended Budgetary Chaos

(By Senator Pete Domenici)

(Editor's Note.—Sen. Sam Ervin, of Watergate investigation fame, wrote six years ago that "the single most important piece of legislation enacted during my service in the Senate, which has spanned more than twenty years," was the Congressional Budget and Impoundment Control Act of 1974.

(Yet, not one person out of 100 in our land really knows much about the Budget Act, how it works, what it can do and what it can't do.

(This three-part series, written from New Mexico Sen. Pete Domenici's perspective on the Senate Budget Committee, takes a look at the history of the act, its present status, and what taxpayers might expect from it in the future.)

First, the facts.

After 16 months of fierce turf-fighting, on July 2, 1974, the Congress passed an historic new Budget Act—ending 51 years of budgetary chaos.

That half-century of "flying by the seat of our pants" had brought unending years of deficits, increased inflationary pressures, burgeoning growth in federal programs and a direct confrontation between president and Congress over spending.

In its major report to the Congress in 1972, the Joint Study Committee on Budget Control advised Congress: "We must have an effective, permanent mechanism for budget control which will assure a more comprehensive and coordinated review of budget totals and determination of spending priorities and spending goals, together with a determination of the appropriate associated revenue and debt levels."

In other words, "Congress better get its budget act together."

More than just the famous confrontation with President Nixon over spending federal monies was bothering Congress. Wise heads within the body looked at some ominous facts and realized that something had to change.

For example, in the 12 years between 1950 and the beginning of the debate over a new budget process for Congress, the following had happened:

Federal spending had tripled.

The inflation rate had tripled.

The dollar outflow abroad quadrupled, leading to even more serious inflation and investment problems within the domestic economy.

And the dollar had become devalued twice, the first such devaluation since 1933, when this nation was in the grips of the Great Depression.

Worse, the Congress itself in 1973 heard devastating criticism from budget specialists about Congress' failures to understand its own actions. The spending process in the Congress was condemned because of a lack of staff and information upon which to base decisions; because the entire appropriations process was ill-timed and too rushed for proper consideration by all members of Congress; decisions on how much to spend were made in a fragmented fashion; no one in the Congress ever related spending to taxing: and most ominous, large portions of the federal budget were becoming "uncontrollables," completely beyond the ability of the Congress to manage, except by changing already enacted laws.

As Kansas Sen. Robert Dole said during Senate debate: "It is somewhat as if a big birthday cake had been set down on an ant-hill. It is swarmed over by dozens of committees, several hundred subcommittees, and 535 Congressmen and Senators."

That was the budget process before the 1974 Budget Act.

The act, in brief terms, did the following:

Established powerful budget committees in the House and Senate.

Created a professional, non-partisan technical support group called the Congressional Budget Office, to give Congress the information it needed on the budget.

Set forth a stringent timetable for overall federal budget spending and taxing decisions through at least two "concurrent budget resolutions" that Congress had to pass before it could adjourn for the year.

Gave the Congress the power to turn down any spending bill that exceeded the ceiling for overall spending, and gave it power to coordinate tax policy.

And, introduced a concept called "reconciliation," which gave Congress the extraordinary power to change already enacted law and cut back spending in the middle of the year if that spending threatened to bust the budget.

But whether the new process would work is still unclear.

Second Concurrent Budget

(By Senator Pete V. Domenici)

I was a freshman senator when the Budget Act was approved, but I felt that our freshman class of senators had been instrumental in creating the new budget process.

After all, Sen. J. Bennett Johnston of Louisiana and I were co-leaders of the class and we had managed to get a unanimous declaration of our members that we would vote against all new spending bills unless a comprehensive budget process in Congress was established.

That minor revolt by the 14 of us was a critical factor in the quick approval of the new Congressional Budget and Impoundment Control Act in July of 1974.

I got my first taste of the obstacles ahead for the budget process, however, when a senior colleague came to me one day and asked how we "would set spending ceilings."

"Well," I answered, "we will set the spending targets in the first resolution in the spring and then the final ceilings on spending in September with the Second Concurrent Budget Resolution.

"What the hell is that?" he asked.

Things are better now, in the summer of 1980, but the education process of the Senate and House has been long and painful. Even now we are still learning how parts of the Budget Act should work.

Let's look at the six-month fight on the 1980–1981 budgets that just concluded this month.

Late last year, the Congress approved a budget for 1980 that had unprecedented breakthroughs: it restrained spending below the rate of inflation; increased defense spending slightly; and moved toward a balanced 1981 budget. For the years 1982–85, it allowed substantial tax cuts.

By the time we moved halfway through this year, a combination of international tensions, high interest and inflation rates, and rising unemployment had destroyed many of our hopes.

The Senate Budget Committee was determined, despite all of these events, to prepare a 1982 budget that was balanced. We recognized that we would have to add spending to 1980 in order to pay increased military costs (like Indian Ocean steaming, increased fuel prices, and serious operations and maintenance problems), rising interest costs, and soaring costs in Social Security, Railroad retirement, and similar trust and retirement funds tied to inflation increases. We were willing to pay these 1980 bills, as the law required, if we could keep to the 1981 balanced budget path.

Trying to cut spending in an election year, and balance the budget by cutting already enacted laws, had never really been tried under our new budget process before.

Most observers were skeptical. And, I was not at all sure myself that we would ever get the Congress to go along with our recommendations.

After weeks of day-and-night debate followed by the most difficult negotiations with the House, we were able to preserve a budget path that, if the economy held up to our predictions, would be balanced in 1981.

And, we were sure, even if the balanced budget was not quite met, we had restrained federal spending in an historic manner:

The new budget recommendations for 1981 cut $22 billion from non-defense domestic programs that weren't subject to automatic inflation increases.

Cut spending, in real terms, by 2.2 percent, the first time since World War II that had happened.

Moved to a deficit that consumed less than 2 percent of our gross national product.

And, increased national defense in real terms under our budget, reversing a decade-long trend of real growth decline.

At least for a time, then, we have a budget that, as I write, continued the five-year program of restraint and increased fiscal discipline that was envisioned under the 1974 Budget Act. We have fought the fierce, face-to-face battles with other committees over spending. We have even managed to pass reconciliation, "that process of cutting spending from already-enacted legislation in the middle of a year."

But the acid test is still ahead.

American Voters Must Show Approval of Fiscal Restraint

(By Senator Pete V. Domenici)

The new budget process puts new shackles on Congress.

And, no one can tell for how long Congress will tolerate restraints on its traditional habit of "tax and tax, spend and spend, elect and elect."

The source of Congress' caution about the budget process and its restraint is quite simple, really; no one yet has demonstrated that those policymakers who cut spending, and make recipients of federal dollars unhappy, can remain in office for long.

Only if the American people demonstrate at the polls that fiscal restraint will bring citizen approval will the new budget process grow as many of us believe it should.

So far the 1976–1981 experience with the 1974 Budget Act has been reasonably successful. But, great challenges lie right ahead.

First, the other committees of the Congress must begin to understand how the act works—and then cooperate in an effort to make the act successful.

Second, and most important, the budget process must become more than a simple accountant's function: adding up spending and taxing and keeping track of cash flow. The budget process must begin to be a policymaking system.

Encouraging signs that the Congress is willing to let the budget process prosper have emerged in recent weeks. The Senate, for example, overwhelmingly accepted deep cuts in already-enacted spending programs the last day of June this year. This acceptance of "reconcilation" means that we will have, in essence, a "sunset" on many programs through the budget process.

We have seen spending bills that exceed the budget limitations lie unenacted for several months. Congress held up passage of a very large appropriations bill for almost a month because it violated recommendations of the Budget Committee of the Senate.

These are important steps forward, steps that will make the Budget Act the comprehensive economic and budgetary planning tool that its creators originally envisioned

Much remains to be done with the act itself, of course.

The act fails to give Congress stern enough sanctions against committees that blatantly refuse to heed the Budget Committee's recommendations.

The act entirely fails to address the critical problem of what we call "outyear" spending; that occurs three, four, even five years from now. Controlling this spending is very important as we fight the "uncontrollable" problem facing us.

And the act can be overturned by a simple majority of the Congress, a deficiency that means that the Budget Committee's recommendations are always subject to whims of political fancy on the part of a majority in either chamber.

Many of us have pending legislation to solve some of these problems. But, no act, no matter how stringent its enforcement measures, or how stern an approach it takes to irresponsible spending, can force Congress to do something it doesn't want to do.

I believe the big tests for the future of the Budget Act are just around the road:

Will Congress still try to restrain spending, despite the recession?

Will Congress accept large tax cuts in the next four years, at the cost of not increasing spending as much as it could otherwise?

Will Congress use the Budget Act as an overall policy-making tool, instead of a way merely to add up the sum of its decisions?

And can we use the Budget Act to put overall limitations, as a percentage of the nation's gross national product, on how much the federal government can spend and tax?

If the Congress says "Yes" to these fundamental questions, I believe that we will see the Budget Act become a prime tool in the kind of revitalization of our economy that we need. I see the possibility for hundreds of thousands of new jobs in the private sector, increased productivity and savings among our citizens, lower inflation, and a more stable federal economic policy—if Congress wishes.

If Congress chooses otherwise, as it could, then we will see the Budget Act die and reforms remain far away. But, even if this Budget Act fails, the principle that Congress must have limitations on its fiscal behavior has been irrevocably accepted.

This Budget Act may go, but something at least as strong will take its place.

COOPERATIVE SYNTHETIC FUELS AGREEMENT

Mr. RANDOLPH. Mr. President, I call attention to the signing which took place this morning at the White House, in which the Ambassador of West Germany and the Ambassador of Japan joined with the President of the United States in signing the agreement for a $1.4 billion synthetic fuels project, SRC II, to be located in West Virginia, near Morgantown.

The approximately 300 men and women who were gathered for the ceremony heard our President speak of the importance of this cooperative effort in which not only our Government and two other governments are joined, but also a private industry, Gulf Mineral Resources is included.

We know that the synthetic fuels program is one that will take time, but we have every reason to believe that in that plant alone—after several thousand construction workers complete the facility and the skilled technicians begin its operation—that 6,000 tons of coal will be used every day. The coal will be processed into the equivalent of 20,000 barrels of oil.

We shall, in a realistic manner, move toward that time when we can become less dependent upon supplies of petroleum from foreign governments—often unfriendly governments. We shall secure for our own United States a synthetic fuels program that will provide the fuels necessary to meet the energy needs of this country. This is a cooperative effort that is understood by those nations I have mentioned. They will also gain access to the technology that will help them through this sort of project.

I think we can look forward to that hoped-for day—which many of us had hoped could come 30 years ago—when the United States achieves energy independence. We have a knowledge and an awareness of the problem of our insufficiency in petroleum supplies for a mobile America, either in time of peace or, possibly, in time of conflict. We are now at long last moving with the developments, such as the signing of today, to cope with our energy problems.

In reference to this SRC II signing, it should be stressed our leader, Senator Robert C. Byrd of West Virginia, during the ceremony gave to us a meaningful message, an accurate assessment of what was being done on synthetic fuels, and a view of the energy future of this country. That will be a time, I say to the able Presiding Officer, Mr. Harry F. Byrd, Jr., of Virginia, when our Nation can look forward to a stronger economy. Our people can look forward to an America which still understands and demonstrates the creativity and the strength to solve our problems. It is that future in which I believe. SRC II is a vital part of a future that brings better days for our children and a peace which I pray very much will come to bless humankind.

VITIATION OF ORDER FOR SATURDAY SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the session on Saturday be vitiated.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). Without objection, it is so ordered.

SENATE TO CONVENE AT 9 A.M. ON NEXT MONDAY, TUESDAY, AND WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, have the convening hours for Monday, Tuesday, and Wednesday of next week been set yet?

The PRESIDING OFFICER. They have been set for 9 o'clock on each day.

Mr. ROBERT C. BYRD. I thank the Chair.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 943, 945, and 944.

Mr. BAKER. Reserving the right to object, and I shall not, Mr. President, the items enumerated by the majority leader are cleared on our calendar and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROSITA N. PACTO

The bill (S. 308) for the relief of Rosita N. Pacto, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a) (14) of the Immigration and Nationality Act, for the purposes of such Act, Rosita N. Pacto shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203 (a) of the Immigration and Nationality Act.

MAXINE ANN FRICIONI

The Senate proceeded to consider the bill (S. 273) for the relief of Maxine Ann Fricioni, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 1, beginning with "Upon" strike through and including line 8;

On page 2, line 14, strike "241(11)" and insert "241(a)(11)";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraph (23) of section 212(a) of the Immigration and Nationality Act, Maxine Ann Fricioni shall be granted a visa and admitted to the United States for permanent residence, if otherwise qualified, upon filing an application for a visa and payment of the required visa fee.

SEC. 2. The exemption provided by the first section of this Act applies only to facts known to the Department of State or the Department of Justice before the date of the enactment of this Act.

SEC. 3. Maxine Ann Fricioni shall not be subject to deportation under section 241(a) (11) by reason of facts known to the Department of State or the Department of Justice before the date of enactment of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MICHAEL WHITLOCK

The bill (S. 2041) for the relief of Michael Whitlock was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(23) of the Immigration and Nationality Act, Michael Whitlock may be issued a visa and admitted to the United States if he is found to be otherwise admissible under the provisions of that Act.

SEC. 2. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of the enactment of this Act.

ORDER FOR INDEFINITE POSTPONEMENT OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Orders Nos. 242, 266, and 400 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only of my offering a cloture petition on the nomination of Mr. Don Alan Zimmerman, which is the pending business in executive session, and for the purpose of taking up the nominations, for not to exceed 1 minute, with the understanding that the following nominations will not in any way displace the pending nomination of Mr. Zimmerman, the nomination of Mr. Busby, that is Calendar Order No. 242 on page 1, the nominations on page 2 beginning with the Postal Rate Commission, going through Department of Defense and the U.S. Air Force, and on page 3 all nominations, and on page 4 only the nominations placed on the Secretary's desk.

Mr. BAKER. Mr. President, reserving the right to object, could I have a brief moment, I ask the majority leader, to check one aspect of our procedure?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I might say, on this reservation, that I have no objection, of course, to proceeding to executive session for the purpose of filing the cloture motion, as described by the majority leader.

On the question of the clearance of the nominations——

Mr. President, I thank the Chair for its indulgence and I thank the majority leader for permitting me to verify what my marked calendar showed in the first instance.

I am prepared now to say that the items listed by the majority leader, that is to say, the nomination of Morris D. Busby, Janet Dempsey Steiger, those nominations under new reports, pages 2 and 3, not the nomination on page 4 under the judiciary, but including the nominations placed on the Secretary's desk, are cleared on this side, and we have no objection to their consideration and nomination.

Mr. ROBERT C. BYRD. I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforementioned nominations that had been cleared be considered en bloc and confirmed en bloc, that the motion to reconsider en bloc be laid on the table, and that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered. All nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Morris D. Busby, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, to be Ambassador.

POSTAL RATE COMMISSION

Janet Dempsey Steiger, of Wisconsin, to be a Commissioner of the Postal Rate Commission.

DEPARTMENT OF DEFENSE

Jack H. Borsting, of California, to be an assistant Secretary of Defense.

IN THE AIR FORCE

Brig. Gen. Thomas B. Bruton, to be major general and the Judge Advocate General, U.S. Air Force.

Lt. Gen. Devol Brett, to be lieutenant general.

Maj. Gen. Walter D. Druen, to be lieutenant general.

IN THE ARMY

Lt. Gen. William Burns Caldwell II, to be lieutenant general.

Lt. Gen. Robert Jacob Baer, to be lieutenant general.

Maj. Gen. Joseph Key Bratton, under the provisions of title 10, United States Code, sections 3036 and 3066, to be assigned as Chief of Engineers.

IN THE NAVY

Vice Adm. Joseph P. Moorer, to be vice admiral.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Air Force nominations beginning Garbeth S. Graham, to be captain, and ending Richard W. Sexson, to be major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Air Force nominations beginning Bobby D. Ainsworth, to be lieutenant colonel, and ending Donald L. Noah, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Army nominations beginning James A. Anderson, to be colonel, and ending John C. Philbrick, to be lientenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 1, 1980.

Lieutenant Commander William J. Phillips, Jr., U.S. Navy, for appointment to the grade of commander while serving as Leader of the United States Navy Band in accordance with article II, section 2, clause 2 of the Constitution.

Navy nominations beginning Lloyd V. Abel, to be lieutenant, and ending Kenneth J. P. Zuorro, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Navy nominations beginning Janie L. Mines, to be ensign, and ending Ronald F. Antimarino, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Marine Corps nominations beginning Charles N. Adams, to be lieutenant colonel, and ending Erica L. Bodner, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, now I send to the desk the cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the Clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

Robert C. Byrd, Wendell H. Ford, Paul E. Tsongas, Spark M. Matsunaga, Donald W. Riegle, Jr., David Pryor, Abraham Ribicoff, John A. Durkin, J. James Exon, Gaylord Nelson, Thomas F. Eagleton, Gary Hart, George T. Mitchell, Daniel Patrick Moynihan, Bill Bradley, Henry M. Jackson, Howard M. Metzenbaum, Alan Cranston, Jennings Randolph, John Glenn.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE PRIOR ACTION ON H.R. 3000

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken earlier with respect to Calendar Order No. 400 be vitiated and that that measure, H.R. 3000, not be indefinitely postponed, but be put back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Messrs. ROBERT C. BYRD, BUMPERS, HART, PELL, MCGOVERN, and CULVER be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning. Under rule XXII the 1 hour will begin running on the motion to invoke cloture, and after the establishment of a quorum following the hour of 10 a.m., or at around 10:15 or 10:20 a.m., the Senate will vote on the motion to invoke cloture on the Zimmerman nomination. The Senate will automatically vote on the cloture motion.

ORDER FOR SENATE TO GO INTO EXECUTIVE SESSION ON TOMORROW

Mr. President, I ask unanimous consent that after the prayer and the reference to the Journal, the Senate go into executive session for the purpose of voting on the motion to invoke cloture after the hour and the establishment of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I want to make it clear that the going into executive session is for the purpose of considering the Zimmerman nomination and for the purpose of allowing the 1 hour to run under the rule on the motion to invoke cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour be controlled and divided between Mr. WILLIAMS and Mr. HATCH tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 5:19 p.m., the Senate recessed until tomorrow, Friday, August 1, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 31, 1980:

DEPARTMENT OF STATE

Jack Robert Binns, of Washington, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

U.S. METRIC BOARD

The following-named persons to be Members of the U.S. Metric Board for the terms indicated:

For the remainder of the term expiring June 14, 1982:

Bruce Paul Johnson, of Nevada, vice Paul Block, Jr., resigned.

For a term expiring March 23, 1986:

Alfredo A. Cantu, of Colorado, vice Carl A. Beck, term expired.

For terms expiring June 14, 1986:

James M. Rosser, of California, vice Bruce Paul Johnson, term expired.

Dennis R. Smith, of Massachusetts (reappointment).

THE JUDICIARY

Miguel A. Gimenez-Munoz, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico vice a new position created by Public Law 95–486 approved October 20, 1978.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

The following-named persons to be Members of the Board of Regents of the Uniformed Services University of the Health Sciences for the terms indicated:

For terms expiring June 20, 1983:

Robert Higgins Ebert, of New York, vice Joseph D. Matarazzo, term expired.

Eugene M. Farber, of California, vice Charles E. Odegaard, term expired.

For terms expiring June 20, 1985:

Lauro F. Cavazos, of Texas, vice Alfred A. Marquez, term expired.

Caro Elise Luhrs, of the District of Columbia, vice H. Ashton Thomas, term expired.

William R. Roy, of Kansas, vice Durward G. Hall, term expired.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1985:

Charles William Benton, of Illinois (reappointment).

Gordon M. Ambach, of New York, vice Marian Pollensky Leith, term expired.

Paulette H. Holahan, of Louisiana, vice Mildred E. Younger, term expired.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Leonard Silverstein, of Maryland, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1983 (reappointment).

OVERSEAS PRIVATE INVESTMENT CORPORATION

E. G. Koury, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1980, vice Wallace F. Bennett, term expired.

E. G. Koury, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term of three years expiring December 17, 1983 (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate July 31, 1980:

DEPARTMENT OF STATE

Morris D. Busby, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

POSTAL RATE COMMISSION

Janet Dempsey Steiger, of Wisconsin, to be a Commissioner of the Postal Rate Commission for the term expiring October 14, 1986.

DEPARTMENT OF DEFENSE

Jack R. Borsting, of California, to be an Assistant Secretary of Defense.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Brig. Gen. Thomas B. Bruton, [redacted]FR (brigadier general, Regular Air Force), U.S. Air Force for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force, under the provisions of chapter 839 and section 8072, title 10 of the United States Code.

Lt. Gen. Devol Brett, U.S. Air Force, (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Walter D. Druen, Jr., [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. William Burns Caldwell, III, [redacted] (age 54), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Robert Jacob Baer [redacted], (age 55), Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, sections 3036 and 3066, to be assigned as Chief of Engineers, a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Joseph Key Bratton, [redacted] U.S. Army.

IN THE NAVY

Vice Adm. Joseph P. Moorer, U.S. Navy, (age 57) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning Garbeth S. Graham, to be captain, and ending Richard W. Sexson, to be major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Air Force nominations beginning Bobby D. Ainsworth, to be lieutenant colonel, and ending Donald L. Noah, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

IN THE ARMY

Army nominations beginning James A. Anderson, to be colonel, and ending John C. Philbrick, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 1, 1980.

IN THE NAVY

Lt. Comdr. William J. Phillips, Jr., U.S. Navy, for appointment to the grade of commander while serving as leader of the U.S. Navy Band in accordance with article II, section 2, clause 2 of the Constitution.

Navy nominations beginning Lloyd V. Abel, to be lieutenant, and ending Kenneth J. P. Zuorro, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

Navy nominations beginning Janie L. Mines, to be ensign, and ending Ronald F. Antimarino, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

IN THE MARINE CORPS

Marine Corps nominations beginning Charles N. Adams, to be lieutenant colonel, and ending Erica L. Bodner, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 27, 1980.

HOUSE OF REPRESENTATIVES—*Thursday, July 31, 1980*

The House met at 10 a.m.

Rabbi Samuel Fox, Beth Jacob Synagogue, Dayton, Ohio, offered the following prayer:

Father of all mankind:

We invoke Thy divine blessings upon the leaders and representatives of the American people whose voices raised on behalf of truth and justice reverberate through these Halls of Congress. Enable them to raise their spiritual sights upward and heavenward so we can better fulfill our destiny as a people.

In these crucial times when the world is in the throes of political, social, and religious upheavals, when violence and terrorism have become a way of life, we fervently pray for Thy divine help and guidance. In a world shrouded in darkness, we passionately yearn for Thy light and salvation. As Thy inspired Psalmist proclaims:

Thy word is a lamp unto my feet and a light unto my path.

Let us fashion a better world together. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program.

RABBI SAMUEL FOX

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, it is my great privilege and pleasure this morning to introduce Rabbi Samuel Fox to my colleagues. Rabbi Fox is the spiritual leader of the Beth Jacob Congregation in Dayton, Ohio—a pulpit he has held with distinction for the past 25 years.

Rabbi Fox was ordained at the Hebrew Theological College of Skokie, Ill., and holds four other degrees of higher learning including a juris doctor from DePaul University Law School and a master's degree in Jewish history from Yeshiva University.

Long active in the Dayton and Midwest religious communities, Rabbi Fox serves on the executive boards of the Religious Zionists of America, the B'nai B'rith, and the Rabbinic Alumni of the Hebrew Theological College. He was the first in the Midwest to receive the coveted Brandeis Award from the Zionist Organization of America for his "dedicated and high calibre leadership" on behalf of Israel. Rabbi Fox has been involved in local and national ORT—an organization which has concentrated on the vocational training of youth for the past century.

Rabbi Fox is also a U.S. Government chaplain serving the VA hospital in Dayton and a past chaplain at the Wright-Patterson Air Force Base. He also has a long history of active involvement in the social concerns of the secular community. He is a founder of the local heart association and on the board of the local American Red Cross.

Last May 4, I had the honor of attending the dedication of the new Beth Jacob Synagogue. It is a truly beautiful and inspiring structure and worthy of the rabbi's strong leadership.

As we begin this day's session, I am proud to welcome Rabbi Fox and his family on behalf of the Members of the House of Representatives.

AMERICAN OLYMPIADS ARE A SYMBOL OF WHAT IS RIGHT ABOUT AMERICA

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, yesterday the members of the American Olympic team, who were unable to attend the 1980 Olympics in Moscow because of the Soviet invasion of Afghanistan, were honored here in Washington. The President and Members of Congress attended a ceremony paying tribute to them on the steps of the Capitol, and yesterday evening a performance at the Kennedy Center honored them.

I wish to pay tribute to those fine young Americans. In these days, when it is easy to find problems or speak about what is wrong with America, these American athletes are a reflection of what is right about America.

I talked with many of them, and I noted the pride of achievement about them and I saw the look of determination in their eyes. They are a clean-cut group of young people. They are a bright spot on the horizon for our country's future. One look at them renews our faith in our country.

THE CONCERNS OF CONGRESS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, Ford just announced a third-quarter loss of $468 million; General Motors, the successful one, announced a loss of $410 million; American Motors, $85 million; and not to be outdone, Chrysler anticipates a $500 million loss in this quarter. The auto industry's unemployment is over 350,000 men and women; 8.5 million are unemployed throughout the United States. Steel imports are up. Coal production is down. Environmental protection standards are strangling all of these and most of America. American growth is declining. Yet these are not the concerns of Congress.

But what are the concerns? Well, they are worrying about having 1-minute speeches taken away. Some are trying to disenfranchise people by opening the Democrat National Convention. They are registering kids for the draft in peacetime. They are trying to create a gigantic park in Alaska four times the size of the State of Ohio. They are passing legislation to build industries in China.

Well, my friends, if you want to get reelected and come back to Congress and do something for your people, you better start listening to them.

SIXTH ANNIVERSARY OF TURKISH INVASION OF CYPRUS

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, this month marks the sixth anniversary of the Turkish invasion of the independent republic of Cyprus. I wish to call my colleagues' attention to the suffering which continues in this troubled region because of Turkey's cruel and inhuman actions.

Two years ago, the United States lifted its arms embargo against Turkey on the condition that Turkey work toward a peaceful solution of the Cyprus question. But Turkey has done nothing to solve this problem. In fact, not only does its unlawful occupation of Cyprus continue, but Turkish human rights violations are as flagrant and widespread as ever.

The world has been shocked by the repeated instances of torture as disclosed by Amnesty International. As a particularly grueling example, there is the 17-year-old student—one of a group of 15—who was taken from her school following the discovery of a gun on the school grounds. "She was tied to a wooden cross, suspended on the wall and electric shocks were administered," Amnesty International reports. Barbarous act such as this must be universally condemned.

Our Nation's deep belief in a world that is free and that is based on prin-

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ciples of liberty and justice require us to respond, remind us that we cannot ignore the atrocities being committed by Turkey. Nor can we justify sending the country a vast amount of aid despite its refusal to address the Cyprus question.

A peaceful solution to the Cyprus issue that is fair to both Greek and Turkish Cypriots is the only way to insure a firm and unified NATO security presence, an essential element in our strategic concerns in the eastern Mediterranean area. In order to strengthen relationships within the NATO alliance and to promote the principles to which our Nation is profoundly dedicated, I believe we must insist that Turkey end its occupation of Cyprus. This anniversary is the appropriate time for the President and Congress to seek the cooperation of Cyprus and Turkey in achieving a final and workable solution to the Cyprus problem.

□ 1010

IT IS TIME TO GIVE REPUBLICANS A CHANCE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I am saddened to inform the House this morning the Budget Committee emergency meeting was opened by the chairman reading an intemperate, partisan attack on the minority as if we somehow controlled this House: First, for opposing the phony reconciliation that incorporates the dangerous precedent of increasing spending by over $3 billion in certain categories, reconciliation, which was intended to reduce spending, not increase it.

And second, the minority was attacked for proposing tax cuts, which, of course, are only a partial reduction of the Democrat-inflicted $90 billion increased tax burden.

Further, the chairman stated, and I quote:

> We would be better off to delay the second budget resolution until after the election.

Well, you bet they would be better off. The Democrats would be better off because of the chaos and the embarrassment of not being able to run this House.

The sad truth is that the Democrats have a two-thirds majority in this Congress and still cannot govern, so it is time for the American people to give the Republicans a chance.

HON. ROBERT E. BAUMAN ADDRESSES THE CHAIR

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, under the rules and precedents of the House, I could probably demand 1 hour on a point of personal privilege to respond to certain unusual remarks that you, Mr. Speaker, made yesterday in your press conference regarding the gentleman from Maryland and the gentleman from California (Mr. Rousselot), but I do not think really that is warranted under the circumstances.

I did note, however, the Speaker's comment about Bircher types in the House and who is running the Republican Party. I was saddened by the Speaker's unwarranted and untrue comment about some Members being extremely greedy and having no feeling for the poor. I do not fall into that category, nor have I ever been a member of the society. But I have discussed this with the only Member of the House that I know is a member of the Birch Society, the gentleman from Georgia (Mr. McDonald), who is not only a member of the John Birch Society, but on their executive council. He has indicated his willingness to discuss with the Speaker what the Birch Society stands for.

I would suggest that the Speaker get in touch with our colleague, the gentleman from Georgia (Mr. McDonald), and perhaps the Speaker could talk with him in the Democratic Caucus. He happens to be a member of the Speaker's party.

A TRIBUTE TO HON. KEITH G. SEBELIUS

(Mr. ABDNOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABDNOR. Mr. Speaker, I was absent at the conclusion of the regular order of business yesterday, and was unable to return to the floor to participate in the special order taken by Congressman Larry Winn for his colleague and fellow Congressman Keith Sebelius.

Although I did include my remarks for the record, I am extremely sorry that I could not have been present.

Keith Sebelius is everybody's friend in this House, but he will always be extra special to me. It was during that initial difficult period in the House for me when Keith showed his patience and understanding in addressing my problems and inquiries, no matter how small they may have seemed. Keith did more to acquaint me with the practice and procedure of this body than anyone else could have, and I will always be in his debt.

He is an individual who all colleagues admire and whose reputation for fairness, honesty, and understanding is unsurpassed. We would all like to attain such a stature in this body.

Keith's retirement will leave a great void in the U.S. House of Representatives. I consider Keith one of my closest friends here, and while his absence will be felt by all, I shall probably feel it most acutely.

Keith has talked about going back to Kansas to practice law with his sons. While we all greatly respect his desire and realize how richly he has earned this privilege, we are going to miss him here in the Congress.

APPOINTMENT OF CONFEREES ON H.R. 7018, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7018) to extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes, with Senate amendments thereto, disagree with the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I assume there are no problems the minority stated regarding going to conference.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. FOLEY. The minority has been fully consulted and agrees to the action.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and without objection, appoints the following conferees: Messrs. Foley, de la Garza, Brown of California, Fithian, Skelton, Glickman, English, and Wampler, Mrs. Heckler, Mr. Grassley, and Mr. Madigan.

TO FACILITATE INCREASED COAST GUARD ENFORCEMENT OF DRUG IMPORTATION LAWS

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2538) to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes, with the Senate amendments thereto, concur in Senate amendments numbered 3, 6, and 7, and concur in Senate amendments numbered 1, 2, 4, and 5 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to Senate amendments numbered 1, 2, 4 and 5, as follows:

Senate amendments:

Page 1, line 5, after "to" insert "knowingly and intentionally".

Page 1, line 9, after "vessel to" insert "knowingly and intentionally".

Page 2, line 4, after "to" insert "knowingly or intentionally".

Page 2, after line 12, insert:

This section is intended to reach acts of possession, manufacturre, or distribution committed outside the territorial jurisdiction of the United States.

Page 2, line 16, after "business" insert ", or a vessel of the Government of the United States or any person on board such vessel who possesses or distributes a controlled substance in the lawful course of his duties".

Page 3, strike out lines 5 to 11, inclusive, and insert:

(g) (1) Any person who commits an offense defined in subsection (a), (b), (c) or (d) of this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Act.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Act if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

Page 4, strike out all after line 17 over to and including line 8 on page 6 and insert:

SEC. 4. Any property described in section 511 (a) of the Comprehensive Act that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Act.

House amendments to Senate amendments numbered 1, 2, 4 and 5: In lieu of the matter proposed to be inserted by Senate amendment numbered 1, insert the following: "knowingly or intentionally".

In lieu of the matter proposed to be inserted by Senate amendment numbered 2, insert the following: "knowingly or intentionally".

Omit the matter proposed to be inserted by Senate amendment numbered 4 and between lines 11 and 12 on page 3 of the House engrossed bill, insert the following:

"(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.".

In lieu of the matter proposed to be inserted by Senate amendment numbered 5, insert the following: ", or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of his duties,".

Mr. BIAGGI (during the reading). Mr. Speaker, I ask uanimous consent that the Senate amendments and the House amendments to Senate amendment numbered 1, 2, 4, and 5 be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, H.R. 2538 was passed unanimously by the House of Representatives on July 23, 1979. The measure closes a longstanding legal loophole that has hampered the effectiveness of Coast Guard drug interdiction efforts on the high seas. It will, through the provision of enforceable penalties for possession, manufacture, and distribution of controlled substances on the high seas bound for the United States, be an effective deterrent to maritime drug trafficking by both United States and foreign smugglers.

In its consideration of this measure, the Senate made certain amendments to the legislation as passed by the House. They include:

Reaffirmation of the clear intent of the act to have extraterritorial application;

Specific exclusion of public vessels from the act's application insofar as controlled substances are carried for shipboard use or as part of a vessel's legitimate cargo;

Incorporation of the penalty provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970;

Simplification of the forfeiture provisions of the act; and

Specific reference to the intent element in the substantive offenses as defined in the act.

The revised forfeiture provision—which incorporates by reference the seizure and forfeiture provisions of the comprehensive act—is intended to cover certain items of property such as communications and electronic navigation equipment and firearms that may be used to facilitate the commission of an offense specified in the act. I am advised that the Senate Commerce Committee concurs in this statement regarding the intention of this section.

The Senate amendments to the bill created several inconsistencies that should be rectified. That is the purpose of the proposed amendments.

Mr. Speaker, this is a much-needed, noncontroversial piece of legislation. I ask my colleagues to support these essentially technical amendments to the Senate amendments so that final passage of the bill can be expedited.

The SPEAKER. Is there objection to the initial request of the gentleman from New York (Mr. BIAGGI)?

There was no objection.

A motion to reconsider was laid on the table.

ALLOWING FOR TRANSFER OF FUNDS TO FUND HEAT CRISIS PROGRAM

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2995) to allow the transfer of certain funds to fund the heat crisis program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from New York (Mr. BIAGGI) was good enough to discuss this with me a few minutes ago. I have just received a copy of it.

I wonder if the gentleman could explain both what precisely the legislation does and whether or not the gentleman from Illinois (Mr. MICHEL), whose appropriations subcommittee, I believe, has jurisdiction over the funding, has approved of this. I have been unable to contact him.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. BIAGGI. The second part of that question I would like to refer to the majority leader, if I may.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

I will report to the gentleman from Maryland (Mr. BAUMAN) that this morning I discussed this matter with the gentleman from Illinois (Mr. MICHEL) and he does not have any objection to it. He told me that so far as he was concerned, it would be well to go ahead with it because it is critical that something be done to avoid the cutoff of the funds for those who are physically suffering, mostly elderly and infirm people, from the inordinate and prolonged heat in particularly some of the Southwestern States.

The bill simply authorizes the Community Services Administration to provide heat crisis money for an additional period, but not beyond September 30 of this year. If this is not granted today, we would go into a recess deprived of a legal means to offer relief, and during that hot August period, more people would die.

This does not authorize the kind of money that would allow the installation of an expensive unit for air-conditioning, but maybe a fan. Two thousand people have died in the past month in heat-related deaths. To permit preventable suffering and death would be unconscionable.

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This would not cost more than about $21 million and it is money already appropriated. It simply would authorize the Community Services Administration to borrow from the Rural Development Fund up to that amount of money.

Mr. BAUMAN. Mr. Speaker, if the gentleman would yield at that point, there is no budget problem. These are funds already appropriated and reimbursement would occur.

Mr. WRIGHT. The gentleman is absolutely right.

Mr. BAUMAN. So it is simply a reallocation of an existing appropriation.

Mr. BIAGGI. Mr. Speaker, I yielded to the majority leader for the purpose of responding to the precise question with relation to his conversation with the gentleman from Illinois (Mr. MICHEL); but he went further, he started to explain the legislation.

The fact is, the Low Income Assistance Act which this Congress passed, and rightly so, had a termination date of June 30.

Some funds are still out there, some 20 million are unspent and cannot be spent at this point unless we remove the termination date.

What Senator BENTSEN's legislation does, which follows with an extension of my original legislation, is provide an alternative Fund, which also gives greater flexibility to the use of that money.

The administration provided some $6

million for the purchase of some cooling equipment. It did not provide for spending money so that the elderly, who are always frugal and fearful of spending too much money in the operation of their cooling facilities, would be able in these critical areas to be compensated for the additional expense of the cost of energy.

I know the gentleman raised the question what about Guam. Guam would not qualify. Guam does not have an extraordinary heat wave. Theirs is a traditional heat wave. What we are witnessing here in the United States today is, indeed, a crisis. As the majority leader has stated, we have some 2,000 people already dead, most of which are elderly. It frightens me to consider the spector of some additional 2,000 dying in the month of August when we are in recess or away. It is my judgment that the legislation is excellent. It is called for and it would be in the end life saving.

Mr. Speaker, for the past 5 weeks many sections of this Nation have been under the grips of a true meterological menace—the great heat wave of 1980. In areas of Texas, Oklahoma, Missouri, and Arkansas, temperatures have hovered above 100 degrees for more than 30 days in a row.

The impact of this heat wave has been devastating in terms of human lives and economics. It is estimated that more than 1,200 persons have died from the heat. It is estimated that the heat and the accompanying drought have resulted in millions of dollars in crop damage.

On July 22, I introduced the very first bill in Congress aimed at addressing this issue. The legislation, H.R. 7787, simply extended the date under which funds from this past winter's low income energy assistance program could be spent from June 30 to September 30. I introduced this legislation after learning from the Community Services Administration—one of the two Federal agencies which administered the program—that they estimated as much as $21 million in some 22 States had yet to be spent. My legislation has already been cosponsored by a bipartistan group of 27 Members. It was introduced in its identical form by Senators BAKER and SASSER. The legislation was specifically cited in President Carter's statement announcing his request to reprogram these moneys.

It was apparent to me when I introduced the legislation that time is of the essence in this matter. My bill followed a request of the administration, approved by the House and Senate Appropriations Committee, to reprogram some $6.7 million in unused funds for the purchase of cooling equipment. However, information I received from the States pointed to the fact that a larger problem was the fear of low income and elderly persons to use cooling equipment they already had because of the high utility costs involved.

Since the initial administration request was modified by the Appropriations Committee to specifically bar use for payment of bills, my legislation became even more important. The same concerns which motivated Congress into passing last winter's low-income energy assistance program apply today as well. The program provides up to $250 toward the payment of a utility bill for any person whose income level is 125 percent of the poverty level or below. The law states that funds are to be used to help the poor and elderly "meet the rising costs of home energy."

The June 30 expiration date was adopted as a result of an amendment by the gentleman from Illinois (Mr. MICHEL) who did not want to see the program used to pay air-conditioning bills. Obviously a majority of this House felt the same way. I appreciate the full support of the gentleman from Illinois (Mr. MICHEL) in this effort.

Who could have foreseen the spectre of older Americans dying from heat? There do come times when circumstances require revision of thinking—I believe this is one such time.

The Senate to its credit has moved with great speed in addressing this issue. The specific bill they passed on Wednesday—S. 2995 was introduced by Senator BENTSEN and cosponsored by Senator CHILES. The bill embodies my legislation in that it does lift the arbitrary June 30 expiration date for obligation of funds from the low-income energy assistance program, and goes beyond in two important ways. First, it permits the CSA to borrow from its own rural development loan fund to provide immediate assistance to low income and elderly heat victims to help them purchase cooling equipment and pay utility bills. These loans will later be repaid with unused energy crisis assistance program (ECAP) funds which cannot be returned to, or used by the Federal Government until the State programs are audited later this year. It should be emphasized that this temporary borrowing of funds will in no way affect the availability of loans from the Rural Development Loan Fund.

Second, S. 2995 provides that the CSA shall distribute these funds to the areas of the country that need help the most. Funds will be allocated to those States and localities where heat and humidity has reached levels significantly higher than what is considered normal for the area. Special emphasis will also be given to those areas where significant numbers of low-income individuals are threatened by the extreme heat.

As an original member of the House Select Committee on Aging, I am especially concerned about the impact this heat wave is having on our Nation's elderly. There is good reason for this concern. According to the National Institute on Aging, older persons are far less able to adjust their body temperatures to extreme heat and cold. As a result, they are far more vulnerable to weather related illnesses and death.

Further, the U.S. Surgeon General reports that heat is particularly dangerous for persons suffering from chronic conditions such as heart disease, blood pressure, and respiratory illnesses. Statistics clearly show that older persons are often affiliated by one or more of these ailments.

Mr. Speaker, just last year I was proud to join the overwhelming majority of my colleagues in passing a $1.35 billion supplemental appropriation for the low-income energy assistance program. The intent of that action was to insure that our poor and elderly could survive the winter. Our efforts successfully avoided a major catastrophe.

This dangerous situation remains. Energy prices are still high and, as we have seen all to clearly, the summer heat can be just as hazardous as the cold of winter. This Congress must reaffirm its commitment to assisting our poor and elderly, allowing them to cope with the crisis posed by this summer's heat.

As we are being stared in the face by, traditionally, the hottest month of the year, I strongly urge that this body approve S. 2995.

At this time, Mr. Speaker, I would like to insert a list of my colleagues who have joined me in this "life or death" cause by cosponsoring my bill, H.R. 7787:

COSPONSORS

Mr. Yatron, Mr. Scheuer, Mr. Young of Missouri, Mr. Skelton, Mr. Ford of Tennessee, Mr. Volkmer, Mr. Winn, Mr. Coleman, Mr. Drinan, Mr. Evans of Virgin Islands, Mr. Studds, Mr. Rangel, Mr. Pepper, Mr. Simon, Mr. Nolan, Mr. Garcia, Ms. Chisholm, Mr. Watkins, Mr. Lederer, Mr. Bethune, Mr. Hammerschmidt, Mr. Fish, Mr. Pickle, Mr. Horton, Ms. Mikulski, Mr. Lloyd, Mr. Harris, Mr. Fithian.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I want to thank both gentlemen for their explanation of the legislation, and as one who is certainly not concerned only with himself and who does have a feeling for the poor, I appreciate this explanation.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I take a moment to commend the action of the gentleman from New York.

Recently I joined with my esteemed colleague on the Aging Committee, Mr. BIAGGI, to sponsor emergency legislation to assist low income and elderly victims of the killer heat wave of 1980. Although Mr. BIAGGI is not a representative from the "sunbelt" he has exerted outstanding effort in seeking relief for the victims of this national crisis.

The unanimous consent request to immediately accept the legislation now before you, S. 2995, is vital to our effort and will allow the transfer of funds for the heat crisis program. Yesterday, the Senate recognized that when more than 2,000 Americans die in just 1 month from heat that we face a true emergency. In my home State of Arkansas, I have witnessed the tremendous toll this heat wave has had on our elderly population. Newspapers throughout the State of Arkansas have reported countless instances of citizens being rushed to hospital facilities and dying because they cannot afford the cost of fans to cool themselves. These senior citizens lives have been threatened because they cannot afford to face higher electricity bills.

Often these persons are low income, live in old, uninsulated houses which have little ventilation and who are already strapped by high prices, tight credit and the recession. Moreover, many who were stricken were found to have fans or air-conditioning units but were afraid to turn them on because they knew could not pay the attendant increased utility costs. Our experiences indicate that the elderly poor are proud people, and many are very conscientious about paying obligations on time and reluctant to go into debt. In Arkansas, an increase as little as $13 a month was enough to prevent senior citizens living on fixed incomes from benefiting from their own fans, while temperatures ranged over 100 degrees.

In the past, those Members of the House and Senate who have attempted to prove the necessity of low-income energy assistance for cooling as well as for heating have faced a difficult battle and severe criticism. However, looking back a few months, I cannot recall a winter when we have seen 2,000 Americans die from the cold in 1 month.

The legislation before you may assist citizens in every region of the country who are attempting to cope with a heat wave unprecedented in its severity and duration. By approving this bill we will be attempting to help insure that we will not have to listen to those tragic daily reports of the last few weeks, documenting instances where our elderly citizens have died because of the stifing heat and because these citizens lacked the funds to own or operate a cooling device.

The Community Services Administration has extended some $21 million in energy crisis assistance grants to the various States which has not been spent and, effective June 30, can no longer be spent. The assets for urgently needed cooling assistance exists, but cannot be utilized. The money will have to be returned by the States to the Federal Government.

S. 2995 would permit the CSA to borrow a comparable amount—$21 million—from its rural development loan fund and to reimburse the fund from unused energy crisis assistance grants which must be returned from the States.

Section II of the bill would waive the June 30 cutoff date for heat crisis program grants by CSA, enabling the administration to respond to a crisis that has become apparent only during the past month.

Section III insures that any funds expended under this act will be extended to States or areas which have experienced extreme heat conditions for a significant period of time according to CSA and NOAA criteria and contain significant number of low-income individuals whose health is menaced by heat.

Prompt passage of S. 2995 through this unanimous-consent request will demonstrate that the House of Representatives can indeed react quickly and responsively to the needs of Americans in the midst of an energy crisis of national proportions.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I want to commend the gentleman from New York for offering this motion.

I also want to commend the Members on both sides of the aisle for the bipartisan spirit in which they considered this legislation. It is needed and I think it is important legislation. I think the attitude is healthy. I think those of us who are affected so much in one part of the country by the heat appreciate the bipartisan spirit.

Mr. Speaker, I rise in support of the gentleman from New York's proposal to earmark $21 million into the Community Services Administration for heat relief. I commend the gentleman from New York—and commend all Members for the bi-partisan spirit in which this legislation is considered.

No one has to be reminded that we have suffered a devastatingly hot month of July. As a result over 2,000 Americans lost their lives due to heat-related causes. This is a tragedy that we would not expect to happen with modern appliances, advanced insulation techniques and efficient air-conditioning. But this heat is a crisis, and we must deal with it. A National Weather Service briefing on Capitol Hill yesterday indicates that August will bring us more above-normal temperatures and below-normal precipitation in a wide area of the country.

We need to provide some assistance to those who simply cannot afford to cool their homes efficiently. And we need to do it now before any more lives are lost. Many of the lives lost were in Texas. I do not wish to open the newspaper and read about another victim who could not afford a fan or who could not afford a high electricity bill.

The Senate has already passed legislation to release funds for the heat crisis program. This money will be distributed to those areas suffering from higher-than-normal temperatures and to areas with a significant number of citizens in the low-income brackets whose lives are directly threatened by this searing heat. We must rally behind this legislation before another needless death occurs.

Mr. Speaker, I know we have talked about this before, and it has been said that air-conditioning is merely a luxury and that emergency funds should not be used to pay utility bills or for cash payments for air-conditioning. Some people have interpreted this discussion as merely another round in the "sunbelt-frostbelt" battle, and saying that people in an economic growth area are not really poor and do not really need help with air-conditioning. This is not an extra appropriation but rather a transfer of funds. It is not a bill to buy air-conditioning but a general bill to give relief from the heat of the Southwest.

But I think we must all agree, after witnessing this monthlong tragedy, that cooling assistance is often not a luxury, but rather a necessity. Poor is poor, and scorching heat is still the same, whether experienced in a rural farm shack in east Texas, a badly insulated structure in Houston's Fifth Ward, New York's Harlem, Florida's Liberty City, or Los Angeles' Watts District.

This measure is "stop-gap" at best. It will not cure poverty and it will certainly not alleviate the drought. But neither is this bill a "quick fix" attempt to solve a problem by blindly throwing more money at it. We have the opportunity to provide some basic relief to alleviate extraordinary suffering from unusual natural occurrences, and I think it is our responsibility to help our constituents before the heat claims even more lives.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. BIAGGI)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Community Services Administration is authorized to transfer such funds as may be necessary from its Rural Development Loan Fund, which has been established pursuant to section 731 of the Economic Opportunity Act to its ongoing heat crisis program which program is carried out under the authority of title II of such Act.

(b) From unexpended funds appropriated for energy crisis activities in Public Laws 96–86, October 12, 1979, 96–123, November 12, 1979, and 96–126, November 27, 1979, there shall be reimbursed to the Rural Development Loan Fund an amount equal to the amount of funds transferred to the heat crisis program.

SEC. 2. To the extent that the Community Services Administration has awarded or will award heat crisis program funds to its grantees and to the extent that such funds were or will be transferred out of the appropriations cited in section 1 of this Act, and to the extent that the award of such funds are prohibited after June 30, 1980, such prohibition shall not apply.

SEC. 3. To the extent that the funds described in sections 1 and 2 of this Act are available, assistance may be provided to States or areas within States which—

(a) have experienced extreme heat conditions for a significant period of time according to criteria developed for the Community Services Administration by the National Oceanic and Atmospheric Administration; and

(b) contains significant numbers of low income individuals whose health is threatened due to such extended heat conditions.

● Mr. FROST. Mr. Speaker, I rise in strong support of S. 2995, and I commend those who have worked so diligently in the Senate and the House to bring this much-needed legislation to the House floor after expeditious Senate action.

This legislation will do much to help alleviate many of the problems of human suffering we have all seen in news reports as a result of the recent heat wave. This suffering is not limited to Texas or the Sunbelt; it is now beginning to affect many citzens in other parts of the Nation.

This bill will give the Community Services Administration the flexibility it needs to provide fast and efficient assistance to those most in need of help—the poor and the elderly. Often, those living on fixed incomes face double jeopardy in that they cannot afford their skyrocketing utility bills, while at the same time they are usually the ones most adversely affected by the searing heat.

I strongly urge my colleagues to lend support to this legislation. The heat wave is spreading to other parts of the country. Soon, many more of us may be trying to respond to our constituents to help them cope with the heat. This legislation is the best response to this problem that we could give.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 2995, just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ESTABLISHING POSTAL SERVICE SUPERVISORS' ARBITRATION BOARD AND DISPUTE RESOLUTION PROCEDURES

Mr. CLAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 827) to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause, and insert:

That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(c)(1) The Postal Service and the supervisors' organization shall, unless otherwise mutually agreed to, meet at least once each month to implement the consultation and direct participation procedures of subsection (b) of this section.

"(2)(A) At least 7 days before each meeting, each party shall—

"(i) provide notice of agenda items, and

"(ii) describe in detail the proposals such party will make with respect to each such item.

"(B) Grievances of individual employees shall not be matters which may be included as agenda items under this paragraph.

"(d)(1) In order to facilitate consultation and direct participation by the supervisors' organization in the planning and development of programs under subsection (b) of this section which affect members of the supervisors' organization, the Postal Service shall—

"(A) provide in writing a description of any proposed program and the reasons for it;

"(B) give the organization at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the program; and

"(C) give any recommendation from the organization full and fair consideration in deciding whether or how to proceed with the program.

"(2) If the Postal Service decides to implement a program described in paragraph (1) of this subsection, the Postal Service shall before such implementation—

"(A) give the supervisors' organization details of its decision to implement the program, together with the information upon which the decision is based;

"(B) give the organization an opportunity to make recommendations with respect to the program; and

"(C) give such recommendations full and fair consideration, including the providing of reasons to the organization if any of such recommendations are rejected.

"(3) If a program described in paragraph (1) of this subsection is implemented, the Postal Service shall—

"(A) develop a method for the supervisors' organization to participate in further planning and development of the program, and

"(B) give the organization adequate access to information to make that participation productive.

"(4) The Postal Service and the supervisors' organization may, by agreement, adopt procedures different from those provided by this subsection.

"(e)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.

"(2) The Postal Service and the supervisors' organization shall strive to resolve any differences concerning the proposal described in paragraph (1) of this subsection under the procedures provided for, or adopted under, subsection (d) of this section.

"(3) The Postal Service shall provide its decision concerning changes proposed under paragraph (1) of this subsection to the supervisors' organization within 90 days following the submission of the proposal.

"(f)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the supervisors' organization believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (hereinafter referred to as the 'panel') concerning such matter.

"(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. Each party shall designate one individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first two individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the two individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

"(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

"(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

"(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the supervisors' organization agree to a longer period. The panel shall hear from the Postal Service and the supervisors' organization in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the supervisors' organization.

"(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the supervisors' organization its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

"(g) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the supervisors' organization may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (f)(2) of this section. The panel shall make recommendations to the Congress for changes in this title as it finds appropriate.

"(h) For purposes of this section—

"(1) 'supervisors' organization' means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors; and

"(2) 'members of the supervisors' organization' means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors' organization as represented by such organization.".

Amend the title so as to read: "An Act to establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.".

Mr. CLAY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. HANLEY. Mr. Speaker, reserving the right to object, and I will not object, I want to say a word or two upon the happy occasion of the passage of this legislation. H.R. 827 represents the third time the House of Representatives has enacted legislation to establish in law a solution to the conflict between postal management in Washington and postal management in the field service. Twice before the House has passed this bill and twice it has died in the Senate because of the objections of the Postal Service to the enactment of an arbitration system for postal supervisors. Now an accommodation has been reached.

Although the supervisors are not given arbitration rights under this bill, their situation will be improved through the mechanism for factfinding and recommendations by an impartial panel, which is the substance of the Senate amendment to H.R. 827. The supervisors are apparently satisfied with this compromise, so I am willing to vote in favor of passage. But I do want to add a note of caution: The reason this bill has never passed is because the Postmaster General—and I do not limit that to my friend who is the present incumbent of that position—is opposed to giving any teeth to the language in the statute which creates rights for more than 30,000 postal supervisors.

As a result, supervisors, through their chosen representatives, have been in court and have petitioned the Congress repeatedly for corrective action. The supervisors have not completely prevailed here, but they have gained ground, and unless the Postmaster General and future Postmasters General recognize the demands of organized management in the postal system, this will not be the last word spoken in this Chamber on this subject. The Wagner Act was not enacted by this Congress because management in the private sector did such a good job. I think it would behoove postal management to begin a new course of cooperation so that the hopes of those who voted for postal reorganization may some day be achieved.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri (Mr. CLAY)?

There was no objection.

Mr. CLAY. Mr. Speaker, I recommend that my colleagues accept the Senate amendments to the House bill H.R. 827. The House bill provided for binding arbitration for the resolution of disputes between postal supervisors organization and the Postal Service. The Senate bill provides for impartial factfindings and recommendations by an impartial panel. I am compelled however to offer my observations concerning the intent of the House of Representatives.

I congratulate the Senate for finally acting on this measure which has been overwhelmingly supported by this body on three occasions. My personal commitment to the bill has been longstanding.

While I stand ready to accept the Senate amendments to this measure, I wish to make it clear for the record that the Senate version of this legislation represents a significant compromise to the House-passed legislation.

There has been no clearer violation of congressional intent in Postal Reorganization Act of 1970 than the refusal of the Postal Service to follow our intent to insure the rights of postal supervisors and other managerial personnel to "participate directly" in the determination of their pay and related benefits. The House-passed version of H.R. 827 would have established an arbitration board to render fair, impartial, and binding decisions in major disputes between the National Association of Postal Supervisors and the U.S. Postal Service. The existence of such a board would have encouraged greater cooperation and consultation between the two parties.

H.R. 827 as amended by the Senate, provides for fair, impartial, and independent fact-finding by an impartial panel if the supervisory organization believes that the Postal Service's decisions concerning pay and fringe benefits is not in accordance with the provisions of the title 39, the Postal Reorganization Act. The legislation encourages equitable pay consultation between NAPS and USPS based upon statutory mandates. These include the stipulation that the Postal Service provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel, and a pay policy that reflects the essential importance of a well-trained and well-motivated supervisory work force to improve the effectiveness of postal operations.

Within the purview of the factfinding panel, pay and fringe benefit standards would be set to be consistent with the statutory mandates. In addition, the panel will make recommendations concerning the differences between the parties consistent with those standards.

Herein lies the major difference between the House-passed and the Senate-passed legislation, that standard setting and recommendations of the impartial panel are not "binding" on the parties. Nevertheless, it is my expectation that, if the intent of Congress is to be carried out, the panel's standards and recommendations shall be given considerable weight by both parties. A presumption of correctness must be afforded the fact-finding panel except to the extent that the parties are able to show that it is based upon factual inaccuracies. We expect the Postal Service to give such weight and full consideration to the panel's recommendations.

Although I certainly hope that this legislation will alleviate the need to resort to judicial enforcement, this legislation provides a mechanism for arriving at a reasoned decision based on the statutory requirements at a given point in time. The legislation reaffirms the congressional intent that, if necessary, the courts can and should insure that the statutory requirements are being met including the requirement of adequate and reasonable differentials.

It is my understanding that all parties who have expressed interest in this legislation have been informed of the Senate amendments and are open to an early resolution of this matter. I urge acceptance of H.R. 827 as amended. I urge the prompt enactment of this measure into law thereby implementing a workable solution to the longstanding disputes that have existed between top postal management and its supervisory work force.

● Mr. GILMAN. Mr. Speaker, I rise in support of the unanimous-consent request to consider H.R. 827, a bill to establish dispute resolution procedures to settle disputes between supervisors and the Postal Service, as reported by the Senate Committee on Governmental Affairs and as approved by the Senate.

As a cosponsor in this and previous Congresses of the original legislation, the postal supervisors arbitration bill, from which this measure is drawn, I commend this measure to my colleagues as a long overdue, equitable and necessary means for according dispute resolution rights to postal supervisors. As a member of the Committee on Post Office and Civil Service which has held extensive hearings on the need for this measure, I can assure my colleagues that the provisions of the bill now before us provide both the postal supervisors and the U.S. Postal Service with equitable means to begin to forge a mutually acceptable consultation and resolution process.

Accordingly, I urge my colleagues to adopt this measure.●

The SPEAKER. Is there objection to the initial request of the gentleman from Missouri (Mr. CLAY)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 827.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

VETERANS' ADMINISTRATION HEALTH-CARE PERSONNEL ACT OF 1980

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7102) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Veterans' Administration Health-Care Program Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

SEC. 100. This title may be cited as the "Veterans' Administration Health-Care Personnel Amendments of 1980".

SEC. 101. Section 6(a) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, Public Law 94–123 (89 Stat. 669), is amended by striking out "(1)" and by striking out paragraph (2) in its entirety.

SEC. 102. Section 4101 is amended by—

(1) amending subsection (b) by striking out "manpower" and inserting in lieu thereof "personnel" each place it appears; and

(2) adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, physicians, dentists, nurses, and other health-care professionals employed by the

Veterans' Administration's Department of Medicine and Surgery and appointed under authority of sections 4103, 4104(1), and 4114 of this title shall not be subject to the provisions of section 413 of the Civil Service Reform Act of 1978, and the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

SEC. 103. Section 4103(a)(6) is amended by inserting at the end the following new sentence: "This position may be filled by a qualified registered nurse serving as an Assistant Chief Medical Director or as a Deputy Assistant Chief Medical Director.".

SEC. 104. Section 4107 is amended by—

(1) amending subsection (a) to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

"SECTION 4103 SCHEDULE

"Chief Medical Director, $73,733.

"Deputy Chief Medical Director, $70,731.

"Associate Deputy Chief Medical Director, $67,747.

"Assistant Chief Medical Director, $65,750.

"Medical Director, $56,099 minimum to $63,759 maximum.

"Director of Nursing Service, $56,099 minimum to $63,759 maximum.

"Director of Podiatric Service, $47,889 minimum to $60,657 maximum.

"Director of Chaplain Service, $47,889 minimum to $60,657 maximum.

"Director of Pharmacy Service, $47,889 minimum to $30,657 maximum.

"Director of Dietetic Service, $47,889 minimum to $60,657 maximum.

"Director of Optometric Service, $47,889 minimum to $60,657 maximum.";

(2) amending subsection (b)(1) to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $47,889 minimum to $60,657 maximum.

"Executive grade, $44,219 minimum to $57,845 maximum.

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.

"NURSE SCHEDULE

"Director grade, $40,832 minimum to $53,081 maximum.

"Assistant Director grade, $34,713 minimum to $45,126 maximum.

"Chief grade, $29,375 minimum to $38,186 maximum.

"Senior grade, $24,703 minimum to $32,110 maximum.

"Intermediate grade, $20,611 minimum to $26,794 maximum.

"Full grade, $17,035 minimum to $22,147 maximum.

"Associate grade, $14,659 minimum to $19,060 maximum.

"Junior grade, $12,531 minimum to $16,293 maximum.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.";

(3) amending subsection (c) by—

(A) amending the first sentence by—

(i) striking out the comma after "law" and inserting "(1)" in lieu thereof, and

(ii) inserting before the period a comma and "and (2) a physician serving on a full-time basis as a health-care facility director, if assigned significant additional duties of a medical nature by the Chief Medical Director, shall be paid special pay up to the maximum level provided for in section 4118(a)(1)(A) of this title pursuant to an agreement meeting the requirements of section 4118 of this title"; and

(B) striking out "hospital, domiciliary facility, or center" and inserting in lieu thereof "health-care facility" each place it appears; (4) amending subsection (e) by—

(A) inserting at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, hours of a nurse's officially ordered or approved travel away from such nurse's official duty station shall not be considered hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.";

(B) amending paragraph (8) by inserting "or on a holiday designated by Federal statute or Executive order" after "regular hours"; and

(C) inserting at the end the following new paragraphs:

"(10) The provisions of this subsection shall apply, in lieu of the provisions of sections 5542, 5545 (a) and (b), and 5546 of title 5, with respect to Department of Medicine and Surgery employees (other than administrative, clerical, and physical plant maintenance and protective services employees) who are paid under the General Schedule pursuant to section 5332 of title 5 and who are determined by the Administrator to be providing either direct patient-care services or services incident to such direct services, except as follows:

"(A) The compensatory time off provisions of section 5543 of title 5 shall apply in lieu of compensatory time off provisions of paragraph (5) of this subsection; and

"(B) The standby premium pay provisions of section 5545(c)(1) of title 5 may be applied in lieu of the on-call pay provisions of paragraph (8) of this subsection. An employee in receipt of such premium pay shall receive such premium pay on an annual basis in lieu of additional pay under this subsection, except that the employee shall receive additional pay as authorized under paragraph (5) of this subsection for overtime service outside the employee's tour of duty (including standby duty).

"(11) Notwithstanding any other provision of law, when the Administrator, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities)."; and

(5) adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, when the Administrator, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, determines it to be necessary in order to obtain or retain the services of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, or other health-care personnel determined under section 4107(e)(10) of this title to be providing either direct patient-care services or services incident to such direct services, that would not otherwise be available to provide medical care and treatment for veterans, the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable law and regulation, on a nationwide, local, or other geographic basis, for one or more grades listed in the schedules in subsection (b)(1) of this section, for one or more medical, nursing, or dental fields within such grades, or for one or more grades of the General Schedule under section 5332 of title 5, in order to provide pay competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market, to achieve adequate staffing at particular facilities, or to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding. The amount of any such increase in the maximum rate for any grade may not exceed the amount by which the statutory maximum for such grade exceeds the statutory minimum for such grade, and the maximum rate so increased may not exceed the rate paid for Assistant Chief Medical Director under the 'SECTION 4103 SCHEDULE' pursuant to subsection (a) of this section.".

SEC. 105. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care system of, the conversion of Veterans' Administration's Department of Medicine and Surgery employees who are providing direct patient-care services or services incident to such direct services, as determined by the Administrator pursuant to paragraph (10) of section 4107(e) of title 38, United States Code (as added by section 104(4)(D) of this Act), to the pay schedules and other administrative provisions of such title, the Administrator shall conduct a study to determine which, if any, of these categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale.

(b) Not later than eighteen months after the date of enactment of this Act, the Administrator shall submit to the Veterans' Affairs Committees of the House of Representatives and the Senate a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

SEC. 106. Section 4108 is amended by—

(1)(A) redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively; and

(B) inserting the following new subsections (b) and (c):

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis except that any individual serving on less than a full-time basis as Chief of Staff on the effective date of this subsection may continue to serve in that capacity on such basis in the same manner and under the same terms and conditions of service as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve on such basis, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(c)(1) Except as provided in paragraph (2) of this subsection, any person serving as an Associate Chief of Staff, or in a position comparable to Service Chief, as determined by the Chief Medical Director, in a Veterans' Administration health-care facility shall be appointed on a full-time basis, except that any person serving on less than a full-time basis as an Associate Chief of Staff, or Service Chief, or in a position comparable to Service Chief, as determined by the Chief Medical Director, on the effective date of this subsection may continue to serve in that capacity on such basis in the same manner and under the same terms and conditions of service as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve on such basis, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(2) The Chief Medical Director, pursuant to regulations which the Administrator shall prescribe and upon finding that it is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, may (A) exempt categories of personnel who would otherwise be covered by the provisions of paragraph (1) of this subsection from the application of such provisions, or (B) upon application of the Associate Chief of Staff, Service Chief, or other individual concerned, waive the provisions of such paragraph as to such individual with respect to a category not exempted under clause (A) of this paragraph."; and

(2) inserting at the end the following new subsection:

"(g)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and the health-care personnel education and training mission provided for in section 4101(b) of this title, of assuring an adequate supply of health-care personnel, the Administrator, under regulations which the Administrator shall prescribe, may provide support (including such support described in section 4109 of title 5 as the Administrator determines to be appropriate) for training of selected registered nurses, including nurse practitioners, employed by the Veterans' Administration for a baccalaureate degree in nursing subject to the execution by the employee selected for the training of a written employee agreement conforming to the provisions of section 4108 of title 5.

"(2) The authority granted the Administrator under paragraph (1) of this subsection is in addition to any authority granted the Administrator under chapter 41 of title 5.".

SEC. 107. Section 4109 is amended after the catchline to read as follows:

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

"(b) Notwithstanding any other provision of law, on and after the effective date of this subsection, a person appointed under this title and serving in the Department of Medicine and Surgery on a less than full-time basis shall accumulate creditable service for the purposes of chapter 83 of title 5 on a proportionate basis equal to the fraction that such person's service after such date is of full-time service.".

SEC. 108. Section 4112 is amended by—

(1) amending subsection (b) by—

(A) inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration"; and

(B) inserting after the second sentence the following new sentence: "Notwithstanding the recommendations of any such committees, final decisions concerning the provision of health care and employment at the Veterans' Administration facility concerned shall be made by the Administrator and shall not be delegated to any advisory committee or any person other than an employee of the Veterans' Administration."; and

(2) adding at the end the following new subsection:

"(c) In addition to any advisory committee described in subsection (b) of this section, the Administrator shall, in each Veterans' Administration health-care facility providing hospital care, establish a medical center coordinating committee. Each such committee shall advise the medical center management with respect to all matters concerning the provision of health care to eligible veterans and dependents and shall be chaired by the director of the facility. Members of each such committee shall include, pursuant to the regulations which the Administrator shall prescribe, the heads of each major organizational unit of the center, full-time employee representatives from each major patient-care service in the center, a representative from each recognized exclusive representative of employees in the center, and, on a rotating basis, representatives of such veterans' service organizations as the Chief Medical Director shall specify.".

SEC. 109. (a)(1) Section 4118 is amended by—

(A) amending subsection (a)(2) by inserting before the period at the end a comma and "except that special pay may be paid to a reemployed annuitant who was separated involuntarily under section 8335 of title 5, relating to mandatory retirement at age 70";

(B) amending subsection (c) by—

(i) amending the second sentence by inserting a comma and "as applicable," (I) before "to any full-time dentist", and (II) after "to any part-time physician or";

(ii) striking out "and" at the end of clause (1);

(iii) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(iv) inserting at the end the following new clauses:

"(3) for first or specialty board certification of a physician, $2,000; or for subspecialty or secondary board certification of a physician, $2,500; and

"(4) for service by a physician (A) in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, or (B) in the Central Office of the Department of Medicine and Surgery, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000."; and

(C) amending subsection (d) by striking out paragraph (1) in its entirety, and by striking out "(2)".

(2) The amendments made by paragraph (1) of this subsection shall apply with respect to pay periods beginning after September 30, 1980.

(b)(1) Section 4118, as amended by subsection (a) of this section, is further amended by—

(A) amending subsection (a)(1) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$23,500 per annum (except as otherwise provided in this section)" and "$10,000 per annum (except as otherwise provided in this section)", respectively;

(B) amending subsection (b) by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000";

(C) amending subsections (c) and (d) to read as follows:

"(c)(1) In the case of eligible full-time and part-time physicians appointed under this chapter, the Administrator shall privide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay of not more than $16,500 (except as otherwise provided in this section) to any eligible physician. In prescribing regulations to carry out this paragraph, the Administration shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time physician to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such physician is of full-time employment:

"(A) For—

"(i) full-time status, $6,000;

"(ii) tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than five years, $1,000;

"(II) of five or more years, but less than eight years, $2,000; or

"(III) of eight or more years, $3,000; and

"(iii) service in a scarce medical specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $4,000 and not more than $16,500.

"(B) For service—

"(i) as a Service Chief, or Associate Chief of Staff (or in a comparable position as determined by the Chief Medical Director), $9,625;

"(ii) as a Chief of Staff or in an Executive grade, $12,250;

"(iii) as a Deputy Service Director or in a Director grade, $12,700;

"(iv) as a Service Director, $13,125;

"(v) as a Deputy Assistant Chief Medical Director, $14,000; and

"(vi) as an Assistant Chief Medical Direcgraphic location in which the Chief Medical Director, $14,875.

"(C) For first or specialty board certification, $2,000; or for subspecialty or secondary board certification, $2,500.

"(D) For service in (i) a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, or (ii) the Central Office of the Department of Medicine and Surgery, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000.

"(2) In the case of eligible full-time and part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay of not more than $7,500 (except as otherwise provided in this section) to any eligible dentist. In prescribing regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time dentist to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such dentist is of full-time employment:

"(A) For—

"(i) full-time status, $1,000;

"(ii) tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than seven year, $500; or

"(II) of seven or more years, $1,000;

"(iii) service in a scarce dental specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $2,000 and not more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive grade, $3,500;

"(iii) as a Deputy Service Director or in a Director grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000; and

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified dentists in a specific category of dentists, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $1,750 and not more than $2,500.

"(3) (A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(B) (i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under clause (A) (i) and (iii) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive pay under clause (A) (i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to a physician or dentist for the purpose of determining the applicability to such special pay of the limitation specified in subsection (a) of this section on the total amount of such special pay, and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay, there shall be excluded any special pay provided under subsection (c) (1) (D) or (c) (2) (C) of this section for service in certain geographic locations."

(D) amending subsection (e) (1) by striking out the third sentence thereof; and

(E) amending subsection (f) to read as follows:

"(f) (1) Any additional compensation provided as special pay under this section shall be considered as basic pay for the purpose of chapter 87 of title 5.

"(2) At the election of any physician or dentist serving on a full-time basis in the Department of Medicine and Surgery who receives additional compensation provided as special pay under this section, such amount of additional compensation may either—

"(A) be considered as basic pay, for the purposes of chapter 83 of such title, and the provisions of section 8334 of title 5 shall apply to the full amount of such additional compensation in accordance with the following schedule:

"(i) effective after September 30, 1981, 20 per centum of such additional compensation shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(ii) effective after September 30, 1984, 40 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iii) effective after September 30, 1986, 60 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iv) effective after September 30, 1988, 80 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5; and

"(v) effective after September 30, 1989, 100 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5; or

"(B) be used, notwithstanding the prohibition in section 219(b) (2) (A) (i) of title 26, relating to individuals covered by retirement plans established by the United States for its employees, or any other provision of law, to establish, in accordance with section 408(a) of such title, an individual retirement account described in such section. Such amount of additional compensation and such account shall, for purposes of such title, be treated as earned income, to the extent allowable, paid into an account established pursuant to such section and an account so established, respectively.

"(3) Except as otherwise provided in paragraphs (1) and (2) of this subsection, any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55 or chapter 81 of title 5, or for the purposes of other benefits related to basic pay.".

(2) The amendments made by paragraph (1) of this subsection shall apply with respect to pay periods beginning after March 31, 1981.

SEC. 110. (a) Subchapter I of chapter 73 is further amended by adding at the end thereof the following new section:

"§ 4119. Veterans' Administration Physicians' and Dentists' Pay Board

"(a) (1) There is established in the office of the Administrator of Veterans' Affairs a Veterans' Administration Physicians' and Dentists' Pay Board to be composed of five members who shall be appointed from private life as follows:

"(A) three appointed by the Administrator of Veteran's Affairs, to include at least one disabled veteran, one of whom shall be designated by the Administrator to chair the Board;

"(B) one appointed by the President of the Senate upon the joint recommendation of the majority and minority leaders of the Senate; and

"(C) one appointed by the Speaker of the House of Representatives.

"(2) The terms of office of persons first appointed as members of the Board shall be as follows:

"(A) the terms of the members appointed by the Administrator shall expire, as designated by the Administrator at the time of appointment, one on September 30, 1982, one on September 30, 1983, and one on September 30, 1984; and

"(B) the terms of the members appointed under paragraph (1) (B) and (C) of this subsection shall expire on September 30, 1982.

"(3) Beginning with the appointments made following the end of fiscal year 1981 and thereafter, the term of persons appointed as members of the Board shall be for the period of the fiscal year in which such appointment is made and for the two succeeding fiscal years.

"(4) A vacancy in the membership of the Board shall be filled in the manner in which the original appointment was made, and an appointment to fill a vacancy occurring before the expiration of a term shall be for the period ending on the date on which such term expires.

"(5) Upon expiration of a member's term, such member shall continue to serve until such member's successor is appointed and qualified.

"(6) Members of the Board shall receive compensation at the daily rate which may be paid for GS-18 of the General Schedule under section 5332 of title 5, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses, at rates provided for in subchapter I of chapter 57 of such title, incurred by them in carrying out their duties as members of the Board.

"(b) To assist the President in carrying out the congressional policy of assuring that the pay for Veterans' Administration physicians and dentists is fixed at levels reasonably comparable with the total remuneration of physicians and dentists employed elsewhere in the Federal Government and with the income of non-Federal physicians and dentists, so as make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for all eligible veterans in Veterans' Administration health-care facilities, the Board shall, after such consultation with representatives from each recognized exclusive representative of physicians and dentists employed in the Veterans' Administration's Department of Medicine and Surgery as is required under any applicable collective bargaining agreements—

"(1) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between Veterans' Administration and other Federal sector physicians and dentists and between all Federal and non-Federal sector physicians and dentists;

"(2) obtain measures of income from employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting amounts of special pay for Veterans' Administration physicians and dentists;

"(3) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and biennially thereafter, recommending appropriate amounts of special pay to fulfill the policy set forth in this subsection with respect to Veterans' Administration physicians and dentists; and

"(4) include in such recommendations, when considered appropriate and necessary by the Board, modifications of the special pay levels set forth in section 4118 of this title (A) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because income for non-Veterans' Administration physicians and dentists performing specialized types of duties is substantially in excess of the total pay levels (including basic pay and special pay) for Veterans' Administration physicians and dentists, or (B) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall include, in the budget next transmitted to the Congress after the date of the submission of the report and recommendations of the Board under subsection (b)(3) of this section, recommendations with respect to the exact rates of special pay for Veterans' Administration physicians and dentists pursuant to section 4118 of this title. As used in this subsection, the term 'budget' means the budget referred to in section 11 of title 31.

"(d)(1) Except as provided in paragraph (2) of this subsection, the recommendations of the President transmitted to the Congress in the budget under subsection (c) of this section shall become effective at the beginning of the first pay period which begins after the sixtieth day following the transmittal of such recommendations in the budget, but only to the extent that such recommendations are not inconsistent with either—

"(A) any statute enacted into law between the date of transmittal of such recommendations in the budget and the beginning of such first pay period which establishes rates of pay other than those proposed by all or part of such recommendations; or

"(B) any resolution, approved by either House of the Congress between such date and day, which specifically disapproves all or part of such recommendations.

"(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made effective on a date later than the date on which such recommendations otherwise were to take effect, but on a date not later than the first day of the next fiscal year.

"(e) The recommendations of the President transmitted to the Congress pursuant to subsection (c) of this section which become effective as specified in subsection (d) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations; and

"(B) any prior recommendations of the President under this section.

"(f) The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

"(g) To assist the Board in carrying out its functions, the Board shall appoint an Executive Director, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia and such additional staff personnel as may be necessary, and fix the compensation of such executive director and additional staff personnel, without regard to chapter 51 and subchapter III of chapter 53 of title 5, but at rates not in excess of the maximum rate which may be paid for GS-18 of the General Schedule under section 5332 of such title.

"(h) The Board may secure from any department or agency of the United States information, estimates, statistics, suggestions, and technical assistance for the purpose of carrying out its functions. Each such department or agency shall furnish to the Board, upon the Board's request, such information, estimates, and statistics as it is otherwise authorized to furnish and as relate to such department or agency, and such suggestions and technical assistance as are within each such department's or agency's capability.

"(i) On request of the Board, the head of any department or agency may detail, on a reimbursable basis, any of its personnel to assist the Board in carrying out its functions.

"(j) The Board may obtain the services of experts or consultants in accordance with section 3109 of title 5, but at rates for individuals not to exceed that which may be paid for GS-18 of the General Schedule under section 5332 of title 5.

"(k) The Board may, for purposes set forth in this section, and notwithstanding any other provisions of law, accept uncompensated services and enter into contracts and agreements with private or public agencies or persons, for such services (including personal services) as the Board may deem necessary.

"(l) The Administrator of General Services shall provide administrative support services for the Board on a reimbursable basis.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4118 the following new item:

"4119. Veterans' Administration Physicians' and Dentists' Pay Board.".

SEC. 111. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel, including licensed practical or vocational nurses and nursing assistants, capable of providing quality care for eligible veterans in Veterans' Administration facilities, the Administration shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel, and, in the course of such study, shall, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, take various administrative actions to overcome such difficulties, including, but not limited to, combinations of each of the following actions:

(1) Modifications of existing work schedules for nursing personnel so as to allow such nursing personnel to work on a flexitime basis or to work a compressed workweek and other variations in workday and workweek schedules as provided for in the "Federal Employees Flexible and Compressed Work Schedules Act of 1978", Public Law 95-390.

(2) Establishment of onsite child-care centers at Veterans' Administration health-care facilities for the care of the children of nursing personnel and other Federal employees while such personnel are on duty.

(3) Provision of free or subsidized parking for nursing personnel at Veterans' Administration facilities at which personnel are being required to pay for parking.

(4) Enhanced programs of career development for nursing personnel, including support for outside educational opportunities pursuant to the authority provided in section 4108 of this title and section 4109 of title 5 in conjunction with such career development programs, and, as appropriate, academic appointments to the faculty of affiliated institutions.

(b) Not later than forty-two months after the date of enactment of this Act, the Administrator shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

SEC. 112. Except as provided in section 109(a)(2) and (b)(2) of this title, the provisions of this title shall become effective on October 1, 1980.

TITLE II—GERIATRIC RESEARCH AND CARE AMENDMENTS

SEC. 200. This title may be cited as the "Veterans' Geriatric Research and Care Amendments of 1980".

SEC. 201. The purposes of this title are to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological, and social needs of an increasing number of older veterans and to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

SEC. 202. Section 4101 is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate up to fifteen Veterans Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and, subject to the appropriation of sufficient funds for such purpose, shall establish and operate such centers at such locations pursuant to the provision of this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator shall, upon the recommendation of the Chief Medical Director—

"(i) designate each facility that, on the date of the enactment of this subsection, is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of clause (iii) of this subparagraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of the Veterans' Geriatric Research and Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future;

"(ii) assure appropriate geographic distribution of such facilities; and

"(iii) limit the designation of any such facility to a facility that (I) is affiliated with an accredited medical school which provides (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop a program to provide) education and training in geriatrics and with which such facility has (or with which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop) an arrangement under which residents receive education and training in geriatrics through regular rotation through such center and nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders, (II) has (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility, (III) has demonstrated the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts, (IV) has (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to establish) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and the affiliated school or schools to advise on policy matters pertaining to the activities of such center during the period of the operation of such center, and (V) has demonstrated the capability to conduct effectively evaluation of the activities of such center.

"(C) Prior to providing funds for the operation of any such center at a facility other than one designated pursuant to subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of research, education, and clinical activities.

"(2)(A) Not later than ninety days after the effective date of this subsection, the Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this paragraph referred to as the 'Committee'), the membership of which shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging, and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as are necessary for it to carry out effectively its functions under this paragraph.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of the Veterans' Geriatric Research and Care Amendments of 1980;

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

"(C)(i) Not later than thirty months after the effective date of this subsection, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include (I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established under paragraph (1) of this subsection, (II) assessments of the quality of the operations of such centers, (III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended and other health-care services, (IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers, and (V) recommendations for other geriatric, extended, and other health-care services which are needed to meet the needs of older veterans. Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

"(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

"(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of centers of geriatric research, education, and clinical activities established under paragraph (1) of this subsection $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account for research in geriatrics and gerontology.".

Sec. 203. Section 4103(a)(4) is amended by adding at the end of the following new sentence: "One Assistant Chief Medical Director shall be a qualified physician trained, or having suitable, extensive experience, in geriatrics who shall be directly responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy and evaluation in the Department.".

Sec. 204. The amendments made by this title shall take effect on October 1, 1980.

TITLE III—VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Sec. 300. This title may be cited as the "Veterans' Administration Health-Care Cost Recovery Provisions of 1980".

Sec. 301. (a) Subchapter III of chapter 17 is amended by adding after section 628 the following new section:

"§ 629. Recovery by the United States of the Cost of certain care and services

"(a) In any case in which a veteran is furnished care and services under this chapter for a non-service-connected disability and such disability was incurred—

"(1) incident to such veteran's employment and the disability is covered under a workers' compensation law or plan which provides reimbursement for or indemnification of the cost of health care and services provided to the veteran by reason of the disability,

"(2) as the result of a motor vehicle accident covered under the law of a State which requires the owners or operators of motor vehicles registered in such State to have in force automobile accident reparations insurance, or

"(3) as the result of a crime of personal violence that occurred in a State or subdivision thereof in which a person injured as the result of such crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime,

the United States shall have the right to recover, subject to the limitations, conditions, and procedures prescribed in subsections (b) and (c) of this section, the reasonable costs of such care and services from the State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations insurance carrier, to the extent that such veteran, or the provider of care and services to such veteran, would be eligible to receive reimbursement or indemnification for such care and services if such care and services had not been furnished by a department or agency of the United States.

"(b) The amount that may be recovered by the United States in exercising the right provided under subsection (a) of this section may not exceed the lesser of (1) an amount equal to the reasonable cost of the care and services furnished such veteran under this chapter, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe after notice and opportunity for public comment, or (2) the maximum amount specified by the law of the State or subdivision thereof concerned or by any relevant contractual provision to which such veteran was a party or was subject.

"(c)(1) The United States shall, as to the right provided in subsection (a) of this section, be subrogated to any right or claim that such veteran or such veteran's personal representative, successor, dependents, or survivors may have against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier.

"(2) In order to enforce any such right or claim to which it is subrogated under paragraph (1) of this subsection—

"(A) the United States may intervene or join in any action or proceeding brought by the veteran or such veteran's personal representative, successor, dependents, or survivors against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier, or

"(B) if—

"(i) no such action or proceeding has been commenced within one hundred and eighty days after the first day on which care and services for which recovery is sought were furnished to such veteran by the Veterans' Administration under this chapter, and

"(ii) the United States has sent written notice by certified mail to such veteran at such veteran's last-known address, or to such veteran's personal representative or successor, of the United States' intention to institute legal proceedings, the United States may, sixty days after the mailing of such notice, institute and prosecute legal proceedings against such State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations carrier.

"(d) A veteran eligible for care and services under this chapter may not be denied such care and services by reason of this section.

"(e) No law of any State or of any subdivision thereof, and no provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recovery by the United States under (1) subsection (a) of this section for care and services furnished under this chapter to any veteran for a non-service-connected disability, or (2) subsection (b) of section 611 of this title for care and services furnished as a humanitarian service in emergency cases under such subsection to any individual.

"(f) Any moneys collected or received by the United States or by the Veterans' Administration on behalf of the United States pursuant to this section shall be deposited in the United States Treasury as miscellaneous receipts.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 628 the following new item:

"629. Recovery by the United States of the cost of certain care and services.".

(c) The amendments made by this section shall be effective with respect to care and services furnished under such chapter after September 30, 1980.

SEC. 302. (a) The Administrator of Veterans' Affairs shall design a protocol for and conduct a study of the extent to which veterans who are recipients of care and services under chapter 17 of title 38, United States Code, for the treatment of non-service-connected disabilities would be eligible for or entitled to receive health care and services, reimbursement for the expenses of such care and services, or indemnification for having received such care and services, if not provided in a Veterans' Administration or other United States Government health-care facility, under one or more health plans, including—

(1) a group or individual health insurance policy, including a policy designed to provide coverage only for specific disabilities,

(2) a contract of indemnification,

(3) membership in a health maintenance organization,

(4) title XVIII of the Social Security Act,

(5) a State plan pursuant to title XIX of the Social Security Act, or

(6) a State law or plan providing for workers' compensation, automobile accident reparations, or crime victims' compensation,

regardless of whether any such veteran's eligibility or entitlement arises as a primary beneficiary or as a member of a family in which another person is the primary beneficiary. (For purposes of this section, veterans eligible for or entitled to such care and services, reimbursement, or indemnification, shall hereinafter be referred to as "veterans covered under a health plan," and the extent and applicability of such eligibility or entitlement under such health plans shall hereinafter be referred to as "health plan coverage".) Such protocol shall be designed in consultation with representatives of health insurance carriers, veterans' service organizations, the Library of Congress, the Congressional Budget Office, and the Veterans' Affairs Committees of the Senate and the House of Representatives.

(b)(1) The study shall be conducted in accordance with the protocol and shall examine—

(A) by means of an informational survey of a sampling of veterans that is reasonably representative of all veterans seeking health care and services from the Veterans' Administration for non-service-connected disabilities—

(i) the number of veterans described in the first sentence of subsection (a) of this section who are not veterans covered under a health plan, and

(ii) the number of veterans described in such sentence who are veterans covered under a health plan; and

(B) in the case of veterans described in clause (A)(ii) of this subsection—

(i) the type and source of each such veteran's health-plan coverage;

(ii) all limitations and exclusions in each such veteran's health-plan coverage; and

(iii) the extent to which such veteran's health-plan coverage would be applicable to the costs of the care and services that the veteran is receiving for such disabilities if such care and services were provided by a non-United States Government health-care facility.

(2)(A) If a veteran included in such survey has given voluntary, informed consent in writing to disclosures under this subparagraph, the Administrator shall, to the extent necessary to verify such veteran's health-plan coverage or the lack thereof and to ascertain the limitations and exclusions applicable to such coverage and the estimated amount in which such veteran's employer, an insurance carrier, or a State or subdivision thereof would be liable for the cost of the care and services provided under such chapter if such care and services had been provided by a non-United States Government health-care facility, disclose information pertaining to the identity of such veteran and such care and services to such employer, carrier, or State or subdivision thereof and shall—

(i) request that such veteran's employer, an insurance carrier, any appropriate agency of a State or subdivision thereof, or any other appropriate entity, disclose pertinent information for such verification, state the limitations and exclusions applicable to the coverage concerned, and estimate the amount that its liability for such care and services would have been if such care and services had been provided by a non-United States Government health-care facility, and

(ii) accompany each such request with a copy of such veteran's consent to such disclosures.

(B) Any person of whom a request described in subparagraph (A) of this paragraph is made shall promptly comply with such request.

(C) Notwithstanding any other provision of law, no person shall, by reason of compliance with a request made pursuant to subparagraph (A) of this paragraph, be subject to civil or criminal proceedings under any Federal law or the law of any State or subdivision thereof or regulation prescribed pursuant thereto.

(c) The Librarian of Congress and the Director of the Congressional Budget Office shall jointly, in consultation with appropriate representatives of the health insurance industry, conduct a study of the effect on health insurance premiums and an analysis of administrative costs, both Federal and non-Federal, that would result from the enactment of legislation providing for the right of the United States to recover the cost of care and services furnished to veterans for such veterans' non-service-connected disabilities, pursuant to chapter 17 of title 38, United States Code, from such veterans' health insurers. Such study shall take into account the findings of the study required under subsection (a) of this section.

(d)(1) Not later than one hundred and twenty days after the date of the enactment of this Act, the Administrator shall submit to the Veterans' Affairs Committees the protocol required under subsection (a) of this section.

(2) Not later than ninety days after the date of the submission of such protocol, the Administrator shall submit to the Librarian of Congress, the Director of the Congressional Budget Office, and the appropriate committees of the Congress a report on the study required under subsection (a) of this section.

(3) Not later than sixty days after the date on which the study required under subsection (a) of this section is submitted the Librarian of Congress and the Director of the Congressional Budget Office shall submit to the Congress a report on the study required under subsection (c) of this section.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. For purposes of section 112 of Public Law 96-86, (1) the term "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" shall not include the travel of eligible veterans, dependents, and survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, and (2) at no time after April 25, 1980, shall the allocation of the Veterans' Administration of the reduction required by section 112 of Public Law 96-86 be increased more than proportionately to any increase in the total allocation of such reduction to all departments, agencies, and instrumentalities of the executive branch of the Government, as measured by the percentage which the total amount appropriated for fiscal year 1980 to the Veterans' Administration for the travel and transportation of persons, and the transportation of things, of officers and employees of the Veterans' Administration is of the total amount appropriated for such fiscal year for the travel and transportation of persons, and transportation of things, of officers and employees of the executive branch of the Government.

SEC. 402. Section 5093(b)(1) is amended by striking out "and will result" and all that follows through "at such institution" the second place it appears.

SEC. 403. Section 8 of the Veterans' Administration Program Extension Act of 1978, Public Law 95-520 (92 Stat. 1820) is amended by striking out "February 1, 1980" and inserting in lieu thereof "February 1, 1981".

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) this Act may be cited as the "Veterans' Administration Health-Care Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

PART A—PHYSICIANS AND DENTISTS SPECIAL PAY

PERMANENT AUTHORITY FOR PHYSICIANS' AND DENTISTS' COMPARABILITY PAY

SEC. 101. Section 6 of the Veterans' Administration Physician and Denist Pay Comparability Act of 1975 (Public Law 94-123; 38 U.S.C. 4118 note) is amended by striking out "(1)" the first and third places it appears and by striking out paragraph (2) of subsection (a).

REVISION OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 102. (a)(1) Paragraph (1) of subsection (a) of section 4118 is amended—

(A) by striking out "hereunder" and inserting in lieu thereof "to carry out this section";

(B) by inserting "that (except as provided under subsection (d) of this section) is" after "in an amount";

(C) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$22,500 per annum" and $10,000 per annum", respectively;

(D) by inserting after "Department of Medicine and Surgery" the second place it appears the following: "on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment)"; and

(E) by inserting after "so employed" the following: "on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment)".

(2) Notwithstanding subsection (a) (2) (C) of section 4118 of title 38, United States Code, special pay may be paid under such section to a physician or dentist employed by the Department of Medicine and Surgery of the Veterans' Administration who is a reemployed annuitant if such physician or dentist was automatically separated before September 30, 1978, under section 8335(a) of title 5, United States Code, as in effect before such date, for having become 70 years of age.

(b) Subsection (b) of such section is amended by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000".

(c) Subsections (c) and (d) of such section are amended to read as follows:

"(c) (1) In the case of eligible full-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) (2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor:

"(A) (i) For full-time status, $6,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than five years, $1,000;

"(II) of five years but less than eight years, $2,000; and

"(III) of eight years or more, $3,000.

"(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $9,900;

"(ii) as a Chief of Staff or in an Executive Grade, $12,600;

"(iii) as a Deputy Service Director or in a Director Grade, $13,000;

"(iv) as a Service Director, $13,500;

"(v) as a Deputy Assistant Chief Medical Director, $14,440; or

"(vi) as an Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $15,300.

"(c) For—

"(i) specialty or first board certification, $2,000; or

"(ii) subspecialty or secondary board certification, $2,500.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $5,000.

"(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) (2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor:

"(A) (i) For full-time status, $1,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

(I) of two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive Grade, $3,500;

"(iii) as a Deputy Service Director or in a Director Grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000, or

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

"(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) (3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

"(A) (i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than five years, $750;

"(II) of five years but less than eight years, $1,500; and

"(III) of eight years or more, $2,250.

"(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $3,000 nor more than $12,375.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

"(ii) as a Chief of Staff or in an Executive Grade, $9,190.

"(C) For—

"(i) specialty or first board certification, $1,500; or

"(ii) subspecialty or secondary board certification, $1,875.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulation) of not less than $1,500 nor more than $4,000.

"(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) (3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

"(A) (i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, in an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

"(ii) as a Chief of Staff or in an Executive Grade, $3,500.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.".

(d) Subsection (e)(1) of such section is amended by striking out the third sentence thereof.

(e) The amendments made by this section shall apply with respect to pay periods beginning after December 31, 1980.

CREDITING OF SPECIAL PAY FOR RETIREMENT AND INSURANCE PURPOSES

SEC. 103. (a) Section 4118(f) is amended—

(1) by striking out "Any" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, any";

(2) by striking out "81, 83, or 87" and inserting in lieu thereof "81 or 83"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) of such title, for the purposes of computing an annuity under such chapter only if—

"(A) the annuity is paid under section 8337 of title 5 or under subsection (d) or (e) of section 8341 of such title; or

"(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

"(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.".

(b)(1) Not later than January 1, 1981, the Administrator of Veterans' Affairs shall notify each employee of the Veterans' Administration who on October 1, 1980, was a full-time physician or dentist in the Department of Medicine and Surgery of the provisions of paragraph (2) of section 4118(f) of title 38, United States Code, as added by subsection (a), and include in such notice an explanation of the provisions of such paragraph and of the right of such employee to make an election under paragraph (2).

(2) Each employee described in paragraph (1) may elect not to have additional compensation provided such employee as special pay under section 4118 of such title included as basic pay (as provided for under paragraph (2) of section 4118(f) of such title, as added by subsection (a)) for purposes of chapter 83 of title 5, United States Code. Any such election shall be in writing and shall be transmitted to the Administrator of Veterans' Affairs not later than April 1, 1981.

REPORTS ON ADEQUACY OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 104. (a) Section 4118 (as amended by sections 202 and 103) is further amended by adding at the end the following new subsection:

"(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

"(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

"(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

"(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and once every two years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and

"(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(3) The President shall include in the budget next transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

"(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

"(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

"(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.".

(b) Section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 673) is repealed.

HEALTH-CARE PROFESSIONALS AND DIRECTORS OF MEDICAL FACILITIES EXEMPTED FROM SENIOR EXECUTIVE SERVICE

SEC. 105. (a) Section 4101 is amended by adding at the end thereof the following new subsection:

"(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter and persons appointed under section 4103(a)(8) of this chapter are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

(b) Section 4103(a) is amended by redesignating clause (8) as clause (9) and by inserting after clause (7) the following new clause (8):

"(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.".

(c) Section 4107(c) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.

"(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of section 4507 of title 5.".

Part B—MISCELLANEOUS IMPROVEMENTS IN PERSONNEL ADMINISTRATION

RATES OF PAY FOR TRAVEL AND OVERTIME FOR NURSES

SEC. 111. Section 4107(e) is amended—

(1) by adding at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, the period of a

nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or

(iv) results from an event which could not be scheduled or controlled administratively.";

(2) by inserting "or on a holiday designated by Federal statute or Executive order" in paragraph (8) after "regular hours"; and

(3) by adding at the end the following new paragraph:

"(10) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).".

ADMINISTRATIVE ADJUSTMENTS IN RATES OF BASIC PAY

SEC. 112. Section 4107 is amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

"(A) of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries appointed under this subchapter; or

"(B) of health-care personnel who—

"(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employees);

"(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

"(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

"(iv) would not otherwise be available to provide medical care and treatment for veterans,

the Administrator may increase the minimun, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

"(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

"(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

"(B) to achieve adequate staffing at particular facilities; or

"(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

"(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

"(4) In the exercise of the authority provided in paragraph (1) of this subsection to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.".

CHIEFS OF STAFF REQUIRED TO BE EMPLOYED ON A FULL-TIME BASIS

SEC. 113. (a) Section 4108 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis:

"(c) As used in this section:

"(1) The term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

(b) Any individual who on the date of the enactment of this Act is serving as a Chief of Staff of a Veterans' Administration health-care facility on less than full-time basis may continue to serve in that capacity on a part-time basis so long as such individuals proportion of full-time service is not less than the proportion of full-time service in which such individual was serving on such date of enactment.

RETIREMENT CREDIT FOR PART-TIME EMPLOYEES

SEC. 114. The text of section 4109 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

"(b) Notwithstanding any other provision of law, an individual retiring on or after October 1, 1981, who served at any time in a position in the Department of Medicine and Surgery to which such individual was appointed under this subchapter shall receive service credit for purposes of section 8339 of title 5 for any period of service in such Department served on less than a full-time basis on a proportionate basis equal to the fraction that such service bears to full-time service. In computing the annuity of any individual whose service is so credited, the full annual rate of basic pay shall be deemed to be the individual's rate of basic pay for the purpose of determining average pay, as defined by section 8331(4) of title 5.".

VETERANS' ADMINISTRATION REPRESENTATIVES ON DEANS' COMMITTEES

SEC. 115. Section 4112(b) is amended by inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration".

RELATIONSHIP BETWEEN TITLE 38 MEDICAL PERSONNEL SYSTEM PROVISIONS AND OTHER PROVISIONS OF LAW

SEC. 116. (a)(1) Subchapter I of chapter 73 is amended by adding at the end thereof the following new section:

"§ 4119. Relationship between this subchapter and other provisions of law

"Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overridden, or otherwise modified.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4118 the following new item:

"4119. Relationship between this subchapter and other provisions of law.".

(b) Section 4114 is amended by adding at the end thereof the following new subsection:

"(g) In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.".

STUDY OF PERSONNEL NEEDS OF VETERANS' ADMINISTRATION HEALTH CARE SYSTEM

SEC. 117. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care program of, the conversion of non-conversion of employees of the Veterans' Administration's Department of Medicine and Surgery who are providing direct patient-care services or services incident to direct patient-care services (as determined by the Administrator of Veterans' Affairs for the purposes of paragraph (1) of section 4107(g) of title 38, United States Code, as added by section 112) to the pay schedules and other administrative provisions of chapter 73 of title 38, United States Code, the Administrator of Veterans' Affairs shall conduct a study to determine (1) which, if any, of the categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale, and (2) the desirability of making any such categories of personnel which are not so converted eligible for premium pay under the new paragraph (10) which would have been added to section 4107(e) of such title by the amendment of the Senate to the bill H.R. 7102, Ninety-sixth Congress, agreed to by the Senate on June 5, 1980, and the impact of making such categories of personnel eligible for such pay under such paragraph.

(b) Not later than the end of the eighteen-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

STUDY AND PILOT PROGRAM ON NURSE RECRUITMENT AND RETENTION

SEC. 118. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel (including licensed practical or vocational nurses and nursing assistants) capable of providing quality care for eligible veterans in Veterans' Administration health-care facilities, the Administrator of Veterans' Affairs, in consultation with the Chief Medical Director of the Veterans' Administration, shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel. In the course of such study, the Administrator shall take various administrative actions to overcome such difficulties.

(b) Not later than the end of the forty-two-month period beginning on the date of the enactment this Act, the Administrator of Veterans' Affairs shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

(c) The Administrator of Veterans' Affairs shall submit a report on the implementation of such program and the progress of such study to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

ESTABLISHMENT OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 201. (a) (1) Chapter 73 is amended by adding at the end thereof the following new subchapter:

"Subchapter IV—Veterans' Administration Health Professional Scholarship Program

"§ 4141. Establishment of program; purpose; duration

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the 'Scholarship Program'). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter.

"(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

"§ 4142. Eligibility; application; written contract

"(a) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

"(2) submit an application to the Administrator for participation in the Scholarship Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b) (1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(c) (1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d) (1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a) (2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a) (3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

"(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

"(1) an agreement that—

"(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years during which period the participant is pursuing a course of training described in subsection (a) (1) (B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

"(B) subject to clause (2) of this subsection, the participant agrees—

"(i) to accept such a scholarship;

"(ii) to maintain enrollment and attendance in a course of training described in subsection (a) (1) (B) of this section until the participant completes the course of training;

"(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') equal to the greater of—

"(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program, or

"(II) two calendar years; and

"(v) if the participant's period of obligated service is deferred under section 4143(b) (3) (A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b) (4) (B) of this title;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

"(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

"(f) (1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1) (A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

"(3) The amount of the monthly stipend, specified in paragraph (1) (B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(g) Notwithstanding any other provision of law, participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Surgery while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

"(h) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

"(2) the educational institutions providing such training;

"(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

"(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(i) The Administrator shall prescribe regulations to carry out the Scholarship Program.

"§ 4143. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

"(b) (1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

"(2) The Administrator shall appoint each participant in the Department of Medicine and Surgery as soon as possible after the date described in paragraph (3) of this subsection.

"(3) (A) (i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3) (A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c) (1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(c) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery.

"§ 4144. Breach of contract; liability; waiver

"(a) a participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator);

"(2) is dismissed from such educational institution for disciplinary reasons;

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training; or

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b) (4) (B) of this subchapter, and 's' is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"(d) (1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

"(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

"§ 4154. Exemption of scholarship payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of, a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

"§ 4146. Program subject to availability of appropriations

"The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"Subchapter IV—Veterans' Administration Health Professional Scholarship Program

"Sec.
"4141. Establishment of program; purpose; duration.
"4142. Eligibility; application; written contract.
"4143. Obligated service.
"4144. Breach of contract; liability; waiver.
"4145. Exemption of scholarship payments from taxation.
"4146. Program subject to availability of appropriations.".

(b) Effective October 1, 1980, there are authorized to be appropriated such sums as may be necessary to carry out the program established by the amendments made by subsection (a).

LIMITATION ON SPECIAL PAY TO PERSONS SERVING OBLIGATED SERVICE UNDER THE SCHOLARSHIP PROGRAM

SEC. 202. Section 4118 (as amended by sections 102, 103, and 104) is further amended by adding at the end thereof the following new subsection:

"(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.".

REPORT ON IMPLEMENTATION OF SCHOLARSHIP PROGRAM

SEC. 203. The Administrator of Veterans' Affairs shall submit a report on the implementation of the Veterans' Administration Health Professional Scholarship Program to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program.

TITLE III—GERIATRIC RESEARCH AND CARE

PURPOSE

SEC. 301. The purposes of this title are (1) to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 302. Section 4101, as amended by section 105(a), is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall—

"(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

"(ii) assure appropriate geographic distribution of such facilities.

"(c) The Administrator may not designate any healthcare facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

"(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

"(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

"(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(v) the capability to conduct effectively evaluations of the activities of such center.

"(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagrpah (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

"(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection refererred to as the 'Committee'). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

"(C)(i) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

"(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

"(II) assessments of the quality of the operations of such centers;

"(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

"(IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers; and

"(V) recommendations for such other geriatric, extended-care and other health-care services as may be needed to meet the needs of older veterans.

Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

"(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

"(3) There are hereby authorized to be

appropriated for the basic support of the research and education activities of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.".

ASSISTANT CHIEF MEDICAL DIRECTOR

SEC. 303. Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.".

EFFECTIVE DATE

SEC. 304. (a) The amendments made by sections 302 and 303 shall take effect on October 1, 1980.

(b) The Geriatrics and Gerontology Advisory Committee required to be established by the Administrator in the Department of Medicine and Surgery of the Veterans' Administration pursuant to subsection (f)(2)(A) of section 4101 of title 38, United States Code, as added by section 302, shall be established not later than January 1, 1981.

TITLE IV—MISCELLANEOUS AMENDMENTS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

SEC. 401. (a) Section 622 is amended to read as follows:

"§ 622. Evidence of inability to defray necessary expenses

"For the purposes of sections 610(a)(1)(B), 610(b)(2), 624(c), and 632(a)(2) of this title, the fact that an individual is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration;

shall be accepted as sufficient evidence of such individual's inability to defray necessary expenses.".

(b) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Evidence of inability to defray necessary expenses.".

REVOLVING SUPPLY FUND

SEC. 402. (a) Section 5021(a) is amended—

(1) by inserting after "direct" in clause (2) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) by striking out the second sentence in such section and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

(b) The amendments made by subsection (a) shall take effect as of October 1, 1979.

MANAGEMENT OF REAL PROPERTY

SEC. 403. (a) Section 5022(a) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) Before entering into a transaction described in subpargraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committee on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 30 days from the date upon which the report is submitted.

"(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

"(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.".

(b) Section 5070(e) is amended by inserting a comma and "but no such lease may be for a period of more than 50 years" before the period at the end of the second sentence of such section.

NUMBER OF BEDS REQUIRED TO PROVIDE ADEQUATE NURSING HOME CARE IN STATE HOME FACILITIES

SEC. 404. Section 5034(1) is amended by striking out the comma and "which number" and all that follows in such section and inserting in lieu thereof a period.

REPEAL OF REQUIREMENT THAT RECIPIENTS OF HEALTH-CARE PERSONNEL TRAINING GRANTS MUST INCREASE NUMBER OF INDIVIDUALS RECEIVING TRAINING

SEC. 405. Section 5093(b)(1) is amended by striking out "and will result" and all that follows through "training at such institution".

AVAILABILITY OF FUNDS FOR BENEFICIARY TRAVEL

SEC. 406. No provision of law enacted after the date of the enactment of this Act which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors.

EXTENSION OF TIME FOR SUBMISSION OF REPORT ON HOSPITAL CARE AND MEDICAL SERVICES FURNISHED IN THE COMMONWEALTH OF PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 407. Section 8(a) of the Veterans' Administration Programs Extension Act of 1978 (Public Law 95–520; 92 Stat. 1822) is amended by striking out "Februray 1, 1980" and inserting in lieu thereof "February 1, 1981".

TECHNICAL AMENDMENTS

SEC. 408. Section 4101(b) is amended by striking out "manpower" both places it appears and inserting in lieu thereof "personnel".

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Virginia?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, would the gentleman please explain the amendments?

I yield to the gentleman from Virginia.

GENERAL LEAVE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the legislation under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Before I explain the provisions of this vitally important act, I wish to congratulate the chairman of the full Veterans' Affairs Committee, RAY ROBERTS of Texas, for his dedicated and skillful guidance in bringing this legislation to fruition. I wish also to applaud the efforts of the ranking minority member, JOHN PAUL HAMMERSCHMIDT, for his efforts in bringing this bill to a proper resolution.

The act consists of four titles. The first deals with physicians' and dentists' pay comparability. The second would establish a VA health care professional scholarship program. The third provides for research and care in geriatrics for the aging veteran population of World War I and II. The last title includes miscellaneous medical amendments, one of which will make it possible for the VA to determine the actual financial needs of non-service-connected veterans who seek admission to VA hospitals.

Some of my colleagues will remember that we enacted physicians' and dentists' pay legislation 5 years ago in order to deal effectively with a serious problem of very unsatisfactory levels of recruitment and retention of VA health care professionals. We thought then that OMB would move forward with a permanent program applicable to all Federally employed doctors and dentists. As OMB did not respond with a permanent program, we have had to extend this law in each Congress since date of enactment.

In the first 2 years following passage of this law, the recruitment and retention of VA physicians and dentists improved dramatically. Since then, however, because of sharply escalating inflation and other factors, we are again faced with the original recruitment and retention problem which compelled us to act initially.

Title I of H.R. 7102 will make the law permanent, utilizing the employment structure and methodology contained in title 38, United States Code. Compensation comparability with other federally employed health care professionals, including the compensation provided to Department of Defense doctors in H.R. 6982 recently passed by the Congress, would be achieved through increases in combined primary special pay and incentive special pay. Emphasis is on full-time employment in the Department of Medicine and Surgery, with lesser benefits to the physicians who are employed on a part-time basis.

Effective with pay periods after December 31, 1980, section 102 of title I increases special, primary and incentive pay to $22,500 for physicians and $10,000 for dentists. Primary special pay for both full-time and part-time physicians is $7,000. Full-time physicians' incentive special pay is increased by approximately 80 percent with a limit of $15,500. Part-time physicians' incentive special pay is increased by approximately 30 percent with a limit of $15,500. Both full-time and part-time dentists' incentive special pay remains the same as current law, except for increases in the scarce dental specialties and remote geographic locations. For these categories, incentive special pay and total special pay are limited to $7,500 and $10,000 respectively.

Section 103 would authorize physicians with 15 years in a full-time status within D.M. & S. to compute their retirement annuities utilizing special pay. The amendment provides that 50 percent of the physicians' special pay will be included in computing an annuity after 5 program years and 100 percent of the physicians' special pay will be included in computing an annuity after 10 program years. This section also provides that special pay will also be considered as annual pay for purposes relating to life insurance for Federal employees.

Section 104 would require the Administrator to submit reports on VA physicians and dentists special pay recommendations on a biennial basis when reporting to the Congress on the status of VA physicians' and dentists' recruitment and retention.

Section 105 of this title also excludes from senior executive service coverage top Department of Medicine and Surgery health care professionals, as well as all nonphysician medical facility directors. The amendment would provide that nonphysician directors would be eligible for consideration for the award of rank of meritorious executive or distinguished executive with bonus as provided in section 4507 of title 5. If the nonphysician director has tenure in the senior executive service, the committee would not be in opposition if such director elected to remain in SES status and to transfer to another agency prior to the effective date of the act. In addition, it excludes part-time D.M. & S. employees from the provisions of Public Law 95-437 (Federal Employees Part-time Career Employment Act of 1978).

D.M. & S. nurses under section 106 would receive overtime pay in travel situations on the same basis as other Federal personnel. Additional pay is provided for on-call duty during which nurses remain at home on a Federal holiday during the regular workweek. D.M. & S. general schedule employees can now be determined by the Administrator as providing either direct patient care services or services incident to direct care, and could be paid overtime after overtime of more than 15 minutes. Additional pay is authorized for each hour of a shift that includes at least 4 hours between 6 p.m. and 6 a.m. Overtime pay on Sundays is increased to a rate of 175 percent of basic pay. Overtime work on Federal holidays is compensated at the rate of 200 percent of basic pay.

In addition, this section of title I authorizes the Administrator to increase at specific VA facilities the amounts of additional pay authorized for overtime work in order to be competitive with overtime rates in the private sector. It also authorizes the Administrator to establish special rates of pay and pay ranges on a nationwide, local or other geographic basis for D.M. & S. and VA GS employees who are determined to be providing direct or indirect patient care services to provide pay competitive with that being paid the same category of health care personnel at non-Federal health care facilities in the same area; and to meet the staffing needs of a particular VA facility, or recruit those individuals with specialized skills. The levels of pay authorized cannot exceed a maximum equal to the rate paid the Assistant Chief Medical Director.

Section 113 of title I of the act requires that any person serving as Chief of Staff perform such service on a full-time basis.

Section 114 provides that persons appointed to the Department of Medicine and Surgery on a part-time employment status shall receive service credit on a proportionate basis equal to the fraction that such service bears to full-time service. In computing such persons' retirement annuities, the full annual rate of basic pay shall be deemed to be the individuals' rate of basic pay for purposes of determining average pay.

Section 115 provides clarification on the composition of the advisory committee by requiring appropriate full-time staff representation on such committee. It is our opinion that these committees are generally working within the definitions of policy memorandum No. 2, but that the Chief Medical Director should take positive administrative action to insure that the advisory committee should make only recommendations for candidates for the VA physician staff, with final decisions concerning employment made by the VA without delegation to such committee.

Section 117 requires the Administrator to conduct a study of the need for, and impact on D.M. & S. personnel needs, converting D.M. & S. employees now under GS who provide direct or indirect patient care services to title 38 employees. A report is due to the House and Senate Veterans' Affairs Committees no later than 18 months after date of enactment.

Section 118 authorizes a pilot program and study on nurses' recruitment and retention. A report is to be submitted to the Congress 42 months after date of enactment. The report would include appropriate recommendations for administrative or legislative actions to improve nurse recruitment and retention.

The Congressional Budget Office estimates that the cost of this title would be $40 million.

Title II would establish a new 10-year program for VA medical scholarships for physicians and nurses. The scholarship recipients would be authorized to receive scholarships for a period of up to 4 years with a provision that they would serve in the VA system 1 year for each year they receive such a scholarship, and with a further provisions that, should their entry into service with the VA be delayed because of graduate studies, they would obligate themselves to serve an additional one-half year in the VA for each year of such delay.

This program would require a maximum of 6 years' service by physicians and 4 years by nurses with the hope and anticipation that the very attractive salary provisions contained in title I will provide an incentive to these doctors and nurses to remain in the VA system.

This scholarship program tracks very closely with the scholarship program now functioning under the Public Health Service Act. Scholarships for physicians would total $19,320 per year and $6,500 for nurses. It is anticipated that this program would produce approximately 100 physicians and 150 nurses each year.

Significantly, this program would serve best those areas of critical shortages in the VA such as radiologists, pathologists, anesthesiologists, et cetera, who are difficult to recruit and at the same time provide physicians and nurses in geographic areas where there is a critical shortage of each.

The most important aspect of this provision is that it would reduce the practice of contracting out for physicians in scarce specialties and in remote geographic areas.

The cost of this program in fiscal year 1981 would be $12.4 million. The total cost savings of the scholarship program during its existence is estimated to be $130 million over a 20-year period. The Department of Medicine and Surgery now spends in excess of $20 million per year in contracting out for the services of pathologists, radiologists, psychiatrists and specialists in other disciplines. The Agency is unable currently to recruit at any cost the numbers of needed physicians in these critical specialties.

This table graphically demonstrates the severe shortage of physicians and nurses in the VA health care delivery system in the current year:

	Vacancies for which funds and ceiling are available	Personnel required but funds or ceiling not available	Total personnel needs
Physicians:			
Full time	478	517	995
Part time	245	242	487
Nurses:			
Full time	969	3,279	[1] 4,248
Part time	82	386	468

[1] Number of beds closed as of July 1, 1980, due to nursing service shortages: 400.

This legislation will substantially increase the quantity and quality of full-time physicians employed by D. M. & S.; bring about a drastic reduction in the number of foreign medical graduates employed by the Department which is now 37 percent of all employed VA physicians; and maintain in the VA health care delivery system 400 young doctors and 600 nurses when fully implemented.

Simply stated, this title provides a 4-year scholarship to medical school at $19,320 per year with physicians owing a maximum of 6 years VA service based upon 1 year of service for each year of medical school, and one-half year of service for each year of residency. Nurses will receive a 4-year scholarship at $6,500 per year, with a maximum of obligated service of 4 years.

As my colleagues remember, the Honorable MARGARET HECKLER, a most able member of our committee, introduced H.R. 4015, the Veteran's Senior Citizen Health Care Act of 1979, in the last session of Congress. Her bill would enhance the VA's geriatric research, education and clinical operations, and the House passed it on June 5, 19779. Title III of the bill is actually the Senate's companion bill to H.R. 4015 and authorizes the Administrator to designate up to 15 health care facilities as centers for geriatric research, education and clinical activities subject to the appropriation of $10 million in fiscal year 1981, and $25 million each in fiscal years 1982 through 1984.

There has long been concern by our committee about the VA's short and long range planning with respect to the growing number of elderly veterans in the United States and the increasing average age of those who need and are eligible for care in VA health care facilities. During fiscal year 1980, 30 percent of all hospital patients, 65 percent of nursing home patients, 34 percent of domiciliary members, and 20 percent of outpatient visits are estimated to be by veterans over 65 years of age. In addition, nearly 14 million veterans of World War II and the Korean conflict are between 56 and 65 years of age.

Older patients generally require more physician time, more hospital admissions, and longer hospital stays. They are primary users of long-term care facilities and the services of home health agenices. Clearly, the enormous population of aging veterans will place a heavy demand on the VA health care system for acute and long-term health care services throughout the remaining years of the 20th century. The VA, because of its significant role in health care in this Nation and because of the large number of elderly veterans, should be in a leadership role within Federal Government efforts to produce a better understanding of the aging process, its effects, and the medical, social, and family needs of our elderly citizens.

Section 302 of title II, also establishes within the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee.

The fiscal year 1981 cost for title III of this legislation is $10 million.

Title IV contains a number of miscellaneous provisions designed to enhance the day-to-day procedural functions of the Veterans' Administration.

Section 401 would authorize the Administrator to look beyond the statement under oath that certain non-service-connected disabled veterans must sign prior to admission to VA medical facilities for treatment. This proposal would insure that non-service-connected veterans under 65 years of ago who are not eligible for medicaid or VA pension benefits and who possess the financial means, including medical insurance, as determined by the Administrator, use facilities other than VA for their medical treatment when they can afford to do so.

Under existing law, a veteran of any war or service after January 31, 1955, who is under age 65, is eligible for necessary hospital care for a non-service-connected disability if he or she is unable to defray the expenses of private hospital care. Section 622 of title 38, United States Code, provides that the statement under oath of an applicant that he or she is unable to defray expenses for medical care outside the VA must be accepted by the Administrator as sufficient evidence. The VA cannot deny hospital admission to a veteran who files the required statement of inability of pay, even though it may be later ascertained that the veteran was able to pay for his or her care elsewhere.

Veterans in receipt of pension under any law administered by the Veterans' Administration are not required to sign the statement and are automatically admitted for treatment.

This section would automatically exclude service-connected veterans and veterans eligible for medicaid benefits from having to sign the statement under oath, in addition to those in receipt of pension benefits. On the other hand, this change would modify that provision of law which prohibits the Administrator from looking beyond the veteran's signature of inability to pay. It would not in any way affect the current VA procedure requiring the signing of a statement under oath by the veteran before being admitted for treatment. It would not automatically exclude any veteran otherwise eligible for treatment from receiving care in a VA medical facility. It is designed to allow the Administrator to determine whether certain veterans are able, based on outside income, or adequate private insurance coverage, or both, to receive treatment for non-service connected disabilities outside the Veterans' Administration.

Under this section, the Administrator will determine, on a case-by-case review, in conjunction with a medical determination, whether the veteran is, in fact, unable to bear the expense of treatment elsewhere especially noting and giving consideration to whether the veteran has health insurance and the scope and amount of benefits available. For example, if a veteran has high-option Blue Cross-Blue Shield insurance coverage and desires treatment for a minor disability or illness, the Administrator would probably determine that the veteran is able to pay the expense for care in a non-VA facility. On the other hand, if a veteran has the same coverage and the illness is terminal cancer or the illness would require expensive treatment and, in all probability, exhaust all of his financial resources, the veteran would be determined eligible for treatment in a VA facility.

According to the Congressional Budget Office, this provision would reduce Federal outlays by $109.1 million in fiscal year 1981. The committees expect the Director of the Office of Management and Budget to withhold making any fiscal adjustments of the VA budget until an experience rated adjustment can be determined for the cost savings of this measure.

The Committee on the Budget is aware that this proposed change to current law is the committee's alternative to third-party reimbursement, legislation which has been proposed by the Administration during the past three Congresses.

Section 402 amends current law concerning the VA's revolving medical supply fund to allow reimbursements to be based on the cost of recent purchases of the items involved, and to provide for return to the Treasury at the end of the fiscal year only such amounts as are considered excess to supply fund needs by the Administrator.

Section 403 requires the Administrator to submit a factual report to the House and Senate Veterans' Affairs Committees prior to the transfer of real property valued in excess of $50,000.

This section also modifies the Administrator's authority to enter into long-term leases—from 99 to 50 years—for land, buildings and equipment to eligible educational institutions.

Section 404 is an amendment to existing law which limits the State nursing home bed ratio per thousand of a State's veteran population from 2½ by eliminating the limitation and permitting the Administrator to establish appropriate limits per State without a numerical limitation.

Section 405 repeals the requirement that recipients of health personnel training grants, provided by title 38, must increase the number of individuals receiving training. This provision was included in H.R. 3892 passed by the House last year but, by inadvertence, the subchapter III provision repealing this provision was deleted from the conference legislation at the time of final passage.

Section 406 provides that future enactments concerning "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" does not apply to reimbursement under title 38 to eligible veterans, dependents and survivors pursuant to section III of the title in connection with their receipt of other VA benefits and services unless the legislation expressly states that it applies to such beneficiary travel under title 38.

Section 407 extends the deadline date for a VA report on hospital care and medical services furnished in the Commonwealth of Puerto Rico and the Virgin Islands, as mandated by Public Law 95-520, the Veterans' Administration Program Extension Act of 1978, to February 1, 1981.

Section 408 is a technical amendment to replace "manpower" with "personnel" in section 4101 of title 38.

I consider this bill, H.R. 7102, to be of major importance to the veterans of our Nation and one which, with an overall cost savings of approximately $57 million, should be acceptable to every Member of this body.

☐ 1030

Mr. HAMMERSCHMIDT. Mr. Speaker further reserving the right to object, I would like to commend the distinguished chairman of the full committee, and the distinguished chairman of the Subcommittee on Medical Facilities and Benefits, Mr. Satterfield, for their work in bringing about these amendments. This is sorely-needed legislation, Mr. Speaker, and I fully support the amendments, which are in my estimation reasonable.

Essentially, this is almost identical to the legislation our body passed on May 20 by a vote of 406 to 1. The only real difference in these amendments and our original legislation relates to the provisions in the amendments which would make nursing jobs more attractive within the Veterans' Administration. As you will recall, Mr. Speaker, the House had already voted in favor of the very fine physician and nurse scholarship program developed by the distinguished chairman of the full committee, Mr. Roberts. The amendments before us add some small but meaningful additional approaches to the same problem of recruitment and retention. Mr. Speaker, when I note that at this moment the Veterans' Administration has had to close down 582 beds in its hospital system due to nursing shortages—the equivalent of entirely closing down a large hospital—we can all begin to appreciate the serious nature of the shortage.

Mr. Speaker, I commend these amendments to my colleagues, and again point out that, due to the cost-savings provisions of title 4, this legislation actually will result in net savings.

Mr. SATTERFIELD. Will the gentleman yield further?

Mr. HAMMERSCHMIDT. I yield to the gentleman.

Mr. SATTERFIELD. I would just like to respond to the gentleman's kind remarks and say without the able assistance of the gentleman from Arkansas I do not think we could have gotten to this point in the bill. We appreciate the gentleman's assistance.

Mr. HAMMERSCHMIDT. The gentleman is very kind.

Mrs. HECKLER. Mr. Speaker, I rise in support of the House's concurring amendments to the amendments by the body to H.R. 7102, the Veterans' Administration Health Care and Personnel Act of 1980.

I would like to commend the chairman of the Veterans' Committee, the distinguished gentleman from Texas (Mr. Roberts), and the ranking minority member, the distinguished gentleman from Arkansas (Mr. Hammerschmidt), for their diligent, resolute, and successful work in bringing this consensus legislation to the floor.

This bill is reportedly the most important and far-reaching veterans' legislation that this House will vote on this year. It infuses new vitality into the largest public health care system in the free world—the veterans medical system.

Physicians, dentists, and nurses will receive their first salary increase in 6 years. This will enable our $6.5 billion veterans' medical care system to retain good doctors and nurses and the kinds of researchers that recently won Nobel Prizes.

This bill is visionary—it establishes a medical and nursing student scholarship program. Under this program, medical and nursing students will have 1 year of medical nursing school paid for them for each year they agree to serve in the veterans' medical care system.

Once in full operation, this innovative legislation would provide enough medical personnel to meet one-third of the medical recruitment needs of the Veterans' Administration.

I am particularly pleased to state that this legislation also contains the provisions of a bill I authored and which last year passed the House by unanimous vote.

Title II of this bill contains the substance of H.R. 4015, the Veteran Senior Citizen Health Care Act. This major legislative initiative in a stringent budget year mandates the Veterans' Administration to refocus medical care to provide for our record number of older veterans.

Mr. Speaker, I recall that it was more than 2 years ago that I first called to my colleague's attention the need for this legislation. At that time I noted that, by 1980, there would be 6 million veterans aged 60 and older. Well, it is now 1980, and the stark reality of that statistic has arrived. The urgent need for this legislation thus has become ever more pronounced.

There are right now 6 million veterans age 60 and older. In 5 years, by 1985, there will be 9 million; eventually, by the turn of the century, 12 million.

But the most salient feature of this provision of H.R. 7102 has to do with the fact that 104 of the Nation's 120 medical schools are affiliated with Veterans' Administration medical centers. Half of the medical students in the United States experience some level of training at a VA facility.

This means that the benefits of my original legislation will extend throughout our society, with the veterans' medical care system as the leader.

Recognizing the breadth of this bill's impact, senior citizen groups from all around the Nation endorsed and supported my original bill and continue to do so in its present form.

Some of those groups are: the American Association of Retired Persons, the American Retired Teachers Association, the American Health Care Association, the Coalition of Nursing Reform, the American College of Nursing Home Administrators, and the American National Red Cross.

I especially would like to thank the gentleman from Virginia (Mr. Satterfield) who is chairman of the subcommittee which reported my original bill. His willingness to examine the facts, to recognize their significance, and to act decisively to meet a pressing need, were instrumental in the success of this endeavor. I also want to thank the bill's principal cosponsor, the chairman of the Select Committee on Aging, Mr. Pepper, for his tireless efforts to advance this bill to final passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

● Mr. ROBERTS. Mr. Speaker, I strongly support the proposed amendment to H.R. 7102, as amended by the Senate. The amendment offered by the distinguished chairman of our Subcommittee on Medical Facilities and Benefits, Mr. Satterfield, will vastly enhance the Veterans' Administration's ability to recruit and retain certain physicians, dentists and nurses, so badly needed in the Department of Medicine and Surgery. The proposed amendment contains most of the provisions in H.R. 7102 as passed by the House earlier this year. There are no major changes in the primary special and incentive special pay provisions of the House-passed bill for full-time physicians. The proposed amendment does reflect a compromise with the other body in the amount and distribution of incentive pay for part-time physicians.

The compromise agreement is also different from that originally passed by the House in the increases in special pay for dentists. Most of the increases passed by the House are not included in the proposed amendment. It was felt by the other body that there are no major recruitment and retention problems relating to dentists and, therefore, the additional pay offered by the House for dentists was not necessary. The Senate amendment and the compromise agreement generally would leave existing law intact for dentists except for removing the effect of the 1975 pay raise adjustments, thereby providing all present VA dentists with some special pay increase. The Senate-passed bill would substantially increase incentive special pay for dentists needed for scarce dental specialties or in specific hard-to-recruit-for geographic locations. The proposed amendment generally reflects the Senate position on this issue.

Although I personally disagree with my colleagues in the other body, we found ourselves in a position of having to compromise on this particular provision in order to get a bill to the President.

Mr. Speaker, the proposed amendment includes several provisions which would enhance the Chief Medical Director's ability to recruit and retain full-time personnel. In addition to the special and incentive pay provisions, the proposed amendment contains a major incentive for full-time employees in the Department of Medicine and Surgery. It would provide that primary special and incentive special pay may be counted in computing the retirement pay for VA physicians and dentists employed on a full-time basis for not less than 15 years. We think that this is a major benefit for such employees.

Mr. Speaker, the proposed amendment would also authorize the Administrator to establish a scholarship program for physicians, dentists, nurses, and other health-care personnel. I shall not go into the details of this proposed program because I think the gentleman from Virginia has explained it quite adequately. I will say that the program is designed to provide a long-term, partial solution to the situation in which we continue to find ourselves relating to the recruitment and retention of certain categories of physicians and nurses. Unless something is done to provide a long-range solution to the problem, we will continue to appear before the Congress seeking to raise the primary special and incentive special pay now provided under the Physician and Dentist Pay Comparability Act of 1975, as amended. Increasing these special pay provisions will be extremely costly. As we have found with this bill, the Office of Management and Budget refuses to admit that the agency has a problem and, for budget reasons, has had agency officials testify before the Congress that the proposed increases in pay are not necessary. This is of course nonsense.

The enactment of the scholarship program will provide a partial solution to a serious problem which now exists. If fully implemented, the proposed new program will give the agency a good management tool in that the agency will know, in any given year, the number of physicians and nurses who will be coming into the Department of Medicine and Surgery with an obligated period of service. We hope that most of the physicians will have received their graduate medical education before coming into the system.

This proposed new program will allow the Veterans' Administration to obtain the services of physicians not now available, inadequate numbers, at any price. For example, last year the agency spent more than $20 million for radiology, anesthesiology, pathology, and other such specialized contract services. In many, if not most, VA medical centers such services are provided by contract with private sector physicians. We feel the proposed program can provide a number of physicians who will be trained to render these kind of services and thereby save millions of dollars by reducing the number of contracts for such services.

Mr. Speaker, this legislation is extremely important. The results of a survey recently conducted by the committee of all VA medical centers indicate that there are now 478 vacancies for full-time physicians for which funds and ceilings are available. In addition, there are 245 part-time vacancies. May I add, Mr. Speaker, that this same survey shows that the total number of physicians now neeed (based on current demand), if funds and ceilings were available, is 995 full time, plus 485 part time.

The situation regarding nurses is even more critical. The total shortfall in nurses now exceeds 4,600. We must do something and we must do it soon. Should this legislation be enacted by other body, and I have every reason to believe that it will, and should the President sign the bill into law, which he most certainly should do, the Administrator should proceed immediately to set in motion the administrative requirements to assure that the scholarship program will be fully implemented by September of 1981. We would hope that he could proceed to partially implement the program before that time. I think it is imperative that the agency proceed with dispatch.

Mr. Speaker, we have attempted to resolve most of the major differences we had with the Office of Personnel Management and the Office of Management and Budget regarding this legislation. There are many areas of compromise in the proposed amendment. I am reasonably certain the President will sign the bill, because it is critical to the Agency that he do so. I think the President will listen to the advice given him by the Administrator, his principal advisor on veteran matters. In my view the Administrator will strongly support the proposed amendment and it will become law. Although there was some indication that certain advisors of the President might recommend a veto of the House and Senate bills as originally passed, there is no reason to suggest that the compromise agreement would be unacceptable. Nonetheless, should the bill be vetoed, the House should be aware that I will immediately ask my colleagues to override such veto, and I am confident it would be done.

Mr. Speaker, I hope and trust this will not occur. I happen to believe the President cares very much for our Nation's veterans and he desires, as we all do, that they be able to continue to receive the best of care in our VA medical facilities. The proposed amendment will go a long way toward helping to provide veterans with that assurance.

I urge my colleagues in the House to adopt the amendment.

Mr. Speaker, there follows an explanation of the major provisions of the compromise agreement:

TITLE I. HEALTH-CARE PERSONNEL AMENDMENTS

PERMANENT AUTHORITY FOR VETERANS' ADMINISTRATION PHYSICIANS AND DENTISTS COMPARABILITY PAY

Both the House bill and the Senate amendment would make permanent the Veterans' Administration's program for special pay for eligible physicians and dentists in the VA's Department of Medicine and Surgery (DM&S) by amending Public Law 94–123, the law that established this special-pay program, to repeal the provision (section 2) that placed a September 30, 1981, termination date on the VA's authority to enter into special-pay agreements.

REVISION OF SPECIAL-PAY PROGRAM FOR PHYSICIANS AND DENTISTS

Both the House bill and the Senate amendment would amend section 4118 of title 38, United States Code, to provide for the comprehensive revision and restructuring of the VA's special-pay program.

The House bill would provide for a comprehensive new program, effective with respect to pay periods beginning after October 1, 1980. Under the House bill, the general maximum caps for special pay would be $22,000 for physicians and $11,000 for dentists, primary special pay would be $6,900 for full-time physicians and $3,450 for full-time dentists, and the incentive special pay general maximum caps would be $15,000 for full-time physicians and $7,550 for full-time dentists. The House bill would provide primary special pay for part-time physicians and dentists based on a proportioned amount of the $6,900 and $3,450 for physicians and dentists, respectively, to be calculated on the basis of the proportion which individual physician's or dentist's employment is of full-time employment. The incentive special-pay categories in the House bill are set out in a comparative chart below.

The House bill would allow the caps on maximum special pay and incentive special pay to be breached by the amounts paid for board certification and for service in a remote geographic area having a scarcity of qualified physicians or dentists, thus allowing for a possible maximum special pay of $27,900 for physicians and $16,400 for dentists.

The Senate amendment would provide for two sets of revisions to the special-pay program—one making a few changes, effective with respect to pay periods beginning after October 1, 1980. This first set of changes includes provisions to authorize incentive special pay for two new categories and to delete the current requirement that the annual rate of special pay of a physician and dentist be reduced by an amount equal to the amount of the October 1975 cost-of-living pay raise for the grade and step in which the physician or dentist is serving.

The second comprehensive set of changes would provide general maximum special-pay caps of $23,500 for physicians and $10,000 for dentists, primary special pay of $7,000 for physicians and $2,500 for dentists, and the general maximum caps for incentive special pay of $16,500 for physicians and $7,500 for dentists. With respect to part-time physicians and dentists, the Senate amendment would provide that special pay is to be computed as a proportion—equal to the proportion that a part-time physician's or dentist's part-time employment is of full-time—of 75 percent of special-pay rates for a full-time physician or dentist, as the case may be. The Senate amendment would generally leave existing law intact for dentists except for removing the effect of the 1975 pay raise adjustments, thereby providing all present VA dentists with some special-pay increase and substantially increasing incentive special pay for dentists needed for scarce dental specialties or in specific hard-to-recruit-for geographic locations.

The incentive special-pay categories in the Senate amendment are also set out in the comparative chart.

The Senate amendment would allow the caps on maximum special pay and incentive special pay to be breached by the amounts paid for service in a geographic area where there are extraordinary recruitment and retention difficulties with respect to specific categories of physicians and dentists, thus allowing for a possible maximum special pay of $28,500 for physicians and $12,500 for dentists.

The compromise agreement provides for a single, comprehensive set of changes in the special-pay program, effective with respect to pay periods beginning after January 1, 1981. Under the compromise agreement, the general maximum caps for special pay are $22,500 for physicians and $10,000 for dentists and for incentive pay, $15,500 for physicians and $7,500 for dentists; and primary special pay is $7,000 for physicians and $2,500 for dentists. The compromise agreement would remove the effect of the 1975 pay raise adjustment from the computation of special pay, thereby increasing all eligible physicians and dentists special pay by the amount of such raise. With respect to part-time physicians and dentists, the compromise agreement generally incorporates the special pay amounts from the Senate amendment but provides for eligible part-time physicians and dentists to take a straight proportional share of such amounts, such share based on the ratio their service is full-time employment. The incentive special-pay categories for the House bill, the Senate amendment, and the compromise agreement are as follows:

HOUSE BILL

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full-time status	$6,000	$2,000	$3,000	$1,000
Tenure:				
Completion of probation period or 3 yr (whichever is less)	1,350	1,000	675	500
More than 7 yr	2,700	2,000	1,350	1,000
Scarce medical specialty	3,400	2,000	3,400	1,000
For service:				
As a service chief, not in a scarce specialty (or comparable)	11,800	5,500	5,900	2,750
As a service chief in a scarce specialty (or comparable)	13,800	7,000	6,900	3,500
As a chief of staff or in an executive grade	13,800	7,000	6,900	3,500
As deputy service director	14,200		7,100	
In a director grade	14,500		7,250	
As a service director	14,500		7,250	
As a deputy assistant chief medical director	15,200		7,600	
As an associate deputy chief medical director or assistant chief medical director	15,800		7,900	
Board certification:				
General	2,000	1,000	2,000	1,00
Specialty	2,500	1,250	2,500	1,25n
Remote locations	3,400	2,000	3,400	2,000 0
For service—continued				
As a deputy service director or in a director grade	12,700	9,525	3,625	2,719
As a service director	13,125	9,844	3,750	2,813
As a deputy assistant chief medical director	14,000	10,500	4,000	3,000
As an assistant chief medical director or an associate deputy chief medical director	14,875	11,156	4,250	3,188
Board certification:				
First or specialty	2,000	1,500		
Subspecialty	2,500	1,875		
Specific geographic locations (including VA central office)	3,500–5,000	2,625–3,750	1,750–2,500	1,313–1,875

SENATE AMENDMENT

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full-time status	$6,000	NA	$1,000	NA
Tenure:				
3 to 5 yr	1,000	$750		
3 to 7 yr			500	$375
5 to 8 yr	2,000	1,500		
7 or more years			$1,000	750
8 or more years	3,000	2,250		
Scarce specialty	4,000–16,500	3,000–12,375	2,000–7,500	1,500–5,625
For service:				
As a service chief or associate chief of staff (or comparable)	9,625	7,219	2,750	2,063
As a chief of staff or in an executive grade	12,250	9,188	3,500	2,625

COMPROMISE AGREEMENT

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full time	$6,000	NA	$1,000	NA
Tenure:				
2 to 5 yr	1,000	$750		
2 to 7 yr			500	$500
5 to 8 yr	2,000	1,500		
7 or more years			1,000	1,000
8 or more years	3,000	2,250		
Scarce specialty	4,000–15,500	3,000–12,375	2,000–7,500	1,500–5,625
For service:				
As a service chief (or comparable)	9,900	7,230	2,750	2,750
As a chief of staff or in an executive grade	12,600	9,190	3,500	3,500
As a deputy service director or in a director grade	13,000		3,625	
As a service director	13,500		3,750	
As a deputy assistant chief medical director	14,400		4,000	
As an associate deputy chief medical director or assistant chief medical director	15,300		4,250	
Board certification:				
Specialty	2,000	1,500		
Subspecialty	2,500	1,875		
Specific geographic area (including central office)	2,000–5,000	1,500–4,000	1,750–2,500	1,313–1,875

The compromise agreement allows the caps on special pay and incentive special pay to be breached only by amounts paid for service in geographic areas where there are extraordinary recruitment and retention difficulties in the recruitment and retention with respect to the category of physicians and dentists involved, including, for physicians, service in VA Central Office.

CREDITING OF SPECIAL PAY FOR RETIREMENT PURPOSES

Both the House bill and the Senate amendment provide for the crediting of a full-time DM&S physician's or dentist's special pay for civil service retirement purposes. The House bill provides for such crediting in all cases of a physician or dentist who has been employed in DM&S on a full-time basis for at least 15 years. The Senate amendment provides for such crediting as one of two options that the physician or dentist may elect. Under the Senate amendment, one electing the civil service retirement-credit option would be credited on a phased-in basis under which individuals would receive credit for special pay (from which deductions would be made and paid into the civil service retirement fund) in the computation of average pay for retirement, as follows:

For those retiring after September 30, 1981, 20 percent; after September 30, 1983, 40 percent of special pay received after September 30, 1981; after September 30, 1985, 60 percent of special pay after September 30, 1981; after September 30, 1987, 80 percent of special pay received after September 30, 1981; and after September 30, 1989, 100 percent of special pay received after September 30, 1981.

The second option in the Senate amendment would allow a full-time DM&S physician or dentist to use amounts received as special pay for contributions to an individual retirement account (IRA).

The compromise agreement does not include the Senate's IRA provision and provides prospectively for treating special pay paid to full-time DM&S physicians and dentists as basic (annual) pay for civil service retirement in the cases of all physicians and dentists with at least 15 years of full-time service in DM&S. The retirement provisions also include provisions to cover a situation where an individual dies or is disabled prior to completing 15 years of full-time service and also include a provision allowing a one-time waiver by physicians and dentists employed in DM&S on the effective date of the new authority from coverage by the retirement provisions.

The crediting of special pay will occur on a 2-step, phased-in basis: 50 percent of special pay may be used to compute an annuity after October 1, 1985, and 100 percent of such pay may be used after October 1, 1990. Thus, no retirement pay will be paid out to any retiree under this provision before October 1, 1985.

The Senate amendment, but not the House bill, would allow amount of special pay to be used in computation of the amount of Federal life insurance an individual is eligible to purchase. The compromise agreement contains the Senate provision.

REPORTS ON THE ADEQUACY OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

The Senate amendment (section 110), but not the House bill, would establish in the Office of the Administrator of Veterans' Affairs a five-person "Veterans' Administration Physicians' and Dentists' Pay Board" which would analyze the income of non-VA physicians and dentists and make biennial recommendations for changes in rates of special pay for Veterans' Administration physicians and dentists, when appropriate, to the President for inclusion in the Presidential budget submitted to the Congress; and provide for the operation of such Board. Such recommendations submitted by the President would become effective unless the Congress enacted legislation establishing other rates or either House of Congress approved a resolution disapproving the recommendations.

The compromise agreement would delete the provisions for the establishment and operation of such a board but would require the Administrator to perform the biennial analyses of the income of non-VA physicians and dentists and to make biennial recommendations to the President for changes in rates of special pay for VA physicians and dentists. The compromise agreement would also require that the President make recommendations, in the budget text transmitted to the Congress following the submission of the Administrator's recommendations, as to the rates of special pay for physicians and dentists in DM&S, but deletes the provisions making any such recommendations effective in the absence of Congressional action. In addition, the compromise agreement would require the Administrator to submit to the Committees on Veterans' Affairs annual reports on the implementation and administration of activities under the special pay provisions (including any required actions, findings, and recommendations of the Chief Medical Director and the Administrator) and would repeal section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, under which the Administrator is required to submit annual reports on the special-pay program.

EXEMPTION OF VA HEALTH-CARE PROFESSIONALS AND MEDICAL FACILITY DIRECTORS FROM THE SENIOR EXECUTIVE SERVICE AND CONVERSION OF SUCH DIRECTORS TO TITLE 38 PERSONNEL SYSTEM

Both the House bill (section 102) and the Senate amendment (section 102) would exempt health-care professionals in the VA's title 38 personnel system from the provisions of section 413 of the Civil Service Reform Act of 1978 and title 5, United States Code, relating to the Senior Executive Service (SES).

The compromise agreement includes this provision.

Further, the House bill (section 102), but not the Senate amendment, would convert VA non-physician hospital directors into the VA's title 38 medical personnel system from the title 5 system and exempt them from the same title 5 provisions relating to the SES.

The Senate recedes with an amendment to provide that, for the purposes of section 4507 of title 5, relating to the awarding of ranks under the Senior Executive Service, such non-physician directors shall be considered to be career appointees so as to be eligible, upon recommendation of the Administrator and the Director of the Office of Personnel Management, to receive an award of Meritorious Executive (lump-sum bonus payment of up to $10,000) or Distinguished Executive (lump-sum bonus payment of up to $20,000) under such section (which provides that a recipient of either such award may not receive that rank again during the four following fiscal years). The Committees believe that shifting these key personnel into the title 38 personnel system will provide the Administrator with greater control over the selection and management of such personnel but believe that it is important that these personnel, who are currently eligible for inclusion in the Senior Executive Service, and thus, have the potential to receive a bonus award under section 4507, should not suffer potential financial harm from the personnel system shift.

MISCELLANEOUS IMPROVEMENTS IN PERSONNEL ADMINISTRATION RATES OF PAY FOR TRAVEL AND OVERTIME FOR NURSES

The Senate amendment (section 103), but not the House bill, would have authorized the Administrator to appoint the Director of Nursing Service as an Assistant Chief Medical Director or Deputy Assistant Chief Medical Director. In the Senate's report accompanying its legislation, this provision was described as important in order to "give the Nursing Service head a greater and needed role in policy matters within DM&S, including general policy matters as well as those affecting nurses most directly . . . ."

Both Committees are in agreement that it is vital that provision be made for extensive Nursing Service participation in planning, policy development, and decision-making activities throughout the VA health-care system, not only at Central Office but in individual VA health-care facilities. Some of the most important issues which face the VA health system today—including, among many others, the severe, nationwide nursing shortage, increased demands for both long-term and acute care for chronic illness from an increasingly aging veteran population, and the impact of restricted resources with which to operate the VA health-care programs—are matters of great concern to VA nursing personnel including, of course, the Director of Nursing Service, and involve issues on which nursing personnel leadership has particular contributions to make.

The compromise agreement does not, however, contain the section 103 provision from the Senate bill, because the Committees are concerned that legislation which would authorize raising the Director of Nursing Service to an Assistant Chief Medical Director, without otherwise modifying the statutory limitations on positions at that management level could have an untoward impact on the top management structure in the Central Office of the Department of Medicine and Surgery (DM&S) and there is insufficient information on which to base a change in those statutory limitations at this time.

As to a Deputy Assistant Chief Medical Director level, the Committees note that raising the Director of Nursing Service to that level can be accomplished by the Administrator under existing law. The Committees believe that this would be an appropriate action for the Administration to take and, therefore, recommend to the Administrator and Chief Medical Director that this change be made administratively, accompanied by appropriate issuances to assure greater involvement by the Director of the Nursing Service and facility Chief Nurses in the planning, policy, and decision-making activities of DM&S.

Also on the general issue of the VA's nursing service, the Committees note their belief that the pilot program and study on nurse recruitment and retention mandated by section 118 of the compromise bill should yield valuable information on the current problems confronting the agency as it attempts to attract and retain quality nursing personnel. In that regard, the Committees urge that the Director of Nursing Service at Central Office and the Chief Nurse at each facility where the pilot program and study is carried out be involved to a very significant degree in the planning, design, conduct—and in the evaluation of the results—of the pilot program and study, and in the preparation of the subsequent report and recommendations. The Committees believe that such participation by nursing personnel should help assure that the pilot program and study is as realistic, effective and comprehensive as possible.

The Senate amendment (section 104(4)), but not the House amendment, would amend certain title 38 provisions relating to premium pay for nurses and other specified personnel for work outside of the regular work day or week (such as for overtime or Sunday duty) to conform such provisions in the areas of overtime pay while on travel and work on a Federal holiday that falls on a regular workday to similar provisions in title 5 applicable to General Schedule employees.

The compromise agreement contains the Senate provision.

The Senate amendment (sec. 104(4)), but not the House bill, would also provide authority for the Administrator to modify these rates of premium pay as necessary to meet competition with respect to such pay from non-Federal hospitals in the same labor market.

The compromise contains the Senate provision.

The Committees note that section 104, 110, and 111 of the Senate amendment contained provisions requiring "such consultation" with exclusive representatives of employees "as is required under any applicable collective bargaining agreements" as part of various amendments made by those sections relating to personnel issues. These provisions for such consultation are not included in the relevant sections of the compromise agreement.

It was the Senate's intention, as expressed in the Senate Committee report, in including the consultation provisions to assure that nothing in the bill could be construed as negating recognized collective bargaining rights, including consultation rights. Those provisions are not included in the compromise bill in recognition of the Committees' agreement that such a specific reference to such rights is unnecessary and could engender confusion. In deleting those provisions, the Committees wish to make clear that they do not intend that any of the changes made by the legislation to the VA's health-care personnel authorities detract in any way from employee rights under existing collective bargaining agreements between the VA and its employees.

ADMINISTRATIVE ADJUSTMENTS IN RATES OF BASIC PAY

The Senate amendment (section 104(5)) would provide authority for the Administrator to modify minimum, intermediate, and maximum rates of basic pay on a local, regional, or nationwide basis for one or more health personnel fields—or grades within such fields—for title 38 personnel, and for title 5 health-care personnel working in the VA and providing either direct patient-care services or services incident to such services, as necessary to meet rates paid by non-Federal hospitals in order to maintain adequate staffing or to recruit personnel with specialized skills.

The House bill (section 104) would provide authority to set rates of pay for title 38 physicians, dentists, and nurses without reference to the provisions of section 5301 of title 5 which require a comparability, based on job responsibilities, among Federal rates of pay; this provision is designed to authorize selected VA rates of pay to be modified without regard to title 5 restrictions.

The House recedes with an amendment that subjects the Administrator's exercise of the authority to modify rates of pay for title 5 personnel to a possible disapproval of such action by the President (or his designee) within 90 days of the Administrator's notification of intention to exercise such authority. In the event that the President (or his designee) disapproved such a proposed action, the President (or his designee) would be required to submit to the appropriate Congressional Committees a notification of such action accompanied by a full explanation of the reasons for such disapproval.

The veto authority would not apply to the Administrator's authority to modify rates of pay for title 38 personnel.

The compromise agreement would also provide specific authority for the Chief Medical Director to increase the rate of pay of a nurse anesthetist, notwithstanding the provisions of section 5301 of title 5. The intent is to provide the Administrator with maximum flexibility for increasing the pay and/or grade of a nurse serving in this capacity. The rate of pay is to be based on the professional qualifications and special training of the nurse anesthetist rather than the supervisory or administration responsibilities of the individual.

This authority would allow the Administrator to accomplish the same end as that contemplated by the House provision.

CHIEFS OF STAFF REQUIRED TO BE FULL-TIME

The Senate amendment (section 106), but not the House bill, would require VA chiefs of staff, associate chiefs of staff, and service chiefs to be full-time employees. As to chiefs of staff, those serving in such capacity on a less than full-time basis on the effective date of the provision would be allowed to continue to so serve but would not be eligible to receive any increases in special pay. Associate chiefs of staff and service chiefs would likewise be grandfathered and, in addition, the Chief Medical Director would have wide discretion to exempt either individuals or categories of such personnel from the full-time requirement if it is found to be in the best interests of the Federal Government to do so.

The House recedes with respect to chiefs of staff, with an amendment removing the bar to receipt of increases in special pay for those chiefs of staff covered by the grandfathering provision. The Senate recedes with respect to the full-time requirement as to associate chiefs of staff and service chiefs.

RETIREMENT CREDIT FOR PART-TIME EMPLOYEES

The Senate amendment (section 108) would modify the way in which part-time title 38 employees in DM&S accrue credit for civil service retirement purposes so as to provide that such employees accrue such credit on a pro-rata basis rather than receiving a full month's credit for each month worked on a part-time basis, no matter how small the fraction of part-time service. The House bill contained no comparable provision.

The House recedes with perfecting amendments to assure that this amendment's effect is limited to the way in which part-time service is counted in the process of computing an annuity and that there are no other ramifications on a part-time employee's eligibility for an annuity.

VETERANS' ADMINISTRATION REPRESENTATIVES ON DEAN'S COMMITTEES

The Senate amendment (section 108), but not the House bill, specified that the representatives of the Veterans' Administration on dean's committees at affiliated medical schools should include representatives from the full-time staff at the VA facility.

The House recedes.

Both the House bill (section 302) and the Senate amendments (section 108(1)(B)) contained provisions generally aimed at reenunciating some basic principles set forth in the Department of Medicine and Surgery's Policy Memorandum No. 2 of January 30, 1946, regarding the balance of responsibilities between VA health-care facilities and affiliated medical schools. These provisions were designed to address what the Committees believe is a problem present at some VA facilities that are affiliated with medical schools where the medical schools—through the deans committees, bodies established pursuant to section 4112 of title 38 to carry out *advisory* functions in conjunction with the affiliation relationship—become dominant partners in the affiliation relationship and begin to dictate policy at the VA facility, including matters with respect to which VA authority and responsibility for decision-making should be final, such as policies regarding admissions to and the mission of the VA facility and decisions regarding VA employment.

The Committees believe very strongly that such situations are improper and should be remedied.

Although the Committees continue to support the basic provisions set forth in each bill regarding this issue, the compromise agreement does not contain the provisions on this issue from either bill in recognition of the fact that the Committees believe, after much deliberation, that this problem is not prevalent in most such affiliations and that, where it does exist, it is a VA management problem that should be corrected through forthright administrative action rather than a problem that can be addressed effectively through legislation.

The Committees are aware that the incumbent Chief Medical Director of the Veterans' Administration, Dr. Donald Custis, shares this point of view and is working actively to achieve appropriate balances at VA health care facilities and affiliated medical schools. The Committees intend to follow closely the Chief Medical Director's progress in this area and will provide him with any appropriate assistance to assure that relationships in all affiliations are in appropriate balance.

RELATIONSHIP BETWEEN TITLE 38 MEDICAL PERSONNEL SYSTEM PROVISIONS AND OTHER PROVISIONS OF LAW

The House bill (section 102), but not the Senate amendment, would specify that part-time appointments in DM&S under section 4114 are made without reference to chapter 34 of title 5, which relates to general civil service part-time employment matters.

The Senate recedes with an amendment to clarify that the general relationship between title 38 medical personnel system provisions in subchapter I of chapter 73 of title 38 and provisions in title 5 or elsewhere pertaining to the civil service personnel system is such that no provisions from title 5 or elsewhere (whether heretofore or hereafter enacted) shall be considered to supercede, override, or otherwise modify title 38 provisions unless such other provision does so expressly by specific reference to the title 38 provision.

STUDY OF PERSONNEL NEEDS OF VETERANS' ADMINISTRATION HEALTH-CARE SYSTEM

The Senate amendment (section 105), but not the House bill, would mandate an eighteen-month study of the need for and impact of converting, from title 5 personnel system to the VA's title 38 personnel system, categories of title 5 personnel employed in DM&S who provide direct patient-care services or services incident to such services.

The House recedes with an amendment to expand the study to include an analysis of the desirability and impact of, if some categories of such personnel are not so converted, paying such personnel who are not converted premium pay for work outside of the regular work day or week (e.g., overtime work or work on a holiday) under the title 38 premium pay provisions in the paragraph (10) proposed to be added to present section 4107(e) by section 104(4) of the Senate amendment rather than under certain title 5 provisions.

STUDY AND PILOT PROGRAM ON NURSE RECRUITMENT AND RETENTION

The Senate amendment (section 111), but not the House bill, would mandate a twenty-four to thirty-six month pilot program and study (in at least six geographic areas) to evaluate the impact on the VA's recruitment and retention of sufficient qualified nursing personnel of various administrative actions, including, but not limited to, combinations of modifications of existing work schedules, establishment of on-site child-care centers at VA health-care facilities, provision of free or subsidized parking for nursing personnel, and enhanced programs of career development for nursing personnel (including support for outside education opportunities). The Senate amendment (section 106(2)), but not the House bill, would also provide the Administrator with authority to provide training support, including support as described in chapter 41 of title 5 and under conditions as set forth in such chapter, to registered nurses employed in the VA for training to acquire a baccalaureate degree.

On the study provision, the House recedes with an amendment deleting the specification of any particular administrative actions. The Senate recedes on the training support issue. The deletion of the specification of particular administration is intended to provide greater flexibility to the VA in the selection of recruitment and retention measures.

In deleting this training support authority, the Committees note that a VA registered nurse desiring to return to school to acquire a baccalaureate degree could receive assistance under the new VA Scholarship Program included in title II of the compromise agreement and urge the Administrator, Chief Medical Director, and Director of the Nursing Service, to assure that, once the Scholarship Program is implemented, all VA registered nurses without a baccalaureate degree are made aware of the opportunity to use the Scholarship Program in such a manner and are provided appropriate opportunities to receive assistance under the Scholarship Program.

Moreover, in receding on the training support provision, the Committees are not conceding the correctness of the present interpretation of section 4101 of title 5 that excludes from that Government-supported Federal employee training provision baccalaureate training for an AA-degree or three-year hospital-trained registered nurses.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

The House bill (title II), but not the Senate amendment, would authorize a scholarship program under which the VA would provide scholarships to students enrolled in health care professional training in the disciplines under the title 38 personnel system in exchange for the student's obligation, following completion of training (and, in certain cases, after obtaining a license to practice), to serve as a full-time employee in DM&S for a specified period of time. Under the Scholarship Program, the period of obligated service would equal one calendar year for each school year for which a scholarship was provided, or two calendar years, whichever is greater, and would be extended at specified rates where the participant's entry into obligated service is deferred (as the House bill would allow in certain cases) to permit the participant to undertake an internship or residency or other advanced clinical training. Participants failing to complete their training, to obtain a license or registration, as appropriate, in the field for which trained, or to complete their period of obliagted service would be subject to specified monetary penalties.

The Senate recedes with an amendment designed to focus the program most directly on physicians and nurses, to provide the Administrator with flexibility to modify certain conditions of the program—such as the requirement of additional obligated service for deferrals for residencies and the payment of primary special pay during obligated service—and to authorize only voluntary transfers between VA and other Federal scholarship recipients with obligated service.

TITLE III—GERIATRIC RESEARCH AND CARE

Both H.R. 4015 as passed by the House of Representatives on June 5, 1979 (hereinafter referred to as the "House bill") and the Senate amendment (title II) to H.R. 7102 would establish a statutory program for geriatric centers at VA health-care facilities. (Presently, the VA operates, under a program established administratively, geriatric research, clinical, and education centers (GRECC's) at 8 VA medical centers.) The House bill would require 15 VA hospitals to be designated as the locations for centers of geriatric research, education, and clinical activities (hereinafter referred to as "geriatric centers" or "centers") and permit 5 additional VA hospitals to be so designed if suitable hospitals and sufficient funds are available; the Senate amendment would require "up to" 15 VA health-care facilities to be so designated, would require that designation be made upon the recommendation of the VA's Chief Medical Director (CMD), and would also require that, subject to appropriation of sufficient funds, the geriatric centers be established and operated at the designated facilities.

The House recedes.

With respect to the selection of facilities for designation as geriatric-center sites, the House bill would require the Administrator to take into consideration the hospitals that are, on the date of enactment, operating a GRECC—and to designate, to the extent possible, each such hospital—to take into consideration the need for geographic dispersion of the centers. The Senate amendment would specifically require the Administrator, upon the CMD's recommendation, to designate each facility operating a GRECC on the date of enactment unless the Administrator determines, on the CMD's recommendation, that such facility does not meet certain requirements, described below, for the designation of any facility, or has not demonstrated effectiveness in carrying out—or the potential to carry out in the foreseeable future—its established purposes or the purposes of the title II provisions of the Senate amendment, and to assure appropriate geographic distribution of such facilities. Also with respect to designating geriatric center locations, the House bill would require the Administrator to take into consideration the desirability of designating hospitals which are affiliated with an accredited medical school which has (or may reasonably be anticipated to develop) a department, division, or organized program of geriatrics. The Senate amendment would require that, for a facility to be designated, it must (1) be affiliated with an accredited medical school which provides education and training in geriatrics and have an arrangement for residents to receive education and training in geriatrics through regular rotation through the facility's center and nursing home, extended care, or domiciliary units, (2) have an arrangement for nursing or allied health personnel to receive geriatric training and education through the facility's nursing home, extended-care, or domiciliary unit, (3) have the demonstrated ability to attract scientists capable of ingenuity and creativity in health-care research efforts, (4) have an advisory committee on policy matters pertaining to activities of the center, and (5) have the demonstrated capability to conduct effective evaluations of the center's activities. Except for criteria (3) and (5), these criteria may be considered to be satisfied if the Administrator, upon the CMD's recommendation, determines that it is reasonable to expect them to be satisfied.

The House recedes with an amendment providing that criteria (3) and (5) would also be met if the Administrator, upon the CMD's recommendation, determines that it is reasonable to expect them to be satisfied.

The Senate amendment, but not the House bill, would require that, prior to providing funds for a new center, the Administrator assure that the geriatric center at each designated facility that is operating a GRECC on the date of enactment is receiving adequate funding to enable it to function effectively in the areas of research, educational, and clinical activities.

The House recedes.

The House bill would provide for the establishment of a Geriatrics and Extended Care Task Force within the VA's Special Medical Advisory Group (SMAG); the Senate amendment, for a Geriatrics and Gerontology Advisory Committee in the Department of Medicine and Surgery. In addition, the Senate amendment, but not the House bill, would require the Administrator, upon the CMD's recommendation, to appoint the Committee membership—which would include non-Federal Government employees who have demonstrated interest in aging research, education, and clinical activities, and at least one national veterans' service organization representative, to invite appropriate Federal department and agency representatives to participate in Committee activities, and to provide the Committee with necessary staff and support. The House bill would require the "task force" to act in an advisory capacity to the Assistant Chief Medical Director responsible for geriatrics and extended care; the Senate amendment would require the "Committee" to advise the CMD on all matters pertaining to geriatrics and gerontology. Both the House bill and the Senate amendment would require the advisory body to perform additional functions as directed by the Administrator or Chief Medical Director. Both the House "task force" and the Senate "Committee" would be required generally to assess the VA's capability to provide high quality geriatric and clinical health services to eligible veterans; and the Senate amendment, but not the House bill, would also require the "Committee" to make an assessment of VA extended health-care services.

The House bill would require the "task force" to assess the VA's capability to provide the services so described in the House bill on a sustained, continuing, and growing basis; the Senate amendment would require the "Committee" assessment to take into consideration the likely demands for such services from eligible older veterans. Both the House "task force" and Senate "Committee" would be required to assess the current and projected health-care needs of older veterans, and the Senate amendment, but not the House bill, would also require assessment of VA activities and plans to meet those needs. The Senate amendment, but not the House bill, would specifically require that assessments of the ability of each center to achieve its established purposes, as well as the purposes of the title II provisions of the Senate amendment, be based on site visits.

Both the House "task force" (not later than 18 months after the effective date of the legislation) and the Senate "Committee" (not later than 30 months after the effective date of the legislation) would be required to submit a report to the Administrator (and the SMAG in the House bill; through the CMD in the Senate amendment). Both reports would be required to include assessments of the quality of the operations of the centers, the extent to which the VA, through the centers, is meeting the needs of older veterans and any deficiencies in the operations of the centers. In addition, the Senate amendment, but not the House bill, would require that the report include recommendations for other geriatric, extended-care, and other health-care services needed to meet the needs of older veterans.

The Senate amendment, but not the House bill, also authorizes the submission of further reports. Both the House bill and the Senate amendment would require the Administrator to transmit the report (the "Committee's" first report in the Senate amendment) within ninety days after it is received, together with comments and recommendations, to Congressional committees.

The House recedes with an amendment requiring the "Committee" to submit its first report not later than April 1, 1983.

The House bill would authorize for the purpose of operating the geriatric centers appropriations of $15,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, and $25,000,000 each for fiscal years 1982 and 1983. The Senate amendment would authorize appropriations only for basic support of the research and education activities of the centers in the amounts of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 each for fiscal years 1983 and 1984. The House bill, but not the Senate amendment, provides that the geriatric centers shall operate until September 30, 1983. The Senate amendment, but not the House bill, would provide for the CMD to allocate to the centers such funds from the VA's medical care account and medical and prosthetics research account as the CMD determines appropriate and, with respect to fiscal year 1984, as the CMD determines appropriate based on the first "Committee" report. The Senate amendment, but not the House bill, would specify that clinical and scientific investigation activities at each geriatric center may compete for funds awarded from the VA's medical and prosthetics research account and are to receive priority in the award of funding from this account insofar as such funds are used for geriatrics and gerontology research.

The House recedes with an amendment to authorize appropriations of $10,000,000 for fiscal year 1981 and $25,000,000 for each of the following three fiscal years.

Both the House bill and the Senate amendment would require that one Assistant Chief Medical Director (ACMD) be responsible for certain geriatric research, education, and clinical health-care matters. Included within such an ACMD's jurisdiction, the House bill would specify "service operations" and the Senate amendment "policy and evaluation". The House bill would require the ACMD to be a qualified doctor of geriatrics and gerontology and the Senate amendment, a qualified physician trained, or having suitable, extensive experience, in geriatrics. The Senate amendment would also specify that the ACMD would report directly to the CMD.

The compromise agreement would provide for one ACMD who shall be a qualified physician trained in, or having suitable, extensive experience in, geriatrics who shall be responsible to the CMD for evaluating all research, educational, and clinical health-care programs carried out in the Department of Medicine and Surgery in the field of geriatrics and who shall serve as the principal advisor to the CMD with respect to the operation of such programs.

The effective date for the geriatrics provisions in the House bill would be October 1, 1979; in the Senate amendment, October 1, 1980.

The House recedes.

TITLE IV—MISCELLANEOUS AMENDMENTS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

The House bill (section 301), but not the Senate amendment, would amend section 622 of title 38 to limit the presumptive validity of an individual's oath of inability to defray the cost of VA medical care to those individuals eligible to receive medical assistance pursuant to title XIX of the Social Security Act, service-connected disabled veterans, or those in receipt of a VA pension. The Senate amendment (in Title III), but not the House bill, on a related matter, would clarify the VA's authority to obtain reimbursement for the cost of treatemnt provided to veterans for non-service-connected disabilities, in appropriate instances, from workers compensation carriers, from auto no-fault insurers, and, in conjunction with State crime victims' reparation schemes and further, would mandate a comprehensive study of the impact of authorizing the VA to obtain reimbursement from third-party health insurance carriers for health care provided to veterans for non-service-connected disabilities.

The Senate recedes. The Committees continue to believe strongly that the cost-savings that the Administration and some in the Congress believe would result from the enactment of legislation authorizing the recovery of the costs of non-service-connected care from insurance carriers have been based on incorrect assumptions regarding the extent to which veterans seeking care in the VA for non-service-connected disabilities have applicable, in-force health insurance coverage from which recovery could be obtained. The Committees also believe that any attempt to provide such authority to the VA to collect from such insurers for such services and to reduce the VA's appropriations in conjunction with such authority would significantly disrupt VA health-care efforts and would ultimately prove futile or largely futile. Thus, the Committees have determined that the provision in the compromise agreement which would generally allow the VA to determine if a veteran has valid health insurance that would basically cover the cost of care and, if so, to direct such veteran to a non-VA facility, is the more appropriate response to concerns about individual veterans receiving care from the VA where the cost should be borne by a health-insurance carrier.

MANAGEMENT OF REAL PROPERTY

The House bill (section 303), but not the Senate amendment, would modify the VA's real property management authority to remove the authority for the VA to enter into long-term leases (beyond 3 years) with affiliated medical schools and to require that, 30 days prior to transferring real property valued at more than $50,000 to another federal agency or a State or reporting such property as excess, the VA notify the Committees on Veterans' Affairs in each House.

The Senate recedes on the property transfer issue. On the long-term lease issue, the Senate recedes with an amendment limiting the VA's existing authority to enter into such leases to leases of 50 years or less.

REVOLVING SUPPLY FUND

The compromise agreement would amend the statutory provisions relating to the VA's revolving supply fund to allow VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and provide for return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of supply fund needs.

NUMBER OF BEDS REQUIRED TO PROVIDE ADEQUATE NURSING HOME CARE IN STATE HOME FACILITIES

The House bill (section 304), but not the Senate amendment, would change the limit on the number of nursing home beds that may be supported in a State under the VA's State Veterans' Home Program (to raise the limit from two and one-half beds per thousand veterans in a State to four beds per thousand).

The Senate recedes with an amendment removing the numerical limit, thereby allowing the Administrator the authority to establish appropriate limits per State without reference to any fixed number prescribed by statute.

REPEAL OF REQUIREMENT THAT RECIPIENTS OF HEALTH PERSONNEL TRAINING GRANTS MUST INCREASE NUMBER OF INDIVIDUALS RECEIVING TRAINING

Both the House bill (section 305) and Senate amendment (section 402) would repeal a requirement in existing law that requires a health personnel training institution (other than an affiliated medical school) applying for a VA grant under subchapter III of chapter 82 for health personnel training, to, as a condition of receiving such grant, increase the number of personnel trained. A similar repeal was made last year in Public Law 96–151 to a comparable provision in subchapter II of such chapter relating to affiliated medical schools, and the original House-passed bill providing for such repeal (H.R. 3892) included a provision to repeal the subchapter III provision. However, by inadvertence, the subchapter III-provision repealer was deleted from the legislation at the time of final passage.

The compromise agreement includes this provision.

AVAILABILITY OF FUNDS FOR BENEFICIARY TRAVEL

The Senate amendment (section 401), but not the House bill, would clarify that the fiscal year 1980 restriction in Public Law 96–86 on obligations for "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" does not apply to reimbursement under title 38 to eligible veterans, dependents, and survivors pursuant to section 111 of title 38 in connection with their receipt of other VA benefits and services.

The compromise agreement provides this clarification effective only with respect to future enactments and not in situations where legislation containing such a restriction on obligations or expenditures for executive branch travel expressly states that it applies to such beneficiary travel under title 38. The FY 1980 problem to which the Senate provision was addressed has been resolved by the President's submission on May 16, 1980, of a budget amendment (Senate Document 96–49, 96th Cong., 2d Sess.) and direction from the Senate Appropriations Committee in its report on H.R. 7542, the Supplemental Appropriations and Recission Bill, 1980, (S. Rept. No. 96–829, page 19).

EXTENSION OF TIME FOR SUBMISSION OF REPORT ON HOSPITAL CARE AND MEDICAL SERVICES FURNISHED IN THE COMMONWEALTH OF PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 306) and the Senate amendment (section 403) would amend Public Law 95–520, the Veterans' Administration Program Extension Act of 1978, to extend, from February 1, 1980, to February 1, 1981, the deadline for a VA report on hospital care and medical services furnished in the Commonwealth of Puerto Rico and the Virgin Islands.

The compromise agreement contains this provision.

TECHNICAL AMENDMENT

The Senate amendment (section 102), but not the House bill, would delete the gender-specific term "manpower" in section 4101 of title 38 and insert in lieu thereof "personnel".

The House recedes.●

The SPEAKER pro tempore (Mr. LEHMAN). Is there objection to the original request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7831, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 758 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 758

Resolved, That during the consideration of the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 3, line 2 through page 4, line 6; beginning on page 4, line 13 through page 5, line 2; beginning on page 5, line 18 through page 6, line 10; beginning on page 7, line 1 through page 8, line 23; beginning on page 13, lines 17 through 25; beginning on page 14, lines 15 through 18; beginning on page 16, line 1 through page 17, line 6; beginning on page 18, lines 20 through 23; beginning on page 19, line 21 through page 20, line 18; beginning on page 22, lines 3 through 7; beginning on page 23, lines 13 through 24; beginning on page 24, lines 10 through 19; beginning on page 26, line 1 through page 27, line 23; and beginning on page 28, lines 2 through 8.

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 758 provides for the consideration of H.R. 7831, Department of Transportation and related agencies appropriations bill for 1981. The rule simply waives points of order under clause 2 of rule XXI against specified provisions of the bill. Clause 2 of rule XXI prohibits unauthorized appropriations and legislation on general appropriations bills. The provisions in question are designated in the rule and deal with legislation that is either pending floor action or is presently in conference.

Mr. Speaker, H.R. 7831 provides $12,032,784,065 in new budget authority for the programs of the Department of Transportation and related agencies.

These programs include the urban discretionary grant program, the Northeast Corridor improvement project, operations activities of the FAA, and operating expenses for the Coast Guard.

I would like to commend subcommittee Chairman DUNCAN and members of the committee for the excellent job they have done on this measure. Further, I would like to express my great disappointment that Congressman DUNCAN will not be with us next Congress and wish him much success in the future.

Mr. Speaker, in order that the House may proceed to the important business of considering the appropriation of funds for the Department of Transportation and related agencies for 1981, I urge my colleagues to adopt House Resolution 758.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from New York (Mr. ZEFERETTI) has explained the provisions of the resolution. We all know that we are behind on our appropriations bills. This is an important measure which we will consider on the floor of the House on adoption of this rule.

Mr. Speaker, I support the resolution and reserve the balance of my time. I have no requests for time.

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the

Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 20, not voting 39, as follows:

[Roll No. 446]

YEAS—374

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—20

Bauman
Collins, Tex.
Crane, Daniel
Dannemeyer
Hansen
Holt
Jacobs
Jeffries
Jenkins
Levitas
Lungren
Paul
Rousselot
Rudd
Shumway
Solomon
Stenholm
Stump
Walker
Wydler

NOT VOTING—39

Abdnor
Anderson, Ill.
Applegate
Atkinson
Bafalis
Brown, Calif.
Crane, Philip
Davis, S.C.
Dellums
Dodd
Ford, Tenn.
Garcia
Gephardt
Goldwater
Holtzman
LaFalce
Leach, La.
Lloyd
Lundine
McCloskey
McDonald
McKinney
Mathis
Mavroules
Michel
Moffett
Murphy, N.Y.
Nolan
Rosenthal
Runnels
Sebelius
Stark
Steed
Stokes
Stratton
Symms
Wilson, Bob
Winn
Young, Alaska

□ 1050

The Clerk announced the following pairs:

Mr. Stratton with Mr. Goldwater.
Mr. Murphy of New York with Mr. Abdnor.
Mr. Atkinson with Mr. Bafalis.
Mr. Mavroules with Mr. McCloskey.
Mr. Steed with Mr. Runnels.
Mr. Stokes with Mr. Symms.
Mr. Lundine with Mr. McKinney.
Mr. Dodd with Mr. Winn.
Mr. Dellums with Mr. Young of Alaska.
Mr. Stark with Mr. Gephardt.
Mr. Rosenthal with Mr. Philip M. Crane.
Mr. Nolan with Mr. Leach of Louisiana.
Mr. Mathis with Ms. Holtzman.
Mr. Lloyd with Mr. McDonald.
Mr. LaFalce with Mr. Michel.
Mr. Ford of Tennessee with Mr. Garcia.
Mr. Davis of South Carolina with Mr. Brown of California.
Mr. Applegate with Mr. Bob Wilson.
Mr. Moffett with Mr. Sebelius.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMPLETING CONSIDERATION OF FOREIGN AID APPROPRIATIONS BILLS BEFORE ADJOURNMENT

(Mr. LONG of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Maryland. Mr. Speaker, for the information of the House I submit herewith a letter to the Speaker with attachments thereto relative to expeditious floor consideration of foreign aid appropriations bill:

HOUSE OF REPRESENTATIVES,
Washington, D.C. July 30, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The foreign aid appropriations bill has now been reported out of the Appropriations Committee. But there is every likelihood that we will have a difficult time getting a final bill through Congress before adjournment.

Mr. Speaker, we have prudently kept this bill $400 million below the Administration request. Both Subcommittee and full Committee consideration were completed in a day each with no crippling amendments or major disagreements.

The difficulty lies not in getting House and Senate approval, but in getting the bill scheduled so that the House can work its will in time to allow Senate and conference consideration.

Attached is the schedule we must adhere to if we are to enact a foreign aid appropriation bill before the scheduled Congressional adjournment. I have discussed the scheduling with Senator Inouye and his staff.

I urge your support, Mr. Speaker, for an appropriate rule and for expeditious Floor consideration and House passage.

I would like, personally, to thank you for the effort you put forth in connection with the Supplemental Appropriation for Fiscal 1980, and earnestly seek your help in scheduling Fiscal 1981 measure in time to achieve its passage.

Warm regards,

CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations.

SCHEDULE FOR COMPLETION OF 1981 FOREIGN AID APPROPRIATIONS BY ADJOURNMENT

1. August 19, (Tuesday): Foreign aid bill goes to House Rules Committee and is granted rule.*
2. August 20, (Wednesday): Rule filed and printed.
3. August 21, (Thursday): House begins consideration of foreign aid bill.
4. August 26, (Tuesday): House completes consideration of foreign aid bill.
5. August 27, (Wednesday): Foreign aid bill printed, transmitted and referred to Senate subcommittee.
6. August 28, (Thursday): Senate subcommittee markup completed.
7. September 4, (Thursday): Senate full committee markup completed.
8. September 5, (Friday): Senate files committee report.
9. September 9, (Tuesday): Senate begins consideration of foreign aid bill.
10. September 10, (Wednesday): Senate completes consideration of foreign aid bill.
11. September 11, (Thursday): House and Senate appoint conferees.
12. September 15, (Monday): House-Senate conference.
13. September 15, (Monday): Conference report filed.

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*It would be helpful to have the foreign aid bill go to the Rules Committee on Thursday, July 31 or Friday, August 1.

14. September 18, (Thursday): House considers and passes conference report.

15. September 22, (Monday): Senate considers and passes conference report.

16. September 25, (Thursday): President signs foreign aid bill.

REPORT ON RESOLUTION OF INQUIRY IN THE MATTER OF BILLY CARTER

Mr. RODINO, from the Committee on the Judiciary, submitted a privileged report (Rept. No. 96–1213, part I) on the resolution (H. Res. 745), a resolution of inquiry in the matter of Billy Carter, which was referred to the House Calendar and ordered to be printed.

☐ 1100

REPORT ON RESOLUTION OF INQUIRY IN THE MATTER OF BILLY CARTER

Mr. ZABLOCKI, from the Committee on Foreign Affairs, submitted a privileged report (Rept. No. 96–1213, part II) on the resolution (H. Res. 745), a resolution of inquiry in the matter of Billy Carter, which was referred to the House Calendar and ordered to be printed.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, I would prefer not to have to rise to a point of order on a question of personal privilege under rule IX, but I was just a few minutes ago denied access to the records on Billy Carter that had been placed before the Judiciary Committee. The Justice Department records were there for all Members, as I understand it, the other day.

I am a co-maker of the resolution of inquiry under which these records are being viewed, and I was going over today to take a look at them and was denied access by the chairman of the Judiciary Committee.

It seems to me that this falls under rule IX on a question of personal privilege. I would ask the Speaker the parliamentary inquiry, Is there some means we could resolve this without my raising that point of order with the Chair?

The SPEAKER. The Chair would respond that the Chair would hope that the chairman of the Committee on the Judiciary would be able to make an agreement with the Justice Department regarding accessibility of these matters to other Members, but is informed at the present time these reports are not the property or the records of the Judiciary Committee, and the access rule is not applicable at this time.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker, regards the fact that when they were first made available on Wednesday of this week, they were made available, as I understand it, to the broad-based Members of the House. That has recently been narrowed, evidently today. We only have 1 hour in which Members are going to have a chance to view those records, so the timing becomes very important. Is it possible that the chairman of the Judiciary Committee might be able to get that time extended, and also open the access as it was a day or so before?

The SPEAKER. The Chair would hope an agreement could be made, and would ask the chairman of the Judiciary Committee to proceed forthwith to see if such an agreement can be made.

Mr. WALKER. I appreciate that, and I will not raise the point of order at this point based upon that ruling of the Chair. I thank the Speaker.

GENERAL LEAVE

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7831, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

Mr. DUNCAN of Oregon. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Massachusetts (Mr. CONTE) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. DUNCAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7831, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Oregon (Mr. DUNCAN) will be recognized for 1 hour, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the subcommittee submits for your consideration and for the consideration of the Committee of the Whole the Department of Transportation appropriation bill for fiscal year 1981. I am joined in this endeavor by my friends and colleagues on the subcommittee: Mr. STEED, Mr. BENJAMIN, Mr. LEHMAN, Mr. SABO, Mr. STEWART, Mr. EDWARDS of Alabama, Mr. MILLER of Ohio, and Mr. COUGHLIN. I must say that words cannot really express my respect and admiration for TOM STEED and BENNY STEWART, and my personal regrets at their retirement. TOM'S years of experience and friendship and advice I have depended upon. Mr. STEWART'S loyalty and friendship, his diligent attendance and his incisive questions and the good judgment of both are attributes to which all of us aspire, but not all of us attain.

On March 4 of this year, we were pleased to welcome the newest member of our committee, the gentleman from California, Mr. FAZIO. I speak for the entire subcommittee when I say that we have been delighted by his diligence and by his ability to apply a new perspective to the important transportation issues of the day.

I want to make special note of my warm feelings for our friend, the gentleman from Massachusetts (Mr. CONTE). His service as the ranking minority member of the Transportation Subcommittee spans more than 10 years. He also is the "rankest" member of the minority on the full committee. I admire his ability to handle a wide set of responsibilities. I value his friendship. But, you know, Mr. CONTE has a dog which he fancies to be a hunter. His dog, Primo, is a nice dog.

Mr. CONTE subscribes to the adage, "Love me, love my dog." Well now, I have hunted with Mr. CONTE and with Primo, and he will have to forgive me, I just cannot stand his dog's hunting talent. I cannot love him. I am ashamed to admit some of the thoughts that passed through my mind as Primo gleefully raised birds three and four hundred yards on all sides of us. In spite of that and if SIL will permit a deviation from his usual rule, I value his friendship and I really believe that the committee could not function without him.

Mr. Chairman, I also want to pay tribute to the staff, both my personal staff, Mr. Scannel, and the staff of the full committee. I consider them to be professionals in the highest sense of the word. Tom Kingfield, Dave Olson, and Larry Johnson, before he left, all of them fulfilled their responsibilities professionally, offering advice, offering suggestions, but never once intruding across the narrow border which divides staff functioning as staff and staff functioning as a Member of the Congress.

Mr. Chairman, section 1 of the Transportation Act of 1940 entitled, "Transportation Policy," prescribes that the transportation policy of the United States is to recognize and preserve the inherent advantage of each mode of transportation. This simple, straightforward statement means that the economics of the marketplace, the forces of demand and supply, should be allowed to foster or wither the various modes of transportation. During our country's history, we have witnessed the development and growth of the railroads, automobiles and trucking, aviation, and diesel-powered barge transportation. At the same time, we have witnessed the disappearance of the stagecoach, the horseback rider, the Conestoga wagon, the clipper ship, the steam-powered sternwheelers, and the steam locomotive.

□ 1110

Today we are seeing very real changes in the automobile. And we have seen during our history a significant role played by our Government, both in the development of the modes and the changes that have impacted on their growth or decline.

Mr. Chairman, we are in the midst of change right now. As our economy grows and expands, as consumer tastes and preferences change, as the relative and absolute costs of transportation change, the relative market shares of the various modes, in freight and passenger transportation, change. To the extent these changes result from the dictates of the marketplace, we should welcome the change. Sound transportation policies require it.

My first question to the new Secretary of Transportation this year was precisely on the issue of governmental policy and how it will affect the ability of the various modes to achieve their respective advantages. It is clear to me that we must keep this fundamental principle in mind when we consider questions of governmental subsidy, capital assistance, research and development, and especially regulation of the various modes.

A cornerstone of our national transportation policy is that private sector control is the most effective way for the modes to operate and compete. We also recognize the Government, particularly the Federal Government, has a limited, though important, role. It is clear that without sound, responsible policy, Government policy, establishing a framework within which the private sector, both firms and consumers, can operate, it would simply not be possible for the various modes to achieve their inherent advantage. Indeed, none of the modes of transportation that exist today could have grown and matured without the visible hand of Government.

Our task in fashioning a bill for your consideration is to provide only for those activities necessary to enable each mode to achieve its inherent advantage.

The standard for judging our work is high. Through the years, our Nation has been blessed with men of vision in powerful positions who have provided the necessary leadership in the development of transportation and transportation technology.

Secretary of the Treasury, Albert Gallatin, completed the first national inventory of transportation resources in 1807. A year later, using the inventory as a basis, he issued a report calling for the development of a national system of roads and canals and pointed out how such facilities would increase the wealth of nations.

He compared the new nation to "developed countries" such as France and England and pointed out that in those countries there were incentives and opportunities for capital to build and operate canals and turnpikes. However, in the new United States, commerce would not support such investments. Secretary Gallatin proposed a new national program, saying this:

> Good roads and canals will shorten distances, facilitate commercial and personal intercourse, and unite, by a still more intimate community of interests, the most remote quarters of the United States.

While Congress and various Presidents were slow to recognize the vision of Secretary Gallatin, technological changes such as steamships and locomotives convinced the Nation that opportunities for growth and development were too valuable not to promote those actions, including direct financial assistance, that could only be supplied by the Government. In some cases, the governmental activity came largely from the States, while in others from the Federal Government. Surface roads were typically State-sponsored, with notable exceptions such as the Cumberland Road, the national road, and military roads. Federal land grants to railroads were initiated in 1850, and later, with grants in the West to the Pacific railroads, they were increased to a total of 130 million acres.

The advent of the automobile brought on what can perhaps be called the single most important change in the lifestyle of the American people. Its development was certainly the most important event in the history of transportation. It created demands for better roads at all levels. New road-building technology, an expansion of the "object lesson" road program, along with larger, more efficient machinery, allowed more miles of all-weather roads to be constructed at lower costs. With better roads came local and then long-distance motor carriage. The technology that led to the development of the internal combustion engine was applied to trucks as well as a new and more efficient powerplant for locomotives.

The development of commercial air transportation followed a similar pattern. A large proportion of the development came as a direct spin-off from efforts to use aviation for military purposes. With the widespread use of the jet in the late 1950's, aviation became a significant factor in intercity transportation. Given the interstate character of air transportation from the very beginning, the Federal Government had a major role to play in the regulation as well as the financing of this infant industry.

Mr. Chairman, the challenge for today's and tomorrow's transportation decisionmakers is to know where we are today, how we got there, and where we go from here. The corollary challenge is to channel the Federal transportation assistance, reserving and leaving to the private sector and to State and local governments those functions best performed at those levels.

As important as historical and policy considerations are, it is the specific and contemporary conditions which, in large measure, account for the choices we made this year. Our Nation continues to be affected by our national and international energy situation, and nowhere is this more vivid than in the transportation sector. While 25.3 percent of our energy consumption is in transportation, some 52.9 percent of our petroleum consumption is for transportation purposes. It must be remembered that of the 18.86 million barrels of oil supplied per day to the United States in 1979, over 43 percent was imported oil, two-thirds of it from the 13 members of OPEC.

It is also important to note that small but significant reductions in consumption have been achieved over the last year and are still being achieved. Much has been said, and rightly so, about the importance of energy supplies and prices on all areas of national policy. But in transportation, much of what is really important is not being discussed, and that is the tremendous impact the energy prices are having on the private sector. I refer to the millions of decisions made each year by the consumers and producers of transportation services and equipment. Certainly the auto manufacturers understand the importance of these decisions. We in the Congress must recognize that much of the adjustments that will be made as a result of our energy problem must take place and will take place in the private sector. Our task is to understand the nature and direction of the changes in the private sector, as well as to recognize what can and should be done by Federal policy. And then we have to encourage and even expedite decisions that are in the national interest. We have done our best to follow such an approach, and in the face of the continuing energy problem we must also recognize we are in a period of fiscal austerity.

This is the philosophy that was used in developing the first budget resolution for 1981, as well as the seven appropriation bills we have already considered. Compared to the President's proposal, this bill today is $424,851,000 less than his request. After the subcommittee marked up on June 12, our bill was $225 million lower in budget authority and $97 million lower in outlays than our allocation under section 302 of the Budget Act.

However, because of the action taken only recently in the fiscal year 1980 supplemental appropriations and rescission bill, the bill before this committee, although well within the budget resolution as far as budget authority is concerned, is $103 million in excess of the target for outlays. We have for the first time a reconciliation process that will be required.

With this in mind, I am urging my colleagues on both sides to reject any amendments that would add additional funds to this bill.

We know that there are worthy programs and projects that could justifiably be funded at higher levels. It is our considered judgment that any such increases ought to be postponed, and with this in mind, let me now describe some of the important aspects of this year's bill.

For the Office of the Secretary, we have $46,730,000. That is an increase of $1 million over last year, but it is about $1.5 million less than the President's request. The Committee proposes to reduce funds for those activities which are duplicative of established activities in the modal administrations and are not justified. I am hopeful that the Secretary will continue and expand on the important work in the field of national transportation policy development. The Committee has had an important influence in past years in calling for a continued and strengthened secretarial commitment to this end.

While the importance of these efforts are not always immediately apparent, they serve as valuable building blocks for future analysis, as well as for discussion and debate on important policy decisions and decisions by Congress, the administration, State, and local governments, and the private sector.

Mr. Chairman, I want to make an aside here and say that while I believe it is too early to compare my friend and fellow Oregonian, Secretary Goldschmidt, to Secretary Gallatin, whose position in history is secure, it certainly can be said that the new Secretary has earned the respect and trust of our people and ranks in the forefront of the Cabinet officers in the succession of able Secretaries of Treasury and Transportation.

☐ 1120

I am not going to go over each individual line item in this budget with the Members, or even all of the categories. I will call the attention of the Members to the Committee report, which we think is comprehensive and complete. If the Members will look on page 2, they will see there the departments and related agencies all listed. I will discuss just very briefly some of the problems we face with some of the major agencies that we finance.

Mr. JACOBS. Mr. Chairman, will the gentleman yield before he proceeds on that point?

Mr. DUNCAN of Oregon. Yes, I will be glad to yield to the gentleman from Indiana.

Mr. JACOBS. I do not want to be too critical, but the gentleman's reference to the current Secretary of Transportation, I wonder if that could possibly be the same Secretary of Transportation—I think a man named Goldschmidt—who 3 months ago promised to call me back within 48 hours and somehow has not found the 20 cents yet, and I wonder if it could possibly be the same Secretary of Transportation who was informed that funds from his Department were about to be spent to take a white elephant train station off the hands of private investors in my town in Indiana and make it into a bus station, which the following organizations had declared they could not use, the City Metro Bus Service, in effect, the Greyhound Bus Co., and the investors themselves had found they could not use the facilities for any useful purpose. I do not believe in using a lot of fluff in congressional debate, but I will make an exception to this rule and say that I have for a number of years, and even more reasons, profound respect for the gentleman in the well, the chairman of the subcommittee, but I wonder if that could be the same Secretary of Transportation. I think his name is Goldschmidt.

Mr. DUNCAN of Oregon. The gentleman has identified him by name, so I would suggest that the gentleman has identified the correct individual. I know that the gentleman has had a problem of considerable consequence in his own home State of Indiana. I have consulted with him. I am not at all prepared to say that the gentleman is not on the correct side of the question. I would suspect that he is. I would say in defense of the Secretary two things: One, that perfection is something that was achieved by only one man about 2,000 years ago, and they nailed Him up on a cross. Everybody, of course, will make some mistakes, and our Secretary is subject to them the same as anyone else. As a matter of fact, if he were in the well, he would tell the gentleman about many disputes he and I have had over policy, and he has been dead wrong in all of those instances.

Mr. JACOBS. I am sure he has, because there is only one other man who has come so close to perfection through the years, and that is certainly the gentleman in the well.

Mr. DUNCAN of Oregon. I would venture to say that his failure to return the gentleman's call was the result of an oversight. Judging from the amounts in this budget, it is not a question of 20 cents.

I would also venture to say that within the next few hours the gentleman will receive a call from Secretary Goldschmidt, because I will call him and see that he does it; and my guess is that someone in this Chamber is listening and will convey the message to the Secretary.

Mr. JACOBS. If the gentleman will yield for a somewhat more serious suggestion to the committee and to the House, I simply suggest that on these somewhat amorphous appropriations, such as for urban mass transportation, that the committee might consider adopting an amendment to the effect that funds for urban mass transportation shall be used for urban mass transportation, not for taking white elephants off of the hands of favored local investors when they find that they can get nowhere with it.

Mr. DUNCAN of Oregon. If I may reclaim my time, I would suggest that in times past, and in this budget, too, we have appropriated very limited funds for urban initiatives. I think the request was for $120 million. Our committee did not cut it out entirely because there are some benefits that can be derived that are mutually desirable. But we did cut that down last year to $80 million and this bill also contains $80 million. But I do agree with the gentleman that when funds for transportation are limited, as they are always, that we ought to be spending them to provide the basic wheels to get people from one place to another.

Mr. JACOBS. I thank the gentleman.

Mr. DUNCAN of Oregon. Now, if I may return very briefly to discuss some of these major areas.

COAST GUARD

Mr. Chairman, as an example of the importance of comprehensive and thorough analyses as a basis for policy decisions, let me remind my colleagues of the 1962 Coast Guard roles and missions study performed by the Secretary of the Treasury. Much of what came out of that study has been implemented. Since the 1960's, however, the Coast Guard has assumed many additional responsibilities in environmental protection, fisheries law enforcement and outer continental shelf management which have been stacked on top of growing workloads in other, more traditional areas of responsibility.

Our committee is recommending that the first necessary steps be taken toward a new roles and missions review that will sort out those functions and programs which are no longer needed, or which might better be accomplished by the private sector, or by other levels of government or other agencies in the Federal Establishment, as well as those functions and activities which can and should remain in the Coast Guard. If this review is done carefully, and the committee intends to see that it is, the executive branch and the Congress should have a sound basis for planning, budgeting, and program execution in the years ahead.

For fiscal year 1981, the bill contains $1,206,967,000 for operating expenses, including an increase of $14.7 million over the budget to cover increased fuel costs that are necessary because of higher prices. For acquisition, construction, and improvements we are recommending $339,585,000. This will continue the procurement programs for medium endurance cutters, medium-range surveillance aircraft, and short-range helicopters. It will provide for a major increase in the Coast Guard's shore facilities program. The bill includes $15.85 million for the alteration of five bridges that are unreasonable obstructions to navigation and $25.1 million for research, development, test and evaluation. For retired pay, reserve training, the supply fund and the offshore oil pollution compensation fund we have approved the full budget requests.

FEDERAL AVIATION ADMINISTRATION

The largest single appropriation in the bill is $2,233,520,000 for the operation of our national air traffic control system and for the execution of the aviation regulatory, research and financial assistance programs. The Members should note the committee's displeasure with the executive branch managers for failing to implement the increases that have been provided for air traffic control personnel, particularly at the busy centers and towers. I feel confident that, in the future, the committee will consider more specific instructions to the FAA, including specific language in the bill, to accomplish the purposes that have been carefully considered and recommended with regard to air traffic control personnel and staffing.

In addition, the bill includes appropriations of $22,310,000 for facilities, engineering, and development, $359,000,000 for facilities and equipment, $85 million for research, engineering, and development and $44,785,000 for operation, maintenance, and improvements at the metropolitan Washington airports. For the grants-in-aid for airport development, we are recommending a $725 million limitation on obligations and for new aircraft purchase loan guarantees the bill includes a $400 million ceiling.

FEDERAL HIGHWAY ADMINISTRATION

Under the Federal Highway Administration, the bill includes a limitation on contract authority obligations for the Federal-aid highways program of $8.75 billion during fiscal year 1981. This is $350 million more than the level proposed in the budget and $950 million more than the current level of $7.8 billion. The bill also includes appropriations for motor carrier safety, highway safety research and development, highway beautification, territorial highways, access highways to public recreation areas and carpool and vanpool projects. General operating expenses of FHWA would be limited to $190,705,000 in fiscal year 1981, a reduction below the current level and below the budget request.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, the bill includes $82,253,000 for operations and research and $23,593,000 for State and community highway safety programs. With respect to those highway safety programs financed with contract authority, we are recommending a limitation on obligations of $150,405,000. The bill also includes language prohibiting the use of State and community highway safety funds for building or office furnishing expenses. The committee has received evidence that some grant recipients have abused the discretion that Congress has afforded them in this program.

FEDERAL RAILROAD ADMINISTRATION

Mr. Chairman, for the Federal Railroad Administration, major recommendations include $27,250,000 for railroad safety, $52 million for research and development, $96,023,000 for rail service assistance, $350 million for the Northeast Corridor improvement project, and a limitation on loan guarantees under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 of $600 million.

The committee has deferred consideration of the $250 million requested in a budget amendment for railroad restructuring assistance. While the committee agrees that railroad restructuring is vital to the continued survival and, ultimately, the revival of a privately owned and operated freight railroad system, the program is not yet authorized nor has it been convincingly demonstrated that a program of Federal financial assistance is necessary in order to achieve the important economies associated with consolidation and restructuring. There are a number of rail mergers that are pending before the Interstate Commerce Commission or are proposed that offer considerable potential for achieving the purposes of the administration's program.

In addition, it now appears that the Southern Pacific Railroad will be able to purchase some 965 miles of the bankrupt Rock Island Railroad between Santa Rosa, N. Mex., and St. Louis, a move that will, I believe, strengthen the Nation's rail system. And, Mr. Chairman, though I am somewhat disappointed by the action taken last week on H.R. 7235, I remain hopeful that meaningful regulatory reform is possible in the near future.

The bill would provide $1,052,900,000 for Federal grants to the National Railroad Passenger Corporation, Amtrak. While this amount is $70.1 million below the President's request, it provides the full authorized level of $674.9 million for operating grants in fiscal year 1981. It is the committee's belief that if Amtrak takes the necessary managerial actions, including certain cost reductions and increases in fares, Amtrak can operate the current route system for the entire year.

The bill also contains $18 million for State assisted routes, $11 million for labor protection payments and $183 million in fiscal year 1981 and an advance appropriation of $166 million in fiscal year 1982 for capital grants. The bill includes language prohibiting the use of the loan guarantee authority under 45 U.S.C. 602 for new loan guarantee commitments or loans for new purposes or the use of appropriated funds for the temporary reduction of guaranteed indebtedness. In addition, the bill includes language that makes Amtrak's capital acquisition and improvement program, which is totally financed by the Federal Government, subject to the restrictions of the Anti-Deficiency Act.

Finally, looking toward the future of Amtrak, we are recommending a total of $6 million for marketing studies and surveys on the so-called emerging corridors. I firmly believe that the future of Amtrak lies in the short haul, corridor markets. But I also know that if we are to avoid a repeat of past mistakes, we must proceed very carefully before we commit substantial resources to new areas of Amtrak service. I also believe it is imperative that as we identify those specific areas where Amtrak can be effective, we correspondingly reduce and eliminate other service that we know is hopelessly uneconomical and has little or no social or environmental value. Instead, if we merely end up with what we have now plus new requirements for equipment and personnel, we won't have improved Amtrak one bit. I urge my colleagues to support the committee's recommendation in this area.

URBAN MASS TRANSPORTATION ADMINISTRATION

Under the Urban Mass Transportation Administration, the bill provides $80,020,000 for research and administrative expenses, $2.22 billion for the urban discretionary (section 3) capital grant program, $1.5 billion for urban formula (section 5) grants, $65 million for nonurban formula grants and $20 million to finance two waterborne demonstration projects. Although the total funding recommended for mass transit, $4,685,020,000, is less than the budget request, it represents a significant increase over the current year's program. It is 3 times larger than the amounts provided in fiscal year 1975.

Public transit is a program that still evokes considerable controversy. Practically all of this funding goes to our large metropolitan areas. We know full well the important benefits that public transportation provides to these areas. However, the Administration must develop and implement better performance measures and more clearly articulate program benefits in order to sustain support for this program.

Mr. Chairman, with regard to the urban discretionary grant program, I had offered language in subcommittee that would have prohibited the use of funds for the purchase of buses equipped with wheelchair lifts if adequate alternative service to the elderly and handicapped was being provided. During full committee consideration I proposed modified language that would have prevented UMTA from compelling any local transit agency to buy buses equipped with wheelchair lifts in order to comply with section 504 of the Rehabilitation Act of 1973. The 1973 act does not require that buses be equipped in this manner, but UMTA's regulations do require this as the only means of complying with the law. It is my view that the regulations are not consistent with the 1973 law and further, would needlessly require the expenditure of millions of additional dollars for what is clearly not the best way to comply with section 504. There is no question that local transit agencies must comply with 504.

However, they should be given the flexibility to do so according to their own individual situations. In some cases, no wheelchair lifts would be needed. In other cases, some combination of lift-equipped buses along with taxi or demand responsive service could provide service that would meet the requirements of law, providing higher quality service at far lower costs than under a uniform, national requirement that all buses be equipped with wheelchair lifts. Unfortunately, my modified proposal was not adopted. But I am hopeful that in the very near future, the Congress will act to change what is clearly a highly undesirable situation.

I also want to call my colleagues' attention to language in the bill designed to negate the regulations that UMTA has issued respecting the "Buy America" provisions of the Surface Transportation Assistance Act of 1978. It is the committee's intention that State statutes be subjected only to the Federal law and not to any UMTA regulation which is inconsistent with Federal law.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

The bill includes $29,820,000 for the Research and Special Programs Administration, which includes the materials transportation bureau, the transportation systems center and grants to States for natural gas pipeline safety. The amount recommended is $3,774,000 more than the 1980 appropriation and $1,738,000 less than the budget request.

OFFICE OF INSPECTOR GENERAL

For the Office of Inspector General, the bill contains an appropriation of $13,657,000 and an additional $8,085,000 by transfer, for a total of $21,742,000 in fiscal year 1981. This is the amount requested in the President's budget.

TITLE II—RELATED AGENCIES

Title II of the bill contains $886,103,000 for six transportation-related agencies and commissions. This is $5,138,000 below the budget request.

The committee is recommending $17.9 million for the National Transportation Safety Board, $114,719,000 for the Civil Aeronautics Board, $82.4 million for the Interstate Commerce Commission, $391,674,000 for the Panama Canal Commission, $213.5 million for the United States Railway Association, and $65,910,000 for the Washington Metropolitan Transit Authority. I want to make special mention of two of the committee's recommendations.

The bill includes $86.3 million for payments to air carriers by the Civil Aeronautics Board. In the report, the committee expresses its concern about the present situation where commercial airports are being served by two subsidized carriers or by a subsidized carrier and a nonsubsidized carrier. The committee is aware of at least 74 locations where this situation presently exists. While this situation may not mean that the subsidized carrier competes with the unsubsidized carrier or that two competing carriers are being subsidized for the same service, it is clear that the potential for serious distortion of our commercial air transportation system exists. The committee is directing the Board to perform a detailed analysis of the present situation and report to the committee by January 1, 1981.

The committee is also recommending a limitation of $10 million on the amount of obligations that can be incurred under the Interstate Commerce Commission's authority to direct rail service over the property of a carrier that is no longer able to carry the traffic tendered to it. Under certain conditions, such directed services do not result in any financial liability to the Federal Government.

However, there have been examples where the use of this authority has resulted in significant financial liability to the government because the carriers providing the service incur expenses greater than the revenues earned. The committee is convinced that this need not be the case. The carrier directed to provide service could request and the Commission could authorize a special tariff or emergency surcharge designated to cover all out of pocket costs for the service.

There is another proposal of $250 million on which we have deferred action. We have just received a budget request. There is no authorization for it yet. It is a program called auto use management. Its principal sponsor and principal designer in the Department happens to be a young man named Angus Duncan, who happens to be my son. I hope the Members will understand, those of you who are going to ask for additional sums of money in this budget, the extreme reluctance with which I told him no already three times this morning.

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Mr. Chairman, the bill before you is the product of our very able subcommittee. The bill was unanimously reported by the full Appropriations Committee on July 24. The committee held 27 days of hearings and received testimony from 12 Members of Congress, 137 officials from the executive branch and 72 interested individuals and representatives of groups and organizations. The committee printed eight volumes of hearings, numbering 6,542 pages of printed testimony.

Mr. Chairman, I believe we are bringing a balanced and carefully considered bill to the committee today and I ask for its favorable consideration and approval.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a critical time for our Nation's transportation policy. The present energy shortage is increasingly affecting the way we set our transportation priorities while the current fiscal crisis is hampering our ability to modernize and expand the system.

Members of this subcommittee, from both sides of the aisle, have worked together closely, carefully examining each program and budget request in light of our future and present needs as well as the need of this Congress to hold the line on spending.

The bill we have brought to the floor is a tight bill. As ranking minority member of the subcommittee and full committee, I would commend my colleagues for their diligence and hard work. I would, however, like to single out three of my good friends for special mention as they will be departing at the end of this session.

The subcommittee would not have accomplished one-half of what it did without the fine leadership of its chairman, the gentleman from Oregon, BOB DUNCAN. In the relatively short time that the gentleman from Oregon has headed this subcommittee, his able questioning, expert knowledge, and unswerving dedication have set an example for all those who have served with him, as well as those who may follow. His superb work as a legislator is well known to all who serve with him on the subcommittee and in the House.

Mr. Chairman, I am sure my colleagues would agree that few men, not even those from the great State of Oregon can fill this man's shoes. I am certainly sorry that his people did not have the wisdom and the foresight to reelect him to the Congress. It will leave a large void in this House. It will leave a large void for the State of Oregon, because any man who comes down from the State of Oregon as a freshman member will be a drop in the big bucket here in the Congress, and therefore, the State of Oregon is the big loser.

Another good friend of mine, the gentleman from Oklahoma, Mr. TOM STEED, who yielded the chairmanship to the gentleman from Oregon, also will be sorely missed. I have worked closely with the gentleman from Oklahoma for many years and have witnessed his many contributions toward the development of a coordinated and coherent transportation policy for this country. He really has had a fine career in this body, one which I was pleased to share with him. I wish him well in the coming years.

Last, but not least, I want to pay tribute to a new member of this committee who is also leaving, the gentleman from Illinois, Mr. BENNETT STEWART. Through hard work and perseverance, the gentleman from Illinois quickly acquired a working knowledge of the transportation field and was able to make a meaningful contribution to the work of the subcommittee. He will be sorely missed by all of us, not only as a good, hard-working legislator with both feet planted on the ground, one of the most beautiful human beings that I have had the pleasure of meeting and working with in the 30 years that I have been in public service. We want to wish him well, because he deserves nothing but the best in life.

The departure of these three will leave a large gap in the subcommittee. The background and expertise that they have accumulated will be hard to replace. I would suggest, Mr. Chairman, that this bill is their legacy.

I stand by those fine words that I have said here today about my subcommittee chairman, even though he had some derogatory remarks about my best friend, my dog Primo.

I am sure if Primo were here, he would have had his words taken down today.

This budget here, and I plead to my good friend from Ohio, who also does a great job here in the Congress and tried to keep these budgets down, I plead with the gentleman today, I hope that he does not offer his motion to cut this budget by 2 percent or whatever percentage he says across the board, because it is going to hit really two agencies here that cannot afford to be hit, the Coast Guard and the FAA.

The FAA, which has the responsibility, and I will talk about it later, in regard to keeping our air safety at all times with the increasing air travel today, especially with deregulation and all, this would be a serious area to cut.

The Coast Guard, as the chairman says, this Congress keeps heaping on the Coast Guard more and more functions every day. And yet, we do not give them the money to do the job.

I remember when I first handled the Coast Guard. They had nothing but hand-me-downs from the Navy and from the Air Force. Vaughan Gary was the chairman then. I was the ranking member. We built the Coast Guard up to a respectable agency, but unfortunately there is not enough money in this bill to give the Coast Guard the money that they need to build the ships and buy the ships that they need and provide the personnel to run those ships to perform all of the duties that this Congress has given them.

This is a good budget. It is $425 million below the budget request and the cuts have been judiciously made. The members of the subcommittee have not butchered this bill, but have deftly trimmed the fat away.

My chairman has already given a detailed description of the bill, so I will just highlight some of the major items.

For the Office of the Secretary of

Transportation, minor cuts have been made in the budget request. For transportation planning, and research and development activities of the Office, an appropriation of $11.1 million has been provided, which is $900,000 less than the budget estimate, but $1.68 million more than fiscal year 1980 appropriations. Many of the programs and studies conducted in the Secretary's office duplicate work being done in other parts of the Department and we feel that this overlap can be reduced without limiting the Office of the Secretary's role as a policymaker. The streamlining of the Department of Transportation has been an ongoing effort for several years and we encourage its continuance.

For the Coast Guard we allocated $1.88 billion which was $28.8 million over the budget request. Since my first days in Congress when the Coast Guard was still part of the Treasury Department, I have annually reviewed their programs and expenditures and I can assure my colleagues that they run a tight ship over there.

The bulk of this year's increase, $1.7 million, is due to higher fuel prices. From October 1, 1979 to February 1980, fuel prices paid by the Coast Guard rose a total of 144 percent. This dramatic rise greatly hampered the ability of the Coast Guard to perform its duties of search and rescue, drug interdiction and protection of the environment. In order to prevent a reoccurrence of this situation, we added to the funds allocated for future price increases in fuel.

The Coast Guard has been burdened recently with many diverse duties which have strained its ability to perform its traditional functions.

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As the chairman stated, we suggested a study similar to the one made in 1962 to study the basic role of the Coast Guard's duty should be contracted or expanded as a result of this study. We feel that this is preferable, this study is preferable, to blindly augmenting the number of personnel and the amount of funds needed in the budget. Actually, we could increase this budget by a half a billion dollars.

For acquisition, construction and improvement, we have provided an appropriation of $340 million, which is only $15.1 million above the budget level. This includes procurement of an additional medium endurance cutter, as well as contract modifications and cost escalation on nine previously funded cutters.

Additionally, funds are provided for safety improvements for the Eagle, medium-range surveillance aircraft and short-range helicopters.

For the alteration of bridges, which have become obstructions to water borne commerce of the United States, we have provided all but $350,000 of the budget request. The difference is to be made up from previous years' appropriations.

One of the Coast Guard's new duties is the protection of the Outer Continental Shelf from damage due to oil pollution. The offshore oil pollution compensation fund, funded by a fee on OCS oil, finances the cost of cleaning up pollution and reimbursing those damaged due to OCS drilling. During the supplemental, I offered an amendment which increased the effectiveness of a similar fund and I am pleased to see that this bill includes language providing an indefinite appropriation, limited to $60 million in obligations in fiscal year 1981 for this particular fund. It is expected that $12 million in direct appropriations and $2 million in borrowing authority will be obligated and expended during the next year.

I touched on the FAA administration. We suggested an appropriation of $2.74 billion, which is $5.49 million below the President's request.

For operations, we have included $2.23 billion, which is $10.1 million below the budget request, but $60 million over 1980. Most of the reduction recommended is due to lower than anticipated employment. It should be noted, however, that this reduction should not be at the expense of air traffic controllers and other essential safety personnel. Congress last year provided for over 200 new positions, yet the number of air traffic personnel is still only slightly above the level at the end of the fiscal year 1979.

The increased traffic handled by the FAA's controllers requires not only the filling of all approved positions by the FAA, but the filling of these positions with either full performance air controllers or trainees, not supervisory or administrative personnel.

For the third year in a row we suggest a prohibition on the use of funds for new applicants to the second career training program. Studies by the GAO and the FAA have confirmed the inefficiencies and waste to this program which provides a small number, a handful of people of retiring controllers, with training needed to begin a new career.

For FAA facilities, engineering and development, we provided $22.3 million, which is about $2.19 million under the President's request. The brunt of these funds will go to aircraft regulation and aviation security. A reduction of $828,000 is provided in this area because of the failure of the FAA to promulgate new regulations concerning the composition of cabin materials, seats and seat belt strength, despite the fact that research has indicated that new regulations are needed and would significantly increase passenger safety. As we stated in the report, we will not "support research for research's sake alone."

Additionally, the full budget level of $85 million has been provided for the new automated flight station system which is designed to improve service to the present users and meet future needs.

For research, engineering and development, we provided $85 million, which was the full budget request. The bulk of these funds will go to air traffic control, the maintenance of the present system and the development and improvement of new equipment, such as the discrete address beacon system. Testimony during our hearings painted a promising picture of the potential contribution of helicopters to the overall transportation system. We have, therefore, suggested the inclusion of language in the report directing the FAA to step up its helicopter research program.

The bill also includes an appropriation for the full budget estimate for the liquidation of contract authority. Similarly, there is a $725 million limitation on obligations for airport development and noise compatibility planning grants under contract authority which is $75 million more than the budget estimate.

The full budget request was also approved for the operation and maintenance of the Washington National and the Dulles International Airports. A $1.26 million increase over fiscal year 1980 was due to inflation, increased utility consumption and equipment replacements. Since the airports collect landing fees, concession payments and rent, National and Dulles Airports are in the black and turn money in to the General Treasury. After depreciation and interest expenses, a total of $8.4 million should be returned to the Treasury this year.

I might mention here or make note here that I have been pushing for the 22 years that I have been on the committee that we reconstruct or do something about the National Airport. This airport is a disgrace. As you fly into airports in capitals throughout the world and throughout the United States, just recently I attended the Republican Convention and there I saw one of the best terminals. one of the finest terminals in the United States at Detroit. You go to Atlanta, Ga., you see the same thing. You go to Boston, to Logan Airport, you see the same thing. You come to the Nation's Capital and you find one of the worst terminals in this country. It is a disgrace. For years and years I have been pushing them, and I talked with Mr. Bond, the Administrator of FAA, and thank God we are now moving in the right direction and once we get environmental impact statements, we are tied up in the courts now, we hope to move forward with the National Airport. What National Airport needs more than anything else is a two-tier airport, like other cities, where you can come in on one tier for incoming planes and have another tier for outgoing planes. I think we are finally moving in this direction.

Mr. Chairman, I have more to say and I will put this in the RECORD on the Federal Highway Administration, in regards to NHTSA, in regard to the Federal Railroad Administration and the Northeast corridor and Amtrak, for the CAB and the Interstate Commerce Commission and the U.S. Railway Association. I do not want to trespass upon the time.

For the aircraft purchase loan guarantee program, we provided the requested limitation of $400 million. At least one quarter of these funds are earmarked for local commuter airlines. This should ease the effect that deregulation of the airlines has on service to small communities.

FEDERAL HIGHWAY ADMINISTRATION

We are providing a limitation on operating expenses of $191 million for the Federal Highway Administration. This is $3.3 million under the budget request. This reduction is due partially to project delays and the availability of carryover funds in contract programs. It is also the result of the phasing in of the modernization of data processing systems of

FHA and the reduction of administrative expenses for the highway beautification program.

A slight reduction is provided for in the motor carrier safety program due largely to lower than anticipated employment and the availability of carryover funds. This is an important program and we are disturbed because recent studies show that the Bureau's slow rate of hiring is hampering its effectiveness. Hopefully, the tone of this year's report will encourage the Bureau to speed up its hiring practices.

We have also included a general provision in the bill limiting obligations to the $28 million requested to assist highway agencies in the planning and implementation of safety improvements on highway facilities. Additionally, a liquidating cash appropriation of $17.5 million, the full budget level, is provided to aid State and local governments with compliance with FHA highway safety standards.

For the Great River Road, known also as the National Scenic and Recreational Highway, an appropriation of $14 million is provided. A single continuous route from Lake Itascs, Minn., to Venice, La., the project was funded at $2.5 million below the budget estimate due to a carryover from fiscal year 1980 and less than anticipated obligations. There is also a $37.5 million obligation level imposed in the general provisions which will allow reconstruction of about 47 miles and 5 miles of new construction.

We have included a liquidation cash appropriation of $7.6 billion for the Federal aid highways. This is $100 million more than the budget request. Of the funds provided, about half will be used to continue the construction of the Interstate Highway System, the rest will go to payments to the States for various transportation needs. The bill contains a general provision limiting the obligations which can be incurred under this program in fiscal year 1981 to $8.75 billion. This limitation is the same as the one proposed in H.R. 6417 which was reported by the Committee on Public Works and Transportation on May 14, 1980.

NHTSA

For the National Highway Traffic Safety Administration, we have provided $106 million which is $49.1 million under the budget level. For operations and research, there was a cut from the estimate of $11.1 million. No funds were recommended for fuel economy and odometer compliance support since other Government agencies have the prime responsibility for these activities. Additionally, no funding was provided to establish a new vehicle inspection program to assist the States since such programs are eligible for funding under the State and community highway safety appropriation.

No funds are provided for the citizens' communication program. In fact, section 316 of the bill prohibits the use of funds for the planning or execution of any program to pay expenses of or otherwise compensate, parties intervening in NHTSA regulatory or adjudicatory proceedings. As many of you know, Congress turned down this program and others like it several times last year.

Because at this time the auto industry is teetering precariously at the brink of collapse, it is essential that only necessary and cost-effective regulations be promulgated. In the report, we instruct the agency to use performance-oriented standards in lieu of detailed design standards. This should allow auto companies to achieve the goals of safety at the lowest possible expense.

For the State and community highway safety fund, we recommend an appropriation of $23.6 million and an appropriation to liquidate contract authorization of $164 million. A budget request of $57 million was made for the separate national maximum speed limit enforcement program, but we provided only $20 million because we believe that the primary responsibility for enforcement of traffic laws should rest on the States. As the report points out, these funds, together with an estimated 45.9 percent of the State and community highway safety programs, will provide a total of approximately $89 million in Federal funds to the States for speed limit enforcement.

We believe section 402 funds should be spent on items directly related to traffic safety. Testimony at hearings this year disclosed that a significant portion of the expenditures funded was not going toward saving lives on our Nation's highways. In the report, therefore, we included language prohibiting the use of State and community highway safety funds for the construction, rehabilitation, or remodeling costs, or for office furnishing and fixtures for State, local, or private buildings.

FEDERAL RAILROAD ADMINISTRATION

We have provided $1.6 billion for the Federal Railroad Administration which is $130.8 million under the budget estimate. This figure includes $7.97 million for the Office of the Administrator, $27.3 million for railroad safety, $52 million for railroad research and development, and $96 million for rail service assistance.

Under rail assistance, $6 million is provided for marketing studies and surveys of 13 emerging corridors to determine their market potential prior to any decision to commit funds for engineering and operating feasibility studies.

For the Northeast Corridor's improvement, $350 million has been included, which is $50 million below the budget request. However, this year, because of the availability of previously appropriated funds, a total of $490 million will be available for rebuilding of the corridor in fiscal year 1981. I have worked ardently for several years to provide the funds necessary to upgrade this corridor between Boston and Washington, D.C. To date, $1.52 billion has been spent, and by the time this project is completed in fiscal year 1985, trip times along the corridor will be drastically reduced and ridership accordingly increased.

For Amtrak, we have provided $887 million for fiscal year 1981, and $166 million in an advance appropriation for fiscal year 1982. The total appropriation of $1.05 billion is $70 million under the budget estimate. Mr. Chairman, I have always been a strong supporter of Amtrak, and I have faith it will be able to meet the requirement imposed on it by the Passenger Railroads Rebuilding Act of 1980—that annual revenues from operations of the Northeast corridor completely cover operating costs by fiscal year 1987.

For rail rehabilitation and improvement financing, a $600 million limit is suggested on loan guarantees provided as authorized by section 511 of the 4–R Act. Under rail labor assistance, we have provided $7.5 million, the full budget request. It should be noted that in the recently adopted supplemental, this committee terminated the windfall benefits previously authorized under this program, saving the taxpayers $60 million in fiscal year 1981 alone.

No funds were provided for railroad restructuring as the authorization legislation establishing this program was reported out of committee, but has not yet reached the House floor.

UMTA

This upcoming fiscal year, we included $4.69 million for UMTA, which is $259 million less than the budget request, but $45.3 million greater than the amount provided in fiscal year 1980. The bulk of the moneys for UMTA, $2.22 billion, are slated for urban discretionary grants, grants which will go for bus, rail, people movers, planning, and innovations.

Funds for many of these projects are also provided for in the urban and nonurban formula grants provided at $1.5 billion and $65 million.

For waterborne transportation demonstration projects, $20 million is provided, and for interstate transfer grants, $800 million is allotted.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

For the limitation on administration expenses of the St. Lawrence Seaway Development Corporation, we have provided $1.46 million, which is slightly below the budget estimate.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

For the Research and Special Programs Administration, we have provided $29.8 million, which includes the Material Transportation Bureau which is charged with pipeline safety and regulation of the transportation of hazardous waste, as well as research and development activities.

OFFICE OF INSPECTOR GENERAL

The full budget request was provided for the Office of Inspector General. This office, which was created during the 95th Congress, conducts audits and investigations in an effort to halt waste, fraud, and abuse in the Transportation Department.

NATIONAL TRANSPORTATION AND SAFETY BOARD

We have provided for the National Transportation and Safety Board, $17.9 million, which is just slightly below the budget estimate. This is an increase of $577,000 over last year's appropriation and should allow the NTSB to continue its work in preventing and investigating transportation accidents.

CIVIL AERONAUTICS BOARD

For the CAB, we have included $115 million which is the full budget estimate. As my colleagues know, by the Airline Deregulation Act, the Board is slated to go out of existence in 1985, and it is in the process of winding down its business. Also included under the CAB is the full budget request of $86.3 million for subsidy payments to air carriers to prevent termination of service along certain routes.

INTERSTATE COMMERCE COMMISSION

For the ICC, we provided $82.4 million which was only a slight $1.5 million reduction from the budget request. The ICC used to have the reputation as one of the worst and most redtape ridden agencies in the Federal Government. After its chairman's testimony this year, we are convinced that progress is being made and we have therefore included sufficient monevs for the ICC to carry out the newly passed Motor Carrier Reform Act and the pending Rail Act of 1980.

PANAMA CANAL COMMISSION

For the Panama Canal Commission, $370 million has been provided for operating expenses and $21.4 million for capital outlay, both below the budget estimate. The revenues from the operation of the canal go into the U.S. Treasury and operating expenses are funded by direct appropriations. A total of $68.6 million in annuity payments and $10 million for public services are to be paid by the commission to Panama.

U.S. RAILWAY ASSOCIATION

For the USRA, we have provided $214 million. A part of these funds will finance litigation arising out of the reorganization of the bankrupt railroads in the Northeast and the Midwest regions. Additionally the full budget level of $185 million is included for the purchase of Conrail securities. This amount is needed to cover operating losses and fund the rehabilitation and improvement of Conrail. I am happy to note that Conrail has made some movement in recent years toward decreasing its reliance on Federal assistance.

WMATA

For WMATA, we provided the full budget request of $65.9 million which should go toward interest payments on the transit authority's bonded indebtedness.

In summary, Mr. Chairman, we bring to the floor today a $12 billion bill, which is $425 million below the budget, yet very responsive, very responsive to the transportation needs of this country. I urge my colleagues to go along with this bill. Do not tamper with it. Do not come in here today and try to add to it and do not come in here today and try to cut it.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to my great friend, the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to offer my commendation to my friend, the gentleman from Massachusetts, and to the chairman of the committee. I think they have brought an outstanding bill to the floor, as they usually and customarily do.

Our friend, the gentleman from Oregon, as I said yesterday in debate on the Interior bill, will be sadly and sorely missed as chairman of this committee next year, but I want my friend, the gentleman from Massachusetts and him to know that we in the House owe them a great debt of service for all they have done for the transportation needs of this country. I want to offer my congratulations to them.

Mr. CONTE. Mr. Chairman, I want to thank the gentleman from Pennsylvania.

I might say, the gentleman from Pennsylvania (Mr. McDADE) is not on this subcommittee, but his imprints on this bill are in many, many pages of the bill.

Mr. McDADE. For which I am eternally grateful, may I say to my friend.

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

□ 1150

Mr. OBERSTAR. I thank the gentleman for yielding this time. I take this opportunity at the outset of consideration of the transportation appropriation bill to thank the chairman of the subcommittee for his concern for the need to have fixed aids to navigation established on the Great Lakes and in the Delaware River. The gentleman has been most patient in listening to my pleadings on behalf of interests not from my district, because the aids will not be located anywhere in the Eighth Congressional District, but elsewhere in the Great Lakes and the interconnecting channels, serving navigation and commerce throughout the lakes.

The $5 million budget item for fixed aids to navigation will prove immensely helpful.

I also want to thank my colleague from Minnesota, the gentleman from Minneapolis (Mr. SABO), who has shown great understanding and sympathy to this need for fixed aids to navigation and has fought for the funding last year, and even though we did not succeed, he came back again and supported the funding this year. I am grateful, as I know navigation interests throughout the Great Lakes including industry, agriculture, and iron ore mining which depend on reliable shipping, also express their gratitude.

I have worked for several years to get funding for fixed aids to navigation through the Coast Guard. Earlier, the Coast Guard had refused our request for funding, so we got an authorization bill passed, and then the administration refused to put funding into it. Finally, this year, the gentleman from Oregon (Mr. DUNCAN) has been very understanding and has included funds from this fixed aids program.

What I want to point out is that while the buoys, removable buoys in the narrow channels throughout the Great Lakes are less expensive and are removed in the fall and replaced in the spring, they are very costly to maintain. But, more than that, they are not there when needed the most. In time of storm, in time of heavy ice flow during the winter months, the movable aids are frequently dislodged and dragged great distances, especially by ice floes.

The result is we have severe damage to ships which has cost over $6 million in repairs just in the last 2 years to lakers, and to the salties that come into the Great Lakes.

The Coast Guard earlier argued that they have the Loran-c system, and the mini-Loran chain of electronics navigational aids, and the shipmasters tell me:

> That is wonderful, that gives accuracy down to 50 feet, not much comfort in a 150-foot channel when you are steering a 150-foot beamed vessel 1,000 feet long.

The fixed aids to navigation will remain in place through a storm and through ice. They do not require much maintenance. They are the lowest cost aid to navigation that will endure for at least an estimated 50 years. Buoys, on the other hand require constant repair and maintenance and in addition cost an average of $400 per buoy per year just for removal and installation. Furthermore, the savings in lives, repairs, maintenance, and avoided damages to cargo and vessels will make this a most valuable and enduring investment.

So I am, again, very grateful, speaking also on behalf of my colleague from Delaware (Mr. EVANS) who has joined with me in supporting this effort and I thank the committee for their support.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I want to join in congratulating the great chairman of the subcommittee. He is a great chairman. He is my chairman and he is also my friend. There is no one more knowledgeable or diligent as chairman of any subcommittee in this Congress. I know particularly the hours that he has worked on this bill and the effort that he has put into it. The knowledge that he has of the entire field of transportation is surpassed by no one in this Nation. It is going to be a great loss to this Congress, it is going to be a great loss to this Nation, it is going to be a great loss to the State of Oregon when he departs from these halls.

Let me also compliment my friend, the ranking minority member of the subcommittee, the gentleman from Massachusetts (Mr. CONTE) who has the staggering job of being both the ranking minority member of the full Appropriations Committee and the ranking minority member of this particular subcommittee. That is a job that consumes immense amounts of time and energy on his part, and he does it well.

This is a difficult bill. It is a difficult bill in a period of fiscal austerity, particularly in a time when we have so few programs in the Federal Government that are really controllable. Most of the programs that are contained in this bill are programs that are not entitlement programs as such. Yet many of these programs are programs that have a very direct bearing, many have a very direct bearing on the energy crisis that we have in this country. So I think the bill that has been brought before us by the distinguished chairman and ranking minority member has been a sensitive and a thoughtful bill.

The chairman and the ranking minority member have been particularly sensitive and thoughtful to the needs of mass transportation. Very substantial sums are appropriated in this bill for urban discretionary grants. The bill appropriates $2.2 billion for those grants in mass transportation, which is $510 million more than last year.

The bill increases the funds for buses and bus procurement by $195 million. It increases the funds for fixed guideway modernization and extension by $220 million.

The bill also provides additional funding for people movers and for new systems. This is all in the urban discretionary grants. I congratulate the chairman and the ranking minority member for this.

Urban formula grants are increased somewhat, although they do not fare quite so well as the discretionary grants. There is an increase of about $95 million in that area.

I have discussed with the chairman and the ranking minority member, and hope they will accept very minor transfer of some $30 million from the discretionary grant program to the formula grant program to provide a small amount of additional assistance to the very hard-pressed transit authorities in our big cities which are facing escalating energy costs and escalating costs generally. At least in my judgment the increase that is provided in the bill now does not even go toward a cost of living kind of increase for those organizations.

Mr. Chairman, the chairman of the subcommittee has mentioned the need to closely examine the role and the future of the Coast Guard. I commend him for that because I think that is an examination that is necessary as we look at the future of the Coast Guard and as we look at the missions that we are all calling upon it to perform. It has to be adequately prepared to perform those missions.

In addition, one of the favorite projects of my distinguished ranking minority member, the Northeast Corridor, has been provided with substantial funding to provide for additional improvements in that area.

The subcommittee looked closely at the FAA, the FHA, the National Highway Traffic Safety Administration, the Federal Railroad Administration, the National Transportation Safety Board, the Civil Aeronautics Board, the ICC, the U.S. Railway Association, and a host of other agencies that come under the jurisdiction of this subcommittee.

It did a thorough job. It brings my colleagues a good bill.

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I want to thank my good friend from Oregon for giving me this time to discuss a couple of issues that are of great importance to me and my constituents in this legislation. It is not my intention at this time to offer amendments that might affect these particular areas, but it certainly is my intention to call upon the House and this committee, hopefully to have the chance of discussing with the committee, some of the problems that are facing us.

First, one of the two that I want to discuss deals with the FAA, the Federal Aviation Administration, and its proposed regulation changes that are about to take place. If no changes take place, they will go into effect in January. This deals with the limiting of flights, the changing of the scheduling of flights, flight slots, into the National Airport in Washington.

□ 1200

At a meeting held last evening with the chairman of the subcommittee and the Administrator of the FAA and Secretary of Transportation, Mr. Goldschmidt, the impact of the changes that they are making, which is basically to reduce by four slots an hour the number of flights into National Airport and by shortening the time period during the day when planes can land at National Airport, is going to affect probably 80 flights a day. The potential impact of this in my own area—and it will have impact on many areas around the country—is that Air of Florida, which provides the service for the Westchester-Connecticut area to Washington, could be eliminated.

On questioning both the Secretary and the Administrator, neither one could state what the impact of this regulation would be, and we asked this very carefully because they said, "Well, we think you are being unnecessarily concerned about this." And I said, "Well, then, in that case simply reassure me and tell me that the impact that I am suggesting will not take place." They said very plainly they could not give me that kind of assurance. I would like to say that rather than trying to restrict in an appropriation bill the moneys going into FAA or moneys going into National Airport, because I do not really think that is the way to legislate, I would ask the committee chairman at this time if he will give me the assurance, which is certainly enough for me, that this particular issue will be under observation of his committee and there will be a definite concern mentioned by the committee on the prospects of what this regulation change could bring.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be delighted to yield to the gentleman.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

I think it goes without saying that what the gentleman says is correct. We are interested in it, as we are interested in all of the activities of the FAA. I think evidence of that is the fact that we had a meeting last night attended not only by the Administrator but by the Secretary himself. We certainly want to work out circumstances under which we can continue to enjoy the convenience of National Airport, again consistent with the interests of the people in this area who consider themselves to be adversely affected, and to try to fairly divide the slots so as to do the most good for the largest number.

I might suggest, if the gentleman will yield further, that one of the basic reasons why the Secretary or the Administrator could not give any assurances as to what the impact of these changes might be is because we are now operating in a deregulated environment, and market demands can cause changes in service even without the influence of changes at National Airport. The gentleman is working for his district, and he deserves to be congratulated for it. What he is concerned about is that the Government do nothing artificially and unjustifiably to adversely affect those market forces. The gentleman is willing to live with those market forces, as I understand.

Mr. PEYSER. That is correct. That is exactly correct.

Mr. DUNCAN of Oregon. Yes. We are concerned about that, too. I do not think anybody can say that any changes at all will not have any adverse impact on anybody, because it is always going to hurt some and help some. The things we are trying to do is devise a system that will help the most.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DUNCAN of Oregon. I yield 3 additional minutes to the gentleman.

Mr. PEYSER. I appreciate what the gentleman said. The point is if the market operates, I have no problem. If the FAA is going to operate in a way to eliminate the ability to answer the market need, that is where the problem would be, and I welcome the assurance of the chairman that he will follow this issue.

The next issue I want to touch on, which really affects in my district a thousand times more people than this particular one, is the operation of the railroads in my area and specifically Conrail and the operation of MTA, who operate together. The funding comes from UMTA, which, of course, is in this legislation. We in the Metropolitan New York area for the past several years now, since the advent of Conrail taking over the commuter operation and MTA having the authority of handling the money, have been in a steadily declining disastrous situation. It has been climaxed this year by the commuter trains in our area, which handle hundreds of thousands of passengers daily, having air conditioning not functioning in now nearly 50 percent of the cars at one time or another and having no way of opening windows or doors, and having the most extreme problems of scheduling in what anyone would determine to be actually a terrible service situation.

I do want to pay tribute to the Federal Railway Administration, who is also funded under this bill, and I want to give them credit for the fact that I requested a study be made by them last fall on the Hudson and Harlem division of Conrail, and they made that study and completed it, the first time a Federal study was made of these commuter lines. The result of their study which was released in December was that the Conrail operation would grind to an absolute halt within the next 2 or 3 years unless radical changes were made in that operation. This report, of course, is available for all Members.

But the point is, Mr. Chairman, we are giving nearly an 8 percent increase this year, as I understand it, into the Urban Mass Transit Administration. I obviously support more money into mass transit, but I think that we had better begin to look at, and perhaps even in the report language begin to say, that if these railroads that are the recipients of UMTA money cannot function and cannot service the communities that we are providing the moneys for, then we had better grab hold and either stop the funding of those types of lines that cannot function or demand, if they are going to receive Federal moneys, that certain things are going to have to happen.

Mr. Chairman, I think we are dealing with not only the inconvenience of hundreds of thousands of passengers but we are dealing with safety factors where the risk is growing daily, where the Federal Railway Administration report clearly indicates that safety is a major factor here, and I just hope that we in this Congress and the appropriation committees that are dealing with this will no longer go along with assuming that the Federal tax dollar is being well used on these programs, because in the case that I am pointing out they are not well used. I think in the future we perhaps had better start getting a closer handle on these moneys, unless changes can be brought about.

I thank the Chairman for the generous giving of his time, and I yield back the remainder of the time.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Miller), a member of our committee.

Mr. MILLER of Ohio. Mr. Chairman, I take this time during general debate to compliment the chairman of our Subcommittee on Transportation, the gentleman from Oregon (Mr. Duncan), for his hard work and dedication and talent. We on the committee have seen this gentleman in operation, and he is undoubtedly more knowledgeable about the problems of transportation than any other gentleman in the House of Representatives.

We also have another very talented gentleman, and that is the ranking minority member, the gentleman from Massachusetts (Mr. Conte). He has been in the Congress for 20 years and always has the appropriate knowledge and information, not only on the Transportation Subcommittee, but also on the other subcommittees of Appropriations. He must spread his time between the other subcommittees since he is the ranking minority member of the full committee, he is also a member of all of the subcommittees. This certainly consumes his time. I do not see how it is possible for him to spread himself so thin and still do the remarkable job that he does.

I also wanted to convey a message about a reduction in the bill. The gentleman from Massachusetts had stated that he would hope that I would not offer a reduction of 2 percent on the transportation bill. I plan to do that, to offer the 2-percent reduction. The gentleman from Massachusetts mentioned the work that the Coast Guard has done and the need for that $1.8 billion in the bill, and the work that the FAA has done and the need for that $2.7 billion in the bill.

☐ 1210

I agree with the gentlemen from Massachusetts that they both have great responsibilities, but this bill before us today has been increasing about $1.5 billion per year. That section of the bill which is nonmandatory, that the 2 percent reduction amendment would apply to, is approximately $11 billion and the 2 percent reduction would be $230 million.

Now, Mr. Chairman, we have heard some very good things concerning urban mass transportation and, undoubtedly, urban mass transportation is needed. Whether we need to go as far as we have for urban mass transportation is a difference of opinion. But the $230 million, or the 2 percent reduction, if all of it were removed from urban mass transportation, no other item would need be reduced. I do not propose to remove all of the $230 million from urban mass transportation, but some could come from that area.

To tell the truth, Mr. Chairman, in offering the 2-percent amendment I am really hoping to make the job of the chairman and that of the ranking minority member a little easier in conference, because someone else will be taking the responsibility for the House side saying that we shall reduce $230 million.

Mr. Chairman, it is important at this time, because of the problems in the size of the national debt and the increase in spending, that we find a way to reduce. It is not a way to make friends and influence people for us to come to the floor of the House and offer of an amendment to reduce this bill. Much hard work has been put in by the members of the committee, mainly the chairman of the subcommittee, the gentleman from Oregon (Mr. Duncan) and the ranking minority member, the gentleman from Massachusetts (Mr. Conte).

No, it is not easy to do. I have had an opportunity to speak with the gentleman from Oregon about reducing spending, biting the bullet and his remark was that he, too, bites the bullet, he has tasted it and it does not taste good.

It is true because we are flying in the face of the hard work of the people who put the bill together, but I have strong feelings that we must reduce our total outlays.

Since this bill is $103 million over the budget allocation, this will give us an opportunity to reduce the outlays.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. Abdnor).

Mr. ABDNOR. I thank the gentleman for this time, Mr. Chairman.

Mr. Chairman, on Friday, July 18, I met with officials of the Federal Railroad Administration to discuss prospects for continued service on the Miles City line of the bankrupt Milwaukee Railroad. This line is absolutely vital to my State. It provides access to west coast ports for the export of our agricultural products, and it provides the only access for coal shipments to the massive Big Stone powerplant as well. Some of the larger northern and northeastern South Dakota communities served by the line include Milbank, Webster, Aberdeen, Mobridge, and Lemmon.

In meeting with FRA's Deputy Administrator, Mr. Bob Gallamore, and Director of Freight Assistance, Mr. Jim Hanscom, I was greatly encouraged. Not only did they express FRA's sympathetic attitude toward assisting to keep the Miles City line in operation as a part of the restructured Milwaukee system, but they voiced the opinion that the line will survive almost without regard to the outcome of the Milwaukee reorganization. They emphasized the close working relationship they have enjoyed with the State of South Dakota and commended the attitude and efforts of State Rail Director Jim Meyers.

Our discussions with FRA have been encouraging indeed. I know that Mr. Jim Rothstein and Mr. Gene Chamberlain, who accompained me and represented the mainline task force, share the optimism I gained from the meeting, as far as FRA's willingness to help is concerned. FRA's ability to assist in preserving service on the Miles City line is contingent upon their having both the authority and funding required, however.

The following are excerpts from a July 28 news release from the Milwaukee Railroad which gives an indication of the trustee's resolve to keep the Miles City line in operation, as well as an indication of the willingness of the bankruptcy court to facilitate continued service:

> The Milwaukee Road's Reorganization Court today moved the bankrupt railroad closer to the full rehabilitation of its potentially reorganizable routes and to the sale of those portions of its abandoned lines where a need for continuing rail service exists.
>
> U.S. District Court Judge Thomas R. McMillen today entered orders which . . . approved the receipt of a grant of $2 million from the State of South Dakota to be used to rehabilitate 118 miles of the Milwaukee's so-called Miles City line . . .
>
> The agreement with South Dakota is part of a two-part transaction which, in total, will provide some $4 million in interim rehabilitation for the Miles City line beginning this year. The Miles City line is vital to Minnesota, South Dakota and North Dakota as a coal route and also as a western outlet for agricultural products of these states. Trustee Ogilvie has indicated that the line, which extends from just west of Minneapolis-St. Paul to Miles City, Montana, can remain in "Milwaukee II" only if its rehabilitation is assisted by the affected states and shippers.

The $2 million in rehabilitation funds

> covered by today's action will be obtained by South Dakota and North Dakota under the local rail service assistance provisions of the Federal Railroad Revitalization and Regulatory Reform Act. The state funds will be matched by $500,000 from Trustee Ogilvie as required by the Act, which will be obtained from the proceeds of a pending freight-rate increase on coal moving from Gascoyne, North Dakota, to Big Stone City, South Dakota.
>
> The $2.5 million will be used to upgrade crossties and ballast on 118 miles of the line between Gascoyne and Miles City, where "Milwaukee II's" traffic density is sufficiently light to meet the criteria of the federal law. The proposed partial rehabilitation will permit continued operation over the line, eliminating "slow orders," and from the state's point of view will preserve a rail gateway essential for the national marketing of South Dakota's agricultural products and provide future access for the proposed South Dakota state system of railroad lines to the national rail system, according to papers filed with the Court.
>
> In the other part of the transaction, approximately $1.5 million also derived from the freight-rate increase on coal moving to Big Stone City will be applied by the Trustee's forces to the installation of ties and ballast on portions of the Miles City line east of Gascoyne.
>
> Except that in this transaction the railroad is providing matching funds, the agreement approved today, and the track work to be done, are similar to agreements covering $2 million in rehabilitation for the Miles City line worked out a year ago under the leadership of South Dakota. Major rehabilitation of the Miles City line, a project which will cost some $43 million, is expected to be the subject of a later application by the Trustee under the 4R Act.

While the Trustee cannot at this point commit the Milwaukee to continued service on the Miles City line, nor can Judge McMillen commit the court to approving such continued service, approval of the current agreement formulated by the State of South Dakota is a step in the right direction. It is with regard to the necessity of additional rehabilitation financing under the so-called 4-R Act, however, that I would like to engage the distinguished chairman of the subcommittee, the gentleman from Oregon (Mr. DUNCAN), in a colloquy.

It is disturbing to those of us in South Dakota who are vitally concerned with the preservation of service on essential rail lines in our State, that the fiscal year 1981 appropriations before the House today does not contain funding for the section 505 assistance program. Preservation of service on the Miles City line will require about $43 million in rehabilitation work, and the bulk of this funding must come from the 505 program.

Mr. Chairman, I recognize that the authority for this program expires at the end of this fiscal year, but the extension is contained in the Rail Act of 1980, which is expected to become law soon.

It is my understanding that the committee will give consideration to the necessary funding for fiscal year 1981 on a timely basis, once the authority has been extended. In addition, I understand there may be some funds which will be carried over from fiscal year 1980 and which will be available for obligation in fiscal year 1981. I was wondering if the chairman of the subcommittee would confirm my understanding and help to allay some of the concern we have about prospects for rehabilitation of the Miles City line?

Mr. DUNCAN of Oregon. Mr. Chairman, I would say the gentleman addresses himself to one of the problems I mentioned in my opening remarks; namely, the $512 million in requests from the administration for which we are deferring action. In that group is $250 million for railroad restructing. We do have a budget request now but it is still not authorized. The authority will expire at the end of this year. The gentleman is quite right. There is a railroad bill which was pulled off the floor here a couple of days ago. We fully expect some kind of a reauthorization bill before the end of the year. One of the problems we are going to have to face is squeezing some money out because I agree with the gentleman that this is an important area in which the Federal Government can help the private sector to reorganize. To the extent the Federal Government can help a little bit to encourage the preservation of these roads in the private sector, I want to do it. In order to accomplish that we are going to have to make some adjustments somewhere else or else come out with a higher budget resolution which takes the lid off everything and I do not think anyone really wants to do that.

One of the objectives of this committee will be to try to figure some way to get part of that $250 million for this program next year.

Mr. DUNCAN of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I will be introducing today a very modest amendment to the appropriations bill. It will provide $10 million for the only Federal program designed exclusively to encourage and enhance bicycle use.

The Department of Transportation has proposed a target goal of 1½ million to 2½ million bicycle commuters per day by 1985. This would save between 26,000 and 50,000 barrels of oil per day. The total energy savings from bicycle use in 1985 could be 16.4 to 23.5 million barrels per year or 55,000 or 77,000 barrels of oil per day. These figures are from a Department of Transportation report dated April 1980.

Think of the potential savings to the public.

Think of the decreased dependence on OPEC.

Think of our present balance of trade deficit.

Think of a cleaner environment.

If 1 percent of all automobile trips of 5 miles or less were made by bicycle instead, we would save 131 million gallons of gasoline per year. Without my amendment, the only Federal program exclusively for bicycles will cease operation.

Last year a similar amendment was defeated. We had a respectable vote. Those who voted against it then knew that even though the amendment might be defeated, we would still have a backup of $4 million in the bill.

Mr. Chairman, I want to point this out that this year, if nothing is appropriated, our backup is nothing because there is nothing currently in this bill.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the gentleman is not quite correct. If the gentleman will forgive me, the $4,000,000 we appropriated last year has been allocated to the regions but we are advised by the Department that the funds have not yet been obligated. I might say, also, under the Federal-aid highways programs, funds are available within the overall limitation of $8.75 billion for bicycle paths. My understanding is that about $45 million is available and that the States have spent approximately $20,000,000 for bicycle paths.

Mr. Chairman, I want the gentleman to know that the committee is not opposed to the increased use of bicycles. We think bicycles are useful devices. We think, however, this is an area in transportation where the responsibility should largely be assumed by the States and by local government.

☐ 1220

Mr. ANDERSON of California. I just wanted to supply the exact figures there. I have the data on what is left from last year's appropriation and from the 1976 demonstration program. In 1976, we did have $6 million for a demonstration program. Five point six million dollars of that is gone, and the other $400,000 has been committed.

There have been some hassles between a few of the funding recipients and the Department of Transportation. But that money is gone—it is committed—and the same is true for the $4 million from the fiscal year 1980 section 141 fund. That, for the greatest part, has all been committed.

There were $40 million in requests for the 1980 money but we only had $4 million to spread around. It had to be given out to 10 different regions, and when you think of giving a region like mine, which includes California, Arizona, Hawaii, and Nevada, only $400,000 you will realize that it will not go far. It is, as I said, virtually all committed and gone, and we had many other good requests from around the country which will go unfunded.

Mr. DUNCAN of Oregon. If the gentleman will yield, we are arguing about words. We agree that the money has been distributed to the regions. The information we have is apparently somewhat different from the gentleman's information. Perhaps these funds have not yet been obligated. But the funds have been appropriated and, of course, the gentleman has not discussed the considerable sums of money available under the regular Federal-aid highway primary and secondary programs.

Mr. ANDERSON of California. Bicycle projects would have to compete, with highway projects and the highway lobby, and probably would get nothing.

Mr. DUNCAN of Oregon. That is a decision which ought to be made by the local units of government.

● Mr. PURSELL. Mr. Chairman, I rise in strong support for the amendment offered by the gentleman from California (Mr. VAN DEERLIN). Certainly if we are to meet the challenge of energy savings and increased ridership we must develop corridors outside of the Northeast corridor—the only corridor to see high frequency/high performance designations. The success of improved rail systems has been proven, as Europe's example can teach us. Now is the time for the United States to develop our rail system to a point where ridership and cost-savings can benefit our long term energy and transportation needs.

The authorizing legislation, the Passenger Railroad Rebuilding Act, signed into law May 30, 1980, contained $38 million primarily for feasibility studies for the 11 passenger corridors specifically mentioned in the bill, and other corridors which meet potential energy savings and ridership criteria. The $6 million included now in the funding bill will hardly begin to act on our commitment to a strong rail passenger service. If we are to affirm that commitment, we can no longer put off, until a last-minute, crisis situation exists, the beginning of alternative transportation means in this Nation.

I urge my colleagues to act on our commitment to rail passenger service by supporting the amendment, which will make a valuable contribution to relieving energy and congestion problems in our densely populated corridor areas.●

● Mr. HAGEDORN. Mr. Chairman, while I intend to support H.R. 7831, the transportation appropriations bill for fiscal year 1981, I have many reservations about the legislation that I would like to address briefly.

First, Mr. Chairman, I believe the committee has made a serious mistake in not permitting the highway trust fund balance to be drawn down to fully fund important programs which have demonstrated life-saving capabilities. The 55-mile-per-hour-enforcement program, and the highway safety R. & D. program are two clear examples of this.

The balance in the highway trust fund is getting bigger and bigger each year, but we cannot spend these funds. This simply does not make any sense—unless you are a member of the Democratic majority in Congress trying to camouflage the real level of deficit spending. This bit of budgetary trickery should not go unnoticed by the American people.

Let me explain. The so-called unified budget which puts all available revenues on one side of the ledger and all obligations on the other side, lumps this $12 billion trust fund balance in with general revenues to show a larger amount of money that is really available to fund other Government programs. Therefore, questionable social welfare and other budget-busting programs can be funded without the American people ever knowing their real cost in terms of the budget deficit.

The same thing is happening with the aviation trust fund. Proven life-saving programs are being held back while a budgetary charade is being perpetuated by the administration. Funding in both the highway and aviation trust funds is earmarked for these programs and should be so utilized. The trust funds should not be abused to suit the political purposes of the administration and the Democratic majority.

Second, Mr. Chairman, this appropriations bill is deficient in meeting the transportation needs of rural America. The restoration of the Nation's rural transportation system is a national priority. The capital investment necessary to rebuild aging highways and bridges, expand obsolete locks and restore deteriorated branch lines is literally immense. Deferred maintenance of our rural highway system is fast approaching the levels which led to the rapid deterioration of our railroads. We simply cannot afford to let this happen if we are going to maintain our transportation system as the finest in the world and meet the transportation needs of rural Americans.

An excellent example is the demise of the safer off system roads program. I think the President in his budget request and the committee in this bill have made a serious mistake by omitting funding for the safer off system roads program. The existing fiscal year 1981 authorization for this important program is $200 million. Yet, despite this fact and despite the fact that the program has been extremely successful, particularly in rural America, there are not funds. In Minnesota, moneys from this program have in the past been put to use to repair and replace deteriorating bridges. But now necessary funding for this top priority project are now being cut back. I think this is a serious omission, Mr. Chairman, and I think the committee has erred.

In sum, Mr. Chairman, I reluctantly support the measure before the committee. There is a lot of good in this bill, but there is vast room for improvement. I wish the administration and the Democratic majority would stop playing games with the highway and aviation trust funds and level with the American people about our budget deficit. I wish greater attention were given to the needs of the people in rural America. And finally. I wish this Congress would do something constructive to promote growth in rural America as it does continually in trying to restore the inner cities.

I think it is a disgrace that Congress eagerly approves countercyclical funds for our inner cities, while ignoring the unmet needs of the countryside. Mr. Chairman, I hope that future Congresses will produce a better balance, so that unmet needs, whenever they occur, can receive proper attention and priority.●

● Mr. BEILENSON. Mr. Chairman, I strongly support Congressman ANDERSON's amendment to the transportation appropriation bill, which would provide the greatly needed funding for the bicycle program that is authorized under the Surface Transportation Assistance Act.

Simply stated, bicycles are important in attaining two goals that Congress and the Nation consider top priorities—energy independence and clean air.

We have a responsibility to do everything reasonable to bring our Nation closer to those goals; and encouraging the use of the bicycle is one of the most-neglected approaches for realizing those objectives.

The use of the bicycle for commuting is already so widespread that this conservation measure really requires little more from us than minimal encouragement. Cities and towns simply cannot afford to remove the hazards and barriers to bicyclists inherent in our transportation system—which is almost totally motor-vehicle oriented—and to educate the public and cyclists about safety without this very nominal assistance from the Federal Government.

Surely we can provide this small level of funding for a program that is cost effective and which uses such a small proportion of the overall budget of the Federal Highway Administration—especially when we compare it to the eventual savings in energy and to the contribution toward a cleaner environment that would result from increased use of bicycles.

The roads and highways that have been built by Federal funds were not constructed with bicycle commuting in mind—but we can take the very modest steps needed to assist localities willing to work with cyclists so that past mistakes can be corrected, if we approve this amendment.

The bicycle program embodies a painless approach toward energy conservation and clean air; it must be allowed to continue its work.●

● Mr. CLINGER. Mr. Chairman, section 104 of H.R. 6417, the Surface Transportation Act of 1980, authorizes a new program designed to alleviate hardships directly related to increased domestic energy production and the accompanying increase in the transportation of heavy and bulk materials.

Renewed recognition of coal as one of our most important domestic energy sources has produced efforts to open new fields and to expand capacity of existing ones. As a consequence of our increasing reliance on coal, the amount of coal being shipped by rail and highway has increased dramatically, adversely affecting many communities and their transportation systems.

As noted in the report of the public works and transportation committee, recent studies show that 34,000 miles of road in 21 States are used for coal hauling, and three quarters of the coal road system will require correction of structural deficiencies between now and 1985. My own home State of Pennsylvania has a great need for coal haul road improvement. Our rural counties are putting substantial sums into coal haul road repair. However, these roads continue to be in bad repair because heavy coal trucks are so hard on roads not originally designed to handle heavy axle weights.

Section 104 of H.R. 6417 will authorize the secretary to make grants to reconstruct, resurface, restore, and rehabilitate nontoll public roads that are incurring a substantial use as a result of the transportation of energy materials. In addition, the secretary will be authorized to make grants for projects that alleviate the impact of increased train traffic resulting from the transportation of energy materials.

While the Senate has approved a similar provision in S. 2720. The House has not yet completed work on this authorization. Therefore, an appropriation for the coal haul roads program has not been included in H.R. 7831, the transportation appropriations bill we are now considering.

Our energy program requires us, in the name of economic recovery and national security, to make greater use of our own vast resources, including coal. Since the increased use of domestic energy sources is essential to our national energy program, we must make sure that regions providing this energy are not saddled unfairly with the economic burden of upgrading roads that benefit the Nation as a whole.

I, therefore, urge my colleagues in the Senate, who have already approved this program, to approve as well an appropriation for energy-impacted transportation systems. and also urge the House conferees on this appropriations bill to support funding for the program when the bill is considered in conference.●

Mr. CONTE. Mr. Chairman, I have no further requests for time.

Mr. DUNCAN of Oregon. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles, seven for replacement and one new passenger motor vehicle (ambulance); and recreation and welfare, $1,206,967,000 of which $233,935 shall be applied to Capehart Housing debt reduction: *Provided,* That the number of aircraft on hand at any one time shall not exceed one hundred and eighty exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation, and, notwithstanding any other law, the Secretary may presribe fees to recover the expenses of yacht documentation.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: On page 3, line 7, strike: "1,206,967,000" and insert in lieu thereof "1,207,031,000".

Mr. EMERY. Mr. Chairman, this amendment is very simple. It would add $64,000 for advanced engineering and land acquisition and site selection money for the location of a helicopter search and rescue facility on the coast of Maine. As you know, we have had extensive problems over the last several years with increased boating traffic off the coast of Maine, and unfortunately, existing helicopter search and rescue facilities from Cape Cod are not helpful in some cases. They simply are located too far away to respond adequately in cases of boating accidents or problems further down East.

At the present time, mid-coast Maine is approximately 1½ hours flying distance under the most favorable conditions from the Cape Cod facility. I should point out that one of the reasons that search and rescue facilities in New England have been either curtailed or have not been expanded is due to the increased expenses and the lack of necessary appropriations for the Coast Guard. In the past, the single helicopter has been relocated from Otis Air Force Base to a forward operating base in Maine to cover the peak boating season. Due to financial problems and changes in Coast Guard procedures, that has not been done.

Unfortunately, in February we had a disaster where two fishermen drowned. The helicopter was unable to arrive at the scene in time to perform a rescue. I feel that this should be a top priority for the Coast Guard not only in Maine, but in other localities where the coastline, the nature of boating, the weather conditions, are a very real hazard not only to weekend boats but to men and and women who earn their living from fishing and other marine activities.

I should also point out that the report from the Merchant Marine and Fisheries Committee, for the Coast Guard authorization, stated on pages 14 and 15 that facilities located on the coast of Maine and also Cordova, Alaska, ought to be priorities for the Coast Guard search and rescue operations.

The amendment that I offer would provide money for advanced work, for location of such a facility on the coast of Maine. I think the need and merits of this proposal speak adequately for themselves.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise reluctantly in opposition to the gentleman's amendment. Except for the inherent beauty and superior ruggedness and features of the Oregon coast, there is a great similarity between the Oregon coast and the Maine coast, particularly between the problems we face in search and rescue. I understand everything the gentleman is talking about, and I am very sympathetic to the gentleman's problems and want to help.

I do resist, however, adding $64,000 to a budget of $1,878,000,000. I am convinced that within those appropriated funds the Coast Guard can find the money to deploy a single helicopter under the circumstances that the gentleman has outlined. I think he is to be congratulated because he has taken it upon himself to find some military facilities to cut down the total cost. That is what this Government has to continue to do.

I wonder if the gentleman would be satisfied if I gave him my assurance that I will go to the conference and attempt to get some language in the conference committee report suggesting that within the amounts available, that a helicopter be deployed in accordance with the statement the gentleman has made. I would be perfectly willing to do so, and I assure the gentleman that had he brought this matter to the attention of the commitee, I think we could have handled it in that fashion in our report.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman very much for supporting a relocation of a helicopter on the coast of Maine. It would be very helpful indeed. With that understanding, I will ask unanimous consent to withdraw the amendment.

I might also say that a considerable amount of work has gone into analyzing a suitable location in order to reduce the cost of either operating a single helicopter or deploying a facility on the naval air station.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I concur with the gentleman from Oregon. As the gentleman in the well knows, I am most familiar with his State. In fact, at one time it was part of Massachusetts, and so we have a lot of interest in Maine and I know the problems he has on the coast of Maine.

Certainly, I would go along with putting some language in over in the Senate and getting the Senate to put some language in the report that a helicopter should be provided and relocated in Maine, at least during the boating season in the summer months.

I might say to the gentleman from Maine, if the gentleman from Ohio offers his amendment to cut this budget by 2 percent, I hope the gentleman from Maine is going to vote against it because its adoption will make it much more difficult to try to get my helicopter fund together.

Mr. EMERY. There is one additional matter I ought to mention. That is, that the gentleman's own State is very much dependent upon a facility located on Cape Cod, and it is not my intention to ask that one of those helicopters be removed from that facility.

Mr. CONTE. No way.

Mr. EMERY. I would not want the ranking minority member or the gentleman in the chair behind me to become very concerned about this amendment. I would hope it would be an additional helicopter.

Mr. CONTE. I assure the gentleman in the well, that I am not concerned.

Mr. EMERY. I thank the gentleman for his interest.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine to withdraw his amendment?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and purchase of one aircraft; to be derived from the Airport and Airway Trust Fund, $359,000,000, to remain available until September 30, 1985: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That no part of the foregoing appropriation shall be available for the construction of a new wind tunnel, or to purchase any land for or in connection with the National Aviation Facilities Experimental Center, or to decommission in excess of five flight service stations.

☐ 1230

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the subcommittee deliberations, the subcommittee chairman was very, very cooperative with the delegation from the city of Philadelphia in helping to obtain additional funds for the relocation of the air traffic control tower at Philadelphia International Airport.

If I might have the subcommittee chairman's attention for a moment, in the course of the discussion in the subcommittee concerning the Philadelphia International Airport control tower, as I understand it, the liability of the city of Philadelphia for the relocation of that control tower, including the duct work, was to be limited to $1.2 million. I believe I am correct in that understanding.

There apparently has been some confusion about the total cost of that facility, and as to what appropriation would be required other than the $1.2 million to be supplied by the city of Philadelphia. There is a question of whether completion with the duct work will require $2.25 million or $3.45 million, but the understanding at least was that the city's obligation to fund that airport tower would be limited to $1.2 million. I will ask the subcommittee chairman, is that correct?

Mr. DUNCAN of Oregon. Mr. Chairman, if the gentleman will yield, the committee has discussed this subject on page 21 of its committee report.

The gentleman is quite right. We did make an assumption of some $6 million plus as the total cost of the project, and we allocated that amount both to the city and to the Federal Government.

This is a matter that has been pending for a long period of time. It has been subject apparently to a great number of misunderstandings. Apparently we thought we had reached agreement on at least one occasion in the past and then found the thing blown wide open again.

The committee made an effort here to settle this once and for all. If there is a disagreement—and there apparently is, accordingly to the document the gentleman has handed me in which he indicates there is a $1.2 million difference in the estimates of the overall cost. I cannot, however, make a commitment to the gentleman beyond what is in our committee report. I am perfectly willing to sit down with the gentleman and attempt to work this out on an administrative basis with the FAA.

I do not think we can make any decisions here on the floor. I think before we can make any decisions, we have to get a definitive statement as to what the total cost of this project is.

If the gentleman will go along with me, I will make an effort to call a meeting, to which the gentleman and any of his colleagues he wishes will be invited to attend, to see if we can resolve this.

I think we have gone a long, long way to try to accommodate the problems of Philadelphia. Until this very morning I did not know there was any problem with duct work. This is the first I have heard of duct work. I will be glad to work with the gentleman in trying to solve this problem.

Mr. COUGHLIN. Mr. Chairman, I appreciate that cooperation. I was just concerned about the understanding that was reached in the subcommittee, which was that the total liability of the city of Philadelphia for the relocation of this tower including duct work would be limited to $1.2 million.

Mr. DUNCAN of Oregon. Mr. Chairman, I think I can agree on that statement, based on the committee's understanding of a total cost of $6.5 million. We likewise felt that we were limiting the Federal Government's obligation on this particular project.

If we have a problem with the total amount which makes those allocations inappropriate, I think we are going to have to sit down and take a look at it. I am perfectly willing to do that. We would like to get rid of the Philadelphia control tower as a problem for this subcommittee.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague, the gentleman from Philadelphia, Pa.

Mr. GRAY. Mr. Chairman, I would also like to join in my colleague's point of view, and that is that it is the understanding of those of us from Philadelphia also that the total liability for the city of Philadelphia was $1.2 million.

I am certainly glad that the gentleman from Pennsylvania (Mr. COUGHLIN) has raised this question, and I certainly would hope that the distinguished subcommittee chairman would not "get rid" of the city of Philadelphia at all.

Mr. DUNCAN of Oregon. Would not what?

Mr. GRAY. Get rid of Philadelphia.

Mr. DUNCAN of Oregon. Mr. Chairman, if the gentleman will yield further, I came into this problem late, but my understanding is that it began in the first instance because the city of Philadelphia built a parking garage that necessitated the relocating of the tower. We tried to accommodate them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. Mr. Chairman, if the gentleman will yield further, we have tried to accommodate them, and we find the Federal Government's expense bill on this project going up and up and up. My understanding is that we originally got into it in order to try to accommodate the city of Philadelphia with respect to some development that was going on at or around the airport.

We have some problems. Regardless of what caused them, I am willing to sit down and try to help solve them. I will say to the gentleman that I am not prepared to say that the Federal Government ought to assume the full bill. If we have some disagreement as to the total amount, I think we have got to sit down and take another look at the total allocations.

Mr. COUGHLIN. Mr. Chairman, I appreciate the gentleman's cooperation, and I yield back the balance of my time.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to commend my good friend, the subcommittee chairman, the gentleman from Oregon (Mr. DUNCAN), and say that I will not only miss him in this body as an astute chairman of this subcommittee but as a good personal friend.

Prior to my arrival in Congress, I felt that the only political issue we could ever agree on was that the Russian revolution was in fact a Communist plot. But having worked closely with the gentleman on matters of aviation safety, I found him to be a fine person to work with, and I will sorely miss him. Mr. Chairman, I would like to ask a couple of questions of the gentleman.

Mr. DUNCAN of Oregon. Mr. Chairman, first, will the gentleman yield?

Mr. JOHN L. BURTON. I am happy to yield to my friend, the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the gentleman has found me to be very broad-minded and receptive to new ideas, too, has he not?

Mr. JOHN L. BURTON. Yes; I have. And your hair is growing longer.

Mr. Chairman, the subcommittee which I chair has been very interested in the problems of air traffic control, specifically in two areas: the lack of full staffing standards of air traffic controllers and in the problems that we are having with the radar that operates in several traffic control centers.

I saw language in the committee report talking about the fact that we have provided new positions, but the FAA has not utilized these positions for either journeymen controllers or even for apprentices.

Is there direction by the gentleman's committee to the FAA to bring up to the fullest possible standard its complement for air traffic controllers?

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I will be pleased to yield to my friend.

Mr. DUNCAN of Oregon. Mr. Chairman, I think the gentleman is referring to the language on page 16 of the report.

We have been concerned about the level of staffing of air traffic controllers and the amount of overtime that is being run in certain towers. We are advised that the failure to employ these additional people that we have authorized and financed has been the result of a freeze on employment, and that freeze has been variously described to me as originating in the Congress or originating in the Office of Management and Budget.

If it is the former, we may need to change the law. If it is the latter, then I hope the administrative agencies will read our committee report and be guided accordingly.

Mr. JOHN L. BURTON. Mr. Chairman, the Administrator of FAA told our subcommittee that he will continue to cut back and reduce the number of air traffic controllers, and somehow he has claimed that the fewer air traffic controllers we have, the safer our airways are. We have found this not to be the case, and I commend the committee for its direction to Mr. Bond and hope that he will follow it.

Let me ask, did the subcommittee provide any direction to them as far as improving their maintenance or upgrading their computerized radar systems, or did the subcommittee direct any portion of the committee report or the appropriations to that subject?

□ 1240

Mr. DUNCAN of Oregon. Yes, if the gentleman will yield. We discuss this on both page 16 and page 17 of our report. We have directed, as soon as any freezes are removed, that they are to direct their first and primary effort to hiring additional air traffic controllers and, further, that the large majority of these personnel are expected to be full-performance controllers and not trainees or supervisors.

Mr. JOHN L. BURTON. I would also request of the subcommittee chairman and the staff, as we do go on and when we are dealing with the FAA, that we have found that they are cutting back on the maintenance of the computerized systems, the systems that have been going out almost once a week in various control centers throughout the Nation, and at Fremont, which covers the San Francisco area, they have been averaging almost 3 every 2 weeks, and we have evidence that we will bring to the gentleman's attention, after further hearings, that much of this has been done through deferred maintenance and delayed maintenance in the name of economy. So I commend the subcommittee for their action, and we will bring further information to the gentleman's attention, in the hope that before the gentleman takes his leave of this body that we can one more time jab the FAA into doing what they are supposed to do, and that is to provide the highest level of aviation safety.

Last, I was going to propose an amendment to the gentleman's appropriation bill, but out of respect for the gentleman we will pursue that through the subcommittee of the gentleman from California, the Subcommittee on Aviation, to eliminate funding for the promotion of aviation from the FAA. But rather than burden the gentleman's appropriation bill with that, we will pursue the legislative process and get them into aviation safety and not, in the words of Administrator Bond, merely attending the Paris Air Show.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. If the gentleman will yield, I would like to say that my opinion of the gentleman has changed, too, somewhat since I have come to this body. If the gentleman will forgive me, I have been impressed with the quality of work and the diligence with which the gentleman has pursued his protagonists down in the FAA. I know the gentleman has done it without any thoughts of self-aggrandizement and without any spirit of vindictiveness toward any of the personalities downtown, but solely out of his devotion to improving the air safety of those who travel by air in this country. I want to assure the gentleman that our subcommittee shares the gentleman's sentiments entirely and has been pleased to work with the gentleman these past few years.

Mr. JOHN L. BURTON. I would like to associate myself with the gentleman's remarks, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CARPOOL AND VANPOOL PROJECTS

For necessary expenses in carrying out the provisions of section 126(d) of Public Law 95-599, $1,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 13, after line 14, insert the following:

BICYCLE PROGRAMS

For carrying out the provisions of subsection (c) of section 141 of the Surface Transportation Assistance Act of 1978, $5,000,000 out of the Highway Trust Fund, and $5,000,000 out of any other money in the Treasury not otherwise appropriated.

Mr. ANDERSON of California. Mr. Chairman, I rise to offer an amendment, to provide $10 million for the bicycle grant program under section 141 of the Surface Transportation Assistance Act of 1978, Public Law 95-599.

We all know that bicycling is good clean fun, a wonderful pastime, an invigorating way to spend a Sunday afternoon. But it is also a sound investment for our Nation in energy conservation, in fitness, in air quality, and in the use of scarce urban and road space. For each 1 percent of short auto trips, of 5 miles or less, which can be switched to the bicycle, 131 million gallons of gasoline each year can be saved. Such a saving is a useful step toward energy independence and toward improving our international balance of trade.

The bicycle has immense potential for moving large numbers of people, but we tend to forget about this potential until we are confronted with a major crisis such as the transit strike in New York City this spring. Once they had made the switch to the bicycle, tens of thousands of New Yorkers decided that this mode worked well for them, and they are sticking with it.

But because most of our Nation's system of roads and streets was designed without considering bicycles, some changes are needed to retrofit that system to make bicycle use safer and more attractive. These changes may include improved highway shoulders, wider curb lanes, removal of hazardous drainage grates, provision of secure bicycle parking, road user education, and beter traffic law enforcement.

Of the various grant programs related to highway use, only the section 141 bicycle grant program has the flexibility to support the needed changes. The Nation's local governments have recognized this fact. Although the final grant regulations were published only in May, more than 500 project applications totaling over $40 million have been submitted to the Federal Highway Administration for the $4 million which the Congress appropriated for this program for fiscal 1980. The demand for this program is great, but so far only a small part of the demand has been met. With our backing, the Nation can finally begin to make the bicycle a full partner in American transportation. I urge our colleagues to support this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise in opposition to the amendment and suggest that we do not have any difference of opinion with the gentleman as to whether or not bicycles are desirable or whether they are energy-saving vehicles. We agree that they are. But I do not believe that that means we need a separate, additional Federal program for this purpose. Local governments ought to be willing to address and assist in solving some of our transportation problems.

We see absolutely no reason why the local and State governments, to the extent that they believe this to be desirable, cannot go ahead on their own. And to say that there is no Federal aid for this purpose if we do not set up a special category of aid is just not true. All types of Federal-aid highway funds, except the interstate, are available for bicycle projects constructed independently of regular highway construction. Testimony that we received indicates that up to $45 million per year is available from the regular Federal-aid highway funds for these bicycle projects.

Now, the gentleman mentioned $40 million of applications for a $4-million program. There is money in this budget which is available if the States want to use it for that, and it is not only available but it is being used, because the evidence is that nearly $20 million worth of these funds have been used for the construction of independent bicycle and pedestrian facilities.

Mr. Chairman, this bill is already more than $100 million over the target assigned to this subcommittee in the budget resolution. I believe we have been very responsive to the transit, aviation, highway, and railroad projects where Federal assistance is absolutely critical for the local governments to meet their transportation needs. This bill includes nearly $5 billion for urban mass transit. It is not only not critical, it is not necessary, and I say this again with no derogation of bicycle riding, to have a special Federal program to provide aid for bicycles.

I ask that the amendment be defeated.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I have listened to the gentleman's remarks, and I want to refer to what he said, concerning section 217 of the present law. The reason we passed the section 141 authorization for $20 million a year was because section 217 was not working. I am aware that we have spent roughly $20 million over the past several years in section 217 money for independent bikeways. But that program has not adequately stimulated States interests in bicycles or met Federal needs.

In this year, 1980, only $2½ million has been spent on bicycle projects through section 217; in all of 1979, only $2.4 million was so spent. It was for this reason, because the Public Works and Transportation Committee felt that this was not enough, that they asked for and had the law changed, passed by this Congress and signed into law, authorizing a special bicycle program for which you have provided no money.

□ 1250

Mr. DUNCAN of Oregon. The gentleman is just confirming what I have said that they have spent $20 million for this, and what the gentleman is suggesting further is that we ought to be making the decisions here at the Federal level as to how Portland or San Diego can best serve their local transportation needs.

I do not know that it is true that all wisdom is vested in this Congress. I would rather leave it to Tri-met in Portland, to the Southern California Rapid Transit District to make those decisions. We have the funds available for them. They ought to be using it in the best interest of energy economy. They have as much to gain as we do.

Certainly the cost of energy is so high today that any savings they can make inure to their advantage. I do not think we ought to add to the budget. We are over the budget resolution now. I hope the amendment will be voted down.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. ANDERSON of California. Out of the $4 million we passed in the last budget, $40 million of requests were made by various local governments and States. Out of the 10 standard regions we have, 9 regions have committed their total amount, and the 10th region will commit theirs in the next couple of weeks.

The reason they have not been obligated and spent is because the Federal regulations were not published until 90 days ago. I think the gentleman can see the demand and need is out there.

Mr. DUNCAN of Oregon. If I can reclaim my time, the gentleman is saying the demand and need is out there on the one hand; and then he is saying they will not spend Federal highway funds. That is inconsistent. There is $45 million in this budget to handle these $40 million worth of requests the gentleman is talking about. I see no reason, in the face of a budget deficit for 1981 and the difficulties that we are going to have reconciling this budget the way it is, for adding any additional sums to it.

I hope that the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ANDERSON of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1300

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. ANDERSON) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RAIL SERVICE ASSISTANCE

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, and for necessary administrative expenses in connection with Federal rail assistance programs not otherwise provided for, $86,600,000, together with $9,423,000 for the Minority Business Resource Center, as authorized by title IX of Public Law 94–219, to remain available until expended: *Provided*, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, in excess of $20,000,000 of contingent liability for loan principal in fiscal year 1981.

AMENDMENT OFFERED BY MR. PATTERSON

Mr. PATTERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATTERSON: On page 15, line 6, strike out "$86,600,000" and insert in lieu thereof "$102,600,000".

Mr. PATTERSON. Mr. Chairman, last March the overwhelming majority of this body voted in favor of establishing a policy of exploring the feasibility of developing high speed, multifrequency rail passenger corridors. The appropriation bill before the House today in effect negates that vote by providing only $6 million of the $38 million authorized for this purpose and limits the evaluation to marketing studies only.

The amendment I offer today would appropriate about half of the authorized level so that we can proceed with marketing, design and engineering plans. Marketing studies alone will not give us any better information on these corridors than we already have and will duplicate the joint Amtrak/DOT study submitted to the Commerce Committee earlier this year. The February report to Congress on emerging corridors has already identified that there is a market in at least 13 corridors outside the Northeast Corridor. The next logical step is to perform design and engineering plans.

The marketing analysis will simply identify the amount of revenues that can be generated from any set of assumed improvements. The fact is that the validity of the market is already determined. What is needed is a refinement of the marketing projections weighed against the capital investment. I am not convinced that $6 million should be targeted exclusively for marketing studies—as the Appropriations Committee report has done—but we should consider having Amtrak do the marketing analysis in-house and avoid the high cost of contracting out this kind of work.

Marketing studies and engineering plans are an interactive process that are dependent upon each other—what good is it to know what revenues a corridor may produce without knowing what it will take in capital costs to produce those revenues? It is essential that funds be appropriated in a sufficient amount that will allow the Congress to make an intelligent decision on how much to authorize for emerging corridors. We have to consider the fact that while some corridors have the potential of producing extremely high revenues, the capital costs of producing those revenues could be prohibitive. At the same time, a corridor that produces moderate revenues may only require a little capital and may therefore be very cost effective. Without providing the funds for engineering, marketing and design plans, we are doing an injustice to the Congress by providing partial information in an effort to keep a lid in the budget.

It will do Congress no good to have detailed information on the revenue producing potential of each corridor (which is what a marketing analysis will produce) without knowing specific information on costs (which is what design and engineering plans will accomplish). Our decisions should be based on an assessment of the cost/benefit ratio and not a review of just the potential benefits. The role of Congress is to establish policy and not to get involved in a technical review process in every phase of this project. Let us establish the policy and provide the tools necessary to provide Congress with accurate information.

□ 1310

The CHAIRMAN. The committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. PEYSER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1981

The Committee resumed its sitting.

Mr. MADIGAN. Mr. Chairman, I move to strike the last word and rise in support of the amendment offered by the gentleman from California.

As the ranking member of the subcommittee which reported the authorizing legislation for this project, I can assure this body that this matter was studied very carefully prior to its authorization. The House demonstrated its wholehearted endorsement for enlarging corridors by defeating an amendment to delete the corridor provision by a vote of 266 to 84.

As passed by the House, the authorizing bill contained $55 million for the development of marketing, design, and engineering plans for these corridors. After a compromise with the other body, this figure was reduced to $38 million.

The emerging corridor legislation will result in substantial energy savings for this country. On the Northeast Corridor alone each passenger would use almost 20 percent more energy by taking alternative modes of transportation. That same experience can be translated into other corridors around the country. The amendment of the gentleman from California is a good one, and I urge the committee support it.

Mr. FLORIO. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Patterson amendment to provide the necessary funding to begin the development of energy-efficient rail passenger corridors throughout the country. This amendment appropriates $16 million, which when added to the $6 million already provided in the bill, will make $22 million available for the Department of Transportation and Amtrak to complete marketing, design, and engineering plans for the 13 corridors designated in the conference report on the Passenger Railroad Rebuilding Act of 1980.

The numerous hearings and other investigations conducted by the Subcommittee on Transportation and Commerce, which I chair, revealed that substantial energy savings are realized if significant numbers of riders switch from their automobiles to trains. Experience with the Northeast corridor improvement project, which runs from Washington to Boston, has demonstrated that travelers are attracted to rail passenger service if dependable, high-quality service is offered.

In hearings held by the Subcommittee on Transportation and Commerce, it became clear that many of the construction delays and management difficulties encountered in the 3 years the Northeast corridor has been under construction resulted in large part from the fact that comprehensive design and engineering plans were not completed before construction was begun. The Passenger Railroad Rebuilding Act of 1980, passed by the House on May 22, 1980, recognized this problem and attempted to insure that design and engineering plans be completed in a timely manner.

The legislation authorized $38 million for marketing, design, and engineering studies for the 13 corridors listed in the conference report. A primary intent of the legislation is to insure that accurate cost data for potential corridors be developed. This cost data will be derived primarily from design and engineering studies. Since it is essential that Congress have reliable information on the costs of proposed corridors prior to deciding which corridors should be undertaken, design and engineering plans must be available before Congress can authorize construction.

Some parties are attempting to delay implementation of this program by arguing that marketing studies are all that is warranted at this time. A comprehensive marketing study has already been completed. In February of this year, the Department of Transportation and Amtrak provided the Interstate and Foreign Commerce Committees with detailed information analyzing the ridership potential of 13 corridors. In addition to these ridership levels, DOT and Amtrak prepared extensive service options, projected energy savings and preliminary operating and capital cost projections on a corridor-by-corridor basis. This information provided the basis for the committee recommending design and engineering plans. There is no reason to delay these steps any further.

Based on information provided to Congress by DOT and Amtrak, it is clear that $22 million is the absolute minimum amount necessary to complete the marketing, design, and engineering plans authorized in the Passenger Railroad Rebuilding Act of 1980. The $6 million appropriated in this bill will only serve to augment the marketing information DOT and Amtrak have already provided. That amount will not sufficiently cover even preliminary design and engineering studies.

In light of the uncertain energy situation facing this Nation, it is imperative that we begin to plan now for energy-efficient transportation alternatives in the future, in passing the Passenger Railroad Rebuilding Act of 1980, Congress expressed its intent to develop energy-efficient rail passenger corridors in order to reduce our Nation's dependence on foreign oil. If we are to move forward with this important program. Congress must provide funding for design and engineering studies, in addition to the marketing studies called for by the Appropriations Committee.

I urge my colleagues to support the Patterson amendment and the development of energy-efficient rail passenger corridors.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the remarks we have just heard by the gentleman from New Jersey (Mr. FLORIO) are pursuasive evidence that this is not a parochial amendment offered by my colleague from California (Mr. PATTERSON). It happens that California, like many other parts of the Nation, will enjoy improved rail service if we provide the opportunity to move ahead with the emerging corridor concept. At the risk of sounding like a station caller, I would like to indicate what these corridors are. They are:

Chicago-Indianapolis-Cincinnati.
Chicago-Cleveland.
Chicago-Detroit.
Chicago-Milwaukee-Twin Cities.
Chicago-St. Louis.
Miami-Jacksonville.
Los Angeles-Las Vegas.
Los Angeles-San Diego.
New York-Buffalo.
San Jose-Oakland-Sacramento.
Seattle-Portland.
Fort Worth-Dallas-Houston-San Antonio-Fort Worth.
Washington-Richmond.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman.

Mr. DUNCAN of Oregon. I would just like to say that all the gentleman left out were the words "all aboard."

Mr. VAN DEERLIN. I know the case has been well established. We can save a year in determining where Amtrak should proceed first, in giving us the kind of improved service that is going to justify this great project in public passenger transportation.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am in a very awkward position. I believe in these corridors, as my chairman knows, and I told the gentleman from California (Mr. FAZIO) in the committee, let us wait to a later date. Maybe a supplemental would be the place to put this.

We have a real tough budgetary constraint on this bill and that is why the gentleman puts me in a tough position. I believe in these corridors. I have spoken on the floor of the House when the gentleman from New Jersey (Mr. FLORIO) came in with his bill, and at that time I spoke in favor of the corridors.

□ 1320

We provided $6 million in this bill to study the market potential of the 13 corridors. There is no doubt in my mind, believe me, when I say that more rail corridors will be developed along the same lines as the Northeast Corridor, which I think is working well. These corridors will ease the movement of people between densely populated areas that the gentleman from California just ticked off, and they will do it without wasting a lot of energy. The moneys, that we provide in this budget I think are sufficient to give us the information that we need before we decide whether or not to commit funds for engineering and operating feasibility studies. This prudent approach seems to be the best and the most fiscally responsible way to go about selecting and developing the new corridors. Therefore, I ask my colleagues why in these times of high budget deficits, high inflation, high unemployment should we inflame this budget by another $16 million?

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Certainly I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding. Did I understand the gentleman to make a commitment to us that he would be willing to add the money we want in the first supplemental?

Mr. CONTE. I would be glad to go along if the money is in there, or if the gentleman adds it, or if the gentleman from California (Mr. FAZIO) adds it in committee. Certainly I will go along with it.

Mr. MADIGAN. Is the gentleman saying to us that the choice he would have us consider is, this being dropped in conference with no help on the first supplemental, or it being put in the first supplemental.

Mr. CONTE. I would go along with putting it in the first supplemental. I think we have a real difficult budget situation. I am not speaking for the gentleman of Oregon in that respect.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding. I would think the gentleman would want as a consideration at least a commitment to eliminate those corridors which the market studies we are financing show are not desirable for the country to go ahead with.

Mr. CONTE. I think everyone would agree on that. We do not want to get into the Amtrak situation.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New Jersey.

Mr. FLORIO. I appreciate the gentleman's yielding, just to point out that the marketing studies are not the concern. The concern is that before we get to the point of making the determination as to which corridors will be developed for the construction money, which is the big number, that we have cost figures that will come only from the design and engineering studies, and that at that point when we have those cost figures, we can make the determination as to which of the appropriate corridors to actually develop. So we are not talking about any marketing studies, and these moneys would be sufficient for those amounts. We are talking about making the big decision as to which corridor should be developed, and to do that we have to have these moneys for the appropriate engineering and design works.

Mr. CONTE. I think that would be a terrible waste of money because they are going to go out and do design and engineering studies on 13 corridors, and then you find out the marketing study says, hey, here is a corridor which ever if developed fully would not be utilized. Is that what we are going to do?

Mr. FLORIO. If the gentleman will yield, I will correct that point.

Mr. CONTE. Yes.

Mr. FLORIO. It is not what we are talking about doing. What we have already done, what Amtrak and DOT have done, is already designate those corridors that are certainly worthy of potential development, but as we know with the limitation in funds, we cannot develop all that perhaps should be developed. We have got a cost-benefit ratio to consider.

The CHAIRMAN. The time of the gentleman was expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. FLORIO. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. FLORIO. What I am saying is that what we have to do is make some hard decisions, and we want to make them on the basis of good hard engineering and design work studies. That is what this money is about.

Mr. CONTE. I think I have explained the situation. I am for the corridor idea. I will go along with the supplemental. I do not know how much assurance I can give the gentleman. I hope this amendment is defeated.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in behalf of the amendment.

Mr. Chairman, I rise reluctantly because during my first few months on this subcommittee, I have developed a great respect for the Chairman, the gentleman from Oregon (Mr. DUNCAN), who has done much to temper my zeal for Amtrak. He is a very realistic chairman who understands, I think, the limitations of the appropriations process as they relate to the promotion of railroad travel. However, I really believe that although he and I are firmly together on the concept of the shortrun corridor as the future of Amtrak, we have a very fundamental disagreement on the way in which we can most readily bring about this change in the Amtrak program. That really relates to this one issue that says marketing studies are the only way we can really determine where the potential ridership will warrant the investment that Amtrak will have to make in order to improve service and attract new ridership.

I think the gentleman from New Jersey (Mr. FLORIO) has very clearly made the case that unless we know where the costs are also going to be, we really do not have the data that the authorizing committee, the Committee on Interstate and Foreign Commerce and its transportation subcommittee will need. We will not even have the data that the Appropriations Committee will need next year to move this program along in a timely way without wasteful spending. If we fail today to add the funds necessary to truly do a cost-benefit study, if we fail today to add the funds necessary to determine where the capital costs will have to be incurred in order to improve the roadbed and increase the speed of the trains, to make them attractive for additional ridership, we will defer by 1 year the effort to move in the direction of adding some of these 13 corridors to our Amtrak program. We have to make this decision today in order to stay on schedule. I fear we are going to see marketing studies that make all 13 of these corridors look very attractive on the surface, while in reality a number of them will not justify expenditures because the expensive improvements that will be required will in effect have been underestimated or never calculated. We will continue down the road of promotion of these 13 corridors without really knowing that some of them are going to be so prohibitively expensive that they will never be built or add to the operating loss to Amtrak once they are developed. I think we are taking a prudent, conservative approach. We are not doing engineering and design studies that commit us to construction; we are simply doing the analysis that allow us to determine where the costs will be and not simply where the benefits will be. Obviously we have not selected these 13 regions without a good deal of attention to market potential at the present time. So I would simply request that my chairman understand the need for additional information about the costs of track rehabilitation in combination with more refined marketing analysis for both committees to allow us to make the proper and prudent judgments necessary during the first session of the next Congress—not a year later.

I would be happy to yield back the remainder of my time.

Mr. MATSUI. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

This matter that we have before us now has gone through the Subcommittee on Transportation and Commerce of the Committee on Interstate and Foreign Commerce led by the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN). I would say we have gone through four hearings throughout the United States. We also went through a rather difficult conference committee with our counterpart on the Senate side. They agree with us that the sum of $38 million should be authorized for this very important subject, and the reason we all agreed to that was because of the obvious need to lessen our dependence upon foreign oil and to come up with some other affordable means of transportation.

In the area of the gentleman from California (Mr. VAN DEERLIN) alone, from San Diego to Los Angeles, the ridership since April 1978 has increased by 250 percent by Amtrak's own figures. Throughout the United States now people want to use mass transit if they know it is available. I might also reiterate what was said by the gentleman from New Jersey (Mr. FLORIO) and what was said by the gentleman from California (Mr. FAZIO). Indeed, the $16 million would be needed for additional design and engineering studies. Amtrak has already done premarketing studies. They have a good idea of the 13 corridors that are markettable and needed in this country today. What they need is to find out the cost-benefit ratio. Again, unless we come up with design and engineering studies and the actual cost by walking the tracks, the actual cost of what it would cost to get these trains rolling, unless we have that, this Congress and the subcommittees that are involved will never be in a position to make an accurate, reasonable, logical determination. So I ask for strong support for this amendment offered by the gentleman from California (Mr. PATTERSON).

I yield back the remainder of my time.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, it is a rare privilege here in the last several weeks to support the chairman of the Subcommittee on Transportation and Commerce, the gentleman from New Jersey (Mr. FLORIO) and also the gentleman from Illinois (Mr. MADIGAN) on what I consider to be a very well-thought-out program. The committee has properly recognized that if Amtrak is to succeed, it must be a truly national program.

☐ 1330

Furthermore, if it is to succeed it must afford the kind of services that can best be afforded by railroad passenger service, service of around say 150 to 250 miles in various corridors and triangles.

Such corridors and triangles feed the Amtrak system, making long distance travel by railroad viable. Thus the amendment that is being offered here, it seems to me, is absolutely crucial and essential for the entire Amtrak program to succeed.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey?

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, to alleviate the concern of the gentleman from Massachusetts (Mr. CONTE) about the potential for wasting money by developing marketing plans. Further, the gentleman indicated a concern that we are going to do the designing and the engineering for all the corridors and these sums may be wasted. I recount for the gentleman the fact that in our bill, the authorizing legislation, there is a mechanism whereby DOT and Amtrak are required to report back to this Congress with regard to the costs of constructing corridors. It would be only after the Congress has had an opportunity to evaluate that information that legislation authorizing construction may be offered. There is no opportunity for final design plans to be completed or for construction funding to be spent for corridors that are not going to be fully developed. I hope that alleviates the concern of the gentleman.

I thank the gentleman for yielding.

Mr. ECKHARDT. The gentleman has made a very important point. I think the entire subcommittee and I believe most, if not all, of the full Committee on Commerce, support the amendment. I would ask for an "aye" vote on the amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I speak in opposition to this amendment. This was a highly controversial item when it came out in the railroad bill some months ago. At that time you will remember it was being opposed with suggestions that it was a multibillion-dollar program. It was denied by everyone that it was a multibillion dollar program and we finally agreed, with I would say strong support of the chairman of this Subcommittee on Appropriations, that we would go ahead and support this idea of moving toward a corridor operation. However, it seemed to me, and I believed and I state now, that it was fully understood this proposal would be approached on a gradual basis exactly in accordance with the statement which the gentleman from New Jersey (Mr. FLORIO) made. We need marketing studies first, and indeed there should be no further movement toward engineering or design studies until those marketing studies are completed and the results are reported back to the Congress.

The gentleman from Texas (Mr. ECKHARDT) pointed out how important it is. It is an important point. That is the basis on which this subcommittee operates.

Members of the Committee, you know what a mess we have gotten into with Amtrak. We tried last year, this committee, working with the gentleman from New Jersey (Mr. FLORIO), the gentleman from Illinois (Mr. MADIGAN) and others, to rationalize the Amtrak system, and I think we did. Long distance routes have been reduced by about 5,000 miles. Why? Because we all know that what Mr. ECKHARDT just said; namely, that the future of Amtrak, if it has a viable future, lies in short distance transportation, from major population centers not more than 200 or 300 miles apart. If Amtrak can be cost-effective, it is in these corridors where it can be demonstrated. This is where Amtrak can be energy efficient. There is no one on this committee who does not believe that is the direction Amtrak ought to go. We fully support this objective. But we have to realize, as I have said not once but several times on the floor of this House, that we are already $103,000,000 over our outlay target under the first budget resolution for next year. Every nickel that we add to this program is going to have to be taken out of the hide of something else. There are only a few categories where we can make such a reduction. Mass transit is one. Do we want it to come out of that? There is Amtrak, and instead of taking it out, we are adding to it. The only other areas of any significance would be the operating budgets of the Coast Guard and the FAA.

Frankly, we have squeezed these accounts down to the point where further cuts will be most difficult, particularly if we are going to satisfy the insistence of the gentleman from California (Mr. JOHN L. BURTON) that additional improvements for safety for the air traveling public be made.

Mr. Chairman, all this committee is saying is what the gentleman from New Jersey (Mr. FLORIO) has said a moment ago. Let us do the marketing studies first and decide which of these 13 potential—and that is all that has ever been demonstrated, that they are potential corridors—are viable. Let us make those marketing studies first, just as we would if we were sitting on the board of directors of the Illinois Central Railroad or the Santa Fe or Procter & Gamble. We should not make the investments in designing new facilities and structures until we have the marketing studies to show that significant payoffs are possible.

Mr. Chairman, that is all this committee is asking for. We want to proceed on a careful and businesslike basis.

Mr. Chairman, if there is one corridor that can be made viable, it is the Northeast corridor. We have already appropriated almost $1.5 billion for the improvements. The legislative committee has increased the authorization to $2.5 billion and we are a long way from an economically viable Northeast corridor. Yet, this is the one corridor in which we have the most confidence.

All we are asking is that, first of all, recognize that whatever we put in here is going to have to come out somewhere else and, second, that we have already provided $6 million for these marketing studies.

Mr. Chairman, I have a letter from the Secretary of Transportation in which he opposes any additional funding for this purpose saying that the funds in the bill are ample to perform the work that needs to be done.

When these marketing studies are completed, we will then take a look at the money that is needed for the engineering and operating feasibility studies and the final design work. If I were going to be here, I would give the same assurances that the gentleman from Massachusetts (Mr. Conte) has given, namely, that this committee will move, as diligently and as quickly as the fiscal constraints imposed on us will permit, into that second stage of planning. I hope we can defeat the amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Patterson and by unanimous consent, Mr. Duncan of Oregon was allowed to proceed for 2 additional minutes.)

Mr. PATTERSON. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. PATTERSON. In the debate in opposition to the amendment the gentleman indicated that this matter was controversial.

Mr. DUNCAN of Oregon. I know what the vote was, and I voted for it. There was a substantial margin in favor but it was not until assurances were given that we were not voting for a multibillion dollar project.

Mr. PATTERSON. That is true but there were 266 Members for the emerging corridors and only 84 opposed.

Mr. DUNCAN of Oregon. And I was one of them and I spoke in favor of it on the floor.

Mr. PATTERSON. Mr. Chairman, I just wanted to clear up the controversial point.

Mr. DUNCAN of Oregon. Does the gentleman have any other controversies like that which we can clear up?

Mr. PATTERSON. If the gentleman would yield, the questions on marketing, design and engineering that the gentleman has raised, as have others, are very important. The marketing study, in fact at least the preliminary study is done and we have it, but the marketing study only says well you can sell tickets, where people might travel. It does not have cost data as to design and engineering studies which cannot be done for $6 million. This project is off 1 year in time unless and in fact we can vote the additional funds, and my amendment cuts those funds from $38 million to $22 million. The House voted $55 million. We have come from $55 million to $38 million and today $22 million. That is a substantial cut but it seems to me in the really difficult times we have with energy, trying to get people into mass transit, this is the wrong place to try to scrimp and save and cut the budget.

Mr. DUNCAN of Oregon. If I may reclaim my time, I do not thing we are arguing about very much. We are all in agreement that corridor service is the future of Amtrak.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Duncan of Oregon was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. All I am saying is that all that has been done so far are very preliminary, premarketing studies. They just looked at it roughly and said," If this is where it is going to work, here are 13 places where it might work." All we are asking the House to do is appropriate enough money—again, I have the letter from the Secretary that says it is enough—to complete those studies.

Mr. Chairman, I agree we do not want to make any decisions in implementation until we have the engineering and design studies. However, I do not want to spend $2.5 million, which is the estimate for each corridor, to make design and engineering studies, if the marketing studies show that under no circumstances does it make any sense.

□ 1340

Mr. PATTERSON. That is a very good point. If the gentleman will yield on that point I would call to the attention of the Congress that we are merely voting the appropriation. If we approve it, the funds will not be spent unless approved by the Secretary of the Department of Transportation and NFRA. If they waste the funds, then they will not be spent.

Mr. DUNCAN of Oregon. If I can reclaim my time, Mr. Florio just said on the floor of this House that the House ought not to permit any of these studies to go forward until the marketing studies are completed and we make that decision. If we appropriate this money, it is beyond the control of the House. Certainly, we all ought to be aware of that crucial point. Furthermore, when we appropriate this money, it is scored against our budgetary targets, budget authority and outlays. The bill is below the target on budget authority but we do not have room in the outlays. The Appropriations Committee has gone ahead completely in accordance with the legislative authorization. We are moving not in a slow fashion, but we are moving prudently and deliberately, if you will.

Mr. Conte, as soon as these marketing studies are out, will support additional moneys for the architectural and engineering studies.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to have a colloquy with the gentleman from Oregon. There is another wrinkle here that we have not discussed. The gentleman keeps mentioning being $100 million over outlays targets, but we are presently close to the top on section 302 of budget authority.

Mr. DUNCAN of Oregon. That is what we are talking about.

Mr. CONTE. And section 8 of the budget resolution says that if we go over, then when this bill gets through conference, if we are over, the Speaker of the House cannot engross this bill.

Mr. DUNCAN of Oregon. That is right.

Mr. CONTE. It is going to sit up there and wait until we have a reconciliation and take some of that money out. You have the Coast Guard in here; you have the FAA; you have all the mass transit in here, almost a billion dollars for Amtrak that could be jeopardized just for a few months.

Mr. DUNCAN of Oregon. Absolutely. We already know how much trouble we have with the reconciliation process. The Rules Committee is trying to reach an agreement today. If these agencies have to operate on a continuing resolution at the current year's level, and we all know that is what will happen, you will hear from your constituents.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. JOHN L. BURTON. One area where you can pick up $59,000 would be to eliminate Langhorne Bond's salary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Patterson).

The question was taken; and on a division (demanded by Mr. Patterson) there were—ayes 9; noes 16.

Mr. PATTERSON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under a call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1350

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. Patterson) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

URBAN DISCRETIONARY GRANTS

For necessary expenses for urban discretionary grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until September 30, 1984, $2,220,000,000, of which $705,000,000 shall be available only upon the enactment of authorizing legislation: *Provided*, That none of these funds shall be available to retrofit any existing fixed rail transit system to comply with regulations issued pursuant to section 504 of the Rehabilitation Act of 1973: *Provided further*, That none of the funds provided by this Act shall be used to enforce the provisions of 43 Fed. Reg. 235 with respect to any project contract entered into after the date of enactment of this Act unless obligated pursuant to the provisions of section 401, Public Law 95–599: *Provided further*, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: On page 20, line 5, after the colon, insert the following: "*Provided further*, That none of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1975:".

Mr. STENHOLM. Mr. Chairman, I take this opportunity to urge my colleagues to favorably consider my amendment to allow "local option" for communities to comply with current Federal regulations that mandate that all public transportation meet the needs of the handicapped. Let me say at the outset that I certainly support the best possible transportation for the handicapped. The day-to-day struggle for many of these people in getting about is tremendous. The issue, as far as I am concerned, is not "if" the Federal Government should be involved in providing public transportation but "how" it can best meet the needs of the handicapped.

I have been working very closely with city officials in Abilene, Tex., the largest city in my 17th Congressional District, to meet the current Federal regulation. In March of this year, the city received a grant for some $1,200,000 to purchase 14 new lift-equipped buses. While the citizens of Abilene are certainly appreciative of these funds, the fact that they must have wheelchair lifts at a cost of $15,000 on each bus is, in my view, not prudent use of Federal money. Let me explain that the city has approximately 440 miles of surface streets. Well under 5 percent of these streets have sidewalks. In the residential areas, less than 1 percent of the streets have sidewalks on either side and most of these are old and in a poor state of repair. As a result, the wheelchair-bound user of an "accessible" bus would be forced to ride in the street itself to get to his bus stop. Obviously, this is impractical and an obvious hazard to the individual. In order for Abilene's streets to be completely "accessible," approximately 836 miles of sidewalks would have to be constructed.

Waco, Tex., is similar in size to Abilene. In September 1979, the city of Waco put two wheelchair lift-equipped buses in service and, as of March 11, 1980, neither had yet been used.

I ask you, is this prudent use of Federal dollars? I firmly believe we need to look to other "local options" to meet these needs. Specially equipped vans with two-way radio systems or any number of other ideas would in my view be safer, more efficient, and cost saving.

Recently the West Texas Rehabilitation Center and the city of Abilene conducted a survey of handicapped citizens as to their views on the issue of wheelchair lifts on fixed-route buses versus alternate door-to-door service. Sixty-eight percent of those surveyed said that they prefer a special van service in lieu of wheelchair lifts on Abilene's regular buses. Seventeen percent had no opinion and I would like to add that this 17 percent was comprised of folks who are quite elderly and perhaps did not understand the questions being asked. Fifteen percent said they would prefer to be accommodated via lifts on the regular buses rather than being restricted to an alternate service.

Several months ago the city of Abilene applied for an exemption to the section 504 regulations. In a response received from the Secretary of the Department of Transportation, he replied:

> The Department does not believe that this cost and any additional operating cost would place an excessive burden on your bus transit system.

I challenge that statement as I believe any cost, whatever it may be, is a burden to the community and, in fact, to the Federal Government when those taxpayers' dollars can be saved.

According to the American Public Transit Association, which represents rapid rail and bus systems, capital costs of implementing the rules would exceed $3 billion and the national annual operating costs of special equipment would be $300 million. In comparison, it would cost $159 million to operate dial-a-ride service, the association said.

The Secretary of Transportation further mentioned in his report that—

> Many handicapped individuals have had considerable experience in traveling under adverse conditions, and commented or testified during the rulemaking that they would use accessible buses.

I wonder if the Secretary and/or any member of his staff has tried to travel the streets of Abilene in a wheelchair. In drought-stricken Abilene and hundreds of other cities, dry ruts and cracks in the unpaved streets are currently the problem. Ask the local folks which is exactly what the city did. I emphasize again that 68 percent of those surveyed in Abilene prefer special van service in lieu of wheelchair lifts.

I urge the adoption of my amendment to allow the local communities to determine how best to meet the needs of the handicapped.

□ 1400

The CHAIRMAN. The time of the gentleman from Texas (Mr. STENHOLM) has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I fail to quite understand exactly the impact of the amendment the gentleman has offered, and I wonder if the gentleman might explain that. The gentleman has outlined the problem as he sees it, but I am concerned about the impact of the amendment. Is it a question of enforcement?

Mr. STENHOLM. The impact of the amendment would make it a local option for the local community to determine how best to meet the needs of the handicapped in its particular community.

Mr. MILLER of California. What happens if the local community does not make such a decision? I do not understand the language that the gentleman is striking in terms of the money the gentleman is not allowing to be used. Is that enforcement money?

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the chairman.

Mr. DUNCAN of Oregon. There is no relaxation in this amendment, if I understand it correctly, that the gentleman is offering, in the obligation of the local community to furnish some sort of transportation for the handicapped in accordance with the schedule laid out. It simply relieves them of the exclusive obligation under the Department's rule to do that by way of wheelchair lifts on buses.

Mr. MILLER of California. But it does not change the requirement under the 504 regulations?

Mr. DUNCAN of Oregon. It would change the requirement to the extent that the Department's present position is that the only way it can be satisfied is with wheelchair lifts. This would permit a locality to use lifts, if that is what they wanted, or to use vans or taxicabs, or, in the final analysis, to use a combination if they wanted.

Mr. MILLER of California. But with this caveat you would still be required to comply with the requirements of 504?

Mr. DUNCAN of Oregon. That is correct. Our committee has considered this precise amendment, and there is nobody who has any desire to deprive the handicapped or the elderly. The only thing that I think the gentleman is trying to do, if I interpret his position correctly, is to see that it helps the most number of people at the least amount of cost. I think that is what the gentleman is trying to do.

Mr. STENHOLM. If I may reclaim my time, that is certainly the intent of the offeror of this amendment.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would just like to explain that as this bill came out of subcommittee, it had a similar provision in it. I personally believe that everything that the gentleman in the well, who introduced the amendment, said is absolutely true, and I personally support it. The full committee, however, deleted this provision. It became known as the Conte amendment in full amendment.

Therefore, as chairman of the committee, I do support my committee, and I do oppose and I intend to vote against the amendment.

Mr. CONTE. The Conte amendment to strike it?

Mr. DUNCAN of Oregon. Yes.

Mr. CONTE. Mr. Chairman, I must rise in opposition to this amendment.

A 1-year appropriations bill is no place to attempt to solve the vexing and delicate problem of providing accessible, yet economical public transportation to the handicapped and elderly.

Authorization legislation, H.R. 6417, the Surface Transportation Act, has been reported from committee containing a provision, the so-called Cleveland amendment, proposing one solution. That legislation is the proper vehicle for the consideration of the various plans and options to fulfill the mandate of section 504 regulations, not a transportation appropriations bill, where no hearings have been held and no criteria can be written into the bill.

Given the mass of information available, and soon to be available, that must be read and closely examined, a cautious approach at this moment is best. Several studies have been done on the cost and user rates of both the DOT mandate of full accessibility and paratransit plans. These diverse studies unfortunately reach equally diverse conclusions.

The Congressional Budget Office produced data which shows that the DOT plan is more expensive and will be used by fewer handicapped than the paratransit system. DOT, on the other hand, produced figures which apparently support the opposite conclusion.

Handicapped groups themselves are split over which plan is best—some argue that we must mainstream the handicapped into all facets of society, others believe that it is most important that the handicapped get to the workplace or the school. They would favor a paratransit system if it had higher user rates even though the handicapped would not be riding the regular transit system.

As a member of the Labor-HEW Subcommittee of Appropriations, I have fought many times for increased funds for education and rehabilitation of the handicapped. Three members of my family are in special education and they have made me very sensitive to the needs and rights of the handicapped person. However, I am also sensitive to the needs of the local transit authorities who will have to implement whatever plan is adopted.

I have looked at the issue very closely. I have seen cost estimates for full accessibility as high as $7.1 billion over 30 years and as low as $3.2 billion over the same period. I have tried to find the golden mean that will strike a balance between the goals of feasibility, fairness and economy—but I have found the answer elusive. I am confident that if my colleagues and I work a bit longer and a bit harder, we can reach a solution to this problem shortly. Let us work toward that end and defeat this amendment.

□ 1410

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I would like to commend the gentleman for his comments. As a member of the Subcommittee on Surface Transportation of the Committee on Public Works, I have had the opportunity to look at the issue of section 504 as addressed by the Cleveland amendment. I think the gentleman in the well is correct in suggesting that this is not the appropriate place or the appropriate time to debate the intricacies of a very complicated set of regulations and rules that comply with the issue of section 504.

I think that all of us want the most flexible, mobile transit system possible that takes in account the needs of the elderly and handicapped.

I think there are problems with the financial cost, but I think that a lot of other auxiliary issues must be addressed.

The gentleman from New Hampshire (Mr. CLEVELAND) attempts to address them in his language.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

(At the request of Mr. EDGAR, and by unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. If the gentleman will continue to yield, the gentleman from New Hampshire (Mr. CLEVELAND) addresses this issue in his language to the public transit bill coming out of our committee, and while there may be arguments as to the wording and whether or not it should be changed to modify it on the floor, a great deal more effort and time went into the language set there.

So I commend the gentleman for his comments. I would urge that the House defeat this amendment and deal with this issue, and when our colleague from New Jersey (Mr. HOWARD) brings his legislation to the floor, we can debate it in full at that time.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

I would commend the gentleman for his reasoning that an appropriations bill is not the place to tackle this issue. I would say though to the gentleman from Texas that I totally agree that the issue must be tackled. This mandate as it is now is not operating in my cities. It is totally and completely impossible for a handicapped person in a Northeastern city to get down to the sidewalk in most places, let alone to get past the double-parked cars and to get out into the street.

I would suggest to my colleagues a scenario of someone in a wheelchair in New York City trying to get on a Lexington Avenue bus, past double-parked cars in the middle of rush hour. I think the poor person would probably be publicly slaughtered before the bus was able to move on.

In some communities we have very viable maxi-taxi systems that are working. I find myself in an enigma, as the gentleman does, as to why I should be going to get an exception to allow a maxi-taxi to continue that already does work because it does not fit into the bare or direct definition of what we are mandated to do. I would suggest that the issue is so complicated that I would far rather tackle it in the authorizing legislation than I would in the appropriations legislation.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. STENHOLM. I hear and understand and appreciate the comments in regard to whether or not this is the appropriate place to deal with the issue.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has again expired.

(At the request of Mr. STENHOLM and by unanimous consent, Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. STENHOLM. I would ask the gentleman in the well if he would have an answer to the cities like Abilene and others who are faced with a current deadline of having to make a determination of whether to spend moneys, of which a whole community, including the handicapped, agree that this $180,000, a small amount in this body, but to the people in my district $180,000 is a lot of money that is to be wasted by apparently everyone agreeing there is a better way to do it, yet we are forcing upon those cities through section 504 they would spend those moneys.

Would the gentleman comment on that?

Mr. CONTE. That is a good question, because that is exactly the same question that was posed by people in my hometown. They just received a grant for purchase of new buses, and they called me the other day when they heard I knocked out this amendment. I told them that this amendment, if it passed, will not affect them because they already received a grant. They have put in an order for the buses. I guess this is exactly the same dilemma the gentleman is in, because this amendment here would say no funds will be expended in this appropriation, and so forth. That means any future grants to a city or to a town will be affected by this amendment if adopted.

The gentleman is in the same dilemma. I just cannot give the gentleman that answer.

Mr. STENHOLM. If the gentleman will continue to yield, we are debating a budget that is fast getting more out of balance, and I would think that this body could come together and arrive at some solutions to save money when we all apparently agree and yet, I think we know the scheduling which will occur to us and what will occur to us if we do not address it in this matter.

Mr. CONTE. I thank the gentleman.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, one of the finest new Members of this body is the gentleman from Texas (Mr. STENHOLM) and it is with reluctance that I stand in opposition to his amendment.

What the gentleman from Massachusetts, what the gentleman from Connecticut, what the gentleman from Pennsylvania and the gentleman from Oregon all have suggested is that this is a complex issue on which we have up to this point had no hearings.

That does not mean that we cannot find some solutions and that solutions are not available within the law right now for Abilene, Tex.

The law right now—and it is gradual—calls for rail transportation over 30 years, and on new buses, but the Secretary of Transportation has the ability to provide a waiver.

As I have privately assured my colleague from Texas, I would be happy to contact the Secretary of Transportation, as the chairman of the subcommittee that deals more with the handicapped than any other subcommittee, to work with the gentleman from Texas to try and see that this thing gets worked out.

We have to add that we can find exceptions to the suggestions that the present law does not work. The gentleman from Texas mentioned Waco, Tex., where they have two buses and nobody has used the lifts on the two buses. When one city only has two buses, that should not surprise anyone. But in fact we have a number of communities in this Nation, such as Seattle, Wash., and Tacoma, Wash., which I have just read the report on, where they have very successful programs.

What is also true as a result of this legislation we have tens of thousands of handicapped people who now are employed and able to get jobs and fill jobs and pay taxes who before did not have that opportunity. So there is, first, a remedy within the present law; and I will work with the gentleman from Texas to try and have that applied to his situation in Abilene.

And second, I think we have to be careful as we change the law, though I recognize that some changes in the law probably are warranted. I think they can be worked out.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Utah.

Mr. McKAY. I thank the gentleman for yielding.

Now, has not the Appropriations Committee had hearings on this?

Mr. SIMON. The subcommittee that I chair has not held hearings on this particular aspect of it.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. We have had hearings on this subject both last year and this year. One of the things that we took into consideration was the Congressional Budget Office report which indicated really that in last year's dollars or 1978 dollars, there was a total of about $7.2 billion involved in this to benefit approximately somewhere between 4 and 7 percent of the handicapped, the balance of whom could not even get to the street corner in order to get picked up by this lift. We have had hearings both last year and this year.

Mr. SIMON. As the gentleman from Oregon may be aware, there have been some very severe criticisms of that CBO report, and the Department of Transportation report comes to a very different conclusion. The Department of Transportation report in fact says that the so-called minibus operation is going to be much more expensive than moving in the other direction.

Mr. DUNCAN of Oregon. If the gentleman will continue to yield, I think perhaps once again we are arguing without having anything really to argue about.

☐ 1420

It may very well be that as we extend the benefits of public transportation to more and more people, that the total cost will be greater; but the cost per trip is substantially smaller, if you use taxicabs or if you use vans, than it is if you try to equip all the buses. And with the buses being equipped and not furnishing van service, you are serving only a very small amount of people.

The Congressional Budget Office reviewed the actual experience of several communities that have already put this in place and their experience does not come anywhere near meeting the expectations or prognostications of the Department of Transportation.

Mr. SIMON. Mr. Chairman, I would simply add that one of the criticisms that has been made by the handicapped organizations of the CBO report is that their numbers are far, far short; but it is still a relatively small percentage of the population.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my colleague, the gentleman from Utah.

Mr. McKAY. Well, Mr. Chairman, it depends on which handicapped organization you talk to as to who agrees with or who disagrees with that CBO report.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(At the request of Mr. McKAY, and by unanimous consent, Mr. SIMON was allowed to proceed for 4 additional minutes.)

Mr. McKAY. Mr. Chairman, if the gentleman will yield further, some of the groups that come from my State say, "Look, as has been indicated, there is only a small percentage of our group who could use the buses because they can't get to the lines or their station."

Therefore, you have to have a minibus on top of that to get them to the locations to pick up the main line bus; so as most of these across-the-board rules that we get, whether it is HEW or Transportation or whatever, you set an exact rule which applies very well in one location, but the rest of the country then is forced into circumstances which are either more expensive or which are completely ludicrous, in some cases, and would throw the thing out of balance.

So I think the amendment of the gentleman which says to leave that to the local organizations, the States, in conjunction with their handicapped people for their needs, makes a lot more sense; but if you force New York into what I have to do in Utah, it will not fit.

The other point I would like to make—then I will be glad to yield——

Mr. SIMON. Then the gentleman will yield back my time?

Mr. McKAY. Yes. I thank the gentleman.

The other thing is that the gentleman has mentioned the Secretary presently has authority in which he could allow the option and extension in given locations.

The experience we have had with the Department of the Interior is that they have had the law, but their attitude was such they were not going to use it. Unless this body specifies and, in fact, they came back on the bill we are working on in the Interior Committee today, and said, "Well, there is some doubt and we have people pushing this over here and, therefore, we are not going to use it, and, therefore, you must spell it out to us."

I think this is what we do, is tell them, "Look, there are differences and it has to be considered in that regard."

Therefore, I hope we can support the gentleman's amendment.

I thank the gentleman from Illinois for his kindness.

Mr. SIMON. Mr. Chairman, if I can just respond on three points that the gentleman made, on two of which I disagree.

First. The point is that the gentleman's amendment does not say you work this out in connection and in conjunction with the local handicapped group. It just leaves it strictly up to the local authorities, so that there is that important distinction.

Second. I think I am safe in saying that every national handicapped organization would oppose unhesitatingly this particular amendment.

Third. The gentleman from Utah is correct in saying that an inflexible approach is not the right answer. That sometimes has been the approach that we have had; so we have to work out an occasional use of the waiver and some flexibility, because it may well be that in Abilene, Tex., the mini van is the better answer for the handicapped. A straitjacket is not correct.

So we have to work out some greater flexibility, but I do not think we want to move in the kind of flexibility this amendment has.

Mr. McKAY. Mr. Chairman, will the gentleman from Illinois yield?

Mr. SIMON. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, the handicapped are on and deal with the Transportation Department all the time. They are taken into consideration in the process with the local; so I do not know what they do in other States, but in my own State they are considered and they are part of the people who get into the decisionmaking process as it relates to their problem; so I think the local will and the pressure from the local will bring it on as much as it will here.

Mr. SIMON. I simply would point out that is not what the amendment does.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, if I may, I just want to clear the record, because I know my chairman did not mean it when he said that we had hearings on this. The only hearings we had were when the administration witnesses came up for their money. That is it. We did not have any outsiders or handicapped people come in. We did not go into this issue in depth.

We are an appropriations committee, so we have hearings when the witnesses from the administration come up for their budget.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. Stenholm, and by unanimous consent, Mr. Simon was allowed to proceed for 1 additional minute.)

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I appreciate very much the comments of the gentleman in the well. I know of his undying support for the handicapped.

I want to emphasize that I certainly am on the gentleman's side in regard to providing the service.

Mr. SIMON. And I recognize that.

Mr. STENHOLM. Would the gentleman answer one question to me. In talking about the provision of allowing for waivers, could the gentleman tell from how many waivers have been granted since this rule has gone in?

Mr. SIMON. As far as I know, there have been none. There may have been some, but the law is there. It can be utilized.

I certainly give the gentleman from Abilene the assurance that I will try to work with him on that.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman.

Mr. LEATH of Texas. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I have heard numerous times in the year and a half that I have been in this body that now is not the time to save the taxpayers money. I think if there is one thing that has been clearly proven in this debate here on this amendment today it is that there is no one who has talked on it and that is opposed to providing a very much needed service to the handicapped; but it appears to me that all of us know that we are not going to always get the executive agency to do what should be done in these across-the-board rules. It appears to me that the place to do a temporary halt that would certainly send a message to the agencies that there are not going to be things that should not be until the Congress has had time to work its will. We have been told that Congress is in the process of changing this, so it appears to me that on this particular appropriation bill for this year that it is a perfectly legitimate and logical place to do this with such an amendment until we have had time to come back and study it. Otherwise, we are going to have the Department of Transportation mandating these things in Abilene, Tex., in Waco, Tex., and in Utah and all across the country.

So I would certainly hope that the House would take this into consideration when it considers the amendment and understand that it is not the intent of the gentleman from Texas (Mr. Stenholm) nor any of us speaking in behalf of his amendment to do anything that would in any way keep from accomplishing the objective of section 504.

Mr. TAUKE. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I believe that it is very essential that this amendment offered by the gentleman from Texas receive support.

I think it is quite clear from the discussions today that virtually everyone wants to do what is right for the handicapped to insure access to mass transit facilities. I think it is also clear that everyone recognizes that what is being done now for the handicapped to insure access to mass transit is not working. I think virtually everyone who has spoken has also recognized that what is being done now is costing the cities and communities of this country a great deal of money without achieving the desired results. Under those circumstances, it occurs to me that it is appropriate for Congress to act.

Now, there are those who have suggested that we should delay action now, because this is not the right time or the right place. They have suggested that there are other efforts being made in Congress, which may or may not come to fruition this year, which will deal with this issue.

I suggest to you that while it may be true that there are other efforts underway, it is not clear that they will be rapidly concluded. And it should be noted that this effort is not something that began here on the floor. It is something that began in the subcommittee where this proposed amendment was approved.

It should also be noted that this effort is not something that is going to preclude other proposals down the road; but what it will do is allow us to consider other proposals relating to section 504 and give temporary relief to the cities and communities which are currently strangled by this regulation.

In my own congressional district, I have three communities that have mass transit systems. For those transit systems, some relief from this regulation may be a matter of life or death.

□ 1430

I believe that as we look at this issue we have to think not just of what it means for the handicapped, although that is critically important, but we must also think of what it means for the mass transit systems in our communities. Further delay is not going to serve those systems; and delay will not serve the people who use those systems, whether or not they are handicapped.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman.

Mr. SIMON. I would just point out the gentleman says it has not been successful in any communities. In fact, there are a great number of communities where this program of providing transportation to the handicapped has been very successful. Seattle and Tacoma were mentioned in my remarks. I have just read the report where it is really providing a great opportunity and city officials and transit officials are very pleased. The city of Washington turned out with the same kind of negative. It is turning into a positive now as both the transportation authorities and the handicapped become acquainted with it.

So I think we have to give it time. I think that there is the potential for really doing something significant for the Nation.

Mr. TAUKE. I thank the gentleman for his contribution, and I certainly would not attempt to infer that it has not worked in any community. What I am suggesting is that for many communities it is not working at all, and clearly is not the answer. In my own community of Dubuque, Iowa, for example, we have a city that is built on seven hills like Rome. It would be virtually impossible for the handicapped residents to be able to get to buses to use the wheelchair lifts. So the wheelchair lift on the buses is of little help to the handicapped.

Our community is still being required to have these wheelchair lifts. If money goes into that project, we are not going to have the money necessary to provide minivans so that there is assistance for the handicapped individual from the front door to the point of destination. So for our community this requirement for wheelchair lifts means two things: First, we will not have good service for the handicapped if we are required to live up to this regulation; second, we may not be able to maintain our transit system if we are required to comply with this regulation.

Mr. SIMON. If the gentleman will yield further, again I think what the gentleman is suggesting is one of two things. First, the waiver provision in the law right now perhaps would be applied to the gentleman's community; and second, we may need greater flexibility in the law than is now there. But a sweeping kind of amendment like this—really denying opportunity, I think, to a great many handicapped—I do not think is the direction we ought to go without careful study.

Mr. TAUKE. I would respond to the gentleman by observing that I believe there is no attempt here to deny the handicapped access to transportation services. In fact, most of us are trying to encourage and maintain transportation services for the handicapped. We just think there is a much better way in our community to do that than is required by the wheelchair lift regulation.

Would the gentleman repeat his first point for me again?

The CHAIRMAN pro tempore (Mr. Long of Louisiana). The time of the gentleman from Iowa has expired.

(By unanimous consent Mr. Tauke was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. I yield to the gentleman.

Mr. SIMON. The first point was the waiver provision in the law right now.

Mr. TAUKE. I think the gentleman, if he has dealt at all with any communities that have attempted to seek a waiver provision, would undoubtedly recognize that it is really a very meaningless provision in the law at the current time. I would argue that if we adopted this amendment it would send a clear message to the powers at hand, that perhaps they should look more favorably upon waiver provision requests and look more carefully at the rules that have been laid down pursuant to the legislation enacted in this area.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I am happy to yield to the gentleman.

Mr. REGULA. As I understand the amendment, it does not eliminate the requirement to provide the services, it merely says to the local communities that if they can do it a better way, such as the gentleman's community with vans, that option is available. Is that the gentleman's understanding?

Mr. TAUKE. It is my understanding that there is no waiver of the requirement that services must be extended to handicapped individuals. The only thing the amendment does is prohibit the Federal Government from mandating that local communities spend money on wheelchair lifts for buses. It does not say anything about the removal of any requirement for service to the handicapped.

Mr. REGULA. In reality it would be a benefit to the handicapped in that the service they could provide under the local option could be tailored to the needs of the people in that community as opposed to mandating something that might not work. Is that the gentleman's understanding?

Mr. TAUKE. That is my understanding and I would note that when the mayors from the State of Iowa visited Washington, D.C., we had representatives from every city in our State which has a mass transit system, and every one of them indicated to us that the current regulation was doing two things. First, it was threatening the existence of those transit systems; and second, it was preventing them from providing the kind of service they would like to provide to the handicapped citizens of their communities.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word and rise to speak against the amendment.

Mr. Chairman, this amendment is presented in a very favorable light, given the last several speakers that have spoken for it. But this is not simply a local option amendment. This amendment does more than that.

This amendment says that none of the funds in this act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973. So what this amendment will do is prohibit the requirement that local transit agencies purchase wheelchair lifts. That is not a local option. Therefore, if the city of Abilene, which is what brought this amendment about, had provided a minibus service, a taxi service, one of these local options, but their main line transit system is not accessible, the Department is prohibited from requiring them under this amendment to purchase a single lift. That would also be true in the city of San Francisco under this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. DUNCAN of Oregon. The amendment does not in any way prohibit a mix of services if the local communities want a mix, that is, if they want lifts and something else as well. Am I not correctly stating the gentleman's amendment?

Mr. STENHOLM. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. STENHOLM. I would say to the gentleman it certainly would permit that.

Mr. MILLER of California. If I may have my time back, they could not purchase wheelchair lifts to comply with the Rehabilitation Act. I know what the gentleman has said, and it is that we want to be able to do a mix of things. The language of the act says you cannot be required to purchase wheelchair lifts to comply.

Mr. DUNCAN of Oregon. That is right, "cannot be required to." The Department cannot require the local transit operators, cannot state that wheelchair lifts are the only way that they can comply with section 504.

Mr. MILLER of California. I would say to the gentleman that is not what the language says.

Mr. DUNCAN of Oregon. If the gentleman will yield further, it is precisely what the language says. It says that none of the funds may be used for programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504.

Mr. MILLER of California. What happens under this language if a local city and the Department of Transportation work out a proposal, and at some urging of the Department of Transportation that requires a mix of wheelchair lifts and minivans? How do we do that when we cannot purchase, cannot mandate them, and if the city does not want to do it, how does the Department of Transportation force that plan?

Mr. DUNCAN of Oregon. If the gentleman will yield, if the city decides they can better satisfy the requirement of section 504 by another device, whatever it may be, then the Department could not compel them to use wheelchair lifts. But if that same city wanted to use wheelchair lifts to comply with section 504, or wanted to use a mix, there is nothing in this amendment that would prevent them from doing so.

Mr. MILLER of California. But if, in fact, that proposal does not meet the requirements of section 504, how does the Department then enforce that?

Mr. DUNCAN of Oregon. If the gentleman will yield, it has been suggested by the gentleman from Illinois that what we ought to do perhaps is introduce more flexibility, that perhaps what we ought to do is grant more under the waivers. The Department has an inflexible program at this time and no waivers have been granted. In reality, this is an instruction to the Department to grab some waivers, induce some flexibility into the requirements of 504 to furnish handicapped service in the means by which a local community could satisfy that need. That is all it does.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am delighted to yield to the gentleman.

☐ 1440

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman for yielding.

I want to commend the gentleman from California on what he has had to say. The fact is that local transit agencies have for a long time had the full option of providing transportation services for handicapped people if they wanted to, but it was because they had not done so as well as because of other failures on the part of agencies of local and State government to provide adequate services for handicapped people that Congress wrote into law the section 504 language in the Rehabilitation Act of 1973.

I must say as one who for a number of years chaired the subcommittee of the House Committee on Education and Labor with jurisdiction over the Rehabilitation Act, I have no doubt whatsoever that the passage of this amendment would be a very serious setback for handicapped Americans. I do, nonetheless, Mr. Chairman, support the plea of the gentleman from Illinois (Mr. SIMON) who now chairs that subcommittee, for greater flexibility, a plea which has been echoed by the gentleman from Texas (Mr. STENHOLM), and the gentleman from Oregon (Mr. DUNCAN). I do not think there is any disagreement on the point they make. But where have these local transit agencies been all these years in helping meet the needs of handicapped people?

Mr. Chairman, I commend the gentleman from Texas (Mr. STENHOLM) for drawing this issue to the attention of the House. Although I do not support his amendment, I am sure that the fact of his offering it will cause the Department of Transportation to pay greatest heed to the need for greater sensitivity to the problems encountered by local transit agencies in providing service to handicapped persons.

What is necessary is a balanced commonsense approach to the implementation of section 504.

But what is not needed is an amendment that would endanger an important advance for handicapped persons, the opportunity for access to public transportation.

Mr. Chairman, I hope the amendment is rejected.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. I want to thank the gentleman from Indiana for those remarks because back in 1970 we passed legislation encouraging these local transit authorities, and again in 1976, talking about special efforts, and little or nothing was done. Let me speak as one who, on Easter Sunday not so many years ago, barricaded myself along with hundreds of handicapped individuals in the HEW building in San Francisco, to try to force this Government to write these 504 regulations to gain accessibility, and led candlelight vigils to then Secretary Califano's house and to the White House to get these regulations promulgated, that I think this is one of the most damaging amendments you can have.

Let me just say that I think if the gentleman from Texas would acknowledge what has been said here by people like the gentleman from Illinois (Mr. SIMON) and the gentleman from Indiana (Mr. BRADEMAS) who have led this fight for years—and I would join with that—if an administrator downtown is straitjacketing the city of Abilene to the extent he suggests is being done, and over the desires of the handicapped community, then I think I would be delighted to join that effort. But we are going to have this fight in a full-blown fashion on the reauthorization legislation in the Cleveland amendment.

I do not think the language is as flexible as the gentleman would like it to be, but we differ on that. But I would hope that we would give some time and let us see what happens if these gentlemen and others, and myself, would join in this, because I do not want to see the 504 regulations destroyed by this legislation or destroyed by some administrator who cannot understand that there may be another way to accomplish the same goal. That is not my desire.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I would be delighted to yield to the gentleman from Texas.

Mr. STENHOLM. I thank the gentleman for yielding. I want to respond to that and also to the gentleman from Indiana (Mr. BRADEMAS). Certainly it is not the intent of my amendment to allow the city to get off the hook of what 504 was intended to do for the handicapped. It is my intent to allow local option so that these decisions can be made on a local basis to best provide for the needed services for the local community. That is the intent. I think we are arguing about something totally irrelevant to my amendment.

I think the gentleman from Oregon (Mr. DUNCAN) has done an excellent job explaining the intent of my amendment and I have just told the gentleman my intent—to meet the best need.

Mr. MILLER of California. I understand that.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from West Virginia.

Mr. HUTCHINSON. I thank the gentleman for yielding.

In city after city across this country I do not think anybody is arguing about accessibility on this thing. I think that what we are fully concerned about is that DOT and UMTA have arrived at what the rules and regulations are going to be in a truly bureaucratic assessment in saying there is only one way of meeting full accessibility—only one way. I agree with my colleague, the gentleman from Utah, as to the waiver. I also agree with my colleague, the gentleman from Indiana (Mr. BRADEMAS). How often has that waiver been exercised by the Secretary? The answer is not one time.

The point is in my community we operated for a number of years very successfully with what we call a dial-a-ride program where the transportation was available at the doorstep. It was available on demand to take these people wherever they needed to go. It was truly successful. But the way it is now being administered by DOT, it is ineligible, and we have to spend tens and tens of thousands of dollars.

Mr. MILLER of California. Let me reclaim my time because I want to say I appreciate what the gentleman has said, and I think he has already heard other Members who have been leaders of the fight here. I do not seek to have this Secretary or his administrators destroy the 504 intent of those regulations. I think a very serious message can be sent by this dialog itself, because they know that they have the Cleveland amendment coming. They know that they have that discussion coming on the long-term authorization for this program, rather than a 1-year appropriation. I would hope that the gentleman would withdraw his amendment and join in the effort with other Members of the Congress to see if we can straighten this out and that in fact the waiver becomes a flexible tool to be used where communities have joined in that effort. I would hope that that would be the result and that if it is not, we certainly reject this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, I detect a certain repetition to the arguments beginning to occur. I ask unanimous consent that all debate on this amendment and all amendments thereto end in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. HOWARD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DUNCAN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. BEDELL. Mr. Chairman, reserving the right to object, I would like to know how many Members want to speak. If we are talking about 30 seconds, I do not think that is really proper.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. BEDELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DUNCAN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 3 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for slightly over 1 minute each.

The Chair recognizes the gentleman from Iowa, Mr. BEDELL.

Mr. BEDELL. Mr. Chairman, I would like to have the attention of the gentleman from California (Mr. MILLER), if I could. Do I understand the gentleman to be in agreement that there should be adequate flexibility in the 504 regulations so that in those communities where both the handicapped and the city authorities prefer their present alternative service they should be permitted to continue with it?

Mr. MILLER of California. If the gentleman will yield, there is no question about it, as long as it meets the mandates of 504 as written by this Congress.

Mr. BEDELL. I do not want to be repetitive, but I had an official from the DOT out to the largest city in my district, Sioux City, Iowa. Both the area handicapped and the Sioux City officials prefer the present alternative transportation system which is in place. I was informed by DOT that under current law there was no way an exception could be made to permit Sioux City to continue what is best for the city and the area handicapped. My concern is, that it does not seem right to me, that Congress should mandate that cities have to do what neither the people of that city nor the handicapped want.

Mr. MILLER of California. If the gentleman will yield, some people should be fired for incompetence; there is no question about that. Clearly you have to stay within the confines of accessibility of 504, but I think a waiver should be used.

Mr. BEDELL. I have been informed by DOT legal counsel that they could not legally grant exemptions even when it should be done.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I rise in support of the amendment of the gentleman from Texas. It is crucial for my colleagues and the American people to understand that this is not an antihandicapped amendment. It preserves the mandate in the law to provide transportation for disabled persons. It simply removes a requirement to provide that transport in a certain way, namely, through wheelchair lifts on public transit systems.

The amendment is actually better for handicapped people, since in many cases alternative means of providing transport for them will better serve their needs. In fact, the only people this amendment is against are the manufacturers of wheelchair lifts.

The Congressional Budget Office has estimated that it will cost $6.8 billion over 30 years to equip our entire Nation's mass transit systems for wheelchairs. Only 7 percent of the disabled will be served at an average cost of $38 per ride. Even subsidized taxi rides would be cheaper for the taxpayers and would provide better service to the disabled.

In my own State of Wisconsin, the city of Milwaukee has been operating lift-equipped buses for about a year, and the average cost to maintain each of them is about $1,500 per year because they are always breaking down. Of the 100 lift-equipped buses in the fleet, an average of 40 are out of service at any one time because of problems with the lifts. Therefore, the real cost of providing this service is actually higher than most estimates, because you have to figure in the cost of buying a larger fleet of buses to provide a given level of service.

Moreover, apart from the question of costs, wheelchair lifts on mass transit vehicles do not provide the best possible service to the disabled. This is really the most important point. For example, in Northern States lift-equipped buses are virtually useless for 3 or 4 months of the year anyway, because people in wheelchairs cannot get to and from the buses very well in the wintertime.

In addition the lifts slow down service for everyone else, make other people angry at disabled persons, and cause fewer other people to use mass transit. By now it is clear that in most cases better service can be provided to the disabled with subsidized cabs, dial-a-ride minibuses, or other systems.

We have here a classic case of the Federal Government trying to solve a problem by requiring one rigid, nationwide solution. Typically it is the most expensive and least workable solution, but the easiest one for the bureaucrats to administer. Instead the Government should specify the overall objective—providing transport for the disabled—and let local officials have a say in how it can be accomplished best in their particular circumstances. Why do overbearing bureaucrats in Washington think they know what is best for everyone? Let us work together with local people, and I am sure we can solve this problem in a way that is better for everyone.

□ 1450

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Edgar).

Mr. EDGAR. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. Howard).

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Howard).

Mr. HOWARD. Mr. Chairman, the Subcommittee on Transportation has been looking at this for years. We came to total accessibility because for years, where we in the Congress urged the local communities to do something about the elderly and handicapped, we found that all too often little or nothing was being done. We had dial-a-ride programs in some of our midwestern cities where you had to phone 3 days in advance for your ride. We did not find that "adequate" service. Mr. Chairman, I was the one who put in the provision several years ago for what we call total accessibility.

Looking at the provision now, I can see that that provision did as much to stop service to the elderly and the handicapped as had cities' own decision not to help them previously.

Mr. Chairman, this year in our bill we are working out a compromise, a compromise urged upon us by the elderly and by the handicapped. We had people come in, in wheelchairs by the dozens begging us to get off this total accessibility kick and try to do something that would work. So, in giving more flexibility to the local communities, we have done something that this amendment does not do. We have set specific criteria where we must assure the Secretary of Transportation that: First the same geographic area for general public transportation must be utilized for the handicapped; second, the same hours of service must be provided for the elderly and the handicapped; third, that there shall be no increase in price for the elderly and the handicapped for this special service; and fourth, most especially a provision that representatives of the elderly and the handicapped must be on any board or planning group that sets this program up.

Mr. Chairman, the other body has already passed its bill. It has moved away from the total accessibility item and toward some flexibility. Our bill is out of the full committee. It will be on the floor shortly after the convention recess and we will have an opportunity to work out and bring to this Congress an acceptable provision that will not merely set lofty goals and talk about total accessibility but which will actually do something to provide for all the elderly and the handicapped, the people who cannot get down the street to where the bus is. I hope we reject this amendment. By the first week in September we will have a good program.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Chairman, I would like to direct a question to the maker of the amendment, the gentleman from Texas (Mr. Stenholm).

Mr. Chairman, as I understand the amendment this does nothing to change the law but merely allows local option, is that not correct?

Mr. STENHOLM. If the gentleman will yield, that is exactly the intent of my amendment. I would point out that the gentleman from New Jersey (Mr. Howard) who has just spoken about what his committee is intending to do, if they do this and if the House does pass this, then it will immediately circumvent and make what I am trying to do the law of both this committee, the Committee on Appropriations and the gentleman's committee. That is exactly my intent.

Mr. ROUSSELOT. Does the amendment which the gentleman from New Jersey intend to include in the authorization come into conflict with your amendment. Does your amendment do damage to Mr. Howard's concept?

Mr. STENHOLM. It is not at all inconsistent. I am just saying let us do something now to begin doing what we apparently all want to do, let us just do it now.

Mr. ROUSSELOT. But the gentleman's only intent is to leave it to local option?

Mr. STENHOLM. My only intent is to leave it to the local community to make the determination as to how best to meet the needs of the handicapped under the general outline and the spirit of the 504 section.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Chairman, the gentleman from New Jersey (Mr. Howard) it seems to me hit the nail on the head. What you do if you pass this is, you legislate without carefully looking at the problem. This idea, "Let us do something about the problem," and suddenly you pull something out of the air, a local option. Perhaps, for example, the local government says 3 days' notification if you want to ride; as I read the amendment that complies with the amendment.

Mr. Chairman, this would be, beyond any question, a major step backward for the handicapped community of this Nation. Let us not fool ourselves about that fact.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Leath).

Mr. LEATH of Texas. Mr. Chairman, I would like to ask a question of the gentleman from Oregon (Mr. Duncan), the subcommittee chairman.

Again, as I said earlier, it appears everyone is in agreement on what we here seek to do. Mr. Chairman, am I correct in assuming, if this amendment does pass and if the bill from the Committee on Public Works and Transportation gets to the floor and passes, which I understand, having served on that committee and as the gentleman from New Jersey (Mr Howard) says would solve this problem does that not then negate this amendment?

Mr. DUNCAN of Oregon. In my judgment, subsequently passed legislation would replace that and the Howard bill would be the law of the land. Even if it did not, I think the House ought to know that this provision is effective only for 1 year. It would, in effect, induce a waiting period.

Mr. LEATH of Texas. So we would then be sending the Secretary a specific message for a specific problem.

Mr. DUNCAN of Oregon. The gentleman is correct.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, as I mentioned earlier today—I do not want to trespass on the patience of the House—I opposed this amendment in committee and we won, incidentally, in striking it by vote of 24 to 8. I think the reason we won was, the majority felt there was legislation coming out of the Public Works Committee. There was a Cleveland amendment to the surface transportation bill and the Cleveland amendment language was going to direct itself to the problems that have been in discussion here. An appropriation bill was not the place to consider this matter. There was no formal hearing, giving the handicapped the opportunity to come in and testify and give their point of view. This put them at a tremendous disadvantage. I think that is why a majority, 3 to 1 on the Committee on Appropriations, went along with me in striking that. I believe the chairman of that committee to be a man of his word and the gentleman knows that his bill will be reported out in August and we will have the opportunity of working our will here on the floor of the House.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Chairman, I will follow the example of my colleague and yield back the balance of my time.

• Mr. FRENZEL. Mr. Chairman, the amendment seems reasonable. It offers local communities the opportunity to provide the best transportation service to handicapped people.

The current rule, as interpreted by the department, seems to force one method, buses with lifts for wheel chairs. This method is unsatisfactory in many areas. Inclement weather, parking, population density, spacing of bus stops, and a host of other factors all make the bus with lifts less than a perfect solution.

I would prefer that such an amendment be added to the basic authorization law rather than to an appropriation bill, but I think it important that this body consider the matter now, and I shall vote for its passage.•

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Stenholm).

The question was taken; and on a division (demanded by Mr. Stenholm), there were—ayes 25, noes 20.

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 217, not voting 26, as follows:

[Roll No. 447]

AYES—190

Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti
Albosta
Alexander
Andrews, N.Dak.
Anthony
Archer
Ashbrook
Badham
Barnard
Bauman
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burlison
Butler
Byron
Carter
Chappell
Cheney
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Derrick
Derwinski
Devine
Dickinson
Dingell
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Ga.
Evans, Ind.
Flippo
Foley
Fountain
Frenzel
Frost
Gephardt
Gibbons
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hance
Hansen
Harkin
Harsha
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leath, Tex.
Lee
Lehman
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McCormack
McKay
Madigan
Marks
Marriott
Mattox
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
Natcher
Nedzi
Nichols
Pashayan
Paul
Pease
Petri
Preyer
Pritchard
Quayle
Railsback
Regula
Roberts
Robinson
Rose
Roth
Rousselot
Rudd
Santini
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stanton
Stenholm
Stockman
Stump
Swift
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wylie
Young, Alaska

NOES—217

Addabbo
Akaka
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead
Brown, Calif.
Buchanan
Burgener
Burton, John
Burton, Phillip
Campbell
Carney
Carr
Cavanaugh
Clausen
Clay
Cleveland
Clinger
Coelho
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
de la Garza
Deckard
Dellums
Dicks
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Ford, Mich.
Forsythe
Fowler
Fuqua
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Horton
Howard
Hughes
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kemp
Kildee
Kostmayer
Leach, Iowa
Lederer
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marlenee
Martin
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Pa.
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Porter
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Solarz
Spellman
St Germain
Stack
Staggers
Stangeland
Stewart
Stokes
Studds
Synar
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Waxman
Weaver
Weiss
Williams, Ohio
Wirth
Wolff
Wolpe
Wydler

NOT VOTING—26

Abdnor
Bafalis
Bonior
Chisholm
Collins, Ill.
Davis, Mich.
Dodd
Erdahl
Fish
Ford, Tenn.
Holtzman
Leach, La.
Leland
McCloskey
McDonald
Mathis
Mavroules
Nolan
Quillen
Rhodes
Runnels
Stark
Seed
Stratton
Wilson, C. H.
Wright

□ 1510

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mrs. Chisholm against.

Mr. McDonald for, with Mrs. Collins of Illinois against.

Messrs. CLINGER, ST GERMAIN, MINISH, de la GARZA, and STAGGERS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 7831, the Transportation appropriations bill. It was my privilege to work on this bill with our chairman, Bob Duncan, our ranking minority member, Silvio Conte, and a good grup of subcommittee members, with the very able assistance of subcommittee staff. Under Bob Duncan's leadership, we held an exhaustive series of hearings, looking carefully into all aspects of Federal programs supporting transportation. While individual Members might differ on priorities within the transportation program, seeking more funding for urban mass transit, for instance, or aviation, our deliberations on the bill were amicable and nonpartisan, and distinguished by a mutual concern for improving the Nation's vital transportation network in the most efficient and least wasteful ways.

Frankly, Mr. Chairman, the credit for this bill must go to Bob Duncan. He has been a strong and knowledgeable chairman, and has spent many hours getting the best possible information on record to guide our consideration of the bill. He has consistently been both tough and fair, to witnesses, administration officials, representatives of interest groups, citizens, and Members. It has been a pleasure, a privilege, and an education to work with him. It occurs to me, however, that if Bob had spent a little less time trying to be a superior chairman and a good Congressman, and a little more time trying to get reelected, he might be around longer. In any case, we will miss him next year, and the next subcommittee chairman will have a hard act to follow.

The bill has been thoroughly explained by Chairman Duncan and by Sil Conte, our ranking minority member. I would just like to note my special support for the sections providing Federal support to urban mass transportation. It is crucial that we get fast, efficient, and reasonably priced public transit on line as quickly as possible. We need to do this to reduce our reliance on imported oil, as well as to reduce the effects on our communities of air pollution, congestion, and the other results of one-man, one-car rush hours. For me, this is among the highest transportation priorities, and this bill contains sufficient funds, within the limits of the budget, to continue and expand the Federal effort in mass transit.

Mr. Chairman, this is a good bill, and a tribute to the chairman who guided it to the floor of the House. I hope my colleagues will join me in voting to move it along to the Senate in its present form, and seeing it enacted before adjournment.

AMENDMENTS OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. COUGHLIN: On page 19, line 25, strike "$2,220,000,000" and insert in lieu thereof "$2,190,000,000".

On page 21, line 4, strike $1,500,000,000" and insert in lieu thereof "$1,530,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania that his amendments be considered en bloc?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, this is a very simple and modest amendment that does not increase the size of this bill. It simply transfers $30 million from the section 3 urban discretionary grants fund to the section 5 urban formula grants fund for tier II use.

Mr. Chairman, it is the same pants; it is just different pockets we are talking about. We are not talking about any increase in the appropriation. We are just taking it from one section and putting into another. It simply redirects limited funds to where they are really needed the most.

The urban discretionary grants fund is cut by $30 million, and that still leaves that account as a $2.2 billion account, and it still leaves it with a $480 million increase over last year's funding. That is a very substantial increase in funds in the urban discretionary grants account.

□ 1520

The reduction that we have made is a minuscule amount in relation to the total amount of that fund. The fund that this amendment would add to is the urban formula grant fund and would bring the total of that fund to $230 million, which is still less than the budget request of the President.

Mr. Chairman, the cost of operating urban transit systems has skyrocketed because of escalating fuel costs and because of other costs that they just simply cannot keep up. And we have just gotten to the stage in many of our urban transit systems, with the energy crisis, where we are getting increased usage, increased ridership. To have the Federal Government share to be so proportionately reduced, the amount of the Federal Government share has actually not kept up under the pace of inflation under the appropriation as it stands now.

What this amendment would do be to add a little bit to that fund, which would help to enable the Federal Government share of that operation to keep up with the increased cost, to keep up with inflation, so that we avoid very, very hefty fare increases which will discourage, again, riders of the urban transit and we would go back to the situation which we had which really required increased energy use.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I have a question. What is the difference between the two sections? They both seem to refer to rolling stock, and they both demand quality standards, and so on. What is the difference between the two?

Mr. COUGHLIN. The urban discretionary grant program can only apply essentially to hardware. It cannot apply to operating expenses. The urban formula grant can apply to operating expenses as well. We are trying to increase the tier which applies to operating expenses.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for his amendment. I think it is a very important amendment. It does not increase any money. It simply takes away $30 million from the Secretary's discretionary capital funds for this 1 year and places the $30 million under the formula grant program to insure that many of our cities that have urban public transit systems have adequate funds for 1981.

If the gentleman would yield further, I would like to share with the House the fact that one of the arguments that many people use against operating assistance has been overcome by the local public transit systems this year. Specifically, almost all of the major systems have increased their fares. Atlanta raised its fare from 25 to 50 cents, a 100-percent increase. Boston raised its fare from 25 to 50 cents, again a 100-percent increase. San Francisco is up 100 percent. Cleveland raised its bus fare of 25 to 45 cents, and its rail fare from 35 to 50 cents. In St. Louis they moved the fares up 100 percent. In Detroit, Chicago, Pittsburgh, New York, and Philadelphia, increases at the fare box have gone up by some 20 percent.

I think it is important for the House to recognize that in a time of energy crisis and in shortages, when we need to give our people increased mobility, we at the Federal Government level need to assist those local systems to continue their commitment to operating assistance and maintenance.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. If the gentleman will yield further, I would just like to commend the gentleman for his amendment. I hope the House will recognize the fact that many of the cities have increased their fares substantially. We are simply allowing for an adjustment so that the operators of systems throughout the Nation do not receive less in operating assistance in fiscal year 1981 than they did in 1980.

Mr. COUGHLIN. I thank the gentleman for his remarks.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to commend my colleague also. I have long been an advocate of operating funds, and I think my good friend, the gentleman from Pennsylvania, has neglected to mention the city of Washington and the Metro system here, which has greatly increased its fare structure, particularly during the rush hour. Equipment is not the problem. The problem is keeping these bus lines and railroad systems in service. I think as long as the citizenry is willing to do their part, we should certainly recognize that and transfer the funds over into the category where they can be used more for operating subsidies than for capital equipment.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I, too, want to commend the gentleman from Pennsylvania for his amendment. I agree with the gentleman from Connecticut that we do face serious problems in many of our systems—certainly we do in New York City—of undermaintenance of existing equipment. That, in turn, causes breakdowns and poor service. I think the gentleman's initiative to try to deal in a small way with that problem is a very important one, and I hope that the House will approve it.

Mr. COUGHLIN. I thank my colleague, the gentleman from New York.

Mr. EDGAR. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I rise in support of this transfer amendment for some specific reasons. First, I outlined a number of cities throughout the country that have taken on their local responsibility of increasing their local share at the fare box. I think that is significant. It has been people like Congressman DUNCAN of Oregon and Congressman CONTE and Congressman HOWARD from the authorizing committee, and other Members, that have put pressure on the transportation systems to do their share to get funds from their cities and counties, their State, from the fare box and from whatever other resources exist to keep a public transit system working in this country.

I would like to spend just a few moments talking about one transit system which I think reflects what is happening in other systems. Let me talk about the city of Philadelphia and the SEPTA public transit system and share with the Members some of the things that have happened in just 2 fiscal years.

For the fiscal years 1979–80, the total operating budget for the SEPTA system was about $317 million. Of that $317 million, $45 million came from the fare box, or 46 percent, $66 million came from State government, or 21 percent, $34 million came from county and city government, or 11 percent, and the total Federal contribution to the city of Philadelphia and its public transit system was not in the neighborhood of 50 percent, as many people suspect, but was in fact $49 million, or only about 15 percent of SEPTA's total operating budget.

In fiscal year 1980–81, by increasing the fares from 50 to 65 cents, Philadelphia has taken responsible steps to increase its fare box contribution to some $185 million, or 50 percent of its operating costs. The State has made a commitment of $77 million, the county and local governments are providing some $37 million, and the Federal contribution will be $50 million. Thus, while the users of SEPTA are being asked to pay an even greater share of costs over last year, the Federal Government is decreasing its share. The total 1980–81 bill for public transit in the Philadelphia metropolitan area will be $359 million.

I believe that this represents what is happening in New York, in Boston, in Chicago, in Los Angeles, in San Francisco, in Pittsburgh, Atlanta, and Miami. I believe that if we can support the Coughlin amendment we will not be giving large sums of money to large cities to waste on their public transit system. We will be simply providing a public share from the Federal Treasury to those cities which is equal to what we provided last year. I think in a time of energy crisis, in a time of balanced budgets, in a time of fiscal restraint, it makes sense for us to transfer this small amount of dollars out of a very capital-intensive program to the operating assistance area.

One final point. A lot of people throughout the country who do not have urban public transit systems think that operating expenses only go to salaries of people who drive the buses or trolley cars. In fact, we make large commitments in this bill to new buses, but we do not make a commitment to the maintenance of those buses.

☐ 1530

Operating assistance funds do in fact go to the repair, maintenance, and upkeep of these systems. So I think it is important for our Nation, if we are going to have an adequate public transit system, to support the Coughlin amendment and to provide the additional operating and maintenance funds which are so necessary.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 3 additional minutes.)

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I thank the gentleman for yielding.

I want to compliment the gentleman on his statement and the factual information he has brought to bear on the issue. I think it is tremendously important that we are not just talking about these funds being used to provide to pay the drivers of buses or transit systems, but to keep them so they are in condition to operate, to do the maintenance, repairs and actually preserve the capital funds that we are putting up out of pocket.

So just as important as putting up the capital funds and buying buses, is keeping those buses maintained so that we are not having to continually put up more capital. I really think that is one of the important attributes of this. We are taking a small amount of money from the discretionary grant program, primarily capital, putting it into the operating, trying to maintain last year's effort in this area.

Mr. EDGAR. I thank the gentleman for his comments.

I would hope that my colleagues from urban, rural, and suburban communities would support this transfer of funds.

No additional money will be appropriated by the House Appropriations Committee or by OMB. It simply is diverting $30 million from the capital area to operation and maintenance so that we can maintain a good public transit system.

I yield back the balance of my time.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do so without being presumptive that in a budget of the size of this one for the Urban Mass Transportation Administration of $4,685,020,000, that we can call the proper allocation within a margin of $30,000,000 Conversely, I do not think the getleman from Pennsylvania can either. I think that the committee ought to know that he is proposing to move funds from a Federal contribution to help communities with their capital investment program to a category that merely subsidizes in an increasing amount the operating deficits of those communities.

We have talked here on the floor before and we have talked in committee about the proper role of the Federal Government in supporting local mass transit. I thought we had reached substantial agreement that the proper role of the Government was to help with these major capital investments, but that as far as the operating expenses are concerned, we are never going to have any entrepreneurial responsibility in these local operating agencies if all they have to do is take the difference between what they spend and what they collect and come to Washington and get a check for it.

Mr. Chairman, I think we ought to be aware that in recent years—and if the gentleman's statement as to who or what is responsible for it is accurate, I am pleased—there has been an increase in the effort on the part of the local communities to increase their fare box revenues. I believe it has only come in the last year or so.

In the meantime, operating costs of these local transit districts have gone up, according to the evidence we have seen, at a rate of 20 percent in excess of the inflation rate. We have got to have some responsibility on the part of local transit operators in the management of these systems. It is not true that we have added no money to this account. We have added $95,000,000 compared to the amount provided in 1980.

From the standpoint of the percentage of the deficit we are covering, the gentleman may be correct. We probably haven't kept up with the deficits, but since 1975, in 6 years, while some of the cities and local districts have gone from capturing 30 to 46 percent of their expenses from the fare box, this Congress has increased its contribution to urban mass transit from $300,000,000 to $1,500,000,000. A 400-percent increase in 6 years.

If you want to go ahead and take this money from our capital investment program, remember you are taking it from your transit district that wants to buy buses, that wants to complete its new start, that wants to rehabilitate its existing rail transit facilities and you are putting it into operating expenses. Do not be under any illusion that this is a 1-year proposition and that we will be able to retreat next year. Once we get that calf on the cow, who is going to take it off?

The final thing I want to say, and I had hoped I would not have to remind this House again of this fact, and that is this bill stands $103,000,000 over our target under the first budget resolution.

If this amendment is adopted, it is going to add about $18,000,000 to $20,000,000 in additional outlays. We are going to have to reconcile this increase by going back through all of these other agencies and appropriations and make the reduction in order to accommodate this particular increase.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I appreciate the gentleman's statement. The gentleman has been a leader in trying to hold down and to reduce the amount of operating expenses and increases that are taking place in our public transit systems. I commend the gentleman for that.

One of our problems, I think, is that we ignored and forgot about our public transit systems when energy was cheap. In the late forties, fifties, and sixties, when gasoline was cheap, the Federal commitment to public transit was not very significant. It was not until the early seventies as a result of the 1973 oil embargo and subsequent legislation that we began to make the kind of capital investments that the gentleman talks about.

The large increases in public transit that the gentleman has indicated have been significant in putting together not only the new systems in Baltimore and Buffalo and Atlanta and Miami, but as a result of the 1978 Surface Transportation Act, we began to address the needs of modernizing existing systems.

As the gentleman is well aware, in Philadelphia, New York, Boston and Chicago, there are enormous needs of track maintenance and transportation programs.

Mr. DUNCAN of Oregon. That is right.

Mr. EDGAR. During the period of moving from our neglect of public transit to putting public transit systems in place——

The CHAIRMAN. The time of the gentleman from Oregon (Mr. DUNCAN) has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 3 additional minutes.)

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Further, during this transitional period the gentleman has helped to initiate, where we are moving to put in place a capital infrastructure in new buses, in new fixed rail, in new commuter rail systems, and in repair and maintenance of existing systems, there is a period of time in which some adjustments have to be made in the area of operating assistance. Through the gentleman's leadership, we have gotten many of the cities to raise their fare box revenues 100 percent.

In our case, we have raised our fare box revenues above 20 percent.

Most of the cities around the Nation are recognizing more and more of the money has to come out of the fare box.

I simply would suggest to the gentleman that this year we need just this adjustment in capital expenditures diverted to operating assistance so that we can maintain the buses, maintain the trolley cars and maintain the system to its present level until we put in place our capital infrastructure.

Mr. DUNCAN of Oregon. If I can reclaim my time, I do not disagree with a great deal of what the gentleman says. I do have to insist that this committee, both under prior chairmen and this one, has really tried to respond to the needs of our large cities in the public transit field. Since 1975 we have gone from $300,000,000 to $1,405,000,000 in the current year. So we have responded. Our total budget, for both capital expenditures and operating expenses has increased significantly. We realize that even though perhaps mass transit is not hauling as many people as we would like, it is so important that the rest of the system would collapse if we did not support it properly.

☐ 1540

It is making significant percentage gains in ridership. Our committee intends to foster and encourage these increases, but we are up against an overall limitation that, in my judgment, makes it impossible to accede to the gentleman's request at this time.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from Oregon for a splendid statement. Despite my affection for both of the gentlemen from Pennsylvania, I believe that Federal subsidies to make up operating deficits are not a very productive transportation expense.

What they normally do is merely to increase the salaries and the wages of people already employed in the transit systems of our largest cities. They provide an additional crutch for those systems. The cripples will never learn to walk properly if the Federal Government continue to support them by the crutch of subsidy.

In my judgment, the gentleman from Oregon has already been overly generous in operating subsidies. I would prefer to see a heavier proportion of the mass transit budget go to capital money. But to take scarce capital money away from communities who are waiting to make these improvements, and who have needed to make them, and cannot make them in any other way, and divert them to the losing operations of a few large cities is a very unwise fiscal policy and transportation policy.

So I would hope that this amendment would be promptly defeated. It is not good policy in any sense of the word.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and on a division (demanded by Mr. COUGHLIN) there were—ayes 9, noes 16.

So the amendments were rejected.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to return to page 18, line 3, and offer an amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DUNCAN of Oregon. Mr. Chairman, reserving the right to object, I would ask the gentleman, is this amendment on the Poughkeepsie bridge?

Mr. GILMAN. That is correct.

Mr. DUNCAN of Oregon. We have already passed the point in the bill at which it should properly have been offered?

Mr. GILMAN. Yes, and I ask unanimous consent to return to the proper point.

Mr. DUNCAN of Oregon. Well, it is running late, but I do not want the gentleman to feel that we have in any way attempted to suppress his right to be heard.

Mr. Chairman, if we can expedite consideration, I will withdraw my objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

> RAIL LABOR ASSISTANCE
>
> For payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973, as amended, $7,500,000, to remain available until expended.

The Clerk read as follows:

> Amendment offered by Mr. GILMAN: On page 18, after line 23, insert the following new paragraph.
>
> POUGHKEEPSIE RAILROAD BRIDGE RECONSTRUCTION
>
> To enable the Secretary of Transportation to make payments for the reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, New York, as authorized by section 6 of Public Law 95-565, $1,000,000, to remain available until expended.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment to insert $1 million into this appropriations bill for the repair and rehabilitation of the bridge crossing the Hudson River at Poughkeepsie, N.Y. This bridge repair was specifically authorized in the Rail Amendments Act of 1978 (Public Law 95-656). It is of prime importance to the transportation needs of not only southern New England, but also southeastern New York and for the coal-producing regions of Pennsylvania, Virginia, and Kentucky.

In May of 1974 fire destroyed a portion of the bridge spanning the Hudson River at Poughkeepsie and despite continuous appeals by those who were using this important railroad line and despite appeals from the State of New York and the State of Connecticut, Conrail has resisted all efforts to repair this vital rail link.

I point out to my colleagues that the Poughkeepsie Bridge provides the shortest rail route between southern New England, southeastern New York, points on Long Island into metropolitan New York and the coal fields of Pennsylvania, Virginia, and Kentucky.

At a time when we are considering our Nation's energy needs, our utility companies are exploring methods of converting from gas fired generation to coal generation, this would be an important supply route for the coal burning powerplants in the New England area. The Poughkeepsie Bridge is a major gateway for coal to New England. The restoration of the bridge was included in the final rail systems plan. The restoration of the bridge would avoid an unbelievable 150-mile detour through the overburdened rail yards up at Selkirk, N.Y.

Permit me to call to the attention of my colleagues, several supporting statements that have been submitted urging the repair of the Poughkeepsie Bridge.

The Tristate Regional Planning Commission, which is a planning organization in the New York metropolitan region that has reviewed the issue of the proposed repair of the bridge, noted that the Lehigh & Hudson River Rail Line that took freight from Maybrook to the Allentown Gateway, transported over 2 million tons of bituminous coal across the Poughkeepsie Bridge in 1 year's time.

The South Western Regional Planning Agency of Connecticut stated:

> Our regional planning agency strongly endorses immediate steps to repair the fire damage, to rehabilitate the bridge and trackage and restore through freight service over it between southern New England, New York City, Long Island, and southern Middle Atlantic states. There is a particular need for fast truck-competitive-trailer-on-flatcar service between these points.

The Southwestern Regional Planning Agency goes on to state:

> The bridge provides the most direct route from the coal fields of Pennsylvania to New England, which also will be of great importance as the energy crisis becomes much more severe. But most of all—

The report says—

> the Poughkeepsie Bridge route provides a direct Northeast Corridor rail freight route, including a bypass of congested New York-New Jersey commuter areas.

The Orange & Rockland Utility Co., one of the larger utilities in our region, stated in testimony before our subcommittee:

> For far too long the repair of the Poughkeepsie Bridge has been postponed. It is one of two major interconnections across the Hudson River joining New England and the northeast. The Poughkeepsie Bridge is a critical facility. Years of delay in its repair have cost shippers millions of dollars in added time and expense. Freight moving through our region must now go north to Selkirk just below Albany, across the Hudson River and then south again toward its destination. It is extremely unwise from a national defense point of view to have the entire northeast dependent upon one railroad freight crossing of the Hudson River.

I submit to my colleagues that we are not seeking any major expenditure. Nine million dollars was authorized back in 1978 to repair this vital link and the authorizing language mandated that Conrail proceed to undertake the bridge repairs.

My colleagues, the gentlemen from Connecticut (Mr. MOFFETT, Mr. DODD, and Mr. MCKINNEY), the gentleman from New Jersey (Mr. COURTER), and the gentleman from New York (Mr. FISH), all join with me in urging our colleagues to authorize, in this appropriation bill, the expenditure of $1 million in order to enable Conrail to get this long-needed repair underway.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I congratulate the gentleman for bringing this amendment.

I just would like to add a new perspective with regard to the problem today. That is the fact that it not only impacts obviously New York and the entire New England and is a vital link between the coalfields, as the gentleman from New York mentioned, to New England; but impacts the northern part of the sector of New Jersey which is my congressional district. There is an area there of Franklin, N.J., to Warwick, N.Y., that is now being basically abandoned by Conrail and the logic and the rationale used by Conrail is the fact that it is not being utilized. The reason that particular link is not being utilized, which is important to northern New Jersey, is the fact that it leads to this particular bridge which is not being in use.

Obviously, therefore, an individual would not be desirous to use this particular link if they can transport whatever they have to the Franklin Bridge or the Poughkeepsie Bridge and then find that the bridge was turned out.

□ 1550

So that is the first point I would like to make.

Secondly, I would like to emphasize a statement that was made by another gentleman from New York, Mr. HAMILTON FISH, in April of 1980 that relates to safety, and it is an extremely important issue with regard to this particular bridge.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. GILMAN was allowed to proceed for 3 additional minutes.)

Mr. GILMAN. I yield to the gentleman.

Mr. COURTER. I thank the gentleman for yielding. The gentleman from New York (Mr. FISH), indicated in April of this year as follows:

> For you who have not seen the bridge, I realize it is difficult to visualize. While the bridge does span the Hudson River, on the eastern edge it starts at a relatively high elevation and spans a half mile to a mile overland before it reaches the river. It is this section of the bridge—that section over the First Ward of the city of Poughkeepsie—that was damaged by the fire which closed the bridge in 1974.
>
> In a statement I read on the floor of the House on October 8, 1978, I incorporated a statement by the then Mayor of the City of Poughkeepsie, John Kennedy, which stated, among other things: "The structure is deteriorating rapidly and is literally falling apart above us, endangering lives and property."
>
> What was true in 1978 remains true, but in a somewhat worsened form today. Bits and pieces of the bridge at that time were falling on the First Ward. They are still falling today.
>
> Full rehabilitation and integration of the bridge into a major link in our Northeast Rail System is very important. The safety and the property of those living beneath the bridge is vital.

I would just like to contribute that, and I appreciate the amendment and urge my colleagues to support it.

Mr. GILMAN. I thank the gentleman for his supportive remarks.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to another gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding. I want to compliment him for having offered this amendment. It seems to me in this era of energy shortages and energy crises that rail freight is the way to go. It is good for areas that are affected, it is good for the entire Nation for saving energy, and it seems to me for us not to have made this kind of modest investment in repairing this vital transportation link is really being foolhardy from a national point of view. I thank the gentleman.

Mr. GILMAN. I welcome the gentleman's remarks particularly because the gentleman represents a portion of the metropolitan region of New York.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent Mr. GILMAN was allowed to proceed for 2 additional minutes.)

Mr. GILMAN. The Port Authority people in New York have indicated their concern and interest in having this vital rail link reopened because it is an important rail shipping route for shipments in and out of metropolitan New York.

Mr. WEISS. If the gentleman will yield further, hopefully when this amendment is adopted it will send a signal to Conrail and the State transportation authority in New York that this is the right direction and the direction that we want to go.

Mr. GILMAN. I thank the gentleman for his support.

Mr. MCKINNEY. Mr. Chairman, I move to strike the last word, and I rise to speak on behalf of the amendment.

Mr. Chairman, I feel strongly that the Poughkeepsie bridge amendment, adopted by the Senate August 1, deserves the support of all Members who believe in the importance of restoring a viable, competitive link to the national rail freight system in the industrial Northeast.

An impediment to the revitalization of the freight system in the Northeast has been the lack of a southern route across the Hudson to and from New England. However, this was not always the case. Before its demise, Penn Central maintained a bridge at Poughkeepsie that was destroyed by fire almost 7 years ago. Since that time, shippers have been forced to route trains 75 miles farther north to Selkirk, N.Y., the site of the only remaining bridge across the Hudson. The subsequent 150-mile detour, combined with the time-consuming delay at the Selkirk bottleneck, can more than triple the once-average transit time between Washington and the major terminus at New Haven.

More time means higher costs and in this time of stubborn inflation, I cannot believe that this situation has been allowed to persist. At the current traffic levels, the savings from a reduction in transit time and hence shipping fees created by the new bridge would be well over $2 million annually. The savings to business and consumers would exceed that $2 million figure as the rebuilt Poughkeepsie span makes shipment by rail more competitive with trucking in terms of both cost and time. The potential for increased southbound traffic is indicated by the fact that in Connecticut, 39 percent of westward shipments, for which the Selkirk route is the most direct, goes by rail. Compare that to a mere 16 percent share of southbound shipping for rail, which must take a more circuitous route.

While I believe the arguments for a new Poughkeepsie bridge now are compelling enough, the longer term considerations are perhaps even more urgent. Freight service could be phased out on the major rail lines through Connecticut, New York City, and Long Island if Amtrak assumes control over those routes, leaving only one rail gateway to southern New England, and this would not even be owned by Conrail. Already, Conrail must pay 21 cents per mile for the use of the Amtrak-owned portion of the Selkirk detour at an annual cost of $3.6 million. The repair of the Poughkeepsie bridge would negate a large portion of the higher costs and longer transit times affecting transportation service in the Northeast and permit connections to be made by other rail carriers to Conrail lines, providing more flexible, competitive service to New York and southern New England.

Other considerations come into play as well. In the future, would it make sense to waste the 3 million gallons of (mostly imported) fuel needed in part to carry New England's expanded coal needs through Selkirk? The new bridge could eliminate that energy waste and enhance the economics of coal consumption in New England, a region heavily dependent on high priced foreign oil, by lowering transportation charges for coal.

Unfortunately, the need for rail system improvement has not prevented Conrail's deviation from its 1975 final system plan which called for the restoration of the bridge. The Tri-State Regional Planning Commission (New York, New Jersey, and Connecticut) has refuted the low investment return claims of Conrail and found that using a conservative seven to eight trip per day utilization assumption, the Poughkeepsie bridge project would yield a return of 18 to 20 percent. I hope you agree that's more than adequate to justify a new bridge.

Among the backers of the bridge restoration, in addition to the Tri-State Commission, are the State Departments of Transportation for New York, New Jersey, Pennsylvania, and Connecticut, as well as the Southwestern (Connecticut) Regional Planning Agency, the Connecticut Public Transportation Authority, the Eastern Connecticut Development Council, the Connecticut Business and Industry Association, and the Connecticut Association of Rail & Bus Users.

The economic merits of the project clearly demonstrate the need for restoring the Poughkeepsie bridge. The support from such a wide range of public and private entities should further encourage you to join me in casting a favorable vote on the Gilman amendment.

Mr. Chairman, I would just like to read into the RECORD a letter from Thomas Serrani, chairman of the transportation committee, and Howard T. Owens, Jr., senate chairman of the transportation committee in the State capital in Connecticut. Their letter reads in part as follows:

> We consider the rebuilding of the Poughkeepsie Bridge an essential element in a healthy rail system in Connecticut. Rail freight operations are carried out in the eastern portion of the State by the Central Vermont Railroad and the Providence & Worcester Railroad, both efficient and reliable rail carriers. For the health of our system we need the Poughkeepsie Bridge to complement the east-west through route while providing a more efficient means of transporting rail-oriented commodities to the west and south.

Mr. Chairman, I would just have to state one other thing.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it really pains me to oppose my good friends on this issue. But the Poughkeepsie bridge rehabilitation project has been studied in detail twice since it was first proposed in 1976. USRA and Stanford Research Institute looked at the economics of the project and the best cost analysis indicated the project would yield—I even hate to say this—2.2 percent rate of return. Conrail did its own economic study and completed it in 1978 showing a rate of return—I hate to say this—of 0.8, 0.8 to 1.1 percent.

I have a letter here from the commissioner of transportation from the State of New York.

☐ 1600

Writing to the Chairman of Conrail, he says:

> Recently the Federal Railroad Administration completed its analysis of the Poughkeepsie bridge indicating that substantial funds above the $9 million currently available would be required to make the bridge operational. In addition, the report states that there were few public benefits to reopening the bridge. This last point has been reinforced by no less than four other major studies: The original Final System Plan, a Recbie Associates report for the New England Regional Commission, a Landow Associates report for NYDOT Intermodal Study, and most recently by the USRA/NERCOM study.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will yield to the gentleman.

Mr. MOFFETT. I thank the gentlemanf or yielding. I will say to the gentleman that the report the gentleman is quoting also says, and I quote:

> It appears the structure could become a viable railroad facility.

Much in the way of what the gentleman is quoting is Penn Central data put out by Penn Central refugees. I know the gentleman has never had a great deal of faith in the Penn Central.

Mr. CONTE. No; I do not.

Mr. MOFFETT. The Penn Central refugees are in the Federal Railroad Administration.

Mr. CONTE. I am not reading from any study. I am reading from Mr. Hennessy, the commissioner of transportation of New York's letter. Let me continue with his letter:

> This bridge has not been used for six years.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Is the gentleman familiar with the fact that in 1974 when this bridge first had a fire, the fire only burned some trestles on the bridge. There was not a major conflagration. It burned a few of the trestles. They estimated at that time that the cost of repairing the bridge was $600,000 in 1974, at which time there was some $400,000 of insurance proceeds in an escrow account that is still available for repairs. Can the gentleman tell us how from 1974 to 1980 Conrail's estimators now come up with a $26 million cost of repair figure in that brief period of time? We are not asking to repair the whole Northeast Corridor. We want repaired just one important rail link across the Hudson River, and we are asking for less than a million dollars to get underway with this kind of work. I do not think we are being unreasonable in requesting an important rail link be reopened.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 3 additional minutes.)

Mr. CONTE. I might go along, and maybe the Chairman might go along, with about a $25,000 appropriation for that, yes, so that the next Fourth of July they can get all of those ties, pile them up, and have a bonfire and burn the rest of them, because as this letter says:

> This bridge has not been used for six years. It does present a serious safety hazard to the residents of the City of Poughkeepsie and, in the long run, is certainly an obstacle to navigational development on the Hudson River. I believe the time has come to dispose of this matter.

Again, this is Mr. Hennessy's letter, the commissioner of transportation for the State of New York, June 1980.

> I understand FRA has asked you for your thoughts on the use of the $9 million currently available. May I suggest that you respond in two ways. First, the bridge historically did provide improved vertical clearance to the area east of the Hudson River and the clearance capability from Beacon, New York, to the west via the Poughkeepsie bridge is far superior to the currently available clearances from Beacon to the west via Selkirk. It would be most valuable to New York if the $9 million currently available could be programmed by Conrail to the further enhancement of clearances on the Hudson Division to the maximum extent practical. Second, it is essential that the bridge be demolished or transferred to another owner, such as the utility company that currently uses the bridge for power transmission lines, so that the facility will be properly fenced and maintained. One way or the other, I would like this issue disposed of this year.

Again this is Mr. Hennessy's letter, not me.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding. Is the gentleman aware that the estimate for demolishing this bridge, the estimated cost for demolishing the bridge, has been computed to be some $7.9 million just to tear down the bridge? We are not asking to tear down the bridge; we are asking to reopen a link by an expenditure of $1 million. Is the gentleman further aware—and I believe he is from reading the letter—that this bridge is a conduit for important power lines across the Hudson River owned by the Central Hudson? If this bridge were torn down, we would have to make arrangements for a cable system to go across the river to replace the existing system, which would be highly expensive. We are asking for the most economical method, a method that would provide transportation and maintain this energy conduit across the river and at the same time take care of the safety hazards in that part of the State.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding. I find it very difficult in my role as the chairman of the New England Energy Congress to understand the gentleman's reasoning that we can possibly continue to survive in New England with only one method to transport by rail, freight by rail, across the Hudson. You cannot take freight cars through the Golden Gate Bridge or through the tunnels of New York City. We put ourselves in terrible jeopardy for the shipment of most of our energy to the New England States. Just by chance, for instance, the Selkirk bridge, which is already costing us something close to $6 million a year or more to operate——

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McKinney, and by unanimous consent, Mr. Conte was allowed to proceed for 5 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, if just by chance the Selkirk Bridge were harmed by derailment, by fire, or by anything else such as has happened to the Poughkeepsie Bridge, New England would be totally and completely and absolutely isolated for freight except by truck and by barge. We all know in our congressional inquiries as to the cost of coal that the present shipment rate cost for coal from West Virginia or Pennsylvania to New England is about $7 more than it is to get it from South Africa, and we are trying to become energy independent.

I would suggest that the gentleman who wrote that letter has every reason to write the nonsense he wrote. Why should he care? He is on the other side of the Hudson River. That is our whole problem. We have got to have a southern route, and I would suggest to the gentleman from Massachusetts the freight figures that I state are very clear. Of the freight alone moving out of Connecticut going west, 39 percent of it goes by train—39 percent. I would suggest to the gentleman the reason only 16 percent goes by train to the south is because it is so inconvenient. I would further suggest to the gentleman that this is a cheap price to pay to save New England, and that is what it amounts to in the long run.

Last, but not least, these people at Conrail—and the gentleman is very patient—the gentleman knows what they want to do to New England. Conrail wants out of New England. Our good congressional colleague, the gentleman from Connecticut (Mr. Dodd), has found that out. They do not want any part of it. They will not drop off freight cars. They do not want to do anything else. They want to drop New England dead, and one of the best ways to do it is not to build this bridge.

I want to hold these guys to the fire because they have done a disservice to the United States. They have disobeyed what was essentially a congressional mandate. They have disobeyed the 1975 rail plan. They have been, I think, arrogant and presumptuous, and I think we ought to fix this bridge and get on with the business of being able to ship coal into New England.

Mr. CONTE. I want to thank the gentleman, and if I may, I must answer him. Then I will give the next gentleman a chance and I will answer him.

The gentleman from Connecticut mentioned his chairmanship on the energy task force, and I as the cochairman of the New England Caucus recommended him because of his great talents. Now I have got to tell you what his findings were. But before I do let me give you some facts:

In 1980, the Department of Transportation studied the utility of restoring the Poughkeepsie bridge to a condition sufficient to permit operation over the line. The results were: A cost of restoration of the bridge alone of $26.9 million and a cost of placing the bridge route in service of a minimum of $7 million.

The vast majority of Conrail's New England traffic now flows through Selkirk yard, located south of Albany, and across New York State via Syracuse, Rochester, and Buffalo. Selkirk is a modern computerized yard that has been closed by weather only once in the last 10 years. From Chicago to New York City via Selkirk, the distance is 964 miles. Via the Poughkeepsie bridge route, it is 1,168 miles. From Chicago to New Haven via Selkirk, the distance is 979 miles. Via the bridge route, it is 1,096 miles. From Washington to New York via Selkirk, the distance is 495 miles. Via the bridge route it is 491 miles. In only one comparison of mileage between major gateways is the bridge a shorter route. That is between Washington and New Haven where the difference is 81 miles.

The bridge is not necessary for the increase in coal traffic to New England as a result of coal conversion. A study done for the energy task force of the New England Congressional Caucus in July 1978 concludes that if optimum coal conversion were to take place in New England, three additional coal trains a day could handle the need.

The Poughkeepsie bridge route is not required for national security. The U.S. Department of Transportation report of August 3, 1976, entitled "Preliminary Standards; Classification and Designation of Lines of Class I Railroads in the U.S.," presents a Department of Defense conclusion that any of several cross-Hudson River routes are preferable to the Poughkeepsie bridge.

In summary, there is no economic, service, energy, or national defense justification for rebuilding the bridge. An amendment requiring a reconstruction of the bridge is a major indication that the Congress intends to make route structure and operating decisions for Conrail.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Rousselot and by unanimous consent, Mr. Conte was allowed to proceed for 3 additional minutes.)

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. I would like to correct my prior statement with regard to the cost of the removal of the structure. I find in the DeLeuw Cather engineering report that was done at the request of the U.S. Department of Transportation in February 1980, that the complete removal of the structure including foundations was $9 million and the removal of the approach spans was $3 million, a total of $12 million to remove the Poughkeepsie Bridge. It is estimated the salvage cost would be $1.7 million or a net cost of $10.3 million to remove the bridge.

The total authorization is only $9 million. The cost to remove the bridge would be far in excess of the total authorization to repair this bridge. I might note we are only asking for $1 million at this time to get the work underway.

Mr. CONTE. The DeLeuw Cather organization estimates the repair cost of the bridge, just the bridge, to be $26.9 million. It all depends on which study you are looking at.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. McKINNEY. Let us look at another study.

Mr. CONTE. Surely. There are a lot of them.

Mr. McKINNEY. This comes from the Southwestern Regional Planning Agency and they estimate the cost of fixing the bridge at $9,560,000. The total cost for all the rail rights, expenses and everything, $12,868,000. I think the "DeLeuw Cather" estimate has been pretty well discredited by this statement.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I think the case is there for rebuilding the bridge. I think we are arguing about whether or not we can get the money to do it. I do not think anyone would argue that with the Trident submarines and other defense components being made in Connecticut that we should not have a route to the West. I do not think our friends from West Virginia and Pennsylvania would argue, if the coal conversion oil backout bill is passed that we should not have a route from the West into New England with regard to coal burning.

Mr. Chairman, we have had hearings on this bridge; we have had tours of it. We have taken pictures of it, we have had engineering analyses of it. It should be rebuilt. I can say, and I think the gentleman from Connecticut (Mr. McKinney) would agree that under the current status quo, Connecticut is a branch line. Our trains go up that west bank of the Hudson, near Albany, over Selkirk and into the district of the gentleman from Massachusetts (Mr. Conte). Perhaps the gentleman should look at this as a noise control bill. We can have far fewer of these freight trains go through the gentleman's district if he can help us get this bridge repaired.

Having said all that—and I think we do make a case for the bridge being built—we cannot get this money approved without the support of the gentleman from Oregon and the gentleman from Massachusetts and I think the little coalition we have here is probably aware of that.

I, therefore, make a plea to both gentlemen, the gentleman from Oregon and the gentleman from Massachusetts, to help us, if not at this moment, at least in the days ahead, if they can, to figure out a way to get this done. We have to get the State departments of transportation in a better frame of mind with regard to maybe a contribution and we have to explore other avenues for funding, other Federal avenues, it seems to me, and I would hope that the gentleman from Oregon who is I think quite well schooled, even though he is not from the Northeast, on this issue, I would hope he would attempt to give us some guidance and leadership here. The fact is it does not make sense for trains to go 120 miles out of their way. It does not make sense for a Washington to New Haven trip that used to take 17 hours to now take 59 hours. We are looking for a way out. If the gentleman can help us in any way, I think we will do our part. Otherwise, we are going to continue to have amendments offered like this, month in and month out, year in and year out. We have been on this thing for 6 or 7 years and I think we would all like to find a way out of it.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I would like to agree with the gentleman. I think the problem is, that the gentleman realizes as well as I, that we have no alternative if Selkirk goes down and there is every chance that it could be closed down. Then we become totally isolated. My good colleague, the gentleman from New York (Mr. GILMAN) has just given me the freight times which I think are of interest.

It takes 4 days presently from Washington, D.C. to New Haven, Conn., via Selkirk. You leave at 11:45 in the afternoon and get in at 3 a.m. in the morning.

It takes 1 day to get from Washington, D.C., to New Haven via the Poughkeepsie Bridge and that is a tremendous difference.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

Mr. DUNCAN of Oregon. Mr. Chairman, I move to strike the requisite number of words. I shall speak only briefly in opposition to this amendment.

The defense of my colleague from Massachusetts (Mr. CONTE) was devastating I thought and I congratulate the gentleman on it.

I have a couple of reasons why I think this should not be done and then I am going to make a suggestion to the gentlemen who are the proponents of this amendment. The first one, I have to recall to you once again, is, this is adding $1 million in outlays and we just do not have it. If you want to rebuild this bridge against the opposition of the Department of Transportation of the State of New York, then, realize you are taking it out of some of these other items with which you are so greatly concerned.

The second thing I want to say is, this involves Conrail. Conrail, at best, has not had a very satisfactory record of operation. They have lost money nearly every quarter they have been in operation. They have lost so much money that the $3 billion which we have put into that railroad through the purchase of preferred stock, is virtually gone. Later this year we will probably be asked to vote on whether we want to authorize another $300 million to keep Conrail going.

Mr. Chairman, what is Conrail's biggest problem? One thing is, it has more mileage in less densely traveled areas and they cannot make a profit on it. These are areas that have, as someone already said in part, been relegated to branch lines.

Mr. Chairman, we are not talking about $1 million. My friend, the gentleman from New York (Mr. GILMAN) has brought in a study—you can find studies on cost for whatever amount you want. But by the gentleman's study it is going to cost $9.5 million for only the rehabilitation of the bridge. However, I believe his experts concede you are going to have to rebuild the trackage from Mavbrook to Hopewell Junction. That is another $3 million for a total of $12 million. However, his expert did not even take into consideration the requirements of rebuilding the road from Phillipsburg to Maybrook.

Now, Mr. Chairman, we have another study that was done—DeLeuw Cather—giving a total of $31 million for this project. We have had some other studies made that if they could borrow their money at somewhere around 2 percent, they might be able to break even operating over this line. Conrail says they would have to borrow that money at 1 percent before they would have a chance of breaking even. It just is not a businesslike deal.

There is one more sound reason. I would like to call this to your attention. One of the most significant pieces of litigation now under way in this country involves the valuation of the Penn Central assets. The trustee in bankruptcy for Penn Central contends, as he argues for about a $7 billion payment by the Government for that porperty, that this was a taking of private property for public use. So far this Government has not told Conrail how they are to operate their business. We have not told them they have to build that bridge or that they have to run those trains. The theory of the Government is that this is a reorganization under the bankruptcy clause of the Constitution. In my judgment it would be most imprudent for this House to take any steps that might give some validity to the position taken by the trustee in bankruptcy. If you do, and if my suspicions are correct, you are then going to put yourselves in a position where you might have to pay huge sums of money to the trustee in bankruptcy for the transfer of Penn Central's assets to Conrail.

Is there a solution? There may be a solution and the gentleman from Connecticut has asked that we make some suggestions.

☐ 1620

Well, let me make one. We have in this bill $75 million for local rail service assistance. This means that the Government is prepared, where there is a line that is going to be abandoned, whether it be Conrail or another private railroad like Illinois Central, Southern Pacific, or Union Pacific, to help, but the State has got to do something about it too. This money can be used for capital improvements, and it can also be used for operating deficits. The Government participates on a declining ratio of financial assistance.

The State of New York has not been interested. If they are interested, then the money is available. If they are interested and the State of Connecticut is interested, this is a way in which they can go, and in my judgment, it is a good program. If the States have got the interest to put their money where their mouth is, then I am willing to have the Federal Government go along and help them under the local rail service program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. McKINNEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1630

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Connecticut (Mr. McKINNEY) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 263, not voting 41, as follows:

[Roll No. 448]

AYES—129

Addabbo
Ambro
Aspin
Atkinson
Bailey
Barnard
Beilenson
Bereuter
Bevill
Bingham
Blanchard
Brodhead
Broomfield
Brown, Ohio
Buchanan
Burton, Phillip
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Cotter
Courter
D'Amours
Daschle
Deckard
Derwinski
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Evans, Ga.
Ferraro
Fish
Forsythe
Fowler
Frenzel
Garcia
Giaimo
Gilman
Gonzalez
Goodling
Green
Guarini
Guyer
Hance
Hanley
Heckler
Hollenbeck
Horton
Hubbard
Hutchinson
Hyde
Jeffords
Kemp
Kildee
LaFalce
Lederer
Lee
Lent
Lloyd
Lowry
Lundine
McClory
McEwen
McHugh
McKinney
Marks
Marlenee

Martin
Michel
Miller, Calif.
Mitchell, N.Y.
Moffett
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Nowak
O'Brien
Ottinger
Pepper
Perkins
Peyser
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Richmond
Roe
Rosenthal
Rousselot
Scheuer
Schulze
Sebelius
Seiberling
Shuster
Simon
Solarz
Solomon
St Germain
Stack
Staggers
Stanton
Stokes
Studds
Swift
Thomas
Traxler
Walgren
Weiss
White
Wirth
Wolff
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—263

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
AuCoin
Badham
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Chappell
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Dellums
Derrick
Devine
Dickinson
Dicks
Dingell
Dixon
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Fountain
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Howard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lehman
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lujan
Luken
Lungren
McCormack
McDade
McKay
Madigan
Maguire
Markey
Marriott
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murtha
Musto
Natcher
Neal
Nedzi
Nelson
Nichols
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Petri
Pickle
Preyer
Price
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Rodino
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spence
Stangeland
Stenholm
Stewart
Stockman
Stump
Synar
Tauke
Tauzin
Taylor
Thompson
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wyatt
Yates
Young, Mo.
Zablocki

NOT VOTING—41

Abdnor
Anderson, Ill.
Bafalis
Bauman
Biaggi
Bolling
Bonior
Clay
Davis, Mich.
Dodd
Early
Ford, Mich.
Ford, Tenn.
Holtzman
Johnson, Colo.
Leach, La.
Leland
Lewis
Lott
McCloskey
McDonald
Mathis
Mavroules
Moorhead, Pa.
Mottl
Nolan
Porter
Quayle
Quillen
Rhodes
Runnels
Shannon
Spellman
Stark
Steed
Stratton
Symms
Waxman
Wolpe
Wydler
Young, Alaska

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Dodd for, with Mr. McDonald against.
Mr. Stark for, with Mr. Porter against.
Mr. Stratton for, with Mr. Clay against.
Mr. Biaggi for, with Mrs. Spellman against.

Mr. GRISHAM and Mr. MADIGAN changed their votes from "aye" to "no."

Mr. DECKARD changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); not to exceed $25,000 for official reception and representation expenses; operation of guide services; residence for the administrator, contingencies of the administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter, including accounts payable for capital projects, $370,324,000, to be derived from the Panama Canal Commission Fund. There may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects and funds received from officers and employees of the Commission and/or commercial insurors of Commission employees for payment to other United States Government agencies for expenditures made for services provided to Commission employees and their dependents by such other agencies. To the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

CAPITAL OUTLAY

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed thirty-one passenger motor vehicles of which nineteen are for replacement only; to employ services authorized by law (5 U.S.C. 3109); for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, $21,350,000, to be derived from the Panama Canal Commission Fund and to remain available until expended. To the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

AMENDMENTS OFFERED BY MR. HUBBARD

Mr. HUBBARD. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HUBBARD: On page 26, line 18, after the period, insert the following: "*Provided*, That of the funds appropriated by this section not to exceed $495,000 shall be available for the hire of passenger motor vehicles; not to exceed $776,000 shall be available for the hire of aircraft; not to exceed $136,000 shall be available for uniforms or allowances; not to exceed $272,000 shall be available for operation of guide services; not to exceed $60,000 shall be available for maintenance of a residence for the Administrator; not to exceed $25,000 shall be available for contingencies of the Administrator; not to exceed $520,000 shall be available to employ services as authorized by law (5 U.S.C. 3109); and not to exceed $3,724,000 shall be available for maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use."

On page 27, line 20, after the period, insert the following: "*Provided*, That of the funds appropriated by this section not to exceed $16,226,000 shall be available for navigation projects; not to exceed $1,648,000 shall be available for utilities projects; not to exceed $800,000 shall be available for housing improvements; and not to exceed $2,676,000 shall be available for general support projects."

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. CARNEY. I reserve the right to object, Mr. Chairman.

Mr. CONTE. I withdraw my request, Mr. Chairman.

The CHAIRMAN. The Clerk will continue to read.

The Clerk concluded reading the amendments.

□ 1700

Mr. HUBBARD. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. HUBBARD. Mr. Chairman, briefly, these two amendments we are considering en bloc simply place the same restrictions on the expenditure of these funds which are contained in the Panama Canal Treaties bill for 1981. The authorization bill, H.R. 6515, has been reported favorably by the Committee on Merchant Marine and Fisheries and favorably by the Panama Canal Subcommittee and has been granted a rule by the Committee on Rules.

I understand there is no objection to these two amendments.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, we have examined the amendments. The one on page 27 is taken almost verbatim from our committee report. All it does is allocate the funds within the total that we have appropriated.

We have no objection to the amendments. We think they are properly prepared.

Mr. HUBBARD. Mr. Chairman, I thank the gentleman from Oregon.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I wish to inform the gentleman from Kentucky that we have studied these amendments. We have no objection to them.

Mr. BAUMAN. Mr. Chairman, I want to strongly support the amendment offered by the gentleman from Kentucky (Mr. Hubbard) who is the chairman of the Subcommittee on the Panama Canal. As the ranking minority member of that subcommittee I have discussed this matter with the gentleman and I believe that this amendment will serve to tie down the expenditures for the Panama Canal's operations to those categories which both the Panama Canal Subcommittee membership and that of the Transportation Appropriations Subcommittee as well.

I think that these restrictions are most important in light of the direction now being pursued by the Board of Supervisors of the Panama Canal Commission which was created under the terms of the treaty and the implimentation law. Last Monday our subcommittee held a hearing for oversight purposes and especially to inquire into the new regulations which have been adopted to govern the canal. These regulations seem to ignore the intent of Congress as well as the law we passed which impliments the Panama Canal Treaties. This is being done with the full acquiescence of the Carter administration and I believe it is a breach of faith with both the American people and the law.

In view of the fact that we have not been permitted to call up the authorizing legislation, these amendments carry out the terms of that legislation and will have the same effect. I urge there adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kentucky (Mr. Hubbard).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 317. None of the funds in this Act shall be used to assist any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State and are not engaged in interstate commercial transportation.

AMENDMENT OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Traxler: Page 34, after line 19, insert the following new section:

Sec. 318. (a) None of the funds provided in this Act may be used to implement or enforce any standard or regulation which requires any motor vehicle to be equipped with a passive occupant restraint system.

(b) Nothing in this section shall be construed to prohibit the use of funds provided in this Act for evaluation of the competitive implicatons of passve restraint standards, or for research and development activity relating to occupant restraint systems.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ECKHARDT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue to read.

The Clerk concluded the reading of the amendment.

Mr. TRAXLER. Mr. Chairman, the amendment I am offering is essentially the same as amendments to the Transportation appropriations bill that have been approved by this House in each of the past 2 years.

The amendment very simply prohibits the National Highway Traffic Safety Administration from utilizing any funds which would mandate occupant restraint systems other than those already in use in our motor vehicles, while allowing the agency to continue research and development work on occupant restraint systems. The amendment was originally offered by the gentleman from Pennsylvania (Mr. Shuster) in 1978, and was approved by a vote of 237 to 143. It was offered again last year by Mr. Dingell from Michigan and Mr. Broyhill from North Carolina, by a vote of 228 to 115, again signaling DOT and the administration of congressional dislike for Motor Vehicle Safety Standard 208 requiring passive occupant restraint systems beginning in model year 1982. The Senate has in each of these instances concurred with the House position.

There is no reason why this body cannot adopt this amendment once again in order to emphasize the fact that we are truly serious about wanting only the most effective passenger restraint systems.

But there is another important factor that I believe has been overlooked in the development of this passive restraint standard: The competitive impact on our domestic auto industry. Under the current 208 standard, only large cars need to comply with the passive restraint requirement in 1982. For all intents and purposes, this standard will apply only to domestically manufactured cars. Intermediate cars will have to comply in 1983, and again the standard will apply mostly to domestically produced cars. It is not until 1984 that any substantial number of foreign-produced vehicles will have to comply with this standard.

We are all aware of the problems that are now facing our domestic auto industry. According to recent news reports, nearly 1 million Americans in the automobile and related industries have lost their jobs because of the downturn in the purchase of American cars. Only 300,000 of these workers work directly for the auto companies. The vast majority are employed by suppliers, auto dealers, and component manufacturers throughout our country. This is certainly not a regional problem.

The President only 3 weeks ago in Detroit in a special meeting with top officials of the auto industry said that he wanted to provide our domestic auto industry with relief from restrictive policies which put them at a competitive disadvantage. Certainly any regulation which will not apply to foreign manufacturers until 2 years after its initial impact on our domestic industry is one which puts our domestic industry at a competitive disadvantage.

Today I want the Congress to provide the President with the help that he needs to assess the economic impact of regulatory policy on our auto industry. It is for this reason that I have modified this amendment which the House has approved for each of the past 2 years to specifically indicate that funds will remain available for the Department of Transportation to evaluate the economic impact on our auto industry of regulations which have no immediate impact on foreign manufacturers.

I want the President to have the tools that he needs to live up to his commitment to help the American auto industry and the millions of Americans who have gainful employment as a result of our domestic auto industry.

Conditions in our auto industry have changed significantly since this regulation was originally written in 1977. In 1977, foreign motor vehicles made up a very small number of our domestic sales. Today 27 percent of all automobiles sold in America are foreign-made, and 22 percent of these come from Japan alone. This number is not likely to decrease in the near future. In fact, it is interesting to note that the decline in our domestic auto sales has been a coincidental 27 percent, a number that will continue to haunt us as more and more Americans are laid off.

One of the biggest factors in deciding which car to buy is the price, and it is no secret that regulatory policies have driven up the price of cars. If a regulation applies only to domestic manufactured vehicles and not to foreign manufactured ones, then our Government as a matter of policy will give a price advantage to foreign-built cars.

The President has made the promise to help our domestic industry and it is up to the Congress to give him the tools with which to provide this essential assistance. The ability to evaluate the cost of regulatory policies in a competitive framework is crucial to understanding how best we can help our domestic industry.

I urge my colleagues' support for my amendment.

Mr. CONTE. Mr. Chairman, another year has passed and I must again rise in opposition to this amendment.

This House has been debating the merits of passive restraints for 3 years now. This year we will probably hear the same arguments, give or take a few new twists, that we have heard in the past. But of course, this year, the gentleman's amendment has a new meaning.

The DOT regulations require that after September 1, 1981, all large-sized cars sold must be equipped with passive restraints. So for the first time, the gentleman's amendment will have an impact. It will have an impact on the countless persons whole lives could be saved, whole families and friends could be spared untold grief if this amendment is not adopted and the passive restraint standard is implemented.

My colleagues have all heard the statistics, but they are worth repeating. Some 50,000 Americans a year die in car crashes. Passive restraints when installed in all cars will be able to save about one quarter of these. They will prevent thousands more from being seriously injured.

These benefits will not be achieved at a prohibitive cost. NTHSA and others estimate that airbags at full production will add about $200 to the price of a car, not much when you consider how much a vinyl roof or airconditioning adds to the sticker price. Passive belts, such as those that are presently available in Volkswagen Rabbits and in Chevettes, are considerably cheaper.

It is true that the replacement cost of an airbag is about two and one-half times the original cost, but this is a deceptive figure. In many of the crashes in which the airbag would deploy, the car itself would be totaled so the replacement cost in these cases would actually be zero.

But even when the passive restraint unit is replaced, it is a veritable bargain—it results in lower injury rates, lower medical costs, lower insurance rates and fewer fatalities.

The airbag has been tested and tested, yet supporters of these amendments say that more research needs to be done. They claim that airbags will not protect small children, yet the industry has modified the bag so it will. They claim that bags will accidentally inflate and cause accidents instead of preventing in repeated trials showed that accidental inflation will occur only once every 3.3 billion vehicle miles and GM in repeated trials showed that accidental inflation, if it occurs, will not be a problem.

Opponents claim that the airbag will add weight to the car and, therefore, hurt fuel economy. Yet the whole airbag mechanism only weighs about 22 pounds. Recently, supporters of this amendment came upon a novel argument, they charged that the airbag mechanism contains sodium azide, a toxic chemical. This is true, but sodium azide is no more toxic than transmission fluid or battery acid, and it has about the same likelihood of being drunk.

This year, I am sure some will argue that at this time when the American auto industry is in dismal straits, the last thing it needs is an expensive Federal regulation. Upon close examination, I am sure my colleagues will not find this argument persuasive. First, the DOT regulation will not lead to a reduction in the number of American automobiles sold. The cost of installing the passive restraint will be recouped by the manufacturer who will pass the cost on to the buyer. Foreign manufacturers, as well as American automakers, will have to equip their new cars with passive restraints in order to meet the DOT regulations, so no advantage will accrue to the imports.

More importantly, passive restraints are cost effective. The DOT regulation is a performance standard, it does not require costly equipment. Any device that manufacturers can come up with, including, of course, airbags and passive belts, which protects a front seat occupant in a 30-mile-per-hour crash against a solid barrier is acceptable.

In short, the industry will not be harmed by the implementation of this regulation. Millions have been spent by the industry on R. & D., more than half surprisingly before the 1977 mandate. To defer action at this time would be of little benefit to the industry, yet great harm to the driver on the road. To support this amendment on the rationale that we must protect the auto industry would be like suspending milk pasteurization laws in order to help America's dairy farmers.

I will not take any more of my colleagues' time. I know they have heard all the arguments on both sides many times. I only ask that in light of the recent movement of Americans toward smaller and less crashworthy cars and the scheduled implementation of the first phase of the DOT passive restraint standard in fiscal year 1981, they ponder these arguments more closely.

Mr. WEISS. Mr. Chairman, I rise in opposition to the gentleman from Michigan's amendment.

I object to the gentleman's amendment because this is not the proper forum to raise this issue. This question is currently being actively considered by House and Senate conferees who are negotiating a compromise between the House and Senate versions of the national highway traffic safety authorization bills.

The conferees are scheduled to meet this afternoon to continue these negotiations, and I have high hopes that they will be able to reach a satisfactory compromise.

It is especially important that these delicate negotiations not be undermined.

The study amendment proposed by the gentleman from Michigan is not a true study amendment.

On the contrary, this amendment is an attempt to study to death the airbag portion of the passive restraint standard—a safety standard which, for the first time, will give consumers and auto manufacturers a real choice among automobile restraint systems.

This so-called study amendment not only could kill airbags. A lifesaving technology, but also could deprive consumers and auto manufacturers of the freedom to choose whichever passive restraint system they prefer.

Why would a seemingly innocuous "study" amendment have such negative consequences?

The answer lies in the relatively long lead time required by Detroit for introduction and installation of passive restraints into new car models.

Although the first phase of the passive restraint standard is still 14 months away, the decisionmaking over whether to go with automatic seatbelts or airbags is already underway.

A prolonged study amendment like the one proposed by the gentleman from Michigan would still gravely threaten the future of the passive restraint standard.

There is a certain irony in this situation, for if there is one subject that does not require further study, it is passive restraints.

Since the first patents were obtained for inflatable crash protection systems over two decades ago, occupant restraints have been subjected to more studies and reports than the vast majority of issues Congress customarily deals with.

The Government has already spent between $10 million and $14 million researching passive restraints.

Industry, including airbag suppliers, has spent well over $100 million studying passive restraints.

Their research and testing has been impressive.

At the same time, both Congress and the administration's examination of this life-saving technology has continued unabated.

Last year alone, passive restraints were the subject of studies by:

Congress Office of Technology Assessment (OTA);

The General Accounting Office (GAO);

The National Transportation Safety Board (NTSB); and

The Motor Vehicle Manufacturers Association.

The GAO found that both airbags and automatic seatbelts offered "life-saving and injury-prevention potential," and called airbags "an excellent restraint system" under laboratory conditions.

OTA concluded that airbags were "technically extremely reliable" and offered "the best overall protection," although automatic seat belts were also found to be quite effective.

Taken as a whole, these studies have proven overwhelmingly favorable to passive restraints.

The administration has already projected that once the standard is implemented, 65,000 injuries and over 9,000 lives will be saved yearly and the Nation will be spared $4 billion in unnecessary hospital and welfare costs and lost wages.

Representatives of over 1,800 insurance companies and 34,000 insurance agents recently wrote me to say:

Additional airbag studies, beyond those

which have already been done over the past 10 years and those which are now planned by NHTSA, would be duplicative and wasteful.

They may also require delays which would prove to be disruptive and possibly fatal to the mass production of these systems.

It has also received the endorsement of:

Former Transportation Secretaries John Volpe, Brock Adams, and Graham Claytor, and the current Secretary, Neil Goldschmidt.

On the other hand, as far as I am aware, no group has come forward to support the amendment of the gentleman from Michigan.

Once again, let me remind my colleagues that in just a couple of hours, the conferees appointed by this body are scheduled to meet with their Senate counterparts to resolve the future of the passive restraint standard.

We will continue these meetings until this issue is finally resolved.

A 1-year appropriation bill is not the proper means to decide this vital question.

As I am sure all of my colleagues are aware, the domestic automobile industry is suffering severe economic difficulties.

They cannot afford the uncertainty generated by amendments of 1-year appropriation bills that attempt to modify this law.

They need a long-term solution that will provide certainty in this area which has been in dispute for several years.

The conference on the authorization bill is presently considering numerous proposals to provide relief to the auto industry from this standard, while at the same time insuring that its life-saving potential is not diminished.

I urge that the amendment offered by the gentleman from Michigan be defeated.

Its only purpose is to undermine this standard.

And with our traffic death rate soaring once again, the loss of this standard is something this Nation simply cannot afford.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. TRAXLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 34, after line 19, add a new section as follows:

SEC. 319. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

☐ 1710

Mr. REGULA. Mr. Chairman, I am pleased that this body has responded to concern about the Federal Government's use of private consultants by adding this amendment to each fiscal year 1981 appropriations bill this session.

Letters from constituents indicate sincere frustration and even indignation about much of the work performed by these outside contractors at an expense of over $9 billion a year.

The recent series of articles in the Washington Post brought many of these practices to light. It is no wonder that the public is irate after reading about such contracts as the one between EPA and a private consulting firm to measure truck pollution in New York and Los Angeles. The contract ended after $360,982 was spent in New York with not a single truck being tested in Los Angeles. There was no usable data furnished to EPA and in-house engineers later completed the west coast portion of the project without the help of an outside contractor. EPA admitted that the work would have been done faster and cheaper if a contract had never been awarded.

We have to hold Federal agencies accountable for their outside contracts and insist that work be done in-house when it would be faster and cheaper.

This amendment is just a first step in making the Federal Government more accountable for its expenditures and running the Government in a more cost-effective manner.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman.

Mr. DUNCAN of Oregon. Mr. Chairman, we have examined this amendment and have no objection to it. It is a good amendment and we accept it.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman.

Mr. CONTE. The minority has examined the amendment and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 34, after line 19, add:

SEC. 320. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed 5 per centum.

Mr. MILLER of Ohio. Mr. Chairman, I am reluctant to offer a 2-percent reduction of knowing of the work and the hard labor that the chairman of the committee and the ranking minority member have put into this bill. But I have strong feelings that somewhere we have to cut down. If I knew a better way I would use it. This bill has been increasing at the rate of about $1.5 billion each year for several years.

I am reluctant, also, to request a 2 percent reduction because I happen to be a member of the subcommittee. I guess it is not cricket to do it that way, but I feel strongly that we need to reduce.

The $1.5 billion a year increase again creates problems, because we are going to have a deficit again this year. My colleagues will hear when I am finished about the FAA and the Coast Guard and the amount of dollars that are in the bill for those two items. They are very important, but under the amendment it will not be necessary to reduce either the Coast Guard or the FAA, because it is possible to pull out dollars from other programs, and it is a form of reconciliation that allows that to happen. Reconciliation is a part of the House program right now because we approved it under the Budget Act.

So with a reduction amendment of 2 percent, after the bill goes to the other body, it is possible for the conferees to change the amounts. We would be changing the appropriation a small amount compared to the total. As an example, the fiscal year 1981 bill has in it just a little over $12 billion. The nonmandatory section is about $11.5 billion. A 2-percent cut on $11.5 billion is $230 million.

Urban mass transportation, as an example, in this bill for this year is up over $2 billion from last year. That $230 million could be removed from urban mass transportation, but I am not proposing that it be done that way because we do need urban transportation. But there are many places where a particular agency could retain 95 percent of the dollars in the bill. They could live on that 95 percent.

I believe it is important that we make a reduction this year. This year again we are moving into a higher deficit. It appears that in 1981 instead of a balanced budget, we are going to have an extremely high deficit.

I would request that the 2 percent be voted on and approved.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise to oppose the amendment.

I do this reluctantly because I know how sincere the gentleman is and I appreciate the contribution he makes to our committee. Nevertheless, over a period of 6 or 7 months now we have gone over these items, one by one. We have tried to do the best we can to allocate a proper amount and a reasonable amount to the most worthy programs. I think it is significant that the budget we brought before the committee thus far has not been increased by $1. It is $424,000,000 under the President's request.

As I have said before on the floor of the House this afternoon, I am sympathetic with what the gentleman wants to do, but a reduction of some $230,000,000 out of this bill, with the difficulty we have had in sustaining the various recommendations, is going to be a very difficult job. There are only a few areas I can think of where we could make reductions of that magnitude: Amtrak, urban mass transit, the operating budget of the FAA, and the operating budget of the Coast Guard.

I have thought long and hard about how to react to the gentleman's amendment because we are going to have difficulty with this bill in conference. We are probably going to have to reduce the outlays by $103,000,000, or we are going to have to go through the reconciliation process. At the time we get to the conference, we will welcome the gentleman's contribution with specific areas where the cuts can be applied.

In the meantime I respectfully and even a little regretfully recommend to the House that we reject this amendment.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I agree with the chairman of the subcommittee, the gentleman from Oregon (Mr. Duncan). I reluctantly oppose this amendment because of my high esteem and admiration for the gentleman from Ohio (Mr. Miller).

But, Mr. Chairman, we did not come here with a flip budget. As the chairman has said, it has been since February, day in and day out, that we have had hearings, and I have attended and he has attended every one of those hearings since February, 5 months of hard work. We then sat around a table with the committee and we marked this bill up. We came in $450 million below the budget. It was not easy.

But I would ask you before you vote on this and, before you stand for a rollcall, I want you to know what you are doing. We cut the FAA a little bit. But do you want to go back and tell your constituents that you are going to cut away air traffic controllers from the FAA and put their lives in jeopardy when they get on an airplane? Are you going to tell your people back home that, "All right, I want it for the FAA, so where do I take it out? I will take it out of the Coast Guard?" Are you going to tell your people there is an oil shipwreck out there and there is oil pollution but you do not want the Coast Guard to go out and clean it up? Or someone is at sea and their boat is in trouble and the Coast Guard is going to go out to rescue them but, no, no, we have to save money, we cannot have that happen. Or we have the Japanese, the Russians coming up to our coast, fishing our waters. Are you going to tell the Coast Guard that they cannot get out there, go out there, and patrol and keep the Japanese out and keep the Soviets out?

So when the gentleman says no, we cannot cut the Coast Guard, so where do we then cut, we can cut urban mass transit. Of all of my years, to cut urban mass transit, we have an energy crisis, gasoline over $1 a gallon. We are trying to take the automobiles off the road. We are trying to put buses on and mass transit.

So let us cut mass transit.

No, no, we cannot do that because of the energy crisis. So I ask you: Where are you going to take this 2-percent cut across the board? You have to be a magician. You have to be a magician, and there are no magicians in this House.

So once and for all let us do the right thing. Let us stand up and say this committee has done a good job, they have worked hard, and let us defeat this amendment.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words and rise to oppose the amendment. I do so with due respect to my colleague from Ohio (Mr. Miller). I would like to share in the comments of my colleague from Massachusetts, with one minor deletion.

☐ 1720

I am not sure we want to take the automobile off the highway. I think what we are really saying here is we want a balanced transportation system, and over all the years that mass transit has been underfunded in the 1930's, the 1940's, and the 1950's, and with the energy crisis, I think this would be a mistake to cut back the mass transit part of this budget. So I share with both the majority and minority leaders here managing the bill their view that this would be inappropriate to support this amendment. Although I generally in the past have supported 2 percent across-the-board cuts, this is not across the board in all other aspects of our total budget. If the Congress some day has the guts to balance the budget across the board, fine, but let us not target mass transit at this time this year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Miller).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business before the Committee is the demand by the gentleman from Ohio (Mr. Miller) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harris: Page 34, after line 19, add the following:

Sec. 320. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I am conscious of the time, and I will not take a great deal of the Committee's time explaining this amendment which has, in fact, been adopted on the other appropriation bills. What this amendment does is simply say that no appropriated funds shall be used for those things that are done illegally.

Mr. Chairman, the amendment I am offering today is a simple amendment, yet it would have the effect of insuring that contract actions which violate existing law and regulations will not be funded through appropriations under this act. It has been drafted in order to conform to the House rules in that it merely requires adherence to existing law and regulations.

An investigation by my subcommittee has exposed numerous instances of agency noncompliance with revised OMB Circular A–76, which is executive branch policy guidance for acquiring commercial or industrial products and services, and OMB Circular A–120, which provides guidelines for the use of consulting services. These revised guidelines were issued by the Office of Federal Procurement Policy under authority granted by Public Law 93–400.

A–76 requires that determinations concerning the source of commercially available products and services shall be based on the results of a rigorous, uniform cost comparison analysis. The purpose of this policy is to insure that the taxpayers receive the best return on their tax dollars.

On Tuesday, Department of Energy officals informed my subcommittee that a $5 million support service contract was let in May of 1980 without the benefit of the required cost comparison analysis. DOE officials were unable to explain why the requirement was ignored a full year after its effective date. This is just one of many examples which my investigation has uncovered.

At the same hearing we discovered that the Department of Energy was improperly using contract consultants in the formulation of national policy in violation of circular A–120. Most shocking of all was the revelation that these very same consultants who were improperly influencing national energy policy have undisclosed ties with the energy industry and the OPEC oil cartel.

Noncompliance with existing requirements is not limited to the Department of Energy. GSA spent a quarter of a million dollars more than necessary on a contract because of restrictive personnel ceilings in direct violation of A–76. HEW awarded 1,203 contracts during the 5-month period subsequent to the effective date of A–76. None of these actions were based on the required cost comparison analysis.

The list goes on and on.

Perhaps the most frustrating problem I have encountered in my year and a half investigation of Federal contracting is the lack of complete and accurate information concerning the extent of the Government's contracting activity. Although regulations require procurement actions to be reported to a central repository—Federal Procurement Data Center—a recent GAO report prepared at my request shows that agencies have not fulfilled this requirement.

In fact, when I requested a list of contractual obligations for fiscal year 1979 for all executive agencies, HUD was listed as showing no contractual obligations for that year.

I can understand why an agency can have start up difficulties in establishing a new program. But I cannot understand or condone noncompliance with a direct legislative mandate fully 5 years after that mandate was enacted into law.

The amendment I am offering would have the effect of requiring adherence to legislative mandate and executive regulation in these vital areas. It is time for this Congress to use its power over the pursestrings to insure that its mandates are effectively implemented. I urge my colleagues to support this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding. I do not think that it is absolutely essential, but I think what the gentleman says is the moment of the law of his amendment, and we do not object to it.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

I agree with the gentleman from Oregon (Mr. DUNCAN). I do not think it is essential, but it will not do any harm.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARRIS: Page 34, after line 19, insert the following:
>
> SEC. 321. In the case of any agency which has, for the period beginning on October 1, 1980 and ending on July 31, 1981, obligated less than 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, the amount of funds which shall be available to such agency and which may be apportioned to such agency under section 3679 of the Revised Statutes of the United States (31 U.S.C. 665) for the period beginning August 1, 1981, and ending September 30, 1981, shall be reduced by an amount equal to 80 percent of the funds appropriated to such agency under this Act for the fiscal year ending September 30, 1981, reduced by the amount of funds obligated by such agency under this Act during the period beginning on October 1, 1980, and ending on July 31, 1981.

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I rise to offer an amendment to H.R. 7831, the Transportation and related agencies fiscal year 1981 appropriation bill. My amendment would establish firm controls over wasteful year-end spending sprees by limiting agency spending to 20 percent during the last 2 months of the fiscal year. This amendment has already been adopted to State, Justice appropriation bill and the Agriculture appropriation bill by overwhelming margins.

My Subcommittee on Human Resources has conducted an intensive investigation and received testimony from a wide variety of groups, individuals, and Government agencies concerning the problems of year-end spending. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, much of the funds are being pushed out in the final weeks of the fiscal year on questionable contracts, grants, and other spending.

GAO investigations, done at my request, are documenting the fact that funds are being diverted from the purpose laid out by Congress, causing millions, perhaps billions, of dollars to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal has stated that year-end spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

The administration has expressed concern about this wasteful yearend spending and has repeatedly issued directives to agencies in an effort to curb the abuses. Each summer since 1977, President Carter and OMB Director James McIntyre have urged agencies to avoid yearend spending sprees. Despite these directives, the yearend spending remains a major abuse. In fiscal year 1979, seven major Federal agencies spent more than 20 percent of their single year appropriations in the last 2 months of the fiscal year: 47.2 percent at HUD—$16 billion, 41.7 percent at EPA—$2.2 billion, 22.9 percent at HEW—$14.3 billion, 30.3 percent at Commerce—$907 million, 23.1 percent at Interior—$1.3 billion, 22.1 percent at Postal Service—$3.2 billion and 22.8 percent at DOT—$1.4 billion. If these seven agencies had limited spending to 20 percent in the last 2 months of the fiscal year, they could have saved $13 billion. I am convinced that a substantial portion of this amount could have been returned to the Treasury with minimal adverse effect on congressionally mandated programs.

Quite simply, the flurry of obligations at the end of the fiscal year is a very poor management practice. Increased year-end obligational activity places Government negotiators in a very poor bargaining position and results in contracts and grants being let and goods being purchased without adequate consideration. This "rush" to award contracts and grants seriously impairs the objectiveness as well as the thoroughness of the proposal evaluation process. In addition, I am particularly concerned that a large number of the contracts being let at the end of the year are sole-source to big firms ostensibly based on "unique qualifications" and "time exigency." This type of yearend giveway effectively bars firms without the "connections" and is "wired" against small businesses, which do not have the "inside track."

Direct congressional action to halt the yearend spending sprees must be taken. The waste clearly has not been eliminated administratively. As a matter of fact, it appears that while OMB has been monitoring outlays, it has been ignoring obligation rates. It makes no sense to me for OMB to check funds already "spent" while ignoring the even more important task of monitoring funds which could be saved. As a result, the practice of obligating "use it or lose it" funds at the end of the fiscal year has continued unabated.

Congressional support to limit year-end spending has been widespread. The House and Senate Budget Committees have included language in the fiscal year 1980 second concurrent resolution stating:

> The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at the year end. . . . the conferees urge the appropriate committees to consider the need for language in FY 81 spending bills to control the obligation rates for federal programs or consider alternative legislative remedies for this program.

The conferees for the second budget resolution clearly felt Congress must take action to eliminate yearend spending abuses in all Federal agencies. In the report on the budget for fiscal year 1981, the House Budget Committee reaffirmed its concern about yearend spending and recognized that it is an area where savings can be made.

In addition, the Department of Defense has had a yearend spending limitation on its annual appropriation bill since 1953. And the Department of Health, Education, and Welfare had a yearend spending limitation in its fiscal year 1980 appropriation bill. Finally, my legislation—H.R. 4717 and H.R. 7287—to control yearend spending has bipartisan support from over 75 Members.

A yearend spending limitation has also been endorsed by the General Accounting Office in recent testimony before the Government Operations Committee:

> We support the temporary use of a limitation on year-end spending as a means of conveying Congress' concern—not only with year-end spending itself—but with the need to strengthen the budget execution procurement process.

At a time when Congress is struggling to trim Federal expenditures and balance the budget, we cannot ignore this uncontrolled area of Federal spending. The abuse in yearend spending is widely recognized—let us not let it continue in fiscal year 1981. I strongly urge your support of my amendment to H.R. 7831, the Transportation and related agencies fiscal year 1981 appropriation bill.

☐ 1730

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, we have examined the amendment on this side. If the gentleman will give us some assurance that the gentleman will respond to all complaints by Metro down here when they do not have money to spend on their subways in the last 2 weeks of the year, I am willing to accept the amendment.

Mr. HARRIS. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I sympathize greatly with the gentleman's concern about wasteful spending. The ever-expanding Federal deficit necessitates that we are constantly aware of the need for fiscal responsibility.

We have all heard or read about the mad dash that some agencies make at the end of the year out of fear that if they do not spend all we have given them, we will not give them as much the next time around. This yearend spending spree is not common to all agencies. The gentleman from Virginia's own statistics bear me out.

In the last 2 months of fiscal year 1979, HUD spent 47.2 percent of its year's appropriation while the Department of Transportation only spent 22.8 percent of its annual appropriation in the same period. That is only 6 percent more in the last 2 months of the year than would be spent if expenditures were uniformly spread out during the course of the year.

Surely the supporters of this amendment realize that there are many reasons, some quite legitimate, for higher than average spending toward the end of the year. In some agencies, the first few months of the fiscal year are spent developing regulations for the distribution of funds, in the final months, the distribution itself takes place.

Some programs, because of certain circumstances, are unavoidably funded at the end of the year. For example, many programs in this bill rely on State requests. Expenditures are not made until State legislatures make their determinations, often in the latter part of the year. Additionally, some accounts, such as the operating costs for icebreakers, are naturally more active in some months than others.

This amendment, instead of cutting wasteful spending, could encourage it by forcing agencies to allocate funds not knowing whether they will really be needed or not, earlier in the year in order to avoid hitting the ceiling.

Agencies that are bent on spending their full allotment, regardless of need, will just begin their philandering a little earlier. The only way to solve the problem that the gentleman has identified, and it is a problem in some agencies, is through effective oversight both at the appropriations and authorization level. Ad hoc attempts to impose seemingly arbitrary ceilings of 20 percent on spending in the last 2 months will produce uneven results.

If the gentleman from Virginia feels that legislation rather than oversight is needed, I urge him to introduce legislation next Congress so that hearings and a discussion of the problem and possible solutions can be conducted. Until that time, I must urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. DUNCAN of Oregon. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 7831) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MILLER of Ohio moves to recommit H.R. 7831 to the Committee on Appropriations, with instructions to that Committee to report the bill back to the House forthwith, with the following amendment:
>
> On page 34, after line 19, insert the follow- law, the amount withheld shall not exceed ing paragraph:
>
> Sec. 322. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by 5 per centum.

Mr. MILLER of Ohio. Mr. Speaker, just a few minutes ago we requested a vote on the 2-percent reduction. That vote was not allowed because we did not have enough people on the floor to stand to get that vote. Mr. Speaker, this 2-percent reduction would reduce the bill $230 million. The bill is over the budget allocation for outlays by $103 million, and this is an item that will need reconciliation. The 2-percent reduction will take only $230 million. There are many areas in the bill where that 2 percent can be reduced.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I hope we oppose this 2 percent. The gentleman from Ohio offered this in the Committee of the Whole. He did not get 25 to stand with him. He could have gotten 25. We had a quorum of a hundred.

Mr. Speaker, I think the feeling is strong here. I think everyone knows what is the issue. I am not going to go into it again, but these are very delicate areas with which we concern ourselves. We are either going to take the money from the Coast Guard—there are people here who felt we did not have enough money in the budget for the Coast Guard. Or you are going to take it from air safety, from the FAA, or you are going to take it from mass transit or Amtrak. Those are the areas where you are going to take it and there is no room in this budget. This budget is $425 million below the President's request. Mr. Speaker, I urge all of my colleagues to stand fast. The committee worked hard for 5 months, they deliberated. The gentleman from Ohio (Mr. MILLER) was on the committee. The gentleman never offered a motion to cut 2 percent. I do not know of any motions the gentleman offered that he lost in subcommittee.

Mr. Speaker, I urge my colleagues to stand fast and vote against this amendment.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 191, nays 206, not voting 36, as follows:

[Roll No. 449]

YEAS—191

Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
AuCoin
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Brown, Ohio
Broyhill
Buchanan
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Deckard
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fithian
Flippo
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harkin
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lent
Levitas
Loeffler
Lujan
Lundine
Lungren
McClory
McCormack
McDonald
McKay
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Neal
Nelson
Nichols
Panetta
Pashayan
Patterson
Paul
Petri
Pickle
Porter
Preyer
Quayle
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Nebr.
Solomon
Snyder
Spence
Stenholm
Stockman
Stump
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Weaver
White
Whitehurst
Whitley
Whittaker
Wilson, Tex.
Winn
Wirth
Wyatt
Wydler
Wylie
Yatron
Young, Fla.

NAYS—206

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Burgener
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Danielson
Davis, S.C.
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Florio
Foley
Frost
Garcia
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gray
Green
Hagedorn
Hance
Hanley
Harris
Hawkins
Heckler
Holland
Hollenbeck
Howard
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Leath, Tex.
Lederer
Lehman
Leland
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Pepper
Perkins
Peyser
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shuster
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Staggers
Stangeland
Stanton
Stewart
Stokes
Studds
Swift
Tauzin
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Watkins
Waxman
Weiss
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—36

Abdnor
Biaggi
Bonior
Bouquard
Clay
Davis, Mich.
Dodd
Early
Ford, Mich.
Ford, Tenn.
Holtzman
Johnson, Colo.
Leach, La.
Lewis
Lott
McCloskey
McEwen
Mathis
Mavroules
Moorhead, Pa.
Mottl
Murphy, Ill.
Musto
Nolan
Quillen
Rhodes
Runnels
Sebelius
Shannon
St Germain
Stark
Steed
Stratton
Symms
Wilson, C. H.
Young, Alaska

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Musto against.

Until further notice:

Mr. St Germain with Mr. Lewis.

Mrs. Bouquard with Mr. Abdnor.

Mr. Bonior of Michigan with Mr. Ford of Tennessee.

Mr. Biaggi with Mr. Johnson of Colorado.

Mr. Dodd with Mr. McEwen.

Mr. Mavroules with Mr. Symms.

Mr. Stack with Mr. Young of Alaska.

Mr. Steed with Mr. Clay.

Mr. Davis of Michigan with Mr. Charles H. Wilson of California.

Mr. Mathis with Mr. Shannon.

Mr. Stratton with Mr. Sebelius.

Mr. Ford of Michigan with Mr. Quillen.

Mr. Early with Mr. Lott.

Mr. Leach of Louisiana with Mr. Rhodes.

Ms. Holtzman with Mr. McCloskey.

Mr. Moorhead of Pennsylvania with Mr. Mottl.

Mr. Nolan with Mr. Murphy of Illinois.

Mr. PHILLIP BURTON and Mr. MOFFETT changed their votes from "yea" to "nay."

Mr. JACOBS, Mrs. SCHROEDER, and Mr. SYNAR changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will state that in accordance with the previous announcement of the Chair, the time for this vote will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—yeas 306, nays 88, not voting 39, as follows:

[Roll No. 450]

YEAS—306

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Davis, S.C.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt

Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutchinson
Hutto
Hyde
Ireland
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Matsui
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shelby
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stewart
Stokes
Studds
Swift
Tauke
Tauzin
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Watkins
Waxman
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—88

Archer
Ashbrook
AuCoin
Badham
Bauman
Bennett
Bethune
Broyhill
Butler
Cheney
Collins, Tex.
Conable
Courter
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Devine
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Evans, Ind.
Fenwick
Flippo
Forsythe
Fountain
Fowler
Frenzel
Gephardt
Glickman
Gramm
Grisham
Hall, Tex.
Hance
Hansen
Hughes
Ichord
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Lee
Levitas
Lujan
Lungren
McDonald
Martin
Mattox
Mica
Miller, Ohio
Montgomery
Neal
Nelson
Panetta
Pashayan
Paul
Porter
Quayle
Robinson
Rousselot
Russo
Satterfield
Sensenbrenner
Sharp
Shumway
Simon
Skelton
Solomon
Stenholm
Stockman
Stump
Synar
Taylor
Trible
Volkmer
Walker
Weaver
Whitehurst
Wirth
Wyatt

NOT VOTING—39

Abdnor
Biaggi
Bonior
Clay
Crane, Daniel
Davis, Mich.
Dodd
Early
Emery
Ford, Mich.
Ford, Tenn.
Holtzman
Johnson, Colo.
Leach, La.
Lewis
Lott
McCloskey
McEwen
Mathis
Mavroules
Moorhead, Pa.
Mottl
Murphy, Ill.
Musto
Nolan
Pritchard
Quillen
Rhodes
Runnels
Sebelius
Shannon
St Germain
Stark
Steed
Stratton
Symms
Wilson, C. H.
Wydler
Young, Alaska

□ 1800

The Clerk announced the following pairs:

On this vote:

Mr. Musto for, with Mr. Lewis against.

Until further notice:

Mr. Biaggi with Mr. Abdnor.

Mr. St Germain with Mr. Johnson of Colorado.

Mr. Stratton with Mr. Leach of Louisiana.

Mr. Ford of Michigan with Mr. Pritchard.

Mr. Early with Mr. Quillen.

Mr. Dodd with Mr. Lott.

Mr. Mathis with Mr. Symms.

Mr. Stark with Mr. McCloskey.

Mr. Steed with Mr. Wydler.

Mr. Charles H. Wilson of California with Mr. Young of Alaska.

Mr. Murphy of Illinois with Mr. McEwen.

Mr. Mottl with Mr. Daniel B. Crane.

Mr. Moorhead with Mr. Emery.

Mr. Ford of Tennessee with Ms. Holtzman.

Mr. Mavroules with Mr. Nolan.

Mr. Runnels with Mr. Sebelius.

Mr. Shannon with Mr. Clay.

Mr. Bonior of Michigan with Mr. Davis of Michigan.

Messrs. GRISHAM, GRAMM, SYNAR, HANCE, MILLER of Ohio, FLIPPO, MICA, ARCHER, WYATT, ROUSSELOT, KRAMER, and QUAYLE changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested a joint resolution of the House of the following title:

H.J. Res. 589. Joint resolution providing additional program authority for the Export-Import Bank.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 112. Concurrent resolution relative to adjournment to a date certain during the remainder of the 96th Congress; and

S. Con. Res. 113. Concurrent resolution providing for a recess of the Senate from August 6 to August 18, 1980, and an adjournment of the House of Representatives from August 1 to August 18, 1980.

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I take this time for the purpose of inquiring of the majority whip the program for the rest of the day and the rest of the week.

Mr. BRADEMAS. Mr. Speaker, if my colleague will yield, following is the legislative schedule for the rest of the day and tomorrow:

Unanimous consent will be sought to take up ERISA, following which we hope to go to the Export-Import Bank bill, followed by the adjournment resolution, followed by H.R. 7299, the Mental Health Systems Act, on which there is an open rule with 1 hour of general debate.

That would mean that tomorrow we would have, if we complete that work, only a pro forma session.

The SPEAKER. The Chair would interject at this time that if we are not through in the vicinity of 7 o'clock with the mental health bill, that would be the program for tomorrow.

The House will adjourn at approximately 7 o'clock.

Mr. DEVINE. I thank the chair.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 7601

Mr. WOLFF. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of the bill, H.R. 7601.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 1, 1980, TO FILE REPORT ON H.R. 5615

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence have until midnight on Friday, August 1, 1980, to file its report on H.R. 5615, the Intelligence Identities Protection Act.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 1, 1980, TO FILE REPORT ON H.R. 7859, REFUGEE EDUCATION ASSISTANCE ACT OF 1980

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight, Friday, August 1, 1980, to file a report on H.R. 7859, the Refugee Education Assistance Act of 1980.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENT WITH AMENDMENTS TO H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3904) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendments to the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and declaration of policy.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 101. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 102. Multiemployer guarantees; aggregate limit on guarantees.
Sec. 103. Termination for multiemployer plans.
Sec. 104. Employer withdrawals; merger or transfer of plan assets or liabilities; reorganization; minimum contribution requirement for multiemployer plans; financial assistance; benefits after termination; enforcement.
Sec. 105. Premiums.
Sec. 106. Annual report of plan administrator.
Sec. 107. Contingent employer liability insurance.
Sec. 108. Transition rules and effective dates.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Amendment of the Internal Revenue Code of 1954.
Sec. 202. Multiemployer plans in reorganization.
Sec. 203. Minimum funding requirements.
Sec. 204. Excise taxes.
Sec. 205. Deductibility of employer liability payments.
Sec. 206. Minimum vesting requirements.
Sec. 207. Definition of multiemployer plan.
Sec. 208. Related technical amendments.
Sec. 209. Withdrawal liability payments funds.
Sec. 210. Effective date.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 302. Definition of multiemployer plan.
Sec. 303. Minimum vesting requirements.
Sec. 304. Minimum funding requirements.
Sec. 305. Application of interested party rules to withdrawal liability payment funds.
Sec. 306. Liquidated damages with respect to delinquent contributions.
Sec. 307. Actuarial standards.
Sec. 308. Exemptions from prohibited transactions.
Sec. 309. Fiduciary duties.
Sec. 310. Refund of certain withdrawal liability payments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 402. Related technical amendments.
Sec. 403. Conforming amendments.
Sec. 404. Clerical amendments.
Sec. 405. Action taken before regulations are prescribed.
Sec. 406. Pension Benefit Guaranty Corporation put on budget.
Sec. 407. Church plans.
Sec. 408. Deductibility of payments to plan by a corporation operating public transportation system acquired by a State.
Sec. 409. Waiver of preemption in case of Hawaiian health care plan.
Sec. 410. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 411. Refund of mistaken contributions.
Sec. 412. Definition of employee pension benefit plan.
Sec. 413. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 414. Study by General Accounting Office; hearings required.
Sec. 415. Government contractors' affirmative action requirements.
Sec. 416. Stone mining operations.
Sec. 417. Occupational Safety and Health Act amendments.
Sec. 418. Reduction in unemployment benefits on account of pension.
Sec. 419. Federal service of ex-servicemen.
Sec. 420. Benefits on account of Federal service to be paid by employing Federal agency.
Sec. 421. Cessation of extended benefits when individual moves to State in which trigger is not "on".

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the increase in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financially self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a multiemployer plan—

"(1) to which section 4021 applies, and

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2) shall not be taken into account.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent".

"(3) For purposes of this section, the accrual rate is—

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; divided by

"(B) the participant's years of credited service.

"(4) for purposes of this subsection—

"(A) a year of credited service is a year in which the participants completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection,

begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of—

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) was performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) if the proposition described in clause (i)(I) is to be established, the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2)(A) If the report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b).

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) A revised schedule referred to in subparagraph (A) shall go into effect as approved by the Congress by concurrent resolution.

"(3)(A) If the report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) A revised schedule referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into affect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress favors the proposed schedule described in ———— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ————.', the first blank space therein being filled with 'section 4022A(f)(2)(A)(i) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A (f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

"(B) The regulations prescribed under this paragraph shall provide such reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines to be necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on ————.: the blank space therein being filled with the date on which the revised schedule was submitted.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain.

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b).

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418D of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection.

"(h) Notwithstanding subsections (b)(1) and (c)(1), in the case of a participant or beneficiary under a multiemployer plan who is in a pay status on July 29, 1980, or who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension under such a plan on that date, the benefit guaranteed by the corporation under this title shall be the benefit guaranteed by section 4022 (determined without regard to the amendments made by the Multiemployer Plan Amendments Act of 1980).

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

"SEC. 4022B. (a) Notwithstanding sections 4022 and 4022A, no persons shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

SEC. 103. TERMINATION FOR MULTIEMPLOYER PLANS.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

"SEC. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

"(2) the withdrawal of every employer from the plan, within the meaning of section 4203, or the cessation of the obligation of all employers to contribute under the plan; or

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than $1,750 if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.".

SEC. 104. EMPLOYER WITHDRAWALS; MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES; REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS; FINANCIAL ASSISTANCE; BENEFITS AFTER TERMINATION; ENFORCEMENT.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"WITHDRAWAL LIABILITY ESTABLISHED

"SEC. 4201. (a) If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability.

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c)(1)(B), and

"(D) finally, in accordance with section 4225.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203.

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205.

"DETERMINATION AND COLLECTION OF LIABILITY; NOTIFICATION OF EMPLOYER

"SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

"SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a group or class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations (considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers), or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

"SEC. 4204. (a)(1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section referred to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

"(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to operations, during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability, payment when due,

then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

"(3)(A) If all, or substantially all, of the seller's assets are distributed, or if the seller is liquidated before the end of the 5 plan year period described in paragraph (1)(C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

"(b)(1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1) (B).

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a)(1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

"PARTIAL WITHDRAWALS

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if for such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1)(A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"(B) For purposes of subparagraph (A)—

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The number of contribution base units for the high base year is the average number of such units for the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(2)(A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substituted for another agreement.

"(c)(1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after the withdrawal.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c)(1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4209 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for—

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OF PARTIAL WITHDRAWAL LIABILITY

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan under section 4205(a)(1) (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1), has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be canceled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due.

"(b) If—

"(1) for any 2 consecutive plan years following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) The corporation shall prescribe regulations providing for the reduction of withdrawal liability for partial withdrawals under section 4205(a)(2) under principles similar to those of subsections (a), (b), and (c). Under such regulations, only those changes in the employer's operations at a facility or under a collective bargaining agreement which resulted in such liability.

"(3) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act.

"DE MINIMIS RULE

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan shall be reduced by the smaller of—

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $100,000,

reduced by the amount, if any, by which the unfunded vested benefits allocable to the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of the amount determined under section 4211 by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the amount determined under section 4211 for the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employees withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during the plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

"SEC. 4211. (a) The amount of the unfunded vested benefits allocable to an employer that withdraws from a plan shall be determined in accordance with subsection (b), (c), or (d) of this section.

"(b)(1) Except as provided in subsections (c) and (d), the amount of unfunded vested benefits allocable to an employer that withdraws is the sum of—

"(A) the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, as determined under paragraph (2),

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980 as determined under paragraph (3); and

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4),

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

"(2)(A) An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the change in unfunded vested benefits for each plan year in which the employer has an obligation to contribute under the plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

"(B) The change in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amounts of the change in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the change is determined.

"(C) The unamortized amount of the

change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by 5 percent of such change for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of a change in unfunded vested benefits is the product of—

"(i) the unamortized amount of such change (as of the end of the plan year preceding the plan year in which the employer withdraws); multipled by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such change arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such change arose and the 4 preceding plan years of all contributions made by employers who had an obligation to contribute under the plan for the plan year in which such change arose reduced by the contributions made in such years by employers who had withdrawn from the plan in the year in which the change arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings,

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4209, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectable or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

"(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the amount of unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry) may be amended, to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).

"(2)(A) The amount of the unfunded vested benefits allocable to any employer under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this section during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administration burdens of plan sponsors in calculating such denominators.

"(3) The amount of the unfunded vested benefits allocable to an employer under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of the unfunded vested benefits allocable to an employer under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year preceding the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year preceding the plan year in which the employer withdraws (determined as of the end of the plan year preceding the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount (determined in a manner not inconsistent with regulations of the corporation) equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer, decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year preceding the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers, and

"(II) the denominator of which is the

value of all nonforfeitable benefits under the plan as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws:

"(ii) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year preceding the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year preceding the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year preceding the plan year in which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii)(I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii)(II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(II) which are attributable to service with respect to the employers described in such clause (ii)(II).

"(E) The amount of the plan's unfunded vested benefits for a plan year preceding the plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such plan year; reduced by

"(ii) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year preceding the plan year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A)(ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the amount of the liability for unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

"(5)(A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's allocable share of unfunded vested benefits under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's allocable share of unfunded vested benefits under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d)(1) The method of calculating set forth in subsection (c)(3) shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

"(2) Sections 4204, 4209, 4219(c)(1)(B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising—

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. A plan may provide that the determination of withdrawal liability under this part is to be based on the plan's actuarial assumptions which are reasonable in the aggregate (within the meaning of section 412(c)(3) of the Internal Revenue Code of 1954) or the actuarial assumptions set forth in the corporation's regulations for purposes of determinating an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

"SEC. 4214. (a) No plan rule or amendment adopted after January 31, 1981, under section 4209 or 4211(c) may be applied without the employer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

"SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

"SEC. 4216. (a) In the case of a plan described in subsection (b)—

"(1) if an employer withdraws prior to a termination described in section 4041A(a) (2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c) (1) (C) (i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contribution for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules contained in section 4243(d) (3) (B) (ii) (determined without regard to any limitation on such rate otherwise provided by this title)

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041A(a) (2) which is agreed to by the labor organization that appoints the employee representative on the joint board of trustees which sponsors the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d) (3).

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c) (1) The amount of an employer's liability under this paragraph is the product of—

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

"(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) A plan may, in a manner not inconsistent with regulations of the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

"SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

"(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

"SEC. 4219. (a) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

"(b) (1) As soon as practicable after an employer's complete or partial withdrawal, the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2) (A) no later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c) (1) (A) (i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206 over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C) (i) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of—

"(I) the average annual number of contribution base units for the period of 2 consecutive plan years, during the period of 5 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 5 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205 (a) (1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b) (1) (B) (i).

"(ii) (I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 2 consecutive plan years (during the period of 5 consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply in to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period).

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) the total unfunded vested benefits of the plan shall be allocated to all such employers liable under this part pursuant to regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206(a)(2).

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

"(3) Each annual payment determined under paragraph (1)(C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment.

"(b) An amendment permitted by section 4211(c)(5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a)(1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of—

"(A) the date of notification to the employer under section 4219(b)(2)(B), or

"(B) 120 days after the date of the employer's request under section 4219(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b)(1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees.

"(3) For purposes of any proceeding under this section, a plan shall be treated as having met its burden of proof with respect to a determination of its unfunded vested benefits if—

"(A) the determination of employer liability was made in accordance with the same actuarial assumptions prescribed by the corporation under section 4213(a), which are reasonable in the aggregate and, to the extent not inappropriate, not inconsistent with the actuarial assumptions used by the plan for the purpose of meeting the requirements of section 412 of the Internal Revenue Code of 1954.

"(B) the interest assumptions used are reasonable,

"(C) the plan treats all employers with reasonable consistency in making such determinations, and

"(D) the plan has not had a pattern of experience gains.

"(b)(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Any party to the arbitration proceeding may, no later than 30 days after the issuance of an arbitrator's award, bring an action in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

"(d) Payments shall be made by an employer in accordance with the determinations made under this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', means a trust which—

"(1) is established and maintained under section 501(c)(22) of the Internal Revenue Code of 1954,

"(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, or 4219, and

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability if the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of—

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability.

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(4)(A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c)(1) and 404(a)(1)(A)(ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b)(2) or within the meaning of section 4975(d)(2) of the Internal Revenue Code of 1954.

"(d)(1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c)(1)(A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against the employer that has withdrawn from the plan for amounts paid by a fund to a plan under—

"(1) subsection (c)(1)(A), to the extent not credited under subsection (d)(1)(A), and

"(2) subsection (c)(1)(C).

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

"(h)(1) A withdrawal liability payment fund established by employers having an obligation to contribute to a multiemployer plan for work performed in the building and construction industry which does not meet the requirements of subsection (b) shall be treated, for purposes of this Act and of the Internal Revenue Code of 1954, as a fund which meets the requirements of subsection (b) if it meets the requirements of paragraph (2) of this subsection.

"(2) A withdrawal liability payment fund described in paragraph (1) meets the requirements of this paragraph if—

"(A) substantially all of the employees with respect to whom employers have an obligation to contribute under the plan perform work in the building and construction industry,

"(B) the plan covers primarily employees in the building and construction industry; and

"(C) the fund is a trust which—

"(i) is maintained for the exclusive purpose of making payments, to a plan to which a contributing employer has an obligation to contribute, of—

"(I) amounts described in paragraphs (1) and (2) of subsection (c),

"(II) increases in contributions required because of a decline in the plan's contribution base (determined without regard to benefit increases adopted or effective within the past 5 years),

"(III) such other liabilities of an employer as may be described in regulations prescribed by the corporation, and

"(IV) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund;

"(ii) is funded—

"(I) exclusively by amounts paid by employers under the plan, and

"(II) by payments made by more than one employer under the plan;

"(iii) provides for payments, in accordance with clause (i), only to plans with respect to which employers participate in the fund;

"(iv) provides that the right of a plan to receive payments from the fund may not be transferred to any other plan; and

"(v) meets all requirements of this section other than the requirements of paragraphs (2), (3), and (4) of subsection (b), subsection (c)(3)(B), and subsection (d)(2).

"(i) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

"(j) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

"SEC. 4224. (a) Under such regulations as the corporation may prescribe, a plan may provide an alternative method for payment of withdrawal liability by an employer in financial distress.

"(b) If, upon application made by a plan or an employer in a proceeding under section 4221, the arbitrator determines that an alternative method for the payment of withdrawal liability by an employer in financial distress is in the best interest of participants and beneficiaries under the plan, then the plan shall grant such an alternative method to the employer. The determination shall be made in accordance with standards set forth in section 303(b) of this Act and regulations prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a)(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's length transaction to an unrelated party (within the meaning of section 4204(d)), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed the greater of—

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000	$2,100,000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of—

"(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

"(1) an employer is insolvent if the liabilities of the employer, including, withdrawal liability under the plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4225; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other valuation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

"(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

"(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

"(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

"(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

"SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

"(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b) (1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

"(1) a successor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

"(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection (b) (1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which—

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232(c)(3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a)(1) Whenever an employer completely or partially withdraws from a multiemployer plan (referred to elsewhere in this section as the 'old plan') as a result of a certified change of collective bargaining representative, the plan sponsor of the old plan—

"(A) shall notify the employer of—

"(i) the amount of the employer's withdrawal liability under part 1 with respect to such withdrawal,

"(ii) the old plan's intent to transfer the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative to another multiemployer plan (referred to elsewhere in this section as the 'new plan'), and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) shall notify the new plan of the intent to transfer such benefits, assets, and liabilities to the new plan.

"(2) Upon notification of the employer and the new plan under paragraph (1), if—

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (1)(A), and

"(B) the new plan either—

"(i) fails to file an appeal with the corporation within 60 days after receipt of the notice described in paragraph (1)(B) to prevent the transfer because the new plan would suffer substantial financial harm as a result of the transfer, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

"(b) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(c) Whenever there is a complete or partial withdrawal described in subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (a)(2)(B) within 60 days after receipt of the notice described in subsection (a)(1)(B), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal,

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts are paid to the old plan and credited against the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(b)(1) Notwithstanding subsection (a), the plan sponsor of the old plan shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization, or

"(B) the transfer of assets would cause the old plan to go into reorganization.

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (a)(1), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer if the value of such benefits exceeds the withdrawal liability of the employer.

"(e) For purposes of subsection (a), the term—

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 without regard to section 4211(e)), and

"(2) 'certified change of collective bargaining representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947 or the Railway Labor Act.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b)(1) A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2) of the Internal Revenue Code of 1954, over

"(B) the credits to the funding standard account under section 412(b)(3)(B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4)(A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B)(i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5)(A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means —

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3), in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan years (increased by any amount waived under subsection (f) for the plan year).

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 4241(b)(4).

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the changes under section 412(b)(2)(A) or (B) of the Internal Revenue Code of 1954, the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

"(3)(A) In the case of a plan described in section 1216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when mutliplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a).

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section).

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"(1) The term 'pay status participant' means, with respect to a plan a participant receiving retirement benefits under the plan.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5).

"(b) For purposes of this section, for a plan year—

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"Part 4—Financial Assistance

"financial assistance

"Sec. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"Part 5—Benefits After Termination

"benefits under certain terminated plans

"Sec. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A(d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12)).

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b); and

"(C) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c) (4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section 4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a) (1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515).

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4221 shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.".

SEC. 105. PREMIUMS.

(a) Section 4006(a) is amended to read as follows:

"(a) (1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be uniform for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

"(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4222.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b) (1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

"(3) (A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (I),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A) (i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A) (iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C) (i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans,

is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D) (i) Not later than 120 days before the date on which an increase under subparagraph (C) (ii) is to beome effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C) (ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022 and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5) (A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022 A(g) (2) may reflect any reasonable considerations which the corporation determines to be appropriate.".

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c) (1) Except as provided in subsection (a) (3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

SEC. 106. ANNUAL REPORT OF PLAN ADMINISTRATOR.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and"; and

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is necessary for the enforcement of subtitle E and requires by regulation, which may include—

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001 (a) (12)) and its value as of the end of that plan year and as of the end of the preceding plan year; and

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

SEC. 107. CONTINGENT EMPLOYER LIABILITY INSURANCE.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed.

SEC. 108. TRANSITION RULES AND EFFECTIVE DATES.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c) (4).".

(c) (1) Section 4402 (as redesignated) is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

"(e) (1) Except as provided in paragraphs (2) and (3), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act.

"(2) (A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on April 29, 1980.

"(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a) (3) as in effect at the time of the withdrawal.

"(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

"(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

"(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(f) (1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that—

"(A) an employer has withdrawn from a multiemployer plan under section 4063, and

"(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041A(a) (2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

"(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

"(g) (1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may—

"(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

"(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

"(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and

"(D) if necessary, enforce such action through suit brought under section 4003.

"(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.".

(2) (A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)—

(i) "more than 75 percent" shall be substituted for "70 percent" in subsections (a) and (b) of such section,

(ii) "25 percent or less" shall be substituted for "30 percent" in subsection (b) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3) (A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For the purpose of applying section 4217 for purposes of the preceding sentence, the date "May 2, 1979," shall be substituted for "April 28, 1980," and the date "May 3, 1979" shall be substituted for "April 29, 1980". For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations. For purposes of this paragraph, the term "employer" includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

(1) subsection (a) (1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a) (2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e) (1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B) (i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000, reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

(B) the term "withdrawal date" means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

(C) the term "facility" means the facility referred to in paragraph (1).

(f) Title IV is amended by adding at the end thereof the following new section:

"ELECTION OF PLAN STATUS

"SEC. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

"(b) An election described in subsection (a) shall be effective only if—

"(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. MULTIEMPLOYER PLANS IN REORGANIZATION.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirements.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Insolvent plans.

"SEC. 418. REORGANIZATION STATUS.

"(a) GENERAL RULE.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) REORGANIZATION INDEX.—For purposes of this subpart—

"(1) IN GENERAL.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) NET CHARGE TO FUNDING STANDARD ACCOUNT.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) VESTED BENEFITS CHARGE.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) DETERMINATION OF VESTED BENEFITS CHARGE—

"(A) IN GENERAL.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) CERTAIN CHANGES IN BENEFIT LEVELS.—

"(i) IN GENERAL.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) PLAN IN REORGANIZATION.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) BASE PLAN YEAR.—

"(A) IN GENERAL.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) RELEVANT COLLECTIVE BARGAINING AGREEMENT.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) RELEVANT EFFECTIVE DATE.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) ADJUSTMENT DATE.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) PERSON IN PAY STATUS.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) Other definitions and special rules.—

"(A) Unfunded vested benefits.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) Vested benefits.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) Allocation of assets.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) Withdrawal liability.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) Prohibition of Nonannuity Payments.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Terminated Plans.—Any multiemployer plan which terminates under section 4041A(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"Sec. 418A. Notice of Reorganization and Funding Requirements.

"(a) Notice Requirements.—

"(1) In general.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"Section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) Persons to whom notice is to be given.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) Overburden credit not taken into account.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) Additional Requirements.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements or assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"Sec. 418B. Minimum Contribution Requirement.

"(a) Accumulated Funding Deficiency in Reorganization.—

"(1) In general.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) Treatment of withdrawal liability payments.—For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) Minimum Contribution Requirement.—

"(1) In general.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) Adjustment for reductions in contribution base units.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(b) The denominator of which is the plan's valuation contribution base for the plan year.

"(3) Special rule where cash-flow amount exceeds vested benefits charge.—

"(A) In general.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) Cash-flow amount.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary, adjusted in a manner consistent with section 418(b)(4).

"(c) Current Contribution Base; Valuation Contribution Base.—

"(1) Current contribution base.—For purposes of this subpart, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary.

"(2) Valuation contribution base.—

"(A) In general.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) Insolvent plans.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418D(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) Contribution base unit.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) Limitation on Required Increases in Rate of Employer Contributions.—

"(1) In general.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2) (A) or (B), the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4) (B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) Funding standard requirement.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) Special rule for certain plans.—

"(A) In general.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) Eligible plans.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(iii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) Period.—The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) Certain Retroactive Plan Amendments.—In determining the minimum contribution requirement with respect to a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

"(f) Waiver of Accumulated Funding Deficiency.—

"(1) In general.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) Treatment of waiver.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3)).

"(g) Actuarial Assumptions Must Be Reasonable.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

"Sec. 418C. Overburden Credit Against Minimum Contribution Requirement.

"(a) General Rule.—For purposes of determining the contribution under section 418B (before the application of section 418 B (b)(2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b)(2) or (d) and without regard to this section).

"(b) Definition of Overburdened Plan.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) Amount of Overburden Credit.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year. The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) Overburden Factor.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) Definitions.—For purposes of this section—

"(1) Pay status participant.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) Number of active participants.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1 of the subtitle E of title IV of the Employee Retirement Income Security Act of 1974, determined by dividing—

"(i) the total amount of such payments by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulations provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) Average number.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) Average guaranteed benefit.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c) (2).

"(5) First year in reorganization.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) No Overburden Credit in Case of Certain Reductions in Contributions.—

"(1) In general.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) Treatment of certain withdrawals.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Mergers.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

"Sec 418D. Insolvent Plans.

"(a) Suspension of Certain Benefit Payments.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974.

"(b) Definitions.—For purposes of this section, for a plan year—

"(1) Insolvency.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) Resource benefit level.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources.

"(3) Available resources.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974.

"(4) Insolvency year.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) Benefit Payments Under Insolvent Plans.—

"(1) Determination of resource benefit level.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) Uniformity of the benefit suspension.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b)(6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Resource benefit level below level of basic benefits.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) Excess resources.—

"(A) In general.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) Excess resources.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) Unpaid benefits.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Retroactive payments.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) Plan Sponsor Determination.—

"(1) Triennial test.—As of the the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) Determination of insolvency.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) Determination of resource benefit level.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level of basic benefits no later than 3 months before the insolvency year.

"(e) Notice Requirements.—

"(1) Impending insolvency.—If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1), the plan sponsor shall —

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) Resource benefit level.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) Potential need for financial assistance.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) Regulations.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secretary shall be given in accordance with regulations prescribed by the Secretary.

"(5) Corporation may prescribe time.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) Financial Assistance.—

"(1) Permissive application.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(2) Mandatory application.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this subpart in such manner as determined by the Secretary.".

(b) Clerical Amendment.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

Sec. 203. Minimum Funding Requirements.

Section 412 (relating to minimum funding standards) is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) Certain amortization charges and credits.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) Special rules for multiemployer plans.—For purposes of this section—

"(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) Plan payments to supplemental program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501 (c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).''; and

(3) by adding at the end thereof the following new subsection:

"(j) Certain Terminated Multiemployer Plans.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2) of that Act.

"(k) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary.".

Sec. 204. Excise Taxes.

Section 4971 (relating to taxes on failure to meet minimum funding standard) is amended—

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.".

Sec. 205. Deductibility of Employer Liability Payments.

Subsection (g) of section 404 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(g) Certain Employer Liability Payments Considered as Contributions.—

"(1) In general.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan.

"(2) Controlled group deductions.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income).

"(3) Coordination with subsection (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.".

Sec. 206. Minimum Vesting Requirements.

Section 411 (relating to minimum vesting standards) is amended—

(1) by adding at the end of subsection (a)(3) the following new subparagraphs:

"(E) Cessation of contributions under a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) Reduction and suspension of benefits by a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be suspended under section 418D or reduced or suspended under section 4281 of the Employee Retirement Income Security Act of 1974.";

(2) in subsection (a)(4)(E), by striking out "and";

(3) in subsection (a)(4)(F), by striking out the period and inserting in lieu thereof "; and";

(4) by adding at the end of subsection (a)(4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b)(2)(A)(i) of such Act in conjunction with the decertification of the collective bargaining representative, and

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d)(6), by striking out "section 412(c)(8)" and inserting in lieu thereof "section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974".

Sec. 207. Definition of Multiemployer Plan.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Multiemployer Plan.—

"(1) Definition.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) Cases of common control.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) Continuation of status after termination.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date.

"(4) Transitional rule.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date.

"(5) Special election.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of the Employee Retirement Income Security Act of 1974 and section 414(f)(1)(C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

Sec. 208. Related Technical Amendments.

(a) Sections 401(a)(12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies."

(b) Subsection (d) of section 4975 is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under part 1 of subtitle E of title IV or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F); or

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F).".

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.".

(d) Section 413(b)(6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

(e) Section 401(a)(2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined under section 423(d) of the Employee Retirement Income Security Act of 1974 to be an overpayment within 6 months of such determination" after "501(a)".

SEC. 209. WITHDRAWAL LIABILITY PAYMENT FUNDS.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223 (c) or (h) of the Employee Retirement Income Security Act of 1974, and

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223 (b) or (h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.".

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) SECTION MADE APPLICABLE TO WITHDRAWAL LIABILITY PAYMENT FUNDS.—For purposes of this section—

"(A) IN GENERAL.—The term 'plan' includes a trust described in section 501(c)(22).

"(B) DISQUALIFIED PERSON.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974.".

(c)(1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. CONTRIBUTIONS TO EMPLOYER LIABILITY TRUSTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c)(22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and

"(2) which is properly allocable to such taxable year.

"(b) ALLOCATION TO TAXABLE YEAR.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"SEC. 194. Contributions to employer liability trusts.".

SEC. 210. EFFECTIVE DATE.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 302. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following:

"(37)(A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c)(1) are considered a single employer.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.".

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(ii) The plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

SEC. 303. MINIMUM VESTING REQUIREMENTS.

Section 203 is amended—

(1) by inserting after subsection (a)(3) (D) the following new subparagraph:

"(E)(i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be reduced or suspended under section 4281 or suspended under section 4245.";

(2) in subsection (b)(1)(E), by striking out "and";

(3) in subsection (b)(1)(F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b)(1) (F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b)(2)(A)(i) in connection with the decertification of the collective bargaining representative; and

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

SEC. 304. MINIMUM FUNDING REQUIREMENTS

(a) Section 301 is amended by adding at the end thereof the following new subsections:

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

(b) Section 302 is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear.

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954)."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

SEC. 305. APPLICATION OF INTERESTED PARTY RULES TO WITHDRAWAL LIABILITY PAYMENT FUNDS.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223 shall be treated as a party in interest with respect to such trust.".

SEC. 306. LIQUIDATED DAMAGES WITH RESPECT TO DELINQUENT CONTRIBUTIONS.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"SEC. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.".

(b) Section 502 is amended by—

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.".

SEC. 307. ACTUARIAL STANDARDS.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph:

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future,

but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

SEC. 308. EXEMPTIONS FROM PROHIBITED TRANSACTIONS.

(a) Section 408(b) is amended by adding at the end thereof the following:

"(10) Any transaction required or permitted under part 1 of subtitle E of title IV.

"(11) A merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231.".

(b) Section 408 is amended by adding at the end thereof the following new subsection:

"(f) Section 406(b)(2) shall not apply to any merger or transfer described in subsection (b)(11).".

SEC. 309. FIDUCIARY DUTIES.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "this title".

SEC. 310. REFUND OF CERTAIN WITHDRAWAL LIABILITY PAYMENTS.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lieu thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) In the case of a withdrawal liability payment which has been determined under section 4221(d) to be an overpayment, paragraph (1) shall not prohibit the return of such payment to the employer within 6 months after the date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 402. RELATED TECHNICAL AMENDMENTS.

(a)(1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

(C) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));";

(D) in subsection (a)(7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs:

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated manadatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954;

"(9) 'reorganization index' means the amount determined under section 4241(b);

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury; and

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation.";

(F) by adding the following new paragraphs at the end of subsection (c)(1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan.

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

(2) Section 4003 is amended—

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e)(1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

(3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: "The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

(4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

"SEC. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

(6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b)(1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A(d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d)(1)(A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause;

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d)(1)(B)(i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title";

(G) in subsection (d)(1)(B)(iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d)(2)(B), by striking out "and";

(I) in subsection (d)(2)(C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d)(2)(C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under part 1 of subtitle E,

"(E) each employer who has an obligation to contribute, within the meaning of section 4212(a), under a multiemployer plan, and

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended—

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d)(1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended—

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b)(2), if any), or, if no agreement is reached, the date established by the court.".

(b)(1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies.".

(2) Section 403(a)(1) is amended by striking out "title" and inserting in lieu thereof "Act".

(3) Section 3002 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4245 of this Act, before publishing any such proposed or final regulation.".

SEC. 403. CONFORMING AMENDMENTS.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A (if any), other than subsection (g)(2) thereof (if any).";

(2) in subsection (b)(2)(A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b)(2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d)(1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e)(1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g)(2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g)(2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g)(2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f)(1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended—

(1) in the section heading, by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ", in accordance with this section," after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b)(1), by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended—
Section 4041 is amended—

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended—

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4032 (b)(5)" and inserting in lieu thereof "4022 B". (f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4281(d)(2)(A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(e).".

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan".

(h) Section 4063 is amended—

(1) in the first sentence of subsection (a), by inserting "other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions".

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer".

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a)(2), any".

(l) Section 4002(b)(3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

Sec. 404. Clerical amendments.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries."

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Adjustment for partial withdrawal.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. De minimis rule.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec.. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec. 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"Sec. 4231. Mergers and transfers between multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.
"Sec. 4235. Transfers pursuant to change in bargaining representative.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4245. Insolvent plans.

"PART 4—FINANCIAL ASSISTANCE

"Sec. 4261. Financial assistance.

"PART 5—BENEFITS AFTER TERMINATION

"Sec. 4281. Benefits under certain terminated plans.

"PART 6—ENFORCEMENT

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.
"Sec. 4303. Election of plan status.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.

"Sec. 4402. Transition rules and effective dates.

"Sec. 4403. Election of plan status.".

Sec. 405. Action Taken Before Regulations Are Prescribed.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

Sec. 406. Pension Benefit Guaranty Corporation Put on Budget.

(a) Paragraph (2) of section 4002(g) is amended to read as follows:

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980.

Sec. 407. Church Plans.

(a) Section 3(33) is amended to read as follows:

"(33)(A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term 'employee' of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

"(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means—

"(I) the period ending 270 days after the date of mailing by the Secretary of such a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows:

"(e) Church Plan.—

"(1) In general.—For purpose of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) Certain plans excluded.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) Definitions and other provisions.—For purposes of this subsection—

"(A) Treatment as church plan.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) Employee defined.—The term employee of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

"(iii) an individual described in subparagraph (E).

"(C) Church treated as employer.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) Association with church.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) Special rule in case of separation from plan.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

"(4) Correction of failure to meet church plan requirements.—

"(A) In General.—If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) FAILURE TO CORRECT.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) CORRECTION PERIOD DEFINED.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974.

SEC. 408. DEDUCTIBILITY OF PAYMENTS TO PLAN BY A CORPORATION OPERATING PUBLIC TRANSPORTATION SYSTEM ACQUIRED BY A STATE.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

SEC. 409. WAIVER OF PREEMPTION IN CASE OF HAWAIIAN HEALTH CARE PLAN.

(a) Section 514(b) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Law (Haw. Rev. Stat. 393-1 through 51), as in effect on January 1, 1979.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(C) Parts (1), (4), and (5) of this subtitle shall supersede the State law described in subparagraph (A), but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of Hawaii to assist them in effectuating the policies of provisions of such laws which are superseded by such parts.".

(b) The Secretary shall—

(1) conduct a study on the effects of paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974, as added by subsection (a), and the effects of extending the exemption from section 514(a) of such Act provided by such paragraph to include other State laws which impose requirements with respect to employer provided health care plans, and

(2) report to the Congress on the results of such study within 2 years after the date of the enactment of this Act.

(c) The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. TREATMENT OF CERTAIN SEVERANCE PAY ARRANGEMENTS AND SUPPLEMENTAL RETIREMENT INCOME PAYMENTS AS WELFARE PLANS.

Paragraph (2) of section 3 is amended—

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income payments under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement or payment shall be treated as a pension plan.".

SEC. 411. REFUND OF MISTAKEN CONTRIBUTIONS.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) IN THE CASE OF A CONTRIBUTION, OR A PAYMENT OF WITHDRAWAL LIABILITY UNDER PART 1 OF SUBTITLE E OF PART IV—

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a)).".

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

SEC. 412. DEFINITION OF EMPLOYEE PENSION BENEFIT PLAN.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(10) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

SEC. 413. STUDIES BY PENSION BENEFIT GUARANTY CORPORATION AND SECRETARY OF LABOR.

(a)(1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

(b)(1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

SEC. 414. STUDY BY GENERAL ACCOUNTING OFFICE; HEARINGS REQUIRED.

(a)(1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers.

(2)(A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

(B) The report submitted under subparagraph (A) shall be made available to the public.

(b) In conducting the study under subsection (a)(1), the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a)(2).

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator, the sponsor, any contributing employer, or any employee organization representing participants of any plan, and

(2) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

SEC. 415. GOVERNMENT CONTRACTORS' AFFIRMATIVE ACTION REQUIREMENTS.

Section 718 of the Civil Rights Act of 1964 is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsection:

"(b) In administering any executive order relating to equal employment opportunity programs of government contractors and subcontractors, and any rules and regulations issued pursuant to such order, no provisions requiring affirmative action programs or activities shall apply to any contractor or subcontractor who at all times during the twelve-month period preceding the awarding of the contract or subcontract employed five or fewer employees (including all employees of all firms owned or controlled by the contractor or subcontractor) and who at all times during the term of the contract or subcontract will employ five or fewer employees:. *Provided,* That nothing in this subsection shall make inapplicable provisions of any such executive order requiring a commitment to refrain from or a prohibition of employment discrimination because of race, color, religion, sex or national origin, together with remedies for such discrimination, and requiring all contractors to include affirmative action provisions and provide enforcement assistance with respect to any subcontract with a subcontractor who employs more than five employees as described in this paragraph.".

SEC. 416. STONE MINING OPERATIONS.

Section 3(h)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 802 (h)(1)), as amended by the Federal Mine Safety and Health Amendments Act of 1977, is amended by inserting after "preparation facilities." the following new sentence: "Such term shall not include any surface mining of stone, clay, colloidal phosphate, or sand and gravel.".

SEC. 417. OCCUPATIONAL SAFETY AND HEALTH ACT AMENDMENTS.

Section 4 of Occupational Safety and Health Act of 1970 (29 U.S.C., Section 653) is amended by adding the following new subsection:

"(C) Nothing in this Act shall authorize the Secretary to administer or enforce any standard, duty, regulation, or order with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost work day case rate—at the most precise Standard Industrial Classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics except—

"(1) to take any action authorized by this Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(4) to take any action authorized by this Act with respect to imminent dangers;

"(5) to take any action authorized by this Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by this Act;

"(7) to take any action authorized by this Act with respect to complaints of discrimination against employees for exercising rights under this Act.".

SEC. 418. REDUCTION IN UNEMPLOYMENT BENEFITS ON ACCOUNT OF PENSION.

(a) Section 3304(a)(15) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

SEC. 419. FEDERAL SERVICE OF EX-SERVICEMEN.

(a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after January 1, 1981.

SEC. 420. BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

(a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

SEC. 421. CESSATION OF EXTENDED BENEFITS WHEN INDIVIDUAL MOVES TO STATE IN WHICH TRIGGER IS NOT "ON"

(a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable, except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

House amendments to Senate amendment:

Page 16, strike out line 13 and all that follows down through line 19 and insert in lieu thereof the following:

"(B) the regulations prescribed under this paragraph shall provide—

"(i) that a plan must elect coverage under the supplemental program within the time permitted by the regulations;

"(ii) unless the corporation determines otherwise, that a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year; and

"(iii) such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title."

Page 11, strike out line 18 and all that follows down through line 15 on page 15 and insert in lieu thereof the following:

"(f) (1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployed plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2) (A) If the last report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for muliemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b).

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) The revised schedule of increased premiums referred to in subparagraph (A) (ii) or (A) (iii) shall go into effect as approved by the Congress by concurrent resolution.

"(C) If an increase in premiums is not approved, the revised guarantee schedule described in subparagraph (A) (i) shall go into effect on the first day of the second calendar year following the year in which such revised guarantee schedule was submitted to the Congress.

"(3) (A) If the last report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) The revised schedules referred to in subparagraph (A) (i) or subparagraph (A) (ii) shall go into effect as approved by the Congress by a concurrent resolution.

"(4) (A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supercede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in ——— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ———.', the first blank space therein being filled with 'section 4022A(f) (2) (A) (ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A (f) (2) (A) (iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A (f) (3) (A) (i) of the Employee Retirement Income Security Act of 1974', or 'section 4022 A(f) (3) (A) (ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b) (4) through (7).

Page 74, line 2, strike out "2" and insert in lieu thereof "3".

Page 74, line 3, strike out "5" and insert in lieu thereof "10".

Page 74, line 10, strike out "5" and insert in lieu thereof "10".

Page 74, line 20, strike out "2" and insert in lieu thereof "3".

Page 74, line 21, strike out "5" and insert in lieu thereof "10".

Page 75, insert after line 12 the following:

"(iii) A plan may be amended to provide that the the first plan year ending on or after April 29, 1980, the number '5' shall be substituted for the number '10' each place it appears in clause (i) or clause (ii) (whichever is appropriate). If the plan is so amended, the number '5' shall be increased by one for each succeeding plan year until the number '10' is reached".

Page 65, beginning on line 2, strike out "A plan" and all that follows down through line 8 and insert in lieu thereof the following: "Withdrawal liability under this part shall be determined by each plan on the basis of—

"(1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or

"(2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.".

Page 79, strike out line 10 and all that follows down through line 16 on page 82 and insert in lieu thereof the following:

"PRESUMPTION REGARDING DETERMINATION OF WITHDRAWAL LIABILITY

"SEC. 4221. (a) For purposes of this part, a determination made with respect to a plan under sections 4201 through 4219 and section 4225 is presumed correct unless the party contesting the determination shows by a preponderance of the evidence that the determination was unreasonable or clearly erroneous.

"(b) In the case of the determination of a plan's unfunded vested benefits for a plan year, the determination is presumed correct unless a party contesting the determination shows by a preponderance of evidence that—

"(1) the actuarial assumptions and methods used in the determination were, in the aggregate, unreasonable (taking into account the experience of the plan and reasonable expectations), or

"(2) the plan's actuary made a significant error in applying the actuarial assumptions or methods.

"(c) If an employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

Page 91, strike out lines 3 through 15 and insert in lieu thereof the following:

"SEC. 4224. A multiemployer plan may adopt rules providing for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules are consistent with this Act and with such regulations as may be prescribed by the corporation."

Page 5, line 23, insert "(A)" before "For".

Page 6, insert after line 4 the following:

"(B) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months before the first day of the plan year for which an amendment reducing the benefit or the benefit increase is taken into account under section 4244A(a)(2) in determining the minimum contribution requirement for the plan year under section 4243(b) is not eligible for the corporation's guarantee.

Page 111, strike out lines 4 through 7 and insert in lieu thereof the following:

"(7) For purposes of paragraph (3)—

"(A) in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status, and

"(B) the vested benefits charge shall be determined without regard to reductions in accrued benefits under section 4244A which are first effective in the plan year.

Page 112, beginning on line 16, strike out "an excise tax may be imposed" and insert in lieu thereof "accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur)".

Page 126, after line 16, insert the following:

"ADJUSTMENTS IN ACCRUED BENEFITS

"SEC. 4244A. (a)(1) Notwithstanding sections 203 and 204, a multiemployer plan in reorganization may be amended in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b), are not eligible for the corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

"(2) In determining the minimum contribution requirement with respect to a plan for a plan year under section 4243(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8) of the Internal Revenue Code of 1954, but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary of the Treasury may prescribe by regulation under section 412(c)(10) of such Code.

"(b)(1) Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a) under the plan, and

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary of the Treasury—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally than such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d)(1)(A) A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) If a plan is amended to partially restore previously reduced accrued benefit level, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) For purposes of this section, "inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) The Secretary of the Treasury may prescribed rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

Page 134, line 8, strike out "and".

Page 134, insert after line 8 the following:

"(C) comply with the rules for and limitations on benefit reductions under a plan in reorganization, as prescribed in section 4244A, except to the extent that the corporation prescribes other rules and limitations in regulations under this section; and

Page 134, line 9, strike out "(C)" and insert in lieu thereof "(D)".

Page 157, in the items following line 21, strike out the item relating to section 418D and insert in lieu thereof the following:

"Sec. 418D. Adjustments in accrued benefits.

"Sec. 418E. Insolvent plans.

Page 164, insert after line 6 the following:

"(D) TREATMENT OF CERTAIN BENEFIT REDUCTIONS.—The vested benefits charge shall be determined without regard to reductions in accrued benefits under section 418D which are first effective in the plan year.

Page 164, line 7, strike out "(D)" and insert in lieu thereof "(E)".

Page 165, beginning on line 13, strike out "an excise tax may be imposed" and insert in lieu thereof the following: "accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).".

Page 182, insert after line 15 the following:

"SEC. 418D. ADJUSTMENTS IN ACCRUED BENEFITS.

"(a) ADJUSTMENTS IN ACCRUED BENEFITS.—

"(1) IN GENERAL.—Notwithstanding section 411, a multiemployer plan in reorganization may be amended, in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b) of the Employee Retirement Income Security Act of 1974, are not eligible for the Pension Benefit Guaranty Corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

"(2) Adjustment of vested benefits charge.—In determining the minimum contribution requirement with respect to a plan for a plan year under section 418B(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8), but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary may prescribe by regulation under section 412(c)(10).

"(b) Limitation on Reduction.—

"(1) In general.—Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1976) under the plan, and

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally than such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) Information required to be included in notice.—The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) No Recoupment.—A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d) Benefit Increases Under Multiemployer Plan in Reorganization.—

"(1) Restoration of previously reduced benefits.—

"(A) In general.—A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) Benefit increases and benefit restorations.—For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) Uniformity in benefit restoration.—If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increases in year of benefit reduction.—No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) Retroactive payments.—A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) Inactive Participant.—For purposes of this section, the term 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) Regulations.—The Secretary may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

Page 182, line 16, strike out "Sec. 418D." and insert in lieu thereof "Sec. 418E.".

Page 197, strike out lines 3 through 11 and insert in lieu thereof the following:

"(F) Reduction and suspension of benefits by a multiemployer plan.—A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(i) the plan is amended to reduce benefits under section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974, or

"(ii) benefit payments under the plan may be suspended under section 418E or under section 4281 of the Employee Retirement Income Security Act of 1974.";

Page 209, strike out lines 19 through 23 and insert in lieu thereof the following:

"(ii) A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(I) the plan is amended to reduce benefits under section 4244A or 4281, or

"(ii) benefit payments under the plan may be suspended under section 4245 or 4281".

Page 247, strike out line 3 and all that follows down through line 8 on page 248.

Page 118, line 16, strike out "changes" and insert in lieu thereof "charges".

Page 121, insert after line 6 the following:

"(4) Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

Page 176, insert after line 11 the following:

"(4) Exception in case of certain benefit increases.—Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

Page 18, strike out lines 7 through 15.

Page 44, line 12, strike out "$100,000" and insert in lieu thereof "$50,000".

Page 225, strike out line 4 and all that follows down through line 3 on page 256.

Page 256, strike out lines 4 through 11.

Page 256, strike out line 12 and all that follows down through the end of page 257.

Strike out line 1 on page 258 and all that follows down through line 21 on page 263 and insert in lieu thereof the following:

Sec. 414. Treatment of Certain Retirement Benefits.

"(a) General Rule.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following:

"except that—

"(A) the requirements of this paragraph shall apply to a pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or other payment is under a plan maintained (or contributed to) by a base period employer (as determined under applicable law), and

"(ii) services performed for such employer by the individual during the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other payment, and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay annuity, or other similar periodic payment;".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

Sec. 415. Increases in Length of Service in Armed Forces Required for Ex-Servicemen to be Eligible for Unemployment Benefits.

(a) General Rule.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United

States Code is amended by striking out "90 days or more" and inserting in lieu thereof "365 days or more".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

Sec. 416. Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period is not in Effect.

(a) General Rule.—Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after October 1, 1980; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 for any week which begins before June 1, 1981.

(2) Special rule for certain states.—In the case of any State the legislature of which does not meet in a regular session which begins during calendar year 1981 and before April 1, 1981, paragraph (1) shall be applied by substituting "June 1, 1982" for "June 1, 1981".

Page 2 in the table of sections, strike out the items relating to sections 409 through 421 and insert in lieu thereof the following:

Sec. 409. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 410. Refund of mistaken contributions.
Sec. 411. Definition of employee pension benefit plan.
Sec. 412. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 413. Study by General Accounting Office; hearings required.
Sec. 414. Treatment of certain retirement benefits.
Sec. 415. Increase in length of service in Armed Forces required for ex-servicemen to be eligible for unemployment benefits.
Sec. 416. Cessation of extended benefits when paid under an interstate plan in a State where extended benefit period is not in effect.

Page 70, line 24, insert after "subsection (a)." the following: "The corporation shall prescribe such regulations.".

Page 75, strike out lines 22 through 25 and insert in lieu thereof the following:

"(ii) notwithstanding any other provision of this part, the total unfunded vested benefits of the plan shall be fully allocated to each such employer in a manner consistent with regulations which shall be prescribed by the corporation.

Page 18, line 4, strike out "418D" and insert in lieu thereof "418E".

Page 171, line 11, strike out "418D(b)(1)" and insert in lieu thereof "418E(b)(1)".

Page 235, strike out the item relating to section 4221 and insert in lieu thereof the following:

"Sec. 4221. Presumption regarding determination of withdrawal liability.

Page 235, insert after the item relating to section 4244 the following new item:

"Sec. 4244A. Adjustments in accrued benefits.

Page 248, line 9, strike out "Sec. 410." and insert in lieu thereof "Sec. 409.".

Page 249, line 15, strike out "Sec. 411." and insert in lieu thereof "Sec. 410."

Page 251, line 6, strike out "Sec. 412." and insert in lieu thereof "Sec. 411.".

Page 252, line 14, strike out "Sec. 413." and insert in lieu thereof "Sec. 412.".

Page 253, line 10, strike out "Sec. 414." and insert in lieu thereof "Sec. 413.".

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment and the House amendments to the Senate amendment be dispensed with and that they be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, I will yield to the gentleman from New Jersey (Mr. Thompson) to explain the nature of his unanimous-consent request.

□ 1810

Mr. THOMPSON. I thank my colleague from Illinois.

Mr. Speaker, the House passed H.R. 3904 by a vote of 374 to zero over 2 months ago. The House-passed bill was the result of 3 long and torturous years of study and legislative compromise. H.R. 3904 amends a law which has been on the books since 1974, but whose effective date we have deferred four times. That law goes into automatic effect at midnight tonight. As you have heard me say too many times before, if that is permitted to happen it will mean the destruction of private pension plans which cover 8 million workers, at enormous cost to our already severely strained economy and the well-being of our older citizens and workers. American labor and American business need and support H.R. 3904.

But with the full knowledge of the critical importance of this legislation the Senate failed to take action on H.R. 3904 until 11:30 Tuesday night, 48 hours before the deadline. The other body modified H.R. 3904 in three significant ways which I believe are unacceptable to this body, because they undermine our integrity and our processes. First they stripped out the provisions in H.R. 3904 essential to financial responsibility, and added others which have a potential for financial disaster. Second they stripped out the provisions essential to insure that the older Americans in health plans, and dependent on pensions from these plans, will be able to get increases in those pensions so they can resist the deadly drain of inflation. Finally, they add nongermane amendments which undermine the workplace protections of American workers. They are sending H.R. 3904 back to us and telling us to take it or leave it. Mr. Speaker, I am recommending that we take neither course.

The amendments I am offering this morning will restore the provisions essential to fiscal responsibility for plans and economic security for retirees. In addition they will delete the nongermane amendments, which undermine workplace security of American labor, and whose attachment to this bill undermines the procedural integrity of this body.

Those of us who do not support the nongermane amendments are being told that in order to enact legislation essential to our older citizens, workers and business, we must accept legislation which many of us believe inimical to the public interest. Those of us who struggled to make this a balanced fiscally responsible bill are being told that we must accept the 11th hour fiscal irresponsibility of the other body's amendments. All of us are being told, that under the gun of a deadline we must accept 11th hour changes which we have never considered under the proper procedures of this body.

I ask my colleagues on both sides of the aisle to think about the legislative process and the integrity of this body. The amendments I am requesting will restore the legislations to more nearly the bill we passed unanimously over 2 months ago. I ask you to think about the precedent we are establishing, the message we are sending over to the other body, if we accept the cards we are dealt because we have run out of time. This House is now being held hostage under the gun of time. This is a bicameral legislature, let us start acting like one.

I do want to talk briefly about the nongermane amendments, because all of them raise serious questions, even for their supporters, questions which can only be answered through the regular hearing and report procedures of this body. One amendment would exempt from OSHA standards an employer with 10 or fewer employees if that employer is in a category of employers with less than the occupational injury lost work day average. That means that no matter what the accident rate of that individual employer, his employees are without the protections of the safety standards.

Is that a provision that the Members of this body want to see enacted into law without the opportunity to fully consider its consequences? That amendment, taken together with another nongermane amendment affecting sand and gravel and clay pits, may result in many of those operations being out from under any safety standards at all. Is that something for which the Members of this body want to take the consequences?

Mr. Speaker, H.R. 3904 is legislation which is important to and has the support of labor and management. Members of this House, including my distinguished colleague from Illinois, (Mr. ERLENBORN), have worked hard to make this a good bill. It is a good bill. Respect for the work of your colleagues, self-respect, and concern for the balance-of-power essential to the operation of a truly bicameral legislature are in issue here.

For all of those reasons, I ask my colleagues to withdraw their objections.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, the gentleman from New Jersey has explained some of the background of this legislation.

Suffice it to say, without repeating what the gentleman from New Jersey has said, we are now at a point where the House has passed the bill, and the ERISA portion was in good form. The other body passed a bill that has the basic provisions. I would question whether it is complete and in proper form.

The gentleman from New Jersey and I, with our staffs, and with the Committee on Ways and Means have agreed upon a number of amendments that would perfect the ERISA portion of this bill.

As the gentleman from New Jersey has pointed out in the other body there were several—I believe about a number of eight—nongermane amendments attached to the bill.

Now, Mr. Speaker, these amendments, some of them, are on issues that are very important to the AFL–CIO, organized labor.

There was an amendment to the Occupational Safety and Health Administration Act.

There is an amendment to the Mine Safety and Health Administration Act, and a few other amendments, very, very much not wanted by organized labor.

Mr. Speaker, the ordinary process, a bill having passed both bodies, is for the bodies then to agree to go to conference to work out their differences, but for some reason, the managers of this bill do not want the bill to go to conference.

There would be then yet another way that I suggested to the managers of the bill to get prompt action. We could have done it today. That would have been to go to the Committee on Rules and ask for a special rule to allow separate votes on the nongermane amendments so that the majority in this body can work their will along with the majority in the other body, but that procedure was not made available to us.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank my colleague for yielding.

I might point out that in conversations with the leadership and in conversations with the distinguished chairman of the Committee on Rules, I did seek the Committee on Rules to meet today so that we could have a rule. I was informed by the distinguished gentleman from Missouri, the chairman of the Committee on Rules, that it was impossible, there being before the Committee on Rules the question of reconciliation and that it was impossible for that committee to meet.

I might point out further that even had we been able to finish this, thanks to the dilatory tactics in the other body, it would have been impossible to go to conference, comply with the 3-day rule, and come back, without abandoning the prospective recess.

Mr. ERLENBORN. I thank the gentleman.

As far as I personally know, the gentleman is correct.

I talked to the chairman of the Committee on Rules and was also advised that it would not be possible, in his opinion, for the Committee on Rules to meet and examine our request for a rule and grant a rule, but there is yet another thing we could have done and that would be to call up under unanimous consent, and I am certain no one would object, a bill that was introduced by my colleague from Ohio and is before the body today, to extend the time for the mandatory multiemployer insurance coverage under ERISA for an additional 60 days.

Then procedurally we would have had available to us an opportunity to go to conference in the normal way.

Now, Mr. Speaker, further reserving the right to object, it seems to me that the procedure that we are faced with today has been designed to deny to the House the opportunity for the majority to work their will on the nongermane amendments.

The result of an objection, which I expect there will be one to this procedure, will be that tonight at midnight the mandatory multiemployer insurance currently in law will go into effect.

The result of that, because of the improper drafting of that law back in 1974, will be that all of the incentives currently in the law will be for multiemployer plans to terminate. Those that terminate will be able to dump their liability on the remaining unions and employers, the result of our failure to handle this in the proper way; and I agree with the gentleman that much of the blame belongs on the other body for their dilatory tactics, but the result of our failure today to either extend the time or to pass this bill will be to deny future pensions to those who are participating in plans that will be terminated because of our failure.

It will deny to other employees in the future pension benefits that they would have had had we not allowed this law to stand in the way of the formation of new pension plans. I regret very much that the delay of the other body and the choice of procedure in this body has put us in this position.

□ 1820

Mr. THOMPSON. Mr. Speaker, will the gentleman yield on that point?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I am in substantial agreement with the statement of the gentleman from Illinois, except that I would like to reemphasize the enormous effort on the part of the gentleman and on my part to get the other body, wherein really the fault lies, to act sooner.

Further, after an extensive survey of the possibility of asking unanimous consent for the procedure which the gentleman has outlined, I was informed by at least four Members that there would be objection to a unanimous-consent request for an extension.

Incidentally, such a request is still possible if the gentleman wants to make it, of course.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Ohio, for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his inquiry.

Mr. ASHBROOK. Mr. Speaker, our colleague, the gentleman from New Jersey (Mr. THOMPSON), has asked for unanimous consent and has characterized the House amendment as a single amendment. Yet I might point out, the document is over 40 pages in length. It covers a wide variety of subjects. Some pages contain provisions to add sections to the Senate amendment; other pages contain provisions to strike sections from the Senate amendment.

My inquiry goes to whether the House amendment is, in fact, a series of House amendments and, therefore, the Members would be able to vote separately on each of the propositions, or whether the House amendment is not subject to division and we would only have one vote thereon.

The SPEAKER. There is one unanimous-consent request and the proposed amendment is not divisible.

Mr. ASHBROOK. Mr. Speaker, I could not hear the chair. The answer was, I assume, that it is a single bill?

The SPEAKER. It is not in order to divide the proposed amendment.

Mr. ASHBROOK. Mr. Speaker, I thank the Chair.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. THOMPSON)?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

I serve on one of the committees which has jurisdiction over these matters, but I have not had time to compare completely the remaining differences between the House and Senate. Any legislative body which tries to act blindly and with intemperate haste in this field will be likely to inflict grievous economic wounds on our society. I could not in good conscience agree to let this bill go forward in this manner.

Further, one of the eight amendments which we are asked to accept en bloc, would gut a Senate amendment sponsored by my senior Senator. That Senate amendment is a carefully considered change which is necessary to remove a present inequity. If the House accedes to this request, it will remove a working amendment from this bill.

And, it should go without saying that there is no reason to believe that the Senate will accept this effort. I, personally, doubt that it would.

The best course of action for this body is to pass another extension of the deadline, so no plan Members will be able to escape liability, and go to conference in the normal way.

I have noticed an increasing reluctance on the part of the majority here to follow the normal procedures. This morning the Budget Committee was told that if it could not get a closed rule, it could not pass its reconciliation bill. Now, we are being led to believe that a regular conference is too tough for us.

Mr. Speaker, there is a right and wrong way to handle this bill. The unanimous-consent request is the wrong way.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding.

It is my understanding, first of all, the unanimous-consent request now asked for is to discontinue reading the bill; is that correct?

Mr. ERLENBORN. No.

Mr. ROUSSELOT. Have we gotten past that?

Mr. ERLENBORN. We are past that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to my colleague.

Mr. ROUSSELOT. Mr. Speaker, do I understand then that if there is an objection to this unanimous-consent request to proceed, as my colleague from Minnesota has indicated, with many aspects of this bill which even the people in this House are not totally familiar with, if there was such an objection we could go to a unanimous-consent request to take up the bill of the gentleman from Ohio, a member of the committee, to extend for 60 days the deadline; is that correct?

Mr. ERLENBORN. In answer to my colleague, I pointed out a minute ago that that could have been done before. It still could be done, if the gentleman from New Jersey agrees.

Mr. ROUSSELOT. So that we are not faced with absolutely killing the whole issue tonight. We could allow the unanimous-consent request to be taken and to vote for a 60-day extension to give us more adequate time to go to conference?

Mr. ERLENBORN. The gentleman is correct.

Mr. ROUSSELOT. I appreciate the gentleman's comments.

Mr. ASHBROOK. Mr. Speaker, would the gentleman yield at that point?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I would point out to the Members that we indeed have yet another option. I understand there is great opposition to the 60 day extension. It would be my intention if an objection is heard, to offer a unanimous-consent motion and offer an amendment to change it to 30 days, so it would be a 30-day extension, rather than a 60-day extension.

My colleague, the gentleman from New Jersey, has indicated there would be an objection to that; but those of us who do not want the tragedy to befall that we have already outlined, at least for the record I am going to offer, whether it is objected to or not, that remains to be seen; but I will offer it with the idea in mind that we would accede to the wishes of the Members on the other side, offer an amendment to make it a 30-day, rather than a 60-day extension.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Hawaii.

Mr. AKAKA. Mr. Speaker, I thank my colleague.

Mr. Chairman, I would like to have a clarification from the gentleman as to what Senate amendments are to remain in the bill.

Mr. ERLENBORN. Mr. Speaker, I would yield to the gentleman from New Jersey for the purpose of answering the question.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

The amendments which were adopted by the Senate which are germane to the original bill would remain in the bill.

Mr. AKAKA. Has the gentleman considered whether the particular exemption from ERISA for the Hawaii Prepaid Health Care Act, does that remain in the bill?

Mr. THOMPSON. In the proposal before us, that would not remain.

Mr. AKAKA. Mr. Speaker, I thank the gentleman.

Mr. ERLENBORN. Mr. Speaker, I yield to my colleague, the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, for a point of clarification, would one of the amendments deleted be the exemption by sand and gravel operators from the Mining Safety and Health Act to train readymix operators and bookkeepers as underground miners, would that be exempted?

Mr. ERLENBORN. Mr. Speaker, I can answer the gentleman. That is one of the nongermane amendments that would be stricken by the unanimous-consent request.

Mr. MARLENEE. Mr. Speaker, would the gentleman yield further?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to the gentleman.

Mr. MARLENEE. Mr. Speaker, I believe there are 219 of us in this body who are being held hostage. That is the exact number of cosponsors that I have on the bill to exempt this, by a committee chairman, rather than by the other body.

Mr. ERLENBORN. Mr. Speaker. I thank the gentleman.

Mr. Speaker, further reserving the right to object, let me say that, I think. is adequate testimony to back up the comment I made earlier that the procedure we have been offered has been designed to thwart the will of the majority in this body by prohibiting us from having an opportunity to vote on this very important amendment.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield further?

Mr. ERLENBORN. I would yield to the gentleman again.

Mr. MARLENEE. Mr. Speaker, it puts us in a position, I am afraid, that we have no other option but to object if such an option is placed before us.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. Further reserving the right to object, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, another one of these amendments, I think, I have been told, exempts employees with 10 or fewer from OSHA, is that in here? Have we not voted on that several times?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, there is a foreign amendment, so-called, that would exempt businesses with 10 or fewer employees who have good safety records from casual inspection, which is language identical to the current law adopted as an amendment to the appropriation bill for fiscal year 1980.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. ERLENBORN. I yield.

Mr. ROUSSELOT. It is my recollection, was not that passed earlier overwhelmingly here?

Mr. ERLENBORN. I am not certain what the margin was, but my recollection is that it enjoyed more than a slim margin of victory.

Mr. ROUSSELOT. So we really could accept that; it would not be that damaging to the House position.

Mr. ERLENBORN. Well, I might say again, this is no doubt one of those matters that the managers of the bill would rather the House not have an opportunity to vote on, because the majority might approve it.

Mr. ROUSSELOT. Now, repeat that again, they do not want us to vote on it?

Mr. ERLENBORN. Well, it seems to me the procedure has been designed to prohibit the Members of the House from having the opportunity to vote.

Mr. ROUSSELOT. Oh, I cannot believe that.

Mr. THOMPSON. Mr. Speaker, would the gentleman yield to me so that I could answer that?

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I do not want to see my distinguished friend, the gentleman from California, leave here so injured. I would like to explain what that exemption would be.

□ 1830

Mr. ROUSSELOT. I am waiting with bated breath.

Mr. THOMPSON. To be injured?

Mr. ROUSSELOT. Either way it would be helpful. The Speaker had his turn yesterday. It is the gentleman's turn today.

Mr. THOMPSON. I am afraid I cannot do quite as well as the Speaker.

This amendment would, the effect of

the amendment to which the gentleman refers would exempt OSHA standards for an employer with 10 or fewer employees, if that employer is in a category of an employer with less than the occupational injury loss workday average. Not each one, but all in the category, which is entirely a different situation than the individual employer.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, I do not believe that we ought to really debate each one of these amendments. But let me say my understanding of the amendment is that it exempts no one from OSHA standards. It exempts only those businesses in categories as the gentleman referred to.

Mr. ROUSSELOT. If the gentleman will yield, which have good safety records?

Mr. ERLENBORN. Good safety records, and exempt them from casual inspection. But they would still be subject to OSHA standards and, on complaint, there could be an inspection.

Yet this is a very modest matter that has already been approved by this House once before.

Mr. MURPHY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. MURPHY of Pennsylvania. I thank the gentleman.

Mr. Speaker, is it my understanding that the other body placed in four to six varying amendments concerning clay, sand, and gravel, HMSA, OSHA, unemployment compensation, and others that were not germane to the original ERISA bill; is that my understanding?

Mr. ERLENBORN. I am not sure what the gentleman's understanding is, but those amendments were adopted in the other body and I have commented that we could go to conference, which is the normal procedure, and we can get a rule to allow a vote on them. But there are ways that we could have this body pass judgment on those separate amendments.

Mr. MURPHY of Pennsylvania. I would want to advise the gentleman at this point that any motion to go to conference obviously would remove it from this body as a whole. We have already deliberated on ERISA. The amendments were here. I think the matter should be deliberated on by the full committee and the full House.

Mr. ERLENBORN. Mr. Speaker, let me say that I will not yield to the gentleman any further.

Let me say if the gentleman wants to change the rules of the House as to the conduct of the business of the House and eliminate conference committees, that is one thing; but to suggest that there is anything unusual in the procedure of going to conference I think flies in the face of our experience.

Mr. MURPHY of Pennsylvania. Will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman.

Mr. MURPHY of Pennsylvania. I will try to explain that final point that I am trying to make, which is that many of us who serve on the subcommittees that handle HMSA, OSHA and compensation do not serve on the subcommittee which has been handling ERISA. We would not go to conference; consequently, there would be vitally important measures which I would like to fully have deliberated and explored that we would not take part in, and if it goes to conference it is removed from any say that we may have. I must advise the gentleman as a member of those two subcommittees that have handled those measures that I would object to it going to conference.

Mr. ERLENBORN. Mr. Speaker, further reserving the right to object, let me say the fears of my colleague, under the precedents and the rules, as amended in recent years, of the House, the gentleman I am certain would be protected by the Speaker by being appointed as a conferee for those matters within his subcommittee's jurisdiction. That has been done on many occasions.

Mr. Speaker, I have no further reservations, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST TO CONSIDER H.R. 7881, EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 AMENDMENTS

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from the further consideration of the bill (H.R. 7881) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the Corporation must pay benefits under terminated multiemployer plans, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. MURPHY of Pennsylvania. Mr. Speaker, reserving the right to object, is it my understanding that this is another attempt—there was an attempt in July, there was another attempt in May, there have been attempts all year long to delay the final implementation of the Pension Benefit Guaranty Corporation become available to all employers—is this another effort to delay that?

Mr. ASHBROOK. Mr. Speaker, if the gentleman will yield, I will be glad to respond.

Mr. MURPHY of Pennsylvania. I am glad to yield to the gentleman.

Mr. ASHBROOK. I would say that it is no effort to delay. It appears to me that both sides are in somewhat of an intractable position. We are faced with an adjournment or a recess.

Last night I offered this bill as a fallback position in case all else failed, and we could at least extend it for 1 month and then either have the conference or work it out rather than being under the gun.

Mr. MURPHY of Pennsylvania. I might advise the gentleman that I took the floor in July and raised a reservation of objection when the subcommittee chairman had the very same motion. I acceded to the wishes of the House at that time and I think I would like at this point to raise an objection to the motion that was made by the gentleman.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield to me for just a moment?

Mr. MURPHY of Pennsylvania. I am happy to yield, further reserving the right to object.

Mr. GIBBONS. Mr. Speaker, I have not been caught in this dogfight, but I do know something about the multiemployer pension plan. If we do start guaranteeing them as of tomorrow night there will not be any. They will all collapse and we will have chaos.

Now, I think the gentleman ought to consider that when he objects. This is going to take some negotiations to work this thing out, but what the gentleman from Ohio (Mr. ASHBROOK) has tried to do here makes sense. I know it is difficult, but if the gentleman is interested in the multiemployer plans, as of midnight tomorrow night they will all collapse. There is not nearly enough money in the Pension Benefit Guaranty Corporation to take care of the liabilities. People will withdraw wholesale and the pension benefits that people think they have earned in good faith will evaporate just like that.

So I do not like the procedure, but we are in a heck of a mess. I would think that the wise thing to do is to allow this procedure to go ahead.

Mr. MURPHY of Pennsylvania. Further reserving the right to object, Mr. Speaker, I would like to answer the gentleman from Florida. What he has stated is correct. However, it is the other body that has placed us in this position and all we are trying to do, I believe, is ask them to recede, and then we could go on. We will be here until tomorrow night at midnight.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield to me?

Mr. MURPHY of Pennsylvania. I yield to the gentleman.

Mr. THOMPSON. I might point out that notwithstanding the outcome of this unanimous-consent request, the other body has adjourned for the day. The deadline is midnight tonight, not tomorrow night. It would be impossible—it would be impossible to have an extender by unanimous consent today.

Mr. MURPHY of Pennsylvania. I think, therefore, if I raise my objection, the other body will come back and work and work until tomorrow night at midnight and solve this.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. GIBBONS. I want the gentleman to know that a lot of the pension plans are going on the gentleman's hands, and I am sorry to say that.

RECESS OF SENATE FROM AUGUST 6, 1980, TO AUGUST 18, 1980, AND ADJOURNMENT OF HOUSE FROM AUGUST 1, 1980, TO AUGUST 18, 1980

The SPEAKER laid before the House the privileged Senate concurrent resolution (S. Con. Res. 113) providing for recess of the Senate from August 6, 1980, until August 18, 1980, and adjournment of the House from August 1, 1980, until August 18, 1980.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 113

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business on Wednesday, August 6, 1980, it stand in recess until 11:00 o'clock a.m. on Monday, August 18, 1980, and that when the House completes its business on Friday, August 1, 1980, it stand adjourned until 12:00 o'clock noon on Monday, August 18, 1980.

The SPEAKER. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

MAKING PROVISIONS FOR ADJOURNMENT OF BOTH HOUSES OF CONGRESS

The SPEAKER laid before the House the Senate concurrent resolution (S. Con. Res. 112) making provisions for adjournment of both Houses of Congress.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 112

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, nor adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The SPEAKER. Is there objection to the consideration of the concurrent resolution?

□ 1840

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Texas can tell us does this waive the Legislative Reorganization Act of 1947? Is that what it is? Who brought this up? Did it just come out of thin air?

The SPEAKER. This was a message from the Senate.

Mr. BAUMAN. I thought that there was something being laid before the House for action.

The SPEAKER. I believe it was self-explanatory. This was the Reorganization Act of 1970.

Mr. BAUMAN. This simply waives the requirement that we adjourn by July 31 each year?

The SPEAKER. Exactly. The gentleman is correct.

Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL WEDNESDAY, AUGUST 6, 1980, TO FILE REPORT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight, Wednesday, August 6, 1980, to file an oversight report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement, that the public health bill, both the rule and the bill, will be withdrawn until such time as we return. On tomorrow's schedule the only thing that the Speaker knows of is the unanimous-consent request on the Eximbank. The gentleman from New Jersey (Mr. THOMPSON) has informed the Chair he may renew his request tomorrow.

AUTHORIZING ASSISTANCE TO FOLGER LIBRARY AND CORCORAN GALLERY IN WASHINGTON, D.C.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2680) to improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666), and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, can the gentleman from California explain what this is?

Mr. PHILLIP BURTON. If the gentleman will yield, the gentleman from California will be happy to respond.

Mr. ROUSSELOT. I will always be glad to yield to my colleague, the gentleman from California, because I know he has been good in getting things through on unanimous consent, and we just want to know what they are.

Mr. PHILLIP BURTON. I thank the gentleman very much.

Mr. Speaker, S. 2680 as passed by the Senate is an authorization for the Secretary of the Interior to provide financial assistance for the Folger Library and the Corcoran Gallery of Art. This is similar to section 507 of H.R. 3 as passed by the House of Representatives on May 20 of this year. Section 2 of the Senate bill authorizes the Secretary to continue to cooperate with the Accokeek Foundation in the operation and maintenance of the National Colonial Farm at Piscataway Park in Maryland. This is similar to H.R. 7278, which is authored by the distinguished ranking minority member of our Subcommittee on National Parks and Insular Affairs, Representative KEITH SEBELIUS.

Our proposed House amendment to this legislation consists of 16 additional provisions which were included in H.R. 3 at the time of its original passage. The amendments are identical with the sections as they appeared in H.R. 3 except as noted in the following list:

1. Georgia O'Keeffe NHS—H.R. 3 language.
2. GGNRA—Includes only H.R. 3 parcels on Tomales Bay, extension of advisory board terms to 5 years or fixed date, and extension of commission by 10 years.
3. Boston NHP—H.R. 3 language.
4. Pinnacles NM—H.R. 3 language.
5. Golden Spike NHS—H.R. 3 language.

6 Reporting requirements changes—H.R. 3 language.

7. Land & Water Conservation Fund—single visit definition and disabled persons entrance permit only.

9. Gateway NRA—H.R. 3 language.

9. Gateway NRA—H.R. 3 language

10. Moore's Creek N.B.—H.R. 3 language.
11. San Antonio Missions NHP—H.R. 3 language.
12. Falls of Ohio Study—H.R. 3 language.
13. Upper Missouri River—H.R. 3 language.
14. George Meany Study—H.R. 3 language.
15. Man in Space Study—H.R. 3 language.
16. Overmountain Victory Trail—H.R. 3 language.

Acceptance of these amendments will allow us to dispose of a number of noncontroversial items which have been before this House and passed twice previously. I urge my colleagues to join me in approving this measure.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. I thank the gentleman for yielding. I have examined the legislation and the amendments, and I will certify that what the gentleman from California (Mr. PHILLIP BURTON) says is accurate. With the exception of, I think, the three instances that he noted, the amendments are identical to or at least included items that we have already passed mainly in H.R. 3 earlier this year. I would urge adoption of the resolution.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. I thank the gentleman for yielding. I would just take time under the gentleman's reservation—perhaps I should not because the hour is late—to thank the gentleman from California for bringing this particular piece of legislation up on the Georgia O'Keeffe Historic Preservation Landmark. Mrs. O'Keeffe is a very distinguished artist, and she is making her home available to the citizens of the United States. I thank the gentleman for bringing this up today.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), the Secretary of the Interior may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art.

(b) Authority to enter into contracts or cooperative agreements, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

SEC. 2. Section 2 of the Joint Resolution entitled, "To provide for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, and for other purposes", approved October 4, 1961 (75 Stat. 780, 781), as amended, is further amended by adding the following after the final period in subsection (c): "The Secretary is authorized to cooperate with the Accokeek Foundation in the operation and maintenance of the National Colonial Farm, and funds appropriated to the Secretary for operation and maintenance of the farm may be made available to the Foundation for such purposes, subject to such terms and conditions as the Secretary may prescribe in furtherance of the purpose of this Act.".

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 2, after line 15, insert the following new sections:

"SEC. 3. (a) In order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary may acquire—

"(1) by donation, the site and structures comprising the home and studio situated at Abiquiu, New Mexico, and

"(2) by purchase, donation, or exchange not to exceed one acre of detached land for off-site support facilities which the Secretary of the Interior deems necessary for the purposes of this section.

The Secretary may also accept the donation of furnishings and other personal property in connection with the site.

"(b) When the site, structures, and other properties authorized for acquisition under subsection (a) have been transferred to the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice to that effect in the Federal Register. The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, not to exceed $40,000 for acquisition and $100,000 for development.

"(d) Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.).

"SEC. 4. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

"(1) in subsection 2(a), at the end thereof, add the following: 'For the purposes of this Act, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works. The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

"(2) in subsection 5(b), change 'three' to 'five' and add at the end thereof: '*Provided,* That the terms of those members who have been either appointed or reappointed subsequent to January 1, 1979, shall be extended so as to expire not before June 1, 1985.'; and

"(3) in subsection 5(g), change 'ten' to 'twenty'.

"SEC. 5. The Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended by inserting the following after the first sentence of subsection 2(d); 'As used in this section, the Charlestown Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as building numbered 58, 60, and 105.'.

"SEC. 6. Subsection 4(b) of the Act entitled 'An Act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes,' approved October 20, 1976 (90 Stat. 2692, 2694), is amended by revising the proviso to the first sentence in paragraph (2) to read as follows: '*Provided, however,* That, except for not more than approximately three and thirty-five one-hundredths acres designated herein as wilderness and approximately eleven and thirteen one-hundredths acres designated herein as potential wilderness additions, which may be excluded pursuant to an exchange consummated in accordance with paragraph (3) of this subsection, lands designated as wilderness pursuant to this Act may not be excluded from the monument.'.

"SEC. 7. (a) Section 1 of the Act entitled 'An Act to authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain, the Golden Spike National Historic Site', approved July 30, 1965 (79 Stat. 426) is amended by striking out 'Proposed Golden Spike National Historic Site, Utah, prepared by the National Park Service, Southwest Region, dated February 1963' and inserting in lieu thereof 'Boundary Map, Golden Spike National Historic Site, Utah, numbered 431-80,026, and dated December 6, 1978'.

"(b) Section 3 of such Act is amended by striking out '$5,422,000, as may be necessary for the acquisition of land and interests in land and for the development' and inserting in lieu thereof '$348,000 for the acquisition of land and interests in land and $5,324,000 for development'.

"(c) Within two years from the effective date of this section, the Secretary shall complete and submit, in writing, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a report on the feasibility of providing passenger rail service from the city of Ogden, Utah, to the Golden Spike National Historic Site. Said report shall include an assessment of existing rail facilities and rolling stock, additional development as might be required, as well as alternatives with respective costs for the operation of passenger rail service. There is hereby authorized to be appropriated not to exceed $100,000 to carry out the provisions of this subsection.

"SEC. 8. Section 8 of the Act entitled 'An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes', approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows—

"(1) at the end of the second sentence, insert the following new sentence: 'Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan.'; and

"(2) at the end of the fifth sentence, insert the following new sentence: 'Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.'.

"SEC. 9. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601), is amended—

"(1) in subsection 4(a) by deleting the second sentence of paragraph (2) and substituting the following: 'A single visit means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.';

"(2) by adding at the end of section 4(a) the following new paragraph:

'(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States, if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal law as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection.'; and

"(3) by amending the last sentence of section 4(b) to read as follows: 'Any Golden Age Passport permittee, or permittee under paragraph (5) of subsection (a) of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.'.

"Sec. 10. Title III of the Act entitled 'An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes', approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended by adding at the end thereof the following new section:

'USE OF FUNDS

'Sec. 307. (a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this Act. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

'(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this Act.'.

"Sec. 11. The Act of October 27, 1972 (86 Stat. 1308), is amended—

"(1) in subsection 3(b) by deleting the word 'constructed' and by adding at the end thereof: 'To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area.'; and

"(2) in subsection 4(b), by changing 'eleven members' in the first sentence to 'fifteen members' and by changing 'three members' in paragraph (5) to 'seven members'.

"Sec. 12. The area formerly known as 'Moores Creek National Military Park', established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the 'Moores Creek National Battlefield'.

"Sec. 13. Section 201(e)(1) of the Act entitled 'An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes', approved November 10, 1978 (92 Stat. 3635), is amended—

"(1) by changing 'seven members' in the first sentence to 'eleven members', and

"(2) by changing 'two members' in paragraph (F) to 'six members'.

"Sec. 14. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of section 5(a):

'(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abington, Virginia, to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morganton, North Carolina); from the mustering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain, South Carolina, as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled "Overmountain Victory Trail" dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.'.

"Sec. 15. The Secretary shall conduct a study to determine appropriate measures to protect and interpret for the benefit and education of the public the Falls of the Ohio, including a three-hundred-million-year-old fossilized coral reef which is exposed along the Ohio River in the vicinity of Louisville, Kentucky, and Jeffersonville, Indiana. The Secretary shall, in the course of the study, consult with and seek the advice of, appropriate scientific organizations and representatives of interested municipal, State, and other Federal agencies. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of the study, including the estimated costs of alternative measures that may be undertaken to protect and interpret the resources of the area for the public, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, together with his recommendations for such further legislation as may be appropriate.

"Sec. 16. Section 3(a) of the Wild and Scenic Rivers Act is amended in paragraph (22) by changing 'which may be established' in the eighth sentence to 'which shall be established'.

"Sec. 17. In order to provide for the appropriate commemoration of George Meany, past president of the American Federation of Labor and Congress of Industrial Organizations, and his contributions on behalf of the working people of the United States, the Secretary is authorized to investigate sites associated with the life and work of George Meany and to submit, within two complete fiscal years from the effective date of this Act, a report thereon to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall consult with representatives of the family of George Meany and the President of the American Federation of Labor and Congress of Industrial Organizations as a part of his investigation.

"Sec. 18. The Secretary shall conduct, in consultation with the National Aeronautics and Space Administration, the Department of Defense, and any other entities considered by the Secretary to be appropriate, a study of locations and events associated with the historical theme of Man in Space. The purpose of such study shall be to identify the possible locations, components, and features of a new unit of the national park system commemorative to this theme, with special emphasis to be placed on the internationally historic event of the first human contact with the surface of the moon. The study shall investigate practical methodologies to permanently safeguard from change the locations, structures, and at least symbolic instrumentation features associated with this theme, and to display and interpret these for visitor appreciation. Governmental entities controlling these locations, structures, and features are hereby requested to preserve them from destruction or change during the study and congressional review period insofar as is possible. A comprehensive report derived from this study, including potential action alternatives, shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate no later than one complete fiscal year after the effective date of this section.

"Sec. 19. As used in this Act, except as otherwise specifically provided, the term 'Secretary' means the Secretary of the Interior.

"Sec. 20. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the etxent, and in such amounts, as are provided in advance in appropriation Acts.".

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HELSINKI ACCORDS MADRID CONFERENCE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 391) concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the Madrid Conference, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Reserving the right to object, Mr. Speaker, I would ask the gentleman from Wisconsin if he would explain the resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 391, concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the upcoming Madrid Conference. This resolution was ordered favorably reported by a unanimous voice vote of the Committee on Foreign Affairs yesterday.

On August 1, 1975, 35 nations signed the final act of the Conference on Security and Cooperation in Europe, otherwise known as the Helinski Accords. The signatory nations, including almost all European countries, the United States, and Canada, pledged in the agreement to increase trade and cultural exchanges, to respect human rights, and to make every effort to relax military tensions. House

Concurrent Resolution 391 notes that August 1 marks the fifth anniversary of the signing of this important document.

The resolution, however, is not merely concerned with marking an anniversary. It also addresses the need for compliance with the human rights provisions of the agreement. The unfortunate fact is that several of the signatory nations, notably the Soviet Union and some of the Eastern European countries, continue to violate the basic human rights of their citizens in contradiction to their obligations under the Helsinki Accords.

The Helsinki Accords are not a meaningless set of papers, but a solemn agreement between sovereign nations to abide by certain principles in their relations with each other. The Soviet Union and its allies must not be allowed to violate these principles with impunity. The resolution therefore states that human rights concerns should be given serious and prominent attention at the meeting of the signatory nations in Madrid in November, when the implementation of the Accords will be reviewed and new measures to advance European cooperation and security will be discussed.

House Concurrent Resolution 391 also states that the U.S. delegation to the Madrid Conferenece should raise violations of human rights in orther signatory countries, that any new measures agreed upon at Madrid to advance cooperation and security in Europe should be balanced among all sections of the Accords, and that broad support from other signatory countries for these positions hould be sought.
should be sought.

Mr. Speaker, this resolution reaffirms our support for the full implementation of all the provisions of the Helsinki Accords by all the signatories, and demonstrates our support for the U.S. delegation to take a strong position on human rights at the Madrid Conference. I urge the adoption of House Concurrent Resolution 391.

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding. I will not take the time of the House, but I am happy this resolution has come before us in time for the anniversary of the signing of the pact at Helsinki. When 35 nations finally declared that human rights are a matter of international concern and not internal affairs, we have a right hereafter to inquire about the welfare and protection of those people.

I thank the gentleman.

Mr. BROOMFIELD. Further reserving the right to object, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding.

I commend the distinguished chairman for bringing this resolution to the floor.

Mr. Speaker, I rise in support of the resolution.

As a cosponsor of House Concurrent Resolution 391, I join with the gentlelady from New Jersey (Mrs. FENWICK) in reaffirming Congress support for full implementation of all the provisions of the Helsinki Final Act by all the signatories. Furthermore, I support all efforts to have human rights concerns given serious and prominent attention at the Madrid meeting. Finally, I urge the U.S. delegation to the Madrid meeting to raise as the resolution states—in a firm, forthright, and specific manner—violations of human rights in other signatory countries.

Since August 1, 1980, is the fifth anniversary of the Helsinki Accords, it is appropriate that we pause to reflect on the significance of those documents and reaffirm our support for their full implementation by all signatory nations.

Accordingly, I urge my colleagues to join with me in strong support of House Concurrent Resolution 391.

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Mr. FASCELL. Mr. Speaker, will the gentleman from Michigan yield?

Mr. BROOMFIELD. I will be happy to yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to support House Concurrent Resolution 391 which was introduced by our distinguished colleague, Representative MILLICENT FENWICK, and cosponsored by all the congressional members of the Commission on Security and Cooperation in Europe. As many of our colleagues know, this Friday, August 1, marks the fifth anniversary of the signing of the Helsinki Accords by the leaders of the United States, Canada, the Soviet Union and 32 European nations. It is particularly fitting, therefore, that we in the Congress should this week reaffirm our commitment to human rights and our support for full implementation of the Helsinki Accords by adopting this resolution.

As the report on implementation issued today by the Helsinki Commission vividly illustrates, the Soviet Union and many of the East European nations have blatantly disregarded the solemn pledges they made at Helsinki. The Soviet record on human rights is particularly reprehensible, with over 280 human rights activists imprisoned or exiled since 1978.

At Madrid, many nations will choose to ignore these violations or to direct attention toward other issues. While the United States must indicate a sincere willingness to discuss military security and economic cooperation at Madrid, we must also be candid and forthright about human rights and humanitarian concerns. In a firm and specific manner, we must raise violations of human rights and express our dismay—indeed, our horror—at the ill treatment afforded those brave men and women who champion human rights in the countries of Eastern Europe. We must insure that human rights concerns be given a serious and prominent place at Madrid, during both the review of implementation phase of the meeting as well as when the signatories consider new proposals to further enhance European security and cooperation.

Particular attention should be focused on those individuals who took seriously the acknowledgment in the Helsinki Final Act that institutions, organizations, and persons have a "positive and relevant role" to play in fostering the aims of the Helsinki Accords. In the Soviet Union alone, 40 members of the Helsinki monitoring groups in Moscow, Ukraine, Lithuania, Georgia, and Armenia have been imprisoned or exiled for their efforts to promote observance of the Helsinki provisions by their government. This resolution recognizes their special contribution to the cause of human rights and urges the U.S. delegation to raise their plight at the Madrid meeting.

Finally, to insure a balanced approach to the Helsinki process, the resolution expresses the Congress view that any new measures agreed upon at Madrid should cover all areas of the final act, and that in order to maintain pressure on the Soviets and others to implement fully the agreement, another meeting should be convened within 2 years of the end of the meeting in Madrid.

The Madrid meeting offers an important opportunity to promote universal respect for human rights and fundamental freedoms. Progress in this area can greatly improve the prospects for movement in the military security or economic fields. As President Carter said yesterday in a ceremony commemorating the fifth anniversary of the Helsinki Final Act:

> We will not go to Madrid looking for conflict. We approach that meeting instead eager for progress and committed to only one contest: the struggle to advance freedom and, through freedom, mutual security.

The passage of this resolution by the Congress will help to assure all Helsinki signatories of the strong commitment within the U.S. Congress to that struggle.

Mr. BROOMFIELD. Mr. Speaker, I support the resolution, and I withdraw my reservation of objection that this Congress go on record of reaffirming the position of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 391

Concurrent resolution concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the Madrid conference

Whereas August 1, 1980, marks the fifth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) by the United States, Canada and thirty-three European nations at Helsinki, Finland; and

Whereas the signatories to the Helsinki Final Act committed themselves to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language, or religion"; and

Whereas Principle VII of the Final Act

specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the "relevant and positive role" organizations and persons can play in contributing toward the achievement of cooperation among states; and

Whereas citizens of many signatory nations have formed public groups to monitor and promote full implementation of the Final Act; and

Whereas these monitoring groups have documented extensive violations of human rights in the Soviet Union, Czechoslovakia, and other CSCE signatories; and

Whereas the governments of the Soviet Union, Czechoslovakia, and other countries have imprisoned, exiled, or otherwise punished members of these monitoring groups; and

Whereas the representatives of these thirty-five signatories to the Helsinki Final Act will be meeting in Madrid on November 11, 1980, to review implementation and to discuss new measures to advance European cooperation and security; and

Whereas respect for human rights and fundamental freedoms is indispensable for the development of genuine security and cooperation among signatory states: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress reaffirms its support for full implementation of all the provisions of the Helsinki Final Act by all the signatories; and be it further

Resolved, That it is the sense of the Congress that human rights concerns should be given serious and prominent attention during both the review of implementation and consideration of new proposal phases of the Madrid meeting; and be it further

Resolved, That the United States delegation to the Madrid meeting should raise—in a firm, forthright, and specific manner—violations of human rights in other signatory countries, especially those actions taken against members of private monitoring groups; and be it further

Resolved, That to preserve the integrity of the CSCE process and to ensure full consideration of human rights issues, any new measures agreed upon at Madrid, including post-Madrid experts' meetings, should be balanced among all sections of the Final Act; and be it further

Resolved, That the United States delegation should seek a continuation of the CSCE process by working at the Madrid meeting on setting the time and place of the next review meeting within two years; and be it further

Resolved, That the United States delegation to the Madrid meeting should seek broad support from other signatory countries for these positions.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President and the Secretary of State.

The concurrent resolution was agreed to.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

INDEPENDENCE AND INTEGRITY OF THE PEOPLE OF JAMAICA

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 387) with respect to the independence and integrity of the people and Government of Jamaica, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. LAGOMARSINO. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would like to join with my colleagues in expressing my full support for House Concurrent Resolution 387.

As a member of the Subcommittee on Inter-American Affairs and a cosponsor of the resolution, I wish to offer my congratulations to the people of Jamaica on the anniversary of their independence and their commitment to democratic institutions and the electoral process. The resolution before the committee recognizes this achievement and represents the collective sentiment of a bipartisan majority of the subcommittee.

Given the rise of radicalism in the Caribbean and Central American area, Jamaica continues to provide an example of the virtues of an open, free and fair electoral process. While others flirt with extremism and alien ideologies, the people of Jamaica have built a democratic tradition that is based upon the simple assumption that the people themselves are best qualified to determine their future.

I believe that in light of Prime Minister Manley's call for new elections and in honor of Jamaica's 18th anniversary of independence, it is entirely appropriate that the Congress recognizes this great achievement and give our full support to the people of that country and the government of their choice. I urge quick passage of this measure.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, as the ranking Republican member of the Subcommittee on Inter-American Affairs and a cosponsor of this resolution, I would like to express my strong support for its passage.

The resolution draws our attention to the 18th anniversary of Jamaica's independence on August 6, 1962. It further points out the nation's democratic tradition of open, free, and fair elections that has protected a pluralistic form of government and insured respect of individual rights. In light of the turmoil that has beset the rest of the Caribbean, Jamaica has provided an enlightened example of freedom and democracy.

In recognition of this great achievement the resolution seeks to extend our congratulations to the people of Jamaica on their anniversary and encourages the current Government in its commitment to the electoral process. Furthermore, the resolution extends our full respect for the Jamaican political process and pledges our support and assistance in their efforts to protect this heritage from outside influence.

At a time when many developing countries are questioning the responsiveness and viability of the democratic system in coping with today's problems, Jamaica has clearly demonstrated that democracy best serves the people's needs.

I think it is important that the United States recognizes this achievement as an example to all nations and encourage democratic solutions throughout the globe. The passage of this resolution will clearly demonstrate congressional support for the people of Jamaica and the government of its choice.

I urge my colleagues to join me in strong support of House Concurrent Resolution 387.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

Mr. YATRON. Mr. Speaker, I reserve the right to object.

We are all aware of the unrest and instability, in the southern regions of our hemisphere, particularly in Central America, and the Caribbean.

When a country in such a turbulent and dynamic region, consistently displays a commitment to truly open, fair, and free elections, I think it is only proper, that we recognize and lend our support, to that democratic commitment.

Such a country is Jamaica, who since their independence in 1962, has maintained a tradition of democratic and pluralistic government, respect for the individual, and human rights.

In recent weeks, there has been an increase in political violence in Jamaica, attributed primarily, to the upcoming election.

I think it is very important that the U.S. Congress, convey to the people of Jamaica, that by continuing their democratic traditions, they will always preserve their individual freedom.

As the greatest democracy in the world, we have the responsibility, to encourage peaceful change through elections, as an example to other countries, of the advantages of democratic values and principles.

House Concurrent Resolution 387, will provide this recognition of the Jamaican electoral process, and I urge the Members, to support its passage.

Mr. Speaker, I withdraw my reservation of objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 387

Whereas the people of Jamaica achieved their independence and established their Constitution on August 6, 1962; and

Whereas throughout this entire period they have supported and protected a democratic and pluralistic form of government that preserves individual liberty and respects human rights; and

Whereas this nation of diverse races, creeds, and colors has maintained a tradition of open, fair, and free election as a peaceful method to solve political differences; and

Whereas the nation of Jamaica has been a shining example of freedom and democracy to other nations in the region, as well as the rest of the developing world: Therefore be it

Resolved by the House of Representatives (the Senate concurring), That the United States—

(1) extend its congratulations and best wishes to the people of Jamaica on the eighteenth anniversary of their independence, August 6, 1980; and

(2) encourages the determination of the current government to continue its commitment to peaceful change through the electoral process; and

(3) extends its full respect for the integrity of the Jamaican internal political process; and

(4) pledges to support and assist the people and the Government of Jamaica in its efforts to protect this heritage from outside influence.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 387.

It is most appropriate that we recognize and celebrate the anniversary of Jamaican independence, which was gained on August 6, 1962.

Jamaica is a strongly democratic country that has respected human rights and maintained free elections. It has evidenced to the world how a nation of diverse races and creeds can live in harmony, and it has been a leader in world affairs, particularly within the North/South dialog.

Beset by the economic difficulties that are facing many developing countries and in the midst of an intense election battle, it is our hope and expectation that Jamaica will emerge from the electoral process with a government that has the support of the people and is able to deal with its economic problem.

Jamaica is an important friend of democracy and of the United States in the Caribbean, and I urge support for the resolution.

This morning the Committee on Foreign Affairs ordered favorably reported House Concurrent Resolution 387, a resolution with respect to the independence and integrity of the people and Government of Jamaica.

I would like to commend the gentleman from Pennsylvania (Mr. YATRON), chairman of the Subcommittee on Inter-American Affairs, for introducing the resolution.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered, House Concurrent Resolution 387.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONDEMNING HARASSMENT AND PERSECUTION BY SOVIET GOVERNMENT OF VLADIMIR KISLIK

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 389) condemning the harassment and persecution by the Soviet Government of Vladimir Kislik, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. PORTER), the sponsor of the resolution, to explain the purpose of the resolution.

Mr. PORTER. Mr. Speaker, I rise in support of the resolution and ask unanimous consent to revise and extend my remarks.

I want to first express my esteem for the gentleman from Wisconsin, the distinguished chairman of the Foreign Affairs Committee, and the gentleman from Michigan, the ranking minority member, and for members of the committee who have so effectively and efficiently brought about consideration of this resolution.

Mr. Speaker, the final act of the Helsinki Conference on Security and Cooperation in Europe proclaims that all participating states, including the Soviet Union, "will respect human rights and fundamental freedoms including the freedom of thought, conscience, religion, and belief, for all, without distinction as to race, sex, language, or religion." It further declares that these states will "promote and encourage the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms, all of which derive from the inherent dignity of the human person and are essential for his free and full development."

Yesterday, the President charged that the Soviet Union had dishonored the principles of human rights set forth in the accord. The President is correct. But, Mr. Speaker, it is not only in the invasion of Afghanistan and the killing and subjugation of the citizens of another sovereign nation that the Soviets are guilty. It is also in the day-to-day conduct of the Soviet Union toward its own citizens that violations of the accord have occurred so repeatedly. These are not so obvious, nor so violent, nor so recognized. But they are every bit as real, and it is important that we call the Soviets to account with respect to these violations as well—that we publicize their undermining of human rights and fundamental freedoms at home as well as abroad.

In my remarks to the House last Friday in introducing House Concurrent Resolution 389 with my learned colleague from New York (Mr. LEHMAN) I detailed the 7-year harrassment and persecution of a Soviet Jew, Vladimir Kislik, who has been attempting for so long to join his wife and son in Israel. This distinguished scientist not only has been forcibly separated from his family, denied work, and brutally and repeatedly beaten by the KGB, but, most recently, has been committed by the Soviet authorities to a state mental institution.

This resolution details those facts and calls upon the President to express to the Soviet Government the sense of the Congress that this persecution of Soviet refuseniks be condemned and that specific violations of the Helsinki Accord, such as the actions taken against Vladimir Kislik and other Soviet human rights activists, be raised at the review session of the accord to be held in Madrid in November.

Mr. Speaker, the Congress and the President have a responsibility to bring before the world the torture that Soviet Jews have experienced at the hands of their government and to bring to bear every effort to release them from this tyranny of Soviet persecution.

In taking this direction, Congress will reaffirm this Nation's commitment to personal freedom and the dignity of the human person. I urge the support of my colleagues for this resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 389, condemning the harassment and persecution by the Soviet Government of Vladimir Kislik, and other Soviet human rights activists. This resolution was ordered favorably reported by a unanimous voice vote of the Committee on Foreign Affairs yesterday.

Vladimir Kislik was a distinguished scientist at the Kiev Institute of Nuclear Research in the 1960's. In 1973, Mr. Kislik's wife and son were allowed to leave for Israel, but his visa application was denied. Since that time, Mr. Kislik has been subjected to constant harassment, including threats, KGB surveillance, interrogations, and brutal beatings. Recently the KGB arrested and detained Mr. Kislik for the second time. Because he protested this treatment, the Soviet authorities forcibly committed him to a mental institution where he still remains.

The Soviet Union is a signatory to the Helsinki accords, which commit participating nations to promote family reunification. The treatment of Vladimir

Kislik constitutes a flagrant violation of the principles of the Helsinki Final Act, and must not be allowed to go unnoticed and unchallenged.

Unfortunately, the case of Vladimir Kislik is not an isolated one. Hundreds of Soviet human rights activists have been subjected to similar treatment. Therefore, I have amended House Concurrent Resolution 389 to condemn the persecution not only of Mr. Kislik, but of other Soviet human rights activists as well. The resolution as amended further expresses the sense of the Congress that such violations of the Helsinki Final Act should be raised at the review meeting of the Conference on Security and Cooperation in Europe to be held in Madrid in November 1980.

Mr. Speaker, this resolution will put the Soviet Union on notice that the U.S. Congress is deeply concerned with the fate of Vladimir Kislik and other Soviet citizens who exercise their basic human rights. I urge the adoption of House Concurrent Resolution 389.

Mr. BROOMFIELD. Mr. Speaker, I strongly support this resolution, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin (Mr. ZABLOCKI)?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 389

Whereas Vladimir Kislik has been trying unsuccessfully since 1973 to emigrate from the Soviet Union to Israel;

Whereas Vladimir Kislik has been subject to harassment and persecution by the Soviet Government since 1973;

Whereas Mr. Kislik has been separated from his family, which emigrated from the Soviet Union in 1973;

Whereas Mr. Kislik was unjustly held in custody for fifteen days and subsequently placed in a mental institution; and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Congress condemns the acts of persecution and harassment by the Soviet Government against Vladimir Kislik.

(b) It is the sense of the Congress that the President should express to the Soviet Government the condemnation of the Congress and all of the American people of those acts of harassment and persecution and should request that Vladimir Kislik be permitted to emigrate from the Soviet Union.

SEC. 2. It is further the sense of the Congress that if Vladimir Kislik is not permitted to emigrate from the Soviet Union, the matter should be placed on the agenda of the Biennial Conference on Security and Cooperation in Europe to be held in Madrid in November 1980.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 2, line 7, immediately before the period, insert "and other Soviet human rights activists"; and strike out lines 13 through 17 and insert in lieu thereof the following:

SEC. 2. It is further the sense of the Congress that specific violations of the Final Act of the Conference on Security and Cooperation in Europe, such as those actions taken against Vladimir Kislik and other Soviet human rights activists, should be raised at the review meeting of the Conference on Security and Cooperation in Europe to be held in Madrid in November 1980.

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The amendment was agreed to.

The concurrent resolution was agreed to.

The title was amended so as to read: "Concurrent resolution condemning the harassment and persecution by the Soviet Government of Vladimir Kislik and other Soviet human rights activists."

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ANY ADJOURNMENT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, August 18, 1980, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORT ON H.R. 7668, INTELLIGENCE OVERSIGHT ACT OF 1980

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight Friday, August 1, 1980, to file a report on the bill, H.R. 7668, dealing with intelligence oversight.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Wisconsin has just called up and passed to his great credit several very important resolutions on various matters before his committee. Would he not like to ask unanimous consent to bring up the resolution of inquiry which his committee almost unanimously reported out regarding the matter of Billy Carter? That resolution could be handled by unanimous consent.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Of course, I yield.

Mr. ZABLOCKI. I thank the gentleman from Maryland. It is my understanding that there has not been clearance from all the various interested parties in both the committees to which the resolution of inquiry was referred, and therefore it would be most untimely to call it up at this point.

Mr. BAUMAN. Somehow I knew the gentleman would have an answer for me.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ZABLOCKI. I thank the gentleman for his interest.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REQUEST TO APPOINT CONFEREES ON H.R. 7664, CHILD NUTRITION AMENDMENTS OF 1980

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7664) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. Will the gentleman from Kentucky withhold? The Chair understands that there are some problems with the conferees at this point, and will the gentleman withdraw his request until tomorrow?

Mr. PERKINS. Yes, that will be OK. I thought that I had cleared it with everyone on the school lunch program. I discussed it with the gentleman from Washington (Mr. FOLEY) this morning. I cleared it with the ranking minority member, the gentleman from Ohio (Mr. ASHBROOK) yesterday, and received unanimous consent of the full committee today. If there is any disagreement among the Members, I do not know of any disagreement.

The SPEAKER pro tempore. This is more of a technical problem. It is a problem with appointing the conferees and the jurisdictional dispute between the committees.

Mr. PERKINS. I want to say for the Speaker's benefit that I cleared it with the Agriculture Committee today, with the gentleman from Washington (Mr. FOLEY) on the floor. I cleared it here with him today. I cleared it, and I only name the majority, Mr. FOLEY, and the minority member. He suggested I only might make it two to one, and I did that.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. ZABLOCKI. Mr. Speaker, reserving the right to object, I would like to inquire from the Chairman whether title IV of the bill as amended by the Senate is to have as House conferees solely members of the Committee on Foreign Affairs and the Committee on Agriculture. It is my understanding that title IV falls within the sole jurisdiction of those two committees.

Mr. PERKINS. Well, I have heard made mention that the gentleman may have an interest in it, but we cleared it. I felt that the Committee on Agriculture had exclusive jurisdiction. That was my view. But, if the gentleman wants to be on the conference, there is no disagreement on my part. I will agree readily to name the conferees he wishes to be named, but I think we should get this matter settled.

Mr. ZABLOCKI. Mr. Speaker, further reserving the right to object, I do not recall that the gentleman has conferred with anybody from the Foreign Affairs Committee. Certainly, this is sprung freshly on me. I have not heard about it. I must emphatically insist that there should be conferees from the Foreign Affairs Committee as well as from the Agriculture Committee, and we are not prepared to name them right now.

I would suggest to the gentleman from Kentucky, Mr. Speaker, that he defer his unanimous-consent request until tomorrow.

The SPEAKER pro tempore. The Chair will say that the conferees will be appointed tomorrow regardless of whether the request is granted today or not. The Speaker will have to make the appointment tomorrow.

Will the gentleman withhold his request?

Mr. PERKINS. Yes; I withhold the request, Mr. Speaker.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 8, 1980, TO FILE REPORTS ON S. 1442 AND H.R. 5867

Mr. BAILEY. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight, Friday, August 8, 1980, to file reports on the following two bills:

S. 1442 to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges; and

H.R. 5867 to authorize the Secretary of Commerce to charter the nuclear ship, *Savannah*, to Patriots Point Development Authority, an agency of the State of South Carolina.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TWENTY-FIRST QUARTERLY REPORT ON COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers without objection, referred to the Committee on Banking, Finance and Urban Affairs:

(For message, see proceedings of the Senate of today, July 31, 1980.)

☐ 1910

APPOINTMENT OF CONFEREES ON H.R. 7664, CHILD NUTRITION AMENDMENTS OF 1980

Mr. PERKINS. Mr. Speaker, I renew my unanimous-consent request to take from the Speaker's table the bill (H.R. 7664) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such Acts, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, did the gentleman from Wisconsin (Mr. Zablocki) get all of his questions answered? The gentleman had reserved the right to object, and the gentleman from Kentucky is now making the request again.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, after further consultation with the chairman of the Committee on Education and Labor, upon learning that the members of the Committee on Foreign Affairs are indeed included as conferees with the members of the Committee on Agriculture for the consideration of the material in the conference on title IV, I am not objecting to the consideration.

But if the gentleman will yield further, I still have a question.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I will be glad to yield to the gentleman.

Mr. ZABLOCKI. Mr. Speaker, it is my understanding that there are some further problems as far as the Committee on Agriculture is concerned.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, if there are some problems with the Committee on Agriculture, why can the gentleman not wait until tomorrow? Are they going to go to conference tomorrow?

Mr. PERKINS. No. Let me say this to the gentleman, if the gentleman will yield.

Mr. ROUSSELOT. Why do you not do it tomorrow?

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I have been here several years, and I have never seen any Member who clears an appointment of conferees questioned in such a manner. Inasmuch as the Committee on Education and Labor yesterday clearly approved of the appointment of conferees, Mr. Speaker, I offer a motion.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and, without objection, appoints the following conferees: Messrs. Perkins, Ford of Michigan, Andrews of North Carolina, Miller of California, Murphy of Pennsylvania, Corrada, Kildee, Williams of Montana, Hawkins, Myers of Pennsylvania, Kogovsek, Goodling, Buchanan, Erdahl, Daniel B. Crane, Hinson, and Ashbrook, solely for titles I, II and III of the Senate amendment, and modifications committed to conference;

Mr. Clay and Mr. Jeffords, solely for the consideration of title III of the Senate amendment and modifications committed to conference; and

Messrs. Foley, de la Garza, Zablocki, Bowen, Wampler, and Broomfield, solely for the consideration of title IV of the Senate amendment and modifications committed to conference.

There was no objection.

GENERAL LEAVE

Mr. BAILEY. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material on the subject of the special order speech today by the gentleman from Ohio (Mr. Stokes).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

U.S. CARRIERS INVOLVED IN COLLISIONS AT SEA

(Mr. DOUGHERTY asked and was given permission to address the House for 1 minute.)

Mr. DOUGHERTY. Mr. Speaker, I rise to express my very grave concern over certain occurrences which have happened recently that affect the readiness of our naval forces in the Pacific, particularly as it relates to aircraft carriers.

Mr. Speaker, 2 days ago the U.S. carrier *Midway* was involved in an at-sea collision with a Panamanian freighter that resulted in the death of two sailors and damage to three or four of our aircraft.

One week ago, Mr. Speaker, the U.S.

aircraft carrier *Constellation*, was involved in an at-sea collision with a merchant ship from Biafra, and 14 months ago the U.S. carrier *Ranger* was involved in a collision with another merchant ship.

Mr. Speaker, 3 out of our 12 aircraft carriers have been involved in collisions at sea with merchant ships in the past 14 months, two within 1 week. Indeed, the investigation report on the *Ranger*'s collision at sea has not been completed in 14 months.

It is not my intension, Mr. Speaker, to try to place blame on the Navy or anything of that nature, I simply want to express my grave concern about the combat readiness of the U.S. Fleet after three of our aircraft carriers have been involved in collisions at sea with merchant ships.

Mr. Speaker, the chairman of the Seapower Subcommittee has at my request contacted the Secretary of the Navy and asked for a briefing. I think this is an issue about which the Members of this body should be greatly concerned.

LEGISLATION PERMITTING VIRGIN ISLANDS TO COLLECT INCOME TAXES UNDER "MIRROR THEORY"

(Mr. EVANS of Virgin Islands asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Virgin Islands. Mr. Speaker, I would like to bring to the attention of my distinguished colleagues in the House of Representatives (Resolution No. 1014) passed by the Legislature of the Virgin Islands on June 30, 1980, entitled, "To petition the President and the Congress of the United States to continue to permit the territory of the Virgin Islands to collect income taxes under the " 'mirror theory.' " The resolution reads as follows:

RESOLUTION

(To petition the President and the Congress of the United States to continue to permit the Territory of the Virgin Islands to collect income taxes under the "mirror theory")

Whereas Senator J. Bennett Johnston introduced a bill, S. 2017, that would require the Federal Internal Revenue Service to collect income taxes in the Virgin Islands, a function now performed by the local Virgin Islands Department of Finance; and

Whereas the President of the United States proposed, on February 14, 1980, that the Internal Revenue Code by "fully extended" to the territories, replacing the "mirror" system of income tax now in effect and endorsing collections by the Federal Internal Revenue Service; and

Whereas since 1922, tax collection within the Virgin Islands has been the responsibility of the Territory; and

Whereas the imposition of Federal collection of taxes after more than half a century of local prerogative over collection responsibility flies in the face of the historical commitment by the United States to greater local autonomy for the territories; and

Whereas the characterizations of the new federal control as "Statelike" treatment for the territories is mere window-dressing of the bitter fact that the people of the Virgin Islands are now being deprived of any direct control over the manner and method of tax collection; and

Whereas Virgin Islanders have long been without voting representation over the amount of income taxes collected, the proposals by Senator Johnston and the President would now remove from their oversight and review the tax collection officials themselves—totally unlike a State which, through elected representatives and the Presidential vote, can directly influence both the amount and the method of federal taxation; and

Whereas the new federal proposals would continue to cover over into the Virgin Islands Treasury the amounts collected under application of the Federal tax code, this covering over does not justify the fact that the people themselves have never had direct voting influence over the amounts covered and are now to be deprived of local control of the manner and method of tax collection; Now, Therefore,

Be it resolved by the Legislature of the Virgin Islands:

Section 1. The Congress of the United States and the President of the United States are hereby petitioned to reject and withdraw any proposal that would deprive the people of the Virgin Islands from maintaining local control over the manner and method of tax collection under the "mirror theory" of taxation.

Section 2. Immediately upon the passage of this Resolution, the President of the Legislature shall forward signed copies to the President of the United States, the Vice President, as President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Committee on Energy and National Resources and each member thereof, the Chairman of the House Committee on Interior and Insular Affairs and each member thereof and the Secretary of the Interior.

Thus passed by the Legislature of the Virgin Islands on June 30, 1980.

STEEL AT THE CROSSROADS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order before us today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BENJAMIN. Mr. Speaker, for the past 2 days, members of the House steel caucus have participated in special orders on the general subject of steel at the crossroads with particular emphasis on overall difficulties, import penetration, modernization, productivity and capital formation.

Today, it is our intention to discuss the final phase of the Triad—environment—abatement and costs. Specifically, it is our intent to focus on:

The impact of environmental costs on the domestic steel industry.

The need to reduce such costs without retreating from environmental goals.

Current efforts to resolve environmental issues.

Mr. Speaker, the eighth governmental affairs seminar of the air pollution control association was held here earlier this year. The discussions centered on Federal/State responsibilities in the environment/energy dichotomy: economics of environment/energy projections and future of the legislative and regulatory programs.

One of the issues was whether the Clean Air Act and its regulatory package affected economics, energy supply, and employment.

Economics Prof. George Tolley of the University of Chicago, found that there is an ascertainable effect and argued that there must be a greater effort to match costs with benefits with flexibility to match control efforts to reductions in damage.

Regulator C. King Mallory discussed Government's erratic policy. Government policy encouraged the use of natural gas as a clean burning fuel in the early 1960's. By the late 1960's there was a gas shortage and the Federal Power Commission and Federal Energy Commission instituted curtailment orders. Suddenly, a shift was made from domestic, locally produced natural gas to oil, often foreign oil. The Clean Air Act also pressured energy consumers to move from coal to oil, again often foreign oil. In addition investment was made in nuclear generating facilities. Now government policy has decided that there may be a gas bubble so those who moved from gas to oil are encouraged to move back again to gas. As for those who converted from coal to oil. The pressure of foreign imports on the marketplace has mandated the move back from oil to coal.

The implications of the Clean Air Act do not make the conversion to coal very attractive. The uncertainties of retrofit, acid rain and Government energy policy make industry a reluctant participant in any sweeping programs.

According to Paul R. Portney of the Council on Environmental quality, proponents of stricter regulation no longer deny that the large-scale cleanup of air pollution will cost a lot of money. Similarly, only the most extreme critics of regulation deny the possibility of large-scale benefits resulting from improved air quality. According to estimates in CFQ's ninth annual report, consumers, producers, and governmental units spent $16.5 billion in 1978 to comply with the Clean Air Act. Mobile source air pollution control accounted for $7.6 billion of that total, or about 46 percent. Industrial sources, excluding utilities, spent another $5 billion while electric utilities spent $2.8 billion. Spending by Government was $1.2 billion. Over the 10-year period 1978–87, total spending necessitated by the act will come to about $279 billion (1978). Of this $111 billion will go to mobile source pollution control, $83 billion to the control of industrial air pollution, and $66 billion to controlling air pollution from utilities. Governmental spending will come to just less than $20 billion.

Portney, amongst other recommendations, urged regulatory innovation similar to the refinement and vigorous adoption of policies like EPA's emissions offsets and underused "bubble." Application of the "bubble" concept is capable of saving $150 million in air pollution control costs in one firm alone. While air quality goals must be protected, every effort possible should be made to allow regulated firms to assist in the selection of sources to be controlled and methods to be employed. Not to make the greatest possible use of firms' knowledge of their own production processes appears foolish to Portney. These and other as yet undiscovered regulatory innovations hold out the promise for cost savings in air pollution control. Portney believes they must be pursued by EPA.

According to James Sheets of the building trades department, AFL–CIO, the effect of the Clean Air Act on economy and jobs has been substantially negative.

According to Sheets, when the United States started to administer a Clean Air Act there were many things that could be accomplished easily and substantial progress was made. Compliance has been aided by a number of factors such as Arabs and the energy situation. The energy program has contributed to clean air by reducing the growth of electrical demand and creating a large surplus in generating facilities which are a reserve against the necessity for future air pollution by new utility sites. However, the 1977 CAA amendments wiped out any reserve.

Mr. Sheets said that the building trades do not fear that there will be a permanent stoppage of growth in the United States as much as the possibility that there will be an environmental backlash which will lose all of the benefits that labor has sought.

Mr. Sheets concluded that the economics of the Clean Air Act are disputable because assumptions are made that are not justified by studies and considerations are left out that would change the results of the studies. However, he says, the political equation created by the Clean Air Act is not disputable and the political equation works out to the destruction of the benefits that could be achieved.

The degree to which EPA can keep the system going is highly questionable because regulators do not control the process. The process is controlled by private watchdog groups who focus on one single issue, who will not compromise on the issue and will fight in any forum to protect their particular goals. At some point in the very near future, Mr. Sheets believes they are going to pull the pin on the EPA and demand enforcement. At that point the economy is going to become very constricted, at least in the short term, and there will be opposition to the Clean Air Act's existence rather than its administration.

In short, these participants in the APCA panel on the effect of the Clean Air Act on economics, energy supply and employment concluded that the effect is generally not favorable because of cost, vacillation and confusion. What, then, can be done? Another panel on the directions of legislation and regulation, moderated by Maria Grimes of the Congressional Research Service, analyzed the problem from the perspective that growth in nonattainment areas and in clean air areas are inextricably linked to the questions of the validity of standards and monitoring. The two determine whether growth is already butting against the ceiling set to protect health; and if not, they define the extent to which air is not yet excessively polluted. A change in the standards because of new information of air pollution effects or in the measurement of actual air quality through monitoring improvements directly affects the constraints on economic growth involving emissions.

According to Ms. Grimes, efforts are being made to find solutions to these and other related problems by legislators and regulators. Congress created the National Commission on Air Quality in 1977 to review the Clean Air Act and recommend alternatives to current methods that are used to achieve the statutory goals. These recommendations, when submitted, may have a significant effect on the congressional deliberations when the present act is reopened for amendments. As implementation of the law proceeds, EPA is developing control strategies that are designed to aline compliance with clean air requirements with actions that respond to other issues, especially the energy crisis and the ensuing economic dislocations.

Walter C. Barber of the EPA admitted that it was difficult to go before a board and ask for *x* million dollars for a control device when there is a finite probability that the need for that device will be obviated by the next revision to the ambient standard which may turn a nonattainment area into an attainment area overnight. However, the EPA is going to require industry to put on controls to meet the existing standards.

According to Barber, part of the problem is not the fault of either EPA or the States who are trying to put SIP's together but is the fault of the state of the technology. The Clean Air Act expects that EPA can measure the quality of the air and determine what causes the air to be that quality, Anyone, he states, who has looked at the models, looked at the emission factors, looked at the inventories, knows that the data being used for the computations are something less than precise. So the planners are frustrated by a technology and information base geared toward one kind of decision and a statute which requires a decision that is much more precise and much more final.

Mr. Barber also contended that the new source review statute is complex and there is no indication that any future action will make it less complex. His reading of the drafts of the final rules on PSD suggested that a State or industry seeking to get sources permitted will spend a fair amount of time understanding the details and intricacies of that operation.

Mr. Barber also believes there should be more delegation to the States because they are more accessible, the political process is closer to them and have a better chance of bringing programs through the administrative hurdles on new source review. States are more capable of finding the right balance between the air quality problem in a local area and the technology available.

He said that EPA is going to have to retreat to a management role and combine that with some increased responsibility for the interstate transport of pollutants. EPA must give the States more room on SIP's design and regulatory strategy development. EPA needs to encourage the scientists to develop better models and strategies for using the models that pinpoint problems more accurately.

Daniel Dreyfus of the U.S. Senate Committee on Energy and Natural Resources indicates that while there would not be a major retreat from any of the environmental acts, he anticipated specific regulatory relief by legislative fiat or by exemption in instances in which there appear to be very specific national needs for very specific individual actions or projects. He also anticipated specific additions to the regulatory regimen to address specific problems that arise.

He also stated that there is an inherent contradiction between solving the energy problem and continuing on an aggressive environmental policy. Dreyfus found a sense of urgency built into our environmental policy that expects too much too fast and which is a problem with the Clear Air Act. Now faced with an effort to do too much to fast in the environment, the Government is trying to lay down an effort to do too much too fast in energy and the conflict is inherent between energy development and environmental protection. The time factor becomes even more significant as the Nation moves faster in these areas and moves ahead of technology, moves ahead of sensible economics and investment, and finds that it cannot have an aggressive energy program and an aggressive environmental program. There is not enough money in the bond market or enough talent in the technology market and the result, Dreyfus states, will be that both are done less well.

He believes that the nation should strive not to reduce goals but rather to take a long look at the path by which it reaches these goals.

In short, the legislative and regulatory goals suggested to the APCA enlisted local determination, careful review of existing laws, standards and monitoring, and appreciation of the tenuous balance between economics, energy and environment.

The pointed discussion of the APCA participants several months ago was not the sole voice of industry. Particularly the steel industry which has an environmental cost factor of at least $700 million annually for the foreseeable future, but the collective thoughts of representatives of legislative bodies, Federal environmental and energy agencies, State environmental and energy bodies, academia and unions. Their conclusion found little praise for the environmental acts while maintaining that the national policy is to develop a program establishing a clean and healthful environment and preventing its degradation.

In this context, the steel industry does not differ from those who have the responsibility for the environment.

The steel industry is requesting certain administrative modifications or supporting legislative changes of environmental requirements which it believes EPA and the administration can grant but have not yet acted to do so despite considerable lipservice.

The industry has identified three areas from the several that have been under discussion as ones which provide the greatest opportunity for immediate and significant action to improve the cash flow of the industry over the near-term.

The first of these issues is the extension of air and water compliance dates for the steel industry. This proposal does not involve a change in environmental standards or environmental spending. It simply provides a deferral to increase the cash flow for the industry for other capital purposes at this critical time.

The second issue, and the one with the most immediate short-term economic impact, would be action on the part of EPA to provide an unrestricted bubble which would permit the companies to apply the most cost-effective methods of achieving compliance with air quality requirements. The bubble could result in substantially reduced expenditures and better community and in-plant environmentals in the shortest possible time. The industry recognizes that certain coke oven emissions must be treated separately.

The third issue, where the administration and the EPA can provide prompt administrative relief, is in water pollution control. EPA should give prompt and full consideration to the industry's proposal that, as was proposed in the rubber industry, BAT be set equivalent to BPT.

The industry position on environmental costs was first enunciated by the industry in its crossroads report of January 1980. Until that report, Government originated all published reviews of the cost and impact of environmental controls on the steel industry. The COWPS and Solomon reports of 1977 pointed to the cost of environment and inferred that limited relief could be provided. The OTA report of June 1980, also indicated that relief could be granted. Various government officials, besides those participating in the APCA seminar, indicate relief should be granted. Unfortunately, to date, relief has not been granted.

The paradox is that those involved with economics and energy claim that relief from environmental costs should be given the steel industry. The EPA voices a sympathetic tone but states Congress has imposed certain burdens that must be passed on to the steel industry.

The year 1981 is a threshold year. The environmental laws are subject to review, the commission reports. Yet, how much will the steel industry be required to needlessly spend of its limited and precious capital before any legislative action is accomplished?

The relief proposed by the steel industry is limited, rational and should be granted—not by passing the buck—but by directing the EPA to follow the law with an appreciation that the future must bring a cleaner environment—not a backlash which might adversely affect the entire environmental program of this Nation.

☐ 1920

Mr. Speaker, I now yield to the distinguished gentleman from Minnesota (Mr. OBERSTAR), a member of the executive committee of the Steel Caucus.

Mr. OBERSTAR. I thank the gentleman for yielding and I join with great pleasure in the special order that the Steel Caucus has undertaken to highlight and focus on the needs and the problems of the American steel industry. Steel is fundamental to a modern industrialized society, and American steel is at a crossroads. In fact, it is entering a decade of decision. A strong America is dependent, in large part, on a strong steel industry. That is why we have joined together to form this Congressional Steel Caucus, to assure that we will put in place the legislation necessary to strengthen the steel industry and to assure a strong future.

My own congressional district is the major supplier of iron ore for the Nation's steel industry. In fact, better than two-thirds of all of the iron ore consumed by the domestic steel industry comes from northern Minnesota. A total of 7,100 steelworkers today are either out of work or are on short workweeks, and that economic slump, hundreds of miles away from basic steel-producing industries, indicates what an integrated industry is steel and how important all of the parts are to the whole of that steel industry. The slump did not occur just today or yesterday or 2½ years ago when the Steel Caucus was formed. The problems of the domestic steel industry go back to the early 1950's when the coal and steel community in Europe was being formed.

There, weakened by World War II, by decades of decline, the leaders of the European coal and steel industries, governments, and labor joined together to form the European Coal and Steel Community. And that coal and steel community, in a very determined, forceful, and carefully thought-out fashion, set about modernizing the fundament of that industrial society we know as Western Europe. In a cold and calculated way, they determined which coal mines were inefficient and should be eliminated and which steel industries were inefficient and should be eliminated.

In a similar, very organized fashion, they decided which foundries should be eliminated. They strengthened the marginal-to-strong producers, and they built up the effective and strong producing steel industry. The workers were relocated to other areas where they could find jobs, and given training and relocation assistance benefits and housing assistance. In sum, they took care of the workers in a total fashion, in order to assure that there would be a trained work force in other parts of society and also to sustain the strong segments of their coal and steel industries.

And today, some 25 years after that modernization of the European steel industry was achieved, they are rivaling America, they are challenging us for every pound of steel in this domestic market.

We need to do the same kind of top-to-bottom reindustrialization, revitalization, reinvigorating of the domestic steel industry. We have approached that problem on 4 bases in the Steel Caucus.

We approached the matter of trade from the matter of the trigger-price mechanism. The Japanese steel-making costs are vastly understated, just as the European steel-making costs are vastly understated. We feel that the trigger-price mechanism was not effectively carried out by the administration. It did not adequately reflect home market price at the point of origin of steel.

☐ 1930

We feel that trigger-price mechanism should be reestablished in a strengthened and restructured form and carried forward by this administration.

We also feel that the Antidumping Act ought to be effectively and vigorously carried forward by this administration.

In regard to the second area of capital formation and capital recovery, we feel that tax assistance is vitally important for a vigorous steel industry. One approach which I feel is very important and holds great promise for the future is that of a refundable investment tax credit, which could pump $600 million to $1 billion immediately into the steel industry where it is needed for quick investment into new productive facilities that can turn the steel industry around and invigorate our economy.

We have to reconsider, rethink, the concept of the useful-life principle that has governed the taxation of steel-making facilities. That concept has not proved helpful, but has proved to be a drag on the steel industry.

The third area of concern is that of modernization, a problem which really is tied in with the matter of capital formation and capital recovery. If we can provide the tax incentive that is necessary for reinvigorated steel industry, I think we can move ahead very effectively with the modernization of the steel industry and see existing facilities modernized and new ones put underway.

The fourth problem area is the matter of environmental compliance. The decade of the seventies will be known as the environmental decade in which America turned in a vigorous way to protect the environment in order to offset the pollution of 200 years of industrial development.

We are now coming to the realization that we cannot achieve those goals all in a decade. While we do not propose to stop in any way or to slow down in any fashion the protection of the environment, the cleaning up of the air and of the water and of the land, we realize that we have to somewhat shift gears and shift the pace at which we achieve those goals.

This evening we will lay out some specific steps in order to attain the highest standards for water treatment facilities and clean air.

As a member of the Committee on Public Works, I worked on the water pollution control legislation and now propose that some compliance dates be stretched out to achieve these goals.

Three years ago when we made amendments to the Federal Water Pollution Control Act in the Committee on Public Works, I brought forth a chart similar to these showing the problem of complying with the dates set forth by the law and by the Environmental Protection Agency. The delivery times for pollution abatement equipment for the steel industry were so long-range that the steel industry simply could not, no matter how much money was laid out, comply with those dates set in the law and required by the regulations of the EPA.

At that time I offered an amendment in the committee to stretch out that time not only for the steel industry, but for other similarly affected sectors of society.

After quite some argumentation in the committee, we had to cut it in half, and 3 years were stretched out to 1½ years.

I think if that same amendment were offered today, if we had that legislation pending before us, that there would be no question that a 3-year time frame stretch out would pass rather handily. There is no question that the steel caucus has raised the level of awareness and understanding of committee members and the American public that there are certain fiscal impossibilities to achieve in cleaning up the environment. Such goals cannot be attained overnight, but must be dealt with in a realistic fashion and placed on a long-range time plan.

Air pollution requirements must also be worked out to discover a means of finding the most cost-effective way of achieving compliance with the air standards, both those in law and those in regulation.

The steel industry now is somewhere near 93 percent compliance on water pollution, on the best available treatment, best practicable treatment of discharges from steel plants.

We have to look at what are now the costs of achieving that last 7 to 10 percent and assure, that in achieving that goal, that we do not impose too heavy a cost on the industry at a time when it needs those funds for modernization, and reinvestment in productive capacity.

I appeal to the Congress and to this administration and to the public to understand our plea for legislation, for programs to create an economic climate in the eighties that will stimulate the recovery of the basic steel industry in America.

I congratulate the chairman of our executive committee, the chairman of our Steel Caucus, the gentleman from Pennsylvania, and the gentleman from Indiana, who have led the effort and who have sponsored this special order focusing the attention of the Congress on these vital problems.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

I have seen this chart published in several magazines that the gentleman has before us here. I notice on the legend that one of them is a diamond that says it is a decisionmaking point. How many decision places are there on there? Can somebody tell us?

Mr. OBERSTAR. I am not in a position to explain that to the gentleman.

Mr. ROUSSELOT. It is overwhelming as you sit here and look at it. Maybe one of you gentlemen is going to give us the number, but to wake up our audience out there I thought we ought to get the number on here. This is just incredible to look at this all spaced out in one place.

In any regard, I want to say to my colleagues, I am very pleased that they have taken the time to bring this to the attention of the House Members. It is incredible and overwhelming as you look at all the decision points on this huge flow chart that has been put before us. I know it applies to many, many other functions of Government that we mandated on business and everybody, so I thank my colleagues for bringing this to our attention.

Mr. OBERSTAR. I thank the gentleman.

Mr. BENJAMIN. I thank the gentleman from Minnesota for his constructive comments. His concerns have been expressed in a cogent, comprehensive manner. We thank the gentleman for his contribution that he has made this evening, as well as to the Steel Caucus.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the distinguished gentleman from Pennsylvania, the chairman of the Steel Caucus.

Mr. GAYDOS. Mr. Speaker, I commend the gentleman from Indiana (Mr. BENJAMIN), who has done such a fine job in heading up the executive committee of the caucus, and the vice chairman, the gentleman from Alabama (Mr. BUCHANAN), the gentleman from Pennsylvania (Mr. ATKINSON), the gentleman from Pennsylvania (Mr. BAILEY), and all members of the Steel Caucus who have participated in this special order during the past 3 days.

Let me go back historically, if I may, to September 22, 1977, when the Congressional Steel Caucus was officially created by a handful of members.

□ 1940

At that time, we believed that the developing crisis in the steel industry could not be ignored and therefore, Members of Congress should organize in a caucus to address steel problems. From approximately 25 Members the group has expanded to over 140 in the past 3 years.

On no less than three occasions we have met personally with the President as well as with numerous administration officials to discuss critical steel issues. The prime purpose of the caucus, then and today, has been to help formulate a national steel policy designed to foster the economic viability of the American steel industry—by legislation if necessary.

I remember our first meeting with the President when he admitted as a matter of record that he did not realize how difficult it was to file an antidumping case. I recall the remarks of Mr. Edgar Speer, chairman of United States Steel at that time, who observed that at a minimum a corporation had to spend a minimum of $250,000 just to start an antidumping case. On an average the cost of an antidumping case is around half a million dollars in legal and investigative fees and in many cases the cost can exceed a million dollars.

When the President heard that, he said:

> "I didn't realize it cost that much to process a dumping case. I pledge to you that my administration will do everything possible to put into effect an administrative procedure which, in effect, would expedite the processing of these cases, and thereby reduce the costs to both large and small corporations. This resulted in the Solomon report and the development of the "trigger price mechanism."

Since then, of course, we have had a continuation of quotas on specialty steel as well as an eight month extension and phase out of the program. The quota program did help the specialty steel industry make a modest recovery without contributing to inflation. The quotas are off now however, and may need to be reestablished.

All these things, of course, culminated in last year's act, the 1979 Trade Act, whereby we put into place, legislation which made fundamental changes in the International Trade Act and beefed up the enforcement procedures as far as dumping is concerned.

Of course, there must be a will to enforce the 1979 Trade Act. If we do not have that will, then I am afraid possibly this act will fail. I hope that is not the case.

Today we had before the Steel Caucus at 9 o'clock this morning Dave Roderick, chairman of United States Steel, Bill Delancey, chairman of Republic Steel AISI, Bob Peabody, the president of AISI and Don Trautlein, the chairman of Bethlehem Steel, who all made excellent presentations regarding the three critical issues facing the domestic steel industry—imports, capital formation and environmental regulations.

As I understand, the chairman of the executive committee will introduce their remarks into the RECORD for the benefit of the membership.

Mr. Speaker, the past 2 days, I, along with other members of the Congressional Steel Caucus, have addressed this House on some of the problems that threaten the American steel industry.

Lack of investment capital for expansion and modernization, increased unfair competition from foreign imports, laxity in enforcement of existing trade laws are but some of the factors that have contributed to the economic crisis facing the American steel industry.

The deepening recession and economic problems of the U.S. auto industry has also had a critical impact on the American steel industry.

Of equal importance, is the overzealous application of Federal policies and regulations.

The establishment of rigid environmental standards, in particular, has proven burdensome and costly for the American steel producer. The basic policy framework for steel industry regulation is provided by several statutes, particularly the Clean Air Act as amended in 1972 and 1977, the Federal Water Pollution Control Act, as amended in 1977, and the Resource Conservation and Recovery Act which directs EPA to regulate the disposal of hazardous solid waste.

The steelmaking process generates large amounts of pollutants, and the American steel industry has already invested large amounts of capital in its efforts to clean up polluting by-products, and comply with environmental standards.

These expenditures have channeled resources away from other areas such as plant modernization and expansion which are vital to maintaining a healthy industry, protecting jobs and creating new job opportunities. Every added cost aggravates inflation and increases the cost of steel products for the consumer.

The direct and indirect effects of EPA regulations on the domestic steel industry are significant. In part this is because most of the process technologies the industry uses were developed around the turn of the century, when the impact of industrial pollution received very little attention.

Nevertheless, the industry is increasingly coming into compliance with environmental standards. According to a recent report by the Office of Technology Assessment, more than half of the steel industry's operations are now in compliance with environmental requirements. Representatives of the EPA, in their appearances before the executive committee of the Congressional Steel Caucus, have indicated that substantial progress has been made in obtaining compliance and compliance schedules by major steel mills with air and water pollution control requirements.

The steel industry has indicated that it is currently removing an average of 96 percent of its airborne particulates from traditional emission sources and is achieving equal success in controlling conventional water pollutants. But it is the removal of the final amounts of pollutants which is prohibitively costly. Here we see the economic law of diminishing returns at work. For example, spokesmen for United States Steel have pointed out that it costs $1,200 per pound per hour to control the first 99 percent of the emissions from its steelmaking furnace at Fairfield, Ala. But to handle the last 1 percent would cost an astounding $400,000 per pound per hour!

Unfortunately, the industry's regulatory obligations have emerged during a period of declining competitiveness in the international steel market. The U.S. share of the world export market has declined during the past decades, while imports have increased. Dealing effectively with the particular hazards that accompany steelmaking raises many issues concerning: First, the development and costs of new regulatory technologies, and second, the interaction between Government regulations and the operation and modernization of the industry.

The steel industry has reported that during the 1970's, it has spent an average 13 percent, or $280 million, of its annual capital investments for environmental compliance. Annual capital, operating and maintenance costs for environmental requirements presently add between 4 and 6 percent to production costs. Environmental capital expenditures have been more burdensome on the steel industry than on other major polluting industries. For example, the chemical, petroleum, and electrical utility industries spent no more than about 10 percent of their total capital investment on pollution abatement during the 1970's, compared to the average 13 percent spent by the steel industry. To date, the steel industry has spent more than $6 billion, 1978 dollars, on pollution abatement equipment. The steel industry has estimated that to meet the primary standards of the Clean Air Act and the best available technology, BAT, requirements 1982 and 1984 deadlines mandated by the Clean Water Act will cost an additional $2.9 billion.

A report of the consulting firm of Arthur D. Little, which was commissioned by the American Iron and Steel Institute to perform an in-depth study of the effect of environmental regulations on the American steel industry, projects that compliance with long-term air and water regulations for existing plants and equipment will require capital expenditures of at least $600 million per year through 1985. The report projects that total environmental expenditures for the next decade may reach $7 billion or an average of $700 million per year. Given the many problems currently facing the steel industry, the question arises whether this is the proper way to utilize this capital which is so desperately needed to modernize the industry.

A number of legislative and regulatory actions have been proposed to alleviate the industry's capital formation problem related to environmental spending. The following are five of these key issues:

First. The "bubble concept."

Regulations and guidelines pertaining to air and water pollution control requirements have been based on a process-by-process basis within the individual steel mills. (That is, compliance with the regulations has been determined on a stack-by-stack or effluent pipe-by-pipe basis.)

But the domestic steel industry regards this regulatory scheme as inflexible and inefficient in its ability to achieve environmental improvements. These deliberations have given rise to the development of an alternative pollution control strategy, referred to as the "bubble concept." Under the bubble concept, the total individual source emission limitations would be calculated for a given plant and set as an overall emission limitation for the plant.

The plant could then apply the most cost-effective techniques of emission or effluent controls on a case-by-case basis to achieve plant-wide environmental improvement. The EPA has indicated that the "bubble" concept can be applied in certain air pollution control programs.

Second. "Limited Life" facilities.

A number of older facilities in the steel industry are only marginally economic to operate. Their limited life expectancy cannot justify any significant capital expenditure, but they continue to provide some jobs and production capacity. The industry has stressed that imposition of stringent environmental control requirements can only force premature shutdown. Steel industry spokesmen maintain that EPA should establish a mechanism whereby a facility would be able to request a special classification as "limited life" under which the facility would be subject to limited environmental regulations for a specific period of time.

Various bills have been introduced to deal with this issue. One such bill is concerned with air quality standards. It would place a special requirement on States to consider the effect of the environmental requirement on the facility and would allow the States to propose a State implementation plan establishing less stringent requirements for the facility as long as public health is protected.

Another bill concerning water quality standards would permit the administration to modify or withdraw effluent limitations and consider the effects on employment on a case-by-case basis as long as public health is protected.

Third. Section 120 of the Clean Air Act.

It is recognized the intent of the mandatory penalties under section 120 of the Clean Air Act is to encourage the expeditious installation of pollution control facilities. But it is the position of spokesmen for the steel industry that where a company is in the process of installing facilities to achieve compliance and is spending money for installation, the penalty is counterproductive. They point out that one amount for the penalty and an additional amount for the installation doubles the cost.

A House bill has been introduced which would provide full dollar-for-dollar credits against noncompliance penalties for expenditures made for the purpose of bringing the source into compliance with the act.

Fourth. Replacement in kind.

Under current EPA regulations, reconstruction of production facilities or replacement in kind is classified as a "new source, and levels of emission control are much more stringent than those for existing facilities.

The industry contends that these requirements are counterproductive and are disincentives to modernization.

A House bill has been introduced which would change the definition of modification to apply only to those sources which increase the amount of air pollution emitted or which would result in the emisssion of any new air pollutant.

Fifth. Timetable issue.

Under the 1977 Clean Air Act amendment, the States are required to revise their implementation plans by July 1, 1979, and to implement those revisions to meet national ambient air quality standards no later than December 3, 1982. No State has met the deadline for completion by industry for installation of pollution control facilities, yet the July 1, 1979 date has not been changed.

I have introduced a bill which would extend both timetables to December 31, 1980, for the plans and July 1, 1984, for compliance.

These issues represent some of the most serious problems confronting the U.S. steel industry and they merit closer scrutiny and analysis. The subcommittee on health and the environment of the interstate and foreign commerce committee, chaired by Congressman WAXMAN, has indicated it will conduct oversight hearings concerning the Environmental Protection Agency. I strongly urge that the above issues receive close attention during these hearings.

In conclusion, environmental regulatory requirements have been and will continue to be a major cost burden on the domestic steel industry. As additional pollution control equipment is installed during the next few years, the industry's capital, operating and maintenance costs will increase accordingly, had these requirements emerged during a period of vigorous industry renewal and expansion, their costs would have been considerably less burdensome.

Mr. Speaker, steel is the backbone of our Nation's economy. We depend on the steel industry for our economic prosperity and our national defense. The collapse of this industry would throw countless more workers out of work, and our Nation could become dependent on foreign steel just as we have become dependent on foreign oil.

I recognize it is essential to insure a healthy environment. But the economic cost factor must be taken into account in order to gain a balanced prospective, and the imposition of excessive regulatory controls must not be allowed to result in further crippling of this vital industry.

Clearly, we want to move forward in fighting pollution, but environmental regulations must be reexamined to assure that their goals are not unnecessary, unreasonable, and uneconomic.

Mr. Speaker, as chairman of the Steel Caucus, along with the vice chairman, the gentleman from Alabama (Mr. BUCHANAN) I believe the time has come for the Steel Caucus through its executive committee, with the support of all caucus Members, the time has come for the Steel Caucus to deviate from its past practice of patience and watchful waiting. The time has come to impress upon the administration that all of the patience, all of the cooperation, and, all of the previous orders we have had in this House was not an empty gesture on our part. We had expectations that the administration, along with all administrative officials, would respond in a more active and responsive manner. The time has come for the establishment of a national steel policy.

If we do that, we can all very self-righteously say that the Steel Caucus was not for naught. The Steel Caucus does mean something. It was worth all the time we put into the Steel Caucus and we are part of a whole new era and a policy that would provide this Nation with a good, healthy steel industry, jobs for its workers, and a strong national defense. Stripped down to its very essence that is what the Steel Caucus stands for.

I hope the administration will take note of these remarks, that that is what we want.

I want to again thank the executive committee chairman for allowing me the time to make these remarks.

Mr. BENJAMIN. Mr. Speaker, I thank my able colleague for his erudite expository, which has only been matched in recent memory by his eloquence in the preceding 2 days.

Mr. Speaker, I now yield to the gentleman from Alabama (Mr. BUCHANAN), the great vice chairman of the Steel Caucus.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for yielding. I too, would commend the chairman of the Steel Caucus for his eloquence this evening and for his leadership, along with that of our distinguished chairman of the executive committee through the many months of our existence as a caucus.

I would associate myself with the remarks just made by our chairman.

Mr. Speaker, our discussion today focuses on one of the most difficult, controversial and important issues facing the American steel industry today; the environmental controls and restrictions placed on the industry by the Federal Government.

Environmental and industrial health requirements of the Federal Government have become major cost factors for many American industries. This is particularly true for the steel industry, which by the very nature of its productive process, generates a significant number and amount of pollutants.

Recently, the executive committee of the Congressional Steel Caucus met with EPA Administrator Douglas Costle and other officials to discuss this situation. EPA advised that during the past year (approximately July 1979 to September 1979) substantial progress has been made in obtaining compliance and compliance schedules by major steel mills with air and water pollution control requirements.

If current negotiations with problem mills are successful, as I hope they will be, less than 10 percent of the major steel-making facilities in the United States will be in violation of the law and not on a compliance schedule.

The domestic steel industry has consistently maintained that environmental control legislation has significantly aggravated its capital shortage, which, as you know, is critical. According to industry officials, expenditures on pollution abatement have reduced their ability to replace and modernize facilities and resulted in a decline of raw steel production. Without sufficient capital to replace facilties and maintain, or hopefully expand, existing production capacity, steel officials believe that there is little hope that the industry can meet the Nation's expanding need for steel in the 1980's.

The end result would be twofold: First, an increase in the imports of steel from unreliable foreign producers; and second, an aggravation of our already serious trade imbalance.

The Federal Government must adopt a course of action which would prevent such an eventuality. First, we should immediately consider an industrial tax credit for investments in pollution control by the steel industry. Second, we need a policy of increased cooperation between the Federal bureaucracy and the representatives of the steel industry. We cannot afford to continue the adversary relationships of the past which have characterized this problem area.

Mr. Speaker, the problems of the American steel industry—import penetration, costly environmental and health regulations, and inadequate capital formation—are interrelated.

If we are to deal effectively with these problems, we must have coordinated actions at all levels of the Federal Government. In other words, a national steel policy designed to preserve and enhance this essential industry. I must confess that up to this time I have not seen evidence of this kind of leadership from our Government.

Once again, I call on the President and his advisers to wake up to the compelling reality of an America dependent on foreign steel. Unless we have action on the part of this administration very soon, it will become necessary for those of us in the legislative branch to take the needed action to keep this vital industry alive. I can assure you that we have no intention of standing idly by while viewing the devastation of this basic industry and the many thousands of workers and their families who depend on it.

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Mr. Speaker, it seems to me that it is clear and should be clear to the Nation that we must have a strong and viable steel industry. It is important to our country that we do so.

To do so we must have a national steel policy and the time we must have one is now.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman, my colleague, and chairman of the caucus.

Mr. GAYDOS. I ask the vice chairman of the Steel Caucus if he does agree with me that it seems unusual that, through administrative ruling and legislative action, the rubber industry was granted variances for water pollution requirements, and the automobile industry was granted extensions on pollution emission standards. We have not enjoyed that consideration in the steel industry. Do we not have a right to expect reasonable and similiar treatment?

Mr. BUCHANAN. The gentleman is so right and I do agree.

Mr. GAYDOS. I thank my colleague.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. BENJAMIN. I thank my congenial colleague, the gentleman from Alabama (Mr. BUCHANAN) for his poignant remarks that were penetrating on the subject matter before us.

Mr. Speaker, I would now yield to the distinguished Member from the State of Pennsylvania (Mr. ATKINSON).

Mr. ATKINSON. Mr. Speaker, I certainly want to thank the distinguished chairman of the Steel Caucus and the gentleman from Indiana. I would like immediately to answer the question posed by the gentleman from California (Mr. ROUSSELOT). There are 134 decision points and 314 separate steps on this flow chart.

May I say, Mr. Speaker, I would like to describe this chart and first make some remarks that I feel are pertinent to the questions we are talking about here this evening.

By their very nature, the technology and processes involved in making steel generates large volumes of air and water pollutants. This was once a serious problem and in recent years the American steel industry has spent huge sums to implement effective environmental protection programs in compliance with State and Federal pollution control programs. From 1951 through 1978, the most complete figures available, the domestic steel industry invested $3.7 billion for environmental control facilities. This breaks down to $1.5 billion for water pollution reduction efforts and $2.2 billion to curtail air pollution. In constant 1978 dollars, this amounts to $6 billion. It is estimated that compliance with long-term air and water regulations for existing plant and equipment will require capital expenditures of at least $600 million per year through 1985 for a total of $4 billion. This amount does not include cost estimates for either the requirement of zero discharge of water pollutants or for post-1985 air standards. The cost of meeting these latter requirements may require an additional $3 billion. Total environmental expenditures for the steel industry in the next decade may reach $7 billion or an average of $700 million per year.

Although these efforts have obtained many important environmental benefits, such expenditures have nonetheless diverted limited capital resources from cost reduction applications of new technology to improve efficiency and reduced investment in new modern income-producing facilities that would be competitive in the international marketplace. Meeting environmental standards has had an unavoidable inflationary impact on the industrial and consumer sectors of the economy by increasing the cost of steel products which are passed on to the general public in terms of higher prices for everything made with steel components.

Now, I will be the first to admit that when the environmental movement began gathering public support and political momentum back in the late sixties and early seventies, there was a serious national problem of deteriorating air and water quality. This culminated in landmark Federal air and water pollution control legislation being passed and the creation of the environmental protection agency.

Much has been accomplished in the ensuing years toward reducing pollution levels. In western Pennsylvania, the improvements in air and water quality have been dramatic. An example I like to cite is that portion of the Ohio River that flows through my congressional district. Steel plants were once the prime polluter of the river. Since EPA control efforts began, this level has been reduced to the point where steel mills are no longer a major stress to this sector of the stream. The steel cleanup has proceeded to the point where stronger controls on plant outflow would not measurably improve the water quality. These initial results are significant and have my support.

All of us here this afternoon have also heard another side to this record of environmental progress and it takes the form of concerned citizen and steel management protests regarding the thrust of EPA efforts over the last few years. The issue has been raised that, with the best of intentions, Congress has created a hydra-like, multiheaded monster in EPA that has taken on a regulatory life of its own.

Let me illustrate this situation with the chart that is before you. I keep this chart in my office in the Cannon Building and it always draws a reaction from visitors. The initial response is usually something like, "What on Earth is that?" When informed that it is a schematic representation of a small segment of EPA's pollution control regulations, the next question is, "How does one find his way through that complicated bureaucratic procedure?"

It is amazing to people and it is amazing to me and I am sure it is amazing to the Steel Caucus what that industry must go through in order to determine what their needs are to meet the environmental questions.

Last summer the environmental protection agency, in a document that took up 149 pages in the Federal Register, proposed new regulations to "streamline" five pollution control permit programs by consolidating them into a single program. The five were: hazardous waste management, underground injection control, national pollutant discharge elimination, dredge and fill, and prevention of significant deterioration. A review of this proposed new regulatory scheme prompted the Shell Oil Co. to develop a flow chart to map a path through one part (part 122).

I will now give my colleagues a little more statistics as to what we are looking at here today which is this chart before you.

The chart required 10 days to map and 2 weeks for two draftsmen, using computerized drafting techniques, to plot the results because of the complexity of these regulations. The chart was subsequently published by the American Mining Congress in the November 1979 issue of the Mining Congress Journal. Since it was so graphically illustrative of the type of regulatory problems the steel industry is facing in their efforts to comply with EPA mandates, I had this enlarged facsimile prepared.

I have the article here before me. I would ask Congressman BAILEY if he would assist here just for a moment. This was in booklet form and, as you look at one page at a time, it did not seem to mean a whole lot, but when you looked at the overall—took the pages and scotch taped them together, this is what you found. This is the permit process, and this is what we have blown up to this size to dramatize even more dramatically that which impacts on the industry today.

As mentioned earlier, this proposed rule would establish consolidated permit program requirements governing the hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), the underground injection control program (UIC) under the Safe Drinking Water Act, the national pollutant discharge elimination system program (NPDES) and State dredge or fill programs under the Clean Water Act, and the prevention of significant deterioration program under the Clean Air Act, for three primary purposes:

First, to consolidate program requirements for the RCRA and UIC programs with those already established for the NPDES program.

Second, to establish requirements for State programs under the RCRA, UIC, and section 404 programs.

And finally, to consolidate permit issuance procedures for EPA-issued prevention of significant deterioration permits under the Clean Air Act with those for the other programs I have mentioned.

Now, what are some of the innovative pollution control techniques that EPA has set forth here for public consideration? What improvements in environmental regulation have been proposed? Here are a few examples:

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First. Under section 122.3 of the UIC program covering injection wells, the EPA has decided to regulate common septic tanks for the first time if they serve a regulated plant. Assume that a steel plant has a men's room in a storage building located on the far corner of a back lot that has been in use for a number of years. In the near future, management will have to seek a permit for this facility. In terms of the chart, the company will have to take positive steps to supply the EPA with required information and waste samples at 63 different steps in the application process and pass EPA scrutiny at 70 bureaucratic decision points. If they do everything required and clear the major decision points, they will be given a permit to allow the workers to use the men's room. This is for a septic system that, as a practical matter, is no different than the septic tanks serving millions of private homes across America. One wonders if EPA may be contemplating having these homeowners comply with this 133-step permit process in the future. I suggest that this is a situation that the Congress should monitor very closely.

Second. The proposed NPDES definitions, section 122.3d covering "point source" and "discharge of pollutant", were written so that they include natural ditches that carry storm runoff from heavy rains when the water ends up in a receiving stream. These provisions will require permits to be issues for discharge points formed by natural storm phenomena that were not present prior to the downpour. Each time mother nature erodes a runoff channel on steel plant property, the company must get a permit for the ditch or risk penalties for forbidden discharge points that are caused by events beyond corporate control.

To comply with the NPDES regulatory program, management will have to submit data and runoff water test samples at 64 different points in the permit application process and have mother nature's ditch pass EPA muster at 118 different steps. I wonder if thunderstorms will start giving management real headaches (tongue-in-cheek). It is encouraging, however, to know that EPA intends to keep on top of this serious environmental problem. Possibly the elements will think twice about storming if they realize that EPA will make them get a permit.

Third. Another section in this environmental protection bureaucratic brainstorm, section 122.23d, would require corporate projections to determine how flood prone an area is over a 500-year period. The simple fact that such a data base over a 500-year projection is not available because it does not exist, and that this state of affairs is apparent to the most casual observers, does not deter the EPA bureaucrats from proposing the impossible.

Fourth. Let me close with one last example. The Clean Water Act provides that the best practical technology for water pollution control must be in use by 1979 and the best available technology, or "BAT" in EPA acronymese, by 1984. The date "'1984" raises the specter of "big brother", and it is appropriate here.

Anyway, the proposed new sections covering BAT provides an interesting study on the thought processes of EPA regulators. BAT guidelines are to be determined by the agency sampling and evaluating the best available equipment. This determination will consider, where applicable, a limited number of actual installations, laboratory or pilot plant operations, or the transfer of technology from other equipment categories. From this study, the EPA will set mandated effluent limits and in effect say that a certain piece of equipment will meet these requirements. The assumption is that the same technology on which the guidelines were based will produce the same effluent control levels at other installations. A company then procures and installs this equipment in good faith because EPA said it would work. If subsequent operation of the equipment reveals that this technology, which is supposedly the best available, will not in fact meet the mandated standards, the company has a real problem. And it has been explained to me by someone very familiar with EPA regulations, the mere fact that the EPA-approved equipment will not perform to standards is irrelevant. The company is still bound to meet the EPA mandated emission levels, and how they do it is their problem, not EPA's. What we have here is a no-win situation.

Mr. GAYDOS. Will my colleague, the gentleman from Pennsylvania, yield?

Mr. ATKINSON. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding. I want to compliment my colleague from Pennsylvania whom I have the pleasure of serving with and knowing personally for not only an enlightened statement but a very interesting statement. I think the illustrations and the examples are just excellent. I wish to compliment the gentleman on his presentation, and I look forward to many years of serving with him in the Steel Caucus.

Mr. ATKINSON. I appreciate the gentleman's remarks. Those who are now working in their offices have an opportunity to see this chart. If the area is panned, they can see some of the things that we are speaking about in a dramatic way.

I will conclude in just one moment.

Mr. Speaker, I could continue to offer additional examples of the utter lack of perspective used in framing many of these regulations, but I think I have made my point. Before you is a regulatory scheme, affecting the steel industry, that has gone amok with provisions, having the force of law, that are literally divorced from common sense and reality. It is obvious that EPA has given little thought to the costs of compliance, the man-hours consumed filling out endless forms, and whether each provision is even needed to protect the public interest in a cost-responsible manner.

And, as previously mentioned, this chart represents only one part of a three part consolidated permit program originally covering 149 pages of fine print in the Federal Register of June 14, 1979. Like all regulatory proposals, a reasonable time period was provided for interested parties to offer comments, raise objections, and recommend changes. From what I have been able to gather, EPA was literally inundated with comments objecting to many of the proposed provisions. Substantial objections were raised by the following industries: steel, mining, chemicals, oil, manufacturing, and a host of others perceiving special difficulties that these regulations would cause them.

The steel industry objected to over 70 procedural or substantive points including the issues I just mentioned. On 12 important issues, the argument was that EPA had clearly exceeded their statutory authority, and the remainder on the grounds that the standards were unreasonable.

Well, EPA considered this storm of controversy, went back to the drawing boards, gave a little on a few points, and published the final consolidated permit regulations in the Federal Register on May 19, 1980. This substitute version is supposedly an improvement over the original proposal; but in reality, what started as 149 pages of Federal Register fine print was improved to the point that the final version covers 298 pages, exactly double its original size. How one simplifies something by doubling the number of pages needed to set out its provisions somehow escapes me.

But have no fear, EPA has published a 30-page booklet designed to get a regulated party into this EPA maze. On page 5, it points out that "the consolidated permit regulations are basically procedural in nature. They do not include the technical criteria used by permit writers in establishing permit conditions. Each program has additional regulations governing these technical requirements. Table 1 lists these other regulations (see page 6)." On page 6 there is a comprehensive list of enough "additional regulations" to, well, * * * it is rather depressing.

The May 19 Federal Register also contained the new hazardous waste regulations. The entire package is 527 pages of material almost incomprehensible except to a few specialists who deal with selected aspects of this regulatory scheme on a regular basis.

What has been the response of the regulators to the May 19 consolidated permit regulations? Around 20 provisions will or may be the subject of litigation in a multitude of law suits by major trade associations and environmental groups. The new regulations will still go into effect notwithstanding pending litigation. Consequently, a number of firms may expend considerable sums of money in an effort to comply and subsequently find that important provisions have been altered or struck down by the courts.

Representatives of one major steel company doing business in Pennsylvania informed me that all things being equal, they would rather go back to the previous regulatory regime where there were five separate permit programs, than operate under the new consolidated program. Something is obviously very wrong here when responsible management considers the latest official improvements to be worse than what they replaced.

The big companies will probably be able to comply for better or worse by using in-house counsel, regulatory analysts, and technical personnel. Smaller independent firms lacking the resources of integrated corporations may not be able to comply and will be forced to seek outside assistance from environmental consulting firms. The smaller the company, the more they are overwhelmed by the complexity of this permit process and related regulations. No matter how a steel company goes about it, applying for the new permits will involve marshalling considerable corporate manpower, the submission of volumes of mandated data, and waste samples with the collection of samples spread over many months. Once a permit is obtained, the permittee must continue to report information on an ongoing basis. For certain programs, they must also prepare for more stringent future regulations required by current law.

I sincerely believe that the environmental program of the United States has now reached a stage where it needs a comprehensive overview to see where we have been, what we have accomplished, and, on the basis of environmental knowledge gained over the past decade, what are realistic future environmental protection goals. Viewed in this context, the steel industry represents a classic example of a major economic sector that has made remarkable progress in this area of national concern. We now need to formulate future environmental goals on an industry-by-industry basis and consider the remaining pollution problems applicable to them, as well as the compliance costs involved. We must consider not only pollution control, but also jobs, productivity, capital needs, and plant efficiency. Certain tradeoffs may be required. What I am suggesting is that a new environmental program should rifle-shot the enforcement approach and channel problem solving in a reasonable, commonsense manner.

What has to change is the shotgun approach to environmental control. We have been operating under air and water pollution control laws that are now a decade old and much has changed in the interim. Within this framework, the steel industry and a number of other industries have cleaned up their act and complied with the law. What we are now dealing with is a statutory program designed to eventually eliminate the last small remaining traces of pollution, and controlling the last few percentage points will require expenditures that will rise at exponential rates. Meanwhile, water and air quality may not improve perceptably.

The regulatory scheme I discussed today amounts to bureaucratic overkill in so many instances that are often void of common sense and realism. It is the result of well intentioned but outdated laws that have outlived their usefulness and have spawned the bureaucratic monstrosity that is the EPA of today. We cannot go on this way, and change must come to meet the environmental and economic realities of the 1980's.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. ATKINSON. I yield to the gentleman from Pennsylvania.

Mr. BAILEY. I thank the gentleman for yielding.

I would like to add my comments to those of the chairman of the Steel Caucus, the gentleman from Pennsylvania (Mr. GAYDOS) and compliment the gentleman from Pennsylvania (Mr. ATKINSON) for the excellent work done on this flow chart. We have all had some problems, I think, from time to time with EPA. This is astounding. It is a revelation to me, and I think reconsideration should be given at the very least to an overhaul, and perhaps even consideration of the elimination of the agency.

The arrogance is incredible, and this type of bureaucratic decisionmaking just takes democracy and control from us and, therefore, from the people. I compliment the gentleman on an excellent job.

Mr. ATKINSON. I certainly thank the gentleman from Pennsylvania. If I may, I would like to say one final thing. As a freshman Member of Congress I have sat on the floor many times, and I have heard the expressions where one Member would yield to the gentle Member from this State, and that gentle Member would yield to the gentle Member from the other State and thank the gentle Member, and then they would verbally dismember the Member. This does not happen here tonight, and I am very grateful for the cooperation I have had from the Steel Caucus chairman, the gentleman from Indiana (Mr. BENJAMIN), the gentleman from Pennsylvania (Mr. GAYDOS), the gentleman from Alabama (Mr. BUCHANAN), and, of course, the gentleman from Pennsylvania (Mr. BAILEY), and all members on the Steel Caucus who have participated, including the gentleman from Pennsylvania (Mr. DOUGHERTY).

Mr. BENJAMIN. I thank the gentleman from Pennsylvania for his perceptive, penetrating, and persuasive presentation.

Mr. Speaker, I now yield to the gentleman from Utah (Mr. MCKAY).

Mr. McKAY. Mr. Speaker, I thank the Chairman very much. There has been a lot said and a lot more will be said and a lot put in the RECORD.

□ 2010

I am reminded as we talk about regulation, where it is coming from and where it is going, of a statement made by one of the "environmental gurus" who have been instrumental in pushing for heavier and heavier controls and regulations of one kind or another in about 22 acts that we identified in connection with our hearings in the Interior Appropriations Subcommittee, hearings on energy, that could stop any major project, steel or otherwise. He was asked a question in San Francisco of recent months: "When will you stop pushing for more controls?"

He said, "My answer to you is, never, until we have destroyed every corporation in this country and redistributed the wealth."

Mr. Speaker, there are a lot of those involved in the environmental movement who do not follow that theology and who are concerned about the environment in realistic ways, but there are those who are the great gurus who have deeper insight that they hope to propose and use as its tool to do some things that have become very damaging.

Mr. Speaker, I do not believe that any serious observer of the current steel situation believes that the Federal Government is the sole cause of this crisis or that Federal actions will be the cure of this crisis. the Federal Government is an important actor on this stage, but it is only one actor.

To be sure, the circumstances of history have had a lot to do with getting us to our present situation—developments beyond the control of any of us. When Europe and Japan were forced to rebuild their factories after the Second World War, in part with Marshal plan assistance, they were able in the process to take advantage of newly developed industrial technology which was not available when most of America's large industrial plants were built before and during the war.

But events have conspired in such a way to put Government in a position to do something about these problems. The Federal Government could not do much about technological advantages which fell to the emerging steel industries in post-war Europe and Asia. But the Federal Government can do something about unrealistic regulations imposed at Government discretion upon the American steel industry. And that fact imposes upon the Federal Government the responsibility to use its stewardship in these matters wisely and responsibly. It requires that Government be balanced in its decisionmaking and in its administrative functions.

More than most bedrock American industries, the steel industry faces serious difficulties in meeting environmental deadlines and environmental goals. Most of these plants, which outsize those of most other industries, were designed and built before these stringent regulations were contemplated. In essence, the rules of the game have now been changed, and the American steel industry is being asked to play along without skipping a beat. It would be counter productive for the Nation to force the early retirement of all the old plants to build new facilities incorporating the new environmental technology. The Office of Technology Assessment, in its recent analysis of steel industry competitiveness, determined that the best approach to restoring our industry to health and strength is to modernize existing integrated steel mills, and not building new ones from the ground up.

It is an unfortunate circumstance of history that this federally mandated environmental retrofitting coincides with a period of low profitability, and a period of especially difficult capital formation, and a period of declining competitiveness in the world market for our steel industry. We have suffered an import explosion in steel in the last 5 years which has highlighted the industry's difficulties. And as we all know, a great deal of this foreign competition is anything but fair.

Furthermore, the environmental problems associated with steel are far more complicated and expensive than those associated with other industries, but U.S. clean air and water statutes do not appreciate these differences. Nor do the regulations which have been drawn to administer these statutes. And unlike many other large industries, the bulk of the steel industry's environmental investment obligations lie before it, not behind it.

In constant 1978 dollars, the steel industry up till now has invested some $6 billion in environmental control facilities. It is estimated that compliance with long-term clean air and clean water regulations for existing facilities will require investments of at least $600 million per year through 1985, and this estimate itself may be below the mark. Investments throughout the decade may approach $7 billion, averaging out to about $700 million per year. This is a considerable sum for an industry which will be reaching deep in its pockets to modernize.

Federal environmental requirements are not the underlying cause of the industry's problems today, but they are an aggravation, and in some cases a severe aggravation. I speak from first hand experience. Out in my part of the country we have a major integrated steel plant, Geneva Works, owned and operated by the United States Steel Corp. The plant was not built for its proximity to its market. It was built at the direction of the Federal Government during the 1940's because of its strategic inland location. These days, the plant has distinct competitive disadvantages in getting its products to market. It is hundreds or thousands of miles away from its customers, and that is by rail, not by ship. Even so, a combination of creative management and a creative, productive labor force has kept that plant competitive all through those years.

As if Geneva's row were not already a tough one to hoe, these later years have brought illegally dumped foreign steel to Geneva's doorstep, with Federal environmental regulators right behind.

The company and the community both are willing to undertake the possible when it comes to environmentally mandated investment, but there comes a limit. We should not be asked to do the unreasonable, but that is what we have been asked to do. Early on during the negotiations with the Environmental Protection Agency, the company and the State of Utah got a biting, bitter taste of that unreasonableness. The Agency was for some time holding firm on its requirement for an additional $50 million in air quality investment by the company in order to clean up a 400-acre patch of uninhabited marshland near the plant which EPA's computer said would stand in noncompliance after all the other cleanup equipment had been installed and the rest of the valley had met the standards.

The unreasonable, adversary attitude which this experience implies is a luxury which this Nation cannot afford, if it forces us to choose between itself, and our vital steelmaking capacity. Unrealistically stringent environmental laws, which themselves are products of technical guesswork in an emerging field of science in this sense can be a danger to our economy and to our security. The same is true of unbending, overaggressive enforcement.

We as a nation do want clean air and water and a perfectly healthly environment. But we also want and need a healthy steel industry and a healthy economy.

Clearly, it is time during this season of Congress, to consider steps to introduce more flexibility into the regulatory process. Flexibility for Federal administrators. Flexibility for the industry. Flexibility for State governments.

Bringing about some of this flexibility is the aim of two bills I have introduced this year, in concert with the full Utah congressional delegation. These bills, H.R. 6866 and H.R. 6867, provide for amendments to the Federal Clean Air Act and the Water Pollution Control Act that would grant to the Governor of any State the ability to waive marginal industrial plants from certain regulations drawn under those acts, when compliance would mean their closure.

What is the policy statement implied in legislative steps of this kind? It says that when the Nation faces a choice between thousands of jobs on the one hand, and incremental improvements in air and water quality on the other, the Nation chooses jobs. It does not mean that the environmental goals are discarded; it means that it will take a little longer to reach those goals.

I am gratified by the aggressive, guiding influence which the Steel Caucus and its excellent leadership and staff have displayed in organizing this debate. I am gratified as well by the apparent readiness of this Nation to come to grips with our industrial productivity problem, and by the Congress readiness to forge a workable but ambitious program to invigorate American industry and enterprise for the challenging decades ahead.

□ 2020

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I wish at this time to commend the gentleman from Utah for his dedicated service to the Steel Caucus and the executive committee.

I shared with him in Salt Lake City, Utah—his home State—a rewarding experience when we both participated in an all-encompassing and quite informative symposium on this very subject, steel and what has to be done to save it.

The gentleman has displayed his leadership qualities and effectiveness on so many occasions that I thought it was only right and just at this time, under these circumstances, that I make note here on the RECORD. I wish to congratulate the gentleman.

Mr. McKAY. I thank the gentleman.

● Mr. RITTER. Mr. Speaker, Bethlehem Steel reported yesterday that their second quarter profits continued to slide down $11.3 million or 21 percent from the first quarter this year and down an unexpected 58.2 percent drop from the same quarter in 1979.

Because of this downturn, construction of new facilities will be cut by about $50 million and over the next 5 years, spending plans for pollution controls will be cut sharply. More significant than this is the thousands of lives that will be directly affected by the downturn, 14,500 steel plant, shipyard and mining employees are now on layoff. And more layoffs will be inevitable unless the industry becomes revitalized and regains its vital position to the economic well-being and national security to the United States.

There are several culprits at fault for the condition of the Bethlehem Steel industry located in my district in Pennsylvania. Over the last 3 days this caucus has very impressively identified the basic problems of imports, modernization and regulation and has focused its attention on positive and constructive strategies to correct the problems or at least lessen their severity. This special session has been called to deal with environmental regulation.

One of the vital elements in this development of a strategy which will help reindustrialize America by making the American steel industry competitive again is for the Federal Government to reassess its role in environmental regulation.

The job loss and cutbacks announced by the steel industry may be the tip of the iceberg lurking on the horizon before the domestic steel industry, unless government, labor, management, and investment sources work together a disastrous collision may be imminent similar to those encountered by some foreign steel producing countries in recent years.

Overzealous environmental regulation, lengthy depreciation schedules, lack of capital, and market controls are among the critical problems barring a necessary modernization of the American steel industry. The time for combined action in these areas to enhance our international competitive position is now.

For the past 100 years, the American steel industry has effectively and efficiently served American steel consumers as the lowest cost supplier of high-quality steel in sufficient volume to meet virtually all domestic requirements. However, over the past 25 years the industry has been steadily losing a portion of the domestic market to foreign producers, and the competitive advantage that it historically held is now in danger of being lost. Unless appropriate government regulatory policies are forthcoming, the American steel industry may be forced to drastically reduce its steel production capability in an effort to remain financially solvent.

For example, the costs of complying with the Clean Air Act of 1970 and the Clean Water Act of 1972, have placed a significant burden on the steel industry. By the end of 1978, the industry had invested $3.7 billion for environmental control facilities. Direct operating and maintenance costs for these environmental control facilities are in excess of $550 million per year. Those costs must come directly from funds available from producing increases.

While costs of compliance have placed a heavy financial burden on domestic producers, foreign nations have taken a more practical approach. Instead of requiring all facilities to meet environmental standards, thus mandating large-scale retrofitting of older facilities, other nations, particularly Japan, have required the retrofitting of old plants only to meet the most flagrant violations. In many ways, some environmental regulation impeded the industry's general ability to modernize. The irony is that such modernization would certainly lead to cleaner steelmaking processes.

What the steel industry needs and what the American people need is a more intelligent approach to environmental regulations. If it is human health and safety that legislation seeks to protect, then standards resulting from such legislation must be realistic. Environmental standards agreed upon must be arrived at after consideration of health effects on people. Too many environmental standards are set without sufficient health effects data. In many cases, an environmental standard may be far far below that which already poses negligible risk to human health or life. To reduce risks to the citizenry or to workers first requires some knowledge of that risk. It also requires a comparison with many different risks which individuals face in their daily lives. To attempt levels of environmental purity which reflects near zero levels of pollutant while not having an idea of the effect on human health can be monumentally expensive and can potentially destroy an industry. Regulators must become aware of the relative importance of the risks they attempt to reduce.

Clearly risk comparison is an idea whose legislative time has come. Adopting this concept would improve regulation virtually across the board in the 1980's. My bill H.R. 4939 attempts to bring risk comparison to the setting of regulatory standards. I am also working to place the mechanism of risk comparison into the regulatory reform law, H.R. 3263 currently being considered by the House. At a time of frightening inflation, public complaints about indecisive and often poorly directed regulation have grown louder. Too often government overregulates relatively minor risks, spending valuable resources and hurting jobs while, major ones go ignored.

Hopefully, this distinguished body of Representatives will focus their attention on the implications of these problems before it is too late.●

Ms. MIKULSKI. Mr. Speaker, as secretary-treasurer of the Congressional Steel Caucus, I am very much concerned with the problems of the American Steel Industry. I find it shocking that the number of steelworkers employed today is actually lower than at any time since the depression. It is essential to the well-being of our national economy that this nation have a strong, healthy domestic steel industry.

At the same time, as the representative of a congressional district where many steelworkers live, I am conscious of the personal tragedy. Many of the steelworkers in my neighborhood have been laid off. They do not know when they will be called back, or if they will be called back.

These are men and women who only want to go back to work. In fact, layoffs in the steel industry have been heavier among women employees, because they tend to have been hired more recently. And now they, like their male counterparts, are worried about their families, worried about the expenses they cannot meet.

A vital, healthy steel industry is a national security issue, because no major power can afford to be without the capability to produce steel. It is a national economic issue, because a healthy steel industry at full employment would be contributing tax dollars to our Federal budget, instead of draining dollars to pay unemployment compensation and TRA benefits. And it is an affirmative action issue, because many of the gains made by women steelworkers in the past few years have been wiped out by spreading layoffs.

One of the most thoughtful, constructive presentations on the state of the steel industry was made by Lloyd McBride, president of the United Steelworkers of America, in speaking to the OECD last February. I am including it here for the benefit of my colleagues:

Steel Industry in an International Context

The history of steelmaking has been fascinating, controversial and often volatile. Worldwide, about two million workers currently depend upon our industry for continued employment. Countless millions more, in hundreds of steel communities, have been witness to this history and have been subjected—sometimes hopelessly—to the adverse effects of market conditions which have precipitated corporate and/or governmental decisions on steel shutdowns or restructuring plans.

Steelworkers are engaged in hard and dangerous work; their safety and health require constant vigilence. Nevertheless, they are good workers, proud of their jobs, and have fought vigorously to improve the conditions of work. The industrial history of each country can well be documented by the social struggles of steelworkers. I refer to those struggles merely to indicate that the same determination by which steelworkers have expressed concern over the conditions of work, they are now expressing over the existence of work.

Job loss has always been a persistent fear of working people. Unemployment, occurring during economic downturns, has elicited unanimous demands from workers for government measures to overcome negative market conditions, thereby increasing the number of available jobs.

Unemployment is not just an economic issue. It is a major political problem, requiring appropriate and necessary political responses. Public policies have been developed to moderate the economic and social hardships of unemployment, and to stimulate further job creation. Such public initiatives relating to employment and income maintenance programs have addressed both short term problems of unemployment, and the longer term concerns for national manpower requirements.

As we all know, negative economic conditions are not uniquely national, either as to their causes or consequences. The existence of the OECD is a recognition of the international dimensions of domestic problems and of the need for international cooperation in alleviating national pressures.

Over the last decade, a peculiar set of problems have beset the steel industry, problems which are now just cyclical in nature. Steel unemployment has become more than just a temporary phenomenon. As plants shut down and steel companies implement retrenchment and diversification plans, unemployment has become permanent. These profound structural changes have affected not only individual steelworkers, but also the economic base of steel-dependent communities, along with the texture of national manpower policies It is for this reason that the United Steelworkers of America, the AFL–CIO, and indeed the International Metalworkers Federation, urged and endorsed the establishment of a permanent International Steel Committee within the OECD.

It is our firm conviction that the same special attention which has been directed to the macro-economic problems of OECD nations through this international forum, also be directed to the steel sector, especially since sharp trade fluctuations have forced a more rapid restructuring of our respective steel industries.

I. READAPTATION POLICIES

Unfortunately, the restructuring process is not occurring gradually, nor in a period of strong economic growth, so as to avoid social injury. Instead, a whole series of adverse factors have been compressed into a short time frame such as: recessions in steel markets, accumulations of obsolete facilities, underutilization of productive capacity, shrinkage of export markets in developing countries, restrictive pricing policies, lack of capital formation for modernization and low rates of return on investments. Our respective governments have recognized that these factors result in unemployment of such massive proportions so as to threaten social tolerance levels. Thus, some well-defined social adjustment programs have been developed. I would certainly concur that one basic proposition on which there should be an effective consensus is that the social impact of large scale dislocations must be moderated by adequate transitional measures. While I am not in a position to judge how long the restructuring process will take before there is stability in the steel industry, experience indicates that turbulent years lie ahead.

A recent report to the OECD Council, Positive Adjustment Policies (April 26, 1979) emphasized the key role of such programs during industrial restructuring:

> ... effective selective manpower and employment policies is a necessary pre-condition for successful economic adjustment to (structural changes).... Since governments have objectives other than economic efficiency, the choice of adjustment measures is never determined solely on strictly defined adjustment criteria, or on grounds of economic efficiency alone. Social and political trade-offs, which can not be judged only on economic grounds, must frequently be made ... From time to time, however, and in recent years with increasing frequency, resistances to adjustments are building up and economic dislocations of efficient significance or severity occur to require government support of the adjustment process which would not (or too slowly) be forthcoming.

There is now more awareness of the reality and inevitability of the steel restructuring. Therefore, there should be a full recognition on the part of both government and industry of the social obligation due affected steel workers and communities. I cannot agree—at least from my own experience—that such obligations and the need for adequate compensatory measures are fully accepted by industry and government.

Nevertheless, with or without adequate worker and community adaptation policies, steel industry restructuring will take place. The issue before us is how painful will it be. I believe that government policy makers—those who understand the structural changes that are occurring and who are encouraging a more rapid restructuring—have a clear responsibility to insure the development and implementation of policies and programs to absorb the shock. It is not necessary that such policies and programs be entirely government financed. However, they should be mandated as a matter of law.

There are many adjustment assistance provisions which can be negotiated by workers with their employers. But unions cannot be expected to negotiate contracts in which large shares of earnings be deferred in the expectation of a future shutdown. Early pension benefits, wage maintenance programs and severance pay plans have been developed. But there are limits to such options because wage increases are needed now and cannot be postponed. Moreover, these are individual benefits and are unrelated to the very serious community adjustment problems which must be confronted when a steel mill closes its gates.

Because of the realization that plant shutdowns will occur, I suggest that the OECD Steel Committee, as one of its principal tasks, undertake the development of firm recommendations on the content and implementation of adjustment assistance programs for workers and communities. Because of government involvement in rebuilding the steel industry, special attention should also be directed at the trade effects of any industrial adjustment assistance programs.

In this respect, I refer you to the original OECD decision to establish the Steel Committee which made specific reference to the understanding that the participants "agree to make every effort to provide effective programs for steelworker readaptation away from facilities affected by structural adjustments into alternative employment." The statement quite rightly warned that "domestic policies to sustain steel firms during crisis periods should not shift the burden of adjustment to other countries."

The uneven national responses to the social consequences of structural changes cannot be ignored. Fundamentally, our union has adopted a policy to encourage rapid investment in modernization. We are aware of the fact that an effective modernization program may result in reduced employment levels in our steel industry. A recent American Iron and Steel Institute publication, Steel At The Crossroads, predicts a drop in manpower requirements over the next ten years of some 22,000 jobs under the best modernization scenario. What this means is that there will be 22,000 less job opportunities in the American seeel industry over the next decade. Nevertheless, our union has endorsed the need for an aggressive modernization program because the final result will be secure employment for American steelworkers. What we require now is some degree of economic security for workers so that the modernization process can proceed.

The point I wish to emphasize is that worker and community adjustment assistance in the U.S. is minimal. Presently, the burden of adjustment falls mostly upon the worker himself and his community. Other countries have more effective means of easing adjustment and dislocation effects. The uneven quality and content of national adaptation policies are perhaps indicators of the political or governmental responses sought by workers with regard to import penetration during periods of intense restructuring. The human dimension of any profound structural industrial changes will elicit some kind of a policy response. Hopefully, the response will be positive and consistent with international economic and social principles. An OECD Steel Committee initiative in the area of structural adaptation problems would be most helpful—indeed, it is necessary. The OECD Council recognized the urgency of these concerns when it stated: "The interrelationship of developments in the steel sectors from country to country and the potential that unilateral actions and policies can aggravate the problems of others have become clear." Failure to have an adequate adjustment policy carries with it the same disruptive potential.

II. RESTRUCTURING POLICIES

I must admit, however, that worker adaptation policies receive very spotty acceptance both because of their inadequacy and because of steelworkers' concentration on structural policies. Other papers at this seminar have indicated the profound pressures which are propelling structural changes in the steel industry. Again, the OECD Council, in establishing the Steel Committee, acknowledged 'in virtually all major steel producing nations, steel occupies a central place in the national economy. In a number of major areas, the magnitude of structural problems confronting the steel sector, and resultant social and economic indications of the necessary adjustment, are substantial."

The indicies of a growing crisis are well displayed. While world steel production levels increased 153 percent between 1955 and 1976, ever greater percentages of that production have been committed to export markets. Thirty-seven percent of Japanese steel production is dependent upon exports as is twenty-six percent of the EEC's production. These are very large allocations and indicate a high degree of sensitivity to trade reliance.

The addition of new capacity in developing countries has put traditional steel exports under heavy pressure, especially during periods of slack or slow growth in steel demand. Excess capacity and lower utilization rates negatively affect exporting and importing countries alike. Pricing weakness and increasing loss of domestic markets to imports cause great uncertainty over the viability of restructuring programs. Since 1969 there has been a decrease of 100,000 steel industry jobs in the U.S. and imports have fluctuated between fourteen and eighteen percent of available steel supply. Negative restructuring has already eliminated some 5 percent of our steel capacity and further rationalization is expected, especially as our economy becomes more recession-oriented.

Since the closing of major U.S. steel facilities in 1977 and again in 1979, there has been an intense focus on the role which government policies play in steel restructuring strategies. This has been a particularly sensitive period both in terms of national policies and international cooperation. As we all know, a number of steel trade actions have already occurred: The Voluntary Restraint Agreements of 1969 and 1974; the U.S. specialty steel quotas of 1977 through 1980; the EEC Davignon Anticrisis Plan of 1978; and the U.S. Trigger Price Mechanism of 1978. There have also been bilateral arrangements and, of course, anti-dumping actions. Monitoring of such trade actions by the Steel Committee is essential so that trade transparency can be achieved and injury avoided.

As it develops its program for work for 1980, the Steel Committee must give priority consideration to the global restructuring efforts. An attitude of sensitivity to rapid fluctuations in trade flows is necessary if domestic steel industries are to initiate and maintain restructuring and rationalization programs. As we are painfully aware, higher levels of import penetration during recessionary slowdowns cause unemployment. It is difficult to accept steel imports at prices below the cost of production.

There is international recognition in the GATT agreements that such trading practices are not a sound and fair basis for stable trade relationships. In terms of unemployment, we have noticed that U.S. steel import levels are high when domestic capacity utilization rates are low and workers are laid off as a consequence.

However, I believe there has been a shift in national concern away from only the short term adverse effects caused by a decline in steel demand to one of uncertainty over the long term prospects of being able to implement structural improvements. This is an extremely critical issue.

A steel industry is vital to each industrial nation. Developing countries also recognize the role that a domestic steel industry plays in satisfying domestic demand as they move toward greater self-reliance. In order to cope with the multitude of adjustment factors facing the steel industry, government policies are becoming more specific and definitive. Each country must develop a national industrial steel sector policy thereby creating a proper environment for structural reforms. As workers we are additionally concerned that such industrial policies insure that steel investment funds are not diverted into nonsteel activities or away from traditional steelmaking communities. Difficult policy assessments will have to be made as to the relationship between capacity levels and domestic demand, as well as on the reliability of and access to export markets. Current global excess steel capacity, in spite of prospects for favorable future demands, is forcing such a review.

Along with the emergence of national steel policies, there must also be an international steel sectoral approach. International coordination is needed so as to assure that domestic steel measures neither distort trade relationships nor disrupt restructuring programs. A more complete international dialogue and understanding is required because of the large commitments of resources necessary to achieve stability for the industry and protection for steel workers and their families. Plans for modernization and/or rationalization must be allowed to unfold so that abrupt dislocations can be avoided. Recognition must also be given to the fact that undue import levels, resulting from unfair or predatory pricing, will put heavy strain on capital formation requirements, restructuring plans and employment levels.

Temporary national measures to restrain dumping, like the U.S. Trigger Price Mechanism, do not assure stable trade relationships. Neither do threats to engage in adversary confrontation under the GATT codes. The main challenge to the steel industry is whether the necessary steel modernization programs can commence and a reasonable rationalization process be undertaken. Such a prospect can be fufilled only if the OECD Steel Committee can develop policy measures for orderly restructuring activities.

An OECD Steel Committee draft work proposal identifies the positive aspect of such a policy possibility:

"Consideration would also need to be given to readaptation measures that would assist in the modernization and structural improvement of the plant in the participating countries as part of the effort to improve the competitive position of the different industries. The results so far achieved by the measures and their likely future period of application would be considered in order to ensure that measures taken promote adjustment in the steel industry in as positive a way as possible. It will also be necessary to assess their compatibility with this objective of returning to a situation of full competition and their relationship to measures aimed at achieving fully competitive enterprises in the longer term."

CONCLUSION

By encouraging structural changes in our respective steel industries we can avoid defensive domestic policies. We can, through a positive policy of modernization, maintain high standards of living for steelworkers and provide economic security to steel-dependent communities. To accomplish this goal, we need an international framework so that difficult decisions can be made in an atmosphere conducive to the avoidance of market disruptions. While the steel restructuring process is not dependent on trade actions, a potential for trade-related damage exists. The OECD Steel Committee, however, can play a positive role in facilitating necessary policy adjustments.

There are pressures on our steel industry to meet other social, occupational and environmental health obligations. Our union maintains that these commitments can be met even during the period of revitalization and modernization. The option to abandon these social requirements is nevertheless attractive, particularly if there is no assurance of an acceptable steel market once the modernization program is completed.

Our governments have the responsibility to develop industrial policies for steel. Through the OECD forum, they have the opportunity to coordinate national efforts at modernization to overcome any trade disruptions that might occur. As workers, we hope that the opportunity will be seized so that all of our nations can achieve stable, productive, and profitable steel industries.

President McBride has also spoken on the importance of health and environmental regulation. In a meeting with the Congressional Steel Caucus last September, he stressed the value to steelworkers of the gains made so far in safety and health protection. Because I believe that the position of the steelworkers must be an important part of our national debate on steel policy, I am also including these comments:

STATEMENT OF LLOYD MCBRIDE, PRESIDENT, UNITED STEELWORKERS OF AMERICA

The formation of the House Steel Caucus arose out of the traumatic atmosphere caused by the announcement of the shutdown of the Youngstown Sheet & Tube mills at Youngstown, Ohio. The Caucus has responded to the legitimate concerns voiced by the communities and workers who are dependent upon steel mills for their livelihood. Through your efforts the government has sensitized itself to the impact that market factors and governmental economic policies—particularly trade policies—have upon the steel industry.

We have expressed our support for the government initiatives to arrest unfair import penetration caused by the dumping of foreign steel. The decision to institute the trigger price mechanism was a positive recognition by the administrative agencies that this adverse economic pressure—namely, unfair trade competition—should be controlled. The subsequent trade negotiations and legislative revision of our trade laws, which gave special attention to dumped or subsidized imports, represented additional positive understandings that these economic situations, in which the domestic steel industry functions, should be changed. The Steel Caucus has substantially contributed to the new public policy attitude regarding the steel industry.

This shift in public policy has taken place, nevertheless, at a period of time during which other legislative policies were beginning, administratively, to take hold. I refer, of course, to the whole range of public health regulations as promulgated and enforced by OSHA and EPA. The position of our union has been that these social responsibilities of industry, including the steel industry, must be met. We cannot justify the extension of economic relief to include relaxation of safety and health regulations. The health and safety of the communities and the workers are of no less value than productive activity. While we should not trade one off for the other, we have long recognized that the choices are not so stark. The regulatory agencies have no such stringent authority. Enforcement pressure develops incrementally—over a long period of time. The EPA ambient air quality standards of 1970 will reach—hopefully—full implementation only in 1982—twelve years later.

To the degree that the standards cause an economic burden our union recognizes that certain tax policies do ameliorate the pressure. Further liberalization of tax relief is certainly appropriate for retrofit requirements. In addition, direct loan programs under the Economic Development Administration (EDA) are a proper response to companies with current cash flow problems.

Many times, however, the EPA dilemma arises not so much from economic or technology infeasibility but rather from the fact that the company is being pushed to advance its decision relative to the continued operation of a particular plant. Relaxation of health regulations will not change the ultimate decision as to whether the facility will be shutdown.

I am pleased to remark today that the compliance status of the steel industry has undergone a remarkable change in just one year. In July of 1978—one year after the passage of the Clean Air Amendments of 1977—only 29% of industry was in compliance or on compliance schedules. Now some 52% of the plants are in such a posture.

This is a credit both to the industry and EPA enforcement officials who were able to approach the issue of compliance from the position of negotiation rather than confrontation. There is enough flexibility within the law so that environmental compliance can be obtained and modernization needs be met.

Additionally, I must emphasize that compliance with environmental health regulations have a direct bearing upon recognition of occupational health obligations. Our union acknowledges this connection and remarks on it for your attention.

Diminution of health concerns and the regulatory programs for their attainment will not ameliorate basic economic problems of a failing plant but will most assuredly deteriorate lungs and other organs of workers and community residents.

Before commenting on specific legislative issues that have been proposed by the steel industry and others, I would like to emphasize the significance of the negotiations that have been conducted between EPA and individual steel companies over the past year. A number of agreements have been reached: Republic at the Youngstown/Warren works, Wheeling-Pittsburgh company-wide, and U.S. Steel at the nine Mon Valley plants. Additional negotiations are currently being conducted for company-wide agreements with Bethlehem, the remaining U.S. Steel facilities, and other companies.

These agreements are extremely important. They signal the fact that compliance is possible and near at hand. They show the flexibility and the realistic nature of the Clean Air Act. Perhaps most important, they show that the industry is embarking on a planned program of modernization, and that our clean air goals can go hand in hand with the modernization.

The following is a discussion of specific legislative issues that have been raised.

ACCELERATED TAX WRITEOFF FOR POLLUTION CONTROL

We can accept the notion of accelerated depreciation of pollution control equipment for tax purposes. This tax change, of course, would apply to control expenditures by any industry, not just the steel industry.

Admittedly this would be a subsidy to industry. It would, however, be a legitimate advancement of the social policy of pollution control. When the government intervenes in the marketplace to change the rules—in this case to require the internalization of pollution costs—it is not unreasonable to expect the government to help affected parties pay the costs of that action. We cannot accept, however, the proposal that the replacement of an entire production facility qualify as a pollution control expenditure for these purposes. The replacement of a production facility is never made solely for pollution control, but is made for a host of economic and technological reasons.

LIMITED LIFE FACILITIES

EPA has established a policy that allows continued operation, through 1982, of limited life facilities that are going to be replaced, and steel companies have been taking advantage of it in their recent negotiations with EPA. This date is consistent with the Clean Air Act's deadline for attainment of primary ambient air quality standards.

The EPA policy seems reasonable and consistent with public health policies; we see no reason for a policy extending beyond 1982.

Every facility eventually becomes a "limited life facility" and thus there is a need to end the limited life policy at a logical date to avoid the policy from becoming an endless string of variances.

It should also be noted that preferential treatment for limited life facilities strains an already tight situation in nonattainment areas. In these areas, reduced effort by any source exacerbates the public health violation, and uses up air space that might be used for new or expanded facilities in the area.

The EPA policy applies to three types of situations:

(1) *Complying facilities that are going to be replaced.*—If they meet current control requirements they will not have to install any more controls. They must post a bond to assure that the replacement comes on stream by 1982.

(2) *Non-complying facilities that are going to be replaced.*—If they are currently in

violation but post a bond to assure replacement by 1982, they may be required to add additional minimal controls in the interim.

(3) *Non-complying facilities that are not going to be replaced.*—If they are currently in violation, but have no intention of adding any further controls and are not going to be replaced, EPA will allow a short delay of the shutdown (up to 3 months) to minimize disruption of the community.

BUBBLE POLICY

EPA has proposed a bubble policy to allow flexibility in air pollution control. The concept permits facilities to choose the most cost-effective mix of emission controls among the different emission sources at the facility, as long as total plant-wide emissions are not increased.

We have supported the bubble policy, with the condition that only similar emissions, with similar health effects, be traded off one for another. Thus, coke oven emissions should not be traded with control of fugitive road dust. We have also insisted that the bubble policy should not be permitted in any situation where it would lead to increased exposures to any group of workers in the plant.

DEFERRAL OF SIP REVISIONS AND/OR PARTICULATE STANDARD

The steel industry has recommended that states not be required to revise their implementation plans until the ambient air quality standards are reviewed and revised. Alternatively, they have agreed that the particulate standard not be enforced until it is revised.

We do not support either recommendation. The ambient standards are now on a regular schedule of periodic review. To suspend enforcement activities whenever those reviews are taking place would completely disrupt enforcement efforts. To defer SIP revisions would throw into disarray all schedules in the Clean Air Act, which are geared towards attainment of the health standards by 1982. In addition, it is safe to assume that any revised standards will be tied up in court for a lengthy period after they are promulgated. Thus, any delay in enforcement would be a prolonged one.

PENALTY CREDIT

The steel industry has asked for a greater credit against noncompliance penalties than EPA has proposed. We feel the EPA penalty structure is reasonable, and that it is consistent with the congressional intent of removing the economic benefit companies gain by noncompliance.

The EPA proposal does allow pollution control capital expenditures to offset part of the penalty. But it does not allow the operating and maintenance part of the penalty to be offset until the control equipment is actually operating. The industry proposal would allow the entire penalty to be offset by capital expenditures, thus entirely removing the penalty before the pollution control equipment is in operation, and allowing the company again to profit from noncompliance.

ADDITIONAL TIME FOR SIP REVISIONS

There have been proposals in Congress to allow states an additional year to submit their revised implementation plans. We see no need for any such legislation.

EPA has established policies regarding the SIP revision process that will allow most states to avoid the sanctions under the Clean Air Act if they are making good faith progress. Most states have been making such progress, and all but a very few states have submitted their plans.

ENERGY MOBILIZATION BOARD

We are opposed to allowing the Energy Mobilization Board to waive substantive requirements of law for energy projects. The Board should be allowed to cut red tape and speed up decisions relating to priority energy projects. However, it should not allow those projects—which may involve substantial hazards—to ignore occupational and environmental health requirements.

In addition to the fact that there is no justification for exempting the energy projects from health and other legal requirements, allowing substantive waivers would create pressures from other industries to receive waivers as well.

In fact, amendments have been proposed to allow coke ovens to qualify as priority energy projects under the Board's purview. This is nothing but an attempt to profit from the crisis atmosphere of the energy situation by using it to escape environmental and worker health responsibilities. It is unjustified, and we oppose it. ●

● Mr. APPLEGATE. Mr. Speaker, as we know, the steel industry is in its worst financial condition since the economic recession in 1975. Part of the problem stems from the excessive Government regulations concerning environmental pollution.

There is no doubt that we must protect our environment and safeguard it for the future; however, this cannot be done overnight, it is a gradual process.

The steel industry has spent nearly $4.4 billion for pollution control with another $1.24 billion already committed. Further, it is estimated that these types of capital expenditures will average $700 each year through 1984. Two major steel companies affecting my district alone, Weirton Steel and Wheeling Pittsburgh Steel have spent exhorbitant sums of money on pollution control equipment. In fact, Wheeling Pittsburgh has spent over $120 million in the past 10 years and still must spend an estimated $70–$80 million before reaching full compliance with environmental regulations. Because these expenditures are nonincome generating, they place an extreme financial burden on the industry and prevent these monies from being used for vital capital improvements.

Last year the Business Round Table conducted a study of 48 of its member firms to determine the added costs caused in 1977 by just six regulatory Federal agencies and programs. Estimates of the annual cost of Federal regulation alone to U.S. industry have ranged from $79 billion a year to as much as $150 billion. The Business Roundtable study revealed that a total of $2.6 billion, which was equal to about 16 percent of a companies' net profits, was spent in 1977 for the entire U.S. economy. Most significantly, the study found the Environmental Protection Agency responsible for 77 percent of all the added costs, while the much criticized Occupational Safety and Health Administration accounted for only 7 percent.

These excessive environmental regulations placed upon the steel industry prevent it from being competitive with the persistent importation for foreign steel. The cost for these pollution controls are passed on to other segments of the economy and eventually the consumer pays the price. Unfortunately, the price is so high that consumers cannot afford to "buy American" and turn to foreign imports. We have seen its affect on the auto industry brought on by a great influx of foreign imports.●

● Mr. O'BRIEN. Mr. Speaker, in concluding our 3-day colloquy on problems of the American steel industry, I will focus on the environmental problems associated with steel production.

In the last 17 years, the steel industry has spent $6 billion for environmental control costs. An independent study has concluded that an additional $7 billion will be spent over the next decade to comply with current environmental standards. Environmental expenditures averaged 17 percent per year of the steel industry capital investment during the 1970's. That average will increase during the 1980's.

Although some environmental equipment is eligible for a faster depreciation write-off, the majority of equipment purchased is subject to the same tax schedules as are other capital expenditures. We are the only government which requires its industry to meet such strict standards. And those standards are fine. We should continue our environmental policy goals as technology becomes available. But, while we have established an environmental policy, we should not penalize our industry, particularly our steel industry, by forcing compliance at the cost of much needed modernization and expansion.

We can arrive at environmentally-safe trade-offs for the industry. We can change our tax structure to allow a faster tax write-off for environmental equipment purchases by following the example of our neighbors to the north and permitting environmental purchases to be depreciated over a 3-year period. The initial cost to Government may result in decreased revenues, but in the long run, Government will realize greater revenues because industry has been provided the necessary means to meet Government regulations, modernize and pursue new technology which will only mean greater profits.●

Mr. BENJAMIN. Mr. Speaker, the steel industry again presented the history and logic of the case against unfair trade practices in January 1980. The response of the executive branch has not produced an affirmative action.

The history of the development of the TPM, the Government's failure to vigorously enforce it, it's demise, the continued high level of imports and the developments since March—when United States Steel filed its dumping case—are well known. Foreign producers continue to dump massive quantities of steel in the U.S. market to keep their own capacity utilization high at the expense of U.S. producers, workers, communities and taxpayers.

We ask the administration to reinstate the TPM in a strengthened and restructured form that will remedy the serious and injurious defects which were experienced under the previous TPM.

In addition to reinstatement of a strengthened and restructured TPM, a limitation on imports should be considered for 5 to 8 years during the revitalization of the industry.

The justification for measures which would reduce imports quantitatively is that dumped and subsidized imports have caused such a degree of cumulative injury to the industry's financial health that no start can be made on the huge capital expenditures necessary to revitalize the steel industry unless producers can be sure that there will be substantial diminution in the level of subsidized and dumped imports, and that American producers are able to benefit from the demand growth which can be expected in this decade.

In the event that the administration needs evidence that foreign competitors are being subsidized and dumping steel in the United States, it need go no further than yesterday's announcement by the British Steel Company of its record $1.4 billion operating loss which followed 1979 losses of $736 million and 1978 losses of $1.05 billion. Yet, it shipped 19 million tons in 1979 and 15.5 million tons in 1978 and maintained a work force of 166,000—the difference being subsidized despite the mandate that it break even last March.

Through June, Japan has exported 3.4 million tons and the European community has exported 1.9 million tons of steel into the United States. Other countries have exported 2.4 million tons to the United States. It's conceivable, by interpolation of the recent GAO report, that more than 40 percent of that amount is dumped or subsidized. Conceivably, by use of the British Steel Company as an example, the figure could be considerably higher.

In 1977 the U.S. steel industry calculated that recovery was possible by having a system of fair trade in the marketplace. However, the Government concluded that enforcement of the 1974 Trade Act, per se, was not sufficient and urged competitiveness in the world market by capital formation and mitigation of environmental costs. Accordingly, the industry has urged:

In capital formation:

Enactment of the Jones-Conable Capital Cost Recovery Act;

Enactment of a refundable investment credit;

And in the environmental area:

Extension of deadlines to provide a 3-year deferment of environmental spending;

Modification of regulation concerning the bubble policy to permit the most cost-effective methods of compliance and inclusion of water as well as air;

Prompt promulation of water effluent guidelines setting BAT equal to BPT as was done for the rubber industry and is being considered for some others.

This triad has but one goal—to enable the accumulation of capital to modernize to increase productivity and assure competitiveness. A compromise of any aspect would necessarily require increased compensation in the others.

The provisions affecting import penetration and environmental relief can and should be implemented immediately by the administration. The enactment of the tax provisions requires support from the administration and enactment by the Congress.

Basically, industry and labor differ little on the goals to revitalize the steel industry and reindustrialize America. Unfortunately, the administration has shown little positive movement.

Mr. Speaker, I urge the administration to act now, and without hesitation or equivocation, through its Tripartite Committee. Any delay will certainly mean more layoffs, less jobs and continuing human suffering.

The program incorporated into our 3 days of general orders is practical. It should be initiated with two major caveats—any recovery must be turned into steelmaking and at existing facilities.

In the event that the administration fails to act, I can assure you that the Steel Caucus and the Congress will.

CROP DISASTER RELIEF ACT OF 1980

The SPEAKER pro tempore Under a previous order of the House, the gentleman from Minnesota (Mr. STANGELAND) is recognized for 5 minutes.

● Mr. STANGELAND. Mr. Speaker, as you know, many regions of our country have been experiencing extremely abnormal weather conditions this year. In several areas, these weather conditions, along with the rapidly increasing costs of crop production, are threatening to force many of our Nation's farmers out of business.

The Department of Agriculture currently offers payments to farmers in disaster-declared areas who have suffered severe crop losses caused by natural disasters. Although this assistance is available to some farmers severaly impacted by the weather conditions, unfortunately, a substantial percentage of the farmers in these areas cannot receive disaster payments because their crops are not covered under the existing program. Furthermore, in many of these emergency areas the most commonly grown crops are not even eligible for Federal crop insurance, so the farmers had no available means of protection even if they could have foreseen the difficult circumstances they now face.

Fourteen counties in my district in northwestern Minnesota were recently declared a disaster area due to drought conditions. These 14 counties provided over two-thirds of the sugarbeet and potato crops in Minnesota in 1979 and also provided over 60 percent of the State's flaxseed and sunflowers, yet none of these crops are currently eligible for disaster payment assistance and only a limited number of the farmers growing these crops had the option this spring of purchasing Federal crop insurance.

For this reason, I have introduced the "Crop Disaster Relief Act of 1980" to provide disaster payments to the producers of the 1980 crops of flaxseed, soybeans, sugarbeets, sunflowers, potatoes, and pinto beans for crop losses caused by natural disasters. This bill would establish a disaster payment program for these crops similar to that which is currently administered by the Agricultural Stabilization and Conservation Service. Farmers in disaster-declared areas would be eligible for payments of up to 60 percent of the value of what the crop would have been in a normal year. The payment rate for each crop would be that which is determined by the Secretary of Agriculture to be fair and reasonable in relation to the rate for which disaster payments may be made for the 1980 crop of wheat.

USDA emergency programs must be tailored to meet the needs of our country's agricultural community and I invite all of my colleagues to join me in supporting America's disaster-affected farmers by cosponsoring the "Crop Disaster Relief Act of 1980."●

CONGRESSIONAL REVIEW OF CENSUSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 10 minutes.

● Mr. CORCORAN. Mr. Speaker, I am introducing a bill today with the chairman of the Subcommittee on the Census, Congressman ROBERT GARCIA, that will provide the opportunity for greater congressional oversight over the various censuses performed by the Bureau of the Census in the future. My bill would provide that prior to each census, the Census Bureau will submit to Congress the questions that the Bureau intends to ask during the coming census. My bill would further provide a mechanism for a two-house veto of specific items that may be deemed to be too intrusive, offensive or in any way not in the public interest.

The Census Bureau takes a number of censuses, including the well-known decennial census, a great variety of economic censuses covering all industries, irrigation and drainage censuses, and agricultural and Government censuses. My bill would provide this oversight and veto option for all of these censuses.

Congress required the Bureau of the Census to perform these censuses. We then turned our backs on the resulting bureaucratic burden and refused to be held responsible for the nature and extent of questions asked. I believe that since we are requiring the Bureau to collect this data, we have an obligation to our constituents to retain some degree of control over the questions asked.

I am sure many of my colleagues received bitter complaints about some of the questions asked in the decennial census that was recently taken. Since we do not have the right of disapproval, it was very easy to say that we had no jurisdiction. It may be less easy, but it will certainly be more helpful to the people if, in the future, we can take remedial action if necessary prior to the taking of the census in question.

There has been much said about the need for Congress to regain control over implementation of congressional programs. I believe the censuses are a prime place to start because they affect each and every American. The censuses entail tremendous amounts of paperwork and can be extremely burdensome.

In addition, and of particular concern, refusing or neglecting to answer census questions, providing incorrect answers, or impeding collection of census data carry penalties ranging from fines of less than $100, to fines of $10,000, to 1 year of imprisonment. We have no right to exact such penalties while abandoning any attempt to protect the people from inappropriate questions. It is time we tried to lasso the beast and bring it back under control, and my bill will permit us to do this.

I urge my colleagues to support this bill at the appropriate time. I am including for the RECORD a list of the censuses, their frequency, and the estimated number of respondents, as well as the language of my exceedingly simple bill.

Census, frequency and respondents

Decennial—population and housing: Every 10 years; 80 million households.

Economic—covering all industries, including mining, construction, manufacturing, wholesale, retail and service: Every 5 years; 6.8 million businesses.

Government: Every 5 years; 80,000 Government units.

Agricultural: Every 5 years; 2.5 million farms.

Irrigation and drainage: Every 10 years; 7,500 irrigation units.

H.R. 7894

A bill to amend title 13, United States Code, to provide for Congressional disapproval of questions proposed to be included in censuses conducted by the Secretary of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter V of chapter 5 of title 13, United States Code, is amended—

(1) in the subchapter heading by striking out "AND USE OF SAMPLING" and inserting in lieu thereof "USE OF SAMPLING, AND CONGRESSIONAL REVIEW"; and

(2) by adding at the end thereof the following:

"§ 197. Congressional review

"(a) The Secretary shall submit to the Congress, not later than 18 months before conducting any census pursuant to section 131, 142, or 161, a report containing all the questions to be included in such census.

"(b) The Secretary may not include in the decennial census conducted pursuant to section 141(a) or in any census referred to in subsection (a) of this section any question which both Houses of Congress disapprove by concurrent resolution with respect to that census.

"(c) The Secretary may not include in the decennial census conducted pursuant to section 141(a) or in any census referred to in subsection (a) of this section any question which is not submitted with respect to that census to the Congress pursuant to section 141(f) of subsection (a) of this section.".

(b) The table of subchapters for chapter 5 of title 13, United States Code, is amended by adding after the item relating to section 196 the following:

"197. Congressional review."

SEC. 2. Subsection (f) of section 141 of title 13, United States Code, is amended—

(1) by striking out "committees of Congress having legislative jurisdiction over the census" and inserting in lieu thereof "Congress"; and

(2) in paragraph (3)—

(A) by inserting "in the case of a mid-decade census," immediately after "(3)"; and

(B) by striking out "appropriate" and inserting in lieu thereof "mid-decade".●

SPEECH OF PRIME MINISTER OF IRELAND CHARLES HAUGHEY TO FIANNA FAIL POLITICAL PARTY AT CORK, IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DOUGHERTY) is recognized for 10 minutes.

Mr. DOUGHERTY. Mr. Speaker, if I may, I would like to take the next 10 minutes to publicly address the House on a matter of great concern to me; that is, the ongoing tragedy that faces Northern Ireland. As the son of Irish immigrants, I am greatly concerned about the continuing inability to resolve this matter in a peaceful and positive way which will bring about the union of all of Ireland.

Mr. Speaker, some time ago I put a newsletter out in my district wherein I called for the unification of Ireland through peaceful means, and noted the activities in my district of two groups whose motives I found necessary to question, those being the Irish Northern Aid and the Irish National Caucus.

Mr. Speaker, many representatives of these groups had approached me and had expressed their very strong opposition to the then Lynch Government in Ireland. Indeed, they hailed the election of Charles Haughey as Prime Minister of Ireland because they thought he would more aggressively follow their course on the Union of Ireland. Many of them also, Mr. Speaker, supported attempts to remove the Irish Ambassador to the United States, Sean Donlon. Quite fortunately for Ireland, and America, Mr. Donlon has continued his role as Irish Ambassador to the United States.

Mr. Speaker, I rise tonight to call attention of the Members of Congress to a recent speech delivered by Mr. Haughey, the Prime Minister of Ireland, to his political party conference at Cork, Ireland, on Sunday, July 27, 1980.

Mr. Speaker, the speech follows:

TEXT OF SPEECH BY AN TAOISEACH (PRIME MINISTER OF IRELAND), MR. CHARLES HAUGHEY, T.D., TO MEMBERS OF THE FIANNA FAIL POLITICAL PARTY AT THE METROPOLE HOTEL, CORK, ON SUNDAY, JULY 27, 1980

Since taking office as Taoiseach I have, on a number of occasions, fully set out Government policy on Northern Ireland and Irish unity. In statements in the Dail and elsewhere and in press, radio and television interviews I have dealt with the major aspects of our policy. I believe that no reasonable person can be in any doubt as to where we stand, what our objectives are and how we seek to achieve them.

Despite this, however, recent statements by the leaders of the Opposition parties indicate that they seem to have been able to persuade themselves that there is some element of doubt or ambiguity about our policy and in particular with reference to its application in the United States. For our part, to put it no stronger, we are entitled to question whether this approach on the part of the Opposition parties is likely to serve the national interest or to promote the peace and reconciliation which all responsible people are seeking to achieve.

On the 13th December last, in the debate on the nomination of the Government, I said: "We totally reject the use of force as a means of achieving that end."

Later in that speech, I said: "We are determined that the principle of the rejection of force will be clearly translated into practice."

In the course of my speech to the Fianna Fail Ard Fheis on 16th February last, I said: "All but a tiny minority understand that violence can never bring a solution and that it serves only to perpetuate division and hatred."

Again in the course of my speech in the Dail on 29th May, I said: "We totally reject force as a means of obtaining our aim. We seek our objective only by peaceful means."

I cannot, therefore, accept that there can be any genuine doubt in any quarter as to our attitude to violence whether it is politically motivated or sectarian in origin. We condemn and reject all such violence whoever commits it and for whatever purpose.

The principles I have stated have been translated fully into action. The strength and equipment of the Gardai (Police) devoted to fighting this kind of violence has been increased. There have been innovations in organisation and improvements in methods which have shown results. There has been widespread recognition of the successes of our security forces in the seizure of arms and explosives and in bringing those responsible for crimes of violence to justice. This is not to say that the Government is yet satisfied with the position.

We are dealing with a type of terrorism that is difficult to suppress fully and no government anywhere has been entirely successful in the area of security. We are determined, however, to take all the measures necessary for this purpose. A recent meeting between the Minister for Justice, the Attorney General, the Garda (Police) Commissioner and myself was devoted to ensuring that all the measures necessary to combat armed robbery and murder will be intensified and it was confirmed at that meeting that whatever resources are required for this purpose will be provided. The Garda Commissioner will shortly submit a plan outlining what additional measures can be taken to deal as comprehensively and effectively as possibe with the situation.

That is the record of what we have said and done here in Ireland. I believe that it is equally clear that there flows unambiguously from our total rejection of violence a corresponding rejection of the action of individuals and organisations at home, in the United States or elsewhere, who provide financial or any other support for the cause of violence.

That is our position and it has been so from the outset. A response to press queries, issued on my behalf as far back as 20th December last, underlined that the Government would continue to advocate that no support or encouragement should be given to any organisation in the United States which sends to Ireland funds which may be used in the promotion of a violent campaign in this country.

When I came to office, I indicated that there would be no departure from the fundamental policies of Fianna Fail on Irish unity. I have consistently maintained that the problem of Northern Ireland cannot be solved by security measures alone nor solely in the context of Northern Ireland. The whole situation must be raised to a new intergovernmental level that will bring permanent peace and stability to the peoples of Ireland and Britain.

I have made clear the view of the Government that any definitive settlement should take into account relations between North and South in Ireland, between Ireland and Britain, and between both parts of the community in Northern Ireland. I have suggested that the way would be opened towards political progress if the British Government were to declare their interest in Irish unity by consent and in peace, and their readiness to participate in the progress for achieving it. These are the essential elements of a policy designed to achieve peace in Northern Ireland. This policy was fully supported by the SDLP, representing a substantial body of opinion in Northern Ireland when I met them in Dublin last Thursday week.

The SDLP are deeply concerned, and we fully share that concern, about the increasing number of sectarian killings in Northern Ireland. We condemn these wanton murders, whoever commits them and urge that every possible effort be made to prevent them until a political settlement can bring permanent and lasting peace.

I believe that our policy on Northern Ireland is fully supported by the great majority of Irish people everywhere, not least among those 20 million Americans of Irish birth or descent. They subscribe to our view that Irish unity is the only eventual answer to the political problems of our country and I know that the vast majority of them favour the use of peaceful political means to attain that end.

It was clear as long ago as the mission of the late President De Valera in 1919, that the world of Irish-American politics and organizations is a vibrant and complex one. It has been so throughout this century. A variety of different causes and personalities exist. Groups and organizations come together, diverge and merge again. Alliances form and reform in a constantly changing pattern. It is a situation which must be handled on a practical basis from day to day with skill and discretion by those who are closely in touch with developments.

Clearly, there are individuals and organizations in a country as large and diverse as America whose outlook and actions will not be in line with the policy of the Government here on Northern Ireland. My belief is that these organizations and individuals are misguided and that many persons who subscribe to them do so out of genuine sympathy with the goal of Irish unity but without realizing the channels into which their subscriptions may be diverted. To the extent that some of them provide financial or moral support with full knowledge of the nature of the campaign involved we must deplore their actions.

And yet the sort of simple, ritualistic condemnations now demanded are not enough. We must seek to understand the sentiments and traditional loyalties of our compatriots in America and their feelings as exiles. It can be no part of our policy to deflect any Irish-American from supporting the achievement of Irish unity or expressing that support. On the contrary we welcome and encourage it.

But we must separate that legitimate wish and aspiration clearly from any whisper of support for violence and terrorism. That is the real task in America today.

That is the distinction which we must make and continue to make. What is required is not mere condemnation as such but effective action to provide those who are in sympathy with the objectives of Irish unity with an alternative—a clearly defined Irish Government policy to which they can dedicate themselves. This is a need also stressed by our friends among the major political leaders in the United States: a clear objective and a policy which Irish-Americans can support and evidence that progress is being made towards that objective, through the implementation of that policy.

For over a hundred years, those charged with the leadership of our people have recognised the potential influence of that great number of Americans of Irish origins and have sought to harness it to help in the attainment of national objectives. We acknowledge and pay tribute to so many of the American-Irish who have laboured on Ireland's behalf. In recent years, we have been fortunate in having the support of major U.S. Congressional and State leaders—Speaker Tip O'Neill, Senators Edward Kennedy and Patrick Moynihan, Governor Hugh Carey, Congressman Thomas Foley and many others—who share our approach and objectives and who have made a substantial and greatly valued contribution in promoting progress towards these aims. I have, during the week, received encouraging and sustaining messages of support for the policy which I have enunciated from those leaders.

There can be no doubt that all American men and women of Irish birth and descent wish our country well and that Ireland's welfare is close to their hearts. But free American citizens do not welcome dictation. What is required is leadership and guidance. Experience has shown that repeated denunciations by government leaders of the type now sought can be to some extent counterproductive, particularly in a country where the freedom of the individual to decide for himself is so highly valued and cherished.

I would not wish to present any organisation sponsoring or supporting violence with gratuitous publicity which, however adverse, may have the very opposite effect to that intended. The efforts of the Government will be directed primarily at promoting our own positive policies on as wide a front as possible. By winning support for them everywhere we can isolate the men of violence.

Nevertheless, since opposition spokesmen have provided these peripheral organisations with the sort of free publicity on which they thrive, I believe that not much more harm can be done by dealing with specific organisations on this one occasion. There is clear and conclusive evidence available to the Government here from security and other sources that NORAID has provided support for the campaign of violence and indeed direct assistance in its pursuit. On the basis of these activities, it stands condemned and I appeal to all in America who have the interests of Ireland at heart not to give this body any support, financial or moral.

The evidence available to us also of the associations that exist between NORAID and the Irish National Caucus casts grave suspicion on the latter organisation. That is not to say that there are not among the members of that body or its supporters, many fine people who are not aware of its undesirable associations. It is important that they should be aware of the realities. The situation in Ireland today is such that no individual, whether private citizen or elected member of Congress, should by any statement or association, lend support to those whose actions serve only to delay Irish unity. I say now to all supporters of the bodies I have mentioned that they should carefully consider whether the cause they profess to serve would not now best be served by uniting in firm support of the policy of the Irish Government which is directed towards bringing about the unity and prosperity of the Irish people.

Our wish is to see all Americans of Irish descent and their friends rally behind the positive policies of the Government, satisfied that they have an objective worthy of support and convinced of the reality of our prospects of success through peaceful, political means. And I wish to send this message to all our friends in that great democracy and especially to our own kin. We at home draw great strength and encouragement from your close interest in Ireland and are grateful for your support for our efforts to unite our people and to promote their welfare. It is our deepest wish that you will always continue to do so.

□ 2030

LEGISLATION FOR IMMEDIATE DEPORTATION OF FOREIGN NATIONALS IN VIOLATION OF IMMIGRANT STATUS

The SPEAKER pro tempore (Mr. Atkinson). Under a previous order of the House, the gentleman from Illinois (Mr. Hyde) is recognized for 5 minutes.

● Mr. HYDE. Mr. Speaker, the American people are patient, humanitarian, and above all, reasonable. But there does come a point when these virtues can be pushed to a point beyond which they can no longer be rightfully sustained.

We face just such a situation now where some 200 Iranians arrested on Sunday, July 28, now being held in the District of Columbia jail for having engaged in violent demonstrations, defiantly refuse to identify themselves to our Government authorities.

The presumption is entirely reasonable that they refuse to identify themselves because most of them are here illegally and, therefore, subject to deportation.

I am introducing legislation today which will permit our Government to proceed expeditiously to resolve this impasse which calls for stern and direct action.

This legislation provides that foreign nationals who are arrested for a breach of the peace and refuse to provide identification to police authorities are presumed to be in violation of their immigrant status and subject to immediate deportation.

FOREIGN POLICY STATEMENT ON THE REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 10 minutes.

● Mr. DERWINSKI. Mr. Speaker, the Carter administration foreign policy has followed one disaster after another. This has been especially true in our policy in Asia.

Breaking with the careful policy of past administrations, the Carter administration abruptly broke diplomatic relations with our longtime friend and ally, the Republic of China on Taiwan, and established diplomatic relations with the People's Republic of China strictly on the terms of the Chinese Communist leadership. The Carter administration also broke our mutual defense treaty with the Republic of China on Taiwan. Although our purpose was to seek stability and peace in Asia, our Government leaders did not even request from the Chinese Communist leadership a pledge not to take Taiwan by force.

We witnessed recently the return of Senate majority leader Robert C. Byrd from a trip to the People's Republic of China. In an enthusiastic report, he embraced all the grandiose schemes of the present leadership in Peking and urged us to continue our growing economic and political relationship with Communist China. He expressed the opposition of the Chinese Communist leadership to the U.S. plans to sell defensive weapons to the Republic of China on Taiwan.

By coincidence, I traveled to China in 1975 with Senator Byrd, and that was his first trip to the People's Republic. Some of the observations I made at the time are still true. I said then that there is little doubt that the average Chinese is better off than he was in 1949 (after decades of civil wars and foreign invasions). The important point to ask, however, is whether or not the mainland Chinese would have a better life today under a free and democratic government. There is, in fact, no comparison between the economies of the People's Republic of China and the Republic of China (Taiwan). As recently as May, I visited the Republic of China and can thus make some comparisons. Although

Taiwan has far fewer people and much less in the way of material resources, its annual GNP is now about $700 per capita, while the per capita GNP of the mainland is only about $240. The rice output per acre is 50 percent higher on Taiwan than on the mainland. The Chinese on Taiwan have made their small country the second wealthiest in East Asia, after Japan, on a per capita basis. They have built up a large and growing international trade; if present trends continue, Taiwan will be our seventh largest trading partner in 1976, ranking just behind France and Italy.

I also said that even more important than the vast material differences between the two Chinas, however, is the all-important fact that there is no freedom of thought or expression under the Peking regime. Communist China in one sense can be pictured as a vast prison, with every aspect of human life controlled by an autocratic government—so far as is humanly possible. Even those Western visitors who have returned to praise China admit that they themselves would not want to live there.

It is apparent that Chinese government officials can completely ignore any pressure from their peoples for making more consumer goods available since there is not any opposition or even free speech within the country. They have absolute control of all the peoples in the country, including the so-called minorities, the non-Chinese national groups that are scattered throughout the country but are also concentrated in Sinkiang and Mongolia. The government authorities are hard at work eradicating the traditions and beliefs of the non-Chinese ethnic groups, superimposing Maoist dogma upon them. Without the need to bend to public opinion, decisions in government are obviously easy to make, and when wrapped in the aura of the teachings of Mao, total national compliance is clearly possible.

I believe very strongly that we must keep in mind that close to 900 million people are living under a totally regimented society, subject to as intense and effective political propaganda as any government ever directed towards its people. Given our economic principles, the inspiration and ideals of the American way of life, our very legitimate role in world affairs since the turn of the century, we must be constantly aware of the fundamental differences between our system and that of the Communist rulers of the People's Republic of China. Since the Chinese Communists feel that the United States is wrong in pursuing détente with the Soviet Union, we should be equally careful in pursuing the Chinese equivalent of détente with the rulers in Peking.

It is important that we keep Taiwan a strong power in Asia so as not to encourage any aggression by the People's Republic of China. The current administration gives out conflicting signals over which way it will go but it has so often followed a policy which undercuts our allies and rewards our enemies. Support for a peaceful and stable Asia is a nonpartisan issue. It is in the best interest of the United States to keep strong allies such as the Republic of China on Taiwan, Japan, and South Korea in a powerful position.

I am pleased that the Republican platform set forth some essential principles in our dealings with Asia. It gives a clear direction for a new Republican administration. It also contains some solid ideas and principles for the Carter administration to consider before we suffer total disaster in Asia. I would like to enter the section entitled "Asia" in the Republican platform in the Congressional Record:

Asia and the Pacific

The United States is and must remain a Pacific power. It is our vital interest to maintain U.S. guaranteed stability in the area Republicans recognize the dangerous shifts in power that have accelerated under the current Democratic Administration. The balance on the Korean peninsula has shifted dangerously toward the North. Soviet naval forces in Asia and the Pacific have steadily increased and are now at least equal to U.S. naval forces there. Unilateral cancellation by the United States of the mutual defense pact with Taiwan and the abrupt announcement of withdrawal of U.S. ground forces from Korea, have led countries throughout the region to question the value of alliance with the United States.

A new Republican Administration will restore a strong American role in Asia and the Pacific. We will make it clear that any military action which threatens the independence of America's allies and friends will bring a response sufficient to make its cost prohibitive to potential adversaries.

Japan will continue to be a pillar of American policy in Asia. Republicans recognize the mutual interests and special relationships that exist between the two countries in their commitment to democracy and in trade, defense, and cultural matters. A new Republican Administration will work closely with the Japanese government to resolve outstanding trade and energy problems on an equitable basis. We strongly support a substantially increased Japanese national defense effort and reaffirm that our long-range objectives of military security and a balancing of the expanded Soviet military presence in the region are of mutual interest.

Republicans recognize the unique danger presented to our ally, South Korea. We will encourage continued efforts to expand political participation and individual liberties within the country, but will recognize the special problems brought on by subversion and potential aggression from the North. We will maintain American ground and air forces in South Korea, and will not reduce our presence further. Our treaty commitments to South Korea will be restated in unequivocal terms and we will reestablish the process of close consultations between our governments.

We reaffirm our special and historic relationships with the Philippines, Singapore, Malaysia, Indonesia, Thailand, New Zealand, and Australia. Republicans will recognize the long friendship with these countries and will cultivate and strengthen our diplomatic and trade relationships.

We deplore the brutal acts of Communist Vietnam against the people of Cambodia and Laos. We recognize that the suffering of refugees from these ravaged countries represents a major moral challenge to the world and one of the great human tragedies of modern times. A Republican Administration will work actively to bring relief to these suffering people, especially those who have sought refuge in Thailand. We value the special contribution the people of Thailand have made to the refugees by opening their borders and saving hundreds of thousands of them from death, and we pledge to provide full economic aid and military material to assist Thailand in repelling Vietnamese aggression.

We believe that no expanded relations with Communist Vietnam should be pursued while it continues its course of brutal expansionism and genocide. We pledge that a Republican Administration will press for full accounting of Americans still listed as missing in action.

Recognizing the growing importance of the People's Republic of China in world affairs, Republicans—who took the historic initiative in opening the lines of communication with that nation—will continue the process of building a working relationship with the PRC. Growing contacts between the United States and the People's Republic of China reflect the interests of both nations, as well as some common perceptions of recent changes in the global military balance. We will not ignore the profound differences in our respective philosophies, governmental institutions, policies, and concepts of individual liberty.

We will strive for the creation of conditions that will foster the peaceful elaboration of our relationship with the People's Republic of China. We will exercise due caution and prudence with respect to our own vital interests, especially in the field of expanding trade, including the transfer of sophisticated technology with potential offensive military applications. The relationship between the two countries must be based on mutual respect and reciprocity with due regard for the need to maintain peace and stability in Asia.

At the same time, we deplore the Carter Administration's treatment of Taiwan, our long-time ally and friend. We pledge that our concern for the safety and security of the 17 million people of Taiwan will be constant. We would regard any attempt to alter Taiwan's status by force as a threat to peace in the region. We declare that the Republican Administration, in strengthening relations with Taiwan, will create conditions leading to the expansion of trade, and will give priority consideration to Taiwan's defense requirements.●

THE CARTER ADMINISTRATION THWARTS PRO-LIFE COURT DECISION ON HYDE AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 10 minutes.

● Mr. ASHBROOK. Mr. Speaker, at this very moment, in spite of the Supreme Court's decision in which the Hyde amendment was ruled constitutional, in spite of the Hyde amendment's restrictions therefore now being the law of the land, in spite of article 1, section 9, clause 7, of the Constitution which states:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

In spite of all this, Federal funds, our tax-dollars, are still flowing out of the U.S. Treasury to pay for elective abortions.

The administration, in particular the Department of Health and Human Services, could move to stop this flow of tax dollars into the pockets of abortion practitioners. It has not done so. Instead, the Health Care Financing Administration of the Department of Health and Human Services, in a telegram on July 2, advised its field offices that a 10-day written notice is required when there is to be a reduction in "benefits." In another telegram on July 16, it advised that a petition for rehearing was expected to be filed by the plaintiffs and that the effective date of the decision, then, would be stayed while the court considers the petition. In other words, do not stop paying for the abortions until further notice.

When the petition for rehearing was filed on July 25, the Carter administration took no counteraction. Nor has it taken any action since. The administration could and should have asked the Court for a motion to expedite a conference to decide this petition. This deliberate inaction is especially shocking in light of the July 16 telegram which clearly shows that HCFA expected just such a petition.

The administration, through the HCFA, has advised its officers not to discontinue this spending and thus not to comply with the Supreme Court's decision on the Hyde amendment. But there was no such hesitation 5 months ago when the now invalid Dooling order was first issued. At that time the Department of Health, Education, and Welfare immediately advised its field offices by telegram that Federal money would be available for abortions in spite of the Hyde restrictions. The Carter administration seems to have two conflicting policies on abortion-related court orders: It leaps to obey if the order is anti-life, but drags its heels if the order is pro-life.

Today, money still flows from the Treasury to pay for abortions at the rate of approximately a thousand a day not by court order, but this time by administrative edict. The congressional will as well as the Constitution itself is being twarted by a total lack of concern and consequent inaction on the part of the Carter administration, which has allowed its administrative officers to ignore the Constitution.

The decision to delay implementation of the Court ruling by the administration is based on the most flimsy legalistic grounds. It shows an outrageous contempt for constitutional processes. We cannot let it stand unchallenged.

It is clear from this sequence of events that the administration, specifically the Department of HHS, wants to keep the money flowing out of the Treasury, regardless of what Congress says, regardless of what the Supreme Court says, and regardless of what the Constitution says.

Clearly, this is an injustice. It does injustice to the decision of the Court; it does injustice to the Congress, to the Constitution, to taxpayers who object to their money being spent for the annihilation of the unborn, but most of all it does injustice to countless unborn human beings who have the misfortune to have been conceived in a country where abortion is legal.

We cannot tolerate this outrage. We demand that the administration take immediate action, that it ask the Court for a motion to call a conference on this matter immediately. To allow this to continue another day is to flout, not only the spirit but also the letter of the Constitution.

One of the reasons for the great frustrations out there, Mr. Speaker, is the feeling that no matter what the majority thinks, or wants, it is business as usual. Even where life is involved, business as usual.●

INTRODUCTION OF TARGETED DEPRECIATION BILL: THE KEY TO INDUSTRIAL POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 15 minutes.

● Mr. VANIK. Mr. Speaker, I am today introducing legislation providing for targeted depreciation tax relief designed to insure the vitality of key industries.

There is a broad consensus that American industry's investment and modernization efforts are not keeping pace with inflation. Our industrial plant is old and in many cases, antiquated. Our productivity gains have disappeared. Production bottlenecks are occurring througout the economy. Our exports are lagging and we are under increasingly severe pressure from import competition.

There are many reasons for these problems—and the solution to this "industrial crisis" involves the full range of Government programs and requires new approaches by industry and labor.

There is, however, one major step which we can and should take to reverse the deterioration of our industrial plant and encourage the expansion of job-creating, high growth industries: Shorten the depreciation schedules for certain key capital equipment items required for efficient and modern production of goods and services.

The bill I am introducing provides for shorter depreciation schedules for equipment and processes used: First, in high technology, job-expanding industries of the future, and second, in key industries where modernization has lagged and were rebuilding must occur in order to produce efficiently in the face of international competition.

The bill is a keystone in the development of a job-creating national industrial policy.

The bill relies on the private sector to advise the Secretary of the Treasury on the depreciation schedules which are most in need of change. The private sector advisory process is based on the very successful consultative mechanisms included in the Trade Act of 1974, which led to last year's 395 to 7 approval of the Trade Agreements Act of 1979. This advisory process is designed to build the consensus needed for the designation of certain targeted depreciation changes. In a sense, it is modeled on the Japanese concept of "concensus building" for the development of an industrial policy.

The bill provides for the establishment of a national council for industrial innovation and reconstruction, composed of 30 members from business and labor, the academic community, representatives of consumer groups, and independent financial analysts. This council, in a cooperative effort with the Secretary of the Treasury, would gather information concerning depreciation schedules and their impact on particular industries and their workers and recommend needed adjustments in these schedules.

The process of gathering information would also entail detailed input from various sector advisory subcommittees appointed by the Secretary, and annual council hearings on requests for depreciation adjustments. By June 30 of each calendar year, the council would be responsible for submitting to the Secretary a report recommending adjustments for the following fiscal year to the various depreciation schedules. On September 15 of each year, the Secretary would announce depreciation changes effective for the coming (and subsequent) fiscal years.

The cost of implementing the council's annual recommended depreciation adjustments would be limited to a total revenue loss of about $15 billion over a 5-year period. While it is difficult to estimate these revenue losses, the bill assumes a first year one-half billion dollar cost rising to $7 billion in the fifth year. Since each year new recommendations are made—in addition to the continuation of previous adjustments—the cumulative 5-year cost of the bill would be $30–$35 billion.

While this is an enormous loss of Treasury funds, it is only one-quarter the size of the revenue loss estimated for H.R. 4646, the principal tax depreciation bill pending before the Congress (see discussion below). Yet I believe that because this bill concentrates its relief on the sectors which need it the most, it will be able to accomplish more than the H.R. 4646 legislation for only one-fourth the cost.

The National Industrial Innovation and Reconstruction Council would base its recommendations to the Secretary on a number of factors. Each year's new adjustments in depreciation schedules would be divided roughly equally between high-growth, high technology industries of the future (so as to encourage their further expansion, hiring, and export performance) and key basic industries which have lagged in their modernization efforts and which face heavy import competition and retooling costs. Industries such as semiconductors, robotics, biochemistry, and telecommunications would fall in the first category; steel, railroads, and autos come to mind as industries which would fall in the second category.

The recommendations of the council—and the adoption of those recommendations by the Secretary—would also give consideration to the announced plans of the industry to invest and to assist in its reconstruction through salary and wage moderation.

Another depreciation bill, the Capital Cost Recovery Act (known as the Jones-Conable 10–5–3 bill) has been introduced and cosponsored by a majority of the House and Senate. It would provide for depreciation schedules of 10 years for structures, 5 years for capital equipment, and 3 years for vehicles. It would also improve the investment tax credit treatment of certain short-lived equipment.

I believe the 10-5-3 bill is far too expensive; Treasury estimates that it will have a 5-year revenue loss of about $122 billion. It is incredibly wasteful: It provides investment incentives to industries which do not need it, while others need much more than is provided by 10-5-3. It encourages real estate speculation and the construction of new buildings and shopping centers—yet the core problem facing America is the quality of the machinery and goods we place in our buildings. We do not need new buildings—we need new machine tools and industrial processes. Further, there is no guarantee that the cash flow from 10-5-3 will be used for further reinvestment and modernization of basic industries. It may be used to buy sugar futures, build new gambling casinos, or open a Swiss bank account.

I do not believe that we can afford to indiscriminately scatter tax incentives over the entire economy. Rather, we need to target the industries which need the help and which have the most potential for growth.

The process of targeting depreciation will not be easy. It will be a political cat fight. But that is the essence of industrial policy: making hard choices. The Japanese do it. We can—and we must. The 10-5-3 bill avoids those hard choices—and thus will leave America's declining industries and America's high-technology, futuristic industries no better off than before.

For the past 3½ years, I have served as the chairman of the Ways and Means Trade Subcommittee. During that time, I have continuously heard from a sorry parade of industries and workers who feel that they can no longer compete internationally and that they are being wiped out by imports produced more efficiently and at lower cost in foreign nations. It has become crystal clear to me that the Nation's trade problems will only become worse—and that cries for protectionism will become irresistible—unless we restructure and remodernize our domestic economy.

The bill I have introduced today is designed to respond to the trade problems confronting our Nation as well as to improve the quality and price of the goods and services provided domestically.

I believe this bill is the most effective and the least expensive way to achieve this fundamental goal.●

HOUSING SURVIVAL ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the housing industry is in serious trouble and it is looking to Congress for answers. For that reason, I am introducing today along with Congressmen VENTO, and HYDE, the Housing Survival Act of 1980.

The sole purpose of the Act is to provide an orderly flow of funds into thrift institutions which can then be made available for mortgages.

The problems of the housing industry do not require complicated Government programs to be solved. The housing industry functions at its best when there is a plentiful supply of mortgage money at reasonable interest rates. When interest rates increase and mortgage funds dry up, the housing industry and related industries suffer directly.

Various sources have put forth estimates of damage done to the housing industry by current interest rates and mortgage money shortages. While there may be discrepancies in the magnitude of problems, not one economist, financial writer or economic analyst has suggested that there is not a problem in the housing industry.

Early this week, Members received a letter from the National Association of Home Builders which I feel quite dramatically outlines the magnitude of the problems faced by the home building industry. Housing starts in June 1980 were down 37 percent from the level of housing starts in June 1979. Unemployment in construction trades has reached 16.5 percent, with almost 1 million workers laid off. It is expected that the unemployment figure will rise to 22 to 24 percent by October. Building permits for June 1980 reached the lowest level since August 1975. And, in May of this year new home sales were nearly one-third less than they were for the same month in 1979.

The following chart prepared by the National Association of Home Builders outlines on a State-by-State basis total housing starts from 1978–1980 as well as the number of jobs lost in the construction industry in each State. In my own State of Illinois, housing starts are down more than 62 percent with nearly 79,000 jobs lost in the construction industry in the 3-year period.

Mr. Speaker, traditionally nearly three-quarters of all the new homes built in this country are financed by thrift institutions. It does not take much figuring to realize that in order to make more mortgage money available, there must be funds on deposit in the thrift institutions which can be lent for mortgages.

Congress has consistently reaffirmed its commitment to housing. It is time to backup that commitment with action. The Housing Survival Act of 1980 would allow thrift institutions to pay a quarter of 1 percent more on all savings accounts than could be paid by commercial banks. This authority would continue until June 30, 1987. This differential would apply to all accounts of less than $100,000, including money market certificates, but would not apply to transaction accounts such as the NOW accounts—negotiable order of withdrawal—which are combination savings and checking accounts. On those accounts, thrift institutions and commercial banks would be able to pay the same amount.

The legislation further provides that in establishing savings account rates the various financial regulatory agencies shall not set the rates above prevailing market rates. It is a nice thought to promise savers that they can get more money in a savings account than they can in other investments; everyone wants to earn more money. In cold hard realities, however, if savers are paid more on their accounts, then borrowers must pay more for their loans in order to make up the difference. Such a practice quickly increases mortgage rates and brings about more problems in the housing industry.

Certainly, people who do not plan to buy a house might not worry about home mortgage rates, but that is shallow thinking. Whenever one sector of our economy suffers, it has a ripple effect that reaches into every other sector of our economy.

Finally, the legislation would abolish the Depository Institutions Deregulation Committee, which was created under Public Law 96-221. The sole purpose of this committee was to quarterback the orderly phaseout of interest rate controls on financial institutions. Such phaseouts were to be accomplished over a 6-year period. Instead of following the congressional mandate and limiting itself to its narrowly defined role, the DIDC has sought to abolish interest rate controls almost immediately, and has quickly acted to establish itself as a super-regulatory agency.

Not only does this duplicate the efforts of similar work of our existing regulatory agencies but it also requires a large expense of taxpayers' money to finance the operations of the DIDC. Removal of the DIDC would not in any way alter the effectiveness of the operations of financial regulatory agencies and, I would add, that we have operated in this country for a long time without the DIDC. It would also mean a savings to taxpayers because it would do away with a totally useless Government agency.

Members of the House may recall that this was the same committee which was established to deregulate financial institutions. But the committee adopted as its first order of business a ban on allowing financial institutions to offer gifts or premiums to depositors. The Congress told the committee to deregulate—the committee instead chose to regulate.

The Housing Survival Act of 1980 would almost immediately put the homebuilding industry back on its feet and generate millions of dollars in taxable income because workers would return to productive jobs rather than remaining on welfare rolls. It would also do away with a tax-dollar consuming committee which serves no important function.

I urge all Members to consider carefully the Housing Survival Act of 1980 and to join me as a cosponsor of the legislation. If you wish to become a cosponsor, please contact the Consumer Affairs Subcommittee on extension 5-9181.

The housing industry is looking to Congress to help. Are you prepared to provide that help?

TOTAL HOUSING STARTS 1978-80 AND JOBS LOST, BY REGION AND STATE

[In thousands of units]

	1978	1979	1980	1978-80 change		Number of jobs lost
				Number	Percent	
Total, United States	2,021.0	1,744.0	1,008.9	−1,012.1	−50.1	1,615.4
Northeast	201.0	178.0	96.5	−104.5	−52.0	158.6
Connecticut	15.4	14.4	7.8	−7.6	−49.4	12.1
Maine	7.9	5.5	3.0	−4.7	−62.0	7.7
Massachusetts	20.9	20.2	10.9	−10.0	−47.8	15.5
New Hampshire	8.5	8.2	4.5	−4.0	−47.1	6.9
New Jersey	36.5	34.5	18.3	−18.2	−49.9	28.5
New York	42.8	37.5	20.8	−22.0	−51.4	30.7
Pennsylvania	58.3	47.5	25.5	−32.8	−56.3	50.2
Rhode Island	5.1	5.1	2.8	−2.3	−45.1	3.3
Vermont	5.5	5.2	2.9	−2.6	−47.3	4.0
South	823.0	748.0	466.9	−356.1	−43.3	383.4
Alabama	32.6	28.2	17.2	−15.4	−47.2	25.5
Arkansas	13.6	11.9	7.1	−6.5	−47.8	10.9
Delaware	2.9	2.5	1.5	−1.4	−48.3	2.6
District of Columbia	3.4	1.9	1.5	−1.9	−55.9	3.0
Florida	173.0	182.1	119.9	−53.1	−30.7	87.2
Georgia	47.4	52.7	32.1	−15.3	−32.3	28.1
Kentucky	26.3	22.0	13.5	−12.8	−48.7	21.3
Louisiana	41.4	32.4	19.5	−21.9	−52.9	35.5
Maryland	28.9	24.2	15.0	−13.9	−48.1	21.1
Mississippi	20.1	15.7	9.6	−10.5	−52.2	17.9
North Carolina	66.3	58.4	34.1	−32.2	−48.6	58.2
Oklahoma	29.0	24.8	14.1	−14.9	−51.4	25.2
South Carolina	30.8	28.3	17.2	−13.6	−44.2	23.0
Tennessee	39.3	31.9	19.0	−20.3	−51.7	32.1
Texas	209.2	180.8	115.4	−93.8	−44.8	148.4
Virginia	49.8	42.2	25.3	−24.5	−49.2	40.2
West Virginia	9.1	8.1	5.1	−4.0	−44.0	6.9
North-central	450.0	349.0	192.7	−257.3	−57.2	421.1
Illinois	79.8	50.8	29.8	−50.0	−62.7	78.9
Indiana	41.5	36.2	20.1	−21.4	−51.6	36.9
Iowa	23.4	18.0	9.8	−13.6	−58.1	22.3
Kansas	19.7	15.6	8.8	−10.9	−55.3	17.7
Michigan	63.9	52.4	28.5	−35.4	−55.4	57.6
Minnesota	42.3	33.7	18.0	−24.3	−57.4	40.9
Missouri	38.6	27.5	14.2	−24.4	−63.2	40.9
Nebraska	14.3	12.4	6.1	−8.2	−57.3	13.8
North Dakota	9.4	7.4	3.9	−5.5	−58.5	8.7
Ohio	66.1	57.5	33.5	−32.6	−49.3	51.2
South Dakota	9.3	7.8	4.0	−5.3	−57.0	9.2
Wisconsin	41.6	29.7	16.0	−25.6	−61.5	41.7
West	546.0	469.0	252.5	−293.5	−53.8	452.0
Alaska	10.0	6.4	2.8	−7.2	−72.0	11.6
Arizona	61.2	53.9	29.7	−31.5	−51.5	52.3
California	231.6	206.4	110.4	−121.2	−52.3	178.2
Colorado	44.1	37.0	19.3	−24.8	−56.2	39.9
Hawaii	8.9	9.9	5.3	−3.6	−40.4	5.4
Idaho	13.8	11.3	5.8	−8.4	−60.9	14.3
Montana	8.2	5.6	2.6	−5.6	−68.3	8.8
Nevada	25.4	19.6	10.7	−14.7	−57.9	21.4
New Mexico	14.5	12.3	6.9	−7.6	−52.4	12.4
Oregon	41.4	32.2	17.7	−23.7	−57.2	36.9
Utah	21.1	16.9	8.8	−12.3	−58.3	19.5
Washington	58.7	49.6	28.6	−30.1	−51.3	46.4
Wyoming	7.2	7.6	4.2	−3.0	−41.7	5.3

Note: Components may not add to totals because of rounding.

Source: NAHB Econometric Forecasting Service; data analysis by NAHB Economics Department. March 1980. ●

GOLD PLANK IN GOP PLATFORM A PRESCRIPTION FOR FINANCIAL DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, my colleague, JOHN CAVANAUGH of Nebraska, and I have observed that the Republican Party and its candidate Ronald Reagan have bought the idea that the dollar should once again be linked to "commodities."

What on Earth do they mean? Pork bellies? Sorghum? Sugar beets? If not these, they must refer to one of the only two commodities to which the dollar has ever been linked. The first is gold, the second is silver, which lately has been bouncing around wildly from $7 to $50 an ounce. Surely they do not want the dollar tied to silver.

What the Republican platform really has is a gold plank.

This curries favor with the newsletter writers, the gold dealers, and the other goldbugs in London and New York who favor return to the gold standard because it would make them multimillionaires.

But assuming Governor Reagan means to keep his pledge, it would mean disaster for the people of this country who would have to walk this plank of gold.

Because a return to the gold standard would make the value of the dollar depend on how much gold is mined and traded, it would render us powerless to fight inflation. In the heyday of the gold standard, inflation broke loose time and again when gold was discovered in California or Alaska or South Africa. Fortunately, the dollar was unlinked from gold, first by a Democratic President in 1933 and second by a Republican President in 1971.

The gold standard would lead not only to inflation but to certain depression. When, for one reason or another gold dries up, farmers, consumers and industry would run out of purchasing power, as has happened many times in the past.

Finally, it would turn our fortunes over to South Africa and the Soviet Union—neither of them friends of this country—who could be depended upon to make mischief out of their oligarchic control of gold. And they could: by pumping gold into world commerce, they would cause American inflation; by holding it off, they would bring on an American depression. What is more, a gold standard would guarantee the dollar price of gold—and the profits from production—to these two producers, putting South Africa and Soviet Russia among the world's biggest recipients of U.S. foreign aid.

All told, the Republican's gold plank is a sleazy seduction by one of the most noxious special interests going—an eccentric cabal of newsletter writers, calamity peddlers, speculators, dealers and hoarders.

Even more sleazy than the sellout to the goldbugs is the attempt to hoodwink the American people by not using the word "gold" in the Republican platform, but instead, the cryptic word "commodities." The use of the word "commodities" instead of "gold" is simply a way to hide Republican intentions from the American people—who do not share the gold fetishism of Governor Reagan's advisers—while conveying a discreet signal to the gold nuts.

We call on Governor Reagan to explain his endorsement of a gold standard to the American people, or to disassociate himself from it and from the murky language of the Republican platform. We call on him specifically to explain why it is better to have control of the U.S. money stock in the hands of Russia and South Africa than in the hands of our own Federal Reserve Bank. If Governor Reagan would like a congressional forum in which to present his views, we stand ready to convene a hearing of the International Economics Subcommittee of the Joint Economic Committee to let him spell out exactly what he means.●

THE NATIONAL DEVELOPMENT ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 5 minutes.

● Mr. MINISH. Mr. Speaker, I am introducing in this Congress, as I did in the 95th Congress, a bill to establish a National Development Bank.

When I introduced a similar bill in 1977, I said:

> I think it is vitally important . . . , that we begin to develop a groundswell of support for the national development bank concept as the centerpiece in a strategy to revive and to assist communities through the Nation. The continuing decline of the country's industrial base and the persistence of chronically high unemployment levels make such a strategy imperative.

Now, 3½ years later, with the Nation in the throes of a disastrous recession and with unemployment climbing, the need for a National Development Bank is all the greater.

My legislation would provide an ongoing loan program to meet the pressing needs of local governments throughout the Nation.

The proposed bank, financed initially by a $5 billion Federal Government purchase of its stock, would also provide a flexible and much-needed tool to stimulate the economy.

The National Development Bank would be authorized to make direct and guaranteed loans to State and local governments for public works and facilities. In addition, individuals and businesses unable to secure credit in the marketplace could also apply to the bank for "job creating" loans.

Primarily, however, the bank would serve to meet, on a comprehensive basis, the urgent financial needs of local governments throughout the country. Many communities are in dire need of this type of instrument to adequately finance essential local services.

Most importantly, this legislation would be aimed at creating jobs in order to lower our high and completely unacceptable unemployment level. The availability of credit on a continuing basis, as with the National Development Bank, would have an enormously beneficial impact on the jobs market.

This bill is one of many that have been introduced over the past few years to create banks or corporations with capital to finance public works activities, support business and create jobs. Each bill takes a slightly different approach to the problem, but all should be examined now with renewed seriousness to see how we can best put our unemployed back to work on these vital public works projects.●

THE SMALL BUSINESS PARTICIPATING DEBENTURE ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 5 minutes.

● Mr. SMITH of Iowa. Mr. Speaker, I am today introducing the Small Business Participating Debenture Act of 1980, a bill authorizing a new debt instrument, including tax incentives, designed to encourage more investment in small business.

This concept has received widespread attention in recent months as small businesses grapple with the problems of capital formation and retention. At the White House Conference on Small Business held earlier this year, delegates were primarily concerned with new innovative methods of financing their businesses.

Since then, as interest rates soared to 20 percent or beyond and money availability tightened, small businesses have been bearing a disproportionate share of our Nation's economic downturn. It is time that we in the Congress provide an extra measure of relief to the small business community. The Small Business Participating Debenture Act of 1980 would do just that at an absolutely minimal cost to the Federal Treasury.

The Small Business Participating Debenture would be a vehicle by which investors could share in the profits of the company, but operating control would remain solely with the company. The SBPD would be issued as a general obligation of a qualified small business and would bear a stated rate of interest, have a fixed maturity date and provide for the payment of a share of the company's earnings to the investor.

Important tax incentives for investment in SBPD's are included in the bill. Distribution of earnings would be treated as long term capital gains for the investor. Qualified businesses would be able to deduct such payments as interest expenses.

Small businesses would qualify to issue SBPD's if they have less than $25 million in equity capital, less than $1 million in outstanding SBPD's and no outstanding securities subject to SEC regulation. The new debt instrument could only be issued by domestic businesses.

The small business community is today facing enormous difficulties in acquiring sufficient cash to stay afloat. This new debt instrument is an ideal means for a small business owner to obtain much needed capital without losing operating control of his business.

The White House Conference on Small Business has listed issuance of SBPD's and the accompanying investment tax incentives among the top 10 priorities for action by the Congress. In addition, this bill is supported by the National Small Business Association, the National Association of Small Business Investment Companies, the Council on Small and Independent Business Associations, the Small Business Legislative Council, and many other small business organizations.

I ask unanimous consent that the sectional analysis and bill summary be printed at this point in the RECORD.

I urge immediate consideration.

SUMMARY: H.R. 7906 SMALL BUSINESS PARTICIPATING DEBENTURES

This legislation would amend the Internal Revenue Code to establish a new hybrid security called a Small Business Participating Debenture (SBPD). The new security would be issued as a general obligation of a qualified small business and bear a stated rate of interest not less than a standard imputed interest rate specified by the Secretary of the Treasury (currently 6 percent); have a fixed maturity date, but no voting or converison rights; and provide for the payment of a share of the company's earnings to the investor during the term of the debenture.

Although the stated interest received on the SBPD would be taxable to the investor as ordinary income, the distribution of earnings would be taxable as long term capital gains. Both the interest and the distribution of earnings would be deductible to the issuer as interest. Any losses on SBPDs generally would be ordinary losses to the investor.

SBPDs could only be issued by domestic businesses, whether incorporated or not, which have less than $25 million in equity capital; have no more than $1 million in outstanding SBPDs and which have no outstanding securities subject to SEC regulation. The size and dollar limits are generally applied by treating the members of affiliated businesses as one taxpayer.

SECTION-BY-SECTION ANALYSIS OF H.R. 7906 SMALL BUSINESS PARTICIPATING DEBENTURES

Section 1 amends the Internal Revenue Code by adding a provision to authorize new hybrid security called a "small business participating debenture" (SBPD). A SBPD is defined as a written debt instrument which:

(1) is a general obligation of a qualified small business;

(2) bears interest at a rate not less than the standard imputed rate specified by the Secretary of the Treasury (currently 6 percent);

(3) has a fixed maturity date:

(4) grants no voting or conversion rights; and

(5) provides for payment of a share of the company's total earnings to the investor.

A "qualified small business" is defined as a domestic trade or business whether incorporated or not, which:

(1) has less than $25 million in equity capital;

(2) does not have more than $1 million in outstandings SBPDs; and

(3) has no outstanding securities subject to regulation by the Securities and Exchange Commission.

The size and dollar amounts are applied by treating members of "controlled groups" as one taxpayer.

The stated rate of interest on the SBPD is taxable to the holder as ordinary income and is deductible by the issuing company as interest. The distribution of earnings is treated as long term capital gains by the holder and is deductible by the issuing company as interest.

Section 1244 of the Code is amended so that losses on SBPDs will be treated as if they were losses under Section 1244, i.e. usually as an ordinary loss.

The preferential tax treatment does not apply to SBPDs issued to a "related party". which term is defined to include a party having more than a 10 percent interest in the business.

Section 2 states that the Act will be effective for taxable years beginning after December 31, 1979 and to SBPDs acquired after enactment of the Act.●

MEDICAL CARE FACILITIES PROTECTION ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 30 minutes.

● Mr. STOKES. Mr. Speaker, over the past year, we have witnessed an increasing number of hospital closures, conversions and transfers in both urban and rural areas. In 1977, Philadelphia lost its only public general hospital under the promise that additional ambulatory care centers would replace the costly and outdated public hospital center. Twenty-one California county hospitals have closed or have been sold in the last 6 years. Homer G. Philips Hospital, a public institution serving many uninsured black health consumers in St. Louis closed in August 1979.

Over the last few weeks, the city of Detroit decided to close its only public hospital which would shift the charity patient load to many voluntary hospitals. In addition, if not for emergency Federal aid granted during the past 9 months, Brooklyn-Jewish, Metropolitan and Sydenham hospitals would have closed, reducing access to medical care to a large medically needy population and undocumented aliens.

Other hospitals throughout the Nation have yet to benefit from this kind of Federal and State assistance, and may soon be forced to close their doors. For example, in my own district, Cuyahoga

County, there are five hospitals that are providing millions of dollars of uncompensated care to a medically indigent population in the greater Cleveland area. These hospitals could be threatened if existing financial problems escalate in the near future.

In an attempt to prevent any more closures and to provide financial assistance to medical care facilities, I am introducing a bill, the Medical Care Facilities Protection Act of 1980. The bill provides for grants to protect against costs of uncompensated care for hospitals and comprehensive community health centers in medically underserved and health manpower shortage areas. The grants would provide for payment of accrued debt and for the development of managerial practices and proven strategies to assure financial solvency. In addition, it provides support for managerial technical assistance to improve the delivery of health services particularly in the areas of ambulatory and emergency care.

The legislation builds upon the health planning efforts for effective and efficient utilization of health facilities, services and beds. The States would administer the grants program. The States cannot provide a grant to a hospital until the hospital has complied with recommendations made by the local health systems agency and conditions established by the State in accordance with criteria established by the Secretary of Health and Human Services, to make appropriate changes in its financial, managerial and service delivery structures.

The bill provides for the establishment within the Department of Health and Human Services a Medical Care Facilities Protection Board composed of representatives of consumers, labor, hospitals, government and experts in the delivery and financing of health services. This board would monitor the effectiveness of the program, recommend administrative or legislative changes, and develop long range strategies for financially distressed medical care facilities.

Mr. Speaker, this bill will insure that many individuals who are not currently covered under the 53 separate medicaid plans will not be without emergency health coverage. The financial viability of existing health facilities serving the medically underserved populations must not be closed due to inflation and proposed hospital cost containment policies. Moreover, any attempt to assist medical care facilities in the inner city and rural areas must work in cooperation with our existing health planning structure.

The administration believes that the best way to assure the viability of a few hospitals is through a series of limited demonstration and waiver experiments. This type of effort however, is an important first step, but it will not provide the type of needed long term strategy to reform the Nation's health care system. The bill being introduced today concerns the financial viability of non-Federal public and nonprofit private hospitals and comprehensive community health centers needed to improve our existing health care delivery crisis. I trust my colleagues will see the urgency of this issue and give their support to the efforts being made in this plan.

The bill follows:

H.R. 7908

A bill to amend title XIX of the Social Security Act to require State medicaid programs to provide grants to certain financially distressed hospitals and community health centers which provide uncompensated care and which would otherwise be closed, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Medical Care Facilities Protection Act of 1980".

FINDINGS AND PURPOSES

Sec. 2. (a) Congress finds and declares that—

(1) the current health care system in the United States is insensitive and does not provide a uniform or comprehensive program of uncompensated medical care for uninsured Americans and undocumented aliens;

(2) many medical care facilities in medically underserved areas (including both inner-city and rural areas) are closing due to the provision of medical care to millions of Americans and undocumented aliens lacking adequate health insurance coverage for basic primary health care and acute medical services;

(3) each State has not provided, under its medicaid program under title XIX of the Social Security Act, coverage of medically needy individuals by allowing individuals to spend down to qualify for assistance under the program;

(4) the state of medical care for the poor in the inner-city and rural areas is seriously and adversely affected by the closing of major medical care institutions and by present medicaid eligibility criteria;

(5) to protect the national health and reduce illness and disease, it is necessary to assure that adequate financing is available to assure that medical care facilities and medicaid eligibility coverage is available to the poor who reside in medically underserved areas; and

(6) a program to provide grants to nonfederal public and nonprofit private medical care facilities located in designated medically underserved and health manpower shortage areas is needed to maintain the availability of a sufficient degree of health resources to guarantee access to quality health services in inner-city and rural areas in the United States.

(b) The purposes of this Act are—

(1) to establish a national program of protection against the cost of uncompensated care for medical care facilities in medically underserved and health manpower shortage areas;

(2) to establish a program which builds on the foundation of the nation's health planning and project review efforts;

(3) to assure that all Americans and undocumented aliens in need of quality emergency medical services will receive them;

(4) to reduce bad debts for medical care facilities that provide uncompensated care to uninsured health consumers; and

(5) to provide for a system of reforms, to assure that vital health institutions will be maintained in designated medically underserved areas.

AMENDMENTS TO SOCIAL SECURITY ACT

Sec. 3. (a) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (41) the following new paragraph:

"(42) provide for a program of grants to certain financially distressed medical care facilities in accordance with section 1913.".

(b)(1) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) subject to subsection (b)(4), an amount equal to 75 per centum of the sums expended during such quarter which are attributable to grants provided in accordance with section 1913; plus".

(2) Section 1905(b) of such Act is amended by adding at the end the following new paragraph:

"(4) The amount of funds which the Secretary is otherwise obligated to pay a State during a fiscal year under subsection (a)(7) may not exceed the amount allocated to the State for the fiscal year under section 1913(c).".

(3) Section 1905(i) of such Act is amended by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding after such paragraph the following new paragraph:

"(5) with respect to any amount expended for a grant described in section 1913 for a facility (A) for a period of more than three years with respect to that facility, or (B) to the extent that the amount of the grant exceeds 75 percent of the total costs estimated to be required for the necessary improvements and delivery of services by the facility under the proposal for the grant.".

(c) Title XIX of such Act is amended by adding at the end the following new section:

"PROGRAM OF GRANTS FOR CERTAIN FINANCIALLY DISTRESSED MEDICAL CARE FACILITIES

"Sec. 1913. (a) Each State shall provide for a program of grants to financially distressed medical care facilities (hereinafter in this section referred to as the 'program') in accordance with this section.

"(b)(1) Each State shall provide for medical care facilities (as defined in subsection (e)(1)) to submit grant applications to the State for assistance under the program.

"(2) No State may provide for approval of such a grant for a facility unless—

"(A) the facility is located in a medically underserved area designated under section 1302(7) of the Public Health Service Act;

"(B) the health systems agency for the health service area in which the facility is located has reviewed the application for such grant and has determined that—

"(i) maintenance of the operations of the facility is necessary for the health of individuals residing in the health service area, and

"(ii) without a grant under the program the facility would have to terminate operations in the area; and

"(C) the facility has agreed, as a condition of the receipt of such a grant, to—

"(i) conform to any plan developed by the health systems agency for the health service area in which the facility is located for the elimination or conversion of any excess supply of inpatient hospital services it has been providing,

"(ii) identify administrative procedures to collect payment from third party payors (including any payments which may otherwise be due the facility under the State plan under this title or under title XVIII of this Act) and establish sliding schedules of fees related to income for poor individuals not eligible for medical assistance under the State's plan under this title, in order to reduce the size of financial operating deficits,

"(iii) develop an affirmative action plan to provide for minority employment opportunities in the management and medical professional staff levels,

"(iv) submit periodic reports, certified by the authorized governing board of the facility, to the State concerning services provided through multiinstitutional arrangements with other health facilities (including any such arrangement with a hospital affiliated primary care center described in section 328 of the Public Health Service Act, and

"(v) apply amounts received under such a grant only to accrued debt of the facility, to expenses necessary to modify or restructure health services delivery in conforming with the local health systems plan, to the provision of other appropriate managerial technical assistance, to the cost of retraining personnel affected by any discontinuance of services, or to development or operation of a computerized bill payment and collection system.

"(3) Grants shall be made under this section upon such terms and conditions as the State may determine, in accordance with criteria established by the Secretary and determined by the Secretary to be appropriate for State administration of such grants.

"(4) Subject to subsection (c), the amount of any grant under this section shall be determined by the State, but in no case may the amount paid with respect to any service provided exceed the amount which could otherwise be paid to the medical care facility for the provision of such service to an individual eligible for benefits under the State's plan under this title.

"(c)(1) Each State shall submit to the Secretary, at such time and in such form as the Secretary may require, an application for an allocation of funds under this section.

"(2)(A) In his discretion and after taking into consideration the needs of financially distressed medical care facilities demonstrated in the applications of the States, the Secretary shall allocate to each State which has submitted such an application an equitable proportion of the fiscal year allocation limitation for that fiscal year established under paragraph (3).

"(B) The amount of an allocation to a State for a fiscal year shall be reduced by the amount (if any) by which the expenditures by the State (and local governments therein), other than under this section, for the fiscal year for assistance of financially distressed medical care facilities is less than the amount of such assistance provided in fiscal year 1980.

"(3) For purposes of paragraph (2), the fiscal year allocation limitation for fiscal year 1981 is $250,000,000, and the fiscal year limitation for each of fiscal years 1982 and 1983 is $300,000,000, and the fiscal year allocation limitation for subsequent fiscal years is zero.

"(d)(1)(A) There is hereby established within the Department of Health and Human Services a Medical Care Facilities Protection Board (hereinafter in this subsection referred to as the 'Board'), to be composed of six members to be appointed by the Secretary. Two members of the Board shall be representatives of the health services industry (public and nonprofit private) who are experts in the delivery and financing of health services. Two members of the Board shall be consumer representatives who are not providers of health care. One member of the Board shall be a federal, state, or local governmental employee who shall serve as a governmental representative. One member of the Board shall be a member of a union which represents hospital employees.

"(B) Each member of the Board shall hold office for a term of three years. Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. The Secretary shall appoint one member of the Board to serve as the Chairman of the Board.

"(2) The Board shall—

"(A) provide advice to the Secretary and in general furnish recommendations with respect to the administration of the programs under this section (including recommendations regarding the appropriate level of grant funding of States);

"(B) continually monitor, study, and review this section and its administration with a view to (i) determining the extent to which it is effectively, efficiently, and economically achieving its purposes, (ii) identifying and recommending to the Secretary and Congress changes in this section and its administration needed to achieve its purpose, and (iii) developing and recommending management and proven strategies for financially distressed medical care facilities; and

"(C) annually submit to the Congress a report on the administration of this section and include any recommendations for legislative changes in or affecting this section.

"(3)(A) The Secretary shall furnish the Board with such staff and information (including data and cost reports) pertaining to the functions of the Board as may be necessary to carry out its duties, and shall appoint (with the approval of the Board) an executive director for the Board.

"(e) For purposes of this section:

"(1) The term 'medical care facility' means—

"(A) a non-federal, public or private nonprofit hospital, or

"(B) a public or private nonprofit community health center (as defined in section 330(a) of the Public Health Service Act).

"(2) The term 'uncompensated care' means, with respect to a facility, the provision of health services to an individual who is not eligible for benefits or assistance under title XVIII of this Act or the State's plan under this title and who has no health insurance which provides coverage with respect to the provision of such services by the facility.

"(3) The term 'health services' means emergency medical care services, non-elective inpatient services, prenatal and obstetrical care, pediatric care, and other health-related services as determined by the Secretary.

"(4) The term 'undocumented alien' means an alien who is in the United States in violation of the Immigration and Nationality Act.".

(b)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to medical assistance provided in calendar quarters beginning on or after October 1, 1980, and before September 30, 1983.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

INCLUSION OF BAD DEBTS IN MEDICARE REIMBURSEMENT

SEC. 4. (a) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended—

(1) by inserting "(except as provided in subparagraph (G))" in subparagraph (A) (i) after "will not be borne by individuals not so covered, and", and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) In the case of a hospital, the reasonable cost of services provided shall include a share of bad debts incurred in the efficient operation of the hospital proportional to the proportion of the services of the hospital which are paid for under the insurance programs under this title.".

(b) The amendment made by subsection (a) shall apply to cost accounting periods beginning on or after October 1, 1980.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

○ Mr. WHITE. Mr. Speaker, I was unavoidably absent from the House floor on July 25 and July 28 due to a death in my family. I would like to take this opportunity to indicate how I would have voted had I been present:

On rollcall No. 427 (July 25, 1980), motion to table House Resolution 753, to initiate an independent investigation into the safety of Members of the House with respect to the deterioration of the west front of the Capitol: "Yes."

On rollcall No. 428 (July 25, 1980), motion to table an appeal of a ruling of the Chair relating to 1-minute speeches: "Yes."

On rollcall No. 429 (July 25, 1980), amendment to H.R. 7631 that sought to increase the funding for the emergency planning, preparedness, and mobilization for fiscal year 1981 by $67 million: "Yes."

On rollcall No. 430 (July 25, 1980), amendment to H.R. 7631 that sought to reduce the appropriation for the National Commission on Air Quality: "Yes."

On rollcall No. 431 (July 28, 1980), motion to suspend the rules and pass H.R. 7458, relating to veterans loan refinancing: "Yes."

On rollcall No. 432 (July 28, 1980), motion to suspend the rules and pass S. 1916, authorizing operations by OPIC in the People's Republic of China: "Yes."

On rollcall No. 433 (July 28, 1980), motion to suspend the rules and pass H.R. 5961, Currency and Foreign Transactions Reporting Act amendments: "No."

On rollcall No. 434 (July 28, 1980), motion to suspend the rules and pass S. 658, Bankruptcy Act amendments: "No."

On rollcall No. 436 (July 28, 1980), amendment to H.R. 7631 that withholds from obligation 2 percent of the total budget authority contained in the bill not required by law, but not to exceed 5 percent in any appropriation account, and excepting the Veterans' Administration: "Yes."

On rollcall No. 437 (July 28, 1980), passage of H.R. 7631, Department of Housing and Urban Development/related agencies appropriations, fiscal 1981: "Yes." ●

REQUEST FOR COMMENTS ON PROPOSED JCP REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HAWKINS) is recognized for 5 minutes.

● Mr. HAWKINS. Mr. Speaker, on behalf of the Joint Committee on Printing I offer for publication in the RECORD proposed interim changes to the committee's Printing and Binding Regulations No. 24, dated April 1977. The purpose of this notice is to solicit comments on the proposed changes from as wide an audience as possible before any formal action is taken by the committee.

In addition to publication in the RECORD, Mr. Speaker, I further plan to distribute copies of the proposed changes to the appropriate central printing and publications management organizations in the Federal Government for their comments.

These interim regulations redefine the central printing and publications management organizations' authority in the control of printing and copying activities. They also reiterate the definition established by the Joint Committee on February 15, 1979, covering electronic printing systems dedicated to printing processes but utilizing computer technology. It is expected these changes will contribute significantly in establishing more effective and efficient control of printing and copying costs throughout the Federal Government.

All Federal officials and other interested parties are encouraged to submit comments regarding the proposed interim regulations before close of business September 3, 1980. Comments should be addressed to the acting chairman, Joint Committee on Printing, S-151, the Capitol, Washington, D.C., 20510.

The full text of the interim regulations are as follows:

NEW PARAGRAPH

1-4. Electronic Printing.—As used in these regulations, electronic printing describes printing produced by or for the Federal Government through the use of any electronic printing system or integrated printing system. Such systems may include two or more items of equipment, whether or not such equipment is listed in Title II of these regulations. Such a system may be based on the intended use or functional capabilities for performing composition, with or without platemaking, the reproduction of an image, and sorting/collating of printed pages.

NEW PARAGRAPH

1-5. Electronic Printing Systems.—Electronic printing systems, integrated printing systems or any individual component thereof dedicated to printing processes, but utilizing computer technology, requires written approval of the Joint Committee on Printing before acquisition. This requirement shall be complied with regardless of how such equipment is used or how it is classified by the General Services Administration (Federal Supply Services). Reporting requirements and production utilization constraints may be specified by the Joint Committee on Printing as part of the authorization process.

DELETE THIS PARAGRAPH

2-1. Duplicating/Copying.—The term "duplicating/copying" as used in these regulations means that material produced by use of (a) equipment listed in column 2 of the equipment tables and (b) duplicating equipment employing the lithographic process; and automatic copy-processing or copier-duplicating machines employing electrostatic, thermal, or other copying processes; *Provided*, That work exceeding 5,000 production units of any one page, and work exceeding 25,000 production units in the aggregate of multiple pages, shall not be done without prior authority of: (a) the Central Printing and Publications Management Organization as provided in paragraph 30 of these regulations; or (b) the Joint Committee on Printing.

REVISED PARAGRAPH

2-1. Copying.—The term "copying" as used in these regulations means that material produced by or for a federal department or agency by use of automatic copy-processing or copier-duplicating equipment employing electrostatic, thermal or other copying processes with a rated speed of 39 copies or less per minute.

NEW PARAGRAPH

4-4. Printing Facility.—The term "printing facility" as used in these regulations means any federally owned or federally controlled facility producing printing by use of (a) equipment listed in column 2 of the equipment tables, and (b) automatic copy-processing or copy-duplicating machines employing electrostatic, thermal or other copying processes with a rated speed of 40 copies or more per minute. A printing facility shall not be operated for any Federal Government department or agency by a commercial contractor without prior written authorization by the Joint Committee on Printing.

NEW PARAGRAPH

4-5. Printing facilities and equipment owned or operated wholly or in part by the Government or at Government expense shall not produce more than 100 copies of any end product irrespective of the total number of pages or more than 3,000 production units of any single sheet without prior written authorization by (a) the Central Printing and Publications Management Organization (CPPMO) described in paragraph 30 of these regulations or (b) the Joint Committee on Printing.

DELETE THIS PARAGRAPH

2-2. A report shall be forwarded to the Committee not later than 30 days after the close of each quarter, listing individual jobs by title, quantity (pages and copies), date, and where done, which exceed either the 5,000 or 25,000 production units.

NEW PARAGRAPH REPLACING 2-2

4-6. A report shall be forwarded to the Joint Committee on Printing through the department's Central Printing and Publications Management Organization (CPPMO) not later than January 31, April 30, July 31, and October 31, covering the previous three months' activity listing the title, quantity (pages and copies), date and where done, for each job that exceeded either the 100 copies of any end product or the 3,000 production units of a single sheet accomplished in each printing facility.

DELETE THIS PARAGRAPH	REVISED PARAGRAPH
30. Central Printing and Publications Management Organization.—Heads of departments shall maintain under their direct supervision a central printing and publications management organization with responsibility for the conduct of a coordinated program controlling the development, production, procurement or distribution of materials through the utilization of conventional printing and binding methods or through the utilization of multiple copy microform methods. The central printing and publications management organization also will maintain responsibility and control of duplicating equipment and automatic copy-processing or copier-duplicating machines, as identified in column 2 of the equipment tables.	30. Central Printing and Publications Management Organization (CPPMO). Heads of Federal departments and agencies shall maintain under their direct supervision a Central Printing and Publications Management Organization (CPPMO) responsible for: (a) Conducting a cost effective, coordinated program controlling all materials developed, produced, procured or distributed by the department or agency through the utilization of printing, binding, and microform methods as defined in these regulations. (b) Controlling the department's printing plants, printing facilities and equipment. (c) Assuring the most efficient and cost effective performance of printing and copying services and the non-utilization of copying equipment for production of printing. (d) Monitoring the preparation, review and timely submission of all required reports.
DELETE THIS PARAGRAPH	REVISED PARAGRAPH
35-3. A requirement for a contractor to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages for the use of a department or agency, will not be deemed to be printing primarily or substantially for a department or agency. For the purpose of this paragraph, such pages may not exceed a maximum image size of 10¾ by 14¼ inches.	35-3. A contractor may produce up to 3,000 units of only one sheet or 100 copies of any end product irrespective of the total number of pages for a Federal department or agency without the written authorization of the Joint Committee. For the purpose of this paragraph, pages or sheets may not exceed a maximum image size of 10¾ by 14¼ inches.
DELETE THIS PARAGRAPH	REVISED PARAGRAPH
35-4. A requirement for a contractor to produce or procure less than 250 duplicates from original microform, as defined in paragraph 7-2, will not be deemed to be printing primarily or substantially for a department or agency.	35-4. A contractor may produce or procure up to 250 duplicates from an original microform as defined in paragraph 7-2 for a Federal department or agency without the written authorization of the Joint Committee.
PAGE 7—DELETE FOOTNOTE	PAGE 7—REVISED FOOTNOTE
[1] Not authorized for use in connection with duplicating/copying as defined in paragraph 2.	[1] Not authorized for use by printing facilities or in connection with copying as defined in paragraphs 2-1 and 4-4.
PAGE 8—DELETE FOOTNOTE	PAGE 8—REVISED FOOTNOTE
[1] Acquisition of tandem or two unit perfecting presses by non-printing facilities shall be reported to the Joint Committee on Printing within 30 days.	[1] Acquisition of tandem or two unit perfecting presses by all facilities shall be reported to the Joint Committee on Printing within 30 days.
DELETE THIS PARAGRAPH	REVISED PARAGRAPH
36-3. A requirement for a grantee to duplicate less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages of his findings for the use of a department or agency will not be deemed to be printing primarily or substantially for a department or agency. For the purpose of this paragraph, such pages may not exceed a maximum image size of 10¾ by 14¼ inches.	36-3. A grantee may produce up to 3,000 units of only one sheet or 100 copies of any end product for a Federal department or agency without the written authorization of the Joint Committee. For the purpose of this paragraph pages or sheets may not exceed a maximum image size of 10¾ by 14¼ inches.
DELETE THIS PARAGRAPH	REVISED PARAGRAPH
36-4. A requirement for a grantee to produce or procure less than 250 duplicates from original microform, as defined in paragraph 7-2, will not be deemed to be printing primarily or substantially for a department or agency.	36-4. A grantee may produce up to 250 duplicates from an original microform as defined in paragraph 7-2 for a Federal department or agency without the written authorization of the Joint Committee.
DELETE THIS PARAGRAPH	REVISED PARAGRAPH
47. Printing Facilities of Federal Prison Industries, Inc.—These facilities may be used for the production of unclassified printing. Printing services are available at the following three locations and may be used by sending a purchase order direct to any one of them: c/o Warden; Federal Correctional Institution Lompoc, Calif. 93426. c/o Warden; U.S. Penitentiary Marion, Ill. 62959. c/o Warden; Federal Correctional Institution Sandstone, Minn. 55072. Where the form of purchase order contains the Convict Labor clause that clause should be deleted.	47. Printing Plants of Federal Prison Industries, Inc.—These plants may be used only for the production of unclassified printing. Printing services are available at the following three locations and may be used by sending a purchase order direct to any one of them: c/o Warden; Federal Correctional Institution Lompoc, Calif. 93426. c/o Warden; U.S. Penitentiary Marion, Ill. 62959. c/o Warden; Federal Correctional Institution Sandstone, Minn. 55072. Where the purchase order contains the Convict Labor Clause that clause should be deleted.

TRIBUTE TO MRS. RICHARD D. SHELBY AND THE NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Bowen) is recognized for 5 minutes.

● Mr. BOWEN. Mr. Speaker, I rise today to pay tribute to a friend and constituent, a distinguished Mississippian, and an outstanding American leader, Mrs. Richard D. Shelby of Beulah, Miss., who has recently been elected President General of the National Society Daughters of the American Revolution.

Patricia Shelby began her longstanding association with the DAR as a member of the Children of the American Revolution. In her years of service to the

DAR, the largest hereditary patriotic organization in the United States, she has served in virtually every capacity at the chapter, State, and national levels.

Mrs. Shelby has worked energetically for the Mississippi Delta Chapter of the DAR and has served her State society continuously since 1960. She was State Regent from 1965 to 1968. She serves on the board of Rosalie, the famous antebelum home in Natchez owned by the Mississippi Society DAR. In addition, she has worked with the national society since 1965 in both appointed and elected positions, including those of registrar general and first vice president general.

Mrs. Shelby's contributions have not been limited to the DAR, for she has served her Bolivar County community selflessly and well through the years. She received a B.S. degree from Mississippi State University, is a member of the Bolivar County Cotton Wives' Advisory Board, and has served in leadership capacities with numerous charitable organizations. She serves on the official board of the Rosedale Methodist Church, where she has been organist for 28 years.

I am sure my colleagues are aware of the many worthwhile aims and services of the Daughters of the American Revolution. Since its establishment 90 years ago, the society has vigorously promoted the historical, educational, and patriotic objectives outlined by its founders. Today, the membership of the National Society Daughters of the American Revolution numbers more than 207,000 in the United States, France, England, and Mexico.

Through an extended network of committees, the society serves Americans of all ages and in numerous capacities, providing such invaluable programs as financial aid and scholarships to outstanding students and contests and awards to stimulate interest in good citizenship and American history. I fondly recall the pride and encouragement I felt upon receiving a DAR American History Medal when I was a high school student in Mrs. Shelby's neighboring Bolivar County town of Cleveland, Miss.

DAR members help support American Indian schools, assist immigrants in becoming naturalized citizens, and serve as volunteers in 172 Veterans' Administration hospitals.

As House Members, we owe a special debt of gratitude to the DAR in that they have made the largest single contribution to the Capitol restoration and improvement work being carried out by the U.S. Capitol Historical Society. This work is financed through private solicitations, and we have all seen the beautiful overhead mural work in the Capitol being financed by the DAR and others.

Near the White House, the three connecting buildings that make up the national headquarters of the society are also familiar landmarks here in our Nation's Capital. In addition to serving as the nerve center for chapter and State organizations all over the country, the headquarters contain one of the best genealogical libraries in the world, a DAR museum where more than 50,000 objects dating from before 1830 are on exhibit, and 29 period rooms authentically furnished in styles marking the history of this Nation. All these facilities are open to the public, and the society conducts a number of tours and programs for the benefit of school and adult groups.

The three DAR buildings together form the largest group of buildings in the world owned and maintained exclusively by women.

Through all these activities and more, the DAR has assumed a vital role in promoting the spirit of patriotism, democracy, and service to the Nation established and exemplified by our Founding Fathers and mothers.

Mr. Speaker, I know my colleagues join me in offering our congratulations and best wishes to Patricia Shelby and to the Daughters of the American Revolution.●

PROTECTING AND CREATING JOBS WHILE REVITALIZING AMERICAN STEEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, I have learned first hand over the years about the crisis in America's steel industry from some real experts—my steelworker constituents in western New York. It is a crisis they have experienced for more than a decade. Since 1970 the Buffalo area has lost some 18,000 jobs, almost half its steel work force. Production is currently at one-third its 1970 level. And as of last Sunday, 43 percent of the area's hourly steelworkers were laid off from their jobs, contributing to a local unemployment rate (now over 10 percent) which is one of the highest in the Nation.

While older industrial centers like Buffalo suffer most from this decline, the debacle is nationwide. In the past decade the United States has lost over 85,000 basic steel jobs, not counting jobs in related industries. Total raw steel production declined 14 percent since 1973, while foreign steel's share of the American market rose to nearly 20 percent. Steel profits remain low, and, at a time when the industry desperately needs a new infusion of investment capital. the real value of steel stock has declined significantly.

The steel industry is the industrial heart of our economy; and its decline threatens American jobs and American national security. We must develop a new strategy for revitalizing the steel industry, a strategy based on a clear understanding of the role of labor, capital, and the Federal Government.

First we must repudiate the myth that American workers are destroying the steel industry. This is the line of the Carter administration. President Carter tells us that productivity and savings have declined because "too many of us now worship self-indulgence and consumption." The administration's Council on Wage and Price Stability lectures unions about their "inflationary" wage increase. But I reject the notion that inflation is caused by workers wages. How can workers' greed be feeding inflation at a time when the real income of American workers is falling.

The fact is, in terms of real income American steelworkers have lost, and lost heavily. After inflation, which increased their cost of living and pushed them into higher marginal income tax brackets, steelworkers actually lost more than $2,000 in net pay last year. Moreover, a full time steelworker with a wife and two children, who earned the average hourly steel wage in 1979, found himself in the 31 percent marginal income tax bracket. He paid $3,462 in personal income taxes, and $1,401 in social security taxes (as did his employer.) On top of this he paid State and local taxes. In my own area of Buffalo, where the tax burden is the third heaviest in the Nation and the cost of living is high, a family does not get rich this way. They are lucky if they get by.

Steelworkers understand that even as their real incomes fall, the growing tax wedge between what the company must pay them and what they can take home is increasing all costs. The steelworkers in my district can, for that matter, tell you exactly what is wrong with the industry.

Why is Buffalo steel losing out to foreign competition? Why is the Buffalo steelworker's productivity falling behind his Japanese counterpart's? Any steelworker at Bethlehem Steel's Lackawanna, N.Y., plant would point out that the plant needs major retooling and repairs. Its equipment is becoming obsolete. An over-zealous Environmental Protection Agency, which does not seem to recognize the special problems of older, Northeastern plants, has imposed stringent and ever-changing pollution control requirements which have shut down vital coke ovens and prevented the plant from operating efficiently.

The steelworkers in my district want our plants to become more productive. But they also know that lectures on hard work and tightened belts do not expand productivity. Higher productivity, quite simply, requires better tools—a higher level of capital investment per worker. And the investment just is not there.

Low rates of capital formation have, of course, plagued the entire economy. But Government policies have insured that the steel industry be particularly hard hit. Government, not the steel worker or the steel industry, is the real culprit in the steel industry's decline. Inflation, after all, is nothing more or less than Government's devaluation of the dollar. Inflation makes savings and investment riskier and less rewarding for everyone, especially since interest income and capital gains are taxed at inflated nominal rates which often result in a negative real return on investment. But high and rapidly changing inflation rates also distort investment decisions, encouraging investors to seek out short term, easily liquidated assets and to shun long-term investments. Few investments are more long term, and thus more risky in these inflationary times, than steel plants. Yet without new, large scale ventures such as United States Steel's long-promised Conneaut plant on Lake Erie the American steel industry cannot hope to regain its competitive position.

Above all, inflation has completely distorted the steel industry's ability to recover capital. Under current tax law companies write off assets against their taxes according to a concept of "useful" life. Because steel plants are built to operate for long periods, the steel industry faces one of the longest depreciation schedules of all. Yet "useful life" based on historical costs has become an increasingly useless measure in a decade where plant and equipment replacement costs have almost doubled * * * A study by Kidder, Peabody & Co. concluded, figuring depreciation according to the actual replacement cost of equipment, United States Steel Corp. lost $902 million in real terms in the past 5 years. Instead, the balance sheet showed a $2.9 billion gain. This gain was then taxed as "profit," reducing the capital available for reinvestment. Just to maintain its plant and equipment at a replacement cost basis the company would have had to spend twice as much on capital equipment during this period as it did. I might add that no other industrial power has depreciation schedules as long as this. The Canadian steel plants that compete with Buffalo steel can write off assets almost immediately.

Unless the steel industry is allowed more realistic asset tax incentives, it will remain unable to retain earnings for capital investment and plant modernization. Productivity and competitive production will continue to decline. This is why part of our proposed tax plan, the 10–5–3 capital recovery bill, is so important to the steel industry. This bill would allow companies to write off buildings, machinery, and vehicles more rapidly, increasing the retained earnings available for reinvestment. The American Iron and Steel Institute estimates that the bill would enable the steel industry to at least double its capital recovery rates. It would also provide an incentive for investment in modern plants and equipment, a particularly important step for our aging steel industry.

After paying taxes on inflated profits and inventories, the American steel industry has been left with insufficient capital for modernization and expansion. Yet the Government has first claim on this remaining capital as well. In 1977 20 percent of all steel industry capital investments went to meet environmental regulations. What is more, the cost of this pollution control equipment in constant dollars is expected to triple by 1983. The high cost of compliance with these regulations makes it even more unlikely that the steel industry will be able to compete in the next decade.

These regulations do not just deplete scarce capital, however; they also speed plant shutdowns in the industrial Northeast. Stringent areawide emissions standards, and similar standards for old and new plants make it uneconomic to operate, much less modernize, marginal plants. Modernization plans for the Lackawanna Bethlehem Steel plant, which employs many steelworkers from my district, have been severely set back by emissions standards for coking operations. Even though demand for coke is projected to surge in the next few years, failure to comply with pollution regulations is likely to force a shutdown of the Lackawanna plant's biggest and best coke oven. This could well be the death blow for a plant that has suffered major layoffs since 1977.

We need a regulatory policy which recognizes the importance of both a clean and safe environment and productive jobs for all Americans. Current regulations should be carefully examined according to a strict cost-effectiveness standard, and those mandated requirements that have not been scientifically proven necessary for a healthy environment should be revised. Regulations should also take into consideration the age and estimated lifespan of plants, and the desirability of keeping older but still profitable plants in operation. The impact of regulations on regional employment should also be carefully weighed. This means an entirely new approach to Government regulation, an approach which breaks fundamentally with the Carter administration's single-minded pursuit of narrow regulatory goals. We need regulators who are committed to broad national goals of environmental quality and economic growth, who understand that difficult tradeoffs must sometimes be made at the margin. This, too, a Reagan administration would bring to the steel industry.

Finally, the Government must stop making the steel industry its favorite whipping boy. Since 1966 at least the steel industry has consistently had a lower return on investment than other manufacturing industries, and a primary cause of this low rate of return is the de facto price controls imposed by successive American Presidents. These ignorant economic policies of controlled prices have denied the steel industry the investment capital with which to modernize, expand, and meet the competitive challenge of foreign steel. It may be good politics to blame the steel industry, or the steelworker, for inflation, and then to turn around and blame them for the steel industry's decline. But it's bad economics and bad public policy.

The steel industry is a microcosm of the entire American economy. It is battered by inflation, starved for capital, plagued with declining productivity and increasing costs. So a strategy for saving the steel industry must be a strategy for restoring economic growth to the entire Nation. Without a growing economy the demand for steel will flag and the profits needed for new investment will disappear. Without increased saving and capital formation throughout the economy there will be no new capital available for investment in steel. We need to restore economic growth throughout the Nation, and this means restoring incentives for production, employment, saving, investment, and individual initiative which our high marginal tax and declining dollar rates have destroyed.

For this reason I believe that a strategy for revitalizing the steel industry must begin with a program to increase the after-tax reward for working, saving, and investing. Our first step should be to enact our tax plan, which would reduce marginal personal income tax rates across the board and restructure the treatment of capital recovery in our tax code. This would reduce the tax wedge facing steelworkers and their employers, and enhance the capital retention within the steel industry. In addition we must:

Allow a 1-year write-off for all investment in pollution-control equipment;

Recognize the inviolability of the collective bargaining process, and cease interfering with freely-bargained wage settlements to help restore incentives to labor;

Allow steel companies to set their prices in the marketplace free of governmental "jawboning"; and

Subject Government regulations to strict cost-benefit analysis, including analysis of their impact on employment and regional economic growth.

The steel industry, like the rest of our economy, needs a strategy for growth, for full employment without inflation, a strong international trade position, expanding opportunities for all Americans. By restoring after-tax incentives for working, saving, and investing in the steel industry I believe we will restore the United States' place as not only the largest, but also the most innovative and most competitive, steel-producing nation in the world.●

TRIBUTE TO ALBERTA E. CROWE, PRESIDENT, WOMEN'S INTERNATIONAL BOWLING CONGRESS

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, we are entering the last year of one of this Nation's most glorious presidential reigns. No, I am not referring to the Presidency of the United States, but rather a presidency in what has become America's most popular participation sport—bowling.

It is almost incredible that, for a full generation, one person could be at the top of an organization which has grown so massively, but my dear friend, Alberta E. Crowe of Liverpool, N.Y., has handled the task masterfully. Now, Alberta has decided that it is time for a change, and she has announced that, next July, she will not seek reelection, after having served for 21 years as president of the Women's International Bowling Congress.

Alberta Crowe's story, in bowling circles, is legendary. She has transformed the WIBC from a loosely knit 1 million bowlers to the largest organization of its kind, with two magazines, a newsletter, trophies, awards, 168,000 leagues, and a national tournament involving

40,000 women. Membership in the WIBC now passes 4.2 million.

It is no accident that this vibrant, dedicated and extremely competent woman now has been presented with the Victor Lerner Memorial Award, the highest honor awarded to an individual by the Bowling Proprietors' Association of America.

Alberta Crowe is an outstanding leader and an outstanding person. She has made an invaluable contribution to one of America's favorite pastimes. I know that my colleagues share in a salute to her distinguished career.

Shortly before she received the Victor Lerner Memorial Award, Alberta Crowe was featured in an article in the June 1980 issue of the Bowling Proprietor magazine. I think it put into perspective her illustrious career.

ALBERTA CROWE NAMED FOR VICTOR LERNER MEMORIAL AWARD

Alberta Crowe has a face that was made to smile. Her closest friends probably wouldn't recognize her if she wasn't smiling. But why, you may ask, is Alberta Crowe smiling?

In her 20 years as president of WIBC, she has presented more awards and shaken more hands than many political candidates. By her own estimate she logs between 80,000 and 100,000 miles each year, traveling for WIBC. Her responsibilities, as president of the largest sports organization for women, are enormous. What has Alberta Crowe got to smile about?

The secret behind the smile is that Alberta Crowe genuinely loves every minute of what she does. She breathes, talks and lives WIBC. Her schedule would make many younger women wilt; her involvement with the details of the WIBC organization is staggering. Alberta Crowe's enthusiasm for her life work has won her an amazing number of awards and honors. In June, she will add one more: the Victor Lerner Memorial Award, the highest honor awarded to an individual by the Bowling Proprietors' Association of America.

As president of an organization with 4.2 million members, Alberta Crowe has attracted her share of attention. In fact, she has not avoided it, shrewdly guessing that publicity for her is publicity for WIBC as well. Over the years there have been attempts to discover the "real" Alberta Crowe, the woman behind the smile.

Unfortunately for the cause of investigative journalism, the "real" Alberta Crowe isn't radically different from the Alberta Crowe the public sees. There is no iron-fisted harridan behind that smile, no sinister Godmother. If the public perceives Alberta Crowe as a cheery, energetic, motherly, and above all, *nice* lady, it's because she is just that. And while some younger members of WIBC may chafe at the rules on dress lengths and deportment, it is almost impossible to find someone who doesn't have some glowing word to say for Alberta Crowe, both as a personality and as the force behind WIBC's success. No less a person than Eva Auchincloss of the Women's Sports Foundation, where Alberta put up a brisk fight to have bowling recognized as a genuine sport, calls her "delightful and enthralling."

In spite of this, sweetness, light and smiles don't run WIBC; superior organization does. And Alberta Crowe's talent for organization is legendary. Her passion for order and system changed WIBC from a loosely knit organization of just over 1 million into the largest organization of its kind, with two magazines, a newsletter, trophies, awards, 168,000 leagues and a national tournament that involves more than 40,000 women.

An indifferent bowler by her own admission, Alberta Crowe is nevertheless in an ideal position to spot the rising talent. Thus, the Alberta E. Crowe Star of Tomorrow Award.

And it was as an indifferent, but enthusiastic bowler that she met and later married Arthur "Pat" Crowe. Pat Crowe was a bowling center manager who encouraged his wife to follow her interests, whether it was serving on bowling organization committees in Syracuse, New York, or operating a Multilith printing press in the dining room of their home. It wasn't long before the Alberta Crowe Letter Service outgrew the Crowe dining room and moved into a separate building, but Pat Crowe knew that Alberta's talent for organization was going to be a permanent part of their life. Apparently, Pat Crowe never tried to discourage Alberta from using her talent to the full.

Today, Alberta shares with her late husband the honor of being in the Syracuse WBA Hall of Fame. She is a Life Member of the New York State WBA, and advisory member of the Women's Sports Foundation, and ex-officio member of all WIBC committees except one. She was named to the New York State WBA Hall of Fame and she has been given the AMF Award for Outstanding Contribution to Bowling, the NWBW Jo Ettein Award and the Flowers for the Living Award.

Alberta Crowe served four terms as president of the National Bowling Council, the most years of any member on the NBC. She is currently serving as national chairman and treasurer of the BVL Fund, chairman of the executive committee of the AJBC, and is a director of the National Bowling Hall of Fame and Museum. The list goes on and on.

When Alberta Crowe receives the Victor Lerner Memorial Award at BPAA's annual convention in Las Vegas in June, it will be as much a recognition of her personal qualities as her organizational abilities. And it is encouraging that, in this world where everyone is looking out for No. 1 and winning through intimidation, there is an award for a lifetime of selfless service to bowling—spelled p-e-o-p-l-e.

And it is natural that Alberta Crowe should receive that award.

LONG-TERM PLANNING FOR NATIONAL SCIENCE POLICY

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, historically, American science has never been characterized by a high degree of planning. Much of its success has, in fact, been attributed to the diversity, pluralism, and outright lack of planning which up to now has been a strong element in our approach to science policy.

Today, however, we are facing circumstances that are very different from the past. The steady annual funding growth for science which we saw in the sixties and the seventies may well be replaced with a much more modest growth. Equally significant, the expectations and demands which society is placing on science, both in terms of problem solving and problem avoidance, will grow significantly.

The Subcommittee on Science, Research, and Technology, which I am privileged to chair, has just completed 4 days of hearings on "Longer Term Planning for National Science Policy." During those hearings we examined the question of how we can better identify our science policy goals, and how the planning process can enable both the Congress and the public to better understand and express their own views about what those goals should be.

Our ultimate objective in these hearings was to learn enough to permit us to modify and improve the current planning done by the Federal Government. It is no secret that the attempt to introduce a modest planning effort, by means of the reporting requirements included in the Science Policy Act of 1976, has been less than successful.

At this morning's concluding session of our hearings the Comptroller General of the United States, the Honorable Elmer B. Staats, gave our subcommittee an unusually comprehensive and thoughtful statement on this subject. Mr. Staats and his able staff have closely studied the evolution of our national science policy and the organizational framework which has been developed to strengthen our ability to deal with policy questions in this field at the national level.

Because it is a thoughtful and thought-provoking statement, I want to share it with all Members of the Congress, and include Mr. Staats' statement in the RECORD at this point:

LONG-TERM PLANNING FOR NATIONAL SCIENCE POLICY

Mr. Chairman and Members of the Subcommittee, since World War II, the Federal Government has become increasingly aware of the national importance of science and technology. Dr. Vannevar Bush's 1945 report to President Truman entitled "Science—The Endless Frontier" greatly influenced the postwar development of science policy and the establishment of the Atomic Energy Commission, the National Institutes of Health, research offices in each of the armed services, and the National Science Foundation (NSF). It called attention to the importance of Federal support for basic research and scientific education and urged adoption of principles to preserve freedom of inquiry by researchers and stability of Federal funding over a period of years. NSF's charter stated in part that the Foundation would be responsible for developing and encouraging "the pursuit of a national policy for the promotion of basic research and education in the sciences."

Over the years, the executive branch has tried a variety of formal and ad hoc arrangements for planning, coordinating, and advising Federal agencies and the President on science policy. These arrangements, which included the President's Science Advisory Committee and the Federal Council for Science and Technology, succeeded in varying degrees. In 1962, Reorganization Plan Number 2 created the Office of Science and Technology (OST) and transferred responsibilities for science policies and planning that transcend the lines of executive agencies from NSF to OST. Today, planning national science policy is vested primarily in the Office of Science and Technology Policy (OSTP), created in 1976 by Public Law 94–282. Two important elements of planning as stated in the Act are: "anticipating future concerns to which science and technology can contribute and devising strategies for the conduct of science and technology for such purposes, * * * [and] reviewing systematically Federal science policy and programs and recommending legislative amendment thereof when needed."

While various institutional mechanisms were being tried, tools for planning science and technology policy were also being designed. These include NSF's statistical reports on research and development (R&D)

and the biennial Science Indicators of the National Science Board (NSB). Public Law 94-282 mandated the preparation of a Science and Technology Annual Report and a Five-Year Outlook for science and technology. The first of each of these reports has been published.

OSTP has been operating now for 4 years. It, therefore, seems timely that in these hearings you examine the adequacy of the present tools for planning, the role of OSTP, and how well the process of science policy development is fulfilling national needs.

In my statement I will address three questions. What elements of strategic planning for science and technology transcend individual agency or specific mission strategies? How can the science and technology reports, individually and in combination, be better designed to serve the needs of policymakers? What could usefully supplement OSTP's strategic planning efforts?

THE CONCEPT OF STRATEGIC PLANNING

Before addressing these three questions, I want to discuss the concept of comprehensive strategic planning. Many views differ about what it could be and its place in our democratic and pluralistic form of government. In its broadest dimensions at the national level, comprehensive strategic planning would begin with examination and refinement of national social, political, and economic goals in the whole context of anticipated domestic and international developments. Government planners would identify long-term issues that require timely decisions, and they would evaluate the status of national resources and trends in policies and programs. They would diagnose problems and analyze interdependent strategies. They would rank goals and possible actions and consider trade-offs. They would rank goals and possibly actions and consider trade-off. They would "scan the horizon" to identify emerging issues, assess risks, and develop contingency plans for emergencies.

Such comprehensive strategic planning is extremely difficult in a complex government like ours with decentralized agency missions; mixed Federal, State, and local authorities; and blurred distinctions between public and private sectors. Difficulty is compounded by uncertainties and conflicts that require compromises in one or another of equally desirable national goals—as might happen if energy supply or energy conservation conflicted with environmental protection, if government regulation that constrained business also retarded the innovation and productivity that stimulate economic growth, or if national security closed off international trade.

Many people believe that comprehensive strategic planning is unrealistic in our Government. Others oppose "central planning," fearing that it would lead to a centrally controlled economy and infringement of life styles. Such fears and opposition may explain why no one office or agency has been specifically chartered to perform comprehensive strategic planning in the United States.

At present, strategic planning in the Federal Government is dispersed among mission and regulatory agencies and other offices of limited jurisdiction within the executive branch. As a result, strategic planning tends to focus on relatively narrow issues or collections of several related issues, usually within the purview of a single department or agency. It tends to be selective and fragmented. Centrally coordinating and reconciling individual mission strategies is the responsibility of the Office of Management and Budget (OMB) and other units within the Executive Office of the President. Customarily, individual mission strategies are implemented by guidance and review, especially through the Federal budget process.

ELEMENTS OF STRATEGIC PLANNING FOR SCIENCE AND TECHNOLOGY THAT TRANSCEND INDIVIDUAL STRATEGIES

Most strategic planning for science and technology that is done by mission agencies and OSTP addresses particular topical or mission-oriented issues. Relatively little holistic examination is made of comprehensive interactions among the selected issues and strategies. There are several reasons for this. One is the absence of clearly defined overall national goals. Another is the frequently expressed view that science and technology are not ends in themselves but only components essential to achieving specific mission goals. Another reason is that each task and study is constrained by resources and time. Finally, OSTP has expressed the view that long-range comprehensive studies would overload the Executive Office of the President and hinder, rather than stimulate, positive action.

We believe that strategic planning for science and technology should adopt a long-range perspective on today's incremental decisions, correlating them appropriately with the annual Federal budget cycle. For this to be successful, it requires that the highest levels of Government provide guidance and context for science and technology. It will be interesting to see how well the President's Commission for a National Agenda for the 80's and the proposed Task Force on Global Resources and the Environment fulfill this need.

Strategic planning for R&D in support of agency missions and programs is important, but so is national policy that transcends individual agencies. There are two types of issues that cut across agency lines: those which are related integrally to R&D in the Federal budget, and other issues that are at most only related to the budget peripherally or may impact on the budget in the future.

In previous testimony before the House Committee on Science and Technology and its Subcommittees, I have cited examples of crosscutting issues related directly to the R&D budget process that should be addressed in national strategic planning and in congressional oversight. One is the need to develop a policy committed to adequate and stable support for basic research and graduate education in science and engineering. Federal funding for basic and applied generic research to build and maintain a strong science and technology base frequently may encompass related programs in two or more agencies. Such interrelated programs should be examined to insure that they are complementary without undesirable duplication. Examples of such areas are generic laser technology, life sciences, materials research, computer sciences, energy conservation, and weather modification—to name a few. Another transcending budget-related issue is adherence of the Federal Government to the stated policy that Federal investment in R&D should focus "where the Government seeks to augment, but not supplant, the R&D efforts of the private sector because of an overriding national interest and the need to accelerate or increase the range of technological options available to the Nation." This policy was stated in Special Analysis L on R&D in the Federal Budget for Fiscal Year 1980.

Issues that are either unrelated or related only indirectly to the Federal R&D budget include:

Establishing criteria and strategies for the Federal role in fostering commercial R&D and technological innovation. Particular attention should be given to establishing a coherent and consistent national policy for relations between Government and industry to balance incentives and constraints that affect the climate for investment in long-range, high-risk R&D and capital formation by private enterprise. This involves consideration of tax policy, regulatory reform, intellectual property rights, and antitrust constraints.

Resolving tensions and improving the partnership between the Federal Government and universities. The concepts and methods of accountability in federally funded basic research should be considered, as well as how to resolve other issues raised by the National Commission on Research.

Determining how the Federal Government can foster more cooperative research arrangements between industry and universities.

Determining what constitutes an acceptable degree of uncertainty in research data and risks in health and environmental regulations.

Developing consistent policy and strategy for reconciling trade-offs between protectionism and technological assistance in international sharing of research results and technological developments.

Determining policy and strategy for Federal involvement in the social, economic, and employment impacts of the rapidly advancing communications and information processing technologies.

These are only a few of many issues that must be addressed if our Nation is to achieve a coherent policy framework and a set of compatible strategies for our science and technology effort.

THE DESIGN OF SCIENCE POLICY REPORTS

The key to Federal science policy planning is to develop an institutional process in which the Congress and the executive branch can work together to define questions and obtain answers. The science policy reports that are presently issued are potential tools for developing the institutional process and the information. We have found that the kind of information that is needed and that these reports provide can be divided into four somewhat flexible categories. The categories are: (1) an overall assessment of the national science and technology effort, (2) the Administration's view of future Federal science and technology strategy in the context of the assessment, (3) the Administration's annual statement of posture and strategy, and (4) the Administration's justification for actual policy and program decisions.

1. An Overall Assessment of the National Science and Technology Effort.—This assessment should include the present effort as well as the probable future uses and effects of science and technology in all sectors of the economy. It should include trends, potential impacts, problems, opportunities, and national issues pertaining to science and technology in the United States. Reports that presently provide this type of information are the Five-Year Outlook, the topical NSB reports, the NSB Science Indicators series, and NSF statistical reports.

Five-Year Outlook. NSF has produced a creditable first atempt at a five-year outlook that broadly fulfills the requirements of an overall assessment. Assessments in the Five-Year Outlook were supplied by Federal agencies, the National Academy of Sciences (published separately), and independent consultants. The next version will probably include a sorely needed industrial view as well as comments from professional societies. Assisted by many contributors, NSF is an appropriate source of a five-year outlook, but continuing assistance from OSTP is needed for suggesting issues and obtaining agency assessments. The first Five-Year Outlook was not released in time to be useful to this year's congressional budget cycle. We agree with the NSF plan to release issues of the Five-Year Outlook every other fall beginning in 1981.

NSB Reports. These topical reports, such as the report on basic research in the mission agencies, offer a good biennial opportunity for the relatively independent National Science Board to offer its thinking on selected issues that are related primarily to basic research.

Science Indicators (as augmented by the range of annual NSF statistical reports). This is a major continuing effort by NSB and NSF jointly to understand and provide quantitative measures of trends in U.S. science and technology through the development of a broad range of indicators. Our major recommendations to NSF are that it strengthen its conceptual approach to design of the indicators it uses and that it develop indicators which deal with the processes of science and more appropriately distinguish science from technology. These recommendations are contained in our report to the Congress entitled "Science Indicators: Improvements Needed in Design, Construction, and Interpretation," PAD–80–35, September 25, 1979.

We do not see how the NSF staff could do the tremendous amount of work required in any time less than its current 2-year cycle. Therefore, a publication of Science Indicators every other year, perhaps alternating with the Five-Year Outlook, is appropriate.

2. The Administration's View of Future Federal Science and Technology Strategy in the Context of Assessment.—How does the Administration regard the Nation's future capacity in science and technology to contribute to societal needs? What problems and opportunities are foreseen for the Federal science and technology effort as it relates to industrial and university science and technology activities? The President's Message on Science and Technology, the Five-Year Outlook, and frequent testimony by the Director of OSTP address this category.

President's Message on Science and Technology.—In March 1979, the President provided a very good general framework for his view of the role of science and technology. Additionally his message highlighted key issues. Each Administration should be encouraged to do this for Congress and the Nation.

Five-Year Outlook.—The first Five-Year Outlook contained a short opening overview of the issues by the Director of NSF. His personal view is important, but as Director of NSF he has limited purview of issues involving other Federal agencies.

Testimony by OSTP Director.—Depending on the schedule of hearings and the questions asked of him, the OSTP Director has provided the Administration's view of many issues. We believe that additional overview by the Director of OSTP related to the Five-Year Outlook and published along with the Five-Year Outlook, would be viewed as an authoritative statement from the broader perspective of the President's office.

3. The Administration's Annual Statement of Posture and Strategy.—This should coincide with the presentation of the budget. It should discuss the Administration's strategy in the present year to attain some of its stated goals. It could be presented in testimony by the Director of OSTP and in the Annual Report.

Testimony by OSTP Director.—The testimony by the Director of OSTP gives the Congress an excellent opportunity to question the Administration on its annual posture and strategies for science and technology. We believe that the present Director has performed this function rather well in his statements to the appropriations and authorization committees. If the requirement for an annual report were discontinued, the Director should make his statement available before the hearings. This would facilitate analysis, comments, and questioning; additionally, the hearings and questions addressed to the Director of OSTP might be published under separate cover in place of an annual report.

Annual Report. Many criticized the first and only Annual Report published so far because it did not give the Administration's view and posture on current issues. The report contained essentially an academic analysis of issues by NSF, prefaced by a broad strategic overview signed by the Director of OSTP. Perhaps the most informative part was the statistical overview of the Federal R&D effort. We do not believe this report fulfilled the need for the Administration's statement of posture and strategy. One alternative would be for the functional analysis of Federal R&D to be published as a separate statistical NSF report with the Administration's view presented independently by the OSTP Director, as we suggested above.

4. The Administration's Justification for Actual Policy and Program Decisions.—This category pertains to interagency programs, new science and technology missions, and crosscutting issues. The category provides overviews as distinct from the detailed budget data given by the individual agencies in appropriations and authorization hearings. This category is related very closely to the Administration's annual statement of posture and strategy, except that it describes actual programs and decisions made to implement the strategy. Information for this category is given in testimony by the Director of OSTP, to a limited extent in OMB's Special Analysis of R&D, and in NSF statistical reports, which describe programs functionally but give no justification for them.

OMB's Special Analysis on R&D. This is an annual document prepared under very tight time constraints. It provides a useful overview of Federal R&D but has the potential to supply much more information. For broad science and technology oversight, the Congress needs better program descriptions and more detailed explanation of the rationale for priorities, particularly for interagency programs. More comparison should be made of the agency shares of these programs, and agency science and technology base expenditures should be contrasted more. NSF supplies functional comparison of agency research in a separate report that would be far more useful if it were presented at the beginning of the congressional budget cycle as would be required by the Research and Development Authorization Estimates Act (H.R. 7689) recently passed by the House.

SUPPLEMENTING THE PRESENT SYSTEM

As I stated earlier, we think the Director of OSTP's presentation of the Administration's view of present and future strategy on science and technology is very important. In the present Administration, OSTP is too burdened to prepare a lengthy annual report, but with timely publication and distribution, the OSTP Director's statements and testimony before congressional committees could fulfill this information need.

In our recent study of OSTP for Senator Adlai Stevenson, we recognized that OSTP does not perform the most comprehensive strategic planning and, therefore, cannot provide the Congress this kind of analysis. Instead, OSTP participates within the Executive Office of the President, particularly with OMB, in a narrower approach to strategic planning as defined by energy, space, and other quite specific missions. The major limitation of this approach is that it may not give adequate attention to emerging issues that transcend present missions. Although OSTP does some work that is related to these issues—such as sponsoring studies on the future environmental impact of increasing levels of carbon dioxide—the limitation still exists.

We believe that this inadequacy can be countered in 3 ways, pertaining to (1) OSTP, (2) the Five-Year Outlook, and (3) the establishment of a more formal congressional/executive process for discussing science and technology policy issues.

As a result of our work for Senator Stevenson, we believe that OSTP should establish a detached mechanism to assist it in identifying emerging issues for its work agenda. However strong their expertise, the staff of one small office such as OSTP is unlikely to have a breadth of views that can encompass the ever increasing span of science and technology. Some systematic mechanism should be used to scan potential issues, rank their importance, and submit work proposals for OSTP to consider.

We also suggest that the potential of the Five-Year Outlook for identifying emerging issues be turned to good use. This is not a new proposal, and it is clear that the overall synthesis of the many contributions to the Five-Year Outlook can be a rich source for an early alert to problems and opportunities in science and technology.

We suggest that a more formal process of congressional/executive communications be established. We have addressed this process in our comments and testimony on H.R. 7689. There are several attributes of this process that I want to mention today. Because it is not sufficient for the Administration to simply present its view of the issues and strategies, the Congress should press the Administration to justify its selection of issues and strategies. Questioning could draw from the work of the congressional support agencies and the analyses contained in independent reports (such as the excellent annual series on the Federal R&D budget by the American Association for the Advancement of Science). I do not wish to imply that this questioning should in any way be antagonistic. Perhaps this Subcommittee would find it helpful to go further than questioning the Administration after the fact. Perhaps a cycle could be established in which, each summer, appropriate congressional committees suggest issues they would like the Administration to address in the following season's testimony and statements. Sharing mutual concerns could enhance the congressional role in Federal science planning.

Mr. Chairman, I have completed my summary of our present views of the existing efforts in planning for science and technology. My colleagues and I will be pleased to answer your questions now.

ALASKA LANDS: NATIONWIDE EDITORIAL SUPPORT FOR A STRONG BILL

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, again today I would like to share with my colleagues a further sampling of editorial opinion from across the Nation regarding the Alaska lands conservation issue.

In my remarks yesterday, I intended to express a clear note of optimism that the 96th Congress may well have the satisfaction of having enacted at long last a sound, strong Alaska National Interest Lands Conservation Act. The progress being made in the Senate—where a series of votes a week ago confirmed broad-based, bipartisan support for provisions more along the lines of our House-passed bill—gives us reason to hope that we can achieve a final bill this year. That will certainly be in the interests of the people of Alaska, and it will certainly be in the interests of the people of the whole nation for generations to come.

From across the country has come a remarkable outpouring of public support for a strong Alaska lands bill. And, mirroring this strong public support has been the overwhelming majority of the editorial pages of daily and weekly newspapers, large and small. So, for the interest of our colleagues, I offer as I did yesterday and the day before, a selection of editorials at the conclusion of these remarks. The editorials are from the following newspapers: The Philadelphia Inquirer, the Dallas Morning News, the Houston Post, the Toledo Blade, the Christian Science Monitor, the Chicago Sun-Times, the Atlanta Constitution, and the Bar Harbor Times.

[From the Philadelphia Inquirer, July 21, 1980]

SENATE'S CRUCIAL CHOICE ON ALASKA WILDERNESS

This week, the U.S. Senate will again take up what has been described as "the most important conservation and wildlife legislation of our time." The issue is the preservation of Alaskan wilderness and natural areas. The choice is clear. The land must be protected from development and saved for future generations.

The Senate will be asked to consider three alternatives:

A week and inadequate bill proposed by the Energy Committee that would open vast portions of Alaskan land to a variety of development.

A substitute bill, patterned after an excellent measure already passed by the House (H.R. 39) that is being sponsored by Sens. Paul E. Tsongas (D-Mass) and William V. Roth Jr. (R-Del).

A package of five amendments that falls somewhere in the middle of the two proposals and is a fail-safe measure to stave off total defeat of conservation legislation if Tsongas-Roth is rejected.

The Tsongas-Roth substitute bill deserves the full support of the Senate, which has failed to do its duty to preserve the nation's last frontier. The tragic consequences of the Senate's inaction have been averted thus far by far-sighted intervention on the part of the Carter administration, which has seized this unequalled conservation opportunity and withdrawn vast tracts of virgin lands through a variety of administrative orders. Those withdrawals must be made permanent, however, and Congressional action is necessary.

The Alaska lands legislation, and the controversy over preservation versus development, has generated one of the most intensive lobbying campaigns seen on Capitol Hill in recent years. Supporters of strong legislation include a variety of conservation organizations, as well as the Carter administration. Opponents of the House-passed bill and the Tsongas-Roth substitute include the Alaska legislature, which has mounted a $4 million lobbying effort (in addition to a similar campaign last year costing $2.3 million.

Opponents of a strong Alaska lands bill claim that it would "lock up" vast energy supplies crucial to the State and Nation. The argument is specious. More than 95 percent of the best oil and gas lands, identified by the U.S. Geological Survey, would not be incorporated into conservation areas. They would remain open for development. The approximate location of those energy reserves has been determined by extensive geophysical exploration, and boundaries have been carefully drawn in H.R. 39 and Tsongas-Roth to take energy development into consideration. Development of promising offshore reserves would not be affected.

The State of Alaska is in a unique position. At the moment it is reveling in an enormous budget surplus, the result of the sharp increase in oil prices. (Alaska receives 90 percent of all revenues from oil generated from Federal lands in the State, compared to 50 percent received by other States. That revenue is tied to the price of foreign oil.) When the fiscal year ends next June, the State treasury will have a surplus of $3 billion. In a share-the-wealth spirit, Alaska officials abolished the State income tax and have instituted a rebate program that will return $405 million to the State's 400,000 residents.

The torrent of oil-generated revenue that has filled the State coffers will slow later this decade, however, when the rich Prudhoe Bay field begins to decline in production. With an eye toward that day, State officials are scrambling for access to a variety of other energy and mineral reserves located on Federal lands. The various wilderness designations proposed in the Alaska lands bill precludes mineral development or any other human incursions on millions of acres that constitute the last frontier of America.

The Senate Energy Committee, looking only to today's needs and not into the future, produced a bill that undercuts the objectives of the Alaska lands conservation effort. Wilderness protection for the William O. Douglas National Wildlife Range, home of the Porcupine caribou herd, has been stripped away in the bill, as have similar designations for other majestic areas. The bill also permits excessive logging in the Tongass National Forest in southeastern Alaska. The Tsongas-Roth substitute bill, as well as the package of amendments to the Energy Committee bill, corrects these and other exploitive provisions.

It has been a decade since the Congress committed itself to preserving Alaska for posterity. The Senate must finally complete the job.

[From the Dallas Morning News, July 1, 1980]

ALASKA LANDS BATTLE NEAR DECISION

(By Andy Anderson)

With Senate debate slated to begin July 21, campaigners on the Alaska lands issue are firing their final and loudest shots.

There are actually three versions, millions of acres apart, on the books. The bill now passed twice by the House, H.R. 39, pretty well goes along with what the Carter administration set aside under an emergency provision when the Senate failed to act on the House version in 1978.

The National Audubon Society, Sierra Club, Alaska Coalition and a host of environmental and angling groups are among those factions supporting the maintenance of the full 105 million acres as wildlife refuges, national wildernesses and scenic rivers.

The same Senate which failed to act formerly puts its Energy and Natural Resources Committee into action soon after the House passed its version last November. The bill drawn by the committee is favored by Alaska's senators, many big game hunters and hunting organizations, as well as oil, mining and lumber interests. The bill, S9, guts the House version.

It deletes 37 million acres from the administration and House-established national wildlife refuges and 30 million from wilderness areas.

The committee bill is felt to be unacceptable for full consideration of the Senate and certainly to the Carter administration. A substitute bill close to the House version was introduced by Sen. Paul Tsongas of Massachusetts.

And, trying to cover all contingencies, a group of senators led by Tsongas and William Roth of Delaware have authored a package of five amendments to the substitute bill. They contend the amendments, while nowhere near as beneficial to the continued beauty and ecology of Alaska and the preservation of its game and fish as the House bill, would correct the most glaring faults of the committee bill and provide a minimally acceptable vehicle for eventual House-Senate conferees.

This basically is the lineup—although you will probably need a program—for the hot debate supposed to begin in the Senate in a couple of weeks.

The latest barrages from both sides plead, beg, urge and insist that interested parties visit, call, telegram or write their senators.

Apparently the proponents of the House-passed bill have all but given up on getting the original House bill through the Senate. The latest appeal from the Alaska Coalition, which of course is the umbrella voice for all the organizations which prefer shielding Alaska lands from industrial exploration and exploitation, urges us to urge our senators to support—even by cosponsoring—the substitute 5-amendment package.

On the other hand, The Wildlife Legislative Fund of America ("to protect the Heritage of the American Sportsman to hunt, to fish and to trap") is pushing for S9 as is. That is, this organization which "umbrellas" Safari Club International, Game Coin, National Rifle Association and dozens and dozens more in this fight, asks us to urge our senators to approve S9 without amendment.

The bitterness, the intensity of the fight has set club against club, almost brother against brother, everywhere, including Dallas. And it has made some strange bedfellows, or hunting and fishing partners.

On most issues, some of those lined up on the same side of the Alaska land fuss would not be found dead beside the other.

It is ironic that the hunters, most of whom would walk the entire Brooks Range before they would allow a logging road to bisect a caribou migration route, have had to join forces with heavy industry. Unfortunately, some of the same federal designations that disallow roads, clear cutting, mining, etc., also ban hunting.

Much of Alaska is, and can be, hunted without permanent base camps, without roads. Obviously, allowing float or land planes to ferry hunters to and from protected areas, combined with stringent limits and regulations, would do little harm to the country and its fish and game.

But opening up wilderness areas to oil, lumber and mining companies is a heavy price for the hunters to pay to be able to pursue their sport.

On the other side, there is your basic Fund for Animals, Cousteau Society, Defenders of Wildlife and dozens of other anti-hunting and anti-fishing groups urging passage of the more restrictive bill along with the Federation of Fly Fishermen, American League of Anglers and Trout Unlimited.

The time is now. You chose your side and you write your men in Washington. While I claim no prior knowledge on how John Tower or Lloyd Bentsen are likely to vote, the Texas-Alaska oil ties are well known and have been politically linked before. If, indeed, they vote. The Senate could stall out once more, since it is due to adjourn in October.

The choice is between the Energy Committee Bill, which drastically weakens protection provided both by the House bill and the existing administration land withdrawals, and the Tsongas-Roth substitute package with five strengthening amendments.

It hardly seems necessary to point out that no matter which side you or the senators are on, there is something to be said for too much protection over too little, for caution and patience over recklessness and speed.

History provides many lessons that in such matters as ecology and game and fish management it always will be possible to modify, even rectify, obvious mistakes and injustices if too much of our "Last Frontier" is protected. But mistakes and injustices brought about by too little protection are usually irreversible.

[From the Houston Post, July 19, 1980]

Alaska Wilderness Vote Looms—Senate Faces Historic Test Over Conservationist-Developer Battle

(By Henry Cabot Lodge)

The U.S. Senate faces one of the century's most challenging conservation and wildlife decisions: whether to preserve for future generations a significant portion of our public wildlands in Alaska.

I strongly hope the Senate will meet this challenge as wisely as did the House of Representatives last May when it passed a bill protecting some of the most magnificent of our last frontier's federal lands while allowing for ample commercial development. The House bill preserves about a third of the state as national forests, parks and wildlife refuges, wild and scenic rivers and wilderness areas.

The Alaska lands issue has fired the imagination of a broad range of Americans. Labor unions, civic groups, environmentalists, sportsmen's groups and professional organizations all have been actively seeking strong legislation. In 1978, when President Carter took executive action to protect the lands when previous protection expired, he was backed by requests from 1,500 organizations representing 10 million people—a unique demonstration of strong public feeling.

The House boundaries protect lands of the highest scenic, wildlife and recreational value but exclude, in almost every case, commercially exploitable resources such as oil, timber and minerals. One area, however, embodies the classic struggle between conservationist and developer.

The Arctic National Wildlife Range (recently renamed the Wililam O. Douglas Arctic Wildlife Range) in northeastern Alaska was established in 1960 to protect the majestic Porcupine caribou herd as well as the moose, musk-oxen, polar bears, grizzly bears, foxes, hundreds of thousands of geese and other animals in the area.

This range is the only portion of Alaska's North Slope not slated for oil development. The issue now is whether to give the range the highest level of protection—by designating it a "wilderness"—as the House bill does, or subject it to oil exploration as does the bill reported by the Senate Energy and Natural Resources Committee.

Democrat Paul Tsongas of Massachusetts and Republican William Roth of Delaware are leading the fight by offering their Tsongas-Roth bill, similar to the House-passed bill, as a substitute for the committee's bill.

In the range, on the wind-swept, tree-less plain of the Arctic tundra, the Porcupine caribou herd bears its young each spring. Each year the caribou return to their traditional calving grounds on the narrow coastal plain tucked between the ice-laden Beaufort Sea and the rugged Brooks Range. The Porcupine is the largest herd in the nation, containing 45 percent of all our caribou. These 120,000 caribou roam free in a thousand-mile annual circuit through Alaska and Canada.

Every year, as the caribou migrate, there unfolds in this northern wilderness the awesome spectacle of an endless sea of animals crossing the wild expanses, much as the buffalo once did. National Geographic magazine has called the range our wildest wilderness. Congress has the responsibility to guarantee that it remains wild.

David Roseneau, a leading authority on the Porcupine herd, said in a letter to Senate Energy Committee Chairman Henry Jackson "... since the Porcupine herd is our last free-roaming Arctic population, not yet subjected to exploration and development activities, we must proceed with utmost caution. Since we do not yet know the long-term results of activities ... it seems premature and rather foolhardy to infringe on the calving grounds of the Porcupine herd."

Because we don't know whether human activities will destroy the herd, we should choose the route which protects it the most. The Senate should listen carefully to the rural villagers near the range.

These native communities scattered throughout northeastern Alaska have coexisted for centuries in a balance with the caribou much as the American Indians of the Great Plains existed with the buffalo. These people desperately want the range designated wilderness to protect the caribou. Prohibition of oil and gas exploration in the range by wilderness designation is the top priority for every community within the Alaskan range of the Porcupine herd.

"So long as we have our caribou, our fish and berries, and other products of the land, we can be happy. We have our culture. We have our heritage and our way of life," said Jonathon Solomon, president of an organization of rural communities in northeastern Alaska and mayor of Fort Yukon.

In a letter to the House, Solomon stated, "(The caribou) feed our families. They are the source of our subsistence way of life. . . . You have the chance to give us this hope. Oil exploration and development would deny us that chance."

Because the range is the only area with significant oil potential affected by this legislation, oil companies naturally claim a huge quantity of oil could be there. However, the most recent geological evidence suggests the range lacks the structure and reservoir rocks which characterize Prudhoe Bay and that the field could be small enough to make development uneconomical.

The House-passed bill leaves 95 percent of Alaska's high and favorable potential onshore oil lands available for development—enough to keep our oil companies busy for a long time. Exploration should proceed first in those lands and not in the one area where the House feels the wilderness values far outweigh possible benefits of oil exploration.

The Alaska lands vote will be a historic test of whether this nation is willing to strike a fair balance between development and conservation in the last great area left available for such a decision.

(Lodge, former senator, ambassador and Republican nominee for vice president, is a founding member of Americans for Alaska.)

[From the Toledo Blade, June 25, 1980]

Alaskan Bonanza

When the Senate takes up the controversial Alaska wildlands bill next month, there will be a good deal of oratory to the effect that the state is suffering from federal domination that threatens its economic future.

It is something of a myth, however, that the state's economy is being trampled by Washington. The lands already chosen by the state for development are among the most productive in terms of minerals and oil yield. The current estimate is that taxes generated by Alaskan oil revenues will produce an aggregate state budgetary surplus of $18 billion by 1985—mostly from the 245,000 acres of the North Slope where the Prudhoe Bay oil strike was made. Alaska, like several other states in the south and west, stands to benefit handsomely from the federal decontrol of oil prices, and the windfall is almost unprecedented in American history.

Embarrased by all this wealth, Gov. Jay Hammond and the Alaska legislature devised a plan to eliminate the state income tax for all but a few residents and pay the state's 400,000 citizens a total of $405 million by the end of the year in the form of tax refunds and a "share-the-oil-wealth" plan based on years of residence in the state.

One result of this wealth flowing into state coffers—putting Alaska in the category of an OPEC-type nation—is that the legislature has decided to spend up to $7 million to lobby against the Alaska wildlands bill which would set roughly 100 million acres aside in the form of parks, wilderness areas, and wildlife refuges. The controversy over the bill does not have to do so much with the number of acres to be set aside as it does the degree of protection from commercial exploitation to be afforded certain tracts.

So far, Alaskans have not given much heed to the future, and that fact hardly inspires confidence in the state's ability to manage its priceless wilderness areas for future generations. There is no reason to complain of the good fortune that Alaskans are now enjoying as a result of the oil bonanza. Indeed, it is to be hoped they will invest a good part of the money in economic activities that will provide jobs after the oil is depleted.

But at least the debate over the wilderness bill should be cast in terms other than that of the federal bully picking on the little state of Alaska. Many a hard-pressed governor in the lower 48 states would endure quite a bit of abuse from Washington if the result were that he could expect to pile up $18 billion in state treasury surpluses as a result of decisions made in the nation's capital.

[From the Christian Science Monitor, July 23, 1980]

Go Slow in Alaska

The Senate this week is debating legislation that would provide protection for America's last great frontier wilderness in Alaska. The most controversial aspect of the hotly contested Alaska Lands Act is how much of the federal land to be set aside as wildlife refuges and national parks should be made available for oil and gas exploration. The House of Represenatives has enacted a strong environmental measure, supported by environmentalists and the Carter administration. The Senate has before it a weaker version reported out by the Senate Energy Committee, which has the backing of developers and many Alaskans, including the state's two U.S. senators.

Among other things, the Senate Energy Committee bill would delete 37 million acres from national wildlife refuges, downgrade three million acres of national parklands to allow mining, and cut in half two existing national monument areas, opening them to potential clear-cut logging. Senator Tsongas of Massachusetts and other senators have introduced substitute legislation and amendments to strengthen the Senate bill and, in essence match the environmental protection set out in the stronger House bill. It should be pointed out, however, that even the Senate Energy Committee bill includes important environmental protection measures.

It is to be urged that the Senate, which failed once before to reach agreement on an Alaska lands act, make every effort this time to enact some combination of the proposed measures that will balance the need to safeguard Alaska's irreplaceable wilderness and wildlife areas against the urgent national need to develop new energy sources.

The major sticking point in the stronger Tsongas proposal is that it bars oil and gas studies that could lead to future exploration of the William O. Douglas Arctic Wildlife Range on Alaska's North Slope. Development proponents, pointing out that a major oil find there could help the nation through the energy shortages projected for the coming decades, say that, at the very least, oil companies should be allowed to conduct seismic studies to determine what are the oil prospects there. Environmentalists, however, stress that the range is the calving ground for the nation's last large caribou herd and that too little is known about what impact seismic studies would have on these rare animals.

We favor taking the more cautious route. Closing that section of the North Slope even to oil studies, as the Tsongas substitute bill would do, would in no way deter oil exploration in Alaska. The neighboring National Petroleum Reserve alone is believed by experts to have twice as much oil potential as the caribou rangeland, and this would be open to exploration. The White House argues that even the strongest environmental measures allow exploration in more than 90 percent of the most promising onshore oil and gas acreage and 100 percent of the state's offshore areas.

In short, oil companies would be kept busy for a number of years. If, in the ensuing period, the nation's energy picture deteriorates to the point where the caribou rangelands must be tapped, Congress could easily enact legislation that would open the land to study and eventual exploration. Or Congress could take such a step if, in the meantime, impact studies indicated that seismic soundings could be carried out without undue damage to the North Slope rangeland.

The proposed amendments to the Senate bill provide for an eight-year study of the environmental impact which seismic soundings would have on the range. The Energy Committee bill proposes a two-year study. The senators should be able to work out a compromise.

Further bolstering the argument for going slow on the Douglas range are recent studies by the US Geological Survey which indicate that any oil found there is apt to be heavier than normal crude oil, which means that no more than 20 to 25 percent of it is likely to be recoverable.

Of the 375 million acres of land in Alaska, the Carter administration-backed bills would protect more than 100 million acres for future generations of Americans who, without such set-asides, may never have the opportunity to experience the kind of wilderness area that once covered vast areas of North America but have since vanished before creeping civilization. Alaska provides an opportunity to protect whole land areas before they are altered by man. Advocates of protection point out that there are no more Alaskas. The Alaska Lands Act needs to take into consideration the nation's energy needs, but tomorrow could be too late for lawmakers to reverse a wrong environmental decision made today.

[From the Chicago Sun-Times, June 2, 1980]

Sane Compromise on Alaska

The battle to save Alaska or exploit it is building to a resolution—unless it gets lost in Congress' midsummer legislative logjam. We hope the issues are too clearly drawn for that.

A year ago, the House passed a fairly strong bill to protect Alaska's federal wilderness. It would limit commercial exploitation of 127.5 million acres; for balance, it would allow oil exploration on 95 percent of Alaska land thought ripe for oil development, plus mining on 70 percent of mineral-rich areas.

Last November, the Senate Energy and Natural Resources Committee, prompted by Alaska's grab-it-while-you-can senators, responded with a travesty.

Its bill would exempt a fifth of the wilderness area the House described, allow oil exploration in 2 million acres of the vital Arctic Wildlife Range, permit logging on panhandle islands that shelter the nation's largest eagle populations and approve mining for copper and other metals in two national parks.

Now, the two versions are headed for a showdown: The full Senate must approve the Energy Committee's grab-it bill, the House measure or a set of compromise amendments presented by Sen. Paul E. Tsongas (D-Mass.) and other conservation-minded members.

Heavy pressure, of course, is coming from Alaska Senators Ted Stevens (R) and Mike Gravel (D), who make a case study in bipartisan pie-carving. On the land issue, they are showing the same kind of "concern" for the rest of the nation that the state has shown in profiteering from its billion-dollar Prudhoe Bay oil windfalls.

But, like the oil issue, the land issue can affect the Lower 48 as much as it affects Alaska: The federal wildernesses there, which belong to the whole nation, are by far large enough to accommodate some development while setting large areas aside unspoiled.

That's one reason Interior Secretary Cecil D. Andrus "froze" large Alaskan areas last year: to assure the plunder-and-run interests didn't preempt preservationists forever.

The House bill—or, less favorably, the Tsongas amendments—have the same intent, though they keep an eye on further development later, if necessary. Passage is a must.

[From The Atlanta Constitution, July 6, 1980]

Carving Up Alaska

(By Durwod McAlister)

Visitors to Alaska's capital city of Juneau may, by chartering one of the small seaplanes that fill the harbor for a flight over the wildernes and the nearby glacial ice cap, enjoy one of the most spectacularly beautiful and awe-inspiring sights on this continent.

During a visit there last summer I seized the opportunity.

As we lifted up to the top of the steep mountains surrounding the city, the pilot drew my attention away from the majestic scenery, nodding toward a factory a few miles away. It was marked by a heavy plume of smoke and fingers of brown stain reaching out into the blue waters of the inlet on which it was located.

"They're fouling it up," he said sadly. "I know we need the jobs and I know it's good for the economy, but they're just fouling it all up. I just wish we could have kept things the way they were."

He had lived in Alaska 20 years, working as a guide, trapper and bush pilot; and he was, by nature, a dedicated conservationist, a natural foe of those developers who are scrambling to exploit his state's boundless natural resources.

There are a lot of other conservationists in Alaska and in the lower 48 states who feel the same way, but they are fighting a battle they will ultimately lose.

The stakes are too high; the conservationists can't hope to come up with the kind of war chest required to wear down the powerful interests who are bent on getting at all the wealth hiding in our great northern wilderness.

Alaska is rich, spectacularly rich, in oil and coal, in silver and gold and in uranium, molybdenum and tungsten. Developers are drooling over the prospect of unimaginable wealth just waiting to be harvested, and they will not be long denied.

The question is not whether Alaska will change, but how much and how rapidly.

That is the issue that will hit the floor of the U.S. Senate later this month when that body grapples with competing proposals for the disposition of Alaska's vast land resources.

At issue are two bills, a Senate Energy Committee version favored by the developers and the Alaskan state government, and a substitute supported by environmentalists. The substitute is similar to a bill passed by the House last May.

Both set aside vast areas for national parks, wildlife refuges and wilderness designation, but both also leave millions of acres free for exploration and development.

It is important to note that less than one percent of Alaska's 375 million acres has been developed and that, until statehood and the Native Claims Settlement Act, it was virtually all owned by the federal government.

What reasonably should emerge from the floor debate and negotiations is some sort of compromise that will allow the development of needed resources as the need is proven while holding in reserve those which are not needed now for the use of future generations.

Unfortunately, what is more likely is that the forces of greed, with the persuasive power of political action commitee contributions to key senators, will be able to open too much of Alaska up to the sort of exploitation which serves the selfish interests of the few without regard to the future needs of many.

The pity is that if the developers are right, if we really do need to destroy vital wildlife habitats for the sake of the nation, there will be ample time to open those lands up for development when the need is severe enough to demand such action.

But if they are not protected now the chance will be gone and no amount of second guessing will restore what is lost.

Then we may all join that Juneau pilot in wishing—too late—that we would have kept things the way they were.

It is not a question, then, of taking away from one group and giving to another, but simply deciding how much will be released from strict federal control.

[From the Bar Harbor Times, June 26, 1980]

Here There: Alaska Here and Now

(By John Kauffmann)

Here is Maine; there is Alaska, far, far away, 6,000 miles far from Maine life, Maine's problems. Of what real concern, then, is Alaska beyond its being a fellow State in the Union, its people fellow Americans?

Because Maine's million citizens each own a little part of that "Great Land" we bought from Russia in 1867. Together with the shares all other Americans have in the public lands it is a national legacy for us and our descendants.

It is a land so spectacular as to defy description, and it is wild and pristine. It has a wealth of wildlife that is but a memory elsewhere. Waterfowl fill the air, caribou herds move across the tundra as bison once grazed our western plains. Salmon surge up the rivers, and fishing for them are great brown bears. Alaska is our ultimate wilderness, the last remnant of what the New World used to be. If we lose the freshness and the beauty there, something essential to North America will have died out forever.

To preserve this legacy, Congress has been considering Alaska lands legislation that would set aside millions of acres of the public land as national parks and preserves, wildlife refuges and wild rivers. The House of Representatives last year passed a strong Alaska lands bill, responding to nationwide interest. Next month the Senate will debate the matter.

Maine's Senators will be important voters, for the State of Alaska, pressured by industry and an exploitive mentality among many of its residents, wants a much weaker bill. As compared with what the House voted for, it would halve the amount of wildlife refuge lands, halve the amount of protected wilderness, splinter parks into various management units with lower levels of protection, and open virgin forest habitats to clearcutting.

This weaker legislation, which Alaska's Senators engineered through the Senate Energy and Natural Resources Committee, is preferable, they argue, because of the Nation's energy and other resource needs. It is a false argument, however, because some 95 percent of the favorable oil and gas regions in Alaska lie outside of the proposed conservation area boundaries. The same holds generally true for other potential resources, much of which will likely be found on extensive private and state lands that comprise 40 percent of the territory and that are by far the most valuable economically. The real reason for seeking weak legislation is that it will give industry a more convenient and profitable exploitation.

There is strong hope, however, that the Senate will match the House-passed Alaska legislation. Led by Paul Tsongas of Massachusetts, a group of Senators has introduced a package of amendments to beef up the Senate Committee's bill and have also introduced a strong substitute measure. In view of Senator Cohen's strong stance in conservation matters, and with Senator Mitchell likely to carry on the outstanding conservation record of Edmund Muskie, Maine citizens can well hope that our Senators will cast their votes for the strongest possible Alaska lands legislation.

Whether or not they have ever seen Alaska or ever hope to (their children will), the people of Maine can have empathy with the Alaskan environment. The same cold, challenging seas yield rich fisheries harvests; the same seabirds wheel over the rocky coasts under the eyes of eagles. The salmon streams remind one of what the Penobscot, and so many others in Maine once were like and perhaps may be again. Maine and Alaska share the allure of wild rivers and myriad lakes. Though the true wilderness adventure once beckoning from the Maine woods is becoming more and more of a memory, now, as roads have laced them, that adventure still strongly challenges outdoorspeople in Alaska. They run rivers like the St. John, Allagash, Machias, and perhaps fish for the squaretail's cousin the arctic char. Beneath familiar spruce and birch forests bloom familiar bunchberries and twin flowers among familiar mosses. Alaska's blueberries are luscious.

Alaska is far grander than Maine, to be sure. Its mountains are huge. The glaciers that sculptured Mount Desert Island are still at work in Alaska. But both States bear the same environmental hallmark of quality. If the Senate votes to protect that quality, we shall know that here, there, American great grandchildren will sense what the New World environment was, is, and, in adequate measure, shall be.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dougherty) to revise and extend their remarks and include extraneous material:)

Mr. Stangeland, for 5 minutes, today.
Mr. Corcoran, for 10 minutes, today.
Mr. Dougherty, for 10 minutes, today.
Mr. Hyde, for 5 minutes, today.
Mr. Derwinski, for 10 minutes, today.
Mr. Ashbrook, for 10 minutes, today.
Mr. Kemp, for 30 minutes, today.

(The following Members (at the request of Mr. Bailey) to revise and extend their remarks and include extraneous material:)

Mr. Vanik, for 15 minutes, today.
Mr. Mica, for 10 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Reuss, for 10 minutes, today.
Mr. Minish, for 5 minutes, today.
Mr. Smith of Iowa, for 5 minutes, today.
Mr. Stokes, for 30 minutes, today.
Mr. White, for 5 minutes, today.
Mr. Hawkins, for 5 minutes, today.
Mr. Murtha, for 60 minutes, today.

(The following Member (at the request of Mr. Benjamin) to revise and extend his remarks and include extraneous material:)

Mr. Bowen, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Symms, immediately prior to vote on the Stenholm amendment to H.R. 7831 in the Committee of the Whole today.

Mr. Weiss, to revise and extend his remarks just before the vote on the Miller amendment.

Mr. Brown of California, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,179.

Mr. Bauman, to extend his remarks prior to adoption of Hubbard amendment on H.R. 7831, Department of Transportation appropriations.

Mr. Gilman, to revise and extend his remarks on H.R. 827 and to have remarks placed immediately preceding Chair's decision on unanimous-consent request to consider H.R. 827.

Mr. Seiberling, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,474.

(The following Members (at the request of Mr. Dougherty) and to include extraneous matter:)

Mr. Kemp in seven instances.
Mr. Brown of Ohio.
Mr. Wydler in two instances.
Mr. Bethune.
Mr. Shumway.
Mr. Whitehurst.
Mr. Wampler.
Mr. Hollenbeck.
Mr. Clausen.
Mr. Railsback.
Mr. Gilman in two instances.
Mr. Cheney.

Mr. McCloskey in two instances.
Mr. Stockman.
Mr. Bob Wilson in two instances.
Mr. Hagedorn.
Mr. McClory.
Mr. Carney.
Mr. Dornan in three instances.
Mr. Dougherty.
Mr. Clinger.
Mr. Pursell in two instances.
Mr. Sensenbrenner.
Mr. Bereuter.
Mr. Robert W. Daniel, Jr.
Mr. Derwinski.
Mr. Frenzel in five instances.
Mr. Marlenee.

(The following Members (at the request of Mr. Bailey) and to include extraneous matter:)

Mr. Guarini.
Mr. Beard of Rhode Island.
Mr. Fascell in five instances.
Mr. Moakley.
Mr. Mottl.
Mr. Yatron in two instances.
Mr. Pepper.
Mr. Conyers.
Mr. Roybal.
Mr. Solarz.
Mr. Patterson.
Mr. Giaimo.
Mr. Walgren.
Mr. Albosta.
Mr. Brodhead.
Mr. Won Pat.
Mr. Skelton.
Mr. Fithian in two instances.
Mr. Studds.
Mr. Applegate.
Mr. Murphy of New York in two instances.
Mr. Ottinger in seven instances.
Mr. Fisher.
Mr. Bonker.
Mr. Lloyd.
Mr. Jenkins.
Mr. Zablocki in two instances.
Mr. Daschle in three instances.
Mr. Waxman.
Mr. Minish.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6613. An act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

BILL PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on July 30, 1980, present to the President, for his approval, a bill of the House of the following title:

H.R. 5748. To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

ADJOURNMENT

Mr. BENJAMIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Friday, August 1, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4954. Communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1980 and amendments to the request for appropriations for fiscal year 1981 (H. Doc. No. 96–349); to the Committee on Appropriations and ordered to be printed.

4955. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial function at Seneca Army Depot, Romulus, N.Y., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4956. A letter from the Secretary of Education, transmitting the proposed family contribution schedules for the basic educational opportunity grant program for academic year 1981–82, pursuant to section 411(a)(3)(A)(ii) of the Higher Education Act of 1965, as amended; to the Committee on Education and Labor.

4957. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting his determination and certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain the budgeted level of operations for Radio Free Europe/Radio Liberty, Inc., during the second quarter of fiscal year 1980, pursuant to section 3 of Public Law 94–350, as amended; to the Committee on Foreign Affairs.

4958. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Peter Jon de Vos, Ambassador-designate to Guinea-Bissau and to Cape Verde, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Veterans' Affairs. Report on allocation of Budget totals to Subcommittees (Rept. No. 96–1212). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H. Res. 745. Resolution of inquiry in the matter of Billy Carter; with amendment (Rept. No. 96–1213, pt. I). And ordered to be printed.

Mr. ZABLOCKI: Committee on Foreign Affairs. H. Res. 745. Resolution of inquiry in the matter of Billy Carter; with amendment (Rept. No. 96–1213, Pt II). Referred to the House Calendar.

Mr. MURPHY of New York: Select Committee on the Outer Continental Shelf. Final Report on the Activities of the Select Committee on the Outer Continental Shelf (Rept. No. 96–1214). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. Vento, and Mr. Hyde):

H.R. 7891. A bill to insure the opportunity for homeownership and to abolish the Depository Institutions Deregulation Committee, and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. BONKER (for himself, Mr. Lowry, Mr. McCormack, Mr. Pritchard, Mr. Swift, and Mr. Dicks):

H.R. 7892. A bill to establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington; to the Committee on Merchant Marine and Fisheries.

By Mr. BROOKS (for himself, Mr. Fountain, and Mr. Horton):

H.R. 7893. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments and agencies, and for other purposes; to the Committee on Government Operations.

By Mr. CORCORAN (for himself and Mr. Garcia):

H.R. 7894. A bill to amend title 13, United States Code, to provide for congressional disapproval of question proposed to be included in censuses conducted by the Secretary of Commerce; to the Committee on Post Office and Civil Service.

By Mr. PHILIP M. CRANE:

H.R. 7895. A bill to amend title 5 of the United States Code to provide that a rule promulgated by a Federal agency may not become final unless such agency submits such rule and an economic impact statement with respect to such rule to the Congress and the Congress approves such rule and statement, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBERT W. DANIEL, Jr.:

H.R. 7896. A bill to permit the Corps of Engineers or its contractors to dispose of dredged material from the Norfolk Harbor Channel project in certain ocean waters; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. GINN (for himself and Mr. Fauntroy):

H.R. 7897. A bill for the relief of the prior owners of the Harris Neck Wildlife Refuge, or their heirs; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 7898. A bill to amend the Internal Revenue Code of 1954 to encourage investment and economic growth by providing a simplified first-year capital cost recovery method; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 7899. A bill to amend the Immigration and Nationality Act to provide for the immediate deportation of aliens who are arrested and refuse to disclose their identity to law enforcement officers; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 7900. A bill to provide that no site may be listed on the National Register of Historic Places without the prior written permission of each owner of such site, to compensate owners of sites listed on the National Register of Historic Places, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 7901. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of sections 219 and 220 of such code of certain individuals who separate from service with an employer during the taxable year; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 7902. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy by providing loans for the establishment of businesses and industries, and the expansion and improvement of such existing businesses and industries, and to provide job training for unskilled and semi-skilled unemployed and underemployed workers; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MOTTL:

H.R. 7903. A bill to amend title 18 of the United States Code to provide penalties for excessive violence during professional sports events; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 7904. A bill to amend the Railroad Retirement Act of 1974 to eliminate the limitation of "years of service" credit for military service to wartime service; to the Committee on Interstate and Foreign Commerce.

By Mr. PETRI:

H.R. 7905. A bill to amend the Consolidated Farm and Rural Development Act to require that not less than a fixed percentage of all real estate loans be made for the acquisition of farms by certain operators and to provide for the repayment of such loans in graduated installments at the option of such operators; to the Committee on Agriculture.

By Mr. SMITH of Iowa (for himself, Ms. Ferraro, and Mr. Hall of Ohio):

H.R. 7906. A bill entitled "the Small Business Participating Debentures Act of 1980"; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 7907. A bill to instruct the President to designate the year 1984 as the Centennial Celebration of the Statue of Liberty and to establish the State of Liberty Centennial Commission; to the Committee on Post Office and Civil Service.

By Mr. STOKES:

H.R. 7908. A bill to amend title XIX of the Social Security Act to require State medicaid programs to provide grants to certain financially distressed hospitals and community health centers which provide uncompensated care and which would otherwise be closed, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. VANDER JAGT:

H.R. 7909. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain research and experimental expenditures, and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK:

H.R. 7910. A bill to provide a system for adjusting depreciation schedules for tax purposes so as to insure the vitality of key industries; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. Preyer, Mr. Maguire, Mr. Walgren, Ms. Mikulski, Mr. Leland, Mr. Murphy of New York, and Mr. Carter):

H.R. 7911. A bill to amend the Public Health Service Act to make technical revision in the provisions of title XV of the act relating to health planning; to the Committee on Interstate and Foreign Commerce.

By Mr. STUDDS:

H.J. Res. 591. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. ROSENTHAL (for himself, Mr. Bingham, Mr. Solarz, Mr. Mica, Mr. Wolff, Mr. Barnes, Mr. Gray, Mr. Hall of Ohio, Mr. Wolpe, Mr. Gilman, Mr. Ireland, and Mr. Bonker):

H. Con. Res. 396. Concurrent resolution disapproving the proposed sale to Jordan of 100 M–60A3 tanks and related defense articles and services (Transmittal No. 80–82); to the Committee on Foreign Affairs.

By Mr. WOLFF (for himself, Mr. Buchanan, Mr. Gilman, Mr. Guyer, Mrs. Fenwick, Mr. Wolpe, Mr. Lagomarsino, Mr. Barnes, Mr. Bonker, Mr. Addabbo, Mr. Drinan, Mr. Dickinson, Mr. Yates, Mr. Ford of Tennessee, Mr. Evans of the Virgin Islands, Mr. Harris, Mr. Leach of Iowa, Mr. Courter, Mr. Benjamin, Mr. Lowry, Mr. Stack, Mr. Waxman, Mr. Horton, Mr. Blanchard, Mr. Dodd, Mr. Pepper, Mr. Fish, Mr. Dornan, Mr. Archer, Mr. Brodhead, Mr. Ottinger, Mr. Weiss, Mrs. Holt, and Mr. Thompson):

H. Con. Res. 397. Concurrent resolution expressing the deep concern of the Congress about the deprivation by the Soviet Union of the right of Protestant Christians to freedom of religion and, in particular, about the situation of the seven Pentecostals now living in the U.S. Embassy in Moscow; to the Committee on Foreign Affairs.

By Mr. GOODLING (for himself, Mr. Zablocki, Mr. Young of Florida, Mr. Anderson of Illinois, Mr. Michel, Mr. Lewis, Mr. Coughlin, Mr. Dougherty, Mr. Gaydos, Mr. Guyer, Mr. Shuster, Mr. Dickinson, Mr. Hawkins, Mr. Devine, Mr. Bailey, Mr. Conte, Mrs. Fenwick, Mr. Miller of Ohio, Mr. Broyhill, Mr. Gingrich, Mr. Frenzel, and Mr. Campbell):

H. Res. 759. Resolution authorizing the printing of a collection of statements made in tribute to the late Mamie Doud Eisenhower; to the Committee on House Administration.

MEMORIALS

Under clause 4 of the rule XXII.

517. The SPEAKER presented a memorial of the Legislature of the State of California, relative to plant closing; to the Committee on Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND:

H.R. 7912. A bill for the relief of Viktor Ivanovich Belenko; to the Committee on the Judiciary.

By Mrs. CHISHOLM:

H.R. 7913. A bill for the relief of Vincenzo Scarpulla; to the Committee on the Judiciary.

H.R. 7914. A bill for the relief of Humberto, Angela Marcos, Cesar, and Graciela Mardirossian; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 7915. A bill for the relief of Madeleine Mesnager; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2570: Mr. Harris.

H.R. 3562: Mr. Chappell.

H.R. 5099: Mr. Quillen, Mr. Anderson of California, Mr. Wylie, Mr. Lowry, Mr. Williams of Montana, Mr. Johnson of California, Mr. Volkmer, Mr. Rudd, and Mr. Musto,

H.R. 5225: Mr. Gudger, Mr. Hamilton, Mr. Mottl, and Mr. Lederer.

H.R. 5981: Mr. Edgar and Mr. McKinney.

H.R. 6012: Mr. Spence.

H.R. 6050: Mr. Guarini.

H.R. 6377. Mr. Guarini.

H.R. 6473: Mr. Studds.

H.R. 6665: Mr. Stack, Mr. Hughes, Mr. Ashley, and Mr. Evans of the Virgin Islands.

H.R. 6686: Mr. Albosta.

H.R. 6859: Mr. Gingrich, Mr. Vento, and Mr. Lowry.

H.R. 6889: Mr. Young of Missouri and Mr. Flippo.

H.R. 7046: Mr. Weiss, Mr. Oberstar, Mr. Roe, Mr. Guarini, and Mr. Barnes.

H.R. 7162: Mr. Gramm, Mr. Stangeland, Mr. Vander Jagt, Mr. Royer, Mr. Tauke, Mr. Lott, Mr. Leach of Iowa, Mr. Spence, Mr. Taylor, Mr. Hyde, Mr. Hefner, Mr. Flippo, Mr. Courter, Mr. Hillis, Mr. Shelby, Mr. Gudger, Mr. Huckaby, Mr. Ireland, Mr. Hutto, Mr. Stump, Mr. Whitley, and Mr. Frenzel.

H.R. 7211: Mr. Simon, Mr. Lowry, Mr. Albosta, and Mr. Robert W. Daniel.

H.R. 7310: Mr. Nowak.

H.R. 7381: Mr. Winn.

H.R. 7434: Mr. Oberstar, Mr. Bolling, Mr. Murphy of Pennsylvania, Mrs. Chisholm, Mr. Wolpe, Mr. Pepper, Mr. Rosenthal, Mr. Stark, Mr. Edwards of California, Mr. Horton, Mr. Clay, Mr. Evans of the Virgin Islands, Mr. Rangel, Mr. Hughes, Mr. Ford of Tennessee, Mr. Conyers, Mr. Stewart, Mr. Won Pat, Mr. Panetta, Mr. Conte, Mr. Frost, Mr. Lederer, Mr. Nowak, Mr. Mavroules, and Mr. Kildee.

H.R. 7505: Mr. Yatron.

H.R. 7557: Mr. Volkmer.

H.R. 7560: Mr. Brodhead, Mr. Winn, Mr. Matsui, Mr. Young of Missouri, Mr. Chappell, Mr. Oberstar, Ms. Mikulski, Mr. Wolpe, Mr. Blanchard, Mr. Roe, and Mr. Kildee.

H.R. 7563: Mr. Florio, Mr. Ritter, Mr. Beard of Tennessee, Mr. Whitehurst, Mrs. Schroeder, Mr. Dougherty, Mr. Evans of the Virgin Islands, Mr. Roe, Mr. Jeffries, Mr. Royer, Mr. Goodling, Mrs. Holt, Mr. Hyde, Mr. Williams of Ohio, Mr. Lee, and Mr. Spence.

H.R. 7580: Mr. Pepper, Mr. McHugh, Mr. Scheuer, Mr. Porter, Mr. Lehman, Mr. D'Amours, Mr. Harris, Mr. Hughes, Mr. Vento, Mr. LaFalce, Ms. Oakar, Mr. Kildee, Mr. Wolpe, Mr. Phillip Burton, and Mr. Fazio.

H.R. 7622: Mr. Nichols.

H.R. 7655: Mr. Beard of Tennessee, Mr. Bethune, Mr. Cheney, Mr. Cleveland, Mr. Courter, Mr. Dan Daniel, Mr. Davis of Michigan, Mr. Dannemeyer, Mr. Dickinson, Mr. Gilman, Mr. Hopkins, Mrs. Holt, Mr. Jeffries, Mr. Madigan, Mr. Marks, Mr. Mitchell of New York, Mr. McClory, Mr. Rinaldo, and Mr. Coughlin.

H.R. 7678: Mr. Bonior of Michigan, Mr. Mottl, Mr. Hollenbeck, Mr. Roe, Mr. Lujan, Mr. Hillis, and Mr. Traxler.

H.R. 7702: Mr. Seiberling.

H.R. 7716: Mr. Frost, Mr. Ertel, Mr. Petri, Mr. Hubbard, Mr. Dougherty, Mr. Robert W. Daniel, Mr. Lloyd, Mr. Royer, Mr. Porter, Mr. Gephardt, Mr. Stump, Mr. Railsback, Mr. Mineta, Mr. Hughes, Mr. Jones of Tennessee, Mr. Clinger, Mr. Beard of Tennessee, Mr. Thomas, and Mr. Forsythe.

H.R. 7732: Mr. Beilenson, Mr. Fazio, Mr. Gibbons, Mrs. Fenwick, and Mr. Vento.

H.R. 7766. Mr. McKinney.

H.R. 7773. Mr. Forsythe.

H.R. 7859. Mr. Guarini and Mr. Rinaldo.

H.R. 7874. Mr. Philip M. Crane, Mr. Hansen, Mr. Jeffries, and Mr. McDonald.

H.J. Res. 307. Mr. Gingrich and Mr. Courter.

H.J. Res. 511. Mr. Matsui, Mr. Kelly, Mr. Jenkins, Mr. Murphy of Pennsylvania, Mr. Emery, Mr. Sebelius, Mr. Hollenbeck, Mr. Petri, and Mr. Coleman.

H.J. Res. 580. Mr. Wolpe.

H. Con. Res. 301. Mr. Musto and Mr. Edgar.

H. Con. Res. 389. Mr. Hollenbeck, Mr. Kemp, Mr. Wolpe, Mr. Fish, Mr. Murphy of Illinois, Mr. Addabbo, Mr. Stark, Mr. AuCoin, Mr. Waxman, Mr. Evans of the Virgin Islands, Mr. Lent, Mr. Rosenthal, Mr. Ottinger, Mr. Rangel, Mr. Blanchard, Mr. Cleveland, Mr. Benjamin, Mr. Scheuer, Mr. Bingham, Mr. Weiss, Mrs. Fenwick, Mr. Hughes, Mr. Harkin, Mr. Kildee, Mr. Brodhead, Mr. Frost, Mr. Ford of Tennessee, Mr. Stack, Mr. Gradison, Mr. Pepper, Mr. Barnes, Mr. Roe, Mr. Archer, and Mr. Solarz.

H. Con. Res. 391. Mr. Addabbo, Mr. Blanchard, Mr. Murphy of Pennsylvania, Mr. Markey, Mr. Annunzio, Mr. Forsythe, Mr. Wolpe, Mr. Waxman, Mr. Lagomarsino, Mr. Hollenbeck, Mr. Nowak, Mr. Lehman, Mr. Dodd, Mr. Cavanaugh, Mr. Jeffords, Mr. Mazzoli, Mr. Harris, Mr. Vento, Mr. Gibbons, Mr. Drinan, Mr. Solarz, Mr. Weiss, Mr. Beard of Rhode Island, Mr. Edwards of California, Mr. Moffett, Mr. Erlenborn, Mr. Harkin, Mr. Rosenthal, Mr. Rodino, Mr. Ford of Tennessee, Mr. Bauman, Mr. Porter, Mr. Pepper, Mr. Hughes, Mr. Mottl, Mr. Stark, Mr. Frost, Mr. Mitchell of New York, Mr. Kildee, Mr. Conte, Mr. Petri, Mr. Whitehurst, Mr. Brademas, Mr. Thompson, Mr. Gilman, Mr. Roe, Mr. Boner of Tennessee, Mr. Fish, Mr. Oberstar, and Mr. Zablocki.

H. Res. 756. Mr. Fauntroy, Mr. Coelho, and Mr. Bauman.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

404. By the SPEAKER: Petition of the annual session of the Western North Carolina Conference of The United Methodist Church, Lake Junaluska, N.C., relative to national security and world peace; to the Committee on Armed Services.

405. Also, petition of the annual session of the Western North Carolina Conference of The United Methodist Church, Lake Junaluska, N.C., relative to the Law of the Sea Conference; jointly, to the Committees on Foreign Affairs, Interior and Insular Affairs, Merchant Marine and Fisheries, and Ways and Means.

EXTENSIONS OF REMARKS

MILITARY EDUCATION BENEFITS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. WHITEHURST. Mr. Speaker, without question, one of the major problem areas our Nation's Armed Forces presently face is recruiting and retaining high quality individuals. And I share the opinion of many others that a primary reason for the failure of the All-Volunteer Force can be traced directly to the steady decline in military pay and benefits in recent years.

With regard to educational assistance afforded to those individuals interested in entering the Armed Forces, in 1977 education assistance under the GI bill was discontinued. I submit that educational assistance historically has been the single most visible benefit for junior enlisted personnel. As a consequence, recent surveys point up disturbing evidence that the quality of volunteers in several branches of the Armed Forces is steadily declining. Half of the recent Army volunteers have reading skills at eighth grade or lower levels, and the quality of Navy volunteers is not much better. Only the Air Force and the Marine Corps continue to attract an educationally acceptable volunteer. What we are seeing more than ever before is that our Armed Forces volunteers are overrepresentative of the poorer and least educated segments of our Nation's population.

Many others believe as I do that ending educational assistance under the GI bill is the chief reason why the Armed Forces are now recruiting a disproportionate number of disadvantaged youth into service. The GI bill is clearly a major inducement to enlist for many motivated and competent young people. And while our Nation's present high rate of unemployment will temporarily result in an increase of volunteers into the various branches of the service, these gains, I fear, will come in the form of quantity rather than quality. To continue this unhealthy trend places our country's defense in jeopardy at a time we can ill-afford to do so. Military life is becoming increasingly complex and it cannot be assumed that it is a life that can be adjusted to by all, particularly those possessing severe educational deficiencies. Moreover, it seems to me that a serious question of social justice arises when our Armed Forces are largely made up of the poor, the disadvantaged, and minorities.

It is with the above in mind that I have introduced two bills that are the companions to those introduced recently by my distinguished Senate colleague from Virginia, Senator JOHN W. WARNER. The Veterans Educational Incentive Act (H.R. 7795) and the GI Educational Extension Act (H.R. 7839) are specifically designed to improve the rate of recruiting and retainment in the various branches of the Armed Forces.

The Veterans Educational Incentive Act is needed for various reasons. As Senator WARNER recently stated:

> Career military personnel, whether personally in combat or not, have made a time commitment to their country's service. The time spent in the early stages to their military service may have been used instead for career preparation had not they been in the military. We must assure our military personnel that time spent in their country's service does not deny them the opportunity to prepare for a career.
>
> Second, educational assistance should be also viewed as one element of a benefit package together with other features that this Congress is addressing, such as the Warner-Nunn proposal. Thus, educational assistance is a benefit which we can provide to military personnel who make the commitment to their nation to serve as career personnel.

Senator WARNER and I believe that the Veterans Educational Incentive Act will improve the quality of the career force by providing educational assistance that will attract high school graduates or those with equivalent experience who want help in acquiring additional education.

Under the Veterans Educational Incentive Act, the following four basic educational assistance options would be made available:

First, the first option is specifically designed as an incentive for recruitment. To qualify for educational assistance, an enlistee must make a commitment of time and service. After 3 years of active duty and with a 3-year commitment to the Active Reserves, the individual qualifies for 18 months of educational assistance.

Second, the second option is analogous to the original GI bill in concept and is designed as an incentive for both recruitment and retention. Thirty-six months of educational assistance would be provided to those who make the time and service commitment of 4 years of active duty, along with a 4-year service in the Active Reserves.

Third, the third option provides 36 months of educational assistance to those individuals who remain on active duty 6 years before taking advantage of the GI bill. The Active Reserve commitment is waived. The 6 years of active duty should help relieve the critical skill shortage at intermediate enlisted personnel levels.

Fourth, the fourth option provides that an individual may pass his/her 36-month educational assistance program on to a spouse or to a child if 16 years have been devoted to active duty.

The program is proposed to begin in fiscal year 1981, with no costs incurred until 1985.

The second bill I have introduced, the GI Educational Extension Act, would extend the time available for educational assistance to eligible veterans. Under the current law, no educational assistance will be provided to any eligible veterans after December 31, 1989. Senator WARNER and I believe that as a consequence, thousands of our active duty personnel are faced with resigning from the service in order to take advantage of their educational benefits. One only has to look at current retention rates in the Navy to get an understanding of the critical situation our country faces in retaining highly skilled personnel. In the months of May and June of this year, the reenlistment rate continued a rate of steady decline. First-term reenlistments dropped from 48.3 percent in May to 28.3 percent in June. Similarly, second-term reenlistments fell from 60.3 percent in May to 41 percent in June; third-term reenlistments dropped from 92.4 percent in May to 91.1 percent in June; and, total reenlistments fell from 74.5 percent in May to 58.5 percent in June.

As Senator WARNER has stated:

> Not since World War II has our country been threatened so dramatically on so many fronts. We find ourselves not only losing our military parity in the strategic and conventional force arenas, but also subject to the emerging threat of revolutionaries and terrorists.
>
> At this time the availability of highly trained personnel in critical job skill areas may well be the most important issue affecting the readiness of our forces. We must assure that our men and women in uniform view the military as an attractive career.

The severity of the retention rate among noncommissioned officers and junior officers cannot be overemphasized. Their reenlistment rate has dropped from over 80 percent in the mid-1970's to 68 percent in 1979. At present, the Navy is short 20,000 petty officers and the Army lacks over 50,000 midlevel sergeants.

The GI Educational Extension Act is an attempt to curb the flight from the armed services of the people we can least afford to lose. This legislation would amend section 1662(e) of title 38 of the United States Code to assure that the deadline for educational assistance is extended beyond December

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

31, 1989, to a date 5 years after the veteran's last discharge or release from active duty.

I urge that the House of Representatives give these proposals full and prompt attention to assure that our Nation's defense remains strong and in capable hands.●

H.R. 7152

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, on July 21, the House considered H.R. 7152, which authorizes a classified appropriation for fiscal year 1981, for intelligence and intelligence-related activities of the United States. The bill also authorized personnel ceilings for intelligence services and retirement and disability benefits.

I am cognizant of the fact that the administration supports enactment of this bill and some of my colleagues feel modifications should be made.

My position on this matter is one of opposition. The bill clearly precipitates a crisis in communication between Government agencies, the Senate and House, and the White House regarding the proper monitoring of intelligence agencies and their activities.

As we are all acutely aware, the administration has experienced embarrassing incidents in the past which occurred because of the vacuum of knowledge about the activities of intelligence agencies. It is essential that proper channels of communication are established and access to knowledge is made available for our Government to function in an effective fashion.

Rather than closing off important avenues of communication and accountability, we must work to see the enactment of new statutory charter and guidelines for intelligence activities and to insure proper direction and control under the law. We must review existing laws and regulations on secrecy in Government in order to achieve a better balance between necessary secrecy and the citizens' right to know.

Mr. Speaker, I am convinced that the close monitoring of clandestine activities and the covert action operations of the intelligence agencies is in the public's best interest.●

PROBLEMS OF THE TRUCKING INDUSTRY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. RITTER. Mr. Speaker, on July 25 I met with officials from Mack Trucks, Inc., located in my district, to discuss problems facing the manufacturers of heavy duty trucks. These problems represent a classic situation of an industry experiencing severe economic hard times due to Government policies of economic contraction and yet being faced with the prospect of new, more stringent rules related to environmental controls. Many thousands of jobs in my own Lehigh Valley district and other truck producing areas are at stake.

For example, in the last 6 months, the heavy-duty truck industry has been buffeted by several serious economic developments. At this time, the industry is having as serious, if not greater, problems than that of the automobile industry. The heavy duty truck dealers' business has dropped approximately 55 percent from the same period in 1979. This serious business decline, coupled with the high cost of money, plus double-digit inflation is having a serious negative impact on the profitability of both manufacturers and dealers and many heavy duty truck dealers are at risk of going bankrupt.

I find it both ironic and disturbing that the environmental steamroller keeps rolling along irrespective of the consequences to people's jobs. I have and will continue to support sensible regulations that afford real protection to the environment and the public. It is time for the Congress to step back to comprehensively evaluate the past 10 years of regulatory experience and see where we are headed over the next 10.

This is a new ball game. Ten years ago America was not beset by a severe and persistent inflation. Cheap energy was the rule. Will we throw out the baby with the bath water by continuing to ignore that the public well-being and even the public health can be harmed by economic as well as environmental decay?

In my view, we have progressed to the point where industry recognizes their social responsibility for environmental quality. It is time the Federal regulatory mechanism adjusted to the recognition by taking steps to comprehensively evaluate the effects of regulations imposed, redefine our national priorities and establish a practical medium, balancing health and environmental benefits with inflationary trends, energy costs and the basic job security needs of working people. This evaluation is long overdue and until addressed will continue to limit the chances for our success in overcoming the severe economic challenges that lie ahead.

I insert the following letters to Secretary Goldschmidt of the Department of Transportation, explaining in detail the severe impact of these regulations on the truck industry in the CONGRESSIONAL RECORD:

MACK TRUCKS, INC.,
Allentown, Pa., July 25, 1980.

Hon. NEIL A. GOLDSCHMIDT,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: We at Mack Trucks, Inc. are mindful of our responsibilities as a major producer of motor vehicles to environmental quality, through responsible implementation of engineering advancements geared toward lessening the undesirable effects of air, water, and noise pollution. Our commitment is clear—however, we are concerned about recent regulatory intentions announced by the Environmental Protection Agency, and the severity with which they will impact the heavy-duty truck industry. We are concerned that optimum effectiveness will be undermined by regulatory efforts that are ill-conceived and economically unrealistic—thus rendering the programs' objectives virtually unattainable. Three general contentions illustrate our current impressions on the recent regulatory efforts of governmental agencies.

(1) After approximately 10 years of government regulatory experience, it is time to evaluate the effects of regulations imposed, redefine our national priorities, and establish a practical medium balancing health and safety benefits with inflationary trends and energy costs.

(2) The evaluation of regulatory effects is especially necessary in view of the evident lack of auditing up to present. This has resulted in wasted effort, inflexibility, and the inability to alter direction or emphasis in response to rapidly changing worldwide conditions.

(3) Various governmental agencies and their departments have displayed a lack of communication among themselves and with industry, resulting in widespread inefficiency and no synergistic effects.

Five specific issues serve as examples of these trends.

(1) Recent EPA rulemaking concerning 1984 heavy-duty engine emissions includes a requirement for changing the present steady state 13 mode test procedure to a transient test procedure. This requires new testing facilities, controls, and instrumentation for the entire industry.

There has not been a proper demonstration that the new test cycle represents heavy-duty truck operations any better than the current test method, therefore, the added cost of certification cannot be justified. Industry did not have the new facilities in place at the time of rulemaking and could not effectively comment. This issue along with the 10 percent AQL, alternate 1984 HC standard, useful life definition, allowable maintenance requirement, and multiplicative deterioration factors were vigorously pointed out to the EPA during the public hearing prior to the final rulemaking, and now forms the basis of the Engine Manufacturers Association's (EMA) legal action.

(2) Proposed NO_x regulations for 1985 heavy-duty engines: The 1977 amendments to the Clean Air Act Section 202(a)(3)(A)(ii) require EPA to enact standards for heavy-duty vehicles and engines which will result in a 75 percent reduction in NO_x emissions, compared to NO_x levels before there were any heavy-duty NO_x standards. In an Early Notice of Proposed Rulemaking dated July 17, 1980, the EPA intends to propose a 1.7 g/BHP-hr. for heavy-duty engines for the 1985 model year.

This level cannot be obtained with known technology. In our research at Mack, the lowest we have been able to obtain has been 4 g/BHP-hr. with a severe loss of fuel economy. The effect on durability is unknown.

The EPA points out that the baseline was obtained by looking at the emission levels of older, pre-controlled gasoline powered trucks. The NO_x emission characteristics of gasoline versus diesel engines vary considerably but this effect was not taken into account.

The EPA expects a strong response from industry on this issue but must complete the rulemaking by the end of 1980 in order to meet the four year lead time requirement. We will end up with a last minute rush to resolve this critical issue.

(3) Forthcoming particulate regulation: This issue addresses the health effects of particulate emissions from diesel engine exhaust which are currently under study by the EPA. The effects of various compounds on health are not clearly understood. Measurement and evaluation techniques are under dispute among scientists who are experts in the field. The diesel engine industry does not have the capability to perform analysis in this area, in fact, there is a limited national capacity in this regard. The formulation of a Health Effects Institute, comprised of members of industry, EPA, and other interested parties, may be the only effective way of resolving this issue. We ask that due care be given to the evaluation of health effects, particularly in the establishment of threshold levels.

(4) Heavy-duty truck noise regulations: Currently the exterior regulation is 83 db(A) measured at 50 feet. This is to be reduced to 80 db(A) measured at 50 feet in the 1982 model year. We estimate that the average cost per truck to the customer will be $400 to meet the 1982 regulation. We question the cost-benefit to society, particularly in light of the fact that tire noise above 35 mph is not regulated.

(5) Regulations concerning the heavy-duty truck industry should be based on the need and cost related to that industry rather than be included as an add-on to passenger car considerations, as has happened too often in the past. For example, regulatory cost increases not only affect the initial selling price of a truck, but more significantly the cost of transporting goods as well, and this inflationary multiplier effect is not taken into account.

We do not dispute the assertion that environmental quality be given appropriate attention in the design, manufacture, and performance of products such as heavy-duty trucks and their components. However as representatives of a major industry engaged in the transportation of the vast majority of American goods, we must ultimately consider the efficiency with which our products serve the population.

We respectfully request, in the spirit of cooperation, that governmental agencies consider our position and that of our industry.

Sincerely,

ALFRED W. PELLETIER,
Chairman of the Board and Chief Executive Officer.●

TRIBUTE TO ROBERT M. WOPAT

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. BROWN of Ohio. Mr. Speaker, I would like to call the attention of my colleagues to a major milestone in the life of one of the distinguished citizens of Marion, Ohio, Robert M. Wopat, president of General Telephone Co. of Ohio, who is retiring after 44 years of service to the communications industry.

He has been lauded by industry spokesmen as a distinguished, dynamic, and dedicated leader in the field of communications.

The Kansas City, Mo., native has served the past 16 years as president of one of Ohio's most important communications systems, using his lifelong experience and skills to provide Ohio citizens with reliable, low-cost service that is the product of a well-run public utility.

When Wopat became the company's chief executive, General of Ohio served 285,400 telephones with 2,000 employees and an annual payroll of $10.6 million. Today, it has more than 900,000 telephones, nearly 6,000 employees and an annual payroll of $87.4 million.

Throughout his tenure, Wopat's company has been innovative—and always growing. In the past decade, it gained nearly a half-million telephones—a 64-percent increase in size—and now serves about 1.5 million Ohio residents.

During that time the company also channeled more than $622 million into new equipment and facilities, including ultramodern electronic switching offices, more maintenance-free underground cable networks, and sophisticated computer systems that speed company work distribution and recordkeeping.

Wopat began his telecommunications career in 1936 as an electrical engineer with the Gary group of telephone operating companies, which later became part of the GTE system. Subsequent assignments in the telephone industry took him to Texas, Pennsylvania, and Ohio before he was awarded his first presidential position in 1954 with General Telephone of Upstate New York. He later assumed chief executive responsibilities at General Telephone Laboratories, Automatic Electric Laboratories, and General Telephone of Illinois before becoming president in Ohio.

Wopat also has been a leader in community and professional organizations. He has been chairman of the board of governors of the Community Medcenter and Waddell Children's Services. He has been a director of United Way of Marion County and has served on the board of the Harding Area Council, Boy Scouts of America. He is a past president of the Ohio Independent Telephone Association, the Marion Rotary Club, and has been a board member of the National City Bank of Marion and the Celina Financial Corp.

Wopat's dedication to the telecommunications industry and his community has not gone unnoticed by his closest observers—General of Ohio's employees. In 1979, they named their new employee development center in his honor. It is a fitting tribute to Robert M. Wopat, a leader who has left an indelible contribution to telephony.●

TRIBUTE TO HON. KEITH SEBELIUS

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. SHUMWAY. Mr. Speaker, unfortunately it was not possible for me to participate in the special order paying tribute to my friend and colleague KEITH SEBELIUS earlier this week. Therefore, I would very much like at this time to rectify the absence of my own words in appreciation to KEITH, and in commendation for his outstanding efforts.

In reviewing the very worthy comments made by my colleagues on the occasion of that special order, it is evident that KEITH's fine abilities as a legislator have been amply covered. His dedication to those he is privileged to serve is beyond question, and his contributions to the successes of this House are well known.

It is not my intention to reiterate remarks concerning KEITH's professional efforts, but rather to express my very sincere appreciation for his friendship, and to make clear the profound respect I have for his impeccable character. He is a man who has set a fine example for others to follow, and who has admirably fulfilled the most idealistic conception of a good man.

Certainly, KEITH has brought knowledge, ability, and leadership to Congress. However, it is far more important to me personally that he has brought even greater gifts: integrity, morality, concern, humanity, and warmth.

I am extremely grateful to have had the privilege of serving with KEITH SEBELIUS in the Congress, but more than that, I am grateful for his friendship. He will be sorely missed.●

CARTER'S AMBIVALENCE IN VENICE—UNITED STATES LAGS EUROPE IN NUCLEAR

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. WYDLER. Mr. Speaker, I have often spoken despairingly of this administration's lethargic nuclear policy. The recent U.S. strategy of regression and indecisiveness in nuclear matters is starkly contrasted with the European nuclear policy of "full speed ahead." Two reports published by Exxon, "World Energy Outlook" and "Energy Outlook 1980-2000," compare projected U.S. and foreign nuclear development over the next 20 years. Their statistics and predictions are quite depressing to anyone who wishes for this country to take the lead in ending Western dependence on Mideast oil.

First, almost three quarters of the growth in installed nuclear capacity during the 1990's is forecast to be outside of the United States. While nuclear capacity in the United States is predicted to grow between now and 2000, the reports emphasize that this could be negated by the licensing delays and other political problems which have retarded nuclear growth in this country for the last few years. On the other hand, the use of nuclear energy will increase more than that of any other source in Europe by 2000: from 3 percent of the total energy production to 16 percent. Second, the reports note that while all nuclear plant fuel enrichment currently takes place in the United States, 35 to 40 percent will be handled elsewhere in 1990. Third, while several other countries are proceeding with plans for spent fuel reprocessing, the United States is not.

It is obvious that our European neighbors have a more progressive nuclear program than we do. The Venice Summit Conference on Energy and Economics, held last month and attended by President Carter and leaders of other Western nations, produced an official declaration on nuclear power which the United States would do well to adhere to:

> We underline the vital contribution of nuclear power to a more secure energy supply. The rule of nuclear energy has to be increased if world energy needs are to be met. We shall, therefore, have to expand our nuclear generative capacity. We will continue to give the highest priority to insuring the health and safety of the public and to perfecting methods of dealing with spent fuel and nuclear waste. We reaffirm the importance of insuring the reliable supply of nuclear fuel and minimizing the risk of nuclear proliferation.

The wording of this declaration reflects the bold European nuclear policy, not the stagnant U.S. position. Without a change in attitude, the United States will not maintain its proper position as an energy leader in the year 2000.●

ABORTION ISSUE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, I was saddened and angry to learn of the Supreme Court's recent ruling that Federal/State governments have no legal responsibility to help poor women pay for abortions to uphold the constitutionality of the Hyde amendment is indeed a very callous and cruel punishment to have to be borne on the backs of those least able to bear it—those currently under medicaid. Further, it casts serious doubt in my mind at the change shown by the Supreme Court in 1973, when they held that a woman has a constitutional right to decide to terminate her pregnancy.

The decision reached only serves to highlight the serious deferences between the Hyde/prolife faction and the abortion rights league. To say to an indigent woman, we can only help you out under medicaid, under conditions of rape, incest, or to save your life, is only discrimination reincarnated.

The Constitution of the United States affords all peoples, whether they be young, old, black, white, poor, middle income, or rich, equal protection of the laws. Nowhere is it written that we hold back the constitutional guarantee because of personal or even religious beliefs. This is a Nation of laws—one that protects those who are weak. In my mind, the ruling issued by the Supreme Court clearly places an unjust burden on a constitutional right and consequently flagrantly violates that constitutional right.

When the Government sets up a federally funded health program for the poor, but excludes funds for abortions, it not only imposes a burden upon those women who desire to have an abortion—for whatever reason. It unquestionably discriminates against their rights as citizens of the United States.

In this instance, violation of the fifth amendment which guarantees equal protection of the law says that you poor, black women—we all know that black women are disproportionately represented among the poor—can have your arm set in a cast, your burns treated, but we will not use Federal funds to perform an abortion. Without a doubt, this provides and fosters a different type of treatment for women who have abortions and are receiving medicaid, than those who are. This type of caste system cannot and will not be tolerated.

I am certain that we do not wish to turn back our watches to 1970, when abortions were illegal. Did this stop it? No—it only meant that the wealthy went to Mexico and the poor went to back alleys in south side Chicago and east St. Louis only to wind up in hospitals with instruments left in and hemorrhaging profusely. It is time to pick up our weapons of humaneness and respect for an individual's rights and do serious battle with those who would by this first victory send our poor back to back alley abortions, endangering their lives because of HYDE's vendetta against those who wish to exercise their fundamental right of choice.

The implication of the Supreme Court's decision is enormous. It is all encompassing. It is discrimination in its most base form—we have gone from color segregation to pocketbook alienation. We have gone from equal protection to unequal prosecution.

I certainly concur with Federal district court Judge John F. Dooling, Jr., who earlier had ruled the Hyde amendment unconstitutional in McRae against Harris that:

> To deny the appropriate medical assistance to the patient in need of medical assistance and remit her to a less appropriate medical course and abandonment of her fundamental right of choice, or else to resignation of medicaid benefits is * * * forbidden.

Judge Dodd went on to say:

> The Government's interest in preserving fetal life, "weighted in the balance with the woman's threatened health," Dooling added, is not sufficient to justify withdrawing medical assistance.

The Hyde amendment serves only to exclude those who have little money to access legal abortions—it is transgression on the rights of poor in our democratic system. The action taken by the Supreme Court must not deter us in our efforts to see that our freedom as women remains guaranteed.

I would like to share with my colleagues a letter written by the National Women's Political Caucus on the Supreme Court decision.

> NATIONAL WOMEN'S POLITICAL CAUCUS,
> *Washington, D.C., July 17, 1980.*
>
> *Dear Member of Congress:*
>
> The recent Supreme Court ruling in *Harris* v. *McRae* strengthens the commitment of the National Women's Political Caucus to ensure women's right to choose whether to carry a pregnancy to term.
>
> The McRae decision clearly denies poor women their constitutional right to equal protection under the law and will surely have a severe and negative impact on the lives and health of poor women. We agree with Justice Marshall in his dissent that "the Court's opinion studiously avoids recognizing the undeniable fact that for women eligible for Medicaid—poor women—denial of a Medicaid-funded abortion is equivalent to denial of legal abortion altogether. If abortion is medically necessary and a funded abortion is unavailable, they must resort to back-alley butchers . . . Because legal abortion is not a realistic option for such women, the predictable result of the Hyde Amendment will be a significant increase in the number of poor women who will die or suffer significant health damage because of an inability to procure necessary medical services."
>
> As a result of this decision, the Court has passed responsibility to the Congress to correct this gross inequity. To deny Medicaid funding for medically necessary abortions is tantamount to a deprivation of access. It has been left to you to remove this obstacle to the poor woman's right to privacy and equal protection.
>
> The National Women's Political Caucus will continue its vigorous efforts to assure these rights—whether that be through working to prevent or delete Hyde-type amendments to appropriations and other bills, or fighting a proposed constitutional amendment to prohibit all choice. We urge you to help us guarantee women's freedom of choice and equal protection for all.
>
> Sincerely,
>
> IRIS MITGANG,
> *National Chair.*●

BOSTON AFRICAN AMERICAN NATIONAL HISTORIC SITE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MOAKLEY. Mr. Speaker, I want to call to the attention of my colleagues legislation I introduced which was reported out of the House Committee on Interior and Insular Affairs this week. This bill, H.R. 7434, is designed to preserve those areas of historical importance where black individuals have served in the formation and development of our Nation.

As we build toward tomorrow, today it is imperative that we not discard those facets of life that are worth preserving. A signpost in a Boston museum reads:

> We do not know where we are if we cannot remember where we've been; we can't make informed decisions about where to go if we can't recognize where we are and where we've been.

H.R. 7434 responds to this statement. The bill provides for the establishment of the Boston African American National Historic Site encompassing 16 buildings of great historical value on Beacon Hill in Boston. This historic district includes:

> African Meeting House, Abiel Smith School, Smith Court House, Lewis Hayden House, Charles Street Meeting House, George Middleton House, John J. Smith House, 54th Regiment Monument, George Grant House, John P. Coburn Gaming House, and Philips School.

Collectively, all of these structures trace the historical development of the black community in Boston, from its inhabitants' arrival on African slave frigates in 1638, to the major contributions of black people to the American Revolution and the eventual growth to the strong, economically viable community which exists today.

In this area, which contains the largest group of ante bellum Afro-American historic sites of any urban area in the United States, the center of black religion, education, and political life for Boston's 19th century black families has been captured to become a museum without walls. There are many themes which could be interpreted via this area, such as abolitionism and the underground railroad, architecture, the role of churches, or general life in an urban, northern black community. However, major historical significance lies in the fact that this area represents and exhibits the first stages of black self-determination in Boston, as well as in our country.

I would like to elaborate upon some of the more specific contributions to the recording of black history some of these structures display.

The centerpiece of these historical sites is the African Meeting House, the oldest standing black church in the United States. Built in 1806, this house was probably designed by or based upon the designs of Asher Benjamin, the famous Boston architect who has left his identifiable style upon many of the buildings in Boston. Although slavery was abolished in Massachusetts in 1783 by the Commonwealth's Supreme Court ruling, blacks were treated as unequal to whites in many social aspects, including the attendance of religious services. Churches required blacks to sit in segregated galleries out of view of the white members. Blacks were also not allowed to vote on policy matters. The birth of the African Meeting House was in response to this discriminatory seating policy. Self-determination was born; this was the first church that black people would have in New England.

The African Meeting House was more than just a church where previously discriminated blacks could go to worship. It became the primary black community center for that region. Many blacks in Boston, who had lived in the north end of the city, moved to the North Beacon Hill area once the church was completed.

Being the community center for Boston's blacks, it was appropriate for the first permanent public school for black children to find a home in the African Meeting House. Before 1800, integration of black and white children in attending school was the rule of thumb. However, many black parents felt that their children were discriminated against nonetheless. Black children were seated in a segregated area of the classroom and were often given less educational attention than white children. We can see black self-determinism at work in the Beacon Hill area again, this time focusing on the struggle for quality black education.

It was also in the basement of the church that in 1822 William Lloyd Garrison founded the New England Anti-Slavery Society. For this reason, it is often referred to as the Abolitionist Church.

The meeting house was the site of history again as the Massachusetts 54th Regiment, the first black division from the North to serve in the Civil War, was formed at the church.

There are other historic structures on the Black Heritage trail that capture like a photograph the development of the black community as it occurred.

The Lewis Hayden House, in close proximity, served as a station on the underground railroad to Canada after the fugitive slave law passed in 1850 allowing slaveowners in the South to track down their runaway slaves. Lewis Hayden, a leader in the abolitionist movement, also worked for the desegregation of the schools and transportation systems in Boston. In 1873, Hayden was elected as one of two blacks in the Massachusetts Legislature.

The Abiel Smith School, completed in 1834, served as the only school for blacks until integration occurred in 1855, when blacks were successful in their protests against paying taxes for schools their children could not attend.

The home of Col. George Middleton, who led an all-black company, called the Bucks of America in the American Revolution, stands in the proposed historic site. This is one of the oldest wooden structures still remaining on Beacon Hill.

The George Grant House can also be seen. Grant was the first black instructor at the Harvard Dental School and served as president of the Harvard Dental School Alumni Association in 1881. Dr. Grant became nationally recognized as an expert in the treatment of cleft palate and cognate diseases. He was also an inventor and is remembered for inventing the golf tee.

Monuments to the Boston Massacre, in which Crispus Attucks is remembered for his bravery, and the 54th Regiment commemorate other contributions made by blacks from Boston to this Nation.

Other structures that display the life and development of this Boston black community over the past 200 years are: The home of William C. Nell, the first published black historian; a house constructed by Joseph Scarlett, a black chimney sweep; the home of one of Massachusetts first black State representatives, John Smith; three houses on Smith Court built between 1799 and 1828; the Charles Street Meeting House, which was built for a white Baptist congregation in 1804 and was purchased by an African Methodist Episcopal congregation in 1876; the Massachusetts State House which contains the 1777 appeal of Prince Hall and seven other free blacks to abolish slavery, the banner of the 54th Regiment and the flag saved by Sgt. William Carney at Fort Wagner; the Old South Meeting House which contains a copy of George Washington's will; and the Old Granary Burying Ground, bearing the remains of many Revoluntionary War heroes.

Each of these structures adds to the total historical picture. We should be aware of the arrival of blacks as slaves in the 17th century and of the many inequities of the 18th and 19th centuries where blacks were restricted by a 9 p.m. curfew, could not vote in the colonial era and were segregated in many different forms from most social aspects of American society. This site records their self-determinism and their fight against the injustices of inequality of men. This is just one of many historical areas from which blacks have made contributions to the development of our Nation. I have proposed the establishment of the Boston African American National Historic Site so it may never be forgotten and forever preserved.●

GASOLINE RATIONING

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. BETHUNE. Mr. Speaker, while the House debated the issue of gasoline rationing yesterday, I found it useful to reflect on the course of events that lead up to our debate on whether to discharge a contingency rationing proposal to the floor and enable Congress to vote it down.

Five years ago this body overwhelmingly approved a bill that mandated the President to create a standby gasoline rationing plan to be approved by Congress and put on the shelf in time of dire need.

As instructed by the Energy Policy and Conservation Act, the President presented Congress with a plan. That plan was simply unworkable and never even reached the House floor.

Later on, Congress rejected a second plan because it was slapdashed together with promises and had no limitations on Presidential power. At that time I spoke against the proposal and indicated that:

> The people of Arkansas do not want assurances and promises from the President or the Senators or the committee chairmen or Stuart Eizenstat or the geniuses in the Department of Energy. Assurances can be withdrawn and promises can be broken. In short, we do not want a pig in a poke. We simply want a standby law that we can understand, one with which we will feel comfortable and one that the bureaucrats cannot change overnight. We want a standby law we can understand and we want to understand it before we pass it.

The President, in turn, called on Congress to devise a better plan.

In 1979 the Congress created and approved the Emergency Energy Conservation Act. That bill set forth guidelines for standby rationing. These guidelines were not for rationing—but for a rationing plan to be set aside for use in a catastrophic period if gasoline shortfalls reached 20 percent. The President and the Department of Energy complied with our directive.

Yesterday, we heard that what we really need is an uncomplicated, fair, and inexpensive plan. As my colleague from Texas (Mr. GRAMM), put it, "We may need that, but we need nickel beer and gold money. We do not have either." We would not have an uncomplicated, fair, and inexpensive plan, because it simply cannot exist.

I have repeatedly expressed concern about the problems associated with rationing, and I still believe that no rationing plan is good—whether it is for gasoline, credit, coffee, or sugar. The truth is, though, that if this country has a 20-percent energy shortfall, there are not going to be a lot of good options.

Further, I share Congressman GRAMM's observation that, having passed a bill in 1975 saying we wanted a gas rationing plan, having passed a bill in 1979—which I supported—setting forth firm limits on a standby plan, I believe Congress did the right thing yesterday to allow for a contingency plan that falls within those two legislative mandates.

I will admit that this issue is a difficult one for me. I do not like the idea of rationing and it would have been easy to vote to bring the proposal to the floor and defeat it on a purely political basis. However, I believe if a 20-percent shortfall were to occur that Americans will demand rationing. I voted against the discharge petition because it is more logical to have a plan available—and I truly hope we never need it—that has clear limits on the power of the President and the Department of Energy.

Given that Americans would demand rationing under dire circumstances, why not have a reasonable contingency plan?●

THE LATE HONORABLE WILLIAM FRANCIS GAUL

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 28, 1980

● Mr. ZABLOCKI. Mr. Speaker, I would like to join my colleagues on the Education and Labor Committee in expressing the great sense of loss we all feel about the untimely passing last Saturday of William Francis Gaul.

As associate general counsel for the Committee on Education and Labor, Bill Gaul served the committee and the House of Representatives with distinction, honor, and excellent counsel. As the principal staff professional in the area of higher education, much of the legislation on higher education adopted by Congress over the last decade reflects Bill's able contributions.

Respect for Bill's contributions and admiration for his integrity are not limited to his fine professional association with the House of Representatives. For his fellow parishioners at Blessed Sacrament Church, he was a model for all to emulate—as exemplified by his reelection this past June as president of the parish council at Blessed Sacrament for a second term.

Finally and most importantly, Bill was a truly religious family man who daily lived his Catholic faith. There was always time and love for his wife, Joan, and their eight children. Those of us fortunate enough to know him here in the House of Representatives also benefited from his genuine commitment to his Christian faith.

It is indeed difficult, Mr. Speaker, for we mortals to fully understand and accept the loss of such a fine man as Bill. As he had done so often for us in his professional association with the Committee on Education and Labor, Bill himself offers us the ultimate and profound answer. The following words from the "Book of Wisdom" chosen by Bill and his family, were read during his funeral mass:

> The virtuous man, though he dies before his time, will find rest.
> Length of days is not what makes age honorable, nor number of years the true measure of life;
> He has sought to please God, so God has loved him; as he was living among sinners, he has been taken up.
> Coming to perfection in so short a while, he achieved long life;
> His soul being pleasing to the Lord.
> Yet people look on, uncomprehending; it does not enter their heads that grace and mercy await the chosen of the Lord, and protection, his holy one.
>
> Chapter 4, verses 7-10; 12-15; 17

In closing, I would like to add my profound sympathy to Bill's family and express my appreciation for his many contributions to this body, his community, and our country.●

H.R. 5499

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, last week I voted in favor of H.R. 5499, which calls for the establishment of a national Commission to study the internment of Japanese Americans during World War II. This measure is to establish such a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent aliens affected by Executive Order 9066.

This Commission is needed to find answers and recommendations regarding a fundamental violation of civil rights which remains unresolved. It is important that we address this issue to insure that this type of insensitive detainment of civil and human rights does not occur again. Never again should this country's history be scarred by such a fundamental infringement of civil rights. Initiated by the executive or any other branch of the American Government.

As chairperson of the Congressional Black Caucus, I and three of my colleagues sent a letter to Senator RIBICOFF, chairman of the Senate Governmental Affairs Committee, requesting prompt action on this matter. We also stated that in bringing this tragic chapter of our Nation's history into clear focus, we believe important lessons can be learned.

I also feel this is a very important issue, one never again to be repeated with any group of people in this country and that a serious study of the effects of Executive Order 9066 should be conducted.

I have long been an advocate of human rights for all Americans and I will continue to support any legislation that will alleviate the injustices forced upon groups of Americans because of their race, creed, or color.●

SPORTS VIOLENCE ACT OF 1980

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MOTTL. Mr. Speaker, today I am introducing the Sports Violence Act of 1980, a bill intended to deter and punish through criminal penalties the episodes of excessive violence that are increasingly characterizing professional sports.

The bill would make it a Federal crime for professional athletes to engage in excessive violence in the course of a sports event.

This measure is not directed at, and will not affect, the kinds of natural physical contact that are a normal part of rugged physical sports, such as football, hockey, and boxing. Instead, this bill is directed toward the kinds of vicious, dangerous contact that a civilized society should brand as criminal whether it occurs inside or outside the sports arena—conduct in which a player actually steps outside the role of athlete and sportsman.

It is difficult to draw a clear line between the contact that we all agree is part of the game, and needlessly violent, dangerous conduct that creates a risk of injury while having no reasonable relationship to a particular sport. The job is made more difficult when prosecutors take a hands-off attitude toward sports violence that each year sends players to the hospital, and when professional sports organizations make it clear that sports violence should be handled within the family and not in the courts.

I believe, however, that a line can be drawn to serve notice on the professional sports world that extreme acts of excessive violence on the field are as repugnant as street corner muggings, and will be punished accordingly. When a hockey player slams his stick over the head of an opponent, or a basketball player smashes the face of an opponent with his fist, it is not sport. Players, team organizations, fans, and sports themselves would all benefit from a statute making it clear that you can play rough and hard, but you cannot play to deliberately or recklessly hurt someone.

My bill states in relevant part that a professional player who "knowingly uses excessive physical force and thereby causes a risk of significant bodily injury to another person involved in that event shall be fined not more than $5,000 or imprisoned not more than 1 year, or both.

Excessive physical force is specifically defined by the bill as force that has no reasonable relationship to the competitive goals of the sport, is unreasonably violent, and could not be reasonably foreseen or consented to by the person affected.

The criminal sanctions in the bill would apply to players in any professional sport. The bill does not supercede the application of State and local assault and battery criminal statutes by local authorities. Because of the inconsistent application of these laws to professional sports, and because of the interstate nature of modern professional sports, it is felt that a Federal criminal statute would be complementary to existing State and local laws.

I am indebted in the drafting of this legislation to Richard B. Horrow, a recent Harvard Law School graduate who authored the book, "Sports Violence: The Interaction Between Private Lawmaking and the Criminal Law" (copyright 1980, Carrollton Press, Arlington, Va.). It is Mr. Horrow's careful research and analysis that have both documented the need for a Federal sports violence statute, and suggested the form such a statute should take. Mr. Horrow counts many figures within the sports world as supporters and sympathizers for his efforts in this area.

Mr. Horrow's research reveals how State and local assault and battery laws have traditionally had little usefulness in the area of professional sports violence. These laws and the judicial cases interpreting them have focused on ordinary street crime, and have proven almost irrelevant to the special circumstances of mayhem on the field, ice, or court.

I believe this proposed statute would have a deterrent effect, making professional sports safer for all participants, and would also help players know the outer limits of acceptable conduct while reducing peer and management pressure to use excessive violence to injure or intimidate opposing players.

As an avid sports fan and participant myself, I want American sports to remain clean, fun, and healthy. For those benefits to be preserved, however, law enforcement cannot stop at the ticket gate.

Following is an article providing background on the issue of sports violence:

[From the Fort Lauderdale News and Sun-Sentinel, July 20, 1980]

SPORTS, THE COURTS AND VIOLENCE: THE PROBLEM IS DRAWING THE LINE

(By John Meyer)

"The premium the NHL puts (on fighting) was reestablished every time I talked to a team on behalf of a draft choice. Invariably, the interview would get around to how well my client could fight . . . To my endless amazement, the clubs—if they got the impression the boy wasn't tough—frequently offered to enroll him in boxing classes."

—sports agent Bob Woolf

Sparky Anderson must have been living in a dream world.

Two plain-clothes Chicago detectives were attempting to arrest Tigers outfielder Al Cowens, who earlier in the evening had assaulted White Sox pitcher Ed Farmer. "Take your time," one told Cowens as he dressed, "but you're coming with us."

Whoa, said Sparky. "You'll take him over my dead body," Anderson blustered. "Get out of here. This is my clubhouse and you have no jurisdiction."

The cops left, perhaps to arrest Cowens another day, but to suggest the clubhouse provided some sort of medieval sanctuary from the law was patently absurd. Athletic immunity is a myth, without the slightest legal basis, but it is a de facto shield because athletes and prosecutors have traditionally respected it as valid.

That seems likely to change. And Rick Horrow is one of the people trying to make it happen.

Horrow grew up in Miami, and had season tickets to the Dolphins when they were worse than bad. At Harvard Law School, Horrow turned his sports addiction to a positive use, spending three years investigating the issue of sports violence and its relationship to the law. He has published his findings in a legal tract, *Sports Violence: The interaction between private law-making and the criminal law,* and he proposed federal legislation to turn what is a very gray legal dilemma into some black and white guidelines for the courts.

Rep. Jack Kemp, the former AFL quarterback who very nearly became Ronald Reagan's running mate last week, is interested in Horrow's work. Should he sponsor such legislation this summer, Horrow is confident that Sen. Bill Bradley, a former member of the New York Knicks, will co-sponsor the bill.

"The athlete sees the law as ineffective," Horrow says, "and he translates that as accepting violent behavior. They say, 'We have our own law.' We're not saying, 'Haul everyone into court,' but we have to say certain extreme acts will not be tolerated."

The problem that bedevils the courts is where to draw the line—where "legal" violence stops, in the context of the game, and where criminal conduct begins—and that is what Horrow is trying to correct. There is, as Steelers coach Chuck Noll once testified in court, a "criminal element" in pro football. That may soon be taken literally, but in the absence of laws to define what is criminal and what is sporting, courts all over the land are being forced to make their own law. When Jack Tatum paralyzed Darryl Stingley for life, by all accounts the hit—however vicious—was "legal."

Boobie Clark's attack on Dale Hackbart was not.

(Psychological preparation before a football game should be) "designed to generate an emotional equivalent to that . . . experienced by a father whose family had been endangered by another driver who attempted to force the car off the edge of a mountain road. The precise pitch of motivation . . . should be the feeling of that father when, after overtaking and stopping the offending vehicle, (the father) is about to open the door and take revenge upon the other driver."

—former Denver coach John Ralston
testifying in the Hackbart case

In a 1973 game, Dale Hackbart was kneeling near the sideline, five seconds after the play was blown dead, when Boobie Clark hit him from behind with a forearm smash to the neck. Neither Clark nor Hackbart were involved in the play, but Clark was venting the frustration of losing the game. Hackbart suffered three broken vertebrae, causing muscular atrophy in one arm, a shoulder and his back.

Hackbart filed suit for $1 million in damages two years later. A lower court ruled against him, holding that Hackbart took an implied risk by playing a violent game, and anything that happened to him between the sidelines was part of that risk. But that decision was overturned on appeal, on the grounds that Hackbart had no reason to expect an assault fully five seconds after a play is blown dead. The case was sent back to the lower court, where it is still outstanding, and the Supreme Court's refusal to hear the case last fall, in effect, ratified the notion that Hackbart had grounds to sue.

The confusion over the Hackbart case is just another indication that the courts really don't have a clue when, and how they should involve themselves in sports violence cases. That is what Horrow is trying to clarify with a federal law. To some, that may be another invitation for the federal government to meddle in something that's none of its business, but the simple fact is that it must get involved. Otherwise the courts will continue to stumble from case to case, making law as they go along.

In summary, Horrow's bill would draw the line with players who deliberately and recklessly injure another player, outside the rules of the sport, in an act that "bears no reasonable relationship to the competitive goals of the particular sport." Like Clark vs. Hackbart.

"A lot of people are paranoid about getting the federal government's big, powerful hand in every single play," say Horrow. "But we're not talking about creating a government sports agency. We're talking about a law that would be a deterrent, and would apply in only the most egregious situations.

"I've talked to (former Dolphins) Nick Buoniconti, who is a lawyer, and Dick Anderson, who is a legislator. They say if there had been a law like this when they played, it would have changed the way they played. They argue that if you make somebody afraid to hit someone hard, it's a sissy game. But that's just a smoke-screen for people who don't want any intervention."

"The big wheels of the NHL figure they have to have blood to fill the arenas. I refereed for five years, and that was all they were interested in."

—former NHL ref Jack Mehlenbacher

Deliberate violence in sport, particularly in football and hockey, is often an instrument of strategy. It's called "intimidation," and it is indoctrinated into the athlete from an early age. Woody Hayes loved Tatum because he was already a vicious hitter when he came to Ohio State. The Oakland Raiders nearly intimidated Lynn Swann out of football five years ago, when they put him to sleep in the AFC championship game.

"I almost retired," said Swann. "It wasn't the intimidation, it was the unnecessary brutality. I couldn't see playing a game and risking my life."

It is no difference in hockey. Former Bruins coach Don Cherry loves a good fight, and once gave "enforcer" John Wensink a back-handed compliment for scoring a few out-of-character goals. "I just hope he doesn't forget what got him there," said Cherry. "I mean the goals are nice. I was happy he got the hat trick the other night, but not so happy as I've been when he's won some big fights for us. I know I shouldn't say that, but that's the honest truth."

Cherry once longed for an "enforcer" who could stand up to Stan Mikita. "I only wish I had one man I could have sent after Mikita," said Cherry, "to send him back to Czechoslovakia in a coffin."

For everything, there is a purpose, including violent behavior in sport. It has certainly helped to sell football—the NFL denies it, but don't believe it—and in hockey, there are those who say it helps sell the game to American fans who don't understand it.

"The large numbers of people who are being exposed to the game now are often not aware of the skills and finesse that give the game its real appeal." Retired hockey star Brian Conacher wrote in "Hockey in Canada the Way It Is,". "But brawling is something they do understand . . . If there is a little blood, so much the better for the people with color sets."

Basketball certainly isn't immune, but its acts of violence are easier to separate from the game itself, since it is supposed to be a noncontact sport. Thus it was possible to convince a jury to side with Rudy Tomjanovich of the Houston Rockets after Kermit Washington "maliciously" attacked him in 1977. Tomjanovich's jaw was broken, his skull fractured, and he still talks with a discomfiting nasal twang. For this, Commissioner Larry O'Brien fined Washington $10,000, and suspended him 60 days.

The jury awarded $3.3 million—$600,000 more than Tomjanovich sought—but it was Washington's club—the Lakers—who would pay. Rocket's general manager Ray Patterson called it "a landmark decision," and predicted it would "do a great deal to make the club responsible for its players." And an NBA spokesman admitted, "if the first case can be won, the second seems much more winnable."

"The mere act of putting on a uniform and entering a sports arena should not serve as a license to engage in behavior which would constitute a crime if committed elsewhere. If (a player) is allowed to feel immune . . . maiming and serious bodily injury may well become the order of the day."

—Prosecutor Gary Flakne,
State vs. Dave Forbes.

The decision-makers of professional sports don't want the interference. They prefer to "keep it in the family." Horrow's research documents the pressures brought to bear on a victim to let the league handle any discipline, rather than seeking justice from the courts. But the light sentences passed out by commissioners—who functioned as judge, jury and executioner—do little to discourage violent behavior. When Dave Forbes of the Bruins clobbered Minnesota's Henry Boucha in 1975 with his stick, and finished the job by pounding Boucha into the ice until subdued by another player, Forbes was "punished" with a three-game suspension. Boucha required surgery to repair a fracture in the floor of his right eye socket, and it took 25 stitches to close the wounds in his head.

"Obviously, the same act, had it occurred outside the arena, would yield certain criminal prosecution," said Gary Flakne, the Minnesota prosecutor who filed criminal charges against Forbes. "Since it receives only a token penalty inside the arena, there is no real compelling force to curtail that type of conduct." The jury could not reach a verdict in the Forbes case.

So the hits keep on coming. Last December, several Bruins climbed into the stands for a tag-team bout with fans of the New York Rangers. Fines of more than $30,000 and 20 games of suspension were ordered by the league, which then-coach Fred Creighton called "far, far too severe." Four spectators filed a $7 million damage suit against nine Bruins, both teams, the NHL and the city of New York. That may become another "landmark case," because—even without the statutorial guidelines Horrow proposes—there's little doubt that a fight eight rows from the rink isn't "part of the game."

Neither was Cowens vs. Farmer, Washington vs. Tomjanovich, or Clark vs. Hackbart for that matter. If Congress doesn't remove the myth of immunity in sports, there will almost certainly be more incidents of extracurricular violence. And one day, someone may have to deliver a eulogy.●

INDEPENDENCE DAY ESSAY CONTEST WINNERS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, I am pleased to share with my colleagues at this time the names of those students who won the Independence Day essay contest in Port Chester, N.Y. This event was sponsored by the Port Chester-Town of Rye Independence Day Observance Committee, whose members are: Andrew J. Telesca, general chairman; Ralph Cirulli; Dorothy Parlatore; Peter Morganti; Samuel Acerbo; Mary Stone; Mark Santoro; Dennis Bochichio; Fred Schmaling; Bobby Day; Rev. Paul C. Hewitt; Phoebe Anderson; Joseph Carrieri; James Di Santo; Camille Pagano; Arline Schmaling; Luis Garcia; and William Popp.

The students are: Michael Blevins, Kennedy School; Christopher Taudetti, Park Avenue School; Michele Guigliani and Irene Villalis, Edison School; Rocco Ballantoni, Park Avenue School; Christopher Stanley, Kennedy School; Christine Goodhart and Michele Jacobs, Bowman Avenue Junior High School; Frank DiGraci, Darlene Martinez, Ann Kruczkiewiez, Christine Conklin and Margret Callery, all from Port Chester High School.●

HUMAN RIGHTS IN KOREA

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. BRODHEAD. Mr. Speaker, I recently met with one of my constituents, Dr. Young Song Kim, who made a fact-finding mission to South Korea this past June. During the course of our discussion, Dr. Kim made a number of very interesting points about the human rights situation in Korea, and the Korean people's view of the U.S. position on the human rights question. Dr. Kim subsequently outlined these points in a memo, which I would like to share with my colleagues for their ready reference in considering legislation that bears on the relationship between our country and South Korea:

JULY 26, 1980.

Although opposition leader Kim Dae Jung has not even been indicted yet, the Korean government has just announced that a trial is scheduled to begin on August 5, 1980. This trial date is very near and does not allow time to prepare an adequate defense. The government not only chose an exceptionally early trial date, but to further insure that Kim Dae Jung will not be properly defended, they have detained all the lawyers who have expressed a desire to defend him. The government arrested three prominent lawyers, Hong Song Woo, Lee

Tong Myung, and Park Sae Kyung. The government made their release contingent upon their signing a document stating that they will not engage in legal activities for a full year. Hong Song Woo and Lee Tong Myung were released on July 21, and the next day they resigned from the Lawyers Advisory Group of the Korean National Council of Churches. Park Sae Kyung refused to sign this document and as a result is still detained. On the 21st, at least three more lawyers of the Lawyers Advisory Group were arrested, and the remaining lawyers expect to be arrested soon also. The government has ordered the Advisory Group to dissolve. Kim Dae Jung will not be allowed a fair civilian defense, and will be at the mercy of a court-appointed lawyer who will no doubt follow the government's wishes to get rid of Kim Dae Jung once and for all. Moreover, the Lawyers Advisory Group of the Korean National Council of Churches were in effect the legal defense for all dissidents. Thus the human rights movement in Korea is without any legal defense. Currently Kim Dae Jung and many members and followers of his organization are under arrest, charged as being communists and instigators of the Kwangju incident. There is little or no hope that they will receive justice in the government-controlled courts.

In addition to the travesty of the court system, mass arrests are continuing and the government is still holding detainees incommunicado. Students who are in hiding have asked Christian missionaries for refuge, and the missionaries are unable to offer shelter for fear of retribution from the government.

The latent anti-American sentiment in Korea is in very real danger of shortly turning into overt anti-American action. The disbelief and mistrust currently expressed can easily turn into a rejection of America by the Korean people. If the military is allowed to strengthen their already firm position, and if Kim Dae Jung's trial proceeds unchallenged, then the people will rebel in greater strength and the country in uproar will be easy prey for communist aggression from the North. And then Korea will be lost from the free world.

The Korean people believe that the military is allowed to grow stronger, and the civilian democratic government is allowed to be delayed, because that is the United States' desire. They believe that the use of military power against civilians, and the control, manipulation, and misuse of the media proceeds under the auspices of the American government. If this view of America by the Korean people is allowed to remain, then the United States' policy in Asia will be severely jeopardized.

To avoid this all too possible scenario in which Korea falls into distress and anger, internal uproar, and then into communist hands, it is imperative that the United States, at the very least, take the following steps:

The U.S. government must insist that Kim Dae Jung receive a fair trial. The Korean government must assure that the proceedings will be fair and that Kim Dae Jung will receive proper legal representation. Also, an outside legal observer should be allowed to view the trial.

The U.S. government must insist that the detainees are not held incommunicado but instead are fairly and openly treated. In addition, the U.S. government must insist that constant accusations and arrests of dissidents as communists stop immediately, and specific charges be made if arrest is genuinely warranted.

The U.S. government must, for its own good, employ the United States Information Service (USIS), the Armed Forces Radio and Television in Korea, and the *Stars and Stripes* newspaper to inform the Korean people of American action against the continued military misconduct and treachery in Korea.

Above all the U.S. government must insist that the Korean military remove itself from politics, and that a democratic constitution be shortly adopted, and at the earliest date general elections be held. The U.S. government must make it absolutely clear that the involvement of the military in Korean government must be immediately halted.

The American government must take action to safeguard not only the freedom of the Korean people, but also the interests of the American government. American inaction is the same as American support for the dictatorial rule of General Chon Doo Whan. It is only too obvious that this military rule is not in the interests of the United States, and it is certainly not in the best interests of the Korean people. Should Chon Doo Whan continue unrestrained on the present course, the United States must review its basic commitment to South Korea.●

PERSONAL EXPLANATION

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. CARNEY. Mr. Speaker, on July 21, 1980, the House went on record as supporting H.R. 5499, the Commission on Wartime Relocation and Internment of Civilians Act. At that time, I inadvertently cast my vote against this bill. Since the rules of the House do not permit me to change my vote, I would like to take this opportunity to put myself on record as supporting rather than opposing H.R. 5499. This bill, authorizing $1.5 million to establish a seven-member Commission to review the circumstances surrounding the relocation and internment of persons pursuant to Executive Order No. 9066, is a significant step toward rectifying a mistake of the past in the hope that a similar tragedy will never again be repeated.●

REVIEW OF FCC DECISION

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. RAILSBACK. Mr. Speaker, today I am introducing in the RECORD a copy of a letter I sent to my colleague from Wisconsin, BOB KASTENMEIER, concerning the decision by the FCC made last week relating to the abolition of certain rules regulating cable TV.

The Federal Communications Commission last week voted to repeal its syndicated exclusivity and distant signal rules. They did so by a 4-to-3 vote. The majority took this step despite the pleas of 10 Members of the Senate and of this House, including every member of the House Judiciary Subcommittee that has responsibility over copyright issues. We had asked that the Commission defer such action until we in Congress had had the opportunity to consider the effect of deletion of these rules and make whatever legislative changes in the existing Copyright Act that seemed necessary and appropriate.

It is obvious, Mr. Speaker, that the action of the Federal Communications Commission is, in effect, a signal that we must not delay prompt consideration of revision of the Copyright Act to deal with the problems that will flow from dropping of the rules.

The letter follows:

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 25, 1980.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Rayburn House Office Building, Washington, D.C.

DEAR BOB: As you are aware, the Federal Communications Commission earlier this week (July 23) voted 4-3 to eliminate its rules on syndicated exclusivity and the number of T.V. signals that a cable system can pick up from distant cities. I believe that this decision may have a serious impact on the availability of future programming.

The F.C.C. action is based on a fairly lengthy study which it conducted over a three year period. I had the opportunity to read that study and I feel that the Commission failed to take copyright considerations into account in that inquiry and that, in my opinion, is a serious error.

The latest action of the F.C.C. places a heavy burden on our subcommittee to review the situation as soon as possible. I believe that this matter should have the highest priority within the subcommittee. Not only must we review the impact which this decision may have on the 1976 Copyright Act, but we should, at the same time, look closely at the Copyright Royalty Tribunal which I believe is under-equipped, under-staffed, and under-funded.

I realize that our subcommittee schedule for the remaining year is very tight and that you may not be able to schedule this matter until next year. If that is the case, I hope we can begin this inquiry as the first order of business in 1981.

Warm regards,

TOM RAILSBACK.●

BUILD HOMES AND HELP THE ECONOMY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, this week I received alarming news from the National Association of Home Builders. Housing starts have declined by 37 percent over the past year. Unemployment in the construction trades has reached 16.5 percent with almost 1 million workers laid off. It is projected that construction unemployment will climb to 22 to 24 percent by October. Building permits are down 35 percent over last year and sales of single family homes are down 31 percent from May 1979.

Our Nation simply cannot tolerate this desperate situation in the housing industry and it is time for the Federal Government to take bold and creative moves to solve the housing crisis. One approach to improve the situation and to bring our economy back into balance has been suggested by Prof. David F. Linowes of the University of Illinois. Mr. Linowes recommends "an imaginative, broad homebuilding program aimed at middle-income America." With his approach, the Federal Government would sponsor a subsidized program by reducing mortgage-interest rates to 8 percent. Under such a program, 12.5 million families would become eligible to purchase homes. Mr. Linowes notes that if only 1 out of 10 of these families decided to buy a home next year using the interest subsidy, 800,000 new housing units would be produced. These units would add $52 billion to housing sales, stimulate our economy by $102 billion, and provide 1.2 million jobs. Further, Mr. Linowes suggests that such a program would stimulate our Nation's sagging productivity by improving the morale of the workers who finds that he or she is able to achieve an important goal—the purchase of a home.

I direct my colleagues' attention to an article which appeared in the New York Times on July 1 in which Mr. Linowes presents the outline of his plan:

BUILD HOMES AND HELP THE ECONOMY

(By David F. Linowes)

URBANA, ILL.—Unprecedented inflation, rising unemployment and crippling interest rates continue as the economy hurdles into severe recession. One esoteric remedy after another has been tried with little, if any, improvement. Yet one of the most important actions has been used only timidly, at best. That is the need for a bold large-scale program to stimulate home buying. Without a stepped up home-building pace, the nation cannot regain its healthy growth curve.

In 1979, the 1.73 million new housing starts contributed directly and indirectly over $200 billion to the economy, or about 8.5 percent of the gross national product. The housing industry furnished 2.5 million jobs and produced $5 billion in Federal income tax, more than three-quarters of a billion dollars in state income tax, and $2 billion dollars in local real estate taxes.

Just a few weeks ago, 1980 housing starts were projected at 1.1 million units. Now indications point to fewer than one million, or about one-half the 1979 level. This precipitous slide is throwing more than a million people out of work and cutting Federal income-tax collections by $2.5 billion.

To bring the economy back into balance requires an imaginative, broad home-building program aimed at middle-income America, patterned after the highly successful veterans housing program following World War II.

With mortgage-interest rates in the 14 percent range, a $65,000 home requiring a 5 percent payment, payable over a 30-year period, is within the reach of 4.5 million families. If the Government were to sponsor a subsidized program reducing interest rates to 8 percent, then 12.5 million families would become eligible to buy houses.

Assuming that only one out of 10 of the newly eligible home-seeking families decides to buy a home during the next year, 800,000 new housing units would be produced, adding $52 billion to housing sales, stimulating our economy by $102 billion, providing 1.2 million jobs.

The costs to the Treasury in subsidizing interest costs would be $3 billion. However, additional Federal income taxes created through wages and business profits generated by the new housing production would be $2.5 billion. The 1.2 million jobs created by such a program would include those for some 120,000 unskilled workers, those who most often are forced onto welfare rolls during periods of unemployment. The saving to the Treasury for this item could approximate $800 million. Thus, additional taxes and savings to the Government would total $3.3 billion, as compared to the $3 billion in costs for subsidized interest rates.

In effect, if the Federal Government were to launch a major housing program by subsidizing home-mortgage interest rates at 8 percent, thereby stimulating the total national economy, it could result not in another drain on the Federal budget but an overall net surplus.

From another perspective, a significant factor fanning inflation and keeping the economy unbalanced is the nation's decreasing level of productivity. This, in turn, reduces our ability to compete in international trade, thereby adversely affecting our balance of payments. Other than increased use of efficient machinery and tools, an important element in stimulating productivity is the morale of the worker.

To stimulate morale, workers must be convinced that what they are doing helps them achieve their basic goals in life. The drive to own one's home, which gives a sense of security to a family unit, is one of the most important goals for the working middle-class. Yet today because of inflation, high interest rates, inadequate financing mechanisms, the average wage earner finds prospects for achieving this dream slipping further and further away.

A broad, courageous Government-subsidized housing program well beyond the recent timid efforts could do much to revitalize workers' zest and productivity in our nation.●

VLADIMIR KISLIK

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. LEHMAN. Mr. Speaker, Vladimir Kislik is imprisoned in a mental institution because he wishes to live with his wife and son in Israel. For the past 8 years Vladimir has withstood one punishment after another for daring to apply for permission to emigrate from the Soviet Union to Israel.

I have joined with my distinguished colleague from Illinois, Mr. PORTER, in introducing House Concurrent Resolution 389, expressing the condemnation of these acts of persecution and harassment by the Soviet Government against Mr. Kislik and other Soviet Jews whose rights have been taken from them, and that permission be given to Vladimir Kislik and others wishing to emigrate and further that these violations of human rights be raised by our delegation at the Madrid meeting of the 35 signatory nations to the 1975 Helsinki accords to be held in November. I thank the many Members who have joined to cosponsor this resolution and urge the support of all Members of the House for passage of this important expression of concern.

Since he first applied to leave the Soviet Union in 1973, Vladimir Kislik has been subject to severe harassment. His wife and son were allowed to emigrate, and he was led to believe that he would soon follow. However, they have been in Israel since mid-1973, and 8 years later, Vladimir is no further to joining them than when they first left.

As a distinguished scientist at the Kiev Institute of Nuclear Research, before he was dismissed, Vladimir Kislik worked on problems widely discussed internationally during the 1960's and although he has published in scientific journals, his name has been deleted from all the papers he wrote while employed at the institute. In 1974, he began to organize and conduct scientific seminars on an informal basis despite severe harassment and threats.

In May 1976, Kislik's telephone was disconnected after the had spoken to his wife in Israel, and shortly afterward he was again warned by the police to discontinue his seminars and was subsequently arrested and severely beaten up by police. In July 1976, his mother died and he was reported to be in very low spirits.

In October 1976, again on the anniversary of the massacre at Babi Yar, he visited the site and was given "rough treatment" by the police.

In March 1977 he, and six others in Kiev, declared a hunger strike which lasted 5 days, in protest at not receiving any reply to their request to be given exit visas or a reason for the refusal. Meanwhile his telephone had been reconnected, but after he had renounced his Soviet citizenship in a letter to Mr. Brezhnev, his telephone was again disconnected. By now he was under constant surveillance with KGB agents "guarding" his apartment. In April 1977, he was forcibly taken off the train when he was about the leave for Moscow. The excuse was that he had "stolen a purse from a woman." When his friends protested at the police station they were told that his detention was on instructions from above. In May 1977, he managed to find work in a factory, as a fitter and locksmith, but shortly afterward he was again dismissed when the KGB got in touch with the factory manager. In September 1977, he was called in for interrogation in connection with the Sharansky case and a few days later, an article in the main Kiev newspaper "Vecherniy Kiev" accused him of being an agent working for foreign hostile countries. He was again interrogated, on several more occasions, and a Moscow broadcast in English repeated the accusations of spying activities specifically mentioning his name. The harassment continued unabated and his resistance was being worn down but fortunately a fresh group of refuseniks in Kiev joined him and gave him considerable moral support. In March 1978, he signed a letter in defense of Sharansky and was again warned by the KGB. In September 1978, another article in the same newspaper accused him of being a black marketeer and a swindler. His apartment was again searched and many personal items were confiscated and not returned.

In December 1978, he was called in by the KGB and warned that his file was "far from being closed" and that if he did not behave, he might well be in serious trouble.

He was again accused of "anti-Soviet activities" and he remained under constant surveillance. In January 1979, he was prevented from going to Moscow to attend the scientific symposium. In April 1979, he was one of a group of refuseniks who were arrested outside the OVIR office in Kiev and detained for several hours. In July 1979, he was again attacked in another article in "Vecherniy Kiev" and accused of being an idler who tried to avoid work, and open accusations were leveled against him linking him with Anatoly Sharansky who had been sentenced to 13 years imprisonment. On August 15, 1979, the U.S. Commission on the Holocaust—led by Eli Wiesel—were visiting Babi Yar, and Kislik and Isaak Tsitverblit tried to go to the massacre site to meet them, but they were picked up by the KGB and held under arrest until after the members of the Commission had left town. On August 20, Kislik was again taken by the KGB for interrogation and later released. He feels that this was done to prevent him meeting the Israeli delegates to the International Scientific Political Congress who were visiting Kiev.

This treatment of Vladimir Kislik and the abuses suffered by all refuseniks and prisoners of conscience in the Soviet Union every day is abhorrent and defies human dignity and morality. We cannot idly stand by while these human rights violations take place. We will bring the struggle of Soviet Jews to world attention and continue to work on their behalf until they win the freedom they deserve.●

THE HOUSING INDUSTRY

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. FITHIAN. Mr. Speaker, I rise to speak briefly to a topic which has a major impact on our beleaguered economy—that topic is the plight of our Nation's housing industry.

A great many people may feel that the pressure on this industry has eased off, due to the marked decline in interest rates. But this is simply not the case.

Right now, there are approximately 350,000 built, but unsold homes in the United States. This huge inventory not only prevents builders from meeting payments on their construction loans, but also keeps them from building additional homes, thus forcing them to lay off all or most of their construction crews. As of last month, approximately 847,000 men and women in the building trades were without work. It should also be noted that for every unemployed construction worker, there is a corresponding person idled in one of the many support industries which depend upon a healthy building sector.

The magnitude of this unemployment has obvious repercussions on the Federal treasury, daily draining away millions of dollars in the form of unemployment compensation, food stamps, and other benefits.

The basic provisions of the Housing and Community Development Act were proposed by the administration in April and passed the Senate within a week. H.R. 7262, the House version, was granted a rule on May 22, and has been awaiting floor action ever since. Because of the compelling need for this legislation, I had been confident that this bill would surely see its way to the full House between the two national conventions, but it now appears that consideration will be put off yet another 2 to 3 weeks. This is bitterly disappointing to a great many people.

The various provisions of the Housing and Community Development Act, which can do much to ameliorate the continuing crisis in the housing sector, are geared to take effect immediately after it becomes public law. And each day that this much needed bill is delayed by dilatory procedural tactics is another day of economic stagnation for our country.

I urge my colleagues, therefore, that we may put aside parochial and partisan concerns for a time and act expeditiously in the interest of national priorities.●

BISHOP FRANK J. RODIMER'S SALUTE TO AMERICA

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. GUARINI. Mr. Speaker, during each of our careers, we have all been involved in many celebrations marking the birth in 1776 of our great Nation. Many speeches have been made on this subject by individuals from all walks of life. Recently, His Excellency, Frank J. Rodimer, Bishop of Paterson, wrote an editorial entitled "Happy Birthday, America," in which he very vividly set forth his reflections on our Bicentennial. It appeared in the July 3, 1980 edition of the Beacon, the prize-winning publication of the Diocese of Paterson, whose editor is Gerald Costello.

For the edification of all concerned, I offer this outstanding article:

> No matter what talents people possess, they must also have a good self image to be happy and successful. The same is true of a nation. Our self image four years ago at this time of the year was about the best many of us can remember. It was our Bicentennial and our spirits were high.
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> This year, several problems have made our national birthday less jubilant, but it is still a good country, this America of ours. It might be good to recall how happy our hearts were four years ago. These were some of my recollections at that time:
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> "Who is she, this gracious lady we salute today, 200 years old yet as young and glamourous as a new bride? Who is she, this noble woman, standing tall and proud, unscarred after centuries of battles, tears and heartaches? Who is she, our beloved America, who has seen her sons and daughters fight and die, struggle, win and lose, turn against her and return to her embrace? Who is she, this lady of liberty who has adopted as her own all who have come to her in search of freedom and peace?
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> "She is not just as she was at her birth in 1776, when people, sane but very human, called upon God to create her. Thirteen states have become 50. Wilderness has become cities. Her horse trails have been paved, log cabins have given way to towers, gardens made by people straining to remove rocks and stumps from rich soil have been turned into vast farmlands to feed millions. She is bigger than ever. Her voice is heard throughout the world, though not always welcomed, for she speaks now with greater authority and with the experience of the oldest democracy in a world still plagued with tyranny and suppression not unlike the kind she knew in her infant days.
>
> "Yet her heart is as it was two centuries ago, sympathetic to the downtrodden and idealistic to her dreams. Her soul has not changed. She still teaches her children to stand up for their rights to life, liberty and the pursuit of happiness—just a few among the many rights with which the God she has acknowledged from the start has endowed them. She still encourages her children to seek the best possible education. She gives them opportunities to become successful leaders and to help others to succeed, opportunities which many often ignore to the ultimate misfortune of all.
>
> "Who is America and where? Is she white or black, oriental or native American? Is she Catholic, Protestant or Jew, or some other faith, or even a skeptic? Is she to be found in the city, in the suburbs or in the country; at the shore, in the mountains, or the plains? America whom we hail today is not one of these people, is not one of these places, yet she is all of them in all places that form these United States of America. That is why she is so marvelous.
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> "Our country's name is more technical than beautiful, but we treasure it today. It is a miracle that people with such diverse backgrounds could live in any one state and that fifty such states could come together for a national government. Dictators and emperors through the ages have held peoples together with iron fists, but only for a time. Never before, however, has a nation of people, by the people, for the people continued for two centuries to live, thrive and grow. The United States of America, for all her faults, is the best there is. The name sounds great to us, especially today.
>
> "America is our country, and we are America. She is not a statue, she is not a document, she is not a goddess either. She is human and fallible, for she is over 217 million people, not only different but bred on

the right to individual expression. The concept hasn't worked perfectly, but it has worked, and it will continue to work for as long as Americans believe in freedom and the rights of each person to live in freedom.

"For us Catholics, the beauty of America and its future depend also on the place of God, the giver of all rights and gifts, in our lives. We do not treat one another with tolerance and forbearance just because it is expedient; rather we treat one another with justice and love because it is God's Will. Otherwise, our celebration is superficial, our reminiscences arrogant, our plans vainglorious. We heed the warning of the prophet Amos: 'I hate, I spurn your feasts, says the Lord. I take no pleasure in your solemnities. Away with your noisy songs. I will not listen to the melodies of your harps. But if you would offer me holocausts, then let your justice surge like water, and goodness like an unfailing stream.' (Amos, 5, 21-24).

"The birthday of America is a time to thank God for blessing us, a time to promise Him anew that we shall be to future generations as inspiring as the most dedicated of our nation's fathers have been to us. Then we—who are America—shall have a happy birthday, and many more to come."

I am sure that my colleagues will join with me expressing their appreciation and gratitude to Bishop Rodimer for his most meaningful and patriotic dissertation.●

REGISTRATION OF HANDGUNS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. McCLOSKEY. Mr. Speaker, the death of our friend and former colleague, Allard Lowenstein, caused a number of us to pledge to work to end the widespread availability of concealable handguns.

Contrary to popular myth, the Constitution does not guarantee to each citizen the right to have a handgun, any more than it guarantees him the right to own a machinegun, hand grenade, or switch blade knife. The second amendment protects only the right of States to have an armed militia, and this probably means no more than that every citizen capable of militia service is entitled to have a rifle or shotgun. There is certainly no need to control rifles or shotguns. It is the concealability of the handgun which permits it to be carried into banks, liquor stores, or the presence of political leaders such as Robert Kennedy, Gerald Ford and George Moscone. As Al Lowenstein once asked:

> How many great leaders do we have to lose to a deranged person because we retain this romantic nostalgia for wild west days when the handgun was carried openly to settle disputes, and when right and wrong was easier to discern?

Free speech does not include the right to shout "fire" in a crowded movie house; the right to bear arms does not include the right to carry every kind of arms. The United States remains the only industrialized nation in the world that refuses to protect its citizens with responsible and effective handgun control laws. It is no accident that we have far more handgun deaths per capita than any other nation on Earth.

There are 250,000 people being assulted with handguns each year and over 9,000 people are killed with handguns each year. Perhaps 100 people successfully defend themselves with handguns each year. The odds are almost overwhelming that a handgun will be used to commit a crime, not to protect a person against crime.

The problem is one for Federal action. While State laws have has some positive effect in reducing handgun deaths, they have generally failed because the problem of concealable weapons does not confine itself to isolated sections of the country. Handguns are too easily transported across State lines. Al Lowenstein was killed in New York with a handgun purchased lawfully in Connecticut.

The most recent major polls indicate that the American people overwhelmingly favor registration of handguns. The majority view has too long been frustrated by a well-organized, vocal, and politically active minority.●

BILL WOULD PROVIDE ALTERNATE DISPOSAL SITE

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. ROBERT W. DANIEL, JR. Mr. Speaker, in recent years the American people have suffered because of the higher prices we must pay for unreliable supplies of foreign oil. However, there is hope amid our energy problems. Our Nation has, by far, the largest coal reserves in the world. Worldwide demand for coal is skyrocketing as the price of oil continues to soar. As we turn to coal to replace more expensive oil, we may also expand our coal exports to bolster our economy and the dollar.

I have the honor to represent part of the southeastern area of Virginia known as Hampton Roads. The seaports in Hampton Roads form the largest coal-exporting harbor in America.

Unfortunately, the newer, large coal ships are unable to use the port of Hampton Roads because the ship channel is too shallow. By dredging the channel deeper, from the existing 45 feet to 55 feet, coal exports could be increased. Every American would benefit from the increased sale of coal to other nations. As many observers have noted, the United States is the OPEC of coal.

In recent weeks, the possibility of a deeper channel has begun to appear more likely. I fully support a deeper channel and expect to assist its approval in any way I can.

Any channel dredging requires safe disposal of the material scraped from the river bottom. Often laden with pollution, the dredge spoil can pose a potential threat to human health. Yet without dredging, ships carrying vital cargoes would not be able to enter American ports.

Because the current Hampton Roads disposal area at Craney Island is beginning to approach the end of its useful life, a new site must be found to dispose of the harbor mud. The proposed new 55-foot channel makes the task more urgent than ever.

I am seriously disturbed about the plan recommended by the Commonwealth of Virginia to dispose of the dredged material. Under the State recommendation to the U.S. Army Corps of Engineers, 6,000 acres of productive, taxpaying timberland in Suffolk, Va., would be destroyed to provide a new disposal site. Area residents have voiced their unanimous opposition to the State plan. I share their view that under no circumstances should the contaminated muck be dumped in Suffolk.

The Suffolk site is near the lakes and reservoirs which provide much of the drinking water for the Tidewater-Norfolk metropolitan area. I am sure that the Army engineers who administer such disposal sites would take great care to contain toxic materials. Yet, the possibility of seepage and contamination of groundwater and thus the drinking water supply would be ever present. The State water control board is only one of many State and local agencies which have expressed opposition to the Suffolk site.

The site is also in close proximity to the Great Dismal Swamp National Wildlife Refuge. The dump could threaten the unique natural area Congress sought to protect when it created the refuge.

Adding to the objections, the Chesapeake-Suffolk Airport is located adjacent to the Suffolk site. The airport administrator believes that the dump would cause significant safety hazards for incoming and outgoing flights.

Because the Suffolk disposal site is some miles inland, the Army engineers would be forced to construct a lengthy pipeline to transport the harbor mud. The pipeline would traverse heavily populated areas of Portsmouth and Suffolk, Va., often only a few feet from homes, apartments, and businesses.

The only alternative to an inland site is ocean disposal of the dredge material. Today I am introducing legislation which would permit ocean disposal. The Environmental Protection Agency now forbids disposing the spoil in the sea, but this is, in reality, the only other viable choice.

I recognize that there is some environmental risk with an ocean disposal site; however, the risk is far less to human health than the proposed inland site.

I urge prompt consideration of my legislation which would resolve a serious problem facing Tidewater, Va., and pay handsome dividends for all Americans.●

A RESOLUTION TO REQUIRE EQUITABLE EASTERN EUROPEAN IMMIGRATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, although the tragic plight of refugees from Southeast Asia and Cuba has grabbed the headlines in recent months, Americans must not forget the plight of other refugees seeking protection from repressive conditions. The United States has always welcomed refugees fleeing from tyranny and Communist oppression. We must remember that Eastern Europeans, in particular, have endured persecution for over 30 years and those who have been fortunate enough to reach this country have made extremely important contributions to our society.

Today, I am introducing a resolution which recognizes the very significant role Eastern Europeans have played in American society and reaffirms our Nation's dedication to the acceptance of refugees from Eastern European countries to the same extent as those from other countries. Eastern Europeans who have settled in the United States have immeasurably enhanced the cultural wealth of our society. In the arts, education, business, and medicine, immigrants from Eastern Europe have made important and valuable contributions.

While we have admitted refugees from Eastern Europe, they have never received the generous treatment recently accorded to Cubans and Indochinese; Eastern Europeans who do arrive on our shores frequently have great difficulty adjusting their status.

The resolution which I am introducing today expresses the sense of Congress that refugees from Eastern Europe, who are also the victims of Communist tyranny, ought to be given the same generous treatment as those from Cuba and Vietnam. I urge my colleagues to join in cosponsoring this resolution.●

HOUSE STEEL CAUCUS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. YATRON. Mr. Speaker, I join my fellow colleagues, Members of the House Steel Caucus, in participating in a 3-day colloquy on problems and remedies for the domestic steel industry.

For quite some time the congressional steel caucus has been urging the Federal Government to recognize the tremendous damage our Nation's trade policies have caused the U.S. steel industry. The administration must analyze the cost to the American taxpayer of unfair foreign imports in terms of costs related to lost jobs. As the chairman of the steel caucus, Congressman GAYDOS, recently reported, the production of U.S. steel fell from 2.7 million tons a year ago to 1.6 million tons 1 week ago. The result of a reduction this severe and quick is devastating in terms of work force layoffs, increased government moneys for unemployment, and the reduction of our gross national product.

This drastic reduction in the U.S. steel industry has come about because of several different factors, perhaps the most important of which is the impact of foreign imports on the domestic industry.

In the 1950's imports represented 2.3 percent of the domestic steel market. During the most recent 3-year period, imports have risen to capture 17 percent of the market. In addition, industry after-tax earnings averaged 6.5 percent of sales 25 years ago, while they have dropped to a negligible 1.7 percent today.

From April 1978 until March 1980, the import market for steel was conducted under the trigger price mechanism. Although the installation of the TPM provided a small amount of badly needed relief, the failure of the administration to effectively administer its own program, only resulted in a change in exporters. Instead of the biggest exporter being Japan, the European nations increased their level of exports.

Even when this was brought to the attention of administration officials by the steel industry, no action was taken to alleviate this problem. Clearly, the haphazard method used by the administration in implementing the TPM did little to aid the faltering steel industry. And the problems facing this industry have only grown larger.

If current import trends continue, it has been estimated that import levels could account for 40 percent of our domestic steel needs by 1990. Leaving us with the possibility of a situation similar to the energy crisis; increased prices and reduced supplies.

Our Government must establish a comprehensive national steel policy that will result in the fair and effective administration and enforcement of our international trade statutes. We do not need new laws. The laws are already there. If they are properly carried through, imports will either be reduced or their price will accurately reflect the cost of production.

We must take action now to stop the decline of the American steel industry. Unfair foreign steel imports must be eliminated, tax laws affecting capital investments must be made more favorable, useless and burdensome regulations must be eradicated and we must strengthen and sustain the trade adjustment assistance programs that help workers adversely affected by import competition cope with this economic tragedy. A healthy steel industry is essential to our country's economic well-being and our national defense. I urge my colleagues in the House to join in helping to revitalize this integral industry.●

ELECTORAL COLLEGE REFORM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. STUDDS. Mr. Speaker, most Americans believe that every 4 years they elect a President. Their civics teachers failed to make it clear that a President can be elected with less than 25 percent of the Nation's popular vote. The time has come to modify this system, established before strong political parties and end an era when the masses were not trusted to select their Chief Executive. The progress of the 1980 Presidential campaign—accompanied by widespread confusion about the prospect of resolving the election in the House of Representatives—underscores the importance of abolishing the electoral college, in favor of a system of direct Presidential election by the people.

No provision of the U.S. Constitution has been subject to more proposed revision throughout history than has the electoral college system. Legislation to modify it has been filed in nearly every Congress, and this trend has gained bipartisan steam in the last 20 years. All of our other elected officials are elected directly by the American voters, including Members of the U.S. Senate, who were elected by State legislatures until 1913.

Anxiety about the electoral college system is not merely theoretical. Our Nation has had three minority Presidents; that is, Presidents whose opponents received a plurality of the popular vote. In 1976, the margins in both the popular and electoral vote totals were so narrow that we almost elected a fourth minority President. By many accounts, the prospects for the 1980 elections again raise the specter of a minority President—a specter that would, I believe, demoralize an already cynical electorate.

A new system of direct election would help invigorate political participation by both candidates and voters. National campaigns would be less likely to focus so keenly on the dozen largest States whose electoral vote strength now exaggerates voter concentrations. Similarly, direct election would restore to voters incentives to participate in small States or States dominated by one political party. The electoral college system contravenes our traditional commitment to equal representation for all voters. Because the winner takes all of a State's electoral votes under the present system, 10 votes in a State leaning heavily to one candidate are worth far less than 10 votes in a highly contested, politically pivotal State.

Some have defended the electoral college system on the basis that a President elected by a narrow margin of popular votes gets a necessary psychological mandate from an electoral victory that may—by virtue of the winner-take-all tally—appear larger. This epitomizes a cynical view—which I reject—that voters need their decisions sugar coated. What both voters and public officials need is a simple, accurate, and credible tally of votes, not results that are systematically adjusted to appear more palatable.

To me, the issue is quite straightforward. If the judgment of the electoral college coincides with the will of the voters—if it is superfluous—then why bother with it? If the electoral college routinely risks the prospect of electing a candidate over the wishes of a majority of voters, then why tolerate it?

For these reasons, I have filed legislation in the House of Representatives to allow for direct election of the President. This joint resolution is part of a package of measures I am introducing aimed at reforming our national electoral system. I encourage my many colleagues who share these views to press for renewed congressional attention while the Nation's interest and frustration is so clearly focused on these issues.●

ALFRED W. VAN SINDEREN

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. GIAIMO. Mr. Speaker, my friend, Alfred W. Van Sinderen of Woodbridge, Conn., has been chosen by the National Governors Association to receive its 1980 Private Sector Award for Distinguished Service to State Government, and I am delighted to call to the attention of my colleagues the significant achievements which precipitated this outstanding recognition.

Service to his State, as well as leadership in industry, has distinguished the entire career of Al Van Sinderen, president of the Southern New England Telephone Co. In nominating him for the award, Governor Ella T. Grasso of Connecticut noted Mr. Van Sinderen's outstanding leadership "* * * in the fields of business, culture, education, the environment, and, of special importance to Connecticut, the economic development of our State."

Governor Grasso particularly lauded his service since 1977 as first president of the Connecticut Economic Development Corp., a nonprofit group of business people who work closely with the Connecticut Department of Economic Development in its efforts to bring new businesses and jobs to our State.

Al Van Sinderen has served as cochairman of the Governor's Conference on Human Rights and Opportunities and as a director of the Connecticut Citizens for Judicial Modernization. He is currently a member of the Commission on Compensation for Elected State Officials and Judges and a former member of the State Commission for Higher Education.

As the Governor indicated in her nomination letter, his contributions have extended beyond the borders of Connecticut, a fact evidenced by his service as a Director of the Federal Reserve Bank of Boston and a director of the Regional Plan Association of New York. In 1973, the NAACP awarded him their prestigious Award for Leadership in Corporate Responsibility.

Al Van Sinderen has been a vital link between the leadership of government and business, and the academic community as well. While holding the aforementioned public offices and a trusteeship in the Connecticut Public Expenditure Council, he also serves as a director of the United Technologies Corp. and the Stanley Works, a trustee of the Yale Library Associates and a member of the Yale University Council, and the Yale University School of Organization and Management Advisory Board.

His commitment to the preservation of the environment goes back many years and led to his appointment to the Governor's Commission on Environmental Policy in 1970. This concern continues to the present day and was recognized by the award given to his company, the Southern New England Telephone Co., earlier this month by President Jimmy Carter in recognition of leadership in fuel conservation through the promotion of ride sharing.

Commitment to the well-being of the individual, as well as for the community as a whole has been significant in Al's life. He is president of the Shirley Frank Foundation, an alcohol detoxification center in New Haven, and a trustee of the Devereux Foundation, which operates schools for emotionally disturbed children. He has served as a director of the Newington Children's Hospital in Newington, Conn., and of the Greater Hartford United Way, and as a corporator of the Institute for Living, a psychiatric clinic in Hartford.

Mr. Speaker, whenever one undertakes to set forth the achievements and accomplishments of a man so active, so vital to his community and State as is Al Van Sinderen, one risks oversights and errors of omission. Indeed, to list all of Al's titles and contributions would be an extraordinary, if not impossible, task. I hope that I have given at least an overview of the man he is. I mentioned at the outset that Al is my friend, and I would like to add that I know him to be a truly exceptional man who is genuinely concerned and involved in all those areas set forth above. Al is not a figurehead who lends his name to causes; rather, he gives his time, his leadership, himself. For this reason, I feel it is truly fitting that he should receive the National Governor's Association Award on August 4. I salute Al and commend this worthy and coveted achievement to the attention of my colleagues in the House.●

MEDICAID ABORTIONS DO NOT HELP THE POOR

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. ALBOSTA. Mr. Speaker, even though the Supreme Court recently confirmed the constitutionality of the Hyde amendment language prohibiting Federal payment of abortions, it appears as though the Health Care Financing Administration is resisting enforcement of that order by the Court. Every day that goes by that this order is not implemented, thousands of unborn children lose their lives, at taxpayer expense.

I suppose the people in HCFA feel strongly that the Supreme Court's ruling was incorrect, and that poor people in this Nation have a right to an abortion under the medicaid program. Furthermore, the Administrator at HCFA would probably say that to deny the payment of an abortion for a poor, or underprivileged person discriminates against them because of their social status.

I reject those arguments, and I agree with the Court ruling in this matter. Abortion is not the savior of poor people in America, rather it leads to their moral decay. During the July district work period, an article appeared in the Washington Post by Colman McCarthy on the true needs of the poor people in this Nation. This article presents a very objective view of this important issue. I ask that it be reprinted in the RECORD so all Members will have the chance to read it.

SO THE PRO-ABORTION LOBBY WANTS TO HELP THE POOR?

Throughout the abortion debate, it has always been edifying how many of the rich and powerful come forward to speak up on behalf of the poor. Following the Supreme Court decision on Monday, in which it was ruled that public money couldn't be demanded for abortions, the poor again heard their cause being championed.

But was it? In 1974, in a dissenting view from a pro-abortion report from the Rockefeller Commission, Grace Olivarez, a Chicano, wrote: "Many of us have experienced the sting of being 'unwanted' by certain segments of our society. . . . [But] human beings are not returnable items. . . . Those with power in our society cannot be allowed to 'want' and 'unwant' people at will. . . . The poor cry out for justice and equality, and we respond with legalized abortion."

Olivarez later became the head of the Community Services Administration, one of the federal anti-poverty programs. Her views against abortion had consistency, because she was also working to eliminate other life-destroying burdens that the poor must bear.

Predictably, the specter of "back alley" abortions was raised earlier this week by many of those who protested the court's ruling. But the poor are always in back alleys, and the indifference of the powerful to offer help through better public programs for housing, schools, nutrition, crime control and health care is striking in contrast to the ardency that accompanies efforts to spend public money for abortions.

It was this contradiction that led Jesse Jackson, in an "Open Letter to Congress" in 1977, to argue against the spending of public money for abortion. A "federal policy of killing" isn't needed he said. Spend it on human needs.

The difference between spending public money for food stamps and for abortions is that no substantial disagreement exists on whether or not nutritional programs are humane. It isn't that way for abortion. A large part of the citizenry—and, fortunately, it is an increasingly well-organized part—is opposed in conscience to having its tax money spent for what Justice Potter Stewart called on Monday "the purposeful termination of a potential life."

Although it is simple enough for pro-abortionists to picture many of the antiabortionists in Congress as also being against the poor—as in fact the records of men like Henry Hyde, Jesse Helms and Robert Bauman suggest—this argument has less and less relevance.

If it worked once, as Professor John Noonan points out in "A Private Choice," it was due to the underlying but shaky assumption "that abortion was a human good—indeed a specially prized human good. To deny it to anyone who wanted it was to inflict a deprivation. That the opponents of abortion considered abortion a human evil, indeed a specially pernicious human evil, was overlooked. Because they did not accept the assumption, they were wicked in wanting to keep this great blessing from the poor. . . . Their objection to providing the poor with the means to have abortions was portrayed as the cruelest of hypocrisies."

In their inability to stop either the Hyde Amendment from passing Congress in the first place or to have the law overturned by the court, groups like Planned Parenthood and the National Abortion Rights Action League are angry and feel defeated. It's understandable. Public money was once available to carry out their views and now it's not. In addition, there is the sting of the double cross: the court that legalized abortions in 1973 now says that no "constitutional entitlement" exists to pay for them.

Instead of feeling anger and defeat, groups like Planned Parenthood or the NARAL should actually feel elated. Now they are free to take up the cause of the poor in the most decisive of ways—by coming up with the money from their own coffers, not the public's. Or short of that, perhaps a nationwide fund-raising drive is in order. Instead of public Medicaid, why not private Abortionaid?

My guess is that it would fall flat, as it deserves to. The pregnant poor, as Grace Olivarez, Jesse Jackson, and others have been saying for some time, deserve more than the patronizing attention of the pro-abortion lobby.●

CONGRATULATIONS TO THE U.S. FOREST SERVICE ON ITS 75TH ANNIVERSARY

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. WAMPLER. Mr. Speaker, in 1905, under the direction of America's great conservationist, President Theodore Roosevelt, the U.S. Forest Service as we know it today was born when the administration of the Nation's forest reserves was transferred from the Department of Interior and combined with the Bureau of Forestry in the Department of Agriculture. Mr. Gifford Pinchot was installed as the first Chief of the Forest Service, and instructed to administer the national forests "from a standpoint of the greatest good of the greatest number in the long run"

I might add that Mr. Pinchot was the Nation's first native-born trained forester, and in addition to being the Nation's first Chief of the Forest Service, he was the founder of the Society of American Foresters and twice the Governor of Pennsylvania.

Mr. Speaker, this year, 1980, marks the 75th anniversary of the U.S. Forest Service, and I offer my warmest congratulations to one of the Nation's outstanding agencies. This agency administers 187 million acres of the national forest system. It cooperates with State foresters in the protection and management of 825 million acres of State and private forest lands, and operates the largest forestry research organization in the world.

The State of Virginia has long been a leader in forestry and installing sound forest management practices on private and public forest lands. The U.S. Forest Service and the Virginia State Forest Service have long cooperated in setting the pace of sound forest management, and Virginia has been a leader in this regard throughout the Nation. The significance of forestry in my State of Virginia and its impact on the economy can be seen by the fact that we have nearly 16 million acres of commercial timberland, of which nearly 2 million acres are in public ownership. The Thomas Jefferson and the George Washington National·Forests are located in Virginia.

Mr. Speaker, as a strong proponent of a sound forest management system, I have continually sought to strengthen the research funds for the U.S. Forest Service so that the answers we need for long-term forest resource supply and demand can be obtained, and this Nation can be assured that we have renewable resources for the benefit of all of our people. The U.S. Forest Service is famous not only for their outstanding research, but in overseeing watershed management, protection of wildlife habitats and wilderness areas, providing recreational facilities for millions of our citizens each year, management of grasslands, and other multiple uses, as well as being excellent forest firefighters.

Mr. Speaker, it is with great pride and admiration that I join with my colleagues, and the people from the State of Virginia, in congratulating the U.S. Forest Service and their outstanding personnel on their 75th anniversary.●

TRIBUTE TO JOSEPH A. NEVERAUSKAS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. YATRON. Mr. Speaker, in recognition of 42 years of service to God, the Roman Catholic Church, his congregation, and his community, a testimonial banquet is being held for Msgr. Joseph A. Neverauskas on August 16, 1980. The banquet is sponsored by the Knights of Lithuania, Anthracite Council No. 144.

Monsignor Neverauskas has been pastor at St. George Church in Shenandoah, Pa., since 1970. St. George's is the largest Lithuanian parish in the diocese of Allentown. The monsignor has been a member of the Council of Priests-Diocesan Consultors since 1972.

Born in Minersville, Pa., Monsignor Neverauskas attended public elementary and secondary schools there. He attended Bucknell College and Kutztown State College for 2 years before studying for the priesthood at St. Charles Seminary, Overbrook. He was ordained a priest on May 26, 1938.

Monsignor Neverauskas' long and valuable service to his parishioners and his community is most praiseworthy and I am honored to bring the achievements of this outstanding clergyman to the attention of my colleagues in the U.S. Congress.

It is particularly fitting that this honor for Monsignor Neverauskas falls close to the 22d anniversary of Captive Nations Week. His championing of the cause of freedom for the people of Lithuania is well known.

Sixty-two years ago, the proud people of Lithuania valiantly proclaimed their right to stand among the free people of the world. Lithuania had emerged from the ruins, following World War I, to begin rebuilding her land, establishing her own government, and in essence determining her own destiny. This progression was halted by the Stalinist Soviets who ruthlessly seized Lithuania in 1940.

While under Soviet domination for the past 40 years, Lithuania has not been given the opportunity to govern itself. However, the people of this country have resisted persistent Soviet attempts to destroy their unity and identity and a strong desire for individual freedoms and self-determination survives in Lithuania today. This fact is significantly evidenced by the personal experiences of the principal speaker at the testimonial banquet honoring Monsignor Neverauskas, Mr. Simas Kudirka.

His unique struggle for freedom reminds us of how essential and how precious our liberty truly is, and what its loss can signify. Let us remember that as long as there are caring human beings, dedicated to the cause of freedom and human dignity, such as Monsignor Neverauskas and Simas Kudirka, there will always be a free Lithuania.

I know that my colleagues will join me in paying tribute to Monsignor Neverauskas.●

A REQUEST TO THE IRANIAN PARLIAMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. GILMAN. Mr. Speaker, on July 2, 186 Members of the House joined with me in cosponsoring a letter to the Speaker and Members of the Iranian Parliament concerning the release of the American hostages. The letter was delivered to the Department of State for transmittal to the Iranian Parliament via the Swiss Embassy which is representing U.S. interests in Iran.

The purpose of the letter was to urge the Parliament to give the hostage issue their highest and earliest priority. As fellow legislators, we expressed an understanding of their new responsibilities and the magnitude of the problems they now face. Furthermore, we stated that it is in the best interest of both of our nations to resolve this serious bilateral issue quickly and turn our attentions to the more serious threats to world peace we both face.

Yesterday, I received word that our letter had been received in Iran and read to the Iranian Parliament by Ayatollah Hasehemi Rafsanjani, Speaker of the Parliament. According to press reports, the Speaker set aside debate on the letter to a later time. There are signs that the Parliament plans to have a special panel start its work on the hostage issue possibly in the coming week according to a report by the United Press International.

I am encouraged that our letter was received by the Speaker and read by him to the entire Iranian Parliament. It is my sincere hope that the Iranian parliamentarians will seriously consider our request and will move to resolve this important issue. For the information of my colleagues I am inserting in the RECORD at this point the entire text of the letter, a list of cosponsors, and recent press accounts concerning this subject:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 2, 1980.

THE ACTING SPEAKER AND MEMBERS OF THE IRANIAN PARLIAMENT,
Islamic Consulative Assembly,
Tehran, Iran.

DEAR SIRS: As you begin to fulfill your duties as Members of the new Iranian Parliament, the undersigned Members of Congress of the United States of America share with you a deep understanding of the magnitude of the responsibilities which you have assumed as the elected representatives of your people. It is this sense of duty and responsibility that motivates us to express our sincere hope that our two nations and peoples can reach a better understanding of each other's goals and aspirations for the future.

For this reason we express to you our deep concern about the deterioration of our relationships as a result of the continued holding of Amercian citizens as hostages. Not only has this crisis resulted in a serious breach of U.S.-Iranian relations, but its continuation has created a critical global issue.

At a time when free nations are under attack from the forces of growing hegemony and expansionism, it is in the best interests of both of our nations to resolve this serious bilateral issue in order to confront the more imposing threats to world peace. Accordingly, while we are aware of all of the important domestic issues confronting your government, we urge you to give the hostage issue your highest and earliest priority as the first step in solving the more immediate and crucial threats that free nations face in the world today.

Sincerely,

BENJAMIN A. GILMAN.

MEMBERS OF CONGRESS WHO COSPONSORED THE ATTACHED LETTER

1. Benjamin A. Gilman.
2. James Abdnor.
3. Joseph P. Addabbo.
4. Jerome A. Ambro.
5. Frank Annunzio.
6. Bill Archer.
7. Thomas L. Ashley.
8. Robin Beard.
9. Berkley Bedell.
10. Anthony Beilenson.
11. Adam Benjamin, Jr.
12. Doug K. Bereuter.
13. Ed Bethune.
14. Mario Biaggi.
15. Jonathan B. Bingham.
16. Lindy Boggs.
17. Don Bonker.
18. David R. Bowen.
19. William S. Broomfield.
20. James T. Broyhill.
21. John Buchanan.
22. Clair W. Burgener.
23. John L. Burton.
24. Carroll A. Campbell, Jr.
25. William Carney.
26. Tim Lee Carter.
27. John J. Cavanaugh.
28. Bill Chappell, Jr.
29. Richard Bruce Cheney.
30. Don H. Clausen.
31. William Clay.
32. James C. Cleveland.
33. James M. Collins.
34. Barber B. Conable, Jr.
35. Silvio O. Conte.
36. Tom Corcoran.
37. Daniel B. Crane.
38. Philip M. Crane.
39. William E. Dannemeyer.
40. Mendel Davis.
41. E de la Garza.
42. Ronald Dellums.
43. Edward J. Derwinski.
44. William L. Dickinson.
45. Norman D. Dicks.
46. Christopher J. Dodd.
47. Robert K. Dornan.
48. Charles F. Dougherty.
49. Thomas J. Downey.
50. Robert F. Drinan.
51. John J. Duncan.
52. Mickey Edwards.
53. David F. Emery.
54. Arlen Erdahl.
55. Billy Lee Evans.
56. Thomas B. Evans, Jr.
57. John G. Fary.
58. Dante B. Fascell.
59. Millicent Fenwick.
60. Paul Findley.
61. Hamilton Fish, Jr.
62. Joseph L. Fisher.
63. William D. Ford.
64. Edwin B. Forsythe.
65. L. H. Fountain.
66. Dan Glickman.
67. Barry M. Goldwater, Jr.
68. William F. Goodling.
69. Willis D. Gradison, Jr.
70. Charles E. Grassley.
71. William H. Gray.
72. William S. Green.
73. Frank J. Guarini.
74. Tennyson Guyer.
75. Lee H. Hamilton.
76. John Paul Hammerschmidt.
77. James M. Hanley.
78. George Hansen.
79. Tom Harkin.
80. William H. Harsha.
81. Margaret M. Heckler.
82. Elwood Hillis.
83. Jon Hinson.
84. Ken L. Holland.
85. Harold Hollenbeck.
86. Marjorie S. Holt.
87. Frank Horton.
88. James J. Howard.
89. Henry J. Hyde.
90. John W. Jenrette, Jr.
91. Abraham Kazen, Jr.
92. Ray Kogovsek.
93. Jack F. Kemp.
94. Ken Kramer.
95. Robert J. Lagomarsino.
96. Delbert L. Latta.
97. Claude Leach.
98. Gary A. Lee.
99. William Lehman.
100. Norman F. Lent.
101. Jerry Lewis.
102. Bob Livingston.
103. Jim Lloyd.
104. Thomas G. Loeffler.
105. Gillis W. Long.
106. Trent Lott.
107. Mike Lowry.
108. Manual Lujan, Jr.
109. Thomas A. Luken.
110. Stanley N. Lundine.
111. Edward R. Madigan.
112. Marc L. Marks.
113. James G. Martin.
114. Robert L. McClory.
115. Paul N. McCloskey, Jr.
116. Joseph M. McDade.
117. Matthew McHugh.
118. Stewart B. McKinney.
119. Dan Mica.
120. Clarence E. Miller.
121. George Miller.
122. Norman Y. Mineta.
123. Joseph G. Minish.
124. Donald Mitchell.
125. Morgan F. Murphy.
126. John T. Myers.
127. Stephen L. Neal.
128. George M. O'Brien.
129. Richard L. Ottinger.
130. Edward J. Patten.
131. Leon Panetta.
132. Jerry M. Patterson.
133. Donald J. Pease.
134. Peter A. Peyser.

135. J. J. Pickle.
136. John Edward Porter.
137. Richardson Preyer.
138. Melvin Price.
139. Joel Pritchard.
140. Carl D. Pursell.
141. James Quillen
142. Nick Joe Rahall II.
143. Tom Railsback.
144. Charles B. Rangel.
145. Ralph S. Regula.
146. John J. Rhodes.
147. Matthew J. Rinaldo.
148. Kenneth J. Robinson.
149. Robert A. Roe.
150. Benjamin S. Rosenthal.
151. John H. Rousselot.
152. Edward R. Roybal.
153. Harold S. Sawyer.
154. Patricia Schroeder.
155. Keith G. Sebelius.
156. F. James Sensenbrenner, Jr.
157. Bud Shuster.
158. Paul Simon.
159. Virginia Smith.
160. Olympia J. Snowe.
161. Gene Snyder.
162. Stephen J. Solarz.
163. Gerald B. Solomon.
164. Gladys Noon Spellman.
165. Edward J. Stack.
166. Harley O. Staggers.
167. William J. Stanton.
168. Fortney H. Stark.
169. Dave Stockman.
170. Louis Stokes.
171. Samuel S. Stratton.
172. Gerry E. Studds.
173. Steven D. Symms.
174. Thomas J. Tauke.
175. Gene Taylor.
176. Guy Vander Jagt.
177. Doug Walgren.
178. Robert S. Walker.
179. Ted Weiss.
180. Larry Winn, Jr.
181. Howard Wolpe.
182. Antonio B. Won Pat.
183. John W. Wydler.
184. Chalmers Wylie.
185. Sidney R. Yates.
186. Gus Yatron.
187. Don Young.

[From the Washington Post, July 31, 1980]

IRANIAN PARLIAMENT HEARS LETTER ON HOSTAGES FROM CONGRESSMEN

(By Alex Brodie)

TEHRAN, July 30.—Members of the newly constituted Iranian parliament heard a direct appeal today from 187 U.S. congressmen for an early discussion of the fate of the American hostages. They then were told that the subject would come up for debate soon.

Dozens of deputies sprang to their feet to speak after the letter from the American legislators was read, but the speaker of the Majlis (parliament), refused to recognize them, saying it was premature to open debate today. He told the assembly he felt Congress could help most by telling Americans that their government had "lied" about the causes of the Iranian crisis.

In the letter, dated July 2, the congressmen said they shared with the members of the Iranian parliament "a deep understanding of the magnitude of the responsibilities which you have assumed as the elected representatives of your people."

The letter, transmitted through the Swiss Embassy, is one of the first known public contacts between any U.S. and Iranian officials on the hostage issue in some time.

The congressmen said they had "deep concern about the deterioration of our relationships" because of the hostages, and warned the parliament that the holding of the hostages had not only led to a breakdown of bilateral relations but also "created a critical global issue."

Without naming the Soviet Union, the letter pointed to the danger of "growing hegemony and expansionism" and said it would be in the interests of both nations to resolve the hostage question in view of "the more imposing threats to world peace."

The congressmen concluded with a request that their Iranian counterparts give "highest and earliest priority" to the hostage issue.

[The letter, which was delivered by the Swiss charge d'affaires yesterday, was drafted by Rep. Benjamin Gilman (D-N.Y.) and circulated on the floor of the House for three weeks, according to a Gilman aide. It contained 187 signatures, including that of Minority Leader John J. Rhodes (R-Ariz.). Among those not signing were Speaker Thomas P. O'Neill, Jr. (D-Mass.), Majority Leader James Wright (D-Tex.) and International Relations Committee Chairman Clement J. Zablocki (D-Wis.). The letter's signers represented a broad spectrum of liberals, moderates and conservatives from both parties.

[Gilman's aide said the congressman had kept the State Department "apprised" of the project, which was described as "an independent venture on a legislator-to-legislator basis." The aide said Gilman was pleased that the letter had been read openly.]

Hojatolesam Hashemi Rafsanjani, the speaker of the Majlis, said the U.S. government had lied in saying it was trying to defuse the crisis. Instead, the United States had aggravated the problem, he said. He cited past American involvement—"bloodshed, wealth taken"—and a long list of more recent actions.

Rafsanjani included the freezing of Iranian assets, the reneging on contracts for spare parts, pressure on allies to boycott Iran, "misleading propaganda" on the abortive April rescue attempts, involvement with Iraq in the recent alleged coup plot, and the economic boycott.

He said this was his personal view, not the view of the parliament, and he expressed it to the Swiss diplomat who passed on the letter.

One of the hard-line members of the Islamic Republican Party leadership in parliament, Dr. Hasan Ayat, said the hostages "could be freed if the United States gave back the Iranian riches stolen by the Shah and promised to stay away from Iran's internal affairs."

He added: "We don't want to try the hostages but rather put America on trial for the crimes it has committed in Iran over the past 35 years."

Ayat, who is one of President Abol Hassan Bani-Sadr's most implacable opponents, also said it might take a few weeks to sort out the impasse over who should become prime minister.

The president and the parliament, which is dominated by the Islamic Republican Party, are locked in a dispute on the issue. Bani-Sadr reluctantly nominated Mostafa Mir-Salim, a party member. He also hinted, however, that he had been forced into it and might not accept responsibility for the subsequent government, which could be dominated by Islamic fundamentalists.

Parliament did not endorse Mir-Salim. The president asked it to postpone the vote of confidence and work with a joint commission to get prospective prime ministers. The Islamic party has been promoting its preferred candidate, Jaleleddin Farsi, an uncompromising hard-liner who has said he would find it almost impossible to work with Bani-Sadr.

Ayat accused "certain people" around Bani-Sadr of impeding the smooth working of the constitution, and said the parliament could use the guidance of the constitution to solve the problem.

"There is a provision in the constitution by which a president can be removed and a new president elected," he said.

Article 110 of the constitution gives one of the duties of the leadership (meaning Ayatollah Ruhollah Khomeini) as "dismissal of the president with due consideration to the interests of the country, after the Supreme Court has ruled that he has departed from his legal duties or after the Majlis has ruled as to his political incapability."

Bani-Sadr, in a series of articles in his newspaper Islamic Revolution, said the people "do not want to see Iran turned into a battlefield between political groups," and such a confrontation would lead to breakdown.

"Unless the people are certain that the government when it comes to power is in coordination with the president, they will not accept it. Eleven million people did not vote for a statue," he said.

IRANIAN PARLIAMENT'S RESPONSE

In a letter read to the Iranian Parliament today, a group of 180 U.S. Congressmen appealed to the assemblymen in Tehran to give the U.S. hostage issue "The highest and earliest priority."

Tehran Radio, in a broadcast monitored by the BBC in London, said the Speaker of the Parliament read the letter but told the deputies "The American Government is telling lies by claiming it is making an effort to end the crisis" and has "always tried to intensify it."

The letter to Parliament was handed to Speaker Rafsanjani by the Swiss charge d'affaires and it expressed the hope that the two nations could find a way of better understanding each other's goals and objectives, Tehran Radio said.

Referring to the question of the U.S. hostages, the letter said the continuation of this "crisis" had created a world-wide crisis.

"At a time when free nations are subject to aggression by hegemonist and expansionist forces, solution of this serious bilateral issue will be in the interest of both nations, so as to be able to deal with dangers threatening world peace . . . ," the letter said.

"Aware of the important internal issues facing your Government, we ask you fervently to give the highest and earliest priority to the issue of the hostages, as your first step in helping solve much greater, more important and more sensitive dangers, which the nations of the world and the world itself are facing."

Tehran radio said that before reading the letter, Speaker Rafsanjani told the parliamentary deputies: "the letter was delivered to us by the Swiss Embassy charge d'affaires to whom I said: 'you are duty-bound to tell the American people that the American Government is telling lies by claiming it is making an effort to end the crisis. The Government of America is not only doing nothing to solve the crisis, but it has always tried to intensify it.'"

Almost 200 U.S. Congressmen, in a letter read out Wednesday before the Iranian Parliament in Tehran, appealed "Fervently" for a quick solution to the hostage standoff, but the Parliament Speaker angrily responded that Washington is "doing nothing to solve the crisis," Tehran Radio reported.

Iran's domestic unrest exploded into new bloodshed, meanwhile. A terrorist bomb blast in the southwestern city of Ahwaz killed eight people and wounded 36 others, the Government-run radio said in a broadcast monitored in London.

The official Iranian News Agency Pars said the bomb had been left on a motorcycle outside a hotel. The reports gave no indication of who might have been responsible.

Ahwaz is in the heart of Khuzestan Province, where dissidents among the local Arab population have been agitating for greater autonomy from Ayatollah Ruhollah Khomeini's Persian-dominated central regime. Khuzestan also has been a focal point for alleged sabotage attacks by infiltrators from neighboring Iraq, which is locked in a sometimes bloody border dispute with Iran.

Wednesday was the 270th day of captivity for the 52 American hostages in Iran. Khomeini has decreed that the Iranian Parliament, or Majlis, must decide the Americans' fate.

Tehran Radio said the Congressmen's letter asking that the issue be given "the highest and earliest priority" was delivered to Parliament Speaker Hashemi Rafsanjani by a Swiss diplomat. The Swiss Embassy has represented U.S. interests since President Carter broke diplomatic relations with Iran three months ago.

Before reading it aloud in the Majlis Chamber, the broadcast said, Rafsanjani informed his fellow deputies he had told the Swiss diplomat, "You are duty-bound to tell the American people that the American Government is telling lies by claiming it is making an effort to end the crisis.●

IN SUPPORT OF H.R. 6790

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, I support H.R. 6790, the Foreign Services Act of 1980, and in particular section 814, which establishes the presumption that the spouses of Foreign Service personnel, married at least 10 years, would be entitled to a pro rata share of the retirement and survivors annuities, based on the number of years of marriage during active service.

There is a vital need to provide pension benefits to former spouses of members of the Foreign Service. Without the financial security and benefits that H.R. 6790 provides, the spouses of Foreign Service personnel married at least 10 years are faced with the very real possibility of financial difficulties and poverty. Older women are the fastest growing poverty group in America, and we need to change existing laws that penalize women for their years as homemakers and mothers.

The very nature of the Foreign Service makes the need for retirement benefits to spouses more acute than the spouses of regular Federal employees. All members of the Foreign Service are subject to frequent and continual rotation throughout their careers. Thus, the spouse has no opportunity to build a separate career and financial stability. Following death or divorce, the spouse has insufficient work experience to find a job and receives no portion of the retirement benefits of the member of the service.

The benefits of H.R. 6790 are apportioned fairly in the case of successive marriages. The bill protects both the former spouse and current spouses based on the number of years married to the Foreign Service member and avoids the unjust enrichment of a new spouse at the expense of the former spouse.

The bill also gives the current spouse and former spouses of over 10 years a right to sign off before the retiree waives all survivor's benefits, requiring it to be a joint decision concerning the future well-being of the spouse.

In the recommendations of "Interim Report of the President's Commission on Pension Policy" pension benefits for spouses were defined as property rights which alludes to the strong need and recognition of entitled pension benefits for these women.

Mr. Speaker, we must act rationally and responsibly as a nation if we are to insure the rights of the spouses of Foreign Services employees. I urge my colleagues in the House to join me in supporting commitment and financial security that H.R. 6790 rightfully outlines.●

HEALTH PLANNING TECHNICAL AMENDMENTS OF 1980

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. WAXMAN. Mr. Speaker, I am pleased to join with Dr. TIM LEE CARTER, the distinguished ranking minority member, and several other distinguished members of the Subcommittee on Health and the Environment in introducing the Health Planning Technical Amendments of 1980. This bill is a revision of H.R. 7758, which Dr. CARTER and I introduced on July 2, 1980. This bill includes all provisions of H.R. 7758 and several other amendments we believe are essential.

There are two primary reasons for this legislation. First, the bill would extend the deadline for States to enact or amend their certificate of need laws to comply with the Health Planning and Resources Development Amendments of 1979. Because final regulations have not been promulgated by the Department of Health and Human Services, as directed by the 1979 amendments, many States have adjourned their 1980 sessions without enacting the necessary legislation. This bill would give every State 12 months from the beginning of its next regular legislative session to pass legislation. In addition, the bill contains a number of technical and minor amendments to the health planning law.

The second reason for the bill is to address an emergency situation for the National Health Service Corps (NHSC). I will explain.

The NHSC scholarship program provides full scholarships—including stipends—to medical, dental, and other health professions students in return for their serving in the NHSC in a health manpower shortage area upon completion of their training. While they are serving their obligation the NHSC pays their salary and fringe benefits.

The fiscal year 1980 appropriation and personnel ceiling for the NHSC, including the recently enacted supplemental appropriation, are $73.6 million and 2,060 members. The Commerce Committee's health manpower bill, the Health Professions Educational Assistance and Nurse Training Amendments of 1980, H.R. 7203, authorizes $94 million for fiscal year 1981, the Appropriations Committee sets the personnel ceiling; but the appropriations committee is not expected to appropriate more than $73.6 million in its fiscal year 1981 Labor-HEW appropriations bill unless a fiscal year 1981 authorization has been enacted. We cannot realistically expect H.R. 7203 to be enacted before the House considers the fiscal year 1981 Labor-HEW appropriations bill.

If the fiscal year 1981 appropriation for the NHSC is made under a continuing resolution, at $73.6 million, the Department of Health and Human Services estimates that there will be insufficient funds for approximately 888 to 1,088 scholarship recipients to fulfill their obligation and for the hiring of approximately 119 physicians who would have volunteered to serve in the NHSC. According to the Department of Health and Human Services' Office of General Counsel the NHSC will break its contractual obligation to the scholarship recipients if it cannot place the recipients in the NHSC upon completion of their training. The Department estimates that the NHSC has invested $27.5 million in the 1,088 scholarship recipients.

If there are insufficient funds for the NHSC to place their scholarship recipients, the recipients will never have to fulfill their obligation and the hundreds of communities in health manpower shortage areas which would have been served by the recipients will continue to have inadequate or no health care.

This bill would provide a fiscal year 1981 authorization of $94 million, which is the same authorization provided in the committee's health manpower bill (H.R. 7203). Prompt passage of this emergency authorization will enable the appropriations committee to provide the necessary funds so that these scholarship recipients serve their obligation.

We should not permit the delay in acting on the health manpower authorization bill to disrupt severely this important health program and to waste the millions of dollars already invested in NHSC scholarships. We recognize that some Members have expressed concern about the NHSC. This emergency procedure will not prevent complete consideration of the NHSC when H.R. 7203 is considered by the House.

The extension of the deadline for State compliance with the health planning law and an authorization for the NHSC are two important provisions which warrant every Member's support.

To assist Members in reviewing this bill I have provided a section-by-section explanation of the bill.

Section-by-Section Explanation of Health Planning Technical Amendments of 1980

SECTION 2

This is a technical amendment to correct an error in the Conference Report. It would require the Secretary in establishing national health planning guidelines to consider the needs of all medically underserved areas.

SECTION 3

Section 1513(g)(2) requires each health system agency to complete its review for appropriateness of certain institutional and home health services within three years of the agency's full designation. For most agencies the three year period ended this summer. The Department of Health and Human Services did not promulgate regulations on this matter until December, 1979, so most agencies have not begun their review. The section would give them two additional years.

SECTION 4

The Health Planning and Resources Development Amendments of 1979 required the Secretary of Health and Human Services to use a particular method for allocating grants to HSA's if the appropriations for those grants were less than the amounts authorized. That method had the unintended effect of requiring a proportionately larger decrease for agencies receiving the maximum grant than for other agencies. This section will require that all agencies be treated equally.

SECTION 5

This is a technical amendment to correct an error in the Conference Report. Under the Health Planning and Resources Development Amendments of 1979 the State Health Coordinating Councils are required to review the use of federal funds by an entity in more than one health service area. The reference to section 409 of the Drug Abuse Office and Treatment Act of 1972 should have included section 410 project grants.

SECTION 6

This is a technical amendment to correct an error in the Conference Report. The last phrase of section 1527(b)(3)(B)(ii) refers to clauses (i) and (ii) of paragraph (1)(B); it should have referred to clauses (i) through (iv) of paragraph (1)(B).

SECTION 7

This is a technical amendment to clarify the definition of "provider of health care". It does not change the definition.

SECTION 8

The index cited in section 1531(5) is not maintained by the Department of Commerce. This section will require the Department of Health and Human Services to maintain the index.

SECTION 9

Under current law if a health care facility makes a capital expenditure (more than $150,000) a certificate of need is required. This section would establish an exception. If the capital expenditure is for health research and the research would not involve the provision of any health services to patients of any health care facility and neither the capital expenditure nor the operating costs of the research will affect the charges of the health care facility, a certificate of need would not be required. The health care facility would notify the State Planning Agency 30 days before entering a contractual arrangement requiring a capital expenditure for health research and would provide assurances that the research will meet the conditions described above. If the notice is not provided or if the health research would not meet the conditions, a certificate of need would be required before the capital expenditure could be obligated.

SECTION 10

This is a technical amendment to correct an error in the Conference Report. The conferees agreed to an amendment adopted by the House which required states to use their administrative procedure laws in reviewing the decisions of their State planning agencies. The Conference Report erred by including the word "administratively" which changed the intent and effect of the House provision.

SECTION 11

This is a technical amendment to correct an error in the drafting of the Conference Report. Section 1524(b)(1)(C) was amended instead of Section 1524(b)(1)(D).

SECTION 12

This section gives every state 12 months from the beginning of the first regular session which begins after the enactment of the bill to conform its state certificate of need laws to the federal law.

SECTION 13

This section authorizes $94 million for the National Health Service Corps for fiscal year 1981.●

ADVISABILITY OF A TAX CUT

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. FITHIAN. Mr. Speaker, I am inserting for the benefit of my colleagues my recent testimony before the Ways and Means Committee concerning the advisability of a 1981 tax cut.

Statement of Hon. Floyd J. Fithian

I wish to thank Chairman Ullman and Members of the Committee on Ways and Means for allowing me to speak today concerning tax cuts. I believe tax cuts should be enacted this year effective for 1981. Some tax reduction is inevitable for the following reasons:

First, we must act to counteract the long-predicted recession. Most recent economic forecasts show a peak-to-trough decline in real output of between four and five percent, making this the second worst recession since World War II. The disastrous shape of the auto industry has caused the unemployment rate in areas of the Midwest to rise to over 14 percent. The Economic Summary of the Committee on Budget states personal income climbed a weak .1 percent in May after declining by the same amount in April. Wages and salaries declined slightly in May following a much sharper drop in April. Personal consumption expenditures declined during both April and May and real spendable earnings declined by .0 percent in May.

Second, we need tax reduction to offset added inflation resulting from oil import price increases and decontrol. Since 1978 oil costs have doubled, setting inflation into a flurry.

And, third, we need a tax reduction to stimulate productivity. Since January production rates have decreased by over 6 percent. (June 1980 Economic Indicators.) A reduction which stimulates productivity would combat long-term inflation.

We need to fight general unemployment by increasing real economic growth through tax reductions designed not to pump money into the economy, but to target tax cuts to increase capital investment, production, and employment. We must direct more of our annual economic effort into modernization for competitiveness and growth rather than immediate consumption.

I urge this committee to give considerable weight to the findings of the Joint Economic Committee in its current annual report. The JEC recommends a targeted tax cut of approximately $25 billion to take effect no later than the summer of 1981. At least half of this tax cut should be directed toward enhancing saving and investment. Traditionally, tax cuts have been viewed solely as countercyclical devices designed to shore up the demand side of the economy. We must shift the focus to productivity.

The JEC is now on record in support of the view that tax policy can and should be directed toward improving the productivity performance of the economy over the long term and need not be enacted only to counter a recession.

Heretofore, our general tax policy has earmarked roughly $2 for consumer stimulus on the demand side for every $1 on the supply side.

I support the formula change per the JEC to a $1:$1 ratio.

The Committee on the Budget in their annual report believes "the best tax reduction package would be one which offsets inflation while encouraging productivity." They suggest a productivity-raising tax cut of $20 billion on a calendar year basis beginning January 1, 1981. The amounts reserved for the tax cuts in fiscal year 1982 and 1983 total $20 billion for each year. "Solving the inflation problem must be viewed as a long-term undertaking, but the time for dramatic action is now."

We need a tax cut that will aid our chronically low level of investment, which has resulted in sagging productivity, sluggish production, and faltering competitiveness in world markets. We need to stimulate our investment through better, more efficient equipment thus creating jobs both directly and indirectly.

Some important projected effects of a supply side tax cut are potential GNP could grow by 1.9 percent by 1985 and productivity could be similarly boosted; the labor supply would increase by approximately 300,000 people by 1985, and capital stock would also grow rapidly. Higher demand and supply effects would raise the real GNP by 2.6 percent by 1985.

The increased investment resulting from this tax cut would have a multiplier effect on economic activity. By 1990 real consumption would be up by 1.8 percent, investments in equipment up by 4 percent, in business structures up by 1.4 percent and in housing, up by .9 percent according to "A Time for Supply Economics," by Otto Eckstein, "Data Resources Review", June 1980.

This type of tax cut would encourage productivity, cut costs and cut unemployment. It would encourage purchases of new equipment in industry and newer technologies, thus making us once again competitive in the markets with our Japanese and Western European partners.

Depreciation reform, as outlined in H.R. 4646 (10-5-3), is the cornerstone of increased productivity, real wage increases, lowered inflation, and rational tax policy. Our current tax policy when compared to those of our major industrial competitors discourages new investments by American industry, thus leading to sagging production rates, aging production capacity, and lack of competitiveness in world markets. The Jones-Conable Capital Cost Recovery Act of 1979 is legislation which would scrap existing depreciating schedules for business plant equipment and rolling stock and substitute in their place a simplified system of rapid depreciation for such assets. I strongly support including the major provisions of this bill as a part of any 1981 tax act.

Our current tax depreciation system of "useful life" ignores the fact that most of our competitors have rejected such a system in favor of rapid cost recovery of investment. This bill would eliminate the unwieldy Asset Depreciation Range System and abolish the antiquated "useful life" concept in favor of a modern approach to capital cost recovery. This kind of tax cut would direct more of our annual economic effort into modernization for competitiveness and growth rather than immediate consumption.

Continuing a capital cost recovery program can prove to be a long-term success. Our country can once again become No. 1 in steel and automobile production. By making the pie bigger, we can all enjoy a larger portion of the benefits. In future years we need to continue focussing on production levels, private sector employment, and short-term depreciation of assets to encourage technology and growth.

The alternative to a tax cut geared to productivity is a tax cut which promotes inflation. If we are to emerge from this down cycle without higher inflation, it will be because this committee fixes its attention on targetting a tax cut in such a way as to increase productivity. Only by doing this can we start back along a road to recovery—recovery of our competitive posture in comparison to Western Europe and Japan. We desperately need to modernize industry and especially the steel and auto industries.●

THE MACCABIAH GAMES: A SPIRITUAL AND ATHLETIC OPPORTUNITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. KEMP. Mr. Speaker, the strength of my commitment to Judeo-Christian values and my lifelong interest in sports prompts me to report on the activities of the United States Committee Sports for Israel, a unique and meaningful philanthropic organization. Founded in 1948—the year in which the State of Israel was born—USCSFI is dedicated to the development and support of physical education and sports programs in Israel.

This longstanding commitment takes several forms. As the sole sponsor of American participation in the Maccabiah games—an Olympic-like competition for Jewish athletes held every 4 years in Israel—USCSFI is responsible for the selection and the complete funding of the nearly 400 Americans who will represent our country at the 11th Maccabiah, scheduled for July 6-16, 1981. Our Maccabiah team is traditionally America's third largest international sports contingent. The 11th Maccabiah will attract over 3,000 world class athletes from 36 nations, making it the largest and most successful Maccabiah in her 50-year history. The decision of the U.S. Olympic Committee makes our participation in this sporting event more significant than ever before.

The Maccabiah is, however, much more than a competition for gifted athletes. It provides young Jewish men and women from all over the world with a unique opportunity to experience the land of their spiritual forebearers. The Maccabiah is a vehicle for the continued support of Israel at every level. Each athlete that USCSFI sends to Israel represents an investment in her future strength, for the accomplishments of these young ambassadors will endure long after the games themselves have ended. A deep bond of friendship and understanding is formed between the youth of Israel, America, and the world. That, in short, is what the Maccabiah is all about.

The United States Committee Sports for Israel is also intimately associated with the Wingate Institute for Physical Education and Sport, located in Netanya, Israel. Comprised of three schools of higher education, the institute concerns itself with the educational, physical, psychological, and rehabilitative aspects of sports activities. Sports for Israel's completed projects at Wingate include the Nat Holman School for Coaches and Instructors; an olympic swimming pool; four dormitories; a 400 meter track; a library; a gymnasium; and a medical testing laboratory.

Sports for Israel has undertaken several scholarship programs which make it possible for Wingate students to pursue advanced studies in the United States, and it has enabled American coaches to conduct training clinics throughout Israel.

My association with the United States Committee Sports for Israel as chairman of the 11th Maccabiah Games Non-Sectarian Committee has brought me and cochairman Senator BILL BRADLEY into contact with literally hundreds of dedicated and committed individuals. People whose work on behalf of Israel is an inspiration to me. People like USCSFI's president—the legendary Nat Holman.

People like Warren Abrams, chairman of the 11th U.S. Maccabiah Organizing Committee, and Maccabiah Organizing Committee member Bobbie Abrams, whose work on behalf of Jewish philanthropies is known nationwide.

People like USCSFI's National States Chairman Robert Feldman, whose efforts have helped bring about the rapid growth and national stature that USCSFI is now achieving. I am proud that I have been able to work so closely with these individuals and I am proud of the contribution that the United States Committee Sports for Israel is continually making toward the strength and well-being of the State of Israel.●

MISS DONNA HOEGLE

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. CLAUSEN. Mr. Speaker, for the past few years I have had the privilege of knowing Miss Donna Hoegle, California's Junior Miss for 1979. At the pageant ceremony in Santa Rosa last spring Miss Hoegle recited a poem that she had written which exhibited in a very beautiful and graceful way the vitality, exuberance, and high caliber of this Nation's youth. I would like to share this poem with my colleagues.

Memories are shown in all you do,
So many lie ahead of you.
Junior Miss has given you this
And now you are our Junior Miss.

Remember our tears,
And you'll have no fears.
For the girls that you meet,
They're all so neat.

Even though your home is far more than a mile,
I know you'll be proud and keep up that smile.

And when the sun comes up each day,
You'll be in my thoughts in every way.
When you are feeling a little scared,
Think of all those good times that we shared.

You represent each one of us,
We all are proud and love you so much.
You've come a long way from Huntington Beach,
And now that last step is within your reach.●

OPEN CONVENTION, PART II

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. BIAGGI. Mr. Speaker, yesterday I placed into the RECORD an editorial from the Wall Street Journal discussing the fallacy of the proposal to open the Democratic Convention. Today I wish to insert for the benefit of my colleagues an analysis prepared by Prof. Charles Black, Jr., of the Yale School of Law.

I believe the arguments he raises against the idea are salient and worthy of close attention. The open convention idea is both a misnomer and a mockery. It should be rejected by all right thinking Democrats.

The analysis follows:

WEAK CASE FOR AN "OPEN" DEMOCRATIC CONVENTION

To the Editor:

Tom Wicker's column of July 11 ("What Is a Delegate?") casts a wide net in the hope of dragging up some reason why those delegates to the Democratic convention who ran and won as Carter delegates should not have to vote for Carter. It's a water haul.

The primary and open-caucus system may not be the best possible system; that's a question for 1984. In 1980, this was the sole announced and sanctioned system—long fought for (in great part by people of Mr. Wicker's politics) as a means of giving the wider party membership an effective power over the nomination. To all participants and to all who watched, the process was an open struggle, between Carter and Kennedy, for delegate votes. The President won, not narrowly but overwhelmingly. Why does Mr. Wicker think it wrong that nomination should follow as of course?

Overall, Mr. Wicker is nostalgic for "that venerable American political institution, the national convention," where "representatives . . . deliberate, debate, compromise and conciliate."

Quite apart from the ludicrousness of sensing the promise of "compromise" and "conciliation" in the only game now really going—Senator Kennedy's lunge to snatch the nomination away from the man who has fairly won it—just which past convention is Mr. Wicker nostalgic for? When does he think several thousand people, on show for a few days in a huge unfamiliar hall, really sat and reasoned together? Does he think they ever can? Does he not know that those conventions that were made up mostly of "uncommitted" delegates always were (and always must be) brokered conventions, managed by a few organization politicians? Was not this the very thing the currently used system was devised to avoid?

Nostalgia for something that never was and never can be is a poor ground indeed for regarding pledged delegates as rightly to be absolved from their pledge.

If the Carter and Kennedy delegates are not "committed," what was the point of there being separate slates of "uncommitted" candidates in some primaries? On the other hand, can it be thought that people who voted for long slates of "Carter" or "Kennedy" delegates were really choosing the names on these slates for their bearer's wisdom in "deliberation"? Is the purely ceremonial "favorite son" business (one of those traditional bits of theater staged in the past to keep the show going while the bosses did their deal offstage) a good reason for warping the primary results, deadly serious as these were assumed to be by all? Would a little uncontrolled, "head counting" by one or more of 3,300 delegates, be an adequate ground—as Mr. Wicker seems to think—for those delegates' disregarding the result of a primary in which all who wanted to vote did vote?

People like Mr. Wicker are desperately looking about for just any way to evade the absolutely clear result of a complicated but fair contest. They ought to face the fact that, strange as its seems to them, Mr. Carter did win the nomination and could now be done out of it, if at all, only by shady manipulations.

The question is not whether we will "return" to an "open convention" system that never existed, pretending that the primaries don't count because Senator Kennedy did not win them. The question is whether, as the clock runs swiftly toward November, we are going to close ranks behind the legitimate nominee and so have a chance to avoid turning the American black and poor over to Reagan while putting in Reagan's hands so large a part of the powers of war and giving Reagan very probably the decisive influence on the Supreme Court for many years to come. I will be surprised if Mr. Wicker and others like him do not see this before very long—I hope before it is too late.

CHARLES L. BLACK, Jr.,
Sterling Professor of Law,
Yale Law School.●

THE 125TH ANNIVERSARY OF ST. FRANCIS SEMINARY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. ZABLOCKI. Mr. Speaker, this past July 15 marked a truly historic occasion in Wisconsin's Fourth District, which I have the honor of representing. The St. Francis Seminary of Milwaukee celebrated the 125th anniversary of the laying of the cornerstone of Henni Hall, the oldest building on the St. Francis Seminary campus. The seminary's alumni association joined in commemorating 125 years of training priests by participating in a religious liturgy with Archbishop Rembert G. Weakland of Milwaukee as principal celebrant, and other activities, including a meeting at which the principal speaker was Bishop Raymond W. Lessard of Savannah, Ga.

Mr. Speaker, the St. Francis Seminary, whose present rector is Rev. Daniel J. Pakenham, is the oldest seminary in the Midwest and one with the largest continuous operation in the same place of any in the United States. These 125 distinguished years have seen the seminary grow and prosper from its beginnings as a bilingual seminary seeking to educate 32 native German-speaking clergymen, to its present-day mission of educating 225 students in the seminary's graduate school, college, and high school call to ministry programs. Over the years, it has been the training ground for over 4,000 priests.

The St. Francis Seminary has long been a leader in developing pastoral and field education programs, to augment the strong spiritual and formation programs for its seminarians. The priests, alumni from St. Francis, have thus always been fully prepared and ready to confront the problems of their people, and have contributed in many ways to the betterment of our world. They were educators, diplomats, and theologians, as well as parish priests.

Perhaps the best known of all the seminary's outstanding alumni was the late Cardinal Aloysius Joseph Muench, graduate and later rector of the St. Francis School of Pastoral Ministry from 1929-35. Bishop Lessard, a former secretary to Cardinal Muench whose address to the seminary's alumni highlighted the July 15 event, spoke of the numerous contributions made to the Catholic Church by Cardinal Muench. His distinguished career was filled with goodwill and accomplishments: He was made bishop of Fargo, N. Dak, in 1935, where he was a pioneer in rural sociology. In 1946, he was sent to Germany as apostolic visitator by Pope Pius XII, overseeing the Vatican's massive relief assistance, and also was involved in the reconstruction of Germany. In 1951, he became the first American to serve as a papal nuncio in Europe. Cardinal Muench, the first seminary graduate and rector to become a cardinal and the first American Catholic to become a member of the Roman Curia, was greatly concerned with world peace until his death in 1962.

Mr. Speaker, the unselfish dedication toward the betterment of mankind which has been the foundation of teachings of the St. Francis Seminary for well over a century now, was exemplified by the contributions of its distinguished alumnus, the late Cardinal Aloysius J. Muench. For that reason, Mr. Speaker, I am privileged to share with our colleagues the biographical account of the cardinal's life which was published in the Milwaukee Sentinel on July 12, 1980, under the byline of James M. Johnston, as follows:

MUENCH BROKE TRAILS FOR CATHOLICS IN UNITED STATES

(By James M. Johnston)

He was a native Milwaukeean who broke trails for Catholics in the United States, such as:

A pioneer in Catholic rural sociology when the church was still primarily urban-centered.

The first American to become a papal nuncio in Europe.

With Albert G. Meyer, the first St. Francis Seminary graduate and rector to become a cardinal.

The first American Catholic to become a member of the Roman Curia and, as such, to do spadework for Vatican II.

He was the late Cardinal Aloysius Joseph Muench, rector of St. Francis School of Pastoral Ministry from 1929 to 1935.

The career of Cardinal Muench, who died in February, 1962, is known better to the generation of priests, monsignors and bishops who studied at St. Francis before the 1940s.

However, the younger generation will learn more about Muench's life Tuesday at the St. Francis school, 3267 S. Lake Dr., St. Francis, when his former secretary, Bishop Raymond W. Lessard of Savannah, Ga., speaks at the 125th anniversary of the laying of the cornerstone of the seminary's Henni Hall.

Lessard has a wealth of background on the work of his former boss in Germany and Rome, something that rarely made the newspapers back home.

He will talk about Muench as military vicar in Germany, assisting Catholic chaplains, and as a consultant to the American military government in the late 1940s.

Muench was a product of a large German family in the closing years of the 19th century in Milwaukee. Born in 1889 on the North Side to Joseph and Theresa Muench, first generation Germans, Aloys, whom they called Ollie, was the oldest of eight children.

The Muench home was a model of Catholic "work ethic." His father, for 52 years a foreman at a furniture firm, walked six miles daily except Sunday from his North Side home to his shop and back. He put in 10 hours a day for a six-day week, never had a vacation and missed work only in cases of extreme illness.

Aloys and the other children followed his example. They were regular in attendance at nearby St. Boniface School and Church.

In addition, young Ollie earned money by rising at 4:30 a.m. and delivering a morning route for the old Germania, a German-language newspaper.

English was practically a foreign language in many a German home before the 1900s, but Mother Muench put a stop to that. English became the language for the Muench family at home and with their friends so they could understand what was going on around them.

A bilingual childhood was to help the future archbishop when served in Europe after World War II.

A large family and ownership of their own home did not stop Joseph Muench from sending his son to St. Francis Minor Seminary after he said he wanted to be a priest.

"Where God sends the rabbit he also sends grass," said his father, and soon Aloys began his preparation.

He entered the seminary in 1904, when he was only 15. He graduated at the head of his class in 1913. After ordination, he served as an assistant at St. Michael Church, where he preached in German and directed plays.

Soon, however, he felt need of further education. He entered the University of Wisconsin at Madison and in 1919 received a master's degree in sociology.

He continued his schooling in Europe—at the Sorbonne in Paris and Oxford and Cambridge in England.

In 1921, Muench received a doctorate in social sciences, summa cum laude, at the University of Fribourg, Switzerland.

After that he returned to Milwaukee to become professor of dogmatic theology and sociology and later dean of the Theology Department at St. Francis Seminary. Appointment as seminary rector came in 1929, only 16 years after his graduation.

Muench had been a brilliant student and demanded scholastic excellence from his proteges. One seminarian then commented that he considered any mark less than 92 to be a failure.

He was not to live in the world of books and grades much longer. Pope Pius XI made him bishop of the Fargo, N.D., diocese in 1935, an appointment highly pleasing to one interested in rural sociology.

From 1935 to the end of World War II when farmers were struggling to find ways of feeding a nation at war on two fronts, Muench served in Fargo. He became president and episcopal adviser of the National Catholic Rural Life Conference.

In 1947, Pope Pius XII brought him to Germany as that country was busy rehabilitating its war-ravaged soil back to agriculture. He was made apostolic visitor, though he still held the title of Bishop of Fargo.

This was a complicated assignment inasmuch as diplomatic relations had not been established between the Vatican and the West German government. Furthermore, Communist-dominated East Germany had little use for the Catholic Church.

Nevertheless, he plunged into the work, became regent of the nunciature in 1949 and the next year was made an archbishop.

The new archbishop became the first American religious leader to be accredited as a diplomat of the Vatican when he was named apostolic nuncio.

Pope Pius XII died in 1958. The patriarch of Venice, Angelo Roncalli, became Pope John XXIII, and began flinging open the windows of Roman Catholicism to let in "fresh air."

One of his acts was to designate two former Milwaukeeans to his College of Cardinals. They were the new archbishop of Chicago, Albert G. Meyer, who formerly headed the Milwaukee See, and Muench. He also appointed Muench to the Roman Curia, or "papal cabinet."

As a member of the Central Preparatory Commission for Vatican II he applied his German Catholic "work ethic"—probably a little too eagerly.

In September 1960, he made his last trip to the United States, with Lessard at his side, to visit his family and receive honors, with Meyer, at a special mass and dinner.

Muench greeted relatives and priest friends more as a brother, uncle and fellow-priest than as a prince of the Catholic Church helping to make history through his preparatory work for Vatican II.

It was a happy visit, but friends noted that he looked his full 71 years and seemed unusually fatigued.

He would like to have stayed in Milwaukee for the rest of his days. But retirement, even for a cardinal, was a rarity in 1960. Besides, he had work to do.

Less than a year later he died in Rome with Pope John and Milwaukee relatives among his last visitors.●

HONORING REPRESENTATIVE KEITH SEBELIUS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. HAGEDORN. Mr. Speaker, it is with great honor that I take this opportunity today to recognize an outstanding friend and colleague of the Agriculture Committee and House of Representatives.

I came to know Keith in his capacity as ranking minority member of the Livestock and Grains Subcommittee of the House Agriculture Committee. In that role, Keith has committed many hours supporting rural development and water resource projects, the Agriculture Disaster Relief Act, and the beef promotion proposal. Our colleague has also been instrumental in extending the Great Plains conservation program and implementing the Trade Act of 1978. He has worked hard to improve the conditions of the American farmer and I join with his many friends and family in commending his efforts.

Keith Sebelius has been a dignified public servant whose 12 years of service in the House of Representatives makes us all proud to have known him and to have served with him. He brought new ideas and vigor to this body of Congress through progressive leadership. His legacy is a stronger and better America—an optimistic and forward thinking America that is willing to learn from the past and make the present and future better.

His retirement from the House of Representatives will leave a void. Although he will be missed, I wish Keith all the best in his future endeavors.●

SUPPORT OF H.R. 6613

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MURPHY of New York. Mr. Speaker, I support H.R. 6613, a bill to amend the Shipping Act, 1916, in order to prohibit regulation of collective bargaining agreements by the Federal Maritime Commission.

This bill was approved by the House on April 15 by a vote of 358 to 2. A similar measure passed the Senate last week. Congress must now act promptly to insure final passage of this important legislation.

Until recently, the FMC did not consider collective bargaining agreements subject to FMC review. However, the Supreme Court has now ruled that such agreements should be reviewed by the Commission.

Since the New Deal, the United States has developed an elaborate system of laws dealing with the rights of workers. This system of laws, including the establishment of the National Labor Relations Board (NLRB), was intended to be, not only the primary but, the exclusive system to deal with labor-related matters. Collective bargaining agreements are already subject to an extensive system of labor laws. The addition of yet another agency to reexamine agreements which have already been approved and implemented by both labor and management is clearly unnecessary and only increases bureaucratic delay.

Testimony before the House Merchant Marine and Fisheries Committee indicated that FMC review of collective bargaining agreements had the potential of greatly disrupting the relations between management and labor. For example, it was pointed out that an employer could challenge, before the FMC, an agreement which it had helped negotiate. Such a situation is hardly conducive to labor peace.

This year the International Longshoremen's Association and representatives of management agreed to a contract well in advance of the expiration of their present agreement. FMC rejection of that agreement would place the parties back at square one and might lead to strikes and disruption of the international trade. There are other agreements better suited than the FMC to determine whether a labor agreement is in conformity with United States and international law.

The prior approval requirement which permits the Government to supervise the terms of collective bargaining agreements has an adverse impact on parties trying to reach agreements on labor problems. The thought of labor and management reaching an agreement which represents merely a tentative settlement, subject to nullification by a government agency, is alien to American labor law. While not completely eliminating agency review of agreements which affect maritime commerce, the compromise achieved in this bill provides assurance to the wage earner, protection to the shipper and labor peace to the Nation.

This legislation has the strong support of the Department of Labor and the Federal Maritime Commission.

I strongly urge my colleagues to concur in the action taken by the other body in respect to H.R. 6613.●

SOVIET VIOLATIONS OF THE HUMAN RIGHTS OF VYACHESLAV CHORNOVIL

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DOUGHERTY. Mr. Speaker, the repressive policies of the Soviet Union toward Soviet citizens who dare to speak out against violations of human rights is a matter of continuing grave concern to me and to all those who support the cause of human rights in the world. Several recent actions by the Soviet Government appear to be designed to stifle any criticism of their human rights violations from the outside world.

The Soviet Government has made a systematic attempt to destroy, by arrest and imprisonment, the Helsinki Watch Group in Ukraine, an unofficial group established to monitor Soviet compliance with the 1975 Declaration of Human Rights in Helsinki.

It is imperative that we continue to focus public attention on the flagrant violations of the basic human right of individuals like Vyacheslav Chornovil, a human rights activist who has recently been imprisoned and convicted of the fabricated charge of rape. At one time, the Soviet Government harassed human rights activists with charges of "anti-Soviet propaganda." Their latest attempt to destroy brave champions of human rights in the Soviet Union is to charge those who attempt to monitor human rights violations with trumped-up charges of rape, robbery, and other crimes.

Forty of my colleagues have joined me this week in sending the following letter to Chairman Leonid Brezhnev of the Soviet Union urging the release of Vyacheslav Choronovil:

Chairman LEONID BREZHNEV,
Presidium of the Supreme Soviets of the U.S.S.R., Moscow, RSFSR, U.S.S.R.

DEAR MR. PRESIDENT: As members of the United States House of Representatives, we are writing to you on behalf of Vyacheslav Chornovil, a Ukrainian journalist and literary critic who has recently been arrested and convicted for the fourth time.

A member of the Kiev-based Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, Chornovil has spent almost eleven of the last fifteen years in prison and in exile. His internal exile in Niurba, Yakutsk ASSR, was to have ended at the end of this year. But he was arrested again on April 8, 1980 in Myrni. Available evidence suggests that Chornovil was sent to Myrnyi from Niurba as part of a plan to arrest him on the fabricated charge of attempted rape. He was convicted on June 10, 1980 and will now begin serving yet another prison term for his support for the cause of human rights.

As a signatory of the Final Act of the Helsinki Agreement and the Universal Declaration of Human Rights, your government is obligated to uphold the cause of human rights. The recent arrest and conviction of Vyacheslav Chornovil raises serious questions about the Soviet Union's intent regarding implementation of the Helsinki Agreement.

Only if the international accords reached at Helinski are fully respected by all signatories can there be any real understanding between nations. We urge you to release Vyacheslav Chornovil as evidence of the Soviet Union's commitment to the cause of human rights.

Sincerely,

Charles F. Dougherty, Robert Edgar, Adam Benjamin, James J. Blanchard, Jerry Lewis, James L. Oberstar, Lawrence Coughlin, Peter H. Kostmayer, Don Ritter, Raymond Lederer, Don Bailey, Eugene V. Atkinson, William J. Hughes, David E. Bonior, Bill Archer, Robert J. Lagomarsino, Andrew Maguire, Thomas J. Downey, Pete Stark, Daniel E. Lungren, Millicent Fenwick, Martin Frost, John H. Rousselot, Frank Thompson, Jr., Norman F. Lent, Richard L. Ottinger, Don Edwards, Hamilton Fish, Jr., Robert F. Drinan, Dante B. Fascell, James H. Scheuer, Dan Glickman, Melvin H. Evans, Robert A. Roe, Claude Pepper, Frank Horton, Sidney R. Yates, Henry A. Waxman, Lester L. Wolff, Marc Linden Marks, Norman Mineta,

Members of Congress.

Mr. Speaker, an outstanding American who is working tirelessly for the cause of human rights is Ulana Baluch Mazurkevich. Ms. Mazurkevich is chairwoman of the Human Rights for the Ukraine Committee in the Philadelphia area and is active in a number of other national and local human rights organizations. The Philadelphia Inquirer on July 2, 1980, published an article written by Ms. Mazurkevich which vividly describes the plight of Viacheslav Chornovil and other Ukrainians who are being persecuted by the Soviet Union for their human rights activities. I share her article with my colleagues:

RUSSIFICATION—THE UKRAINIANS KNOW ABOUT THE SOVIETS

The Soviet Union has begun a peace campaign in the West directed at offsetting the effects of its repressive policies at home. The Soviet announcement of token troop withdrawals from Afghanistan, and the current tour of the major cities in the United States by a Soviet peace delegation, are illustrations of this policy.

The Soviet peace delegation has been interviewed by the U.S. media and it seems that the public relations campaign by the Soviets is working. I have seen nothing printed about the delegation's response to questions about the harsh policies inflicted on Soviet citizens, if the delegation was even asked. Now is the time for hard questions, not propaganda.

The pre-Olympic crackdown on dissidents is harshest and most frequent in the Ukrainian republic. The Ukraine, with its population of 55 million and its national consciousness, poses a major threat to the Soviet regime. Therefore, the Soviets are trying to stifle national consciousness by an aggressive policy of Russification.

This policy calls for the elimination of Ukrainian language and culture and the implementation of Russian. Under a new Soviet edict, the sole language of instruction in the elementary schools will be Russian. However, this policy of Russification is being resisted and the ranks of the Ukrainian dissident movement have never stopped growing. At present more than 50 percent of all political prisoners in Soviet concentration camps are Ukrainian.

The Moscow Olympics have brought a new wave of dissident arrests. The Soviet government is intent on confining dissidents who are still free and rearresting even those in exile in order to head off the remotest possibility of a disturbance during the games.

Arrests are widespread and indiscriminate. All of the 33 members of the Ukrainian Helsinki Watch Group have been arrested.

Even a 75-year-old grandmother, Oksana Meshko was arrested and sentenced June 12 to a "psychiatric hospital." Oksana Meshko, whose son Oleksandr Serhienko is serving a seven-year sentence because of his human rights activity, was the acting chairperson of the Ukrainian Helsinki Group following the arrest of its founding members, Mykole Rudenko, Oleksa Tukhy, Oleg Berdnyk and Lev Lukianenko. Her arrest and sentence to a "psychiatric hospital" is an example of the intense and unrestricted persecution of the Ukrainian Helsinki members by the KGB. It is also an example of the total lack of coverage of such events in the U.S. press. Why the news blackout?

The Soviets face a two-fold problem. On the one hand, the Soviet authorities would like to purge the country of dissidents to prevent future contacts with Western journalists during the Olympics, while on the other hand, news of such mass arrests prior to the Helsinki conference in Madrid might cause considerable embarrassment to them.

In view of this, the KGB is resorting to new tactics. As before, dissidents are incarcerated in "psychiatric hospitals," but this time they are charged with fabricated offenses.

This new policy is first being tried in the Ukrainian Republic. It is important to remember that all new methods of brutality have always been tried out first in the Ukraine before they were implemented throughout the rest of the Soviet Union. Charges of rape, homosexuality, spreading of venereal disease and possession of narcotics are replacing the standard "anti-Soviet agitation and propaganda" charge. Because of this, the Soviets can state that they do not have political prisoners, only criminals.

Viacheslav Chornovil, a journalist and a member of the Ukrainian Helsinki Group, was found guilty of attempted rape. Circumstances surrounding Chornovil's alleged offense and arrest raise grave doubts as to the legitimacy of the charges. On June 6, after a three-day closed trial, Chornovil was sentenced to five years in prison. He is currently on a hunger strike.

Mykola Horbal, a music professor and a member of the Ukrainian Helsinki Group, also was charged with attempted rape and sentenced to five years in prison and two years in exile.

Yaroslav Lesiw, also a member of the Ukrainian Helsinki Group, was convicted for possession of narcotics.

This is just a sample of the new charges brought against the dissidents. This new policy of using criminal charges is also aimed at discrediting participants of the human rights movement.

In anticipation of the Madrid conference in November, which in part will deal with the human rights violations by the Soviets, it is hoped that the Western press will expose the gross human rights abuses in the Soviet Union to general international scrutiny. The thousands of dissidents suffering in prison camps and "psychiatric hospitals" look to us in the West to let the world know of their plight. As one dissident recently said, "Your work diminishes our anguish."●

U.S. FOREIGN POLICY: THE GOAL IS PEACE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, amid the calls for new defense technologies, increased military spending, and rapid deployment, we often forget that the central object of our foreign policy is the maintenance of peace.

W. H. Ferry, a noted social critic and a resident of Scarsdale, N.Y., in my district has recently pinpointed the reality of the destruction we are now contemplating and the ideal of peace which we are jeopardizing.

His article follows:

QUO WARRANTO?

Multiply by ten the combined atrocities of Attila the Hun, Tamburlaine, Genghis Khan, the barbarians of the Dark Ages and Adolf Hitler—and you will not begin to match the crime against mankind that we Americans are plotting.

Hitler saw to the slaughter of six to seven million Jews, gypsies, Poles and Russians. Are we innocent of any offense. Hitler's Final Solution, until now the metaphor for unimaginable cruelty and brutality, resulted only in mountains of skeletons, rivers of blood, tons of human cinders. Thus he became history's arch-criminal.

We Americans are good people. Yet we are preparing to commit the most hideous crime in the annals of mankind.

Where Hitler murdered millions, we are ready to annihilate hundreds of millions. Where he despoiled thousands of acres of precious earth, we shall render sterile and useless vast areas of continents. Where he bombed out dozens of cathedrals, libraries, schools and hospitals, we shall at a stroke do away with entire civilizations—including our own.

Only the most crazed advocates of preparation for thermonuclear war argue that such a war will end with winners and losers. Every reasonable person knows there will be only losers. There is a hint of divine retribution in this arrangement—that the arch-criminals of all history should perish by their own devices. For make no mistake about it, we are the arch-criminals.

We are ready for thermonuclear war and every day we are feverishly getting more ready. Let no one suppose that we are incapable of it: we are the only nation that has ever unleashed atomic bombs against an adversary. We have been considering atomic warfare in one place or another ever since: Korea, China, Cuba, Laos, Berlin and Vietnam. We came within a few minutes of launching a thermonuclear war in 1962. President Kennedy decided that he would press the button if a Russian freighter crossed a certain line in the Atlantic en route to Cuba. The President knew full well what he was about. He knew that he was about to ignite history's greatest cataclysm. But somehow—I shall never be able to imagine why—he was convinced that the situation called for it. American planes were circling in readiness to take off to Russian targets; crews in bomb silos across the country awaited sleeplessly the order to insert the keys that would send hundreds of ICBMs on their way. Kennedy knew we were doomed the moment he pressed the button. He knew also that there was no way in which he could defend us from extinction. Yet he thought he had no other option, and his finger was flickering above the button when word came, 13 minutes before deadline, that the freighter had turned back. We were that close—less than a quarter of an hour—to the extinction of our world.

There is one significant difference between Germany in the '30s and '40s and the United States in 1980. To this day, the "ordinary Germans" alive in the Hitler years protest that they did not know about the gas ovens, the slavery and the starvation that were essential components of the Final Solution. They were not, they assert, co-conspirators in such infamy because Hitler was careful not to publicize it.

We, however, are active co-conspirators in plans for extermination of tens of millions. We rejoice to learn of advances in the exotica of annihilation. The American budget for warmaking is virtually sacrosanct. The American budget for the enhancement of life—for health, education, welfare, transport—is made to give way when the Department of War demands more submarines, bombs, deployment forces, cruise missiles and laser guns. Whatever the military can dream up that promises more efficient ways of massacring and maiming human beings is voted for with enthusiasm by our representatives in Washington. They would not vote that way unless a great majority of us wanted them to. A substantial minority disagrees with these policies but does nothing. A tiny minority protests passionately but is not heard. We are told that these criminal proceedings are "reality." Our leaders would not threaten to strike first with thermonuclear weapons unless Americans wanted them to.

At the heart of this monstrous folly there is, I believe, a religious vision. It is the vision of a secular religion, to be sure, yet one unthinkingly embraced by more Americans than accept the conventional religions of the land.

The central doctrine of this religion is Manifest Destiny. The first official appearance of this idea occurred in 1846, when a Massachusetts Congressman declared "the right of our manifest destiny to spread over this whole continent."

This Manifest Destiny proved its worth in remarkably few years.

But the idea did not subside after we conquered the wilderness. It was assimilated into the American ethos, and has now taken on world-encompassing dimensions. We now believe that it is Manifest Destiny that we be pre-eminent on the globe. We have come to consider it our right—our destiny in the world—to be first, to be most influential, to have our own way in all important matters, to assert universal validity for our democratic, social and economic credos.

And since the continent of the United States has not been attacked in more than 150 years, but instead has flowered, we have taken this as a mark of special approval of Manifest Destiny—when it is only a mark of geographical good luck. We are here below, the doctrine appears to say, to lead the world in all ways. We were always to be the country of happy endings.

Belief in Manifest Destiny is burned into every American from childhood on. One witnesses the faith at work in small and large ways. Here are the Lake Placid crowds sticking up their forefingers and chanting "We're Number One!" when the American hockey team wins. We hear it in the assertion that the Soviets are threatening "our oil" in the Middle East. President Carter said in his State of the Union address, "I am determined that the U.S. will remain the strongest of all nations." Manifest Destiny is the yeast steadily working in the debate over Iran and Afghanistan.

Nevertheless, on Peace Sunday 1980, this religion is clearly in distress. Vietnam, Watergate and OPEC harshly dented our peerlessness. America seems thwarted everywhere. Our economy is out of gear and slipping backward. Upstart nations challenge our dignity and decide not to go our way. Third World countries don't care to become our clients. We begin to put up tariff barriers against micro-electronics, television sets, automobiles and other things which Manifest Destiny said were ours without rival. We who gloried in invulnerability discover we are vulnerable on many sides.

Here, in the widespread rejection of America's leadership of the planet, can be seen, I believe, the source of the frustration, confusion, cynicism and general malaise that are the prevailing temper. Our secular religion is failing us. The vision of a forever triumphant United States of America is chipped and fading.

But there is still one right which we cannot be denied. It is the right to blow up the world—or a large part of it—and degrade civilization. So we come to the most important question of all: Quo warranto? By what authority do we come to have this right? Only if we think God's right name is Satan can we believe it is conferred by any heavenly authority. When President Kennedy was poised to start thermonuclear war, his brother the Attorney General asked him to consider whether the American government or any government had the moral right to initiate thermonuclear war. The President said he had no time to consider theories. He said that the country's manhood demanded what he was about to do, though he knew that there would be little left of our country or its manhood when he did.

We simply have no right in this matter. Twenty years ago, I heard an Air Force general declare that we had a moral right and obligation to use thermonuclear weapons. I have heard a few such declarations since, but with no supporting argument. What I have heard in superabundance concerns our capability for limitless destruction if we feel called upon to use it. But nowhere have I heard a single moral justification for our preparations for thermonuclear war. Nevertheless, it is certain that at this very moment, and also in celebration of Peace Sunday 1980, a good many sermons are being preached on the wickedness of our adversaries and the necessity to remain armed to the teeth and beyond.

Some wise men think we have already passed the invisible line and are being remorselessly crowded by technology and worn-out ideas of power and leadership into war. I agree. The chances of averting war are in my opinion about one in a hundred. Optimists think that talking about impending doom is disloyal and hopeless. It is not disloyal to try to save the nation from fatal error. I often despair as I see the tides of war rising, but I am not despairing. My hope is that some argument or some event short of nuclear war will bring Americans to their senses, and that a radical redirection of national policy will result.

The fundamental problem is that the nuclear physicists have summarily thrust us into a completely changed world. Everything is new. The rules of the game must be drastically revised. Yet, as Einstein said, everything has changed except the way we think.

What has changed most is that great nations can no longer afford the luxury of enemies. Russia is our toughest adversary, but it is not our enemy. Our mortal enemy is war, war itself. Unless we learn this lesson promptly and thoroughly, thermonuclear war is a certainty. We have come close too often to have the slightest confidence that it cannot happen.

So we must renounce thermonuclear weapons and all their collateral weapons; by agreement if possible, unilaterally if not.

I conclude with some speculations about an as-yet-unborn technology that might save the world from the ultimate horror.

Technology means an assembly of ways and means to reach a desired end. The desired end is peace and the as-yet-unexplored technology is that of nonviolence. This subject has seldom been considered by our leaders except in the most perfunctory ways, and has been left to do-gooders and pacifists. But now there is no choice except to discover the technology of nonviolence and put it to work. It is frighteningly evident that no major industrial nation can any longer further its aims by violence. Consider, by way of current example, the hapless hostages in Teheran and the fragile oil fields of the Persian Gulf. If violence no longer can be the method of resolving arguments between great powers, nonviolence has to be the answer. Though this seems self-evident, it is surely not evident to anyone in Washington. Candidates are taking loyalty oaths to greater and greater war budgets all over the country for more and more weaponry, almost never being asked the central question: By what right?

The discovery and practice of nonviolence is the first order of everybody's business today, especially Washington's business. Of what might this new technology consist? This is terra incognita for all of us. It is really to think about the unthinkable, for no such machinery has ever been considered. It will surely include a complexity of institutions not yet known, and a remaking of international organs already in place—the United Nations and its related agencies, for example. If it is argued that these organizations have not proved their effectuality, the answer has to be that they have never been given a proper chance by the major powers. Now there is no choice. It is either thermonuclear disaster or a nonviolent alternative.

The UN and a host of other international arrangements yet to be invented must be given the responsibility for gradually bringing the world back from the nuclear precipice. The late Grenville Clark contributed many useful directions in his book World Peace through World Law. Putting together the machinery for so unprecedented an assignment will be a massive, but not impossible, task. If we were to devote the brains, money and energy that yearly go into preparations for war into figuring out how the great nations can rub along together without war, we would have a good chance of averting universal destruction.

A governance of nonviolence will stress cooperation and de-emphasize competition. Areas of great need will jostle for the attention they are not now getting—the development of renewable energy sources like wave and solar power, the recovery of depleted farmlands and reforestation of deserts, and provision of food and health care. This is not a mere litany of pressing problems, but a catalogue of the disparities that every day divide the world into more roiling factions.

Most of our preconceptions of ourselves, of our adversaries, and much of our sovereignty would disappear under a regime of nonviolence. Other countries would similarly have to abandon cherished attitudes. The resulting edifice would be monumentally bureaucratic, though surely no more bureaucratic than the trillion-dollar-a-year bureaucracies now running the international arms competition. But I cannot think of any other effective substitute for nuclear war. For better or worse, it is a real moral equivalent to modern war.

Devising a nonviolent structure to replace the machines of arch-criminality is the supreme challenge of our time. As things stand, the great likelihood is that we shall fail to meet it. But we must try.

I close with Deuteronomy:

"I have set before you life and death, blessing and cursing: therefore choose life, that both thou and thy seed may live."●

H.R. 7631

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. FOLEY. Mr. Speaker, recently the Housed passed the bill H.R. 7631, making appropriations for fiscal year 1981 for the Department of Housing and Urban Development and independent agencies. That bill reflects the concern of the Members of this body and their interest in placing restraints on spending in these troubled economic times.

The Committee on Agriculture has legislative responsibility for the Environmental Protection Agency's pesticide regulatory program, which is conducted primarily under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. H.R. 7631 appropriates some $77 million for administration of the act, enforcement of its provisions, and research to better understand how pesticides affect health and the environment. This is consistent with the President's request, except for adjustments for agencywide reductions in travel, computer support, and other activities.

In addition to specific EPA program reductions recommended by the subcommittee, a general reduction of $15 million in the agency's request for abatement and control funds was made in full committee. This reduction, which remained in the bill approved by the House, will require EPA to determine which areas of its programs should be reduced to realize this savings.

Among the programs the committee suggests EPA should consider reducing is the pesticide program. I share the committee's concern and expect that some savings can be found within the program. However, I would not wish these savings to work to the detriment of farmers or others who depend upon EPA to make decisions FIFRA requires of it within reasonable time periods.

Significant progress has been made legislatively by the Federal Pesticide Act of 1978 and administratively through a number of management initiatives to revitalize this program.

The FIFRA operates to keep new products off the market until EPA can evaluate their safety. Timely action by the agency is needed not only in making the registration decision itself, but also in deciding whether to grant experimental permits which are needed prior to applying for a registration. A delay of a few weeks may mean an entire growing season for full-scale use or experimental evaluation is lost. Such slowdowns would likely have a negative effect on innovation in the chemical industry and deprive farmers unnecessarily of improved pest control tools. Good use of pesticides decreases the costs of agricultural production—a critical concern to the agricultural sector of our society.

Products which were approved before modern testing and analysis capability were developed generally remain on the market until any information that they pose unreasonable risks can be validated and extensive appeals mechanisms are exhausted. Substantial resource reductions could retard completion of suspect chemical reviews (RPAR's). Pesticide manufacturers already complain that removing the cloud of suspicion which descends on their products when such a review is begun, takes too long. And, should the agency's concerns about safety be borne out through the statutory review processes, delay would operate to prolong harmful situations.

I hope that EPA will take into account the effects of its decision on farmers and agricultural production, as well as public health protection, when it evaluates where to reduce its abatement and control spending by the $15 million the committee action requires.●

END GASOLINE ALLOCATIONS

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. STOCKMAN. Mr. Speaker, last year the House adopted an amendment offered by our colleague from New Jersey, JIM COURTER, that would have put the Department of Energy out of the business of controlling the allocation and pricing of gasoline. Unfortunately, after great pressure from the administration and others, that vote was reversed.

We have since learned from painful firsthand lessons that the gentleman from New Jersey was completely correct in his assessment of the gasoline supply situation. With DOE's hand on the wheel, we have had recurring spot shortages, endless complaints from dealers and jobbers, who have thousands of unacted-upon relief petitions on file with the agency, and a disastrous slump in industries such as automobile manufacturing that are dependent on public confidence in adequate gasoline supplies.

Jim Courter has persisted in his efforts to solve the problems inflicted on our Nation by the DOE allocation system. Recently, he testified before DOE Economic Regulatory Administration to urge that the agency itself take advantage of its discretionary authority to end allocation. I urge my colleagues to read over his statement carefully, both for its thorough analysis of the cause of the shortages we experienced last summer and for its astute recommendations for future policy.

The statement follows:

Testimony of Hon. Jim Courter

I appreciate this opportunity to testify on the gasoline allocation proposals made in the Federal Register of June 12.

I was pleased to see that you are proposing a series of revisions to the existing allocation system which are designed to make the system more flexible and more able to handle a short supply situation. I was even more pleased to read your proposal for the complete exemption of motor gasoline from all mandatory allocation regulations, except for a few residual authorities which would be retained by DOE.

Eliminating gasoline allocations is the best thing you could do for America's consumers, producers and marketers of gasoline—it would lead to a more orderly and flexible market. It would completely eliminate the possibility of a return to the gas lines which plagued much of the country last summer, and which have even appeared in some places this year, amid conditions of adequate supply.

The appearance of last summer's long gas lines gave me a rather abrupt introduction to this issue. Irate constituents, many of whom had waited in lines for four and five hours for gasoline, flooded my office with complaints. In that superheated atmosphere, the question "Who's to blame?" was foremost in the minds of many people. Was it the oil companies? The Department of Energy? OPEC? The Congress? Was the shortage the result of panic and hoarding by a confused public?

As you well know, scapegoating was very popular. It was easy to blame the DOE. DOE had been given the authority to control the gasoline market through price and allocation regulations, and it had failed. Some areas had chronic shortages, others had oversupply. Thus, many were led to the conclusion that better work by DOE would have avoided last summer's crisis.

I suppose there is some truth to this. Anyone, involved with this issue can criticize specific aspects of the allocation system which have caused problems. The bias which favors new retail outlets over the expansion of existing stations, and the growth adjustment which favored warmer areas of the country, are two examples that come to mind.

Rather than discuss details of the program, however, I would like to discuss the broader issue of whether we should be giving the Energy Department the assignment of allocating our motor gasoline supply to all parts of the country. When I reflect on the acute shortage of last summer, I conclude that it is the Congress that must shoulder the blame for giving an executive agency what amounts to an impossible task.

No amount of funding, no amount of technocratic expertise will ever give the Department of Energy the ability to run an allocation program smoothly. It is simply impossible for government to create a bureau to replace the market-clearing functions of the economy.

The weight of evidence overwhelmingly indicts the allocation system. On April 23 of this year, the General Accounting Office issued a report entitled "Gasoline Allocation: A Chaotic Program in Need of Overhaul." The GAO's detailed analysis was useful for its illumination of the operational difficulties of the allocation system. It was filled with a bias, however, which led to the conclusion that more staff and funding would enable this program to function more effectively than the free market it seeks to replace.

Reports issued earlier this month by DOE and by the Justice Department's Antitrust Division add to the evidence supporting a return to the free market. Both reports defeat the various theories that an industry conspiracy caused last summer's shortage. Both reports outline the dimensions of the crude and product shortages we had, and the Justice Department's report is especially useful in describing how the allocation and price controls tended to worsen the shortage by preventing market-clearing mechanisms from working.

One more bit of evidence that should be mentioned is the fact that in February of this year, there were reports of gas lines in Florida, California and other areas of the country. The data shows that these spot shortages occurred at a time when consumption was down more than eight percent, and gasoline stocks were more than nine percent larger than they were during the same period one year earlier. If the allocation system can't prevent these problems from occurring when supplies are plentiful, it is certainly prone to turn a minor shortage into a major, and very costly crisis.

The question facing us, then, is: should we try to improve the system or should we abandon it and let the market take over?

While I admire your efforts to make the system more responsive, I believe that an end to mandatory allocation is the best move to make.

I say this for very pragmatic reasons. I believe that there are inherent problems which develop in an allocation system, which inevitably prevent it from functioning effectively over a long period of time.

I believe that experience has shown that the task of allocating this product across the country is too big for government. As you know, the allocative efficiency of the market depends on the freedom of its participants to shift supplies and adjust price. More importantly, it depends on the information which is transmitted by price signals, informing consumers and suppliers of the relative scarcity or abundance of products. The market's collective knowledge is so vast and diffuse, and so constantly changing, that no government agency can ever grasp it. Therefore, we lack the information which would be needed to dictate the supply conditions necessary to match consumer demand on an ongoing basis.

It should be noted that, after an allocation system has been in place for a period of time, it is increasingly difficult to obtain information on consumer demand. Therefore, it becomes increasingly difficult to make intelligent decisions as to how to revise and improve existing allocations. In principle, it is reasonable to allocate based on historical demand patterns. But after a period of years, when it is necessary to choose a new base period, there is no market-based data to use. The only supply relationships in existence are those which were frozen in place, or those which were adjusted by the Office of Hearings and Appeals. But it is impossible to gauge the true requirements of the market, when the market has not been allowed to function freely for several years.

These problems, I believe, are inherent to any effort to replace the market's allocative functions, and they will not be solved by making adjustments to the program, however well-designed these adjustments may be. Rather than try to play a constant catch-up game with the changing marketplace, we should let the market do the job.

It should be pointed out that it is market competition, not DOE regulations, that is determining the price of gasoline today. A recent issue of the Lundberg Letter showed that maximum allowable prices are not being charged—indeed, most prices are well below the legal maximum. The current situation of more than adequate supply, and the substantial conservation practices of the American public, ensure that this situation will continue. Today's conditions would allow for the orderly distribution of gasoline in the marketplace if mandatory allocations were removed.

In conclusion, in the interest of avoiding another crisis of the type we had last summer, I urge you to move expeditiously to end gasoline allocations. This will best serve consumers and producers of gasoline, and it will serve the taxpayer, who has been paying too long for the inefficiencies of an unnecessary program.●

RIGHT TO LIFE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. SKELTON. Mr. Speaker, earlier this week, I received some statistics from the Missouri Department of Social Services, Missouri Division of Health, regarding the number of abortions performed in Missouri during 1979. The figures were appalling:

> Last year, more than one of every five pregnancies in Missouri was terminated by an abortion, for the highest ratio ever reported by the State.
>
> The 1979 total of 21,200 abortions is nearly double the number obtained by Missouri women in 1975, the first year for centralized reporting of abortions in the State.
>
> Of the pregnancies to unmarried females 54 percent were aborted in 1979.
>
> Over 7,000 teenage pregnancies ended in abortion in 1979 for a rate of 35 percent, the highest rate of any age group.
>
> Missouri's teenage abortion rate rose by 56 percent between 1975 and 1979.

Mr. Speaker, as I have stated before, I am now, and have always been, personally opposed to abortion. It is my sincere belief that life begins at the moment of conception. I do not believe that government, either at the State or Federal level, should promote or encourage abortions, particularly elective or nontherapeutic abortions. As a member of the Missouri State Senate and now as a Member of the U.S. Congress, my votes have consistently reflected these views. This conviction also compelled me to cosponsor a resolution earlier this year, which would amend the Constitution of the United

States to assure that "no unborn person shall be deprived of life."

In view of these most recent statistics, I wish to restate my belief in the right to life, and to confirm my commitment to work for the protection of the unborn.●

VIRGINIA SENATOR CHARLES COLGAN

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. HARRIS. Mr. Speaker, in public life, I have often found that the most effective legislators are those whose expertise spans many different fields. The people of Prince William County, Va., are fortunate to have such a legislator in State Senator Charles Colgan, of Manassas.

In addition to being an accomplished legislator, Senator Colgan is an excellent pilot and a successful businessman. As president of Colgan Airways, Inc., Senator Colgan has demonstrated his abilities, and his concern for his community.

This week, Senator Colgan was nominated to the Virginia Aviation Hall of Fame. In recognition of this honor to Senator Colgan, the Potomac News of Woodbridge, Va., printed an editorial commending the senator's achievements.

I would like to share that editorial with my colleagues. I hope that some of them will have the opportunity to meet this political, civic, and business leader of Prince William County:

Senator Colgan's Other Hat

When most of us think of Charles Colgan these days, we think of his role as state senator. Thus, the announcement that he has been named to the state Aviation Hall of Fame was a good excuse to remind folks of his other role—pilot and president of Colgan Airways in Manassas.

Sen. Colgan's nomination to the Aviation Hall of Fame is certainly deserved; anybody who has seen the Colgan Airways operation knows what a busy and interesting part of the community is located in the rolling fields near Manassas.

You can rent a plane at Colgan Airways, or you can charter one. You can take a commuter trip, have your plane fixed, or buy a plane. You can learn to fly—lessons are available for private pilots, commercial pilots, and various types of instructors.

All this has developed since 1966.

It started nearly by accident. Mr. Colgan, then flying for a real estate firm in Washington, was taking his boss on a trip over Manassas. The boss asked about a small air strip, which was located where Manaport Shopping Center now stands. Mr. Colgan didn't know what it was. Not too long after he found out, he leased the new air station. After a brief venture in Georgia, he started the commuter run, primarily to provide transportation for IBM employees who needed rapid transportation to other IBM locations.

Over the years, the business has prospered. At the same time, Mr. Colgan found time to serve on Prince William's Board of Supervisors and now the Virginia Senate.

His is a record of achievement of which we should all be proud. Now, with his placement in the Aviation Hall of Fame, we trust that others around the state will recognize his contributions to aviation in Virginia.●

GUAM DESERVES NATIONAL CEMETERY FOR VETERANS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. WON PAT. Mr. Speaker, in the hope that persistence rewards itself, today I reintroduce legislation to provide for the establishment of a national cemetery in Guam.

According to figures released by the U.S. Veterans' Administration, Guam has approximately 10,000 veterans living on the island. I am convinced that this figure can be doubled by the number of Guamanian veterans who live in the 50 States. Add to this figure nearly 4,000 Guamanians who are currently on active duty in the U.S. military and this provides a comprehensive picture of the island's current and near future count of veterans who could be reasonably expected to desire interment in a national veterans' cemetery on the island.

Guam's proud contribution to the defense needs of this Nation are well recorded. We were the only American territory to be captured in World War II and our young men and women have fought and died for freedom and the American way of life on many occasions. Despite this fact, however, I regret to state that the Veterans' Administration has steadfastly refused to establish a national cemetery on Guam despite the island's devotion to liberty and my own requests.

The refusal of the Veterans' Administration to take a more positive stance on behalf of the veterans they represent is most regrettable and in my opinion a failure by the VA to carry out its obligation to those who have served this Nation so well.

It is important to note that in asking for a national cemetery on Guam we do not seek something that exists nearby. The closest national cemetery to Guam is the famed Punch Bowl in Hawaii—3,500 miles away. Obviously, residents of Guam would not choose interment so far away from their families.

There is another national American cemetery in the Philippines but that is closed to interment and again it is 1,500 miles from Guam. I note this because even though Guam continues to remain a bastion of defense in the western Pacific and even though we are isolated from other American points, we continue to find our requests for a cemetery to honor our veterans rebuffed time and time again.

The bill I introduce today was first introduced in 1975 during the 94th Congress. Since that time, the proposal was turned down by the VA first on the grounds that a national cemetery was not needed and more recently because the agency favors a program of Federal-State cemeteries. Frankly, I disagree strongly with the VA on both points. With regard to the question of need, I think the statistics cited earlier in this statement are self-evident. With regard to the issue of Federal-State cemeteries, I do not believe that such a proposal would be satisfactory in terms of honoring our veterans. In my opinion, the least the Federal Government can do is to provide a resting place for former military personnel and not leave the burden to the individual States and territories.

It is my intention to work with the Veterans' Administration to seek a satisfactory solution to my efforts to provide Guam with a national cemetery. The intent of this bill today, however, is to give a loud and clear signal to all concerned parties that this important matter is fully justified and I have every intention of pursuing all avenues available to me in this quest. It is my sincere hope that the House Committee on Veterans' Affairs will review my proposal at their earliest opportunity. I am convinced that such a review would clearly indicate the inherent justice of my proposal for a Guam national cemetery. Thank you.

H.R. —

A bill to provide for the establishment of a national cemetary in Guam

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall establish within the National Cemetery System a cemetery which shall be located in Guam.

Sec. 2. The Secretary of the Navy and the Administrator of Veterans' Affairs shall mutually agree upon such land, of not less than twenty-five acres, which is under the administrative jurisdiction of the Secretary in Guam and which would be suitable for the cemetery required to be established by the first section of this Act. The Secretary of the Navy shall transfer to the Administrator of Veterans' Affairs the administrative jurisdiction of any land which is mutually agreed upon pursuant to the preceding sentence.●

REQUIEM FOR THE VIETNAM FALLEN

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. BEARD of Rhode Island. Mr. Speaker, I would like to take this opportunity to insert into the Congressional Record, a poem in honor of the Vietnam veterans by Virginia Louise Doris:

"Requiem for the Vietnam Fallen"—The Carillon Honor Role

(By Virginia Louise Doris)

Prepare them, O Father, in immortal plume!
Ashes to ashes, doom to Vietnam doom.

'Til the angel of cataflaque calls back her lair,
And a new dawning brings enthralling air!
Our ancient lament! extend thy whelming reign!
Encompass thy dark mantle o'er this old domain!
No sable steed along the jungle tread;
Has borne to earth its honored dead;
No sudden couch has risen yet to show
Where the youthful slumberers fold their arms below;
No crypt gleams to bid their memory live
In the fragile lines that hastening Time can give;
Yet, O Destroyer! from they ebon-destiny sythe
Gaze on our gifts; their sacrifice is all thine own!
We know thy mercy by its severer name;
In the lofty guidings that suffering draws,
We accompany the curves of thy ennobling laws;
In the fervent sigh that hurls our spirits free
We claim the love that beckons us back to Thee!
Receive them, O Father, in immortal trust!
Ashes to ashes, dust to Vietnam dust,
'Til the Angel of entombment lifts the fate away,
And a new dawning brings enlightened day! ●

VETERANS' ADMINISTRATION HEALTH CARE PERSONNEL ACT OF 1980

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. PEPPER. Mr. Speaker, today we are considering the VA Health Care Personnel Act of 1980, as amended by the Senate. This proposal incorporates the provisions of H.R. 4015, the Veterans' Geriatric and Gerontological Health Services Act, which Mrs. HECKLER and I introduced last March. I want to commend my colleague from Massachuetts and the Committee on Veterans' Affairs for moving this legislation toward final enactment.

The purpose of this legislation is to elevate geriatric medicine to a priority position within the Veterans' Administration. It would require that one Assistant Chief Medical Director of the Department of Medicine and Surgery be qualified in geriatrics and gerontology and have responsibility for all geriatric research, education, and clinical health care and service operations of the VA. The bill also requires that 15 VA hospitals be designated as demonstration centers of geriatric research, education, and clinical operations.

The bill further provides that the administrator established a geriatrics and extended care task force within the VA's Special Medical Advisory Group.

Mr. Speaker, in my view, this bill can take us a long way toward overcoming one of the most persistently frustrating aspects of care for the elderly, which is that many health professionals do not have adequate knowledge regarding proper care for the elderly person. Our aging population is growing at a rapid rate. Today, persons 65 and over make up 11 percent of our population; by the year 2000, this figure is expected to grow to 18 percent—or perhaps even double. Our knowledge and understanding of the unique health needs of this group should grow in direct proportion.

The VA is an appropriate agency in which to focus geriatric training for several reasons. The aging veteran population is expanding along national trends. At the turn of the century, over 60 percent of the 12.7 million elderly men in this country will be veterans. The VA health care system is the largest in the country—with 172 hospitals, 228 outpatient clinics, 88 nursing homes, and 16 domiciliaries. Finally, the Veterans' Administration offers a wide range of services to its patients, some of which are not currently availabe to the non-veteran-elderly population.

I wish to express strong support for these provisions of the Veterans' Administration Health Care Personnel Act of 1980. I believe it is worthy of the support of my colleagues, and I urge its adoption. ●

SENIOR CITIZENS DEPEND ON SATURDAY MAIL DELIVERY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. CONYERS. Mr. Speaker, in the current congressional mood of cutting Federal deficits, balancing budgets, and economizing on Federal programs, we often fall into the trap of judging the worth of Federal programs solely in terms of their fiscal impact or cost efficiency in the marketplace. In this way, we lost sight of many other nonmonetary values that a program might embody. Some Federal programs have as their major purpose the performance of a vital service to citizens who otherwise could not provide for these services on their own. When we rush to make judgments about them strictly on fiscal grounds, we overlook their human and social significance entirely.

An illustration of this is the impact of Saturday mail delivery on senior citizens. A few weeks ago, I received a letter from a distinguished judge in Detroit, Judge Peter B. Spivak of Detroit's Circuit Court. He addresses in the most sensitive and persuasive way the adverse impact the elimination of Saturday mail delivery would have on older citizens. While there are many grounds for opposing elimination of Saturday mail delivery—including the weakening and demoralization of the Postal Service at a time when it is making major progress, the significant loss of jobs, the questionable budgetary savings, and the denial of a vital service to persons and places that depend on it—Judge Spivak's concern for the impact on senior citizens should be at the top of the list.

I urge my colleagues to read his letter, which follows, and I commend the judge for the public spiritedness and compassion that moved him to communicate to me.

THE THIRD JUDICIAL CIRCUIT
OF MICHIGAN,
Detroit, Mich., July 18, 1980.

HON. JOHN CONYERS,
Detroit, Mich.

DEAR JOHN: Thanks so much for your copy of the statement on your talk in the House of Representatives on June 19, 1980 concerning Saturday mail delivery.

One thing which has concerned me about this proposal, in addition to the things which you emphasized, is the likely effect on senior citizens. It is my view that as a class they are rather uniquely served by six day mail service. With the advent of three day holidays that would mean that our senior citizens who depend upon the mail for communications from grandchildren, checks—Government and otherwise—and magazines and periodicals all of which are very important to them and fill up the lonely hours will really have four days between mails. Since a number of senior citizens are shut-ins; or live in areas where they are forced by the climate to stay inside for months at a time; or are living in remote areas the advent of the mail person letters, communications about the world, articles about stamp collecting, cooking, keeping bees or how to stretch your dollars farther or what have you. They are the things that they like to hear and, the mail person is someone they like to see. Sometimes, sadly, it is the only person they have much contact with during the day.

You and I are of a similar age and therefore have not yet reached the "dependency" on communication from others.

Our elderly within cities, for example, who live in areas, often where the younger members of their family have moved away really depend upon the mail—more than the phone—for contact. Old people, as you know, often read and reread letters. They keep them and they talk to other old people about what their children and grandchildren are doing. They are simply "treasures." The three day holiday is a blessing for those of us who can and do travel and be with the family for the Friday and Saturday preceding the designated Monday holiday. Most old people cannot do that. Mail on Saturday means they only have to go two days without hearing from anyone or receiving anything "new" in their lives.

I think too, John, that we have to remember older people grew up at a time when more people wrote letters, and when the arrival of mail meant a far different thing than it may to someone born in 1958. Our older people represent a sizeable part of our population. I just don't think that the psychological effect on them of removing Saturday mail—particularly when there are so many "long weekend" holidays could be anything but harmful. It is difficult to measure the "costs" of "loneliness." Those of us who have seen it in the elderly know that the cost is very high indeed.

Thank you for your interest in this matter and, as always, I remain most appreciatively,

Very truly yours,

PETER B. SPIVAK. ●

TRIBUTE TO MRS. FERN INGERSOLL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. McCLORY. Mr. Speaker, on May 20, 1980, former Members of Congress presented to the Library of Congress on the floor of the House 50 completed oral history memoirs that had been done to document the congressional experiences of those who have served as U.S. Senators and Representatives. I understand there were an additional 50 or so memoirs which were in the process of completion. Inadvertently, no mention was made on that occasion of a person whose efforts have contributed to every phase of this oral history program since September 1977.

Mrs. Fern S. Ingersoll was an overall coordinator. It is reported to me that she did much of the preinterview research into the backgrounds of the men and women who were interviewed, securing volunteer assistance from interns, many of whose efforts she directed. She conducted 15 of the interviews, in Washington, D.C.; Georgia; Illinois; Michigan; Missouri; and New York. She was responsible for scheduling many of the Washington interviews and maintaining contact with regional interviewers, supervising typists and editors, struggling with budgetary problems, and getting all of the transcripts out to the interviewees for their approval. As I analyze this project, it appears that as a result of Mrs. Ingersoll's constant encouragement of interviewees in their efforts to review their transcripts, over 70 of these oral history memoirs have now been returned and are nearing completion.

Mr. Speaker, Mrs. Ingersoll has a reputation as an experienced oral historian. She has made an important contribution toward giving the American public a better understanding of our Congress. I commend her on the important service she has rendered to the former Members of Congress and the oral history project which that organization has undertaken.●

YUNG WING ACHIEVES HIGHEST ATTENDANCE RECORD

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MURPHY of New York. Mr. Speaker, it is with great pleasure that I call the attention of this honorable body to a public school located within my district. The Yung Wing Public School 124M has been recognized by the New York Board of Education as achieving the highest attendance rate of any school within the district for the 1978-79 academic year. This is not a new achievement for the Yung Wing school. Since 1976, public school 124 has had the highest record of attendance of any public school in New York City.

With an attendance rate of 95.30 percent, each student is to be commended for having played a major role in achieving this honor. This high level of attendance has been a major influence on the special teaching/learning relationship that has developed at Yung Wing. Student interest and enthusiasm such as this is reassuring to see in a time when so many show signs of abandoning their education.

Principal Samuel A. Cooper, at the helm of public school 124 for the past 8 years, is a man who has displayed tremendous guidance to both the faculty and the students and thus has been extremely influential in creating the learning environment that has been nurtured and grown at Yung Wing. The impression he has made on the students and their education will prove to be invaluable in the years to come. I was fortunate enough to see the generosity of Mr. Cooper when he was kind enough to offer the use of the school's auditorium for hearings I held on the 1980 census effort. His benevolence was helpful to not only me, but the entire community as well.

The Yung Wing community deserves special recognition for achieving the honor of having the highest attendance rate within New York City. Each student is to be commended, and knowing that they will grow up to be the future of New York makes me proud to represent them and the entire 17th Congressional District.●

PROTECTION ISLAND NATIONAL WILDLIFE REFUGE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980.

● Mr. BONKER. Mr. Speaker, I am introducing today a bill to establish a Protection Island National Wildlife Refuge in Washington State.

The legislation authorizes the Secretary of the Interior to establish a refuge that would encompass the entire 400-acre island which lies a short distance offshore in the Strait of Juan de Fuca.

The island provides breeding and nesting grounds for thousands of seabirds. A herd of harbor seals and at least one pair of bald eagles are also found there.

These are nationally significant wildlife resources, according to the U.S. Fish and Wildlife Service. However, the Service warns that the island's ecological balance is fragile and that the wildlife could be seriously threatened by building construction and development, the introduction of predators, or even by excessive foot travel by people on the nesting ground.

Many of my constituents are strongly committed to securing strong, permanent protection for the wildlife populations of Protection Island, and fish and wildlife managers familiar with the area have also emphasized to me the importance of maintaining the island's habitat. At the same time, the concerns of the many private individuals who own property there deserve careful consideration, too. This bill will provide a forum and a vehicle for addressing all of these concerns.

The most significant wildlife resources on Protection Island are six species of seabirds. Among the 29,400 nesting pairs of seabirds in the inland marine waters of Washington State, 21,000 nest on Protection Island.

One-half of the breeding population of rhinoceros auklets in the contiguous States use the island. The 17,000 nesting pairs of auklets there constitute 97 percent of the Washington State population.

Two-thirds of the State's tufted puffin breeders come to Protection Island each year, and the island's glaucous-winged gull colony is the largest in the State, supporting 43 percent of the breeding population. Pelagic cormorants, pigeon guillemots, and black oystercatchers also rely on Protection Island in significant numbers, according to the Fish and Wildlife Service.

Loose sandy soils predominate on the island. They are important to birds like the auklets, which nest and raise their young in underground burrows. The island is bounded on the west, north, and northeast by vertical, eroding cliffs that are 200 to 250 feet high. On the southwest, south, and southeast sides, long, wide, grassy slopes run from 115 feet to sea level. The interior is a flat to gently rolling plateau.

Two sand and gravel spits form the ends of the island: Kamen Point, which is 1,400 feet long and part of a 48-acre State game sanctuary, and Violet Point, which is about 3,000 feet long.

The island lies in the rainshadow of the Olympic Mountains and receives only 16 inches of rain a year. The environment is mild, almost semiarid.

A 75-acre woodland and brush thicket covers the northeast portion of the island. Scattered sand dunes exist to the south. And the center is dominated by grasslands and abandoned alfalfa fields.

According to the Fish and Wildlife Service—

> The greatest threat to the island is the potential development of some 800 homesites. A development of this magnitude would be incompatible with the nesting seabirds of the island and would either eliminate or greatly reduce most nesting populations. The island and its wildlife resources are not adequately protected at the local, state or federal level.

The island was subdivided a decade ago into more than 800 lots averaging about 9,000 square feet each. However, largely due to a building moratorium imposed in 1974, little development has occurred, the Fish and Wildlife Service has reported. That data show only three permanent residence and about two dozen trailers on the island.

The building moratorium was imposed by county officials because the island had no domestic water supply that could meet county and State standards. No approved water supply has as yet been developed, although a well driller is now at work on the island and the possibility of building an underwater pipeline from the mainland has been discussed. Knowledgeable opinions appear to vary regarding the possible success of these ventures.

Supporters of a Protection Island National Wildlife Refuge include the Audubon Society, the Jefferson County Commissioners, the Federation of Western Outdoor Clubs, the Washington Environmental Council, the Izaak Walton League, Safari Club International, Jefferson County Sportmen's Council, the Nature Conservancy, Friends of the Earth, Washington State Game Department, Public Lands Institute, Port Townsend Garden Club, American Wildlife Trust, Port Ludlow Garden Club, Kingston Garden Club, Bainbridge Island Garden Club, Tri-Area Garden Club, Vaughn Garden Club, Protect the Peninsula's Future, Save the Resources Committee, and the Washington State Department of Natural Resources.

The text of the bill follows:

H.R. —

To establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection Island National Wildlife Refuge Act."

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) Protection Island, which provides habitat for a large number of waterfowl and other wildlife species, including the nesting grounds for 72 percent of the entire nesting seabird population of Puget Sound and the Strait of Juan de Fuca, is a nationally significant environmental resource;

(2) this island is located close to a large metropolitan area and, accordingly, is of great value as a source of environmental education, recreational opportunities that are compatible with the wildlife resources, and interpretive programs; and

(3) this island is currently threatened with spoilation, removal from public access and ecological downgrading through residential and related development.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act to preserve Protection Island through the establishment of a Protection Island National Wildlife Refuge as part of the National Wildlife Refuge System.

SEC. 3. As used in this Act—

(a) the term "refuge" means the Protection Island National Wildlife Refuge that includes those lands and waters, and interests therein, located in Jefferson County, State of Washington, that are depicted on the map entitled "Protection Island National Wildlife Refuge", dated —— 1980, and on file at the United States Fish and Wildlife Service.

(b) The term "Secretary" means the Secretary of the Interior.

SEC. 4. The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired.

SEC. 5. Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities compatible with the wildlife resources, and interpretive education as he deems appropriate to carry out the purposes of this Act.

SEC. 6. There are authorized to be appropriated $4 million to carry out this Act.●

DR. LEV V. DOBRIANSKY CONCEIVED CAPTIVE NATIONS WEEK IDEA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DERWINSKI. Mr. Speaker, one of the dedicated advocates and outstanding leaders in efforts on behalf of freedom for those peoples in Eastern Europe and the Soviet Union proper who are held captive of communism is Dr. Lev E. Dobriansky.

Dr. Dobriansky is a professor of economics at Georgetown University in Washington, and is the president of the National Captive Nations Committee. Dr. Dobriansky has been instrumental, throughout the years, in leading the commemoration of Captive Nations Week here in the Congress and across the country. I insert an article on Dr. Dobriansky that appeared in the July edition of the newspaper, the Truth, published in Marlboro, Mass. The article follows:

DR. DOBRIANSKY CONCEIVED CAPTIVE NATIONS WEEK IDEA

WASHINGTON.—Dr. Lev E. Dobriansky, 60, a professor of Russian economics at Georgetown University, is the man who conceived the Captive Nations Week idea that aroused the ire of Nikita Khrushchev in 1959, when it was proclaimed by President Eisenhower.

At the time the resolution was passed by Congress, Dr. Dobriansky, who was born in New York City of Americans of Ukrainian descent, said: "The impact of the Congressional Resolution lies in the fact that it includes not only the names of recognized satellites of Russia, but also countries that are now a part of the Union of Socialist Soviet Republics. The resolution marks the first time that the United States has recognized by public law that captive nations exist within the USSR."

In addition to the satellite nations were listed White Ruthenia, Armenia, Azerbaijan, Georgia, Idel-Ural, Turkestan, Ukraine, Latvia, Lithuania, and Estonia. According to Dobriansky, these nations form the basis of the Russian empire and that if they hadn't been taken by force," Russia would be a third rate power."

When interviewed by the Chicago Tribune in 1959, Dr. Dobriansky said he got the idea for a congressional resolution recognizing the plight of captive nations at the time of the execution in mid-June of 1958 of Imre Nagy, premier of Hungary at the time of its unsuccessful revolt against the Kremlin.

He said his first attempt in 1958, consisted of a resolution introduced in the House by Rep. Albert Cretella (R. Conn.), which called for Presidential proclamations on independence or constitution days of 19 captive nations. The resolution died in the House judiciary committee on a tie vote. In 1959, he lumped recognition into one Captive Nations week.●

HORNET'S NEST

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. LLOYD. Mr. Speaker, one of my early involvements as a Member of Congress and the House Armed Services Committee was in the defense authorization process for startup of the Navy F-18 fighter aircraft program. Each year since 1975, the F-18 program continues to be a controversial issue in the funding process.

The reasons for the controversy are many and varied. They include different interpretations of the so-called high-low mix of new aircraft for the Navy and Air Force; a division among favorite aircraft proponents within the Navy Department; vacillation by the Department of Defense in assessing and deciding on hardware capabilities to meet the threat; aerospace industry competition in the marketplace, and on the Hill; and well-meaning, but inaccurate, commentary on the technical aspects of the F-18 program. From time to time, I believe the case can be made for the same reason affecting many other weapon systems as well.

The cost of national defense is high, and, in a period of rising inflation, the price tag for every weapon system will no doubt continue to rise. Dealing with defense costs becomes even more exasperating for Congress because the Armed Forces are required by the administration to apply unrealistic inflation factors in computing out-year funding totals. Programs have gone down the tubes, along with the dollars expended in R. & D. because an exorbitant annual cost growth is used by DOD as justification for canceling a program. In my opinion, this practice is unconscionable, counterproductive, and does a disservice to the taxpayer, the military branch, and every separate entity of the industrial team involved.

I am fortunate to have been afforded an opportunity to fly the F-18 Hornet while it is still a viable program, and I say that because I also flew the B-1 bomber, which is now in a desert tomb for all practical purposes. I wish to comment on a few statements about the F-18 which have appeared in print, and about which I know from firsthand knowledge simply are not true.

There is no 400-knot airspeed restriction on the F-18. For example, with both aircraft starting at 150 knots, the F-18 walked away from the F-14 chase aircraft which is the Navy's first-line fighter. The speed run was terminated at 1.3 mach merely to stay within boundaries of the maneuvering airspace. The airframe is not restricted to 3.5 g's because I personally pulled 6-plus g's, which is all my frame can handle. Further, the F-18 is not restricted from carrier operations and could go aboard today if more landings were required to prove anything in this phase of testing.

Everything is relative, and comparisons are valuable tools in determining the progress of a specific program. For instance, currently the F-18 test program is farther ahead in its schedule, including flight hours and data collection, than was the Air Force F-15 test program at a comparable point in time.

Does the F-18 have some aircraft and system discrepancies? Of course, but that's the purpose for a flight test program—to fly the aircraft into every corner of the envelope, step by step; to explore the most minute discrepancy, solve it and recommend fixes for follow-on production aircraft. I doubt that there have ever been any early models of military aircraft wherein the first production birds came off the assembly line in perfect condition, did not require system and structural modifications or were not bleeding somewhere. If anyone can show me an aircraft that does not bleed most of the time, I will show them a mechanic who takes his packages of chewing gum home to the kids.

The F-18 will be one of the world's finest fighter and attack aircraft to ever to come down the line and will provide both the Navy and Marine Corps with unparalleled and unique combat capabilities no present day aircraft has. If the Navy expects to meet the projected threat environment head-on, there is no other alternative except to begin replacing its F-4 Phantom fighters and A-7 Corsair II attack aircraft.

It is time to let the Navy, Marine, and industry team get on with the test program. They can do their job without the help of outsiders.●

LAVONIA CELEBRATES CENTENNIAL

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. JENKINS. Mr. Speaker, nestled in the foothills of north Georgia adjacent to the fertile piedmont on the Tugalo River is the thriving community of Lavonia, Ga.

Lavonia is counting the minutes until this weekend when the town will celebrate its 100th birthday. The centennial celebration will include a host of activities with everything from speeches to sidewalk sales and parades to special music. Joining the townspeople in the festivities will be elected officials and citizens from across north Georgia.

During its 100-year history, Lavonia has been a progressive, industry-seeking community. The little town has produced one Governor, Hon. Ernest Vandiver, Jr., who served our State in the early sixties.

Mayor Herman Ayers, members of the city council, the chamber of commerce, and many volunteers have worked tirelessly to make this weekend a memorable one in Lavonia.

I would like to take this opportunity to salute the 2,500 citizens of Lavonia and wish them a happy birthday.●

BUREAUCRATIC BALDERDASH

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980.

● Mr. BOB WILSON. Mr. Speaker, ofttimes, in its zeal to protect our citizens from coming to harm, the Government gets carried away. Rather than examine a condition with great diligence and then make a rational judgment on whether or not a problem exists, governmental agencies pursue such investigations frenziedly, fully convinced that a terrible wrong is out there somewhere, begging to be righted. You can imagine what happens if two or more agencies pick up the same trail.

Such an occurrence came to pass about 5 years ago—I say this as a historical note: the occurrence is still occurring—when the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department thought it might be an idea to glue full ingredient labels on all licensed beverage containers, including wine bottles. The FDA, not to be outdone, also picked up on this one, which brings me to the following article from the Wine Spectator, an authoritative newspaper edited by Bob Morrissey and based in San Diego. This journal is gaining wide respect for its coverage of the industry. Far be it from me to tell you what the present situation is in this Turf-battle of the Giants. I'll get Gerald Boyd, who wrote the story, do that. I include this article as a portion of my remarks:

Wine Ingredients Labeling a Farce?

(By Gerald D. Boyd)

San Diego.—If the story on ingredient labeling you are about to read sounds like grist for the crusading mill of CBS television's "60 Minutes"—you're probably right.

Department of the Treasury recently passed three separate regulations requiring—by Jan. 1, 1983—the listing on container labels, "partial" ingredients (contents) of all beer, spirits, and wine. Treasury's main concern is to alert people who suffer from allergies about what they are drinking.

Producers have the option to either list the ingredients (contents), or provide an address which the consumer can write for a list of the contents.

For wine, this means grapes, yeast, sulfur dioxide, and sorbic acid. Also, where applicable, wines made outside California must list water and sugar. There are, of course, other contents—like yellow dye No. 5—mentioned in the regulations, but none of them apply to wine content labeling.

As far as the regulations go, the report could stop here. But there is much more to this new move by Treasury than is apparent on the surface. In fact, the background story is an unbelievable account of bureaucratic oneupmanship, appeasement, and the revelation of an all-too-frequent government attitude of late that legislation will be passed into law whether it is needed or not.

Briefly—since to give a comprehensive account of the convoluted procedures leading up to the recent decision would require more space than we have—here are the highlights gleaned from certain key documents, and from sources contacted by *The Wine Spectator.*

Early in 1975, Treasury and its department, Bureau of Alcohol, Tobacco and Firearms (ATF), had been considering the possibility of full ingredient labeling on all licensed beverages. Public hearings followed, and in the fall of 1975, Donald Kennedy, then commissioner of the Federal Drug Administration (FDA), issued separate regulations on labeling.

One year later, a federal court in Kentucky ruled that FDA did not have jurisdiction over such matters. Instead, Treasury (ATF), was to have the power to issue and enforce regulations for labeling.

Undaunted, Kennedy, who appearently now was beginning to feel threatened, recommended to the current administration that an appeal be filed to keep FDA in the jurisdiction ball game. Concurrently, Treasury, which had not yet actively become involved in the ingredient labeling business, recommended that no appeal be filed.

In May 1977, a majority of California legislators signed a petition to the administration asking that FDA be denied labeling jurisdiction and that such power remain with Treasury. It worked. FDA lost the jurisdiction battle, but had definitely not yet lost the war.

That was, however, a key turning point for wine interests. California's legislators, on their own initiative, had banded together to provide united support to the state's winemakers and the plea of American winemakers in general against the unnecessary listing of ingredients on wine labels. Since no regulation had yet been established, the congressmen were well within their rights to question the congressional intent of this proposal.

Most people both in and out of the wine trade believe that wine is a special case and should not be considered in the same context as other licensed beverages. Beer and spirits are formula beverages which retain a consistent taste and character from year to year. Not so with wine, for it is not "made," but is grown as a food; wine is not a manufactured commodity.

Between May and September 1979, two things transpired which impacted on the push for ingredient labeling. Treasury opened a public comment period, between February and August 1979, and Rex Davis, then head of ATF, left government service for a position in private business.

Davis' departure left ATF without a permanent boss, particularly someone to carry on Davis' position that ingredient labeling was unnecessary.

It was then that Richard J. Davis, assistant secretary for enforcement and operations, Department of the Treasury, stepped into the breach. An unfortunate turn of events for wine, since it appears that Davis soon became a Kennedy convert.

In fact, shortly after Richard Davis became involved in the ingredient labeling proposal, he and Kennedy invited the California congressional delegation in for a briefing in an apparent attempt to win their support for the government proposal.

Now, with the official hearing period at an end, the California congressional delegation met with G. William Miller, then secretary of the Treasury, to voice their opposition to ingredient labeling for wine.

Meanwhile, Kennedy, chafing from his loss in court, mounted a drive for partial ingredient labeling. He also tried to ram through legislation which would give FDA the jurisdiction Kennedy felt that it should have over labeling.

During the hearing period, Treasury received 1,873 comments, of which 1,378—or, 73 percent—were opposed to ingredient labeling. Additionally, Treasury also had the petition from the California delegation, which did not support Treasury's position.

But Treasury was not sitting idle during that period. The Department contracted with the BDM Corporation, a private research group, to conduct a regulatory analysis on the health benefits of ingredient labeling.

BDM executed the study between Nov. 2, 1979 and Jan. 14, 1980 at a cost (to the American taxpayer) of $60,000. The study discovered that few people favored ingredient labeling, and that those with allergies had little to worry about when drinking wine. To prove the futility of such a contention, BDM cited the use of yellow dye No. 5, a component which is not even used in winemaking.

BDM submitted its findings to Treasury, but they were apparently either not studied, or simply ignored. Instead, it was learned, Treasury sent the report back to BDM asking for changes of wording and clarification.

To date, the BDM study has not been made public, but Treasury forged ahead nonetheless with its proposal for ingredient labeling.

It is also interesting to note that of the 1,873 comments received by Treasury, Wine Institute's extensive package including two original independent studies was counted as a single comment.

The institute, recognizing that the allergy question was a new research area, commissioned two studies to determine the possible effects of certain ingredients on allergics. Dr. Cornelius Ough of the University of California-Davis studied the residue materials remaining in a finished wine. His findings were then analyzed by Dr. Vincent A. Marinkovich, assistant clinical professor with the Stanford Medical School and a leading expert on allergies to ascertain whether the residual substances had any effect on allergics.

In his June 1979 written report to Wine Institute, Marinkovich found no evidence that allergics would be affected from drinking wine. "On the basis of these studies, it is my considered opinion that the extraneous protein remaining in wines after fining treatment is so small that reactions among allergic individuals would be extremely rare."

Treasury now had its own commissioned study from BDM, the Ough-Marinkovich findings, 1,378 written comments opposing ingredient labeling, and the letters from the California delegation—all opposing ingredient labeling for wine.

What did Treasury do with all this evidence? They apparently ignored it and pushed through the new regulations regardless.

Winemakers and wine consumers now are faced with the reality that present labels will have to be altered to include obviously unnecessary ingredients, or an extra strip label will be required.

The cost of these changes, of course, will be absorbed by the consumer—an additional tariff from which wine lovers will reap little benefit.

Additionally—and this is another key point—policing this labeling requirement for overseas winemakers will be difficult (a fact brought out in the BDM report), resulting in a possible double standard under the regulations.

Still, all is not lost. For the present, the most effective recourse is legislation, a task which California's Congressmen have been pursuing with vigor. And it appears that U.S. legislators from other wine-producing states are joining in the protest. ●

FOCUS ON SOCIAL SECURITY RIPOFF

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980.

● Mr. SENSENBRENNER. Mr. Speaker, public support is growing for legislation to end payment of social security disability benefits to individuals confined in prisons. There are currently three bills pending that would help end these social security abuses. Recently, the Marinette Eagle Star, published an editorial applauding the efforts of our colleague, Mr. ROTH, of Wisconsin, for his efforts to end this social security ripoff. I commend the Eagle Star editorial to the attention of my colleagues:

FOCUSES ON SOCIAL SECURITY RIPOFF

In Friday testimony before the Social Security subcommittee of the House Ways and Means Committee, U.S. Rep. Toby Roth supported legislation that would end payment of disability benefits to individuals confined in prisons. The practice seems patently absurd, except to the bureaucracy. It is likely that few of the 8th District Republican's constituents realized that the problem exists. Roth is co-sponsor of legislation that would prohibit prisoners from receiving Social Security disability insurance benefits.

The previously uninformed will find it hard to believe Rep. Roth's disclosure that, after a 16-year-old Detroit youth was sent to a training unit in that state for the murder of his parents, he began receiving $300 per month survivor benefits from Social Security. Why? Because by murdering his parents he became an orphan. The Appleton congressman also submitted an equally incredible example of a California murderer who is receiving Social Security disability benefits. He cited the very fact that he had killed two police officers and two women as evidence that he is mentally deranged and thus cannot work.

Small wonder Rep. Roth called for an end to "blatant abuse" of the Social Security system. As he noted, taxpayers already provide an average of $20,000 a year per inmate to confine and care for them. The fact that the public also must pay Social Security benefits to prisoners, because of a loophole in the law, is intolerable. Not only should taxpayers be upset, as Roth told the subcommittee, a problem also is created for prison officials since an inmate with a Social Security check can buy drugs, cigarettes and other luxuries.

Roth is a freshman in the Congress. Where have the two Democratic senators who represent this district and the state been all this time that the Social Security ripoff has gone unchallenged?●

NEBRASKA EDITORIAL WRITERS OFFER THEIR COMMENT ON THE O'NEILL PROJECT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. BEREUTER. Mr. Speaker, last month the House narrowly defeated an amendment sponsored by my colleague, Congressman JOHN CAVANAUGH, to delete funds for the controversial O'Neill project in Nebraska.

During debate on the amendment, I am sure it became apparent that there is disagreement among Nebraskans and their representatives as to whether this project should proceed. I would like to share with my colleagues the comments of several Nebraska editorial writers who supported the Cavanaugh amendment.

[From the Lincoln Journal, July 3, 1980]

SCENIC RIVER IDEA ATTRACTIVE

Immediately after the House of Representatives last month barely rejected a bipartisan Nebraska effort to cut federal funding for the proposed $235 million-plus O'Neill irrigation project, of which the Norden Dam, would be the centerpiece, Rep. Douglas Bereuter said one alternative might be inclusion of the Niobrara River in the national Wild and Scenic Rivers system.

Bereuter said he hoped it might be possible for that designation to simultaneously permit a mixed use, with agricultural benefits.

Maybe that strategy would, in the end, be found so thoroughly incompatible that it could not be achieved. Nevertheless, that approach is worth exploring, and Bereuter should be encouraged to pursue it, being flexible and open to compromises.

Several landowners who live along the Niobrara are trying to have a 47-mile stretch of the stream added to the wild rivers network.

Those 47 miles would begin two miles southeast of Valentine. The designation would extend down river and incorporate 54,000 acres which a national organization, The Nature Conservancy, earlier announced it aims to acquire as a wildlife refuge and prairie preserve.

As mentioned above, a scenic river classification for the Niobrara—which is a unique stream for Nebraska and the Great Plains—is welcomed. But the desire to apply such a designation on only 47 miles is too modest and limited.

Bereuter and the landowners really ought to be looking at a scenic rivers protection for the length of the stream, from where it rises near the Wyoming border in spectacular High Plains country, to its union with the waters of the Missouri River.

There is great beauty to the Niobrara west of Valentine as well as to the east, and this is a beauty which has not been diminished by the conjunctive use of the Niobrara by farmers and ranchers through the years.

[From the North Bend Eagle, July 10, 1980]

PORK BARREL PROJECT STILL ALIVE???

Congress still continues to dish out our monies for the Norden Dam project on the Niobrara River through appropriation fundings, but the mood is changing. After a recent battle in congress, a narrow vote gave the "dam" a lingering life once again, but as Congressman John Cavanaugh put it, death of the project almost seems imminent.

For those Nebraskans not attuned to the project, the end result of it would be the addition of added acres of irrigated land in north-central Nebraska, at a cost that is staggering, in these times of fiscal responsibility that's being advocated all over this country.

But there is more at stake than just thousands of acres of land to be irrigated. The feasibility of turning grasslands into corn country in the Sandhills has greater ramifications if the water supply runs low or the dry times of the 1930s return.

Grassing in sandy soil is no simple project by any means. "Blowouts" is a term very common to the people of that region of Nebraska. Water tables continue for the most part to drop throughout this state as the issue of water becomes more serious with each passing year.

The Niobrara River has more of an impact than most rivers do in this state. It's relatively wild, scenic and truly the only white water conditions for canoe purists in the state.

Ecologically, it has a rare series of systems found only in this part of the Great Plains. The threat of the dam would eliminate, for the most part, some of these systems for good. White water purists would find Nebraska as barren as the "Great Desert" which at one time in early history was thought of in passing through our state.

But, getting back to fiscal responsibility. Someone, somewhere, and at sometime has got to stop passing the buck on this issue or, in time, it will spread to a number of other river systems in our state.

In a long and insuring battle over this issue, the vote has slowly, but dramatically been switching from favor of the project to nixing the whole thing as it comes up each year for funding.

While it's still got life, the project is starting to feel the pressure that environmentalists and Nebraskans for fiscal responsibility have been saying all along.

It's time to get back to the basics of life. What will we leave future generations in Nebraska? Dried up rivers, blowouts, and water tables that are at dangerous levels? Let's hope our concerned citizenry stands up and is counted before it's too late. The state entry signs at strategic locations that read "Welcome to Nebraska, the Good Life", might become a misrepresentation of the facts.●

INDUSTRIAL ENERGY CONSERVATION

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, yesterday, the Wall Street Journal printed an article by the distinguished authors of the Harvard Business School energy study pointing out the need for Government incentives to speed industrial investment in energy conservation. I am submitting the article for my colleagues' consideration.

Robert Stobaugh and Daniel Yergin point to a serious national problem that I have been tackling on several fronts. Although the industrial sector could cut its energy use by 20 to 30 percent through conservation investments, the authors say, many of these investments are not being made because of competing claims on capital. Most industries are under pressure to develop new products, increase manufacturing capacity, and meet Federal mandates before turning to energy conservation.

Recently, I introduced a bill, H.R. 7505, that would grant a 20-percent tax credit to industries for making energy conservation improvements. Last month, the Subcommittee on Energy Development and Applications, which I chair, held a workshop on industrial energy conservation to learn what barriers are standing in the way of energy efficiency investments and to find out what the Federal Government can do to eliminate those barriers. As an outgrowth of that workshop I am currently working on a legislative package to encourage energy conservation investment in industry, which I plan to introduce this fall.

The enormous energy savings that are possible in the industrial sector could go a long way toward solving the intolerable national security threat posed by this Nation's dependence on oil imports. I urge my colleagues to take note of this relatively inexpensive, immediate source of domestic energy.

The article follows:

INDUSTRIAL CONSERVATION INCENTIVES

For a variety of reasons, a free market has not been used in the United States to achieve an appropriate balance between energy consumption and energy conservation. This will be true even after domestic oil is decontrolled in September. Thus, American industry, as well as other sectors, is subject to a continuing "consumption bias."

This bias has very serious implications for both the individual company and the nation. It means that conservation is not being achieved at anything like an economic rate. In effect, the industrial sector is seriously underinvesting in energy efficiency. As a consequence, both the country and the private concern will be subject to much higher but unnecessary energy costs in the years ahead.

Much greater effort should be put into stimulating conservation investments in the industrial sector, for this sector is capable of achieving substantial conservation savings quickly. Unfortunately, this sector has received little attention from public policymakers.

One reason that the special problems of industry have received relatively little attention is because industry's record is much better than that of other sectors. Between 1973 and 1978, industrial energy use decreased by 12 percent per unit of output, whereas there was a 1 percent increase in per capita energy use in the residential and commercial sector.

Some companies have organized themselves to achieve truly outstanding savings—reductions on the order of 30 percent to 45 percent. But many potential savings have not been made. Many corporate energy managers believe that with relatively modest efforts, their companies could achieve 20 percent to 40 percent reductions in absolute terms—but are not.

MANY BARRIERS

This is not because of lack of desire or interest. Many barriers stand in the way of adequate levels of investment in energy conservation—unclear organizational responsibilities, institutional obstacles to cogeneration and imperfect information. But the most important obstacle is the financial barrier, which has two parts. First, industrial concerns, as well as other consumers, pay subsidized prices for their conventional energy sources. Second, lack of adequate capital retards investment. Thus, the major remedy lies primarily with financial incentives.

First, subsidized prices. Even after oil-price controls end, the cost of oil products will be below the true cost to the nation, for imported oil embodies a number of side-effects that are costly to the nation, but not to the user, at least not at the time when it makes its decision to use oil or invest in efficiency. These costs include the impact of the marginal U.S. oil imports on the world market. If the United States had kept to its 1975 import level of 6 million barrels a day instead of 8.5 million at the beginning of 1979, we might well have not seen prices reach $35 a barrel—with all the inflationary and GNP losses that accompany it. Our belief is that the marginal cost of the extra several million barrels daily of U.S. oil imports was on the order of $60 to $100 a barrel.

How to correct for this gap between $35 a barrel that the user sees and the $60 to $100 the nation pays? One way is a tariff—of 100 percent or more. A response of this sort is a standard solution of economists when the price of imports works against achieving some national goals. But it is unrealistic to expect a tariff of this magnitude to be enacted—and if it were, it would draw dollars away from conservation investments to paying for current energy costs. To say the least, it would have a harsh impact.

Our other energy prices are also subsidized. Natural-gas price controls, of course, will be in existence for "new" gas until 1985, and for "old" gas indefinitely. Consumers of electricity, for instance, pay average costs rather than the marginal costs engendered by new generating capacity. Moreover, there are obvious side-effects in the use of coal and nuclear power that are not included in the market price—hazy skies in the case of coal and fear of a catastrophic accident in the case of nuclear power. The true cost of these to society is hotly debated, but everyone would agree that the result is that energy prices do not give correct information to consumers, and are unlikely to do so.

The financial barrier is also operative within the corporation. Many who say that "industry will take care of itself" are assuming that a corporation is a single rational actor, with a single mind.

On the contrary, a constant competition takes place within a company over the allocation of capital. Companies establish various hurdle rates in order to make those decisions on a rational basis. Conservation investments must often leap over high hurdle rates—two- or three-year paybacks. They are not viewed as having the same strategic impact as new product or additional capacity and so they are postponed. Other claimants are also ahead in line, such as mandated environmental expenditures.

Conservation investments do not attain the same level of interest, commitment, and glamour for top management as do investments that lead to increased sales. Also, energy may not be a significant cost to a firm, and so, even if the payback is good, management will choose to put its dollars elsewhere. After all, the company is purchasing average barrels at $35—not marginal barrels at $60 to $100. Finally, high interest rates and economic uncertainty cause management to pare down its list of investments—and conservation investments often fall off the bottom.

The result of the financial barrier is that there is a very large backlog of highly desirable energy-conservation investments that would benefit both industry and the nation—that could perhaps lead to a 20 percent to 30 percent absolute reduction in energy use in the industrial sector. Assuming some modicum of economic stability, many of these investments will eventually be made. But they are much more valuable to the nation if done in 1981 rather than in 1986.

TAX CREDITS REQUIRED

Tax or other policies that promote investment in new facilities will speed energy conservation. Rapid depreciation policies for new facilities could substantially accelerate efficiency. The 1978 National Energy Act provided a limited 10 percent credit for conservation investments. But, given the financial hurdle, this credit seems much too low. Significantly greater tax credits, up to 40 percent, plus accelerated depreciation or direct financial payments, are required. In addition, energy-conservation loans and grants for small businesses, which are often cash-strapped, are needed.

Industry executives freely acknowledge that there are many energy-saving innovations in which they could be investing, but are not because of other more urgent claims on capital. One company, for example, was considering a $500,000 investment that could lead to a 40 percent reduction in energy use—for a 1.5-year payback. It made this investment in its Belgian factory because of the incentives provided by the Belgian government. It did not in its similar American factory because other claims on capital were ahead in line.

Unless adequate incentives are provided to overcome the barriers to investments in more efficient use of energy, the U.S. will be faced with a vicious circle. The recessions resulting from higher world oil prices will retard investment in more efficient plants, thereby slowing energy conservation over the longer term, so that at any given level of economic output there is greater pressure on energy supplies.

There is an alternative: more efficient energy use and the benefits that go with it—greater economic output, more stability, reduction in the alarmingly large and potentially larger dependence on OPEC oil, a cleaner environment, less tension with our allies and a stronger dollar. By refusing to take sensible policy steps, we foolishly deny ourselves these benefits.●

TRIBUTE TO BOB STENBERG

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. PURSELL. Mr. Speaker, I rise to call to the attention of this body the considerable achievements of one of my constituents who resides in Ann Arbor, Mich. This gentleman, Robert Stenberg, has distinguished himself, our community, and his company by being a key force in one of the most significant social developments in the history of our country. That is the great expansion of employment opportunity which has occurred over the last several years for members of minority races, for women, for the handicapped, and for veterans.

Great attention has been given to the impact of legislation over which this House long labored and the decisions of the courts in this area. However, the unsung heroes of this great experience have been the men and women who have created work opportunities for those who had previously been denied equal opportunity, as well as the men and women who have trained them to fill those jobs once they had an opportunity.

Such a person is Bob Stenberg. Ever since his graduation from the University of Michigan, where he was a fullback on the football team of 1943, Bob has been working to expand opportunities for others. During his career at Ford Motor Co., he has devoted himself to equal employment opportunity and he is now retiring from Ford in the position of equal opportunity planning manager. Through his interest in athletics Bob had been able to instill in an untold number of youngsters the values which have enabled them in later years to have a meaningful work experience. Bob has also been unstinting in his efforts on behalf of the University of Michigan.

We are indeed fortunate to have Bob as a member of our community and it is with great pleasure that I join Bob's many friends in paying tribute to him and to his wife, Helen, at the time of his retirement from Ford Motor Co. for their contributions to making this a better country.●

A THOUGHTFUL GESTURE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. HOLLENBECK. Mr. Speaker, on Saturday I had the opportunity to participate in a short but moving ceremony concerning the American hostages held captive in Iran.

I say "moving" because of the circumstances which, while not odd, were indicative of the tremendous concern and awareness of events on the part of the younger people of this Nation.

The occasion was the interval between games of the Babe Ruth League Northern New Jersey State Championship at Rutherford, N.J.'s Tamblyn Field.

Simply put, the boys comprising the tournament teams and their managers and coaches saw fit to dedicate the entire tournament to the hostages. Further some 200 of them eagerly and determinedly signed a tournament program which I am attempting to forward to Tehran. I have also alerted President Carter to this thoughtful gesture.

Mr. Speaker, these young gentlemen are to be commended by all for their concern and actions at a time when it appears many have set aside the hostages in their minds, at a time when many are enjoying their vacations at the beach or in their gardens and at a time they themselves were engaged in the culminating tournament of their season of our national pastime.

The following is a list of the teams and coaches participating along with the explanatory letter of Sal Brancato, president of the Rutherford league.

Mr. Speaker, I urge my colleagues to share my pride in these young men, their coaches, and the league for seeing fit to take this action on behalf of our hostages.

JULY 19, 1980.

DEAR FRIENDS: The Rutherford Babe Ruth League is honored to serve as host for the 1980 New Jersey Babe Ruth League 16-18 year old Tournament. Numerous Rutherfordians—managers coaches, parents and fans have worked hard to make this tournament one that will be enjoyed by participants and spectators alike.

This tournament has been dedicated to the Americans who are being held captive in Iran. It is our fervent hope that they soon will be released to enjoy the simple pleasures of the American way of life that we, too often, take for granted.

We know that the competing teams, all of which enjoyed successful seasons, will bring to this tournament the skills, zeal and the sportsman-like play that characterize Babe Ruth Baseball.

Sincerely yours,

SALVATORE C. BRANCATO,
President.

Manny Gouveia—State Commissioner

Joe Brunacki—District Commissioner

Rutherford Babe Ruth League Officers

Sal Brancato—President.
Mike Formisano—Vice President.
Jack Lyle—Treasurer.
Ed Ryan—Secretary.
Rich Amato—Official Scorer.

Ladies Auxiliary—Officers

Nancy Wernicki—President.
Phyllis Klein—Vice President.
Marie DeCesare—Treasurer.
Pat Brancato—Secretary.

Managers & Coaches

Becton-Dickinson: Mike Formisano, Ken Hickey.

Elks: Hank Fletcher.

Howmedica; Joe Marcella, Tony Pacillo.

Ernie's Delli: Fran Westervelt, Ed Ryan, Ralph Nunziato.

Clare's Shop-Rite: John P. Scott, Jack Lyle.

Kearny Federal Savings: Chris Robori.

Youth Clubs of America: John Maarleveld, Rich Pomo.

Boiling Springs Savings: Jim McLaughlin, Jim Manning, John Wernicki.

Thanks to all the Team Mothers and Helpers.

RUTHERFORD BABE RUTH TEAM

Name and number	Position	School	Age
Steve Azzolini (1)	SS	Rutherford High School	16
Jack Paddock (2)	2D	Rutherford High School	18
Mark Maiorano (3)	OF	Rutherford High School	16
John Farley (4)	3D	Rutherford High School	18
Steve Baia (5)	C	Montclair State	18
Bob Walton (6)	P–SS	Rutherford High School	17
Rudy Volpe (7)	OF	St. Mary's High School	16
Mike Capparaso (10)	OF	Rutherford High School	18
Bob Baffuto (11)	SS–OF	Rutherford High School	16
Greg Pavick (12)	OF	St. Mary's High School	17
Tim Ryan (14)	P–1B	St. Mary's High School	17
Dave Wernicki (15)	P–C	Rutherford High School	17
Pat Pacillo (16)	P–OF	Rutherford High School	17
John Coughlin (18)	P–OF	Seton Hall Prep	16
Jamie Manning (19)	P–OF	Rutherford High School	17
Tom Zech (20)	OF	Rutherford High School	16
John Maarleveld (21)	C–1B	St. Joseph—W.N.Y.	18
Tony Pacillo (22)	P–OF	Fairleigh Dickinson	18

Manager: Jim Manning

Coach: Mike Formisano

Coach: Fran Westervelt

The Rutherford Babe Ruth League extends a special "Thank you" to the Sponsors of our First 16–18 Year Old Team.

These people have shown their concern for the youth and the commuunity by helping to make this team a reality.

Pfeiffer Toyota—Rte 3 "Super" Flea Market Falson Association—Cooper Lumber

Bergen County players: Jim Hecybeli, Paul Waither, Doug Mattliano, John Sudol, Steve Lederer, Joe Pekaar, Tom Wassmer, Bob Francisco, Steve Dalcortivo, Jim Faud, Keith Onderdonk, Bill Himmelman, Joe Manina, Sal Mercadante, Evan Morgan, Ken Arbadji, Stratton Drivanos, Nick Chmil.

Manager Joe Mattliano, Coach Joe Manina, and Coach Jim Skinner.

North Bergen players: John Cowan, Chris Donovan, Mike Carey, Ron Jimmerson, Joe Vitale, Al Ramirez, Al Ranzola, Andy Gale, Jose Plato, Hector Angulo, Juan Prieto, Bill Marin, Pete Mancini, Scott Lingle, Jack Muqurka, Joe Lucci, Joe Onello, Orestes Medina.

Manager Jack Affuso.

Bayonne: Manager Steve Yubchak, Coach Nick Errico, and Coach Gene Serpica.

Morristown: Manager Joe Accardi, Coach Ed Pankenier, and Coach Ken Trevena.

Mountain Valley: Manager Dave Wilcox, Coach George Edmondson, and Coach Mike Donlon.

Iron Area—National: Manager Bob Ray, Coach Lou Smith, Coach Bob Dondero, and Scorer Adam Smith.

Iron Area—American: Manager Don Friend, and Coach Mike Migliaccio.

Bloomfield: Manager Bill Cervasio, Coach Angelo Christiano, and Coach Vinny Russo.

Union County: Manager Frank Gagliano, Coach George Crane, Coach Carl Sporer, and Coach Wayne Darling.

Northwest Jersey: Manager Tony Ritchie, Coach Jim Jennings, Coach Dan Grouanrd, and Scorer Lou Guarinello.●

VETERANS COMPENSATION INCREASE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DASCHLE. Mr. Speaker, I wish to state my support for the recent passage of H.R. 7511, the Veterans Disability Compensation and Survivor's Benefits Amendments for 1980.

All too often many of us tend to forget the contributions of our war veterans, especially those of 2.2 million veterans who were injured while serving their country. For this reason, it is truly a pleasure to support H.R. 7511, which provides a 13-percent-cost-of-living increase for service-connected disabled veterans, as well as widows and children of servicemen who died while fighting for our country. I might add that 250,000 widows and widowers will benefit from this increase as will 85,000 children.

I remain concerned, however, that the 13-percent-cost-of-living increase approved by the committee will not accurately reflect real increases as registered by the Consumer Price Index. Though the base period for determining compensation benefits is different than that used to calculate non-service-connected pension benefits, I feel that these two should at least be equal. Considering that non-service-connected veterans will receive a 14.3-percent increase, it is my hope that the Senate position—14.3-percent increase for service-connected veterans—will prevail during the conference meeting.

Though it is difficult and oftentimes painful to enact cost-savings legislation, efforts must be made and I am pleased that this bill takes these most necessary steps and mandates $85 million in cost savings. One of these measures is to limit payment of benefits to incarcerated veterans after conviction of a crime. This will prevent criminals, such as the "Son of Sam" killer, from receiving benefits he most surely does not deserve as a result of his crimes.

Finally, I commend the leadership of this committee for formulating this most necessary legislation.●

MORE PROBLEMS FOR THE SOVIET JEWISH COMMUNITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. SOLARZ. Mr. Speaker, I should like to bring to the attention of my colleagues two articles which recently appeared in the New York Times. These articles deal with the emigration of Soviet Jews, which has steadily declined this year following last year's record departure of 51,000.

This change of policy on the part of Soviet officials can be explained in part by two major events—the American reaction to the Soviet invasion of Afghanistan and the Soviet concern with the Moscow Olympic games. American-Soviet relations have grown steadily colder due to the restrictions on American trade and our boycott of the Olympic games, but we must not let ourselves slip into believing that these are the only reasons for the decline in emigration.

Soviet officials had begun to tighten the restrictions even before events in Afghanistan and preparations for the Olympic games took precedence. I sincerely hope that these restrictions will be eased in the future and that those who wish to leave will be allowed to do so. I would encourage my colleagues to continue their efforts to convince the Soviet Government of the need for a more liberal emigration policy and the protection of basic human rights for all Soviet citizens.

Mr. Speaker, I insert these articles in the RECORD:

[From the New York Times, July 11, 1980]

EMIGRATION OF SOVIET JEWS HAS SLOWED TO A TRICKLE

(By Craig R. Whitney)

Moscow, July 10.—Emigration of Soviet Jews, which reached a record of more than 51,000 in 1979, has fallen steadily this year and has slowed to a trickle this month. Western diplomats tend to attribute the decline to the fact that Soviet visa officials are preoccupied with the Moscow Olympics.

These diplomats, and activists in the emigration movement, believe there are several other reasons for the decline, including Soviet retaliation against the United States for cutting back this year on trade, an issue Congress linked to emigration in 1974.

But there are also signs of official concern about the economic consequences of the emigration, which has seen nearly 240,000 Jews, most of them well-educated people from urban areas, leave the country in the last decade.

ANTI-SEMITISM TONED DOWN

"Last year there was open anti-Semitism in the official press coverage of the Middle East," said an activist who has been trying to emigrate for six years. "This year it's been toned down a little. They may be trying to get people to stay now."

In October, the peak month last year, 4,867 people were issued exit visas for Israel. By January, after the sharp American reaction to the Soviet intervention in Afghanistan, the monthly total had dropped to 3,271, by May to 2,100 and by June to about 1,500, according to officials involved.

Now, with Soviet visa offices in Moscow, Leningrad, Kiev, Minsk and Tallinn devoted to processing visitors to Olympic events in those cities beginning this month, the flow of emigrants from these places has been almost cut off.

PEOPLE STILL SHOWING UP

"It hasn't stopped entirely," a Western diplomat said, "and people are still showing up in Moscow with exit permission from places like Moldavia and Azerbaijan and outlying cities in Russia not affected by the Olympics."

He predicted that the total might be well below 1,000 in July, but said he could only speculate about whether Soviet authorities would resume granting more exit visas after the Olympic Games end on Aug. 3.

"The people showing up here now can't even get hotel rooms in Moscow while they complete their paperwork, because all hotels are reserved for the Olympics," a diplomat said. "So many of them are living with their families in the railroad-station waiting rooms."

According to information available here, about 14,000 Jews have received permission to emigrate so far this year.

While this is far fewer than last year's total, which was a record, it is almost as many as the 16,737 who were allowed to leave in 1977 and more than the 13,221 who left in 1975. The previous record was set in 1973, also a time of official Soviet expectations of trade concessions from the United States. A total of 34,733 Jews left that year.

In 1973 Congress enacted legislation tying improved trade terms to increased emigration. This year the Carter Administration said it would make no effort to cut the link and sharply curtailed Soviet trade after Moscow's Afghanistan moves last December.

ARMENIANS ALLOWED TO GO

That may be one of the reasons why the rate of Jewish emigration has been sharply reduced, though paradoxically the authorities are allowing Armenians to emigrate to the United States this year in record numbers. As many as 7,000 may leave by December, according to the United States Embassy here.

Soviet Jews say there are other explanations for the drop.

The Soviet visa offices in the Ukraine, from where a large part of last year's emigrants came, have imposed strict regulations on applicants this year. No one who does not have an authentic invitation from a close relative in Israel is allowed to apply for a visa, sources in the emigration movement say. In the past, Soviet authorities accepted invitations without examining them closely.

The restrictions are said to be most severe in Kiev, the capital of the Ukraine, where visa offices will only accept invitations from a parent or child of the applicant. Ten thousand Jews left Kiev last year, and most of them went to the United States instead of Israel.

Some Jews say the authorities may be beginning to realize that harsh anti-Israeli propaganda, with its overtones of anti-Semitism, was one reason for the surge in emigration, and that they are taking tentative steps to tone it down.

A few days ago a woman who was about to emigrate got an appointment with Vladimir V. Sazanov, an official of the Cummunist Party Central Committee in Moscow, to present a hefty collection of quotations from Soviet books, magazines and newspapers that she judged anti-Semitic.

Instead of rejecting her claim, Mr. Sazanov reportedly agreed with the woman. "You are not entirely wrong," he said, when she charged that the writers Valentin Pikul, Vladimir Begun and Yevgeny Yevseyev had been particularly offensive in their works. "We try, but we cannot always control these things,' he added.

"On the Brink," a novel by Mr. Pikul, received several sharply negative reviews in the official Soviet press last year for what were called its distortions of history. It portrays the last days of the Romanov dynasty in the clutches of a conspiracy of Jewish capitalist millionaires and Rasputin, the mystic and charlatan faith healer.

"There are a few signs of a change of emphasis at high levels," said Viktor Brailovsky, editor of an underground journal called Jews in the U.S.S.R. "But how long it will last is unclear."

JEWS GAIN LENIN PRIZES

This spring's crop of Lenin Prizes, prestigious state awards, included a surprising number of Jewish names, including the popular comedian and actor Arkady Raikin.

In addition, a Yiddish musical theater founded in 1978 by the composer Yuri Sherling was finally given permission this spring to settle in Moscow after two years in the remote Jewish Autonomous Region of Birobidzhan in the Soviet Far East. But it was closed last week because its auditorium, an abandoned movie theater off Taganka Square in Moscow, did not meet fire regulations.

Mr. Brailovsky was arrested last spring in an investigation of his journal. But since then, he said, the authorities have left him alone and, unlike many other dissidents, he has not been ordered to leave Moscow or shun foreign visitors when the Olympic Games begin on July 19.

EXODUS FROM ODESSA CITED

Friends tell him that in Odessa, a Ukrainian city from which emigration has almost ceased because of new and stricter regulations, people are being told that the Jewish exodus was harming the well-being of the city as a whole.

"If the West can use these people," the message goes, "so should we." Other versions of what is being said are more chilling. "We shouldn't let the Jews go West," another story has it. "In 20 years they'll be so rich they'll come back and take over."

Only 1,811,000 people identified themselves as Jews in the 1979 Soviet census, down from 2.15 million in 1970.

Arye Dulzin, chairman of the World Zionist Organization, said in New York recently that the true number might be closer to three million.

[From the New York Times, July 11, 1980]

FEWER VISAS FOR SOVIET JEWS WORRY GROUPS IN THE UNITED STATES

(By Carey Winfrey)

Spokesmen for Jewish relief organizations active in settling Soviet Jews who reach the United States say they are troubled by the sharply reduced number of Jews being allowed to emigrate from the Soviet Union.

They also say that, while the decline in the emigration rate may have been quickened by the chill in Soviet-American relations—the result of a reduction in trade following the Soviet military intervention in Afghanistan—the first steps to halt the Jewish exodus began more than a year ago.

Gerry Goodman, executive director of the National Conference on Soviet Jewry, said he believes that a flood of Jewish exit-visa application early last year, many from Jews performing relatively important functions in smaller towns and cities, startled Soviet officials. As a result, he said, officials launched a propaganda campaign last May to encourage Jews to stay.

"In those little towns of about 30,000," he said, "people were probably not prepared for their Jewish neighbors to leave." In the last two years, he added, the number of Soviet towns and cities losing Jewish citizens increased to 200 from a previous total of 80.

Gaynor I. Jacobson, executive vice president of the National Conference on Soviet Jewry, also said that he felt that the policy had begun before the Afghanistan intervention. He noted that in the Ukraine, the home of one out of three Soviet Jews and the source of more than half of those seeking to emigrate, rejections of exit-visa applications rose sharply in the last six months of 1979.

Most applicants were rejected, he said, on the ground that their foreign sponsors were not close relatives. New exit-visa applications, Ukrainian Jews were told, would be accepted only from those with "first-degree relatives."

As an example, Mr. Jacobson said, about 1,000 Jews living in the city of Odessa were granted exit visas in April 1979. This past April, only 80 were given the visas.

According to his figures, the number of Soviet Jews arriving in Vienna, the first stop outside the Soviet Union, is down nearly 60 percent over last year. About 15,500 Soviet Jews made it to Vienna so far this year. At the same time last year, nearly 25,000 had arrived in Vienna. Of those, nearly two out of three come to the United States.

Soviet Jews who are granted exit visas are given between two weeks and two months to leave the country. Most then take a train to Vienna, a trip of between three to five days. After a week or 10 days of processing, the emigrants are divided into two groups, those who have chosen to go to Israel (about a third) and those who have elected to go to the United States (more than 60 percent), Canada or Australia (a total of about 8 percent). Those destined to go to the United States, Canada or Australia proceed to Rome for at least another month of processing.

Of the 51,294 Soviet Jews who emigrated last year, 33,906 came to the United States. Of those, 43 percent remained in metropolitan New York, with the highest concentrations in the Brighton Beach and Coney Island sections of Brooklyn. ●

H.R. 7724

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to commend the House of Representatives on its action yesterday on H.R. 7724, the Interior and Related Agencies Appropriations Act for Fiscal Year 1981, in passing it by a vote of 334 to 61. I would also like to commend the chairman of the Interior Subcommittee of the Appropriations Committee, the gentleman from Illinois, Mr. YATES, for his leadership in putting this bill together.

While my affirmative vote on this bill was different than that on most appropriations bills because of my belief that Government spending must be limited to the extent possible, I believe that the Interior Subcommittee has exercised prudent fiscal judgment during its debate on this bill. But most of all, I supported the bill because of the significant attention given by the subcommittee to fossil fuel research, development, and construction. One need only to do a casual review of our current energy situation to realize that any effort made to increase the production and use of fossil fuel, particularly that of coal, and to lessen the use, and in turn, our dependency on foreign energy supplies, is a step in the right direction. This bill takes that step to the tune of over $1.1 billion for research, development, and construction alone. Perhaps this will serve as an incentive to all House committees that deal with energy research and development to continue this kind of attitude toward a procoal, profossil fuel energy program that will not only improve the energy picture but will serve to stabilize our economy.

I must say, however, that I have a deep parochial interest in the Interior appropriations bill, to be sure. Embodied in the bill, and in particular the Department of Energy funds, is a sum of $57 million earmarked for further design studies of the high Btu coal gasification project under project No. 76-1-b, that hopefully would be built, in time, in Noble County, Ohio, located in my congressional district.

Under project 76-1-b, the Congress has in the past authorized and appropriated funds for the design—phase 1—of two high Btu demonstration plans and the selection of one to proceed to construction—phase 2. The project that I have a particular interest in is being proposed by the Conoco Coal Development Co., and is one of the two proposals currently in what I believe to be needless competition with each other for final approval for the go-ahead for construction under 76-1-b. The other competitor, a project scheduled for placement in Illinois, has equally good technology from a layman's point of view and I believe both projects should be allowed to continue to the demonstration construction stage. We need this type of energy. We have the resources in terms of an energy supply, that being coal and manpower; we now need full funding and the Interior Committee has now helped this project along to that degree.

We have had continued delays by DOE in this process of making a final decision of which one of the two, or both, will be built. As of today, the Agency is maintaining their position of building just one plant and placing the other in the project category of 77-1-b with its future in limbo. Congress, on the other hand, is of the opinion that both should be built as is evidenced by the continued appropriations for design studies and by the continued authorizations by the House Science and Technology Committee. As we will see if this committee is given the chance to present its 1981 authorization bill, there is a definite desire on the part of the members of this authorizing committee to move to the construction phase in both the Ohio and Illinois proposals. Like the Interior Appropriations Committee members, they have the necessary foresight to realize we are in no position to limit ourselves in any way when it comes to increasing our dependence on domestic energy resources rather than those of foreign countries.

The Department of Energy should listen to Congress and understand the time intent of Congress in this matter, rather than deciding for themselves what will and will not be. ●

FEDERAL ELECTIONS COMMISSION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my colleagues here in both Houses of our Congress an article in the July 31, 1980, Roll Call, Capitol Hill's own newspaper, by Bob Mitrovich.

Important and unanswered questions are raised here regarding the rather limp enforcement efforts of the Federal Elections Commission's General Counsel, Charles Steele.

The FEC's General Counsel, Charles Steele, has to date not enforced the FEC Act with respect to the acceptance of corporate contributions by a Member of the other body.

Also, I think that my colleagues should know that Fred Eiland, the FEC press secretary, may have changed the date of the FEC's preparation of a letter to a principal involved in this matter. Mr. Eiland previously told a reporter on the west coast that the FEC prepared a letter to Carey Peck—which was never sent—on August 9, 1979. However, you will note that Mr. Eiland now claims the letter in question was prepared on June 20, 1979.

An excellent Roll Call investigative article follows:

CORPORATE CHECKS UNCHECKED

(By Bob Mitrovich)

The Federal Elections Commission may have allowed the 1978 Senatorial campaign of Sen. Donald Stewart to keep over $1,000 of corporate money, out of a total of $23,150 donated illegally by an Alabama businessman now serving time for embezzling almost $1,000,000 from a California based corporation.

Senator Stewart's office said that he "refunded every part of the money he determined, and was told by the FEC, to be illegal."

James Dennis, the Alabama businessman, contributed $22,000 to the Stewart campaign in the form of 22 $1,000 cashier checks, many sequentially numbered, falsely using the names of other people. Of the 22 checks, 10 had the same address listed, Drawer S in Sumiton, Ala., a small mining town. In addition, Stewart's FEC reports list an occupation for only half of the 22 supposed donors. All of Stewart's other maximum legal donations had full information listed.

Stewart was not the only politician receiving admitted illegal contributions. Dennis also gave $13,000 in sequentially numbered cashiers checks from the same bank to the Congressional campaign of Carey Peck.

Of the checks given to Peck, at least four people are listed as having contributed to both Peck's and Stewart's campaigns. Dennis later said that most of the people who were listed as donors never knew about the checks.

According to an August 10, 1979 General Counsel's report, former General Counsel William Oldaker charged that "all contributions made by Mr. Dennis to federal candidates in 1978 totalling $36,150 ($13,000 for Peck and $23,150 for Stewart) were from corporate funds of Dennis Mining and Supply Co, Inc." However, the FEC only ordered a repayment of $22,000 from Stewart, thus allowing him to keep over $1,150 in illegal corporate money.

In a July 9, 1980 letter to Rep. Robert K. Dornan (R-Calif), who is again being challenged by Carey Peck, the present General Counsel of the FEC, Charles N. Steele, addressed the discrepancy between what the FEC knew and what the FEC ordered Stewart to pay.

"You will note that Mr. Dennis is not among those listed as contributors in the name of other persons. The most serious aspect of the case was Mr. Dennis' use of corporate funds to make contributions in the name of other persons. Our investigation, therefore, was concentrated in this area. Thus the Stewart committee was asked to refund the full $22,000 of corporate contributions which were made in the names of other persons." This letter was released by Dornan and placed into the Congressional Record.

In the letter, Steele does not acknowledge the fact that the FEC knew about all money being corporate, he simply states that Mr. Dennis' name was not on the itemized list of false donors. According to the various campaign laws, all corporate money is illegal, not only the ones listed on the itemized returns.

There are several other interesting aspects to the FEC investigation into Dennis' relationship with both Peck and Stewart. The FEC never conducted an independent investigation to verify whether or not Stewart and Peck repaid the money. According to FEC press spokesman Fred Eiland, the Commission was notified on May 11, 1979 that the Donald Stewart campaign committee returned the $22,000. It wasn't until August 9, 1979 that the FEC was notified that the Carey Peck campaign committee returned the money.

According to Eiland, they then believed the reports of Stewart and Peck because "no one has made an accusation that anyone has lied in the reports . . . In the law there is a provision that willful and knowing violations of the law are a serious offense."

There was, however, enough concern at the FEC to draft a letter to Peck on June 20, 1979 stating that "In the normal course of carrying out its supervisory responsibilities, the commission has conceived that Dennis made contributions in the name of others to your committee . . . The commission requests that your committee repay Dennis for the illegal contributions."

On the same day the Stewart committee was sent a similar letter from the FEC, as was Dennis' lawyer. However, the letter to the Peck committee was never sent. FEC spokesman Eiland argues that "what was the need to turn around on an emergency basis high priority on a matter that wasn't going anywhere? Why should the FEC, with its limited resources, put a high priority on this when we had other matters going that required equal effort?"

Two days earlier, though, the FEC sent a letter to the Peck committee stating that "we noticed entries indicating that you may have received illegal corporate or union contributions . . ." The illegal contribution that letter was referring to was an $80 union donation.

The letter was originally drawn up to Peck, according to Eiland, because the FEC had learned from Dennis' lawyer that Peck had not returned the money. Then, three days later the lawyer reported to the FEC that Peck had repaid the money one-and-a-half months earlier.

Dennis was originally fined $36,000 by the FEC on August 16, 1979. However, the FEC accepted Dennis' counter-offer of $18,000. Eiland explains that the fine was reduced because "the fine had never been agreed to. The law says that both sides must agree to the fine."

In September, Dennis was unable to pay the fine that he negotiated down. He then asked for an extension which the FEC General Counsel termed in a letter dated September 25, 1979 as being "highly unusual. I urge your client, therefore, to satisfy the terms of the agreement."

On October 22, the same General Counsel, William Oldaker, recommended that Dennis be given an extension of 30 days. On October 25, Oldaker notified Dennis' lawyer that a 30 day extension had been granted. "Should Mr. Dennis fail to meet this deadline," the FEC General Counsel threatened, "the commission may institute civil action for relief in the District Court for the District of Columbia."

Dennis did not meet the deadline.

The FEC finally acted to collect the delinquent fine on May 1, 1980, one week after a House Administration Committee hearing on FEC appropriations saw the matter indirectly raised by several Republicans.●

STANDBY GASOLINE RATIONING PLAN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. FISHER. Mr. Speaker, I am pleased that the House yesterday voted in support of the proposed standby gasoline rationing plan. On this issue two things appear clear: the plan is not perfect; but a plan is essential and this is an acceptable one.

I listened closely to the debate on whether the Commerce Committee should be discharged of the resolution to disapprove the plan. Certainly, there are questionable aspects to the proposal. For one, the distribution mechanism of sending the ration rights through the mail and redeeming them at banks will involve inefficiencies and delays. However, given the massive nature of the task in a country with over 100 million automobiles, it is not an unreasonable approach. That should be the guide—not whether it is perfect, but whether it is reasonable under the circumstances.

And the circumstances under which this plan would be implemented with the final approval of the Congress would have to be dire. A 20-percent shortfall in gasoline supplies would be at least four times as large as the Iranian shortfall of last year. It is impossible to forget the utter chaos which that led to in many areas of the country, including my own district. To have that memory, to know of the potential for its repetition in greatly aggravated form, and not to have a rationing plan on the shelf ready to be implemented would be totally irresponsible. In addition, the plan is not forever cast in concrete; it can be modified and improved on the basis of new insights and experience.

Approval of this plan will allow the Department of Energy to proceed with the preimplementation stage. This is good because the preimplementation stage itself, involving ration check production, the formulation of a national vehicle registration file, and the development of guidelines for the States and localities, will take some time. Critics of the plan argued that the way to solve this time lag problem was to delay even further. This seems to me to stand logic on its head. The cure for delay is to get things moving, and that is what the House did yesterday by supporting the proposed gasoline rationing plan.●

HAPPY BIRTHDAY, CALVIN COOLIDGE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. KEMP. Mr. Speaker, July marks the 118th anniversary of the birth of Calvin Coolidge, one of our most clearsighted, levelheaded, and inexplicably maligned Presidents. For some reason, "Silent Cal" receives little credit for the dramatic gains made during his administration: GNP grew by 54 percent, output per manhour increased 66.5 percent, the index of industrial production leaped from 12 to 23, and the New York Times index of industrial share prices quadrupled. The Coolidge bull market did not just happen—it was in large part a direct result of successive, across-the-board reductions in the high marginal tax rates left over from World War I. And it was foresight and courage on Calvin Coolidge's part that brought these dramatic reductions about.

Coolidge was sage enough to understand that high marginal tax rates were holding back the productivity of American workers and capital. As he explained in 1924:

> If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 20 percent, on the fourth day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work the last two days of the week?

He fought against an attempt to increase the progressivity of the Tax Code, saying:

> When the surtax on income of $300,000 and over was but 10 percent, the revenue was about the same as when it was at 65 percent. There is no escaping the fact that when the taxation of large incomes is excessive, they tend to disappear.

And he concluded:

> The problem is to find a (tax) rate which will produce the larger returns * * *. If the rates on large incomes are so high that they disappear, the small taxpayer will be left to bear the entire burden. If, on the other hand, the rates are placed where they will get the most revenue from large incomes, the small taxpayer will be relieved.

Let us stop, then, and remember this man who possessed such an uncommon degree of commonsense. He had the sense to bring about a decade of economic growth with dramatic tax reform; he had the sense to oppose the protectionist Smoot-Hawley Tariff which signaled the start of the Great Depression. We could use his kind of commonsense in the White House again today.

Mr. Speaker, U.S. News & World Report's Marvin Stone has written an excellent piece of the uncommon commonsense of our 30th President. I commend this fine editorial to the attention of my colleagues in the House and Senate.

The article follows:

HAPPY BIRTHDAY, CALVIN COOLIDGE

In the spirit of Independence Day, it is worth noting that Calvin Coolidge was the only President born on the Fourth of July, at Plymouth, Vt., in 1872. Silent Cal, as he is remembered, was a much maligned man. He was neither silent, nor was he weaned on a pickle, as his detractors claimed.

True, he was not lively enough for the critics of the day. Upon his death in 1933, the news was given to Dorothy Parker, who replied: "Coolidge dead? How can they tell?"

True, he was sometimes painfully obvious. After all, he is the man who said: "When more and more people are thrown out of work, unemployment results."

And true, he could be mischievous. When asked one day how many people worked for him in the White House, he shrugged and said: "Oh, I'd say about half of them."

It is left to his fellow Vermonters, and others of perspicacity, to remember Coolidge in a better light. He was a man who understood his countrymen and he suffered few illusions. Some may poke fun at the conventional caricature of Coolidge, but it takes only a sampling of his statements to recognize the good sense of our 30th President. The following is from the record:

"There is no dignity quite so impressive, and no independence quite so important, as living within your means."

"The only way I know to drive out evil from the country is by the constructive method of filling it with good. The country is better off tranquilly considering its blessings and merits, and earnestly striving to secure more of them, than it would be in nursing hostile bitterness about its deficiencies and faults."

"The meaning of America is not to be found in a life without toil. Freedom is not only bought with a great price; it is maintained by unremitting effort."

"Of course we look to the past for inspiration, but inspiration is not enough. We must have action. Action can only come from ourselves; society, government, the state, call it what you will, cannot act; our only strength, our only security, lies in the individual. American institutions are builded on that foundation. That is the meaning of self-government, the worth and the responsibility of the individual. In that America has put all her trust. If that fail, democracy fails, freedom is a delusion, and slavery must prevail."

"If you see 10 troubles coming down the road, you can be sure that nine will run into the ditch before they reach you."

"The world has had enough of the curse of hatred and selfishness, of destruction and war. It has had enough of the wrong use of material power. For the healing of the nations there must be good will and charity, confidence and peace. The time has come for a more practical use of moral power, and more reliance on the principle that right makes its own might."

"Industry, thrift, and self-control are not sought because they create wealth, but because they create character."

"There is no right to strike against the public safety by anybody, anywhere, anytime."

"Prosperity is only an instrument to be used, not a deity to be worshiped."

"People criticize me for harping on the obvious. Perhaps someday I'll write an article on The Importance of the Obvious. If all the folks in the United States would do the few simple things they know they ought to do, most of our big problems would take care of themselves."●

THE U.N. IS ON THE WRONG COURSE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. OTTINGER. Mr. Speaker, I am concerned about the lack of impartiality of the United Nations, particularly in light of recent statements by its Secretary General on the Palestinian issue and Jerusalem.

Mr. Waldheim should be pursuing every effort to bring peace to the Middle East; he must be responsive to all concerned parties. Instead, he has engaged in a clear attempt to alienate and isolate Israel, seemingly in collaboration with the program of the Palestine Liberation Organization terrorists. In the past few days, Mr. Waldheim came down categorically for Israeli withdrawal from all lands in dispute in the Middle East, including East Jerusalem. These statements controvert U.N. Resolution 242 and the Camp David accords.

The United Nations is undermining the peace process and its own capability to encourage negotiations. Why should Israel place its existence in the hands of a Secretary General who has proclaimed his support for its enemies.

Yesterday's New York Times included an editorial which I believe ably addresses this issue. I commend the editorial to the attention of my colleagues:

WORDS THAT WEARY MR. WALDHEIM

Secretary General Waldheim of the United Nations says there can be a Middle East settlement only if "foreign forces"—guess who—are removed from the "occupied territories, including East Jerusalem" and if Palestinian rights are then respected. And he says those rights mean "self-determination, including statehood." Any resemblance between his program and the demands of one party to the conflict was apparently coincidental. For when Israel accused Mr. Waldheim of siding squarely with the Palestinians, he replied:

"We are playing here with words. What are legitimate rights? The right of self-determination. This implies statehood."

Tired of playing with words, Mr. Waldheim plays with fire. Tired of diplomacy, he joins the combat. Like Menachem Begin and Yasir Arafat, he proclaims his own reality and simply ignores what is difficult.

Addressing the Arab League, Mr. Waldheim found it easier to solve the riddle of West Bank sovereignty than to take note of the State of Israel, with a legitimacy and history of insecurity at least as great as the Palestinians'. He was sure Israelis do not belong in East Jerusalem without bothering to suggest who might run it in their place, or how. Mr. Waldheim may find it politically safe (or, as the Israelis unkindly suggest, even rewarding) to design a solution that a 30-year war has failed to achieve. We find his comments sadly typical of the U.N.'s weariness with resolving conflicts. It may be popular in a mock parliament to yield to the passions of the majority, but outside the glass house it only assures the U.N.'s irrelevance.

Will such one-sided declarations deter Israel from its own foolish and dangerous rush to move the Prime Minister's office across town to East Jerusalem? Will the Israelis be moved out of much of the West Bank if their security is then entrusted to this same United Nations? Does Mr. Waldheim expect anything but Israeli contempt for the General Assembly's demand that a plan almost identical to his be accepted by Nov. 15? Can the Israelis have any confidence in negotiations organized by arbiters who proclaim in advance what the results must be?

It is indeed a subtle game to draw distinctions between frontiers and security, legitimacy and recognition, self-determination and statehood, occupation and liberation. But for different parties in the Middle East, the distinctions represent the essence of a tragic conflict. These are word games that diplomats are paid to play, and only warriors dare to ignore.●

AFRICAN DEVELOPMENT FOUNDATION

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, I support H.R. 6942, the International Security and Development Cooperation Act of 1980, which authorizes appropriations of $5.22 billion for military, bilateral, and multilateral economic and humanitarian assistance programs, refugee assistance, the Peace Corps, and related programs.

For some time, the Congress as well as the general public have been extremely concerned regarding U.S. foreign policy.

Foreign aid, both military and economic, is the best tool for addressing our concerns. It is my contention that helping countries by providing economic and developmental assistance and humanitarian assistance to enhance peace and political stability in Third World countries as well as those elsewhere is fundamental and contributes to our everending search for world peace.

I especially want to speak to the need for establishing an African Development Foundation. Title V of this legislative measure would establish this foundation which is modeled on the Inter-American Foundation to provide small amounts of aid for locally initiated and locally run development projects in Africa. Five million dollars has been earmarked for these projects. There is reason to believe that the United States had turned a new leaf in our relations with Africa. The African Development Foundation fills a gap in African assistance that is long overdue. The support of such development projects is a highly visible progression in America's African foreign policy whose significance may not be clear to us now.

On a continent with 20 of the world's 31 poorest nations, development is accelerated by initiatives that filter up as well as down the economic strata. The nascent proposal for ADF is 4 years old, but its passage now is propitious as African economies reel from droughts and oil deficits.

The ADF concept has been proven successful in Latin America, and the warm reception to the idea by Africa's leaders speaks to a promising potential there. The realization of this potential should bar any dissent to future expanding funding for this noble project.

We, of the United States, have the tendency to react rather than take initiatives and when we do take initiatives, our refusal to follow through with concrete support measures is apparent. You need only compare the levels of commitment to peace in the Middle East—$1,811.5 million as compared to $159 million in economic support to African nations. When we consider the fact that the front line states—Zambia, Tanzania, Mozambique, Botswana, and others have been leading the cost of the conflicts in southern Africa with hardly any support from the outside world, we see their fragile economies on the brink of disaster. Although our efforts to bring peace to this troubled region depend ultimately on their cooperation, we seem unwilling to commit the resources necessary to relieve some of their suffering. We must back our commitment with concrete acts. Thus far, our efforts in Africa have brought great expectations, but without nurturing these promises with anything substantial and concrete. We have a chance to do that through the African Development Foundation. This measure gained unanimous support from the full committee. Therefore, I fail to understand why the administration chooses to oppose title V. This would indeed raise some pragmatic, as well as political questions, when in the President's statement on March 27, 1980, regarding, "The New Situation in Zimbabwe" he stated:

> The realization of an independent Zimbabwe under a democratic constitution following free and fair elections was one of the primary goals of the Administration's policy in southern Africa. We undertook to offer the leaders and the people of Zimbabwe an opportunity to realize their aspirations through a peaceful, negotiated settlement. We wanted to create an alternative to armed struggle. Through what began as a joint U.S.-U.K. negotiating effort and ended in a brilliant and daring U.K. negotiating effort, our objectives were attained.
>
> The statistics are impressive: A record 2.7 million people, 94 percent of the electorate, voted. Robert Mugabe's ZANU/PF (Zimbabwe African National Union/Patriotic

Front) party won a clear-cut majority of 57 parliamentary seats, obtaining 63 percent of the vote. Joshua Nkomo's Patriotic Front Party won 20 seats (24 percent of the vote), mostly from the Matabele area, and Bishop Muzorewa's United African National Council won but 3 seats, (8 percent of the vote). The other parties were shut out.

Few predicted that Robert Mugabe's appeal would be as strong as it was. His strength resulted from various factors, including:

His image as a nationalist who organized the principal and most successful fighting force;

His identification with the majority Shona tribal group;

His ability to project himself as a winner; and

Muzorewa's relatively lackluster performance during his period in office and his close identification with the white and with South Africa.

In the past, Prime Minister Mugabe was labeled a dedicated Marxist in many circles. His former rhetoric has on occasion been somewhat strident. However, I believe we should judge him in an African context and deal with him both on his presently stated intentions and his future actions. As the leader of a guerrilla, nationalist movement, he accepted assistance from wherever he could obtain it. The Soviet Union did not forge a close relationship, principally because of Mugabe's insistence on being independent of outside powers and also because the U.S.S.R. was a staunch backer of Nkomo and ZAPU (Zimbabwe African People's Union).

It is impossible, of course, to predict the exact course Mugabe will take. However, he has adopted a moderate and conciliatory approach in recent days on this, and his initial steps in the postelection period have been encouraging:

His recognition of the important role whites play in Zimbabwe and his desire for them to remain;

His intention to work within the free enterprise system and to bring changes gradually so as not to jolt the basic productivity of the economic structure; and

His plan to concentrate on under-utilized land for redistribution for Africans and leave highly productive European land intact.

The reaction throughout Black Africa to developments in Zimbabwe has been positive. Zimbabwe is expected to become a member of the United Nations, the Commonwealth, the OAU, and the front-line states soon. The Prime Minister has also stated his intention to pursue a nonalined foreign policy, and that he will seek good relations with all Zimbabwe's neighbors.

Through his public acknowledgement that South Africa "is a reality," Mr. Mugabe indicated he will seek to work out a pragmatic relationship with that country, perhaps along the lines which now exist between Mozambique and South Africa. In this connection, however, Mugabe has made a distinction between not allowing Zimbabwe to be used as a forward base for military activities directed against the republic and opposition to apartheid which he has forthrightly condemned.

The frontline countries, especially Zambia and Mozambique, have a real interest in insuring that things work out well in Zimbabwe. These states suffered enormously from the Rhodesia conflict and are now anxious to concentrate on nurturing their own national development.

The new Prime Minister understands that to succeed, his government must enable the people of Zimbabwe to improve their own well-being. He knows that his government must produce results and he is looking to us and others in the West to help. He has already spoken of his high esteem for the United States and his desire to form genuine bonds of friendship with America.

One of our first steps to assist the new process has been a $5 million contribution to the U.N. High Commissioner for Refugees for refugee repatriation. We also plan to get underway a modest, but highly visible, assistance program as soon as possible after independence. We have already sent a congressional notification on reprograming $2 million from fiscal year 1980 regional economic support funds. While we will have to work out details with the new government in Zimbabwe, these funds are intended for use for rural rehabilitation, principally for health units in the "tribal trust lands."

We are examining how we can further expand the amount of our assistance since the short-term need is so great. Our review is not yet complete, but we hope to be able to increase our commitment during this fiscal year.

We contemplate that these resources will be drawn from the southern African regional economic support fund account. We have not yet made any specific determination as to amounts, but are very much aware of this committee's recommendation and would hope to do even better. The utilization of these funds, of course, will depend upon many factors, including how the new government sorts.

A stable society in Zimbabwe, which can effectively accommodate all of the races living there, can also provide an important model to South Africa. There are already some signs that those South Africans who were initially perturbed are taking a second look at Mugabe's stunning victory and are beginning to draw some conclusions for their own internal situation. There could be a greater sense of urgency in promoting domestic reform. There are also potential pitfalls to be sure; but there are likewise great opportunities which we must seize. Our adversaries will seek to promote division and turmoil and to exploit any openings we offer them.

We must deny them such opportunities. Instead, we must lay aside our own past differences over our policy toward that area of the globe and join in recognizing that there is now an entirely new situation in Zimbabwe. To delay could be highly detrimental to our interests. We are on the verge of a widely accepted legal independence and government by majority rule for Zimbabwe. We, the Congress, and the executive branch, must work together with the British and other concerned states in consolidating this impressive achievement.

By Mr. Carter's own admission and definition in terms of the struggles of Africa for freedom, we must recognize what potential is his within its context. Any misconception will prove disastrous for our own interests as well as for Africa, should we allow ourselves to turn our backs on our sister nation.

Therefore, I urge full support of title V, the Africa Development Foundation. Of the many cosponsors for this measure, and I am sure we all cannot be wrong in our judgment nor can those who supported this in recent hearings. For many years people have asked me how my interest in Africa affects the lives of my constituents in the Seventh Congressional District. While the answer to this question may be obvious to people with a personal interest in Africa, not everyone is aware of just how important America's relations with Africa have become over the years. African countries have regained their independence and are now free to deal with whomever they choose. Social and economic ties, as well as political realities, have brought America and Africa even closer together and today we have an opportunity to knot those ties by giving the African Development Foundation a chance.●

THE DRAFT IS BACK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DERWINSKI. Mr. Speaker, the Selective Service System has now begun registration of men. The Pioneer Press publications, serving suburban Cook County, Ill., carried in their July 23 edition a public service editorial concerning information on draft registration and the regulations pertaining to signing up for the draft. As I believe this editorial provides an excellent community service to the citizens in the area that I represent, I wish to commend the editorial staff of the Pioneer Press, and insert the editorial into the Record for the Members' attention:

Like It or Not, the Draft Is Back

Draft registration got off to a fumbling start Monday as 20-year-olds were directed to their local post offices to put their names onto the lists.

In Maywood, 17 young men had signed up by noon, a relatively enthusiastic response in comparison to that of other villages.

Registration will continue to be a popular political football, eagerly kicked around by office seekers of all levels of government.

The football is all the more kickable now that the courts have grafted registration onto another popular battle cry, women's rights. A federal court ruled that registration was unconstitutional because it meant unequal treatment of men and women.

Equal Rights Amendment opponents now can claim this ruling proves their contention that we don't need ERA, since the law is already protecting women's rights. But if the Supreme Court affirms registration in its present form, ERA supporters can claim this proves that unequal treatment of men and women is embodied in the highest law of the land.

All this makes for interesting politics. But the real significance of draft registration is much closer to home. If the U.S. Census is any indication of the willingness of the population to volunteer information for the Big Computer in Washington, D.C., filling the draft rolls will be about as easy as pulling teeth.

The registration mandate was further complicated by confusing signals from our nation's courts concerning the draft. First, a federal court ruled registration illegal because it did not require the registration of women. Later, a justice of the Supreme Court ordered the registration be continued anyway, pending further action by the high court.

Anti-draft activists jumped on this opening. Jay Miller of the American Civil Liberties Union said the mixed judicial signals have provided an easy argument to those who would protest re-institution of the draft by not registering.

In this case, as in all cases, beware of free legal advice. The ACLU is gung-ho on fighting draft registration and would like nothing better than a massive legal brawl based on the confusion that has clouded the registration picture in recent days.

But before swallowing the ACLU line, consider this: The penalties are stiff for those who don't register. Failure to register is a felony that carries a maximum penalty of five years in prison and/or a $10,000 fine.

The highest court in the land has said registration should proceed. Like it or not, if you're 20 years old, you are bound by law to sign up for the draft this week. Next week, unless there are more developments on the legal front, men born in 1961 must register.●

THE FORCEFUL ANNEXATION OF THE BALTIC STATES: 40 YEARS LATER

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DASCHLE. Mr. Speaker, I feel it is very important to acknowledge that 40 years has passed since the Soviet Union invaded, conquered, and subjugated the brave people of the Baltic States. During and after this period many of the citizens from this region migrated to the United States. A sizable contingent of them have settled in Sioux Falls, S. Dak., where they have continued to work for a free homeland while at the same time contributed greatly to the prosperity, culture, and well-being of Sioux Falls and the State of South Dakota.

I am proud that our Government has never accepted the validity of Soviet annexation of the Baltic States and that the Congress has recently passed a joint resolution expressing denial of Soviet citizenship claims over the people of the Baltic States.

The world has seen a repetition of these events in the years since the Baltic States were illegally and immorally annexed. Yet at great personal risk, patriots in Lithuania, Latvia, and Estonia continue to resist assimilation into the Russian culture. It is my hope that someday the Russians will be forced from this area and that freedom and independence will again flourish in this region of the world.●

A FRIEND IS GONE—A TRIBUTE TO WILLIAM J. BAROODY, SR.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. KEMP. Mr. Speaker, Monday night the world lost one of its true giants of modern political thought—my good friend, William J. Baroody, Sr.

Bill Baroody rose from humble beginnings—he was the son of a Lebanese stonecutter—to preside over the building of the American Enterprise Institute into the respected policy review "think tank" it is today. Bill joined AEI in 1954 as its executive vice president. At that time, it was a small organization, with an annual budget of $80,000 principally funded by corporate donations. Under his guidance, AEI gradually lost its lightweight image and became known internationally as a serious, intellectual, and scholarly institution with an annual budget of $8 million, primarily funded by major national foundations.

Bill Baroody was an adviser to Presidents and Cardinals. His advice was sought after by Democrats and Republicans, liberals and conservatives alike. I admired him greatly, both for his depth and wisdom, and for his personal integrity. In my years in the Congress, I have benefited often, and always greatly, from his friendship and counsel.

Mr. Speaker, the Washington Star this evening paid a moving tribute to William J. Baroody. I would like my colleagues to read it, for Bill Baroody was truly a force for good who will be greatly missed.

WILLIAM J. BAROODY

It is not often that a single career and personality can combine vital attachment to tradition with creative anticipation of the future. It was among the distinctions of William J. Baroody, the former head of the American Enterprise Institute, who died Monday, that his career and personality did just that.

The private man was pure American myth. A poor boy from an immigrant family—his father was a stonecutter from Lebanon—he worked his way through college and, by middle age, had risen to a position where presidents of the United States were listening to his advice.

He was a patriarch emotionally centered in a large, energetic family that kept growing; when he died, the count on grandchildren was up to 37. He was gratified to have his oldest son, former White House aide, William Jr., take over as head of AEI when he retired two years ago. He was a profoundly religious man, whose preoccupations in the world of politics and intellectual controversy never got in the way of active participation in the affairs of the Melchite Greek Catholic Church.

At the same time, this man of values a good many people find old-fashioned if not downright anachronistic had an extraordinarily cool and discerning eye for trends. He decided back in the 1950s that New Deal dogma on politics and economics had run out of steam, leaving a clear track for a vigorous new kind of conservatism. As one of his long-time colleagues put it, "He was always the first to spot a vacuum and move in; sometimes he would create a vacuum to move into."

Starting with a bit of corporation money and a few lively minds, including that of Nobel laureate Milton Friedman, he began to build AEI into the major American think tank it is today. At first, it was considered too right-wing to be taken seriously by the intellectual mainstream. Recruiting more and more dynamic scholars, conducting long-range studies, publishing magazines and books, sponsoring debates over critical issues, bringing in distinguished foreign thinkers and political figures, Mr. Baroody maneuvered AEI front and center to a position where it is financed by leading foundations and respected by old opponents as well as by a widening—and bipartisan—circle of new friends.

In the process, Mr. Baroody became a political force in his own right, recognized as an influence on the policies of both the Nixon and Ford administrations and on thinking in the neo-conservative wing of the Democratic party as well. It was thanks to him, among others, that the term "neo-conservative" became identified with fresh ideas and possibilities of power.

His presence will be missed in Washington and across the nation, the more so because of its continuing life in the institution he built.●

TESTIMONY ON S. 450

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MOORHEAD of California. Mr. Speaker, on behalf of myself and my colleague from Virginia, Mr. PAUL TRIBLE, I wish to include the remarks of William R. Bright, president of Campus Crusade for Christ, who recently testified before the House Judiciary Subcommittee on Courts, Civil Liberties, and Administration of Justice regarding the matter of school prayer. The testimony is as follows:

STATEMENT ON S. 450 BY WILLIAM R. BRIGHT

Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you today to explain why I think that it is not only right and proper but a matter of genuine urgency that Senate Bill 450 be brought before the members of the House of Representatives for their consideration and action.

As I believe you understand, the ultimate starting point for what I will say this afternoon is the firm belief that God is, and that He is as the Bible reveals Him—a Creator of incomprehensible power and majesty but equally a Divine Father Who hears prayer; loving and merciful, but just; eager to share Himself with us, but unwilling to force us to accept Him.

In other words, the God of Abraham, Moses, and David; of Simon Peter and Paul of Tarsus; of Augustine and Luther; of the Pilgrims, and the Puritans, of George Washington, the "Father of Our Country," of Abraham Lincoln, "the Great Emancipator," and of so many, many others who helped establish this nation and have helped sustain it through the last two centuries. We often refer to Him in song as the "God of our fathers," and so He certainly has been.

I believe that the evidence of His guidance and protection to our country since its earliest days is overpowering. A great many of the founders of the nation, including some who were not Christians, were keenly aware of a Divine Hand shaping the course of events during those critical early years and decades. Lincoln was equally aware of it a half century later, during our next great crisis. Who could have lived through World War II and not sensed a Divine Friend at work to keep alive freedom and the hope of freedom?

I believe that God has blessed our land because Americans have, on the whole, acknowledged and honored Him from our earliest days. Admittedly, we have often made mistakes and broken His laws. Yet there has been a deep consensus that, although we fall short of God's standard, there is a standard, established by Him, by which we must measure ourselves. And again and again, Americans have turned back toward God in individual and national repentance and received healing, forgiveness, and a fresh start.

But it is the sad conclusion of many that our relationship with that God of our fathers is in greater peril at this moment than at any previous time in our history. For many, the depth of our rejection of God and the rich heritage of our nation's Judeo-Christian values was symbolized tragically in the 1963 decision of the U.S. Supreme Court in the case of *Abington Township* v. *Schempp*. This ruling had the effect of virtually banishing from the public schools all mention of the Divine Father whom we acknowledge on our coins and in so many other areas of public life.

I am one who believes that our turning away from God in our prosperity—and especially our rejection of Him in this very basic way—has brought upon the United States the same chastening which the ancient nation of Israel so often experienced when the Israelites had turned aside from Him. I believe that the evidence is overwhelming that we in this country are under God's judgment, and that it is altogether likely that much worse troubles lie dead ahead of us if we do not leave the present course we are following.

The situation cries out for wisdom on many fronts, but among the most urgent, I am certain in my heart and mind, is the area of voluntary prayer in the public schools. It is an issue, I submit, that our most representative national body must not brush aside or shrink from.

NATION'S JUDEO-CHRISTIAN HERITAGE

Let me return to the matter of the country's Judeo-Christian heritage. In these days when the religion of humanism dominates so many of our textbooks and classrooms, little attention seems to be given to the many evidences of God's hand in our beginnings as a nation: evidences that were, however, well known not only to the generations involved but to the succeeding generations until comparatively recently.

It is, for example, not generally known that the diaries of Christopher Columbus make it clear that he interpreted his first name as "Christ-bearer" and undertook his voyages in search of new lands in which to establish the gospel of Jesus Christ. One hundred four of the first 119 colleges founded in this country—including outstanding institutions such as Harvard, Princeton, Dartmouth, Yale, and Columbia—were established largely for the purpose of acquainting young scholars with the knowledge of God and the Bible upon which all other branches of wisdom and knowledge rest. During the colonial period, I am informed, 70 percent of the graduates of Harvard entered the ministry.

A great many of the Founding Fathers were men of God, and the consciousness of Him is explicit in such documents as the Declaration of Independence. Two hundred five years ago this month—on July 20, 1775—the Continental Congress set aside the first national day of prayer and fasting, and General George Washington enforced it throughout the army. Later in the war a second such day of fasting and prayer was set aside when it was sensed that the soldiers were being taken over by brash self-confidence and pride rather than looking to God for strength and ultimate protection.

Washington himself was among those of our early leaders who unashamedly honored and feared God. It is reported that, for many years of his adult life including the period of his national leadership, it was his custom to begin and end every day on his knees in Bible-reading and prayer. Those of you who have had the opportunity to read his personal prayers, which have been preserved by historians, will have sensed the deep faith of this man whose contribution to our nation was so great.

One of the most striking indications of the thinking of the Founding Fathers about God's part in the establishment of the United States came in 1787. The scene was Philadelphia, where the Constitutional Convention was in session. The month was May. Debate and disagreement over the shape of the Constitution had become increasingly bitter. The New York delegation had already gone home in disgust, and it appeared that the convention was on the verge of a collapse that could have been catastrophic for the struggling new nation.

It was at this point that Benjamin Franklin rose to his feet. Franklin was then 81 years old, a man honored both in his homeland and in Europe as a leader in science, in business, in diplomacy. A man not known particularly for religious convictions. Some 40 years earlier he had, in fact, good-naturedly turned aside the efforts of his friend, the great preacher George Whitefield, to convert him to Christianity.

Franklin's words were of historic significance then, and they are worth repeating in our own historical context, I think.

Addressing the chairman of the convention, George Washington, and the other members, he reminded them of something that they had forgotten in the heat and controversy of the moment.

"In the beginning of the contest with Britain," he said, "when we were sensible of danger, we had daily prayers in this room for Divine protection. Our prayers, sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a superintending Providence in our favor . . . and have we now forgotten this powerful friend? Or do we imagine we no longer need His assistance?

"I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth: 'that God governs in the affairs of man.' And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?

"We have been assured, sir, in the Sacred Writings that except the Lord build the house, they labor in vain that build it. I firmly believe this. I also believe that, without His concurring aid, we shall succeed in this political building no better than the builders of Babel; we shall be divided by our little, partial local interests; our projects will be confounded; and we ourselves shall become a reproach and a byword down to future ages. And what is worse, mankind may hereafter from this unfortunate instance, despair of establishing government by human wisdom and leave it to chance, war, or conquest.

"I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven and its blessing on our deliberation, be held in this assembly every morning before we proceed to business."

Peter Marshall and David Manuel report in their excellent book, "The Light and the Glory," that Franklin's speech and the sober reflection in the silence that followed marked the turning point for the convention. With their priorities rearranged by Franklin's startling admonition, the delegates, nearly all of whom were believers of one kind or another, got on with the business of crafting a new Constitution, together with what has come down to us as the Bill of Rights. Thank God for their work, and His role in it.

Acknowledgment of God's sovereignty in human affairs and His guidance and protection to this unique young nation did not end with the colonial period. At one of the darkest moments in our history, President Abraham Lincoln proclaimed another national day of fasting and prayer. The initiative had come from the Senate. The date was April 30, 1863, and the meaning of the language was unmistakable.

"Whereas," the proclamation opened, "the Senate of the United States, devoutly recognizing the Supreme authority and just government of Almighty God in all of the affairs of men and nations, has, by a resolution, requested the President to designate and set apart a day for national prayer and humiliation;

"And whereas it is the duty of nations, as well as of men, to own their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth announced in the Holy Scriptures and proven by all history that those nations only are blessed whose God is the Lord . . ."

A later passage reads, "We have been the recipients of the choicest bounties of heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth and power, as no other nation has ever grown. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strenghtened us, and have vainly imagined in the deceitfulness of our hearts that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God who made us!"

But it was not just those who occupied the nation's high offices who were mindful of God. None perceived the soul of the United States and its people more accurately than the distinguished French historian Alexis de Tocqueville, who wrote in his classic study, "Democracy in America":

"I sought for the greatness and genius of America in her commodious harbors and her ample rivers; and it was not there; in the fertile fields and the boundless prairies, and it was not there; in her rich mines and her vast world commerce, and it was not there. Not until I went into the churches of America, and heard her pulpits aflame with righteousness, did I understand the secret of her genius and power. America is great because she is good, and if America ever ceases to be good, America will cease to be great!"

BIBLICAL PRECEDENTS

Whether or not they knew it, both Benjamin Franklin and de Tocqueville were on firm biblical ground when they warned that, apart from God, America would founder and break apart. Moses spoke in such the same spirit to the people of Israel just before he turned over the leadership to Joshua and left them, after having struggled for them and with them for more than 40 years of their wilderness experience.

Moses told them of the land of plenty that lay ahead of them, and he assured them that the God of their fathers would richly bless them if they remembered His goodness to them and honored Him and kept His laws. "The Lord your God," Moses told them, "is bringing you into a good land of brooks, pools, gushing springs, valleys, and hills; it is a land of wheat and barley, of grape vines, fig trees, pomegranates, olives, and honey; it is a land where food is plentiful; and nothing is lacking; it is a land where iron is as common as stone, and copper is abundant in the hills." He could have been describing our own land, the parallel is so close.

"When you have eaten your fill," he continued, "bless the Lord your God for the good land He has given you. But," he warned, "that is the time to be careful! Beware that in your plenty you don't forget the Lord your God and begin to disobey Him. For when you have become prosperous and have built fine homes to live in, and when your flocks and herds have become very large, and your silver and gold have multiplied, that is the time to watch out that you don't become proud, and forget the Lord your God who brought you out of slavery in the land of Egypt . . . But if you forget about the Lord your God and worship other gods instead, and follow evil ways, you shall certainly perish, just as the Lord has caused other nations in the past to perish. That will be your fate, too, if you don't obey the Lord your God."

Later in that same charge to the tribes of Israel, Moses returned to the same theme but with even greater explicitness: "If you fully obey all of these commandments of the Lord your God (such as the Ten Commandments)," he said, "God will transform you into the greatest nation in the world . . . The Lord will defeat your enemies before you . . . The Lord will bless you with good crops and healthy cattle, and prosper everything you do when you arrive in the land your God is giving you.

"He will change you into a holy people dedicated to Himself; this He has promised to do if you will only obey Him and walk in His ways. All the nations of the world shall see that you belong to the Lord, and they will stand in awe of you."

But, he warned them again, "if you won't listen to the Lord your God and won't obey these laws I am giving you today, then all of these curses shall come upon you: Curses in the city; curses in the fields; curses on your fruit and bread; the curse of barren wombs; curses upon your crops; curses upon the fertility of your cattle and flocks; curses when you come in; curses when you go out.

"For the Lord Himself will send His personal curse upon you. You will be confused and a failure in everything you do, until at last you are destroyed because of the sin of forsaking Him. He will send disease among you until you are destroyed from the face of the land you are about to enter and possess. He will send tuberculosis, fever, infections, plague, and war. He will blight your crops, covering them with mildew. All these devastations shall pursue you until you perish."

Moses was greatly honored among his people. His warning was received with respect, and, the Bible says, those who heard it followed it and kept the laws of God. But in later generations they fell away from the faith of their fathers just as we in America have done, and turned to the worship of false gods. And, as He had said He would, the Lord chastened them. It fell to the prophet Amos to be the voice of rebuke to Israel during such a time in her history.

Listen to his words in the fourth chapter of the Old Testament book that bears his name:

Addressing his countrymen, he says, "Go ahead and sacrifice to idols at Bethel and Gilgal. Keep disobeying—your sins are mounting up. Sacrifice each morning and bring your tithes twice a week! Go through all your proper forms and give extra offerings. How you pride yourselves and crow about it everywhere!

" 'I sent you hunger,' says the Lord, 'but it did no good; you still would not return to me. I ruined your crops by holding back the rain three months before the harvest. I sent rain on one city, but not another. While rain fell on one field, another was dry and withered . . . I sent blight and mildew on your farms and your vineyards; the locusts ate your figs and olive trees. And still you wouldn't return to me,' says the Lord. 'I sent you plagues like those of Egypt long ago. I killed your lads in war and drove away your horses. The stench of death was terrible to smell. And yet you refused to come. I destroyed some of your cities, as I did Sodom and Gomorrah; those left are like half-burned firebrands snatched away from fire. And still you won't return to me,' says the Lord.

" 'Therefore I will bring upon you all these further evils I have spoken of. Prepare to meet your God in judgment, Israel." Yet in the very next chapter, Amos repeats God's ancient entreaty to his people: "The Lord says to the people of Israel, 'Seek me—and live.' "

I quote from the Holy Scriptures at some length in the knowledge that the vast majority of our fellow citizens at all levels of responsibility reverence the Bible and believe, as I do, that it is God's Word to man—not simply some interesting stories and poems handed down almost by accident from ancient Hebrew history and literature. (According to a recent Gallup Poll, 96 percent of the American people say that they believe in God. Eighty-four percent, I am informed, say that they believe that the Ten Commandments are still relevant, and more than 60 adults identify themselves as born-again Christians. That figure does not include, of course, the additional millions of Christian young people.)

It is because I do take them so seriously that I felt compelled to draw the committee's attention to the point which the Scriptures make not once but repeatedly that, although God chose out the people of Israel and was eager to bless them individually and corporately, He required that they honor Him and obey His laws . . . that He warned them of His chastening if they turned away from Him . . . and that, when in their prosperity they did in fact turn away from Him, He did chasten them as He had warned that He would.

I am fully aware that these passages from the eighth and twenty-eighth chapters of Deuteronomy and the fourth chapter of Amos were spoken and written for the people of Israel. But I deeply believe, as do the majority of other Americans, that the principles which they lay down apply to our beloved nation as well—and probably to any other nation, for God loves all and, as the apostle Peter writes, "God is not willing that any should perish but that all should turn to Him." But I think that they certainly apply to our nation because God was so clearly involved in the founding of this country and has blessed us so richly in so many ways in the intervening centuries.

THE PRESENT SITUATION

It has been 35 years since, as an adult and an agnostic, I became a follower of the God of the Bible through the grace of the Lord Jesus Christ. It has been almost 30 years since my wife and I sold our business interests and established an interdenominational ministry on the campus of UCLA, a ministry that now works with millions of people across America and in 123 countries and protectorates on every populated continent.

Since that time, to the best of my ability to do so, I have tried to be a witness for Him as I believed that I was called to be. Above all during the almost three decades of my ministry, I have been keenly aware of God's overwhelming love and have preached that message above all other messages.

But I must tell you that for the last few years I have felt increasingly that those of us who believe in the God of the Bible and try to understand and follow Him must remember that, while His love is unfailing, His determination to chasten His people when they turn aside from Him is also a part of His character. And I believe that we a nation are experiencing God's judgment, and will face even more severe judgment—and, as with ancient Israel, the actual loss of our freedom—if we continue to disobey Him and follow after false, manmade gods.

For the last several decades, in particular, I feel that we as a nation and as individuals many of whom call ourselves followers of God have more and more turned away from God's Word as contained in the Scriptures and have begun to accommodate ourselves to new religions. One of the more obvious is the god of materialism, a very attractive fellow indeed in times of prosperity. There are the political gods of communism, nazism, and excessive nationalism. It often seems that we have made pleasure a god, and immediate sexual gratification in particular.

Perhaps the most subtle and thus most dangerous of them all, though, is the god of self: of believing that man is himself the ultimate answer to his questions and problems and hopes and dreams. This philosophy is summed up in what has become known as humanism, a way of looking at the world to which I myself subscribed throughout my youth and young adulthood both as a student and later as a member of the faculty of a great university.

There are some obvious attractions to humanism. It dismisses God from consideration, thereby making it apparently unnecessary to wrestle with spiritual questions that may be hard to resolve. It carries vibrations of altruism in some instances, and there is nothing wrong—and a great deal right—with a desire to relieve suffering and need. Both the Old and the New Testaments are filled with admonitions to believers to love and care for the needy, if for no other reason than that each one of us is part of His creation and individually precious in His sight.

But the most important change that humanism brings to a Judeo-Christian system of values is that, by removing God, it banishes the idea that there is a divine standard of right and wrong to which we are all accountable. Moral values cease to be absolute, under this approach, and become relative to the situation. I am sure that you are familiar with the expression, "situation ethics," which was in especially common usage in the 1960's. Today the phrase is less often heard, but the concept continues to eat away at the very foundation of the biblical value system on which this nation was founded.

Over the last several decades those who espouse this philosophy—who are threatened and affronted by the concept of a supernatural God to whom all men owe first allegiance—have slowly permeated many crucial areas of our national life. I am not suggesting a conscious conspiracy but rather a kind of natural infiltration based on a far-reaching secular religion. Their influence has been powerfully felt, and continues to be, in such areas as the arts, the news media, and, increasingly, in government and the courts.

But there is probably no single area of our national life that has so attracted those of humanist views as has education at all levels—and where the influence of this man-made religion has been so deeply felt. It is easy to see why education would be both a conscious and an unconscious target of those who wanted to banish the idea of God and the supernatural from the nation's way of looking at the universe and one another. For it is importantly in the schools, especially the public schools, that the values of the new generation are formed. Those who want to change the country would be only wise to try to take over the responsibility of shaping the way the nation's young people think.

As the influence of the religion of humanism has insidiously spread through our national life, the acid has begun eating away at the integrity of the family and of man/woman relationships outside marriage; at the vitality of the church's witness; at the fabric of trust and honesty at all levels of society.

Although these trends were in small measure evident before the Supreme Court's school prayer decision in 1963, it is my strong conviction that this decision by the highest court in the land offended and insulted the "God in whom we trust" and precipitated His chastening and judgment upon our land which continues to this tragic hour of our nation's greatest crisis.

In my view, the evidence is exceedingly strong that that decision and its rippling effects were catastrophic in their impact on our society. I believe that, after God had so greatly blessed this nation, the virtual rejection of the Lord from the public schools which had been born in the cradle of the church was especially affronting to God, and that He began immediately to judge and chasten us both for what the action was and for what it symbolized about the spiritual direction of our country.

Consider some of the developments, or "plagues" if you will, which followed that decision: Within a short time, President Kennedy had been assassinated. It would be easy to say, "Well, that would have happened anyway." The Vietnam War began to accelerate, and it was only a couple of years before the Gulf of Tonkin Resolution and the massive American build-up in Southeast Asia. "Well," one could say, "that would probably have happened anyway."

The drug culture began to escalate rapidly. Crime accelerated. American families began disintegrating at an ever-faster rate as divorce rates began to rise dramatically. Racial conflict in cities turned bloody and whole blocks were burned. Campuses became battlegrounds. Senator Robert Kennedy was assassinated, then Dr. Martin Luther King.

Sexual morality crumbled rapidly. The new doctrine of "If it feels good, do it," became extremely widespread. It was reflected in part in drastic declines in respect for chastity, and in soaring rates of teen-aged pregnancy and venereal disease. Economic problems, military problems, energy problems began to mount to the point that they are today at crisis levels. Abuse of trust has become commonplace.

The Supreme Court opened the floodgates to legalized abortion-on-demand, and, in the name of women's rights to control their bodies, the murder of the unborn became an accepted, legally respectable form of birth control! We have been horrified at the genocide in Cambodia, where several million people have either been allowed to starve or, in many cases, simply murdered. A generation earlier the world was shocked and appalled at the systematic murder of some six million Jews by Hitler. And yet within less than a decade some eight million preborn infants—human lives in every sense but independent life support—have been slaughtered in our own country through abortion.

I shudder for America when I read what the Ten Commandments say about murder, what the Proverbs say about the shedding of innocent blood, and what Jesus had to say about children. I am afraid for our nation. I fear His indignation, His chastening, and His judgment.

It is very striking, I believe, how many of our nation's searing problems are directly related to the young, and how many of these have accelerated rapidly since the Supreme Court ruling: Drug and alcohol abuse and addiction which have spread from the streets through the universities, colleges, high schools, and even junior high schools and are now, incredibly, making serious inroads in the elementary schools. There has been a drastic decline in order and discipline in the schools, coupled with a dramatic rise in violence by students against teachers. Education itself is a casualty in many of our nation's schools. The upsurge in teenage pregnancies, venereal disease, shoplifting, vandalism, and even serious crime is well documented.

Most tragic of all: the fact that suicide has become the second largest cause of death among the young. A study conducted at Wayne State University and the University of Massachusetts reported findings that indicated that 15% of the students had attempted suicide. During the past two decades the suicide rate for young people has nearly tripled. These are grim statistics that make you want to cry.

IMPORTANCE OF SCHOOL PRAYER FACTOR

What is going on? What has happened to our values? Why do we seem to be simultaneously crumbling from decay within and pressure without? How could so much have happened in such a comparatively short period of time?

I am not a prophet, nor do I claim to have any special powers of discernment. But I am a student of the Scriptures, and, to me, the pattern of the last 17 years since the 1963 prayer ruling of our nation's highest court indicates that America has been undergoing the modern equivalent of the plagues of Egypt, or of Israel. In my own view, the God who loves us and has so greatly blessed us is urgently trying to get our attention, call us to our senses, give us a chance to regain our perspective on our Judeo-Christian heritage and the history of our own nation, and call us to repentance and a fresh start.

However, these many agonizing problems of our nation are interpreted, it is undeniable that they are as real as tomorrow's headlines, and the family down the street, and our own homes. There is no question about the fact that we are suffering an acute crisis of values in this country, a crisis similar to that of a rudderless ship in high seas, a crisis in which the young are suffering the most.

And I feel that it is a gross understatement to say that one reason why we find ourselves where we are must by any reasonable process of analysis be the fact that we have virtually banished from the public schools a sense that there is a transcendant God under whose standards we all come and to Whom we all owe ultimate allegiance. It is not just the fact of what amounts to God's being closed out of the schools. It is also the subtle but important shift in thinking at all levels that accompanies any such fundamental change in the area of policy and overall philosophy.

In my judgment, then, while the decision on voluntary school prayer does not represent the whole problem in our society, it is without question the most important component. The Supreme Court decision in *Abington Township* v. *Schempp* certainly marked a milestone of unprecedented importance in the almost-invisible shift that had been underway for years toward the philosophical position that there is no God and that therefore the Judeo-Christian value system based on unchanging principles of right and wrong has no substance and merit. A relationship of time can be drawn, I believe, between, on the one hand, the prayer decision and its direct results, and, on the other hand, the acceleration of so many trends which are sapping the spirit and strength of our educational system, our families, and so many other areas of our lives.

CONSTITUTIONAL QUESTIONS

With regard to the Constitutional questions which are often brought forward in connection with this issue, I believe that there has been much genuine misunderstanding and probably a good deal of misinformation about the intentions of the Founding Fathers and even about the meaning of Supreme Court actions relating to school prayer.

My own research and the counsel of friends more knowledgeable in this area than I am have led me to the view that, while the Constitution rightly forbids the establishment of a sectarian religious viewpoint, the Constitution was never meant to turn out of the schools and out of the preparation of the young the acknowledgment of God's existence and of His rightful authority in our lives. On the contrary, I think that it would have horrified the men who wrote the Constitution to have thought that that document would someday be used to make teachers and students fearful that they would be breaking the law if they opened the day's activities with a short voluntary prayer.

The record makes clear that the Founding Fathers placed a strong emphasis on belief in and dependence upon God although, as I have mentioned, they objected to the establishment of any sectarian view. It should be remembered, of course, that such an establishment of a particular sectarian viewpoint was common practice in the countries from which many of them, or their fathers and grandfathers, had come to the colonies. Here in the new land also there were some similar situations. For example, it is my understanding that in Virginia prior to the Revolution a citizen was not eligible to serve as a member of the House of Burgesses unless he was a member of the Church of England. Those of other sectarian viewpoints naturally resented this policy.

It was to prevent the recurrence of just such practices as this one that the prohibition against an establishment of religion was included in the Constitution. The Founding Fathers never intended that our government or any of our institutions should be divorced by law from the God of our fathers, the God of the Scriptures. It is interesting, in fact, that one of the first orders of the Continental Congress was to buy thousands of New Testaments to be distributed to soldiers in the Revolutionary army.

So far as the meaning of the Supreme Court decisions on school prayer is concerned, I am convinced that the average American, including most Christians and most attorneys who have not studied in this field, has been deceived and even intimidated by the misinterpretation and misrepresentation that have gone out. As a result, many Americans have been led to believe that voluntary prayer and Bible-reading in the schools violate the establishment-of-religion clause of the First Amendment to the Constitution.

Actually, however, the Supreme Court has ruled in only four cases that required mandatory prayer and Bible-reading was unconstitutional as a violation of the Establishment cause. In the four cases, the facts showed that the prayer and Bible-reading were curricular in nature, indoctrinative in design, and clothed with the vestiture of the state.

Clearly voluntary prayer has never been ruled on, and, in fact, remains a right of each individual by virtue of the Constitutional right to worhsip as one chooses, as guaranteed by the freedom-of-religion clause of the First Amendment. The Constitutional acceptability of prayer and reference to God in public meetings, state-sponsored events, and public facilities is evidenced by the frequent references to God in so many of our major historical documents. It is also confirmed by the fact that all of our major governmental activities of all kinds, including sessions of the Supreme Court, are begun with prayer to God. And, of course, every president is required by law to place His hand on the holy, inspired Word of God as part of his inauguaration ceremony.

How incongruous that we should deny our children the same rights and privileges which Americans enjoy in so many other areas of our public life!

In further explanation and support of the understanding of these legal issues which I have outlined, I am including as Appendix A to this statement a summary of very extensive research carried out by an attorney familiar with this area of the law. The appendix is incorporated herein and made a full part of this statement.

GROWTH OF CHRISTIAN SCHOOLS

As an indication of the depth of concern that exists among Americans on this and other directly related issues, I think that it is very noteworthy that thousands of Christian schools are being established across the nation even though the parents involved are often having to make great financial sacrifices to enable their children to participate.

In most cases they are accepting those sacrifices because they feel that it is vital that their children be educated in a school environment where God is acknowledged and revered and where teachers and students are not intimidated out of exercising their God-given and Constitutionally-guaranteed rights to come before Him in prayer and otherwise worship Him as their consciences lead them. It is a sobering indictment of our humanism-dominated public school system that, according to present trends, more than half of our elementary and high school students will be educated in private schools by the end of 1990.

I submit that the 1963 Supreme Court ruling on school prayer has resulted in creating among tens of millions of Americans a new sense of "taxation without representation" in the area of public education. This sense has arisen during the last few years as Christian parents representing more than half of the nation's population have found that they are having to support with their taxes a public school system whose dominant secular humanist religion is diametrically opposed to the biblical faith of our Founding Fathers, to which the majority of Americans continue to subscribe—a public school system which, ironically, had its very beginnings in that biblical faith and the churches which espoused it.

VIEWS OF AMERICAN CHRISTIANS AS A WHOLE

It should be noted that those Christian leaders who say that they represent their various denominations and groups and yet oppose permitting voluntary prayer in the public schools do not in fact represent their constituencies. That this is the case is confirmed not only by my own numerous conversations with a great many of the leading pastors of virtually all denominations over a period of years. It is also confirmed dramatically by new findings just released by the Princeton Religious Research Center. This respected research firm reported that the latest Gallup Poll findings on the subject show that 76 percent of Americans—82 percent of Protestants and 77 percent of Catholics—support changes that would clearly permit voluntary prayer and Bible-reading in public schools.

A MATTER OF URGENCY

In my judgment, the issue of the impact of the change in our schools that has resulted from the 1963 Supreme Court prayer ruling, and the vacuum of values in the public schools that that ruling has so often left behind it, is no longer a matter for simply academic consideration. I think, rather, that it is an issue that threatens the most vital wellsprings of our national spirit and even our survival as a free people. We can, moreover, agree, I believe, that the situation is one with implications for all other free nations as well since the spiritual and other strength of the United States is so crucial to the safety of so many other nations around the world.

I urge you as seriously as I know how, to weigh prayerfully and carefully the facts about the present situation which you know so well, to consider the undeniable facts regarding the nation's Judeo-Christian heritage, and to ask yourselves if this is not a question that the nation's leaders should grapple with.

Your decision could well accelerate the disintegration and destruction of America under the chastening hand of God, or your decision could help to restore our beloved America as once again the "one nation under God" that our Founding Fathers intended, and help to introduce a new era of blessing from God in accordance with the promise which God gave to Solomon and applicable in principle to our own nation that, "If my people who are called by My name will humble themselves and pray and seek My face and turn from their wicked ways, then will I hear from heaven and forgive their sin and heal their land."

We dare not continue to spend our energies on taxes, and highways, and armaments, and the environment—and then find that, while we have been caring for the hands and arms and fingers and toes of our national "body," we have died at the heart for lack of the nourishment that has been our real source of strength for more than 300 years.

Thank you.●

THE NATIONAL DEVELOPMENT ACT OF 1980

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MINISH. Mr. Speaker, I am introducing in this Congress, as I did in the 95th Congress, a bill to establish a National Development Bank.

When I introduced a similar bill in 1977, I said:

> I think it is vitally important * * *, that we begin to develop a groundswell of support for the national development bank concept as the centerpiece in a strategy to revive and to assist communities through the nation. The continuing decline of the country's industrial base and the persistence of chronically high unemployment levels make such a strategy imperative.

Now, 3½ years later, with the Nation in the throes of a disastrous recession and with unemployment climbing, the need for a National Development Bank is all the greater.

My legislation would provide an ongoing loan program to meet the pressing needs of local governments throughout the Nation.

The proposed bank, financed initially by a $5 billion Federal Government purchase of its stock, would also provide a flexible and much-needed tool to stimulate the economy.

The National Development Bank would be authorized to make direct and guaranteed loans to State and local governments for public works and facilities. In addition, individuals and small and medium-size businesses unable to secure credit in the marketplace could also apply to the bank for job-creating loans.

Primarily, however, the bank would serve to meet, on a comprehensive basis, the urgent financial needs of local governments throughout the country. Many communities are in dire need of this type of instrument to adequately finance essential local services.

Most importantly, this legislation would be aimed at creating jobs in order to lower our high and completely unacceptable unemployment level. The availability of credit on a continuing basis, as with the National Development Bank, would have an enormously beneficial impact on the jobs market.

This bill is one of many that have been introduced over the past few years to create banks or corporations with capital to finance public works activities, support small business and create jobs. Each bill takes a slightly different approach to the problem, but all should be examined now with renewed seriousness to see how we can best put our unemployed back to work on these vital public works projects.

A summary follows:

SECTION-BY-SECTION SUMMARY OF THE NATIONAL DEVELOPMENT ACT OF 1980

Section 1 says that states and localities no longer have the resources to fund needed public works and facilities, and that public and private sector job opportunities, created with Federal loan assistance, can fight the current high rate of unemployment.

Section 2 establishes a National Development Bank, an instrumentality of the U.S. Government, to provide financing for job-creating activities in the public and private sector.

Section 3 contains definitions used in the Act.

Section 4 creates a Bank Board of Directors, including the Secretaries of the Treasury, Commerce, Agriculture and Labor, the Chairman of the Securities and Exchange Commission, and six other persons, appointed by the President with Senate confirmation, from varied public and private organizations. Appointed directors serve for two years.

Sections 5-8 are housekeeping provisions that create a President of the Bank, appointed by the Board of Directors; that prohibit conflicts of interest; that specify the Bank's corporate powers, and that locate the Bank's principal offices in the District of Columbia.

Section 9 authorizes the Treasury to purchase stock up to a total of $5 billion, to the extent these sums are provided in advance in appropriations acts.

Sections 10-13 establish the borrowing authority of the Bank and permit the Treasury and the Federal Reserve System to purchase assets or discount notes or other obligations of the Bank.

Section 14 says the Bank can make loans and loan guarantees to companies to help them raise money to:

(a) create a new business, or improve an existing one, that will combat unemployment or underemployment;

(b) make products or provide services that are in short supply; or

(c) do other things in the public interest.

Any borrower must agree to fill job openings with or provide training for the unemployed or underemployed, or meet any other requirement the Bank may place on the borrower to carry out the Act.

Section 15 says the Bank can make loans, loan guarantees, or provide other aid to finance capital costs for public works or community facilities that will provide benefits under the Act.

Section 16 allows the Bank to provide technical assistance.

Sections 17-18 says Bank loans shall be adequately secured, and the Board of Directors shall determine appropriate maturity periods.

Section 19 permits the Bank to guarantee loans made by any financial institution, as long as the interest rate is not more than 1½ percent above the Federal Reserve discount rate.

Section 20 allows the Bank to make direct loans at rates no more than the Federal government's average cost of money, as determined by the Secretary of the Treasury, if borrowers prove they cannot obtain funds from other sources on reasonable terms.

Section 21 exempts the Bank from most taxes except real and personal property taxes and taxes on the principal and interest of its obligations.

Section 22 allows GAO audits of the Bank.

Section 23 authorizes the necessary appropriations.●

A REPORT ON THE SPIRIT OF HELSINKI AS PRACTICED BY MOSCOW

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. KEMP. Mr. Speaker, as a critic of the Helsinki accords, which legitimized the Soviet Union's control over the captive nations, I was hoping that at least the human rights provisions would give some encouragement to the dissidents, refuseniks, indeed all the people of Eastern and Central Europe.

Five years after the signing of the Helsinki agreements even these hopes have dimmed. And the courageous Helsinki watchers, who risked their careers and even their lives, are now disappearing. They are exiled, jailed, and harassed.

Jeri Laber, executive director of Helsinki Watch in America, reports on what is really taking place behind the Iron Curtain to the valiant remaining Helsinki monitors. Jeri Laber, in turn, poignantly describes their suffering and their courage, in an article in today's New York Times.

I am personally gratified that Jeri Laber would stand up so courageously on behalf of the real human rights issue of the day.

I commend Jeri Laber's article "Moscow Versus Rights" to your attention:

MOSCOW VERSUS RIGHTS

Five years after the signing of the Helsinki accords, with the second Helsinki review conference scheduled for November in Madrid, articles have appeared recently on the editorial pages of several leading American newspapers suggesting that the United States boycott the Madrid conference, thus abrogating its Helsinki commitments.

Soviet-American relations are worse today than they have been in several decades; the Soviet thrust into Afghanistan, the American boycott of the Moscow Olympic Games and the failure to ratify SALT II are recent reflections of that tension. Moreover, well before Afghanistan, Soviet leaders, who freely invoke the peaceful "spirit of Helsinki" when it suits their purposes, had made a mockery of the human rights provisions of the Helsinki accords.

I had a chance to see the "Helsinki spirit" in action last fall in Moscow when I met with members of the Moscow Helsinki Watch Group in Andrei D. Sakharov's apartment. The room was "bugged," of course; this was openly acknowledged. Yet the people who had assembled there to meet a Helsinki colleague from the West spoke openly and without fear about their troubles and hopes. Only one word caused them to pause and lower their voices to a whisper—that word was "Helsinki."

There were 12 of them waiting for me in the Sakharov living room on the September afternoon, a plucky but dispirited group, more women than men and most of them quite elderly. They were the survivors of a citizens' movement steadily eroded by the arrest and exile of its most dynamic members—people like Yuri F. Orlov, Anatoly B. Shcharansky, Aleksandr Ginzburg and Vladimir Slepak.

Now, less than a year later, only five of those people remain in Moscow, and they are subject to severe harassment. The rest have been dispersed in a variety of ways: the Sakharovs to the closed city of Gorky, others to prison or internal exile, still others expelled to the West. Oksana Meshko, a handsome, 75-year-old woman who survived Stalin's gulag and whose son is now a political prisoner, was recently forced into a psychiatric hospital.

Monitoring the Soviet monitors has become a tragic numbers game with a constantly rising tally: as of this writing, 43 are in prison or exile for attempting to exercise the rights that we, their American counterparts, take for granted in our imperfect United States. This figure does not include the many Soviet Helsinki monitors who have been forced to emigrate, to say nothing of those who were so intimidated that they did not join in the first place. Nor does it include Helsinki watchers in Eastern Europe, where governments have followed the Soviet lead.

Should we, then, sit down at the conference table with Soviet leaders this fall for a discussion of Helsinki compliance among the 35 signers? Would it not be morally and politically consistent for us to boycott the review conference as we have boycotted the Olympics? Wouldn't this be the most effective way for us to show the Soviet Union that it will be held accountable for violating international agreements it has signed? So goes one set of arguments.

On the other side we find a responsible diplomat like Albert W. Sherer Jr., who was in charge of American preparations for the first review conference in Belgrade in 1977, arguing in the summer issue of Foreign Policy that we should not repeat the mistakes of Belgrade by "hammering away at the cause of Soviet dissidents." Mr. Sherer urges that the superpowers at Madrid "cooperate rather than confront." One wonders to what end.

If we are to go to Madrid, and I believe that we should, it is certainly not to mollify the Soviet Union within a Helsinki framework. The Russians will attempt to focus attention at Madrid on questions of military and economic security. They conveniently forget that the accords are unique in recognizing that a country's human rights record is an international affair intrinsically linked to military and economic stability. We must force them to remember this at Madrid. The American delegation, while freely acknowledging its own shortcomings in complying with the Helsinki accords, should enlist all the support it can get to demand that the Soviet Union and Czechoslovakia release their imprisoned Helsinki monitors as well as countless others being punished for their religious or political beliefs.

There may be room for quiet negotiations as well, but only if we make our position known now—over and over again—before Madrid and at Madrid. We must take this initiative, even if—especially if—this is our last opportunity.●

FREIGHT RATES TO FARMERS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. MARLENEE. Mr. Speaker, during this time when we are in the process of considering the Rail Act of 1980, I am forced to reflect upon the transportation plight faced by rural America. My State of Montana is a major wheat-producing State, a State which contains vast coal reserves, and a State facing crucial transportation difficulties. Farmers in Montana are very concerned, and legitimately so, about the ever-increasing transportation costs in a system which provides slow to moderate service with little effective competition in many rural areas. Abandonment of the Milwaukee Railroad, a rail link to the most productive grain-growing region in Montana, will mean even poorer service, or no rail service at all, to grain shippers. In my recent meetings with people throughout the State of Montana, I encountered farmer after farmer who is irritated by the recent freight rate hike granted by the Interstate Commerce Commission. The July 3, 1980, freight rate increase on wheat and other agricultural commodities by 6.48 percent comes at a time when net farm incomes are near record lows and wheat production costs are over $5 per bushel. What is even more shocking, I find that the railroads are again asking for another rate increase of a "modest" 3.6 percent. How long can the farmer continue to absorb such increases? How can agriculture function in a climate where every third crop is essentially turned over to the railroad in the form of freight costs? Farmers across this Nation cannot continue to produce a good product only to be faced with a continual rise in freight costs.

I would like to use the city of Great Falls, Mont., within my own congressional district to illustrate how freight rates have skyrocketed. The following table reflects the rates grain farmers have been faced with over the years.

Date effective	Per 100 weight (cents)	Per bushel (cents)
Jan. 3, 1968 to June 26, 1968	$0.64	38.5
June 24, 1968 to Jan. 17, 1979	.66	40
Nov. 18, 1969 to June 8, 1970	.73	44
June 9, 1970 to Nov., 1970	.73	44
Nov. 1970 to April 1971	.795	48
April 1971 to June 30, 1971	.815	51
July 1, 1973 to Aug. 8, 1973 [1]	.70	42
Oct. 1, 1973 to Jan. 1, 1974	.73	44
Jan. 2, 1974 to Jan. 31, 1974	.74	44.5
Feb. 1, 1974 to Feb. 22, 1974	.755	45.5
Feb. 23, 1974 to Mar. 9, 1974	.80	48
Mar. 10, 1974 to Apr. 1, 1974	.85	51
Apr. 2, 1974 to June 5, 1974	.855	51.5
June 6, 1974 to June 20, 1974	.86	51.5
June 21, 1974 to June 17, 1975	.94	56.5
June 18, 1975 to June 20, 1975	1.005	60.5
June 21, 1975 to Oct. 11, 1975	1.055	63
Oct. 12, 1975 to Aug. 21, 1976	1.08	65
Aug. 22, 1976 to Oct. 7, 1976 [1]	.90	54
Oct. 8, 1977 to Jan. 7, 1977	.94	56
Jan. 8, 1977 to Nov. 29, 1977	.98	59
Nov. 30, 1977 to June 6, 1978	1.035	62
June 17, 1978 to Dec. 14, 1978	1.075	64.5
Dec. 15, 1978 to June 4, 1979	1.15	69
June 5, 1979 to Oct. 14, 1979	1.165	70
Oct. 15, 1979 to Feb. 26, 1980	1.375	82.5
Feb. 29, 1980 to Apr. 1, 1980	1.405	84
Apr. 1, 1980 to Apr. 11, 1980	1.41	85
Apr. 11, 1980 to July 12, 1980	1.505	90

[1] Rate reduction.

Note.—With ordinary winter wheat selling at $4.65 on July 28, the last freight rate increase of 6.4 percent means that 19 percent of a farmer's crop, who ships out of Great Falls, goes to transportation. This figure is even more dramatic for Wibaux, in the extreme eastern portion of Montana, where transportation cost $1.44 per bushel. This means 30 percent of a farmer's crop goes to transportation costs.

American farmers need relief from transportation costs. The real problem lies in the fact that farmers are not receiving prices over their costs—including transportation, fuel, fertilizer, and other production expenses. These costs must be absorbed directly by the farmer and have contributed to the sharp decline in net farm income for this year.●

AGENT ORANGE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DASCHLE. Mr. Speaker, on July 22, the Veterans' Affairs Subcommittee on Medical Facilities and Benefits had another hearing on the issue of agent orange. A distinguished panel of nongovernment scientists provided valuable testimony to the subcommittee that there is an abundance of literature and data already available on the harmful effects of dioxin. Dioxin was the toxic contaminant in herbicide orange. In fact, it was learned that there is more evidence on the cause/effect relationship of dioxin than there is on multiple sclerosis, yet illnesses associated with dioxin exposure are not treated as service connected disabilities, while multiple sclerosis is. Service connected status entitles a veteran to priority medical care and compensation. Presently veterans with agent orange related illnesses receive medical attention only on a space available basis. Clearly, a double standard now exists when veterans can receive priority medical care for a little understood disease such as MS, but are denied care for agent orange related illnesses despite the fact that there is clear evidence of the harmful effects of dioxin.

The subcommittee also heard that public policy should not wait for more definitive facts on the issue, such as a mortality study of Vietnam veterans, which may take 10 to 15 years to complete. In addition, the subcommittee also heard about the abominable track record of the Veterans' Administration on this issue and their noncompliance with statutory law with regard to contracting, providing public information, and allowing public scrutiny and participation in their decisionmaking and review processes.

Testimony from the hearing also revealed that the DOW Chemical Co. was aware as early as 1964 that 2,4,5-T was contaminated with dioxin. No attempts were made, however, to notify anyone in the Federal Government of this discovery, even though the Federal Government was at that time DOW's largest customer.

An informative summary of the hearing and the issue in general was recently published by syndicated columnist, Mary McGrory. Following is the text of her story:

[From the Washington Star, July 27, 1980]

WHITEWASH IN ORANGE

(By Mary McGrory)

The Veterans Administration is sticking to its guns on Agent Orange.

A new, soothing orange folder features a picture of Administrator Max Cleland, a disabled Vietnam veteran, saying, once again, ". . . We do not yet know precisely how dioxin (one of the elements in Agent Orange) affects humans."

One of the reasons the government does not know is because it has gone to great pains not to find out. It has not granted compensation on a single Agent Orange claim. The study Congress mandated seems never to get done. Only EPA, of the several agencies involved, has declared that Agent Orange is "harmful to humans."

Yet thousands of veterans who served in Vietnam are suffering—from chloracne, a severe skin rash, weight loss, unexplained liver and stomach disorders, tumors. They have fathered deformed or stillborn children. Some have died, at an unusually young age, of cancer.

They have one thing in common—exposure to Agent Orange, the toxic defoliant of which 12 million pounds were sprayed on Vietnam's fields and forests to drive the Viet Cong to where they could be bombed, pacified, subjected to "search-and-destroy" or some other of the misbegotten or lethal schemes that marked the war that will never end.

In 1970, the late Sen. Philip Hart, D-Mich., who had the moral radar denied many of his kind, conducted hearings. "Maybe," he concluded, "the chemicals which make up Agent Orange may in the end appear to be much ado about very little indeed. On the other hand, they may ultimately be regarded as portending the most horrible tragedy ever known to mankind."

It is a horrible tragedy for afflicted veterans and their families. And it is also a scandal with classic Washington symptoms. If the VA has stonewalled, manufacturer Dow Chemical—of napalm infamy—covered up. Dow executives failed to inform the Department of Agriculture or the Department of Defense about the spray's toxic qualities.

An English-born doctor, Samuel Epstein, of the University of Illinois, was one of a dozen witnesses to testify before a House Veterans Affairs subcommittee on a bill for relief for Agent Orange victims introduced by Rep. Tom Daschle, D-S.D. Epstein noted that dioxin is "the most toxic synthetic chemical compound known" and "the most potent known carcinogen." He suggested, to the astonishment of committee members, that Dow be required to make restitution for the crime of withholding vital information.

"I am just a simple scientist," he observed.

Another "simple scientist," Dr. Jeanne Stellman, who with her doctor husband Steven made a privately funded survey of veterans, asked a simple question: "Would it be beyond reason to go to Vietnam to make soil tests?" It met with embarrassed silence—trafficking with Vietnamese on a humanitarian venture is an election-year no-no.

Dr. Stellman said she found it strange that veterans should be calling her, instead of the VA, for help. But the impetus for inquiring into the terrible "carry-out death" that Vietnam veterans brought home with them has come from Congress and private citizens.

The country has been warned—"alarmed" is how a disapproving representative of Amvets put it—about its baneful effects, largely through the efforts of Bobby Muller, a paralyzed veteran who runs Vietnam Veterans of America from a wheelchair. He nudged Congress to hold hearings last year and got a grant from the Ford Foundation to set up an Agent Orange hotline, so that veterans could call in data the government declines to amass.

The most affecting, and irrefutable, witness was Chris Johnson, a mild, bespectacled 30-year-old Vietnam veteran from Rapid City, S.D. He went to war from high school in 1969. He served only three months with the 11th Armored Cavalry in a heavily sprayed area—he lost his right leg in combat, and spent 14 months in Fitzsimmons Hospital.

He got out, and was "doing super" until 1976, when he developed chloracne, began to lose weight, suffered double vision, stomach pains. The VA doctors diagnosed "delayed stress," sent him to a psychiatrist, who helped him cope with the onset of symptoms that made him think "it was my last day on earth."

He quit electronics school. The final blow came with the birth of a son in August, with multiple defects, club feet, deformed hands, a hole in the heart, cysts on the liver and brain. The baby lived 10 hours.

Then last December, in the DAV magazine, Johnson read about Agent Orange. The symptoms were exactly his. He was a man transformed. He called up Daschle and told his story. He hunted for other victims, organized a South Dakota veterans organization, took their suicidal calls, reassured them that they were not alone—and not hypochondriacs.

To him, the VA's orange folder on Agent Orange is "just a bunch of propaganda."●

THE FUTURE OF THE B-1 PEACEMAKER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1980

● Mr. DORNAN. Mr. Speaker, during the past 3 years, no national defense issue has generated greater controversy in this House than the future of the B-1 Strategic Air Command bomber. President Carter's decision to cancel this magnificent defense system on June 30, 1977, was, in my opinion and the opinion of many distinguished foreign policy and defense analysts, including Mr. John Taylor, editor of Janes All the World's Aircraft, the greatest single error of his public career. As a result of that decision, the United States has lost precious time in its desperate race to maintain and secure the strength of the air-breathing leg of America's defensive strategic Triad. The weakening of the air-breathing leg of the strategic Triad, along with a correlative weakening in our land-based missile system, is disputable. The consequences of that slippage are profound, not only in terms of reducing America's options in pursuing its just geopolitical interest, but also in terms of the future safety and security of our own citizens.

As a former U.S. Air Force fighter pilot, a student of military aviation, and as one who has personally piloted the B-1, I can attest to the sophistication, the versatility, and the aerodynamic superiority of this remarkable aircraft. For that reason, I have taken every opportunity, since that fateful day in June 1977, to rally my colleagues in this House in attempts to reverse the administration's cancellation of this desperately needed aircraft.

What is the future of the B-1? The answer to that question will rest with this Congress. One of the most remarkable statements I have ever read, since I entered this House 3½ years ago, can be found in the report on H.R. 6974 of the Department of Defense Authorization Act of 1981: "The United States faces a 'window of vulnerability' the closure of which, in the absence of a plan presented by the executive branch, requires the initiative of the Congress." In other words, the administration, the executive branch, can no longer be trusted to outline the pressing needs of the armed services and the initiative must perforce pass to us.

This House has lived up to its grave constitutional responsibilities to provide for the common defense. On May 14, 1980, the House expressed its support for an aircraft to succeed our slow, subsonic aging B-52 bombers by voting for the B-1 as a stragetic weapons launcher by a margin of 297 to 119. The U.S. Senate, by amendment to the defense authorization bill, agreed to authorize a Defense Department study of the need for a new strategic aircraft and also agreed to an initial deployment of such an aircraft by 1987. I also call the attention of my colleagues to the fact that language employed by the other body specified the importance of employing a new strategic aircraft in both a penetrating and a cruise missile carrying mode. I hope that the differences between this House and the other body will be worked out in an amicable but deeply thoughtful fashion and will provide for the upgrading of our air-breathing deterrent forces in the most effective and expeditious manner.

For the edification of my colleagues, I am enclosing our May 23, 1980 letter to the President, Secretary Brown's June 24, 1980 reply in behalf of the President, and my July 21, 1980 rebuttal to Secretary Brown. There is a rhythm in the correspondence that I am sure my colleagues will appreciate.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 23, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On June 30, 1977, in the aftermath of your decision to cancel the B-1 bomber, you told the American people: "If at the end of a few years, the relations with the Soviet Union should deteriorate drastically, which I don't anticipate, then it may be necessary for me to change my mind."

Mr. President, we respectfully suggest that the time has indeed come for you to change your mind on the B-1 bomber. No member of the Congress can possibly fault you for your diligent search for peace, no matter how much we may have disagreed with any of your individual policy decisions. However, the Soviet invasion of Afghanistan merely confirms a pattern of Soviet inspired tension and international aggression. This pattern was discerned by leading figures of your own Administration within a year of your June 30, 1977, statement on the B-1. Dr. Zbigniew Brzezinski pointed to a grand design of the Soviet leadership to extend their influence throughout the globe, an assessment you confirmed in your June 7, 1978, speech to the graduating class of the United States Naval Academy. Vice President Mondale told the UN General Assembly two years ago that the Soviet Union has been engaged in a massive military build-up. Soviet declarations concerning the importance of detente have been continually compromised by the arrogant support for so-called "national wars of liberation" directly aided and assisted by Cuban proxy troops and advisors in Africa and the Middle East.

Military experts testify to the inherent value of the manned bomber in general and the B-1 in particular, which, as of this date, has not been surpassed as a penetrating bomber aircraft under the most sophisticated computer analyses. It is our conviction that this monument to American technological ingenuity, if brought on line through an accelerated production schedule, could preserve the security of the United States and the peace of the world for the rest of this century.

Recently, Mr. President, in response to the crisis in the Persian Gulf region, you have seen fit to take advantage of the range of the Guam-based B-52's for flights over the Indian Ocean. We are sure that you would agree that flights of new B-1's would have strengthened American resolve and added even greater flexibility to our airpower in that part of the world.

Mr. President, in the face of the conditions you yourself had set for the reconsideration of the B-1 bomber, it is our hope that you will recommend the restoration of the B-1 program as a direct, forceful response to the awesome growth of Soviet military power and blatant aggression of the Kremlin.

Sincerely,

Jim Abdnor, Mark Andrews, Bill Archer, Skip Bafalis, Douglas Bereuter, John Buchanan, Carroll Campbell, Richard Cheney, Bill Clinger, Barber Conable, Dan Crane, Bill Dannemeyer, Ed Derwinski, Charles Dougherty, John Erlenborn, Hamilton Fish, Barry Goldwater, Jr., Wayne Grisham, J. P. Hammerschmidt, Elwood Hillis, Larry Hopkins, Richard Kelly, Ken Kramer, Gary Lee, Bob Livingston, Manual Lujan, Robert McEwen, Ron Marlenee, Larry McDonald, Carlos Moorhead, George O'Brien, Bill Nichols, Matthew Rinaldo, Toby Roth, Eldon Rudd, Keith Sebelius, Virginia Smith, Floyd Spence, Steven Symms, Bill Thomas, Guy Vander Jagt, Bob Whittaker, Bob Wilson, Chalmers Wylie, Jim Jones, Jerry Huckaby, Billy Evans, Sam B. Hall, Jr., Beverly Byron, Henry Gonzalez, Bill Alexander, Jerry Patterson, Robert Mollohan, Charles Wilson, John Murtha, Doug Barnard, Jr., Robert Michel, Clarence Miller, John Ashbrook, G. V. Montgomery, David Satterfield, Robert Bauman, Ed Bethune, Clair Burgener, Bill Carney, Don Clausen, E. Thomas Coleman, Tom Corcoran, Phil Crane, Robert W. Davis, Sam Devine, John Duncan, Tom Evans, Ben Gilman, Bill Goodling, Tennyson Guyer, George Hansen, Jon Hinson, Henry Hyde, Jack Kemp, Bob Lagomarsino, Norman Lent, Tom Loeffler, Dan Lungren, Edward Madigan, James Martin, Henson Moore, John Myers, Jim Lloyd, James Quillen, Don Ritter, John Rousselot, Harold Sawyer, James Sensenbrenner, Gene Snyder, Arlan Stangeland, Tom Tauke, David Treen, Robert Walker, William Whitehurst, Larry Winn, C. W. Bill Young, Tom Steed, Charles Stenholm, Kent Hance, Don Fuqua, Glenn Anderson, John Breaux, Bob Stump, Douglas Applegate, Samuel Stratton, L. H. Fountain, David Bowen, Bud Shuster, Antonio Won Pat, Eugene Atkinson, Wes Watkins, Bob Badham, Robin Beard, Clarence Brown, Caldwell Butler, Tim Lee Carter, James Cleveland, Jim Collins, Jim Courter, Robert Daniel, Joel Deckard, Robert Dornan, Mickey Edwards, Paul Findley, Newt Gingrich, Willis Gradison, Tom Hagedorn, William Harsha, Marjorie Holt, Jim Jeffries, Tom Kindness, Delbert Latta, Jerry Lewis, Trent Lott, Bob McClory, Dan Marriott, Donald Mitchell, Dan Daniel, Thomas Luken, Chip Pashayan, John Rhodes, J. Kenneth Robinson, Bill Royer, Richard Schulze, Norman Shumway, Gerald Solomon, Dave Stockman, Gene Taylor, Paul Trible, William Wampler, Lyle Williams, John Wydler, Don Young, Charles Bennett, Joe Wyatt, Jr., Harley Staggers, Charles H. Wilson, Mario Biaggi, Harold Johnson, E de la Garza, Bill Chappell, Ronald Mottl, David Bowen, Carroll Hubbard, Jr.

THE SECRETARY OF DEFENSE,
Washington, D.C., June 24, 1980.
Hon. ROBERT K. DORNAN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. DORNAN: Thank you for your letters of May 23rd to President Carter concerning the Strategic Weapons Launcher (SWL) and B-1 bomber programs. Recognizing your strong support of the defense programs, we welcome critical and constructive dialogue with you and your colleagues in this area.

The Department of Defense is committed to ensuring essential equivalence in strategic forces between the United States and the Soviet Union. The strategic triad has served us well in this regard in the past, and we remain committed to maintaining its viability for the future. As you know, our FY 1981 budget contains funds for modernization of each component of the triad.

With respect to the air-breathing leg of the triad, we continue to advocate for the foreseeable future a mixed force of penetrating aircraft and cruise missiles because studies have shown that a mixed force would cause maximum stress to Soviet air defenses. In support of this strategy, major modifications are planned for the B-52 force, including new avionics and cruise missile integration. The modernization of these aircraft and the introduction of cruise missiles will make a major contribution to our deterrent capability at a reasonable cost.

We believe the B-52Gs should remain an effective and economical cruise missile carrier into the 1990's. However, because of the importance of the air-launched cruise missile (ALCM) to our modernization plans, and to preclude being caught short by unpredictable events that may cause us to reverse our judgment about the B-52, we have started work that will lead to the advanced development of a new cruise missile carrier aircraft (CMCA) insofar as, and whenever, that proves necessary. Should the need arise for either significant expansion of our cruise missile capability or replacement of the B-52 carrier, this program will give us sufficient confidence in the selected design to move quickly through full-scale engineering development and into production.

Our studies of CMCA candidates have shown that if such a new carrier is needed for the near term, a variant of the B-1 design, the Strategic Weapons Launcher, is a good candidate for the CMCA mission because of its short base escape time, hardness to nuclear effects, long range, and large payload. We plan to take advantage of work already accomplished in the B-1 development program by modifying the third B-1 aircraft to the new configuration and conducting demonstration and test flights during FY 1983. This prudently paced program will not only exploit the technology developed under the B-1 program but also provide a timely response to our evolving defense requirements. It is our view that proceeding more rapidly with this program now by approving early production would be unwarranted in view of the viability of our B-52s and would be an unnecessary expenditure of funds. In addition, we want to avoid prematurely committing to a particular answer to a threat that has not yet emerged and whose character remains uncertain. In the long term, a new technology, large combat aircraft may be a better choice than a B-1 derivative for the CMCA mission. In any event, the B-52s, according to recent test results, should be viable as cruise missile carriers through most or all of the 1980's.

Regarding restoration of the B-1 bomber program, it is certainly true that our relations with the Soviet Union now are not what they were in 1977 when the B-1 program was terminated. However, the reasons for making that decision are as applicable now as they were then. We want to modernize our air-breathing force with a system that can penetrate projected Soviet defenses—that is, one that does not rely solely on the inherently uncertain effects of electronic countermeasures in order to reach its target. This, when combined with the significantly lower cost of deploying the ALCM on the B-52, makes the B-52/ALCM combination the preferred choice for modernizing the air-breathing leg of the triad. Achieving an equal level of capability for the least cost is particularly important today in view of our large expenditures to modernize the other two legs of the triad and to improve the combat readiness of our conventional forces. For all of these reasons, we continue to oppose resurrection of the B-1 program.

I solicit your support of our plans of modernizing the air-breathing leg of the triad and look forward to discussing Defense issues with you in the future.

Sincerely,

HAROLD BROWN.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 21, 1980.
Hon. HAROLD BROWN,
Secretary of Defense,
The Pentagon, Washington, D.C.

DEAR SECRETARY BROWN: This is to reply to your letter to me of June 24, in which you discussed specifically the Strategic Weapons Launcher and B-1 aircraft, and the manned penetrating bomber option in general.

Before addressing those particular subjects, I must comment on your claim that the Department of Defense ". . . is committed to ensuring essential equivalence in strategic forces . . ." I cannot help but note that, shutting down Minuteman production, delaying the MX, slowing down Trident submarine production, underfunding Cruise Missile programs, and cancelling B-1 production, decisions all taken during your tenure as Secretary of Defense, have done little to assure "essential equivalence" in strategic forces. I would note further that there is currently a great difference of opinion as to the present existence of "essential equivalence." Your own Commander of the Strategic Air Command has testified before the Senate Armed Services Committee that "an adverse imbalance has developed and will continue for several years to come."

I agree with the concept of a mixed force of penetrating aircraft and cruise missile carriers for the reasons you set forth. However, that concept's validity in no way compensates for the fact that the last B-52's were produced in 1962, and that the effective life of a combat aircraft cannot be extended indefinitely. May I remind you that you yourself admitted this in testimony before the House Armed Services Committee on January 26, 1966, when you stated: "The ASMA (advanced manned strategic aircraft, from which evolved the B-1) is considered as a replacement for the B-52 G/H models, whose useful life we estimate will extend into the mid-seventies . . . I also want to emphasize that I personally believe that the B-52 G/H when it becomes obsolescent in the mid-1970's ought probably to be replaced by some other bomber such as the ASMA." It is now 1980—well past your original deadline for B-52 obsolescense. You now contend that the B-52 is not yet obsolescent, and, in fact, can serve as a penetrator for several more years before assuming the role of a cruise missile carrier. I cannot understand what has caused you to change your mind about B-52 longevity. The contrast between your 1980 and 1966 statements regarding that subject is confusing, and certainly does not lend credence to your arguments on behalf of the B-52's continued effectiveness. Of course, longevity can be increased by decreasing flying hours—which will result in a degraded alert rate. This certainly seems too high a price to pay to justify yet another delay in a B-52 follow-on program.

Your June 24th letter continues, stating, "Should the need arise for either significant expansion of our cruise missile capability or replacement of the B-52 carrier . . ." I am gravely concerned that you apparently believe that there will be no need for a new penetrating bomber. Air Force experts have acknowledged repeatedly in testimony before the House Armed Services Committee that an urgent requirement exists for an advanced penetrating bomber.

You then detail your plans for the Strategic Weapons Launcher, claiming that demonstration and testing need not begin until FY 1983 ". . . in view of the viability of our B-52's . . ." and that premature funding of the Strategic Weapons Launcher ". . . would be an unnecessary expenditure of funds." The issue of the B-52's continued "viability" is very much open to question, and it seems to me to be a matter of common sense that it will be considerably more expensive to begin demonstration, testing, and possible deployment of the Strategic Weapons Launcher if it is delayed two more fiscal years. As you know, the House Armed Services Committee authorized FY 1981 funding for the Strategic Weapons Launcher, stating that the Committee is "unwilling to send our pilots and crews to war in a 40-year old aircraft," and that the B-52 ". . . (should) be replaced as early as possible and hopefully not later than 1990." The House, in an overwhelming vote of 297-119, on May 14, supported the FY 1981 funding of the Strategic Weapons Launcher. The points made by the Armed Services Committee are well taken and supported by the indisputable facts pointing to a serious degradation in our triad's air-breathing leg capability.

You also discuss the uncertain character of Soviet defenses as justification for delaying a B-52 follow-on decision. How much longer can the Administration continue justifying such delays on those grounds? Logically, such reasoning would imply an unending delay because modern weapons systems, whether offensive or defensive, are always evolving, and thus always possess an element of uncertainty. I could not accept such a rationale, and neither could 296 other members of the House. Critical strategic decisions simply cannot be indefinitely delayed on that basis.

You conclude by claiming that the reasons for opposing the B-1 are as valid in 1980 as they were in 1977, and that you want to modernize our air-breathing forces with a system that does not ". . . rely solely on the inherently uncertain effects of electronic countermeasures." Here again, you introduce the ever-present element of uncertainty as justification for yet another delay in producing an advanced penetrating aircraft. This is an intellectually unsound rationale: *weapons systems will always contain an element of uncertainty.* In any case, the House Armed Services Committee has refused to accept your contentions by deleting the $15.1 million requested by DOD for Strategic Bomber Enhancement, stating that "if there is a requirement for a penetrating aircraft, then it is the Committee's opinion that the B-1 aircraft is readily available to satisfy this mission." I concur with that judgment, as did the whole House when it overwhelmingly passed the Defense Authorization bill, 338-62.

Furthermore, your reasons for continued opposition are certainly not those which President Carter gave the Congress and the American people when he ordered the B-1 cancellation in June, 1977. The President's cancellation, we were told, was made on the basis of the cost-effectiveness of the cruise missile option. This judgement has since been proven erroneous. The cost of the B-52 modernization/cruise missile integration program now exceeds the price that was required to produce 240 B-1 aircraft in escalated costs. You can easily verify the comparative costs with your Air Force experts.

To sum up, I remain unconvinced by your arguments supporting your continued opposition to the B-1 and for a delay in the Strategic Weapons Launcher program. They are frighteningly reminiscent of arguments used by yourself and others to cancel other programs designed as B-52 follow-ons. These cancellations now amount to a tragic litany which has contributed to the critical strategic imbalance which exists today: the B-58, the B-70, the SCRAMJET, and the B-1, have all fallen victim to one rationalization after another. How many more studies, how many more delays, and how many more cancellations do you believe the United States can endure before the strategic imbalance becomes a living nightmare for the free world?

On January 29, 1980, in testimony before the House Armed Services Committee, you discussed the differences which sometimes exist between the DOD, the Armed Services Committee and the House. You expressed the hope that differences could be resolved, but if not that ". . . the constitutional process has to work its way out." It appears that this may be one of those time, Mr. Secretary. We cannot tolerate any more studies, delays and cancellations. It is time for decisive action—now—before we reach the point of no return.

Sincerely,

ROBERT K. DORNAN,
Member of Congress.●

HOUSE OF REPRESENTATIVES—*Friday, August 1, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We reach out to You, O Lord, in this quiet moment of prayer, beseeching You to guard and sustain all those who are in need of Your love and Your grace. We remember those who are ill in body or spirit that they may know Your healing; we recall all who are hungry or poor or who lack hope, as we petition for Your ever-present strength. On this day when most can celebrate their freedom to speak and to be with family and friends, we express our fervent prayer for the hostages and those they love. Be with them always and may Your spirit surround them that their faith may be made strong and they will be encouraged with the knowledge of Your promise. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's preceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

TUNA WAR WITH MEXICO

(Mr. BURGENER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGENER. Mr. Speaker, I transmit a letter to the President of the United States, which will be delivered today, signed by the California delegation.

Once again Mexico seeks confrontation in a new tuna war which could wipe out the $2-billion-a-year American tuna industry. In the last 30 days, Mexico has seized six of our vessels, vessels which have purchased expensive Mexican fishing licenses. They have confiscated the catch, the nets, and we have lost wages. The total loss is estimated at $2.4 million in the last 30 days. If they happen to be in the right mood, they permit us to buy our nets back at $50,000 apiece; otherwise, they burn them. Now, part of the Mexican Government seems to want not only our boats, they want our canneries, they want 30,000 jobs of ours, and they want our expertise.

What do we seek? We want to go back to the bargaining table with them and see if we can work out an agreement that we thought they had agreed to in the 1976 fisheries agreement, and reaffirm our international agreement that tuna is a migratory species and can best be preserved and protected if all nations work together to preserve the species. Each nation must not go it alone.

The letter to the President I refer to follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 31, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We believe there is an urgent need to act decisively to protect the nearly $2 billion American Tuna industry.

Within the last month, six of our tuna vessels have been seized by Mexico, in a manner which indicates an unprecedented escalation in the problems we have had over the years with tuna fishing in the Pacific.

Previous tuna boat seizures have been motivated by a desire for revenues from fines or for the establishment of the principle of a 200-mile sovereignty. The recent Mexican seizures apparently amount to nothing less than an attempt to commandeer our tuna industry: boats, canneries, 30,000 jobs and expertise.

Our objective is, as it has always been, to establish international agreements for regional management of the tuna fishery. We reaffirm the principles relating to tuna in the Fisheries Conservation Management Act of 1976 and the Fishermen's Protection Act of 1967. The Mexican government, at the highest echelon, is obviously convinced that we are less than serious about this objective.

Therefore, we urge you to move promptly and forcefully, possibly with imposition of a secondary embargo on Mexican fish and fish products other than tuna, to bring the Mexican government back to the bargaining table toward finding an equitable and scientifically-sound solution to the problem of the international management of tuna.

Sincerely,

CLAIR W. BURGENER.
GLENN M. ANDERSON.
LIONEL VAN DEERLIN.

REGULATE THE REGULATORS

(Mr. BROYHILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROYHILL. Mr. Speaker, we hear a great deal these days about the need to balance the budget and the effect that continued deficit spending is having on the rising cost of living. I think this publicity is good, but we are not hearing enough about what effect Government regulations are having on the increased cost of living.

Recent studies have shown that Government regulations are costing the American consumers over $100 billion a year. Of course, the consumers are paying twice. They are paying first, as taxpayers, as they pay for the salaries of the bureaucrats who write the regulations, and then they are paying a second time in the increased cost of goods. The cost, of course, is being passed on to them by business and industry.

We can do something about this. There is legislation pending that would require the regulators to submit their regulations to economic impact analysis. It would require the regulators to give a careful analysis to other alternatives to achieve the same goals and also it would submit these regulations to the Congress for a careful review before they go into effect.

I have a discharge petition at the Speaker's desk, Discharge Petition No. 12, and I would urge all Members to sign this discharge petition so that the House can work its will on this needed and overdue legislation.

THE MAJORITY DOTH COMETH UNHINGED

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, based on the vicious personal attack against me by the Democratic chairman of the Budget Committee yesterday, the Assistant Parliamentarian informs me that I am entitled to a point of personal privilege whereby I can be recognized for 1 hour to deal with his intemperate remarks. I do not intend to take the House's time to do so, but I would simply state that I wear the scars inflicted by an emotionally distraught leader of your party as a badge of honor, and I observe that in the past week the majority has tried to gag the minority on this floor from speaking, and three different Members of the minority have been publicly slandered by Members of the majority in the past 48 hours, to the extent that the Parliamentarian informs us that we have points of personal privilege which lie against those offending Members of the majority.

I would respectfully suggest, Mr. Speaker, that the Members of the majority apparently need the next few weeks for rest and recuperation to pull yourselves together. Me thinketh the majority doth cometh unhinged.

FDA DRAGGING ITS FEET ON ISOPRINOSINE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, there is a disease with which many of my colleagues may not be familiar. It is a rare disease called SSPE (subacute sclerosing panencephalitis) which results from a

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

measles virus. It is an effective killer with a batting average of just about 100 percent in the young adults and children it attacks. Each year some 150 to 200 youngsters lose their lives to this disease.

There is also a new antiviral drug with which many of my colleagues may not be familiar. It is called isoprinosine and is manufactured by Newport Pharmaceuticals International of Newport Beach, Calif. The drug has been found to arrest the degenerative effects in patients with SSPE in 75 percent of the cases and save the lives of most of the patients. The drug is already in use in England, France, West Germany, Italy, and 30 other countries.

But for reasons known only to the bureaucrats in FDA, and for reasons they refuse to divulge, the agency has been dragging its feet in approving the drug. Somehow the paperwork on it always gets lost or placed on the bottom on the "in basket." Why?

Something is rotten in the very separate state of FDA. Originally, FDA refused to consider a new drug application until a "double blind" study had been undertaken. Such a study would require that one group of patients receive the drug and a "control" group, without knowing it, would merely receive a placebo. I ask: How can FDA morally condemn children in the control group to die when it is possibly, even likely, that they could be saved? What kind of a government agency would advocate such an amoral practice?

Under pressure, apparently FDA has now quietly modified its position to insist only on controlled studies that need not involve a placebo; however, the agency is still dragging its feet. And it is doing so despite the findings of its own advisory committee which recommended that the agency approve the drug after appropriate review of an NDA.

I would recommend that my colleagues read a relevant article from the Wall Street Journal, which I have inserted in the Extensions of Remarks in today's RECORD.

POPULAR MANDATE OF THE PEOPLE SHOULD DICTATE HOUSE MEMBERS VOTES ON THE PRESIDENCY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, the 12th amendment to the Constitution of the United States provides that in the event that no candidate for President of the United States receives a majority of the votes cast by the electors of the several States of the Union in the electoral college, then the House of Representatives shall decide. In 1800, 1824, and 1876 this body was faced with that sort of a choice. Quite obviously the candidacy of our colleague, JOHN ANDERSON of Illinois, presents the possibility in the next Congress we may have to exercise our constitutional duties in choosing the President.

I think it would be highly unfair and, in fact, a tragedy if the Members of the next Congress refused to carry out the popular mandate of the people they represent in their districts. Therefore, I am today introducing a resolution expressing the sense of the Congress that each Member of the House cast his or her vote for President of the United States, should it come to that, in favor of the candidate for President who receives the majority or plurality of the popular votes cast in that individual Member's district. I invite all Members to join me in cosponsorship. I think that cosponsorship will be a test of their sincerity on this issue before the election, when the people should know. The issue is whether Members of Congress will carry out the people's will.

SEVERE STORMS FORECASTING ADVISORY COMMITTEE ACT OF 1980

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, I would like to take a moment to comment on a piece of legislation which I introduced on Tuesday. The bill, H.R. 7861 is the Severe Storms Forecasting Advisory Committee Act of 1980. In the past years I have devoted a substantial amount of time to investigating the problems associated with forecasting in an accurate and timely manner severe storm phenomena such as tornadoes, flash floods, and hurricanes. This legislation is a result of those investigations. I believe it is a rational bill that, hopefully, will act as a first step in focusing and integrating the attention of the Federal Government on this problem.

In essence the bill establishes an advisory committee composed of representatives of the appropriate Federal agencies, the scientific community, and the public to recommend the appropriate actions to take to improve the quality of severe storm forecasting.

I encourage my colleagues to support this legislation.

□ 1010

CAPITAL GAINS RATE REDUCTION LEGISLATION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, earlier this week I introduced H.R. 7846, a bill which reduces both the individual and the corporate capital gains rate from 28 to 21 percent.

My bill, which is similar to S. 2923 introduced by Senator CRANSTON, continues the process started by the Congress in the Revenue Act of 1978. At that time, the effective capital gains tax rate was lowered from 49 percent to the current 28 percent. I now feel that it is time for the rate to be lowered further, to an effective rate of 21 percent.

Such a move promises to have a significantly beneficial impact on the rates of savings and investment in the United States. Reports show that as a result of the 1978 changes:

The amount of new venture capital increased from $39 million in 1977 to $570 million in 1978 and $319 million in 1979;

Disbursements by venture capital firms increased from $400 million to $1 billion; and

New stock offerings increased fivefold.

Mr. Speaker, at a time when the Congress is looking for ways to encourage capital formation and increase the rate of savings and investment in this country, I can think of no better place to start than a capital gains rate reduction. If we really want to create jobs for our future, this is one of the most effective ways to do it. I have no doubts that passage of this legislation to lower the effective capital gains rate to 21 percent will have many of the positive effects of our actions 2 years ago. I hope that all of my colleagues will join me in sponsoring this important legislation.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M., AUGUST 17, 1980, TO FILE REPORT ON H.R. 6915, TO REVISE TITLE 18 OF THE UNITED STATES CODE

Mr. DRINAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m. on August 17, 1980, to file a report on H.R. 6915, a bill to revise title 18 of the United States Code, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, this is a rather unusual request. That bill has been out of committee for a long time. There are a lot of us who do not want it to be filed while we are away. I cannot understand why my friend would make such a motion.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Massachusetts.

Mr. DRINAN. It is just a routine request that the staff is preparing this report, and they want to file it on the date mentioned so that we will have it ready for the Committee on Rules.

Mr. ASHBROOK. Mr. Speaker, I will make a routine objection if it is a routine request.

The SPEAKER. Objection is heard.

REQUEST TO CONCUR IN SENATE AMENDMENT WITH AMENDMENTS TO H.R. 3904, MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3904) to amend the Employee Retirement Income

Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendments to the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and declaration of policy.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 101. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 102. Multiemployer guarantees; aggregate limit on guarantees.
Sec. 103. Termination for multiemployer plans.
Sec. 104. Employer withdrawals; merger or transfer of plan assets or liabilities; reorganization; minimum contribution requirement for multiemployer plans; financial assistance; benefits after termination; enforcement.
Sec. 105. Premiums.
Sec. 106. Annual report of plan administrator.
Sec. 107. Contingent employer liability insurance.
Sec. 108. Transition rules and effective dates.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Amendment of the Internal Revenue Code of 1954.
Sec. 202. Multiemployer plans in reorganization.
Sec. 203. Minimum funding requirements.
Sec. 204. Excise taxes.
Sec. 205. Deductibility of employer liability payments.
Sec. 206. Minimum vesting requirements.
Sec. 207. Definition of multiemployer plan.
Sec. 208. Related technical amendments.
Sec. 209. Withdrawal liability payments funds.
Sec. 210. Effective date.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 302. Definition of multiemployer plan.
Sec. 303. Minimum vesting requirements.
Sec. 304. Minimum funding requirements.
Sec. 305. Application of interested party rules to withdrawal liability payment funds.
Sec. 306. Liquidated damages with respect to delinquent contributions.
Sec. 307. Actuarial standards.
Sec. 308. Exemptions from prohibited transactions.
Sec. 309. Fiduciary duties.
Sec. 310. Refund of certain withdrawal liability payments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 402. Related technical amendments.
Sec. 403. Conforming amendments.
Sec. 404. Clerical amendments.
Sec. 405. Action taken before regulations are prescribed.
Sec. 406. Pension Benefit Guaranty Corporation put on budget.
Sec. 407. Church plans.
Sec. 408. Deductibility of payments to plan by a corporation operating public transportation system acquired by a State.
Sec. 409. Waiver of preemption in case of Hawaiian health care plan.
Sec. 410. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 411. Refund of mistaken contributions.
Sec. 412. Definition of employee pension benefit plan.
Sec. 413. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 414. Study by General Accounting Office; hearings required.
Sec. 415. Government contractors' affirmative action requirements.
Sec. 416. Stone mining operations.
Sec. 417. Occupational Safety and Health Act amendments.
Sec. 418. Reduction in unemployment benefits on account of pension.
Sec. 419. Federal service of ex-servicemen.
Sec. 420. Benefits on account of Federal service to be paid by employing Federal agency.
Sec. 421. Cessation of extended benefits when individual moves to State in which trigger is not "on".

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the increase in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financially self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a multiemployer plan—

"(1) to which section 4021 applies, and

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2) shall not be taken into account.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent''.

"(3) For purposes of this section, the accrual rate is—

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; divided by

"(B) the participant's years of credited service.

"(4) for purposes of this subsection—

"(A) a year of credited service is a year in which the participants completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection,

begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of—

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) was performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) if the proposition described in clause (i)(I) is to be established, the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2)(A) If the report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b).

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) A revised schedule referred to in subparagraph (A) shall go into effect as approved by the Congress by concurrent resolution.

"(3)(A) If the report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) A revised schedule referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into affect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enaced wih full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: '"That the Congress favors the proposed schedule described in ——————— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ———————.', the first blank space therein being filled with 'section 4022A(f)(2)(A)(i) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

"(B) The regulations prescribed under this paragraph shall provide such reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines to be necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on ————.: the blank space therein being filled with the date on which the revised schedule was submitted.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain.

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b).

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418D of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection.

"(h) Notwithstanding subsections (b)(1) and (c)(1), in the case of a participant or beneficiary under a multiemployer plan who is in a pay status on July 29, 1980, or who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension under such a plan on that date, the benefit guaranteed by the corporation under this title shall be the benefit guaranteed by section 4022 (determined without regard to the amendments made by the Multiemployer Plan Amendments Act of 1980).

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

"Sec. 4022B. (a) Notwithstanding sections 4022 and 4022A, no persons shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

Sec. 103. Termination for Multiemployer Plans.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

"Sec. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

"(2) the withdrawal of every employer from the plan, within the meaning of section 4203, or the cessation of the obligation of all employers to contribute under the plan; or

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than $1,750 if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.".

Sec. 104. Employer Withdrawals; Merger or Transfer of Plan Assets or Liabilities; Reorganization; Minimum Contribution Requirement for Multiemployer Plans; Financial Assistance; Benefits After Termination; Enforcement.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"Part 1—Employer Withdrawals

"WITHDRAWAL LIABILITY ESTABLISHED

"Sec. 4201. (a) If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability.

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c)(1)(B), and

"(D) finally, in accordance with section 4225.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203.

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205.

"DETERMINATION AND COLLECTION OF LIABILITY; NOTIFICATION OF EMPLOYER

"SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

"SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a group or class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations (considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers), or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

"SEC. 4204. (a)(1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under. this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section refered to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

"(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to operations, during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability, payment when due,

then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

"(3)(A) If all, or substantially all, of the seller's assets are distributed, or if the seller is liquidated before the end of the 5 plan year period described in paragraph (1)(C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

"(b)(1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1)(B).

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a)(1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

"PARTIAL WITHDRAWALS

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if for such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1)(A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"(B) For purposes of subparagraph (A)—

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The number of contribution base units for the high base year is the average number of such units for the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(2)(A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substituted for another agreement.

"(c)(1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after the withdrawal.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c)(1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4209 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for—

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OF PARTIAL WITHDRAWAL LIABILITY

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan under section 4205(a)(1) (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1), has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be canceled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due.

"(b) If—

"(1) for any 2 consecutive plan years following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) The corporation shall prescribe regulations providing for the reduction of withdrawal liability for partial withdrawals under section 4205(a)(2) under principles similar to those of subsections (a), (b), and (c). Under such regulations, only those changes in the employer's operations at a facility or under a collective bargaining agreement which resulted in such liability.

"(3) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act.

"DE MINIMIS RULE

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan shall be reduced by the smaller of—

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $100,000,

reduced by the amount, if any, by which the unfunded vested benefits allocable to the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of the amount determined under section 4211 by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the amount determined under section 4211 for the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employees withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during the plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

"SEC. 4211. (a) The amount of the unfunded vested benefits allocable to an employer that withdraws from a plan shall be determined in accordance with subsection (b), (c), or (d) of this section.

"(b)(1) Except as provided in subsections (c) and (d), the amount of unfunded vested benefits allocable to an employer that withdraws is the sum of—

"(A) the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, as determined under paragraph (2),

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980 as determined under paragraph (3); and

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4),

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

"(2)(A) An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the change in unfunded vested benefits for each plan year in which the employer has an obligation to contribute under the plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

"(B) The change in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amounts of the change in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the change is determined.

"(C) The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by 5 percent of such change for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of a change in unfunded vested benefits is the product of—

"(i) the unamortized amount of such change (as of the end of the plan year preceding the plan year in which the employer withdraws); multipled by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such change arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such change arose and the 4 preceding plan years of all contributions made by employers who had an obligation to contribute under the plan for the plan year in which such change arose reduced by the contributions made in such years by employers who had withdrawn from the plan in the year in which the change arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings,

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4209, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectable or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

"(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the amount of unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry) may be amended, to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).

"(2)(A) The amount of the unfunded vested benefits allocable to any employer under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fuly amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this section during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(3) The amount of the unfunded vested benefits allocable to an employer under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of the unfunded vested benefits allocable to an employer under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year preceding the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year preceding the plan year in which the employer withdraws (determined as of the end of the plan year preceding the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount (determined in a manner not inconsistent with regulations of the corporation) equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer, decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year preceding the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers. and

"(II) the denominator of which is the value of all nonforfeitable benefits under the plan as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws:

"(ii) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year preceding the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year preceding the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year preceding the plan year in which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii)(I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii)(II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(II) which are attributable to service with respect to the employers described in such clause (ii)(II).

"(E) The amount of the plan's unfunded vested benefits for a plan year preceding the plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such plan year; reduced by

"(ii) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year preceding the plan year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A)(ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the amount of the liability for unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

"(5)(A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's allocable share of unfunded vested benefits under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's allocable share of unfunded vested benefits under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d)(1) The method of calculating set forth in subsection (c)(3) shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

"(2) Sections 4204, 4209, 4219(c)(1)(B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising—

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. A plan may provide that the determination of withdrawal liability under this part is to be based on the plan's actuarial assumptions which are reasonable in the aggregate (within the meaning of section 412(c)(3) of the Internal Revenue Code of 1954) or the actuarial assumptions set forth in the corporation's regulations for purposes of determinating an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

"SEC. 4214. (a) No plan rule or amendment adopted after January 31, 1981, under section 4209 or 4211(c) may be applied without the employer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

"SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

"SEC. 4216. (a) In the case of a plan described in subsection (b)—

"(1) if an employer withdraws prior to a termination described in section 4041A(a)(2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c) (1) (C) (i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contribution for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules contained in section 4243(d) (3) (B) (ii) (determined without regard to any limitation cn such rate otherwise provided by this title)

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041A(a) (2) which is agreed to by the labor organization that appoints the employee representative on the joint board of trustees which sponsors the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d) (3).

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c) (1) The amount of an employer's liability under this paragraph is the product of—

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

"(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) A plan may, in a manner not inconsistent with regulations of the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

"SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

"(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

"SEC. 4219. (a) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

"(b) (1) As soon as practicable after an employer's complete or partial withdrawal. the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2) (A) no later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c) (1) (A) (i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206 over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C) (i) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of—

"(I) the average annual number of contribution base units for the period of 2 consecutive plan years, during the period of 5 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 5 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205 (a) (1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b) (1) (B) (i).

"(ii) (I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 2 consecutive plan years (during the period of 5 consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply in to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period).

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) the total unfunded vested benefits of the plan shall be allocated to all such employers liable under this part pursuant to regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206(a) (2).

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b) (1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

"(3) Each annual payment determined under paragraph (1) (C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1) (C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1) (D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1) (A) (ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment.

"(b) An amendment permitted by section 4211(c) (5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a) (1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of—

"(A) the date of notification to the employer under section 4219(b) (2) (B), or

"(B) 120 days after the date of the employer's request under section 4219(b) (2) (A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b) (1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees.

"(3) For purposes of any proceeding under this section, a plan shall be treated as having met its burden of proof with respect to a determination of its unfunded vested benefits if—

"(A) the determination of employer liability was made in accordance with the same actuarial assumptions prescribed by the corporation under section 4213(a), which are reasonable in the aggregate and, to the extent not inappropriate, not inconsistent with the actuarial assumptions used by the plan for the purpose of meeting the requirements of section 412 of the Internal Revenue Code of 1954.

"(B) the interest assumptions used are reasonable,

"(C) the plan treats all employers with reasonable consistency in making such determinations, and

"(D) the plan has not had a pattern of experience gains.

"(b) (1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b) (1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Any party to the arbitration proceeding may, no later than 30 days after the issuance of an arbitrator's award, bring an action in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

"(d) Payments shall be made by an employer in accordance with the determinations made under this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', means a trust which—

"(1) is established and maintained under section 501(c) (22) of the Internal Revenue Code of 1954, "(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, or 4219, and

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability if the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of—

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability.

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(4)(A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c)(1) and 404(a)(1)(A)(ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b)(2) or within the meaning of section 4975(d)(2) of the Internal Revenue Code of 1954.

"(d)(1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c)(1)(A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against the employer that has withdrawn from the plan for amounts paid by a fund to a plan under—

"(1) subsection (c)(1)(A), to the extent not credited under subsection (d)(1)(A), and

"(2) subsection (c)(1)(C).

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

"(h)(1) A withdrawal liability payment fund established by employers having an obligation to contribute to a multiemployer plan for work performed in the building and construction industry which does not meet the requirements of subsection (b) shall be treated, for purposes of this Act and of the Internal Revenue Code of 1954, as a fund which meets the requirements of subsection (b) if it meets the requirements of paragraph (2) of this subsection.

"(2) A withdrawal liability payment fund described in paragraph (1) meets the requirements of this paragraph if—

"(A) substantially all of the employees with respect to whom employers have an obligation to contribute under the plan perform work in the building and construction industry,

"(B) the plan covers primarily employees in the building and construction industry; and

"(C) the fund is a trust which—

"(i) is maintained for the exclusive purpose of making payments, to a plan to which a contributing employer has an obligation to contribute, of—

"(I) amounts described in paragraphs (1) and (2) of subsection (c),

"(II) increases in contributions required because of a decline in the plan's contribution base (determined without regard to benefit increases adopted or effective within the past 5 years),

"(III) such other liabilities of an employer as may be described in regulations prescribed by the corporation, and

"(IV) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund;

"(ii) is funded—

"(I) exclusively by amounts paid by employers under the plan, and

"(II) by payments made by more than one employer under the plan;

"(iii) provides for payments, in accordance with clause (i), only to plans with respect to which employers participate in the fund;

"(iv) provides that the right of a plan to receive payments from the fund may not be transferred to any other plan; and

"(v) meets all requirements of this section other than the requirements of paragraphs (2), (3), and (4) of subsection (b), subsection (c)(3)(B), and subsection (d)(2).

"(i) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

"(j) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

"SEC. 4224. (a) Under such regulations as the corporation may prescribe, a plan may provide an alternative method for payment of withdrawal liability by an employer in financial distress.

"(b) If, upon application made by a plan or an employer in a proceeding under section 4221, the arbitrator determines that an alternative method for the payment of withdrawal liability by an employer in financial distress is in the best interest of participants and beneficiaries under the plan, then the plan shall grant such an alternative method to the employer. The determination shall be made in accordance with standards set forth in section 303(b) of this Act and regulations prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a)(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's length transaction to an unrelated party (within the meaning of section 4204(d)), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed the greater of—

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000	$2,100,000, plus 45 percent of the amount in excess of $6.000,000.
More than $7,000,000, but not more than $8,000,000	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000.000	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of—

"(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

"(1) an employer is insolvent if the liabilities of the employer, including, withdrawal liability under the plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4225; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other valuation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

"(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

"(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

"(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

"(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

"SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

"(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b)(1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

"(1) a successor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

"(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection (b) (1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which—

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232(c) (3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a) (1) Whenever an employer completely or partially withdraws from a multiemployer plan (referred to elsewhere in this section as the 'old plan') as a result of a certified change of collective bargaining representative, the plan sponsor of the old plan—

"(A) shall notify the employer of—

"(i) the amount of the employer's withdrawal liability under part 1 with respect to such withdrawal,

"(ii) the old plan's intent to transfer the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative to another multiemployer plan (referred to elsewhere in this section as the 'new plan'), and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) shall notify the new plan of the intent to transfer such benefits, assets, and liabilities to the new plan.

"(2) Upon notification of the employer and the new plan under paragraph (1), if—

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (1) (A), and

"(B) the new plan either—

"(i) fails to file an appeal with the corporation within 60 days after receipt of the notice described in paragraph (1) (B) to prevent the transfer because the new plan would suffer substantial financial harm as a result of the transfer, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

"(b) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(c) Whenever there is a complete or partial withdrawal described in subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (a) (2) (B) within 60 days after receipt of the notice described in subsection (a) (1) (B), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal,

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts are paid to the old plan and credited against the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(b) (1) Notwithstanding subsection (a), the plan sponsor of the old plan shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization, or

"(B) the transfer of assets would cause the old plan to go into reorganization.

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (a) (1), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer if the value of such benefits exceeds the withdrawal liability of the employer.

"(e) For purposes of subsection (a), the term—

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 without regard to section 4211(e)), and

"(2) 'certified change of collective bargaining representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947 or the Railway Labor Act.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) (1) A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b) (2) of the Internal Revenue Code of 1954, over

"(B) the credits to the funding standard account under section 412(b) (3) (B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) (A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B) (i) (I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) (i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i) (I), or

"(II) described in clause (i) (II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A) (ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) (A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and "(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means —

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3), in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to—

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan years (increased by any amount waived under subsection (f) for the plan year).

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 4241(b)(4).

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the changes under section 412(b)(2)(A) or (B) of the Internal Revenue Code of 1954, the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

"(3)(A) In the case of a plan described in section 1216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when mutliplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a).

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section).

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"(1) The term 'pay status participant' means, with respect to a plan a participant receiving retirement benefits under the plan.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A (c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5).

"(b) For purposes of this section, for a plan year—

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"PART 4—FINANCIAL ASSISTANCE

"FINANCIAL ASSISTANCE

"SEC. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"PART 5—BENEFITS AFTER TERMINATION

"BENEFITS UNDER CERTAIN TERMINATED PLANS

"SEC. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A(d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12)).

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b); and

"(C) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c) (4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section 4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a)(1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515).

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4221 shall be served upon the corporation by certified mail. The corporation may intervene in any such action.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.".

SEC. 105. PREMIUMS.

(a) Section 4006(a) is amended to read as follows:

"(a)(1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be uniform for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4222.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b)(1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

"(3)(A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (i),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A)(i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A)(iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C)(i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans,

is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D)(i) Not later than 120 days before the date on which an increase under subparagraph (C)(ii) is to beome effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C)(ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022 and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5)(A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022 A(g)(2) may reflect any reasonable considerations which the corporation determines to be appropriate.".

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subsection (a)(3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

SEC. 106. ANNUAL REPORT OF PLAN ADMINISTRATOR.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and"; and

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is necessary for the enforcement of subtitle E and requires by regulation, which may include—

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001(a)(12)) and its value as of the end of that plan year and as of the end of the preceding plan year; and

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

SEC. 107. CONTINGENT EMPLOYER LIABILITY INSURANCE.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed.

SEC. 108. TRANSITION RULES AND EFFECTIVE DATES.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c)(4).".

(c)(1) Section 4402 (as redesignated) is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

"(e)(1) Except as provided in paragraphs (2) and (3), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act.

"(2)(A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on April 29, 1980.

"(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a)(3) as in effect at the time of the withdrawal.

"(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

"(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

"(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(f)(1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that—

"(A) an employer has withdrawn from a multiemployer plan under section 4063, and

"(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041A(a)(2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

"(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

"(g)(1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may—

"(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

"(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

"(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and

"(D) if necessary, enforce such action through suit brought under section 4003.

"(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.".

(2)(A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)—

(i) "more than 75 percent" shall be substituted for "70 percent" in subsections (a) and (b) of such section,

(ii) "25 percent or less" shall be substitued for "30 percent" in subsection (b) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3)(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For the purpose of applying section 4217 for purposes of the preceding sentence, the date "May 2, 1979," shall be substituted for "April 28, 1980," and the date "May 3, 1979" shall be substituted for "April 29, 1980". For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations. For purposes of this paragraph, the term "employer" includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

(1) subsection (a)(1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a)(2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e)(1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B) (i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000, reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

(B) the term "withdrawal date" means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

(C) the term "facility" means the facility referred to in paragraph (1).

(f) Title IV is amended by adding at the end thereof the following new section:

"ELECTION OF PLAN STATUS

"SEC. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

"(b) An election described in subsection (a) shall be effective only if—

"(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. MULTIEMPLOYER PLANS IN REORGANIZATION.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirements.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Insolvent plans.

"SEC. 418. REORGANIZATION STATUS.

"(a) GENERAL RULE.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) REORGANIZATION INDEX.—For purposes of this subpart—

"(1) IN GENERAL.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) NET CHARGE TO FUNDING STANDARD ACCOUNT.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) VESTED BENEFITS CHARGE.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) DETERMINATION OF VESTED BENEFITS CHARGE—

"(A) IN GENERAL.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) CERTAIN CHANGES IN BENEFIT LEVELS.—

"(i) IN GENERAL.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) PLAN IN REORGANIZATION.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) BASE PLAN YEAR.—

"(A) IN GENERAL.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) RELEVANT COLLECTIVE BARGAINING AGREEMENT.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) RELEVANT EFFECTIVE DATE.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) ADJUSTMENT DATE.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) PERSON IN PAY STATUS.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) VESTED BENEFITS.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) ALLOCATION OF ASSETS.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) WITHDRAWAL LIABILITY.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) PROHIBITION OF NONANNUITY PAYMENTS.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) TERMINATED PLANS.—Any multiemployer plan which terminates under section 4041A(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated.

"SEC. 418A. NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS.

"(a) NOTICE REQUIREMENTS.—

"(1) IN GENERAL.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

"Section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, an excise tax may be imposed.

(2) PERSONS TO WHOM NOTICE IS TO BE GIVEN.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) OVERBURDEN CREDIT NOT TAKEN INTO ACCOUNT.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) ADDITIONAL REQUIREMENTS.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements or assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"SEC. 418B. MINIMUM CONTRIBUTION REQUIREMENT.

"(a) ACCUMULATED FUNDING DEFICIENCY IN REORGANIZATION.—

"(1) IN GENERAL.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) TREATMENT OF WITHDRAWAL LIABILITY PAYMENTS.—For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) MINIMUM CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) ADJUSTMENT FOR REDUCTIONS IN CONTRIBUTION BASE UNITS.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(b) The denominator of which is the plan's valuation contribution base for the plan year.

"(3) SPECIAL RULE WHERE CASH-FLOW AMOUNT EXCEEDS VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) CASH-FLOW AMOUNT.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary, adjusted in a manner consistent with section 418(b)(4).

"(c) CURRENT CONTRIBUTION BASE; VALUATION CONTRIBUTION BASE.—

"(1) CURRENT CONTRIBUTION BASE.—For purposes of this subpart, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary.

"(2) VALUATION CONTRIBUTION BASE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) INSOLVENT PLANS.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418D(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) CONTRIBUTION BASE UNIT.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) LIMITATION ON REQUIRED INCREASES IN RATE OF EMPLOYER CONTRIBUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2)(A) or (B), the sum of—

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4)(B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) Funding standard requirement.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) Special rule for certain plans.—

"(A) In general.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) Eligible plans.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(iii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) Period.—The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(e) Certain Retroactive Plan Amendments.—In determining the minimum contribution requirement with respect to a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

"(f) Waiver of Accumulated Funding Deficiency.—

"(1) In general.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) Treatment of waiver.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3)).

"(g) Actuarial Assumptions Must Be Reasonable.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

"Sec. 418C. Overburden Credit Against Minimum Contribution Requirement.

"(a) General Rule.—For purposes of determining the contribution under section 418B (before the application of section 418B (b)(2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b)(2) or (d) and without regard to this section).

"(b) Definition of Overburdened Plan.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) Amount of Overburden Credit.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year. The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) Overburden Factor.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) Definitions.—For purposes of this section—

"(1) Pay status participant.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) Number of active participants.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1 of the subtitle E of title IV of the Employee Retirement Income Security Act of 1974, determined by dividing—

"(i) the total amount of such payments by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulations provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) Average number.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) Average guaranteed benefit.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

"(5) First year in reorganization.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) No Overburden Credit in Case of Certain Reductions in Contributions.—

"(1) In general.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) Treatment of certain withdrawals.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Mergers.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

"Sec 418D. Insolvent Plans.

"(a) Suspension of Certain Benefit Payments.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974.

"(b) DEFINITIONS.—For purposes of this section, for a plan year—

"(1) INSOLVENCY.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) RESOURCE BENEFIT LEVEL.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources.

"(3) AVAILABLE RESOURCES.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974.

"(4) INSOLVENCY YEAR.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) BENEFIT PAYMENTS UNDER INSOLVENT PLANS.—

"(1) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) UNIFORMITY OF THE BENEFIT SUSPENSION.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b)(6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) RESOURCE BENEFIT LEVEL BELOW LEVEL OF BASIC BENEFITS.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) EXCESS RESOURCES.—

"(A) IN GENERAL.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) EXCESS RESOURCES.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) UNPAID BENEFITS.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) RETROACTIVE PAYMENTS.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) PLAN SPONSOR DETERMINATION.—

"(1) TRIENNIAL TEST.—As of the the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) DETERMINATION OF INSOLVENCY.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level of basic benefits no later than 3 months before the insolvency year.

"(e) NOTICE REQUIREMENTS.—

"(1) IMPENDING INSOLVENCY.—If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1), the plan sponsor shall —

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(E) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) RESOURCE BENEFIT LEVEL.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) POTENTIAL NEED FOR FINANCIAL ASSISTANCE.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) REGULATIONS.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secretary shall be given in accordance with regulations prescribed by the Secretary.

"(5) CORPORATION MAY PRESCRIBE TIME.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) FINANCIAL ASSISTANCE.—

"(1) PERMISSIVE APPLICATION.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(2) MANDATORY APPLICATION.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this subpart in such manner as determined by the Secretary.".

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof of the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

SEC. 203. MINIMUM FUNDING REQUIREMENTS.

Section 412 (relating to minimum funding standards) is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date.

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) Special rules for multiemployer plans.—For purposes of this section—

"(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) Plan payments to supplemental program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501 (c) (22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c) (7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d) (3))."; and

(3) by adding at the end thereof the following new subsection:

"(j) Certain Terminated Multiemployer Plans.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a) (2) of that Act.

"(k) Financial Assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary.".

Sec. 204. Excise Taxes.

Section 4971 (relating to taxes on failure to meet minimum funding standard) is amended—

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.".

Sec. 205. Deductibility of Employer Liability Payments.

Subsection (g) of section 404 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(g) Certain Employer Liability Payments Considered as Contributions.—

"(1) In general.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan.

"(2) Controlled group deductions.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income).

"(3) Coordination with subsection (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a) (1) (A)) be deductible under this section when paid.".

Sec. 206. Minimum Vesting Requirements.

Section 411 (relating to minimum vesting standards) is amended—

(1) by adding at the end of subsection (a) (3) the following new subparagraphs:

"(E) Cessation of contributions under a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) Reduction and suspension of benefits by a multiemployer plan.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be suspended under section 418D or reduced or suspended under section 4281 of the Employee Retirement Income Security Act of 1974.";

(2) in subsection (a) (4) (E), by striking out "and";

(3) in subsection (a) (4) (F), by striking out the period and inserting in lieu thereof "; and";

(4) by adding at the end of subsection (a) (4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b) (2) (A) (i) of such Act in conjunction with the decertification of the collective bargaining representative, and

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d) (6), by striking out "section 412(c) (8)" and inserting in lieu thereof "section 412(c) (8), or section 4281 of the Employee Retirement Income Security Act of 1974".

Sec. 207. Definition of Multiemployer Plan.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Multiemployer Plan.—

"(1) Definition.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreement between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) Cases of common control.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) Continuation of status after termination.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date.

"(4) Transitional rule.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date.

"(5) Special election.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37) (A) (iii) of the Employee Retirement Income Security Act of 1974 and section 414(f) (1) (C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

Sec. 208. Related Technical Amendments.

(a) Sections 401(a) (12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies."

(b) Subsection (d) of section 4975 is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under part 1 of subtitle E of title IV or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F); or

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c) (1) (E) or (F).".

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.".

(d) Section 413(b) (6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

(e) Section 401(a) (2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined under section 423(d) of the Employee Retirement Income Security Act of 1974 to be an overpayment within 6 months of such determination" after "501(a)".

Sec. 209. Withdrawal Liability Payment Funds.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by. the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223 (c) or (h) of the Employee Retirement Income Security Act of 1974, and

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21) (B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223 (b) or (h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.".

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) Section made applicable to withdrawal liability payment funds.—For purposes of this section—

"(A) In general.—The term 'plan' includes a trust described in section 501(c) (22).

"(B) Disqualified person.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974.".

(c) (1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 194. Contributions to Employer Liability Trusts.

"(a) Allowance of Deduction.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c) (22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and

"(2) which is properly allocable to such taxable year.

"(b) Allocation to Taxable Year.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) Disallowance of Deduction.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 194. Contributions to employer liability trusts.".

Sec. 210. Effective Date.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of—

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

Sec. 302. Definition of Multiemployer Plan.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following:

"(37) (A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c) (1) are considered a single employer.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.".

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37) (A) (iii) of this Act and section 414(f) (1) (C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(ii) The plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

Sec. 303. Minimum Vesting Requirements.

Section 203 is amended—

(1) by inserting after subsection (a) (3) (D) the following new subparagraph:

"(E) (i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because benefit payments under the plan may be reduced or suspended under section 4281 or suspended under section 4245.";

(2) in subsection (b) (1) (E), by striking out "and";

(3) in subsection (b) (1) (F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b) (1) (F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b) (2) (A) (i) in connection with the decertification of the collective bargaining representative; and

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

Sec. 304. Minimum Funding Requirements

(a) Section 301 is amended by adding at the end thereof the following new subsections:

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

(b) Section 302 is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear.

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954)."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

Sec. 305. Application of Interested Party Rules to Withdrawal Liability Payment Funds.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223 shall be treated as a party in interest with respect to such trust.".

Sec. 306. Liquidated Damages With Respect to Delinquent Contributions.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"Sec. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.".

(b) Section 502 is amended by—

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.".

Sec. 307. Actuarial Standards.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph:

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future,

but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

Sec. 308. Exemptions From Prohibited Transactions.

(a) Section 408(b) is amended by adding at the end thereof the following:

"(10) Any transaction required or permitted under part 1 of subtitle E of title IV.

"(11) A merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231.".

(b) Section 408 is amended by adding at the end thereof the following new subsection:

"(f) Section 406(b)(2) shall not apply to any merger or transfer described in subsection (b)(11).".

Sec. 309. Fiduciary Duties.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "this title".

Sec. 310. Refund of Certain Withdrawal Liability Payments.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lieu thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) In the case of a withdrawal liability payment which has been determined under section 4221(d) to be an overpayment, paragraph (1) shall not prohibit the return of such payment to the employer within 6 months after the date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

Sec. 402. Related Technical Amendments.

(a)(1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

(C) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));";

(D) in subsection (a)(7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs:

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated manadatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954;

"(9) 'reorganization index' means the amount determined under section 4241(b);

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury; and

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation.";

(F) by adding the following new paragraphs at the end of subsection (c)(1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan.

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

(2) Section 4003 is amended—

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e)(1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

(3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: "The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

(4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

"Sec. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

(6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b)(1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A (d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d)(1)(A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause;

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d)(1)(B)(i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title";

(G) in subsection (d)(1)(B)(iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d)(2)(B), by striking out "and";

(I) in subsection (d)(2)(C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d)(2) (C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under part 1 of subtitle E,

"(E) each employer who has an obligation to contribute, within the meaning of section 4212(a), under a multiemployer plan, and

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended—

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d)(1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended—

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b)(2), if any), or, if no agreement is reached, the date established by the court.".

(b)(1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies.".

(2) Section 403(a)(1) is amended by striking out "title" and inserting in lieu thereof "Act".

(3) Section 3002 is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4245 of this Act, before publishing any such proposed or final regulation.".

SEC. 403. CONFORMING AMENDMENTS.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A (if any), other than subsection (g) (2) thereof (if any).";

(2) in subsection (b) (2) (A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b) (2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d) (1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e) (1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g) (2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g) (2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g) (2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f) (1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended—

(1) in the section heading. by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ". in accordance with this section." after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b) (1). by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended—
Section 4041 is amended—

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended—

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4032 (b) (5)" and inserting in lieu thereof "4022 B". (f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4281 (d) (2) (A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(e).".

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan".

(h) Section 4063 is amended—

(1) in the first sentence of subsection (a), by inserting "other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions".

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer".

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a) (2), any".

(l) Section 4002(b) (3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

Sec. 404. Clerical amendments.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries."

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Adjustment for partial withdrawal.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. De minimis rule.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec.. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec. 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"Sec. 4231. Mergers and transfers between multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.
"Sec. 4235. Transfers pursuant to change in bargaining representative.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4245. Insolvent plans.

"PART 4—FINANCIAL ASSISTANCE

"Sec. 4261. Financial assistance.

"PART 5—BENEFITS AFTER TERMINATION

"Sec. 4281. Benefits under certain terminated plans.

"PART 6—ENFORCEMENT

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.
"Sec. 4303. Election of plan status.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.

"Sec. 4402. Transition rules and effective dates.

"Sec. 4403. Election of plan status.".

Sec. 405. Action Taken Before Regulations Are Prescribed.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

Sec. 406. Pension Benefit Guaranty Corporation Put on Budget.

(a) Paragraph (2) of section 4002(g) is amended to read as follows:

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980.

Sec. 407. Church Plans.

(a) Section 3(33) is amended to read as follows:

"(33) (A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term 'employee' of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

"(D) (i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means—

"(I) the period ending 270 days after the date of mailing by the Secretary of such a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows:

"(e) Church Plan.—

"(1) In general.—For purpose of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) Certain plans excluded.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) Definitions and other provisions.—For purposes of this subsection—

"(A) Treatment as church plan.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) Employee defined.—The term employee of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

"(iii) an individual described in subparagraph (E).

"(C) Church treated as employer.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) Association with church.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) Special rule in case of separation from plan.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

"(4) Correction of failure to meet church plan requirements.—

"(A) In general.—If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) Failure to correct.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) Correction period defined.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974.

Sec. 408. Deductibility of Payments To Plan by a Corporation Operating Public Transportation System Acquired by a State.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

Sec. 409. Waiver of Preemption in Case of Hawaiian Health Care Plan.

(a) Section 514(b) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Law (Haw. Rev. Stat. 393-1 through 51), as in effect on January 1, 1979.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefit plans.

"(C) Parts (1), (4), and (5) of this subtitle shall supersede the State law described in subparagraph (A), but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of Hawaii to assist them in effectuating the policies of provisions of such laws which are superseded by such parts.".

(b) The Secretary shall—

(1) conduct a study on the effects of paragraph (5) of section 514(b) of the Employee Retirement Income Security Act of 1974, as added by subsection (a), and the effects of extending the exemption from section 514(a) of such Act provided by such paragraph to include other State laws which impose requirements with respect to employer provided health care plans, and

(2) report to the Congress on the results of such study within 2 years after the date of the enactment of this Act.

(c) The amendment made by this section shall take effect on the date of the enactment of this Act.

Sec. 410. Treatment of Certain Severance Pay Arrangements and Supplemental Retirement Income Payments as Welfare Plans.

Paragraph (2) of section 3 is amended—

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income payments under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement or payment shall be treated as a pension plan.".

Sec. 411. Refund of Mistaken Contributions.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) In the case of a contribution, or a payment of withdrawal liability under part 1 of subtitle E of part IV—

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a)).".

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

Sec. 412. Definition of Employee Pension Benefit Plan.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(10) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

Sec. 413. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.

(a)(1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

(b)(1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

Sec. 414. Study by General Accounting Office; Hearings Required.

(a)(1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers.

(2)(A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

(B) The report submitted under subparagraph (A) shall be made available to the public.

(b) In conducting the study under subsection (a)(1), the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a)(2).

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator, the sponsor, any contributing employer, or any employee organization representing participants of any plan, and

(2) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

Sec. 415. Government Contractors' Affirmative Action Requirements.

Section 718 of the Civil Rights Act of 1964 is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsection:

"(b) In administering any executive order relating to equal employment opportunity programs of government contractors and subcontractors, and any rules and regulations issued pursuant to such order, no provisions requiring affirmative action programs or activities shall apply to any contractor or subcontractor who at all times during the twelve-month period preceding the awarding of the contract or subcontract employed five or fewer employees (including all employees of all firms owned or controlled by the contractor or subcontractor) and who at all times during the term of the contract or subcontract will employ five or fewer employees: *Provided*, That nothing in this subsection shall make inapplicable provisions of any such executive order requiring a commitment to refrain from or a prohibition of employment discrimination because of race, color, religion, sex or national origin, together with remedies for such discrimination, and requiring all contractors to include affirmative action provisions and provide enforcement assistance with respect to any subcontract with a subcontractor who employs more than five employees as described in this paragraph.".

Sec. 416. Stone Mining Operations.

Section 3(h)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 802 (h)(1)), as amended by the Federal Mine Safety and Health Amendments Act of 1977, is amended by inserting after "preparation facilities." the following new sentence: "Such term shall not include any surface mining of stone, clay, colloidal phosphate, or sand and gravel.".

Sec. 417. Occupational Safety and Health Act Amendments.

Section 4 of Occupational Safety and Health Act of 1970 (29 U.S.C., Section 653) is amended by adding the following new subsection:

"(C) Nothing in this Act shall authorize the Secretary to administer or enforce any standard, duty, regulation, or order with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost work day case rate—at the most precise Standard Industrial Classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics except—

"(1) to take any action authorized by this Act with respect to any employer or group of employers within such category whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards;

"(2) to provide requested consultation, technical assistance, educational and training services, and to conduct surveys and studies;

"(3) to conduct inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(4) to take any action authorized by this Act with respect to imminent dangers;

"(5) to take any action authorized by this Act with respect to health hazards;

"(6) to investigate an employment accident which is fatal or results in hospitalization of one or more employees, and take any action pursuant to such investigation authorized by this Act;

"(7) to take any action authorized by this Act with respect to complaints of discrimination against employees for exercising rights under this Act.".

Sec. 418. Reduction in Unemployment Benefits on Account of Pension.

(a) Section 3304(a)(15) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

Sec. 419. Federal Service of Ex-Servicemen.

(a) Section 8521(a)(1)(A) of title 5, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "one year".

(b) The amendment made by this subsection shall be applicable with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after January 1, 1981.

Sec. 420. Benefits on Account of Federal Service To Be Paid by Employing Federal Agency

(a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"Sec. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code.".

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after September 30, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1980) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in clause (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

(c) All funds, appropriated for the fiscal year beginning October 1, 1979, and which are available for the making of payments to States after September 30, 1980, pursuant to agreements entered into under chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such chapter in States which do not have in effect such an agreement, shall be transferred on October 1, 1980 to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

Sec. 421. Cessation of Extended Benefits When Individual Moves to State in Which Trigger Is Not "On"

(a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (2), payment of extended compensation shall not be made to an individual for any week of unemployment in such individual's eligibility period (as defined in section 203(c)) during which such individual resides in a State in which there is not a State 'on' indicator for such week, if such individual took up residence in such State after the beginning of the period of unemployment with respect to which extended benefits would otherwise be payable, except that the preceding provisions of this paragraph shall not apply with respect to the first two weeks during which such individual resides in such State.".

(b) The amendment made by this section shall be effective with respect to weeks of unemployment beginning on or after October 1, 1980.

House amendments to Senate amendment:

Page 16, strike out line 13 and all that follows down through line 19 and insert in lieu thereof the following:

"(B) The regulations prescribed under this paragraph shall provide—

"(i) that a plan must elect coverage under the supplemental program within the time permitted by the regulations;

"(ii) unless the corporation determines otherwise, that a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year; and

"(iii) such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title."

Page 11, strike out line 18 and all that follows down through line 15 on page 15 and insert in lieu thereof the following:

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

"(2)(A) If the last report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested—

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b).

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) The revised schedule of increased premiums referred to in subparagraph (A)(ii) or (A)(iii) shall go into effect as approved by the Congress by concurrent resolution.

"(C) If an increase in premiums is not approved, the revised guarantee schedule described in subparagraph (A)(1) shall go into effect on the first day of the second calendar year following the year in which such revised guarantee schedule was submitted to the Congress.

"(3)(A) If the last report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested—

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) The revised schedules referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into effect as approved by the Congress by a concurrent resolution.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in ——— transmitted to the Congress by the Pension Benefit Guaranty Corporation on ———.', the first blank space therein being filled with 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b) (4) through (7).

Page 74, line 2, strike out "2" and insert in lieu thereof "3".

Page 74, line 3, strike out "5" and insert in lieu thereof "10".

Page 74, line 10, strike out "5" and insert in lieu thereof "10".

Page 74, line 20, strike out "2" and insert in lieu thereof "3".

Page 74, line 21, strike out "5" and insert in lieu thereof "10".

Page 75, inserrt after line 12 the following:

"(iii) A plan may be amended to provide that for the first plan year ending on or after April 29, 1980, the number '5' shall be substituted for the number '10' each place it appears in clause (i) or clause (ii) (whichever is appropriate). If the plan is so amended, the number '5' shall be increased by one for each succeeding plan year until the number '10' is reached".

Page 65, beginning on line 2, strike out "A plan" and all that follows down through line 8 and insert in lieu thereof the following: "Withdrawal liability under this part shall be determined by each plan on the basis of—

"(1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or

"(2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.".

Page 79, strike out line 10 and all that follows down through line 16 on page 82 and insert in lieu thereof the following:

"PRESUMPTION REGARDING DETERMINATION OF WITHDRAWAL LIABILITY

"Sec. 4221. (a) For purposes of this part, a determination made with respect to a plan under sections 4201 through 4219 and section 4225 is presumed correct unless the party contesting the determination shows by a preponderance of the evidence that the determination was unreasonable or clearly erroneous.

"(b) In the case of the determination of a plan's unfunded vested benefits for a plan year, the determination is presumed correct unless a party contesting the determination shows by a preponderance of evidence that—

"(1) the actuarial assumptions and methods used in the determination were, in the aggregate, unreasonable (taking into account the experience of the plan and reasonable expectations), or

"(2) the plan's actuary made a significant error in applying the actuarial assumptions or methods.

"(c) If an employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

Page 91, strike out lines 3 through 15 and insert in lieu thereof the following:

"SEC. 4224. A multiemployer plan may adopt rules providing for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules are consistent with this Act and with such regulations as may be prescribed by the corporation."

Page 5, line 23, insert "(A)" before "For".

Page 6, insert after line 4 the following:

"(B) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months before the first day of the plan year for which an amendment reducing the benefit or the benefit increase is taken into account under section 4244A(a)(2) in determining the minimum contribution requirement for the plan year under section 4243(b) is not eligible for the corporation's guarantee.

Page 111, strike out lines 4 through 7 and insert in lieu thereof the following:

"(7) For purposes of paragraph (3)—

"(A) in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status, and

"(B) the vested benefits charge shall be determined without regard to reductions in accrued benefits under section 4244A which are first effective in the plan year.

Page 112, beginning on line 16, strike out "an excise tax may be imposed" and insert in lieu thereof "accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur)".

Page 126, after line 16, insert the following:

"ADJUSTMENTS IN ACCRUED BENEFITS

"SEC. 4244A. (a)(1) Notwithstanding sections 203 and 204, a multiemployer plan in reorganization may be amended in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b), are not eligible for the corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

"(2) In determining the minimum contribution requirement with respect to a plan for a plan year under section 4243(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8) of the Internal Revenue Code of 1954, but only if the amendment is adcpted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary of the Treasury may prescribe by regulation under section 412(c)(10) of such Code.

"(b)(1) Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary of the Treasury—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally than such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(C) A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d)(1)(A) A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) For purposes of this section, 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) The Secretary of the Treasury may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

Page 134, line 8, strike out "and".

Page 134, insert after line 8 the following:

"(C) comply with the rules for and limitations on benefit reductions under a plan in reorganization, as prescribed in section 4244A, except to the extent that the corporation prescribes other rules and limitations in regulations under this section; and

Page 134, line 9, strike out "(C)" and insert in lieu thereof "(D)".

Page 157, in the items following line 21, strike out the item relating to section 418D and insert in lieu thereof the following:

"Sec. 418D. Adjustments in accrued benefits.
"Sec. 418E. Insolvent plans.

Page 164, insert after line 6 the following:

"(D) TREATMENT OF CERTAIN BENEFIT REDUCTIONS.—The vested benefits charge shall be determined without regard to reductions in accrued benefits under section 418D which are first effective in the plan year.

Page 164, line 7, strike out "(D)" and insert in lieu thereof "(E)".

Page 165, beginning on line 13, strike out "an excise tax may be imposed" and insert in lieu thereof the following: "accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).".

Page 182, insert after line 15 the following:

"SEC. 418D. ADJUSTMENTS IN ACCRUED BENEFITS.

"(a) ADJUSTMENTS IN ACCRUED BENEFITS.—

"(1) IN GENERAL.—Notwithstanding section 411, a multiemployer plan in reorganization may be amended, in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b) of the Employee Retirement Income Security Act of 1974, are not eligible for the Pension Benefit Guaranty Corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

"(2) Adjustment of vested benefits charge.—In determining the minimum contribution requirement with respect to a plan for a plan year under section 418B(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8), but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary may prescribe by regulation under section 412(c)(10).

"(b) Limitation on Reduction.—

"(1) In general.—Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974) under the plan, and

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally that such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effecitve and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) Information required to be included in notice.—The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) No Recoupment.—A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d) Benefit Increases Under Multiemployer Plan in Reorganization.—

"(1) Restoration of previously reduced benefits.—

"(A) In general.—A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive particpants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) Benefit increases and benefit restorations.—For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) Uniformity in benefit restoration.—If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increases in year of benefit reduction.—No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) Retroactive payments.—A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) Inactive Participant.—For purposes of this section, the term 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) Regulations.—The Secretary may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations

Page 182, line 16, strike out "Sec. 418D." and insert in lieu thereof "Sec. 418E.".

Page 197, strike out lines 3 through 11 and insert in lieu thereof the following:

"(F) Reduction and suspension of benefits by a multiemployer plan.—A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(i) the plan is amended to reduce benefits under section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974, or

"(ii) benefit payments under the plan may be suspended under section 418E or under section 4281 of the Employee Retirement Income Security Act of 1974.";

Page 209, strike out lines 19 through 23 and insert in lieu thereof the following:

"(ii) A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(I) the plan is amended to reduce benefits under section 4244A or 4281, or

"(ii) benefit payments under the plan may be suspended under section 4245 or 4281".

Page 247, strike out line 3 and all that follows down through line 8 on page 248.

Page 118, line 16, strike out "changes" and insert in lieu thereof "charges".

Page 121, insert after line 6 the following:

"(4) Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

Page 176, insert after line 11 the following:

"(4) Exception in case of certain benefit increases.—Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

Page 18, strike out lines 7 through 15.

Page 44, line 12, strike out "$100,000" and insert in lieu thereof "$50,000".

Page 255, strike out line 4 and all that follows down through line 3 on page 256.

Page 256, strike out lines 4 through 11.

Page 256, strike out line 12 and all that follows down through the end of page 257.

Strike out line 1 on page 258 and all that follows down through line 21 on page 263 and insert in lieu thereof the following:

Sec. 414. Treatment of Certain Retirement Benefits.

(a) General Rule.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following:

"except that—

"(A) the requirements of this paragraph shall apply to a pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or other payment is under a plan maintained (or contributed to) by a base period employer (as determined under applicable law), and

"(ii) services performed for such employer by the individual during the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other payment, and

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

(b) Effective Date.—The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

Sec. 415. Increase in Length of Service in Armed Forces Required for Ex-Servicemen to be Eligible for Unemployment Benefits.

(a) General Rule.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United

States Code is amended by striking out "90 days or more" and inserting in lieu thereof "365 days or more".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

SEC. 416. CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.

(a) GENERAL RULE.—Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after October 1, 1980; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 for any week which begins before June 1, 1981.

(2) SPECIAL RULE FOR CERTAIN STATES.—In the case of any State the legislature of which does not meet in a regular session which begins during calendar year 1981 and before April 1, 1981, paragraph (1) shall be applied by substituting "June 1, 1982" for "June 1, 1981".

Page 2, in the table of sections, strike out the items relating to sections 409 through 421 and insert in lieu thereof the following:

Sec. 409. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 410. Refund of mistaken contributions.
Sec. 411. Definition of employee pension benefit plan.
Sec. 412. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 413. Study by General Accounting Office; hearings required.
Sec. 414. Treatment of certain retirement benefits.
Sec. 415. Increase in length of service in Armed Forces required for ex-servicemen to be eligible for unemployment benefits.
Sec. 416. Cessation of extended benefits when paid under an interstate plan in a State where extended benefit period is not in effect.

Page 70, line 24, insert after "subsection (a)." the following: "The corporation shall prescribe such regulations.".

Page 75, strike out lines 22 through 25 and insert in lieu thereof the following:

"(ii) notwithstanding any other provision of this part, the total unfunded vested benefits of the plan shall be fully allocated to each such employer in a manner consistent with regulations which shall be prescribed by the corporation.

Page 18, line 4, strike out "418D" and insert in lieu thereof "418E".

Page 171, line 11, strike out "418D(b)(1)" and insert in lieu thereof "418E(b)(1)".

Page 235, strike out the item relating to section 4221 and insert in lieu thereof the following:

"Sec. 4221. Presumption regarding determination of withdrawal liability.

Page 235, insert after the item relating to section 4244 the following new item:

"Sec. 4244A. Adjustments in accrued benefits.

Page 248, line 9, strike out "SEC. 410." and insert in lieu thereof "SEC. 409.".

Page 249, line 15, strike out "SEC. 411." and insert in lieu thereof "SEC. 410."

Page 251, line 6, strike out "SEC. 412." and insert in lieu thereof "SEC. 411.".

Page 252, line 14, strike out "SEC. 413." and insert in lieu thereof "SEC. 412.".

Page 253, line 10, strike out "SEC. 414." and insert in lieu thereof "SEC. 413.".

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment and the House amendments to the Senate amendment be dispensed with and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New Jersey?

Mr. ROUSSELOT. Yes, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST FOR IMMEDIATE CONSIDERATION OF H.R. 7881, TO AMEND TITLE IV OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from the further consideration of the bill (H.R. 7881) to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 1 month the date on which the corporation must pay benefits under terminated multiemployer plans, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. THOMPSON. Reserving the right to object, Mr. Speaker, there will be objection, Mr. Speaker, but I would like to make clear that it is the intention of the leadership and it is this Member's intention and that of his colleagues on the ERISA task force immediately upon our return following the recess, to seek a rule and to proceed with the earliest possible disposition of this legislation.

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to my colleague from Ohio to explain what the situation is. We still could, as I understand, extend beyond this deadline that is mandated, I think, improperly by law of 1974 which we have extended several times and would allow us to go to conference.

Mr. ASHBROOK. Mr. Speaker, my friend from New Jersey (Mr. THOMPSON) and those on this side agree there is no need for extensive debate on this. Anyone can refer to the RECORD yesterday and get all of the pertinent factors.

The only additional point I would add after the gentleman from New Jersey made his statement is that we are taking a rather unnecessary chance in assuming that because we are going to take an action in 2 weeks that the pensions that are supposed to terminate under the law will not be terminated, that all of the horrors that we have heard about will not happen.

I would certainly hope that no one would object to my effort to make sure this does not happen for that same month; for 2 weeks we will be away and 2 weeks we will be back, it seems to me very reasonable that it would take 30 days to delay what might be of terrible consequences.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, if then in fact those who might potentially—and I am sure they would not want to object to this extension; they are the ones who run the risk if the whole thing goes into the ashcan—but I realize each Member has the right to just junk it all and run the risk.

Mr. ASHBROOK. I thank the gentleman for these comments.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Speaker, let me say we are in the situation now where, as of midnight last night, the current law has gone into effect.

If the gentleman's unanimous-consent request were agreed to, and the other body would agree to pass the extension, no harm would have occurred because the only harm that could occur is if a pension plan goes through the steps to terminate and become eligible for the insurance coverage, that could not happen in a matter of just a few hours or just a few days.

Mr. GAYDOS. Mr. Speaker, I call for regular order.

Mr. Speaker, I object to the unanimous-consent request.

The SPEAKER. Objection is heard.

KLAN ENDORSES REPUBLICAN PLATFORM

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I would like to call the attention of the membership to an article appearing today that speaks of the major group of the Ku Klux Klan in this country endorsing Governor Reagan for the Presidency as their candidate.

It is interesting to note that the paper that carries the Klan's endorsement also states, Mr. Speaker, and I quote:

> The Republican platform reads as if it were written by the Klansmen. It opposes ERA, gun control, the 55-mile-an-hour speed limit, U.S. Senators for Washington, D.C., the Department of Education and the IRS crackdown on private schools. They are for prayer in the schools, reduced taxes, the death penalty.

And so on.

Mr. Speaker, if this is truly the platform of the Republican Party and the Klan is a supporter of Ronald Reagan, I hope we can all draw our own conclusions as to where our support should lie.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the acting majority leader about the program for when we reconvene after our recess.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished chairman.

Mr. BOLLING. On Monday, August 18, the day the House returns, we meet at noon. The Consent Calendar will be called. Then there are 13 suspensions. They are:

H.R. 5208, hay transportation deregulation;

H.R. 6755, Wood Utilization Act of 1980;

H.R. 4124, Tule River Tribe land settlement;

H.R. 7267, Siletz Tribe Reservation land settlement;

H.R. 7702, California wilderness bill;

H.R. 6089, duty rates conversion on unwrought lead;

H.R. 7054, tariff amendments on plastic netting;

H.R. 7139, wrapper tobacco duty suspension;

H.R. 5381, Federal Property and Administrative Services Act amendments;

S. 1863, U.S. Savannah Charter Act;

H.R. 6665, marine pollution protocol implementation;

H.R. 7859, educational assistance to refugee-impacted areas; and

H.R. 6550, International Center Act.

That completes the suspensions for that day. Any recorded votes on suspensions will occur after debate on all suspensions has been completed.

The House will then take up H.R. 7262, the Housing and Community Development Act, under an open rule, with 2 hours of general debate. The rule has already been adopted.

The House will then consider H.R. 7299, Mental Health Systems Act, under an open rule, with 1 hour of general debate.

On Tuesday, August 19, the House will meet at noon. We will have the Private Calendar. There are no bills under suspensions.

The House will consider H.R. 7583, Treasury-Postal appropriations for fiscal year 1981.

For Wednesday and the balance of the week, August 20, 21, and 22, the House will meet at 10 a.m. and will consider H.R. 7765, Budget Reconciliation Act, subject to a rule being granted.

□ 1020

Beyond that, we have scheduled the following bills:

H.R. 6711, Youth Act of 1980, complete consideration.

H.R. 6790, Foreign Service Act of 1980, open rule, 2 hours of debate.

H.R. 7265, Department of Energy authorizations of defense programs, open rule, 1 hour, rule already adopted.

H.R. 7115, National Science Foundation authorization, fiscal year 1981, complete consideration.

The House will adjourn by 3 p.m. on Friday; adjournment times on all other days will be announced.

As usual, conference reports may be brought up at any time and any further program will be announced later.

Mr. MICHEL. I thank the gentleman for his response.

I was very distressed to see that there is no mention of the Export-Import Bank legislation. I know that we were hoping to resolve that mattter before we broke here for the convention, because there is a critical matter of sufficient funds between now and the end of the fiscal year, meaning significant numbers of jobs, American jobs here that would be put to productive work for export.

I now see no mention of that in the program, even after we return. Does the gentleman have any intelligence at all as to what we might expect on that score?

Mr. BOLLING. Will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BOLLING. My understanding is that it will be called up some time during that week.

Mr. MICHEL. Sometime during that week; well, I am happy to have that assurance, because it is a critical matter and I think we are losing valuable time in the 2 weeks in which we will not be able to consider that.

One other item, if I might inquire, I noticed in yesterday's press the distinguished Speaker made mention of a good probability of a lame duck session following the election to take up budget matters. I would imagine there would be more than the budget to be considered if we ever did return after the election.

Does the gentleman have any further intelligence to enlighten the membership? I know all of us have got campaigns to wage on both sides of the aisle, in addition to the Presidential election. I think if we could give our membership some little advance warning of the time in which we would be here or expected to be here and vacations and all the rest; any observation on this?

Mr. BOLLING. Will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BOLLING. I would like to comment a little further on the Export-Import Bank matter. I understand that it has a budget problem and that matter may have something to do with whether it comes up during that week; but with that reservation, I understand it is the intention of the leadership to bring it up.

Now, with regard to the question the gentleman just asked, the Chair is under the impression that we still plan to adjourn for sure on the 4th of October and presumably that would be the terminal date until the elections are over. If we had to have a session to complete the business of the House, I understand it would be the 12th of November and we will then take whatever time is necessary to complete the business.

I will add gratuitously, and I am sure the gentleman will agree with this completely nonpartisan thought, that nobody has ever seen a lame duck session that produced a great deal.

Mr. MICHEL. Well, I would surely have to agree with the gentleman.

Of course, then there is the added matter of the organization of the new Congress and the organization on both sides that normally has taken place during the last several years in Congresses in the first week in December and that we would expect there would surely be some break between the time Congress finally did adjourn and that proceeding that takes place the first part of December; otherwise, there is really no vacation period whatsoever.

Mr. BOLLING. Speaking only for himself, will the gentleman yield one more time?

Mr. MICHEL. Surely.

Mr. BOLLING. I will say to the gentleman, I heartily agree with that and hope that is exactly the way it works out.

Mr. MICHEL. If the gentleman will permit one other question, my schedule calls for the Labor Day recess from the close of business on Thursday, August 28, and then beginning again on September 2 on Tuesday. Or would we reconvene on Wednesday, September 3?

Mr. BOLLING. I understand it is Wednesday, we come back on Wednesday the 3d.

Mr. MICHEL. So that at the close of business on August 28, we would then convene on Wednesday, September 3.

Mr. BOLLING. That is my understanding.

Mr. MICHEL. That will be considered to be the Labor Day recess when most Members are asked to make Labor Day appearances and all the rest.

Mr. BOLLING. The gentleman is correct.

Mr. MICHEL. I thank the gentleman for his clear and concise answers to my questions.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. MYERS of Indiana. I rise to express my appreciation for a very, very reasonable program, not only for the week coming back from the August recess, the home district work period, or the Democratic Convention, but also for the one the past week. I had been one who had taken the well on several occasions criticizing the program, first containing too many bills that were not that important and not taking up the most important what I feel for this Congress, the appropriation bills. For the past 2 weeks the leadership has shown fit to bring these appropriation bills to the floor. We have taken care of them with dispatch. We have early this week completed our program and I appreciate the consideration the leadership has given this program in recent weeks. I hope the good work keeps up.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. ROUSSELOT. Could the gentleman explain to us again why he thinks it will be necessary to come back after the election? Is it just that we cannot complete it during September?

Mr. BOLLING. My impression is that the decision is being made on the grounds that it seems impossible to get finished for a variety of reasons. I prefer not to go into the variety of reasons.

Mr. ROUSSELOT. Maybe the gentleman could share it with the House, since we are involved. Could we not work 5 days a week or something? We are the ones who have to be here. Why cannot we have the gentleman's understanding as to why we have to come back after the election?

Mr. BOLLING. Because we will not finish the work before the election.

Mr. ROUSSELOT. Well, there is the whole month of September.

Mr. BOLLING. The gentleman will have to draw his own conclusions on that. I am not going to attempt to advise the gentleman, since I suspect he already knows.

Mr. ROUSSELOT. Well, I only know what I read in the newspapers or what the Speaker happens to let us know about. I just wondered if the gentleman had some insight he could share with us.

Mr. BOLLING. No special insight that I feel I could share with the gentleman from California.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. NEAL. I just wanted to comment on the matter of the Export-Import Bank. If the Senate had adopted the measure we passed in this body, we would not be faced with this problem.

Mr. MICHEL. I understand.

Mr. NEAL. The Senate, I understand, will be in session for the first 3 days of next week and if they were to agree to adopt the provisions that we passed in this House, we could deal with that immediately upon our return.

The reason I mention it at this time is because the measure they adopted was one offered by the Senator from the gentleman's party the other night when only four Members were on the Senate floor. It does seem to me entirely possible if that Senator would recognize the nature of the problem and try to change the situation that we could deal effectively with the Export-Import Bank problem when we return. I would think maybe the gentleman could exercise his influence to help us in this matter.

Mr. MICHEL. Of course, the majority leader over there has a good number of Members that he could very well bring on to the floor if he would simply alert them to the particular problem; but I want to say that the distinguished chairman of the Rules Committee is correct, that there is, in view of what did transpire over in the other body, a budget impasse here and if for no other reason but to raise it at this time, this dialog might prod the other body to take the least objectionable route to get something done in the very little time we have got between now and the end of the fiscal year. Otherwise, this is really for naught.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. OBEY. I would like to simply say that I agree with the remarks of both gentlemen. It is very important to me personally that the Eximbank legislation pass in the form it left the House, because I know there are many Wisconsin businesses who are counting very heavily on that happening.

I would also say that I think the likelihood of getting no additional Eximbank authority as long as that Senate amendment is attached for the remainder of this year is very great, indeed.

□ 1030

Mr. MICHEL. There is only one effect it can have and that is just simply further loss of employment in our own country and the increase of the unemployment roles.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I want to address a question to the gentleman from Missouri (Mr. BOLLING). Yesterday I heard rumors that there may be some design on the part of the leadership in the House to intervene in court proceedings regarding the Abscam scandal, particularly in regard to one Member. The gentleman from Missouri knows that our Committee on Rules acted some weeks ago on House Resolution 10 and approved a rule change which would govern the manner in which subpenas and other judicial requests for information are handled by the House in essence giving the House some chance to pass on such issues.

I wonder if the gentleman could tell us when we might expect to bring up that rules change if, indeed, any plans or discussions are underway that would allow intervening in court matters now pending regarding Members of the House without the House being informed before that happens.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BOLLING. I cannot respond fully to the question because I know nothing about the plans, if any, to intervene in court.

I do know something about the other matter, as chairman of the Rules Committee, and it is the intent of the chairman of the Rules Committee to see to it that that matter comes up as promptly as possible to be acted on on the House floor. I do not know when it will be scheduled, but I hope it will be in the first 2 weeks that we are back.

I have been inquiring about this for some days and I hope that it will be ready for the floor at that time.

Mr. BAUMAN. I thank the gentleman from Missouri. Will the gentleman yield for one other observation?

Mr. MICHEL. Yes, I yield to the gentleman.

Mr. BAUMAN. It is now more than 2 months before the intended date of adjournment on October 4. I frankly have listened very carefully to the discussions we just had about the reasons for our coming back in a lameduck session after the election. The only allusion to a reason for such a session I have heard is the need to finish budgetary matters.

The Budget Act is very explicit in the dates by which it requires final action, and that is by the middle of September on appropriations and reconciliation. I do not understand how anyone in this House can say with certainty now that we will not finish our business. But it appears that there is a planned effort not to finish our business on the part of the majority party, that, for whatever reason, they are planning to bring us back after the election with all of the attendant political problems that may result because of the outcome of that election. Indeed, if the worst happens and the House may have to decide the issue of the Presidency, such a session could be used as a forum for trying to change rules or adopt rules that would govern that decision.

It seems to me that we are playing with very dangerous matters here in a very cavalier way. We are not being told why these decisions to delay are being made 2 months before adjournment. All we are told is we do not have enough time.

I think that is obviously a disingenuous response. Nobody knows whether we have enough time. But no real effort is being made to conclude the business of the House, and I think the House should be told why this is being done.

Mr. BOLLING. Would the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BOLLING. I regret that the gentleman from Maryland has taken that particular view of the comments of the gentleman from Missouri on why we feel that it will be necessary to have a session after the election. I know of no person who wants less to have such a session than I. I have had some experience with them. I think they are a disaster.

I even agree with some of the gentleman's fears, not all of them. I do not fear conspiracy in every event.

But it would be a great pity if we had to come back, and I hope we can avoid it. This gentleman is going to do everything he can to avoid that session. But I spent a couple of hours with others going over the program and those things that I suspect even the most partisan Member of the minority would feel needed to be done, and we have a great many things still to be done. Obviously they could be done if there were full cooperation in expediting matters. Anything can be done if there is real cooperation. But that involves a great deal of selectivity on the part of a great many

Members. The best judgment of people who have been looking at this kind of thing for some time was that it was going to be very nearly impossible, given the present circumstances, to get finished in the time available.

That is the best I could give as a direct and honest answer, and I do not believe that it should raise any deep suspicions of conspiracy.

Mr. MICHEL. If I may make one final reservation, may I first thank the gentleman for his candidness in holding or at least alerting the membership to the prospect of having to come back after the election. As much as I share his feeling that it will certainly not be all that productive, and probably just the opposite, I do share the concern of my friend from Maryland that with no fixed target date of October 4 there does not even seem to be the pressure, particularly on the Appropriations Committee, to resolve that critical matter as a condition precedent, it really should not be a condition precedent to resolving that whole budget process and reconciliation.

I want to see the system survive, but I have grave doubts that it is going to under the conditions under which we are operating, with one extension after another, and faulting ourselves on those deadlines we prescribed for ourselves.

So I would certainly hope that when we reconvene after the gentleman's convention we would make the most of that 10 days and then, right after Labor Day, really buckle down to business to conceivably change the projection of having to even think about coming back, and wind up for sure, as the Speaker had originally set for us, on October 4. I think that is better for all parties involved.

I am happy to yield to my friend if he wants to respond.

Mr. BOLLING. The gentleman deserves the last word. Therefore I will not comment.

Mr. MICHEL. I yield back the balance of my time.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS, AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, August 18, 1980, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, AUGUST 20, 1980

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule shall be dispensed with on Wednesday, August 20, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5892, ENERGY, WIND ENERGY SYSTEMS RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1979

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5892), the Energy, Wind Energy Systems Research, Development, and Demonstration Act of 1979.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman explain what the bill is?

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. FUQUA. The bill passed is the bill relating to wind energy, and there are no nongermane amendments added to the bill, I would say to the gentleman.

Mr. BAUMAN. I thank the gentleman for that explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PARTY AFFILIATION OF KU KLUX KLAN

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, just a few moments ago one of the Members of the House alluded to the fact that a newspaper article made reference to the Ku Klux Klan finding something of interest in the Republican Party platform and, ergo, there is an unusual association between the Ku Klux Klan and the Republican Party. Nothing could be further from the truth.

The Republican Party has not solicited the support of the Ku Klux Klan. The Republican Party is not interested in that support. I think the gentleman from New York knows that.

I could mention the fact that the grand dragon of the Ku Klux Klan in the State of California is a candidate for Congress on the Democratic ticket, but I will not do that, because to make mention of that fact would cause one to suggest that because a Democratic Ku Klux Klan member is running for Congress that thereby there is an association between the Democratic Party and the Ku Klux Klan. I will not mention that because that is unfair.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague from California.

Mr. FAZIO. We really appreciate the gentleman's willingness not to mention that item. I must tell the gentleman that your Democratic colleagues in California are finding it very difficult to share a slate with such an individual and really appreciate his having had the broadmindedness on his part, and the nonpartisan flair for good political sportsmenship.

Mr. DANNEMEYER. The gentleman being from California, I would think, would be particularly aware of the fact that there is a Democrat running on the ticket in the gentleman's party for Congress who is a member of the Ku Klux Klan.

☐ 1040

CONGRESSMAN BOB BAUMAN CALLS FOR FAIR TREATMENT OF VETERANS

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 15 minutes.

Mr. BAUMAN. Mr. Speaker, one of the few direct responsibilities of the Federal Government, as described in our Constitution, is the defense of the Nation. By extension, one of the Federal Government's prime duties is to those who have risked their lives in the Nation's defense. Yet for the past few years, particularly under the Carter administration, there has been an unsettling shift in Washington against showing our veterans the appreciation they deserve and granting them the rewards they have earned.

In 1978, for instance, the House voted to restore funds cut from the Veterans' Administration budget by the Carter administration. In 1979, we had to do the same thing. Now this year, estimates are that VA funding will fall some $400 million short of the VA's goal, and we will again have to fight to keep up adequate levels of veterans benefits.

I have long been distressed by this trend, and I have personally led efforts to reverse it. On April 30 of this year, for instances, when the first congressional budget resolution for fiscal year 1981 reached the full House, I demanded that it be returned to committee to allow amendments restoring the $400 million shortfall. The congressional leadership, fearing an embarrassment of the administration's policies if its VA cuts were once again rejected, opposed my effort and it was defeated. It is true that we need to balance the Federal budget and cut deficit spending, goals which I have supported vigorously during my 7 years in Congress. But at the same time we cannot allow our veterans to be neglected, and to hide behind our budget problems in an effort to justify unwarranted cuts in veterans programs is cowardly and contemptible.

Fortunately, we have been able to make some real gains for the Nation's veterans during this 96th Congress, in spite of the attitudes of some. In 1979, and again in 1980, Congress provided cost-of-living increases for disabled veterans and survivors, measures which I strongly supported. Also in 1979, we expanded medical care for World War I veterans by making them eligible for outpatient care for any disability. Congress also authorized private health care for veterans when it was authorized by a VA physician, and made those eligible for VA care also eligible for CHAMPUS (civilian health and medical program of the uniformed services) coverage. I again supported each of these wholeheartedly.

More recently, and with my full support, the House passed H.R. 7102, a bill to provide special pay benefits for VA doctors, dentists, and other health care personnel in an effort to recruit and retain them. President Carter vetoed an earlier congressional effort to do this. Also, the House approved H.R. 7458, a bill I voted for on July 28 which allows veterans to refinance VA home loans to take advantage of falling interest rates.

There is much left to do to preserve the rights of veterans, though. For instance, I recently cosponsored legislation to deny veterans' benefits to those discharged for misconduct, marginal performance of duty, drug abuse, or other undesirable behavior. And for those veterans who are still missing in Southeast Asia and have not been reunited yet with their loved ones, I have repeatedly called on the Carter administration to apply every pressure to the Hanoi Government to provide a full accounting of our men.

Mr. Speaker, I would be remiss if I did not mention the tremendous assistance I have received from veterans' organizations in formulating my judgments on legislative matters pertaining to veterans. Both the American Legion and the Veterans of Foreign Wars, their national, State and local leaders have been most helpful with advice and counsel, as have representatives of other distinguished veterans groups. They have my sincere thanks for that help.

But what has been done is not enough. We must not forget that, since Jimmy Carter took office, 10,000 VA hospital beds have been eliminated. This is the equivalent of shutting down 20 full hospitals. Since 1978, while Federal outlays for health have risen 62 percent, the similar item in the VA budget has increased only 21 percent, not enough to keep up with double-digit inflation. And the end of the treatment is not in sight.

We must redouble our efforts, Mr. Speaker, to provide the U.S. veteran the help he or she needs, and the dignity each one deserves. This is the least amount of gratitude we can show to those who bought, with precious sacrifice indeed, our Nation's freedom.

THINKING ABOUT NUCLEAR WAR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

● Mr. BROWN of California. Mr. Speaker, the Congress, more than most institutions, has an obligation to think about thermonuclear war and to take affirmative actions to prevent the holocaust which a full-scale nuclear war would bring about. We cannot look at the global nuclear arms race as a matter of budget numbers, or even view it as a question of relative strength with various strategic weapons systems. We have to constantly consider the consequences of using these weapons and not just coldly consider which weapons we have or how many weapons our adversaries have.

The events of the past year, which seem to have stymied strategic arms talks, encouraged military expansionism of all sorts and renewed discussions of actually using nuclear weapons are extremely depressing signs that modern states are rushing to the abyss. In fact, there are actually very few signs to give one hope, but those few signs are found among one of our species' greatest strengths—the human spirit.

Throughout the world, scientists, physicians, clergy, and law persons are renewing their active concern about the dangers of nuclear war and engaging in more forceful actions to focus attention on this potential folly by governments. There is even renewed interest in a National Peace Academy, a concept which is presently being explored by the U.S. Commission on Proposals for the National Academy of Peace and Conflict Resolution. Many Members of Congress are aware of these efforts, and I hope and pray that every Member shares the desire for genuine peace in the world and would support a ban on the use of nuclear weapons.

Mr. Speaker, at this time I wish to share with my colleagues some other thoughts about nuclear war which have recently been expressed. Last February, a major symposium on the medical consequences of thermonuclear war was held in Massachusetts by the Physicians for Social Responsibility, a group which includes a virtually "Who's Who" of the medical fraternity in the United States. An open letter which was agreed upon by the participants follows:

To President Carter and Chairman Brezhnev:

As physicians, scientists, and concerned citizens, alarmed by an international political climate that increasingly presents nuclear war as a "rational" possibility, we are impelled to renew a warning, based on medical and scientific analyses, that:

1. Nuclear war, even a "limited" one, would result in death, injury and disease on a scale that has no precedent in the history of human existence;

2. Medical "disaster planning" for a nuclear war is meaningless. There is no possible effective medical response. Most hospitals would be destroyed, most medical personnel dead or injured, most supplies unavailable. Most "survivors" would die;

3. There is no effective civil defense. The blast, thermal and radiation effects would kill even those in shelters, and the fallout would reach those who had been evacuated;

4. Recovery from nuclear war would be impossible. The economic, ecologic and social fabric on which human life depends would be destroyed in the U.S., the U.S.S.R., and much of the rest of the world;

5. In sum, there can be no winners in a nuclear war. Worldwide fallout would contaminate much of the globe for generations and atmospheric effects would severly damage all living things.

Therefore, in the interests of protecting human life, we appeal to you to:

1. Defuse the current tensions between our countries.

2. Ban the use of all nuclear weapons.

3. Recognize the threat posed by the very existence of our enormous nuclear arsenals, and begin dismantling them.

We urge you to meet with us to discuss the medical consequences of nuclear war. We urge all physicians in the U.S. and the U.S.S.R. to join us in this appeal.

While this seems obvious to those of us who have considered the consequences of the nuclear war, it nevertheless needs repeating. When the Congressional Office of Technology Assessment published its report on the "Effects of Nuclear War," I was amazed at how surprised some people were about the conclusions. It is clear that some statements need to be made repeatedly and forcefully if the reality is to become accepted.

One such forceful statement was recently brought to my attention. It is a sermon by W. H. Ferry, a well-known author who has worked for peace for many more years than we have had nuclear weapons. I found the words from this sermon a forceful reminder that the survivors of a nuclear war will condemn those who did not prevent it but could have. Excerpts from W. H. Ferry's sermon on Peace Sunday April 13, 1980, follow:

EXCERPTS

Only the most crazed advocates of preparation for thermonuclear was argue that such a war will end with winners and losers. Every reasonable person knows there will be only losers. There is a hint of divine retribution in this arrangement—that the arch-criminals of all history should perish by their own devices. For make no mistake about it, we are the arch-criminals.

We are ready for thermonuclear war and every day we are feverishly getting more ready. Let no one suppose that we are incapable of it: we are the only nation that has ever unleashed atomic bombs against an adversary. We have been considering atomic warfare in one place or another ever since: Korea, China, Cuba, Laos, Berlin and Vietnam. We came within a few minutes of launching a thermonuclear war in 1962. President Kennedy decided that he would press the button if a Russian freighter crossed a certain line in the Atlantic en route to Cuba. The President knew full well what he was about. He knew that he was about to ignite history's greatest cataclysm. But somehow—I shall never be able to imagine why—he was convinced that the situation called for it. American planes were circling in readiness to take off to Russian targets; crews in bomb silos across the country awaited sleeplessly the order to insert the keys that would send hundreds of ICBMs on their way. Kennedy knew we were doomed the moment he pressed the button. He knew also that there was no way in which he could defend us from extinction. Yet he thought he had no other option, and his finger was flickering above the button when word came, 13 minutes before deadline, that the freighter had turned back. We were that close—less than a quarter of an hour—to the extinction of our world. . . .

There is still one right which we cannot be denied. It is the right to blow up the world—or a large part of it—and degrade civilization. So we come to the most important question of all: *Quo warranto?* By what authority do we come to have this right? Only if we think God's right name is Satan can we believe it is conferred by any heavenly authority. When President Kennedy was poised to start thermonuclear war, his brother the Attorney General asked him to consider whether the American government or any government had the moral right to initiate thermonuclear war. The President said he had no time to consider theories. He said that the country's manhood demanded what he was about to do, though he knew that there would be little left of our country or its manhood when he did.

We simply have no right in this matter. Twenty years ago, I heard an Air Force general declare that we had a moral right and obligation to use thermonuclear weapons. I have heard a few such declarations since, but with no supporting argument. What I have heard in superabundance concerns our capability for limitless destruction if we feel called upon to use it. But nowhere have I heard a single moral justification for our preparations for thermonuclear war. Nevertheless, it is certain that at this very moment, and also in celebration of Peace Sunday 1980, a good many sermons are being preached on the wickedness of our adversaries and the necessity to remain armed to the teeth and beyond.

Some wise men think we have already passed the invisible line and are being remorselessly crowded by technology and worn-out ideas of power and leadership into war. I agree. The chances of averting war are in my opinion about one in a hundred. Optimists think that talking about impending doom is disloyal and hopeless. It is not disloyal to try to save the nation from fatal error. I often despair as I see the tides of war rising, but I am not despairing. My hope is that some argument or some event short of nuclear war will bring Americans to their senses, and that a radical redirection of national policy will result.

The fundamental problem is that the nuclear physicists have summarily thrust us into a completely changed world. Everything is new. The rules of the game must be drastically revised. Yet, as Einstein said, everything has changed except the way we think.

What has changed most is that great nations can no longer afford the luxury of enemies. Russia is our toughest adversary, but it is not our enemy. Our mortal enemy is war, war itself. Unless we learn this lesson promptly and thoroughly, thermonuclear war is a certainty. We have come close too often to have the slightest confidence that it cannot happen.

So we must renounce thermonuclear weapons and all their collateral weapons; by agreement if possible, unilaterally if not.

I conclude with some speculations about an as-yet-unborn technology that might save the world from the ultimate horror.

Technology means an assembly of ways and means to reach a desired end. The desired end is peace and the as-yet-unexplored technology is that of nonviolence. This subject has seldom been considered by our leaders except in the most perfunctory ways, and and has been left to do-gooders and pacifists. But now there is no choice except to discover the technology of nonviolence and put it to work. It is frighteningly evident that no major industrial nation can any longer further its aims by violence. Consider, by way of current example, the hapless hostages in Teheran and the fragile oil fields of the Persian Gulf. If violence no longer can be the method of resolving arguments between great powers, nonviolence has to be the answer. Though this seems self-evident, it is surely not evident to anyone in Washington. Candidates are taking loyalty oaths to greater and greater war budgets all over the country for more and more weaponry, almost never being asked the central question: By what right?

The discovery and practice of nonviolence is the first order of everybody's business today, especially Washington's business. Of what might this new technology consist? This is terra incognita for all of us. It is really to think about the unthinkable, for no such machinery has ever been considered. It will surely include a complexity of institutions not yet known, and a remaking of international organs already in place—the United Nations and its related agencies, for example. If it is argued that these organizations have not proved their effectuality, the answer has to be that they have never been given a proper chance by the major powers. Now there is no choice. It is either thermonuclear disaster or a nonviolent alternative.

The UN and a host of other international arrangements yet to be invented must be given the responsibility for gradually bringing the world back from the nuclear precipice. The late Grenville Clark contributed many useful directions in his book World Peace through World Law. Putting together the machinery for so unprecedented an assignment will be a massive, but not impossible, task. If we were to devote the brains, money and energy that yearly go into preparations for war into figuring out how the great nations can rub along together without war, we would have a good chance of averting universal destruction.

A government of nonviolence will stress cooperation and de-emphasize competition. Areas of great need will jostle for the attention they are not now getting—the development of renewable energy sources like wave and solar power, the recovery of depleted farmlands and reforestation of deserts, and provision of food and health care. This is not a mere litany of pressing problems, but a catalogue of the disparities that every day divide the world into more roiling factions.

Most of our preconceptions of ourselves, of our adversaries, and much of our sovereignty would disappear under a regime of nonviolence. Other countries would similarly have to abandon cherished attitudes. The resulting edifice would be monumentally bureaucratic, though surely no more bureaucratic than the trillion-dollar a-year bureauracies now running the international arms competition. But I cannot think of any other effective substitute for nuclear war. For better or worse, it is a real moral equivalent to modern war.

Devising a nonviolent structure to replace the machines of arch-criminality is the supreme challenge of our time. As things stand, the great likelihood is that we shall fail to meet it. But we must try.

I close with Deuteronomy:

"I have set before you life and death, blessing and cursing: therefore choose life, that both thou and thy seed may live."

Mr. Speaker, let me close by calling upon my colleagues to not only reexamine how we can take steps to avoid war, but to dedicate themselves to the process of creative peacemaking. The establishment of a National Academy of Peace and Conflict Resolution would be a small, but constructive step in this direction.●

ADDRESS TO MEMBERS OF FIANNA FAIL PARTY BY IRELAND'S PRIME MINISTER CHARLES HAUGHEY SIGNIFICANT TO ALL INTERESTED IN PEACE AND UNIFICATION OF IRELAND

The SPEAKER. Under a previous order of the House, the gentleman from Nebraska (Mr. Cavanaugh) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, this week Ireland's Prime Minister Charles Haughey gave an important address to member of his Fianna Fail Party which is significant to all who are interested in both peace and unification of Ireland and who believe that terrorism is not the way to achieve those goals.

The Prime Minister praised the efforts and contributions of American-Irish congressional and State leaders who share his approaches and goals, especially Speaker Tip O'Neill, Senators Edward Kennedy and Patrick Moynihan, Gov. Hugh Carey, and Congressman Thomas Foley.

I congratulate the Speaker and the chairman of the Agriculture Committee for their contributions and I highly recommend the speech to my fellow colleagues:

Text of Speech by an Taoiseach (Prime Minister of Ireland) Mr. Charles Haughey, T.D., to Members of the Fianna Fail Political Party at the Metropole Hotel, Cork, July 27, 1980

Since taking office as Taoiseach I have, on a number of occasions, fully set out Government policy on Northern Ireland and Irish unity. In statements in the Dail and elsewhere and in press, radio and television interviews I have dealt with the major aspects of our policy. I believe that no reasonable person can be in any doubt as to where we stand, what our objectives are and how we seek to achieve them.

Despite this, however, recent statements by the leaders of the Opposition parties indicate that they seem to have been able to persuade themselves that there is some element of doubt or ambiguity about our policy and in particular with reference to its application in the United States. For our part, to put it no stronger, we are entitled to question whether this approach on the part of the Opposition parties is likely to serve the national interest or to promote the peace and reconciliation which all responsible people are seeking to achieve.

On the 13th December last, in the debate on the nomination of the Government, I said: "We totally reject the use of force as a means of achieving that end."

Later in that speech, I said: "We are determined that the principle of the rejection of force will be clearly translated into practice."

In the course of my speech to the Fianna Fail Ard Fheis on 16th February last, I said: "All but a tiny minority understand that violence can never bring a solution and that it serves only to perpetuate division and hatred."

Again in the course of my speech in the Dail on 29th May, I said: "We totally reject force as a means of obtaining our aim. We seek our objective only by peaceful means."

I cannot, therefore, accept that there can be any genuine doubt in any quarter as to our attitude to violence whether it is politically motivated or sectarian in origin. We condemn and reject all such violence whoever commits it and for whatever purpose.

The principles I have stated have been translated fully into action. The strength and equipment of the Garda (Police) devoted to fighting this kind of violence has been increased. There have been innovations in organization and improvements in methods which have shown results. There has been widespread recognition of the successes of our security forces in the seizure of arms and explosives and in bringing those responsible for crimes of violence to justice. This is not to say that the Government are yet satisfied with the position.

We are dealing with a type of terrorism that is difficult to suppress fully and no government anywhere has been entirely successful in the area of security. We are determined, however, to take all the measures necessary for this purpose. A recent meeting between the Minister for Justice, the Attorney General, the Garda (Police) Commissioner and myself was devoted to ensuring that all the measures necessary to combat armed robbery and murder will be intensified and it was confirmed at that meeting that whatever resources are required for this purpose will be provided. The Garda Commissioner will shortly submit a plan outlining what additional measures can be taken to deal as comprehensively and effectively as possible with the situation.

That is the record of what we have said and done here in Ireland. I believe that it is equally clear that there flows unambiguously from our total rejection of violence a corresponding rejection of the action of individuals and organisations at home, in the United States or elsewhere, who provide financial or any other support for the cause of violence.

That is our position and it has been so far from the outset. A response to press queries, issued on my behalf as far back as 20th December last, underlined that the Government would continue to advocate that no support or encouragement should be given to any organisation in the United States which sends to Ireland funds which may be used in the promotion of a violent campaign in this country.

When I came to office, I indicated that there would be no departure from the fundamental policies of Fianna Fail on Irish unity. I have consistently maintained that the problem of Northern Ireland cannot be solved by security measures alone nor solely in the context of Northern Ireland. The whole situation must be raised to a new intergovernmental level that will bring permanent peace and stability to the peoples of Ireland and Britain.

I have made clear the view of the Government that any definitive settlement should take into account relations between North and South in Ireland, between Ireland and Britain, and between both parts of the community in Northern Ireland. I have suggested that the way would be opened towards political progress if the British Government were to declare their interest in Irish unity by consent and in peace, and their readiness to participate in the progress for achieving it. These are the essential elements of a policy designed to achieve peace in Northern Ireland. This policy was fully supported by the SDLP, representing a substantial body of opinion in Northern Ireland when I met them in Dublin last Thursday week.

The SDLP are deeply concerned, and we fully share that concern, about the increasing number of sectarian killings in Northern Ireland. We condemn these wanton murders, whoever commits them and urge that every possible effort be made to prevent them until a political settlement can bring permanent and lasting peace.

I believe that our policy on Northern Ireland is fully supported by the great majority of Irish people everywhere, not least among those 20 million Americans of Irish birth or descent. They subscribe to our view that Irish unity is the only eventual answer to the political problems of our country and I know that the vast majority of them favour the use of peaceful political means to attain that end.

It was clear as long as the mission of the late President De Valera in 1919, that the world of Irish-American politics and organisations is a vibrant and complex one. It has been so throughout this century. A variety of different causes and personalities exist. Groups and organisations come together, diverge and merge again. Alliances form and reform in a constantly changing pattern. It is a situation which must be handled on a practical basis from day to day with skill and discretion by those who are closely in touch with developments.

Clearly, there are individuals and organisations in a country as large and diverse as America whose outlook and actions will not be in line with the policy of the Government here on Northern Ireland. My belief is that these organisations and individuals are misguided and that many persons who subscribe to them do so out of genuine sympathy with the goal of Irish unity but without realising the channels into which their subscriptions may be diverted. To the extent that some of them provide financial or moral support with full knowledge of the nature of the campaign involved we must deplore their actions.

And yet the sort of simple, ritualistic condemnations now demanded are not enough. We must seek to understand that sentiments and traditional loyalities of our compatriots in America and their feelings as exiles. It can be no part of our policy to deflect any Irish-American from supporting the achievement of Irish unity or expressing that support. On the contrary we welcome and encourage it.

But we must separate that legitimate wish and aspiration clearly from any whisper of support for violence and terrorism. That is the real task in America today.

That is the distinction which we must make and continue to make. What is required is not mere condemnation as such but effective action to provide those who are in sympathy with the objectives of Irish unity with an alternative—a clearly defined Irish Government policy to which they can dedicate themselves. This is a need also stressed by our friends among the major political leaders in the United States: a clear objective and a policy which Irish-Americans can support any evidence that progress is being made towards that objective, through the implementation of that policy.

For over a hundred years, those charged with the leadership of our people have recognized the potential influence of that great number of Americans of Irish origins and have sought to harness it to help in the attainment of national objectives. We acknowledge and pay tribute to so many of the American-Irish who have laboured on Ireland's behalf. In recent years, we have been fortunate in having the support of major U.S. Congressional and State leaders—Speaker Tip O'Neill, Senators Edward Kennedy and Patrick Moynihan, Governor Hugh Carey, Congressman Thomas Foley and many others—who share our approach and objectives and who have made a substantial and greatly valued contribution in promoting progress towards these aims. I have, during the week, received encouraging and sustaining messages of support for the policy which I have enunciated from those leaders.

There can be no doubt that all American men and women of Irish birth and descent wish our country well and that Ireland's welfare is close to their hearts. But free American citizens do not welcome dictation. What is required is leadership and guidance. Experience has shown that repeatedly denunciation by government leaders of the type now sought can be to some extent counterproductive, particularly in a country where the freedom of the individual to decide for himself is so highly valued and cherished.

I would not wish to present any organisation sponsoring or supporting violence with gratuitous publicity which, however adverse, may have the very opposite effect to that intended. The efforts of the Government will be directed primarily at promoting our own positive policies on as wide a front as possible. By winning support for them everywhere we can isolate the men of violence.

Nevertheless, since opposition spokesmen have provided these peripheral organisations with the sort of free publicity on which they thrive, I believe that not much more harm can be done by dealing with specific organisations on this one occasion. There is clear and conclusive evidence available to the Government here from security and other sources that NORAID has provided support for the campaign of violence and indeed direct assistance in its pursuit. On the basis of these activities, it stands condemned and I appeal to all in America who have the interests of Ireland at heart not to give this body any support, financial or moral.

The evidence available to us also of the associations that exist between NORAID and the Irish National Caucus casts grave suspicion on the latter organisation. That is not to say that there are not among the members of that body or its supporters, many fine people who are not aware of its undesirable associations. It is important that they should be aware of the realities. The situation in Ireland today is such that no individual, whether private citizen or elected member of Congress, should by any statement or association, lend support to those whose actions serve only to delay Irish unity. I say now to all supporters of the bodies I have mentioned that they should carefully consider whether the cause they profess to serve would not now best be served by uniting in firm support of the policy of the Irish Government which is directed towards bringing about the unity and prosperity of the Irish People.

Our wish is to see all Americans of Irish descent and their friends rally behind the positive policies of the Government, satisfied that they have an objective worthy of support and convinced of the reality of our prospects of success through peaceful, political means. And I wish to send this message to all our friends in that great democracy and especially to our own kin. We at home draw great strength and encouragement from your close interest in Ireland and are grateful for your support for our efforts to unite our people and to promote their welfare. It is our deepest wish that you will always continue to do so.

FIVE YEARS AFTER HELSINKI

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 10 minutes.

● Mr. FASCELL. Mr. Speaker, today marks the fifth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe. On August 1, 1975, the leaders of the 35 signatory nations—East and West Europe, the United States, and Canada—met in Helsinki, Finland, and pledged close cooperation in virtually every aspect of East-West relations: Business, science, culture, information exchange, and the reduction of military tensions. Moreover, the participants agreed to broaden human contacts and to respect the "human rights and fundamental freedoms" of their citizens.

As chairman of the Commission on Security and Cooperation in Europe—the joint legislative-executive panel set up to monitor compliance with the Helsinki accords—I am pleased to announce the release of the Commission's report on how well these aims have been fulfilled. The report examines in detail Soviet and East European implementation of the provisions of the CSCE Final Act since Helsinki, updating the Commission's earlier implementation report issued in 1977. Because the Commission believes that each CSCE country should seriously review its own record of compliance, the report also evaluates the U.S. performance.

Unfortunately, the study reveals that the Soviet Union and its East European allies have failed to live up to their commitments under the Helsinki Final Act, particularly in the area of human rights.

Perhaps the most glaring violation of the spirit and letter of Helsinki has been the Soviet invasion of Afghanistan; by this deplorable act alone, the U.S.S.R. violated at least 5 of the 10 outlined in the international behavior outlined in the Final Act. The invasion was followed by the banishment of Nobel Peace Prize laureate, Andrei Sakharov, a scientist respected worldwide for his courage and devotion to the cause of human rights.

The Commission's study shows that since 1978, the Soviet authorities have embarked on a brutal crackdown on free thinking in the Soviet Union. Commission figures indicate that from 1978 to July 1980, over 280 human rights activists have been imprisoned: In 1978, 113 activist were jailed; in 1979, 112 were imprisoned. Just since January, 57 individuals have been imprisoned for trying to exercise the basic human rights guaranteed them under the Helsinki accords.

In other Warsaw Pact countries, internal repression has continued—even intensified—since 1977. In Czechoslovakia, the official campaign against human-rights activists has been unrelenting, dramatically demonstrated by the 1979 show trial of six prominent Charter '77 members. Last year, the German Democratic Republic passed stringent new laws designed to bring domestic critics to heel. And in the Soviet Union and most East European countries, restrictions on the reunification of families across national boundaries still exist.

While we can take some encouragement from progress in military confidence-building measures and the slow, albeit uneven, forward movement in commercial, scientific, cultural and educational exchanges, the West must continue to insist on full compliance by signatories with all Helsinki obligations.

The Commission's report is designed, in part, to aid our Government in preparing for the upcoming meeting to review CSCE implementation that will be held in Madrid this November. But, I hope that this comprehensive overview will be read not just by the delegates and diplomats, but also by my colleagues in the Congress and by the general public as well. The CSCE process is vitally important in promoting mutual understanding, and only unstinting vigilance and pressure by the West will bring about improvement in the East's record of compliance. It is time for these continuing violations of the Final Act to end. Then, and only then, will the noble goals of Helsinki become a reality.●

"THE ENGLISH SYSTEM OF JUDICIAL INJUSTICE IN NORTHERN IRELAND," BY PROF. DAVID LOWRY

(Mr. FISH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. FISH. Mr. Speaker, the political situation in Northern Ireland is of great concern to many of us. The unspeakable violence, the persistent violation of human rights and the armed-camp atmosphere to which the people of Northern Ireland are subjected is beyond belief. Prof. David Lowry of the Pace University School of Law in White Plains, N.Y., has written an excellent analysis of the judicial system in Northern Ireland. I submit this account and its fine introduction by my learned friend, Hon. Sean Walsh, member of the New York State Assembly:

INTRODUCTION

It has not required the example of English malfeasance or misfeasance in Ireland in the twentieth century, nor even the tragedy of the past decade to convince the student of Irish history, much less the reflective man or woman of Irish blood, of the inherent evil of the English presence in Ireland. For over eight centuries England's imperial purpose in Ireland has been not only the political, economic, religious, and racial subjugation of the Irish but also the genocide of Gaelic culture (indeed England's purpose has been the destruction of all Celtic cultures, i.e., Irish, Scottish, Manx, Welsh, and Cornish, wherever they are found). Nor is England's malefaction without a purpose, for early on did the Anglo-Saxon and Norman imperialists recognize that the unique degree of spirituality and almost mystical devotion to the ideals of individual liberty, tradition and nature among the Celts make them inherently unsuited for passive submission to the materialistic priorities of English rule, or to the English idea of their "place" in the greater scheme of things. The English attitude toward other non-English cultures and races is similar.

The form of England's Celtic/Irish policy has changed over the years, but the substance of cultural genocide remains undiminished even today. To those who understand this it is obvious that, even if every piece of repressive legislation in those six of divided Ulster's nine counties known as "Northern Ireland" were repealed tomorrow, and all prisoners of conscience released from the political prisons and concentration camps, England's continued presence in Ireland could not be tolerated. Yet there are many, both Irish and non-Irish, for whom this is not intuitively obvious. It is for the enlightenment of these, or at least of those among them who are of good will, that we must examine England's record in contemporary Ireland—not by traditional Irish standards—but according to the criteria and evidence of English and international usages and standards.

Professor David Lowry has lived in "Northern Ireland" and has his Law degree from Queens University, Belfast (1969). He is currently Professor of Law at the Pace University School of Law, White Plains, New York and is a consultant to the Irish National Caucus and to the Political Education Committee of the AOH. His essay, which follows, is a masterful analysis and indictment of the English system of judicial injustice in "Northern Ireland" based not upon Irish or Irish Republican sources, but rather based entirely upon English (including official British Government) and international (e.g., European Court of Human Rights) sources. It must be read by all seeking to understand the nature of the tragic conflict that exists in Ireland today.—Hon. Sean Patrick Walsh, C.E.P., B.A., J.D., M.A. Member, New York State Assembly.

A strange wall of silence surrounds the plight of the 400 Irish Republican prisoners in H-Block, Long Kesh, Northern Ireland. The American media, with a few notable exceptions, has been unable or unwilling to investigate the harrowing tales of suffering of H-Block inmates since the British authorities imposed a "blackout" on all news of H-Block in 1977. This media silence is all the more curious in an era of intensified interest in human rights throughout North America. But it is hardly surprising that Irish-Americans are largely ignorant of the H-Block issue given the lack of understanding of the struggle for human rights in Northern Ireland evident in the American media.

CIVIL RIGHTS

To understand the current violations of human rights in Ireland it is necessary to sketch briefly the political and legal background since 1969. The civil rights movement in 1969 demanded, *inter alia*, an end to religious discrimination against Catholics in housing and employment as well as the abolition of the notorious Special Powers Act of 1922. Catholics have been openly and systematically excluded from participation in virtually all but the lowest occupations in both the public and the private sector. Housing was allocated on the old gerrymandered patronage system. Any outbreak of unrest or dissent by Catholics had always been quickly and ruthlessly suppressed under the Special Powers Act which gave the authorities, *inter alia*, power to hold suspects incommunicado and indefinitely without lawful arrest, charge or trial. Thus, in 1969, the systematized discrimination against Catholics (assumed nationalists) and entrenched Protestant (assumed united empire loyalists) patronage and privilege was enforced by the much feared Royal Ulster Constabulary (RUC), an almost totally Protestant para-military police force, which had a proved capability of operating oppressively with almost unfetterd discretion conferred by the Special Powers Act.

The year 1969 was a watershed for northern Ireland. Hitherto opposition to discrimination had occurred (at least once in every decade since 1920) in the form of Irish Republican Army (IRA) guerrilla campaigns focused largely in the rural border areas. In 1969 middle-class urban Catholics and liberal Protestants took to the streets in protest against discrimination. A rather leftist-liberal Labor government in London was non-plussed by the protests and the traditional and practiced violence with which the RUC sought to stifle the peaceful protests of otherwise law-abiding citizens. The Northern Irish Prime Minister was summoned to London and ordered to institute the most elementary reforms to alleviate the glaring abuses of power. However, every time a gesture was made in the direction of the Catholic community pressure from Protestant extremists would intensify to counterbalance the London pressure. A messianic

Protestant preacher, the Reverend Ian K. Paisley, instigated and capitalized upon this "Protestant-backlash."

Sadly for the north's Catholic and nationalists a Conservative ("Tory") government was returned to power in London in 1970 and foolishly committed itself to a stance of "law and order first; reform later." After 50 years of intense and complete repression this was hardly likely to assuage the fears of the Catholic minority. One month after the election the Conservatives allowed the British Army and the RUC to "curfew," quite illegally, the Catholic Falls Road ghetto in Belfast for 36 hours while pouring gas and troops into the ghetto.

At this juncture the IRA did not exist as a credible military force or a major political factor in northern Ireland and this is now conceded by all observers. But now that the British Army had turned from its original "peace-keeping" role to one of aggression the resulting escalation of violence was inevitable. Early in 1971, some eight months after the British Army had taken the offensive, the first British soldier was killed. The IRA had (in January 1970) split asunder between marxists ("Officials") and nationalists ("Provisionals"). While weapons were few there was no shortage of recruits. This time many recruits had tried the peaceful route toward reform. They had protested and been beaten. They had petitioned London and, ultimately, London had turned its troops on them. But in 1971 the IRA was able to draw from a huge reservoir of young, well-educated urbanized youth who were determined not to be pressured into emigration (to Britain and unable, under the new law, to come to the United States) which had always been the desired goal of the authorities so as to keep the Catholics in a numerical and hence electoral minority.

INTERNMENT

As violence escalated the Northern government inevitably reached for its one trusted weapon in repressing dissent—Internment. In August of 1971 several hundred "suspects" were "lifted." The next three months saw 1400 detained and 900 released after interrogation and various periods of internment. Internment as used in Northern Ireland means that any person can be taken into custody although no evidence of suspicion of any crime is required. Such a person could be held incommunicado and detained in prison indefinitely. As the detainee is never charged with any offence, access to court, due process and civil rights are thereby denied.

Internment was rather like adding a lighted match to gasoline. According to the London Sunday Times the internment option was chosen because the authorities did not want to interfere with the commercial life of northern Ireland. Other alternatives such as curfews and block searches were thus summarily rejected. While such a disregard for human freedom and individual liberty is appalling, especially when property rights take precedence, it is interesting to note that this message was not lost on the "Provisional" IRA who, henceforth, set about bombing "economic targets," so called, with renewed zeal. A zeal which has not yet diminished.

Internment solidified Catholic resistance. It also brought forward support for the IRA from urban areas. More disturbing, however, were the stories of torture, inhuman and degrading treatment which inflamed the Catholic community. Many internees were quickly released because the police had no idea who were members of the IRA and so they "lifted" people somewhat indiscriminately. The stories told by those released were almost incredible. Incessant beatings, attacks by police dogs, forced to run barefoot over broken bottles, hooded and dropped from helicopters and, most chilling of all, systematic use of "white noise" in carefully controlled conditions. Sensory deprivation, formerly the monopoly of the KGB, the Chinese and the North Koreans, had arrived in Ireland. 1971 saw the first documented, proven and, indeed, admitted use of systematic inhuman and degrading treatment. It continues in various forms to this day and there is, as yet, no sign of it abating.

MURDER

Demonstrators peacefully protesting internment were murdered by British Paratroopers in Derry ("Bloody Sunday") in January of 1972. After that event it became clear to all that all avenues of peaceful protest had been closed. Discrimination continued. Indeed Catholics were driven out of "mixed areas" with retaliation in some cases by the IRA. The result was the largest population movement in Europe since World War II as Catholics crowded into the ghettos for protection. While Protestant para-militaries were moving the population about it is significant that few Catholics relied on the discredited RUC and the British Army for protection. The Special Powers Act and the use of internment and torture totally alienated the regular law enforcement agencies from the Catholic population. At this point very many Catholics turned to the IRA for protection, albeit often with some misgivings.

COUNTER-INSURGENCY

Total police alienation from the community made intelligence gathering even more difficult for the British and the RUC. Consequently, from 1972 to today the authorities adopted a "counter-insurgency" policy. This strategy seeks to break the connection between the population and the guerrilla. Its proponent General Sir Frank Kitson, in his book "Low Intensity Operations," describes fully how it operates. Suffice it to say that torture, inhuman and degrading treatment are integral components of such a strategy. As well as suspected terrorists, totally innocent people must be arrested and made to talk to verify data. It's all very sophisticated and detailed. For example, in 1975 the British were able to boast that nearly 40 percent of the population had been fed into its computer. No nugget of information is too small; even the color of wallpaper is recorded. The key to understanding this strategy is to understand that the "target population," that is the Catholic ghettos, are alienated and will not willingly inform on a neighbor—especially when such a neighbor would become a potential torture victim.

FAILURE OF BRITISH REFORM

Matters would have proceeded merrily along but for a few factors beyond British control. Firstly, international outrage at internment and torture pressured Britain to change, at least cosmetically, its repressive laws. Secondly, regardless of placebo reforms the IRA just kept bombing on and on. Thirdly, extremist Protestants showed, through a General Strike in 1974, that they were able and willing to frustrate any compromise which would have guaranteed Catholics a share of power or which, more importantly, tended to diminish entrenched Protestant privilege. The British, fearful of fighting on two fronts, wholly capitulated to the extremist Protestant para-military forces. This capitulation showed to all Protestants and Catholics that men like the UDA or Paisley, as de facto leader of the Protestant extremists, could exercise a negative veto on any reform or peace initiative.

Thus Northern Ireland is at an impasse as the British have foolishly deprived the Protestant majority of any incentive to negotiate an accommodation with moderate Catholics. Moderate Catholics who for years have had nobody to talk to, now have nothing to talk about as Protestant privilege and domination has been guaranteed by the British gift of the negative veto. If, however, the British gave a solemn undertaking to withdraw from northern Ireland in say 5 years the Protestants would have an incentive to negotiate and, more importantly, some things to negotiate about.

ENGLAND'S ARMY CANNOT WIN

Meanwhile the status quo in the Catholic ghettos remains intolerable. To the British it is the "containment" phase of counter-insurgency whereas to the inhabitants it is dragnet arrests, wrecked homes, tortured confessions and show trials, without due process and long prison terms at the end of it. It is not surprising that a secret British Army intelligence estimate of the IRA (leaked in May of 1979) noted that the IRA can sustain the current level of action through 1983. The report, compiled by the Chief of British Army Intelligence for London, notes that the British Army cannot win.

What strengthens the resolve of the IRA and the ghetto community is the ongoing cause celebre of the deprivation of human rights to the inmates of H-Block in Long Kesh. If ever war-weariness shows its face, H-Block immediately counters it. The H–Block tragedy is probably the single most vindictive and barbaric British miscalculation during 11 grisly years of violence on all sides. The H–Block story reveals in microcosm most that is wrong with British policy in Northern Ireland.

HUMAN RIGHTS VIOLATIONS

After the debacle of internment in 1972 the British suffered stiffened resistance in Ireland and intense pressure from abroad. The government of the Irish Republic initiated suit against the British in the European Court of Human Rights. British lawyers did all that they could to delay the case and finally admitted inhuman and degrading treatment of internees. The Court nevertheless continued the hearing after the admission of guilt and found the British guilty in 1978. But delaying tactics had worked to some extent as international opinion and pressure had drifted elsewhere.

COVER-UP

Similarly, the British, responding to pressure, established a plethora of judicial inquiries into torture and interrogation techniques. The Report of Sir Edmund Compton was so maladroit in stipulating that a) sensory deprivation was used to ward off the cold and b) that suspects couldn't be tortured unless the torturer derived pleasure from inflicting torture, that another Commission of Inquiry had to be impaneled to cover-up the cover-up. Lord Parkers' hastily convened inquiry had such narrowly circumscribed terms of reference that some wondered whether it could, in fact, perfect the cover-up. However, Lord Gardiner dissented filing a minority report in which he noted, inter alia, that the RUC torturers had been specially trained by the British six months prior to internment and that the techniques in question had been developed in Aden, Cyprus, Malaya, Kenya and Palestine by the British. But as he pointed out such torturing was an assault (at least) under British law. Nobody has yet been brought to trial in this regard.

Amnesty International has twice investigated (1972 and 1978) and found evidence of ill treatment. The second report of Amnesty prompted the British to establish yet another inquiry under Judge Bennett. It reported in March of 1979, and although its terms of reference were so narrow that it was boycotted by all impartial civil liberties groups, Bennett too found ill-treatment. Amnesty International had called for a full-scale public inquiry but the British evidently thought that a narrow secret inquiry into a few allegations would defuse the issue. They were wrong.

TORTURE DOCUMENTED

Immediately prior to Bennett's publication Dr. Irwin, a Police Surgeon, revealed that 150 suspects whom he had recently examined had various injuries sustained in police custody during interrogation and that the injuries were of a nature that they could not possibly have been self-inflicted. Other surgeons then spoke out. Lawyers had, since 1976, noticed a dramatic increase in injuries to their clients when, that is, lawyers were eventually allowed to consult their clients, which is always after interrogation by the RUC.

There can be no doubt that suspects are tortured or treated in an inhuman or degrading manner—even carefully tailored British inquiries admit this. But what is not so readily apparent is the use and significance of these methods and how they relate to the plight of the inmates of H-Block.

After the international public pressure over internment the British responded by modifying the law. The dreaded Special Powers Act was replaced by the Emergency Provisions Act (EPA) and the Prevention of Terrorism Act (PTA). These statutes presaged a new and more subtle approach. Internees under the Special Powers Act were political prisoners. As such they had traditionally been allowed to wear their own clothes not prison uniform, not forced to do prison work and have certain other privileges concomitant with political prisoner status. They lived in wire compounds or "cages" electing their own leader or spokesman and enjoyed relatively free association with other prisoners in their cage. Lord Gardiner's Report in 1975 recommended that this system, which had only been granted in 1972 after a hunger strike, be abolished. As a result special H Blocks were built. All political prisoners incarcerated for offences which occurred after March 1, 1976 were, henceforth, consigned to H Blocks. The status of the other inmates remains unaltered.

Under the old legislation the RUC didn't need to gather evidence. Mere suspicion was enough to detain a person indefinitely. Although this system had worked for 50 years it, in the 1970's, incurred considerable international opprobrium. Under the new EPA, enacted after yet another judicial inquiry headed by Lord Diplock, there would be an arrest, a charge and a trial. However, if the RUC could not arrest the right people under the Special Powers Act with mere suspicion and unfettered powers, how on earth could the new system (which demanded a trial) possibly work?

NEW INTERNMENT

The EPA created a "new internment" in substance while giving the accused a "trial" in form only. New vague and broad offences were created such as "being concerned with terrorism," which could, conceivably, include within its ambit any thinking human being in northern Ireland. Similarly, the EPA retains the police power to search without a warrant anywhere and take anything as evidence. The new statutes do, however, remove the right to silence and it is now an offence to "withhold evidence"—the exact opposite of the American Fifth Amendment protection. Careful scrutiny of these powers of arrest and search and seizure, while having the appearance or form of law, in substance retain all of the old Special Powers Act police powers while adding the "withholding of evidence" offence. However, the EPA and PTA add a public relations gloss by using the imprimatur of law whereas the Special Powers Act was clumsy and passed at a time (1922) of liimted international pressure and scrutiny.

When arrested the suspect has no actual rights for up to seven days. Under the EPA and PTA a suspect can be held without charge, incommunicado for up to seven days. During this time the suspect will be interrogated by the specially trained and long experienced torturers of the RUC. Some interrogators are the same people who should, according to Lord Gardiner, a British judge, have been prosecuted for assault. The Association for Legal Justice has literally hundreds of sworn statements from victims of RUC interrogation. Many, many more do not complain fearing retribution and harassment from the RUC for both themselves and members of their family.

If the inhuman and degrading interrogation is withstood by the suspect often he or she will be threatened with a "withholding information" charge. Frequently, the RUC, after prolonged softening-up, will simply threaten to "verbal" a suspect. "Verballing" means that an RUC officer will appear in Court alleging that the suspect told him (or verballed him) that he committed the offence. "Verballed" confessions, even from the discredited RUC are enough to convict in northern Ireland. Very many people crack within seven days especially when they believe that they may be framed with a verbal, regardles of their innocence. Fr. Faul and Fr. Murray, Catholic Prison Chaplains have, over the years, cataloged hundreds of cases of suspects pushed beyond endurance into signing confessions or being "verballed." But in Court a confession is good solid evidence and thus unwanted members of society can be sent to H Block with an appearance of law. Again form over substance.

After a suspect is charged under the EPA or PTA he will be remanded in custody for up to two years to await trial. Quite often suspects have been released from custody immediately before trial after spending eighteen months in prison with no real evidence against them. This "internment by rêmand" is an abuse of legal process but has the appearance of law and does not, prima facie, appear to be internmment.

GUILTY UNTIL PROVEN INNOCENT

When a suspect is eventually brought to trial he can, of course, claim that his "confession" was coerced by RUC torture. But in order to eliminate the "confession" the accused must show, firstly that he was, in fact, tortured and secondly, that torture was intended to induce the confession. It is almost impossible for an accused to shift this reverse onus of proof. Moreover, how can an accused possibly show the state of mind of his torturer? This remarkable provision of the EPA, which has no analogy in any common law or democratic system of justice, is the key component of the new internment system. It is this that ensures that coerced confessions are accepted by the courts while preserving the appearance of a trial. But at a price, for even the appearance of due process of law is jettisoned.

The trial judge sits alone as the EPA abolished the jury system. Northern Irish judges, most of whom are Protestant and present or former members of the Orange Order, almost invariably accept coerced confessions produced after seven days incommunicado in the hands of the RUC. In fact the British Bennett Report in March of 1979 noted that over 93 percent of all cases before these special non-jury courts (known as Diplock courts after their creator) end in conviction. An unprecedented conviction rate. Moreover, Bennett did reveal that over 80 percent of all such convictions are based solely on the evidence of confession. In 80 percent of these cases no other evidence of any sort is adduced.

On conviction for EPA and PTA offences sentences are extremely heavy. After all the judges must protect society from self-confessed criminals. Sentences are then served in the H Blocks of Long Kesh prison. A profile of the average inmate of Long Kesh shows that he is under 20 years of age with no prior convictions and not a hardened criminal or recidivist.

H Block is the end of a conveyor belt—the terminus of the new internment system of law. A system that is in form often unexceptional but which is, in substance, an atrocious and unmitigated mockery of justice.

POLITICAL PRISONERS

When the victims of this system arrive in H Block they meet conditions of indescribable squalor. The prisoners having observed the conveyor belt at close quarters firmly believe that they are political prisoners. They claim that they have not been tried by due process of law and as such they claim to be treated as political prisoners. The British have denied this request for to do so would be to admit that they have merely commenced a more subtle "new internment" process. Such an admission would surely provoke international indignation as did the "old internment."

As a direct consequence of the British refusal to grant political prisoner status the inmates have refused to wear prison uniform for to do so would be symbolically admitting that they are common criminals. The British response is that they are indeed common criminals, but common criminals do not ride the EPA conveyor belt to H Block. Yet another impasse was reached and a news blackout was imposed by the British on H Block.

Prisoners who refuse prison uniforms are denied all privileges. Allegations of beatings by guards have grown considerably but cannot be substantiated as the British have denied access to impartial observers. Only last November Amnesty International were denied access to H Block. However one man was allowed in some two years ago. Cardinal O'Fiaich on a pastoral visit as Archbishop of Armagh issued a statement after his visit which in pertinent part stated that:

"One would hardly allow an animal to remain in such conditions, let alone a human being. The nearest to it I have seen is the spectacle of hundreds of homeless people living in sewerpipes in the slums of Calcutta. The stench and the filth in some of the cells . . . was almost unbearable. In two of them I was unable to speak for fear of vomiting.

The prisoners' cells are without beds, chair or table. They sleep on mattresses on the floor and in some cases I noticed that these were quite wet. They have no covering except a towel or blanket, no books, newspapers or reading material except the Bible (even religious magazines have been banned since my last visit); no handicrafts, no exercise or recreation. They are locked in their cells for almost the whole of every day . . .

Some prisoners have now been in these conditions for over 3½ years and many are now deeply concerned regarding the physical and mental health of the inmates.

PERFIDIOUS ALBION

In the middle of the H Block impasse the British government still found time to sign in 1977 the new Red Cross Protocols to the Geneva Convention. These Protocols would, inter alia, mandate that guerrillas be treated as Prisoners of War. Naturally the British have not extended prisoner of war status to the inmates of H Block but the fact that the Protocols were signed is further evidence of the British sensitivity to international opinion and pressure. Furthermore, some of the H Block inmates may actually be guerrillas or terrorists but we will never know for sure as they have been denied due process of law and mere conviction by coerced confession in a Diplock Court is not convincing evidence of anything in particular.

There are many modern definitions of human rights and some would show that Britain is violating anything up to 16 basic tenets of fundamental freedom and liberty with H Block and the EPA conveyor belt. But legalistic interpretations and quibbling are diversions from the very basic appreciation of the fact that all definitions of human rights acknowledge the transcending importance of the dignity of man. I submit that the British and the RUC inhuman and degrading treatment of Irishmen under the EPA and in H Block is a gross affrontery to any known concept of human dignity.

AMERICAN HELP NEEDED

Perhaps the efforts of the new U.S. based lobby, the Irish National Caucus with the Political Education Committee of the Ancient Order of Hibernians, will not only raise the consciousness of Irish-Americans but all who value human rights. Is it too much to suggest that American public opinion and political pressure be mobilized to engender a respect within the British for Irishmen? Is it too much to expect American Catholics to ask American political leaders to try to intervene to break the impasse in Northern Ireland? If America cannot talk with and criticize its old friend and ally, Britain, then there is very little hope for the advancement of human rights in northern Ireland.—David R. Lowry, February 1980.●

CONFERENCE REPORT ON H.R. 5892

Mr. FUQUA submitted the following conference report and statement on the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–1217)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(1) the United States is faced with a finite and diminishing resource base of native fossil fuels and, as a consequence, must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(4) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand for existing non-renewable fuel and energy supplies;

(5) the use of large wind energy systems for certain limited applications is already economically feasible;

(6) the use of small wind energy systems for certain applications is already economically feasible, and therefore, the Federal Government should not undertake any financial incentive or financial initiative which may detrimentally affect commercial markets for small wind energy systems.

(7) an aggressive research, development and demonstration program to accelerate widespread utilization of wind energy should solve existing technical problems of converting wind energy into electricity and mechanical energy and, supported by an assured and growing market for wind energy systems during the next decade, should maximize the future contribution of wind energy to the Nation's future energy production;

(8) it is the proper and appropriate role of the Federal Government to undertake research and development, to participate in demonstration programs for wind energy systems, and to assist private industry, other entities, and the general public in hastening the widespread utilization of such systems;

(9) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment;

(10) the evaluation of the performance and reliability of wind energy technologies can be expedited by the testing of prototypes under carefully controlled conditions;

(11) innovation and creativity in the development of components and systems for converting wind energy into electricity and mechanical energy can be fostered through encouraging direct contact between the manufacturers of such components and systems and utilities and other persons interested in utilizing such components and systems; and

(12) consistent with the findings of the Domestic Policy Review on Solar Energy, wind energy can potentially contribute 1.7 quads of energy per year by the year 2000.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish during the next eight years an aggressive research, development, demonstration, and technology applications program for converting wind energy into electricity and mechanical energy. It is declared to be the further policy of the United States and the purpose of this Act that the objectives of such program are—

(1) to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources;

(2) to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems; and

(3) to accelerate the growth of a commercially viable and competitive industry to make wind energy systems available to the general public as an option in order to reduce national consumption of fossil fuel.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which comprises all necessary components, including energy storage, power conditioning, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, or governmental use;

(2) the term "small wind energy system" means a wind energy system having a maximum rated capacity of one hundred kilowatts or less;

(3) the term "large wind energy system" means a wind energy system which is not a small wind energy system;

(4) the term "public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public- or investor-owned utility, public or private institution or group, any State or local government agency, or any other domestic entity;

(5) the term "known wind resource" means a site with an estimated average annual wind velocity of at least twelve miles per hour;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "Secretary" means the Secretary of Energy.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 4. (a) The Secretary shall prepare a comprehensive program management plan for the research, development, demonstration, and technology application activities to carry out the purposes of this Act. The program activities shall be conducted in accordance with such comprehensive plan which shall include—

(1) a five-year program for small wind energy systems,

(2) an eight-year program for large wind energy systems, and

(3) a three-year program for wind resource assessment

which shall be consistent with the provisions of sections 5, 6, and 7. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Interior, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include but need not be limited to a statement setting forth with respect to each of the programs under this Act any changes in—

(1) the anticipated research, development, demonstration, and technology application objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and technology applications plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) any significant economic, environmental, and societal effects which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SEC. 5. (a) The Secretary shall initiate research and development or accelerate existing research and development in areas in which the lack of knowledge limits the widespread utilization of wind energy systems in order to achieve the purposes of this Act.

(b)(1) The Secretary shall continue an aggressive program for the development of prototypes of advanced wind energy systems.

(2) As often as he deems appropriate, the Secretary shall solicit and evaluate proposals for the research and development of any new or improved technologies, which, in the Secretary's opinion, will contribute to the development of improvements in current wind energy systems.

(c) The Secretary is authorized to enter into contracts, grants, and cooperative agreements with public and private entities for the purchase, fabrication, installation, and testing to obtain scientific, technological, and economic information from the demonstration of a variety of prototypes of advanced wind energy systems under a variety of circumstances and conditions.

(d) In carrying out the responsibilities under this section, the Secretary is not subject to the requirements of section 553 of title 5, United States Code, or section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

TECHNOLOGY APPLICATION PROGRAMS

SEC. 6. (a) The Secretary shall establish a technology application program for wind energy systems to achieve the purposes of this Act by reduction in unit costs of wind energy systems through mass production and by determination of operating and maintenance costs through broad operational systems experience.

(b) In achieving the objectives of this section, the Secretary shall solicit and evaluate proposals for Federal assistance pursuant to paragraphs (1), (2), and (3) of subsection (c) for investigating, purchasing, and installing such wind energy systems from public or private entities wishing to utilize wind energy systems.

(c) In achieving the objectives of this section, the Secretary is authorized to use various forms of Federal assistance including, but not limited to—

(1) contracts and cooperative agreements;

(2) grants;

(3) loans; and

(4) direct Federal procurement.

(d) In carrying out his duties under this Act, the Secretary is authorized to enter into such contracts and cooperative agreements with any public or private entity as may be necessary or appropriate for the production and utilization of large and small wind energy systems in quantities sufficient to achieve the objectives of this section.

(e) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, to establish procedures to allow any public or private entity wishing to install a large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive a direct grant for a portion of the total purchase and installation cost of such wind energy system: *Provided,* That grants for the portion of such cost in the case of large wind energy systems shall not exceed (A) 50 per centum of such cost during the first six years of the program under this subsection, and (B) 25 per centum of such cost during the seventh or eighth year of the program.

(f)(1) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, establish procedures to allow public or private entities wishing to install a small or large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive loans for up to 75 per centum of the total purchase and installation costs of wind energy systems providing in the aggregate up to three hundred and twenty megawatts peak generating capacity involving at a minimum four projects: *Provided,* That no such loan in any fiscal year shall be for more than 50 per centum of the amount appropriated under this Act for such fiscal year.

(2) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system becomes operational.

(3) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

(g)(1) In carrying out his duties under this Act, the Secretary is authorized to provide funds for the accelerated procurement and installation of small and large wind energy systems by Federal agencies.

(2) The Secretary is authorized to enter into arrangements with appropriate Federal agencies, including the Water and Power Resources Services and the Federal power marketing agencies for large wind energy systems, to carry out such projects and activities as may be appropriate for the broad technology applications of small and large wind energy systems which are suitable and effective for use by such Federal agencies.

(h) The terms and conditions prescribed by the Secretary under this subsection shall require such observation, monitoring, and reporting requirements as the Secretary deems necessary for a period of five years and shall provide for members of the public to view and inspect the system under reasonable conditions.

(i) New Federal assistance for technology applications systems shall terminate upon the appropriate determination by the Secretary, in the annual update of the comprehensive program management plan pursuant to section 4. Termination of the small wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1985, whichever occurs first. Termination of the large wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

WIND RESOURCE ASSESSMENT

SEC. 7. The Secretary shall initiate a three-year national wind resource assessment program. As part of such program, the Secretary shall—

(1) conduct activities to validate existing assessments of known wind resources;

(2) perform wind resource assessments in regions of the United States where the use of wind energy may prove feasible;

(3) initiate a general site prospecting program;

(4) establish standard wind data collection and siting techniques; and

(5) establish, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Environmental Protection Agency, a national wind data center which shall make public information available on the known wind energy resources of various regions throughout the United States.

CRITERIA FOR PROGRAM SELECTION

SEC. 8. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purposes of this Act and which are set in accordance with the following criteria:

(1) the construction, operation, and maintenance costs of wind energy systems shall be minimized;

(2) programs established under this Act shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems;

(3) priority shall be given in the conduct of programs established under this Act to those projects in which cost-sharing funds are provided by private, industrial, agricultural, or governmental entities or utilities; and

(4) to the extent that the Secretary is limited by the availability of funds to carry out the objectives of this Act, priority, but not exclusive emphasis, should be given in the early years of the programs to activities under sections 5 and 7 and in the later years of the programs to activities under section 6.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 9. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this Act.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this Act are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure, subject to section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, that full and complete information with respect to any program, project, or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

UTILIZATION OF CAPABILITIES AND FACILITIES

SEC. 10. The Secretary shall utilize the technological and management capabilities, equipment, and facilities of the National Aeronautics and Space Administration to the maximum extent practicable in carrying out his duties under this Act, and shall enter into such additional agreements with the Administrator of such Administration as may be necessary for this purpose.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 11. The Secretary shall—

(1) initiate and conduct a federal applications study for wind energy systems, cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(A) include an analysis which determines those sites at which wind energy sytsems and economically competitive with the marginal costs of new conventional energy sources in the areas.

(B) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to the Congress within nine months after the date of enactment of this Act; and

(D) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months after the date of enactment of this Act;

(2) study the effects, at varying levels of market penetration, of the widespread utilization of wind energy systems on the existing electrical utility system;

(3) determine the necessity for, and make recommendations to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives within eighteen months after the date of enactment of this Act on, the need for any additional incentives for either users or manufacturers, in each of the potential markets for wind energy systems, to accelerate the widespread utilization of wind energy technologies;

(4) evaluate the actual performance of wind energy systems in various applications, including but not limited to residential, agricultural, large and small scale irrigation pumping, industrial, commercial, remote nonnetwork utility, and other applications, and report thereon to the Congress within two years after the date of enactment of this Act;

(5) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the date of enactment of this Act; and

(6) in carrying out his functions under this section, consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject.

The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or any other Federal agency with those required under this section to avoid any unnecessary duplication of effort or funding.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

SEC. 12. (a) In carrying out his functions under this Act, the Secretary shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable.

(b) The Secretary shall, to the maximum extent practicable, use all authority provided by law to protect trade secrets and other proprietary information submitted by small business under this Act and to avoid the unnecessary disclosure of such information.

(c) The Secretary shall take such steps as may be necessary to assure compliance with the antitrust laws in the conduct of activities related to the manufacture or sale of wind energy systems directly or indirectly assisted under this Act, and shall implement this Act in a manner which will protect against the creation of noncompetitive market situations in the conduct of such activities.

GENERAL PROVISIONS

SEC. 13. (a) Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities in addition to those specified in this Act if such projects or activities appropriately further the purposes set forth in this subsection.

(b) This Act applies to each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and the territories and possessions of the United States including the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to the Secretary to carry out this Act (1) for the fiscal year ending September 30, 1981, the sum of $100,000,000 (of which $10,000,000 shall be available exclusively for purposes of section 7), and (2) for each fiscal year beginning after that date, such sum as may be authorized by legislation hereafter enacted.

(b) In each of the five years of the small wind energy systems program, at least 25 per centum of the total authorization for appropriations under subsection (a) shall be for small wind energy systems activities including supporting activities.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "To provide for an accelerated program of wind energy research, development, demonstration, and technology applications to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes."

DON FUQUA,
RICHARD OTTINGER,
JIM BLANCHARD,
DAN GLICKMAN,
ALBERT GORE, Jr.,
JOHN W. WYDLER,
HAMILTON FISH, Jr.,
LARRY WINN, Jr.,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
JAMES A. MCCLURE,
PETE V. DOMENICI,
MARK HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing vote of the two Houses on the amendment of the Senate to the bill (H.R. 5892) to authorize in the Department of Energy an accelerated program of wind energy research, development, demonstration and technology applications, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text bill struck out all after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The substitute agreed to in conference is discussed below. Minor technical and clarifying changes are not discussed.

SHORT TITLE

The House bill provides that this Act shall be cited as the "Wind Energy Systems Research, Development and Demonstration Act of 1979" while the Senate amendment provides that it be cited as the "Wind Energy Systems Commercialization and Utilization Act of 1979." The conference committee agreed to substitute the "Wind Energy Systems Act of 1980" as a compromise title for the Act.

Section 2—Findings and purpose

Since the findings and purposes of the House and Senate bills were substantially different, the committee of conference adopted a compromise set of findings and purposse based on parts of each bill.

The findings discuss the diminishing nature of domestic fuels and state that with an aggressive research and development program, wind energy, consistent with the findings of the Domestic Policy Review on Solar Energy, can potentially contribute 1.7 Quads of energy per year by 2000. They assert that government involvement in research and development will hasten the widespread utilization of wind energy systems. The use of wind energy systems would have beneficial environmental impacts. It is found that wind energy system prototypes should be tested under carefully controlled conditions, and that manufacturers and other persons interested in utilizing such wind energy systems should be encouraged to make contact with each other.

The policy of the United States and the purpose of the legislation are to establish an aggressive 8-year program of research, development, demonstration and technology application of the conversion of wind energy to electricity or mechanical power. One objective is to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with * * * initially with the marginal cost and by the end of 1988 the national average cost of electricity conventional energy systems. Another objective in the nature of a national goal through all government programs and incentives is to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least 800 megawatts, of which at least 100 megawatts are provided by small wind energy systems. This goal is higher than would be achieved through this program only. The other major objective of the Act is to accelerate the growth of a commercially viable and competitive industry to make wind energy systems available to the general public as an option to reduce national consumption of fossil fuel.

Section 3—Definitions

In arriving at a compromise, the committee of conference used certain definitions and modified others for purposes of clarifying the legislative intent. Other definitions were deleted.

The term "wind energy system" is defined as a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which comprises all necessary components, including energy storage, power conditioning, control systems, and transmission systems, where appropriate, to provide power for individual, residential, agricultural, commercial, industrial, utility and governmental use.

Within the definition of "wind energy system", the conferees intend that the phrase "where appropriate" to mean with regard to transmission systems, those necessary to appropriately interconnect the facility with the electrical system. The conferees recognize that transmission energy system costs are normally not a large percentage of total wind energy system costs, especially with small wind energy systems where the electrical grid already has adequate capability to take power from the small wind system. Therefore, the conferees intend that 10 percent be an appropriate guideline in most cases for the Secretary in allowing transmission system costs to be included as a percentage of total system costs. However, in a case in which the preexisting transmission system which would be used to transport the power from the wind energy system to the regular electric grid is inadequate, the Secretary should allow such higher percentage of transmission system costs to total wind energy system costs as is necessary to appropriately interconnect the facility with the utility's electrical grid. The conferees note that the Energy Security Act provided for up to 25 percent of total system costs be allowed for transmission system expenses with regard to geothermal facilities. Therefore, it is contemplated by the conferees that in situations where the Secretary determines a new transmission system is necessary to transport electricity from a wind farm to a grid, that these transmission costs be included by to a maximum of 25 percent of the total capital costs of the wind energy project. In all cases the 10 percent guidelines shall apply.

The meanings for the remaining definitions are clear.

Section 4—Comprehensive program management plan

The committee of conference adopted the House provision for a comprehensive program management plan with a modification to delineate the major program elements. This section directs the Secretary to prepare and transmit to Congress within 9 months following enactment comprehensive management plan for the conduct of research, development, demonstration and technology applications activities consistent with the provisions of Sections 5, 6, and 7.

In the preparation of the Comprehensive Program Management Plan, the Conferees direct the Secretary to utilize the conference committee estimates of costs and number of wind energy systems units to be provided for in formulating the eight-year Program as set forth in the following table:

CONFERENCE COMMITTEE ESTIMATE—WIND ENERGY SYSTEMS PROGRAM

[Dollar amounts in millions of 1980 dollars, fiscal years]

	1981	1982	1983	1984	1985	1986	1987	1988	Total
Small machine program:									
R. & D. prototype testing and studies	$17	$25	$25	$15	$10	NA	NA	NA	$92
Federal procurement:									
Number of units	(125)	(225)	(350)	(400)	(625)	NA	NA	NA	(1,725)
Amount	8	13	20	23	30				94
Large machine program:									
R. & D. prototype testing and studies	65	75	40	20	10	$5	$0	$0	215
Cost shared grants, loans, and Federal procurement:									
Number of units	NA	(10)	(15)	(40)	(40)	(40)	(80)	(162)	(387)
Amount		50	50	75	75	75	60	75	460
Wind resource assessment	10	10	10	NA	NA	NA	NA	NA	30
Total (millions)	100	173	145	133	125	80	60	75	891

As part of the submission of the President's annual budget to Congress, the comprehensive program management plan shall be updated, giving detailed justification for any changes which occur from the previous year's plan.

Section 5—Research development and demonstration

The House bill contained sections on research, development and demonstration which contemplated demonstration of a large number of wind energy systems—both small and large. The committee of conference agreed to rewrite the House provisions as sections 5 and 6 with the term demonstration meaning a limited number of systems. This section directs the Secretary to initiate research and development or accelerate ongoing research and development activities in areas in which the lack of knowledge limits the widespread utilization of wind energy systems.

The conferees intend that the wind energy systems research activities include, but not be limited to the following items: dynamic stress-testing of wind turbine blades; wind shadowing effects among neighboring wind turbines; failure mode analyses; wind energy system interaction with utility grids; power conditions; blade design improvements; and materials substitution and weight reduction analyses. These items are indicative of critical research activities which the conferees feel should be addressed, but are not to be viewed by the Secretary as comprehensive. The conferees feel that priorities among research areas should be set by the Department's Wind Energy Division in the preparation of the Comprehensive Program Management plan and annual update.

The Secretary is further directed to provide federal funds for activities leading to the testing of a few prototypes of advanced wind energy systems in a variety of applications to obtain information necessary for achieving the widespread utilization of wind energy.

Section 6—Technology and application program

The House bill provided primarily grants as part of a large demonstration program for achieving the widespread utilization of both small and large wind energy systems. The Senate substitute relied upon contracts, loans, and direct Federal procurement to achieve the purpose of commercialization of wind energy systems. The committee of conference agreed to establish a technology applications program for achieving the widespread use of wind energy systems.

The Secretary is directed to establish a technology application program in order to achieve cost reductions for wind energy systems through mass production and by determining the operation and maintenance costs of the systems through operational systems experience. The Secretary is authorized to provide financial assistance to public or private entities wishing to utilize wind energy systems. The forms of financial assistance, that the Secretary is authorized to provide include contracts, cooperative agreements, grants, loans, and direct Federal procurement.

It directs the Secretary to establish a cost sharing grant program within six months for those interested in installing large wind energy systems. For such systems purchased during the first six years of the program, this grant assistance shall not exceed 50 percent and in years 7 and 8, it shall not exceed 25 percent.

The conferees agreed to delete the House provision for cost sharing grants for purchasers of small wind energy systems. In lieu of the grants for small wind energy systems, the conferees expect the Secretary to use Federal procurements as the preferred federal assistance for promoting small wind energy systems. The conferees were concerned that the grants for small wind energy systems would possibly be counterproductive and stunt the market and industry growth that is anticipated to result from the already existing tax credits and loans that are available for the purchase of these systems. They fear that consumers will delay using the 40 percent tax credit in the hope of receiving a 50 percent grant sometime in the future.

The Federal procurement and utilization of small wind energy systems is viewed by the conferees to be an advantageous and complementary wind program effort when the procurement will enable the industry to get into production the most advanced small wind energy systems presently under development. With these systems in production, potential purchasers could take advantage of the existing incentives to assist their utilization of small wind energy systems.

With regard to the grants for large wind energy systems the legislation contains only ceilings on portion of systems costs funded by federal grants. However, it is the intent of the committee of conference that the Secretary shall not abuse his flexibility in setting the percentage of funding offered a grantee and the conferees direct that in all awards of grants, the federal award shall be a substantial percentage of the systems cost.

The Secretary is directed to establish procedures within six months, whereby a public or private entity can apply for and receive a loan for up to 75 percent of the total purchase and installation cost of wind energy systems. This authority shall be utilized to provide assistance to at least four projects involving a total combined capacity of no more than 320 megawatts, but the appropriation for a given fiscal year for a single wind farm shall not exceed 50 percent of the total wind appropriations for the wind program in that year.

The loan shall be for a period of 20 years or less, and shall bear interest at the discount or interest rate used for water resource planning projects. The loans can be prepaid at any time without prepayment penalty.

It further authorizes the Secretary to provide funds for the accelerated procurement and installation of wind energy systems by federal agencies.

If the Secretary determines that small wind energy systems are competitive with conventional energy sources or by September 30, 1985, whichever comes first, the federal subsidies for purchases will be terminated. If he determines that large wind energy systems are competitive with conventional energy sources or by September 30, 1988, whichever comes first, the federal subsidies for purchases will be terminated.

Section 7—Wind resource assessment

The committee of conference agreed to the House bill provisions. The section authorizes and directs the Secretary to initiate a 3-year, national wind resource assessment program. The program shall validate existing assessments of known wind resources, initiate the wind site prospecting program and establish a wind data center with the assistance of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

Section 8—Criteria for program selection

The House bill and the Senate substitute contained similar provisions. The compromise is the Senate provision, with minor changes. This section establishes as priorities for the program (1) minimizing the operations and maintenance costs of wind energy systems; (2) reducing wind energy systems costs to levels competitive with conventional energy; (3) entering cost sharing arrangements with private industry; and (4) giving priority in the initial years of the program to research, development and wind resource assessment activities while technology applications activities should be given priority in the later years of the program. Funding and machine numbers contained in the chart in the analysis of Section 4 were set to reflect the conferees' best estimate of the effect of these priorities.

Section 9—Monitoring, information gathering and liaison

The House bill and the Senate substitute contained similar provisions and the Senate provision was adopted by the committee of conference. The Secretary is required to monitor the performance, collect and evaluate data from and carry out studies and evaluations of wind energy systems installed under this legislation. In addition, the Secretary shall maintain liaison with industry and the technical community.

Section 10—Utilization of capabilities and facilities

The House bill contained this provision while the Senate substitute had no comparable provision. The committee of conference adopted the House provision. This section directs the Secretary to utilize the technological and management capabilities, equipment, and facilities of the NASA to the maximum extent practicable in carrying out his duties under this Act.

Section 11—Analysis of application of wind energy system

Both the House bill and the Senate substitute contained studies provisions. The committee of conference adopted essentially the Senate provisions. This section directs the Secretary to initiate studies on the Federal applications of wind energy systems at Federal facilities, on the effects of wind energy systems in foreign countries, and on the need for any additional incentives for either users or manufacturers in each of the potential markets for wind energy systems to accelerate the widespread utilization of wind energy technologies. The Secretary is also directed to evaluate the actual performance of wind energy systems in various applications.

Section 12—Encouragement and protection of small business

The House bill and the Senate substitute contained provisions for small business. The committee of conference adopted essentially the House provisions. This section required DOE to encourage to the maximum extent practicable the participation of small businesses in the program. The Secretary is also directed to assure compliance with the antitrust laws and to provide a competitive wind energy systems manufacturing industry.

Section 13—General provisions

This section permits the Secretary to carry on wind energy projects and activities in addition to those specified in this Act which are consistent with this Act and states that this Act applies to the entire United States and all possessions, territories and commonwealths of the United States.

Section 14—Authorization of appropriations

The committee of conference adopted the House provision with a set-aside for small wind activities. This section authorizes $100 million for fiscal year 1981 for the program; of this amount $10 million is authorized to carry out the activities for wind resource assessment activities under section 7. This amount will provide sufficient funding to the enhanced research development and demonstration program for wind energy to meet the goals and objectives of the bill. During the five-year life of the small wind energy systems program, at least 25 percent of the total authorization in any given fiscal year shall be utilized for activities related to small wind energy systems.

DON FUQUA,
RICHARD OTTINGER,
JIM BLANCHARD,
DAN GLICKMAN,
ALBERT GORE, Jr.,
JOHN W. WYDLER,
HAMILTON FISH, Jr.,
LARRY WINN, Jr.,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
JOHN A. DURKIN,
SPARK M. MATSUNAGA,
JAMES A. MCCLURE,
PETE V. DOMENICI,
MARK HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legisative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous material:)

Mr. BAUMAN, for 15 minutes, today.

(The following Members (at the request of Mr. ANDERSON of California) to revise and extend their remarks and include extraneous material:)

Mr. GONZALES, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mr. FASCELL, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FISH, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $393.

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. COURTER.
Mr. CAMPBELL.
Mr. SYMMS.
Mr. RITTER.
Mr. COUGHLIN.
Mr. DERWINKSI in two instances.
Mr. BEREUTER.
Mr. GREEN.
Mr. EMERY.
Mr. MICHEL.
Mr. GINGRICH in two instances.
Mr. SOLOMON.
Mr. GOLDWATER.
Mr. ROUSSELOT.

(The following Members (at the request of Mr. ANDERSON of California) and to include extraneous matter:)

Mr. ROSENTHAL in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. CAVANAUGH in five instances.
Mr. BRINKLEY in two instances.
Mr. RODINO.
Mr. THOMPSON in five instances.
Mr. HARRIS.
Mr. SEIBERLING in four instances.
Mr. PREYER.
Mr. HUBBARD.
Mr. BONKER.
Mr. MATTOX.
Mr. AMBRO.

ADJOURNMENT TO MONDAY, AUGUST 18, 1980

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 115, the Chair declares the House adjourned until 12 o'clock meridian on Monday, August 18, 1980.

Thereupon (at 10 o'clock and 43 minutes a.m.), pursuant to Senate Concurrent Resolution 115, the House adjourned until Monday, August 18, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4959. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4960. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Economic Opportunity Act of 1964 to extend and amend the Head Start and Native American programs, and for other purposes; to the Committee on Education and Labor.

4961. A letter from the Secretary of Education, transmitting proposed final regulations to govern the instructional media for the handicapped program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4962. A letter from the Comptroller of the Department of State, transmitting the quarterly report on programing and obligation of international narcotics control funds as of June 30, 1980, pursuant to section 481 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4963. A letter from the Director, International Communication Agency, transmitting a report on the assignment of Foreign Service Information Officers to public or private nonprofit organizations during fiscal year 1980, pursuant to section 576(e) of the Foreign Service Act of 1946, as amended (89 Stat. 763); to the Committee on Foreign Affairs.

4964. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Navy, pursuant to 5

U.S.C. 552a(o); to the Committee on Government Operations.

4965. A letter from the Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4966. A letter from the Pension Plan Administrator, Farm Credit Banks of Texas, transmitting the annual report on the banks' pension plan for calendar year 1979, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541); to the Committee on Government Operations.

4967. A letter from the Secretary of Agriculture, transmitting the annual report for calendar year 1979 on administration of the Horse Protection Act, as amended, pursuant to section 11 of the act; to the Committee on Interstate and Foreign Commerce.

4968. A letter from the Secretary of Commerce, transmitting the annual report of the U.S. Travel Service for fiscal year 1979, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Interstate and Foreign Commerce.

4969. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

4970. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing the previously-transmitted order suspending deportation in the case of a certain alien, submitted pursuant to section 244(c) of the Immigration and Nationality Act; to the Committee on the Judiciary.

4971. A letter from the Administrator of Veterans Affairs, transmitting a report covering calendar year 1979 on cases in which equitable relief from administrative error was granted, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

4972. A letter from the Administrator of Veterans Affairs, transmitting notice of a proposed matching program report; to the Committee on Veterans' Affairs.

4973. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of the Agency for International Development excess property program (ID-80-32, July 31, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

4974. A letter from the Comptroller General of the United States, transmitting a report on U.S. efforts to promote the Nuclear Non-Proliferation Treaty (ID-80-41, July 31, 1980); jointly, to the Committees on Government Operations and Foreign Affairs.

4975. A letter from the Comptroller General of the United States, transmitting a report on the audit of the financial statements of the U.S. Railway Association for fiscal year 1979, pursuant to section 106 of the Government Corporation Control Act (CED-80-107, July 31, 1980) (H. Doc. No. 96-350); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce and ordered to be printed.

4976. A letter from the Comptroller General of the United States, transmitting a report on Federal Executive pay compression (FPCD-80-72, July 31, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

4977. A letter from the Comptroller General of the United States, transmitting a report on the need for tighter controls over fuel purchased by the Postal Service (GGD-80-75, July 31, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

4978. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to provide for seabed boundary agreements between the United States and any coastal State and the immobilization of the seabed boundary of any State; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and the Judiciary.

4979. A letter from the Assistant Attorney General for Legislative Affairs, transmitting a draft of proposed legislation to create a Cuban/Haitian Entrant status and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 7668. A bill to strengthen the system of congressional oversight of the intelligence activities of the United States; with amendment (Rept. No. 96-1153, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 7682. A bill to amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes (Rept. No. 96-1215). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on the Adequacy of the Federal Response to Foreign Investment in the United States (Rept. No. 96-1216). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee of Conference. Conference report on H.R. 5892. (Rept. No. 96-1217). And ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 7859. A bill to provide general assistance and special impact aid to local educational agencies for the education of Cuban and Haitian refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults; with amendment (Rept. No. 96-1218). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CAMPBELL:

H.R. 7916. A bill to prohibit the mandatory termination or phaseout of the use by public utilities of any particular energy source; to the Committee on Interstate and Foreign Commerce.

By Mr. PHILIP M. CRANE:

H.R. 7917. A bill to provide that all Federal Reserve notes and other currencies of the United States shall be redeemable in gold; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DORNAN:

H.R. 7918. A bill to amend title 18 of the United States Code to make rape a Federal crime if committed after travel in interstate commerce with the intent to commit rape; to the Committee on the Judiciary.

By Mr. EMERY (for himself and Mrs. Snowe):

H.R. 7919. A bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PETRI:

H.R. 7920. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each State aimed at discouraging driving while under the influence of alcohol; to the Committee on Public Works and Transportation.

By Mr. PREYER (for himself, Mr. Broyhill, Mr. Scheuer, and Mr. Luken):

H.R. 7921. A bill to provide for a uniform product liability law; to the Committee on Interstate and Foreign Commerce.

By Mr. WRIGHT:

H.R. 7922. A bill to amend the Home Energy Assistance Act of 1980 to provide that assistance to eligible households in meeting rising energy costs shall be provided on the same basis for both heating and cooling costs; to the Committee on Interstate and Foreign Commerce.

By Mr. DELLUMS:

H.J. Res. 592. Joint resolution transfer of powers to Puerto Rico; to the Committee on Interior and Insular Affairs.

By Mr. ROUSSELOT (for himself, and Mr. Roybal, Mr. Dellums, Mr. Moorhead of California, Mr. Matsui, Mr. Stark, Mr. Edwards of California, Mr. McCloskey, Mr. Pashayan, and Mr. Corman):

H.J. Res. 593. Joint resolution honoring Mexican Americans for their cultural contributions to the State of California and joining with the California State Assembly in recognizing August 24, 1980 as "Dia de Mexicanos Americanos" in California; to the Committee on Post Office and Civil Service.

By Mr. BAUMAN (for himself, and Mr. Ashbrook, Mr. Edwards of Oklahoma, Mr. Burgener, Mr. Rousselot, Mr. Guyer, Mr. Devine, and Mr. Symms):

H. Res. 760. Resolution pertaining to the Election of the President of the United States by the U.S. House of Representatives; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

518. The SPEAKER presented a memorial of the Legislature of the State of California, relative to bank protection efforts of the Army Corps of Engineers; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 7923. A bill for the relief of Svea von Hanstein, Werner von Hanstein, Melanie von Hanstein, and Phillipp von Hanstein; to the Committee on the Judiciary.

By Mr. HARRIS:

H.R. 7924. A bill for the relief of Ludmilla Schneider; to the Committee on the Judiciary.

By Mr. WOLFF:

H.R. 7925. A bill for the relief of Mohammad Ismail Khan, Hashmat Ismail Khan, and Murad Ismail Khan; to the Committee on the Judiciary.

H.R. 7926. A bill for the relief of Siraj Yoosuf Patel, Farida Fatima Siraj Patel, Humaira Siraj Patel, Faysal Siraj Patel, and Fahd Siraj Patel; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 154: Mr. Collins of Texas, Mr. Stump, and Mr. Mattox.

H.R. 801: Mr. Hollenback and Mr. Porter.

H.R. 2679: Mr. Porter, Mr. Beilenson, Mr. Leach of Louisiana, Mr. McClory, Mr. Duncan of Tennessee, Mr. Kildee, Mr. Horton, and Mr. Simon.

H.R. 6380: Mr. Scheuer.

H.R. 7533: Mr. Gradison and Mr. Jacobs.

H.R. 7576: Mr. Hyde, Mr. Sensenbrenner, Mr. Whitehurst, Mr. Bowen, Mr. Robert W. Daniel, Mr. Jenkins, Mr. Tauke, Mr. Porter, Mr. Lagomarsino, Mr. Downey, Mr. Gibbons, Mr. Nowak, Mr. Levitas, Mr. Albosta, Mr. Richmond, Mr. Scheuer, and Mr. Coughlin.

H.R. 7655: Mr. McEwen and Mr. Symms.

H.J. Res. 69: Mr. Jeffords, Mr. Hubbard, Mr. Lederer, Mr. Kazen, Mr. Miller of California, Mr. Steed, Mr. Benjamin, Mrs. Collins of Illinois, Mr. Marriott, Mr. Shumway, and Mr. Murphy of Pensylvania.

H.J. Res. 511: Mr. Musto, Mr. Ginn, and Mr. Addabbo.

H.J. Res. 560: Mr. Aspin, Mr. AuCoin, Mr. Barnes, Mr. Bauman, Mr. Beard of Tennessee, Mr. Bereuter, Mr. Bethune, Mrs. Boggs, Mr. Boland, Mr. Boner of Tennessee, Mr. Breaux, Mr. Brinkley, Mr. Chappell, Mr. Conyers, Mr. Courter, Mr. Davis of Michigan, Mr. Duncan of Oregon, Mr. Fascell, Mr. Gibbons, Mr. Gingrich, Mr. Gore, Mr. Hanley, Mr. Hansen, Mr. Heftel, Mr. Hubbard, Mr. Hutto, Mr. Johnson of California, Mr. Kastenmeier, Mr. Kazen, Mr. Latta, Mr. Leach of Louisiana, Mr. Livingston, Mr. Lloyd, Mr. Long of Louisiana, Mr. Maguire, Mr. Matsui, Mr. Mazzoli, Mr. McClory, Mr. Mineta, Mr. Moore, Mr. Moorhead of Pennsylvania, Mr. Mottl, Mr. Murphy of New York, Mr. Myers of Indiana, Mr. Natcher, Mr. O'Brien, Mr. Patten, Mr. Patterson, Mr. Price, Mr. Quayle, Mr. Quillen, Mr. Railsback, Mr. Reuss, Mr. Rodino, Mr. Roe, Mr. Sharp, Mr. Shelby, Mr. Shumway, Mrs. Snowe, Mr. Snyder, Mr. Spence, Mr. Stark, Mr. Symms, Mr. Tauzin, Mr. Thompson, Mr. Traxler, Mr. Whittaker, Mr. Wylie, Mr. Young of Alaska, and Mr. Zablocki.

H. Con. Res. 395: Mr. Wolpe, Mr. Weiss, Mr. Forsythe, Mr. Courter, Mr. Mitchell of Maryland, Mr. Coelho, Mr. Benjamin, Mr. Stark, Mr. Duncan of Tennessee, Mr. Derwinski, Mr. Winn, Mr. Edwards of California, Mr. Leach of Louisiana, Mr. Harris, Mr. Scheuer, Mr. Oberstar, Mr. Lagomarsino, Mr. Evans of the Virgin Islands, Mrs. Fenwick, Mr. Kogovsek, Mr. Ottinger, Mrs. Byron, Mr. McDade, Mr. Broomfield, Mr. Weaver, Mr. Jenkins, and Mr. Vento.

SENATE—*Friday, August 1, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. Thomas F. Eagleton, a Senator from the State of Missouri.

PRAYER

The Reverend Truman E. Dollar, D.D., pastor, Kansas City Baptist Temple, Kansas City, Mo., offered the following prayer:

Eternal Father, whose blessings have been extended to us in the founding of this free Nation and who has sustained us through more than 200 years, we praise You for Your loving kindness and mercies to this great land.

Teach us that righteousness exalteth a nation but sin is a reproach to any people.

Teach us the blessing of national repentance and the strength of dependence on You.

Teach us the value of national faith and the joy of obeying your word.

Bless these people who labor here in the Senate for our well-being. Give wisdom, purity of heart, and a perception of our destiny that glorifies God.

Bless the President, Protect and guide him so that we may have peace to serve You.

Lord, protect our brothers held hostage until their safe release. Sustain their families and friends until You bring them together again.

Lord, bind up our national wounds. Bring healing to our land, and knit our hearts together in unity of purpose and Your perfect peace.

We ask it in His name who washed us from our sins. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., August 1, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Thomas F. Eagleton, a Senator from the State of Missouri, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. EAGLETON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Williams, I yield myself such time as I may require, and I ask unanimous consent that I may speak out of order, notwithstanding the Pastore rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POLITICAL FEVER FUELS THE RUMOR MILLS

Mr. ROBERT C. BYRD. Mr. President, I noted a very interesting headline in today's Washington Star: "Byrd Feels Snubbed by Carter Camp on Role at Convention."

Now I will read a few extracts from this story:

> Senate Majority Leader Robert Byrd reportedly has been irked by the slowness of President Carter's aides and officials of the Democratic National Committee to offer him a role in the party's national convention in New York this month.
>
> He also was reported yesterday to be put out that House Speaker Thomas P. O'Neill is the convention chairman.
>
> Byrd would not comment, but a spokesman denied the reports.

Well, Mr. President, I was not personally asked to comment. I am very accessible to the press. Here I am. Here I am every day. I can walk through that door and talk to the press. I can go out this door and talk to the press. My office is just around the corner. I am available. I have my Saturday news conference. Quite an institution, these Saturday news conferences.

I, personally, have not been asked. I understand that a call came to my office late yesterday afternoon, and my press secretary asked me about it. I said, "Why, I have not been irked." I have not wanted to go. I still do not want to go. I have said for months that I was going to West Virginia, to speak in West Virginia during the convention.

I am not a delegate to the convention. I do not like political conventions. I watch them a little on television once in a while. But I would much rather be in the cool hills of West Virginia, carrying my fiddle with me, playing a tune here and there, speaking to my constituents.

But I am not "irked." I do not feel "snubbed." So far as Mr. O'Neill is concerned, I do not believe a better man could have been chosen to be the convention chairman.

Well, this is the season when political fever is at its highest, and it is the season of rumor and speculation.

There is an axiom which states that the truth never, in fact, catches up with rumor. But I believe it is necessary to set the record straight this morning.

Generally, I believe that the news media have done a commendable job reporting this year's political happenings. Fortunately, most rumors are usually checked out thoroughly, and they never find their way into the newsprint or on the airwaves.

Such was the case recently when a call came to my office wanting to check out a rumor that I had been meeting secretly with Billy Carter in my office.

That was the situation when several calls came to my office wanting to verify a rumor that Speaker O'Neill and I had met and were plotting a mission of utmost importance to the White House.

In both these instances, the erroneous accounts were checked out. They were scotched in their infancy, and they did not appear in print.

Unfortunately, however, as I have indicated, this was not the case in two other situations, one, to which I have alluded, as recently as this morning, and which is somewhat of a reprint of a similar bit of a story on yesterday. The story did carry denials from my office, through my press secretary, as well as from John White, the chairman of the Democratic National Committee.

Let me just say one final thing, and let me say it again: I consider Speaker O'Neill to be an excellent choice as convention chairman. I would not have the job if it were offered to me. He will do a good job. He is much better equipped for that role than I am. It never entered my mind to seek that position or any other position, nor have I wanted any role at the convention.

As I have indicated, I was rather ambivalent about accepting any substantive position at the convention. As a second thought, I felt that I perhaps could play a constructive role in addressing the convention on Thursday night, after the nomination; and I tentatively agreed to this—tentatively agreed to it. I may not even do it. I may just smell the air wafting from the hills of home, where the streams are pure and the pressures and the tensions of conventions are unknown.

Well, that is the sum total of my

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

thoughts on this. I am not upset. I am not miffed. I am not irked. I have no reason to be.

Another minor story appeared last weekend in the Washington Post magazine. In one section, it was reported that I did not attend the recent White House signing of the synthetic fuels bill because I was upset with the administration.

The fact is that I had intended to attend the signing all day, but at the last moment, something happened on the floor. I had to help work out a time agreement, or something to that effect. The White House was going to hold up the signing for a few minutes, pending my arrival. Right at the last moment when it was time for the signing to begin I asked my secretary to call the White House to tell them to go ahead with the ceremony, that I could not come. I had to be on the floor of the Senate instead.

Mr. President, this statement is not intended to be a rebuke to any newspaper, particularly a newspaper which is a fine newspaper, but it is just a reminder to all that during a political season such as this, some pretty silly things find their way into print.

Mr. BAKER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I thank the majority leader for yielding.

I do not often give advice to the majority leader and I seldom claim to be an expert in any field, but this morning I wish to lay claim to being an expert on the pluses and minuses of speakers at national conventions.

I might say parenthetically that I attended the Republican National Convention not as a delegate and not in the role which I had first intended, but I attended and I brought home a prize. My prize was a lot of good photographs which were the net result for me of that convocation.

But I also was asked to speak on Thursday after the nominations and there was a request to me in formal tones of a request to speak on the theme of unity, to unify the divergent elements of our party, and I also can feel the pull and the lure of my mountains in east Tennessee and smell the sweet fragrance of those slopes.

Mr. ROBERT C. BYRD. Oh, how sweet it is!

Mr. BAKER. I must say to the majority leader I succumbed even against my best advice and intention and agreed to make that speech on Thursday night.

My advice to the majority leader is this: If he also succumbs and agrees to make a speech on Thursday night, nail down the time because my speech was 15 minutes before that convention convened, as far as I can tell, and just in advance of the time the television started and to a sea of empty seats and a few delegates who had arrived for lack of anything else to do who were absolutely astonished at the enthusiasm of my remarks.

So I do not claim to be an expert on many things, but this morning I presume to advise the majority leader on the basis of that recent experience. If he does it, nail down the time.

Mr. ROBERT C. BYRD. I thank my friend.

I tell the distinguished minority leader that I would have been irked if someone else had been invited to play the fiddle at the convention and I had not been asked, or I might even have been a little bit irked if the distinguished Senator from Tennessee (Mr. BAKER) had been asked to address my convention on Thursday night and I had not been asked.

I thank the Senator. We are off to a good day.

Mr. WILLIAMS has control of the time.

EXECUTIVE SESSION

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The PRESIDING OFFICER (Mr. McGOVERN). Under the previous order the Senate will now proceed in executive session to consider the nomination of Mr. Don Alan Zimmerman to be a member of the National Labor Relations Board.

The nomination will be stated.

The legislative clerk read the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

The Senate resumed consideration of the nomination.

Mr. WILLIAMS. Mr. President, earlier this week the Senate began debate on the nomination of Mr. Don Zimmerman to be a member of the National Labor Relations Board. Mr. Zimmerman is a highly qualified nominee whose nomination should be uncontroversial. I urge my colleague to vote to limit debate on this nomination so that we may proceed to confirm it without further delay.

As you know, Mr. Zimmerman served from 1974 to 1979 as minority counsel to the Committee on Labor and Human Resources on Senaor JAVITS' staff. And since 1979, he has served as special minority labor counsel to the committee.

Mr. Zimmerman has served Senator JAVITS and the committee with distinction.

It is rare that my committee has the opportunity to consider a Presidential nominee whose work we have observed at first hand over a period of years. In his work on the complex labor issues which have come before the committee, Mr. Zimmerman has consistently demonstrated a thorough understanding of the law, and an appreciation of the legitimate interests of both management and labor.

The committee, which knows him well and has observed his work firsthand, voted 12 to 0 to report this nomination favorably.

A question has been raised concerning the fact that Mr. Zimmerman is registered as an independent, and that his appointment will result in a Board membership which includes three Democrats, one Republican and one independent. It has been suggested that the appointment is in violation of a tradition under which the Board is composed of three members on one major party and two members of the other party, and that his appointment would therefore destroy the balance of the Board.

As I stated in earlier debate on this nomination, there is ample precedent for the appointment of independent board members.

In fact, the Board has only been divided between the two major parties since 1957. But President Eisenhower, who has been credited with having the idea of splitting the Board 3 to 2 between the two major parties, is also the best example of a President who has appointed independent board members in place of Board members from the party other than his own.

For example, in 1954, President Eisenhower replaced Democratic Board Chairman Paul Herzog with Independent Board Chairman Guy Farmer. At that time, the Board already had one independent member and two Republican members. Therefore, the Board composition became two Republicans, two independents, and one Democrat.

Then, when independent Guy Farmer left the Board, President Eisenhower replaced him with a Republican. This meant that there were three Republicans, one independent and one Democrat on the Board.

So, we can see that from 1954 to 1957 there was only one Democrat on the Board. Yet President Eisenhower certainly felt no necessity to appoint a second Democrat, and he did not do so in either of his two appointments during that period.

It seems to me that the Eisenhower administration cannot, under these circumstances, be cited as the fountainhead of a bipartisan National Labor Relations Board.

But there is another point that should be emphasized here—and that is that party label does not by any means determine a Board member's voting record on the National Labor Relations Board. In debate earlier this week, Senator HATCH stated that there are some persons who believe that the confirmation of Mr. Zimmerman would result in a 4-to-1 split on the Board.

I can honestly say that I am not sure who Senator HATCH or those persons believe the one person to be. It may in fact be that any attempt to align the Board members by their view of Board law would result in a crossing of party lines.

This possibility may be illustrated by reference to some well-known differences among Board members from the same party. For example, it is certainly true that Republican Board member Howard Jenkins, Jr. had a very different voting record from Republican Board member Peter Walther, with whom he served.

Likewise, Republican Board member Sam Zagoria could by no means be cast as someone who consistently voted like his Republican colleagues and different from his Democratic colleagues.

And, in the very recent past, Democratic Board member Penello on several occasions voted with Republican Betty Murphy in disagreement with a 3-member majority composed of two Democrats and one Republican.

One good example of differences between Board members from the same party is provided from one of the earliest boards. Some may remember, as I do, that the Board's first Chairman, J. Warren Madden, was in sharp disagreement with his fellow Democratic Board member, William M. Leiserson, over the question of craft severance from a bargaining unit in an industrial plant.

In 1939, in the case of American Can Co., 14 NLRB No. 126, the Board issued one of its leading opinions in this area, which is still cited in cases dealing with craft severance from larger bargaining units. In that decision, Mr. Lieserson wrote the Board's opinion; but Board member Edwin S. Smith wrote a separate concurring opinion, and Board Chairman Madden wrote a dissenting opinion.

Here is the point of all of this: All were Democrats, and the fact that they had a political background of membership in the same party did not force them into any ideological mold where they all viewed these labor questions before the National Labor Relations Board with the same attitude. There were sharp divisions, and I think this is illustrative of why this emphasis in the opposition to the confirmation of Zimmerman has a false ring. It suggests that because Zimmerman is not a registered Republican that shuts him out somehow ideologically from any possibility of seeing issues as a Republican on the Board might see them. The issues are the issues, and the party background is not the determining factor on these National Labor Relations Board issues. The record is so absolutely clear in that regard.

Thus, on this very important issue, a Board composed of three Democrats as I indicated in this last example of American Can Co., split three ways.

And another early Democratic Board member, Gerard Reilly, who served from 1941 to 1946, not only disagreed on occasion with his fellow Democrats, but went on to become counsel to the Chamber of Commerce.

Yet another example of divisions within a Democratic Board may be seen in the late 1940's and early 1950's. I have in mind the difficult and controversial area of secondary boycotts in the construction industry. In one case involving the Denver Building and Construction Trades Council, for example, the five-member Board issued a decision which required three opinions—a three-member majority opinion signed by Chairman Herzog and members Houston and Murdock, a dissenting opinion signed by members Reynolds and Gray, and a partial dissent signed by members Houston and Murdock. (Building and Construction Trades Council, 25 IRRM 1169 (1949)).

The point of these references is that there is no basis for assuming that the political affiliation of any particular appointee will determine his actions on the Board. Board members are simply not that predictable by party label. If any group of people should know that, it is the Members of the U.S. Senate where we see divisions on either side of the aisle within the party all the time. I do not have to cite examples. We all live with that every day. The party label is not the determinant that you can rely on in getting to the results on any of the issues we face, the same way as with the National Labor Relations Board.

This makes it particularly inappropriate and unfortunate, it seems to me, to couch this debate in terms of party labels.

I yield the floor at this time, Mr. President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it is my unfortunate duty to challenge the nomination of Donald Zimmerman to the National Labor Relations Board. I do so with some reluctance because frankly, Don Zimmerman is a nice guy who has had a good career. But, on balance, his nomination has the potential for the many objective reasons I will talk about to seriously hurt the public confidence in the National Labor Relations Act. His nomination is filled with liabilities which will erode the credibility of the NLRB. It is not in the best interests of the public and the NLRB that he be confirmed.

By way of background information to my colleagues—the National Labor Relations Act guarantees the right of workers to organize and to bargain collectively with their employers, or to refrain from all such activity. To enable employees to exercise these rights and to prevent labor disputes which may impede interstate commerce, the act places certain limits on activities of employers and labor organizations.

The act generally applies to all employers engaged in interstate commerce. It does not apply to railroads and airlines which are covered by the Railway Labor Act.

The policy of the act is to prevent obstacles to the free flow of interstate commerce by encouraging collective bargaining and by protecting workers in their right to organize and in their selection of a bargaining representative; and to protect the rights of the public in connection with labor disputes.

Administration of the law rests primarily with the National Labor Relations Board, which has two principal functions under the act: First, to prevent and remedy unfair labor practices whether by labor organizations or by employers, and second, conduct secret ballot elections in which employees decide whether unions will represent them in collective bargaining.

Members of the Board are appointed by the President, with consent of the Senate, for terms of 5 years. The term of one Board member expires each year. The General Counsel is appointed by the President, with consent of the Senate, for a term of 4 years.

With this very general background of what the Taft-Hartley Act is all about, one might ask at this point why all the "fuss" about a single appointment. After all is he not just another Government staff lawyer—a cast of thousands here in Washington?

The answer is a "no" and a "yes." "Yes" in the sense that he is indeed one of a host of Government attorneys but a "no" in that he is one who is uniquely situated by the statute with enormous legal powers to shape the development of the national labor relations policy for this country.

The NLRB completely controls and administers the field of labor relations. It implements policy, rules, and regulations.

The Board has the authority to overturn decisions of numerous administrative law judges. In fact, even though a Board decision is appealable to courts, the Board does not always follow the directives of those courts. The Board is the only control over the General Counsel, the agent who acts as prosecutor.

I believe that it is important to digress a bit and consider the General Counsel's position. Just this year William Lubbers was confirmed over strenuous objection. The furor was over his relationship with Chairman Fanning and his prolabor leanings. Many others and I argued that the separation of powers between the Board and the General Counsel would be eroded. Nevertheless he was confirmed. The danger of his confirmation is still real.

The Congress deliberately structured the NLRA in 1947, by statutorily enacting section 3(D) to separate the two operating branches of the NLRB—the Office of the General Counsel and the five-member National Labor Relations Board which is called upon to decide the cases brought by him.

Before 1947, the General Counsel of the NLRB was subject to the authority and direction of NLRB. This led to criticism of the NLRB serving as prosecutor, judge, and jury in what was supposed to be an impartial hearing. In 1947, Taft-Hartley Act amendments responded to this criticism by creating an independent General Counsel, thereby separating the prosecutorial from the decisionmaking function. It was certainly the intent of the law that the General Counsel was to be a "public" prosecutor of labor law violations and that the Office of General Counsel must be entirely separate from and independent of, the five NLRB members or their staffs. Nonetheless, Lubbers was confirmed, which may portend a radical change in future labor relations in this country.

Now, some Senators are attempting to compound the destruction of the equilibrium between management and labor by the appointment of Don Zimmerman, a man who business fears has labor leanings. The seat he is to fill is a so-called management seat. This prolabor tilting labor relations in our country must stop.

Let us return to Lubbers' confirmation again. It is not exaggeration to say that Mr. Fanning of the NLRB has a markedly prounion record and it is clear that Mr. Lubbers helped write many of the decisions of Chairman Fanning. During his confirmation hearing, Lubbers acknowledged this but elected to hide behind the attorney-client privilege when pressed by me to answer at least the number of decisions he participated in as a legal adviser. This is of significance since, with the addition of member John Truesdale, Chairman Fanning has been overruling NLRB precedents that went against unions, some of which had only been "on the books" for a year or so. With this background, the alliance of Lubbers as a permanent prosecutor and the Fanning court has the potential to harm and disrupt labor relations in this society.

It makes our former debate on the so-called "Labor Reform Act" a moot academic exercise because approving in a formal sense this relationship will immediately stack the deck in favor of the unions which the Senate was deliberately unwilling to do by refusing to enact that outrageous bill.

And now, we are asked to confirm Don Zimmerman to increase the appearance of labor strength on the Board. Not only does a labor advocate now control the prosecution of cases, but three of the remaining Board members are prolabor. Only one is promanagement. With the appointment of Zimmerman, labor could be given an addition boost as he leans in that direction.

What does this portend for the future of labor relations in our country? First, we can assume major revisions in labor policies for the future. We will see many of the Board's previously evenhanded decisions will be overturned.

Second, we can expect management to reject the Board's newer interpretations of the law and policy changes. If the Board is seen as the enemy and as controlled by labor, who knows what management will attempt in order to rid itself of the shackles of oppression and unfairness.

Third, we can expect economic war between labor and management outside the arena of labor laws.

Fourth, and sadly for our country, we can expect economic stagnation brought about by unhealthy competition and resentment rather than the cooperation needed in the field of labor relations.

It is we who are influencing the future of labor relations. We are weakening the American economy through ill-considered appointments and drastic political imbalances between labor and management. It is our duty to be fair. It is our duty to work for a healthy economy. Let us not so easily dismiss our obligations and appoint a man who takes us another step down the road to disharmony.

The foregoing reasons are the basis for my concern about this nomination. I wish to emphasize, however, that they are not a personal attack on Mr. Zimmerman but merely express my concern for upholding the integrity of what has been our workable collective-bargaining system which I believe to be in grave jeopardy should this nomination be confirmed.

I think most everything has been said about this that needs to be said. I put the basic arguments in the RECORD last Monday, and I think those arguments still stand.

We are talking about not any particular nominee. That is somewhat incidental. We are talking about stacking the Board through the ownership in toto by one special interest group of the independent general counsel and the Board itself, and we are talking about labor chaos. We are talking about the labor-management divisiveness that will hurt productivity, hurt economic development, hurt wage and price approaches and hurt almost every aspect of labor-management relations.

That is what is involved here. It is not an insignificant thing, and it really does not involve my good friend Don Zimmerman in the sense that he is disliked by anybody on this side. He is not. He is a nice person. But everybody knows or at least has strong proof and indication of the reasons for this nomination. So I will not belabor the point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, is the time controlled?

The PRESIDING OFFICER. The time is under control.

Mr. JAVITS. Would the Senator yield to me?

Mr. WILLIAMS. Mr. President, a cloture vote will occur at 10 o'clock? Am I right?

The PRESIDING OFFICER. A live quorum will take place under the rule at 10 o'clock, followed by a cloture vote.

Mr. WILLIAMS. I yield whatever time the Senator needs.

Mr. JAVITS. I thank my colleague.

Mr. President, Don Zimmerman, who is the nominee we are considering, has been minority labor counsel on the Senate Committee on Labor and Human Resources and was chosen for that job by me, as ranking member of that committee, when I was the ranking member.

He has been in that job for 6 years, and has performed, in my judgment, to my complete satisfaction.

When I ceased being the ranking member and became ranking member of Foreign Relations in January 1979, he was continued because of his knowledge and skill as special labor counsel at my request.

He has served the whole minority, insofar as they called upon his services, and I have not heard any word uttered against him.

He has an excellent background, which has been described, having worked for the trustees of the Penn Central Railroad, as a senior associate at the National Manpower Institute, as a legislative analyst in the Office of Management and Budget, and as a foreign affairs officer with the Office of the Secretary of Defense. Certainly, there are very sober positions and very responsible positions.

I consider him an excellent lawyer on labor issues.

My experience with him is that, of course, he followed my instructions on legislative issues insofar as he was acting for me or working for me on developing positions and ideas I wanted developed.

But my feeling about him is that he is a very conservative man on labor issues. If there is going to be, in my judgment, any imbalance in his thinking, it would be for the established order. But I do not see any imbalance in his thinking.

He is a very high level professional of what I consider to be fine judicial temperament. I think he would make a splendid member of the NLRB. He should be completely satisfactory to any Republican or any Democrat who just wants to be fair about what the NLRB decides and wants to give labor and management equal opportunity to reach and persuade the worker, and if they cannot be persuaded, I am confident Mr. Zimmerman would not want to do anything about it further than that.

I think in every way I have had experience with him he would be an exemplary member of the NLRB. In my judgment, the President made an excellent appointment, an he should be confirmed.

He normally would be, as a matter of absolute routine. Unfortunately for him, we are in the political season. So all of these punctilios about whether a new President, if there is one—and as a Republican, I hope there is—should have this appointment, or whether there should be an appointment now.

The Board carries a heavy load. It can use this additional member very much. Indeed, he is urgently needed.

I cannot see how we can stop the Government because we have an election. Good men are hard to find and there are seasons when they shun Government employment. Maybe what we are seeing here is one of the reasons for those seasons, which come all too frequently now, if they have to be dragged through the difficulties which are created on a political level.

I am a politician and I believe in politics. But I believe also in the thoughtfulness which may not apply in every case. I think political considerations are being very seriously misapplied to this particular case.

At this time, one must be realistic. It is a Friday. Many Members are absent. I have no doubt that the result today will be failure of cloture and that the answer will be inconclusive.

But we will come back next week in the hopes of dealing with the matter.

I do not consider this particular issue to be earth shattering. But I consider it important as dealing with the professional life of a man who reaches by this appointment the summit of his career.

He is 40 years old, an excellent age from the point of view of a useful life on a board of this character. The very type man we want.

Mr. President, I hope very much that wise counsel will prevail and that Don Zimmerman may be confirmed by the

Senate next week as a member of the National Labor Relations Board. We thereby will get on with the business of Government and on with the business of encouraging, rather than discouraging, intelligent young professionals, fully equipped for the job and having as judicious an attitude toward the job as can be gotten, to take these posts.

Finally, Mr. President, I hope no one will identify Zimmerman's views with mine, whatever they may be. I am a Senator. I am fully responsible to the people. My constituents can vote me in or out. But every one of us has men like Zimmerman working for us, and we expect that they will carry out what we want, not what they want.

I hope very much, therefore, that the consideration of Zimmerman will be completely divorced from my view, pro or con, about my views on labor matters or on the work of the Board.

Mr. HATCH. Mr. President, I appreciate the remarks of my great colleague in the U.S. Senate.

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the Senate has convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

Robert C. Byrd, Wendell H. Ford, Paul E. Tsongas, Spark M. Matsunaga, Donald W. Riegle Jr., Abraham Ribicoff, John A. Durkin, J. James Exon, Gaylord Nelson, Thomas F. Eagleton, Gary Hart, George J. Mitchell, Daniel Patrick Moynihan, Bill Bradley, Henry M. Jackson, Howard M. Metzenbaum, Alan Cranston, Jennings Randolph, and John Glenn.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 14 Ex.]

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

The PRESIDING OFFICER. (Mr. BOREN). A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted, yeas 51, nays 35, as follows:

[Rollcall Vote No. 338 Ex.]

YEAS—51

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cohen
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Jackson
Javits
Johnston
Leahy
Levin
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevenson
Williams

NAYS—35

Armstrong
Baker
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chiles
Cochran
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Morgan
Nunn
Pressler
Roth
Schmitt
Simpson
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—14

Bellmon
Church
Cranston
Culver
Inouye
Kennedy
Long
Mathias
McClure
Nelson
Percy
Stewart
Talmadge
Tsongas

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 35. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Mr. Don Zimmerman, to be a member of the National Labor Relations Board.

Robert C. Byrd, Harrison A. Williams, Jr., Howard M. Metzenbaum, William Proxmire, George T. Mitchell, Gary Hart, Henry M. Jackson, Spark M. Matsunaga, Max Baucus, Robert T. Stafford, Claiborne Pell, Jacob K. Javits, Paul S. Sarbanes, John A. Durkin, Warren G. Magnuson, George McGovern, Adlai E. Stevenson, Dennis DeConcini, and Jennings Randolph.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TONNAGE MEASUREMENT SIMPLIFICATION ACT

Mr. ROBERT C. BYRD. Mr. President, with the understanding that the Alaska lands bill will remain laid aside until the close of business today, I ask unanimous consent that the Senate proceed to the consideration of H.R. 1197, Calendar Order No. 937.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1197) to simplify the tonnage measurement of certain vessels.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1496

(Subsequently numbered 1959)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk, on behalf of myself, Mr. WARNER, Mr. RANDOLPH, Mr. BOREN, and Mr. DOMENICI, an amendment to the bill and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself, Mr. RANDOLPH, Mr. BOREN, Mr. WARNER, Mr. DOMENICI, and Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment numbered 1496.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end add a new section as follows:

SEC. . The Surface Mining Control and Reclamation Act of 1977 (97 Stat. 445) is hereby amended as follows:

(a) Sections 502(d) and 504(a) of the Surface Mining Control and Reclamation Act of 1977 (hereinafter referred to as "the Act") are amended as follows:

(1) in section 502(d) of the Act in the last sentence, strike the words "forty-two months" and substitute the words "fifty-eight months";

(2) in section 504(a) of the Act, strike the words "thirty-four months" and substitute the words "fifty months".

(b) Sections 503(a)(7) and 701(25) of the Act are amended as follows:

(1) in section 503(a)(7) of the Act, strike the phrase "regulations issued by the Secretary pursuant to";

(2) in section 701(25) of the Act, strike the phrase "and regulations issued by the Secretary pursuant to this Act".

(c) Section 523(a) of the Act is amended by striking the words "and implement" in the first sentence thereof, and by adding at the end of the subsection a new sentence as follows: "subject to the provision of section 523(c), implementation of a Federal lands program shall occur and coincide with the implementation of a State program pursuant to section 503 or a Federal program pursuant to section 504, as appropriate.".

(d) Section 502 of the Act is amended by adding a new subsection "(g)" as follows:

"(g) Notwithstanding any other provision of this section, each State shall, to the greatest extent possible, have principal responsibility for the inspection of mines during the period of time prior to the submittal of State plans for approval. Such responsibility shall remain with each State until such time as the Secretary disapproves the State plan. The Secretary shall furnish personnel assistance to the States in carrying out this responsibility upon request of the State regulatory agency."

REASONABLE REGULATION OF SURFACE MINING

Mr. ROBERT C. BYRD. Mr. President, on September 11, 1979, the Senate passed S. 1403, a bill to amend the Surface Mining and Reclamation Act of 1977, by an overwhelming 68 to 26 vote.

The purpose of that bill is to allow each State in which surface mining occurs to take the lead in establishing its own regulatory system. The Surface Mining Act itself provides for that precise purpose. Section 101 of the act states that:

> The primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining operations . . . should rest with the States.

The integrity of the Surface Mining Act is upheld by the bill the Senate passed last year. The amendment I am offering today on behalf of myself, Mr. WARNER, Mr. RANDOLPH, and others, accomplishes the same purpose. Arbitrary regulations which distort the intended balance of the Surface Mining Act will be reduced, and States will be able to form reclamation plans based on their own unique circumstances under this amendment.

S. 1403 has the support of a broad range of Senators, including many who are not from coal-producing States. The provisions of this amendment, in the form of S. 1403, have been mired in the other body for 10 months. It is time for a clear signal to be given once again to the House on this matter. The large group of Senators from both parties who have expressed support for reasonable surface mining regulation shows the importance of this measure.

I would also like to mention that this amendment builds on a proposal advanced last year by the Governor of the State of West Virginia, the Honorable Jay Rockefeller. His contribution to this legislation has been an important one.

The distinguished Senator from Kentucky (Mr. FORD) and the distinguished Senator from Oregon (Mr. HATFIELD) sponsored S. 1403 in the Energy Committee last year, and have fought hard for realistic mining regulations.

Mr. RANDOLPH, my senior colleague, has been a leader in this fight. I commend all of these Senators for their participation in this matter.

As I mentioned a moment ago, my colleague (Mr. RANDOLPH) has long been a leading exponent of the use of coal, and he has supported the effort to rationalize the operations of the surface mining.

Mr. President, I hope the Senate will adopt the amendment.

Mr. WARNER. Mr. President, I am privileged to join with the distinguished majority leader and my distinguished colleague (Mr. RANDOLPH) of West Virginia as a cosponsor on this legislation.

Every day that goes by, more and more people, particularly in the Appalachian part of our United States, are being put out of business in the coal industry, when this country needs every single ton of coal that we can mine.

This amendment, which I was privileged to introduce once before, but then withdrew on the assurance of the majority leader and other distinguished colleagues here that we would again mount this effort, sends a clear signal to the other Chamber that the Senate is solidly behind the provisions in this bill and the need to get on with the mining of coal in our country.

I have discussed it with a number of colleagues on this side. To the best of my knowledge, we are prepared to go forward with this matter as expeditiously as possible this morning.

Mr. MELCHER. Mr. President, this amendment is the same as S. 1403, which passed the Senate on September 11, 1979. It would:

First. Prevent creation of uniform national minimum standards which could penalize States that wish to provide greater protection for lands within their border.

This is a very far-reaching amendment to the Surface Mining Control and Reclamation Act that was passed and signed into law in 1977.

Second. This amendment would assure expensive litigation over varying interpretations of the law.

Third. It would result in the courts "writing regulations" by a series of decisions.

Fourth. Create uncertainty for the coal industry at the very time that stability is needed as a basis for expansion.

Fifth. It would delay the approval of the State reclamation programs. Without this approval the States' share of the reclamation fund will not be available to reclaim orphan land.

Mr. President, the Committee on Energy and Natural Resources held oversight hearings on the implementation of the Surface Mining Control and Reclamation Act of 1977 on June 19 and 21, 1979. During these hearings the administration witness announced that Secretary Andrus had decided to recommend the extension of the deadline for submittal of State programs to him for review until March 3, 1980.

On June 26, 1979, Senator JACKSON introduced S. 1403, which would have extended this deadline as recommended by the administration.

At the time he indicated that no additional amendment would be added to the simple extension in the interest of obtaining quick passage.

The deadline for submission of State programs was August 3, 1979. Secretary Andrus' letter accompanying the administration's bill stated that "any substantial changes to the proposed amendments or any changes to other aspects of the Act will not be acceptable to the Administration."

Unfortunately, the Senate Energy Committee chose to ignore the Secretary's statement in reporting a bill which makes changes in both the administration's amendment and other aspects of the law.

This current amendment, which is the same as S. 1403 which, Mr. President, I have earlier stated was passed by the Senate on September 11, 1979, like the Senate action of last September, would enable the Secretary to delay the deadline of submittal of State programs by 16 months. This is not necessary. The States involved with coal strip mining, which number about 24, are far along in the development of their programs. By September 3 half or more, probably 12 to 14, of those States will have had their State programs approved.

Mr. President, I ask unanimous consent to have printed in the RECORD the exact standing of where the Office of Surface Mining is and the Secretary of Interior on the approval of State programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STANDING

STATE PROGRAM APPROVAL

Two States have had their programs approved. Although the Montana program has extensive variations from Federal law and regulations, it was approved in April 1, 1980. The Texas program was approved on February 27, 1980.

PROPOSED STATE PROGRAMS UTILIZING THE "STATE WINDOW"

Nine State programs include one or more "State Window" proposals. Three other States are expected to include some type of "State Window" proposals in their programs.

STATE LAWS

Twenty-one States have enacted laws; three States have partially completed work on their laws.

STATES REGULATIONS

Fourteen States have promulgated regulations; ten States have partially completed work on regulations.

VARIATIONS

Only 6 States programs have few or no variations from the Federal regulations: ten State programs have numerous variations from the Federal regulations; and nine State programs still have extensive variations from the Federal regulations.

Alabama. Law: Drafted. Expect enactment at special session planned for October.

Regulations: Drafted. Will be finalized after enactment of legislation.

Variations: Small number of differences from Federal regulations. No "State window."

Arkansas. Law: Enacted.

Regulations: Promulgated.

Variations: Two "State windows" proposed; extensive differences to regulations.

Colorado. Law: Enacted.

Regulations: In final form, approved by appropriate State officials, but not yet formally promulgated.

Variations: 18 "State window" proposals, two in statute; remainder in regulations, plus numerous other differences.

Illinois. Law: Enacted.

Regulations: Drafted.

Variations: Numerous differences from Federal regulations. No "State window."

Indiana. Law: Enacted.

Regulations: Drafted.

Variations: Numerous differences from Federal regulations. No "State window."

Iowa. Law: Enacted.

Regulations: Proposed, scheduled for promulgation in September or October.

Variations: Six "State windows" proposed; extensive variations in regulations.

Kansas. Law: Enacted.

Regulations: Initial draft complete; being revised for submission in September.

Variations: No "State window" or other differences.

Kentucky. Law: Enacted.

Regulations: Promulgated, but some revisions needed.

Variations: Large number of variations from Federal regulations; no "State windows" per se.

Louisiana. Law: Enacted.

Regulations: Promulgated.

Variations: One "State window," plus over two hundred other minor differenced from Federal regulations. (This is a relatively small number when compared to States which have made extensive changes.)

Maryland. Law: Enacted.

Regulations: Promulgated.

Variations: Eleven "State windows" proposed, plus extensive differences to both Federal law and regulations.

Mississippi. Law: Enacted.

Regulations: Promulgated.

Variations: No "State window" or other differences.

Missouri. Law: Enacted.

Regulations: Promulgated.

Variations: Extensive differences to regulations.

Montana. Law: Enacted.

Regulations: Promulgated.

Variations: One "State window" approved, plus extensive other differences to Federal law and regulations.

Program Approved: April 1, 1980.

New Mexico. Law: Enacted.

Regulations: Promulgated.

Variations: Numerous differences from Federal regulations, including ten major differences of "State window" type.

North Dakota. Law: Enacted.

Regulations: Promulgated.

Variations: Numerous differences to regulations.

Ohio. Law: Being considered by State legislature. Passed Senate, in House committee.

Regulations: Drafted.

Variations: Numerous to regulations; one "State window" proposal may be submitted.

Oklahoma. Law: Enacted.

Regulations: Proposed; final publication and filing only steps required to complete action.

Variations: One "State window" proposed, plus numerous differences to regulations.

Pennsylvania. Law: Pending in Legislature.

Regulations: Drafted, awaiting completion of legislative action on law.

Variations: Extensive variations expected, including several "State windows."

Tennessee. Law: Enacted.

Regulations: Drafted; State preparing to promulgate shortly.

Variations: Small number of changes from Federal regulations.

Texas. Law: Enacted.

Regulations: Promulgated.

Variations: Small number.

Program Approved: February 27, 1980.

Utah. Law: Enacted.

Regulations: Promulgated, but several changes are being made and will be promulgated August 20.

Variations: Two "State windows" proposed plus numerous other changes in regulations.

Virginia. Law: Enacted.

Regulations: Promulgated.

Variations: Eight "State windows" proposed, plus extensive other changes.

West Virginia. Law: Enacted.

Regulations: Being drafted.

Variations: Extensive variations being included in regulations.

Wyoming. Law: Enacted.

Regulations: Promulgated.

Variations: Very extensive differences from Federal regulations; fifteen "State windows."

Mr. MELCHER. A second effect will be to delay the approval of the States' abandoned mine lands programs, thereby resulting in the continued withholding of the 50 percent State share of the reclamation fund which awaits approval of the State enforcement programs. This delay will allow continuation of the detrimental effects of blighted areas and communities.

A third serious effect will be to postpone the deadline for the final decision of the Secretary approving or disapproving State program submissions until after the inauguration of the next administration, thus introducing a significant element of uncertainty into the entire process. Most coal producing States are now well advanced in preparing their program submissions. The possibility of a new administration taking over the final review and approval will prove unsettling and disruptive at best.

Mr. President, perhaps the most serious effect in the amendment is that it deletes the requirement that State programs comply with the regulations. The amendment deletes the requirement that States' regulatory programs comply with the rules and regulations issued by the Secretary pursuant to the act.

It is argued that this is a relatively minor change necessary to the creation of the "State window" which would otherwise be lacking. Nothing could be further from the truth. In fact, this amendment amounts to a substantial undermining of the intent of Congress in passing the Surface Mining Act.

It is instructive that the interim report of the President's Commission on Coal, which is chaired by Governor Rockefeller of West Virginia, one of the major proponents of this amendment, makes no mention of the Surface Mining Control and Reclamation Act or the regulations issued pursuant thereto in its search for "Acceptable Ways to Hasten the Substitution of Coal for Oil."

This omission is an indication that the act and the regulations are not an impediment to coal production. This conclusion is consistent with that of the Office of Technology Assessment in its report entitled "The Direct Use of Coal."

The basic intent of the act is to establish surface mining control and reclamation standards which will constitute the minimum uniform requirements applicable in all States.

Mr. President, there is a list of the kind of regulations which would be separately interpreted by State governments under this amendment as illustrative of the negative effect on the minimal level of the compatibility between State programs and the law. They include:

First. Definition of "significant imminent environmental harm to land, air and water resources" which is a key criteria for determining whether a cessation order is to be issued to a mine operator.

Second. Definition of "valid existing rights" which determines whether an operator can continue to mine in an area which might otherwise be designated unsuitable for mining.

Third. Definition of "subtantial legal and financial commitments" which is critical to the mine operator's right to start or continue mining.

Fourth. Definition of "any person who is or may be adversely affected" and similar phrases used in the act which serve to define where and under what conditions the public may participate in decisions related to mining.

Fifth. Definitions of the terms mine "plan area," "permit area," affected area," and "adjacent area" which are used to determine levels and types of data required in a permit application and which have been used to control and, in some cases, reduce the specificity and volume of data required upon initial application to mine.

Sixth. Definition of "historical use" which is a primary determinant of the applicability of prime farmland requirements of the act to individual mines and which has been litgated in the D.C. Circuit Court.

Seventh. Definition of "government finance construction" which is a criteria for limiting the applicability of the Surface Mining Act to highway and other construction project being carried out by State and local governments.

Eighth. The performance standard regarding the "* * * type of explosives and detonating equipment, size, timing and frequency of blast. * * *" of section 515(b)15(C) is subject to such a wide variety of interpretation that some basis for evaluation of comparability is critical.

Ninth. Explication of the phrase "* * * maximize the utility and conservation of solid fuel resource being recovered. * * *" contained in section 515(b)(1) is essential and, in fact, industry has challenged the existing regulations as being too vague for implementation of this standard.

Tenth. Parameters for determining "best technology currently available * * *" as used in both 515(b)(10) with regard to suspended solids and 515(b)(24) with regard to fish and wildlife is essential to avoid unreasonable requirements or disputes merely because new technology has been used in isolated cases.

Eleventh. General language of the act related to data on and protection of "fish, wildlife and related environmental values" must be given some characterization by the regulations to avoid extensive controversy with the Federal and State fish and wildlife agencies regarding how much is enough.

Twelfth. The authorization for us of "best available subsoil" contained in 515(b)(6) is subject to such varying interpretation that some criteria for determining "best" are necessary.

Thirteenth. The broad authority of the act for experimental practices requires a clear basis and procedure for authorizing departure from the performance standards to avoid successful challenge to any variance allowed.

Fourteenth. Conditional approval of State programs under limited conditions has been provided in the regulations although the act is essentially silent on such a procedure.

Fifteenth. The act, in various places, requires concurrence by and cooordination with MSHA, Corps of Engineers, EPA, and USDA which would likely be necessary on a State-by-State basis if State regulations very close to the Secretary's regulations were not adopted. The Secretary's regulations have already achieved necessary concurrence. Other acts require the regulations under Surface Mining Control and Reclamation Act to be similarly coordinated with the Fish and Wildlife Service, Heritage Conservation and Recreation Service, and the Advisory Council on Historic Preservation which are facilitated by national regulations.

Mr. President, let me conclude by saying that it took us a long time to pass the Strip Mining Act. Its implementation has been fought every step of the way. It is being fought in the form of the amendment which is now being offered, which is now under consideration.

I think the effect of the amendment will surely cause a great deal more litigation. It has taken us a long time to get where we are. I would hate to see further coal development that is urgently needed interfered with by an entirely new round of court cases. This would be very disconcerting and very harmful to the proper development of coal.

I again thank the majority leader for his courtesy in allowing me some of his time.

Mr. CHAFEE and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONVENING DATE: NOVEMBER 12, 1980

Mr. ROBERT C. BYRD. Mr. President, sometime ago I announced that the Speaker and I had met to discuss the adjournment date and I indicated that we were in agreement that the Senate and the House would go out no later than October 4, either sine die or to return following the election.

The Speaker and I have met again and we have decided that the Senate and the House will return following the election on the date of Wednesday, November 12.

I make that announcement for the information of the Senate and hoping it will be called to the attention of all of my colleagues so that they can make plans accordingly, that is, if the adjournment in October is not sine die.

Of course, if it is sine die, we will not come back on November 12.

But if we have to go over until after the election, the Senate and the House will return on Wednesday, November 12.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. Bayh with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I appreciate the leader yielding to me.

INTELLIGENCE AUTHORIZATION ACT, 1981

Mr. BAYH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2597, the fiscal year 1981 intelligence authorization bill.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2597) entitled "An Act to authorize appropriations for fiscal year 1981 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1981, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany H.R. 7152 of the 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations describe in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTER-TERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1981 the sum of $11,400,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $18,000,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-five full-time personnel as of September 30, 1981. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1981, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1981, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1981, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

INCREASE IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 401. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

FUNDS TRANSFERS BY THE SECRETARY OF DEFENSE

SEC. 402. (a) During fiscal year 1981, the Secretary of Defense may pay for the expenses of arrangements with foreign countries for cryptologic support. Payments under this section may be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective only to the extent that appropriated funds are available for such purpose.

ADMINISTRATIVE PROVISIONS RELATING TO SPECIAL CRYPTOLOGIC ACTIVITIES OF THE NATIONAL SECURITY AGENCY

SEC. 403. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, during fiscal year 1981 the Director of the National Security Agency may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities.

(b) During fiscal year 1981, the Director of the National Security Agency may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection—

(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9), (10), (11), 1137, 1138a, 1148, 1156, 1157, 1160); and

(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency determines that it would be in the public interest to provide such housing.

(c) The authority of the Director of the National Security Agency to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

TRAVEL EXPENSES OF PERSONNEL ASSIGNMENT TO CRYPTOLOGIC TRAINING OUTSIDE THE UNITED STATES

SEC. 404. (a) During fiscal year 1981, travel, transportation, and subsistence expenses may be paid under chapter 57 of title 5, United States Code, to civilian and military personnel of the Department of Defense who are assigned to cryptologic training outside the United States for a period of one year or longer without regard to section 4109(a)(2)(B) of such title.

(b) Any individual who is liable to the United States for any overpayment which was made to or on behalf of such individual before October 1, 1980, under chapter 57 of title 5, United States Code, while such individual was an employee of or assigned to duty with the National Security Agency and which was subsequently determined to be subject to the limitations contained in section 4109(a)(2)(B) of such title is hereby relieved of liability to the United States for such overpayment.

SECURITY OF CERTAIN FACILITIES OF THE NATIONAL SECURITY AGENCY

SEC 405. During fiscal year 1981, the Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.

AUTHORITY TO PAY DEATH GRATUITIES

SEC. 406. (a)(1) During fiscal year 1981, the Director of Central Intelligence may pay a gratuity to the surviving dependents of any officer or employee of the Central Intelligence Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(2) The provisions of this subsection shall apply with respect to deaths occuring after June 30, 1974.

(b) During fiscal year 1981, the Secretary of Defense may pay a gratuity to the surviving dependents of any officer or employee of the Department of Defense or of any member of the Armed Forces—

(1) who—

(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such an officer, employee, or member is disguised or concealed; or

(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

(2) who after the date of the enactment of this Act dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

(A) resulted from hostile or terrorist activities; or

(B) occurred in connection with an intelligence activity having a substantial element of risk.

(c) Any payment under subsection (a) or (b) shall—

(1) be in an amount equal to the amount of the annual salary of the officer, employee, or member concerned at the time of death;

(2) be in lieu of payment of any lesser death gratutity authorized by any other law; and

(3) be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).

(d) The authority of the Secretary of Defense and the Director of Central Intelligence to make payments under this section is effective only to the extent that appropriated funds are available for such purpose.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

Mr. BAYH. Mr. President, I move that the Senate disagree to the amendments of the House, that the Senate agree to the conference requested by the House, and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Presiding Officer (Mr. BOREN) appointed Mr. BAYH, Mr. STEVENSON, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. MOYNIHAN, Mr. BIDEN, Mr. GOLDWATER, Mr. MATHIAS, Mr. CHAFEE, Mr. WALLOP, Mr. DURENBERGER, and Mr. LUGAR conferees on the part of the Senate; and Mr. NUNN for matters of interest to the Committee on Armed Services.

Mr. BAYH. Mr. President, I appreciate the Senate's response to this intelligence matter.

AUTHORITY FOR CERTAIN ACTIONS BY THE STAFF OF THE SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY

S. RES. 495—TAKING OF DEPOSITIONS

Mr. BAYH. Mr. President, as the chairman of the Subcommittee of the Judiciary established recently to investigate the Libyan effort to gain influence through certain individuals in this country, and with my distinguished vice chairman, the Senator from South Carolina (Mr. THURMOND), I send to the desk a resolution which will permit the staff of our subcommittee to interrogate witnesses under oath without it being necessary for Members of the Senate to be present, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 495) to authorize the taking of depositions by the staff of a Subcommittee of the Committee on the Judiciary.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Mr. President, I yield to the Senator from South Carolina (Mr.

THURMOND) pursuant to the request and with the permission of the distinguished majority leader.

Mr. THURMOND. Mr. President, we feel that this will save a lot of time and will facilitate the work of the committee. The committee was unanimous in endorsing this resolution and approving it. We hope there will be no objection to it.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. THURMOND. Mr. President, I send to the desk a resolution to obtain tax records and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator wish action on the first resolution that was sent to the desk?

Mr. THURMOND. That will be fine.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to and the preamble is also considered and agreed to.

The resolution, with its preamble, reads as follows.

S. RES. 495

Whereas, by Order of July 24, 1980, the Senate established a subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign governments;

Whereas, for the expeditious conduct of the subcommittee investigation it is necessary that its staff members examine witnesses under oath and gather evidence;

Whereas, under 5 U.S.C. § 2903(c)(2), an oath authorized under the laws of the United States may be administered by an individual authorized by local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered: Now, therefore, be it

Resolved, That the subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign governments be authorized to issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. Employees of the Office of Senate Legal Counsel shall be deemed staff members for purposes of this resolution.

SEC. 2. The subcommittee shall have authority to place in the record of its public or executive sessions sworn testimony and evidence obtained at examinations and depositions, but testimony and evidence so obtained shall be deemed to have been taken before the subcommittee once filed with the clerk of the subcommittee, whether or not placed in the subcommittee record.

SEC. 3. Subpoenas for staff examinations and depositions may be issued under the authority granted by Order of July 24, 1980, or under any other relevant authority. This resolution shall supplement without limiting in any way the existing authority of Senate committees and subcommittees to conduct examinations and depositions.

SEC. 4. The subcommittee may delegate to the Chairman and Vice Chairman, or to staff officers designated in writing by the Chairman and Vice Chairman, power to authorize and issue deposition notices, and may determine by subcommittee rule the procedures for conducting examinations and depositions. Subcommittee rules of procedure shall be effective immediately upon adoption by a majority of the subcommittee and publication in the Congressional Record, notwithstanding any other provision of law.

SENATE RESOLUTION 496—TO RECEIVE AND INSPECT CERTAIN TAX RECORDS

Mr. THURMOND. Mr. President, I send to the desk a resolution to obtain tax records and ask for its immediate consideration.

Mr. METZENBAUM. Mr. President, I rise for a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, I do not yeld for that purpose at this time. I will in a moment, may I say to my friend.

Mr. METZENBAUM. I was only making an inquiry of whether this resolution being offered by the Senator from South Carolina (Mr. THURMOND) has to do with the matter before the Judiciary Committee.

Mr. ROBERT C. BYRD. I have no objection to that.

Mr. THURMOND. It is pertaining to the investigative committee, that is right.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. The clerk will state the second resolution.

The legislative clerk read as follows:

S. RES. 496

Whereas, by Order of July 24, 1980, the Senate established a subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign governments;

Whereas, allegations have been made concerning that financial assistance, reimbursement, or payments to William E. Carter, III (Billy Carter), from Libyan sources, and that his reasons for seeking these may be based on his pre-existing financial condition;

Whereas, in order to investigate these allegations relating to the activities of William E. Carter, III (Billy Carter), it is necessary for the subcommittee to it is necessary for the subcommittee to inspect and receive tax returns, and tax-related matters, held by the Secretary of the Treasury.

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source;

Whereas, under sections 6103(f) and 6104 (a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns if such committee is specifically authorized to investigate tax returns by resolution of the Senate: Now, therefore, be it

Resolved, That the subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign governments be specifically authorized to inspect and receive for the taxable years 1975–1980 any tax return, return information, or other tax-related matter, held by the Secretary of the Treasury, with respect to William E. Carter, III, (Billy Carter), including trusts, sole proprietorships, partnerships, corporations, and other business entities, other than those which are publicly held, in which William E. Carter, III, (Billy Carter), or Sybil Carter have a financial interest, and any other tax return, return information, or other tax-related matter held by the Secretary of the Treasury which the subcommittee determines may contain information directly relating to its investigation.

Mr. ROBERT C. BYRD. Mr. President, these resolutions have not been cleared with the leadership. I suggest that they remain at the desk pending further disposition.

The PRESIDING OFFICER. The first resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that action be vitiated until the resolution is cleared with the leadership on both sides.

Mr. BAKER. Mr. President, reserving the right to object, and I am not going to object, but I simply do not know what it is all about. I just walked in the door. I will be glad to confer with the majority leader. In the meantime, I will not object to the request of the majority leader.

The PRESIDING OFFICER. Without objection, the request that both resolutions be held at the desk is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I am sorry to make that request, but the resolutions have not been cleared with my staff and they have not been cleared, as far as I know, with the minority.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

(The following proceedings occurred later in the day:)

SENATE RESOLUTION 495—TAKING OF DEPOSITIONS

Mr. ROBERT C. BYRD. Mr. President, earlier today, I asked consent that the action that was taken previously in adopting a resolution be vitiated. What was the number of the resolution?

The PRESIDING OFFICER. Senate Resolution 495.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the act of vitiation be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does this latest action result in the validity of the passage by the Senate earlier of the resolution?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 496—INSPECTION AND RECEIPTS OF TAX RECORDS

Mr. ROBERT C. BYRD. Mr. President, I had earlier objected to the consideration of Senate Resolution 496.

I remove that objection.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 496), to authorize the inspection and receipt of tax records by a subcommittee of the Committee on the Judiciary.

The Senate proceeded to consider the resolution.

UP AMENDMENT NO. 1498

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself and Mr. Thurmond, proposes an unprinted amendment numbered 1498.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the resolving clause and insert:

Resolved, That the subcommittee of the Committee on the Judiciary established to investigate activities relating to individuals representing the interests of foreign governments be specifically authorized to inspect and receive for the tax years 1975–1980 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to William E. Carter III (Billy Carter), including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which William E. Carter III or Sybil Carter have a beneficial interest, and any other tax return, return information, or other tax-related material held by the Secretary of the Treasury which the subcommittee determines may contain information directly relating to its investigation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1498) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 496), as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1499

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk to the preamble and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself and Mr. Thurmond, proposes an unprinted amendment numbered 1499 to the preamble:

Strike the preamble and insert new language:

Whereas, by Order of July 24, 1980, the Senate established a subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign govermnents;

Whereas, allegations have been made that financial assistance, reimbursements, or payments were made to William E. Carter, III, by or for Libyan sources, and that his preexisting financial condition may have been a reason for seeking such assistance, reimbursements, or payments;

Whereas, in order to investigate these allegations it is necessary for the subcommittee to inspect and receive tax returns, return information, and tax-related material, held by the Secretary of the Treasury;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104 (a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns if such committee is specifically authorized to investigate tax returns by resolution of the Senate: Now, therefore, be it

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1499) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution, with its preamble, as agreed to, follows:

Whereas, by Order of July 24, 1980, the Senate established a subcommittee of the Committee on the Judiciary to investigate activities relating to individuals representing the interests of foreign governments;

Whereas, allegations have been made that financial assistance, reimbursements, or payments were made to William E. Carter III, by or for Libyan sources, and that his preexisting financial condition may have been a reason for seeking such assistance, reimbursements, or payments;

Whereas, in order to investigate these allegations it is necessary for the subcommittee to inspect and receive tax returns, return information, and tax-related material, held by the Secretary of the Treasury;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104 (a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns if such committee is specifically authorized to investigate tax returns by resolution of the Senate: Now, therefore, be it

Resolved, That the subcommittee of the Committee on the Judiciary established to investigate activities relating to individuals representing the interests of foreign governments be specifically authorized to inspect and receive for the tax years 1975–1980 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to William E. Carter III, (Billy Carter), including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which William E. Carter III, or Sybil Carter have a beneficial interest, and any other tax return, return information, or other tax-related material held by the Secretary of the Treasury which the subcommittee determines may contain information directly relating to its investigation.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak for up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE BILL: A MISTAKE

Mr. PROXMIRE. Mr. President, on Wednesday, July 30, the Senate made a serious mistake. By a margin of 8 to 7, it passed a nuclear waste program which is both unnecessary and dangerous. The Senate has created a program which requires a tremendous increase in the amount of nuclear materials shipped on our highways, and it creates a program which has been clearly shown to cost more than alternative storage techniques.

First, the question of need. Mr. President, the necessity for a Federal AFR facility at this time has not been adequately demonstrated. Since the program's inception, the Department of Energy itself has repeatedly reduced its estimate of how much spent fuel will need AFR storage. After a sharply critical GAO report was issued in 1979, the DOE reduced its estimate of 1983 storage needs from 970 metric tons to a range of 171 to 377 metric tons.

Mr. President, the Department has revealed a disturbing tendency to lower its estimate of AFR storage needs whenever it encounters outside criticism of its program. At the rate at which the DOE seems to be bringing its projections into line with reality, the agency's own rationale for an AFR program is vanishing fast. Which, as every good bureaucrat knows, is no way to run a boondoggle. To put it another way, Mr. President, the DOE is having trouble conjuring up the crisis which S. 2189 is supposed to resolve.

A careful look at the facts reveals that there may not be a real crisis at all. In a letter to Senators Randolph and Hart, the Office of Technology Assessment says that if a decision were made now to expand existing storage at reactor sites, the utilities could put off through the 1990's the spent fuel problem that now looms after 1987. Only one utility faces immediate problems and these can be solved by shipping wastes to another pool within its own system. Certainly a temporary storage problem at one reactor does not, in any case, justify a half-billion dollar Federal program.

Mr. President, not less than three of Congress most respected watchdog agencies have sharply questioned the need for this program. Can we afford to ignore the evidence of the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment? The answer is no. By ignoring the advice of these agencies, we have done a disservice to both the taxpayer and the utility ratepayer. While Senator Hatfield's amendment correctly requires utilities to pay the full cost of an AFR program, S. 2189 still encourages utilities to choose the most expensive storage alternative.

Both the GAO and the Office of Technology Assessment agree that on-site storage could be expanded to accomodate 100 percent of the utilities' spent fuel through the 1990's. Why then, Mr. President, have we created an additional level of Federal bureaucracy when we could move directly from at-reactor storage to long-term storage or disposal? Even the

Department of Energy's own environmental impact statement admits that expanded at-reactor storage is sufficient to meet utility needs. I quote, "It is assumed that in almost every case private industry would provide sufficient storage capability to prevent shutdown of existing nuclear plants." Mr. President, if the program is not needed, and the utilities can do the job themselves at cheaper cost, then there is no effective rationale for this program. Are taxpayers and utility ratepayers going to thank us for making their environment less safe and their electricity more expensive? S. 2189 is not in the public interest.

Why are we taking the technical and economic problems of the private sector into our own hands when they have demonstrated ample capacity to solve those problems themselves?

Mr. President, the GAO agrees with me. In their report to Congress they have said:

> The responsibility for interim spent fuel storage should be a utility and nuclear industry concern. They have the technical capability to deal with the problem and should have the motivation, considering their large capital investment in nuclear power.

The GAO has said it all.

To oppose an unamended S. 2189 is not antinuclear.

It is antiboondoggle.

It is antibureaucratic.

And it is good commonsense.

Mr. President, not only is the AFR program of dubious merit now, it is likely to be even less justifiable in the future. The DOE's estimate of AFR storage requirements due out in August is expected to be the lowest yet. And at the very time the Senate has geared up to pass a half-billion dollar storage program.

Expected technical developments down the road will make the AFR program we have now embarked upon look on storage techniques is likely, by 1985 sillier and sillier. Continuing research to double the amount of wastes which can be accommodated at existing pools This technological advance is above and beyond current waste consolidation techniques now being implemented. Another new technology promises even greater cost savings. New dry storage techniques now being demonstrated are likely to lower storage costs to $40,000 per metric ton, according to the OTA. Whereas, AFR storage is currently expected to cost $130,000 per metric ton. With such breakthroughs right around the corner, is it sensible to commit ourselves to an expensive and entangling program right now? I hardly think so.

Senator HART's amendment would have resolved the most glaring failings in this bill. Unfortunately, that amendment failed. Had it passed, it would have required utilities to prove concretely that they had no capacity to care for their own spent fuel onsite. Without this finding, they would not shift this burden onto the Federal Government.

Instead, the Federal Government is now the nuclear waste babysitter serving at the utilities' whim, while the American people must face the tremendous environmental hazards associated with massive shipments of radioactive materials.

And if the environmental threat is only theoretical, the cost problem is not. We face the danger that utilities may be deluded into thinking that by placing spent fuel in Federal hands, they are saving money. Unfortunately, this is not the case. According to the independent engineering firm of Stone and Webster, spent fuel stored in a 1,400 metric ton onsite pool for 20 years would cost only $143,000 per metric ton. However, adding in transportation costs, a 5,000 metric ton AFR facility would cost $233,000 for the same amount of fuel, over the same time period—$90,000 more per ton. Already, the TVA has decided that it will be cheaper to expand their own onsite storage rather than pay the costs of a central Federal facility. The economies of scale do not favor an AFR program.

Most disturbing, Mr. President, is the possibility that utilities will not show the independence and initiative of the TVA but will fall back on expensive Federal disposal and pass on the added costs directly to the already-beleaguered ratepayer.

Senator HART's amendment would have required that AFR's be established only as a last resort. A last resort, Mr. President, because there is no question that utilities should be required to expand their own storage capacity. Not cajoled, but required.

The worst problem with this bill is that we may be lulled into thinking that the nuclear waste problem is solved when it is only deferred.

In conclusion, Mr. President, my vote against S. 2189 was not antinuclear, it was procommonsense.

THE GENOCIDE CONVENTION: A FORGOTTEN HOSTAGE

Mr. PROXMIRE. Mr. President, as the hostage crisis in Iran drags into its 9th month, Americans anxiously await the return of their fellow citizens from bondage in Tehran.

In the meanwhile, another hostage crisis drags on—right here at home. It receives very little attention from the press. In fact, it is virtually ignored.

I am speaking of the International Convention on the Prevention and Punishment of Genocide, a treaty which has been held hostage by the Senate since 1949.

The treaty, which is aimed at preventing the slaughtering of ethnic, racial, and religious minorities, sits in the Senate like a prisoner—held by jailers who misunderstand its content and misstate its purpose. It last came to the floor of the Senate in February 1974, and its foes killed it by filibuster. That was the fourth time the treaty was reported to the floor, and the fourth time it was tabled. Not in the 31 years since President Truman referred it to Congress, has the Senate had a chance to vote up-or-down on this important convention.

It is unconscionable that the treaty should be held up for so long, and for such invalid reasons. One charge is that it would wreck havoc on the American system of government and the criminal code. That is, of course, ridiculous. The United States will not sacrifice one shred of its sovereignty; nor will it be shackled by international courts seeking to destroy the American judicial system.

On the contrary, the treaty will become a valuable instrument in our crusade for human rights. It will be a long-overdue statement of conscience, expressing our will to fight genocide.

Every day that American hostages are held in Iran, the world suffers a disgrace. Let us hope they are released quickly and sent home. Let us also release a hostage and end a 31-year disgrace—Let us ratify the Genocide Convention.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DELAYING THE BUDGET: A SERIOUS ERROR

Mr. HARRY F. BYRD, JR. Mr. President, Speaker O'NEILL has indicated that consideration is being given to delaying action on the second congressional budget resolution for fiscal year 1981 until after the election in November.

This would push the debate back until after the beginning of the new fiscal year on October 1.

More significantly, it seems to me that if Congress violates its own rules and postpones the budget until after the election, the Members will feel a lot less pressure to hold down spending.

Already the President has raised his spending proposals for 1981 by $18 billion, from $616 billion to $634 billion.

If the budget debate is postponed, the total is sure to go higher.

I fear that delay will mean even more spending, and the taxpayers be damned.

All year long, and as recently as June, the budget for 1981 was being advertised as in balance. But now it is admitted to be $30 billion in deficit.

As I see it, delaying the budget debate will only mean more red ink—and more inflation.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

15-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 12 noon, recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended for 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONSIDERATION OF RECESS RESOLUTION—(S. CON. RES. 113)

Mr. ROBERT C. BYRD. Mr. President, as to the recess resolution that was adopted, was a motion made to reconsider that resolution?

The PRESIDING OFFICER. No, it was not.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the recess resolution was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I thank the Chair, and I yield the floor.

REINDUSTRIALIZATION: A FOOLISH INFLATIONARY, WASTEFUL MISTAKE

Mr. PROXMIRE. Mr. President, Congress may be slipping into a series of grave mistakes in response to our economic ills. We do, indeed, suffer from rampaging inflation, from low productivity, from high unemployment, from painfully high interest rates, from a trade deficit, a fiscal deficit and a leadership deficit.

We do have a surplus of proposals, and some of those proposals would make the situation worse. One of these make-it-worse proposals has very wide support from Republicans and Democrats in and out of Congress, from some labor leaders and some business leaders and from such a normally thoughtful source as Business Week magazine. It is called reindustrialization.

Reindustrialization includes many proposals: Federal loans, Federal loan guarantees, creation of another Reconstruction Finance Corporation, refundable tax credits, allocation of funds by the Federal Reserve Board, Federal Government export subsidies, and many others. There is one common denominator of all this so-called reindustrialization. Every measure would try to assist American industry. And each measure would do so by using federal resources. Reindustrialization would strengthen American business by using the Federal taxing, spending, and lending power to do so.

Now how about it? Why should the U.S. Government not aggressively promote new industry? Why should we not do what our competitors are doing in a way that gives them a very considerable advantage over us in so many industries, that is provide the Federal Government assistance that enables them to take on the foreign competition and beat it?

GOVERNMENT TOO BIG NOW

My answer is this: If there is one clear theme in America today, it is that the Government is too big, too intrusive, too burdensome. There is no way the Government can become smaller by getting bigger. If Government steps in to provide massive subsidies, it means the taxpayer will have to pay those subsidies.

The steady theme from the business groups that would be subsidized is: "Get out of our way. Get off our backs. Cut out every program that possibly can be cut."

That is point 1. Point 2 is that any action the Government takes will tend to support one industry at the expense of others or one firm instead of others. The Government will be saving a Chrysler or a Ford or a Lockheed, at the expense of their competitors. Or on the other hand, the Government will be stepping in to try to bring along a new and promising industry, but it is, of course, not promising enough to win support from the private investment community. If it were, it would not need Government subsidy. In any event industrialization means that the Government is substituting its judgment for the judgment of the marketplace.

TAXPAYER PAYS FOR BAILOUT

That is point 2. Point 3 is that any tax cut, any loan guarantee, any subsidized loan, any grant or bail out has to be paid for by American business itself. And who will pay that in American business? Obviously, the winners—the successful, profitable operations, the working taxpayer, the successful investor—these are the people in this country who have the income that provides whatever revenue the Federal Government can spend. So reindustrialization means that the winners are losing income so Government officials can decide who among the nonwinners or the downright losers in the economic community will be handed the income these successful firms are making.

It is obvious to me that unless you have a whale of a lot of faith in the judgment of Government officials—far more than any record would justify that the result of this reindustrialization is going to be to burden successful firms in this economy in order to help those firms who cannot win the confidence of investors or buyers. Those who cannot sell their products to consumers, those who cannot sell their future to investors but are perceived somehow by public officials to be worthy—these the politically potent losers will get a helping hand from Uncle Sugar paid for by those who are now making a success out of what they are doing.

That is point 3. Point 4 is that the Government has far more to do now than the American people can afford or want to afford. The Government has a massive and expensive military burden that is sure to increase.

The Government has a vast social security and income security program, a huge and increasingly expensive health program, a mammoth education commitment, a colossal burden to help cities, a vast housing program.

REINDUSTRIALIZATION MEANS STILL BIGGER GOVERNMENT

Not one of these programs will be dismembered. Powerful constituencies will push hard to increase all of these programs. Every one of these programs have a strong hold on the conscience of the American people. With all this do we really need another mammoth program, an additional multibillion dollar burden on the taxpayer and investor? Of course, reindustrialization will be sold as so many other programs are sold as a program that will bring in far more revenue than it will cost. How often I have heard that argument? Many, many times. But it never works. But the real effort of reindustrialization will be to provide a giant prod to other spending programs. I can get it now: "How can you cut food stamps or slow down housing when we are pouring billions into building up corporate America and will this program work?"

Will it? It will if the market is and will continue to be wrong in deciding what products should sell and what products deserve to win investment funds. It will only if—however defective the market may be—the public officials who make the decision on reindustrialization will make the decision more wisely than the market. Will they?

Even on the assumption that somehow Government conveys a special wisdom in economic matters that is denied those who make their living in business, even assuming that public officials have the higher order of intelligence, the Government route is the losing route because of the nature of pressures in our democratic society. Money will go where the political power is under that kind of game. It will go where union power is mobilized. It will go where the campaign contributors want it to go. It will go where the mayors and Governors are as well as Congressmen and Senators have the power to push it. Anyone who thinks Government funds will be allocated to firms according to merit has not lived or served in Washington very long.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROCEDURE—H.R. 1197 AND H.R. 7786

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 2 o'clock today the Senate proceed to the consideration of H.R. 7786. This has been cleared with the minority. It has to do with Secret Service protection for Presidential candidates, and so forth, and that the pending business, H.R. 1197 be temporarily laid aside until the disposition of H.R. 7786; and that the Alaska lands bill remain in a temporarily laid aside status until the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, with respect to the pending business, H.R. 1197, I ask unanimous consent that it be temporarily laid aside at the time H.R. 7786 is called up, and that H.R. 1197 remain temporarily laid aside until H.R. 7786 is disposed of or until the close of business today, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May I state, Mr. President, that I expect, I think there is a possibility of, rollcall votes in connection with H.R. 7786 this afternoon, but I cannot bring the bill up until 2 o'clock because the Senator who has an amendment thereto is in committee meetings prior to that time and he cannot be on the floor until around 2 o'clock to call up the amendment.

There may be a rollcall vote in connection with that amendment or in connection with the passage of the legislation. So I alert my colleagues that there may be rollcall votes this afternoon. I would not be surprised to have a rollcall vote or votes in connection with H.R. 7786. That is not to say, however, that there will be rollcall votes because we will not know until that time.

RECESS UNTIL 1:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 12:26 p.m. recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Bradley).

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended to 2 p.m. today and that Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHRYSLER K-CAR MODELS

Mr. RIEGLE. Mr. President, the first all new K-car models of the Chrysler Corp. will begin rolling off the assembly line next Wednesday, August 6, in Detroit at Chrysler's Jefferson Avenue assembly plant. All of those who voted for the Chrysler loan guarantee legislation realize how important the K-car is to the future of Chrysler.

Chrysler and the new K-car do not represent a "pious hope" or "throwing good money after bad" as the leading opponent of Chrysler here in the Senate stated on July 30.

The new K-car that has been designed and produced by Chrysler, and which was made possible by the Loan Guarantee Act, will average 25 miles per gallon in the city and 40 miles per gallon on the highway. It is a four-cylinder, front-wheel-drive automobile that will enable us to conserve energy and counteract the massive importation of Japanese cars into the United States. The work force that is producing these cars is absolutely dedicated to offering the finest quality automobiles built anywhere in the world.

Many people have contributed to this very important day for the new Chrysler Corp. Doug Fraser and his UAW membership, Lee Iacocca and the employees of Chrysler, Senator Carl Levin and other congressional colleagues. The Carter administration, Detroit Mayor Coleman Young, and all of the others who led the fight to give Chrysler this unique chance in automotive history share this achievement with the Chrysler employees actually helping this company make the turnaround and produce and build these cars.

We all believe Chrysler is worth saving. Leading the way toward recovery is the K-car.

The K-car is a symbol to all of those who want to work in a positive and cooperative manner to rebuild our domestic auto industry. The domestic auto industry is vital to our national economic vitality and other special actions by Congress and the President will be needed as part of the short-term and long-term rebuilding process facing this strategic industry. But, the K-car is an important beginning; it shows we can make progress if we act positively rather than surrender to our problems or follow the negative advice of those who favored sending Chrysler into bankruptcy.

There is more good news from Chrysler in the form of other new fuel efficient vehicles that will be introduced in the months ahead. Today's issue of the Washington Star contains an important article in that respect and I ask unanimous consent it be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. Mr. President, I will be in Detroit next Wednesday morning to see and drive one of the new K-cars. Let me issue an open invitation to my colleagues to attend this historic occasion with a special invite to those who opposed the Chrysler loan guarantee legislation. They might change their minds if they saw these new cars with their own eyes—and spoke directly with the workers who will be producing them.

Exhibit 1

After K Cars: Chrysler Schedules Sports Models, Minivans, Pickups

(By Al Fleming)

Detroit.—What comes after K? The obvious answer is L. Unless you are Chrysler Corp.'s Board Chairman Lee A. Iacocca. In which case, K is followed by a bunch of new little cars, pickup trucks and minivans scheduled to enter dealer showrooms in the mid-1980s.

In a move to dispel what he calls the "myth" that the nation's No. 3 auto maker is likely to "slowly erode away" after its much ballyhooed K-cars—compact-size Plymouth Reliant and Dodge Aries—are introduced at the start of the 1981 model year, Iacocca took the wraps off future products in an unprecedented showing to the Detroit auto press.

"Some people say we're not going to have anything after the K-car," Iacocca told reporters touring Chrysler's Highland Park, Mich., Design Center, where prototype and clay models of vehicles were displayed. "Everything you see will be on the market by fall 1982 except for that van and that truck," he said, pointing. "We've got a lot more products coming."

So what are the products and when do they arrive?

Start with the 1982 model year. A sporty mini-pickup truck, using the front part of the subcompact Omni/Horizon body, will be introduced. Reminiscent of the sporty but larger Chevrolet El Camino and Ford Ranchero, the Chrysler version is a sporty two-door Omni 024/Plymouth TC3 from its doors forward and a 1,000-pound-payload trunk in the rear. It's the company's first try at truck downsizing.

Also coming in 1982: something Iacocca calls the "Super K"—a luxury takeoff of the K in coupe and station-wagon body styles. The Super K will bear a Chrysler nameplate, and will be set apart from the regular K by distinctive sheet-metal treatment and different trim.

What may be the most appealing of the 1982 newcomers is a four-seater sport car (two-plus-two) currently code-named Dodge 4000. Featuring a massive rear glass area not unlike the Porsche 928's, the zippy-looking sportster, designed to compete against the likes of Chevrolet Camaro, is expected to have a turbo-charged four-cylinder engine.

Another sport car will bow in the 1983 model year—imported from Italy's De Tomaso Moderna S.p.A., which once developed the Pantefa sport car for Ford Motor Co. when Iacocca was president at Ford.

The products that Iacocca told reporters will not be on the market by 1982 are a minivan and a compact-size, front-wheel-drive truck. They are programmed for 1983½- or 1984-model debut. They will both use the stretched K body. The stubby little van may have a small diesel engine as an option. The small truck will have a 1,500-pound payload.

WILLIAM J. BAROODY, SR.

Mr. TOWER. Mr. President, I share the great sorrow and sense of loss which has been expressed by a number of my colleagues at the passing of Bill Baroody, Sr. Bill was truly a great man. He displayed to all who knew him those qualities to which many aspire, but few attain.

Bill was a man of splendid intellect, honesty, and integrity. A man of strong convictions, he was devoted to his family and generous with his friends. I am honored to have enjoyed his friendship and counsel.

In addition to his fine work at the American Enterprise Institute, where he served as president until 1978, Bill Baroody distinguished himself through an extensive list of accomplishments, both in and out of Government. I shall not attempt to list these achievements now, but I ask unanimous consent that a recent Washington Post article on this subject be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TOWER. Mr. President, I am reminded of the many Republican Conventions in years past when I participated in deliberations on formulation of our platform statement. Bill Baroody was a consistent party to these sessions, and I admired his clear and precise thinking, as well as his ability to reduce ideas to words. Just 2 weeks ago, Mr. President, I was honored to serve as chairman of our Republican Platform Committee at the convention in Detroit. Assisting me in this endeavor as editor-in-chief of our platform was Mike Baroody, Bill's son.

I know I express the thoughts of many in remarking upon the loss of a fine man, and my wife, Lilla, joins me in expressing our sympathy to his family.

Exhibit 1

W. J. Baroody, Ex-AEI Chief, Adviser to Nixon, Ford, Dies

(By J. Y. Smith)

William J. Baroody Sr., 64, a former president of the American Enterprise Institute, a noted conservative and an informal adviser to Presidents Nixon and Ford, died at Alexandria Hospital on Monday following a heart attack. He had cancer.

Mr. Baroody joined the American Enterprise Association, now the AEI, in 1954 as executive vice president. He became president in 1962 and held that post until 1978, when he retired. He was succeeded by one of his sons, William J. Jr., a former aide in the Ford White House.

Throughout his career, Mr. Baroody espoused the conservative view on many issues and the causes of many leading Republican leaders. He was regarded as principal adviser of Sen. Barry Goldwater (R. Ariz.) when the latter was the GOP presidential candidate in 1964. He also was a friend and confidant to Nixon, Ford and others.

There was a time when the American Enterprise Institute was regarded by critics as an organization devoted largely to the conservative interests of business. In 1964, the Internal Revenue Service investigated its connections with the Goldwater campaign to see if it had violated the conditions under which it retained its tax-exempt status. The result of the investigation was that the AEI was a nonpartisan, nonprofit "think tank."

It is a measure of Mr. Baroody's success as head of the organization that the AEI now is highly regarded by persons of all political persuasions for the quality of its reports, even if its conclusions often come down on the conservative side of things. Those who have been associated with the AEI over the years include Arthur Burns, former chairman of the Federal Reserve, Melvin Laird, former secretary of defense, and Richard Neuhaus, liberal Democrat.

Under Mr. Baroody's leadership, the AEI grew from an organization that relied principally on large corporations for its budget of about $80,000 a year to a group that now receives much of its funding from major foundations and has an annual budget of about $8 million a year.

Apart from his work at AEI, where he became chairman of the development committee after he stepepd down as president, Mr. Baroody was a founder and member of the board of the Center for Strategic and International Studies at Georgetown University. He also was a member of the U.S. Catholic Bishops' Advisory Council, the chairman of the board of the Woodrow Wilson International Center for Scholars, a member of the board of consultants at the National War College, and a member of the boards of directors of Georgetown University, the Herbert Hoover Birthplace Foundation and the Near East Foundation.

William Joseph Baroody was born on Jan. 29, 1916, in Manchester, N.H. His parents were immigrants from the Lebanon and his father was a stonecutter by trade. It is said that Mr. Baroody's father spoke English with a brogue because he learned the language from his Irish neighbors.

Although it is difficult to identify Mr. Baroody as the author of specific positions held by the political leaders whom he advised, he was widely regarded as having been a man of influence and as a motivator of people.

"I come from a long line of conciliators," he said in an interview with The Washington Post in 1975. "In the Arab tribes, in ancient times, the Baroodys were known as the tribal conciliators."

Mr. Baroody graduated from St. Anselm's College in Manchester in 1936, doing odd jobs to help pay his way through school. He then joined the New Hampshire Unemployment Compensation Agency. After the outbreak of World War II, he joined the New Hampshire War Finance Committee and then served in the Navy as a lieutenant.

He moved to the Washington area in 1946 and took a job with the Veterans Administration. From 1950 to 1953, he was an official of the U.S. Chamber of Commerce and associate editor of American Economic Security. He then began his career with what became AEI.

A member of the Melkite Greek Catholic Church, Mr. Baroody was active in church affairs for much of his life.

He was an adviser to Cardinal Patrick O'Boyle, a former archbishop of Washington, a member of the board of governors of the John Carroll Society, and chairman of the diocesan council of his own church. He also was a member of the board of advisers of the DeSales Graduate School of Theology.

If Mr. Baroody was a self-made man in the grand American tradition, he was able to help his own children make easier starts in life.

In addition to William J. Jr. of Alexandria, survivors include his wife, Nabeeha of Alexandria, where Mr. Baroody lived; two other sons, Joseph D. a partner in a Washington public relations firm, of Annandale, and Michael E. director of communications for the Republican National Committee, of Alexandria; four daughters, Helene Payne and Mary Fran Cummiskey, both of Alexandria, Anne Gallagher, of Woodbridge, and Kathy Jane, of Alexandria; a brother, Charles A. of Manchester; a sister, Adele Baroody, of Alexandria, and 37 grandchildren.

The family suggests that expressions of sympathy be in the form of contributions to the Holy Transfiguration Melkite Greek Catholic Church in Vienna, or to a charity of one's choice.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

PROTECTION OF SPOUSES OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 7786, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7786) to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Baucus). Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 7786

Mr. ROBERT C. BYRD. Mr. President, with respect to H.R. 7786, the pending matter giving Secret Service protection for candidates' spouses, I ask unanimous consent that there be a 20-minute time limitation on the bill to be equally divided between Mr. DeConcini and Mr. Thurmond; that there be a time limitation of 30 minutes on an amendment by Mr. Chiles; that any second-degree amendment to Mr. Chiles' amendment be required to be germane to the Chiles amendment and that there be a time limitation on any second-degree amendment of 20 minutes; that no other amendments be in order; and that the division and control of time be in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair and thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, Mr. DeConcini is on his way.

I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, the bill at the desk, H.R. 7786, makes two changes in current law regarding the provision of Secret Service protection to the spouses of major Presidential and Vice-Presidential candidates.

First, it eliminates an unintentional discrepancy between the conditions under which spouses, on the one hand, and the candidates, on the other, are afforded such protection.

Under current law, Secret Service protection is extended to any major Presidential or Vice-Presidential candidate, but is limited to the spouses of major Presidential and Vice-Presidential nominees. This difference effectively precludes protection for the wives of major candidates who, for a variety of reasons, may not happen to be the nominees of our dominant parties. This bill would correct this deficiency by establishing identical eligibility requirements for both the candidates and their wives.

The second modification contained in the bill simply establishes a more realistic time frame for the provision of spousal protection. Under existing law, the Secret Service may not be assigned to the wives of Presidential and Vice-Presidential nominees until 60 days before the general election. Yet it is obvious that the spouses of the candidates for such high offices become public figures in their own right and may require Secret Service protection separate and apart from that provided for their husbands. This bill expands this period of time within which spouses become eligible for protection from 60 to 120 days preceding the general election. I believe such an adjustment is warranted by the chronology of our Presidential electoral process.

In sum, Mr. President, this measure addresses problems of considerable current significance and I would hope the Senate would agree to its provisions without amendment.

The House, as I understand it, has adjourned or is about ready to adjourn so any changes in this bill would effectively kill it, rendering both its provisions and the amendment moot.

Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, as the distinguished Senator from Arizona has just stated, this is a simple bill. It would extend the period of time under current law by which Secret Service protection can be provided to the spouses of Presidential candidates from 60 days to 120 days prior to the election.

Current law now extends such protection only within 60 days of the election—this year, November 4, 1980. Thus, no Secret Service protection may be extended to Mrs. Reagan or Mrs. Anderson until September 4, 1980. This is an unfortunate situation because both women have been actively campaigning all summer and I expect will continue to do so up until election day.

In a campaign year emotions are always high. Media attention on candidates can arouse feelings in people and lead them to do foolish, and sometimes, dangerous things. The wives of candidates are not immune from this potential danger and because candidates' wives are taking more active roles in campaigning on their own, Secret Service protection seems to be a reasonable precaution to take.

It is my understanding that the cost of such protection will be about $500,000. The authority we are providing today is simply one of extending from 60 days before the election to 120 days before the election Secret Service coverage for the spouses of Presidential candidates. I support the bill and urge my colleagues to approve it.

UP AMENDMENT NO. 1497

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1497.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . The Secretary of the Treasury shall not provide Secret Service protection to any individual other than individuals listed in section 3056 of title 18, United States Code, or in the Act of July 6, 1968 (Public Law 90–331).

Mr. CHILES. Mr. President, the amendment that I have sent to the desk is to clarify which individuals are entitled to permanent Secret Service protection. In section 3056 of title 18 and in Public Law 90–331.

Those individuals who are entitled to such protection are listed. Based on these authorizations the Secret Service is currently protecting 21 individuals.

In spite of these specific authorizations the Treasury Department has in the recent past extended Secret Service protection to individuals not authorized to receive that protection. The General Accounting Office has ruled that such a practice is not legal. Nevertheless, administrations of both parties have continued this practice arguing that it is permissible because of the inherent authorities of the President.

Mr. President, I do not think that those inherent authorities go that far. The General Accounting Office does not think they go that far and yet we find that, over the period of years, Presidents of both parties have covered individuals that are not listed in the act and not entitled to protection. It seems to me that this is the time that we ought to clear this matter up.

The purpose of my amendment would be to clarify that the Secret Service may protect only those individuals authorized to receive such protection by current law. If we find from time to time the belief that other individuals should receive protection such a proposal should be submitted to the Congress for consideration by the legislative process.

Just as we are doing with this bill which would extend the time for the coverage of the spouses, we also should put in legislation to cover other individuals if it is necessary to protect them. It ought to be done that way.

Under the argument of inherent authority of the President, there is no limit to who you could cover, who those individuals would be or for what period of time they would be covered.

When we look at the costs and the drain on the manpower of the Secret Service with their other responsibilities, I think it is time that we made a change. I think this simple amendment would make that change. I urge the adoption of the amendment.

Mr. President, I reserve the remainder of my time.

Mr. DECONCINI. Mr. President, let me assure the Senator from Florida that I am cognizant of the outstanding work he has done in this connection both in the Government Operations Committee and in the Appropriations Committee as chairman of the Treasury, Postal Service, General Government Subcommittee. I understand what his concerns are.

However, Mr. President, I feel obligated to oppose the distinguished Senator from Florida's amendment.

This amendment would prohibit, as I understand it, the Secretary of the Treasury from providing Secret Service protection to any person except those individuals listed in section 3056 of title XVIII of the United States Code.

This amendment would directly interfere and severely limit the inherent power of the President to authorize Secret Service protection in emergency situations where there is a serious threat to life or imminent danger of bodily harm.

Let me give you a couple of examples.

If information were received that a terrorist group was planning some hostile activities toward a Member of Congress the President would not be able to authorize Secret Service protection for that Member, not even for 1 day.

If information were received that a group was planning to kidnap a child of a candidate, the President could not order Secret Service protection.

If information were received by the CIA that agents of a hostile intelligence service were planning to kidnap or kill a major Cabinet official in retaliation for U.S. trade or economic policies relating to that foreign country, the President could not order protection for that official.

The amendment before us attempts to prohibit any abuse of the President's discretion in the exercise of his constitutional authority as Chief Executive of the United States. Granted, there is always the possibility of abuse when you have a discretionary statute such as this.

The intent of section 3056 is really twofold:

First, to specify those persons who are to be protected by the Secret Service as a matter of statutory right; and, second, to establish the authority of the Secretary of the Treasury to order protection under circumstances that the President feels are necessary.

I believe it is in the best interest of our country.

Mr. CHILES. Will the Senator yield?

Mr. DECONCINI. Yes.

Mr. CHILES. Mr. President, will the Senator tell me where he finds in the act that it allows the Secretary of the Treasury to cover anybody that the President feels should be covered? Could the Senator tell me where he finds that?

Mr. DECONCINI. I believe it is inherent authority in the statute.

Mr. CHILES. Mr. President, will the

Senator tell me where in the statute he finds that inherent authority?

Mr. DECONCINI. I believe the inherent authority is there to the President.

Mr. CHILES. Is there some word or language in the statute that gives the Senator that feeling?

Mr. DECONCNI. If the Senator will yield, the Secretary of the Treasury is a Cabinet appointee of the President. He is the person who has the authority to direct the Secretary to furnish this protection.

Mr. CHILES. But when that statute says that "Subject to the direction of the Secretary of the Treasury, the U.S. Secret Service is authorized to protect the person of the President of the United States, members of his immediate family, the President-elect, the Vice President, or other officer in the order of succession, the Vice President-elect, and members of their family * * *"

When it lists those individuals and it does not say anything such as "or such other person that the President, under his inherent authority, might desire to protect * * *" I wonder where within four corners that authority can be found.

As I understand the argument of the general counsel of this is supposedly one of those inherent constitutional powers that the President has. I never heard anybody argue before, that the statute gives them the inherent power.

I would like to hear from the distinguished Senator from Arizona, who is an outstanding lawyer and who is such a statutory constructionist, where he reads into the statute that authority.

I would feel better if this inherent authority that the President is supposed to have was coming out of the air instead of arguing that it is in the statutes.

Mr. DECONCINI. If the Senator from Florida will yield, there is no intent in the statute to limit the inherent power of the President. I believe there is an inherent power in the President, in his role as the Chief Executive officer of this United States, to take appropriate steps in preventing criminal actions.

Let me give the Senator some examples.

In 1979, the President took such action under the inherent power and granted protection to Senator KENNEDY prior to the announcing of his candidacy. No one challenged the President's inherent authority as the Chief Executive of the United States to take such action.

I think the amendment that the Senator is offering would prohibit the President from taking precisely this kind of precautionary measure.

Mr. CHILES. Attempts have been made to prohibit the practice prior to that. The General Accounting Office said it is illegal when it has taken place.

Mr. DECONCINI. If the Senator will yield, I would only ask the Senator: Since when is the General Accounting Office the competent judge of what the inherent power of the President of the United States is?

Mr. CHILES. The General Accounting Office has been given this authority by this Congress. They have the role of determining whether vouchers should be paid, whether money should be spent, and whether it can be spent pursuant to authority, legal authority, inherent or otherwise. That is the role that Congress has given to the General Accounting Office.

Mr. DECONCINI. If the Senator from Florida will yield, that still does not answer my question: Why does the Senator feel so strongly that he could rely on the opinion of the General Accounting Office to the effect that the Chief Executive does not have inherent authority to grant this protection that he has exercised in the past and, we believe, could in the future without the Senator's amendment?

Mr. CHILES. One of the things we are trying to clarify is that I do not believe, and I do not think it was our intent in allowing the protection to be granted, that a President could, on his own volition, determine whom we wanted to protect, or whom he wanted to send the Secret Service out to protect. I think that is what we were attempting to do in enumerating who should be protected in statute. That is what this amendment would do further by saying—name the people or the classes of people you want to protect, but do not leave it open ended, unless you want to put in the statute "and whomsoever else you decide you would like to protect and spend this money on."

Mr. DECONCINI. If the Senator from Florida will yield, I think there is merit to the Senator's concern, because I can see that any inherent power could be abused. Certainly, if we want to try to determine and focus on where it would be in the best interest to limit by statute the President's inherent authority to grant protection, I would be very supportive. I would even go so far as saying for the Judiciary Committee that we will hold hearings on that matter to make that determination.

That is not the problem we have today. It seems to me very important not to forget where we are today. We need to pass this statute for very obvious reasons. I think we do not want to tie the hands of the President, and, hopefully, he will not use this inherent authority irresponsibly. But we will not tie the hands of the President in the event some circumstance arises that would convince a reasonable person—and I believe it is safe to say that the President is just that—that the protection of certain individuals and the stability of this country, perhaps, when we have an election before us in the very near future, requires the exercise of that inherent authority.

Mr. CHILES. If the inherent authority is there, as the Senator feels it is, there is really no need for this bill today, because the President can cover Mrs. Anderson, the President can cover Mrs. Reagan. If it is within his inherent power why in the world do we have this bill?

Mr. DECONCINI. The answer to the Senator from Florida is that the limitation of time in existing law is of concern and, I think, one of the main reasons for the consideration of this bill. Granted, the argument can be made, yes, well, if he has inherent authority to give protection, does he have inherent authority to grant it for longer than 60 days? Perhaps so.

Mr. CHILES. The Senator would not think his inherent authority would be limited by days?

Mr. DECONCINI. If we err, I would prefer to err on the side of what I consider safety for people who may be or may find themselves, unfortunately, in any type of circumstance where their lives would be in danger.

Mr. THURMOND. Will the Senator yield?

Mr. DECONCINI. I yield to the Senator from South Carolina.

Mr. THURMOND. The point the Senator from Florida made is an interesting point. If the spouses of Presidents have not been mentioned in the statute, then it seems that the President would have the power to provide it. But since the statute does specifically limit the spouses of Presidents and limits it to 60 days, then it seems he would have to get authority to go beyond the 60 days. That is what this bill does. It goes to 120 days.

Mr. CHILES. I find it a little unique, Mr. President, that we need to mention somebody in statute in order to protect them. According to the construction of my two distinguished colleagues, we need to mention somebody to be able to limit the inherent power, but if we do not mention them, there is no limit on the inherent power. So what we ought to do if I want to make any limitation, I had better name everybody in the world and then we can limit the power to a number of days because if we do not mention them, then there is no limitation of power.

Mr. DECONCINI. If the Senator will yield, I can only say to the Senator from Florida that I do not know of any piece of legislation that has passed through here, at least in the 4 years I have been here, that has been perfect and answers all Senators' or legislators' questions. The Senator has brought to the attention of this Senator and the whole body—and I thank him for doing so—that maybe we should refine more specifically exactly what the extent of the President's powers are in this regard.

What is important is to address the problem, as I see it, at least, of what we face today. Do we want to take a chance of having a President in office who is restricted both on days and whom he might protect? I think the Senator's amendment, which directs that he can only grant the protection to individuals identified in 3056, title XVIII, is just too restrictive. I am only urging the Senator to consider the potential problem that might arise, and hopefully it will not. I know what the Senator is interested in and I cannot criticize him at all for his effort to bring to this body the need to address a realistic problem.

How far are we going to go? Is the Senator suggesting that some President might want to grant everybody in Conress protection? Obviously, if that were done today, it would be way out of line and extremely expensive. But it could happen. That is a real need to be addressed. But still we have the need in the legislation before us to change the

60 days to 120 days to make available, particularly in the case of a candidate who is not, or the wife of a candidate who is not a nominee, the ability to have protection. I feel it is in the best interest for us at this time not to tack on to this legislation the amendment of the distinguished Senator from Florida.

Mr. CHILES. Mr. President, I thought an argument against my amendment would be raised here but it has not, so maybe I need to raise it. The argument is that the House is no longer in session. It has adjourned, and that if we had an amendment on this bill today, then the bill itself would become moot. It would be moot because the House and Senate would be out of session and we could not go to conference or pass this legislation perhaps until September and then this protection would automatically go into effect and the bill would not be needed.

Therefore, I shall withdraw my amendment. But I want the record to show for my part that it is for these reasons that I withdraw it, not because I think the President has or should have this so-called inherent power. I think if we make that argument, I do not know where it stops. I do not know where it stops, not only in this but in many other areas regarding the President's right to spend money or cause things to happen where clearly Congress has had and reserved to itself that particular role. But for those reasons stated earlier, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to withdraw the amendment?

Mr. CHILES. No, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. Due to the pending time agreement, unanimous consent is necessary.

Mr. CHILES. Then I ask unanimous consent to withdraw it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. DeCONCINI. Mr. President, let me express to the Senator from Florida again my understanding of what his concern is here and compliment him for bringing the issue to the attention of this Senator. We shall give careful scrutiny to just what the inherent powers of the President are in this connection and whether or not further legislation is indicated. I thank the Senator from Florida.

I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I also commend the able Senator from Florida for withdrawing his amendment, because the House has gone out and any amendment to this bill would delay passage to August 18. The way is opened if the distinguished Senator wishes to introduce legislation; it could be considered in a separate bill and I imagine that is the way he wants to proceed.

Mr. CHILES. I shall try to find a way.

Mr. THURMOND. Mr. President, I yield back my time.

Mr. DeCONCINI. I yield back my time.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7786) was ordered to a third reading, was read the third time, and passed.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a continuing period for the transaction of routine morning business, not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECOND NATIONAL INDIAN YOUTH CONFERENCE

Mr. DeCONCINI. Mr. President, the week beginning August 3 will be a historic week even in this historic city.

Four hundred Indian youth from tribes and reservations throughout the country are in Washington this week. These Indian youth are in the Capitol attending the second National Indian Youth Conference. These youth have been chosen by their tribes as potential leaders. A few of the youth are from off-reservation areas but most are from reservations in various sections of the country. Many are, or have attended Bureau of Indian Affairs boarding schools and have spent little time in urban America.

Most of the youth will be seeing Washington for the first time. All will be having a variety of new experiences: meeting with the President at a reception on the White House lawn, meeting with the Members of Congress and their staffs, being introduced to the private enterprise system by businessmen, and becoming aware of a variety of careers. They will participate in lectures, workshops, and roundtable discussions with their peers from other tribes. In addition, they will participate in a large number of social activities, including a powwow on the Washington Monument grounds.

Among those who will be addressing the conference participants is Billy Mills. Billy is the Sioux Indian who won a gold medal at the 1964 Olympic games in Tokyo, for the 10,000-meter race. Billy is still the only American to win this event.

Billy is a member of the President's Council on Physical Fitness and Sports. He has given a great deal of his time and energy to guiding the development of the Indian youth of today. He is the moderator of the conference and is speaking to the youth on personal development and leadership training and is responsible for a workshop on physical fitness.

Most of the youth who are attending the conference are involved in the tribal youth employment programs funded by the division of Indian and Native America CETA programs of the Department of Labor. They were selected by criteria set by their supervisors.

Those criteria included, but were not limited to, standards of job performance, punctuality, initiative, and behavior. Academic achievement and involvement in sports and participation in tribal community activities were also considered.

As a Senator from the State of Arizona, which has the largest Indian population, I feel that it would only be appropriate for Congress to welcome these Indian youth to Washington, wish them a most fruitful week and congratulate them on being chosen by their tribes for this experience.

COSPONSORSHIP OF ENVIRONMENTAL EMERGENCY RESPONSE ACT—S. 1480

Mr. COHEN. Mr. President, I rise to cosponsor S. 1480, the Environmental Emergency Response Act. This legislation addresses a problem of ever-widening dimensions and legitimate concern to the citizens of the country—the threat to public health posed by the improper dumping of toxic wastes.

The Committee on Environment and Public Works reported on this legislation favorably more than a month ago. Last week I joined with many of my colleagues, including Senators Heinz and Levin, in urging the leadership to schedule this measure on the Senate Calendar. Companion legislation is pending before the House of Representatives.

Therefore, it is apparent that Congress has an excellent opportunity to pass the Environmental Emergency Response Act before the end of the 96th Congress.

In my view, the improper and dangerous disposal of toxic wastes represents a serious threat to the health of citizens all across the country. The Environmental Protection Agency has identified 26,000 industrial waste impoundments—pits, ponds, lagoons, and other sites—throughout the United States, about half of which contain hazardous wastes.

In Maine, the EPA has identified 31 impoundment sites directly above sources of ground water with no barrier between the wastes and the water. There are four sites in Maine where toxic wastes lie unprotected within a mile of well water supplies.

Existing law has proved inadequate to control the disposal of hazardous substances. This legislation would provide the tools necessary to respond to a growing problem which could cause future suffering on a scale equal to or greater than that afflicting residents in the area of the Love Canal in New York State.

It is certainly more than an inconvenience for thousands of citizens to be notified that chemical substances, many identified as carcinogens, have impregnated their well water or a town's groundwater. In 1977, for example, in Gray, Maine, residential wells were found to be contaminated by trichloroethylene and other chemicals from a solvent and oil waste processing facility. Municipal water lines were extended to the affected homes at a cost of $500,000. The State of

Maine paid for the cleanup of the site. Studies are now being conducted to determine what effect, if any, the contaminated water had on the health of the families who consumed it.

The fears of Americans who discover that they are living on or near chemical disposal sites must be allayed. This legislation would require that chemical and industrial firms act responsibility in disposing wastes, or be subject to fines and liability for personal and property damage. The irresponsible and dangerous dumping of toxic wastes is not a practice this Congress should accept with silence. The potential disasters that await unsuspecting Americans while drums of chemicals slowly corrode is not a fear they should harbor. The price of disaster is not one the victims should pay.

Consideration of this legislation and approval of an adequate and equitable compromise measure would be a beginning in addressing the problem of toxic dumps. The EPA has already implemented "cradle to grave" tracking of chemical wastes. Yet, many additional actions must be taken. Sites must be monitored, firms must be asked to divulge what substances have been dumped and where, guidelines—such as those in the Emergency Environmental Response Act—must be established to determine liability.

Mr. President, I hope that this Congress uses this opportunity to fashion responsible legislation promptly. I urge my colleagues to reexamine the Emergency Environmental Response Act and to seek swift consideration by the Senate.

I ask unanimous consent that the following report, dated January 1980, compiled by the EPA and detailing specific problems in Maine be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DAMAGES AND THREATS CAUSED BY HAZARDOUS MATERIAL SITES

Guilford, Maine: State officials have warned fisherman to use discretion in eating fish from the Piscataquis and Penobscot Rivers due to TRIS, a carcinogen reportedly discharged into the rivers illegally in 1979.

Saco, Maine: In 1974 tests indicated that private drinking water wells adjacent to the town dump had been contaminated with chromium, iron and managanese. Disposal of sludges from wastewater treatment plants receiving large amounts of tannery waste was apparently the cause of the problem.

Gray, Maine: In 1977 residential wells were contaminated with trichloroethylene and other chemicals by a solvent and oil waste processing facility. Municipal water lines were extended to the affected community at a cost of $500,000. Health effects studies are being conducted. The State paid for cleanup of the site.

North Berwick, Maine, 1980: Eight abandoned trailers, containing 800 drums of hazardous materials, including phenols, toluene, xylene, and creosol were located on the unused portion of an industrial parking lot. The transporters intended to use this area as a storage and transfer facility without benefit of required State approvals. Two of the trailers are leaking in close proximity of a drainage ditch which leads to the Great Works River. All of the drums and trailers have been removed by the State. Threat to surface waters allowed EPA to use CWA section 311 funds to provide site security.

Easton, Maine: Since the early 1960's a potato processing plant and an adjacent sugar beet processing plant have established 21 separate surface impoundments covering 175 acres to dispose of, treat, or store their effluent. The lagoons were not properly engineered, were poorly maintained and did not work properly. Enforcement actions were hampered by bankruptcy court proceedings. Although surface water impact upon the lagoons is the most obvious problem, groundwater contamination is highly suspected. A few private drinking water wells have become contaminated but a positive connection between the contamination and the lagoons has not been established.

Baileyville, Maine: A large paper mill constructed three lagoons in 1977 to treat a wastewater flow of about 35 MGD. The lagoons were expected to be "self sealing" from the deposition of inert solids so no liners were installed. Adjacent ground water quality monitoring surveys has shown elevated levels of sodium, TDS, sulfate, iron, chloride, calcium, and magnesium. Sampling of surface waters near the impoundments also show impact. A series of meetings have taken place between the company's representatives and the Maine Department of Environmental Protection (DEP) to effect a lasting solution to the pollution problem.

East Gray, Maine: A waste disposal site in East Gray, Maine accepted an estimated 100,000 to 200,000 gallons annually of waste oils, process bottom wastes, tank bottom wastes, septic tank wastes, industrial process wastes, and various other liquid wastes. These wastes were stored in tanks or placed in a ½ acre asphalt-lined lagoon. Two years after commencement of operations complaints of poor water quality were voiced by nearby residents. In 1977 trichlorethane, trichloroethylene, dimethyl sulfate, acetone, trimethylsilanol, xylene, freon and assorted alcohols were found in 20 nearby residential well waters. It was later verified that the contamination originated from the waste disposal site. A moratorium has been placed on any new construction within a 2-mile radius of the site and the facility has been closed. Interim measures have been taken to supply residents with drinking water until a long-term solution is found.

FILIBUSTER OF THE ZIMMERMAN NOMINATION

Mr. DURENBERGER. Mr. President, there are now only 32 legislative days left before the Senate adjourns on October 4. On the calendar are nearly 100 bills, many of which represent hard-fought compromises, and 2 years of diligent legislative work. Other essential matters—like the Health Incentives Reform Act, Child Kidnaping, and the Rail Investment Incentive Acts—remain in committee, waiting their chance for floor action. Time considerations will prevent most of these bills from ever being considered.

The fault for this backlog certainly does not lie with the minority. Nevertheless, with so many important matters pending in so few legislative days, I cannot justify supporting a filibuster on the issue of the Zimmerman nomination.

Mr. President, as the votes I cast on Tuesday indicate, I do not support the Zimmerman nomination. I intend to vote against his confirmation. But the Senate has too many essential matters pending to devote several days to a filibuster on this nomination.

I want to make my position on this issue clear. I do not intend to support the filibuster, nor do I intend to support the Zimmerman nomination.

S. 2332, DEPARTMENT OF ENERGY AUTHORIZATION

Mr. DURENBERGER. Mr. President, on Wednesday I voted "no" on an amendment to this measure authored by the Senator from Missouri which would cut 1,000 positions from the Department of Energy payroll—1,000 positions is about 5 percent of the DOE payroll. I am sure the Nation could do very well with 1,000 less people working at the Department of Energy. And I am sure that this fall the Nation will elect a President who will reduce the size of the Department by that amount or more. The people of this country do not care much for the Department of Energy and its minions who do little but regulate and allocate, as the Senator from Missouri so ably pointed out.

But I voted "no" on this amendment. I voted "no" because the Senator from Missouri offered no direction in his attack on the Department of Energy. He did not indicate which 1,000 employees would be sacked or which programs would be abandoned. The Senator from Louisiana asked if these positions would be taken from the gasohol program or the schools and hospitals energy conservation program, or other programs which the Congress and the American public support. The amendment by the Senator from Missouri does not protect these programs. The amendment leaves the decisions on which programs get cut to the administration which created the Department of Energy and has been responsible for its bungling record over the last 3 years.

Mr. President, this amendment and amendments similar to it have been presented to the Senate before. The Senator from Ohio, Senator GLENN, offered a 5-percent reduction as an amendment to the Energy Security Act. In the past these amendments have always failed, as they should. But yesterday the amendment by Senator EAGLETON received 66 votes and will be sent to the conference committee with this bill. Since most members of the authorizing committee voted against the amendment, I doubt that it has much chance of clearing the conference. As most Senators know, the amendment was little more than a symbolic gesture provided so that Senators campaigning for reelection could go home and tell the constituents that they voted to cut the Department of Energy.

I voted against the amendment because I believe that willy-nilly, across-the-board cuts are of little value in our attempt to get control of the Federal budget. I voted "no" because I believe that we have a responsibility to examine the programs of each department, providing support for those programs which are effective and cutting those programs which are of little value.

Mr. President, this morning I will vote against final passage of the DOE authorization for the same reason. The bill reported by the committee abdicates our responsibility to make the policy and set the direction for Government in the same way that Senator EAGLETON'S amendment ignores our responsibilities. The bill that we are about to pass provides a continuous authorization for the Department of Energy at a level equal to the previous year's appropriation plus 10 percent. This bill gives every program in the Department of Energy a permanent life and allows each program to grow at an annual rate of 10 percent. If we are to get control of the Federal budget and stop the run-away growth, we must do it by carefully considering each program as it comes up for authorization. And we must set a statutory limit on the life of each program. We must examine each part of the bureaucracy on a regular basis to determine if it is still needed and if it is doing its job effectively.

The Energy Committee has attempted to fulfill the oversight role assigned to it in the past. It has reported authorization bills that provide line-by-line oversight of the Department of Energy. But the leadership in the Congress has never been able to get final action on these bills. So the Energy Committee has decided to attempt a new course. They have decided to give us a bill that provides permanent life to the Department of Energy and to the dozens of programs that we could very well do without.

Mr. President, I am not ready to abandon my responsibility as a Senator. I will not vote to give the Department of Energy permanent life and an automatic annual increase of 10 percent, just as I did not vote for an across-the-board 5-percent cut.

I thank the Chair.

THE ERISA BILL

Mr. DURENBERGER. Mr. President, the ERISA bill, (H.R. 3904) which we passed on Wednesday of this week represents a stopgap approach to a difficult problem. Nevertheless, we are faced with a Hobson's choice. If this legislation as modified is not immediately enacted, mandatory coverage will go into effect under the current rules. The Pension Benfit Guaranty Corporation (PBGC) has previously reported on the multibillion-dollar disaster such inaction might entail—unfunded liability costs of almost $5 billion requiring premiums to escalate 16,000 percent from 50 cents to as much as $80 per capita.

Mr. President, among the many mistakes made in 1974 when ERISA was passed, was making termination insurance applicable to multiemployer retirement plans.

Under a multiemployer plan before ERISA, an employer's legal obligation was limited to make contributions to the plan at a negotiated rate set forth in the collective-bargaining agreement maintaining the plan. Benefits were then set by the joint board of trustees based on the expected level of contributions and plan investment income. Benefits could be adjusted up or down to meet the financial circumstances of the plan. In other words, such plans did not operate as defined benefit plans which fix only benefits, but they operated as defined contribution plans which fix contribution rates and adjust the benefit levels as necessary. ERISA changes all that by asserting that such plans be treated as defined benefit plans, by removing the ability of such plans to adjust benefits downwards, and by making employers liable for plan benefits rather than just their negotiated contributions.

Before title IV of ERISA was thrust upon multiemployer plans, there was little or no evidence of pension losses which would warrant the complex regulatory scheme we see created in S. 1076, because the needs of employees were generally protected by the collective bargaining process.

Mr. President, one of my main concerns with S. 1076 when it came before the Finance Committee was that the bill forces a company withdrawing from a pension plan to pay a share of the liability of companies which withdrew from the plan before ERISA or after ERISA and which were not required to pay any share of such liability to the plan. This liability is often referred to as unattributable because this liability is not directly attributable to the withdrawing company.

Together with a company's attributable liability, the company's unattributable financial liability to a pension fund often will exceed the company's net worth. This will create a barrier where no company will purchase another company with such a liability. Moreover, no one knows the true extent of this unattributable liability. Of course, this would influence the banks which would be asked to extend credit to such companies.

Mr. President, withdrawal liabilities threaten the existence of small trucking companies.

The argument for withdrawal is protection of those who remain. However, since most employers in the trucking industry are subject to teamster labor contracts and since the freight volume is relatively constant, affected employees will shift to remaining or new employers, thus protecting the contribution base. Within the trucking industry which consists primarily of smaller employers, there is a characteristic mobility of employers in and out of funds.

For example, in the Philadelphia area teamster plan, which has roughly 1,550 participating employers, in the most recent year, there were 127 withdrawals. Seven of these were decertifications and would not be protected by the proposed exemption. Of the remainder, 11 were bankruptcies; 56 closings; 44 moving in and out of the plan area, principally construction employers; and 9 not known. At the same time, 100 employers entered the plan and 20 of these left within a year. However, the covered employment and the contribution base remained roughly stable.

Employers may move in and out of a plan area, in response to operational changes, to accommodate changes in freight patterns. Almost all teamster labor agreements provide that such changes must be approved by a joint labor management committee whose procedures are designed to protect the seniority of the employees and their benefit entitlement. Consequently, almost all teamster pension plans provide for a kind of portability through reciprocal agreements. Thus, an employee is protected, as his term of service may take him from one plan area to another

In the instance in which reciprocal agreements do not apply, the employee characteristically is protected by agreement by leaving him covered by the same pension plan even though he may be assigned to work under another plan area.

These factors illustrate that labor contracts protect the plan contribution base as well as the benefit entitlement of the employee. This is necessary in an industry such as freight which is often cyclical or seasonal.

Given the stability of the contribution base and the fluctuations in employment, and recognizing that employers come and go, the labor contract has provided for the orderly sale of one employer's operations, or his sales and assets, by providing for the seniority rights and benefit entitlements of affected employees.

Mr. President, it is my contention that the imposition of employer withdrawal liability even in these eventualities will inhibit the orderly sales of businesses, make it difficult for companies to find purchasers, inhibit the obtaining of credit, and thus counter the purpose of the bill by preventing employers from securing an orderly transition of employee work opportunity and pension security.

For these reasons I introduced an amendment which was approved by the Finance Committee and is a part of this bill to provide that an employer will post a bond in the amount of the withdrawal liability and if there is not substantial injury to the contribution base, the bond will be canceled in 5 years. The amendment will protect the benefit entitlement of employees while at the same time allowing for the orderly sale and purchase of a business. In addition, the small businessman will not have to show the withdrawal liability on his balance sheet which, more often than not, prevents him from obtaining working capital.

Mr. President, the bill as originally referred to the Committee on Finance would have caused a severe economic problem to the Cleveland Cliffs Iron Co.

Counter to the general industry trend, Cleveland Cliffs expanded its number of vessels—and crew employment—from 8 to 14 in the 1970's in order to handle an iron ore delivery contract which ran from 1972 through 1980. Starting in 1981 another company will be delivering this iron ore in 1,000-foot vessels replacing Cliffs' 600-foot class vessels.

At present, the Marine Engineers Beneficial Association pension fund is funded by allocating the total cost to the vessel operators by using a man-hours work formula. Therefore, the larger fleets such as Cleveland Cliffs, have been paying an increased portion of the pension costs to offset the reduced man hours lost because of shrinking fleets.

The shrinking of the number of vessels is a technological trend that has been under way for nearly 10 years. The "trigger date" of February 27, 1979, in the original bill would have imposed a special hardship on Cliffs by allowing these fleets which had reduced employment in the 1970's to escape any withdrawal liability while imposing a major liability on Cliffs—the one fleet that had expanded employment significantly in the 1970's—because its fleet size reduction will occur in 1981. Thus Cliffs would have absorbed extra pension costs during the 1970's to compensate for shrinking of other fleets' employment and be required to pay again when its own fleet is reduced.

Mr. President, I am proud to report that the bill before you eliminates this inequity.

Mr. President, the Finance Committee made the following changes in the original bill in order to make it more equitable and effective:

The committee provided that where an employer incurs withdrawal liability, and the employer is liquidated in an insolvency proceeding, 50 percent of the liability is limited to the employer's net worth. The remaining 50 percent of the liability is an unsecured claim against the employer.

The committee provided that where all or substantially all of the assets of an employer are sold to an unrelated party, withdrawal liability is limited to the greater of, first, 30 percent of the selling price, or second, the liability attributable to the employer's employees for sales of $2 million or less. For sales which exceed $2 million, the 30-percent limitation is gradually increased so that for sales exceeding $10 million it reaches 80 percent of the excess.

The committee provided that if an employer ceases to contribute to a multiemployer plan for work performed at a facility, and continues to perform work at that facility of the type covered by the plan, the employer will be considered to have partially withdrawn from the plan.

The committee provided that an employer contributing to a multiemployer plan in the retail food industry will be considered to have partially withdrawn from the plan if there is a 35-percent decline in the employer's contribution base.

The committee agreed that the General Accounting Office is required to conduct a study of the effects of the bill on, first, parties affected by the bill—for example, participants, employers, and unions—and second, the self-sufficiency of the PBGC insurance fund, and report to the Congress no later than June 30, 1985. Congressional hearings on the study and GAO recommendations are also required.

Mr. President, I would have preferred a sunset provision to a study on the effects of this bill. There are few, if any, Members in the House or Senate who can confidently state how the bill will operate. Nevertheless, operating under a deadline I think the Finance Committee has measurably improved this legislation in an attempt to protect the retirement interests of the employee while eliminating many of the economic hardships that would have been placed on employers.

HEALTH CARE

Mr. DURENBERGER. Mr. President, two articles have appeared in recent weeks which I believe indicate the expanding interest in procompetitive approaches to the delivery of health care.

In the National Journal, July 5, 1980, Linda D. Demkovich has written a thorough review of current and future directions for health legislation under the title, "New Congressional Health Leaders—the Emphasis is on Competition." In it, she perceptively describes the shift of congressional interest away from talk of a Government-run health care system to one that stresses private-sector competition. My own bill, The Health Incentives Reform Act, S. 1968, is discussed along with the other procompetitive bills before Congress.

In American Pharmacy, June edition, Jeffrey P. Cohn has also described what he terms "new political winds sweep(ing) through the Nation's capital, (with) competition rapidly replacing regulation in the reformers" lexicon.

I am pleased that these and other correspondents have detected what I believe is very much the future direction of health care legislation. And I recommend these articles for the perusal of my colleagues and readers of the Record. I ask unanimous consent they be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Competitive Health Insurance—Cure for Rising Health Costs?

As new political winds sweep through the nation's capital, "competition" is rapidly replacing "regulation" in the reformers' lexicon. Congress has already deregulated the airline industry and may soon vote railroad and trucking deregulation. And there are some who think that health insurance may be next in line for the competitive approach.

As an alternative to comprehensive national or catastrophic health insurance (see January 1980 American Pharmacy, p. 16), four bills have been introduced into Congress—two each in the Senate and House. Each seeks to foster competition among employer-provided health insurance plans by forcing both employers and employees to consider insurance's cost and encouraging insurers to offer more efficient, lower cost plans. In the end, competition's supporters hope that rising medical and hospital costs can be cut without new government regulation or spending.

"I am convinced that true competition can be injected into the health care sector," Sen. David Durenberger (R-MN) told his colleagues last fall. "We must begin to right the imbalanced incentives that exist in our health care system."

In addition to Durenberger, Sen. Richard Schweiker (R-PA), Reps. Al Ullman (D-OR) and James Martin (R-NC) have sponsored so-called competition bills. While differing in details, each would put a cap on how much employers can deduct from their taxes for employee health insurance. Employers could contribute more than the cap, but any extra sum would be considered taxable income. The bills also would require employers to offer a choice among insurance plans and to give cash rebates to employees who chose a less costly plan.

While all four bills require payment for drugs under their catastrophic coverage and for inpatients, none obliges health plans to cover outpatient drugs. That decision is left to the insurance carriers, employers, and consumers. Patients selecting lower cost plans with no drug coverage may be unable or unwilling to buy prescribed medications.

RISING COSTS

Interest in health insurance reform stems from rising health care costs. According to a staff report of the House Ways and Means Committee, which Ullman chairs, medical costs have more than doubled in the last 15 years—from 4.5 percent of the gross national product in 1955 to over 9 percent in 1979. Dollar expenditures have jumped from $60 billion in 1968 to $192 billion in 1978. In 1978 alone, health spending increased by 13.2 percent over 1977.

While general inflation has forced medical costs up, many analysts blame the third-party payment system. "Third-party payors exacerbate the rise in health care cost because they put few constraints on expenditures," the congressional Office of Technology Assessment (OTA) reported in 1978. "Prevailing methods of reimbursement encourage both inefficient utilization and increased provision of services, often without evidence of commensurate benefit to the patient."

Some economists state that physicians, hospitals, and patients alike often opt for the most expensive and extensive medical treatment without worrying about its cost because Medicare, Medicaid, Blue Cross and Blue Shield, or some other insurance plan, will pay. Doctors, Health care practitioners and medical institutions are reimbursed for fees charged for services and equipment.

Further, employers can deduct payments for employee health insurance from their gross income. Employers design expensive, all-inclusive health benefits to lure and keep employees. Labor unions often bargain for these benefits for their members in lieu of taxable wage hikes.

The result has been an increased demand for medical services with accompanying higher costs, economists and analysis agree. To counter that trend, economist Alain Enthoven of Stanford University devised a consumer choice health plan (CCHP). First proposed to then Secretary of Health, Education, and Welfare Joseph Califano in 1977, Enthoven's model called for employees to be offered a choice among competing insurance plans, fixed dollar contributions by employers, and basic standard coverage provided by all plans.

At first of only academic interest, the debate over competition shifted to Congress when Harvard economist Martin Feldstein told the Senate Health and Scientific Research Subcommittee in March 1979 that health insurance was the principal cause of rising medical costs. Other witnesses encouraged the use of tax laws to bring competition into health insurance to contain costs.

COMPETITION BILLS

With that encouragement, Durenberger introduced his bill in June 1979 and revised it in November. To receive a tax deduction for their contribution, the bill (S-1968) requires employers of 100 or more workers to offer their employees a choice of three health insurance plans, each from a different carrier. Each could offer a different range of benefits and premiums, but the employer's contribution would remain the same regardless of which was chosen.

Under the bill, employers could contribute up to $50 per month for health insurance for single employees, $100 for an employee and spouse, and $125 for a family. Employees choosing a more expensive plan that offered greater benefits would have to pay the additional premium out of taxable income. If a less costly plan were selected, the employee would receive a cash rebate from the employer for the difference. That rebate would likewise be taxable.

Each health plan would have to offer the types of benefits covered by Medicare and include catastrophic coverage for medical expenses that exceeded $3,500 in one year. It also would have to continue coverage after an employee resigned, cover dependents after an employee died, and cover spouses after a divorce, all for at least 30 days.

Schweiker's bill (S–1590) is similar to that sponsored by Durenberger. Introduced July 26, 17979, it would affect employers of 200 or more workers. Employers would have to offer a choice of three competing plans, at least one of which must require employees to pay 25 percent of all hospital costs up to a maximum of 20 percent of their annual salary.

Unlike Durenberger's bill, however, the Schweiker bill sets the cap paid by employers at the monthly premium of the highest cost plan subscribed to by at least 10 percent of the employees. Employees who choose a less costly plan would receive the difference as a tax-free rebate. Thus if 10 percent of employees chose a plan that cost $235 per month, those that selected one that cost $125 per month would get $110 in cash.

On the House side, the Ullman bill (HR–5740) applies to all employers. It requires employers to offer at least one low-cost insurance plan or a Health Maintenance Organization (HMO) if one is available. The low-cost premium must be $75 per month or less. The employer would pay $45 for a single employee, $90 for an employee and spouse, and $120 for a family. If a lower cost plan were selected, the employee would receive a taxable rebate.

Martin's bill (HR–6405) encourages but does not require employers to offer more than one insurance plan. Employers must pay at least 50 percent of the premiums. They can pay up to 100 percent, but not more than $120 per month for a family without losing the tax deduction. Whatever contribution an employer pays, it must be the same for all employees. Any plan offered must protect against medical expenses above $2,500 per year.

Opponents of the competition model argue it would actually stifle competition and create even higher costs and less medical service. To be competitive, some insurers or HMOs might reduce benefits while still appearing to offer a comprehensive plan. Critics charge that quality of medical care could be cut, since many employees would choose less costly plans.

OUTLOOK SLIM FOR 1980

The outlook for any of these bills is slim, at least this year. All are buried in committees with higher priorities in an election year. Schweiker's bill is stuck in the Senate Health Subcommittee, where it takes a back seat to Sen. Edward Kennedy's (D–MA) national health insurance bill.

In the House, both the Ullman and the Martin bill are in the Ways and Means Committee, although the Commerce Committee has joint jurisdiction. Hearings have been held, but no health insurance plan seems likely to pass this year, staffers say.

Much depends on what Sen. Russell Long (D–LA), chairman of the Senate Finance Committee, decides to do, key aides agree. "Some form of cost containment will be needed if Long pushes a catastrophic health insurance bill, and the competitive model has a good a chance as any," one staffer said. "But the question is, will anything come out of committee?"

If this fall's elections continue the trend toward deregulation and lower government spending, then competitive health insurance may stand a much better chance. Opposition like that raised by labor unions and some elements of the medical profession must still be overcome, but perhaps competition is an idea whose time is about to come.

New Congressional Health Leaders—The Emphasis Is on Competition

(By Linda Demkovich)

Through most of the 1970s the words "Congress" and "health" automatically brought two names to mind: Paul G. Rogers and Edward M. Kennedy.

This year, things have been different. Rogers, the Florida Democrat whose work as chairman of the House Interstate and Foreign Commerce Subcommittee on Health and the Environment earned him the name, "Mr. Health," retired from Congress in 1978 and has been practicing law. The Massachusetts Senator, chairman of the Labor and Human Resources Subcommittee on Health and Scientific Research, has spent much of his time on the campaign trail, trying to wrest the Democratic nomination from President Carter.

That has left a unique opportunity for others—Democrats and Republicans alike—to begin having their say, bringing fresh perspectives to some time-worn issues and perhaps changing the nature of the health policy debate for years to come.

Thus, in the past year or so, the debate on Capitol Hill has taken a subtle turn, from talk of a government-run health care system to one that stresses private-sector competition. Even those who still talk about national health insurance—which typifies the regulatory approach—now would give consumers a choice in the kinds of plans available.

"We'd like to see more market forces in the health care area, and a system run by the private sector rather than the government," said Henry A. Waxman, D-Calif., Roger's successor as chairman of the key House health subcommittee and, with Kennedy, a sponsor of a comprehensive health insurance plan.

Some of the newer faces in health policy, such as Waxman, have had experience in the issues and the powers of a chairmanship to back them. Others, such as Sen. Dave Durenberger of Minnesota—have had little more than a concept of how they think the heatlh care system ought to function and a key committee assignment to give them a forum.

Last year, Durenberger, a freshman Republican who has a seat on the Senate Finance Subcommittee on Health, introduced legislation to put more competition into the health care market; this year, the subcommittee held hearings on the bill. Kennedy—who is not a member of the committee—won a hearing on his comprehensive health insurance bill before the Finance Committee last year, after promoting it for nearly 10 years.

The stimulus for this year's interest in health care in general and the competition model in particular has been Carter's controversial cost containment proposal. The Administration's bill, which would have imposed mandatory controls on hospital costs, went down to defeat in the House last November. Its opponents nevertheless conceded the need to get a handle on soaring costs and set out to design an alternative to Carter's regulatory approach.

Because of Congress's current antipathy toward regulation, the advocates of competition have won a few converts and have attracted others who, though skeptical, say it might be an idea worth trying.

Next year, however, the economy may have the biggest impact on congressional health care debates. If inflation continues to worsen, putting the bite on the dollars available for health services, and if unemployment continues to increase, leaving more and more workers without company-paid medical coverage, it's going to be increasingly difficult to find funds to pay for the kind of program that Kennedy has been advocating.

Congress may have to talk about controlling current program expenditures before it can talk about expanding benefits elsewhere—and that may cast the spotlight on some of the new actors in the continuing health care drama.

KENNEDY'S SUBCOMMITTEE

If his bid to unseat Carter fails and he returns to devote full time to his Senate duties, Kennedy undoubtedly will continue in the forefront. At a one-day hearing before his Health Subcommittee in June—the first time he had chaired the panel in many months—on the problem of toxic chemical wastes near Love Canal, Kennedy showed that he is still the media master who can evoke emotions and command headlines.

Kennedy's absence this year, say congressional aides, hasn't hurt the subcommittee's productivity very much, given the current budget climate. But its recent action on the health manpower bill, authorizing funds for medical education at a level well below the $700 million Kennedy had proposed, indicates a slip in his control, however temporary. The compromise bill, providing $321 million, was engineered by Howard M. Metzenbaum, D-Ohio, who has taken over the day-to-day chores of the subcommittee in Kennedy's absence.

It's generally assumed that if he doesn't move into the White House, Kennedy would retain his chairmanships of both the Judiciary Committee and the Health Subcommittee. If he does, observers say, don't look for Metzenbaum or anyone else to challenge him. "There's not enough room [on the subcommittee] for Kennedy and anybody else," said a Senate aide who asked not to be named. "His staff simply wouldn't allow it."

The most significant change will occur on the minority side of the subcommittee. Richard S. Schweiker of Pennsylvania, its ranking Republican, has during his tenure been more the initiator than his predecessor, Jacob K. Javits, R-N.Y., observers tend to agree. "In the past, Republicans were either in the position of saying no or of just agreeing with the Democrats," another Senate aide said. "Schweiker's made them more of a force to be dealt with."

Schweiker is, however, leaving Congress at the end of the year and his successor is not apparent yet. Most observers point to freshman Orrin G. Hatch of Utah as the one to watch.

Hatch, who moved to the Health Subcommittee at the beginning of this year, plans to introduce legislation early next year to encourage private-sector involvement in the delivery of home health service. This year, he co-sponsored Schweiker's alternative national health insurance proposal, which includes elements of the competition approach.

Hatch's conservative reputation stems largely from the positions he has taken on foreign policy matters; but on health, according to an aide, he is more of a moderate, more likely to play a "maverick" role.

Javits, who is now the ranking Republican on the Foreign Relations Committee but is still active in domestic policy issues, including health, may face a serious Democratic challenge in the November election.

THE FINANCE COMMITTEE

Because of Kennedy's near-total domination of the Health Subcommittee of the Labor and Human Resources Committee, the real opportunity for the newcomers to the health field in the Senate may lie in the Finance Committee.

The chairmanship of the Finance Subcommittee on Health probably will stay in the hands of Herman E. Talmadge, D-Ga. Talmadge had been under investigation on charges that he misused and misreported office and campaign funds, but the Justice Department's decision not to prosecute and the selection of a weak Republican opponent virtually assure his reelection.

Deservedly or not, Talmadge is not viewed as a real force in health policy development. In part, that may be because the full committee, not the subcommittees, writes legislation. He is commonly characterized as a good chairman and a fair one. But, summed up a Senate aide who asked not to be named, "he just doesn't seem very interested."

Of more consequence, say Senate observers, is the rumored departure of Jay B. Constantine, chief of the committee's health staff and viewed as an advocate of the regulatory approach. Talmadge and Finance chairman Russell B. Long, D-La., have allowed Constantine, now in his 15th year with the panel, wide latitude in drafting legislation and making decisions. His power, along with what many characterize as his "abrasive" personality, has caused other committee members and their staffs to fear him or dislike him—or both.

But as the Finance Committee itself has become a more democratic body, these observers say, Constantine's influence has waned. "It's tough to get by him," said an aide to one member, "but it's possible these days." "It's been a lot less fun for Jay since certain Senators started to challenge him," said another.

Constantine himself says there's a "reasonable" chance he will leave at the end of this Congress. Most Senate watchers are betting that he will not.

One member who will be missed is Abraham Ribicoff, D-Conn., who has announced his plans to retire at the end of the year. His role in health policy, aides say, was often more symbolic than substantive, but he was one of the few senior Senators who had good rapport with both Long and the more junior members of the committee and was willing to bridge the gap.

Following Ribicoff in seniority on the Health Subcommittee is Gaylord Nelson, D-Wis., who also sits on Kennedy's subcommittee. In the past, Nelson has associated himself with specific health issues—most notably, drug reform. But he isn't widely viewed as likely to assume Ribicoff's role; one aide remarked that Nelson is "much more combative."

That may leave room for some of the newer members of the Finance Committee to make a mark.

One who has already demonstrated in interest is freshman Max Baucus, D-Mont. Baucus, who earlier served two terms in the House, is fast emerging as the spokesman for rural health interests in the context of the broader debate over regulations versus competition.

Baucus defines the rural health problem as "partly manpower, partly access"—and partly a tendency on the part of Washington policy makers to overlook or misinterpret rural needs. "I'm involved because I represent a rural state and I just see national solutions being proposed that adversely affect rural areas," he said in an interview.

Also, he said, "I want to make sure that deregulation doesn't go too far. Government, like life, is a pendulum. I want to make sure that when the pendulum swings back, away from regulation and toward competition, that it doesn't swing too far and wipe out some of the advances that underpriviledged and rural Americans have secured."

The bills giving consumers a choice of health insurance plans may make sense in areas with larger employers. But in rural areas, Baucus said, "there are not that many firms with 100 employees. In fact, many have many fewer—two or three or four."

Despite pressures to balance the budget and cut unnecessary spending, Baucus said he sees no lessening of interest in health programs. "Health is so important that people are going to want to make sure that programs aren't cut disproportionately. In a sense, it's a microcosm of the entire budget process, primarily because it affects everyone."

His freshman status on the Finance Committee hasn't left him in the cold, Baucus said. "Sen. Long has tried to accommodate the views of as many (members) as he can. I haven't felt shut out."

Another freshman Democrat on the committee who Senate observers say may be the "sleeper" in health policy issues is New Jersey's Bill Bradley. As with other junior Senators, Bradley has taken an active interest in a variety of legislative issues and has thus avoided being pigeonholed.

But, said several Senate aides, he is a bright, appealing figure with an alert, "omnipresent" staff. "He's a Senator who says very little, but appears incisive when he does say something," said one.

In recent weeks, Bradley joined Bob Packwood, R-Ore., in sponsoring legislation to set up a three-year demonstration program for delivery of home health care. He is also working with Javits on a bill to aid financially distressed hospitals.

Bradley, according to an aide, is looking into the competition concept. "He likes elements of it, but he wants to know if it works and on what scale," she said.

On the Republican side, two senior members will probably continue to influence health policy—Packwood and Robert Dole of Kansas. Dole, who is in a tough reelection race, is the ranking minority member of the Health Subcommittee; Packwood, who is not on the subcommittee, is on the Budget Committee—and that post, one aide said, will make him an important player in the debate over how to cut health spending.

But the Republican whose name is mentioned most often these days in connection with health issues is Durenberger.

Durenberger is from Minneapolis—the city where, according to conventional wisdom, competition in the health care delivery system "works." Before his election to the Senate, Durenberger had been involved in getting employer support and participation in the city's system of health maintenance organizations (HMOs), which offer prepaid plans as an alternative to traditional physicians care.

The stimulus for his bill, however, came in May of last year, after he had sat through three months of medicare hearings. "The realization just came to me that the process were merely rubberbanding a system that wasn't going to work," Durenberger said in an interview. "I said then, why can't we do nationally what we've done in Minnesota?"

At the end of May, Durenberger got together with other proponents of the competition model, and thus was born the Senate's first pro-competition bill. The measure would mandate the availability of three insurance plans for consumers and establish a fixed employer contribution to the cost of coverage.

To skeptics who say the Minneapolis experience can't be applied everywhere, Durenberger said. "Of course it can. Employers in Minneapolis are more used to working together on a variety of these things, but as people they are no different in their corporate, social responsibility from people anywhere else." Durenberger isn't ready to abandon the regulatory system altogether, however—particularly in places where it's working well.

Many of his colleagues on the Finance Committee have expressed interest in the concept, he said, "but it takes a commitment to sit down and understand it. A lot of them just need a little time to analyze it."

And despite Long's interest in his own catastrophic health insurance bill, Durenberger said he's gotten a fair shake. "He gave us the opportunity to have hearings, and he didn't have to do that. I think he really cares about the cost of health care and doesn't mind listening to innovative ideas."

Congressional aides say they are impressed with Durenberger's ability to get out in front of the competition issue in a relatively short period. His biggest problem, they suggest, is a limited staff—a problem common to junior committee members, particularly Republicans. "If he's going to be active, he's going to have to get a bigger staff or that will limit him," said one.

FILLING THE ROGERS VOID

When Paul Rogers retired in 1978, Richardson Preyer, D-N.C., was in line to become chairman of the Health Subcommittee of the Commerce Committee. When Waxman challenged Preyer and the seniority system and won, everybody wondered if the ill will generated by the fight—along with a new and notably conservative group of members—would hurt his ability to get things done.

Apparently not. Again, the budget climate has prevented much in the way of expanded or innovative health programs. But the subcommittee has completed work—on time—on a lengthy list of authorization bills, including controversial ones such as planning and health manpower. It also reported the Administrations' cost containment bill, which eventually lost on the floor. And it has engaged in a good deal of oversight work, something that wasn't a priority in Roger's day.

Waxman himself rates fairly high marks from other staffs for the way he has handled the subcommittee in the face of sometimes serious policy disagreements. "He's still learning, but by and large, he's done a good job," said an aide to another Member. "Keep in mind," said another, "this has not been a year for advocacy."

Waxman noted that when Rogers was chairman, the federal government was expanding its role, "particularly in health care. Now the challenge is to streamline and make efficient the programs the government is involved in, recognizing that we're living in a time of limited resources."

As the chief House sponsor of the Kennedy national health insurance bill, Waxman nonetheless says he is interested in seeing more competition in the health care system, and says he will hold a series of hearings later this year on the various pro-competition bills. But he cautions against moving too fast in uncharted waters.

"I don't know that competition will in fact hold down health care costs and still provide quality care to people," he said. "If it were not successful, I would think we'd need a regulatory approach to some extent to deal with the costs."

The chief issue facing the subcommittee next year will be to reauthorize the Clean Air Act, which Rogers wrote. The challenge there, Waxman said, will be to balance the nation's energy and economic needs with the protection of the public health.

The Clean Air Act debate will bring to the fore John D. Dingell, D-Mich., chairman of Commerce's Energy and Power Subcommittee, who was at odds with Rogers in 1977 over restrictions the act would place on the auto industry. Dingell will become chairman of the full committee next year, when its current chairman, Harley O. Staggers, D-W.Va., retires, and he will undoubtedly play a key role in shaping an extension of the act.

Among the Democrats on the Health Subcommittee, several who are often aligned with Waxman are expected to continue to be active and influential—among them, Barbara A. Mikulski of Maryland, Andrew Maguire of New Jersey and Mickey Leland of Texas.

However, the major change will take place on the minority side when Tim Lee Carter of Kentucky, the panel's ranking Republican, a doctor and Roger's ally on many of the major health programs enacted during the 1970s, retires at the end of the current session.

Carter's successor depends on several factors, particularly the number of seats the Republican Party picks up in the November election and the impact that will have on adjustments of committee ratios.

The name most often mentioned is that of Dave Stockman of Michigan, who led the first fight, in 1977, against the Administration's cost containment bill and who has recently joined with Richard A. Gephardt, D-Mo., in writing and sponsoring a health insurance bill that stresses competition as an alternative to the Kennedy-Waxman and Administration national health insurance proposals.

Stockman, now serving his second term in the House, is considered by many to be one of the brighest, most thoughtful younger Members—too thoughtful to some. "He's too logical," said one critic who nevertheless conceded Stockman's "smarts." "In the political process, there is a legitimate irrational element, and his economic structures don't take into account that human element. People like Stockman who have all the answers scare the hell out of me."

Stockman responded that economics is, after all, "merely the study and analysis of human interaction in production and consumption of goods and services. That's about as human as you can get."

"My perspective doesn't have anything to do with my willingness or lack of willingness to compromise," he said in an interview, "but I like to start in terms of analyzing the problem correctly as I see it and then proposing a solution that addresses the problems as I define them." The designers of medicare, for example, "weren't just so many automatons trading chits back and forth. They had a view of the problem, an economic analysis of it and a policy solution that was derived from that."

Under the Gephardt-Stockman bill, virtually all existing regulations—including the health planning, health maintenance organization and peer review acts—would be repealed. Once those "barriers" are removed, Stockman said, competitive health care plans would be able to thrive. "There's a lot of activity out there, the infrastructure is being created. What we believe you've got to do is make some decisive policy changes now."

Stockman said the catalyst for his involvement in health care issues was the original hospital cost containment proposal. "That bill was so irrational and unworkable that I decided I'd better investigate this whole field and find out what's going on. Once I got into it, I found that it was a pretty fascinating, challenging area that was conducive to some fresh thinking from an alternative perspective."

WAYS AND MEANS

Gephardt, Stockman's partner on the bill, is also considered one of the bright, promising House Members. Also in his second term, Gephardt is a member of the House Budget and Ways and Means Committees. Although does not sit on the Ways and Means Health Subcommittee, he said he might be interested in moving there in the next session "to get something done on this proposal."

Gephardt's initiation into health policy occurred last year, when he led the floor fight against the Administration's bill. Ultimately, the House adopted the so called Gephardt amendment, vesting responsibility for cost containment in the private sector.

It was that battle that moved him to develop a alternative. "All through the fight I said that we were not fighting it because we were in love with the status quo, that we also perceived a very real problem in health care that had to be resolved. It was my feeling then that it was incumbent upon those of us who had fought that fight to put together a comprehensive proposal that would move the country in a different direction on health care but would also meet the very perceptible problems that the system suffers from."

Gephardt said he has no illusions that the bill will pass "in one swoop. Further I understand the concerns about dismantling the regulatory system overnight when we don't know if competition will work, and I have no problem with enacting parts of our bill in a phased-in way."

But it was important, he said, to get the entire plan down on paper. "You can't build a house until you have a blueprint showing all the parts of it, even though you may build only one room at a time or one floor at a time. We thought it was important to lay out the blueprint so that people could see where we're trying to get ultimately."

Neither, he said, is the blueprint perfect. "We did the best we could, but I don't have any great pride of authorship and I don't think Dave does either. We're willing to change it, modify it, as long as the basic concept stays intact."

If Gephardt decides he wants to move onto the Health Subcommittee, there may well be room. Charles A. Vanik of Ohio, its third-ranking Democrat, is retiring at the end of the year, and James C. Corman of California, second in the line of command, is facing a serious challenge for the seat he's held since 1961.

That has led to speculation that the current subcommittee chairman, Charles B. Rangel of New York, may take over Corman's Public Assistance and Unemployment Compensation Subcommittee or Vanik's Trade Subcommittee. Rangel assumed chairmanship of the Health Subcommittee at the beginning of this Congress.

If that happens—and Rangel's staff says he won't explore any options until after the election—his likely successor would be either William R. Cotter of Connecticut or Fortney H. (Pete) Stark of California.

Unlike Waxman's subcommittee, which oversees a wide range of programs, Rangel's major responsibility is oversight of medicare and medicaid. Much of this session was devoted to a package of technical amendments—"pretty dull, dry stuff," in the words of a House committee aide.

The subcommittee did, however, consider and report the cost containment bill. And more recently, Rangel has taken an active role in working with the Health and Human Services Department on a program to provide help for two financially distressed hospitals in Harlem, the district he represents. That program may become a prototype for inner-city and rural hospitals facing similar fiscal ills.

The lead role in health issues on the Republican side of the Ways and Means subcommittee most likely will be played by James G. Martin of North Carolina. A chemist who is also the chairman of the House Republican Research Committee's health task force, Martin was instrumental in getting Congress to impose a moratorium on a proposed ban on saccharin.

In February, he introduced an alternative catastrophic health insurance proposal, which won the support of some key House Republicans, including Minority Leader John J. Rhodes of Arizona and ranking Ways and Means Republican Barber B. Conable Jr., N.Y.

Because of the nature of the work done by Ways and Means, however, partisan differences are not considered as critical as on the Commerce subcommittee.

How much difference any of the participants make and how far their programs advance next year will depend less on the force of their arguments, however, than on the state of the economy. Even the competition bills would require additional funds to extend health cost coverage to the unemployed and the uninsured. If the budget balancing mood prevails, it may be a year of much rhetoric and little change.

TRANSPORTATION

Mr. DURENBERGER. Mr. President. I wish every Member of Congress could have joined me in Minnesota during our recent 2-week recess. No person could have spent those 2 weeks the way I did and come away without a firm commitment to improving the transportation systems in our country.

The highlights came in my travels through northwestern and southwestern Minnesota, two of the most fertile, productive agricultural areas in the world, and my participation in the National Corngrowers Association Convention.

Everywhere I went the message was the same. Inflation, especially the dramatic increases in the cost of fuel and fertilizer, is forcing many farmers to operate at a loss this year. The 20-percent interest rates that were the rule this spring put many farmers under a heavy burden of debt. A severe drought has destroyed hundreds of thousands of acres of crops. The administration's embargo—and the administration's failure to alleviate the losses farmers have suffered because of the embargo—have left huge stockpiles of unsold grain and, until recently, depressing prices.

But, in spite of all this, the one issue that most concerns farmers is the impending collapse of our Nation's transportation network. They know there is no point in worrying about inflation, the economy, the weather, or foreign policy if they cannot get their crops to market. And, their confidence in having a transportation system that will move their crops efficiently and cheaply is rapidly eroding because too many public officials have ignored this major issue of the 1980's.

That was the theme of my speech to the National Corngrowers Association. My speech was based on my personal involvement in trying to rehabilitate our rail and other transportation systems. It was based on my knowledge of the problems farmers face because of the weaknesses in our transportation system. It was based on my deep concern for the future of our transportation system. But, it was also a speech by a U.S. Senator and, despite my efforts and those of other persons in this Chamber, Congress cannot take much pride in their transportation track record.

I want to share with you the observations of a person who deals with the problem every day. Jack Lambert, chairman of Twin City Barge and Towing Co., knows firsthand the inadequacies of our system.

I do not agree with everything Mr. Lambert told the corngrowers. I believe that sound environmental policy can be in harmony with sound transportation policy, for example. But, I do agree with his conclusion:

We need a practical national transportation policy to be enunciated by Congress. We don't need another study to determine the problems. That policy should determine not what is best for railroads or barge lines or truckers, but rather how should the system be fashioned to best serve the logistical needs of you, the shipper, at the least cost with each mode exercising its inherent advantage.

Mr. President, I ask unanimous consent that excerpts from Mr. Lambert's speech be printed in today's Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Speech by Mr. Lambert

Last week my company was requested by the State Department and the U.S. Feed Grains Council to show our water transport system to an important foreign buyer. He was the President of Agropol, the Polish agricultural import-export commission.

We put him on a 5,000 h.p. towboat at St. Paul and started him on the first leg of a river trip that would end in New Orleans. The tow consisted of 15 barges carrying 23,000 tons of agricultural exports. It included several barges of corn, wheat, soybeans, wheat mids pellets, alfalfa pellets and a tank barge with 420,000 gallons of sunflower seed oil.

Our Polish guest was in awe of an agricultural system that could produce such a variety of commodities in such staggering quantities. And he was equally impressed by the foresight and ingenuity of Americans who had created the 1800 mile water highway to ocean ports. He was astounded with both the economic efficiency and the energy efficiency of our river transportation system.

This water transport mode has been with us in one form or another since the earliest days of our growing nation. We rather take it for granted.

I don't want to swamp you with statistics, but just let me give you a few facts that might help place the waterway system into is proper perspective as far as agricultural commodities are concerned.

Last year (calendar 1979) 61 percent of all export grains departed the U.S. through our Gulf Coast ports, 2.7 billion bushels. Of this volume, 58 percent reached the Gulf Ports by barge and the other 42 percent arrived by rail and truck. This enormous volume of commodities does not include feed pellets or ag oils, the majority of which moved by barge.

The waterway industry employs some 10,000 barges in this movement. Each barge has a capacity of 1,500 tons, or 15 jumbo covered hopper cars. It takes 60 highway truck trailer units to fill a single barge.

We are the most energy efficient mode achieving an average of 514 ton miles per gallon of diesel fuel consumed. The comparable figures for rail are 202 ton miles per gallon, and for truck, about 60 ton miles per gallon.

Perhaps more important to you, we move grain from the head of navigation to the Gulf for about $15 per ton. This is 41 percent lower than the best 75 car unit train rate of $25.70 per ton.

Now that you are duly impressed, I must tell you that this highly efficient system which I have just described has little to offer you in the future. If you anticipate a systematic growth in your export markets, don't count on the river system to meet your future transportation demands. We have reached our critical saturation point at a few key locks, and until those constraints are removed, our capacity is limited.

Perhaps you can rely on the railroads to meet your future expectations.

The inland waterway system is a victim of its own success and a symbol of the new Washington syndrome: If its healthy, cripple it. If its sick, bail it out.

In the past ten years the rivers have been subjected to an unrelenting attack by a coalition of railroad competitors and environmentalists, both in and out of government. With a barrage of lawsuits, environmental impact statements, and endless studies, using both state and federal regulatory overkill, these folks have managed to frustrate the expansion of necessary waterway facilities.

Lock 26 at Alton is the most famous and notable example. Any damn fool who had passed 8th Grade math knew ten years ago that Lock 26 was reaching its maximum operating capacity. Now, two years after Congress authorized construction, we are still eight years away from the completion of the building of the first of two needed chambers. And what might have been built over the past ten years at a cost of some $400 million will be rebuilt at a cost in future dollars of possibly $1 billion . . .

Some state and local units of government are attempting to restrict barge mooring to the point where we are running out of space to tieoff. There is still plenty of riverfront, but it's all being zoned as parks and open space. The land balance here in the Twin Cities is about 10 to 1 in favor of riverfront acreage dedicated to parks versus industrial land.

The environmental laws have even been used to frustrate the construction of grain terminals on the river. Here is a copy of the EIS prepared by Farmers Union Grain Terminal Association in 1975 for the construction of a new grain elevator and terminal. The facility was to be constructed in an industrial location on empty wetlands between two other grain terminals. Various federal, state, local government and private groups fought this plan like it was an opium den or a house of ill-repute. They finally ran out of reasons to object and the permit was granted this year.

Now, five years later, the project isn't economically feasible. The construction cost has gone up three times. So GTA continues to fumble with old inefficient, and costly systems. In this case, the environmentalists used the law to win a war of economic attrition. . . .

There is a Federal body known as the Upper Mississippi River Basin Commission. They are a so-called coordinating body for the river basin and are composed of representatives of ten federal agencies and six adjoining states. In October, 1978, Congress directed an "immediate" study by the Commission to verify the need for a second new lock chamber at Alton and to create a River Master Plan. They authorized $12 million for the study and directed the Commission to complete its work by the end of 1981.

After months of relentless dawdling, the Commission bureaucrats said what they really needed was four years and $40 million dollars. Multitudes of Congressmen told them to stop trying to reinvent the wheel, be realistic about federal budgeting problems, and get on with the job. But just this week they held a Congressional briefing indicating that they are still resisting and demanding a study extension. This forces one to the observation that the inmates may be making the rules at this particular asylum.

Waterway user tolls in the form of a diesel fuel tax will go into effect this year as a part of the 1978 legislation that authorized Lock 26. The first tax is 4 cents per gallon of diesel fuel consumed by our towboats.

For grain movements out of the Twin Cities to the Gulf 1 cent per gallon translates into 10 cents per ton on the freight rate. And you can count on a pass-thru of that tax just as if it were an OPEC price increase. We now have escalators in our freight contracts to cover fuel price increases. The user tax will increase by steps to a full 10 cents by 1985.

But even before that, you should be aware of a needless hidden tax you now are paying for water transportation of grain and all other commodities. This year we estimate that the barge industry will waste fuel oil and incur other operating costs while sitting in line, waiting to transit Lock 26. That waiting line burden will cost about $40 million this year and will be passed thru in the way of freight charges.

I will not attempt to argue the merits of the waterway user fee on the assumption that it is what Congress has rationalized it as—an exercise in fiscal responsibility. Similar costs are being incurred on the Illinois waterway eroding its productivity.

Consider, however, if cost sharing is an idea whose time has come, this tally sheet:

1. All federal expenditures on the inland waterways since 1824 total about $6 billion.
2. The Railroad Retirement Act, by which the Federal Government subsidizes rail labor pensions, has so far obligated us for $9 billion.
3. Recent capital assistance programs to ailing railroads now totals at least $5 billion for which no recovery is in sight.
4. The cost of Conrail to the taxpayers, so far, has exceeded $3.5 billion with no recovery in sight.

Forgetting the land grants, which may prove to be worth trillions countless billions in years to come, and ignoring an endless array of other lesser gifts by our generous government over the years. The tally I have just listed shows: Waterways—$6 billion; Railroads—$17.5 billion.

So if you believe in trust cost sharing and equity as an act of fiscal responsibility, then all modes will have to be treated on an even-handed basis or we have to break the railroads hands to keep them out of the Federal cookie jar.

Some of you may be wondering, and correctly so, where the Federal Department of Transportation fits into this intermodal mess. Well, don't waste your brain power looking to them for solutions. For several years now the entrenched bureaucrats there have been part of the problem.

We need a practical national transportation policy to be enunciated by Congress. We don't need another study to determine the problems. That policy should determine not what is best for railroads or barge lines or truckers, but rather how should the system be fashioned to best serve the logistical needs of you, the shipper, at the least cost with each mode exercising its inherent advantage.

If you intend to depart from this convention with some action goals to enhance foreign trade and promote the ag economy, I urge you to do one thing.

Insist that your elected representatives in Washington regain control of government which they have abdicated to the faceless, arrogant, entrenched bureaucrats who endure to dispute legislators and legislative intent.

KGB AGENTS AT THE UNITED NATIONS

Mr. MOYNIHAN. Mr. President, I invite the attention of Senators to an extremely interesting and significant series of articles which appeared several months ago in the Times of London. These articles report an extensive interview with Mr. Ilya Dzhirkvelov, a former KGB officer and TASS correspondent, who defected to England in April 1980.

Mr. Dzhirkvelov's most recent "cover" position was that of scientific information officer with the World Health Organization in Geneva. As explained to the Times:

> When [Mr. Dzhirkvelov] arrived at WHO, [he] was told by his Soviet superior that his work would be judged not by its contribution to the United Nations but by the amount of information it yielded for the KGB. "The more you report" he was told, "the better your work will be—and the better you will feel."

It should not surprise us to find a KGB officer in the guise of an international civil servant. As the article notes:

> It is KGB policy, Mr. Dzhirkvelov confirms, to infiltrate the United Nations and other international organizations. But he feels too much attention has been paid to highly placed Soviet agents in the United Nations bureaucracy, such as Mr. Geliy Dneprovsky, the head of United Nations personnel in Geneva.
>
> Mr. Dneprovsky, Mr. Dzhirkvelov says, is important because of his access to the files of the United Nations employees. But all Soviet citizens in Geneva are—like TASS correspondents—agents of the KGB in some sense, and all report back their conversations with Westerners.

Now it is an unambiguous demonstration of the degree to which American influence has declined in the United Nations, and that of the Soviets risen, when Soviet intelligence personnel now routinely fill United Nations posts in clear violation of article 100 of the United Nations Charter. The Library of Congress has compiled a list of over 25 Soviet U.N. employees caught by the FBI involved in espionage activities since 1949. All this despite the clear language of article 100 which, inter alia, states that staff "shall not seek or receive instructions from any government or from any authority external to the Organization." Article 100 also binds each member of the United Nations to respect this stricture, and "not to seek to influence (the staff) in the exercise of their responsibilities."

Mr. Dzhirkvelov's testimony confirms again that the Soviet Union flouts its obligations to the world community, and, in so doing, expresses its contempt toward those countries and the democratic principles upon which the United Nations was founded. Mr. Dzhirkvelov's defection is only one of several incidents which have made this Soviet practice clear for all to see, and the longer we do nothing about it, the more justified Soviet contempt for us would appear to be.

Some may be tempted to regard this as an insubstantial matter, a question of "mere" prestige, toward which a mature superpower ought to affect a certain indifference. But this is an untenable position, especially in the nuclear age. As Soviet readiness to use force increases, mutual perceptions become more, rather than less important. Asked why the Soviets invaded Afghanistan,

> Mr. Dzhirkvelov told the Times that in his view it was to show the world—and above all Washington—that they could get away with it. He and his colleagues in Geneva see the invasion and occupation of Afghanistan as "proof of the contempt of the Soviet leadership for the United States President and world opinion."

The enslavement of Afghanistan did not risk, in Soviet eyes, war with the United States, or even perhaps a serious response of any sort. Plainly this growing impression of American passivity can only encourage Soviet risk taking. Under such circumstances, we must indeed look to our prestige, must ask how the Soviets view our seriousness.

On March 22, 1979, I addressed the House Committee on Foreign Affairs on the question of Soviet use of the international civil service for "cover" for their KGB and GRU intelligence agents. Even if we are unable unilaterally to force the Soviets to end this practice, ought we not be in a position to assure the American people that their money is not being used to pay the salaries of Soviet intelligence agents? Mr. Dzhirkvelov's salary and expenses at his P-4 grade totaled over $50,000. As I said on that occasion:

> Now this much is clear: if Soviet-American detente means anything, if the United Nations Charter means anything, the Soviets should get their KGB spies out of the UN.
>
> But they are unlikely to do so unless they perceive some cost—and unless other members of the UN also begin to perceive some cost—to their continued presence. There is no reason whatever for American spokesmen to be reticent on this issue. We ought to say to the Secretary-General in private, quiet session—and to the membership of the United Nations in public, blunt session—that the Russians are in gross violation of the Charter. We ought to make a large point of it, plain and simple. And we ought to make it clear that the United States will no longer subsidize such Soviet violations.
>
> My main point is simple: there was a time when we took the United Nations and its agencies seriously, and we must start to take them seriously once again. We must indicate that we are prepared to defend the Charter, and that we will act when it is violated.

Mr. President, I ask unanimous consent that the Times articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record. as follows:

[From the Times (of London), May 20, 1980]

Afghanistan Invasion Surprised Some Soviet Officials

(Note: Former KGB agent who defected explains his role in spreading approved version of events.)

Ilva Dzhirkvelov, a former KGB officer and Tass correspondent, defected to Britain last month. He has been interviewed exclusively by The Times. His disclosures about life in the KGB, Tass, how Soviet overseas officials are organized, Soviet attitudes to the Third World and specific policies in East Africa, will appear in a series of articles in The Times this week and next. In this first article he recounts how officials within the Soviet machine have reacted to the Afghan invasion and the Olympic boycott.

The Soviet invasion of Afghanistan surprised and dismayed many middle-ranking Soviet officials, some of whom privately welcomed President Carter's call for a boycott of the Olympic Games in the hope that it might make the Kremlin think again.

This is the view of Mr. Dzhirkvelov who recently held the post of information officer at the World Health Organization in Geneva. But he was also in charge of the Soviet propaganda effort in all the Geneva international organizations and, after the invasion of Afghanistan, had the dual task of spreading the Soviet version of events among his Western colleagues, and relaying their reactions to Moscow.

In the version laid down by Moscow, for dissemination abroad, the invasion was dictated by the Soviet desire for peace and by the need to defend the interests of socialism against foreign—mainly American—interference.

Approval of this line however was "hard to find" among Western officials in Geneva, and Mr. Dzhirkvelov and his colleagues were—not for the first time—placed in the position of having to tell the Kremlin what it wanted to hear rather than the true state of affairs.

Their task was made doubly difficult by the fact that they themselves did not believe the official explanation they were required to impress on the West.

Not having been given warning in advance of the invasion, Soviet officials abroad were taken aback. "When we discussed Afghanistan among ourselves", Mr. Dzhirkvelov told The Times, "we simply could not understand why the leadership [in the Kremlin] had felt it necessary to take such a senseless and irrational step. We thought it was complete madness."

Mr. Dzhirkvelov himself, who was for many years a Soviet intelligence expert on Iran and Turkey, can see no strategic or economic justification for the invasion.

"If it had been Iran, we could have understood it—there would have been an economic motive, the securing of oil and gas supplies, as well as the political advantage of controlling Tehran. But why Afghanistan? We have enough mountains in the Soviet Union already."

The Russians, according to Mr. Dzhirkvelov, are not equipped or prepared for mountain warfare, he believes the Soviet Government's action is all the more inexplicable in view of previous Soviet experience of long and bloody fighting against anti-Soviet nationalist rebels (basmatchi) in central Asia during the early years of Soviet rule.

The basmatchi, he argues, were as wild and as poorly armed as the mujahidin (combatants in a holy war) of Afghanistan, yet it took the entire might of the Red Army, fighting on its own ground, to crush them in a protracted struggle.

The Soviet troops now in Afghanistan, he maintains, are in a worse position, and are likely to become permanently bogged down in a war they may never win on foreign soil.

This is an especially bitter prospect for what Mr. Dzhirkvelov calls "people of my generation"—Soviet men and women who were in their teens or early twenties in the Second World War, and are now well entrenched in Soviet society.

"How can you justify to Soviet mothers and fathers the deaths of young Russian lads in Afghanistan? If they were dying for some high political motive that would be another matter, but Afghanistan poses no threat to the Soviet state."

So why did the Kremlin do it? Mr. Dzhirkvelov told The Times that in his view it was to show the world—and above all Washington—that they could get away with it. He and his colleagues in Geneva see the invasion and occupation of Afghanistan as "proof of the contempt of the Soviet leadership for the United States President and world opinion."

The Politburo—including President Brezhnev, who played an "important but not decisive role"—wanted to test Western reaction, to see how far they could go before the West took firm action in response, up to and including military action.

For this reason many Soviet officials of his age and rank were privately relieved when President Carter called for a boycott of the Olympic Games as a reprisal, since it might force the Soviet leadership to reconsider and revert to a "stable rather than emotional policy."

The breakdown of détente, they believed, was Russia's fault rather than America's, and struck at the heart of their hopes for a steady improvement in Soviet life through contact with the West.

The Kremlin had out of "self-regard" and over-confidence undermined at a stroke the carefully erected structure of stability between the United States and the Soviet Union, all for a purpose which brought "no conceivable gain whatever" to the Soviet Union politically, and even less to the Soviet people, whose economic plight Mr. Dzhirkvelov describes as "catastrophic."

The Soviet man in the street, he says, regards the holding of the Olympic Games in Moscow as a grim joke in circumstances where even the most elementary foodstuffs are "dim memories."

Even in the 1960s, he claims, many privately opposed the idea of siting the Olympic Games in Moscow—and economic conditions were "better then than they are now."

Most Russians are, he says, apprehensive fearing that with the mammoth diversion of scarce resources to foreign tourists and sportsmen there will be even less in the shops for Soviet consumers when the games are over and the visitors have all gone home.

The KGB, according to Mr. Dzhirkvelov, is also apprehensive about the influx of visitors for security reasons. It would, he says, be "unrealistic" to expect the security organs to keep an eye on all foreigners individually during the games.

But as a result of discussions with the Moscow Olympic Committee a "quota" of visitors has been agreed, contrary to official Soviet assertions that visas would be issued to all those wishing to attend the games.

Those who are allowed in, Mr. Dzhirkvelov reveals, will be strictly confined to certain prearranged routes, and "those who stray to right or left will not get far." Specially formed vigilante squads (druzhiniki) will help the KGB to keep contact between ordinary Russians and foreign tourists to a minimum.

"Soviet citizens," he notes with a smile, "have dealings with foreigners for only two reasons: either out of sheer necessity, or out of sheer foolhardiness."

In Mr. Dzhirkvelov's view, the Soviet Government has always sought to avoid contact between Russians and the West, even during a period of détente, and their conduct at the Olympic Games is no exception.

Mr. Dzhirkvelov expects to be called a "traitor and slanderer" for saying so; but he is convinced many in Russia share his view that the Kremlin is so isolated from its own people, and receives so distorted a view of the outside world from its agents abroad, that it believes it can survive both the disapproval of world opinion and a deteriorating economic situation at home.

KGB-Tainted Reporters' Messages, Checked in Moscow Against Reuters, Says Former Colleague

All Soviet correspondents abroad are agents of the KGB, to a greater or lesser extent. But according to Mr. Dzhirkvelov, the information they send back to Moscow is often tailored to suit the Kremlin's view of the world. As a result the Soviet leader's receive and even act upon a distorted picture of world events.

Mr. Dzhirkvelov was a fulltime KGB officer until 1956, and after a spell with the Union of Journalists in Moscow, became a correspondent of Tass, the Soviet news agency, overseas, first in Zanzibar (subsequently part of Tanzania) in the mid-1960s, then in Sudan at the begining of the 1970s'.

But, as he put it in his interview with The Times, as a Tass correspondent he "never lost touch" with his former colleagues in the KGB, and worked for Soviet intelligence both in East Africa and subsequently as information officer at the World Health Organization in Geneva, his last posting before his defection.

According to Mr. Dzhirkvelov, some correspondents are what he describes as "pure journalists", while others are simply KGB agents who use journalism as a cover. "Pure" journalists send their information to Tass, which distributes it as it thinks fit, while "KGB" journalists have their own channels.

In the final analysis both perform the same functions, since both act as an arm of Soviet foreign policy. A Soviet journalist, Mr. Dzhirkvelov says, is by definition an agent of political intelligence, whether he works directly for the KGB or not.

While what reaches the Soviet press is tendentious and selective, what reaches the authorities tends to correspond more closely to the true state of affairs. But Mr. Dzhirkvelov maintains that the authorities prefer an "interpretation" of events which reinforces their belief in the gradual advance of the Communist—or at least, Soviet—cause throughout the world and tend to ignore less palatable reports and inconvenient facts.

When he was a correspondent in both Khartum and Zanzibar, Mr. Dzhirkvelov tried—according to his own account—to alert the authorities on a number of occasions to the fact that the situation was not as favourable to the Soviet interest as was believed. His instructions in both cases were to form close ties wtih members of the Government, especially those thought to be sympathetic to Moscow.

"I was obliged", he told The Times, "to get to know leading personalities, find out the balance of forces," report back what changes were in the wind and so on. As a journalist I could ask questions a more obvious KGB agent could not."

In Khartum, Mr. Dzhirkvelov reveals, he had a meeting every morning at nine o'clock with a regular KGB agent, at which he reported in detail his conversations with Sudanese figures. He also undertook intelligence missions on request.

He was dismayed to discover in 1971 that Moscow took the quite unfounded view that Sudan was ripe for a pro-Soviet coup. Mr. Dzhirkvelov's knowledge of the country suggested otherwise, and he claims to have advised the authorities in Moscow and the local Soviet Embassy accordingly.

In the event the Communist coup of July, 1971, was shortlived, the conspirators were rounded up and shot, and the Soviet Ambassador was asked to leave. Mr. Dzhirkvelov left Sudan discreetly soon afterwards.

It is KGB policy, Mr. Dzhirkvelov confirms, to infiltrate the United Nations and other international organizations. But he feels too much attention has been paid to highly placed Soviet agents in the United Nations bureaucracy, such as Mr. Gelly Dneprovsky, the head of United Nations personnel in Geneva.

Mr. Dneprovsky, Mr. Dzhirkvelov says is important because of his access to the files of United Nations employees. But all Soviet citizens in Geneva are—like Tass correspondents—agents of the KGB in some sense, and all report back their conversations with Westerners.

"Geneva", Mr. Dzhirkvelov says, "is a huge centre of international espionage, the Tangiers of our time".

When he arrived at WHO, Mr. Dzhirkvelov was told by his Soviet superior that his work would be judged not by its contributions to the United Nations, but by the amount of information it yielded for the KGB. "The more you report", he was told, "the better your work will be—and the better you will feel".

Geneva is not on the other hand, a particularly effective espionage centre for the Soviet Union. This, is partly because Russians there report what they think the Kremlin wants to hear, including, conversations which never took place.

Another reason is the enclosed hothouse atmosphere in which the Soviet community works. Nepotism is rife, according to Mr. Dzhirkvolov, and this creates bad feeling. Also, Soviet agents in Geneva compete with one another to satisfy the KGB, with the aim of feathering their nests in Moscow once their tour of duty in the West is over.

The result, Mr. Dzhirkvelov told The Times, is even more "disinformation" in the Soviet propaganda and intelligence system.

This is a situation which he feels cannot last, especially as the gap between objective truth and the Soviet version becomes daily more apparent to Soviet people through Western broadcasts in Russian. Ninety-nine percent of those Russians interested in politics listen to the BBC or Voice of America, as indeed do the Soviet leaders themselves, Mr. Dzhirkvelov says.

"More often than not we heard the news from the BBC rather than our own correspondents, and when our people do file we always check what they send against Reuters to see what is really happening."

With the "immense growth" in the influence of the BBC and VOA in recent years, the Soviet authorities have reassessed their propaganda effort. Last year a Central Committee directive in Pravda called for a more "persuasive" approach, and less "grey" attempts at "window-dressing" in the Soviet media.

There was, it said, a "propensity toward verbal babbling and propaganda cliches". A committee was formed under the former director of Tass, Leonard Zamyatin, to liven things up.

The machinery remains, however, in Mr. Dzhirkvelov's view, clumsy and permeated with "disinformation". There were red faces in both Tass and the KGB, he says, when Mr. Robert Mugabe was elected Prime Minister of a democratic Zimbabwe, an event which Moscow had insisted the "British imperialists" would never allow.

"Old Africa hands" such as Mr. Dzhirkvelov had argued differently, but were ignored.

Rigidly Ideological Approach Wrecks Soviet Strategy in Africa

Soviet strategy in Africa has failed, largely due to Moscow's inability to comprehend African conditions and the African cast of mind, says Mr. Dzhirkvelov, who was Tass correspondent in Zanzibar from 1967 to 1970, and then for two years in Sudan.

In the 1960s and 1970s Soviet strategy, according to Mr. Dzhirkvelov, was to take advantage of anti-colonial sentiment in Africa and gain political influence over African countries by tying them to the Soviet Union economically.

Zanzibar was regarded as the "gateway to Africa" because of the openly pro-communist regime which took power then after the Zanzibar revolution of 1964. Under its President, Abaid Karume, Zanzibar was hostile to the West, while receiving vast amounts of aid from the Soviet Union, East Germany and China.

It was partly to moderate this Marxist radicalism on his doorstep that President Nyerere in neighbouring Tanganyika proposed the united state of Tanzania. But Zanzibar continued to pursue pro-communist policies semi-independently.

President Karume told Mr. Dzhirkvelov when he arrived that Zanzibar was to be an "island of freedom" on an analogy with Cuba in the Caribbean. The number of Soviet advisers in Zanzibar rose during Mr. Dzhirkvelov's time from under 300 when he first arrived to well over 400 by the time he left.

Mr. Dzhirkvelov soon became aware, he told *The Times*, that Soviet control over Zanzibar was not increasing in proportion to the economic contribution.

This was partly because the Zanzibar leaders capitalized on the Sino-Soviet split by playing the Chinese off against the Russians. Of the two models of communism on offer, says Mr. Dzhirkvelov, President Katume preferred the Chinese, on the ground that Chinese technicians and workers were happy to live in hostels and receive low pay.

The Russians began to "lose their position" Soviet difficulties, Mr. Dzhirkvelov discloses, were compounded by errors in economic planning. As an example he cites what he now thinks of as The Great Tuna Fish Disaster.

The Russians advised President Karume to diversify the Zanzibar economy, which depends on the export of cloves. Since Zanzibar is an island, the Soviet advisers proposed the construction of a tuna processing plant. It became known, however, that the fishing vessels supplied by the Russians were slower than the tuna fish, and the necessary equipment would have to be bought from Japan, since Russia did not produce it.

The cost of building the new port complex was in any case prohibitive. Existing port facilities were being used for loading spices. "The only result", says Mr. Dzhirkvelov, "would have been that the fish would have ended up smelling of cloves and the cloves smelling of fish".

He has other examples of what he calls "economic adventurism" by the Russians in East Africa.

In 1969 he learned from the Soviet ambassador in Mogadishu that the Russians were building a huge dairy complex in Somalia because there were cows feeding near the proposed site. The dairy was completed, at considerable cost, but by then there were no cows left to be milked, since Somali farmers are nomadic and the herbs had moved elsewhere.

But the principal Soviet mistake in Africa, says Mr. Dzhirkvelov, is serious. The Russians, he argues, have very little understanding of African agrarian and tribal societies, and assume that socialism on the Soviet model is suitable and inevitable.

In Tanzania the Russians were encouraged by President Nyerere's espousal of a socialist philosophy, but failed to grasp that he was an "educated man in the Western mould", and his socialism was unique to Tanzania.

Mr. Dzhirkvelov denies that miscalculations of this kind arise from a condescending or even racialist attitude on the part of Soviet officials in Africa, although such attitudes undoubtedly exist, he says, within the Soviet Union. But in Africa, he believes, Soviet blunders are attributable rather to the rigidly ideological Soviet approach.

The Kremlin, he says, often backs the wrong horse in African politics. In 1970, for example, a number of Tanzanians were put on trial in Dar es Salaam, charged with having conspired to overthrow the Government.

The accused included (*in absentia*) Oscar Kambona, the former Foreign Minister. There was speculation, unconfirmed at the time, that the Soviet Union had supported some of the alleged conspirators. Mr. Dzhirkvelov has told *The Times* that there was indeed a "Moscow connexion", and that Soviet officials in Dar es Salaam were "extremely worried" that this might emerge at the trial. Some of the accused, says Mr. Dzhirkvelov—though not Mr. Kambona—had "close ties" with the Russians.

Mr. Dzhirkvelov attended almost all of the trial, with instructions to report to the Soviet Embassy any mention of Russia. Fearing exposure, a number of KGB agents in the embassy left Tanzania before the trial ended, indirect proof of Soviet involvement, to which the Tanzanian authorities turned a blind eye.

As for the Sudan, Mr. Dzhirkvelov recalls an even greater miscalculation, when the Russians supported, and perhaps even inspired, a communist coup against President Nimeri in July 1971. Mr. Dzhirkvelov, who was in Khartum throughout this period, foresaw that if there were such a coup it would undoubtedly be crushed, and the Sudanese Communist Party would be destroyed.

He made this plan, he claims, both in dispatches for Tass, which were passed on to the KGB, and in person to Mr. V. V. Kuznetsov, a member of the Soviet leadership who visited Sudan in March. But the Soviet authorities, including the embassy in Khartum, believed that a communist coup would succeed.

It took place in July, under Major Hashim al-Ata, and was put down within three days. President Nimeri was returned to power on a wave of popularity.

Relations between Khartum and Moscow, which until 1971 had been warm, sunk to a low ebb, from which they have never recovered. The Soviet ambassador was asked to leave, with many of his staff. Mr. Dzhirkvelov stayed on as Tass correspondent for another year, with the difficult task of presenting what had happened for Soviet readers as a "victory for progressive forces".

Looking at Africa as a whole, Mr. Dzhirkvelov sees a catalogue of setbacks for the Soviet Union, in contrast to the high hopes of the 1960s. The peaceful settlement of the Rhodesian issue was, he says, a disaster for Moscow, which had completely failed to foresee the election of Mr. Robert Mugabe as Prime Minister, and had once again backed the wrong horse in Mr. Joshua Nkomo.

Somalia and Zanzibar, Mr. Dzhirkvelov points out, have both expelled their Soviet advisers. Egypt, which expelled all Soviet personnel in 1972, was regarded by Moscow as a safe Soviet domain to the last moment. Six months before President Sadat's expulsion order, a member of the Politburo, Mr. Boris Ponomarev, visited Cairo, and was impressed by what he construed as the Egyptians' appetite for Marxism-Leninism, despite warnings from Soviet officials in Cairo that the Sadat Government was going in an unmistakably pro-Western direction.

The Soviet Union, says Mr. Dzhirkvelov, has spent millions of rubles in Africa, with very little result. Mr. Kwane Nkrumah in Ghana, President Kenneth Kunada in Zambia and Dr. Milton Obote in Uganda were all at various times the object of misplaced Soviet hopes.

Ghana was once the main KGB base in Africa, but no more, while Zambia "does not want and never did want" Soviet help. As for Uganda, Moscow even made what Mr. Dzhirkvelov considers the "appalling error" of backing Dr. Obote's successor, Idi Amin, supplying him with the arms and equipment to maintain a reign of terror.

The Soviet military intervention in Angola and Ethiopia and the use of Cuban troops Mr. Dzhirkvelov sees as a gambler's throw to turn the tide.

In Africa, and in the Third World as a whole, Mr. Dzhirkvelov believes, the Soviet Union is at a disadvantage in competition with China and the West, and will remain so as long as it is blinkered by an inflexible ideology and the dictates of self-interest.

[From the Times, May 28, 1980]

THE GOD WHO WAS REALLY A BANDIT

Ilya Dzhirkvelov is not a dissident. As a former member of the KGB, he has little time for Soviet human rights activists. In his interview with The Times, which ranged from his boyhood years to the present. Mr. Dzhirkvelov reflected on the changes in Russia over the past 30 years in a tone which suggested little sympathy for the Russian democratic movement. What he and his generation want, says Mr. Dzhirkvelov—he is in his 50s—is a decent standard of living, a degree of personal freedom, but at the same time strong leadership, order and discipline.

Mr. Dzhirkvelov, who was a member of the Communist Party for 34 years, looks back to the days of Stalin even now with a degree of nostalgia. A stocky, suntanned Georgian with close cropped white hair, Mr. Dzhirkvelov recalls with animation how he joined the KGB—at that time the NKVD—in 1944, in the first flush of youthful enthusiasm.

To many people both inside and outside Russia the initials both inside and outside fear and dread. But to young Ilya Dzhirkvelov, according to his own account, the Soviet security police was a fine, even glamorous organization, defending the state with stern but just measures, in the tradition of the revolutionary Cheka. It also offered a stepping stone to privilege and power. Only later, says Mr. Dzhirkvelov, did he understand that the victims of the secret police were the innocent casualties of a cruel, and arbitrary despotism.

DEPORTED AT GUNPOINT TO SIBERIA

His first task was to help round up the Crimean Tartars, some of whom had fought for the Germans during the war. Most of these had joined Hitler's army under duress, in order to avoid certain death in Nazi starvation camps. This did not, however, save them from equally certain death at the hands of Soviet firing squads. The remaining tartars were deported at gunpoint to Siberia and central Asia by NKVD troops, among them the 17-year-old Ilya Dzhirkvelov. Many died en route. The descendants of the survivors have still not been allowed to return to their homeland.

The wholesale deportation of the Tatars ranks as one of Stalin's most horrendous crimes. But Mr. Dzhirkvelov only now realizes he was taking part in an act of inhumanity. "At the time", he says. "I thought the Tartar nation were traitors. I had not the slightest doubt that what I was doing was right."

Doubts did enter in, Mr. Dzhirkvelov told The Times, as he became aware of the gap between the ideals proclaimed by the regime and its cynical, self-interested conduct of affairs. Even as a youth in Georgia, he says, he was struck by the fact that those in authority evacuated their own families to the Iranian border as the Germans advanced leaving lesser mortals to their fate.

Georgia, he notes, is especially corrupt among Soviet republics and has the additional distinction of having produced two of Russia's greatest monsters in Stalin and Lavrenty Beria, Stalin's chief of secret police. Mr. Dzhirkvelov saw Stalin at close quarters, together with Churchill and Roosevelt, when we was assigned to guard the delegates to the Yalta Conference in February 1945. For a young man of ambition, to guard the Big Three was to take part in an historic event. And to be close to Stalin was to be in the presence of a demi-god: "We thought he was Almighty, greater than the sun, more powerful than the Tsar."

Yet the doubts remained. In 1947 Mr. Dzhirkvelov was sent to Romania to deal with "Nazi collaborators", just as he had in the Crimea. But in Romania hostilty towards the Soviet Union was open and unchecked. Russian officers were jostled and obstructed in the street. It took two Soviet guards with sub-machine guns to persuade a reluctant Romanian landlady to offer Mr. Dzhirkvelov and his new wife accommodation.

When two United States ships appeared off the port of Constanta with an offer of American grain, there were ugly anti-Soviet demonstrations. The imposition of communism on Romania, observes Mr. Dzhirkvelov, left a legacy of antagonism towards Russia which still persists, as he himself found during frequent visits in subequent years on behalf of either the KGB or Tass.

Outwardly, however, Mr. Dzhirkvelov was an exemplary citizen. He was now married to a fellow employee of the KGB. (They were later divorced; his second wife and their daughter are with him in the West.) As a reward for loyal service. Mr. Dzhirkvelov was given a post in the First Chief Directorate of the KGB, which covers intelligence and counter-intelligence in foreign countries. He became an expert on Turkey and Iran, and was entrusted with undercover missions in those countries, helping to foment subversion by Soviet symphathizers.

However, the KGB was not without internal discords in these years, Mr. Dzhirkvelov revealed in his interview with The Times. He cites the case of a fellow agent who at a KGB meeting ridiculed the practice of getting candidates for election to the Supreme Soviet. If there was only one candidate, and he had to be approved by the KGB, surely there was not much to be said for "democracy" in the Soviet system. The "dissident" was expelled from the KGB for "Trotskyism and opportunism", and Mr. Dzhirkvelov was himself childed for "short-sightedness" when he dared to discuss the case with colleagues. The incident also compromised the "dissident's" mentor in the KGB, Fyodor Bykovsky, father of the Soviet Cosmonaut, and like Mr. Dzhirkvelov a KGB intelligence agent in Iran.

DEGREE OF RESPECT FOR STALIN

But it was the death of Stalin in 1953 and the subsequent arrest of Beria which caused the greatest tremors within the KGB. With the passing of the dictator, many KGB operatives feared the demise of the system he had created, a system which depended on the KGB for its very existence. In the power struggle which followed, Beria's colleagues in the Politburo maneuvered secretly against him, fearing that the secret police chief would try to seize power. When the plot was ready, the Politburo pounced and arrested Beria at a joint session of the Council of Ministers and the Party Central Committee. So powerful was their fear of the KGB, however, that the Soviet leaders enlisted the aid of the Army, who brought tanks on to the streets of Moscow to prevent a KGB coup. The secret police were neutralized and their chief was executed after a brief "trial".

Mr. Dzhirkvelov recalls how he and other KGB officers sat at headquarters in the Lubianka on Dzezrhinsky Square in Moscow and heard the list of charges against their boss. Beria says Mr. Dzhirkvelov, was accused of having been an "agent of international imperialism". This struck even the KGB as absured. They were used to fabricating evidence of complicity with particular Western intelligence services; but to shoot Beria for being in the pay of all of them was going too far.

Mr. Dzhirkvelov's attitude to both Stalin and Beria is coloured by the fact that both were Georgians, like himself. Beria, he says, was on the whole "disliked" by Georgians, who considered him "cruel" even by their standards.

Their attitude to Stalin was more ambivalent. When in 1956 Khrushchev made his "secret speech denouncing Stalin, there were mass peaceful demonstrations in the Georgian capital, Tbilisi. The demonstrators wanted to know why "their" Stalin was being removed from his pedestal. The authorities panicked and sent in troops, who opened fire, leaving scores dead. Because of what Mr. Dzhirkvelov calls these "tragic events", the disturbances in Georgia took an anti-Russian turn. He was sent by the KGB to Tbilisi—his home town—to find and punish the ringleaders. The KGB, he says, arrested 400 people, but no "instigators" were ever found, since the Georgian reaction to Stalin's disgrace had been quite genuine and spontaneous.

All in all Mr. Dzhirkvelov retains a degree of respect and even admiration for Stalin, coupled with a hint of disdain for the leadership of Khrushchev which followed. He acknowledges that Khrushchev brought a welcome "breath of fresh air" into the enclosed, paranoid world of Stalinism. But closed, paranoid world of Stalinism. But Stalin, says Mr. Dzhirkvelov, was at least a strong leader. His "cult of personality" was a real and fearful one, whereas the self-glorification of both Khrushchev and Brezhnev have been pale and laughable imitations.

Stalin, says Mr. Dzhirkvelov, did "great service" to the Soviet state—a remarkable statement from a man whose own father, the deputy political commissar of the Black Sea Fleet, disappeared in the purges of the 1930s. The death of Stalin, he says, was none the less the "beginning of the end" for "those who had served Soviet power long and loyally". The KGB still had a role to play, creating subversion abroad and repressing dissent at home. But it resented the curbing of its powers under Khrushchev, and missed its father-figure, Stalin. "We thought Stalin was a god: he turned out to be a bandit. And we thought to ourselves: why should we trust this Khrushchev? Perhaps he'll turn out to be a bandit as well".

What Mr. Dzhirkvelov hankers after—and, he says, "there are many who think as I do"—is a Russia with a strong central authority, but one in which a degree of personal liberty and expression of opinion is permissible. He looks back to the 1920s in the Soviet Union as an era when this combination prevailed. The fact that the KGB, which he is in some ways proud to have served, exist in order to stifle the challenge posed to authoritarianism by demands for freedom does not strike him as a contradiction.

WILLIAM J. BAROODY

Mr. MOYNIHAN. Mr. President, all of us who place a high value on intelligent and civilized political discourse must regard the passing of William J. Baroody as an enormous loss. Here was a man who understood well that democratic societies thrive on the free competition of ideas, not slogans, not catch phrases or propaganda. Yet Bill's devotion to scholarship and the intellectual life never precluded responsible advocacy. He was a thoroughly political man, in the very best sense of that word, a man who served many public officials, including two Presidents, with great distinction.

Mr. Baroody's most important and enduring contribution, of course, is the American Enterprise Institute, an institution that has rightfully gained the respect of legislators, policymakers, and scholars of virtually all political persuasions.

While Bill's public life was a noble and immensely productive one, his private life also defined the rare and precious sort of man that he was. He cared deeply for his family, and he imparted to his children the spirit of unselfish public service. He also treasured his ethnic roots, taking an active part in the affairs of the Milkite Catholic Church.

We will miss him dearly. But we can be happy to have known such a wonderful human being, such an exemplary citizen of our Republic.

Mr. President, I ask unanimous consent that an editorial published in the Washington Star be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

William J. Baroody

It is not often that a single career and personality can combine vital attactment to tradition with creative anticipation of the future. It was among the distinctions of William J. Baroody, the former head of the American Enterprise Institute, who died Monday, that his career and personality did just that.

The private man was pure American myth. A poor boy from an immigrant family—his father was a stonecutter from Lebanon—he worked his way through college and, by middle age, had risen to a position where presidents of the United States were listening to his advice.

He was a patriarch emotionally centered in a large, energetic family that kept growing; when he died, the count on grandchildren was up to 37. He was gratified to have his oldest son, former White House aide, William Jr., take over as head of AEI when he retired two years ago. He was a profoundly religious man, whose preoccupations in the world of politics and intellectual controversy never got in the way of active participation in the affairs of the Melchite Greek Catholic church.

At the same time, this man of values a good many people find old-fashioned if not downright anachronistic had an extraordinarily cool and discerning eye for trends. He decided back in the 1950s that New Deal dogma on politics and economics had run out of steam, leaving a clear track for a vigorous new kind of conservatism. As one of his long-time colleagues put it, "He was always the first to spot a vacuum and move in; sometimes he would create a vacuum to move into."

Starting with a bit of corporation money and a few lively minds, including that of Nobel laureate Milton Friedman, he began to build AEI into the major American think tank it is today. At first, it was considered too right-wing to be taken seriously by the intellectual mainstream. Recruiting more and more dynamic scholars, conducting long-range studies, publishing magazines and books, sponsoring debates over critical issues, bringing in distinguished foreign thinkers and political figures, Mr. Baroody maneuvered AEI front and center to a position where it is financed by leading foundations and respected by old opponents as well as by a widening—and bipartisan—circle of new friends.

In the process, Mr. Baroody became a political force in his own right, recognized as an influence on the policies of both the Nixon and Ford administrations and on thinking in the neo-conservative wing of the Democratic party as well. It was thanks to him, among others, that the term "neo-conservative" became identified with fresh ideas and possibilities of power.

This presence will be missed in Washington and across the nation, the more so because of its continuing life in the institution he built.

HANS MORGENTHAU

Mr. MOYNIHAN. Mr. President, in this week's issue of New Republic, Dr. Henry Kissinger. the former Secretary of State, has written a moving and enlightening memoir of the life of Hans Morgenthau, who was his friend and teacher and who was indeed a teacher to a whole generation of Americans who have studied international affairs and international relations.

Few men have so marked an age by their work. He was, indeed, a seminal figure, as Dr. Kissinger states.

I ask unanimous consent that Dr. Kissinger's eulogy, if I may use that term—and it is an appropriate one—be printed in the Record.

There being no objection. the article was ordered to be printed in the Record, as follows:

HANS MORGENTHAU

(By Henry Kissinger)

Hans Morgenthau was my teacher. And he was my friend. I must say that at the outset because so many obituaries have stressed his disagreement with policies with which I have become identified. We knew each other for a decade and a half before I entered office. We remained in sporadic contact while I served the government. We saw more of each other afterward.

It is not often that one can identify a seminal figure in contemporary political thought or in one's own life. Hans Morgenthau made the study of contemporary international relations a major discipline. All of us who taught the subject after him, however much we differed from one another, had to start with his reflections. Not everybody agreed with Hans Morgenthau, but nobody could ignore him. We remained close through all the intellectual upheavals and disputes of two and a half decades.

Establishing international relations as a discipline was not an easy matter in the United States. For the temptation to treat the subject by analogy to our domestic experience was overwhelming. There existed in America a well-developed literature on international law that saw international relations in terms of legal processes. There was a pragmatic tradition of solving issues that arose "on their merits." There was the belief in America's moral mission that had produced both isolationism and, later on, global involvement.

Morgenthau sought to transcend all these disparate tendencies. He was passionately convinced that peace was a statesman's noblest objective, but he did not believe that this yearning alone would avoid war. He was a liberal in his political view but he thought his convictions required not simply an affirmation but sufficient stability at least to enable man's humane aspirations to prevail. He was willing to confront the political leader's fundamental dilemma—that moral aims can be reached only in stages, each of which is imperfect. Morality provides the compass course, the inner strength to face the ambiguities of choice.

So Hans set out to understand what he considered the "real" world of international politics, not as he would like it to be, but as he found it. His seminal work, *Politics Among Nations*, analyzed international relations in terms of power and national interest. He believed that a proper understanding of the national interest would illuminate a country's possibilities as well as dictate the limits of its aspirations.

Hans was much criticized for his alleged amorality in those days. His critics did not understand him. Being himself passionate, he did not trust passion as the regulator of conduct. Being committed to peace, he was prepared to enter the cold world of power politics to achieve it.

In the 1960s, Hans proved that he was beyond the manipulation of military calculations. He opposed the war in Vietnam when it was still supported by all fashionable opinion. In 1966 he and I debated the issue in *Look* magazine. He considered America overextended, the war unwinnable, the stakes not worth the cost. I maintained that the size of our commitment had determined our stake, that we had an obligation to seek our way out of the morass through negotiation rather than unconditional abandonment of the enterprise. He was right in his analysis, probably in his policy conclusions as applied to 1966. Three years later—quite unexpectedly—I was faced with the problem as a policy maker. We both stuck to our convictions.

I will not debate their ultimate merit here. But I think it is important to understand that we shared almost identical premises. We both believed America was overextended; we both sought a way out of the dilemma. Hans wanted to cut the Gordian knot in one dramatic move; I chose a different route. But we were both in a way lonely among our associates. Hans is not correctly understood as a protester. He was a teacher trying to bring home to his beloved adopted country the limits of its power, just as earlier he had insisted on its central role. Through all these disagreements I never ceased admiring him or remembering the profound intellectual debt I owed him.

With the end of the war, our paths became increasingly parallel again, though I do not wish to burden Han's memory with the army of my critics. Hans remained always himself: clear in his perception, uncompromising in his insistence on getting to the essence of a problem. He meant much to me.

A word must be said about Hans as a human being. Few eminent men correspond to their images. Hans made his reputation as an analyst of power, but he was a gentle, loving man. He was a great teacher, yet quite shy. He had a marvelous, slightly sardonic sense of humor which never stooped to the malicious. Yet he was slightly tentative—at least in his dealings with me—in showing this side of himself. He would make a witty remark with an absolutely straight face, peering from behind his bushy eyebrows to see what the response would be. Only when he saw that his sally had been understood would his whole face crease in the smile of a mischievous little boy. He was a lovable man.

Hans Morgenthau was deeply conscious of his Jewish heritage. He knew that no people was more likely to be the victim of injustice and passion. He thus felt a special obligation to resist intolerance and hatred. And he understood that in this battle he must never stoop to the methods he was combatting. He was a noble man.

I saw Hans for the last time at breakfast a few weeks ago. He had grown quite frail, through mentally he was as alert as ever. His professorship at the New School had just ended. He spoke of how much teaching meant to him. Everyone must feel he makes a difference to the world, he said. And his vocation was teaching, which he hoped to continue. I told him that he already had made a big difference to the world; he did not have to prove himself constantly. He did not quite believe it. His life was his work. As he said on another occasion, he saw no sense in extending the one by cutting down on the other.

We promised to meet regularly. It was not to be. He settled our little dialogue by his sudden death. There would be no gap between Hans Morgenthau's life and his work; he had made a difference.

And the nature of that difference is best shown in the sorrow of his friends and in the fact that all who remember Hans Morgenthau recall his passion for justice, his fertile intellect, his warmth, and his honesty. It will be a lonelier world without him.

RETIREMENT OF ROBERT A. MALSTROM

Mr. SASSER. Mr. President, Robert A. Malstrom, the Senate financial clerk, retired yesterday after 30 years of faithful service to the U.S. Senate.

I want to take this opportunity, on behalf of the Legislative Branch Subcommittee, to express our thanks for his tireless, courteous, and competent efforts on our behalf—and on behalf of all the Members of the Senate.

Bob entered the service of the Senate some 30 years ago, after his military service in World War II. During that period he rose through the ranks from the position of clerk to the top financial position in the U.S. Senate—a position he has held for the past 3 years.

Frequently, our subcommittee has called upon Bob for his expert advice and testimony—and he has always come through in a timely and competent manner.

On behalf of my colleagues on the committee, I wish Bob and his wife Pearl many years of happy retirement.

FIVE YEARS AFTER HELSINKI

Mr. JAVITS. Mr. President, today marks the fifth anniversary of the signing of the Helsinki Final Act by the heads of state of 33 European nations, the United States, and Canada, and it is therefore an appropriate occasion to take up House Concurrent Resolution 391 which commemorates that anniversary and reaffirms congressional support for full implementation of all the provisions of the Helsinki Final Act by its signatories. I would urge my colleagues to join with me and the 17 other cosponsors of the resolution in supporting and underlining the concerns and objectives that are contained within this resolution.

Although 5 years have passed since the heads of 35 nations of Europe, the United States, and Canada made their solemn commitments to abide by the principles contained within the Helsinki Final Act, we have yet to see significant progress in implementing those provisions, particularly by the Warsaw Pact States. Progress has been slow in some areas, better in others, and nonexistent in yet others, as is indicated so vividly in the Helsinki Commission's report to the Congress.

The Soviet Union—by its invasion of Afghanistan, its recent emigration policies and its imprisonment of Helsinki monitoring group members such as Shcharansky and Orlov and its banishment of physicist Andrei Sakharov—has clearly demonstrated that it is less interested in a "constructive" Madrid review meeting than it has claimed to be. As all the states prepare for the second major review meeting under the CSCE mandate at Madrid, there can be no doubt that a "successful" meeting can result only if there has been significant "success" in the implementation process prior to the meeting. As long as the Soviet Union and its allies continue to violate openly and blatantly the provisions that took so many years to negotiate, these violations must be discussed openly and frankly at any review meetings that take place. As long as some of the signatory states choose to select the provisions, they would implement, and their nonimplementation of others, there can be little hope of expanding or strengthening existing provisions.

The Helsinki framework provides the United States and our allies with a unique framework in which to express these concerns and to press for greater progress in the implementation process. Specifically, the United States has a long-standing interest in insuring a better performance in areas such as increased human contacts, improved human rights and easier movement of people and ideas across the borders of Europe. It is our hope that these concerns will be raised in a forthright manner at the Madrid meeting and that the U.S. delegaton will press for a thorough review of implementation of the provisions of the Final Act. House Concurrent Resolution 391 therefore urges the U.S. delegation to raise human rights concerns in a "firm, forthright and specific manner" and expresses the sense of Congress that "human rights should be given serious and prominent attention during both the review of implementation and consideration of new proposal phases of the Madrid meeting." The resolution also stresses that "any new measures agreed upon at Madrid, including post-Madrid experts' meetings, should be balanced among all sections of the Final Act." Also, it must be made clear to all delegations attending the meeting that the United States cannot accept a post-Madrid meeting on security without a similar meeting on human rights to which it is so closely linked.

In sum, as we approach the Madrid meeting, we should do so with a clear sense of what U.S. objectives and hopes for the meeting are: To insure a thorough and frank review of implementation; to maintain Western unity; to insure a continuation and strengthening of the process; to press for a balanced outcome; and to continue the discussion with the East on questions of human rights, human contacts, and East/West trade and security. These concerns, despite the strain in East/West relations created by the Soviet invasion of Afghanistan, are as vital as they were 5 years ago and should be pursued with the same sense of vision and hope that the original negotiators at Helsinki brought in shaping their Final Act; and that the citizens of the Warsaw Pact states have vested in their interpretation of that document.

TONNAGE MEASUREMENT SIMPLIFICATION ACT

The Senate continued with the consideration of H.R. 1197.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Calendar Order No. 937, I believe, is pending before the Senate at this time?

The PRESIDING OFFICER. The Senator is correct.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Alaska lands bill continue to be laid aside temporarily, and that Calendar Order 937 continue to be laid aside temporarily, during the remainder of the day, with the understanding that at such time as no other business is before the Senate, of course, the Alaska lands bill has precedence until such time as it is disposed of, and that Calendar Order 937 continue to be laid aside temporarily until the Alaska lands bill is disposed of.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Numbered 957, 958, 961, and 964.

Mr. TOWER. Mr. President, I believe the appropriate Senators have been cleared with on this side of the aisle and they have no objection to proceeding to the consideration of the calendar items identified by the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF DEFERRAL OF BUDGET AUTHORITY FOR EPA GRANTS FOR WASTE TREATMENT WORKS

The Senate proceeded to consider the resolution (S. Res. 470) disapproving the proposed deferral of budget authority for EPA grants for waste treatment works, which had been reported from the Committee on Appropriations with amendments as follows:

On page 1, line 2, strike "$3,647,948,114" and insert "$3,247,948,114";

On page 1, line 2, strike "(Deferral No. D80–65A)";

On page 2, line 3 strike "23" and insert "20":

So as to make the resolution read:

Resolved, That the Senate disapproves the deferral of $3,247,948,114 of budget authority for Environmental Protection Agency grants for waste treatment works (authorized under section 201 of the Federal Water Pollution Control Act) set forth in the special message transmitted by the President to the Congress on May 20, 1980, under section 1013 of the Impoundment Control Act of 1974.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. NELSON

I am extremely gratified that the Senate has unanimously adopted my resolution to release $3.28 billion in deferred sewage treatment construction grant funds for 1980. By this action, we have restored the trust between the federal government and state and local governments to meet the mandate of Congress to improve water quality and protect the public health.

Overturning this ill-conceived deferral has been a five month effort. I first learned of EPA's intention in early March and wrote to the President urging him to reconsider. When the Administration announced on April 16th that no more sewage treatment construction grant funds would be forthcoming in 1980, we began contacting the states to determine what the impact of this decision would be. It became obvious immediately that the impact would be absolutely devastating for clean water programs in at least 35 states. These were states which had effective and efficient programs, and which were counting on spending their FY 80 allotment for construction in FY 80. These states had already spent all or nearly all of their FY 79 monies. The Administration's action effectively brought programs in these states to a halt.

On June 17, I introduced with 26 cosponsors a resolution to force the Administration to release these deferred funds now, instead of later. The resolution was referred to the Senate Appropriations Committee which reported it favorably on Monday, July 28, 1980.

A major factor, I believe, in the Appropriations Committee's decision was the finding by the Congressional Budget Office (CBO) that "disapproval of the deferral on or about August 1, 1980, would have no significant effect on fiscal year 1981 outlays." This finding by CBO substantiates my initial assessment of the Administration's unfortunate decision that the deferral would not save any money.

According to the Administration, this deferral was supposed to save $95 million in fiscal year 1981 outlays. They argued that a delay in spending fiscal year 1980 funds would produce a ripple effect in 1981 outlays. I said at the time that this was nothing more than a paper savings; that, in fact, rather than saving money, this action would actually increase the costs to local, state and federal governments because of inflation. The longer the projects are delayed, the more they will ultimately cost. In my opinion, this was false economy of the worst kind. Hundreds of small and large communities nationwide were thrown into a fiscal crisis by this decision. They were faced with either putting off work on badly needed construction projects or borrowing the money from the private sector with no assurance of reimbursement from the federal government. Furthermore, under the Clean Water Act, the interest costs on borrowed money are not reimbursable expenses, and if the project is a new one, then the entire project is not reimbursable. Many of the communities are under court orders, either state or federal, to complete their sewage treatment construction programs by a specified date or face fines or moratoriums on new construction. The construction industry also suffered. Comparing the harm done by the Administration's decision to delay projects nationwide with their hypothesized savings of $95 million which has now been shown to be non-existent, one must wonder what the Administration was thinking of, or not thinking of.

The total amount of the deferral was $3.68 billion. As a result of action by the House and Senate on the FY 80 supplemental budget, $400 million of this amount was recently released. By this action, the remaining $3.28 billion will be available immediately. I ask that a table which shows the distribution of these funds to the states be printed at this point in the RECORD.

FISCAL YEAR 1980 CONSTRUCTION GRANT FUNDING

[In millions of dollars]

	Total funds deferred	Less $400,000,000 just released	Remaining deferred
Region I:			
Connecticut	36	4.0	33
Maine	25	4.0	21
Massachusetts	98	12.0	86
New Hampshire	16	3.0	12
Rhode Island	17	7.0	10
Vermont	17	.3	17
Subtotal	209		
Region II:			
New Jersey	118		118
New York	349		349
Puerto Rico	44	1.0	44
Virgin Islands			
Subtotal	511		

FISCAL YEAR 1980 CONSTRUCTION GRANT FUNDING—Con.

[In millions of dollars]

	Total funds deferred	Less $400,000,000 just released	Remaining deferred
Region III:			
Delaware	17		17
Maryland	99		99
Pennsylvania	110	29.0	81
Virginia	56	16.0	39
West Virginia	93	5.0	88
District of Columbia	16		17
Subtotal	391		
Region IV:			
Alabama	57		57
Florida	141	20.0	121
Georgia	73	1.0	72
Kentucky	59		59
Mississippi	45	.4	44
North Carolina	80		80
South Carolina	41		41
Tennessee	53	3.0	51
Subtotal	549		
Region V:			
Illinois	178	29.0	149
Indiana	91		91
Michigan	155	1.0	145
Minnesota	64		64
Ohio	223		223
Wisconsin	65	21.0	44
Subtotal	776		
Region VI:			
Arkansas	40		40
Louisiana	60	17.0	42
New Mexico	17	.4	17
Oklahoma	46		46
Texas	191		190
Subtotal	354		
Region VII:			
Iowa	43	3.0	40
Kansas	43	5.0	38
Missouri	89		89
Nebraska	19	6.0	12
Subtotal	194		
Region VIII:			
Colorado	47		47
Montana	19		19
North Dakota	21		21
South Dakota	17	2.0	15
Utah	23	1.0	22
Wyoming	20		20
Subtotal	147		
Region IX:			
Arizona	17	9.0	9
California	346	150.0	196
Hawaii	28		28
Nevada	16		16
American Samoa	2		2
Guam	3		3
Pacific Islands Territory	9		9
Subtotal	421		
Region X:			
Alaska	22	4.0	17
Idaho	18		18
Oregon	43	12.0	31
Washington	47	24.0	22
Subtotal	130		
Total	3,682	400.0	3,282

Mr. President, the lesson which the Administration has given to state and local governments is that they should not be concerned with meeting the national goal of restoring and maintaining the quality of our waters; that they should slow down their efforts and not worry about complying with Federal law. The Administration's action was calculated to penalize the efficient programs and reward those that have lagged behind. This is hardly the kind of lesson which the federal government should be handing out. By disapproving of the deferral, the Senate has today set the matter straight.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc.

The resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISAPPROVAL OF DEFERRAL OF BUDGET AUTHORITY RELATING TO THE CUMBERLAND GAP TUNNEL

The Senate proceeded to consider the resolution (S. Res. 464) disapproving deferral of budget authority relating to the Cumberland Gap Tunnel, which had been reported from the Committee on Appropriations with amendments as follows:

On page 1, line 2, strike "of the proposed deferral numbered D80–56,";

On page 2, line 1, after "Tunnel" insert "deferral D80–56)";

So as to make the resolution read:

Resolved, That the Senate disapproves the proposed deferral of $15,500,000 of budget authority relating to the Cumberland Gap Tunnel (deferral D80–56), as set forth in the message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

Mr. HUDDLESTON. The construction of the Cumberland Gap Tunnel is necessary to eliminate an extremely dangerous segment of highway, while at the same time providing for the restoration of the Cumberland Gap and Wilderness Trail at its most dramatic point.

The proposed deferral would delay the commencement of construction on this highway until 1982 and would delay the expenditure of funds which have already been appropriated by the Congress. The construction of the Cumberland Gap Tunnel is at a critical stage and the actions proposed by the administration could cause a severe adverse impact on the economic development of the three State area, continue the slaughter of motorists on an inadequate mountain road, and threaten the opportunity to protect and restore this national heritage.

While I am prepared to support the administration's request to withdraw the $21.5 million recommended for fiscal year 1981, it is absolutely imperative that the $15.5 million appropriated for fiscal year 1980 not be deferred.

The amendments were agreed to.

The resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL JOGGING DAY

The resolution (S. Res. 491) to designate October 11, 1980 as "National Jogging Day," was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly evident; and

Whereas jogging is an excellent, convenient, and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness; and

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to a weight-reducing or weight-control program; and

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life; and

Whereas an estimated twenty-five million persons all across America jog or run as a recreational activity which is beneficial and enjoyable; Now, therefore, be it

Resolved, That the President is authorized and requested to issue a proclamation declaring October 11, 1980, as "National Jogging Day", and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars, and other events throughout the United States and to incorporate regular exercise into their everyday life.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution submitted by Mr. THURMOND was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. SENATE BICENTENNIAL

The resolution (S. Res. 381) relating to the commemoration of the bicentennial of the Senate of the United States, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Senate of the United States in the year 1989 will celebrate the two hundredth anniversary of its establishment under the Constitution and;

Whereas the Senate's historical development has been inextricably bound to the development of our national heritage of individual liberty, representative government, and the attainment of equal and inalienable rights, and;

Whereas it is appropriate and desirable to provide for the observation and commemoration of this anniversary: Now, therefore, be it

Resolved, That there is hereby established a Study Group on the Commemoration of the United States Senate Bicentenary (hereafter in this resolution referred to as the "Study Group") to plan the commemoration of the United States Senate bicentennial.

SEC. 2. The Study Group shall be composed of the following members:

(a) the majority leader and minority leader of the Senate;

(b) the executive secretary of the Senate Commission on Art and Antiquities;

(c) five members of the Senate to be appointed by the President of the Senate upon the recommendation of the majority and minority leaders of the Senate;

(d) three former Members of the Senate to be appointed by the President of the Senate upon the recommendation of the majority and minority leaders of the Senate.

(e) the chairman of the Senate Historical Office Advisory Committee;

(f) the Librarian of Congress, or his designee;

(g) the Archivist of the United States, or his designee; and

(h) two members of the Senate Historical Office Advisory Committee to be appointed by that committee's chairman.

SEC. 3. The Study Group shall select a chairman from among its members. Five members of the Study Group shall constitute a quorum. Any vacancy in the membership of the Study Group shall be filled in the same manner in which the original appointment was made.

SEC. 4. It shall be the duty of the Study Group to prepare an overall plan for commemorating the bicentennial of the Senate of the United States through an appropriate program of publications, exhibits, symposia, and related activities. The objective of this commemoration is to inform and emphasize to the Nation the role of the Senate from its historic beginnings through two hundred years of growth, challenge, and change. The Study Group in its planning is directed to develop a program that will draw upon the resources of current and former members, scholars, and the general public.

SEC. 5. No later than eighteen months after the date of agreement to this resolution, the Study Group shall submit to the President of the Senate a comprehensive report incorporating its specific recommendations for the commemoration of the Senate's bicentennial. The report may recommend activities such as, but not limited to, the following:

(a) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history and traditions of the Senate;

(b) bibliographical and documentary projects and publications;

(c) conferences, symposia, lectures, seminars, and other programs;

(d) the development of exhibits, including mobile exhibits;

(e) ceremonies and celebrations commemorating specific events; and

(f) the issuance of commemorative stamps.

SEC. 6. The report shall include proposals for such legislative enactments and administrative actions as the Study Group considers necessary to carry out its recommendations.

SEC. 7. The members of the Study Group shall receive no compensation for their services as such. Members appointed from private life shall be allowed necessary per diem and travel expenses to and from Washington, District of Columbia, to be paid from the contingent fund of the Senate upon vouchers signed by the chairman of the Study Group and approved by the majority leader and the minority leader of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' ADMINISTRATION HEALTH CARE AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7102.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

That (a) this Act may be cited as the "Veterans' Administration Health-Care Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

Part A—PHYSICIANS AND DENTISTS SPECIAL PAY

PERMANENT AUTHORITY FOR PHYSICIANS' AND DENTISTS' COMPARABILITY PAY

SEC. 101. Section 6 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 38 U.S.C. 4118 note) is amended by striking out "(1)" the first and third places it appears and by striking out paragraph (2) of subsection (a).

REVISION OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 102. (a)(1) Paragraph (1) of subsection (a) of section 4118 is amended—

(A) by striking out "hereunder" and inserting in lieu thereof "to carry out this section";

(B) by inserting "that (except as provided under subsection (d) of this section) is" after "in an amount";

(C) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$22,500 per annum" and "$10,000 per annum", respectively;

(D) by inserting after "Department of Medicine and Surgery" the second place it appears the following: "on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment)"; and

(E) by inserting after "so employed" the following: "on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment)".

(2) Notwithstanding subsection (a)(2)(C) of section 4118 of title 38, United States Code, special pay may be paid under such section to a physician or dentist employed by the Department of Medicine and Surgery of the Veterans' Administration who is a reemployed annuitant if such physician or dentist was automatically separated before September 30, 1978, under section 8335(a) of title 5, United States Code, as in effect before such date, for having become 70 years of age.

(b) Subsection (b) of such section is amended by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000".

(c) Subsections (c) and (d) of such section are amended to read as follows:

"(c)(1) In the case of eligible full-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor:

"(A)(i) For full-time status, $6,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than five years, $1,000;

"(II) of five years but less than eight years, $2,000; and

"(III) of eight years or more, $3,000.

"(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $9,900;

"(ii) as a Chief of Staff or in an Executive Grade, $12,600;

"(iii) as a Deputy Service Director or in a Director Grade, $13,000;

"(iv) as a Service Director, $13,500;

"(v) as a Deputy Assistant Chief Medical Director, $14,440; or

"(vi) as an Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $15,300.

"(C) For—

"(i) specialty or first board certification, $2,000; or

"(ii) subspecialty or secondary board certification, $2,500.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $5,000.

"(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor:

"(A)(i) For full-time status, $1,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive Grade, $3,500;

"(iii) as a Deputy Service Director or in a Director Grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000, or

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

"(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than five years, $750;

"(II) of five years but less than eight years, $1,500; and

"(III) of eight years or more, $2,250.

"(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $3,000 nor more than $12,375.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

"(ii) as a Chief of Staff or in an Executive Grade, $9,190.

"(C) For—

"(i) specialty or first board certification, $1,500; or

"(ii) subspecialty or secondary board certification, $1,875.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $4,000.

"(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

"(ii) as a Chief of Staff or in an Executive Grade, $3,500.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.".

(d) Subsection (e)(1) of such section is amended by striking out the third sentence thereof.

(e) The amendments made by this section shall apply with respect to pay periods beginning after December 31, 1980.

CREDITING OF SPECIAL PAY FOR RETIREMENT AND INSURANCE PURPOSES

SEC. 103. (a) Section 4118(f) is amended—

(1) by striking out "Any" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, any";

(2) by striking out "81, 83, or 87" and inserting in lieu thereof "81 or 83"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) of such title, for the purposes of computing an annuity under such chapter only if—

"(A) the annuity is paid under section 8337 of title 5 or under subsection (d) or (e) of section 8341 of such title; or

"(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985 but before October 1, 1990).

"(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.".

(b)(1) Not later than January 1, 1981, the Administrator of Veterans' Affairs shall notify each employee of the Veterans' Administration who on October 1, 1980, was a full-time physician or dentist in the Department of Medicine and Surgery of the provisions of paragraph (2) of section 4118(f) of title 38, United States Code, as added by subsection (a), and include in such notice an explanation of the provisions of such paragraph and of the right of such employee to make an election under paragraph (2).

(2) Each employee described in paragraph (1) may elect not to have additional compensation provided such employee as special pay under section 4118 of such title included as basic pay (as provided for under paragraph (2) of section 4118(f) of such title, as added by subsection (a)) for purposes of chapter 83 of title 5, United States Code. Any such election shall be in writing and shall be transmitted to the Administrator of Veterans' Affairs not later than April 1, 1981.

REPORTS ON ADEQUACY OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 104. (a) Section 4118 (as amended by sections 102 and 103) is further amended by adding at the end the following new subsection:

"(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

"(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

"(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

"(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and once every two years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and

"(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(3) The President shall include in the Budget next transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

"(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

"(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

"(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.".

(b) Section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 673) is repealed.

HEALTH-CARE PROFESSIONALS AND DIRECTORS OF MEDICAL FACILITIES EXEMPTED FROM SENIOR EXECUTIVE SERVICE

SEC. 105. (a) Section 4101 is amended by adding at the end thereof the following new subsection:

"(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter and persons appointed under section 4103(a)(8) of this chapter are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

(b) Section 4103(a) is amended by redesignating clause (8) as clause (9) and by inserting after clause (7) the following new clause (8):

"(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.".

(c) Section 4107(c) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.

"(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of section 4507 of title 5.".

Part B—MISCELLANEOUS IMPROVEMENTS IN PERSONNEL ADMINISTRATION

RATES OF PAY FOR TRAVEL AND OVERTIME FOR NURSES

SEC. 111. Section 4107(e) is amended—

(1) by adding at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.";

(2) by inserting "or on a holiday designated by Federal statute or Executive order" in paragraph (8) after "regular hours"; and

(3) by adding at the end the following new paragraph:

"(10) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).".

ADMINISTRATIVE ADJUSTMENTS IN RATES OF BASIC PAY

SEC. 112. Section 4107 is amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

"(A) of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries appointed under this subchapter; or

"(B) of health-care personnel who—

"(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employes);

"(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

"(iv) would not otherwise be available to provide medical care and treatment for veterans,

the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

"(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

"(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

"(B) to achieve adequate staffing at particular facilities; or

"(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

"(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

"(4) In the exercise of the authority provided in paragraph (1) of this subsection to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.".

CHIEFS OF STAFF REQUIRED TO BE EMPLOYED ON A FULL-TIME BASIS

SEC. 113. (a) Section 4108 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis.

"(c) As used in this section:

"(1) The term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

(b) Any individual who on the date of the enactment of this Act is serving as a Chief of Staff of a Veterans' Administration health-care facility on less than full-time basis may continue to serve in that capacity on a part-time basis so long as such individual's proportion of full-time service is not less than the proportion of full-time service in which such individual was serving on such date of enactment.

RETIREMENT CREDIT FOR PART-TIME EMPLOYEES

SEC. 114. The text of section 4109 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

"(b) Notwithstanding any other provision of law, an individual retiring on or after October 1, 1981, who served at any time in a position in the Department of Medicine and Surgery to which such individual was appointed under this subchapter shall receive service credit for purposes of section 8339 of title 5 for any period of service in such Department served on less than a full-time basis on a proportionate basis equal to the fraction that such service bears to full-time service. In computing the annuity of any individual whose service is so credited, the full annual rate of basic pay shall be deemed to be the individual's rate of basic pay for the purpose of determining average pay, as defined by section 8331(4) of title 5.".

VETERANS' ADMINISTRATION REPRESENTATIVES ON DEANS' COMMITTEES

SEC. 115. Section 4112(b) is amended by inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration".

RELATIONSHIP BETWEEN TITLE 38 MEDICAL PERSONNEL SYSTEM PROVISIONS AND OTHER PROVISIONS OF LAW

SEC. 116. (a)(1) Subchapter I of chapter 73 is amended by adding at the end thereof the following new section:

"§ 4119. Relationship between this subchapter and other provisions of law

"Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overridden, or otherwise modified.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4118 the following new item:

"4119. Relationship between this subchapter and other provisions of law.".

(b) Section 4114 is amended by adding at the end thereof the following new subsection:

"(g) In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.".

STUDY OF PERSONNEL NEEDS OF VETERANS' ADMINISTRATION HEALTH-CARE SYSTEM

SEC. 117. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care program of, the conversion or non-conversion of employees of the Veterans' Administration's Department of Medicine and Surgery who are providing direct patient-care services or services incident to direct patient-care services (as determined by the Administrator of Veterans' Affairs for the purposes of paragraph (1) of section 4107(g) of title 38, United States Code, as added by section 112) to the pay schedules and other administrative provisions of chapter 73 of title 38, United States Code, the Administrator of Veterans' Affairs shall conduct a study to determine (1) which, if any, of the categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale, and (2) the desirability of making any such categories of personnel which are not so converted eligible for premium pay under the new paragraph (10) which would have been added to section 4107(e) of such title by the amendment of the Senate to the bill H.R. 7102, Ninety-sixth Congress, agreed to by the Senate on June 5, 1980, and the impact of making such categories of personnel eligible for such pay under such paragraph.

(b) Not later than the end of the eighteen-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

STUDY AND PILOT PROGRAM ON NURSE RECRUITMENT AND RETENTION

SEC. 118. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel (including licensed practical or vocational nurses and nursing assistants) capable of providing quality care for eligible veterans in Veterans' Administration health-care facilities, the Administrator of Veterans' Affairs, in consultation with the Chief Medical Director of the Veterans' Administration, shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel. In the course of such study, the Administrator shall take various administrative actions to overcome such difficulties.

(b) Not later than the end of the forty-two-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

(c) The Administrator of Veterans' Affairs shall submit a report on the implementation of such program and the progress of such study to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six moths after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

ESTABLISHMENT OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 201. (a)(1) Chapter 73 is amended by adding at the end thereof the following new subchapter:

"Subchapter IV—Veterans' Administration Health PROFESSIONAL SCHOLARSHIP PROGRAM

"§ 4141. Establishment of program; purpose; duration

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the 'Scholarship Program'). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter.

"(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

"§ 4142. Eligibility; application; written contract

"(a) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

"(2) submit an application to the Administrator for participation in the Scholarship Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

"(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d) (1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a) (2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a) (3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

"(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

"(1) an agreement that—

"(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years during which period the participant is pursuing a course of training described in subsection (a) (1) (B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

"(B) subject to clause (2) of this subsection, the participant agrees—

"(i) to accept such a scholarship;

"(ii) to maintain enrollment and attendance in a course of training described in subsection (a) (1) (B) of this section until the participant completes the course of training;

"(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') equal to the greater of—

"(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program, or

"(II) two calendar years; and

"(v) if the participant's period of obligated service is deferred under section 4143 (b) (3) (A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b) (4) (B) of this title;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

"(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

"(f) (1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses including fees, books, and laboratory expenses; and

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Administrator may contract with an educational institution in which a participant in the scholarship program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1) (A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

"(3) The amount of the monthly stipend, specified in paragraph (1) (B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"(g) Notwithstanding any other provision of law, participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Surgery while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

"(h) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

"(2) the educational institutions providing such training;

"(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

"(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(i) The Administrator shall prescribe regulations to carry out the Scholarship Program.

"§ 4143. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

"(b) (1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participants' period of obligated service.

"(2) The Administrator shall appoint each participant in the Department of Medicine and Surgery as soon as possible after the date described in paragraph (3) of this subsection.

"(3) (A) (i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3) (A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108 (c) (1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(C) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery.

"§ 4144. Breach of contract; liability; waiver

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damage.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator);

"(2) is dismissed from such educational institution for disciplinary reasons;

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training; or

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduated nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'Φ' is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b)(4)(B) of this subchapter; and 's' is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

"(d)(1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

"(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

"§ 4145. Exemption of scholarship payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of, a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

"§ 4146. Program subject to availability of appropriations

"The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"Subchapter IV—Veterans' Administration Health Professional Scholarship Program

"Sec.
"4141. Establishment of program; purpose; duration.
"4142. Eligibility; application; written contract.
"4143. Obligated service.
"4144. Breach of contract; liability; waiver.
"4145. Exemption of scholarship payments from taxation.
"4146. Program subject to availability of appropriations.".

(b) Effective October 1, 1980, there are authorized to be appropriated such sums as may be necessary to carry out the program established by the amendments made by subsection (a).

LIMITATION ON SPECIAL PAY TO PERSONS SERVING OBLIGATED SERVICE UNDER THE SCHOLARSHIP PROGRAM

SEC. 202. Section 4118 (as amended by sections 102, 103, and 104) is further amended by adding at the end thereof the following new subsection:

"(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.".

REPORT ON IMPLEMENTATION OF SCHOLARSHIP PROGRAM

SEC. 203. The Administrator of Veterans' Affairs shall submit a report on the implementation of the Veterans' Administration Health Professional Scholarship Program to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program.

TITLE III—GERIATRIC RESEARCH AND CARE

PURPOSE

SEC. 301. The purposes of this title are (1) to improve and expand the capability of Veterans' Administration health care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 302. Section 4101, as amended by section 105(a), is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director shall—

"(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

"(ii) assure appropriate geographic distribution of such facilities.

"(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

"(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

"(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

"(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(v) the capability to conduct effectively evaluations of the activities of such center.

"(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

"(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection referred to as the 'Committee'). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than two years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

"(C)(i) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

"(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

"(II) assessments of the quality of the operations of such centers;

"(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

"(IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers; and

"(V) recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

"(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

"(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.".

ASSISTANT CHIEF MEDICAL DIRECTOR

SEC. 303. Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.".

EFFECTIVE DATE

SEC. 304. (a) The amendments made by sections 302 and 303 shall take effect on October 1, 1980.

(b) The Geriatrics and Gerontology Advisory Committee required to be established by the Administrator in the Department of Medicine and Surgery of the Veterans' Administration pursuant to subsection (f)(2)(A) of section 4101 of title 38, United States Code, as added by section 302, shall be established not later than January 1, 1981.

TITLE IV—MISCELLANEOUS AMENDMENTS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

SEC. 401. (a) Section 622 is amended to read as follows:

"§ 622. Evidence of inability to defray necessary expenses

"For the purposes of sections 610(a)(1)(B), 610(b)(2), 624(c), and 632(a)(2) of this title, the fact that an individual is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration; shall be accepted as sufficient evidence of such individual's inability to defray necessary expenses.".

(b) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Evidence of inability to defray necessary expenses.".

REVOLVING SUPPLY FUND

SEC. 402. (a) Section 5021(a) is amended—

(1) by inserting after "direct" in clause (2) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) by striking out the second sentence in such section and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

(b) The amendments made by subsection (a) shall take effect as of October 1, 1979.

MANAGEMENT OF REAL PROPERTY

SEC. 403. (a) Section 5022(a) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 30 days from the date upon which the report is submitted.

"(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

"(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.".

(b) Section 5070(e) is amended by inserting a comma and "but no such lease may be for a period of more than 50 years" before the period at the end of the second sentence of such section.

NUMBER OF BEDS REQUIRED TO PROVIDE ADEQUATE NURSING HOME CARE IN STATE HOME FACILITIES

SEC. 404. Section 5034(1) is amended by striking out the comma and "which number" and all that follows in such section and inserting in lieu thereof a period.

REPEAL OF REQUIREMENT THAT RECIPIENTS OF HEALTH-CARE PERSONNEL TRAINING GRANTS MUST INCREASE NUMBER OF INDIVIDUALS RECEIVING TRAINING

SEC. 405. Section 5093(b)(1) is amended by striking out "and will result" and all that follows through "training at such institution".

AVAILABILITY OF FUNDS FOR BENEFICIARY TRAVEL

SEC. 406. No provision of law enacted after the date of the enactment of this Act which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors.

EXTENSION OF TIME FOR SUBMISSION OF REPORT ON HOSPITAL CARE AND MEDICAL SERVICES FURNISHED IN THE COMMONWEALTH OF PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 407. Section 8(a) of the Veterans' Administration Programs Extension Act of 1978 (Public Law 95-520; 92 Stat. 1822) is amended by striking out "February 1, 1980" and inserting in lieu thereof "February 1, 1981".

TECHNICAL AMENDMENTS

SEC. 408. Section 4101(b) is amended by striking out "manpower" both places it appears and inserting in lieu thereof "personnel".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. CRANSTON be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I urge the concurrence in the House amendment to the Senate amendment to the bill, the House amendment being a compromise agreed to between the two Veterans' Affairs Committees after extensive discussion and negotiation.

Mr. President, in order that all Senators and the public may fully understand the provisions of the compromise agreement, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a document entitled "Explanatory Statement on H.R. 7102, the Veterans' Administration Health-Care Amendments of 1980," also inserted in the RECORD yesterday in the other body, accompanied by a Cordon print showing the changes that would be made to existing law by the compromise agreement.

Mr. President, I urge the Senate to support the pending amendment to H.R. 7102, the proposed "Veterans' Administration Health-Care Amendments of 1980."

BACKGROUND

The bill was originally passed by the House of Representatives on May 20, 1980. On June 5, the Senate considered S. 2534 as it had been reported favorably by the Committee on Veterans' Affairs on May 15. Following Senate consideration of S. 2534 as reported, the provisions of that measure were substituted in lieu of the provisions of H.R. 7102 as originally passed by the House, and as so amended H.R. 7102 was passed by the Senate.

The bill as it comes before the Senate is a compromise agreed to by the two Veterans' Affairs Committees and passed by the House of Representatives yesterday.

Mr. President, the Veterans' Affairs Committees of the two Houses enjoy a most constructive relationship. Although we occasionally advocate different approaches to a particular issue, resulting, for example, in the development of different bills on the same subject that must be reconciled as in this situation, it is clear that the two committees are united in the commitment to assuring that our Nation's veterans receive full measure of the benefits and services that are their due.

This commitment is once more manifested in the measure pending before the Senate today. Like all compromises, it does not contain every provision that passed the Senate or that I would have liked to have seen in this legislation, but I believe that it represents an equitable resolution of the differences between the two Houses and, I believe, fairly vindicates the basic position of the Senate on the various matters addressed by the legislation.

BASIC PURPOSE

The basic purpose of the pending measure is to maintain and improve the quality, scope, and efficiency of health-care services provided the Nation's veterans through the Veterans' Administration's health care system.

SUMMARY OF PROVISIONS

Mr. President, since I have made extended statements on the various issues addressed in the legislation both at the time it was introduced (CONGRESSIONAL RECORD 7567 (April 2, 1980)) and following the time of Senate passage (CONGRESSIONAL RECORD 14366 (June 13, 1980)), I will restrict my remarks today to an outline, in summary fashion, of the provisions of the bill as it is before the Senate today—which I will refer to as the compromise agreement. These provisions are more fully described in the explanatory statement to be printed at the end of my remarks. Following the outline of the provisions, I will comment briefly on some of the key provisions in the compromise.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

The provisions of title I are designed to improve the VA's ability to recruit, retain, and manage its health-care personnel in order to assure that the agency will have sufficient, qualified health-care personnel—including physicians, dentists, registered nurses, and other nursing and allied health personnel—to provide quality health care to eligible veterans and dependents. Included in title I are provisions that would:

First, make permanent the VA's special pay authority for eligible physicians and dentists serving in the VA's Department of Medicine and Surgery—D.M. & S.—under title 38, replacing the temporary program in current law.

Second, revise the existing program for special pay for eligible D.M. & S. physicians and dentists by increasing the rates of such pay effective January 1, 1981, and restructuring some of the factors used in computing such pay.

Third, allow amounts of special pay hereafter received by full-time and part-time VA physicians and dentists to be used for determining amounts of coverage of life insurance available under the civil service personnel system.

Fourth, allow amounts of special pay hereafter received by full-time VA physicians to be used, after 15 years of full-time service, for computing an annuity under the civil service retirement system or, without reference to the length of service, in computation of a disability retirement or a death annuity.

Fifth, require the Administrator to monitor the impact of the special pay authority on the VA's ability to recruit and retain physicians and dentists to report annually to the Congress on this issue, and to make biennial recommendations to the President on the levels of pay authorized, which recommendations would be available for consideration by the President in the next following budget process who would be required to include recommendations relating to such pay in the next following budget submitted to the Congress.

Sixth, remove top D.M. & S. personnel who are hired under the authority of title 38 from coverage by the Senior Executive Service—SES—under title 5, United States Code.

Seventh, convert VA nonphysician medical facility directors from the general civil service personnel system under title 5, United States Code, to the D.M. & S. personnel system under title 38, thereby including such nonphysician directors in the exclusion from the coverage of the Senior Executive Service mentioned above, and provide that such nonphysician directors would continue to be eligible to receive SES bonuses under the terms and conditions applicable to such bonuses.

Eighth, modify the rates of premium pay for nurses and other specified personnel to first, allow a VA nurse on travel status to receive such pay on the same basis as would an employee under the general schedule and, second, allow the Administrator to assign title 38 nurses and other specified personnel to on-call duty on a Federal holiday that falls within a regular workweek so that such personnel could remain at home but in an on-call status on such a holiday.

Ninth, authorize the Administrator to adjust the rates of premium and overtime pay for service outside of the normal work day or week paid to title 38 nurses and other specified title 38 personnel at individual VA health-care facilities when necessary to provide rates competitive with those being paid similar personnel in non-Federal health-care facilities in the same area.

Tenth, authorize the Administrator to adjust minimum, intermediate, or maximum rates of basic pay for D.M. & S.

personnel employed under title 38, as well as, subject to a 90-day delay during which the President could disapprove such action, for any D.M. & S. employees employed under the general schedule determined to be providing either direct patient-care services or services incident to such direct-care services, and to so so on a nationwide, local, or other geographic basis when necessary to, first, provide pay competitive with that being paid in non-Federal health-care facilities in the same area, and, second, meet the staff needs of a particular Veterans' Administration health-care facility, or third, recruit individuals with specialized skills.

Eleventh, require a person serving as a chief of staff in a VA health-care facility to serve on a full-time basis, except that an individual serving as a chief of staff on a part-time basis on the effective date of the act could continue to so serve.

Twelfth, provide that, after October 1, 1981, any employee serving in D.M. & S. on a part-time basis would accumulate civil service retirement credit for such employment at a rate equal to the percentage of their part-time employment for the VA rather than accumulating, as at present, a full-month's retirement for each month of part-time service.

Thirteenth, clarify that any provision of title 5 or other law relating to the Federal civil service does not supersede, override, or otherwise modify title 38 provisions relating to the VA's medical personnel system unless such other provisions expressly supersede, override, or modify the title 38 provision.

Fourteenth, clarify that, consistent with the above provision, part-time appointments made under title 38 are made without reference to chapter 34 of title 5.

Fifteenth, mandate a study of the impact of converting categories of title 5 personnel working in D.M. & S. and providing direct patient-care services or services incident to such direct-care service, to the title 38 personnel system and, for categories of such personnel that remain in title 5, of the desirability and impact of paying such personnel premium pay under title 38 rather than title 5, and require a report of such study to be submitted within 18 months of the date of enactment.

Sixteenth, mandate a pilot program and study, of between 24 and 36 months duration, of the impact on the VA's recruitment and retention of nursing personnel of taking various administrative actions, require a report of such study within 42 months of the date of enactment, and require the Administrator to report within 180 days of the date of enactment of the act on the status of steps taken to implement the pilot program and study.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Title II of the compromise agreement would amend title 38, United States Code, to authorize a comprehensive health professional scholarship program to improve the VA's ability to staff its health personnel system. Included in title II are provisions that would:

First, authorize the VA to provide scholarships to students enrolled in physician or nursing training and to students enrolled in professional training in the other five health-care disciplines under the title 38 personnel system, as necessary to meet staffing needs in the Veterans' Administration, in exchange for the student's obligation to serve as a full-time employee in D.M. & S. for a specified period of time.

Second, allow a program participant to defer serving his or her obligated service while receiving graduate medical education, with such deferral possibly conditioned on accruing additional obligated service.

Third, provide a scheme by which damages could be collected in the event a program participant breached his or her contract to serve in the VA.

Fourth, establish an amount for a monthly stipend that would be paid to program participants together with a basis to adjust such stipend as required to meet cost-of-living increases.

Fifth, clarify that any program participant may not be obligated for service to the Federal Government under any other program.

Sixth, limit the amount of special pay a program graduate would be eligible to receive during the period of obligated employment.

Seventh, require the Administrator to report within 180 days of the date of enactment of the act on the status of steps taken to implement the scholarship program.

Eighth, require the Administrator to report annually on the scholarship program.

TITLE III—GERIATRIC RESEARCH AND CARE

Title III of the compromise agreement would authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers at VA health-care facilities. Included in title III are provisions that would:

First, authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers—hereinafter referred to as geriatric centers—at VA health-care facilities.

Second, require that, to be designated as a geriatric center site, a facility have—or be expected to develop—

An affiliation with an accredited medical school that provides a training program in geriatrics and regularly rotates residents through the center and through one of the facility's long-term care units;

An arrangement for a geriatric training program for nursing and allied health personnel in such a long-term care unit;

The ability to attract scientists who are capable of ingenuity and creativity in health research;

A policymaking advisory committee composed of VA and affiliated school health-care and research representatives; and

The ability to conduct effective evaluation of geriatric center activities.

Third, require the Administrator to assure appropriate geographic distribution of the geriatric centers.

Fourth, require the Administrator to assure, prior to providing funds to VA facilities for establishing new geriatric centers, that the eight existing geriatric centers are receiving adequate funding to function effectively in research, education, and clinical activities.

Fifth, mandate the establishment of a geriatrics and gerontology advisory committee—GGAC—to advise the chief medical director on all geriatrics and gerontology matters; to assess the ability of each center to achieve its purpose and the purposes of this title of the bill; and to assess the ability of the VA to provide high-quality health-care services to older veterans, the current and projected needs of these veterans for such services, and the VA's plans to meet those needs.

Sixth, require the GGAC to submit, 30 months after the effective date of this provision, a report to the Administrator on its findings and conclusions and its recommendations regarding the geriatric center program and VA health care for older veterans; authorize the GGAC to submit such further reports as it considers appropriate; and require the Administrator, 90 days after receiving any GGAC report, to transmit it to the appropriate congressional committees, along with the Administrator's comments and recommendations on it.

Seventh, authorize appropriations for the basic support of the research and education activities of geriatric centers—but not the clinical component which would continue, as at the existing centers, to be funded from general medical care appropriations—of $10,000,000 for fiscal year 1981 and $25,000,000 for each of the following 3 fiscal years; and direct the chief medical director (CMD) to allocate to the geriatric centers from other funds appropriated generally for the VA medical care account and the medical and prosthetics research account such amounts as the CMD determines appropriate and, with respect to fiscal year 1984, as the CMD determines appropriate in light of the mandated GGAC report.

Eighth, specify that clinical and scientific investigation activities at the geriatric centers shall be eligible to compete for funding from the VA's medical and prosthetics research account and that these geriatric center efforts shall receive priority in the awarding of funding from that account insofar as funding for geriatric and gerontological research is concerned.

Ninth, require that one of the eight assistant chief medical director positions be filled by a physician trained, or having suitable, extensive experience, in geriatrics, who would be responsible to the chief medical director for evaluating all research, education, and clinical health-care programs carried out in D.M. & S. in the field of geriatrics and who shall serve as the principal advisor to the CMD with respect to the operation of such programs.

Tenth, provide that the amendments made by this title shall take effect on October 1, 1980.

TITLE IV—MISCELLANEOUS AMENDMENTS

Title IV would limit the presumptive validity of an individual's oath of inability to defray the cost of VA medical care under title 38, and make other miscellaneous changes. Included in title IV are provisions that would:

First, limit the presumptive validity of an individual's oath of inability to defray the cost of VA medical care to those individuals eligible to receive medical assistance pursuant to title XIX of the Social Security Act, service-connected disabled veterans, or those in receipt of a VA pension, thereby allowing the VA to look behind such oaths taken by individuals not in such categories so as to determine if the individuals concerned have valid health insurance that would basically cover the cost of care and, if so, to direct such veterans to non-VA facilities for care.

Second, modify the VA's authority to enter into long-term leases—beyond 3 years—with affiliated medical schools to limit the authority to enter into such leases to leases of 50 years or less.

Third, require, 30 days prior to transferring real property valued at more than $50,000 to another Federal agency or a State or reporting such property as excess, that the VA notify the Committees on Veterans' Affairs in each House.

Fourth, remove the limit on the number of nursing home beds that may be supported in a State under the VA's State veterans' home program.

Fifth, allow VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and provide for return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of supply fund needs.

Sixth, delete the requirement that, for grants for the training of nonphysician health care personnel to be approved, such grants must result in the expansion of the number of health care personnel being trained by the grant recipient.

Seventh, clarify that any restrictions on the expenditure of funds for the travel and transportation of officers and employees of the executive branch and their dependents or for the transportation of things of such officers, employees, and their dependents do not apply to funds for reimbursements paid for the travel of eligible veterans, dependents, and survivors, pursuant to section 111 of title 38, in connection with their receipt of other VA benefits and services unless such restrictions expressly include reference to the title 38 fund.

Eighth, extend, from February 1, 1980, to February 1, 1981, the deadline for a statutorily mandated VA report on hospital and medical services furnished in the Commonwealth of Puerto Rico and the Virgin Islands.

DISCUSSION: SPECIAL PAY PROVISIONS

Mr. President, the key focus of this legislation since its introduction has been on the VA's authority to pay special pay to VA physicians and dentists. The original authority to provide such pay dates from 1975 and Public Law 94–123. The rates of such pay established at that time were effective in improving the VA's recruitment and retention of physicians and dentists. However, over the intervening years, that original authority, which has not been modified except to extend it, lost much of its original impact.

Mr. President, it is abundantly clear to both committees that the VA is experiencing difficulty in attracting and, more importantly, retaining sufficient numbers of qualified physicians. The hearing record of the April 16 hearing of the Committee on Veterans' Affairs provides very compelling evidence in this regard. There is a need for prompt, effective action to correct this situation.

I believe that the provisions in the compromise agreement do just that by making the authority permanent, by providing for adequate increases in the rates of such pay over the 1975 levels, by targeting the special pay authority more directly so as to give the Administrator the maximum flexibility to adjust the rates of special pay for physicians in scarce specialties and in certain hard-to-recruit-to geographic areas, including the VA's central office.

The total special pay limit of $22,500—which could be augmented by an additional $5,000 in situations involving service in difficult geographic recruitment areas—is quite appropriate in light of the special pay levels—including $29,000 maximum bonus for some physicians—included in the recently enacted Uniformed Services Health Professionals Special Pay Act of 1980. Public Law 96–284, as well as the 11.7-percent pay raise for members of the armed services—including, of course, physicians—overwhelmingly voted by the Senate on July 2, 1980, during consideration of H.R. 6974, the Defense Authorization Amendments Act, 1981.

Mr. President, the major differences in the area of special pay between the bills passed by the two Houses were with regard to the levels of special pay authorized to be paid to VA dental personnel and part-time physicians and dentists. The provisions in the compromise agreement in these areas reflect the result of a careful analysis of the need for special pay for these categories.

With reference to full-time VA dentists, as with the full-time physicians, the rates authorized are essentially those from the Senate amendment. The rates for dentists are designed to provide the Administrator with the needed flexibility to pay special pay to deal with recognized recruitment problems for dentists, such as individuals serving in scare specialties or in hard-to-recruit-to geographical areas where such special pay can make a difference.

Mr. President, the combination of the rate increases, the change to the special pay authority to make it permanent and the new requirement included in the compromise agreement pursuant to which the Administrator has a statutory obligation to monitor the impact of the levels of special pay on the VA's recruitment and retention effort and make recommendations on such levels to the President every 2 years, should result in a truly effective special pay program that should greatly enhance the VA's ability to acquire the type of employee workforce of physicians and dentists the agency needs to meet the health-care needs of eligible veterans.

NURSING PERSONNEL PROVISIONS

Mr. President, any health-care system of the size and complexity of the VA must rely on a multidisciplinary team to provide health care to its clients. Although the primary momentum for this legislation has been to resolve the recruitment and retention problems for physicians and dentists, the Senate Committee remained deeply cognizant throughout the process of the need to strengthen the VA's attractiveness to other health-care providers, most especially to nursing personnel.

The bill as it passed the Senate contained a number of provisions directed toward the goal of improving the VA's efforts to attract and keep nursing personnel, including: authority for the Administrator to increase rates of pay—both basic pay and premium pay—for nursing personnel so as to meet competition for nurses from community facilities—a problem that is particularly acute in certain areas of the country, southern California among them, a mandated pilot program and study of the effect of taking various administrative actions on the VA's efforts to recruit and retain nursing personnel, modifications to the VA's premium pay authority to improve certain provisions applicable to nursing personnel, authority for the Administrator to provide training support for VA registered nurses seeking a baccalaureate degree, and authority for the Administrator to elevate the Director of Nursing Service in VA Central Office to a position as an Assistant Chief Medical Director or a Deputy Assistant Chief Medical Director.

Mr. President, I am pleased that our counterparts in the House generally accepted the Senate provisions and philosophy in this area. I am confident that both committees understand the urgency of the VA's nurse recruitment problem—a recent survey of the VA health-care system found 1,051 nursing vacancies—full- and part-time—where there were both funding and ceiling available—just no nurses—and an additional 3,665 full- and part-time nursing "vacancies" where funding and ceiling were not available but the VA facility directors concerned felt they needed nurses.

I am very hopeful that the provisions in the compromise agreement together with continuing vigorous oversight on the part of both committees will make a major contribution to helping correct the situation.

Mr. President, there were three changes in these authorities relating to nursing personnel which are discussed in greater detail in the explanatory statement to be printed following my remarks that I want to note briefly at this point.

First, in the mandated pilot program and study, mentioned above, of the impact of taking various administrative actions on the VA's nurse recruitment and retention efforts, the bill as passed by the Senate included a number of specific administrative actions that were to be included in the pilot program and study—modifications to the existing workday or week, such as flexitime or compressed workweek, the establishment of child care centers at VA facilities to care for children of nurses and other personnel, the provision of subsidized or free parking to nurses, and enhanced programs of career development for nursing personnel, including assistance for outside training and, where appropriate, academic appointments at affiliated health-care training institutions—but which were dropped from the compromise agreement.

In deleting these specific items, it was not intended to express disapproval of any specific action; rather, the intent was that the pilot program and study should be carried out with maximum flexibility, and there was concern expressed that enumerating specific actions could work contrary to this goal. I continue to believe that the various measures included in the Senate bill deserve serious consideration, and I urge the Administrator, Chief Medical Director, and Director of Nursing Service to include the various actions in the mandated pilot program and study.

Mr. President, the second point on the nursing provisions that I want to note is that, in dropping a provision in the Senate bill that would have provided the Administrator with express authority to provide training support, such as is available under chapter 41 of title 5, to a VA registered nurse seeking a baccalaureate degree, there was no belief that such training activity is not needed.

Rather, it was recognized that, first, the Office of Personnel Management could—and should, I believe—reverse existing policy to permit such training support to be provided by the VA under chapter 41 of title 5, and, second, that absent such a change, the VA could and should still provide this type of support through the new scholarship program included in title II of the compromise agreement. I continue to believe that it is vital for the VA to provide such training support—both to attract and retain nursing personnel as well as to enhance the qualifications and performance of its nursing service—and will continue to work toward such a goal.

OTHER ADMINISTRATIVE IMPROVEMENTS

Mr. President, there are a number of provisions in the compromise bill that are designed to yield other improvements in the VA's health-care personnel recruitment beyond those I have described. I would like to highlight just a few of these at this point.

In describing the provisions in the compromise agreement that will improve the VA's efforts with reference to nursing personnel, I mentioned the authority to modify rates of basic pay. This new authority applies not only to nursing personnel rates of pay but also to those of other health-care personnel appointed under title 38 as well as to those general schedule employees appointed under title 5, United States Code, who are working in D. M. & S. and providing either direct patient-care services or services incident to such direct-care services.

As to the latter class, the Administrator's exercise of this authority would be subject to a 90-day delay during which the President—or the President's designee, presumably the Director of the Office of Personnel Management—could disapprove the proposed increase, in which event he would send the appropriate congressional committees an explanation of why he did so. Even as so limited, however—and this time limitation does not apply to title 38 personnel—this new authority should significantly increase the Administrator's ability to manage D.M. & S. personnel.

I would also note, with reference to this authority, the specific exclusion of nurse anesthetists from an otherwise general limitation on the amount by which the Administrator could increase the pay rate for any one pay grade or rate.

Mr. President, similar to the authority just described is a new authority for the Administrator to modify rates of premium pay for title 38 personnel. I mentioned this earlier during my description of the nursing personnel provision because it is to that group that premium pay provisions apply most directly.

I want to note, however, that although the compromise agreement does not contain the provision from the Senate bill allowing certain title 5 personnel working in D.M. & S. to be paid premium pay under title 38, it does contain a mandated study that would address the issue of paying premium pay under title 38 to these title 5 employees working in D.M. & S. who provide direct patient-care services or services incident to such direct-care services. Depending on the findings of that study—and congressional action in response to those findings—the authority to modify rates of premium pay might prove to be of more wide-reaching significance.

Mr. President, the study I just mentioned is the second of two important personnel studies—the first being the one in conjunction with the pilot program mentioned above on the effect of various administrative actions on nursing personnel recruitment. The second study, in addition to addressing the issue of desirability and impact of paying premium pay under title 38 to direct-patient-care title 5 personnel, will focus on the impact on VA health-care programs of converting such title 5 personnel from the civil service personnel system into the title 38 VA medical-care personnel system. The report on this study, which is due to be submitted to the Congress 18 months after date of enactment of the legislation, should provide valuable information to assist the Congress with the resolution of this matter.

SPECIAL PAY ELIGIBILITY

Mr. President, there is one matter that the Senate committee viewed as an important personnel matter that is not included in the compromise agreement and that I would like to highlight. Since the establishment of the special pay authority in 1975, the Administrator, pursuant to an exercise of administrative authority provided in the special pay provisions, has precluded physicians serving as hospital directors from receiving special pay. This restriction has had the predictable effect of keeping the number of physician directors very low—there are only six such directors at present in the 172 hospitals.

I have long advocated that this policy be changed because I believe that, in order to provide proper staffing in the central office of D.M. & S., the agency needs to have a cadre of physicians who have received management experience at the level of hospital director. Thus, the Senate version of this legislation contained a provision designed to provide special pay for physician hospital directors.

During negotiations with the House committee, however, it became clear that the House, although no longer opposed, as it had been previously, to an administrative change on the part of the Administrator on this issue, did not believe that it was necessary and preferred not to take any legislative action. In view of the change in the House position, I sought and received the assurance of the responsible agency officials that they would be willing to revise the existing administrative bar to special pay for physician directors. With that clear assurance, we thus agreed to delete the Senate provision from the compromise agreement.

MISCELLANEOUS PROVISIONS

Mr. President, there are two provisions in title IV of the compromise agreement—miscellaneous amendments—that I want to mention very briefly.

The first, Mr. President, is a provision, derived from the House bill, that amends the VA's authority to look behind an individual veteran's oath of inability to defray the cost of medical care. As is developed more fully in the explanatory statement, this provision is seen by the two committees as the appropriate response to the issue of the VA looking to a veteran's health-insurance carrier for reimbursement—as would be authorized by the administration-proposed bill, S. 759—for care provided by the VA for non-service-connected disability or disease.

On that score, I find the provision entirely appropriate, and I urge those who have advocated so-called third-party reimbursement to study this change and its relationship to the health-insurance issue.

The other point that I wanted to make on this provision is to express my view that, while I think the change in existing law under which the VA must accept an oath of inability to pay as conclusive is proper, I am committed to assuring that the change is implemented in such a way that veterans in need of care who might have some minimal health-insurance coverage are not referred to non-VA facilities on that basis but rather that the VA focuses specifically on the likely cost of the care needed in a given case and the extent to which an individual veteran's health insurance coverage will basically defray the costs of such care.

Mr. President, one further point with reference to our accepting the provision relating to the VA's authority to look behind an individual's oath of inability to defray the cost of VA care in response to the issue of the VA seeking reimbursement from veterans' health insurance carriers—so-called third-party reimbursement. In including this provision, all provisions from title III of the Senate bill relating to the third-party reimbursement issue were dropped. As to one of these—a comprehensive study on third-party reimbursement—I am in agreement that it is no longer necessary in light of the action on the oath-of-inability provision.

However, as to the other—a provision clarifying the VA's authority to seek reimbursement, when appropriate, under workers' compensation, no-fault auto insurance, and State crime victim reparation schemes, I disagree with the judgment of the House that this change is unnecessary. I believe that, with regard to each form of payment, the VA already has authority to seek reimbursement, and our committee views the legislation as necessary to clarify this point so as to enable the VA to avoid unnecessary and costly litigation to assert its rights in these areas.

Thus, although I agreed to drop the provision in question from the compromise agreement so as to move this legislation forward, I will continue to press the House to accept this provision and to add it to other legislation on which action will be occurring later this session.

Mr. President, the other title IV provision that I want to mention is derived from a provision in the Senate amendment relating to reimbursement to eligible veterans for their travel in conjunction with other VA benefits and service—so-called beneficiary travel.

An excerpt from the committee's report that described this provision was included in my statement in conjunction with Senate consideration of the legislation (CONGRESSIONAL RECORD, 14385, June 13, 1980). The thrust of the provision in the Senate bill was to counter an interpretation by the Office of Management and Budget of a provision in Public Law 96-86, the Continuing Appropriations Act for fiscal year 1980, that placed restrictions on executive branch employee travel.

As a result of that OMB interpretation—an interpretation that was, in my view, clearly at odds with congressional intent—the VA's beneficiary travel funds were nearly exhausted and it was very clear that action was needed. Since the time of Senate passage of the bill, however, the matter has been resolved for this fiscal year. Thus, the Senate provision was no longer necessary for fiscal year 1980. To attempt to prevent a reoccurrence in future years, however, the provision was modified to have a prospective application and included in the compromise agreement. I believe that this is an important policy matter, and I am pleased that we have established a clear legislative policy on it.

GERIATRIC RESEARCH AND CARE

Mr. President, I have often expressed my deep commitment to issues relating to aging and meeting the health-care needs of elderly veterans and other persons. As chairman of the Veterans' Affairs Committee, I am particularly concerned with the needs of the elderly veteran and strongly believe that the VA should be in a leadership role within the Federal Government in efforts to produce a better understanding of the aging process, its effects, and the medical, social, and family needs of all our elderly citizens. Thus, I am most pleased that the compromise agreement, in title III, contains the basic provisions from the Senate amendment title II which should help the VA reach this goal.

Mr. President, title III of the compromise agreement, the geriatric research and care provisions, contains provisions that are designed to enhance the ability of the VA's health-care system to respond with the most effective and appropriate services possible to the needs of an increasing number of older veterans. It does this primarily by codifying and authorizing expansion of the program of geriatric research, education, and clinical centers—the so-called GRECC's—and establishing a Geriatrics and Gerontology Advisory Committee to the Chief Medical Director.

Mr. President, as I indicated earlier, a complete description of S. 2534, as reported including title II, the geriatric research and care amendments, was printed in the June 13, 1980, CONGRESSIONAL RECORD. Highlights of the legislative background, its major thrusts, and a comprehensive explanation of its provisions were included in that account so I will not repeat those details at this time.

Although, as I indicated, the compromise before us today contains essentially the provisions of the Senate version of these provisions, several changes were agreed upon during the negotiations with the House Veterans' Affairs Committee. I believe these changes will strengthen the legislation. The first change is to compromise on the authorized appropriations so that the bill now authorizes appropriations of $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next 3 fiscal years.

The second revision makes the Assistant Chief Medical Director who is responsible for matters relating to geriatrics and gerontology responsible to the CMD for evaluating all research, educational, and clinical health-care programs carried out in the Department of Medicine and Surgery in the field of geriatrics and designates that person as the principal advisor to the Chief Medical Director with respect to such programs. Finally, with respect to designating geriatric center locations and the criteria which must be met, those criteria regarding the ability to attract creative researchers and to conduct effective evaluation are made subject to the general provision that the criteria may be considered satisfied if it is determined that it is reasonable to expect them to be satisfied in the foreseeable future at a center.

I believe that the VA has played a significant role in providing quality health-care services to older veterans and that this legislation should help to assure a leadership role for the VA in the development of innovative approaches to meeting the health-care needs of elderly persons and in geriatric and gerontological research advancing medical and scientific knowledge of the problems of aging and how to meet them—a matter of intense interest to me.

Mr. President, at this time I want to congratulate Senator THURMOND for his great leadership in this area and express my thanks to him for his most helpful contributions in the development of these provisions. I also want to congratulate Congresswoman MARGARET HECKLER, who was ably assisted by Peter Sroka, for her work on this legislation in the House last year where she played such an active role in securing its passage by a wide margin. The committee is also especially grateful to Dr. Ralph Goldman, former Assistant Chief Medical Director for Extended Care, and Dr. Paul Haber who presently holds that position, for their technical assistance in the development of these provisions.

VETO THREAT

Mr. President, before I close, I want to touch on one final point—the concern that this measure is likely to be vetoed by the President.

Mr. President, almost from the outset earlier this year of the two committee's consideration of the general issue of VA recruitment and retention problems and of special pay for VA physicians and dentists, there has been speculation that the President would reject any legislation in this area. I have heard this speculation and I have been concerned about it. In urging the Senate to act today to send this measure to the President, I remain aware of the concern but do not feel it is justified.

Mr. President, the two committees of jurisdiction have worked long and hard to understand what is a most complex issue. Personnel issues are not simple. Why an agency or any other entity is or is not able to attract and retain the individuals needed to do its job is not a question that generally allows a simple answer, and that is certainly the case with respect to the VA health-care system.

Reasonable people may argue the merits of one approach or another without any solution until the approach is tried. I believe that the scheme of benefits and other changes included in the compromise agreement will go a long way toward improving the current situation in the VA, and I hope that the President and his advisors will recognize this and approve the measure so that the reform can be put in place.

Clearly, if some part or another of the proposed changes does not work or proves counterproductive, I will not hesitate to take appropriate action to remedy the problem. However, until new efforts are tried, we have no way of judging their impact.

Mr. President, another reason why I believe the President will sign this bill is because I believe he will recognize that the committees have made a bona fide effort to meet the problems and objections that have been raised by the Office of Management and Budget, the Office of Personnel Management, and the VA. The committees requested and received most helpful technical assistance from each of the three entities, and that the final compromise agreement is much the better for having had the assistance. I recognize that there are some provisions in the agreement that some in the administration would prefer we not have included; however, on balance, I believe that the compromise agreement recognizes many points of view and attempts to reconcile those viewpoints fairly.

I very much expect, therefore, that the Administrator of Veterans' Affairs and the Chief Medical Director will recognize the value and reasonableness of the approach in the compromise agreement and will strongly urge that the President sign the bill and that the President will agree and sign it.

CONCLUSION

Mr. President, as I noted earlier, I believe this compromise agreement represents a fair resolution of the differences between the two Houses and vindicates the Senate's position on the most significant points. Thus, I strongly commend this compromise to the Senate today.

In closing, I want to thank the chairman of the House Committee on Veterans' Affairs (Mr. Roberts), my very good friend and someone I have greatly enjoyed working with over the years—and also to congratulate him for his excellent work on the scholarship program included in title II of the agreement—as well as the chairman of the Subcommittee on Medical Facilities and Benefits (Mr. Satterfield) and the ranking minority member on the full committee and the subcommittee (Mr. Hammerschmidt) for their cooperation in fashioning this compromise agreement.

I am also very grateful to my distinguished colleague, the ranking minority member of our committee, the Senator from Wyoming (Mr. Simpson), as well as the other members of the committee for their fine work on this measure. I especially want to thank my good friend, the Senator from South Carolina (Mr. Thurmond), for his fine work on the geriatric research and care provisions in title III of the compromise agreement.

In addition, I would like to recognize certain of the members of the House committee staff whose expertise and hard work helped make the development of this compromise possible—Mack Fleming, Jack McDonell, Ralph Casteel, Bruce Herbert, Jim Webb, and John Holden—as well as the members of our committee's staff who participated in this effort, Bill Brew, Ed Scott, Jon Steinberg, Cheryl Beversdorf, Harold Carter, Molly Milligan, and Janice Orr on the majority staff who were ably assisted by Terri Morgan, Becky Walker, Ingrid Post, Karen Anne Smith, Ann Garman, Julia Butler, Jim MacRae, and Walter Klingner, and, on the minority staff, Garner Shriver and John Pressly.

I am also very grateful for the fine work of our legislative counsels—Bob Cover in the House and Hugh Evans in the Senate—and to the VA for its technical assistance, particularly to Chuck Kelley, Don Schimmel, Bob Coy, Audley Hendricks, and others for their invaluable insights into VA personnel and other matters.

Mr. President, I urge my colleagues to support the pending amendment:

EXPLANATORY STATEMENT OF COMPROMISE AGREEMENT ON H.R. 7102/S. 2534

TITLE I. HEALTH-CARE PERSONNEL AMENDMENTS

Permanent authority for Veterans' Administration physicians and dentists comparability pay

Both the House bill and the Senate amendment would make permanent the Veterans' Administration's program for special pay for eligible physicians and dentists in the VA's Department of Medicine and Surgery (DM&S) by amending Public Law 94–123, the law that established this special-pay program, to repeal the provision (section 2) that placed a September 30, 1981, termination date on the VA's authority to enter into special-pay agreements.

Revision of special-pay program for physicians and dentists

Both the House bill and the Senate amendment would amend section 4118 of title 38, United States Code, to provide for the comprehensive revision and restructuring of the VA's special-pay program.

The House bill would provide for a comprehensive new program, effective with respect to pay periods beginning after October 1, 1980. Under the House bill, the general maximum caps for special pay would be $22,000 for physicians and $11,000 for dentists, primary special pay would be $6,900 for full-time physicians and $3,450 for full-time dentists, and the incentive special pay general maximum caps would be $15,000 for full-time physicians and $7,550 for full-time dentists. The House bill would provide primary special pay for part-time physicians and dentists based on a proportioned amount of the $6,900 and $3,450 for physicians and dentists, respectively, to be calculated on the basis of the proportion which individual physician's or dentist's employment is of full-time employment. The incentive special-pay categories in the House bill are set out in a comparative chart below.

The House bill would allow the caps on maximum special pay and incentive special pay to be breached by the amounts paid for board certification and for service in a remote geographic area having a scarcity of qualified physicians or dentists, thus allowing for a possible maximum special pay of $27,900 for physicians and $16,400 for dentists.

The Senate amendment would provide for two sets of revisions to the special-pay program—one making a few changes, effective with respect to pay periods beginning after October 1, 1980. This first set of changes includes provisions to authorize incentive special pay for two new categories and to delete the current requirement that the annual rate of special pay of a physician and dentist be reduced by an amount equal to the amount equal to the amount of the October 1975 cost-of-living pay raise for the grade and step in which the physician or dentist is serving.

The second, comprehensive set of changes would provide general maximum special-pay caps of $23,500 for physicians and $10,000 for dentists, primary special pay of $7,000 for physicians and $2,500 for dentists, and the general maximum caps for incentive special pay of $16,500 for physicians and $7,500 for dentists. With respect to part-time physicians and dentists, the Senate amendment would provide that special pay is to be computed as a proportion—equal to the proportion that a part-time physician's or dentist's part-time employment is of full-time—of 75 percent of special-pay rates for a full-time physician or dentist, as the case may be. The Senate amendment would generally leave existing law intact for dentists except for removing the effect of the 1975 pay raise adjustments, thereby providing all present VA dentists with some special-pay increase and substantially increasing incentive pay for dentists needed for scarce dental specialties or in specific hard-to-recruit-for geographic locations.

The incentive special-pay categories in the Senate amendment are also set out in the comparative chart.

The Senate amendment would allow the caps on maximum special pay and incentive special pay to be breached by the amounts paid for service in a geographic area where there are extraordinary recruitment and retention difficulties with respect to specific categories of physicians and dentists, thus allowing for a possible maximum special pay of $28,500 for physicians and $12,500 for dentists.

The compromise agreement provides for a single, comprehensive set of changes in the special-pay program, effective with respect to pay periods beginning after January 1, 1981. Under the compromise agreement, the general maximum caps for special pay are $22,500 for physicians and $10,000 for dentists and for incentive pay, $15,500 for physicians and $7,500 for dentists; and primary special pay is $7,000 for physicians and $2,500 for dentists. The compromise agreement would remove the effect of the 1975 pay raise adjustment from the computation of special pay, thereby increasing all eligible physicians and dentists special pay by the amount of such raise. With respect to part-time physicians and dentists, the compromise agreement also generally incorporates the special pay amounts from the Senate amendment but provides for eligible part-time physicians and dentists to take a straight proportional share of such amounts, such share based on the ratio their service is of full-time employment. The incentive special-pay categories for the House bill, the Senate amendment, and the compromise agreement are as follows:

HOUSE BILL

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full-time status	$6,000	$2,000	$3,000	$1,000
Tenure:				
Completion of probation period or 3 yr (whichever is less)	1,350	1,000	675	500
More than 7 yr	2,700	2,000	1,350	1,000
Scarce medical specialty	3,400	2,000	3,400	1,000
For service:				
As a service chief, not in a scarce specialty (or comparable)	11,800	5,500	5,900	2,750
As a service chief in a scarce specialty (or comparable)	13,800	7,000	6,900	3,500
As a chief of staff or in an executive grade	13,800	7,000	6,900	3,500
As deputy service director	14,200		7,100	
In a director grade	14,500		7,250	
As a service director	14,500		7,250	
As a deputy assistant chief medical director	15,200		7,600	
As an associate deputy chief medical director or assistant chief medical director	15,800		7,900	
Board certification:				
General	2,000	1,000	2,000	1,000
Specialty	2,500	1,250	2,500	1,250
Remote locations	3,400	2,000	3,400	2,000

SENATE AMENDMENT

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full-time status	$6,000	NA	$1,000	NA
Tenure:				
3 to 5 yr	1,000	$750		
3 to 7 yr			500	$375
5 to 8 yr	2,000	1,500		
7 or more years			1,000	750
8 or more years	3,000	2,250		
Scarce specialty	4,000–16,500	3,000–12,375	2,000–7,500	1,500–5,625
For service:				
As a service chief or associate chief of staff (or comparable)	9,625	7,219	2,750	2,063
As a chief of staff or in an executive grade	12,250	9,188	3,500	2,625
As a deputy service director or in a director grade	12,700	9,525	3,625	2,719
As a service director	13,125	9,844	3,750	2,813
As a deputy assistant chief medical director	14,000	10,500	4,000	3,000
As an assistant chief medical director or an associate deputy chief medical director	14,875	11,156	4,250	3,188
Board certification:				
First or specialty	2,000	1,500		
Subspecialty	2,500	1,875		
Specific geographic locations (including VA central office for physicians)	3,500–5,000	2,625–3,750	1,750–2,500	1,313–1,875

COMPROMISE AGREEMENT

	Physicians		Dentists	
	Full time	Part time (percent of service)	Full time	Part time (percent of service)
Full-time	$6,000	NA	$1,000	NA
Tenure:				
2 to 5 yr	1,000	$750		
2 to 7 yr			500	$500
5 to 8 yr	2,000	1,500		
7 or more years			1,000	1,000
8 or more years	3,000	2,250		
Scarce specialty	4,000–15,500	3,000–12,375	2,000–7,500	1,500–5,625
For service:				
As a service chief (or comparable)	9,900	7,230	2,750	2,750
As a chief of staff or in an executive grade	12,600	9,190	3,500	3,500
As a deputy service director or in a director grade	13,000		3,625	
As a service director	13,500		3,750	
As a deputy assistant chief medical director	14,400		4,000	
As an associate deputy chief medical director or assistant chief medical director	15,300		4,250	
Board certification:				
Specialty	2,000	1,500		
Subspecialty	2,500	1,875		
Specific geographic area (including VA central office for physicians)	2,000–5,000	1,500–4,000	1,750–2,500	1,313–1,875

The compromise agreement allows the caps on special pay and incentive special pay to be breached only by amounts paid for service in geographic areas where there are extraordinary recruitment and retention difficulties in the recruitment and retention with respect to the category of physicians and dentists involved, including, for physicians, service in VA central office.

Crediting of special pay for retirement purposes

Both the House bill and the Senate amendment provide for the crediting of a full-time DM&S physician's or dentist's special pay for civil service retirement purposes. The House bill provides for such crediting in all cases of a physician or dentist who has been employed in DM&S on a full-time basis for at least 15 years. The Senate amendment provides for such crediting as one of two options that the physician or dentist may elect. Under the Senate amendment, one electing the civil service retirement-credit option would be credited on a phased-in basis under which individuals would receive credit for special pay (from which deductions would be made and paid into the civil service retirement fund) in the computation of average pay for retirement, as follows:

For those retiring after September 30, 1981, 20 percent; after September 30, 1983, 40 percent of special pay received after September 30, 1981; after September 30, 1985, 60 percent of special pay after September 30, 1981; after September 30, 1987, 80 percent of special pay received after September 30, 1981; and after September 30, 1989, 100 percent of special pay received after September 30, 1981.

The second option in the Senate amendment would allow a full-time DM&S physician or dentist to use amounts received as special pay for contributions to an individual retirement account (IRA).

The compromise agreement does not include the Senate's IRA provision and provides prospectively for treating special pay paid to full-time DM&S physicians and dentists as basic (annual) pay for civil service retirement in the cases of all physicians and dentists with at least 15 years of full-time service in DM&S. The retirement provisions also include provisions to cover a situation where an individual dies or is disabled prior to completing 15 years of full-time service and also include a provision allowing a one-time waiver by physicians and dentists employed in DM&S on the effective date of the new authority from coverage under the retirement provisions.

The crediting of special pay will occur on a 2-step, phased-in basis: 50 percent of special pay may be used to compute an annuity after October 1, 1985, and 100 percent of such pay may be used after October 1, 1990. Thus, no retirement pay will be paid out to any retiree under this provision before October 1, 1985.

The Senate amendment, but not the House bill, would allow amount of special pay to be used in computation of the amount of Federal life insurance an individual is eligible to purchase.

The compromise agreement contains the Senate provision.

Reports on the adequacy of special pay for Physicians and Dentists

The Senate amendment (section 110), but not the House bill, would establish in the Office of the Administrator of Veterans' Affairs a five-person "Veterans' Administration Physicians' and Dentists' Pay Board" which would analyze the income of non-VA physicians and dentists and make biennial recommendations for changes in rates of special pay for Veterans' Administration physicians and dentists, when appropriate, to the President for inclusion in the Presidential budget submitted to the Congress; and provide for the operation of such Board. Such recommendations submitted by the President would become effective unless the Congress enacted legislation establishing other rates or either House of Congress approved a resolution disapproving the recommendations.

The compromise agreement would delete the provisions for the establishment and operation of such a board but would require the Administrator to perform the biennial analyses of the income of non-VA physicians and dentists and to make biennial recommendations to the President for changes in rates of special pay for VA physicians and dentists. The compromise agreement would also require that the President make recommendations, in the budget next transmitted to the Congress following the submission of the Administrator's recommendations, as to the rates of special pay for physicians and dentists in DM&S, but deletes the provisions making any such recommendations effective in the absence of Congressional action. In addition, the compromise agreement would require the Administrator to submit to the Committees on Veterans' Affairs annual reports on the implementation and administration of activities under the special pay provisions (including any required actions, findings, and recommendations of the Chief Medical Director and the Administrator) and would repeal section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, under which the Administrator is required to submit annual reports on the special-pay program.

Exemption of VA health-care professionals and medical facility directors from the Senior Executive Service and conversion of such directors to title 38 personnel system

Both the House bill (section 102) and the

Senate amendment (section 102) would exempt health-care professionals in the VA's title 38 personnel system from the provisions of section 413 of the Civil Service Reform Act of 1978 and title 5, United States Code, relating to the Senior Executive Service (SES).

The compromise agreement contains this provision.

Further, the House bill (section 102), but not the Senate amendment, would convert VA non-physician hospital directors into the VA's title 38 medical personnel system from the title 5 system and exempt them from the same title 5 provisions relating to the SES.

The Senate recedes with an amendment to provide that, for the purposes of section 4507 of title 5, relating to the awarding of ranks under the Senior Executive Service, such non-physician directors shall be considered to be career appointees so as to be eligible, upon recommendation of the Administrator and the Director of the Office of Personnel Management, to receive an award of Meritorious Executive (lump-sum bonus payment of up to $10,000) or Distinguished Executive (lump-sum bonus payment of up to $20,000) under such section (which provides that a recipient of either such award may not receive that rank again during the four following fiscal years). The Committees believe that shifting these key personnel into the title 38 personnel system will provide the Administrator with greater control over the selection and management of such personnel but believe that it is important that these personnel, who are currently eligible for inclusion in the Senior Executive Service, and thus, have the potential to receive a bonus award under section 4507, should not suffer potential financial harm from the personnel system shift.

Nursing service provisions

The Senate amendment (section 103), but not the House bill, would have authorized the Administrator to appoint the Director of Nursing Service as an Assistant Chief Medical Director or Deputy Assistant Chief Medical Director. In the Senate's report accompanying its legislation, this provision was described as important in order to "give the Nursing Service head a greater and needed role in policy matters within DM&S, including general policy matters as well as those affecting nurses most directly. . . ."

Both Committees are in agreement that it is vital that provision be made for extensive Nursing Service participation in planning, policy development, and decision-making activities throughout the VA health-care system, not only at Central Office but in individual VA health-care facilities. Some of the most important issues which face the VA health system today—including, among many others, the severe, nationwide nursing shortage, increased demands for both long-term and acute care for chronic illness from an increasingly aging veteran population, and the impact of restricted resources with which to operate the VA health-care programs—are matters of great concern to VA nursing personnel including, of course, the Director of Nursing Service, and involve issues on which nursing personnel leadership has particular contributions to make.

The compromise agreement does not, however, contain the section 103 provision from the Senate bill because the Committees are concerned that legislation which would authorize raising the Director of Nursing Service to an Assistant Chief Medical Director, without otherwise modifying the statutory limitations on positions at that management level could have an untoward impact on the top management structure in the Central Office of the Department of Medicine and Surgery (DM&S) and there is insufficient information on which to base a change in those statutory limitations at this time.

As to a Deputy Assistant Chief Medical Director level, the Committees note that raising the Director of Nursing Service to that level can be accomplished by the Administrator under existing law. The Committees believe that this would be an appropriate action for the Administration to take and, therefore, recommend to the Administrator and Chief Medical Director that this change be made administratively, accompanied by appropriate issuances to assure greater involvement by the Director of the Nursing Service and facility Chief Nurses in the planning, policy, and decision-making activities of DM&S.

Also on the general issue of the VA's nursing service, the Committees note their belief that the pilot program and study on nurse recruitment and retention mandated by section 118 of the compromise bill should yield valuable information on the current problems confronting the agency as it attempts to attract and retain quality nursing personnel. In that regard, the Committees urge that the Director of Nursing Service at Central Office and the Chief Nurse at each facility where the pilot program and study is carried out be involved to a very significant degree in the planning, design, conduct—and in the evaluation of the results—of the pilot program and study, and in the preparation of the subsequent report and recommendations. The Committees believe that such participation by nursing personnel should help assure that the pilot program and study is as realistic, effective, and comprehensive as possible.

Rates of pay for travel and overtime for nurses

The Senate amendment (section 104(4)), but not the House amendment, would amend certain title 38 provisions relating to premium pay for nurses and other specified personnel for work outside of the regular work day or week (such as for overtime or Sunday duty) to conform such provisions in the areas of overtime pay while on travel and work on a Federal holiday that falls on a regular workday to similar provisions in title 5 applicable to General Schedule employees.

The compromise agreement contains the Senate provision.

The Senate amendment (sec. 104(4)), but not the House bill, would also provide authority for the Administrator to modify these rates of premium pay as necessary to meet competition with respect to such pay from non-Federal hospitals in the same labor market.

The compromise agreement contains the Senate provision.

The Committees note that sections 104, 110, and 111 of the Senate amendment contained provisions requiring "such consultation" with exclusive representatives of employees "as is required under any applicable collective bargaining agreements" as part of various amendments made by those sections relating to personnel issues. Those provisions for such consultation are not included in the relevant sections of the compromise agreement.

It was the Senate's intention, as expressed in the Senate Committee report, in including the consultation provisions to assure that nothing in the bill could be construed as negating recognized collective bargaining rights, including consultation rights. Those provisions are not included in the compromise bill in recognition of the Committees' agreement that such a specific reference to such rights is unnecessary and could engender confusion. In deleting those provisions, the Committees wish to make clear that they do not intend that any of the changes made by the legislation to the VA's health-care personnel authorities detract in any way from employee rights under existing collective bargaining agreements between the VA and its employees.

The compromise agreement would also provide specific authority for the Administrator to utilize the new authority to increase the rates of pay for nurse anesthetists without regard to the limitation regarding the amount of the pay rate increase, although the ceiling (the rate for an Assistant Chief Medical Director) would still apply. The intent is to provide the Administrator with maximum flexibility for increasing the pay and/or grade of a nurse serving in this capacity. The rate of pay is to be based on the professional qualifications and special training of the nurse anesthetists rather than the supervisory or administrative responsibilities of the individual.

Administrative adjustments in rates of basic pay

The Senate amendment (section 104(5)) would provide authority for the Administrator to modify minimum, intermediate, and maximum rates of basic pay on a local, regional, or nationwide basis for one or more health personnel fields—or grades within such fields—for title 38 personnel, and for title 5 health-care personnel working in the VA and providing either direct patient-care services or services incident to such services, as necessary to meet rates paid by non-Federal hospitals in order to maintain adquate staffing or to recruit personnel with specialized skills.

The House bill (section 104) would provide authority to set rates of pay for title 38 physicians, dentists, and nurses without reference to the provisions of section 5301 of title 5 which require a comparability, based on job responsibilities, among Federal rates of pay; this provision is designed to authorize selected VA rates of pay to be modified without regard to title 5 restrictions.

The House recedes with an amendment that subjects the Administrator's exercise of the authority to modify rates of pay for title 5 personnel to a possible disapproval of such action by the President (or his designee) within 90 days of the Administrator's notification of intention to exercise such authority. In the event that the President (or his designee) disapproved such a proposed action, the President (or his designee) would be required to submit to the appropriate Congressional Committees a notification of such action accompanied by a full explanation of the reasons for such disapproval.

The veto authority would not apply to the Administrator's authority to modify rates of pay for title 38 personnel.

Chiefs of staff required to be full-time

The Senate amendment (section 106), but not the House bill, would require VA chiefs of staff, associate chiefs of staff, and service chiefs to be full-time employees. As to chiefs of staff, those serving in such capacity on a less than full-time basis on the effective date of the provision would be allowed to continue to so serve but would not be eligible to receive any increases in special pay. Associate chiefs of staff and service chiefs would likewise be grandfathered and, in addition, the Chief Medical Director would have wide discretion to exempt either individuals or categories of such personnel from the full-time requirement if it is found to be in the best interests of the Federal Government to do so.

The House recedes with respect to chiefs of staff, with an amendment removing the bar to receipt of increases in special pay for those chiefs of staff covered by the grandfathering provision. The Senate recedes with respect to the full-time requirement as to associate chiefs of staff and service chiefs.

Retirement credit for part-time employees

The Senate amendment (section 108) would modify the way in which part-time title 38 employees in DM&S accrue credit for civil service retirement purposes so as to provide that such employees accrue such credit on a pro-rata basis rather than receiving a full month's credit for each month worked on a part-time basis, no matter how small the fraction of part-time service. The House bill contained no comparable provision.

The House recedes with perfecting amendments to assure that this amendment's effect is limited to the way in which part-time service is counted in the process of computing an annuity and that there are no other ramifications on a part-time employee's eligibility for an annuity. In addition, the effective date of this change is delayed until October 1, 1981.

Veterans' Administration representatives on dean's committees

The Senate amendment (section 108), but not the House bill, specified that the representatives of the Veterans' Administration on dean's committees at affiliated medical schools should include representatives from the full-time staff at the VA facility.

The House recedes.

Both the House bill (section 302) and the Senate amendments (section 108(1)(B)) contained provisions generally aimed at reenunciating some basic principles set forth in the Department of Medicine and Surgery's Policy Memorandum No. 2 of January 30, 1946, regarding the balance of responsibilities between VA health-care facilities and affiliated medical schools. These provisions were designed to address what the Committees believe is a problem present at some VA facilities that are affiliated with medical schools where the medical schools—through the deans' committees, bodies established pursuant to section 4112 of title 38 to carry out advisory functions in conjunction with the affiliation relationship—become dominant partners in the affiliation relationship and begin to dictate policy at the VA facility, including matters with respect to which VA authority and responsibility for decisionmaking should be final, such as policies regarding admissions to and the mission of the VA facility and decisions regarding VA employment.

The Committees believe very strongly that such situations are improper and should be remedied.

Although the Committees continue to support the basic provisions set forth in each bill regarding this issue, the compromise agreement does not contain the provisions on this issue from either bill in recognition of the fact that the Committees believe, after much deliberation, that this problem is not prevalent in most such affiliations and that, where it does exist, it is a VA management problem that should be corrected through forthright administrative action rather than a problem that can be addressed effectively through legislation.

The Committees are aware that the incumbent Chief Medical Director of the Veterans' Administration, Dr. Donald Custis, shares this point of view and is working actively to achieve appropriate balances at VA health-care facilities and affiliated medical schools. The Committees intend to follow closely the Chief Medical Director's progress in this area and will provide him with any appropriate assistance to assure that relationships in all affiliations are in appropriate balance.

Relationship between title 38 medical personnel system provisions and other provisions of law

The House bill (section 102), but not the Senate amendment, would specify that part-time appointments in DM&S under section 4114 are made without reference to chapter 34 of title 5, which relates to general civil service part-time employment matters.

The Senate recedes with an amendment to clarify that the general relationship between title 38 medical personnel system provisions in subchapter 1 of chapter 73 of title 38 and provisions in title 5 or elsewhere pertaining to the civil service personnel system is such that no provisions from title 5 or elsewhere (whether heretofore or hereafter enacted) shall be considered to supercede, override, or otherwise modify title 38 provisions unless such other provision does so expressly by specific references to the title 38 provision.

Study of personnel needs of Veterans' Administration health-care system

The Senate amendment (section 105), but not the House bill, would mandate an eighteen-month study of the need for and impact of converting, from title 5 personnel system to the VA's title 38 personnel system, categories of title 5 personnel employed in DM&S who provide direct patient-care services or services incident to such services.

The House recedes with an amendment to expand the study to include an analysis of the desirability and impact of, if some categories of such personnel are not so converted, paying such personnel who are not converted premium pay for work outside of the regular work day or week (e.g., overtime work or work on a holiday) under the title 38 premium pay provisions in the paragraph (10) proposed to be added (but deleted in the compromise agreement) to present section 4107(e) by section 104(4) of the Senate amendment, rather than under certain title 5 provisions.

Study and pilot program on nurse recruitment and retention

The Senate amendment (section 111), but not the House bill, would mandate a twenty-four to thirty-six month pilot program and study (in at least six geographic areas) to evaluate the impact on the VA's recruitment and retention of sufficient qualified nursing personnel of various administrative actions, including, but not limited to, combinations of modifications of existing work schedules, establishment of on-site child-care centers at VA health-care facilities, provision of free or subsidized parking for nursing personnel, and enhanced programs of career development for nursing personnel (including support for outside education opportunities). The Senate amendment (section 106(2)), but not the House bill, would also provide the Administrator with authority to provide training support, including support as described in chapter 41 of title 5 and under conditions as set forth in such chapter, to registered nurses employed in the VA for training to acquire a baccalaureate degree.

On the study provision, the House recedes with an amendment deleting the specification of any particular administrative actions. The Senate recedes on the training support issue. The deletion of the specification of particular administrative actions is intended to provide greater flexibility to the VA in the selection of recruitment and retention measures.

In deleting this training support authority, the Committees note that a VA registered nurse desiring to return to school to acquire a baccalaureate degree could receive assistance under the new VA Scholarship Program included in title II of the compromise agreement and urge the Administrator, Chief Medical Director, and Director of the Nursing Service, to assure that, once the Scholarship Program is implemented, all VA registered nurses without a baccalaureate degree are made aware of the opportunity to use the Scholarship Program in such a manner and are provided appropriate opportunities to receive assistance under the Scholarship Program.

Moreover, in receding on the training support provision, the Committees are not conceding the correctness of the present interpretation of section 4101 of title 5 that excludes from that Government-supported Federal employee training provision baccalaureate training for an AA-degree or three-year hospital-trained registered nurses.

TITLE 38 PREMIUM PAY FOR CERTAIN TITLE 5 PERSONNEL

The Senate amendment (section 104(4)), but not the House bill, would authorize the Administrator to pay premium pay for work outside of the regular work day or week to title 5 personnel working in DM&S and determined by the Administrator to be providing direct patient-care services or services incident to such direct-care services so as to assure greater uniformity between title 38 and title 5 employees working in the same work area.

The compromise agreement does not contain this provision. However, the provision mandating a study of the personnel needs of the VA health-care system was amended for inclusion in the compromise agreement to include a requirement that the desirability and impact of pay such premium pay under title 38 to such title 5 be included in such study.

TITLE II. VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

The House bill (title II), but not the Senate amendment, would authorize a scholarship program under which the VA would provide scholarships to students enrolled in health-care professional training in the disciplines under the title 38 personnel system in exchange for the student's obligation, following completion of training (and, in certain cases, after obtaining a license to practice), to serve as a full-time employee in DM&S for a specified period of time. Under the Scholarship Program, the period of obligated service would equal one calendar year for each school year for which a scholarship was provided, or two calendar years, whichever is greater, and would be extended at specified rates where the participant's entry into obligated service is deferred (as the House bill would allow in certain cases) to permit the participant to undertake an internship or residency or other advanced clinical training. Participants failing to complete their training, to obtain a license or registration, as appropriate in the field for which trained, or to complete their period of obligated service would be subject to specified monetary penalties.

The Senate recedes with an amendment designed to focus the program most directly on physicians and nurses, to provide the Administrator with flexibility to modify certain conditions of the program—such as the requirement of additional obligated service for deferrals for residencies and the payment of primary special pay during obligated service—and to authorize only voluntary transfers between VA and other Federal scholarship recipients with obligated service.

TITLE III. GERIATRIC RESEARCH AND CARE

Both H.R. 4015 as passed by the House of Representatives on June 5, 1979 (hereinafter referred to as the "House bill") and the Senate amendment (title II) to H.R. 7102 would establish a statutory program for geriatric centers at VA health-care facilities. (Presently, the VA operates, under a program established administratively, geriatric research, clinical, and education centers (GRECC's) at 8 VA medical centers.) The House bill would require 15 VA hospitals to be designated as the locations for centers of geriatric research, education, and clinical activities (hereinafter referred to as "geriatric centers" or "centers") and permit 5 additional VA hospitals to be so designated if suitable hospitals and sufficient funds are available; the Senate amendment would require "up to" 15 VA health-care facilities to be so designated, would require that designation be made upon the recommendation of the VA's Chief Medical Director (CMD), and would also require that, subject to appropriation of sufficient funds, the geriatric centers be established and operated at the designated facilities.

The House recedes.

With respect to the selection of facilities for designation as geriatric-center sites, the House bill would require the Administrator to take into consideration the hospitals that are, on the date of enactment, operating a GRECC—and to designate, to the extent possible, each such hospital—to take into consideration the need for geographic dispersion of the centers. The Senate amendment would specifically require the Administrator, upon the CMD's recommendation, to designate each facility operating a GRECC on the date of enactment unless the Administrator determines, on the CMD's recommendation, that such facility does not meet certain requirements, described below, for the designation of any facility, or has not demonstrated effectiveness in carrying out—or the potential to carry out in the foreseeable future—its established purposes or the purposes of the title II provisions of the Senate amendment, and to assure appropriate geographic distribution of such facilities.

Also with respect to designating geriatric center locations, the House bill would require the Administrator to take into consideration the desirability of designating hospitals which are affiliated with an accredited medical school which has (or may reasonably be anticipated to develop) a department, division, or organized program of geriatrics. The Senate amendment would require that, for a facility to be designated, it must (1) be affiliated with an accredited medical school which provides education and training in geriatrics and have an arrangement for residents to receive education and training in geriatrics through regular rotation through the facility's center and nursing home, extended care, or domiciliary units, (2) have an arrangement for nursing or allied health personnel to receive geriatric training and education through the facility's nursing home, extended-care, or domiciliary unit, (3) have the demonstrated ability to attract scientists capable of ingenuity and creativity in health-care research efforts, (4) have an advisory committee on policy matters pertaining to activities of the center, and (5) have the demonstrated capability to conduct effective evaluations of the center's activities. Except for criteria (3) and (5), these criteria may be considered to be satisfied if the Administrator, upon the CMD's recommendation, determines that it is reasonable to expect them to be satisfied.

The House recedes with an amendment providing that criteria (3) and (5) would also be met if the Administrator, upon the CMD's recommendation, determines that it is reasonable to expect them to be satisfied.

The Senate amendment, but not the House bill, would require that, prior to providing funds for a new center, the Administrator assure that the geriatric center at each designated facility that is operating a GRECC on the date of enactment is receiving adequate funding to enable it to function effectively in the areas of research, educational, and clinical activities.

The House recedes.

The House bill would provide for the establishment of a Geriatrics and Extended Care Task Force within the VA's Special Medical Advisory Group (SMAG); the Senate amendment, for a Geriatrics and Gerontology Advisory Committee in the Department of Medicine and Surgery.

In addition, the Senate amendment, but not the House bill, would require the Administrator, upon the CMD's recommendation, to appoint the Committee membership—which would include non-Federal Government employees who have demonstrated interest in aging research, education, and clinical activities, and at least one national veterans' service organization representative—to invite appropriate Federal department and agency representatives to participate in Committee activities, and to provide the Committee with necessary staff and support. The House bill would require the "task force" to act in an advisory capacity to the Assistant Chief Medical Director responsible for geriatrics and extended care; the Senate amendment would require the "Committee" to advise the CMD on all matters pertaining to geriatrics and gerontology.

Both the House bill and the Senate amendment would require the advisory body to perform additional functions as directed by the Administrator or Chief Medical Director. Both the House "task force" and the Senate "Committee" would be required generally to assess the VA's capability to provide high quality geriatric and clinical health services to eligible veterans; and the Senate amendment, but not the House bill, would also require the "Committee" to make an assessment of VA extended health-care services.

The House bill would require the "task force" to assess the VA's capability to provide the services so described in the House bill on a sustained, continuing, and growing basis; the Senate amendment would require the "Committee" assessment to take into consideration the likely demands for such services from eligible older veterans. Both the House "task force" and Senate "Committee" would be required to assess the current and projected health-care needs of older veterans, and the Senate amendment, but not the House bill, would also require assessment of VA activities and plans to meet those needs.

The Senate amendment, but not the House bill, would specifically require that assessments of the ability of each center to achieve its established purposes, as well as the purposes of the title II provisions of the Senate amendment, be based on site visits.

Both the House "task force" (not later than 18 months after the effective date of the legislation) and the Senate "Committee" (not later than 30 months after the effective date of the legislation) would be required to submit a report to the Administrator (and the SMAG in the House bill; through the CMD in the Senate amendment). Both reports would be required to include assessments of the quality of the operations of the centers, the extent to which the VA, through the centers, is meeting the needs of older veterans and any deficiencies in the operations of the centers. In addition, the Senate amendment, but not the House bill, would require that the report include recommendations for other geriatric, extended-care, and other health-care services needed to meet the needs of older veterans.

The Senate amendment, but not the House bill, also authorizes the submission of further reports. Both the House bill and the Senate amendment would require the Administrator to transmit the report (the "Committee's" first report in the Senate amendment) within ninety days after it is received, together with comments and recommendations, to Congressional committees.

With respect to the provisions relating to the "committee" and the "task force", the House recedes with an amendment requiring the "Committee" to submit its first report not later than April 1, 1983.

The House bill would authorize for the purpose of operating the geriatric centers appropriations of $15,000,000 for fiscal year 1980, $20,000,000 for fiscal year 1981, and $25,000,000 each for fiscal years 1982 and 1983. The Senate amendment would authorize appropriations only for basic support of the research and education activities of the centers in the amounts of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 each for fiscal years 1983 and 1984. The House bill, but not the Senate amendment, provides that the geriatric centers shall operate until September 30, 1983. The Senate amendment, but not the House bill, would provide for the CMD to allocate to the centers such funds from the VA's medical care account and medical and prosthetics research account as the CMD determines appropriate and, with respect to fiscal year 1984, as the CMD determines appropriate based on the first "Committee" report. The Senate amendment, but not the House bill, would specify that clinical and scientific investigation activities at each geriatric center may compete for funds awarded from the VA's medical and prosthetics research account and are to receive priority in the award of funding from this account insofar as such funds are used for geriatrics and gerontology research.

The House recedes with an amendment to authorize appropriations of $10,000,000 for fiscal year 1981 and $25,000,000 for each of the following three fiscal years.

Both the House bill and the Senate amendment would require that one Assistant Chief Medical Director (ACMD) be responsible for certain geriatric research, education, and clinical health-care matters. Included within such an ACMD's jurisdiction, the House bill would specify "service operations" and the Senate amendment "policy and evaluation". The House bill would require the ACMD to be a qualified doctor of geriatrics and gerontology and the Senate amendment, a qualified physician trained, or having suitable, extensive experience, in geriatrics. The Senate amendment would also specify that the ACMD would report directly to the CMD.

The compromise agreement would provide for one ACMD who shall be a qualified physician trained in, or having suitable, extensive experience in, geriatrics who shall be responsible to the CMD for evaluating all research, educational, and clinical health-care programs carried out in the Department of Medicine and Surgery in the field of geriatrics and who shall serve as the principal advisor to the CMD with respect to the operation of such programs.

The effective date for the geriatrics provisions in the House bill would be October 1, 1979; in the Senate amendment, October 1, 1980.

The House recedes.

TITLE IV—MISCELLANEOUS AMENDMENTS

Standards for presumption of inability to defray medical expenses

The House bill (section 301), but not the Senate amendment, would amend section 622 of title 38 to limit the presumptive validity of an individual's oath of inability to defray the cost of VA medical care to those individuals eligible to receive medical assistance pursuant to title XIX of the Social Security Act, service-connected disabled veterans, or those in receipt of a VA pension. The Senate amendment (in Title III), but not the House bill, on a related matter, would clarify the VA's authority to obtain reimbursement for the cost of treatment provided to veterans for non-service-connected disabilities, in appropriate instances, from workers compensation carriers, from auto no-fault insurers, and, in conjunction with State crime victims' reparation schemes and further, would mandate a comprehensive study of the impact of authorizing the VA to obtain reimbursement from third-party health insurance carriers for health care provided to veterans for non-service-connected disabilities.

The Senate recedes. The Committees continue to believe strongly that the cost-savings that the Administration and some in the Congress believe would result from the enactment of legislation authorizing the recovery of the costs of non-service-connected care from insurance carriers have been based on incorrect assumptions regarding the extent to which veterans seeking care in the VA for non-service-connected disabilities have applicable, in-force health insurance coverage from which recovery could be obtained. The Committees also believe that any attempt to provide such authority to the VA to collect from such insurers for such services and to reduce the VA's appropriations in conjunction with such authority would significantly disrupt VA health-care efforts and would ultimately prove futile or largely futile. Thus, the Committees have determined that the provision in the compromise agreement which would generally allow the VA to determine if a veteran has valid health insurance that would basically cover the cost of care and, if so, to direct such veteran to a non-VA facility, is the more appropriate response to concerns about individual veterans receiving care from the VA where the cost should be borne by a health-insurance carrier.

Revolving supply fund

The compromise agreement would amend the statutory provisions relating to the VA's revolving supply fund to allow VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and provide for return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of supply fund needs. (This provision is identical to the provision in section 506 of S. 2649, the proposed "Veterans' Disability Compensation and Housing Benefits Amendments of 1980", as reported by the Senate Committee on Veterans' Affairs on July 30, 1980.)

Management of real property

The House bill (section 303), but not the Senate amendment, would modify the VA's real property management authority to remove the authority for the VA to enter into long-term leases (beyond 3 years) with affiliated medical schools and to require that, 30 days prior to transferring real property valued at more than $50,000 to another federal agency or a State or reporting such property as excess, the VA notify the Committees on Veterans' Affairs in each House.

The Senate recedes on the property transfer issue. On the long-term lease issue, the Senate recedes with an amendment limiting the VA's existing authority to enter into such leases to leases of 50 years or less.

Number of beds required to provide adequate nursing home care in State home facilities

The House bill (section 304), but not the Senate amendment, would change the limit on the number of nursing home beds that may be supported in a State under the VA's State Veterans' Home Program (to raise the limit from two and one-half beds per thousand veterans in a State to four beds per thousand).

The Senate recedes with an amendment removing the numerical limit, thereby allowing the Administrator the authority to establish appropriate limits per State without reference to any fixed number prescribed by statute.

Repeal of requirement that recipients of health personnel training grants must increase number of individuals receiving training

Both the House bill (section 305) and Senate amendment (section 402) would repeal a requirement in existing law that requires a health personnel training institution (other than an affiliated medical school) applying for a VA grant under subchapter III of chapter 82 for health personnel training, to, as a condition of receiving such grant, increase the number of personnel trained. A similar repeal was made last year in Public Law 96-151 to a comparable provision in subchapter II of such chapter relating to affiliated medical schools, and the original House-passed bill providing for such repeal (H.R. 3892) included a provision to repeal the subchapter III provision. However, by inadvertence, the subchapter III-provision repealer was deleted from the legislation at the time of final passage.

The compromise agreement contains this provision.

Availability of funds for beneficiary travel

The Senate amendment (section 401), but not the House bill, would clarify that the fiscal year 1980 restriction in Public Law 96-86 on obligations for "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" does not apply to reimbursement under title 38 to eligible veterans, dependents, and survivors pursuant to section 111 of title 38 in connection with their receipt of other VA benefits and services.

The compromise agreement provides this clarification effective only with respect to future enactments and not in situations where legislation containing such a restriction on obligations or expenditures for executive branch travel expressly states that it applies to such beneficiary travel under title 38. The FY 1980 problem to which the Senate provision was addressed has been resolved by the President's submission on May 16, 1980, of a budget amendment (Senate Document 96-49, 96th Cong., 2d Sess.) and direction from the Senate Appropriations Committee in its report on H.R. 7542, the Supplemental Appropriations and Recission Bill, 1980 (S. Rept. No. 96-829, page 19).

Extension of time for submission of report on hospital care and medical services furnished in the Commonwealth of Puerto Rico and the Virgin Islands

Both the House bill (section 306) and the Senate amendment (section 403) would amend Public Law 95-520, the Veterans' Administration Program Extension Act of 1978, to extend, from February 1, 1980, to February 1, 1981, the deadline for a VA report on hospital care and medical services furnished in the Commonwealth of Puerto Rico and the Virgin Islands.

The compromise agreement contains this provision.

Technical amendment

The Senate amendment (section 102), but not the House bill, would delete the gender-specific term "manpower" in section 4101 of title 38 and insert in lieu thereof "personnel".

The House recedes.

Changes in existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

Part II—General Benefits

* * * * *

Chapter 17—Hospital, Nursing Home, Domiciliary, and Medical Care

* * * * *

Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

621. Power to make rules and regulations.
622. [Statement under oath] *Evidence of inability to defray necessary expenses.*
623. Furnishing of clothing.
624. Hospital care, medical services and nursing home care abroad.

* * * * *

626. Reimbursement for loss of personal effects by natural disaster.
627. Persons eligible under prior law.
628. Reimbursement of certain medical expenses.

* * * * *

Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

* * * * *

§ 622. [Statement under oath] *Evidence of inability to defray necessary expenses*

[(a)] For the purposes of [section] *sections* 610(a)(1)(B), [section] 610(b)(2), [section] 624(c), and [section] 632(a)(2) of this title, the [statement under oath of] *fact that* an [applicant on such form as may be prescribed by the Administrator] *individual is—*

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration;

shall be accepted as sufficient evidence of *such individual's* inability to defray necessary expenses.

[(b) Notwithstanding the provisions of subsection (a) of this section, the receipt of pension under any law administered by the Veterans' Administration shall constitute sufficient evidence of inability to defray necessary expenses, and any veteran in receipt of such pension shall be exempt from making any statement under oath regarding such veteran's inability to defray necessary expenses.]

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Part V—Boards and Departments

* * * * *

Chapter 73—Department of Medicine and Surgery

Subchapter I—Organization; General

Sec.
4101. Functions of Department.
4102. Divisions of Department.
4103. Office of the Chief Medical Director.
4104. Additional appointments.
4105. Qualifications of appointees.
4106. Period of appointment; promotions.
4107. Grades and pay scales.
4108. Personnel administration.
4109. Retirement rights.
4110. Disciplinary boards.
4111. Appointment of additional employees.
4112. Special Medical Advisory Group and other advisory bodies.
4113. Travel expenses of employees.
4114. Temporary full-time, part-time, and without compensation appointments; residencies and internships.
4115. Regulations.
4116. Defense of certain malpractice and negligence suits.
4117. Contracts for scarce medical specialist services.
4118. Special pay for physicians and dentists.
4119. Relationship between this subchapter and other provisions of law.

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Subchapter IV—Veterans' Administration Health Professional Scholarship Program

Sec.
4141. Establishment of program; purpose; duration.
4142. Eligibility; application; written contract.
4143. Obligated service.
4144. Breach of contract; liability; waiver.
4145. Exemption of scholarship payments from taxation.

4146. Program subject to availability of appropriations.

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Subchapter I—Organization; General

§ 4101. Functions of Department

(a) There shall be in the Veterans' Administration a Department of Medicine and Surgery under a Chief Medical Director. The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.

(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to assist in providing an adequate supply of health [manpower] *personnel* to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health [manpower] *personnel* (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialities as physician assistants, expanded-function dental auxiliaries, and other medical technicians (including advising all such qualified veterans and members of the armed forces about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals, and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.

* * * * *

(d)(1) Within ninety days after enactment of this subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resources requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans of high quality care in all hospital, medical, domiciliary, and nursing home facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than twenty-four months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

(2) Within ninety days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of the Administrator's views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) the Administrator proposes to take to implement such findings and recommendations and (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to insure the success of the study.

(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter and persons appointed under section 4103(a)(8) of this chapter are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.

(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall—

(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

(ii) assure appropriate geographic distribution of such facilities.

(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which medical residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

(v) the capability to conduct effectively evaluations of the activities of such center.

(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research education, and clinical activities.

(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

(B) The Committee shall—

(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

(C)(I) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

(II) assessments of the quality of the operations of such centers;

(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

(IV) *assessments of and recommendations for correcting any deficiencies in the operations of such centers; and*

(V) *recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.*

Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

(2) *Not later than ninety days after receipt of a report submitted under division (1) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.*

(3) *There are hereby authorized to be appropriated for the basic support of the research and education activities of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.*

(4) *Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.*

§ 4102. Divisions of Department

The Department of Medicine and Surgery shall include the following: Office of the Chief Medical Director, a Medical Service, a Dental Service, a Podiatric Service, an Optometric Service, a Nursing Service, and such other professional and auxiliary services as the Administrator may find to be necessary to carry out the functions of the Department.

§ 4103. Office of the Chief Medical Director

(a) The Office of the Chief Medical Director shall consist of the following—

(1) the Chief Medical Director, who shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department, and who shall be a qualified doctor of medicine, appointed by the Administrator.

(2) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(3) The Associate Deputy Chief Medical Director, who shall be an assistant to the Chief Medical Director and the Deputy Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendation of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service. *One Assistant Chief Medical Director shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.*

(5) Such Medical Directors as may be appointed by the Administrator, upon the recommendation of the Chief Medical Director, to suit the needs of the Department. A Medical Diretcor shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

(6) A Director of Nursing Service, who shall be a qualified registered nurse, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

(7) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services.

(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.

[(8)] *(9)* Such other personnel as may be authorized by this chapter.

(b) Except as provided in subsection (c) of this section—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Administrator for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Administrator for cause.

(c) The Administrator may designate a member of the Chaplain Service of the Veterans' Administration as Director, Chaplain Service, for a period of two years, subject to removal by the Administrator for cause. Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years. A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately prior to being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

* * * * *

§ 4107. Grades and pay scales

(a) * * *

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(c) *(1)* Notwithstanding any other provision of law, the per annum salary rate of each person serving as a director of a hospital, domiciliary facility, or center who is not a physician shall not be less than the salary rate which such person would receive under this section if such person's service as a director of a hospital, domiciliary facility, or center had been service as a physician in the director grade. The position of the director of a hospital, domiciliary facility, or center shall not be subject to chapter 51 and subchapter III of chapter 53 of title 5.

(2) *Notwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.*

(3) *Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of section 4507 of title 5.*

* * * * *

(e) (1) In addition to the rate of basic pay provided for nurses in subsection (b) (1) of this section, a nurse shall receive additional pay as provided by paragraphs (2) through (8) of this subsection.

(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 per centum of the nurse's hourly rate of basic pay, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 per centum of such nurse's hourly rate of basic pay.

(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's hourly rate of basic pay not to exceed one and one-half times the hourly rate of basic pay for the minimum rate of intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted, except as voluntarily requested in writing by the nurse in question. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration. *For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—*

(A) such travel occurs during such nurse's tour of duty; or

(B) such travel (i) involves the perform-

ance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.

(6) For the purpose of computing the additional pay provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's hourly rate of basic pay shall be derived by dividing such nurse's annual rate of basic pay by two thousand and eighty.

(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of service, the amounts of such additional pay shall be computed separately on the basis of such nurse's hourly rate of basic pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours *or on a holiday designated by Federal statute or Executive order* shall be paid for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

(9) Any additional pay paid pursuant to this subsection shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic pay.

(10) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).

(f) Under standards which the Administrator shall prescribe in regulations, physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in paragraphs (2) through (8) of subsection (e) of this section.

(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

(A) of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries appointed under this subchapter; or

(B) of health-care personnel who—

(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employees);

(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

(iv) would not otherwise be available to provide medical care and treatment for veterans, the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

(B) to achieve adequate staffing at particular facilities; or

(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

(4) In the exercise of the authority provided in paragraph (1) of this subsection to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.

§ 4108. Personnel administration

(a) * * *

* * * * *

[(b) As used in this section, the term "affiliated institution" means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health manpower.

[(c) As used in this section, the term "remuneration" means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.]

(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis.

(c) As used in this section:

(1) The term "affiliated institution" means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

(2) The term "remuneration" means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.

(d) Notwithstanding any other provision of law, the Administrator may prescribe regulations establishing conditions under which officers and employees of the Department of Medicine and Surgery who are nationally recognized principal investigators in medical research may be permitted, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Veterans' Administration, or in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Veterans' Administration, to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and such reasonable subsistence expenses as are approved by the Administrator pursuant to such regulations, to be retained by such officers and employees to cover the cost of such expenses or deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

§ 4109. Retirement rights

[Persons] *(a) Except as provided in subsection (b) of this section, persons* appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

(b) Notwithstanding any other provision of law, an individual retiring on or after October 1, 1981, who served at any time in a position in the Department of Medicine and Surgery to which such individual was appointed under this subchapter shall receive service credit for purposes of section 8339 of title 5 for any period of service in such Department served on less than a full-time basis on a proportionate basis equal to the fraction that such service bears to full-time service. In computing the annuity of any individual whose service is so credited, the full annual rate of basic pay shall be deemed to be the individual's rate of basic pay for the purpose of determining average pay, as defined by section 8331(4) of title 5.

§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and allied scientific professions and a disabled veteran, nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health manpower, the Administrator shall establish an advisory committee (that is, deans committee, medical advisory committee, or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institutionwide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration *(including appropriate representation from the full-time staff)* and the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

* * * * *

§ 4114. Temporary full-time, part-time, and without compensation appointments; residences and internships

(a)(1) * * *

* * * * *

(f) No person may be appointed under this section after the effective date of this subsection to an occupational category described in section 4104(1) of this title or in subsection (b) of this section unless such person meets the requirements established in section 4105(c) of this title and regulations prescribed thereunder.

(*g*) *In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.*

* * * * *

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which the Administrator shall prescribe [hereunder] *to carry out this section* shall provide, in addition to any pay or allowance to which such physician or dentist is entitled, special pay in an amount *that (except as provided under subsection (d) of this section) is* not more than (A) [$13,500] *$22,500* per annum to any physician employed in the Department of Medicine and Surgery *on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment)*, or (B) [$6,750] *$10,000* per annum to any dentist so employed *on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment)*, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration of a written agreement by such physician or dentist to complete a specified period of service in the Department.

(2) Special pay may not be paid under this section to any physician or dentist who—

(A) is employed on less than a half-time or intermittent basis,

(B) occupies an internship or residency training position, or

(C) is a reemployed annuitant.

(*B*) *Special pay may be paid under this section to a physician or dentist who is a reemployed annuitant if such physician or dentist was automatically separated before September 30, 1978, under section 8335(a) of title 5, as in effect before such date, for having become 70 years of age.*

(3) The Chief Medical Director, in accordance with such regulations, may determine categories of positions applicable to both physicians and dentists in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians and dentists serving in such positions shall not be eligible for special pay under this section. Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations, and, in the event any such determination was made more than one year prior to the date of enactment of this sentence, the Chief Medical Director shall make such redetermination not later than ninety days after such enactment date.

(b) The Administrator shall exercise the authority contained in this section to provide—

(1) the maximum amount of such special pay to the Chief Medical Director and Deputy Chief Medical Director;

(2) primary special pay of [$5,000] *$7,000* to any eligible full-time physician, or $2,500 to any eligible full-time dentist, appointed under this chapter; and

(3) a proportional amount of primary special pay of [$5,000] *$7,000* to any eligible part-time physician, or of $2,500 to any eligible part-time dentist, appointed under this chapter, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment.

(c)(*1*) [The] *In the case of eligible full-time physicians appointed under this chapter, the* Administrator shall [, in accordance with such regulations,] provide, in addition to the primary special pay provided for in subsection (b)(2) of this section *and in accordance with regulations prescribed to carry out this section,* incentive special pay of [no] *not* more than [$8,500] *$15,500* to any eligible physician [, or $4,250 to any eligible dentist, described in clauses (2) and (3) of subsection (b) of this section]. In prescribing *such* regulations to carry out this [subsection] *paragraph,* the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor [, one-half the following per annum amounts, as applicable, to any full-time dentist eligible therefor (except that the full amount as specified in clause (1)(A)(iii) may be paid), or a proportional amount of the following per annum amounts to any part-time physician or, as applicable, dentist to the extent eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment]:

[(1)](A)(i) *For* full-time status, [$2,000,] *$6,000;*

(ii) *For* tenure of service within the Department of Medicine and Surgery [as follows:]—

[(aa) completion of probationary period or three years, whichever is the lesser, $1,000, or

[(bb) completion of seven years, $2,000; and

[(iii) scarcity of medical or dental specialty, $2,000; or

[(B) professional responsibility as follows:]

(I) of two years but less than five years, $1,000;

(II) of five years but less than eight years, $2,000; and

(III) of eight years or more, $3,000.

(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

(B) For service—

(i) *as a* Service Chief [not in a scarce medical or dental specialty, or Associate Chief of Staff, $5,500,] *(or in a comparable position as determined by the Chief Medical Director), $9,900;*

[(ii) Service Chief in a scarce medical or dental specialty, $7,000,]

[(iii)] (*ii*) *as a* Chief of Staff or *in an* Executive Grade, [$7,000,] *$12,600;*

[(iv)] (*iii*) *as a* [Director Grade or] Deputy Service Director [, $7,250,] *or in a Director Grade, $13,000;*

[(v)] (*iv*) *as a* Service Director, [$7,500,] *$13,500;*

[(vi)] (*v*) *as a* Deputy Assistant Chief Medical Director, [$8,000,] *$14,440; or*

[(vii)] (*vi*) *as an* Associate Deputy Chief Medical Director or Assistant Chief Medical Director, [$8,500; and] *$15,300.*

[(2) continuing education certification, $500;

[(3) for general or first board certification of a physician, $2,000; or for specialty or secondary board certification of a physician, $2,500; and

[(4) for service by a physician (i) in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000.]

(C) For—

(i) specialty or first board certification, $2,000; or

(ii) subspecialty or secondary board certification, $2,500.

(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000, nor more than $5,000.

(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor:

(A)(i) For full-time status, $1,000.

(ii) For tenure of service within the Department of Medicine and Surgery—

(I) of two years but less than seven years, $500; and

(II) of seven years or more, $1,000.

(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

(ii) as a Chief of Staff or in an Executive Grade, $3,500;

(iii) as a Deputy Service Director or in a Director Grade, $3,625;

(iv) as a Service Director, $3,750;

(v) as a Deputy Assistant Chief Medical Director, $4,000, or

(vi) as an Assistant Chief Medical Director, $4,250.

(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

(A)(i) For tenure of service within the Department of Medicine and Surgery—

(I) of more than two years but less than five years, $750;

(II) of five years but less than eight years, $1,500; and

(III) of eight years or more, $2,250.

(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount to be determined by the Chief Medical Director pursuant (to such regulations) of less than $3,000 nor more than $12,375.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

(ii) as a Chief of Staff or in an Executive Grade, $9,190.

(C) For—

(i) specialty or first board certification, $1,500; or

(ii) subspecialty or secondary board certification, $1,875.

(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $4,000.

(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

(A)(i) For tenure of service within the Department and Surgery—

(I) of more than two years but less than seven years, $500; and

(II) of seven years or more, $1,000.

(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

(B) For service—

(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

(ii) as a Chief of Staff or in an Executive Grade, $3,500.

(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

[(d) No part-time physician may be paid an aggregate amount of basic pay, pursuant to the rate applicable on the effective date of this section to physicians employed under this title, and special pay under this section in excess of $42,000 per annum, and no part-time dentist may be paid an aggregate amount of basic pay, pursuant to the rates applicable on the effective date of this section to dentists employed under this title, and special pay under this section in excess of $37,000 per annum.]

(d) In determining—

(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.

(e)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years. Any physician or dentist who entered into an agreement under this section and has not failed to refund any amount which such physician or dentist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section. [Notwithstanding the provisions of the preceding two sentences, no agreement entered into under this section shall extend beyond September 30, 1981, and any agreement entered into under this section after September 30, 1980, may be for a period of less than one year if the expiration date thereof is September 30, 1981.]

(2)(A) Any such agreement shall provide that the physician or dentist, in the event that such physician or dentist voluntarily, or because of misconduct, fails to complete at least one year of service, or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section, that such failure is necessitated by circumstances beyond the control of the physician or dentist.

(B) Any such agreement shall specify the terms under which the Veterans' Administration and the physician or dentist may elect to terminate such agreement.

(3) Any amount of special pay payable under this section shall be paid in biweekly installments.

(4)(A) Any physician or dentist who is employed in the Department of Medicine and Surgery on or before the effective date of this section and who enters into an agreement under this section during the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the effective date of this section.

(B) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the effective date of this section and who enters into an agreement under this section before the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the date on which the physician or dentist becomes employed.

(C) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, or who does not enter into any agreement under this section before the close of such 45-day period, and who thereafter enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the physician or dentist becomes employed, whichever date is later.

(f)(*1*) [Any] *Except as provided in paragraph (2) of this subsection, any* additional compensation provided as special pay under this section shall not be considered as basic pay for the [purposes] *purpose* of subchapter VI and section 5595 of chapter 55, chapter 81 [83, or 87] *or 83* of title 5, or other benefits related to basic pay.

(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 of title 5. Notwithstanding the

preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) of such title, for the purposes of computing an annuity under such chapter only if—

(A) the annuity is paid under section 8337 of title 5 or under subsection (d) or (e) of section 8341 of such title; or

(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and once every two years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and

(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

(3) The President shall include in the Budget next transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.

(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.

§ 4119. Relationship between this subchapter and other provisions of law

Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overriden, or otherwise modified.

* * * * *

Subchapter IV—Veterans' Administration Health Professional Scholarship Program

§ 4141. Establishment of program; purpose; duration

(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the "Scholarship Program."). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter.

(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

§ 4142. Eligibility; application; written contract

(a) To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

(2) submit an application to the Administrator for participation in the Scholarship Program;

(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms—

(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing an adequate supply of the personnel in the health profession concerned.

(d)(1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

(1) an agreement that—

(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) of from one to four school years during which period the participant is pursuing a course of training described in subsection (a)(1)(B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

(B) subject to clause (2) of this subsection, the participant agrees—

(i) to accept such a scholarship;

(ii) to maintain enrollment and attendance in a course of training described in subsection (a)(1)(B) of this section until the participant completes the course of training;

(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service" equal to the greater of—

(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program, or

(II) two calendar years; and

(v) if the participant's period of obligated service is deferred under section 4143(b)(3)(A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b)(4)(B) of this title;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

(4) such other statments of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

(f)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

(i) the tuition of the participant in such school year; and

(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

(3) The amount of the monthly stipend, specified in paragraph (1)(B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjusted (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(g) Notwithstanding any other provision of law, participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Surgery while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

(h) The Administrator shall report to Congress not later than March 1 of each year—

(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

(2) the educational institutions providing such training;

(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(i) The Administrator shall prescribe regulations to carry out the Scholarship Program.

§ 4143. Obligated service

(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

(b)(1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

(2) The Administrator shall appoint each participant in the Department of Medicine and Surgery as soon as possible after the date described in paragraph (3) of this subsection.

(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the patricipant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes registered as a graduate nurse in a State.

(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; **and**

(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

(c) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery.

§ 4144. Breach of contract; liability; waiver

(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

(b) A participant who—

(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator);

(2) is dismissed from such educational institution for disciplinary reasons;

(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training; or

(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a

period of time determined under regulations prescribed by the Administrator;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

(c) *If a participant breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:*

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which "A" is the amount the United States is entitled to recover; "Φ*" is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143*(b)(4)(*B*) *of this subchapter; and "s" is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.*

(*d*)(*1*) *Any obligation under the Scholarship Program* (*or a written contract thereunder*) *of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.*

(*2*) *The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program* (*or a contract thereunder*) *whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.*

(*3*) *Any obligation of a participant under such Program* (*or a contract thereunder*) *for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.*

(*e*) *The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—*

(*1*) *any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and*

(*2*) *any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.*

§ 4145. Exemption of scholarship payments from taxation

Notwithstanding any other law, any payment to, or on behalf of, a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

§ 4146. Program subject to availability of appropriations

The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

Chapter 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

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Subchapter II—Procurement and Supply

* * * * *

§ 5021. Revolving supply fund

(a) The revolving supply fund established for the operation and maintenance of a supply system for the Veterans' Administration (including procurement of supplies, equipment, and personal services and the repair and reclamation of used, spent, or excess personal property) shall be—

(1) available without fiscal year limitations for all expenses necessary for the operation and maintenance of such supply system;

(2) reimbursed from appropriations for the cost of all services, equipment, and supplies furnished, at rates determined by the Administrator on the basis of estimated or actual direct cost (*which may be based on the cost of recent significant purchases of the equipment or supply item involved*), and indirect cost; and

(3) credited with advances from appropritions for activities to which services or supplies are to be furnished, and all other receipts resulting from the operation of the fund, including property returned to the supply system when no longer required by activities to which it had been furnished, the proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

[At the end of each fiscal year, any net income of the fund, after making provision for prior losses, shall be covered into the Treasury of the United States as miscellaneous receipts.]

At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.

* * * * *

§ 5022. Authority to procure and dispose of property and to negotiate for common services

(a)(*1*) The Administrator may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under the Administrator's control. Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932, (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of the Administrator's intention to do so in the newspaper of the community in which the lands or buildings to be leased are located. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(*2*)(*A*) *Before entering into a transaction described in subparagraph* (*B*) *of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 30 days from the date upon which the report is submitted.*

(*B*) *Subparagraph* (*A*) *of this paragraph applies to* (*i*) *any transfer of an interest in real property to another Federal agency or to a State* (*or any political subdivision of a State*), *and* (*ii*) *any report to a Federal disposal agency of excess real property.*

(*C*) *A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.*

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Subchapter III—State Home Facilities for Furnishing Domiciliary, Nursing Home, and Hospital Care

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§ 5034. General regulations

Within six months after the date of enactment of this section or any amendment to it with respect to such amendment, the Administrator shall prescribe the following by regulation:

(1) The number of beds required to provide adequate nursing home care to veterans residing in each State [which number shall not exceed two and one-half beds per thousand veterans population in the case of any State].

(2) General standards of construction, repair, and equipment for facilities constructed with assistance received under this subchapter.

(3) General standards for the furnishing of care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.

Chapter 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

* * * * *

§ 5070. Coordination with public health programs; administration

(a) * * *

* * * * *

(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such lands, buildings, and structures (including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section

5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chaper, *but no such lease may be for a period of more than 50 years*. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.

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Subchapter III—Assistance to Public and Nonprofit Institutions of Higher Learning, Hospitals and Other Health Manpower Institutions Affiliated With the Veterans' Administration to Increase the Production of Professional and Other Health Personnel

* * * *

§ 5093. Grants

(a) Any eligible institution may apply to the Administrator for a grant under this subchapter to assist such institution to carry out, through the Veterans' Administration medical facility with which it is, or will become affiliated, educational and clinical projects and programs, matching the clinical requirements of the facility to the health manpower training potential of the eligible institution, for the expansion and improvement of such institution's capacity to train health manpower, including physicians' assistants, nurse practitioners, and other new types of health personnel in furtherance of the purposes of this subchapter. Any such application shall contain a plan to carry out such projects and programs and such other information in such detail as the Administrator deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution [and will result in a substantial increase in the number of students trained at such institution, provided there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such institution];

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

* * * * *

PUBLIC LAW 94–123

* * * * *

[SEC. 3. The Administrator of Veterans' Affairs shall submit a report each year to the Committees on Veterans' Affairs of the House of Representatives and the Senate regarding the operation of the special pay program authorized by section 4118 of title 38, United States Code, as added by section 2(d)(1) of this Act. The report shall be on a fiscal year basis and shall contain—

(1) a review of the program to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

(2) any plan in connection with the program for the remainder of such fiscal year and for the succeeding fiscal year.

This report shall be submitted no later than April 30 of each year.]

* * * * *

SEC. 6. (a) [1] The amendments made by section 2 of this Act shall become effective on October 12, 1975.

[(2) No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act), after September 30, 1981.]

(b) Except as provided in subsection (a)(1) of this section, the amendments made by this Act shall become effective beginning the first pay period following thirty days after the date of the enactment of this Act.

PUBLIC LAW 95–520

* * * * *

SEC. 8. (a) Not later than February 1, [1980] *1981*, the Administrator of Veterans' Affairs shall submit a report to the Congress and to the President on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) a detailed report on the hospital care and medical services furnished or to be furnished to such veterans during fiscal years 1975 through 1981, with information in such report shown with respect to the number of veterans treated or to be treated, the facilities at which such care and services are furnished or to be furnished, and the extent to which such care and services are furnished or are to be furnished for the treatment of veterans for service-connected disabilities of any degree and of veterans with service-connected disabilities rated at 50 per centum or more; and

(3) recommendations as to how the health-care needs of such veterans can best be addressed within the existing authority of the Administrator of Veterans' Affairs and what additional authority, if any, is necessary and desirable to meet such needs.

(b) In making recommendations under subsection (a)(3), the Administrator shall take into consideration—

(1) the state of the economy in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) alternative sources of health-care services that would be available to veterans in the Commonwealth of Puerto Rico and in the Virgin Islands if the health-care services furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(3) the desirability of equitable distribution of Veterans' Administration health-care resources; and

(4) the higher priority established by law for the care and treatment of service-connected disabilities.●

Mr. THURMOND. Mr. President, I rise in support of H.R. 7102, as amended, the Veterans' Administration Health-Care Amendments Act of 1980. This measure contains S. 2534 which this body passed unanimously on June 5, 1980, and subsequently was incorporated by the House into H.R. 7102 on July 31, 1980. H.R. 7102, as amended, will address several areas of vital concern within the VA health care delivery system.

Title I is directed toward the resolution of many problems the VA is experiencing in recruiting and retaining qualified health care personnel. The heart of the VA is its health care system. With 172 hospitals, 282 outpatient clinics, and numerous support facilities, the VA has become the largest provider of health care in the world.

In an effort to continue the quality work that is being performed in the VA hospital system, it is imperative that the compensation that these highly qualified medical professionals receive is equivalent or competitive with the non-VA sector. Title I would address this issue by establishing a permanent special pay authority for VA physicians, dentists, and other health care professionals. This authority would replace the stopgap authority which has been in effect since 1975 and should encourage the individuals considering VA service as a career to make their decisions earlier and with some degree of certainty about their future.

Also, title I would exempt top personnel within the Department of Medicine and Surgery who are employed under title 38 from the provision of title 5 of the United States Code relating to Senior Executive Service. I believe that it is very important to the integrity of the VA health care system that its top employees are VA personnel and not subject to the practices of the Office of Personnel Management.

Several issues relating to the appropriate balance between full-time and part-time physicians at VA facilities, improved personnel management relating to the Nursing Service, and other employment benefits issues are authorized by title I of H.R. 7102.

Mr. President, the importance of the care that the VA renders and is capable of rendering to our older veterans cannot be overemphasized. Title III of H.R. 7102 will incorporate the major provisions of S. 1523, a bill which I introduced on July 16, 1979, and addresses the long range care of our Nation's aging veterans population. There are presently 6 million U.S. veterans aged 60 and older. By 1985, this number will increase to 9 million and will eventually reach 11 million by 1995.

Title III will address the problem presented by the phenomenon of the aging veteran by authorizing the institution of a pervasive and intensive program within the VA's Department of Medicine and Surgery to study and do research in the field of geriatrics. Specifically, this legislation would authorize up to 15 VA hospitals as locations for demonstration centers of research, education, and clinical operations in geriatrics. These demonstration centers would be authorized for a period of 4 years and would be supervised by a newly created position of Assistant Chief Medical Director for Extended Care within the VA's Department of Medicine and Surgery.

Mr. President, this provision would significantly enhance the quality of geriatric care now provided in VA hospital facilities and, ultimately, would provide a meaningful effort by our Government to address the needs of the 32 million elderly persons who will live in this country by the year 2000. It is far reaching and proposes to address a future problem with a view of finding viable solutions now.

Mr. President, I believe H.R. 7102, as amended, is a reasonable and fair measure that will further our Nation's commitment to veterans by having a quality VA health care delivery system. I urge my colleagues to support H.R. 7102, as amended.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CRANSTON, I move that the Senate concur in the House amendment.

Mr. TOWER. Mr. President, the appropriate Senators on this side of the aisle have cleared this, and therefore I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIFTH ANNIVERSARY OF THE HELSINKI ACCORDS—HOUSE CONCURRENT RESOLUTION 391

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 391.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 391, concerning the fifth anniversary of the Helsinki accords and calling for prominent attention to human rights concerns at the Madrid conference.

Mr. TOWER. Mr. President, this resolution has been cleared with the appropriate Senators on this side of the aisle, and there is no objection.

● Mr. PELL. Mr. President, representatives of the 35 nations which signed the 1975 Helsinki accords—the United States, Canada, the Soviet Union, and 32 European nations—will meet in Madrid in November to review the status of implementation of the Helsinki agreements and to discuss new measures to advance security and cooperation in Europe.

Since today—August 1—marks the fifth anniversary of the signing of the Helsinki accords, it is especially appropriate to reaffirm congressional support for full implementation of all provisions of the Helsinki Final Act, as well as to express the interest of the Congress in seeing that human rights concerns are given prominent attention at Madrid.

The proposed concurrent resolution is identical to one that I introduced in the Senate and which has 18 Senate cosponsors—Senate Concurrent Resolution 111. Each resolution specifically urges the U.S. delegation to Madrid to raise violations of human rights, especially those involving members of Helsinki monitoring groups, in a firm, forthright and specific manner. It also calls upon the delegation to seek a continuation of the review process and thus maintain a forum in which to influence the Soviets and others to implement the agreement by setting the time and place of the next review meeting within 2 years.

Because of the emphasis by many signatory nations on military issues, including several proposals to convene a conference on European disarmament after Madrid, and the desire on the part of some countries to sidestep human rights, it is important at this time to express the strong conviction of the Congress that the U.S. delegation insist on a balanced agenda and a balanced conference. This means a fair review of every element of the Helsinki agreement, with proper attention to military matters, but not at the expense of other subjects.

The Soviet bloc is waging an energetic and concerted campaign designed to avoid discussion of Afghanistan and human rights issues at the Madrid meeting. Both the Soviet Union and its Warsaw Pact allies are warning that if so-called disagreeable issues are stressed by the United States and the Western powers, the conference could end in disaster.

There is no reason to submit to such blackmail. Every nation which signed the Helsinki accords 5 years ago, including the Soviet Union, has a stake in furthering the review process in the interest of promoting security and cooperation in Europe.

A congressional statement of support for full discussion of all issues, and for progress in human rights, will help strengthen the position of the U.S. delegation in its preparatory meetings with our Western allies before the Madrid conference. I, therefore, urge the adoption of this resolution.●

The concurrent resolution was agreed to. The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, for not to exceed 1 hour, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended 10 minutes and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT OF THE UNITED KINGDOM

Mr. TOWER. Mr. President, I wish to introduce two distinguished visitors to the Senate today, two members of the European Parliament of the United Kingdom representing Sussex and Mid-Scotland, the Right Honorable Dr. Madron Seligman and Mr. John R. Purvis, members of the European Parliament.

[Applause.]

RECESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute so that Members might meet our friends from the United Kingdom.

There being no objection, the Senate at 3:17 p.m. recessed until 3:18 p.m.

Whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

HUMAN RIGHTS

Mr. HAYAKAWA. Mr. President, I rise in support of House Concurrent Resolution 399, which specifically urges the U.S. delegation to the Madrid Review Conference to seek compliance with the Helsinki accords and to raise questions regarding violations of human rights.

Five years ago today the leaders of 33 East and West European nations, Canada, and the United States met in Helsinki to sign the Conference on Security and Cooperation in Europe Final Act. Originally the conference was promoted by the Soviets as a means to gain formal acceptance of East European political borders, but in the process of the long negotiations the West was able to expand the document to include humanitarian concerns such as the freer movement of people, ideas, and information; family reunification and visits; binational marriages; travel; access to printed, broadcast, and filmed information; improved working conditions for journalists; and increased cultural and educational exchanges.

An unforeseen development resulted from the inclusion of these human rights principles in the Helsinki accords. Monitoring groups within the Soviet Union and some Eastern European countries began to form in 1976 with the aim of demanding the full implementation of the pledges made by their governments.

The groups, particularly in the Soviet capital as well as in the Ukraine, Lithuania, Georgia, Armenia, and Czechoslovakia, produced documents evidencing numberous and extensive human rights violations by their governments.

The governments of the Soviet Union, Czechoslovakia and other Eastern European countries subsequently mobilized their punitive machinery. All the founding members of the Lithuanian, Armenian, and Georgian groups have been either arrested or exiled to the West.

Of the 11 original members in the Moscow group, all but 1 have received criminal sentences. In the Ukrainian group only 3 of the original 11 members have not been punished. In addition, in this last group, four members who joined later have also been arrested. Despite this, the ranks of the Ukranian, Russian, Lithuanian, and Armenian groups have been augmented by new members who continue their activities under the constant threat of severe punishment.

Mr. President, the members of these persecuted monitoring groups are looking to this country in the hope that we will take cognizance not only of their situation but of all their compatriots who are denied the freedom of thought, conscience, and religion. The least Congress can do is to demonstrate to these courageous people that they have friends in the West who are deeply concerned about their plight.

Mr. President, I therefore join my colleagues in urging the immediate passage of Senate Concurrent Resolution 111. At the same time, I ask unanimous consent that the following editorial from the New York Times of July 31 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MOSCOW VS. RIGHTS

(By Jeri Laber)

Five years after the signing of the Helsinki accords, with the second Helsinki review conference scheduled for November in Madrid, articles have appeared recently on the editorial pages of several leading American newspapers suggesting that the United States boycott the Madrid conference, thus abrogating its Helsinki commitments.

Soviet-American relations are worse today than they have been in several decades; the Soviet thrust into Afghanistan, the American boycott of the Moscow Olympic Games and the failure to ratify SALT II are recent reflections of that tension. Moreover, well before Afghanistan, Soviet leaders, who freely invoke the peaceful "spirit of Helsinki" when it suits their purposes; had made a mockery of the human rights provisions of the Helsinki accords.

I had a chance to see the "Helsinki spirit" in action last fall in Moscow when I met with members of the Moscow Helsinki Watch Group in Andrei D. Sakharov's apartment. The room was "bugged," of course; this was openly acknowledged. Yet the people who had assembled there to meet a Helsinki colleague from the West spoke openly and without fear about their troubles and hopes. Only one word caused them to pause and lower their voices to a whisper—that word was "Helsinki."

There were 12 of them waiting for me in the Sakharov living room on the September afternoon, a plucky but dispirited group, more women than men and most of them quite elderly. They were the survivors of a citizens' movement steadily eroded by the arrest and exile of its most dynamic members—people like Yuri F. Orlov, Anatoly B. Shcharansky, Alexsandr Ginzburg and Vladimir Slepak.

Now, less than a year later, only five of those people remain in Moscow, and they are subject to severe harassment. The rest have been dispersed in a variety of ways: the Sakharovs to the closed city of Gorky, others to prison or internal exile, still others expelled to the West. Oksana Meshko, a handsome, 75-year-old woman who survived Stalin's gulag and whose son is now a political prisoner, was recently forced into a psychiatric hospital.

Monitoring the Soviet monitors has become a tragic numbers game with a constantly rising tally: as of this writing, 43 are in prison or exile for attempting to exercise the rights that we, their American counterparts, take for granted in our imperfect United States. This figure does not include the many Soviet Helsinki monitors who have been forced to emigrate, to say nothing of those who were so intimidated that they did not join in the first place. Nor does it include Helsinki watchers in Eastern Europe, where governments have followed the Soviet lead.

Should we, then, sit down at the conference table with Soviet leaders this fall for a discussion of Helsinki compliance among the 35 signers? Would it not be morally and politically consistent for us to boycott the review conference as we have boycotted the Olympics? Wouldn't this be the most effective way for us to show the Soviet Union that it will be held accountable for violating international agreements it has signed? So goes one set of arguments.

On the other side we find a responsible diplomat like Albert W. Sherer Jr., who was in charge of American preparations for the first review conference in Belgrade in 1977, arguing in the summer issue of Foreign Policy that we should not repeat the mistakes of Belgrade by "hammering away at the cause of Soviet dissidents." Mr. Sherer urges that the superpowers at Madrid "cooperate rather than confront." One wonders to what end.

If we are to go to Madrid, and I believe that we *should*, it is certainly not to mollify the Soviet Union within a Helsinki framework. The Russians will attempt to focus attention at Madrid on questions of military and economic security. They conveniently forget that the accords are unique in recognizing that a country's human rights accord is an international affair intrinsically linked to military and economic stability. We must force them to remember this at Madrid. The American delegation, while freely acknowledging its own shortcomings in complying with the Helsinki accords, should enlist all the support it can get to demand that the Soviet Union and Czechoslovakia release their imprisoned Helsinki monitors as well as countless others being punished for their religious or political beliefs.

There may be room for quiet negotiation as well, but only if we make our position known now—over and over again—*before* Madrid and *at* Madrid. We must take this initiative, even if—especially if—this is our last opportunity.

ORDER OF PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, do we have any orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. The Chair advises the majority leader that we have several special orders for Monday.

The following Senators are recognized under the special order: The majority leader, Senator BUMPERS, Senator HART, Senator PELL, Senator McGOVERN, and Senator CULVER each for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The majority leader will state the parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, what will take precedence on Monday, the completion of the orders for the recognition of Senators or the establishment of a quorum under the cloture rule?

The PRESIDING OFFICER. The latter will take precedence.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Senators take precedence, because each will be counting on his 15 minutes' time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this will not delay the Senate very long in getting to the vote.

I ask unanimous consent that the time of the two leaders on Monday, because of the particular circumstances, be limited to 5 minutes, to be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does Mr. JEPSEN wish to have the floor?

Mr. JEPSEN. Yes.

Mr. ROBERT C. BYRD. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. Twenty-three minutes remain in morning business.

Mr. ROBERT C. BYRD. I thank the Chair. I yield the floor for the moment.

The PRESIDING OFFICER. The Senator from Iowa (Mr. JEPSEN).

ERISA

Mr. JEPSEN. Mr. President, on Tuesday evening, I voted against S. 1076, the Multiemployer Pension Plan Amendments of 1980. I did so for a number of reasons.

First, I felt that it was unreasonable for the Senate to have to vote on such complicated and far-reaching legislation without the benefit of a committee report or sufficient time for those of us who are not members of the committees with jurisdiction to study the issues. I think that experience clearly shows that when Congress rushes through major legislation, bad laws inevitably result. A good example is carryover basis, which was tacked on to the Tax Reform Act of 1976 in the wee hours of the 94th Congress. The result is that the 96th Congress had to repeal this section of the bill.

Second, I have serious doubts about the effect of bringing multiemployer pension plans under ERISA, given the experience with ERISA on single-employer plans thus far. The large costs associated with complying with ERISA regulations—which in many cases overlap among the IRS, the Labor Department, and the Pension Benefit Guaranty Corporation—encouraged many small firms to simply drop their pension plans rather than comply with all the redtape. In the 5 years since implementation of ERISA, 59,365 pension plans were terminated, compared to only 17,895 during the previous 5 years. Thus, the ratio between new pension plans and terminated plans has fallen from 13.5 to 1 before ERISA to 4 to 1 since ERISA.

What this means is that millions of Americans have lost the security of an employer-provided pension plan and must make their own arrangements.

I fear that the same thing will happen to those Americans covered by multiemployer pension plans as well as a result of S. 1076. As Robert Merry wrote in Thursday's Wall Street Journal, the multiemployer pension bill "could contribute to the eventual demise of multiemployer pension plans, which in turn would threaten the financial well-being of millions of current and future retirees."

In my view, ERISA is just another example of good intentions gone wrong. There were pension abuses that needed correction and some aspects of ERISA are desirable. But the total effect of all the regulations and requirements of ERISA has been to eliminate pension coverage for millions of Americans.

I ask unanimous consent that Robert Merry's article from the Wall Street Journal be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Bill Insuring Multi-Employer Pensions Could Cause Wide Aversion to Such Plans

(By Robert W. Merry)

Washington.—Congress is poised to pass legislation that could contribute to the eventual demise of multi-employer pension plans, which in turn would threaten the financial well-being of millions of current and future retirees.

After years of delay and months of wrangling, the lawmakers may today clear a bill guaranteeing retirement benefits of pension funds in which many companies join to provide benefits through union-negotiated plans. Although both the House and Senate have passed a bill, they have yet to work out the differences between their separate versions.

Essentially, the legislation would:

Impose a stiff "withdrawal liability" on most employers who abandon a multi-employer pension plan. This liability, based on the employer's share of his plan's unfunded vested benefits, would equal the departing employer's current annual obligation for up to 20 years—or until current vested benefits are fully funded. Most construction-company withdrawals are excluded from the liability because of the mobile nature of that industry.

Increase multi-employer pension plans' premium payments to the Pension Benefit Guaranty Corp., the federal agency that insures pension plans. Under the bill, these annual insurance premiums would increase to $1.40 for each participating plan from the current 50 cents. The premiums could then rise further after four years, reaching after eight years a maximum of $2.60, which is the current premium rate for single-employer plans.

Scale back guaranteed benefit levels. Under the bill, the PBGC would guarantee 100% of the first $5 of monthly benefits per year of an employe's service. The next $15 per year of service would be guaranteed at 75% for strong plans and 65% for weaker plans. At most, this would amount to a little more than half of the maximum $1,159 a month guaranteed to employes in single-employer plans.

While the ramifications of the legislation haven't received wide attention, some pension specialists think it could generate great employer aversion to such plans.

SHRIVELING OF PLANS FORECAST

If that happens, companies not currently in multi-employer plans would probably try to stay out, and those in them could begin seeking ways to escape. The possible result: an eventual shriveling of the 2,000 U.S. multi-employer plans, now common in trucking, construction, coal, food retailing and some other industries.

"I think we may be looking at dinosaurs here," says one congressional aide with experience in the pension area.

Not everyone agrees. "I think it remains to be seen" whether multi-employer plans eventually fade away, says Robert Nagle, director of the PBGC. He contends that the bill actually could encourage employers to participate.

The idea behind the legislation is to shore up multi-employer pension plans so they can be brought under the 1974 Employe Retirement Income Security Act. That act was designed to insure the benefits of retirement-plan participants against the financial collapse of their plans and to guarantee that promised retirement benefits are paid. It has been applied to single-employer retirement plans since 1975, but its application to multi-employer plans has been delayed repeatedly by Congress the past three years.

Although the assumption in 1974 was that mutli-employer plans were universally sound, it has become clear that many of them—especially those in declining or geographically shifting industries—are in serious financial trouble.

EMPLOYERS' LIABILITIES

Most employers are only dimly aware of the pension liabilities they face. That's because the labor contracts they signed over the years generally concentrated on their "cents-per-hour" pension-fund contributions, which were thrown into a central pot to be distributed by labor-management trustees. Most employers thought their obligations ended with those monthly payments.

But ERISA establishes that employers are liable for payment of promised benefits, not just contributions. While nobody knows precisely how large this collective liability is, most agree it is huge.

So the problem facing Congress the past two years has come down to what one pension specialist, Washington lawyer Michael Gordon, calls "an exquisite question of competing equities." It is this: how to strike a balance that protects existing pension funds by discouraging employer withdrawals, assures workers of getting pensions at least close to what they have been promised and protects the PBGC from having to provide enormous guarantees that bankrupt the system.

But some critics argue that there's little balance in the current legislation. Mr. Gordon thinks the bill would place an onerous burden on employers, many of whom would find themselves with pension liabilities exceeding the net worth of their companies. Others, including Karen Ferguson of the Washington-based Pension Rights Center, think the bill tramples on the rights of pensioners, whose benefit guarantees would be scaled down sharply.

Still others question whether the PBGC will ultimately be able to guarantee the growing unfunded liability of multi-employer pension funds. "I don't think the PBGC can survive this," says a congressional expert.

"YOU CAN GET CHEWED"

Hovering over all these fears and objections is the specter that the legislation could undermine employer interest in participating in multi-employer plans. "The bill puts teeth in the program, so you can get chewed pretty badly if you try to get out," says Paul Jackson, a pension consultant for Wyatt Co. here. "The result is that people without them just won't get them." Adds the congressional pension expert: "It will take a while for employers to figure out how to get around this law, but not too long."

But the PBGC's Mr. Nagle argues that by discouraging withdrawals, the legislation will assure a plan's participating employers that they won't get stuck with the liabilities left behind by departing companies. Besides, he adds, the incentives that lead to the emergence of multi-employer plans in the first place—shared liability, administrative convenience and competitive stability—still will exist.

About eight million American workers now stand to benefit from multi-employer pension plans. Some of these workers are in programs so huge and diversified—the Teamsters' western conference plan is an oft-cited example—that it's considered next to impossible that they could ever go under.

But most of the funds aren't in that category and are vulnerable to the vicissitudes of a fluctuating and changing economy. In the past few years, funds in the dyeing, hatmaking and milk-delivery industries have failed, and the construction-industry recession has encouraged many contractors to abandon their union-negotiated pension plans.

Nobody knows precisely how widespread these withdrawals have been, either in construction or in other industries. But some specialists say those companies that did get out probably made a wise business decision. Under the 1974 pension act, which was due to apply to multi-employer plans, a company that terminates its participation in a plan isn't stuck with any liability unless the plan goes under within five years of the withdrawal. And if one employer dropped out with the idea of escaping liability, others might start thinking seriously of doing likewise.

So the possibilties loomed large for a stampede that could lead to mass pension-plan failures—and eventual bankruptcy of the PBGC.

It was against this grim backdrop that the current legislation was conceived. The guiding force behind it was Robert Georgine, president of the AFL-CIO Building and Construction Trades Department, who found himself in rare agreement with such business groups as the U.S. Chamber of Commerce and the National Association of Manufacturers.

As passed by the House, the pension bill made certain concessions to employers. The Senate then acted to scale down some of the House-approved provisions considered the most onerous to small businesses. Among other things, it moved to protect from claims the personal assets of sole proprietors and business partners, to limit the liability in pension-plan withdrawals stemming from the sale of an employer's assets and to exempt more small concerns from the withdrawal liability.

But some involved in the pension controversy think these concessions don't go far enough. This view holds that pensioners and small and medium-sized companies will end up shouldering a disproportionate share of the total burden and that the large multi-employer plans can afford to pay more in higher premiums to help bail out the more troubled smaller plans. But legislators familiar with the bill's progress say that such a distribution of the burden wasn't politically possible.

Mr. JEPSEN. I thank the Chair. I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 1 hour and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate, by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROTOCOL OF THE TRADE AGREEMENT RELATING TO CUSTOMS VALUATION—MESSAGE FROM THE PRESIDENT—PM 230

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance:

To the Congress of the United States:

I am today transmitting to the Congress, pursuant to Section 102 of the Trade Act of 1974, the text of a trade agreement negotiated in the Tokyo Round of the Multilateral Trade Negotiations and entered into Geneva, Switzerland on May 28, 1980. This agreement is a protocol which will make a minor amendment to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, known as the Customs Valuation Agreement. The Customs Valuation Agreement was approved by Congress in the Trade Agreements Act of 1979.

The new agreement will amend the Customs Valuation Agreement to eliminate one of the four tests under that agreement by which related parties can establish a transaction value for customs purposes. This amendment will have little impact on United States law but will greatly facilitate acceptance of the Customs Valuation Agreement by a significant number of developing countries. All of the developed country signatories to the Customs Valuation Agreement support the protocol.

I am also transmitting to Congress, as is required by section 102 of the Trade Act of 1974, an implementing bill and a statement of Administrative Action. This bill approves the protocol and makes changes in our customs valuation law which are necessary or appropriate to implement the protocol. The legislation will also make certain technical amendments to Title II of the Trade Agreements Act of 1979, relating to customs valuation.

I urge the early approval and implementation of the protocol to the Customs Valuation Agreement by the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *August 1, 1980*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:14 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program; and

H.R. 6613. An act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 11:07 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 7664) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to extend the authorizations of appropriations contained in such acts, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; that Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS of North Carolina, Mr. MILLER of California, Mr. MURPHY of Pennsylvania, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. HAWKINS, Mr. MYERS of Pennsylvania, Mr. KOGOVSEK, Mr. GOODLING, Mr. BUCHANAN, Mr. ERDAHL, Mr. DANIEL B. CRANE, Mr. HINSON, and Mr. ASHBROOK were appointed as managers of the conference on the part of the House solely for consideration of titles I, II, and III of the Senate amendment and modifications committed to conference; that Mr. CLAY and Mr. JEFFORDS be the managers of the conference on the part of the House solely for consideration of title III of the Senate amendment and modifications committed to conference; and that Mr. FOLEY, Mr. DE LA GARZA, Mr. ZABLOCKI, Mr. BOWEN, Mr. WAMPLER, and Mr. BROOMFIELD be the managers of the conference on the part of the House solely for consideration of title IV of the Senate amendment and modifications committed to conference.

The message also announced that the House has passed the bill (S. 2680) to improve the administration of the Historic Sites, Buildings, and Antiquities Act of 1935 (49 Stat. 666), with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 7724. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes; and

H.J. Res. 551. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week," and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 387. A concurrent resolution with respect to the independence and integrity of the people and Government of Jamaica; and

H. Con. Res. 391. A concurrent resolution concerning the fifth anniversary of the Helsinki Accords and calling for prominent attention to human rights concerns at the Madrid conference.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 112. A concurrent resolution relative to adjournment to a date certain during the remainder of the 96th Congress; and

S. Con. Res. 113. A concurrent resolution providing for a recess of the Senate from August 6 to August 18, 1980, and an adjournment of the House of Representatives from August 1 to August 18, 1980.

ENROLLED BILL SIGNED

At 11:48 a.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

H.R. 827. An act to establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE MEASURES REFERRED

The following bill and joint resolution were read twice by their titles and referred as indicated:

H.R. 7724. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

H.J. Res. 551. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week," and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 387. A concurrent resolution with respect to the independence and integrity of the people and Government of Jamaica; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 1, 1980, he had presented to the President of the United States the following enrolled bill:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4326. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report that a study has been conducted with respect to converting the custodial services function at the Air Force Academy, Colo., and a decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4327. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting, pursuant to law, a report that a study has been conducted with respect to converting the custodial function at Seneca Army Depot, Romulus, N.Y., and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–4328. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 709 of title 32, United States Code, to eliminate the requirement that thirty days notice of termination be given a National Guard technician who serves under temporary appointment, or who voluntarily ceases to be a National Guard member; to the Committee on Armed Services.

EC–4329. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving U.S. imports to Spain; to the Committee on Banking, Housing, and Urban Development.

EC–4330. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the activities of the United States Travel Service, Department of Commerce, for fiscal year 1979; to the Committee on Commerce, Science, and Transportation.

EC–4331. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on actions taken under the Alaska Native Claims Settlement Act during calendar year 1979; to the Committee on Energy and Natural Resources.

EC–4332. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the enforcement of the Horse Protection Act during calendar year 1979; to the Committee on Environment and Public Works.

EC–4333. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Evaluation of U.S. Efforts To Promote Nuclear Non-Proliferation Treaty;" to the Committee on Foreign Relations.

EC–4334. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that, in order to maintain in the second quarter of fiscal year 1980 the budgeted level of operation for Radio Free Europe/Radio Liberty, Incorporated, $1,460,262 is needed because of the downward fluctuations in foreign currency exchange rates; to the Committee on Foreign Relations.

EC–4335. A communication from the Assistant Secretary for Congresisonal Relations, Department of State, transmitting, pursuant to law, an agreement between the Department of Energy (DOE) and the American Institute in Taiwan (AIT); to the Committee on Foreign Relations.

EC–4336. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of United States Railway Association's Financial Statements, Fiscal Year 1979," July 31, 1980; to the Committe on Governmental Affairs.

EC—4337. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Executive Pay Compression Worsens," July 31, 1980; to the Committee on Government Affairs.

EC–4338. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need for Tighter Controls Over Fuel Purchased by the Postal Service," July 31, 1980; to the Committee on Governmental Affairs.

EC–4339. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The AID Excess Property Program Should be Simplified," July 31, 1980; to the Committee on Governmental Affairs.

EC–4340. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–4341. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–229, "District of Columbia Funds Control Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4342. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–236, "Closing of a Portion of a Public Alley in Square 221 Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4343. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–232, "Security Alarm Systems Regulations Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4344. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4345. A communication from the Assistant Secretary of Housing and Urban Development for Administration, transmitting, pursuant to law, a proposed change to a system of records for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–4346. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4347. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–231, "Rental Housing Act of 1977 Extension Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4348. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–235, "Closing of a Cul-de-Sac in Square 4325 Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4349. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–230, "Equitable Tax Relief Act of 1980" and report, adopted by the Council on July 15, 1980; to the Committee on Governmental Affairs.

EC–4350. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, D.C. Act 3–234, "Independent Personnel Systems Implementation Act of 1980" and report, adopted by the Council on July 29, 1980; to the Committee on Governmental Affairs.

EC–4351. A communication from the Administrators, Farm Credit Banks of Texas Pension Plan, transmitting, pursuant to law, the annual report for the year ending December 31, 1979; to the Committee on Governmental Affairs.

EC–4352. A communication from the Assistant Attorney General for Legislative Affair, Department of Justice, transmitting a draft of proposed legislation to create a Cuban/Haitian Entrant status, and for other purposes; to the Committee on the Judiciary.

EC–4353. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–4354. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the College Housing Program; to the Committee on Labor and Human Resources.

EC—4355. A communication from the Secretary of Education, transmitting, pursuant to law, proposed Family Contribution Schedules for the Basic Educational Opportunity Grant Program for academic year 1981–82; to the Committee on Labor and Human Resources.

EC–4356. A communication from the Deputy General Counsel, Department of Education, transmitting, pursuant to law, final regulations dealing with International Media for the Handicapped; to the Committee on Labor and Human Resources.

EC–4357. A communication from the Secretary of Health and Human Resources, transmitting a draft of proposed legislation to amend the Economic Opportunity Act of 1964 to extend authorizations of appropriations for the Head Start and Native Americans programs, and for other purposes; to the Committee on Labor and Human Resources.

EC–4358. A communication from the President, Legal Services Corporation, transmitting, pursuant to law, a report entitled "The Delivery Systems Study: A Policy Report to the Congress and the President of the United States"; to the Committee on Labor and Human Resources.

EC–4359. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on the VA matching program; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

S. 2582. A bill to provide for the settlement and payment of claims of civilian and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country (Rept. No. 96–881).

H.R. 6086. An act to provide for the resettlement and payment of claims of U.S. civilian and military personnel against the United States for losses resulting from acts of violence directed against the U.S. Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country (Rept. No. 96–882).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 487. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5766.

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment:

S. 2126. A bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation (Rept. No. 96–883).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Special report entitled "Report of the Committee on Commerce, Science, and Transportation Pursuant to Section 302(b) of the Congressional Budget Act of 1974" (Rept. No. 96–884).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 762. A bill to permit the vessel Scuba King to be documented for use in the fisheries and coastwide trade of the United States (Rept. No. 96–885).

By Mr. CANNON, from the Committee on Commerce, Science and Transportation, with an amendment:

H.R. 5164. An act to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes (Rept. No. 96–886).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 497. An original resolution to authorize payment of back pay and retirement contributions from the contingent fund for former employee Candace M. Hanson.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MELCHER, from the Select Committee on Indian Affairs:

Thomas W. Fredericks, of Colorado, to be an Assistant Secretary of the Interior.

(The above nomination from the Select Committee on Indian Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. MELCHER. Mr. President, today the Select Committee on Indian Affairs ordered favorably reported the nomination of Thomas W. Fredericks to be an Assistant Secretary of the Interior.

I ask unanimous consent that Mr. Fredericks' financial statement and biographical sketch be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, SELECT COMMITTEE ON INDIAN AFFAIRS—STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Fredericks, Thomas Wade.

Position to which nominated: Assistant Secretary.

Date of nomination: June 18, 1980.

Date of birth: March 9, 1943.

Place of birth: Elbowoods, North Dakota.

Marital status: Married.

Full name of spouse: Judy Marlene Hass.

Name and ages of children: Michelle Catherine, Monique Ranae.

Education; institution: Minot State College; dates attended, 1961–1965; degrees received, BS; dates of degrees, 1965.

Institution: University of Colorado School of Law; date attended, 1969–1972; degrees reecived, J.D.; dates of degrees 1972.

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates:

Bowbells Public School—mathmatics instructor and coach, Bowbells, North Dakota, 1965–1966.

Standing Rock Sioux Tribe—OEO Director—Administrator of Federal Programs, 1966–1969.

Native American Rights Fund—Staff Attorney, Directing Attorney—handled major cases in Indian Law—Chief Executive Officer in charge of staff of 60—1506 Broadway, Boulder, Colorado—1972–1977.

Association Solicitor for Indian Affairs—Chief Lawyer for the Department of Interior on Indian legal matters, 18th and C Sts., NW., Washington, D.C.

Attorney-at-Law—In charge of development of private practice for Thomas W. Fredericks & Associates, 941 Pearl St., Boulder, Colorado, 1979 to present.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement: Football Scholarship, North Dakota State Indian Scholarship, Special Scholarship Program for Indians in Law.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations:

Colorado Bar Association, 1972 to present.

North Dakota Bar Association, 1972 to present.

Supreme Court Bar, 1976 to present.

Court of Claims Bar Association, 1974 to present.

Minot State College Alumni Association, 1965 to present.

University of Colorado Alumni Association, 1972 to present.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. None.

Qualifications: State fully your qualifications to serve in the position to which you have been named (attach sheet).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Thomas W. Fredericks & Associates will be terminated and all attorney contracts will be assigned to other law firms pursuant to 25 U.S.C. § 81.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I would hope that upon completion of governmental service that I will once again resume the private practice of law and continue to represent some of my present clients pursuant to 25 U.S.C. 4701(f) and consistent with the Government's Ethics Laws and my local bar ethic codes.

3. Has anybody made you a commitment to a job after you leave government? No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term? No.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future? No.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

QUALIFICATIONS TO SERVE AS ASSISTANT SECRETARY—INDIAN AFFAIRS

Having been born and raised on the Fort Berthold Reservation, North Dakota, I feel I have a good understanding of reservation life. I have also participated in the workings of tribal government as an administrator for the Standing Rock Sioux Tribe. This experience has given me the needed insights into the relationship of tribal government to State and Federal governments.

As an attorney, I have been involved in a number of important pieces of litigation that came before the courts during the 1970s. Also, I have participated in and followed many of the important legislative enactments in the 70s. My experiences in the 70s have given me a better insight as to the problems facing Indian people from a political as well as a legal standpoint.

My experience as Associate Solicitor has provided me the opportunity to understand the inner workings of the Department as well as the Department's relationship with the Congress, the White House and the other departments of the Federal government. As Associate Solicitor, I was also involved in developing the Department's position on all legislation involving Indian affairs.

I feel that these experiences qualify me to serve in the capacity as Assistant Secretary and, if confirmed, look forward to assuming this important position.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated:

I have represented tribal clients before the Department of Interior which are still pending.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy:

While director of the Native American Rights Fund, Inc., I testified on many of the Indian Bills considered in Congress. I also supervised staff who lobbied extensively.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items:

I will recluse myself from any participation in all matters where a potential conflict of interest may arise.

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them:

See Attachment (A).

U.S. SENATE, SELECT COMMITTEE ON INDIAN AFFAIRS—FINANCIAL STATEMENT

Name: Fredericks, Thomas Wade.

Position to which nominated: Assistant Secretary for Indian Affairs, Dept. of Interior.

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS

Cash on hand and in banks, $2,500.00.

Due from others, $6,600.00.

Real estate interests—add schedule, $332,000.00.

Personal property, $50,900.00.

Credit Union Savings, $1,100.00

Thomas W. Fredericks & Associates, $62,254.00.

Life Insurance Est. Cash Value, $5,500.00.

Total assets, $460,854.00.

LIABILITIES

Notes payable to banks—unsecured, $14,000.00.

Real estate mortgages payable—add schedule, $107,300.00.

Other debts—itemize:

Thomas W. Fredericks & Associates, $24,068.00.

Credit Union, $3,000.00.

Credit Cards, $2,500.00.

Total liabilities, $150,868.00.

Net worth, $309,986.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers: None.

ATTACHMENT A

In accordance with the provisions of 43 C.F.R. 735-14. Department of the Interior Employee Responsibilities and Conduct, Mr. Fredericks will refer to this office any decision which might result in a conflict or appearance of conflict because of prior representation of client Indian Tribes while in private practice of law. This provision is specifically stated in 43 C.F.R. 835–14(b)(3):

An Indian or Alaska Native employee of the Department shall not make nor participate in a substantial manner in any decision of the Department if he has a private direct interest as defined in paragraph 20.735–15(b) in the results of the decision. If the decision is one which the employee would be expected to make if he or she had not direct interest, the matter shall be referred to the next higher authority of the Department which does not have such private interest in an appropriate form but without recommendation by the employee having a private direct interest.—Cecil D. Andrus, Secretary of the Interior.

2. Are any assets pledged? (Add schedule.) Residence—844 Spring Drive, Boulder, Colorado—1st Mortgage: $37,000; 2nd Mortgage: $3,300.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain. Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes. The IRS questioned a depreciation schedule on cattle which were sold and not held for breeding purposes. I was required to pay additional taxes in the earlier years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McGOVERN (for himself and Mr. DURENBERGER):

S. 3004. A bill to amend the Internal Revenue Code of 1954 to make the investment credit for railroad property refundable; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 3005. A bill to amend the Education Amendments of 1978 to extend the reporting date and the availability of funds for the Commission on Proposals for the National Academy of Peace and Conflict Resolution, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP:

S. 3006. A bill to amend the Internal Revenue Code of 1954 to provide a nonrefundable tax credit for investment in qualified industrial energy efficiency and fuel conversion projects; to the Commitee on Finance.

By Mr. HOLLINGS (for himself and Mrs. KASSEBAUM):

S. 3007. A bill entitled the "Methane Transportation Research. Development, and Demonstration Act of 1980"; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself and Mr. McGOVERN):

S. 3008. A bill to amend the Internal Revenue Code of 1954 to make the investment credit for railroad property refundable; to the Committee on Finance.

By Mr. GLENN:

S. 3009. A bill to esablish a uranium enrichment fund; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S.J. Res. 192. A joint resolution to designate September 21, 1980, as "National Ministers Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 3006. A bill to amend the Internal Revenue Code of 1954 to provide a nonrefundable tax credit for investment in qualified industrial energy efficiency and fuel conversion projects; to the Committee on Finance.

INDUSTRIAL ENERGY EFFICIENCY AND FUEL CONVERSION TAX INCENTIVE ACT OF 1980

Mr. WALLOP. Mr. President, today I am introducing legislation to increase the tax incentives for industrial energy conservation. This legislation will help promote industrial energy conservation as an integral part of a symmetrical energy policy for the 1980's. A symmetrical energy policy must not only recognize the need to increase the production of domestic energy resources, but it must also reflect the role that can be played by an aggressive program to conserve energy in American industry.

Industrial energy conservation should not be viewed in the context of reduced production, slowed economic growth, or a lower standard of living for the average American. This legislation calls for energy conservation that centers on increasing energy efficiency so rapidly as to permit a reduction in our oil imports and an increase in industrial productivity. I must emphasize that decreasing energy use in industry does not require plant closings or less production. Just the opposite is the case. Industrial energy conservation entails costly investments in new equipment and modifications in existing plants to allow more efficient, productive use of our energy resources. Although it demands costly investments, industrial conservation can create significant short-term response to our energy problems.

Mr. President, this legislation focuses on energy conservation in the industrial sector because industry accounts for nearly 40 percent of total U.S. energy requirements. Natural gas and oil comprise 70 percent of the energy consumed by domestic industry. Significantly, six major industries represent 70 percent of the energy used by the entire industrial sector. These industries are cement, metals, chemicals, petroleum refining, and paper. This legislation would provide these major energy users and the less intensive energy industries added incentives to conserve energy and convert to more abundant domestic resources such as coal.

The rising cost of energy is placing pressures on industry to invest in energy conservation, but these investments can go forward only as fast as industry can afford to retire existing equipment and reinvest in energy efficient improvements and in new machinery. Simply stated, Mr. President, energy conservation demands capital. The need for capital to pay for industrial energy conservation is just one aspect of the general capital formation problems facing the Nation's economy. Much of America's investment capital is already directed by Government mandate into nonproductive investments to protect the environment or increase safety. Although these investments are desirable from a public point of view, they leave business with precious little capital to invest in new equipment.

Discretionary capital is allocated to those investments that promise the most attractive return on investment. Energy conservation projects must compete with a long list of possible productivity enhancing investments, and in many instances economics dictates that energy conservation projects be delayed or placed lower on the list of investment options. By providing additional financial incentives for industrial energy conservation this legislation will make more energy conservation investments economically viable. There is a need for general capital formation legislation that can provide industry with the financial ability to invest in productivity enhancing investments.

Energy tax incentives are a necessary supplement to, not a substitute for, broad based capital formation legislation. By making additional capital available for energy conservation, this legislation can accelerate investments in industrial energy conservation, stimulating energy savings for the Nation and higher productivity in industry.

Mr. President, if there is any criticism of programs providing incentives for industrial energy conservation, let me point out that Congress is already committed to industrial incentives to stimulate the production of synthetic fuels. The Nation recognizes that higher energy prices and advances in technology will eventually alow synthetic fuels to be produced with no Government incentive.

However, the need to accelerate the timetable under which synthetic fuels are developed has led Congress to create a $20 billion Synthetic Fuels Corporation and an array of incentives for synfuel production. It is equally important to take bold steps to accelerate industrial investment in energy conservation. If we are willing to stimulate synfuel production with Government subsidies, we should be equally supportive of cost effective industrial conservation projects. This Nation has vast pools of untapped energy in the form of energy savings that can be achieved through industrial conservation. As recommended by the Harvard Business School study, we must recognize that a barrel of energy conserved is as important to the Nation's energy security as a barrel of energy produced.

Mr. President, I am proposing a tax incentive approach to industrial energy conservation that builds upon the industrial energy conservation legislation already enacted by Congress. This bill reflects comments that I have received from a wide array of people. This legislation would provide a 20-percent investment tax credit for three categories of energy property; alternative energy property, specifically defined energy property and qualified conservation property. The tax credit would be allowed in addition to the regular 10-percent investment tax credit.

Under the bill, "alternative energy property" and "specially defined energy property" would be defined in the same way those categories have been defined by Congress in the Energy Tax Act of 1978, as amended by the Crude Oil Windfall Profit Tax Act of 1980. Alternative energy property covers equipment used to convert from the use of oil or natural gas to more abundant domestic resources such as coal. By increasing the energy investment tax credit allowable or alternative property from 10- to 20-percent the bill will accelerate movement toward the use of more abundant domestic natural resources.

Specifically defined energy property includes 12 specific items of energy saving equipment such as recuperators, heat wheels, and automatic energy control systems that substantially reduce the amount of energy used in industrial processes. By increasing the energy investment tax credit to 20 percent, Congress will be able to accelerate the installation and use of these 12 types of energy saving equipment, and other equipment that the Secretary of the Treasury may include in this category.

Mr. President, although existing law does provide limited incentives for certain industrial energy conservation investments, the narrow definitions in existing law appear to have excluded many of the investment projects that possess the greatest energy efficiency potential. By excluding these projects from the incentive program, the Nation has limited artificially and unnecessarily the energy efficiency gains that can be achieved with existing technology through adequate financial incentives. The result is as tragic as leaving easily recoverable domestic oil reserves in the ground, while we continue to import oil from insecure foreign sources.

To cure this defect in present law by stimulating a broader class of industrial energy efficiency investments, the bill creates a new category of qualified conservation property eligible for the 20-percent additional investment tax credit. This category of property is new and has no counterpart in existing law.

In general, this category of qualified property includes property which is used by the taxpayer as an integral part of a modification to, or replacement of, all or part of an existing facility, process, or item of equipment, but only if the modification or replacement results in the utilization of less energy per unit of output and does not increase the amount of oil and natural gas consumed. If these tests are met, the property which qualifies for the credit must either directly result in the energy savings, or be part of, physically attached to, or otherwise directly associated with such energy saving property.

Qualified energy conservation property would be subject to two limitations to assure that the tax incentive applies only to a targeted range of cost effective conservation investments. First, the credit is limited to the lesser of 20 percent of the qualified investment or $55 for each barrel of energy saved by the investment. This limitation assures that the Federal Government will pay no more for barrel of oil saved than it would for a barrel of energy produced from alternative energy resources such as synfuels. The $55 figure represents 20 percent of a projected current cost of one BOE of energy-producing capacity per day from alternative domestic resources.

A second limitation in the bill adds an element of selectivity designed to limit the additional credit for qualified conservation property to those projects most in need of financial incentives. Specifically, the additional credit would not be allowed for this category of property if the dollar amount of the credit is less than $11 for each barrel of oil or oil equivalent saved in 1 year by the project. The rationale for this limitation is that, from a financial point of view, investments are already sufficiently attractive that there is a substantial question whether governmental incentives are in fact necessary. Thus, this revenue-saving future would not appear to jeopardize the ability of the Nation to realize the benefit of energy savings resulting from this category of conservation investments.

Mr. President, this legislation will also result in significant energy savings by encouraging expanded use of recycling waste materials in industry. Converting waste to energy must be recognized as one of the most significant contributors to meeting the Nation's synfuel energy goals. By encouraging the conversion of waste to energy we can provide significant amounts of energy to our Nation's urban centers where the feedstock is generated and the demand is greatest for alternative energy. The extention of these special tax credits to waste-to-energy projects will help offset the risk and large capital investments needed to bring such facilities to commercial energy production. This legislation will help stimulate further equity investments in waste-to-energy projects allowing more of these facilities to be built across the country.

Mr. President, this bill is the culmination of a long analytical process which began with my introduction of S. 1819 last September. The bill reflects the recommendations of a wide array of industrial energy conservation experts who have endeavored to develop a proposal that stimulated industrial energy conservation in a manner consistent with a strong and vigorous national economy. With this period of study and analysis now at an end, the time has come for us to act on legislation that will accelerate investments in industrial energy conservation. Our national energy crisis cannot be resolved unless we have the will to act, and this bill offers us an important opportunity.

Mr. President, I can think of no better explanation of the need for this type of legislation than the editorial written by Profs. Robert Stobaugh and Daniel Yergin which recently appeared in the Wall Street Journal. I ask unanimous consent that this editorial and the bill be reprinted in the Record.

There being no objection, the bill and editorial were ordered to be printed in the Record, as follows:

S. 3006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Industrial Energy Efficiency and Fuel Conversion Tax Incentive Act of 1980".

Sec. 2. Allowance of Credit.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44E the following new sections:

"Sec. 44F. Investment in Qualified Industrial Energy Efficiency and Fuel Conversion Projects.

"(a) General Rule.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified investment (as determined under section 46 (c) and (d) in section 38 property (determined without regard to the words '(not including a building or its structural components)' in section 48(a) (1) (B)) which is (or, for the purpose of applying section 46(d), will be) qualified industrial energy property.

"(b) Credit Not To Exceed Tax Liability.—

"(1) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section other than the credits allowable by sections 31, 39, and 43.

"(2) CERTAIN TAXES NOT CONSIDERED TAXES IMPOSED BY THIS CHAPTER.—For purposes of this section, any tax imposed for the taxable year by section 55 (relating to alternative minimum tax for taxpayers other than corporations), section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 409(c) (relating to additional tax on retirement bonds), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(b)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(3) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (referred to elsewhere in this section as the 'unused credit year'), the excess shall be—

"(i) an industrial energy conservation investment tax credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an industrial energy conservation investment tax credit carryover to the following year following the unused credit year,

and, subject to the limitations imposed by paragraph (1), shall be added to the amount allowable as a credit by such section for such years. The entire amount of the unused credit year for an unused credit shall be carried to the earliest of the 4 taxable years to which (by reason of clauses (i) and (ii)) it may be carried, and then to each of the other 3 years to which it may be carried to the extent that, because of the limitation in subparagraph (B), the unused credit may not be added for a prior taxable year.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section (determined without regard to this paragraph) for the taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for the taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) QUALIFIED INDUSTRIAL ENERGY PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified industrial energy property' means property used as an integral part of a modification to, or replacement of, all or part of an existing manufacturing production, or extraction facility, commercial or industrial process, or item of equipment, but only if such modification or replacement—

"(A) does not increase the total amount of oil and natural gas (other than petroleum coke and waste gases) consumed by such facility, process, or item of equipment per unit of output, and

"(B) either results in—

"(i) the utilization by such facility, process, or item of equipment of less energy per unit of output, or

"(ii) the conversion of such facility, process, or item of equipment to permit the use of an alternate substance as a fuel or feedstock.

"(2) LIMITATIONS.—Property shall be considered as qualified industrial energy property only if such property is tangible property—

"(A) used as an integral part of manufacturing production, or extraction,

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(C) the useful life of which (determined as of the time such property is placed in service) is 3 years or more,

"(D) the original use of which commences with the taxpayer, and

"(E) either directly results in a utilization or conversion described in paragraph (1)(B), or is—

"(i) part of,

"(ii) physically attached to, or

"(iii) directly associated with or functionally related to,

such property.

Property the installation of which is reasonably necessary for the proper installation, operation, or maintenance of property which directly results in a utilization or conversion described in paragraph (1)(B) shall be treated as property described in subparagraph (E)(iii).

"(3) EXISTING.—The term 'existing' means—

"(A) when used in connection with a facility, a facility, the construction, reconstruction, or erection of which is completed before December 31, 1980,

"(B) when used in connection with an industrial or commercial process, a process which was carried on as of such date, and

"(C) when used in connection with equipment, equipment which was placed in service before such date.

"(4) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(A) oil,

"(B) natural gas, or

"(C) any product (other than petroleum coke and waste gases) of oil or natural gas.

"(5) COMPUTATIONS PER UNIT OF OUTPUT.—The determination required by paragraph (1)(A), and, if applicable, the determination required by paragraph (1)(B)(i), shall be made by comparing the Btu content of the oil and gas (or other source of energy in the case of paragraph (1)(B)(i)) used by the facility, commercial or industrial process, or item of equipment per unit of output prior to the modification or replacement, with the Btu content of the oil and natural gas (or other source of energy in the case of paragraph (1)(B)(i)) used by such facility, commercial or industrial process or item of equipment per unit of output upon completion of the modification or replacement. Computations under this subparagraph shall be made in accordance with subsection (d).

"(d) REDUCTION OF CREDIT.—

"(1) IN GENERAL.—Notwithstanding subsection (a), the credit allowable by this section for qualified industrial energy property shall not exceed the amount determined under the following table:

"If the BOE cost of the property is—	The allowable credit is—
Less than $11	Zero
At least $11 but not more than than $55	The subsection (a) amount
More than $55	The alternative credit amount.

"(4) DEFINITIONS.—For purposes of paragraph (1)—

"(A) BOE COST.—The term 'BOE cost' means, with respect to any qualified industrial energy property—

"(i) the subsection (a) amount with respect to such property, divided by

"(ii) the annual number of BOE's saved by the modification or replacement of which such property is an integral part.

"(B) ANNUAL BOE'S SAVED.—The term 'annual number of BOE's saved' means an amount equal to—

"(i) the excess of—

"(I) the average number of BOE's utilized by the facility, commercial or industrial process, or item of equipment per unit of output during a representative 12-month period prior to the modification or replacement, over

"(III) the number of BOE's utilized by such facility, commercial or industrial process, or item of equipment per unit of output during any representative 12-month period occurring within the recomputation period,

multiplied by

"(ii) the units of output during such 12-month period prior to the modification of replacement.

For purposes of this subparagraph one BOE shall be equal to 5.8 million Btu's, and determinations with respect to electricity shall be made by employing a heat rate of 10,000 Btu's per kilowatt hour.

"(C) SUBSECTION (a) AMOUNT.—The term 'subsection (a) amount' means the credit allowable under this section determined without regard to this subsection.

"(D) ALTERNATIVE CREDIT AMOUNT.—The term 'alternative credit amount' means, with respect to any qualified industrial energy property, an amount equal to $55 multiplied by the annual number of BOE's saved by the modification or replacement of which such property is an integral part.

"(3) TIME OF APPLICATION OF LIMITATIONS ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The provisions of this subsection shall be applied as of the close of the recomputation period.

"(B) RECOMPUTATION PERIOD DEFINED.—For purposes of this paragraph, the term 'recomputation period' means, with respect to any modification or replacement, the period which begins on the date on which the qualified industrial energy property which is an integral part of such modification or replacement is placed in service and ends on the last day of the first taxable year beginning more than 180 days after such date.

"(C) RECAPTURE OF EXCESS CREDIT.—If the amount of the credit allowed under this section (determined without regard to this subsection) with respect to qualified industrial energy conservation property exceeds the credit allowable under this subsection, the tax imposed by this chapter for the recomputation year shall be increased under section 47 by the amount of such excess.

"(d) SPECIAL RULES.—

"(1) CERTAIN OTHERWISE QUALIFIED PROPERTY NOT TO BE TREATED AS QUALIFIED.—No property shall be treated as qualified industrial energy property if—

"(A) the taxpayer claims the energy percentage provided by section 46(a)(2)(C) with respect to that property, or

"(B) in the case of property which replaces an existing productive facility—

"(i) the replaced property is not retired from service, other than for use as a temporary replacement for the qualified industrial energy property which replaced it during periods for which the qualified property is inoperable due to an emergency or on account of repairs or maintenance, or

"(ii) the replacement property is constructed on a site other than the site of the replaced property or reasonably adjacent to that site.

"(2) APPLICATION OF INVESTMENT CREDIT RULES.—

"(A) CREDIT IN ADDITION TO SECTION 38 CREDIT.—The credit allowed by this section is in addition to any amount allowed as a credit under section 38 (other than any amount determined under section 46(a)(2)(C) (relating to the energy percentage)).

"(B) CERTAIN SUBPART B RULES TO APPLY.—

"(i) Except as otherwise provided in this section, the provisions of sections 47 and 48 are hereby made applicable, under regulations prescribed by the Secretary, to the credit allowed by this section, except that—

"(I) the words '(not including a building and its structural components)' contained in section 48(a)(1)(B) shall be disregarded,

"(II) any reference to 'section 38 property' shall be treated as a reference to 'qualified industrial energy property', and

"(III) section 48(a)(10) (relating to boilers fueled by oil or gas) shall not apply.

"(ii) For the purpose of determining the amount of the taxpayer's qualified investment in qualified industrial energy property, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent for all items without regard to the useful like of any particular item.

"(iii) For purposes of applying section 47, if qualified industrial energy property is disposed of or converted into property which is not qualified industrial energy property, and if such disposition or conversion occurs before it has been in service for half its useful life, the disposition or conversion shall be treated as having occurred before the close of the third year after the property was placed in service.

"(iv) No credit shall be allowed under this section for property which is public utility property (within the meaning of section 46 (f)(5)).

"(v) In the case of a taxpayer which is not a corporation, the credit allowed by subsection (a) shall be allowed with respect to property of which such person is the lessor under the rules applicable to the credit allowed by section 38 set forth in section 46 (e)(3) (but without regard to the limitations of section 48(a)(4) and (5)).

"(3) Property financed by public funds.—Any investment in qualified industrial energy property shall be reduced to the extent that such investment is made directly or indirectly with funds provided for the acquisition or modification of such property by a grant paid by any agency of the United States.

"(4) Property financed by industrial development bonds.—In the case of qualified industrial energy property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, '10 percent' shall be substituted for '20 percent' in subsection (a).".

(b) Technical and Conforming Amendments.—

(1) The Table of sections for such subpart A is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Investment in qualified industrial energy efficiency and fuel conservation projects.".

(2) Paragraph (8) of section 46(f) of such Code is amended by striking out "and the Revenue Act of 1978" and inserting in lieu thereof "the Revenue Act of 1978, and the Industrial Energy Efficiency and Fuel Conversion Tax Incentive Act of 1980".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E", and inserting in lieu thereof "44E, and 44F".

(c) Effective Date.—

(1) In General.—The amendments made by this section shall apply to qualified industrial energy property which is placed in service not later than December 31, 1986, and

(A) which is acquired by the taxpayer after July 31, 1980, or

(B) the construction, reconstruction, or erection of which is commenced by the taxpayer after July 31 1980.

(2) Affirmative commitments.—For the purpose of applying the provisions of paragraph (1) with respect to property which is part of a project with a normal construction period of two years or more (within the meaning of section 46(d)(2)(A)(i) of the Internal Revenue Code of 1954), "December 31, 1994" shall be substituted for "December 31, 1986" if—

(A) before January 1, 1987, the taxpayer has completed all engineering studies in connection with the commencement of the construction project, and has applied for all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project, and

(B) before January 1, 1990, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially defined for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

Sec. 3. Increased Credit for Certain Items of Alternative Energy Property and Specially Defined Energy Property.

(a) In General.—The table contained in clause (i) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to energy percentage) is amended by adding at the end thereof following new subclause:

"VII. Certain alternative energy property and specially defined energy property.—Property described in section 48(1)(2)(A)(iv), 48(1)(3) (other than clause (viii) or (ix) of subparagraph (A) thereof), or 48 (1) (5).	20 percent.	The date of the enactment of the Industrial Energy Efficiency and Fuel Conversion Tax Incentive Act of 1980.	December 31, 1986.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending on or after the date of enactment of this Act.

Industrial Conservations Incentive

(By Robert Stobaugh and Daniel Yergin)

For a variety of reasons, a free market has not been used in the United States to achieve an appropriate balance between energy consumption and energy conservation. This will be true even after domestic oil is decontrolled in September. Thus, American industry, as well as other sectors, is subject to a continuing "consumption bias."

This bias has very serious implications for both the individual company and the nation. It means that conservation is not being achieved at anything like an economic rate. In effect, the industrial sector is seriously underinvesting in energy efficiency. As a consequence, both the country and the private concern will be subject to much higher but unnecessary energy costs in the years ahead.

Much greater effort should be put into stimulating conservation investments in the industrial sector, for this sector is capable of achieving substantial conservation savings quickly. Unfortunately, this sector has received little attention for public policymakers.

One reason that the special problems of industry have received relatively little attention is because industry's record is much better than that of other sectors. Between 1973 and 1978, industrial energy use decreased by 12 percent per unit of output, whereas there was a 1 percent increase in per capita energy use in the residential and commercial sector.

Some companies have organized themselves to achieve truly outstanding savings—reductions on the order of 30 percent to 45 percent. But many potential savings have not been made. Many corporate energy managers believe that with relatively modest efforts, their companies could achieve 20 percent to 40 percent reductions in absolute terms—but are not.

MANY BARRIERS

This is not because of lack of desire or interest. Many barriers stand in the way of adequate levels of investment in energy conservation—unclear organizational responsibilities, institutional obstacles to cogeneration and imperfect information. But the most important obstacle is the financial barrier, which has two parts. First, industrial concerns, as well as other consumers, pay subsidized prices for their conventional energy sources. Second, lack of adequate capital retards investment. Thus, the major remedy lies primarily with financial incentives.

First, subsidized prices. Even after oil-price controls end, the cost of oil products will be below the true cost to the nation, for imported oil embodies a number of side-effects that are costly to the nation, but not to the user, at least not at the time when it makes its decision to use oil or invest in efficiency. These costs include the impact of the marginal U.S. oil imports on the world market. If the United States had kept to its 1975 import level of 6 million barrels a day instead of 8.5 million at the beginning of 1979, we might well have not seen prices reach $35 a barrel—with all the inflationary and GNP losses that accompany it. Our belief is that the marginal cost of the extra several million barrels daily of U.S. oil imports was on the order of $60 to $100 a barrel.

How to correct for this gap between $35 a barrel that the user sees and the $60 to $100 the nation pays? One way is a tariff—of 100% or more. A response of this sort is a standard solution of economists when the price of imports works against achieving some national goals. But it is unrealistic to expect a tariff of this magnitude to be enacted—and if it were, it would draw dollars away from conservation investments to paying for current energy costs. To say the least, it would have a harsh impact.

Our other energy prices are also subsidized. Natural-gas price controls, of course, will be in existence for "new" gas until 1985, and for "old" gas indefinitely. Consumers of electricity, for instance, pay average costs rather than the marginal costs engendered by new generating capacity. Moreover, there are obvious side-effects in the use of coal and nuclear power that are not included in the market price—hazy skies in the case of coal and fear of a catastrophic accident in the case of nuclear power. The true cost of these to society is hotly debated, but everyone would agree that the result is that energy prices do not give correct information to consumers, and are unlikely to do so.

The financial barrier is also operative within the corporation. Many who say that "industry will take care of itself" are assuming that a corporation is a single rational actor, with a single mind.

On the contrary, a constant competition takes place within a company over the allocation of capital. Companies establish various hurdle rates in order to make those decisions on a rational basis. Conservation investments must often leap over high hurdle rates—two- or three-year paybacks. They are not viewed as having the same strategic impact as new product or additional capacity and so they are postponed. Other claimants are also ahead in line, such as mandated environmental expenditures.

Conservation investments do not attain the same level of interest, commitment, and glamour for top management as do investments that lead to increased sales. Also, energy may not be a significant cost to a firm, and so, even if the payback is good, management will choose to put its dollars elsewhere. After all, the company is purchasing average barrels at $35—not marginal barrels at $60 to $100. Finally, high interest rates and economic uncertainty cause management to pare down its list of investments—and conservation investments often fall off the bottom.

The result of the financial barrier is that there is a very large backlog of highly desirable energy-conservation investments that would benefit both industry and the nation—that could perhaps lead to a 20% to 30% absolute reduction in energy use in the industrial sector. Assuming some modicum of economic stability, many of these investments will eventually be made. But they are much more valuable to the nation if done in 1981 rather than in 1986.

TAX CREDITS REQUIRED

Tax or other policies that promote investment in new facilities will speed energy conservation. Rapid depreciation policies for new facilities could substantially accelerate efficiency. The 1978 National Energy Act provided a limited 10 percent credit for conservation investments. But, given the financial hurdle, this credit seems much too low. Significantly greater tax credits, up to 40 percent, plus accelerated depreciation or direct financial payments, are required. In addition, energy-conservation loans and grants for small businesses, which are often cash-strapped, are needed.

Industry executives freely acknowledge that there are many energy-saving innovations in which they could be investing, but are not because of other more urgent claims on capital. One company, for example, was considering a $500,000 investment that could lead to a 40 percent reduction in energy use—for a 1.5-year payback. It made this investment in its Belgian factory because of the incentives provided by the Belgian government. It did not in its similar American factory because other claims on capital were ahead in line.

Unless adequate incentives are provided to overcome the barriers to investments in more efficient use of energy, the U.S. will be faced with a vicious circle. The recessions resulting from higher world oil prices will retard investment in more efficient plants, thereby slowing energy conservation over the longer term, so that at any given level of economic output there is greater pressure on energy supplies.

There is an alternative: more efficient energy use and the benefits that go with it—greater economic output, more stability, reduction in the alarmingly large and potentially larger dependence on OPEC oil, a cleaner environment, less tension with our allies and a stronger dollar. By refusing to take sensible policy steps, we foolishly deny ourselves these benefits.

(Note.—Robert Stobaugh and Daniel Yergin are co-editors of "Energy Future: Report of the Energy Project at the Harvard Business School." Mr. Stobaugh is professor of business administration at the Harvard Business School and director of the project. Mr. Yergin is a lecturer at the Kennedy School of Government at Harvard and is editor of "The Dependence Dilemma: Gasoline Consumption and America's Security.")

By Mr. HOLLINGS (for himself and Mrs. Kassebaum):

S. 3007. A bill entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980"; to the Committee on Commerce, Science, and Transportation.

● Mr. HOLLINGS. Mr. President, as we all know a major cause of our Nation's current economic difficulties is the continued importation of expensive foreign oil. One of the primary uses of this oil is in the transportation sector. In fact, meeting the daily fuel requirements of the vehicles of the American people takes up a large portion of not only the imported oil but an increasingly large amount of our domestically produced oil. The threat posed to our Nation by continued reliance on foreign energy supplies is potentially devastating. On a day-to-day basis, the dependence weakens us economically and our national security is put at risk by the threat of an oil cutoff. Clearly, it is important that we take steps now to reduce the amount of oil used in the transportation sector of the economy.

There is no simple, single solution to this problem. The legislation I am today introducing on behalf of myself and Senator Kassebaum is designed to make possible the use of methane in the transportation sector which could help bolster our economy. Our bill, the Methane Transportation Research, Development, and Demonstration Act of 1980, offers our Nation the opportunity to utilize a fuel which has a variety of benefits when compared to other transportation fuels now in use or under consideration by private companies and the Federal Government.

Natural gas, which is composed of 95 percent methane, is our country's most abundant source of this domestically produced fuel. As indicated in the bill, methane is also derived from such domestic sources as coal gas, Devonian shale, tight sands, geopressured zones, coal seams, and such renewable resources as marine and land biomass, peat, and organic and municipal wastes.

Of importance, methane has the potential for reducing the cost of transportation fuel to the consumer. The rate of return on this small investment would be great. Presently, methane costs the equivalent of 65 cents per gallon of gasoline.

Another major advantage of methane-powered vehicles is based on environmental considerations. Generally, all types of emissions associated with methane-powered vehicles are of lower levels than those associated with vehicles powered with other fossil fuesl. On a total energy-cycle basis (from energy source to end use) all types of emissions associated with methane-power vehicles are lower than those from vehicle powered by gasoline from oil, coal or shale.

Currently there are only about 10,000 methane-powered vehicles operating in the United States. This is another example of where our country lags behind other nations. By contrast, as estimated 400,000 motor vehicles burning gaseous fuels are in use world-wide. There are over 250,000 natural-gas-powered vehicles in Italy alone and New Zealand has recently announced a program to convert 150,000 vehicles to natural gas by 1983. Even the Soviet Union intends to convert most of the buses in the city of Moscow to methane. Clearly, methane has been proven to be a viable and economic transportation fuel for vehicles. The rapid development of this alternative fuel technology in the United States, however, is being hindered by economic and institutional barriers founded on a data base of outdated economic and gas-supply studies and restrictive laws which do not apply to the modern methane transportation situation.

Our bill, Mr. President, calls for funds to support advanced and accelerated research, development and demonstration of methane use in Government, commercial, and commuter vehicle fleets as well as for various agricultural vehicular uses. If our Nation's 6.5 million fleet vehicles were converted to methane, the United States could realize a savings of about 700,000 barrels of oil per day. This savings would require approximately 1.4 trillion cubic feet of gas—about 7 percent of our present natural gas consumption. In short, this legislation will help reduce the need for continued importation of foreign oil, will promote energy independence for the United States, and will help cut air pollution in major metropolitan areas. It can also accelerate development of unconventional sources of natural gas. All this can be done while providing vehicle operators with a cheaper and cleaner domestically obtained fuel than that which is currently in use.

Mr. President, I urge my colleagues to expeditiously consider and pass this legislation which is one more positive step to reduce our country's overreliance on imported oil.●

By Mr. DURENBERGER (for himself and Mr. McGovern):

S. 3008. A bill to amend the Internal Revenue Code of 1954 to make the investment credit for railroad property refundable; to the Committee on Finance.

RAIL INVESTMENT INCENTIVES ACT OF 1980

Mr. DURENBERGER. Mr. President, today I am introducing legislation that will play an essential role in halting the deterioration of this Nation's rail system. The bill is entitled the "Rail Investment Incentives Act of 1980," and it would provide a system of refundable investment tax credits for the rail industry.

Several months ago, Senator McGovern and I introduced a similar proposal as amendment to the rail deregulation bill. Since that time, the state of the Nation's rail system has continued to deteriorate. With the deregulation bill bogged down in the House, the need for this type of legislation is even greater today than it was when we proposed that amendment 4 months ago.

America enters the 1980's with a rail system weakened by nearly $4 billion in deferred maintenance. Power shortages and railbed deterioration touch every region of the country, and even on their main lines, few railroads can maintain the operating speed they were accustomed to just three decades ago. Because the bulk of maintenance deferrals occur on the Nation's branch lines, rural communities—which depend so heavily on rail transportation—are paying the greatest price.

The difficulties experienced by midwestern farmers in their efforts to ship last year's record harvest provided a dramatic illustration of the interdependence between our regional economies and their transportation systems. We need to recognize that the Nation's railbeds are an indispensable national asset. Yet under present regulatory and tax structures, it is difficult to see how the industry can raise the billions of dollars necessary to preserve that asset over the last two decades of the 20th century.

The refundable investment tax credit is a mechanism to extend the benefits of the investment tax credit to marginal railroads, whose investment needs uniformly exceed those of their more profitable competitors. In doing so, it will fill an important gap in our present rail assistance program.

Although the Federal Government invests hundreds of millions of dollars each year in emergency rail assistance, most of this money is targeted toward subsidizing or rebuilding railroads that are already insolvent.

Unfortunately, most of the damage done to the physical plant of a weak railroad occurs during the "wind-down" stage prior to bankruptcy. When a railroad's cash flow declines, the easiest obligation to defer is track maintenance. But as maintenance is deferred, service declines, which forfeits business and further weakens the railroad itself. This is more than a theoretical argument; the cycle has been evident in dozens of railroad bankruptcies across the Nation throughout the past few decades.

The need for investment capital is not a problem unique to the railroad industry. It was the precise problem Congress sought to address by enacting the investment tax credit, and that bill has achieved some dramatic results.

But because it is a tax credit, its impact is confined to the most profitable industries, and the most profitable members within each industry.

By common admission, rail is among the most labor- and capital-intensive of American industries. But its net return on investment has hovered around 1 percent in recent years, so the ITC has had little effect on the industry as a whole.

Within the industry, ITC has had a particularly skewed impact because of the unique economics of the rail industry. Invariably, when weak railroads cut back on expenditures, they begin by deferring railbed maintenance. As a consequence, the great bulk of the Nation's $4.1 billion in deferred maintenance is concentrated in the Nation's weakest railroads—the ones that draw little or no benefit from the ITC. And deferred maintenance, by weakening service, weakens the rail companies themselves. The Rock Island is the best example of this secondary impact. ITC has strengthened the stronger railroads, but had little impact on the weaker, investment starved lines. In effect, it has widened disparities within the industry, intensifying the trend toward merger and acquisition.

Rail companies come and go, but the railbeds are an essential national asset. And the RITC is a mechanism to induce failing railroads to maintain their railroad property investment during times of economic difficulty. Under present law, a railroad with, say, $8 million in income and $10 million in obligations will place railbed maintenance at the bottom of its priority expenditure list. But with RITC in place, a dollar invested in railbed rehabilitation yields a 10-percent return—making this a more desirable source of resource allocation than of the railroads' other debts. The RITC is a crucial incentive for losing railroads to maintain their investment in the railbeds even during times of economic difficulty.

This effort to spread the effects of the ITC to weaker railroads is no corporate bailout. It has a direct impact on the future of the Nation's rural transportation system. Railbeds are a national asset. When railroads begin deferring maintenance, they starve the branch lines first because those lines produce a weaker cash flow. This process focuses the impact of a failing railroad on rural—agricultural areas, creating the type of difficulties experienced throughout the Nation's agricultural areas over the past 24 months.

Railroads are the lifelines that link these agricultural regions with national and international markets. Farmers, consumers, and exporters alike have a stake in preserving those lifelines. By lowering the cost of branch line rehabilitation, the bill would improve the cash flow of every branch line in the Nation. This would do more to preserve branch line service than any program now in existence.

Even from a purely social standpoint, insuring the viability of the Nation's rail system is an essential step in preserving the vitality of rural America. Railroads determined the settlement patterns in much of the country, as elevators were built along branch lines, and settlements sprung up at key junctions. A century later, the economies of these rural towns still depend on their access to rail transportation. Preserving the rural rail system is an indispensable part of the effort to maintain rural vitality.

And at a time when the American public is spending hundreds of billions of dollars in the search for alternative energy sources, railroads remain the most energy efficient form of freight transportation.

By any public criteria this special investment in the rail industry is a sound investment.

The rail industry needs help, and this amendment is an efficient means to provide an infusion of desperately needed investment capital. During the last decade, we have repeatedly witnessed the immense human and financial costs that follow a major rail bankruptcy. It makes far more sense to provide the industry with some preventive medicine than to face these costs again in the decade ahead.

This is a bill that every farmer, every shipper, and every resident of rural America has a stake in. I hope that every Senator will join in supporting it.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) subparagraph (A) of section 46(a) (9) of the Internal Revenue Code of 1954 (relating to special rules in the case of energy property) is amended—

(A) by inserting "or the application of the regular percentage to railroad property" after "energy percentage" in clause (i),

(B) by striking out the period at the end of clause (ii) and inserting a comma and "and", and

(C) by adding at the end thereof the following new clause:

"(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the regular percentage to railroad property.".

(2) (A) Section 46(a) (9) of such Code is amended by adding at the end thereof the following new subparagraphs:

"(C) REFUNDABLE CREDIT FOR RAILROAD PROPERTY.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A) (iii)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38.

"(D) RAILROAD PROPERTY DEFINED.—For purposes of this paragraph, the term "Railroad Property" means Section 38 property, which is (i) used directly in connection with the trade or business of operating a railroad company (including a railroad switching or terminal company), and (ii) is owned by a domestic common carrier by railroad or by a corporation at least 80 percent of the voting stock of which is owned directly or indirectly by one or more such common carriers or by persons who were such carriers before entering proceedings under the Bankruptcy Act."

(B) Paragraph (8) of section 46(a) of such Code (relating to alternative limitation in case of certain railroads and airlines) is amended—

(i) by striking out "to railroad property or" in subparagraph (A) (i),

(ii) by striking out "railroad property or" in subparagraph (B) (ii),

(iii) by striking out subparagraph (D) and redesignating subparagraph (E) as subparagraph (D), and

(iv) by striking out "railroad and" in the heading thereof.

(3) The headings for section 46(a) (9) of such Code is amended by inserting "OR RAILROAD" before "PROPERTY".

(b) (1) Each person who, by reason of section 46(a) (9) (C) of the Internal Revenue Code of 1954 or subsection (c) (2), receives a refund of the credit allowed by section 38 of such Code which is attributable to the application of the regular investment percentage to railroad property (within the meaning of section 46(a) (9) (D) of such Code) shall establish and maintain a separate account for amounts so received.

(2) (A) All refunds described in paragraph (1) and subsection (c) (2) shall be credited to the account established under paragraph (1).

(B) No amount may be withdrawn from an account established under paragraph (1) unless the funds are to be used for—

(i) normal maintenance, rehabilitation, or capital improvements made in connection with railroad property,

(ii) acquisition of railroad property, or

(iii) payment of the tax imposed by section 3221 of such Code.

(C) If funds are withdrawn from such an account and are not used for a purpose described in subparagraph (B), then there is hereby imposed on such person for the taxable year in which such amount is withdrawn a tax in an amount equal to such amount.

(c) (1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to—

(A) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is begun or completed by the taxpayer after December 31, 1979, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date.

(B) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after such date, and

(C) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) attributable to qualified progress expenditures made after such date.

(2) (A) In the case of an unused credit for an unused credit year ending before January 1, 1980, which—

(i) is attributable to the application of the regular percentage to railroad property which is property not described in paragraph (1), and

(ii) in an investment credit carryover to a taxable year beginning after December 31, 1979,

that portion of the unused credit which would expire after the 7th taxable year following the unused credit year by reason of section 46(b) of such Code shall be treated as if it were a credit allowed by section 39 (and not section 38) of such Code for the 8th taxable year following the unused credit year.

(B) For purposes of this paragraph, the terms "unused credit", "unused credit year", "regular percentage", and "railroad property" have the same meaning as when used in section 46 of such Code.

(d) The Secretary of the Treasury shall reserve such receipt of the tax imposed by section 4986 of the Internal Revenue Code of 1954 as he determines are equal to the decrease in revenues attributable to the amendments made by this section.

By Mr. GLENN:

S. 3009. A bill to establish a uranium enrichment fund; to the Committee on Energy and Natural Resources.

URANIUM ENRICHMENT FUND ACT OF 1980

Mr. GLENN. Mr. President, I introduce and send to the desk the Uranium Enrichment Fund Act of 1980.

The uranium enrichment program has been the backbone of our nuclear effort in the United States since the inception of the atoms-for-peace program. It has played an important role both here and abroad, not only in aiding the expansion of our nuclear industry, but in helping our nuclear nonproliferation effort as well.

The uranium enrichment program, unlike most Government programs, provides a service which receives revenues for value added to goods used in the private sector which may be used to fund enrichment operations. In terms of revenues, the uranium enrichment program is equivalent to the top 275 U.S. corporations. The program's suppliers and customers are both private sector entities. The rapidly changing domestic and foreign prospects for nuclear reactors and the business-type nature of this enterprise calls for a financial system which provides for more management flexibility than is offered in the usual appropriations cycle.

This increased flexibility can be provided through establishment of a uranium enrichment revolving fund—that is what I am proposing—and should result in greater overall economy and efficiency. DOE's image as a world supplier of enrichment services would be improved and foreign competitors' criticisms about the "unbusinesslike" nature of U.S. enrichment operations would be blunted. The establishment of a revolving fund would thus aid in marketing initiatives, primarily international, and would further U.S. nonproliferation objectives and improve U.S. balance of payments.

In recognition of the continuing congressional interest in the program, expenditures would be subject to limitations and directives that might be inserted into authorization and appropriation acts. Moreover, the Secretary could not acquire plant and capital equipment, the cost of which exceeds 5 percent of the total net book value of uranium enrichment fixed assets or construct new enrichment capacity without express congressional authorization. In addition obligations for plant and capital activity purposes which would increase expenditures for the capital activity to a level greater than 15 percent above that approved by Congress could not be made until Congress has been notified and a period of 30 days while Congress is in session has elapsed.

Mr. President, it is vitally important that some degree of stability be provided to the uranium enrichment program at this time. The recent cutbacks proposed for the gas centrifuge enrichment plant at Portsmouth, Ohio, are a subject of great concern at a time when the United States wishes to reestablish its position as a reliable supplier in the area of nuclear enrichment services and at a time when our nonproliferation effort is seen in some quarters to be flagging. The revolving fund will bring a degree of stability to the enrichment program that will make it less subject to budgetary whim.

Mr. President, in creating this revolving fund, I would not want to reduce or to make more difficult congressional oversight over the nuclear enrichment program. Accordingly, the bill requires that comprehensive reports be sent to the Congress concerning the operation of the fund, DOE plans on enrichment activities for the future, the financial position of the fund, and projections and statements of policy regarding tails assay and projected enriched uranium needs.

It is my view that the Uranium Enrichment Fund Act will aid our domestic industry as well as our competitive posture with respect to foreign uranium enrichment sales. I urge the support of my colleagues for this measure.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uranium Enrichment Fund Act of 1980".

SEC. 2. The Atomic Energy Act of 1954 is amended by inserting the following sections:

"SEC. 262. URANIUM ENRICHMENT FUND.

"a. There is established in the Treasury of the United States a Uranium Enrichment Fund (hereinafter referred to as the 'Fund'). The Fund shall consist of—

"(1) all receipts, collections and recoveries of the Secretary of Energy (hereinafter referred to as the 'Secretary') in cash from the provision of services for the production or enrichment of uranium in the isotope 235, and the sale, lease, distribution or transfer of uranium and from activities incidental to the foregoing;

"(2) all proceeds derived from the sale of bonds by the Secretary pursuant to section 263;

"(3) proceeds from the investment of fund moneys;

"(4) the unexpended balance of any funds available prior to the effective date of this Act for functions or activities necessary or incident to the production or enrichment of uranium enriched in the isotope 235, and the sale, lease, distribution, or transfer of uranium; and

"(5) any appropriations made by Congress to the Fund.

"b. The Secretary may make expenditures from the Fund which shall have been included in the annual budget submitted to Congress by the President, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriation or authorization Acts, for—

"(1) any purpose necessary or appropriate to the conduct of the Secretary's functions and activities for the provision of services for the production or enrichment of uranium enriched in the isotope 235 and the sale, lease, distribution or transfer of uranium; the conduct of research and development activities related to the isotopic separation of uranium; and the acquisition, design, construction, modification, replacement and operation of facilities necessary or incident to the foregoing; and

"(2) paying the principal, interest, premiums, discounts, and expenses, if any, in connection with the bonds issued under section 263 of this Act.

"c. The Provisions of the Government Corporation Control Act (31 U.S.C. 841) shall be applicable to the Secretary in his utilization of the Fund in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846).

"d. If the Secretary determines that the moneys of the Fund are in excess of current needs he may request the investment of such amounts as he determines advisable by the Secretary of the Treasury in obligations of the United States with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturities comparable to the maturities of such investments except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"e. Proceeds realized by the Secretary from issuance of bonds and revenues from the conduct of activities described in this section and the expenditure of such proceeds and revenues shall be subject only to annual apportionment under the provisions of section 665 of title 31 of the United States Code.

"f. Commencing October 1, 1980, the Secretary shall pay to the Treasury revenues and proceeds derived from sources set forth in subsection a. (1) and a. (3) of this section save and except such part of said revenues and proceeds as in the opinion of the Secretary shall be reasonably necessary in the foreseeable future for the conduct of the functions and activities set forth in subsection b. of this section.

"g. Notwithstanding any other provision of this section the Secretary shall not—

"(1) enter into an obligation for plant and capital activity purpose if that obligation, together with prior obligations and outlays results in an increase in the total capital outlays in that fiscal year of more than 15 percent above the level of outlays in the plant and capital activity budget as submitted for that fiscal year as such budget may have been reduced or increased by congressional direction or limitation until the Secretary has reported such obligation to Congress and a period of 30 days shall have elapsed while Congress is in session (in computing such 30 days there shall be excluded the days on which either House is not in session because of adjournment for more than 3 days);

"(2) without express prior congressional authorization, enter into obligations for the construction of a new uranium enrichment plant or the acquisition of any new plant and capital equipment the cost of which exceeds an amount equivalent to 5 percent of total net book value of Department of Energy fixed assets which are devoted primarily to uranium enrichment activities; or

"(3) without express prior congressional authorization, modify any obligations authorized under paragraph (2) which would result in a decrease in authorized uranium enrichment capacity.

"Sec. 263. Revenue Bonds.—

"a. The Secretary of Energy (hereinafter referred to as the 'Secretary') is authorized to issue and sell to the Secretary of the Treasury from time to time, to such extent or in such amounts as are contained in appropriation Acts, bonds, notes, and other evidences of indebtedness (collectively referred to herein as 'bonds') to assist in financing the acquisition, construction, modification, replacement and operation of facilities necessary or incident to the conduct of the Secretary's functions and activities for the provision of services for the production or enrichment of uranium enriched in the isotope 235; the sale, lease, distribution or transfer of uranium; and for activities incidental to the foregoing. Such bonds shall be in such forms and denomination, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds and the useful life of the facilities for which the bonds are issued.

"b. The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Secretary's net proceeds as hereinafter defined. 'Net proceeds' shall mean for the purposes of this section the remainder of the gross receipts of the Secretary from the sources described in subsections 262 a. (1) and (3) after first deducting noncapital expenditures made pursuant to subsection 262 b. (1) and shall include reserve or other funds created from such receipts.

"c. The Secretary of the Treasury shall purchase any bonds issued by the Secretary under this section and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purpose for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Administrator under this section. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

"Sec. 264. Annual Reports to the Congress.—

"a. The Secretary shall report to the Congress on or before the 1st day of January each year on the principal activities for the preceding fiscal year of the Uranium Enrichment Fund established by section 262 of this Act and the revenue bonds issued under section 263 of this Act.

"b. Such reports shall contain a comprehensive description of the operation of the Fund, including information on—

"(1) projected enriched uranium needs for the next succeeding 5 years;

"(2) tails assay projections and policy for the next succeeding 5 years;

"(3) plans to meet the projected needs for the next succeeding 5 years;

"(4) estimated revenue of the Fund for the next succeeding 5 years;

"(5) any other future plans or administrative actions under consideration which would affect the operation of the revolving fund, including projections of expected revenues and costs resulting from those plans or actions;

"(6) management problems resulting from operation of the revolving fund; and

"(7) legislative proposals which may be necessary to assure that the purposes of the revolving fund are carried out most effectively.

"c. In addition, the annual report should include a comprehensive statement of the financial activities of the revolving fund, including, as a minimum, the following information:

"(1) the current financial position of the Fund, including a statement of assets and liabilities and surplus or deficit;

"(2) a statement of surplus or deficit analysis;

"(3) a statement of the sources and application of funds;

"(4) a statement of changes in Government investment in the revolving fund;

"(5) a statement of any changes in the financial position of the Fund;

"(6) schedules showing changes in inventory balances, plant and capital equipment, costs of production and sales, and power costs; and

"(7) such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the revolving fund.

These statements and supporting schedules should be prepared in accordance with generally accepted accounting principles.".

Uranium Enrichment Fund Act of 1980—Section-by-Section Analysis

1. Section 1 of the bill would add Sections 262 and 263 to the Atomic Energy Act of 1954, as amended.

2. Subsection a of the proposed Section 262 would establish a Department of Energy Uranium Enrichment Fund (hereafter called the "fund"). The Fund would consist of (1) all of DOE's revenues derived from activities associated with uranium enrichment activities (the term "uranium enrichment activities" as used in this analysis involves operations of the DOE uranium enrichment plants; the sale of enriching services; the sale, lease, disposition or transfer of uranium; the conduct of research and development activities related to the isotopic separation of uranium; the acquisition, design, construction, modification, replacement, and operation of facilities necessary or incidental to the foregoing; and such other functions or activities as may be necessary or appropriate for the conduct of the above enumerated items); (2) proceeds derived from the sale of bonds authorized by the new Section 263 of the Atomic Energy Act; (3) proceeds from the investment of fund monies; (4) the unexpended balance, as of the date of enactment of the legislation, of funds appropriated for uranium enrichment activities; and (5) Congressional appropriations for the Fund.

3. Subsection b of the proposed Section 262 would provide that expenditures from the Fund could be made only for purposes necessary or incidental to DOE's uranium enrichment activities. Expenditures from the Fund could be made without additional Congressional appropriation or fiscal year limitation but would be subject to specific directives or limitations which Congress might include in annual appropriation and authorization acts.

4. Subsection c of the proposed Section 262 would apply the Government Corporation Control Act to the utilization of fund monies. This would allow the uranium enrichment activities of DOE to be operated pursuant to a business type budget, which provides more flexibility than an appropriations-type budget.

5. Subsection d of the proposed Section 262 would allow the Secretary to request of the Secretary of the Treasury to invest Fund monies in obligations of or guaranteed as to both principal and interest by the United States during periods when they are not immediately required for fund purposes.

6. Subsection e of the proposed Section 262 exempts the expenditure of bond proceeds and uranium enrichment revenues from other than annual apportionment under the provisions of Section 665 of Title 31 of the U.S. Code.

7. Subsection f of the proposed section 262 would require the Secretary to pay to the Treasury revenues and proceeds derived from sources other than appropriations and bond sales to the Treasury save and except those revenues which in his opinion shall be reasonably necessary in the foreseeable future for uranium enrichment activities. This subsection assures that the uranium enrichment fund will not be the repository for idle monies. Each year, commencing in fiscal year 1981, the Secretary will make payment to the Treasury, for application to the total Federal budget of any monies which he determines are excess.

8. Subsection g (1) of Section 262 would require the Secretary to report to Congress changes in the enrichment enterprise during a fiscal year which would increase outlays in the plant and capital budget by more than 15 percent above the outlay level governing that fiscal year as represented in the President's budget as changed by Congressional action.

9. Subsection g(2) would require specific Congressional authorization before Fund monies could be obligated for new uranium enrichment capacity or for acquisition of any capital asset which would exceed an amount equivalent to five percent of the total net book value of DOE assets devoted primarily to uranium enrichment.

10. Subsection g (3) would require specific Congressional approval of any modification of obligations authorized pursuant to subsection g(2) when such modification would result in reduction of authorized enrichment capacity.

11. Subsection a of the proposed Section 263 would authorize the Secretary to issue revenue bonds, the proceeds of which would be used for Fund purposes. The Secretary of the Treasury would prescribe the form, denomination, maturities, interest rates and other terms and conditions of the bonds. Bonds could be issued only to such extent or in such amounts as are contained in appropriations acts.

12. Subsection b of the proposed section 263 would provide that the principal and

interest on such bonds would be payable solely from the net proceeds of DOE uranium enrichment activities and defines the method by which net proceeds would be determined.

13. Subsection c of the proposed section 263 would require the Secretary of the Treasury to purchase bonds issued by the Secretary pursuant to Section 263. This subsection would also authorize the Secretary of the Treasury to sell any bonds acquired from the Secretary.

14. The proposed section 264 requires the Secretary to report to the Congress by January 1st of each year on the principal activities for the preceding fiscal year of the uranium enrichment fund established by section 262 of this Act and the revenue bonds issued under section 263 of this Act.

15. Subsection b of the proposed section 264 delineates specific items to be contained in the comprehensive annual report outlining the present scope and operation of the Fund along with future projections of the Fund's activities.

16. Subsection c of the proposed section 264 provides that the annual report also include precise information on the current financial status, position, and operation of the revolving fund, plus a statement of the Fund's assets and liabilities and surpluses or deficits.

ADDITIONAL COSPONSORS

S. 2570

At the request of Mr. Johnston, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 2570, a bill to authorize the President to establish a program to reduce and order the demand for motor fuel during a severe energy supply interruption.

S. 2881

At the request of Mr. Bentsen, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 2881, a bill to amend the Internal Revenue Code of 1954 to extend the historic preservation tax incentives.

S. 2890

At the request of Mr. Levin, the Senator from Minnesota (Mr. Boschwitz), the Senator from New Hampshire (Mr. Durkin), the Senator from Idaho (Mr. Church), and the Senator from California (Mr. Hayakawa) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashchenko.

S. 2979

At the request of Mr. Metzenbaum, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Dole, the Senator from Texas (Mr. Bentsen), the Senator from New York (Mr. Javits), the Senator from Hawaii (Mr. Matsunaga), the Senator from Florida (Mr. Stone), the Senator from Connecticut (Mr. Ribicoff), and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE CONCURRENT RESOLUTION 111

At the request of Mr. Pell, the Senator from New Hampshire (Mr. Durkin), the Senator from Maine (Mr. Cohen), the Senator from California (Mr. Cranston), the Senator from Oklahoma (Mr. Boren), and the Senator from Rhode Island (Mr. Chafee) were added as cosponsors of Senate Concurrent Resolution 111, a concurrent resolution concerning the fifth anniversary of the Helsinki accords and calling for prominent attention to human rights concerns at the Madrid conference.

SENATE RESOLUTION 461

At the request of Mr. Nelson, the Senator from California (Mr. Hayakawa) was added as a cosponsor of Senate Resolution 461, a resolution disapproving the proposed deferral of budget authority for EPA grants for waste.

SENATE RESOLUTION 470

At the request of Mr. Nelson, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of Senate Resolution 470, a resolution disapproving the proposed deferral of budget authority for EPA grants for waste treatment works.

SENATE RESOLUTION 491

At the request of Mr. Thurmond, the Senator from South Dakota (Mr. Pressler), the Senator from Texas (Mr. Bentsen), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of Senate Resolution 491, a resolution to designate October 11, 1980 as "National Jogging Day."

SENATE RESOLUTION 497—ORIGINAL RESOLUTION REPORTED TO AUTHORIZE PAYMENTS TO A FORMER EMPLOYEE

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. Res. 497

Whereas, Candace M. Hanson, a former employee of the United States Senate, has filed a complaint against the Sergeant at Arms, the Hon. F. Nordy Hoffmann, in the United States District Court for the District of Columbia, Civil Action No. 77–0857;

Whereas, Candace M. Hanson and the Sergeant at Arms have determined that it would be in the interests of justice to terminate the litigation without further proceedings and in an amicable manner;

Whereas, the Sergeant at Arms wishes to reinstate the former Senate employee to her position as an operator in the Capitol Telephone Exchange with full seniority and recommends that she be deemed by the Senate to have rendered creditable service during the period from June 20, 1976, to July 31, 1980: Now, therefore, be it

Resolved, That the Committee on Rules and Administration is authorized to make payment from the contingent fund of the Senate in the total amount of $37,902.23. Of this total amount (1) $29,612.01 shall be paid to Candace M. Hanson as back pay, and (2) $8,290.22 shall be remitted to the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, pursuant to 5 U.S.C. 8334, representing the retirement deductions of Candace M. Hanson and the retirement contribution of the United States Senate for the period June 20, 1976, to July 31, 1980.

AMENDMENTS SUBMITTED FOR PRINTING

DOMESTIC VIOLENCE PREVENTION ACT—S. 1843

AMENDMENTS NOS. 1954 THROUGH 1957

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted four amendments intended to be proposed by him to S. 1843, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

Mr. HATCH. Mr. President, I wish to file for printing, four amendments to S. 1843, the Domestic Violence Prevention Act of 1980, and I also request that the text of these amendments be printed in the Record at the conclusion of these brief remarks.

Mr. President, the amendments I am today submitting are to legislation presently on the Senate Calendar, a bill we are expected to consider shortly. It is a Federal proposal intended to prevent domestic violence and to bring aid and comfort to its victims.

We are dealing here, of course, with a classic motherhood and apple-pie issue. As diverse and heterogenous as we are, I have never heard any of my colleagues speak in favor of domestic violence. Every one of us and all other responsible citizens are revolted by the nightly news stories of wife battering, child abuse, and other kinds of family neglect which are manifested in some form of violence. The FBI reported that in 1975, one-fourth of the 20,510 people murdered in our country were killed by a family member, and that half of these involving the killing of one spouse by another. In Kansas City, Mo., a police department study revealed that in 85 percent of that city's domestic assault cases, the police had been called to the same house at least once before. And in over half the cases, the police were called five times or more.

So, it is no exaggeration to say that domestic violence affects all families—urban and rural, rich and poor, civilian and military. Those victimized are usually confused, desperate, and in danger without any resources. They are more often than not, abused women who need protection for themselves and for the other members of their family, usually involving their children or elderly relatives. Perhaps some of my colleagues were able to see a recent segment on the "NBC Today" show; an interview with grandmothers and grandfathers who had been severely beaten by their own children, and in some cases by their grandchildren.

If the passage of the Domestic Violence Prevention Act now on the Senate Calendar depended solely upon the level of our moral outrage, I know that it would pass; and that it would pass unanimously. Where many of us are presently divided is on the actual remedy, and this is where I think S. 1843 is seriously deficient. These deficiencies were outlined in a letter I sent to each of my colleagues, along with Senator Hayakawa, this past April. Because the various criticisms are unfortunately still valid, and the information in it still current, I ask unanimous consent that the text of my colleague's letter be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, I also ask unanimous consent that an editorial which appeared in the Washington Star on June 30, entitled "Domestic Violence and the Feds," be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HATCH. Mr. President, the four amendments I am today submitting are intended to correct the major weaknesses I find in the legislation. While important, these changes I am today proposing even if passed, are not in and of themselves enough to warrant this bill's passage. There remain a number of other corrections which must be made to S. 1843, and I understand that Senator Humphrey, Senator Dole, and several other colleagues will shortly introduce their own amendments to shore up the legislative leaks in this bill.

The first of my amendments allows State legislatures to veto grants authorized by the Secretary of Health and Human Services for any of the bill's programs within the respective State. This amendment gives to State legislatures authority they ought to have anyway, but which S. 1843 as presently written gives to the respective States' Governors' offices instead. My proposed change is certainly not intended to slight our Governors, and in fact I could be enlisted to support this provision of the bill if I could be convinced that the Nation's Governors would become personally involved.

But all of us know this would not be the case. We know that a de jure ad hoc, but de facto permanent State minibureaucracy would be appointed instead. Rather than such a relatively unaccountable, unrepresentative bureaucratic entity, the State legislature in my opinion would be more responsible and effective as the authority to assure a smooth transition from Federal to State participation once the Federal aid ends and the offer of Federal matching funds begins. Through my amended change, State legislatures would be invited to become more familiar with domestic violence programs, indirectly involving these State legislatures in the grant-in-aid process for the benefit of both the State and Federal governments. I say that it is mutually beneficial on both the State and Federal levels, because having the veto authority on federally guided domestic violence programs gives these State legislatures a comparable responsibility to track down and to assure the quality and compliance of State grant applications.

Practical experience teaches us that State legislative veto requirements tend to save us money. They tend to prevent programs initiated as "demonstration" or "seed money" grant programs from becoming permanent federally subsidized fixtures, but instead lead to State matching or fully State supported programs. Anyone wanting to read about a classic illustration of this can take a look at the discontinuation of State LEAA programs after the initial Federal authorizations ran out, and I ask unanimous consent that a two-page summary of this case be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HATCH. Mr. President, too often, "seed money" grant programs established to aid special local problems become entrenched as part of the Federal bureaucracy because there was no mechanism available to involve State legislatures early enough to make it possible for them to pick up the Federal share. As a result, established constituencies grow like Topsy and begin lobbying Congress for the incredible increased authorizations we have had in program maintenance at the Federal level.

Just consider a few examples: Food stamps started out as a pilot project funded at $13 million in 1969, and grew to $6.8 billion in fiscal year 1979. Community mental health centers originally part of the Office of Economic Opportunity began at $10.4 million, and is now $360 million, taking the last fiscal year's authorization. Women, infants, and children's programing for cash assistance through HEW began at $15 million and is now $550 million.

What I am saying in all of this, is simply that had the Federal Government not followed a policy path discouraging State involvement, we might today have these same programs but operated at more efficient cost levels and conducted in a more decentralized fashion. With my amendment, we can begin making up for lost time by involving the State very early on in the domestic violence center authorization process.

The record reveals that no State has ever turned down Federal money, and the Nation's State legislatures do not have reputations for refusing such money. Nevertheless, each of our States' elected legislative chambers should have the legal authority to say, "No." They should have the authority to welcome Federal assistance or to reject it. We can only give them such authority by holding them accountable and giving them full participation as elected representatives in the process of providing aid to domestic violence victims as my amendment would provide.

My second amendment requires States to assure that the emergency shelters provided in this bill meet State licensing requirements. None are now federally required. When a battered woman makes the decision to leave her husband, she may be in fear for her life. She commonly has nothing but the clothes on her back, and she may be afraid to leave her children with a violence-prone husband. For too many of these women, there is no place to go, except to any emergency shelter. The amendment I am offering would help make sure that the shelter to which a victim of battering goes for help is licensed by the State in order to guarantee that housing is safe, clean, and competently staffed.

This amendment requiring State licensing is a requirement for accountability: Accountability for the quality of care provided, for the services and for the domestic violence prevention facility itself. Overcrowded, poorly or inadequately staffed shelters perpetuate abuse through neglect, and thereby take away any options for battered women and their children rather than creating them. Passage of such an amendment will place the responsibility as well as the discretionary authority on the shoulders of the individual States where they belong anyway.

The third of my four amendments strikes from the legislation, direct grants by the Federal Government to local projects. Instead, all money for shelters, counseling and other services would go through the States, as should be the case.

After all, most of the project money is slated to go through the States anyway. Why hold a percentage back, as is currently the case in S. 1843 as drafted? Unless my amendment is accepted, we would be forced to develop a separate Federal apparatus to do what the States would already be doing.

The State governments are closer to the people and are more responsible for coordinating social services within their jurisdictions than Federal agencies. Better, then, that the State rather than Federal Government handle the grant process. To do otherwise and in effect endorse the kind of Federal set-aside established in the present bill, only exemplifies the standard image of mistrust the Washington establishment has for local governments. State governments are of course democratically elected, and when we have the opportunity to maximize their authority and at the same time letting them share the burdens of government, we ought to do so. This amendment would further guarantee an important province of a State's fiduciary responsibility. Without it, we in effect deny the States their proper responsibility.

My final amendment to S. 1843 strikes from the legislation the so-called National Center on Domestic Violence. There is simply no proper function for such a center, an artificially created office lacking a real purpose or genuine need to exist other than develop its potential to be an OSHA on the family. The description of such an office in the legislation is wanting, and its presumed function of "promoting" shelters and "related services" are responsibilities of the various State and local domestic violence prevention offices to be set up within the States and communities.

Domestic violence, as I have said earlier, is alien to everything all of us consider to be decent and right. It is only proper that everyone in government and at every level use every available means to cure this epidemic problem. But in doing so, we run the risk of making a bad situation worse if we see a solution in trying to federalize the problem out of existence. My amendments are an attempt to return the discretionary power and legal authority for domestic violence prevention programs to the States and communities where they belong. They are a part of a much larger set of proposals which I know will be discussed and deserve to be seriously considered in this Chamber when the Senate finally begins to consider the Domestic Violence Prevention Act of 1980.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1954

Page 9, after line 2 insert the following new section (and redesignate the following sections, and any references to such questions, accordingly):

VETO OF GRANTS BY STATE LEGISLATURES

Sec. 5. (a) In any case in which the Secretary—

(1) approves an application submitted to the Secretary by a State for a grant under section 4.

the Secretary shall submit written notice of such approval as soon as practicable after the date of such approval to the State legislature for the State involved for review by such legislature in accordance with this section. Such notice shall include such information as the Secretary considers appropriate describing the nature of activities which are proposed in such application and the reasons of the Secretary for approving such application.

Amendment No. 1955

Page 24, after line 10, insert the following new paragraph (and redesignate the following paragraph accordingly):

(5) (A) The term "shelter" means any shelter, facility, or other institution which is licensed under any applicable State law to provide, on a regular basis, shelter, meals, and related assistance to victims and dependents of victims of domestic violence.

(B) The term "shelter" also includes any shelter, facility, or other institution which is located on an Indian reservation and is certified by the Secretary as providing the assistance specified in subparagraph (A).

Amendment No. 1956

On page 31, strike out lines 3 through 19.

On page 31, line 20, strike out "(c)" and insert in lieu thereof "(b)".

On page 31, line 21, strike out "(other than to a State)" and insert in lieu thereof "by a State".

On page 32, line 1, strike out "(d)" and insert in lieu thereof "(c)".

On page 32, line 4, strike out "(e)" and insert in lieu thereof "(d)".

On page 32, line 8, strike out "(f)" and insert in lieu thereof "(e)".

On page 32, line 10, beginning with the comma, strike out through the comma on line 11.

On page 34, line 9, beginning with the comma strike out through line 2, on page 35, and insert in lieu thereof the following: "to States so qualifying for distribution as provided under section 102 (a) each State to be awarded, for grants to local public agencies and nonprofit private organizations, an amount which bears the same ratio to the total amount to be reallotted as the population of such qualifying State bears to the population of all qualifying States.".

On page 40, line 11, beginning with the word "and" strike out through "section 102 (b)" on line 12.

On page 40, line 19, insert "and" after the semicolon.

On page 40, beginning with line 20, strike out through line 17 on page 41.

On page 41, line 18, strike out "(6)" and insert in lieu thereof "(5)".

On page 52, line 10, strike out "60 per centum" and insert in lieu hereof "85 per centum".

On page 52, line 12, beginning with "25 per centum" strike out through "organizations;" on line 15.

Amendment No. 1957

On page 26, line 24, beginning with the word "and" strike out through the comma on line 1 on page 27.

On page 31, line 3, strike out ", through the Director,".

On page 33, line, 3, strike out "113" and insert in lieu thereof "112".

On page 37, beginning with line 12, strike out through line 21 on page 39.

On page 39, line 22, strike out "NATIONAL CENTER".

On page 39, line 23, strike out "Sec. 107," and insert in lieu thereof "Sec. 106.".

On page 39, lines 24 and 25, strike out ", through the Director,".

On page 41, line 22, strike out "Sec. 108." and insert in lieu thereof "Sec. 107.".

On page 45, line 5, strike out "Sec. 109." and insert in lieu thereof "Sec. 108.".

On page 45, line 17, strike out "Sec. 110." and insert in lieu thereof "Sec. 109.".

On page 48, line 5, strike out "Sec. 111." and insert in lieu thereof "Sec. 110.".

On page 48, line 5, strike out "Director" and insert in lieu thereof "Secretary".

On page 51, line 7, strike out "Sec. 112." and insert in lieu thereof "Sec. 111.".

On page 51, strike out lines 8 through 10.

On page 51, line 11, strike out "(3)" and insert in lieu thereof "(1)".

On page 51, line 22, strike out "(4)" and insert in lieu thereof "(2)".

On page 51, line 24, strike out "(5)" and insert in lieu thereof "(3)".

On page 52, line 6, strike out "Sec. 113." and insert in lieu thereof "Sec. 112.".

On page 52, line 18, beginning with "the operation" strike out through "Center" on line 20 and insert in lieu thereof the following: "administrative expenses".

Exhibit 1

Committee on Labor and
Human Resources,
Washington, D.C., April 4, 1980.

Do We Really Want an OSHA on the Family?

Dear Colleague: This is an early warning. Recently, The Domestic Violence Prevention and Service Act, S. 1843, was reported from the Child and Human Development Subcommittee to the Labor and Human Resources Committee. Before long, we will find it waiting for us on the Senate floor. It has already passed the House.

Domestic violence goes by many names. Child abuse, wife battering, familial neglect and other forms of domestic crimes to the family violate everything we hold to be decent and right. Eleven states already have statutory programs giving aid and comfort to the victims and providing for preventive education. Twenty one states have legislative or administrative proposals for this kind of anti-domestic violence program pending. The remainder are trying to solve the problem in other ways.

These include reliance on program assistance from numerous federal programs. For example, 600 ACTION volunteers working in 30 states on some 100 domestic violence prevention projects; 33 Community Action agencies with programs or shelters for battered women; L.E.A.A. money to support domestic violence prevention projects through block grants; and various ways in which states are using Title XX Social Security money, all provide counseling and legal services to fight a very real problem. There has even been set up within HEW an Office of Domestic Violence providing states with additional aid for domestic violence victims.

So, effective ways have been found and are being used in every state and within every community to end the vicious cycle which we so tritely call, domestic violence. Ironically, S. 1843 would itself do violence to all these promising and in most cases effective efforts. With this bill, we once again have well meaning people trying to federalize state and local jurisdictions. The Domestic Violence bill proposes the following: (1) establish a coordinator and an office within HEW to review and administer Federal, state and local programs; (2) institutionalize periodic recommendations and legislative proposals by a Federal Interagency Council on Domestic Violence to Congress; (3) through this central body, approve and monitor grants for domestic violence programs nationally.

This legislation represents one giant step by the Federal Social Service bureaucracy into family matters which are properly, more effectively and democratically represented by the states and local communities. With this bill there is created a new narrow interest, a categorical grant program with federally employed beneficiaries and professional domestic violence advocates who under this bill would be relieved of their struggle to compete for a share of the federal pie. They would not have to struggle as established constituencies much like homemakers, vocational educators and the many other equally important causes. Rather, a de facto OSHA on the family within HEW starting with $65 million would annually reauthorize itself upward until it begins spending and directing like one of the already grownup agencies. In time, we can envision a National Association of Domestic Violence Center Directors with a national network of federal offices, all clamoring for more dollars in the name of victims. And certainly, states and private agencies are sensitive to what they see as federal encroachment in civil matters historically granted to the states and localities.

We oppose S. 1843 in its present form. We share a desire to increase the participation of states, local communities, nonprofit private organizations and individual citizens in efforts to prevent domestic violence and to increase shelter and assistance for the victims. To preserve the integrity of these state and local efforts and to encourage an increase in these domestic violence prevention programs, state legislatures ought to have a veto power over any grant decisions by the HEW Secretary for disbursal under a state's plan. Certainly, state legislatures ought to have the power to say no to Washington when dealing with state programs at the local level.

S. 1843 does not permit this. Nor does it require that any federal grant assistance ought to pass the respective state licensure requirements with respect to qualified health care professional and habitable living and nutrition standards. And the bill does not protect state and local programs from federal preemption.

In short, this legislation is in itself an example of abuse at a time when most Americans want to see the removal of Federal intervention, not the increase of it. We don't believe that Congress really wants to create an OSHA on the family. We believe that we can effectively help the growing American community effort to prevent domestic violence and give comfort to its victims without having to shoot ourselves in the foot, as this bill proverbially does. And we also believe that when you sit down and think about it, you'll agree with us.

Sincerely,

ORRIN G. HATCH,
S. I. HAYAKAWA,
U.S. Senators.

EXHIBIT 2

[From the Washington Star, June 30, 1980]

DOMESTIC VIOLENCE AND THE FEDS

When Capitol Hill strategists are able to combine an applepie bill with a "twofer," congressmen and senators who routinely leap tall buildings at a single bound can find the prospect of opposition unnerving.

The legislative maneuver is evident in a Senate bill that would authorize $65 million over three years to aid victims of domestic violence, targeted particularly to providing emergency shelters for women abused in the home. S1843 represents the purest sort of motherhood/applepie.

But the bill is also a "two fer the price of one." The second part of the package would authorize a 25-member "Presidential Commission on National Service." The commission would address itself to the delicate question of universal service, possibly compulsory, for all young Americans.

National service has no logical connection with domestic violence. But a senator who fondly regards, say, the presidential commission might decide to vote for the bill despite disliking the notion of federally funded emergency shelters. A characteristic of this sort of combined measure is that it often is propelled by voice votes, as in the Senate Labor and Human Resources Committee approval of S1843. Voice votes leave no tracks, so to speak.

This bill deserves to be sunk by its primary ballast. "Federal missionaries are not the answer to domestic violence," argues Sen. Gordon J. Humphrey, R-N.H. "Domestic violence programs should be homegrown." That was our feeling when similar bills surfaced in Congress in 1978 and last year (though without the national-service component).

Senator Humphrey's sentiment does not represent indifference to domestic violence, though the special-interest groups supporting the bill will attempt thus to portray it. If domestic violence is a pervasive problem, then it properly should be a priority for the state or locale where the abuse has become apparent. If the lobbying groups seeking federal legislation and funds were to besiege a legislature or city council with the energy they bring to Capitol Hill, there can be little doubt that the issue would be promptly addressed.

But the statists have little patience with incremental approaches to social or political problems. They prefer a federal blanket big enough to cover every bed and cot in the land.

The usual methods to mobilize the feds for intervention are evident in this campaign. A "national" base is created—in this case, the National Coalition Against Domestic Violence. It is then announced that the problem has assumed "epidemic proportions," with appropriately stunning statistics to support the assertion (one estimate puts the number of women "severely battered" each year at 3.5 million). Finally, the push for legislation—and another bureaucracy is created and perpetuated with public money.

The supporters of S. 1843 claim that this would not happen with their program. The bulk of the federal money would go to states and communities, with an emphasis on private non-profit groups, to provide temporary assistance to battered women; longer-term responsibility would be assigned to the states and to local jurisdiction.

But federal guidelines and regulations and inspections would be, of course, controlling. We have seen too many of these back-door approaches to a permanent federal presence to accept this script without deep skepticism. Domestic violence can take a terrible toll. The national coalition ought to devote itself to protecting the victims—state by state, city by city.

The insistence that there is a federal solution and governmental role for every social malfunction is childlike and corrosive.

STATE PROJECT DISCONTINUATIONS

In accordance with Section 519(8) of the Crime Control Act, States submitted to LEAA data on the total number of projects ending in Fiscal Year 1978, the number of projects continued and not continued with non-LEAA funds both at the State and local levels when funds were discontinued, and the number of projects which by their very nature were not eligible or intended to be continued. Data is reported by criminal justice system components. Even though programs in juvenile justice and delinquency prevention and drug abuse are reported within the five primary program categories, they are reported again separately in response to congressional interest in these subject areas.

Of a total of 7,867 projects ending in fiscal year 1978, 2604 (33 percent) were continued at the State or local level subsequent to the termination of LEAA funding; 482 (6 percent) were discontinued either because of the unavailability of funds or the lack of appreciable impact; and 4781 (61 percent) were projects which by their nature were not eligible or intended for continuation. Of the projects in this latter category, the majority were in the enforcement area.

In reporting the projects that were continued with non-LEAA funds, the States indicated those which were funded at the State level and those funded at the local level. Some 74 percent of projects continued with non-LEAA monies were funded at the local level, with 26 percent funded at the State level. Of a total of 685 funded at the State level, 37 percent were in the correction category, 19 percent in enforcement, 18 percent in system support, 15 percent in adjudication, and 11 percent in prevention. There were 1,919 projects funded at the local level with the following percentages in each program component: enforcement, 33 percent; corrections, 22 percent; prevention, 18 percent; adjudication, 18 percent; and system support, 9 percent.

In addition to providing the number of projects continued at the State and local levels, the States reported the level of project scope and activity compared to that in the last year of LEAA funding. The focus of these indicators (reduced, comparable, or expanded) is upon the level of services provided and not solely upon the level of non-LEAA State or local continuation funding. Approximately 75 percent of the projects which were continued by States and localities were continued at levels comparable in scope and activity to that of the last year of LEAA funding. The remaining 25 percent were divided almost equally between reduced and expanded levels.

The number of projects not continued with non-LEAA funds when LEAA funding terminated were reported in two categories—those not continued because of no appreciable impact and those not continued because funds were not available. Of the total of 482 projects not continued, 26 percent fell into the former category and 74 percent into the latter. The breakout by criminal justice system component of projects not continued is as follows: corrections, 29 percent; prevention, 23 percent; enforcement, 21 percent; adjudication, 15 percent; and system support, 12 percent.

There are many LEAA-funded projects that by their very nature are not eligible for nor intended to be continued. Some 61 percent of the total projects ending in FY 1978 fall within this category. These include telecommunications and data processing equipment purchases, training, facilities construction and renovation, most research undertakings, and experimental projects or studies of a relatively short duration. The major objectives of these projects are accomplished with Federal funds, and with the exception of routine maintenance costs, the bulk of the project cost occurs during the initial Federal funding period.

A comparison of this report with data from the FY 1977 Annual Report shows that there is considerable consistency in the total number of projects ending (there were 79 more ending in FY 1977). Fiscal 1978 had 9 percent more projects continuing than were reported for FY 1977; 14 percent fewer projects not continued because of lack of funds or no appreciable impact; and 5 percent less projects not eligible for continuation than were reported for FY 1977.

CONTINUATIONS OF PROJECTS SUPPORTED WITH LEAA FUNDS

Program component	Projects continued with non-LEAA funds when LEAA funds were discontinued	Projects not continued when LEAA funds were discontinued	Projects which by their nature are not eligible or intended to be continued	Total number of projects not continued	Total number of projects ending in fiscal year 1978
Prevention	432	108	189	297	729
Enforcement	761	97	2,836	2,933	3,694
Adjudication	441	77	689	766	1,207
Corrections	665	140	572	712	1,377
System support	305	60	495	555	860
Total	2,604	482	4,781	5,263	7,867
Juvenile justice and delinquency prevention	630	150	305	455	1,085
Drug abuse	81	21	36	57	138

Note: Juvenile justice and delinquency prevention and drug abuse program information, although included in the 5 criminal justice system components, is reported again separately.

PROJECTS CONTINUED AT THE STATE AND LOCAL LEVELS BY CRIMINAL JUSTICE SYSTEM COMPONENT

	State		Local	
	Number	Percent	Number	Percent
Prevention	79	11	353	18
Enforcement	128	19	633	33
Adjudication	101	15	340	18
Corrections	252	37	413	22
System support	125	18	180	9
Total	685	100	1,919	100

Note: Total number projects continued: 2,604.

PROJECTS NOT CONTINUED (NO IMPACT OR NO FUNDS) BY CRIMINAL JUSTICE SYSTEM COMPONENT

	Not continued	Percent of total	No appreciable impact	No available funds
Prevention	108	23	26	82
Enforcement	97	21	21	76
Adjudication	77	15	24	53
Corrections	140	29	35	105
System support	60	12	18	42
Total	482	100	124	358
Percent			26	74

ENVIRONMENTAL EMERGENCY RESPONSE ACT—S. 1480

AMENDMENT NO. 1958

(Ordered to be printed and to lie on the table.)

Mr. MAGNUSON submitted an amendment intended to be proposed by him to S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

OIL SPILL LIABILITY ACT

Mr. MAGNUSON. Mr. President, S. 1480 addresses the subject of liability, compensation and cleanup for hazardous substance releases and spills. However, an issue of long concern to me is the inequitable and still unaddressed problems facing persons who are damaged by oil spills. The Congress has been working on this problem since the 94th Congress but still no resolution exists.

The amendment I am submitting today is very similar to the bill which the Committee on Commerce, Science, and Transportation reported last Congress, and legislation which I introduced earlier this Congress on this issue.

This legislation would establish a comprehensive and uniform system for fixing liability and settling claims for oil pollution damages in U.S. waters. This legislation is of great national importance as we seek to meet our energy needs in an environmentally sound manner. Those energy needs will probably result in accelerated development of our offshore oil and gas resources, the use of tankers, underwater pipelines, and the development of deepwater ports. This proposal would provide a broad range of protection against adverse economic impacts of the oil spills potentially associated with these activities.

In recent years, we have taken significant steps to limit and control oil pollution in the waters of the United States. The Port and Tanker Safety Act of 1978, which I authored during the last Congress, establishes the most stringent tanker construction and safety requirements in the world, and it encourages the Coast Guard to proceed unilaterally with even tougher national standards.

We have demonstrated our ability to reduce oil pollution despite an increase in the transportation of oil. Yet, as the incidents involving the *Argo Merchant*, the *Olympic Games* and the *Amoco Cadiz* demonstrate, oil spills continue to occur; and one-third of the oil spilled is from unidentifiable sources, where compensation cannot be obtained under existing law. Inconsistency among laws creates severe confusion and imposes unnecessary burdens on oil producers, taxpayers, and consumers through duplication of administrative costs and fee payments.

There is no reason why those persons damaged by oil spills should be forced to resort to costly and uncertain litigation in order to be made whole. Although there is Federal legislation in place that deals with the cleanup of oil spills, existing law still does not deal adequately with third party damages. Thus, damaged persons may still have no means to be compensated for their losses that may result from an oil spill.

For example, one of the roots of the problem is the 1851 Limitation of Liability Act, which limits the liability of a tanker owner for an oilspill to the value of the vessel after the accident. As the *Torrey Canyon, Argo Merchant*, and *Amoco Cadiz* disasters vividly demonstrate, this could well result in no liability for the tanker owner.

Up until the present time, it has been determined that innocent parties—the property owner and the fisherman—should bear the risks and costs of oil pollution damage from tanker operations. This state of the law cannot be allowed to continue. It is inadequate, illogical, and inequitable. This legislation would change this situation and shift the economic responsibility for such spills to those who present the risk and directly benefit from the transportation of oil—the shipowner and the oil industry.

This legislation would cover liability for all oil spills into our waters whether from tankers, oil terminals, pipelines, and would insure that property owners, fishermen, and other people who use and depend on our marine environment have a quick and equitable means for full compensation should an oil spill adversely impact them.

IMMIGRATION AND NATIONALITY EFFICIENCY ACT OF 1980—S. 1763

AMENDMENT NO. 1960

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON submitted an amendment intended to be proposed by him to S. 1763, a bill to amend the Immigration and Nationality Act to improve the efficiency of the Immigration and Naturalization Service, and to establish a different numerical limitation for immigrants born in foreign contiguous territories, and for other purposes.

EMPLOYMENT OF ALIEN, PROHIBITION

Mr. HUDDLESTON. Mr. President, the unemployment rate in the United States is 7.7 percent, and many economists predict that it will reach 9 percent by the end of the year. Debate in Congress is now heated on how large Federal job assistance programs should be. If we expand these programs because of a rising unemployment rate, American taxpayers will be faced with a larger Federal budget at a time when they are demanding a reduction in spending levels.

In many ways it appears that we have lost sight of the important need to reduce the continuing high unemployment. This is due primarily to our massive unemployment and welfare programs which take much of the pressure off the unemployment issue. Even though the cost of unemployment to individuals is tempered, there still remains a growing cost to the taxpayers of supporting assistance programs and social costs tied to the many problems created by unemployment. These costs are generally hidden from the public eye, but they are massive. The causes of these immense societal costs must be addressed.

This need to consider the true societal costs of unemployment was recognized by Congress when it included in the Humphrey-Hawkins bill a national goal of 4-percent unemployment. I strongly believe that it is time we return to this basic concern and take positive steps to begin reducing our high unemployment rate.

The fair hiring amendment which I am submitting today could make a substantial dent in unemployment without much of the cost and paperwork of the methods we are now using. The general concept of fair hiring procedures was advocated last December by Secretary of Labor Ray Marshall as a way to cut unemployment to below 4 percent. Attorney General Civiletti, speaking for the administration, endorsed the idea as part of a comprehensive solution on February 5, 1980.

The concept to which I am referring calls for an enforceable method of restoring jobs now held by illegal aliens to citizens and legal residents. The amendment I am submitting today would institute a simple system for insuring that new employees are able to find work and would provide penalties for employers who violate those provisions. In a relatively short period of time, without massive amounts of Federal funds and Federal paperwork, fair hiring practices would open up millions of jobs to individuals now on our unemployment rolls.

Estimates of the number of illegal immigrants holding jobs in this country range between 6 and 12 million. Secretary of Labor Marshall, who has worked as a labor economist in this field for 25 years, said last year when unemployment was around 6 percent that if aliens were removed from the job market, unemployment could be brought down to 3.7 percent. And these new jobs, Secretary Marshall said, would go to the most vulnerable people in our society: minority youth, women, and older workers.

The challenge of insuring that illegal immigrants do not take jobs which should be made available to American unemployed workers has traditionally been the task of the Immigration and Naturalization Service. But over the last few years, even though Congress has repeatedly appropriated more money for substantial increases in INS ability to conduct its job, the administration has blocked many of the increases. The reason for this resistance is that additional enforcement is thought to be only a part of controlling this problem, and the administration was interested in a comprehensive approach. The administration introduced a bill containing a similar provision in 1977, but has not reintroduced a fair hiring practices bill in this Congress.

The impact on the job market of millions of illegal workers in the United States is substantial. The ready supply of illegal labor depresses wages and working conditions. Because of illegal immigrants' fear of detection and deportation, they are inclined to work for lower wages and under conditions that legal workers would not and should not tolerate. The Department of Labor has recently documented millions of dollars in unpaid wages, for example, owed by unscrupulous employers to illegal immigrants. The end result of this is a huge pool of illegal labor that is used by employers and a corresponding large pool of domestic labor which is priced out of the job market. Unemployed Americans increasingly must depend on taxpayer-supported assistance programs in order to maintain a decent standard of living.

There is a prevailing myth that illegal immigrants only take the jobs which Americans shun. This thesis is untrue. Millions of Americans, primarily minority youth and older workers, hold jobs where the hours are long, pay is low, and work is hard. And many of our unemployed would take any job that pays a decent wage and is safe. Yet some employers will turn Americans away from jobs they have held for many years to hire easily-exploited illegal immigrants willing to work for lower wages and without complaint.

It is true that some of the jobs taken by illegal immigrants are unattractive to many of us. However, this does not mean that they are not sought by many of our unemployed. These jobs are important to our total job market and serve as a stepping stone to better positions. The Border Research Institute of Trinity University recently released its interim report on "The Importance of the Urban Mexican Worker in Reevaluating U.S. Immigration Policies." This report states that:

> We would argue that although the urban secondary labor market is characterized by low-paying, dead-end jobs, it is utilized by most non-college youth to encounter their first jobs, and that a highly significant number of married females are employed in this labor market in order to supplement the salaries of working-class husbands, and although averaging only half of their husbands' salary, the augmentation of family income provides the margin by which middle-class living standards are maintained; (4) urban blacks and Mexican-Americans are becoming increasingly restive in cities like Los Angeles, Chicago, and Houston, as they find themselves forced to compete with illegal migrants for employment. Considering the present downward overall trend of the economy, the expected rise in unemployment due to the application of inflation controls, and the anticipated lower levels of federal and state assistance to most social services, the secondary labor market will become an important factor of subsistence for urban minorities.

The argument that the jobs at the lower end of the employment scale are very much in demand by domestic labor is substantiated by a major new study done by the U.S. Department of Labor. The New York Times, which obtained a copy of the report, states that it indicates unemployment among American youth is much higher than official figures now indicate. However, the most significant finding is that these young people are more than willing to take the type of jobs which many would have us believe only illegal aliens want. The Department of Labor survey found that:

> A majority of the young people would be willing to take low-paying jobs in such areas as fast-food restaurants, cleaning establishments, supermarkets as well as dishwashing. A substantial number of the young people surveyed said they would work at below the minimum wage.

I believe that this survey strongly indicates that our unemployed youth are willing to start at the bottom and work their way up. However, this is impossible if the available jobs are taken by millions of illegal aliens.

Where once illegal immigrants were primarily in agricultural jobs, now they are well-entrenched in service, construction and manufacturing positions. Illegal immigrants have been increasingly taking better jobs with higher pay. The Border Research Institute's report found that:

> It is becoming increasingly clear in our study of urban Mexican chain migration that: (1) the urban Mexican illegal migrant is increasingly finding employment in the industrial, construction, and service areas of the labor market in large northern cities at salaries well above the minimum wage level; (2) the presence of larger numbers of illegal migrants with specific skills, staying in the United States for longer periods of time, is undercutting the manpower goals and strategies of the Department of Labor as we perceive a high proportion of skilled and semi-skilled positions held by illegal migrants are precisely those for which the CETA program is training unemployed and disadvantaged youth.

Since about 60 percent of illegal immigrants come from Mexico the significance of these findings cannot be discounted. This trend toward higher salaries for illegal immigrant workers is further supported by statistics prepared by the INS on salaries of apprehended illegal immigrants. For fiscal 1978, over half the illegal immigrants apprehended had salaries in the $2.50 to $4.49 per hour range and a significant number were in the hourly category of $6.50 and over.

The North American Congress on Latin America, in a report on illegal immigrants in New York City issued last year, discounted another persistent myth about illegals; that they are poor, uneducated, rural young men. NACLA found in a limited survey:

> These people came to the United States almost entirely from urban areas. They had substantial wage labor experience under their belts and most held jobs immediately before leaving. They were neither the chronic unemployed nor the poorest in their societies.
>
> The largest group came from the urban working class. Among them were mechanics, sewing machine operators and other factory workers, as well as a printer, a welder, a truck driver and a construction worker. Others were self-employed artisans . . . Only one out of the 50 had been primarily engaged in agricultural work.
>
> Twenty-six out of fifty immigrants interviewed were women.
>
> Compared to the general population in Latin American countries, these wokers had a relatively high level of education . . .
>
> All in all, these immigrants constituted a young, healthy, literate, semi-skilled group of experienced laborers, representing a loss of resources to their own countries.

This report is substantiated by a recent INS raid on a construction site in the Washington area. Nineteen illegal aliens were found working at wages between $11,000 and $20,000 a year.

Faced with massive numbers of well-paid illegal immigrant workers, some unions have turned to recruiting illegal immigrants. The AFL–CIO, in a policy statement on fair hiring procedures, said that it should be made a crime to hire illegal immigrants. Yet the Wall Street Journal reported last November that:

> A new attitude toward illegal aliens is emerging in the American labor movement. Instead of summoning immigration agents to get the illegal workers deported, a small but growing number of unions are trying to sign up the workers as members.

Although most unions continue to urge strong action against illegal immigrants, the effort by a few to recruit illegal immigrants complicates the issue of fair hiring procedures and will make it much more difficult to deal with if legislation action is delayed too long.

The adverse impact of illegal immigration on unemployment during an economic downturn has been confirmed by an interagency task force appointed by President Carter. This group stated in its March 1979 staff report:

> If immigration occurs near the bottom of the business cycle, when many U.S. workers are unemployed it is unlikely to produce any significant benefits and it clearly will exacerbate unemployment or lower the relative wages of low-skilled workers or both.

In other words, large scale illegal immigration occurring during 1980 when the President is predicting a recession and unemployment of 8.5 percent will cause additional unemployment and lower wages.

This conclusion is supported by David North, director for the Center for Labor and Migration Studies at the New TransCentury Foundation, and a recognized expert on immigration. In a recent report, North states:

> The central point is that the presence of a substantial number of additional, usually hardworking, often docile, often exploited workers can only serve to flood already overstocked labor markets, thereby causing working conditions and the reward for work to remain stable, or perhaps decline relatively.

Protecting the U.S. labor market with its present high unemployment levels would be justification in itself for this bill. However, there are other reasons which are just as compelling. A rapidly expanding population will place substantial strains on the economy and society of the United States. A substantial number of demographers believe that the United States has one of the fastest growing populations of any industrial country if illegal immigration is included.

The House Select Committee on Population reported that legal and illegal immigration account for 25 percent to 50 percent of our annual population growth. This uncontrolled rapid population growth may have dire consequences for the United States because of the demand it places upon scarce natural resources, energy, governmental services, housing and food. Further, it will substantially contribute to our urban congestion and pollution. In essence, it can mean a declining standard of living for all of us in the years to come.

There is little hope that immigration pressure on the United States will decline in the near future. Presently, there are 4.5 billion people in the world and this number is growing at the rate of at least 192,000 per day or 70 million a year. These numbers will produce about 900 million new people for the world labor force over the next 20 years. Mexico, which is responsible for about 30 percent of our illegal immigration, will see its population double by the year 2000. Already droughts and crop failures in Mexico are driving many Mexicans to cross the border. With an unemployment and underemployment rate which already extends well into the double-digit range, the United States is certain to experience increased immigration pressures.

There are several questions we must face in this regard. Is the United States going to continue to allow foreign countries to export their excess populations and unemployed to this country? How high must our own unemployment rate go before we take decisive steps to enforce our immigration laws effectively as other countries do? As elected officials, who are we more concerned about—an unemployed worker from Mexico, or one from New York?

There is increasing evidence that there are thorns hidden among the roses for the countries exporting surplus labor. A study released by the Worldwatch Institute indicates that many exporting countries are experiencing shortages of skilled laborers which interferes with some of the most dynamic sectors in their economies. The loss of manual workers and low-level white-collar workers is resulting in a "brawn" drain in addition to the traditional brain drain of well-educated immigrants from developing countries to the United States. In the long run I believe that we are probably encouraging the continued high flow of illegal immigrants by draining off some of the brightest and most ambitious workers in underdeveloped countries. A shortage of skilled workers will hamper the economic development of less developed countries which would provide more jobs for their growing populations.

There is another myth about illegal immigration which does not stand up to the facts. Some would have us believe that illegal immigrants are not a drain on our economy because illegal immigrants do not use governmental services for fear of being detected and deported. The facts do not support this idea.

David North found in a recent study that:

> "In the first quarter of calendar year 1979, the Department of Public Social Services (of Los Angeles County) . . . reported that it identified and denied benefits to 3,453 illegal alien applicants, an average of more than 1,000 a month. Since such cases cost about $175,000 a month, and generally last about 19 months, the savings generated by this Los Angeles County process, in a year, total about $46,000,000.
>
> If the programs are as tightly run in the other counties of California as the one in Los Angeles County . . . something on the order of $100,000,000 a year is now being saved.

The 3,453 illegal immigrants represented 21 percent of the aliens applying for welfare services during that period of time.

A study by Maurice D. Van Arsdol, Jr. found that 37.3 percent of the sampled illegal immigrants had not only used public hospitals, but still owed hospital bills at the time of the survey.

This figure is supported by a March 1979 HEW report which was unable to refute allegations by nine hospitals located in five States that losses totaling about $62 million in 1976 were attributed to illegal immigrants.

Another myth is that illegal immigrants pay more than their share of U.S. taxes through withholding by the employer. Tax records do not sustain this belief. In 1974, the Internal Revenue Service conducted a test program which indicated a high frequency of tax noncompliance among apprehended illegal immigrants. A report by an IRS study team in 1978 found that illegal immigrants are not only nonfilers, but that many work completely "off-the-books." Off-the-books means that earnings are concealed by exclusion from tax records, contributing to the persistently increasing "underground economy" of untaxed, unrecorded funds. The IRS report projects that the income of illegal immigrants who are non-tax filers amounts to between $5 and $6.5 billion annually.

Evidence of this loss of revenue is further found in instructions in the IRS manual on how employers and illegal aliens avoid Federal tax obligations. The manual points out:

> Many aliens also claim excessive exemptions, since they are aware that by doing so they will receive larger take-home amounts.
>
> Determining taxable income is sometimes difficult since many employers pay in cash and do *not* withhold. The employers do not enter the alien on payroll records and, as a result, wage information is sketchy or nonexistent.

It is obvious from this that there are many ways to avoid paying taxes and that illegal immigrants who flout our immigration laws are just as willing to flout our tax laws.

Presently there is no reason why the Congress cannot move ahead with this bill to curb the employment of illegal immigrants. Although the Select Commission on Immigration and Refuge Policy will not complete its final report until next year, this is not viewed as a reason for Congress to delay acting on important immigration legislation. Secretary of Labor Ray Marshall, a Commission member, stated on December 2, 1979 that—

> We do not need to wait for the Commission . . . to penalize employers who hire illegal immigrants, to improve enforcement.

This approval of legislative action on immigration issues was strongly voiced by the chairman of the Senate Judiciary Committee, Senator Kennedy, when he stated on the floor of the Senate on September 6, 1979:

> The existence of the Select Commission must not mean that Congress should stand idle on pressing immigration issues. It must not be an excuse for delaying consideration of urgent, remedial immigration reforms. The Judiciary Committees should not ignore legislative proposals in the immigration field, for which there is already a broad consensus on the need to act, pending the report of the Select Comission in 1981.

With unemployment expected to rise to 9 percent in 1980, no one can seriously claim that the influx of millions of illegal immigrant workers is not a "pressing immigration issue." Nor can anyone allege that there is not "a broad consensus on the need to act." A Gallup poll in 1977 favored legislation providing fair hiring procedures by 6 to 1. During that same year, a Roper poll found that 91 percent of the people agreed that the United States should make an "all-out effort to stop illegal entry."

The Library of Congress has found that there are now 11 States which have statutes that, in effect, are fair hiring procedures. These States are: California, Connecticut, Delaware, Florida, Kansas, Maine, Massachusetts, Montana, New Hampshire, Vermont, and Virginia. Although Puerto Rico is not a State, it too, has a fair hiring statute.

These statutes indicate there is a growing awareness of the economic burden imposed by illegal immigrants and that legislation requiring fair hiring practices is desired and feasible. However, this proliferation of State statutes will not solve the problem. Multiple legislative schemes create many practical problems which can only be solved by uniform Federal legislation.

The legislators of the States mentioned before are not the only elected officials who are taking action to curb the impact of massive illegal immigration. Another Library of Congress study found that the Congress has acted in 11 different instances to keep illegal immigrants from receiving the benefit of Federal programs. In another Federal statute the actual hiring of illegal immigrants by farm labor contractors is prohibited. These legislative intiatives indicate to me that many Members of Congress are seriously concerned about the illegal immigration problem and would like to control it.

Unfortunately, these piecemeal actions are not enough. There must be comprehensive legislation that goes to the heart of the problem. The vast majority of illegal immigrants come to the United States for one reason—jobs. Unless they are prevented from taking these jobs on a nationwide basis, we will never be able to deal effectively with the problem of unemployment in the United States. With a huge pool of easily exploited, uncomplaining illegal workers, unscrupulous employers can put more Americans out of work without any penalties. Fair hiring procedures will insure that Americans can get jobs that would otherwise go to illegal immigrants.

What I am proposing today is not a new idea from the standpoint of what would be accomplished. President Carter introduced legislation in the 95th Congress which would have imposed penalties for the hiring of illegal immigrants. This amendment simply puts this idea in the right context: providing millions of jobs for Americans without massive infusions of Federal funds.

The amendment that I am proposing would not make a substantive change in our immigration laws. It would not change our admission or exclusion procedures or change our legislated quota system. It would merely provide an effective means of providing jobs to legal residents and enforcing our existing immigration laws.

I believe that one of the primary reasons why we have not enacted effective legislation to deal with the illegal immigration problem is our proper concern about the rights and needs of the illegal immigrant. We should be concerned about the welfare of any human being. But, as elected officials, our primary concern should be for the citizens and legal residents of the United States. Their right to a job with decent wages and working conditions should be paramount, and their rights should be protected first. Every citizen and legal resident has a right to fair hiring procedures.

By continuing to permit the existence of a large pool of relatively cheap and docile labor that takes jobs from the neediest Americans, we are also permitting a few greedy individuals to exploit them. If we truly believe in the rights of all workers, we will enact a system which protects the rights of domestic and foreign workers in this country. By continuing to permit the use of illegal immigrant labor, we are encouraging illegal immigration, and creating a larger problem for the future. By delay, we assure that the problems created by illegal immigrant labor will be even more unmanageable in years to come, and solutions ever more difficult to find for a problem that could become completely intractable. If we doubt the impact of the estimated millions of illegal workers today displacing American workers, can we doubt the impact of twice that many in 5 or 10 years? The problem grows because illegal immigrants and their employers see that there is no penalty for the harm they do to American workers.

The method I have chosen to assure fair hiring practices is one that is already being utilized successfully by the U.S. Department of Labor. The Farm Labor Contractor Registration Act prohibits farm labor contractors from knowingly "recruiting, employing or utilizing" illegal aliens. My amendment would simply make this prohibition applicable to all employers.

However, in order to prevent possible disruption in some industries, it would only apply to individuals who are hired after the effective date of this act. This will permit us adequate time to make decisions on very controversial issues, such as amnesty, while discouraging the flow of new illegal aliens. Further, this amendment would not include any of the registration requirements now in FLCRA.

The attractiveness of this proposal is that we know that it works. It has been in Federal law since 1974. During that time, a handful of Labor Department officials have found thousands of illegal aliens and have discouraged the hiring of countless others by assessing civil money penalties amounting to hundreds of thousands of dollars. This same success can be carried out on a broader scale with the commitment of the appropriate resources.

I urge my colleagues to give speedy and careful consideration to this fair hiring amendment.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold a hearing on Tuesday, August 5, 1980, beginning at 10 a.m. in room 5302 Dirksen. The purpose of the hearing is to review the decisions of the Depository Institutions Deregulation Committee (DIDC) and to hear comment on S. 2927, a bill concerning the interest rate differential.

All six members of the DIDC will be present as well as representatives of various depository institution associations. Anyone wishing to submit statements for the record should contact Steven Roberts at (202) 224-7391.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Resources and Materials Production Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 2734, legislation to authorize the Secretary of the Interior to transfer certain lands and facilities used by the Bureau of Mines.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a markup session on the nomination of Thomas W. Fredericks and S. 2126, legislation on the Northern Cheyenne coal leases cancellation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE U.S. COAST GUARD—190 YEARS OF SERVICE

● Mr. DANFORTH. Mr. President, on Monday, August 4, 1980, the U.S. Coast Guard will be celebrating its 190th year of service to the citizens of the United States.

The U.S. Coast Guard is to be commended for its untiring efforts toward educating our citizens in water safety, protecting our environment from pollution, assisting our citizens during flood relief activities, and fulfilling its numerous other humanitarian missions both in peacetime and in time of national emergency.

I would like to add my congratulations to the many others I am sure it will be receiving that day.●

DEPARTMENT OF ENERGY AUTHORIZATIONS—CIVILIAN APPLICATIONS

● Mr. LEVIN. Mr. President, yesterday I voted against the energy impact assistance legislation. I was not opposed to energy impact aid in principle; the hearings which the Governmental Affairs Committee held on this bill demonstrated that there is some legitimate need for such aid by some local communities, particularly where the revenues from new energy developments do not begin to accrue until years after funds are needed to cope with the impacts of those developments.

However, in the Governmental Affairs Committee, we pared down the bill from what I considered an excessively generous and even wasteful version which was reported by the Energy Committee. We removed all grants for implementation of impact programs from the bill, because the Congressional Budget Office told us that they were unnecessary.

We removed a loophole that would discount revenues accruing to State and local governments from energy development for purposes of determining whether adequate revenues exist to fund impact programs. That loophole would effectively have required the Federal Government to provide impact assistance even where a State or locality's own resources were already adequate to handle its problems, if the State or local government simply passes legislation funneling its energy development revenues into some area other than impact aid.

Finally, we reduced the annual authorization level for the program from $400 million to $150 million, which was more in line with what CBO estimated the program would cost.

The version of the bill upon which we voted yesterday reversed all of these changes made by our committee. It exceeded what I considered the maximum acceptable size of the program, based on the data we have accumulated as to the real need which exists and I therefore opposed the legislation in the form offered.●

AUTUMN BINGE

● Mr. COHEN. Mr. President, I am pleased to bring to the attention of my colleagues an editorial that appeared recently in the Louisville Courier-Journal commending Senator Carl Levin for his leadership in investigating year-end spending in the Federal Government.

As chairman of the Governmental Affairs Subcommittee on Oversight of Government Management, Senator Levin has been in the forefront with the efforts to examine the causes and consequences of the annual "Autumn Binge," when Federal agencies rush to spend the funds remaining in their budgets, regardless of need or time constraints, before the fiscal year ends.

I look forward to continuing to work with Senator Levin in developing solutions to the problem of "hurry-up spending" that will help end the "use it or lose it" philosophy that now motivates many in the Federal bureaucracy.

I ask that the editorial be printed in the Record.

The editorial follows:

Last-Minute Federal Shoppers

Government bureaucracies aren't alone when it comes to spending everything in their budget before year's end lest someone get the idea they can survive on less. Corporations have the problem, too. But there's one big difference. Government is spending our money.

That's why it was such a pleasure to hear U.S. Senator Carl Levin's subcommittee sound an ominous warning the other day on the "Use It or Lose It" practice. His panel has looked closely at the behavior of 10 major federal agencies as the September 30 witching hour for the end of the fiscal year approaches, and found some $2 billion in waste.

The senator from Michigan found that the Interior Department bought $378,000 in furniture last September—27 percent of all furniture purchases in fiscal year 1979—though it was paying $200,000 annually to store another $300,000 worth of office equipment in warehouses.

He found that the Army awarded $187,631 in contracts at one base on the last working day of fiscal year 1978. His panel rightly regarded this work as unnecessary: the base was due to be closed.

And he found 80 TV sets bought for Fort Riley, Kansas, in the final week of the 1978 contract year. Most were still in crates a year later.

Senator Levin's Governmental Affairs subcommittee also charged that the haste to spend usually overrides competitive bidding or other purchasing controls. It called on the Office of Management and Budget to crack down.

Amen. "Use It or Lose It" cheats taxpayers. If enough get irked, we might get a real trial of "zero-based" budgeting, in which a department in its appropriations request has to justify every nickel from scratch. Who knows, some of the worst offenders might even hear a new slogan: "Zero for this agency."●

UNITED STATES-CANADA TRADE AND TOURISM CONFERENCE

● Mr. BAUCUS. Mr. President, on June 30, 1980, I sponsored a United States-Canada Trade and Tourism Conference in Great Falls, Mont. Some 200 people attended including prominent State government officials from Montana, Idaho, and Washington, Provincial Government officials from Alberta, Saskatchewan, and British Columbia, and many representatives from the private sector. The purpose of the conference was to explore ways to increase cooperation in trade and tourism along the Western United States-Canadian border. I sponsored the conference because I strongly believe that local opportunities for trade cooperation are very great, are often untapped and can contribute very much to a better and more profitable relationship with our northern neighbors. The conference was entirely consistent with my efforts to promote North American trade.

Conference participants were privileged to hear from three very distinguished individuals: the Honorable Kenneth Curtis, U.S. Ambassador to Canada, the Honorable Robert Herzstein, Under Secretary of Commerce for International Trade, and the Honorable J. Allen Adair, Minister of Tourism and Small Business, Province of Alberta. I commend all three of these presentations to my colleagues and will have copies available in my office shortly for anyone interested.

The formal presentations at the conference were followed by two working groups, one on trade and one on tourism. The trade working group established a steering committee to explore the possibility of creating a local Canadian-American Joint Commission on Trade. Montana's Governor, Tom Judge, was designated as chairman of the steering committee. Governor Judge will be contacting Premiers, Governors, and business and agricultural leaders to obtain their views on the form any Commission should take.

The tourism working group nominated six-member delegations from each of the States and Provinces to attend a meeting in Calgary, Alberta, on August 18. The purpose of the Calgary meeting will be to explore international marketing ventures, identify impediments to such ventures, and ultimately to establish an International Tourism Council similar to one now operating successfully on behalf of Atlantic Canada, Quebec, and the New England States.

Mr. President, the need to cooperate more closely with our northern neighbors is now being recognized in all sectors of our economy. I am delighted that the people of Montana are taking the lead in working with our Canadian friends. The conference in Great Falls is just the beginning of what I hope will be a long and fruitful relationship.

Finally, I want to thank particularly Senators Church and Magnuson for having helped us by nominating key important citizens from their States to attend the conference. Their nominations were uniformly excellent and I appreciate the effort and thought that went into the nominations. Similar thanks are owed to the Governors of Washington, Idaho, and Montana; the Premiers of Alberta, Saskatchewan, and British Columbia; as well as the U.S. consulates general in those areas, the United States and Canadian Embassies, and many chambers of commerce in both countries.

To provide a summary of these presentations, I ask that two articles from the Great Falls Tribune of July 1, 1980, be printed in the Record.

The articles follow:

U.S.-Canadian Tourism, Trade Face Strains of Economics

(By Ronald J. Rice)

Twin challenges—inflation and unemployment—face tourism in the United States and Canada during the next decade and both countries face an increasingly competitive global economy, a Canadian official and a U.S. official stated during the U.S.-Canada Trade and Tourism Conference Monday at the Heritage Inn.

The conference, sponsored and hosted by Sen. Max Baucus with Gov. Tom Judge and Lt. Gov. Ted Schwinden as co-hosts, drew more than 170 persons from the western U.S. and the western provinces of Canada.

The two officials sounding similar notes in the morning addresses were Robert E. Herzstein, Under Secretary for International Trade, U.S. Department of Commerce, and J. Allen Adair, Minister of Tourism and Small Business, Government of the Province of Alberta.

Adair told the conference there are important similarities between the western provinces of Canada and the northwestern States in the United States. Both regions are long distances from their national capitals, he said, adding both are sparsely populated and, therefore, have fewer political representatives than more populated regions and both are resource-based with enormous potential for future development.

Herzstein noted industrial restructuring in the U.S. has the potential of straining this Nation's border relationship with Canada. As the Federal governments of the two nations are approached increasingly by industries and by State and Provincial governments for assistance, the temptation will be strong to take actions that offer short-run solutions which tamper with the open market.

Given the massive scale of our two-way trade, Herzstein said, we will need to balance our impulse to intervene with a longer-term concept of what kind of economy we want in 1990 and what kind of basic Canadian-American economic line we should be fashioning.

Both speakers stated trade between the two countries now is over $70 billion a year and climbing steadily. About 20 percent of all U.S. exports go to Canada and 70 percent of Canada's exports come into the U.S.

The speakers agreed that the two countries share in the dedication to a free-enterprise economy, both enjoy a high level of prosperity and share a similar legalistic approach to international trade, believing such trade should take place in free and open markets under rules that limit the intervention of governments in the decisions of competing enterprises. Both countries have worked together to nurture it further in the recent Multilateral Trade Agreements.

Adair told the group that, in trade terms, the two countries are moving closer to free trade and greater interdependence, but added Canadians are sensitive to some of the implications of greater integration because they see themselves as a very distinct and unique nation. Adair said there is an advantage in focusing on specific areas that complement the two regions where concrete results can be achieved instead of looking toward continent-wide integration.

The Alberta official said international energy developments are almost producing a "forced growth" situation in Alberta. The province's population is over 2 million and is growing at 3½ percent per year—twice the average for the rest of Canada and three times that of the United States.

Alberta possesses 85 percent of Canada's oil reserves with much of the remainder in Saskatchewan. Approximately 80 percent of the economically recoverable natural gas in Canada is in Alberta and much of the other 20 percent is in British Columbia. Alberta has enormous oil sands deposits with estimates of these reserves as high as 1 trillion barrels—which is larger than the total known oil reserves of the Middle East.

Western Canada is by far the most dynamic region in Canada, Adair said, and it has been forecast that 85 percent of all Canadian economic growth this year will be generated in British Columbia, Alberta and Saskatchewan.

Herzstein said the governments and private groups in both countries are engaged in a healthy examination of the relationship between the two countries and the possibility for increased cooperation. Congress' Trade Agreements Act has a requirement of an executive branch study of the desirability of entering into trade agreements with countries in the northern portion of the western hemisphere.

The under secretary said the economies of both nations would enjoy benefits of improved efficiencies on either side of the border and together the two nations would be better equipped to meet competition challenges from third countries, such as Japan. There are important principles to recognize, Herzstein said, such as Canada's interest in preserving its cultural identity, which should be considered in the cooperative efforts to solve the problems of the two nations.

One of the delights of our two countries, and their fortunate position on the continent, is that the opportunities for expanded trade and tourism are many and exploring them is worthwhile and enjoyable, Herzstein said.

Adair pointed out shifts in travel trends are occurring and American traffic to Alberta has declined consistently since 1976. He said the downtrend should be arrested and Canadians are optimistic it will be reversed now that Americans have adjusted to the energy crisis which kept them home last summer.

AREA STATES, PROVINCES SEEN AS ONE LARGE REGION

The United States and Canada could both benefit if the western states and western provinces were thought of as one large region, Kenneth Curtis, U.S. Ambassador to Canada, told the more than 170 persons attending the United States-Canada Trade and Tourism Conference Monday.

Curtis, a former member of the International Joint Commission, said cooperation between Alaska and the Yukon had proved beneficial to both countries. There is a continuing trend, he said, for the western provinces and states to be considered by travelers as a single unit instead of individual subdivisions.

Curtis, also a former governor of Maine, stressed the importance of tourism between the countries and said it is "often the forerunner to increased trade and improved travel methods."

The joint entity, or common purpose, also is more economical, the ambassador said adding that integrated tourist development can be done in the name of tourism and can still contribute to the expansion of industry, which, in turn, can contribute to a better community.

"In 1979, the U.S. took the step of multinational trade negotiations," Curtis said. "Our joint future doesn't line in protectionism. In the next several years we both will be consolidating our gains and looking to tariff reductions.

"I would like to see the United States and Canada go to further liberalization of trade. Any trade liberalization must bring mutual benefits and must be reasonably proportioned so both nations will receive fair benefits."

Curtis said there has been close trade associations between the two nations for many years and cited the "petroleum swaps" as an example. Under this arrangement, United States firms would deliver petroleum to Canada's eastern provinces, which have none, in return for petroleum brought down into the United States from Western Canada.

He noted electricity exchanges also are being carried out and said the Alaska Pipeline, built to bring natural gas to the United States, also would be beneficial to western Canada with Canadian gas going into the southern portion of the system.

The ambassador said he would like to see improvement in transportation between the two countries, both in the air and on the ground. He said proposals have been made to the Canadian government.

Curtis said the greatest competition between the two countries is in the field of agriculture and added Canada and the United States are the "breadbasket of the world" because the two countries produce 70 percent of the world trade in food grains.

"We should have an open, no-holds-barred exchange of information between our two countries," Curtis said, "with this exchange being based on mutual respect to each other. The opportunities far outweigh the problems between our two countries." ●

TAXFLATION AND TAX ABATEMENT

● Mr. DOLE. Mr. President, yesterday the Senate Finance Committee completed 7 days of hearings on possible tax reduction for 1981. The hearings have been useful and informative. I believe the testimony reflects a strong consensus that tax reduction is needed, as soon as possible. The disagreement is over how soon tax reduction will be feasible, and the precise structure the reduction should take.

This Senator believes we must act now, to make a commitment to tax reduction beginning January 1, 1981. The urgent need for action—to limit the record tax burden scheduled for next year, to restore personal incentive, and to stimulate business investment—is discussed in detail, and with considerable insight, in the record of the hearings held both in the Finance Committee and the Ways and Means Committee. I urge my colleagues who have not attended any of the hearings to examine the testimony that has been given—I believe the testimony helps frame the issues we now face. The question of the timing and structure of tax reduction is the most important issue of domestic policy—and of economic policy—that we are confronted with.

TAX CUT IS TAX ABATEMENT

Mr. President, I would just like to note that some of the testimony received by the Finance Committee focused on an issue of great concern to me—the bracket creep, or taxflation, that occurs when inflation pushes people into higher tax brackets. Virtually every witness acknowledged the problem of taxflation as a major reason why tax relief is needed. It was suggested that really we are talking about tax abatement—a moderation of scheduled increases in the tax burden—and not tax reduction. I believe the public is very much aware of this distinction. That is why, when people are asked if they favor a tax cut this year, they are skeptical. They know that "tax cut" is not the right term, and they are reluctant to give Congress credit for cutting taxes—particularly in an election year—when they know that we are discussing nothing more than tax abatement.

PUBLIC DESERVES A STRONGER COMMITMENT

Mr. President, it is because of this public skepticism that I feel compelled to stress the need for tax indexing. The American people deserve a commitment to ending automatic tax increases, so that we can once again talk about real tax reduction, and mean what we say. That commitment was offered by Governor Reagan in his June 25 statement calling for immediate tax reduction. The first objective of the Reagan proposal—which I have introduced on behalf of Senate Republicans as S. 2878—is a 10-percent rate reduction for individuals, combined with accelerated depreciation for businesses. But Governor Reagan also called for preserving the real value of rate reductions, once they are made, by indexing the personal income tax to inflation. The Republican platform adopted at the Detroit convention also made a commitment to tax indexing.

And we will fulfill that commitment, if the voters give us the opportunity. Three times over the past 2 years the Senate has had an opportunity to vote on tax indexing. Each time the measure has been defeated, although by narrower margins on the last two occasions. I do not suggest that this is a partisan issue—it is not, and should not be. A growing number of Senators on the other side of the aisle have supported tax indexing, and that fact is very gratifying to this Senator. But those supporters clearly remain in a minority, while a clear majority on our side has consistently voted to end tax increases from inflation.

WHY WE ARE HERE

Mr. President, in a very real sense our failure to act on the problem of inflation and taxes is the reason why we are now discussing tax reduction. Some have accused Governor Reagan of advocating hasty, imperfectly throught-through action to cut taxes. Some have even criticized Members of this body for over-reacting to the Republican initiative. Neither view is correct. The fact is that we must expedite action now because we failed to act earlier, when we should have. Some of us have sought to give the Senate opportunities to deal with the problem of the level of taxation. The Senate has not seized those opportunities; but that is no excuse for further delay, which would be inexcusable.

It has been said that tax legislation cannot, or should not, be made on the Senate floor. Perhaps that is so, but if our normal procedures—committee hearings and markups in each House of Congress—fail to expedite action on a vital issue, then those of us in the minority have no option but to raise that issue on the floor. Several weeks ago commentator George F. Will mentioned this situation on the public affairs program, Agronsky and Company. Mr. Will favorably mentioned efforts by the Senator from Kansas—and by the Congressman from Ohio, Bill Gradison—to index personal income taxes. He then indicated that the failure of Congress to respond to those efforts has led to the situation we now find—efforts on the Senate floor to reduce taxes without delay.

TIME TO FOLLOW THROUGH

Mr. President, now we have had hearings, we are proceeding to address the problem. I believe it is not unfair to say that we are proceeding now partly because of the efforts some of us have made to bring the tax issue to the attention of this Chamber. We have discussed the issues, and now we should expedite action on tax reduction to take effect January 1. As we do so, we should consider following up rate reductions by indexing taxes to inflation—as has been urged on the Finance Committee by Martin Feldstein and Alan Greenspan, and by James Davidson of the National Taxpayers Union. I would also note that Herbert Stein, although he prefers shifting the tax burden to consumption rather than the net tax reduction at this time, recommended indexing as the most equitable and sensible reform of the personal income tax.

We have made progress in recent weeks. Now we must maintain the momentum. Our ultimate goal will be to restore stability to tax rates in periods of inflation. We should make a commitment now to do so.●

GEORGE PEABODY MEDALS FOR CONTRIBUTIONS TO MUSIC IN AMERICA AWARDED TO LEONARD BERNSTEIN, EUBIE BLAKE, AND CONGRESSMAN JOHN BRADEMAS

● Mr. SARBANES. Mr. President, several weeks ago, on the occasion of the 1980 commencement of the Peabody Conservatory of Music in Baltimore, Md., three distinguished Americans were awarded the first George Peabody Medals for outstanding contributions to music in America.

The recipients of these awards were Leonard Bernstein, Eubie Blake, and our colleague in the House, the Honorable John Brademas of Indiana, the distinguished majority whip.

Mr. President, I congratulate all three of these individuals and at this point in the Record I insert the text of the statement made on the occasion of the presentation of the George Peabody Medals by Dr. Elliott Galkin, president of the Peabody Conservatory.

The statement follows:

PRESENTATION OF THE GEORGE PEABODY MEDALS

INTRODUCTION

As you know, the Peabody Conservatory is an institution with a particular sense of identification with the music of this country, past and present.

And in recognizing the richnesses of our musical heritage we are proud to honor three individuals whose accomplishments enhanced the world of music in this country. Tonight we present for the first time the George Peabody Medal for Outstanding Contribution to Music in America to three individuals whose achievements have enriched the pages of the history of music in America: Leonard Bernstein, Eubie Blake, and Congressman John Brademas.

LEONARD BERNSTEIN

This morning, at the Commencement Exercises of The Johns Hopkins University, Leonard Bernstein was described as a brilliant pianist, prodigious conductor, and inimitable composer.

In his inspirational address to the graduating classes of the University, he dramatized once again the ultimate role of the artist—that of educator.

Whether before an orchestra, in his Young People's Concerts, the Charles Eliot Horton Lectures at Harvard University, or his Commencement address at The Johns Hopkins University, Leonard Bernstein is a virtuoso teacher. He has demonstrated to the world how the medium of television may become an educational tool—enriching our life.

Always spontaneous, always charismatic, he more than any musician in history, has democratized the understanding of artistic performance.

Leonard Bernstein . . . It is an honor for the Peabody Conservatory to award you the George Peabody Medal for Outstanding Contributions to Music in America.

EUBIE BLAKE

Eubie Blake has been called the grand old man of American Jazz.

He was born in 1883 in Baltimore, the son of slaves. His mother was a washerwoman. He began the study of music at the age of six. However, he was unable to pursue the classical instruction in music which he desired. He remembers that he frequently passed the Peabody Conservatory, but so rigid was the color bar in the year 1890 that there was an objection even to his carrying his mother's laundry bundles past this building. Some 89 years later, Eubie Blake recalled that when he appeared at the Peabody Conservatory in 1978, it was one of the two places in the world in which he received a standing ovation, the other in Berlin after the Second World War.

Mr. Blake's professional career began at the age of seventeen. In 1915 he began to achieve a national reputation as a songwriter, composing such works as "It's All Your Fault", "Shuffle Along", and the "Chocolate Dandies". These were pioneer compositions in the so-called negro shows which introduced the Great White Way, Broadway, to some of the most vibrant music in this country's history.

He soon became a major figure in creating what was called "the black presence" on Broadway in the 1920's and the 1930's.

From the 1930's until the present, he became known as "the man who put black music on Broadway". He is recognized as one of the founding fathers of American popular music. Jazz experts quote excerpts from his compositions to explain elements in the development of the jazz style. He has been honored by the American Society of Composers, Authors, and Publishers, and the American Guild of Vaudeville Artists, and has received numerous honorary doctorates. He has been heard throughout the world as a performer and as a composer. One of the most amazing tributes to Eubie Blake, to his compositional vitality and his performance abilities, took place in 1969 when Columbia Records issued a two-record set entitled "86 Years of Eubie Blake", for which he himself did most of the recording.

Throughout the world, wherever American popular music is known, Eubie Blake is recognized as one of its masters.

For his achievement, the Peabody Conservatory is proud to award him the George Peabody Medal for Outstanding Contributions to Music in America.

JOHN BRADEMAS

Since the earliest days in America's history, from Thomas Jefferson to John F. Kennedy, this nation has been fortunate in having national leaders with a breadth of vision profound in its understanding of the importance of art as a basic need in the life of man.

Representative John Brademas is such a national leader. He has been described in the New York Times as "Congress's most articulate and effective spokesman for aid to culture."

He was born in Mishawaka, Indiana. After service in the Navy he became a Veterans National Scholar at Harvard University where he was graduated with a B.A. degree magna cum laude and was elected to Phi Beta Kappa. He then studied as a Rhodes Scholar at Oxford University receiving the degree of Doctor of Philosophy in Social Studies in 1954.

He was first elected to Congress in 1958 from Indiana's Third District. During more than twenty years of service as a member of the Education and Labor Committee, he has played a principal role in helping to write most major legislation concerning elementary and secondary education, higher education, vocational education, services for the elderly and the handicapped, and Federal support for libraries, museums and the arts and humanities.

He is chief architect of the National Institute of Education, the Federal agency supporting research in education, and he was a major sponsor of the Omnibus Education Act of 1972 and the Higher Education Amendments of 1976.

He was also chief House sponsor of the Education for All Handicapped Children Act; the Arts, Humanities and Cultural Affairs Act; Arts and Artifacts Indemnity Act; Museum Services Act; and the Older Americans Comprehensive Services Amendments of 1975, which included the Age Discrimination Act prohibiting age discrimination in those programs receiving Federal assistance. From the beginning days of his distinguished career in Washington, Mr. Brademas has understood the inspiration of education and art to be an inalienable right of our people.

This country is in his debt for his accomplishments—for his insistence on the role of art as, in the words of Jefferson, "an important expression of the American mind."

For these reasons, it is the privilege of the Peabody Conservatory to confer upon him the George Peabody Medal for Oustanding Contributions to Music in America.●

MONTANA CENTER FOR INNOVATION

● Mr. BAUCUS. Mr. President, I would like to insert into the Record at the conclusion of these remarks an article which appeared recently in the New York Times. It is about Montana's Center for Innovation, and it is an excellent description of a real success story. I am pleased that such attention is given to the center.

CFI serves a unique function in the United States: To examine and market the inventions of private entrepreneurs. These inventions are useful and create new jobs; yet, the nature of our over-regulated system makes it difficult for the private entrepreneur to gain access to the market. CFI helps provide such access.

The center itself was the creation of Dr. Jerry Plunkett, an eminent and prolific inventor. The NSF and other agencies which are supposed to provide financial assistance to entrepreneurs, have often proven to be less than helpful to such small business efforts. Yet, for innovations not created within a corporate system, entrance and success on the market is extremely challenging, to say the least, and assistance is very much needed.

The center has received great attention during the past year as the proposed Small Business Innovation Act seeks to be responsive to the needs of the small business inventor. As a cosponsor of the act, I have actively pursued the feasibility and desirability of establishing more centers like CFI. I believe, Mr. President, that such action will contribute to the resolution of serious unemployment and sluggish productivity which our country faces. A small investment to help the small businessman market his inventions and innovative techniques has great long-term benefit.

Mr. President, witnesses before numerous Small Business Committee hearings have testified that the majority of innovations stem from small businesses and individuals; however, due to the complexity of regulations and the tremendous costs involved, few entrepreneurs see their dreams actualized.

America is a nation built upon the dreams of its individuals. Yet we are allowing the creativity of the individual and the productivity of the country to suffocate by callous inattention to the needs of our entrepreneurs. This is needless, Mr. President, needless to the entrepreneur as well as to our country.

The Center for Innovation has proven to be an effective means to truly help Americans revitalize our Nation without the burdensome involvement of the Government. I am pleased by the recognition given to the center by the New York Times. It is well deserved.

The article follows:

THE MARKETING OF INVENTIONS

In recent months, a modest project in Butte, Mont., called the Center for Innovation, has received visitors and inquiries from scores of scientists, inventors and government officials from both nearby towns and such far-flung outposts as Pagopago, American Samoa.

The three-year-old program is one of fewer than a dozen similar operations throughout the world, including ones in Denmark, West Germany and Japan, and is the only one of its kind in the United States.

The Butte unit sends its representatives to evaluate the technology and the commercial potential of new-product ideas, usually those of individual inventors or small businesses. If the idea seems promising, the center's technical experts can help the budding entrepreneur tailor his invention for the marketplace and arrange outside financing.

The center has brought 20 products to market so far, and about 50 more are being readied, according to Clyde W. LaGrone, manager of the center. Over the last three years, the products—some sold to existing companies under licensing arrangements, and others produced as new ventures—have generated an estimated $75 million in revenues and created 150 jobs. The center is financed by the Old West Regional Commission, a five-state economic development group backed by the Department of Commerce. To date, the Butte operation has received roughly $1.5 million in public money.

Its performance has attracted increasing attention from Washington. Three months ago, the Senate Select Committee on Small Business held hearings on the concept. At the session, testimony was taken from Jerry D. Plunkett, managing director of the Montana Energy Research and Development Institute, a nonprofit corporation affiliated with the innovation center.

The Senate committee is now prodding the Small Business Administration to use $750,000—which has already been appropriated for the current fiscal year to nurture innovative ventures by small businesses and individuals—for the creation of four additional centers patterned after the Butte operation.

"We've met with S.B.A., and we've made it clear that what we want is a replication of the Butte model elsewhere," said Allen Neece, legislative counsel of the committee.

Mr. Plunkett of the Montana Energy Institute had a meeting three weeks ago with A. Vernon Weaver, administrator of the S.B.A., and came away impressed by Mr. Weaver's apparent support for spreading the innovation center concept nationally.

"All things considered, I think the S.B.A. has been quite receptive, once they noticed us," said Mr. Plunkett, an engineer with a Ph.D. from the Massachusetts Institute of Technology.

Under the current plan, Mr. Plunkett and his staff would help start the new units, but leave them within two years. The sites for the additional centers have not yet been selected, but Mr. Plunkett said 28 states had expressed an interest in having one.

"Our hope is that these new units would be a solid first step toward eventually establishing a network of them across the country," said Mr. LaGrone, the Butte center's manager.

All this activity comes amid growing recognition that small businesses, particularly young high-technology ventures, play a central role in creating new jobs and fostering innovation. The White House Conference on Small Business, held in January, seemed to signal political recognition of this fact. And there has been a gathering academic consensus in recent years that small ventures are often the most productive in advancing technology.

The Butte center, in the words of one staff member, "is not a 'white coat' operation at all." The workdays of the eight-person staff are frequently long, and the work has its frustrating side: 90 percent of the ideas that come over the transom are quickly rejected as impractical or unmarketable. And, occasionally, the suggested breakthroughs come from people who are "not entirely balanced," said one worker at the center.

"What we do is like looking for gold nuggets in sand," noted Mr. Plunkett. "There's a lot of sand."

Then, too, the center officials sometimes travel long distances assisting inventors. Almost two years ago, for instance, Mr. LaGrone trundled off to a farm outside Larimore, N.D., next to the Canadian border. There, roughly 1,000 miles from Butte, a farmer had come up with a new implement for thinning weeds from soybean fields and harvesting the crop using a series of horizontal blades. With the center's aid, the device was patented and licensed to a company in North Dakota.

Other center-backed products include a new type of solar energy collector, a temperature-control device, a plastic coating for food packaging and a chain-saw sharpening device. Roughly 60 percent of the items submitted are energy-related.

"The majority of the items we receive are not what you'd really call high-technology inventions," Mr. LaGrone said. The reason, he suggested, is geography—namely, Butte is not thought of as a technological hotbed. "We feel that if we branch out into, say, the New York or Silicon Valley areas, you'd see plenty of high-technology ideas come through the door," he said.●

CENTENNIAL COLORADO CONFERENCE VI

● Mr. ARMSTRONG. Mr. President, each year since 1975 a group of Coloradans has convened in the Colorado Rockies to debate State and Federal public policy issue. The forum, called the Centennial Colorado Conference, was held several weeks ago in Keystone, Colo.

Traditionally the 8 or 10 consensus resolutions adopted by the conferees are bellwethers to decisions made later by the Colorado General Assembly and the U.S. Congress. That is not surprising, given the fact that the conferees represent a cross-section of a State which traditionally is a testing ground for new concepts.

What makes the Centennial Colorado Conference unique is the fact that its topics are not limited to any particular interest area, and that attendees are about equal measures of Democrats, Republicans, and Independents; liberals, conservatives and independents; and high- and low-profile citizens.

Among the resolutions passed by the group were ones calling for more flexibility in air quality standards to accommodate the public's need for energy; removing a number of high ranking Federal employees from the Civil Service system; opposing public financing for candidates in Colorado; and calling for the return to multiple-use management of Federal land studied for wilderness designation if it is not acted upon by Congress within 24 months after conclusion of the study.

The text of all resolutions adopted by Centennial Colorado Conference VI follows:

CENTENNIAL COLORADO CONFERENCE

That the binding caucus used by partisan blocs in the Colorado General Assembly should not be made unlawful.

That air quality standards be made more flexible to accommodate the needs of the public for adequate energy, and that such standards be incorporated in laws passes by legislative bodies rather that adopted by regulatory bodies. And,

That conversion to coal fuel should allow reasonable application of environmental controls and that the Congress should conduct a continuing review of energy restrictions to levels compatible with national energy goals.

That all Federal and State department

heads, agency directors, institutional managers, executive policy-making employees, and their confidential assistants be removed from Civil Service job tenure guarantees.

That all states not be required to conclude their prospective delegate selection processes for presidential conventions by March 1st of the presidential election years and that uniform selection procedures not be passed.

That Colorado not provide for public financing for candidates in all primary and general elections, including Colorado General Assembly elections. And that public financing of federal elections be abolished, along with limitations on spending and campaign contributions, while retaining present reporting requirements and limitations on corporate and labor union contributions.

That acknowledged homosexuals not be barred from teaching in the primary (K–6) grades of public schools.

That the United States adopt a policy for Canadian and Mexican nationals in the issuance of temporary work permits where the need for workers exists.

That all lands which have been studied for wilderness designation, but not acted upon by Congress within twenty-four months after the conclusion of the study, be returned to their original Federal land management status. Also, that all wilderness areas be subject to "Sunset" review twenty years after the dates of their designation.●

JAPAN AND THE AEROSPACE INDUSTRY

○ Mr. STEVENSON. Mr. President, the foreign competition is creeping into the most competitive American industries. That competition will not be countered by more of the conventional wisdom—more of the same. I cite Japanese plans for the aerospace industry. Mr. President, I ask that a Wall Street Journal article of June 24 by Masayoshi Kanabayashi be printed in the Record.

The article follows:

Japan Aerospace Firms Eye Takeoff

(By Masayoshi Kanabayashi)

Tokyo.—Even as Japan overtakes U.S. world leadership in vehicle output this year, its industrialists are eyeing other fields to conquer. Now it appears that the Japanese aerospace industry is preparing for takeoff.

The government has targeted aerospace for financial assistance because spinoffs from that industry could contribute to a general industrial restructuring. For the Japanese, that means a switch into higher technology and away from such fields as steel and shipbuilding, in which Asia's emerging industrial nations are catching up. Thus Japanese aerospace companies are taking aim at world markets through joint-venture and licensing pacts they are signing with foreign makers of engines and aircraft.

Late last year, three companies—Mitsubishi Heavy Industries Ltd., Kawasaki Heavy Industries Ltd. and Ishikawajima-Harima Heavy Industries Co.—signed a contract to develop a jet engine with Rolls-Royce Ltd. of Britain. The project calls for spending of $645 million over eight years. The Japanese government will provide $150 million to $155 million of that amount in the form of loans, to be repaid only after the venture becomes profitable.

Another group—including Mitsubishi Heavy, Kawasaki Heavy and Fuji Heavy Industries Ltd.—is involved in a three-country venture with Boeing Co. and Alitalia, Italy's state-owned airline, to develop and produce the Boeing 767 and 777. That project will benefit from $70 million to $75 million in Japan government loans on similar terms.

In addition, Boeing, McDonnell Douglas Corp., the European consortium Airbus Industrie, Fokker Aircraft Corp. of the Netherlands and others are sounding out Japanese companies on possible partnerships to develop airplanes.

Mitsubishi Heavy—with subcontractors Ishikawajima-Harima and Kawasaki Heavy—recently started producing the F15 jet fighter under license from McDonnell Douglas. Those three companies, plus Fuji Heavy, Shin Meiwa Industry Co. and Nihon Aeroplane Manufacturing Co., began similar production of Lockheed Corp.'s P3C submarine-spotting aircraft.

In fact, military-related orders currently account for 85% of the Japanese industry's sales, and such sales should remain strong as Japan boosts its defense spending. But the industry believes the greatest growth potential lies in the private sector.

Japan's airplanes have so far had a negligible impact on the world market. The industry is minuscule beside that of the U.S. Last year's output of aircraft alone (excluding rockets and missiles) amounted to the equivalent of $1.3 billion, converting the yen at its current rate, compared with 1979 U.S. sales of $24.5 billion. The total industry employs 35,000 people in Japan versus one million in the U.S.

But the picture should change rapidly. In the venture with Boeing, which is responsible for marketing the planes, 288 orders—152 firm ones and 136 options—have been secured, according to an official at the Ministry of International Trade and Industry. Japan's All Nippon Airways accounts for 25 of the firm orders and 15 of the options.

The Rolls-Royce project aims to develop a jet engine for use in a 130-seat, twin-engine passenger plane Japan expects to develop and produce jointly with foreign companies as its next civil transport, to succeed the Boeing 767 and 777.

The industry is also focusing on light aircraft. Mitsubishi Heavy has sold more than 600 units of its twin-engine turboprop business plane, the MU2, or Marquise, in the past 15 years, primarily in the U.S. and Australia. Now it is pushing sales of a new business jet, the MU300, or Diamond One, powered by two of United Technologies Corp.'s Pratt & Whitney JT15D turbofan jet engines. The company says it has won more than 80 firm orders since the plane was introduced in June 1979.

Kawasaki Heavy is developing the BK117—a twin-engine, multipurpose helicopter—with Messerschmitt-Bolkow-Blohm G.m.b.H. of West Germany. This plane is expected to be certified this year.

For the time being, Japanese aerospace concerns will continue to rely on foreign tie-ups, analysts say, because of the risks and the huge investments required. An industry official says, "For Japan, there isn't any other way but international cooperation, since we are a newcomer and we don't have any major achievements to our credit." He adds that even Japanese airlines won't buy a plane unless it is made by an internationally recognized maker.

During the 1960s, the Japanese government aided the industry in developing its first civil transport, a 64-seat turboprop called the YS11. More than 180 planes were produced, but the project wound up with a huge deficit, mainly due to poor marketing strategy.

Kozo Hirata, managing director of the Society of Japanese Aerospace Companies, concedes that point. "We didn't even know we had to have demonstration flights to sell it," he says, "and we didn't have a flight manual when the plane was ready."

Because the domestic market is relatively small, the Japanese must look overseas for sales as well as partners. Sooner or later, it could become a strong competitor in planes, as it has in cars and household appliances. "If someone is going to compete with Japan," warns a U.S. aerospace expert, "he had better be prepared." ●

WILLIAM J. BAROODY

● Mr. DOLE. Mr. President, on Monday the United States lost one of its great men of ideas. That man was Bill Baroody.

The epitome of the self-made man, Bill inspired others to follow in his example. He made his mark steadily and with assuredness, and leaders throughout this country respected his judgment and his word.

The institution he built, the American Enterprise Institute, came to be known as a reflection of the man: A magnet for thoughtful men of all persuasions.

I know what Bill Baroody has meant to the men and women in the halls of Congress, for his persuasiveness has shaped the thoughts of each of us.

I speak for the Members of this Chamber as well as for myself personally when I offer my deepest condolences to Bill's wife, Nabeeha, and the rest of the Baroody family.

Mr. President, I ask that an editorial from the Thursday, July 31, edition of the Washington Star be included as part of my statement for the Record.

The editorial follows:

William J. Baroody

It is not often that a single career and personality can combine vital attachment to tradition with creative anticipation of the future. It was among the distinctions of William J. Baroody, the former head of the American Enterprise Institute, who died Monday, that his career and personality did just that.

The private man was pure American myth. A poor boy from an immigrant family—his father was a stonecutter from Lebanon—he worked his way through college and, by middle age, had risen to a position where presidents of the United States were listening to his advice.

He was a patriarch emotionally centered in a large, energetic family that kept growing; when he died, the count on grandchildren was up to 37. He was gratified to have his oldest son, former White House aide, William Jr., take over as head of AEI when he retired two years ago. He was a profoundly religious man, whose preoccupations in the world of politics and intelectual controversy never got in the way of active participation in the affairs of the Melchite Greek Catholic church.

At the same time, this man of values a good many people find old-fashioned if not downright anachronistic had an extraordinarily cool and discerning eye for trends. He decided back in the 1950s that New Deal dogma on politics and economics had run out of steam, leaving a clear track for a vigorous new kind of conservatism. As one of his long-time colleagues put it, "He was always the first to spot a vacuum and move in, sometimes he would create a vacuum to move into."

Starting with a bit of corporation money and a few lively minds, including that of Nobel laureate Milton Friedman, he began to build AEI into the major American think tank it is today. At first, it was considered too right-wing to be taken seriously by the intellectual mainstream. Recruiting more and more dynamic scholars, conducting long-range studies, publishing magazines and books, sponsoring debates over critical issues, bringing in distinguished foreign thinkers and political figures, Mr. Baroody maneuvered AEI front and center to a position where it is financed by leading foundations and respected by old opponents as well as by a widening—and bipartisan—circle of new friends.

In the process, Mr. Baroody became a political force in his own right, recognized as an influence on the policies of both the Nixon and Ford administrations and on thinking in the neo-conservative wing of the Democratic party as well. It was thanks to him, among others, that the term "neo-conservative" became identified with fresh ideas and possibilities of power.

His presence will be missed in Washington and across the nation, the more so because of its continuing life in the institution he built.●

PRIVATE SECTOR COMMITTEE ON NORTH AMERICAN TRADE

● Mr. BAUCUS. Mr. President, on behalf of Senator DOMENICI and myself, I would like to report that on July 25, we, as cochairmen of the Senate North American Trade Caucus, hosted a meeting with some 20 leading representatives of the private sector. We are attaching a list of the participants as well as the agenda for the meeting, which we ask to be printed in the RECORD at the conclusion of these remarks. We specifically mention that the meeting was sponsored by the Senate caucus, since we were also very pleased to have present Congressman ARLAN STANGELAND who has let us know that he and Congressman BREAUX on the House side have undertaken a similar initiative forming a House caucus on North American trade. We very much welcome the initiative and look forward to working with our counterparts in the House on all matters relating to North American trade.

The July 25 meeting was the culmination of preliminary work to make the caucus an effective instrument for improving and strengthening the trade relationships we have with our neighboring countries. Let us summarize very briefly what those efforts have been.

First, of course, was the requirement to have the administration begin serious consideration of special trade relationships which might be warranted with our neighboring countries. The Trade Act of 1979 fulfills that requirement by calling upon the administration to do a study on that subject.

Second, it is a great pleasure to observe a similar interest developed on the part of the Governors of our 50 States. The National Governors' Association under the leadership of Governor Busbee has devoted considerable resources to developing trade with Canada and Mexico. The study the association commissioned with the Dean Rusk Center at the University of Georgia certainly reflects the seriousness of their interest. We fully support that initiative since we strongly believe at the heart of the developing relationship is the State/Canadian Province/Mexican State bridge. In many cases the relationship between a U.S. State and a Canadian province, for example, is much closer, more informed, and more cooperative than on other levels.

Third, was the formation of the caucus in the Senate, and now also in the House, to form a base of interested Senators and Congressmen who are willing to consider support for initiatives that might be taken by North America. We believe the formation of these caucuses should send a clear signal to our neighbors that indeed many leaders in America are very much interested in the trade relationship with them and want to see it prosper.

Finally, and most important, the missing link was participation by the private sector. For that reason, we organized the meeting which took place on July 25. The response was most encouraging.

The caucus asked these leaders of American industry and labor to take upon themselves the task of returning to the Senate within a fixed period of time with specific recommendations and ideas on what might be done to develop trade on the continent. We have asked the private sector to go to neighboring countries to investigate the possibilities of coordinating their activities with the private sector there. We asked them to consider possible institutional frameworks and areas of specific interest. But most of all, we simply made clear that we view this private sector group as a key one to provide assistance and specific recommendations to the Congress on the trade relationship with our neighbors. We want them to make recommendations on how we can maintain that link with the private sector for the long term.

We believe our colleagues who attended the conference would agree that participants expressed a common concern over the problems facing United States/Canadian/Mexican relations and a desire to overcome barriers which might exist.

Several speakers addressed the group and made interesting points. One speaker outlined the problems which presently exist in our border relations. He warned against pursuing a bilateral trade policy oriented to energy, and listed some of the trade problems we face with Canada and Mexico, such as disparity of income, Mexico's nonadherence to GATT, interventionist policies pursued by both our neighbors, and, of course, the energy disparity between us which breeds distrust. We encouraged governments to consult openly on anticipated action and suggested this might be done through mechanisms possibly similar to the OECD. He specifically mentioned areas for possible innovative trade development. The point was also made that while the U.S. interest may be trilateral, it would be easier to deal with each country bilaterally.

Another speaker strongly suggested that we focus not upon disparities, but rather on a movement toward the free trade concept that exists in the EEC. He postulated that political impediments to trade cooperation far exceed the economic impediments, and stressed that a greater emphasis should be given to economic analysis. He supported the idea that initiatives should be taken by the private sector possibly on a sectoral approach, as a primary step to better trade integration. What was of paramount interest was reaching agreements beneficial to the parties concerned, even if GATT waivers might be required.

We also want to thank our colleague, Senator JAVITS, for his presentation describing his efforts over a long period of outstanding public service to improve the trade relationship with our neighbors. He stressed the importance of interrelationships with the private sector. His presentation was extremely well received by the group and we appreciated his taking the time to make it.

We also had a very interesting discussion among ourselves. There seemed to be general agreement that the overriding reason for working more closely with Canada and Mexico and other neighbors is simply because they are our neighbors and therefore must be treated differently than other trading partners. This was the case even though there is the common perception, wrongly or rightly, that both Canada and Mexico are greatly interested in free access to U.S. markets without much willingness to consider fair reciprocal arrangements.

Institutional frameworks for the longer term were a topic of discussion, with the recognition that any proposals must meet the requirements of all concerned. Participants were informed by the Congressional Research Service regarding the multitude of studies and other activity taking place in this area.

We are very pleased with the results of this initial meeting with the private sector. In the next several weeks the group is to report back to us regarding how it plans to constitute itself to carry out the mandate we have given it. We believe that this will be a significant group, if it succeeds in organizing itself properly, which will provide very important information to the Senate, with long term recommendations worthy of receiving special consideration. We want to thank each and every one of the participants publicly and in the RECORD for having given so much of themselves and their time. We look forward to a continuing relationship.

The list of participants and the agenda follow:

LIST OF PARTICIPANTS

Mr. Richard E. Heckert, Senior Vice President, E. I. Du Pont De Nemours. Accompanied by: Mr. T. F. Killheffer.

Elizabeth Jager, Legislative Representative, AFL–CIO.

Mr. Peter F. Warker, Director of International Affairs, TRW, Inc.

Dr. David S. Potter, Vice President and Group Executive of the Public Affairs Group, General Motors Corporation. Accompanied by: Mr. H. C. Witthaus.

Mr. William G. Phillips, Chairman of the Board, International Multifoods. Accompanied by: Dr. Roger Swanson.

Mr. A. Flamm, Senior Vice President, Union Carbide Corporation. Accompanied by: Dr. George Phillips, Mr. Richard M. Brennan.

Mr. J. R. Babson, Vice President, Ingersoll-Rand. Accompanied by: Mr. Glenn H. Brown.

Mr. Robert A. Belanger, Senior Vice President of North American Division, Bank of America. Accompanied by: Karen Shaw.

Mr. Wallace H. Lloyd, Executive Assistant, Deere & Company.

Louis Couttolenc, President, RCA, S.A. de C.V. Accompanied by: Raymond L. Scherer.

Mr. James Reinke, Vice President of Governmental Affairs, Eastern Air Lines.

Mr. L. E. Hoyt, Vice President, Southern Pacific Company.

Mr. John Plunkett, President, American Chamber of Commerce of Mexico. Accompanied by: Mr. John Bruton.

Mr. C. T. Marck, Vice-President, Government Relations, Dow Chemical. Accompanied by: Rafael Miquel.

Mr. Jay Van Hueven, Executive Director, U.S.-Mexico Chamber of Commerce.

Mr. Ralph Mecham, Vice President, Anaconda.

Dr. Stan Wisniewski, Research Economist, International Association of Machinists & Aerospace Workers.

Myron D. Oakes, Executive Vice President, Commercial Division, Byron Jackson.

Mr. David A. Weeks, Vice President, Research, The Conference Board.

(Not present, but member of task force: R. L. Mitchell, Vice Chairman, Celanese Corp.)

AGENDA

10 a m., Welcome and Coffee.

10:15, Opening Remarks.

U.S. Senator Max Baucus (D-Montana), U.S. Senator Pete V. Domenici (R-New Mexico), Co-Chairmen, Senate Caucus on North American Trade.

10:30, Status Report on Studies of North American Cooperation Completed or in Progress.

Review of Existing Bilateral and Multilateral Private and Public/Private Committees to Promote Economic Cooperation.

Allan Nanes, Congressional Research Service, Library of Congress.

10:40, Questions and Answers.

10:45, Status Report on Trade and Investment With Canada and Mexico. Progress Report on Administration. Study on North American Economic Cooperation.

Ambassador Reubin O'D Askew, U.S. Trade Representative.

11:00, Questions and Answers.

11:10, Discussion Paper: Options for North American Cooperation.

Sidney Weintraub, University of Texas.

11:30, Questions and Answers.

11:40, Discussion Topic: Establishment of a Private Sector Task Force on North American Economic Cooperation.

U.S. Senator Jacob Javits (R-New York).

11:50, Questions and Answers.

12 Noon, Lunch.

12:30–2:00 p.m., Discussion of Morning Topics and the Form Private Sector Initiative Should Take.

2:00, Press Conference to Announce Formation of Private Sector Task Force.●

ELLSWORTH AIR FORCE BASE NEEDS ADDITIONAL FUNDING

● Mr. McGOVERN. Mr. President, I had the opportunity to appear yesterday before the Defense Appropriations Subcommittee to recommend that the subcommittee appropriate additional operations and maintenance funds in the fiscal year 1981 military budget to stem the deterioration of facilities at Ellsworth Air Force Base, in Rapid City, S. Dak.

I would like to submit my prepared remarks for the RECORD and to summarize my presentation very briefly.

Mr. President, the status of Ellsworth Air Force Base seems to reflect the status of much of our military structure: It possesses modern weapons and employs the most skilled and dedicated personnel, but it is not being maintained in an adequate manner.

As a result, the weapons are underutilized and the skilled personnel are leaving military service.

Unless the maintenance problems of our military bases are corrected, our current efforts to upgrade military readiness and improve personnel retention will be undercut, because it makes no sense to raise the pay of a soldier to a 1980's level and then ask him or her to live in a temporary Korean war-era dormitory, to eat in a World War II-era mess hall and to work under difficult physical handicaps.

Let me briefly describe some of the problems I saw at Ellsworth during my inspection trips in recent months.

First, the housing accommodations are plainly inadequate. The Korean-era dormitories are uncomfortable, poorly lit, badly insulated, and, in many cases, unsafe.

Second, the road network is in bad repair. The adverse weather of the South Dakota winters causes huge potholes and ruts in the roads which link the 150 Minuteman missile sites and the absence of a concerted repair effort is now affecting the roadbeds themselves.

Third, the aircraft and vehicle repair facilities have 25-year-old heating systems which are wearing out, unsafe furnace stacks, and insufficient weatherstripping. Mechanics at the base told me that they have to repair our strategic bombers with numbed hands because of the low temperatures inside the repair docks.

Fourth, almost one-half of the vehicle fleet exceeds age or mileage criteria or both; a number of vehicles have been driven 200,000 miles or more.

Fifth, the runway aprons periodically crack from the impact of the freezing and thawing cycle on the asphalt, and this poses a great danger to jet engines.

And there are many other problems, including the Korean-era dining hall, inefficient energy uses, widely separated management facilities, a less-than-adequate base exchange facility, and many more.

All of these problems, Mr. President, affect personnel retention, energy consumption, weapons alert rates, and employee productivity.

Unless these repair and maintenance projects are funded, the structures will continue to deteriorate. Soon it will be too late to just repair them. If paint is not applied to the dorm buildings, they will rot and become unsafe. If the roads are not repaired, the roadbeds will die.

Then it will be necessary to replace them completely—at enormous costs in military construction funds.

Over the years, the Strategic Air Command has provided Ellsworth with approximately 80 percent of its validated repair requirements. This means that 20 percent of base facilities have been eroding. This is unacceptable for our national defense posture and for the people who live and work at Ellsworth.

Mr. President, I ask the subcommittee to add $7.5 million to the operations and maintenance budget for fiscal year 1981 to enable the Ellsworth managers to overcome the total backlog of maintenance and repair projects now pending.

If this proves to be unfeasible because of competing budget demands, then I urge—as a minimum—that an additional $1.5 million be made available simply to prevent the backlog of repair projects from growing any longer and to help Ellsworth turn the corner on the maintenance problem.

I am prepared to offer an amendment on the Senate floor in case the committee fails to add these funds.

These additional funds should be used to the greatest extent possible, in my view, for so-called "people programs" at Ellsworth—to improve the dormitories, dining halls and other facilities which are so essential to a decent and dignified life for the military and civilian personnel at Ellsworth.

Mr. President, no one quarrels with the fact that weapons operation must receive first priority, but I believe it is time to stop the neglect of our military personnel at our military bases.

Mr. President, I ask to insert my prepared testimony on Ellsworth Air Force Base at this point in the RECORD.

The text of the testimony follows:

TESTIMONY OF SENATOR GEORGE McGOVERN

I appreciate the opportunity to appear today before the Defense Appropriations Subcommittee to recommend that at least $1.5 million in Operations and Maintenance funds be added to the FY 1981 military budget to stem the deterioration of facilities at Ellsworth Air Force Base and to help the Base Commander turn the corner on the day-to-day repair needs of this critical defense installation.

In many ways, the status of Ellsworth Air Force Base in Rapid City, South Dakota, reflects the status of our military structure as a whole. Ellsworth possesses modern weapons; its military and civilian personnel are skilled and dedicated beyond question. But Ellsworth is not being maintained in an adequate manner with the unacceptable results that the advanced weapons are not fully utilized and the skilled personnel are leaving military service.

A consensus has developed in Congress that we need to shift more military resources to improve readiness. I support that consensus. But it appears that the whole question of defense installations is being left out of the readiness equation. Unless it is changed, efforts to improve readiness will be undercut.

For example, higher military pay and benefits are essential for retaining experienced personnel in the military. But it does not make sense to raise the military pay of an enlisted soldier to a 1980 level and then ask that soldier to sleep in a dormitory built for the Korean War, to eat in a dining room built before most of us entered the Senate, and to work in a converted World War II-era office building.

Or consider the weapon readiness problem. The failure of the helicopter rescue mission in Iran has focused attention on the problem of spare parts for our advanced weapons. Funding increases are properly being made in this area. But we will be unable to improve alert rates if the weapons to be repaired must be trucked in over roads cratered by potholes—on delapidated service vehicles—into repair hangars where mechanics are forced to overhaul the systems with numbed hands because the corroded heating system and leaky doors are no match for the winter winds of the Black Hills of South Dakota.

Unfortunately, these situations are common occurrences at Ellsworth Air Force Base.

Based on my inspection trips to Ellsworth during the past few months, I recommend that property maintenance and military construction be given a higher priority in the current effort to improve the readiness of our existing force structure. Additional funds must be added to upgrade the facilities at Ellsworth and other key defense bases.

Mr. Chairman, Ellsworth Air Force Base plays a critical role in the maintenance of America's nuclear deterrent. It is the host to the 4th Strategic Missile Wing, which operates 150 ICBMs, and for the 28th Bombardment Wing (Heavy), which operates two B–52H squadrons, one KC–135 tanker squadron and an EC-135 command and control squadron. If South Dakota were to secede from the Union, Ellsworth would make our state the world's third largest nuclear superpower.

The military importance of Ellsworth will grow in the coming decade due to the conversion of the B-52 into a cruise missile carrier aircraft. In addition, the new strategic bomber to be selected by the Defense Department under the authority of the Glenn-Culver amendment to the FY 1981 Defense Authorization bill will almost certainly be based at Ellsworth, because its physical location halfway between the East and West Coasts offers maximum security to bombers against submarine-launched depressed trajectory missile attacks.

Therefore, Ellsworth is essential to our security posture now and in the future. A sound national defense strategy cannot allow Ellsworth to operate at a lowered readiness level, for if Ellsworth's readiness is below par, the readiness of our deterrent is jeopardized. In 1979, for example, 775 missile off-alert hours at Ellsworth were directly attributed to non-availability of service-related vehicles.

But the fact is that the real property at Ellsworth is deteriorating. Let me cite a few examples of what I saw during my visits to the base:

Housing Accommodations: Dormitories for enlisted men were built during the Korean War and lack many amenities of decent housing. Now unaccompanied enlisted housing is needed. In the meantime, extensive alterations are required to keep domitories liveable.

Dining Facilities: The main dining hall for enlisted men is also of the Koeran War era and needs refurbishing.

Aircraft Repair Facilities: A number of repair docks and hangars have 25 year old boilers which are worn out and corroded; furnace stacks are unsafe; sliding doors on the repair docks need to be weather stripped to keep out the wind.

Vehicle Fleet: The vehicle fleet is a key part of Ellsworth's operation because 8.2 million miles are driven annually to maintain the 150 missile sites. Almost 6 million miles are driven over unimproved roadways under adverse weather conditions. Of the 866 registered vehicles at Ellsworth, 41% (352 vehicles) exceed age or mileage criteria or both, and by the end of Fiscal Year 1980, the level will rise to 45%. Many specialized vehicles are in worse shape: 50% of the snow plow flight line fleet has reached or exceeds ten years of age; 60% of the 45 Pax Buses used to rotate security forces to and from the missile fields exceed ten years.

Vehicle Maintenance: The vehicle fleet is the largest in the entire SAC Command, but repair facilities are spread over 4 different buildings separated by 2 miles. This set-up is inefficient.

Weapons Maintenance: The helicopter landing pads at each of the 15 missile launch control facilities are crumbling; the foundation rock is being blown away by helicopter air pressure. In addition, a number of missile access roads are too narrow for safe turning by the missile transfer erectors.

Road Repair: Road upkeep is being defeated by the South Dakota winters, leaving roads with large potholes and crumbling asphalt.

Energy Efficiency: New siding and insulation are needed in the Korean-era dorms and dining halls, in administrative and finance offices, in the vehicle maintenance areas and in many other locations at the base.

Base Engineering: Engineering facilities are spread out over 8 buildings, including converted old dining halls dating back to the 1950's. The Combat Support Group operates out of 6 buildings. Centralized management, cost-savings and office efficiencies become more difficult.

Living Conditions: Approximately 5,000 military dependents live at Ellsworth; they deserve a modern base exchange facility, adequate recreation opportunities, and decent commissary parking.

This backlog of repair projects and military construction projects at Ellsworth exists because the legitimate funding needs of the base have not been met. The Operations and Maintenance funds for these projects have been squeezed by budget pressures, inflation and energy costs at both the national and local level.

At the national level, readiness funds for base repair and for weapons overhauls have been shortchanged in favor of new procurement and gold-plated weapon systems. Operations and Maintenance funds are now being increased, but one of the legacies of years of neglect is a backlog of maintenance and repair projects in the Air Force of $500 million by the end of the current fiscal year. At Ellsworth, the backlog is $7.5 million.

Mr. Chairman, I recently wrote an article for the New York Times on the military budget which attempts to put the readiness problem in a larger foreign policy context. I am attaching a copy of the article for insertion at the end of my prepared remarks.

At the base or local level, repair funds get the short end of the stick. As you know, the Air Force divides up the O&M funds appropriated by Congress among the different commands. The Strategic Air Command allots its funds to the 26 bases under its authority, including Ellsworth.

The funds allocated to Ellsworth are used to pay for utilities, civilian pay, basic supplies and the contracts to perform the repair projects under the real property account.

This is where the squeeze on funds occurs. The Wing Commander at Ellsworth may start off the year by budgeting a share of the funds for a new roof on Hangar No. 10. But then utility costs go up and he must transfer money from the repair budget to pay for utilities and so he ends up postponing the roof repair—or the paint job or road repair or any of a dozen worthy projects—for another year.

Or take another example. At Ellsworth I was shown deep cracks in the asphalt aprons which were caused by wheel ruts made in summer and the freezing and thawing cycle in winter. Since hunks of asphalt can be sucked up into the jet engines and destroy them, the commander will use his limited repair funds to fix the runway instead of repairing that hangar roof.

This pattern repeats itself year after year. Soon that hangar roof can no longer just be repaired—it must be replaced at a high cost to the taxpayers. And in the meantime, that hangar has been wasting energy and the mechanics have been working in substandard conditions.

I have been using the hangar roof as an example, but the lesson applies to road repair, paint jobs for the dorms and to projects across the board. Deteriorating facilities which are not repaired in time must be replaced—at greater costs and with greater waste in the interim.

Over the years, Mr. Chairman, the Strategic Air Command has provided Ellsworth with approximately 80% of its validated repair requirements, although in certain years the figure has been even lower. This means that 20% of the facilities at the base have been eroding. This is unacceptable to me, to the managers and officers of Ellsworth, to the enlisted men and women and to their dependents.

Additional funds are needed to maintain the base property at Ellsworth. Budget increases in operations and maintenance will not only improve performance at the base and increase retention—but higher funding now will save tax dollars in the long run because pressure on the military construction budget will be reduced and energy efficiency will be advanced.

I recommend that this Committee add an additional $7.5 million to fund the backlog of maintenance and repair projects at Ellsworth. If this is not feasible, then at a minimum, I urge that this Committee budget an additional $1.5 million for O&M repairs at Ellsworth to bring the total FY 81 funding up to $3 million. This is the level the Ellsworth managers told me is required to enable them to halt the erosion in base facilities and to permit the base authorities to hold the line on everyday maintenance projects.

In other words, an additional $1.5 million is required just to keep the backlog of maintenance and repair from growing even longer and to help Ellsworth start to reduce the backlog year by year.

This small extra investment will more than pay for itself over the long term in terms of improved retention, reduced energy costs, better productivity and extended use of existing structures.

These additional funds, in my view, should be used on a priority basis for "people programs" at the base—to improve the dormitories, dining halls and other facilities which are essential to a decent and dignified life for the military and civilian personnel at Ellsworth.

No one quarrels with the fact that weapons operation must get first priority. The Air Force is providing for sufficient funds for weapons operations, including the on-going Air-Launched Cruise Missile conversion program at Ellsworth. But it is time to stop the neglect of our military people at our military bases.●

USDA'S REGULATIONS ON MECHANICALLY DEBONED MEAT

● Mr. HAYAKAWA. Mr. President, we are at a point in time where a major consideration in our country is the survival of private industry. Most Members of the U.S. Senate want to see the businesses in their States and across this Nation survive. This goal is not simple to achieve. We face high inflation, high taxes, and a welfare system that discourages people from going back to work.

In the face of all these negative factors, bureaucrats in our Federal agencies continue to promulgate unnecessary regulations that restrict industry, and raise the cost of products for the consumer in the long run. The U.S. Department of Agriculture is guilty of such insensitive behavior by issuing very controversial regulations governing mechanically deboned meat.

I was shocked while reviewing a report conducted by the Massachusetts Institute of Technology Center for Policy Alternatives Study for the Senate Governmental Affairs Committee entitled "Benefits of Environmental, Health, and Safety Regulation" (March 25, 1980). It contains a glaring misstatement and inaccuracy on page 30 with respect to mechanically deboned meat (MDM). MDM is obtained by separating particles of meat that cling to bone after being hand trimmed. Special machines grind parts of the carcass and separate out a finely strained meat product containing a small amount of fine bone powder. This product has had a controversial history and the Department of Agriculture published a final regulation regarding its use in 1978. On page 30, the report states that the regulation—

Will promote efficient utilization of the total carcass. Industrial efficiency and productivity will be enhanced; and the supply of high protein beef and pork products will increase in both domestic and world markets . . .

Far from promoting efficient utilization of this safe, nutritious, high protein source, the Food Safety and Quality Service (FSQS) regulation stopped its production, thus making it unavailable to consumers.

The Government regulation requires a prominent label on each package, in letters at least half as large as the product name, to state: "with mechanically processed meat product"; and, in smaller letters underneath: "contains — percent powdered bone." The regulation also limits the use of MDM to 20 percent or less of the meat in a processed product. Meanwhile, there are no special labeling requirements for mechanically deboned poultry or fish.

Due to this inequitable, burdensome, and unappetizing labeling requirement, this product is not being produced domestically today, rather than benefiting consumers, the regulation is having the opposite effect. Consider the following:

First. The total carcass is not being utilized. We lose 12 to 16 lbs. of each beef carcass, 3 to 4 lbs. of each pork carcass—a wasteful production practice in these inflationary times.

Second. The domestic supply of high protein beef and pork has not been increased. Yet, worldwide production is increasing. The product is now marketed in 29 countries under a nondiscriminatory label, and consumer acceptance is growing.

Third. The safety, wholesomeness, and nutritional integrity of these red meat products has been assured and reaffirmed by two Government scientific panels. However, the improper labeling requirements have stopped the production, marketing, and purchase of these products in the United States.

Fourth. Poultry and fish products consisting of 100 percent mechanically deboned ingredients as the meat component continue to be marketed with no special labeling. Consumers are buying and eating these safe, nutritious, and less costly products.

Fifth. While processors are now permitted to resume production of MDM, none have. Market and consumer research clearly shows that products bearing the stringent label are not as acceptable to the consumer. It makes no economic sense to produce a product that is difficult to market simply because the required label makes the product appear to be unappetizing. In many cases, the idle machines previously used to mechanically debone meat have been sold at a loss to processors in other countries.

Several requests have been made to FSQS for labeling relief, but so far the inequitable labeling system remains in place. In summary, the FSQS regulation has not resulted in benefits to consumers. On the contrary, at least 600 million pounds of meat is being lost to consumers each year.

Why must a specific ingredient be singled out for boldfaced labeling? The facts speak for themselves. The USDA continues to play an adversary role toward industry, in this case the meat packing industry.●

COAL SEVERANCE TAX—JUDICIAL OPINION

● Mr. BAUCUS. Mr. President, on July 17, the Montana Supreme Court issued its opinion on the challenge to Montana's coal severance tax brought by a consortium of coal-burning utilities and coal producers. In a unanimous decision, the court upheld the constitutional validity of Montana's tax.

I have read the court's opinion and find it extremely compelling. The court's opinion is well-reasoned and well-documented.

The plaintiffs centered their challenge on the commerce clause of the U.S. Constitution. The plaintiffs contended that Montana's tax violates the interstate commerce clause because it taxes coal which may eventually enter interstate commerce and add to the price of consumer services elsewhere. Although the plaintiffs conceded that the State can levy some tax, they objected to the rate of Montana's tax.

The Montana Court's opinion in responding to this contention of the plaintiffs should be of vital interest to all of my colleagues concerned about Federal-State relationships. Historically, as the Montana opinion noted, the U.S. Supreme Court has upheld the judicial sanction of State taxation on production, extraction, and manufacturing. The importance, moreover, of these reserved rights of taxation to the States cannot be overstated. For, as the Montana Court stated, "if the rate of tax on a local activity . . . can be found to violate the commerce clause, then certainly the amount of tax raised by a State on a local activity" can also be found to be a violation. "Were we or the U.S. Supreme Court to reach that result, then we should see, in the words of the old spiritual that 'the walls came a-tumblin' down.' "

In short, a decision by any court or an enactment by Congress in support of the plaintiffs contentions would raise unprecedented havoc with Federal-State relations. Whatever the intentions of those who attack Montana's right to levy coal severance taxes—whether in the courts or in the Congress—the successful outcome of their efforts would be absolutely devastating and far-reaching.

Mr. President, I urge my colleagues to study the opinion of the Montana Supreme Court in this very important matter, and I request that the opinion be printed in the RECORD.

The opinion of the Montana Supreme Court in the case of Commonwealth Edison Company, et. al., vs. State of Montana et. al., follows:

[In the Supreme Court of the State of Montana]

COMMONWEALTH EDISON COMPANY ET AL., PLAINTIFFS AND APPELLANTS, VS. STATE OF MONTANA ET AL., DEFENDANTS AND RESPONDENTS, AND LAKE SUPERIOR DISTRICT POWER COMPANY ET AL., PLAINTIFFS AND APPELLANTS, VS. STATE OF MONTANA ET AL., DEFENDANTS AND RESPONDENTS

Appeal from: District Court of the First Judicial District Hon. Peter G. Meloy, District Court Judge.

Counsel of Record:

For Appellants: Hooks and Budewitz, Townsend, Montana; John Carl argued, Butte, Montana; Rogers and Wells, New York, N.Y.; William P. Rogers argued and William R. Glendon argued, New York, N.Y.

For Amicus Curiae: Garrity, Keegan and Brown, Helena, Montana. Hon. Mark White argued, Attorney General, Austin, Texas.

For Respondents: Hon. Mike Greely, Attorney General, argued, Helena, Montana, Mike McGrath argued, Assistant Attorney General and Mike McCarter argued, Assistant Attorney General, Helena, Montana, Cannon and Gillespie, Helena, Montana, Ross Cannon argued, Helena, Montana.

For Amicus Curiae: Leo F. J. Wilking argued, Special Assistant Attorney General for State Tax Commissioner, Bismark, North Dakota.

Mr. Justice John C. Sheehy delivered the Opinion of the Court.

This is an appeal from a judgment of the District Court, First Judicial District, Lewis and Clark County Montana, the Hon. Peter G. Meloy presiding, upholding the validity of Montana's coal severance tax.

Plaintiffs sought a declaratory judgment from the District Court that the tax unconstitutionally burdens interstate commerce, and unconstitutionally frustrates federal policy. Commonwealth Edison Company and its coplaintiffs brought one action for this purpose, and Lake Superior District Power Company and its coplaintiffs brought a second action. Because the issues are the same, the actions were consolidated.

The District Court granted defendants' motions to dismiss the complaints before trial, finding as a matter of law that they did not state claims upon which relief could be granted. Judgment was entered in each case in favor of the defendants and the plaintiffs appealed.

Since each case comes to us on appeal from a judgment of dismissal, we accept the facts which are well-pleaded in the complaints as true. This was the rule before we adopted the Montana Rules of Civil Procedure, Heisler v. Severy (1945), 117 Mont. 105 111, 158 P. 2d 501, 503, and is the rule now. However, conclusions of law in the pleadings need not be accepted by this Court as binding under a judgment on a motion to dismiss. Allegations of conclusions of law present no issuable facts. Waite v. Standard Accident Insurance Co. (1957), 132 Mont. 220, 315 P.2d 984. If therefore factual issues exist which should have been considered by the District Court prior to granting judgment the judgment must be reversed. Conversely, if as a matter of law, under any view of the alleged facts, plaintiffs cannot prevail, affirmance of the District Court is commanded.

We have fully considered the contentions of plaintiffs on their appeal; we have examined the pleadings, and the grounds of the motion to dismiss; we have looked at the admitted factual matters which plaintiffs allege would invalidate the tax; and we have concluded from the whole record that the Montana Coal Severance Tax in its present form is a lawful exercise of Montana's taxing authority under our State and Federal Constitutions. Accordingly, we affirm the District Court.

Three issues were raised by plaintiffs for our review:

1. Is the coal severance tax impermissible under the Commerce Clause of the United States Constitution?

2. Is the coal severance tax impermissible under the Supremacy Clause of the United States Constitution as frustrating national policies and statutes?

3. Is the coal severance tax impermissible under the Supremacy Clause of the United States Constitution as frustrating national policies contained in the Mineral Lands Leasing Act of 1920?

THE TAX AND ITS HISTORY

In 1975 and 1977, the Montana Legislature amended its coal severance tax schedules, section 84–1314, R.C.M. 1947, now section 15–35–103, MCA. It now contains these provisions:

"15–35–103. *Severance tax—rates imposed—exemptions.* (1) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

"Heating quality (Btu per pound of coal):	Surface mining	Underground mining
"Under 7,000	12 cents or 20% of value	5 cents or 3% of value.
"7,000–8,000	22 cents or 30% of value	3 cents or 4% of value.
"3,000–9,000	34 cents or 30% of value	10 cents or 4% of value.
"Over 9,000	40 cents or 30% of value	12 cents or 4% of value.

" 'Value' means the contract sales price.

"(2) The formula which yields the greater amount of tax in a particular case shall be used at each point on this schedule.

"(3) A person is not liable for any severance tax upon 20,000 tons of the coal he produces in a calendar year."

No issue is raised here that there is an unconstitutional difference between the rate of taxes charged for strip-mining of coal and for underground mining of coal.

Prior to 1975, the Montana tax on strip-mined coal ranged from twelve to fourteen cents a ton, depending on BTU content. The 1975 amendment was a response to the meteoric increase in strip-mined coal entrepreneurs in the state in the 1970's. From the 1940's until the mid-1960's activity in coal strip-mining as well as in underground coal mining remained fairly dormant in the state. The increase in gross tonnage produced since 1971 from strip-mining is demonstrated by the following figures taken from the records of the Montana Department of Revenue, of which we have taken judicial notice:

One year	*Gross tons*
1971	6,983,186
1972	8,224,118
1973	10,678,058
1974	14,116,625
1975	22,160,236
1976	26,347,923
1977	27,340,905
1978	26,516,481
1979	32,545,071

In the general election of 1976 the Montana voters amended their state constitution by adding a new Section 5 to Article IX, 1972 Montana Constitution. In essence the constitutional addition provides that from and after December 31, 1979, at least fifty percent of the severance tax collected shall be dedicated to a trust fund, the principal of which is to remain inviolate unless appropriated by a vote of three-fourths of the members of each house of the legislature.

This Court notes in passing our impression that the 1975 coal severance tax provisions, and the 1976 constitutional amendment, were in part responses to the historical experience of Montana with respect to the inadequacy of earlier forms of taxes on mineral production. In 1965, the Hon. James Felt rose in the State House of Representatives to complain that the richest hill on earth (Butte) had paid not a dime in net proceeds tax the previous year. Some modifications in computation agreed to by the mining company ameliorated that condition in subsequent years. Nevertheless, Montana's experience had shown that its mineral wealth could be exhausted and exported with little left in Montana to make up the loss of its irreplaceable resources. Montana has been painfully educated about the extreme economic jolts that follow when the mine runs out, the oil depletes, or the timber saws come still. We have a good many examples that teach us what happens to our hills when the riches of our Treasure State are spent. For these and other reasons, when strip coal mining was beginning to burgeon, in 1975, the legislature moved to fix a tax that would provide both for the present and the future when the coal deposits were gone.

Since the commencement of the instant actions, the plaintiffs have paid their coal severance taxes under protest. Were the coal severance tax found to be invalid, presently some $87,000,000 and accrued interest in protested taxes should have to be returned by the State to the taxpaying producers, we were informed in oral argument.

EFFECT OF THE COMMERCE CLAUSE

Before we discuss the commerce clause contentions, we look at the relationship of the various plaintiffs to the coal tax which is being attacked. The true taxpayers before us in this case are the *producers* of the coal. The Montana coal severance tax is levied at the time the coal is separated by the producer from the realty in Montana, and at its value when sold by the producer in Montana. Section 15–35–103, MCA. Thus in this case, only the coal producing plaintiffs are actually paying taxes, they being Decker Coal Company, Peabody Coal Company, Westmoreland Resources, Inc., and Western Energy Company. The remaining plaintiffs are utilities to whom the producers, by contract or indirectly, may have passed on the coal severance tax as a part of the price of Montana coal. To contend that the utility plaintiffs are the true plaintiffs because by contract or indirectly they have assumed the coal severance taxes would seem also to argue that the coal producers have no real issue at stake here. Nevertheless the coal producers have the only vital stake in this case because they and not the utility companies are in fact the taxpayers. It is the producers to whom the protested taxes would be returned should the tax be found unlawful. In deciding this case therefore, we look to the status in Montana of the producing taxpayers to determine whether the coal, at the time it is severed by the producers, is subject to the present Montana state taxation.

The United States Constitution provides in Article I, Section 8, that Congress shall have the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

The principal contention of the plaintiffs in this case is that the holdings of the United States Supreme Court in *Heisler, Oliver Iron Co.*, and *Hope Gas Co., infra,* no longer have any force. The plaintiffs do not allow that Montana can tax a purely local event such as the severance of coal from a seam or deposit. They insist that the commerce clause reaches even into the very severance of the coal, and that the only issue for the District Court to have decided here was whether the coal severance tax had impact enough to hamper or obstruct interstate commerce. The plaintiffs concede that the state can levy some tax, perhaps twelve and a half to fifteen percent of the value of the coal. Therefore, by inference, the plaintiffs contend that at some point not specified, between fifteen to thirty percent of the value of the coal, Montana's coal severance tax butts into the lintel of federal impermissibility.

In essence, the plaintiffs' argument under the commerce clause reduces to this: Montana has no inherent right to tax the intrastate severance of coal which may eventually enter interstate commerce except by federal sufferance; such sufferance ceases when the tax can be construed to hamper or obstruct commerce between the states.

The law on state taxation of production of goods, it seems to us, has been settled by the United States Supreme Court since the 1920's. Leading cases on manufacturing (American Mfg. Co. v. St. Louis (1919), 250 U.S. 459, 39 S. Ct. 522, 63 L.Ed. 1084); producing (Hope Gas Co. v. Hall (1927), 274 U.S. 284, 47 S.Ct. 639, 71 L.Ed. 1049); and extracting (Oliver Iron Co. v. Lord (1923), 262 U.S. 172, 43 S.Ct. 526, 67 L.Ed. 929); Heisler v. Thomas Colliery Co. (1922), 260 U.S. 245, 43 S.Ct. 83, 67 L.Ed. 237); established a common theme: production of personal property within a state is a local activity which precedes the entry of the property into interstate commerce, and is therefore subject to state regulation and taxation.

Yet we have found no United States Supreme Court case, and none has been cited to us, which implicitly or directly overthrows the rule that the several states have the reserved power to tax intrastate manufacturing, extraction, and production of goods. It is true that some cases have used language which *seems* to assail this reserved power. Notwithstanding, it must be concluded after an analysis of the cases bearing on the subject that the United States Supreme Court continues to recognize the taxing power of the states in these intrastate fields.

The plaintiffs' attack against the coal severance tax under the commerce clause is based upon the premise that the United States Supreme Court has moved away from its holdings in *Hope Gas Co., Oliver Iron Co.*, and *Heisler*, supra. The cases on which plaintiffs rely for this contention may be summarized as follows:

(1) Labor Board v. Jones & Laughlin (1937), 301 U.S. 1, 57 S.Ct. 615, 81 L.Ed. 893, upholding the NLRA against a constitutional attack; Wickard v. Filburn (1942), 317 U.S. 111, 63 S.Ct. 82, 87 L.Ed. 122, upholding a federal program of acreage allotments for wheat production; Parker v. Brown (1943), 317 U.S. 341, 63 S.Ct. 307, 87 L.Ed. 315, which upheld a California state statute that fixed prices and restricted sales of raisins grown in California but which contains language seeming to reject the mechanical test of *Heisler*; Freeman v. Hewitt (1946), 329 U.S. 249, 67 S.Ct. 274, 91 L.Ed. 265, holding unconstitutional the application of an Indiana gross income tax act to the sales of securities by brokers in New York; the securities being assets of an Indiana estate, and indcidentally, applying the commerce clause to intangibles as well as to tangibles; Nippert v. Richmond (1946), 327 U.S. 416, 66 S.Ct. 586, 90 L.Ed. 760, striking down a municipal tax on solicitors in Richmond, Virginia; Pike v. Bruce Church, Inc. (1970), 397 U.S. 137, 90 S.Ct. 844, 25 L.Ed.2d 174, striking down an Arizona state regulation concerning the packing of cantaloupes grown in Arizona; Hunt v. Washington Apple Advertising Comm'n. (1977), 432 U.S. 333, 97 S.Ct. 2434, 53 L.Ed.2d 383, striking down a North Carolina statute which prescribed the labeling of containers in which apples were to be sold in that state; A. & P. Tea Co. v. Cottrell (1976), 424 U.S. 366, 96 S.Ct. 923, 47 L.Ed.2d 55, holding unconstitutional the application of a Mississippi regulation that milk and milk products could be sold in Mississippi from another state only if the other state had reciprocal provisions for Mississippi milk, where a Louisiana producer was refused a permit from Mississippi; Complete Auto Transit, Inc. v. Brady (1977), 430 U.S. 274, 97 S.Ct. 1076, 51 L.Ed.2d 326, reh.den. 430 U.S. 976, which we will discuss more in detail hereafter; Washington Rev. Dept. v. Stevedoring Assn. (1978) 435 U.S. 734, 98 S.Ct. 1388, 55 L.Ed.2d 682, also discussed hereafter.

Plaintiffs have cited a number of other cases, but their full recitation here would only be cumulative.

The District Court, in ruling on the motions to dismiss, determined that the cases relied on by the plaintiffs from the United

States Supreme Court fell into four categories, which we here set forth together with some examples:

(1) When Congress has asserted its regulatory powers under congressional acts. Labor Board v. Jones & Laughlin, supra; Parker v. Brown, supra.

(2) When the State engages in regulatory activity of interstate commerce. Pike v. Bruce Church, Inc., supra; A. & P. Tea Co. v. Cottrell, supra.

(3) When the state imposes a tax on interstate commerce activity. Nippert v. Richmond, supra; Complete Auto Transit, Inc. v. Brady, supra.

(4) When the state imposes a tax on an activity which is not in commerce. Heisler v. Thomas Colliery Co., supra; Alaska v. Arctic Maid (1961), 366 U.S. 199, 81 S.Ct. 929, 6 L.Ed. 227.

The District Court determined that the coal severance tax in issue here fell into the fourth category. The District Court further found that the cases in the fourth category involved a local incident subject to the state's reserved power of taxation on goods which preceded their entry into interstate commerce. We agree.

It is fair judicial policy for us not to regard as controlling here dicta found in cases in which the United States Supreme Court has upheld the regulatory powers of Congress under the commerce acts. See, for example of dicta, Labor Board v. Jones & Laughlin, supra; Parker v. Brown, supra.

It is likewise fair judicial policy for us not to feel bound here by dicta found in cases involving states which have engaged in regulation of interstate commerce. Again, see Pike v. Bruce Church, Inc., supra; Philadelphia v. New Jersey (1978), 437 U.S. 617, 98 S.Ct. 2531, 57 L.Ed.2d 475. Nor do we feel bound or controlled by dicta found in cases decided by the United States Supreme Court involving states or municipalities which have imposed a tax on an interstate commerce activity. For example, Nippert v. Richmond, supra; Complete Auto Transit, Inc. v. Brady, supra. We rely instead on those cases where the United States Supreme Court has directly upheld state taxation of production, extraction or manufacturing.

While the plaintiffs have contended that the trend of the United States Supreme Court decisions has been to move away from the holdings in *Heisler, Oliver Iron Co.,* and *Hope Gas Co.,* supra, we do not find that contention supported in cases involving state taxes. Indeed, if we can read the trend of the decisions, it has been the policy of the Supreme Court to open up and to allow, not to *prevent,* state taxation of *interstate commerce transactions.* What has occurred in those decisions is that the Supreme Court has moved away over the course of years from the "immunity per se" rule which prevented state taxation of interstate commerce. LeLoupe v. Port of Mobile (1887), 127 U.S. 640, 8 S.Ct. 1380, 32 L.Ed. 311, to a rule of accommodation which recognizes that interstate commerce, in utilizing the services and protections of a state is required to "pay its way". See Western Live Stock v. Bureau (1938), 303 U.S. 250, 58 S.Ct. 546, 82 L.Ed, 823. For this reason the Supreme Court has upheld state taxation which intrudes upon interstate commerce but where there exist local incidents which justify state taxation nevertheless. General Motors v. Washington (1964), 377 U.S. 436, 84 S.Ct. 1564, 12 L.Ed. 2d 430; Norton Co. v. Dept. of Revenue (1951), 340 U.S. 534, 71 S.Ct. 377, 95 L.Ed. 517. Local incidents which are severable from interstate commerce but occur within a state, such that multiple taxation by other states on the same activity is not a threat, provide a basis which has brought about the standards announced by the Supreme Court in Complete Auto Transit, Inc. v. Brady, supra, to find constitutional permissibility for state taxes *on interstate commerce.*

A most recent case demonstrating the tendency of the United States Supreme Court to encourage and allow state taxation of interstate commerce can be found in Exxon Corps. v. Wisconsin Dept. of Revenue (1980), ——— U.S. ———, 100 S.Ct. 2109, ——— L.Ed. 2d ———. Exxon had filed income tax returns in Wisconsin using a geographical system of accounting which reflected only its Wisconsin marketing operations and which showed a loss for each year, resulting in no taxes being due. Exxon kept its accounts in three major functional departments: exploration, refining, and marketing. Transfers of products and supplies among the three functional departments were theoretically based on competitive prices. Exxon had no exploration, production or refining operations in Wisconsin in the taxable years in question. Only marketing in Wisconsin was carried on by Exxon. Nonetheless, Wisconsin treated Exxon as a unit, and apportioned its income in such manner that a tax was produced, for which Wisconsin made demand upon Exxon. The United States Supreme Court held that Wisconsin was not prevented from applying its statutory apportionment formula to appellants total income under the due process clause of the Fourteenth Amendment. It held that the unitary business principle was a proper basis for apportioning state income tax upon an interstate enterprise when its income can be reasonably related to the activities of the corporation within the taxing state. The Wisconsin tax was held valid even though its statutory apportionment formula indirectly taxed income derived from extraction or refinement of oil and gas located outside the state. The Supreme Court found nexus, proper apportionment, and a rational relationship between the income attributed to the state and the interstate values of the enterprise. (Compare Mont. Dept. of Rev. v. Am. Smelting & Refining (1977), 173 Mont. 316, 567 P.2d 901.)

Mobile Oil Corp. v. Com'r. of Taxes of Vermont (1980), ——— U.S. ———, 100 S.Ct. 1223, 63 L.Ed. 510, likewise approved such apportionment, finding a nexus is established if the corporation avails itself of the substantial privilege of carrying on business within the state.

These recent cases buttress our statement that plaintiffs have misread the trend of the United States Supreme Court cases. That trend lies in the direction of allowing states to tax products in interstate commerce, once a nexus with the taxing state is established.

The intent and portent of the United States Supreme Court in these cases is not to overturn the holdings of *Heisler, Oliver Iron Co.,* and *Hope Gas Co.,* supra. Indeed the Court has consistently recognized the vitality of those holdings on production and extraction. In Freeman v. Hewit, supra, Justice Frankfurter expressed the distinction between permisible and prohibited taxes as follows:

". . . a seller State has various means of obtaining legitimate contribution to the cost of its government, without imposing a direct tax on interstate sales. While these permitted taxes may in an ultimate sense come out of interstate commerce, they are not, as would be a tax on gross receipts, a direct imposition on that very freedom of commercial flow which for more than 150 years has been the ward of the commerce clause." 329 U.S. at 256, 67 S.Ct. at 278, 91 L.Ed. 274.

In like manner, state taxation of manufacturing within a state has also been upheld, though manufacturing of goods destined for commerce may be thought to present a weaker case than the production or extraction of goods. Adams Mfg. Co. v. Storen (1938), 304 U.S. 307, 58 S.Ct. 913, 82 L.Ed. 1365.

The intent of the United States Supreme Court to preserve these fields for state taxation as preliminary to interstate commerce and within the reserved taxing powers of the states is manifest. In Alaska v. Arctic Maid, supra, for example, the court found that Alaska's taxing of the gathering and freezing of fish taken from Alaska's territorial waters by ships was a "preliminary local business", to be compared with *Oliver Iron Co.,* supra, as its "first cousin"; this, even though the ships eventually took their frozen cargo directly from the seas to the State of Washington for canning. From that evident intent of the Supreme Court, we find this portent: there is no indication by the United States Supreme Court that its historical judicial sanction of state taxation on production, extraction and manufacturing is in jeopardy.

Indeed, the very inference of such a threat in a Supreme Court opinion would have raised such a clamor that the case would be a benchmark. We find none, and can only conclude that the Supreme Court will be as consistent in this area in the future as it has been in the past.

See Federal Compress Co. v. McLean (1934), 291 U.S. 17, 54 S.Ct. 267, 78 L.Ed. 622; and Chassaniol v. Greenwood (1934), 291 U.S. 584, 54 S.Ct. 541, 78 L.Ed. 1004; referred to with approval in Pike v. Bruce Church, Inc., supra. Also Caskey Baking Co. v. Virginia (1941), 313 U.S. 117, 61 S.Ct. 881, 85 L.Ed. 1223.

The importance of these reserved fields of taxation to the states cannot be overstated. The State of Texas, whose attorney general appears before us as amicus opposing Montana's tax, will realize $980 million in oil and gas production taxes this year. The State of Alaska has sufficient revenues from the severance of oil and gas within its borders that its 1980 legislature, before its recent adjournment, provided $900 million in an inviolate trust, not unlike Montana's, from those revenues. Such examples of local taxes could be added to almost state by state. No more important case on the power of states to levy taxes can be imagined than is presented here. For if the *rate of tax* on a local activity, as here, can be found to violate the commerce clause, then certainly the *amount of tax* raised by a state on a local activity is in the same jeopardy. Were we or the United States Supreme Court to reach that result, then we should see, in the words of the old spiritual that "the walls came a-tumblin' down."

Plaintiffs' attack here is another in a series that seeks to assail and overturn the recognized power of states in these regards. In Bel Oil Corporation v. Roland (1962), 242 La. 498, 137 So. 2d 308, appeal dismissed 371 U.S. 2, the state court upheld the validity of a severance tax on the extraction of natural gas in Louisiana. In Industrial Uranium Co. v. State Tax Commission (1963), 95 Ariz. 130, 387 P.2d 1013, an Arizona privilege tax on mining was upheld. In Post Oak Oil Company v. Oklahoma Tax Com'n. (Okla. 1978), 575 P.2d 964, a state excise tax on the severance of natural gas in Oklahoma withstood a commerce clause attack. All of these courts relied, as we do, on the continued adherence by the United States Supreme Court to its steady course of sanction in these fields.

On the basis that the severance of coal here is a taxable event that precedes entry into interstate commerce, we rule without hesitation that plaintiffs cannot prevail on their claims under count I of their complaints, because Montana's coal severance tax does not violate the commerce clause. The severance of coal by mining is not an interstate activity.

In oral argument, the plaintiffs asked us to give them a straight up-and-down decision on whether the coal severance tax was governed by the commerce clause. We have done that in the foregoing paragraphs. However, we feel compelled to remark that even if the commerce clause in this case obtained, plaintiffs could not have prevailed and the motion dismissing the complaints would have been properly granted in any event.

In making their commerce clause argument, the plaintiffs have contended that we were bound to apply the tests set forth in *Complete Auto Transit, Inc.*, supra. In that case, the United States Supreme Court considered the constitutionality of a Mississippi tax on the "privilege of doing business in that state". The earlier case of Spector Motor Service v. O'Connor (1951), 340 U.S. 602, 71 S.Ct. 508, 95 L.Ed. 573, had adopted a formalistic test to the effect that taxes on the "privilege" of doing interstate business violated the commerce clause. The United States Supreme Court in *Complete Auto Transit, Inc.* overruled *Spector* stating that state taxes affecting interstate commerce must be viewed as to their practical effect and must be examined in light of a four-pronged test of that practical effect:

(1) Whether the tax is applied to an activity with a substantial nexus with the taxing state,

(2) Whether it is fairly apportioned,

(3) Whether the tax does not discriminate against interstate commerce and,

(4) Whether the tax is fairly related to the services provided by the state. 430 U.S. at 277–8, 97 S.Ct. at 1078, 51 L.Ed.2d at 330.

Washington Rev. Dept. v. Stevedoring Assn., supra, upheld this four-pronged test and further recognized that a state had a significant interest in exacting *from interstate commerce* its fair share of the cost of state government. 435 U.S. at 748, 98 S.Ct. at 1398, 55 L.Ed.2d at 695.

Complete Auto Transit, Inc. is a good example of our earlier assertion that the United States Supreme Court, instead of intrudng upon the reserved fields of taxation allowed the state on local activities, has been moving toward a permissive or accommodating position allowing state taxation of interstate commerce under certain conditions.

Applying the *Complete Auto Transit, Inc.* four-pronged test, for the sake of argument, to the case at bar, plaintiffs could not prevail as a matter of law. Surely there can be no argument here that a substantial, in fact, the only nexus of the severance of coal is established in Montana. There can be no discussion of apportionment, because the severance can occur in no other state. There is no danger of multiple taxation, for no other state can tax the severance. See, *Chassaniol*, supra; compare, Mich.-Wis. Pipeline Co. v. Calvert (1954), 347 U.S. 157, 74 S.Ct. 396, 98 L.Ed 583.

There would remain, if *Complete Auto Transit, Inc.* applied, only the fourth test, whether the tax is fairly related to the services provided by the state.

The taxpayers here, the coal producers, have the right to and the availability of all the governmental comforts and protection which this state provides. Since the United States Supreme Court is tending toward the position that interstate commerce must pay its way in the respective states affected thereby it is with logic of great force that Montana can require strip-coal mining to assume its just share for the cost of the state government that it enjoys, and for the governmental cost that has occurred, is now occurring, and will in the future occur as the direct result of such strip-coal mining. Here Montana meets the test set out in *General Motors* v. *Washington*, supra, 377 U.S. at 441, 84 S.Ct. at 1568, 12 L.Ed.2d at 435:

"For our purposes the decisive issue turns on the operating incidents of the tax. In other words, the question is whether the State has exerted its power in proper proportion to appellant's activities within the state and to appellant's consequent enjoyment of the opportunities and protections which the State has afforded . . ."

It is impossible for any court to foot up the dollar cost of the governmental benefits received and to be received by the taxpayers here. Aptly the state points out the heart of plaintiffs' complaint is the *rate* of the tax. The state further contends that no United States Supreme Court opinion invalidating a state levy has turned on the rate of a tax. No summation of the cost of government benefits has ever been required by any court in determining the validity of a rate of levy in a general excise, property or income tax imposed by a state. It is said:

"A tax is not an assessment of benefits. It is, as we have said, a means of distributing the burden of the cost of government. The only benefit to which the taxpayer is constitutionally entitled is that derived from his enjoyment of the privileges of living in an organized society, established and safeguarded by the devotion of taxes to public purposes. . . . Any other view would preclude the levying of taxes except as they are used to compensate for the burden on those who pay them, and would involve the abandonment of the most fundamental principle of government—that it exists primarily to provide for the public good." Carmichael v. Southern Coal Co. (1937), 301 U.S. 495, 522–523, 57 S.Ct. 868, 878–879, 81 L. Ed. 1245, 1260–1261.

The rate of a tax is a determinaton for the legislature to make, not a court. Montana's legislature has determined that its coal severance tax is fairly related to the governmental services Montana provides, and to the benefits of a trained work force and the advantages of a civilized society. See, Japan Line, Ltd. v. County of Los Angeles (1979), 441 U.S. 434, 99 S. Ct. 1813, 60 L.Ed.2d 336; Washington Rev. Dept. 1. Stevedoring Assn., supra. We are not talking here about "user" charges or like fees imposed for the use of state facilities where the charge for the service must bear some fair relation to the service or property provided for use. Such "user" charges are capable of being determined. See Evansville Airport v. Delta Airlines (1972), 405 U.S. 707, 92 S.Ct. 1349, 31 L.Ed.2d 620. Taxes as here imposed for general support of the government are fairly related to that purpose by the mere fact that a government is thereby maintained. It is only when the taxpayer has an insufficient nexus to the taxing state, or the tax is disproportionate to the incidents of commerce being taxed, that the fair-relation test applies. See, e.g. National Bellas Hess, Inc. v. Dept. of Revenue (1967), 386 U.S. 753, 756, 758, 87 S.Ct. 1389, 18 L.Ed.2d 505.

Complete Auto Transit, Inc., is intended to apply to situations where a state or local taxing authority adopts a tax that intrudes upon, hampers or obstructs in some fashion interstate commerce. It has no application in this case to the intrastate severance of coal by mining. But even if *Complete Auto Transit, Inc.* applied, as we have shown, plaintiffs could not prevail here as a matter of law.

We note that a tax of thirty percent of the coal's value at the time of its severance is not any indication of the impact of the severance tax as to the cost of coal at its final destination, in-state or out-of-state. The attorney general of Texas, appearing here as amicus, informed us in oral argument that Montana coal destined for Texas is now purchased at $7 per ton at the mine, resulting in a severance tax in Montana of $2.10 per ton; however, the coal at destination in Texas costs $30 per ton. Most of the added price comes from the cost of transportation of the coal to Texas, which costs, the attorney general informed us, have incerased from $8 per ton to $20 per ton in a short time. Demonstrably therefore, as to Texas, the interstate impact of the Montana coal severance tax is no gerater than that of federal and state taxes on gasoline at the pump (before the recent price increases) or the state and city sales taxes on goods and services found in most localities. On the same tack, when we consider the customers of the utilities who are appearing in this case, it is obvious without argument or proof that coal costs are only a portion of total generating costs of electricity. Although plaintiffs have contended that Montana's coal tax is passed on to the utility consumers, it must be admitted that this is because of the particular terms of the coal contracts of purchase entered into by the utility-plaintiffs. It would be strange indeed if the legality of a tax could be made to depend on the vagaries of the terms of contracts. We do not assume that in the broad picture all of the Montana coal tax is passed on to consumers because Montana does not have a monopoly in the production of coal. Montana coal must compete in the market with coal produced in Wyoming, North Dakota, and other sources of supply. Under those circumstances, economic factors will determine whether the producers will shoulder all or part of the tax, or pass it on in the form of increased prices.

The argument therefore that Montana is "exporting its coal tax" to out-of-state users has no more force in reality when applied to Montana coal than to any other type of lawful tax on goods or products eventually moving in interstate commerce. Certainly, taxes paid on goods and products from origin to the eventual consumer are a factor in the final price to the consumer; that is an economic fact of our lives. In that sense, every state or locality that levies a tax on goods or products originating therein or manufactured therein is exporting its tax. No sane rule of law can or should be developed that would make a local tax illegal solely because it is a factor in the cost the eventaul consumer pays. Such a rule would make state government taxation of goods and products a judicial morass.

It is for these reasons that we have determined, as we have stated earlier, to look at the status of the true taxpayers in this case, the producers of the coal. The Montana severance tax is levied at the time the coal is separated by the producer from the realty in Montana at its value when sold in Montana. In that light we have no difficulty in finding that Montana has the power as a state to tax the severance of coal within its borders. Plaintiffs contended in oral argument that because the coal bought by the utilities from the producers was already under contract for sale when mined, that the instant the coal was severed, it was in interstate commerce. We do not have to address that argument because the taxable event, as far as Montana is concerned is the act of severance itself. The event of severance necessarily precedes the instant when the coal ceases to be part of the realty and becomes part of the mass of personalty in Montana. We are not required here to determine whether the mined coal should not be considered a part of interstate commerce until the moment when the producer hands the coal over to the buyer, or its transporter for the account of the buyer. There is no need to concern ourselves with such fine points here. The severance itself is a taxable event and the Montana statutes here tax that event in advance of any entry of the coal into commerce. In other words, the coal is produced and that production is taxed. Montana's coal severance tax is therefore ahead of and preliminary to the sweep of the power of Congress to regulate commerce. If this be not so, Montana and all other states would have to concede that any power of a state to tax the production of products which may eventually enter into interstate commerce is at the whim or forebearance of the federal government. Neither the United States Supreme Court nor any other court has so held, and well enough, for such a decision would shatter the shield of judicially-approved states' rights in this field.

When it is realized that the coal producing plaintiffs are the real and only taxpayers of the Montana tax, the "exported tax" theory falls. With it falls the notion that there is no political check on the Montana legislature to limit the tax. Experience shows the producer plaintiffs are a vigorous presence at any session of the Montana legislature. Records of the Montana Secretary of State, of which we take judicial notice, Rule 202 (b), M. R. Evid., show the number of lobbyists registered for the coal industry in recent sessions, sections 5–7–103 and 5–7–201, MCA, and their participation before legislative committees on matters affecting the coal industry.

Finally, with respect to the commerce clause, plaintiffs have continued to assert an argument which does not raise a substantive issue or one material to our decision in this case, but nonetheless requires a comment lest our silence be considered an admission of its substance.

The nonissue raised by plaintiffs is that since a good deal of the coal being mined by plaintiffs or potentially to be mined (in oral argument it was said 75 percent of the coal) underlies federal leases, this coal therefore is not Montana's "birthright" but belongs to the nation as a whole. The argument is intended to have us believe that Montana is taxing here not the coal producers, but the people of the United States themselves.

Montana, in common with many of the states, has a substantial portion of its surface area under federal ownership. In addition, the federal government reserved to itself coal and other minerals in many of its patents or deeds of grant. We assume this situation gives rise to the nonissue raised by the plaintiffs.

Plaintiffs' argument is addressed to emotion and not to law. As long as the federal coal remains in deposit under federal ownership, it is "our" coal in the sense that it belongs to the people through the federal government. Once mined under a federal lease or permit, title to the coal is vested as personal property in the lessee or permittee as soon as it is mined and removed from its original place, subject only to the royalty rights of the lessor, Olson v. Pedersen (1975), 194 Neb. 159, 231 N.W. 2d 310, the same as with oil and gas. De Mik v. Cargill (Okla. 1971), 485 P. 2d 229. Montana may impose taxes on the private lessees of federal lands. 30 U.S.C. § 189; Oklahoma Tax Comm'n. v. Texas Co. (1949), 336 U.S. 342, 69 S. Ct. 561, 93 L. Ed. 721; reh. den. (1949), 336 U.S. 958, 69 S. Ct. 887, 93 L. Ed. 1111.

The coal being taxed here therefore is not "our" coal, but the personal property of the plaintiffs who produced it under lease or permit. When the coal is mined, the federal government is in no different position as a lessor than a private lessor who grants a mining lease or permit.

THE SUPREMACY CLAUSE

"This [federal] Constitution and the Laws of the United States which shall be made in Pursuance thereof", states U.S. CONST., Art. VI, Cl. 2, ". . . shall be the supreme Law of the Land. . . ."

Here plaintiffs contend that Montana's coal severance tax is preempted because it "frustrates and impairs" implementation of federal policy; that the District Court misconceived the national policies involved here; that the overall national energy policy is to encourage a greatly expanded production and use of western coal; and that the question of substantial frustration is one of fact which cannot be determined on the pleadings.

Montana responds that the plaintiffs have failed to allege or to identify any "Laws of the United States" which the coal severance tax could frustrate or impair; and that the general policy considerations and goals alleged by plaintiffs are not "laws of the United States" which are declared to be the "supreme Law of the Land".

The motion to dismiss made by the State in the District Court challenged the legal sufficiency of the supremacy clause claim of the plaintiffs.

It is conceded by the plaintiffs that Congress has not expressly preempted or limited the authority of the State to levy the coal severance tax, nor "clearly and unmistakably" required the conclusion that Congress intended to prohibit or limit the tax. Rather the plaintiffs contend, as their complaints allege:

"32. That the coal severance tax, on its face, and as applied, substantially frustrates and impairs fulfillment of national policies and purposes of certain acts of Congress." (App. 27)

Under this argument plaintiffs contend that proof of "substantial frustration" does not require plaintiffs to show a specific Congressional intent to preempt the field (Pl. Brief at 60).

In fine, plaintiffs have contended that it is not the tax, but the *rate of the tax* which constitutes an obstacle to federal policy and which requires a determination of fact as to whether such obstacle exists.

By their argument, plaintiffs seek to bring themselves within the coverage of statements made by the United States Supreme Court in Ray v. Atlantic Richfield Co. (1978), 435 U.S. 151, 158, 98 S.Ct. 988, 55 L.Ed.2d 179; Jones v. Rath Packing Company (1977), 430 U.S. 519, 525–526, 97 S.Ct. 1305, 51 L.Ed.2d 604; reh. den. (1977), 431 U.S. 925, 97 S.Ct. 2201, 53 L.Ed.2d 240; De Canas v. Bica (1976), 424 U.S. 351, 357 n. 5, 96 S.Ct. 933, 47 L.Ed.2d 43; and Perez v. Campbell (1971), 402 U.S. 637, 652, 91 S.Ct. 1704, 29 L.Ed.2d 233. Plaintiffs claim to be inheritors of the decision in M'Culloch v. Maryland (1819), 17 U.S. 415 (4 Wheat. 316), 4 L.Ed. 579.

In making its determination on the preemption issue, the District Court examined the following acts of Congress submitted or cited to the District Court as acts which defined the federal policies in the field:

Powerplant and Industrial Fuel Use Act of 1978, Pub. Law No. 95–620, 92 Stat. 3289.

Natural Gas Policy Act of 1978 Pub. Law No. 95–621, 92 Stat. 3351.

Energy Conservation and Production Act Pub. Law No. 94–385, 90 Stat. 1125.

Energy Policy and Conservation Act Pub. Law No. 94–163, 89 Stat. 871.

Federal Nonnuclear Energy Research and Development Act of 1974 Pub. Law No. 93–577, 88 Stat. 1878.

Energy Reorganization Act of 1974 Pub. Law No. 93–438, 88 Stat. 1233.

Energy Supply and Environmental Coordination Act of 1974, Pub. Law 93–319, 88 Stat. 246.

Emergency Petroleum Allocation Act of 1973, Pub. Law No. 93–159, 87 Stat. 627.

Clean Air Amendments of 1970 Pub. Law No. 91–604, 84 Stat. 1676.

From those acts, the District Court determined that there was a national policy to provide incentives to increase the use of other sources of energy, including coal, so as to decrease our dependence on oil. The District Court also determined from those acts, and from cases it examined relating to the subject, that "Congress has not and did not intend to preclude the State of Montana from imposing a tax on mining activities within the State . . ." App. at 240. It is in this conclusion of law that the plaintiffs now contend on appeal that the District Court erred: The plaintiffs do not claim that the federal acts submitted to the District Court establish a national policy which prevents Montana from levying *some* tax on the severance of coal. Instead, plaintiffs contend that the District Court should have allowed a factual hearing to determine whether the *rate* of Montana's coal severance tax substantially frustrates national policy; and that the order of the District Court precluded plaintiffs from proving what the national energy policy was.

Some seventy or eighty years ago it used to be argued that the Constitution of the United States followed the flag. Here, plaintiffs in reality are contending that the Constitution follows the Dow-Jones average.

In examining the whole of the District Court's memorandum in support of its order, we think it implicit in the District Court's opinion not only that Montana is not prohibited by federal enactments and policy from levying a coal severance tax but also that the amount of Montana's coal severance tax is not prohibited. In any event, we find the latter conclusion is a necessary result as a matter of law under the preemption argument.

Out of the welter of cases which has been cited to us on this issue by the parties, we, upon examination of such authorities, find it safe to say that no state excise tax has ever been struck down unless it had clearly conflicted with an act of Congress in the field (M'Culloch v. Maryland, supra); and likewise, that no state excise tax is likely to be held by the United States Supreme Court to be limited as to its amount unless it is expressly or by necessary implication shown to be prohibited or that the amount interferes with a power assumed or delegated to the United States.

The essence of the rule upon which we rely here, and of the rule which we think inheres in any of the United States Supreme Court decisions on the subject is set out in Penn Daries v. Milk Control Comm'n. (1943), 318 U.S. 261, 275, 63 S.Ct. 617, 623–24, 87 L.Ed. 748, 756–57:

"An unexpressed purpose of Congress to set aside statutes of the states regulating their internal affairs is not lightly to be inferred and ought not to be implied where the legislative command, read in the light of its history, remains ambiguous. Considerations which lead us not to favor repeal of statutes by implication, *United States* v. *Borden Co.*, 308 U.S. 188, 198–9; *United States* v. *Jackson*, 302 U.S. 628, 631; *Posadas* v. *National City Bank*, 296 U.S. 497, 503–5, should be at least as persuasive when the question is one of the nullification of state power by Congressional legislation.

". . . Courts should guard against resolving these competing considerations of policy by imputing to Congress a decision which quite clearly it has not undertaken to make. Furthermore we should be slow to strike down legislation which the state concededly had power to enact, because of its asserted burden on the federal government. For the state is powerless to remove the ill effects of our decision, while the national government, which has the ultimate power, remains free to remove the burden."

The mere statement by the plaintiffs that the Montana coal severance tax substantially frustrates a national policy for the use of western coal is not a sufficient basis to trigger a factual determination in the District Court. The scope and substance of national policy are matters of statutory interpretation. This is a matter of law not requiring the taking of testimony. Again, of course, for purposes of a motion to dismiss, a District Court is not required to accept plaintiffs allegations of law and legal conclusions as true. Newport News Co. v. Schauffler (1938), 303 U.S. 54, 58 S.Ct. 466, 82 L.Ed. 646; Mitchell v. Archibald and Kendall, Inc. (7th Cir. 1978), 573 F.2d 429, 432; Kadar Corporation v. Milbury (1st Cir. 1977), 549 F.2d 230, 233; Blackburn v. Fisk University (16th Cir. 1971), 443 F.2d 121, 124.

Whether we agree here with plaintiffs that the decision of the District Court was only to the effect that no federal enactments prohibited *any* coal tax is of no moment. The reason for the district judge making that finding was that he could find no federal enactment of specific policy with respect to which the Montana coal severance tax conflicted. For the same reason, when we examine plaintiffs' contention that the amount of the tax constitutes a substantial frustration of federal policy, that argument must also fall because of plaintiffs' failure to establish a federal enactment with which the amount of Montana tax conflicts or which is substantially frustrated.

We find ourselves in agreement with the District Court that the federal statutes cited do not establish domestic energy policies wherein Congress intended to nullify other national, state, local or individual policies or interests which may increase the cost of coal production in use.

Stated another way, we do not find a national domestic energy policy or congressional enactments predicated upon a Montana coal severance tax of fifteen percent or less. Indeed, the federal enactment point in other directions. There are incentives for the development of underground coal mines. 42 U.S.C. § 6211. There is a provision for export restrictions, 42 U.S.C. § 6212. Miners of low sulfur coal are not exempted from costly environmental strip mining regulations. 30 U.S.C. § 1251, et seq. Health and safety requirements are enforced upon strip coal miners. 30 U.S.C. § 801, et seq. Royalties on federal lands are payable under the Mineral Lands Leasing Act of 1920 as amended. 30 U.S.C. § 181, et seq. Congress seems to prefer underground coal mining. 30 U.S.C. § 1201, et seq. As the District Court found, to the distaste of the plaintiffs, Congress favors and encourages the production and use of high sulfur eastern and midwestern coal, rather than low-sulfur western coal, the later of which is to be used principally by existing facilities for which technological upgrading of air pollution control equipment is impractical or not feasible. 42 U.S.C. §§ 7411 and 7425. Indeed, § 7411, as amended in 1977, requires users of low-sulfur coal nevertheless to install the "best technological system of continuous emission reduction" required for all stationary sources, even though such systems may be unnecesasry because the low-sulfur coal meets the emission standards. See, U.S. Code Congressional and Administrative News, 95th Congress, 1977 Session, Vol. II, at 1245. Congress would rather that eastern and midwestern plants used "local coal", even coal with higher sulfur content than western low-sulfur coal.

How then can any court determine that the effect of Montana's coal severance tax is to frustrate national policy, when no national policy can be discerned as a matter of law?

The federal constitutional prohibition, under the supremacy clause, is against state laws which contravene "the laws of the United States which shall be made in pursuance of [the federal constitution]." What is wanting in plaintiffs argument is *any* federal enactment, constitutionally adopted, which is clearly, substantially frustrated by Montana's coal severance tax.

The taxing power of the state is an essential power of its sovereignty. Weston v. City Council of Charleston (1829), 27 U.S. 171, 174 (2 Peters 449), 7 L.Ed. 481. This power cannot be set aside or limited on weightless statements that a federal policy is being substantially frustrated.

Contrary to the contention of plaintiffs, De Canas v. Bica, supra, was not sent back by the Supreme Court for a factual determination, but rather for a construction by the California courts of California statutory law. De Canas v. Bica, supra, 424 U.S. at 363–364, 96 S.Ct. at 940, 47 L.Ed.2d at 53–54. In Exxon Corp. v. Governor of Maryland (1978), 437 U.S. 117, 98 S.Ct. 2207, 57 L.Ed.2d 91, reh.den. 439 U.S. 884, the United States Supreme Court rejected a contention that a broad general national policy can preempt state laws which have some indirect effect upon national policy. The court said in *Exxon:*

"Appellants point out . . . the . . . basic national policy favoring free competition, and argue that the Maryland statute 'undermine[s]' the competitive balance that Congress struck between the Robinson-Patman and Sherman Acts. This is just another way of stating that the Maryland statute will have an anticompetitive effect. In this sense, there is a conflict between the statute and the central policy of the Sherman Act—our 'charter of economic liberty.' Northern Pacific R. Co. v. United States, 356 U.S. 1, 4. Nevertheless, this sort of conflict cannot itself constitute a sufficient reason for invalidating the Maryland statute. For if an adverse effect on competition were, in and of itself, enough to render a state statute invalid, the States' power to engage in economic regulation would be effectively destroyed. We are, therefore, satisfied that neither the broad implications of the Sherman Act nor the Robinson-Patman Act can fairly be construed as a congressional decision to pre-empt the power of the Maryland Legislature to enact this law." 437 U.S. at 133–134, 98 S.Ct. at 2217–2218, 57 L.Ed.2d at 104–105.

Again, under this preemption contention, a large number of cases are cited by the parties. Recitation of their holdings and effect would be cumulative here. Plaintiffs have attacked the decision of the District Court upon the ground that no court case was relied on by it to find that Montana's coal severance tax did not contradict a federal national policy. On this point, plaintiffs are stoking the same furnace as did the District Court. Plaintiffs have led us to no decision invalidating a state excise tax based on its rate as in contravention of federal policy.

We conclude that from any viewpoint, whether as a question of the power of the State of Montana to levy any tax, or its power to levy a tax at the rate here set forth, there has been no preemption by the federal government in the field of coal severance taxation, or any national policy derived from Congressional enactments pursuant to the Constitution with which the Montana coal severance tax is in conflict.

THE FEDERAL MINERAL LANDS LEASING ACT OF 1920

Here, plaintiffs assert that the severance tax violates the Supremacy Clause of the United States Constitution on the ground that the tax grossly distorts the "compromise" between the federal government and the states expressed in the Mineral Lands Leasing Act of 1920, Chapter 85, 41 Stat. 437, as amended by the Federal Coal Leasing Amendments Act of 1975, Pub. Law No. 94–377, 90 Stat. 1083.

Plaintiffs contend the federal legislation is a result of a longstanding debate concerning the ownership, disposition and use of federally owned mineral reserves in the western territories and states. The result, claim plaintiffs, is that the federal government retained the minerals for the people of the nation, subject to the payment of a share of the mineral royalties to the states in which the minerals were located.

Under the Act of 1920, as amended, fifty percent of amounts received by the federal government from sales, bonuses, royalties and rental of public lands thereunder are returned to the respective states wherein the leased lands or deposits are located, for uses specified in the Act. Plaintiffs claim Montana is without power, because it substantially frustrates national policy, to tax the "economic rents" remaining over and above the rents and royalty payments. "Economic rents" are defined as the difference between the costs of production, including an acceptable profit, and the price which the products could obtain in the market place. Plaintiffs state that Montana has appropriated the "economic rents," which plaintiffs find to be a fundamental frustration of federal policy.

Here again, plaintiffs argue that they are not required to show an express prohibition under federal law; rather they contend that substantial frustration of the fulfillment of national policy is sufficient to render the state law unconstitutional under the supremacy clause.

The principal factor militating against plaintiffs' position on this part of their complaint is that Congress specifically allowed state taxation under the Mineral Lands Leasing Act of 1920. The Act contains this provision (30 U.S.C. § 189):

". . . Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States."

If indeed, a "compromise" was reached with respect to the leasing of federally-owned mineral interests in public lands, that compromise included, under 30 U.S.C. § 189, the right of states to tax the "output of mines". This indeed is a clear expression of federal policy and Montana's coal severance tax is within that policy.

In Mid-northern Oil Co. v. Montana (1925), 268 U.S. 45, 45 S.Ct. 440, 69 L.Ed. 841, affirming Mid-northern Oil Co. v. Walker (1922), 65 Mont. 414, 211 P. 353, the Supreme Court said:

". . . [A]lthough the act deals with the letting of public lands and the relations of the government to the lessees thereof, nothing in it shall be so construted as to affect the rights of the states, in respect of such private persons and corporations, to levy and collect taxes as though the government were not concerned." 268 U.S. at 49, 45 S.Ct at 441, 69 L.Ed. at 843.

The Supreme Court also said:

"No doubt, what Congress immediately had in mind was the necessity of making it clear that, notwithstanding the interest of the government in leased lands, the rights of the states to tax improvements thereon and the output thereof should not be in doubt. . . . We think the proviso plainly discloses the intention of Congress that persons in corporations contracting with the United States under the act, should not, for that reason, be exempt from any form of state taxation otherwise lawful." 268 U.S. at 50, 45 S.Ct. at 441, 169 L.Ed at 843.

Again the District Court was correct in dismissing plaintiffs complaints under count 3 as a matter of law, for no justiciable controversy is presented by such count.

CONCLUSION

The judgment of the District Court in dismissing the plaintiffs complaints is affirmed.●

THE EQUAL RIGHTS AMENDMENT EXTENSION

● Mr. GARN. Mr. President, with the defeat of the proposed equal rights amendment by the Illinois State Legislature, the prospects of ratification grow increasingly dim. Not a single State has ratified this measure in the past 3½ years and only two States have ratified in the past 6½ years. In light of this history, I believe that the action taken by this body during the 95th Congress in extending the ratification period for this amendment looks increasingly inappropriate. At the cost of what I believe was significant damage to constitutional procedure and regularity, we have only managed to maintain the life-support system of an amendment that clearly does not have the sort of national consensus that is needed for changes in the Constitution.

An excellent survey of this constitutional damage was recently published in the Harvard Journal of Law and Public Policy by our colleague, Senator ORRIN G. HATCH. I would like to call the attention of my other colleagues to this thoughtful and scholarly constitutional analysis of the ERA extension. I ask that it be printed in the RECORD.

The article follows:

THE EQUAL RIGHTS AMENDMENT EXTENSION: A CRITICAL ANALYSIS

(By Orrin G. Hatch*)

(On March 22, 1979, the original deadline for state ratification of the Equal Rights Amendment passed. Prior to that time, however, Congress voted to extend the ratification period until June 30, 1982. Senator Hatch analyzes the propriety of this unprecedented extension from the legal and public policy perspectives, and considers its implications for the integrity of the amending process and of the Constitution itself.)

The proposed 27th Amendment to the Constitution—the Equal Rights Amendment [1]—was approved by Congress on March 22, 1972, and submitted to the States for ratification. House Joint Resolution 208, in proposing the amendment, stated:

"The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within *seven* years from the date of submission by Congress." [2]

This language was followed by a semicolon which preceded the three sections of the proposed amendment.

By the end of the first week of submission, the amendment had been ratified by seven States; by the end of the first month, it had been ratified by fourteen States; and by the end of the first year, the Equal Rights Amendment had been ratified by thirty States, only eight short of the requisite three-fourths majority.[3] At this juncture, the seven-year time limit contained in the proposing resolution seemed of purely academic interest.

Since March 22, 1973, the first anniversary of the Equal Rights Amendment, however, it had been ratified by only five additional States,[4] just slightly more than the four States that have purported to rescind earlier ratifications.[5] In the fifteen States that have never ratified the amendment, there have occurred a combined total of nearly one hundred floor and committee rejections.[6] As the Equal Rights Amendment has developed into one of the most controversial domestic issues in recent years, its early momentum has been largely dissipated.

HOUSE JOINT RESOLUTION 638

Apparently stalled at 35 States, and facing an approaching ratification deadline of March 22, 1979, a number of proponents of the ERA devised a plan in late 1977 to extend this deadline, an action without constitutional precedent.[7] House Joint Resolution 638, introduced by Representative Elizabeth Holtzman on October 26 of that year, stated simply:

"That notwithstanding any provision of House Joint Resolution 208 of the Ninety-second Congress, second session, to the contrary, the article of amendment proposed to the States in such joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within *fourteen* years from the date of submission of such proposed article of amendment."

Identical legislation, Senate Joint Resolution 134, was introduced in the Senate by Senator Birch Bayh on May 17, 1978.

Following six days of hearings in the House of Representatives,[8] House Joint Resolution 638 was approved narrowly in both the Subcommittee and the full Committee. In order to achieve this victory, however, extension proponents were forced to accept an amendment at the full Committee level shortening the proposed period of extension from seven years to slightly less than three and a half years, until June 30, 1982.[9] On August 15, 1978, the full House of Representatives approved the amended resolution by a vote of 233–189.[10]

Shortly before final House passage, the Senate held three days of hearings on Senate Joint Resolution 134.[11] Apparently concerned about insufficient support among members of the Subcommittee for his own resolution, Subcommittee Chairman Bayh refused to place the resolution before the panel for a vote. Instead, Senate Majority Leader Robert Byrd, employing extraordinary parliamentary procedures, brought the House resolution directly to the floor for Senate consideration, circumventing entirely the normal committee process.[12] On October 6, 1978, shortly before the adjournment of the 95th Congress, House Joint Resolution 638 was approved in the Senate by a 60–36 vote.[13] Two weeks later, the resolution was signed by President Carter.

EXTENDING THE ERA

Although one would certainly have been confused on this matter at times during the debate in both the House and the Senate,[14] what is not at issue in the debate over House Joint Resolution 638 are the merits of the Equal Rights Amendment. Congress has already addressed this matter, and the States have had the opportunity to do the same. The issue is the integrity of the constitutional amendment process. Long after the debate over the ERA is resolved, the Constitution will continue to reflect the treatment given it during the debate on House Joint Resolution 638.

Those who support extension and who deplore frequent analogies to sports contests [15] are quite correct: the Equal Rights Amendment effort is not a game. Neither, however, is the legislative process nor the constitutional amendment process. As observed by Professor Charles Alan Wright, speaking on the ERA extension, "Constitutional principles should be resolved on the basis of fundamental principles, not clever stratagems." [16]

CONGRESS AND TIME LIMITS

Article V of the Constitution, pertaining to its amendment, gives to Congress the power to "propose" amendments to the Constitution, determine whether ratification in the States shall be by legislatures or conventions, and establish "subsidiary matters of detail," including the establishment of a "reasonable" time limit for ratification.[17] Congress is thereby entitled to initiate the search for the consensus required in order to amend the Constitution.

The power to establish a "reasonable" time limit does not, however, imply the power to alter such a time limit once established. In *Dillon*, the time limit in controversy was a seven-year limitation contained in Section 3 of the 18th Amendment to the Constitution (Prohibition),[18] the ratification of which had been completed one year earlier. The appellants argued that Congress had no power under Article V to limit the time of deliberation, or otherwise control what the legislatures of the States do in their deliberations, and that the effort to do this through Section 3 rendered the 18th Amendment invalid.[19] The very fact of a time limit tended to encourage "precipitate" action thus working to the advantage of "factions . . . pressing for ratification." [20]

Justice Van Devanter, in delivering the opinion of a unanimous court, observed that, irrespective of what Congress had to say on the matter, ratifications of proposed Constitutional amendments by the States were required, under Article V, to be "sufficiently contemporaneous in that number of States (¾) to reflect the will of the people in all sections at relatively the same period, which of course ratification scattered through a long series of years would not do." [21]

Subject to this standard, and "so that all may know what it is and speculation on what is a reasonable time may be avoided," [22] the Court concluded that Congress was empowered to fix a definite period for ratification. This was a "subsidy matter of detail" [23] with respect to which the Constitution spoke only in general terms.

Coleman v. Miller [24] is the only other significant case dealing with Congressional authority to attach time limits to proposed amendments. In *Coleman*, a group of Kansas State legislators challenged their State's ratification of a proposed Child Labor Amendment to the Constitution on the grounds that there had been an "unreasonable amount of time for ratification. Twelve years had elapsed between the amendment's proposal and its purported ratification by Kansas. No express limitation had accompanied the amendment.

In deferring to the judgment of Congress on this matter, *Coleman* elaborated upon *Dillon* only in stating that the *Dillon* "reasonableness" determination rested with Congress, not the courts. Chief Justice Charles Evans Hughes, in handing down a plurality opinion, stated:

"If it be deemed that such a question is an open one when the limit has not been fixed in advance, we think that it should also be regarded as an open one for the consideration of Congress when, in the presence of the certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment." [25]

The Court did not say in *Coleman*, as has been suggested, that any Congress was entitled to make the "reasonableness" determination.[26] It simply held that in the absence of a determination in the manner of *Dillon* where the proposing Congress also determines the time limit, it is within the authority of a subsequent Congress to exercise its judgment on this matter.[27] Narrowly read, it seems to suggest that only that Congress in session when the requisite number of States have purported to ratify is eligible to make such a determination.

To permit one Congress to substitute its judgment for that of a previous Congress, in the manner of House Joint Resolution 638, is not only not contemplated by *Coleman*, but is a policy completely at odds with the objectives sought to be promoted in *Dillon* by permitting Congress to fix a time limit—"that all may know what it is and speculation on what is a reasonable time may be avoided." [28] How can "speculation" be avoided when the constancy of a time limit is threatened continually by the transitory political majorities and shifting interest group pressures of successive Congresses?

A Congress, in establishing a time limit where none already exists, as was the case in *Coleman*, is not substituting its judgment in a similar manner. The proposing Congress, by failing to specify a time limit and not having the authority to fix a period for ratification longer than a "reasonable" period, has

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clearly anticipated that a future Congress will make tbis decision in its place.

CONGRESS AND THE AMENDMENT PROCESS

Dillon also states the traditional conception of Congressional involvement in the Article V process: "Proposal and ratification are not treated as unrelated acts but as succeeding steps in a single endeavour, the natural inference being that they are not to be widely separated in time.[29] House Joint Resolution 638 attempts to achieve in two "endeavours" what must constitutionally be achieved in "a single endeavour." The first endeavour, House Joint Resolution 208 from the 92d Congress, having apparently spent its energy, Congress is now attempting, through a second endeavour, House Joint Resolution 638, to refuel the earlier effort. Congress, in attempting to engraft amended terms of consideration upon a proposed constitutional amendment, is imposing itself upon the amendment process on two occasions rather than through the "single endeavor" contemplated by *Dillon*.[30]

In doing so Congress is, for the first time ever, intruding in a substantive manner upon the ratification stage of the amendment process. In the past, the role of Congress, indeed the role of the Federal government, in the Article V process, has been terminated at that point at which an amendment had been proffered to the States.[31] As observed by Dean Erwin Griswold of the Harvard Law School:

"[I]t can be argued with considerable weight that Congress has lost the power to change the Joint Resolution when it was formally communicated to the States. If Congress were to undertake to change it now, this would amount to a new resolution which would have to be submitted to, and acted upon by all of the States." [32]

In a sense, Congress has lost forever possession of a constitutional amendment once it has been proposed and submitted to the States for their consideration.

Proponents of House Joint Resolution 638 argue that with respect to "matters of detail" [33] Congress is possessed of apparently unbounded discretionary authority, and that it may impose itself repeatedly upon the amending process in adjustment of such matters.[34] Nowhere, however. in Article V, is there justification for the distinction sought to be drawn between alterations of substance and alterations of procedure. In referring to "subsidiary matters of detail" being within the discretion of Congress, the Court in *Dillon* made no suggestion that these were to be treated in any different manner from the substantive terms of an amendment. Rather, it stated that the implication of Article V was that Congressional authority to initiate the amendment process contained *within it* the authority to propose incident matters of detail. As a function of that authority, it was certainly no broader than that authority.

Indeed, *Dillon* states precisely that: "Whether a definite period for ratification shall be fixed . . . is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification." [35] If Congress, in its discretion, may act to alter time limits for ratification, may it not then also act, in its discretion to alter the mode of ratification proposed by an earlier Congress? May a Congress, suddenly anticipating the ratification or defeat of an amendment about which it feels differently, attempt to thwart that outcome by discharging State legislatures from further consideration of an amendment and substituting State conventions in their place?

To cast a time extension as a matter of "procedure," even if that description mattered, is more than a little misleading. But for the passage of House Joint Resolution 638, ERA would have failed of adoption definitively as of March 22, 1979. It is clear that Congress would not have undertaken as extraordinary an action as the extension of a time limit of a proposed constitutional amendment had there not been a direct relation to the success or failure of the amendment. The resolution of the controversy over House Joint Resolution 638 will determine more than a matter of neutral procedure.[36] If it is upheld, it will immeasurably improve the prospects for adoption of the ERA. If it is struck down, ERA will be laid to rest alongside the other proposed amendments that have failed to obtain the contemporaneous support contemplated by the Founding Fathers.

FEDERALISM AND ARTICLE V

Allowing Congress to revise time limits at its pleasure is disruptive of the balance of power established in Article V between the national government and the States. This was a matter to which the Founding Fathers were exceedingly sensitive.[37] Alexander Hamilton, one of the staunchest advocates of a strong national government, observed:

"In opposition to the probability of subsequent amendment, it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed . . . [W]e may safely rely upon the disposition of the State legislatures to erect barriers against the encroachments of the national authority."

At one point in the Constitutional Convention, it was voted that "provision ought to be made for the amendment [of the Constitution] whensoever it shall seem necessary" without the participation of Congress.[39] Although this proposition was later rejected by the Convention, the pre-eminent role of the States in the process was retained. It is evidenced by the fact that the States, unlike the national government, are deeply involved in both methods of constitutional amendment provided for in Article V,[40] one by which the national legislature proposes amendments, the other by which the State legislatures trigger the process. While the States are invested with responsibility for ratifying the proposals of the national government resulting from the former method of revision, the role of the national government in the latter method of revision involves little more than housekeeping responsibilities.[41]

To permit Congress to extend the time limit would be to limit the role of the States as a "check" in the Article V process. While they would continue, through the exercise of their expressions of approval or disapproval, to influence the actual terms and text of a proposed amendment, the more precise question of whether or not that text or those terms ever *become* part of the Constitution is one with respect to which Congress would be unchecked. For, if Congress can grant time extensions, it presumably can also reduce ratification time periods, or even revive long dormant amendments.[42] Through the exercise of this totally unchecked authority—unchecked by the States, unchecked by the Executive, and according to most extension advocates unchecked by the Judiciary [43]—a persistent Congress can almost always defeat the will of the States. The intention of the drafters of the Constitution, on the other hand, was that the States, if sufficiently persistent, would always be in a position to impose their will upon the national government.[44]

To permit Congress, in effect, to intervene on behalf of its own initiatives while they are pending before the States is also to disrupt the balance established in Article V with respect to the *facility* for amending the Constitution. Not only were its drafters concerned about maintaining a delicate relationship between the States and the national government, but they were concerned about maintaining a Constitution which, although amendable by a determined super-majority, would not be too easily changed.[45] House Joint Resolution 638 would re-interpret Article V in such a way as to entertain within it a bias in behalf of the successful ratification of amendments. This results from the likelihood that Congress will wish to facilitate, through the maneuvering of time limits, the success of its own proposals. The constitutional role of Congress as traditionally understood, has been limited to providing the initial propulsion for an amendment; there is scant authority for it also to provide unlimited towing once an amendatory vehicle runs out of steam.

LOCATION OF TIME LIMITS

Great emphasis has been placed upon the fact that the seven-year time limit accompanying the ERA is contained in the proposing clause of House Joint Resolution 208 rather than in the body of the amendment itself.[46] Proponents of ERA extension contend that Congress may amend the resolution with respect to matters contained in this clause while conceding that Congress is without power to amend the actual body of the articles to be written into the Constitution.[47]

Every constitutional amendment since the 18th, with the exception of the 19th Amendment, has contained language to the effect that the amendment was inoperative unless ratified by three-fourths of the States within seven years. Since the 23d Amendment, however, this language has been included in the proposing clause rather than in the text of the amendment itself.[48] The sole purpose for relocating the time limit was to avoid "cluttering up" the Constitution with language that was meaningless and obsolete from the instant of an amendment's ratification.

Professor Noel Dowling of Columbia Law School, the draftsman of the resolution accompanying the 23d Amendment, explained at the time:

"The seven-year limitation is put in the resolution rather than in the text of the amendment. There is no doubt about the power of Congress to put it there; and it will be equally effective. The usual way, to be sure, has been to write the limitation into the amendment; but we hope such an unnecessary cluttering up of the Constitution can be ended.[49]

The only further legislative comments on the geography of the time limit were made by Senator Estes Kefauver, the author of the 23d Amendment, and the chairman of the Senate Judiciary Subcommittee on the Constitution, who concurred in Professor Dowling's comments.[50]

HOUSE JOINT RESOLUTION 638 AND THE STATES

Even, however, if a practical distinction could be drawn between a time limit contained in the proposing clause of an amendment, and one contained in its body, the former would not imply that Congress is empowered to change the time limit. The States that have ratified the Equal Rights Amendment have not done so unconditionally and under all circumstances. What they have agreed to, more precisely, is that if a sufficient number of their sister States concurred in their approval within the seven-year time span, the Equal Rights Amendment would become a part of the Constitution. Their ratification cannot properly be interpreted as one good for all time, ro even good for as long as Congress wanted to keep it good.

Is such a "conditional" ratification effective? Proponents of House Joint Resolution 638 have placed great emphasis with regard to this question upon the remarks of James Madison in a letter to Alexander Hamilton shortly before the adoption of the Constitution.[51] In that correspondence, Madison ob-

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served: "Compacts must be reciprocal . . . . The Constitution requires an adoption *en toto* and *forever* . . . . An adoption for a limited time would be defective as an adoption of some articles only. In short, any condition whatever must vitiate the ratification." [52] The lesson to be drawn from these comments, according to the Justice Department, is that a State's ratification must be "unconditional and irrevocable." [53] Thus the States are not only prevented from "conditioning" their ratification upon the ratifications within seven years of a sufficient number of other States, but they are also prohibited from ever rescinding their ratifications.[54]

Apart from the fact that Madison was not speaking of procedure under Article V, since the Constitution had not yet been adopted—he was, in fact, referring to New York State's effort to condition its ratification of the Constitution itself upon the eventual acceptance of the Bill of Rights—there may well be merit in the contention that a State cannot conditionally ratify an amendment.[55] But where such conditions are themselves contained within the amendment proposal made to the States, and there is no doubt of Congress' authority to do this,[56] surely the States are permitted to regard these conditions as being important, and to consider them in deciding whether or not to ratify.

Professor Jules Gerard of the Washington University Law School has concluded after an analysis of State ratification documents that the seven-year limit was a "material consideration" in the ratification of the ERA in at least 24 of the ratifying States.[57] In Ohio, for example, the official certificate of ratification reads:

"Whereas, both Houses of the 92d Congress of the United States of America, at the second session of such Congress, by a Constitutional majority of two-thirds of the members of each House thereof, made a proposition to amend the Constitution of the United States *in the following words*, to wit:"

The language of the entire House joint resolution follows, including the seven-year time limit.[58]

What House Joint Resolution 638 is saying to the Ohio Legislature and its members, as well as to those in every other ratifying State, is, in effect:

"We, in Congress, do not much care that you may have been motivated to vote for the amendment that we proposed perhaps in part because you considered the time limit that accompanied it to have been a reasonable one. If this influenced your vote at all, that is your own folly. You should have known that we might change it on you. The fact that we have never done it before, and the fact that no one ever before thought we had the power to change it, is irrelevant."

The States had every reason to suppose that the seven year limit was binding upon Congress, and every reason to weigh the limit as a factor in their ratification decision. If the provision is important enough for Congress to specify as a condition for ratification, then there is no logical reason that the States may not regard it similarly.

As Professor Gerard emphasizes, the issue is not simply one of *reliance* by the States upon the original time limit, although it is conceded even by extension proponents that this may have occurred on a widespread basis.[59] Instead, he notes: "[T]he time limit was an express, mutually-agreed-upon term of the ratification. . . . I have never heard of a rule of law that requires a party to prove reliance upon an expressly-stated, mutually-agreed-upon term of a bilateral contract as a condition of enforcement." [60] Thus, even if we accept the argument of the Justice Department and other proponents of House Joint Resolution 638 that the States were not *entitled* to rely upon the original time limit [61] (an excessively legalistic and petty point of view considering that we are referring to the amendment of a document that is supposed to reflect some of the most fundamental values of our society), it does not follow that House Joint Resolution 638 achieves a fair objective.

For what Madison and Gerard are both expressing is nothing more than traditional contract theory.[62] If the imposition by a State of "any condition whatever must vitiate the ratification," as Madison observes, it certainly does not follow, as extension proponents suggest, that a conditional ratification operates as a ratification without conditions. The ratification may, in fact, be ineffective, but it cannot be treated as a ratification of only part of the proposal—that part of which extension advocates approve.[63] Although the Justice Department would circumvent this obstacle by treating the time limit as "dispensable language," [64] it is at best a dubious theory which, in the context of a constitutional amendment would treat express language with such disregard, and would suggest that with respect to "dispensable" language one party will not consider itself bound in any manner.

Notions of "unjustified reliance," "dispensable" language, and procedural-substantive distinctions that supporters of House Joint Resolution 638 would read into Article V would substitute, for clear-cut and commonly understood constitutional provisions, provisions understandable only by resort to exotic and contrived legal theories. In the process, the integrity of that Article and the integrity of the Constitution would be seriously undermined.

CONGRESSIONAL PROCEDURES

In approving House Joint Resolution 638, Congress has acted carelessly in a number of respects touching upon both the Constitution and its own internal procedures. Perhaps nowhere is it more evident that the proponents of House Joint Resolution 638 view the Constitution simply as an inconvenient obstacle to short-term legislative objectives, to be circumvented on whatever innovative basis happens along.

Under Article V of the Constitution, the resolution proposing the Equal Rights Amendment in the 92d Congress required, and received, a two-thirds majority vote in each House of Congress.[65] With respect, however, to House Joint Resolution 638, the parliamentary decision was made that a simple majority vote would suffice.[66] While achieving this simple majority, the resolution fell substantially short of a two-thirds majority in both Houses.[67]

In effect, House Joint Resolution 638 (95th Congress) is an amendment to House Joint Resolution 208 (92d Congress). Because Congressional amendments to proposed constitutional amendments are normally subject to simple majority votes [68]—with only final constitutional proposals being subject to the constitutional supermajority requirement [69]—proponents of House Joint Resolution 638 would treat their resolution in the same manner. In the process, however, they would be attempting the remarkable feat of reading into the minds of the 92d Congress the conclusion that House Joint Resolution 208 in that Congress would have received the necessary two-thirds vote regardless of whether or not there had been an accompanying time limit of seven years. Alternatively, the 95th Congress is saying that the time limit contained in House Joint Resolution 208 was meaningless and that it could not possibly have influenced any votes.

In any event, the 95th Congress, through House Joint Resolution 638, is engaging in an effort to "second-guess" legislatively those who fashioned the coalition in behalf of House Joint Resolution 208. It is suggesting that an identical coalition could have been achieved without the seven year limit and that the 95th Congress will re-fashion the coalition in precisely that manner.[70]

In *Powell* v. *McCormack* [71] the Supreme Court refused to speculate that a two-thirds majority, which had been achieved in the House in favor of the "exclusion" of a member-elect, would also have been achieved had the more precise question of "expulsion" been before that body. The Court ruled that the House could not circumvent a constitutionally required two-thirds vote for "expulsions" by re-characterizing them as "exclusions." Justice Brennan remarked:

"The attempt by the House to equate exclusion with expulsion would require . . . speculation that the House would have voted to expel Powell had it been faced with that question . . . [w]e will not speculate what the result might have been if Powell had been seated and expulsion proceedings subsequently instituted." [72]

Thus, neither the Court nor Congress itself can attempt to interpret the votes cast by Members of Congress in any manner other than in the context of the immediate and precise issues then before them. The 95th Congress cannot properly presume that a two-thirds majority would have been achieved in 1972 had the resolution before them been House Joint Resolution 208 as amended by House Joint Resolution 638, rather than simply House Joint Resolution 208. In arguing in behalf of a simple majority vote, supporters of House Joint Resolution 638 would equate congressional amendments adopted prior to passage of a proposing resolution with those adopted afterwards.

As Dean Griswold observes: "[The resolution is] essentially a part of the process of amending the Constitution, as to which the Constitution is explicit that two-thirds majorities are required in both Houses of Congress." [73] It was not the text of the ERA alone that required and received the two-thirds vote; it was the resolution that proposed the amendment.[74] Had, for example, the House during the 92d Congress approved no time limit whatsoever, and had the Senate introduced in their resolution a seven year period for ratification, the House would have been required under its own rules to approve by a two-thirds vote the adoption of the time limit alone.[75]

In seeking to circumvent the two-thirds requirement, proponents again raise the distinction between procedure and substance.[76] Apparently, with respect to "procedure," not only can a subsequent Congress alter the language of an amendment proposal, but it can do so by a lesser majority than required for substantive changes. Again, it is difficult to identify the language in Article V forming the basis for treating these matters in such a diverse manner.

If nothing else one would think that the requirement of parliamentary aesthetics would demand a certain symmetry of the legislative process. Congress, or any other legislative body, cannot generally undo by a simple majority what it originally has done by a two-thirds majority. To provide otherwise is to treat the decisions, and the decision-making processes of previous Congresses with the same disregard with which House Joint Resolution 638 treats the decisions and processes of the 35 State legislatures that have, at one time or another, ratified the ERA.

Procedural regularity aside, the case for requiring a two-thirds vote for an extension in the time period for a proposed constitutional amendment was summarized nicely by Senators Birch Bayh and Edward Kennedy in their "Separate Views" on 1971 legislation establishing procedures for constitutional conventions convened under Article V. In remarking upon one provision of that bill, they noted.

Footnotes at end of article.

"Section 10, which permits the convention to propose amendments by a bare majority vote, should be amended to require a two-thirds majority. As presently written, it undermines the traditional safeguard which has protected the integrity of the Constitution since 1789. That safeguard, of course, is Article V's requirement that amendments be proposed by two-thirds of the Congress. All Senators know very well the difference between persuading half and persuading two-thirds of our colleagues of the wisdom of a course of action. Article V's requirement guarantees that a decisive majority of the members of not one but two deliberative bodies agree that the amendment is the wisest means of dealing with a fundamental national problem, and that they come to that agreement before the amendment is submitted to the States. . . . Only if such a broad consensus is reached at the time the amendment is drafted—a time when viable alternative amendments are still under consideration—can we be confident that there is widespread agreement that the specific language of the amendment proposed best fulfills its purpose. . . . [W]e feel that the founding fathers wisely required in Article V a two-thirds vote by each House before the Congress could propose an amendment." [77]

The same arguments are at least as compelling when the aftermath of the simple majority vote is not ratification by three-fourths of the State legislatures, but ratification by only a handful of States which have not yet ratified. At least in the former instance there is a reasonably secure check upon the most egregious abuses by a headstrong majority.

At the same that proponents of House Joint Resolution 638 argue in opposition to a two-thirds vote requirement on the grounds that no change is involved in the substance of a constitutional amendment,[78] a legislative vehicle is chosen—a joint resolution requiring no Presidential signature—that is provided for nowhere else in the Constitution than Article V.[79] Thus, although the very legislative form of House Joint Resolution 638 is born in Article V, a simple majority vote is permitted on it because it does not involve Article V.

The Constitution confers upon the legislative branch three—and only three—ways to create a legal obligation. With respect to each of these, there is a framework of checks and balances that limits the legislative branch's authority. First, there are simple laws or statutes, with respect to which Congress is subject to the veto of the Executive and the review of the Judiciary.[80] Second, there are treaties, with respect to which the legislative branch itself serves as a check upon Executive authority.[81] Third, there are Constitutional amendments, with respect to which the States of the Union serve as a check.[82]

House Joint Resolution 638 creates an entirely new breed of legislative action—Professor Lawrence Tribe of Harvard Law School describes it as a "unique directive" [83]—that is subject to none of the traditional checks that underlie our system of government. President Carter's decision to attach his signature to the resolution was a purely symbolic gesture, universally conceded to be without legal significance.[84] Under Article V, there is no constitutional role accorded the Executive branch; there is no check exerted by the Executive branch upon proposed constitutional amendments.[85]

Nor does House Joint Resolution 638 contemplate any check by the States themselves. Only those States which have not yet ratified are entitled to pass their judgment upon the propriety of the resolution. Those States that have already ratified are forever to be locked into this decision.[86] In the view of most advocates of House Joint Resolution 638, the judicial branch plays no role in checking the discretion of Congress.[87] Questions relating to Article V, under this view, are all "political questions," to be passed upon by Congress alone.

House Joint Resolution 638 improperly circumvents both Article V and Article I, Section 7 (concerning the role of the Executive in the legislative process). It represents a legislative strain hitherto unknown, and likely to remain as dormant in the future as it has been in the past, unless perhaps, the Equal Rights Amendment remains short of ratifications by mid-1982.

RESCISSION

Unlike Congress, State legislatures are permitted under our form of government to do anything that they are not forbidden to do under the Federal (or their State) Constitutions. As observed by Justice Frankfurther on the scope of action by the States: "The search is not for a specific Constitutional authorization. . . . [R]ather we must find clear incompatibility with the United States Constitution." [88] This basic principle has, of course, as its foundation, the 10th Amendment of the Constitution, which states: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people." [89] Thus, it suffices to say with respect to the permissibility of a State rescinding its ratification of a proposed constitutional amendment [90] (at least until that moment when three-fourths of the States have ratified and the amendment becomes a part of the Constitution) that nothing in Article V, nor anywhere else in the Constitution, prohibits the States from reconsidering or rescinding their ratifications. The act of any single State in ratifying has no positive effect upon the constitutional status of a proposed amendment until combined with similar acts by at least 37 other States.[91]

Further, the right of any legislative body to reconsider its own actions is implicit in its right to prescribe its own rules of procedure, as well as in the inherent nature of an independent legislative body.[92] Nowhere, for example, in the United States Constitution, from which document Congress derives all of its powers, is there reference to authority to repeal or rescind legislation. While it may not engage in that endeavor as frequently as some wish that it would, there is no question of its authority to do so.

While the States have been deemed to be performing a "federal function" in their participation in the amendment process,[93] there is no basis for the argument that they are somehow denied their full freedom of action as a result. As observed by Judge, now Justice, John Paul Stevens, in speaking of a State's efforts at ratification of the ERA:

"The failure to prescribe any particular ratification procedure . . . is certainly consistent with the understanding that State legislatures should have the power and the discretion to determine for themselves how they should discharge the responsibilities committed to them by the Federal government . . . . [The term "ratified"] merely requires that the decision to consent or not to consent to a proposed amendment be made by each legislature, or in each convention, in accordance with the procedures which each such body shall prescribe." [94]

Not least of the problems posed by House Joint Resolution 638 is its implication that, while a Congress cannot bind succeeding Congresses with a time limit expressly contained within a resolution proposing a constitutional amendment, a State legislature can bind its successors forever by the ratification of an amendment.

In effect, this would permanently tie the hands of the citizens and the legislatures of some States with respect to engaging freely in discussion and debate on matters of national importance, while providing free rein to the citizens and legislatures of other States.[95] It being the premise of the First Amendment to our Constitution that the Republic is well served by free and open public discussion—and what matter is more enduringly important to the Republic than the amending of its Constitution—a policy more consistent with the basic values and principles of this nation would ensure that citizens, and their representatives in the legislatures, should never be forced to relinquish their liberties of thought or action so long as the amendment process is underway. Should not doubts as to the precise meaning of a constitutional provision be resolved in favor of more rather than less public discussion?

Proponents of House Joint Resolution 638—many of them described by Yale Law Professor Charles L. Black, Jr., as "people not previously distinguished by excessive reverence for precedent" [96]—place a great deal of emphasis on the supposed precedents in opposition to rescission. Before briefly examining these, it should be borne in mind that no constitutional amendment has ever before been adopted that did not have the unrescinded ratifications of at least three-fourths of the States. That, it seems, is the most persuasive precedent of all.

In January of 1868, Senator Charles Sumner introduced a resolution declaring the ratification by the required three-fourths of the States of the proposed 14th Amendment to the Constitution.[97] Shorly thereafter, two States, Ohio and New Jersey, attempted to rescind their ratifications of the amendment, reducing the number of States with unrescinded ratifications below the three-fourths level. An undated resolution was introduced in July 1868, listing among the ratifying States six Confederate States with newly organized legislatures, as well as Ohio and New Jersey. With virtually no debate with respect to the propriety of rescission, both Houses of Congress, on July 21 and 22, 1868,[98] approved the resolution declaring that 29 States had ratified the amendment.[99] This represented one more than the necessary three-fourths majority. The significance of this action as a precedent for the impermissibility of rescission, however, is sharply diluted by the fact that the House was apprised prior to its adoption of the resolution that the State of Georgia—the 28th ratifying State even in the absence of Ohio and New Jersey—had ratified the amendment the day before.[100] The Speaker of the House, Representative Schuyler Colfax of Indiana, acknowledged the receipt of a dispatch from the Governor of Georgia signifying the ratification by Georgia of the 14th Amendment.[101]

While there is a question whether or not the Governor's dispatch constituted a formal notice of ratification to the federal government, the courts have maintained that "[i]t is the approval of the requisite number of States, not the proclamation, that gives vitality to the amendment and makes it a part of the supreme law of the land." [102] Further weakening the precedential value of the 1868 controversy are: (1) the fact that members of both the House and the Senate considered it necessary in 1869, a mere one year after the 14th Amendment debate, to introduce legislation prohibiting the rescission of proposed amendments; [103] (2) the fact that the Supreme Court, in response to attacks upon the validity of the ratification of the 14th Amendment, has argued that the "acquiescence" in the amendment since 1868 evidenced its validity,[104] thus establishing what amounts to an independent basis for the amendment's validity apart from the Congressional actions of 1868; and (3) the fact that not a single mention was made of the 14th Amendment "precedent" on rescission during debate, only two years afterward, on

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Footnotes at end of article.

the propriety of similar occurrences during ratification of the proposed 15th Amendment.[105]

Amidst debate on the permissibility of rescissions following ratifications, and ratifications following rejections, the Secretary of State, in February 1870, proclaimed the ratification of the 15th Amendment.[106] As with the 14th Amendment debate, however, these issues were moot by the time of final action by the federal government because of the existence of the requisite number of uncontested and unrescinded ratifications.[107]

With respect to deliberations surrounding the ratification of the 14th and 15th Amendments, it is worth recalling also the observations of Professor Gottfried Dietze of Johns Hopkins who has referred to the Reconstruction Era's "degradation of civil rights through amendments of dubious procedural validity."[108] The Reconstruction, in his words, was characterized by "a toll in lives, liberty, and property, as well as by a tenuous existence of institutional guarantees of freedom, such as federalism, the separation of powers, and judicial review."[109] The value of "precedents" derived from this troubled period in our nation's history ought to be viewed accordingly.[110]

The third major precedent cited by opponents of a State's right to rescind its ratification of a proposed amendment is *Coleman* v. *Miller*,[111] which confronted, precisely, the question of whether or not a State that had rejected an amendment could later choose to ratify it. Alluding to the matter of the 14th Amendment, while deciding to treat both ratifications following rejections and rescissions following ratifications in the same manner, the Court concluded:

"[W]e think that in accordance with this historic precedent the question of the efficacy of ratifications by State legislatures in the light of previous rejections or attempted withdrawal should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment."[112]

The current value of *Coleman* v. *Miller* and its "political question" doctrine will be discussed at greater length presently, but the identity of treatment accorded rejection followed by ratification and ratification followed by rescission is noteworthy at this point. Proponents of House Joint Resolution 638, while prohibiting the latter, would permit the former without limitation.[113]

Alexander Hamilton argued that "the will of the requisite number" should govern the adoption of constitutional amendments,[114] and that the Constitution would be amended whenever this number of States "were united in the desire of a particular amendment."[115] It is this emphasis on the need for consensus—further elaborated in *Dillon* v. *Gloss* as the need for a "contemporaneous" consensus[116]—that marks the amending process. The Constitution further requires not a simple majority but an overwhelming majority—active agreement by three-fourths of the States. These are the requirements that underlie the amending process, and that ought to be used as standards, where Article V is silent, vague, or ambiguous.

Enabling States to rescind their approval of proposed amendments is simply a means by which to ensure that the Constitution is not amended in the absence of the required consensus. Rescission is a means by which States that are no longer participating in the consensus signal this fact. Why, as a matter of sound constitutional policy, would we want to deny States this signalling mechanism and require them to participate against their will in a purely artificial consensus? As Professor Black observes: "Theoretically . . . it would be possible [if rescission is ineffective] for an amendment to go into effect which only one State, the last to ratify, wanted, all the others having tried vainly to rescind. It would easily be possible . . . to get an amendment not wanted by one-half the States.[117] He proceeds to describe the opponents of rescission as, "people who want to make a sort of one-way lobster trap, or a silly game of tag, out of a serious Constitutional process."[118] Another observer likens the anti-rescission argument to a case of the States "truly being dragged, kicking and screaming into . . . consensus."[119]

Excusing for the moment partisans of a given amendment, what conceivable reason would there be for allowing for the possibility of a contrived consensus by precluding States from registering their most recent sentiment on the wisdom and desirability of a proposed amendment? What alternative policy justifies the subordination of a policy best designed to determine conclusively the existence of an on-going consensus by the States on an amendment? As observed by Professor Orfield in his classic work on constitutional amendments: "Ratification should not be more final than rejection. . . . It is more democratic to allow the reversal of prior opinion. A truer picture of public opinion at the date of ratification is obtained."[120]

Permitting rescissions is not only more consonant with the fundamental policies underlying Article V—the identification of a contemporaneous consensus in behalf of an amendment to the Constitution—but it is also fairer, particularly when the issue is rescission during an extended time period.[121] It is unfair to hold rescinding States to their original posture, while extending an unforeseen "windfall" of time within which nonratifying States, or rejecting States, may continue to reconsider their decisions. What better undermines the integrity of the Constitution than to open up an amendment for reconsideration only in those States in which such reconsideration may possibly promote the passage of the amendment? It is unlikely that the Founding Fathers, concerned with rendering the Constitution "too mutable,"[122] would have contemplated such a policy contained within Article V.[123] If there is to be an extension of the time period for the Equal Rights Amendment, it seems essential that, in the words of Professor Black, this be a time for "action," not for a "particular action."[124]

The argument has been raised that rescission constitutes in essence a "conditional ratification," and that as such it is impermissible.[125] There is no disagreement that a State cannot condition the effectiveness of its ratification upon the occurrence of some subsequent affirmative act,[126] such as the adoption of another amendment in the interim. That is substantially different, however, from saying that a State legislature must forfeit its legitimate and inherent authority to reconsider its decisions at the moment that it approves an amendment. Such a ratification remains effective unless and until that State legislature undertakes, by its own affirmative action, to reconsider the amendment. A genuinely "conditional ratification" contemplates prior affirmative action of one sort or another before the ratification becomes effective. In real property terms, a conditional ratification is one with a condition precedent, while a reservation of the right of rescission is a condition subsequent which is rendered null and void at the instant that an amendment becomes effective.[127] Ratification, reserving the right to rescind, constitutes all the action necessary by a ratifying State to enable them to participate in the constitutional coalition of States required under Article V to amend the Constitution.

To permit a State at any juncture to "take" an amendment in its entirety or to "leave" it in its entirety does not make it any more difficult to determine the existence of a "consensus" for amendment. To allow States, however, each to ratify on the basis of different terms and preconditions would make it far more difficult to make such a determination with any degree of certainty. Whether or not a State was properly to be counted in a "consensus" would depend upon an unlimited number of factors, not simply on whether the last action by the State legislature was ratification or rescission.

POLITICAL QUESTIONS

Although the Justice Department uniquely holds the view that rescission is impermissible in the absence of a constitutional amendment of Article V,[128] other proponents of House Joint Resolution 638 incant, in opposition to rescission, that it is a "political question" for the determination of Congress in its unbridled discretion.[129] To be decided in the same manner are such questions arising out of Article V as the "reasonableness" of a ratification time limit, the propriety of an extension in that time limit, the necessity of a two-thirds vote on "procedural" matters, and the propriety of internal processes of ratification within the States. Indeed, as summarized by Professor Ronald Rotunda of the University of Illinois College of Law, "It may be the rule that all amendment questions relating to the Constitutionality of the amendment procedure should be regarded as political. . . . Congress is free to do as it will. . . . [I]t alone will be the ultimate arbiter."[130]

The less-than sturdy foundation for this argument is *Coleman* v. *Miller*,[131] The "Opinion of the Court" was that the question of whether or not a State may ratify an amendment after it has first rejected it was a "political question," and as such, a matter purely for the determination of Congress.[132] In determining questions deemed to fall within this category, "the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination are dominant considerations."[133]

Dean Griswold in testimony before the House Judiciary Committee, carefully referred to *Coleman* as a "case" rather than a "decision" because:

"[I]t is extremely difficult to tell what, if anything, was there decided. There is an opinion written by Chief Justice Hughes, which is designated the opinion of the court. But, there are four members of the court who concurred in an opinion that the case should be dismissed for want of standing on the part of complainants, and two members of the court who dissented from the main opinion. Thus, these were six members of the court who would not have reached the result stated in the so-called opinion of the court. This leaves only three justices who concurred in the decision expressed in that opinion."[134]

Coleman is at best a shaky foundation for the sweeping assertion that Congress can do what it wants with Article V, even, as suggested by Professor Rotunda, to the extent of being "unfair."[135] In fact, if matters concerning Article V are categorized as "political questions," Professor Rotunda is understating the case; a "political question" is properly defined as one with respect to which Congress can act in whatever manner it wishes, totally invulnerable to judicial review. "Congress could, for instance, propose an amendment on Monday, then pass a resolution on Tuesday 'judging' its proposal to have been ratified by 38 States."[136] Fortunately for the Republic, however, the notion of "political questions" that the House Joint Resolution 638 proponents purport to discover in the *Coleman* case has been sharply eroded since *Coleman*,[137] a case in which the divisions of New Deal politics undoubtedly exercised a major influence. In 1962, the

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Court radically transformed the doctrine in deciding that apportionment, a matter which had been treated as a "political question" in *Colgrove* v. *Green*,[138] seven years after *Coleman*, was no longer a matter reserved solely for the State legislatures.[139] Justice Brennan stated the general rule on "political questions" in his majority opinion:

"Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question." [140]

These criteria were later applied in *Powell* v. *McCormick*,[141] where the Court found that the doctrine did not prevent judicial review of an action by the House of Representatives in "excluding" a member-elect.[142] This result was reached despite the fact that unlike rescission, where there is no "textually demonstrable" commitment, the Constitution speaks directly to the authority of Congress to "determine the rules of its proceedings," [143] to "be the judge of the . . . qualifications of its own members," [144] and to "punish . . . and . . . expel a member." [145] The "political questions" doctrine was dissipated still further in *United States* v. *Nixon*,[146] where the Court decided that a dispute within the Executive Branch between the President and a Special Prosecutor presented a controversy for the resolution of the courts.

Coleman v. *Miller* deviated sharply from earlier cases in which matters of interpretation under Article V had been considered by the courts. In *Hollingsworth* v. *Virginia*,[147] the Supreme Court reviewed the regularity of procedures used in the adoption of the 11th Amendment. In *Rhode Island* v. *Palmer* (*The Prohibition Cases*),[148] the Court interpreted the two-thirds requirement in Article V to mean two-thirds of members of Congress present, not two-thirds of the entire membership. In *Hawke* v. *Smith*,[149] the Court ruled that States could not resort to the use of referenda to make decisions reserved in Article V for "State legislatures." In *Dillon* v. *Gloss*,[150] the Court reviewed the propriety of a time limit imposed by Congress upon the ratification process. In *Leser* v. *Garnett*,[151] the Court found justiciable the matter of official notice by ratifying legislatures to the federal government. In *United States* v. *Sprague*,[152] the Court reviewed Congress' authority to select modes or ratification. And in *Coleman* itself, the Court was "equally divided in opinion" as to whether or not the propriety of a State Lieutenant Governor's participation in the ratification process was a justiciable matter.[153]

Dean Griswold summarizes his assessment of *Coleman* v. Miller today as follows:

"[T]he conclusion . . . resting as it does on the political questions doctrine can no longer be regarded as having any particular vitality. Even if it can be regarded as a decision, the foundation of the decision has been undermined by many more recent decisions of the Court dealing with the 'political questions' doctrine. *Coleman* v. *Miller* is of dubious standing now.[154]

Even the Justice Department, in agreement with proponents of House Joint Resolution 638 in virtually every other particular, observes:

"[House Joint Resolution 638] goes to the very essence of the amending process. For that reason and in light of more recent Supreme Court decisions narrowly limiting the scope of the political questions doctrine, it is far from clear that the Court today would say that these questions concerning the interpretation and application of Article V are exclusively reserved to the Congress.[155]

Invocation of the political questions doctrine is a process that results necessarily in the subordination of principles of separation of powers and checks and balances. It contemplates the unreviewable decisionmaking of a single branch of government. Thus, there would seem to be a burden upon those arguing in behalf of the treatment of the issue as a political question to show that there exist compelling reasons for exempting such an issue from the normal constraints of the American political and governmental processes.

I would suggest, however, that not only are there few matters more important as "Cases . . . arising under this Constitution" [156] than the method for amending it, but that there are few matters with respect to which the need for a framework of checks and balances is more necessary. What is the durability of the constitutional relationships existing between the branches of the federal government, as well as between the federal and State governments, if these relationships are perpetually placed in jeopardy by the existence of an amending clause free, in important respects, from its own balance of powers? As an interested party in the amendment process—the initiator of proposed amendments—it seems particularly questionable to place Congress in the unchallengable position of adjudicator of all matters of dispute arising out of the amending process.[157] This is especially true when we recall that it was concern for an excessively powerful national legislature that, in large part, motivated the drafters of Article V.[158]

Even if it is conceded that any or all of the questions surrounding the proposed extension of the ERA ratification period are political questions, it does not follow that these matters are to be decided politically, as some proponents of House Joint Resolution 638 seem to suggest. Quite the contrary. Professor William Van Alstyne observes:

"[To urge a determination of non-justiciability] is to urge that the question is indeed a constitutional question which Congress should consider earnestly and fairly—*more* earnestly than in other types of circumstances, moreover, precisely because its own view of the constitutional property of what it is about to do is very likely to be final.[159]

The absence of judicial review does not mean that the issues are not constitutional ones. As stated by Justice Black (joined by three other Justices) in his concurring opinion in *Coleman v. Miller*: "In the exercise of power to control submission of constitutional amendments, Congress, of course, is governed by the Constitution." [160] The courts are bound by the "adjudication" of Congress of matters arising from Article V.

REASONABLENESS OF ERA EXTENSION

In weighing the "reasonableness" of extending the time period for the ERA, even a Congress subject to a total absence of review by any other branch might fairly consider at least some of the following matters:

1. No other constitutional amendment in the history of the nation has ever taken as long as four years to achieve ratification.[161] The entire Bill of Rights was ratified in 27 months, while the average ratification time for all subsequent amendments has been only 19 months.

2. The ERA was approved by margins, and with a brevity of hearings and debate, in the earliest ratifying legislatures that, in the words of one observer, "do not normally occur when complexities are considered." [162]

The amendment was approved, for example, by the State of Hawaii within several hours of proposal, while unanimous votes in behalf of ratification occurred in at least fifteen legislative bodies among the earliest ratifying States.[163] As the debate has grown more extensive, the amendment has fared less well.

3. The ERA has been rejected on nearly one hundred occasions by non-ratifying States, either in committee or on the floor.[164] It has dominated entire sessions of State legislatures, to the exclusion of other issues.[165]

4. Extension of the ERA ratification period is likely to result in the extension of the highly questionable secondary boycott engaged in by ERA proponents against businesses located in nonratifying States.[166]

5. Mitigating in behalf of a shorter ratification period than was enjoyed by previous amendments to the Constitution are the facts of modern communications and transportation, national mass media, and the existence of annual State legislative sessions in most States. It may well be that "contemporaneousness" today is a much more short-lived phenomenon than in the past.

6. In view of a number of legislative enactments and court rulings since the proposal of the ERA,[167] the amendment represents something far different today from what it did in 1972. As an increasing number of legitimate instances of sex bias are eliminated by means other than the ERA, the ERA becomes an increasingly radical amendment in content.

7. Not only has the ERA apparently lost much of its steam, but State "equal rights" provisions have fared increasingly less well. Popular referenda have been defeated in such "liberal" States as New York, Wisconsin, and New Jersey, all early ratifiers of the ERA.[168]

8. The ERA is a more divisive and controversial issue today than it has ever been in the past. Far from being an argument for extension,[169] as suggested by advocates of extension, this fact argues in opposition to extension. The Constitution is to be amended only when a genuine consensus exists, not when substantial debate is flaring.

9. Extension of the ERA ratification period, whatever the precise legal merits, is certain to result in a widespread impression of "unfairness" among opponents of the ERA. Is eventual passage of the ERA such an important objective as to justify undermining and doing long-term damage to the integrity of the Constitution? In addition, the ERA extension lays the groundwork for a first-class constitutional crisis upon ratification by the 38th State.[170]

CONCLUSION

Our nation has undergone several extremely troubling periods in recent years. The Constitution has rarely served us better than it did during the "Watergate era." It served us well because it was no respector of the existence of any higher short-term goals that would justify its subordination. The Constitution was more than a scrap of paper containing often inconvenient provisions to be circumvented in the pursuit of more immediate and more "important" objectives.

We can only undermine the integrity of this document, and in turn the integrity of our system of government, by manipulating and maneuvering it for the sake of short-term political goals. It is imperative that when this body deals with the Constitution, it not only acts fairly and with maximum procedural regularity, but that it conveys this impression to the citizens of the coun-

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try. The illusion of unfairness can be nearly as detrimental to the probity of the Constitution, and to the respect accorded the government, as actual unfairness.

The consensus of the sort necessary to amend the organic law of our nation must be a real and an active consensus, not a paper consensus, stitched together in erratic bits and pieces over a lengthy period of years. There must be a genuine constitutional majority, not a phantom majority derived only through resort to the casuistry and sophistry of constitutional lawyers.

I would suggest, too, that even the staunchest proponents of the Equal Rights Amendment recognize the extent to which resort by Congress to dubious constitutional procedures in pursuit of the ERA may undermine the eventual acceptance by society of the amendment. Constitutional amendments have traditionally been accorded respect because they have represented the highest expression of the will of the country. Once they are no longer perceived in this light, the absorption by society of the values underlying these amendments will be a far more difficult and arduous process. It is not only the opponent of ERA who must be concerned about the ERA extension; rather, it is all those who cherish the principles and values expressed by the Constitution.

FOOTNOTES

[*] Orrin Hatch is the junior United States Senator from Utah and a member of the Senate Judiciary Committee.

[1] Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

H.R.J. Res. 208, 92d Cong., 2d Sess. (1972).

[2] *Id.* (emphasis added)

[3] Following are the States that ratified within the first year and the dates of ratification: Hawaii (March 22, 1972); Delaware (March 23, 1972); New Hampshire (March 23, 1972); Idaho (March 24, 1972); Iowa (March 24, 1972); Kansas (March 28, 1972); Nebraska (March 29, 1972); Texas (March 30, 1972); Tennessee (April 4, 1972); Alaska (April 5, 1972); Rhode Island (April 14, 1972); New Jersey (April 17, 1972); Colorado (April 21, 1972); West Virginia (April 22, 1972); Wisconsin (April 26, 1972); New York (May 18, 1972); Michigan (May 22, 1972); Maryland (May 26, 1972); Massachusetts (June 21, 1972); Kentucky (June 26, 1972); Pennsylvania (September 27, 1972); California (November 13, 1972); Wyoming (January 26, 1973); South Dakota (February 5, 1973); Oregon (February 8, 1973); Minnesota (February 8, 1973); New Mexico (February 28, 1973); Vermont (March 1, 1973); Connecticut (March 15, 1973); Washington (March 22, 1973).

[4] Maine (January 18, 1974); Montana (January 25, 1974); Ohio (February 7, 1974); North Dakota (March 19, 1975); Indiana (January 24, 1977).

[5] States purporting to rescind their ratifications are: Idaho (February 8, 1977); Nebraska (March 15, 1973); Tennessee (April 23, 1974); and Kentucky (March 20, 1978). The Lieutenant Governor of Kentucky vetoed that State's rescission effort, an action that remains of questionable constitutionality apart from the controversy surrounding rescission itself. In addition, significant rescission efforts have taken place in Kansas, Montana, North Dakota, South Dakota, West Virginia, and Wyoming.

[6] The Heritage Foundation, *The ERA: Is Seven Years Enough?* 8 (1977).

[7] *See* Nat'l J., Dec. 31, 1977, at 2006–08; Cong. Q. Weekly Rep., Nov. 5, 1977, at 2369–71.

[8] *Hearings on H.R.J. Res. 638 Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary*, 95th Cong. 1st & 2d Sess. (1977–1978) [hereinafter cited as *House Hearings*].

[9] *See* Cong. Q. Weekly Rep., July 22, 1978, at 1852.

[10] The House defeated, by a vote of 227–196, an amendment to allow rescission during the extension period; and by a vote of 230–183 agreed to "table" (kill) an amendment to require a ⅔ vote for extension. *See* Cong. Q. Weekly Rep., Aug. 19, 1978, at 2214; 124 Cong. Rec. 26194 (Aug. 15, 1978).

[11] *Hearings on S.J. Res. 134 Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary*, 95th Cong., 2d Sess. (1978) [hereinafter cited as *Senate Hearings*].

[12] Senate Rule 14.4; Jefferson's Manual § 24. *See* 124 Cong. Rec. 26391 (Aug. 16, 1978); 124 Cong. Rec. 31104 (Sept. 23, 1978).

[13] The Senate rejected amendments to permit rescission during the extension period (54–44); to require a ⅔ vote for extension (58–3); to permit rescission during the extension period and to recognize rescissions prior to that time (64–26); to amend the language of the ERA (79–14); to permit rescissions after March 22, 1979 (55–39); to establish January 1, 1980, as ratification deadline (84–10); and to express the opinion of Congress that H.R.J. Res. 638 contains no implication one way or the other on the rights of States to rescind (92–4). *See* Cong. Q. Weekly Rep., Oct. 7, 1978, at 2724; 124 Cong. Rec. 33138, 33192, 33220 (Oct. 3, 1978); *id.* at 33337 (Oct. 4, 1978); *id.* at 34279 (Oct. 6, 1978).

[14] *See, e.g.,* 124 Cong. Rec. 26216 (Aug. 15, 1978) (remarks of Rep. Mikulski); *id.* at 26219 (remarks of Rep. Schroeder); *id.* at 26225 (remarks of Rep. C. Collins); 124 Cong. Rec. 33142 (Oct. 3, 1978) (remarks of Sen. Kennedy); *id.* at 33346 (Oct. 4, 1978) (remarks of Sen. Hodges); *id.* at 33363 (remarks of Sen. Proxmire).

[15] *See, e.g., House Hearings, supra* note 8, at 236, 238.

[16] Letter to Rep. Don Edwards (Oct. 20, 1977), *reprinted* in 124 Cong. Rec. at 32613 (Sept. 29, 1978).

[17] Dillon v. Gloss, 256 U.S. 368, 376 (1920).

[18] Although the subject of a time limit for ratification had been discussed in the past, the 18th Amendment was the first amendment which actually contained such a time limit. *See* text accompanying note 48 *infra*.

[19] 256 U.S. at 369.

[20] *Id.*

[21] *Id.* at 375. "[A]n alteration of the Constitution proposed today has relation to the sentiment and the felt needs of today and . . . if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived, and not again to be voted upon unless a second time proposed by Congress." Jameson, Constitutional Conventions § 585 (4th ed.), *quoted in* Dillon v. Gloss, 256 U.S. 368, 375 (1920).

[22] 256 U.S. at 376.

[23] *Id.*

[24] 307 U.S. 433 (1938).

[25] *Id.* at 454. *Cf.* Wise v. Chandler, 270 Ky. 1,108 S.W.2d 1024 (1937).

[26] *See House Hearings, supra* note 8, at 5–7 (statement of Assistant Attorney General John Harmon).

[27] 307 U.S. at 454.

[28] *See* text accompanying note 22 *supra*.

[29] 256 U.S. at 374.

[30] Professor Gerard observes that proponents of extension attempt to draw a distinction between "proposing" an amendment and "submitting" an amendment. Article V reads, "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution. . . ." According to Gerard, proponents of extension would insert after this phrase, "and, whenever a majority of both Houses concur, shall submit the proposal. . . ." *Senate Hearings, supra* note 11, at 11.

[31] On the purely administrative responsibilities of the Federal government in ascertaining the existence of the requisite number of ratifying States, *see* Cong. Research Serv., *Amending the Federal Constitution: Procedures of the General Services Administration and of the States Legislatures; Senate Hearings, supra* note 11 (statement of James E. O'Neill); 1 U.S.C. § 106(b); 65 Stat. 710.

[32] *House Hearings, supra* note 8, at 108, 110. Dean Griswold raises two analogies. First, he observes, "There is a strong doctrine in the law that after the Congress has acted on a paper, on a matter, a bill, or a confirmation, and has sent it out, that Congress loses power to change it." Second, "With respect to confirmation by the Senate, the Senate loses power to reconsider after it has sent a communication to the President and he has acted on it." United States v. Smith, 286 U.S. 6 (1932).

[33] These matters are sometimes referred to as "procedural," as distinguished from "substantive."

[34] *House Hearings, supra* note 8, at 35 (statement of Assistant Attorney General John Harmon).

[35] 256 U.S. at 376.

[36] *Cf. Senate Hearings, supra* note 11, at 3 (statement of Sen. Donald W. Riegle) ("And a time extension is non-coercive in any way. No State's freedom to act or not to act, is altered in any way. So a simple extension harms no interest. It merely provides additional time to consider the question. Hence the time extension is neutral in its impact—and grants no favor to those on either side of this debate.")

[37] J. Madison, Journal of the Federal Convention 737 (Scott ed. 1893) (quoting George Mason on an original draft of Article V permitting amendments to be proposed only by the national legislature: "The proposal as it stands is exceptional and dangerous. . . . [N]o amendments of the proper kind would ever be obtained by the people if the government should become oppressive. . . ."); 1 J. Farrand, The Records of the Federal Convention of 1787 at 203 (rev. ed. 1937).

[38] The Federalist, No. 85.

[39] *See* 1. J. Farrand, The Records of the Federal Convention of 1787 at 22, 202–03, 237 (rev. ed. 1937).

[40] *But cf.* H. Chase & C. Ducat, Corwin's The Constitution and What It Means Today 268 (14th ed. 1978) ("[W]hen acting upon amendments proposed by Congress, the State legislatures—and doubtless the same is true of conventions within the States—do not act as representatives of the states, or the populations thereof, but in performance of a 'federal function' imposed upon them by this article [V] of the Constitution."); Hawke v. Smith, 253 U.S. 221 (1920); Walker v. Dunn, 498 S.W. 2d 102 (Tenn. 1972).

[41] The Federalist, No. 85; 5 Documentary History of the Constitution 141, 143 (citing Madison's letter of January 2, 1789); 4 J. Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution 178 (2d ed. 1937).

[42] "If the seven-year limit that was initially specified in 1972 had expired before an intervening Congress took action to extend that limit . . . it would be *arguable* that the amendment should be regarded as incapable of such belated resurrection. But even that argument would most properly be addressed in Congress rather than the courts." *Senate Hearings, supra* note 11, at 5 (statement of Laurence H. Tribe).

[43] *See* text accompanying notes 128–160 *infra.*

[44] *See* text accompanying notes 37–39 *supra.*

[45] "Article V guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults." The Federalist, No. 43; 3 J. Story, Commentaries on the Constitution 1821 (1833); 3 J. Farrand, Records of the Federal Convention of 1787 at 127 (rev. ed. 1937).

[46] *House Hearings, supra* note 8, at 121 (statement of Ruth Bader Ginsburg); *id.* at 6 (statement of Assistant Attorney General John Harmon).

[47] *Id.*

[48] The proposed amendment providing the District of Columbia with voting representation in Congress, approved by Congress in the midst of the ERA extension debate, placed the limit back within the actual text of the amendment. H.J. Res. 554, 95th Cong., 2d Sess. (1978).

[49] *Hearings on S.J. Res. 8 Before the Subcomm. on the Constitution of the Senate Committee on the Judiciary*, 84th Cong., 1st Sess. 34 (1955).

[50] 101 Cong. Rec. 6628 (1955). It is interesting to observe that John Harmon, the Assistant Attorney General, when questioned on the existence of any legislative history behind placing the time limit in the proposing clause, responded that the "only" discussion that he had been able to find on this matter occurred in conjunction with the 20th Amendment during which the suggestion had been made to place the time limit in the proposing clause. *House Hearings, supra* note 8, at 31 Harmon also observed that, "By placing the time period in the proposing resolution rather than in the text of the amendment, the 92d Congress effectively decided that the proposal should remain viable for *at least* seven years. . . ." *Id.* (emphasis added).

[51] *See, e.g.,* Memorandum from Robert J. Lipshutz, Counsel to the President, to the Department of Justice, concerning the Constitutionality of Extending the Time Period for Ratification of the Proposed Equal Rights Amendment (Oct. 31 1977), *reprinted in House Hearings supra* note 8, at 19; *Senate Hearings, supra* note 11, at 8 (statement of Prof. Laurence Tribe).

[52] Letter from James Madison to Alexander Hamilton (July 20, 1788), *quoted in House Hearings, supra* note 8, at 19.

[53] *House Hearings, supra* note 8, at 7 (statement of Assistant Attorney General John Harmon).

[54] *See* text accompanying notes 88–127 *infra.*

[55] *See, e.g.,* Leser v. Garnett, 258 U.S. 130, 137 (1922); Hawke v. Smith, 253 U.S. 221 (1920).

[56] Dillon v. Gloss, 256 U.S. 368, 376 (1920).

[57] *Senate Hearings, supra* note 11, at 6.

[58] For the wording of each of the State ratifying documents, see K. Keesling, State Ratification of the Proposed Equal Rights Amendment (1978).

[59] *See, e.g.,* Cong. Reference Serv., *State Ratifications of the Proposed Equal Rights Amendment* 4 (1978).

[60] *Id.* at 7; Letter from Professor Jules B. Gerard to Rep. Harold L. Volkmer (July 14, 1978). This letter was written by Professor Gerard in response to a request from Rep. Volkmer to respond to the criticisms of his testimony by the Department of Justice. Letter from Rep. Volkmer to Rep. Don Edwards, Chairman, Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary (undated).

[61] *Id.* at 4; Memorandum from the Justice Department to Rep. Don Edwards (undated); *Senate Hearings, supra* note 11, at 7 (statement of Prof. Laurence Tribe); *id.* (statement of Assistant Attorney General Patricia Wald).

[62] A memorandum on the ERA extension by Grover Rees, III, author of *Rescinding Ratification of Proposed Constitutional Amendments—A Question for the Court,* 37 La. L. Rev. 896 (1977), asserts that "Authorities on constitutional amendments have frequently applied principles of contract law to the amending process: *see, e.g.,* Jameson, Constitutional Conventions 629–33 (4th ed. 1887); Orfield, Amending the Federal Constitution 52 (1942)."

[63] *See* sources cited in note 61 *supra.*

[64] This term has been used extensively by women's groups supporting the ERA extension.

[65] On October 12, 1971, the House approved H.R.J. Res. 208 by a vote of 354–23. The Senate approved the same resolution on March 22, 1972, by a vote of 84–8.

[66] *See* 124 Cong. Rec. 26194 (Aug. 15, 1978); *id.* at 33174 (Oct. 3, 1978).

[67] H.J. Res. 638 fell 49 votes short of a two-thirds majority in the House and 4 votes short of a two-thirds majority in the Senate.

[68] 5 Hinds Precedents § § 1029–32.

[69] Jefferson's Manual § 192.

[70] "In an effort to gain united support for the amendment, however, three minor technical changes have been incorporated into H.J. Res. 208. The time allowed to the States to ratify the amendment has been limited to an ample seven years . . ." *Hearings on H.R.J. Res. 208 Before the House Comm. on the Judiciary,* 92d Con., 1st Sess. 41 (1971) (statement of Rep. Martha Griffiths). *See* 124 Cong. Rec. 33178 (Oct. 3, 1978) (remarks of Prof. Guido Calabresi).

[71] 395 U.S. 486 (1969).

[72] *Id.* at 508.

[73] *House Hearings, supra* note 8, at 132.

[74] 5 Hinds Precedents § 7027.

[75] Jefferson's Manual § 192; Hinds Precedents §§ 7033–34.

[76] *See, e.g., House Hearings, supra* note 8, at 64 (statement of Professor Thomas I. Emerson.)

[77] S. Rep. No. 336, 92d Cong., 1 Sess. 18 (1971). (Separate Views of Messrs. Bayh, Burdick, Hart, Kennedy, and Tunney).

[78] *See* text accompanying note 76 *supra.*

[79] *See* Hollingsworth v. Virginia, 3 U.S. (3 Dall.) 378 (1978); U.S. Const. art. I, § 7, cl. 3; Black, *On Article I, Section 7, clause 3 and the Amendment of the Constitution,* 87 Yale L.J. 896 (1978). *Cf. Senate Hearings, supra* note 11, at 7 (statement of Prof. Ronald Rotunda) (legislative vetoes as joint resolutions not subject to Presidential signatures).

[80] U.S. Const. art. I, § 7, cl. 2.

[81] U.S. Const. art. II, § 2, cl. 2.

[82] U.S. Const. art. V.

[83] *Senate Hearings, supra* note 11, at 15 (statement of Prof. Laurence Tribe). Rather than being a "unique directive," one might argue that H.J. Res. 638 has only the effect of a concurrent resolution of Congress. *See generally* K. Lewis, *Analysis Regarding the Issue of Extending the Ratification Deadline of the Proposed Equal Rights Amendment* (August 19, 1977) (Congressional Research Service, Library of Congress).

[84] "As a matter of Constitutional law we believe it is clear that the President has no role to play in the amendment process. If for some non-constitutional reason, the President's signature is desirable on whatever form of resolution is passed by Congress, we believe that no problem would arise from the President's affixation of his signature, so long as it was clearly recognized that this act on the President's part did not constitute an assertion of any claim of power to veto the proposed resolution. *Senate Hearings, supra* note 11, at 10 (statement of Assistant Attorney General Patricia Wald). Presidents were also involved symbolically in signing the proposed 13th, 24th, and 25th Amendments to the Constitution.

[85] Hollingsworth v. Virginia, 3 U.S. (3 Dall.) 378 (1978).

[86] *See* text accompanying notes 88–127 *infra.*

[87] *See* text accompanying notes 128–160 *infra.*

[88] New York v. O'Neill, 359 U.S. 1 (1959).

[89] U.S. Const. amend X.

[90] *See generally* Comment, *Rescinding Ratification of Proposed Constitutional Amendments—A Question for the Court,* 37 La. L. Rev. 896 (1977); Elder, *Article V, Justiciability, and the Equal Rights Amendment,* 31 Okla. L. Rev. 63, 97–109; Ervin, *Can a State Rescind the Equal Rights Amendment?,* The Phyllis Schlafly Report (May 1978); Kanowitz & Klinger, *Can a State Rescind Its Equal Rights Amendment Ratification: Who Decides and How?,* 28 Hastings L. Rev. 979 (1977); Note, *The Equal Rights Amendment: Will States Be Allowed to Change Their Minds?,* 49 Notre Dame Law. 657 (1974); *Reversals in the Federal Constitutional Amendment Process: Efficacy of State Ratifications of the Equal Rights Amendment,* 49 Ind. L.J. 147 (1973); Burke, *Validity of Attempts to Rescind Ratification of the Equal Rights Amendment,* 8 U.C.L.A. L. Rev. 1 (1976); Fasteau & Fasteau, *May a State Legislature Rescind Its Ratification of a Pending Constitutional Amendment,* 1 Harv. Women's L.J. 27, (1973); Killian, *The Efficacy of State Rescission of Ratification of a Federal Constitutional Amendment* (March 15, 1977) (Congressional Reference Service, Library of Congress); Note, *The Amending Process: Extending the Ratification Deadline of the Proposed Equal Rights Amendment,* 9 Rutgers Camden L.J. 91 (Fall 1978).

[91] *See* Rottschaeffer, Handbook on American Constitutional Law 395 (1939).

[92] *Cf.* S. Robert, Robert's Rules of Order Newly Revised 265 (1970) ("The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote.").

[93] Leser v. Garnett, 258 U.S. 130 (1922).

[94] Dyer v. Blair, 390 F. Supp. 1291, 1307 (N.D. Ill. 1975).

[95] Given that the term "debate" implies discussion by both sides on a matter in disagreement, as a prelude to making a decision *one way or the other,* it is clearly not the objective of those who argue for the ERA extension (without allowing rescission) that there be a genuine debate during the extension period.

[96] Black, *Statement on Legality of State Rescission of Ratification of an Amendment,* (February 21, 1978) (submitted to Members of Congress).

[97] Cong. Globe, 40th Cong., 2d Sess. 453 (1868).

[98] Cong. Globe, 40th Cong., 2d Sess. 4230, 4266, 4296 (1868).

[99] *Id.* at 4266.

[100] *Id.*

[101] *See* Cong. Globe, 41st Cong., 2d Sess. 1477, 1479 (1870).

[102] United States v. Colby, 265 F. 998, 1000 (D.C. Cir. 1920). *See* sources cited in note 31 *supra.*

[103] Cong. Globe, 41st Cong., 2d Sess. 28, 3971 (1869).

[104] Maryland Petition Committee v. Johnson, 265 F. Supp. 823 (D. Md. 1967); Negrich v. Hohn, 246 F. Supp. 173 (W.D. Pa. 1965). *See also* The Slaughter-House Cases, 83 U.S. (16 Wall.) 36 (1873).

[105] Corwin & Ramsey, *The Constitutional Law of Constitutional Amendment,* 26 Notre Dame Law. 185, 204–06 (1951).

[106] 16 Stat. app. 10, 1131 (1870); Cong. Globe. 41st Cong., 2d Sess. 203–04, 2290 (1870).

[107] Corwin & Ramsey, *supra note* 105, at 203–04 *et seq.*

[108] G. Dietze, America's Political Dilemma 113 (1968).

[109] *Id.* at 61.

[110] "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date." Powell v. McCormack, 395 U.S. 486, 547 (1969).

[111] 307 U.S. 433 (1939).

[112] *Id.* at 450.

[113] There have been at least 13 floor votes, for example, in the Illinois legislature on the Equal Rights Amendment. Illinois remains one of the non-ratifying States.

[114] The Federalist, No. 85.

[115] *Id. see also* The Federalist, No. 39; The Federalist, No. 43.

[116] 256 U.S. at 375.

[117] Black, *supra* note 96, at 1.

[118] *Id.*

[119] Comment, *Rescinding Ratification of Proposed Constitutional Amendments—A Question for the Court,* 37 La L. Rev. 896, 925 (1977). *See also* Rees, *When the Voting Should Have Stopped,* 30 Nat'l Rev. 1010–11 (1978).

[120] Orfield, Amending the Federal Constitution 72 (1942).

[121] On the distinctions between permitting rescission during the regular seven-year period and during an extended ratification period, see *House Hearings, supra* note 8, at 117 (statement of Prof. William Van Alstyne); *id.* at 40 (statement of Prof. Laurence Tribe); letter from Prof. Herbert Wechsler to Rep. Don Edwards (February 13, 1978), *reprinted in* 124 Cong. Rec. S16668 (daily ed. Sept. 29, 1978).

[122] *See* note 45 *supra.*

[123] *See* Orfield, *supra* note 120, at 72; note 45 *supra.*

[124] *House Hearings, supra* note 8, at 70.

[125] Memorandum from Dep't. of Justice to Robert J Lipshutz, Counsel to the President (October 31, 1977), *reprinted in House Hearings, supra* note 8, at 18–26

[126] Hawks v. Smith 253 U.S. 221 (1920); Leser v. Garnett, 258 U.S. 130 (1922), *aff'g* Leser v. Bd. of Registry, 139 Md. 46, 114 A. 840. *See* text accompanying note 52 *supra.*

[127] Jung, *Validity of a State's Rescission of Its Ratification of a Federal Constitutional Amendment,* 2 Harv. J.L. & Pub. Pol'y 233 (1979).

[128] *House Hearings, supra* note 8, at 6 (statement of Ass't Attorney General John Harmon).

[129] *See, e.g., House Hearings, supra* note 8, at 61–65 (statement of Prof. Thomas Emerson); *Id.* at 121–25 (statement of Prof. Ruth Bader Ginsburg); *Id.* at 5–7 (statement of Ass't Attorney General John Harmon).

[130] *Senate Hearings, supra* note 11, at 1, 6 (statement of Prof. Ronald Rotunda).

[131] 307 U.S. 433 (1939).

[132] See text accompanying note 112 *supra.*

[133] 307 U.S. at 454.

[134] *House Hearings, supra* note 8, at 106.

[135] *Senate Hearings, supra* note 11, at 6 (statement of Prof. Ronald Rotunda).

[136] Rees, *supra* note 119, at 1013.

[137] On the ERA extension as a "political question," *see generally* Elder, *Article V, Justiciability, and the Equal Rights Amendment,* 31 Okla. L. Rev. 63 (1978); Comment, *Constitutional Amendments—The Justiciability of Ratification and Retraction,* 41 Tenn. L., Rev. 93 (1973).

[138] 328 U.S. 549 (1946).

[139] Baker v. Carr, 369 U.S. 186 (1962).

[140] *Id.* at 217 (1962).

[141] 395 U.S. 486 (1969).

[142] *Id.* at 518 (1968).

[143] U.S. Const. art. I, § 5, cl. 2.

[144] U.S. Const. art I, § 5, cl.1.

[145] U.S. Const. art. I, § 5, cl. 2.

[146] 418 U.S. 683 (1974).

[147] 3 U.S. (3 Dall.) 378 (1798).

[148] 253 U.S. 350 (1920).

[149] 253 U.S. 221 (1920).

[150] 256 U.S. 368 (1921).

[151] 258 U.S. 130 (1922).

[152] 282 U.S. 716 (1931).

[153] 307 U.S. at 447.

[154] *House Hearings, supra* note 8, at 106–07. *See* Letter from Prof. Charles Alan Wright to Rep. Don Edwards (Oct. 20, 1977), *reprinted in* 124 Cong. Rec. S16669 (daily ed. Sept. 29, 1978).

[155] *House Hearings, supra* note 8, at 7 (statement of Ass't Attorney General John Harmon).

[156] "The judicial power shall extend to all cases, in law and equity, arising under this Constitution. . . ." U.S. Const. art. III, § 2, cl. 1.

[157] "Since it is impossible to find a final arbiter without an institutional conflict of interest, it is essential that the ultimate power of decision rest with the branch most likely to find and apply the law without injecting its own interests and passions." Comment, *Rescinding Ratification of Proposed Constitutional Amendments—A Question for the Court,* 37 La. L. Rev. 896, 915 (1977).

[158] "It has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed." The Federalist, No. 85.

[159] *House Hearings, supra* note 8, at 115 (statement of Prof. William Van Alstyne). "What the proponents are suggesting in relying on *Coleman* is that the absence of judicial review *creates* the power for Congress to create the time conditions." H.R. Ref. No. 95–1405, 95th Cong., 2d Sess. 38 (1978) (Minority Views of Rep. Charles Wiggins).

[160] 307 307 U.S. at 457.

[161] Bill of Rights Proposed September 25, 1789, Ratified December 15, 1791; 11th Amendment, Proposed March 4, 1794, Ratified February 7, 1795; 12th Amendment, Proposed December 9, 1803, Ratified June 15, 1804; 13th Amendment, Proposed January 31, 1865, Ratified December 6, 1865; 14th Amendment, Proposed June 13, 1866, Ratified July 9, 1869; 15th Amendment, Proposed February 26, 1869, Ratified February 3, 1870; 16th Amendment Proposed July 12, 1909, Ratified February 3, 1913; 17th Amendment, Proposed May 13, 1912, Ratified April 8, 1913; 18th Amendment, Proposed December 18, 1917, Ratified January 16, 1919; 19th Amendment, Proposed June 4, 1919, Ratified August 18, 1920; 20th Amendment, Proposed March 2, 1932, Ratified January 23, 1933; 21st Amendment, Proposed February 20, 1933, Ratified December 5, 1933; 22d Amendment, Proposed March 21, 1947, Ratified February 27, 1951; 23d Amendment, Proposed June 17, 1960, Ratified March 29, 1961; 24th Amendment, Proposed Auugst 27, 1962, Ratified January 23, 1964; 25th Amendment, Proposed July 6, 1965. Ratified February 10, 1967; 26th Amendment, Proposed March 23, 1971, Ratified July 1, 1971.

[162] George Will, Newsweek, Nov. 14, 1977, at 128.

[163] Congressional Research Service, Library of Congress, Equal Rights Amendment, Issue Brief No. IB74122 at 9-13.

[164] *See* text accompanying note 6 *supra.*

[165] *See, e.g., House Hearings, supra* note 8, at 183 (statement of State Sen. Robert Egan of Illinois); *id.* at 187 (statement of State Rep. Donna Carlson of Arizona).

[166] *See, e.g.,* New York Times, Feb. 22, 1979, at A-18; Chicago Tribune, Jan. 12, 1979; Ms., May, 1978, at 80.

[167] Some of the more important court decisions have been Reed v. Reed, 404 U.S. 71 (1971); Frontiero v. Richardson, 411 U.S. 677 (1973); Taylor v. Louisiana, 419 U.S. 522 (1975); Weinberger v. Weisenfeld, 420 U.S. 636 (1975); Stanton v. Stanton, 421 U.S. 7 (1975); Craig v. Boren, 429 U.S. 190 (1976); Califano v. Goldfarb, 430 U.S. 199 (1977). *Cf.* Kahn v. Shevin, 416 U.S. 351 (1974); Schlesinger v. Ballard, 419 U.S. 498 (1975).

Some of the most important new pieces of legislation include: Equal Employment Opportunities Enforcement Act of 1972, Pub. L. No. 92–261; Equal Treatment for Married, Female, Federal Employees, Pub. L. No. 92–187 (1972); Education Act Amendments of 1972, Pub. L. No. 92–318; Social Security Act Amendments of 1972, Pub. L. No. 92–603; Department of Defense Appropriation Authorization Act of 1976, Pub. L. No. 94–106; Equal Credit Opportunity Act Amendments of 1976, Pub. L. No. 94–239; Tax Reform Act of 1976, Pub. L. No. 94–455; Education Amendments of 1976, Pub. L. 94–482; Pregnancy Disabilities Act of 1978, Pub. L. No. 95–555; *See* U.S. Comm'n on Civil Rights, A Guide to Federal Laws and Regulations Prohibiting Sex Discrimination (July 1976).

[168] Wisconsin rejected an equal rights amendment to its State Constitution in a statewide referendum on April 3, 1973, while New York and New Jersey rejected similar referenda on November 4, 1975.

[169] *See, e.g.,* H.R. Rep. No. 95–1405, 95th Cong., 2d Sess. (Concurring Views of Rep. Hamilton Fish, Jr.); *House Hearings, supra* note 8, at 162–64, 168 (statement of Liz Carpenter).

[170] With respect to early efforts at challenging the ERA ratification extension in the courts, see 64 A.B.A.J. 1838 (1978); Nat'l L. J., Oct. 23, 1978, at 11; Chicago Tribune, Oct. 8, 1978, at 2.●

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I intend to speak on the subject of the U.S. Senate. I say to the distinguished acting Republican leader that there will be no further business transacted. I can assure him that no action will be taken in any transaction of any business without his being notified. At the moment, I have no knowledge that there will be any business at all which will require that notification. Therefore, if he wishes to leave the floor to work in his office or to transact any other duties, I want him to feel free to do so, with the understanding that the majority leader will protect him on the floor.

Mr. TOWER. If the distinguished majority leader will yield, I wonder if he will make it clear that there will be no more record votes today so we may pass that word.

Mr. ROBERT C. BYRD. I think that is a good idea. Mr. President, there will be no more rollcall votes today. Our respective cloakrooms may dispatch that information to Senators.

Mr. TOWER. If the distinguished majority leader will further yield, I should like very much to remain here and listen to what he has to say because I know it will be fascinating and enlightening and inspirational. I note that he has his shoes off and that means that the rhetoric should flow very easily and in a very lucid way. But in that there are other aspects of the people's business that I must be about, I shall take my leave and assure him that I shall read his remarks in the Record.

Mr. ROBERT C. BYRD. I thank my friend from Texas for his observations and for his kind remarks.

May I say that if any Senator wishes the floor, I shall be very glad to yield it. I do not want to impose on the time of the Senate when other Senators wish to speak. I take this moment because there is no further business to be transacted today.

(The remarks of Mr. ROBERT C. BYRD on the U.S. Senate are printed later in today's RECORD, by unanimous consent.)

ORDER OF BUSINESS

(The following address by Mr. RIEGLE was made earlier today and is printed at this point by unanimous consent.)

THE DEMOCRATIC PRESIDENTIAL CONVENTION

Mr. RIEGLE. Mr. President, yesterday, Senator EXON and I sent a letter that was addressed to President Carter and Senator KENNEDY to ask both men to publicly announce that their Democratic Presidential Convention delegates be free of any binding commitment to their respective Presidential candidacies.

We did so because we feel that would guarantee a truly open Democratic Convention and could assure the best prospect for a unified campaign in terms of the general election for our party.

We also made it clear that we were not making that request for the benefit of any one candidate and that we both intended to support whatever Presidential ticket is produced by an open convention process.

Mr. President, I would like to read the letter. It is addressed to President Carter and Senater KENNEDY jointly. It is as follows:

JULY 30, 1980.

The PRESIDENT,
The White House,
Washington, D.C.
Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT AND SENATOR KENNEDY: As Democratic Senators, we believe it would serve the best interests of the country and the Democratic Party if both of you were to announce publicly that your Presidential convention delegates are free of any binding commitment to your respective candidacies, and that you urge them to follow their own individual consciences in selecting our 1980 Presidential ticket.

Such a development would guarantee a true "open", as opposed to a "closed", convention and best assure a unified Party for the campaign.

Whether the eventual nominee is either of you, or someone else, we are each committed to support whatever Presidential ticket is produced by his open convention process.

We thank you for your consideration of our request, and assure you both that we are not making this request for the benefit of any one candidate.

Sincerely,

J. JAMES EXON,
Nebraska.
DON RIEGLE,
Michigan.

Mr. RIEGLE. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks two recent news items, one, a column from the New York Times of Wednesday, July 30, entitled "Carter's Garden Strategy," written by Mr. James Reston; and the second is an editorial out of today's Baltimore Sun, the lead editorial, entitled "Democrat's Triple Quandry."

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. RIEGLE. Mr. President, I asked to have these printed at the end of my remarks because they both go to the issue of why an open convention, where the delegates would be free of any binding commitment to any particular candidate, will lead, in the end, to the best possible result.

If this were to be done, it might well be that the nominee will be President Carter, possibly Senator KENNEDY, maybe even Vice President Mondale or Secretary of State Muskie, or Senator JACKSON, or one of the other names that have been mentioned as possibilities.

But whoever it might be, I think that candidate and that ticket would be in the strongest possible position to give leadership to the country and to go out and wage a successful campaign in terms of race against the Republican nominee, Ronald Reagan.

I think it is essential our party have the strongest possible ticket, that it be as united as possible, and that it go out and be successful in this critical Presidential year.

I think the way for us to maximize the chance for that success is with an open convention process.

So I think it is important these items be in the RECORD so our colleagues can understand what our thinking is in terms of our decision to take this step at this time, and to have as part of this suggestion the thoughts of others in the forms of these two news items I have mentioned, which also provide very strong rationale and reasoning that support this suggestion.

EXHIBIT 1

CARTER'S GARDEN STRATEGY

(By James Reston)

WASHINGTON, July 29.—There are practical and moral reasons why President Carter, who prides himself on being a practical and moral man, should welcome instead of opposing an "open" or free-voting Democratic National Convention.

The practical reason is that he can't unify his party without an "open" convention, and he's not likely to beat Ronald Reagan if he rejects it. For while Mr. Carter has the votes to overwhelm and even humiliate his Democratic opponents and doubters in August, he will need them in November. And in his present mood, he could easily win the nomination in New York, divide the Democratic Party and lose the general election.

There is another practical reason for Carter to risk a free vote by the delegates in Madison Square Garden: The risk is not all that risky. The delegates are even more divided about Senator Kennedy or Senator Jackson than they are about Carter. If they put Vice President Mondale or Secretary of State Muskie in nomination, both would undoubtedly and immediately refuse to run.

The risk to Carter in the convention, therefore, is really not defeat but division. By rejecting him, the delegates would be confirming Reagan's main argument: that not only Carter but the whole Democratic Party has failed, and should not only be tossed out of the White House but out of the House and Senate leadership as well.

The moral or philosophical argument for an "open" convention is in many ways even more compelling. The Carter people argue that the President ran against Kennedy in the primaries and caucuses and beat him soundly, fair and square. Carter did so in accordance with the rules, they say, and got enough votes by the will of the people to assure his renomination, while his opponents, having lost, are now trying to change the rules at the end of the game, and play tennis with the net down.

This is an effective argument, but it leaves out of account the facts and atmosphere in which the President gained his victories. He didn't really "run" in the primaries at all. He stayed in the White House. He didn't run against Kennedy, but against Ayatollah Khomeini. His argument was that he was struggling for the honor of the nation and that a vote for Kennedy or anybody else was a vote against the President's efforts to liberate the hostages. It was a persuasive argument at that time.

This is not to imply that Mr. Carter was insincere in concentrating on the release of the hostages, but his appeal to patriotism did undoubtedly persuade a lot of voters that they should vote for the President rather than vote against him when he was in trouble in Iran and Afghanistan.

On the President's own testimony, the world has changed since this election campaign began many months ago. During the last year or so, Mr. Carter has changed his own mind about how to deal with the Soviets, and what to do about inflation and unemployment among many other problems. He does not want to be held to the judgments or decisions he made last year, or even last spring. He argues that as the facts change, he must be free to change his mind about what is best for the nation.

That is also precisely what many of the members of his own party are now saying when they ask for an "open" convention. No doubt many of them are trying to get rid of Carter for selfish reasons because they have been watching the polls and think he's a "loser"; but many more are insisting that it's not quite fair for Carter to change his policies in a changing world and still demand that they vote for him in August as they did in the spring.

There is another reason why Jimmy Carter may have to think in the next few days about an "open" convention. He must know that, even among the people who wish him well, there is a feeling of doubt and disappointment about his performance.

What is lacking in Mr. Carter's mind seems to be an understanding of why he was elected in the first place. He came to Washington proclaiming the moral order, crying for understanding, generosity and peace after a generation of division and violence, and condemning all calculating politicians and legalistic contrivances.

But now he is calculating himself—every delegation, every vote, every rule, down to the last comma. His people are not worried that he will be defeated in Madison Square Garden, but that the fight over an open convention may dominate the proceedings during prime television time.

They are concentrating, not for the first time, on the short run and not on the long run—in this case on winning the nomination even if they bloody the opposition, rather than on uniting the party for the battle against Reagan.

It is a puzzling strategy, and the final irony is that Jimmy Carter is insisting on votes collected during the hostage crisis in Iran which he exaggerated and then mismanaged, and is forgetting what he has often preached: that sometimes you have to risk throwing away your soul to save it. And that always you must be fair, as he has said so many times, and "open."

DEMOCRATS' TRIPLE QUANDARY

There really are three separate questions at issue in the controversies now engulfing the Democratic Party. The first is whether the Democratic National Convention should dump Jimmy Carter, this on the debatable theory that the president is unelectable. The second is whether convention delegates should be iron-bound to vote for the candidate under whose banner they ran during this year's primaries. The third is whether the convention should apply this rule to convention delegates in future presidential elections.

The last question is the easiest. This newspaper believes the Democratic Party should reject its proposed Rule 11–H because it is too rigid, too arbitrary and too destructive to the deliberative obligations of a national convention. Consider its wording: "All delegates to the national convention shall be bound to vote for the presidential candidate whom they were elected to support for at least the first convention ballot, unless released in writing by the presidential candidate. Delegates who seek to violate this rule may be replaced with an alternate of the same presidential preference by the presidential candidate or that candidate's authorized representative at any time up to and including the presidential balloting at the national convention."

This proposed rule makes no provision for circumstances that can arise between primary season and convention time. A candidate might be overcome by physical or mental disabilities that he refuses to acknowledge; he might be found to have engaged in past activities that make him unacceptable; he might have made policy pronouncements or decisions that undercut party or national interests. Rule 11–H seeks to control a delegate's vote not only on the first presidential rollcall but on the rules, platform and credentials decisions that come first. It seems to contravene the right of each quadrennial political convention to set its own rules, a right given precedence even over state laws by the Supreme Court in 1975. It limits a convention's ability to utilize the discretion and judgment so necessary to a democratic society.

The second question—whether delegates elected in this year's primary are legally or morally obligated to vote for their chosen candidate—is more difficult. The Democratic National Committe adopted Rule 11–H in 1978 without dissent and without discussion. That made it a unanimous decision. It also made it a thoughtless, irresponsible decision. Proposed by a White House political operative, it was one of many devices adopted in the name of "reform" to insure that the will of the people, as expresed in the primaries, not be thwarted by oldtime convention brokerage. Unfortunately, Rule 11–H is too extreme, too neatly adaptable to an incumbent's strategy. We do not believe delegates elected under this *proposed* rule are legally obligated to vote for Mr. Carter or Mr. Kennedy. But we would respect any delegates who feel morally obligated to do so since they ran knowing that Rule 11–H existed.

Which brings us to the ultimate question facing Democrats, which is whether to nominate a president far down in the polls and profoundly embarrassed by the Brother Billy affair. Mr. Carter could yet stage a Harry Truman comeback. But to convince delegates he is electable, we believe he should repudiate Rule 11–H and free them to vote their conscience. These delegates are for the most part rank-and-file Carter loyalists. If the president cannot count on their support, how can he count on the votes of the mass electorate? A nomination from a convention unshackled from the iron bonds of Rule 11–H would be infinitely more valuable than a nomination executed in lockstep.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that these remarks appear in the RECORD immediately following those of the Senator from Michigan (Mr. RIEGLE) on this related subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, earlier today the distinguished Senator from Michigan (Mr. RIEGLE) placed in the RECORD a letter that he had sent, along with the distinguished Senator from Nebraska (Mr. EXON), to the two leading candidates for the nomination of the Democratic Party for President of the United States. That letter urged the two candidates to release their delegates who are pledged on the basis of primary elections for the convention that is coming up very shortly in New York.

The appeal was made that the best interests of the party and the best interests of the country would be served by a so-called open convention.

I just thought some comment to our colleagues might be appropriate expressing a contrary view. My earliest recollections as a participant in Democratic Party politics was the frustration and the sense of helplessness that many of our party members, our rank and file members, and many citizens felt in the nominating process, a feeling that there was little opportunity for input by citizens in the process of selecting the nominees of the party.

The conventions would convene every 4 years. The delegates would go. On arriving at the convention, they would be subjected to various persuasions by any number of groups of individuals and special interests, trying to make the determination as to who would represent the party as its nominee for President.

I would not say that this system did not work effectively. I could not say that the results of this kind of procedure produced any less capable candidates than a more open system.

But the fact is because of this dissatisfaction, the Democratic Party set out several years ago to bring about certain reforms that would encourage and provide a way that a larger number of citizens could participate in this process and could make their wishes known before a candidate was nominated for the office of President.

As this reform movement evolved, the primary system began to expand and the natural inclination and assumption was that this was a method by which the voice of the people could be heard and could be felt in the nominating process.

That brings us to 1980, when we have just come through the most expansive Presidential primary season in the history of the country and more citizens participated in the determination as to who the delegates to the convention would be and what position they would take, at least on the first ballot, as far as the nomination of the individual to represent the party in the race for the President situation.

It is ironic, I think, that some of the same people who years ago were pushing for a broader system—one which would involve the people rather than solving these questions in the back rooms of the convention process—now seem to think that the way to serve the public best would be to say to 19.5 million Americans who participated in these primaries that we are going to change the course; we are not going to recognize the decision that you have made; we are going back to the convention and assemble all of the delegates there and have a free-for-all and the candidate who can put together the most coalitions, who can make the most arrangements that will attract this delegation or that delegation in the light of the situation that might exist at that particular time on that Thursday of the week of the convention, will be the candidate who gets the nod and gets the nomination to represent the party in the race for President.

It seems to me it would be a tremendous step backwards and contrary to the course which the Democratic Party set upon a number of years ago to just say all of a sudden that we are going to change the rules, we are going to change the intent, after the game is over, to say to the candidates who spent vast sums of money, who expended great amounts of time and effort and energy in the various States in the primaries and the caucuses, that this was all for naught, that we are not going to count that now, does not seem to me to be a fair way to deal with this particular situation.

And even more importantly to say to those individuals, those citizens, those Americans who went to the polls with the expectation that their voice would be heard, that they had a chance to make a difference in the nominating process, that they had a chance to express their opinion and that expression as demonstrated by the majority vote in the primaries would be reflected by the delegates chosen in the balloting at the National Convention.

So I think that this is a suggestion that ought to be given a great deal of consideration before we rush headlong into a plan that would be contrary to the principles that we have established and that many believe to be very important in the process of nominating and electing the President of the United States.

The distinguished Senator from Michigan made it clear in his presentation that he was not making the suggestion on the basis of helping or hindering any of the candidates for the nomination. And I believe he is sincere in that. I have no reason to question it and I certainly would not question the motives or the intent of the Senator from Michigan.

But the fact is, as everyone knows, that such a move can only benefit one candidate; not only could it benefit one candidate, it is the only possible way that one particular candidate could have of overcoming the voice of the people, the decision of the people, and receiving the nomination.

So while I say I do not question at all the motives of the distinguished Senator from Michigan, I certainly do question those of many others who have put forth this proposition and are advancing it and advocating it at the present time. I think we should move with great caution.

Mr. President, one further observation. I think it is somewhat interesting that of all the 3,000-plus delegates at the National Democratic Convention, there are only 8 Senators among them and only 39 Members of the House of Representatives. Those figures, when I saw them, startled me somewhat. I do not know that there is any significance at all to them. I do not know whether it means that the Congress is abrogating its necessary responsibility or its interest in the nominating process for the Presidency of the United States. But I think it is interesting to note.

It does this one thing. It does, it seems to me, reduce the propensity that we might have here, at least reduce the effectiveness that we might have, to in any way control that convention, since we have elected, as individuals, not to take part in it.

As I say, I do not know whether there are any ramifications to this fact or not. I just toss it out as an interesting point that might be worth thinking about.

I thank very much the distinguished Senator from West Virginia, the majority leader for yielding to me. I yield back the floor.

Mr. ROBERT C. BYRD. The distinguished Senator is welcome.

Mr. EXON. The junior senator from Nebraska would like to pose a question to the majority leader. Since I am very new here, I am not certain as to what role partisan politics should play as far as the official record of the U.S. Senate is concerned.

It so happens that I have been involved in the activities with Senator RIEGLE that the good Senator from Kentucky (Mr. HUDDLESTON) has just made reference to. I just, by the sheerest of chance, happened to be on the floor to hear the remarks from my good friend from Kentucky.

I am posing this question: Is it appropriate for me as a Member of the U.S. Senate to make remarks that were induced by the statements that I have just heard made by my friend from Kentucky?

Mr. ROBERT C. BYRD. I beg the Senator's pardon. Will the Senator address his question to me?

Mr. EXON. My question was, as the junior Senator from Nebraska who is not sure of what is proper procedure on the floor of the U.S. Senate, is it proper, in the majority leader's opinion, and is it in order for me to make some remarks with regard to the partisan political matter of the Democratic National Convention in response to the statements that were just made by my friend from Kentucky?

Mr. ROBERT C. BYRD. Yes; it would be in order, Mr. President.

Mr. EXON. I therefore request that the distinguished majority leader yield to me sufficient time to make whatever comments I care to enter into the RECORD at this time.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator, with the understanding that I not lose the floor, and with the further understanding that the statement I have been making not show an interruption.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN OPEN DEMOCRATIC CONVENTION

Mr. EXON. Mr. President, as I said a moment ago, it was by happenstance that I came into the U.S. Senate Chamber during the remarks just made by the Senator from Kentucky. I wish to say for the record that I would not have been on the floor of the Senate in this regard had those remarks not been made. I suspect that my friend from Kentucky made no reference to this particular Senator.

Nevertheless, the remarks that he had reference to involved a letter that was sent by Senator RIEGLE of Michigan and this Senator to two of the Democratic candidates for President of the United States, those being the President of the United States and Senator TED KENNEDY, a Member of this body.

Mr. President, I should like to say, if I may, that I thank the Senator from Kentucky for saying that the intentions stated by the distinguished Senator from Michigan seem to be exactly what they were, without any devious intent whatsoever. I am sure the Senator from Kentucky was sincere in that regard, and I suspect that, since the Senator from Nebraska places himself in the same position as the Senator from Michigan, the Senator from Kentucky would also agree that the Senator from Nebraska is likewise taking this action in good conscience.

It is certainly not the intention of the Senator from Nebraska to interfere with whom the Democrats, assembled at the New York City convention starting a week from Monday, will select as the nominees of this party. As a man who has had considerable experience at Democratic National Conventions, I know that that could and, I hope, will be an interesting convention and a meaningful one.

This Senator would simply like to emphasize the fact that all—I emphasize "all"—Senator RIEGLE and I did in our letter to the two candidates, the whole thrust of that is simply to say, "allow the Democrats at the convention to make their free choice, to exercise their good conscience and what they believe at this time to be the wishes of the majority of their constituents when they represent all of us in New York."

Mr. President, I have not revealed this before, but if we had the other side here, those who are screaming and moaning and complaining about what obviously had been the White House position—and that simply is that if we have an open convention, somehow, we are going to disenfranchise 13 million or 19 million Democratic voters in these United States—they would agree that would be a terrible thing to do.

Who is representing the junior Senator from Nebraska at the National Convention in New York? I did not seek to be a delegate and I have no intention whatsoever of being there. As to the reason that I phrased that question of the President and that I would like to of some of those who now are crying "Foul, foul, foul" as to who is going to represent me, I wish to reveal publicly for the first time that when I voted in the all-star primary in Nebraska in May, I did not vote for President Carter, who was one of the nominees, and I did not vote for Senator KENNEDY, who was the other nominee. I voted myself uncommitted. Therefore, I ask those who are taking the other side of this question, who is representing a voter from Nebraska who voted uncommitted?

Mr. President, that might be only a facetious way of getting at what I believe to be something that requires some mature judgment today with regard to the Democratic Party meeting in convention in New York City a week from Monday. It is not sufficient to say that all those votes were for naught. It is not fair to say or to cast those of us who are calling for an open convention in the light of the smoke-filled room politicians, harking back to the days of yesteryear.

Mr. President, the winner of most of the Democratic primaries was President Carter, and that candidate goes to the National Convention in New York City with some 300-plus votes over and above what he needs to assure him the nomination. It is my personal belief, Mr. President, that President Carter will be and probably should be the nominee of the Democratic Party assembled in New York. But I hope that after we emerge from that convention, we shall have a united Democratic Party that is capable of carrying on the semblance of a successful campaign in the fall election.

Frankly, I resent some of the implications of some of the statements that have been made—not on the floor of the Senate, and I am not referring to my friend from Kentucky, but some of the implications that have come from some of the White House operators that, somehow, anyone who wants and calls for an open convention is trying to undermine the very principles of the Democratic Party.

Am I to believe, Mr. President, that it is the wish of the majority of the Democratic voters of the United States that, somehow, we elect some robots who go to New York City and push a button, as they were instructed to do last January or February or March or April or May or June or July—whenever the all-star primaries were held in the various States?

The very foundation of the letter that Senator RIEGLE and I sent to the two candidates was simply to say, "In the interests of unifying the Democratic Party, would you both simply release the personal commitments that those delegates now have to each of you, and thereby allow those delegates to vote their own convictions?"

Mr. President, I try to be a reasonable and realistic man. I think any reasonable and realistic person would have to agree that anyone going to the convention with handpicked delegates, 300-plus committed to one candidate, will, in all probability, emerge from that convention as a nominee of the party. In those situations and under those circumstances, that is the way it should be.

Senator Riegle and I are not saying that a single delegate to the National Convention should violate his personal commitment or violate any legal restraints that he has or she has when they were elected from their States.

They should not violate that unless—and that is an important word "unless"—they are released by the candidates themselves, so that the Democratic Party could have a chance of coming out of our national convention with unity.

I think it is not fair to leave the subject without some concluding remarks about a possible third or consensus candidate.

If, for example, the two main nominees, or potential nominees, of the party were to release their delegates, and if through some set of circumstances President Carter and his forces were unable to convince the vast majority of handpicked delegates that they have that the President should not be the nominee of the party once again, then, naturally, it would be thrown open.

I do take exception to the statement made by the Senator from Kentucky that should an open convention take place, it is only going to benefit one individual. Obviously, whether he named him or not, he was talking about Senator Kennedy.

I am only speaking for myself, Mr. President.

In my opinion, the interests of the Democratic Party, I am speaking again as an individual, would not be served by Senator Kennedy being the ultimate candidate if the Carter forces cannot prevail, as I think they will.

But if that event should occur, then I would say, and I would hope, that those people there assembled not being robots, but having the intelligence to do what they think is in the best interest of carrying on the tradition of the Democratic Party and the principles in which we believe, would be able to come up with an alternate candidate that I hope would be able to carry proudly the banner of the Democratic Party.

If that be the will of the delegates to that convention, those who are whining and complaining and crying wolf about disenfranchising voters are, in essence, saying we want to march those robots to New York and we want them to cast unthinking votes, the way we are told by the candidates to which they are currently pledged.

In closing, Mr. President, I simply say, and I emphasize, the letter Senator Riegle and I have sent to the two candidates was simply to say that we are not picking and choosing.

Our action was not designed to benefit any candidate named, or otherwise. It was simply to say that if we are going to be a united party after New York, we better do something else and we better travel a different road than the one on which we are now driving.

I thank the majority leader for his patience. I thank the Chair.

Mr. RIEGLE. Mr. President, I would like to add a little to the remarks of my friend and colleague from Nebraska.

I, too, was not on the floor earlier. So I do not have a firsthand understanding of what may have been said by the Senator from Kentucky with reference to the letter that Senator Exon and I have sent, which has been referred to here.

But I do think it is important to note that what is being proposed by those who want to close the Democratic Convention is that they want to close it for the first time since 1832.

This change in the rules that is being proposed by those who would prefer a closed convention is a clear break from the history and the long tradition of the Democratic Party. This is something the delegates there gathered will have to decide.

I am not a delegate. I will not have a vote then, or later, in the convention. But I think that decision, by itself, is a momentous one, because clearly, we are turning away from a practice, an open convention practice, that goes back all those years and decades, well over a century, almost a century and a half.

Of course, I think that does raise a real question as to whether or not we really are at a point where we now want to change our practice and go to a closed convention and to tell the delegates that regardless of any other circumstances that they are not free to vote their conscience when the time comes to call the roll, and if they should vote their conscience at that time and that turned out to be different than the result of the primary in their State, that might otherwise bind them, that they will be removed as a delegate from the convention.

I must say that I do not think that is a very good procedure. But, even stepping away in terms of those implications for the party and to think about what it means for the country, I think from the point of view of a country as a whole, the American people, as they look in on them—they are not delegates, either, some are Democrats, others are not—they look at this and they are trying to make a judgment about our party and the degree to which we are trying to focus on legitimate issues and problems facing the American people.

It would seem to me if we are going to earn the confidence of the American people in the election period, at a time of great stress for the United States, with unemployment, health care issues, a host of issues, that the way we might best do that is by going into the convention and deliberating in a fashion, in a way, where we try to select and put forward the strongest and the best possible ticket and candidacy that we can.

I think the delegates chosen, when they get there, will have to reflect and make the best choice they can at that time. I have confidence, if they are free to exercise their conscience, that they will do so, and that they will make a good judgment.

If they are able to do it in that kind of fashion in open convention, I am prepared to say, here and now, that I will support that decision and I will support it actively. If that process results in the renomination of President Carter, he will have my active support. If it results in the nomination of Senator Kennedy, he will have my active support. If it results in the nomination of Fritz Mondale or Secretary of State Muskie or Senator Jackson or anyone else whose name has been spoken about, or who might be spoken about, whoever it is, he will have my active support.

The Senator now acting as Presiding Officer of the Senate, the Senator from New York (Mr. Moynihan), was mentioned today by the mayor of New York City; and I make the same statement to him. If the delegates at that convention decide that he would be the best standard bearer for our party—and he blushes appropriately; winningly, I might say—he will have my active support, and I believe he will have the active support of all Democrats.

So let us not be misled. This is not an issue of trying to stampede or an effort to undo something. It is a question of trying to reach an open, rational, and sound judgment. I believe that if the delegates are asked to follow their best instincts and their own wisdom and conscience, they will give us a ticket that will be good for the country. It will be good for attacking the issues. It will be good for mounting a successful campaign in November.

I thank the majority leader for his patience and kindness in yielding the floor so that I might have an opportunity to add my remarks to those of my friend from Nebraska.

I emphasize again that if any charge has been made that this initiative the Senator from Nebraska and I have undertaken is designed to help any particular candidate, I want to lay that absolutely to rest. That is not the case. I am not here, and I have not signed that letter, in an effort to help any one candidate at the expense of any other candidate. I do not know who the best candidate would be for that convention to select, if it is an open convention and has a chance to express itself freely. I believe it should have that chance; and if it does, in its own way, it will find the nominee and the ticket that our party and the country deserve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I dislike to impose upon the Senate, but I cannot complete my speech right now. I have a meeting in my office. I have tried to accommodate everybody else, and I suppose I will have to suggest that the Senate be in recess for a little while.

Other Senators may wish to come to the floor and speak, so I ask unanimous consent that the time for routine morning business continue for another hour and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, with the understanding that the Senate will be in morning business at any time a Senator calls it into session.

I ask unanimous consent that the Chair recess the Senate, awaiting the call of the Chair, after any interruption by any Senator, until such time as I can get back to the Chamber and complete my speech, which I do not intend to insert in the RECORD. My statements on the U.S. Senate are of such value that they should not be inserted in the RECORD but should be spoken. Therefore, I make those requests.

The PRESIDING OFFICER. Speaking as a Senator from Michigan, the Chair inquires of the Senator from West Virginia: If nobody is here between now and 5:30 p.m., would there be any objection to recessing between 5:30 and 6, to accommodate a scheduling problem of the Presiding Officer?

Mr. ROBERT C. BYRD. No; I will be back by 5:30.

In the meantime, I ask the cloakroom to ask another Senator to substitute for the distinguished Senator from Michigan, who is in the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from West Virginia.

Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Thereupon, at 5:07 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 5:17 p.m., when called to order by the Presiding Officer (Mr. LEVIN).

THE UNITED STATES SENATE

THE SENATE DEMOCRATIC CONFERENCE

Mr. ROBERT C. BYRD. Mr. President, this is the 17th in a series of speeches which I have been making on the subject of the United States Senate, the series having begun on March 21 of this year.

Mr. President, each of the two parties in this Chamber, Democratic and Republican, meets from time to time in conference to discuss issues before they reach the Senate floor, to select party leaders and candidates for such offices as Secretary of the Senate, Sergeant at Arms, and Chaplain, and to distribute committee assignments among party members. There is no mention of party conferences in our Constitution because the Constitution did not envision political parties. But because parties did evolve, quite shortly after the inauguration of the federal government in 1789, the conferences—or caucuses as they were first known—have played an important role in Congressional history.

The first caucus met on April 2, 1796. It was a gathering of Democratic-Republicans who opposed the controversial Jay Treaty with England and they met to discuss the appropriation of funds to implement that treaty. As I said in earlier remarks about the Secretary of the Democratic Conference, the Congressional caucuses were most significant in those days because they selected their party's presidential candidates. And it was in the caucuses that the Democratic and Whig parties first emerged during the age of Andrew Jackson.

There were no official party floor leaders then, although certain individuals later of the stature of a Henry Clay, a Daniel Webster, a John C. Calhoun, or a Thomas Hart Benton, certainly were recognized for their leadership capacities. As the parties developed, their members met in caucus to organize themselves and present a united front. By the mid-1840's, the caucuses assumed the responsibility of naming party members to the various committees. During and immediately after the Civil War, the new Republican party began to utilize its caucus for scheduling legislation and planning strategy, The Democratic party, then the minority, adopted a similar structure when it became the majority party in 1879, setting up a committee on committees, which also served as a steering committee.

Throughout most of the late nineteenth century, the Democrats were the minority in the Senate, and the caucus was not a particularly powerful instrument. Its leader, Senator Arthur Gorman of Maryland, was a highly capable man, but there were too many divergent viewpoints in the party to maintain any real unity or party discipline. On the other hand, the Republican caucus demanded more obedience from its members, since various splinter and third party blocs left them only a thin majority. As a result, the Republicans exhibited an impressive unity on roll call votes during the last decade of the nineteenth century.

In 1903, the Senate Democratic Caucus adopted a motion to bind its members to vote according to a two-thirds decision of the caucus. This attempt to create a binding caucus was not successful. I believe it would be instructive to look back to examine the attempt and the reasons for its failure.

The need to present a common front is important for any party in any legislative body. But political parties in the United States are not ideologically unified as are political parties in other nations. Our parties are broadly-built coalitions, surviving on consensus and tradition. Within each party we find a wide spectrum of opinion, and it would not be practical to expect individual senators to be bound to the dictates of a party caucus. On any given roll call in either house of the Congress it is not unusual to find members of both parties voting together in the majority and the minority. Indeed, it is a strict party vote that is unusual and draws press attention.

The minutes of the Democratic Conference, which date back to 1903, provide a fascinating glimpse into Senate history and into the particular question of a binding caucus. I hasten to add that in discussing these minutes I reveal no secrets and betray no confidences. The information I am about to cite was entered into the *Congressional Record* at the time of the original controversies and was a matter of open and public debate on the Senate floor.

These minutes indicate that on December 15, 1903, the Democratic Caucus adopted the following resolution:

> "That hereafter all members of the Democratic Caucus shall be bound to vote in accordance with its decisions, made by a two-thirds vote of all its members, on all questions except those involving a construction of the Constitution, or upon which a Senator has made pledges to his constituents, or received instructions from the legislature of the State which he represents."

Even with all the exceptions to this rule, which allowed senators to vote according to their campaign pledges, some members found the attempt to bind their votes to be objectionable, and there is no evidence that the rule was ever enforced.

In 1906, for example, Senator Thomas Patterson of Colorado objected to the Democratic Caucus' decision to vote against ratification of the treaty with Santo Domingo. The caucus had voted 20 to 4 against the treaty, and since a two-thirds vote of the Senate was necessary for ratification, the unity of the minority party threatened the defeat of the treaty on the floor. But Patterson disagreed with the majority of his caucus and cast his vote in favor of the treaty, declaring that the attempt to bind his vote had been in violation of the spirit and intent of the United States Constitution.

Other members of the Democratic Caucus took no disciplinary action against Patterson for breaking ranks, but as the floor leader, Senator Joseph Bailey of Texas, said during the debate: "The Democratic party has simply and only defined his duty as a Democrat, and it is for him to determine how far his duty as a Senator requires him to disregard his duty as a Democrat." Bailey also added that: "The Senator is free to defy the caucus and to vote as his conscience directs. He only takes a responsibility at home between his Democratic constituents and his Democratic associates here." As it happened, Patterson voted for the treaty and against the caucus, remained a member of the caucus, but did not stand for reelection to the Senate.

In 1913, the Democratic party became the majority party in the Senate for the first time in two decades, and concurrently, Woodrow Wilson was elected as only the second Democratic president since the Civil War. The party realized that it had won this election because of a split in the Republican party, a split which could—and did—easily heal, and that to remain in office the Democrats had to demonstrate their ability while they had the opportunity. It was essential, therefore, that the Democratic majority in Congress work closely with the new president to enact his program. The Democratic Caucus, therefore, elected Senator John Worth Kern of Indiana as its chairman and, under a reorganization adopted in 1911, as its floor leader as well. Kern was an astute politician who had run for vice president with William Jennings Bryan in 1908. As chairman, Senator Kern convened the caucus frequently during 1913 and 1914 to hold the party together throughout the intense floor debates that followed on the Underwood Tariff, the Federal Reserve Act, and the Federal Trade Act, winning enactment of all three of these pillars of the first Wilson administration. Parenthetically, it was in May of 1913, as I mentioned in an earlier discussion, that the Democratic party appointed the first "whip" in the Senate's history. Senator J. Hamilton Lewis of Illinois, who helped round up senators for quorums and roll call votes.

Party unity, while quite impressive at that time, was still no bar to individual conscience. In July 1913 Senator Gilbert Hitchcock of Nebraska resigned from the Democratic caucus rather than follow its dictates on the matter of a graduated tax on trusts. Two years later, Hitchcock again broke with the caucus and introduced a resolution in the Senate requiring that all senators should "vote in accordance with their own convictions and judgment, and they shall not subordinate them to the decree of secret party caucuses or other outside influences." As an indication that Senator Hitchcock was not ostracized for his independence, I should point out that he later returned to the Democratic Caucus and in fact became its chairman in 1919.

From the end of the first World War until the outset of the Great Depression, the Democratic party was again the minority in the Senate, and use of the caucus—or conference as it was officially called beginning in 1925—fell off sharply. Then beginning with the 73rd Congress, the Democratic party became the majority in the Senate and the House, as it has remained for every Congress save two right through to this day. In 1933, the new majority leader, Senator Joseph Robinson of Arkansas, proposed a resolution that all members of the conference would vote on the floor in accordance with the decision of a simple majority in the conference. Considering the exigencies of the Great Depression then facing the nation, the conference adopted this resolution by vote of 50 to 3, although they added the provisions that no Democrat would be bound to vote for a bill that proved "contrary to his conscientious judgment" or violated his pledges made while a candidate for office. So once again, while use of the caucus helped to mobilize the party during the "first hundred days" of the New Deal—when essential economic legislation was being enacted—party members remained free to follow their own consciences.

Mr. President, during this discussion I have referred to "secret caucuses," as they were described so often at the time. The word "secret" has pejorative tone to it today, after our various "sunshine" reforms have opened the doors to so many previously closed meetings. But in an earlier era much of the work of the Senate was conducted behind closed doors. It was not until 1929, for instance, that executive sessions of the Senate on nominations and treaties were routinely opened to the public and the press. However, I do not want to leave the mistaken impression that our predecessors were somehow better at plugging "leaks" or keeping secrets. I note the remarks of Senator Robert L. Owen of Oklahoma, a former secretary of the Democratic Caucus, on the Senate floor on February 16, 1915. Said Senator Owen:

> "There is nothing in the party caucus that I would not be willing to make public. I think there is nothing that occurs in a party caucus that is not made public. You can not get a half a dozen Senators together and retain anything secret among them. You can not get 53 Senators together and have any hope of secrecy, and to attempt to have it secret is absurd and ridiculous."

Mr. President, within the Democratic Conference, as with our counterpart organization on the Republican side of the aisle, a leadership and committee structure has evolved over the years. In earlier remarks I have discussed the various officers of the conference, the chairman and floor leader, the party whip, and the secretary to the conference. Now I would like to speak on the various committees which have played such a significant role in the translation of party policies into legislative action, and in ensuring the cohesiveness and effectiveness of the party in the legislative process.

I note, for instance, a discussion held in the Democratic Caucus in December of 1907, that it was the custom then and in earlier years for the chairman of the caucus to appoint a steering committee to assign party members to Senate committees. This is a most important function, for, as we know, a Senator's particular committee assignments will shape his activities throughout his career in the Senate. Once on a committee, members rise through seniority, although on occasion the caucuses also exerted their influence over the seniority system.

In 1859, the Democratic Caucus removed Senator Stephen Douglas as chairman of the Committee on Territories because he broke with President Buchanan over the issue of slavery in the territories. This did not stop Douglas from becoming the party's presidential nominee the following year. The Republican Caucus also removed one of its members from a committee chairmanship when it replaced Senator Charles Sumner of Massachusetts as chairman of the Foreign Relations Committee in 1871 because of his opposition to the Grant administration's plan to annex the Dominican Republic. In 1913, the Democratic Caucus also passed over Senator Benjamin "Pitchfork Ben" Tillman of South Carolina for chairman of the Appropriations Committee, on the grounds that a stroke had seriously impaired Tillman's ability to fill that post.

But these were exceptions, Mr. President, and the Steering Committee—also known for a time as the Committee on Committees—was generally involved in making assignments to committees. Membership on the Steering Committee was once limited to the most senior senators, although today we have a far broader range of members. In the 96th Congress the Democratic Steering Committee, of which I serve as chairman, includes Senators Birch Bayh, Howard Cannon, Lawton Chiles, Alan Cranston, John Culver, Dennis DeConcini, Thomas Eagleton, Wendell Ford, Daniel Inouye, Henry Jackson, Edward Kennedy, Patrick Leahy, Russell Long, Howard Metzenbaum, Robert Morgan, Daniel Moynihan, Gaylord Nelson, Sam Nunn, Jim Sasser, John Stennis, Harrison Williams, and Edward Zorinsky.

The most persistent question involving the Democratic Steering Committee has been who would appoint its members. As I mentioned, the caucus minutes for 1907 indicate that the custom had already been long established for the chairman of the caucus to appoint members of the Steering Committee. But over the years there have been periodic challenges, generally proposing that the conference as a whole elect members of the Steering Committee. These proposals have all been defeated, but in 1943 they caused a dramatic clash in the conference when Senator Kenneth McKellar of Tennessee moved that the conference elect the Steering Committee. The then chairman of the conference, Alben Barkley of Kentucky, advised the conference that he would resign immediately as chairman if the motion was adopted. Subsequently the motion was defeated by a vote of 33 to 20 in a secret ballot.

Senator McKellar's action was apparently motivated by an incident the previous year when Majority Leader Barkley had the Sergeant-at-Arms arrest absent members and escort them to the Senate to break a filibuster.

As I indicated in one of my statements some time ago, Senator McKellar was aroused from his sleep at home and was on his way to the Capitol in a cab before he realized what the nature of the summons was and found it difficult to forgive the majority leader for his action. The two men eventually mended their differences.

The issue of appointing the Steering Committee was still a matter of some contention during the 1960's, following the very strong leadership of Senator Lyndon Johnson as Conference Chairman and Majority Leader. When Senator Johnson became Vice President and the 87th Congress met in January 1961, Senator Albert Gore of Tennessee proposed to strip the conference chairman of the power to name members of the Steering Committee and Policy Committee. When Senator Mansfield became party leader that year, he opposed the Gore resolution and proposed a compromise whereby the Leader would consult with the President Pro Tempore, the Majority Whip, and the Secretary of the Conference before assigning members to the Steering and Policy Committees and afterwards his choices would be subject to confirmation by the conference. This was further modified in 1967 with the provision that in the future no senator, with the exception of the conference chairman, would serve on both the Steering and Policy Committees (although Senators Carl Hayden, Richard Russell, and Stuart Symington were permitted to continue their membership on both committees).

Mr. President, I have mentioned the Democratic Policy Committee, and in a moment I will describe its history and functions in greater depth. But I should add that prior to the creation of the Policy Committee in 1947, the Democratic Steering Committee was often assigned the tasks of deciding the order of legislative business and of proposing reforms for the Democratic Conference.

Of course, that, as I have indicated, no longer remains to be a duty, responsibility, or task of the Democratic Steering Committee.

Mr. President, under Senator Lyndon Johnson's leadership between 1953–1960, few conferences were called by his direction. These included only one each in the years 1953, 1954, 1955, 1957, 1958, and 1959. None was scheduled in 1956 and only four were called in 1960. This minimal number of conferences during his leadership was, at times, questioned by his Democratic colleagues. For example, at a Conference on January 7, 1960, Senator Clark from Pennsylvania offered a resolution calling for the Democratic Conference to meet every two weeks or upon the request of fifteen Senators. This motion was also supported by Senator McNamara who said,

> As a candidate for re-election, I feel that I would benefit from such discussions."

Senator Proxmire further concurred by stating:

> I want a caucus in which the Leadership explains what is on the program and why. I want a caucus where we can get frank partisan arguments. In a presidential year we can make a much better record if we can get the kind of intelligence assembled here focused on our problems.

Although Majority Leader Johnson did not see the need to call frequent caucuses because of the difficulty in bringing members to a meeting, he subsequently scheduled three more conferences during his last year as Leader. This number was the highest in the eight years he held that office.

During the years 1961–1976, Majority Leader Mike Mansfield operated under the premise that a Leader should call conferences at such times as in his judgment the legislative and national situation justified such action. He also took the position that any time any single Senator wished a conference to be called, a conference would be called. Throughout his leadership, he called numerous conferences including: five in both 1961 and 1962; four in 1963; eight in both 1964 and 1965; three in 1966; four in 1967; one in 1968; five in 1969; seven in 1970; six in 1971; eight in 1972; seventeen in 1973; fourteen in 1974; twenty in 1975; and seven in 1976.

When I was elected Majority Leader on January 4, 1977 by the Democratic Conference, I subsequently called sixteen other conferences that year. In 1978, there were four conferences; seven in 1979; and as of June 26, 1980, nine have already been called in 1980.

Mr. President, I ask unanimous consent that the number of Democratic conferences held by Majority Leaders Lyndon Johnson, Mansfield, and myself be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Majority Leader Lyndon Johnson chaired the following Democratic Conferences:

January 2, 1953.
March 9, 1954.
January 4, 1955.
January 3, 1957.
January 7, 1958.
January 7, 1959.
January 7, 1960.
January 20, 1960.
February 15, 1960.
February 18, 1960.

Majority Leader Mike Mansfield chaired the following Democratic Conferences:

January 3, 1961.
January 4, 1961.
January 5, 1961.
January 10, 1961.
February 27, 1961.
February 7, 1962.
March 13, 1962.
May 2, 1962.
June 6, 1962.
June 7, 1962.
January 9, 1963.
February 7, 1963.
March 28, 1963.
November 4, 1963.
January 8, 1964.
January 28, 1964.
May 19, 1964.
July 20, 1964.
July 27, 1964.
August 3, 1964.
August 10, 1964.
August 17, 1964.
January 4, 1965.
January 7, 1965.
January 26, 1965.
March 8, 1965.
May 4, 1965.
July 19, 1965.
August 19, 1965.
September 28, 1965.
January 11, 1966.
May 3, 1966.
September 27, 1966.
January 10, 1967.
April 13, 1967.
July 18, 1967.
December 8, 1967.
January 18, 1968.
January 3, 1969.
January 7, 1969.
January 13, 1969.
May 20, 1969.
December 19, 1969.
January 19, 1970.
January 20, 1970.
January 23, 1970.
May 7, 1970.
June 18, 1970.
October 6, 1970.
November 16, 1970.
January 21, 1971.
January 22, 1971.
January 26, 1971.
February 10, 1971.
February 23, 1971.
June 17, 1971.
January 25, 1972.
April 13, 1972.
May 3, 1972.
May 8, 1972.
May 9, 1972.
May 31, 1972.
July 28, 1972.
August 2, 1972.
January 3, 1973.
January 4, 1973.
January 11, 1973.
January 18, 1973.
January 31, 1973.
February 22, 1973.
March 15, 1973.
May 2, 1973.
May 9, 1973.
May 21, 1973.
June 4, 1973.
September 13, 1973.
October 3, 1973.
October 12, 1973.
October 13, 1973.
October 30, 1973.
November 14, 1973.
January 24, 1974.
January 30, 1974.
February 19, 1974.
March 7, 1974.
April 24, 1974.
July 18, 1974.
July 25, 1974.
August 8, 1974.
September 5, 1974.
September 12, 1974.
September 19, 1974.
October 10, 1974.
November 21, 1974.
December 5, 1974.
January 14, 1975.
January 15, 1975.
January 16, 1975.
January 17, 1975.
January 20, 1975.
January 24, 1975.
January 30, 1975.
February 27, 1975.
March 13, 1975.
April 14, 1975.
June 5, 1975.
June 12, 1975.
July 10, 1975.
July 31, 1975.
September 4, 1975.
September 8, 1975.
September 11, 1975.
September 25, 1975.
December 10, 1975.
December 18, 1975.
January 22, 1976.
March 4, 1976.
March 18, 1976.
March 25, 1976.
April 1, 1976.
July 22, 1976.
August 5, 1976.

Majority Leader Robert C. Byrd chaired the following Democratic Conferences:

January 4, 1977.
January 5, 1977.
January 6, 1977.
January 10, 1977.
January 11, 1977.
January 13, 1977.
January 24, 1977.
February 10, 1977 (2).
March 3, 1977.
March 9, 1977.
March 17, 1977.
May 5, 1977.
June 9, 1977.
Juy 21, 1977.
September 22, 1977.
November 4, 1977.
January 24, 1978.
January 26, 1978.
May 18, 1978.
July 11, 1978.
January 15, 1979.
January 17, 1979.
January 18, 1979.
March 1, 1979.
September 12, 1979.

December 5, 1979.
December 10, 1979.
February 5, 1980.
March 5, 1980.
March 11, 1980.
March 20, 1980.
May 13, 1980.
June 10, 1980.
June 11, 1980.
June 24, 1980.
June 26, 1980.

Majority leader	Caucuses called	Year
Lyndon Johnson: Average caucuses per year—1.43 (10÷7)	1	1953
	1	1954
	1	1955
	1	1957
	1	1958
	1	1959
	4	1960
Total	10	
Mike Mansfield: Average caucuses per year—7.62 (122÷16)	5	1961
	5	1962
	4	1963
	8	1964
	8	1965
	3	1966
	4	1967
	1	1968
	5	1969
	7	1970
	6	1971
	8	1972
	17	1973
	14	1974
	20	1975
	7	1976
Total	122	
Robert C. Byrd: Average caucuses per year—10.57 (37÷3.5)	17	1977
	4	1978
	7	1979
	9	1980
Total	37	

Mr. ROBERT C. BYRD. Mr. President, as to the Democratic Policy Committee, the Senate Democratic Policy Committee, established in 1946, was an outgrowth of recommendations developed during the course of a study undertaken in the 79th Congress by the LaFollette-Monroney Joint Committee on the Organization of Congress. The bipartisan Joint Committee, created in February 1945, was directed to "make a full and complete study of the organization and operation of the Congress of the United States" and "recommend improvements with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution."

The Joint Committee held public hearings in 1945, and certain witnesses advanced proposals relating to the establishment of legislative "policy committees" or similar formalized groups. It was suggested that these legislative groups could assume responsibility for organizing and promoting broad legislative programs; plan, coordinate and guide the legislative affairs of Congress; initiate action in connection with legislative matters not clearly falling within the province of any one standing committee; provide for a more orderly flow of bills to the House and Senate floors; implement party platforms; constitute a focus of responsibility and accountability for party action or inaction; synthesize divergent interests in each House; improve Congressional performance on fiscal matters; and enhance communication, cooperation, and understanding between the executive and legislative branches of government.

On March 4, 1946, the Joint Committee on the Organization of Congress filed a report containing its recommended changes in the organization and operation of Congress. Included in its recommendations was a proposal that both the House and the Senate establish formal committees for the determination and expression of majority policy and minority policy. Each of the four policy committees was to be composed of seven members appointed at the opening of each new Congress by the respective majority and minority conferences. The membership on all policy committees was automatically to expire at the close of each Congress.

These Committees were provided for in Section 244 of the Legislative Reorganization Act of 1946 as it passed the Senate on June 10, 1946, by a vote of 49-16. However, that section was knocked out of the Act by the House with little or no debate. George B. Galloway, Staff Director of the LaFollette-Monroney Joint Committee, said that the Policy Committee provisions for the House of Representatives met the combined opposition of Speaker Rayburn, Majority Leader McCormack, Minority Leader Martin, and House Parliamentarian Lew Deschler, because they feared that the Policy Committees would take too much power away from the Speaker.

Although there were not parallel fears on the part of the Senate leadership, the Senate agreed to accept the House version of the bill, with the understanding that action would be taken at an early date after the passage of the Reorganization Act to otherwise provide for Senate Policy Committees.

A few days after the Senate agreed to the House changes to the Legislative Reorganization Act, the Senate passed the Supplemental Appropriation Bill for 1947. That Bill included the following provision for Majority and Minority Policy Committees in the Senate:

> For maintenance of a staff for a majority policy committee and a minority policy committee in the Senate, consisting of seven members each, for the formulation of overall legislative policy of the respective parties, the members of such staffs to assist in study, analysis and research on problems involved in policy determinations, and to be appointed, and their compensation fixed, by the policy committee concerned, at rates not to exceed $8,000 per annum in any case, $15,000 for each such committee, in all, fiscal year 1947, $30,000, to be available at the beginning of the Eightieth Congress.

This provision was accepted by the House, and the bill, H.J. Res. 390, which established the Majority and Minority Policy Committees for the Senate, was signed by President Truman on August 8, 1946, as Public Law 79-663.

Since that first Supplemental Appropriations Bill in 1946, the existence of both Committees has been perpetuated merely as line items in the annual Legislative Appropriations Acts. In addition, there is relatively little legislative history to indicate how the Committees were to be organized and how they were to function to achieve the objectives set out in the hearings for the Legislative Reorganization Act.

Consequently, the workings and purposes of the Committees and their staffs have changed in the intervening years depending on a variety of factors, including:

1) whether the Democratic Party has retained a Majority in the Senate or—Heaven forbid—whether the Committee has had to function as the Minority Policy Committee; this has only happened twice in its 33 years of history: at its establishment in the 80th Congress, from 1947-1949 and in the 83rd Congress, from 1953-1955;

2) whether there has been a Democratic administration or if the Policy Committee has needed to formulate the policy for the Democratic Party to follow in the Senate; and

3) the personal style of the Committee Chairman, the Party's Leader in the Senate.

Mr. President, at the Democratic Conference on January 2, 1947, Senator McKellar of Tennessee proposed that the Conference select the members, as was suggested by the LaFollette-Monroney Committee. Wyoming Senator O'Mahoney proposed instead that the Party Leader select the members, and he made this motion:

> "Resolved, that the Chairman of the Conference be authorized to appoint the membership of the Minority Policy Committee (the Democrats were in the Minority in the 80th Congress) provided for by PL 663, 79th Congress, and that he is hereby named Chairman of such Committee."

Senator O'Mahoney's resolution was adopted by voice vote with the only dissenting vote being cast by Senator McKellar.

Senator Alben Barkley of Kentucky, Chairman of the Conference and Minority Leader, stated he would give careful consideration to the choice of members and that geographical distribution would be a factor in making the appointments. The resolution was reaffirmed at the first Conference of the 82nd Congress in January, 1951, and the procedure set by it has been followed in all succeeding Congresses.

At the next meeting of the Conference on January 15, 1947, Chairman Barkley announced the appointment of the members of the Policy Committee. He also suggested that the Democratic Whip and the Secretary of the Conference be invited to meet with the Policy group. The suggestion was accepted and the Whip and Secretary became *ex officio* members of the Committee.

The number of members has remained at seven and the practice of appointing the Democratic Whip and the Secretary of the Democratic Conference *ex officio* members has been followed in all Congresses to date. On January 25, 1971, Sen. Mike Mansfield, Majority Leader and Chairman of the Policy Committee, proposed to the Democratic Steering Committee that all Presidents Pro Tempore be members *ex officio* of the Policy

Committee. The suggestion was unanimously approved.

Since the initial appointments were made in 1947, new members have been appointed only when vacancies occurred as a result of death, retirement, or defeat. The Chairman, the Democratic Whip, and the Secretary of the Conference are, of course, elected by the Conference at the beginning of each Congress.

LEGISLATIVE REVIEW COMMITTEE

For the past twenty years, the Democratic Policy Committee and the Democratic Legislative Review Committee have been very closely affiliated, and they should be discussed together. The Legislative Review Committee or Calendar Review Committee, was created in 1953. Minority Leader Lyndon Johnson designated two junior Senators to assist him and the Whip in their floor duties and in monitoring the flow of legislation for the Senate Chamber.

The Membership of the Legislative Review Committee was from 1953–54—Albert Gore, Tenn.; George Smathers, Fla. 1955–56—Sam J. Ervin, N.C.; Alan Bible, Nev. 1957–58—Alan Bible, Nev.; Joseph S. Clark, Pa.

On March 6, 1959, at a Policy Committee meeting, Chairman of the Committee, Senator Lyndon Johnson, suggested that the two members of the Legislative Review Committee be invited, "from time to time," to sit with the Policy Committee.

At the meeting of February 2, 1971, Chairman of the Policy Committee, Mike Mansfield, said: "It is the practice of this Committee to make no distinction between the Legislative Review Committee and the Majority Policy Committee proper. That applies to discussions, to clearing legislation for the floor, and to adopting resolutions which define party positions."

The Legislative Review Committee was expanded to three members on April 14, 1959, and to four members on January 10, 1961. On March 9, 1977, the Democratic Conference approved my recommendation that the Legislative Review Committee be expanded to eight members.

VOTING PRIVILEGES

P.L. 79–663 authorized only seven members to constitute the Policy Committee. Statutorily, then, only seven people would have a vote in the Committee, while seventeen are actually participating. In practice, votes rarely occur. Those votes that do take place are not recorded. Discussion is open to all who are invited to the meetings, in addition to the "official" members.

CHRONOLOGY OF MEMBERS

Senator Alben W. Barkley of Kentucky, the Democratic Leader, appointed six members at the Democratic Conference held on January 15, 1947, with the Whip and Secretary of the Conference named as *ex officio* members of the Committee.

1947–48: Alben W. Barkley, Kentucky, Chairman and Minority Leader; Millard E. Tydings, Maryland; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Carl A. Hatch, New Mexico; Joseph C. O'Mahoney, Wyoming; Scott W. Lucas, Illinois, *ex officio* as Minority Whip; Brien McMahon, Connecticut, *ex officio* as Secretary of the Minority Conference.

In 1949, Senator Lucas was elected Chairman at the beginning of the 81st Congress to succeed Senator Barkley who had been elected Vice President with Truman in 1948. Senator Francis J. Myers of Pennsylvania was chosen to take Senator Lucas' place as Whip. Senator Hatch retired at the conclusion of the 80th Congress and his place remained vacant throughout the 81st.

1949–50: Scott W. Lucas, Illinois, Chairman and Majority Leader; Millard E. Tydings, Maryland; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Joseph C. O'Mahoney, Wyoming; (Vacancy); Francis J. Myers, Pennsylvania, *ex officio* as Majority Whip; Brien McMahon, Connecticut, *ex officio* as Secretary of the Majority Conference.

Both Senator Lucas and Senator Myers were defeated for reelection to the Senate in November, 1950. On January 3, 1951, Senator Ernest W. McFarland of Arizona was elected Majority Leader, and concurrently as Chairman of the Policy Committee. Senator Lyndon B. Johnson of Texas was elected Majority Whip.

Senators Robert S. Kerr of Oklahoma and Virgil M. Chapman of Kentucky were appointed to the Committee to fill the vacancies created by the retirement of Senator Hatch and the defeat of Senator Tydings. On July 24, 1951, Senator Earle C. Clements of Kentucky was appointed to fill the vacancy created by the death of Senator Chapman on March 8. Senator McMahon died July 28, 1952, but his seat remained vacant on the Committee until the next Congress.

1951–52: Ernest W. McFarland, Arizona, Chairman and Majority Leader; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Joseph C. O'Mahoney, Wyoming; Virgil S. Chapman, Kentucky[1]; Robert S. Kerr, Oklahoma; Earle C. Clements, Kentucky[2]; Lyndon B. Johnson, Texas, *ex officio* as Majority Whip; Brien McMahon, Connecticut, *ex officio* as Secretary of the Majority Conference.

On January 3, 1953, Senator Johnson of Texas became Chairman when he was elected Minority Leader, and Senator Clements and Senator Thomas C. Hennings, Jr., of Missouri, became *ex officio* members as Whip and Secretary of the Conference, respectively. Senators James E. Murray of Montana and Edwin C. Johnson of Colorado were appointed to fill the seats vacated by Senators O'Mahoney and Clements. Senator O'Mahoney had been defeated for reelection and Senator Clements succeeded to Whip.

1953–54: Lyndon B. Johnson, Texas, Chairman and Minority Leader; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Robert S. Kerr, Oklahoma; James E. Murray, Montana; Edwin C. Johnson, Colorado; Earle C. Clements, Kentucky, *ex officio* as Minority Whip; Thomas C. Hennings, Jr., Missouri, *ex officio* as Secretary of the Minority Conference.

In 1955 Senator Carl Hayden of Arizona was chosen in place of Senator Johnson of Colorado, who retired at the end of the 83d Congress. The other members of the Committee remained the same.

1955–56: Lyndon B. Johnson, Texas; Chairman and Majority Leader; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Robert S. Kerr, Oklahoma; James E. Murray, Montana; Carl Hayden, Arizona; Earle C. Clements, Kentucky, *ex officio* as Majority Whip; Thomas C. Hennings, Jr., Missouri, *ex officio* as Secretary of the Majority Conference.

Senator Mike Mansfield of Montana was elected Majority Whip on January 3, 1957, in place of Senator Clements who had been defeated for reelection. Senator Mansfield thus became an *ex officio* member of the Policy Committee.

1957–58: Lyndon B. Johnson, Texas, Chairman and Majority Leader; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Robert S. Kerr, Oklahoma; James E. Murray, Montana; Carl Hayden, Arizona; Mike Mansfield, Montana, *ex officio* as Majority Whip; Thomas C. Hennings, Jr., Missouri, *ex officio* as Secretary of the Majority Conference.

1959–60: Lyndon B. Johnson, Texas, Chairman and Majority Leader; Theodore F. Green, Rhode Island; Lister Hill, Alabama; Richard B. Russell, Georgia; Robert S. Kerr, Oklahoma; James E. Murray, Montana; Carl Hayden, Arizona; Mike Mansfield, Montana, *ex officio* as Majority Whip; Thomas C. Hennings, Jr., Missouri, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: E. L. Bartlett, Alaska[3]; Philip A. Hart, Michigan[3]; Clair Engle, California.[4]

Senator Mansfield became Chairman in 1961 when he was elected Majority Leader, succeeding Senator Johnson who has been elected Vice President with Kennedy. The Conference elected Senator Hubert H. Humphrey of Minnesota to fill Mr. Mansfield's place as Whip, and chose Senator George A. Smathers of Florida for Secretary of the Conference; Senator Hennings died on September 13, 1960.

Senator Mansfield expanded the Legislative Review Committee to four members, with the appointment of Senator Edmund S. Muskie of Maine, on January 28, 1961. The other three Assistant Whips remained in their posts.

Senators John O. Pastore of Rhode Island and Warren G. Magnuson of Washington were appointed to replace Senators Green and Murray who retired on January 3, 1961. On February 13, 1962, Senator Stuart Symington of Missouri was appointed in place of Senator Kerr, who died on January 1, 1962.

1961–62: Mike Mansfield, Montana, Chairman and Majority Leader; Lister Hill, Alabama; Richard B. Russell, Georgia; Robert S. Kerr, Oklahoma[5];

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[1] Died March 8, 1951.

[2] Appointed to replace Senator Chapman, July 24, 1951.

[3] Appointed March 6, 1959.

[4] Appointed April 14, 1959.

[5] Died January 1, 1962.

Carl Hayden, Arizona; John O. Pastore, Rhode Island; Warren G. Magnuson, Washington; Stuart Symington, Missouri[6]; Hubert H. Humphrey, Minnesota, *ex officio* as Majority Whip; George A. Smathers, Florida, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: E. L. Bartlett, Alaska; Clair Engle, California; Philip A. Hart, Michigan; Edmund S. Muskie, Maine.

Senator Daniel B. Brewster of Maryland was appointed to the Legislative Review Committee on April 3, 1963, to replace Senator Bartlett. Senator Muskie was designated Chairman of the Review Committee on the same date.

1963–64: Mike Mansfield, Montana, Chairman and Majority Leader; Lister Hill, Alabama; Richard B. Russell, Georgia; Carl Hayden, Arizona; John O. Pastore, Rhode Island; Warren G. Magnuson, Washington; Stuart Symington, Missouri; Hubert H. Humphrey, Minnesota, *ex officio* as Majority Whip; George A. Smathers, Florida *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman[7]; Clair Engle, California; Philip A. Hart, Michigan; Daniel B. Brewster, Maryland.[8]

Senator Russell B. Long of Louisiana was elected Majority Whip on January 4, 1965, to succeed Senator Humphrey, who was elected Vice President the previous November. Senator Daniel K. Inouye of Hawaii was appointed to the Review Committee to succeed Senator Engle, who retired at the close of the 88th Congress.

1965–66: Mike Mansfield, Montana, Chairman and Majority Leader; Lister Hill, Alabama; Richard B. Russell, Georgia; Carl Hayden, Arizona; Warren G. Magnuson, Washington; John O. Pastore, Rhode Island; Stuart Symington, Missouri; Russell B. Long, Louisiana, *ex officio* as Majority Whip; George A. Smathers, Florida, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman; Philip A. Hart, Michigan; Daniel B. Brewster, Maryland; Daniel K. Inouye, Hawaii.

Senator Robert C. Byrd of West Virginia was elected Secretary of the Conference on January 10, 1967, to replace Senator Smathers who did not seek reelection as Secretary.

1967–68: Mike Mansfield, Montana, Chairman and Majority Leader; Lister Hill, Alabama; Richard B. Russell, Georgia; Carl Hayden, Arizona; Warren G. Magnuson, Washington; John O. Pastore, Rhode Island; Stuart Symington, Missouri; Russell B. Long, Louisiana *ex officio* as Majority Whip; Robert C. Byrd, West Virginia, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman; Philip A. Hart, Michigan; Daniel B. Brewster, Maryland; Daniel K. Inouye, Hawaii.

On January 7, 1969, Senators J. W. Fulbright of Arkansas and Philip A. Hart of Michigan were appointed to replace Senators Hayden and Hill, who both retired at the close of the 90th Congress. Senator Edward M. Kennedy of Massachusetts won the Conference election for Whip, to assume that *ex officio* seat on the Committee.

In the Legislative Review Committee, Senators Ernest F. Hollings of South Carolina and Harold E. Hughes of Iowa replaced Senator Hart, who succeeded to the Policy Committee proper, and Senator Brewster, who was defeated for reelection.

1969–70: Mike Mansfield, Montana, Chairman and Majority Leader; Richard B. Russell, Georgia; Warren G. Magnuson, Washington; John O. Pastore, Rhode Island; Stuart Symington, Missouri; J. W. Fulbright, Arkansas; Philip A. Hart, Michigan; Edward M. Kennedy, Massachusetts, *ex officio* as Majority Whip; Robert C. Byrd, West Virginia, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman; Daniel K. Inouye, Hawaii; Ernest F. Hollings, South Carolina; Harold E. Hughes, Iowa.

Senator Russell died on January 21, 1971. Senator Herman E. Talmadge of Georgia was appointed to replace Senator Russell on January 26, 1971.

At the Conference of January 26, 1971, Senator Byrd was elected Majority Whip. Senator Frank E. Moss of Utah was elected Secretary of the Conference succeeding Senator Byrd.

Senator Ellender died July 27, 1972. He was succeeded as President *Pro Tempore* by Senator James O. Eastland of Mississippi on August 2, 1972.

1971–72: Mike Mansfield, Montana, Chairman and Majority Leader; Warren G. Magnuson, Washington; John O. Pastore, Rhode Island; Stuart Symington, Missouri; J. W. Fulbright, Arkansas; Philip A. Hart, Michigan; Herman E. Talmadge, Georgia; Allen J. Ellender, Louisiana, *ex officio* as President *Pro Tempore*[9]; James O. Eastland, Mississippi, *ex officio* as President *Pro Tempore*[10]; Robert C. Byrd, West Virginia, *ex officio* as Majority Whip; Frank E. Moss, Utah, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman; Daniel K. Inouye, Hawaii; Ernest F. Hollings, South Carolina; Harold E. Hughes, Iowa.

The Policy Committee was unchanged during the 93d Congress.

On January 17, 1975, Senator Ernest Hollings of South Carolina was appointed to replace Senator J. W. Fulbright who was defeated for reelection.

In the Legislative Review Committee, Senators Vance Hartke of Indiana and Dale Bumpers of Arkansas replaced Senator Hollings, who succeeded to the Policy Committee proper, and Senator Hughes who retired at the close of the 93d Congress.

1975–76: Mike Mansfield, Montana, Chairman and Majority Leader; Warren G. Magnuson, Washington; John O. Pastore, Rhode Island; Stuart Symington, Missouri; Philip A. Hart, Michigan; Herman E. Talmadge, Georgia; Ernest F. Hollings, South Carolina; James O. Eastland, Mississippi, *ex officio* as President *Pro Tempore;* Robert C. Byrd, West Virginia, *ex officio* as Majority Whip; Frank E. Moss, Utah, *ex officio* as Secretary of the Majority Conference.

Legislative Review Committee: Edmund S. Muskie, Maine, Chairman; Daniel K. Inouye, Hawaii; Vance Hartke, Indiana; Dale Bumpers, Arkansas.

At the beginning of the 95th Congress, Robert C. Byrd was unanimously elected Majority Leader and Chairman of the Democratic Policy Committee. New members were appointed to the committee and certain changes were made. Edmund S. Muskie moved from Chairman of the Legislative Review Committee to full membership to fill the seat of John O. Pastore who retired. Quentin M. Burdick was named to fill the seat of Stuart Symington who retired. Adlai E. Stevenson became a member *vice* Philip A. Hart who retired and subsequently died. Alan Cranston and Daniel Inouye became *ex officio* members as Whip and Secretary of the Conference, respectively.

New members appointed to the Legislative Review Committee were William Proxmire *vice* Vance Hartke, Abraham Ribicoff *vice* Edmund S. Muskie, and Floyd K. Haskell *vice* Daniel K. Inouye.

On March 3, 1977, the Majority Leader named four additional Senators to the Legislative Review Committee under the procedure adopted by the Democratic Caucus on January 13, 1977, under which the Majority Leader gives notice of a vacancy to each member of the Democratic Conference and then announces his selection no sooner than three legislative days later at a Democratic Conference. Those appointed were Frank Church, Claiborne Pell, Lloyd Bentsen and John Glenn.

At the Democratic Caucus on March 9, these appointments were approved.

1977–1978: Robert C. Byrd, West Virginia, Chairman; Warren G. Magnuson, Washington; Herman E. Talmadge, Georgia; Ernest F. Hollings, South Carolina; Edmund S. Muskie, Maine; Quentin N. Burdick, North Dakota; Adlai E. Stevenson, III, Illinois; James O. Eastland, Mississippi, *ex officio* as President *Pro Tempore;* Hubert H. Humphrey, Minnesota, *ex officio* as Deputy President *Pro Tempore*[11]; Alan Cranston, California, *ex officio* as Majority Whip; Daniel K. Inouye, Hawaii, *ex officio* as Secretary of the Democratic Conference.

Policy Legislative Review Committee: Dale Bumpers, Chairman, Arkansas; William Proxmire, Wisconsin; Abraham Ribicoff, Connecticut; Floyd Haskell, Colorado; Frank Church, Idaho; Claiborne Pell, Rhode Island; Lloyd Bentsen, Texas; John Glenn, Ohio.

At the beginning of the 96th Congress, Warren Magnuson, already a member of the committee, succeeded James O. Eastland, an *ex officio* member, as President *Pro Tempore*. Edmund S. Muskie resigned from the Senate on May 7, 1980, and was sworn in as Secretary of State. At a meeting of the Democratic Conference on May 13, 1980, Abraham Ribicoff was selected to fill the vacant position on the Committee and Daniel Patrick Moynihan was appointed to succeed Senator Ribicoff on the Legislative Review Committee.

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[6] Appointed to succeed Senator Kerr, February 13, 1962.

[7] Position created April 3, 1963.

[8] Appointed April 3, 1963.

[9] Died July 27, 1972.

[10] Succeeded as President *Pro Tempore*, August 2, 1972.

[11] Died January 13, 1978.

1979–1980: Robert C. Byrd, West Virginia, Chairman; Warren G. Magnuson, Washington; Herman E. Talmadge, Georgia; Ernest F. Hollings, South Carolina; Edmund S. Muskie, Maine[12]; Quentin N. Burdick, North Dakota; Adlai E. Stevenson, III, Illinois; Abraham Ribicoff, Connecticut[13]; Alan Cranston, *ex officio* (as Whip); Daniel K. Inouye, *ex officio* (as Secretary of Conference).

Policy Legislative Review Committee: Dale Bumpers, Chairman, Arkansas; William Proxmire, Wisconsin; Abraham Ribicoff, Connecticut[13]; Frank Church, Idaho; Claiborne Pell, Rhode Island; Lloyd Bentsen, Texas; John Glenn, Ohio; John Melcher, Montana; Daniel Patrick Moynihan, New York.[14]

FUNCTION OF THE COMMITTEE

In the 1950's and 1960's, the Democratic Policy Committee was largely responsible for the programming of legislation. Meetings were scheduled depending on the backlog of bills on the calendar and on the need to determine the order in which legislation would be considered by the Senate. The Policy Committee cleared all bills which could be passed by unanimous consent—frequently clearing from 50 to 100 bills at a time—and determined which controversial bills should be brought up and which should be deferred. Although members frequently disclaimed any desire to function as the Senate equivalent of the House Rules Committee, Committee members could, and occasionally did, "hold" up legislation which they personally felt was ill-advised.

The Policy Committee met sporadically under the chairmanship of Majority Leader Johnson, unusually meeting for several hours once every six weeks to two months. Majority Leader Johnson cleared the schedule for recesses and adjournment with the members of the Committee; the Committee determined when to adjourn *sine die* and which bills to pass by that time. At one point, the minutes indicate that the Committee discused a letter from a Senator who asked that legislative activity be suspended for a week to ten days in May, so that Senators could make commencement addresses at colleges. The Committee decided against that suggestion. Times have changed over the years . . . Senators don't even dream of such luxuries in the 1980's.

Under the chairmanship of Majority Leader Mansfield, the Policy Committee continued to program legislation and discuss matters relating to the legislative process. With the election of a Democratic administration, the Committee also developed into a forum for the expression of legislative views for transmittal to the executive. Vice-President Johnson attended sessions of the Democratic Policy Committee with great regularity, and Vice-President Humphrey continued this practice after his election in 1964. During the 1960's, the Committee usually met every two months, although in several of the years only four or five meetings were held; from 1969 to 1976, the Committee met quite frequently—usually every two weeks.

In recent years, the Policy Committee has had fewer formal meetings, and members meet unofficially instead to discuss the advisability of scheduling very controversial legislation.

In addition the Policy Committee no longer meets to clear all the bills to be passed by unanimous consent from the calendar. Now, any Senator on the Democratic side can notify the staff of the Policy Committee if he desires to study a bill further before it passes; and Senators inform the Leadership when they have an amendment to a bill or want notified before passage.

STAFF FUNCTIONS

I have mentioned the Democratic Policy Committee staff. The Committee now has a staff of 24 persons who are capably directed and assisted by Mary Jane Checchi. Mary Jane, as Chief Counsel and Staff Director of the Policy Committee, is the tenth person—and the first woman—to carry that heavy load since the Committee's formation in 1947, and she is only the second woman staff director of any Committee in the history of the Senate.

The first staff director of the Democratic Policy Committee was Leslie L. Biffle, appointed by Majority Leader Alben Barkley for the 80th Congress from January 3, 1947, to December 31, 1948. He was followed by Alfred G. Vigderman in the 81st Congress and by James H. Green, Jr. in the 82nd. Gerald W. Siegel served as Chief Counsel of the Committee from the 83rd through the 85th Congresses. Mr. Siegel was succeeded by James W. Wilson as General Counsel in the 86th Congress, by Harry C. McPherson in the 87th and the 1st Session of the 88th, and by Kenneth Teasdale in the 2nd Session. In 1965, Charles D. Ferris assumed the directorship as General Counsel and remained in that position from the 89th through the 94th Congresses. He was succeeded by Thomas D. Hart in the 95th Congress. Mary Jane Checchi was appointed Chief Counsel and Staff Director in the 96th Congress.

The staff of the Policy Committee conducts a wide range of important legislative responsibilities. Various members of the staff are experts in specific subject areas—for instance, foreign policy, economics, energy, human resources, the judiciary, etc.—and advise the Leadership and Democratic Senators on problems in those areas. Members of the staff also assist the Leadership in carrying out its duties on the Senate floor.

In addition, the Policy Committee staff provides many services for Democratic Senators, including:

1) Preparation of the Senate Agenda each day, which details the legislative business for that day and any time agreements that may be applicable;

2) Legislative Bulletins—the Policy Committee staff prepares bulletins on bills reported from Committee. They include a summary of the bill's major provisions, possible amendments to be offered, and reference to previous related rollcall votes. They are distributed to Senators on the floor and to Senators' offices.

3) Voting Records—Printed records of every rollcall vote the Senate takes are prepared and distributed to offices.

4) Individual Voting Record Booklet—After adjournment of each session, the staff publishes a composite of the votes of the session with subject and chronological indexes, which is distributed to each Senator.

5) Summary of Major Achievements—the staff prepares a report for the Majority Leader which contains a summary of all bills the Senate has passed. This report is organized by major topics ranging from "Agriculture" to "Veterans." The Majority Leader often inserts this report in the *Congressional Record* prior to a recess. After adjournment, this material is further edited, updated, and published as a Senate document. This legislative history of the session of Congress has been printed every year since 1947.

6) Attendance Records—records of attendance at roll call votes are maintained for each Senator; and

7) Legislative Activity—information is maintained regarding hours in session, days in session, bills, passed, number of votes taken, etc., on a daily basis which can be compared with previous sessions going back to 1933. Information regarding public laws, vetoes, cloture votes, etc., is also available from the office.

Mr. President, as I indicated at the beginning, this is the 17th in a series of speeches I have made on the United States Senate, the first speech having occurred on March 21 of this year. I have stated before, that I feel that these statements will be of interest and usefulness to the Senate as it approaches its 200th anniversary in 1989.

Anent that anniversary, I call attention to the fact that the Senate today passed S. Res. 381, a resolution which I introduced on behalf of myself, Mr. BAKER, Mr. STEVENS, and Mr. HARRY F. BYRD, JR. on March 5 of this year. That resolution was reported to the Senate from the Judiciary Committee on July 30 without amendment and with a preamble.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD at this point as a part of this 17th statement.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 381

Whereas the Senate of the United States in the year 1989 will celebrate the two hundredth anniversary of its establishment under the Constitution, and;

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[12] Resigned on May 7, 1980, to become Secretary of State.

[13] Resigned from Legislative Review Committee on May 13, 1980, to become member of Policy Committee.

[14] Appointed May 13, 1980.

Whereas the Senate's historical development has been inextricably bound to the development of our national heritage of individual liberty, representative government, and the attainment of equal and inalienable rights, and;

Whereas it is appropriate and desirable to provide for the observation and commemoration of this anniversary: Now, therefore, be it

Resolved, That there is hereby established a Study Group on the Commemoration of the United States Senate Bicentennary (hereafter in this resolution referred to as the "Study Group") to plan the commemoration of the United States Senate bicentennial.

SEC. 2. The Study Group shall be composed of the following members:

(a) the majority leader and minority leader of the Senate;

(b) the executive secretary of the Senate Commission on Art and Antiquities;

(c) five members of the Senate to be appointed by the President of the Senate upon the recommendation of the majority and minority leaders of the Senate;

(d) three former Members of the Senate to be appointed by the President of the Senate upon the recommendation of the majority and minority leaders of the Senate.

(c) the chairman of the Senate Historical Office Advisory Committee;

(f) the Librarian of Congress, or his designee;

(g) the Archivist of the United States, or his designee; and

(h) two members of the Senate Historical Office Advisory Committee to be appointed by that committee's chairman.

SEC. 3. The Study Group shall select a chairman from among its members. Five members of the Study Group shall constitute a quorum. Any vacancy in the membership of the Study Group shall be filled in the same manner in which the original appointment was made.

SEC. 4. It shall be the duty of the Study Group to prepare an overall plan for commemorating the bicentennial of the Senate of the United States through an appropriate program of publications, exhibits, symposia, and related activities. The objective of this commemoration is to inform and emphasize to the Nation the role of the Senate from its historic beginnings through two hundred years of growth, challenge, and change. The Study Group in its planning is directed to develop a program that will draw upon the resources of current and former members, scholars, and the general public.

SEC. 5. Not later than eighteen months after the date of agreement to this resolution, the Study Group shall submit to the President of the Senate a comprehensive report incorporating its specific recommendations for the commemoration of the Senate's bicentennial. The report may recommend activities such as, but not limited to, the following:

(a) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history and traditions of the Senate;

(b) bibliographical and documentary projects and publications;

(c) conferences, symposia, lectures, seminars, and other programs;

(d) the development of exhibits, including mobile exhibits;

(e) ceremonies and celebrations commemorating specific events; and

(f) the issuance of commemorative stamps.

SEC. 6. The report shall include proposals for such legislative enactments and administrative actions as the Study Group considers necessary to carry out its recommendations.

SEC. 7. The members of the Study Group shall receive no compensation for their services as such. Members appointed from private life shall be allowed necessary per diem and travel expenses to and from Washington, District of Columbia, to be paid from the contingent fund of the Senate upon vouchers signed by the chairman of the Study Group and approved by the majority leader and the minority leader of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 9 o'clock. After the two leaders have been recognized under the standing order, which for Monday has been reduced to a total of 5 minutes to be equally divided between the two leaders, there will be six orders for recognition of Senators for not to exceed 15 minutes. That will more than consume the 1 hour under the cloture rule.

Consequently, at the conclusion of the orders for the recognition of Senators, the automatic quorum call will occur, and when a quorum is established, the automatic rollcall vote will occur on the motion to invoke cloture on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

If cloture is invoked, that nomination then will be the business of the Senate, to the exclusion of all other business, until completed. If the vote to invoke cloture fails, the Senate will return immediately to legislative session, by unanimous consent.

The PRESIDING OFFICER (Mr. MELCHER). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. When the Senate returns to legislative session, the Senate will again resume consideration of the Alaska lands bill. Rollcall votes will occur during the day on that bill and/or other measures that have been cleared for action.

Mr. President, only 3 days remain before the August break—Monday, Tuesday, and Wednesday. During those 3 days, I anticipate that rollcall votes will likely occur daily and then the Senate will recess until after the convention.

RECESS UNTIL 9 A.M. ON MONDAY, AUGUST 4, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9 o'clock a.m. on Monday next.

The motion was agreed to; and, at 5:38 p.m., the Senate recessed until Monday, August 4, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1980:

INTER-AMERICAN FOUNDATION

The following-named persons to be Members of the Board of Directors of the Inter-American Foundation for the terms indicated:

For the remainder of the term expiring September 20, 1982:

Guy Feliz Erb, of California, vice Carolyn R. Payton, resigned.

For the term expiring October 6, 1984:

Doris B. Holleb, of Illinois, vice Charles A. Meyer, term expired.

For the term expiring September 20, 1986:

Paula Stern, of the District of Columbia, vice Arnold Nachmanoff, term expiring.

For the term expiring October 6, 1986:

Luis Guerrero Nogales, of California, vice Manuel R. Caldera, term expiring.

ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be major

Aaron, Larry D., [redacted].
Abrams, John N., [redacted].
Adair, Lawrence J., [redacted].
Adams, Ben P., [redacted].
Adams, Jerome, [redacted].
Adams, Robert H., Jr., [redacted].
Adams, Robert L., [redacted].
Adams, Walter H., [redacted].
Adkins, Richard C., [redacted].
Adkins, Terrence L., [redacted].
Albright, Robert H., [redacted].
Alexander, Charles L., [redacted].
Alich, James A., [redacted].
Allen, Douglas L., Jr., [redacted].
Allen, James B., [redacted].
Allen, Roderic D., [redacted].
Alley, John E., [redacted].
Allred, Kenneth L., [redacted].
Altieri, Richard T., [redacted].
Alton, John F., [redacted].
Alton, Ronnie D., [redacted].
Alvord, Harold F., [redacted].
Ament, Robert J., [redacted].
Amstutz, Richard E., [redacted].
Anderson, Andrew K., [redacted].
Anderson, Charles V., [redacted].
Anderson, Charles W., III, [redacted].
Anderson, Frank H., III, [redacted].
Anderson, George L., Jr., [redacted].
Anderson, Jerry F., [redacted].
Anderson, John C., [redacted].
Anderson, Larry D., [redacted].
Anderson, Michael L., [redacted].
Anderson, Phillip A., [redacted].
Anderson, Robert C., [redacted].
Anderson, Roger E., [redacted].
Anderson, Thomas W., [redacted].
Andrews, Michael A., [redacted].
Andrews, Teddy G., [redacted].
Andrighetti, John [redacted].
Angeli, Robert R., [redacted].
Ansel, Raymond B., [redacted].
Applehans, Robert B., Jr., [redacted].
Arango, Roger J., Jr., [redacted].
Archer, David M., [redacted].
Archibald, David J., Jr., [redacted].
Arens, Noel J., [redacted].
Arlauskas, Joseph, [redacted].
Arnold, Henry H., III, [redacted].
Ashcraft, Jack G., [redacted].
Aylor, Robert L., [redacted].
Ayscue, John A., [redacted].
Baggett, David L., [redacted].
Baggett, Judson B., [redacted].
Bahr, James J., [redacted].
Bailey, Albert W., [redacted].
Bailey, Arthur W., [redacted].
Bailey, Max P., III, [redacted].
Baillon, Larry P., [redacted].
Baker, James R., [redacted].
Baker, Marvin H., [redacted].
Baldridge, James H., Jr., [redacted].
Balentine, Jimmie L., [redacted].
Banisch, Werner W., [redacted].
Barbee, Steve G., [redacted].
Barber, Preston W., [redacted].

Barber, Russel J., [redacted].
Barnes, Sidney L., [redacted].
Barr, Brian, [redacted].
Bartlett, Charles D., Jr., [redacted].
Bassett, Richard S., [redacted].
Bates, Bernie L., [redacted].
Bates, William M., [redacted].
Baybrook, Thomas G., [redacted].
Beach, Martin H., [redacted].
Beatty, Eugene E., Jr., [redacted].
Beauchamp, Charles E., Jr., [redacted].
Beauchamp, Roy E., [redacted].
Beck, Dwight A., [redacted].
Beck, Raymond G., [redacted].
Beddow, Sidney W., II, [redacted].
Beeson, Frank J., [redacted].
Behrens, Jon S., [redacted].
Behuniak, Thomas E., [redacted].
Bell, Carl H., III, [redacted].
Bell, Patrick J., [redacted].
Bell, Robert J., [redacted].
Bell, William L., [redacted].
Belt, Julia A., [redacted].
Bemis, Al H., [redacted].
Bennett, George C., [redacted].
Benoit, James A., [redacted].
Benson, Terry R., [redacted].
Berg, Thomas R., [redacted].
Berganini, Steven J., [redacted].
Berger, Joseph B., Jr., [redacted].
Bergsagel, Errol R., [redacted].
Bernier, Robert G., [redacted].
Beumler, Timothy C., [redacted].
Bevill, Edward E., [redacted].
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Malvesti, Richard J., [redacted].
Mancuso, Joseph J., [redacted].

Mangold, Robert B., xxx-xx-xxxx.
Manning, Jay P., xxx-xx-xxxx.
Marble, Louis E., xxx-xx-xxxx.
Mariana, Joseph P., Jr., xxx-xx-xxxx.
Markle, Ross E., xxx-xx-xxxx.
Marsh, Clayton E., xxx-xx-xxxx.
Marsh, Edward H., xxx-xx-xxxx.
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Marshall, John N., xxx-xx-xxxx.
Marshall, John N., Jr., xxx-xx-xxxx.
Martin, Robert F., xxx-xx-xxxx.
Martin, Wilkes T., Jr., xxx-xx-xxxx.
Martina, Herman J., xxx-xx-xxxx.
Martinache, Robert N., xxx-xx-xxxx.
Mason, Danny L., xxx-xx-xxxx.
Mason, Louis G., xxx-xx-xxxx.
Massott, Ronald A., xxx-xx-xxxx.
Mather, Walter E., Jr., xxx-xx-xxxx.
Mathews, Mathew S., III, xxx-xx-xxxx.
Matthews, David J., III, xxx-xx-xxxx.
Mauldin, Jerry V., xxx-xx-xxxx.
Mauldin, Terry M., xxx-xx-xxxx.
Maultsby, Calvin N., xxx-xx-xxxx.
Maunsell, Charles M., xxx-xx-xxxx.
Maupin, Larry S., xxx-xx-xxxx.
Maxie, Keith A., xxx-xx-xxxx.
Maxwell, Otis C., xxx-xx-xxxx.
May, Stephen A., xxx-xx-xxxx.
May, Terry L., xxx-xx-xxxx.
Mayfield, Truman M., xxx-xx-xxxx.
Mays, Audie L., xxx-xx-xxxx.
McAdoo, Arvil W., xxx-xx-xxxx.
McAnally, James L., xxx-xx-xxxx.
McAninch, William G., xxx-xx-xxxx.
McCaffrey, Edward J., Jr., xxx-xx-xxxx.
McCarthy, Gerald J., xxx-xx-xxxx.
McClam, James W., xxx-xx-xxxx.
McCloy, Michael N., xxx-xx-xxxx.
McCool, Dennis L., xxx-xx-xxxx.
McCormick, Arley H., xxx-xx-xxxx.
McCoy, James M., xxx-xx-xxxx.
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McDaniel, James A., xxx-xx-xxxx.
McDermott, Anthony R., xxx-xx-xxxx.
McDonald, Allen K., xxx-xx-xxxx.
McDonald, Robert J., xxx-xx-xxxx.
McDonough, James F., xxx-xx-xxxx.
McEldowney, Robert S., xxx-xx-xxxx.
McElroy, William E., III, xxx-xx-xxxx.
McFarland, Henry J., Jr. xxx-xx-xxxx.
McGarrahan, John R., xxx-xx-xxxx.
McGee, George P., xxx-xx-xxxx.
McGill, Allan C., II, xxx-xx-xxxx.
McGovern, Patrick M., xxx-xx-xxxx.
McGregor, Stewart K., xxx-xx-xxxx.
McGrory, James C., Jr., xxx-xx-xxxx.
McGuire, Patrick H., xxx-xx-xxxx.
McIntyre, Kendall K., xxx-xx-xxxx.
McKenna, John M., xxx-xx-xxxx.
McKenzie, James B., Jr., xxx-xx-xxxx.
McLaughlin, Aaron C., xxx-xx-xxxx.
McLaughlin, Peter D., xxx-xx-xxxx.
McLaughlin, Raymond G., xxx-xx-xxxx.
McLaurin, John P., III, xxx-xx-xxxx.
McLean, Tony L., xxx-xx-xxxx.
McLellan, Malcolm R., Jr., xxx-xx-xxxx.
McMahan, William T., xxx-xx-xxxx.
McMahon, Michael, xxx-xx-xxxx.
McMains, James R., xxx-xx-xxxx.
McManus, Phillip J., Jr., xxx-xx-xxxx.
McWard, Robert G., xxx-xx-xxxx.
Meador, George R., xxx-xx-xxxx.
Mears, Gary R., xxx-xx-xxxx.
Mecredy, Robert F., III, xxx-xx-xxxx.
Meekin, Richard S., xxx-xx-xxxx.
Meier, Jimmy A., xxx-xx-xxxx.
Meigs, Montgomery C., xxx-xx-xxxx.
Mekkelsen, Norman B., Jr., xxx-xx-xxxx.
Meline, Arlen C., xxx-xx-xxxx.
Mellick, Jerry P., xxx-xx-xxxx.
Melton, Arthur R., xxx-xx-xxxx.
Menjivar, Milton R., xxx-xx-xxxx.
Mesisnger, Carl L., xxx-xx-xxxx.
MetCalf, Eugene E., xxx-xx-xxxx.
MetCalfe, Jerry F., xxx-xx-xxxx.
Metzger, Robert S., II, xxx-xx-xxxx.
Meybin, Robert J., III, xxx-xx-xxxx.
Meyer, Charles R., II, xxx-xx-xxxx.
Michaud, Robert R., xxx-xx-xxxx.
Michener, Robert F., xxx-xx-xxxx.
Middleton, George S., xxx-xx-xxxx.
Miesner, William H., Jr., xxx-xx-xxxx.
Mihelich, Daniel J., xxx-xx-xxxx.
Mikale, Dennis M., xxx-xx-xxxx.
Mikula, John E., xxx-xx-xxxx.
Millard, Arthur F., xxx-xx-xxxx.
Millard, Val D., xxx-xx-xxxx.
Miller, Donald D., xxx-xx-xxxx.
Miller, Gene L., xxx-xx-xxxx.
Miller, Howard E., xxx-xx-xxxx.
Miller, John R., xxx-xx-xxxx.
Miller, Mark W., xxx-xx-xxxx.
Miller, Michael W., xxx-xx-xxxx.
Miller, Timothy A., xxx-xx-xxxx.
Millett, Roman L., xxx-xx-xxxx.
Mills, Charles J., xxx-xx-xxxx.
Mills, Douglas H., xxx-xx-xxxx.
Mills, Thomas C., xxx-xx-xxxx.
Milroy, Patrick G., xxx-xx-xxxx.
Mingus, Leslie C., xxx-xx-xxxx.
Miszklevitz, Sheridan L., xxx-xx-xxxx.
Mitchell, Robert C., xxx-xx-xxxx.
Mitchell, William H., Jr., xxx-xx-xxxx.
Mitteer, Jack A., xxx-xx-xxxx.
Moberley, Ben E., xxx-xx-xxxx.
Moeller, Walter J. V., xxx-xx-xxxx.
Moler, Charles F., xxx-xx-xxxx.
Monette, Theodore A., Jr., xxx-xx-xxxx.
Monroe, Richard L., xxx-xx-xxxx.
Montgomery, Daniel L., xxx-xx-xxxx.
Montgomery, John L., xxx-xx-xxxx.
Montgomery, Richard L., xxx-xx-xxxx.
Montie, Michael E., xxx-xx-xxxx.
Moore, Edward G., Jr., xxx-xx-xxxx.
Moore, Edward V., xxx-xx-xxxx.
Moore, Robert G., xxx-xx-xxxx.
Moore, Walter B., Jr., xxx-xx-xxxx.
Moot, Raymond M., xxx-xx-xxxx.
Moreno, Anthony A., xxx-xx-xxxx.
Morgan, David T., Jr., xxx-xx-xxxx.
Morgan, Timothy X., xxx-xx-xxxx.
Morin, Robert A., Jr., xxx-xx-xxxx.
Morris, James B., xxx-xx-xxxx.
Morris, John W., xxx-xx-xxxx.
Morris, Melvin L., xxx-xx-xxxx.
Morris, Wayne H., xxx-xx-xxxx.
Morrow, Sidney H., xxx-xx-xxxx.
Morse, Teddy G., xxx-xx-xxxx.
Mosser, David R., xxx-xx-xxxx.
Mostella, Kenneth E., xxx-xx-xxxx.
Mountcastle, John W., xxx-xx-xxxx.
Mullans, John R., xxx-xx-xxxx.
Mullen, Edward J., Jr., xxx-xx-xxxx.
Mullins, Stephen A., xxx-xx-xxxx.
Mullis, Richard L., Jr., xxx-xx-xxxx.
Mulrine, Thomas V., xxx-xx-xxxx.
Murfee, Walter L., II, xxx-xx-xxxx.
Murff, Robert H., xxx-xx-xxxx.
Murphey, Samuel L. W., xxx-xx-xxxx.
Murphy, Chester A., III, xxx-xx-xxxx.
Murphy, Lawrence E., xxx-xx-xxxx.
Murphy, Patrick T., xxx-xx-xxxx.
Murphy, Richard L., xxx-xx-xxxx.
Murphy, William F., xxx-xx-xxxx.
Musiol, Joseph J., xxx-xx-xxxx.
Muston, Kurt A., xxx-xx-xxxx.
Mutzig, Andy L., xxx-xx-xxxx.
Myers, Richard E., xxx-xx-xxxx.
Myers, Richard S., xxx-xx-xxxx.
Nadrah, Kenneth S., xxx-xx-xxxx.
Nahas, Albert J., xxx-xx-xxxx.
Nakano, Walter T., xxx-xx-xxxx.
Narburgh, Charles W., xxx-xx-xxxx.
Neilson, Graham M., xxx-xx-xxxx.
Nell, Theodore W., xxx-xx-xxxx.
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Neuman, Michael J., xxx-xx-xxxx.
Neville, Eugene O., Jr., xxx-xx-xxxx.
Nevilles, Willie C., xxx-xx-xxxx.
Newman, George E., III, xxx-xx-xxxx.
Newman, Harry T., xxx-xx-xxxx.
Newton, Lud A., xxx-xx-xxxx.
Nicholson, Roy L., xxx-xx-xxxx.
Nida, Anthony V., xxx-xx-xxxx.
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Noland, Robert F., xxx-xx-xxxx.
Noles, James L., xxx-xx-xxxx.
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Norton Augustus R., xxx-xx-xxxx.
Norton, Frank, Jr., xxx-xx-xxxx.
Nucci, Kernan M., xxx-xx-xxxx.
Nutt, Hershell R., xxx-xx-xxxx.
Nuzzi, Norman S., xxx-xx-xxxx.
Oakley, Robert E., Jr., xxx-xx-xxxx.
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O'Berlin, Randolph A., xxx-xx-xxxx.
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O'Connor, Joseph W., xxx-xx-xxxx.
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Oedewaldt, Gary A., xxx-xx-xxxx.
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Ohl, William C., II, xxx-xx-xxxx.
Oldham, Gary R., xxx-xx-xxxx.
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Olooney, James P., xxx-xx-xxxx.
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Osborne, James D., xxx-xx-xxxx.
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Palmer, Frederick E., xxx-xx-xxxx.
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Pavlou, Skevos G., xxx-xx-xxxx.
Paylor, John W., xxx-xx-xxxx.
Payne, Jimmy A., xxx-xx-xxxx.
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Peitchinsky, Jesse T., xxx-xx-xxxx.
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Perry, Robin xxx-xx-xxxx.
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Petrosky, Daniel J., xxx-xx-xxxx.
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Phillips, James D., III, xxx-xx-xxxx.
Phillips, Lanier B., xxx-xx-xxxx.
Pickar, Jerry F., xxx-xx-xxxx.
Pierce, John W., Jr., xxx-xx-xxxx.
Pigman, Dean A., xxx-xx-xxxx.
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Pinckert, Frank G., xxx-xx-xxxx.

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Schwartz, Samuel R., [redacted].
Schwartz, Thomas A., [redacted].
Schweinfurth, William F., Jr., [redacted].
Scipioni, Louis, Jr., [redacted].
Scott, Leonard P., Jr., [redacted].
Scott, Reginald C., [redacted].
Scotti, Frank P., [redacted].
Scrivener, Thomas S., [redacted].
Scrogin, Thomas W., [redacted].
Scully, Edward J., III, [redacted].
Seale, Leopold K., [redacted].
Sears, George B., Jr., [redacted].
Seaton, James A., [redacted].
Sefrin, Paul R., [redacted].
Seibel, James H., [redacted].
Seibold, Paul M., [redacted].
Seigrist, Charles D., [redacted].
Seiler, Curtis W., [redacted].
Seligram, Arnold L., [redacted].
Seltzer, Robert N., [redacted].
Semon, Barry H., [redacted].
Semon, Richard, [redacted].
Sengel, Edward W., III, [redacted].
Serio, Joseph, [redacted].
Severn, Theodore R., [redacted].
Severson, John E., [redacted].
Shadley, Robert D., [redacted].
Sharp, Harry L., [redacted].
Sharp, Thomas S., [redacted].
Sharp, William R., [redacted].
Sheil, Timothy J., [redacted].
Shelton, Walter J., [redacted].
Shipley, James E., [redacted].
Shirilla, George, [redacted].
Shirley, James E., [redacted].
Shuler, Richard D., [redacted].
Shumate, Rufus H., Jr., [redacted].
Sidebottom, William J., [redacted].
Sides, Richard G., [redacted].
Sienkiewicz, Richard J., [redacted].
Siket, James R., [redacted].
Silcox, Craig V., [redacted].
Silvas, George, Jr., [redacted].
Silver, Irvin E., [redacted].
Simpkins, Jimmie C., [redacted].
Simpson, James M., [redacted].
Sims, John E., [redacted].
Singer, Joseph B., [redacted].
Sink, Dana T., III, [redacted].
Skiles, James K., [redacted].
Skinner, Robert G., [redacted].
Slayton, Barney F., [redacted].
Sloan, John E., [redacted].
Sloniker, Michael E., [redacted].
Smaagaard, Arthur G., [redacted].
Small, Robert J., [redacted].
Smith, Alan C., [redacted].
Smith, Bryon W., [redacted].
Smith, Calvin E., [redacted].
Smith, Charles I., [redacted].
Smith, Donald F., [redacted].
Smith, Edwin P., [redacted].
Smith, Francis L., Jr., [redacted].
Smith, Henry C., III, [redacted].
Smith, James B., [redacted].
Smith, James L., [redacted].
Smith, James L., [redacted].
Smith, Lee G., [redacted].
Smith, Lowell J., [redacted].
Smith, Mason E., [redacted].
Smith, Nelson F., Jr., [redacted].
Smith, Paul E., [redacted].
Smith, Riley J., [redacted].
Smith, Rodney L., [redacted].
Smith, William C., [redacted].
Smith, William E., [redacted].
Smith, Zannie O., [redacted].
Snodgrass, James G., [redacted].
Solomon, Billy K., [redacted].
Solomon, James L., [redacted].
Sopko, Rance D., [redacted].
Sowa, Alexander P., Jr., [redacted].
Spain, Timothy P., [redacted].
Spaulding, Donald J., [redacted].
Spielbauer, Joseph P., [redacted].
Spillane, Joseph A., [redacted].
Spinello, Michael T., [redacted].
Spradling, David K., II, [redacted].
Spring, Sherwood C., [redacted].
Sprouse, Timothy D., [redacted].
Stacey, Clifford W., [redacted].
Stafford, Fenley D., Jr., [redacted].
Stancil, Charles M., [redacted].
Standifer, Leroy, [redacted].
Stankovich, Peter, [redacted].
Stankus, Frank T., [redacted].
Stanley, Gary P., [redacted].
Stanley, Stanislaw T., [redacted].

Starbird, Courtney B., [redacted].
Starr, Douglas H., [redacted].
Starr, John B., Jr., [redacted].
Stearns, Lester C., Jr., [redacted].
Steele, James, J., [redacted].
Steele William M., [redacted].
Steen, Kenneth B., [redacted].
Stefanowicz, Raymond S., III, [redacted].
Stemberger, Victor J., [redacted].
Steve, Joseph A., Jr., [redacted].
Stevens, James E., Jr., [redacted].
Stewart, Charles L., [redacted].
Stewart, James R., [redacted].
Stewart, John N., [redacted].
Stinson, Joe A., [redacted].
Stirling, William W., [redacted].
Stiver, Donald L., [redacted].
St Laurent, Norman B., [redacted].
Stock, Michael L., [redacted].
Stone, Riley M., Jr., [redacted].
Stone, Virgil W., [redacted].
Strabel, Edward W., [redacted].
Strange, John J., [redacted].
Street, Preas L., [redacted].
Streeter, Raymond C., [redacted].
Strickland, Bryant S.. Jr., [redacted].
Strye, James W., [redacted].
Stuff, Charles P., [redacted].
Stuler, Charles R., Jr., [redacted].
Stump, Frank G., III, [redacted].
Stutts, Marvin E., [redacted].
Suits, Charles R., [redacted].
Sullivan, Edward A., [redacted].
Sullivan, John P., [redacted].
Summers, Peter P., [redacted].
Susko, Gerald D., [redacted].
Sutten, Charles G., Jr., [redacted].
Swan, Robert C., [redacted].
Swanson, Charles H., [redacted].
Swier, Richard M., [redacted].
Swift, George J., Jr., [redacted].
Swinehart, Lewis S., III, [redacted].
Syverud, Roger L., [redacted].
Szlachetka, Marion E., [redacted].
Szuszka, Kenneth J., [redacted].
Taber, Thomas M., [redacted].
Tackett, John A., [redacted].
Takahashi, Daniel T., [redacted].
Talbert, David A., [redacted].
Talbott, David L., [redacted].
Tanaka, Rodney S., [redacted].
Tankersley, Milton T., [redacted].
Tankovich, James A., [redacted].
Tarantola, Michael R., [redacted].
Tarpley, Richard W., [redacted].
Tasillo, Thomas J., [redacted].
Tavano, Michael J., [redacted].
Taylor, David W., [redacted].
Taylor, Emmett L., [redacted].
Taylor, Robert H., [redacted].
Taylor, Thomas W., [redacted].
Teel, Eric R., [redacted].
Teixeira, Edward T., [redacted].
Terrell, Happel D., [redacted].
Terry, Joseph G., Jr., [redacted].
Terry, Ronald W., [redacted].
Tetreault, Gerry E., [redacted].
Thacher, Stephen L., [redacted].
Thacker, Wallace P., [redacted].
Thibeault, William R. J., [redacted].
Thiltgen, John W., [redacted].
Thomas, Bernard P., [redacted].
Thomas, Charles S., [redacted].
Thomas, Harry W., III, [redacted].
Thomas, James H., Jr., [redacted].
Thomas, Michael E., [redacted].
Thomas, Robert H., Jr., [redacted].
Thome, Robert C., [redacted].
Thompson, James H., Jr., [redacted].
Thompson, John T., [redacted].
Thompson, Lee, [redacted].
Thompson, Marvin D., [redacted].
Thornal, Benjamin C., [redacted].
Thornton, Charles R., [redacted].
Threadgill, Gerald G., [redacted].
Tibbetts, Walter P., [redacted].
Tisdale, Tyron E., Jr., [redacted].
Toch, Maximilian, [redacted].
Toneatto, Giuliano M., [redacted].
Topacio, David J., [redacted].
Tormey, Robert D., [redacted].
Trawick, John L., [redacted].
Traxler, James H., [redacted].
Treneman, Bayard A., [redacted].
Treolo, Paul, Jr., [redacted].
Trimmer, Floyd L., [redacted].
Tromey, Thomas N., [redacted].
Trotter, Jesse J., Jr., [redacted].
Truesdale, Albert J., [redacted].
Trusko, Peter A., [redacted].
Tsutsumi, Susumu, [redacted].
Tullis, Elizabeth G., [redacted].
Turgeon, Roy W., Jr., [redacted].
Turk, Felix F., [redacted].
Turmenne, Paul E., [redacted].
Turnage, Larry, [redacted].
Turner, Leonard J., [redacted].
Turrell, Robert C., [redacted].
Tutt, James T., [redacted].
Tye, David L., [redacted].
Tyner, James C., Jr., [redacted].
Uliano, Gary L., [redacted].
Ulin, Robert R., [redacted].
Vakalis, George J., [redacted].
Vallecillo, Carlos A., [redacted].
Van Allan, Richard, [redacted].
Van Doren, Garold, II, [redacted].
Van Epps, James R., [redacted].
Vance, James O., [redacted].
Vanderpool, Jack R., [redacted].
Varosy, Paul S., [redacted].
Vaughn, Donald F., [redacted].
Viney, George S., [redacted].
Visconti, Joseph, Jr., [redacted].
Voegeli, Albert H., Jr., [redacted].
Voightritter, Donald K., [redacted].
Voightritter, Ronald K., [redacted].
Voris, Stephen M., [redacted].
Vukelich, Vincent M., [redacted].
Wages, Eugene W., [redacted].
Waite, Charles D., [redacted].
Walden, Charles C., [redacted].
Waldran, Cook M., Jr., [redacted].
Waldrop, Gerry L., [redacted].
Walker, Wallace E., [redacted].
Wallace, Emitt, [redacted].
Wallace, Jerry L., [redacted].
Wallace, William J., [redacted].
Walsh, Francis R., [redacted].
Walsh, William P., [redacted].
Walterhouse, Douglas D., [redacted].
Walton, Benny B., [redacted].
Waltz, Roger W., [redacted].
Walz, Robert D., [redacted].
Waraksa, Thomas J., [redacted].
Ward, Clifford R., [redacted].
Ware, John R., II, [redacted].
Warner, Michael L., [redacted].
Warren, Brian C., [redacted].
Washington, Lemarse, [redacted].
Waterman, Richard E., [redacted].
Watkins, Stuart H., [redacted].
Watson, Harvey D., III, [redacted].
Weathers, Stanley J., [redacted].
Weaver, Robert V., Jr., [redacted].
Webb, Myrt W., Jr., [redacted].
Webber, Stephen B., [redacted].
Webster, Jimmy N., [redacted].
Wedding, Benny E., [redacted].
Weeks, Howard R., [redacted].
Weems, Neil M., [redacted].
Weinfield, Roselle, [redacted].
Weir, Garry K., [redacted].
Weir, Walter G., [redacted].
Weker, Joseph C., III, [redacted].
Welch, Dennis E., [redacted].
Welch, Thomas A., Jr., [redacted].
Weller, James M., [redacted].
Wells, Daniel R., [redacted].
Wells, David R., Jr., [redacted].
Wells, Peter D., [redacted].
Wells, William J., [redacted].
Wendling, Henry H., [redacted].
Wentink, Michael J., [redacted].
Wentzel, Sealon R., Jr., [redacted].
Wertschnig, John J., [redacted].
West, Charles E., [redacted].
Whaley, David A., [redacted].
Wheaton, Roger S., [redacted].
Whiddon, Lester V., Jr., [redacted].
Whitaker, William E., [redacted].
White, Abel, [redacted].
White, Aubrey, [redacted].
White, Dennis M., [redacted].
White, Donel D., [redacted].
White, Emett R. V., [redacted].
White, Harold G., [redacted].
White, Thomas E., Jr., [redacted].
Whitehead, John B., [redacted].
Whitenton, Richard L., [redacted].
Whitfield, David, [redacted].
Whitney, Robert C., Jr., [redacted].
Whitsett, Robert M., [redacted].
Whitsett, Thomas N., [redacted].
Whittle, Charles E., [redacted].
Wieczorek, Robert L., [redacted].
Wiehe, Edward L., [redacted].
Wilkinson, Donald R., Jr., [redacted].
Williams, Arnold B., Jr., [redacted].
Williams, Clinton L., [redacted].
Williams, Forrest D., [redacted].
Williams, Gary D., [redacted].
Williams, Hugh N., [redacted].
Williams, John S., [redacted].
Williams, Richard A., [redacted].
Williamson, David D., [redacted].
Willis, William W., Jr., [redacted].
Willoughby, Lonny R., [redacted].
Wilson, Haldon D., Jr., [redacted].
Wilson, Johnnie E., [redacted].
Wimberley, Ronald J., [redacted].
Windeler, Jack A., [redacted].
Windle, Joseph C., [redacted].
Winkel, Raymond J., Jr., [redacted].
Wirtz, David W., [redacted].
Wise, Lawrence F., Jr., [redacted].
Wishik, Jeffrey L., [redacted].
Witherspoon, Larry D., [redacted].
Witt, Kay B., [redacted].
Witte, James E., [redacted].
Wojcik, James A., [redacted].
Wojczynski, James S., [redacted].
Wokutch, Charles A., [redacted].
Wolf, Jack G., [redacted].
Wolfe, Walter M., Jr., [redacted].
Wolfinger, William D., [redacted].
Wood, Charles W., [redacted].
Wood, Gail W., [redacted].
Wood, Jack B., [redacted].
Wood, Mary L., [redacted].
Wood, Richard E., [redacted].
Woolever, Ronald J., [redacted].
Worff, Herbert H., Jr., [redacted].
Wray, Christopher P., [redacted].
Wright, Gerald W., [redacted].
Wright, Michael L., [redacted].
Wrightson, Samuel H., [redacted].
Wynkoop, Ricky V., [redacted].
Yalicki, Edward J., Jr., [redacted].
Yamamoto, Richard Y., [redacted].
Yamaura, Lawrence, [redacted].
Yap, Michael W. L., [redacted].
Yeargan, Robert G., [redacted].
York, John F., [redacted].
Young, John R., Jr., [redacted].
Young, Keith L., [redacted].
Young, Randy J., [redacted].
Young, Stephen H., [redacted].
Young, Stephen T., [redacted].
Young, Thomas F., [redacted].
Young, Thurlow D., [redacted].
Yount, Alan H., [redacted].
Yudesis, Benjamin M., [redacted].
Zahrndt, Dennis L., [redacted].
Zak, Michael I., [redacted].
Zanini, Daniel R., [redacted].
Zapata, Jenaro A., [redacted].
Zedar, Frank R., [redacted].
Zemp, Robert W. M., [redacted].
Zerance, Michael S., [redacted].
Zielinski, Ronald J., [redacted].
Ziemke, Jack A., [redacted].
Zupancic, David P., [redacted].

CHAPLAIN CORPS

To be major

Ferguson, Dwayne L., [redacted].
Goellen, Richard M., [redacted].
Gudz, George W., [redacted].

Hansen, Albert M., [redacted].
Hollowell, Marvin E., Jr., [redacted].
Lee, Bobby E., [redacted].
Mallard, Charles E., [redacted].
Masteller, James D., [redacted].
Taddy, Jerome J., [redacted].
Wake, Henry E., [redacted].
Young Jimmy L., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be major

Chee, Francis K., [redacted].
Cooke, Annetta J., [redacted].
Guinn, Elena W., [redacted].
Hassett, Robert B., III, [redacted].
Hughes, Everett A., [redacted].
James, Kenneth D., [redacted].
McCandless, Sally A., [redacted].
Riggan, Judith S., [redacted].
Schlecker, Barbara A., [redacted].
Stevens, Douglas L., [redacted].
Wheeler, Thomas H., [redacted].

MEDICAL CORPS

To be major

Anderson, Paul J., Jr., [redacted].
Bernier, Barre S., [redacted].
Brantner, Jim N., [redacted].
Brown, Frederick B., [redacted].
Casey, Elmer M., Jr., [redacted].
Casull, Brian H., [redacted].
Clark, Jeffrey R., [redacted].
Clements, Thomas I., [redacted].
Clemons, Donald E., [redacted].
Deas, Bernard W., Jr., [redacted].
Foody, William J., [redacted].
Goodhue, William W., Jr., [redacted].
Griffin, Robert F., [redacted].
Hadorn, John R., [redacted].
Hawkes, Thomas A., Jr., [redacted].
Hayes, Brian E., [redacted].
Herman, Claude P., [redacted].
Hubert, George P., [redacted].
Hutchinson, Milford B., [redacted].
Jackson, Joseph P., Jr., [redacted].
Lupton, George P., [redacted].
Markey, Keith L., [redacted].
Moon, Michael R., [redacted].
Moore, Reginald G., Jr., [redacted].
Norton, Michael, [redacted].
Parr, Thomas J., [redacted].
Pryor, James E., [redacted].
Savory, Carlton G., [redacted].
Seyfer, Alan E., [redacted].
Taylor, Harvey G., Jr., [redacted].
Walters, Michael J., [redacted].
Williams, Robert K., [redacted].
Wolcott, Barry W., [redacted].
Yeager, Charles F., [redacted].

MEDICAL SERVICE CORPS

To be major

Allen, Richard G., [redacted].
Arellano, Benito M., [redacted].
Austin, Henry M., III, [redacted].
Averbuch, Michael E., [redacted].
Bearce, Gerald R., [redacted].
Bishop, Ronald M., [redacted].
Bolyard, Marshall K., [redacted].
Bories, Robert F., Jr., [redacted].
Bosworth, Anthony B., [redacted].
Brooke, Paul P., Jr., [redacted].
Brown, Roger L., [redacted].
Cavis, Charles A., [redacted].
Champion, Charles H., Jr., [redacted].
Collins, Michael H., [redacted].
Costanzo, Joseph J., Jr., [redacted].
Davis, Brian K., [redacted].
Davis, Francisco S., [redacted].
Dievendorf, Lynn A., [redacted].
Edge, Rodney A., [redacted].
Edgette, Peter J., [redacted].
Enloe, Edmond J., Jr., [redacted].
Evans, Otis D., [redacted].
Fulbright, Larry R., [redacted].
Goldman, Gilbert L., [redacted].
Gooding, Thomas L., [redacted].
Hardman, James R., [redacted].
Harrison, Bruce A., [redacted].
Hash, Frank R., Jr., [redacted].
Hendricks, Larry D., [redacted].
Hernandez, Charles P., [redacted].
Hilt, Martin J., [redacted].
Hinkel, Robert E., [redacted].
Holland, Frank B., [redacted].
Howell, James L., [redacted].
Ingraham, Larry H., [redacted].
Jackson, Walter F., [redacted].
Johnson, Dennis H., [redacted].
Johnson, Larry G., [redacted].
Johnson, Nicki L., [redacted].
Jones, Fleming H., [redacted].
Jones, Larry L., [redacted].
Klugman, Peter J., [redacted].
Laible, Benjamin E., Jr., [redacted].
Langeliers, Leonard L., Jr., [redacted].
Makarevich, Robert, [redacted].
Martin, James A., Jr., [redacted].
Matheson, William A., [redacted].
McMasters, Bernard E., Jr., [redacted].
Mertel, Paul T., Jr., [redacted].
Meyer, Dennis E., [redacted].
Meyer, Michael P., [redacted].
Michels, George N., [redacted].
Mitten, Alan K., [redacted].
Moro, Kenneth S., [redacted].
Morton, Ward D., III, [redacted].
Munnell, Thomas C., [redacted].
Murphy, Robert F., [redacted].
Nalepa, Thomas F., [redacted].
Neptune, Calvin, III, [redacted].
Pender, Robert W., [redacted].
Perry, Ray H., [redacted].
Peterson, Lawrence T., [redacted].
Philbrick, Jon D., [redacted].
Pitts, Larry C., [redacted].
Pitts, Walter G., [redacted].
Pleasant, Richard H., [redacted].
Polk, Anthony J., [redacted].
Pollok, James L., [redacted].
Reichard, Douglas W., [redacted].
Roberts, Donald R., [redacted].
Saugstad, Edward S., [redacted].
Sawallesh, Robert F., [redacted].
Schmuck, Dale A., [redacted].
Sherman, Vincent R., [redacted].
Smith, Jack R., Jr., [redacted].
Sodetz, Frank J. Jr., [redacted].
Stockand, David B., [redacted].
Sullivan, Michael F., [redacted].
Tansor, James R., [redacted].
Tedeschl, Emeric R., [redacted].
Thomas, William G., [redacted].
Thompson, Gerald E., [redacted].
Torba, Gerald M., [redacted].
Tyler, James M., [redacted].
Vavra, Robert W., Jr., [redacted].
Vinson, William W., [redacted].
Voss, Daniel R., [redacted].
Warren, Stephen F., [redacted].
Weed, Roger I., [redacted].
Wiener, Michael L., [redacted].
Wigger, James R., Jr., [redacted].
Wilkinson, Rowland N., [redacted].
Willis, Herman F., Jr., [redacted].
Woodward, Ronald L., [redacted].
Wright, Cephas C., [redacted].
Wright, William A., [redacted].
Young, Hansford L., [redacted].

DENTAL CORPS

To be major

Aaron, Gerald R., [redacted].
Adams, Abram E., Jr., [redacted].
Antonini, Charles J., [redacted].
Badger, Gary R., [redacted].
Baumgartner, John C., [redacted].
Bechtold, William A., [redacted].
Becka, David C., [redacted].
Bersano, Raymond B., [redacted].
Bettes, Stephen F., [redacted].
Beuttenmuller, Erhard A., [redacted].
Blaney, Thomas D., [redacted].
Buhler, John E., Jr., [redacted].
Caninocummings, Manuel, [redacted].
Chamberlin, John H., II., [redacted].
Corbin, William R., [redacted].
Denucci, Donald J., [redacted].
Dismukes, Julian M., III, [redacted].
Dixon, James D., [redacted].
Duckworth, James H., [redacted].
Dunn, Larry M., [redacted].
Earley, Jack D., [redacted].
English, Jeryl D., [redacted].
Freccia, William F., [redacted].
Goerig, Albert C., [redacted].
Gracey, Leslie L., [redacted].
Hanson, Donald P., [redacted].
Hardy, Leslie B., Jr., [redacted].
Harris, Jordan H., [redacted].
Haught, Stephen R., [redacted].
Hoffman, Leonard A., [redacted].
Hopkins, Richard W., [redacted].
Jones, Griffith B., [redacted].
Keller, David L., [redacted].
King, John E., [redacted].
Koudelka, Brent M., [redacted].
Lascher, Michael F., [redacted].
Maurer, Michael B., [redacted].
Meade, Francis J., [redacted].
Meyers, Charles E., [redacted].
Mooney, Darrel L., [redacted].
Newton, William G., [redacted].
O'Neal, Robert B., [redacted].
Petersen, Robert G., [redacted].
Priddy, William L., [redacted].
Ranz, Allan N., [redacted].
Rivera-Hidalgo, Francisco, [redacted].
Rollow, John A., IV, [redacted].
Ruggles, James E., [redacted].
Scheidt, Michael J., [redacted].
Sevier, Noble H., II, [redacted].
Sheppard, Paul R., [redacted].
Smith, Ben E., [redacted].
Vaught, Richard D., [redacted].
Vermilyea, Stanley G., [redacted].
Vire, Donald E., [redacted].
Wakefield, Charles W., [redacted].
Webb, Joseph G., Jr., [redacted].
Woolsey, Gerald D., [redacted].
Yamamoto, James R., [redacted].

ARMY NURSE CORPS

To be major

Adams, Gearl V., [redacted].
Baker, Susan I., [redacted].
Basta, Patricia J., [redacted].
Bombard, Charles F., [redacted].
Bowlyow, Ronald G., [redacted].
Brown, Barbara D., [redacted].
Brown, Dorothy N., [redacted].
Coletti, Anthony E., [redacted].
Cook, Thomas E., [redacted].
Cyganiewicz, Susan G., [redacted].
Dayton, Lorraine M., [redacted].
Deisering, Leon F., [redacted].
Dingbaum, Herbert H., [redacted].
Dollander, Lowell T., [redacted].
Drummond, William F., [redacted].
Eberlin, Lawrence J., [redacted].
Firman, Terrence G., [redacted].
Giffin, Kenneth S., [redacted].
Godfrey, Edith M., [redacted].
Goethals, Gerald B., [redacted].
Gordon, Kenneth A., [redacted].
Guilbeault, Jeanne E., [redacted].
Gumbert, Georgiana L. B., [redacted].
Gunnell, Kenneth M., Jr., [redacted].
Hamper, Sandra L., [redacted].
Haugen, Mary K., [redacted].
Houser, Oscar S., Jr., [redacted].
Jacques, Stanley H., [redacted].
Keeton, Thomas E., Sr., [redacted].
Keyser, Collette P., [redacted].
Laperna, Maria A., [redacted].
Lavery, Barbara S., [redacted].
Lawyer, Robert A., [redacted].
Likens, Wilbur D., [redacted].
Lord, Ellen V., [redacted].
Lowe, Marilyn M., [redacted].
Markarian, Clement J., [redacted].
McGwin, Sharon M., [redacted].
Miller, Thomas E., [redacted].
Mort, Mary A., [redacted].
Murtonen, Ruth E., [redacted].
Oatway, David M., [redacted].
Pescatore, Edward A., [redacted].
Philiben, Anne N., [redacted].
Poduszczak, Edward S., [redacted].
Rankin, Andrew W., [redacted].
Ross, Sandra V., [redacted].

Schultz, Elsie M., [redacted].
Seipert, Lloyd R., [redacted].
Shirley, Lois G., [redacted].
Smith, Mary E., [redacted].
Sollenberger, Karen S., [redacted].
Southby, Janet R., [redacted].
Squires, Grace E., [redacted].
Tassinari, Anthony D., [redacted].
Temo, James M., [redacted].
Thompson, Charles R., [redacted].
Touron, Francis L., [redacted].
Tranel, David A., [redacted].
Travis, Jacklyn G., [redacted].
Truscott, Alma J., [redacted].
Watters, Thomas S., [redacted].
White, John T., [redacted].
Wimett, Joan J., [redacted].
Wondra, George E., [redacted].
Zarnik, Paulette L., [redacted].
Ziacik, John E., Jr., [redacted].

VETERINARY CORPS

To be major

Barrows, Paul L., [redacted].
Elmore, James D., [redacted].
Helm, Frederick L., [redacted].
Hofmann, John R., Jr., [redacted].
Johnson, Clifford I., [redacted].
Liebenberg, Stanley P., Jr., [redacted].
Salamone, Bernard P., [redacted].
Smith, Thomas M., [redacted].
Wall, Henry G., Jr., [redacted].

DENTAL CORPS

To be lieutenant colonel

Walker, Kahn K., [redacted].

ARMY PROMOTION LIST

To be captain

Allen, Jay D., [redacted].
Anderson, John C., [redacted].
Arn, Stephen P., [redacted].
Bell, William F., [redacted].
Delane, James L., [redacted].
Exum, Titus H., [redacted].
Fanning, Reed B., [redacted].
Graham, John K., [redacted].
Hackerson, Michael W., [redacted].
Halloran, William E., [redacted].
Hare, Gene R., [redacted].
Magrino, Gary J., [redacted].
Newell, Lawrence E., [redacted].
Novosad, Jerry J., Jr., [redacted].
Olson, Larry J., [redacted].
Pavlick, Charles R., [redacted].
Rose, Charles A., [redacted].
Stevens, Roger L., [redacted].
Tucker, Wililam A., Jr., [redacted].
Warren, John S., [redacted].
White, William A., [redacted].
Whyte, Alexander III, [redacted].
Young, Randell W., [redacted].

The following-named officers for promotion in the Army of the United State, under the provisions of title 10, United States Code, sections 3442 and 3447:

DENTAL CORPS

To be colonel

Bellizzi, Ralph, [redacted].
Broering, Leo F., [redacted].
Brown, Alan R., [redacted].
Lohse, Walter G., [redacted].
Mattia, Michael N., [redacted].
Moss, James L., [redacted].
Robbins, Frederick E., [redacted].
Schultz, Rudane E., [redacted].
Woodyard, Stephen G., [redacted].

MEDICAL CORPS

To be colonel

Addams, Billie M., [redacted].
Alabanza, Florentin, [redacted].
Alving, Carl R., [redacted].
Andersen, Charles A., [redacted].
Antopol, Michael R., [redacted].
Balson, Paul M., [redacted].
Black, Joel W., [redacted].
Boccuti, Anthony R., [redacted].
Bode, Donald D., [redacted].
Brown, Joel D., [redacted].
Bustos, Usvaldo, [redacted].
Cavanaugh, Daniel G., [redacted].
Ching, Wilson V. S., [redacted].
Cloud, Robert S., [redacted].
Coldewey, Johann F., [redacted].
Coppin, Thomas D., [redacted].
Cuartas, Francisco, [redacted].
Daily, Charles D., [redacted].
Davis, Harry E., [redacted].
Dimond, Richard C., [redacted].
Dowdy, James R., [redacted].
Driver, Doyle, Jr., [redacted].
Ellis, Charles M., [redacted].
Fabrigar, Carmelo S., [redacted].
Finney, Jackie L., [redacted].
Fleurant, Lucien B., [redacted].
Gagon, Terry E., [redacted].
Giordano, Frank L., [redacted].
Grobe, Macy J., [redacted].
Hodder, Richard A., [redacted].
Jackson, Stephen M., [redacted].
Jarotzky, Vladimir, [redacted].
Jeffer, Edward K., [redacted].
Jones, Charles C., [redacted].
Keeler, David A., [redacted].
Kennell, Charles B., [redacted].
Kingry, Roy L., Jr., [redacted].
Klein, Thomas A., [redacted].
Leftik, Martin I., [redacted].
Lewis, Ronel L., [redacted].
Lopiccolo, Philip F., [redacted].
McCarty, Garland E., [redacted].
McManus, William F., [redacted].
Morrison, Robert E., [redacted].
Mylander, Kenneth W., [redacted].
Nash, Daniel A., [redacted].
Nevarez, Leonard J., [redacted].
Nortontarpez, Jay, [redacted].
Pardi, Livio F., [redacted].
Peck, Carl C., [redacted].
Penney, Larry L., [redacted].
Pierson, Dean L., [redacted].
Provost, John M., [redacted].
Raine, Dudley A., [redacted].
Sampson, George L., [redacted].
Sanders, Joe M., [redacted].
Sattgast, John E., [redacted].
Schultheis, William, [redacted].
Schwab, James A., [redacted].
Scott, Robert M., [redacted].
Segal, Herbert E., [redacted].
Semenoff, Daniel J., [redacted].
Shuger, Richard D., [redacted].
Silsby, Harry D., [redacted].
Sim, Joel C., [redacted].
Sisler, Gary L., [redacted].
Staiano, Ralph A., [redacted].
Steudel, Wolfgang T., [redacted].
Stokes, James W., [redacted].
Stutz, Friedrich H., [redacted].
Swanson, Dennis R., [redacted].
Torgerson, Leslie A., [redacted].
Tramont, Edmund C., [redacted].
Uribe, Jorge I., [redacted].
Williams, Reginald, [redacted].
Williams, Ronald G., [redacted].
Wolcott, Barry W., [redacted].
Wray, Harvey L., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Yeakel, Mary H., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Flarery, Colbert L., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Gonzales, Antonio G., [redacted].
Saxton, Ronald E., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Ortiz, Victor N., [redacted].
Ulrych, Milos, [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3305:

ARMY PROMOTION LIST

To be colonel

Bonner, Benjamin J., III, [redacted].
Condry, Willie J., [redacted].
Fargason, LeRoy H., Jr., [redacted].
Holland, Harold B., [redacted].
Judge, Richard F., [redacted].
Karr, Don E., [redacted].
Simkus, Anthony P., [redacted].
Sposito, Paul, [redacted].

The following-named officers for promotion in the Regular Army, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Brunson, Robert O., [redacted].
Foster, Gerald K., [redacted].
Frederick, Richard, [redacted].
Roberts, Thomas E., [redacted].
Saint Clair, Joseph, [redacted].

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps in the U.S. Navy, subject to qualification therefor as provided by law:

Adams, Raymond J.
Boettge, Philip D.
Dickerson, Curtis R.
Garcia, Arturo R.
Hugman, Kevin H.
McMiller, Apryl D.
Moeller, Ronald R.
Morris, William R.
Tope, Terry A.
Vogt, John J.
Baulch, Mark A.
Cruz, Paul A. G.
Eiland, Gary L.
Hanley, Michael S.
Knighton, Edward L., II
Mlekush, Matthew L.
Moody, David W.
Rush, Thomas H.
Villarreal, Jose I.
Wilson, Clarence E.
Sewell, Sidney R.
Poliak, Claude R.

Richard P. Baldwin, Navy Enlisted Scientific Education Program candidate, to be appointed a permanent ensign in the line of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named Naval Reserve officers to be appointed permanent commander in the Medical Corps in the U.S. Navy, subject to qualification therefor as provided by law:

Courington, Frederick W.
Telesh, George G.

The following-named Naval Reserve officers to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, subject to qualification therefor as provided by law:

Berdecio, Eduardo T.
Brooks, Viola P.
Poliak, Claude R.
Schneider, Thomas R.
Thillett, Ives C.
Bishop, William H.
Hyder, Ghouse S.
Ramos, Remigio M.
Sewell, Sidney R.

Sandra L. Saffle, Navy enlisted candidate, to be appointed a permanent chief warrant officer, W-2 in the U.S. Navy, subject to qualification thereof as provided by law.

The following-named Naval Reserve officers to be appointed temporary commander in the Medical Corps of the U.S. Navy, subject to qualification therefor as provided by law:

Berdecio, Eduardo T.
Sewell, Sidney R.
Poliak, Claude R.

The following-named ex-Naval Reserve officers to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Boland, James P.
Welch, Donald S.

The following-named civilian college graduates to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Atkins, William M.
Wilson, Frank G.
Weber, Arthur O.

Lawrence J. Guidry, ex-U.S. Navy officer, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Gene A. Llewellyn, ex-Reserve officer to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

The following-named civilian college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Askren, Harold A.
Stein, Natalio

Thomas A. King, Sr., ex-Reserve officer, to be appointed a permanent commander and a temporary captain for special duty (Merchant Marine, Deck) in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

Sheldon Brotman, ex-U.S. Navy officer, to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1986:

Reuben W. Askanase, of Texas, vice Donald E. Santarelli, term expired.

Diana Lady Dougan, of Utah (reappointment).

Lillie E. Herndon, of South Carolina (reappointment).

Howard A. White, of New York (reappointment).

WITHDRAWAL

Executive nomination withdrawn from the Senate August 1, 1980:

David Bronheim, of Connecticut, to be a Member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1982, vice Carolyn R. Payton, resigned, which was sent to the Senate on March 20, 1980.

EXTENSIONS OF REMARKS

BATTLE OF ALASKA—LAST ROUND IN THE SENATE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SEIBERLING. Mr. Speaker, on successive days this week, I inserted in the body of the RECORD editorials from across the country urging the enactment by the Senate and Congress of a strong, balanced Alaska lands bill. The overwhelming tone and content of these editorials are strongly supportive of the bill, H.R. 39, approved by the House in May 1979. This bill has been pending in the Senate ever since and is now in the final stages before a Senate vote.

In order that our colleagues in both Houses may have the full benefit of all of these editorials, I am hereby inserting additional ones in the RECORD following these remarks. The editorials are from the Arkansas Gazette, Rochester (Minn.) Post-Bulletin, Austin American-Statesman, Scottsdale Progress, the Tennessean, and the Oregonian:

[From the Arkansas Gazette, July 5, 1980]

THE BATTLE OF ALASKA

The debate over Alaska lands has had many forums and has been defined in a maze of differing forms over the last three or four years. It will come to wide attention again later this month when the Senate takes up legislation sent to it months ago by its Energy and Natural Resources Committee.

The House already has passed a measure that in our view is barely adequate to protest the most important acreage of the vast Alaskan wilderness, American's last great natural frontier. But the House bill is vastly superior to the Senate committee measure, which is, in a word, unacceptable.

We do not intend to dwell here on the particulars of either of these measures. The basis for debate in the Senate will be the committee bill, but several conservation-minded senators plan to broaden that context by introducing wide-ranging amendments that amount to a substitute bill embodying the essential provisions of the House bill and improving upon it. If all this seems confusing, well, it probably is. The central point to keep in mind is that the country would be far better off with no Senate bill at all than the Energy and Natural Resources Committee measure, which would endanger some of the great natural wonders of Alaska for the slim chance that some day relatively small amounts of mineral resources may be recovered. Without legislation, executive action will protect the lands.

The debate likely will turn on two major points, although both of them tend to lead the debate astray.

First, there is the argument by Alaskan interests that the federal government would be denying Alaska its rightful economic base by placing off limits any of the land in Alaska to exploration and exploitation. The fact is that the federal government has allowed the state its pick of tens of millions of acres that already are producing massive revenues. Earlier this year, Alaska already had accumulated so much treasure from its oil sales that it abolished the state income tax and even started a program of paying citizens of Alaska simply for living there. The Anchorage Times notes editorially that by 1983, state officials have calculated that Alaskans will have the highest per capita income—$15,932—in the world, surpassing Sharjah, an Arab Emirate on the Persian Gulf. The same study forecasts a general fund balance exceeding $184 billion by the year 2000, which is enough money to buy all the gold at Fort Knox (at its peak price of a few months ago) and leave enough to pay Alaska's operating budget until 2010. Alaska, by any standard, is loaded, even with those lands already outside the bounds of legislation that seeks to preserve the natural wonders of this young state.

Second, there will be those who will try to turn the Senate debate into a scary discussion of energy. The argument is that since we do not know where valuable oil and natural gas are in Alaska it would be foolish to place any of the lands off limits to future exploration, given the national need for domestic energy resources.

Well, the facts argue in another direction, as the Alaska Coalition, a group of conservationist organizations supporting a strong Alaska lands bill, is quick to demonstrate in persuasive terms. The Coalition, incidentally, supports the substitute bill that will be before the Senate. It points out that the substitute bill would leave over 95 per cent of Alaska's best onshore oil and gas lands open to exploration. None of Alaska's offshore reserves nor its proven reserves are in any way affected by the legislation favored by conservationists.

The question thus becomes whether the nation is willing to sacrifice the great natural wonders of Alaska for the possibility of squeezing out the last few possible barrels of oil. The developers would have it all, but the Congress must not let them have it.

[From the Rochester (Minn.) Post-Bulletin, July 16, 1980]

PRESERVING ALASKA LANDS

When the Republican national convention is over and Congress returns to action next week, the Senate faces a most serious topic—Alaskan lands legislation.

The outcome of the issue is not known nor is how Minnesota's two freshmen Republicans, Dave Durenberger and Rudy Boschwitz will vote.

The two sides of the issue, discussed elsewhere on this page, are:

Those who favor the bill as reported from the Senate Energy Committee. The bill is liked by people who see potential development of natural resources all over Alaska.

Those who favor the five major amendments that would bring the Senate bill closer in line with the House-passed measure. The Carter administration likes the House bill which restricts development in certain areas. Conservationists, preservationists and outdoor enthusiasts also like the amendments.

When we looked at the issue, two factors had to be determined: state's rights and the necessary balance between protecting the environment and the develoment of natural resources that could help the country become more energy independent.

State's rights was settled mainly through the previous act of statehood for Alaska. It gave the state the right to take for itself 104 million acres. This has been done and its package includes the area with the most precious natural resources in Alaska—Prudhoe Bay. The State of Alaska was so successful in developing its lands that income from that land is now replacing the state's income taxes.

The environmental issue is one where we must side with the House bill and Senate amendments. Even with the most restrictive language of the amendments as law, the following would occur in Alaska:

Ninety-five percent of the best onshore oil and gas acreage and 100 percent of the offshore areas would be available for development.

More than 60 percent of the best hardrock mineral areas would be available for development.

Forty percent of Alaska's land would be turned over to the state and native corporations for use as determined by them.

More than 90 percent of the state could be open for sport hunting, leaving the wild fowl refuges intact.

The lumber industry would still harvest its 450 million board feet per year from national forests, with considerable additional timber available from forest lands now owned by native corporations.

Alaska is an unusual American frontier—it is today as it was decades ago.

We hope Minnesota's senators realize that the Senate amendments will restrict, yet properly balance the concerns of developers and protectionists.

Once those millions of acres are developed, natural habitat cannot be restored.

The lower 48 states will not suffer unduly from the protection of the Alaskan lands; neither will the citizens of Alaska.

We hope the Senate passes the amendments to strengthen the preservation of this country's final frontier.

[From the Austin American-Statesman, July 9, 1980]

TIME TO SAVE ALASKAN LANDS

Once again, the Senate is scheduled to begin debate on the Alaskan-lands bill, three years after the act was first introduced in the House. And, once again, the version being debated in the Senate is much worse than the House-passed bill. It is high time a strong, protective bill was enacted into law.

There has been so much debate and delay in the Senate that President Carter in 1978 was forced to proclaim 17 new national monuments on 56 million acres of wilderness, and, in February of this year, Secretary of the Interior Cecil Andrus decided to create 12 new wildlife refuges in Alaska, covering 37 million acres.

The Senate Energy and Natural Resources Committee has produced a bill for the Senate that is unacceptable to the administration, House leaders and conservationists. Later this month, the full Senate is to begin debate on the bill. If there is to be a good Alaskan-lands bill, the Senate must

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

add strengthening amendments to it and meld it with the strong House bill.

A strong alternative Senate bill, the Tsongas-Roth Substitute, has been introduced, mostly as a demonstration of dissatisfaction and to make a point. But more likely to get consideration is a group of five separate amendments to the committee bill. Supporters say this would not be as comprehensive as the Tsongas-Roth Substitute, but it would correct most of the problems in the committee bill.

With the strengthening amendments, Americans for Alaska reports, the committee bill still will protect existing timber jobs in Southeast Alaska, leave 95 percent of the state's "favorable" and "high-potential" onshore oil and gas lands open for exploration, leave 91 percent of the land open to sport hunting and open the 22.5-million acre National Petroleum Reserve-Alaska for oil and gas exploration and leasing.

Such a compromise should be encouraged because it would protect much of the last American wilderness while allowing plenty of exploitation, development and recreation.

[From the Sottsdale Progress, June 9, 1980]

THE FIGHT FOR ALASKA

Senate Majority Leader Robert Byrd has scheduled the controversial Alaska lands bill for debate July 21. It is significant for it may be the only real chance to provide adequate protection to America's last great wilderness.

Forces opposed to wilderness have raised several million dollars to fight the bill cosponsored by Arizona's Rep. Morris Udall. They also are pouring large sums of money into the election campaign of Udall's opponent.

The reasons for this vigorous opposition is that large corporations in the resource business want ready access to Alaska's riches. Also many Alaskans see opportunities to make fortunes.

If the conservationists win, some of the nation's most fragile and beautiful land will be protected.

Advocates of opening lands to development claim that America needs the resources. But 90 percent of the state's oil reserves are outside the areas that would be protected, according to the U.S. Geological Survey. Most of Alaska's mineral wealth also is outside the boundaries.

Last year a similar measure failed when Alaska's senators threatened to filibuster and thereby postpone budget debates. This year a strong bill should be passed which protects the fragile arctic ecology against the greed of human predators.

[From the Tennessean, July 16, 1980]

THE SENATE FACES TEST ON ALASKAN LANDS BILL

Next week the Senate will begin debate on a proposal to create national parks and wildlife refuges on a third of the remaining federal lands in Alaska.

What is at stake in the Senate is probably the most important conservation and wildlife decision of the century.

Last year the House approved a strong measure, adopting the "Udall-Anderson substitute." That bill, H.R. 39, was completely rewritten by the Senate Energy Committee.

The Senate version is unacceptably weak in that it cuts key areas of land from fully protected status and opens the way for uses that are incompatible.

Three million acres of proposed National Park System units are down-graded to a status open to mining. Some 37 million acres of proposed National Wildlife Refuge are cut out, including three entire units. And 29 million acres of wilderness zones have been slashed.

In addition, basic conservation policies have been bent or twisted. For example, an unrealistic timber harvest is mandated for the Tongass National Forest—a level far above current harvest levels. The ultimate effect will be overcutting that is damaging.

Oil and gas exploration is required in one of the most sensitive wildlife habitat areas, the William O. Douglas Arctic Wildlife Range.

There have been five strengthening amendments proposed. There is the Southeast Alaska amendment by Sens. Tsongas, Roth and McGovern which would restore protections for Admiralty Island and Misty Fiords National Monuments and correct other acreage designations.

The Wilderness amendment restores wilderness designation to the Douglas Wildlife Refuge and increases wilderness acreage in other conservation units.

There is the National Parks amendment which would correct excessive permitting for mining, road building and sport hunting. This amendment restores a balance between open areas and those closed to hunting.

The National Wildlife Refuge amendment restores refuge acreage—some 14 million acres—deleted by the Senate committee.

Finally, there is the Rivers and Transportation amendment which adds three rivers to the Wild and Scenic River System.

The Carter administration, which has been pressing for Alaska lands legislation since it took office, is concerned about management of the lands, for Alaska has entire ecosystems which need to be guarded carefully. If altered, they may be lost forever.

Alaska is the nation's last frontier. Much of the land exists today as it did thousands of years ago. There is a chance now to preserve and balance the lands so that some systems can stay intact and others can be left open for responsible development, whether it be oil, gas, timber or minerals.

The ultimate Alaska lands bill will be a test of prudence and vision for the Congress. The Senate should pass the strengthening amendments.

[From the Oregonian, July 13, 1980]

ALASKAN LANDS FACE CRITICAL TEST

The Alaskan lands issue, which has been called the most controversial land use battle of this century, will be joined again July 21, when the Senate takes up its Energy Committee's bill, a measure properly opposed by supporters of the House-passed Alaskan lands bill and the Carter administration.

The Energy Committee's bill is heavily weighted—too heavily, in our opinion—in favor of timber, mineral and oil interests. It is called the "Jackson compromise" after Sen. Henry Jackson, D-Wash., chairman of the committee, but it is hardly down the middle. It leans stongly toward opening fragile wildlife areas to cutters and drillers.

The Oregonian has supported H.R. 39, passed by the House, 268 to 157. This bill also is backed by the Carter administration and virtually every conservation and wildlife organization in the nation. Under the House bill, Alaskans would retain for development a vast area, as large as Texas and Montana, that includes 95 percent of all Alaskan lands with oil potential.

The exception (the other 5 percent) is a strip along the Arctic Ocean from Prudhoe Bay to the Canadian border that may prove to be a rich oil or gas resource. This area would be part of a greatly expanded Arctic Wildlife Range under H.R. 39. If it were opened for tightly controlled oil exploration and development, along the lines proposed by Sen. Gaylord Nelson, D-Wis., in which other areas eventually would be developed first, then a major resource could be developed and the House measure made more acceptable. At least, such a compromise would buy time for a more extensive study of the impact of oil exploration on the famous Porcupine caribou herd that feeds along the ocean slopes in summer.

Efforts to amend the Energy Committee's bill will be made, largely by Sen. Paul Tsongas, D-Mass., who will offer essentially the House version as a substitute. The Oregonian earlier thought it better that no amendments be offered but that the House bill be incorporated in a conference committee. This tactic is unlikely to succeed. If the House measure is to have a chance this session, it must win Senate floor approval as an amendment.

The Carter administration holds the trump card because it has withdrawn 96 million acres, which is most of the 103.3 million to 127.5 million acres that woud be put into new conservation systems under either measure. Thus, most potential parks, national monuments and wildlife refugees would be protected for many years—unless a new administration should decide to open these lands to developers.

A threatened filibuster by Alaskan senators, seeking to block the House bill they oppose, would be mostly non-productive because most of the lands would remain under federal protection if no legislation is passed. It is difficult to be optimistic that the Alaskan lands issued will be resolved during this session if the Tsongas amendment fails. At stake here is America's last frontier, its last great opportunity to preserve wildlife and protect one of the world's most fragile environments from the mindless development that has ruined many sections of America and which cannot be salvaged, even at great cost.

Oil and minerals are vital, but in the long term they will disappear. It would be a crime to sell out millions of acres of Alaska that belong to all the people of the United States for a short-term energy resource that would be burned up in a few decades.●

BURDENED PENSION PLAN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues the following letter from my constituent, Mr. Fred Paxton, president of Paducah Newspapers, Inc., and general manager of WPSD-TV in Paducah, Ky. Mr. Paxton's letter focuses on the Internal Revenue Service's proposed regulations regarding vesting requirements for pension plans. If adopted, this plan would typify what Mr. Paxton, as well as many other employers, believes is superfluous Government intervention. Please take time to read the following enlightening letter:

> I would like to complain (and bitterly, if you will permit me) about a proposed new regulation of the IRS which would greatly increase the cost of pension programs. It is styled, regulation 1.411(d) (1) and would require vesting on a much faster schedule than now necessary. In fact, the regulation goes even beyond what was contemplated by Congress in enacting ERISA.
>
> Pension plans are designed as an incentive and reward to long-time, loyal employees.

This new proposal greatly increases the cost of pensions by making employers provide permanent pension benefits for employees who stay with the firm as little as three years.

This social tinkering with the pension system is just going to foul it up for deserving employees and conscientious employers. Here's how it will do that. We are instituting next month a supplementary retirement benefit for our retired employees in order to help them offset the effects of inflation. This is a voluntary addition on our part, and it is costing us significant sums of money. But I've got to tell you that I met resistance in my board of directors. They said the costs of pensions are rising so much already due to misguided government policies that we just can't afford to make any voluntary improvements on our own.

If this regulation goes through, I will be persuaded they are right. And that will mean that in the future we will not be able to make the improvements in our plan which would accrue to the faithful employee who richly deserves it. Instead our new pension dollars will be reserved for government-mandated changes which will accrue mainly to the transient worker who has little concern for his company or his fellow employees.

Please, please tell the House Ways and Means Committee to tell the IRS to quit burdening the pension system with costly, ill-advised "improvements" which will only cause the entire system to founder.

I will appreciate any attention you will give to this subject, and please be advised that my ire is directed to the bureaucrats and not to members of Congress.

FRED PAXTON.●

A BILL FOR THE RELIEF OF LUDMILLA SCHNEIDER

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. HARRIS. Mr. Speaker, today I am introducing a private relief bill on behalf of Mrs. Ludmilla Schneider. This bill would waive section 212(A)(9) of the Immigration and Nationality Act, which would allow Mrs. Schneider to obtain a visa and be admitted to the United States.

Mrs. Schneider is a resident and citizen of Australia. She is suffering from cancer. Her invalid husband recently passed away. Her only remaining relatives are two sisters who live in the United States, and it was these women who set in motion the immigration processes that would allow their sister to come to America and be with them in her later years. Matters were progressing very well and approval seemed virtually assured, subject to the normal police checks. Mrs. Schneider, expecting to be given permission to emigrate, sold her house in preparation for the move.

A skeleton in her closet soon emerged, however, when it was discovered that Mrs. Schneider had been convicted of two charges of shoplifting. Thus, her application to come to America was rejected.

Mrs. Schneider vehemently denies her guilt; however, she claims to have pleaded guilty on the advice of police, who told her it was the quickest and most efficient thing to do. It is important to remember that these unfortunate events occurred soon after her husband died and at the time she was on an enormous amount of medication. Under this strain, she pleaded guilty, obviously not realizing that she would be jeopardizing her chances of being united with her family.

She is presently existing in limbo. After her home was sold she went to live with some friends but left soon thereafter. She is now living alone in a tiny unit. She works as a volunteer to fill the time. Her health continues to deteriorate.

All other avenues for the relief of Mrs. Schneider have been exhausted. Out of compassion for her situation and her desire to be with her sisters, I urge the favorable consideration of this bill.●

THE PEOPLE OF THE REPUBLIC OF CHINA ON TAIWAN NEED OUR SUPPORT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. GINGRICH. Mr. Speaker, the Carter administration may go down in history as the administration with the most Secretaries of State, as we find many officials close to the administration seeking to make foreign policy. We have Ramsey Clark, once a Carter-appointed envoy, seeking still to resolve the Iran crisis. There have been times that the press has speculated whether our foreign policy is being made by the President, the Secretary of State, the National Security Adviser to the President, or a combination of any one, two, or three of these individuals. The latest entry into the race is the present majority leader of the U.S. Senate, Senator ROBERT C. BYRD, JR., who recently came back from the People's Republic of China.

Senator BYRD tells us in a report he entered in the CONGRESSIONAL RECORD of July 23, 1980, that the leadership of the People's Republic of China expressed their pleasure with the course of normalization of relations between the United States and the PRC but expressed displeasure with our policy of selling defensive arms to the Republic of China on Taiwan. In fact, they, the leaders in Peking, told Senator BYRD that such sales would be detrimental to their attempt to reunify Taiwan and China. Senator BYRD promised to convey this concern to President Carter.

This is the same "peaceful" China which has had border disputes with the Soviet Union and India. This is the same China which has territorial claims and disputes with the Philippines, Malaysia, and Japan. This is the same China which supported the brutal government in Cambodia which murdered millions of its own people. This is the same China which invaded Vietnam to teach it a lesson. And it is the same China which spent decades denouncing the United States until it recently decided that it could get our agricultural products and our advanced Western technology by appearing to be nice to us.

The United States in its policy of supplying defensive weapons to the Republic of China on Taiwan is maintaining the peace and stability of Asia. A weakening of Taiwan would only serve to encourage the militancy of the People's Republic of China and the world would witness the disappearance of millions of free Chinese behind the bamboo curtain. During the last decade, we have witnessed the loss of freedom of the people of Laos, Cambodia, and Vietnam. We need not lose any more nations in this critical area of the world.

The people on Taiwan are willing to fight to maintain their freedom. We can assist them in this task, and assist the peace and stability of Asia, by guaranteeing that the Republic of China is perceived so strong that no power would be willing to attack. Nations maintain peace and freedom by strength, not by weakness.

It is time to send the message to the leadership of the People's Republic of China that we are interested in continuing a dialog but we will not weaken a commitment to our allies in the Asian region. It is time that we make clear that we are not allowing the People's Republic of China to dictate our foreign policy in Asia. And it is time that the President of the United States speaks out strong that we intend to support the people of the Republic of China on Taiwan and that our policy on Asia is not being made by visitors to the People's Republic of China who carry back messages which serve as trial balloons testing our willingness to betray allies.●

PERSONAL EXPLANATION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. FASCELL. Mr. Speaker, on rollcall No. 421 which was taken on final passage of H.R. 7584, the bill making appropriations for the Departments of State, Justice, Commerce, and the Judiciary for fiscal year 1981, I am recorded as not voting. I was present and voting, but apparently my vote was not recorded by our electronic equipment. Had my vote been correctly listed I would have joined the majority of my colleagues in voting in favor of this legislation.●

WE MUST KEEP NUCLEAR OPTION

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. CAMPBELL. Mr. Speaker, I am today introducing legislation which would prohibit any Federal Government-ordered phaseout of a particular class of energy resource within any of the nine "reliability councils" cooperating in providing adequate electricity to their geographic areas. Only if the President certified that the reserve margin of electrical generating capacity within such area would be at least 20 percent, a minimum reserve generally agreed to be necessary to avoid brownouts and shortages, could this prohibition be lifted.

Naturally, I have included appropriate exemptions for public safety and for any restriction on the use of petroleum or natural gas under the Powerplant and Industrial Fuel Use Act of 1978.

While it is hard to believe that any administration would seriously consider undertaking a policy of methodically closing down a particular source of power that could leave large areas of the country seriously short of electricity, the Democrat platform has convinced me that it could happen. Although it admittedly contains glaring loopholes, the platform the Democrats will consider in coming days nonetheless specifically states that "we will retire nuclear powerplants in an orderly manner."

At the same time Jimmy Carter's delegates were writing their platform, their standard bearer was in Venice joining with other allied leaders in issuing a strong pronuclear communique—conflicting signals, as usual. But the fact is that about the only consistent policy we have seen from the Carter administration is its regular and routine attack on nuclear power.

A great deal of concern has been expressed on both sides of the aisle about energy independence, and properly so when we are importing nearly half of our oil supplies from foreign sources. Our reliance on imported oil becomes even more frightening when you consider, as the Edison Electric Institute has pointed out, that oil lifted from insecure sources in Africa and the Middle East has grown from 60 percent to 80 percent of total U.S. imports over the period 1975 to 1978. U.S. vulnerability to the "oil weapon" has heightened correspondingly.

Mr. Speaker, even Jimmy Carter's Department of Energy agrees that continued development of nuclear is an essential element in our energy package. In a report issued June 26, 1980, "Electric Power Supply and Demand for the Contiguous United States, 1980-89—Preliminary," DOE says:

> Failure of nuclear and coal fired generating units to meet projected schedules for commercial operation could have a serious negative effect on power supply reliability and adequacy in many areas.

And DOE's report did not even consider the possibility that nuclear-generating capacity now in service would be shut down.

Interestingly enough, the report was issued with little fanfare. Although industry sources report that a press conference was scheduled to announce its release, that conference was abruptly canceled—perhaps coincidentally after the Democratic platform nuclear plank was agreed on.

Now, what does DOE mean by serious negative effect?

For one thing, if all nuclear capacity were decommissioned by 1984, the Edison Electric Institute extrapolating from figures compiled by the National Electric Reliability Council estimates that reserve margins in three of the National Electric Reliability Council regions would be negative—guaranteeing brownouts. In New Jersey, Delaware, North Carolina, South Carolina, Georgia, Tennessee, Alabama, Florida, Illinois, and much of Wisconsin, Missouri, Mississippi, Virginia, Pennsylvania, and Maryland, consumers would face a certain shortage of electricity. And all areas of the country would have reserves significantly below the 20-percent margin necessary to assure uninterrupted electrical supplies.

Let us take that a step further. In a worst case scenario assuming another oil embargo and a national policy which has eliminated nuclear, all reliability councils save two would be threatened with electrical capacity seriously below that needed to meet peak loads. Consider these reserve figures, if oil and nuclear were cut off: For the Northeast/New York area—minus 69.6 percent; for the mid-Atlantic area—minus 64.9 percent; for the Southeast—minus 31.3; for mid-America—minus 30 percent; for the West—minus 23.7 percent; for the Southwest—minus 13.8 percent; for the mid-continent area—minus 10.4 percent. Only the east-central area—plus 1.8 percent; and Texas—plus 13.1 percent would have positive margins.

Of course, even in the event of an embargo, we would have our own domestic oil to fill some 50 percent of our needs. But the Northeast, almost totally dependent on imports, would be devastated, and every area of the country would be severely impacted.

Even consumers who could get electricity would be paying more for it if we decommission nuclear. According to National Economic Research Associates, Inc., in a study made last year, if we require all nuclear capacity to be decommissioned by 1985, then national utility costs in the year 2000 will increase anywhere from $10.3 billion to $37.16 billion. In addition, the existing nuclear plants that would be shut down represent an investment of electric consumers of another $100 billion.

Even if we disallow only new nuclear plants, consumers will pay through the nose—anywhere from $310 a year—in uninflated dollars—per household in the Southeast to $254 per household in the Northeast to a low of $94 a year in the Pacific States of California and Nevada by the year 2000.

Mr. Speaker, the other social costs we would be guaranteeing if we eliminate a major source of electrical power would be even more severe, if less precisely predictable. I am speaking of loss of industry and jobs, increased reliance on OPEC imports, a slow or no-growth society.

We cannot afford to pay this kind of a price. Enactment of the bill I have introduced will provide an insurance policy against ill-conceived, potentially dangerous policy decisions by the executive branch leaving this Nation vulnerable to unemployment, energy shortages, OPEC blackmail, and a further lower of our standard of living.●

NATIONWIDE EDITORIAL SUPPORT FOR ALASKA LANDS BALANCE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SEIBERLING. Mr. Speaker, editorial support for the balance achieved in the House-passed Alaska lands bill in newspapers all across the country has been simply astounding. I have already inserted in the RECORD a large number of these editiorials, for the benefit of Members of the House and especially our colleagues in the other body, which is in the final stages of working out its decision on what has been appropriately referred to as the most important conservation vote in this century. I am hereby continuing this process by offering for inclusion following these remarks editorials from the Virginian-Pilot, Daytona Beach Evening News, Dayton Daily News, Chicago Tribune, Lincoln (Nebr.) Journal, and Everett Herald:

[From the Virginian-Pilot, July 21, 1980]

A FINE BALANCE FOR ALASKA

The Senate opens debate this week on legislation to set aside more than 100 million acres of Alaska for national parks, wildlife refuges, forests, and wilderness areas. The House has already passed a much superior version of the bill.

The Senate bill contains mischievous terms added by that friend of the boomers, Senator Mike Gravel. They would slash the acreage for new wildlife refuges, overcut the state's timber resource, and open for oil drilling the existing Arctic Wildlife Range, recently renamed to honor the late Justice William O. Douglas.

In today's frantic quest for additional energy sources, it may be hard to defend the sanctity of caribou calving grounds or the nesting haunts of the snowgoose if there is evidence of oil beneath that tundra. No one, of course, knows where oil exists.

The likely oil-bearing areas, Alaska's sedimentary basins, include the Arctic coast within the wildlife range. But it is just one of many such areas. Much of Alaska's oil potential is believed to be on its outer continental shelf where the Interior Department is leasing for exploration.

The boundaries of the parks and refuges in the House bill were carefully drawn to avoid 95 percent of the sedimentary basins so as not to obstruct oil drilling. If national desperation dictates drilling in the Arctic Range after other areas have been tapped, a future Congress can open it. There is no justification for it now.

As for arbitrarily increasing the timber yield, Congress has never dictated to the professionals in the Forest Service how to manage forests in the Lower 48, where a sustained-yield policy determines how much logging can be done. The same policy should continue in Alaska.

After oil was discovered at Prudhoe Bay in 1968, Congress authorized the trans-Alaskan oil pipeline project, which now delivers more than 1 million barrels daily. It also wisely set aside 44 million acres for the state's native peoples.

The pending legislation completes the trilogy of farsighted legislation which offers a fine balance by preserving areas of majestic grandeur without impairing sound economic development.

A majority of Virginia's congressmen supported the House bill when it passed last year. Senators Harry F. Byrd Jr. and John W. Warner Jr. should join their enlightened colleagues by voting to substitute the House version and rejecting Senator Gravel's bid to please his campaign contributors.

[From the Daytona Beach Evening News, July 21, 1980]

SAVING THE NATION'S LAST GREAT FRONTIER

Debate was scheduled to begin today in the Senate on one of the most important conservation issues of the decade, the future of the vast Alaskan wilderness which is the nation's last great frontier.

Senators will be working on a shortsighted bill approved by the Senate Energy Committee that would strip the wilderness of much of the protection offered in a good Alaska lands bill passed by the House. The House bill strikes a good balance between measures that would protect fragile wilderness ecosystems from destruction while still opening vast areas to development and resource extraction.

The Senate Energy Committee bill destroys this balance. In tipping the scales too far in favor of development, it threatens to blow our last chance as a people to manage a wilderness the right way from the beginning. The committee bill needs to be heavily amended.

Fortunately, a group of Senators headed by Paul Tsongas, D-Mass., recognizes the need to change the bill so that it more closely reflects the better bill passed by the House and supported by the president. Amendments they will propose would do much to close the nation's most outstanding wilderness lands to random, indiscriminate development and exploitation.

Senators working to improve the Alaska Lands bill deserve strong public support. Alaska offers the last opportunity for Americans to use, develop and protect pristine lands the right way, and the House bill would do the job.

In one sense, Alaska is the last test of our maturity as a civilization. It has entire ecosystems that need to be preserved and that, if lost, can never be replaced. It also has vast resource deposits that could and should be exploited. What's needed is the proper, balanced approach to both embodied in the House bill and Tsongas' coalition amendments.

[From the Dayton Daily News, July 10, 1980]

SMEAR BY MOBIL

Mobil Oil is not above smearing the government for its own purposes, or distorting facts under the pretense of providing them. Consider one of Mobil's recent "informational" ads.

In a section headed "Bilked Alaska," Mobil "understands" the ire of Alaskans because the U.S. government "temporarily closed 110 million acres to mineral exploration. (The) entire nation could be given a needed new burst of energy. So if Alaskans are frustrated by the bureaucracy, you should be, too."

If anything, you should be offended that one of the nations large oil companies would write something like that without telling you why the 110 million acres were closed. They were closed because an Alaskan senator torpedoed legislation in the last session that would have allowed balanced exploitation and preservation. When Alaskan land legislation is passed, the protective designation will be lifted. This will not hold up development, contrary to the oil company propaganda.

Mobil says Americans want recreation and energy. It didn't say that even the most extensive Alaskan land proposals, the Tsongas-Roth bill and the five conservation amendments accompanying it, would leave 95 percent of the best oil and mineral land open for development.

The Mobil propaganda added that even people in Nevada are angry because the feds own 87 percent of the land there. The insinuation is that this is bad. But remember that this means that you, as an American taxpayer, own that land. If you want to give it way, you'll have a friend in Mobil.

[From the Chicago Tribune, July 18, 1980]

CAN CONGRESS ACT ON ALASKA?

When Congress returns after the Republican convention, the Senate will be dealing with national interest lands in Alaska. The question is expected to divide the Senate almost evenly, with about half the senators arrayed against the other half, the administration, the overwhelming majority of the House, and conservation-minded organizations and citizens.

The timing of the debate, late in the legislative year and in a season when politicians are especially preoccupied with elections rather than statesmanship, is thought to favor die-hard opponents of the bill which the House passed long ago and which the administration supports. The measure coming before the Senate is very different. It was cleared by an Energy and Natural Resources Committee dominated, on this subject, by Sen. Henry Jackson [D., Wash.] and the senators from Alaska, Mike Gravel [D.] and Ted Stevens [R]. The Senate committee bill extends less protection to far less territory than the House bill.

Numerous senators, led by Paul E. Tsongas [D., Mass.] and William V. Roth Jr. [R., Del.], will offer a series of strengthening amendments to the committee bill. If these amendments are accepted, legislation could yet emerge from a Senate-House conference before the current Congress ends. If the amendments are defeated, the gap between the Senate bill and the House bill will be so great, and the conservationist opposition to the Senate bill both in and out of Congress will be so strong, that yet another Congress may well end without legislation defining national interest lands in Alaska.

That would leave important and unique portions of the public domain in Alaska protected only by executive action from exploitation for the profit of a few. Two years ago, President Carter and Secretary of the Interior Andrus could and did step into the vacuum left by congressional inaction. But this is 1980, and the authority of Mr. Carter and Mr. Andrus may not last much longer.

Defining national interest lands in Alaska ought to be done by Congress, anyway. And it ought to be done by Congress as a whole, through compromise and consensus, on the merits of the issue. The decision should not be made by the three members of the congressional delegation from Alaska.

Public lands in Alaska are a national possession, inherited from the past, to be acted upon in the best interests of Americans as a whole, present and future. The decision rightly expected from Congress is one that will disappoint the most extreme conservationists, as the House-passed bill does. But Congress should also disappoint those who would make a fast buck by minimally restrained exploitation of America's last frontier.

Sen. Adlai Stevenson is reported to have come down on the side of the conservationists, while Sen. Charles Percy remains undecided. Surely both of them should vote for the Tsongas-Roth amendments, and thus support the national interest.

[From the Everett (Wash.) Herald, July 21, 1980]

THE STEWARDSHIP OF ALASKA

The future of the vast federal lands in Alaska is bigger than the nation's largest state, it is as big as the entire nation.

That perspective should guide the United States Senate, which today begins debate on Alaska lands legislation that will delineate boundaries and establish management policies for more than 100 million acres of conservation systems—national forests, wildlife refuges, wild and scenic rivers and wilderness. That perspective, moreover, requires the Senate's reverent commitment to the principle that the laws of humankind must not trangress the higher laws of nature.

In that spirit, legislating an enduring future for the Alaska lands must scrupulously maintain the integrity of the state's six major ecosystems in which they are located—the Arctic and sub-Arctic west of the Trans-Alaska Pipeline, the Arctic east of the pipeline, the glacier-coated ranges of Southcentral Alaska, the Alaska Range and Alaska Peninsula, the great river-realm of Western Alaska and the timberlands of Southeast Alaska.

Integrity means that the Senate must shape each of the conservation units in the Alaska lands inventory in a way that makes ecologic sense, for example, that respects drainages and wildlife movements. Integrity means that the Senate must set management policies that ensure the viability of renewable resources such as fish and timber and that strike a prudent balance between energy and mineral extraction and the preservation of fish and wildlife habitat. Integrity also means that the Senate must assign federal agencies to the units which they are best qualified to manage, for example, the Fish and Wildlife Service should manage wildlife refuges. Integrity, finally, means that the Senate must address the legitimate concerns of Native Alaskan corporations and the state.

Now the Senate need not look far to find model legislation for Alaska lands. The national interest; an enduring future; the integrity of the land—all of this is embodied in the visionary bill, principally sponsored by Reps. Morris Udall and John Anderson, that passed the House a year ago last May by a landslide 360-65 vote.

But to our profound disappointment, the Senate Energy and Natural Resources Committee, chaired by Washington's Sen. Henry Jackson, exhibited myopic vision when it wrote its Alaska lands bill. Deceptively labeled the "Jackson compromise," the bill is the ill-considered product of Alaska's Sen. Ted Stevens.

The Energy Committee's Alaska bill is a compromise in the worst sense of the word. The measure compromises the integrity of the state's six major ecosystems in practically every way. It cuts 37 million acres of wildlife refuge from the 80 million acres in the House bill—a 47 percent reduction. It cuts another 29 million acres of wilderness from 67 million acres in the House version—a 43 percent reduction. It assigns the wrong agencies to manage various conservation units. It seriously threatens the renewable resource base of fish and timber in Southeast and South-central Alaska. And it jeopardizes critical wildlife habitat, especially in the Arctic National Wildlife Range, by extending oil development beyond the more than 90 percent of the state's potential reserves that are open to bid under the House bill.

So much for that kind of compromise.

A compromise in the best sense would be for the Senate to pass the so-called "substitute" for the Energy Committee bill. The substitute is sponsored by Massachusetts' Sen. Paul Tsongas and Delaware's Sen. William Roth. Their measure emulates the House bill, placing 128 million acres in the conservation systems we've mentioned.

To pass the Tsongas-Roth bill, though, the Senate must first consider five amendments to the Energy Committee bill that are also sponsored by the junior senator from Massachusetts. Although these amendments would substantially improve the Energy Committee bill—and we appreciate that—they don't improve it enough to meet the tests of national interest, endurance and ecosystem integrity that are passed with high marks by the Tsongas-Roth substitute and the House bill.

The Senate must realize that each Congress, each generation of Americans are stewards temporarily entrusted with managing the eternity that is the nation's natural heritage. Do not betray that trust, senators.

For the Alaska lands, the Tsongas-Roth and Udall-Anderson bills offer the nation a unique opportunity to begin that stewardship with great promise. That promise must be made by this Congress to be kept.

[From the Lincoln (Nebr.) Journal, July 21, 1980]

Reserving Alaska Lands

Most Americans will never set foot in Alaska, that northernmost jewel of our union. So many may not give so much as a single sustained thought about the Alaska lands legislation currently before the Senate. Distance not only lends enchantment, but indifference.

Yet all Americans have a stake—if infinitesimal—in the discusison, for what is being talked about is real estate owned by the national government, and the disposition of that real estate.

The issue is how much of the national government's vast Alaska land holdings should be protected against development, exploitation or even traffic.

Last year the House of Representatives passed, 360-65, a bill establishing a series of land reservations and protections. H.R. 39 was liked by conservationists and environmentalists, but disliked by many Alaskans, since it would limit future exploitation of selected areas.

Importantly for the judgment which follows, Reps. Douglas Bereuter of Utica and John Cavanaugh of Omaha were among those voting for H.R. 39.

Now the contest has shifted to the Senate.

Recent large advertisements in this newspaper, paid for by the State of Alaska, make clear that the issue is very close, and that Nebraska's two senators, Edward Zorinsky and J. J. Exon, are among those still regarded as undecided.

As with all major public policy questions, there is no clear and obvious right or wrong position. Good and compelling arguments are made by both sides—those who favor making more land available for future commercial resource development, those who contend for protecting the integrity of entire habitat systems.

If the issue were reduced to the single question of whether the nation would be unquestionably hurt if all oil exploration in the Douglas Arctic Wildlife Range were prohibited, simply in order to protect the calving grounds of the Porcupine caribou from any intrusion, the call would have to go against the caribou protectors.

It is unfair and wrong to say that responsible commercial firms are thoughtless about the environmental consequences of their work in ecologically fragile areas. Calling them Rape & Pillage Inc. is as wild a charge as calling environmentalists soft-headed and soft-hearted advocates of No-Growth, that dread late 20th century malady.

In the end, the judgment here is that the Senate Energy Committee's bill, improved by all or most of five major amendments, would be the proper decision at this time. Put a line under the words "at this time."

At some future time, when private interests have essentially exploited all resource areas already open to them in Alaska, when the national need for those resources will be demonstrably greater, Congress can judiciously release selected lands for more exploitation and development.

But not now.●

PRODUCT LIABILITY ACT OF 1980

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. PREYER. Mr. Speaker, Mr. Broyhill, Mr. Scheuer, Mr. Luken, and I have introduced today the Product Liability Act of 1980. This legislation would provide uniformity and balance in certain areas of product liability law that have caused much confusion and uncertainty.

The legislation is the result of 12 days of hearings by the Subcommittee on Consumer Protection and Finance of the Interstate and Foreign Commerce Committee. During those hearings, the overwhelming majority of the witnesses agreed that the rising cost of product liability insurance, in the form of higher premiums and larger deductibles, places a severe economic burden upon business. Testimony received by the subcommittee confirmed the Interagency Task Force on Product Liability's findings of three principal causes of the product liability problem. Those causes are: First, questionable insurer ratemaking and reserving practices; second, uncertainties in the tort litigation system; and third, unsafe products.

Earlier this year, the subcommittee adopted and the House passed by a vote of 332 to 17, the Product Liability Risk Retention Act to address the insurance aspect of the product liability problem. Having addressed the first cause of the product liability problem, the subcommittee then focused on how to eliminate uncertainties in the tort litigation system and reduce the number of unsafe products. To that end, the subcommittee considered H.R. 5626, the National Product Liability Act, and H.R. 7000, the Uniform Product Liability Act. The former was drafted by the National Product Liability Council, while the latter is based upon a Model Product Liability Act drafted by the U.S. Department of Commerce. A substantial majority of those witnesses advocating uniform product liability legislation supported H.R. 7000. However, several witnesses noted meritorious provisions in H.R. 5626. The bill introduced today represents the best of both bills. It addresses all major areas of uncertainty in product liability law including: design defect cases, failure to warn cases, product alteration cases, product modification cases, limitations on actions against old age products, the relationship between worker compensation benefits, and product liability, punitive damages, and unavoidably dangerous aspects of products. At the same time, the legislation strikes a fair balance among the interests of consumers, manufacturers, and insurers.

Mr. Speaker, I believe this is a well-crafted bill and I urge my colleagues to support it.●

CBS NEWS' ERROR IN FACT CONCERNING LIBYA

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SYMMS. Mr. Speaker, on the evening news broadcast Tuesday, July 29, 1980, Fred Graham of CBS television news portrayed me as a "supporter of Libyan causes." This is totally false and I feel compelled, Mr. Speaker, to set the record straight with my colleagues in Congress and the public at large.

I have never supported Libyan causes as was falsely reported by CBS News, who, by the way, never bothered to check with me or my office before they ran their story last night. In fact, I have condemned Libyan terrorist activities and their ties to the Soviet Union. Consequently, I call upon CBS News to set the record straight and, for the sake of fairness, report my side of the story.

Let's look at the facts:

I went to Libya 3 years ago, February 1977, as a member of an agricultural trade delegation from Idaho to explore the possibilities of selling Idaho agricultural products to Libya. My trip was paid for by the House Interior Committee. This all came about because the University of Idaho has an agricultural exchange program with the University of Tripoli. The Libyans contacted the University of Idaho about the possibility of buying American wheat. The University of Idaho in turn contacted the Idaho Farm Bureau and the Wheat Growers Association. The congressional delegation was contacted by the farm groups and asked to support the efforts to sell Idaho wheat. Thus, my trip was made at the request of my agricultural constituency.

Before departing I was briefed by the CIA and the State Department and was asked by the CIA to make certain observations if possible. Upon my return, I was debriefed by the CIA. I also met with Mr. Philip Habib who at that time was Under Secretary of State for Political Affairs and discussed the trip as well as matters discussed with the Libyans. Habib gave me the background on the C-130 aircraft controversy among other things. At that time I expressed my complete agreement with the State Department's policy and this remains my position today.

The record is open and clear. There is no more to the story. But this is the political season. I've been told that Senate Democratic personnel have been pressuring the television networks, ABC News in particular, to create a Symms-Libyan connection. And I've also been told that operatives working to insure the reelection of the incumbent senior Senator from Idaho, whom I am challenging for the Senate in Idaho this year, have been urging Senator BAYH to link Idaho with the Billy Carter affair. That certainly doesn't surprise me.

Nor does it surprise me that Jody Powell would like to see a Symms-Libyan connection as he attempted to imply on CBS's "Face the Nation" broadcast Sunday, July 27.

Any assertion that I am a supporter of Libyan causes or that I have had any contributions from anyone working in behalf of the Libyan Government is either an error in fact or willful disinformation.

On Wednesday morning, July 30, my office contacted Mr. Fred Graham of CBS and asked him to identify which Libyan causes I have allegedly supported. Mr. Graham refused to do so.

Finally, I call upon CBS News and others to carefully check the facts. The American public deserves better.●

THE CRISIS OF THE HOUSE DECIDING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. MICHEL. Mr. Speaker, there has been much written and said about the possibility of the forthcoming Presidential election being decided in the House. Quite often what we get instead of informed, detailed, and scholarly studies are hysterical and sensational articles about the alleged crisis that will occur if and when the House is forced to choose the next President.

A refreshing and welcome change from this kind of sensational journalism has just been published in the distinguished journal Public Opinion. In "The Crisis of the House Deciding," William A. Schambra offers a calm, reasoned, informed view of exactly what will—and equally important what will not—happen if the Presidential election goes to the House.

At this time I wish to include this eminently readable and useful article in the RECORD, from the magazine "Public Opinion," June/July 1980 issue.

THE CRISIS OF THE HOUSE DECIDING

(By William Schambra)

America has been troubled lately by a recurring nightmare: What happens if John Anderson's presidential candidacy siphons enough electoral votes from the two major contenders to throw the election into the House of Representatives? Since the situation has not arisen since 1824, it looms as a big unknown for most citizens, with all the fear the unknown evokes.

Anxiety levels have not been helped, of course, by the recent outpouring of journalist scenarios luridly describing an election in the House; they serve up various combinations of presidents and vice presidents like so many grotesque Chinese dinners. Nor are we likely to be comforted by the political reformers who have been clucking for decades that the Electoral College is a "loaded pistol pointed at our heads," always on the verge of going off and making a bloody mess of our presidential selection process; they're busy preparing "I told you so's," to be delivered as soon as the report of the pistol shot has faded.

It is probably a good time, then, to take a deep breath, and, following a current psychotherapeutic adage, try to imagine the worst that can possibly happen if the election goes to the House. By engaging in a small dialogue with our deepest anxieties, we will find that there simply is not that much to be afraid of, and, in fact, there may be something to look forward to.

Anxiety No. 1: I have never been in a constitutional crisis before. What is going to happen to me? Absolutely nothing, because there will be no "constitutional crisis." A constitutional crisis would require some fatal lack of clarity in our fundamental charter or some gap in constitutional procedure. There is none of that in this situation—the Constitution speaks clearly and authoritatively about how a president is to be chosen in a "contingency election" by the House. (This, in spite of, or more likely because of, the fact that the Supreme Court has not handed down any rulings in this area.) The contingency election may be unusual, and therefore may be frightening, but it is in fact a well-defined, legitimate constitutional procedure that produced presidents in 1800 and 1824, and will do so again, if necessary, in 1980.

THE CONSTITUTION SPEAKS

To review the procedure briefly: if no presidential candidate has acquired a majority of votes in the Electoral College, the newly elected House of Representatives meets in January to select a president from among the top three contenders. The representatives vote as state blocks, each state having one vote. For a candidate to be awarded the vote of a state, he must have a majority of the votes cast within the delegation; for a candidate to be elected, he must pile up twenty-six states. Should the House fail to select a president by Inauguration Day, the newly elected vice president would become acting president. (The Senate will have chosen the vice president from the top two candidates emerging from the Electoral College.) And, should the Senate have failed to select a vice president by that time, the new speaker of the House would become acting president.

It is very likely that the House would produce a president, if not by Inauguration Day, then shortly thereafter. Were congressmen to vote strictly along party lines, of course, it is conceivable that a stalemate might occur and last until 1984; the Democratic party currently controls twenty-nine state delegations, and GOP in-roads in 1980 could reduce that below the twenty-six votes needed to win. But congressmen will be under tremendous pressure to come up with a final winner, and there will be plenty of ways for them to justify breaking party ranks—some will feel compelled to vote the majority or plurality sentiment of their districts or states, others will follow the plurality sentiment of the nation, some may even feel compelled to vote for the best man. In spite of those fanciful stories about Walter Mondale or Howard Baker to Tip O'Neill acting as president until 1984, it is highly likely that the House will come to a decision quickly.

Anxiety No. 2: But what kind of Rube Goldberg device is this procedure, anyway? Election by the House? Voting by states? Is this the United States, or Lower Slobovia? It's the United States, all right—a nation grounded in complex political principles that find expression in complex political institutions that are, in turn, often dismissed as "Rube Goldberg" devices by those who do not understand them. The contingent election is a prime example of a complex institution serving complex ends; it must deliver us a president quickly and efficiently, at the same time adhering to certain fundamental, but not necessarily mutually compatible, political principles.

Quickness and efficiency? The House is already assembled and ready to act, should the Electoral College fail to provide a president. As an alternative, would we really want to consider holding another national election, with all the delay, uncertainty, expense, and aggravation that would entail? We already hear complaints that our election season seems to drag on interminably.

MAJORITY RULE AND FEDERALISM

Fulfilling fundamental political principles? It satisfies our commitment to the rule of the majority because it is a democratic procedure. The House is, after all, elected by the people, in the same year, on the same ballot, as the president. In a year with the possibility of a contingent election, people obviously would vote for a congressman with an eye to his role as presidential elector, thus making it even more likely that the winner of the contingent election will be an adequate reflection of popular desires. In fact, this procedure comes to resemble the British parliamentary system, where voters choose MP's on the basis of the prime minister they would bring to office; few would describe that as an undemocratic system. (These connections between the congressional and presidential elections make the House a far more appropriate body for the contingent election than, say, the Senate, where only one-third of the members appear on the ballot with the presidential candidates.)

But it must always be remembered that democracy is not the only principle important to Americans; there are others that necessarily qualify and moderate our commitment to majority rule. For instance, federalism is very important to us, and federalism—the recognition of, and vestment of power in, the states as states—is precisely the reason the congressional delegations cast their votes as state units in contingent elections. This provision has probably provoked more exclamations of dismay than any other: tiny Rhode Island gets the same vote as mighty California! But that is what federalism is all about. The state unit voting rule is a valuable expression of the enduring status of federalism; along with other institutional devices like equal state representation in the Senate, it helps to preserve the states as states in this centralizing, nationalizing, homogenizing age.

It might be "simpler" or "more democratic," say, for the congressmen to cast their votes as individuals for president—but, once again, ours is a complex system, unafraid of using what might appear to be "Rube Goldberg" devices in the attempt to combine democracy with other valuable principles.

THESE MEN WILL CHOOSE?

Anxiety No. 3: Still, the idea of a president chosen by a log-rolling, deal-making, ABSCAMing House is pretty disturbing. The image of a House of Representatives, wallowing in corruption and run by the "special interests," is a highly distorted view peddled by "reformers" whose perpetual goal seems to be to rid politics of politics. In the normal course of legislating, an enormous amount of compromise and log-rolling is necessary, indeed, it is desirable in a legislative body that represents a large, complex nation and in which the individual legislator is primarily and properly responsive to the handful of interest groups that populate his district. Thank heaven we have a political system where log-rolling and compromise are possible; who would seriously want to trade it for one of those systems where high-minded ideals give rise to political disputes that are settled by splitting heads instead of splitting the difference?

At any rate, many House members would probably put the grossest forms of log-rolling aside and distinguish themselves, on the occasion of a presidential election, by making honest efforts to cast their votes on the basis of principle. We have only to recall the Watergate hearings to grasp this likelihood; the so-called unprincipled politicos in the House suddenly were found debating fine points of constitutional interpretation, pondering dusty, scholarly tomes, anguishing over the legality and the justice of the charges against President Nixon. In short, on occasions of great national moment, Congress understands and willingly assumes its responsibility to behave as a truly deliberative body—and we shouldn't mind our next president being chosen by a deliberative body.

Come to think of it—now that caucuses of party regulars (the deliberative bodies that once chose presidential candidates) have been elbowed out of that process by mass-mail wizards and media "hypesters"—it might not be a bad idea to give congressmen a larger say in presidential nominations on a permanent basis, perhaps by setting aside seats for them at the national conventions. They would bring a lot of wisdom and experience to the selection process.

LEGITIMACY

Anxiety No. 4: Wouldn't any president elected by the House be considered illegitimate? What does "illegitimate president" mean? Following our adage to imagine the worst, would it mean that the people would take to the streets rather than "submitting" to someone elected by the House? That is doubtful; the American people would probably do what they have always done, while the journalists and critics of our political system brood over the latest "crisis": nothing. That is what they did in 1800 and 1824, when the House elected Jefferson and John Quincy Adams to be President, and what they did in 1888, when the winner of the popular vote, Grover Cleveland, failed to become president because he lost the vote in the Electoral College. They will do nothing because they understand better than the journalists and critics that legitimacy is not somehow magically bestowed by the vote of popular majorities. Richard Nixon, who won reelection in 1972 by the largest majority in the nation's history, must have pondered this truth from time to time, in his premature retirement.

Abraham Lincoln also understood this truth; he limped into office with just under 40 percent of the popular vote, and yet we consider him not only legitimate, but great. And consider Gerald Ford; he ascended to the presidency in 1974 without having received a single vote in a national election, and yet friend and foe alike credit his administration with one outstanding achievement: the restoration of legitimacy to a system shaken badly by Watergate.

Legitimacy is bestowed upon a president in part, by demonstrated, effective performance in office. And any president elected by the House would surely be given the opportunity to show us what he can do. The American people have traditionally given a new president a period at the beginning of his administration to prove himself—to "earn" his legitimacy—and there is no reason to believe they would withhold this grace period from a president elected by the House. Indeed, such a president would probably receive a bonus. The more the press fretted about the great "crisis of legitimacy" that had beset the presidency, the more the people would rally around their new chief executive—according to one of the more sturdy laws of public opinion, the American people tend to back their president in troubled times, even when it is apparent that the president brought the troubles upon himself.

During this grace period, the new president will act quickly and vigorously, to demonstrate that his powers have not been impaired by the contingency election. And he will probably find Congress particularly receptive to his legislative initiatives—after all, they elected him, didn't they? Our new president, therefore, will have a better-than-average chance of earning the legitimacy that comes from effective performance in office.

But legitimacy also flows from the Constitution itself. Our founding document is still respected and revered by the American people, to the consternation of all those scholars who have argued over the years that it is "outmoded," "undemocratic," and a tool of the rich to oppress the poor. Any president who assumes office in an orderly, constitutional fashion—as did Gerald Ford in 1974, and as would one elected by the House in 1980—automatically draws on this very important reserve of legitimacy.

In a world where succession to office is most often accomplished at bayonet point, what a luxury it is for us to anguish over the "legitimacy" of a president elected by our most democratic legislative body, through regular constitutional procedures that have to be invoked only once every 156 years!

AFFIRMING FOUNDING PRINCIPLES

Anxiety No. 5: It still does not seem right that a candidate who is the popular choice in the general election might turn out to be the loser in the contingency election. Is this not a clear case of thwarting the popular will, and would that not be disillusioning for the American people? What "popular will"? The whole point of a contingent election is that it only comes into play when no clear popular will has been formed. For the election to go to the House, John Anderson will have had to drain a great many votes from the two major candidates. Under these circumstances, the "popular choice" in 1980 will at best have a slim plurality in the popular vote—and another way to describe the slim plurality winner is the massive majority loser. So we are back where we started: if the people have not settled on a president, who should?

If we insist that institutional results—in this case, the selection of the president—precisely reflect the vote of the popular plurality, then there is very bad news for us: not a single part of our government adheres to that principle. For instance, total percentages of the popular vote for the House are always quite different from the percentages of seats actually won by the parties; it even occasionally happens that a party will capture a majority of the popular vote but wind up with a minority in the House. That is the result of the single-member district system; but would we be willing to trade that system, will all its advantages of representation for the "folks back home," for a barren mathematical exactitude in the distribution of seats? The distribution of Senate seats is, of course, even more hopelessly out of line with the total popular vote cast for senators, because each state has two senators, regardless of population; but again, would we be willing to junk the federal principle that produces that result? Finally, Supreme Court justices wield enormous power in our system, without ever having earned a single popular vote. But would we want to do away with the appointive principle that insures some degree of judicial impartiality in the court?

Would the contingency election be a disillusioning experience for the American people? No, in fact it might be a valuable educational experience. It would probably set off an intense national "teach-in" on the fundamentals of our system. We would have the opportunity to remind ourselves that principles other than majority rule are important—principles like district representation, federalism, and judicial impartiality which qualify majority rule in institutions such as the House, Senate, and Supreme Court.

Relearning that lesson might even serve to ease the "crisis of confidence" that seems to have beset our political and social institutions in general. If there is such a crisis, it arises in part from the exaggerated expectations we have come to have of our institutions: we expect them to respond, fully and immediately, to the demands and desires of the popular majority as recorded and dramatized by public opinion pollsters. But our institutions were not designed for that; they were intended to serve a rich variety of ends, of which democratic responsiveness was but one. If we can reacquaint ourselves with that truth during our "teach-in," we may come to hold more reasonable expectations of, and have more confidence in, our institutions.

In short, our nightmares about the contingency election will disappear if we simply stop taking seriously all the talk about impending constitutional crises, Rube Goldberg devices, corrupt deals in the House, illegitimate presidents, and thwartings of the popular will. Even if a contingency election occurs in January, we will still have a president chosen in a regular constitutional fashion, fully in accord with fundamental American political principles. We should not be distracted from that simple truth by journalists who are eager to play parlor games or by "reformers" who will try to persuade us that a "loaded pistol pointed at our heads" is about to go off.●

TURNING THE TABLES ON WASHINGTON

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. HARKIN. Mr. Speaker, we often hear that Washington, D.C., as our Nation's Capital, attracts the bright and the young from other parts of the country. Well, my own State of Iowa, I am happy to report, is turning the tables on Washington by attracting the wise and mature to experience its substantial living advantages.

I am pleased to learn that Chris J. Edmonds, a 24-year Washington veteran of General Motors' public relations staff, is about to start a second career as a professor at Iowa State's School of Journalism in my hometown of Ames. We are friendly people in Ames and I know that this will be a welcome addition.●

ALASKA—LAST CHANCE FOR AMERICA'S WILDERNESS HERITAGE

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SEIBERLING. Mr. Speaker, the newspaper editors all over the country have sensed that the Alaska lands legislation passed overwhelmingly by the House last year and now reaching a final decision point in the Senate truly represents America's last chance to preserve a significantly large portion of America's wilderness and wildlife heritage. The editors have realized, as has the general population, that if we fail to act now to protect these areas, their pristine quality will be lost forever to those who would despoil them for speculation or through sheer carelessness.

In addition to the editorials that I have already included in the RECORD earlier this week for the benefit of our colleagues in both Houses, I am offering for inclusion following these remarks editorials from the following newspapers: Gainesville Sun, the Charleston News and Courier, Kokomo Tribune, the Kansas City Times, and Newport News-Hampton:

[From the Gainesville Sun, July 19, 1980]

BUFFALOING OF ALASKA

If Americans had it to do over again, would they save the buffalo?

In a fashion, that question faces U.S. Sens. Lawton Chiles and Dick Stone of Florida in the next few days. The question they are pondering is what to do with the natural wealth of Alaska, the yet untouched.

Without doubt, the speculators and exploiters are poised to despoil by leveling forests and peeling back the earth for mining. Opposing them is perhaps the greatest coalition of naturalists ever gathered under a single umbrella, which contends that much of Alaska is like the Grand Canyon—a national heritage not to be destroyed for short-term gains.

Last year, the U.S. House came down flatly on the side of the naturalists. Into a complex mix of parks and refuges and forests and recreation areas, it voted to set aside 127.5 million acres of federal land for future generations. This is roughly 35 percent of a beautiful state which is beautifully large, 10 times bigger than Florida in area but with less population than the City of Jacksonville.

It is a joy to report that U.S. Rep. Don Fuqua of North Florida voted for the federal government to preserve an Alaskan legacy for future generations.

The U.S. Senate continues that debate this month. Indeed, the Alaskan issue is a touchy one for the Senate because it infringes on a hoary courtesy, which is personal privilege of the membership. You see, Alaska's two senators are Democrat Mike Gravel and Republican Ted Stevens, who have their differences. But in one fashion or another, both support the boomers who want to walk away with Alaska's wealth in their pockets.

It simply goes against tradition for the Senate to dispense with a state matter in a fashion contrary to the will of the two members from that state. It is precisely for that reason that the Alaskan issue was not resolved as early as 1978.

Bucking hallowed tradition takes gumption, but the national interest demands it of Florida's Sens. Chiles and Stone.

The upcoming Senate debate will be confusing to casual onlookers. The Senate has before it an unacceptably weak committee bill. The ecologist strategy is to reinforce it with five separate amendments, then maybe substitute the House version. So Sens. Chiles and Stone, to save Alaska, will have to record votes redundantly.

A side note is that the Carter Administration is an enthusiastic booster of Alaskan conservation. Had it not already set aside abundant acreage, temporarily while the U.S. Congress made permanent arrangements, Alaska already would have gone down the chutes.

As for the boomers who want to open Alaska to the despoilers, they include Gov. Jay S. Hammond who is conducting a national campaign. He floats spurious arguments. He implies Indian Alaskans are being squat upon—in fact, Congress already has granted them 44 million acres. He implies Alaska is being robbed of 103 million acres promised when it became a state in 1959—in fact, Alaska will get its 103 million acres, although not in the destructive fashion it planned.

The boomers also contend the U.S. Congress threatens to post an "off limits" sign on the entire State of Alaska. That certainly is not true. Forty percent of the entire state will remain in state or private hands, 95 percent of high potential oil and gas lands will be open to possible development, 100 percent will be open to mineral assessment, 88 percent will be available for sport hunting, 70 percent of the metallic mineral potential will be outside the conservation system. In total 61 percent of the entire state will be open to a wide variety of uses.

The issue is how much of this grand land shall be preserved in the pristine state and how much shall be cut down or dug out or slain and carted off. In view of the department of the continental United States, the question is whether Americans would do it precisely that way again.

Alaska, in other words, is a second chance.

During the debate in the House last year, North Florida's Rep. Fuqua must have been persuaded by the argument of the bill's sponsor, U.S. Rep. Morris K. Udall of Arizona. For the benefit of Sens. Chiles and Stone, his words are worth repeating:

"Americans will never see a buffalo herd again, and if we are not wise today, our grandchildren will not be able to see a caribou herd. This is the test of our congressional careers. This will be the most important vote we will cast."

Considering the hazards of nuclear weaponry proliferation, maybe Udall overstated just a bit. But Sens. Chiles and Stone, in behalf of all Americans, are pondering the second chance. If Americans had to do it all over again, would they not save the buffalo?

[From the Charleston (S.C.) News and Courier, July 9, 1980]

ALASKA LANDS BILL

Since 1971 Congress has been wrestling with the problem of how to allocate more than 100 million acres of federal lands in Alaska—undisputedly some of the most spectacular wild lands remaining in the world. A battle has been raging for this land between two groups who want it handled in different ways.

Conservationists want to see habitat for caribou, bear, bald eagle, Dall sheep, and millions upon millions of waterfowl preserved in its natural state for future generations. Developers want to open the land for oil exploration, hard-rock and open-pit mining with their resultant mining towns, tailing ponds, extensive road systems and stream modifications. Forest product industries want access to some of the most majestic forests remaining in the world to clear cut timber.

On July 21, the U.S. Senate will begin debate. As this date draws near, Sen. Ernest F. Hollings, once one of the strongest supporters of legislation protecting Alaskan wilderness, has fallen strangely silent. Staff members say he "is supportive" of strong protective legislation, but that he's been "busy" with the budget and the defense. In that case, it is a good time for Mr. Hollings to turn his attention to Alaska again. He was one of the first co-sponsors of earlier Alaskan legislation. If he wants to retain his identification with conservationists on the Alaska issue, he must break his silence now.

On July 21, two bills and several amendments will come before the Senate that give Mr. Hollings his choice. The Senate Energy Committee produced a weak bill, considered unacceptable by conservationists and the Carter administration. Sens. Paul Tsongas of Massachusetts and William Roth of Delaware have submitted a strong substitute, a bill balancing preservation and development. In addition, several environmentally strengthening amendments have also been introduced.

If Mr. Hollings were to come out in support of the Tsongas-Roth substitute now, several uncommitted Southern senators might follow suit. Because Tsongas-Roth is so balanced, more and more often the question arises, "What is Hollings' reservation? Why does he hesitate?" Mr. Hollings has a good chance to make points with conservationists by giving that kind of leadership.

[From the Kokomo Tribune, June 19, 1980]

Crucial Votes on Alaskan Lands

The Izaak Walton League of America welcomes public support for legislation to strengthen protection of Alaska's great natural resources.

Debate on this legislation is scheduled to begin July 21 in the U.S. Senate, and the League hopes a substantial volume of mail will be sent to Senators Birch Bayh and Richard Lugar urging them to back the Tsongas-Roth bill and five amendments to the Senate Energy Committee bill.

To address the Alaska problem, the Energy Committee came up with what conservationists regard as a weak measure which fails to adequately protect wildlife and wildlands. Five amendments to that bill have been offered, and the League believes they are a "must" if the legislation is going to be effective. It is asking the public to urge Lugar and Bayh to back those amendments.

The Tsongas-Roth bill, sponsored by Sen. Paul Tsongas of Massachusetts and Sen. William Roth of Delaware is rated by the League as greatly superior to the Energy Committee's version. It may have a chance to be voted on after all amendments have been considered.

The House has already passed a good bill (Udall-Anderson) and if a strong version can come out of the Senate there is a bright prospect that the spectacular wildlands of Alaska—our last frontier—will be preserved for future generations.

Setting aside adequate acreages in proper protective categories in Alaska represents the greatest conservation and wildlife opportunity of this century. The need for natural wild areas providing unspoiled wildlife habitat, pristine rivers and streams, and outdoor recreational areas constitutes a conservation issue of major concern to all citizens of the United States.

[From the Kansas City Times, July 21, 1980]

Deciding the Fate of Alaska

If the Senate holds to its schedule, one of the most decisive conservation debates in U.S. history will begin today. The battle lines are drawn—and the stakes are enormous. Millions of acres of pristine wilderness are involved, along with the wildlife that has reigned supreme there for thousands of years. So is the future of sports hunting, logging, mining and road building in a vast area of this planet that remains unspoiled by a greedy, ravenous mankind.

We refer, of course, to the Alaska Lands Bill which has been a subject of study and controversy for about as long as anyone can remember. A measure to save what Interior Secretary Cecil Andrus calls the "crown jewels" of the 49th state has won the strong support of the White House, the Interior Department, the House of Representatives and a good segment of the American people. The Senate is the bottleneck.

It is astounding that two persistent and disruptive senators from Alaska can block a nation on this issue, but that is precisely what has occurred. In May of 1979 the House adopted an excellent Alaska bill, and not for the first time. It went to the Senate where the Energy Committee made a mess of it. Today work begins on five major revisions that would restore some integrity to the Senate version.

The bipartisan amendments, worked out under the lead of Sen. Paul Tsongas of Massachusetts, would provide the basis for a final compromise by House-Senate conferees. As things now stand the Senate energy Committee bill and the version approved by the full House are so far apart there is really no basis for discussion. The five Tsongas amendments, each of which is vital, would bring the two plans closer into line, setting the stage for a final and reasonable agreement.

The central issue is whether Alaska is to be plundered to the permanent detriment of both scenery and wildlife. Tens of millions of acres have already been earmarked for exploitation and the harvesting of natural resources. The only remaining question is how much—or how little—land will be spared.

Compromise has already followed compromise, as choice areas have been denied protection. The House plan was ravished by the Senate Energy Committee. The two Alaskan senators, Mike Gravel and Ted Stevens, have proved adroit in forcing delays. No one knows what they will pull next from their bag of tricks. But the crucial issue is the fate of Alaska which is owned outright by the American people. Will the land be plundered or preserved? The answer now rests with the Senate of the United States.

[From the Newport News-Hampton, July 13, 1980]

Preserve or Plunder?

A week from Monday when Congress returns from its July recess, the Senate is scheduled to begin debate on what the country's major conservation groups have labeled, "the most important conservation and wildlife legislation of our time."

Called vaguely the Alaskan land bill or simply the Alaskan bill, the legislation before the Senate will set the pattern and draw the lines between areas of that vast state which will remain open to extraction and development activity, land which will be retained in its virgin condition and land where development and conservation will co-exist under careful guidelines for the manner in which development may be executed.

The House has already passed a bill which meets standards of good conservation practices and preservation of the unique among the flora and fauna.

However, industry forces and the State of Alaska rallied to have a bill brought to that chamber's floor which opens the way to exploitation of natural resources in that state which will be little modified from the plundering of the lower 48 states.

In a nutshell, industry wants to be able to go into some of the categories of preserved land to pursue their respective searches for oil, minerals and timber.

The Alaskan government, with an eye toward the potential tax take, is anxious to see these rights granted to industry.

In this connection it should be noted that Alaska will enjoy a $3 billion budget surplus this year from oil yield and $53 billion over the decade. Because of this cornucopia of riches, the state income tax has been repealed and there is talk of grants to individuals up there of up to $1,000 apiece.

A group of conservation-minded senators have drawn substitute legislation labeled the Tsongas-Roth approach which would be more in line with the House bill although not quite as restrictive.

Amendments stemming from this include five primary ones dealing with National Forest Lands, National Wildlife Refuge System, National Park System, Wilderness lands and a Rivers and Transportation amendment.

As amended, the committee bill would still:

Protect existing timber industry jobs in Southeast Alaska;

Leave more than 95 percent of the state's "favorable" and "high potential" onshore oil and gas lands open for exploration and development;

Leave 91 percent of Alaska's land open to sport hunting, closing only 1 percent more than the committee bill in areas essential as wildlife sanctuaries for Dall sheep, bear, moose and caribou;

Open the 22.5 million-acre National Petroleum Reserve-Alaska for oil and gas exploration and leasing by private industry. The House bill does this but the Senate committee bill does not.

The lands sought to be protected by the Alaska Coalition include the last natural conservatories of their kind still under the American flag. We cannot err in acting now to preserve it. Should circumstances change so radically sometime in the next century to make it a "them or us" survival question, the restrictions could be relaxed or abolished then with no harm having been done because the oil, gas and minerals stayed in the ground a few more decades beyond the millions of years they have been formed and laid there.

We would urge non-members of the "me and now" society to write or phone Virginia Senators Harry F. Byrd Jr. and John Warner soliciting their support for the amendments to the committee bill.●

CAPTIVE NATIONS WEEK, 1980—WILL AMERICA STAND UP FOR WORLD FREEDOM?

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. KEMP. Mr. Speaker, as I said in this body yesterday, 5 years after the signing of the Helsinki agreements, the hopes of those behind the Iron Curtain for improved human rights have still not been realized. This fact has been dramatically illustrated by a surprising event in Chicago. This month while the Congress was in recess and Captive Nations Week was being celebrated throughout the country, a very important decision was being made by a 12-year-old Ukrainian boy.

Several months ago, Walter Polovchak came to America with his family to live. Here he tasted for the first time the simple freedoms of America. He made friends, went to a public school, and even got a new bike. Just recently, Walter's father, missing his family and friends, decided to take his family back to the U.S.S.R. Walter stunned the world by courageously deciding to let his family go back to his repressive homeland without him.

We in the United States who are free of political, religious, and cultural persecution and harassment often forget the harsh realities of life behind the Iron Curtain. This year I have joined with Senator Roger

JEPSEN to protest and secure the release of many Christians behind the Iron Curtain who, like Walter, yearn to be free of further persecution. Even before Afghanistan was added to the growing list of captive nations, it was evident that the Soviet Union has a goal of hegemony in major parts of the world.

The Olympic games clearly show that Soviet citizens are not even allowed the simple freedoms of talking and sharing ideas with their Western visitors. Even more distressing is the fact that while thousands of Soviet troops march through Afghanistan, most Soviet citizens have no idea of what is taking place.

But the spark of resistance smolders in the hearts of the Soviet people. Earlier this week, during the Olympic extravaganza extolling the virtues of the Communist state, thousands of Soviet citizens mourned the death of a Soviet protest singer, Vladimir Vysotsky, by defying the Soviet Government and turning out in massive numbers in a Moscow square. Even though the Soviet press ignored his death, one well-respected Soviet official admitted that Vysotsky spoke for millions and expressed the workers' attitude for Soviet reality.

Here in America, the case of Walter Polovchak brings home the very real impact the totalitarian Soviet-dominated Ukraine has had on this young boy. He will have an uphill battle to keep his freedom as the American Civil Liberties Union has taken the case of his father.

I urge my colleagues to take a close look at the case of Walter Polovchak, and consider the fact that if the United States does not soon regain its position as leader of the free world, the free world will have no leader.●

CWA'S STATEMENT ON ENERGY

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. MOFFETT. Mr. Speaker, I want to commend to my colleagues' attention the following statement on energy and jobs presented to the 42d annual convention of the Communications Workers of America. The statement provides a penetrating analysis of the energy situation we face today and suggests effective solutions to deal with our current problems. It is an important document which I believe my colleagues and others will find of enormous value:

SUMMARY OF THE STATEMENT ON ENERGY TO THE 42D ANNUAL CONVENTION, COMMUNICATIONS WORKERS OF AMERICA, LOS ANGELES, CALIF., JUNE 16-20, 1980

The soaring price of energy continues to be one of the most crucial economic issues facing our nation today. Energy prices are a major source of our current double-digit rate of inflation. Since the start of the energy crisis in 1973, energy prices have climbed two to three times faster than the rate of inflation. In the past seven years, the price of electricity has more than doubled, gas prices have tripled and the price of fuel oil has more than quadrupled. A barrel of oil, which sold for $3.18 in 1970, now goes for $32.00.

Adequate energy supplies must be a basic right to every human being. We cannot force any American to make the cruel choice between energy and needed food, housing or medical care because of rapidly increasing energy prices. Rising energy prices have also had significant adverse effects on our balance of payments and have been a major contribution to our nation's sluggish, unhealthy economy. The consequences of energy inflation are not limited to rising prices, but are also felt through slow growth and loss of jobs.

Over the past decade, runaway inflation in the necessities has drained the budgets of all Americans. In the 12 month period from April, 1979 to April, 1980, the price of fuel, oil and bottled gas as measured by the Consumer Price Index (CPI) rose 59.0 percent. Piped gas and electricity costs went up 17.3 percent, and the price of gasoline used for private transportation rose 59.9 percent. Overall transportation costs increased by 21.6 percent. Energy and transportation costs take up almost 25 percent of disposable income for most Americans, leaving little to spend on other needed items.

While consumers have suffered throughout the energy crisis, the big oil companies have reached a new plateau of well-being. As the Organization of Petroleum Exporting Countries (OPEC) raises foreign oil prices, the monetary value of domestic oil reserves increases, allowing oil companies to raise their prices, too. This has substantially increased oil company revenues, leading to an increase in profits.

Our national energy policy should ensure adequate, affordable energy supplies to all Americans. In conjunction with this goal, all policies must be coordinated with the aim of achieving and maintaining a full employment economy. We should re-emphasize that employment levels are dependent on overall economic activity, not on energy expansion. Finally, we have an obligation to ensure that the social and economic burdens of achieving our goals be shared equitably by all.

We support the development and expansion of all types of energy alternatives, including coal, solar power, geothermal power, synthetic fuels, wind and tide. Among the existing technologies, conservation will play an indispensable role in our energy future. For increased energy production, coal is the most likely transition fuel to wean us from our dependence on foreign oil. We possess more coal than any other nation, yet we have not used this resource to our best advantage. Nuclear power is embroiled in growing political entanglements which most likely may prevent it from developing beyond its present share of energy production.

We only support the continued development of nuclear energy plants which have adequate safeguards for society. Unless new developments prove conclusively that nuclear energy is safe, we recommend that no new nuclear plants be built and that existing plants continue until they are phased out by other sources of energy.

A comprehensive, equitable national energy policy should include the following:

(1) Establishment of a quasi-governmental agency such as the TVA to coordinate exploration and development of energy alternatives, regulate imports and serve as a yardstick to measure the performance of energy production in the private sector.

(2) Direct government grants to support weatherization and conservation measures for residential and commercial buildings. Tax credits are fine for the wealthy, but low and middle income familes cannot afford the initial costs of conservation improvements.

(3) Grants and subsidies for mass transportation projects should not be sacrificed as a part of ill-conceived budget cuts.

(4) Manpower policies must provide for workers and their families who are adversely affected by changes in existing energy patterns. Intensive consideration should be given to a national program of relocation and training allowances for workers who are displaced and unemployed because of energy policies.

(5) Gas and electric rate structures should be revised to encourage conservation, not consumption.

(6) Conservation and efficiency and not rising prices, should be the chief means of holding down energy consumption. An example of this would be a federal mandate that automobile manufacturers produce only small, four-cylinder cars.

STATEMENT ON ENERGY TO THE 42D ANNUAL CONVENTION, COMMUNICATIONS WORKERS OF AMERICA, LOS ANGELES, CALIF., JUNE 16-20, 1980

The soaring price of energy continues to be one of the most crucial economic issues facing our nation today. Energy prices are a major source of our current double-digit rate of inflation. Since the start of the energy crisis in 1973, energy prices have climbed two to three times faster than the rate of inflation. In the past seven years, the price of electricity has more than doubled, gas prices have tripled and the price of fuel oil has more than quadrupled. A barrel of oil, which sold for $3.18 in 1970, now goes for $32.00.

Adequate energy supplies must be a basic right to every human being. We cannot force any American to make the cruel choice between energy and needed food, housing or medical care because of rapidly increasing energy prices. Rising energy prices have also had significant adverse effects on our balance of payments and have been a major contribution to our nation's sluggish, unhealthy economy. The consequences of energy inflation are not limited to rising prices, but are also felt through slow growth and loss of jobs.

WHO LOSES?—CONSUMERS

Over the past decade, runaway inflation in the necessities has drained the budgets of all Americans. In the 12 month period from April, 1979 to April, 1980, the price of fuel, oil and bottled gas as measured by the Consumer Price Index (CPI) rose 59.0 percent. Piped gas and electricity costs went up 17.3 percent, and the price of gasoline used for private transportation rose 59.9 percent. Overall transportation costs increased by 21.6 percent. Energy and transportation costs take up almost 25 percent of disposable income for most Americans, leaving little to spend on other needed items.

Those who are hardest hit by energy inflation are the nation's poor. More than 35.5 million Americans live below the poverty line, which is defined by the Community Service Administration as $8,375 per year for a family of four. On the average, these citizens are forced to spend nearly 30 percent of their incomes on heating and utility bills, compared to the average family which spends 7.5 percent of income on heating and utility bills. A survey in Hartford, Connecticut showed that families with an average income of only $3,800 were paying up to 40 percent of their incomes for energy costs. Survey results from files of government weatherization projects confirm that throughout the nation up to one-half of a poor family's budget can be spent on fuel and utility costs during the winter season.

The elderly and others living on fixed incomes are also saddled with enormous utility bills, generally ranging from 25 to 57 percent of their incomes. Some elderly homeowners report spending up to 95 percent of their incomes for energy. For example, government case studies describe a 72 year old woman living alone in Portland, Maine, who, after faithfully paying her $206 montly utility bill had only seven dollars left from her Social Security check to buy food. In Seattle, Washington, a local newspaper reported the story of a senior citizen living on $240 per month Social Security check who was driven to strip her apartment walls of wood to burn in her fireplace. She could not afford to pay for heating oil plus her taxes, medical expenses and food.

It is unforgivable that any American must choose between fuel and food. But that is exactly what we are forcing our elderly and poor to do. Many have already reduced consumption of the necessities to the bare minimum and cannot afford costly weatherization or conservation measures. We must act now to provide affordable energy to all Americans, ensuring that our poor and elderly do not suffer a disproportionate share of the burden.

WHO BENEFITS?—OIL COMPANY PROFITS

While consumers have suffered throughout the energy crisis, the big oil companies have reached a new plateau of well-being. As the Organization of Petroleum Exporting Countries (OPEC) raises foreign oil prices, the monetary value of domestic oil reserves increases, allowing oil companies to raise their prices, too. This has substantially increased oil company revenues, leading to an increase in profits. (See Table I.)

TABLE I.—OIL COMPANY NET PROFITS FOR 1979 AND PERCENT INCREASE

[Dollars in millions]

	Profits	(Percent increase)	
		1978–79	1972–79
Exxon	$4,290	155	275
Mobil	2,010	179	350
Socal	1,785	161	320
Texaco	1,750	205	224
Standard Oil	1,500	140	405
Gulf	1,320	167	670
Sohio	1,186	264	2,081
Arco	1,160	257	595
Shell	1,130	138	433

This windfall, which resulted in part from attempts to encourage new exploration and hasten the arrival of alternate technologies, has not always been used for socially productive purposes. Less than half of the oil companies' cash flow has been invested in new oil and gas development. Instead of increasing their exploration activities, the oil companies have spent an increasing amount of their cash acquiring competing energy firms as well as non-energy producing companies. For example, oil companies own three of the top four coal producers in the nation. They also own four of the top five domestic firms with uranium milling capacity. In 1979 Mobil used a fourth of its capital budget to buy a competing oil producer. In the largest cash takeover in American history, Shell spent more than $3.5 billion to acquire Belridge Oil Company. Non-oil company acquisitions include Exxon's purchase of Reliable Electric for more than a billion dollars and Mobil's acquisition of Marcor (Montgomery Ward). These purchases have not improved the energy future for the United States, which was the intent of decontrol. Rather than increasing operations, the oil companies have used their high profits to increase their control within the American economy.

A boost to energy production would be realized by directing the oil companies' attention to producing energy rather than acquiring existing companies. Establishment of a quasi-governmental agency similar to the Tennessee Valley Authority (TVA) would provide a means not only to expand and explore energy supplies and regulate imports, but also would serve as a yardstick to measure the performance of energy concerns in the private sector. The Energy Security Corporation proposed by President Carter last year is this type of agency.●

SLOVAK DAY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. RITTER. Mr. Speaker, on August 10 I will have the pleasure of joining the Slovak-Americans of the Lehigh Valley in a celebration of Slovak Day. I have been looking forward a great deal to this special day not only because of the friendship shown to me by so many constituents of Slovak heritage, but also because I welcome the chance to show my strong personal feelings of respect for the ideals of freedom so dear to Slovak-Americans.

Last year, on the occasion of Slovak Day, I spoke out about the endurance of the Slovak people in their refusal to allow their religious faith, their humanity and their love of liberty be overwhelmed by Soviet oppression. I would like to repeat a thought I expressed then, because I believe it is still as true as ever:

> The Communists' oppression of religious practice, of celebrations, of charitable work, and of the whole range of religious life is a symbol. It is a symbol of how desperately the Communist powers want to impose their will once and for all on the Slovak people. They have not succeeded and they will not succeed.
>
> They will not succeed for three reasons. First, because there are proud people like you who will see to it that our ties of blood and friendship with the mother country remain strong, and who will keep that vital link with the free world alive. Second, because there are those in Congress who, like myself, understand the need to keep the defenses of the free world strong, to reverse the growing balance of power held by the Soviet Union. And third, because the Slovak people, like the people of other captive nations, have an unbreakable spirit.

Mr. Speaker, Soviet actions in Afghanistan have confirmed what the people of the Slovak-American community have known all along about Soviet intentions and Soviet contempt for the rights of nations to determine their own destinies.

Mr. Speaker, if we are ever to put the foreign policy of the United States back on a realistic course, a course that will lead to peace, justice and security in the world, we will have to convince our leaders that they must pay more attention to the voices of Slovak-Americans, along with the voices of other ethnic Americans who know firsthand the difference between Soviet propaganda and the reality of life under a Soviet-installed regime. I have continually called for this kind of ethnic American voice in the decision-making process in Washington. The State Department and those who develop and carry out foreign policy would do well to listen to that voice. I will continue to do so. Meanwhile, each Member of Congress should, as I have done, make a point of listening and learning from Slovak-Americans and other ethnic organizations. There is no substitute for their experience.

So let me again congratulate all Slovak-Americans, in the Lehigh Valley and elsewhere. Your vitality and courage make our Nation far richer. May our leaders listen to your voices.

Nech Dlho Zije Slovensky Narod.●

RESOLUTION OF INDIAN LAND CLAIMS

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. EMERY. Mr. Speaker, I am introducing, along with my colleague Congresswoman SNOWE, legislation whose objective is the resolution of Indian land claims against the State of Maine and private landholders. Our bill, entitled the "Maine Indian Claims Settlement Act of 1980," is the product of long negotiations on the part of Maine's attorney general and attorneys for the State's large landowners and the Passamaquoddy and Penobscot Tribes.

The Maine Penobscot and Passamaquoddy Indian Tribes have claimed that 12.5 million acres, roughly two-thirds of the State of Maine, were taken from them in violation of the Non-Intercourse Act of 1790. The Non-Intercourse Act stipulated that all transfers of land between Indians and States or non-Indians must be ratified by the U.S. Congress. Since land transactions between the Penobscot and Passamaquoddy Tribes and the State of Massachusetts, of which Maine was then a part, were not congressionally ratified, the tribes claim that land was taken from them illegally.

The State of Massachusetts entered into its land transaction agreements with the tribes under the assumption that the Non-Intercourse Act did not apply to east coast tribes within the boundaries of the original 13 States. Consequently, we have several instances on the east coast whereby transfers of Indian land were carried out without congressional ratification under the Non-Intercourse Act.

With respect to the State of Maine, however, questions have arisen, and now the State is faced with the prospects of protracted litigation should the tribes file suit.

In response to the threat of potential litigation, Maine's attorney general and an attorney for the State's largest landowners have negotiated a proposed settlement with the attorney for the tribes. The settlement is basically in three parts—one part which pertains to the implementation of laws that will be applicable to Indians and Indian land in Maine—the Maine Implementing Act; one part consisting of purchase options from certain landowners to the Maine tribes in which the landowners have agreed to sell at fair market value 300,000 acres of land to the tribes; and, finally, a bill—the Maine Indian Claims Settlement Act—to be enacted by Congress which would extinguish the land claims, compensate the Indians for their claim, and ratify the Maine Implementing Act.

The Maine State Legislature passed the Maine Implementing Act on April 3, 1980, thereby approving the various provisions setting out future applicability of State and Indian laws over existing Indian land and any newly acquired land. It is now left to the Congress to consider the Maine Indian Claims Settlement Act.

Hearings were held in the Senate on S. 2829, the Maine Indian Claims Settlement Act of 1980, at which time many questions were raised regarding the application of State and Federal laws over Indian lands and the jurisdiction of the tribes over Indian lands. Land valuations were addressed with testimony received by both the Interior Department and private evaluators as to what constituted fair market value for average quality Maine timber. The Interior Department responded to each of these issues and subsequently endorsed the concept of a negotiated settlement as well as the monetary amount suggested in the legislation. I look forward, in turn, to a thorough consideration and review of the above issues during hearings in the House Interior and Insular Affairs Committee.

The settlement proposal is the result of long and often complicated negotiations among the parties involved. In this context, the proposal strikes a delicate balance of all interests concerned.

There is no question that should a lawsuit result, it has the potential to create severe economic disruption throughout the State. The most serious economic threat is to land transactions and State and municipal bond sales, both of which will be seriously disrupted, if not halted altogether, should titles to land be clouded. Given the expected time frame for litigation, 6 to 10 years, the ramifications of a court proceeding are cause for serious concern.

Consequently, the legislation introduced today offers the Congress the opportunity to resolve our longstanding problem in Maine in a manner which is agreeable to all involved parties. I am sincerely hopeful that this body will address the problems in a fair and openminded way, so that the Maine Indian land claim will be settled equitably and in the best interests of all concerned.•

BILL GREEN PRAISES EASYRIDE

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

• Mr. GREEN. Mr. Speaker, I am pleased to bring to my colleagues' attention an account of one of the best run paratransit systems in the country, and the only such system in existence in New York City. The system, called Easyride, is sponsored by the Vera Institute of Justice, which founded it as a result of research of 70 social service agencies in the area now serviced by Easyride. The Easyride system began operating in June 1976 as a service to the elderly and disabled residents of Manhattan's lower east side—an area which lacked proper transportation for these people.

Easyride provides door-to-door or curb-to-curb transportation for those who meet its eligibility requirements, generally the elderly and handicapped who are transportation disabled. Easyride transports their clients to nutrition programs, to doctors and hospitals, to places for recreational purposes, to shopping centers, to social service agencies, to jobs, and to visit friends.

The area serviced by Easyride is inhabited by 250,000 people, 10 percent of which are in need of transportation assistance. The area is bounded on the west side by the Hudson River, 34th Street, Broadway, and Battery Park and includes, on the east side, the area bounded by 14th Street, the East River, and Battery Park. Service was recently expanded to the west side region as a result of new funds. Easyride also provides special services for the transport of disabled crime victims to the district attorney's office.

The eligibility requirements of Easyride clearly define the service and make abuse of the service difficult. One must be over 18 years of age and in a wheelchair, over 60 years of age and have a walking or transportation difficulty, or under 60 years of age and unable to use existing public transportation—only with special approval. As of August 1980, inclusive of new west side clients, the total number of clients using Easyride is approximately 5,200. Approximately 86 percent are over 65, about half are over 75 and about half of the disabled clients are over 65.

Unfortunately, as with many social programs, year-to-year financial survival of Easyride is a major problem. With the expansion of the service to the west side of Manhattan, the operating budget for fiscal year 1980-81 is $900,000 based on an estimated 90,000 trips at $10 per trip—the cost per trip has been declining steadily since the introduction and expansion of the system.

The financial goal of Easyride has been to mesh funding from public health, aging, and transportation agencies with private funds and fares. Easyride is seeking funds from the New York City Department of Aging, Community Development, UMTA sections 5 and 6, CETA, medicaid, Office of Vocational Rehabilitation, contracts, group trips, fares, and private foundations such as Vera. During its 4 years in operation, Easyride has been fighting for its life with city, State and Federal agencies, but because of a dedicated staff and support from community and local officials, Easyride has miraculously made it through some very hard times and was even able to expand its service. Since its funds are so limited, increasing productivity is a primary aim. To this end, two-way radio communication and computerization are needed, hence capital improvements which create further strain.

Despite any problems with financing, service, or the special nature of the clientele, the goals of Easyride are worthwhile and deserve recognition. Easyride was intended by the Vera Institute to be a model paratransit system for New York City, to provide special transportation which is key to community-based home-care service for the elderly and handicapped, and to fill in the gaps in New York City's paratransit system. I would hope that programs such as Easyride continue to provide the excellent service so desperately needed by the elderly and handicapped in the community.•

CITY OF DETROIT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 25, 1980

• Mr. WYDLER. Mr. Speaker, I join with my colleagues in praising the city of Detroit. I must admit that for some reason my expectation of Detroit was that of a city which was essentially a factory town, dirty, and run down. When I arrived there, I found, instead, a beautiful city well tended and outstanding in many ways. The people seemed to be ready to show off their city and gave all of us who attended the Republican Convention a warm feeling of hospitality.

I salute Detroit and its citizens on behalf of the many visitors who enjoyed their stay. The only negative comment I would have is that the phone system seemed to rival that of the People's Republic of China in its operation. That was undoubtedly due to the overload, but it was a small matter when compared to the way in which we were treated as visitors.

Finally, I would like to commend the chairman of the Republican National Committee, Bill Brock, for the selection of Detroit in the first instance. The selection was greeted with shock by many people in the New York area. All of them, and I repeat everyone, was a convert by the time we left Detroit and convinced that the chairman had made the ideal selection for our preelection victory meeting.

Congratulations are in order for all concerned.●

PRINCIPLES ENDURE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. BRINKLEY. Mr. Speaker, I wish to share with the membership my weekly newspaper commentary dated July 31, 1980. The message is one of positive thinking and the example of each one of us during this difficult time is particularly important.

The newspaper commentary follows:

Principles Endure

Sometimes we unexpectedly find good where we least expect it. Take the case of nine famous Irishmen. . . .

In the young Irish disorders, in Ireland in 1848, the following nine men were captured, tried, convicted of treason against her Majesty, the Queen, and sentenced to death: John Mitchell, Morris Lyene, Pat Donahue, Thomas McGee, Charles Duffy, Thomas Meagher, Richard O'Gorman, Terrence McManus, and Michael Ireland.

Before passing sentence, the judge asked if there were anything that anyone wished to say. Meagher, speaking for all, said: My lord, this is our first offense but not our last. If you will be easy with us this once, we promise, on our word as gentlemen, to try to do better next time. And next time—sure we won't be fools to get caught."

Thereupon, the indignant judge sentenced them all to be hanged by the neck until dead and drawn and quartered. Passionate protest from all the world forced Queen Victoria to commute the sentence to transportation for life to the far wilds of Australia.

In 1874, word reached the astounded Queen Victoria that the Sir Charles Duffy who had been elected Prime Minister of Australia was the same Charles Duffy who had been exiled 25 years before. On the Queen's demand, the records of the rest of the exiled men were revealed, and this is what was uncovered:

Thomas Francis Meagher, Governor of Montana.

Terrence McManus, Brigadier General, United States Army.

Patrick Donahue, Brigadier General, United States Army.

Richard O'Gorman, Governor General of Newfoundland.

Morris Lyene, Attorney General of Australia, in which office Michael Ireland succeeded him.

Thomas D'Arcy McGee, Member of Parliament, Montreal; Minister of Agriculture and President of Council Dominion of Canada.

John Mitchell, prominent New York politician. This man was the father of John Purroy Mitchell, Mayor of New York, at the outbreak of World War I.

America's history is full of those who persevered in the face of adversities far worse than exile—who refused to let even the most crushing defeats of battle or the most crippling of economic depressions destroy their visions of a greater America.

Especially during these times, when our country seems to be all but overwhelmed with the serious crises of runaway inflation, hostages abroad, and devastating droughts, we would be wise to bear in mind the words of Abraham Lincoln during the darkest days of the Civil War. Many were fearful of the outcome of this savage conflict and wondered whether they and their loved ones would survive the war. When a delegation of fearful citizens called on President Lincoln to express these fears, Abe told them this story, which was an experience from his youth: "One night in November, when I was a boy," Lincoln said, "a shower of meteors fell from the clear night sky. A friend standing by was frightened. But I looked up, and between the falling stars, I saw the fixed stars beyond, shining serene in the firmament, and I said, 'Let us not mind the meteors, let us keep our eyes on the stars.'"

As we face a challenging future here in America, we must look beyond the meteors of the present and concentrate, instead, on the principles which have guided our country through difficult times in the past. For, although we will continue to face substantial problems, we can take heart in the ingenuity and the initiative which have always characterized our American way of life, from the Western pioneers to Skylab. We may stumble in our struggle to overcome social and economic ills, but our approach must remain vigorous and positive. Let us keep our eyes on the stars, rather than on the lights of each passing ship.●

SAVING THE BEST OF ALASKA

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SEIBERLING. Mr. Speaker, following these remarks, I will be inserting the last installment for now of editorials from all over the United States which have again focused on the crucial decision now pending in the Senate as to whether America's heritage in Alaska will be both developed and protected in an orderly manner or will be simply turned over to whatever private interests desire to use it or abuse it without giving the interests of all Americans the consideration they deserve.

These editorials have recognized that the House-passed bill achieved such a balance. The final installment of editorials is from the following newspapers: The Wichita Eagle and Beacon, the Washington Post, and the Washington Star.

[From the Wichita Eagle, July 20, 1980]

Time of Decision for Alaska

The political conventions, Iran, the Olympics boycott and the economic situation are on the minds of many, if not all, Americans today, but these are transitory events. They are important for the moment, but 100 years from now they will be footnotes on the pages of history.

Monday in the Senate, however, debate will begin on a proposal whose outcome will affect the lives of Americans 100 years from now, and the lives of their descendants 100 years thence, and whose effects on the American landscape will be everlasting. We speak of the proposed Alaska National Interest Lands Conservation Act, which some sponsors have called "epochal" in its potential impact.

They aren't far wrong.

They aren't, that is, unless the Senate caves in to the special interests and accepts the disastrous Senate Energy Committee version of the legislation—which would be worse than no legislation at all—or unless it allows the two Alaskan senators to filibuster the bill to death.

Sen. Nancy Kassebaum, R-Kan., already has served notice of where she stands on what she calls "one of the most important conservation measures Congress has faced in this decade," and we are hopeful Sen. Bob Dole, R-Kan., soon will follow.

The Tsongas-Roth Substitute, which Sen. Kassebaum supports, and a package of five strengthening amendments would restore the energy committee bill to much of its original form, which the House twice has approved by overwhelming margins. The substitute legislation and the amendments also would keep a protective mantle over the 56 million acres President Carter has proclaimed national monuments, and the 40 million acres Secretary of Interior Cecil Andrus has declared national wildlife refuges and "natural resource areas."

Kansans have a direct stake in this, since their state provides winter habitat for 100,000 white-fronted geese that breed in Alaska and, in the fall, migratory feeding and resting areas for 50,000 lesser scaup ducks that have spent the summer in Alaska. Green-winged teal, canvasbacks, greater scaup and American wigeon also divide their time partly between Kansas and Alaska.

But more than that, every acre of Alaska wildlands whose future is being debated this week belongs to Kansans—and to Californians and Texans and Pennsylvanians and Floridians—every bit as much as it does to Alaskans. The national interest lands are just that: They are in the public domain, and belong to all Americans; their final disposition is very much in the national interest.

Those who would take these lands unto themselves say America needs the oil and gas and hard-rock minerals that Alaska holds. That's right—and that's why the boundaries of the proposed new national parks, monuments, wildlife refuges and wilderness were drawn so they excluded 95 percent of Alaska's high-potential oil and gas lands, and 70 percent of the state's high potential mineral lands.

Those who would open up the magnificent William O. Douglas Arctic National Wildlife Range to oil and gas exploration, for instance, are answered best, perhaps, by Secretary Andrus: "Whatever oil and gas is there would last for maybe a week, maybe two weeks, maybe a month at the consumption rate of the American people. Are we willing to trade that pristine wilderness for two weeks' supply of oil and gas that might or might not be there?"

We think we know the American people's answer. It will be informative to hear the Senate's answer this week.

[From the Washington Post, July 14, 1980]

Warming Up for Alaska

One of the last things Congress did before its July recess was to give final approval to legislation creating in the heart of Idaho the 2.23 million-acre River of No Return Wilderness. But the battle that was fought over central Idaho is only a warm-up for what is scheduled to happen when Congress returns.

High on the Senate's calendar is the Alaskan lands bill, the biggest, most complex and most heavily lobbied legislation in decades dealing with natural resources. We would like to think that passage of the Idaho bill is a good omen, but it is still too early (even though the Alaska fight has been going on for more than three years) to guess what the Senate will do.

There are similarities between these two major land-use fights. In Idaho, the objections to the wilderness bill were that it raised the specter of too much federally controlled land in the state, as well as restricting too sharply access to timber and to what are said to be major cobalt deposits. In the Alaskan debate, the major issues are identical, except that oil replaces cobalt as the scarce commodity in question.

The congressional decision in Idaho was to draw the wilderness boundaries in such a way that neither timber nor cobalt production will be reduced. The most promising cobalt deposits were left outside the new wilderness area while land that may have cobalt under it can be mined in the future if the mineral is needed.

A somewhat similar arrangement worked out for Alaskan timber and oil in the House is now, unfortunately, being described in the Senate as too big a federal land grab. The development interests in Alaska want immediate access to all potential oil lands as well as to vast forests.

The solution reached in Idaho can be a guide to settling the Alaskan dispute—but only if those fighting over the natural riches of the Far North keep in mind something said last week by Sen. Frank Church, the principal proponent of the River of No Return Wilderness. The battle, he told his colleagues, "is a fight to preserve for all time a part of the vanishing American frontier." The battle lines now move from Idaho to Alaska.

[From the Washington Post, July 21, 1980]

SAVING THE BEST OF ALASKA

The first item of legislative business before the Senate when it resumes operations today will be the Alaskan lands bill. The debate is likely to be long, ferocious and misleading. Before it begins, it may be well to recognize that neither of the two competing versions of this legislation is as bad as its opponents advertise.

The Senate energy committee bill, which is being opposed by the Carter administration and environmental organizations, would not open up Alaska's vast spaces to total destruction by exploiters of natural resources. The amendments that will be proposed to this bill—and that are being opposed by the energy committee and the state of Alaska—would not destroy Alaska's economy and would not deprive the nation of vast oil supplies.

The lands bill—in either form—is not an energy bill, a gun control bill or a "get" Alaska bill, despite all that has been and will be said. It is a bill that will determine how much federal protection the known and unknown resources of that state receive. The energy committee bill tilts toward opening up for use now or in the near future certain areas that the amemdments, as well as the legislation that passed the House last winter, would put into the federal deep freeze.

This difference in approach is illustrated by the way the two versions treat the Arctic Wildlife Range. The energy committee wants that range opened now to oil exploration while reserving to Congress the future decision on whether to extract any oil that might be found there. The amendments, and the House bill, would declare the range to be wilderness where such exploration would be barred.

The difference is critical. If the range is closed to exploration, oil will be sought elsewhere in Alaska. If it is found, pressure to open the range will ease. But if the range is opened now, the resources used in exploring it will not be used elsewhere and, if oil is found under it, the pressure to develop the range—at the expense of its wildlife—will be enormous. That leads us to support the conclusion of the Carter administration: put the range in wilderness and look elsewhere first.

The Alaskan state government fears that putting a wilderness stamp on this range (and other areas) will close them forever to development. That is a legitimate fear because Congress has no record of releasing lands once they are designated as wildernesses or national parks. But the wilderness designation should not be regarded as totally irreversible. Its purpose is to preserve for the future as much unspoiled acreage as the nation can now afford. What the policymakers of the future do with it is their business. Surely future members of Congress will not believe themselves unable to open the range (or other areas, such as the forests of southeast Alaska) if the time comes when the resources they contain are needed desperately.

This approach—save what you can for the future—is the one that should guide the Senate's work on this legislation. That is particularly true because knowledge of Alaska's resources is still skimpy. The wildlife range may rest on a vast pool of oil, although the odds are against it. There may or may not be vast pools elsewhere. In this situation, the wise policy is to preserve the best of Alaska until—at least—the rest of it has been fully developed. The five key amendments to the energy committee bill do just that.

[From the Washington Post, July 25, 1980]

THE BRAWL OVER ALASKA

The argument over the future of Alaska has reached a critical point. After quickly—and predictably—deteriorating into a brawl on the Senate floor, the debate was taken behind closed doors. There a group of senators is trying to work out a compromise. If they succeed, the Alaska lands issues may finally be settled this year. If they don't, the argument is likely to drag on unresolved for decades.

This is hardly the ideal way for the Senate to handle one of the most important environmental bills of the century. The fundamental question involved is this: how much land in Alaska is the federal government going to continue to control and to what degree should that land be protected? Unfortunately, the Senate has delayed so long in taking up this legislation that it is running out of time. One Alaskan senator, Mike Gravel, has said he will do anything he can to stop passage of any bill. The other senator, Ted Stevens, has been threatening to do the same unless the final bill is more to his liking than the versions sought by the Carter administration and environmental groups. Given the opportunities for delay in the Senate rules, they might succeed.

That result, peculiarly, is sought by diehards on both sides of this debate. Some Alaskans, for reasons that defy rationality, think their interests will be better served if no bill is passed. Some of the environmental groups think—and they are quite right in this—that they win more from no legislation than they will from any legislation Sen. Stevens is likely to accept. More Alaskan land would be locked up more tightly under the past and promised administrative actions of President Carter and Secretary of the Interior Andrus than under any proposal now pending in Congress.

The trouble is that if Congress does not act this year, it may never act at all. Institutional tolerance for continued hassling over even so major a subject is wearing thin, and there is a possibility that after the November election there will be a revised cast of characters who would have to start at the beginning.

If Congress doesn't pass an Alaska lands bill of some kind, the future of the state will be left in the hands of the courts. They will decide—after, no doubt, years of litigation—on the legality of the Carter administration's actions. That would be unfair to Alaska in the short run because its economy would be unnecessarily harmed, and it could be a catastrophe for Alaska's interests in the long run. It would also be unfair to those environmentalists who have fought to strike an equitable balance between development and preservation in Alaska's vast open spaces.

There is some room for maneuver between the bill of the Senate energy committee and amendments to it proposed by Sen. Paul Tsongas. Both sides would be better off if they tried to get the good of it.

[From the Washington Star, July 21, 1980]

ALASKA LANDS SHOWDOWN

The Senate today begins its deferred wrestling match over an Alaskan lands bill. The issue carries extraordinary emotional freight, lending itself to facile interpretation and sending, as it does, the deeply partisan on both sides to the barricades.

What is not disputed, except on the fringes, is that it is time for Congress to complete work on the complicated matter of Alaskan lands.

The House passed H.R. 39, the Udall-Anderson bill, in May 1979, it is a compromise, focused on conservation without altogether impeding the exploration and development of Alaska's resources. The House bill has the support of the Carter administration and the Alaska Coalition, which includes such conservation organizations as the Audobon Society, Friends of the Earth, the Wilderness Society and the Sierra Club. It is fiercely opposed by the State of Alaska and its congressional delegation as too restrictive and violative of state rights.

The Senate Energy and Natural Resources Committee in November 1979 approved a bill differing significantly from the House version. Supporters in the Senate, including in unusual if fragile alliance Ted Stevens and Mike Gravel, argue that the Senate Committee bill is more sensitive to Alaska and better attuned to national requirements for new oil, gas and other mineral resources.

As irresolution continued on Capitol Hill, President Carter took out what Interior Secretary Andrus called an "insurance policy" by putting 40 million additional Alaskan acres under federal custody; the action brought to 177 million the acreage that the administration has reserved as national monuments, wilderness areas or proposed for conservation systems. These executive land-use restraints are stricter than the House bill would impose, and some will become permanent unless modified or revoked by a congressional bill.

This puts even greater pressure on the Alaskans and their supporters to get what they consider preferable legislation approved.

Neither the Carter administration nor the Alaska Coalition and its allies consider the

Senate committee bill a proper approach. Senators Paul Tsongas and William Roth have introduced a substitute that parallels the House passed bill; in addition, the Tsongas forces are armed with five amendments, which they say would improve the Energy Committee's bill to the point that a reasonable and acceptable compromise could be fashioned in conference.

The differences between the Senate committee bill and the House-passed version are not so great in terms of the land that would be protected as part of the national heritage as in philosophical and managerial emphases. The Arctic National Wildlife Range in northeastern Alaska illustrates the issue.

The Senate committee bill would permit seismic, or subsurface, exploration there for oil and gas deposits (estimates of their size vary widely). Senator Tsongas would permit only surface geological investigation until a thorough environmental study is done. Supporters of the committee bill argue that the refuge has been studied to exhaustion and that it behooves us to find out how much petroleum is in the area before North Slope oil nears depletion. But recent reports, including one by the U.S. Geological Survey, suggest there may be considerably more petroleum in the North Slope than is already discovered.

If the debate over the Arctic National Wildlife Refuge can be taken as symbolic of the larger fight, and that seems appropriate, prudence would dictate that the Senate should—at least—accept the Tsongas amendments to the Energy Committee bill. Passage of the Tsongas-Roth substitute that is identical to the House version would be better yet.

The House bill does not prohibit development of Alaska's bounty in perpetuity. It does assert crucial and appropriate federal trusteeship in Alaska. It provides a wise approach to safeguarding this invaluable resource, based on sound and traditional national conservation policies.●

KEITH SEBELIUS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 30, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I wish to take this opportunity today to express my heartfelt and sincerest best wishes to our colleague from Kansas, Keith Sebelius, upon his retirement from this great body.

I am not going to take the time to repeat what has already been said about Keith by others regarding his brilliant service as a member of the House Committees on Agriculture and Interior and Insular Affairs. Keith's remarkable record of the past dozen years as a Member of Congress speaks for itself. His devotion to duty, to his district, and to his Nation are unmatched, and his leaving will create a void which can never be filled with quite the same breadth.

I came to Congress just 4 months after Keith, but I quickly saw in him a level of leadership which indicated courage and ability far exceeding the average freshman legislator. This quality did not go unnoticed, and I will forever be grateful for the opportunity to learn and grow with him during those early years.

The word "friend" is so often overplayed, and it can seem trite at times like this. But when I searched my heart and conscience in preparing these remarks, I could find no better word to sum up that one special gift which I prize most about Keith—his friendship. Irrespective of party affiliation or political differences, Keith's kindnesses and goodwill shown me over these years of service together will stay with me long after he has returned to his beloved Kansas.

I know that Keith's many friends and neighbors look forward to having him and his wife, Bette, nearby in the years to come. It is with much regret that I say farewell, and I join his many other friends in wishing him a happy and healthy retirement.●

SUMMER JOBS PROGRAMS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Ms. MIKULSKI. Mr. Speaker, on Sunday, July 27, the Washington Post featured a story about summer jobs programs which I am inserting into the Record.

Once again Baltimore scores a success. Many people have heard about the opening of Harborplace, Baltimore's new shopping complex in the inner harbor. It has been hailed as the symbol of the city's renaissance. We are proud of our revitalization, of the new buildings downtown, and especially of our vital, thriving neighborhoods. All of this has taken a great deal of work by many people.

We recognize that true urban renewal must include programs for people as well as for buildings. We must address social problems as well as physical. As pointed out in the Post, Baltimore has successfully used the Federal jobs program as part of its renaissance. The program has addressed the teenage unemployment problem in Baltimore while at the same time providing manpower to assist in rebuilding the city.

I am, indeed, very proud of the accomplishments of Baltimore's CETA program. We have an energetic, creative administrator, Ms. Marion Pines, providing very capable leadership to this program. She and her office see Baltimore's youth as a valuable resource that we cannot afford to squander. I believe our renaissance has been such a success because we have used well all the resources available—beginning with the young people of our city.

Those Summer Jobs: Baltimore Works, Washington Fails

(By Juan Williams)

When congressmen and U.S. Labor Department officials talk about a good summer jobs program, they talk about the program in Baltimore. When they talk about a bad program, they look out of their Capitol Hill offices and point down—at Washington. When it comes to summer jobs programs, Baltimore and Washington, about 40 miles apart, might as well be on different planets.

The Washington program flounders from year to year with the same problems. It has trouble signing up young people for jobs despite high unemployment; it has trouble finding places for the young people to work; and there is always trouble getting the youngsters to work sites and getting them paychecks. Typically, after all the trouble, Washington youth are found spending their time at work playing ball or they show up only once a week, on Fridays, to get their checks.

In Baltimore, city officials take a visitor on a tour to show the houses that have been renovated, the parks that have been cleaned, the park benches that have been built by summer jobs workers. City government agencies in Baltimore compete to get more young people during the summer, while in Washington city-agency heads groan and protest about accepting young people for the summer.

Why does Baltimore's program work?

First, you should know, there is no magic in Baltimore's success: The city has about the same population as Washington, it has the same 50 percent black youth unemployment, it is also a mostly black city and its private employers give practically no jobs to the summer program.

But Baltimore's program is different from Washington's in one all-important respect: it is just one part of a well-managed program to give jobs to poor young people all year—9,000 throughout the year and an additional 9,000 in the summer. Washington's program of the same size is a summer-only effort that has trouble getting started every spring.

Another reason for Baltimore's success is that Mayor William Donald Schaefer sees the program as a free tool, put in his hand by the federal government, to help revitalize the city. And he does not want to waste it by paying young people to do nothing. Summer jobs are not considered an investment in riot prevention in Baltimore.

"Summer jobs, CETA (the federal government's Comprehensive Employment and Training Act) aren't something off to the side here," says Marion Pines, the energetic woman who manages Baltimore's youth-jobs program. "The jobs are part of the city's renaissance. We're using them to build up the city."

Pines reports on the jobs program, summer and winter, directly to Schaefer. She has no counterpart in the District, where the summer program and year-round jobs programs are headed by different people. And those people are hidden in the middle of the District's Labor Department bureaucracy.

"We have two major goals in the summer jobs program," says Stephen D. Kaiser, an assistant to Pines. "One, we want as many of the jobs as possible to be of tangible help to someone in the neighborhood or to make some lasting improvement to the city. That way, when the kids drive down the street in November they can say 'that's what we did in the summer jobs program.' Two, we want to make demands on the kids for good work habits and a good attitude, demands as tough as any private employer. That way, they will know what it is to hold a job."

City officials in Baltimore are able to get young people to work hard to improve the city because their jobs program demands respect. Young people are suspended without pay and sometimes fired. So are supervisors who don't do their jobs.

"They're serious around here, they don't be playing," said Devor Redfern, who works as a butcher in a supermarket and attends special classes during the summer under the jobs program. "They be firing people out of here all the time, I watch myself . . . my mother told me I'd better work or pack my clothes. I want this job."

To get young people to do their best work, city officials also try to place as many youth as possible in jobs in their own neighborhoods. The idea, according to Marion Pines, is to get young people into situations where they can take pride in what they are doing and show it off to their parents and friends. In the District, there is an effort to assign young people from Southeast to Northwest while people from Northwest are assigned to Southeast. Requests to be placed at a job site near home are turned down by District officials for fear that employers and teenagers would know each other and play around instead of working.

Even the registration for summer jobs is different in Baltimore city agencies that regularly deal with poor young people—the housing department, the recreation department and the schools—are asked to submit the names of young people who would qualify for the the program. The young people fill out a form and have their parents sign it to verify that their family income is below poverty level. In the District, city agencies are not asked to make referrals. Parents must accompany young people to registration centers, often taking time off work, to verify family income.

And unlike the District, where planning for jobs that start in July is taking place in April and May, Baltimore begins its planning for the same number of summer jobs the September before—at the end of the previous summer's program. As a result, when the District is suffering its annual May-June headache of signing young people up and assigning them to work sites, Baltimore has been finished with all registration for four months—since February.

"The difference between Baltimore and the District is good management," says Jodie Allen, deputy assistant secretary for policy evaluation and research in the U.S. Labor Department. "The summer program is an outgrowth of a city's other programs and the District's programs are usually badly managed. If you look around the District, you may find some well-managed job sites, but they are rare. In Baltimore, a well-managed job site is typical. That tells you the city government is doing a good job managing the summer program from the top on down."

Good management means that supervisors at each work site in the Baltimore program are specially trained by the city, unlike in the District. The head of a neighborhood program that is the site of a summer jobs program is not usually the head of the summer program, either, as is the case in the District. And in Baltimore, employees of city government agencies compete to qualify as supervisors of summer employees. The regular city workers who are chosen get a small increase in pay.

One other difference is that Baltimore makes no effort to get private businesses to pledge jobs for the summer program. In Washington, there is a yearly fight between the city government and the Greater Washington Board of Trade over how many jobs the board of trade has really located for young people.

"It was an annual farce here with the NAB (National Alliance of Businessmen) pledging private sector jobs that they never came through with," says Pines. "We didn't need that aggravation."

Even so, Baltimore has been chosen for the past two years to receive a $27,000 grant from Xerox to pay for summer jobs for 25 kids. Last year, the youths paid by Xerox built a park for the city. This year, they are laying out vegetable gardens in abandoned city lots.

The essence of Baltimore's approach to the summer jobs program is written on cardboard inserts that will be put in the young people's pay envelopes. One of the inserts reads: "Baltimore is proud of you. Not only for what you've done so far, but how you've done it. Especially for showing up on time when you felt like sleeping late . . . because when you make the city a better place to be, you're making your home a better place to live."●

INVENTING OUR ENERGY FUTURE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. GINGRICH. Mr. Speaker, former Redskins coach George Allen said the future is now. I think the future has probably always been now. I think part of America's strength has been that we face the future as an immediate opportunity and immediate challenge. There are many policies that we could adopt right now that would start us on the way to energy independence through conservation and innovation. But first we have to go back and get the economy into shape. As long as the American economy is decaying everthing else in life will decay. I think you have got to start with that premise.

We have got to focus, as the Japanese and West Germans have, on a healthy economy. Both Germany and Japan pay about twice the amount we do for gasoline. But because both countries have a rising standard of living, they can afford those higher energy costs. If you are taking home twice as much money in aftertax income you do not mind paying more for energy. But if you are taking home less money after taxes and inflation, you cannot absorb the rising cost of energy.

If you look at the last 5 years the U.S. Government has done far more damage to the typical family budget than has any oil company or any energy cost. It is the Government, by taking money out through dramatically rising taxes, that has left people with less real money available. In Germany and Japan, because of rising productivity, they can afford to adapt to more expensive energy. In total hours worked it does not increase their costs.

We in this country are going to have to go back to the beginning. We are going to have to balance the Federal budget. We are going to have to cut taxes to increase incentives to produce. I think we have to adopt the Kemp-Roth bill and have a series of programed tax rate reductions. I think we have got to have targeted tax cuts to increase the building and modernization of factories. I think it is possible to leave more money in the American public's pocketbook, and people will then decide to insulate their own home without a Government grant or to buy a more fuel-efficient car without regulatory intimidation. Right now an estimated 70 percent of the homes in New York City either are not insulated or are not insulated properly. We have to encourage people to lessen that figure but we have to do more than just punish them for not insulating; we have to give them the aftertax income to be able to insulate.

We need to pass the Capital Cost Recovery Act. This bill's official title is H.R. 4646. The goal is depreciation on a 10-5-3 basis, 10 years for buildings, 5 years for machinery, 3 years for vehicles. These changes are also incorporated in H.R. 7566, the tax reform bill supported by congressional Republicans and Ronald Reagan. In addition to having 10-5-3, the Reagan-GOP bill will reduce Federal income tax rates by 10 percent across the board. I support both bills wholeheartedly. They will provide incentives to build more factories so that companies could afford to buy more energy-efficient machinery. Rebuilding the industrial base of this country will lead to an across-the-board increase in the quality of life.

We also have to offer massive tax incentives to both families and companies who make energy-efficiency improvements. In the 19th century we wanted people to move West. We didn't say we are going to punish you if you try to homestead. We said we will give you land. Today, if you are willing to take risks and invent or convert to new sources of energy, tax credits should reward you for behaving in ways that make life better.

We need to further encourage research that leads to radical changes, not just small, incremental changes. We need to encourage small businesses. Remember Henry Ford with his initial 12 employees. Small businesses can meet the needs of people who want energy-efficient housing. There has to be real growth in the number of small businesses and I think that requires a small business bill of rights.

We have to somehow build an economy where one plant uses the waste energy of another to heat its water supply or provide another form of energy. Cogeneration is an extremely useful system. When oil, coal, and nuclear power are used to produce electricity only 25 percent of the energy is used. The other 75 percent is wasted. And cogeneration allows you to take a great deal of that to, in effect, double or triple the impact per unit of energy. Right now there are 600 cogeneration plants. One is in downtown Atlanta across from Georgia Power. They use waste energy to air-condition and heat buildings. That is an area that I think we can focus on very successfully, one that the Swedes, for example, are far ahead of us in.

We should encourage the use of systems like electronic funds transferrals. One of the great answers in the past when cost has gone up was to simply adopt whole new systems that avoid that area that is expensive. Electronic fund transfer is an example. A telephone call saves you a trip to the bank and saves the bank a paper check. The home box office system, an increasingly popular thing, allows people to watch movies in their homes without driving into town. The electronic fund transfer systems saves the U.S. Treasury alone the expense of writing over 12 million checks in January alone. So 12 million people do not have to go to the bank to deposit their U.S. Government check. Now if you multiply 12 million times that amount of paper times the number of trees that were not cut down, processed and shipped, you begin to see an energy savings that is not obvious. It is not just a smaller car, it is an entirely new way of doing things. In Georgia alone, 191,000 people use the Treasury's direct deposit program.

In the long run new ways of doing things electronically will lead to an explosion in cottage industries, allowing a partial return to a system that was very popular in the late 18th and early 19th centuries. Cottage industries exist when literally people work in their cottages. Alvin Toffler, the author of "Future Shock," has a new book out called "The Third Wave." Toffler himself is an example of a cottage industry, because he does most of his work in his apartment. That gives him a tax writeoff and he doesn't have to go anywhere in order to get anything done. And he sits there and he has in his home his own computer, a quite sophisticated typewriter system, his own telephone system that connects him with the world and his own video center. It is expensive, and he had to be a bestselling author to do it all on his own. But the future is more likely to resemble Alvin Toffler than it is to resemble 1940. I think you are going to see an explosion of people working in their own homes, working in their own areas with the transportation being done electronically.

Sears, Roebuck & Co. is going to the Federal Communications Commission with a proposal to sell individual home satellite receivers. They would be fairly expensive at first—somewhere around $9,000 to equip your home. But they hope by the late 1980's to offer you an ability to communicate directly with the communications satellite out of your own home. They intend to make a profit, provide jobs, create a whole new service, and expand the range of opportunity. It will use relatively little energy compared to the way we now do business.

I think it is possible to continue our economic growth, with innovation. In the long run we are going to continue to need more energy if we want more jobs and a higher standard of living. And I think that is absolutely inevitable. We need to seize the opportunity out of the current crisis and focus on a growing economy, a growing standard of living, and a growing availability of energy.

When you get beyond immediate short-term things like cogeneration and more efficient systems, there are still alternatives and options that are out there in the medium term. The most obvious one, which we say we are for but continue to legislate against, is coal. We have actually increased the difficulty of mining and using coal in this country over the last 10 years. Every time the President goes on television to tell you we need to use coal we pass some rule or regulation that makes it harder to do so. If an ordinary citizen behaved like that you would eventually lock him up.

You hear talk about running out of fossil fuels and it is true. I have no doubt that sometime in the next 3,000 years we are going to run out of practically all fossil fuels, but I do not know of any politician that worries in millenial terms. After all, 3,000 years is a reasonable length of time.

Known coal reserves in this country will last about 400 years. We do have problems with coal that are similar to the Elizabethan period, sulfurous fumes being the most pressing. But with innovation I am convinced that we can come up with clean coal. The difficulty of getting the sulfur out of the coal, either before it is burned or afterward, is relatively small compared to the alternatives.

Over the next 20 years I would guess we will not only solve the problem of burning coal without producing sulfuric fumes, but we will also begin to sell the sulfur as a byproduct and have, by the end of the century, a massive surplus of sulfur. People will be talking about the problems of the sulfur industry. Right now there is a process where coal can be burned with limestone and the residue is used for drywall for homes. Do you remember that original sludge the salt miner wanted to get rid of so he could go back to mining salt? The sludge started the petroleum industry.

At this point I would like to focus on the controversial issue of nuclear power. This is a very tough thing to say and one I thought about a long time, but there is no question in my mind that the United States has to be the leader in nuclear power. Let me tell why, and I say this to the people who will read this and are terrified of nuclear power. We have no choice except to lead the world because the world has made the nuclear decision. If we do not build another nuclear plant for the rest of this century the French, the Germans, the Japanese, the Russians, the Italians, the Pakistanis, the Brazilians, and the Argentines are all going to keep building theirs. And they are going to have two primary problems, ones that are potentially overwhelming.

One is accident. My family lives 15 miles from Three Mile Island. As the man said in the "China Syndrome," nothing bad will happen unless something terrible happens and then we will lose an area the size of Pennsylvania. A sobering thought if most of your relatives live in Pennsylvania. We do have a safety problem. Anyone who thinks we do not is kidding himself. But that safety problem is there and we have to solve the problem, not run away from it.

In the next decade we must invent what is in effect a ship captain's model of running reactor systems. We must impose a model of absolute safety, one so powerful that other countries pay us to teach them how to make sure they do not have nuclear accidents. We cannot afford a nuclear accident—anywhere on this planet. No one on this planet right now is taking the leadership and saying: "Yes, we have plants, and this is how you run them safely, and these are the penalties for not running them safely."

Of course, even if you have safe plants you still have the second problem. That problem is nuclear waste. But let me risk surprising you for a second. Most of the nuclear waste on this Earth has nothing to do with nuclear power. Ninety-five percent of the nuclear waste available in the United States is a direct byproduct of building bombs. It is already there. It is not going away.

We need a crash program to meet the goal of within a decade figuring out how to handle nuclear waste on this planet. It is an export technology, it will create jobs, it will produce money because, after we get through the current crisis, Iran is going to be calling us and asking what to do with waste material. Japan is going to be calling, France is going to be calling, and no one on this planet can afford to have one of those countries say: "Well, we cannot solve it, let us dump it in the Pacific."

If we solve the nuclear waste problem creatively, I think we will have a new industry. The problem in the oil industry at one point was what to do with crude byproducts since they did not work in gasoline. The solution was the petrochemical industry—plastics, coal-tar derivatives, a whole range of things that you now use as common household aids. It is conceivable there will be a plastics industry growing out of the nuclear waste industry.

But we are not going to know that unless we make the investment and do the needed research and development. I think we have no choice. I do not think it is a debatable issue. Any debate is over whether we wait until after the first disaster or start doing it now. It is an opportunity for us to do it right now.

Beyond nuclear and coal, we do have a substantial amount of oil and natural gas reserves. In fact, since the Government lessened controls on natural gas and the cost rose, we have had a surplus of natural gas. It turned out that the shortage we were told about in 1977, when they closed all the factories in Ohio, no longer exists and never did exist. It was an economic and not a natural resource crisis.

We have substantial oil reserves in the United States, estimated by the Heritage Foundation at from 276 to 444 billion barrels. We have to devise more effective ways to recover oil from so-called exhausted fields. At current levels of technology and cost, only 25 to 35 percent of the oil is taken out of a field. The rest is still sitting there and of course, at this moment, it is theoretically impossible to get it out. Just as in 1500 it was impossible to dig deep into mines that had water in them.

We will have a massive amount of known reserves available once we focus effectively on stripping those fields of oil not pumping itself through natural pressure. We have to provide incentives for the driller to go after those reserves using secondary and tertiary methods. Right now the incentives do not exist. The research has not been done. I think that is one of the biggest areas for a breakthrough in the next decade, in terms of increasing the available amount of oil.

Ashland Oil has come up with a process that increases the amount of gasoline produced from each barrel of crude oil. In fact, Ashland estimates that they will produce a 25- to 50-percent savings in oil imports with this new technique. In other words, as oil gets more valuable we learn how to refine it more carefully. And if we double the amount of gasoline from a barrel of oil we effectively cut in half the amount of imports needed.

We have to encourage that kind of development in terms of the whole system—from discovery to getting it out of the well to transportation to refining to using it in your car. But I have no doubt that over the next 30 years we will produce enough innovations and enough breakthroughs to sharply reduce our dependence on foreign oil.

Beyond traditional oil systems there will eventually be better ways to extract shale oil. They are trying five or six systems now. Some of them have very severe environmental side effects. We do not have any breakthroughs on shale oil that I am personally comfortable with. But over time, given the history of the coal industry and the history of the oil industry, it is a little silly to assume we will not find ways to make the right breakthrough.

Once we make the breakthrough in shale oil, for the tar sands of Canada and for the heavy oil in Venezuela and California, we have eliminated any kind of oil crisis for at least a century. All three of those systems of reserves provide massive amounts of materials, all at a cost. All of them are more difficult to get to than more traditional light petroleum. That is why we did not use them, just as people who could burn wood from their yard did not go and build coal industries.

There are two areas I would recommend we focus heavy research on to make what I would call a quantum breakthrough. One is batteries.

We very badly need to have a breakthrough in the quality, durability, and the compactness of batteries. It is an area where we have relatively obsolete technology, and very few breakthroughs compared to other fields. As late as 1915, electric trucks greatly outnumbered gasoline powered trucks with a number of large companies. The electric vehicle is not brand new or an innovation of the last 10 years. It lost out years ago because the technology was not there for long-distance driving, and gasoline was cheap. Why would you want to stay with something like an electric vehicle when you can do it cheaper on gasoline?

There is renewed interest in electric vehicles. It started back in the 1960's, not as a response to gasoline prices but as a response to air pollution. Japan was the first major government to sponsor a large-scale development program for electric vehicles. We need major breakthroughs in battery technology, an area needing a real task force going into basic research and development. Not to improve current batteries but to invent four or five new generations of batteries, to find breakthroughs so fundmental that electric vehicles become relatively light and relatively convenient.

We have one model now that you plug in each night to charge its batteries. It is a little bit inconvenient if you like to drive both day and night, but if you are a two-car family this is a step toward an acceptable around-town electric vehicle. It also meets the needs of the power companies. As most of you know, the power companies do not sell as much electricity at night and would be delighted to have a way to use up that extra electricity generated. Once you start those large generators they are just wasting the energy.

The other area in which we need a breakthrough is in solar power in terms of its use on Earth, the most obvious area being photovoltaic cells. Photovoltaic cells are systems that actually take sunlight and transfer it into electricity. We have got to develop a less expensive and more efficient method of making photovoltaic cells. Right now the silicon cells that were originally developed for use on Skylab are only about 15- to 20-percent efficient. Since they are mostly handmade, they are far too expensive. We must lower these costs dramatically. Part of that will come with mass production. I think part of it will come with major breakthroughs in technology.

Beyond the intermediate range you have to look at the long range—a century out. Or 50 years out, or, if you are an optimist, 25 years out. Remember, someone once said that if you ask a scientist whether something can be done and he says yes, he is almost certainly right. If you ask a scientist whether something can be done and he says no, he may or may not be right. What he is telling you is that in his range of plausibility something could be done, not that he could get it done tomorrow given current realities. That was the message of Arthur Clark, who wrote the first article on a satellite in 1948 and has lived to see the satellite he talked about circle the earth. I think we are in the same situation again.

In 1900 there were a lot of people who said that bicycle mechanics could not fly. There were fewer people saying that in 1905. I think we are in a period when we could see breakthroughs that may take a century or may take 10 years. My outlook is that if we do not start the journey we will not find out how long it will be. And these are journeys that we have to make:

First, I would suggest we need to look very carefully at ocean thermal systems. As early as 1928, Georges Claude, the inventor of the neon light, built an ocean thermal system for use in the Caribbean. It is a system that makes use of the difference in temperature between the top and the bottom layers of the ocean to produce energy. His ocean thermal system worked for 2 years. Now, if a 1928 technology can produce a system that would work for that long, I suspect we could probably match it. In Hawaii and Puerto Rico people are building experimental ocean thermal systems, in conjunction with the TRW Corp., to supply some electrical power. I think that is an area where we could have a significant breakthrough and add one major source of energy.

The second area where you are looking beyond the next 20 years is fusion. Depending on who you are talking to, fusion is either relatively close or impossible or a very long way off. Princeton University is very positive and upbeat about their system. The people there argue that through the use of high technology they could achieve temperatures of 60 million degrees. And it is their opinion that that breakthrough can lead to a working fusion system before 1990. Well, they may be wrong. Maybe it will be 1995 or maybe it will be 2000, but I would suggest to you that the amount of money we are budgeting for fusion, compared to the potential of fusion, is absolutely absurd. Fusion should be a major long-range research and development goal of ours because it offers virtually limitless energy with far fewer problems than does nuclear power or oil or coal. Is such a powerful reward worth taking that particular journey? I think so.

Finally, I suggest we look seriously at solar power satellites. I recall when

I was first approached about solar power satellites. I had seen "Star Trek" and "Star Wars" and I thought it was all neat but, after all, get serious. Space was to send man out in and bring him back from after the television show, but it was not something to contemplate practically in my lifetime.

But I talked with an expert on solar power satellites. He made an interesting point to me. He said the approximate cost of sending up the first solar powered satellite—and this would be a big satellite, a system equivalent to 10 nuclear generating stations in the amount of energy it produces—is about $88 billion or maybe $100 billion, depending on whom you talk to, or maybe as little as $50 billion. A lot of money, even in terms of the U.S. Congress, where we spend billions of dollars cheerfully. A politician contemplating $100 billion for a solar power station would react by saying "Hey, that is too much money. How can I go back home and tell serious, sober people that we ought to play in outer space for $100 billion? They are going to laugh me off the stage."

But $100 billion is 1 year and 3 months worth of what we are paying OPEC. At the end of 1 year and 3 months, for that amount of money, you have used up all the OPEC oil the United States bought. With that same amount of money you have your first solar power satellite. And the next one is relatively cheap.

We must decide whether to invest in the future or to continue to buy the past. This particular satellite system would be about 1 mile long. Now you lower the costs dramatically, to further confuse things, if you build and enlarge parts of it with material from the Moon. From the satellite, the Moon is easier to get to than Earth is. So once you have set up the first actual working factory in space and it builds a bootstrap operation, you send up just enough tools to build the next set of tools. And from that point you build everything up there, using material from the surface of the moon or from asteroids having the right mineral content.

It is still a little far out and I am not saying that we ought to begin tomorrow morning with a crash program, but when I tracked down the No. 1 U.S. expert on building factories in space he turned out to be at Princeton. They are not only into fusion at Princeton, they are also into space. Whatever happens in energy they are going to be there. Except that this expert was not at Princeton right then. There was not enough work in the United States that week to keep him there. He was in Japan. The Japanese now have three different major projects for going into space. Each one of those projects is bigger than anything we are doing. They have looked at the future. They have looked at technology and they have said that it is safer, cleaner, makes more sense, and in the long run will pay off. I think the question is not whether the world will solve its energy problems. The question is whether the United States has the courage to be the country that solves the world's energy problems. Are we going to become a country that has decayed and therefore accepts energy systems from other countries, just as if you now have a Betamax system in your house the technology is not RCA but Japanese? Franklin Roosevelt said that all we had to fear is fear itself. And I think it is in his tradition that we ought to look for the policies of the future.

We ought to ask ourselves, Are we really willing to settle for the decay of the American life? Are we really willing to settle for the decline of our economic structure? Are we really willing to force upon our children a dream of less, of fewer, of weaker, of giving up? Do we really want a policy of conservation and deprivation that drastically reduces our way of life and kills the American dream?

I think that Franklin Roosevelt without any question would say we need a new deal in energy. We need a policy of conservation and innovation. America can be energy rich rather than energy poor. We can regain our independence from oil-exporting nations. We can improve our way of life and can raise our standard of living. We can have hope for a bright future, instead of a future filled with doom and gloom. We have to realize that the future is now, the decisions are now, and that where we are 30 years from now starts with the steps we take today. And we have to convince the Government, the corporations, and America's families that it is possible to lead a better life.

You know, I go back to the problems we faced when we were founding a country. Look at Valley Forge—I was at Mount Vernon the other day but I think Valley Forge is an even better place to go for a sense of this. You wonder what Washington, Franklin, and Jefferson went through to create this country.

I was recently reading a book by Bernard DeVoto, who was a great historian. He had been attacked because he was a romantic, because he said these were great men who did great things. A generation of historians has said we really should not romanticize the American past. DeVoto's answer was if you cannot romanticize the American past you will not understand it. They were dreamers, they did believe in a world bigger than life. They did think freedom mattered and that spiritual values and a better future were worth giving a lifetime for.

They in fact did live as giants on this planet. But I think that was as true at Valley Forge and of the mountain men and the pioneers who opened a great wilderness, or of the people who created a gigantic industrial society and invented the most balanced political system in the world. Those were tremendous achievements and I think the real choice we face in energy is whether or not to cease being Americans, to accept limits, to decay gracefully. Or does our generation reaffirm that we are Americans and that the time to change and the time to accomplish is now?

I think that is the challenge for this generation.●

WEEKLY COMMENTARY

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. BRINKLEY. Mr. Speaker, I insert for the RECORD my weekly commentary for the week of August 4 under unanimous consent.

The commentary proposes a fundamental change of attitude as America faces a challenging future—a positive, back-to-the-basics approach which can propel our country from an adversary relationship to an age of reconciliation.

The weekly commentary follows:

EXCERPTS FROM AN ADDRESS TO THE COLUMBUS CHAMBER OF COMMERCE

At the House Leadership meeting the other day, there was a lot of conversation about the elections. Several points were expressed about the need for fresh looks and new goals rather than backward glances and dwelling on things in the past—or, otherwise, loss of confidence would deepen.

Well, I've thought about it and at first it seemed that there was no crusade to embrace which, standing alone, would be credible. Sure, to go to the moon is fine, to seek a cure for disease is wonderful, but in the context of our daily lives, what really should be the new horizon for which we labor?

Could not the answer lie in an overall change rather than any one specific? And couldn't that general back-to-the-basics be a new attitude and a new heart?

Where everyone in our country is willing to do the work at hand . . . to be producers and achievers again;

Where we in America care once more about the quality of our work;

Where we as a people have faith in our fellowman in a climate where a man's word is still his bond?

Where in government itself there is a rededication to the principle that representatives serve and are not to be served . . . where we are servants and not the masters!

A change of attitude is my dream for a new beginning.

So that we can move from an era of rancor and recrimination and into a time where reconciliation and good will prevail. Where the presumption is that citizens at home and in government act in good faith under a fairness doctrine.

This type crusade is what we need in America. It is an undertaking of enormous worth. It is one in which you may participate as leaders in the finest system of business on earth—in promoting a free enterprise system which is a profit motive system and which is a competitive system. One in which business should not be shackled by regulation or encumbrances so heavy as to fore-destine our losing to foreign competitors. We must have a revival of Yankee ingenuity with a Rebel yell, and it is no virtue for government to be a hindrance in the name of "helpfulness" or other mislabeling—the government should offer business a climate in which it can perform freely, within reasonable boundaries, and laws affecting our international trade and commerce should be rules of comity and equity. The marketplace should not be demeaned as "the establishment" but should be constructively upheld at home and abroad.

Let me tell you the story of a Florida retirement community.

YOU FIND WHAT YOU ARE LOOKING FOR

Two elderly gentlemen were considering moving to a certain retirement community in Florida, and both visited the community before making a final decision.

While on a walking tour of the area, the first visitor spotted an old resident sweeping the sidewalk and asked them, "Tell me, what are the folks like around here?"

The old man thought for a moment and said, "Well, sir, what did you think of the folks back in your home town?"

"I thought they were the scum of the earth," he answered.

The old man said, "Why, that's just what you would think of the folks here."

A few hours later, the same elderly resident was approached by the second visitor, who asked him the same question. The old man again countered with, "Tell me about the folks in your home town."

The second visitor replied, "They were wonderful people—the salt of the earth."

"Well, sir," the resident declared, "that's just what you'd find here."

CONCLUSION

From where I stand, America is still the land of the free and the home of the brave * * * where the salt of the earth people are still to be found.●

IN MEMORIAM OF BILL BAROODY, SR.

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. GOLDWATER. Mr. Speaker, it is with deep sorrow that I rise today in memory of a great American and close friend of my family, William J. Baroody, Sr., who passed away last Monday, July 28, 1980. I know that his passing is mourned not only by the Washington community but by leaders across the free world as well. His rare insight and direction, the inspiration of 25 years of public policy formulation, will be sorely missed.

I could go on at great length about Bill Baroody's keen mind, deep devotion to his family and country, and rare spirit of patroitism. However, I do not pretend to be above to express myself on this topic nearly as well as it shines through in one of the last addresses Bill delivered. Consequently, I would like to share with my colleagues Bill's address before Albion College's graduating class of 1980. I commend his message to all. In the words of Samuel Johnson, "He touched nothing he did not adorn."

INTRODUCTORY REMARKS

(By Paul W. McCracken)

I have the honor to present William Joseph Baroody, Sr., counsellor and former president of the American Enterprise Institute for Public Policy Research and member of the Visiting Committee of Albion's Gerald R. Ford Institute for Public Service, for the degree of doctor of public service.

In a remarkable way the career of this distinguished citizen epitomizes the American story. The son of immigrant parents from Lebanon, he served his country with distinction as a lieutenant in the Navy during World War II, followed by an interlude of civilian public service.

In 1954, he became head of the American Enterprise Institute for Public Policy Research, then a small and little-known organization. Upon his retirement as president in 1978 he could look out upon a large and vigorous intellectual center that had become, in the words of the Washington Star, "one of the top 'think tanks' in the nation by attracting fine minds in several disciplines." By his clear-eyed and deep philosophical commitment to a free society and a free market in ideas, and through his organizing genius, he has altered the intellectual landscape of this nation and the free world. As a member of many public bodies and as a deeply committed and active member of his church, he has extended his reach and influence beyond his own institute to the community at large.

EDUCATION: MORE THAN MERE KNOWLEDGE

(By William J. Baroody, Sr.)

Friends of Albion and, most particularly, the graduating class of 1980, to say that I am delighted to be here this afternoon would be a masterpiece of understatement. As is readily apparent to you, we have encountered obstacles on the way to this forum. With the help of God, however, these have been overcome and I am here.

During this particular season, the air over college and university campuses across the length and breadth of this land is saturated with cliches directed at the graduates: cliches challenging them to change the world; cliches exhorting them to eradicate the ills that beset humankind; cliches urging them to assume the awesome responsibilities of establishing a new world order; and so on and on and on.

It is not my intent to affect the air over Albion in similar fashion. What I would like to do is simply to talk to you, members of the class, and share a few insights gleaned over more than a quarter of a century in the arena of public policy, of public policy research, and of public policy formation.

I would also like to bring to your attention a distinction or two which I believe to be of vital importance as you move on to your careers. Some of you will be heading into graduate work, others will enter the world of business, and still others will move into the field of public affairs and public policy. Whatever you choose to do, I urge you to keep constantly in the forefront of your consciousness that you are the possessors of a *distinctive* education. I say this with deep conviction, for over the past few years, I have had the privilege of observing at relatively close range this institution, its administration, its faculty, and its student body. This is an institution which stands tall among a small but significant segment of American higher education—an institution which dares to defy the "trendiness" so prevalent in higher education over the last several decades.

This is an institution which, both by its words and by its deeds, bears witness that the function of higher education still lives in these United States.

This is an institution which knows that the purpose of higher education is to *educate* rather than to train, to help form the whole person in its recognition that man has both a material and a spiritual nature; and that the spiritual nature of man demands for its development more than the infusion of mere knowledge.

In short, Albion stands for value-centered education.

More than thirty years after the Nazi horror of World War II, people find it difficult to understand how the German people could let their minds be so easily manipulated. Viktor Frankl, a noted Austrian psychiatrist, stated his absolute conviction that the responsibility for the gas chambers of Nazi Germany rested ultimately not in some Nazi office in Berlin but in the universities. Frankl placed the responsibility at the desks and in the lecture halls of those professors who denied any objective truth or any objective morality.

I suggest to you that this denial is at the foundation of the trendy "value-free" education of the contemporary scene and is the very antithesis of value-centered education. Today, we are training far too many students to be simply medical men, writers, political scientists, economists, journalists, etc., who see no connection between the work they do and the demands of the moral order.

Too many of our college graduates see nothing wrong in violating the basic moral values of honesty, justice, respect for property, and responsibility to public office. Such attitudes force the question: What is the nature of the education that our universities and colleges are providing that allows this dichotomy to exist in the lives of so-called educated men and women? How can educated people be unconcerned about genuine human values?

In my judgement, this is the fundamental distinction between "value-free" education and "value-centered" education. A "value-centered" education is designed to help the student to raise the fundamental value questions and to arrive at the beginning of honest and truthful answers, so that a future president of the United States will not have to wait for an invasion of another Afghanistan to understand the purpose and nature of Communism.

A "value-free" education pursued to its ultimate ends will produce a "value-less" education and breed a society that may lay claim to many things but certainly cannot be a civilized society.

That is why, at the outset, I urged you to keep in the forefront of your consciousness that you possess a truly distinctive "value-centered" education and urge you to understand and act upon the responsibilities and obligations this imposes on you in the years ahead.

It is in terms of these obligations and responsibilities which you assume on this day that I share with you, in the few moments we have, the lessons I have learned in the last three decades. More than 140 years ago, Alexis de Tocqueville made a startling prediction. He said that in the world of the future, there would be two major powers, Russia and the United States. In one short paragraph, he described the two peoples he observed then: "The American struggles against the obstacles that nature opposes to him; the adversaries of the Russian are men . . . The American relies upon personal interest to accomplish his ends and gives free scope to the unguided strength and common sense of the people; the Russian centers all the authority of society in a single arm. The principal interest of the American is freedom, of the Russian servitude."

What is disturbing to me is that over my own relatively short life span, there has been a perceptible blurring of that distinction between the Russian and the American and a steady erosion into what Walter Lipp-mann called the "sickness of an overgoverned society" and what Chancellor Allen Wallis, of the University of Rochester, meant when he said, "What concerns us is a powerful movement away from limited government and individual freedom and toward pervasive government and collective control of all of our activities."

Without boring you with statistics, let's quantify this concern. Government expenditures at all levels of government in 1929 represented 11 percent of the nation's entire production of goods and services. By 1950, it had climbed to 23 percent; by 1960 to 30 percent; by 1970 to 35 percent; and by 1977 to 37 percent.

Or try it another way. Government regulations are carried in a document called the Federal Register, which was first published in 1936. That year, it comprised 2,400 pages; by 1970 it was 20,036 pages; by 1975 it was 60,000 pages; and by 1978 it was 68,000 and still climbing.

These are obviously simplistic indicators, but they tell the story of phenomenal growth in the public sector, and we need only reflect on our current situation as a nation to glimpse some of the effects of this massive shift to the public sector.

Recently, a noted British historian, Paul Johnson, made the point: "We have given to Caesar the things that are not Caesar's." The more the state expands in an effort to give its citizenry the illusory rights of utopia, the less able it is to guarantee them the rights that really count—life, liberty, and the enjoyment of what they have earned.

We cannot relieve a beleaguered American Embassy in Iran by airlifting a regiment of welfare workers—nor apparently can we do it with military forces, given the current state of our defense facilities and manpower—and we cannot frighten Mr. Brezhnev with food stamps.

This decade of the 1980s which marks your commencement also ushers in a period of high risk, danger, and uncertainty for the United States and the free world. This is a decade in which we are confronted with crossroads decisions—decisions that will set and shape the nature and way of life we lead as a nation for decades to come. These are decisions in such areas as inflation, energy, government regulation, and foreign and defense policy.

Who makes these decisions and how they are made is of critical importance. Today, perhaps more than at any other time in our history, public policy and public attitudes go hand in hand. Policy makers—whether elected or appointed—are particularly sensitive in contemporary society to public opinion as they perceive it. Here, let me assert that public opinion as it is perceived is not necessarily public opinion as it exists.

Certainly, if public attitudes are as significant as they appear to be in the formation of public policy, it becomes important to ask, What forms public opinion? Clearly, there is no single answer. Yet, in my observation, an extremely important factor is the activity within the intellectual arena—the turf of the so-called new class, of which Irving Kristol has written and spoken so much in recent years. It is the arena of academic life, of scholarly journals, of journals of opinion, of the news media, of the generators and transmitters of ideas, and of the think tanks.

It is in this arena that ideas are launched into the mainstream of public discourse and exert a tremendous influence on the formation of public attitudes. It is in this arena where effective competition needs to be assured. As Paul McCracken succinctly stated some few years ago, "A free society can tolerate some degree of concentration in the manufacture of a widget. However, if it permits anything approaching a monopoly in the realm of ideas as they impinge on public policy formation, it sounds its own death knell."

As I reflect on the experience of the last quarter century, I must reluctantly conclude that we have come very close to permitting precisely the kind of monopoly of which McCracken warned. And today, we are paying the price.

One need not be a pessimist to say that our situation today is at best precarious.

Our foreign policy is a shambles. For the first time in recent history, a secretary of state resigns on a matter of principle. For the first time in our history, a third-rate power has "the administration rattled and flailing about," as George Ball put it recently. And just last week, the administration and the Congress, despite the rhetoric of both in the face of the Soviet invasion of Afghanistan, voted against an amendment that would have transferred $5.1 billion from social welfare to defense.

On the domestic side of affairs, to say that economic policy is a shambles is an understatement. The inflation rate—labeled the cruelest tax of all—is bumping along at nearly 20 percent, compared with a rate of 4.8 percent just three years ago; unemployment is at 7 percent and on the way up; capital formation is in deep trouble; productivity rates are at their lowest in many years; and the auto and housing industries are in dire circumstances.

Transcending all of this, however, is the lack of credibility we enjoy as a nation among our friends and allies, our adversaries, and the nations of the third world.

So I repeat, members of this class of 1980, you are shoving off into very troubled seas indeed.

But I am despite all an optimist. I subscribe to the belief and the vision that motivated my father to journey from distant Lebanon eighty years ago—knowing neither the language, the customs, nor the specific opportunities that might exist. Yet he came because there was a vision that this land and this nation was unique in human history—a nation with a system that permitted a man, if he were willing to work, to live a life that was fully human and provide an opportunity for his children and theirs to live an even better life.

That is the system and the way of life which you are called upon to defend and preserve. That means involvement. That means work. That means—whether you are lawyer, teacher, businessman, doctor, or whatever—that you realize what is at stake and give it everything you have.

And to get back to our beginning, it means that you must constantly remember the importance—sacredness may not be too strong a word—of "everything you have" and have received from Albion. You have more than mere knowledge. You possess an entire civilization's legacy of values which, if we can preserve them against the current trends of attack or neglect, can in turn preserve us and the way of life we treasure. If the legacy and the values themselves were not worthy of preservation—and they are—the fear of Viktor Frankl's alternative would still prove them necessary.

This war in which we are engaged—in this decade of the 1980s—is not a spectator sport. This is not the Super Bowl, where 100,000 spectators watch twenty-two men play it out. This is a war that needs each and every one to do his part if we are to win and if freedom and the good life are to endure.

Finally, let me congratulate you on this day and again salute you as the possessors of a truly distinctive education, which provides you with the formation you need to do battle in this critical war of ideas we all face.

Thank you.●

COUGHLIN CONSTITUENTS WANT SPENDING CUTS AND SPECIFIC TAX REDUCTIONS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. COUGHLIN. Mr. Speaker, I am pleased to share with my colleagues—as I have done each year—the results of my annual mail questionnaire poll to residents of Pennsylvania's 13th Congressional District.

Reflecting concerns throughout the Nation, my constituents favor reduced Government spending, specific tax cuts aimed at encouraging investment and productivity, and a balanced budget but not at the cost of escalating taxes. They favor defending U.S. interests in the Persian Gulf by force, if necessary, as well as a strong commitment to European defense, but substantially disapprove of President Carter's handling of the Iranian hostage crisis.

A total of 13,089 individual responses was received by the July 15 deadline. Others mailed responses after that date, but a check of their answers shows no change in the final results. In fact, final results and preliminary results varied no more than 2 percentage points either way.

Constituents opposed balancing the Federal budget as originally proposed by President Carter—by cutting expenditures by $16 billion and increasing taxes by about $100 billion. That plan of course, has gone the way of the nickel cigar as the administration now sees a $61 billion deficit.

Seventy-seven percent opposed the earlier scheme for budget balancing while 14 percent favored it; 9 percent were undecided.

To reduce inflation, constituents were provided six alternatives and asked to rank them in order of priority.

First priority went to reducing expenditures to balance the budget. The second most important step to cut inflation was to enact tax cuts specifically aimed at spurring investment, savings, and productivity.

These were followed in order of priority by imposition of wage-price controls, across-the-board tax relief, maintenance of high interest rates, and tight credit across the board, and, in last place, increasing taxes to balance the budget.

Other alternatives suggested by those responding included eliminating Government overregulation, imposing energy price controls, and controlling union contract cost-of-living escalator clauses.

Constituents were also provided a list with seven areas in which they were requested to rank in order of priority where they would reduce spending.

To no one's surprise, foreign aid was tagged again as the first priority for cutting expenditures. Education spending was second, followed by reductions in aid to the poor.

Cuts in defense spending were fourth in order of priority, followed by cuts in spending for health care, mass transit and, in last place, aid to the elderly.

Other preferences suggested by those responding included across-the-board spending reductions, cutting welfare and Government spending on itself, that is, privileges including limousines, parking, and other perquisites.

Three-quarters of those responding disapprove of President Carter's handling of the Iranian hostage crisis. This 74 percent is opposed by 16 percent who approve of his actions; 10 percent are undecided.

The ire of my constituents with the Iranian Government is evidenced with 70 percent of them answering "yes" to the question of whether they would approve of legislation to deport all Iranians, except those seeking political or religious asylum, so long as our hostages continue to be held.

Twenty-five percent object to this concept and 5 percent are undecided.

In response to the Soviet invasion of Afghanistan, 74 percent favor cutting off all technology exports to the Soviet Union. Since one or more answers were requested for the six alternatives, the figures add up to more than 100 percent.

The second greatest percentage—63—favor the boycott of the summer Olympics in Moscow. Following are: Prohibiting all food and grain exports to the Soviet Union, 59 percent; prohibiting all exports to the Soviet Union, 55 percent; supplying arms to the Afghan resistance movement, 48 percent, and blockading Soviet aid to Cuba, 33 percent.

Eight percent suggest other alternatives including United Nations intervention and a direct confrontation with the Soviet Union.

A majority favor the United States defending its interests in the Persian Gulf by force if necessary; 62 percent answered "yes" while 20 percent responded "no"; and 18 percent are undecided.

When asked if the United States should reduce its troop commitments in Europe, constituents split over the three choices presented.

A plurality of 42 percent want to maintain at least the current troop levels. Thirty-seven percent would approve reductions only if our NATO allies made up the difference. The remaining 21 percent thought the levels should be continued regardless of what our allies do.

In two related questions on draft registration, a majority—61 percent—want women to be included in registration plans. Thirty-three percent are opposed. Six percent are undecided.

My constituents display a divergence of opinion when presented five alternatives on what course they favor to meet military personnel needs, regardless of their answer to the women-in-draft question.

Twenty-five percent approve of actual draft inductions which is matched by another 25 percent who OK draft registration. Twenty-one percent favor enactment of universal alternative service while 20 percent believe in substantially improving military pay and benefits. Six percent want to continue on the course in effect before the Congress passed, and the President signed, the post office registration program.

Three percent offer other options such as a combination of the suggested alternatives and placing women in noncombat situations in the armed services.

An overwhelming majority—78 percent—oppose President Carter's 10-cent-a-gallon tax on gasoline which was defeated by the Congress. Only 18 percent favor it while 4 percent were undecided.

Sixty-four percent want the Federal Government to provide substantial subsidies for production of synthetic fuels. Twenty-seven percent are opposed. Nine percent are undecided.

In combating unemployment, more than three-quarters of those responding believe the Federal Government should provide incentives for domestic business expansion. Of the four alternatives posed, creating new jobs on the public payroll drew only a 6-percent approval. Thirty-seven percent want to restrict significantly imports of goods. Eighteen percent favor permitting imports, but want workers assisted in changing jobs.

Thirteen percent offer other solutions such as cutting Government regulations, penalizing firms that close U.S. plants to expand in foreign countries, and eliminating Federal agencies.

A majority—54 percent—approve of eliminating Saturday mail service as an economy measure. Thirty-nine percent are opposed and 7 percent are undecided.

The problems of the growing refugee population is evidenced in constituent opinion with 61 percent opposing the United States continuing to provide a haven for refugees. Twenty-eight percent favor providing the haven. Eleven percent are undecided.

The results were compiled and doublechecked by my staff. To insure accuracy, responses were weighted by ZIP code.

Residences in my district will be mailed the final results which also will be forwarded to the White House.

QUESTIONNAIRE RESULTS

1. The twin specters of inflation and unemployment haunt the economy.

A. To fight inflation, President Carter proposes balancing the Federal Budget by reducing expenditures by $16 billion and increasing taxes by almost $100 billion. Do you agree with this proposal?

[In percent]

Yes	14
No	77
Undecided	9

B. Please rank in order of priority (1, 2, 3, etc.) steps you would take to reduce inflation.

[In order of priority]

Reduce expenditures to balance the budget	1
Enact tax cuts specifically aimed at spurring investment, savings and productivity	2
Seek authority for and impose wage-price controls	3
Enact across-the-board tax relief	4
Maintain high interest rates and tight credit across-the-board	5
Other	6
Increase taxes to balance the budget	7

C. Please rank in order of priority (1, 2, 3, etc.) where you would cut spending.

[In order of priority]

Foreign aid	1
Education	2
Aid to poor	3
Defense	4
Health care	5
Mass transportation	6
Other	7
Aid to elderly	8

2. An inconsistent foreign policy has drawn increasing criticism.

A. Do you approve of President Carter's handling of the Iranian hostage crisis?

[In percent]

Yes	16
No	74
Undecided	10

B. So long as our hostages are held, would you approve legislation to permit the President to deport all Iranian students, businessmen and visitors except those seeking political or religious asylum?

[In percent]

Yes	70
No	25
Undecided	5

C. Which of the following actions would you favor in response to the Soviet invasion of Afghanistan? (one or more)

[Totals more than 100 percent]

Prohibit all technology exports	74
Boycott the Summer Olympics	63

Prohibit all food and grain exports to the Soviets	59
Prohibit all exports	55
Supply arms to the Afghan resistance movement	48
Blockade Soviet aid to Cuba	33
Other	8

D. Should the United States defend its interests in the Persian Gulf by force if necessary?

[In percent]

Yes	62
No	20
Undecided	18

E. Should the United States reduce its troop commitment in Europe? (one only)

[In percent]

Maintain at least current troop levels	42
Only if our NATO allies make up the difference	37
Regardless of what our allies do	21

F. Should women be included in plans for registration or the draft?

[In percent]

Yes	61
No	33
Undecided	6

G. Regardless of your answer to the preceding question, what course do you favor to meet military personnel requirements? (one only)

[In percent]

Draft registration	25
Actual draft inductions	25
Enact universal alternative service	21
Substantially improve military pay and benefits	20
Continue as present	6
Other	3

3. The President and the Congress continue to grapple with energy policy.

A. Do you favor Mr. Carter's 10-cent-a-gallon tax on gasoline?

[In percent]

Yes	18
No	78
Undecided	4

B. Should the Federal Government provide substantial subsidies for production of synthetic fuels?

[In percent]

Yes	64
No	27
Undecided	9

4. In combatting unemployment, should the Federal Government? (One or more)

[Totals more than 100 percent]

Provide incentives for domestic business expansion	76
Significantly restrict imports of goods	37
Permit imports but assist workers in changing jobs	18
Other	13
Create new jobs on the public payroll	6

5. As an economy measure, should we eliminate Saturday mail delivery?

[In percent]

Yes	54
No	39
Undecided	7

6. Should the United States continue to provide for numbers of refugees?

[In percent]

Yes	28
No	61
Undecided	11

Party preference of those responding:

[In percent]

Republican	67
Democrat	17
Non-partisan	15
Other	1

Ages of those responding:

[In percent]

18 to 21	1
21 to 35	23
35 to 50	25
50 to 65	32
65 and over	19

SAVAGE REPRESSION IN SOUTH KOREA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. BONKER. Mr. Speaker, I would like to commend to the attention of my distinguished colleagues an excellent article by Pharis J. Harvey entitled, "In Korea, Savage Repression Brings a Timid U.S. Response." His article, which appears in the July issue of Christianity and Crisis, describes the present condition of human rights in South Korea.

Several months ago, when I visited that country, I was impressed by the determination of most segments of Korean society to work together toward a more democratic society. In meeting after meeting, Koreans from all walks of life, in and out of government, expressed the hope that the provisional government would be able to manage an orderly and constitutional transition under civilian rule. I also had the pleasure of meeting most of the civilian leaders but one of them, Kim Dae Jung, is easily the most popular figure in Korea. These political leaders, including Kim Dae Jung, are now facing an uncertain fate. They have been charged with violation of antisedition, national security, and anti-Communist laws. As Pharis J. Harvey notes:

> Most of the 100 or more prominent political and religious figures arrested had connections with Kim Dae Jung, or were accused by the military of being allied with him. Kim and one of his sons were taken to an unknown location. In fact, the whereabouts of none of the prisoners is known even now, one month after their seizure.

This is only one small indication of the marked changes which have occurred since my visit to that troubled country.

I urge my colleagues to read this insightful article and join me in expressing to our Government the need for strong action. The mutually productive relationship which has developed between our two countries will be irreparably harmed if the military regime continues its repressive policies. We must emphasize to the South Korean Government that their stability, indeed their security, is dependent on domestic tranquility which can only be achieved by a broad national consensus.

The article follows:

IN KOREA, SAVAGE REPRESSION BRINGS A TIMID U.S. RESPONSE

(By Pharis J. Harvey)

There is no speech, nor are there words;
Their voice is not heard;
Yet their voice goes out through all the earth
And their words to the end of the world.—
Psalms 19:3,4.

It began as a spontaneous, nationwide, nonviolent demonstration led by elders from Protestant churches and a native religious sect call Chondogyo; thousands poured into the streets of Korea's cities simultaneously, unarmed and unafraid, parading for freedom and democracy. Confident that such a peaceful and moral protest could not but stir the United States to take up their cause against their oppressive rulers, they were stunned when, in the event, the military crushed their movement with merciless brutality, killing thousands and imprisoning thousands more, while the U.S. averted its eyes, suffering from unprecedented inflation and sluggish export sales. Labor, encouraged by the relaxation, had also begun to stage strikes for back wages and better conditions. There were more labor-management conflicts in a period of three months than had occurred in the previous ten years. In contrast, warnings about the threat from the North were a familiar tactic without substance. No evidence exists that North Korea was stepping up its military preparedness or engaging in increased border infiltration.

As winter melted into spring, Korea's campuses came alive with student demands for reform of the universities. Beginning in mid-March, school after school was plunged into turmoil by student demands—recognized as just by most faculty members—for freedom of the campus press, ending of police surveillance of classrooms and autonomy for student organizations. In April, the students added a new demand, asking the resignation of those teachers who had been used by the Park Government to control students. By the end of April, a carefully coordinated national student campaign against martial law itself began, with demands surfacing for the resignation of Chun Too-whan and the restoration of freedom to debate and then to implement a new constitution.

On May 1, when students at Seoul National University announced a two-week campaign to protest martial law, the die was cast for confrontation with the military. Demonstrations began on campuses involving thousands of students. On May 12, several hundred Seoul students marched off their campus in peaceful street demonstrations. On the 13th, the number swelled to 10,000; on the 14th, it reached 30,000, and on the 15th, the total number of students demonstrating in the streets of Seoul was estimated to be between 100,000 and 200,000. Violent clashes took place; hundreds were arrested, hundreds more injured.

A VICTORY VANISHES

Political leaders of all parties joined in urging the end of martial law. When both parties agreed to convene the National Assembly on May 19 to vote an end of martial law, the students agreed to end their demonstrations. It appeared that a major victory for democracy was imminent.

It never happened. On the night of May 17, General Chun's forces began arresting hundreds of politicians, ministers, priests, academics, journalists and students. While these wholesale sweeps were being conducted, the Cabinet was convened at midnight and forced under gunpoint to authorize an extension of martial law to supersede their own authority. President Choi Gyu-ha, universally acknowledged to be a powerless figurehead willing to legitimize anyone with power, was the only civilian left in authority. The rest of the Cabinet then resigned.

Most of the 100 or more prominent political and religious figures arrested had connections with Kim Dae-jung, or were accused by the military of being allied with him. Kim and one of his sons were taken to an unknown location. In fact, the whereabouts of none of the prisoners is known even now, one month after their seizure. When news of his arrest reached his home province of South Cholla the next day, spontaneous protest broke out among students of several universities in Kwangju, the provincial capital. The military reacted by sending in several thousand Airborne Special Forces. These units, professional soldiers brutalized by their training and hardened by experience in Viet Nam, were given free reign to put down the students with extreme force.

The rampage that followed can have few parallels in the history of domestic conflict. Both demonstrators and bystanders died by the hundreds, killed by bullets or bayonets. So vicious were the paratroopers' actions that some believe the were drugged or intoxicated when they attacked. Women students were stripped and bayoneted in public; a pregnant woman's fetus was ripped out of her by bayonet and thrown in her dying face; victims were shot in the back, and then their faces smashed to prevent identification. It is reported that hundreds of victims were loaded onto trucks and their bodies taken away to be burned. Even now, because of the tightest possible censorship and the climate of fear within the country, the full toll is uncertain.

The rest of the story is by now well known outside the country. After two days of this rampage, regular martial forces released from the US-ROK command took over. The citizens of Kwangju rose up, unarmed except with pipes and clubs, knives and sticks, and forced the military to retreat outside the city. A de facto citizens' committee governed the city for nearly a week while jubilant students seized weapons and ammunition from police and military depots to guard the city's perimeters.

By the end of a week, however, the isolated city was running out of food; blood for the thousands of wounded was needed, but the military controlled all access and refused to allow any supplies to pass. Desperately, the city's leaders, headed by the Roman Catholic bishop, appealed to the United States to mediate with the military. But the US, which had released ROK troops under its command to put down the rebellion, refused a peacemaker's role. Within hours of their refusal, the army moved in under cover of night to reconquer the city. The number of new casualties from this operation is officially listed as 19, but that count cannot be confirmed.

As this is written, one month later, arrests continue every day. House-to-house searches are conducted throughout the country for the thousands of persons in hiding. Seoul is occupied by an estimated 40,000 troops; large numbers are stationed in every other city. Unconfirmed reports indicate that 700 journalists have been arrested; other reports tell of the torture of prisoners. But the real situation is not yet known. It is not even known where any of the prisoners are detained. Rumors continue to circulate that Kim Dae-jung has been killed or tortured. But again, no confirmation or denial is yet possible.

TOO LITTLE, TOO LATE, TOO TIMID

Now that Chun Too-whan is firmly in control, the US has begun to express timid disapproval, through such means as abstaining on multilateral loan votes in the Asian Development Bank, canceling official visits and rescheduling consultations.

But this is too late to prevent a significant swelling of anti-American feeling and too little to do more than irritate Korea's new dictator. Since American spokespersons kept silence or expressed only mild concern while Chun took over the military, grabbed the KCIA, manipulated the cabinet, closed down the National Assembly and universities, arrested the opposition and silenced the press, the Americans are universally believed to have in fact encouraged this course of events.

When in March General Wickham described military neutrality in Korean politics as including the right of the generals to veto any political candidates, he signaled to Chun that the US would back his power seizure, at least by silence. And when Ambassador William Gleeysteen Jr. rejected a mediating role to end the conflict, the shape of American "non-intervention" was clear. Complain as it may about the subsequent turn of events, the US will deserve the enmity it reaps from the Korean people for its cowardly role in allowing the stillbirth of yet another cycle in Korea's long struggle for freedom.

The parallel with 1919 is not yet complete, but it may well become so soon. The failure of a moral and nonviolent movement to throw off colonial rule in 1919 led directly to the formation of underground terrorist groups, based in Manchuria and committed to the violent overthrow of Japanese rule. Kim San, a Korean revolutionary in China wrote of these days: Before March First, I had attended church regularly. After this debacle my faith was broken. . . . A torment entered my soul and mind. March First was the beginning of my political career. All over Korea, young men felt the same. The desperate terrorist movement followed logically from the tragedy. (*Song of Ariran*, p. 83)

It is premature to judge what will logically follow from the tragedy of Kwangju. Disaffection from nonviolence surely, distrust of America certainly; underground activity probably and externally-based guerrilla warfare possibly. It is difficult to imagine that General Chun will be able to govern long; Korea's industrialized economy and sophisticated population will not easily yield to the simplistic expedients of brute force and military commands. But if all viable political alternatives have been exterminated, there may well follow a long succession of coups and counter-coups that could reduce South Korea to the political and economic chaos of Argentina, Uruguay or Bolivia. How North Korea might react is, of course, subject to speculation, but such a turn would not enhance its neutrality from South Korean affairs.

It is late, but possibly not too late for the US to act to counter this trend. South Korea is still dependent on US materials, markets, capital and military aid for its survival. If the Carter Administration has the will, it could find the way to exercise this influence in the direction of restoring political normality and progress toward democracy. There are risks involved, of course, but the failure to take those risks will almost surely bring disaster in Korea and dishonor to America.●

MR. AXEL SPRINGER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980.

● Mr. DERWINSKI. Mr. Speaker, there is a great deal of public interest in the media viewpoint expressed here in the United States. I was recently directed by an old newspaper friend of mine to an address by a respected journalist and leading newspaper publisher from the Federal Republic of Germany, Mr. Axel Springer. Mr. Springer spoke at the USO fundraising dinner recently held in Frankfurt, Germany. As I found his remarks to be especially frank and very spirited, I wish to direct them to the special attention of the Members:

STATEMENT OF MR. AXEL SPRINGER

I am very proud to sit between two of the most highly decorated officers of the United States Army this evening.

And I am also very proud to be the speaker at this U.S.O.-meeting.

And I am well aware in which building we are.

Here on the eleventh of May 1972 five bombs exploded which killed an American officer and hurt thirteen others. These bombs were placed by the same people, by the German Baader-Meinhoff-gang, who eight days later laid bombs at my Hamburg plant, hurting eighteen of my co-workers.

Meanwhile your building has been repaired and our building has been repaired.

But the scars remain, and I did not want to keep silent about this outrage by German fanatics eight years ago.

Ladies and gentlemen, I am well aware of the hardships which all of you Americans stationed in Europe take upon yourselves.

I know it is not an easy thing to be away from home, to be stationed in a foreign country.

And I want to tell you right at the beginning of my speech that I am extremely grateful to you, to all the Americans in Europe.

I am grateful just like the majority of my countrymen and of the other Europeans whom you help to protect.

And let me say something else too right at the beginning: I am very well aware of the personal anguish and the personal difficulties many American soldiers and their families have to endure in Europe due to the decline of the dollar-value.

I know that the net profits of this evening will go to such families. And I hope that a lot of money will be collected.

Because for me there can be no doubt that it is a task for us Germans too, to make the lives of those tolerable, who are stationed here in order to protect us.

Some of you, ladies and gentlemen, may ask yourselves and others why it is necessary that American troops must still be stationed in Europe 35 years after the end of World War II, which your fathers helped to win.

This is a very reasonable question, and I as a German, as one of the protected, am maybe not the right person to try and give an answer.

But I shall try anyhow.

When the war was over and occupation of Germany started, there was widespread hope that real peace was on hand. However, very soon thereafter the Western Allies learned that while one enemy, German National-Socialism, was beaten, the Soviet Union was starting its own version of world conquest.

Men like President Harry Truman, and Winston Churchill, and the French European Robert Schumann, and the first German post-war Chancellor Konrad Adenauer realized that something had to be done to save Europe, to save the world.

They created the new Western Alliance, NATO, to which Germany, the former enemy, became a partner.

Since then the situation has not changed, because the objectives of the Soviet leaders have remained the same.

Today as in the immediate post-war years their goal is to become masters of the whole world.

This is why you are here; this is why today, 35 years after the war, American, British, French, and other allied troops still stand on German soil, guarding Europe together with German soldiers.

What is actually going on in this world?

Let me simplify: two powerful social systems put their stamps on our time: the Marxist-Leninist system of slavery, atheism and tyranny; and our system of freedom, liberty and social responsibility.

Several years ago I spoke in Washington to the National Press Club and said that our generation has the choice between a pax sovietica, a peace dictated by the Soviet Union, and a pax americana, a peace of free men, by free men for freedom everywhere.

Ladies and gentlemen, all the moves of the Soviets and the Western counter-moves of the last thirty or thirty-five years are about this struggle between liberty and slavery.

Also the present debate about modernization of tactical nuclear forces in Europe is in answer to the never-stopping Soviet attempt to prevent a pax americana, which would mean world peace as we understand it.

Shortly before his death the late Konrad Adenauer discussed with me the differences between communism and our system.

He made his point very brief, saying: "Actually, Mr. Springer, this is all very simple. "The contest between West and East is a confrontation between good and evil."

"I agree", I answered, but added: "Only we, on our side, are everything but good."

Are we good? I ask you? And if not good—since no mortal can be good—are we at least prudent?

I believe not.

Just like in the thirties the whole world kowtowed to Hitler until it was too late, our generation bows to the Soviets.

More than that, we even support them, so that they can more easily prepare to overtake us.

We build truck-factories for them, so they can use those trucks to invade Afghanistan.

We build modern fishing boats for them, so they can use their own dockyards to increase the strength of their navy.

We sell them oil-drilling equipment, so they can easier lubricate their war-machinery.

We help them build fertilizer factories, which they in turn use to make gun-powder.

We sell grain to the Soviets, so that their population does not rise up against their hated masters.

And when our leaders meet the rulers of the Kremlin, they exchange kisses as one does among friends.

I am, as you may know, a great skeptic when it comes to detente.

I am even more of a skeptic about the present German "Ostpolitik", which should better be called the Kremlin's "Westpolitik".

Among you, I most certainly don't have to list the many conquests which the Soviets have made since the end of the war;

Nor must I tell you about the extension of their rule to new countries during the past ten years, during this period of so-called detente.

Many of you have fought in Vietnam, fought against Soviet weapons there, while the Vietcong did the fighting for the Soviets.

You know what happened in Angola, where the Cubans conducted a proxy-war for the Soviets, and what happened in Ethiopia, in South-Yemen. And of course you know, what is happening in Afghanistan now.

I call myself a skeptic; others call me a "cold warrior", but in reality I am a man of peace.

Allow me for a few minutes to indulge in a fantastic vision: If the present rulers of the great Russian people were to give up their hopes for world revolution; if instead of terrorizing their people, the Soviet leaders would permit the pursuit of happiness, as we find it pledged in the American Declaration of Independence—then we could think in terms of peace with the Russian people.

Under such conditions, Russia could become one of the wealthiest nations on earth.

If such a development were possible, we could, no—we should!—give all possible assistance to the Russian people.

We should help them to develop their own natural resources.

Then and under such circumstances, we should give them our know-how, sell them our equipment, help them build modern factories and introduce modern farm-techniques.

Because then the Russian people would be like our peoples, free to do what they want, and the whole world would be a freer place.

I know that especially young people here, everywhere in Europe, in the United States, and in all the countries of the Third world would rejoice, if the Soviet Union were to give up its imperialistic dreams and become a nation devoted to the good of mankind.

Scientists, technicians, specialists of all kind, would then offer their help.

For me this is the only way to go; this is also the only possible road to real disarmament.

At some day in the future the time for this will be ripe.

I say all this, well knowing that today this is only a dream.

Because the Soviet leaders are unwilling—maybe I should say they are at present unable—to change their ways:

They are unwilling to allow freedom in their own country;

They are unwilling to admit, that a worker in the United States, or in West Germany, or in France, or in Japan, or even in South Korea is better off financially than a worker in the so-called workers' paradise, the Soviet Union, or in any other country that is run by communists.

Of course, they dare not admit that their system simply does not work.

From my office in Berlin, I can look over the free Western, and the unfree Eastern part of the city.

Just by looking out of my window, I can see the difference between their system and ours.

And I am looking out longingly every day.

Because I cannot give up the hope that some day we shall be able to bring our liberty and our know-how to all these people in Eastern Europe:

To my countrymen in East-Germany, to the Poles, the Czechoslovakians, the Hungarians, the Bulgarians, the Rumanians, and as I said before, to the many great peoples of Russia itself.

But if I look out of my Berlin window now, from the top floor of my publishing house, which overlooks the infamous Wall, I see that what our politicians call detente is only a one-way-street, from our side to theirs, from West to East.

People from the West can—under certain conditions—visit people in the East, as most of you know.

But it works never the other way around; except for old people who are no longer of use for the state.

Allow me to offer an explanation for the ills of our dangerous, sad and sick times:

I am convinced that the main disease of our age is man's desertion of God.

This lies behind all the troubles which we have created and encountered in this century.

The desertion of God also lies behind the terror which we have been experiencing and are still experiencing.

Let me say this in all sincerity: If God's commandments had been obeyed, the unspeakable, the Nazi outrages, could not have happened in my country.

Nor could today's atrocities and injustices happen in so many parts of the world if the Lord's laws were followed.

The great bewilderment of our time in all the world is the loss of belief in God, the belief that commands to love your neighbor as yourself.

Love your neighbor as yourself. This includes for me especially—allow me to repeat this—that we Germans in the free part of our country must never stop thinking how we can bring liberty to our enslaved compatriots in East Germany as well.

And it includes for me also a very special relationship towards the Jews against whom we Germans sinned terribly during the Nazi years.

Out of this special relationship grows a special responsibility towards the life-rights of the people of Israel and their state.

Ladies and gentlemen, I said before that I am grateful. I am grateful that you permitted Mrs. Springer and myself to come here this evening.

I am grateful to you, who represent the United States of America, for all you have done for my country and for our continent ever since the end of the war.

Because I know, that without your help we could not have recovered from the war the way we did.

But more: Without your help, without your presence we would not be free today.

Our freedom is now our proudest possession, as it has been yours ever since your nation was born.

Allow me a few words about this country of yours and about your people.

Travelling from Vermont to Florida and further West and talking to American visitors I have in the past months sensed a feeling of disappointment, of hopelessness even of distrust in your own and in your leader's capabilities to cope with the problems of today and of tomorrow.

Now let me tell frankly: You, the American people, have no reason to be downcast.

Great as the problems of today are, they are a series of challenges, not greater and not more dangerous, than those which your nation has solved gloriously in the past.

You are still the mightiest land on earth, and let nobody tell you otherwise.

For a number of years, we all in the West have been negligent.

We have become fat and complacent.

Our arms are not what they should be. But you know that much better than I, a military layman.

But what I do know is this: You Americans are and will remain the world's greatest potential for any kind of industrial challenge, and this includes, of course, the challenge to take the lead once again in the production of military hardware.

All you need to do is pull up your sleeves.

And the minute you have done that, the doubts about America will disappear over night.

And your friends will pull up their sleeves as well, and do what may be necessary at your side.

I so often think of President Franklin D. Roosevelt's warning to his people, that they have nothing to fear but fear itself.

This is as true today, as it was true forty years ago, and it applies to us as well as to you.

Do not forget: We free Europeans depend on you; the people in the Middle East, especially the Israelis, depend on you; your neighbors in Latin America depend on you; all the people threatened by the Soviet Union depend on you.

You, your country and its viability and its strength, are the great hope for all the oppressed people in the world.

I know you will not disappoint them.

And we, we Germans, and all the other Europeans want to help you.

But remember always you are the leaders, whether you want it or not.

The dream of liberty on earth, which first was dreamt on European soil, you have made it come true.

Because you are the young Europeans, you have been able to mold your country into the mightiest power on earth.

In doing this you have created new hope for all the people of this world, the hope for new and continued freedom, and that it shall never perish from the earth.

For this we old Europeans thank you; for this God may bless you.●

RESPONDING TO THE NEED FOR FISCAL RESTRAINT

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. RATCHFORD. Mr. Speaker, the Congress and the Nation face some very difficult challenges in the 1980's. As we begin the decade, we face a deterioration of the American economy more troubling than at any time in recent memory. Inflation continues to soar at a rate of nearly 12 percent annually, and the current recession threatens to push unemployment as high as 8.5 percent by the end of the year. Even as we all recognize that there are no simple answers to the problems of inflation and recession, we must reaffirm our commitment to take strong—and painful—actions to regain stability and to restore the vitality and productivity of the Nation.

In the midst of this economic turmoil, I am acutely aware of the extent to which Federal spending has contributed to the inflationary spiral, and I share with many Americans a belief in the need for fiscal restraint during this time of scarce resources and soaring prices. Only with an unwavering sense of fiscal responsibility can the Congress hope to deliver the vital message that we must all live more closely within our means. In this context, I remain committed to the goal of a balanced Federal budget as a symbol of discipline in the fight against inflation, and hope that the Congress will continue to move toward that goal in the months and years ahead.

Responding to the need for fiscal restraint, I have consistently urged my colleagues in the House to conduct a merit examination of all Federal programs, and to consciously set priorities for Federal spending during a time of scarce resources. As we attempt to trim Federal spending in response to inflation, we clearly cannot afford to slash programs blindly, without regard to the pressing needs of many Americans and the ongoing responsibilities of the Federal Government. For this reason, fiscal restraint must begin with a careful review of the ways in which we are spending tax dollars, to identify waste and to reduce funds for programs of low priority. In this way, the Congress can respond both firmly and responsibly to our economic ills.

A necessary first step in the process of fiscal restraint must be the establishment of a greater sense of discipline in the Congress itself. With so many needs throughout the Nation, the American people will not tolerate ever-growing budgets for the operations of the legislative branch. As a member of the Committee on House Administration, I have been deeply involved in the review of congressional staff and expense budgets to insure that they reflect only the most essential needs. In addition, I have repeatedly opposed any pay increases for Members of Congress, believing that my colleagues should join me in setting an example of sacrifice in the anti-inflation effort. I have argued consistently against the use of millions of tax dollars for the construction of a new Senate office building, and I have also opposed a $290,000 authorization for investigations and studies by the House Select Committee on the Outer Continental Shelf.

Beyond these specific efforts to reduce the cost of government, I deeply believe that the Congress must establish better mechanisms for evaluating the effectiveness of existing Federal programs and for identifying unnecessary or wasteful spending. From the earliest days of my candidacy for Congress in 1978, I have called for the passage of sunset legislation which would provide for a periodic congressional review of all Federal programs. During the past 2 years, I have cosponsored legislation (H.R. 2 and H.R. 5858) which would establish a 10-year cycle for mandatory reauthorization of Federal programs and tax expenditures, and I have presented testimony before the House Rules Committee stressing the importance of this revised mechanism for controlling Federal expenditures. The ability of the Congress to respond to the need for fiscal restraint rests on the strength of these essential program review measures.

If the merit examination of Federal programs and the establishment of clear priorities for Federal spending are to be meaningful, no segment of the Federal budget and no set of national needs can be exempt from scrutiny in the search for unnecessary or wasteful expenditures. For example, while I remain firmly committed to a strong national defense in response to international turmoil, I have opposed extravagant military expenditures which threaten to consume our scarce resources. If we are to move toward a balanced budget, we simply cannot afford to overreact to the threat of Soviet expansion through the construction of outmoded or unnecessary weapons systems.

With this concern in mind, I voted last year to delete a $2.1 billion authorization for a new *Nimitz*-class nuclear aircraft carrier which many defense experts concede would be highly vulnerable to attack in time of war. I also opposed the purchase of two destroyers originally ordered and built to the specifications of the prerevolution Iranian Government which would have little use in the American fleet. Perhaps most importantly, I have worked repeatedly for a halt in the development of the MX missile, which threatens to cost between $33 billion and $100 billion to complete while adding little to our national security. With glaring needs for improved manpower recruitment and defense readiness, we can ill afford such extravagant additions to our already imposing nuclear arsenal.

I have also brought an awareness of the need for fiscal restraint to considerations of American assistance to foreign nations. In an era of scarce resources, I cannot support aid to those nations which flagrantly violate those principles of democratic government and human rights which the American people hold so dear. In this context, I have voted against a proposal to send $68 million in aid to southern Africa, and I supported an amendment in the House to prohibit $210 million in aid to OPEC nations. Similarly, remembering Turkish intervention in the sovereignty of Cyprus, I opposed a proposal to provide a $50 million grant to Turkey for military assistance.

While I share a sense of the importance of assistance to the developing nations of Latin America, Federal spending in this area also cannot be removed from the scrutiny of the budget process. Struggling to reconcile the need for this American aid with the need for fiscal responsibility, I supported an amendment last year which reduced funding for the Inter-American Development Bank by $17.7 million, while leaving $869 million for that purpose. I also favored a measure to strike $40 million authorized by the Senate to establish an emergency fund for the Panama Canal Commission which would have gone beyond the responsibilities assumed by the United States under the Panama Canal Treaties.

Perhaps the greatest scrutiny in this session of Congress has been focused on spending for domestic programs designed to meet pressing social needs. I have adamantly opposed measures authorizing the construction of dam and water development projects across the Nation, including a $4.3 billion proposal filled with projects which are costly, unnecessary, and potentially damaging to the environment. I supported an amendment which reduced funding for the U.S. Department of Health, Education, and Welfare by $500 million last year, instructing that these savings were to be achieved by program reforms in areas identified by the HEW Inspector General as containing waste, fraud, or abuse. I have also opposed extravagant proposals to expand the Federal crop insurance program, to increase Federal subsidies to the shipbuilding industry, and to begin a $25 million research and development program on the feasibility of a solar power satellite which offers questionable benefits and numerous risks.

Of course, in the effort to reduce Federal spending, we cannot ignore our collective responsibility to address our most pressing national needs. In response to the high cost of fuel and the severity of recent winters, I have supported an emergency fuel assistance program to insure that Americans do not freeze in their homes during the winter season. To confront our persistent problems of structural unemployment, particularly among our Nation's youth, I have worked for the improvement and continued funding of Federal employment and training programs. Based on my experience as former commissioner on aging in Connecticut, I have taken a leadership role in the effort to maintain adequate funding for elderly nutrition programs and to meet the other serious needs of older Americans living on fixed incomes. These examples all serve as reminders that many Federal programs serve millions of real people with undeniable needs—the Congress cannot turn its back and remain responsive and responsible during these difficult times.

Mr. Speaker, we all remain conscious that there are no easy solutions, and the commitment to fiscal restraint will not eliminate all of our economic ills. Yet I am encouraged by the actions of my colleagues in the House this session, and I remain confident that the Congress is taking—and will continue to take—important steps to cut Federal spending and to reduce inflation. During the past year alone, the estimated Federal deficit has been cut in half, from $60.9 billion in fiscal year 1980 to $29.8 billion in fiscal year 1981. The rate of inflation continues to show signs of moderation, falling from a high of 18 percent annually earlier this year to a current rate of approximately 12 percent annually.

If the Congress persists in its commitment to fiscal restraint, economic projections indicate that the American economy will stabilize in the years ahead. The decisions will continue to be difficult—undoubtedly we will be faced with a lengthy period of scarce resources, with agonizing choices in the establishment of priorities for Federal spending and with an endless search for wasteful or unnecessary spending. Nevertheless, we must avoid the temptation of abandoning a thoughtful merit examination of Federal programs and national needs, and the danger of a meat ax approach to reductions in the Federal budget. I pledge my continuing and unwavering efforts in this responsible approach to fiscal restraint, and I strongly urge my colleagues in the House to join me in moving the Nation back toward economic growth and stability.●

HISTORY SHOWS ENERGY CRISES CAN BE ENERGY OPPORTUNITIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. GINGRICH. Mr. Speaker, the topic of energy and the way we live—and particularly the specific topic of future options and hard choices—is an area that all of us have reason to be concerned about.

The central theme I want to drive at is based on a comment by George Orwell, the author of "1984" and a number of other books. He said once that bad thinking is a product of bad language. If you cannot describe something, and you cannot use the right words, then you do not have the right approach to it in your head.

If you are describing your elbow and use the word "leg" or you are describing your head and use the term "bowling ball," you have problems. If you went to a doctor who used bowling ball to describe your head you would promptly leave.

I have been accused on a number of occasions of misdescribing what is going on, because I have been arguing that there is no such thing as an energy crisis. In fact we are faced with a very different animal than an energy crisis and I want to devote this time to explaining what I think we really are faced with and how it developed.

The Chinese ideogram for crisis has a top and bottom part, for in Chinese the word crisis represents both danger and opportunity. The upper symbol is for danger and the bottom symbol is for opportunity. If you focus on the upper symbol you focus on danger, difficulties, and problems. If you focus on the bottom symbol you focus on a better future, on a different world, on what good might develop out of a given set of circumstances.

The Chinese deliberately developed this bilateral approach to crisis. It was their belief philosophically that there was no crisis that was either all good or all bad, and that in fact you had free choice in determining where to go with the existing moment. And I would suggest to you that we are in an energy situation which is very aptly described by that Chinese ideogram.

We face dangers, such as a major economic catastrophe if for political reasons the OPEC countries were to cut off the flow of oil. We face difficulties, some of which all of us have shared, such as rising costs. We also face opportunities: whole new technologies providing a whole new generation of jobs; whole new ranges of ways to do business; a different kind of lifestyle which our grandchildren will probably regard as better because they'll be more used to it. The more elaborate vision of crisis is very important.

Historically, Americans have focused on the bottom half of that Chinese ideogram. We tend to think about the opportunities available in the midst of danger. But for the last 20 years we have been focusing increasingly on the danger half of a situation. We are becoming a country that focuses not on health, but on disease; not on growth, but rather on decay; not on explosive possibility, but rather on notions that something bad will happen.

You can watch any news program and you will see what I am talking about. But go back and read of similar problems on a vastly greater scale in, for example, the 1880's, and the tone is totally different. So I am suggesting in a sense that much of what is happening in energy is a function of a cultural situation, a way of looking at things rather than any abstract reality.

We, consciously and for a long period of time, designed a policy to encourage this country to adopt industrial, residential, and transportation patterns based on very cheap energy. We had a conscious governing strategy which got us where we are today. We can gain energy independence from OPEC nations and have plenty of energy for the future, but we must first recognize that we got where we are because we intended to.

Let me give you some examples—milestones on the road to dependence on OPEC. Start with the year 1967. In 1967 Arab oil producers embargoed all oil shipments to the United States. This is the middle of the 1967 war between Israel and the neighboring states. That embargo failed because U.S. producers still had excess oil supplies available both for ourselves and to export in a crisis to our European and Japanese allies. The following year, in 1968, for the first time the domestic consumption of petroleum fuel exceeded U.S. petroleum producing capacity, and the United States for the first time was partially dependent on imported oil. This was the result of a conscious policy.

We adopted a strategy of encouraging the building of refineries in the Caribbean and discouraging the building of refineries in the Northeast. The 1969 Tax Reform Act reduced the percentage depletion for oil and gas, singling out oil and gas among 105 extractive industries. Many people at that time were convinced that the oil depletion allowance was letting people get rich in that industry without helping anyone else. When it was singled out by Congress, domestic exploratory drilling began the sharpest drop since World War II. People were told there was no incentive to drill, so they did not drill. The result was a tremendous decline in the number of new wells. At that point U.S. oil imports were up to 22 percent of U.S. consumption.

The following year, in 1970, the U.S. production of crude oil peaked—1 year after we sent the signal not to explore aggressively. It began a decline that still has not stopped. In 1971, crude oil prices were controlled in phase 1 of the Nixon administration's economic stabilization program. Total U.S. drilling of new wells dropped to 27,300 from a high of more than 58,000 in 1970, a drop of 31,000. At that point, the United States was 25 percent dependent upon foreign oil.

In 1973, U.S. natural gas production peaked and began to decline. This was in part a function of policies that went back to 1954. Domestic drilling remained at less than one-half the level of the mid-1950's. An Arab oil embargo against the United States and the Netherlands caused millions of Americans to sit in gas lines for the first time. The gasoline lines of 1973 were a direct response to Government intervention. There was more oil available in that year in this country than there was in the year before. The U.S. Government itself, by its allocation policies, caused the very shortages it told you it was trying to stop. At that point the United States was dependent for one-third of its oil on foreign countries.

In 1976 the Federal Energy Administration reduced domestic crude oil prices about $1.50 a barrel. It froze them later that year, and then reduced prices by another 20 cents a barrel. All these proconsumer activities guaranteed you would be paying less and having less, because the response was another drop in domestic drilling activity. The 1976 Tax Reform Act also discouraged drilling. The United States by then was 42-percent dependent on imported oil.

In 1979 President Carter proposed total decontrol of oil prices by late 1981. But he coupled that with a windfall profits tax which was specifically aimed not at large oil companies but at small independent drillers. The plan passed by Congress last December allowed a passthrough provision so that large oil companies could take a tax deduction on the windfall profits tax and be barely affected by it. The very small producers, the ones who drill for most of the oil, are hardest hit by what Congress did. In 1979 we depended on foreign oil for over 45 percent of all of our oil requirements. This year fully 50 percent of our requirements depend on foreign supplies.

The theme I want to build here is that past policies were consciously designed to achieve certain goals, and they achieved them. They were designed to discourage people from drilling, so people did not drill. We adopted an elaborate tax program which gave Exxon and Texaco and other companies a great reason to build refineries and production systems overseas and to avoid building them here. This was no accident. This was a deliberate policy, passed by Congress and designed by different administrations of both parties.

Now, the fact that our past policies have given us a stomach ache does not mean we are necessarily doomed. If you look at energy in longer terms you will find that we faced other energy problems throughout history—and solved them. As the cost of production raises, other things develop. As wood became more expensive and scarce, specifically in England, people turned to a different kind of power source; namely, coal. There was another turning point in which the coal industry was in dire straits, because it was undercut by an even cheaper form of energy; namely, oil.

Now if we had a Department of Energy at the time of the wood crisis, rather than focusing on the opportunity side of that symbol and creating the coal industry, we would have had a rationing system so that each person got one branch per month. There would have been heavy emphasis in using woolen clothing and shivering together rather than inventing an entirely new industry.

Historically, human beings have encountered resource problems, and have invented new technologies which allowed them to then raise the standard of living. How? By engaging human ingenuity, in ways which were not obvious 100 years earlier.

Around 1100 there was an attempt to burn coal in London and Edward the First outlawed it and had people killed for using coal, because it smelled bad. It was one of the first acts of air pollution we know of. The first man who tried to use coal in London was beheaded. After that, Edward rescinded his edict. Today, the Environmental Protection Agency cannot act on that scale of extremity, but that did not help the people whose persecution is evidence of the mindset that new technology is invariably strange and should therefore be destroyed.

The transition from wood to coal in the English-speaking world commenced in the 16th century in Elizabethan England. In the areas closest to London you had three different operative factors: First, wood was running out because there was a population explosion and more people were trying to cut down trees in order to keep warm; second, the king's forest areas were off limits and you could not cut in them because he wanted to hunt; third, the country needed tall, old trees for the navy and they set areas aside for naval stores much like we had Elk Hills reserved in California.

So you began to have a wood crisis. At the time of the crisis they began to shift to coal. Now coal at that time—to use a minor example of how the world changes—was called sea coal because it came by sea. Coal is fairly heavy, and they had to bring it in by barges. They could only transport it in areas where they had water because, at that point in history, they did not have any other way to transport heavy things. This lead to a very large industry—mining the coal and transporting it and selling it retail.

And it lead to complications. For example, chimneys and hearths had to be rebuilt because the sulfurous fumes from coal were a menace. People died from it. And neighborhoods learned very quickly that if you did not rebuild your hearth one of two things could happen to you: You could burn down the chimney because coal burns in a different way than wood does, or you could die in the middle of the night because the coal was giving off bad fumes. There were some resistors but within about 50 years' time coal was a very dominant factor in heating in London.

The problem with coal came at the end of the 17th century. It was being so heavily mined that you had to dig the mines deeper because you were running out of surface coal. Luckily there was no surface coal department to stop people from inventing deeper mines. When they invented deeper mines, those mines were very bad places to work. They could not use donkeys because the donkeys died of lung disease. They had to use children and women who were small enough to get in the pits.

The development of coal was not purely progress. It was a very painful period. When they mined deep enough so a large population in London was capable of keeping itself warm, they ran into water. And they were faced with a genuine crisis. The crisis was how to get water out of the mine.

The great breakthrough came in 1712 when the first full-scale engine was built. It was called the miner's friend, since it kept miners from drowning. It also kept miners from having to pump the water by hand, and made possible much deeper mines. It extended the life of the coal industry in Britain throughout the 18th and 19th centuries.

The engine answered a very specific social need and, for people who have not studied the history of technology, it sometimes comes as a surprise the first steam engine had nothing to do with either textile mills or railroads. It was purely a device invented to lift water out of deep mines. The specific need was more coal, as the standard of living went up and as people wanted to be warmer. The iron industry, in order to meet that need, had to invent an entire new industry, which employed thousands of people building steam engines. That then led to an increased need for iron, since steam engines are made out of iron, which then led to another industry and at the end of that period you had what we now regard as the beginning of the Industrial Revolution.

In America during this period the steam engine not only was not used initially for the railroads, but people did not even think of railroads as transportation. People in America at the end of the 18th and the beginning of the 19th centuries focused on canals, the Erie Canal being the most famous. Canals were generally regarded as the answer to the whole range of transportation problems and there are a lot of transportation revolutions that parallel the energy revolutions.

The golden age of canals emerged promptly after the Erie Canal came to symbolize it. Ten years after the 1825 opening of the Erie Canal, the crush of people moving west had doubled and redoubled. The price of land on the Erie grew so high that easterners could not even afford a foot of it. Out in Toledo land bought from the Government at $1.50 an acre reached $100 per frontage foot within 3 years. There was no windfall profits tax on that, by the way.

Credit was extended to almost everyone. Speculators went wild. One book said about that time:

> When a fortune could be made in the morning and doubled in the afternoon, it was everybody's business overnight.

When you have speculation that doubles and redoubles on a daily basis such as we had in the mid-1830's, you are inviting a crash. There was a crash.

President Andrew Jackson issued his species circular in July 1836. The Government would accept no payment for land except in gold and silver, and by 1837 the Great Depression had struck. It was one of the deepest depressions in American history. There was very deep resentment over the terrible debts incurred in building the canals, and over the taxes levied to pay off the bonds. Just as the canals 10 years earlier had symbolized the Golden Age, they now served as scapegoats for mass misery. Everything they had done that was wonderful they now reversed.

One historian wrote:

> Canals were accused of causing every sickness from the shakes to the boils.

And from the Western Courier and Piqua Gazette in Ohio in 1837, this editorial:

> These are sad times truly. Doubt, doom, and despair seem to have taken possession of all classes. Men of all parties are becoming alarmed at the state of things. The notaries and lawyers are the only persons benefitted by the universal loss. If the present is a foretaste of the Golden Age, God help our country.

Obviously, the editor was not happy that week.

The long depression ended around 1840, as a new form of transportation was entering the market and providing a driving force for capital investment and jobs for the growth of the iron and steel industry. The canal era had actually just begun when George Stephenson in England learned to harness steam to a car-pulling locomotive. The original railroads were not built for steam engines, they were built for horse-drawn and mule-drawn wagons—in order to carry coal. They needed something that could sustain heavy loads, and roads back then could not do that. George Stephenson said what we really ought to do is not use a horse but instead use a steam engine. And so the first locomotive was invented.

The locomotive emerged in Europe at exactly the point the canals were at their peak in America. After the Great Depression of 1837 the locomotive passed the canals and was never again challenged. But there were many problems involved in perfecting the locomotive. In the 1840's there was an enormous amount of trial and error. At first all the tracks were only one way. Trains that were going north tended to run into trains that were going south. Americans were universally regarded as very dangerous train drivers. And Daniel Boorstin in his work about the Americans quotes somebody who said that your heart would explode if you went over 20 miles an hour.

Back in the early days a collision was called a concussion—for obvious reasons if you can imagine two trains hitting each other and their boilers exploding. But if they did manage to stop to avoid ramming, the train which was closest to the last switching point—called a turnout—would go back and the other train would follow it. It was a moral obligation, though I do not know what they did if they were at an equal distance from the two turnouts.

They learned after a while to do more sophisticated things. Many engines exploded. In fact, it has been estimated that there was the equivalent in 1837 of 7,000 deaths for our modern population by steam boiler explosions alone. The invention of a new industry and the invention of new ways of doing things did involve problems, but 19th century Americans saw those problems primarily as opportunities, not as dangers. The railroad companies persisted. By 1850, there were 7,400 miles of track on the ground. In 1869, the Transcontinental Railroad was connected in Utah.

I use the example of the railroads because I think the model of transportation development relates directly to the model for solving energy problems we face today. A 19th-century American was concerned about more than just getting there, he was concerned about lighting his home. Anyone who has been to Williamsburg and seen the kind of candles once used to light homes can appreciate the electric light a lot more. But there were many stages between the Williamsburg candles and the modern electric light.

During the late 1700's those who were wealthy had whale oil lamps. That was the modern way of doing things. But by 1800 whales were getting scarce. American whalers were having to go as far as the North Pacific to catch dwindling supplies. By the 1840's the Greenland whales were almost extinct. The cost of going as far as the Arctic was pushing the price of whale oil so high that there was urgent need for an alternative source of illumination. There was even fear that with the whales being wiped out man would run out of any way to decently light his home and have to go back to tallow and to candles. Coal gas was already in use. Let me repeat that term "coal gas." Those of you who think getting synthetic fuels out of coal is a new idea may be surprised to find that coal gas was already in use by the 1850's. Yet there are many places where coal gas was not a desirable alternative.

Ours is not the first energy crisis, and, as history shows, the world will go on.●

DIA DE MEXICANOS AMERICANOS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. ROUSSELOT. Mr. Speaker, together with my colleague, Representative EDWARD ROYBAL and the members of the California congressional delegation, I wish to recognize the fine efforts of our colleagues in the California State Assembly. Through a member's resolution introduced by the Honorable Art Torres, August 24, 1980 has been designated, Dia De Mexicanos Americanos (Mexican American Day) in California to honor the significant contributions of Mexican Americans to the colorful history and romantic culture of the State of California.

That resolution, a direct result of the efforts of Napoleon J. Lopez, director of marketing for the California Exposition and State Fair, and Ruben H. Ortega, executive director of Mexican Expo and Associates, commemorates the first time in California history a concentrated effort has been made to assemble and recognize organizations of Mexican Americans and Mexican American individuals at the California Exposition and State Fair.

As a part of that effort, I would like to bring to the attention of my colleagues a letter by Napoleon Lopez, the author and originator of Dia De Mexicanos Americanos:

> Today, the Mexican-American of California is searching for ways to preserve and maintain his native original culture in his state. In so doing, the Mexican-American maintains a sense of pride and value in society.
>
> Since Admission Day, September 9, 1850, little significance has been placed on the exceptional historical background and the unique, predominent Mexican-American influence in the beautiful state of California. This strong Hispanic influence still prevails in California. Generally speaking, the cultural and creative evidence (art, literature, music, attire, architecture, cuisine) stand out as representative of the Mexican-American cultural influence.
>
> Mexican-Americans continue to maintain their original creativity today. The language is expressive and remains an integral part of the state. A daily reminder of this romantic tongue are in the names of California communities, mountains, beaches, waterways and parks. San Francisco, Los Angeles, Monterey, San Juan Bautista, Sacramento are only a few of the famous California areas, well-known far beyond the state.
>
> There is a growing sense of ethnic, cultural and historical awareness among a heretofore silent minority—the Mexican-American of California. Efforts to record and preserve the Mexican-American influence in California largely have been the product of upper society and historians; few in number, Mexican-Americans have rarely been a part of this important, governing group. Such planning has been approved, administered and in some instances, even thwarted by the elite. Therefore, the vast majority of native Californian Mexican-Americans have had absolutely no involvement, much less opportunity, to preserve and record Alta California culture and history beyond their immediate families. In effect, government has ministered to the Mexican-American history in California whereby a stroke of the pen may cancel important cultural programs. Sadly, the state government has had few Mexican-Americans within to express concern and interest in the preservation of this unique culture.
>
> Therefore, the continued conservation of the Mexican-American influence, which gave today's California its rich beginning, is truly important in maintaining pride in state heritage.
>
> Because of the desire of most Californians to express this culture through the arts, music, architecture and cuisine (to name a few), the day has come for official recognition. One hundred and thirty years of our passionate, living history deserves a true cultural holiday.
>
> As a fifth generation Californian, it is my duty to assure that the people of the great state of California understand why the Mexican-American culture, heritage, influence and special events are so important in maintaining stability in this state. Mexican-Americans comprise a large segment of California working population; in fact, the largest racial minority in this state.
>
> Because cultural and social activities are initiated on a holiday, August 24, 1980 has been declared, through state resolution, as the first holiday specifically to honor our heritage. This day shall be known as Dia De Mexicanos-Americanos, State of California.
>
> This day shall be in honor of the land with a passionate history, which influence has enriched the peoples' heritage.
>
> The establishment of the first Dia De Mexicanos-Americanos in the state of California by resolution perpetrated the organization of Mexican-Americans in the state for the largest fiesta in the history of this state. The first fiesta will be held at the California Exposition in Sacramento, California, the showcase of the state.
>
> This special day will then signify and recognize all Mexican-Americans who have made vital contribution in maintaining this beautiful heritage.
>
> NAPOLEON J. LOPEZ
> *Author and Originator.*

Therefore, in recognition of August 24 as Dia De Mexicanos Americano in California, the California Congressional Delegation have introduced a commemorative resolution to show their appreciation to California's Mexican-Americans for reflecting through their enterprise, art, music, delicious food, and gracious style of living, the best that has been known and said of the Hispanic people throughout history.

> Whereas the California State Assembly has designated August 24, 1980, at "Dia De Mexicanos Americanos" in the State of California; and
>
> Whereas for the first time in the history of California a special effort is being made to assemble and recognize organizations of Mexican Americans as well as Mexican American individuals at the California Exposition and State Fair; and
>
> Whereas the culture of California, in regards to the Arts, Music, Architecture, Language, Cuisine as well as other aspects, has been greatly enhanced by a long history of Mexican American heritage; and
>
> Whereas a growing sense of ethnic, cultural and historical awareness, not only among Mexican Americans but all California cultural groups, has increased the desire to preserve the Mexican American influence in California; now, therefore, be it
>
> *Resolved*, That the California Congressional Delegation represented by Harold T. (Bizz) Johnson, Don H. Clausen, Robert T. Matsui, Vic Fazio, John L. Burton, Phillip Burton, George Miller, Ronald V. Dellums, Fortney H. (Pete) Stark, Jr., Don Edwards, William Royer, Paul N. (Pete) McCloskey, Jr., Norman Yoshio Mineta, Norman D. Shumway, Tony Coelho, Leon Edward Panetta, Charles Pashayan, Jr., William M. Thomas, Robert J. Lagomarsino, Barry M. Goldwater, Jr., James C. Corman, Carlos J. Moorhead, Anthony Charles Beilenson, Henry Waxman, Edward R. Roybal, John H. Rousselot, Robert K. Dornan, Julian Carey Dixon, Augustus F. Hawkins, George E. Danielson, Charles H. Wilson, Glenn M. Anderson, Wayne R. Grisham, Dan E. (Dan) Lungren, James F. (Jim) Lloyd, George E. Brown, Jr., Jerry Lewis, Jerry Mumford Patterson, Williams Dannemeyer, Robert Edward Badham, Bob Wilson, Lionel Van Deerlin and Clair W. Burgener, Joins with the California State assembly in recognizing August 24, 1980, as "Dia De Mexicanos Americanos" in the State of California in honor of the cultural enrichment of all Californians by the influence of a Mexican American historical heritage.●

ANTONIO POLVOROSA: A MAN FOR MANY SEASONS IN SAN LEANDRO

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. STARK. Mr. Speaker, from time to time I like to place in the CONGRESSIONAL RECORD materials about special constituents.

Today, the object of my attention is Antonio Polvorosa, one of the leading citizens of San Leandro. A recent news story in the San Leandran, June 25, 1980, by Kathryn Cotsopoulos gives some of Tony Polvorosa's impressions of his early life in San Leandro—he arrived there from the Hawaiian Islands with his parents in 1913—and his work and community experiences since then.

Mr. Speaker, Tony Polvorosa is a good friend and he has been very helpful to me and a lot of other people in the area. He has been honored for his many community services and some of these are outlined in Ms. Cotsopoulos' story. I, too, want to pay public tribute to Tony's career. But I do not want to give the impression that at age 74 Tony Polvorosa is slowing down. He is not. He is presently serving as president of the Golden Agers that meet weekly in San Leandro. And he is working on the development of a new senior center that is to adjoin the San Leandro Community Library. Thank goodness that some of Tony's best work is still before him. As a member of the greater San Leandro community I know I will benefit from his efforts and I am pleased to know and admire Tony Polvorosa and his lovely wife Rose who certainly deserves credit for her role in Tony's successes.

The San Leandran article follows:

[From the San Leandran, June 25, 1980]

Antonio Polvorosa, a Man for Many Seasons in San Leandro

(By Kathryn Cotsopoulos)

Spanish immigrants with early California backgrounds are among us, providing a zest for life, vitality and personalities that are irreplaceable.

Antonio Polvorosa, 74, better known as "Tony,"—or nicknamed "Mother Rabbit" at an early age—is oldest of seven children of Julian and Maura Polvorosa who came to San Leandro from the Hawaiian Islands in 1913. He is the husband of Rose, the father of Julian and Daniel and Helene Kline. He is the grandfather of two grandsons and three granddaughters.

Tony's hard work, through laughter, tears and great pleasures for the City of San Leandro was seen and heard as he reminisced his life as a youngster to adulthood. It was hard for him as a young Spanish boy to come to an unknown country to grow into a new culture. He recalls having worked 11 years in the agricultural areas on the farms his father contracted. Remembering picking fruit and vegetables all summer he says, "What a life we used to live!" He said "Living in those tents and cooking from dug outs in the ground was no picnic." He had to quit school in the 5th grade but returned to get a junior high school diploma from Fremont School in Melrose.

He recalled that in the evenings he rode street cars to school to get his education. "In those days," he said, "the red car, that was a bigger railroad car, traveling to Dutton and Bancroft Streets transferred the people at Melrose to go to Oakland Mole. From there the people transferred to the Ferry boats to travel by water to the Ferry Building in San Francisco."

What was Dabner Street in 1916, was considered far out in the country with flooded and marshy grassy areas toward the San Francisco Bay. He recalls his father raising hogs, rabbits and chickens in their yard for the family's use. This is how he came by the nickname "mother rabbit" he laughed.

Maura, Tony's mother, baked bread in brick ovens on Dabner Street. Wood trimmings from the orchard were used as fuel for baking and to heat the dwellings. Tony's father, Julian, purchased a double lot on Dabner Street with a house completely furnished. There was an old windmill on the Polvorosa property, the well now filled in. Tony regrets having sold the old homestead in the past six months. He would have liked to have seen it restored as a historical site in San Leandro. He has his eye on a home with identical building structure for perhaps a future prospect of a historical site.

Tony recalls the whaling schooners that moored along the Marina shoreline in San Leandro as the only recreational facility for boys who liked to swim in those days. The four Polvorosa boys would gather clams at the beach or dig up mollusks farther out in the waters. They would visit the oyster beds in the Mulford Gardens or Oakland Airport areas. The water came down to Doolittle Drive then and duck hunting was the sport of the day in this slough land area, he recalls.

These Polvorosa boys liked to ride what was called hamlets or stops on the trolley line or street cars from Hayward. The round house was at Elmhurst then. The San Lorenzo spur track was located at what is now the Pring's Restaurant area on E. 14th Street and 150th Ave. Many persons from Spanish descent worked at the cotton mill or wire works on 23rd Avenue in Oakland in those days.

Tony tells of coming to San Leandro at age 10 and working in farming before he went to work at Pacific Tank and Pipe Co. off High Street in 1917. Many workers such as field workers rode a flat bed horse drawn wagon to and from the agricultural fields. Life was not all work in these days, Tony said. Most youngsters of San Leandro then acknowledge fruit "purloining" as their favorite sport. He recalled having known how to plug a watermelon one of the favorite purloining techniques of youngsters then.

Since the Polvorosa family and other early families have moved far away into the fast paced time of today's world, pausing to speak with these people touches one with the memories of the long past yesterdays of Old Castille Spain or Early California living which is so different from today.

Tony was interpreter for his parents early in life. He laughed with those dark brown, almost black eyes, hidden behind glasses now. He related that he still serves as interpretor in the courts for the Portuguese and Spanish languages. He related there is really too much to say and write about in recalling those days of his youth. He went on though, speaking in a straightforward manner about his family, friends and acquaintances. His main interests are in assisting with various Democratic campaigns and recalling his past gardening experiences. He recalled how he worked his terraced back yard by the creek on Arroyo Steeet.

In 1926 Tony went to work for American Can Co. In 1942 he worked in the ship yards as a machinist. In 1944 he went into partnership with a machine shop business, later to return to the American Can Company in 1948. Mr. Polvorosa was past president of the Steel Worker's Union and a past member of the Alameda County Central Labor Council. He was chairman of the Investigating Legislative Committee. He has been active in Cerebral Palsy drives in the community. He had worked on the South County Junior College District in February of 1962 for the bond issue in getting Chabot College started. He received an award from the Board of Trustees of Chabot College for his services.

Tony began his adult life in the Democratic Party in 1930 when he campaigned for Patrick McConough for State Senator; for William Hollander for State Senator; for Honorable Assemblyman Francis Dunn and for the Honorable George P. Miller. He served in San Leandro as campaign chairman in 1954 for presidential candidate Adlai Stevenson. He campaigned for Assemblyman Robert A. Crown in two elections and for Honorable John Holmdahl for senator; he is presently in the state senate.

He recalls supporting Nicholas Petris, assemblyman of Fresno, who later became California Senator and assemblyman Carlos Bee (Speaker Pro-Tem). He campaigned for Jesse Unruh, present Treasurer of the State of California.

Tony has many folders with letters from all these important leaders commending him on his fine public service to them and to his community. He pointed out letters from Supreme Court Justice Mosk and Earl Warren, Chief Justice of Supreme Court. It was of special interest to see Tony pull out an old Western Union Telegram dated June 6, 1946 at 11:07 p.m. from Will Rogers Jr. thanking him for his public services as his campaign chairman. He mentioned that he knew Will Jr.'s father too.

As the conversation continued, he pointed out in his dining room a framed inaugural invitation from the late president of the United States, John F. Kennedy and vice-president Lyndon Baines Johnson; dated Friday, January 21, 1961. He supported Bill Lockyer and in March 1976, he took Pete Stark by the hand to review the San Leandro Area during his campaign.

Next to the framed inaugural invitation is the framed, beautifully printed and colored Senate Resolution No. 135 from Glen Anderson, Lt. Governor of California, addressed May 2, 1966 as First District Agricultural Association. Mr. Polvorosa was appointed by Governor Brown as Commissioner to the first Agricultural Commission and served eight years in that capacity. He's served on many flower show committees for Alameda County. He served as Vice-President for the First District's Garden Show at the Oakland auditorium in the early days of garden shows. Now, he relates, many of these shows are held at the Dunsmuir House near San Leandro.

In 1962 Tony was presented a name plate and plaque from the City of San Leandro in recognition of his service to the city as a member of the Planning Commission from January 1958 to January 1962 and for the city as a member of the Board of Zoning Adjustments May 1956 to January 1962. He was instrumental in obtaining a foot bridge for pedestrians over the creek at Arroyo and Clark Streets through the City's Public Works. He related it makes it easier for those in the areas to go to the church nearby.

Looking back again, he recalls that the stage house was the finest eating house in San Leandro when he was a young man. It was known as the Estudillo House. It was the stylish and fashionable place to dine for the social set of that day. Tony modestly relates it was too steep for his purse though. The Columbian Gardens stood where the Caterpillar plant offices are now. The gardens, he recalls, were very beautiful and colorful with their green grape arbors—favorite meeting areas in that day.

He reflects that all this was a few decades ago and now the children and their children are grown up. Now he sees swift liners in the harbors, the Marina Yacht harbor, modern campers and automobiles on paved highways and four long wars passed through American and San Leandro history.

He seemed to go back again and looked unusually proud of his lovely wife's picture that hung over the mantel fireplace; it was a picture of Rose wearing an original imported Spanish dress with shawls in floral design and lace, holding a bouquet as she stood in the arched doorway at the historical Casa Peralta on West Estudillo in 1931 for the Cherry Festival. She was crowned festival queen that year. She still retains her youthful frame and look.

Mr. Polvorosa is presently serving as President of the Golden Agers Club for senior citizens that meet every Sunday at 12:45 p.m. at the Boys' Club in San Leandro. He is also president of Club Iberico, a club of Spanish speaking people that meets at the Odd Fellows Hall the third Monday of each month. He serves the County as a member of the Advisory Commission on Aging and the City as a member of the Historical-Cultural Commission. He was chairman of the latter in 1979.

Tony's wife laughed as he reviewed his services, letters and awards; she remarked "they take up so much room in this home that I will have to move out soon if he keeps getting more of them." His face would light up as he reminisced old times, old friends and the many services he did for the community. He looked at the photos of people he spoke of, recalling fond remembrances. Now Tony has many close friends near him at the American Association of Retired Persons of which he is a member. This group holds meetings every second Wednesday.

Last but not least, Tony spoke of his love for gardening. When asked how he finds time for all the things he does, he smiles and says he enjoys being active and busy.

Today Mr. Polvorosa sees the City of San Leandro, now a modern city of 69,000 people with a nucleus of 16 shopping centers, eight motels and hotels, 13 mobile park areas, 16 realtors and developers, hundreds of industrial and distribution firms, hundreds of halls for rent and club houses, libraries, educational facilities, recreation and park areas, etc., listed with the Chamber of Commerce in San Leandro. The City offers all and more than any other community its size.

Presently Tony is concentrating on the new development of the San Leandro Senior Center adjoining the San Leandro Community Library. Tony points out it is centrally located and is to be the new cultural center that will attract and develop new interests in the community.

Undoubtedly, Tony is well loved and much appreciated for his fine efforts in community service.●

THE MATTOX MARAUDERS

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. MATTOX. Mr. Speaker, all Americans view competition on the athletic field as an important part of our lives. Athletics teaches us to be good winners and losers. We learn to play as a team and strive with our teammates for a common goal of playing at the best of our abilities. I believe athletics is very important and for this reason would like to bring to my colleagues' attention the Mattox Marauders softball team. On Thursday, July 31, they completed the regular season of the Capitol Hill Softball League with an undefeated record of nine wins and no loses. They demonstrated on and off the field true team spirit. They showed me how a group of staffers could get together, form a top notch softball team and become the "Kings of the Hill." The Mattox Marauders did all this plus they had fun, which is the name of the game. Mr. Speaker, I certainly cannot take credit for the success of this team but I would like to thank my good friend, John Cope, for inspring its formation. I would now like to personally thank and congratulate each member of the team, the coaches, and supporters of the No. 1 Mattox Marauders: Suzanne Hamlett, Tom Landise, Richard Pfluger, Don Buford, Cathy Kaufman, John Fuller, Bucky Nashen, Kathy Day, Philip Kantor, Eric Lee, David Dickieson, Vicary Thomas, Steve Paxson, Joe Vanzant, Jack Schreppler, Jeff Berry, Jeff Carp, Gerry Gray, Bob Webb, Joanne Stanley, David Frolio, Charlie Shockey, Irit Arbisser, Steve Sale, Lisa Brohlander, Netta Veres, Kim Berger, Susan Phillips, Nancy Srull, Larry Cohen, and Gretchen Witt.●

OIL SHORTAGE DOES NOT MEAN THE END OF THE AMERICAN DREAM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. GINGRICH. Mr. Speaker, in 1859 the most popular alternative source of lighting for that century was found by Edwin Drake at Oil Creek, Pa. He had been sent there to drill for a substance sent to a group of Boston financiers by a salt miner for whom the black sludge was merely a pollutant. The salt miner did not want the oil he had found. He wanted them to get it out of the way so he could go back to the important job of mining salt. The sludge turned out to be petroleum and it killed the whaling industry almost overnight. Please note that the whaling industry era was not killed by the passing away of the whales but by technological innovation. The new lighting oil manufacturers sold every gallon of oil they could pump out of the ground. In fact, in order to stimulate the sale of oil they gave away lamps to burn the oil in.

Americans were never satisfied. We were always looking for new ways to improve our way of life. During the 1870's a young inventor named Thomas Edison developed the theory that electricity could be used to light homes. Now, I want to really focus on Edison for 1 minute. Getting from the conception of the idea to the actual light bulb took Edison 3 years. But just because it took him 3 years to get from theory to practice did not mean it was easy. He tried many different materials until he came up with a workable filament. Threads of cotton, flax, jute, cords, manila hemp, hardwoods, Chinese and Italian raw silk, horse hair, vulcanized rubber, tar paper, rattan, corn silk, and so forth. The most interesting material of all was hair from the luxurious beards from some of the men about the laboratory. Apparently a side cost of working for Edison was occasionally having to get your beard cut.

Edison tried 1,600 different filaments until he found that carbon worked. Can you imagine him applying to the National Science Foundation after his 1,500th failure? But it took 1,600 tries to achieve success, and man had an effective way to light his home. However, to go back to transportation, man was still looking for a better way. Electricity did lead to the urban railroad car, but that was not good enough. The bicycle came along in 1890, and the U.S. census report said the bicycle was bringing about a revolution in American morals. People were riding bicycles and the teenagers were now able to get away from home and do things without parental supervision. There was a crisis in the American way of life. They did not have drive-in movies yet, but they did have bicycles.

But it was not to be bicycles that dominated American transportation, it was to be the automobile, again despite many failures. In Michigan alone there were over 400 automobile companies in the 1890's. In 1903 Henry Ford joined with the Dodge brothers and started the Ford Motor Co. There were initially just 12 employees, not including Henry Ford. Those 12 employees manufactured four cars a day. If the American President in 1903 was trying to solve the transportation problem, he would probably be looking at the Pennsylvania Railroad—not at some tiny company in Michigan that could only put out four cars a day.

Yet Ford prided himself on putting out those four cars a day. He made good cars. When he sold his cars he had to invent a whole new generation of jobs. Drivers needed the gas station, the mechanic, the inventory system, the local store that sold the parts, the tire company, all these things that had to be invented in order to keep cars running. In the early days there were no mechanics available, so Henry Ford either by himself or with one of his helpers would actually go and repair the car. If you bought the car from Ford and you had a problem you wired him and he showed up. It would probably be a very expensive thing to do today with Henry Ford III.

What I am focusing on here is a very great key to the way we are going to solve the energy crisis. Consider the growth of the Ford Motor Co., and the Ford Motor idea. From 12 employees to 15,000 employees in just 13 years, from 1903 to 1915. That is the way new ideas explode when they are at the right time and right place and are triggered by the right management. Between 1908 and 1909 alone the number of Ford workers quadrupled, from 450 employees to 1,655.

Now, I focused on the transportation breakthrough to build a model for today's energy realities. I think we are now faced with two very simple choices. Conservation and innovation, which I am going to argue for, or conservation and deprivation. Conservation is part of both of each choice but the accompanying words are radically different. The whole history of transportation and energy in America, the whole history of this society, focuses on conservation and innovation and not on conservation and deprivation. But we could have a policy of conservation and deprivation, and many people think we should. We can all learn to be colder in the winter, to go for long periods of time without electricity, or with brownouts instead of blackouts. There is a way for the Government to punish us so that we can change under the fear of more pain rather than to be encouraged to progress into a new era.

I want to quote from two figures, one of whom is moderately famous, about the vision of conservation and deprivation. Ralph Nader said:

> We are the most wasteful country in the world. In fact people come from all over the world to watch us and see how we waste.

Now I would suggest to you that every single boat person who has gotten here and watched us waste has dived into and done as much as he could to join in the waste. I do not know of a single alien who has come to this country and looked at this waste and voluntarily gone back home to return to his dramatically lower standard of living. I think that Mr. Nader may have misunderstood why all those people were entering this country. They wanted to get in and enjoy it, not write home about how terrible it was.

Prof. Bruce Harmon translates into human terms what Mr. Nader said as a generality:

> There are three things Americans do to waste more energy than any other people on earth. They eat big steaks, drive big cars and live in big houses. All of that must stop.

Dr. Harmon is an associate professor at the University of Illinois. I doubt he uses that line of argument when he is trying to get a raise. But it is the essence of the intellectual argument of those who favor conservation and deprivation. It is morally wrong to enjoy life. It is fundamentally bad to be productive. People should not have dreams for better meals, nicer houses, better ways of traveling. You should instead be punished for wanting to be part of what we once thought was the American dream. And that mindset explains the Department of Energy, and the President's malaise speech last summer. Somehow we have done bad because we have tried to do good. It has been wrong to try to create a society in which people could, if they wanted to, eat big steaks. The essence of the conservation and deprivation is that it is wrong for us to have the freedom to choose what we will eat or what we will do or how we will travel.

Now if that is true, it is amazing how most countries are seeking desperately to be more like us. And even though we may be going through a transition to different types of diets, different sorts of travel and different kinds of housing, I doubt you could build a very large majority in this society for deprivation and pain as a policy. Unfortunately, that is the policy of the U.S. Government right now—to increase the pain level on working Americans so they cannot afford to drive, and cannot afford a bigger house, and you cannot afford the quality of life they have pursued for a lifetime. Let me go a step beyond that: Even if you were to grant the moral correctness of that policy it would not in the long run answer the problems of the world for America to decay gracefully. The reality is there are more people being born every year. Some of those people have access to television, to radio, to movies. Many of them get to watch "Dallas." Although they may not want to work for J. R., they want to live like J. R. And unless there is continued expansion and useful applications of scientific knowledge and high technology there is every chance that the people of the third world will either remain disadvantaged or will act violently to force us to share with them. And there is no way you can share equally the current amount of energy on this planet and retain anything resembling what we regard as a prosperous lifestyle.

So I would argue that conservation and deprivation is a dead end. It gets you nowhere. There are so many people in Asia and Africa and South America, and there are going to be so many more in the next generation, that there has to be more energy available on this planet for the industrialized countries to retain any decent relationship with the Third World. For many of the poorest countries, Chad for example, the level of deprivation is beyond American experience. Their real energy crisis is not oil or gasoline. It is firewood. Chad's problem is soil erosion, because they are cutting down their forests. The real problem is not the dangers of nuclear power, but simply having something to burn. It is dry animal dung or wood or whatever. That is an energy crisis for the poorest of the Third World countries.

I would suggest to you that the United States should be helping countries that are extraordinarily poor by creating alternative energy systems those countries can use. For example, solar power at the village level can mean a dramatic increase in the quality of heat available and can make for a dramatic increase in the quality of life because it will permit people to heat their meals and their homes without having to cut down the surrounding forest. Solar power at that level may do more to promote decent soil and forestry conditions than would any other policy we could follow.

But most of the Third World is not going to be content with village level solar power systems. Use of energy is growing dramatically. One hundred years ago the United States used an estimated 20 times as much energy per person as the average for the world. Today that has been cut to six times as much. The rest of the world is catching up with us in energy consumption.

I talked with a man in Douglasville who was complaining about traffic jams in Athens, Greece. He said they have four traffic jams a day because everyone went home for a siesta. He said Atheniens had traffic jams at lunch as well as in the morning and the evening. Despite the price of gasoline everyone in Greece who could afford to buy a car does, despite the fact that they have to pay cash. Everybody who can get one was getting one. They were all driving around and they were very happy doing it. They loved being in the traffic jams. They were eager to join us in figuring out ways to have more traffic jams. Mass transit in Athens means your neighbors could all ride the bus while you keep driving your car.

The world at large has ended any debate over conservation and deprivation versus conservation and innovation. The world at large insists on a rising quality of life, a rising standard of living, and a rising availability of energy. I think that presents to us the opportunity side of that original Chinese symbol. We have a chance to balance our trade deficit, to develop technological systems, to sell more than simply agircultural goods.

Remember Orwell's point that bad thinking is often a product of bad language as we look at this statement President Carter made in 1977:

> The revelation about October's ($2.4 billion) balance of trade deficit is quite disturbing. We import $3.7 billion worth of oil each month. This means that we have, if we didn't import oil, about a $15 billion trade surplus per year. We have to cut down on the excessive importation of oil from overseas if we ever hope to get our trade balanced.

I am willing to debate anyone in the Federal Government that that is absolute, total, rampant nonsense. In fact just the opposite is true. U.S. economic problems are causing the energy crisis.

In 1978, the United States imported 42 percent of its oil. Germany and Japan imported approximately 100 percent. In 1978, the United States had 11.3 percent inflation. The other two countries were at 4.1 and 3.0 percent. But if the President is right, that is impossible. If in fact energy is the driving element in the decay of the American standard of living how come West Germany and Japan importing all their oil, are doing better?

The answer is in productivity growth. They are importing more oil at a higher cost level, impacting their economy more directly because of dependence on OPEC, yet actually improving the quality of life at the same time. Meanwhile, we scapegoat energy because our political leadership has not had the guts to confront the central problem of our society—the economic problem. A sick economy means a sick country. Energy is, in that sense, a symptom of a much deeper and more fundamental problem.

It is time that we give up any policy that says all we have to do is sacrifice the American way of life and we will be doing well. The essence of our energy policy for the last 8 years has been that if we give up being American, give up big cars, give up being warm, give up being cool in the summer, give up our options, give up our freedom, accept jobs that do not pay well and accept a decaying standard of living, then we will have solved the energy crisis. That is like going to a doctor who says he really cannot cure you but can guarantee you will die slowly. That is not what I think of as a real solution.

I believe it is time for a policy of conservation and innovation. We still have the same ingenuity that our forefathers used to get through their times of transition. We can have plenty of energy for ourselves and the rest of the world if we start working on it today.●

SEVERANCE TAXES

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. CHENEY. Mr. Speaker, there are bills pending before the House that could have an extremely detrimental effect on the revenue base of my State of Wyoming. So that my colleagues will have an opportunity to consider the potential adverse effects of these bills, I direct their attention to the following testimony before the Energy and Power Subcommittee:

STATEMENT BY CONGRESSMAN DICK CHENEY

Mr. Chairman, I appreciate this opportunity to appear before this subcommittee to present my views on proposed Federal limitations on state severance taxes.

I obviously speak in opposition to the bills introduced by Representative Sharp and others limiting state coal taxes.

I realize that this Subcommittee has already gathered testimony from interested parties on both sides of this issue. In my remarks today, I do not wish to seem repetitive; however, in reviewing the transcripts from the Subcommittee's previous hearing, I felt a number of nagging questions about this legislation had gone unanswered.

ARE THE TAXES IMPOSED BY WYOMING EXCESSIVE IN COMPARISON TO THE TAXES LEVIED ON OTHER MINERALS BY OTHER STATES?

In introducing legislation limiting state severance taxes, the proponents of these bills have charged that Wyoming and Montana taxes on coal are excessive, exorbitant, or impose too great a burden on the consumer. Figures from a number of sources contest this assertion and, in fact, generally conclude that Wyoming and Montana severance taxes impose less of a burden on the consumer than many other states' taxation levels on oil and natural gas.

I have compiled for the Subcommittee's review, figures which compare Wyoming's 17% tax on coal (combined severance tax rate of 10.5% and ad valorem tax rate of 6.5%) to Texas' 4.6% on oil. The results show that Wyoming's tax imposes less of a burden on the consumer's end-product cost than does Texas' tax. In making this comparison, it also holds true that for any state with an oil tax rate approximately equal to or greater than Texas' tax, the burden imposed by that oil tax will be greater than that imposed by Wyoming's coal severance tax. Those states include: Alabama, Alaska, Arkansas, California, Florida, Louisiana, Michigan, Minnesota, Mississippi, New Mexico, North Dakota, Oklahoma, and South Dakota. Wyoming's severance tax on coal imposes a cost on the consumer of between $6-7 a year or about 1.7% of the consumers total yearly utility bill of $390.00. My figures are substantiated by Mr. Larry Parker of the Congressional Research Service in a report showing that Wyoming's tax imposes a burden of between 1.3% and 2.5% of the consumers end-product cost depending on the price per ton of coal and its Btu content.

In a separate study done by Mr. Parker, he compared the highest severance tax rates imposed on each of the three major resources; Montana's 30% tax on coal, Louisiana's 12.5% tax on oil, and Alaska's 10% tax on natural gas, and compared the ultimate burden each tax imposed on the consumer's end-product cost. His figures show that Montana's tax comprises about 3.6% of the consumer's end-product cost, considerably lower than the burden imposed by Louisiana's tax on oil or Alaska's tax on natural gas.

You'll notice in the analysis I conducted that I show three different levels of oil pricing; $10 per barrel, $15 per barrel, and $20 per barrel, and the effect the price of oil has on tax revenue and consumer burden. It is obvious from my figures that as oil prices increase, the amount of tax revenue flowing into the large oil producing states will dramatically increase along with the subsequent burden imposed on the consumer. This fact is further substantiated by a report published by the Northeast-Midwest Institute which concludes that state and local tax revenues will increase by $127.7 billion between 1979 and 1990 as a result of the phased decontrol of oil prices. Four states, Texas, Alaska, Louisiana, and California, will receive over 83 percent of the new revenue. The study points out the revenues will gain primarily from three sources:

(1) Local taxes keyed to the dollar value of the oil pumped from the specific jurisdiction (principally severance taxes and royalties).

(2) Increased corporate profits as a result of higher oil prices (principally corporate and personal income taxes).

(3) Increased value of land and equipment associated with the increased price of oil (principally property taxes).

Currently Texas, Louisiana, and Alaska collect a total of $1,710,824,000 out of the $2,893,148,000 collected by all the states. That's 60 percent of the total or twelve times the amount collected by both Montana and Wyoming together. As Mr. Parker of the Congressional Research Service points out, "Texas will collect about $1 billion in oil and gas severance taxes for 1979, approximately 40 percent of the total severance taxes collected. In total, oil and gas severance taxes account for over 85 percent of all severance taxes compared with 8 percent for coal. With the eventual deregulation of oil prices, the severance tax revenues of oil producing states should increase dramatically over the next few years." One other interesting thing to note is that in 1979 Minnesota's severance tax on its iron ores, taconite, semitaconite and iron sulphides, amounted to more in total dollars collected than did Montana's tax on coal.

WHAT ABOUT THE TRANSPORTATION COST ASSOCIATED WITH COAL?

Congressman Gramm previously questioned the validity of studies comparing coal and oil tax rates because of the transportation cost associated with coal. I would like to point out that the transportation cost is a totally separate component of coal's final cost to the utility and does nothing to affect the actual amount of burden imposed on the consumer by Wyoming's tax. After all, Wyoming's tax is imposed only on the cost of the coal at the mine, not on the transportation charges.

Another interesting thing to notice from the figures I have compiled is the comparison of fuel costs including taxes required to produce 8500 KWH of electricity. The cost of coal is $45.86 compared to $153.98 for $10 per barrel oil, $230.97 for $15 per barrel oil, and $307.96 for $20 per barrel oil. Even considering transportation charges of $20 per ton, coal is still cheaper than oil at all three price levels.

DOES WYOMING NEED THE AMOUNT OF REVENUE GENERATED BY THEIR TAX ON COAL?

Wyoming and other Western states are today at the edge of an era of explosive energy development which will radically change the traditional way of life of many people in my state. According to a study done for the Old West Regional Commission, Wyoming's population in 1978 was estimated at 450,000 people, a 37 percent increase since 1970. By 1985, Wyoming's population is projected to be 560,000, a jump of 23 percent over the 1978 figures. Of the 23 counties in Wyoming, 12 of them bear most of the brunt caused by energy development. In those 12 counties, the population is expected to increase by 31 percent by 1985, an annual average growth rate of 4.5 percent. The U.S. Department of Energy considers a 3 percent average annual growth rate to cause "severe" impacts and a 5 percent average annual growth rate to cause "critical" impacts in sparsely populated areas such as Wyoming.

I hope the Subcommittee recognizes the enormous revenue needs of states, such as Wyoming, which have only limited government services and small populations, and which must pay premium prices for new facilities and services demanded by the rapid pace of development forced on them by national policy.

The fact that Wyoming is so sparsely settled means that the new influx of people and business causes far greater problems than it would for more populated areas. Most, if not all, of Wyoming's communities do not have the intrastructure needed to accommodate this type of growth.

There are areas which are experiencing far more rapid growth than what the Old West Regional Commission report indicates. Take the town of Gillette, for example. Gillette is a town in northeast Wyoming in an area known as the Powder River Basin. This basin is one of the largest areas conducive to coal mining in the United States. Ten years ago, there were two strip mines in this area producing about 200,000 tons of coal per year. Today, there are eight strip mines in the area which produce over 35,000,000 tons of coal per year. By 1985, it is estimated that there will be 16 coal mines producing over 100,000,000 tons of coal per year. The city of Gillette's population in 1976 was approximately 10,000 people and by 1979 the city had grown to about 14,000 people, an increase of about 40 percent in three years. Estimates show that Gillette will have to accommodate 30,000 people by 1985, if these 16 mines are going to operate. This would amount to a 300 percent increase in population in just nine years, and Gillette is not an isolated case.

Five years ago, Evanston was like many small rural communities across the nation. The southwestern Wyoming town suffered from economic stagnation and out-migration of its young people. That was before the Overthrust Belt was discovered. The Overthrust Belt is a geographic formation which stretches from Alaska down America's Rocky Mountain spine to Mexico and has been dubbed the last frontier for oil and natural gas in the lower 48 states. Evanston sits right in the middle of it.

Since 1975, Evanston has grown by 3000 people to a present population of about

7500. By year end, Evanston will have more than 9600 residents, an annual growth rate of 29 percent. Officials say the community has the following needs:

Eight hundred new single family homes and apartments within the next year in addition to about 1800 trailer court lots now on the drawing boards. Housing is so tight that entire families must live out of a single motel room for months. For others, the autos that by day transport workers to jobs become kitchens and bedrooms at night.

$300,000 in sewer system improvements needed immediately.

$100,000 for additional wells and water storage.

$600,000 for a new police building to replace an overcrowded public safety building and jail shared by the police and the Uinta County Sheriff's Department.

Six additional police officers. Experienced law enforcement officials are leaving the already undermanned county and city departments to make more money in the oil fields.

$7 million to $8 million for a new hospital.

Four additional doctors including an orthopedic surgeon, obstetrician, internal medicine specialist and pediatrician.

$150,000 for a 15 percent cost-of-living increase for the employees of the town, which can't compete with the higher salaries offered by the oil business.

New town employees such as an engineer and full-time planner.

A new elementary school and temporary classrooms, for which a $10 million bond issue was defeated last year. Ten to 18 new teachers for the term beginning this autumn as well as 40 school buses.

With the towns of Sheridan, Gillette, Moorcroft, Buffalo, Casper, Rawlins, Rock Springs, Green River, Kemmerer, Riverton, Lander, Cheyenne, and a host of other towns experiencing similar needs, I believe one begins to realize what Wyoming's severance tax revenues are used for. Faced with spiralling increases in energy production and population growth and with the type of demands I have just outlined, Wyoming has laid plans to avoid the errors made by previous industrialized areas during the course of their development. In this regard, Wyoming has created a Permanent Mineral Trust Fund, to set aside some of the irretrievable value of its energy resources for use by future generations after their resources have been exhausted. I am sure that today Appalachian mining communities wish they had such a fund to repair the scars of mining and to provide new life to their stagnant economies. Wyoming's trust fund is a sound investment in the future made by a prudent people.

Wyoming now has strict but reasonable controls over the course of development through a siting act and environmental statutes, and it seeks assurance through their severance tax that development will pay its way. Yet this Federal legislation, if passed, will mean the loss of hundreds of millions of dollars of needed revenue to the state of Wyoming and may mean the failure of the state's strategy for controlling the impact of development. The prospect of such a failure raises a key question of national policy: Will Wyoming and the other energy producing states be willing partners in energy development or will they be reluctant, but powerful, adversaries of such change?

IS IT UNFAIR FOR OUT OF STATE CONSUMERS TO PAY A TAX THEY HAVE NO VOICE IN SETTING?

In 1979, 17 coal companies produced 70 million tons of coal at 25 mines in the State of Wyoming. Of the total production, 52 million tons were shipped to consumers in the Midwest, Northwest, and Southwest. Wyoming's severance tax is levied on all coal equally, regardless of whether or not it is used in or out of the state. Therefore, Wyomingites bear the cost of development for the coal they use. Should Wyomingites also bear the cost associated with the development of the 52 million tons of coal they don't use? I don't believe so. Most Wyoming residents have no connection with the coal industry and will only see the costs of development in social disruption, air and water quality damage, congestion and inflation unless these problems are controlled. For this reason, it is only fair and reasonable to assume that the consumer of the coal should pay the full costs associated with its development.

The real issue raised by the proponents of this legislation is one of tax exporting. I would like to point out to the members of the Subcommittee that every state in the Union exports some of their tax burden in one way or another. Texas' 4.6 percent tax on oil is exported to whatever state purchases its crude. Michigan, through its production tax on automobiles, exports a significant amount of taxes to other states. Florida, sees fit to do so through a greater reliance on their sales tax which raises revenue from the many tourists that visit the state. As a tax expert in Florida observed, "We have done an excellent job of shifting a large portion of the tax burden to tourists—the tax system is designed to tax service industries quite heavily." As all the members of this Subcommittee should realize, Washington, D.C. is an excellent example of tax exporting. If you live in Virginia, as I do, and do some of your shopping in the District, you can bet you contributed far more to the tax revenues of the District last year than the average electricity consumer in Texas contributed to Wyoming. In fact, the empirical evidence strongly supports the view that Wyoming and Montana "export" about the same proportion of their taxes to consumers elsewhere as do many other states, including Michigan, Illinois and Wisconsin.

As a study prepared by Mountain West Research, Inc., states, "The conclusion of this exercise is a simple, but very important fact. Tax exporting in a fiscal system based on federalism is a very pervasive phenomenon. Strong political incentives exist for politicial leaders to shift taxes to voters in other states. The evidence indicates that everyone is doing it to everybody."

DOES WYOMING'S TAX ON COAL HINDER PRODUCTION AND THEREBY THWART NATIONAL POLICY?

In 1970, Wyoming produced 7 million tons of coal per year. Today, Wyoming produces over 70 million tons of coal per year, a 1000 percent increase in ten years. Experts predict that by 1990 Wyoming's production will triple to over 200 million tons per year. Should those predictions materialize, that would mean that Wyoming's coal production would increase by 3000 percent in twenty years. Last year's national bituminous coal production totaled 724 million tons, exceeding demand by more than 50 million tons.

IS THE LEGISLATION BEFORE THE SUBCOMMITTEE CONSTITUTIONAL?

The proponents of this legislation have developed a rationale for support based on the Commerce or the Supremacy Clause of the Constitution. Such justifications ignore the facts I have presented in this testimony and ignore the direct conflict this legislation has with key state policies.

The fact is that, as the Attorney General of Montana stated in prior testimony before this Subcommittee, it will be extremely difficult to find sound precedent for these proposals. Federal government limitations in this area have largely been confined to the protection of Federal instrumentalities and the promotion of nondiscrimination in trade policy and taxation. The reason for this should be obvious: If the present proposal is constitutional, we face the possibility of a major shift in our Federal system in which states are gradually deprived of their power to tax. As the Subcommittee has heard, "The single most essential facet of a state's sovereignty is the power to tax." I hope the Subcommittee will approach this issue cautiously, and resolve any doubts about the constitutionality of the legislation against it. While at some point the level of taxation might become so high as to violate the Constitution, it seems prudent to leave resolution of this flexible boundary to the courts, which have historically resolved such disputes in a case-by-case manner fairly to all parties.●

A TRIBUTE TO EDWARD DAVID WHILHELM

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. WILLIAMS of Ohio. Mr. Speaker, I would like to pay tribute to a young man who lived in the 19th Congressional District of Ohio. His name is Edward David Whilhelm. Although Mr. Whilhelm grew up among the so-called me generation, he was not a part of that group. Rather, Mr. Whilhelm was an example of unselfishness and dedication to others.

On June 20, 1979, Edward was part of a group of students riding inner tubes through the rapids of the Salt River. Several of the inner tubes capsized, including the one on which Edward rode. However, his concern at that moment was not for his own safety, but for the safety of a 17-year-old girl who had been riding on another inner tube. Seeing her in trouble in the boiling rapids, Edward, age 16, swam to her aid. Completely ignoring his own safety and foregoing attempts to save himself, young Edward tried to save a fellow human being. Unfortunately, and tragically, the turbulent waters of the Salt River were too much and both Edward and the young girl he had tried to rescue drowned.

Recently, the Carnegie Hero Fund Commission of Pittsburgh, Pa., awarded its Bronze Medal to Edward for his heroic efforts on behalf of another person, efforts undertaken at great personal risk to himself. It is indeed fitting and just that he be so honored. However, the eminent Carnegie Hero Fund Commission and the U.S. House of Representatives can do little to add to the honor Edward David Whilhelm brought upon himself and his family through his altruistic, ultimate act of heroism and concern for his fellow human beings.

I am truly proud to be able to say that I had represented Edward in the

U.S. House of Representatives, proud to represent the family that produced such a caring young man. His untimely death is a loss to all of us, to everyone who is concerned about the human condition. Mr. Whilhelm should be highly commended and remembered by all of us who work to help others.●

THE NINE-DIGIT ZIP CODE

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. PREYER. Mr. Speaker, 221015442; 926357399; 222031005; 900076197; 660444553.

That is just a sample of what you will be seeing a lot more of early next year if the Postal Service gets its way and changes the Nation's ZIP codes from five to nine digits.

Many of us still feel that seven-digit telephone numbers stretch our memory cells and confess problems with six-digit license plates. For that matter, some of us seem to have trouble with the five-digit ZIP code as evidenced by the fact that one in five pieces of nonbusiness mail currently carries either no ZIP code or an erroneous one.

But in 1981 the U.S. Postal Service says it will institute expanded ZIP codes with a planned advertising blitz on TV and the radio as well as in the newspapers. The plan is to add four digits to existing ZIP codes and, at least initially, increase the number of ZIP codes from 40,000 to 20 million. Current ZIP code books, 3 inches thick, will be obsolete, and instead it will take a call to a local post office to get Aunt Minnie's ZIP code across town. Those who have dealt with phone calls to Government agencies over the years may express some skepticism about the chances of getting their calls through to the special ZIP operators.

I have asked for an estimate of the cost of elongating the ZIP's, but the Postal Service replies it can not tell how much money it will need for the required machinery and implementation. Further, critical testing of optical scanners, the linchpin of the system, has not been completed.

Aimed primarily at large-volume business mail, the stretch ZIP's will succeed if businesses are given incentives to go to the expense of changing billing and subscription lists, book-of-the-month club mailings, and so on. But the authorities have not settled on the incentives.

Still, the Postal Service is gearing up and says in matter-of-fact terms that the new numbers go into effect at year's end. The Service claims the added digits will help in its presorting of envelopes but will not speed the actual delivery time of the mails. The 20 million variables will allow mail digit experts to assign special ZIP codes to a cul-de-sac, to a floor of a building, to one side of a block.

I am reminded of the words of Farmers' Almanac editor, Ray Geiger, who frets that the addition of four extra numbers will drive people "digit-dizzy."

Marketing firms now size up neighborhoods by combining census data and ZIP numbers. With this magnified opportunity to zero in on a handful of people through coding, what concerns me is the tremendous temptation to refine "redlining" to a new art and rule out certain ZIP codeholders from credit and other opportunities. However, even the marketing and mass mail community is not convinced that the proposed nine-digit proposal is worthwhile. A recent article in the Wall Street Journal quotes one marketing official as saying:

> All the evidence we have seen so far says it does not have the promise of being a winner.

To explore all this, the Government Information and Individual Rights Subcommittee which I chair, will hold hearings in late August or early September. Those having views on the matter are invited to contact the subcommittee office at (202) 225-3741.●

DEATH AND DELAY

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. BEREUTER. Mr. Speaker, despite all the scientific evidence, despite the experiences in over 30 other countries, and despite the positive recommendation of its own advisory group, the Food and Drug Administration is dragging its feet in seriously considering the approval of a new drug which could save the lives of hundreds of young people each year. Somehow the paperwork on it always gets lost or placed on the bottom of the "in" basket. Why?

I would recommend that my colleagues read the following article from the Wall Street Journal which documents the incredible story of the suppression by the FDA of this new lifesaving drug:

[From the Wall Street Journal, July 3, 1980]

DEATH AND DELAY

Assume a disease, mainly striking children, starting a degenerative process that is practically always fatal, usually within two years. Assume that no treatment was known until someone discovered a new drug. Assume the drug was tested for nine years on patients with the disease, and has been found to arrest the degenerative effects in some 75 percent of the cases and may in fact save the lives of most of the patients. Assume that it is already in use in 35 nations, and that no toxic effects have been observed. Should the Food and Drug Administration, which controls the marketing of drugs, license it for commercial use?

Surely this is a parody of FDA regulation, but it happens all to be true. The disease is a form of encephalitis known as SSPE, or sometimes "measles of the brain." It is rare but kills from 150 to 200 people a year. The drug is called isoprinosine. The FDA is refusing to license it because there have not been "controlled" studies.

The FDA's refusal is causing a small furor within the limited circle of pediatricians who are familiar with the drug and disease. This life and death argument raises, once again, the issue that has been swirling around the FDA for years—is it too slow in allowing efficacious drugs to come onto the market? Is it immobilized by the laws of Congress and regulations of its own making? Is it one of Washington's most hopeless bureaucracies?

The isoprinosine case may finally have given a definitive answer to all those questions. And the answer would appear to be yes on every count.

In the case of isoprinosine, part of the problem may be the fault of the drug's developer, a small California company, Newport Pharmaceuticals International Inc. Some drug industry analysts believe it was excessively promotional about its discovery when it first applied to test the drug some 10 years ago. Although it has since toned down its promotion, no doubt its early claims left a sour taste with FDA regulators.

But by now, isoprinosine has been used by a number of highly respected medical researchers and when the FDA's Peripheral and Central Nervous System Advisory Committee met last month to review the drug, at least one doctor who sat in on the meetings felt there was a strong agreement to recommend FDA approval. Newport, which assumed as well that this was the finding, asked for a meeting with Dr. Marion Finkel, Associate Director for New Drug Evaluation at the FDA, to seek a commercial license.

According to Newport, the answer came back that there would be no point in such a meeting because Newport had not yet complied with an FDA requirement that there be a "double blind" study on isoprinosine. Double blind means one group of patients gets the drug and a "control" group, without knowing it, merely gets a placebo. Thus, the efficacy of the drug can be statistically proved.

"Double blind" studies have always presented a moral issue. If you think a drug is effective, do you tell dying people you are using it when you are not? Newport has refused to do a "double blind" study on the ground that it is not going to watch children die when it's possible they can be saved.

Asked about all this, Dr. Finkel has a variety of explanations: That as she understood the advisory committee's recommendation, it was calling for and offering to help design further tests. That she really isn't insisting on an isoprinosine-placebo double blind test, that other "controlled" tests can be designed. That in any event, federal law requires "controlled" tests before a drug can be licensed.

Most of the 35 or so other countries that have already licensed isoprinosine relied on U.S. test data in doing so, and other specialists in federal drug laws believe the U.S. requirements allow more room for judgment that Dr. Finkel suggests. The only redeeming factor in the FDA judgment is that the incidence of SSPE is low enough that doctors can get around the regulatory process;

three doctors who have treated the disease say they would arrange for any patient to get isoprinosine. Dr. Paul Dyken, a pediatric neurologist at the Medical College of Georgia, says, "Even if it doesn't do any good, what can you lose?"

The isoprinosine case puts a dramatic point on the drug regulation issue. Recognition is gradually growing that the FDA can hamper the nation's health by suppressing drugs that can help some patients, and Congress has been gnawing at the issue for years. The Senate has actually passed a bill offering special dispensations to get "breakthrough drugs" to the market sooner, but the issue remains bogged down in the House.

Back at the FDA, meanwhile, a different philosophy is articulated. "Basically, I'm a therapeutic nihilist," Jere Goyan announced last October after his appointment as FDA head. "My general philosophy is the fewer drugs people take, the better off they are." And to judge from the isoprinosine example, the FDA will follow this philosophy even if it kills you.●

PEPPER COMMENDS SENATOR SASSER

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. PEPPER. Mr. Speaker, today I would like to honor one of my colleagues on the Senate side, Jim Sasser from Tennessee. The National Council of Senior Citizens has chosen to honor Jim Sasser as one of the Senate's strongest supporters of the elderly in America—and he deserves our recognition and commendation.

Many of my friends may remember Jim Sasser for his successful effort to establish a reduced fare for the elderly and handicapped on Amtrak. But during his short tenure in the Senate, Jim Sasser has fought for older people on a great many other issues.

For example, Jim recently introduced legislation to provide emergency assistance to individuals affected by prolonged heat crises. Most of these are elderly persons. His bill would provide assistance to elderly people and others in areas where temperatures break the 100° mark for 7 consecutive days. The legislation, if enacted, will help prevent a large number of deaths due to heat—deaths which we were unable to prevent this year. He has also assisted in securing more than $1.5 million in emergency heating assistance funds for the people of Tennessee, funds that are vital to elderly persons unable to afford costly heat during the winter.

As a member of the Senate Appropriations and Budget Committees, Jim has worked hard to assist those on social security, limited pensions, and civil service retirement. He worked to restore the twice-a-year cost-of-living adjustment for Federal retirees, one of which was eliminated by the full Senate. He has been a strong advocate of home health care programs for the elderly, which costs less and permit the older American to maintain his dignity in his own home. He is a cosponsor of important legislation to allow the edlerly to remain with their families rather than be forced unnecessarily to live in an institutional care facility. He worked hard to raise the mandatory retirement age to 70. And vital funds have been restored to the social security system with his help.

In short, Jim Sasser has been a beacon of hope in the Senate, helping improve the lot of the elderly, moving care for senior citizens out of the Dark Ages.

Jim Sasser is a committed advocate for the senior citizens of our country. He is well aware of the obligation that this Nation, the Government has to the elderly. As one of the Senate's rising stars, he has emphasized not only the needs of the elderly, but the need for Federal fiscal responsibility and less costly Government regulation. Consequently, we all benefit from his efforts.

I commend Senator Sasser on his fine record of service to the elderly. I know his constituents are proud to have him representing them in the Senate.●

LEGISLATION TO REWARD VOLUNTEERS

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. COURTER. Mr. Speaker, as we move into the final weeks of the legislative session, it is important that we remember to address a glaring inequity in the Tax Code which discriminates against our Nation's volunteers. I refer to the fact we grant an 18.5-cents-per-mile tax deduction for the business use of cars, while we only grant an 8-cents-per-mile deduction to volunteers who use their cars in their community service endeavors.

This inequity must be corrected. If we refuse to correct it, we seem to be saying that there is less value to be placed on volunteers' time and efforts than on that of their counterparts in business. I know that my colleagues agree that this should not be the case. The efforts of volunteers, in the delivery of health and nutrition services, youth programs and, in rural areas, volunteer firefighting, are indispensable to many communities across the country. An 18.5-cents-per-mile tax deduction would be a modest reward indeed for the services these people provide.

Accordingly, I urge my colleagues to support H.R. 5409, a bill introduced by Ms. Mikulski, of Maryland, to raise this mileage deduction to 18.5 cents. It is my understanding that over 180 Members of the House are cosponsors of this legislation. It is important that we expand this base of support, and make our concern known to the Committee on Ways and Means, where this bill is now being considered.

It should be noted, Mr. Speaker, that Congress is now considering a multi-billion-dollar tax cut for next year. The revenue impact of this legislation is approximately $80 million. I am sure that my colleagues will agree that, regardless of the differences that may exist on some of the larger items in that tax cut, we can all support H.R. 5409 in the interest of basic equity and fairness to our Nation's volunteers.●

TAIWAN IS STILL IMPORTANT TO THE UNITED STATES

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. SOLOMON. Mr. Speaker, Senator Robert C. Byrd recently returned from a visit to Communist China and included a report on his visit in the Congressional Record of July 23, 1980.

Senator Byrd gives an enthusiastic picture of developments in the People's Republic of China, expressing strong support for China's four modernizations—modernizing in agriculture, industry, defense, and science and technology. He urges the United States to continue a growing relationship with China and asserts that this relationship should be a cornerstone of American foreign policy in the years ahead.

A single visit does not make anyone an expert on a country—and many times the short duration of a visit also hides many things from the eye of the visitor. We need only to recall from history the enthusiastic reports which came back from visitors to Hitler's Germany and Stalin's Russia in the early days of their rule. Economic growth and development must be put in perspective with other issues.

Although our trade with mainland China last year amounted to about $2 billion, we should be aware that our two-way trade with the much smaller, more dynamic Republic of China on Taiwan amounted to about $9 billion. While developing a relationship with mainland China in the economic area, we must not forget our very important relationship, economically, with the Republic of China on Taiwan and the need not only to continue it but to strengthen it.

Dr. Wei-ping Tsai, director of the Institute of International Relations in Taiwan, made an interesting comparison of the two Chinas. I would call this article to the attention of my colleagues. I enter this article which appeared in the Free China Weekly of July 20, 1980, in the CONGRESSIONAL RECORD.

FREE WORLD URGED TO COMPARE ROC WITH MAINLAND

Dr. Tsai Wei-ping, director of the Institute of International Relations, urged people in the free world to make more comparative studies of free China in Taiwan and Communist China on the mainland.

Dr. Tsai said that "the plain fact, it seems to me, is that mainland China and Taiwan shared a closely similar footing in 1949. Had it not been for the difference in socio-political structures and economic orientations, a similar and paralled development such as that in Taiwan would have been possible on the Chinese mainland during the past 30 years."

"What could have happened, of course, did not happen, and it is not likely to happen in the forseeable future. On the contrary, there is every reason to believe that the gap between Taiwan and mainland China will continue to widen as time goes on." Dr. Tsai pointed out.

Regarding socio-political systems and economic orientations, Dr. Tsai said: "There exists generally in the Republic of China a considerable consensus regarding the basic social values, the proper process to settle issues of common interest, and the limits any participating group should set for itself. On the other hand, the new Peiping leadership is still trying to find a way out from its impasses on the basis of a common belief in socialism. But this has already been openly questioned by many people in the meantime, the insistence on continuing the so-called class struggle could easily lead to another violent disruption of order and stability."

Tsai continued:

"There exists in the Republic of China on Taiwan an effective political structure, guided fundamentally by the Constitution, providing channels for various groups and individuals to seek their own fulfillment. As development during the previous three decades has indicated, it also possesses the mechanism and capacity to undergo self-adjustment and self-transformation to meet new demands and changing situations.

"The Communists on the mainland, on the other hand, have amended their constitution at will from time to time, and liquidated opposition through power struggles.

"There exists in the Republic of China on Taiwan a rich experience of public policy-making in economic affairs, in which nationalism and balance between different values have been carefully pursued under the guidance of San Min Chu I. The continuity and flexibility of the government's policies have made the modernization progress a smooth one. As a result, the goal of the Republic of China to become a developed country before the end of the century lies within its reach.

"In contrast, the mainland has made several major attempts to modernize its economy during the last three decades, all of which have ended in failure. As indicated by revisions of the 'four modernizations' program, the Communists during the post-Mao era have not been able to free themselves from the shackles of the past."

Dr. Tsai listed the following statistics (based on 1978 data) to give a comparison of the people's living standards in Free China in Taiwan and on the mainland:

Per capita daily calorie intake was 2,800 in Taiwan and 1,800 on the mainland.

Per capita annual consumption of meat was 31.6 kg. in Taiwan and 1.2 kg. on the mainland; consumption of fish was 35.3 kg. in Taiwan and 5 kg. on the mainland.

Per capita annual consumption of cloth was 47.3 meters in Taiwan and 5.3 meters on the mainland.

Per capita living space was 12.9 square meters in Taiwan and 2.4 square meters on the mainland.

Per capita annual consumption of household electricity, 370 kwh in Taiwan and 14 on the mainland.

The water was available to 60 per cent of the people in Taiwan and only 5.6 per cent on the mainland.

Every 10,000 persons, owned 1,850 television sets in Taiwan, and 11 set on the mainland.

Every 10,000 persons owned 1,550 refrigerators in Taiwan while there were hardly any on the mainland.

Every 10,000 persons shared 251 automobiles in Taiwan compared with 12 on the mainland.

Every 10,000 persons shared 1,100 private telephones on Taiwan, while there were no private telephones on the mainland, perhaps the result of a policy of discouraging communications among the people.●

REFUGEE ADMISSIONS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 1, 1980

● Mr. RODINO. Mr. Speaker, section 203(a)(7) of the Immigration and Nationality Act authorized the conditional entry into the United States of 17,400 refugees annually who because of persecution or fear of persecution, or on account of race, religion, or political opinion, have fled from any Communist-dominated country or from a country in the general area of the Middle East, or who are uprooted from their homes by natural calamity.

Furthermore, section 203(f) of the act requires the Attorney General to submit a report containing a complete and detailed statement of facts in the case of each alien conditionally entered pursuant to the above section. In accordance with this section of law, the following report summarizing the operation of the refugee section was referred to the Committee on the Judiciary:

PERIOD COVERED—JANUARY 1, 1980, THROUGH MARCH 31, 1980

On December 31, 1979, there were pending 14,785 applications for conditional entry under Section 203(a)(7) of the Immigration and Nationality Act, submitted by aliens in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy, and Lebanon. During the three month period ending March 31, 1980, and additional 9,826 applicants registered in these countries. During this period, 1,821 were approved for conditional entry, 2,273 were rejected or otherwise closed, and there were 15,667 applicants pending on March 31, 1980.

Country	Applications pending Dec. 31, 1979	Registrations received during period	Total	Found qualified for conditional entry	Pending
Austria	2,063	731	2,794	636	1,561
Belgium	126	82	208	1	190
France	519	1,457	1,976	176	572
Germany	521	897	1,418	223	1,072
Greece	687	2,325	3,012	285	2,079
Hong Kong	9,428	652	10,080	321	9,079
Italy	303	332	635	179	220
Spain	1,138	3,338	4,476	3,432	892
Soviet protectorate	0	12	12	5	2
Total	14,785	9,826	24,611	5,258	15,667

The following listing shows the country of visa chargeability of 5,258 aliens approved for conditional entry during the three month period (includes accompanying spouses and children):

Country	Amount
Albania	1
Afghanistan	63
Algeria	1
Belgium	2
Bulgaria	21
Cambodia	16
China	314
Cuba	3,391
Czechoslovakia	314
Ethiopia	120
Egypt	4
Greece	3
Hong Kong	9
Hungary	84
Indonesia	2
Iraq	227
Italy	1
Laos	10
Pakistan	4
Poland	181
Romania	149
Spain	27
Syria	8
Turkey	1
U.S.S.R.	172
Vietnam	130
Yugoslavia	1
Yemen	2
Total	5,258

Established screening procedures resulted in the rejection of 1,414 applicants during the period, on the following grounds:

	Amount
Ineligible	184
Security grounds	6
Criminal grounds	10
Medical reasons	4
Discretion	129
Firmly resettled	734
Spouses and children of above principals	347
Immorality	0
Total	1,414

During the three month period ending March 31, 1980, 267 aliens in the United States were accorded permanent resident status pursuant to the proviso to Section 203(a)(7).

Incidentially, Mr. Speaker, this report will be the final one of this nature which the Congress will receive. Section 202(e) of Public Law 96-212, the Refugee Act of 1980, enacted this session, eliminates the conditional entry category for refugees. Henceforth, refugee admissions will be reported in the RECORD upon completion of the consultation process mandated by this act.●

SENATE—*Monday, August 4, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Thy word is a lamp unto my feet, and a light unto my path.—Psalms 119: 105.

Almighty God, who has safely brought us to the beginning of a new week, protect and guide us by the light of Thy word that we falter not in high responsibilities. Help us to clarify our national purpose and to clearly define our goals as measured by the values of Thy kingdom.

Speak to our hearts when courage fails, or ideals are blurred and patriotism wanes.

Keep us resolute and steadfast in the things that cannot be shaken, always abounding in hope and joy, persevering in the work Thou givest us to do.

Lift our vision to see, beyond the things which are seen and temporal, the things which are unseen and eternal.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 4, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be considered approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time do the leaders have today?

The ACTING PRESIDENT pro tempore. Five minutes, equally divided.

PRODUCTIVITY IN THE U.S. ECONOMY

Mr. ROBERT C. BYRD. Mr. President, as the United States enters the decade on the 1980's we face great challenges. Foreign competitors are capturing domestic and foreign markets once dominated by American products. Massive oil price increases have staggered the world's economy. These challenges will test the American spirit. They demand decisive action. They demand that we address some of the underlying problems of our economy. If we are strong at home we will be strong abroad.

At the base of a strong and healthy Nation is a productive economy. As Senators we are faced with a wide array of problems. I place the issue of a productive economy on the list of top priorities, along with an adequate national defense. Recent studies show that the traditional American presumption of an innovative economy, of "American know-how" and of staying in the forefront of progress and change is no longer accurate. We have taken for granted our ability to increase productivity and to remain prosperous. Now we need to give this fundamental issue an honest reappraisal and apply some of that American know-how to solve a very real problem.

Productivity in its simplest terms is output per hour of labor. U.S. productivity is in decline, compared to our historical performance and our major trading partners. By an absolute measure we still have the most productive economy in the world—but we are barely moving forward. Stagnant productivity hurts our ability to fight inflation; it signals that we are not innovating and growing. It warns us that we will lose our competitive edge in international markets.

Taking strong, corrective action is priority business for the United States.

PERSPECTIVE ON PRODUCTIVITY

Productivity in the private sector grew at a rate of 3.2 percent per year from 1947 to 1965. From 1966 to 1973 it grew at a rate of 2.1 percent per year. Since 1973 it has barely grown—at the rate of about 0.6 percent per year. Last year for the first time our productivity fell 0.9 percent. After 6 years of hardly moving at all, we actually slipped backward in productivity. On July 29 the revised figures for 1980 were announced. During the first quarter U.S. productivity fell by 0.3 percent, and during the second quarter it fell a sharp 3.1 percent.

This situation is not the same in all industrialized nations. Several are outperforming us. Between 1950 and 1978 productivity in Japan grew at a 7-percent annual rate. In West Germany it was 4.6 percent; in Italy 4.5 percent; in Canada 2.3 percent. The U.S. record during that same 1950 to 1978 period was only 1.8 percent.

These growth rates are important because they describe what the future may be for the United States in an interdependent world. Long ago we passed the point of considering international trade an advantage or an opportunity. Our economy could not exist today without international trade. In 1950, 4 percent of our total output was exported. Today 8.4 percent of our output is exported, essential minerals, energy, and raw materials are imported, and our economic well-being is linked to the international economy.

The difficulties the U.S. auto industry and American auto workers are having today are not unique. This is but one in a series of examples in which foreign competition has won the market. Our experiences in electronics, color televisions, watches, shipbuilding, and steel should have taught us that our share of domestic and foreign markets, and related jobs cannot be taken for granted in a world of industrial competition. Our share of world manufacturing trade in 1956 was 25 percent. In 1979 it was 15.6 percent. We cannot afford to let this trend continue.

A number of factors contribute to productivity growth, and there is considerable debate as to how a nation might best increase its productivity. The level of investment in new plant and equipment is generally recognized as a major determinant. Increasing the efficiency and sophistication of equipment and tools means increased output. Investment in plant and equipment in the United States has maintained a rather steady pattern over the past 30 years. Some of this investment has gone for worthy social goals—such as clean air and water—which do not immediately contribute to economic output and therefore do not show up in productivity measurements. We also have added an enormous influx of new workers to the labor force—both women, and offspring of the "baby boom" who have come of age and entered the job market. With such a rapidly growing labor force including new workers, the ratio of capital to labor declines, and consequently so does productivity.

Other factors have been underscored lately, such as research and development. When a company or a government invests in research and development, it is looking to the future. We need to be sure that our workers and our factories will be producing modern goods, eagerly sought by the rest of the world in the 1980's and 1990's. Without sizable research and development we will find it more and more difficult to sell outmoded products and protect obsolete jobs.

Another factor is regulation. Much has been said in the Senate on the subject of regulation, and we have sought to strike a balance between the required and necessary regulation and the burden which adds costs and absorbs the time of producers. I think we all recognize that some regulation serves the public interest: that is its purpose, its raison d'etre. We are working to insure that the public interest is served with minimum cost and maximum efficiency.

A further consideration is awareness of the problem. We must shed the assumption that the United States is No. 1 as an economic power—and in so doing recognize that a concerted effort is needed to reassert our economic strength. During this decade Japan and Germany will have the world's most productive economies, if they continue to grow and if we fail to meet the challenge. Management and labor, the private sector, and Government must realize that our enemy is complacency. Our task is to design better technology, learn new skills, and sell superior products around the world. I am confident that we can do that in the future as we have in the past.

A final factor is capital formation. Considerable attention has been paid to tax incentives and depreciation to increase productivity. We must find the appropriate way to encourage investment for future production and long-term innovation. Tax incentives are related to that kind of investment, but they are not a panacea. Federal financial resources are limited and must be spent to have the greatest impact, whether through direct appropriations or through increased tax incentives. We should not grasp at simplistic schemes, but target Federal assistance, whatever its form—whether it be a faster depreciation schedule or expanded job training.

With our need for a strong defense and with so many crucial programs pared to the bone, we need to be careful and deliberate in seeing that scarce resources are used to enhance our productivity. The last thing we need is Ronald Reagan's shoot-from-the-hip, make-the-rich-richer tax cut which would simply dump inflationary dollars into the economy.

I have noted in comments on June 9 to the Senate the value of a Government corporation, such as the Reconstruction Finance Corporation, to the capital formation problem. An RFC or a National Development Bank could be an effective part of our effort to increase productivity. Certain industries or infrastructures vital to our Nation's future need revitalization. A great deal needs to be done to remove bottlenecks in the economy and to spur industrial growth. We have some obvious problems needing quick action. The Nation has a shortage of coal and grain railcars. The automobile industry needs capital to retool. Our steel industry needs the technological capacity to compete with foreign producers. While tax incentives have their appeal, we should also recognize that an RFC of modern structure could concentrate resources in troubled sectors, in infrastructure, and to support new and innovative industries.

CONCLUSION

I believe that the United States can recognize its shortcomings and act decisively to restore productivity growth. The short-term perspective that has characterized much of our investment, our inadequate research and development budgets, and the presence of too much regulation can be overcome. But the first step is to recognize that we have a problem and that other nations are not going to wait for us to revise our priorities.

The American people are capable of hard work, and they want to invest in a stronger economy for the coming years. As a country we accept and admire technological innovation. The quantum leaps of steam power, electricity, the computer, and the silicon chip changed the world, and we need to discover more of them, developed and produced here in the United States. This must be done by corporations and workers and public officials who spend as much effort looking down the road for improvement as they do completing today's work.

I have no doubt that Americans will invest in the future and learn new skills. We must rebuild our industrial regions and start developing projects for the coming decades. We can compete in the world, and historically we have done so with great success. But our trading partners are far more advanced than they used to be, and we must prepare for fair and keen competition in international markets.

Americans have never been afraid to put their shoulders to the wheel. The American worker today is the most productive worker in the world. He wants to have that distinction tomorrow. American business is prepared to compete aggressively in an open and fair system of international trade. If we as a nation realize the seriousness of this challenge, if we can set a course of determined purpose to remain competitive, and if we can share the load fairly, this country will remain productive. I am sure that the Senate realizes the need to revitalize our economy. I know that we will be part of the effort to keep America competitive.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have no need for my time this morning. I am happy to yield my time to the majority leader.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, do I have a special order?

The ACTING PRESIDENT pro tempore. The Senator does.

Mr. ROBERT C. BYRD. Mr. President, I yield my 15 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

THE CUBAN SUCCESS STORY: LET US TELL IT

Mr. PROXMIRE. Mr. President, this is a success story in a place where not one American in a hundred would expect to find it. It is a heartwarming, exciting success story. It is about a formerly down-and-out, poor-and-ragged people, who are winning successes every day and making this a better country in the process.

Mr. President, sometimes when I talk to my fellow American citizens or read the polls that show 4-to-1 or 5-to-1 disapproval of admitting Cuban refugees, I wonder whatever happened to the stirring slogan on the Statue of Liberty:

Give me your tired, your poor, your huddled masses
Yearning to breathe free,
The wretched refuse of your teeming shore,
Send these the homeless, tempest tossed to me.
I lift my lamp beside the golden door.

That is America at its generous best. And, oh, what those huddled masses did for this country. They built it. Every wave of immigrants was resented by the Americans who were already here. My own ancestors, German and Irish were resented and resisted more than a hundred years ago. But we never seem to learn.

This year, we have already had a remarkable immigration from Cuba. And it has been about as deeply resented and denounced as any we have ever had. The irony of this story is that Cubans who fled Cuba for this country less than 20 years ago have already given this country one more stirring example. In all of our long and beautiful history of giving a fighting chance to the down-

and-out immigrant, this Cuban example may be the most dramatic yet.

Mr. President, this is a story that ought to be told this year in this country. Our people ought to hear it and know about it.

Mr. President, the cry through much of the country this year has been: Keep the refugees out. Anyone in public office who has been talking with the people of this country this spring and summer has heard it in taverns and supermarkets, at baseball games, and wherever Americans gather.

Cruel and often thoughtless as this sentiment is, it is not hard to understand. The American people are fed up with welfare and they fear the new arrivals will swell the welfare rolls. Our people are worried about unemployment and they fear the refugees will either increase unemployment or take jobs from American citizens. Crime is a gnawing worry for our people, and they believe that the newcomers may engage in criminal activity. Americans see what has happened to our inner cities and conclude the refugees will create more slums. Many Americans already criticize our public schools and oppose the refugees because they believe that, with their language and literacy problem, they can only make the situation worse.

Mr. President, we can understand those fears of many American citizens, and we can understand why they are especially addressed against Cuban refugees. These refugees have fled Communist Cuba. They often speak little or no English. They are, of course, overwhelmingly poverty stricken. Almost every one of them comes here with literally nothing but the clothes on his back.

On July 18, the Heritage Foundation issued a remarkable paper that told a surprising and exciting story of what the Cuban exile community has done in this country and especially in Miami, where most of them have settled. This is a story every American should know about. It might still some of those barroom "Throw out the Cubans" speeches. And it would certainly provide a happy civics lesson on how generous sharing with a needy people can pay off and pay off spectacularly.

First, let us consider some of the hard facts. An objective, material measure of success is family income. These Cuban families arrived in this country with literally nothing in their pockets, homeless, friendless, jobless, and usually unable even to speak the language—how have they done? Consider: The 1967 median family income for Miami Cubans of $5,244 rose a dramatic 37 percent to $7,200 by 1970. In 1977, it had risen to $14,000 and 2 years later it had reached $15,300. Sixty-nine percent of Miami's Cuban families earned over $12,000 last year.

And how about this? There are now approximately 200 millionaires within the Cuban community—200 millionaries.

Do these Cubans take jobs or provide jobs? One measure is the number of businesses they operate and in which they employ workers. In 1967, Miami Cubans owned 919 businesses. This number had increased to 8,000 in 1976 and to 18,000 by 1980. In 1978 they ran 230 Latino restaurants, 30 furniture factories, 20 garment plants, a shoe factory employing 3,000, and about 30 transplanted cigar factories. Cubans currently own over 60 car dealerships, more than 500 supermarkets, and over 250 drug-stores.

And hold on to your hat for this statistic. Cubans own or operate 80 percent of all service stations in the Miami area. And Cubans are only 30 percent of the population

By 1971, Cubans were putting up about 30 percent of all the construction in the city of Miami, including a $35 million, 40-story office building designed to be the tallest structure in Florida.

And listen to this one: Cubans now make up 75 percent of all construction workers in Miami. That is an increase of 15 percent in the last 2 years alone. As I say, they constitute less than a third of the population.

And for another success story, consider the bastion of American capitalism, banking. By 1978, Cubans controlled 14 of 67 commercial banks in Miami. In 1971, there were 3 bank presidents, 21 vice presidents, and 500 officers of Cuban origin; by 1980, the number of bank presidents of Cuban origin had grown to 16.

Now how about these poor, homeless refugees going on welfare. Did they swamp the welfare rolls? Consider: Reliable reports from Miami indicated that less than 5 percent of the refugees ever—ever—at any time, required any welfare assistance, and then only for short periods of time.

This was not achieved by luck or chance. The Cubans planned it that way and worked at it. Under "Training for Independence," receipt of welfare checks for unskilled female heads of household was made contingent on their attendance at job training sessions. How did this succeed? A Cuban refugee pamphlet describes the result: Whereas in mid-1964, when the project was launched, there were 3,800 female heads of families who were dependent upon public assistance, in January 1968, after new arrivals had been coming in at the rate of 200 a day for almost 2 years, only 341 female heads of families were receiving public assistance.

In 1977, David Caveda, a Cuban leader and manufacturers' representative in Columbus, Ohio, summed up his countrymen's philosophy toward government assistance.

> I know of only three Cuban families on welfare, all of them aged. There are no able-bodied Cubans on welfare. We belong to a society where people take care of one another. There is a pattern—the ones established here to help the newcomers.

Now, how about crime? Did the new wave of Cuban refugees mean more crime? The answer: In 1971, Miami Police Chief Bernard Garmire told Business Week that Cubans accounted for only 5 or 6 percent of the crime in the city, although composing 30 percent of the population.

And here is another heart warmer: According to Officer Rogers Yee, interviewed by the National Geographic:

> The ones in their twenties and thirties or older, they're very law abiding, very respectful of the uniform. No Cuban has ever called me "pig or fuzz". I've had them come up and say, "anything I can do to help, you can depend on me." And they really mean it—I think that many of them would risk their lives for a policeman.

The crime rate among young Cubans appears to be disproportionately inferior to their corresponding percentages in the school population. The proportion of Spanish youngsters involved in school-related crimes constituted only 7 percent of the total offender population in 1975, when this ethnic group represented more than 30 percent of the entire school body.

And how do the young Cubans, with their language difficulty and their poverty, do in the schools? Are they good students?

The Heritage Foundation report says:

> The initial concern among Miamians that the wave of refugee children would lower the educational standards of Dade County proved groundless. It was found that within 1.5 years children became more proficient in English and in 1971, Paul W. Bell, executive director of instruction for the county's school system declared, "By and large, Cuban kids have had more of a positive than a negative impact. The concern of many that academic standards would drop drastically because the Cubans didn't speak English never materialized.

By early 1980, Hispanic youngsters made up a third of Dade County's pupil population and, according to a report issued 2 years earlier, "they score well above other Dade students on English and math achievement tests."

Now here is a statistical showing with respect to both scholarship and individual honesty that especially impresses me. Listen: According to 1976 statistics, 72 percent of Cuban high school graduates went to college. By 1971, 12,800 loans had been given to Cuban college students, and reported U.S. News and World Report, Congress recently heard testimony that of these loans only 147 were delinquent—a performance which outstrips the national average.

Consider how Miami itself has benefited from this influx of Cuban refugees. Recognize that most Americans would consider such an influx an unmitigated disaster for their community. Consider what a spectacular success it has been for the Cubans, and for Miami.

Analysts agree that, far from placing a permanent burden on the city, this large bloc of newcomers has transformed its economic structure in the process of improving its own collective fortune. Before 1959, Miami's sluggish economy was almost totally dependent on the tourist trade, with its volatile ups and downs, and its lopsided seasonal cycles. In the past 20 years tourism has been strengthened further and expanded to a year-round business, and important new sources of employment and revenue have come into being. An unprecedented prosperity has been created in Miami as a direct result of its transformation, by virtue of the very presence of the Cubans, into what has been termed "the new capital city of Latin America."

Attracted by the Hispanic atmosphere of the city, Latin American tourists flock to Miami in increasing numbers. By 1978, over 5 million came annually, and this number has continued to grow at a current rate of 15 percent a year. The contribution of these tourists to the economy, moreover, is higher than that of American visitors, for in 1978 it was estimated that the average Latin tourist spent about $1,000, while Uinted States and Canadian visitors only spent $408. Unlike Americans, furthermore, Latins are undeterred by Miami's hot, humid summers and come all year round.

As for fears that the new immigrants would destroy the inner city and build an unhealthy, crime ridden slum, consider the actual Miami experience from the Heritage Report:

One example is the unofficial "urban renewal" program which this group has carried out. In 1960, the center of Miami was "submerged in economic decadence" and its buildings "deteriorating rapidly." Cubans began concentrating in a "decaying residential section close to Downtown Miami" which later came to be known as Little Havana, and which had the advantage of being a low rental area with many closed stores. Juan Clark states:

> Cubans took advantage of the (closed stores) and gradually began to settle here while the Anglo population was moving further away into the suburbs. An informal urban renewal program began to take place along Eighth Street and its vicinity as Cubans developed roots, by improving and remodeling the house they were gradually purchasing. Eventually, the exiles began moving into Hialeah, Westchester and other suburban areas while Little Havana gained more population from the new arrivals. Further uplifting actually occurred here through the replacement of many of the old housing units by brand new ones . . .

By 1980, the Christian Science Monitor stated flatly, "There are no Cuban slums."

Did all this influx of Cuban refugees—their education, their gradual adaptation to life—did all this impose an additional tax burden on Miami. The fact is a spectacular reverse. Miami's Mayor Maurice Ferre has calculated that the total amount of taxes paid by Cuban refugees has been five times higher than the total aid required by the Cubans.

The Heritage Report concludes as follows:

> When Cuban refugees began arriving on U.S. shores in 1959, many Americans had concerns similar to those being expressed in 1980. There were worries about the ability of the American economy to absorb the newcomers, and about their taking jobs away from native Americans. General concerns existed about how they would adapt, and about how they would affect the general tenor of life in those areas where they congregated.
>
> Experts agree that the worries were unnecessary. Cubans left the welfare rolls after an initial period of receiving modest government assistance, accepting willingly whatever jobs were available, and in many cases subsequently rose to the top of their occupational ladder. Their very presence has had the effect of creating jobs, especially in Miami, and the Latin flavor they brought to the city led to an unprecedented diversification of its economic base.
>
> Measured by any standard, Cubans have contributed significantly to the United States and have proved to be good citizens. There is every reason to think that the pattern they established will be followed by their newly arrived fellow countrymen.

Mr. President, this report on The Cuban Refugee by the Heritage Foundation is so spectacularly heartening, so inspiring so flatly contradicts the usual barroom wisdom that too many Americans mouth that I ask unanimous consent that it be printed in full in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE CUBAN REFUGEE PROBLEM IN PERSPECTIVE: 1959–80

INTRODUCTION

On Tuesday, April 3, 1980, six Cubans crashed through the gate of the Peruvian Embassy in Havana seeking political asylum. During the incident a Cuban policeman guarding the compound was killed, and the Castro government removed the remainder of the guard in presumed retaliation. Within forty-eight hours, over ten thousand Cubans had sought asylum in the unprotected embassy, and perhaps as many as 100,000 had congregated in areas adjacent to the site, hoping to find means to enter. Thus began a new Cuban exodus.

On April 23, Fidel Castro opened the door to a migration of unprecedented proportions when, in a reversal of his long-held policy, he declared that all Cubans who wished to leave the island—not just those within the Peruvian Embassy compound—could do so. When he abruptly cancelled the transportation arrangements agreed upon (an airlift via Costa Rica), Cuban exiles in Florida formed a spontaneous boat-lift. By June 20, 114,462 Cubans had been brought to Key West on conveyances ranging from shrimp vessels to small pleasure boats.

President Carter's policy toward these events has undergone several changes. Initially reluctant to take any refugees at all, the Administration subsequently established a quota of 3,500. As the boat-lift began, it declared the transporting of Cubans to be illegal and began selectively impounding boats. On May 5, in what appeared to be a change in policy, President Carter announced that the U.S. would provide "an open heart and open arms" to the Cubans. The boat seizures, however, continued.

On May 14, the President ordered the Coast Guard to form a cordon around Florida waters to prevent additional boats from heading to Cuba and threatened to impose severe fines on boats illegally transporting refugees. In conjunction with this, he expressed willingness in principle to establish an orderly airlift for Cubans allowed to leave the island in the future.

President Carter's orders effectively brought the transportation of refugees to an end. By late May, only a few dozen boats remained in Mariel, the port of exodus for the emigrants, and by mid-June, the arrival of new boatloads of refugees on U.S. shores had effectively stopped. As no progress has been made in establishing an official airlift, it appears that the flood of new refugees has, at least for the present, come to an end.

For Americans, the new Cuban exodus has posed difficult questions. Occurring shortly after the arrival of hundreds of thousands of Indochinese refugees (who even now continue to arrive at the rate of 160,000 a year), coinciding with an increase in the number of Haitians seeking refuge on our shores, and coming at a time of deepening economic recession, it has caused many Americans to reevaluate the historic role of the U.S. as sanctuary for the needy and politically oppressed.

This paper does not attempt to analyze the moral problems raised by the Cuban migration, but instead to provide factual information relevant to the formation of policy on the subject. While the final decision on a refugee policy is ultimately subjective, certain practical considerations play an important role.

HISTORICAL BACKGROUND OF CUBAN REFUGEE PROBLEM

The most fundamental point to be considered is the extent to which the new refugees, on whose behalf hundreds of millions of taxpayer dollars are spent, will ultimately make a significant contribution to our society. While it is impossible to look into the future, a good indicator of what might be expected exists in the development of the Cuban exile community which has formed in the U.S. over the past twenty years.

Since 1959, Cubans have been engaged in one of the most significant migrations, proportionally, in modern times. Over eight percent of the island's population has gone into exile, with around 700,000 coming to the U.S. prior to 1980 in several phases.

Between January 1, 1959 and the October 22, 1962 Missile Crisis, 248,070 migrated to the United States. In early 1959, members of the political and military elite fled, followed by members of the propertied and professional sectors, who by 1961 comprised 45 percent of the registrants with the Cuban Refugee Program. It soon became far more than an exodus of the elite, for by the end of the first phase, over 50 percent of the Refugee Program registrants were clerical and sales workers and skilled workers. This period also saw the arrival of some 13,000 unaccompanied children sent to the U.S. by parents fearful of government control of their lives.

When Cuba barred entry to the U.S. after the Missile Crisis, direct emigration was limited to such exceptional cases as the Bay of Pig POWs and their families, and certain American citizens. In consequence, illegal escape became an important outlet. A large percentage of the 55.916 Cubans departing between 1962 and 1965 escaped by means of dangerous boat journeys, with the remainder flying initially to Mexico or Spain in the hope of later gaining admission to the U.S. The deterioration of conditions in Cuba was reflected in the background of the immigrants who came during his period: by 1963, a majority of those facing the hazards of boat trips to the Florida Keys were peasants and laborers.

In 1965 legal emigration from Cuba was reestablished with the Freedom Flights airlift to Miami, which during its six years of existence brought to the U.S. 297,318 relatives of existing exiles. After its end, Cuban migration patterns reverted to those of the post-1962 lull, with Spain and Mexico again becoming the principal avenues of departure for refugees on their way to the United States. Because of a change in U.S. law subjecting them to immigration quota limitations, however, the number arriving in this country was small in relation to the earlier migration. In 1978 a new kind of exile began leaving Cuba—political prisoners being allowed to depart by Fidel Castro. In all, between 1973 and the end of 1978, 50,357 additional Cubans entered the United States.

THE U.S. RESPONSE TO CUBAN REFUGEES, 1960–80

By late 1960 over 100,000 refugees had arrived in Miami, and continued pouring in at the rate of 1,700 a week. Such assistance as had been given to prior arrivals, who because of Cuban rules forbidding their removal of assets from the island had no means of supporting themselves, derived from private sources. On December 2 of that year, the U.S. government became officially involved with the creation of the Cuban Refugee Emergency Center. The $4 million annually budgeted for the program sustained a staff of fourteen, which eventually grew to a high of 328.

During its first six months, the program was financed through the President's Contingency Fund under the Mutual Security Act of 1954. The following year, the President's Contingency Fund under the Foreign Assistance Act of 1961 provided $38.5 million. Thereafter, until 1980, funds were specifically appropriated by Congress annually under the Migration and Refugee Assistance Act adopted in 1962.

A new statutory base for the program was recently created with the passage of P.L. 96-212, the Refugee Act of 1980, as a result of which all U.S. refugee programs have come under a policy and management network headed by the U.S. Coordinator for Refugee Affairs. The Department of State and the Department of Health and Human Services have assumed primary responsibility, respectively, for the international and domestic aspects of refugee concerns. In addition, the new law makes changes in the funding of refugee programs, gradually eliminating the full federal reimbursement for cash and medical assistance which states have heretofore enjoyed.

Then Secretary of Health, Education and Welfare Abraham Ribicoff announced a comprehensive nine-point program on February 3, 1961. Its objects included providing funds for refugee resettlement, financial assistance to meet the basic maintenance requirements of the refugees, providing essential health services, assisting in the establishment of language and skill training courses, distribance available for the care of unaccompanied children.

The program thus emphasized providing for the Cubans' immediate needs and finding them employment as quickly as possible. In conjunction with this, the government carried out a large-scale relocation program, finding positions around the country for those Cubans who were unable to find work in Miami's glutted labor market. By 1980, a total of 301,732 refugees, or three out of every five registering with the Center, had moved out of Miami under this program.

A difficult problem confronted by the Refugee Center was that of unaccompanied children arriving in increasing numbers during the Sixties. Between 13,000 and 15,000 arrived altogether, and although most went to live with friends or relatives, thousands were homeless. On February 21, 1961, the Unaccompanied Cuban Refugee Children's Program was created to place these arrivals in foster homes. Statistics compiled in 1967 indicate that as of that year 8,331 children had been cared for through the program, with the peak occurring in October 1962, when 4,100 children were receiving foster care. The problem, however, proved to be only temporary, for the parents of most eventually found means to escape from Cuba. Thus, by 1965 only 1,448 children remained in the program, and two years later the number had been further reduced to 375.

OVERCOMING EDUCATION TROUBLES

The new arrivals in Miami faced significant hurdles in finding employment. There was an obvious language barrier, and many had skills which could not be readily transferred to the American economy. Others lacked the American educational degrees or state licenses necessary for them to carry out their previous occupation. In this regard, professionals were especially hard hit; most found that their foreign university training received virtually no recognition in the United States. Their problems were compounded by the requirement of at least half the states that lawyers, medical professionals, architects and public school teachers hold citizenship in order to practice.

Attempts were made to address this problem. One had its beginning in Iowa in 1961, when a need to increase the number of Spanish teachers made officials seek a formula whereby the Cuban arrivals could be employed. By this time, a substantial talent pool existed comprised of both experienced teachers and highly educated lawyers and other professionals who could carry out classroom functions. Under the law, however, all needed three years of coursework to earn a state teaching license.

A program was created under which the candidates chosen received a temporary teaching certificate after a year's intensive training, following which they took the balance of coursework needed for a permanent certificate over the ensuing three years, while also working full time. A loan of $1,000 per student was made available. According to a pamphlet published by the Refugee Program:

> Since most of the Cubans were middle-aged and had children to support, even with the help of the loan many of them had to supplement their incomes by taking part-time jobs. Nevertheless, they were undaunted either by the hard work ahead or by the prospect of Iowa winters which, to people who had never lived in a cold climate, seemed quite formidable.[1]

By the fall of 1964, Cuban teachers were working in 38 Iowa counties. Seeing the potential of this program, Indiana established a similar project involving 53 Cuban teacher trainees. At about the same time, a program with similar objectives was established in Miami itself, where officials "who had at first been concerned that an influx of Cubans might create an unemployment problem, were fast becoming even more concerned about the draining of Cuban talent from the Miami area."[2] Seven programs were in operation at the peak period of 1967, and in virtually all regions of the country there was at least one institution of higher learning at which Cuban refugees were being trained and recruited for teaching jobs.

In 1968, 169 Cubans who had participated in the early training programs provided followup information on their development. The information indicated that all but six percent had remained in the teaching profession, and that ninety percent had obtained permanent teaching certificates or licenses to teach.

By 1961, there were nearly 700 exiled Cuban physicians in the U.S. who, because of state licensing requirements affecting foreigners not trained in the U.S., found themselves, as one expressed it, "free to do almost anything except practice medicine."[3] Their first hurdle was to pass the Educational Commission for Foreign Medical Graduates Examination; and because of the need in the U.S. for qualified physicians, a three-month refresher course was established at the University of Miami that year combining English training with a subject matter review. In conjunction with this, a loan fund was established which lent 266 Cuban physicians $137,500 while in operation. These semi-annual courses, which by 1967 had assisted 2,393 Cubans, have now become a permanent addition to the University of Miami curriculum.

The refresher courses have made an additional contribution not foreseen at the time of their creation. As early as 1965, a substantial number of non-Cuban doctors began to enroll; by 1977, 2117 doctors, representing forty-one, primarily Spanish-speaking nations of the world, had attended. Some of these graduates are now among the leading physicians in their countries, both in the academic field and that of practical medicine.

OVERVIEW OF REFUGEE PROGRAM

By early 1980, a total of 486,000 Cubans had registered with the refugee program, 153,534 of them during the first year and a half of operations (it should be noted that about twenty-five percent of the exiles did not turn to the government for assistance at any point). Total costs for the program have come to just under $1.5 billion. Refugee assistance peaked in 1973, when the program spent $143.7 million. The budget then declined annually, and, prior to the Mariel exodus, it had been estimated that fiscal year 1981 needs would be for no more than $45 million.

THE CUBAN SUCCESS STORY

The development of the Cuban exile community since the early days of dependence on government assistance is generally regarded as a success story with good reason. Bank presidents and wealthy businessmen have evolved from immigrants owning nothing but the clothes on their backs, and refugees who started at the very bottom of a particular occupation have frequently risen to the top through dedication and hard work.

Like members of national groups who migrated to the U.S. in previous decades, Cubans were imbued with a high degree of motivation. According to sociologist Dr. Juan Clark, their intense determination is not totally coincidental. "It would have been difficult for them to leave the island . . . without such a motivation that enabled them to overcome the harsh deterrents imposed by the regime."[4]

The most dramtic indication of the prosperity Cubans have achieved over only twenty years is the fact that there are now approximately two hundred millionaires within the Cuban community in Miami, the city with the largest Cuban population. Other statistics reveal the solid, if less spectacular, affluence which the average Cuban has attained. By 1970, it could be reported that "44 percent of Cubans in Miami own their own homes; 90 percent of the families possess at least one automobile; 3 percent, two or more; radios and televisions are in practically all homes, and 60 percent have air-conditioning. At least 25 percent of the Cuban families travel during their vacations, either

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Footnotes at end of article.

within the United States or to a foreign land."[5] Four years later, the number of Cubans owning their own homes had risen to seventy percent.

The income of Cubans in Miami, while not yet up to the level of the American whites, has risen substantially. The 1967 median family income for Miami Cubans of $5,244 rose a dramatic thirty-seven percent to $7,200 by 1970. In 1977, it had risen to $14,000, and two years later, it had reached a high of $15,300. Sixty-nine percent of families earned over $12,000 and twenty-four percent over $15,000.

The 1977 earning power of Cubans was contrasted with that of other Hispanics and of the population at large by Morris J. Newman, a Department of Labor statistician, in a 1978 study. At that time, the median income for all U.S. families was $16,009, while that for Cubans was $14,000. Mexicans followed with $12,000; blacks were next with an income of $9,563; and Puerto Ricans earned $7,972. The per capita income for Cubans, moreover, is closer to the average per capita income for all Americans than the figures indicate, since for statistical purposes the Cuban family is considered to include 3.6 members, but the white American family 2.5 members.

Newman also analyzed Cuban employment patterns, finding that their employment record now comes close to matching that of all Americans, and far outdistances those of other Hispanic groups in the U.S.

At a time when the jobless rate for all white workers in the U.S. was 6.2 percent, that for black workers 13.1 percent, and for the total Hispanic population 10.1 percent, that for the Cubans was 8.8 percent. Part of this, moreover, may be due to the Cubans' unusually high participation in the labor force; their 64.1 percent participation is actually slightly higher than the 62.3 percent participation among the overall working-age U.S. population.

Statistics for 1978 and 1979 continue to bear out the pattern of unemployment. In 1978, unemployment for American-born whites in Miami was 5.8 percent, for blacks 10.2 percent and for Hispanics 6.2 percent; in 1979 4.9 percent of the whites, 9.3 percent of the blacks and 5.2 percent of the Hispanics were unemployed.

In examining the employment of Hispanics by occupation, Newman found a pattern recurring. The participation of Cubans in the higher paid professions requiring more training fell slightly behind the U.S. average, but was substantially ahead of that of other Hispanic groups. Indeed, the likelihood of a Cuban holding a position from the "professional or technical" category was about forty percent higher than for the average Hispanic. The probability of his holding a managerial position was even higher.

That the Cubans have reached their current economic level is impressive considering the large numbers who never totally overcame their initial barriers of language and their lack of educational credentials which would be officially recognized in the United States. A study conducted in 1974 indicated that 41.93 percent of the college graduates sampled were working as sales persons. By comparison, almost the same percentage of individuals with a high school education (50 percent) held jobs in that category. Of the college graduates, only 16.12 percent held professional positions, and 12.9 percent were employed as elementary and high school teachers. In spite of the programs providing for English training, 55 percent of the respondents felt they did not have sufficient knowledge of the English language, and 25 percent felt they did not have a better job because of their lack of English.

The greatest waste of human capital occurred in the category of middle-aged professional who, because of families to support, found it impossible to leave the job market for the years of study required to earn a U.S. license to practice their former careers. This age group was also the one with the greatest difficulty in overcoming the language barrier, given the inverse relationship between age and ability to learn a new language.

The success which Cubans have attained overall is worth reviewing in some detail. In 1967, Miami Cubans owned 919 businesses; this number had increased to 8,000 in 1976 and to 18,000 by 1980. In 1978, it was reported that they ran 230 Latino restaurants, thirty furniture factories, twenty garment plants, shoe factory employing 3,000 and about 30 transplanted cigar factories. Cubans currently also own over sixty car dealerships, more than 500 supermarkets, over 250 drugstores, and they now own or operate eighty percent of all service stations in the Miami area.

By 1971, Cubans were putting up about thrity percent of all the construction in the city, including a $35 million, 40-story office building designed to be the tallest structure in Florida. Cubans now make up seventy-five percent of all construction workers as well, an increase of fifteen percent in the last two years alone.

One area in which the success of Cubans has been conspicuous is banking. By 1978, they controlled 14 of 67 local commercial banks; one of these, the Continental National, saw its 1974 level of $2 million in deposits grow to $29 million within four years. In 1971, there were three bank presidents, twenty-one vice presidents and five hundred officers of Cuban origin; by 1980, the number of bank presidents alone had grown to sixteen.

The pattern of success has been repeated in other parts of the country. In 1971, it was estimated that of the almost 5,000 Cubans living in Atlanta, Georgia, about one hundred were in various businesses, and about fifty percent of the adults held positions as college or university professors, doctors, engineers, accountants or business executives. By that time, some 3,000 Cubans taught in colleges and universities around the country.

THE MEDICAL PROFESSION

Cuban doctors as a group have been particularly successful, and because they arrived in this country at the time of an increasing shortage of physicians, their contribution takes on a special dimension. Many are now employed throughout the country providing care to individuals who would otherwise have been unassisted. An example of this occurred in Milledgeville State Hospital, where Cubans at one time made up sixty percent of the resident physicians. In 1971, sixty-eight percent of the 113 doctors on the staff were Cubans, as were five of the ten directors, each of whom headed units with seven hundred to a thousand patients. Cuban Refugee Program Director Howard Palmatier declared at the time, "This hospital would not be open today were it not for the services of Cuban physicians. I dread to think of the many hundreds of citizens who would be without medical attention in that situation."[6]

In 1971, U.S. News and World Report reported that whole hospitals were staffed by Cuban doctors, citing as a prime example the three hundred bed Pan-American Hospital in Miami.[7] By 1973, Cubans ran about a dozen private clinics in Miami alone, a number which stood at fifteen by the end of the decade. At present there are estimated to be 3,500 practicing Cuban physicians in Miami alone, with up to another 2,000 Cubans being in the process of preparing for the Educational Commission for Foreign Medical Graduates Examination or going through medical school.

In October 1960, eighty-seven Cuban doctors founded the Cuban Medical Association in Exile, which received the official recognition of the AMA the following year. By 1977, the 3,070-member association was officially recognized by medical associations throughout Latin America, and by schools of medicine, research centers and governments both in the United States and throughout the Western Hemisphere.

While the contribution of Cuban physicians in saving lives cannot be tabulated in dollars and cents, it is possible to measeure the savings to American in medical training costs. Dr. Jun Clark did this in the early seventies, at a time when he estimated there were 3,100 practicing Cuban physicians in the United States. "Bearing in mind that the cost of medical school, exclusive of previous education, ranges between $64,000 and $104,000 for a four-year course, the contribution to this country by this group of Cubans could be estimated conservatively between $198.4 to $322.4 million."[8]

Many of the Cuban doctors, moreover, have distinguished themselves within their profession. According to Dr. Emanuel M. Papper, Dean of the University of Miami School of Medicine, the graduates of the refresher course, "not content with attaining minimum licensure requirements, have continued their studies and training. All American medical specialty boards now number Cubans mong their members. Cuban physicians appear as authors in the best medical journals and as lecturers at almost every medical meeting of the last ten years."[9]

WELFARE AND THE CUBAN COMMUNITY

As might be inferred from the facts outlined thus far, Cubans have relied on their own labor for sustenance, and few have depended on government assistance for any length of time. While in 1963, forty-five percent of Cubans were receiving government aid, this situation changed quickly. Two years later, Howard Palmatier reported that less than five percent of the resettled refugees ever required welfare assistance, and then only for short periods of time. In Miami itself, the caseload had been reduced by 1965 to 8,000 cases involving 14,000 people, many of them aged, physicially handicapped, or women with young children. It also included some 1,500 cases of men who with basic training in English and job skills could be expected soon to leave the rolls. By 1979, it was reported that eighty percent of the Cubans who remained on the rolls were over sixty years of age.

Relatively few cases of Cubans becoming chronically dependent on government assistance have been reported and, as a 1964 program proved, remedial steps tend to be highly effective. As the stream of refugees slowed down, the Refugee Center developed a program focusing on 3,800 unskilled female heads of households who subsisted in the Miami slums on a $100 monthly government payment.

Under "Training for Independence," subsequent receipt of these women's welfare checks was made contingent on their attending job training sessions, usually in the operation of power sewing machines. Child care services were provided for the women's dependents. Of the 3,800 women asked to take part, about three-fourths did so, and about eighty percent of those enrolled in

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the first courses found steady work immediately after finishing training. A Cuban Refugee Program pamphlet describes the continuing success of the program: "Whereas in mid-1964, when the project was launched and when there were 3,800 female heads of families who were dependent upon public assistance, in January 1968, after new arrivals had been coming in at the rate of 200 a day for almost two years, only 341 female heads of families were receiving public assistance. A few have prospects for resettlement or jobs. . . . Some will no doubt be enrolled later; most will be found to have other plans which makes enrollment unnecessary." [10]

In 1971, David Caveda, a Cuban leader and manufacturers' representative in Columbus, Ohio, summed up his countrymen's philosophy toward government assistance, "I know of only three Cuban families on welfare, all of them aged. There are no able-bodied Cubans on welfare. We belong to a society where people take care of one another. There is a pattern—the ones established here help the newcomers." [11]

Comprehensive statistics on criminality by Cubans are not available, but such information as exists indicates that Cubans have not created a social problem in this regard. In 1971, Miami Police Chief Bernard Garmire told Business Week that Cubans accounted for only five or six percent of the crime in the city, although composing thirty percent of the population. On the same point, Howard Palmatier stated, "I've had an opportunity to speak with civic leaders, with church leaders, and by and large they have only good things to say about the refugees—that they are ambitious, have strong family ties, and do not show up as crime statistics, something of which we are especially proud." [12]

Interviewed in 1973 by the National Geographic, Chief Garmire indicated that the Cubans' record remained good. As Cubans made up a third of the city's population, "in theory, they should produce about a third of our crime Yet they account for only ten to twelve percent of criminal arrests. Much of the crime in Little Havanna is committed by outsiders who come in and victimize the Cubans." [13]

According to Officer Robert Rogers Yee, also interviewed by National Geographic, "[T]he ones in their twenties and thirties or older, they're very law abiding, very respectful of the uniform. No Cuban has ever called me 'pig' or 'fuzz.' I've had them come up and say, 'Anything I can do to help, you can depend on me.' And they really mean it—I think many of them would risk their lives for a policeman." [14]

This respect for the law is similarly reflected in the conduct of young people in school. According to Juan Clark, "[T]he crime rate among the young Cubans appears to be disproportionately inferior to their corresponding percentages within the total population. Thus the proportion of Spanish youngsters involved in school-related crimes constituted only seven percent of the total offender population in 1975 when this ethnic group represented more than thirty percent of the entire school body." [15]

It was reported in 1970 that "the only aspect in which the Cubans are worse than the native Miami population is in that pertaining to traffic violations. An aggressive driving style and a tendency to abuse the use of the horn tends to make Cubans receive a substantial amount of fines. But even this is improving." [16]

ACADEMIC ACHIEVEMENT

The performance of Cuban children in school has generally been above average, a fact which Juan Clark attributes to the values promoted in their home environment. "The high motivation of the elders is reflected on the young by the desire, within these, to achieve the highest possible level of education. Thus, the high proportion of young Cubans attending colleges and universities is noticeable, not only in Florida, but also in other universities." [17]

The initial concern among Miamians that the wave of refugee children would lower the educational standards of Dade County proved groundless. It was found that within 1.5 years children became more proficient in English, and in 1971 Paul W. Bell, executive director of instruction for the county's school system, declared, "By and large, Cubans kids have had more of a positive than a negative impact. The concern of many that academic standards would drop drastically because the Cubans didn't speak English never materialized." [18]

By early 1980 Hispanic youngsters made up a third of Dade County's pupil population, and according to a report issued two years earlier, "they score well above other Dade students on English and math achievement tests." [19]

According to 1976 statistics, seventy-two percent of Cuban high school graduates went on to college. By 1971, 12,800 loans had been given to Cuban college students, and, reported U.S. News & World Report, "Congress recently heard testimony that of (these) loans . . . only 147 were delinquent—a performance which outstrips the national average." [20]

According to statistics, moreover, Cubans placed less of a burden on the public school system than was originally expected. They have a greater tendency to send their children to private schools, and by the late Seventies they had started about thirty of their own.

Many Cuban students have excelled in scholastics or school athletics. In 1979, it was reported that "[e]ven the most obstinate natives of Miami are proud of Carlos Alvarez, a University of Florida football player who occupies a prominent place in the North American sports scene. Many other Cuban high school boys are football stars. The most outstanding Florida student last year was Rafael Penalver, a Cuban. And the student who received the honor of addressing the Catholic University of Washington, D.C., at the end of the year was also a Cuban." [21]

IMPACT ON MIAMI

As early as 1962, the Saturday Evening Post voiced a concern in relation to the first wave of Cubans that is being repeated now with regard to the 1980 exiles. It worried that "Miami is a tourist center, and its economy is unable to accommodate the heavy flow of refugees. Of the 75,000 in the Miami area, about 27,000 (. . . with dependents it would come to 54,000) are unemployed." [22]

Because of current concerns that the 1980 exiles will place an intolerable strain on Miami's job market and the resources of the Florida government—and that they will become one more burden on the shoulders of hard-pressed American taxpayers—it is important to analyze the effect Cubans have had on the city of Miami.

Exactly how many Cubans live there, no one knows. Some experts place the figure as of late 1979 as high as 550,000 and even 600,000. Cubans make up an estimated 85 percent of Dade County's Hispanic population, which in turn comprises at least 40 percent of the country's total population.

Analysts agree that, far from placing a permanent burden on the city, this large bloc of newcomers has transformed its economic structure in the process of improving its own collective fortune. Before 1959, Miami's sluggish economy was almost totally dependent on the tourist trade, with its volatile ups and downs, and its lopsided seasonal cycles. In the past twenty years tourism has been strengthened further and expanded to a year-round business, and important new sources of employment and revenue have come into being. An unprecedented prosperity has been created in Miami as a direct result of its transformation, by virtue of the very presence of the Cubans, into what has been termed "the new capital city of Latin America."

Attracted by the Hispanic atmosphere of the city, Latin American tourists flock to Miami in increasing numbers. By 1978, over 5 million came annually, and this number has continued to grow at a current rate of 15 percent a year. The contribution of these tourists to the economy, moreover, is higher than that of American visitors, for in 1978 it was estimated that the average Latin tourist spent about $1,000, while U.S. and Canadian visitors only spent $408. Unlike Americans, furthermore, Latins are undeterred by Miami's hot, humid summers, and come all year round.

The wealthier Latins are giving an additional boost to the economy by investing in real estate. In 1978 the president of the largest real estate firm in the South estimated that sixty percent of the luxury condominiums on Brickell Avenue in Key Biscayne, and about thirty percent of those on Miami Beach were being bought by Latins. By 1980, their annual investment in this field probably amounts to over $1 billion annually.

The "Latinization" of Miami has spurred and diversified its economy in other ways as well. Banking is a dramatic example. International banking has evolved from a modest business to one of such magnitude that by 1978 only New York had more banks specializing in international transactions. Currently, fifteen foreign banks have branches in the city, and another fifteen local banks (an increase of four over the last two years) provide facilities similar to those offered by foreign banks under the Edge Act.

Gradually Miami has become a seat for international corporations as well. By 1971, 33 American companies had set up their Latin American trade headquarters in the Miami suburb of Coral Gables. Seven years later, this number had grown to 76, and by 1980, 90 multinational corporations had opened their Latin American headquarters in Miami. According to the Washington Post:

> Most of the firms made the move after considering a half dozen or more Latin American cities. Coral Gables, for instance, beat out Mexico City, Bogota, Caracas, San Juan, Buenos Aires, Sao Paolo and Rio when E. I. du Pont deNemours was picking a new Latin headquarters last year. . . . The company decided it was simply faster to telephone, fly and mail to South America from Miami than from any South American country." [23]

In all, international trade generated $4 billion in state income by 1978, and has led to the creation of 167,000 jobs.

In an interview with columnist Joseph Kraft, Florida governor Bob Graham summed up the effect Cubans have had in turning Miami into an international business center. "I was born in Miami in 1936, and I grew up in Miami, and I remember that the city slogan was 'Gateway to South America.' In fact we were the gateway for South Georgia. But the advent of the Cuban refugees made the slogan a reality." [24]

The presence of Cubans has diversified and expanded the economy of Miami in other

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ways as well. 25,000 Cuban workers form the backbone for a garment industry which has grown to be the third largest in the United States. South Florida agriculture has also been affected by the advent of Cubans, according to Juan Clark:

> As the Cuban population increased, a great demand for their typical staples such as yucca, boniato . . . and malanga developed. . . . Eventually Cuban farmers began to cultivate them, and hundreds of acres have been planted, resulting in the possibility of exporting these products now. The sugar industry has been the one gaining the most with the expertise in this field introduced by the refugees. Hundreds of Cubans have significantly contributed to this industry. Most of the sugar mills in the South Florida area . . . are practically run by Cubans. The cattle sector has also been influenced in the same form, but at a lesser magnitude.[25]

Some statistics demonstrated in a specially dramatic way the increase of capital in Miami. For example, the total assets of savings and loans came to just under $3 million in 1970. Eight years later, this had increased to over $12.6 billion. Statistics from commercial banks tell a similar story: their deposits grew during the same eight-year period from $3.2 billion to $7 billion.

One example is the unofficial "urban renewal" program which this group has carried out. In 1960, the center of Miami was "submerged in economic decadence" and its buildings "deteriorating rapidly."[26] Cubans began concentrating in a "decaying residential section close to downtown Miami" which later came to be known as Little Havana, and which had the advantage of being a low rental area with many closed stores. Juan Clark states:

> Cubans took advantage of the (closed stores) and gradually began to settle here while the Anglo population was moving further away into the suburbs. An informal urban renewal program began to take place along Eighth Street and its vicinity as Cubans developed roots, by improving and remodeling the house they were gradually purchasing. Eventually, the exiles began moving into Hialeah, Westchester and other suburban areas while Little Havana gained more population from the new arrivals. Further uplifting actually occurred here through the replacement of many of the old housing units by brand new ones. . . .[27]

By 1980, the *Christian Science Monitor* stated flatly, "There are no Cuban slums."[28]

ROLE IN POLITICS

As the status of Cubans shifted from that of presumably temporary exiles in the U.S. to that of permanent inhabitants, their attitude toward this country has changed accordingly. An increasing number are adopting American citizenship, and becoming involved in the political process as well. While in 1970 only 10 percent of the Cubans in Miami were American citizens, by 1980 177,000 were citizens and an additional 320,000 had become permanent resident aliens, a preliminary step to citizenship. In a recent survey of non-citizens, furthermore, 86.4 percent indicated they intended to become citizens. Their participation in elections, moreover, is an unusually high 70 percent of registered voters. Already the mayor of Miami, Maurice Ferre, is a Latin, the chairman of the State Democratic Party and two city council members of the Miami suburb of Hialeah are Cubans, and the number of Cuban elected officials is expected to increase sharply over the next decade.

Cubans are taking an increasingly prominent role in civic causes. Their interest grew slowly at first for several reasons. Most importantly, they initially regarded their stay in the U.S. as temporary, and saw themselves as visitors in the community rather than members. At the same time, during the difficult transition of their first years in exile, their efforts were too absorbed in financing the necessities of life to make it possible for them to contribute either time or money to civic activities.

In the last decade, this has changed substantially. Cubans are heavily involved in such fund-raising organizations as the Heart Fund, the March of Dimes, United Fund and Boy and Girl Scouts. They have enriched the cultural life of the city by the establishment of a light opera company, two ballet companies, six theaters and many libraries and art galleries.

When the new wave of exiles arrived in Key West, Cubans were the first to help, contributing over $2 million in food and clothing alone within the first month. They contributed thousands of hours in services, providing the new exiles with health and legal services, and helping them with the red tape of the immigration process. In response to this massive mobilization of assistance, a White House aide declared, "I don't know of any other community in the country that has the resources, the motivation and the organization to do what the Cuban-Americans did."[29]

The population of the Miami area has almost doubled in the last twenty years from its 1960 base of one million people, and its civilian labor force has increased from 408,300 to 721,455 as of March 1980. Significantly, the creation of jobs has roughly kept pace. In 1960 there were 381,000 jobs being filled; this had grown to 639,800 by 1978, at a time when there was a labor force of 688,000.

Even if the Latin atmosphere brought to Miami by the Cubans had not attracted outside capital, it is inevitable that their presence in and of itself would have created jobs. Meeting the consumer needs of hundreds of thousands of new residents necessarily causes the economy to expand—and this in turn creates jobs for those new residents.

In the specific case of the Cubans, having a language and a cultural orientation different from that of Americans, it was almost inevitable that a complex infra-structure, creating thousands of jobs, should develop to provide the community with goods and services carrying a distinct ethnic flavor. The hundreds of restaurants and grocery stores specializing in Cuban foods, and the flourishing Spanish language communications media (one television station, six radio stations, and many newspapers) are only two examples.

An economic structure has evolved covering all phases of human activity, and at least theoretically allowing a person to live out his whole life without going outside the Cuban community. A child could be brought into the world by a Cuban doctor in a Cuban-owned clinic, receive his education in a Cuban-run school, spend his adult life working in a Cuban enterprise—and be buried by a Cuban funeral home.

The size of this self-contained structure is hard to estimate, but an idea of its scope can be gathered from a recent survey which indicated that 33.6 percent of Cubans speak only Spanish at work, and an additional 22.6 percent speak "mostly" Spanish. While it can be argued that none of this activity is of any special benefit to American-born Miamians, it must be remembered that the tax revenues from the Cuban economic structure assist all residents of the city.

Substantial concern exists now about the burden which the 1980 Cuban exiles will place on Miami's economy. While the existence of an immediate strain, aggravated by the consequences of the recession afflicting the whole country, cannot be denied, there is every reason for long-term optimism. If the history of the past twenty years is any guide, the very presence of these new residents will create an expansion of the job market, and the labor force they create will attract yet new capital and new industries. The exiles of twenty years ago proved wrong the critics who feared that their presence would cause Miami's economy to collapse; there is every reason to think that this worry will once more be proved groundless.

THE TAX BURDEN

In assessing the development of the Cuban community, the single most controversial point is determining the exact extent to which its members have been an asset or a burden to this country. At a time when hard-pressed American taxpayers are being asked to provide funds for the assistance of a new wave of refugees, the question is an entirely legitimate one.

Many contributions by the Cubans on which it is difficult to place a price tag have already been discussed. One purely quantitative method of determining their financial contribution is by establishing the amount they have paid in taxes.

An absolute amount is difficult to establish, as no statistics are available on the specific point. Nonetheless, with such figures as exist a rough calculation can be made. Assuming a Cuban population in Miami if 400,000 (which is probably an undercount), and family income of $14,000 for 1977, $14,800 for 1978 and $15,300 for 1979, and a federal income tax rate of twenty-five percent, federal income tax payments for those three years would be as follows: $390 million for 1977; $410 million for 1978; and $425 million for 1979. The three figures total $1.225 billion.

Even on the basis of what is probably a population undercount and a very modest tax base, and without the inclusion of other revenue generating factors such as real estate, sales and corporate taxes, new tourist dollars from abroad, or even the inclusion of the other 300,000 Cubans living in the United States, it is clear that in the last three years alone the Cubans living in Miami returned to the government almost the entire amount spent on their assistance of the whole community over the last twenty years. So while it is difficult to estimate the exact amount contributed by Cubans to the U.S. government, this rough calculation makes clear that the figure is quite high; Miami's Mayor Maurice Ferre has calculated, in fact, that the total amount is approximately five times higher than the total aid Cubans have received.

CONCLUSION

Concerns about the ability of the United States to absorb immigrants, and about the sheer desirability of admitting large numbers of foreign nationals in the country, are nothing new, and in fact predate the twentieth century. Yet the pattern established earlier of immigrants being absorbed into American society within a relatively short period of time seems to have held true in modern times as well.

The Indochinese migration in 1975 serves as a good example. When large numbers of Vietnamese, Cambodians and Laotians first arrived, there was considerable worry about their becoming a burden. Yet within two years only eleven percent of refugee famillies were totally dependent on welfare, and by 1978, 93.1 percent of the Indochinese in the labor force actually held jobs. Although close to 375,000 Indochinese refugees have arrived since 1975, and indeed continue to enter the U.S. at the rate of 14,000 per month, there have been no widespread reports of adjustment problems since the initial transition periods.

Americans' periodic surprise at the relatively easy assimilation of large numbers of immigrants may be due to their failure to understand the total immigration picture. While refugee waves that number in the hundreds of thousands receive widespread

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publicity, a far larger number of immigrants are quietly admitted to the country annually. In the ten-year period through the end of 1978 (the most current figures available), over four million foreign nationals came to the U.S. under this legal classification. If it is possible for our economy to absorb such large numbers of newcomers—and this has manifestly been the case—it is no wonder that much smaller groups who enter under a different legal classification are absorbed as well.

When Cuban refugees began arriving on U.S. shores in 1959, many Americans had concerns similar to those being expressed in 1980. There were worries about the ability of the American economy to absorb the newcomers, and about their taking jobs away from native Americans. General concerns existed about how they would adapt, and about how they would affect the general tenor of life in those areas where they congregated.

Experts agree that the worries were unnecessary. Cubans left the welfare rolls after an initial period of receiving modest government assistance, accepting willingly whatever jobs were available, and in many cases subsequently rose to the top of their occupational ladder. Their very presence has had the effect of creating jobs, especially in Miami, and the Latin flavor they brought to the city led to an unprecedented diversification of its economic base.

Measured by any standard, Cubans have contributed significantly to the United States and have proved to be good citizens. There is every reason to think that the pattern they established will be followed by their newly arrived fellow countrymen.

Prepared at the request of The Heritage Foundation by Sylvia Castellanos.

Miss Castellanos has been Research Director of the Senate Steering Committee for the past five years.

FOOTNOTES

[1] *Professional Manpower: A New Way to Meet the Need*, U.S. Cuban Refugee Program, Social Rehabilitation Service, Department of Health, Education and Welfare, p. 2.

[2] *Ibid.* p. 3.

[3] Rafael A. Penalver, "Post Graduate Program for Cuban Refugee Physicians," *The Journal of the Florida Medical Association*, Historical Issue, "Medicine and the Cuban Physician" (Vol. 64, No. 8), August 1977, p. 551.

[4] Juan M. Clark, "Why? The Cuban Exodus," Union of Cubans in Exile, 1977, p. 27.

[5] Harvey Rosenhouse, "The Exodus and Success of Cubans," *Vision* (Vol. 38, No. 5), March 13, 1970 (page 2 of reprint).

[6] Penalver, pp. 551–552.

[7] "Flight from Cuba—Castro's Loss is U.S. Gain," *U.S. News & World Report*, May 31, 1971, p. 74.

[8] Juan M. Clark, *The Exodus from Revolutionary Cuba (1959–1974): A Sociological Analysis*, Doctoral Dissertation, University of Florida, 1975, p. 143.

[9] Penalver, p. 553.

[10] "Training for Independence: A New Approach to the Problems of Dependency," U.S. Cuban Refugee Program, Social and Rehabilitation Service, Department of Health, Education and Welfare, p.18.

[11] "Flight from Cuba—Castro's Loss is U.S. Gain," p. 76.

[12] "How the Immigrants Made It," *Business Week*, May 1, 1979 (page 2 of reprint).

[13] Edward J. Linehan, "Cuba's Exiles Bring New Life to Miami," *National Geographic*, July, 1973, p. 80.

[14] *Ibid.*, p. 81.

[15] Clark, "Why? The Cuban Exodus," p. 31.

[16] Rosenhouse, p. 3.

[17] Clark, "Why? The Cuban Exodus," p. 27.

[18] "How the Immigrants Made It," p. 2.

[19] "Hispanic Americans, Soon: The Biggest Minority," *Time*, October 16, 1978, p. 51.

[20] "Flight from Cuba—Castro's Loss Is U.S. Gain," p. 77.

[21] Rosenhouse, p. 2.

[22] "Our Refugees from Castroland," *Saturday Evening Post*, June 16, 1962.

[23] Bill Peterson, "Miami: Cuba's Uprooted Elite Creating a New Latin Capital," *Washington Post*, December 3, 1978, p. A21.

[24] Joseph Kraft, "New Status for Refugee-Swollen Florida," *Los Angeles Times*, May 14, 1980.

[25] Clark, "Why? The Cuban Exodus," p. 29.

[26] Rosenhouse, p. 2.

[27] Clark, "Why? The Cuban Exodus," pp. 29–30.

[28] Geoffrey Godsell, "The Cubans," *Christian Science Monitor*, April 30, 1980, p. 12.

[29] Kraft, "New Status for Refugee-Swollen Florida."

GENOCIDE: PREVENT FUTURE TRAGEDY

Mr. PROXMIRE. Mr. President, the tragic deaths of 23 elderly and mentally retarded people in a hotel fire in Bradley Beach, N.J., has caused a public outcry. It appears that these unfortunate deaths could have been avoided. Yet for all the public clamor presently being heard, it is nothing compared to the public outcry to end genocide that reverberated worldwide after World War II. I am not belittling the Bradley Beach Hotel tragedy. I am pointing out some similarities. The fire at Bradley Beach became a tragedy due in large part to reliance on a single avenue of escape.

The result was a horrible death for 23 people.

By failing to ratify the Genocide Treaty, the U.S. Senate has failed to bolster its alternatives for the prevention and punishment of needless deaths. The lesson that we should learn is that we must act now to avoid future tragedy.

The genocide treaty will not guarantee that genocide will never again be attempted, but it will be another excellent means to prevent needless destruction of lives. Ratification of the treaty will not only reaffirm our commitments to the value of life and culture, it will supplement U.S. options. It will add our support of that of all the other industrial nations of the world. It will commit us in positive terms to the prevention of genocide and the punishment of those who attempt it.

Unfortunately, tragedies like the Bradley Beach fire come and go. Voices are raised in incredulous rage at the horror. It may be determined that prior action could have prevented the tragedy. Ways to avoid a recurrence will be suggested. Then it will all be forgotten.

Just as the violent and tragic deaths of 6 million Jews in World War II have been forgotten. Few indignant voices today demand that action be taken to prevent and punish genocide.

Time has reduced the outrage. Time has reduced the flame of courage and inspiration that moved 85 nations to ratify the Genocide Treaty.

The passage of time is no excuse for lack of action. The Genocide Treaty should be ratified now. Through ratification we will take a stand against genocide that is long overdue. It is the moral thing to do. It is the right thing to do. It is time to do it.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the time allocated to the Senator from Arkansas be given to me.

I understand the Senator was going to speak on the same subject I intend to speak about and I may have a statement on his behalf later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota.

THE UNFINISHED AGENDA OF 1980: SURVIVAL

Mr. McGOVERN. Mr. President, this week marks the 35th anniversary of the birth of the nuclear age. On August 6, 1945, the city of Hiroshima disappeared in a searing explosion resulting from a single nuclear device. Two days later, the city of Nagasaki vanished in a cloud of nuclear fire.

Last month, one of our major political parties convened in Detroit and nominated a Presidential candidate who believes that the United States must accelerate its nuclear buildup to achieve "superiority" over the other superpower—the Soviet Union. Next week, the other major political party will convene in New York to choose a Presidential candidate. One of these two nominees will govern the Nation during the 1980's.

All of this may make this an opportune time to consider where the world is today after 35 years in the nuclear shadow.

In this election year, most pollsters and pundits are telling us that the economy is the No. 1 issue—with national defense, fiscal issues and energy policy also of great importance. Doubtless, these are matters of deep concern to all of us.

But on further reflection, I think most Americans would recognize that the central concern of our time is the survival of humanity in the nuclear age.

The stark reality is that either the Soviet Union or the United States could launch a nuclear war which would not only end life in those two countries, but would doubtless end most forms of life on planet Earth. There is no other event in world history that has had the capacity for death and devastation of a nuclear conflict.

Today, the Soviet Union and the United States each have the capability of releasing thousands of infinitely more destructive weapons than the earlier models that turned Hiroshima and Nagasaki into raging infernos. In a future nuclear exchange involving the superpowers, hundreds of millions would die in the initial hours. The Earth would then be enveloped by death-dealing radioactive fallout that would cause millions to scream in agonizing envy over those who had been fortunate enough to die in the opening conflagration. There will be no victors in a nuclear war, and few survivors. There will be no worries over inflation, or taxes, or energy or government efficiency. There will be only the horrible remains of a dead or dying civilization choking in radioactive dust.

Yet, the accumulation of nuclear weapons continues on each side, and the triggering mechanisms become ever more delicate. Stimulated by the example of Washington and Moscow, other nations are now moving to develop nuclear weapons. A dozen countries are now either in the nuclear club or about to join.

Consider the destructive capability of a single missile-firing submarine armed with 16 missiles, each missile carrying from 3 to 10 warheads, each warhead capable of being fired to a single city with enough blast to pulverize the city.

One such missile could eliminate several cities of the size of Moscow, Leningrad or Kiev—or Washington, Chicago, or Minneapolis. We have 41 such submarines, more than enough to destroy the 250 Soviet cities of greater than 100,000 population. Those 41 submarines alone contain some 5,500 nuclear warheards. But in addition, we have a stockpile of land-based warhead on our Minuteman missiles and bombers that total 5,000. Altogether, the United States could launch 10,000 nuclear weapons—each one more destructive than the weapon that devastated Hiroshima.

The Soviet Union now has roughly the same nuclear striking power, not as many warheads as we have, but larger ones, so that the destructive power comes out roughly equivalent.

Of course, once each side had achieved enough to absorb a first strike from the other and still retaliate with sufficient force to destroy the other society—a condition that was achieved some years ago—additional weapons have had no military meaning.

A city or a country can only be destroyed once. Yet, such is the nature of the arms race that each side is building several new warheads each day—years after they have achieved the capacity for mutual suicide. In our case, approximately three new warheads have been built each day for many years, which means that 30 days from now, there will be 90 more of these devastating warheads than there are today. All this goes on years after each side has achieved the capacity to destroy the other, no matter who strikes first. The overkill madness continues day by day with enormous economic cost to each society, but with the infinitely larger potential cost—the annihilation of humanity. Civilian nuclear powerplants may be dangerous, but their danger is inconsequential compared to nuclear warfare.

Seventeen years ago, the Soviet Union and the United States signed the Limited Nuclear Test Ban Treaty to end the testing of nuclear weapons in the atmosphere. That treaty has stopped the deadly practice of polluting the atmosphere with radioactive fallout from American and Russian test bombs. In making the closing speech in support of that treaty—a speech I shall never forget that was given in my first year in the Senate—the late Senator Everett Dirksen, the Republican leader of the Senate, said:

> Mr. President, late the other night I went back to refresh myself on a little history. One of the classic reports made in our generation was the one made by John Hersey to the New Yorker, on what happened at Hiroshima. . . .
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> As he relates the story, it was 8:15 in the morning of a bright, sunny day. The weather was a little humid and warm. At 8:15 things happened. Out of the 20th Air Wing, Col. Paul W. Tibbetts, Jr., flying that B-29, and with two escort observation planes, flew over the center of Hiroshima, a town of probably 375,000 persons. Then, for the first time, the whole bosom of God's earth was ruptured by a manmade contrivance that we call a nuclear weapon.
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> Oh, the traegdy. Oh, the dismay. Oh, the blood. Oh, the anguish. When the statisticians came to put the cold figures on paper, they were as follows: As a result of 1 bomb—66,000 killed; 69,000 injured; 62,000 structures destroyed. That was the result of that one bomb, made by man in hope of stopping that war. Little did he realize what this thermonuclear weapon would do, and the anguish that would be brought into the hearts of men, women, and children. At Hiroshima it caused a mass incineration such as never before had been witnessed in the history of the whole wide world. The result was almost too catastrophic to contemplate.
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> In the accelerated march of history, how quickly we forget. But there is the account, for all to read; and it all happened at 8:15 on a bright and shining morning, when God's day began, and when, I suppose, hundreds of thousands of people were thinking that, despite the war, they had been privileged to live another day.
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> Mr. President, that happened 18 years ago last month. Since then, what have we done? What steps have we taken? How far have we moved?
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> The President calls this treaty a first step. What sort of steps have we taken except steps to make the bombs that fell on Hiroshima and Nagasaki look like veritable toys when compared to the heavy-duty, heavy-yield weapons of today.
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> I want to take a first step, Mr. President. I am not a young man; I am almost as old as the oldest Member of the Senate, certainly am older than a great many Senators. One of my age thinks about his destiny a little. I should not like to have written on my tombstone, "He knew what happened at Hiroshima, but he did not take a first step."

The Senate did take that first step, on September 11, 1963, of which the late Senator Dirksen spoke. Eight years later, in 1971, President Nixon signed with Moscow, and the Senate overwhelmingly ratified, the SALT I agreements, consisting of a high limit on the numbers of nuclear weapons on each side and a treaty curbing the construction of antiballistic missile systems. It was a small but important step toward arms control.

Mr. President, it is interesting to recall, in view of what has happened this year on SALT II, that Moscow signed the SALT I treaty at precisely the time that the United States was at war with North Vietnam, the Soviet Union's ally, and we were mining Haiphong Harbor despite the presence of Soviet ships. Conversely, the Senate ratified the treaty despite the knowledge that Soviet weapons were killing American troops in Vietnam. Why? Because both sides then understood that the danger of nuclear war transcended their differences in Vietnam or elsewhere around the globe.

But after putting in place the essential outline of a more limiting treaty, SALT II, at Vladivostok in 1974, President Ford was unable or unwilling to press this treaty to ratification. I understand that he has said recently that the greatest disappointment of his Presidency was the failure to secure ratification of the SALT II treaty. More sadly, SALT II, although seemingly in the interest of both the United States and the Soviet Union, has not been approved by the U.S. Senate after the passage of 5 more years, despite the urging of President Carter, the Secretary of Defense, and the Joint Chiefs of Staff, all of whom have said that this treaty is clearly in the self-interest of the people of the United States as well as the peace of the world.

After months and months of painstaking testimony and investigation by the Senate committees on Foreign Relations and Armed Services, and I sat through most of that testimony before the Foreign Relations Committee, Mr. President, the SALT II treaty has been withdrawn as a political impossibility in 1980.

That may very well be an accurate reading of the political scene in the United States today. But it is not a very safe reading of the survival requirements of the human race.

Advocates of comonsense and believers in human survival can only ask again: Why no commonsense agreement on the part of the superpowers to bring under control this escalating arms race which is only making the world more dangerous for both the Soviet Union and the United States as well as the rest of the people who share this planet with us? Why no agreement by the superpowers to curb the nuclear madness? Who can possibly gain from the continued costly and dangerous production of still more weapons of devastation and death? Who can count the cost to our economy of the inflation fed by the arms race? What is the cost to our industrial productivity of concentrating so much of our best scientific and technical talent in creating more and more nuclear overkill instead of producing more efficient and effective tools and conveniences to enrich the lives of our people and to make us more competitive in international commerce? Are we not also investing vast resources of money and talent and manpower in nuclear excesses that are needed to strengthen the combat readiness and the incentives for career service of our conventional Armed Forces? And beyond all of this, what are the chances for survival of humanity if the nuclear monster is not soon contained?

I have been told, Mr. President, that if the Senate cannot find some way to act on this SALT II treaty by March of next year at the latest it will be too late for the Soviets to further comply with that particular formula which is clearly in the interest of the United States. We will be back to the drawingboards for no one knows how many years of additional negotiations before another treaty can be devised.

I believe that the security of our Nation and the survival of humanity depend upon confronting these questions honestly and urgently.

Is there any sane person who believes that either the United States or the Soviet Union could win a nuclear war? Is there any sane person who believes that either side will be any safer after each has doubled or tripled its present inventory?

We can build the MX missile and add another 2,000 warheads. But does any Member of this Senate believe that the Soviet Union will be standing still while all that goes on? They will end up with another 2,000 warheads as well. And who will be the safer in the process, although obviously both will be poorer and more in danger of nuclear annihiliation?

Is there any sane person who believes that either the Soviet Union or the United States will ever again permit the other side to achieve nuclear superiority? The answer is a resounding and obvious "No" to all of these weird and frightening propositions.

There is no way to stop the accelerating nuclear arms race except by confronting the necessity of a strategic arms limitation agreement which can be verified by each side. That is what SALT II is all about.

The value of this treaty has nothing to do with whether or not we trust the Russians or whether they trust us. We would not need the treaty if we trusted each other. We would not need the verification system if we trusted each other. It is because of the absence of trust and the danger and the competition that we need a verifiable treaty to bring this arms race under control.

Let me add, further, Mr. President, that ratification of SALT II need not diminish the importance of a firm Western response to Soviet intervention in Afghanistan. United States-Soviet cooperation to reduce the threat of nuclear war does not necessarily diminish the competitive aspects of Soviet-American relations in other areas. SALT is not a favor we give to the Soviets and it is not a reward for good behavior.

It is, rather, a commonsense effort based on our own self-interest to lower the economic cost of the arms race, and more significantly, of course, to reduce the risk of catastrophic military confrontation. An escalating arms race will not improve the chances for Soviet withdrawal from Afghanistan. More nuclear weapons will not shore up our position in the Persian Gulf one iota. Our response to Afghanistan, therefore, need not preclude ratification of the SALT II treaty any more than our quarrel with the Soviet Union over Vietnam prevented the President and the Senate from signing and ratifying the SALT I treaty. The plain fact is that our interest in diminishing the threat of nuclear war is an overriding interest. It is the most critical, vital national interest to secure.

This Senate, Mr. President, must not quit until it has faced that greatest of all realities of our age. If we cannot ratify SALT II before we adjourn for the November election—and I recognize the unlikelihood of that—let us make it our first order of business after the election.

But, in any event, let us discuss and debate the issues of survival and the terms of SALT II in every election forum in America. Let us put the survival issue first in the forthcoming Presidential and senatorial competition.

I might say, parenthetically, Mr. President, that I have spent a lot of time in South Dakota in recent months and have talked to audiences all across that State. The one note that brings strong, affirmative reaction from every audience I have engaged in my State is any mention of the necessity of taking some commonsense steps to bring this escalating nuclear arms race under control and, in so doing, to increase the chances that our children will survive.

But let us return to our task after the election with a mandate either to press ahead with the ratification of SALT II or else let us frankly confess to the world that we know no other course save the continued gamble with an escalating arms race at ever higher financial cost to the taxpayers and at ever greater danger to the people with whom we share this planet.

As for me, I choose the commonsense of nuclear limitation rather than the mirage of security through an ever higher level of nuclear terror.

I have four little grandsons, Mr. President, whom I love more dearly by far than my career in the Senate or the approval of the strategists of nuclear holocaust. I do not want those four little boys to be incinerated in a throw of the nuclear dice.

Let us put SALT II back on the agenda as an essential step toward a world where the superpowers and the other inhabitants of this planet can find the ways that lead to survival and peace.

Let me state in conclusion my own list of options as to how the U.S. Senate should proceed on this issue.

First, let us consider testing the current support for SALT II by calling the roll before adjournment this fall.

Second, if we cannot ratify the treaty before the November 4 elections, as now seems to be the case, let us return in a postelection special session devoted solely to the nuclear treaty.

Third, if we do not secure either of these tests or should fail in the resulting effort, let us make the ratification of SALT II the first order of business in a new administration and a new Congress in January of 1981.

To focus the attention of the Senate and the Nation on this most crucial imperative, I am today submitting a sense of the Senate resolution setting forth the urgency of Senate ratification of the SALT II treaty. I invite my Senate colleagues on both sides of the aisle to join in cosponsoring that resolution of hope and commonsense.

Recalling the words of Senator Dirksen in the summer of 1963, let us not have it written on our tombstones:

> We knew what happened at Hiroshima, but we did not take a first step.

Mr. McGOVERN submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 498

Whereas human survival and international security are the paramount challenges facing governments in the nuclear age; and

Whereas ratification of an equitable and verifiable treaty to limit strategic offensive arms will serve United States national security interests and will contribute to the prevention of nuclear war;

Now, therefore, be it

Resolved, That the Senate should proceed at the earliest possible time to the consideration of the SALT II Treaty.

Mr. McGOVERN. Mr. President, there are two documents that I have read in recent months that I want to call to the attention of the Senate that bear on the subject we are discussing today. One deals with the larger issues involved in United States-Soviet relations. It is entitled "Commonsense in U.S.-Soviet Relations." It is published by the American Committee on East-West Accord, and is edited by a distinguished and highly respected former staff director in the Senate Committee on Foreign Relations, Dr. Carl Marcy. It carries articles by some of our most respected citizens, including Dr. Kistiakowsky, who was the science advisor to former President Eisenhower, former Senator Fulbright, Prof. George F. Kennan, the distinguished Soviet expert and diplomat, and various other people who offer a series of commonsense insights on what our policy ought to be toward the Soviet Union.

The second document that I would call to the attention of my colleagues is a booklet entitled "U.S. Military Force—1980, An Evaluation." It has been prepared by the staff of the Center for Defense Information whose director is Rear Adm. Gene R. LaRocque, a retired Navy admiral, and a man who has given his life to the study of defense and security issues. I found it a very useful analysis of U.S. military power that helps us avoid the danger either of underestimating our military power or overestimating it. As the report makes clear, there are some areas where we need to strengthen our military capabilities. There are other areas where our mission is very fuzzy and poorly defined and where we may have overbuilt our military force structure. In any event, it is one of the most thoughtful and balanced reports I have read.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. McGOVERN. Yes, Mr. President, I am happy to yield to the Senator from California, the distinguished majority whip.

I want to just say before I yield to him that the entire country owes Senator CRANSTON a debt of gratitude not simply for being one Senator who is for the SALT II treaty but for attempting day after day and night after night to organize support here in the Senate for that treaty.

I do not think there is a single Member of this body who has worked harder than the Senator from California in trying to find some commonsense basis, trying to work out some reasonable compromise on this treaty, that would enable it to pass, and I think through his efforts we almost had a compromise on the treaty that would have led to its ratification.

It is one of the deepest regrets of my life that other events were allowed to crowd in and to break up that consensus. But I welcome this opportunity to salute the Senator from California and to tell him how much I appreciate the leadership he has provided for the cause of survival over the years.

I am happy to yield.

Mr. CRANSTON. I thank the Senator from South Dakota very, very much for his fine words about my efforts in regard to SALT and to survival in the nuclear age.

More importantly, I welcome and praise the words of the Senator today in regard to SALT and to the need for finding a way to end the nuclear anarchy that threatens human life upon this planet and certainly threatens the survival of our country and its institutions, its people, its freedom.

The Senator has long been a very effective leader and an eloquent spokesman in this cause. I am delighted that he is not letting present matters divert his attention from this problem.

I believe the need for arms control in the nuclear age to be the No. 1 item on the human agenda. If we fail to resolve this problem other problems will become rather insignificant. If we stumble into a nuclear war all of our other problems will not matter. If we manage to avoid nuclear war, then we have time to come to grips with and to overcome the many, many other problems that confront us.

The Senator has given a very eloquent statement this morning of what is involved in the nuclear arms race and the threats it holds for each and every human being, not only every American but every human, upon this planet.

It is my belief that the only valid issue before the Senate is not whether to ratify SALT but when to make the attempt.

The Senator from South Dakota seemingly recognizes that many factors make it very unlikely that the Senate will take up SALT before the election:

The Senate Calendar, the need for us to adjourn this week for the Democratic Convention, the need to deal with certain matters that simply must be dealt with in order to keep the Government going and the short time remaining before the November elections. I think it is beyond the realm of possibility that the SALT II treaty can be dealt with before the election. The atmosphere that would surround the discussion of the issue, were it taken up now, despite the heavy agenda and the limited time would, I fear, make it very difficult to deal affirmatively with the issue. There is not only the atmosphere of the election but there is the atmosphere created by the Soviet invasion of Afghanistan.

For those reasons, and because of those factors, I think it would be unwise to consider the matter until the election is over. I hope very much that after the election the atmosphere will permit us to consider SALT on its merits and proceed to ratification of the treaty.

I hope the SALT II treaty and the need for arms control will be issues in the campaigns of all of us, in the Presidential campaign and in the races going on for the Senate. I will be discussing it in my campaign for the Senate in California and across the country in the course of the next weeks until election day.

Mr. McGOVERN. Mr. President, if the Senator will just yield at that point, I certainly do recognize the practical difficulties of trying to bring this matter into debate or to a vote before the November 4 elections. But I would very much hope, as the Senator has said, that it will become a major issue in the 1980 election both at the congressional level and at the Presidential level, because I think the American people want this issue discussed.

There is nothing in the timetable of the election that precludes widespread discussion of this across the country. I think Senators will be surprised at the degree of interest they encounter when this issue is discussed with the people in their States.

I remember back in 1962, and I know the Senator from California does, too, when the late President Kennedy set out on a tour of the West to do some speaking on what were described as Western issues, for example, the reclamation issue, the issues of agriculture and resource development. He got a rather mild and moderate response, not hostile, but not particularly enthusiastic either, until he struck on the issue of nuclear danger and what we had to do to survive in the nuclear age. As the press commentators reported it, that was when the President discovered the peace issue. He found how deeply all across the West the American people felt about the issues of nuclear survival. Perhaps that tour and the public reaction to it helped set the stage for the ratification of the Limited Nuclear Test Ban Treaty the following summer.

In any event, this is an issue deep in the hearts and on the minds of the American people, and I fully agree with the observations the Senator has made.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. McGOVERN. Mr. President, I think I have 15 minutes reserved. I ask unanimous consent that I be permitted to take that at this time.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes were included.

Mr. McGOVERN. I am advised that Senator CULVER, who also has 15 minutes, has been unable to return from Iowa. I ask unanimous consent that that time be allocated to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGOVERN. Then I yield again to the Senator from California.

Mr. CRANSTON. I thank the Senator very much for his very appropriate comments on the present circumstances.

I was working very hard up to the time of the Afghanistan invasion with the Senator from South Dakota and others in an effort to estimate the strength of SALT in the Senate, and to gather support in behalf of SALT. While it looked difficult at that time, prior to the Soviet invasion of Afghanistan, I always believed that we would be able to ratify SALT II, until the invasion created an atmosphere that made it exceedingly difficult to proceed at that particular time. Once the atmosphere improves, as I trust it will, I believe we will again be able to proceed successfully and ratify SALT II.

Of course the response of the American people to a debate on that issue in the course of the coming campaigns will be a very relevant factor in determining whether that estimate is correct or incorrect.

We do face deadlines in regard to SALT II next year that will make it very difficult to proceed with that particular treaty in its present form unless ratification is achieved before too much time elapses in 1981, if we do not manage to ratify SALT in 1980.

One approach that might prove wise, if it comes to that, will be simply to move to SALT III in an effort to negotiate a treaty acceptable to the Soviets and to us—meaning, when I speak of "us," to the executive branch and to the Senate—rather than proceeding with the ratification of SALT II. That is a concept that I think should be explored if that time comes and I think there is some indication that the Soviet Union as well as the United States might feel that that is the appropriate way to go.

Meanwhile, there are present deadlines looming that relate to certain contemplated actions by the Soviet Union and the United States to compliance to SALT I. If compliance breaks down with SALT I later, obviously, that will make ratification for SALT II even more difficult.

In that regard we had expected that in May 1980, the Soviets would send a new Delta-class strategic missile-carrying submarine to sea. At that time, the Soviets would have to dismantle an older submarine in order to stay under SALT I's limits.

Basically, nothing has happened because the new Delta-class submarine has not yet gone to sea-trials, though it is being moved into position to do so. Meanwhile, the Soviets have taken two older subs (Yankees) out of the water and have taken the strategic nuclear missiles out of them. This could be either to prepare for dismantling or overhaul. Thus, they are in position to comply with SALT I, but it is not yet necessary for them to take specific action such as dismantling. The Soviet Union appears to be keeping its options open to comply with SALT I when it takes the step of sending the new Delta-class strategic missile submarine to sea.

Meanwhile, we face a somewhat similar situation. A U.S. Trident submarine will go to sea trials sometime in the autumn. There is a bit of slippage in the Trident program: The first Trident sub was supposed to go to sea trials this summer, but this is now scheduled for autumn. And the United States must, under the terms of SALT I, begin at that time to dismantle an older Polaris submarine.

This option is presently open to us and the present intention of the administration is to comply.

I have some additional remarks. If the Senator is prepared to yield me the time that he now has at his disposal, I will go into that now.

Mr. McGOVERN. I am more than happy to yield to the Senator. I think the observations that he made about SALT I and even the terms of SALT II are very pertinent. It would certainly be in the interest of both countries, both the United States and the Soviet Union, in the absence of the ratification of SALT II, at least temporarily to hold the line on the terms laid down in SALT I and SALT II.

It has been a mark of some degree of wisdom on the part of both of these great powers that thus far they voluntarily stayed with the terms laid down in SALT I. I hope that that wisdom would continue. I am happy to yield to the Senator.

Mr. CRANSTON. Yes; that is a very hopeful sign. I hope that we will stay on this course and I hope the Soviet Union will stay on the course of compliance.

Mr. McGOVERN. I share that hope.

Mr. CRANSTON. I want to reiterate my longstanding support for ratification of the SALT II treaty. The Senator from South Dakota gave a very eloquent statement of the dangers of nuclear war, and the reasons for supporting SALT II relating to preserving humanity itself. Since he covered that so very, very effectively, I will go into a bit of detail on matters relating to the terms of the SALT II treaty as they relate to American national security.

I concluded, in the course of the consideration of SALT last year, that the SALT II treaty is in the national defense interests of the United States and I only came to that conclusion after long and careful study.

I have had the privilege to serve in the Senate during the negotiation of the Senate approval of the ABM Treaty and the Interim Agreement on Offensive Weapons, and I have always followed the progress of U.S.-U.S.S.R. arms limitation negotiations closely I have participated as an advisor in U.S.–U.S.S.R. negotiating sessions on SALT in Geneva.

In order to monitor the final stages of the SALT II negotiations more closely and to begin to assess its impact and contribution to U.S. military security, I formed an informal SALT study group in May 1978 with a number of other Senators. We met 41 times with the top national security advisers of our Government, such as Secretary of Defense Brown, Undersecretary of Defense William Perry, CIA Director Stansfield Turner and Chairman of the Joint Chiefs of Staff, General David Jones.

I also attended most of the hearings held by the Senate Foreign Relations and Armed Services Committees on the treaty and studied the transcripts of hearings I could not attend.

The evidence and testimony brought forth in those hearings substantiated the fact that ratification of SALT II would be advantageous to the United States.

The hearings demonstrated the following benefits to the United States of ratification of the SALT II treaty. First, the SALT II treaty would limit the size of the Soviet strategic threat to the United States to a level significantly below that which it could attain without SALT II.

Second, the SALT II treaty allows the United States to proceed with the planned modernization of its strategic forces. SALT will prohibit no planned modernization in U.S. forces, such as the backfitting of the Trident I (or C–4) missiles into Poseidon submarines; deployment of Trident submarines; deployment of the new strategic bomber mandated by the Glenn-Cranston amendment to the fiscal year 1981 defense authorization bill; refitting of Minuteman III missiles with MARK–12A warheads and NS–20 guidance systems; development and testing of strategic air-launched cruise missiles; development, testing and deployment as scheduled after 1981 of ground-launched and sea-launched cruise missiles.

Another aspect of our strategic force modernization program which SALT II permits is continued cooperation with and support of our NATO allies. The recently announced decision by the United Kingdom to purchase U.S. made Trident I nuclear submarine-launched ballistic missiles is an example of this cooperation.

I know I join many other Senators in wishing that the SALT II treaty did require much deeper reductions in both sides' nuclear arsenals.

And that is one development that could come if we proceed directly to SALT III without going through the process of seeking to ratify SALT II.

However, I feel strongly that if possible we should ratify SALT II in order to lock in the gains it does make, and proceed swiftly to negotiate those substantial reductions in SALT III. But even SALT II's modest limits achieve a significant brake on Soviet strategic weapons momentum.

Third, SALT reduces uncertainty about the size, shape, and direction of Soviet strategic forces. The Soviets are limited to 2,250 ICBM's, SLBM's, ASBM's, and heavy bombers: Of these, only 820 can be MIRV'ed ICBM's and only 380 can be SLBM's. The number of warheads is also limited. The number of any existing type of ICBM is frozen at the present level or the maximum level at which the missile has been tested if higher than the existing number. Further, the one and only new type of ICBM allowed each side under the treaty can have only 10 warheads. The number of warheads of SLBM's is limited to 14. All these restrictions on warheads will limit the Soviets to strategic warhead levels which are lower and more predictable levels than those they could achieve in the absence of SALT II's limits. Thus, SALT II would help us avoid spending precious defense dollars combating an uncertain Soviet threat of unbounded size and direction.

Even with the greatly enlarged defense budget the Senate has voted for, our military leaders are wondering if they will have enough resources to pursue the rate of military force modernization they recommend. Thus, they continue to favor ratification of SALT II because it assists them in their job of allocating U.S. defense resources.

I gather that our military leaders are much more committed to SALT II now than they were a year ago as they face the danger of an uncertain world and larger Soviet strategic threat without SALT.

Fourth, SALT II protects our intelligence collection capabilities. In the absence of SALT, the United States has no claim to information about Soviet military programs. Yet, we need this information to plan our own military forces. Under SALT II, we have the right to gather information about Soviet strategic weapons that we need to verify Soviet compliance with the treaty's terms. SALT II specifically prohibits Soviet interference with our so-called national means of verification, or our ships, satellites, monitoring aircraft, ground radar stations, and so on. Further, they cannot encrypt telemetry—that is, scramble information which is radioed back to Earth from a missile while it is being tested to tell how well the missile is performing—when that encryption would interfere with our verifying their compliance with the treaty. And, though the Soviets are acquiring an antisatellite capability, if the SALT II treaty is ratified, the Soviets will not be able to use that capability to destroy our verification satellites.

These are the main reasons that I concluded last year that the SALT II treaty should be ratified apart from my feelings about the immense dangers of the nuclear arms race.

A relevant question at this time, then, is whether or not my opinion has changed in light of the Soviet invasion of Afghanistan.

Mr. President, since the Soviet invasion of Afghanistan my conviction that SALT II must be ratified by the United States has only deepened.

I concur with the remarks of the Senator from South Dakota on that point.

The brutal and bloody invasion of Afghanistan underscored what is obvious in any cursory review of U.S.-U.S.S.R. relations. We and the Soviet Union have conflicting systems, economic and political. We are competitors and will continue to be. We have many advantages in this competition, however, that we should not lose sight of. We are blessed with secure borders and friendly neighbors, with the exception of tiny Cuba. By contrast, the Soviet Union shares the longest common border in the world—4,150 miles—with China, an avowed enemy, well armed, possessing nuclear weapons, and a nation with the largest population of any on Earth.

Much of the recent growth in Soviet military forces is pinned down on its Far East border.

Soviet industrial growth last year fell nearly 50 percent short of the national target. Even as the Soviet industrial infrastructure continues to decay, the hunger of their people for superior Western technology and consumer goods grows. Our production of food and fiber is legendary, while agriculture has long been the Achilles heel of the Soviet system.

Not only can we feed ourselves and much of the rest of the world, but scientifically and technologically we are far ahead of the Soviets because our free system sparks innovation in contrast with the stagnation which has characterized Soviet efforts.

Even with our many advantages, the competition between our two nations is fierce. The Soviet Union has a great ability to direct its national resources and will on military competition, opportunism, and adventurism.

Thus, the question is not whether we will continue to compete with the Soviets, but, rather, how we compete.

Ratification of a sound and verifiable arms limitation agreement such as the SALT II treaty is one way to compete militarily with the Soviet Union, complementing improvements we make to our military forces. If we succeed with SALT and arms control more generally, we will nonetheless still be competing with the Soviet Union, but it will be a safer and more stable competition—one with less chance of confrontation escalating into the catastrophe of a nuclear war.

Mr. President, the only valid question before the U.S. Senate, in my view, is when to ratify SALT II, not whether to ratify it.

THE UNFINISHED AGENDA OF 1980: SURVIVAL

● Mr. PELL. Mr. President, I wish to support the resolution offered by the senior Senator from South Dakota. I, too, believe strongly that the SALT II treaty should be the first order of business for the Senate after the election. The survival of humanity in the nuclear age, is, indeed, the central concern of our time as Senator McGOVERN has stated. And there is no better way to insure the survival of humanity than to ratify the SALT II treaty as soon as possible so that the process of controlling and reducing nuclear armaments can be continued.

The alternative to negotiated reductions and other constraints on strategic nuclear weapons is an unrestrained and expensive arms race that neither the United States nor the Soviet Union can win. While it is tempting in an election year to talk about regaining strategic nuclear superiority over the Soviet Union, the fact of the matter is that neither of the superpowers is going to permit the other to gain the upperhand. We are at a stalemate now, and the only realistic issue is how to perpetuate this stalemate at a lower, safer, and less expensive level. A resumption of the nuclear arms race cannot but end up in another stalemate, but only at a higher, more dangerous, and more expensive level.

Not everyone in this body supports the SALT II treaty, but even the treaty's most outspoken opponents have declared their support for the SALT process and for some treaty controlling United States and Soviet strategic nuclear arms. If, therefore, the SALT II treaty does not command the support of two-thirds of the Senate, we must be in a position to develop some other approach to negotiated constraints. Otherwise, willy nilly, we will be heading in the direction of a resumed arms race as the alternative to a treaty.

If we do not even take up the SALT II treaty, we will not know where the Senate stands; and there will thus be neither a treaty nor new negotiations on an alternative arrangement. In this vacuum, I fear, we could slip irreversibly into pursuing the ugly alternative of an arms race without the benefit of a national debate on whether that is the best and most feasible way to enhance our national security.

I believe, therefore, that the Senate must pass judgment on the SALT II treaty as soon as possible. As a political reality, I know that we probably cannot do that this year; but we ought to take up the treaty as the first item of business next year.

As we all know, the Senate leadership agreed to President Carter's request that the Senate not take up the SALT II treaty because of events in Afghanistan. I reluctantly supported that decision, because I knew that under the circumstances of the moment, the treaty had little chance for a thoughtful appraisal. Since then, however, the administration has mounted a major diplomatic effort to condemn the Soviet invasion of Afghanistan and to make the Soviets pay a price for their brutal action in direct violation of the U.N. Charter. This effort has met with some success, and although there is no immediate prospect for a Soviet withdrawal from Afghanistan, we are certainly in a much better position to deal with that situation than we were earlier this year.

We are in a waiting game with the Soviets on Afghanistan, but there is no reason to include SALT as a part of that waiting game. In fact, if the Soviets are contemplating a resumption of a campaign of aggressive adventurism, it is all the more in our interest to ratify a treaty that places meaningful constraints on the most dangerous area of our competition with the Soviet Union, that is, in the area of strategic nuclear weapons.

In addition, if we are to be successful in carrying out the recently agreed NATO policy of modernizing theater nuclear weapons in Europe and restraining the growth of both Warsaw Pact and NATO theater nuclear weapons, early action on SALT could be critical. Our NATO allies have made it clear that they are very nervous about proceeding with either of these elements of NATO policy until a SALT treaty has been approved.

Many of my Senate colleagues from agricultural States—including many Senators opposed to or undecided about the SALT II treaty—have called for an end to the grain embargo as a means of punishing the Soviets for their invasion of Afghanistan. I am impressed by many of their arguments for ending the embargo, especially the one that it hurts us more than the Soviets. But if the continuation of the grain embargo hurts us, the continuation of the embargo on SALT hurts us even more. There is simply no reason to delay action on a treaty that constrains Soviet forces while permitting us to pursue all of our programs.

I am deeply fearful that the United States is about to miss a vital opportunity to stabilize the nuclear competition with the Soviet Union and thus make nuclear war less likely. Members of the Foreign Relations and Armed Services Committee have debated fine points of equivalence, of throw-weight, numbers of warheads, and verifiability. But I came away from those debates wondering whether any of us fully appreciated the awful risks we would run if we turn our backs on a treaty.

The greatest advantage of a treaty is that it establishes a predictable framework of limits for nuclear weapons development on both sides and lays the basis for further constraints. Without this predictability in the present and near future and the commitment to pursue further constraints, nervousness and suspicion will grow in both the United States and the Soviet Union. Each government will worry that the other is gaining an advantage. In such an atmosphere, I submit, the chances of stumbling into a nuclear war are more likely; and I am not sure that we fully realize what it is we might stumble into.

We have gotten used to—even numbed by—the jargon of nuclear strategists and military experts. We daily read about the "nuclear balance" and the latest developments in "nuclear weapons," but we do not hear enough about what "nuclear war" is all about. The memories of Hiroshima and Nagasaki have faded, and even the faded memories of what the relatively small atomic bombs that demolished those cities did have not been sufficiently updated so that the American people are fully aware of what a nuclear war today would involve.

This past February, a group of distinguished physicians and natural scientists met in Cambridge, Mass. to review the consequences of nuclear war. Their conclusions were blood-chilling. Take for example this excerpt from the discussion in Cambridge that two Washington doctors presented in a recent article published by the Washington Star:

> In an all-out nuclear exchange, all major population and industrial centers would be hit, both in the United States and the Soviet Union. Such an exchange could be complete in one hour. At least 90 per cent of the population of both countries would die as a direct result of the thermonuclear blast and radiation.
>
> The survivors, many of them blind and grievously injured, would have to cope with an environmental and ecological catastrophe. Worldwide fallout would contaminate the earth for thousands of years. Plant and bacterial mutations, the disappearance of most birds and mammals, alterations in the earth's temperature and other atmospheric changes would result in disease, famine and floods on an unprecedented scale.
>
> After an all-out nuclear war, most of the ozone layer in the earth's atmosphere would be destroyed, according to Professor Henry Kendall, a physicist at M.I.T. The sun's rays would then become terrifying and dangerous. Anyone in the world whose uncovered skin is exposed to daylight would risk incapacitating sunburn within 10 minutes and lethal sunburn within an hour. Skin cancer would

become rampant. In the long run, only insects can be assured of survival in such a postwar world.

I hope that all of my colleagues will bear these remarks in mind as they search the SALT II treaty for undotted "i's" or uncrossed "t's". Our top military experts, including the Joint Chiefs of Staff, have endorsed the treaty, and they are fearful of a world without SALT.

I would like to see the SALT II treaty approved, but I am more concerned that we end the delay in passing judgment on it. If it does not have the necessary support in the Senate, let that be determined quickly so that we can turn our attention immediately to a negotiated alternative. We should not allow an arms race alternative to become American policy by default and without debate. We owe that to ourselves, to our children and to our children's children.●

Mr. McGOVERN. Mr. President, I again thank the Senator from California for his excellent statement today and for fleshing out this discussion on some of the other aspects of the nuclear equation.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. BOREN). The Senator has 26 minutes left under the special order.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the remainder of the time allocated to Senator PELL be allocated to me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McGOVERN. Now, Mr. President, I yield to the Senator from Michigan (Mr. LEVIN).

ARMS CONTROL

Mr. LEVIN. I thank my colleague from South Dakota, Mr. President. He is to be commended for instituting this morning's discussion, on the importance of arms control in today's world. I not only commend him but also the Senator from California (Mr. CRANSTON) for the leadership he has taken so uniquely and so importantly in the effort to bring the SALT treaty to the Senate for a vote on ratification.

There is nothing more important than this discussion. It is critical that we have arms control, and the worse the times the more important it is that we have it.

It is particularly appropriate that this colloquy occur today, Mr. President. Just last Friday Members of the Senate and House Committees on Armed Services finished their conference to resolve differences between the Senate and House versions of the fiscal 1981 Department of Defense Authorization Act. The outcome of the conference is a $52.8 billion account for weapons procurement and defense research and development in fiscal year 1981. It is one of the largest defense authorizations in recent history. It totals about $7 billion more than the President's budget request.

Mr. President, among the many programs it authorizes are procurement and research and development of the missiles, rockets, aircraft, and artillery capable of delivering strategic and tactical nuclear destruction on any enemy of the United States and its allies.

The conventional weaponry contained in this act—ranging from tanks to aircraft to ships—will help maintain our forces and those of our allies at a level at least equal to, if not greater than, those of the Soviet Union and its allies.

This authorization act is testimony both to our determination to fulfill our national security commitments and the need for far more progress toward arms control in the future.

Representing more than 16 percent real growth in defense spending above the fiscal year 1980 defense budget authorization, this act should serve as a strong reminder to us of what the future holds if arms control in both conventional and nuclear weapons is not more successful.

This is so, Mr. President, because, while this bill was shaped in the shadow of SALT II, the emerging outlines of SALT III and the vestiges of the mutual and balanced force reductions (MBFR) talks, it represents only one counterweight in the difficult balance between arms control and military programs which are needed for real national security.

This bill contains many billions for programs which could be positively effected by successful arms control efforts in these areas in the future—both in terms of increased military effectiveness and reduced costs.

As a member of the Armed Services Committee, I was struck by how little arms control considerations entered into our committee's deliberations on next fiscal year's defense budget. Only tangentially did we consider how arms control might enable many of these programs to be more militarily effective and less costly. Perhaps this discussion today will serve to remind us of this inextricable link between reasonable, verifiable arms limitations and military programs.

Our committee spent hours discussing such abstract theological concepts of strategic and tactical nuclear war as "prompt, hard target kill capability," "counter-military potential," "rough parity," "essential equivalence," "flexible response," and "coupled or decoupled theater nuclear forces." To the contrary, we spent but a few minutes, if that, contemplating the grisly horror that would befall all of us if such abstractions ever became reality.

Perhaps today's dicussion will give us pause to think quietly about that horror, the avoidance of which is what deterrence, defense and arms control really is about. In this regard, today's discussion takes on even more relevance, since it comes but 2 days before the 35th anniversary of the first use in war of a nuclear weapon.

We too often forget the extent of the human destruction and agony caused by the atomic bombing of Hiroshima, Japan, on August 6, 1945. I shall not dwell on such remembrances, since my colleague from South Dakota has so eloquently described them in his own remarks.

I shall focus instead on the military effectiveness and budgetary benefits of reasonable arms control agreements, and include SALT II in this category. But we must never overlook whatever contributions arms control might make toward reducing the prospect that there will be more Hiroshimas in the future.

Mr. President, my experiences on the Armed Service Committee have convinced me that, contrary to what some say in the Senate and across this land, reasonable, equitable arms limitation agreements are not mutually exclusive with sound military spending programs.

Instead, I view both as complements rather than substitutes—as equal parts of the same equation of political, economic, social and military factors on which we base our national security.

I do not believe that we can have one without the other—that arms control is possible without a strong national defense, or that military strength is not fortified by acceptable arms limitation agreements.

In saying this, I caution against asking too much of arms control negotiations and establishing acceptability criteria which no weapons limitation agreement ever could meet. Arms control agreements should not be judged on whether they do away with nuclear weapons, permit massive reductions in defense spending, restore the United States to its former overwhelming military and political superiority over the Soviet Union, or end the rivalry in both those spheres between our two nations. Such criteria are unrealistic and they represent goals which are impossible to achieve in today's world.

As an aside, I would say this is especially true for any attempt to regain what some refer to as "overall military * * * superiority over the Soviet Union." Given the military capabilities both nations already have and the determination both have demonstrated to allow neither to obtain any long-standing, meaningful military advantage in the past and present, such references ought to be dismissed as, at best, "wishful thinking" and, at worst, as outright self-delusion.

Even rejecting this "superiority pipedream," the requirement to maintain and modernize our nuclear and conventional arsenals, as appropriate, will continue regardless of progress in arms limitation. Such maintenance and modernization will not be inexpensive.

The political and ideological rivalry between the United States and the U.S.S.R. will continue with or without arms control agreements, also. This rivalry, with an internal dynamic and momentum of its own, will insure that the military competition will endure between our two nations and their respective allies.

Instead, we should judge arms control efforts from the perspective of "limited results from limited possibilities," and we should not be hasty to reject partial fulfillment of our goals in any such exercise in our disappointment that total achievement was, or is, impossible.

We should not blind ourselves to the partial benefits of such negotiations and agreements as those embodied in the

SALT II Treaty and Protocol and in the SALT process.

Progress in the SALT process and any resulting SALT agreement is much more likely to represent incremental, rather than dramatic, movement toward arms limitation. It can be no other way in a treaty and a process in which each side views its national security at stake and thus will move extremely slowly to reach even the most minor compromise.

However, if arms control efforts in general—and SALT II and the SALT process in particular—permit us to build fewer nuclear weapons, spend fewer defense dollars and constrain our competition with the U.S.S.R. to even slightly less deadly levels—all compared with what we would be required to do without them—then they should not be rejected as failures because they do not produce all we hoped.

Arms control and SALT II are good for the United States, because they are limited, useful steps in the right direction, not because they are a panacea which solve all the problems associated with nuclear and conventional weapons and the geopolitical differences between our country and the Soviet Union. This is true whether the Soviets are engaging in atrocious aggression in Afghanistan or sending their surrogates to accomplish similar acts in other regions of the world.

I support SALT II because I believe that is such a limited and useful step, Mr. President. My feelings were reinforced by the convincing testimony I heard before our committee this year during the fiscal year 1981 defense budget authorization hearings.

This testimony from our Nation's top military officers demonstrates the value of SALT II as well as the positive and complimentary interrelationships between arms control and our weapons procurement and defense research and development programs.

For these reasons and others, Mr. President, I hope the full Senate and the American people will turn again in the near future to considering and supporting ratification of the SALT II Treaty and Protocol.

First, Mr. President, let me quote testimony from DOD's top scientist, Dr. William J. Perry, Under Secretary of Defense (Research and Engineering), and from the military's top nuclear forces planners—Gen. Richard H. Ellis. Air Force, Commander of the Strategic Air Command, and Vice Adm. Charles H. Griffiths, Navy, Deputy Chief of Naval Operations (Submarine Warfare).

Dr. Perry, General Ellis, and Admiral Griffiths all testified on February 20, 1980, well after the Soviet invasion of Afghanistan, that ratification of SALT II still was in the best interest of the United States. Their responses to my questioning during our committee's hearing on strategic nuclear forces were as follows:

SALT II AND ESSENTIAL EQUIVALENCE

Dr. Perry. Our efforts to maintain essential equivalence would be complicated by the absence of a SALT II Treaty because SALT II does place real limits on the Soviet ICBM programs. SALT II places limits on the number of MIRVed launchers as well as the number of RVs per missile. These constraints have marginal impact on the U.S. We can stay within the limits and have enough forces to carry out our military objectives. However, without the SALT II limits, we can expect the Soviets to expand their forces. To maintain essential equivalence in this case we would be obliged to increase our forces.

General Ellis. As I stated in my prepared statement, Mr. Chairman, "the delay in ratification of SALT II promises to further aggravate the balance." From a military perspective, the U.S. needs SALT II more than the Soviets. I testified to this committee last year that the ratification of the SALT II Treaty did not obviate the critcial need for U.S. strategic force modernization. We can pursue the necessary initiatives with or without a SALT II agreement. The point is that SALT II restraints limit Soviet quantitative improvements and thereby lessen the threat environment through the life of the treaty. When coupled with timely U.S. modernization initiatives, the disturbing trends in the military balance of power can be reversed. While uncertainties remain, Soviet force improvement momentum both qualitatively and quantitatively, will accelerate the imbalance to a greater degree absent a SALT II agreement.

Admiral Griffiths. I stated my belief that our effort to either maintain or recover essential equivalance is complicated by the absence of the SALT II Treaty. My reasons are similar to those set forth by Secretary Brown in detail on pages 39–42 of the Classified Annual Report for fiscal year 1981.

Later in this hearing, Dr. Perry's testimony indicated that, even under SALT II, the Soviets could deploy enough missile warheads to force the United States to greatly increase the scope and cost of our new MX intercontinental ballistic missile program to insure survivability of this leg of our strategic nuclear Triad. Without SALT II, the financial and environmental costs of the MX system could soar even higher than the present $33.8 billion estimate not including future inflation, he indicated. I should note that our DOD Conference Report contains some $1.5 billion for MX research.

There already are serious questions whether the MX system—with or without SALT II—can be made survivable against a determined Soviet warhead expansion, Mr. President. It is a certainty that the problem will be much more difficult to solve in a world without SALT II.

General Ellis' other responses to me clearly show that without SALT II's verification provisions, our capabilities to monitor Soviet strategic force developments would be hindered. Such monitoring is an essential ingredient in our defense program and budget planning each year.

ADEQUATE MONITORING WITHOUT SALT II

Senator Levin. If the Soviets deploy a multiple protective shelter system similar to the M–X, would you be confident that the U.S. could adequately monitor Soviet ICBM deployments without the verification and compliance provisions contained in the SALT II agreement?

General Ellis. Senator Levin, SALT monitoring, verification or compliance are not the responsibility of SAC. The Air Staff has provided the answer to your question as follows, "The degree of confidence that we have in our ability to monitor a Soviet multiple protective structure (MPS)ICBM deployment without the verification and compliance provisions contained in the SALT II agreement varies from low to high-moderate. Our success in monitoring such deployments would depend primarily on the design of the Soviet MPS system. The size of the missile and the transporter erector launcher, as well as the extent to which cooperative measures such as verification ports are incorporated into the system design, would affect our ability to adequately monitor the deployment."

MONITORING WITH/WITHOUT SALT II

Senator Levin. Would it be easier to monitor Soviet multiple aim point ICBM deployments in a world with or without SALT II?

General Ellis. Again Senator, SALT monitoring and verification are not the responsibilty of SAC and the following answer has been provided by the Air Staff. "In the context of the SALT II Treaty, the deploying side would be obliged to configure and operate its multiple protective structure (MPS) system in a manner that would permit the other side to verify the number of launchers deployed. Our M–X in an MPS system is designed to meet this criterion. While we cannot predict the character of a Soviet MPS system, should they follow our precedent with regard to design features and cooperative measures, we believe the system could be adequately monitored. Without the incentives associated with the need to comply with a SALT agreement, it is unlikely that a Soviet MPS would be designed to allow such monitoring."

SATELLITE MONITORING

Senator Levin. In a world without SALT II, would United States monitoring of Soviet MPS ICBM deployments be possible from satellites, or would on-site inspection be required?

General Ellis. Senator, once more, this is not my area of responsibility and I must call upon the Air Staff for the answer. They state that "With or without a SALT II agreement, we would attempt to monitor any Soviet multiple protective structure (MPS) system, with satellites. Within a SALT environment, the Soviet would be obliged to design and operate their system in a manner that would allow us to verify the number of launchers deployed. We believe that with appropriate cooperative measures, an MPS system could be monitored adequately using national technical mean (NTM) of verification (that is, satellites), without on-site inspection. In an environment without SALT, the Soviets would be unlikely to incorporate the necessary cooperative measures in their MPS system, thus reducing the likelihood we could monitor it adequately with NTM."

OPTICAL VERIFICATION

Senator Levin. Would optical verification from satellites be susceptible to deception in a world without SALT II? Would SALT II's ratification help prevent such deception?

General Ellis. Although this is out of my area of expertise, I think it would be reasonable to say that, "Without SALT II, optical verification from satellites would be more susceptible to deception because there would be no ban on interference with national technical means of verification. Additionally, there would be no ban on deliberate concealment of verification-related information."

At later hearings on the fiscal year 1981 defense budget, the top officers of our armed services all testified to the benefits of ratifying SALT II.

Gen. Edward C. Meyer, Army Chief of Staff, told me on February 26, 1980, that if SALT II is not ratified, our efforts to maintain and modernize our conventional forces probably would be hampered by increased strategic nuclear needs. He stated:

> However, without SALT II there would probably be additional requirements for strategic force modernization programs in

> order to maintain essential equivalence. Expenditures to maintain this equivalence would probably be at the expense of overall defense program balance which would likely divert resources from general purpose forces.

The next day, Adm. Thomas C. Hayward, the Chief of Naval Operations, responded to me that the Navy and the Nation would be better off in a world in which SALT II was ratified. My question and his response were as follows:

WITH OR WITHOUT SALT II

> Senator LEVIN. Admiral, given the competition for resources within the defense budget, and between the defense budget and other Federal spending areas, would the Navy be better off in a world with or without SALT II's ratification?
>
> Admiral HAYWARD. It stands to reason that a SALT II environment, or any other mutually constraining arms limitation regime, would reduce the uncertainty in defense planning and thus be beneficial to the budget allocation process. In that context, the Navy, and indeed the Nation would be better off with SALT II ratification than without it.

Lastly, the Chief of Staff of the Air Force, Gen. Lew Allen, Jr., testified on March 3, 1980, that it would be easier for him to carry out his responsibilities as that service's top officer in a world with SALT II than in an environment without it because the Treaty and Protocol would limit the Soviet threat and enhance stability in international crises.

My dialog with General Allen, himself a noted nuclear physicist and strategic weapons planner, was as follows:

WITH OR WITHOUT SALT II

> Senator LEVIN. Would it be easier for you to carry out your responsibilities as Chief of Staff in a world with or without SALT II and why?
>
> General ALLEN. With SALT II, and the reasons, of course, are that SALT II would place a cap on Soviet buildup and limit the particular threat that they can mount.
>
> Senator LEVIN. Is that the only reason? That reason has been given frequently. Are there any other reasons?
>
> General ALLEN. Yes. There is another reason and that is that an intelligently negotiated SALT agreement yields forces on both sides which provide the desirable characteristics of stability in deep crisis; whereas in the absence of a SALT arrangement, there is a tendency for both sides to move to situations which are not stable in deep crisis. That gives a military man great difficulty in handling it.
>
> Such situations would be caused by the Soviets going to such postures; going to heavy fractionating, and highly invulnerable forces which are extremely undesirable, not because the threat is high but because it is a very unstable posture. We should have arms control agreements which minimize the Soviets' propensity to go to such terrible force structures.

Mr. President, there can be no other conclusion than that appropriate arms control efforts can have a major and positive effect on the scope, composition, and cost of our entire defense budget.

In addition to the above-cited interrelationships between our defense programs and SALT II, we should remember that SALT III will affect our effort to modernize our longer range theater nuclear weapons in Europe. This is an important NATO program, and the DOD conference report we have just finished contains hundreds of millions of dollars for R. & D. and procurement of the cruise missiles and Pershing II ballistic missiles involved.

Should a SALT III agreement be successfully negotiated, perhaps it could permit us to reduce the deployment levels of such weapons and of other theater nuclear weapons in Europe, as well as restrain the Soviet Backfire bomber and SS-20 mobile missile threat these weapons are now needed to deter.

Progress in the now-stalled MBFR talks could affect many of the Army's force improvement programs in Central Europe, including, among others, the fighting vehicle, helicopter, and air defense programs partially funded in the DOD conference report. The Army will have great difficulty fully funding all these programs in the next few years, and if arms control efforts can reduce any of this budgetary pressure, they should be encouraged.

The chemical weapons limitation talks now underway between the United States and the U.S.S.R. should influence any future Congressional decision whether to authorize production facilities for new binary chemical munitions. Progress in these talks could also reduce the perceived advantages the Soviets may have to wage offensive chemical warfare.

Mr. President, this list could continue, but I believe I have made my point about the importance of arms control considerations to our national security. I should like to close with a personal note.

When I came to the Senate 2 years ago, I had high hopes for arms control progress and for the willingness of this body to make the needed decisions in this area.

Reflecting on these hopes, I will admit to being a bit too optimistic on both counts. Instead of ratification of SALT II and the commencement of SALT III, I have seen the international and domestic political environments join to frustrate these modest efforts at arms limitation.

I have seen the Congress and the American people set aside arms control considerations in reaction to the increased international challenges now facing this Nation. In our rush to make needed improvements in our military posture, we have overlooked the contributions that reasonable arms control can make to our national security.

That is a sad and unwise oversight, and ultimately a self-defeating one, Mr. President. We would be far wiser, as we accelerate our defense programs, to accelerate our efforts to reach reasonable arms limitation agreements.

I hope that this colloquy, and the resolution introduced by our distinguished colleague from South Dakota, will underscore the need for this renewed national commitment to arms control.

Mr. President, the Senate missed an important opportunity to make arms control progress by our inability to date to approve the SALT II treaty and protocol.

Whether we can still approve SALT II in 1980 is certainly open to question. What cannot be questioned—what should be unmistakably clear—is that SALT II should be ratified as soon as possible.

I thank again my friend from South Dakota for yielding me time, and I commend him for his energy and his constancy in this cause. It will bear fruit, if not this year, next. I hope he and others in the Senate, particularly Senator CRANSTON, who has provided so much leadership in this effort, will take heart and continue.

Mr. McGOVERN. Mr. President, I congratulate the Senator from Michigan on his excellent statement. I especially appreciate it because Senator LEVIN speaks as a member of the Armed Services Committee. He has looked at the whole defense and security equation very carefully and thoughtfully. What he has to say on this subject carries special weight.

I was especially impressed with the point he makes that with or without the SALT II treaty the rivalry between the United States and Soviet Union will doubtless continue.

We are two different social systems. They see the world through different eyes than we do and they are going to continue to press their system wherever they can. We prefer a system of democratic capitalism and we are going to try to encourage the spread and efficacy of that system.

So the competition will continue. But it does not mean these differences we have, such as the one in Afghanistan, need preclude areas of accommodation in the nuclear field, which is so important and so crucial, not only to the two superpowers, but to the world at large.

So I am grateful to the Senator for his remarks. I think he has added substantially to this dialog today.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado (Mr. HART) is to be recognized at this time.

Mr. McGOVERN. Mr. President, Senator HART is unable to be here today, although he told me he is in full support of the issues that we are discussing here today.

I ask unanimous consent that his time be allocated to me.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CRANSTON. If the Senator will yield me 1 minute to respond to Senator LEVIN, I would like to say that the distinguished Senator from Michigan (Mr. LEVIN) did make a very fine contribution to this discussion.

I consider him a very effective Member of this body on these issues. He has brought great strength to the Armed Services Committee, has been very diligent in his work there, and in a very short time mastered the intricacies of arms control and national defense in a way that enables him to make extremely significant contributions to the work of the Senate.

For that, I praise and thank him.

Mr. BUMPERS. Mr. President, I join this colloquy with my colleagues on the subject of whether we should pursue "superiority" over the Soviet Union, because I am firmly convinced that such a quest would not only be impossible and unbelievably costly, but also one of the most dangerous decisions we could ever make.

Secretary of Defense Harold Brown stated last Monday, July the 28th that as "desirable and attractive as the goal of across-the-board supremacy may be in the abstract, a hard-headed assessment of what its pursuit might mean is sobering." Let me highlight four of the sobering, hard-headed conclusions our Secretary cited in his thought-provoking speech last week:

First, the pursuit of superiority would mean the end of arms control. By definition, strategic superiority and arms control are incompatible—a race to superiority is an attempt to achieve a real military advantage, one which the losing party would never accept in a formal arms control agreement.

Second, it would mean an uncontrolled, open-ended, and very expensive arms race. The sums involved would be enormous.

Third, in the context of real world constraints of finite resources, the tendency would be to skimp on conventional forces and to concentrate on a race in strategic weapons.

Fourth, the pursuit of superiority would channel United States-Soviet competition into the most dangerous arena—the one most likely to lead to nuclear war. "At some point along the line," stated Secretary Brown, "in a world in which East-West relations would be strained beyond anything in recent memory, one side—its resources stretched to the limit—might believe that the only way to prevent the other from achieving superiority would be to strike first."

Thus, if we join the crusade for superiority, ultimately our sense of national security will be clouded by deep, serious uncertainties and a high risk of World War III. We would, in effect, be returning to the hyped-up decisionmaking environment of 10 years ago.

Ten years ago, Mr. President, we had no way to force the Soviets to stop building additional fixed land-based ICBM launchers. By the late sixties, they had been deploying their SS-9's and SS-1's at a rate alarming to many specialists, and not just the alarmists who are, of course, still with us. The SALT I Interim Agreement prohibited further construction of fixed ICBM launchers. This valuable freeze was preserved in the SALT II package, which a misguided pursuit of superiority would promptly thaw out.

Ten years ago we had no way to impose an overall ceiling on all Soviet strategic nuclear delivery vehicles—bombers, ICBM's, submarine launched ballistic missiles, SLBM's. Today, with SALT II, we have set a mutual limit at 2,250. Without this SALT ceiling, planning for the "worst case" on both sides would be a sure-fire recipe for another major upward spiral in the arms race. If SALT is rejected, our intelligence community estimates that by 1985, the expiration date of SALT II, we could be facing as many as 3,000 Soviet strategic nuclear delivery vehicles; 3,000 ICBM's, bombers, and SLBM's. We could match their jump from 2,250 to 3,000, but because we would be starting from a point roughly 500 behind the Soviet, and since their ICBM production lines have not been shut down as ours have, we would have to go much harder, much farther, much faster to catch up.

Ten years ago, when we were developing what became the destabilizing MIRV technology, we apparently were not even seriously thinking about how to limit Soviet multiple strategic warheads. Now, with SALT II, we have set such limits. Without them, the number of Soviet strategic warheads would probably increase by 2,000 to 3,000 over the projected level limited by SALT. The Russians, instead of having limits on the number of warheads per missile, would be free to exploit the combined advantages of large throw-weight and their own rapidly attained MIRV technology. For the example that has been repeated often in the Senate, the large SS-18, limited by SALT II to 10 warheads per missile, could hypothetically pack 30 or more.

Ten years ago, we had no mutually agreed upon verification provisions. Now we do. Our intelligence community says these special provisions will make our assessment of Soviet treaty compliance easier and more confident. Reject SALT, and the Soviets would be perfectly free to use any and all methods of concealment, thus making our overall intelligence far more difficult. If we consciously turn our backs on the achievements of SALT II by plunging into the heady race for superiority, I would hate to be the U.S. intelligence officer responsible, among other things, for monitoring Soviet mobile ICBM's.

In light of the pervasive atmosphere of secrecy in the Kremlin, the progress we have made in terms of verification has been excellent. With SALT, the Soviets are prohibited from interfering with our national technical means of verification, such as our photographic satellites and a wide variety of other secret intelligence collection techniques. Equally remarkable, they, and we, cannot engage in any deliberate concealment measure which impedes verifying compliance with the treaty's provision.

SALT II provides a series of detailed, precise definitions and counting rules which make our overall monitoring task far easier. SALT II provides an agreed data base on strategic forces, with heretofore top secret figures furnished by the Soviet Union on their own forces for the first time. This landmark data base provides a benchmark against which to measure any disagreement with our intelligence estimates. Finally, SALT II continues the extremely useful joint Standing Consultative Commission, which addresses, on a rational and regular basis, the most sensitive questions on the implementation of the terms of the treaty.

Do we really want to junk these achievements? Do we want to engage in a maximum deception campaign, reduce our annual defense debate to a one line item appropriation? Do we want to reject our recent arms control accomplishments to face an uncertain strategic balance, with no limits on numbers, no limits on qualitative improvements, no limits on numbers of permitted warheads, no limits on the paranoia of "worst case" worrying?

Do we want to spend an extra $100 billion above and beyond what we would spend under SALT II just to stay even with the Soviets? I have no doubt that we could match any Soviet strategic program. We can build the big SS-18, even if our Joint Chiefs of Staff cannot find a role for it in our targeting. We can build the Backfire, if we want to take a step backward in aerodynamics. We can do all these things because we can throw as many dollars at problems as the Soviets can throw rubles.

I am, however, equally convinced that at the end of such an expensive round in the arms race, neither we nor the Soviets would have gained a usable advantage. Do we feel more secure now even after spending hundreds of billions of dollars? What bothers me, particularly as a steward of my constituents' taxes, is that we would be forced to spend tens, maybe hundreds, of billions for this unnecessary strategic arms race. These billions could doubtless be better spent, or better still, saved.

As a number of the SALT hearings highlighted, the hardest task for a policymaker and a defense strategist is to discover how to limit the capability of your possible opponent. How do you convince him that more strategic nuclear weaponry means less, not more security? How do we convince ourselves that, unlike the way we fought the last conventional war, additional nuclear weapons have no practical application? No significance? In this regard, during one of the marathon hearings conducted by the Foreign Relations Committee last year, General Seignious cited the 25-year-old forecast of our commander in the Pacific Theater during World War Two, Gen. Douglas MacArthur:

> War has become a Frankenstein to destroy both sides. No longer is it the weapon of adventure whereby a short cut to international power and wealth—a place in the sun—can be gained. If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess the chance of the winner of a duel—it contains rather the germs of double suicide.

What Douglas MacArthur concluded a quarter of a century ago was developed with equal brilliance in an essay by Prof. Hans Morgenthau. Published in October last year and titled "Fighting the Last War," Dr. Morgenthau writes:

> Nuclear weapons radically transformed the conventional relationship between military destructive capacity and political power. Once you are able to destroy your enemy utterly even under the worst of circumstances, you have reached an optimum level of armaments beyond which it is obviously senseless to continue stockpiling. This distinction between conventional and nuclear armaments is what makes nuclear disarmament theoretically possible. For once you have enough nuclear weapons to assure the destruction of the enemy, you need no more: additional weapons beyond this point have no military or political significance.

Mr. President, the wise observations of

those two men take us well into the second unknown, the unknown that ought to frighten all of us into a realization of the radical difference between nuclear and conventional war. Nobody can say with any reasonable degree of accuracy where we wind up in a strategic arms race.

This would be a race to stockpile ever more destabilizing weapons and first-strike capabilities in the hands of each side.

This would be an arms race conducted by a new generation of leadership in the Soviet Union, and the United States working in an environment of unrestrained, suspicious, and unverifiable strategic arms competition.

The more weapons, the more irresistible the temptation becomes to use them in a first strike.

Reducing uncertainties, particularly in periods of tension, casting light into the ignorance of the unknown is the role of our intelligence community.

If arms control can help in that function, and it can, then your defense planning and crisis behavior will be based on the wisest, most proper course. There is no planning in an all-out arms race. Just an all-out $100 or $200 billion strategic rearmament binge.

World War III will be the apocalypse to end all wars. Why? Because the survivors will be the unluckiest of all. That is no exaggeration according to our own respected Office of Technology Assessment, OTA. Last spring, OTA published a haunting all-source study on the effects of nuclear war, a study which came up with two major findings, both of them unknowns.

The first unknown is the long-term effects of an all-out nuclear war on the civilian populations. OTA says that could be as significant as the millions of immediate deaths. OTA concluded that the total of prompt fatalities could be as many as 250 million deaths in the United States and the Soviet Union combined, and millions more elsewhere. If, indeed, the effects of nuclear war that cannot be calculated in advance—the unknowns—are approximately equally important as those that we can quantify, it would be no exaggeration to hypothesize a black death medieval economy for our children and grandchildren.

Second, according to our Office of Technology Assessment, the condition of our children and grandchildren and all other civilian survivors would continue to get worse for some time after the attack was over. The indirect effects of starvation, disease, and injuries without medical facilities to treat them, disruption of the economy, the destruction of the ozone layer, all this could do as much damage in the long run as the immediate nuclear blast and radiation.

Like a lot of exhaustive studies, OTA's holocaust gets a bit tedious. We get a little lost in the technical thicket. We set it aside, and go about our routine.

A routine which protects our mind from the fact of thermonuclear destruction.

What do we need to wake us up to the known effects of a thermonuclear strike? Do we need a Mount St. Helens on Capitol Hill to get us to understand the power of a 10-megaton blast?

The lucky fact that we have been able to avoid nuclear war means we have been spared the awful reality of what its horror and anguish would mean. Instead, we have had the intellectual luxury to overload our thinking with such cold measurements as hard target kill capability, second-strike retaliatory capability, the footprints of our MIRV's warhead fratricide, broken-back warfare.

Can we set aside these arcane measures and concepts to let our constituents know what nuclear war would mean? Probably not. The outcome is too awesome. It blows the mind—250 million bodies.

We are not talking just about the vaporization of Little Rock. We are talking about the end of the Boston-Washington corridor, the Los Angeles megalopolis, the cities and suburbs that constitute the industrial heart of the United States. We are talking about the devastation of America. And the Soviet Union. And Europe, and beyond.

Mr. McGOVERN. Mr. President, I yield to the Senator from North Carolina on another matter, and when he has completed his remarks, I will yield back the remainder of my time.

JOHN CONNALLY CRITIQUES HIS PRESS

Mr. HELMS. Mr. President, having devoted most of my career to the news business—in both the print media and broadcasting—I have more than a passing interest that freedom of the press survive in our country. I have long had the feeling that if and when the first amendment rights of the press are set aside, it will be largely the fault of the media themselves—for failing to exercise their rights responsibly.

The news media will make a grievous error if they scoff at criticism of the press, and write it off as merely the gripes of public officials. As I travel around the country, I find a deep-seated distrust of the news media, particularly the large mass media. This distrust is expressed by the so-called little people of America, the average citizens who are dismayed when they read and hear news reports which the average citizen recognizes as being inaccurate or slanted.

Over the weekend, I read an interview with John Connally, conducted by the Washington Journalism Review. As one who has supported Ronald Reagan since long before 1976, I nevertheless found myself frequently concerned by the media treatment given Mr. Connally during his unsuccessful candidacy for the Republican nomination for President. In the interview with Washington Journalism Review, Mr. Connally made a number of well-justified points. His message should not be written off as "sour grapes," because any responsible news person knows better than that.

Mr. President, I ask unanimous consent that the full text of the Connally interview, as published in the July/August issue of Washington Journalism Review, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

John Connally Critiques His Press

(John Connally shares at least one firm belief with many of his antagonists in the media—a conviction that the press and television have enormous power to shape and even alter events, among them presidential campaigns. Three years before he extinguished his presidential campaign, he described the media as "a giant financial and influential power center equivalent to the presidency, the Congress or the Supreme Court." He asserted that any of the anchormen for the big three television networks "has more influence on the public than the speaker of the House of Representatives and the majority and minority leaders of both houses of Congress, combined." And he complained of a "growing volume of news reporting on serious subjects by reporters and writers with a superficial understanding of the subject."

("It seems to me," Connally said, "that the press is sometimes like a maverick passenger in a lifeboat. That lifeboat, which bears all of us, keeps us out of the tyrannical waters of lost freedoms, including freedom of the press. And yet, the press does precious little to help out on the rowing. Indeed, through some sort of distorted logic, the press seems dedicated to kicking holes in the ship of state, rather than trying to make it more seaworthy."

(That was John Connally's view of the media going into the 1980 campaign. The following interview, recently conducted for WJR by Tom Curtis of Houston City Magazine, illustrates Connally's views and observations from the other end of the track.)

WJR. How do you think the media treated you in your campaign for the nomination? Did the press and television deal seriously enough with your campaign and with the issues you raised?

Connally. I don't think they dealt seriously enough with the issues at any time—that I raised or anybody else raised. Early on, I certainly got as much attention as anyone else. I'm not sure that it was the attention that was important. I think the attention was on peripheral issues—how much money did you raise? who's for you?—as opposed to a discussion of the issues themselves. Maybe it's not the fault of the press. Maybe it's the fault of the candidates themselves, although I tried desperately to talk about issues. I remember on two different occasions, I observed to the press that it was passing strange to me that we'd just finished a 25-minute press conference and not a single question had been asked about issues. And I said, "Maybe I'm missing something in this campaign this year." And yet, we have very serious and profound issues that are going to impact the course of the nation, the economic well-being of everybody in this country, and there's been practically no discussion of issues on the part of the candidates themselves.

WJR. I understand there were a few pieces written during the campaign that you thought were especially unfair in one way or another. One was a page-one profile in the *Wall Street Journal* on August 6, 1979. Another is the column that George Will wrote following your Middle East foreign policy speech before the National Press Club. Did you think those pieces were unfair?

Connally. Yes, I sure did. I thought they were not objective pieces. I thought they were not factually correct pieces; I thought they deliberately distorted my views and my positions on issues, and I certainly thought they were not fair. . . .

WJR. Do you recall any specific factual errors or examples of bias in those stories?

Connally. I'd have to get the columns and look at them.

WJR. I could hand them to you. . . .

CONNALLY. If that's what you want, I'd be glad to look at them and see. In the second paragraph of George Will's column he says, "Connally is the first candidate ever to adopt a thoroughly anti-Israel policy." That speech was not an anti-Israel speech and I do not have an anti-Israel policy. That's a totally incorrect statement. He goes on to call it "extreme." Well, I don't think it was an extreme speech—"because of its congruence with Arabic extremism." I don't think it coincides with Arab extremism at all. "It even asserts that Israel is the obstacle of the negotiations with what Connally calls Israel's 'moderate neighbors.' " I didn't say that at all. I didn't say they were an obstacle—that's an unfair representation of what I said.

WJR. Some observers have said that the position you took was not very far from the position of the opposition party in Israel.

CONNALLY. As a matter of fact, it's basically the same position that Ezer Weizman took, and he just resigned from the cabinet. It's the position that Moshe Dayan took—and he resigned from the cabinet. And to characterize my speech as anti-Israel, in my judgment, is indeed an unfair characterization of that speech.

WJR. The press made a tremendous flap over the speech. How much difference do columnists like George Will and William Safire make in the tenor of that a criticism?

CONNALLY. I think a great deal.

WJR. How about the daily reporters that the *New York Times* and other papers put on this subject? Is there something wrong with a political or domestic reporter covering a speech of that nature? Should a diplomatic reporter be assigned to cover it?

CONNALLY. I think someone who understands the nuances of it should, because I worked on the speech. It was not a slap-dash speech. And it was not an unreasoning speech and it was not an unthinking speech. It was a very carefully thought-out speech. And, again, I knew what they were going to do with it; I was not unaware of the facts of life. And in order to try to get some objectivity, we went to considerable expense to buy ads in the *New York Times* and other publications and the Washington papers so that the people who were interested enough could read the whole speech themselves, but obviously you can't hope to have the same impact that continuous coverage by the press and by the columnists and by the commentators has.

WJR. Specifically, the *New York Times'* report by Bernard Weinraub, which ran on the front page of the *Times* on October 12, 1979 . . .

CONNALLY. Now if you're going to take this whole interview to analyze my speech, I'm not going to comment on it any further. I'll give you the speech and I'll see if you can be objective about it. You can read it, but I don't want to. If the whole purpose of trying to come in here and get an interview on the basis that you wanted to be writing an objective piece about the American press and their recording of politics, was to get back on this very same subject—if that's all you're interested in, that's fine.

WJR. Let me ask you if that was a fair story.

CONNALLY. Well, I don't remember the story—let me read it. He says in the second paragraph: "In the speech containing his views on the Middle East, Mr. Connally, a candidate for the Republican presidential nomination, issued a program laced with criticism of the Israeli government and the Carter administration." He hadn't yet quoted a word I said, but he characterizes the second paragraph, "laced with criticism." I don't think the speech was laced with criticism—it was a speech that laid out what I thought the basic parameters of peace were going to require in the Middle East. And then he does quote, in the third paragraph some of what I said. And I said, "We must now pursue a new approach based not merely on individual Arab or Israeli interests, but on American interests." I said we had interest in the Middle East that extended beyond our interest in and concern for Israel. That's the only quote he makes and then he immediately picks up with the subhead, "criticized by Jewish groups."

That's the whole next paragraph. Then in the next paragraph: "At the same time, Senator Kennedy . . ." He picks up Senator Kennedy in the fourth paragraph, quotes an entire paragraph: "Senator Kennedy said he supported the position 'that there should be no direct or even indirect talks with the PLO certainly until there is a recognition among the leadership of that organization of Israel's right to exist in peace.' " That is in there as a criticism of my approach, but that is precisely what I said. That we shouldn't negotiate with the PLO, and that we ought not to even consider it until such time as they accept the mandate of UN Resolution 242 and until they recognize existence of the State of Israel, and not only recognize it, but agree to the preservation of the borders and security of Israel. That is in there. The reference here to Kennedy in the story is an obvious attempt to try to play his position against my position when in truth and in fact, his position as is quoted here is precisely my position. That'll give you a feel for it. Now if you want to go on, paragraph by paragraph, I'll be glad to do it.

WJR. Let me ask you if there were any especially fair stories.

CONNALLY. Oh, sure. I think most of the stories were fair. I don't have any hangups about the press, but if you want me to give you a ringing endorsement of the unassailable objectivity of the press this afternoon and the undying fairness of it, I'm not going to do it because I don't think it is. I think they're human like everybody else, and I must say that I think the press is more sensitive to criticism than anybody in America and the press least likes criticism. The press engages in retribution when they find someone criticizing them.

WJR. Do you think they did so in your case?

CONNALLY. The press is going to have to mature if indeed they are going to continue to have the freedom of the press that we all hope will prevail in this country.

WJR. Let me move to TV coverage and your views on the role of the television medium.

CONNALLY. I thought we were going to talk about the TV coverage in general of the campaign. I know how this story will turn out, too. This story will be another effort on my part to be critical of the press and I'm not going to give you that kind of story because I'm not that critical of the press. If I can't at times disagree with the press—if ya'll are so sensitive that you can't stand any comment or any criticism—then I don't know where you think you're going in this country. And I don't know where you think the rest of us are going. If you're immune to criticism, why, then, I think we are in desperate straits. We're in worse shape than I thought we were.

WJR. I read an analysis of the coverage of the national campaign that logged the number of minutes the networks devoted to each candidate. What that shows, from July 1979 to March 1980, is not so much that you received a lot less coverage than other Republicans, but that Ted Kennedy got disproportionately more minutes than any other candidate. I'm not sure what it means.

CONNALLY. What it means is that the whole key to politics in America is coverage. He got coverage and the Republicans don't get coverage. It means, as I've said all along, that the majority of the press in this country fall into two categories: they're basically Democrats and they're basically liberal. That shows in the coverage which is given respective candidates of the two parties. No question about it, no question in my mind about that.

WJR. What does Kennedy's lack of success demonstrate?

CONNALLY. Among other things, it demonstrates he's running against an incumbent president and it's very difficult to unseat an incumbent president. It shows, though, because of the coverage he's getting, that he's coming closer and closer as time goes on. And even under the most diverse circumstances, he's making a race out of it. He's giving President Carter quite a tussle.

WJR. Do you think he's been aided in that effort by the coverage he's received?

CONNALLY. Well, of course. Suppose he hadn't had the coverage. Suppose he had as little coverage as we did. He'd be nothing.

WJR. Some analysts of your campaign said that you had hoped for a media campaign and that you had failed to run an organized campaign, which is the key to success in Republican politics. Do you think that's a valid characterization?

CONNALLY. No, I think that's an unthinking characterization by someone who knows nothing about what we did. We did exactly the opposite. If we made a mistake in the campaign, it was that we didn't spend our money on media, that we didn't run a media campaign. We spent most of our money and time on organization because I assumed from the very outset that if you were going to beat Reagan, you had to be prepared to beat him in all 50 states. . . . But as things turned out, the Iranian capture of our embassy, the hostages, the complete and total domination of the news for 90 days that set politics back for that period of time—plus, I think, the overriding position that Governor Reagan had. But notwithstanding any of those causes, we certainly never got to the point where we could even use the organization that we spent so much time and money on trying to build because, as it turned out, we wound up without the resources to really wage a media campaign, and had diverted too much of our effort and time and resources into organization.

WJR. One interview that caught a fair amount of attention during the campaign was your interview with Mike Wallace on *60 Minutes* on December 30, 1979. To some you seemed uncharacteristically out-of-control and defensive. It sometimes seemed that Wallace didn't let you answer a question and develop your responses fully. I had heard that some of your advisors said you shouldn't appear in that forum, knowing Wallace's reputation as a probing and tenacious reporter. Is that so and do you think it was a fair interview?

CONNALLY. Well, first, if I had any advisor that recommended against it, I'm totally unaware of it. The so-called experts appear always after the fact. I don't know of a single person around me that opposed it. As a matter of fact, every single one of them strongly recommended I do it. You say it appeared that Wallace didn't give me time to answer. I answered. He taped approximately an hour and fifteen minutes, which he edited to about seventeen minutes. So, he obviously deleted a lot of my answers. I don't think the story was a fair story. I don't think it was at all. And I don't think he ever intended it to be. But there again, I know Mike Wallace. It doesn't bother me to get a tough reporter and deal with a tough reporter. I think any public figure has to be careful about doing a show where a reporter edits it because they obviously can basically make you say anything they want you to say when they edit your show.

WJR. He asked whether you made a comment about Chappaquidick, which you at first said you hadn't made publicly. . . .

CONNALLY. I hadn't made them publicly, that's correct.

WJR. And then he said something about having a tape of it and you said if it was taped it was taped in a private setting and shouldn't have been.

CONNALLY. That's right. I think that was a kind of entrapment. It didn't bother me particularly, but I thought it didn't reflect great on him. If, indeed, he's going to run a story based on entrapment, which I don't think is a very laudatory thing for a reporter to do, that's his problem.

WJR. You received what seem to be surprisingly positive stories as well as some negative ones. . . .

CONNALLY. . . . I think by and large I got better than I suffered by a long shot. But that doesn't alter the fact that I got some stories that I thought were not only negative, but unfair.

WJR. One early element of your campaign was arranging weekend visits at your Floresville Ranch for reporters, which your staff billed not as working weekends, but as recreational opportunities to get to know the candidate. . . . Do you think such social—as opposed to more formal—interactions are good for the candidates and the press, and do you think, would you do that over if you were given the opportunity?

CONNALLY. Oh sure, I'd do it over, simply because. . . . If a reporter's going to write interpretative pieces; if he's gonna try to read your mind, all during the campaign; if he's going to write about what motivates you and what your instincts are, what your reaction's going to be, then he ought to know something about you. And if he doesn't, then he oughtn't to write those kinds of pieces, if he's going to do straight reporting, which very few people do. There's hardly a reporter left in America, hardly a reporter left in the field of journalism today—they're all editorial writers or they're all columnists—and they're columnists even though their byline appears on the front page. But if they want to leave the interpretative writing alone and just do reporting, then I don't think they ought to come [to the ranch]. They can come—just as you have, with a tape recorder—to any press conference and ask their questions, and they can write the story based on what was said.

WJR. You've made some critical comments in the past about the national press, particularly for criticizing the profits of the oil companies when, you said, profits of the big news conglomerates were often in excess of those of the oil companies. Do you think that the press ought to operate more as a kind of cheerleader for the system?

CONNALLY. I think all the press has to recognize that it has a responsibility for objectivity. We live in a democracy; we live in a country where you have one man, one vote; if you're going to preserve a representative form of government, then judgments have to be based upon knowledge and facts, and not on emotion or sensationalism. And if there's going to be a free press, then there's first going to have to be an objective press. And the press is going to have to assume that it's a part of their charter and responsibility to inform. Whether it helps or hurts the institutions and the establishment.

WJR. Does it meet that test now?

CONNALLY. I don't think it does, really. It certainly doesn't when it dramatizes just the unusual. Let's take a case here to illustrate what I mean, and I'm not being critical, I'm just merely making an observation. Today, every evening news starts with, "This is the 209th day, 210th day . . . of the captivity of the hostages in Iran." That has been drummed, drummed, drummed. That's a true statement, there's nothing wrong with it—you can't criticize the veracity of it. The incarceration of the hostages in Iran is highly dramatized, yet we had incarceration of 15 ambassadors in Colombia, including the U.S. ambassador. They were held hostage for 60 days under almost identical circumstances and, yet, I dare say that today not one of four people in America could tell you that that event ever occurred. Maybe as few as one out of ten. And why the difference? Why did the press dramatize and exploit the one and disregard the other? I don't know.

WJR. Well, isn't it because of the geopolitical implications of turmoil in Iran?

CONNALLY. Well, that presupposes the judgment. How important is turmoil and disruption in South America? That's also important. But the point is you had two events happening.

WJR. What do you infer from that variance?

CONNALLY. This is just a classic case where here are two events, similar in nature, both involving illegal actions on the part of others—one incarcerating 50 employees of our embassy; in the other case, it should have been more dramatic because they captured the representatives of 15 different governments. Yet, it was badly pursued as a news item and certainly not in the same way that the Iranian hostage situation was dealt with. Why the difference? I don't know.

WJR. If you were a news editor instead of a newsmaker, what would your judgment be on such things?

CONNALLY. I don't know that I have an answer for it. And I don't know that I should have an answer—I think maybe you ought to interview some of the press and ask them what their analysis is. Why do they do one and not the other? I don't know.

WJR. Did any reporters or writers make an effort to examine your record on its merits, for example, the national reporters who talked with some of your critics and reported their view of what kind of governor you had been?

CONNALLY. I think one or two of them talked to some of my critics. I don't think there was any objective attempt to go back and look at my record as governor. I did not see one story that I recall done by any columnist or commentator that attempted to deal with my record as a basis on which to judge future actions.

WJR. Including Paul Burka in the December 1979 issue of *Texas Monthly*?

CONNALLY. He did some of it, but again, I think he fell into the trap of trying to deal with it in a very off-handed, casual and almost flippant way. And again, he used such parts of my record as were helpful to him in trying to write what he thought was a very readable and unusual story, but I must say, he at least went back and acquainted himself with more of the facts than almost anybody else that I know of.

WJR. One of the points he made was that you were an activist, more, perhaps, than many Republicans were, and that your style was simply not a traditional Republican style. Is that accurate, and is that a substantive reason for the difficulty you had in the campaign?

CONNALLY. I think that's partially true. Although, let me say at the outset that so far as I'm concerned, we have to start with a basic assumption that a large plurality of the Republican Party made up their minds in 1976, when Ronald Reagan came within 61 votes of unseating President Ford, that in 1980 they were going to nominate Ronald Reagan. And I don't even think it would have made a great deal of difference what I'd said or done, and it didn't make a great deal of difference what the press said about me or what their coverage was of me. It obviously might have made some difference, but I don't think it would have been an overwhelming difference. I think the plurality of the Republican Party made up their mind that the 1980 nominee was going to be Ronald Reagan, and I don't think it would have been an overwhelming difference. I think the plurality of the Republican Party made * * *.

WJR. One person who followed your campaign told me this: "Connally wanted the press to say, 'This is the smartest, most qualified candidate we've had running for president,' and this person added, 'and he is.' And he said you were disappointed to be treated by the media like just another Republican hopeful.

CONNALLY. Let me interrupt you there: This is exactly what I'm talking about. Now why would anyone say that? On what basis do they make such a statement? This is mindreading. How do they know what I think?

WJR. Is that true? That's what I'm asking.

CONNALLY. No, it isn't true at all. I wanted them to report what I said. I wanted to deal with the issues. Now, if they wanted to compare us on the basis of background, intelligence, experience, ability, that's fine—just let them do it. But I'd rather they'd try to explain when I talk about energy, cover energy. Let's talk about energy. Let's talk about inflation. Let's talk about the industrial base of the country. Let's talk about taxes. We didn't get that.

WJR. One of the frequent questions you seemed to get was the charge that you were a "wheeler-dealer". . .

CONNALLY. Yeah, that adds a great deal, doesn't it, to the substance and knowledge of the American people about the issues. "Are you a wheeler-dealer?"

WJR. Did the press tend to deal that way in clichés in your campaign?

CONNALLY. Sure. In everybody's campaign. What are the issues of this campaign, I ask you? What would you say the issues are?

WJR. Well, I'd say the overriding issues are the economy and foreign policy questions. . . .

CONNALLY. Yeah, but who's dealt with them?

WJR. Well, whether one agrees or disagrees with him, Kennedy has certainly homed in on the economy.

CONNALLY. I think Kennedy has said more than anybody else, perhaps, except me. I talked about specifics of the tax thing. I talked about economy, energy, about what I'd do on taxes in detail, but none of it was basically reported. Now I begin to hear it again, but it certainly wasn't attributed to me, and the positions that I took are now coming back and being adopted almost by everybody. On energy I did the same thing. I laid out a specific program, but nobody bothered to talk about it; nobody reported it. I make a speech on foreign trade, it doesn't get three lines, doesn't get reported at all. This is what I talk about, this is why I'm upset. I'm concerned about what's happening. And this is why I think we're in a very, very difficult position in America where we are confronted by issues over which we do not have the ultimate control, and in which our well-being is largely influenced by factors outside the continental United States and to a large extent beyond our control. Yet, the American people don't know it, they don't understand it and they're not being told. I tried to tell them, but nobody reported it.

WJR. Should we, as reporters, concentrate on the questions and let the voters look at the questions and decide on the basis of the issues and the way the candidates approach and handle the issues?

CONNALLY. I don't think it is a criticism about the press as much as an observation about what would be the best for the country. And I think clearly it would be in the country's best interest if people first understood the issues and then made up their minds about who could best deal with those issues.

WJR. Do you see any way that the press could change the way it covers campaigns so we could better develop the issues in future presidential and other campaigns?

CONNALLY. Yeah, I think the press really should concern itself and make up its own mind about what are the issues—what's important. Everybody knows that energy's important. Well, how do you expect the people to make an informed judgment? How do you expect politicians to respond in an intelligent way when 20 percent of the people of America—according to one of the polls as late as a year ago—didn't even know we imported crude oil? Twenty percent of the people of this country didn't even know we imported a barrel of crude oil. Inflation is a major problem. Why don't the press insist that every candidate running discuss inflation?

What are the causes? What are the remedies? What are the actions that would be taken? It's dull in a sense. Sure it's dull. It's not as easy as saying, 'Are you a wheeler-dealer?' Or asking Kennedy about Chappaquidick. That's easier, it's more sensational, but it doesn't contribute anything to the basic understanding by the American people of what problems confront 'em. Now, I know the press will argue that they want to know the type of man. Well, the best way to find out what his positions one the issues are—'cause ultimately that's what you're gonna deal with.

WJR. Does the media create the horse race before it exists to make the story more interesting? And conversely, by sort of handicapping the players and covering the campaign as a sports contest, does it fail to cover the substantive issues that the candidates raise?

CONNALLY. Well, I don't think there's any question about that—the press tends to handicap the race or races. They do it because of the polls—if for no other reason. The polls start very, very early and this inevitably leads the writers and the columnists and the commenators into handicapping it. At that point, all they have to go on are the polls. Early on, they don't deal with the substance of the campaign. And unfortunately, I think this year the substance of the campaign has hardly been dealt with at all. I think it's been almost totally a question of personalities.

WJR. Do you think that the reporters who followed the campaign were competent, by and large?

CONNALLY. Most of the national press are. Yeah, they certainly are. They're not experts in every field, but no candidate is either.

WJR. How important are the press and the television media? Is it all-important in a presidential campaign?

CONNALLY. It is by far the most important single thing. On a scale of ten, I would guess its importance is at least an eight and everything else put together is two. I think it's overwhelmingly influential.

WJR. When you withdrew from the campaign you said that we hadn't seen the last of John Connally. Would you accept a draft as vice president or an appointment as secretary of state in a Republican administration?

CONNALLY. I haven't even thought about either one of them. I said that I was going to maintain an active interest in politics, which I am, and I'm going to do everything I can to help Governor Reagan to get elected, not because I want something, because I don't. I'm not sure that he could offer me anything I would have. I don't want to be presumptuous enough to deal with specific jobs and say I'd take this or I wouldn't take that, but all I can tell you is, I don't seek anything. I don't want anything, I don't expect anything and I doubt seriously that I'd take anything.

WJR. Including vice president or secretary of defense?

CONNALLY. Including anything.

U.S. CHAMBER OF COMMERCE CLAIMS "CARTER WAFFLES ON REGULATORY REFORM"

Mr. HELMS. Mr. President, the Chamber of Commerce of the United States asserts that President Carter is working behind the scenes to sabotage congressional regulatory reform efforts. This is a serious charge that deserves careful consideration.

A year or so ago, President Carter stated that unnecessary and overly-heavy Government regulations are a prime contributor to inflation and an unfair burden, especially to the small businessman. The President promised in 1977 to "cut down on Government regulations" and to "make sure that those that are written are in plain English for a change." In 1978 he reiterated that promise, and last January he declared that he would "continue to pursue efforts to eliminate unnecessary regulatory burdens."

In the July, 1980 edition of the Regulatory Action Network: Washington Watch, the Chamber of Commerce comments on the President's curious posture:

> If all of these Administration flip-flops on regulatory reform seem confusing, it may be because the President has other reasons for ducking the reform issue. To pursue reform too aggressively might alienate many key officials in his Administration, possibly leading to embarrassing defections at election time. While the President has tried to portray himself as a responsible businessman-politician, the people he has brought into his government hail from a segment of society unswervingly devoted to more government control of our lives.
>
> A substantial number of men and women now in charge of the regulatory agencies are former advocates from the so-called public interest movement-consumer activists, environmentalists, civil rights campaigners, health and safety zealots, and urban specialists. The exact number depends on your definition of a public interest group, but there is no question many of these people are devoted to more—not less—regulation.

Mr. President, so that Senators may have the benefit of the observations contained in the article entitled "Carter Waffles on Regulatory Reform," I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CARTER WAFFLES ON REGULATORY REFORM

(By Hank Cox)

The Carter Administration is working quietly to sabotage regulatory reform in what is apparently another Presidential "about-face" on a critical national issue. Top Administration officials report the President is displeased with the various reform measures now before Congress and will soon determine whether to bottle-up the legislation for the remainder of the 96th Congress. Simon Lazarus of the White House Domestic Policy Staff says the President is "certain" to exercise his veto if any of the current bills is sent to the White House.

This is the same Jimmy Carter who promised in 1977 "we will cut down on government regulations and we will make sure those that are written are in plain English for a change." In 1978, he said "One of my Administration's major goals is to free America's people from the burden of overregulation." Last January he repeated his promise saying "I will continue to pursue efforts to eliminate unnecessary regulatory burdens, and will concentrate on seeking approval this year of my regulatory reform bill."

However, according to Wayne Granquist of the Office of Management and Budget, "the Administration is now reassessing the situation" and "is no longer wedded to the need for (reform) legislation." In fact, the White House has asked the House Judiciary Committee to defer action on regulatory reform until the Administration can reevaluate its position, and the Committee is complying with the request.

Veteran Carter watchers are no longer surprised by sudden policy reversals and inconsistencies. Carter has claimed a reduction in the Federal workforce of 20,000, while the government's own figures show the bureaucracy has increased by 62,470 workers during his Administration. He claimed a reduction in the White House staff, though it has grown to be larger than Nixon's or Ford's. He claimed to have cut 760 units of government, but most of those cut were informal advisory committees that met only occasionally, rarely involved permanent staff, and used very little of the budget. The big programs supposedly cut were actually merged into larger programs with their missions and payrolls enlarged. While performing this sleight-of-hand, he created 348 new agencies, including two major cabinet departments. He said the Cuban refugees would be welcome "with open arms," until he changed his mind and imposed restrictions "to assure legality and order." He said "we've been successful in reducing income taxes since I've been in office," though tax receipts in 1979 increased by $400 per return and overall income taxes during the past three years increased at one of the fastest rates in post-war history. He claimed "we have a tightly restrained budget," when it has shot up by 40 percent in the last three years and will increase this year by 15 percent, a rate exceeded only once (1967) in the past 25 years. His flip-flops on defense spending have brought outraged cries from Congressional leaders in his own party. He recently traveled to North Carolina and made pleasing speeches to pro- and anti-tobacco groups in the same day.

With this kind of record, the revelation that White House interest in regulatory reform is "all show and no go" is unlikely to shock anyone. But this particular display of Presidential duplicity will have far-reaching consequences as private businesses and industry continue to drown in a sea of regulations and red tape and the national economy continues to deteriorate.

Allegedly, the President's primary objection to the regulatory reform measures now before Congress is the threat of inclusion of a legislative veto provision that would enable Congress to prevent unnecessary regulations from taking effect. In a letter to Rep. Peter Rodino (D-NJ), Chairman of the House Judiciary Committee, the White House claims legislative veto "is an illusory answer to the regulatory problem" and Congress would "become responsible for thousands of minutely detailed regulatory decisions without adequate capacity to monitor or evaluate them."

Despite the President's concern about Congressional inadequacy and objection to the "principle" of legislative veto, he recently signed the hotly-contested authorization bill for the Federal Trade Commission which contains a provision for legislative veto. "There was no other way for us to keep the agency afloat," Lazarus says. "They had a gun to our head."

If so, there must be a lot of Congressional gunplay these days, for the President has signed 42 bills containing legislative veto—more than any other President—including airline deregulation, Education Department authorization, Social Security Amendments, and the Reorganization Act of 1977, to name a few. One Congressional aide describes the White House's attitude as "paranoid," asserting the Administration is "fighting after the war is over." Most wars have victims; this time it is government-wide regulatory reform.

The White House now claims a reform bill is no longer necessary. The President has created the Regulatory Analysis Review Group and the Regulatory Council to pursue reform, and issued Executive Order 12044 that—on the surface at least—encourages more responsible action by regulatory agencies.

The Regulatory Analysis Review Group was created to examine in detail a limited number of agency analyses of regulations with a substantial economic impact. It has a limited scope, little funding, and has not received much support from the White House When RARG was first formed, it began asking some tough questions of the regulators, questions they were not inclined to answer. So a group of regulators held a meeting at EPA and came up with their own game plan. They prevailed upon the President to create the Regulatory Council, composed of the heads of 36 regulatory agencies. Its chairman is Douglas Costle, head of EPA, and its staff director is Peter Petkas, a former activist for Ralph Nader. Sending such people to guard against excessive regulation is like sending the fox to guard the chickens.

As for the much-publicized Executive Order 12044, there is less there than meets the eye. Independent agencies are not covered and agencies that are covered are following an established bureaucratic tradition in interpreting the order to suit their own designs. An OMB evaluation of the effectiveness of the order says "there continues to be a plethora of regulations literally spewing forth from all the many government agencies." While some aspects of the order have enjoyed limited success, such as the provision for greater public participation in agency rulemaking, there has been little progress in the all-important area of evaluating the economic impact of regulations. OMB said business was discovering that many agencies were "making a sham" out of the regulatory analysis requirement and many regulations were issued that "blithely contain the statement that the regulation will cause no significant economic impact when, in fact, the regulation will create a tremendous economic burden." As an example, the OMB report cited an HEW proposal to revise rules governing eligibility for Federal financial assistance for construction of health care facilities. HEW announced no regulatory analysis was required when, in fact, OMB found the cost could run as high as $200 million.

OMB said agencies are at times reluctant to do regulatory analysis because they are "too hard," and the agencies often do not have the expertise necessary to develop them. "The concept of the regulatory analysis is not always well-understood," OMB said, and "regulators are often reluctant to document the cost of regulations."

This is how Carter's own people evaluate compliance with his Executive Order. If statutory reform were not essential, the Administration would not have sought a reform bill in the first place. White House officials acknowledge they once believed a law was needed to get the attention of the bureaucrats, bring about a higher degree of agency compliance, and provide coverage of the independent agencies. But the President has changed his mind again.

Another alleged bone of contention the Administration has with the proposed reform bills is the revised "Bumpers amendment" that would require Federal courts to perform stricter review of regulatory actions. "As with the legislative veto," the letter to Rodino sad, "this measure will undercut the overall aim of the regulatory refrom bill to get a handle on the regulatory problem." White House staffers are unclear if Bumpers, by itself, would earn a veto. They are adamant, however, that any form of legislative veto will be unacceptable and provide cause for a Presidential rejection of the bill.

Another "now you see it, now you don't" proposal to ease the burdens of regulation on business is the concept of "regulatory flexibility" that would require government agencies to modify their requirements for small businesses. There are bills in the House and Senate to require this; and on November 16, President Carter issued an Executive Memorandum endorsing the idea. The memo directed Federal agencies "to ensure that their regulatory programs, while achieving their goals, do not place unnecessary burdens on small businesses and organizations," and expressed the President's appreciation to the bills' sponsors "for their leadership in helping America's small business men and women."

True to form, however, the White House followed this up with a 35-page document attacking the proposed bills, asserting that "regulatory flexibility" is an unworkable concept. The general theme of the document was that achieving such flexibility would place intolerable paperwork burdens on the regulatory agencies. "It is not possible for agencies faithfully to comply with requirements which are so ambiguous and confusing," the document said. This concern with paperwork and ambiguous requirements is one business can appreciate. When the shoe is on the other foot, the regulators scream louder than any business executive.

If all of these Administration flip-flops on regulatory reform seem confusing, it may be because the President has other reasons for ducking the reform issue. To pursue reform too aggressively might alienate many key officials in his Administration, possibly leading to embarrassing defections at election time. While the President has tried to portray himself as a responsible businessman-politician, the people he has brought into his government hail from a segment of society unswervingly devoted to more government control of our lives.

A substantial number of men and women now in charge of the regulatory agencies are former advocates from the so-called public interest movement—consumer activists, environmentalists, civil rights campaigners, health and safety zealots, and urban specialists. The exact number depends on your definition of a public interest group, but there is no question many of these people are devoted to more—not less—regulation.

A list of key regulatory and White House staff reads like a Who's Who of the social activist community: Susan King, Chairman of the Consumer Product Safety Commission, from the Center for Public Financing of Public Elections; Eleanor Norton, EEOC Commissioner, from the American Civil Liberties Union; Mario Edey, Council on Environmental Quality, from the League of Conservation Voters; Katherine Fletcher, OMB, from the Environmental Defense Fund; Barbara Blum, EPA Deputy Administrator, from the Georgia environmental movement; Joan Claybrook, head of the National Highway Traffic Safety Administration, from the Ralph Nader organization; Bert Cottine, member of the Occupational Safety and Health Review Commission, also a Nader activist; James Moorman, Assistant Attorney General, from the Sierra Club; Albert Kramer, director of the FTC Bureau of Consumer Protection, from the Citizen Communications Center; Carol Foreman, Department of Agriculture, from the Consumer Federation of America; John Froines, deputy head of the National Institute for Occupational Safety and Health, one of the famous Chicago Seven of anti-war protest days; the list goes on and on.

And when President Carter issues his high-sounding Executive Order on regulatory reform, these are the people he must entrust to enforce it. Through the Regulatory Council, they are, in effect, serving as watchdogs over themselves, a privilege business can only envy. The attitude of the new wave of social-activist regulators was probably best described by Barbara Babcock, a former public defender, now Assistant Attorney General in charge of the Justice Department's Civil Division. "I would describe myself as a typical knee-jerk liberal," she told the *National Journal*. "My mind is never, or very seldom, changed." It is no wonder the President's half-hearted efforts at regulatory reform have come unglued. If he sincerely believes in it, he is apparently one of the few people in his Administration who does. When it comes to reforming the regulators, the tail is wagging the dog.

An Executive Memorandum issued by President Carter on June 13 reflects the President's reluctance to challenge his activist-regulators. On the surface, the memorandum—which does not even carry the weight of an Executive Order—asks the regulators to show more flexibility in their actions. But it qualifies this "request" by stating that "in some cases, only the traditional approach of rigid, detailed 'command-and control' regulation adequately protects public health and safety." It is, of course, up to the regulators to decide when "command-and-control" is necessary, and it is unlikely this memo will affect the regulatory process in any meaningful way.

In the meantime, regulation continues unabated, grinding the American economy further into the ground, contributing to the spiraling inflation and unemployment rates that are steadily eroding the standard of living of every American. Predictably, President Carter blames inflation on oil prices. "This is a world wide, awful basic problem, due largely to skyrocketing oil prices," he said. The U.S. is "caught up in circumstances over which we have little control." But while the U.S. imports less than half its oil, West Germany and Japan, which must import nearly all of their oil, have inflation rates of less than 7%. Switzerland, which imports all of its oil, has seen its inflation drop to about 5%.

The primary cause of inflation is government. Federal economic and social regulatory agencies spend more than $6 billion tax dollars every year issuing rules that force the private sector to spend upwards of $100 billion annually (some estimates reach $150 billion) to comply with the regulations, not counting the unmeasurable losses in productivity and missed opportunities. How can we count the businesses never born because of red tape? By simultaneously sucking up more tax dollars and strangling the economic base that creates tax dollars, the regulators are a primary factor in the annual budget deficit that is pushing our national debt toward the trillion dollar mark. Increases in regulatory spending far outstrip those for national defense. History does not record another instance of a nation incurring so vast a debt in a time of peace.

And for what? No one can deny there are benefits from regulation, but are the benefits always commensurate with the cost? OSHA, for example, has forced business to spend $25 billion in an effort that has only served to increase the rates of serious workplace injuries and illnesses. OSHA's benzene standard, according to Harvard physicist Richard Wilson, would prevent one death from leukemia every two or three years at an annual cost to our society of $500 million. EPA has long since passed the point of diminishing returns, forcing business to spend more and more for smaller and smaller reductions in pollution. ERISA paperwork requirements have forced thousands of pension plans out of existence, and there is strong evidence the Department of Energy, that new bureaucratic behemoth, has served only to aggravate the energy crisis. And the regulators are still reluctant to evaluate the supposed benefits of their regulations.

The drain of badly-needed capital to meet regulatory requirements is one of the main reasons the U.S. business community is losing its competitive edge. The pressure on small firms is especially acute and often fatal. Large businesses too are feeling the pinch. The diversion of capital to unproductive purposes is one of the primary reasons the U.S. auto industry has been unable to respond to the growing demand for smaller cars. In 1979 alone, General Motors was forced to spend $1.9 billion to comply with regulations. Twenty years of severe regulation (as documented by the Council on Wage and Price Stability) has reduced the once-mighty steel industry to the point that the U.S. is today the only industrialized nation unable to meet its own steel needs, a situation that could have frightening consequences in a time of international tension. The effects are seen in every business in every industry.

Are the American people willing to pay this price? If—as many experts predict—we are headed for another 1930's type depression, to whom will the people turn for relief—Ralph Nader? What good is a safer workplace to an unemployed worker or a pristine environment to people in bread lines? If we have another depression or war, how can we borrow to finance our way out when we are already under a mountain of debt?

If President Carter ever had any hope of reversing this nation's economic decline, he lost it the day he turned his back on regulatory reform. The regulatory dragon continues to run amuck.

GOLD IN GOP PLATFORM?

Mr. HELMS. Mr. President, I read with interest a recent editorial in the Wall Street Journal declaring that the Republican Party approved a platform plank "calling for a return to a gold standard." Shortly therefter, the Washington Post carried a similar article.

I am convinced that the United States must have a new gold standard—one not subject to the political manipulation that led to the downfall of the Bretton Woods system. Ronald Reagan could be the President who will move the Nation toward a new gold standard and the prosperity that it could help bring.

But, I do not believe that the members of the Republican Platform Committee or the delegates to the convention intended that the language included in the platform should be interpreted as an outright call for a gold standard. The language did set a new direction in monetary policy, a direction thoroughly consistent with the supply-side economics incorporated into the remainder of the platform. This new direction is away from inflation and toward a sound dollar—a dollar "as good as gold."

But, I believe a new gold standard is in the short term not feasible—however badly needed—because its economics are not fully understood by public policymakers and those who influence them. The demand-siders—the Galbraiths and the Steins—are rapidly losing credibility, but they are still listened to in many quarters.

At the conclusions of my remarks, I will ask unanimous consent that the Wall Street Journal editorial and the Washington Post article be printed in the Record. Both carry portions of the platform relating to the monetary system. It is that section which praises a monetary system that automatically maintains a stable price level. But, the Washington Post article offered a few tired arguments that are dragged out by the supporters of our present limping monetary system every time the gold standard is debated. I feel it is important to refute these arguments; thus I shall reiterate my views in the context of the Post article.

The Post states:

> Critics of the back-to-gold thesis note that foreigners own about $150 billion worth of short-term assets—nearly the value of U.S. gold reserves—and therefore could buy them out quickly if the reserves were up for sale.

Mr. President, a new gold standard would provide for radical upheavals in the world; and if some OPEC finance minister with a hundred billion in treasuries decided to cash them in some Wednesday, the mechanism would be in place to thwart him. The point is, of course, that if dollars were "as good as gold," the impetus to hold dollars would increase. If people or governments abroad are willingly holding $150 billion of securities denominated in the presently depreciating dollar, I would expect them to want to hold billions more of dollar-denominated securities if the dollar became as good as gold. There is far more reason to dump dollars today than there would be under a gold standard.

The Post states that another argument against a new gold standard is that production "is centered in South Africa, which is politically unstable, and in the Soviet Union, which is an adversary." First of all, temporary fluctuations in gold production would have no significant effect on a gold standard. But more importantly, I would expect that any gold standard would involve a gold/dollar price at a level far below the present $600 plus per ounce level.

Professor Arthur Laffer talks about fixing the gold price some months after the enactment of a new gold standard bill. He points out in, "Reinstatement of the Dollar: The Blueprint," that the marketplace would be allowed to adjust the price so that once the gold price was fixed, there would be no inflation (which could happen if the price were set too high) or no deflation (as happened in Great Britain in the twenties when it reestablished the gold standard at too low a price).

In a bill I first introduced in 1977, calling for a new gold standard, I proposed an even longer phase-in of a market-established gold price. The principle is the same in either case—the market should determine the proper gold/dollar ratio.

And what would we expect to happen if we knew the dollar were to be fixed to gold in the future? Well, Mr. President, I would expect people to hold dollars in preference to gold. The new utility that a gold-backed dollar would have in the future, would make me want to sell gold and buy dollars. Some people such as Lewis Lehrman of the Lehrman Institute have speculated that the new price would probably be around $400 per ounce, because the demand for gold as an "inflation hedge" would drop—there would be no need to have an inflation hedge under a gold standard. With the drop in demand, the price would fall.

Whatever the lower price, however, it is clear that there would be a significant reduction in the vast income the world is providing to South Africa and the Soviet Union. Why? Today people bid up the gold price as a hedge against inflation. In the case of the Soviet Union, a $400 per ounce gold standard would mean reduced annual revenues of $2.4 billion. The reduced revenues in South Africa would be commensurately larger.

The advantages to all nations of the West of again having a solid international reserve currency would be immense. Trade would grow, inflation in other nations would decline, and the value of reserves would stabilize.

A third criticism mentioned in the Post article of a gold standard is that it pegs the monetary system to a "commodity that can fluctuate widely." In recent years the Treasury Department has flogged this same horse—while at the same time aggressively disrupting the world gold markets by dumping tons of our gold reserves. In fact, since the dollar has been totally unhinged from any disciplinary forces of gold, the dollar has fluctuated widely vis-a-vis other currencies. Unlike gold, the inflated dollar has gone nowhere but down. Gold always makes recoveries after its price declines. The depreciating dollar does not.

Prof. Roy Jastram, in his authoritative book, "The Golden Constant," assembled enough information to satisfy the most ardent skeptic about the long-term stability of the value of a given quantity of gold.

And finally, the Post quotes a Roosevelt appointee, a Keynesian economist whose profound analysis of the monetary debate was, "This gold idea is really nutty. It is a return to an archaic, outworn shibboleth of yesterday."

Mr. President, perhaps the worst kind of shibboleths are the archaic, outworn ones.

Mr. President, I ask unanimous consent that the Wall Street Journal editorial, "Standard Bearers," and the Washington Post article, "Reagan Advisers Tout a Return to Gold Standard" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, July 28, 1980]

The Standard Bearers

Two weeks have elapsed since the Republican Convention, and momentary fracases such as the "dream ticket" are fading. So we suppose it's time to point out to everyone, including the convention delegates themselves, that the party has approved a platform plank calling for a return to the gold standard.

To be sure, the Republican platform does not contain any emotive four-letter words like "gold." It merely says: "Until the decade of the 1970s, monetary policy was automatically linked to the overriding objective of maintaining a stable dollar value. The severing of the dollar's links with real commodities in the 1960s and 1970s, in order to pursue economic goals other than dollar stability, has unleashed hyperinflationary forces at home and monetary disorder abroad, without bringing any of the desired economic benefits. One of the most urgent tasks in the period ahead will be the restoration of a dependable monetary standard—that is, an end to inflation.

Anyone steeped in these debates will immediately recognize the implications of words like "links with real commodities" and "dependable monetary standard." Quite different language from talking, say, of "moderate growth in the money supply." What the platform plank says is that monetary policy should not target M?? or any of the other slippery monetary aggregates but should directly target the price level. Historically this has as a matter of convenience been done by targeting one specific price, tied into other prices by market mechanisms. Usually the easiest surrogate price has been gold, as in the Bretton Woods $35 gold price alluded to in the platform.

The principle is that if one sensitive price starts to rise, it is a sign that the central bank is creating too many dollars, and other prices will follow. So when the target price starts to rise, the Fed would create fewer dollars; if the target price started to fall the Fed would create more dollars; the result would be price stability. It doesn't have to be gold. If the word is too much you could target Alfred Kahn's "banana," or for that matter Milton Friedman's pork bellies. The price of a basket of commodities would be cumbersome but doable. Another good target would be the price of the Deutschmark.

It is not entirely by accident that the Republican platform enunciates the philosophy underlying the gold standard. It was fought over in the inner councils, with Mr. Friedman opposed—the same monetary policy cannot target both Ms and commodities. The language was written by Rep. David Stockman and generally backed by the Kemp wing of the party.

The gold plank is in fact the monetary complement of the Kemp-Roth fiscal policy of a 30-percent, three-year tax cut. The idea, enunciated by economist Robert Mundell for years now, is to combine tight money to fight inflation with tax cuts to stimulate production. Partly because of a prejudice against four-letter words, a monetary part of the prescription has not received the emphasis and attention it deserves.

Indeed, a very persuasive argument can be made that the dollar unsoundness for more than a decade is at the core of the economic problem. It is inflation that has raised taxes so sharply. When coupled with such things as escalation clauses in Social Security, it also sends federal spending soaring. It creates expectations that cause consumers to rapidly expand debt. It curtails productivity by escalating wave costs and reducing productive, long-term investment. It reduces public confidence in all government institutions. It erodes spending on national security. It diminishes U.S. prestige abroad as the dollar becomes increasingly unacceptable as a store of value. It generates its own vicious cycle as the flight from the dollar makes inflation worse. The dollar's weakness contributes to the political instabilities of the developing world because of the pervasive role the dollar plays in trade and monetary reserves.

The monetary standard people are saying simply that no monetary policy, however hard-nosed and well-intentioned, can succeed in stabilizing the dollar in the absence of a standard that represents real prices in the real world. When they go beyond that to argue in favor of gold they are saying that gold is a traditional and tested surrogate for commodities in general. And a public commitment to buy and sell gold at specified dollar price will firmly fix the dollar to that standard.

The Reaganites are squarely on target in arguing that a sound dollar must be one of the most urgent tasks of American economic policy. They can draw much support from history in arguing that a "monetary standard" is the way to that goal. The way to the monetary standard is less obvious, but we are happy that the issue has been raised.

REAGAN ADVISERS TOUT A RETURN TO GOLD STANDARD

(By Dan Morgan)

Republican strategists close to Ronald Reagan are touting a return to some kind of gold standard as a way of restoring the strength and stability of the dollar.

Lost in the hubbub of the GOP convention and in the fine print of the platform was a plank that, according to its authors, takes the first formal step in this direction.

"The severing of the dollar's link with real commodities in the 1960s and 1970s . . . has unleashed hyperinflationary forces at home and monetary disorder abroad, without bringing any of the desired economic benefits," reads the plank.

It goes on to say that "one of the most urgent tasks in the period ahead will be the restoration of a dependable monetary standard—that is, an end to inflation."

Although gold is not mentioned directly, Rep. David Stockman (R-Mich.) said that was the "commodity" strategists had in mind at a luncheon meeting in Detroit where he and others drafted the plank.

Stockman and others insist that the significance of the plank is that it establishes a new beachhead in the monetary debate shaping up for the 1980s.

U.S. citizens have not been able to trade their paper dollars with the government for gold since President Franklin D. Roosevelt ordered that stopped in 1933. In 1971, the Nixon administration ended all official links between the dollar and gold when he announced this country no longer would sell gold to foreign governments at a fixed price of $35 an ounce.

Even the most enthusiastic advocates of the gold standard acknowledge that they face a long, uphill fight to enshrine the metal once again. But they say that a gold-based currency is no longer a possibility entertained only by fanatic "gold bugs," signifying the end of an era in which lax fiscal discipline, easy money and inflation were taken for granted.

"What you're seeing is the very early stage of thinking that could bring about institutional change," said Alan Greenspan, a former top economic adviser to President Ford. Greenspan said in an interview that he would like to see a gold standard after fiscal and economic policies have been employed to stabilize the dollar.

Also attending the Detroit meeting were Rep. Jack Kemp (R-N.Y.), economic consultant Jude Wanniski and Jeffrey Bell, who drafted a plan for a $90 billion federal spending cut while advising Reagan in 1976.

"We all decided stronger language was needed in the monetary section," said Stockman. "We wrote it out on a napkin and took it to [Sen. William V.] Roth [R-Del.], chairman of the monetary subcommittee, who approved it."

Other arguments against returning to any sort of international gold standard are that new gold production is centered in South Africa, which is politically unstable, and in the Soviet Union, which is an adversary.

Another argument against a rigid gold standard is that it pegs the money supply, and indirectly economic growth, to a commodity that can fluctuate widely.

Nevertheless, gold advocates argue that the linkage "enforces discipline" on policymakers and prevents politicians from tinkering with the money supply.

One strong advocate of a return to the gold standard is University of Southern California professor Arthur B. Laffer, another Reagan adviser. A return to the gold standard, he has written, would cause "employment and the stock market to rise."

But Prof. Charles Kindleberger of the Massachusetts Institute of Technology says "this gold idea is really nutty. It's a return to an archaic, outworn shibboleth of yesteryear."

Republican sources said the plank was in line with the thinking of Reagan, who has said he would seriously consider a return to a gold-based monetary system.

Reagan has conceded that such a step would be "complicated," and even Republicans' who like the idea acknowledge that it would run against the tide of much conventional thinking, including that of some Republicans.

After the Nixon administration severed the official link that had existed between U.S. currency and gold for the duration of the postwar period, the dollar was valued in relation to other currencies rather than to gold, and the buying and selling of gold was left to private traders.

Former Treasury secretary George P. Shultz, who helped develop the system of floating exchange rates in the Nixon administration, said in an interview yesterday that "a return to the gold standard is not workable." He described the retention of the convertibility arrangement in the 1960s as a "series of Band-Aids that was bad for the United States and tended to conceal the underlying problems." Like Greenspan, Shultz is one of Reagan's economic advisers.

The U.S. Treasury is the largest known governmental owner of gold in the world. The 264.6 million troy ounces in Fort Knox, Ky., is worth a staggering $158 billion at current values.

This would seem to some to put the United States in a strong position to muscle around the world gold markets.

However, critics of the back-to-gold thesis note that foreigners own about $150 billion worth of short-term assets—nearly the value of U.S. gold reserves—and therefore could buy them out quickly if the reserves were up for sale.

STRIP MINE RECLAMATION SHOULD NOT BE GUTTED

Mr. MELCHER. Mr. President, there is pending before the Senate an important amendment that would, in my judgment, do serious damage to the gradually emerging energy policy of increasing coal production in the United States. The amendment is No. 1959 to H.R. 1197 and, if adopted by Congress and signed into law, would probably cause a great round of time-consuming court cases to interpret individual state authorities to meet less than the minimum standards of reclamation called for in the Surface Mining Control and Reclamation Act of 1977; 24 States are involved in the process of developing reclamation programs to carry out under their own State Statutes the Federal requirements of the 1977 Strip Mine Act.

H.R. 1197, a bill dealing with the tonnage allowed on certain ships, was called up last Friday. Amendment No. 1959 was quickly offered last Friday, and deals only with amendments to the Surface Mining Control and Reclamation Act of 1977.

Under a unanimous-consent agreement entered into last Friday afternoon, H.R. 1197, with Amendment No. 1959 pending, would could up again on the Senate floor if the Alaskan lands bill is considered and disposed of, or pulled down, or in case the Alaskan lands bill is temporarily put aside.

Amendment No. 1959, amending the

Strip Mine Act, is a very far-reaching proposal and is the same as S. 1403, passed by the Senate on September 11, 1979, by a vote of 68 to 26. Amendment No. 1959 has one further modification not provided in S. 1403.

I opposed S. 1403 as being an unwarranted, unneeded and dangerous amendment to the Surface Mining Control and Reclamation Act. So far the House has not taken up S. 1403 for consideration and, in my judgment, they, wisely, may not consider it at all. There has been considerable change since last September, which is leading more and more States and coal companies to agree that S. 1403 is unneeded and unwarranted.

S. 1403 was a response to the frustration of individual States in their attempts to enact State statutes that met the stern requirements of the Surface Mining Control and Reclamation Act of 1977. The Senate reacted to that frustration last September. Now there are 21 of the 24 coal States that have enacted State statutes to develop their reclamation programs.

The Federal requirements for strip mine reclamation in the act are stern to correct a national disgrace. Without the Federal law to require that all States adopt minimum requirements, many States had failed to require adequate reclamation of land as well as adequate protection of water in areas where strip mining was used to produce coal. Stark and silent testimony to those failures are miles of wasted land in nonproductive spoil banks, miles of toxic streams and prolific erosion in abandoned, wasted strip mined land. In short—scores of thousands of acres of repulsive desecration of land and water.

The Strip Mine Act took 6 years and two Presidential vetoes before it finally passed in 1977 to set in motion the Federal requirement of minimum standards that States must adopt and enforce under their own law or be faced with Federal intervention of running the reclamation program within such a State. All the States where strip mining of coal takes place are in the process of developing State programs to implement the requirements of the Federal Surface Mining Control and Reclamation Act.

S. 1403 and amendment No. 1959 delay the time for States to submit their programs to the Secretary of the Interior for Federal approval. That approval must be determined on the basis of the State's meeting the standards established in the 1977 act.

Last September when the Senate debated and passed S. 1403 no States had their programs approved. Much progress since then has occurred. Two States—Montana and Texas—have had their programs approved, although the Montana program has extensive variations from Federal law and regulations. Nine States have proposed programs that include one or more specific modifications pertinent to their particular case, called "State windows." Three additional States are expected to include some type of State window proposals in their programs. By early September, 14 States will have submitted programs for Federal approval. The other 10 States have partially completed work on their regulations.

I do not believe that additional time for the States to submit their programs is now necessary. I think the turn of events since last September when S. 1403 was adopted has clearly demonstrated that most of the States now have almost finalized their programs and that the rest of the coal mining States are rapidly approaching the time when their programs, too, will be submitted for Federal approval. Consequently, this portion of amendment No. 1959 does not appear to me at all helpful or constructive.

But the more serious part of the proposal is the requirement that the States' programs may not meet the requirements of the regulations promulgated by the Secretary of the Interior to carry out the Strip Mine Act. That, I believe, would be chaotic and, in effect, would gut the entire Strip Mine Act. Furthermore, it would certainly lead to a lengthy round of lawsuits for interpretation by the courts as to whether or not the individual State programs were actually meeting the requirements of the Federal law.

In almost all Federal law, regulations to promulgate the intent of the act are necessary. Certainly in the case of the Strip Mine Act, regulations are necessary. I have little faith in our judiciary without guidance from the Federal regulations to be able to interpret the adequacy of a State's proposal on the technical requirements of land reclamation and water protection. Yet the amendment would repeal the Federal regulations and leave it to the courts to determine the adequacy of State law and regulations measured against Federal law.

Here are some of the effects of this part of S. 1403 and amendment No. 1959 which would have individual States drawing their own regulations on these 15 provisions of the Surface Mining Control and Reclamation Act of 1977:

First. Definition of "significant imminent environmental harm to land, air and water resources" which is a key criteria of determining whether a cessation order is to be issued to a mine operator.

Second. Definition of "valid existing rights" which determines whether an operator can continue to mine in an area which might otherwise be designated unsuitable for mining.

Third. Definition of "substantial legal and financial commitments" which is critical to the mine operator's right to start or continue mining.

Fourth. Definition of "any person who is or may be adversely affected" and similar phrases used in the act which serve to define where and under what conditions the public may participate in decisions related to mining.

Fifth. Definitions of the terms mine "plan area," "permit area," "affected area," and "adjacent area" which are used to determine levels and types of data required in a permit application and which have been used to control and, in some cases, reduce the specificity and volume of data required upon initial application to mine.

Sixth. Definition of "historical use" which is a primary determinant of the applicability of prime farmland requirements of the act to individual mines and which has been litigated in the D.C. Circuit Court.

Seventh. Definition of "government finance construction" which is a criteria for limiting the applicability of the Surface Mining Act to highway and other construction project being carried out by State and local governments.

Eighth. The performance standard regarding the "* * * type of explosives and detonating equipment, size, timing and frequency of blast. * * *" of section 515(b) 15(C) is subject to such a wide variety of interpretation that some basis for evaluation of comparability is critical.

Ninth. Explication of the phrase "* * * maximize the utility and conservation of solid fuel resource being recovered. * * *" contained in section 515(b)(1) is essential and, in fact, industry has challenged the existing regulations as being too vague for implementation of this standard.

Tenth. Parameters for determining "best technology currently available * * *" as used in both 515(b)(10) with regard to suspended solids and 515(b)(24) with regard to fish and wildlife is essential to avoid unreasonable requirements or disputes merely because new technology has been used in isolated cases.

Eleventh. General language of the act related to data on and protection of "fish, wildlife and related environmental values" must be given some characterization by the regulations to avoid extensive controversy with the Federal and State fish and wildlife agencies regarding how much is enough.

Twelfth. The authorization for use of "best available subsoil" contained in 515(b)(6) is subject to such varying interpretation that some criteria for determining "best" are necessary.

Thirteenth. The broad authority of the act for experimental practices requires a clear basis and procedure for authorizing departure from the performance standards to avoid successful challenge to any variance allowed.

Fourteenth. Conditional approval of State programs under limited conditions has been provided in the regulations although the act is essentially silent on such a procedure.

Fifteenth. The act, in various places, requires concurrence by and coordination with MSHA, Corps of Engineers, EPA, and USDA which would likely be necessary on a State-by-State basis if State regulations very close to the Secretary's regulations were not adopted. The Secretary's regulations have already achieved necessary concurrence. Other acts require the regulations under Surface Mining Control and Reclamation Act to be similarly coordinated with the Fish and Wildlife Service, Heritage Conservation and Recreation Service, and the Advisory Council on Historic Preservation which are facilitated by national regulations.

The act required regulations that are uniform to carry out specific sections of the law. The act purposely and for good reason was designed to set uniform minimum standard for all States to avoid the natural attempt within a particular State to weaken that particular State's standards so coal companies would be enticed to mine there. That vicious circle of continuous undercutting of reclamation requirements between and among States occurs most seriously when mines are not operating at full capacity, when some miners are out of work, and when the economy in mining communities is in a dismal condition. Those are the conditions right now, but weakening the reclamation protections would not alleviate that problem at all. The Federal law was and is necessary to avoid the pitfalls that existed before it passed and must remain intact to assure uniform reclamation protections among the States.

If amendment No. 1959 is to be considered further by the Senate, I believe it is obvious that all Senators will want to review the current situation. There likely will be a need to make corrections to the Surface Mining Control and Reclamation Act, but this is certainly not the time. While each individual State has been developing their own necessary State statutes and their own program to carry out strip mine reclamation, at this time there is a glut of coal on the market. More coal is available than can currently be used. The reclamation program is not curtailing production.

After all the State programs have been reviewed and modified as necessary to comply with the Federal standards, some time next year it would be appropriate for Congress to review carefully any constructive changes that are warranted to the Surface Mining Control and Reclamation Act. To make these far-reaching changes now would not produce any more coal, but I guarantee it would produce a great amount of litigation.

As you will have noticed, Montana is one of the States that has an approved program. However, on this question I am taking a broader viewpoint than just my own State and my own region. Amendment No. 1959 would not help coal production in the United States—it would, in my judgment, be damaging because of time-consuming delays during lengthy court battles. We have had enough court battles that have thwarted energy development without causing a new series that would produce tons of court transcripts but not one ton of coal.

Amendment No. 1959 should be quietly forgotten but, if it is not forgotten it will, I believe, require extensive debate and consideration by the Senate.

EXECUTIVE SESSION

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The **PRESIDING OFFICER.** One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board.

Robert C. Byrd, Wendell H. Ford, Paul E. Tsongas, Spark M. Matsunaga, Donald W. Riegle, Jr., David Pryor, Abraham Ribicoff, John A. Durkin, J. James Exon, Gaylord Nelson, Thomas F. Eagleton, Gary Hart, George J. Mitchell, Daniel Patrick Moynihan, Bill Bradley, Henry M. Jackson, Howard M. Metzenbaum, Alan Cranston, Jennings Randolph, John Glenn.

CALL OF THE ROLL

The **PRESIDING OFFICER.** Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 15 Ex.]

Bentsen
Boren
Cranston
DeConcini
Hatch
Helms
Hollings
Levin
Magnuson
McGovern
Melcher
Simpson
Stone

The **PRESIDING OFFICER.** A quorum is not present.

The clerk will call the names of absent Senators.

Mr. **HELMS.** Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the motion. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. **STEVENS.** I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators who desire to vote?

The result was announced—yeas 74, nays 1, as follows:

[Rollcall Vote No. 339 Ex.]

YEAS—74

Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—1

Goldwater

NOT VOTING—25

Armstrong
Baker
Biden
Bumpers
Chiles
Church
Cochran
Cohen
Culver
Durkin
Eagleton
Huddleston
Kennedy
Leahy
Long
McClure
Moynihan
Pell
Ribicoff
Schweiker
Stevenson
Stewart
Talmadge
Wallop
Weicker

So the motion was agreed to.

The **PRESIDING OFFICER.** With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The **PRESIDING OFFICER.** The question is, Is it the sense of the Senate that debate on the nomination of Don Alan Zimmerman, of Maryland, to be a member of the National Labor Relations Board, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. **STEVENS.** I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Mr. COHEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The **PRESIDING OFFICER** (Mr. BAUCUS). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 31, as follows:

[Rollcall Vote No. 340 Ex.]

YEAS—45

Baucus
Bayh
Bentsen
Boren
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Danforth
DeConcini
Durenberger
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Inouye
Jackson
Javits
Johnston
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Nelson
Packwood
Percy
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Tsongas
Williams

NAYS—31

Bellmon
Boschwitz
Byrd, Harry F., Jr.
Cannon
Chiles
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Morgan
Nunn
Pressler
Roth
Schmitt
Simpson
Stevens
Stone
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—24

Armstrong
Baker
Biden
Bumpers
Church
Cochran
Cohen
Culver
Durkin
Eagleton
Huddleston
Kennedy
Leahy
Long
McClure
Moynihan
Pell
Ribicoff
Schweiker
Stevenson
Stewart
Talmadge
Wallop
Weicker

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 31. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume the consideration of H.R. 39, which the clerk will report.

The legislative Clerk read as follows:

> A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if no other Senator seeks to speak, I will speak.

The PRESIDING OFFICER. The Senator will please suspend until the Senate is in order. The Senate is not in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, several of the Senators who are working on the Alaska lands compromise are meeting at this time and they have asked for at least an hour in which to continue their efforts to resolve certain problems in connection with that bill.

In order to give them that time which they need, if no Senator seeks recognition at this time, I will make one of my statements on the U.S. Senate. I do not intend to take the time of the Senate when it can transact business. I do not intend to take the time of the Senate for this purpose, but there is no other business that the Senate can transact at the moment.

If any Senator wishes to interrupt me, I will be glad to yield the floor to him. If not, I will proceed with the 18th speech I have made on the U.S. Senate since the beginning of March.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, seeing no Senator who wishes to be recognized at this point, I ask unanimous consent that there may be routine morning business for the hour which the principals need in connection with the Alaska lands bill and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE

THE REPUBLICAN CONFERENCE

Mr. ROBERT C. BYRD. Mr. President, having discussed the Senate Democratic Conference earlier in my series of addresses on the history and procedure of the United States Senate, it is only fair and equitable to say a few words about its counterpart, the Senate Republican Conference. Granted, it is not a usual matter for the Democratic Leader to speak on the workings of the Republicans, although there is some precedent for it. Just a little over a year ago, I spoke on the floor concerning the so-called "Senate Steering Committee," which several members across the aisle had organized. My concern was that the "Senate Steering Committee" had not made it clear that it was not a Democratic committee and was not acting in behalf of the majority leader, and that it was not a formal, authorized committee of the Senate. My request was for a little more information on the record so that everyone would know what the "Senate Steering Committee" was all about, who were its members, and who were its staff. Today, I know as little as ever about that so-called "Senate Steering Committee" but I should like to speak about the more formal Republican organizations in the Senate: the Republican Conference; the Republican Steering Committee; and its successor, the Republican Policy Committee.

The Republican Party came into being as a result of the furor over the Kansas-Nebraska Act of 1854, which would have permitted the extension of slavery into the territories according to the wishes of the settlers in those territories. This was a doctrine known as "popular sovereignty" that was sponsored by the leading Democratic Senator of that age, Stephen A. Douglas of Illinois. At the time of the Republican Party's creation, the major parties were the Democrats and the Whigs, and the minor parties included the Free Soil and Native American (or "Know Nothing") Parties. The new Republican Party attracted converts from all three parties and resulted in the demise of all but the Democratic Party. Six years later, the Republicans had won the presidency and control of Congress (after the resignation of the Southern Democrats when their states seceded from the Union).

The Senate Republicans inherited the tradition of the caucus—or conference—from their predecessor parties. During the Civil War, with the absence of so many Democratic Senators and with the common goal of winning the war, the Republican majority had little need to enforce party discipline. But, shortly after the war, President Lincoln was assassinated and Congressional Republicans found themselves at odds with the new President, Andrew Johnson.

During this period, the Party made attempts to strengthen the conference and unify Party members behind its decisions. But Senators then, as now, were fiercely independent creatures. Senator Charles Sumner, a towering figure and magnificent orator—whose imposing portrait I pass each day between my office and this chamber—refused to allow the Republican conference to tie his hands.

On July 5, 1867, a resolution was introduced on the floor to prohibit any new legislation from being introduced or considered until all Presidential obstructions to the acts of Reconstruction had been removed. Senator Sumner considered this resolution an unconstitutional limit on the Senate's responsibility to dispatch all necessary public business and spoke out against it. When reminded that the Republican Caucus, which he had attended, had voted to support the resolution, Sumner stormily objected that the caucus was not a "sacrosanct pact," and I quote his words:

> Why, sir, what authority can there be for any such conclusion? . . . Senators went to that caucus, I presume, like myself, without knowing what was to be considered; and let me confess, when the proposition in its first form was presented, I was startled by its offensive character. . . . Well, sir, discussion went on. The proposition was amended, modified, mitigated, lost something of its offensiveness in form, but it still remained substantially offensive. During the discussion, I am not aware that any Senator suggested that it should be adopted as a rule of the Senate. . . . So far as it was to have any value, I supposed it was to be the recorded result of the deliberations of political associates, which should be, so far as practicable, a guide for their action, but not to be embodied in a perpetual record to the dishonor of the Republic. . . . I rose in the caucus and said 'I will not be bound by any such proposition.'
>
> Mr. Fessenden: . . . I said 'Then you should not have voted on the subject if you did not mean to be bound by the decision of the majority.'
>
> Mr. Sumner: To which I replied, 'I am a Senator of the United States'

The Republicans made no attempt to discipline Senator Sumner for his independence, although I should point out that, only three years later, the Conference stripped him of his chairmanship of the Committee on Foreign Relations due to his vehement opposition to the foreign policies of the Grant administration. This was, however, a most unusual circumstance.

Party cohesion on rollcall votes in the 1870's was not great, and the Republicans, who were in the majority, had difficulty in enforcing Party unity or even arriving at a consensus on the schedule of legislative business. In December 1874, the Republican Conference appointed a committee to prepare a schedule for consideration at a later Conference meeting. That experiment worked very well, and the Steering Committee became an established Party practice, adopted also by the Democrats when they became the majority Party in 1879.

Mr. President, historians have noted that the nineteenth century Conference chairmen were not particularly powerful figures. Usually, they were popular senior Senators, such as Henry Anthony of Rhode Island or George Edmunds of Vermont. The dynamic national Party leaders, such as Roscoe Conkling of New York or James G. Blaine of Maine, operated independently of the Conference leadership. The most powerful Senate leaders of that era were the chairmen of the Finance and Appropriations Committees, since, as one scholar has noted, "voters were mainly interested in tariff, monetary, and pork-barrel legislation."

In 1897, Senator William Allison of Iowa, the chairman of the Appropriations Committee, became chairman of the Republican Conference. From that date, the Conference began to acquire real authority. During the 1890's, control of the Senate had tossed back and forth between the two Parties because of the unstable economic conditions of the time. Also, during that period, a small band of "Silver Republicans," representing the silver producing states of the West, held the balance of power in the Senate. If the Republicans were to exercise control and enact the program of the new Republican President William McKinley, then the Conference leaders felt they would need to exert tighter Party loyalty and regularity in voting.

With Allison as Conference chairman and Appropriations chairman, and with Senator Nelson Aldrich of Rhode Island as Finance Committee chairman, a strong new leadership was imposed on the Senate. Aldrich and Allison were also aided by Senators Orville Platt of Connecticut and the masterful orator John C. Spooner of Wisconsin. They were the "Big Four" of the Senate at the turn of the century and had considerable influence on national affairs, a story which Horace Samuel Merrill and Marion Galbraith Merrill have told most incisively in their book, *The Republican Command, 1897–1913.*

Under the direction of the "Big Four", the Republican Conference proceeded harmoniously. The Steering Committee requested that Senate committee chairmen present lists arranging bills according to the need for action, and then report to the Conference on which matters needed to be considered and in what order. The Republican Steering Committee at that time frequently made recommendations on policy decisions. Said Republican Senator Albert J. Beveridge of Indiana:

> This Committee absolutely determines what shall and shall not be done in national legislation.

Unlike the Democrats, who, until 1925, still met in "Caucus," the Republicans called their meeting a "Conference" and insisted that their decisions were not binding on their members. At one point, Senator Beveridge suggested changing the name to "Republican Caucus" to compel more obedience, but Conference Chairman Allison rejected that move, since the Republican leadership—through control of committee assignments and order of business on the floor—had proved able to achieve its goals without a binding rule.

As the first decade of the twentieth century ended, death and retirement removed the "Big Four"—Aldrich, Allison, Platt, and Spooner—from leadership. The Republican Party was also rent by a split between party regulars and insurgent Progressives, such as Robert La Follette, Sr., of Wisconsin and William E. Borah of Idaho. That split, which divided the Party in the 1910 and 1912 elections, caused the Republicans to lose their majority in the Senate for the first time in twenty years.

Indicative of the change in leadership, it was shortly after Senator Aldrich retired in 1911 that the Republican Conference first began to keep minutes of its meetings (the Democrats had begun taking minutes in 1903). The practice began on April 4, 1911, and the minutes were taken by a young Senate staff member named Carl Loeffler, who, thirty-six years later, would become Secretary of the Senate.

I am indebted, Mr. President, to the members of the minority, to the Minority Leader Mr. Baker, and the Minority Secretary Mr. Hildenbrand, for opening the early minutes of the Republican Conference to the Senate Historian to aid me in preparing these remarks. This gracious gesture has helped considerably to insure the accuracy of my statements, which admittedly are a little foreign for a Democrat.

I note that after the Republicans lost control of the Senate in 1913, there is a marked difference between the Democratic and Republican Conference minutes for that year. The Democrats were locked in stormy sessions, going over every detail of the pending Underwood Tariff, while the Republican Conference minutes report, instead, a "friendly discussion" as to the Party's positions on the tariff. The minutes also made clear that "it was understood that the same leeway that has always been accorded all Republican Senators in the proposal of amendments and demand of record votes should be continued."

The Republican Conference in those days elected a chairman, who also served as floor leader, and a Secretary. In 1915, two years after the Democrats had elected their first Whip, the Republican Conference Chairman, Jacob Gallinger of New Hampshire, recommended that the Republicans also establish the position of Whip. Both Parties had experienced difficulties in those years in keeping sufficient numbers of members available to maintain a quorum and conduct Senate business. On December 6, 1915, Senator James Wadsworth, Jr., the father-in-law of former Senator Stuart Symington, was elected both Secretary and Whip, but a week later it was decided to divide the responsibilities into two offices. Wadsworth remained as Secretary and Senator Charles Curtis of Kansas, later a vice president of the United States, was elected whip.

Mr. President, the Republican Conference, like the Democratic Conference, conducts its work in private to assure confidentiality and candidness. So far as I have been able to determine, the Republican Conference was opened to the press and the public only once, and that was on May 27, 1919. The subject was whether Senator Boies Penrose of Pennsylvania should become chairman of the Finance Committee. After a public debate, Penrose won the chairmanship by a vote of 34 to 8, with most of the dissenting votes coming from a small band of Progressive Republican insurgents nicknamed the "Sons of the Wild Jackass".

Throughout the 1920's, the Republicans held an overwhelming majority in the Senate, and Party discipline was not a major problem for them. The Conference met chiefly at the beginning of each session to make committee assignments and, thereafter, members were notified of the order of business by mail.

In 1924, the Party suffered another split when Senator La Follette ran for president on the Progressive ticket against the incumbent Republican President Calvin Coolidge. After the Coolidge election victory, Senate Republicans met to exclude La Follette and three other Senators who had supported him from future Conference meetings, and not to appoint them to Republican vacancies on committees.

Despite this disciplinary action, the Conference continued to insist that no Republican was bound to follow its dictates. On March 12, 1925, the Republican Whip, Senator Wesley Jones of Washington, introduced the following resolution in the conference which was passed without objection:

> RESOLUTION
>
> To make clear and beyond question the long-settled policy of Republicans that our conferences are not caucuses or of binding effect upon those participating therein but are meetings solely for the purpose of exchanging views to promote harmony and united action so far as possible.
>
> *Be It Resolved:* That no Senator attending this conference or any conference held hereafter shall be deemed to be bound in any way by any action taken by such conference but he shall be entirely free to act upon any matter considered by the conference as his judgment may dictate, and it shall not be necessary for any Senator to give notice of his intention to take action different from any recommended by the conference.

The Republicans remained in the majority in the Senate until the Stock Market crash of 1929 and subsequent Great Depression eroded their support. The Party lost control of the House of Representatives in 1930 and the Senate in 1932. Even worse was the mid-term election of 1934, which served as a popular ratification of the early New Deal. Republican ranks in the Senate dropped from 36 to 25 and, two years later, further plummeted to 17. There were so many Democrats in the chamber that 13 Democrats had to sit across the aisle on the Republican side.

As a result of that massive setback, Senate Republicans curtailed their Conference and decided against appointing a permanent Party Whip. Instead, the Conference chairman, Senator Charles McNary of Oregon, was authorized to appoint different Senators from time to time to serve as Whip on particular pieces of legislation. The Republican Conference was not abandoned, as some commentators have asserted, but its meetings were infrequent, generally at the beginning of each session to make committee assignments, or for occasional legislative matters, or for emergencies, such as its meeting on December 11, 1941, four days after Pearl Harbor, when the minority Conference met to pledge its support to President Roosevelt in the "vigorous and efficient prosecution of the war."

During World War II, Republican fortunes revived and the Party's membership in the Senate increased. The Republican Conference chairman and floor leader was Senator McNary, but the prime mover in the Party was a freshman Senator from Ohio, Robert A. Taft. Taft was certainly an outstanding member of the Senate, whom we have honored with a portrait in the Senate Reception Room and a statue and carillon on the Capitol Grounds. It is particularly instructive to examine how Taft shaped the Republican organization in the Senate and how he moved up to a leadership position.

One of the chief differences between the Democratic and Republican Conferences in the years since World War II is that, while the Democratic floor leader also serves as Conference chairman, the Republicans have split the positions between two Senators. The Party owes this innovation to Senator Taft. There is an interesting story behind this move.

In 1944, when Senator Taft was still in his first term in the Senate, he persuaded the Republicans to revive their long-defunct Steering Committee, and subsequently chaired the Steering Committee between 1944 and 1947. Taft then appointed George H. E. Smith, a lawyer, economist, and writer, as his research assistant to advise Republican Senators on legislative matters which related to Party politics. George Smith wrote a little book entitled *Congress in Action*, together with Dr. Floyd Riddick, our Parliamentarian Emeritus. Dr. Riddick tells the story of how, one day, he asked George Smith how Senator Taft had acquired his national reputation as "Mr. Republican."

Smith responded, "If I had to answer in a few words, I'd say: 'Let Bob do it.' " Smith went on to explain that Taft had always been available, first as chairman of the Steering Committee and then as chairman of the Republican Policy Committee, to help in the preparation of legislation. Whenever the discussion in the Republican Conference or Steering Committee fell to deciding who would lead the debate on a particularly difficult bill and who was going to see that all the necessary data were collected and made available for Republican Senators during the debate, when other Senators excused themselves because of other commitments, Taft would say, "Well, if nobody else will undertake it, I will." This procedure was repeated so often that soon the catch-phrase developed: "Let Bob do it." So, long before he was the titular leader of his Party on the floor, Bob Taft became the *de facto* Republican leader on the basis of "Let Bob do it."

In 1945, as the Republicans were rebuilding their strength in Congress, the long-time Republican leader, Charles McNary, died. The Assistant floor leader, Senator Wallace White of Maine, succeeded McNary as floor leader, but to broaden the party leadership, the post of Conference chairman went to Senator Arthur H. Vandenberg of Michigan, while Taft was chairman of the Steering Committee. This arrangement continued after the Republicans in 1946 won control of the 80th Congress, although the Steering Committee was replaced by the Republican Policy Committee, again with Taft as chairman.

Republican control of the Senate proved fleeting and, in 1948, as Thomas E. Dewey was losing his bid to take the White House from Harry Truman, the Republicans lost their majorities in both the House and the Senate.

Senator Taft, then widely recognized as the Senate's Republican leader, remained as chairman of the Policy Committee, beating back a challenge from Senator Henry Cabot Lodge, Jr. of Massachusetts, 28 to 14. Kenneth Wherry of Nebraska became Republican floor leader. It was not until after Dwight Eisenhower defeated Taft in his attempt to gain the GOP's 1952 presidential nomination, and the Republicans had won control of the 83rd Congress, that Taft finally assumed the title of Majority Leader. Eugene Millikin of Colorado remained as Republican Conference chairman. Unfortunately, while Taft was at the height of his influence, he was struck down by cancer and died in July 1953. Leadership on the floor passed to William F. Knowland of California, who had previously succeeded Taft as chairman of the Policy Committee.

Looking over the history of the Party conferences, it is clear that the form and frequency of their meetings depend largely upon the personalities of their leaders, and the particular circumstances of the time. Generally, conferences meet most frequently at the beginning of a session. In 1947, when the Republicans became the majority after long years in the minority, the new members requested weekly meetings of the conference to keep better informed of the Party's program. Conference chairman Arthur Vandenberg, having been in the Senate long enough to know better, warned the new members that they would soon become enmeshed in their own committee assignments and would have less time to attend conference meetings. As a compromise, the Republican Conference generally met twice a month during the 80th Congress. Senator Taft's Policy Committee met regularly every Friday morning. This sense of regularity prevailed in Republican meetings, in contrast to Democratic meetings.

William S. White, in his 1957 book on the Senate, *The Citadel*, presents a most vivid description of the differences between the two Party policy committees, for example:

> The Republican Senate Policy Committee will meet once a week, but it will do so only upon carefully printed notices circulated to the committee's members officially to inform them that there *is* to be a meeting. The Democratic Policy Committee will meet—perhaps—once a week, and when it does the thing seems simply to happen and members will stroll in, usually late, with the air of a man dropping into another's office to have a drink and, having nothing better to do at the moment, to pass the time of day.

Mr. President, I should reiterate that Mr. White was writing about the 1950's, and not about the current practices of the Policy Committees.

William S. White commented about the formality of the Republican Policy Committee under such chairmen as Robert Taft, William Knowland, Homer Ferguson, and Styles Bridges. However, in the 1960's when Senator Everett Dirksen served as Republican Leader, Senator Leverett Saltonstall was chairman of the Republican Conference, and Senator Bourke Hickenlooper was chairman of the Policy Committee, the atmosphere was apparently much more informal. The Policy Committee held weekly lunches every Tuesday, at which the three Republican leaders would give general sketches of upcoming issues, ask for reports from Senators on various committees, and then launch into a "free-for-all discussion on many things."

From 1957 to 1966, the Senator from Massachusetts, Leverett Saltonstall, served as Republican Conference chairman and was quite popular in that post. The Conference generally met from six to eight times a year and spent most of its time discussing organizational matters, rules changes, and committee assignments. Senator Saltonstall made it clear that no member would be asked to commit himself behind any decision of the Conference. The political scientist, Randall Ripley, in his book on *Power in the Senate*, quotes one member of the Republican Conference as saying: "I think that when any Republican Senator feels that he has a subject of sufficient importance to ask for a conference, Senator Saltonstall tries to accommodate him, or talk him out of it." Following Senator Saltonstall as Republican Conference chairman was Senator Margaret Chase Smith of Maine, the first woman of either Party to serve as Conference chairman.

Mr. President, as a Democrat I will not be so bold as to examine the inner workings of the Republican leadership today, except to mention that, in addition to the distinguished Senator from Tennessee, Howard Baker, who serves as Minority Leader, the current Republican Conference chairman is Senator Bob Packwood of Oregon, and the Conference Secretary is Senator Jake Garn of Utah. Senator John Tower of Texas serves as chairman of the fifteen-member Republican Policy Committee.

I trust that the members of the minority will excuse me for this excursion through their organizational development, but I believe they will agree with me that no history of the Senate would be complete without them.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of the Chairmen of the Republican Conference during the 20th Century, and the years during which they served.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE REPUBLICAN CONFERENCE DURING THE TWENTIETH CENTURY

William B. Allison (Iowa), 1897–1901, 1904–1906.
Eugene Hale (Maine), 1901–1902, 1903–1904, 1906–1907, 1909–1910.
Orville Platt (Connecticut), 1902–1903.
Nelson W. Aldrich (Rhode Island), 1908–1909.
Shelby Cullom (Illinois), 1910–1912.
Jacob H. Gallinger (New Hampshire), 1913–1918.
Henry Cabot Lodge, Sr. (Massachusetts), 1919–1924.
Charles Curtis (Kansas), 1925–1928.
James E. Watson (Indiana), 1929–1932.
Charles L. McNary (Oregon), 1933–1944.
Arthur H. Vandenberg (Michigan), 1945–1946.
Eugene D. Millikin (Colorado), 1947–1956.
Leverett Saltonstall (Massachusetts), 1957–1966.
Margaret Chase Smith (Maine), 1967–1972.
Norris Cotton (New Hampshire), 1973–1974.
Carl T. Curtis (Nebraska), 1975–1978.
Robert Packwood (Oregon), 1979–Present.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the names of the Secretaries to the Republican Conference, beginning with Charles Curtis of Kansas in 1911 and extending through JAKE GARN of Utah, 1979 to the present. In doing so, I call attention to the fact that Senator MILTON YOUNG has served longer as Conference Secretary than has any other Senator, Republican or Democrat.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARIES TO THE REPUBLICAN CONFERENCE

Charles Curtis (Kansas), 1911–1913.
William Kenyon (Iowa), 1913–1915.
James Wadsworth (New York), 1915–1927.
Frederick Hale (Maine), 1927–1940.
Wallace White (Maine), 1940–1944.
Harold Burton (Ohio), 1944–1945.
Chan Gurney (South Dakota), 1945–1946.
Milton Young (North Dakota), 1946–1971.*
Clifford Hansen (Wyoming), 1971–1978.
Jake Garn (Utah), 1979–Present.

Mr. ROBERT C. BYRD. Mr. President, how much time remains in the period for morning business?

The PRESIDING OFFICER. Thirty-two minutes and forty seconds.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, If no other Senator seeks recognition, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 11:45 a.m., recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HEFLIN).

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business has not been closed.

Mr. ROBERT C. BYRD. I ask that morning business be closed.

The PRESIDING OFFICER. If there is no further morning business, morning business is closed.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS FOR 45 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I am told that the Senators who are working on the Alaska lands legislation need another 45 minutes. Is that the legislation that is presently pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

I ask unanimous consent that the Senate stand in recess for 45 minutes.

There being no objection, at 12:16 p.m. the Senate recessed for 45 minutes; whereupon, at 1:01 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum, with the time to be charged to me on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Alaska, amendment No. 1947.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged against my time on that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. How much time remains of my 15 minutes on this amendment in the second degree?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. STEVENS. Mr. President, this amendment would have restored to the Hart amendment, the refuge amendment, the lands that the State of Alaska wished to select in the Nowitna area. In the revised Tsongas substitute, those lands are in fact restored along with all State selected lands that were recognized by S. 9, the Senate Energy Committee version of this legislation.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, how many minutes do I have remaining under the control of the minority on the bill?

The PRESIDING OFFICER. The Senator has 138 minutes remaining.

Mr. JACKSON. Mr. President, the same inquiry from the junior Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington has 226 minutes remaining.

Mr. STEVENS. Mr. President, could we have the rundown of the other time on the bill?

The PRESIDING OFFICER. All the time of the Senator from Alaska on this amendment has expired.

Mr. JACKSON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 15 minutes remaining.

Mr. HATFIELD. And how much time does the minority have on this amendment?

The PRESIDING OFFICER. The minority has no time. Time has expired.

Mr. HATFIELD. I wonder if I could ask the Chair to review that for me once again. Do I understand that I, as the ranking minority manager of the bill, have no time remaining on the amendment?

The PRESIDING OFFICER. The Senator has never had any time on this amendment. The minority never has the time on the amendment, as long as the majority opposes the amendment.

Mr. HATFIELD. Is that a policy of the Chair or is that just a matter of discrimination?

The PRESIDING OFFICER. It is the Chair's understanding that that wording is in this unanimous-consent agreement, and that it is the usual form such agreements take.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask that the time for the quorum come out of my time on the pending Stevens amendment.

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*Senator Young served longer as conference secretary than any other Senator, Republican or Democrat.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I move to lay on the table the Hart amendment.

Mr. HART. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAVEL. Mr. President, a point of order.

The PRESIDING OFFICER. Until it is determined there is a sufficient second, no debate is in order. Is there a sufficient second?

Mr. GRAVEL. I have a point of order raised.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. GRAVEL. The pending business is not the Hart amendment, is it? Is it not the Stevens amendment?

The PRESIDING OFFICER. The Stevens amendment is pending to the Hart amendment. A Senator may move to table a first-degree amendment to which a second-degree amendment is appended.

Mr. GRAVEL. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GRAVEL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington.

Mr. JACKSON. Mr. President, I renew my motion to table.

The PRESIDING OFFICER. The motion is pending. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Missouri (Mr. Eagleton), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Stewart), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Maine (Mr. Cohen), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

The PRESIDING OFFICER (Mr. Riegle). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 58, nays 25, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—58

Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jackson
Jepsen
Kassebaum
Laxalt
Magnuson
Matsunaga
Melcher
Morgan
Moynihan
Nunn
Pell
Percy
Pressler
Roth
Schmitt
Simpson
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—25

Bayh
Bradley
Chafee
Culver
DeConcini
Ford
Gravel
Hart
Hollings
Levin
Lugar
Mathias
McGovern
Metzenbaum
Mitchell
Nelson
Packwood
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stafford

NOT VOTING—17

Armstrong
Biden
Church
Cohen
Durkin
Eagleton
Huddleston
Javits
Johnston
Kennedy
Leahy
Long
McClure
Ribicoff
Stewart
Talmadge
Wallop

So the motion to lay Mr. Hart's amendment (No. 1941) on the table was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I wish to——

The PRESIDING OFFICER. I beg pardon.

Mr. STEVENS. Go ahead.

The PRESIDING OFFICER. The Chair is advised that under the precedents when a Member of the leadership on either side seeks recognition he should be recognized. I did not hear the Senator's voice.

I recognize the Senator from Alaska.

Mr. STEVENS. Mr. President, I am happy to yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, let me try to clarify my position on this since it is of some confusion to some Members and I must say to myself as well.

We have undertaken 2 weeks of discussions, trying to work out an Alaska lands bill that is fair to the various interests involved.

We have from my perspective the environmentalists' concern. From the concern of the two Senators from Alaska we have the miners, the loggers, the State, the oil and gas interest, and the sport hunters.

That is the framework within which the discussions took place.

It is my judgment that on the course that we were following prior to this issue being taken off the floor we would have had no bill. In fact, we could have a situation and did have where second degree amendments could have been offered ad infinitum and ad nauseam, and there would have been no bill.

The problem we have in this case is that in essence those on both sides of the spectrum are desirous of no bill. The developers in some cases want no bill because they think they can get a better bill next year. I do not think it is a case legally, but that is what they believe. And some environmentalists do not want a bill because they would rather have the lands withdrawn as monuments.

So we have a rather narrow field in which to operate, and that is where we have been for 2 weeks. But we think we have arrived at an accommodation from which everyone is equally dissatisfied which suggests perhaps that we have arrived at something that may make sense.

I have decided to honor the process and to take it on faith that in fact the details of that accommodation can be put together this afternoon. So I for one urge my colleagues to the extent that I can to follow the lead. I have agreed to table and not offer the amendments that are available to me under the time agreement and at some point, I would guess tomorrow, we will get to the substitute and that substitute is, in my judgment, an accommodation that is fair. It does not particularly please me, but within the process, within the realities that we we are dealing with I think everyone can walk away knowing it was the best arrangement possible from the perspective of the six constituencies that I addressed myself to in the beginning of this talk.

The PRESIDING OFFICER. The time has expired.

Mr. TSONGAS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. TSONGAS. To those Senators who have been supportive of what I have been doing for the last 3 or 4 weeks, I can understand their confusion and perhaps the need to continue on that original course, but I just say to those Members that if anyone has his neck stuck out at this point it is I, and I would not be out there if I did not think this was the absolute best that was possible under the circumstances.

I wish to commend my chairman and

the others who participated, and I think that hopefully by the end of these 3 days reason will prevail and the Alaskan issue will be settled and the best interests of Alaska can then be pursued.

Mr. JACKSON. Mr. President, I yield from the bill such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JACKSON. Mr. President, I associate myself with the remarks just made by the distinguished Senator from Massachusetts, Senator TSONGAS. He has been extremely helpful.

We have all been engaged in a process of give and take, I think, in the best tradition of this body. It is clear that some of us feel very deeply and very strongly about the need for a bill.

If we do not want a bill and if we want to continue the confusion in Alaska and in the country at a time when there needs to be a resolution for Alaska of this age-old problem of trying to provide for a program of sensible conservation and preservation, at the same time as economic development, then no bill is fine. But if we want to remove the cloud that hangs over a land area that is more than one-fifth the size of the United States, I think this course to get a bill makes a lot of sense.

I especially thank my colleague, the ranking member on the committee, Senator HATFIELD, for his strong support for an effort to get the bill. It has been a truly bipartisan effort to hammer out out something that we can pass, something that will bring to a conclusion what has been a long-drawn-out debate. I believe it is in the best interests of all who are committed to a sensible program of conservation in this country and to those who recognize at the same time the need for a proper balance, recognizing that this Nation does have critical resource problems. We believe that this bill, which probably will not make any one group completely happy by any means, is the best proof that we have done a conscientious job.

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. Mr. President, may I inquire of the Senator from Massachusetts, does his statement mean he will not be offering and no one will offer under the time agreement the amendments that he is entitled to offer?

Mr. TSONGAS. I would say to the Senator from Alaska it is not my intent to proceed at this point with the remaining four amendments. I reserve the right to do so if we should end up squabbling later on this afternoon but not at this point.

Mr. STEVENS. Then, Mr. President, may I ask the Senator from Washington—he is entitled to offer amendments—does he have any intention to offer his amendments at this time?

Mr. JACKSON. Mr. President, I have no intention to exercise my right to offer the amendments permitted by the unanimous-consent agreement.

Mr. STEVENS. Mr. President, I do have three amendments. Two of them have been reviewed at length with the group that has been working on the Alaska lands issues. The third is an exchange provision that dealt with the proposal to exchange lands in the Arctic National Wildlife Range for lands in the White Mountain ski areas. That exchange was a specific authorization for specific exchange. There is general language for exchange of lands within conservation units and lands that the State may have elsewhere that could be exchanged as well as those lands which the State will receive title to under a bill should one become enacted that could be pursued under the general exchange provisions.

So I might state that I have no intention of offering the exchange amendment.

I do have two other amendments, one that deals with changes in the wildlife management system envisioned by S. 9. The other deals with the so-called "no more" clause in S. 9. It is my feeling that these amendments to S. 9 are still in order, and I am hopeful that the managers of the bill will accept those amendments.

As I said in both instances, they have been modified to be included in the revised Tsongas substitute.

Having mentioned that let me say that Senators are mentioning a compromise. I do not think there will be any offense to state categorically there is no compromise in the sense that I understand the word because I have not agreed to it.

I still cannot support the revision of the Tsongas substitute, but I understand what is in it, and how the revision has been arrived at and, considering the parliamentary situation, and particularly considering where the votes are on this legislation, as is apparent, I think to anyone who has studied the subject the Senator from Massachusetts has been patient in considering repeated requests that I have made for changes in his substitute. That we will see about later.

UP AMENDMENT NO. 1500

(Purpose: To clarify the role of the State of Alaska regarding fish and wildlife management, and to make certain technical corrections)

But for now I would like to call up and ask the clerk to state—I have an amendment at the desk, it is a revision of my amendment dealing with the subject of wildlife management.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1500.

Mr. STEVENS. Mr. President, as I have stated, we have discussed this amendment at length with those members of the staff who are working both for the committee majority and the committee minority and others who are involved in this matter, and this is in the form that, it is my understanding, would appear in the revised Tsongas substitute.

I ask that the manager of the bill accept this, and I yield back the remainder of my time.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, we are prepared to accept the Stevens amendment. It is essentially an amendment that Senator TSONGAS, Senator HATFIELD and I will include in the substitute amendment that will be offered later. I hope the Senate will adopt the amendment.

Mr. HATFIELD. Mr. President, the majority manager of the bill has stated the proposition correctly. We are prepared to accept the Stevens amendment.

The subsistence management provisions of S. 9 as introduced reflect a delicate balance between the traditional responsibility of the State of Alaska for the regulation of fish and wildlife populations within the State and the responsibility of the Federal Government for the attainment of national interest goals, including the protection of the traditional lifestyle and culture of Alaska Natives.

The committee amendment differs from title VII of H.R. 39, as passed by the House of Representatives in two respects. The first relates to subsistence hunting by local residents within national parks and monuments. Under the committee amendment, parks and monuments are closed to all forms of hunting unless subsistence uses are permitted by this act. Subsistence resources commissions are to be established to recommend a program for subsistence hunting in such parks and monuments.

The second major difference is the means for enforcement of the subsistence preference. The House bill requires the Secretary to take certain administrative actions if he determines that the State has failed to establish a subsistence program or to implement such a program in a manner which adequately satisfies the preference for subsistence uses.

While the committee has retained broad Federal guidelines to insure the adequate implementation of the subsistence preference on the public lands and the Secretary's ongoing responsibility to monitor the State's implementation of such preference, the committee believes that the responsibility of the Secretary to insure the protection of subsistence uses and the satisfaction of subsistence needs of Alaska Natives and other rural residents can best be met by providing legal representation for such residents before the U.S. district court in appropriate instances in which the Secretary has determined after consultation with the State, that the State has not timely or adequately provided for the preference for subsistence uses.

Although it is the intent of the committee to neither enlarge nor diminish any existing authority of the Secretary to take appropriate administrative action to protect subsistence uses and satisfy subsistence needs of rural residents of Alaska, the committee believes that the responsibilities and authorities of the Secretary and the U.S. district court set forth in section 804–807 insure the protection of subsistence activities and the discharge of Federal responsibilities.

Mr. GRAVEL. Mr. President, I would like to make inquiry.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. GRAVEL. Is there any time left on this amendment? Would Senator JACKSON yield me some time?

Mr. JACKSON. I will yield the time on the amendment. How much time does the Senator need?

Mr. GRAVEL. I would like to make inquiry to find out what the amendment is. Is it conclusive and will it be made part of the package later? My fears are simply that we could accept a host of amendments right now and we would all be wiped out by the adoption of another facet of this. So is it unreasonable to ask—there is one printed at the desk, 1787. Is this 1787?

Mr. JACKSON. The inquiry should be directed to the Senator from Alaska.

Mr. STEVENS. Mr. President, this is amendment 1787, as modified, as I have stated. This amendment will be included in the revised Tsongas substitute by virtue of adopting it here. It will also be included in S. 9. Should the Tsongas substitute fail then my amendment would be in S. 9. Should the amendment pass, then it would be part of the Tsongas substitute. I wish to have it both ways.

Mr. GRAVEL. What modifications were made, if my colleague will yield, in the printed amendment we are now being asked to consider?

Mr. STEVENS. The modification is at the desk. It was a modification negotiated over a period of time. Perhaps I could suggest that my colleague would like to read the modifications.

Mr. GRAVEL. Maybe we could have the modifications read, or the amendment. I request to have the amendment read so that we can have a comparison with the original amendment and see what changes were made.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

The Chair advises that the amendment is being returned to the desk and will very shortly be read. The clerk will report the amendment.

Mr. GRAVEL. Will the clerk read it very carefully because this is a technical amendment and I want to see the comparison of the changes made.

Mr. STEVENS. Mr. President, whose time is this being charged to?

The PRESIDING OFFICER. The Chair would indicate it is coming at the moment from no one's time.

The Chair would inquire of the Senator from Alaska, who made the request, if it would be sufficient if only the modifications were read?

Mr. GRAVEL. That would be sufficient for me. I am not trving to be dilatory here, just trying to find out what is going on. If there is a train coming through, I would like to be able to count the cars.

The PRESIDING OFFICER. The clerk will read the modifications.

The assistant legislative clerk proceeded to read the modifications.

Mr. GRAVEL. Read it very slowly.

The PRESIDING OFFICER. I am sure the clerk will read it so that the Senator can follow.

The assistant legislative clerk continued to read the modifications.

Mr. GRAVEL. Will the clerk hold for a moment? Back on page 2, line 18 the clerk stated "Strike 'State or Federal law.'" That is different from the one I have, which is 1787.

The PRESIDING OFFICER. The Chair would advise that the clerk is now reading the amendment as it has been modified, so that what the clerk is reading constitutes the new language.

Mr. GRAVEL. I thank the Chair for the clarification.

Mr. STEVENS. Mr. President, I understand that the clerk was unable to have copies made of that because the request was made quickly, and I ask unanimous consent that there be a quorum call to last not more than 5 minutes during which that time can be used so that the amendment can be xeroxed and we can all take a look at it as it is being read.

The PRESIDING OFFICER Is there objection?

Mr. GRAVEL. Mr. President, reserving the right to object, I just want to thank my colleague for helping so that we can be properly edified.

The PRESIDING OFFICER. Without objection, it is so ordered. Copies will be made.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. I believe the time has expired.

Th PRESIDING OFFICER. Without objection, it is so ordered.

The text of UP amendment No. 1500 is as follows:

Page 363, strike lines 1 and 2 and insert in lieu thereof: "opportunity for rural residents engaged in a subsistence way of life to do so.".

Page 388, line 8, strike "State or Federal", and insert "existing".

Page 405, line 3, strike lines 3 through 5 and insert the following:

"(2) to fulfill the obligations of the United States with respect to fish, wildlife and their habitats which are the subjects of international treaties;".

Page 406, line 9, strike "." and insert the following: "including, but not limited to, the provisions of this Act.".

Page 407, lines 24 and 25, strike "State or Federal law", and insert "existing".

Page 416, line 4, strike "protection" and in lieu thereof insert "conservation".

Page 416, line 14, between "other" and "uses", insert "similar".

Page 416, line 16, following "place.", insert the following additional sentence: "*Provided,* That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law.".

Page 417, line 14, strike "protection" and in lieu thereof insert "conservation".

Page 417, line 19, after "1978.", insert the following additional sentence: "*Provided,* That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law.".

Page 417, line 19, strike "Other multiple" and in lieu thereof insert "Multiple".

Page 417, line 20, strike "protection" and in lieu thereof insert "conservation".

Page 469, line 22, strike "their" and insert in lieu thereof "Native".

Page 469, line 23, between "and" and "cul", strike "Native."

Page 469, line 23, after "existence", strike ";" and insert the following phrase: ", and to non-native physical, economic, traditional and social existence;".

Page 470, line 2, strike "persons" and insert "rural residents".

Page 470, line 25, strike "the inhabi-".

Page 471, line 1, strike "tants of Alaska" and insert "residents of rural Alaska".

Page 471, line 2, strike "people" and insert "rural residents".

Page 471, line 25, following "Alaska", strike ", and where" and in lieu thereof insert ". When".

Page 474, line 4, following "Secretary", insert the following phrase: ", in consultation with the State,".

Page 474, line 19, following "regional", insert "advisory".

Page 475, line 6, following "ticipation" insert the phrase: "pursuant to the provisions of this title".

Page 475, line 24, between "local" and "committee" insert "advisory".

Page 476, line 8, between "local" and "committees" insert "advisory".

Page 476, line 15, between "regional" and "councils" insert "advisory".

Page 477, line 8, between "local" and "committees" insert "advisory".

Page 477, line 9 between "regional" and "councils" insert "advisory".

Page 479, line 7, strike "State in providing such preference," and insert in lieu thereof: "implementation of this title, including the State's provision of such preference,".

Page 479, line 14, between "local" and "committee" insert "advisory".

Page 479, line 15, between "regional" and "council" insert "advisory".

Page 481, line 20, between "local" and "committee" insert 'advisory".

Page 481, line 21, between "regional" and "council" insert "advisory".

Page 482, line 1, between "AND" and "MONUMENT" insert: "PARK".

Page 482, line 6, between "or" and "monument" insert "park".

Page 482, line 7, between "regional" and "council" insert "advisory".

Page 482, line 9, between "or" and "monument" insert "park".

Page 482, line 11, between "regional" and "council" insert "advisory" and between "local" and "committee" insert "advisory".

Page 482, lines 12 through 14, strike "is a resident of a village within or adjacent to the park or monument or whose residents engage," and insert in lieu thereof "engages".

Page 482, line 14, between "or" and "monument" insert "park".

Page 482, line 18, between "or" and "monument" insert "park".

Page 482, line 18, between "or" and "committee" insert "advisory" and between "regional" and "councils" insert "advisory".

Page 483, line 4, between "local" and "committee" insert "advisory" and following "regional" insert "advisory".

Page 483, line 6, between "or" and "monument" insert "park".

Page 483, line 15, between "or" and "monument" insert "park".

Page 483, line 16, between "or" and "monument" insert "park".

Page 487, line 21, between "local" and "committee" insert "advisory" and between "regional" and "council" insert "advisory".

Page 489, line 10, between "and'" and "monuments", insert "park".

Page 633, line 22, between "law." and "Within", insert the following: "Consistent with the provisions of this Act,".

Page 633, line 21, strike "appropriate reg".

Page 633, line 22, strike "ulation and".

Page 634, line 1, strike "and management".

Page 634, line 12, strike "specifically provided by this Act", and substitute the following: "may be provided in title VIII of this Act,".

Page 634, line 23, between "national" and "mounments", insert "park".

Mr. STEVENS. Mr. President, yielding myself time on the bill that I might need, the amendment has now been copied and I shall be pleased to answer any questions anybody might have concerning changes. Again, this is an amendment to the committee bill; it is not an amendment to the TSONGAS substitute.

Mr. GRAVEL. I do have another question, if my colleague will yield.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I have some questions to pose. One is the first deletion on page 1.

The PRESIDING OFFICER. The Chair advises that the Senator has time on the bill that he can take.

Mr. GRAVEL. Mr. President, there is time on the amendment. We are discussing the amendment. If I do not have time yielded on the amendment, I shall sit down. My time on the bill is very precious and I have used up a lot more than anybody else.

The PRESIDING OFFICER. Does any Senator who controls time on any amendment yield time to the Senator?

Mr. JACKSON. Mr. President, how much time do I have remaining on this amendment?

The PRESIDING OFFICER. The Chair advises that the Senator from Washington has 42 minutes remaining on the amendment.

Mr. JACKSON. I yield 5 minutes to the Senator from Alaska.

Mr. GRAVEL. I thank the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRAVEL. Mr. President, the first question I pose to the managers of the amendment is on the deletion that takes place on page 1. That is, to delete, on page 388, line 15 and add an additional sentence, a sentence that we felt was very important; that is, that this section does not authorize the Secretary to issue Federal permits to engage in commercial fishing on the waters located within a unit of the National Park System.

Presently, Mr. President, those permits are granted by the State of Alaska. That is something that we have been extremly jealous about. I am sure all of those in the West would be concerned about this, where there are Federal lands, where there is management of these resources by the State, one of the major consensus points that remain in the hands of the State. So my question is, What is the impact of the deletion of this admonition that is specifically in the amendment and why was it deleted?

Mr. STEVENS. Mr. President, I yield myself such time as I may need on the bill.

Let me state again to the Senate and for the benefit of my colleague that we have been working, those of us who are trying to recognize the parliamentary situation and the situation with regard to votes under the time agreement that the other Senator from Alaska negotiated and insisted on. I have worked now, hour after hour, day after day, week after week, and month after month without his help, and I might say I do not need it now.

The problems that he discusses he could have sought the answers to before. He has not done so. If he desires at this time to block having this amendment put on at this time, let him state so. If not, I shall offer it again. If he desires to use my amendment for some purpose of dilatory tactics, I shall withdraw it. I leave it up to the other Senator from Alaska.

Mr. GRAVEL. Mr. President, I am obviously not being dilatory. I was merely asking a question. Perhaps the distinguished Senator from Washington will respond to the question, since the distinguished Senator from Alaska has not chosen to respond to the question.

Mr. JACKSON. Mr. President, I reiterate that the Senator from Oregon (Mr. HATFIELD), the ranking minority member and comanager of the bill here with me, and I are prepared to accept the amendment. If it is not going to be accepted, I am prepared to move to table it, because I am anxious that we get to the heart of this matter, Mr. President, and that is the substitute, which will be a substitute to the House-passed bill. I just want to state that for the record. Otherwise, I know what is going on. This can go on for hours and days. I am only anxious for the Senate to be able to work its will under the unanimous-consent agreement.

Mr. MELCHER. Will the chairman yield to me?

Mr. JACKSON. Yes, I yield.

Mr. MELCHER. If I understand it, we are to vote on the substitute. Is the substitute available?

Mr. JACKSON. No, Mr. President, we are in the process of finishing that. It will be ready, we hope, by the end of the day, depending on how long we stay in tonight. In any event, it will be offered tomorrow.

Mr. MELCHER. My question goes to the point of whether we are going to be able to see the substitute.

Mr. JACKSON. Yes.

Mr. MELCHER. And have some opportunity to consider it and to consider our options on these other amendments? Because if the substitute is offered under the unanimous-consent agreement, there is no amendment to it.

Mr. JACKSON. That is true of substitutes.

Mr. MELCHER. So it would just be an up-or-down vote on it.

Mr. JACKSON. That is correct.

Mr. MELCHER. At this time, it really does not seem that we are going to be able to determine how we want these amendments to be fashioned if we cannot look at the substitute.

Mr. JACKSON. Under the unanimous-consent agreement, of course, the substitute can be offered, as it will be, to the House-passed bill, which we must send over to the House. If we want a bill, that is the route we go. If we do not want a bill, that is something else again. But a number of us here, with differing points of view, feel very deeply about the need to get a bill and to end this long, contentious trouble that we have had over the classification of Alaska lands.

I offered the d-2 provision, the Senator will recall, in the Native Claims Act in 1971. It has been 9 years, Mr. President, and I, for one, am anxious that we resolve this problem.

I can only say that there are all sorts of things that can be done to delay, although some of us do have weapons available to use to counter those moves. I should like to see these amendments offered to the Senate bill, S. 9, but if they cannot be offered without protracted delay—even when the amendments are being accepted—then I am prepared simply to move to table them. That will be the course I shall follow if I see a pattern evolving here of delay. I think the Senate is prepared to work its will in a reasonable, sensible, and timely fashion.

Mr. GRAVEL. If the Senator from Washington will permit me, certainly, I have not acted to delay anything.

The PRESIDING OFFICER. The Chair advises that the Senator from Alaska has 3 minutes remaining of the 5 minutes yielded to him.

Mr. GRAVEL. I thank the Chair.

I say to the distinguished Senator from Washington, the chairman of the committee, that last week, when the bill was taken down and I was invited to meetings, I came to meetings. But that process became very narrow, so I was not a party to what has been worked out.

Mr. President, I do not think it is unreasonable or dilatory on my part to inquire on behalf of the people of Alaska what the impact of the agreement is. Obviously, that is the first element of the agreement to surface; the amendment that we thought had great value is now offered with substantial deletions.

I asked, simply, what is the impact of this. I ask that of any one of the managers of this bill at this point, of managers of this amendment, who might choose to answer, whether it is the Senator from Oregon, the Senator from Washington, the Senator from Massachusetts, or my colleague. I see a deletion here that may have the impact of changing what we think is very important in Alaska; that is, to be able to manage the resource.

So I ask the question of those who have worked out this agreement that I have no knowledge of and was not invited to. Obviously, had I been invited, the question would be dilatory, but it is not. It is a legitimate question. I would like to know what is going on.

Mr. STEVENS. Mr. President, again on my own time, if my colleague had been part of preparing the original amendment, I could understand his interest in the revision.

I have modified my amendment and offered it to the Senate in that form. It is a modification of the original language which deals with trying to preserve the status quo, that is, the balance between Federal and State involvement in terms of management of both the habitat and the wildlife in our State.

I am satisfied, and so is my staff, that the modifications we have made are modifications to eliminate redundancy in this amendment, that is, language that is not necessary in order to preserve the status quo.

There is no change in this amendment that, in my opinion, would disturb the status quo as far as the balance between State and Federal prerogatives dealing with wildlife lands and fish and wildlife management.

My position has been and remains that the State of Alaska should have the same powers as any other State in managing fish and wildlife on Federal lands, and we have done our best to maintain that.

This amendment originally came from discussions I had with members of the Wildlife Management Institute, and others involved in wildlife management, such as the International Association of Fish and Game Agencies.

The modifications I have made have been made by me. The amendment I have offered is offered on behalf of the people of Alaska, not against the people of Alaska.

I urge my colleagues to see it is put in S. 9, in the event my position prevails, that we should vote on S. 9. It will be in the Tsongas substitute. There is no question about that.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time if we can get a vote on this.

Mr. STEVENS. May I inquire of the Senator from Washington if he is prepared to accept this amendment?

Mr. JACKSON. I am prepared to yield back my time and accept the amendment on my behalf and the Senator from Oregon (Mr. HATFIELD).

Mr. STEVENS. As an amendment to the committee substitute?

Mr. JACKSON. That is correct. It is in essence what will appear in the substitute that will be offered in accordance with the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. If all time has been yielded back, I would like to send to the desk——

Mr. JACKSON. No.

The PRESIDING OFFICER. The Senator had 1 minute and——

Mr. JACKSON. I have not yielded back my time. I said that I was prepared to yield it back.

The PRESIDING OFFICER. The Chair was advising the Senator from Alaska, the original 5 minutes and 1 second remains.

Mr. GRAVEL. Mr. President, I hurriedly sent the copy, when I was provided a copy, out to people who I have confidence in.

I understand that on page 2 there is a deletion that some people feel is pretty important. In fact, the National Association of Fish and Wildlife managers feel that it is very important, and they were very adamant that, with the deletion on lines 8 and 9 and 10 of page 2, there is a loss of management and that this gives the Federal Government the authority to manage fish and wildlife to the exclusion of the State.

I know my colleague stated he does not think this is what is done, but I can only refer to the fact that these people are more knowledgeable in this area than I, and that was——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, it is clear that more amendments are going to be offered to this amendment, the Stevens amendment.

I would like to accept the Stevens amendment, but it is clear it is not going to be accepted.

Mr. President, I move to table the Stevens amendment.

Mr. TSONGAS. Will the Senator yield?

Mr. JACKSON. Yes.

I withhold it for the moment.

Mr. TSONGAS. Mr. President, I think we should at least provide an opportunity for this to be accepted. I ask unanimous consent that the amendment offered by the Senator from Alaska be accepted.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, I did not hear the request. I was so stunned, Mr. President, by the fact that I was being dilatory by merely questioning a document I was handed just moments ago, that I would be happy, at least, for the Senator from Massachusetts——

Mr. TSONGAS. Let me say to my friend from Alaska that the motion to table, discussed at this point, from an Alaska perspective, if the respect is honored, the language will be included both in S. 9 and the substitute. So Alaska is protected either way.

I would rather have that in place from the Senator's perspective than that a motion to table now occur, which I would have to support and which would remove one of the safeguards I think we would be concerned about.

Mr. GRAVEL. I would have no problems with this if the Senator would allow a bit of time to deal with what the amendment is about.

I have been yielded 5 minutes. I know the Senator from Washington has lost patience with me. But I have not been dilatory. I have just seen this document. I was able to send it out, get a reaction to it, and I do not know what is wrong with trying to develop a colloquy here on what we are doing.

Mr. TSONGAS. Mr. President, I yield 5 minutes from the bill, that I control, to the Senator from Alaska to pursue the inquiry. But at that point, I will renew my request.

Mr. GRAVEL. I thank my colleague.

Mr. TSONGAS. Simply for the purpose of inquiry and not to offer amendments.

The PRESIDING OFFICER. The Chair would advise that the amendment would not be in order until the time of this amendment were either used or yielded back.

Mr. GRAVEL. I appreciate that.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Has all the time been yielded back?

The PRESIDING OFFICER. The Chair advises that the time has not been yielded back. The Senator from Massachusetts is, as I understand it, prepared to yield 5 minutes for discussion only by the Senator from Alaska off the bill.

Mr. GRAVEL. I thank my colleague.

Mr. President, on page 7, the one deletion, the deletion of lines 13 and 14, apparently, that language was vitally needed to improve access and the sportsmen in Alaska inform me this is something that they need.

I wonder if there would be any comment on that?

The other——

Mr. STEVENS. Mr. President, if the Senator wishes to have a response, I would be pleased to answer on my time.

Mr. GRAVEL. I thank my colleague.

Mr. STEVENS. The word "permitted" dealing with where such use is permitted, and inserting "not prohibited" was a technical concept.

The matter has been clarified again in the access title.

As a practical matter, there is no difference here between being permitted and not being prohibited, so far as access is concerned, in relationship to the access title.

While we are at it, let me answer the question about the item on page 2. That dealt with the authority of existing law, including but not limited to the National Wildlife Refuge Administration Act. That, again, was a redundancy. It added nothing to the bill under existing law, including a reference to the National Wildlife Refuge Administration Act. It did not add to the bill. It is not necessary to give the National Wildlife Refuge Administration Act validity under existing law. Neither was it important in the negotiations, and I agreed to delete it.

The language has been checked with the International Association of Fish and Game Commissioners and the people with whom I worked in preparing the original amendment. I believe they will agree that those deletions do not harm the amendment.

Mr. GRAVEL. I thank my colleague.

The language just above it, on page 7, I am informed, is somewhat comparable to the Organic Act language, so that does not plow any new ground. The counsel to the International Association of Fish and Wildlife Agencies felt that that was important to have in the bill. That is the deletion on page 7, lines 9 to 12.

Mr. STEVENS. With respect to the provisions on page 490 of the bill, if my colleague will look at that, he will see that on page 490 of the bill, line 23, we were attempting to insure the continued viability of a particular fish or wildlife population. What we have done now—and what was to be inserted in there—is to insure the opportunity for continued uses on public lands in compliance with the provisions of applicable law.

As a practical matter, the changes that have been made conform this amendment to the other provisions of the bill consistent with the access provisions that are already in the committee substitute. There is no substantive change in that section, either.

Mr. GRAVEL. The last point is with respect to page 8, the deletion of language. I felt that I was party to the process of all amendments, since we watched very closely what was exchanged, and tried not to duplicate.

This language, as I view it, is necessary for fish propagation facilities. Can my colleague explain to me if we are covered elsewhere as a result of this deletion?

Mr. STEVENS. With regard to this, we are talking about the activities within these areas other than units of the National Park System. It is my understanding that that is still the decision of the sponsor of the substitute.

Again, it is the Tsongas substitute; it is not my substitute. But in the negotiations dealing with it, there is a provision dealing with this subject. However, there still is not a willingness to have the aquaculture facilities be within the units of the National Park System. In other words, they have continued the provisions of the committee substitute.

Mr. GRAVEL. The only thing I can add is this: If the manager of the park found that it was not detrimental to the park to have fish hatcheries or aquaculture facilities, I think it would be an important door to leave open. However, apparently my colleague did not feel similarly.

Mr. STEVENS. That is not correct. The committee substitute does not permit aquaculture projects in the National Park System units. The substitute does not permit them, either, as I understand it. My amendment sought to require the issuance of a permit in the areas outside the National Park System units.

The PRESIDING OFFICER. The Chair advises that the 5 minutes have expired.

Mr. TSONGAS. Mr. President, I renew my unanimous-consent request.

Mr. GRAVEL. I thank my colleague from Massachusetts for extending me the courtesy so that I might be slightly more informed on this issue.

Mr. TSONGAS. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STEVENS. Mr. President, I have one other amendment, under the understanding in the committee. I will offer that as the last amendment before the substitute. We have reached the period for the substitute, so I reserve the right to offer my final amendment.

The PRESIDING OFFICER. Are there any other amendments that any Members wishes to offer at this time?

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LEVIN. I ask that it be equally divided.

Mr. GRAVEL. I object to that.

The PRESIDING OFFICER. Objection is heard.

The Chair advises that in the event no one yields time for any matter—a quorum call or any other matter—the time that is elapsing now will be charged equally to all four sides.

Mr. GRAVEL. Mr. President, a parliamentary inquiry. How much time remains now to the various managers of the bill?

The PRESIDING OFFICER. The Senator from Washington has 223 minutes remaining. The Senators from Alaska and Oregon together have 134 minutes remaining. The Senator from Massachusetts has 117 minutes remaining. The Senator from Alaska has 94 minutes remaining.

The Chair advises that the time for the inquiry posed by the Senator from Alaska is deducted from his time.

Mr. GRAVEL. Now I have less time than that.

Mr. President, there is something very interesting going on here. We are waiting for a substitute to come forward, which I have not seen and nobody but the managers have seen. We are waiting for that and waiting for people to offer amendments. I have three, but I do not know how to structure those amendments until I can see what the substitute is.

Since I was not party to it, and since we just went through the process of a very detailed amendment that has extensive ramifications, without what I consider proper scrutiny, I suggest to the managers of the bill, in a sense of comity and fairplay, that at least one copy be made available. Somebody must have a copy. Then we can study it and begin to deal with it.

At this point I believe my amendments may be of little value unless I can recognize what is being done in the substitute, but I have been deprived of that process.

So I can only say to my colleagues that I think the RECORD will show that, first, I have not been dilatory; second, that the process has not been as broad as it could be. There are many Alaskans in the gallery who do not know anything about what specifically is in that substitute.

We can do business this way in the Senate, particularly when it involves the sovereignty of a State, particularly when this committee never had a single meeting, a hearing, on this subject in that State. We can do business that way in the Senate, but I think the RECORD will be clear to all who want to read it of the high-handedness and arrogance involved.

When I was invited to meetings, I attended the meetings and did not act in a dilatory fashion at those meetings. I am not acting in a dilatory fashion now. I am prepared to deal with the substitute that they fashioned. Let them come forward with it now. But they turn around and just use up my precious time that I may need to fight that substitute when they have an overwhelming amount of time compared to me. I have used up more time in debate than they have. I think the RECORD will show the manner in which this legislation is being handled before the American people.

Mr. STEVENS. Mr. President, I think the record is plain. We held 44 markup sessions in 1978. My colleague did not attend one of them. We held meeting after meeting this year. He attended when he wanted to.

I think the problem really is that the subject is complex and it takes a lot of time, and one must really have a detailed knowledge of this bill to understand it.

I have not seen the complete substitute yet of the Senator from Massachusetts, and I assure the other Senator from Alaska that when I do I will be happy to provide him with a copy if he does not get it before I do.

But as a practical matter the negotiations that led to this time agreement were not my negotiations. They were his. The Senator from Massachusetts has the absolute right to offer the substitute under this time agreement which the other Senator from Alaska and I both know we have no way to prevent him from bringing it up. The Senator from Massachusetts may bring up his substitute when he wishes to do so following the consideration of these other amendments. It is not subject to amendment. It is not subject to tabling. That was not my negotiation. It was the other Senator from Alaska. So the process that I really feared is coming on us, and my problem is that I am trying to see to it that when the substitute comes up, if it does pass, it does us the least harm possible.

My colleague apparently thinks he has some way to prevent it from coming up, and I wish him well because I studied it. I know of no way to prevent it.

The PRESIDING OFFICER. Does the Senator from Massachusetts seek time?

Mr. TSONGAS. Yes, Mr. President, just briefly.

I was involved with this issue when I was in the House of Representatives. As everyone knows, it was not the fault of the House of Representatives that the bill was not passed in 1978. Now I am in the Senate, and I have spent an enormous amount of time on it here, and since there is no place else to go, I hope we could resolve it in this body.

I also suggest that as soon as the substitute is available we will try to get it out.

Under the time agreement I cannot even offer the substitute until all the other amendments have been disposed of, and I do not know anyone who has shown me copies of his amendment prior to it being introduced on the floor.

I certainly know the Senator from Alaska has not, and I do not think I have received the other amendments either.

Since we have 4 hours of debate——

Mr. GRAVEL. Mr. President, will the Senator yield on that?

Mr. TSONGAS. I yield.

Mr. GRAVEL. If I may, these amendments were made public months ago. So with respect to the amendments that I have, the Senator has had ample time to go over them.

Mr. TSONGAS. Does the Senator have them now so I can see them?

Mr. GRAVEL. He has had ample time. Pardon me.

Mr. TSONGAS. Does the Senator have the three amendments so I could look at them now?

Mr. GRAVEL. My three amendments have been published since March, and I have them right now. I will be happy to give them to the Senator to look over.

Mr. TSONGAS. I might say there is no requirement that anyone's amendment be published earlier than it could have been.

Mr. GRAVEL. There was an understanding in part of the colloquy of the February 7 debate.

Mr. TSONGAS. Mr. President, if I could reclaim my time to get my point across, anyone could change his amendment prior to introduction, and we are as familiar with the amendment as published as the Senator is familiar with the amendment that we had as published. But clearly we all reserve the right to adjust as the situation requires.

So there will be 4 hours allocated on the substitute, and I suspect that we will discuss it to everyone's satisfaction and we will wait and see how the vote comes out.

I yield back the remainder of my time.

Mr. GRAVEL. If the Senator from Massachusetts will permit me a question, would the Senator from Massachusetts think that 4 hours is adequate to the people of Massachusetts to look through a substitute that may be several hundred pages in length and assess its impact upon the State of Massachusetts? How much time would it take to deliver it up to Boston so the Senator could have counsel look at it?

How much time does the Senator from Massachusetts figure he would need in order to take a good look at a vital piece of legislation affecting his State?

Mr. TSONGAS. I only point out to my friend and colleague that the time agreement that he is objecting to is the one he agreed to.

Mr. GRAVEL. No. There is no question I agreed to the time agreement.

I wish to correct my senior colleague. It is no agreement that I insisted upon. That is the last thing on Earth I wanted in the month of February, but I had no choice. We would not be going through today what we are going through. It would have been done in February.

So the time agreement does not stop us, as we have just demonstrated. The Senator from Massachusetts had a week and a half to work his will on this legislation. But the people of Alaska don't have a week and a half. The Senator is going to give them 4 hours.

Mr. JACKSON. He agreed to it.

Mr. GRAVEL. No, I did not agree to that.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. GRAVEL. I am happy to yield.

Mr. JACKSON. The Senator is certainly in position to know what he enters into, and the agreement was very clear. It was for all to read and to understand at the time, and clearly it was understood that a substitute could be offered and there was a 4-hour time limitation.

This is the first time I have heard a complaint about the unanimous-consent agreement.

Mr. GRAVEL. No, the Senator is wrong. I am not complaining. What I am saying is the Senator from Washington and the Senator from Massachusetts just had a week and a half at the pleasure of the Senate to carve up Alaska land and close the door. Now if we were doing that to the State of Massachusetts and to the State of Washington the Senator from Washington would be overcome with anger. But of course, that is not the case.

Mr. TSONGAS. Mr. President, I demand my time.

Mr. JACKSON addressed the Chair.

Mr. GRAVEL. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. TSONGAS. I yield no further.

I simply say I spent a week and a half making concessions. If the Senator thinks that my side is happy about it go out and talk to the Alaska coalition.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to my colleague.

The PRESIDING OFFICER (Mr. EXON). The Senator from Washington.

Mr. JACKSON. Mr. President, I can take so much nonsense. But the Senator from Alaska (Mr. GRAVEL) was given the right to come in and participate in the markup on the bill. He never showed up.

Mr. GRAVEL. Mr. President, if the Senator will yield, that is not true.

Mr. JACKSON. Who are we trying to fool here? Who are we trying to fool here, Mr. President? There is a rule of sense, honor, and decency, and I get a little fed up about a bill being railroaded. We went to the extraordinary granting of permission for a Senator to come in and participate except to vote. He did not show up.

So what is all the complaint? And then we enter into an agreement. He is now saying the agreement is unfair.

Why, Mr. President, I think the record speaks for itself.

Mr. TSONGAS and Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I simply close by saying that I have spent as much time reading Alaskan newspapers these last 2 weeks as I have those of Massachusetts. I would say that the coverage is about the same in terms of availability of my service here, but I do find it discouraging when we are trying to arrive at an accommodation to have the Senator from Alaska make continuing statements in effect that the bill is dead, the bill is dead. And if I assume the same approach, if I wanted to please the environmentalist community I could say the same thing: Let us kill the bill. Let us have withdrawal. And I could then ask John Denver to appear at a fundraiser to pursue the issue.

I have decided not to do that. I think there is a larger obligation. And I consider myself to be able to be on a reasonably even keel. But when I read the press in Alaska where the statements are made that the bill is dead, the bill is dead, we are going to kill it, do not worry about it, we are going to kill it, how can I be expected to maintain at least that openness about the process? And I have come a long way on this issue, and it is time that has been taken off the interest of my own State because I think there is a national interest to Alaska that should be accommodated.

I am going to end up with this finished and losing some of my own constituency in the process. But I think it is worth it in the longer term, and I think it is good for the country. So I object strongly to any implication that somehow this has been an undue process because, if anything, I have lost a lot of my own constituency in the last week and a half.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I thank the Chair.

Let me just correct the record here because I think if I do not say anything the record will be distorted.

It is something that is easily researched. There were 44 markup sessions in 1978. I tried to stop the committee from marking up the bill. I felt it was bad legislation then, and so I went to the committee and indicated that I would try to stop the legislation.

Therefore, I was not avoiding the meetings. I was boycotting the meetings.

Now we move to 1979. The Senator from Washington is right in one respect; I was permitted to attend the committee meetings. But he is very wrong, as the record will show; I attended every one of the meetings that took place. He is very wrong, and he can research the record; I attended on invitation, his gracious invitation, every one of the committee markups. I did not vote, but I did offer amendments.

So when he makes the charge that I was not there at all that charge does not stand up.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. GRAVEL. I do not choose to yield at this point in time.

The legislation worked its will through the committee, and I was there in the committee, whenever it was public and had been notified.

Then after debate on the floor, when the votes were not there to sustain the efforts of the committee, the committee requested the leadership to put the bill aside. So then the leadership of the committee, called a private meeting. I was invited to that first meeting and I attended and participated, in a respectful way, in a nondilatory fashion.

Then there was another meeting that was called. I was not invited to that one, and I did not attend.

Then there were one or two other meetings called, and I attended them. They were chaired by the distinguished Senator from the State of Washington.

After that process there were no other meetings of which I had knowledge. There were meetings of principals rumored to include—and I say only rumored since I was not there and cannot report who was there—the distinguished chairman of the committee, the Senator from Massachusetts, the Senator from Alaska, and others. I was not invited and did not take part in the process.

Those Alaskans who are here in Washington lobbying were not invited and did not partake of the process. What knowledge they picked up was only bits and pieces of what was happening to their State.

So now that backroom has fashioned a compromise, a compromise that belongs to the Senator from Massachusetts, who tells the Alaskan press how chagrined he is over various points, which is not the point. The point is that behind closed doors, in an informal process, several key people put together a package of what they thought would said, and then structured a way to come to the floor and just ramrod it through.

We saw an example of that when we got the first glimpse of what this package contained. I was being dilatory by merely asking what this was being done for.

I then hurriedly sent this out to get an evaluation by somebody more expert in park and wildlife matters than I, who states that this strikes at the very core of what the State said was one of its major bottom lines—to continue management of our wildlife.

Well, I just shudder to think what the rest of that package is. I hope it will surface quickly. They say we can only have 4 hours, because I agreed to a time agreement, to look at the package. If there was any sense of fair play we would have a year to look at it, or at least a day. But that is not the game played here. There is nothing achieved by letting people examine what is in the package. They might find out that there is a group of Senators who have said that the people of Massachusetts cannot have oil and gas from Alaska. They might find out that they are locking up minerals, locking up trillions of dollars of minerals.

So when you do these kinds of things you have to do them in a hurry. Otherwise somebody might find out what you are doing, and when they find out it will cause a lot of heat and political difficulties. So it is what you call the down-and-dirty approach.

I do not mind getting railroaded; I do not mind getting pushed around. I would have gone to the meetings, would have listened to the process, would have been considerably more knowledgeable about what was happening, how much acreage of sedimentary basin is being locked up, so that I could talk about that.

But that becomes an embarrassment when you have specifics of what damage is done.

We are told that this is a balanced piece of legislation. This is not a balanced piece of legislation, and it never was. This is a piece of legislation designed by the no-growthers of the Nation to deny the treasure of Alaska to this great Nation of ours.

There are people who stand on this floor and beat their breasts over defense, when there is no more dastardly act done to the defense of this Nation than to deny us the mineral treasure of Alaska.

We have a dependency upon the Soviet Union for some minerals; we have a dependency on South Africa, an unstable area, for other minerals. But we are hastily going to make sure that we do not get those minerals from Alaska.

Well, for my part you can go ahead and beat your breast all you want to on defense. But the first line of defense of this Nation is the soundness of the economy. You can talk about energy and how you really want to see this Nation improve its energy posture. How can any single Senator rationalize to his people, whether it is in Massachusetts or other States, that he is locking up millions, tens of millions, and maybe even hundreds of millions of acres of sedimentary basin and not even going to bother to look for oil that they tell us is there?

There is no question of why we have to hurry and only take 4 hours on this substitute that none of us has seen. Nothing is printed. If the substitute is around why not produce it now, print it in the RECORD, let it lie overnight? We just had those behind closed doors work for a week. Is there something unfair or wrong about just letting the product of these closed-door meetings lie overnight or printed so that the press may examine it, so that the people of Alaska may examine it, so that my staff and I can read it and debate it more intelligently?

I would probably be better equipped had I been invited to these meetings, but I was not. I saw no reason why I should not be, because at the previous meetings to which I was invited, I was the model of decorum—and my colleagues know this—and would have been the model of decorum had he invited me to these secret closed-door meetings. I would not have caused any delays.

I did not cause any delays in the committee. I was careful not to try the patience of the distinguished Senator from Washington, even though now he says I was not there. There are a couple of times, I think the record will show, that he lost patience, even though I did not feel he should have lost patience. I do not know. It must have been a clone of me sitting there since he now says I was not there.

But I think that the record will be clear. I think we are all going to be ashamed of this record. I think this is a very shameful day for the Senate when several key Members can get together, go behind closed doors, fashion a bill, and then come in with some argument saying that "Well, we have only got 4 hours to treat it," And I might say they will control all the time. I will not have any time on that substitute as an opponent. I was not in the room, I will not have any time on the substitute and I cannot offer any amendments to the substitute.

I want you to know that that is what we call fair play in the Senate. That is what we call really divvying it up so all sides can be heard, so the Senate can work its will, so the American people can know what the Senate is doing. This is really a page in Senate history that we are all going to be proud of. It is called the "down-and-dirty page."

It is tragic, because not only is it an insult to the people of Alaska, an insult to our sovereignty, it is an insult to the American people. If the Senators who were involved in this process were so proud of what they fabricated, whether from Massachusetts or Washington or Alaska, then what is the rush? Why not let it lie overnight, maybe even 2 nights since the bill or their proposal is probably over 200 pages?

I wonder if that is asking so much to have a 200- or 300-page document lie over so the people could study it? But, of course not. We are going to be fed it tomorrow. I do not even know if it is going to be printed. Even if it is printed, how quickly can we all read the substitute and then check with various experts as to what the effect will be on mining in some area that may now have its description changed, or the effect on oil and gas?

Mr. President, I could go on at greater length, but I just want to say that this is not a proud moment in Senate history. I think every Senator should pay heed to what is going on, because this can happen not only to Alaska, this could happen to Montana, this could happen to Utah. All you have to do is just work the combinations. Just work the combinations. Get the weak ones first, split them off, cause dissension in the ranks and then just go ahead and work your will. If the American people ever got wind of the fact and truly understood, this could not happen, but obviously many people do not understand. All they have been fed is a cliche that "This legislation is designed to save Alaska."

For those who are prepared to just listen for a moment, I would like to say Alaska is already saved. We do not need to be saved. We are more saved than anybody else under the American flag, because for the last 15 years we have been passing a lot of environmental legislation. And since Alaska is virgin, that environmental legislation protects us before we even get started.

So the game is not to save Alaska, the game is to lock up Alaska. You do it through these same individuals who will be out on the stump saying that, boy, they are for less government. Well, I knew that S. 9 would cost the American people about $100 million a year in administrative costs. I shudder to think what it will cost to hire the bureaucrats to police this act, probably $200 million a year or a billion dollars in 5 years.

Now I want to know if the people of Massachusetts can afford that in this time of high unemployment. I want to know if the people of Michigan can afford that—to hire these bureaucrats, no, not to save Alaska, but to create a blanket of bureaucracy over the State of Alaska so that whenever you want to do something—whether it is for tourism, for camping, for hiking, for oil or gas or for fisheries—you have to pierce this blanket of bureaucracy. If you have two or three blankets, it is almost economically impossible for the small businessman to pierce it. Of course, the large corporations know that it is a lock up and they are just going to walk away. So we will not see them exploit our minerals, we will not see them exploit our energy and that will be denied to the American people.

So those, again, who beat their bosom over lessening the cost of the Government, decreasing the size of Government, here do a total about-face. This will substantially increase the size of Government. I wonder, if the people truly understood, if they could wash that in their own districts in their own States. Obviously, they could not and obviously we have to hurry before the people find out what we are doing. The more time we take in delay, the more the media has to focus on the issue and the greater the likelihood that the American people will be informed of what is going on.

So we will see a substitute come forward and, without any advanced study, be given 4 hours of debate, none of which will be in an adversary role. That process, I can only say, is not keeping with the dignity of the Senate of the United States.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I made a mistake in the RECORD. The intended reference to the failure of the junior Senator from Alaska to attend the markups was in the previous Congress. The markup involved 46 sessions. The junior Senator from Alaska was invited to all of those markups.

He is expressing a great concern about Alaska lands, but, Mr. President, although I had extended a personal invitation, he did not attend a single markup—46 of them.

I do not think there is any question here in my mind but that the junior Senator from Alaska does not want a bill. He killed the one in the 95th Congress. We had it all worked out except for him.

And I read the Alaska newspapers. I have read a lot of things—that I am a Socialist; all sorts of wild statements that I have read in the Seattle papers. But we allow for that.

Mr. President, it has been reiterated over and over again that the junior Senator from Alaska does not want a bill. Now, should I, as floor manager, stand idly by and allow that process to work? Of course not.

But, imagine someone representing the great State of Alaska, involving truly one of the most important pieces of land legislation in the history of this country, and I must say that he did not attend those sessions so vital. Now who are you going to believe as to sincerity and really wants to do something to solve the problems of the committee and the Congress?

I must say that the senior Senator from Alaska, Senator STEVENS, joined the committee—rejoined it; gave up his Commerce Committee assignment, as I recall—because he felt it was important that there be representation. The senior Senator from Alaska participated in those markups. The junior Senator was not there. I leave that to people of fairness and decency as to who intends what and why.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Alaska.

Mr. STEVENS. Mr. President, it sort of pains me to see Alaska's disagreements aired in this fashion. I still disagree with the concepts in the Tsongas substitute, but I do believe that after the vote on the refuge amendment, it was clear that he was going to have the votes to pass that substitute.

But I also would not want the RECORD to stand as my colleague has indicated. In the process of 1976, 1977, and 1978, my wife and I organized a series of trips for Senators to go to Alaska. At the last count, I think there were 55 Senators who went with us, either with their wives or with their staffs, and traveled throughout Alaska to study the problem. We knew that section 17(d)(2) was due to expire on December 17, 1978, and we wished the Senate to be as informed as possible.

The committee of the Senator from Washington paid for many of those trips. It is true that no hearings were held up there. The balance was that the House held hearings in Alaska and the Senate held the hearings in Washington. But we took as many people as we possibly could get to our State and traveled throughout the State from Ketchikan to Kotzebue and from Barrow to Bettles Tok, to all over the State, Valdez, the Prudhoe Bay area. We traveled on one trip, I recall, with the National Guard for 3 days, landing everywhere there was a small strip so we could talk to the people in the area and discuss this pending legislation with them.

It was not a process of hearings; it was a process of trying to inform as many Senators as possible as to the issues and to have them see for themselves the problems that were invloved.

As a result of those trips, we almost got legislation that was much better than the legislation the Senator from Massachusetts is going to introduce here tomorrow. It is unfortunate that that legislation did not become law.

I would not want the RECORD to indicate that there have been no Senators to Alaska concerning this issue, nor that I have not tried to have everyone possible informed as to the problems that are involved in this legislation from the Alaskan point of view. Those problems are immense. They are going to continue to be immense after this bill is considered, without regard to what happens to it. So the RECORD is clear on that, I would still prefer to see the committee substitute go to conference.

Perhaps my colleague would like to inform the Senate as to why he insisted on being a member of the conference if he did not think the bill was going to pass the Senate.

As far as I know, that would be the second time in history that a Member of the Senate, not a member of the committee, was permitted to serve on a conference committee, and one of the two concessions he sought on entering into the time agreement with the Senator from Massachusetts was that concession, that he be a member of the conference. In February, when the time agreement was entered into, I had no reason to believe that he was not going to support the passage of the committee substitute because he sought to be a member of the conference. It was a report of the situation in 1979 when he wrote to me and the majority leader saying he would support 100 percent what I had done and would do in trying to see the passage of this bill come about.

It is one of those things that we are now in a position where the Senator from Massachusetts has an amendment that I have not seen yet. I have seen details of policy issues that are in it. I hope to have a chance to read it. But knowing the subject as I do, I do not think it will take too long to understand whether the comments that have been made by the Senator from Massachusetts are within the substitute or not. I have faith in the process that they will be as he has said they will be without regard to what might be the drafting process of getting there.

Mr. President, the difficulty with this is that many Members are saying, "What are you going to do?"

I believe that the Senate is going to work its will on the time agreement, and eventually we will come to the process of a vote on the Tsongas substitute. Unfortunately, it is not to the point yet where I could support it. I am inclined to think if it were to that point the problems of the Senator from Massachusetts would be [illegible] they are in terms of dealing with the constituency he is addressing, and also the problem of dealing with the House, which is more acute this time than it was in 1978. I must say that is another subject that no one has really explored here on the floor of the Senate.

In 1978 the Members of the House were willing to sit down with us in informal sessions off the floor. They are called secret, closed-door meetings. In 1978, when my colleague was part of them, they were just normal, routine congressional meetings. But now that he is not involved they are closed-door, secret meetings.

In those sessions we were able to arrive at a compromise which later became known as the Huckaby bill because of an understanding that if we reached an agreement we would present a bill to the Senate and hopefully the Senate would pass the bill and the House would accept the bill if it was passed.

It is pretty clear that the House Members are unwilling to participate in that type of procedure, so my colleague's wish might come to pass. It might be that the House will refuse to accept the product of this body's actions. I do not know what it will be, Mr. President. But I know this, that in my process of dealing with the legislative work I have tried to do and continue to do for Alaska, I know only one answer to the problems and that is to try to solve them.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I do want to thank the distinguished Senator from Washington for coming forward and correcting the record with respect to the 96th Congress and the 95th Congress. As

I stated earlier, in the 95th Congress I was opposed to legislation.

At that time, I tried to the best of my ability to stop his committee from meeting. I succeeded for 2 or 3 days. Then I went to the meeting and told the members I would be boycotting it. So it was not a shirking of one's responsibility. I felt that was the best way to defend the State of Alaska. It is like being upbraided or criticized because you will not make your own casket. In war, there is unfortunate trickery and sadism. Often the captured are made to dig their own grave, then shot and put in the hole.

I really do not want to be criticized because I was reluctant to pick up the shovel and dig my grave or dig the grave of the State that sent me here. If other people want to dig that grave, fine. I was not party to it in the 95th Congress, and in the 96th Congress. Since people were pointedly misconstruing what I had done and trying to twist it, I then did attend the meetings, but reserved the right of my actions.

Now we have cleared up that extreme statement. Let us move to the next statement made by both the Senator from Washington and the Senator from Alaska on this point. That is that in 1978 we had a bill. That is just not the case at all. If they thought we had a bill, let them produce it. The record is very clear that Congerssman UDALL and Congressman SEIBERLING both made statements at hearings in the House that there was no such agreement.

I do not know who they feel they had an agreement with, if they did not have an agreement with those gentlemen. And then the environmentalists said there was no agreement.

They stated that had the process gone any further, they would have killed the bill. So this myth that continues to be perpetuated, that there was something that we had in 1978, is just not the case. It is not the case at all and one need not take myself as a source. The sources are the environmental community, the coalition, the leadership of the coalition, and two Representatives from the House.

The next myth, of course, is that I had agreed in 1978 to give my colleague 100 percent. I never agreed, and never will, to give the oath of office that I have taken as a Senator to anybody else and let him exercise it. What I agreed to was to give the process that he sought an opportunity.

He sought negotiation. Then, when I turned to him in private meeting and said, "Well, now, let us negotiate something I think is important, since I was quiet all day"—and that was access, no more—and a few other items, but the main one was access—he suggested to me that I go into the fray and handle the negotiations. So I did.

The only problem is that I did not give in. So the process ended because they would not give us access; they gave us no more access than we have today in any of the legislation before us. So that is where the real crime occurs with this legislation.

I can say as a citizen of Alaska, "Fine. If the rest of you Americans want to lock up your Federal domain in Alaska, lock it up. If you are stupid enough not to want the oil and gas and the minerals and the treasure we have to make your economy sound, then go ahead and leave me alone."

But, no, that is not what is happening. The land being taken is so extensive and so strategic that you are impeding access to private lands; you impede access to Native lands, our lands. And that is substantial.

Alaska would have about 150 million acres. Texas is about 170 million acres. That is quite substantial. But it is not just the Federal domain. What is being violated is a compact that the people of Alaska have with the people of the United States—the Statehood Act. When we got statehood, we got our land, now we shall not be able to use it.

Nor will the Natives be able to use their land. Oh, some think they can, but I refer back to the proposal made by the environmentalists back in 1971 to give the Natives 2.5 million acres, not the 40 million that they subsequently acquired.

What is going to happen now is that the environmentalists want to get that land back and they are going to get it back. They are going to get it back through the use of a domineering bureaucracy perpetrated on people who cannot fight back.

So, Mr. President, I think the record is abundantly clear for those who want to research it, those historians who, in later years, will look back. All I can say to those Senators who are not here is that this certainly has to be one of the low points of the Senate of the United States. Regardless of what they say, when the process was not working in their favor because of public exposure, a group of Senators retreated to private rooms, without others' knowledge, and fashioned a bill of which we do not even have a copy.

Tomorrow, we are going to have 4 hours to deal with that bill and there will be no adversary role to play, because the time will be controlled by all those who fashioned the bill in a back room.

Mr. President, I submit that any Senator would be insulted, outraged, to have foisted upon his State a document of some 300 pages-plus, without permitting the scrutiny of all the economic interests that are involved. That is what is happening in this process. I cannot think of a greater insult to the demeanor of this Senate and to the American people than to see this process go forward, ramrodding through legislation that decent people cannot even have the opportunity to examine and comment upon.

Mr. TSONGAS. Mr. President, let me say, as to the historical record, that I refer my colleagues to 38004, which is a page of the CONGRESSIONAL RECORD of the Senate of November 9, 1978, which I think should pretty much resolve the issue of what was or was not agreed to at that time.

I say to the Senator from Alaska that the inquiry as to the first amendment was done with time allocated to him. So in pursuit of that spirit, I should be glad to have the Senator's staff briefed on my substitute as soon as we can mutually find the convenience. It is, literally, being drafted right now. I have not seen the final package.

At a point this evening, if the Senator wishes, I shall be glad to arrange for that.

Mr. GRAVEL. If the Senator will yield, I thank him for that generous effort. I will have my staff, as I have availed myself of every offer made to me, meet with him so we can pick up as many bits and pieces of what he is doing to Alaska that we can as soon as we can.

Mr. TSONGAS. Mr. President, I tend to be accommodating because, after his speech, I am not going to get the headlines. He came up with all the snappy phrases. So we shall try the other route and see what happens.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may need.

I shall be happy, Mr. President, to read into the RECORD the letters to which I referred. I am pleased to have the recollection of the other Senator from Alaska of what went on in 1978. I recall the discussion on the floor, and I am sure the Senator from Washington does. I have tape recordings, as a matter of fact, of statements made outside of the room at that time, somewhere in my office. I shall be happy, once again, to refresh the recollection of the Senator from Alaska.

His recollection is erroneous. The issue that broke up that conference did not have to do with access or the "no more" clause. Mr. President, he continues to say there was no "no more" clause in the 1978 negotiations. The issue that broke it up was whether the Sitka Dam authorization was going to be in the Alaska lands legislation.

As I recall, that same evening, my colleague brought to the floor a substitute for the public works bill that no one had ever seen. It had not been typed. He did not even want us to read it. And the things which he says went on about the Tsongas substitute did, in fact, go on that night with regard to the substitute he tried to offer.

But we shall see the substitute and I shall be happy to see my colleague take the opportunity to be briefed on what is in it.

Mr. President, I wonder what the substitute would look like if the two of us had tried to solve this problem for the last 9 years instead of having me and my staff spend most of our time trying to find out what my colleague and his staff were doing to try to stop us from solving the problem.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. How many more amendments may be offered under the time agreement before the Tsongas substitute is in order?

The PRESIDING OFFICER. Twelve amendments are in order in the first degree, plus the substitute.

Mr. STEVENS. Mr. President, it is my understanding that the Senator from Massachusetts said he is not going to offer his amendments. The Senator from Washington is not going to offer his. I have one which I agreed will not be offered until all others had been considered. Under those circumstances, are those eight amendments dispensed with under the time agreement?

The PRESIDING OFFICER. If the Senators who may offer amendments decide not to offer those amendments, then under the time agreement, those amendments would be dispensed with. They need not be offered.

Mr. STEVENS. Then if no amendments are offered, including the substitute of the Senator from Massachusetts, and all time expired, I take it under the time agreement we would vote on the committee substitute, is that correct?

The PRESIDING OFFICER. The vote would be on the committee substitute, as amended, if amended.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. I would just yield myself time on the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. If the leadership is inquiring about offering my amendments, the answer is "Yes," as soon as I get a chance to look at the Tsongas substitute that has been fashioned. Then I will see if I need to modify my amendments and would be prepared to do so.

I am merely waiting on the Tsongas substitute so I can see what is going on in order to go forward and offer my amendments.

I will be happy to offer them. But we do not have the substitute in hand, so how can one deal intelligently with this matter?

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, another parliamentary inquiry on my time.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Am I correct that if no one uses time now, the Chair will charge that time against all concerned?

Mr. JACKSON. Proportionately.

Mr. STEVENS. Proportionately.

The PRESIDING OFFICER. The Senator is not correct. It would be charged equally against all controlling time on the bill.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. JACKSON. Will the Senator yield for a parliamentary inquiry?

Mr. STEVENS. I am happy to.

Mr. JACKSON. Mr. President, I take it the time will be yielded proportionately.

The PRESIDING OFFICER. The time will be charged to the four proponents, to the bill equally.

Mr. JACKSON. Some will run out of time before the others then?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, is that a ruling of the Chair?

The PRESIDING OFFICER. The senior Senator from Alaska has the floor. Does he yield?

Mr. STEVENS. I do not understand the purpose of the inquiry, Mr. President.

Mr. GRAVEL. It is not made to him. If he wants to hear my inquiry, let him yield the floor.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Is the Presiding Officer making a ruling that that time will, if there is nothing called up, that that time will run concurrently, even to all parties?

The PRESIDING OFFICER. The Chair has responded to a parliamentary inquiry. There is no appeal from a response of the Chair from a parliamentary inquiry.

Mr. GRAVEL. Then I address to the Chair a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. That is, is it proper, and does the Chair rule, that it will so apportion the time on quorum calls equally between the "supposed managers of the bill?"

The PRESIDING OFFICER. The Chair was not asked about the allocation of time on the quorum call. The Chair has simply stated that if time was not yielded for debate, it will be equally charged to those with time on the bill.

Mr. GRAVEL. From whence the power of the Chair to go ahead and apportion that, if it is not in the rules?

The PRESIDING OFFICER. The Chair will state, under the precedents of the Senate, when the Senate is considering legislation under a unanimous-consent agreement controlling time, when no side yields time, the time is charged equally between the sides controlling time.

Mr. GRAVEL. Mr. President, as I recall, respectfully stating to the Chair, it is the managers of the bill who share that time and not merely participants in the body involved.

The PRESIDING OFFICER. The Chair refers the Senator from Alaska to page 862:

> Under Senate practices, when operating under a unanimous-consent agreement limiting debate and controlling the time, if neither Senator in control thereof yields time, such time as expires will be charged equally against each side until time is yielded.

Mr. GRAVEL. I thank the Chair, the Presiding Officer.

I would make a motion in the sense of comity that reigns very infrequently here in the Senate, that motion would be until we consider the Tsongas amendment, that no time be permitted to lapse on this issue, to any of the Members; that time that will be lapsing is the only time I have available to debate the Tsongas substitute.

From my point of view, that is not an unreasonable request, and I, therefore, move that that be the case.

The PRESIDING OFFICER. Is the Chair understanding that the Senator is proposing a unanimous-consent request?

Mr. GRAVEL. I would start with that; yes.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I say to the Senator that if the Senator has no time remaining on the bill, I would be prepared to yield him time on my side to discuss the substitute, a reasonable amount, perhaps 15 minutes which he would not otherwise be entitled to, so that he may speak on that.

Mr. JACKSON addressed the Chair.

Mr. GRAVEL. If I may respond to the Senator from Massachusetts, I appreciate his graciousness for 15 minutes.

I probably have an hour life on the bill. I do not want to see that hour used up just with dilatory actions right now, because if I do not offer my amendments, then the managers will ask for a quorum call to go on and charge it to all sides, eventually taking my hour away from me.

I would rather use that hour, hopefully, to explain to some of my colleagues the impact of what the Senator from Massachusetts has fashioned with the Senator from Alaska and the Senator from Washington.

I do not think that is an unreasonable request. They are coming forward with a package under a time agreement where there is no adversary process. So, the only time left to me is the time I am presently using up.

I would say, in any sense of fairplay, that we would just end the discussion for this evening, wait until the Tsongas-Jackson-Stevens proposal comes forward, and when we see it we can deal with it and let the clock run.

There is no game here to let the clock run in a mechanistic fashion, to no avail. This is supposed to be a very distinguished debating society.

Is there a fear there will be something I will say, or must I just live upon the beneficence of the Senator from Massachusetts, who will throw me a minute now and then tomorrow, particularly if the argument is satisfactory to him? Even then, he does not have to throw me a minute.

Mr. TSONGAS addressed the Chair.

Mr. GRAVEL. Let me say that if the Senator does not want to take this suggestion, then let me have the same amount of time the proponents of the Tsongas proposal will have.

If there are 2 hours for the proponents, then let the opponents have it—and I seem to be the only opponent. That is normal in a unanimous-consent request around here. We let both sides talk the issue out.

But that is not what is going on here.

So I suggest to my colleagues, I can make a motion, if they do not want to let me debate the opposite side of the Tsongas-Jackson-Stevens proposal, then turn around and let me use my own time on the bill. But the process they want to go through now is to use up my time on the bill and then throw me a minute now and then tomorrow just to keep me happy, and keep some semblance of integrity in this august body—just some semblance, not too much. It would go to our heads if we had too much fair play on this particular issue.

If any colleagues do have some suggestions on how to resolve this unfortunate dilemma, I would be most cooperative to suffer their largess.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The Chair advises the Senate that there would be 2 hours in opposition to the Tsongas substitute. If the manager of the bill is in favor of that substitute, then the opposition would be controlled by the majority leader or his designee.

Mr. GRAVEL. If the Chair could be most respectfully informed, that may be what the language says but that is not what the language means; because it is generally known right now that the proponents of this bill, the substitute, the Jackson-Tsongas-Stevens substitute, control all the time. So they all will be the proponents of this proposition, and there will be no discussion by the opponents which is a very unfortunate occurrence in the Senate—to not be able to talk in opposition to meaningful legislation.

Mr. TSONGAS. Mr. President——

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I find that every time I try to be reasonable and donate time to the Senator from Alaska, I end up taking a stiletto out of my back. [Laughter.]

In the spirit of the response to my offer, I withdraw my offer, and perhaps at a later date it may be taken more seriously.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, so that there is no question about the history, I should like——

Mr. GRAVEL. Mr. President, a point of order.

The PRESIDING OFFICER. The senior Senator from Alaska has the floor.

Mr. GRAVEL. Is not a point of order in order at this point?

The PRESIDING OFFICER. Does the senior Senator from Alaska yield for a point of order?

Mr. STEVENS. I should like to read this letter, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I mentioned the letter that my colleague told me he did not recall the way I did. I will read it into the record, because obviously a unanimous-consent request would not be granted.

Mr. GRAVEL. I would be happy to grant unanimous consent.

Mr. STEVENS. The letter reads as follows:

DEAR TED: In the last 24 hours, I have canvassed the views of as many Alaskans as possible as to whether I should continue blocking any and all D–2 legislation this year. The enclosed list will give you an indication of the responses I have received.

I give particular weight to the views of the Citizens for the Management of Alaska Lands and the Alaska Lands Steering Council, as these organizations have received hundreds of thousands of dollars from all quarters of Alaska to follow and lobby the D–2 issue. I also attach great importance to the views of the governor and the gubernatorial candidates.

As most of these urge me to join the effort to seek compromise, I have decided to follow this course.

You know, Ted, how dangerous I feel this course to be. I have stood in the way of any bill this year not because I am against compromise *per se*, but rather because I feel there was no willingness among those on the other side of this issue to reach a true compromise. I still feel this to be the case, and it is my personal feeling that we do not have the votes to win an acceptable bill this year. Therefore, I am most reluctant to allow the bill to come to the Senate floor.

I also have, as I know you have, serious reservations about the Senate bill, even though this is more moderate than the original H.R. 39. I feel it places excessive power over Alaska in the hands of Washington's bureaucrats. And, of course, it does not include the strong land use planning commission which I personally favor for Alaska.

But the other leadership in Alaska is apparently convinced that we should attempt compromise for a bill this year. I will therefore step aside to permit you to try your best efforts at getting a bill. I will actively support you and will help in any way you suggest. .

Should we not be succesful this year, I believe it will be necessary to employ strong measures, probably meaning filibuster, next year. Obviously, I would seek your support should this course indeed prove to be needed.

Enclosed is a copy of a letter to the Majority Leader relinquishing the holds I have placed on a variety of legislation to ensure my grip on the D–2 issue. I repeat that I pledge my strong support to you in the effort to achieve a liveable bill this year.

Best of luck,

Sincerely

MIKE GRAVEL.

The letter to the majority leader reads:

Over the past several weeks I have submitted letters to you requesting consultation prior to any action on the Alaska lands legislation and objecting to any waiver of any rules regarding such legislation. I now wish to void these letters and advise you of my intention not to delay consideration of this bill by the Senate through filibuster or any other procedural actions.

I will be supporting Senator Stevens and working with him with the hope of fashioning an acceptable Alaska lands bill this year. Enclosed is a letter to Ted explaining this situation.

Bob, I am sincerely grateful to you for protecting my rights and prerogatives on this vital legislation. I regret having added to your travail. In the past two years you have done an outstanding job for the Senate and the nation.

With warm regards,

Sincerely,

MIKE GRAVEL.

Mr. President, copies are here, if anyone wants them.

I received those letters with warmth and immediately notified my colleague, to be sure that he was involved in everything. We briefed him and brought him up to date in 1978, and we did have a livable bill. As to the fact that it was livable, it is printed in the RECORD. I had it printed in the RECORD on page 38004, November 9, 1978.

I ask unanimous consent that the bill be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, the impact of what I am saying is this: We fought then and we fight now excessive arbitrary executive action.

In my study of the lands issues that have affected public lands States, nothing has been more difficult for the people of the West to comprehend or to find a way to live with than arbitrary executive action.

Through an act of Congress, Congress defines what the rights are of the people of an affected area, and they can look at the law of the land and know what their rights are.

Today we find that in 56 million acres of Alaska, the people are living in new national monuments. The laws of those new national monuments have not even been enforced in full yet, and I hope they will not be, because the bill we have will revoke those monuments.

We have been assured that if we do not pass the bill, there will be more national monuments. I estimate that there will be at least 60 million acres more of national monuments—not by the President I campaigned for in 1976, and not by the one I am campaigning for in 1980, I assure my colleague, although I do recall how pleased he was when President Carter was nominated.

The impact of this is that I have fought arbitrary executive action and I will continue to fight it.

The process we are going through is the same process that was followed last week in the bill to deal with the disposal of nuclear wastes, a bill that has plagued the Senate for many years. I believe that in a series of meetings off the floor, the bill was rewritten, and everyone knew what was going on. There is no question that everyone has known that we have been meeting off the floor. It was announced on the floor as to why we were asking to set aside the bill, so that we could meet off the floor.

I do not support totally the product of these meetings. I make that clear. I have not had my own way. I have not had the votes. I hope that if I had the votes, I would be as gracious as the Senator from Massachusetts and the Senator from Washington have been to my colleague from Oregon and me as we have tried to argue this matter.

The impact of it is that, whether we like it or not, the people of Alaska will live, in one way or another, under the edicts coming from the Federal Government.

I prefer those to be under an act of Congress because I think that there is less arbitrariness in an act of Congress than there is in an executive fiat that is interpreted by executive officers through regulations that are published in the Federal Register and no elected person has anything to do with it.

I am sorry that I do not have a similar letter from my colleague this year.

I thought I had one on February 7 when I received a call to come to the majority leader's office and was told that my colleague from Alaska had negotiated a time agreement which would lead to him becoming a member of the conference committee. There was no reason for that provision to be in that understanding unless he was in fact pledging himself to help get this bill to the conference committee as soon as possible. I so interpreted it then and I regret that was not the case.

EXHIBIT 1

H.R. 39

(An act to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents may be cited as the "Alaska National Interest Lands Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

Sec. 101. Findings.
Sec. 102. Policy.
Sec. 103. Definitions.

TITLE II—NATIONAL PARK SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.
Sec. 203. Administrative provisions.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 301. Definitions.
Sec. 302. Purposes of refuges.
Sec. 303. Administration of refuges.
Sec. 304. Establishment of refuges.
Sec. 305. Cooperative management agreements.
Sec. 306. Miscellaneous provisions.

TITLE IV—NATIONAL FOREST SYSTEM

Sec. 401. Additions to national forests.
Sec. 402. Seward National Recreation Area.
Sec. 403. Mining and mineral leasing on certain national forest lands.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

Sec. 501. Additions to the National Wild and Scenic Rivers System.
Sec. 502. Potential additions.
Sec. 503. Administrative provisions.

TITLE VI—DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

Sec. 601. Findings and purposes.
Sec. 602. Designation of wilderness within the National Park System.
Sec. 603. Designation of wilderness study within units of the National Park System.
Sec. 604. Designation of wilderness within the National Wildlife Refuge System.
Sec. 605. Wilderness reviews within conservation system units other than National Park System units.
Sec. 606. Designation of wilderness within National Forest System.
Sec. 607. Designation of wilderness study area within National Forest System.
Sec. 608. Designation of special management areas within the Tongass National Forest.
Sec. 609. Management rules for special management areas.
Sec. 610. National forest timber utilization program.
Sec. 611. Interim report.
Sec. 612. Special provisions.
Sec. 613. Administration.
Sec. 614. Acquisition authority.

TITLE VII—SUBSISTENCE MANAGEMENT AND USE

Sec. 701. Findings.
Sec. 702. Policy.
Sec. 703. Definitions.
Sec. 704. Preference for subsistence uses.
Sec. 705. Local and regional participation.
Sec. 706. Federal monitoring.
Sec. 707. Judicial enforcement.
Sec. 708. Park and monument subsistence resource commissions.
Sec. 709. Cooperative agreements.
Sec. 710. Subsistence and land use decisions.
Sec. 711. Access.
Sec. 712. Snowmobiles and motorboats.
Sec. 713. Research.
Sec. 714. Periodic reports.
Sec. 715. Regulations.
Sec. 716. Limitations, savings clauses.
Sec. 717. Closure to subsistence uses.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

Sec. 801. Conveyances to village corporations.
Sec. 802. Other conveyances to Native Corporations.
Sec. 803. Administrative provisions.
Sec. 804. Tax moratorium extension.
Sec. 805. Alaska Native allotments.
Sec. 806. State selections and conveyances.
Sec. 807. Alaska Land Bank.
Sec. 808. Protection of Native Lands in Contingency Areas Under Timber Sales.
Sec. 809. Use of protraction surveys.
Sec. 810. Statute of limitations.
Sec. 811. National Environmental Policy Act.
Sec. 812. Technical amendments to Public Law 94–204.

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

Sec. 901. Rights-of-way in conservation system units.
Sec. 902. Procedures for consideration of rights-of-way applications.
Sec. 903. Rights-of-way terms and conditions.
Sec. 904. Rights-of-way study.
Sec. 905. Special access rights.
Sec. 906. Temporary access.
Sec. 907. Access to inholdings.
Sec. 908. North Slope Haul Road.
Sec. 909. Valid existing rights.

TITLE X—COORDINATION

Sec. 1001. Alaska Land Use Council.
Sec. 1002. Functions of the council.
Sec. 1003. Termination: Advisory Committee.
Sec. 1004. Federal coordination committee.
Sec. 1005. Bristol Bay Cooperative Region.

TITLE XI—ADMINISTRATIVE PROVISIONS

Sec. 1101. Land acquisitions and exchanges.
Sec. 1102. Archeological and paleontological sites.
Sec. 1103. Cooperative information centers.
Sec. 1104. Administrative sites and visitor facilities.
Sec. 1105. Revenue-producing visitor services.
Sec. 1106. Local hire.
Sec. 1107. Management plans.
Sec. 1108. Taking of fish and wildlife.
Sec. 1109. Maps.
Sec. 1110. Major Federal actions.
Sec. 1111. Administration of national recreation areas.
Sec. 1112. Administration of National Preserves.
Sec. 1113. General Wilderness Review Provision.
Sec. 1114. Statewide Cultural Assistance Program.

TITLE XII—MISCELLANEOUS

Sec. 1201. Klondike Gold Rush National Historical Park.
Sec. 1202. Navigations aids and other facilities.
Sec. 1203. Amendments to Naval Petroleum Reserves Production Act of 1976.
Sec. 1204. Withdrawals; mineral rights.
Sec. 1205. Scenic highway study.
Sec. 1206. Bureau of Land Management Land Reviews.
Sec. 1207. Alaska Natural Gas Transportation Act.
Sec. 1208. Authorization for appropriation.
Sec. 1209. Limit on future withdrawals or studies.

TITLE XIII—MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

Sec. 1301. Oil and gas lease applications.
Sec. 1302. Alaska Mineral Resource Assessment program.
Sec. 1303. President report.
Sec. 1304. Areas subject to the national need recommendation process.
Sec. 1305. Recommendation of the President to Congress.
Sec. 1306. Expedited congressional review.
Sec. 1307. Federal North Slope Lands Study Program.
Sec. 1308. Oil and Gas Exploration of Arctic National Wildlife Range Portion of Study.
Sec. 1309. Prohibition on development.
Sec. 1310. Wilderness portion of study.
Sec. 1311. Wildlife resources portion of study.
Sec. 1312. Transportation alternatives portion of study.
Sec. 1313. Oil and gas leasing program for non-North Slope Federal lands.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 1401. Stock alienation.
Sec. 1402. Vesting date for reconveyances.
Sec. 1403. Basis in the land and reserves from land.
Sec. 1404. Taxation of Native Corporations.
Sec. 1405. Underselections.
Sec. 1406. Retained mineral estate.
Sec. 1407. Conveyance of partial estates.
Sec. 1408. Escrow account.
Sec. 1409. Selection requirements.
Sec. 1410. Fire protection.
Sec. 1411. Shareholder homesites.
Sec. 1412. Reconveyance to municipal corporations.
Sec. 1413. Limitations.

TITLE XV—NATIONAL CONSERVATION AREAS

Sec. 1501. Establishment.
Sec. 1502. Administrative provisions.
Sec. 1503. Establishment of White Mountains National Recreation Area.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

FINDINGS

SEC. 101. Congress finds and declares that—

(1) through passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act, the Congress established policies for the disposition of the public lands in Alaska and provided for future economic, social, and cultural development in Alaska and for the fair and just settlement of claims of Natives and Native groups based on aboriginal land claims, while reserving decision as to which of the public lands in Alaska should be reserved in the national interest:

(2) a prompt and thorough resolution of the status of the public lands in the State of Alaska, in accordance with established congressional policies, is in the best interests

of all the people of the United States including residents of Alaska;

(3) certain public lands in the State of Alaska contain nationally and internationally significant scenic, historic, archeological, paleontological, scientific, cultural, recreational, wildlife, and wilderness resources, and these public lands represent a remarkable diversity of undisturbed ecosystems, including some not found elsewhere;

(4) wilderness is a distinguishing characteristic of public lands in Alaska, which affords an unrivaled opportunity for experiencing vast areas of land essentially unaltered by man's activities, and merits preservation for the benefit of future generations; but such wilderness is increasingly being altered and reduced by activities and intrusions associated with national and international demands for energy, mineral, and timber resources and other incompatible activities;

(5) several wildlife species, including species which are threatened, endangered, or depleted in other parts of the Nation and the world, are dependent for their survival on the maintenance of appropriate natural habitats on the public lands in the State of Alaska;

(6) selective representation of the diverse natural communities, including pristine, free-flowing rivers, on public land in the State of Alaska should be preserved as units of Federal land management conservation systems for the benefit of present and future generations; and

(7) at the accelerated pace of population growth, settlement and related consumption of raw materials, the world is losing natural habitats and associated values at an alarming rate, and therefore the wilderness and the wilderness habitats of certain public lands in Alaska assume global importance since they are among the few remaining areas of such vast extent and their permanent protection is a reasonable and attainable national objective.

POLICY

SEC. 102. In order to secure for the American people of this and future generations an enduring heritage of untrammeled environments in the State of Alaska and to aid in the fulfillment of international conservation commitments of the United States, it is hereby declared to be the policy of the Congress that—

(1) it is necessary to immediately designate public lands in Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers, National Forest, National Trails, and National Wilderness Preservation Systems, which systems shall, in combination—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems including but not limited to extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems;

(C) protect and preserve cultural values of Native and non-Native peoples and conserve renewable resources related to their subsistence needs;

(D) provide for the maintenance of sound populations of, and habitat for, fish and wildlife, including those species dependent on vast undeveloped areas, of inestimable value to the citizens of Alaska and the Nation;

(E) provide opportunities for compatible outdoor public recreation, protect and interpret historic, paleontological, and archeological sites, maintain wilderness resource values and related multiple watershed, flora, fauna, recreational, and subsistence resource values, and preserve free flowing rivers and associated resources;

(G) provide for the management of multiple values in a manner which will permit utilization of natural resources, where appropriate, consistent with sound ecological principles;

(2) in the planning, management, and administration of these conservation system units—

(A) intangible values shall be considered on an equal basis with quantifiable values;

(B) sound ecological principles shall be adhered to; and

(C) full public participation shall be encouraged;

(3) the public should have access to the public lands in Alaska, including access to those public lands which constitute conservation system units, consistent with the purposes for which those units are established;

(4) those persons now dependent upon subsistence uses of the public lands in Alaska should be enabled to continue in that lifestyle, to the extent they may choose to do so and to the extent that the renewable resources of those public lands permit such uses to be continued and, within conservation system units, in a manner consistent with the purposes for which the units are established or expanded; and

(5) in carrying out the provisions of this Act, the Secretary and other officers of the Federal Government are to give continuing consideration to the interest of the State of Alaska and its subdivisions and the Native Corporations in maintaining a viable economy and providing employment for citizens of Alaska.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means land the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(4) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(5) The term "take" or "taking", as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(6) The term "plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

(7) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, or National Wilderness Preservation System, including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(8) The terms "administer" or "administration" and "manage" or "management", as used with respect to any land within a conservation system unit, means the operation, restoration, protection, maintenance, use, and preservation of lands within such unit in accordance with the purposes for which such unit was established or expanded.

(9) The term "Native Corporation" means any Regional Corporation, any Village Corporation, and any Urban Corporation.

(10) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(11) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(12) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

(13) The term "Native land" means land owned by a Native Corporation or any Native group (as defined in section 3(d) of the Alaska Native Claims Settlement Act) and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(14) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(15) The term "national preserve" means a unit of the National Park System in Alaska administered and managed in the same manner as a national park, except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation.

(16) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890).

(17) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339).

(18) The term "State" means the State of Alaska.

(19) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

(20) The term "Alaska Native Claims Settlement Act" means the Act entitled "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688).

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 201. The following areas are hereby established as units of the National Park System and, subject to valid existing rights, shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred seventy-six thousand acres of public lands, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978. The monument and preserve shall be

managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: To preserve and maintain Aniakchak Caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams in their natural state; to maintain natural water quality and quantity; to study, interpret, and assure continuation of the natural processes of biological succession; to protect habitat for and populations of fish and wildlife, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for compatible outdoor recreation and environmental educational activities.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of Federal land, as generally depicted on map numbered BELA-90,005, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of fish and wildlife including, but not limited to, marine mammals, brown/grizzly bear, moose, and wolf; to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance wtih sound range management practices; to protect the viability of subsistence resources; and in a manner consistant with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

(3) Cape Krusenstern National Preserve, containing approximately five hundred and sixty thousand acres of Federal lands, as generally depicted on map numbered CAKR-90,007, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat and populations of birds, and other wildlife and fish resources; and to protect the viability of subsistence resources.

(4) Gates of the Arctic National Park, containing approximately four million eight hundred and one thousand acres of Federal lands and Gates of the Arctic National Preserve, containing approximately three million one hundred fifty one thousand acres of Federal lands, as generally depicted on map dated October 1978. The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features; to protect habitat for and populations of fish and wildlife, including, but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses shall be permitted in the park where such uses are traditional in acordance with the provisions of title VII. Solely for purposes of title IX, the Western (Kobuk River) unit of the Preserve shall be considered to be a National Recreation Area.

(5) Kenai Fjords National Park, containing approximately four hundred thousand acres of Federal lands, as depicted on map dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and maintain their hauling and breeding areas in their natural state free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of recreation.

(6) Kobuk Valley National Monument, containing approximately one hundred ninety thousand acres of Federal lands, and Kobuk Valley National Preserve, containing approximately one million five hundred and twenty-one thousand acres of Federal lands, as generally depicted on map numbered KOVA-90,009, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures: to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of fish and wildlife including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses shall be permitted in the monument in accordance with the provisions of title VII. Aircraft landing access to designated sites on the upper Salmon River and other designated areas shall be permitted.

* * * * *

(8) Misty Fjords National Preserve containing approximately one million one hundred thousand acres of Federal lands, as generally depicted in map numbered MIFJ 90,001, and dated October 1978. The boundaries of the Tongass National Forest are hereby revised to exclude the lands, waters, and interests therein within the preserve. The preserve shall be managed for the following purposes, among others: To protect and interpret the high quality scenic features of the Coast Range including steep-walled fjords and valleys and peaks; to maintain that portion of the Unuk River within the preserve, together with the Chickamin River and other streams and lakes, in their natural state; to protect habitat for, and populations of fish and wildlife including but not limited to salmon, mountain goats, bear, moose, wolf and waterfowl, raptors, and other species of birds. For the purposes of right-of-way through the Unuk River Valley within the preserve, the access provisions of Title IX pertaining to National Recreation Areas shall apply. Aquaculture activities may be conducted within the Misty Fjords National Preserve under the provisions of subsection 612(b), notwithstanding any other provision of law or this Act.

(9) Noatak National Preserve containing approximately five million four hundred and ten thousand acres of public lands, and Noatak National Recreation Areas, containing approximately one million two hundred and seventy thousand acres of public lands, as generally depicted on a map entitled "Noatak National Preserve and Recreation Area", dated October 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activities and development; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, waterfowl, raptors, and other species of birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for scientific research, and compatible outdoor recreation and environmental education activities. The recreation area shall be managed for the above purposes consistent with the provisions of section 1111. The Secretary shall establish a board consisting of scientists and other exports in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve. Subject to valid existing rights, the lands within the Recreation Area are hereby withdrawn from the mining and mineral leasing laws of the United States. All lands located east of the centerline of the main channel of the Noatak River which are—

(10) Wrangell-Saint Elias National Park, containing approximately eight million four hundred and ninety-six thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately two million four hundred and fifty-five thousand acres of public lands, as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated October 1978, and Wrangell-Saint Elias National Recreation Area, containing approximately one million two hundred and thirty-five thousand acres of Federal lands, as generally depicted on map numbered WRST-90-0006, and dated October 1978. The park and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others; to preserve and maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, valleys and coastal landscape in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to marine mammals, caribou, grizzly bear, Dall sheep, moose, wolves, and trumpeter swans and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(11) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and ten thousand acres of public lands, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve." dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following

purposes, among others: to maintain the environmental integrity of the Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and use, including scientific study; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and in a matter consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area, and to provide opportunities for compatible outdoor recreational and environmental education. Aircraft landing access to designated sites in the Upper Charley River drainage shall be permitted.

ADDITIONS TO EXISTING AREAS

SEC. 202. The following units of the National Park System are hereby expanded and redesignated:

(1) Mount McKinley National Park by the addition of an area containing approximately two million five hundred and eighty-seven thousand acres of Federal land, and an additional one million one hundred sixty-nine thousand acres of Federal land is hereby established as Mount McKinley National Preserve, as generally depicted on map numbered DENA-90,006, and dated October 1978. The park additions and preserve shall be managed for the purpose among others of protecting and interpreting the entire mountain massif and additional scenic mountain peaks and formations and to protect brown/grizzly bear, moose, caribou, Dall sheep, wolves, swans and other waterfowl, and their habitat. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine. The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park, and report thereon to the Congress not later than three years from the date of enactment of this Act. The study and report shall evaluate the resources of the area, including but not limited to fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and may include recommendations with respect to such resources as the Council may determine.

(2) Glacier Bay National Monument by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land, and an additional fifty-seven thousand acres of Federal land is hereby established as Glacier Bay National Preserve, as generally depicted on map numbered GLBA-90.004, and dated October 1978; furthermore, the management is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the purposes, among others, of protecting a segment of the Alsek River, animal habitat and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather.

(3) Katmai National Monument by the addition of an area containing approximately nine hundred and thirty-six thousand acres of public lands and an area of approximately four hundred and nine thousand acres of public land designated as the Katmai National Preserve, as generally depicted on a map entitled "Katmai National Park and Preserve", dated October 1978, for the purposes, among others, of protecting high concentrations of Alaskan brown bear and denning areas, and habitat for other fish and wildlife; to maintain the diversity of natural values and the environmental integrity of the area, including its rivers, lakes, and watersheds; to maintain unimpaired the natural water quality and quantity for significant salmon populations; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the Alagnak addition for continuation of previously established subsistence uses. Furthermore, the monument is hereby redesignated as "Katmai National Park".

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) GENERAL RULES.—The Secretary shall administer the lands, water, and interests therein added to existing units, or established by the foregoing sections of the title, as new units of the National Park System in accordance with the provisions of law applicable to the National Park System and the provisions of Title IX respecting travel, the provisions of section 1109 respecting the taking of fish and wildlife, and other applicable provisions of this Act.

(b) KATMAI AND GLACIER BAY.—Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

(c) VALID NATIVE SELECTIONS.—Valid Native selections, or lands identified for selection pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act, within boundaries of the Gates of Arctic National Park and Preserve and Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and this Act.

(d) COMMERCIAL FISHING.—With respect to Malaspina Glacier area of Wrangell-Saint Elias National Park and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to State or Federal law, including the use of Federal lands for campsites, cabins, motorized vehicles and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges, except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1978.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the protection, maintenance, and management of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element, for the ecological, educational, aesthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information, education, and extension services, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska Native Claims Settlement Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

(4) The term "range" has the same meaning as that term has in the National Wildlife Refuge System Administration Act of 1966.

PURPOSES OF REFUGES

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and widlife and their habitat within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife and habitat within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to subsistence uses by local residents;

(3) to provide, in a manner consistent with the purposes set forth in paragraphs (1) and (2) above, the opportunity for continued subsistence uses by local residents;

(4) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (1), water quality and water quantity within the refuge; and

(5) to protect, maintain, or enhance, in a manner consistent with the purposes set forth in paragraphs (1) and (2) any special value of the refuge specified in section 304, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 302 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) The Secretary shall administer each refuge in order to provide opportunity for subsistence uses pursuant to title VII of this Act, but only to the extent that the provision of such opportunity is compatible with the major purposes of the refuge set forth in section 301.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purposes, described in such section 4(d) unless such use (including but not limited to, any oil and gas leasing permitted under paragraph (3)) or purposes is compatible with the major purposes of the refuge set forth in section 304 and with the provision of opportunity for subsistence uses under paragraph (1) and with the provisions of section 1314 of this Act. The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to ensure that activities carried out under such use or easements are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in wilderness, consistent with the National Wildlife Refuge Administration Act of 1966.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time-to-time, revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1105 and 1106;

(D) present and potential requirements for access with respect to the refuge, as provided for in title IX; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3) Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2) (B), proposed to be implemented within each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 305 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

ESTABLISHMENT OF REFUGES

SEC. 304. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of approximately two million nine hundred and eighty thousand acres of existing refuges specified in this paragraph, which shall be redesignated as subunits of the Alaska Maritime National Wildlife Refuge, and an addition thereto of approximately four hundred and sixty thousand acres of public lands as well as an addition of submerged public lands of unknown quantity within the former Chugach National Forest boundary around Afognak Island, to be included in the following described units consisting of islands, islets, offshore rocks, reefs, offshore spires, and designated capes, among other unnamed areas in the coastal waters and adjacent seas of Alaska as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated October 1978.

(a) Chuckchi Sea Unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge, but excluding such other offshore public lands within the Bering Land Bridge National Preserve.

(b) Bering Sea Unit—including the existing Bering Sea and Pribil of (Walrus and Otter Islands and Sea Lions Rocks) National Wildlife Refuges, Hagemeister Island, those portions of Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Egg Island, Punuk Islands, and King Island not otherwise conveyed under the Alaska Native Claims Settlement Act, as amended, and all other public lands on islands, islets, offshore rocks, reefs, offshore spires, and designated capes;

(B) The significant fish and wildlife resources of the refuge are marine mammals, marine birds, and other migratory birds.

(C) Archeological resources and marine fugees of the refuge are marine mammals, tropic birds, and other migratory birds.

(d) Archeological resources and marine resources of offshore public lands within the refuge are special values of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations for the conveyance of public lands or the provision of other valuable consideration or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of all lands within the existing Arctic National Wildlife Range and of the approximately eight million four hundred thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Refuge", dated October 1978. Additions to Arctic National Wildlife Range to the southwest shall extend to the former Venetie Indian Reservation lands and share a common boundary.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, and peregrine falcons and other migratory birds.

(C) Representative unspoiled Arctic physiographic regions and recreation are special values of the refuge.

(3) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated October 1978. The wildlife refuge shall include all of the islands in the eastern end of Becharof Lake within the map boundary but shall not include the lake or submerged lands beneath the lake below the mean high water mark.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, migratory birds, the Alaska Peninsula caribou herd and marine birds and mammals.

(C) The bear-denning islands of Becharof Lake are special values of the refuge.

(4) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Iditarod Trail is a special feature of the refuge.

(5) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and twenty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, caribou, and furbearers.

(G) Sithylemenkat Lake and the Kanuti Canyon are special values of the refuge.

(6) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands within the existing Kenai National Moose Range and of the approximately two hundred and forty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated April 1978.

(B) the significant fish and wildlife resources of the refuge are mountain goats, moose, bears, salmon, Dall sheep, and migratory birds.

(C) Recreation is a special value of the refuge.

(7) KODIAK NATIONAL WILDLIFE REFUGE—(A) The Kodiak National Wildlife Refuge shall consist of those public lands within the existing Kodiak National Wildlife Refuge, which shall be redesignated as the Kodiak Island Unit of the expanded Kodiak National Wildlife Refuge and all other public lands on Afognak and Ban Islands of approximately fifty thousand acres as depicted on the map entitled "Kodiak National Wildlife Refuge", dated October 1978, including those public lands which become public lands through operation of section 1429 of this Act.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmonoids, sea otter, sea lions, and other marine mammals and migratory birds.

(C) Special values of the refuge are the scenic values and habitat associations of the Red Peaks area of Afognak Island.

(D) The identification of important brown bear use areas in cooperation with the Native corporations of Afognak Island shall be accomplished in a timely fashion and reviewed periodically.

(E) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds

(8) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and forty thousand acres of public lands generally depicted on

the map entitled "Koyukuk National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes and three Day Slough are special values of the refuge.

(9) Nowitna National Wildlife Refuge.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled "Nowitna National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, peregrine falcons, moose, and martens and other furbearers.

(C) The Nowitna Wild River is a special value of the refuge and that segment of the river referred to in the amendment made to the Wild and Scenic Rivers Act by title V of this Act shall be managed as a part of the refuge.

(10) Selawik National Wildlife Refuge.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, the Western Arctic caribou herd, and sheefish.

(C) Archeological resources are special values of the refuge.

(D) The Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River.

(E) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within grazing lease units as they existed on January 1, 1976, in the refuge.

(11) Tetlin National Wildlife Refuge.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and sixty-five thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, furbearers, and moose.

(C) Regardless of any requirements that a wilderness review be conducted of areas within the Tetlin National Wildlife Refuge in accordance with sections 3(c) and 3(d) of the Wilderness Act, there may be authorized and granted rights-of-way for pipelines and other facilities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976.

(12) Yukon Delta National Wildlife Refuge.—(A) The Yukon Delta National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges and of the approximately thirteen million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(C) The Andreafsky Hills area and the marine resources of offshore public lands and the Cape Mendenhall area and Mount Roberts Volcanics of Nunivak Islands are special values of the refuge.

(13) Yukon Flats National Wildlife Refuge.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately seven million eight and eighty hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, the Porcupine caribou herd, moose, and wolves, wolverines, and other furbearers, and salmon.

(b) Other Significant Fish and Wildlife Resources.—The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby redesignated as the Izembek National Wildlife Refuge), are migratory birds, brown bears, and salmonoids.

(c) Timber Harvesting.—To the maximum extent compatible with the purposes for which the unit is established, the Secretary of the Interior shall permit harvesting and other use of timber to meet local and regional needs and the use of rivers within the unit for transport of such timber. The Secretary of the Interior is authorized to enter into cooperative agreements with the Secretary of Agriculture, Native Corporations of the regions, and the State of Alaska to implement this subsection.

COOPERATIVE MANAGEMENT AGREEMENTS

Sec. 305. (a) In General.—The Secretary shall undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to any refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) Terms and Conditions.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide to the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals set forth in subsection (a); and

(6) specify the effective period of the agreement.

BARREN-GROUND CARIBOU STUDY

Sec. 306. The Congress finds that barren ground caribou are a migratory species deserving special protection and that the Western Arctic and Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretray in conducting, a study of the barren-ground caribou herds north of the Yukon River in order to determine the migration patterns, reproduction rates, and habitat (including calving and feeding areas) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and its habitat.

MISCELLANEOUS PROVISIONS

Sec. 307. All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

Sec. 401. (a) Expansion.—The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres, as generally depicted on a map entitled "Additions to the Tongass National Forest" dated October 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1109.

(2) Chugach National Forest by the addition of three areas, Nellie Juan, College Fjord, and Copper River containing approximately one million five hundred and ninety thousand acres, as generally depicted on a map entitled "Chugach National Forest Additions Proposed" dated October 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1109.

(b) Copper River Administration.—Lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary of Agriculture in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the protection of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978. Other multiple use activities shall be permitted in a manner consistent with the protection of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary of Agriculture.

SEWARD NATIONAL RECREATION AREA

Sec. 402. There is hereby established within the Chugach National Forest the Seward National Recreation Area, containing approximately one million two hundred and fourteen thousand acres of Federal lands, as generally depicted on the map entitled "Seward National Recreation Area—proposed" and dated October 1978. The Secretary of Agriculture shall administer the recreation area in accordance with section 1111 and other applicable provisions of this Act, and the laws, rules, and regulations applicable to the National Forest System.

MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

SEC. 403. Subject to valid existing rights, the minerals in Federal lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such area, the Secretary of Agriculture, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by section 110 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 501. (a) ADDITIONAL.—Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(16) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian downstream to the Steese Highway Bridge to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(17) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be classified as a recreational river area except for the segment from the Tangle Lakes area to a point opposite milepost 212 on the Richardson Highway which shall be classified as a wild river area; to be administered by the Secretary of the Interior.

"(18) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuck; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior and to be classified as a scenic river area except for the Wade Creek segment which shall be classified as a recreational river area and the following segments which shall be classified as wild river areas; Mosquito Fork downstream from the vicinity of Kechumpstuck to Ingle Creek, North Fork, Champion Creek; Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

"(19) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in section 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the vest fork; the north branch from the outlet and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(20) ALAGNAK, ALASKA.—The segment from where the river crosses the western boundary of the Katmai National Preserve (in township 12 south, range 38 west) to the western boundary of township 13 south, range 43 west to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(21) UNALAKLEET, ALASKA.—From the headwaters in township 13 south, range 3 west, Kateel River meridian, extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(22) YUKON (RAMPARTS SECTION), ALASKA.—The segment from the east boundary of township 12 north, range 11 west, to the west boundary of township 4 north, range 19 west, Fairbanks meridian, to be classified as a scenic river area and to be administered by the Secretary of the Interior.

"(23) The portions of the following rivers which form the boundary of, or are within, any national preserve or national park in Alaska: Alatna Alagnak, Aniakchak (including its major tributaries), Charley (including its major tributaries), Chilikadrotna, Chitina, John Kobuk, north fork of the Kayukuk Mulchatna, Noatak (that portion from the headwaters to the confluence with the Kelly), Salmon, Tmayguk, Tlikakila; each be administered by the Secretary of the Interior.

"(24) The portions of the following rivers which form the boundary of, or are within, any national wildlife refuge in Alaska; Sheenjek (that portion north of 68 degree latitude), Andreafsky (including the east work) Ivishak, Kisaralik, and Wind; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(25) KISARALIK, ALASKA.—The segment which is within the Bristol Bay area.

"(26) BEAVER CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Willlife Refuge, to be administered by the Secretary of the Interior."

(b) BOUNDARIES AND DEVELOPMMENT PLANS.—Section 3(b) of the Wild and Scenic Rivers Act is amended by striking out "(b) The agency" and substituting "(b) (1) Except as otherwise provided in this Act, the agency" and by adding the following new paragraph at the end thereof:

"(2) For those rivers in Alaska listed in paragraphs (16) through (20) and (21) and (22) of subsection (a), the detailed boundaries referred to in this section shall be established, and the development plans prepared and published, within such period after the date of the enactment of this paragraph as is specified in the following list:

"One year: Delta, Fortymile, and Gulkana.

"Two years: Birch Creek and Yukon (Ramparts section).

"Three years: Unalakleet.

The detailed boundaries for the rivers listed in paragraphs (23) (24), and (26) of subsection (a) shall be established, and the development plans for such rivers shall be prepared and published, at the same time as, and in coordination with—

"(A) the submission to the Congress of the applicable management plan under the Alaska National Interest Lands Conservation Act (in the case of a river associated with a national preserve), or

"(B) the preparation of the applicable conservation plan under such Act (in the case of a river associated with a national wildlife refuge).

There shall not be included within such boundaries lands selected by the Native Corporations or other valid rights of Alaska Natives to lands without the consent of such Corporations or Natives if such valid rights were in existence immediately before the date of the enactment of this paragraph, except to the extent any such selection or right may hereafter be relinquished.".

POTENTIAL ADDITION:

SEC. 502. (a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by inserting after paragraph (58) the following new paragraphs:

"(59) Colville, Alaska.

"(60) Copper (Iliamna), Alaska.

"(61) Copper, Alaska: The segment from the confluence with the Chitina downstream to the mean high tide line.

"(62) Etivluk-Nigu, Alaska.

"(63) Holitna-Honolitna, Alaska.

"(64) Ikpikpuk, Alaska.

"(66) Kuskokwim (Middle), Alaska: The segment between McGarth and Stoney River.

"(67) Melozitna, Alaska.

"(68) Mulchatna, Alaska: The segment from the southwest boundary of the Lake Clark National Preserve to the confluence with the Nushagak River.

"(69) Nelchina-Tazlina, Alaska.

"(70) Nuyakuk, Alaska.

"(71) Situk, Alaska.

"(72) Utukok, Alaska.

"(73) Nowitna (that portion within the Nowitna Wildlife Refuge), Alaska.

"(74) Porcupine, Alaska.

"(75) Sheenjek (lower), Alaska.

"(76) Kanektok, Alaska.".

(b) STUDY PERIOD.—Section 5(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) The studies of the rivers listed in paragraphs (59) through (76) shall be completed and reports thereon submitted—

"(A) for no less than five of such rivers within three years,

"(B) for no less than ten of such rivers within four years, and

"(C) for all of the remaining such rivers within five years,

after the date of enactment of this paragraph. The preceding sentence shall not apply to the rivers listed in paragraphs (59), (62), (64), and (72), and studies of such rivers shall be completed, and reports submitted not later than the time when the report in section 195(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94–258) is required to be submitted.".

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) COOPERATIVE AGREEMENTS.—Section 10(e) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "In the case of rivers listed in paragraphs (16) through (26) of section 3(a), the Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining such rivers to assure that the purpose of designating such rivers as wild and scenic rivers under this Act is served to the greatest extent feasible.".

(b) MINING AND MINERAL LEASING; STUDY RIVERS.—Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (76) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(c) INTERRELATIONSHIP OF APPLICABLE LAWS.—Section 10 of such Act is amended by inserting in the second sentence of section 10(c) before "and in the case of" the following: "(and the Acts under which particular national parks or preserves or wildlife ranges and refuges are established or enlarged)" and by striking out "these Acts" and substituting "this Act and such other Acts".

(d) ACQUISITION AUTHORITY.—Section 6 of such Act is amended by adding the following new subsection at the end thereof:

"(h) In the case of the rivers in Alaska listed in paragraphs (16) through (26), the provisions of section 1101 of the Alaska National Interest Lands Conservation Act shall apply in lieu of the provisions of this section.".

(g) PUBLIC LAND LAWS.—Section 8(b) of such Act is amended by adding the following at the end thereof "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (76) of section 5(a) are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.".

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

FINDING AND PURPOSES

SEC. 601. The Congress finds and declares that it is in the national interest that certain public lands in the State of Alaska within previously established units of the National Park, National Wildlife Refuge, and National Forest Systems and certain additions made to such systems by this Act be designated as wilderness and therefore as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness for the benefits of all the American people of present and future generations. The Congress further finds that certain other public lands within such national conservation systems are of evident wilderness resource value but require more thorough study prior to designation wilderness.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Aniakchak National Monument and Preserve, Alaska, which comprise approximately two hundred and ninety thousand acres, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated October 1978, and which shall be known as Aniakchak Wilderness.

(2) Certain lands in Gates of the Arctic National Park and Preserve, Alaska, which comprise approximately seven million twenty thousand acres, as generally depicted on a map entitled "Gates of the Arctic National Park", dated October 1978, and which shall be known as Gates of the Arctic Wilderness.

(3) Certain lands in Glacier Bay National Park, Alaska, which comprise approximately two million eight hundred and twenty thousand acres, as generally depicted on a map entitled "Glacier Bay National Park," dated October 1978, and which shall be known as Glacier Bay Wilderness.

(4) Certain lands in Katmai National Park and Preserve, Alaska, which comprise approximately three million six hundred and thirty thousand acres, as generally depicted on a map entitled "Katmai National Park and Preserve", dated October 1978, and which shall be known as Katmai Wilderness.

(5) Certain lands in Kobuk Valley National Park, Alaska, which comprise approximately one hundred and forty thousand acres, as generally depicted on a map entitled "Kobuk Valley National Park", dated October 1978, and which shall be known as Kobuk Valley Wilderness.

(6) Certain lands in Lake Clark National Park and Preserve, Alaska, which comprise approximately two million five hundred thousand acres, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated October 1978, and which shall be known as Lake Clark Wilderness.

(7) Certain lands in Noatak National Preserve, Alaska, which comprise approximately five million four hundred and ten thousand acres, as generally depicted on a map entitled "Noatak National Preserve", dated October 1978, and which shall be known as Noatak Wilderness.

(8) Certain lands in Wrangell-Saint Elias National Park and Preserve, Alaska, which comprise approximately four million seven hundred and eighty five thousand acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated October 1978, and which shall be known as Wrangell-Saint Elias Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(9) Certain lands in Yukon-Charley Rivers National Preserve, Alaska, which comprise approximately one million and forty thousand acres, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated October 1978, and which shall be known as Yukon-Charley Wilderness.

DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 603. In furtherance of the purposes of the Wilderness Act, the Secretary of the Interior shall review the nondesignated wilderness within the boundaries of each unit of the National Park System as established or as expanded by this Act, and shall report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all roadless areas within these boundaries for preservation as wilderness shall be accomplished in accordance with such subsections of the Wilderness Act. Recommendations for such units shall be submitted to the Congress on such basis that—

(1) no less than four are submitted within two years,

(2) no less than eight within three years, and

(3) all within four years after the date of enactment of this Act.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 604. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System;

(1) Certain land in the Alaska Maritime National Wildlife Refuge comprising approximately two million nine hundred thousand acres, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", dated October 1978, and which shall be known as Alaska Maritime Wilderness, Aleutian Islands Wilderness, Unimak Wilderness, and Semidi Wilderness.

(2) Certain land in the Arctic National Wildlife Refuge comprising approximately eleven million five hundred and thirty thousand acres, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated October 1978, and which shall be known as Arctic Wilderness.

(3) Certain land in the Innoko National Wildlife Refuge, comprising approximately one million two hundred and forty thousand acres, as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated October 1978, and which shall be known as Innoko Wilderness.

(4) Certain land in the Izembek National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Izembek National Wildlife Refuge", dated October 1978, and which shall be known as Izembek Wilderness.

(5) Certain land in the Kanuti National Wildlife Refuge, comprising approximately two hundred and fifty thousand acres, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated October 1978, and which shall be known as Kanuti Wilderness.

(6) Certain land in the Kenai National Wildlife Refuge, comprising approximately one million three hundred and ninety thousand acres, as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated October 1978, and which shall be known as Kenai Wilderness.

(7) Certain land in the Selawik National Wildlife Refuge, comprising approximately two hundred and forty thousand acres, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated October 1978, and which shall be known as Selawik Wilderness.

(8) Certain lands in the Koyukuk National Wildlife Refuge, compromising approximately three hundred and seventy thousand acres, as generally depicted on a map entitled "Koyukuk National Wildlife Refuge", dated October 1978, and which shall be known as Selawik Wilderness.

(9) Certain lands in the Yukon Delta National Wildlife Refuge, compromising one million, eight hundred and eighty thousand acres, as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated October 1978, and which shall be known as Andreafsky Wilderness.

WILDERNESS REVIEWS WITHIN CONSERVATION SYSTEM UNITS OTHER THAN NATIONAL PARK SYSTEM UNITS

SEC. 605. (a) WILDERNESS REVIEW.—In furtherance of the purposes of the Wilderness Act and in accordance with the provisions of section 3(d) of that Act relating to public notice, public hearings, and review by State and other agencies, the Secretary of the Interior shall review, as to suitability or nonsuitability for preservation as wilderness, all lands within the conservation system units, other than those areas to be reviewed under section 603 and those areas designated as wilderness by this Act.

(b) DATES.—The Secretary of the Interior shall conduct his reviews, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act.

The Secretary shall complete his reviews and the President shall advise the Congress of his recommendations with respect to no less than one-third of areas within three years after the date of enactment of this Act and with respect to the other two-thirds within seven years after such date of enactment, except that the reviews required thereunder with respect to units of the National Wildlife Refuge System shall—

(1) be completed at the same time as the conservation plans for the units concerned are prepared under section 303(c), and

(2) be coordinated with such plans.

the Secretary shall give at least ninety days advance public notice of any hearing or other public meeting concerning such areas. Any recommendation of the President to the effect that such area or a portion thereof should be designated as wilderness shall become effective only if so provided by an Act of Congress.

(c) EFFECT ON NATIONAL WILDLIFE REFUGES.—Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

DESIGNATION OF WILDERNESS WITHIN NATIONAL FOREST SYSTEM

SEC. 606. (a) Designation. In accordance with subsection 3(c), of the Wilderness Act (78 Stat. 892), the lands within the Tongass National Forest within the boundaries depicted as "Proposed Wilderness" on the maps referred to in the following paragraphs are hereby designated as wilderness, with the nomenclature and appropriate acreage as indicated below:

(1) Admiralty Island Wilderness of approximately five hundred and forty-one thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated October 1978;

(2) Coronation Island Wilderness of approximately nineteen thousand one hundred and twenty-two acres as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

(3) Endicott River Wilderness of approximately ninety-four thousand acres, as generally depicted on a map entitled "Endicott River Wilderness", dated October 1978;

(4) Maurille Islands Wilderness of approximately four thousand, four hundred and twenty-four acres, as generally depicted on a map entitled "Coronation Warren-Maurille Islands Wilderness", dated October 1978;

(5) Petersburg Creek-Duncan Salt Chuck Wilderness of approximately fifty thousand acres, as generally depicted on a map entitled "Petersburg Creek-Duncan Salt Chuck Wilderness", dated October 1978;

(6) Russell Fjord Wilderness of approximately three hundred and fifty thousand acres, as generally depicted on a map entitled "Russell Fjord Wilderness", dated October 1978;

(7) South Baranof Wilderness of approximately three hundred and fourteen thousand acres, as generally depicted on a map entitled "South Baranof Wilderness", dated October 1978;

(8) South Prince of Wales Wilderness of approximately ninety-seven thousand acres, as generally depicted on a map entitled "South Prince of Wales Wilderness", dated October 1978;

(9) Stikine-LeConte Wilderness of approximately four hundred and forty-three thousand acres, as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated October 1978;

(10) Tebenkof Bay Wilderness of approximately sixty-five thousand acres, as generally depicted on a map entitled "Tebenkof Bay Wilderness", dated October 1978;

(11) Tracy Arm-Fords Terror Wilderness of approximately six hundred and seventy-eight thousand acres, as generally depicted on a map entitled "Tracy Arm-Fords Terror Wilderness", dated October 1978;

(12) Warren Island Wilderness of approximately eleven thousand, three hundred and fifty-three acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands", dated October 1978;

(13) West Chichagof-Yakobi Wilderness of approximately two hundred and sixty-five thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated October 1978.

(b) Exchange.—(1) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture is specifically authorized and directed, if the shareholders of Kootznoowoo, Incorporated, so elect, to exchange the timber rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act for timber rights elsewhere within the Tongass National Forest in areas not designated as wilderness or wilderness study under this Act or other provisions of law. If the shareholders of Kootznoowoo, Incorporated, so elect, the timber rights to lands selected by that Corporation under section 16 of the Alaska Native Claims Settlement Act shall be conveyed to the Secretary of Agriculture. Within one year after such conveyance, the Secretary of Agriculture shall convey to Kootznoowoo, Incorporated, timber rights under this section which are of equal value to those conveyed to the Secretary. The conveyance of timber rights to the Secretary of Agriculture shall be conditioned upon the conveyance to Kootznoowoo, Incorporated, by the Secretary of Agriculture of timber rights of equal value under this section, except that if, within one year after conveyance of timber rights to the Secretary of Agriculture, he cannot identify timber rights of equal value by mutual agreement, Kootznoowoo, Incorporated, at its election, may either rescind the conveyance or identify not more than twenty-three thousand and forty acres of land within the Tongass National Forest otherwise available for exchange under this paragraph and timber rights in lands so identified shall then be conveyed to Kootznoowoo, Incorporated, by the Secretary of Agriculture. Timber on Admiralty Island with respect to which the Secretary of Agriculture acquires title under this paragraph shall not be sold or otherwise cut or disturbed, except for subsistence uses or as otherwise provided by this Act. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchange, the basis of valuation of the timber rights exchange, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest average market value of timber sold in Alaska during any one of the twenty years preceding the conveyance.

(2) As provided under sections 21(c), 21 Settlement Act, the Secretary of Agriculture may acquire by purchase the timber rights of Kootznoowoo, Incorporated, which are to be exchanged pursuant to paragraph (1) of this subsection.

(3) In order for the Secretary of Agriculture to proceed, as expeditiously as possible, land withdrawn for selection by the Angoon Corporation pursuant to the Alaska Native Claims Settlement Act shall remain open to selection by Kootznoowoo, Incorporated.

(4) In satisfaction of the rights of the Natives of Juneau and Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Shee Atika, Incorporated. For purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selection rights so released by Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated under paragraph (1). Nothing in this section shall be construed to affect any valid rights which Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

(5)(A)(i) Subject to the provisions of subparagraph (B) of this paragraph and further subject to all valid existing rights (including any valid mining claims), there is hereby vested in Goldbelt, Inc., all right, title and interest of the United States in and to the surface estate of the following described lands:

COPPER RIVER MERIDIAN

Township 37 South, Range 63 East, sections 1, 17, and 21;

Township 50 South, Range 70 East, sections 31 and 32;

Township 51 South, Range 74 East, section 2, S½; sections 10 and 11; section 12, S½; sections 13, 14, 23, 24, and 25;

Township 51 South, Range 75 East, section 1; section 2, NE¼, S½; section 3, SE¼; section 7, S½, NW¼; section 8, S½; sections 9 through 23; section 24, NW¼; section 26, W½; sections 27 through 29; section 31, S½; sections 32 through 35;

Township 51 South, Range 76 East, sections 5 and 6;

Township 52 South, Range 74 East, sections 1, 12, and 13;

Township 52 South, Range 75 East, section 4; section 5, N½; sections 6 and 7; section 8, NE¼; section 9, N½; section 18, SW¼; sections 19 and 20; section 21, NE¼, S½; sections 22, 26, 27, and 28;

Township 52 South, Range 76 East, section 26, 34, 35, and 36;

Township 52 South, Range 77 East, section 29, section 32, N½; section 30, S½; section 31, W½;

Township 53 South, Range 77 East, section 2, section 3, N½.

Containing 27,774 acres more or less.

(ii) The conveyance under this subparagraph shall be subject to the terms and conditions of section 14(g) of the Alaska Native Claims Settlement Act and the right of the Secretary to identify and reserve easements provided in section 11(b) of the Alaska Native Claims Settlement Act and the right of the Secretary to include such reserved easements in the interim conveyance and patent of the lands conveyed in this paragraph. There is excepted from the conveyance in this subparagraph valid selections pursuant to section 14(h) of the Alaska Native Claims Settlement Act, any selection by the State of Alaska pursuant to section 6(a) of the Alaska Statehood Act which is hereafter approved by the Secretary of Agriculture, and any Native allotment application which is hereafter conveyed pursuant to the Act of May 17, 1906 (34 Stat. 197), and any valid existing right to the conveyance of title to any of the above described lands.

(B) A condition precedent to the grant and conveyance provided under subparagraph (A) of this paragraph is the adoption, within sixty (60) days after the date of this Act, of a resolution by the Board of Directors of Goldbelt, Incorporated: (i) accepting such grant and conveyance provided in subparagraph (A) of this paragraph in exchange for its selection on Admiralty Island, and (ii) waiving and releasing any right, claim or interest of Goldbelt, Incorporated in and to lands within Admiralty Island either selected by Goldbelt, Inc., or withdrawn for its selection pursuant to Public Land Order No. 5548. The acceptance of the conveyance authorized in subparagraph (A) of this paragraph and the additional conevyance of the surface estate of 3,422 acres of other land off Admiralty Island validly selected and previously filed with the Secretary will constitute full satisfaction of the land entitlement of the Natives of Juneau provided under section 14(h)(3) of the Alaska Native Claims Settlement Act. Upon adoption of such resolution by the Goldbelt Board, ownership of the land described in subparagraph (A)(i) of this paragraph shall be deemed to have vested in Goldbelt, Incorporated as of the date of enactment of this Act. The Secretary shall thereafter issue an interim conveyance and patent including the easements authorized to be reserved in subparagraph (A)(ii).

(C) Upon adoption by the Board of Directors of Goldbelt, Incorporated of the resolution specified in subparagraph (B) of this paragraph and subject to valid existing rights and the provisions of subparagraph (A)(ii) of this paragraph, there shall be vested in SEAlaska Corporation the right of selection to all right, title and interest in the subsurface estate of 19,618 acres within the lands described in paragraph (A)(i). The selection of such 19,618 acres is to be made by SEAlaska Corporation within two (2) years, such selection shall not exceed one contiguous reasonably compact tract in each of the four blocks of land described in subparagraph (A)(i) and shall, to the extent feasible, follow section lines except that contiguity may be broken when land is unavailable for selection. The Secretary shall adjudicate and convey such selections subject to the applicable provisions of the Alaska Native Claims Settlement Act. including but not limited to section 14(g). Upon the adoption of the resolution by the Goldbelt Board provided for in subparagraph (B) of this paragraph all right, claim or interest of SEAlaska Corporation to the subsurface estate of lands on Admiralty Island previously selected by Goldbelt, Incorporated shall be extinguished.

(D) All the lands described in subparagraph (A)(i) of this paragraph are hereby withdrawn from all forms of appropriation under the Public Land laws, including selection by the State of Alaska, and are reserved for use by the Secretary for the purposes authorized in this subsection. This withdrawal shall terminate if the resolution by the Goldbelt Board is not adopted.

(E) The Secretary of the Interior shall pay all reasonable costs, including consultant and attorney fees, incurred by Goldbelt, Incorporated in the identification of suitable lands for conveyance to Goldbelt, Incorporated outside Admiralty Island in exchange for its selection on Admiralty Island and in the negotiation of an exchange of its Admiralty Island selections. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.

(6) In recognition of the considerable land selection costs incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall pay those reasonable and necessary land selection costs, including all court costs and reasonable attorney's fees, incurred prior to the date of conveyance of land to the three Native Corporations. Authorization for payment of such land selection costs shall begin in the fiscal year 1980, but shall include earlier costs.

(c) Access to Tracy Arm-Fords.—For the purposes of providing for access, public safety, or public accommodation or services relative to recreational use of the Tracy Arm-Fords Terror Wilderness, the Secretary is authorized to use up to a total of one hundred and sixty acres at one or more sites at the western end of the wilderness in the vicinity of Sumdum, Williams Cove, or Harbor Island.

(d) Portage Equipment.—Existing mechanized portage equipment located at the head of Seymour Canal on Admiralty Island may continue to be used.

DESIGNATION OF WILDERNESS STUDY AREA WITHIN NATIONAL FOREST SYSTEM

SEC. 607. In furtherance of the purposes of the Wilderness Act the Secretary of Agriculture shall review the lands depicted as "Wilderness Study" on the following described maps and within three years report to the President and the Congress in accordance with sections 3 (c) and (4) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all areas within such wilderness study boundaries for preservaton of wildlife; Nellie Juan-College Fjord, Chugach National Forest as generally depicted on a map entitled "Nellie Juan-College Fjord Study Area", dated October 1978.

DESIGNATION OF SPECIAL MANAGEMENT AREAS WITHIN THE TONGASS NATIONAL FOREST

SEC. 608. There are hereby designated the following special management areas within the Tongass National Forest:

(1) Duncan Canal Special Management Area of approximately ninety-one thousand acres as generally depicted on a map entitled "Duncan Canal Special Management Area", dated October 1978;

(2) Etolin Island Special Management Area of approximately eighty-two thousand acres as generally depicted on a map entitled "Etolin Island Special Management Area", dated October 1978;

(3) East Behm Canal Special Management Area of approximately two hundred and thirty-seven thousand acres as generally depicted on a map entitled "East Behm Canal Special Management Area", dated October 1978;

(4) Idaho Inlet-Mud Bay Special Management Area of approximately one hundred and nine thousand acres as generally depicted on a map entitled "Idaho Inlet-Mud Bay Special Management Area", dated October 1978;

(5) Karta Special Management Area of approximately forty-nine thousand acres as generally depicted on a map entitled "Karta Special Management Area", dated October 1978;

(6) Rocky Pass Special Management Area of approximately eighty-two thousand acres as generally depicted on a map entitled "Rocky Pass Special Management Area", dated October 1978;

(7) South Misty Fjords Special Management Area of approximately six hundred and twenty-three thousand acres as generally depicted on a map entitled "South Misty Fjords Special Management Area", dated October 1978;

(8) West Admiralty Island Special Management Area of approximately four hundred and sixty-seven thousand acres as generally depicted on a map entitled "West Admiralty Island Special Management Area", dated October 1978; and

(9) Yakutat Forelands Special Management Area of approximately two hundred and sixty-nine thousand acres as generally depicted on a map entitled "Yakutat Forelands Special Management Area", dated October 1978.

MANAGEMENT RULES FOR SPECIAL MANAGEMENT AREAS

SEC. 609. (a) Applicable laws. Except as otherwise provided in this section, national forest system lands designated as special management areas under section 608 of this Act shall be managed in accordance with the laws applicable to such lands.

(b) Timber sales.—No timber located on national forest system lands in special management areas shall be sold, unless and until the requirements of subsections (d) and (e) of this section have been met. The timber volume on these lands shall be included in determining the annual allowable sale quantity on the Tongass National Forest. Nothing in this subsection shall prevent the Secretary from taking such measures as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(c) Withdrawals.—All national forest system lands in special management areas are hereby withdrawn, subject to valid existing rights, from location, entry, and patent under the United States mining laws (30 U.S.C. 22–54). Where consistent with the land management plan for the area, the Secretary may classify lands within special management areas as suitable for locatable mineral exploration and development and open such lands to location entry and patent under the United States mining laws (30 U.S.C. 22–54). Subect to valid existing rights, all mining claims located within any special management area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals togther with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe. With repect to those lands in the South Misty Fjords Special Management Area comprising the "Blossom and Wilson River Drainages", as depicted on the map referred to in section 608(7), the Secretary is authorized and directed to promulgate such regulations as he determines necessary to protect the water quality and quantity of and to prevent any adverse environmental degradation of the streams and other bodies of water in such lands.

(d) Waiver.—The Secretary of Agriculture is directed to monitor timber supply and demand in southeastern Alaska. If, at any time after ten years after the date of enactment of the Act, the Secretary finds that timber in any special management area must be sold to maintain the timber supply to dependent industry at a rate of five hundred and twenty million board feet per year, he shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a request for a waiver of the prohibition on timber sales established in subsection (b) of this section. The proposed waiver shall describe the lands affected and the amount of timber on such lands which is anticipated to be sold. The request shall be accompanied by a report setting forth the basis for the Secretary's findings.

(e) Submission to Congress.—No waiver shall become effective unless within sixty calendar days of continuous session of the Congress after the request has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, the Senate and the House of Representatives pass a concurrent resolution approving such waiver.

(f) Applicable rules.—For purposes of this subsection (e)—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(3) the term "resolution" means a concurrent resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the waiver of the statutory prohibition on timber sales contained in the report of the Secretary of Agriculture submitted to the Congress on 19 ."; the blank space therein shall be filled with the date on which the Secretary submits his report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(g) Application of other provisions.—Except as otherwise provided in this section, provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(h) Standing of State.—At any time after ten years after date of enactment of the Act, the State of Alaska shall have standing to petition the appropriate Federal district court for an order directing the Secretary of Agriculture to make the finding required by subsection (d) of this section and to transmit a waiver request pursuant to such subsection.

NATIONAL FOREST TIMBER UTILIZATION PROGRAM

Sec. 610. (a) Special program. (1) The Secretary of Agriculture is authorized and directed to carry out a special program for construction and maintenance of forest development roads for the purpose of making timber supplies more readily available and otherwise improve access on the Tongass National Forest. Such roads may be constructed in advance of timber sale offered or under terms of a sale contract. Such authority is in addition to the authority set forth in the Act of October 13, 1964, (78 Stat. 1089; 16 U.S.C. 532-538).

(2) To accomplish the road construction and maintenance authorized by this subsection, and for precommercial thinning, the Secretary is hereby authorized to expend not to exceed $10,000,000 annually from National Forest Fund receipts not otherwise appropriated in addition to such sums as may otherwise be appropriated.

(b) Loans.—(1) The Secretary of Agriculture is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized to be appropriated $5,000,000 from National Forest Fund receipts not otherwise appropriated, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Study.—Within three years after the date of enactment of this Act, the Secretary of Agriculture shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

INTERIM REPORT

Sec. 611. Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in Southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels on the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; (4) the status of the small business set aside program on the Tongass Forest; and (5) the kinds and level of uses taking place in the Special Management Areas designated by this Act. The study required by this section shall be conducted in cooperation and consultation with the State, affected native corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

SPECIAL PROVISIONS

Sec. 612. (a) Application Only to Alaska.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) Aquaculture.—In accordance with the goal of restoring and maintaining fish production in the State of Alaska to historic levels, and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, may permit fishery research, management, enhancement, and rehabilitation activities within wilderness and wilderness study areas designated by this Act other than in units of the National Park System. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channel, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including use of motorized equipment shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) Fishery Research.—Only fishery research may be authorized, in wilderness or wildeness study areas within units of the National Park System, as the Secretary determines to be necessary and desirable to study, manage, protect, restore, augment, or sustain indigenous fish populations. Fishery research activities permitted within units of the National Park System shall be undertaken in a manner that is consistent with the purposes for which such units are established or expanded. The construction or erection of permanent structures in support of these activities in wilderness or wilderness study areas within units of the National Park System shall not be permitted.

(d) Existing Cabins.—Previously existing public use cabins within national forest wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(e) New Cabins.—Within wilderness designated by this Act, the Secretary of the Interior or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter and no such cabin or shelter shall be removed or constructed until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to remove or construct has been submitted to such committees, unless each committee by resolution waives the waiting period.

(f) Withdrawals.—Subject to valid existing rights, national forest wilderness established by this Act in the Tongass National Forest are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, all amendments thereto, and from any right of mineral entry which would otherwise have been available hereafter under the Wilderness Act or any other provision of law.

(g) Taking of Fish and Wildlife.—Within national forest wilderness designated by this Act, the Secretary of Agriculture shall permit taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska, except that the Secretary may designate zones where, and establish periods when, no taking of fish and wildlife shall be permitted for reasons of public safety, administration, public use and enjoyment, or protection of subsistence resources.

ADMINISTRATION

Sec. 613. (a) In General.—Except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as a wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 602, 603, and 604 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

(b) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber on relevant lands within such units.

ACQUISITION AUTHORITY

SEC. 614. The Secretary of Agriculture is authorized, in accordance with the provisions of section 1101, to acquire privately owned land within the boundary of any area designated as wilderness within the national forest by this Act.

TITLE VII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on their Native lands is essential to their physical, economic, traditional, and Native cultural existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents;

(5) the national interest in the proper regulation protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, the utilization of the public lands in Alaska is to cause the least adverse impact possible on residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each unit established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a subsistence-oriented lifestyle to continue to do so;

(2) nonwasteful subsistence use of fish and wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska shall cooperate with adjacent landowners and land managers including Native corporations, appropriate State and Federal agencies and other nations.

DEFINITIONS

SEC. 703. As used in this Act the term "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption. For the purposes of this section, the term—

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange or trade of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible terms other than money if the exchange is of a limited and noncommercial nature.

PREFERENCE FOR SUBSISTENCE USES

SEC. 704. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded preference over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such preference shall be based on—

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

LOCAL AND REGIONAL PARTICIPATION

SEC. 705. (a) Regions.—Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary shall establish—

(1) at least five Alaska subsistence resource regions which taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated.

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resources region.

Each regional council shall be composed of residents of the region and shall have the following functions:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) Staff.—The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) Actions by Secretary.—The Secretary, in performing his monitoring responsibility pursuant to section 706 and in the exercise of his closure and other administrative authority over the public lands, shall be guided by the annual report and advice of the regional councils concerning the management of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary shall follow the advice of such councils unless he determines in writing that such advice is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

(d) Implementation.—The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State divides the public lands into at least five regions as set forth in subsection (a)(1); adequately maintains its local fish and game advisory committee structure; establishes a regional council in each region composed of residents of the region with duties and responsibilities analogous to those set forth in subsection (a)(3); assigns staff and distributes available support data to the local committees and regional councils as set forth in subsection (b); and provides that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall make findings of fact detailing the basis for its failure to adopt the recommendation.

(d) Reimbursement.—(1) The Secretary may reimburse the State, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection is adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 704.

FEDERAL MONITORING

SEC. 706. The Secretary shall monitor the provision by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the State in providing such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

JUDICIAL ENFORCEMENT

SEC. 707. In performance of his monitoring responsibilities required in section 706, if the Secretary and appropriate State agency are notified in writing by a local committee or regional council established by the Secretary or the State pursuant to section 705 that the preference for subsistence uses set forth in section 704 is not adequately provided in its region, setting forth the facts upon which such belief is based and detailing efforts to obtain timely relief through available State grievance procedures, the Secretary shall investigate and report publicly on the results of his investigation. If the Secretary determines that the preference for subsistence uses is not adequately provided and that timely relief has not been obtained, he shall submit his views to the Governor and seek to ensure the adequate and timely provision of such preference through discussions with the State. The Secretary shall inform the committee or council which submitted the notification to him of the results of such discussions. If the Secretary determines that the State has failed to make adequate and timely provision for the preference for subsistence uses after having been provided a reasonable opportunity to do so and that such failure threatens the ability of subsistence-dependent Alaska residents to satisfy their subsistence needs, at the request of the committee or council which submitted the notification to him, the Secretary shall bring an action in the United States district court on behalf of such committee or council to require the State to take such actions as are necessary to provide such preference. Such action shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time and shall be expedited in every way by such court. Upon the filing of the complaint, if the pleadings indicate that the State has failed to adequately provide for the preference for subsistence uses, that such failure imminently threatens the ability of subsistence-dependent residents to satisfy their subsistence needs, that immediate relief is necessary to assure that those residents who may have been adversely affected by such failure are provided a timely opportunity to satisfy such needs, and that immediate relief will not threaten the continued viability of fish and wildlife populations toward which such relief may be directed, the district court shall issue an order directing the State to show cause why the features of the State's provision of the preference which render such provision inadequate should not be enjoined and the State be directed to permit the taking of such fish or wildlife populations only for subsistence uses by those residents who have been adversely affected by the State's failure to provide for the preference. No order granting such temporary relief shall be issued until the State has been provided an opportunity for hearing, and such order shall provide that such taking for subsistence uses shall be subject to regulation by the State in a manner which adequately provides for the satisfaction of the subsistence preference requirement. The court shall provide relief, other than temporary relief, by directing the State to submit regulations which satisfy the subsistence preference requirement. When approved by the court, such regulations shall be incorporated as part of the final judicial order. Such order shall be valid only for such period as normally provided for the regulations at issue by State law. This section shall constitute the sole Federal judicial remedy created by this title for a local committee or regional council which determines that the preference for subsistence uses set forth in subsection 704 has not been adequateely provided by the State in its region.

PARK AND MONUMENT SUBSISTENCE RESOURCE COMMISSIONS

SEC. 708. (a) Commissions.—Within one year from the date of enactment of this Act, the Secretary and the Governor shall each appoint four members to a subsistence resources commission for each national park or monument within which subsistence uses are permitted by this Act. The regional council established pursuant to section 705 which has jurisdiction within the area in which the park or monument is located shall appoint four members to the commission each of whom is a member of either the regional council or a local committee within the region and also is a resident of a village within or adjacent to the park or monument or whose residents engage in subsistence uses within the park or monument. Within eighteen months from the date of enactment of this Act, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local committees and regional councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

(b) Implementation.—The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the continued viability of wildlife populations in the park or monument, are contrary to the purposes for which the park or monument is established, or would be deterimental to the satisfaction of subsistence needs. Upon notification by the Governor, the Secretary shall take no action on submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Interim period.—Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

COOPERATIVE AGREEMENTS

SEC. 709. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 710. (a) OTHER USES, ETC.—In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 705.

(2) gives notice of, and holds a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

(b) IMPACT STATEMENT.—If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2) (C) of the National Environmental Policy Act, he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

(c) Savings Clause.—Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

ACCESS

Sec. 711. The Secretary shall ensure that persons engaged in subsistence uses shall have appropriate access to subsistence resource on the public lands.

SNOWMOBILES AND MOTORBOATS

Sec. 712. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to such regulations as are necessary to prevent waste, or damage to fish, wildlife, or terrain.

RESEARCH

Sec. 713. The Secretary, acting through the United States Fish and Wildlife Service and the National Park Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of subsistence users; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 705, and other appropriate persons and organizations.

PERIODIC REPORTS

Sec. 714. Within four years after the date of enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 704;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils established by the Secretary or the State pursuant to section 705, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

Sec. 715. Each Secretary shall prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

LIMITATIONS, SAVINGS CLAUSES

Sec. 716. Nothing in this Act shall be construed as—

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands;

(3) enlarging or diminishing the responsibility and authority of the State of Alaska for management of fish and wildlife on public lands except as specifically provided in this Act, or as amending the Alaskan constitution; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1151–1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a–754), the Migratory Bird Conservation Act (45 Stat. 1222; 16 U.S.C. 715–715s), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669–6691), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801–1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777–777K), or any amendments to any one or more of such Acts.

CLOSURE TO SUBSISTENCE USES

Sec. 717. (a) Parks and Monuments.—All national parks and monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title and other applicable laws of the United States and the State of Alaska.

(b) Authority of Secretary.—Except as specifically proved otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCES TO VILLAGE CORPORATIONS

Sec. 801. (a) "Core" Townships, Etc.—(1) (a) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), 14(b), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 803(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined by the Secretary to be eligible for land under sections 11 or 16 of the Alaska Native Claims Settlement Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title and interest of the United States in and to the surface estate in the public lands, as defined in such Act, in the township or townships withdrawn pursuant to section 11(a)(1) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning as such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(B) Where two or more Village Corporations are entitled to the same land by virtue of the same township or townships embracing all or part of the Native villages, the conveyance made by paragraph (A) shall not be effective as to such lands until an arbitration decision or other binding agreement between or among the Corporation is filed with and published by the Secretary. Within thirty days of receipt of such decision or agreement, the Secretary shall publish notice of the decision or agreement in the Federal Register. Effective with such publication, title to the lands conveyed by subparagraph (A) shall vest in each Village Corporation as specified in the decision or agreement. For purposes of section 802, until title vests in the Village Corporation pursuant to this subparagraph, the Secretary shall consider the entire acreage involved chargeable to each Corporation's entitlement.

(2) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 803 (a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined by the Secretary to be eligible for land under section 11 of such Act, and which did not elect to acquire a former Reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(2) of such Act in which all or any part of such village is located: *Provided*, That any such land reserved to or selected by the State of Alaska under the acts of March 4, 1915 (38 Stat. 1214), as amended, January 21, 1929 (45 Stat. 1091), as amended, or July 28, 1956 (70 Stat. 709) and lands selected by the State which have been tentatively approved to the State under section 6(g) of the Alaska Statehood Act and as to which the State, prior to December 18, 1971, had conditionally granted title to, or contracts to purchase, the surface estate to third parties, including cities and boroughs within the State, and such reservations, selections, grants and contracts had not expired or been relinquished or revoked by the date of this Act, shall not be conveyed by operation of this paragraph: *And Provided further*, That the provisions of subparagraph (1)(B) of this subsection shall apply to the conveyances under this paragraph.

(3) Subject to valid existing rights and section 803(a) of this Act, there is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of

this Act, is determined by the Secretary to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Aalska Native Claims Settlement Act, all of the right, title, and interest of the United States in and to the estates in a reserve, as such reserve existed on December 18, 1971, which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act. Nothing in this paragraph shall apply to the Village Corporation for the Native Village of Klukwan, which Corporation shall receive those rights granted to it by the Act of January 2, 1976 (Public Law 94–204), as amended by the Act of October 4, 1976 (Public Law 94–456).

(4) Subject to valid existing rights and section 803(a) of this Act, and except where such lands are within a National Wildlife Refuge or the National Petroleum Reserve—Alaska, for which the Regional Corporation obtains in-lieu rights pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraphs (1) and (2) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title, and interest of the United States in and to such subsurface estate.

(b) Documents.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) Reconveyances; Disputes.—A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (b) of this section or under such Act. For purposes of the Alaska Native Claims Settlement Act, legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) Existing Rights.—All conveyances made by operation of this section or section 802 of this Act shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances or patents had been made or issued pursuant to that Act.

(e) Definition.—Notwithstanding the provisions of section 102(6), for purposes of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group, as such term is defined under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

Sec. 802. (a) Expedited Procedures; Selection Priorities.—(1) If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment of this Act or after the date of its eligibility determination, if subsequent thereto, such Corporation shall file with the Secretary a document or documents which lists in order of preference such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Corporation has selected under any one or another of the entitlement sections, subsections, or paragraphs of the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance of its total entitlement, less any lands conveyed pursuant to section 801, under the Alaska Native Claims Settlement Act.

(2) An election by a Native Corporation to utilize the expedited conveyance procedure provided by this section shall not affect any of its rights under the Alaska Native Claims Settlement Act except to the extent such Corporation receives a conveyance by operation of this Act.

(b) Priority Selective and Conveyance Process.—(1)(A) Within sixty days of the date of enactment of this Act, the Secretary shall publish in the Federal Register his best estimate of the total amount of land each Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

(B) If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (A), he shall, at least every six months thereafter, redetermine his best estimate of the total amount of such entitlement and publish in the Federal Register such estimate as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(C) For a period of thirty days after each date on which the Secretary publishes under subparagraph (B) of this subsection a revised estimate of the total amount of land a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place. In the event that a Native Corporation files under the preceding sentence amended priorities with respect to any land which has also been validly selected by any other Native Corporation, such other Corporation similarly may, during the same thirty-day period, file amended priorities with respect to such selected land and any other land not previously conveyed which such other Corporation previously designated as lower priority than such selected land.

(2) Within one year after (A) the date of enactment of this Act, (B) the date on which a Native Corporation, not determined eligible by the date of enactment of this Act, is determined eligible by the Secretary and files a list of priorities under subsection (a) of this section, or (C) a Native Corporation files a revised list of priorities as provided in subsection (b)(1)(C), whichever is later, the Secretary shall determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register.

(3) Subject to valid existing rights, on the forty-fifth day following each date on which the Secretary publishes under pargaraph (2) of this subsection a determination of the validity of each land selection contained in the priority list of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there are hereby conveyed to and vested in such Corporation all of the right, title, and interest of the United States in and to those lands—

(A) which were determined by the Secretary to be validly selected by such Corporation under the Alaska Native Claims Settlement Act;

(B) which are of the highest priorities contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to the last estimate of entitlement published by the Secretary pursuant to paragraph (1) of this subsection—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by operation of this act or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (2)(A) that a land selection contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and (B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation or (ii) the total acreage contained in such list of priorities, whichever is less, the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminaing such reduction.

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by operation of paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation has also been validly selected under the Alaska Native Claims Settlement Act by one of more other Native Corporations, and

(B) that the cumulative total of acreages of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less, the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in subparagraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corporation of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over whether a Native Corporation is entitled under the Alaska Native Claims Settlement

Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection, subject to valid existing rights, all of the right, title, and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the acceptance, decision, or settlement are hereby conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance by operation of paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) LIMITATION.—Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act, except to the extent such conveyance reduces the Corporation's remaining acreage entitlement.

(d) REDUCTION OF OVERSELECTIONS.—(1) Within one hundred and twenty days after the date on which an interim conveyance or patent is issued to a Native Corporation pursuant to subsection (b)(7), but not sooner than ninety days after such date, the Secretary may reduce the remaining selections of such Corporation to an amount of acreage equal to 125 per centum of the difference between (A) the Corporation's maximum possible land entitlement, as determined by the Secretary, and (B) the total acreage of land previously conveyed to such Corporation: *Provided*, That any land deemed a part of such 125 per centum with respect to selections by a Native Corporation under any one entitlement section or subsection of the Alaska Native Claims Settlement Act may not be deemed a part of such 125 per centum with respect to selections by said Corporation under any other section or subsection of such Act or with respect to selections by any other Native Corporation; *Provided further*, That any selected land which is the subject of litigation to determine, or is otherwise in dispute concerning whether such land was validly selected shall not be deemed a part of such 125 per centum and shall remain withdrawn for selection in addition to such 125 per centum until the validity of such selection is finally determined.

(2) Reductions pursuant to this subsection shall be made by the Secretary by rejecting such selected lands as the Corporation shall specify in writing to the Secretary or, if the Secretary receives no such specification within ninety days after issuance of the interim conveyance or patent, by rejecting the lowest priority lands on the list or lists provided by the Corporation pursuant to subsection (a) or any subsequent revision, if any, of such list or lists pursuant to subsection (b)(1)(C).

(3) When conveyances have been made to the Corporation which total the Corporation's total entitlement under the Alaska Native Claims Settlement Act, any remaining selections shall be rejected by the Secretary.

(e) Notwithstanding any other provision of this section, any Corporation which elects to use the expedited conveyance procedure provided by this section may at any time thereafter terminate said election by so advising the Secretary in writing, and such Corporation's remaining selections and any then remaining portion of its land entitlement shall be processed as if the Corporation had not elected the expedited process.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) 17(b) EASEMENTS ON "CORE" TOWNSHIP LANDS.—For a period of one year from the date of enactment of this Act, the Secretary may identify and issue a decision to reserve in the patent those easements pursuant to section 17(b) of the Alaska Native Claims Settlement Act, which are described in section 17(b) of said Act on lands conveyed by section 901 of this Act; *Provided*, That the Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably necessary and he shall be guided by the principles of subsection (b). Upon the finality of the decision so issued, such easements shall be reserved in the conveyance document or documents issued by the Secretary as required by section 901(b).

(b) LIMITATIONS CONCERNING EASEMENTS.—With respect to lands conveyed to Native Corporations the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

(c) ACQUISITION OF FUTURE EASEMENTS.—Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act the Secretary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act.

(d) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after the date of enactment of this Act to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) as part of the entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

(e) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Law 94-456 and 95-178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

TAX MORATORIUM EXTENSION

SEC. 804. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (85 Stat. 688, 713; 43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act (Stat.) or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provide*, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporataion.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of lands having different periods of tax exempting pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.".

ALASKA NATIVE ALLOTMENTS

SEC. 805. (a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on December 18, 1971, and which describe land that was unreserved on December 13, 1968, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270-11).

(3) When on or before the one hundred and eightieth day following the effective date of this Act the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided*, That "nonmineral", as that term is used in such Act is defined to include land valuable for deposits of sand or gravel.

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an allotment application describes land which on

or before December 18, 1971, was selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further*, That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

(c) An allotment may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*, That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Where the land described in an allotment application pending before the Department of the Interior on December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or powerproject purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however*, That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further*, That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further*, That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after the effective date of this Act if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act as amended, or other Act of Congress.

(e) Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting National Forest lands.

STATE SELECTIONS AND CONVEYANCES

Sec. 806 (a) Extension of Selection Period.—(1) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(2) Extension of Selection Period.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) School Lands Settlement.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(2) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsections (j) and (k) of section 6 of the Alaska Statehood Act

(c) Prior Tentative Approvals.—(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing ten-

tative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(d) Prior State Selections.—(1) In furtherance of the State's entitlement to lands under Section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved Federal lands, including lands subject to subsection (1) of this section, which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary of the Interior, except those Federal lands which have been withdrawn by Public Land Order numbered ——— for utility corridor purposes and which lie in township 15 south, ranges 35 and 36 east, township 16 south, ranges 36, 37, and 38 east, township 17 south, ranges 36, 37, and 38 east (fractional), Umiat Meridian, and township 35 north, ranges 24–30 east, township 36 north, ranges 19–30 east, township 37 north, ranges 17–29 east (fractional), Fairbanks Meridian. Nothing in this section shall be construed as precluding any valid State selections of lands which are available for such selection or which have been validly selected in accordance with the Memorandum of Understanding between the State of Alaska and the United States dated September 1, 1972. If any of those townships listed above contain lands within the boundaries of any conservation system unit, National Conservation Area, National Recreation Area, new national forest or forest addition, established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis which six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(e) Future "Top Filings".—Subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, the State, as its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such application 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsections (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(f) Right to Overselect.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all sections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979 pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(g) Conveyance of Specified Lands.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests, and forest additions, established, designated, or expanded by this Act, which are specified in the list entitled "State Selection Lands May 15, 1978", dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such lists which are not, on the date of enactment of this Act, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section.

(h) Limitation of Conveyances of Specified Lands; Tentative Approvals; Surveys.—(1) Lands identified in subsection (g) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (1) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (1) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) on the basis of protraction surveys in lieu of field surveys the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(i) Adjudication.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuanace of tentative approval.

(j) Clarification of Land Status Outside Units.—As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselevs, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act;

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act;

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987); and

(4) classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(k) Interim Provisions.—Notwithstanding any other provision of law, no lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State:

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under exisitng laws and regulations had the lands not been selected

by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On or after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State to be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(l) Existing Rights.—(1) All conveyances to the State under section 6 of the Alaska Statehod Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) Extinguishment of Certain Time Extensions.—Any extension of time periods granted to the State pursuant to section 17 (d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections.

(n) Effect on Third-Party Rights.—(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 94-178).

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subect to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State, to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12(b) of the Act of January 2, 1976 (Public Law 94-204), as amended.

(3) Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or other interference with, aboriginal interests if any, occurring prior to December 18, 1971.

(o) Status of Lands Within Units.—(1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17 (d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest, or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit National Recreation Area, National Conservation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

(p) PYK Line.—The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (e) of this section but shall apply to future State selections.

ALASKA LAND BANK

Sec. 807. (a) Establishment: Agreements.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (c) (2) whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary of the Interior. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That lands not owned by landowners described in subsection (c)(2) shall not be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not require on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) Terms of Agreement.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in subsection (c)(2) shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions of paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands.

(3) If the surface landowner so consents,

such lands may be made available for local or other recreational use: Provided, That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounded for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonale access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner—

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(c) BENEFITS TO PRIVATE LANDOWNERS.—So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

(2) As to Native corporations and all other persons or groups that have received or will receive lands or interests therein pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

(A) adverse possession;

(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided*, That such immunity shall cease if the lands involved are leased or developer, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act.

(C) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native corporation or any officer, director, or stockholder of any such corporation. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native corporation or group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided*, That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsection (c)(2)(C).

(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for public purposes in accordance with applicable law.

(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 801 and 802 of this title for a period of three years from the date of conveyance the date of enactment of this Act, whichever is later.

(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 808. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term "contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION DIAGRAMS

SEC. 809. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram.

STATUTE OF LIMITATIONS

SEC. 810. (a) Except for administrative determinations of navigability for purposes of submerged lands under the Submerged Lands Act, a decision of the Secretary under this title or the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or the date of enactment of this Act, whichever is later: *Provided*, That the party seeking such review shall first exhaust any administrative appeal rights.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in 43 C.F.R. 2650.5–4

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 811. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native corporations, pursuant to the Alaska Native Claims Settlement Act, as amended or this title. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act.

TECHNICAL AMENDMENT TO PUBLIC LAW 94–204

SEC. 812. Section 15(a) of the Act of January 2, 1976 (Public Law 94–204, 89 Stat. 1154–1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S. M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38, south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

RIGHTS-OF-WAY IN CONSERVATION SYSTEM UNITS

Sec. 901. (a) Authorizations: applicable law.—(1) Notwithstanding any other provision of law, rights-of-way (including easements, leases, licenses, or permits) to occupy, use or traverse public lands within conservation systems units in Alaska and the National Petroleum Reserve—Alaska for any of the transportation and utility systems set forth in subsection (b) may be authorized under this title. Application for any such rights-of-way shall be made only pursuant to this title.

(2) Following authorization of a right-of-way under this title, the provisions of law generally applicable to units of the appropriate conservation system or the National Petroleum Reserve—Alaska, or other applicable law, shall govern the issuance and administration of such right-of-way except with respect to those aspects of the issuance and administration of rights-of-way which are governed by this title. The provisions of title V of the Federal Land Policy and Management Act of 1976 shall apply to the issuance and administration of any such rights-of-way when no provision applicable to the same aspect of the issuance of administration of such rights-of-way is contained in this title or other applicable law (including any law generally applicable to units of the appropriate conservation system).

(b) Systems subject to title.—Transportation and utility systems subject to the provisions of this title are—

(1) canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water;

(2) pipelines and other systems for the transportation of other liquids and gases, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom;

With respect to any aspect of the issuance or administration of a right-of-way which is provided for in a provision of this title, such provision of this title shall apply in lieu of other provisions of law;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials;

(4) systems for transmission and distribution of electric energy;

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles; and

(7) roads, highways, railroads, tunnels, tramways, and other systems of transportation.

PROCEDURES FOR CONSIDERATION OF RIGHTS-OF-WAY APPLICATIONS

Sec. 902. (a) Consolidated applications.—Within one year of the date of enactment of this Act, the Secretaries of the Interior, Agriculture, and Transportation in consultation with the appropriate Federal agencies, shall jointly prepare and publish a consolidated application form for a right-of-way to occupy, use, or traverse any conservation system unit in Alaska, or the National Petroleum Reserve—Alaska for each transportation or utility system set forth in section 901(b). Each such application form shall be designed to elicit all information necessary to meet fully the requirements of this title and all other applicable provisions of law.

(b) Filing.—Any applicant for a right-of-way for any transportation or utility system set forth in section 901(b) to occupy, use, or traverse a conservation system unit in Alaska or the National Petroleum Reserve—Alaska (hereinafter referred to as a "right-of-way subject to this title") shall file the completed application form prepared pursuant to subsection (a) with the appropriate Federal agency or agencies, including regulatory agencies, as provided in applicable law. In the case of any application for a right-of-way described in paragraph (2), (3), or (7) of section 901(b) and any other right-of-way with report to which the Secretary of Transportation has program responsibility, the applicant shall also file an application with the Department of Transportation. All applications pursuant to this subsection shall be filed with the appropriate agency or agencies on the same day.

(c) Agency notice.—Within sixty days of the receipt of an application filed pursuant to subsection (b), each agency shall inform the applicant in writing that—

(1) the application appears on its face to contain the information required by this title, other applicable law, and regulations; or

(2) the application does not contain such information. In the latter instance, the formation the applicant must provide. This agency shall specify what additional information the applicant must provide. This subsection shall not preclude an agency from requiring the submission of such additional information as becomes necessary for considering an application filed pursuant to subsection (b).

(d) Joint preparation of EIS. The Secretary of the Interior (or, where the proposed right-of-way would occupy, use, or traverse a unit of the National Wildlife Preservation System within a National Forest (hereinafter referered to as "national forest wilderness"), the Secretary of Agriculture) and the Secretary of Transportation (where the application is required to be filed with the Secretary of Transportation), together with the head of any regulatory agency which, in the absence of this title, would be designated the lead agency for the purposes of section 102 (2)(C) of the National Environmental Policy Act of 1969, shall jointly prepare any environmental impact statement required by that section. Such statement shall be completed within one year, and the draft thereof within nine months of the receipt of the original application (or such longer periods as the Secretaries and any such agency head may establish for good cause shown in writing).

(e) Other views. During both the nine-month period and succeeding three-month period provided in subsection (d), the Secretaries and any such agency head shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State of Alaska, affected units of local government, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations submitted by interested individuals and organizations. Joint public hearings in the District of Columbia and an appropriate location in Alaska shall be held by the Secretaries and any such agency head on each draft joint environmental impact statement and the views expressed therein shall be considered by the Secretaries and any such agency head prior to publication of the final joint environmental impact statement.

(f) Decision of Secretaries. (1) Within four months of the publication of the final joint environmental impact statement the Secretaries, and any regulatory agency which has a statutory responsibility to make or participate in a decision to approve or deny the application, shall render such decision. Such decision shall be made in accordance with the criteria and procedures specified in this Act and other applicable law.

(2) The Secretaries and any agency head participating in the preparation of the joint environmental impact statement shall each in such preparation consider the items listed in paragraph (3) and such statement shall include discussion of such items. The Secretaries and any agency head making, or participating in, a decision to approve or deny the application shall each in reaching such decision consider and make detailed findings, supported by substantial evidence in the administrative record taken as a whole, on the items listed in paragraph (3).

(3) The items referred to in paragraph (2) are as follows:

(A) the presence of such proposed right-of-way in the statewide transportation study prepared pursuant to section 904;

(B) the need for, and economic feasibility of, the transportation or utility system which is the subject of the application;

(C) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the issuing of a right-of-way through a conservation system unit, and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(D) the feasibility and impacts if including different transportation and/or utility systems in the same right-of-way;

(E) short- and long-term adverse environmental impacts, including impacts on wildlife and fish and their habitat, particularly wildlife and fish and habitat of importance for subsistence hunting and fishing;

(F) short- and long-term adverse social and economic impacts, particularly impacts on rural, traditional lifestyles;

(G) any impacts which would adversely affect or prohibit the achievement of the purposes for which the conservation system unit was established;

(H) measures which should be instituted to avoid or minimize the impact identified in clauses (D) through (G); and

(I) the long-term public values which may be damaged or destroyed by issuance of the right-of-way versus the long- and short-term public benefits which may accrue from the existence of such right-of-way.

(g) Issuance. (1) If the application for a right-of-way pursuant to this title to occupancy, use, or traverse any unit of the National Wildlife Refuge System, or National Wild and Scenic Rivers System, or the National Petroleum Reserve—Alaska or any National Recreation Area in Alaska is approved by the Secretaries of the Interior and Transportation (where the application is required to be filed with the Secretary of Transportation) and the appropriate regulatory agency, if any, the right-of-way shall be issued in accordance with applicable law and section 903. The preceding sentence shall not apply to lands which are subject to subsection (b). No such application shall be approved unless the Secretary of the Interior, determines that such right-of-way would be compatible with the purposes for which the affected conservation system unit or the National Petroleum Reserve—Alaska was established and the Secretary of the Interior, or the Secretary of Transportation (where the application is required to be submitted to the Secretary of Transportation) determines there is no economically feasible and prudent alternative route and mode of access.

(2) If the application for such right-of-

way is denied by the Secretary of Transportation (where the application is required to be submitted to the Secretary of Transportation), the appropriate regulatory agency or the Secretary of the Interior, the President of the United States shall, within three months of the decision to deny the application, decide in writing, whether the application should be approved or denied. In making his decision, the President shall consider any joint environmental impact statement prepared pursuant to subsection (d), comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations of the Secretaries and the appropriate regulatory agency, if any, who rendered a decision on the application. If the President decides the application should be approved, the right-of-way shall be issued in accordance with applicable law and section 903. If the President decides the application should be denied, the applicant for the right-of-way shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

(h) Presidential consideration. (1) After the Secretary of the Interior, or the Secretary of Agriculture where national forest wilderness is involved, the Secretary of Transportation (here the application is required to be submitted to the Secretary of Transportation), and the appropriate regulatory agency, if any, have rendered a decision to approve an application for a right-of-way pursuant to this title to occupy, use, or traverse any unit of the National Park System (except a National Recreation Area) or the National Wilderness Preservation System, such decisions shall be submitted to the President. The President shall consider such decisions and the findings and recommendations related thereto, any joint environmental impact statement prepared pursuant to subsection (d), and the comments of the public and Federal agencies submitted during the preparation of such statement, and determine whether such application should be approved or denied. The President shall make such determination and submit to the Congress his recommendation concerning whether the application should be approved or denied within three months of receipt of the decisions of the Secretaries and the appropriate regulatory agency, if any. Together with the recommendation, the President shall submit to the Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;

(D) a statement of the conditions and stipulations which would govern the use of the right-of-way if approved by the Congress.

(2) Any recommendation of the President submitted to the Congress pursuant to this subsection shall be considered received by both Houses for purposes of this subsection on the first day on which both are in session occurring after such recommendation is submitted.

(3) Any application transmitted to the Congress pursuant to this subsection shall be deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(4) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(5) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(6) For purposes of this subsection, the term "resolution" means a joint resolution the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for a right-of-way for under this title across submitted by the President to the Congress on , 19 ."; the first blank space therein to be filled in with the appropriate transportation or utility system, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska , and the third blank space therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 with respect to the application.

(1) Except as otherwise provided in this section, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(8) In any case in which the application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this subsection, the appropriate Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue the right-of-way in accordance with applicable law and section 903.

(i) Systems which do not require EIS.—If an environmental impact statement for a right-of-way pursuant to this title would not be required under the National Environmental Policy Act of 1969, the appropriate Secretary may issue the right-of-way pursuant to existing law and section 903 if he determines, after notice and opportunity for comment, that such right-of-way would be compatible with the purposes for which the affected conservation system unit was established and there is no economically feasible and prudent alternative route and mode of access.

RIGHTS-OF-WAY TERMS AND CONDITIONS

SEC. 903. (a) TERMS AND CONDITIONS.—The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title, terms and conditions which shall include, but not be limited to (1) requirements to insure that the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit was established; (2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established by or pursuant to law; (4) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety, (5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (6) requirements to employ measures to avoid or minimize and other environmental, social, or economic impacts identified pursuant to section 903(f)(2).

(b) WILD AND SCENIC RIVERS SYSTEM.—Any right-of-way issued pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) PIPELINES.—In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsection (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

RIGHTS-OF-WAY

SEC. 904. Except for rights-of-way subject to section 902(i), no right-of-way shall be issued pursuant to this title after two years from the date of enactment of this Act unless the need for such right-of-way has been identified in a study of the regional requirements for rights-of-way for transportation and utility systems which—

(1) has been conducted by the State in consultation with the Secretaries of Transportation, the Interior, and Agriculture and the Alaska Land Use Council:

(2) is updated in a similar manner no less than biennially; and

(3) includes the considerations set forth in section 902(f)(1) (B) through (I).

SPECIAL ACCESS RIGHTS

SEC. 905. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on conservation system units, National Recreation Areas, National Conservation Areas, and the National Petroleum Preserve—Alaska, for traditional activities, where such activities are permitted by this Act or other law, and for travel to and from villages and homesites the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers); motorboats; airplanes which may land on snow, ice, or water, or on designated sites, and nonmotorized surface transportation methods. Such use shall be subject to reasonable regulations by the Secretary to protect the values of the conservation system units, or National Conservation Areas and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

TEMPORARY ACCESS

SEC. 906. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit. National Recreation Area. National Conservation Area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit.

(b) Stipulations and Conditions.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit.

ACCESS TO INHOLDINGS

Sec. 907. Notwithstanding any other provision of this Act or other law in any case in which State owned or privately owned land or a valid mining claim or other valid occupancy is within one or more conservation system units, National Recreation Areas, National Conservation Areas, the National Petroleum Reserve in Alaska, or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such lands.

NORTH SLOPE HAUL ROAD

Sec. 908. (a) In General.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transporation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) Release.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) Application of Section.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

VALID EXISTING RIGHTS

Sec. 909. Nothing in this title shall be construed to adversely affect any valid existing right of access.

TITLE X—COORDINATION

ALASKA LAND USE COUNCIL

Sec. 1001. (a) Establishment.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

(b) Co-chairman.—The Council shall have Co-chairmen. The Federal Co-chairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Co-chairman shall be the Governor of Alaska.

(c) Members.—In addition to the Co-chairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation; and

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, Transportation, and Community and Regional Affairs.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) State Decision Not To Participate.—If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Co-chairman and the agencies referred to in subsection (c)(1). The Council, so composed, shall carry out the administrative functions required by this title and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) Compensation and Expenses.—(1) The Federal Co-chairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V, United States Code.

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Co-chairman and other members of the Council referred to in subsection (c)(2) shall be compensated in accordance with applicable State law.

(f) Administrative Authority.—(1) The Co-chairmen acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Co-chairmen during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) Meetings; Authorities; Reports.—(1) The Council shall meet at the call of the Co-Chairmen, but not less than four times each year.

(2) The Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable.

(3) No later than February 1 of each calendar year following the calendar year in which the Council is established, the Co-chairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

(h) Rules.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Co-chairmen shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

FUNCTIONS OF THE COUNCIL

Sec. 1002. (a) Studies; Planning.—The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(b) Recommendations.—It shall be the function of the Council—

(1) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination:

(2) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(3) to make recommendations to appropriate officials of the Government of the United States and the State of Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(4) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native corporations upon their request;

(5) to make recommendations to appro-

priate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(6) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(7) to make recommendations to appropriate officials of the government of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(c) Cooperative Planning-Management.—(1) The Council shall recommend cooperative planning and management zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(d) Nonacceptance of Council Recommendations.—If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsections (i) or (j), such agency within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

TERMINATION; ADVISORY COMMITTEE

Sec. 1003. (a) Full Report of Council.—Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Cochairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommendations for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(b) Federal Participation in Joint Commission.—Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in section 17(a) of the Alaska Native Claims Settlement Act, shall cease upon the expiration of the ninety-day period following the date of enactment of this Act or the ninety-day period following the date of appointment of the Federal Co-chairman of the Council, whichever is later: *Provided*, That in any event, the Commission shall terminate on June 30, 1979, as provided in section 17(a)(10) of the Alaska Native Claims Settlement Act.

(c) Citizens Advisory Committee.—The Council shall establish a committee of land-use advisors, made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Alaska Natives, local governments, and other citizens. The Co-chairman shall appoint the members of the Committee and, in so doing, shall to the maximum extent practicable provide a balanced mixtures of National, State, and local perspective and expertise on land and resource use issues.

FEDERAL COORDINATION COMMITTEE

Sec. 1004. There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

BRISTOL BAY COOPERATIVE REGION

Sec. 1005. (a) Definitions.—For purposes of this section—

(1) The term "Governor" means the Governor of the State;

(2) The term "legislature" means the Alaska State Legislature; and

(3) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1978.

(b) Purpose.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to ensure that any use within the region is carried out in a manner compatible with the conserving of such resources;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify land within the region which is appropriate for selection by the State under section 6 of the Alaska Statehood Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) Federal-State Cooperation in Preparation of Plans.—If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(1) the identification of the significant resources of the region including, but not limited to, fish and wildlife, mineral, geological, archeological, cultural, ecological, paleontological, recreational, scenic, river, wilderness, and historical resources;

(2) the identification of present and potential uses of land within the region;

(3) a determination with respect to which such uses are, or may be, compatible with the conserving of the fish and wildlife of the region;

(4) the designation of areas within the region according to their significant resources and the present or potential uses within each such area which are, or may be, compatible with the conserving of fish and wildlife;

(5) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of compatible uses within the region;

(6) the identification of that land within the region which will be selected by the State under section 6 of the Alaska Statehood Act;

(7) identification of lands within the region which may be appropriate for congressional designation as national conservation systems units; and

(8) the specification of the activities that may be permitted in each area identified under paragraph (4) and the manner in which these activities shall be regulated by the Secretary or the State, as appropriate.

The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary and the Governor—

(i) may modify without prior approval of Congress and the State; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) Taking Effect of Plan.—If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State, if, and only if—

(1) copies of the plan are submitted to both Houses of Congress by the Secretary, and to both houses of the legislature by the Governor, on February 1 of the year after the year in which the plan is agreed to by the Secretary and the Governor, except that the copies shall be delivered to the Clerk of the United States House of Representatives if the House is not in session and to the Secretary of the United States Senate if the Senate is not in session.

(2) Congress approves the plan under the procedures set forth in subsection (e); and

(3) the State takes appropriate action, before the close of the period set forth in subsection (f), to give the plan force and effect under State law.

(e) Expedited Congressional Approval Procedures.—(1) The plan prepared under subsection (c) may not be considered to be approved by the United States unless, before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are submitted to Congress under subsection (d)(1), Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval.

(2) For purposes of this subsection and subsection (g), the term "resolution of approval" means only a joint reoslution, the matter after the resolving clause of which is as follows: "That Congress approves the taking effect of the Bristol Bay Cooperative Region plan submitted to Congress by the Secretary of the Interior on   .", the blank space therein being filled with the day and year.

(3) A resolution of approval, once intro-

duced, shall be referred to one or more committees by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

(4) Except as otherwise provided in this section, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(5) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of approval; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) Time Period for Action by State.—For purposes of subsection (d), the State must give force and effect to the plan under State law before the close of the one hundred and twentieth day after the day on which copies of the plan are submitted to the legislature under paragraph (1) of such subsection.

(g) Action by Secretary if State Does Not Participate in Plan.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) through (7) (and containing a specification of those elements in the plan which the Secretary may modify without the prior approval of Congress), and submit copies of such plan to both Houses of Congress, as provided in subsection (d)(1), within three years after the date of the enactment of this Act. Such plan shall take effect with respect to the United States if before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are so submitted to Congress, the Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval. Subsection (e)(2) through (5) applies with respect to a plan prepared under this subsection.

(h) Transitional Provisions.—On the date of the enactment of this Act, all Federal land within the region, other than land within conservation system units, are hereby withdrawn from State selection and from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and shall be under the jurisdiction of the United States Fish and Wildlife Service and shall be administered in the same manner as if such land were included within a refuge established under section 304 until—

(1) the first day on which a plan is in effect with respect to both the United States and the State (in the case of a plan prepared under subsection (c)) or with respect to the United States (in the case of a plan prepared under subsection (g)) after which such land shall be administered as provided for in the plan; or

(2) the day—

(A) after the last day of the one hundred and twenty-day period provided for the subsection (e)(1) or subsection (g), as the case may be, if Congress does not approve the plan under the procedures set forth in subsection (e); or

(B) after the last day of the one hundred and twenty-day period provided for in subsection (f); if the State does not give force and effect to a plan under State law within such period; after which such land shall continue to be administered in the same manner as if it were included within a refuge established under section 304, except that any such land, not previously withdrawn from State selection under the Alaska Native Claims Settlement Act, may be selected by the State pursuant to section 6 of the Alaska Statehood Act.

TITLE XI—ADMINISTRATIVE PROVISIONS

LAND ACQUISITION AND EXCHANGES

Sec. 1101. (a) General Authority.—Except as otherwise provided in this Act, the Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit. Any such land owned by the State, a political subdivision of the State, or a Native Corporation which has Natives as a majority of its stockholders may only be acquired for such purposes with the consent of the State, such political subdivision of the State, or such Native Corporation, as the case may be.

(b) Improved Property.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(c) Retained Rights.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) Definition.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1978 (hereinafter in this section referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use,

together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1978, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(e) Consideration of Hardship.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership, is causing, or would result in, undue hardship.

(f) Exchange Authority.—Notwithstanding any other provision of law, in acquiring lands for the purpose of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) Acquired Lands Part of Unit.—All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

(h) Scenic Easements.—The Secretary shall reserve all scenic easements which he determines to be necessary to protect the scenic and natural values of (1) Sukakpak Mountain and the other public lands within the area heretofore reserved for utility transmission systems, or (2) the public lands within the area described in section 1205(a). Scenic easements reserved or acquired under this subsection shall not unduly interfere with the construction, operation, or maintenance of any authorized utility transportation system or other authorized facility or development. In acquiring scenic easements pursuant to this subsection, the Secretary may utilize his authority under subsection (f) of this section or section 22(f) of the Alaska Native Claims Settlement Act.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

Sec. 1102. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Preserve, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Monument and Preserve, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1103. (a) ALASKA HIGHWAY CENTER.—The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of Federal or other land at a site adjacent to the Alaska Highway, an information and education center for visitors to Alaska. The Secretary shall seek participation in the program planning, construction, and operation of the center from appropriate agencies of the State and representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so.

(b) ESTABLISHMENT OF OTHER CENTERS.—The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska, and the Secretary of Agriculture is authorized to establish in Juneau, Alaska, Ketchikan, Alaska, or Sitka, Alaska, another such information and education center. Each Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska, and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alaska Highway Center. Before establishing any such center in any such city, the concerned Secretary shall notify the appropriate committees of the Congress of his intention to do so. Each Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in the concerned city, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) ADMINISTRATION.—Any centers and facilities established under this section shall be administered under applicable laws and in accordance with such special regulations as the Secretary may promulgate.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1104. (a) ESTABLISHMENT.—In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1105. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1978, were engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of services and similar types of visit services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1106. (a) PROGRAM.—The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1107. (a) SUBMISSION OF PLANS.—Within five years after the date of the enactment of this Act, the Secretary shall submit, in writing, to the appropriate committees of the Congress plans for managing each of the conservation system units established or expanded by title II of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) COORDINATION.—The Secretary shall coordinate the development and preparation of management plans for conservation system units which have similar characteristics.

(c) PLAN REQUIREMENTS.—Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such units is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating co-

operative agreements which could and should be entered into for the purpose of improving such management.

(d) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(e) HEARING AND PARTICIPATION.—In developing, preparing and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will significantly be affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(f) ADVICE AND REPORTS.—During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the appropriate committees of the Congress referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plan described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plan.

TAKING OF FISH AND WILDLIFE

SEC. 1108. (a) NATIONAL PARK SYSTEM.—All areas of the National Park System in the State shall be closed to the taking of fish and wildlife, except—

(1) for the taking of fish and wildlife for those subsistence uses authorized under title VII of this Act;

(2) for fishing authorized by the Secretary and carried out in accordance with applicable laws of the United States and the State; and

(3) for the taking of fish and wildlife for sport and other purposes which the Secretary may, by regulation, permit within areas established by or under this Act as national preserves and which is carried out in accordance with applicable laws of the United States and the State.

(b) OTHER CONSERVATION SYSTEM UNITS.—The taking of fish and wildlife in all conservation system units, other than those units in the National Park System, shall be subject to applicable provisions of Federal and State law.

MAPS

SEC. 1109. As soon as practicable after the date of enactment of this Act, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the appropriate committees of the Congress. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate offices of (1) the Director of the National Park Service (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the Alaska field directors of such services. Following publication of notice in the Federal Register and reasonable notice in writing to the appropriate committees of the Congress of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units. Whenever possible, such adjusted boundaries shall follow hydrographic divides or embrace other key topographic features in all cases where straight line map boundaries approximate such features. The boundaries of areas added to the National Park, National Wildlife Refuge and National Forest Systems in coastal areas, shall not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

MAJOR FEDERAL ACTION

SEC. 1110. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reason therefor) and an environmental impact statement concerning such action, have been submitted to the appropriate committees of the Congress at least sixty days prior to the commencement of such action.

ADMINISTRATION OF NATIONAL RECREATION AREAS

SEC. 1111. (a) National recreation areas established by this Act shall be administered by the Secretary of the Interior or the Secretary of Agriculutre as appropriate, in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such areas. Except as otherwise provided in this Act, the appropriate Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation areas, the appropriate Secretary may utilize such statutory authorities pertaining to the administration of the National Park System, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(b) The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. Except with respect to the Noatak National Recreation Area, the Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation areas in the manner described by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(c) All receipts derived from permits and leases issued on lands or interests in lands within the recreation areas under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition on nonleasable minerals within the recreation areas shall be disposed of in the same manner as moneys received from the sale of public lands.

ADMINISTRATION OF NATIONAL PRESERVES

SEC. 1112. (a) General administration. A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation, and applicable State and Federal law.

(b) Hunting in Preserve Wilderness—The designation of wilderness in national preserves shall not alter National Park Service management practices as regards sport hunting. Sport hunting, including but not limited to commercial guiding operations, shall not be precluded or unreasonably impaired as a result of wilderness designation in national preserves. Subject to reasonable regulation, the Secretary shall permit within wilderness in national preserves among other things, the establishment of hunting camps, the landing of aircraft, and the maintenance of airstrips at a level appropriate to ensure public safety. Motorized uses authorized by the Secretary pursuant to this subsection shall be limited to those means of transportation specified in section 905.

GENERAL WILDERNESS REVIEW PROVISION

SEC. 1113. (a) Within five years from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section 3(d) of the Wilderness Act relating to public notice, public hearings, and review by State and other agencies review, as to their suitability or nonsuitability for preservation as wilderness, all lands within National Parks, National Monuments and units of the National Wildlife Refuge System not designated as wilderness by this Act and report his findings to the President.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3(c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act.

(c) Nothing in this section shall be construed as affecting the administration of any

National Park, National Monument or units of National Wildlife Refuge Systems in accordance with titles II and III of this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

STATEWIDE CULTURAL ASSISTANCE PROGRAM

Sec. 1114. In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native corporation or Native group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

TITLE XII—MISCELLANEOUS

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

Sec. 1201. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the State of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

Sec. 1202. (a) Existing Facilities.—Within areas added to the National Park, Wildlife Refuge, Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.

(b) New Facilities.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

AMENDMENTS TO NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976

Sec. 1203. Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "and the Committee on Merchant Marine and Fisheries of the House" immediately after "House of Representatives" each place it appears in section 104(d) and section 105 (b)(2) and (c)(3); and

(2) by further amending section 105(c)—

(A) by inserting "archeological, paleontological," immediately after "historical," in paragraph (1)(B), and

(B) by striking out "within three years after the date of enactment of this title" in paragraph (3) and inserting in lieu thereof "on the same date as the study under subsection (b)".

WITHDRAWALS; MINERAL RIGHTS

Sec. 1204. Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, except as otherwise specifically provided in this Act. All withdrawals and reservations of land for powersite purposes within the boundaries of a conservation system unit are hereby rescinded. In the case of lands in Alaska outside the boundaries of any such unit, if an applicant for any Native allotment within any withdrawal or reservation for powersite purposes has complied with all applicable requirements, the Secretary may—

(1) grant the application for such allotment, and

(2) make an appropriate conveyance of land to such applicant,

as if the Secretary had declared such lands open to location, entry, or selection under section 24 of the Federal Power Act (16 U.S.C. 818), subject to the reservations specified in such section

SCENIC HIGHWAY STUDY

Sec. 1205. (a) Withdrawal.—Subject to valid existing rights. all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Mount McKinley National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) Study.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) Cooperation Notice: Hearings.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Report.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendations as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) Period of Withdrawal.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

Sec. 1206. Nothwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94–258).

ALASKA NATURAL GAS TRANSPORTATION ACT

Sec. 1207. Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94–586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system.

AUTHORIZATION FOR APPROPRIATION

SEC. 1208. There are hereby authorized to be appropriated $800,000,000 to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1979 of which amount not more than $200,000,000 may be used for the establishment of public information and education sites and for construction of visitors facilities and related access to and within conservation system units established or expanded by this Act effective fiscal year 1979. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

LIMIT ON FUTURE WITHDRAWALS OR STUDIES

SEC. 1209. Notwithstanding any other provision of law, no further studies or withdrawals of Federal lands in Alaska except those authorized by this Act shall be conducted unless authorized by concurrent resolution of Congress.

TITLE XII—MINERALS, ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

OIL AND GAS LEASE APPLICATIONS

SEC. 1301. (a) APPLICATIONS.—Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) DECISION.—Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) TIME LIMITS.—If the Secretary determines that the requirements of section 102 (2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

ALASKA MINERAL RESOURCES ASSESSMENT PROGRAM

SEC. 1302. (a) MINERAL ASSESSMENTS.—The Secretary of the Interior shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within national parks and monuments, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In order to carry out mineral assessments authorized under this or any other law, including but not limited to, the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1307 of this Act.

(b) REGULATIONS.—Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTAL REPORT

SEC. 1303. (a) On or before October 1, 1981, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Survey, Bureau of Mines, and any other Federal agency.

(b) On or before October 1, 1981, the President shall conduct a study and transmit it, together with his recommendations, to the Congress concerning the advisability of private mineral exploration or extraction activities in conservation system units where such activities would otherwise be prohibited and the circumstances, if any, and procedures and conditions under which such activities might be permitted.

AREAS SUBJECT TO THE NATIONAL NEED RECOMMENDATION PROCESS

SEC. 1304. The process contained in this title shall apply to all public lands within Alaska except for lands within units of the National Park System, the National Wilderness Preservation System, and the Arctic National Wildlife Range.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 1305. (a) RECOMMENDATION.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1304. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(b) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(1) a report, setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(d) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

SEC. 1306. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for ——— in ——— submitted to the Congress on ——— 19———.", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

FEDERAL NORTH SLOPE LANDS STUDY PROOGRAM

SEC. 1307. (a) STUDY.—The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the

Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than wilderness areas and lands included in conservation system units established by this Act.

(b) Interdisciplinary Approach.—The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, wildlife resources of these lands.

(c) Findings—After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) Consultation.—In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, and the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval.

(e) Submission of Study.—The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act. The Secretary shall submit annual reports to Congress on the progress in carrying out this title.

(f) Section 105 studies with respect to lands within the National Petroleum Reserve.—Alaska, the Secretary shall incorporate into the study the results of the studies required by section 105 of the Naval Petroleum Reserves Production Act of 1976. Nothing in this title shall relieve the Secretary of any responsibilities under that Act.

(g) Nothing in this title shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act, and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act.

OIL AND GAS EXPLOSION OF ARCTIC NATIONAL WILDLIFE RANGE PORTION OF STUDY

Sec. 1308. (a) As part of the assessment of oil and gas potential called for in the study, the Secretary shall conduct an oil and gas exploration program on the nonwilderness portion of the Arctic National Wildlife Range. The program shall consist of geological and geophysical activities (including seismic surveys but not core drilling) designed to identify those lands within the range which have the greatest oil and gas potential.

(b) Plan.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives a plan for the oil and gas exploration program and any substantial amendments to such plan. The plan shall describe the exploration activities to be undertaken, estimate the cost of such activities, and indicate a time schedule for implementation. The initial plan shall be submitted to the Committees within six months after the date of enactment of this Act. Such plan or amendments shall not be implemented until sixty days after they have been submitted to such Committees. The Secretary is authorized to enter into contracts for the exploration of the range in accordance with the exploration plan.

(c) Exploration Activities.—Any exploration activities within the range shall be conducted in a manner which will assure the maximum protection of surface resource and wildlife values to the extent consistent with the requirements of this Act for the exploration of the range.

(d) Report.—No later than six years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a report containing—

(1) a description of the lands which have been indentified as having high potential for accumulation of oil and gas;

(2) estimates of the volume of such oil and gas;

(3) an evaluation of—

(i) the impacts on the wildlife using such lands which would result from further exploration for oil and gas, including core drilling; and

(ii) the impacts on such wildlife which would result from development and production of oil and gas; and

(4) a plan for core drilling on the lands described under paragraph (1), together with the Secretary's recommendation as to whether or not such drilling should be carried out.

No core drilling shall be carried out unless, within sixty calendar days of continuous session of the Congress after the plan has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, the Senate and the House of Representatives pass a concurrent resolution approving such plan. If such a concurrent resolution is approved, the Secretary shall carry out the plan.

(e) Applicable rules.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(3) the term "resolution" means a concurrent resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the plan for core drilling contained in the report of the Secretary of the Interior submitted to the Congress on

19 ."; the blank space therein shall be filled with the date on which the Secretary submits his report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(f) Other provisions applicable.—Except as otherwise provided in this section, provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(g) NEPA.—The requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 shall not apply to exploration activities carried out under the authority of this section.

PROHIBITION ON DEVELOPMENT

Sec. 1309. Production of oil and gas from the Arctic National Wildlife Range is prohibited and no development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

Sec. 1310. (a) Review.—As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 1307 and report his findings to the President.

(b) Advice.—The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) Wilderness Study Area.—Subject to existing private rights and the provisions of section 1308 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

Sec. 1311. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

Sec. 1312. In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider—

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route;

(3) the environmental and economic costs and other values associated with such alternative routes; and

(4) to the extent applicable, the rights-of-way study conducted pursuant to section 1105 of this Act.

OIL AND GAS LEASING PROGRAM FOR NON-NORTH SLOPE FEDERAL LANDS

Sec. 1313. (a) The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1307 of this Act. Such program shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b)(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which lands should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(4) The Secretary shall report to the Congress by October 1, 1979, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands.

(c) At such time as the studies requested in subsection (b)(7) are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas, hereinafter to be known as favorable petroleum geological provinces. In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.

(d) Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe. Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.

(e) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive leasing in the area and shall determine the favorable petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.

(f) Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Subsequent to a discovery of oil or gas in paying quantities, and prior to devloping and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(i) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lessee under such terms as the Secretary establishes, by regulation, to be appropriate.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

STOCK ALIENATION

SEC. 1401. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions—

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary—

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions specified in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

(b) Section 8(c) of such Act is amanded to read as follows:

"(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

(c) At the end of section 1696(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by a stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

VESTING DATE FOR RECONVEYANCES

SEC. 1402. (a) Section 14(c)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in the tract occupied".

(b) Section 14(c)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such Act is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

BASIS IN THE LAND AND RESERVES FROM LAND

SEC. 1403. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(c)(1) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall, at the option of the recipient, be—

"(A) the fair market value of such land or interest in land at the time of receipt; or

"(B) the amount realized on the sale or other disposition of such land or interest in land adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of such land or interest in land;

adjusted as provided in section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis).

"(2) All rents, royalties, profits, and other revenues or proceeds derived from real property interests received pursuant to this Act shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation: *Provided*, That with respect to any such revenues or proceeds received by a Native individual, Native group, or Village or regional Corporation with respect to which a deduction for depletion would otherwise be allowable under section 611 of the Internal Revenue Code of 1954 (relating to allowance of deduction for depletion) or any corresponding provision of State and local law, the amount of such deduction shall be the greater of—

"(A) an amount equal to the deduction as determined by such section 611, using as the basis on which the depletion is to be allowed with respect to any property that basis provided in section 21(c) of this Act for purposes of computing the gain or loss on subsequent sale or other disposition of such property: or

"(B) an amount equal to the amount of

such revenue adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of the property interest from which the revenue is derived; or

"(C) an amount equal to the deduction computed pursuant to section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion).".

TAXATION OF NATIVE CORPORATIONS

Sec. 1404. Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding two new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation establishment pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with exploration on such lands for oil, gas or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This amendment shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation.".

UNDERSELECTIONS

Sec. 1405. Section 22(j) of the Alaska Native Claims Settlement Act is amended by identifying the existing paragraph as paragraph (1) and adding a paragraph (2) to read as follows:

"(2) Where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), 11(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.".

RETAINED MINERAL ESTATE

Sec. 1406. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public lands included in its selection and considered by the Secretary to be withdrawn and properly selected.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres or where an entire section is not available. Where possible selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

CONVEYANCE OF PARTIAL ESTATES

Sec. 1407. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.".

(b) Sections 14(h)(2) and 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613 (h)(2) and (h)(5)) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(h)(6)) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended.".

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) is amended by adding at the end thereof the following new paragraphs:

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

"(11) For purposes set forth in subsections (h)(1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist in the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act.

ESCROW ACCOUNT

Sec. 1408. (a) Subsection (a) of section 2 of Public Law 94–204 (89 Stat. 1146) is amended to read as follows:

"Sec. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States; *Provided*, That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.".

(b) Section 2 of Public Law 94–204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

SELECTION REQUIREMENTS

SEC. 1409. Subsection (a) (2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a) (2)), is amended by adding to the end of that subsection the following: "Provided that the Secretary, in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A) (i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource managment opportunity; or

"(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.".

FIRE PROTECTION

SEC. 1410. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h) (3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words they shall", and replacing the word "forest" with "wildland".

SHAREHOLDER HOMESITES

SEC. 1411. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows:

"(i) A real property interest distributed prior to December 18, 1991, by Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

SEC. 1412. Section 14(c) (3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided, however*, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;".

LIMITATIONS

SEC. 1413. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

TITLE XV—NATIONAL CONSERVATION AREAS

ESTABLISHMENT

SEC. 1501. The following areas are hereby established as national conservation areas in order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality:

(1) Baird Mountains National Conservation Area, including approximately one million three hundred and ten thousand acres of Federal lands, as generally depicted on the map entitled "Baird Mountains National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and managemnt of the area are: caribou range and migration routes, the Squirrel River and vegetative and other natural and cultural values of scientific interest in the lower Noatak River Valley.

(2) Chandalar National Conservation Area, including approximately eight hundred eighty thousand acres of Federal lands, as generally depicted on the map entitled "Chandalar National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and migration routes.

(3) Steese National Conservation Area, including approximately one million two hundred twenty thousand acres of Federal lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

SEC. 1502. (a) The Secretary, through the Bureau of Land Management, shall administer the national conservation areas established in section 1501 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 1503.

(b) No public lands within any such national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181–278) or the Materials Act of 1947, as amended (30 U.S.C. 601–603). Where consistent with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22–54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 1503. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of Federal lands, as generally depicted on the map entitled, "White Mountains National Recreation Area—proposed", and dated October 1978. The Secretary shall administer the area in accordance with the provisions of section 1112 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

Highlights of the Accord

Access to State and private land guaranteed.—The bill includes language guaranteeing access to state and private lands through, from, and across d-2 areas. The bill's provision is intended to statutorily buttress, but not eliminate, rights of access currently accorded under the common law.

Transportation corridor process.—A special provision was enacted to greatly limit the existing discretion of Secretary of Interior concerning rights of way in parks, refuges, and wilderness areas in Alaska. Under the provision, the State of Alaska would develop a state-wide transportation plan that would be the basis for future transportation routes. The Department of Transportation would participate in rights of way decisions, and a refusal to grant a right-of-way would be challengeable in court, with the burden on the Secretary of Interior to justify why he refused the application.

"No more" provision.—Special language mandates that no more studies or withdrawals would be made outside of these d-2 designations without a concurrent resolution of Congress.

Alaska's economic future protected.—The existing economy throughout the state was protected through boundary and classification decisions with near-term and far-term areas classified to permit future use.

Amendments to ANCSA.—More than 20 amendments necessary to implement the Alaska Native Claims Settlement Act are included in the bill. These include amendments for Cook Inlet, Eklutna, Bering Strait, Ahtna, Koniag, Doyon, and Chugach Native Corporations.

Mining areas protected.—All seven of the mines identified by the Stanford Research Institute study (Borax, Inspiration, Greens Creek, Lik, Arctic, Picnic Creek and Eagle Asbestos) are excluded from d-2 classification and are available for development. The future of Alaska's mining industry depends on the ability to develop these mines and demonstrate the industry is competitive.

Future mining is made possible through designations of BLM Conservation Areas in the Brooks Range (Squirrel River and Chandalar River areas), by state selections throughout the state, and by the designation of a National Recreation Area in the Wrangells.

Southeast economy protected.—The timber industry is guaranteed by statute of the availability of 520 million board feet annually. This is the seven year average of the industry's annual cut. The Secretary of Agriculture is to monitor the cut and insure it is available. If not, he must recommend to Congress areas for cutting which are placed in a special management area called reserves. Also, the bill calls for special funding to increase the timber yield.

Sport hunting protected—All major areas of sport hunting in Alaska are left available, even when certain portions within an area are closed. There will continue to be hunting in the Gates of the Arctic, Wrangells, and Lake Clark areas, and in the additions to Mt. McKinley and Katmai. (These areas would be closed to hunting if designated national monuments.)

Alaska lifestyle protected—The bill preserves the right of existing users of federal land to continue to live their life, regardless of whether they have title to their improved property. The Secretary of Interior is directed to use exchanges, not condemnation, if changes are necessary.

Traditional transportation methods guaranteed—Special language guarantees continuation of traditional uses, including aircraft, snowmachines, and motor boat, over the d-2 lands. The secretary cannot prohibit these uses unless he first holds hearings and then proves damage to the area.

State regulation of fish and game is maintained—The Secretary of Interior is not given authority to take over fish and game management from the State of Alaska.

Immediate conveyance of State selections—All existing state selections (except for a small area in the former pipeline corridor to Canada) plus most state interest lands are immediately conveyed by legal description. This means there would be no question as to the title of nearly 95 million acres of state lands after this bill becomes law.

Native selections conveyed—All core townships are conveyed immediately and an expedited one year conveyance process is established for other selections. The total 44 million acre entitlement is conveyed by this bill.

Oil and gas study mandated—A special study of the oil and gas potential of the Arctic Wildlife Range is mandated.

A summary of the d-2 accord is available through Senator Stevens, Washington, D.C., and state offices.

Summary of Energy Committee's Decisions on Alaska's Lands Bill

(With update by decisions of the ad hoc conference committee)

H.R. 39, the Alaska lands d–2 bill, was reported out October 5, 1978, by the Senate Energy and Natural Resources Committee. The Senate committee version of the bill differs substantially from the original H.R. 39, as introduced by Congressman Morris Udall, and it differs from the version passed last May by the House of Representatives.

This summary reviews the issues and the area-by-area decisions made by the Senate committee. The summary also compares the committee bill with the House-passed bill.

The Senate Energy Committee d–2 bill was modified by a so-called ad hoc conference committee, which attempted to agree to a bill that could be passed by Congress prior to adjournment. Participating in the ad hoc conference were Senator Stevens, Congressman Don Young, Energy Committee Chairman Henry Jackson, committee members Clifford Hansen (R-Wyoming) and John Durkin (R-New Hampshire), House Interior Commitee Chairman Morris Udall (D-Arizona), Congressman John Seiberling (D-Ohio). and Secretary of Interior Cecil Andrus, Senator Gravel also attended. The understanding reached by the conference included some modifications to the Senate committee bill. These modifications are indicated in this summary in italics.

The Senate committee bill designated 96 million acres into eight management systems. The committee also created about 38 million acres of wilderness, most of which is in the park proposals. The eight management systems into which the d–2 lands are designated include:

National parks and monuments—These are lands set aside to preserve outstanding scenic and natural values. These areas are managed by the National Park Service and provide camping, fishing, and various other visitor activities. Normally, mining, logging, trapping and hunting are not permitted in national park units. Approximately 20 million acres of d–2 lands are designated parks in the committee bill.

National park preserves—These are units administered and managed by the National Park Service in the same manner as a national park except that the taking of fish and wildlife for sport and subsistence purposes, including guided hunting, is permitted under appropriate state and federal regulations. The committee designated about 20 million acres in preserves.

National recreation areas—These are units administered by the Secretary of the Interior in order to provide for public outdoor recreation use and enjoyment—including hunting, fishing and camping—and for the conservation of the scenic, scientific, historic, and fish and wildlife of the area. Additionally, an NRA is managed to permit, under controlled circumstances, resource development. The secretary is authorized to permit the removal of the non-leasable minerals from the NRA in accordance with appropriate laws. The committee designated about 3 million acres of NRA units.

National wildlife refuges—Refuges are maintained for the fundamental purpose of wildlife conservation and rehabilitation. These units are established for the restoration, preservation, and management of wildlife and wildlife habitat; and for the protection and preservation of endangered, threatened species. Recreation activities, including, fishing and camping are permitted on refuges. Under controlled circumstances, oil and gas exploration is also allowed. Just under 35 million acres of d–2 lands were classified as refuges under the Senate committee proposal.

National forests—Forests are established for a number of purposes and are governed by a multiple use/sustained yield principle. A number of activities, including recreation, hunting, trapping, grazing, and mineral exploration, are allowed in national forests. The committee proposal creates one new forest in Alaska and adds units to existing forest units totalling just under 9 million acres.

National conservation areas—These areas are designated for the purpose of providing immediate and future protection of federal lands within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality. Administered by the Bureau of Land Management, these units are studied for a land use plan, and where consistent with that plan, areas within the conservation area may be classified as suitable for locatable mineral exploration and other resource uses. The Senate committee designated a little more than 8 million acres of d–2 lands as conservation areas.

Wild and scenic rivers—A wild and scenic river designation protects flowing rivers and the corridor of land along the banks from dam and other water resource development projects. Wild rivers are maintained in a primitive state and are accessible primarily by boat and trail. Scenic and recreational rivers are also protected from development projects, but under certain circumstances roads and other access are allowed to and from the river. The committee designated a little more than 1 million acres of wild and scenic rivers.

Bristol Bay/Alaska Peninsula Cooperative Study—A special three-year management study between the state and federal governments was established in the Bristol Bay/Alaska Peninsula region of southwest Alaska. A complex intermixing of state, federal, and private (mostly Native corporate holdings) lands necessitates the development of a plan for land exchanges, future state selections, and cooperative management. The State of Alaska and the Department of Interior would jointly prepare this plan and recommend it to the state legislature and to Congress.

While not altering the total amount of d-2 acreage designated, the ad hoc conference committee did agree to a number of classification changes in the Senate bill. These *changes are summarized in the area-by-area description, beginning on page 8. The conference increased the amount of wilderness designations, primarily in the Arctic Wildlife Range and addition, to about 50 million acres.*

THE ISSUES

State and Native selections: The Senate committee agreed with the State of Alaska and Alaska's Natives that legislative action could speed the process of conveying federal land in Alaska to the State of Alaska and to the Natives, and could provide added direction to administrative policies which were deemed to interfere with the rigid conveyancing of the state and native lands. Language adopted confirms immediate title to the so-called "core township" in which native village corporations are located. This same process applies to existing state selections which are listed by legal description in the legislative language. Additional selections identified recently by the State of Alaska were also approved and title confirmed by the language adopted by the committee.

The committee also adopted language enabling the native corporations to expedite conveyance upon submitting a list of priorities for selection. An existing moratorium on taxation of native lands were extended to 20 years after conveyance of the lands to conform with the conveyance delays. Twenty-one amendments to the Alaska Native Claims Settlement Act, requested by the native corporations, were included in the committee bill. These amendments were to facilitate land exchanges.

Oil and gas access: The committee adopted a special 8-year study of federal lands in the arctic. This study would focus on three items: oil and gas potential, wildlife values, and wilderness values. An ongoing study of the National Petroleum Reserve scheduled for completion in 1983 would be continued and made part of the proposed study. The study would require the Secretary of Interior, through existing federal agencies and private exploration under contracts, to evaluate the oil and gas potential of the arctic plain and the rest of the study area. Additionally, the secretary would be required to report to Congress on the suitability of the study area for wilderness designation and to recommend what actions should be taken to protect the wildlife of the area. The secretary was also required to report to Congress on what measures should be taken if drilling were authorized to protect the wildlife of the area, most specifically the Porcupine caribou herd.

Private oil and gas exploration and development on wildlife refuges, national forests and the public domain were also addressed. The committee adopted language for refuges giving the secretary six months to take action on an oil and gas lease application.

In making his decision, the secretary is required to state his reasons for denying an application, including whether the granting of the lease would be compatible or incompatible with the purpose of the refuge. On forests and public domain lands, a concept similar to that recently proposed for outer continental shelf exploration was adopted. Noncompetitive leasing would continue until a discovery of commercial value. Following a discovery, the secretary would determine the area of commercial viability and accept nominations for leasing on a competitive basis.

The ad hoc conference committee agreed to designate the major portion of the Arctic Wildlife Range and its addition as wilderness, but the committee agreed to keep the area along the foothills and coastal plains in the study area. This region of the Arctic Wildlife Range is where the most highly favorable prospects for oil and gas have been identified.

Hardrock Mineral Access: The committee adopted provisions to require continued mineral assessment of all public lands, including conservation system units in Alaska, and required a report to Congress by the President regarding the need to permit private mineral exploration or extraction in areas otherwise closed to such exploration or extraction.

Transportation and Utility Access: The committee adopted a transportation title which consolidates the authority for issuance of rights-of-way across d-2 lands into one statute. This title would require the preparation of a statewide transportation study by the State of Alaska in consultation with the Secretaries of Transportation, Interior, and Agriculture. The study would be updated every two years. Generally, only rights-of-way identified by the study would be eligible for application. Following application for a right-of-way, an environmental impact statement would be prepared by the land managing agency, Interior or Agriculture Department, the Department of Transportation, and any regulatory agency involved in the process. This statement would be completed within one year of the application with a final decision on the application to be rendered within four months of completion of the statement. A series of detailed criteria, including economic feasibility, other alternatives and environmental and socio-economic effects, would be required to be addressed by the impact statement. On applications across wildlife refuges, wild and scenic rivers or national trails, if the secretaries and the agency head agreed, the application would be issued.

If the Secretary of Transportation or the regulatory agency involved disapproved the application, the applicant could appeal the decision directly to the courts. If the land managing agency denied the application, the decision would be reviewed by the President within three months. A denial by the President would be immediately reviewable by the court. Rights-of-way across national parks and wilderness areas could only be issued if approval was obtained from both the Secretary of Transportation and the secretary responsible for management of the particular land unit (i.e., agriculture for forest unit), and following presidential and congressional review under an expedited process.

The committee also provided specific language to guarantee access to state and privately owned in-holdings, including valid mining claims and other occupancies under the public land laws. This language is intended to statutorily buttress but not eliminate rights of access presently accorded under the common law. Finally, the committee adopted language permitting the continued use of traditional transportation vehicles, including snowmachines, powerboats, and airplanes, for travel to and from villages, homesites, and in all units established by the bill.

The ad hoc conference agreed to limit the participation of the Department of Transportation to rights-of-way applications for which it has program responsibility, such as highways, railroads, pipelines, and tramways.

Subsistence Hunting: The committee utilized part of the framework of the House bill including a subsistence preference under state regulation. However, the committee rejected the House concept of federal oversight, and agreed to authorize the secretary to represent subsistence users in federal court if after consultation with the state the problems remained in administrating the preference. In doing so, the Secretary or the State of Alaska would establish local and regional monitoring councils to provide a forum for subsistence users to communicate their concerns. A final change by the committee concerned subsistence hunting in parks and monuments. A special commission appointed by the governor and the Secretary of Interior was agreed to for each park or monument open to subsistence hunting. The commission's duty would be to prepare a separate management plan for subsistence hunting in these areas.

Wilderness Management: For the most part, the committee agreed that existing law and practice should govern management where wilderness is established. However, the committee did agree that a system of cabins for public use and safety should not only be maintained but also upgraded because of Alaska's climactic conditions and the size of the areas proposed. Additionally, specific provisions were made for the continued use of motorized equipment, including airplanes and motor boats, and for permanent facilities as part of fisheries enhancement work in wilderness areas.

The ad hoc conference reached an understanding to withdraw wilderness areas in the Tongass National Forest to future mining entry, subject to implementation of valid existing rights.

Cooperative Management: The committee agreed to the establishment of a federal-state coordination mechanism consisting of the heads of federal and state land and resource management agencies. The coordinating council would be chaired by a presidentially appointed federal co-chairman and the governor of Alaska.

A major role for the council would be participation in a land management study in the Bristol Bay/Alaska Peninsula area. The land ownership pattern in that area of the state is complex and the State of Alaska and the federal government have agreed to a special study to recommend land exchanges for ownership consolidation prior to final designation of state and federal management units. The council's recommendations would be advisory but its duties include the recommendation of other areas in Alaska suitable for cooperative management. Any council recommendation for the establishment of a cooperative management area would require public response by the agencies affected.

AREA-BY-AREA DESCRIPTION

1. National Park Service (Parks, Preserves, Monument, and Recreation Areas)

a. Bering Land Bridge National Preserve: The Senate committee bill designates a 2.4 million acre national preserve on the northern Seward Peninsula. The purpose of the unit is to protect archeological and paleontological values related to the migration of man from Asia to North America. The unit also encompasses the unique Imuruk Lava Fields and waterfowl habitat along the coast line.

The Senate version differs from the House-passed bill: approximately 60,000 acres of highly rated mineral lands are excised for state selection; continued use of the existing Deering to Taylor winter trail is assured; and there is no wilderness within the proposed unit.

b. Cape Krusenstern National Preserve: The Senate committee bill designates a 540,000 acre preserve in the coastal area just north of Kotzebue. The unit is designed to protect the archeological sites on the Cape itself and associated lands. Resource conflicts are virtually non-existent in this proposal.

The Senate version differs from the House bill in three respects: the House made the unit a monument closed to sport hunting and trapping—the Senate designated it a preserve to avoid conflicts with the lifestyle of the area residents; the eastern boundary is altered to eliminate any potential conflicts with a logical north-south transportation corridor near the Noatak River; and there is no wilderness in the proposal.

c. Noatak National Preserve/Recreation Area: The Senate committee bill designates a 5.4 million acre wilderness preserve and a 400,000 acre national recreation area in the Noatak River drainage in the western Brooks Range. The purpose of this unit is to protect the entire drainage of the Noatak River and the scientific, biological, and recreational values associated with the drainage. Of particular importance is the Western Arctic caribou herd which migrates across the unit annually.

Resource conflicts are substantial as the highly rated Brooks Range mineral belts occur in both the northern and southern portions of the unit. Excellent potential for copper, lead, zinc, silver, cadmium, nickel, tin, and chrome is thought to exist in this area. In addition, two mountain passes in this proposal are considered prime locations for north-south transportation corridors linking the National Petroleum Reserve to the south.

The Senate committee bill differs from the House bill in the following respects: the Kelly River drainage (which abuts the highly mineralized "Red Dog" district) is made an NRA to serve as a buffer zone between the mining district and the wilderness; approximately 100,000 acres of highly mineralized lands on the western edge of the Noatak drainage are exercised for state and Native land selections; and the lower Noatak and the Agashashok River systems are placed in a BLM Conservation Area—H.R. 39 included this area in the preserve.

The ad hoc conference place in the Agashashok and lower Noatak river areas in a national recreation area closed to mineral development.

d. Gates of the Artic National Park/Preserve/Recreation Area: The Senate committee bill places 7.9 million acres in the central Brooks Range under Park Service management. This unit is designed to protect the wild, scenic, recreational, and fish and wildlife values of the area. Many regard this area as the finest wildland left in the U.S. Of particular significance are the actual Gates of the Arctic on the North Fork of the Koyukuk, the Alatna River, the Arrigetch Peaks and Mt. Igikpak, and Walker Lake—all provide spectacular examples of Brooks Range scenery and topography.

The southern side of the proposal is crossed by a particularly rich mineral belt which has produced a series of major discoveries in those portions presently open to mineral entry. The northern side of the unit is thought to have similar geology and mineral potential. Besides mineral conflict, the proposed unit includes some east-west river valleys which are considered prime locations for east-west transportation systems necessary to develop the minerals of the region. The so-called "boot" including the upper Kobuk River is the primary focus of the transportation issue. Sport hunting is also an issue as some of the finest moose, bear, and sheep hunting in the Brooks Range occurs in this area. Hunting is centered on the John, Killik, and Chandler Rivers.

While the House created an 8.1 million acre wilderness park which overlapped nearly a million acres of state and native lands, the Senate committee took a very different approach. The Senate version excludes all existing state and regional corporation native lands, thus eliminating some major resource problems; creates two park units of 4.8 million acres centered on the Alatna River-Arrigetch Peaks area and on the Gates of the Arctic; designates a 1.9 million acre preserve between the parks—centered on the John and Chandler rivers—to permit sport hunting; creates two NRA's of 1.2 million acres in the southern portion of the unit where resource potential is greatest, developed recreation is most likely, and where proposed transportation routes are located; mandates a right-of-way across the "boot" to facilitate access to the state owned Ambler mineral district; and excises approximately 75,000 acre of d-1 lands for state selection purposes.

The ad hoc conference designated the national recreation areas as preserves with specific direction that future transportation be considered as if the areas were a national recreation area. This would permit future access across the boot.

e. Yukon-Charley National Preserve: The Senate committee bill designates a 1.6 million acre preserve along the upper Yukon River near the border with Canada. The unit also includes the entire Charley River drainage. Primary values in this area are the outstanding recreational potential of the Charley system, the historic importance of the Yukon River, and abundant wildlife, including the endangered peregrine falcon.

The state has expressed interest in selecting lands along the Yukon because of the potential for forestry, agriculture, land settlement, recreation, and some mineral development. In addition, the proposed unit includes two historic and operating gold mining settlements at Woodchopper and Coal Creeks downstream from the confluence of the Yukon and Charley Rivers.

The Senate committee version differs from the House bill by excluding 75,000 acres at the far western end of the unit for state selection, providing protection for the high level of existing cabin use in the area. There is no wilderness within this preserve proposed by the committee.

f. McKinley National Park/Preserve: The Senate committee bill adds 3.7 million acres to the existing 1.9 million acre park. The purpose of this addition to the park is to include the entire McKinley massif, to include other portions of the Alaska Range including the Ruth Glacier and the Cathedral Spires, and to include virtually all of the northern range of the existing park's wildlife, such as grizzly bears, caribou, and wolves.

The committee's proposal includes the Kantishna Mills and Dunkle Mine areas in the park extension, but orders a special study to develop specific recommendations for managing these units; it excludes all existing state lands from the proposed boundaries (the House included these existing state lands); it excludes most of the Chulitna mineral district to permit state selection; it creates preserves in the Minchumina Flats area to permit existing trapping to continue and in the Yentna River area to permit existing sport hunting for moose to continue; and it designates the existing part (with a few exceptions) as wilderness.

g. Aniakchak National Monument/Preserve: The Senate committee bill creates a 510,000 acre Aniakchak unit on the Alaska Peninsula to protect the unique Aniakchak Caldera and associated geologic and volcanic features. It differs from the House measure in two respects: 140,000 acres are designated preserve, while the House designated 340,000 and 160,000 acres, respectively, and two half-townships of existing state land were excluded by the Senate from the House boundaries.

h. Katmai National Park/Preserve: The Senate committee bill designates 1.3 million acres for addition to the existing 2.7 million Katmai National Monument. The purpose of the extension is to include the abundant fish and wildlife areas of the Naknek Lake system drainage in the unit and add some important bear habitat in the Alagnak River and Kamishak River drainages farther to the north. Sport hunting is the only conflict affecting this proposal.

The Senate version adds 900,000 acres to the park and 400,000 acres as a preserve; the House designated 1.1 million and 200,000 acres, respectively. The major change from the House bill is that approximately 200,000 acres in the upper Alagnak drainage along Nonvianuk and Kulik Lakes is designated preserve instead of park. In addition, the Senate designates 3.5 million acres as wilderness as does the House.

i. Lake Clark National Park/Preserve: The Senate committee bill designates a 3.5 million acre park preserve around Lake Clark in south-central Alaska (2.4 million is park and 1.1 million preserve). The purpose of the proposal is to include Lake Clark, other alpine lakes in the area, the Iliamma and Mt. Redoubt volcanoes, and the river systems of the area in protective park status.

Resource conflicts are not that significant although there are some favorably rated mineral lands and some important hunting areas are included in the park. The major problems center around the extensive state, Native and private land holdings in the area.

The Senate bill excludes all existing state lands from its boundaries. Such lands include those encompassing the Stony River, Chakachamna Lake, and the middle and lower reaches of the Mulchatna and Chilikadrotna Rivers. In addition, the Senate committee alters the boundary to exclude the village of Nondalton. Th Senate also classified 2.45 million acres of the unit as wilderness.

A small area adjacent to Chakachamna Lake was included within the park by the ad hoc conference, but on the condition that it would not become part of the park without a land exchange between the state and the federal govrnment.

j. Kenai Fiords National Park: The Senate committee bill designates a 420,000 acre park on the southern coast of the Kenai Peninsula. The primary values of this proposal are the scenery and recreational potential of the fiords and the marine mammal and seabird concentrations in the area. There are no significant resource conflicts in this area and the only differences between the Senate and House versions are that the Senate bill authorizes the Secretary of Interior to develop recreational access to the Harding Icefield and contains no wilderness.

k. Wrangells-St. Elias National Park/Preserve/Recreation Area: The Senate committee bill adopts the same external boundary set out by the House bill but significantly alters the land designations within the boundary. The 12 million acre Wrangells-St. Elias complex encompasses some of the most spectacular mountain scenery in all of North America. Its collection of high peaks, glaciers, gorges, glacial valleys, and rivers offer outstanding recreational opportunities, and most persons agree that part of the area deserves park designation.

However, resource conflicts exist in this area. The area supports the finest Dall sheep hunting in North America and over 400 guides are registered to hunt the region. In addition, locally important back bear, caribou, and moose hunting occurs. Minerals are also important as the original Kennecott Copper Mine is located in the upper Chitina Valley near McCarthy (in the heart of the proposal), and the mineral potential of the area is unquestioned. Two highly favorable mineral belts occur in the area: one in the Chitina Valley and another in the Nabesna-Chisana area on the north flank of the Wrangells. (The mineral values of this latter area induced the administration to originally recommend two mineral development zones within its park proposal.) Lastly, the land in the Chitina Valley and in the Nabesna area are well suited to land settlement and development since these lands are served by developed highways, and the state desires to select lands in these areas.

The Senate committee bill differs from the House bill by designating 8.4 million acres as park, 2.3 million as preserve, and 1.3 million acres as NRA; while the House designated 8.7 million acres of park and 3.4 million of preserve, with no NRA. The committee expanded the preserve to include the area north of the White River and the Drop Creek area. It designated the Nabesna-Chisana area as an NRA which permits mineral development, and it designated more than 9 million acres as wilderness, as did the House. The Senate committee measure, like the House bill, imposes wilderness on the preserve areas, which would seriously interfere with guided hunting in the area.

l. Kobuk Valley National Monument/Preserve: The Senate committee bill follows the same external boundary as the House bill in creating a 1.7 million acre unit but altered the classification. The purposes of this unit are to protect the unique Kobuk Sand Dunes, important caribou migration routes through the area, the recreational potential of the Salmon River, and unique archeological and biological features of this large arctic valley.

Resource conflicts are significant as a highly favorable mineral belt stretches across the northern portion of the unit and the Kobuk Valley is considered a likely place to locate any east-west transportation route to link the Kotzebue area with interior Alaska.

The Senate version restricts the monument to 170,000 acres around the dunes and makes the remaining 1.5 million acres a preserve (the House made the entire area a park). In addition, the Senate measure designates only the monument portion as wilderness, while the House created 1.5 million acres of wilderness within the unit.

m. Glacier Bay National Monument Addition: The Senate committee bill adds approximately 500,000 acres to the existing Glacier Bay Monument. The addition includes lands northwest of the present unit in the Barbazon Range and Alsek River areas. The major conflict is extending the unit to include Dry Bay which is the site of an existing commercial fishing operation. The Senate designated the Dry Bay area as a preserve and provides that the fishing operation can continue. The House deleted Dry Bay from the monument addition.

WILDLIFE REFUGE

a. Arctic Wildlife Range Addition: The Senate committee bill adds approximately 6 million acres to the existing range. Most of this land is in the Smith Mountains to the southwest of the range. The purpose of the addition is to protect a greater portion of the range of the Porcupine caribou herd and preserve a larger portion of the eastern Brooks Range in a wild state.

Significant resource conflicts affect this proposal. Within the existing range, the coastal plain is considered to be the finest onshore prospect for oil and gas in the U.S. The House bill made this area a wilderness, while the Senate measure sets out a special oil and gas evaluation procedure. In the Smith Mountains there are some areas with highly favorable mineral potential.

The Senate measure differs substantially from the House bill: it adds only 6 million acres; it creates no wilderness in this area while the House designated 14 million acres of wilderness; approximately 400,000 acres in the Chandalar River drainage was excised for state selection; a BLM conservation area of approximately 1 million acres was created in the remainder of the Chandalar drainage (the House made this refuge); and approximately 2.5 million acres south of the present forest (this area was added to the range by the House).

A portion of the Porcupine Forest was included in the Arctic Wildlife Range by the conference as an extension of the present range. Specific statutory directions would permit the development of timber for local and regional needs.

b. Selawik Wildlife Refuge: The Senate committee measure creates a 2 million acre refuge in the Selawik area southeast of Kotzebue. The purpose of the unit is to protect high density waterfowl nesting habitat near Selawik Lake and protect a portion of the winter range for the Western Arctic caribou herd.

There are resources conflicts with oil and gas, uranium, transportation routes and state overlays an identified oil and gas basin of moderate potential. The foothills which form the southern limit of the basin are rated extremely favorable for uranium potential. An area southeast of the lake is identified as logical location for a transportation system to link the Ambler mineral district with a seaport on Norton Sound. The state has indicated interest in selecting lands south and west of the lake for general purposes and transportation development.

The Senate version differs from the House bill by deleting the Squirrel River system which is unrelated to the Selawik Basin, but which was in the House version. The committee bill excludes the state selection interest lands near Kotzebue and most of the uranium rich lands to the south, as did the House version.

c. Yukon Flats Wildlife Refuge: The Senate committee bill establishes a 5.4 million acre wildlife refuge in the flats, which differs significantly from the House proposal. The primary purpose of the unit is to protect duck nesting habitat of the flats along the Yukon River.

Resource conflicts do exist as the flats is an area with multiple values. Excellent agricultural prospects, moderate oil and gas potential, locally important timber resources, areas with mineral prospects for tungsten, uranium and gold, and transportation along the Yukon River are potentially in conflict with the refuge proposal. Additionally, the state has extensive selection interests in the flats and there are extensive native land holdings, including four native villages in the area.

Addressing these multiple values, the Senate designed a proposal with the following features: a 5.3 million acre refuge (the House has a 9.4 million refuge); approximately 3 million acres along the Porcupine River are designated as part of a new national forest (area included in the House bill refuge); the White Mountains area is designated a BLM national recreation area (House included this in the refuge); high priority state interest lands northeast of Circle were left undesignated for state selection while secondary state interest lands were restored to the refuge (the opposite of the House bill).

A portion of the Porcupine Forest was included in the Yukon Flats Wildlife Refuge by the ad hoc conference with specific directions to permit the development of timber for local and regional needs.

d. Kanuti Wildlife Refuge: The Senate committee bill designates a 1.4 million acre refuge in this area immediately south of Bettles. Primary purpose of the unit is to protect the waterfowl nesting habitat of the Kanuti Flats and some interesting geologic features south of the flats. Resource conflicts are limited to some mineral potential along the southeast portion of the proposal.

The Senate version of 1.4 million acres is 50,000 acres smaller than the House version. Changes include deletion of native lands near the villages of Bettles and Allakaket, deletion of much of the mineral potential to the southeast, and elimination of the 300,000 acres of House designated wilderness.

e. Koyukuk Wildlife Refuge: The Senate committee bill establishes a 3.6 million acre refuge which is virtually identical to that created by the House. The purpose of this unit—located north of the Yukon River near Galena—is to protect important waterfowl nesting habitat and upland habitat for moose and furbearers. The only appreciable resource conflicts are that the unit overlays an identified oil and gas basin, and there are some areas which contain locally important timber stands.

f. Innoko-kaiyuh Wildlife Refuge: The Senate commitee bill designates 2.7 million acres as refuge in two separate units along the east bank of the Yukon River downstream from Galena. The primary purpose of these units is to protect high density waterfowl nesting habitat and upland habitat for moose and furbearers. Resource conflicts with these proposals are insignificant. The Senate changed the House bill by restricting the refuge boundary to the east bank of the Yukon and removing state selection interest lands to permit state selection.

g. Clarence Rhodes Wildlife Range Addition (Yukon Delta): The Senate committee designated a 10.8 million acre addition to the present Clarence Rhodes Range in the Yukon and Kuskokwim river deltas. The purpose of the unit is to protect waterfowl and seabird habitat and the fisheries and upland habitat in the Andreafsky River system. The only resource conflicts are with oil and gas (a lowly rated basin underlies the area) and some favorable mineral prospects in the Kilbuck Mountains. The Senate committee deleted the Kilbuck Mountains from the refuge (which the House included) and put this area in the Bristol Bay Cooperative Management Study area.

The ad hoc conference committee agreed to accept the House passed boundary, which added acreage below the Kuskokwim to the wildlife range.

h. Becharof Wildlife Refuge: The Senate committee designated a 1-million acre Becharof Refuge immediately south of Katmai National Monument. The purpose of the unit is to protect the high density brown bear denning areas near Becharof Lake. Conflicts are limited to a possible north-south transportation access, state land selection interests, and state fishery enhancement activities. The committee bill excludes the south shore of the lake to facilitate the state's fishery management activities.

i. Kenai Moose Range Additions: The Senate added 250,000 acres to the present moose range. In addition, 1.38 million acres within the expanded range are designated wilderness.

j. Tetlin Wildlife Refuge: The Senate committee created a 765,000 acre refuge south of and along the Alaska Highway near the border with Canada. The primary purpose of the unit is to protect waterfowl nesting sites near the highway and some upland habitat.

k. Alaska Maritime Wildlife Refuge: The Senate committee bill adds 500,000 acres on assorted islands, rocks, capes, islets, etc. to the wildlife refuge system. The purpose of the designations are to protect marine mammal and seabird habitats. There are no significant resource conflicts with these units and the Senate action is identical to that taken by the House.

BLM CONSERVATION AREAS

a. Baird Mountains BLM Conservation Area: The Senate committee created a 2 million acre multiple-use BLM unit in the Baird Mountains south of the Noatak proposal and west of the Kobuk Valley Monument/Preserve. The primary values in this area are caribou migration through portions of the unit, some recreational potential along the rivers, and excellent hard rock mineral prospects. The House bill placed approximately half of this multiple-use unit in the Noatak Park Preserve and the remainder in the Selawik Wildlife Refuge.

The addition of the Agashnashak River area to the Noatak National Recreation Area, reduced the size of the Baird Mountains Conservation Area to approximately 1 million acres. The major areas of mineral potential were left in the conservation area by the ad hoc conference.

b. Chandalar BLM Conservation Area: The Senate committee established a 900,000 acre Chandalar BLM unit in the upper Chandalar drainage in the eastern Brooks Range. The area offers good hunting, good recreational potential, has high value mineral prospects, and often harbors wintering caribou. The House added this area to the Arctic Wildlife Range.

c. Steese BLM Conservation Area: The Senate committee bill designated a 1.2 million acre BLM unit in the Birch and Preacher Creek drainages north of the Steese Highway near Circle. Primary values in this area are upland wildlife habitat, historic gold mining, recreation, and land settlement capabilities. Portions of this unit were included in the House bill's Yukon Flats Wildlife Refuge.

d. Nowitna BLM Conservation Area: The Senate committee designated a 3 million acre multiple-use unit in the Nowitna river drainage in central Alaska. This multiple value area, which both Secretary Morton and the LUPC recommended for Forest Service management, has wildlife habitat, timber potential, recreation values, land settlement capability, and moderate mineral prospects. The House created a 1.5 million acre wildlife refuge in this area.

The ad hoc conference designated part of the Nowitna area as a refuge and left the remainder of the area in the public domain under BLM management. Primary mineral areas were included in the public domain.

e. White Mountains BLM National Recreation Area: The Senate established a 1 million acre NRA in the White Mountains east of Fairbanks. The primary values in this area are recreational potential, minerals, and watershed protection. The House bill adds this area to the Yukon Flats Wildlife Refuge.

NATIONAL FORESTS

a. Porcupine National Forest: The Senate committee bill creates a 5.5 million acre national forest in interior Alaska along the Porcupine River. Primary values in this area—which both Secretary Morton and the Federal-State Land Use Planning Commission recommended for forest service management—are excellent waterfowl nesting habitat, upland habitat for moose and caribou, moderate oil and gas potential, highly favorable mineral lands, valuable interior forestry potential, agricultural possibilities, and recreation.

The House divided this area between the Arctic Wildlife Range Addition and the Yukon Flats Wildlife Refuge.

The ad hoc conference agreed to divide the Porcupine Forest between the two refuges but included specific direction to develop timber for local and regional needs.

b. Miscellaneous Additions to the Chugach and Tongass National Forests: Approximately 2.1 million acres are added by the Senate to the two existing national forests in Alaska. These additions consist primarily of rock and ice and are designed only to resolve boundaries which had created isolated sections of BLM lands in the forests.

c. Copper River Addition to Chugach Forest: The Senate committee adds approximately 900,000 acres of the lower Copper River area to the Chugach Forest. The primary values of this area are wildlife habitat, recreation, and some oil and gas potential. The Forest Service already manages the Copper River Delta adjacent to the Copper River unit.

The House bill redesignates the Delta as a refuge and adds the addition to create a wildlife refuge of more than 1 million acres.

WILD AND SCENIC RIVERS

The Senate committee identified six wild and scenic rivers and two "study" wild and scenic rivers that are outside existing or proposed parks and refuges. The six wild and scenic rivers include: the Lower Alatna River in the Gates of the Arctic NRA; the Koyukuk River in the Gates of the Arctic NRA; the Alagnak on the Alaska Peninsula; the Forty-Mile near Eagle; Birch Creek in a NRA; and Beaver Creek in a BLM Conservation Area. The two study rivers include the Porcupine and Sheenjek Rivers in the Porcupine Forest proposal.

The ad hoc conference agreed to designate the portion of the Yukon river flowing through the Ramparts Canyon as a wild river.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I am just going to make a brief statement.

We entered into a unanimous-consent agreement. Most Senators, I think, are intelligent enough to know what it meant.

We now have a situation in which those of us who have the right to offer amendments have announced they will not be offered. We are waiting on the junior Senator from Alaska to offer his amendments pursuant to that unanimous-consent agreement.

The country should know that we are just wasting time, and if there is complaint about the unanimous-consent agreement, it should have occurred at the time the parties entered into it. But Senators are presumed to know and understand these agreements.

So, Mr. President, just let the record show that time is being wasted now. We shall go into deep meditation, I gather, because under the rule, under the consent agreement, time will continue to run when no one is talking. There is nothing to talk about until we have an amendment. And the junior Senator from Alaska has three amendments and this is the time to offer them. But if they are not going to be offered, we will just sit in meditation.

Mr. MELCHER. As long as there is some time here I wish to enter into a colloquy with the chairman.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. How much time does the Senator need?

Mr. MELCHER. Will the chairman yield 5 minutes?

Mr. JACKSON. I yield 5 minutes.

Mr. MELCHER. Mr. President, I thank the chairman.

What I am concerned about is when the substitute is presented and is not amendable that any oversights that have gotten into the substitute and really mistakes cannot be corrected. I refer the Senator particularly to acts dealing with the Ambler Mining District. This is the access between that mining district to the west to the Alaska pipeline haul road, and it is an old subject matter that has been carefully worked out. And it is looked upon as being in the substitute. However, when I asked for just the few pages of the substitute dealing with that particular provision, I find that a key part of it has already been stricken. So we have been assured verbally that the language will be left intact as in S. 9 when the substitute is presented, and yet when we ask for the specific pages of what will become the substitute we find that a key part of it has been left out.

I wonder if the chairman can advise me how we can safeguard against mistakes as this in the substitute because once it gets on the floor we will not be able to amend it.

Mr. JACKSON. I have not seen the final draft because the Senator knows we do not have a final draft yet, but we will have copies made available and certainly we will welcome the comments and suggestions of Senators who are concerned.

Mr. MELCHER. Prior to the introduction of the substitute?

Mr. JACKSON. We certainly will honor specific requests, and the Senator's request will be honored.

Mr. MELCHER. All right.

Mr. JACKSON. We will Xerox copies as fast as we can. We have a big clip and paste thing underway now. We hope to finish it.

I just hope we could use the time of the Senate now to have the amendments that are being offered to S. 9. As the Senator from Montana knows, the substitute will wipe out all other amendments because we will be amending the House-passed bill. So, we are just wasting time here at present, and I regret that has to be the case in view of the fact that we cannot get any amendments offered, although those of us who have the right to offer amendments have already waived our right to offer those amendments and indicated that we will waive those rights.

Mr. MELCHER. I thank the chairman for his comments and, of course, we view this as a mistake. Maybe it is not a mistake. But if it is a mistake in this substitute, I want to know right away. But I have been told by the counsel for the committee that the intent of the substitute is to leave this language as is as presented to the floor in S. 9.

Mr. JACKSON. May I say to the Senator I hope we will finish the amendments to the bill today and then proceed on the substitute tomorrow, and that will give ample time to go over the language in the substitute.

Mr. MELCHER. My point is that we cannot amend the substitute. It has to be presented in a perfect fashion.

Mr. JACKSON. I understand that. I say we will have a complete overnight opportunity.

Mr. MELCHER. To review it prior to consideration.

Mr. JACKSON. That is right.

Mr. MELCHER. I thank the chairman.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I just wish to comment briefly for the record that the letters that I wrote in 1978 I think are still very fine letters. We tried our best. Both Senator STEVENS and I made our best efforts but we failed to arrive at a compromise because those we were negotiating with were not of a compromise mood. But that does not stop us today from recognizing the injustice that is occurring. I think it is very unfair; that is, are we going to have a process that is going to be fair and open in this Senate so that we can pursue information, so that we can have reasonable comity? I have stated very clearly to the Senator from Washington the reason why I do not want to offer my amendments right now. I will be happy to offer them tomorrow providing that I have seen the Tongas substitute. Here we are talking about fashioning some amendments to fight a substitute but we do not get a chance to read the substitute and do not know if we are fashioning our amendments properly.

There could be nothing more unfair than that.

So, I say to my good colleague I understand what a unanimous-consent agreement is and I agree to it. I think we should put aside the myth that I was the one who negotiated it because I think the colloquy at the time clearly shows the senior Senator from Alaska was the one by and large who negotiated it. I agreed to the time agreement. All I can say at this point is that time agreement, in the hands of people who do not choose to be fair, is being misused.

So for that purpose, I will attempt to effect a slight correction and with the proviso that once I have seen the Tsongas substitute I will be more than happy to offer my amendments. We will fashion them as best we can to make some kind of an effort in opposition to this unfortunate act to lock up Alaska and deny its treasure to the American people.

So, Mr. President, I move that on the pending business, H.R. 39, no time be charged to any party having time under the unanimous-consent agreement until such time as the language of the substitute amendment by the junior Senator from Massachusetts has been made available to the Senate, unless a Senator having such time under the unanimous-consent agreement seeks recognition to address the Senate on such pending business.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Washington will state it.

Mr. JACKSON. This motion is contrary to the unanimous-consent agreement and is not in order, and it would require a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Washington is correct.

Mr. JACKSON. I make the point of order against the motion.

Mr. GRAVEL. Appealing to the Chair and the Parliamentarian, there is nothing in the language of the unanimous-consent agreement that we are altering. We are altering the interpretation of time and precedent upon the unanimous-consent agreement. So I would ask the Chair to reconsider his ruling in that regard since it does not strike at one word of the unanimous-consent agreement but merely the interpretation by the Parliamentarian based upon the precedents of the Senate.

The PRESIDING OFFICER. The Chair would state to the Senator from Alaska that the motion offered by the Senator from Alaska is not in order and would require unanimous-consent agreement.

Mr. GRAVEL. I thank the Chair. In light of that I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is not a sufficient second.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor. Does the Senator from Alaska yield the floor?

Mr. GRAVEL. Since the yeas and nays are not here, for obvious reasons that there is lack of a quorum, I wonder if the suggestion of the absence of a quorum at this point in time would be charged to this particular unanimous-consent request?

The PRESIDING OFFICER. At this time the quorum call would not be charged against either side since the Senator from Alaska has appealed the ruling of the Chair and a quorum call would immediately precede a vote on that question.

CALL OF THE ROLL

Mr. GRAVEL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, I suggested the absence of a quorum and I would object to any removal of that.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 16 Leg.]

Byrd, Harry F., Jr.
Garn
Gravel
Hatfield
Hayakawa
Hollings
Jackson
Melcher
Nunn
Packwood
Stennis
Tsongas

The PRESIDING OFFICER. A quorum is not present. The clerk will call the roll of the absent Senators.

Mr. HATFIELD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

Mr. JACKSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. BRADLEY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. Are there any other Senators wishing to vote?

The result was announced—yeas 86, nays 2, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—86

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—2

Goldwater
Weicker

NOT VOTING—12

Biden
Bradley
Church
Javits
Kennedy
Long
Mathias
McClure
Ribicoff
Stewart
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. JACKSON. Mr. President, I move to table the appeal from the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, there is no time for debate on the motion to table. I ask unanimous consent that there may be 5 minutes for debate on the motion to table, 4 minutes to the Senator from Alaska and 1 minute to myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. I thank the majority leader.

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until there is order in the Chamber.

Mr. GRAVEL. If I could just have the attention of my colleagues I would like to explain what are very unfair situations that exist right now. It is that we have a unanimous-consent agreement where the managers of the bill, and I am considered one of the managers of the bill, have time. I have used up time in debate, working my will on the floor of the Senate. I now have three amendments as part of that time agreement. When the time agreement on the bill expires, all I have are those three amendments. The managers of the bill are trying to use up this time on the bill that I have, since they have collectively considerably more than I have.

They are going to come forward with a substitute that has been fashioned in the back room, some 300 odd pages of substitute and I have no idea what is involved. I have not seen it. Nobody else has seen it. They themselves confess they do not know entirely the specific legal language involved. What I am trying to do is to husband my time on the bill since the people who fashioned the substitute are both the proponents and the opponents. So there will be no opposing argument made on the Senate floor unless I have some time on the bill to be able to argue the opposite side. They will control 4 hours. The people who fashioned the substitute will control all the time, so they will stifle any opposition to what they have done. To me, that is basically unfair and is not the way this Senate was ever thought to be organized.

And now they are sandbagging me by saying we will have quorum calls now that will be counted equally. They have some 400 minutes left and I have 1 hour left.

So they will use up all my time and I shall not even have time on the bill to fight the substitute. So I have offered a motion that says that you cannot do this—I am paraphrasing—until they come forward with this 300-page document, printed overnight, and we see what it says.

The Chair forcibly ruled against me. So I appealed the ruling of the Chair. I could not get the yeas and nays, so then I put in the quorum call. The quorum was not here, so we instructed the Sergeant at Arms. That is where we are at this very second.

Now, it was tabled before I had the opportunity to explain this gross unfairness that has taken place. I respectfully thank the majority leader for his intervening in this regard, since I think this is a black day—there may be a couple more black days coming up—in the history of the Senate.

I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I am sympathetic with the desire of the Senator to see the substitute before he offers amendments to the bill, because the content of the substitute may influence him in the shaping of his amendments to the bill. But as to the motion to change the time agreement, that motion is clearly not in order. When a time agreement is entered into by unanimous consent, it can be changed only by unanimous consent. It cannot be changed by motion. So, with all due respect to the distinguished Senator, his motion is not in order. The Chair is right in his ruling.

I hope the Senate will vote to table the appeal from the ruling of the Chair. I hope that the Senator will allow us to do that by voice vote. Then I hope we can work out some arrangement which would meet his problems and, at the same time, not disserve the Senators on the other side of the question. Would the Senator allow that to go by voice vote?

Mr. GRAVEL. Mr. President, I would be prepared to cooperate fully and go for a voice vote and ask the majority leader to exercise his persuasiveness on the managers of the bill. I would be prepared to cooperate, let the matter lie, get printed this 300-page substitute bill, take it up and then offer my amendments. We can treat them seriatim, then go on with the substitute if I fail.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes so we may try to work this out.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Would the distinguished Senator agree that, tomorrow morning, with the substitute having been printed, he would then call up—once he sees the substitute, and it will be available this afternoon. He can see it. In the morning, he would call up his three amendments—not force the reading of the substitute, because he will have seen the substitute by then—and we can proceed to dispose of them, and the substitute, under the agreement, would be in order.

Would this meet the approval of the Senator?

Mr. GRAVEL. I would be prepared to accommodate the leader on that and promise not to force a reading of the substitute. I would want the substitute read, not just for myself. I must turn this over to people who are more knowledgeable than I on certain aspects, to counsel me or its impact, so I may inform the Senate of its impact. So, in a spirit of good will, I simply say I shall not press to have the substitute read, if that could be accommodated. I would be even willing to offer more good will, if I could get some decent amount of time in opposition, because those who fashioned the substitute are those who control the time for and against.

Mr. ROBERT C. BYRD. Mr. President, may I say that the substitute, according to my understanding, is more than 300 pages in length. The Senator has indicated his willingness not to force the reading of that substitute. Would he be willing, if time could be yielded to him during which he opposes the substitute, would he be willing to agree to a final vote on the substitute at some hour tomorrow?

Mr. GRAVEL. No; first, on my amendments, we have time on them. I would not agree to a final hour for a vote. I would agree not to be dilatory, and the testimony to that is that I would not press to have the substitute read. As the Senator has indicated, it is over 300 pages and it might take a few hours to read. It is not my intention to be dilatory, but to focus on the efforts here, and I would be willing to forgo the reading of it. But I would not at this point be prepared to pinpoint an hour.

Mr. President, that is how we got into this situation where the proponents and opponents control all the time and somebody who opposes the legislation cannot say a word.

I have walked on that path and I do not think it is an easy path, nor is it fair.

Mr. STEVENS. If the majority leader will yield, I say to the Senator that the path is as wide as it is long. The Senator from Oregon and I share 5 hours. The Senator from Alaska insisted on 5 hours for himself. He has had more time for himself than the two of us put together.

I say to my good friend, the Tsongas amendment is one that, as introduced, cannot be amended. I do not want to see the time come when that is introduced pursuant to this discussion, because we are still in the process of trying to argue with the Senator from Massachusetts about certain items in there and he with us. So it is my hope that the Senator will not insist that this amendment be introduced. Under the time agreement, it cannot be called up until the amendments of the Senator from Alaska have been considered. Having it printed for the purpose of review would facilitate everyone's review of it.

Mr. ROBERT C. BYRD. Mr. President, the Senator misunderstood me, apparently. I have not suggested that the amendment be introduced prior to the disposition of the three amendments, because to do so would be in violation of the agreement.

Mr. President, could we agree that we go over and, the first thing in the morning, the Senator from Alaska will be prepared to call up his amendments to the bill, because the substitute would have been available this evening, and he would not demand a full reading of the substitute but would proceed to call up his amendments; after which, the Senator from Massachusetts would be, under the order, required to proceed with his substitute.

Then, would Senators be agreeable to allowing the Senator from Alaska some time to speak in opposition to the substitute?

Mr. JACKSON. If the leader will yield, may I say, I shall give him 90 percent of my time. I shall be willing to give him more time on the substitute if we can get an agreement to vote at a specific time tomorrow. There are a lot of Senators who want to be away on Wednesday and I do believe that the Senate should know that we have worked out a basic bipartisan compromise that involves Senator HATFIELD, Senator TSONGAS, and myself.

This is not an easy thing to do, Mr. President, and we have a real consensus here, I say to the leader. I hope that, after all these years, the Senate will have a chance to work its will. I shall not take more than 10 minutes and if I am entitled to 2 hours, I shall give him the balance. I would be willing to extend the time, if necessary, so that he can have more than is provided in the unanimous-consent agreement. But I do think the Senate should have an opportunity to complete its work.

There is no reason why this cannot be finished tomorrow. This legislation has been around in one form or another since 1971.

Mr. GRAVEL. But, Mr. President, if I may say, by the Senator's own statement that this was a package by Senators TSONGAS, HATFIELD, and JACKSON, I can only infer that there was not a single Alaskan present. They fashioned over a 300-page piece of legislation that affects the economic survival of our State of Alaska. To then come here and say, "Well, we have to have a time agreement on tomorrow to go ahead and pass finally on this legislation," is a bit much.

Mr. ROBERT C. BYRD. Mr. President, the Senate has already entered a time agreement.

Mr. GRAVEL. Not for a vote on tomorrow; the time agreement does not call for one on tomorrow. All I am asking is that we print this substitute, have a chance to go over it and seek counsel on it so we can intelligently debate it. That is what is being denied.

Mr. TSONGAS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TSONGAS. Mr. President, there are two issues here. One is the issue of the so-called compromise. I indicated to the Senator from Alaska earlier that my staff would sit down with him this evening and brief him extensively on what has been worked out—there are some details yet to be decided upon, but within that framework.

The Senator from Alaska made it very clear he will kill the bill.

Now, I do not mind arriving at an accommodation to try to help bring the issue into better focus, but I want to vote on the bill. I do not want to fall into a trap where this gets put off until tomorrow by some argument, and that gets put off because of various parliamentary maneuvers, and then we are here after the recess. We went through some of this in 1978. I do not want to go through it again.

I, for one, will not agree to any kind of stipulation that does not give us a vote on final passage on the substitute.

I could wait until Wednesday, by tomorrow, or whatever, but I will not be lulled into a situation where we are all going home on Wednesday, never having arrived at a vote.

This time agreement was made. We all agreed to it. We knew what we were doing. We were trying to do the best we could.

Mr. ROBERT C. BYRD. Mr. President, I do not know what the intentions are of the distinguished Senator from Alaska (Mr. GRAVEL), but we can wish all we want to, that we finish this bill or that we finish it Wednesday, if he is determined to keep the Senate beyond Wednesday on this bill, he can do it. There are plenty of dilatory motions he can make, which I would hope he would not.

May I ask the distinguished Senator if he would agree not to make dilatory motions, with the understanding that we go out, in the morning, following the cloture vote on Mr. Zimmerman, regardless of the outcome of that vote, we set that matter aside and continue to proceed with the Alaska lands legislation, that he then call up his amendments, take the time he is entitled to under the agreement on those amendments; Mr. TSONGAS then call up his substitute; the Senator from Alaska would have some time on that substitute, Mr. JACKSON has indicated he was willing that the Senator have time on the substitute.

Mr. JACKSON. Over and above the consent agreement.

Mr. ROBERT C. BYRD. Fine. We can add some over and above the consent agreement.

And that we proceed under the agreement with no dilatory motion, proceed under the agreement, the time required to go over until Wednesday in order for the Senate to work its way in an orderly fashion in that agreement, go forward Wednesday and complete action then.

But would the Senator agree not to proceed with any dilatory motions if we can arrange for him to have the substitute in front of him, go out tonight before he offers his amendment, and proceed under the agreement, that if he needs additional time to use in opposition to the substitute the Senate will make that arrangement now for him. This would mean, may I say to my colleague, that the Senate would finish action on this bill, if not tomorrow, surely it could work its way through the bill under the agreement by the close of business Wednesday, and it would be fair to all sides. The Senate would complete its action on the bill by Wednesday evening.

We are not entering into any agreement that it would be by a certain hour.

But it would work its way in an orderly fashion under the agreement already entered, the Senator would have the time he needs to speak in opposition to the substitute, and he would have the substitute before him before he offers his amendment to the bill.

I think he is entitled to that.

Mr. GRAVEL. I think if I were able to see the substitute, I might speak to whether or not this is so horrendous it might require a dilatory approach.

I hope not. I hope it is not fashioned to that degree.

Certainly, we all know the Senate of the United States is the only institution under the American flag that was designed to protect minorities. As Thomas Jefferson wrote in the rules on the first page, the minorities are protected by the rules themselves.

We use the rules. A willful minority uses the rules in order to protect its efforts from being harmed.

I do not know the extent of the harm. I do know my record on this issue has been one of comity, one of cooperation, and what is happening now?

Mr. ROBERT C. BYRD. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. GRAVEL. All I am saying is that as soon as I find what that substitute is, I will then fashion my three amendments—that is all I have, three amendments—with a time agreement on those amendments.

I will fashion my amendments and then proceed to fight the substitute with my amendments because I think I can win one of them. If I do, I think I can cut into the opposition to our cause.

If I am successful, then I want to fashion it a certain way.

In order to win what is already agreed to in the unanimous consent, I do not want to give up the vote, if I have to, because this piece of legislation may be so injurious to the Nation, it may lock up more than 50 million acres of sedimentary basin. Already our Nation needs oil and gas, and it may lock up more minerals than I think it already does, which is, in the next 20 years, $9 trillion worth of materials—$9 trillion.

If it does that, then, obviously, I need my options. I think those options may work to benefit every single Member of this body. I know that Senators do not want to make a mistake on this one. It is too costly, because we are talking about the treasure of the Nation, not just the State of Alaska.

I say to the leader that if we could get this substitute of 300-odd pages printed, I promise that after I have the substitute in hand an hour, just to work up changes in our amendments, I will offer my amendments ad seriatim. I have three of them. I will offer them. The time agreement will run on that, and we can go on to other matters.

I see no reason why I should not have these rights as a Senator in order to attain that decency.

Mr. MELCHER. Will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to Mr. TSONGAS first.

Mr. TSONGAS. As a point of fact, the Senator from Alaska stated clearly about how he is opposed to H.R. 39. He is opposed to S. 9. Since the agreement is between the two of them, by definition, it will not be acceptable.

So we then have a situation where one can pursue the tactics referred to.

I would not want to be in a situation where an accommodation is made here and we have the amendments and then we do not vote on this.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the Senator.

Mr. MELCHER. I thank the majority leader for yielding to me and permitting me to say that I find it pretty difficult to deal with this substitute when we cannot see the substitute, and to find out that the substitute just happens to strike out one little old provision of an access to the Ambler Mining District which we have been working on for about two Congresses, to make sure it is in there, if a bill ever passes here.

I think this goes a lot farther than the Senator from Alaska. I think it has something to do with every Senator here. Certainly, it has something to do with me.

I would be a little reluctant to see any kind of agreement this evening when we cannot look at what is supposed to be in the substitute, because under the agreement we have, once a substitute is before us, there is no amendment. It is up or down. It is up or down without an amendment.

Any mistake, any oversight, anything the administration has requested, or somebody else has requested, on the top five, that we might speak to individually, on its merits, we will not be able to change it.

On this little provision of the Ambler Mining District, on its merits, I think the majority in the Senate would vote to structure the language exactly as it was without caving in on some whim of some staffer and some adminstrative demands to strike part of it.

Now, I cannot explain the whole deal tonight, but take my word for it, we have looked at this for two Congresses. We thought the Ambler Mining District must have access. We structured the language to guarantee it would have access.

Now I learn in the substitute a portion of that language would be stricken, which would put the question of access up in the air, contrary to the will of the committee, and I think contrary to the will of the vast majority of the Members of the Senate.

Mr. STEVENS. Mr. President, will the Senator yield 30 seconds on that?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I say to the Senator from Montana that there has been no yielding on access to the Ambler district. That is the access across the Boot. We have been assured that there will be access across the Boot.

Mr. MELCHER. I point out to the Senator from Alaska that what is being drafted certainly has part of it stricken.

Mr. STEVENS. That is why we want to read it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask if the Senator from Alaska and all Senators will agree to this proposal. The Senate will come in tomorrow, under the order already entered, at 9 o'clock.

The proposal is this: With the understanding that the Senate would wind up its affairs for today very soon, that during the hour under the cloture rule, the Senator could utilize his hour—of course the substitute will be available to him tonight—will he agree that immediately upon the cloture vote, regardless of the outcome in cloture, whether it carries or does not, and it does not make any difference if it does not carry, because the Senate, by motion, can go back into legislative session—will he agree that if the cloture motion carries, that matter be set aside pending the outcome of the Alaska lands bill; that he immediately begin offering his amendments under the agreement and that the Senate dispose of those amendments, allowing Mr. TSONGAS then to proceed to offer his substitute under the agreement; that he would agree not to demand a reading of the bill?

What the Senate would accomplish would be this: It would go out, first.

Second, if cloture is invoked, that matter would be set aside pending the outcome of the Alaska lands bill.

Third, the demand for reading of the substitute, to which the Senator is entitled, would not be pressed. That would not be done.

Fourth, he would begin, upon the return to legislative session, following the cloture vote, to call up his amendments under the agreement.

Mr. GRAVEL. I believe I have agreed to everything the majority leader has stated, except the fact of the cloture vote; and I have no intention of involving myself in that debate, other than voting for cloture. If cloture is invoked, I have no intention of using my hour that I am entitled to at that point to cause any delay.

So, essentially, I have agreed to everything the majority leader is asking. I do not know what we are seeking at this point.

Mr. ROBERT C. BYRD. Then, I make the request, Mr. President.

Mr. TSONGAS. Mr. President, reserving the right to object, I want to make it clear that we will have a briefing and exchange the papers of the substitute tonight; but I reserve the right, since there are some unresolved issues, to resolve those with whatever changes would be made between now and the introduction.

Everyone knows the concepts we are talking about, so there will not be anything of any great surprise.

I also wonder whether the Senator from Alaska will agree, without it being part of the time agreement, that the Senate has a right to vote on this before we leave.

Mr. GRAVEL. If I may respond to my colleague from Massachusetts——

Mr. TSONGAS. I am not asking for an agreement. I just want a philosophical statement.

Mr. GRAVEL. Let me respond with a philosophical statement.

The bill was taken down last Wednesday, and a week and a half has been used in the back room fashioning a substitute. I was not invited; and had I been invited, I would have attended, and I would be a lot more knowledgeable about the piece of legislation.

Now the best we are getting is that we are going to get a 300-page document in the morning, and I can spend all night reading it. What opportunity does the State have to review it?

I believe we have given a great deal. The Senator has had a week and a half to work his will, and I probably will have little more than an hour to work mine.

So I think the Senator from Massachusetts is not being put upon one iota.

Mr. TSONGAS. If I may pursue the point, will the Senator indicate to his colleagues that if the substitute is somewhere between S. 9 and H.R. 39, he is still committed to killing the bill?

Mr. GRAVEL. I am happy to respond to my colleague by saying that if I, in my moral judgment, stood here, as a U.S. Senator, and saw something that was going to be extremely damaging to the Nation and to my State, I would be duty bound to do everything within my power to try to impede its passage. It is exactly the way Thomas Jefferson wrote it on the front page of our rule book at that time: Use the rules to protect yourself when you are being treated unfairly.

There is nothing saying that the majority cannot make a mistake in this country. It has, frequently.

Mr. TSONGAS. Does the Senator agree that, under that definition, both S. 9 and H.R. 39 fit that Jeffersonian definition?

Mr. GRAVEL. I say to my colleague that I do not know what he has written in his substitute of 300-odd pages, because all he is offering to do is to brief me on the broad lines. He said earlier today that he does not know, because he has not seen the legal language.

As the Senator from Montana pointed out, all it takes is a little bit of one-liners to substantially alter those economic areas.

So I say to my colleague that until he has read his own substitute——

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, what is the request?

Mr. ROBERT C. BYRD. The request is that the Senate go over; that upon the invoking of cloture tomorrow, if cloture is invoked, or if cloture is not invoked, the Senate will immediately go back into legislative session, setting aside the Zimmerman nomination, to be disposed of in case cloture is invoked tomorrow, and that the Senate then would proceed with the amendments——

Mr. GRAVEL. I think the leader need not go further——

Mr. ROBERT C. BYRD (continuing). And that it not be in order to demand the reading of the substitute.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object—and I shall not object—I want to restate it.

What we are saying is that we will come back into legislative session after the cloture vote, whether or not cloture is invoked; two, we will not have a reading—I cannot ask for a reading of the substitute when it is called up.

Mr. ROBERT C. BYRD. That it not be in order to demand a reading of the substitute at any point.

Mr. GRAVEL. That is satisfactory. And that when we are in legislative session, we are back exactly where we are right now, and amendments would be called up.

Mr. ROBERT C. BYRD. The Senator will proceed to call up his amendment.

Mr. GRAVEL. I do not need unanimous consent to do that. My amendments are there, and Senator STEVENS has an amendment. I tell the leader that I will call up the amendments when it is my turn.

Mr. TSONGAS. Reserving the right to

object, can the majority leader include that during the time for the amendments that remain, no dilatory tactics could be employed?

Mr. GRAVEL. The majority leader did not include that.

Mr. ROBERT C. BYRD. I hope I do not need to put that into the request. The Senator, thus far, has shown no disposition to resort to dilatory tactics. He could have done so many times. He has shown no disposition up to this point. I hope he does not resort to any. I hope that no other Senator will do so, for that matter. But I cannot prevent any Senator from resorting to dilatory tactics. We will just have to wait and see.

With the Senator being assured of an opportunity to see the substitute and an opportunity to proceed in an orderly fashion with his amendments, and with the offer of Senator Jackson that the Senator will have additional time on the substitute in order to oppose it, I hope the Senate will be able to proceed in an orderly way to complete action on the bill.

Mr. STEVENS. Mr. President, reserving the right to object, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. We do have a problem about the Zimmerman nomination.

I wonder, since I understand the Senator from Alaska has indicated that he does not intend to use the time and there is some indication there would be no request for using time here, if cloture is invoked, could the majority leader indicate whether there might be a time to have a vote on the Zimmerman nomination before going back to the Alaska lands bill? Is it necessary to put it aside?

Mr. ROBERT C. BYRD. In the event cloture is invoked, if Senators will agree to 30 minutes or an hour of debate on that nomination so that it could be disposed of, I think that would be a very reasonable conclusion of that matter and then we will have the Senate return to the Alaska lands bill.

Mr. STEVENS. I might say, if the majority leader will yield to me again, that matter is being checked out on our side. It is a new item involved that not really involved in the Alaska lands matter. We wish to set aside the impact of the Zimmerman nomination on this agreement that the majority leader is working out with the other Senator from Alaska. The idea is having the time presented to us as the Senator from Massachusetts and his staff can brief the other Senator from Alaska on the substitute and what is intended to be in it and so that tomorrow morning after the disposition of the Zimmerman matter we could go to Senator Gravel's amendment. I do not see there is any problem about this on this side.

I do not think we are authorized yet to state whether it is agreeable to set aside the Zimmerman nomination until completion of the Alaska lands matter. Maybe I misunderstood the Senator from West Virginia on that because it would indicate that if we did not get to a final vote on the Alaska land matter before the recess we would not get to the Zimmerman nomination either. Was that his intention?

Mr. ROBERT C. BYRD. That is the purport of the request, but I much prefer to see an agreement to the effect that if cloture is invoked on the Zimmerman nomination there be 1 hour of debate on the nomination and disposition of the nomination before returning to legislative session.

Mr. BAKER. Mr. President, reserving the right to object, and I am sorry to intrude on this reservation, I wish to advise the majority leader that the Senator from New York (Mr. Javits) who is the sponsor of that nomination is not here on the floor. He is necessarily absent. We are in the process of trying to contact him at this moment. We have not been able to do so. But on his behalf I believe the leadership on this side would not be in a position to agree to such limitation until after we had opportunity to discuss the matter with Senator Javits.

So I hope that the request of the majority leader will be withheld at least in that respect until after we have had a chance to pursue our efforts to contact the Senator from New York.

Mr. ROBERT C. BYRD. All right.

Mr. GLENN. Mr. President, reserving the right to object, and I do not plan to object, has all the negotiating been done on the substitute bill? Is that completed now?

Mr. TSONGAS. Ninety-eight percent is done.

Mr. GLENN. Mr. President, this is not a matter just between the Senators from Alaska and the floor managers of the bill. I am sure every office here has spent several hundred hours on this Alaska bill. I wish to have some idea when the rest of us might be able to have a copy of this amendment also to look over.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. GLENN. When will the printing be actually done and have it in our hands?

Mr. TSONGAS. If the Senator will yield, we arrived at the time agreement as 7:30 this evening. We will have that briefing for interested Members and the staff in the library of the Energy Committee room, which is 33112 Dirksen Office Building. So anyone who wants to have access to that may.

Mr. GRAVEL. Mr. President, if the Senator will yield, would it be OK if members of the public were permitted because I have a large number of Alaskans here?

Mr. JACKSON. Senators only.

Mr. GRAVEL. And I appreciate the briefing. The Senator should understand the briefing is merely to draw lines. I do not think the text will be available at that part, will it?

Mr. TSONGAS. Most of it will be.

Mr. GLENN. When will we actually get printed copies of the amendment, in the morning?

Mr. TSONGAS. They are in process now. What we are simply trying to do is the cutting and pasting. I cannot answer the Senator, but the vast majority of the materials are already available.

Mr. GLENN. Could we have some guarantee before the time agreement is entered into here that we actually will have printed copies of the final bill by sometime so we have time enough to go over it before we are required to vote?

Mr. TSONGAS. If we could say 9 o'clock which would be the end of that briefing subject to my right obviously to make adjustments before I introduce it and subject to whatever other agreements we have to arrive at, but within that framework, yes, we could do that.

I say, Mr. President, 7:30 p.m. in 3112 Dirksen Office Building, we will have that briefing.

I wish to limit it to Senators and their staffs since it is not a large room and then the materials will be available and it will be distributed to the public after that point.

Mr. GRAVEL. It will be distributed to the public then this evening?

Mr. TSONGAS. I will distribute it to the Senator and I suspect it will get to the public.

Mr. GRAVEL. To Xerox 300 pages is a pretty difficult mechanical task and not much of the public is going to see it.

Mr. TSONGAS. I am sure we can work that out.

Mr. MELCHER. Mr. President, reserving the right to object, I say to the leader as I understand his request it is not a very far-reaching request.

The PRESIDING OFFICER. If the Senator will please suspend, we do not have order in the Senate.

The Senator may proceed.

Mr. MELCHER. It is not a very far-reaching request as it affects the Alaska lands bill, except there will be an agreement that the substitute which would be 300 or 400 pages long would not be read and that no other request is being made that affects the Alaska lands bill. Is that correct? Do I understand the request correctly?

Mr. ROBERT C. BYRD. The Senator is correct, but I think I will change the request in this fashion:

I ask unanimous consent that there be an understanding that the Senate go over until tomorrow shortly after some morning business, that an order for the reading of the substitute not be recognizable by the Chair, the request for a reading or demand for the reading of the substitute not be in order—will Senators be agreeable to this request, that a request or demand for a reading of the substitute not be in order and that if the Zimmerman nomination has not been disposed of by, say, 1 p.m. tomorrow, the Senate then return to legislative session?

Mr. BAKER. Mr. President, if the majority leader will yield to me, I have no particular problem as far as I am concerned with the reading of the amendment. I think that raises some other problems different from what I am concerned with at the moment. I will not personally object to that.

What I am concerned about is the proviso that if we have not concluded the NLRB nomination by 1 p.m. that we lay it aside. As I indicated earlier, I am making an effort now to contact the Senator from New York, and I have not yet succeeded. I must advise my friend, the majority leader, that until I can clear that with Senator Javits I will not be in a position to agree with such a request if such a request were made.

Mr. ROBERT C. BYRD. I thank the minority leader.

I just limit my request then to this:

In order that the Senator from Alaska might have the evening during which he can study the substitute and during which the briefing in regard to the substitute can go forward, that after some morning business which will ensue shortly the Senate go over until tomorrow to the time already agreed upon, which is 9 a.m., and that no request or demand for reading of the substitute be in order.

The **PRESIDING OFFICER**. Is there objection?

Mr. **STEVENS**. Mr. President, reserving the right to object.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from West Virginia?

Mr. **TSONGAS**. Mr. President, reserving the right to object, I am informed, I say to the majority leader, that we will have a Xerox copy or two or three of them, the most we can get out, but since we will be going out of session it will not be printed in the RECORD for tomorrow. So within that stipulation, we will do within the physical limits of what we can do by 9 a.m.

Mr. **ROBERT C. BYRD**. Yes, it would be Xeroxed during the evening and every effort will be made to encourage the Government Printing Office to have the substitute printed by the morning.

Mr. **GRAVEL**. Could the leader not ask unanimous consent to have the substitute printed since it is not introduced? Customarily it could be introduced in the RECORD, but if it could be printed as if it were an amendment, just make a unanimous-consent request to the effect, then I think everybody would be agreeable.

Mr. **ROBERT C. BYRD**. The Senator, I understand, will introduce his amendment today for printing, will he not?

Mr. **GRAVEL**. It would be in the RECORD in very small type. We could have it printed as an amendment.

Mr. **TSONGAS**. I do not want to introduce something tonight and then find out tomorrow that I have to change a few sentences or words and be precluded from doing that. I will give a copy of the substitute as I intend to introduce it, reserving the right, as everyone has, as you do with your amendments, to offer a revision if that proves to be necessary.

Mr. **GRAVEL**. That is fine.

Mr. **TSONGAS**. There will be no surprises, I will say to the Senator from Alaska.

Mr. **GRAVEL**. Reserving the right to object, the only unanimous-consent request I would make in behalf of the Senator from Massachusetts is that his amendment be printed as if it were an amendment introduced by the Senator and then we would have this as a working tool, and if it were printed in large print, large copy, that would not disenfranchise the Senator from changing it again, but at least we would have a tool to work from which we do not have right now.

Mr. **ROBERT C. BYRD**. The Senator would have to at least offer his amendment at the desk for printing. He would have to do that this evening before it could be printed.

Mr. **GRAVEL**. Yes.

Mr. **TSONGAS**. For printing.

Mr. **ROBERT C. BYRD**. That is right.

Mr. **TSONGAS**. The RECORD would have to be held open——

Mr. **ROBERT C. BYRD**. It would not have to be held open. The Senator could get unanimous consent after the Senate goes out today to offer it for printing, and it would be printed. I could make that request.

Mr. **GRAVEL**. If the majority leader would include that in his unanimous-consent request, with which I would agree—I do not know whether you could give it priority insofar as printing, not above the RECORD, but——

Mr. **ROBERT C. BYRD**. The request will not be made to have it printed in the RECORD. The request will be made to have it printed overnight and, in the meantime, the Xerox copies will be made available to the Senator.

Mr. **GRAVEL**. It will be printed like this report.

Mr. **ROBERT C. BYRD**. That is right.

The **PRESIDING OFFICER**. Is there objection?

Mr. **GLENN**. Mr. President, reserving the right to object, when can we have a copy so that we can go through it? I still do not have an answer. We are still negotiating. We have 98 percent of it, but we do not know when we will have a copy. We will get a briefing from the staff tonight, and that is fine. But there are lots of things happening between a general briefing and the final language in the bill. We have all done much work on this, and not to have that kind of consideration, I think, is not appropriate. I would at least like to have my people, who have done a tremendous amount of work on this, like every other office has, at least have an opportunity to read it before we vote on it. I will flatly vote against it unless we have that kind of reading of the bill before we come to that. I know I do not want to do that, but it is only fair.

Mr. **TSONGAS**. It would be the intent of the manager to have a copy for reading available at the 7:30 briefing. The Senator will have to be patient because of the physical problems involved in putting this all together. We intend to have a reading copy there at 7:30.

Mr. **GLENN**. I am very patient with it. I just want to know when we will have a copy. If we get a copy then we can be better advised as to what type of time agreement is involved. Is the answer ready as to when we will have a copy for all of the offices of the Senate?

Mr. **TSONGAS**. If the reading copy is there by 7:30 it will be given to the printer. It will be available in the morning.

Mr. **ROBERT C. BYRD**. It will be available at some time tomorrow. I am not sure that assurance can be given that the GPO would be able to print a substitute of over 300 pages and have it here by 9 o'clock in the morning. We have not had too much success in recent years in that regard. But, as I understand it, Xerox copies will be available at 7:30 this evening.

Mr. **TSONGAS**. Yes.

The **PRESIDING OFFICER**. Is there objection?

Mr. **HARRY F. BYRD, JR.** Mr. President, reserving the right to object, I just want to associate myself with the comments of the Senator from Ohio. Ninety-seven Senators have not had an opportunity to read 300 pages of a substitute. I have not been involved in drafting it to comprehend it in a short period of time. I think it is important that all 97 who were not involved and who are anxious to vote what is best for the Nation as a whole and for Alaska, too, know what we are voting on. We cannot very well do that if we do not have the text. If, as I understand it, the text will not even be completed tonight, it may be sometime tomorrow before some details of it are worked out, is that correct——

Mr. **TSONGAS**. I would say, if the Senator will yield, what is in the substitute will come as no surprise to anyone who has followed the issues because we are basically talking about positions between S. 9 and H.R. 39.

It is not as if it was a new issue. It is within those general parameters. I think we are all familiar with them.

Mr. **HARRY F. BYRD, JR.** The Senator and other Senators have been working on it for weeks, if not months, as members of the committee. Ninety-seven other Senators have not been involved in these negotiations.

Mr. **TSONGAS**. I would be glad to change places with some of you.

The **PRESIDING OFFICER**. Is there objection to the unanimous-consent request?

Mr. **STEVENS**. Mr. President, reserving the right to object, and I shall not object, I have been asked on behalf of the leadership to be sure what it is we are agreeing to.

The **PRESIDING OFFICER**. The request is that no request be in order for the reading of the Tsongas substitute; that the Senate shortly go out after a period for the transaction of routine morning business, and that on tomorrow the amendment be available in printed form.

Is there objection to the Senator's request? If there is none, it is so ordered.

Mr. **ROBERT C. BYRD**. I thank all Senators.

Now, the motion to table the appeal from the ruling of the Chair is pending, and the yeas and nays have been ordered. I ask unanimous consent that the yeas and nays be vitiated and that the appeal be considered as having been tabled and the motion to reconsider laid on the table.

The **PRESIDING OFFICER**. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, there will be no more rollcall votes today.

ROUTINE MORNING BUSINESS

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the Senate resume consideration of morning business and Senators may speak therein up to 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

INDUSTRY PROFESSIONALS PROVIDE UNANIMOUS SUPPORT FOR REAL ESTATE TAX INCENTIVES ACT

Mr. WILLIAMS. Mr. President, there is wide agreement on both sides of the aisle that a carefully targeted tax reduction package effective in 1981 could do much to speed recovery from the present recession, and to curb inflation by fostering capital investment and productivity gains. And there is also consensus that simplified and uniform depreciation treatment is one of the key means of advancing these goals.

Earlier in this Congress, I became a cosponsor of the Capital Cost Recovery Act because I agreed with its basic thrust in regard to depreciation changes. However, as chairman of the Subcommittee on Housing and Urban Affairs, I was concerned that its provision of 10-year accelerated depreciation for structures failed to include rental housing. As many Members are aware, rental housing is undergoing its greatest crisis in decades, and failing to include it within favorable tax reforms would be the death blow to the unsubsidized rental sector, and to much of assisted housing. In developing a tax plan devised to stimulate rental construction and rehabilitation, I soon also discovered that the professionals engaged in new construction actually viewed the relevant provisions of S. 1435 as detrimental to their activities, and as inefficient and unnecessarily costly.

Therefore, on July 24, I introduced S. 2969, the Real Estate Construction and Rehabilitation Tax Incentives Act of 1980. This bill would accomplish everything required to reverse the decline of the building industry, and spur the erection of efficient new factories, offices, retail centers, and rental housing, at only about one-third of the tax expenditure cost of its widely discussed counterpart; and would also spur rental housing rehabilitation. It would, therefore, not add unnecessarily to potential deficits, and it would leave greater room in the tax-cut package for other forms of relief to business and individuals.

Mr. Chairman, it was my privilege to testify before the Finance Committee on July 30 regarding this proposal. A number of realty and construction experts also presented their views to the committee, and I would like to briefly share excerpts from their remarks regarding S. 2969.

Mr. Herman J. Smith, first vice president of the National Association of Homebuilders, said on their behalf:

> We strongly support Senator Williams' bill, S. 2969, which provides twenty-year straight line depreciation for all Section 1250 property (with 15-year straight line depreciation for low-income housing). We would urge that the 20-year/15-year depreciation schedule is a better approach than the ten-year component of the 10–5–3 proposal.
>
> The adoption of the Williams proposal would greatly simplify the computation of depreciation. . . . The frequent audits of apartment properties and the inconsistency in useful lives prescribed by various IRS auditors discourage builders from becoming involved in multifamily housing. And substitution of the 20-year/15-year useful life for the 10-year component of 10–5–3 would involve substantial savings in revenue to the Federal treasury.

Dr. Jack Carlson, executive vice president and chief economist of the National Association of Realtors, echoed these sentiments:

> Specifically, plans to cut personal income taxes by 10 percent per year over the next three years, as well as implementing the 10–5–3 package of depreciation reform, will lead to excessively large increases in the Federal deficit and cause inflation and interest rates to increase. Many important sectors of the economy, especially housing, would be more harmed than helped by these policies. . . . The National Association of Realtors strongly supports the stand taken by the Williams bill (S. 2969) in recognizing that depreciation reform must be extended to all real estate and that the depreciable life must be significantly reduced without at the same time resulting in excessive revenue impacts. . . . The current bills embodying the 10–5–3 approach contain substantial deficiencies insofar as real estate investment is concerned. In the first place, they do not apply 10–5–3 to residential real estate, thereby omitting from the reforms a substantial and important segment of the economy. Second, in regard to the real estate they cover, the current bills would apply depreciation "recapture" rules previously established for short-lived personal property which are totally inappropriate for real estate and which would, in effect, transform into ordinary income amounts that are treated as capital gains under current law.

The coalition for low and moderate income housing, composed of members active in the assisted housing field, presented a somewhat different perspective through their Chairman William J. Langelier:

> We strongly oppose those tax incentive proposals, such as 10–5–3, which do not include low and moderate income housing, indeed any housing, in their incentive plan, and we instead support the bill introduced by Senator Williams, S. 2969.
>
> Senator Williams' bill provides for a straight 15-year useful life for new low income housing, compared to a straight 20-year useful life for all other real estate. This differential means slightly higher depreciation deductions each year for low income housing. This differential is critical if the Federal government expects any low income housing to be built in the next 10 years. There must be more favorable tax incentives for low income housing as compared to all other real estate in order to compensate for the restrictions on return, and limited potential for appreciation inherent in low income housing. . . . Significantly, the entire initial revenue loss of the Williams bill would be less than half the cost of the "10" in 10–5–3.

Myles H. Tannenbaum, on behalf of the retail center developers represented by the International Council of Shopping Centers, also found merit in S. 2969 for their segment of the industry:

> The most comprehensive attempt to eliminate the penalties and biases against real estate investment in the current tax code and to provide reasonable inducements for investment and capital formation in the real estate industry is the Real Estate Construction and Rehabilitation Tax Incentives Act of 1980. . . . The bill addresses in a responsible way many of the concerns that ICSC has about current tax policy, and generally deals with these concerns in a way that ICSC can support.

Commercial office developers were represented by Gardner McBride, executive vice president of the Building Owners and Managers Association International. He stated:

> It is our opinion that many of the provisions of The Real Estate Construction and Rehabilitation Tax Incentives Act of 1980 . . . should be a part of a general tax cut.
>
> S. 2969 will provide needed impetus to investment in the real estate industry through reform of the outmoded real estate depreciation rules and other provisions of the tax code. . . . Not only will S. 2969 have a beneficial impact on all elements of the real estate industry, but it will do so at a reasonable cost to the Treasury, especially when compared to the high cost of other proposals before the Congress.

Finally, the National Realty Committee, while withholding formal support of S. 2969, stated that it favored legislation making available fixed capital cost recovery periods for real property investments; substantially shortening capital cost recovery periods; and inclusive of residential rental property. All of these principles are encompassed within the bill I have introduced.

Mr. President, I believe that S. 2969 proposes a responsible and effective alternative to other pending proposals in the construction area, and will do much to meet America's need for new factories, homes, stores, and offices. It will help take tens of thousands of workers off unemployment rolls and place them in productive work on private payrolls. I would urge all of my colleagues to give it their close review.

STUDY INTO THE EFFECTS OF THE TMI ACCIDENT ON THE GPU CORP. AND ITS CUSTOMERS

Mr. WILLIAMS. Mr. President, during last Thursday's consideration of S. 2358, the Nuclear Regulatory Commission fiscal year 1981 authorization, an important amendment was accepted unanimously by the Senate. The amendment calls for the Comptroller General, in cooperation with the Nuclear Regulatory Commission, to conduct a detailed study of the financial viability of the General Public Utilities Corp. This study, which would be the direct result of a preliminary study recently completed by the General Accounting Office, would determine whether or not GPU will be able to continue to provide system reliability to its customers at reasonable rates and, if not, what actions may be necessary to rectify this situation.

The acceptance of this amendment clearly indicates insight into this serious and continuing problem. The accident at the Three Mile Island unit No. 2 nuclear facility and the continued shutdown of the No. 1 unit have placed a severe strain on GPU and, of course, the customers they serve. There are some 700,000 such customers in my State of New Jersey alone who have been faced with six rate increases in just over a year resulting in their levelized energy adjustment clause going from .755 mills per kilowatt-hour (KWH) to 22 mills per KWH. The loss of the Three Mile Island generating stations has resulted in GPU's New Jersey subsidiary losing approximately 40 percent of its base load capacity with replacement power, at a profit markup of up to 40 percent, costing between $5 and $7 million a month.

Clearly, Mr. President, the problems of GPU and their customers deserve a detailed analysis by the Federal Government. This is not a local problem of the States of New Jersey and Pennsylvania, but rather a national problem. The possibility of a long-term outage of an existing nuclear plant is not so remote that another State or region of the country could not be faced with the same serious problems confronting the GPU service area. If we are to forestall the consequences of any such future loss of generating capacity and develop adequate means to manage the present situation, this study must go forward and be concluded at the earliest possible date. The study, above all else, Mr. President, must be thorough.

Mr. President, I want to thank my colleagues again for accepting this worthwhile amendment, and I am hopeful that this is a first step toward resolving the difficulties being faced by the customers of GPU as a result of the Three Mile Island accident.

WILLIAM J. BAROODY, SR.

Mr. HARRY F. BYRD, JR. The cause of responsible conservatism in the United States suffered a loss last Monday with the death of William J. Baroody, Sr., the former head of the American Enterprise Institute.

In an eloquent editorial paying tribute to Mr. Baroody, The Washington Star stated:

> It is not often that a single career and personality can combine vital attachment to tradition with creative anticipation of the future. It was among the distinctions of William J. Baroody . . . that his career and personality did just that.

Long convinced that the philosophy of the New Deal had run its course, Mr. Baroody guided the American Enterprise Institute from obscurity to a major role as a center of scholarship and exchange of ideas. Today it occupies a position of eminence among American intellectual centers, thanks in no small part to the dedication and hard work of Mr. Baroody. His able son, William, Jr., now carries on as head of the institute.

For years Mr. Baroody's thinking has commanded deserved respect in the conservative circles of both major parties.

In addition to his achievements in the field of political thought, Mr. Baroody was a dedicated family man and a devout and active member of the Melchite Greek Catholic Church.

All who knew him will miss him, and his loss will be felt far beyond the circles of family and friends.

I ask unanimous consent that the text of the editorial saluting Mr. Baroody, from The Washington Star, be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Star, July 31, 1980]

William J. Baroody

> It is not often that a single career and personality can combine vital attachment to tradition with creative anticipation of the future. It was among the distinctions of William J. Baroody, the former head of the American Enterprise Institute, who died Monday, that his career and personality did just that.
>
> The private man was pure American myth. A poor boy from an immigrant family—his father was a stonecutter from Lebanon—he worked his way through college and, by middle age, had risen to a position where presidents of the United States were listening to his advice.
>
> He was a patriarch emotionally centered in a large, energetic family that kept growing; when he died, the count on grandchildren was up to 37. He was gratified to have his oldest son, former White House aide, William Jr., take over as head of AEI when he retired two years ago. He was a profoundly religious man, whose preoccupations in the world of politics and intellectual controversy never got in the way of active participation in the affairs of the Melchite Greek Catholic church.
>
> At the same time, this man of values a good many people find old-fashioned if not downright anachronistic had an extraordinarily cool and discerning eye for trends. He decided back in the 1950s that New Deal dogma on politics and economics had run out of steam, leaving a clear track for a vigorous new kind of conservatism. As one of his long-time colleagues put it, "He was always the first to spot a vacuum and move in; sometimes he would create a vacuum to move into."
>
> Starting with a bit of corporation money and a few lively minds, including that of Nobel laureate Milton Friedman, he began to build AEI into the major American think tank it is today. At first, it was considered too right-wing to be taken seriously by the intellectual mainstream. Recruiting more and more dynamic scholars, conducting long-range studies, publishing magazines and books, sponsoring debates over critical issues, bringing in distinguished foreign thinkers and political figures, Mr. Baroody maneuvered AEI front and center to a position where it is financed by leading foundations and respected by old opponents as well as by a widening—and bipartisan—circle of new friends.
>
> In the process, Mr. Baroody became a political force in his own right, recognized as an influence on the policies of both the Nixon and Ford administrations and on thinking in the neo-conservative wing of the Democratic party as well. It was thanks to him, among others, that the term "neo-conservative" became identified with fresh ideas and possibilities of power.
>
> His presence will be missed in Washington and across the nation, the more so because of its continuing life in the institution he built.

NEW GOVERNMENT BORROWING

Mr. HARRY F. BYRD, JR. The Treasury Department last week announced that in order to finance the swelling Federal deficit, it will have to raise between $48 billion and $52 billion in the money market before the end of 1980.

This enormous borrowing, through sale of Government notes and bonds, is bound to squeeze the market. Money will become scarcer, and interest rates probably will head upward again after their recent decline.

Business investment in job-creating productive capacity will be discouraged. And in cases where companies go ahead with expansions, the costs will rise and be passed along in higher prices.

Thus we are headed for yet another object lesson in how the Government's uncontrolled spending promotes both unemployment and inflation.

As of June, when the Congress approved the most recent budget resolution, the deficit for 1980 stood at an already huge $47 billion, and the 1981 budget was said to be in balance.

But the President's July 21 budget revisions set the current year deficit at $61 billion and projected $30 billion in red ink for 1981.

Now the 2-year deficit is said to be $91 billion—almost double the total forecast only a month earlier.

No wonder that the Treasury Department has been sent scurrying to the money market.

And no wonder that the economic outlook is so bleak for the months ahead.

Once again, Washington's reckless spending is guaranteeing the worst of all economic outlooks—soaring prices, few new jobs and high interest rates.

THE DEATH OF WILLIAM J. BAROODY, SR.

Mr. DURKIN. Mr. President, I am deeply saddened at the death of one of the great scholars of our time and a native of my own home city of Manchester, N.H. William J. Baroody, Sr. was the leading force in the prestigious American Enterprise Institute for Public Policy Research for more than 20 years and is generally credited with turning that institute into one of the Nation's leading think tanks.

Educated in the Manchester school system and a graduate of St. Anselm's College in Manchester in 1936, Mr. Baroody went on to graduate school at the University of New Hampshire and American University in Washington. In 1962 he became president of AEI, a position he held until 2 years ago when he yielded the presidency to his son, a good friend of mine and a fellowclassmate at Holy Cross College, Bill Baroody, Jr.

Bill's father was well-respected by Government and business leaders alike, regardless of their ideological viewpoints. He led a full and rewarding life and left so many of us richer for knowing him. I offer my prayers and sincere condolences to the Baroody family and I ask unanimous consent that an editorial from the Manchester Union Leader highlighting Mr. Baroody's impressive career be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Grief, but Also Pride

> The State of New Hampshire lost one of its truly exceptional native sons with the death earlier this week of Manchester's William J. Baroody Sr., a scholarly gentleman whose brilliance quite naturally brought him many years ago to the nation's capital city.
>
> Since 1954 Baroody was the driving force behind the prestigious American Enterprise Institute for Public Policy Research, serving as president for 16 years until 1978 when he became Counselor Chairman of the Institute's Development Committee. His other educational, religious and civic endeavors and achievements are too numerous even to list here, but his work with AEI alone affected in a most positive way the lives of millions of Americans who may never have heard of the Manchester native.

For while the politicians were manning the ramparts, with their efforts duly publicized, Baroody and the AEI were quietly providing much of their intellectual ammunition.

All astute political observers of the Washington scene, those who shared Baroody's political philosophy as well as those who did not, respected his intellectual honesty and the myriad high quality. AEI programs he directed—analyses of bills pending in Congress, studies of pending issues that had not yet taken legislative form, annual reviews of U.S. Supreme Court decisions, foreign affairs panel discussions and debates, and voluminous other presentations in the print and electronic news media.

A true gentleman in every sense of the word, Baroody had the respect of all who knew him personally or through his work.

While he was firm in his own beliefs, Baroody's most important contribution to his country was perhaps his work to raise the level of political and ideological discourse. As he once emphasized:

"My stress is on a basic premise: namely, that the competition of ideas in the public policy arena is essential to a free society."

That he was highly respected is no secret to readers of the Union Leader. Many will recall the prestigious guest list associated with a dinner honoring Baroody a half-dozen years ago at his completion of 20 years as chief executive officer of AEI, an event which featured many of the nation's principal leaders in the world of government, business, diplomacy, the military, as well as the participation of His Beatitude, Patriarch Maximos Hakim of Beirut, Lebanon. The Washington event was staged just one week after Baroody had seen his son, William J. Baroody Jr., appointed special consultant to President Nixon.

The honoring of father and son within the space of one week constituted at the time the culmination of a true American success story. It had been only 74 years earlier that a stone mason from the Mideast country of Lebanon had come to Manchester and learned the language with an Irish brogue. (At the time most of the stone masons of the Queen City were Irish.)

This newspaper shares the grief of the family of William J. Baroody, Sr., at his passing at the relatively young age of 64—and also their understandable pride in the exceptional contributions this talented gentleman made to the improvement of the quality of life of his fellow citizens. God has surely blessed and rewarded him.

—Jim Finnegan.

AMERICAN SOVEREIGNTY PROTECTION ACT

Mr. HAYAKAWA. Mr. President, during the last 9 months history has demonstrated to the American people that the United States has not any longer the power to protect its citizens abroad. When the American Embassy was seized on November 4, 1979 and our diplomats were taken hostage, every thinking person in the world was aware that this was an unprecedented violation of international law.

Many Americans, although outraged by the event, regarded it as a quickly passing incident. It seemed that the seizure was the work of some irresponsible students and that the Iranian Government would see to it that law and order would be restored. Subsequently, however, we became aware not only that the Iranian Government stood solidly behind the students but that all the efforts of the U.S. Government to free the hostages remained futile.

We appealed to our allies, to the United Nations, and to the International Court of Justice. But while all these authorities publicly acknowledged that our case was just and condemned the Iranian action, our 53 diplomats remained imprisoned.

Under the pressure of American public opinion the Carter administration then took some stronger steps: We broke off diplomatic relations, expelled some Iranian diplomats and finally staged a military rescue operation which unfortunately failed. Again the net result was zero. The unlawful detention of the official U.S. representtives in Iran continued and today, on the 304th day of their captivity, we are back at square one. The depressing lesson of these developments has not been lost on the American people. I am certain on next November 4 we will see a reaction thereto.

It seems, however, that the series of humiliations which we had to suffer has not ended. Current events are demonstrating with painful effectiveness that even within its own boundaries the United States is unable to enforce the laws in case a group of fanatics decides otherwise. Anybody passing by the White House today will find there a group of enemy aliens who are permitted to insult openly the President, the flag, the American people and everything this country stands for. But this it not all. A week ago we had two Iranian demonstrations in Washington. One, sponsored by the Iran Freedom Foundation, began peacefully while the participants called for a democratic Iran and for the release of the American hostages. The group had been given a permit to congregate along a specific route which it carefully observed. Their opponents, however—probably instigated by the government in Iran—were resolved not to let a peaceful demonstration for a free Iran go unchallenged. Having also received a permit to assemble, they tried to break up the meeting of the Iran Freedom Foundation. In the course of the resulting fist fights and scuffles 192 Iranians were arrested.

Resolved to prevent a proper enforcement of our laws they are now refusing to give their names. Moreover, many among then went on a hunger strike with the aim of embarrassing the American authorities.

Mr. President, unfortunately as long as our legal procedures have not been strengthened, I have no recipe to deal speedily with this situation. But I feel obliged to remind my colleagues that all this would not have happened had my American Sovereignty Protection Act, which I introduced on March 19, been acted upon. This bill, S. 2437, is not a complex instrument. It provides for a straightforward amendment of a section in the United States Code, dating back to 1798, that deals with war and national defense and addresses the question of "alien enemies."

That section reads:

> Whenever there is a declared war between the United States or any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation, of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained. secured, and removed as alien enemies.

That is the section of the Code as of 1798.

The law says that such "enemy aliens" may be detained and eventually deported. This law spells out very clearly that aliens, and not naturalized U.S. citizens, may be subject to its provisions.

In order to invoke the enemy alien provisions of the law in the case of Iran, we must clarify U.S. territory to include our embassies abroad. The legislation I proposed does exactly that. It would spell out that the phrase now in the law "any invasion or predatory incursion is perpetrated, attempted or threatened against the territory of the United States from a foreign nation or government" includes:

First, the seizure or holding by a foreign nation or government of, or the aiding or abetting by a foreign nation or government of any individual or group in seizing or holding, the premises of a diplomatic mission of the United States; or

Second, the seizing or holding under paragraph (1) of such premises which also involves the taking of any diplomatic agent of the United States as a hostage.

If this legislation had been enacted, the President would have a number of options at his disposal. Under the current circumstances, the most appropriate action would be to expel those Iranians who have caused a disturbance and who further mock us by refusing to disclose their identity and through their self-imposed starvation.

Let me just cite some pertinent legal opinions about the Alien Enemy Act. In the words of one court:

> Unreviewable power in the President to restrain, and to provide for the removal of aliens in time of war is the essence of the Act.

Another court had the following to say:

> The act applies to both in cases of war de jure and war de facto. The authority given by it (the Act) to the President is not limited to situations where "any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government . . . There is not the slightest indication in the statute that the exercise of power is limited to times of active hostilities or that dangers from foreign nationals of an enemy were regarded as terminated until peace was declared."

Mr. President, some of my colleagues will now ask what happened to your "American Sovereignty Act?" Well Mr. President, as I said, it was introduced on March 19 and promptly referred to the Judiciary Committee. The bill has Senators HELMS, JEPSEN, HUMPHREY and LONG as cosponsors. My distinguished colleague and chairman of the Judiciary Committee, Senator KENNEDY, reacted a month later. He informed me on April 22 that the bill had been forwarded to the executive branch for study and comment. On May 15 I wrote to the Attorney General and to the Secretary of State requesting an early response. On June 6, June 23, July 25, and August 1 my staff contacted the Department of Justice without receiving a satisfactory answer. Finally, today we learned that the bill is now in OMB for Executive review. I was told it may take another 2 weeks.

In the meantime, pro-Khomeini Iranians are spitting in our faces and we pretend it is raining.

The United States of America, Mr. President, must no longer remain helpless in this humiliating condition. The American Sovereignty Protection Act will put into the hands of the President powers that are clearly implied in the U.S. Code of 1798. The present act merely makes more specific the conditions under which the Code, now almost 200 years old, can be acted upon. I am trying, Mr. President, to give our President, President Carter, some legal instruments to work with.

I would be gratified for an immediate response, since our hostages have been in Iran 9 months, while the death of even one of the fasting Iranian prisoners in the United States can only set off further unpleasantness between our two nations.

I thank the Chair.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate message from the President of the United States submitting the nomination of Henry L. Kimelman, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States to Haiti, which was referred to the Committee on Foreign Relations.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts:

On August 1, 1980:

S. 1466. An act to provide for the distribution of certain funds appropriated to pay judgements in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes; and

S. 2508. An act to provide for the disposition of the Gila River Pima-Maricopa Indian Community judgement funds awarded in dockets 236–A, 236–B, and 236–E before the Indian Claims Commission and the U.S. Court of Claims, and for other purposes.

On August 3, 1980:

S. 2492. An act to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes.

On August 4, 1980:

S. 2995. An act to allow the transfer of certain funds to fund the heat crisis program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4360. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the designation of certain functions under the Energy Security Act to certain entities within the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4361. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 511(d) of title 10, United States Code, to eliminate the requirement for all persons to perform an initial period of active duty for training of not less than 12 weeks and to extend to 270 days the period within which persons enlisted under this section shall commence an initial period of active duty for training; to the Committee of Armed Services.

EC–4362. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a report with respect to a study that has been conducted with respect to converting the laundry and dry cleaning activity at Fort Dix, N.J., and the decision that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC–4363. A communication from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting, pursuant to law, a report that a study has been conducted with respect to converting the instrument flight simulator operations function at Vance Air Force Base, Okla., and the decision that performance under contract is the most cost-effective method of accomplishing it; to the Committee on Armed Services.

EC–4364. A communication from the President of the United States Railway Association, transmitting, pursuant to law, a quarterly report on the status of the Rail Act valuation proceedings for the quarter ended June 30, 1980; to the Committee on Commerce, Science, and Transportation.

EC–4365. A communication from the Acting Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, a report on the inventory of nonpurchased foreign currencies as of March 31, 1980; to the Committee on Foreign Relations.

EC–4366. A communication from the Chairwoman of the Merit Systems Protection Board, transmitting, pursuant to law, the first annual report on the activities of the Merit Systems Protection Board for calendar year 1979; to the Committee on Governmental Affairs.

EC–4367. A communication from the President of the United States, transmitting, pursuant to law, a report of executive branch activities implementing the Privacy Act of 1974 covering calendar year 1979; to the Committee on Governmental Affairs.

EC–4368. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on orders suspending deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–4369. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the adjustment of the status of certain aliens under section 13(b) of the Immigration and Nationality Act to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Governmental Affairs:

Special report on "Illegal Narcotics Profits" (Rept. No. 96–887).

ILLEGAL NARCOTICS PROFITS

Mr. NUNN. Mr. President, on behalf of the Senate Committee on Governmental Affairs, I have submitted a report of its Permanent Subcommittee on Investigations entitled, "Illegal Narcotics Profits."

The report is based on the subcommittee's investigation into the size and scope of the illicit narcotics traffic, and the effectiveness of the Federal Government's programs to control it.

The subcommittee found that retail sales of illicit drugs in the United States are estimated to be about $44 billion to $63 billion. The subcommittee found the illicit drug trade to be very much a growth industry.

Millions of Americans used illicit drugs and the subcommittee recognizes the fact that the United States would not have a narcotics problem if there were not great demand for them. There is a limit, then, to what law enforcement can do to solve this problem as long as demand is as high as it is.

However, users would not be users if there were no illicit drugs available to buy. Therefore, law enforcement, while it cannot control demand, can have an impact on supply.

The subcommittee concluded that the drug trade could be more effectively controlled if the Government devoted more resources to the investigation of the profits side of the narcotics traffic.

It is in their huge profits that the major drug syndicates are most vulnerable to detection and prosecution.

By using financial investigation against drug traffickers—by comparing their reported earnings with their lifestyles, by documenting the various ways they dispose of their money—Federal agents can attack the drug dealers where they are most vulnerable.

Major drug traffickers rarely come near the narcotics they profit from. It is usually impossible to catch them buying, selling, transporting or distributing illicit drugs. For that reason, many arrests in the illegal drug trade are of lower level participants.

But it is possible, through financial investigation, to demonstrate beyond a reasonable doubt that the major traffickers are profiting from criminal drug enterprises. Financial investigation offers an effective method of prosecuting high level traffickers and immobilizing their syndicates.

The Federal Government has a group of competent financial investigators in the special agents of the Internal Revenue Service. No Federal agents are better trained or more successful at financial investigation than are IRS agents.

FINDINGS

In our investigation, the subcommittee wanted to determine the extent of IRS participation in the Government's programs to control the drug trade. Accordingly, the subcommittee makes four principal findings and recommendations for corrective action.

First, the subcommittee finds that financial investigation is an effective method to combat big drug syndicates and recommends the Government use this strategy more extensively.

Second, the subcommittee finds that IRS has reduced its activity in major narcotics cases and other organized crime investigations. This is a result of a reluctance at IRS to become involved in these cases. The subcommittee recommends that IRS take a more positive attitude toward drug and other organized crime investigations. IRS should devote more resources to these endeavors and, in general, cooperate more with Federal law enforcement agencies.

The subcommittee recommends that IRS be reorganized. Responsibility for the criminal investigation and intelligence gathering functions should be removed from the Assistant Commissioner for compliance. It is recommended that a new Assistant Commissioner be created. It should be the sole duty of the Assistant Commissioner to oversee the criminal investigation and intelligence gathering activities of IRS. This reorganzation will provide a chain of command in the criminal division reaching the Commissioner so that he can obtain adequate information in criminal as well as civil matters.

Third, the subcommittee finds that the disclosure provisions of the Tax Reform Act of 1976 make it difficult and sometimes impossible for the IRS to cooperate with other Federal law enforcement agencies in investigations of major drug dealers. The subcommittee recommends that Congress amend the disclosure provision of the Tax Reform Act. The statute was intended to protect taxpayers' privacy, and taxpayers' privacy should remain the primary consideration. But appropriate law enforcement agencies should have access to IRS information after established procedures and reasonable privacy protections are followed.

Fourth, the subcommittee finds that the administrative summons provision of the Tax Reform Act of 1976 causes lengthy delays in tax investigations but does little to protect individual taxpayers from unwarranted Government searches. The subcommittee recommends that Congress amend the summons provision. The taxpayer should not be able to invoke a stay automatically but should have to go to court and present a legal basis for quashing the summons.

The subcommittee investigation and this report also cover a wide range of related matters having to do with the effort to combat major drug traffickers.

The subcommittee held public hearings on these issues on December 7 and 11–14, 1979. Testimony was heard from 35 witnesses and 34 exhibits were received in a printed hearing record of 507 pages.

THE SUBCOMMITTEE'S INTEREST

This investigation was part of the subcommittee's longtime interest in organized crime. Since becoming chairman, I have tried to direct much of the subcommittee's resources into the investigation of all aspects of organized crime.

Historically, particularly under the chairmanship of the late John McClellan of Arkansas, the subcommittee has taken the lead in exposing organized crime and labor racketeering and in assisting the executive branch in its efforts to control these problems.

In returning the subcommittee to the area of organized crime as a primary target of inquiry, we are trying to identify the many manifestations of organized crime, including the present-day structure and membership of the crime families, the intimidation and infiltration of legitimate businesses, the nature and extent of political corruption, and organized narcotics trafficking.

The Investigations Subcommittee has had a continuing interest in the Nation's drug problems and in particular in how the executive branch organizes itself to enforce Federal drug laws.

Last year, allegations came to the subcommittee's attention indicating that the disclosure provisions of the Tax Reform Act of 1976 had combined with the IRS interpretation of the act to constitute a barrier to the execution of an efficient, effective Federal drug enforcement effort.

With the concurrence of the distinguished Senator from Illinois (Mr. PERCY), the ranking minority member of the subcommittee, I directed the staff to begin a preliminary inquiry.

The subcommittee's authority to conduct this investigation is derived from section K of rule XXV of the Standing Rules of the Senate, pertaining to the jurisdiction of the Governmental Affairs Committee, and from Senate Resolution 79, agreed to March 7, 1979.

The subcommittee's jurisdiction includes the authority to investigate all branches of the Government to determine their efficiency and economy. Also, the authority to investigate syndicated or organized crime falls within the subcommittee's mandate as prescribed in section 3 of Senate Resolution 79.

IRS AS CRIME FIGHTER

Organized criminals have had a special respect for the Internal Revenue Service for many years.

Organized crime syndicates in this country can be traced at least as far back as prohibition. To manufacture, distribute and sell large amounts of liquor, criminals learned the benefits of cooperation and organization.

Organizing themselves into syndicates, gangsters made untold millions of dollars in the bootleg liquor business. They combined their illicit alcohol profits with proceeds from other illegal activities such as gambling, prostitution, extortion, political bribery, labor racketeering, and narcotics.

As the prohibition era wore on, it became apparent to Federal law enforcement officials that the extravagant financial successes of organized criminals constituted, ironically, the point at which these same criminals were most vulnerable to detection, prosecution and conviction.

Failing to stop many organized criminals from making profits illegally, officials decided to try to prosecute them for not paying taxes on their profits.

For organized criminals to prosper, for the big crime syndicates to survive, vast amounts of money had to be earned.

Illegally earned or not, it was still income and income is subject to Federal income tax. Under the Internal Revenue Code, criminals are required to pay income tax.

In 1927 this principle—the concept that illegal earnings can be taxed—was upheld by the U.S. Supreme Court when it ruled that a bootlegger named Manly Sullivan had to pay his income tax.

Sullivan filed no tax return, arguing that income from illegal transactions was not taxable and that to declare such income would be self-incriminating within the meaning of the fifth amendment.

The Court disagreed. It found no reason "why the fact that a business is unlawful should exempt it from paying taxes that if lawful it would have to pay."

As for incriminating himself, the Supreme Court said:

> It would be an extreme if not extravagant application of the Fifth Amendment to say that it authorized a man to refuse to state the amount of his income because it had been made in a crime.

With this Supreme Court decision, Federal authorities had a new weapon to use against organized criminals.

From the taxation point of view, gangsters found themselves undermined by their very success, the large profits they were earning from their illicit enterprises.

Here was a problem they had not bargained for.

In the courtroom, tax returns made excellent witnesses for the prosecution. Tax returns did not suffer from failing memories. They could not be bribed or intimidated. Their families could not be threatened. They did not lose their composure under vigorous cross-examination.

The Government brought tax cases against many organized criminals of the prohibition era. Al Capone, one of the most notorious of the gang leaders, was sentenced to 11 years in prison on a tax evasion conviction.

The taxation approach did not end with prohibition. The Government continued to use it.

In 1957, another notorious gangster, Frank Costello, was sent to prison for tax evasion, demonstrating the continued effectiveness of charging mob leaders with tax evasion.

More recently, Joseph (Doc) Stacher, a successor to Bugsy Siegel in the Meyer Lansky criminal organization, was convicted of tax evasion in April of 1964.

There was an added advantage to this approach. It was that in gathering information on tax matters, IRS agents were often able to develop nontax evidence of criminality that prove helpful to other Federal law enforcement agencies.

Frequently, this information was shared and prosecutions on nontax violations were begun or enhanced on the basis of facts first developed by the IRS and then turned over to other investigators.

As the Government's principal revenue collection agency, the IRS itself has benefited over the years from the favorable publicity surrounding those cases in which well-known criminals like Capone and Costello went to jail on tax charges.

The IRS, and its parent Department of Treasury, believed that publicized trials like those served as a reminder to all Americans that tax fraud is a serious crime and that even clever, conspiring hoodlums are not able to get away with it.

Such convictions, it is felt, not only encourage law-abiding Americans to pay their taxes; they also assure the average American taxpayer that the system is equitable and that the overwhelming majority of citizens are paying their fair share.

Among law enforcement agents in general, the IRS was seen as a valuable resource. While an individual's tax return is confidential, nontax intelligence developed by the IRS could be shared with other criminal investigators after established procedures of disclosure were followed.

In turn, these investigators were encouraged to turn over tax-related intelligence they had developed to the IRS.

In some instances, cooperation evolved among Federal law enforcement agencies. This cooperation was exemplified in the Federal organized crime strike forces set up in the 1960's in the Nation's big cities.

The purpose of the strike forces was to mobilize under one roof the best investigative and prosecutorial resources of the executive branch in a coordinated assault on organized crime. IRS agents cooperated in the strike force approach.

THE IRS WITHDRAWS

To the disappointment of other law enforcement agencies, IRS began in the mid-1970's to pull back from its previous role in initiating or assisting in cases against organized criminals.

This new policy was reflected in remarks by Internal Revenue Commissioner Donald Alexander when, in 1974, he said:

> Selective enforcement of tax laws designed to come down hard on drug dealers and syndicated crime, for example, may be applauded in many quarters but it promotes the view that the tax system is a tool to be wielded for policy purposes and not an impartial component of the democratic mechanism which applies equally to all.

Alexander, who served as Commissioner from 1973 to 1977, went on to say:

> The overall emphasis of our criminal enforcement activities has been shifted away from special enforcement programs such as narcotics traffickers and strike forces and have been aimed more directly toward the taxpaying public in general.

In addition to the IRS policy, as articulated by Alexander, Congress placed new restraints on IRS, limiting its powers to share information and to cooperate in other ways with other law enforcement agencies in the pursuit of organized criminals.

THE TAX REFORM ACT

Known as the Tax Reform Act of 1976, the legislation was signed into law by President Ford on October 4, 1976.

The new law affected a wide variety of tax issues, including tax shelters, tax treatment of foreign income, simplified tax forms, capital gains and losses, foreign trade, and social security.

One key section of the Tax Reform Act of 1976 had to do with the disclosure of tax returns and tax-related information. This section—26 U.S.C. 6103—placed restrictions on what information Federal law enforcement agencies could request access to from IRS.

It also tightened and made more cumbersome the procedures agencies would have to go through to obtain such information.

Section 6103(i) regulates the manner in which IRS may disclose information from tax returns and other sources to Federal agencies which are investigating nontax crimes.

Section 6103(i)(1) requires the Justice Department or another Federal agency to obtain a court order before gaining access to tax returns and taxpayer return information.

The statute requires that the application for such a court order contain information to establish that: First, there is a reasonable cause to believe, based on information believed to be reliable, that a specific criminal act has been committed; second, there is reason to believe that such return or return information is probative evidence of a matter in issue relating to the mission of such criminal act; and third, the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

Section 6103(i)(2) is the agency request requirement. This has to do with other than returns of taxpayer return information which is held by IRS.

This information can be obtained by written request from the head of the requesting agency.

The written request must give: First, the name and address of the taxpayer with respect to whom such return information relates; second, the taxable period or periods to which the return information relates; third, the statutory authority under which the proceeding or investigation is being conducted; and fourth, the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

Section 6103(i)(3) sets the procedures for IRS to provide non-tax criminal information to other agencies. Under this section, the Secretary of the Treasury may disclose return information other than return and taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to appraise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws. The Treasury Secretary is not required to disclose such information but decides on a case-by-case basis.

Mr. President, I ask unanimous consent that the pertinent portions of section 6103 of title 26, United States Code, be printed in the RECORD at this point.

§ 6103. Confidentiality and disclosure of returns and return information

(a) General rule.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), subsection (m)(4)(B), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

(b) Definitions.—For purposes of this section—

(1) Return.—The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(2) Return information.—The term "return information" means—

(A) a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, ovrassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(3) Taxpayer return information.—The term "taxpayer return information" means return information as defined in paragraph (2) which is filed with, or furnished to, the

Secretary by or on behalf of the taxpayer to whom such return information relates.

(4) Tax administration.—The term "tax administration—

(A) means—

(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

(5) State.—The term "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) Taxpayer identity.—The term "taxpayer identity" means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

(7) Inspection.—The terms "inspected" and "inspection" mean any examination of a return or return information.

(8) Disclosure.—The term "disclosure" means the making known to any person in any manner whatever a return or return information.

(9) Federal agency.—The term "Federal agency" means an agency within the meaning of section 551(1) of title 5, United States Code.

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(i) Disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration.—

(1) Nontax criminal investigation.—

(A) Information from taxpayer.—A return or taxpayer return information shall, pursuant to, and upon the grant of, an ex parte order by a Federal district court judge as provided by this paragraph, be open, but only to the extent necessary as provided in such order, to officers and employees of a Federal agency personally and directly engaged in and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party.

(B) Application for order.—The head of any Federal agency described in subparagraph (A) or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, may authorize an application to a Federal district court judge for the order referred to in subparagraph (A). Upon such application, such judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

(ii) there is reason to believe that such return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

(iii) the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines and certifies to the court that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(2) Return information other than taxpayer return information.—Upon written request from the head of a Federal agency described in paragraph (1)(A), or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) described in paragraph (1)(A). Such request shall set forth—

(A) the name and address of the taxpayer with respect to whom such return information relates;

(B) the taxable period or periods to which the return information relates;

(C) the statutory authority under which the proceeding or investigation is being conducted; and

(D) the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation. For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information.

(3) Disclosure of return information concerning possible criminal activities.—The Secretary may disclose in writing return information, other than taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws. For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal laws.

(4) Use in judicial or administrative proceeding.—Any return or return information obtained under paragraph (1), (2), or (3) may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or an agency described in paragraph (1)(A) is a party but, in the case of any return or return information obtained under paragraph (1), only if the court finds that such return or return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. However, any return or return information obtained under paragraph (1), (2), or (3) shall not be admitted into evidence in such proceeding if the Secretary determines and notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.

(5) Renegotiation of contracts.—A return or return information with respect to the tax imposed by chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 shall, upon request in writing by the Chairman of the Renegotiation Board, be open to officers and employees of such board personally and directly engaged in, and solely for their use in, verifying or analyzing financial information required by such Act to be filed with, or otherwise disclosed to, the board, or to the extent necessary to implement the provisions of section 1481 or 1482. The Chairman of the Renegotiation Board may, upon referral of any matter with respect to such Act to the Department of Justice for further legal action, disclose such return and return information to any employee of such department charged with the responsibility for handling such matters.

(6) Comptroller General.—

(A) Returns available for inspection.—Except as provided in subparagraph (B), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67), or

(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office, in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) Disapproval by Joint Committee on Taxation.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

Mr. NUNN. Mr. President, the IRS interpreted the new law in a strict manner, sharply curtailing the amount of information it could share within the law enforcement community.

Simply stated, the new law had the effect of reducing severely the amount of information the IRS could give to other law enforcement agencies.

Added to that was the IRS interpretation of the new law—and that reduced even further the amount of information IRS could share with authorized agencies.

For example, some IRS agents believed that if they were to come upon information indicating that a major non-tax crime was being planned, they were prohibited from reporting that information outside their own Service.

There was a resulting reduction in IRS

participation in the Government's effort to collect intelligence on, investigate, prosecute, and otherwise immobilize organized criminals.

This decline was viewed with concern by officials in the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration and by some officials in the Treasury Department itself.

Testifying before the Permanent Subcommittee on Investigations last December, law enforcement officials leveled six major criticisms against the disclosure provision of the Tax Reform Act of 1976.

They said that:

First, the statute makes it difficult to obtain IRS assistance in investigations that are worked jointly by IRS and another Federal agency.

Second, the act generally prohibits IRS from disclosing what types of investigations it is working on.

Third, the act generally prohibits IRS from disclosing evidence it has of nontax crimes to the appropriate Federal agency.

Fourth, the act generally prohibits IRS from disclosing financial information to any other Federal agency.

Fifth, the act, coupled with IRS procedures and paperwork, causes unacceptable delays in obtaining any response from IRS.

Sixth, the disclosure provisions have a "Catch-22" aspect in that they require agencies which seek information to make a preliminary showing to a court or to the IRS but at the same time prohibit IRS from giving another agency enough information to seek such a disclosure request.

Statistics developed during our hearings show the decline of the IRS in organized crime and major narcotics cases.

The FBI testified that its cooperative efforts with IRS are down more than 95 percent since 1976.

IRS-initiated cases against organized criminals are down more than 50 percent since 1976.

During 1979, the IRS made only 10 or 12 cases against high-level narcotics traffickers.

In 1974, the IRS had 927 employees working on narcotics cases. By 1979 that number had dropped to 163.

The untaxed profits from narcotics and organized crime run into the billions of dollars each year and are growing, yet since 1976 the IRS has made only a minimum effort to tax these profits or help convict those who earn them.

Regarding the administrative summons provision of the Tax Reform Act of 1976, there is widespread agreement that the law should be amended.

The summons provision appears in section 7609 of title 26, United States Code.

The statute changed the summons procedures as they apply to administrative summonses issued by the IRS to third parties for financial records of suspected tax evaders. The third party is usually a bank.

The law requires that the taxpayer be notified that an IRS summons has been issued to a third party. The taxpayer then has the right to automatically stay the performance of that summons until IRS can take the issue to court.

To obtain the automatic stay, the taxpayer does not have to advance any legal argument.

Both Justice Department and IRS officials are critical of the summons provision. They say many persons who invoke the automatic stays are criminals whose only wish is to delay proceedings in the hope that the passage of time will weaken the Government's case.

Testifying before the subcommittee, three IRS agents said the summons provision causes substantial time delays, often weakens the Government's case and does nothing to enhance the rights of the suspected tax evader.

The provision works this way: When a summons is served on a third-party recordkeeper, the taxpayer is also formally advised of what has happened. The taxpayer has the right to object to IRS. When the objection is filed, an automatic stay in the summons is implemented. Now it is up to IRS to take the matter to court. The taxpayer, using a variety of legal maneuvers, can cause the ensuing litigation to drag on for weeks, months and in some instances even years. Throughout this entire procedure, which may be repeated with each new summons, the taxpayer enjoys no new legal rights—but only gains the opportunity to slow down the case against himself.

The subcommittee finds that the summons provision is an impediment to good investigative tax work. The automatic stay provision should be replaced by a procedure that would still allow the taxpayer to challenge a summons but would put the burden on him to petition the court and then demonstrate why performance of the summons would be unfair.

If the taxpayer fails to present a convincing argument, the summons would be affirmed and his recordkeeper would be compelled to turn over his documents to IRS.

Mr. President, I ask unanimous consent that section 7609 be printed in the RECORD.

There being no objection, the material was ordered to be printed, as follows:

§ 7609. Special procedures for third-party summonses

(a) Notice.—

(1) In general.—If—

(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons,

then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 14th day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under subsection (b)(2).

(2) Sufficiency of notice.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

(3) Third-party recordkeeper defined.—For purposes of this subsection, the term "third-party recordkeeper" means—

(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

(C) any person extending credit through the use of credit cards or similar devices;

(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

(E) any attorney; and

(F) any accountant.

(4) Exceptions.—Paragraph (1) shall not apply to any summons—

(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

(C) described in subsection (f).

(5) Nature of summons.—Any summons to which this subsection applied (and any summons in aid of collection described in subsection (c)(2)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

(b) Right to intervene; right to stay compliance.—

(1) Intervention.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

(2) Right to stay compliance.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to stay compliance with the summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a)(2)—

(A) notice in writing is given to the person summoned not to comply with the summons, and

(B) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

(c) Summons to which section applies.—

(1) In general.—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e)(2), 6421(f)(2), 6424(d)(2), or 6427(g)(2) and requires the production of records.

(2) Exceptions.—A summons shall not be treated as described in this subsection if—

(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a)(3)(A), or

(B) it is in aid of the collection of—

(i) the liability of any person against whom an assessment has been made or judgment rendered, or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

(3) Records; certain related testimony.—For purposes of this section—

(A) the term "records" includes books, papers, or other data, and

(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

(d) Restriction on examination of records.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b)(2), or

(2) when the requirements of subsection (b)(2) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

(e) Suspension of statute of limitations.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

(f) Additional requirement in the case of a John Doe summons.—Any summons described in subsection (c) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

(g) Special exception for certain summonses.—In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(h) Jurisdiction of district court.—

(1) The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsections (f) and (g). The determination required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order which may be appealed.

(2) Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

Added Pub.L. 94–455, Title XII, § 1205(a), Oct. 4, 1976. 90 Stat. 1699, and amended Pub.L. 95–599, Title V, § 505(c)(6), Nov. 6, 1978, 92 Stat. 2760; Pub.L. 95–600, Title VII, § 703(*l*)(4), Nov. 6, 1978, 92 Stat. 2943.

Codification. Section 1205(a) of Pub.L. 94–455 redesignated former section 7609, relating to cross references as 7611 of this title.

1978 Amendment. Subsec. (c)(1), Pub.L. 95–600 substituted "6427(f)(2)" for "6427(e)(2)".

Mr. NUNN. Mr. President, since the prohibition era, the Internal Revenue Service has played a major role in this Nation's battle against organized crime. IRS is capable of being especially effective against major narcotics traffickers.

But, because of the disclosure provisions of the Tax Reform Act, because of IRS policy, and because of other impediments, many of which are covered in our investigation and report, IRS has been removed from Government programs aimed at drug dealers and other organized criminals.

It is not the intention of the subcommittee to scrap the privacy safeguards written into the Tax Reform Act of 1976. But it is time that the proper balance be restored between confidentiality of IRS information and the legitimate needs of law enforcement agencies.

It is not the intention of the subcommittee to divert IRS from its primary duty of collecting taxes. But tax laws do not apply only to the law-abiding. Criminals are also obliged to pay taxes. When they do not, it is the duty of the IRS to move against them. Honest taxpayers have the right to expect that much of their Government.

I know I speak for the distinguished Senator from Illinois (Mr. PERCY) and other members of the subcommittee when I say we hope that our investigation and report will signal the start of a new era in IRS' willingness and authority to cooperate fully with Federal law enforcement in the pursuit of narcotics traffickers and other organized criminals.

I want to express my gratitude to the distinguished Senator from Illinois (Mr. PERCY), the ranking minority member, for his cooperation and the many important contributions he made to this investigation.

The distinguished Senator from Florida (Mr. CHILES) was also especially helpful, particularly in his assistance regarding the subcommittee's examination of the Florida drug situation.

At the staff level, I want to commend Marty Steinberg, the chief counsel; La Vern J. Duffy, the general counsel; Bill Goodwin, staff director; Jack Key, chief intelligence officer of the subcommittee; Don Zell and Ray Worsham, staff investigators; and Kevin Harrington, research assistant. I also wish to thank Joseph G. Block, the chief counsel to the minority, and other members of the minority staff.

I would also like to thank the distinguished Senator from Connecticut (Mr. RIBICOFF), the chairman of our parent Governmental Affairs Committee, for enabling Fred Asselin of his personal staff to assist us in writing this report.

Mr. President, I ask unanimous consent that the subcommittee's recommendations for corrective action be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

(1) The Subcommittee recommends that the Tax Reform Act's disclosure provisions be amended so that appropriate law enforcement agencies have more ready access to tax information and other evidence for use in legitimate investigations and prosecutions of non-tax crimes. The proposed legislation should also amend the summons provision of the Tax Reform Act so that the taxpayer would be notified that his recordkeeper has been issued a summons; however, instead of being able to invoke a stay automatically, the taxpayer would have to go to court and present a legal basis for quashing the summons. If the taxpayer fails to present a convincing argument, the summons would be affirmed and his recordkeeper would be compelled to turn over his documents to IRS.

(2) The Internal Revenue Service has not lived up to its responsibility to try to collect taxes from organized criminals and narcotics traffickers. The IRS also has not met its responsibility to cooperate and to work closely with other law enforcement agencies which are trying to build conspiracy and financial investigation cases against organized criminals and drug traffickers. The IRS has been unsuccessful in these matters for two reasons. The first is the disclosure provisions of the Tax Reform Act. The second is an attitude at IRS that encourages enforcement of tax collection regarding taxpayers who earn their income honestly but discourages the pursuit of persons who earn their livelihood illegally and pay little or no taxes on this income. As noted in the first recommendation, the Subcommittee proposes that the Tax Reform Act be amended so that needless restrictions on the use of IRS personnel and information can be removed. The Subcommittee also recommends that IRS accept its responsibility to collect taxes from all taxpayers, including drug traffickers and organized criminals. That is the first step—to make an affirmative commitment to the goal of enforcing the tax laws equitably. It is not a fair tax system that only taxes people who earn their incomes honestly. And it will not be a fair system until organized criminals and drug traffickers are punished for not paying their taxes as well.

Equipped with modern, computerized technology, IRS has devised sophisticated detection systems for flagging anomalies in tax returns. The discriminate function formula, perfected to a high degree, is a solid, reliable defense against the taxpayer whose deductions are out of line or who is trying to conceal income. Having such a system in place is commendable. The average, law-abiding taxpayer should be encouraged to comply with the Internal Revenue Code. If he does not comply, he should be caught, and IRS has a system for catching him. It is the Subcommittee's recommendation that the IRS develop an equally effective system for detecting persons who do not file returns at all, persons whose work is illegal and who also ought to be made to pay their taxes.

(3) Justice Department officials told the Subcommittee that the Department would like to work out a national strategy with IRS on pursuing organized criminals and drug traffickers. The Subcommittee recommends that such a strategy be developed. IRS also should map out its own national strategy and draft its own set of priorities and goals in organized crime and drug investigations. Its leadership should inmmediately move to do away with the confusion and misconceptions resulting from its strict interpretation of the Tax Reform Act by meeting with IRS agents in the field and instructing them on what can and cannot be done under the Act.

Furthermore, IRS should conduct an accurate investigation of the amounts of legal and illegal unreported income to enable the Service to allocate resources properly.

(4) The Subcommittee recommends that IRS be reorganized. Responsibility for the criminal investigation and intelligence gathering functions should be removed from the Assistant Commissioner for Compliance. It is recommended that a new Assistant Commissioner position be created. It should be the sole duty of this Assistant Commissioner to oversee the criminal investigation and intelligence gathering activities of IRS. This official should be on a par with other Assistant Commissioners and should report directly to the Commissioner of Internal Revenue. This reorganization will provide a chain of command in the criminal division reaching the Commissioner so that he can obtain adequate information in criminal as well as civil matters.

(5) The IRS is requested to submit within 60 days of the issuance of this report a statement as to what action it will take in response to each of this report's findings, conclusions and recommendations for corrective action.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAXALT:

S. 3010. A bill to designate the hospital known as the Veterans' Administration Medical Center, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (by request):

S. 3011. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to approve the release of name and address information from VA records systems for the purpose of bona fide research; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAXALT:

S. 3010. A bill to designate the hospital known as the Veterans' Administration Medical Center, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

IOANNIS A. LOUGARIS VETERANS' ADMINISTRATION MEDICAL CENTER

● Mr. LAXALT. Mr. President. I am today introducing legislation to rename the Veterans' Administration Medical Center in Reno, Nev., the "Ioannis A. Lougaris Veterans' Administration Medical Center." The medical center was established in 1927 in large part due to Mr. Lougaris' efforts. It is truly fitting that the hospital be named after him, in commendation of his many years of service to veterans in the State of Nevada, and as a tribute to his lifelong achievements.

Ioannis Anastasiou "Johnny" Lougaris was born on February 17, 1887, in Zante, Greece. As he was the third of four sons in a poor family, his father sent him to America when he was 19 years old. Upon his arrival in New York, Lougaris shined shoes and sold bags of peanuts for 5 cents from a pushcart along the streets of the city.

In 1907, Lougaris landed a job at the Edison Phonograph Co., which he later left to work on the Rock Island Railroad in Illinois with a group of fellow Greeks. The railroad work took him to California, where he was to help build the railroad from San Francisco to Chico. Lougaris soon decided he did not want to work with pick and shovel any more, so he hopped a freight train bound for San Francisco.

While working in the Bismark Cafe in San Francisco, Lougaris placed an advertisement in the newspaper seeking a room in a private home where he might have the opportunity to improve his English. When he replied to the responses to his ad, he was refused because the discrimination against Greeks was strong. Finally, he told a family in a prospective household that he was Russian, and they agreed to take him. Later, when they discovered he was Greek, his nationality no longer mattered because he had proven his good character.

In December 1917, Lougaris enlisted in the Army to fight in World War I. He fought in several battles in France until he was seriously wounded and sent stateside.

Afflicted with tuberculosis, Lougaris was released from a Chicago veterans hospital, where he was told by his doctor he probably had only about 6 months to live. So in 1920 Lougaris boarded a train bound for the West.

When the train stopped in Sparks, Nev., to add another engine for the arduous climb over Donner Summit, Lougaris stepped out of the coach to stretch his legs. At his first breath of cool, clean Truckee Meadows air and his first sight of the serene Sierras glistering with snow, he made up his mind to stay in that area. Lougaris took a mail order course in law, and passed the Nevada State bar examination in 1927. He became a member of the California Bar as well in 1930. He has practiced law in both States since then. At 92, he continues to work at his law office in Reno, though he has limited the types of cases he works on.

He has been a dedicated advocate for better services to veterans for more than half a century. It was due to his unceasing efforts that the Veterans' Administration Medical Center in Reno was established. On August 13, 1979, Lougaris received a certificate of commendation from American Legion, Department of Nevada, expressing gratitude for his efforts and emphasizing that "the Reno Veterans' Administration Medical Facility stands as a tribute to his dedicated service." The Nevada American Legion further "endorses that the Veterans' Administration Medical Center in Reno, Nev., be named Ioannis A. Lougaris Medical Center."

Mr. President, it is entirely fitting and proper that the Reno Veterans' Hospital be named in this manner. The Veterans' Administration has long followed a policy of naming its hospitals for the locality in which they are situated. But 12 Veterans' Administration hospitals have been named by Congress, including the Olin Teague Veterans Center of Temple, Tex., and the William Jennings Bryan Dorn Veterans Hospital at Columbia, S.C. In view of all of Mr. Lougaris' contributions on behalf of the veterans in Nevada, I believe it is wholly appropriate that the Veterans' Administration Medical Center in Reno, Nev., be renamed the Ioannis A. Lougaris Veterans' Administration Medical Center.●

By Mr. CRANSTON (by request):

S. 3011. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to approve the release of name and address information from VA records systems for the purpose of bona fide research; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 3011, a bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to approve the release of name and address information from VA records systems for the purpose of bona fide research. I ask unanimous consent that the text of the bill and the letter of transmittal with its enclosures be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 3301(f) of title 38, United States Code, is amended by—

(1) Striking the word "or" before clause 2;

(2) Deleting the period at the end of clause 2 and substituting in lieu thereof a comma; and

(3) Adding a third clause after clause 2 and prior to the words "Any organization or member thereof" as follows:

"or (3) to an organization which conducts research or an individual researcher provided that it is determined by the Administrator that the disclosure is:

(A) for an actual scientific research project to be conducted by qualified research investigators;

(B) warranted by the significance of the research; and

(C) subject to reasonable safeguards by the organization or researcher to protect the confidentiality of the information disclosed, and such information shall not be disclosed by the researcher, without prior written consent from the Administrator and subject to such conditions of disclosure as the Administrator may determine, or the individual whose specific name and address is involved.".

Office of the
Administrator of
Veterans' Affairs,
Washington, D.C., July 28, 1980.
Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft bill "to amend title 38 of the United States Code to authorize the Administrator to approve the release of name and address information from VA records systems for the purpose of bona fide research," with the request that it be introduced in order that it may be considered for enactment.

Generally, the VA is restricted to releasing names and addresses in two situations: to nonprofit organizations where such disclosure is directly connected to veterans benefits purposes, and to criminal or civil law enforcement governmental agencies for protection of the public health or safety. 38 U.S.C. § 3301(f) (1), (2). Accordingly, the VA has been constrained from disclosing names and addresses in conjunction with other information (thus making informational disclosures individually identifiable) to non-Federal researchers in most cases. (Individually identifiable information has been disclosed to Federal researchers on the basis of 38 U.S.C. § 3301(b)(3).)

Numerous requests from responsible, high quality now Federal researchers and research organizations for individually identifiable information, for use in epidemiological research in significant matters, have been received in the past two years. The agency has had to turn down these requests for lack of disclosure authority. Of particular note in these requests has been the inability of the VA to make such disclosures to State and private cancer tumor registries in most instances. It has been pointed out repeatedly by State officials that the lack of VA participation in such registries seriously detracts from the quality of the statistical and other work which these registries do.

We have given the matter of research disclosures, and the related privacy implications, careful thought in the past year. It is our conclusion that research disclosures by the VA, subject to proper privacy safeguards, should be authorized. The accompanying draft bill is intended to permit the VA to release names, addresses, and, in conjunction therewith, necessary information, to all non-Federal qualified researchers for significant research purposes.

The major justification for the the intrusion of epidemiological and other types of scientific research into the medical care and other relationships veterans have with the agency is that society's need for significant research is increasing and can be satisfied consistent with principles of privacy. As noted by the Privacy Protection Study Commission in its final report at page 280:

"Epidemiological research was originally concerned with the cause and prevention of infectious diseases, [footnote omitted] but during the last two decades the focus of the discipline has expanded to include the chronic, noninfectious diseases, such as emphysema and cancer, which have emerged as primary causes of illness and death in this country. Because these conditions typically cluster in time and place at a rather low level of intensity; because their progression may be slow; and because their causes are frequently insidious, studying them often requires medical surveillance of a substantial population at widely disparate points in time. For example, the epidemiologist who wants to know whether a particular chemical employed in certain industrial processes was causally associated with bladder cancer might well be required to survey a large number of employees who have been exposed to the chemical at five-year intervals for at least 20 years. Such a task, however, would be impractical, if not impossible, without recourse to the medical records of the population being studied."

The Veterans Administration is a unique and valuable source of medical and other records of a well defined research population—mostly male, without serious defects or health problems upon entry into service, and with well documented and easily traceable records covering decades.

Recognizing its unique capabilities and the legitimate public interest in epidemiological research, the VA has cooperated in bona fide research efforts to the extent which it could under the present law. In this regard, information from VA records (excluding names and addresses for non-Federal researchers), has been made available for retrospective epidemiological research studies, making such disclosures in accordance with the provisions of subsection 3301(e) of title 38, United States Code, and appropriate Privacy Act routine uses.

With enactment of our proposed amendment to 38 U.S.C. § 3301(f) the VA would be authorized to disclose name, address (i.e., individual identifiers) and relevant medical information to a qualified non-Federal researcher. Such a researcher would then be able, for example, to trace the long-range effect of radiation on veterans who operated radio or radar equipment extensively in World War II. Such authority would also permit the agency to fully cooperate with the many cancer tumor registries in the country. Currently, as suggested above, we believe that the present disclosure authority in subsection (f) permits such disclosures only where States have, by law, made those conditions reportable, or where the registry is operated under contract with the National Cancer Institute. Moreover, the requested authority would enable the VA to cooperate more fully with bona fide researcher requests for pertinent information which will foster more useful research results, and a closer working relationship between VA and outside researchers to the benefit of veterans, the VA, and the general public.

This requested research disclosure authority is intended to be sufficiently broad to also authorize research for nonmedical purposes, where serious veterans matters are concerned, but under the same restrictions imposed when medical information would be released, so that other valid veteran-related research interests might also be supported from the VA data bases. While no such requests have been received, we can anticipate receiving such requests. For example, a researcher may wish to trace the impact of the G.I. bill on similarly situated veterans.

While we believe that, in some cases, the benefits to society resulting from disclosure to non-Federal researchers of VA information identified by name and address warrant the resulting privacy intrusion regarding the individuals involved, such an intrusion also requires that appropriate safeguards regarding those individuals be afforded. The draft bill imposes specific safeguards which would work as follows. In processing a written request from a researcher for names and addresses to be used in a research project concerning, for example, the incidence of injury from low-level radiation, the VA would (1) examine the qualifications of the requester, (2) determine whether the significance of studies on low-level radiation warranted a disclosure of names and addresses, and (3) require, by contract or other means of assurance, that adequate confidentiality protections, including nonredisclosure without prior written consent, are taken. Safeguards such as these have been recommended by the Privacy Protection Study Commission. With these adequate safeguards included in our proposed amendment to 38 U.S.C. § 3301 (f), to be detailed in regulations, the objective of striking a proper balance between the individual's personal privacy and society's need for knowledge can be met.

It is our intent to follow the Administration's "Privacy of Research Records Act" (H.R. 3409 and S. 867, 96th Congress) as policy guidelines in drafting implementing regulations, and, should the Administration's bill be enacted before this draft bill, we would suggest that our proposal be amended to incorporate by reference the provisions of the Administration's bill. The principles embodied in that bill are harmonious with, although more detailed than, those of our proposal.

The basic tenets of the Administration's bill with respect to confidentiality as are follows. Individually identifiable research records are only disclosable if the person or agency disclosing the records determines that: (1) any limitations under which the record was provided, collected, or obtained are not violated by such disclosure; (2) the research purpose can only be reasonably accomplished with the information in individually identifiable form; and (3) the risk to the individual that additional exposure of the information might bring is warranted by the research purpose. Moreover, the recipient of the information must not only establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the records, but also remove or destroy this individually identifiable information at the earliest time possible consistent with the research purpose or, alternatively, present adequate justification for retaining such information. Finally, the recipient must attest to the understanding of, and a willingness to abide by, the above conditions.

As the agency provides informational disclosures at cost to a requester, there would be no additional cost to the VA with the enactment of this proposed bill.

Advice has been received from the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress.

Sincerely,

Max Cleland,
Administrator.

Section-by-Section Analysis of Draft Bill

A Bill to amend title 38 of the United States Code to authorize the Administrator to approve the release of names and addresses from VA records to qualified researchers for significant research purposes.

The bill amends subsection 3301(f) of title 38. It adds a new clause (3) to allow the release of names and addresses of veterans and their dependents to qualified non-Federal reseachers. Currently, such requesters are unable to obtain that information. Although information (unassociated with patient names and addresses) from VA medical records is available to such requesters without patient consent (*see* 38 U.S.C. § 3301(e); Privacy Act Routine Use No. 15, 24VA136), full cooperation with researchers such as those working with State cancer tumor registries and conducting studies of non-communicable diseases is precluded.

A proper balance between an individual's personal privacy and society's need-to-know is met in the bill through four basic protections. They include the findings that the disclosure is: (1) for an actual research project of qualified researchers, (2) warranted by the significance of the research, (3) subject to reasonable confidentiality protections, and (4) not to be further disclosed by the researcher without the consent of the Administrator or individual(veteran or dependent) involved.

In implementing these protections by regulation the principles of the Administration's "Privacy of Research Records Act" (H.R. 3409 and S. 867, 96th Congress) will be followed. For example, before any name and address disclosure is made to a qualified researcher the agency will determine that the research purpose could not reasonably be accomplished without this individually identifiable information and that the research purpose warrants the risk to the individual that additional exposure of such information might bring. With respect to the confidentiality protections, the VA would require that the recipient meet reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the name and address information. These safeguards would include the requirement that the recipient remove or destroy this information at the earliest time possible consistent with the research purpose, or, alternatively, present adequate justification for retaining such information. Also, any limitations under which the names and addresses were provided, collected, or obtained must not be violated by such disclosure. Finally, the recipient must attest to the understanding of, and a willingness to abide by, the above conditions.

CHANGES IN EXISTING LAW MADE BY DRAFT BILL

Changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

Chapter	Sec.
51. Applications, Effective Dates, and Payments	3001
53. Special Provisions Relating to Benefits	3101
55. Minors, Incompetents, and Other Wards	3201
57. Records and Investigations	3301
59. Agents and Attorneys	3401
61. Penal and Forfeiture Provisions	3501

* * * * *

Chapter 57—RECORDS AND INVESTIGATIONS

Subchapter I—Records

3301. Confidential nature of claims.
3302. Furnishing of records.
3303. Certification of records of District of Columbia.
3304. Transcript of trial records.

Subchapter II—Investigations

3311. Authority to issue subpenas.
3312. Validity of affidavits.
3313. Disobedience to subpena.

Subchapter I—Records

§ 3301. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section. (Amended P.L. 92–540, § 412(1); P.L. 94–321, § 1(a) (1) (2).)

(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows: (Added P.L. 94–321, § 1(a) (2).)

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the * * * mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper. (Amended P.L. 87–671. § 2; P.L. 91–24, § 11; P.L. 94–581, § 210(b) (1).)

(c) The amount of pension, compensation, or dependency and indemnity compensation of any beneficiary shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim. (Amended P.L. 94–321, § 1(a) (3).)

(d) The Administrator as a matter of discretion may authorize an inspection of Veterans' Administration records by duly authorized representatives of recognized organizations (Amended P.L. 94–321, § 1(a) (3); P.L. 94–581, § 210(b) (2).)

(e) Except as otherwise specifically provided in this section with respect to certain information, the Administrator may release information, statistics, or reports to individuals or organizations when in the Administrator's judgment such release would serve a useful purpose. (Amended P.L. 94–321, § 1 (a) (3), (4); P.L. 94–581, § 210(b) (3).)

(f) The Administrator may, pursuant to regulations the Administrator shall prescribe release the names or addresses, or both, of any present or former members of the Armed Forces, and or their dependents, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, [or] (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law [,] *or (3) to an organization which conducts research or an individual researcher provided that it is determined by the Administrator that the disclosure is: (A) for an actual scientific research project to be conducted by qualified research investigators; (B) warranted by the significance of the research; and, (C) subject to reasonable safeguards by the organization or researcher to protect the confidentiality of the information disclosed, and such information shall not be disclosed by the researcher, without prior written consent from the Administrator and subject to such conditions of disclosure as the Administrator may determine, or the individual whose specific name and address is involved.* Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense. (Added P.L. 92–540, § 412(2); amended P.L. 94–321, § 1(a) (3), (5).)

(g) Any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5. (Added P.L. 94–321, § 1(a) (5).) ●

ADDITIONAL COSPONSORS

S. 1480

At the request of Mr. COHEN, his name was added as a cosponsor of S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

S. 2081

At the request of Mr. TSONGAS, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2081, a bill to prohibit employment discrimination on the basis of sexual orientation.

S. 2239

At the request of Mr. PACKWOOD, the Senator from Missouri (Mr. DANFORTH), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 2239, a bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of incentive stock options.

S. 2355

At the request of Mr. TSONGAS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2355, a bill to encourage basic research by institutions of higher education.

S. 2649

At the request of Mr. CRANSTON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children and for other purposes.

S. 2718

At the request of Mr. STEVENSON, the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade association, and the expansion of export trade services generally.

S. 2828

At the request of Mr. DURKIN, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 2828, a bill to amend the Small Business Act to require the divorcement of motor fuel stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, to provide special loan guarantees to small business concerns for the acquisition of motor fuel stations, and for other purposes.

S. 2858

At the request of Mr. HART, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 2858, a bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241).

S. 2910

At the request of Mr. NELSON, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2910, a bill to provide for the payment of interest by the Federal Government on any amount due for more than 30 days to any person under the terms of a contract entered into by the Federal Government and such person.

S. 2970

At the request of Mr. Tower, the Senator from Utah (Mr. Garn) was added as a cosponsor of S. 2970, a bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable and for other purposes.

S. 2979

At the request of Mr. Metzenbaum, the Senator from Idaho (Mr. Church) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

SENATE RESOLUTION 460

At the request of Mr. Domenici, the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of Senate Resolution 460, a resolution to express the sense of the Senate that the Secretary of Energy should take all necessary actions to promote energy-efficient cooling.

SENATE CONCURRENT RESOLUTION 114—SUBMISSION OF A CONCURRENT RESOLUTION WITH RESPECT TO THE INDEPENDENCE OF JAMAICA

Mr. STONE (for himself and Mr. Lugar) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 114

Whereas the people of Jamaica achieved their independence and established their Constitution on August 6, 1962;

Whereas since that time period they have supported and protected a democratic and pluralistic form of government that preserves individual liberty and respects human rights;

Whereas this nation of diverse races, creeds, and colors has maintained a tradition of open, fair and free election as a peaceful method to solve political differences; and

Whereas the nation of Jamaica has been a shining example of freedom and democracy to other nations in the region, as well as the rest of the developing world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States—

(1) extend its congratulations and best wishes to the people of Jamaica on the 18th anniversary of their independence, August 6, 1980;

(2) encourage the current government to continue its commitment to peaceful change through the electoral process;

(3) extend its full respect for the integrity of the Jamaican internal political process; and

(4) pledge to support and assist the people and the Government of Jamaica in its efforts to protect this heritage from outside influence.

● Mr. STONE. Mr. President, as many of my colleagues know, Jamaican Prime Minister Michael Manley has called for elections sometime before the end of the year—probably in October. I, therefore, join with Senator Lugar today in submitting a sense of the Congress resolution encouraging the Manley Government to continue its commitment to peaceful change through the electoral process. We are convinced that a peaceful election, free from outside interference, will be vitally important for the entire Caribbean region in the coming decade.●

AMENDMENTS SUBMITTED FOR PRINTING

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

Amendment No. 1961

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS (for himself, Mr. Jackson, and Mr. Hatfield) submitted an amendment intended to be proposed by them to H.R. 39, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. JACKSON. Mr. President, the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources has scheduled oversight hearings on "International Applications of Renewable Energy Resources."

The hearings will be held on Tuesday, August 19, 1980, and Thursday, August 21, 1980 at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

The subcommittee will receive testimony on the potential impacts of such applications on the growth of fossil-fuel consumption, the domestic solar industry, and global environmental problems.

If you have any further questions, please contact Veronica Kun at 4–7166.

COMMITTEE OF LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, on behalf of the Committee on Labor and Human Resources, I would like to announce that the committee will hold hearings examining the compensation of the victims of occupationally related diseases. During these hearings, the committee will examine the effectiveness with which the present workers' compensation systems are dealing with occupational disease claims, and the reasons why we may not be effectively compensation occupational disease victims. We will also explore alternatives to the present compensation systems, including those offered by a number of bills currently before the committee. These bills include S. 381, a bill introduced by the Senators from South Carolina (Messrs. Hollings and Thurmond), which would establish a compensation program for individuals disabled due to employment-related brown lung disease; S. 1827, a bill introduced by the Senator from New Mexico (Mr. Domenici), to establish a compensation program for certain uranium miners; and S. 2847, a bill introduced by the Senator from Colorado (Mr. Hart), which would establish a program for the compensation of the victims of asbestos-related diseases.

These hearings will be held on Tuesday and Wednesday, August 26 and 27, 1980, in the Labor and Human Resources Committee hearing room, room 4232 of the Dirksen Senate Office Building. The hearings will commence each day at 9:30 a.m.

Anyone desiring further information about thse hearings, or wishing to testify, should contact Mike Goldberg, Labor Counsel, U.S. Senate Committee on Labor and Human Resources, Washington, D.C., 20510. His telephone number is (202) 224–5437.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environment, Soil Conservation, and Forestry of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate tomorrow (August 5) to consider S. 2861, a bill which would designate certain national forest lands in North Carolina as wilderness and others as nonwilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE INVESTIGATING ACTIVITIES OF INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee Investigating the Activities of Individuals Representing the Interests of Foreign Governments of the Committee on Judiciary be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow (August 5) to continue markup of the Foreign Service Act of 1980 and to consider other pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. EDWARD L. R. ELSON, CHAPLAIN OF THE SENATE

● Mr. GOLDWATER. Mr. President, 50 years is a long, long time to remain in one job, and to me it indicates absolute devotion and dedication. Just a few days ago we observed the 50th anniversary of Chaplain Elson's service as a minister, as a reserve chaplain of the Army and the Chaplain of the Senate. Sometimes I think all of us overlook the great importance of chaplains, but I do not think any man who has ever served in uniform can forget their services, even though the service might only have consisted of a passing by, a casual remark.

I know that every time I talked to a chaplain, I had the warm inner feeling that through him my word was heard by the Lord and in return the Lord would try to do what He could for the problems which at that time beset me. The service of chaplains is long, it is arduous, it means covering every religion, covering it well. It means understanding the soft words of solace and inspiration.

Along with my colleagues, I have seen chaplains serving our men and women in every branch of our military and I, along with all of my colleagues have been privileged to have had Chaplain Elson serve as as Chaplain for such a long time. His morning prayers are something we all enjoy listening to, and then we enjoy going home or having lunch or whatever we are doing and thinking about the words that he said to us at the opening of the Senate.

Chaplain Elson and I went on duty as reservists in the same year, 1930, and while it was never my pleasure to have served with him on active duty, I have many friends who did and like my colleagues in the Senate, those friends in the service have nothing but the very highest of praise for him.

So I take this moment in the quiet of the day, almost the solitude of the day, to thank him for all that he means to me and to all of us.●

THE PERIL OF VANISHING FARMLANDS

● Mr. DURKIN. Mr. President, one of the most critical problems that this Nation faces today is the loss to development of prime agricultural land. We have known about this trend for some time, yet it continues unabated, gobbling up crop land at the rate of some 4 square miles a day.

A Federal study being carried out by the President's Council on Environmental Quality and the Department of Agriculture has projected that my home State of New Hampshire will lose all of its prime agricultural land within a generation. This is a frightening notion to anyone who has taken a summer's drive along the upper Connecticut River in New Hampshire and seen mile after mile of hay and cornfields, interspersed with well-tended farms and grazing Holstein cows. Where will the milk come from when the cows have been sent to the auction block and the fields carved into house lots?

This notion is even more frightening in light of constantly-rising energy costs which continue to reduce the spending power of New Hampshire residents. An enterprising group of citizens in my State has embarked on a plan to grow their own vegetables so they do not have to pay the high cost of transporting fresh produce from California and other faraway places. This ambitious plan, however, cannot take place without adequate farmlands.

A great economic asset of this Nation lies in its ability to grow its own food; we must not let this critically important resource slip away. A national policy to preserve farmlands is critical if we are not to awake one day and discover that development has taken all of our productive crop land.

M. Rupert Cutler, Assistant Secretary of Agriculture, has written a thought-provoking article which appeared this month in the New York Times on the problem of vanishing farmlands. I ask that the article be printed in the Record.

The article follows:

[From the New York Times, July 1, 1980]

The Peril of Vanishing Farmlands

(By M. Rupert Cutler)

Washington.—America is on the brink of a crisis in the loss of agricultural land that may soon undermine our ability to produce sufficient food for ourselves and other nations of our hungry world.

Every day in the United States, four square miles of the nation's prime farmland are shifted to uses other than agriculture. Visualize a strip of land a half-mile wide stretching from New York to California. That's a million acres—the amount of prime farmland irreversibly lost to agriculture every year through urban sprawl.

Florida, producer of half the world's grapefruit and one-fourth of the world's oranges, will lose all of its unique and prime lands in less than 20 years if the current conversion rate continues. New Hampshire and Rhode Island also are destined to lose all of their prime agricultural land.

The status and availability of our agricultural lands are being examined in the National Agricultural Lands Study, being carried out by a Federal inter-agency task force led by President Carter's Council on Environmental Quality and the Department of Agriculture. Ten other Federal agencies are participating.

The study's projection for an imminent wipeout of unique and prime farmlands in Florida, New Hampshire and Rhode Island is based upon its analysis of the Agriculture Department's 1967 conservation-needs inventory and the Soil Conservation Service's 1977 national-resource inventories, which showed acres converted to urban, industrial, transportation and water uses in every state.

If conversion continues at the 1967–1977 rate, grave losses are foreseen in other states. West Virginia will lose 73 percent of its prime farmland in less than a generation; Connecticut, 70 percent; Massachusetts, 51 percent; Maryland and New Mexico, 44 percent; Vermont, 43 percent; Utah, 35; Virginia, 24 percent; Washington, 23 percent; and Pennsylvania, 21 percent. New York and California, both top agricultural producers, will lose 16 and 15 percent, respectively, and New Jersey, 9 percent.

Why should we be concerned?

Prime farmland is the best land for farming. It is flat or gently rolling, and susceptible to little soil erosion. It is our most energy-efficient land, producing the most food with the least fuel, fertilizer and labor.

Prime, flat acres are also the easiest, least expensive to build upon. Despite soaring costs, the land is still a speculator's bargain in many regions. But the nation and the world may pay a devastating price for today's quick profits on development dollars.

Consider this observation by Allen Hidlebaugh, resource inventory specialist in the inter-agency task force: "Even in America's agricultural heartland—the Corn Belt states—there is cause for concern. We anticipate a total of 3.2 million acre prime farmland loss in Iowa, Illinois, Indiana, Ohio and Missouri combined if present trends continue to the year 2000. The annual loss will equal 480 million bushels of corn—at $2.50 a bushel a permanent loss of $1 billion a year every year by the century's end."

Florida's State Commissioner of Agriculture, Doyle Connor, says: "Every time a highway or retirement homes are built on Florida farmland, we increase the likelihood of our dependence on other nations for food. Already the U.S. is importing vegetables from Mexico and South America. Today we are experiencing deprivation because of our dependence on foreign oil. Is the next deprivation food?"

What is the solution? With varying success, 48 states are attempting to protect their agricultural land. Sophisticated and effective farmland-retention programs are under way in Oregon and Wisconsin. New York is the first state to have organized agricultural districts, thereby protecting more than six million acres—well over half the state's best agricultural land. At high cost, Connecticut, Massachusetts and New York have purchased the development rights of prime farmland. Zoning and preferential taxation are in effect in many states; usually this merely delays rather than prevents conversion.

Because there is no national policy to protect prime farmlands, some Federal agencies have recognized a need for action. In 1978, the Agriculture Department and the Environmental Protection Agency adopted policies limiting the adverse impacts of their actions on prime farmlands. Other Federal agencies are developing similar policies.

An approach worth serious consideration may be a requirement that a Federal project include the cost of acquiring the development rights of agricultural lands that are equal in productive capacity to land lost through the project's action. In all likelihood, this would result in the selection of project sites with little or no adverse impact on prime farmlands.

Perhaps the greatest need of all is for public education. People must fully understand the irreplaceable value of prime farmlands, and the ominous meaning of the war between the bulldozer and the plow. When farmland goes, food goes. Asphalt is the land's last crop.●

DANGEROUS TRADE

● Mr. HARRY F. BYRD, JR. Mr. President, during the winter months the Subcommittee on General Procurement of the Committee on Armed Services heard testimony concerning strategic trade and technology transfer with Russia. As chairman of the subcommittee, I was very distressed to hear senior administration officials acknowledge that U.S. exports were helping to build the Soviet war machine.

On June 24, 1980, the Richmond Times-Dispatch voiced support for the work of Senator Jake Garn in his effort to block the export of strategic goods and technology to Russia and the Warsaw Pact countries. Specifically the Times-Dispatch urged passage of Senator Garn's legislation to establish a new office of strategic trade divorced from the pro-East-West trade bias of the Department of Commerce.

I have reviewed Senator Garn's proposal which is before the Senate Committee on Governmental Affairs and is Senate bill 2606, and I shall give my full support to the measure.

I commend to the attention of the Senate the Times-Dispatch article and ask that the editorial be printed in the RECORD.

The editorial follows:

DANGEROUS TRADE

"The Western countries now are funding two defense budgets—their own and the Kremlin's." This concern recently was attributed to former NATO economic director Yves Laulen by Arnaud de Borchgrave, vetern European correspondent for Newsweek. Mr. Laulen was referring to Western governments' licensure of scandalous sales of sophisticated technology with military applications to the Soviets, often on remarkably easy terms of credit.

Sales of miniature ball bearing grinding machines, automated assembly lines for engines and heavy equipment and a plethora of electronic gear by U.S. companies alone have been indispensable to the current Soviet military campaign in Afghanistan and to the mighty threat the Soviets now pose to the entire Free World. American taxpayers will have to pay staggering amounts to develop and deploy defense systems simply to catch up with advantages the Soviets have gained through sales by eager American industrialists.

The U.S. agency that is supposed to prevent transfer of sophisticated technology to our enemies, the Office of Export Administration, operates under the authority of an agency whose aim is contradictory. The OEA is but an arm of the Department of Commerce, whose primary purpose is to promote trade. Editorials here on Feb. 11 and Feb. 18 detailed several crucial technology sales approved by Commerce Department higher-ups over the vigorous protests of OEA officials; they told, too, of the ordeal of Lawrence Brady, the OEA deputy director harassed into resigning after he had become a "whistleblower" against the Commerce Department's scandalous laxity in trade control.

Now Sen. Jake Garn, R-Utah, has come forward with a bill that ought to make control of sensitive international sales more effective. His proposal would establish an independent Office of Strategic Trade whose director would be appointed directly by the president. The OST not only would take the Office of Export Administration away from its often untenable position within the Commerce Department, but it also would consolidate the numerous other functions in oversight of strategic trade now carried out by parts of the State, Defense and Treasury departments.

An Office of Strategic Trade divorced from the promotion-conscious Commerce Department would be a first step toward preventing fulfillment of Lenin's dream of unscrupulous capitalists selling their own hanging nooses to the communists. The needed follow-up step, of course, would be appointment of tough, capable administrators for strategic trade control. Congress must not hesitate to take Step One: adopting the Garn bill.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I would like to report that, according to the latest U.S. Census Bureau approximations, the total population of the United States on August 1, 1980, is 223,260,639. This is an increase of 224,659 since July 1. Since this time last year, our population has grown by an additional 2,294,882.

During the past month we have added enough new people to our population to fill the cities of Albany, N.Y., and Pasadena, Calif. Over the past year, our population has increased enough to more than fill the city of Philadelphia.●

EXPLORATION ACTIVITY OF MAJOR OIL COMPANIES

● Mr. BUMPERS. Mr. President, during the debate on the windfall profit tax, I introduced information prepared by the Congressional Research Service about the exploration activities of the 20 major oil companies. The report was revealing about the lack of exploration by the largest oil companies in relation to the sizable profits that have been reaped in the past 12 months.

After reviewing a number of annual statements of the major oil companies, I requested the Congressional Research Service to update the material that was prepared for me last November. If anything, the statistics are even more disappointing. They reveal most graphically that rising oil prices have not resulted in any stepped-up exploration by the major oil companies.

Mr. President, I ask that the information prepared by CRS be printed in the RECORD.

The information follows:

OIL COMPANY EXPLORATION OUTLAYS

[Dollar amounts in millions]

	(1)		(2)		(3)		(3)/(1)		(3)/(2)	
	Adjusted revenue[1]		Net income after taxes[2]		Exploration expenses[3]		Percent		Percent	
Company	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
1. Exxon	$63,884	$83,541	$2,763	$4,295	$775	$1,052	1.2	1.3	28.1	24.5
2. Mobil	34,736	44,721	1,131	2,007	253	359	.7	.8	22.3	17.9
3. Standard Oil of California	24,106	30,938	1,089	1,785	371	409	1.5	1.3	34.1	22.9
4. Texaco	28,608	38,350	853	1,759	NA	NA	NA	NA	NA	NA
5. Standard Oil of Indiana	14,962	18,610	1,076	1,507	496	589	3.3	3.1	46.0	39.0
6. Gulf	18,069	23,910	785	1,322	389	412	2.1	1.7	49.6	31.2
7. Standard Oil of Ohio	5,198	7,916	450	1,186	64	64	1.2	.8	14.1	5.3
8. Atlantic Richfield	12,298	16,234	804	1,166	308	431	2.5	2.7	38.3	37.0
9. Shell	11,949	15,222	814	1,126	340	373	2.8	2.4	41.7	33.1
10. Phillips	6,998	9,503	718	891	64	248	.9	2.6	8.9	27.8
11. Conoco	9,455	12,648	451	815	234	238	2.4	1.9	51.8	29.2
12. Sun	7,494	10,666	415	670	94	115	1.3	1.1	22.6	16.4
13. Getty	3,515	4,831	330	604	251	290	7.1	6.0	75.9	48.0
14. Tenneco[4]	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
15. Amerada Hess	4,702	6,770	134	507	70	95	1.4	1.4	50.7	18.7
16. Union of California	5,955	7,568	382	501	179	260	3.0	3.4	46.9	52.0
17. Cities Services	804	1,117	118	348	231	211	28.8	18.9	196.0	60.6
18. Marathon	4,905	7,136	225	323	87	137	1.7	1.9	38.8	42.3
19. Pennzoil	1,8[illegible]9	2,531	128	239	75	52	4.1	2.1	58.6	21.8
20. Ashland	5,426	6,740	245	526	66	27	1.2	.4	27.0	5.0

[1] Adjusted revenue includes sales and operating revenue and excludes excise taxes, dividends, interest, and other sources of income.

[2] Excludes extraordinary gains and losses.

[3] Exploration expenses includes dry holes and excludes production and development costs.

[4] 1979 annual report not available.

Source: 1979 annual reports of the companies.●

OBJECTION TO TAX ON SOCIAL SECURITY

● Mr. DURKIN. Mr. President, I strongly object to the recommendation by the Social Security Advisory Council to tax social security earnings. And I am pleased to be a cosponsor of Senator NELSON's resolution opposing this tax.

In light of today's energy-fuel, double-digit inflation, I find it inconceivable that such an ill-advised, unfair proposal could even be considered. Our older Americans need immediate tax relief, not an additional tax burden.

The social security program was instituted over 40 years ago and it is an essential measure of economic protection for millions of our Nation's senior citizens. Under present law, social security and railroad retirement benefits are not taxable. I firmly believe that they should remain free from taxation.

Social security benefits represent long years in the labor force. They are hard-earned and well deserved. To begin taxing these benefits would be tantamount to changing the rules in the middle of the game. This would be extremely unfair to recipients and workers alike.

It is also important to note that taxpayers are not allowed to deduct their social security contributions while computing their tax in their earning years. A tax on social security benefits would then, in effect, be a form of double taxation. Taxes are objectionable enough, but double taxation is simply out of the question.

Most importantly, however, this untimely proposal will substantially and detrimentally affect the millions of senior citizens across the land who rely heavily on these hard-earned but modest benefits. Social security benefits must remain tax free if our older Americans are to remain free from the ravages of today's energy-fueled inflation.

Additionally, I want to reiterate my longstanding objection to any proposal which would reduce social security benefits. While I am in favor of reducing the payroll tax of our already overburdened workers, one proposed tax cut under consideration would result in an immediate savings of almost $150 to many of New Hampshire's workers. I am confident that this can be done without jeopardizing the quality of this vitally needed program.

I will continue in my efforts to assist our Nation's senior citizens and I urge my Senate colleagues to support this resolution and to join me in opposing any proposal to tax or reduce social security benefits.●

FOOD AND FEED GRAIN PRICE ADJUSTMENTS

● **Mr. FORD.** Mr. President, last week, President Carter and Secretary Bergland announced several important adjustments in current USDA food and feed grain programs. Basically these adjustments amount to increases in commodity loan prices and release and call prices for the farmer-owned grain reserve. The details of the changes involving wheat, corn, soybeans, and related grains are summarized in the table following my remarks.

Mr. President, these changes are long overdue. I am heartened to discover that the administration is finally willing to recognize what we who represent important farm States have known for weeks: American farmers are in a serious cost/price squeeze. These changes will help in a modest way to enable grain farmers to meet this year's staggering operating costs. However, the long-term viability of American grain farmers is still not assured even with these modest program changes.

In July, the U.S. Department of Agriculture reported new crop production costs estimates to the Senate Committee on Agriculture. These estimates present a dismal picture for American farmers in general and for many Kentucky farmers in particular. For instance, the USDA production cost estimates for corn produced in the Southeast last year amount to $2.33 per bushel. Thus, production costs exceed the new loan rates announced by the President this week. This situation cannot continue indefinitely without serious damage to the future of corn production in the Southeast.

Further evidence of the cost/price squeeze in agriculture is found in the July 31 agricultural prices released from the USDA Crop Reporting Board. This release shows the preliminary prices received by farmers index is 244 for July. The prices paid by farmers index—commodities and services, interest, taxes, and wage rates—is estimated to be 280. This results in a ratio of prices received to prices paid of 0.87. The implication is clear. Unless the prices received by farmers increase dramatically in the coming days, the cost/price squeeze means more bankruptcies and farm failures as this crop season comes to a close.

President Carter's actions this week provide a little help for farmers to repay basic operating costs and, at the same time, delay grain marketings until prices, hopefully, rise enough to cover full production costs. The record wheat crop we are putting into bins right now and the prospect for record wheat supplies will make it difficult for wheat prices to ever really recover enough to cover all costs of production. However, the unfavorable—nearly disastrous—summer weather seems to be affecting the corn and soybean crops such that harvest levels will be down and prices may rise later in the season. But these improvements in prices come at the expense of reduced yields for many corn and soybean producers.

I applaud the July 28 actions by the President. At the same time, however, we here in the Congress should be taking a long look at the important food and feed grains programs, with the idea of legislating some changes that will generate longer term program benefits, improve exports, and assure the American consumer a stable food supply.

Mr. President, I submit for printing in the RECORD a table showing the loan, reserve release, and call prices announced by President Carter on July 28, 1980.

The table is as follows:

LOAN, RESERVE RELEASE AND CALL PRICES ANNOUNCED BY PRESIDENT CARTER ON JULY 28, 1980

[In dollars per bushel]

	Wheat	Corn	Sorghum	Barley	Oats	Rye	Soybeans
Loan prices:							
Current	2.50	2.10	2.00	1.71	1.08	1.79	4.50
New	3.00	2.25	2.14	1.83	1.16	1.91	5.02
Reserve release prices:							
Existing reserves:							
Reserve I	3.50	2.63	2.50	2.14	1.35	---	---
Reserve II	3.75	---	---	---	---	---	---
Modified reserves:							
Reserve I	4.20	2.81	---	2.29	---	---	---
Reserve II	4.50	---	---	---	---	---	---
New reserve	4.20	2.81	2.68	2.29	1.45	---	---
Reserve call prices:							
Existing reserves:							
Reserve I	4.38	2.94	2.80	---	1.51	---	---
Reserve II	4.63	3.05	2.90	2.48	1.57	---	---
Modified reserves:							
Reserve I	5.25	3.15	---	---	---	---	---
Reserve II	5.55	3.26	---	2.65	---	---	---
New reserve	5.25	3.26	3.10	2.65	1.68	---	---
CCC sales price:							
Current:							
General	4.75	3.15	3.00	2.57	1.62	---	---
Gasohol	4.75	2.63	---	---	---	---	---
New:							
General	5.51	3.42	3.26	2.78	1.76	---	---
Gasohol	5.51	2.81	---	---	---	---	---

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ACID RAIN

● **Mr. DURKIN.** Mr. President, I have been concerned about the problem of acid rain and its effect on the environment for some time. In June I chaired a Senate Energy Committee hearing in Concord, N.H., and heard ominous reports about the future impact of acid rain on New Hampshire's lakes, forests, and agricultural lands. The acid rain is caused by factories and utilities in the industrialized Midwest that spew forth nitrate and sulfate pollution into the air. Prevailing winds then carry these pollutants to the Northeast, where they mix with precipitation and fall to the Earth as an acid that is often as strong as vinegar. The rain has had a particularly devastating effect on the fish population of high altitude lakes and ponds in New Hampshire and throughout the Northeast. The New Hampshire Fish and Game Department has reported that all the young trout stocked at one pond this spring died soon after release because they were not able to withstand the shock of the acidic water.

Mr. President, there are some who would say that a few fish are not too great a price to pay for economic growth and healthy industries. I, for one, see the acid rain crisis in New Hampshire as a harbinger of the difficult choices that confront us in the Congress in the weeks and months ahead. We can idly sit by and slowly poison our environment, or we can take positive—but sometimes difficult—steps immediately to see that a reasonable effort to keep the environment safe for us all is made now. One such step is my amendment to the synthetic fuels bill which allows us to study the size and scope of the acid rain and begin stamping out this insidious problem. My hope is that some day very soon the New Hampshire Department of Fish and Game will be able to return to that same trout pond and stock yearling trout in a healthy environment where they will thrive.

Nelson Bryant, the well-known outdoor writer for the New York Times, has written an excellent article on the problem of acid rain in New Hampshire. Mr. Bryant is particularly well-qualified to write about fishing in my home State because of his years of service as a New Hampshire Fish and Game Commissioner. I ask that his article be printed in the RECORD.

The article follows:

[From the New York Times, July 20, 1980]

TROUT FEEL STING OF ACID RAIN

(By Nelson Bryant)

Although it is called a lake, Solitude is really a five-acre pond tucked in a granite bowl beneath a 2,722-foot ridge on Sunapee Mountain in Merrimack County, N.H.

For more than a decade in years long gone, my sons and I visited the lake. We climbed the mountain, camped on the lake shores, built rafts from which to fish for trout and had our moccasins stolen by porcupines; we heard wild geese, lost in the swirling mists over the mountain, calling to one another, and we watched a lone beaver build his dam. One lovely summer we were visited by a varying hare that emerged from the hemlocks four times to eat campfire biscuits from our hands.

Solitude is still there, but it is changing. Bitter rains, commonly known as acid rains, are falling into it, and soon the dark, red-fleshed, deep-bellied brook trout it holds will be no more.

One might postulate that the loss of a few hundred trout is no significant event, and even that I would challenge, but it is also the loss of a wilderness symbol, one more example of man's corruption of the planet. Worse, Lake Solitude is only one of hundreds of similar lakes and ponds in the Northeast similarly affected.

Most of the contamination—acid aerosols, usually in the form of sulfates and nitrates—comes from factories burning fossil fuels (coal, petroleum and natural gas) in the highly industrialized Ohio River Valley. The acid pollutants are carried northeast by prevailing winds and come to earth in rain or snow. High-altitude ponds get a heavier dose because the mountains trap moisture-bearing air masses.

One of the most dramatic trout kills in the Northeast came last spring, when New Hampshire Fish and Game Department personnel stocked the isolated 28-acre Caldwell Pond in Alstead by helicopter. Caldwell was one of the state's best remote trout ponds, once yielding brook trout of two pounds and more.

A short while after Caldwell had received its fingerling trout, visitors to the pond reported that dead fish, were all over its bottom. Water samples from the pond revealed that its acidity was extremely high, about 10 times higher than it was three decades ago.

Charles Thoits, chief of inland and marine fisheries for the state, said that the kill apparently involved only the fish recently planted. Apparently, he said, the older trout that escaped anglers and other predators, and had spent one season or more in the pond, were able to withstand the increased acidity.

The newly stocked fish, Thoits said, "had probably been enjoying a pH of about 6 in the hatchery, and Caldwell's 4.5 or less was just too much of a shock for them."

The letters pH designate the potential of hydrogen, a measure of a solution's acidity or alkalinity. A pH of 7 is neutral; anything lower than that is acid, anything more is alkaline. Acidity or alkalinity on the pH scale increases logarithmically; pH 4 is 10 time more acid than pH 5.

Trout can do well in waters as acid as 5.6, but such an environment is not ideal. Some of the more productive trout waters, such as the limestone streams of Pennsylvania, are neutral or even alkaline. In 1948 Caldwell had a pH of 5.8 to 6.2. Recent readings were 4.2 to 4.7.

After observing what happened to Caldwell, New Hampshire biologists took water samples from most of the state's remote trout ponds, among them Lake Solitude, while they were socked and learned that 46 of 48 ponds showed increased acidity. Two former trout ponds—Cone Mountain Pond in Thornton and Rocky Pond in Wentworth—are now too acid to warrant the stocking effort. The state will probably try again with Solitude, Caldwell and the others. Two ponds unaffected by the acid rain were in the northern part of the state (Coos County) in a limestone region.

Many of New Hampshire's remote trout ponds are encased in granite. There is little soil or organic matter around them to trap and buffer the acid-bearing snow or rain. The state's larger lakes are not similarly affected, Mr. Thoits said, because they have a larger volume of water and because of the aforementioned buffering effect of organic material.

Maine also has acid-rain problems, although Lyndon Bond, chief of fishery research and management for the state, said the state had no ponds so acid that they would not hold some trout. A few have had pH readings of 4.5. Maine, like New Hampshire, is concentrating on monitoring the smaller, high-altitude lakes and ponds.

Vermont is also watching its waters, says Angelo Incerpi, director of fisheries, but has not discovered a significant acid problem. The state has few granite-bound high-altitude trout ponds.

New York State biologists and scientists have been bellwethers in the country's awareness of the acid-rain difficulty. And well they might because, as of the last count, 237 lakes and ponds in the Adirondacks, most of them former brook-trout waters, were believed no longer capable of supporting viable trout populations. State biologists regard any pond or lake with a pH below 5 as being in that category.

The acid-rain problem is not confined to the United States. Many waters in Canada, particularly those downwind (east) of the huge nickel-smelting complex in Sudbury, Ontario, are similarly affected.

Brown trout and Atlantic salmon populations have been decimated by acid rain in southern Scandinavia. The salmon is vulnerable because the young remain for as long as five years in freshwater streams before dropping down to the ocean.

Acidity in lakes, ponds and streams in the Adirondacks and elsewhere in the Northeast tends to rise during the spring runoff. Dr. Carl Scofield of Cornell University has postulated that even though adult brook trout might survive, their eggs and larvae could be destroyed, spring being the period when the species' fall-spawned eggs are hatching out.

Clearly, there is nothing that can be immediately done to end the factory emission problem. But according to Dr. Dwight Webster, professor of fishery science at Cornell, a few palliative steps can be taken.

Spreading lime over a pond from a boat or aircraft is one procedure, although this is expensive and does not last forever. It is also possible to develop acid-tolerant strains of trout, a project under way in New York State.

"I don't think we should just throw in the towel on the problem," Mr. Webster said, "and sit around for 50 years waiting for the lakes to clear up. We need funds to do this sort of thing on the scale it's being done in Sweden and Norway, where the Government is putting up literally millions of dollars."

Early this month Congress passed the so-called synthetic fuels bill, which included an amendment on acid precipitation. The amendment, co-sponsored by Senator John Durkin, Democrat of New Hampshire, authorized $125 million for studying the problem.●

THE HOPI-NAVAJO LAND DISPUTE

● Mr. GOLDWATER. Mr. President, on the 8th of July, the President signed into law S. 751. I approve of this action, which will hopefully speed a resolution to the Hopi-Navajo land controversy.

The Hopi-Navajo land dispute is well over 100 years old, having its origins in events which transpired long before the West was fully settled. As a young boy growing up in Arizona, I became aware of this controversy, which had already festered for decades. I have had the opportunity to observe first-hand the inequities and injustices which this unfortunate dispute had generated. I know very well the concerns and fears of both tribes, and I am personally acquainted with the people and the lands involved.

As a result of my background, I am especially sensitive to the human aspects of this problem. I recognize that under this legislation some Navajos will be required to leave lands on which they have lived for many years. I also recognize that such a result is required in order that decisions which sanction the Hopi's age-old claim to these lands be fully implemented.

Many of us had initially hoped that this dispute could be resolved without a partition or without relocation. We had hoped that the two tribes could have lived together side-by-side, sharing the joint lands equally. Until recently, there was no mandate that the lands should be partitioned and there was no court decision requiring the ultimate relocation. Now, however, the district court has spoken and it has been upheld by the nine circuit court of appeals. A partition has been decreed and relocation is now a necessity.

In 1974 when the Navajo-Hopi Settlement Act was passed, we in Congress had earnestly desired a resolution of this problem in the "Indian way"—through negotiations between the two tribes. The 1974 act mandated a 6-month negotiation period, presided over by a top Federal mediator. The tribes met and talked but no agreement came. As a result, the matter went back to the court for a final decision. That decision was handed down on February 10, 1977. Navajo appeals have proved unsuccessful.

Thus, we are faced with a problem to which there is no easy or pleasant solution. I am grateful, however, that we are now acting to expedite a final settlement because I am convinced that further delay will harm both Navajo and Hopi alike.

These amendments represent Congress final effort to ease the hardship of relocation and at the same time express our resolve to get this job done. It is estimated that approximately 600 Navajo families actually residing on the Hopi partitioned lands inside the 1882 Executive order reservation will be relocated. When a partition occurs in the 1934 reservation area, many additional Navajo families will be resettled.

Again, this backdrop, the Navajos asked Congress for benefits which expanded those available under the 1974 act. I reacted sympathetically to that request. I was particularly concerned about the Navajo elders of the Big Mountain Area, many of whom are now facing relocation. Even before Navajo court appeals had been exhausted, I committed to do my best to assist these people.

As a result of the concerns which we expressed, Public Law 96–305 now contains explicit life estate provisions which protect those who are physically disabled or aged, with a special priority given to Big Mountain residents. Under these amendments (and over Hopi objections), the Navajos may be awarded up to 120 life estates of 90 acres each. Navajos who were 49 years of age in 1974 may apply to the Relocation Commission for such a life estate. These life estates exceed the terms permitted by the court in the initial partition and will benefit individual Navajos.

At the same time, I was also concerned about the delay in moving the relocation forward. The Relocation Commission needed additional tools to accomplish its job. The Commission has already taken more than 3 years since the final partition order to prepare its plan. That delay cannot be justified and these amendments do not sanction such ineffectiveness. However, Public Law 96–305 now provides the additional tools which the Commission has asked for. No rational basis can exist for continued delay on the part of the Commission.

The Hopis have voiced objections to efforts of the United States to interference with their jurisdiction over their tribal lands. By denying Hopi jurisdiction over their lands, the United States has effectively prevented the Hopis from using any of their partitioned lands. These amendments also rectify their unfair situation. Within 90 days of the date of these amendments, the Hopis obtain what may be called "planning jurisdiction" over their lands and on or before April 18, 1981, the Hopis obtain full and complete jurisdiction over all their lands. This is an essential part of this legislation. The amendments do not merely grant to the Secretary of the Interior the right to dictate what will happen to each tribe's lands. Instead, the amendments place this authority where it rightfully belongs, with each respective tribe concerning the tribe's own lands.

This important provision will have some significant consequence; each tribe will be able to apply its own range conservation ordinances; each tribe will be able to enforce its own grazing ordinances; and each tribe will be able to use its own law-and-order system on its own lands. Of course, the amendments require that those awaiting relocation or residing on life estates be treated fairly and authorize the Secretary to step in to correct specific situations of abuse. However, the Secretary is not given any new authority to interfere with tribal jurisdiction when that jurisdiction is carried out in a fair manner.

Another significant result of these jurisdictional amendments is that the former Joint Use Field Office of the BIA—now the Flagstaff Administrative Office is, in effect, abolished; saving the taxpayers millions in heretofore wasted dollars. All responsibilities of the former JUA field office are transferred to either the area offices or to the tribes themselves. This change should also serve to expedite the resettlement process. Since its creation in 1973, the JUA field office has failed to enforce the law, has ignored court orders, and has contributed to the worsening of this dispute. Its demise is met with no regret.

The amendments also contain another important Navajo benefit. Under the 1974 act, the Navajo Tribe is authorized to acquire up to 250,000 additional acres for resettlement of relocatees. These amendments increase that amount of 150,000 acres to a total of 400,000 acres. The present vast Navajo Reservation contains nearly 16 million acres. The new lands will provide some desired new grazing lands. Present Navajo grazing areas are greatly overstocked. The new lands will help to alleviate that situation. It is important to note, however, that acquisition of the new lands is not a prerequisite for the relocation. The program of resettlement will go forward, regardless. The Navajo Tribe can avoid some of the relocation problems by promptly selected and acquiring the permitted new territory.

The two tribes are presently litigating the title status of the 1934 reservation area. That case involves approximately 8 million acres. Under the precedent of Healing against Jones, the Hopis are claiming a one-half interest in this area. Congress has never required that a showing of use or occupancy be made to establish an interest in these lands under either an existing Executive order or statute. As a result of that litigation, it is anticipated that the Hopis will have partitioned to them a significant part of the 1934 reservation area. These amendments were adopted with such a future partition in mind. The benefits, including the additional lands provided for, were framed with the 1934 reservation litigation also in mind, even though the net Hopi gain will exceed the total number of new acres which the Navajos are allowed to acquire.

In short, Public Law 96–05 constitutes Congress last effort to adjust this matter before it is finally resolved. Leaders of both tribes conceded that this would be the last time Congress would be asked to review this dispute. All of us, I am sure, intend to hold the tribes to that commitment. We also intend to see to it that the Relocation Commission and the BIA does not drop the ball. Each tribe, of course, retains the ultimate jurisdictional authority to enforce the relocation mandate if the United States fails to carry out congressional intent.●

OPPOSITION TO SALE OF SUPPLEMENTAL MILITARY EQUIPMENT TO SAUDI ARABIA

● Mr. DURKIN. Mr. President, the administration is considering a request from the Government of Saudi Arabia to purchase supplemental military equipment which would double the offensive capability of 60 advanced F–15's sold to the Saudis 2 years ago. I am totally opposed to allowing the Saudis to purchase any such supplemental military equipment.

Two years ago, I voted against an administration proposal to sell the Government of Saudi Arabia 60 advanced F–15 fighter planes. While the Congress as a whole reluctantly acquiesced to the sale, I opposed the proposal because I gravely doubted the wisdom of placing such lethal weaponry directly into the hands of an admitted adversary of our own special friend and ally, Israel. I recall that the Carter administration officials, in intense debate over this matter, repeated time and again that the planes sought by the Saudi's would not pose any threat to the security of Israel. The administration stated flatly to the Congress that the planes did not possess the necessary military equipment to pose such a treat, that the Saudi's had not requested any such equipment, and that the administration had no intention of selling any such equipment to the Saudis.

I would like to remind the administration that it assured Congress in a letter dated May 9, 1980, from Secretary of Defense Harold Brown to the Senate Foreign Relations Committee, that—

> The aircraft can carry three external fuel tanks, but the plane requested by Saudi Arabia will not be equipped with special features that could give it additional range. Specifically, the planes will not have conformal fuel tanks ("fast packs"), i.e., auxiliary fuel tanks that conform to the body of the plane, and Saudi Arabian KC–130 tankers do not have equipment for air refueling of the F–15's.

> The Saudi Government has now requested both the auxiliary fuel tanks and equipment for refueling.

Secretary Brown further stated:

> Saudi Arabia has not requested that the plane be outfitted with Multiple Ejection Racks (MER200) which would allow the plane to carry a substantial bomb load. The U.S. government will not furnish such MER's . . .

The Saudi Government has now requested the bomb racks, and the administration has the request under consideration.

Secretary Brown outlined the core of the administration's argument in favor of the sale of the planes to Saudi Arabia as follows:

> The Government of Saudi Arabia has assured us that it has no aggressive intentions against any state, that it will use the F–15 aircraft only in furtherance of its legitimate self-defense, and that it will not employ the aircraft offensively.

The addition of extra fuel tanks and the acquisition of air refueling capability extend the range of the F–15 from 450 miles to 1,000 miles. Let me ask, does the added range enhance the aircraft's defensive or offensive capabilities?

The addition of bomb racks to the F–15 turns the plane from a fighter to a fighter-bomber. Let me ask, does this added attack dimension enhance the aircraft's defensive or offensive capabilities?

The administration alleged, contrary to weight of military opinion, that the Saudi F–15's would not be able to engage in strikes against Israel. The extra fuel tanks would clearly give the F–15 much greater ability to do so. The administration had promised that the Saudi F–15's would not be given ground-attack capability. The addition of bomb racks would do so.

Why is Saudi Arabia seeking this increased military potential? President

Carter's allusion to changes in the balance of power in the Middle East due to recent events in Iran and Afghanistan does not hold up under scrutiny.

In his letter to the Senate Foreign Relations Committee in May 1978 Secretary Brown pointed out that—

> The sales agreement (for the F–15s) reserves to the United States the right to suspend or cancel deliveries at any time "when the national interest of the United States so requires.

Is it in our national interest to allow Saudi Arabia to transform these fighter aircraft into superior offensive, long-range fighter-bombers? And if this is the professed desire and intention of the Saudi Government, is it wise to continue with the actual delivery of the original W–15's themselves?

The most audacious aspect of this entire affair is that the administration has not rejected the request outright. By actually considering the Saudi request, the administration strikes a serious blow against its own credibility in the eyes of the Congress, Israel, and every one of our allies around the world. As a matter of military policy, and as a matter of foreign policy, I strongly urge my colleagues to join me in condemning this total contradiction in pursuing our international goals and in protecting our national interest.●

COLORADO'S ANALYSIS OF THE FAILURE OF THE FEDERAL HIGHWAY BEAUTIFICATION ACT

● Mr. STAFFORD. Mr. President, I was pleased to receive a letter recently from Governor Lamm of Colorado discussing the Federal control of highway billboards and my amendment 1792 (which is identical to S. 344).

Governor Lamm makes a most persuasive point, one that I urge my colleagues to consider most carefully when I bring this issue to the Senate floor within the next few weeks.

Mr. President, I ask that a copy of Governor Lamm's letter be printed in the RECORD.

The letter follows:

> STATE OF COLORADO,
> *Denver, Colo., June 5, 1980.*
>
> Hon. ROBERT T. STAFFORD,
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR STAFFORD: I would like to congratulate you for your legislation, S. 344, on highway beautification.
>
> When the history of these times is written, the so-called Highway Beautification Act of 1965 will be a case study in how lobbyists are able to take a bill with good intentions and corrupt it into a special interest bill. It is outrageous that the federal government should require those many states which have developed a constitutionally approved method of removing billboards to pay "just compensation" and then not provide any federal funds to take them down.
>
> Police power was long upheld as a method of protecting the public interest in the highways and I'm glad that at least one voice of sanity continues to remain in the U.S. Senate.
>
> Sincerely,
> RICHARD D. LAMM,
> *Governor.*●

H.R. 7102, THE VETERANS' ADMINISTRATION HEALTH CARE AMENDMENTS ACT OF 1980

● Mr. SIMPSON. Mr. President, the Veterans' Administration Health Care Amendments Act of 1980 comes before the Senate as amended in H.R. 7102. The original Senate version, S. 2534, was passed unanimously by this body on June 5, 1980, and was then incorporated into H.R. 7102 on July 31, 1980. I believe this bill is a reasonable compromise that does address the various areas of concern within the VA health care system.

Title I of this bill contains a variety of provisions that are designed to enhance the VA's ability to recruit and retain sufficient numbers of capable, qualified health-care professionals and personnel. I am strongly committed to a vital, independent health-care system in the VA in order to provide a high quality of health-care services to all eligible veterans, and I believe that steps must be taken, by the Senate, to assure the maintenance of such a system.

Among the key elements in title I are those that would modify the special pay authority for the physicians and dentists employed under title 38 of the United States Code. Title I would provide a permanent special pay authority for compensation of these health-care professionals who are employed by the Veterans' Administration. The professionals are currently compensated under the temporary authority of the Department of Medicine and Surgery, which expires in 1981, and would thus be paid under title 38. This change in authority is vital to the overall effectiveness of the VA's recruitment and retention efforts. Without this permanent authority for special pay, D.M. & S. would be unable to provide long term assurances to a prospective employee as to pay and benefits that could be expected. Thus, the agency would be at a competitive disadvantage with other employers.

Title I would also exempt top ranking personnel within D.M. & S. who are employed under title 38 from the provision in title 5 of the U.S.C. that relates to senior executive service (SES). Mr. President, I strongly believe that it is of vital importance to the stability of the VA health-care system that the highest ranking personnel remain within the boundaries of title 38 and not be subject to title 5 and the Office of Personnel Management.

Title I goes on to review the various staff and affiliation balances in VA facilities and the improving of their relationships. There are other provisions in this title which would improve personnel management practices with regard to the Nursing Service under title 38 and other benefits issues that would be authorized by passing this bill.

Title II is a provision that would authorize a scholarship program for individuals wishing to attend medical school. After earning their medical degree, these potential doctors would be required to "pay back" their debts according to the terms of their scholarship contracts by providing service in VA medical facilities. This provision originated in the House, and after careful consideration by the Senate Veterans' Affairs Committee, it was determined that such a program could contribute to the overall quality of health within the VA system. The VA would then be able to rely on a definite number of physicians, who are so much in demand throughout the country to fill the positions needed in the VA hospitals and clinics.

In title III of H.R. 7102, the establishment of up to 15 geriatric research, education, and clinical centers at VA health care facilities would be authorized, subject to the appropriation of sufficient funds.

Mr. President, I believe this is a very important provision. At the present time, there are 6 million U.S. veterans aged 60 and over. This figure will increase to 9 million in 5 years and will ultimately reach 11 million in 1995. Geriatric research, therefore, is a very necessary step in searching for a better care system for our Nation's elder veterans. This provision would enable the VA's Department of Medicine and Surgery to do the necessary research and study of the problems in the field of geriatrics. The requested 15 centers of this study would be authorized for a period of 4 years and a newly created post of Assistant Chief Medical Director for Extended Care would serve as supervisor of the program within the VA's Department of Medicine and Surgery.

Mr. President, our Nation's senior citizen veterans require our attention. This new type of research on geriatrics is of the most vital concern in order that we may foretell the problems incurred by old age and assist in learning how to minimize them for all older persons—not only veterans.

Title IV of this bill includes among its provisions, a cost-saving measure which is anticipated to result in a $109 million savings for fiscal year 1981. This will be accomplished by authorizing the VA to inquire carefully into the substance of the oath of inability to defray expenses that certain veterans must sign prior to admission to a VA health care facility. Current law does not authorize such procedure, therefore, many veterans who may have other adequate and non-Federal means to health care are often admitted and treated at Federal expense.

Mr. President, I believe H.R. 7102, as amended, is a worthwhile and meritorious measure. As ranking minority member of the Senate Committee on Veterans' Affairs, I support this measure and I urge my colleagues to do likewise in order to insure a quality VA health-care system.●

CYPRUS

● Mr. DURKIN. Mr. President, it is with great dismay that I must once more call to the attention of my Senate colleagues the illegal, totally objectionable occupation of more than 40 percent of the island of Cyprus by a massive Turkish army. It is with great dismay, but also with great urgency, that I call upon my colleagues, the administration, the United Nations and our allies abroad to let the Government of Turkey know once and for all that their stubborn and dilatory attitude toward the restoration of justice on Cyprus will no longer be tolerated.

This summer marks the sixth anniversary of the brutal invasion of Cyprus by Turkish Armed Forces. The invasion left thousands of Greek Cypriots dead or missing, and forced 200,000 Greek Cypriots from their homes and their livelihoods in the northern part of Cyprus. This unjust invasion was universally condemned, and the decision by the U.S. Congress to impose an arms embargo against Turkey was universally applauded. To this day, however, those Greek Cypriots remain separated from their rightful homes and heritage, and Turkey has remained uncompromising to all efforts to redress this injustice.

I voted against lifting the embargo against Turkey in 1978, and against providing Turkey with a $50 million in military grant assistance in 1979. The Turkish invasion of Cyprus violated the laws of this country under which Turkey had received U.S. military aid, as well as NATO agreements to which Turkey was a willing partner. Carter administration officials, in their drive to lift the embargo, argued that such action would lead to progress in redressing the injustices of the Turkish invasion. No such progress has occurred, and instead, lifting the embargo has amounted to just another broken campaign promise by the President. President Carter himself stated during his campaign that "We would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue." Although the Carter administration has abandoned this commitment, I have not, and I hope that my Senate colleagues will not.

Turkish Cypriots, closely allied to their benefactors in Ankara, have recently given fresh evidence of their total disrespect for international efforts to deal with the Cyprus issue. Once more, Turkish Cypriots have abruptly, and at the last minute, scuttled negotiations on the Cyprus problem which United Nations Secretary General Kurt Waldheim had taken great pains to arrange, and to which the Turkish side had earlier agreed. Meanwhile, the drive to beef up the Turkish presence on Cyprus by populating the usurped 40 percent of the Island with individuals imported from the Turkish mainland continues apace.

I fully realize that we must avoid acting in such a way as to weaken the southeastern flank of NATO. But it is exactly for this purpose that I believe we must push for a swift and just resolution of the Cyprus problem. The United States has been generous with economic and foreign military sales credits to Turkey despite Turkey's opposition to the return of Greece to the military structure of NATO, and Turkey's failure to end its military occupation of Cyprus. Further, Turkey has recently received $1.6 billion in aid from the International Monetary Fund to shore up its devastated economy, although a major reason for the weakness of the Turkish economy lies in the enormous sums the Turkish Government spends to maintain its 40,000-soldier army in Cyprus.

Mr. President, lifting the arms embargo has failed. Quiet diplomacy has failed. The United States cannot continue to act as if it has no leverage upon our Turkish ally. We must remember, and so must Turkey, that restoring the arms embargo and restricting further economic aid are well within our capacity. With our other NATO allies, we must act now—before this 6-year stretch drags into 7 years, or 8 years, or more—to finally obtain cooperation from Turkey, reinforce the security of NATO's southeastern flank, return thousands of Greek Cypriot refugees to their rightful homes, and restore justice to a sovereign, united island of Cyprus.●

ACID RAIN

● Mr. STAFFORD. Mr. President, I ask that there be printed in the RECORD two articles concerning acid rain.

When the distinguished Senator from Masaschusetts, Mr. Tsongas, and I asked the Senate to approve pollution control requirements for coal conversions under the so-called oil blackout bill, we failed by a vote of 31 to 63. In offering that amendment I was motivated by a genuine concern over the consequences of acid rain, which are not only environmental but diplomatic as well. Although this issue was raised most recently in the context of the oil blackout bill, I doubt seriously that the Members of the Senate have heard the last of this problem. I hope, therefore, that these articles will be instrumental in awakening a majority of the Members to the causes and consequences of acid rain.

The first of the two articles describes the general problem of acid rain in a very clear and cogent way. This article appeared in a recent issue of Environment magazine. The second article appeared just last Sunday in the sports section of the Washington Star. I think it is worth Member attention because it indicates that one of the consequences of American refusal to deal with acid rain could be worsening relations with Canada. A very large part of the acid precipitation formed by American pollution falls not in the United States, but in Canada. It is ironic that the Senate chooses to demonstrate its appreciation for the Canadian success in spiriting some of our Iranian hostages to safety by continuing a policy which aggravates acid rain.

The articles follow:

[From the Washington Star, July 20, 1980]

ACID RAIN EATING AWAY CANADIAN-UNITED STATES RELATIONSHIP

As if our walking the political and economic tightrope with Europe and Asia wasn't enough, here's laying odds that the United States can soon count on a measure of fragile relations with its best friend and neighbor—Canada.

It has little to do with missile placements, auto sales or sticking together in the current Olympic boycott. The problem is far more serious than that. The magic words that now raise the adrenalin of Canadian fishermen are "acid rain," and many of our friends north of the border blame the United States for this industrial phenomenon that has sentenced to death hundreds of beautiful North American lakes and their inhabitants.

Acid rain. The very words sound ominously. Connotations of burning skin, melting ice and dead grass come to mind, although that isn't at all correct.

Not many know exactly what it means—and the havoc it can wreak. Leaving alone lengthy scientific dissertations on this far-reaching nuisance, the best layman's explanation of acid rain is offered by the Bass Research Foundation (BRF), headquartered in Starkville, Miss.

The BRF recently made available a grant to the State University of New York at Oswego to begin laboratory research work concerning the acid-rain problem. Acid rain, explains BRF, is the result and side effect of the increased use of fossil fuels, primarily high-sulfur coal. (It should also be mentioned that automobile-exhaust emissions are partly to blame.)

As sulfur and nitrogen are spewed from the tall smokestacks, they combine with the oxygen in the air and return to earth as sulfuric acid and nitric acid. This precipitation comes either as rain or as snow. The farther it travels from the source of pollution, the longer it has to change its deadly form; hence, the greater potency of the pollution.

At present, the greatest area being affected is the northeastern United States and many parts of Canada. Its effects stretch also from Minnesota to the Adirondacks and south to Georgia. Clearly, as more power plants to the west begin to burn more low-grade coal, the acid rain will begin to show up in other areas. To some extent, it is already being felt in the Midwest.

As the rain with its sulfuric/nitric acid mixture falls to earth, it will alter crucial pH (acidity/alkalinity mixture) factors in lakes and streams. A fish-supporting pH factor in water, on a scale of 1 to 14, is 5.5 to a neutral 7. However, when rains mixed with high percentages of industrial acids enter a body of water, the pH is drastically altered—so drastic, in fact, that a fish spawn can quickly be affected. Continued high concentrations of the pollutants over prolonged periods of time can lower the pH numbers to a point that would destroy all aquatic life.

Because a number of U.S. factories and powerplants near the Canadian border are accused of causing acid rains, the Ontario Federation of Sportsmen has been on the warpath for some time. It has written letters to President Carter. It is in close contract with its own government, protesting loudly. Why not? Canadians are losing some of the most spectacular sport fishing on the continent—and acid rains are blamed.

While erstwhile highly productive lakes and rivers have been slowly dying from decades of acid rain, many Canadians say their pleas fall on deaf ears with U.S. officials, including those in the White House.

The complaints, however, are not only heard from Canadians. Ralph W. Abele, the executive director of the Pennsylvania Fish Commission, echoes his friends in the north.

"Pennsylvania's cold-water streams are faced with their greatest threat to survival in history," Abele wrote last month in the Pennsylvania Angler magazine. "Greater than the deforestation which caused the loss of much of our original brook trout habitat by the turn of the century, greater than strip mining, industrial and municipal pollution and channelization, each of which has caused the loss of thousands of miles of fishing waters. The threat comes in the invisible form known as acid precipitation and is a greater threat than floods, droughts, diversions or overexploitation."

Pennsylvania's typical rainfall, Abele reminds his readers, is probably the most acidic in the world, with a pH average of less than 4, or about 100 times the normal acidity.

What to do? Concerned Canadian and U.S. fishermen hope that stricter air-quality standards are enforced wherever noxious fumes are spewed into the air. They urge vigorous contact with elected officials to call a halt to the acid-rain threat.

If nothing is done, Rachel Carson's "Silent Spring" will ring all too true, not to mention the loss of a friendly and usually cooperative neighbor.

[From Environment magazine, May 1980]

Acid Precipitation: Causes and Consequences

(By Harvey Babich, Devra Lee Davis, and Guenther Stotzky)

Precipitation is a natural cleansing process of the atmosphere which scavenges various atmospheric gases and aerosols and deposits them in terrestrial and aquatic ecosystems. The reaction of rain with alkaline atmospheric gases such as ammonia or some atmospheric particulates such as sea spray, fly ash, and calcareous dust containing calcium carbonate can cause an increase in the acidity (expressed by a decrease in pH value) of atmospheric precipitation.

The pH, the scientific designation to express the extent of acidity or alkalinity of a solution, is determined by a mathematical formula based on a solution's concentration of hydrogen ions (H+). The pH scale ranges from a numerical value of 0 to 14. A value of pH 1 is very acid (battery acid), pH 7 is neutral (pure water), and pH 13 is very alkaline (lye). Because of the logarithmic nature of the scale, pH 4 is 10 times more acidic than pH 5, and 100 times more acidic than pH 6, and so on. Precipitation is defined as being acidic if the pH is less than 5.6, the lowest pH of normal, unpolluted rain. Acid precipitation is rain or snow with pH values of less than 5.6 (the natural pH reduction).

Within the last 20 to 25 years it has become evident that precipitation falling over the eastern United States, eastern Canada, and most of western Europe has become increasingly acidic. In the late 1950s, episodes of highly acidic precipitation were noted in Belgium, the Netherlands, and Luxembourg. By the late 1960s, acid precipitation had extended to Germany, northern France, the eastern British Isles, and southern Scandinavia. Acid precipitation was initially recognized in North America as a result of studies conducted at the Hubbard Brook Experiment Station, New Hampshire. Rain and snow falling at Hubbard Brook from 1963 to 1969 ranged from a low of pH 2.1 to a high of 5, with an average of pH 4.1.

The phenomenon has spread rapidly across the continental United States. In 1955–56, acid precipitation was recorded over 12 states in the northeastern United States. By 1972–1973, acid precipitation had intensified in that area and extended west and southwest, covering all of eastern North America except for the tip of Florida and northern Canada. In the western United States acid rain particularly affects major urban centers such as Los Angeles, San Francisco, and Seattle, and major mountain areas near the Continental Divide in Colorado.

CAUSES AND SOURCES

Acid precipitation has been associated with industrial and automotive emissions of sulfur oxides—principally sulfur dioxide (SO_2) and, to a lesser extent, sulfur trioxide (SO_3)—and of nitrogen oxides—principally nitric oxide (NO) and nitrogen dioxide (NO_2). The gaseous sulfur and nitrogen oxides react with atmospheric water and, when oxidized, yield dilute solutions of sulfuric and nitric acids. In some industrialized regions, emissions of gaseous hydrogen chloride (HCl), followed by dissolution in the moisture in the atmosphere to yield hydrochloric acid, also contribute to the formation of acid precipitation. In the northeastern United States, 65 percent of the acidity of precipitation (below pH 5.6) is due to sulfuric acid (H_2SO_4), 30 percent to nitric acid (HNO_3), and 5 percent to hydrochloric acid (HCl). However, this balance is not fixed.

Smelters and coal-fired electric power plants are the primary source of sulfur oxides. The sulfur content of U.S. coals varies: 56 percent of the coal we use has a sulfur content of 1 to 3 percent, while 30 percent of our coal has a sulfur content of more than 3 percent. Eastern coal generally contains higher levels of sulfur than does western coal.

All forms of fossil fuel combustion, particularly that produced by the internal combustion engines of automobiles, emit nitrogen oxides. The rate of nitrogen oxide production increases with the combustion temperature and with the presence of excess air. The nitrogen content of U.S. coals averages 1.4 percent. In residual oils (used primarily for heating homes and other buildings), it is 0.4 percent and in crude oil it is 0.15 percent. Since U.S. coals may also contain as much as 0.65 percent chlorine, coal may also release some hydrogen chloride gas.

Although sulfate is the principal anion in acid precipitation over the northeastern United States, the contribution of sulfate to acid precipitation is leveling off, whereas that of nitrate is increasing. This is apparently a reflection of the slowed increase in the nationwide emissions of sulfur oxides due to stringent SO_2 control requirements for major new industrial sources and a simultaneous increase in emissions of nitrogen oxides for which control technologies are less well developed.

LONG DISTANCE TRANSPORT

Some pollutants remain in the atmosphere for relatively long times, during which they are transported (depending on weather patterns) across geographical and political boundaries. This situation creates numerous national and international regulatory problems in that the air pollution standards of one state or country can have an indirect impact on the natural resources of another. The average residence time of sulfur oxides in the atmosphere varies from 1 to 3 days, whereas the average residence time for nitrogen oxides is about 5 days. There are several documented examples of atmospheric transport exceeding 1,000 kilometers before being deposited on the earth's surface.

Fifty-six percent of the sulfur deposited in Sweden and Norway originates outside those countries, primarily in the industrialized regions of northern Europe. Much of the acidity found in the northeastern United States comes from midwestern industrialized regions. Most of the acidity deposited in the La Cloche Mountains in Ontario, Canada, originates in the smelting complex at Sudbury, Ontario, some 65 km away.

The topography of the regions over which air masses move influences pollutants' final deposition. When air masses approach mountain slopes, the cooling effect caused by the upward movement of the air mass enhances the likelihood of precipitation, resulting in a localized deposition of the pollutants. In southern Norway air masses from central Europe and the British Isles travel hundreds of kilometers before their contaminants are removed along the mountainous Norwegian coast.

Although large quantities of sulfur oxides and nitrogen oxides have been emitted since the Industrial Revolution (especially in the past 25 years), acid precipitation has only recently been recognized as a problem. Some observers have suggested that control technologies that reduce pollution in the immediate vicinity of the point at which they are emitted actually contribute to the severity of the acid precipitation problem. The use of scrubbers to trap soot particulates and the construction of higher chimney stacks have reduced local pollution problems, but have increased regional transport. Elevated chimney stacks release gaseous pollutants into persistent winds that occur between 150 and 600 meters above ground—promoting their long distance transport. For instance, the copper-nickel smelter in Sudbury, Ontario, has a "superstack" that is more than 400 meters high, and its emissions result in acid precipitation hundreds of kilometers away.

ENVIRONMENTAL IMPACT

Once deposited on the ground or in lakes or streams, acid precipitation may exert a toxic effect on indigenous plants and animals by altering the chemical composition of the environment. The ability of an environment to withstand the impact of acid precipitation is correlated with its capacity to "buffer" or neutralize acids. A buffer maintains the natural pH of a given environment by tying up the excess Hydrogen ions introduced by acid rain. Only when the buffer is exhausted will the pH begin to drop.

Before considering the literature on acid precipitation, a word of warning may be pertinent. As with most technical issues, laboratory experiments afford the researcher the utmost control, but questions can be raised about the applicability of the results to the natural environment. For example, many laboratory studies of acid precipitation have focused on the excess hydrogen ions and have ignored the excess sulfates, nitrates, and chlorides also present in the rainfall. However, it should be remembered that many studies of environmental contaminants have demonstrated a reciprocal relationship between pollutant concentration and length of exposure time; thus, for example, the chronic effects elicited by exposure for long periods of time at pH 4 may be the same as the acute effects elicited by shorter exposures at pH 3.

Terrestrial systems

Abiotic Components. Acid precipitation may meet three possible fates, depending on the specific properties of the environment that receives it:

(1) The hydrogen ions of the acid precipitation may be neutralized by alkaline salts, such as calcium carbonate.

(2) The hydrogen ions may exchange with other cations already present on the colloidal clay minerals and humus (*i.e.*, organic matter) in the soil. (3) The acid precipitation may leach through the soil and enter the ground or drainage water.

Soil type, then, is a factor in determining an area's susceptibility to acid precipitation. Clay minerals and humus possess surfaces that are predominantly negatively charged, which adsorb positively charged compensating cations such as calcium, magnesium, potassium and sodium. These cations are not permanent components of the surfaces of clays and humus and may be exchanged by other cations such as the hydrogen cations introduced into the soil by acid precipitation. The capability of these colloids to retain exchangeable cations is termed the "cation exchange capacity." The higher the cation exchange capacity of a soil, the more able it is to withstand the detrimental effects of acid precipitation.

Acidic soils, with a low cation exchange capacity, are classified as podzolic soils. Podzolic soils are the most susceptible of all soils to damage by acid precipitation. Much of the Atlantic region of Canada and of the northeastern United States are composed of such soils.

In addition to lowering the pH of some soils, acid precipitation accelerates the leaching of calcium and magnesium, which are alkaline cations and important nutrients for the indigenous biota. Subsequent loss of these elements decreases the fertility and productivity of the soil. For example, soils in southwestern Scandinavia with pH values of less than 3.4 are depleted of alkaline cations.

Heavy metal cations, such as cadmium, nickel, lead, manganese, and mercury, may also be bound to colloidal particles in the soil. Excessive amounts of hydrogen cations introduced into the soil by acid precipitation may exchange for these heavy metal cations, thereby releasing the metals into the soil. Because heavy metals are toxic to plants and animals, even in minute amounts, their mobilization can adversely affect the indigenous biota. Other toxic cations such as aluminum may also be mobilized. Furthermore, these mobilized toxic cations may eventually enter aquatic ecosystems, either by runoff from or movement through soil to underground waters, and damage the biota.

Biotic Components. There have been few studies on the effects of acid precipitation on terrestrial animals. However, it has been suggested that acid precipitation may adversely affect the reproductive success of the terrestrial salamander, *Ambystoma maculatum*, which breeds in temporary ponds formed by accumulation of melted snow and spring rains. Laboratory studies have shown that this organism can tolerate pH values from 6 to 10, but that its greatest hatching success occurs when the acidity is between pH 7 and 9. Complementary studies performed in an acidic vernal pond demonstrated the potential decline of this species, as indicated by reduced hatching success.

A larger number of studies have demonstrated the toxicity of acid precipitation to terrestrial plants. Simulated acid rain (dilute solutions of sulfuric acid), at pH levels less than 3, induced lesions on the foliage of kidney bean, sunflowers, soybean, bracken fern, and species of poplar. Exposures of seedlings of kidney beans to simulated acid rain at pH levels below 3 induced the spotting, or necrosis, of the leaves and reduced the development of the root system, ultimately preventing the plant from attaining normal size. Birch seedlings exposed to an artificial acidified mist, with a pH of 3 or below, developed extensive foliage damage as well as decreased growth. It has also been suggested that acid precipitation inhibits the growth of pine and spruce in Swedish soils that are susceptible to damage by acidification. However, decreased tree growth as a result of acid precipitation has not been confirmed in Norway or in the United States.

In addition to adversely affecting plant growth and causing foliage damage, acid precipitation may exert subtle effects on the reproductive potential of plants. Germination of spruce seeds was reduced by 80 percent in soils acidified to pH 3.8 by simulated acid precipitation. During the process of sexual reproduction, the bracken fern forms motile spermatozoids which, in the presence of a thin film of water, swim to the female organs and fertilize the eggs. Laboratory studies have shown that simulated rain reduced spermatozoid motility. For example, after a two-minute exposure, spermatozoid motility was reduced 30, 50 and 70 percent at pH 6.0, 5.5, and 5.1, respectively, as compared to control solutions at pH 6.1.

Acid precipitation can also adversely affect the microbiotic components of the soil. Soil microorganisms are involved in many basic ecological processes, such as the decomposition of organic matter, the turnover of nutrients, and the biogeochemical cyclings of chemical elements (for example, the carbon, nitrogen, and sulfur cycles). Soil respiration, an index of overall soil microbial biochemical activity, and the decomposition of leaf-litter were decreased after acidification with simulated acid rain (of pH 2 and pH 5.2, respectively). The decomposition of cellulose also decreased after acidification with simulated acid rain. Inhibition of microbial decomposition of organic matter will eventually decrease the fertility and productivity of that environment.

The nitrogen cycle is particularly sensitive to acid precipitation. Although atmospheric molecular nitrogen is inert for most organisms, it can be utilized by some microorganisms as a source for growth. This process is termed dinitrogen fixation. Simulated acidified rain (pH 4 or less) inhibited dinitrogen fixation by the lichen *Lobaria oregana* (a lichen is a symbiosis between an alga and a fungus) and, at pH 3, by the bacterium *Rhizobium*, which lives symbiotically in the root nodules of kidney beans and soybeans. Nitrification, the microbial conversion of ammonium to nitrate, was also reduced by simulated acid rain (pH 3).

Fungi, in general, are more acid-tolerant than are bacteria, and acidification of soils will retard bacterial growth and enhance fungal growth. Furthermore, simulated acid rain has been shown to alter various bacterium-plant, fungus-plant, and nematode-plant interactions. For example, exposure to simulated acid rain with a pH of 3.2 inhibited the bacterium *Pseudomonas phaseolicola* on kidney beans, the phytopathogenic fungus *Cronartium fusiforme* on willow oak, and the plant-infecting nematode *Meloidogyne hapla* on kidney beans.

Unfortunately few studies have evaluated the possible synergistic or antagonistic interaction between acid precipitation and other pollutants. Lead becomes more toxic to soil fungi as the pH is lowered, whereas cadmium becomes less toxic to soil bacteria and fungi as the pH is lowered. Conversely, soybean plants treated with simulated acid rain accumulated greater quantities of cadmium than did nontreated controls. Emissions of heavy metals and acidic gases (from smelters, for example) need and warrant further study to elucidate the interactions between acid precipitation and heavy metal toxicities.

Aquatic systems

Abiotic Components. As with terrestrial environments, the buffering capacity of aquatic ecosystems determines their tolerance to acid precipitation. Oceans are highly resistant to acid precipitation because of their high sodium content and the presence of other alkaline cations, such as calcium and magnesium, and the bicarbonate-carbonate system. However, freshwater ecosystems situated on non-calcareous, granite bedrock with a thin covering of organic sediment have a poor buffering capacity and are therefore very suspectible to damage by acid precipitation.

Lakes in the Adirondack Mountains in New York, the Boundary Waters Canoe Area in Voyageurs National Park (BWCA–VNP) in Minnesota, in eastern Canada, and in regions in Scandinavia are highly susceptible to acid precipitation. In the 1930s the majority of lakes in the Adirondack Mountains ranged in pH from 6 to 8, with only 4 percent of the lakes having pH values lower than 5. By 1975, however, the average pH of the lakes was 4.1 to 4.3, with 51 percent of the 217 mountain lakes having pH values below 5. Lakes in the BWCA–VNP area are just beginning to show the effect of acidification resulting from the chronic deposition of acid precipitation. Lakes in the immediate vicinity of the metal smelters at Sudbury, Ontario, have pH values as low as 3.2. Emissions from these smelters have also acidified lakes in the La Cloche Mountains. In 1972, Lumsden Lake in the La Cloche Mountains received in excess of 2.135 kg of atmospheric sulfuric acid, which lowered the pH of the lake from 5.2 to 4.8. In Sweden, more than 10,000 lakes have been acidified to pH 6 or below, with 5,000 lakes having pH values below 5.

The reduction in the pH of lakes induces a variety of other chemical changes. In lakes acidified to pH 5.5 or lower, anionic bicarbonate is chemically transformed to carbonic acid, which is subsequently converted to carbon dioxide. Because of acid precipitation, stream waters in the Hubbard Brook Experiment Station, with an average pH of 5.15, lacked bicarbonate anions and sulfate was the dominant anion. In contrast, bicarbonate is the dominant anion in nonpolluted streams in New England and in most rivers. Furthermore, in aqueous systems with pH values less than 5, colloidal aluminum oxides are rendered soluble, liberating potentially toxic aluminum. Soluble calcium and magnesium cations, mobilized by acid precipitation in terrestrial environments, may also enter aquatic ecosystems through runoff.

Biotic Components. Several studies have noted the disappearance of fish populations in lakes acidified by acid precipitation. This subtle phenomenon is marked not by major sudden fish kills but by less evident, chronic reproductive failures such as the inhibition of ova release and other developmental interference. The lower pH has also been shown to induce spinal deformities in white suckers. In the BCWA-VNP lakes, increased levels of mercury have been reported in trout, walleyed pike, and northern pike, possibly reflecting an increased mobilization of mercury due to acid precipitation.

Twenty-eight of 67 lakes in the La Cloche Mountain region lost the majority of their fish populations in recent years due to acid precipitation. Smallmouth bass, walleyed pike, lake trout, white sucker, brown bullhead, lake herring, and pumpkinseed sunfish have proved to be the most susceptible species. In the Adirondack Mountains, 90 percent of the lakes acidified to pH 5 and lower are devoid of fish. In Sweden, there are now more than 15,000 fishless lakes due to acid precipitation.

Fish are only one component of the complex food web that exists in freshwater lakes and ponds. A reduction in fish population has two direct ramifications. First of all, a fish population reduction may lead to a proliferation of their prey, such as mosquito larvae, assuming that the prey are acid tolerant. Secondly, the population density of fish predators may be decreased. For example, fish-eating birds, such as mergansers and loons, have migrated from acidified Swedish lakes with reduced fish stocks to lakes with more abundant food. Other aquatic animal species intolerant of acidification include *Daphnia*, a component of the surface zooplankton, and *Gammarus lacusteris*, a bottom dweller, with both species being absent in lakes acidified below pH 6.

The surface phytoplankton, specifically green algae and diatoms, are also sensitive to acidification, with both numbers and species diversity decreasing as the pH of the lakes is lowered below 6. Furthermore, pH values below 6 enhance growth of the moss *Sphagnum*, which usually covers the bottoms of acidified lakes and contributes to the reductions in other forms of plants.

Large accumulations of leaves and other organic debris are frequently evident on the bottom of acidified lakes, indicating a reduction in the microbial decomposition processes in these lakes. Laboratory studies have shown that the decomposition of wilted birch leaves was decreased in lake waters acidified to pH 4.5 to 5.2. Reduced rates of decomposition will lower the fertility of aquatic ecosystems and impair the ability of the affected ecosystems to support an abundant flora and fauna.

Effects on materials

Most studies on the adverse effects of acid pollutants on materials, such as stone and marble structures and metals, have focused on gaseous sulfur dioxide. Few studies have dealt with acid precipitation directly. The deterioration of historic statutes and monuments such as the Parthenon in Athens and the Lincoln Memorial in Washington, D.C., has been accelerated by chronic exposure to atmospheric pollutants, including acid precipitation. Acid precipitation acts on stone and marble by dissolving the calcium and magnesium carbonate, thereby creating calcium or magnesium sulfate, both of which are soluble in water. Further precipitation washes off this soluble crust, and slowly but continuously dissolves the structure. Some building stones, such as granite, gneiss, and sandstone, which do not contain calcium or magnesium carbonate are relatively resistant to acid precipitation. However, the concrete mortar binding the building stones is sensitive to decay by acid precipitation.

Acid precipitation also promotes corrosion of metals, particularly iron and iron-containing alloys. Hydrogen ions in the acid precipitation act as acceptors for electrons liberated by the metals. The dissolution of protective coatings on the metal surfaces can also accelerate corrosion. Furthermore, municipal drinking waters, acidified by precipitations, may become contaminated with trace metals mobilized during the corrosion of the water pipes.

UNIQUENESS OF ACID RAIN

Although airborne sulfur dioxide and nitrogen oxides are the principal causative agents of acid precipitation, the mode of toxicity of these gases to the biota is distinct from that of acid precipitation. The detrimental effects of gaseous sulfur dioxide are primarily due to the toxicity of its solubility products (for example, bisulfite, sulfurous acid, and hydrogen ions); similarly, the toxicity of nitrogen dioxide is primarily due to its solubility products (for example, nitrite, nitrous acid, nitric acid, and hydrogen ions). In distinction from these, the toxicity of acid precipitation is primarily due to its excessive hydrogen ions, although the excessive sulfate and nitrate anions may also reach toxic levels.

There are other important distinctions between acid precipitation and other atmospheric pollutants, such as sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, peroxyacetyl nitrate, and sulfate aerosols. When these latter substances were recognized as atmospheric contaminants, scientific research was directed to evaluating their modes of direct toxicity to biological systems and their indirect effects in the environment. These studies were needed as there was little or no prior knowledge of the toxicity of these pollutants to the biota.

However, the toxicity of acid precipitation is due largely to its pH effect, and the adverse direct and indirect effects of lowered pH on biological systems and the environment are already well known. For example:

On the molecular level, reactions in which enzymes are the catalytic agent are pH-dependent, and shifting the pH from the optimal value will reduce or abolish enzymatic activity;

On the cellular level, lowered pH causes denaturation of proteins, which comprise from 10 to 20 percent of living cells, thus destroying their geometry and hence their biological activity;

On the organism level, each species has an optimal pH at which it can best maintain and reproduce itself;

On the population level, acidification of an environment will hinder the establishment and proliferation of acid-sensitive populations; and

On the environmental chemistry level, acidification is a common laboratory technique used to mobilize cations, including heavy metals, from soils and other materials for subsequent analysis.

Although most atmospheric pollutants are toxic to humans, acid precipitation has not yet been shown to have a direct adverse effect on the health of exposed human beings. The pH of acid precipitation is in the same range as orange juice (i.e., pH 2.6 to 4.4). Humans are usually covered when exposed to acid precipitation and, of greater importance, any exposures are of brief duration, and there is no mechanism for the accumulation of acid rain on an exposed individual.

PROGNOSIS

Acid precipitation could be alleviated by a decrease in fossil fuel combustion. According to Stephen J. Gage, assistant administrator for Research and Development at EPA, "the recently promulgated New Source Performance Standards for fossil fuel power plants will control sulfur oxide emissions from future power plants and, after 1995, begin to effect regional reduction of sulfur oxides and hence acid rain." However, as he acknowledges, this program "does not address continued emissions from existing plants over the next two decades" and EPA's latest air pollution projections indicate continuing high levels of sulfur dioxide emissions and an increase of approximately 50 percent in nitrogen oxide emissions to the year 2000. In this scenario, then, acid precipitation promises to be an international environmental problem well into the next century.●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar orders Nos. 776, 959, 968, and 935.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that all four calendar items identified by him are cleared on our calendar as well and we have no objection to their consideration and passage.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

The Senate proceeded to consider the resolution (S. Res. 432) with respect to taxing social security benefits.

● Mr. NELSON. Mr. President, the legislation before the Senate today, Senate Resolution 432, states the sense of the Senate that social security benefits should not be subject to Federal taxation, and therefore, that this Congress will not approve legislation to tax social security benefits.

Last December the Social Security Advisory Council recommended in its report to the President and the Congress that one-half of social security benefits be subject to Federal taxation. Although this proposal was only a recommendation and, as such it did not alter existing law in any way with respect to the tax-exempt status of social security benefits, it needlessly alarmed many Americans. The Advisory Council's recommendation created anxiety among older Americans who are retired and living on fixed incomes, and it also caused great concern among many persons who have been in the labor force for many years and are about to retire.

CONGRESSIONAL RESPONSE

On January 24, 1980, I introduced Senate Concurrent Resolution 67, a resolution opposing the Social Security Advisory Council's recommendation that one-half of social security benefits be subject to Federal taxation. Joining me as original cosponsors were Senators BAYH, CHURCH, CULVER, EAGLETON, KENNEDY, MCGOVERN, MOYNIHAN, RIBICOFF, RIEGLE, PACKWOOD, and ROTH. The Nelson resolution was referred to the Senate Finance Committee for consideration.

The Senate Finance Committee, on May 15, 1980, unanimously reported a simple Senate resolution, Senate Resolution 432, which expresses the sense of the Senate that this Congress will not enact legislation to implement the Advisory Council's recommendation. The text of Senate Resolution 432 is identical to that of Senate Concurrent Resolution 67. The resolution before the Senate today is Senate Resolution 432.

While this legislation was being considered in the Senate, action was occurring on the same issue in the House of Representatives. Legislation similar to the Nelson resolution was introduced in the House by several Members.

On May 15, the House Democratic Caucus unanimously adopted a resolution requesting the Ways and Means Committee to take immediate action to reaffirm the current tax-exempt status of social security benefits.

The text of Senate Resolution 432 was reported on June 10, 1980, by the House Ways and Means Committee in the form of House Concurrent Resolution 351 which was originally introduced by Congressman ULLMAN. The House approved House Concurrent Resolution 351 on July 21, 1980, by an overwhelming vote of 384 to 1.

Once the Senate passes Senate Resolution 432, both Houses will have approved resolutions containing the same exact text as was originally embodied in the resolution I introduced in January.

SOCIAL SECURITY BENEFITS SHOULD NOT BE TAXED

Mr. President, imposing a tax on social security benefits would betray millions of retired workers who faithfully contributed payroll taxes throughout their working years and had no notice whatsoever that their retirement benefits would be subject to taxation.

It should be clearly understood that the Advisory Council's recommendation would not improve the financial status of the social security trust funds. Any increased revenue generated by taxation of social security benefits would only increase general revenues paid to the Government. No general revenues are used to finance social security retirement benefits.

Ever since social security retirement benefits began over 40 years ago, they have been exempt from Federal taxation. It would be unfair and unjust to change this exemption and diminish social security benefits by subjecting any portion of them to Federal taxation.

Hundreds of Wisconsin citizens have written to me about the Advisory Council's recommendation to tax social security benefits. These letters eloquently expressed the difficulties of living on a fixed income, as the majority of social security beneficiaries do, and trying to pay for life's basic necessities—food, housing, and clothing. To these people, the suggestion that a portion of this fixed income should be taken away by the Federal Government in the form of new taxes, quite understandably, created anxiety and concern.

Mr. President, passage of this legislation is necessary to assure all Americans, particularly older Americans, that this Congress is opposed to the Advisory Council's recommendation that social security benefits be taxed and will not enact legislation to tax monthly benefits.

HISTORY OF THE CURRENT TAX-EXEMPT STATUS OF SOCIAL SECURITY BENEFITS

At the present time, social security benefits are totally exempt from Federal income taxes. Social security benefits derived this tax exempt status from Internal Revenue Service administrative rulings in 1938 and 1941. These administrative rulings have the force of law.

Preceded by a Supreme Court decision (unrelated to the issue of taxability) in which social security was characterized as being for the "general welfare," Bureau of Internal Revenue rulings in 1938 and 1941 (I.T. 3194, I.T. 3229, I.T. 3447) made social security lump-sum and monthly benefits payments nontaxable.

The reasons behind the 1941 ruling (I.T. 3447) included the following:

1. Following the reasoning of the Supreme Court, the benefits were viewed as being motivated by considerations of the general welfare, and such reasoning including elements necessary to bring the benefits within the scope of the section of the code exempting from taxation "the value of property acquired by gift. . . ."
2. Earlier rulings in 1938 that lump-sum payments made under certain sections of the Social Security Act were not taxable were not questioned when subsequent social security amendments were enacted, thus supporting the argument that Congress expected the tax status to remain unchanged.
3. Subjecting benefit payments to income taxation would tend to defeat the underlying purposes of the Social Security Act.
4. Congressional committee reports indicated that the Social Security Act was intended to attack the problems of insecurity by providing safeguards designed to reduce future dependency.

This reasoning was laid out in a letter from the Commissioner of the Bureau of Internal Revenue appearing in House Ways and Means Committee hearings published in 1954. The Commissioner wrote in part:

> Upon a determination that the statute contained no specific prohibition against taxing the benefits and no specific mandate, as such, to tax the benefits, the matter was examined from the standpoint of what might be inherent in the statute as a whole with respect to relieving the benefits from taxation. The problem dealt with in I.T. 3447 was given extended consideration prior to the issuance of that ruling. Some who considered the problem were of the opinion that the payments made under title II of the Social Security Act were taxable as annuities. However, the view that prevailed was that the payments do not constitute taxable income in the hands of the recipients . . . the principal reason for the adoption of this position was that the Supreme Court in Helvering v. Davis (1937) (301 U.S. 619, 640), characterized the payments made in aid of the general welfare. . . .
>
> In arriving at the conclusion set forth in I.T. 3447 consideration was also given to the fact that in 1938 the Bureau had ruled that lump-sum payments under certain sections of title II of the Social Security Act were not taxable in the hands of the recipients. In this connection see I.T. 3194, C.B .1938–1, 114 and I.T. 3229, C.B. 1938–2, 136. The proponents of the position taken in I.T. 3447 suggested that since the Congress was aware of the Bureau's published position, and since it appeared that no changes were made in the law by the Social Security Act amendments of 1939 that directly affected the Bureau's published position, it could reasonably be assumed that the Congress expected the Bureau's position to remain unchanged.
>
> Another factor that was given some weight was that if the benefit payments were subjected to the income tax it would tend to defeat the underlying purposes of the Social Security Act.
>
> The Congressional committee reports in connection with the social security amendments of 1939 indicate that the Social Security Act was intended to attack the problems of insecurity by providing safeguards designed to reduce future dependency.

The 1941 ruling remains the basis for the tax-exempt status of retirement and disability benefits.

The resolution before the Senate today will put this Congress on record as being strongly opposed to any plan which would subject social security benefits to Federal taxation.

IMPACT OF THE RECOMMENDATION WAS SERIOUSLY UNDERESTIMATED BY THE ADVISORY COUNCIL

Mr. President, I think it is important to let the record show that the Advisory Council, in making its recommendation that one-half of social security benefits be subject to Federal taxation, seriously underestimated the impact of this recommendation on social security beneficiaries.

The Advisory Council maintained that low-income individuals, couples, and families would not be adversely affected by the Council's recommendation.

However, an analysis of the Council's recommendation prepared by the Congressional Budget Office makes it clear that the Council is simply wrong in its assessment of their recommendation's impact. The Congressional Budget Office (CBO) prepared a table which illustrates who would have to pay additional taxes. I ask that the CBO table be included at this point in the RECORD.

INCOME TAX INCREASES RESULTING FROM THE TAXATION OF HALF OF OASDI BENEFITS, BY INCOME CLASS

Income class (thousands of dollars)	Total number of OASDI beneficiaries filing returns (thousands)	OASDI beneficiaries in income class as a percent of all OASDI beneficiaries filing returns	Average increase in income tax liability (dollars)
Less than 5	10,883	45.0	1
5 to 10	6,574	27.2	103
10 to 15	3,210	13.3	321
15 to 20	1,536	6.3	447
20 to 30	1,215	5.0	528
30 to 50	505	2.1	791
50 to 100	186	.8	1,111
100 to 200	40	.2	1,448
Above 200	14	.1	1,272
Total	24,163	100.0	155

Source: Department of Treasury individual income analysis 1979 tax at 1978 income levels.

Mr. NELSON. Mr. President, the CBO table illustrates that many social security recipients with incomes of $15,000 or less would have to pay Federal taxes that currently are not due. The majority of social security recipients—over 17 million beneficiaries—have incomes under $10,000, and over 20 million social security beneficiaries have incomes under $15,000. Subjecting the social security portion of these 20 million beneficiaries' incomes to Federal taxation would cause serious harm to their economic security.

Mr. President, social security is the most successful and popular social program ever enacted by Congress. Today it is the economic mainstay for some 35 million Americans. Taxing social security benefits would economically harm social security recipients and also harm the overall program. I urge adoption of Senate Resolution 432.●

● Mr. RIEGLE. Mr. President, I rise to express my strong support for Senate Resolution 432, a resolution putting the Senate on record in opposition to the taxation of social security benetfis.

By passing this resolution, the Senate will be sending a strong message of reassurance to senior citizens that their social security retirement benefits will not be reduced through Federal taxation.

For 40 years now, social security benefits have been exempt from Federal taxation. Millions of retired Americans have paid social security taxes faithfully throughout the course of their working years. They did so believing that the social security benefits they would eventually receive would be free of any Federal tax. It would be unfair and unwise to change this system 40 years later and suddenly make social security income taxable.

Senior citizens are hit hard by inflation in energy prices, in health care, in food, in housing and in other sectors of the economy. Despte our socal security system, more than 15 percent of all senior citizens live below the poverty line. We must continue to improve the standard of living for older Americans—not erode that standard by taxing it away.

The proposal to tax one-half of social security benefits was the idea of the 1979 Social Security Advisory Council. Although the Council can only make recommendations, their endorsement of this unwise and ill-considered proposal has stirred deep concern among retired citizens.

I believe it is our responsibility to act forcefully to put that concern to rest. By passing this resolution, we make a strong statement in opposition to the taxation of social security benefits and commit ourselves to maintain the living standards of senior citizens. I commend Senator NELSON, the chairman of the Social Security Subcommittee, for his leadership in bringing this resolution to the Senate. I join him in strongly opposing the taxation of social security benefits.●

● Mr. EAGLETON. Mr. President, I strongly support Senate Concurrent Resolution 67, opposing the Social Security Advisory Council's recommendation that one-half of social security benefits be subject to Federal taxation. As an original cosponsor of this resolution, I am pleased that this legislation is receiving timely consideration in the Senate.

In December 1979, the Social Security Advisory Council recommended that one-half of social security benefits be subject to Federal taxation. According to the Advisory Council's own estimates, 10.6 million of the 24.2 million recipients of social security benefits would have to pay additional taxes averaging $350 a year. Again, using the Advisory Council's formulation, if this proposal had been in effect in 1979, an elderly couple whose income exceeded $7,400, including half of their social security benefits, would have to pay additional taxes. An elderly individual whose income exceeded $4,300, including half of their social security benefits, would have an added tax burden.

Mr. President, a recommendation such as this put forward by the Advisory Council demonstrates a callous disregard for our senior citizens already ravaged by a merciless inflationary spiral. I find it doubly egregious in that it would not in any way improve the financial status of the social security trust funds. Any increased revenue generated by such a tax increase would increase general revenues, none of which currently are used to finance social security retirement benefits.

For almost four decades, millions of social security beneficiaries who through their working years contributed payroll taxes, and today's working taxpayers who are contributing to the system have relied on the Federal Government's policy to exempt their benefits from taxation.

To renege on that commitment now would be unconscionable. I strongly urge unanimous adoption of this resolution.●

● Mr. CHURCH. Mr. President, I urge the Senate to pass the pending resolution against the taxation of social security benefits.

For some time unfortunate talk has been in the air about the possibility of taxing social security benefits. The most recent manifestation of this comes in a recommendation by the Social Security Advisory Council.

I have opposed such plans in the past, oppose them now, and will oppose them in the future. Social security benefits have always been tax exempt; it should remain that way.

The recommendation by the Social Security Advisory Council breaks faith with the terms of the long-standing social security contract between the American people and their Government. It has always been understood that those who paid into social security during their working years would receive their retirement benefits free of tax. This must not be changed.

People who depend upon social security have little enough as it is. They cannot afford to have any part of it taxed, and they are deeply distressed at the prospect presented by the Advisory Council.

On January 23, I joined the distinguished Senator from Wisconsin, Senator NELSON, in introducing a resolution against the Advisory Council's mistaken recommendation, both in order to express my own and the Senate's opposition to it and to reassure our Nation's elderly that they had nothing to fear.

Today, Mr. President, the full Senate must join in this resolution to restore our social security compact with the American people. Senior citizens in the United States have paid their dues. To tax social security would be a great injustice, and the Senate must state firmly that it will never happen.●

● Mr. BAYH. Mr. President, I am pleased to see the Senate act on Senate Resolution 432 which states the sense of the Senate that social security benefits are and should remain exempt from Federal taxation. I joined Senator NELSON in cosponsoring this resolution when he introduced it on May 14 of this year.

Social security benefits have been tax exempt since their beginning. The basis for this exemption has been administrative rulings going back to 1938. However, a recent report of the Social Security Advisory Council has raised much uncertainty and concern among retired citizens because it recommended taxing half of those benefits.

This resolution is designed to put to rest those fears by stating unequivocally that social security benefits are and should remain exempt from Federal taxation, and that this Congress will not enact legislation to impose such a tax.

Social security is the foundation for retirement programs in this country. To make these benefits taxable would undermine the very security which the Social Security Act was designed to protect. It would defeat the underlying purposes of the Social Security Act.

The Advisory Council would take some $3.7 billion in social security benefits away from retirees. Over 10 million retirees would be hit with an average tax increase of about $350. I am firmly opposed to such a tax which would overturn the expectations of millions of people who count on being tax exempt on this income.

At a time when inflation is reducing the retirement incomes of so many retirees, such a move is particularly inappropriate, unnecessary, and ill conceived. This resolution will reassure retirees of the integrity of the social security system and the tax-free status of their benefits.●

● Mr. McGOVERN. Mr. President, as a cosponsor of Senate Resolution 432, I support its adoption at this time. The obvious facts and statistics bearing upon this decision are included in the resolution itself. I firmly believe that none of the social security recipients should have to include their retirement benefits as taxable income—not the upper, middle, or lower economic level.

The Social Security Act was designed to assist and protect retired Americans and to reverse this policy would be both unfair and cruel.

The recommendation by the Social Security Advisory Council would have resulted in added revenue for the U.S. Treasury, but the loss of money for fixed income retirees does far more damage on an individual level than any amount of new revenue could help the general economy. More than that, it frustrates and angers retirees who have no way of preparing for or compensating the loss to their income. It also frightens them, and nothing shows more lack of compassion than recommending actions that will inflict this type of mental anguish on older Americans. It is bad enough that retirees are constantly jarred by the announcements that the trust fund may run out of money and then when reassured this is not true, the doubts always remain.

I believe this resolution will offer a real assurance that the U.S. Senate is not about to take up consideration of the taxation proposal during this session of Congress. This will not delay the examination of alternative funding sources for the payment of benefits under the Social Security Act, but it serves as a substantial commitment to the protection of the benefits now being received. I urge my colleagues to join with the cosponsors in approving this resolution.●

SOCIAL SECURITY BENEFITS WILL NOT BE TAXED

● Mr. CULVER. Mr. President, I am very pleased that the Senate has the opportunity today to approve this resolution expressing our opposition to any taxation of social security benefits. As an original cosponsor of this resolution, I urge my colleagues to give it the prompt endorsement it clearly deserves.

This matter arose last December when the 1979 Advisory Council on Social Security recommended that half of social security benefits be subject to Federal income taxation. It should be emphasized that the notion of taxing social security benefits was only a proposal—and one that has not received support of either the Carter administration or any committee of Congress.

The Advisory Council calculated that if one half of social security benefits were to be taxed, some 10.6 million of the 24.2 million recipients would have to pay an additional $350 in taxes a year. The other 13.6 million social security recipients with lower total incomes would not be affected because their incomes do not reach the threshold level of Federal income taxation. However, many of those who would be affected by this proposal obviously live on modest incomes. In fact, if this proposal had been in effect in 1979, an elderly couple whose income—including the taxable half of its social security benefits—exceeded $7,400 would have to pay additional taxes. And an elderly individual would have an added tax burden if his or her taxable income, including half their social security benefits, exceeded $4,300.

Mr. President, many of these people are already struggling to keep up with the rising cost of everyday living. The rampant inflation has shrunk the buying power of their pensions and eroded the value of their precious savings. This taxing proposal would be tantamount to a significant reduction in social security income for these 10.6 million recipients. Any such change in the tax-free status of social security income is unacceptable in my view.

For nearly 40 years, social security retirees have relied on the policy of the Federal Government to exempt their benefits from taxation. It would be unconscionable to suddenly reverse that longstanding policy on which so many social security beneficiaries have come to depend.

Well over 100 Iowans have written me in opposition to this proposal to tax social security benefits. Many of their letters conveyed a sense of anxiety and confusion aroused by this recommendation to tax half their benefits. It is this consternation which we must eliminate by approving this resolution today. It expresses the sense of the Congress that social security benefits should remain completely exempt from taxation. On July 21, the U.S. House of Representatives overwhelmingly approved an identical resolution. Clearly, that action—combined with the Senate's approval today—should lay to rest any concerns social security recipients have had that their benefits might be taxed.

Therefore, Mr. President, I urge my colleagues to join me in enthusiastically supporting this resolution which will help convey the message to millions of senior citizens that social security benefits will not be taxed.●

● Mr. DOLE. Mr. President, as a cosponsor of Senate Resolution 432, I am pleased to rise in support of this resolution which reiterates a long-standing policy that social security benefits should not be taxed. Tax rulings on this issue indicated over 40 years ago that subjecting benefit payments to income taxation would tend to defeat the underlying purposes of the Social Security Act, and I do not believe anything has occurred which should cause us to change our policy in this regard. More importantly, however, there are two specific reasons for not changing the policy at this time.

First, our citizens are already overburdened by heavy taxes, and it would be unconscionable, particularly in the face of growing economic hardship, to increase that burden on our most vulnerable citizens, that is, those who are on fixed incomes. The average tax increase contemplated by taxation of social security benefits is $350, and that amount represents a substantial reduction in benefits which were both earned by these individuals and promised to them. Certainly, if we ever do decide to include social security benefits in taxable income, it must be done on a prospective basis so that people can plan their retirement and insurance coverage around the reduced benefits.

Second, as pointed out in a Wall Street Journal article which I had reprinted in the CONGRESSIONAL RECORD on May 15, the effect of including social security benefits in taxable income is to "tax the strong earners to support the weak ones." This approach is typical of many Government programs, but individuals are becoming more and more disaffected with programs for which they must pay yet for which they are either ineligible or entitled to receive only a reduced benefit. We cannot afford to take the chance of destroying the incentive to be a strong earner or undermining the support strong earners provide for the social security system. Without their support, the program will not be able to survive.

There is no question in my mind that the Congress does not intend to pass legislation which would tax social security benefits. However, it is important that social security recipients have confidence that we will not take such action. Therefore, I urge my colleagues to support the resolution so we can remove that worry from their minds immediately.●

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 432

Whereas social security was establishd to protect the income of Americans against the serious economic risks that families face upon retirement, disability, and death; and

Whereas social security provides a monthly payment to some thirty-five million beneficiaries; and

Whereas the 1979 Advisory Council on Social Security has recommended that half of social security benefits be included in taxable income for Federal incomes taxes; and

Whereas social security benefits are now exempt from Federal taxation; and

Whereas for the people affected, taxing of social security benefits would be tantamount to a cut in benefit payments; and

Whereas 15 to 20 per centum of the elderly—even with social security—are today below the poverty level and all Americans are suffering the effects of inflation; and

Whereas estimates based in 1978 data indicate that taxing one-half of social security benefits would affect 10.6 million tax filing units of the 24.2 million individuals who received social security cash benefits; and

Whereas the estimated impact of this taxation of social security benefits would have increased the average tax liability of those tax units affected in 1968 by $350; and

Whereas the total estimated increase in Federal tax collections in 1978 by the taxation of one-half of social security benefits would be $3,700,000,000; and

Whereas the prospect of possible cuts has alarmed many older Americans and undermined the confidence of Americans in the integrity of the social security program: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Social Security Advisory Council's recommendation that one-half of social security benefits should be subject to taxation would adversely affect social security recipients and undermine the confidence of American workers in the social security programs, that social security benefits are and should remain exempt from Federal taxation, and that the Ninety-sixth Congress will not enact legislation to implement the Advisory Council's recommendation.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVACY PROTECTION ACT OF 1980

The Senate proceeded to consider the bill (S. 1790) entitled the "Privacy Protection Act of 1979", which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Privacy Protection Act of 1980".

TITLE I—FIRST AMENDMENT PRIVACY PROTECTION

Part A—Unlawful Acts

SEC. 101. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or effecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense, for which such materials are sought: Provided, however, That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense for which such materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783)); or

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product materials, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has

committed or is committing the criminal offense for which such materials are sought: *Provided, however*. That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense for which such materials are sought consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783));

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being;

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of such materials; or

(4) such materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and—

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interest of justice.

(c) In the event a search warrant is sought pursuant to paragraph (4) (B) of subsection (b), the person posssessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

Part B—Remedies, Exceptions, and Definitions

Sec. 105. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of, or at international points of, entry into the United States in order to enforce the customs laws of the United States.

Sec. 106. (a) A person aggrieved by a search for or seizure of materials in violation of this Act shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act or against any other governmental unit, all of which shall be liable for violations of this Act by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this Act while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct.

(c) The United States, a State, or any other governmental unit liable for violations of this Act under subsection (a)(1), may not assert as a defense to a claim arising under this Act the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this Act, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this Act.

(f) A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, such punitive damages as may be warranted, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however*, That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

(g) The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this Act by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

(h) The district courts shall have original jurisdiction of all civil actions arising under this section.

Sec. 107. (a) "Documentary materials", as used in this Act, means materials upon which information is recorded, and includes, but it not limited to, written or printed materials, photographs, tapes, videotapes, negatives, films, out-takes, and interview files, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this Act, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by a person other than the person in possession of the materials;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

Sec. 108. The provisions of this title shall become effective on October 1, 1980, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the provisions of this title shall become effective one year from the date of enactment of this Act.

TITLE II—ATTORNEY GENERAL GUIDELINES

Sec. 201. (a) The Attorney General shall, within six months of the date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of a criminal offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained; and

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on, the use of search warrants by Federal officers or employees for documentary materials described in subsection (a)(3).

(c) An issue relating to the compliance, or to the failure to comply, with guidelines issued pursuant to this section may not be litigated, and a court may not entertain such an issue as a basis for the suppression or exclusion of evidence.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

● Mr. THURMOND. Mr. President, the legislation being considered by the Senate today is a response to the Supreme Court's decision in Zurcher against Stanford Daily, which upheld the search of a newsroom for criminal evidence by law enforcement officials.

This legislation, S. 1790, seeks to strike a careful balance between the first amendment right to free expression and the fourth amendment which permits the Government to search private property under certain circumstances. This is a difficult balance to achieve in any legislative proposal but was not, in my opinion, achieved totally in this bill. Although title I of the bill addresses the concerns of the press and journalists, and I strongly support that part of this legislation, I do have reservations about other portions of the bill that are to be now covered by Attorney General guidelines.

Mr. President, my concerns about titles II and III of the original bill, now to be implemented by guidelines, rest basically on considerations that indicate legitimate law enforcement may be impeded by even the regulatory effect of these provisions.

The extension of search protection to selected groups has the potential for creating sanctuaries for evidence necessary to the effective investigation and prosecution of crime, particularly in the case of lawyers whose clients will urge that they hold incriminating evidence. Concern about the creation of sanctuaries is not without substance, for experience under existing law reveals numerous attempts to use the attorney-client privilege as a basis for refusal to produce nonprivileged, incriminating evidence. This problem will be accentuated for the FBI as it attempts to shift its criminal investigative efforts to large scale white collar crime and political corruption cases.

Mr. President, even though search protection guidelines would apply only to "innocent" third parties, it must be recognized that it is often difficult, especially at the early stages of an investigation, to determine the identity of suspects and co-conspirators. This is particularly true in white collar corruption cases where doctors, lawyers, accountants, or other "privileged" professions serve as conduits for illegal financial transactions. The problem of defining "innocent" third parties becomes particularly severe if protections are extended to these groups.

In addition, subpenas are not available at all stages of an investigation or prosecution. In many areas, Federal grand juries do not sit continuously, and most States do not regularly use grand juries. Also, a grand jury subpena may not appropriately be used to continue to gather evidence after indictment. Because of these gaps in the availability of subpenas, a prohibition of searches may leave prosecutors with no judicially enforceable investigative tools. There will also be considerable time and manpower problems caused by extended litigation over the application of a search protection statute for selected groups. It is unrealistic, for example, to expect that lawyers will not zealously pursue appeals to adverse decisions under a search protection situation.

Because of a desire to avoid the appearance that he has acted to breach the confidentiality of the relationship, a third party—doctor, lawyer, or organized crime associate—may prefer the passive role provided him by a search warrant to being placed in the position of having to take a seemingly active role in complying with a subpena in order to avoid contempt charges. Since there are few legitimate reasons for failure to comply with a subpena in most cases where a subpena is issued, the third party may find that he is in the position of disclosing information sought by subpena.

The exception in the bill, where document destruction or concealment may occur under which a search warrant can be obtained, requires substantial knowledge of the relationship enjoyed by the third party and the subject of the investigation. Does this mean that we probe into the nature of friendships or tightness of family ties? As Assistant Attorney General Heymann observed in his testimony before the Senate Subcommittee on the Constitution, this does not seem to serve privacy interests.

Mr. President, in summary, while the problems of identifying suspects, assessing the probability of destruction of evidence, and the difficulties caused by delays occasioned by application of search protection legislation and attendant litigation is a difficult one, the need to protect values of constitutional proportion in writing other than press search guidelines may tip the balance in favor of limiting searches despite these law enforcement interests. In my opinion, a number of amendments which were offered in committee, and which I supported, would have given more weight to law enforcement and brought more closely into balance the first and fourth amendments. This is particularly true of the amendment offered by Senator SIMPSON on national security matters and amendments by Senator HATCH regarding the potential destruction of documents by someone now covered by the "work-product" protections of the bill.

The "subpena first" rule established by this legislation goes beyond in some ways, the constitutional underpinnings of the fourth amendment. S. 1790, however, goes even further in some respects, by exempting "work-product" materials from a search warrant even if it is possible that the use of a subpena may lead to the destruction or concealment of documents to be used at trial.

As far back as 1932, the Supreme Court in United States against Lefkowitz held that search warrants could be issued for the seizure of contraband and the fruits and instrumentalities of crime. The Court has also declared that "mere evidence" alone, including "papers," were not to be among the classes of property considered for seizure by warrant. (See *Gouled* v. *United States*, 255 U.S. 298 (1921).) In 1967, however, the Supreme Court in *Warden* v. *Hayden* (387 U.S. 294) (1967)) overturned the mere evidence rule and it is now settled that evidentiary items as fingerprints, blood, conversations, and other demonstrative evidence may be obtained through the warrant process or even without a warrant under certain circumstances. In effect, S. 1790, by denying law enforcement officials the ability to obtain a search warrant where potential evidence of a crime is in the hands of a nonsuspect journalist, goes beyond the holding in Zurcher.

It is unreasonable to assume that the possibility for concealment or destruction of evidence does not exist with a "subpena-first" rule, even where such evidence is in the hands of a nonsuspect person. As the Court in Zurcher stated:

> The seemingly blameless third party in possession of the fruits or evidence may not be innocent at all; and if he is, he may nevertheless be so related to or so sympathetic with the culpable that he cannot be relied upon to retain and preserve the articles that may implicate his friends, or at least not to notify those who would be damaged by the evidence that the authorities are of its location. (*Zurcher* v. *Stanford Daily*, 436 U.S. 547, at 561 (1978).)

The Court goes on in a footnote to point out that even if the innocent party is not in a position to be sympathetic or related to the likely criminal(s), the use of a subpena duces tecum may be a problem for law enforcement:

> It is also far from clear, even apart from the dangers of destruction and removal, whether the use of the subpoena duces tecum under circumstances where there is probable cause to believe that a crime has been committed and that the materials sought constitute evidence of its commission will result in the production of evidence with sufficient regularity to satisfy the public interest on law enforcement. (supra, at 561).

Mr. President, the first amendment rights of the press to collect, compile, and disseminate information must be preserved. The necessity, however, to void the availability of search warrants in all cases where "work-product" materials are involved is going too far. Even the Supreme Court recognizes that this situation should be approached on a case-by-case basis where a search warrant is issued with specific preconditions now required by the Court. In *Roaden* v. *Kentucky*, 413 U.S. 496, 501 (1973), the Court stated:

> A seizure reasonable as to one type of material in one setting may be unreasonable in a different setting or with respect to another kind of material.

Congress is getting on very thin ice, in my opinion, in trying to exempt materials and persons across the board where there may be a legitimate law enforcement purpose involved. The few opportunies for abuse do not seem to warrant the lengths to which S. 1790 goes in order to protect the press from warranted searches and seizures.

This concern becomes more serious, in my opinion, when extended to the national security area. Under the provisions of this legislation, documentary materials would only be subject to seizure by law enforcement officials where the custodian of the materials is suspected of criminal acts. In other words, if the New York Times came into possession of material relating to the operation and location of the DEW system, and no crime had been committed by anyone with the New York Times, a subpena could be resisted and no search warrant could be issued. This would be most unfortunate, especially if it were determined that the documentary materials had been stolen and an offense of espionage or treason were possibly involving a third party. Since the New York Times is an innocent party, a criminal investigation may be unnecessarily delayed if for some reason immediate cooperation is not forthcoming. I find it difficult to understand where the security of our Nation is involved, anyone should be immune from a properly issued and executed search warrant. Even if documentary materials are involved, and not "work-product" materials, the dangers of delay due to a possible dispute over the distinction between the two is not particularly comforting to this Senator. For that reason. I hope the guidelines to be issued give special consideration to national security concerns.

Mr. President, although I will vote in favor of this legislation, I wanted to express some of my remaining reservations about titles II and III, in hopes that the Attorney General will consider them in the formulation of guidelines in this area.

● Mr. DOLE. Mr. President, in May of 1978, the Supreme Court issued a decision in the case of Zurcher against Stanford Daily. The Court held that police officers, armed with a warrant, could forcibly and without notice search a person's home or office for evidence of a crime, even if that person were in no way suspected of criminal activity. The legislation that is before us today would limit governmental search and seizure of documentary evidence in possession of nonsuspects.

CONGRESSIONAL ACTION

Less than 1 month after the opinion was issued, the Senate Judiciary Committee's Subcommittee on the Constitution, began 4 days of hearings on the problems associated with the Stanford Daily decision and several possible legislative answers. The Senator from Kansas introduced legislation that was designed to deal with some of the problems that the court's decision created. No action was taken in the 95th Congress. In April of the first session of the 96th Congress, the administration proposed a bill to provide the protection of the subpena-first rule to those engaged in first amendment activities for Federal, State, and local law enforcement authorities. This proposal, S. 855, was later incorporated in S. 1790 as tiles I and IV of the legislation. Title II was added in September of 1979 to afford protection against unannounced searches to those in possession of documentary materials which would be privileged in the jurisdiction in which they are to be found and title III was designed to extend protection to all innocent third parties holding documentary evidence.

THE FOURTH AMENDMENT

The boundaries between citizens and their Government must be carefully observed. Throughout the history of our Nation, concern has been expressed about intrusion by the Government into lives and property of Americans. The fourth amendment was drafted to address these concerns. It expresses an eloquent, unequivocal principle of democratic government, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." The fourth amendment's guarantee sprang directly from the colonial era when warrantless searches were routinely employed by British soldiers to enforce the crown's tax laws. Since then, the scope of fourth amendment protections has been broadened, and through the 14th, made applicable to the States. This expansion has been concurrent with and supportive of the still-evolving "right to privacy" to which every American is entitled.

PRIVACY

The right to privacy has no specific constitutional base. The essential notion of an individual's right to be left alone by Government is not found in any one clause or amendment in the Constitution. Instead, privacy rights are implicit in the scheme of democratic statecraft. Americans have always felt that the Government should not intrude in their personal lives or business without an adequate justification.

The existence of a right to privacy is firmly established in constitutional law, but no concrete definition of the scope of the right has ever been enunciated. Rather, on a case-by-case basis, the parameters of constitutional protection for privacy are being established.

The Senator from Kansas is aware of the fact that it is difficult to strike a proper balance between shielding private information from inquiring eyes and making enough of it available to answer fair questions.

CONCERNS OF LAW ENFORCEMENT

Mr. President, the legislation before us will enhance the constitutional guarantees of privacy, while in no way impairing legitimate law enforcement interests. The intent and effect of the procedure advocated in this legislation is to protect the privacy of Americans from intrusion by police officers, where that intrusion is unnecessary.

The Senator from Kansas is aware of the difficult problems confronting law enforcement officials today. The responsibility of bringing criminals to justice is more difficult now than ever before. Yet, the issue presented by the Stanford Daily case is substantially different from most constitutional conflicts that affect law enforcement. It dealt solely with individuals not suspected of any criminal involvement. The Supreme Court's decision limited the rights of citizens who may have evidence relating to a crime but have not committed any criminal offense.

SCOPE OF INVESTIGATIVE ACTIVITY

It is the opinion of the Senator from Kansas that the Stanford Daily decision overextended the permissible scope of investigatory activity. This is not fully consistent with American ideals of justice. Effective enforcement of the law requires that citizens respect those responsible for the safety of the community. That respect can only be established when citizens are certain that the law will also respect their rights.

The Senator from Kansas urges his colleagues to join him in supporting this important piece of legislation.●

● Mr. HATCH. Mr. President, I rise in support of S. 1790, the proposed Privacy Protection Act. This measure would limit Federal, State, and local governments in their ability to secure search warrants to obtain documentary materials in the possession of persons engaged in the "dissemination of information to the public". S. 1790 is a response to the Supreme Court's decision Zurcher against Standard Daily, 436 U.S. 547 (1978) in which the Court upheld the search of a newspaper file room for photographs incriminating a group of protestors who had attacked and injured nine policemen.

I rise in support of S. 1790, however, not because I wish to overturn Stanford Daily. I feel that it was a correct decision. I rise because I wish to insure that the case is limited to its immediate fact situation. I do not wish to see this decision used as justification for increasingly commonplace searches of newspaper file rooms and similar locations.

At this point in the RECORD, I submit the additional views of myself and my friend and colleague from Wyoming (Mr. SIMPSON). These views summarize my hesitations about this generally meritorious legislation:

The views follow:

ADDITIONAL VIEWS OF SENATORS ORRIN HATCH AND ALAN SIMPSON

I. INTRODUCTION

Each of us has supported S. 1790, the Privacy Protection Act, in both subcommittee and the full Judiciary Committee. We recognize the unique needs of the journalism profession, and the unique role that the press is accorded in our constitutional framework. Each of us, too, is committed to the principle that the Government ought to employ the least intrusive, practicable means to secure information that is necessary for criminal proceedings, not only with respect to journalists, but with respect to all individuals.

The fourth amendment to the Constitution establishes the basic standard that searches and seizures must not be "unreasonable". As Justice Powell noted in his concurring opinion in Zurcher v. Stanford Daily:

"The magistrate must judge the reasonableness of every warrant in light of the circumstances of the particular case * * *. A magistrate asked to issue a warrant for the search of press offices can and should take cognizance of the independent values protected by the first amendment."

The Stanford Daily case held that the Constitution does not require a magistrate to conclude that warrant searches of the press are necessarily "unreasonable". The committee in adopting S. 1790 is, in effect, instructing magistrates and others empowered to issue warrants that a search directed at the documentary materials of journalists is to be considered in itself "unreasonable" in the absence of certain enumerated circumstances. For this reason, a 'subpoena-first' rule is established with respect to most documentary materials in the possession of journalists. In adopting S. 1790, the committee is establishing protections for journalists that are permitted, but not required, by the Constitution.

II. DEPARTURE FROM "SUBPOENA-FIRST" RULE

One of our two major concerns with the final committee product is its departure from a mere 'subpoena-first' rule with respect to a journalist's "work product". The bill instead adopts a rule that may absolutely prevent material from being secured for use at trial. In contrast to other documentary materials, "work product" materials cannot be obtained through warrants even (1) when there is reason to believe that the giving of notice pursuant to a subpoena would result in the destruction, alteration, or concealment of evidence; or (2) when a subpoena has already been disobeyed and all appellate remedies have been exhausted.

The Stanford Daily case underscores the potential for abuse under this approach. There, the newspaper had announced a policy of destroying any photographs in their possession that might aid in the prosecution of a group of protestors who had attacked and injured nine policemen. At oral argument before the U.S. Supreme Court, the counsel for the newspaper participated in the following exchange with several of the justices:

Question. Let us assume you had a picture of the commission of a crime. For example, in banks they take pictures regularly of, not only of robbery but of murder committed in a bank and there have been pictures taken of the actual pulling of the trigger or the pointing of the gun and pulling of the trigger. There is a very famous one related to the assassination of President Kennedy.

What would the policy of the Stanford Daily be with respect to that? Would it feel free to destroy it at any time before a subpoena had been served?

Mr. FALK. The—literally read, the policy of the Daily requires me to give an affirmative answer. I find it hard to believe that in an example such as that, that the policy would have been carried out. It was not addressed to a picture of that kind or in that context.

Question. Well, I am sure you were right. I was just getting to the scope of your theory.

Mr. FALK. Our——

Question. What is the difference between the pictures Justice Powell described and the pictures they were thought to have?

Mr. FALK. Well, it simply is a distinction that——

Question. Attacking police officers instead of the President.

That is the only difference.

Under S. 1790, as reported, such materials in the possession of a newspaper like the Stanford Daily would be totally unobtainable by the Government. The sixth amendment rights of individuals to a fair trial, and the interests of society in having its laws enforced, may well be compromised by a policy that makes these materials wholly inaccessible for the criminal justice process.

The only recourse against a journalist who refuses to comply with a subpoena for his "work-product" is contempt of court. The argument that the contempt sanction is an adequate remedy is not persuasive. While a contempt citation may punish an individual, it establishes no control over the sought-after information; it does not secure the information needed for the criminal trial or investigation. Further, even when contempt sanctions are ultimately successful in inducing individuals to comply with subpoenas, the delay involved may seriously inhibit or block an investigation.

The lack of a destruction of evidence exception for "work-product" is particularly regrettable in that it can only serve to benefit the few highly irresponsible members of the journalism profession who seek to withhold evidence from the criminal justice system. The overwhelming preponderance of press in this country are not likely to destroy evidence or refuse to cooperate with law enforcement officials. Documentary materials in their possession would normally be available through subpoenas. These journalists have no need to be afforded any enhanced protections since there would be no "reason to believe" that they would destroy, alter or conceal documents. It is only the irresponsible press which will have the opportunity to seize upon the absolutists protections in S. 1790.

There is no precedent for a policy that would place in the hands of private individuals the determination whether or not materials needed in a criminal trial or investigation are to be made available to the courts.

It must be emphasized that S. 1790 is not a "shield" law; it does not protect sources or informants. The greatest protection is given to "work product" materials which by definition must be intended for public dissemination. Other documentary materials may be obtained through warrant searches under circumstances described above. Even if a subpoena is used, however, the "shield" law issue remains; in the absence of specific legislation, the journalist must supply the desired materials intact (including the name of the source, if that is part of a requested document) or face punishment for contempt. S. 1790 does not change this.

III. "WORK-PRODUCT" VERSUS "NON-WORK-PRODUCT"

It is worth emphasizing also that it is not the "privacy" interests of the journalist that justify his preferred treatment under S. 1790. For example, personal diaries of the journalist, like anyone else, are not immune from warrant searches. Rather, it is his first amendment-related activity of disseminating information that is accorded unique protections. Yet, nothing stemming from the first amendment would justify the distinction between "work-product" and "non-work-product". The basis for exceptional treatment is the journalist's intention to disseminate information to the public, not his creativeness, or the amount of energy he has exerted, in developing materials.

We believe the "work-product"—"non-work-product" distinction may well prove to be an unworkable burden for the average magistrate or policeman-on-the-street. He will have to engage in some remarkably rapid and sophisticated analysis in order to determine what materials are obtainable through warrants, under what circumstances, and subject to what exceptions. He himself may have to engage in a form of "mind-reading" in order to decide such matters as whether or not documentary materials are possessed "in anticipation of communicating such materials to the public".

IV. NATIONAL SECURITY

Our second major concern arises because the bill as reported does not contain an adequate national security exception.

As S. 1790 is now drafted, documentary materials needed for an investigation or prosecution of serious crimes involving the national security, including treason, sabotage, and espionage, would not be subject to a warrant search, even if there were probable cause to believe that the delay or notice involved in the use of a subpoena would substantially reduce the availability or usefulness of the evidence. This would be true regardless of how serious was the threat to national security of the criminal actions being investigated, with certain very limited exceptions.

The national security exception now provided in the bill would only cover situations where the custodian of the needed documentary materials was himself suspected of the crime being investigated. In most investigations, therefore, a search warrant could be used only if one of the other very narrow exceptions were available. These exceptions are not adequate to cover all potential national security needs. For "work-product," as we stated earlier, an exception allowing use of a search warrant would not be available even if there were reasons to believe that the giving of notice pursuant to a subpoena would result in the destruction, alteration or concealment of the needed materials. Furthermore, the use of a subpoena involves other risks besides that of giving notice. In a critical national security investigation the delay involved in the subpoena procedure, even if the subpoena is obeyed, may well lead to crucially needed documentary materials being obtained too late.

S. 1790 as reported does not reflect the high priority given to national security in other legislation. Wiretap provisions—of both existing law and the proposed Criminal Code reform bill reported by the Judiciary Committee—recognize that the needs of national security can sometimes make reasonable what would otherwise be unreasonable, namely an invasion of the privacy interests of Americans even without prior judicial authorization.

It is worth emphasizing that in this bill we are not dealing with judicially unauthorized searches, or with a statute that pushes government power toward the limit of what the Constitution permits. S. 1790 does the opposite—it provides that government pull back from that Constitutional limit, restricting even Constitutionally proper warrant searches. We are in effect saying that, especially when communication to the public is involved, subpoenas should be used except in certain very limited circumstances.

The press and other persons disseminating information and opinion to the public are not exempt from the wiretap statutes. The national security provisions which apply to everyone else apply to them as well. It is even less appropriate that they be exempt from searches authorized by warrant when important national security interests are at stake, when the criminal activity being investigated consists of treason, sabotage, or espionage.

We find it difficult to understand how when the security of our nation is at stake, the press or any person with documentary materials necessary to an investigation of these serious offenses should be immune from Constitutionally proper warrant searches. In our view when the delay and the notice inherent in the subpoena procedure would jeopardize the availability or usefulness of materials needed for such an investigation, a warrant search should be available.

The fact that the Federal Government has never searched the press for national security materials does not mean that the need may not arise in the future. Since the government has the authority to conduct such searches now, the fact that it has never found it necessary to do so makes it likely that in the future such searches would be very rare or non-existent. That is certainly our intent.

It has been claimed that the instances in which needed national security information would be considered "work product" would be "extremely rare" and that for documentary materials which are not "work product," the destruction of evidence exception would be available. The claim that needed materials would seldom be "work product," even if true, would not be very comforting when those "extremely rare" instances occurred. Furthermore, as we have already stated, even for "non-work product" materials, the existing exceptions do not adequately cover the risk of delay.

V. LAW ENFORCEMENT POSITION

Finally, we note that Justice Department and F.B.I. officials have not publicly requested a destruction of evidence exception for "work product" or a broader national security exception. This does not surprise us since the relevant part of S. 1790, Title I, was drafted by the Justice Department and proposed as the official position of the Administration, to which particular representatives would not be in a position to object. Law enforcement officials not subject to the same political constraints, for example the National District Attorneys' Association, have expressed support for amendments in both these areas.●

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill entitled the "Privacy Protection Act of 1980".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed and the title amendment was adopted.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 487) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5766, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5766, a bill to amend title 10, United States Code, to authorize additional Reserve Officer's Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5766, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS

The Senate proceeded to consider the bill (H.R. 5766) to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps Scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That (a) section 2107(a) of title 10, United States Code, relating to financial assistance for specially selected members of the Reserve Officers' Training Corps, is amended by striking out the period at the end of the first sentence and all of the second sentence and inserting in lieu thereof a comma and the following: "except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.".

(b) Section 2107 of such title is further amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking our clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will either—

"(A) (i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B) (i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department, concerned.

The performance of service under clause (5) (B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "12,000".

(c) (1) Chapter 103 of such title, relating to Senior Reserve Officers' Training Corps, is amended by inserting after section 2107 the following new section:

"§ 2107a. Financial assistance program for specially selected members: military junior colleges

"(a) (1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature that does not confer baccalaureate degrees and that meets such other requirements as the Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than eight years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

"(e) the date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlistd grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

"(h) (1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection(b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

"(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

(2) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"2107a. Financial assistance program for specially selected members: military junior colleges.".

(d) Section 2108(d) of such title, relating to advanced training after receiving a baccalaureate degree or completing preprofessional studies, is amended by striking out the second sentence and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

(e) The amendments made by this section shall take effect on October 1, 1980.

Sec. 2. (a) Chapter 101 of title 10, United States Code, relating to training, is amended by adding at the end of such chapter the following new section:

"§ 2005. Advanced education assistance: active duty agreement; reimbursement requirements

"(a) The Secretary of an armed force may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

"(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

"(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;

"(3) that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided bears to the total period of active duty such person agreed to serve; and

"(4) to such other terms and conditions as the Secrtary concerned may prescribe to protect the interest of the United States.

"(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

"(c) Subject to the provisions of subsection (d) of this section, the obligation to reimburse the United States under an agreement described in subsection (a) of this section is, for all purposes, a debt owing the United States.

"(d) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1978.

"(e) In this section—

"(1) 'Advanced education' means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

"(2) 'Assistance' means the direct provision of any course of advanced education by an armed force, reimbursement by an armed force for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by an armed force for any course of advanced education provided by any public or private educational institution or other entity.

"(3) 'Cost of advanced education' means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transportation, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.".

(b) The table of sections at the beginning of chapter 101 of such title is amended by adding at the end thereof the following new item:

"2005. Advanced education assistance: active duty agreement; reimbursement requirements.".

Sec. 3. Effective only for the period beginning October 1, 1980, and ending September 30, 1981, section 7572(b) of title 10, United States Code, relating to accommodations in place of quarters for members on sea duty, is amended to read as follows:

"(b) Under such regulations as the Secretary prescribes, any member of the uniformed services on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of a member of the same grade without dependents, if it is impracticable to furnish accommodations under subsection (a). A member entitled to receipt of basic allowance for quarters may not be reimbursed for expenses under this subsection when deprived of quarters aboard ship at a location at which the member can reside with such member's dependents. The total amount of such reimbursements for fiscal year 1981 may not exceed $9,000,000.".

Sec. 4. Section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), relating to the applicability of certain laws to the National Oceanic and Atmospheric Administration, is amended by adding at the end thereof the following new paragraph:

"(13) Section 7272(b), Quarters: accommodations in place of for members on sea duty.".

Sec. 5. (a) Sections 3686(2) and 8686(2) of title 10, United States Code, relating to service credit for service as members of the Army and Air Force National Guard, are each amended by striking out "sections 316 and 503–505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

(b) The amendments made by subsection (a) shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, on and after the date of the enactment of this Act.

Sec. 6. The second sentence of section 672(a) of title 10, United States Code, relating to authority to order members of the Standby Reserve to active duty, is amended to read as follows: "However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.".

Sec. 7. (a) Section 4818 of the Revised Statutes of the United States (24 U.S.C. 44), relating to funds for the support of the Soldiers' and Airmen's Home, is amended by inserting "or under authority by section 815 of title 10, United States Code" after "courts-martial".

(b) The amendment made by subsection (a) shall become effective on October 1, 1981.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary of an armed force to require an individual furnished post-secondary education by an armed force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed and the amendment to the title was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR INDEFINITE POSTPONEMENT OF ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that calendar orders numbered 396 and 701 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Convention Against the Taking of Hostages (Executive N, 96th Congress, 2d session), and a Tax Convention with the Government of Jamaica (Executive O, 96th Congress, 2d session), both transmitted to the Senate today by the President of the United States; and I ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the International Convention Against the Taking of Hostages, adopted by the United Nations General Assembly on December 17, 1979 and signed on behalf of the United States of America on December 21, 1979.

The report of the Department of State with respect to the Convention is also transmitted for the information of the Senate.

In recent years, we have witnessed an unprecedented and intolerable increase in acts of terrorism involving the taking of hostages in various parts of the world. Events have clearly demonstrated that no country or region is exempt from the human tragedy and immense costs which almost invariably result from such criminal acts. Consequently, the urgent need to take positive action against these manifestations of international terrorism has become readily apparent. Although the penal codes of most States contain provisions proscribing assault, extortion, kidnapping, and other serious crimes inherent in hostage-taking incidents, an international framework for cooperation among States directed toward prevention of such incidents and ensuring punishment of offenders, wherever found, has not previously existed.

The Convention creates a legal mechanism whereby persons alleged to have committed offenses under the Convention will be prosecuted or extradited if apprehended within the jurisdiction of a State Party, wherever the offense was committed. In essence, the Convention imposes binding legal obligations upon States Parties either to submit for prosecution or to extradite any person within their jurisdiction who commits an act of hostage-taking (as defined in Article 1), attempts to commit such an act, or participates as an accomplice of anyone who commits or attempts to commit such an act. A State Party is subject to these obligations without regard to the place where the alleged act covered by Article 1 was committed.

Article 1 of the Convention declares that the act or offense of taking of hostages is committed by any person who seizes or detains and threatens to kill, injure, or continue to detain another person (the "hostage") in order to compel a third party (a State, an international intergovernmental organization, a natural or juridical person, or a group of persons) to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage. States Parties to the Convention will also be obligated to cooperate in preventing hostage-taking offenses by means of internal preventive measures, exchange of information, and coordination of enforcement activities.

This Convention is a vitally important new element in the campaign against the scourge of international terrorism in general and the heinous crime of hostage-taking in particular. I hope that all States will become Parties to this Convention, and that it will be applied universally. I recommend, therefore, that the Senate give early and favorable consideration to this Convention.

JIMMY CARTER.

THE WHITE HOUSE, *August 4, 1980.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, a Convention between the Government of the United States of America and the Government of Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the Convention), together with a related exchange of notes, signed at Kingston on May 21, 1980. I also transmit the report of the Department of State with respect to the Convention.

In general, the Convention follows the pattern of the United States model income tax convention, although there are some accommodations to Jamaica's status as a developing country. For example, business profits of an enterprise of one country, as in the model convention, may be taxed by the other only if they are attributable to a permanent establishment in the other country. In the proposed Convention, however, the definition of a permanent establishment is more broadly drawn. Similarly, in the United States model, an individual who is a resident of one State may be taxed by the other on income from personal services performed in the other State only if certain thresholds are passed, but in the proposed Convention, the time threshold is shorter for independent services and a dollar threshold has been added.

The exchange of notes sets forth certain understandings between the two Governments. It deals, among other matters, with the conditions under which the United States would allow a foreign tax credit for Jamaican income taxes on bauxite profits. The exchange of notes also confirms the fact that the Convention has been designed to cover a substitute tax which may be imposed by Jamaica "in lieu of" the corporate income tax on such profits if such substitute tax meets the requirement of section 903 of the Internal Revenue Code.

I recommend that the Senate give early and favorable consideration to the Convention and its advice and consent to ratification.

JIMMY CARTER.

THE WHITE HOUSE, *August 4, 1980.*

LEGISLATIVE ACHIEVEMENTS, 96TH CONGRESS, 2D SESSION, THROUGH AUGUST 4, 1980

Mr. ROBERT C. BYRD. Mr. President, during the 113 days the Senate has been in session this year, it has worked diligently on a variety of issues. Most importantly, it has produced innovative programs to reduce American dependence on imported oil.

The windfall profit tax, which was enacted in April, will encourage energy conservation, alternate fuel development, and exploration of new sources of domestic oil, while providing assistance to low-income families to cope with increasing costs for heating and cooling.

An omnibus synthetic fuels measure, which was signed into law on June 30, initiates a series of programs for attaining production of the equivalent of 2 million barrels of oil per day from alternate energy sources by 1992.

A measure requiring 80 electric generating powerplants to convert from use of oil to coal has passed the Senate.

Three bills relating to nuclear energy were debated and passed last week by the Senate. The thorny issues involved with the storage and disposal of radioactive waste produced by utilities were considered and a nuclear waste policy measure was passed, as well as the fiscal 1981 Nuclear Regulatory Commission authorization and the first Department of Energy authorization since its creation in 1978.

Also last week, the Senate acted to put in place the President's emergency gasoline rationing plan and to release funds for energy assistance to the Nation's poor and elderly during the recordbreaking heat wave.

Concurrent with Senate efforts to deal with national energy needs has been the considerable time and effort devoted this session to keeping Federal spending down and within the budget ceilings. For the first time since enactment of the 1974 Budget Control Act, the reconciliation process was invoked to restrain expenditures.

A number of major pieces of legislation considered by previous Congresses have become law this year, such as the comprehensive changes to the banking system, and deregulation of the trucking industry. Important modifications and reauthorizations of numerous existing programs were enacted. A more detailed account of the legislative achievements of the Senate this session Democratic policy committee staff. I ask unanimous consent that it be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROBERT C. BYRD. I wish to take this opportunity to thank all Members of the Senate for their contribution to this creditable record of accomplishment. I also wish to express my gratitude to the majority whip, Mr. CRANSTON, for his able and ready assistance and to the minority leader and minority whip for their cooperation and accommodation in expediting the work of the Senate.

EXHIBIT 1

LEGISLATURE ACHIEVEMENTS

AGRICULTURE

Crop insurance: Establishes an expanded and comprehensive crop insurance program for farmers; removes limits on the expansion of the Federal crop insurance program; provides additional funding for the program; provides for a reinsurance program; and requires the Federal Crop Insurance Corporation to pay a portion of the cost of crop insurance premiums under the program. S. 1125—Passed Senate September 10, 1979; Passed House amended February 13, 1980; In conference. (268)

Farm credit system: Amends the Farm Credit Act of 1971 to update and improve the operation of the Farm Credit System; reduces from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent the minimum voting control of a cooperative that must be held by farmers, aquatic producers, or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans from a bank for cooperatives; authorizes Federal land banks to make loans in excess of 85 percent, but not in excess of 100 percent, of the appraised value of the real estate security if the loan is guaranteed by Federal or other governmental agencies; authorizes Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch or aquatic operation and those of other eligible farmers, ranchers, or producers if the applicant's operation supplied at least 20 percent of the amount of the commodity to be processed or marketed; authorizes the banks for cooperatives to finance transactions for the exporation of agricultural and aquatic products by U.S. cooperatives that are borrowers from the banks; and provides the cooperative with other financial services to enable them to participate effectively in foreign markets for agricultural and aquatic products. S. 1465—Passed Senate July 24, 1980. (VV)

Economic emergency loan program: Extends through September 30, 1981, the Secretary of Agriculture's authority to make insured or guaranteed economic emergency loans to farmers and ranchers who are unable to obtain sufficient credit elsewhere due to national or areawide economic stress; increases from $4 billion to $6 billion the total principal balance that may be outstanding on these loans at any time; requires that, for purposes of determining if applicants for economic emergency loans cannot obtain credit elsewhere, the applicant must submit proof of one refusal for credit under $300,000 and proof of two refusals for credit over $300,000; requires an applicant to have purchased a home or farm at least one year prior to applying for refinancing the property; requires the Secretary to review insured loans three years after they are initially granted and every two years thereafter to determine if the borrower is able to obtain financing from cooperative or private sources; disallows insured loans of more than $300,000 unless it is determined that the applicant is unable to obtain a guaranteed loan sufficient to finance his or her actual needs within a reasonable time; requires, effective October 1, 1980, as a condition of eligibility for receiving economic emergency loans, that borowers meet the same "credit elsewhere" test required under the other farm loan programs administered by the Farmer Home Administration; and requires the Secretary to submit to Congress, by March 31, 1981, a comprehensive study of the operation and effectiveness of the economic emergency loan program. S. 2269—Public Law 96–220, approved March 30, 1980. (VV)

Grain reserves: Amends the Agricultural Act of 1949 to assist farmers with their excess 1979 crops of corn and wheat as a result of the President's embargo of grain to the Soviet Union during the recent Soviet aggression in Afghanistan; authorizes the Secretary of Agriculture to make long-term price support loans under the farmer-held reserve program on the 1979 crops of corn and wheat to any producer who did not participate in the 1979 set-aside program; authorizes the Secretary to sell corn owned by the Commodity Credit Corporation for conversion into alcohol fuel, at not less than the grain reserve release price, to those alcohol producing facilities which begin operation after January 4, 1980, and which also have the capability for producing alcohol from agricultural or forestry biomass feedstocks, provided corn supplies are not available; increases from $50,000 to $100,000 the loan ceiling under the farm storage facility loan program for the construction of storage facilities; and eliminates the current limitation on loans to the space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period. S. 2427—Public Law 96–234, approved April 11, 1980. (VV)

APPROPRIATIONS—FISCAL 1980

Federal Trade Commission: Transfers $12.65 million to the Federal Trade Commission, for salaries and expenses through April 30, 1980, with the proviso that obligations may not exceed $9.8 million. H.J. Res. 514—Public Law 96–219, approved March 28, 1980. (*65)

Transfers $7.6 million to the Federal Trade Commission for salaries and expenses through May 31, 1980, with the proviso that obligations may not exceed $5.8 million during this period. H.J. Res. 541—Public Law 96–240, approved May 1, 1980. (*91)

Appropriates $49.7 million for the remainder of fiscal 1980 for the Federal Trade Commission for a total 1980 appropriation of $65.3 million and restricts expenses for official receptions and representation to $1,500. H.J. Res. 554—Public Law 96–261, approved June 4, 1980. (*171)

Military registration: Makes $13,285,000 available for fiscal 1980 by transfer to the Selective Service System to support the reinstitution of peacetime premobilization military draft registration for men. H.J. Res. 521—Public Law 96–282, approved June 27, 1980. (*200)

Supplemental: Makes supplemental appropriations for fiscal 1980 in the total amount of $19,444,104,918 comprised of $16,260,532,776 in new budget authority and $3,183,572,142 in rescissions; contains deferrals in the total amount of $522 million; includes $100 million in agricultural credit insurance, $143 million for P.L. 480, $3.580 billion for defense items, $150 million for GNMA tandem plan, $870 for disaster relief, $951 million for Mount Saint Helens relief, $285 million for the space shuttle, $362 million for education programs, $1.5 billion for Chrysler loan guarantees, $1.177 billion for SBA disaster loans, $330 million for urban mass transit discretionary grants, and $3.730 billion for increased pay for military and civilian personnel; transfers $18.792 billion from the Energy Security Reserve for synfuel and biomass programs and $1 billion for the Solar Energy Bank; and rescinds $143 million for revenue sharing, $2 billion for the Strategic Petroleum Reserve, and $220 million for GSA furniture; and provides an advance appropriation for fiscal 1981 of $591.6 million for rail labor assistance. H.R. 7542—Public Law 96–304, approved July 8, 1980. (*277, *303)

Urgent food stamp supplemental: Appropriates $2,556,174,000 for fiscal 1980 for the Food Stamp Program; requires the Secretary of Agriculture to study and report to Congress by January 15, 1981, on the effects of limiting benefits to food stamp participants based on the value of their assets and on the impact and advisability of counting as income all educational deferred loans, grants, fellowships, veterans' educational benefits and housing subsidies in determining food stamp eligibility; and stipulates a total 1980 appropriation of not more than $9.191 billion. H.J. Res. 545—Public Law 96–243, approved May 16, 1980. (*142, *148)

BUDGET

First budget resolution, 1981; revised second budget resolution 1980: Contains total budget authority for fiscal 1981 of $697.2 billion, outlays of $613.6 billion, and revenues of $613.8 billion, with a surplus of $200 million, and a public debt level of $935.1 billion; invokes the reconciliation process, under which eight House and nine Senate authorizing committees are instructed to reduce total spending authority within their jurisdictions, in order for each house to achieve a savings of $4.95 billion in budget authority and $6.4 billion in outlays in fiscal 1981 and requires the specified committees to submit their recommendations to their respective budget committees (Senate committees must submit spending reductions by June 25 and revenue reductions by July 2), which shall report to their respective houses a reconciliation bill or resolution, or both, carrying out all the recommendations, without any substantive revision; includes a reconciliation directive for fiscal 1980 to the House and Senate Appropriations Committees to each report savings of $3 billion in budget authority and $1 billion in outlays;

Prohibits enrollment of any spending legislation in fiscal 1981 (appropriations and entitlement) which exceeds a committee's crosswalk allocation or subcommittee subdivision under the First Budget Resolution or which would reduce revenues in excess of $100 million until Congress has adopted the Second Budget Resolution and any required reconciliation legislation; requires, for this year only, completion of the Second Budget Resolution by August 28 instead of September 15;

Establishes a Congressional Federal Credit Budget to limit total new Federal credit programs in fiscal 1981 for new direct loan obligations to a level of $63.9 billion (a $25.8 billion limitation on Federal off-budget lending activity and a $38.1 billion limitation on Federal on-budget lending activity) and for new primary loan guarantee commitments to $79.6 billion;

Calls on the President to implement a "zero net inflation impact" policy which requires the Congressional Budget Office to monitor the inflationary impact of new Federal regulations; prohibits new regulations which increase cost or prices unless corresponding reductions are made by modifying or eliminating regulations; requires development of an exemption procedure for regulations necessary to avert any imminent threat to health and safety; calls upon the President to review current inflation measures used for indexing Federal programs, as well as other indexing alternatives, and report to Congress by November 20, 1980, his conclusions and recommendations and to reflect those conclusions in his budget and legislative proposals for 1982;

Modifies the fiscal 1980 Second Concurrent Budget Resolution to provide for budget authority of $658.85 billion, outlays of $572.65 billion, and revenues of $525.7 billion, with a deficit of $46.95 billion and a public debt level of $903.6 billion; and

Includes Senate projected estimates for fiscal 1981 and 1982 respectively, as follows: Budget Authority—$775 billion and $851.6 billion. Outlays—$695.6 billion and $765.5 billion, and Revenues—$701.4 billion and $783 billion, with a surplus of $5.8 billion and $17.5 billion; and a Public Debt Limit of $965.6 billion and $991.1 billion. H. Con. Res. 307—Action completed June 12, 1980. (*134)

Reconciliation—revenue: Recommends raising fiscal 1981 revenues by $4.2 billion, as required by the Fiscal 1981 First Budget Resolution, by: (1) a tax on gains from U.S. real estate realized by foreign investors; (2) imposition of social security and unemployment taxes on the employee social security tax paid by employers; (3) a one-year delay in the phaseout of the telephone excise tax; (4) extension of estimated tax requirements for individuals and corporations to the minimum tax; (5) an increase in the proportion of the corporate income tax to be covered by estimated tax payments from 80 percent to 85 percent; (6) a requirement that large corporations cover at least 50 percent of their current year's tax liability with estimated tax payments if they elect the exception to the general estimated tax rules allowing them to base their estimates on the prior year's tax liability; (7) a 40-cent increase in the tariff on alcohol imported for use as fuel; (8) a $1,000 tax credit for royalty owners against their 1980 windfall profit tax liability; and (9) a two-barrel-a-day stripper oil exemption for fiscal 1981 from the windfall profit tax and a decrease in the adjusted base price for determining that tax by 10.1 percent for fiscal 1981, in order to offset any revenue loss. S. 2929—Passed Senate July 23, 1980. (VV)

Reconciliation—spending: Recommends savings totalling approximately $4.8 billion in budget authority and $6.4 billion in outlays which, when added to the approximate $500 million savings in budget authority and outlays for the Postal Service expected to be achieved through the appropriations process, totals approximately $5.3 billion in budget authority and $6.9 billion in outlays;

Agriculture Committee: Recommends reductions and other changes in the child nutrition programs estimated at saving over $520 million in budget authority and outlays;

Armed Services Committee: Recommends providing a once yearly cost-of-living increase in military retired pay contingent on a similar change in current law for Federal civilian retirees estimated at saving $408 million in fiscal 1981;

Commerce, Science, and Transportation Committee: Recommends legislation estimated saving $300 million in budget authority and between $255 million and $260 million in outlays by: (1) amending Public Law 96–254 to delete authority for advance quarterly payments for Amtrak capital programs; (2) amending S. 1648 (which passed the Senate on February 5, 1980) in conference to reduce airport development and planning grant authority; (3) amending S. 2530 (which is on the Senate Calendar) to limit funds available in fiscal 1981 from the redeemable preference share program in title V of the Railroad Revitalization and Regulatory Reform Act; (4) amending Public Law 95–599 to reduce the authorization of funds from the highway trust fund for the highway safety grant program; and (5) amending S. 1159 in conference to reduce the National Highway Traffic Safety Administration's authorization;

Environment and Public Works Committee: Recommends achieving its reconciliation directive of reducing budget authority by $300 million by rescinding authority for the interstate construction program under the 1978 Federal-Aid Highway Act;

Finance Committee: Recommends legislation estimated at saving $943 million in budget authority and $2.397 billion in outlays in fiscal 1981 primarily through changes in various social services programs including, unemployment compensation, SSI, and medicare and medicaid;

Governmental Affairs Committee: Recommends elimination of the September, 1980, cost-of-living increase in the civil service retirement benefits, estimated at saving $523 million;

Labor and Human Resources Committee: Fulfills its reconciliation directive by the Senate-passed revisions and reforms in the student loan programs in S. 1839, the total savings of which are estimated by CBO to meet the reconciliation directive of a $350 million reduction in budget authority and $450 million reduction in outlays contained in the budget resolution;

Select Committee on Small Business: Fulfills its reconciliation directive by provisions of S. 2698 which has been cleared for the President, which contains a section 119 that would eliminate the duplicative jurisdiction of SBA and the Farmers Home Administration with respect to disaster actual loss emergency loan assistance for agricultural enterprises which CBO estimates would meet the entire reconciliation directive of reducing budget authority by $800 million and outlays by $600 million; and

Veterans' Affairs Committee: Recommends legislation to achieve its required savings by (1) changing the Senate approved provisions to H.R. 5288, the GI Bill Amendments to: reduce to 10 percent the 15 percent increase and postpone from September 1, 1980, to January 1, 1981, the effective date for the increase, modify flight and correspondence training provisions, repeal the authority for pre-discharge education program (PREP) training, and modify vocational-objective course approval criteria, (2) improving the VA's ability to collect delinquent debts owed by individuals to the Federal Government by virtue of participation in VA benefits programs; and (3) making it out of order for the Senate to appropriate certain construction funds. S. 2885—Passed Senate June 30, 1980. (*283)

Roth budget resolution: Expresses the sense of the Senate that the Budget Committee shall report a Federal budget for fiscal 1981 which is balanced and which reserves any surplus for a tax reduction (one-half to increase productivity and one-half to offset social security tax increases), and that the Budget Committee shall also report such additional specific reductions, if any, necessary to reduce Federal outlays for fiscal 1981 to 21 percent of the gross national product. S. Res. 380—Senate agreed to March 25, 1980. (*64)

DEFENSE-NATIONAL SECURITY

Coast Guard authorization: Authorizes $763,887,000 for fiscal 1981 for the operation and maintenance of the Coast Guard of which $1,248,367,000 is for operating expenses including expenses related to the Capehart housing debt reduction of $233,935; $469,320,000 for acquisition, construction, and improvement of vessels, aircraft, shore units and aids to navigation; $16,200,000 for alteration or removal of bridges, to remain available until expended; and $30,000,000 for research, development, test, and evaluation; sets the end-of-year strength for active duty personnel at 39,600; authorizes the average military training loads; authorizes advance payment of housing leases in foreign countries when required to obtain a lease; authorizes the Coast Guard Supply Fund to accept transfers of spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft; ensures that Coast Guard members who accept appointments to temporary commissioned or warrant grades do not receive less pay or allowances; authorizes the Secretary of Transportation to pay Coast Guard personnel a monetary allowance in lieu of furnishing transportation of household effects in kind; changes the date of "National Safe Boating Week" to the week of July 1; requires the Coast Guard to submit to Congress each year, along with its budget request, the current copy of its Capital Investment, Cutter, Aviation, and Shore Facilities Plans in order that Congress may evaluate the adequacy of the budget requests; and contains a supplemental authorization of $23 million of which $15 million is for operating expenses to cover increased fuel costs and $18 million is for the Cuban refugee operation and for experienced and/or announced increased in fuel costs. S. 2489—Passed Senate June 23, 1980. (VV)

Intelligence activities authorization—intelligence oversight: Authorizes such amounts as specified in a classified report for fiscal 1981 for the intelligence activities of the United States Government, including specific amounts for the Central Intelligence Agency, DOD, Defense Intelligence Agency, National Security Agency, military services, Departments of State, Treasury, and Energy, Federal Bureau of Investigation, and the Drug Enforcement Administration; authorizes $18.7 million for the Intelligence Community Staff which provides support and assistance to the Director of CIA in fulfilling his responsibilities for management and direction of the intelligence community; sets at 245 persons the end strength of full-time employees for the intelligence community staff and provides that any employee detailed to the staff from another entity shall be on a reimbursable basis except for those temporarily detailed on a non-reimbursable basis for a period of not less than one year as required by the Director of Intelligence; authorizes $55.3 million for the Central Intelligence Agency Retirement and Disability Fund; authorizes a new degree of Master of Science in Strategic Intelligence (MSSI) by the Defense Intelligence School; and

Contains the provisions of S. 2284, the Intelligence Oversight bill as it passed the Senate on June 3, 1980, which requires the Director of Central Intelligence and the heads of all departments, agencies, and other entities involved in intelligence activities to inform the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (instead of the eight committees presently responsible for oversight) of all U.S. intelligence activities including any significant anticipated intelligence activities; allows the President to limit notice to the chairmen and ranking minority members of the Select Committees, the speaker and minority leader of the House and the majority and minority leaders of the Senate if he determines that this is necessary to meet extraordinary circumstances affecting vital interests; requires intelligence groups to report in a timely fashion to the Select Committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been planned or taken; requires the President to inform the Select Committees fully of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given, and to provide a statement of the reasons for not giving prior notice; and requires the House and Senate, in consultation with the Director of Central Intelligence, to establish by rule or resolution, procedures to protect against unauthorized disclosure of classified information provided to Congress. S. 2597—Passed Senate June 28, 1980; Passed House amended July 28, 1980; In conference. (VV)

Military procurement: Authorizes $51.96 billion for military procurement, research and development, civil defense, and educational benefits for fiscal 1981;

Procurement: Contains $34,897,385,000 for procurement of aircraft, missiles, naval vessels and weapons including tracked combat vehicles, torpedoes and related support equipment; includes $1.627 billion to procure 60 Navy F–18 fighter aircraft, $828.7 million for 30 Navy F–14A fighters, $1.002 billion for 48 F–15A/B/C/D aircraft, $1.87 billion for 180 Air Force F–16A/B, $1.017 billion for 569 Army XM–1 tanks, $1.199 billion for the 9th nuclear powered Trident ballistic missile submarine, $526.6 million for the Service Life Extension Program (SLEP) for the aircraft carrier *Forrestal*, $304 million to reactive the aircraft carrier *Oriskany*, $294 million to reactivate the battleship *New Jersey*, $1.51 billion for 6 FFG guided missile frigates, and $1.285 billion for two *Aegis* cruisers;

Research and development: Contains $16,903,807,000 for research and development; provides $1.55 billion for R. & D. on the M–X missile and limits the initial phase of construction of the M–X system to 2,300 protective shelters in the initial deployment area; provides funding for basic technology work leading to space laser weapons, for a blue/green strategic laser communication system, and for resumption of development of the Extremely Low Frequency (ELF) communication system;

Active Forces: Sets an overall active duty end strength of 2,071,100 as follows: 775,300 for the Army, 536,100 for the Navy, 185,200 for the Marine Corps, and 564,500 for the Air Force; contains legislative changes relating to military service, compensation, and benefits, including restricting the proportion of male Army recruits in any one year who are not high school graduates to 32 percent and restricting the proportion of new recruits of each service that are rated mental ability group category IV (i.e. those whose mental ability falls between the 10th and 13th percentile of the base population) to 25 percent or less of all recruits; suspends, for one year, the current military pay raise mechanism in law and requires the President to report on recommendations for a new procedure by April 1, 1981; provides an 11.7 percent increase in basic pay, subsistence, and quarterly allowances effective October 1, 1980;

Sets an average strength of 861,700 in the Reserve Forces as follows: 371,300 for the Army National Guard, 204,500 for the Army Reserve, 87,400 for the Naval Reserve, 33,700 for the Marine Corps Reserve, 94,300 for the Air National Guard, 58,800 for the Air Force Reserve, and 11,700 for the Coast Guard Reserve; contains an end strength of 981,050 for civilian personnel in DOD and an average military training student load of 234,724, and includes a separate authorization of 28,197 for the Army One Station Union Training;

Civil Defense: Contains $114,500,000 for war-related civil defense activities;

General provisions: Expresses the sense of Congress that the provisions of the War Powers Resolution be strictly adhered to and its Congressional consultation process be adhered to; authorizes the transfer of $13.3 billion from DOD to the Selective Service System to begin the registration of young men in fiscal 1980; exempts from the Vinson-Trammell Act certain contracts and subcontracts entered; directs the Secretary in an annual report to Congress, to evaluate the degree to which the U.S. and its NATO allies are meeting the three percent annual real growth commitment and their commitments to accomplish the Long Term Defense Program; and requires the Secretary to report to Congress annually on U.S. efforts to correct remaining inequities in defense burden-sharing. H.R. 6934—Passed House May 21, 1980; Passed Senate amended July 2, 1980; In conference. (*295)

Uniformed services health professionals special pay: Restructures the special pay system for physicians in the Armed Forces and Public Health Service by replacing the current temporary program with a long term program that provides incentive pay. S. 2460—Passed Senate May 28, 1980. (VV)

ECONOMY-FINANCE

Auto industry competition: States the sense of the Congress that it is a goal of the United States to achieve technological superiority in the world automobile and truck industry and calls for a comprehensive strategy to accomplish this goal. S. Con. Res. 101—Action completed June 24, 1980. (*220)

Banking institutions—"NOW" accounts: Phases out, over six years, interest rate ceilings on deposits; authorizes the equivalent of interest-bearing checking accounts at banks, thrift institutions, and credit unions; gives the Federal Reserve Board greater control over monetary supply by requiring broader reserves; repeals State usury ceilings; and simplifies truth-in-lending requirements.

Federal Reserve requirements: Provides certain Federal Reserve requirements for all depository institutions, but retains voluntary membership in the Federal Reserve; provides a range on reserve requirements on transaction (checking type) accounts of 8 to 14 percent with an initial rate of 12 percent applicable to all transaction accounts over $25 million and 3 percent on accounts below $25 million indexed to the change in total transaction deposits; provides that the initial rate of required reserves on all non-personal time deposits regardless of maturity is 3 percent with a range of 0–9 percent applicable to all depository institutions; authorizes depository institutions to use balances maintained in the Federal Reserve banks to satisfy depository institutions liquidity requirements under the Federal Home Loan Bank Act and the National Credit Union Act; phases in reserve requirements over 8 years for nonmember institutions and 4 years for member banks; provides no phase-in period for any new types of deposits or accounts authorized after the reserve requirements provisions become effective, which is applicable to NOW accounts except for those currently authorized by law; permits the Federal Reserve Board to impose reserve requirements outside the statutory limits in extraordinary circumstances for a period of 180 days; permits the Federal Reserve Board to impose a supplemental reserve on transaction accounts within a range of 0–4 percent if the Board finds that monetary policy cannot be effectively implemented with the reserve balances required under all other provisions of the legislation after an affirmative vote of 5 or more members of the Board; requires the Federal Reserve to pay interest on the reserves imposed by this authority at a rate up to the average rate earned on the securities portfolio of the Federal Reserve System; allows the supplemental reserve provision to be used only if the basic reserves provided for under this Act equal, in dollar amounts, the reserve that would be produced if the reserve ratios were maintained at 3 percent on nonpersonal time deposits and 12 percent on transaction accounts; gives depository institutions holding transactions accounts access under the same terms and conditions as member banks to the Federal Reserve discount window; gives open access to price services provided by the Federal Reserve Banks to all depository institutions on the same terms and conditions as member banks within 18 months; expands the types of Federal Reserve assets that can be used to collateralize the Federal Reserve notes and removes the requirement that they be collateralized;

Interest rate ceilings: Transfers the authority to set interest rates on all types of deposits from the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), and the Federal Home Loan Bank Board (FHLBB) to a six-member Depository Institutions Deregulation Committee made up of the heads of those agencies plus the Secretary of the Treasury, and the Chairman of the National Credit Union Administration (NCUA), with the Comptroller of the Currency as a nonvoting member: requires the Committee to meet quarterly in public session and make its decisions by majority vote of the voting members; directs the Committee to provide for a 6-year phase-out of Regulation Q just as soon as possible by increasing the permissible rates paid to depositors on all accounts to market rates, by a phased elimination of all interest ceilings on particular classes of deposits by the creation of new types of deposits, not subject to ceilings or with ceilings linked to market rates, or by any combination of those approaches; provides that the Committee will, by majority vote, increase permissible deposit rates ceilings to market rates just as soon as possible by setting a targeted increase of ¼ percent in the permissible passbook rate within 18 months after enactment; provides for additional targeted increases of ½ percent on all classes of accounts; does not bind the Committee to any target; gives the Committee authority to increase or decrease rates at any time during the six-year period; provides that the Committee's authority will expire after six years and the Committee will go out of existence; retains those provisions of the law that permit the Federal Reserve Board, the FDIC, and the FHLBB to regulate depository institutions' advertising of interest rates; allows the authority of NCUA to set interest rate ceilings for credit unions to expire six years after enactment while continuing its authority to regulate credit unions' advertising of interest rates;

Interest on checking accounts: Permits Federally-insured commercial banks, savings and loan associations, mutual savings banks, and savings banks to offer the equivalent of interest-bearing checking accounts. NOW accounts, nationwide as of December 31, 1980; makes permanent, effective March 31, 1980, the authority of: (1) commercial banks to offer automatic transfer services between savings and checking accounts, and (2) Federally-chartered savings and loan associations to operate remote service units; permits Federal Home Loan Banks to process NOW account drafts and other instruments issued by their members or those eligible for membership priced in accordance with the pricing principles applicable to Federal Reserve Banks; permits Federally- and State-chartered Federally-insured credit unions to offer share draft accounts as of March 1, 1980; permits the Central Liquidity Facility (CLF) to process share drafts and other instruments issued by CLF members, credit unions represented in the CLF by agent members, and those eligible for CLF membership priced in accordance with the pricing principles and applicable to Federal Reserve banks which shall be available to all eligible institutions on a non-discriminatory basis; extends for 2 years the termination date of the Alaska USA Federal Credit Union.

Thrift institutions: Allows savings and loans to invest up to 20 percent of their assets in unsecured or secured consumer loans, commercial paper, and corporate debt securities; allows savings and loans to permit associations to invest in, redeem, or hold shares or certificates of open-end investment companies; removes the geographical lending restriction from the Home Owners Loan Act; removes the first lien restriction on residential real estate loans; authorizes second trust loans; expands the authority to make acquisition, development, and construction loans, and substitutes a 90 percent loan to value ratio requirements in place of the dollar limit (now $75,000) on residential real estate loans; allows Federal savings and loans to exercise trust and fiduciary powers and to offer credit card services;

Permits Federally-chartered mutual savings banks (MSB's) to hold up to 5 percent of their assets in commercial, corporate, or business loans provided such loans are made within the State in which it is located or within 75 miles of the MSB home office and to take corporate and business demand deposits; permits Federal credit unions to make loans on individual cooperative housing units; allows Federal credit unions to raise their loan rates up to an annual rate of 15 percent subject to rules issued by the National Credit Union Administration (NCUA); permits the NCUA to raise the loan ceiling above 15 percent for periods not to exceed 18 months, after consultation with appropriate Congressional committees, the Department of Treasury, and other Federal financial regulatory agencies after the Board determines money market interest rates had risen over the preceding 6-month period and prevailing interest rate levels threatened the safety and soundness of individual credit unions:

Raises the limits on all Federal deposit insurance from $40,000 to $100,000 and permits the FDIC to change its assessments:

State usury laws: Permanently preempts State usury ceilings on first mortgage loans made by banks, savings and loans, credit unions, mutual savings banks, mortgage bankers, and HUD-approved lenders under the National Housing Act, subject to a State override within three years; preempts for three years State usury ceilings on business and agricultural loans above $25,000 made by any person subject to a State override; applies a ceiling of five percent above the discount rate (including any surcharge) in the Federal Reserve district where the institution is located; permanently preempts State usury ceilings on all loans made by Federally-insured depository institutions (except national banks) and small business investment companies subject to a State override at any time and applies a ceiling of one percent above the appropriate Federal Reserve discount except to transactions subject to the preemptions of usury ceilings on mortgage loans and on business and agricultural loans above $25,000; applies separate usury limits to SBA loans;

Truth-in-lending simplification: Permits an agency not to order restitution if it would have a significantly adverse impact upon the safety and soundness of the creditor and permits partial restitution in an amount which would not have such an impact; provides a detailed formula for restitution payment relating to specific types of disclosure violations; allows the Federal Reserve Board to establish tolerances for numerical disclosures if a creditor makes a minor mistake in quoting the monthly payment; removes the three-day cooling off period for open-end credit which is secured by real estate only for a three-year trial period to determine if beneficial for consumers and businesses; requires disclosure of the itemization of the amount financed upon request by the borrower; provides the Federal Reserve Board with the authority to permit a greater tolerance for the disclosure of the annual percentage rate where irregular payments are involved for a period of one year at a tolerance no greater than ½ of one percent between the disclosed rate and the actual rate;

National Banks: Gives the Comptroller the authority to extend the current five-year period during which a national bank is permitted to hold real estate for an additional five years subject to the bank having made a good faith effort to dispose of the real estate within five years or a showing that disposal of the real estate within the five-year period would be detrimental to the bank; provides that a bank may expend funds for the development and improvement of such real estate, subject to such conditions and limits as the Comptroller shall prescribe, if needed to enable the bank to recover its total investment; amends 12 U.S.C. 72 to allow directors of national banks to own bank holding company stock instead of bank stock if the national bank is controlled by a holding company; allows national banks to invest in the stock of a bank, insured by the FDIC, owned exclusively by other banks (except for directors' qualifying shares required by State law) and engaged exclusively in serving other banks or their officers, directors, or employees; provides that the total amount of stock owned may not exceed ten percent of a national bank's capital account and prohibits a national bank from owning more than five percent of the voting securities of such bank; places a moratorium on the direct or indirect establishment, acquisition, and operation of a trust company across State lines until October 1, 1981, unless the trust company was acquired and in operation on or before March 5, 1980;

Regulatory Simplification: Requires Federal financial institution regulatory agencies, to the maximum extent practicable, to insure that their regulations are needed; that the public and interested parties are given an opportunity to air their views; that regulations are written clearly and simply; and that conflicts, inconsistencies, and duplications are avoided;

Foreign control of United States financial institutions: Provides for a moratorium until July 1, 1980, on foreign acquisitions of United States depository institutions with exemptions of under $100 million, corporate reorganizations and transfers of ownership interests already under foreign control. H.R. 4986—Public Law 96-221, approved March 31, 1980. (385)

Council on Wage and Price Stability: Extends the Council on Wage and Price Stability for one additional year and authorizes therfor $990,000 in additional funds for a total fiscal 1980 authorizaion of $9,473,000 and $9,770,000 for fiscal year 1981; requires that the Chairperson of COWPS be appointed by the President and confirmed by the Senate; requires COWPS to review proposals for reducing inflation through tax based income policies and anti-inflation supply-side tax reductions and report its findings to Congress by September 1, 1980 and requires an annual, rather than the present quarterly, report to the President and Congress; directs COWPS, in calculating allowable price increases, to use an annual average figure for the increase in production for nonfarm output in the private sector, as measured by the Bureau of Labor Statistics since 1967, (0.5 percent rather than the current 1.75 percent) thereby increasing the allowable price increase limit of the price guidelines by 1.25 percent; establishes an Office of Productivity to evaluate the impact of government regulations on productivity, to evaluate Federal programs designed to improve productivity, and to issue an annual report to Congress recommending new Federal programs and policies to increase private-sector productivity growth; terminates the Credit Control Act of 1969 on July 1, 1981; directs COWPS, in fiscal 1981, to increase the number of positions which involve the review of proposed and existing regulations by 50 percent over the number allocated for fiscal 1980; and requires that fiscal 1981 expenditures of the Senate not exceed 90 percent of fiscal 1980 expenditures. S. 2352—Passed Senate June 2, 1980. (*169)

Employee income retirement security—OSHA: Provides new rules for determining the date on which a multiemployer plan terminates; authorizes the Pension Benefit Guarantee Corporation (PBGC) to prescribe reporting requirements and rules for the administration of terminated multiemployer plans to protect the interests of plan participants or to protect the PBGC against unreasonable losses; increases the termination insurance premium from the present $.50 rate to $2.60 over a nine-year period; fully guarantees the first $5, and 75 percent of the next $15, of monthly basic benefits earned per year of a participant's service; reduces the 75 percent guarantee to 65 percent under plans which do not meet specified funding guarantees only in the event of the insolvency of a multiemployer plan; adds a new procedure for periodic Congressional review of premium and guarantee levels; authorizes the PBGC to guarantee non-basic benefits subject to terms and conditions imposed by the PBGC if the plan elects such coverage; limits the aggregate benefit provided by the PBGC with respect to any participant to the same level provided by present law; repeals contingent employer liability insurance provisions for multiemployer plans and single-employer plans; authorizes the Secretary of Labor to treat certain severance pay plans and supplemental income plans as welfare plans rather than as pension plans under ERISA; exempts surface mining operations of stone, gravel, sand, clay, and colloidal phosphate from provisions of the Federal Coal Mine Health and Safety Act of 1969; exempts employers of ten or fewer employees with an occupational injury lost work day rate of less than the national average from provisions of the Occupational Safety and Health Act (OSHA); amends the Federal Unemployment Act to require the reduction of unemployment benefits for an unemployed pensioner only if the pension comes from an employer in the base period, and to allow the States to take into account the pensioner's own contribution to the unemployment fund in determining the unemployment benefits offset; and exempts contractors or subcontractors with five or fewer employees from the administration of any executive order relating to equal employment opportunity programs. H.R. 3904—Passed House May 22, 1980; Passed Senate amended July 29, 1980; House objected to motion to agree to Senate amendments July 31, 1980, and to a unanimous consent request to agree to Senate amendments August 1, 1980. (*327)

Small Business Administration authorization: Authorizes $1.187 billion for fiscal 1981 and $1.375 billion for 1982, for the Small Business Administration, and extends the salary and expense authorizations to include 1983 and 1984 at the 1982 levels, and authorizes such funds as necessary to carry out programs for which appropriations are not specifically authorized from fiscal 1981 through 1984; provides program authorizations for SBA's loan and other financial and guaranteed assistance programs, for capital appropriations for the various revolving funds, and for salaries and expenses;

Disallows SBA authority to invest excess monies from the surety-bond guarantee fund in bonds or guarantees, but allows investment of excess monies in the pollution control bond fund; authorizes SBA to guarantee debentures of certain State and local development companies on loans of up to $500,000 per small business; authorizes the transfer of loan processing functions to qualified banks; authorizes organizations and individuals eligible for handicapped assistance loans to participate in the procurement set-aside program up to a total of $100 million each for fiscal 1981 through 1983; provides priorities for the placement of government procurement contracts in labor surplus areas; adds Asian Pacific Americans to the class of "socially and economically disadvantaged" business persons eligible for SBA remedial business development programs;

Provides a 5 percent rate of interest on disaster loans to concerns that cannot obtain credit elsewhere; sets the interest rate for business concerns that can obtain credit elsewhere at the cost of money to the Federal Government plus not more than one percent; amends the Consolidated Farm and Rural Development Act to provide the same terms for emergency loans under that act; provides that farmers must seek assistance from FmHA before applying to SBA; provides SBA with borrowing authority for its disaster assistance loans, subject to prior appropriations; allows limitation of the capital in the SBA funds either through appropriation of budget authority or by placing a limitation on the amount of notes SBA may sell to the Treasury;

"Small Business Development Centers Act of 1980": Authorizes SBA to make grants to States to defray 50 percent of the cost of developing and operating a small business development center program to assist small businesses in such areas a management, marketing, product development, manufacturing, technology development, finance and government regulation; provides that no more than 50 percent of non-Federal contributions can be in-kind contributions; provides that each center shall have a fulltime staff including a staff director and access to part-time specialists to be provided by qualified small business vendors; directs Federal operated laboratories, NSF, and NASA to cooperate with the small business development centers; requires that the program be administered by a Deputy Associate Administrator with this sole responsibility; establishes a National Small Business Development Center Board with 6 members from small businesses and 3 from the academic community to advise SBA; requires SBA to evaluate the program and submit a report to Congress by January 31, 1983; and provides for repeal of the program on October 1, 1984;

Small Business Economic Policy Act of 1980: Establishes a national small business economic policy to coordinate all policies, programs, and activities of each Federal department and agency to assist the development and expansion of small and medium-sized businesses and requires certain means of addressing and implementing the policy; requires the President to submit to Congress an annual report on small business and competition; and commits the Federal Government to provide private sector incentives to capital formation;

Small business economic research and analysis: Requires SBA to establish a data base of economic information pertaining to small business, and to regularly publish indices of that data; establishes the Office of the Chief Counsel for Advocacy at Executive Level IV; and requires a study of small business credit needs;

Small Business Employee Ownership Act of 1980: Authorizes SBA to make loan guarantees of up to $500,000 available under the regular business and loan guarantee program to employee organizations seeking to buy their companies and to firms or employee organizations using Employee Stock Ownership Plans who meet specified qualifications for such loans. S. 2698—Public Law 96-302, approved July 2, 1980. (*10, *12, *214)

EDUCATION

Higher education: Authorizes $36 billion to extend, for five years, through fiscal 1985 the provisions of the Higher Education Act (HEA), the authorizations for the Fund for the Improvement of Postsecondary Education and Title VI of the National Defense Education Act which are brought within the ambit of the Higher Act, and the authorization of the National Institute of Education;

Replaces the Continuing Education, Resource Material Sharing, Community Services, and Lifelong Learning Programs authorized under title I of the HEA, the Education Information Centers authorized under title IV, and the funding authorization for the Comprehensive Statewide Planning of HEA authorized under title VII; establishes a Commission on National Development in Postsecondary Education to review the effectiveness of Federal policies in the area of higher education; authorizes grants to States for planning and for continuing education; authorizes the Secretary to carry out three separate national grant and contract programs: (1) with States and institutions of higher education to develop demonstration projects for improving institutional planning and adaptation; (2) to plan, implement, and evaluate the delivery of postsecondary education to women at their workplace or in conjunction with their employer; and (3) with institutions of higher education to develop projects, demonstrating ways they could apply their institutional resources to promote training and employment of chronically unemployed or underemployed youth;

Extends existing college library programs, for grants of general support for college libraries and grants to assist in training librarians and to strengthen research library resources; establishes a National Periodical System Corporation to determine if a national periodical resource system is feasible and advisable, and, if so, to design such a system;

Provides short-term Federal assistance to institutions with special needs to assist them in improving their fiscal and management operations, academic quality, long-range planning capabilities, and overall development capabilities; establishes a challenge grant program for institutions to seek alternative sources of funding for their development needs; provides general operating assistance to institutions that enroll a large number of students from low-income families; specifies that at least 30 percent of funding be awarded to community and junior colleges;

Student Assistance: Extends the current basic Educational Opportunity Grants which are renamed as Pell Grants and increases the maximum grant to $1,900 for academic year 1981–1982 phased up to $2,600 for 1985–1986; requires students to repay at a nine percent interest rate the interest that has accrued on their guaranteed student loan once they are out of school and working;

Expands existing Federal student assistance programs in vitally needed ways; extends and makes essential adjustments to the student grant, work, and loan programs through fiscal 1985; and authorizes increases in student benefits provided by these programs and a new single needs analysis and application form for Federal student assistance;

Reauthorizes the Teacher Corps Program and requires at least one Teacher Center Project in each State; authorizes a new program under which State education agencies are eligible for Federal grants to support a fellowship program and institutional allowances to train teachers to provide special education to handicapped children;

Rewrites and reforms existing Federal international education programs; authorizes the Secretary to make grants to or enter into contracts with institutions of higher education to establish foreign language centers and programs which focus on the teaching of modern foreign languages and the cultures where the language is spoken, to make grants to carry out certain research projects, and to improve undergraduate instruction in foreign languages; authorizes grants or contracts with institutions of higher education to develop international business education and training programs; authorizes the establishment of a national advisory board on these programs; authorizes contracts or grants to public or private institutions to develop programs to increase the understanding of students and the public about foreign cultures;

Rewrites the existing Construction, Reconstruction, and Renovation of Academic Facilities Title VII systematize the provisions of current law; focuses Federal assistance on energy conservation, meeting Federal requirements relating to the handicapped and to health and safety mandates, development of research and library facilities, and on institutions experiencing unusual increases in enrollment.

Retargets and extends Federal cooperative education programs for the five-year period 1981 through 1985; limits grants for planning, establishing, expanding, or carrying out programs of cooperative education to $400,000 per institution or to $300,000 times the number of institutions in consortium; sets at 5 years the maximum length of time that any one institution can participate in the program; specifies the amount of grant funds that may be used for administrative costs; and makes such grants available for training, research, and demonstration projects;

Consolidates several existing authorities providing graduate fellowship assistance and extends existing graduate programs for five years; establishes the following new programs: (1) Fellowships for Graduate and Professional Study for 10,000 fellowships per year to be awarded to eligible students for graduate study with special emphasis on individuals who plan to pursue a public service career, who are pursuing advance study in energy resources, who are from disadvantaged backgrounds, or who plan to pursue a career in energy conservation or development; (2) National Graduate Fellows Program for 450 fellowships per year to be awarded to eligible students for graduate studies in the arts, humanities, and social sciences; (3) National Talent Grants for First Year Graduate and Professional Study for grants to institutions in order that they may provide awards to exceptionally needy first year graduate or professional students; (4) Assistance for Training in the Legal Professions, for grants to public and private agencies and nonhigher education organizations to assist disadvantaged students pursuing training in the legal professions; authorizes funds for Law School Clinical Assistance;

Moves the Fund for the Improvement of Postsecondary Education into the HEA and gives its board statutory authority; authorizes a new program of grants to urban universities to assist urban areas in solving the problems that confront them; extends several existing sections of the Higher Education Act, while at the same time refocusing the Federal planning requirement on the planning process itself and not on the planning structure; extends the National Institute of Education and recasts its authorization as a percentage of overall appropriations available to the Department of Education; establishes the Robert A. Taft Institute of Government Trust Fund to develop the Robert A. Taft Institute of Government in New York City;

Authorizes several changes in the General Education Provisions Act to increase from 1 year to 2 years the period of automatic extension of the authorization or duration of expiring programs for programs that are forward funded and to provide that appropriations for an extended program are for the extent of the fiscal, not calendar, year; authorizes Congress to reject, in whole or part, final regulations submitted by the Department of Education; extends through fiscal 1981 the Pre-College Science Teacher Training Program and the Minority Institution Program which were formerly under the jurisdiction of the National Science Foundation; and exempts the National Periodical System Corporation from taxation and declares the National Direct Student Loan Association authorized by this act tax-exempt. H.R. 5192—Passed House November 7, 1979; Passed Senate amended June 24, 1980; In conference. (*246)

ENERGY

Coal conversion of powerplants: Requires 80 electric generating power plants to convert from their present use of petroleum to coal or another alternate energy source and provides financial assistance for conversion; requires the Secretary to grant an exemption upon finding that a utility has demonstrated that it is not feasible to finance the conversion or if the powerplant does not have, or has not had, the technical ability to use coal or an alternate fuel, or that it could not have such capability without substantial physical modification or substantial reduction in the related capacity of the powerplant; entitles each utility with a powerplant which is required to convert to a grant covering 25 percent of the qualified capital costs of converting; requires a utility to show financial need to qualify; authorizes the Secretary to provide up to an additional 25 percent in grants, an additional 50 percent in loans, or a combination thereof, thus allowing financial assistance of up to 75 percent of the cost of converting a powerplant; entitles powerplants that have already converted to the basic 25 percent grant assistance; allows the Secretary to exclude as an alternative fuel coal tar having a significant commercial value as other than a powerplant fuel;

Voluntary scrubber program: Provides for a voluntary program for installation of advanced sulfur removal systems for nonconverting existing electric powerplants to reduce emissions and authorizes $450 million therefor in fiscal 1981, to remain available until expended;

Coal washing program: Provides grants to pay up to 20 percent of qualifying costs to construct a coal preparation facility capable of reducing the sulfur content of coal; allows allocation of up to 25 percent of appropriated funds within a single State; authorizes $150 million therefor in fiscal 1982 to remain available until expended;

Davis-Bacon Act: Makes the Davis-Bacon Act applicable for projects funded under financial assistance provided by this Act;

Off-gas provision: Amends the prohibition of present law against continued use of natural gas as a primary energy source in electric powerplants after January 1, 1990, to allow the use of natural gas for the duration of a powerplant's book service life; allows electric powerplants which are required to convert from petroleum to use natural gas in conjunction with coal in such quantities as necessary to meet applicable environmental requirements; revokes the prohibition order or proposed prohibition order for certain listed powerplants; retains the Secretary's existing discretionary authority to issue new prohibition orders to powerplants or major fuel-burning installations; exempts from any 1990 cut-off synthetic gas derived from tar sands; requires each utility planning to burn natural gas after 1990 to report to the Secretary concerning construction of new coal-fired generating capacity;

Cogeneration: Amends present law to encourage additional cogeneration of electricity by non-utility cogenerators by removing the 50 percent limitation on sales of cogenerated power sold or exchanged for resale by qualifying cogenerators; and makes the cogeneration exemption mandatory rather than discretionary. S. 2470—Passed Senate June 24, 1980. (*248)

Department of Energy—Civilian: Authorizes $9,565,058,000 for 1981 for the civilian programs of the Department of Energy, and $400 million each year for 1982 through 1985 for energy impact assistance; establishes appropriations accounts for operating expenses and plant and capital equipment, including construction projects and acquisition of capital equipment not related to construction, for DOE civilian programs at the fiscal 1980 level using those accounts delineated in title I of the fiscal 1980 Energy and Water Development Appropriations Act (Public Law 96–69) and in title II of the fiscal 1980 Department of Interior and Related Agencies Appropriations Act (Public Law 96–126), plus an additional ten percent for each account; limits appropriations for construction or acquisition of away-from-reactor (AFR) nuclear waste storage facilities, except for research, until authorizing legislation is enacted establishing public policy regarding title transfer, user fees and other operating procedures, and providing that actions preliminary to construction or acquisition may proceed; continues authorizations for construction projects authorized in prior years and establishes a ceiling on the total appropriation for each project; authorizes additional amounts for major new program initiatives and construction projects in fiscal 1981 and establishes total cost limits for each project; terminates, effective October 1, 1981, 1,000 DOE positions currently allocated to carry out programs established under the Emergency Petroleum Allocation Act of 1973, and prohibits funds to carry out programs established under the Act after September 30, 1981, except to complete matters and claims previously initiated; approves the revised budget request for the Naval Petroleum Reserve Development Program and the commercial Nuclear Waste Remedial Action Programs; authorizes the reappropriation of operating expenses for the Geothermal Resources Development Fund ($41,982,000) and for the Strategic Petroleum Reserve ($2,403,978,000); authorizes the use of up to $12 million available for fossil energy operating expenses to continue design work on the coal gasification project which is not yet selected for construction; authorizes appropriations for fiscal 1982 and beyond for each account in the amount of the actual appropriation which was made in the prior year plus ten percent; amends the Powerplants and Industrial Fuel Use Act of 1978 to authorize technical assistance to States, regions, and local governments to prevent and mitigate potentially adverse economic, social, and environmental impacts resulting from major energy development; authorizes for 1982 through 1985, $400 million each year for loan guarantees, loans, and grants, with not more than 40 percent available for grants; and authorizes not to exceed $1.5 billion in loans to be guaranteed, subject to subsequent appropriations. S. 2332—Passed Senate July 31, 1980 (*337)

Energy management: Provides for the consolidation of State applications for financial assistance for existing DOE programs authorized under Part D of title III of the Energy Policy and Conservation Act (including amendments to this part contained in the Energy Conservation and Production Act) and the Energy Extension Service Act; mandates the development of State energy plans, within nine months after the Secretary has promulgated regulations, which must contain a description of the State's energy supply and demand, goals, and proposed measures to encourage conservation and the use of renewable sources of energy; requires the State to hold public hearings during the planning process and take account of the needs of the poor, handicapped, and elderly citizens in developing the plan; provides that the Secretary allocate funds for such programs to qualifying States under a formula with a 75 percent weight for resident population and a 25 percent weight for uniform distribution among States; provides financial and technical assistance for Indian tribes; requires the Secretary to monitor and evaluate the success of programs that receive Federal assistance; authorizes the Secretary to use, during fiscal 1981 such sums as may be provided for these purposes in appropriation acts pursuant to the authority in the DOE authorization bill, S. 2332 and authorizes $100 million for fiscal 1982 and 1983;

Calls on the Secretary, within 90 days of enactment, to enter into an interagency agreement with the Secretary of HUD, to provide for distribution of funds and approval of grants to encourage units of local government to adopt and implement community plans and programs designed to achieve significant energy savings and encourage the use of renewable energy resources within their jurisdictions; authorizes the Secretary, if such agreement cannot be reached within the 90 days to proceed with the program; makes this financial assistance available to qualifying metropolitan cities and urban counties and units of local government within metropolitan areas on an entitlement basis and to other communities on the basis of competition; provides for allocation of funds under a formula having equal weight factors for population and indices of distress (poverty, housing overcrowding, or age of housing); provides that no State could be allocated less than one-half of one percent of available funds; permits a consortium of cities representing a population of at least 200,000 to apply for an entitlement grant; provides for the allocation of funds within a State on a basis of resident population; authorizes the Secretary to use, during fiscal 1981, such sums as may be provided for such purposes in appropriations acts pursuant to the authority in the DOE authorization bill, S. 2332, and authorizes $80 million for fiscal 1982 and 1983;

Authorizes States to submit a consolidated application and to commingle administrative funds for any DOE State Energy program providing Federal financial assistance to States under an allocation formula. S. 1280—Passed Senate July 25, 1980. (VV)

Geothermal steam production: Revises the Geothermal Steam Act of 1970, as amended, to facilitate and require accelerated exploration and development of geothermal resources; expedites government action in leasing and permits decisionmaking by: setting time goals for decisions on permits and lease applications; establishing a new category of "conditioned leases" to permit early access to lands for exploration purposes without an environmental review; establishing a nomination system for competitive leases to concentrate agency effort on those tracts of greatest interest to industry; directing surface managing agencies to take account of geothermal resources when making land use and other decisions; providing for cooperation and coordination between Federal, State, and local government entities in planning and permit issuance; directing that, to the maximum extent practicable, existing environmental information be used in land use plans; directing that regional environmental standards be established and used in reviewing permit applications; and establishing a system of review and reporting on leasing regulations and agency performance;

Requires that the Secretary develop rules and regulations for diligent development and exploration of Federal leases, including a requirement that lessees submit within three years of receipt of a lease exploration plans and commence drilling within two years of approval of such a plan or drilling permit;

Removes exploration disincentives by: expanding the acreage holding limit per State, thus permitting companies to enable the formation of a sizeable exploration skilled nucleus of employees, to assemble an adequate number of drillable prospects; providing that lease applicants who drill and generate information which leads to known geothermal resource area (KGRA) designation of lands for which they applied prior to drilling are to be given leases on a noncompetitive basis, if a lease is issued at all; and setting an 18 month time limit after which an application for a non-competitive lease is no longer in jeopardy of being invalidated by KGRA designation;

Assures that nationally significant thermal features in national parks and monuments are protected;

Provides additional financial incentives to develop geothermal resources on Federal lands by: narrowing the definition of KGRA's to reduce the amount of land to be bid on a competitive basis; authorizing the Secretary to require a royalty of only five percent on nonelectric geothermal resources; permitting the delayed payment of royalties by municipalities, cooperatives and other political subdivisions in instances where royalty payment would dscourage development; permitting free use of geothermal resources by surface owners in certain areas; and providing for a system of declassifying lands from KGRA status if no bids are received when the lands are offered for lease;

Promotes competition in the geothermal industry by: authorizing the Secretary to use alternative bidding systems and establishing a target of 10 percent of the leases offered in a given year for which he is to use such systems, thereby permitting those with less frontend capital to compete with larger companies; and establishes a special procedure for public power and rural electric cooperatives; and promotes geothermal development by permitting Federal agencies to use resources located on their lands. S. 1388—Passed Senate June 24, 1980. (VV)

Heat crisis program: Authorizes the Community Services Administration (CSA) to borrow $21 million from the Rural Development Loan Fund to assist low-income persons during the heat crisis and assures that the Funds will be paid back with the unused grant funds that CSA has already distributed to the States which cannot be spent because of a June 30 cutoff, and will be returned to the Federal Government; and insures that any funds expended under this Act will be extended to States or areas which have experienced extreme heat conditions for a significant period of time and contain significant numbers of low-income individuals whose health is menaced by heat. S. 2995—Public Law 96– , approved 1980. (VV)

Low-income energy assistance: Revises and rewrites the existing authority under the Economic Opportunity Act authorizing low-income emergency energy conservation services administered by the Community Services Administration and reestablishes this authority in a new Title XI, entitled "Comprehensive Energy Conservation Services Program" having three major components: a weatherization program, a crisis intervention program and outreach services, and a supplemental energy conservation services program which includes energy conservation education, alternative energy development, energy audit activities, and energy conservation, demonstration, and pilot projects; makes low-income and near-poor families and individuals eligible for assistance if (1) their incomes are equal to or less than 85 percent of the Bureau of Labor Statistics' lower living standard income level ($9,814 for a family of four), and (2) their residence is in need of weatherization services under criteria established by the CSA Director; and requires equitable treatment of owners and renters. S. 1725—Passed Senate February 28, 1980. (*52)

Nuclear Regulatory Commission authorizations: Authorizes a total of $426.821 million for fiscal 1980 which includes $66.51 million for nuclear reactor regulation; $42.44 million for inspection and enforcement, of which $4.684 million shall be for 146 additional inspectors; $15.953 million for standards development; $32.38 million for nuclear material safety and safeguards; $213.005 million for nuclear regulatory research; $18.125 million for program technical support; and $38.408 million for program direction and administration; prohibits any budget reprogramming without congressional review and approval within 45 days for amounts of more than $500,000; requires the NRC to approve all contracts of more than $50,000 for safeguards, research, and technical assistance, and establishes a review board to approve any NRC contract for more than $500,000; requires the President to notify the Congress 30 days before shipping any spent nuclear fuel to the Pacific Islands; directs the NRC to develop, by September 30, 1980, a plan for Federal response to nuclear accidents; prohibits the storage of any nuclear waste in oceans; requires a proposed reactor to meet new Federal standards for siting away from population centers before issuance of a construction permit and directs NRC to write the standards, which specify allowable population density and other criteria; prohibits new operating licenses to be issued in a State unless the State has an NRC approved plan for evacuation and other steps in case of a nuclear emergency; allows a utility to draft an emergency response plan and submit it to the NRC for approval; directs NRC to write standards that States and utilities may follow in drafting their plans; directs the NRC to list for Congress all safety related rules and regulations that are not being met by individual nuclear reactors; makes it a Federal crime to sabotage nuclear facilities or murder, assault, intimidate or otherwise interfere with NRC personnel on a project licensed by the NRC; sets criminal penalties of $25,000 a day or two years in jail for any director, officer or employee of a firm constructing or supplying components of a nuclear facility who knowingly and willfully violated the Atomic Energy Act; authorizes the NRC as a last resort to assume control of emergency response actions, thus pre-empting State responsibility, if the NRC determined that a State had failed to protect the public health and safety; increases civil penalties for safety violations at nuclear plants from $5,000 to $10,000 per violation; exempts from the Freedom of Information Act any nuclear data that could reasonably be expected to have a significant adverse effect on the health and safety of the public; requires the NRC to notify governors in advance of shipments of nuclear wastes through their States except when shipments would not pose a hazard to public health and safety because of the type of waste or quantity; and requires the NRC to develop within six months a plan for improving operator training. S. 562—Public Law 96–295, approved June 30, 1980. (178)

Authorizes $445.1 million for salaries and expenses of the Nuclear Regulatory Commission (NRC) for fiscal 1981 which includes: $68,775,000 for the nuclear reactor regulation program; $53,049,000 for inspection and enforcement activities; $15,730,000 for standards development; $41,930,000 for nuclear materials safety and safeguards; $210,208,000 for nuclear regulatory research; $18,511,000 for program technical support; and $36,897,000 for program direction and administration; provides a reprogramming mechanism which applies to any reallocation of funds between program offices resulting in increasing or decreasing the amount allowed for an office by more than $500,000 by: (1) requiring NRC to notify the House Interior and Interstate and Foreign Commerce Committees and the Senate Environment and Public Works and Foreign Relations Committees of any proposed reallocation greater than $500,000, (2) requiring the inclusion of detailed supporting information, and (3) giving the committees 45 calendar days from notification to review the action; requires NRC to develop a safety goal for nuclear reactor regulation that delineates clear subjective criteria necessary to assure protection of public health and safety and to submit a report thereon to Congress by June 30, 1981; directs NRC to perform a study, within one year, on the ability of strategic analysis techniques as applied to nuclear material accounting to enhance the safeguarding of nuclear materials; earmarks $500,000 for NRC to coordinate and conduct (in consultation with EPA, HUD, DOE, TVA, and the State of South Dakota) a monitoring engineering assessment and remedial action program for the management of uranium mill tailings in the area surrounding the Edgemont, South Dakota, uranium mill site and requires the Administrator of EPA to propose, no later than 60 days from date of enactment, standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with uranium mill tailings; calls for a report on the preliminary planning which includes a detailed description of the remedial action required for each location and an estimate of the cost of the remedial action, within 120 days of enactment; requires NRC to report on the progress of the monitoring, engineering assessment; and remedial action program in its annual report; directs NRC to allocate $2.8 million in the research program for gas-cooled reactor safety research in fiscal 1981 and $19.7 million for fast breeder reactor safety research if legislation is enacted appropriating funds in fiscal 1981 for a Department of Energy demonstration breeder reactor project; amends the Atomic Energy Act of 1954 to extend criminal penalties to any individual who willfully and intentionally causes or attempts to cause a mechanical interruption of normal operation of a nuclear powerplant or nuclear waste storage facility through the unauthorized use of or tampering with machinery, components, or controls of the plant; clarifies the role of the States in the operation of nuclear powerplants by providing for a mechanism of consultation and cooperation between the NRC and State officials regarding public health and safety concerns; and directs the Comptroller General, in cooperation with NRC, to carry out a detailed study of the fiscal conditions of the General Public Utilities Corporation (which owns and is responsible for the operation of the nuclear powerplant at Three Mile Island) and its future role as a provider of electrical power in Pennsylvania and New Jersey. S. 2358—Passed Senate July 31, 1980. (VV)

Nuclear waste: Establishes a Federal program for the interim storage of spent nuclear fuel away from the reactor; authorizes the Secretary to enter into contracts to take title to and transport spent fuel to interim away-from-reactor storage facilities and to dispose of waste products associated with the spent fuel; requires the Secretary to publish in the Federal Register, within 180 days of enactment, notice of intent to enter into contracts; requires the Secretary to establish a one-time charge for spent fuel on an annual basis and publish the charge and the calculation upon which it is based in the Federal Register; directs the Secretary to acquire the storage facility which is licensed and has sufficient capacity to accommodate all spent fuel contracted for; authorizes, for the construction of the storage facility, the use of funds authorized for a similar facility under the fiscal 1980 Department of Energy authorization legislation and funds authorized or appropriated to the Secretary of Energy for such facilities under previously enacted laws; requires the Secretary to submit to Congress, within one year of enactment, a site-specific proposal for the disposal of spent fuel and high-level radioactive waste in repositories permitting continuous monitoring and retrieval of the waste; requires an environmental assessment to be prepared to accompany the proposal; provides the States with statutory rights to participate in the Federal (DOE) nuclear waste repository development program; requires DOE to file three key reports with the Congress for review; provides a mechanism for a one-House veto if either House disapproves by concurrent resolution a repository proposal or a two-House veto with regard to military nuclear waste facilities; requires DOE, in consultation with other Federal agencies, to prepare an annual nuclear waste management plan for fiscal 1982–86; establishes by statute an Advisory State Planning Council on Nuclear Waste Management as a means of participation by States and localities in all major facets of Federal Nuclear waste policymaking and planning activities; directs the continuation and acceleration of a vigorous program of research and development on a broad range of radioactive waste disposal technologies; establishes a separate account in the Treasury to receive all funds for the administration of the interim and long-term storage facility, including, transportation, and provides that the appropriations for the facility, borrowings for the subsequent operation of the program, as well as receipts and charges collected pursuant to the program, shall be covered into the account; directs the Secretary to submit a report to the Congress within four months evaluating several specific matters, and making recommendations, with respect to low-level radioactive waste; authorizes DOE to provide financial and technical assistance to States to carry out a Federal policy that each State is responsible for disposal of low-life radioactive waste generated by non-Federal related activities within its borders and authorizes States to enter into agreements for regional management and disposal of such waste. S. 2189—Passed Senate July 30, 1980. (*329)

Ocean thermal energy conversion: Accelerates ocean thermal energy conversion (OTEC) technology development to provide a technical base for meeting the following goals: (1) to demonstrate by 1986 at least 100 megawatts of electrical capacity or energy product equivalent from OTEC systems and at least 500 megawatts by 1989, (2) to achieve in the mid-1990's for the gulf coast region of the continental United States, an average cost of electricity or energy product equivalent produced by installed OTEC systems that is competitive with conventional energy sources, and (3) to establish 10,000 megawatts of electrical capacity or energy product equivalent from OTEC systems by 1999; directs the Secretary to prepare and transmit to Congress, within nine months of enactment, a comprehensive program management plan for the conduct of research, development, and demonstration activities which meet the established goals in the Act; authorizes the Secretary to initiate and operate a demonstration program utilizing various forms of ocean thermal energy conversion to displace nonrenewable fuels; directs the Secretary to prepare a comprehensive technology application and market development plan that will permit realization of the 10,000 megawatt national goal by 1999 and identify the efforts necessary to establish a sufficient industrial infrastructure and an analysis of necessary Government actions; establishes a seven-member Technical Advisory Panel to prepare and submit annually to the Secretary a report containing an assessment and evaluation of the status of the various programs along with its comments and recommendations for improvements in the comprehensive program management plan; and authorizes, in addition to any amounts authorized in the Department of Energy Authorization Act, $20 million for operating expenses and $5 million for OTEC pilot plants for fiscal 1981 and $60 million for operating expenses and $25 million for OTEC pilot plants for 1982. H.R. 7474—Public Law 96-310, approved July 17, 1980. (VV)

Establishes a licensing and permitting system for ocean thermal energy conversion (OTEC) facilities and plantships (defined as a structure or vessel, respectively, which uses temperature differences in ocean water while moving to produce electricity or another form of energy to perform work) with the National Oceanic and Atmospheric Administration (NOAA); requires that OTEC facilities and plantships be documented as U.S. vessels, even if they are not built in the U.S., and that vessels delivering materials and supplies to and from OTEC facilities be U.S. flag vessels; amends the Merchant Marine Act of 1936 to make OTEC facilities and plantships eligible for Federal mortgage guarantees under title XI of that Act; establishes, effective October 1, 1981, an OTEC Demonstration Fund as a subfund of the Federal Ship Financing Fund to provide mortgage guarantees on demonstration projects that would not otherwise meet the requirements of title XI and increases the Fund from $10 billion to $12 billion; makes OTEC facilities eligible for capital construction funds and construction and operating differential subsidies; exempts demonstration projects from the licensing provisions contained in the bill; requires the Secretary of Energy, in making a loan guarantee for the construction of a proposed OTEC demonstration project, to certify to the Secretary of Commerce that there is sufficient guarantee of performance and payment for such project; and authorizes $3 million for fiscal 1981 and $3.5 million each for 1982 and 1983. S. 2492—Public Law 96- , approved 1980. (VV)

Oil import fee disapproval—Public debt limit extension: Extends from June 5, 1980, through June 30, 1980, the present temporary public debt limit of $479 billion (which, combined with the $400 billion permanent level, makes a total public debt level of $879 billion) and disapproves the oil import fee proposed by the President on April 2, 1980, which would result in a ten-cent per gallon tax on gasoline. H.R. 7428—Veto overridden to become P.L. 96-264, approved on June 6, 1980. (*174, *175)

Small business energy conservation loans: Expands the Small Business Administration's (SBA's) pollution control bond guarantee program to include guarantees to small business concerns for acquisition of energy conservation facilities including solar and other renewable sources of energy equipment. S. 2635—Passed Senate May 22, 1980. (VV)

Small business solar energy loans: Extends, through fiscal 1981, the solar energy direct loan program (section 7(1) of the Small Business Act), which is the only source of government financing for small solar companies; authorizes therefor $45 million in direct and immediate participation loans and $33 million in guaranteed loans; and directs SBA to consult with regional solar energy centers of DOE in evaluating applications for assistance under the program. S. 2224—Passed Senate May 20, 1980. (VV)

Synfuels—Energy Security Act: Title I—Synthetic Fuels: Creates an independent, wholly Federally-owned corporation called the United States Synthetic Fuels Corporation, and establishes national goals for the production of synthetic fuels in the United States of at least 500,000 barrels of crude oil equivalent per day by 1987, increasing to 2 million barrels per day by 1992; provides that the Corporation shall make available financial assistance to foster commercial production, by private industry, of synthetic fuel which is obtained from coal (including lignite and peat), shale, tar sands (including heavy oil), and hydrogen which can be used as substitutes for natural gas and petroleum (including crude oil, petroleum products and chemical feedstocks); also makes eligible for financial assistance those facilities used solely to produce mixtures of coal and petroleum for direct fuel use, facilities used solely for commercial production of hydrogen from water, and any MHD (magnetohydrodynamic) topping cycle used solely for the commercial production of electricity;

Sets the financial resources available to the Corporation over its 12-year lifetime at a maximum of $88 billion, subject to appropriation, and provides that appropriations are to be deposited in the Energy Security Reserve (established by the Department of the Interior and Related Agencies Appropriations Act, 1980) in at least two installments; authorizes the first installment of $20 billion upon enactment, subject to appropriation; and provides that the second and subsequent installments (up to a maximum of $68 billion) would be authorized by joint resolution, subject to appropriation;

Places the initial emphasis of the Corporations' activities on developing experience with differing fuel technologies for domestic production of synfuels while developing the industrial base to undertake achievement of the production goals; requires the Corporation, precedent to subsequent authorizations and appropriations, to submit to Congress within four years a comprehensive production strategy on which Congress must act under expedited procedures; empowers the Corporation to provide financial assistance for commercial synthetic fuel projects in a specified order of priority; provides that before construction of any government-owned contractor-operated (GOCO) synfuel plant, the Corporation must offer right of first refusal to private industry to construct such plant, giving 30 days notice; limits authority for building GOCO's to no more than three projects, prior to approval of the comprehensive strategy; makes Corporation construction projects subject to the environmental impact statement requirements of the National Environmental Policy Act; makes loans guarantees subject to the Davis-Bacon Service Contracts Act; provides that the authority of the corporation to obligate funds shall cease after December 30, 1992; and provides for termination of the Corporation by December 30, 1997.

Title II—Biomass and Alcohol Fuels Urban Waste: Establishes a comprehensive biomass and alcohol fuels program; provides the Department of Agriculture (USDA) with jurisdiction over all projects involving agricultural and forestry resources normally producing less than 15 million gallons of synthetic fuel and gives the Department of Energy (DOE) and the USDA concurrent jurisdiction over agricultural projects producing over 15 million gallons of synthetic fuel; requires USDA and DOE to prepare an overall Federal plan for biomass energy development to achieve an alcohol production level of 60,000 barrels per day by the end of 1982, and to submit, by January 1, 1982, a comprehensive strategy to achieve an alcohol production level of at least 10 percent of estimated gasoline consumption in 1990;

Directs the Federal government, where feasible, to use gasohol in its motor vehicles, and directs the Secretary of Energy, in consultation with the Secretary of Transportation, to submit to Congress a study on whether legislation is needed to require that any new motor vehicle be capable of operating on gasohol or on pure alcohol.

Establishes a new Office of Energy from Municipal Waste in DOE with responsibility for continuing the existing urban waste program with minimal disruption and reorganization; gives priority funding to commercialization of technologies which can displace oil and gas and which are both technically and economically feasible; provides for financial assistance for construction in the form of loans and loan guarantees not to exceed 75 percent of total capital costs; and authorizes the Secretary to provide price supports with no repayment of principal and interest for new facilities;

Authorizes $1.2 billion for FY 1981 and 1982 for the comprehensive biomass and alcohol fuels activities and $250 million for urban waste activities.

Title III—Energy Targets: Requires the President to prepare and submit annual energy targets for net imports, domestic production and end-use consumption for 1985, 1990, 1995, and 2000 together with supporting data and a statement of all assumptions used in preparing the targets; establishes a process for Congress to debate and vote on, and the President to approve, a comprehensive and internally consistent set of energy targets during the first sessions of the 97th and 98th Congresses; establishes special procedures during the 97th Congress only to insure that a vote on the initial targets is obtained in each House; provides that the targets shall be considered goals, and not binding on the Congress or on the Executive Branch.

Title IV—Omnibus Solar Commercialization Act of 1980: Establishes incentives for the use of renewable energy resources by: (1) directing the Secretary of Energy to coordinate solar and conservation information dissemination activities funded by the DOE and submit annual reports to the Congress on the status of these activities, (2) requiring the Secretary to use a 7 percent discount rate and marginal fuel costs in calculating the life cycle costs of conservation and solar investments in Federal building, and (3) establishing a three-year pilot program to promote local energy self-sufficiency through the use of renewable energy resources, with a $10 million authorization in FY 1981; allows the Federal Energy Regulatory Commission under the Federal Power Act to exempt projects below 5 megawatts from certain licensing requirements on a case-by-case basis; requires the Secretary to promulgate regulations to implement the financial assistance programs for small-scale hydro commercialization programs in the National Energy Act within 6 months, and to prepare a study of Federal hydro programs; extends through 1982 the $110 million authorized in the National Energy Act for this purpose.

Title V—Solar Energy and Energy Conservation: Establishes, until September 30, 1987, a Solar Energy and Energy Conservation Bank in HUD to make payments to local financial institutions willing to provide below-market rate loans or a principal reduction on loans to borrowers for solar and conservation improvements; provides that the Bank, which will have the same corporate powers as the GNMA, will be governed by a Board of Directors, composed of the Secretaries of HUD, Energy, Treasury, Agriculture and Commerce, and establishes Advisory Committees on Solar Energy and Energy Conservation to assist it; authorizes $2.5 million for FY 1981 through 1984 for conservation purposes and $525 million for 1981 through 1983 for solar purposes of which up to $10 million in FY 1981 and $7.5 million in 1982 and thereafter would be available annually out of each appropriation to promote the solar and conservation loan programs.

Residential Energy Conservation Grants: Establishes a Residential Conservation Office in the Department of Energy to supervise a state-run grant program in which the Federal government would share the cost of residential energy conservation measures and reserves up to 15 percent of the funds authorized for conservation under the Solar Energy and Energy Conservation Bank.

Residential Energy Efficiency Program: Amends the National Energy Conservation Policy Act to authorize the Secretary of Energy to establish a program to ascertain the conservation effectiveness of contracting with private energy conservation companies to conduct systematic residential audits and install energy conservation measures throughout defined geographic areas; and authorizes $10 million for FY 1981 and 1982 for demonstration projects.

Utility Residential Conservation Programs: Includes several amendments to the portion of the National Conservation Policy Act which require the nation's larger electric and gas utilities to establish "utility programs" offering residential customers inspections and management services in arranging for the installation of certain residential energy conservation measures.

Energy Auditor Training and Certification: Authorizes $10 million in FY 1981 and $15 million in 1982 to the Secretary of Energy for grants to States to support training and certification of energy auditors of residential and commercial buildings.

Industrial Energy Conservation: Authorizes not to exceed $40 million for each FY 1981 and 1982 (which is in addition to funds authorized in other measures) to the Secretary of Energy to accelerate research, development, and demonstration of energy productivity for high pay-off Industrial Conservation Demonstration projects under the existing DOE program.

Weatherization Grant Program: Limits administrative expenses of the low-income weatherization assistance program authorized by Title IV of the Energy Production and Conservation Act to not more than 10 percent of any weatherization grant and provides that not more than one-half of this amount may be used by any State for this purpose; authorizes the Secretary to increase the $800-per-dwelling-unit-limit to not more than $1,600 to secure installation of weatherization materials where the Secretary determines that an insufficient number of volunteers, training participants, and public service employment workers are available; increases from $100 to $150 the limit on the cost of making incidental repairs necessary to installation of weatherization materials; gives the Community Action Agency (CAA) preference to continue managing a weatherization program where it has demonstrated the program is effective but otherwise repeals CAA authority in this area.

Title VI—Geothermal Act of 1980: Establishes financial assistance programs in DOE to: (1) promote exploration and confirmation of geothermal reservoirs for which a total of $85 million is authorized in Federal loans and loan guarantees for FY 1981 through 1985; (2) provide for feasibility studies for which $5 million is authorized in FY 1981; and (3) construct specific geothermal projects for which authorization is deferred until FY 1982; directs DOE to conduct a reservoir insurance study in cooperation with the insurance and reinsurance industry.

Title VII—Acid Precipitation Act of 1980: Establishes an Interagency Task Force (chaired jointly by the Administrators of the National Oceanic and Atmospheric Administrator (NOAA) and the Environmental Protection Agency and the Secretary of Agriculture) to conduct a comprehensive 10-year research program to identify the causes and effects of acid precipitation; provides an initial authorization of $5 million to NOAA to establish the Task Force and develop the comprehensive plan and sets an overall ceiling of $45 million on the program.

Carbon Dioxide Study: Calls upon the Director of the Office of Science and Technology Policy to enter into an agreement with the National Academy of Sciences to carry out a comprehensive study on the projected impact of fossil fuel combustion, coal conversion and related synthetic fuels activities, and other sources on the level of carbon dioxide in the atmosphere and submit a report including major findings and recommendations, to the Congress within three years of enactment; and authorizes therefor up to $3 million, of which at least 80 percent shall be for the National Academy of Sciences.

Title VIII—Strategic Petroleum Reserve: Requires the Federal Government to commence filling the Strategic Petroleum Reserve (SPR) at a minimum average rate of 100,000 barrels per day; requires that, if this specified SPR fill rate is not achieved, any production from Elk Hills and Teapot Dome Naval Petroleum Reserves must be sold or exchanged so as to be stored in the SPR; makes certain exceptions to this fill requirement. S. 932—Public Law 96-294, approved June 30, 1980. (228)

Wind and ocean thermal energy conversion: Authorizes $100 million to the Secretary of Energy for fiscal 1981 to promote the development and commercialization of wind systems through the establishment of a wind commercialization program whereby the Secretary can make loans for the total cost of purchase and installation of wind energy systems which would provide up to 320 megawatts of peak generating capacity; directs the Secretary to initiate studies on Federal applications of wind energy systems at Federal facilities, on the effects of widespread utilization on existing utilities and on applications in foreign countries and earmarks $30 million of $100 million authorized for the Federal effort; establishes a Federal wind utilization program for acquisition of wind systems by other Federal agencies under the delegation of the Secretary; provides a 30 percent set-aside for small business concerns;

Adds the provisions of S. 1830 as passed by the Senate which establishes a goal for demonstration an electrical and energy product equivalent capacity of at least 100 megawatts by 1999, and the reduction of the average cost of electricity and energy product equivalent produced by installed OTEC systems to a level that is competitive with conventional energy sources by 1993; directs the Secretary of Energy to submit to Congress by June 30, 1980, a plan and program for the conduct of research and development and demonstration programs which meet the established goals for 1986, 1989, and 1993; directs the Secretary to submit within two years, a comprehensive commercialization plan that will permit realization of the 10,000 megawatt national goal by 1999; establishes a seven-member Ocean Thermal Energy Advisory Committee to study and advise the Secretary with regard to implementation and conduct of OTEC programs and their economic, technological, and environmental consequences; and authorizes for fiscal 1981 $25 million for operating expenses and $15 million to initiate demonstration projects for producing an electrical and energy equivalent capacity of 100 megawatts. H.R. 5892—Passed House December 4, 1979; Passed Senate amended June 16, 1980; Conference report filed. (VV)

Windfall profit tax: Imposes a $227.7 billion windfall profit tax, a temporary excise or severence tax, on taxable crude oil produced in the United States according to its classification in one of three tiers; derives the tax by multiplying the appropriate tier tax rate times the windfall profit which is defined as the difference between the actual selling price of the oil and its base price (with a deduction for State severence taxes on the windfall profit); taxes tier 1 (oil discovered prior to 1979 that would have been controlled as lower or upper tier oil had price controls remained in effect) at 70 percent with a base price at the May 1979 upper tier ceiling price (which averaged $13.02 per barrel) less $.21, adjusted for inflation; includes production from the Sadlerochit Reservoir on the Alaskan north slope in this tier; taxes tier 2 (oil from stripper wells and a national petroleum reserve) at 60 percent with a base price of $15.20 per barrel adjusted for inflation and differences in quality and location; taxes tier 3 (newly discovered oil, certain heavy oil, or incremental tertiary oil) at 30 percent with a base price of $16.55 per barrel adjusted for inflation plus two percent and for differences in quality and location; allows independent producers a reduced tax rate on up to 1,000 barrels per day of qualifying tier 1 oil at 50 percent and tier 2 oil at 30 percent; exempts from the tax State and local governments, certain charitable medical facilities and educational institutions, and Indian tribes; exempts new oil produced in most of Alaska and front-end tertiary oil; limits the windfall profit subject to tax to 90 percent of net income from property with qualified tertiary injectant expenses being capitalized; makes the windfall profit tax deductible as a business expense; for purposes of computing percentage depletion, gross income from the property is not reduced by the windfall profit; phases out the entire windfall profit tax over a 33-month period after December 31, 1987, (but no later than December 31, 1990), or when cumulative revenues raised by the tax reach $227.3 billion, whichever is later; and makes the tax effective for production after February 29, 1980;

Residential energy tax credits: (Estimated cost of $600 million for 1980–1990.) Increases the existing tax credit for residential solar energy property to 40 percent of the first $10,000 of expenditures and makes additional kinds of property eligible for that credit; adds specific standards for the Secretary of the Treasury to use when exercising the existing authority to add items to the list of property eligible for the home insulation and solar energy tax credits;

Business Energy Tax Incentives: (Estimated cost of $8.086 billion for 1979–1990) increases to 15 percent and extends through 1985 the energy investment credit for solar, wind, and geothermal equipment, as well as the solar credit to equipment used to provide process heat; provides a 15 percent energy credit for certain ocean thermal equipment; provides an 11 percent energy credit for small-scale hydroelectric equipment; provides a 10 percent energy credit through 1982 for cogeneration equipment not fueled by oil or gas; sets specific standards for the Secretary of the Treasury to use in exercising the existing authority to add items to the list of property eligible for the business energy credits; restores the regular investment credit and accelerated depreciation to boilers using petroleum coke and pitch; contains a 10 percent energy credit through 1982 for coke ovens; extends through 1985 the energy credit for certain biomass and gasohol equipment; contains a 10 percent energy credit through 1985 for certain intercity buses with increased seating capacity; contains a transition rule for energy credits expiring in 1982 to allow those credits through 1990 where affirmative commitments have been made; provides a $3 per barrel credit for the production of various alternative energy sources; extends through 1992 the excise tax exemption for gasohol, along with various other tax incentives for gasohol; exempts industrial development bonds used to finance small-scale hydroelectric equipment, certain solid waste disposal facilities, and certain renewable energy programs; and allows expensing of injectants used in territory oil recovery;

Low-Income Energy Assistance: Authorizes $3.115 billion for fiscal 1981 for a program of block grants to the States to provide assistance to lower-income families for heating and cooling costs; restricts eligibility to households which have incomes less than the Bureau of Labor Statistics (BLS) lower living standard which in 1979 was $11,600 on a national average for a family of four; allows States to give assistance, regardless of income, to households which receive food stamps, AFDC, needs-tested veterans' pensions, or SSI with certain exceptions; allots by formula 95 percent of the total amount appropriated to the 50 States and the District of Columbia, and reserves five percent for the territories, the Community Service Administration's crisis intervention program ($100 million), and matching incentive grants for State initiatives under this program; provides that the basic formula will allot half of the funds according to a State's aggregate residential energy expenditure (relative to the total for all States), and half according to heating degree days squared, weighted by the number of households below the BLS lower living standard; provides that a State allotment shall be large enough to provide at least $120 per year to each AFDC, SSI, and food stamp household in the State; provides further that no State shall receive less than the lower of the amounts it would have received under either of two alternative formulas; authorizes $25 million to meet the additional costs resulting from the application of the minimum benefit provision to certain States; requires each State to submit an energy assistance plan, which would be subject to approval by the Secretary of Health, Education and Welfare; and provides that any assistance provided under this Act could not be counted as income or resources under any Federal, State, or local program of assistance or taxation;

Disposition of Windfall Profit Tax Revenue: Provides that the net revenues from the windfall profit tax be allocated only for the following specific purposes to a separate account at the Treasury: (a) Aid to Lower-Income Households 25 percent of net revenues; provides that for fiscal 1982 and subsequent years these funds shall be divided equally between the program to assist AFDC and SSI recipients and a program of Emergency Energy Assistance: (b) Individual and Corporate Income Tax Reductions 60 percent of net revenues for tax cuts to help taxpayers cope with higher energy prices; and (c) Energy and Transportation Spending Programs 15 percent of net revenues;

Other Income Tax Provisions: Repeals the carryover basis provisions enacted in 1976 regarding estate tax law under which the taxable base for appreciation on an inherited asset is valued at the time of its acquisition by the decedent rather than at the time it is inherited; allows a $200 exclusion for interest and dividends ($400 for married couples) effective for tax years 1981 and 1982; and modifies the LIFO inventory accounting rules; and

Oil Imports: Denies the President the authority to impose oil import quotas if Congress passes a joint resolution disapproving such a quota, with a right of veto which could be overridden by a two-thirds vote of both Houses. H.R. 3919—Public Law 96–223, approved April 2, 1980. (496, *67)

Wood utilization: Authorizes the Secretary of Agriculture to establish and operate pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues which may include development and operation of wood utilization and demonstration areas where wood residues have accumulated, development and establishment of fuelwood concentration and distribution centers, and construction of access roads; authorizes therefor $50,000 annually for fiscal 1982 through 1986; authorizes the Secretary to establish a pilot wood utilization program using "residue removal incentives" to pay purchasers of national forest system timber for their costs in removing wood residues from timber sale areas to points of prospective use; and requires the Secretary to submit annual reports to Congress on the pilot wood utilization program. S. 1996—Passed Senate March 25, 1980. (VV)

ENVIRONMENT AND NATURAL RESOURCES

Channel Islands National Seashore: Establishes the Channel Islands National Park in California consisting of the islands of San Miguel, Prince Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara; authorizes $30.1 million for use by the Secretary to acquire lands within the Park boundaries; adds to the acreage of various national parks; and makes technical corrections to the National Parks and Recreation Act of 1978 (Public Law 95–625). H.R. 3757—Public Law 96–199, approved March 5, 1980. (*41)

Clean water: Authorizes $320.9 million in fiscal 1981 and $297.8 million in fiscal 1982 for programs under the Clean Water Act including: (1) research, investigations, and training including the Great Lakes and Chesapeake Bay programs; (2) grants for pollution control programs; (3) areawide waste treatment management planning process grants; (4) rural nonpoint source pollution control; and (5) clean lakes grants to States; allows the Administrator of EPA to exempt from reallocation any construction grant funds which remain unobligated more than 2 years for court ordered projects; authorizes allocation of grant funds of the State of New York to demonstrate methods for selective removal by dredging of polychlorinated biphenyls (PCBS) in the Hudson River; repeals the industrial cost recovery provisions for grants for the construction of treatment works; and prohibits the use of grants made under the Clean Water Act after September 30, 1980, to enable a publicly owned treatment works, to treat, store, or convey the flow of any industrial user in excess of a 50,00 gallons per day equivalent of sanitary waste. S. 2725—Passed Senate June 25, 1980. (*254)

Earthquake hazard reduction: Extends, through fiscal 1983, the Earthquake Hazard Reduction Act of 1977 and authorizes therefor a total of $242.8 million for fiscal 1981 through 1983 to the Federal Emergency Management Agency; the United States Geological Survey; and the National Science Foundation to continue their ongoing programs aimed at reducing the risks to life and property from earthquakes through means of prevention and preparedness. S. 1393—Passed Senate May 22, 1980. (VV)

Endangered species: Extends programs under the Endangered Species Act of 1973 through fiscal 1982 and authorizes a total of $12 million for the section 6 State grant-in-aid program which includes the remaining $4 million of the $16 million previously authorized under Public Law 96–212. H.R. 6839—Public Law 96–246, approved May 23, 1980. (VV)

EPA authorization: Authorizes a total of $368,702,000 for the environmental research and development programs conducted by the Environmental Protection Agency for fiscal 1981. S. 2726—Passed Senate May 22, 1980. (VV)

Fish and wildlife conservation: Authorizes $5 million each for fiscal 1981 through 1984 to the Secretary of the Interior to establish, for the first time, a comprehensive wildlife conservation grant program, whereby States would receive Federal matching funds for the development, revision, and maintenance of approved plans and programs established for conservation of both game and nongame wildlife. S. 218—passed Senate May 22, 1980. (VV)

Great Plains conservation: Extends through September 30, 1991, the Great Plains Conservation Program, due to expire December 31, 1981, under which the Secretary of Agriculture is authorized to enter into cost-sharing conservation contracts with farmers and ranchers; expands the scope of the contracts to include farms, ranches, and other lands susceptible to serious water, as well as wind, erosion, increases the overall limitation on program costs, exclusive of administrative costs; and increases the annual program payment limitation. H.R. 3789—Public Law 96–263, approved June 6, 1980. (VV)

Idaho wilderness: Designates a new 2,234,000-acre River of No Return Wilderness in Idaho consisting of the Old Idaho and Salmon River Breaks Primitive Areas and certain contiguous lands in central Idaho and adds approximately 105,600 acres in the Bitterroot National Forest to the existing Selway-Bitterroot Wilderness; requires the Secretary of Agriculture to prepare, within three years of enactment, a wilderness management plan for the River of No Return Wilderness which specifically addresses ways in which the region can be accessed for public use and enjoyment and contains a cultural resource management plan to encourage scientific research into the past use of the area; includes the Clean Creek Area (West Panther Creek) within the wilderness area in order to protect the big horn sheep but insures that the area can be thoroughly explored to determine if cobalt is located there and, if so, guarantees that it can be mined; specifically allows the Blackbird Cobalt mine in Lemhi County to reopen; reiterates several provisions of the Wilderness Act which allow for the continued use of the areas for grazing and commercial services such as outfitter and guide operations and underscores the jurisdiction over water resources and fish and game within the areas; prohibits the Forest Service from closing airstrips except for reasons of safety; designates 125 miles (a specified 46-mile segment is designated as recreational and a 79-mile segment as wild) of the main Salmon River as a component of the National Wild and Scenic Rivers System to be administered by the Secretary of Agriculture; insures existing jetboat use of these segments at the 1978 level; contains a prohibition on dams and other impoundments on a specified 53-mile segment; bans dredge and placer mining; and establishes a procedure whereby existing administrative and future litigation surrounding the Warren and Landmark Unit Land Management Plans and their respective final environmental statements would be expeditiously handled by the Forest Service and the Federal Courts. S. 2009—Public Law 96-312, approved July 23, 1980. (423)

Water resources—Saline water conversion: Extends through fiscal 1983, the basic activities of the Office of Water Research and Technology (OWRT) under the Water Research and Development Act and provides specific authorizations for the various categories of funding and makes a number of changes to the Saline Water Demonstration Program. S. 1640—Passed Senate June 3, 1980. (VV)

GENERAL GOVERNMENT

Federal Trade Commission: Amends the Federal Trade Commission Act to change procedures for agency investigations and rulemaking; authorizes $70 million for fiscal 1980, $75 million for 1981, and $80 million for 1982 for programs administered by the Federal Trade Commission; and provides for a two-house legislative veto of trade rules promulgated by the FTC; requires the FTC, within 120 days of the filing date, to reopen any FTC order if a person, partnership, or corporation subject to that order makes a "satisfactory showing" of the changed conditions of law or fact since the order was issued; prohibits the FTC from making public trade secrets, commercial, and financial information which it obtains confidentially from private sources; requires the FTC to establish a plan to reduce the burdens on small businesses of the quarterly financial report and to reduce the number of small businesses required to file the report; makes permanent the protection against disclosure of line-of-business data in such a way that an individual company could be identified; makes the FTC's investigative and reporting powers inapplicable to the business of insurance, except to the extent authorized with regard to antitrust investigations or unless requested by a majority vote of the Senate or House Commerce Committees; eliminates the threat of criminal sanctions applied to those recipients of a subpoena who in good faith resist investigations by making such sanctions inapplicable prior to a judicial order of enforcement; terminates FTC's rulemaking authority to issue a trade regulation rule under section 18 regarding industry standards and certification of products but leaves unaffected whatever authority the FTC may have under other provisions of the Act; requires the FTC to notify the relevant Senate and House committees 30 days prior to publishing a notice in the Federal Register of a proposed rulemaking; limits to $75,000 per proceeding and to $50,000 per year the amount that any person may receive under the public participation program; restricts the total authorization for this program to $750,000 annually, and calls for establishment of a small business outreach program to solicit public comment and encourage participation; suspends the present rulemaking proceedings regarding children's television advertising until the Commission votes to publish the text of the proposed rule and conducts its investigations under a "false or deceptive", rather than an "unfair or deceptive" standard; requires the FTC to promulgate rules providing that ex parte contacts between Commissioners and outside parties be "on-the-record", and that contacts between the Commissioners and the rulemaking staff be "on-the-record" when discussing facts relevant to the rulemaking but which are not in the rulemaking record; applies the civil investigative demand procedure utilized by the Justice Department under the Antitrust Civil Process Act to certain FTC investigations, and allows information sharing with other Federal agencies as long as they abide by the same standards of confidentiality; exempts from disclosure under the Freedom of Information Act any material the FTC receives in an investigation of a violation of a law within the jurisdiction of the FTC; requires the FTC to publish the text of any rule, or alternatives, at the commencement of a rulemaking proceeding; provides that the provision requiring the publication of a rule is applicable to any rulemaking proceeding in which all hearings have not been completed; requires publication of a semiannual regulatory agenda listing the rules which the FTC expects to propose or promulgate in the next 12 months; requires an analysis of a proposed action as to its benefits and adverse effects at the initial notice stage and upon promulgation; prohibits the FTC for three years from petitioning the Commissioner of Patents to cancel a trademark on the grounds that it had become the "common or descriptive name of an article or substance" under the Lanham Trademark Act, which would prevent the FTC's intended action on the word "formica"; authorizes FTC rulemaking on the funeral industry with regard to mandating price disclosures, banning deceptive or coercive practices, and prohibiting unlawful practices such as boycotts or threats; prohibits funds for study, investigation, or prosecution of any agricultural cooperative, such as Sunkist, which is exempt from antitrust laws under the Capper-Volstead Act; provides for a two-house legislative veto of FTC rules, under expedited procedures, by the passage within 90 days of promulgation of a rule of a concurrent resolution of disapproval; and requires the Senate Commerce Committee's Subcommittee for Consumers to hold oversight hearings every six months regarding the FTC. Consumers. H.R. 2312—Public Law 96-252, approved May 28, 1980. (*40, *152)

General Accounting Office audit of unvouchered expenses: Amends the Accounting and Auditing Act of 1950 to authorize the Comptroller General to audit unvouchered expenditures which are accounted for solely by the President or agency official involved (except for certain expenditures dealing with sensitive foreign intelligence or counter-intelligence) for the purpose of verifying to Congress that funds were legitimately expended. H.R. 24—Public Law 96-226, approved April 3, 1980. (VV)

NASA authorizations: Authorizes $300 million in fiscal 1980 supplemental funds to NASA for research and development in connection with the space shuttle program which, when added to the $1.586 billion appropriated, would provide a total authorization of $1.886 billion for the program. S. 2238—Passed Senate May 30, 1980. (VV)

Authorizes $5,587,904,000 for the National Aeronautics and Space Administration for fiscal 1981 of which $4,436,750,000 is for research and development including $1,873,000,000 for continuing development of the Space Shuttle; $118,000,000 for construction of facilities including the Space Shuttle; and $1,033,154,000 for research and program management; and contains support for two new initiatives: the Gamma Ray Observatory and the National Oceanic Satellite System. S. 2240—Public Law 96-316, approved July 30, 1980. (VV)

National science and women in science: Authorizes $1,074,000,000 for fiscal 1981 and $1,235,500,000 for fiscal 1982 and sets aside not less than 2.1 percent in fiscal 1981 and 1982 to promote the full use of human resources in science and technology through a comprehensive program to increase the potential contribution and advancement of women in scientific, professional, and technical careers. S. 568—Passed Senate June 23, 1980. (VV)

Omnibus territories: Provides for fiscal 1981 and beyond an open end authorization for the operation of the civil government of the Trust Territory, which includes funds for completion of the capital improvement program, a basic communications system, and a feasibility study and construction of a hydroelectric facility on Ponape in the Caroline Islands; requires the Secretary of the Interior to submit to Congress, no later than January 1, 1981, a plan for a comprehensive health care and environmental monitoring program, which is in addition to the existing program under Public Law 95-134, taking into consideration the different needs of Bikini, Enewetak, Ronglap, and Utirik Atolls in the Northern Marshall Islands which were affected by radiation from U.S. nuclear weapons testing between 1946 and 1958 and authorizes such sums as may be necessary to implement the program; provides additional warranted compensation for a limited number of persons who were victims of radioactive fallout at Bikini Atoll; provides for continuance of Federal health and education programs in the Trust territory and their successor governments until terminated by Congress;

Authorizes $24.4 million to establish a grant program for health care needs of the residents of the Northern Mariana Islands; authorizes the Secretary of Treasury to enter into a contract with the Northern Mariana Islands for the purpose of establishing a local tax code to be implemented by January 1, 1982;

Repeals the prohibition on the award of interest under the Guam Land Claims provisions of Public Law 95-134; forgives the interest on loans made to Guam to assist in the rehabilitation of the island due to damage caused by World War II and Typhoon Karen and credits the interest paid against the outstanding principal; modifies, and extends for ten years, the loan guarantee program for the Guam Power Authority;

Transfers to the Virgin Islands certain lands which the U.S. acquired from Denmark; and releases the Virgin Islands, upon payment of the outstanding principal, from the mortgage on approximately ten acres of land for construction of the proposed St. Croix Armory; prohibits any change in the existing lease on Water Island before 1992 without Congressional approval; authorizes the U.S. to retain the funds attributable to the cost of collecting customs, duties, and fees on petroleum products between August 18, 1978, and January 1, 1982, with all other deductions remitted pursuant to the Virgin Islands Revised Organic Act; repeals the deficit authorization contained in Public Law 95-348; authorizes the Virgin Islands to levy excise taxes on articles as soon as they are brought into the Islands; directs the Administrator of GSA to transfer to the Virgin Islands title of the former District Building located on Norre Gade; extends the guaranteed bonding authority for the Virgin Islands for five years with a provision that any funds guaranteed but not obligated at the expiration of that period would be returned to the Federal Government.

Authorizes the Secretary of the Treasury, effective October 1, 1980, to assist the Governor of American Samoa in collecting all customs duties derived from American Samoa;

Requires the Department of Interior to waive matching requirements on Federal grant programs to the territories; directs

Federal agencies to waive any requirement for local matching funds under $100,000 from American Samoa or the Northern Mariana Islands; authorizes the territories to use Federal services on a reimbursable basis; requires the Secretary of the Interior to notify Congress prior to any storage of spent nuclear fuel or radioactive waste in any territory; clarifies Puerto Rico's jurisdiction over its submerged lands; and transfers to Guam, the Virgin Islands, and American Samoa the mineral rights reserved to the Federal Government under the Territorial Submerged Lands Act. H.R. 3756—Public Law 96–205, approved March 12, 1980. (VV)

Public buildings: Authorizes not to exceed $2,361,399,099 for various building projects and to carry out the general policies established to be followed in locating, designing, furnishing and maintaining Federal buildings; and sets a goal of increasing the percentage of Federal employees working in public buildings as opposed to leased buildings to 60 percent in ten years and 75 percent in 20 years, up from 48 percent at present. S. 2080—Passed Senate June 20, 1980. (*234)

Refugee assistance and admission: Amends the Immigration and Nationality Act to: (1) provide a new definition of refugee which eliminates current geographical and ideological restrictions and conforms to the United Nations Convention and Protocol Relating to the Status of Refugees; (2) raise the annual limitation on regular refugee admissions from 17,400 to 50,000 for fiscal 1980 through 1982 with a limitation thereafter to be determined as a result of consultation with Congress; (3) provide procedures for meeting emergency refugee and other situations of special concern to the United States if the resettlement needs of the homeless people involved exceed the 50,000 ceiling and specify the procedures for hearings and consultations with Congress on numbers and allocations of refugees in these situations; (4) provide for withholding deportation of aliens to countries where they would face persecution, unless four specific conditions are met which are set forth in the U.N. Convention; (5) limit the use of parole to individual refugees and require that in utilizing parole, the Attorney General, must determine "that compelling reasons in the public interest . . . require that the alien be paroled into the United States rather than be admitted as a refugee"; (6) admit all refugees as refugees with retroactive adjustment of status to lawful permanent residents after one year; (7) establish the statutory position of U.S. Coordinator for Refugee Affairs with the rank of Ambassador at Large, to be appointed by the President and confirmed by the Senate, to develop and coordinate U.S. refugee admission and resettlement policy; (8) establish an Office of Refugee Resettlement in the Department of Health and Human Services to administer present domestic assistance programs; (9) require coordination between HSS and the Department of State in providing resettlement and placement grants during fiscal 1980 and 1981 and transfer this authority to HSS in 1982 unless the President determines, from the results of a required study of which agency is best able to administer the program, that the Director should not administer the program; (10) authorize $200 million annually for supportive services to be funded through discretionary grants and contracts; (11) provide 100 percent reimbursement for cash and medical assistance provided to refugees for three years following the refugees' arrival and specify that this limitation does not apply for fiscal 1980 and the first six months of 1981; (12) provide for the continued phasedown of the Cuban refugees program through 1982; (13) provide a three-year authorization of domestic assistance funding; and (14) authorize reimbursement of State and local public agencies for assistance provided to aliens who applied for asylum before November 1, 1979, and who are awaiting determinations of their claims. S. 643—Public Law 96–212, approved March 17, 1980. (262)

Reorganization authority extension: Extends for one year, until April 6, 1981, the President's current authority under chapter 9, title 5, U.S.C. to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch H.R. 6585—Public Law 96–230, approved April 8, 1980. (VV)

War risk insurance: Extends until September 30, 1984, the authority of the Secretary of Commerce under title XII of the Merchant Marine Act of 1936 to provide insurance and reinsurance against the loss or damage by war to American vessels and foreign-flag vessels owned by U.S. citizens or engaged in waterborne commerce of the United States or in such other services deemed by the Secretary to be in the interest of national defense or the national economy. S. 1452—Public Law 96–195, approved February 25, 1980. (VV)

HEALTH

Asbestos hazard detection: Makes Federal financial assistance available for the detection and treatment of hazardous asbestos materials in school buildings by providing a two-tiered program of Federal assistance: (1) a grant program available to State and local education agencies and private schools to detect potential hazards, and (2) an interest free loan program available to school districts and private schools to contain or remove detected hazards. S. 1658—Public Law 96–270, approved June 14, 1980. (VV)

Health sciences promotion: Authorizes $33.7 million in fiscal 1981; $39.7 million in fiscal 1982, $45.7 million in fiscal 1983, for NIH and health sciences programs: establishes the President's Council for the Health Sciences, a 16-member council appointed by the President and confirmed by the Senate, to oversee health research efforts within the Department of Health and Human Services (DHHS) and to provide the Congress and the President with one- and five-year recommendations each year for the funding of health sciences research throughout the department and to make recommendations regarding areas needing increased research attention and fiscal support; establishes by statute, for the first time, the National Institutes of Health (NIH) which has previously existed under general authority of the Public Health Service Act and provides three year authorizations therefor; revises the present statutory councils and other substantive changes; mandates that DHHS conduct experiments with the present peer review system for selecting grant proposals for funding, including an appeals process for rejected grant applicants and alternative systems; and provides for the development of new ways to identify innovative and unconventional research. S. 988—Passed Senate June 19, 1980. (*230)

Mental health: Revises, beginning in fiscal 1982, the Federal Government's approach to funding community-based mental health programs; extends to mental patients a bill of rights and establishes an advocacy program; revises existing rape prevention and control programs; establishes a partnership between local entities and agencies, State governments, and the Federal Government; requires that each State designate a mental health administrative agency to divide the State into mental health service areas pursuant to Title XV of the Public Health Service Act; requires preparation of a State Health Plan, including provisions relating to the State's need for mental health service, special needs of certain groups, the overall adequacy of facilities and services, and State mental health priorities; directs each State agency to prepare a detailed mental health operations program, outlining the need for services of the chronically mentally ill, emotionally disturbed children and adolescents, the elderly, and other priority groups; includes provisions for the termination of payments to State entities, after notice and an opportunity for a hearing, if there is substantial and persistent failure of a State to comply with these requirements; and authorizes therefor $400 million for fiscal 1982, $450 million for 1983, $500 million for 1984, and $550 million for 1985; requires all States, unless waived, to install computerized medicaid management systems to assist in the detection of fraud, waste, and abuse, and directs the Secretary to develop performance standards for these systems; replaces the existing community mental health centers grant program with a broader, more flexible program under which local private nonprofit entities, local public agencies, or State agencies can apply for Federal funds to provide mental health services in one or more of eight specified categories of services; requires that programs specifically designed for chronically mentally ill patients must receive certain allocations of available Federal funds and that 20 percent of all funds spent for community mental health centers must be attributable to the care of these individuals; requires that the Department of Health and Human Services negotiate performance contracts with local entities or State agencies prior to disbursement of funds; repeals certain planning and formula grant requirements contained in the Public Health Service Act and the Community Mental Health Centers Act, substituting a similar formula grant program, and authorizes therefor $20 million for fiscal 1982 and such sums as necessary for 1983 through 1985;

States the sense of Congress that each State should review and revise, if necessary, its laws to insure that mental health patients receive the protection and services they require, taking into account the recommendations of the President's Commission on Mental Health (the mental health Bill of Rights); authorizes an advocacy program to be run by individual States and require it for those States which establish a State mental health system; and provides that mental health records may be disclosed to qualified personnel in order to determine program eligibility; requires the Director of the NIMH to designate an Associate Director for Minority Concerns; directs NIMH to establish an administrative unit to promote mental health and establish national prevention goals; authorizes fiscal 1981 appropriations for those sections of the Act for which authority to appropriate would otherwise expire at the end of fiscal 1980; authorizes $6 million for fiscal 1981, $9 million for 1982 and $12 million for 1983 for existing rape prevention programs; and establishes and authorizes for demonstration treatment and training programs $10.2 million for fiscal 1981, $11 million for 1982, and $13 million for 1983. S. 1177—Passed Senate July 24, 1980 (*311)

Saccharin ban extension: Extends from May 23, 1979, to June 30, 1981, the ban on actions by the Secretary of Health and Human Services to restrict or prohibit the sale or distribution of saccharin, including any food permitted by such interim food additive regulation of contain saccharin or any drug or cosmetic containing saccharin. H.R. 4453—Public Law 96–273, approved June 17, 1980. (VV)

HOUSING

Home purchase assistance: Amends the Emergency Home Purchase Assistance Act to impose the following two additional conditions on the activation of the program: (1) requires the Secretary to determine that the implementation of the section will not significantly worsen inflationary conditions, and (2) prohibits activation of the program unless the most recent four-month average annual rate of private housing starts (seasonally adjusted and exclusion of mobile homes) as calculated by the Director of the Bureau of the Census, is less than 1.6 million and automatically deactivates the program once this figure is exceeded; broadens the Secretary's authority to include the purchase of loans in addition to mortgages; includes mobile homes among the kinds of housing eligible for the program; increases mortgage limits for more than four-family residences to the per unit amounts permitted under that section of the National Housing Act under which the project is insured and makes loan limits for mobile homes the same as those contained in section 2(b) of the National Housing Act; deletes the existing 7½ percent maximum on interest rates under the program, and provides instead that the interest rate be set by the Secretary but should not exceed the maximum rate applicable to mortgages insured under section 203(b) of the National Housing Act and shall not be lower than three percentage points below the average contract commitment rate maintained by the Federal Home Loan Bank Board for single family home mortgages or lower than 4½ percentage points for a multifamily mortgage; increases the sales price under the program as follows: for a one-family residence, 90 percent of the average new one-family house price in the area, as determined by the Secretary; for a two-family residence, 100 percent of such average; for a three-family residence, 120 percent of such average; and for a four-family residence, 140 percent of such average; gives the Secretary discretion to direct a portion of assistance to promote construction of multifamily housing; extends the program to existing housing constructed more than one year prior to the date of the issuance of the commitment to purchase the mortgage; increases the mortgage amounts for multifamily dwellings to the limits specified in section 207 of the National Housing Act in the case of rental projects, section 213 for a cooperative project, or section 234 for condominium project; prohibits the purchase of mortgages to finance the conversion of an existing rental housing project into a cooperative or condominium, or to finance the purchase of an individual unit in a converted cooperative or condominium;

Section 235 home ownership: Creates a special section 235 home ownership assistance program that would authorize below market interest rate mortgages; allows effective subsidized mortgage rates as low as 11 percent, rather than as low as four percent under the present program; authorizes the Secretary of HUD to add a graduated payment mortgage feature to the program to reduce the homebuyer's effective interest rates to as low as eight percent; makes available assistance payments for persons buying dwellings that sell for up to 80 percent of the average new house price for their area, or $60,000, whichever is higher; authorizes the Secretary to set income levels by area, but directs that moderate income persons be served to the maximum extent feasible; limits recapture of the Federal subsidy to 50 percent rather than 75 percent of net appreciation upon sale of the home; authorizes HUD to use $135 million of its remaining $165 million already appropriated to support the revised section 235 provisions; provides that the program shall remain in effect only through March 1, 1981, unless the Secretary of HUD determines that there is no longer a need for emergency stimulation of the housing market; requires homebuyers to contribute at least 20 percent of their income toward mortgage principal, interest and property taxes; adds technical provisions overriding the limit that no more than 40 percent of the homes in a subdivision can be assisted by the present 235 program and the requirement for local government review for consistency with housing assistance plans of projects with more than 12 houses; and amends the Depository Institutions Deregulation Act of 1980 to make clear that the highest rate allowed either under State or Federal law can be charged on floating rate loans made prior to April 1, 1980, upon written consent. S. 2177—Passed Senate April 22, 1980. (*82) (Note: Comparable provisions are included in the Housing and Community Development Act.)

Housing and community development: Reauthorizes the community development block grant program at $3.95 billion for fiscal 1981, $4.1 billion for 1982, and $4.25 billion for 1983; increases loan limits for the section 312 rehabilitation loan program to a maximum of $35,000 per dwelling unit for residential properties, except for congregate housing and single room occupancy structures, which receive loan limits of $25,000 and $15,000 respectively; reauthorizes the neighborhood self-help development program at $10 million for fiscal 1981;

Housing and assistance programs: Authorizes $29.99 billion to fund 286,000 units of public housing and section 8 subsidized private rental housing, at a mix of new to existing units of 60–40; reduces the eligibility ceiling for section 8 assistance to 65 percent of median area income from 80 percent median area income; authorizes public housing operating subsidies totaling $862 million for fiscal 1981; reauthorizes operating assistance for troubled multifamily housing projects for fiscal 1981 at $31.1 million; extends the public housing anti-crime demonstration programs; and allows public housing agencies to use public housing funds as the non-Federal match to secure funds for Federal grant-in-aid programs;

Extends all basic FHA authorities for single family and multifamily housing programs, and title I property improvement loans and mobile home loans, with a requirement that the FHA interest rate be adjusted with sufficient frequency to minimize discount points; revise FHA mortgage limits for one-family units from the current nationwide limit of $67,500 to an area differential that calls for a limit of $67,500 or 95 percent of the median house sales price for the given area as determined by the Secretary, whichever is higher; increase 2- to 4-family dwelling limits proportionally; increase mortgage limits under multifamily and institutional FHA insurance programs by 20 percent to cover the cost of energy conservation measures; delays implementation of building energy performance standards for up to two years and transfers the responsibility for implementation from HUD to DOE; permanently extends the disposition of HUD-owned multifamily rental housing projects; reauthorizes the Neighborhood Reinvestment Corporation at $13,426,000 for fiscal 1981; revises the FHA section 233(f) refinancing program to permit an interest subsidy on loans through the Government National Mortgage Association (GNMA), and to curtail the use of the program for cooperative conversions; reauthorizes targeted tandem projects to the comparable FHA limits;

Planning assistance: Reauthorizes the comprehensive planning program of the Housing Act of 1954 at $40 million annually for fiscal 1981 to 1983;

Condominium and cooperative conversion protection: Establishes national standards for condominium and cooperative conversion including a right of first refusal by individual tenants to purchase their units within 90 days of notice of conversion, warranties on units and common elements, anti-fraud provisions and optional termination by unit owners of operating contracts with developers; allows enforcement of standards through civil action in State or Federal court; allows States and localities, three years following enactment, to exempt themselves from these standards; establishes rights of civil action with respect to certain long term condominium leases with automatic escalation clauses; and makes void certain provisions of those leases;

National flood insurance studies: Authorizes $61.6 million for fiscal 1981 to carry out studies of flood-prone communities and such sums as necessary for fiscal 1982;

Rural housing: Extends, amends and authorizes appropriations for fiscal 1981 for housing and related programs administered by the Farmers Home Administration of the Department of Agriculture; limits FmHA's capacity to insure and guarantee loans to a maximum of $3.77 billion; and requires that no less than $3.12 billion be used to assist low income persons, whose incomes are 80 percent or less of the median area income. S. 2719—Passed Senate June 21, 1980. (*242)

INTERNATIONAL

China trade: Approves the extension of nondiscriminatory (most-favored-nation) treatment with respect to products which the U.S. imports from the People's Republic of China which was transmitted by the President on October 23, 1979. H. Con. Res. 204—Action completed January 24, 1980. (*13)

Adds the Peoples Republic of China to the two countries exempted from the general prohibition contained in the Foreign Assistance Act of 1961 against Overseas Private Investment Corporation (OPIC) operations in Communist countries in order that OPIC may provide insurance and guarantees to American businessmen interested in investing in China. S. 1916—Public Law 96– , approved 1980. (VV)

International and security development assistance—Peace Corps authorization: Authorizes $4,785,931,000 for international security and development assistance and Peace Corps programs in fiscal 1981; contains $638.6 million for military aid programs, and provides program authority for an additional $2.575 bilion in foreign military sales financing; includes military aid in the amount of $1.4 billion to Israel (with $50 million in grants), $551 million to Egypt, $252 million to Turkey, $183 million to Greece, and $175 million to the Republic of Korea;

Authorizes $2,049,500,000 for Economic Support Fund programs, including $785 million for Israel, $750 million for Egypt, and $200 million for Turkey;

Authorizes $25 million for ongoing international peacekeeping operations in the Sinai and in Cyprus; authorizes $38.6 million for International Narcotics Control programs removes the $35 million ceiling on commercial arms exports and makes corresponding changes such as adding a concurrent resolution veto for commercial arms exports; removes the ten percent reserve requirement for the foreign military sales guarantee fund and replaces it with a floor of $750 million; directs that the costs of the grant military training programs be calculated on an incremental rather than full cost basis; provides the President with expanded emergency powers restrictions in the Arms Export Control Act and authority to draw down up to $50 million in U.S. Defense Department stocks; defines more carefully the term "duties of a combat nature" related to the security assistance program and provides for reports to Congress in the event of significant hostilities in countries receiving U.S. defense services;

Requires Presidential reports on Soviet troops in Cuba and on leases of U.S. military property to foreign governments;

Authorizes $233,250,000 for voluntary contributions to international organizations and programs; and $114,656,000 for Peace Corps;

Authorizes $1.282 billion for AID's functional development assistance programs; authorizes operating expenses for AID as well as authorizations for the Sahel Development Program, American Schools and Hospitals Abroad, and International Disaster Assistance; requires the expenditure of $2.5 million of AID funds to prepare environmental profiles of developing countries and to support programs to assist in the protection and improve management of their environment and natural resources; and changes the name of AID's Auditor General to Inspector General and provides the Inspector General with authorities similar to those of Inspectors General of other agencies. H.R. 6942—Passed House June 5, 1980; Passed Senate amended June 17, 1980; In conference. (*218)

International Monetary Fund (Bretton Woods): Authorizes the U.S. Governor to consent to a permanent increase in the U.S. quota in the International Monetary Fund equivalent to $4,202,500,000 Special Drawing Rights (approximately $5.4 billion) subject to the limitation that the increase could not exceed such amounts as are appropriated in advance in appropriation acts; and directs the Secretary of Treasury to appoint a Commission to study present U.S. policy toward gold and its role in domestic and international monetary systems. S. 2271—Passed Senate June 16, 1980. (211)

International sugar agreement implementation: Provides for the implementation of the International Sugar Agreement of 1977 (ISA); authorizes the President to carry out and enforce the provisions of the Agreement; makes it a crime, punishable by a fine of not more than $1,000, to fail to keep any required information or to submit a required report, to knowingly submit a false report, or to violate a rule or regulation promulgated pursuant to this Act; requires biannual reports to Congress on the operation and effect of the ISA containing information on and projections of world and domestic sugar demand, supplies and prices, and a summary of international and domestic actions under the ISA and U.S. law to protect the interests of U.S. consumers and producers of sugar; directs the President, if he determines that there has been an unwarranted price increase due to the ISA or to market manipulation by its members, to request the various governing bodies to take off-setting actions to increase sugar supplies; directs the President, if the International Sugar Council fails to take corrective action within a reasonable period of time following the request, to submit to Congress his recommendations on ways to correct the situation; and provides for the suspension of the President's implementation authority if the situation is not remedied within a reasonable period of time and until such time as the President determines that manipulations have ceased. H.R. 6029—Public Law 96-236, approved April 20, 1980. (V)

Iranian hostage release: Commends, on behalf of all Americans, the Government of Canada for its actions in protecting certain United States citizens and arranging for their departure from Iran. S. Res. 344—Senate agreed to January 30, 1980. (VV)

States the sense of the Congress that the people of the United States should observe March 18, 1980, as a national day of prayer and meditation for the hostages in Iran. S. Con. Res. 79—Action completed March 17, 1980. (VV)

Expresses the deep sympathy of the Senate to the families of the eight servicemen who lost their lives in the attempted rescue of the Americans being held hostage in Iran; and states the sense of the Senate that the President shall order the U.S. flag to be flown at half-mast on all Federal buildings and grounds from sunset on May 6, until sunset on May 9, 1980, in honor and remembrance of these men. S. Res. 417—Senate agreed to May 6, 1980. (VV)

Multilateral Development Banks: Authorizes $2,474,287,189 as the U.S. subscription for the newly authorized capital stock (of which 92.5 percent is callable and 7.5 percent is paid-in) of the Inter-American Development Bank and a contribution of $630 million to the Bank's Fund for Special Operations; authorizes a contribution of $378.25 million and $125 million as the U.S. share of the Asian Development Fund and the African Development Fund, respectively; states the sense of the Congress that it is U.S. policy that Taiwan should be permitted to retain its membership in the Asian Development Bank and, that if expelled, a review of future participation in the Bank, as well as future payments to the Fund, would ensue; calls for reports on all loans considered by the Boards of the various institutions and on all loans opposed by the U.S.; directs the U.S. Governors to consult with the other governors concerning adoption of an amendment to the articles of agreement of each institution which establishes human rights standards to be considered in connection with each application for assistance; and requires the U.S. to promote the development of renewable energy resources. S. 662—Public Law 96–259, approved June 3, 1980. (101)

Authorizes $3,240 billion as the U.S. contribution to the sixth replenishment of the resources of the International Development Association which will be paid in three annual installments beginning in fiscal 1981, and limits the first payment to $939.6 million; authorizes the President to accept membership for the U.S. in the African Development Bank and to appoint a Governor and Alternate Governor of the Bank who must be confirmed by the Senate; authorizes therefor $359,733,570 for the initial U.S. subscription of 29,820 shares of the capital stock of the Bank of which $89.9 million would be paid in five annual installments beginning in fiscal 1981 and $269.8 million is callable, requiring no budget outlays; and amends the Bretton Woods Agreements and the Asian Development Bank Acts to allow program limitations, rather than budget authority, to be established for callable capital subscriptions which are used by MDB's to back up paid-in capital and reserves in the event that the Bank's resources are insufficient to meet its obligations. S. 2422—Passed Senate June 16, 1980. (*212)

NATO mutual support: Authorizes the Secretary of Defense to enter into certain agreements with the North Atlantic Treaty Organization (NATO) countries to facilitate host-nation support and cross servicing arrangements between U.S. and NATO military forces deployed in Europe. H.R. 5580—Public Law 96– , approved 1980. (VV)

Nicaragua and Honduras economic assistance: Authorizes $80 million in Economic Support Funds for fiscal 1980, to remain available until expended for Nicaragua ($75 million) and Honduras ($5 million): directs the President, in furnishing assistance to Nicaragua, to take into account the extent to which that Government has engaged in human rights violations (including the right to organize and operate labor unions and the right of freedom of the press and religion) and to encourage it to respect these rights; requires that any agreements with Nicaragua regarding the use of funds in the form of loans shall specifically require that at least 60 percent be used to assist the private sector; provides that local currency shall be used in ways which will strengthen private financial institutions in Nicaragua and that local currency programs be monitored and audited in accordance with the Foreign Assistance Act; requires termination of aid to Nicaragua if the President determines that: (1) Soviet, Cuban, or other foreign combat military forces are stationed in Nicaragua and that their presence constitutes a threat to the U.S. national security or that of any of its Latin American allies; (2) Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression; (3) Nicaragua engages in systematic violations of free speech and press or (4) if the President determines that Nicaragua is cooperating with or harboring international terrorist organizations or aiding, abetting, or supporting acts of violence or terrorism in other countries in which case the outstanding balance of any ESF loan shall become due and payable; H.R. 6081—Public Law 96–257, approved May 31, 1980. (*151)

Rubber agreement implementation legislation: Authorizes $88 million in fiscal 1981 to serve as the United States' share of the direct government contributions to finance the buffer stock transaction of the International Natural Rubber Agreement (Ex. D, 96th-2d), a five year commodity agreement which seeks to stabilize short term natural rubber price fluctuations and at the same time encourage the expansion of natural rubber supplies over the longer term through the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price. S. 2666—Public Law 96–271, approved June 16, 1980. (VV)

Summer Olympics, 1980: Urges the International Olympic Committee (IOC) to move, postpone, on cancel the summer Olympic games in Moscow; urges that the U.S. Olympic Committe and the athletes competing for positions on the U.S. team receive the continuing support, commendations, and contributions of the American people; urges that, if the IOC fails to adopt the U.S. Olympic Committee proposal, or a comparable proposal, no American team participate in those games and no American attend them in any capacity; urges the Secretary of State to inform other nations of the U.S. policy and intensify efforts to gain support for that policy; and calls on the IOC to consider the creation of permanent homes for the summer and winter Olympic games, including one in Greece, the country of their origin. H. Con. Res. 249—House agreed to January 24, 1980; Senate agreed to amended January 29, 1980. (*15)

State Department supplemental authorization: Authorizes $14,514,000 in additional funds for fiscal 1980, and $125,411,000 for fiscal 1981 for certain programs of the Department of State, the International Communication Agency, and the Board for International Broadcasting; establishes the position of Assistant Secretary for Refugee Affairs; provides for the appointment of a U.S. Representative to the Vienna U.N. office; authorizes the use of State Department funds for ceremonial gifts to international organizations; removes the limitation on funds for U.N. peacekeeping forces; extends to ten years the period of validity of a passport; provides for the Secretary of State to pay travel and relocation expenses of employees assigned to State or local governments; improves the administrative provisions of the ICA basic enabling authorities; and authorizes $50,605,000 for fiscal 1981 for the U.S. share of contributions to the International Labor Organization. S. 2727—Passed Senate June 16, 1980. (*210)

JUDICIARY

Age of nominees for Federal judgeships: Expresses the sense of the Senate that the American Bar Association and the Department of Justice should immediately end discrimination against potential lifetime Federal judges who do not qualify solely as a result of arbitrary age barriers. S. Res. 374—Senate agreed to April 1, 1980. (*69).

Civil rights of institutionalized persons: Authorizes the Attorney General to initiate a civil suit for equitable relief in any appropriate district court when there is reasonable cause to believe that any State or political subdivision thereof is subjecting persons residing in an institution to egregious or flagrant conditions which deprive them of any rights, privileges, or immunities secured or protected by the Constitution of the United States; requires the Attorney

General, before initiating a suit, to have reasonable cause to believe that such deprivation of rights is part of a pattern or practice of denial rather than an isolated or accidental incident. H.R. 10—Public Law 96-247, approved May 23, 1980. (*51, *93).

Federal questions jurisdiction: Amends title 28, U.S.C., 1331 to provide that Federal district courts have original jurisdiction of all civil actions that without regard to the amount in controversy by eliminating the $10,000 amount in controversy requirement in all Federal question cases except for cases brought against defendants other than the U.S. under section 23 of the recently enacted Consumer Product Safety Act which authorizes action by any person who sustains injury by reason of a knowing violation of a consumer product safety rule, or other rule or order issued by the Commission and tied Federal Court jurisdiction to the $10,000 amount contained in 28, U.S.C., 1331. S. 2357—Passed Senate June 28, 1980. (VV).

Justice Department authorization: Authorizes a total of $2,097,617,000 for the Department of Justice for fiscal 1981; provides that informants who are entitled to compensation for furnishing in formation leading to the seizure and forfeiture property; authorizes the Attorney General to set fees based on costs for U.S. markets serving papers in private civil litigation; requires a plan for comprehensive case management information and tracking systems for each judicial district; directs the Attorney General to report to the Committees on the extent to which the Department has collected all judgements owed to the United States; and calls for a report on the backlog and status of civil and criminal fraud cases; authorizes an additional 30 senior trial attorney positions; directs the Attorney General to report to Congress on any case where he establishes a policy of refraining from enforcement of any law on the grounds that it is unconstitutional; establishes an Office of Professional Responsibility (OFB) headed by a Counsel appointed by the President and confirmed by the Senate; and sets forth its charter; requires the Attorney General to inform the Chairmen and ranking members of the Senate and House Judiciary Committees whenever an investigation is commenced into allegations of violations of the Ethics in Government Act; expresses sense of the Senate that the U.S. should not admit more than additional 100,000 immigrants, exclusive of the immediate families of American citizens, for the remainder of the fiscal year; express the sense of Congress that the Khmer people in holding camps in Thailand be processed and resettled as refugees under U.N. auspices; states that Congress opposes efforts by private citizens to engage in negotiations concerning the hostages held in Iran; sets priorities for funding of programs under the Omnibus Crime Control and Safe Streets Act of 1968, depending on the amount of appropriations; and includes the language of the Equal Access to Justice Act which permits a court, in its discretion, to award attorney fees and other expenses to prevailing parties in civil litigation involving the U.S. S. 2377—Passed Senate June 19, 1980. (*229)

Juvenile justice and delinquency prevention: Extends for five years the program established by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; authorizes therefor $150 million each for fiscal 1981 and 1982, $175 million for 1983, and $200 million each for 1984 and 1985 for juvenile justice programs, and $25 million each year for the same period for the runaway and homeless youth program; requires that unobligated funds at the end of each fiscal year be allocated to States on the basis of relative population of people under 18 years of age for the purpose of implementing section 223(a)(13), which is intended to keep juveniles separate from adults in institutions; retains current law that requires at least 19.15 percent of the total appropriations under title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, be spent for juvenile delinquency programs, with emphasis on programs aimed at curbing violent crimes committed by juveniles; waives the maintenance of effort provision when the total appropriations under title I does not exceed $150 million during any fiscal year; seeks to improve citizen participation by providing for State Advisory Groups to work more closely with the State agency's prospective applicants and others interested in the Juvenile Justice program; requires the Administrator to provide a detailed evaluation of the scared-straight type programs for juveniles to the Congress by June 30, 1981, and requires that a study of juvenile justice and delinquency prevention policies, programs, and practices affecting Native Americans be completed and submitted to Congress by December 31, 1981. S. 2441—Passed Senate May 20, 1980. (VV)

Legal Services Corporation: Authorizes $321.3 million for fiscal 1981 and such sums as necessary for 1982 for activities of the Legal Services Corporation; allows the Corporation to provide assistance in 1981 and 1982 within one State for a demonstration program under which 65 percent of funds for any county with a population of 150,000 or less would be available for assistance provided by the private bar, and 15 percent of funds would be similarly available for counties with greater populations; prohibits the use of funds for providing any legal service which seeks to invalidate any law enacted by Congress on the subject of abortions; directs the Corporation to reduce assistance to any funding recipient it finds to be engaged in illegal lobbying, outreach community education, or client solicitation; directs the Corporation to encourage programs designed to provide voluntary legal services by private attorneys; and prohibits legal assistance for action under the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act or other laws or regulations dealing with environmental conditions unless an eligible client has a financial interest of not less than $500 in the action. S. 2337—Passed Senate June 13, 1980. (*209)

Patent procedure: Amends title 35, U.S.C., to promote the marketing of inventions developed under Federally-supported research and development projects by nonprofit organizations and small business firms; permits any such organization or firm to elect, within a reasonable amount of time, to retain title to such inventions. S. 414—Passed Senate April 23, 1980. (*84)

Patent reeaxamination: Amends title 35, U.S.C. to authorize the Commissioner of Patents and Trademarks, effective October 1, 1980, to establish rules and regulations necessary to implement a new procedure whereby the Patent and Trademark Office could, at the request of patent holders, challengers, or the Commissioner of Patents, reexamine prior uncited patents or publications and issue certificates of their status or validity. S. 2446—Passed Senate March 20, 1980 (VV)

Soft drink interbrand; Restates existing antitrust laws applicable to licensing agreements granting a licensee exclusive rights to manufacture, distribute, and sell trademarked soft drink products in a defined geographic area; provides potection against treble damages for antitrust violations for members of the soft drink industry prior to any final determination that exclusive territorial provisions in soft drink franchise contracts are unlawful; and defines the words "antitrust laws" to include the Sherman, Clayton, and FTC Acts. S. 598—Public Law 96-308, approved July 9, 1980. (*147)

Wire tap: Amends title III of the Omnibus Crime Control and Safe Streets Act of 1968 to establish uniform statutory procedures relating to court-ordered "surreptitious entries" to install court-authorized electronic eavesdropping devices. S. 1717—Passed Senate June 9, 1980. (VV)

SOCIAL SERVICES—WELFARE

Child adoption assistance and welfare—social services: Amends the Social Security Act to make improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support of foster care of needy and dependent children, to establish a program of Federal support, and to encourage adoption of children with special needs and makes changes to Title XX of the Social Security Act: indexes the permanent ceiling on Federal matching for State social services programs; authorizes matching grants for maintenance payments made to children in public institutions housing no more than 25 non-delinquent children;

Allows funds to be used for providing emergency shelter to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation for no more than 30 days in any six-months period; and makes modifications to the AFDC programs; and permits States to retain 15 percent of child support payments they collect. H.R. 3434—Public Law 96-272, approved June 17, 1980. (VV)

Child nutrition programs: Extends all non-permanently authorized child nutrition programs, including those expiring at the end of fiscal 1980, through fiscal 1984 and contains provisions designed to improve the effectiveness and operation of the programs; permits up to six States, on a pilot basis, to consolidate and reorganize certain food programs administered by the Department of Agriculture for the benefit of needy persons; eliminates, effective October 1, 1983, the option of States to transfer the responsibility of administering summer child feeding programs and day care feeding programs to the Department of Agriculture; reduces the general cash reimbursement rate for all categories of school lunches (free, reduced price, and paid) by 2½ cents, except in school districts where 60 percent or more of the lunches served were served free or at a reduced-price during the second preceding school year; allows States to refuse to accept more than 20 percent of offered commodities and replace them with other commodities if available; prohibits the Secretary from making a three-cent reimbursement for commodities for school breakfast in the 1980-1981 school year; reduces the rate of commodity assistance for the school lunch program by two cents; provides that commodity entitlements under the school lunch and child food programs shall be based on the number of meals served in each State during the prior school year; removes the offered versus served option in the school lunch program in junior high and middle schools;

Authorizes the Secretary to require, as a condition of eligibility for free and reduced price school meals, a listing of each household member's social security numbers on program applications; eliminates the current statutory requirement that verification of a household's income be performed only if school officials are notified that a household has income which exceeds the permitted eligibility levels; clarifies Congresional intent regarding administration of the Act so as to protect migrant farm workers from serious abuses by labor crew leaders and farm labor contractors; requires the Secretary to conduct pilot study to verify the accuracy of information furnished by households receiving free and reduced price meals under the School Lunch Program; clarifies the means for implementing the eligibility guidelines for free and reduced price meals for school children by offering school districts three options to deal with distribution guidelines and applications;

Changes the eligibility standards for free and reduced-price school meals to 125 percent of the poverty level plus a standard deduction and 185 percent of the poverty level plus a standard deduction, respectively; lowers the income poverty guideline used in the child nutrition programs; removes the incentive for schools to offer reduced-price lunches at less than 20 cents per lunch; provides for adjustments in school lunch and breakfast reimbursement rates on an annual rather than semiannual basis; excludes Job Corps Centers funded by the Department of Labor from participation in the school lunch and breakfast programs; limits the eligibility of certain private nonprofit institutions in the summer program that acquire meals from vendors to those that daily serve no more than 2,000 children at no more than 20 sites; limits meal service in the summer program to two meals daily, except in camps and service institutions serving migrant children;

Establishes a five-year loan and reserve program whereby embargoed grain would be sold to alcohol producers by the Commodity Credit Corporation for alcohol fuel production;

Extends the commodity distribution program through fiscal 1984; provides for adjustments in the child care program reimbursement rates for supplements on an annual rather than semiannual basis; reduces the reimbursement rate for supplements served in the child care food program by three cents and reduces equipment assistance from $6 million to $4 million annually; directs the Secretary to conduct two-year pilot projects whereby 50 school districts would receive cash assistance in lieu of commodities for the school lunch program and to submit a report on the impact and effect of such projects; provides for a two-House congressional veto of child nutrition regulations; requires that whole milk be offered in the school lunch program if unflavored, fluid lowfat milk, skim milk, or buttermilk is required by regulation; authorizes the Secretary to withhold funds from any State improperly administering child feeding programs; reduces and freezes the reimbursement rate for milk served in the special milk program to paying children in schools, institutions, or camps that participate in one of the other child nutrition programs to five cents per half pint; provides, beginning with the 1981–82 school year, especially needy funding for the breakfast program for all schools in a school district if (a) during the second most recent preceding school year, 40 percent or more of the lunches served in the district were served free at a reduced price; (b) the regular school breakfast reimbursement is inadequate to cover the costs of the program and (c) all of the schools in the district that provide 25 percent or more of their lunches free or at reduced price participate in the breakfast program; reduces the fiscal 1981 authorization for food service equipment assistance to $15 million and authorizes food service equipment assistance for 1982, 1983, and subsequent years at $30 million, $35 million, and $40 million, respectively; extends the food service equipment reserve through fiscal 1984;

Extends the authorization for the WIC program through fiscal 1984; improves the opportunities for migrant farmworkers to participate in the WIC program; Removes the authority for the Secretary to make noncommercially available products, such as infant formula, available to WIC program participants; provides local communities and agencies with an option to abstain from the supplemental food program;

Limits fiscal 1981 funding for the nutrition education and training program to $15 million and extends it through fiscal 1984;

Changes from August 15 to August 1, the date in which the Secretary is required to announce any set-aside of cropland under the wheat program; increases the loan rates of the farmer held reserve from $2.50 to $3.30 a bushel for wheat and from $2.10 to $2.40 a bushel for corn; increase the regular loan rate from $2.50 to $3.00 for wheat, from $2.10 to $2.25 for corn, and from $4.50 to $5.28 for soybeans; establishes a four million metric ton food security reserve to be used as a backup to the P.L. 480 program; changes from August 15 and November 15 to August 1 and November 1 respectively, the dates whereby the Secretary is required to announce the cropland set aside for the wheat and feed grain programs; and authorizes the Department of Agriculture to test whether surplus Federal commodities might be provided, on a small scale, to supplement the privately donated foods already being packaged and distributed by food banks. H.R. 7664—Passed House July 21, 1980; Passed Senate amended July 25, 1980; In conference. (VV)

Disability insurance: Amends title II of the Social Security Act to provide better work incentives and improve accountability in the disability insurance programs;

Disability insurance: Limits total future disability family benefits to 85 percent of the worker's average indexed monthly earnings or 160 percent of the worker's primary insurance amount, whichever is lower; allows all workers to exclude about the same percentage of years of low or no earnings, proportional to their age; eliminates the requirement that persons becoming disabled again must undergo another 24-month waiting period to become eligible for medicare coverage; provides that if a disabled individual were initially on the cash benefit rolls for a period of less than 24 months, the months during which he or she received cash benefits would count towards their qualification for medicare coverage if a subsequent disability occurred within those time periods; extends medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in a substantial gainful activity but has not medically recovered;

Supplemental security income (SSI): Provides that disabled individuals who lose their eligibility for regular SSI benefits because of engaging in a substantial gainful activity would become eligible for a special benefit status which would entitle them to cash benefits equivalent to those under the regular SSI program; terminates, for medicaid and social services purposes, the special benefit status when an individual's earnings exceed the amount which would cause the cash benefits to be reduced to zero ($481 at the present time) unless the Secretary determines otherwise;

Title II and title XVI disability programs: Provides that disability benefits will not be terminated due to medical recovery if the beneficiary is participating in a vocational rehabilitation program which will increase the likelihood of permanent removal from the disability rolls; extends to 24 months the present nine-month trial work period for purposes of the DI and SSI programs and provides that in the last twelve months of this period the individual will not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails; requires the Secretary, upon a finding that a State agency is substantially failing to make disability determinations consistent with the regulations, to terminate State administration; mandates, unless there has been a finding that an individual's disability is permanent, and a review of each disability case at least once every three years to determine continuing eligibility;

Aid to families with dependent children (AFDC) and child support programs: Requires AFDC recipients, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program; requires the provision of social and supportive services to enable the individual actively to find and retain employment; increases from 50 to 75 percent the rate of Federal matching for State and local antifraud activities for costs incurred by: (1) the welfare agencies in establishing and operating one or more fraud control units, (2) attorneys employed by the State or local welfare agencies for AFDC antifraud activities, and (3) attorneys retained under contract; modifies current law safeguards, which prevent disclosure of the name or address of AFDC applicants or recipients to facilitate audits or similar activities; extends IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements now applicable to families receiving AFDC; increases from 75 to 90 percent the rate of Federal matching for the costs of developing and implementing computerized information systems in the management of State child support programs, but retains the 75 percent rate for the cost of operating the systems;

Amendments of the Social Security Act: Provides that an individual's disability entitlement under title II shall be considered as total so that if its payment is delayed and results in higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. H.R. 3236--Public Law 96–265, approved June 9, 1980. (*27)

Disabled children—unemployment compensation: Extends until October 1, 1982, the program of Federal payments to States for costs incurred in carrying out a State plan for counseling disabled children and their families;

Amends the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the "national trigger" which makes all States eligible for the extended benefits program whenever the national insured unemployment rate reaches 4.5 percent; provides for a reduction in unemployment benefits for recipients who also receive pension payments, retirement pay, annuities, or other similar periodic payments; extends from 90 days to one year the minimum length of Federal service generally required to qualify ex-servicemen for Federally-funded unemployment compensation payments; and establishes a Federal Employees Compensation Account in the Unemployed Trust Fund as a revolving account with each Federal agency required to reimburse the account out of its own appropriation for the actual amount of the unemployment benefits which have been paid to its employees and former employees. H.R. 4612—Passed House September 27, 1979; Passed Senate amended March 4, 1980; In conference. (*54)

Food stamp program: Increases specific dollar limitations on the program from $6,188,600,000 to $9.491 billion for fiscal 1980 and from $6,235,900,000 to $9,739,276,000 for fiscal 1981; permits States the option to determine program eligibility and benefits by using income received in a previous month, following standards prescribed by the Secretary; requires that, if a State elects to use the retrospective accounting system, certain categories of households—those experiencing sudden, significant loss of income, those with new members, those requiring immediate expedited services, and migrant farmworker households must file periodic reports of household circumstances, following standards prescribed by the Secretary;

Attributes the income (less a pro rata share) and the resources of an ineligible alien to the remaining household members in determining that household's eligibility benefits; expands State agencies' authority to verify, prior to certification, any household's size as well as any factor of eligibility related to "error-prone household profiles" approved by the Secretary for State-wide use; requires photo identification cards to be presented with authorization cards as a condition of receiving food stamps in areas where the Secretary (after consultation with the Inspector General) finds that it would be useful in protecting the program's integrity; requires food stamp certification personnel to report illegal aliens to the Immigration and Naturalization Service; permits women and children temporarily living in public or private nonprofit shelters for battered women to use food stamps to purchase meals at shelters; excludes any Federal, State, or local energy assistance payments from household income when calculating benefits.

Permits the Secretary to require forfeiture of any valuable property illegally furnished in exchange for food stamps or authorization cards; establishes an error rate sanction system, under which a State that fails to meet established standards would have its Federal share of State administrative costs reduced, or if no matching funds were due, be subject to a Federal claim for recovery;

Extends workfare pilot projects for a full year, until September 30, 1981; provides that cost-of-living adjustments in the thrifty food plan, the standard deduction, and the excess shelter expense deduction be made on an annual, instead of semiannual basis; deletes the requirement that income poverty guidelines be adjusted yearly to reflect the Consumer Price Index as of March of each year, over and above the regular OMB annual inflation adjustment; reduces the ceiling on assets for an eligible household other than a household consisting of two or more persons, one of whom is age 60 or over, from $1,700 to $1,500; and substantially restricts the eligibility of students for participation in the program. S. 1309—Public Law 96-249, approved May 26, 1980. (213, * 136)

TRANSPORTATION AND COMMUNICATIONS

Airport and airway system development: Restricts Federal development funds in 1981 to airports enplaning less than 1.4 million passengers annually and in 1982 less than 700,000 passengers; authorizes $1.665 billion for fiscal 1981 for airport development and planning, facilities, and equipment acquisition and for FAA and national airway system costs, $1.52 billion for fiscal 1982, $1.6 billion or fiscal 1983, $1.73 billion for 1984, and $1.96 billion for fiscal 1985; combines apportionment of development and planning funds for individual types of small airports to allow projects to be funded by priority; provides funds for privately owned reliever airports if they serve a public purpose; and provides for additional funds for reliever airports in regions with several airports. S. 1648—Passed Senate February 5, 1980. (VV)

Aviation safety and noise abatement: Authorizes a new grant program to assist airports and surrounding communities in the development and implementation of noise abatement programs, to reduce existing noncompatible land uses, and to prevent future noncompatible land uses around airports; directs the Secretary of Transportation to establish, within 12 months, single systems for measuring noise at airports and surrounding areas and for determining the impact of noise upon individuals and to identify land uses which are normally compatible with various impacts of noise on individuals; permits airport operators to submit noise impact maps setting forth the noncompatible land uses within the vicinity of the airport; authorizes $25 million for the Secretary to make grants to sponsors of air carriers airports for noise compatibility planning; authorizes the Secretary to make grants to airport operators to implement an approved noise compatibility program; requires the Secretary to prepare and publish a noise exposure map and a noise compatibility program for National and Dulles Airports in the Washington, D.C. vicinity within 12 months of enactment; provides that no part of any noise impact map or related information submitted to or prepared by the Secretary shall be used as evidence in any suit or action seeking damages or other relief for the noise that results from the operation of an airport; requires the Secretary to study and submit to Congress a report on the achievements of the grant programs; authorizes and makes available from the Airport and Airway Trust Fund an increase for airport construction and development of $44 million for air carrier airports and $13 million for general aviation and reliever airports; increases by $5 million the authorized funds in fiscal 1980 for expenditures at reliever airports; restores the Federal matching for smaller airports; authorizes the Secretary of Transportation to provide waivers from noise regulations on a case-by-case basis when the aircraft operator has made good faith effort to comply, but external circumstances prevent compliance; prohibits approval of any project involving the construction or extension of a runway at a general aviation airport on a line separating two counties in a State that is not first approved by local governing bodies.

Authorizes the Secretary to promulgate noise regulations for foreign air carriers operating in the U.S. that are compatible with those for U.S. carriers; authorizes the Secretary to grant a waiver from noise regulation compliance deadlines to permit noncomplying aircraft to be operated for a reasonable period beyond a deadline if the operator is making a good faith effort to comply and there is a good cause for his failure to comply; sets guidelines for the Civil Aeronautics Board to use its existing authority to impose a surcharge to ensure that noise compliance is met even if industry profits dip drastically; directs the Secretary to submit status reports on the development of collision avoidance systems and proposed timetables for implementation of such systems; makes an air carrier employee who performs his regular duties in more than one State subject to the income tax of the State of residence; requires the Administrator of FAA to promulgate regulations relating to access to public areas at National and Dulles Airports by individuals and organizations who seek to solicit funds or distribute materials; imposes a fine of $1,000 and/or one year imprisonment for concealing a dangerous weapon by a person boarding an aircraft or attempting to place on board a loaded firearm or bomb; and permits limited commercial passenger service in interstate transportation at Love Field in Dallas, Texas. H.R. 2440—Public Law 96-193, approved February 18, 1980. (73)

Maritime Authorization: Authorizes $571,174,000 for fiscal 1981 for the Maritime Administration. H.R. 6554—Passed House April 15, 1980; Passed Senate amendment June 3, 1980. (VV)

Railroad Deregulation: Provides substantial regulatory reform of the railroad industry by allowing railroads greater pricing flexibility while retaining protection for captive shippers, imposing more stringent deadlines for abandonments and merger proceeding and other restructuring transactions, and clarifying the ICC's power to exempt rail transportation from regulation;

Ratemaking: Simplifies the ratemaking provisions of 49 U.S.C. in order to provide the appropriate mix between regulation and the marketplace; provides a free zone for rate increases which do not exceed the railroads increased costs, based on a rail index to be compiled or verified by the ICC, which includes appropriate adjustments to reflect the quality and mix of material and labor; provides a five percent rate flexibility zone above cost increases, subject to a five-year maximum of 14 percent; requires the ICC within 180 days to set a revenue-to-variable-cost-ratio with regard to rates and permits ICC investigation within the rate flexibility zone for rate proposals above the "trigger point" set by the ICC; preserves existing law under which the burden of proof is on the carrier in investigation proceedings and on the shipper on complaint proceedings; mandates a phase-down of general rate bureau consideration of interstate rates that affect interstate commerce; requires tape recordings or transcripts of rate bureau meetings and a record of all votes; including a saving provision to permit challenge of existing rates in an orderly fashion during the transition period to the new ratemaking provisions and procedures; provides specific joint rate provisions, which are effective for three years unless extended by the ICC for an additional year, which allow a railroad to impose a surcharge on a joint rate without the concurrence of other carriers and keep the revenue generated by the surcharge; mandates demand-sensitive rates in response to expected or actual fluctuations in demand for rail service; excludes rates involving the movement of grain from the demand-sensitive authority;

Industry structure: Requires that the ICC decide smaller restructuring transactions, other than mergers, having regional or national significance within ten months and those which do not have regional or national significance within six months, and simplifies the standards under which the ICC judges such actions; substantially improves and speeds up the process by which abandonment decisions are reached by requiring an ICC decision within nine months; provides that a railroad or a potential subsidizer or purchaser of a rail line which has been approved for abandonment may request that the ICC establish the amount of subsidy or the purchase price if an agreement cannot be reached; permits the potential subsidizer to accept the ICC price or withdraw his offer but requires the railroad to accept the amount as established by the ICC; requires the ICC to apply the same standards to entry applications as to abandonment applications and provides that, when a railroad has been issued a certificate of public convenience and necessity, no other railroad may block construction by refusing to let the first railroad cross its property if the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line; permits the ICC to establish compensation if the railroads cannot agree; gives the ICC the power to require railroads to enter into reciprocal switching agreements (where carriers pick up and deliver traffic for other railroads) when it finds that such agreements are practical and in the public interest;

General provisions: Clarifies the ICC's power to exempt rail transportation from regulation; restricts the ICC's car service powers to emergency situations and encourages State authorities to exercise their regulatory jurisdiction in a manner consistent with standards established in the railroad transportation policy; authorizes $20 million over a three-year period for the Department of Interior's Federal grant program to convert abandoned railroad property to conservation or recreation use; and gives the Federal Railroad Administration discretionary authority to grant exemptions from the Safety Appliances Act's requirements when they preclude development or implementation of new technology. S. 1946—Passed Senate April 1, 1980. (*72)

Rock Island bankruptcy—Northeast corridor: Provides guaranteed obligations of not to exceed $75 million to provide empoyee protection, and $1.5 million for new career training for Rock Island employees who have not been hired by railroads which acquired Rock Island lines; provides for temporary operating authority on the Rock Island and Milwaukee Railroad by carriers willing to provide services; makes available $15 million from the fiscal 1980 Department of Transportation Appropriations Act (Public Law 96–131) to the Interstate Commerce Commision (ICC) to continue service over lines of the Rock Island Railroad which are likely to be acquired or which are necessary for transportation of agricultural commodities; makes available not less than $25 million in funds previously authorized under the Railroad Revitalization and Regulatory Reform Act of 1976 to encourage the purchase of Rock Island lines by non-carrier entities including associations of railway labor, employee coalitions, and shippers, pursuant to a feasible employee or employee-shipper ownership plan;

Authorizes $750 million for fiscal 1981–1985 to complete the Northeast Corridor Improvement Project. S. 2253—Public Law 96–254, approved May 30, 1980. (VV)

Truck safety: Seeks to combat the increasing number of deaths, injuries, and property damage due to commercial motor vehicle accidents by promoting highway safety, encouraging safe driving and adequate maintenance, and protecting driver health and safety;

Provides for coverage of specified commercial motor vehicles weighing at least 10,000 pounds; exempts any vehicle engaged in farming activities or logging operations;

Contains provisions to protect an employee from discharge, discipline, or discrimination if he or she refuses to operate a vehicle due to the employee's apprehension of serious injury to their person or to the public due to the unsafe condition of the equipment;

Establishes uniform maximum national standards for trucks using the interstate system of 80,000 pounds weight and 102 inches wide;

Authorizes $50 million in fiscal 1981, $100 million in 1982, and $100 million in 1983 to carry out a program of matching grants (80 percent Federal 20/percent State) for State development or implementation of programs to enforce commercial motor vehicle safety laws and regulations;

Gives the Department of Transportation sole authority to make determinations of the safety aspects of the "fit, willing, and able" requirement that specified carriers must meet to operate commercial motor vehicles. S. 1390—Passed Senate February 20, 1980. (*43)

Trucking deregulation: Amends title 40, U.S.C., to eliminate unnecessary Federal regulation of motor carriers and to encourage competition as a means of maintaining and improving a sound, privately-owned motor carrier system;

Entry policy: Eases entry by new firms into the industry and expansion of operations by existing firms; shifts the burden of proof to companies opposing the entry who must show that the service is not in the public interest; eliminates the entry test of meeting public necessity for points not regularly served by a regulated carrier, for transportation as a substitute for abandoned rail service, and for some service for the Federal government; specifically prohibits the issuing of "master certificates" based on general findings;

Removal of restrictions: Directs the ICC to process individual applications to broaden the categories of goods that may be carried, to allow round-trip service and to eliminate unreasonable territorial limitations or other restrictions deemed contrary to the public interest; directs the ICC to eliminate all rules requiring truckers to stop at specific gateway points or take circuitous routes;

Exemptions: Exempts from ICC regulation the transportation of all foods, animal feed, agricultural seeds and plants and nonhazardous agricultural chemicals and fertilizers;

Rate making flexibility: Prohibits the ICC from interfering with rate changes proposed by motor carrier if they are ten percent higher than the rate in use one year prior to the effective date of the proposed change, or ten percent lower than the charge in effect July 1, 1980;

Antitrust immunity: Authorizes the continuation of motor carrier rate bureaus but phases out after three years the antitrust immunity now granted to truckers discussing or voting on single line rates; and denies Federal highway aid to States which enact or enforce any law limiting a gross overall vehicle length to less than 65 feet on interstate or defense highways. S. 2245—Passed Senate April 15, 1980. (*78)

Urban mass transportation: Authorizes a total of $25.1 billion for fiscal 1981 through 1985, plus such sums as may be necessary for administrative expenses of the UMTA of the Department of Transportation; provides a supplemental 1980 authorization of $400 million; provides five-year total authorizations of $13.9 billion for urban discretionary capital grants, including $9.5 billion for urban formula grants, $650 million for section 18 small urban and rural grants, and approximately $980 million for research, development, and demonstration projects; gives the Secretary the authority to use up to $150 million annually to purchase transit vehicles and related equipment directly and then grant ownership to States and local public bodies;

Amends section 4 of the Urban Mass Transit Act for fiscal years 1981 through 1985 to provide $2.490 billion, $2.265 billion, $2.775 billion, $2.930 billion and $3.090 billion respectively for discretionary grants; $100 million, $85 million, $90 million, $95 million and $100 million respectively for research and development training, and university research; $10 million each year for transportation centers; $110 million in 1981 for nonurbanized areas increasing by $10 million each year; extends authorizations for the formula grant program to provide $1.655 billion in 1981, $1.805 billion in 1982, $1.925 billion in 1983, $2.025 billion in 1984 and $2.125 billion in 1985; establishes rail and bus revenue miles as the sole elements of the distribution formula, except for cities with populations between 50,000 and 200,000; and creates a new public transportation planning process for nonurban areas;

Federal-aid highway amendments of 1980: Limits obligations for Federal-aid highways and highway safety construction programs for fiscal year 1981 to $8.45 billion;

Emergency impacted rail and highway transportation: Authorizes $250 million for fiscal 1981, increasing by $50 million each year through 1985, for roads affected by the transport of heavy bulk energy materials. S. 2720—Passed Senate June 25, 1980. (*253)

TREATIES

Atomic Energy Safeguards Agreement: Provides for enforcement in the United States of safeguards in all nuclear facilities, except those of direct national security significance, in accordance with international standards. Ex. B. 95th-2d—Resolution of ratification agreed to July 2, 1980. (*302)

East German Consular Convention: Formally establishes consular relationships between the U.S. and the German Democratic Republic that are modeled after those with various countries of Eastern Europe; clearly deliniates such obligations as free communication between citizens and consul, notification to consul officers of the arrest and detention of their citizens, and permission for consuls to visit those detained; and authorizes the consuls of both countries to perform the customary wide variety of other consular serivces which contribute to the improvement of both governmental and commercial interaction between countries. Ex. F, 96th-2d—Resolution of ratification agreed to July 2, 1980. (*301)

Halibut Fishery Convention With Canada: Brings the 1953 Convention Between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea into conformity with the terms of the U.S. Fishery Conservation and Management Act of 1975 and a 1977 Canadian Proclamation, both of which extended the exclusive fisheries jurisdictions of each country to a point 200 miles off their coasts; limits Canadian fishing in U.S. controlled waters to 1.2 million pounds of halibut in 1980; allows U.S. trawling in Canadian waters for 3,250 metric tons of groundfish in 1980 and none thereafter; gives both countries authority to apply and enforce penalties for violations of the Convention; reduces the period of notice either party must give before termination from two years to one year; and continues the joint management of transboundary halibut through the International Pacific Halibut Commission. Ex. DD, 96th-1st—Resolution of ratification agreed to March 20, 1980. (*57)

IMCO Convention amendments: Streamlines the structure and functions of the Intergovernmental Maritime Consultative Organization (IMCO) and changes its name to the International Maritime Organization. Ex. S. 96th-1st—Resolution of ratification agreed to July 2, 1980. (*298)

International carriage of perishable foodstuffs: Establishes uniform inspection requirements for transportation equipment which moves perishable foodstuffs across national borders; requires that all "insulated, refrigerated or heated" equipment utilized to ship perishable foodstuffs into Contracting States meet certain minimum standards set forth in the Annex to the Agreement. Ex. B, 96th-1st—Resolution of ratification agreed to March 20, 1980. (*60)

International Natural Rubber Agreement: Provides for the use of buffer stocks which will be bought or sold at various times, triggered by movements of natural rubber prices around an agreed reference price, to stabilize short term natural rubber price fluctuations and encourage the long term expansion of natural rubber supplies. Ex. D, 96th-2d—Resolution of ratification agreed to May 22, 1980. (*156)

Load Lines Convention amendment: Expedites the procedure for amending the technical annexes to the 1966 International Convention on Load Lines by providing for their tacit acceptance after two years unless objections are deposited by more than a third of the Contracting Parties or by Parties whose combined merchant fleet is not less than 50 percent of the gross tonnage of all the contracting parties. Ex. GG, 96th-1st—Resolution of ratification agreed to July 2, 1980. (*299)

Maritime Search and Rescue Convention: Establishes a multilateral framework for rescuing persons in distress at sea, and provides a comprehensive approach to international search and rescue for world shipping; reemphasizes the longstanding maritime tradition that assistance be provided to any person in distress at sea, regardless of the person's nationality or status, or the circumstances in which that person is found; directs parties to the Convention to reach agreement on the boundaries of "search and rescue regions" and the division of responsibilities for overall coordination of search and rescue services in these regions; sets forth how search and rescue services are to be organized, how cooperation among states is to be effected, what preparatory measures are to be undertaken to ensure readiness, what operating procedures are to follow during a search and rescue operation, and what ship reporting systems are to be instituted to provide timely information on the location of ships in the various search and rescue regions; and provides that technical amendments shall automatically become effective one year after communicated to the parties, unless more than one-third of the parties object. Ex. J. 96th-2d—Resolution of ratification agreed to July 2, 1980. (*300)

Pollution From Ships Prevention Convention: Incorporates the 1973 Convention for the Prevention of Pollution from ships (whose acceptance has been delayed as a result of Annex II of that agreement which details measures for the control of 250 noxious chemical liquids carried in bulk); provides that parties to the protocol will not be bound by the provisions of the Annex for a period of three years from the date the protocol enters into force; requires new crude carriers of 20,000 dead weight tons and above and new product carriers above 30,000 to be fitted with protectively-placed segregated ballast tanks; and requires existing crude carriers of 40,000 tons and above to be fitted with segregated ballast tanks, clean ballast tanks or crude oil washing and provides that the crude oil washing option will lapse after two years for crude carriers of 70,000 tons and above and after four years for crude carriers of 40,000 to 70,000 tons; requires existing produce carriers of 40,000 tons and above to be fitted with clean or segregated ballast tanks. Ex. C, 96th-1st—Resolution of ratification agreed to July 2, 1980. (*296)

Safety of Life at Sea Convention Protocol: Improves the international safety standards of ships, beyond the level provided for the 1974 Safety of Life at Sea Convention, by strengthening the standards governing radar equipment and the inspection and certification for all ships, and the steering mechanism and fire safety systems for tankers in particular; restricts the validity of cargo ship construction certificates to five years without possibility of extension, and increases the frequency of inspection of vessels. Ex. D, 96th-1st—Resolution of Ratification agreed to July 2, 1980. (*297)

Psychotropic Substances Convention: Places psychotropic (mind altering) drugs under international controls which (1) ban the use of hallucinogenics except under direct governmental supervision for research purposes in medical or scientific institutions; and (2) require nations to limit by measures they consider appropriate the manufacture, export, import, distribution, use, and possession of all psychotropic substances to medical and scientific purposes. Ex. G, 92d-1st—Resolution of ratification agreed to March 20, 1980. (*59)

Salmon Fisheries Protocol With Canada: Amends the Convention between the United States and Canada to increase the size of the Advisory Committee to the International Pacific Salmon Fisheries Commission from 6 to 7 members from each country, to enable the United States to provide for a native Indian adviser. Ex. G, 95th-1st—Resolution of ratification agreed to March 20, 1980. (*58)

Treaty With Peru on Penal Sentences: Permits citizens of either country who have been convicted in the courts of the other nation to serve their sentences in their home country provided the consent of the prisoner and the approval of both governments are obtained. Ex. II, 96th-1st—Resolution of Ratification agreed to March 25, 1980. (*61)

VETERANS

GI bill amendments: Amends and revises educational assistance programs under the GI bill for veterans and their dependents; establishes a time limit on the period during which a veteran may apply for an extension of the ten-year delimiting period on grounds of a disability; extends, from January 1, 1980, until December 31, 1982, the period during which Vietnam-era veterans (whose delimiting periods have expired or will expire before 1983) may use GI bill benefits for on-job or apprenticeship training or for secondary education or vocational courses; requires that certain educationally disadvantaged veterans applying for benefits receive VA education and vocational counseling and requires VA counselor approval of the selected vocational course; adds to the criteria for the approval of vocational objective courses a requirement that at least 50 percent of the enrollees complete the course; clarifies and codifies current practices related to receipt of benefits for enrollment in an institution of higher learning in a foreign country and for computation of benefits and charges to a veteran's entitlement for less than half-time training and training while on active duty, courses pursued by open circuit television, and independent study; modifies the method for paying benefits to an incarcerated veteran; authorizes disclosure of certain information to consumer reporting agencies for the purpose of VA debt collection and program study;

Modifies the method for making advance payments of educational assistance allowances to eligible persons enrolled in courses not leading to a standard college degree; clarifies Congressional intent and the Administrator's authority with respect to the measurement of full-time institutional educational pursuit for payment of GI bill benefits; clarifies the responsibilities and liabilities of trainees and educational institutions where benefits have been overpaid; includes the Post-Vietnam Era Veterans' Educational Assistance program in the 48-month limitation on assistance under two or more educational or vocational assistance programs; reduces from 90 to 60 percent that portion of the cost of a flight training course that the VA will pay and makes veterans pursuing flight training eligible for loans of up to $2,500 per year; makes eligible for participation in the Post-Vietnam Era Veterans' Educational Assistance program individuals who served on active duty at least 180 days before January 1, 1977, and reentered military service on or after that date;

Includes police officers and investigators employed by the VA among the specified Federal officials whom it is a Federal offense to kill or assault, while performing official duties; elevates the position of Deputy Assistant Secretary of Labor for Veterans' Employment to Assistant Secretary; and requires HEW to report to Congress on the long-term health effects of certain veterans' exposure to Agent Orange. H.R. 5288—Passed House October 16, 1979; Passed Senate amended January 24, 1980. (*9)

Survivors benefits: Removes certain inequities in the Survivor Benefit Plan (SBP) to: provide that the annuity not be offset by more than 40 percent by social security; conform the cost to the military member to that of the civil service system; provide an annuity to widows or widowers whose spouses died on active duty before September 21, 1972, and who were eligible for retirement at the time of their death; allow totally disabled veterans, whose DIC benefits cancel out SBP benefits, to suspend payments; and eliminate the social security offset for the survivor of a reservist whose combined reserve and civilian earnings exceed the maximum wages subject to social security taxes during all of their military service. S. 91—Passed Senate May 28, 1980. (VV)

Veterans health care: Revises, extends and improves various VA health-care programs designed to recruit and retain sufficient qualified capable health-care personnel, and makes needed improvements in the health-care personnel system; authorizes a comprehensive health professional scholarship program to improve the VA's ability to staff its health personnel system; authorizes, subject to appropriations of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers at VA health-care facilities; limits the presumptive validity of an individual's oath of inability to defray the cost of VA medical care to those individuals eligible to receive medical assistance pursuant to title XIX of the Social Security Act, service-connected disabled veterans, or those in receipt of a VA pension; modifies the VA's authority to enter into long-term leases with affiliated medical schools to limit the authority to enter into such leases to leases of 50 years or less; requires, 30 days prior to transferring real property valued at more than $50,000 to another Federal agency or a State or reporting such property as excess, that the VA notify the Veterans Affairs Committees of both Houses of Congress; removes the limit on the number of nursing home beds that may be supported in a State under the VA's State veterans home program; allows VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and provides for return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of the supply fund needs; deletes the requirement that, for grants for the training of nonphysician health care personnel to be approved, such grants must result in the expansion of the number of health care personnel being trained by the grant recipient; clarifies that any restrictions on the expenditure of funds for the travel and transportation of officers and employees of the executive branch and their dependents or for the transportation of things of such officers, employees, and their dependents do not apply to funds for reimbursements paid for the travel of eligible veterans, dependents and survivors; and extends for one year, to February 1, 1981, the date by which the VA must complete its study on the provision of hospital and medical care in Puerto Rico and the Virgin Islands. H.R. 7102—Public Law 96– , approved 1980. (VV)

ORDER FOR DIVISION OF TIME ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour under the rule tomorrow morning be equally divided between Mr. WILLIAMS and Mr. HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning. Under rule XXII, the 1 hour will begin running immediately upon the convening of the Senate.

At 10 o'clock the Chair will order the clerk to call the roll to establish a quorum, and upon the establishment of a quorum the Senate will proceed to vote on the motion to invoke cloture.

If cloture is invoked on the Zimmerman nomination, the Senate will have to proceed with that matter until it is disposed of to the exclusion of all other business, at which time the Senate would then return to legislative session and resume action on the Alaska lands bill. If cloture is not invoked, the Senate will immediately return to legislative session, by unanimous consent, and will resume consideration of the Alaska lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I would expect rollcall votes tomorrow on the Alaska lands bill in relation thereto, and

I would hope that cloture would be invoked on the Zimmerman nomination. I am somewhat optimistic in that regard.

I would hope that in the event cloture is invoked not too much time would be taken for debate on the nomination.

Since I am expressing hope after hope, I would like to express one final one; namely, that the Senate might complete action on the Alaska lands bill tomorrow and go out for the August break a day early. But in any event, there will be rollcall votes tomorrow. The Senate will be in early and will be in late.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to and, at 6:15 p.m., the Senate recessed until tomorrow, August 5, 1980, at 9 a.m.

NOMINATION

Executive Nomination received by the Senate August 4, 1980:

DEPARTMENT OF STATE

Henry L. Kimelman, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 5, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

AUGUST 18

11:00 a.m.

Finance

Business meeting, to markup proposed legislation to reduce taxes.

2221 Dirksen Building

AUGUST 19

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Barbara S. Thomas, of New York, to be a Member of the Securities and Exchange Commission.

5302 Dirksen Building

10:00 a.m.

Finance

Business meeting, to continue markup of proposed legislation to reduce taxes.

2221 Dirksen Building

Governmental Affairs

To hold hearings on S. 2880, proposed Consultant Reform Act.

3302 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian housing programs.

5110 Dirksen Building

Select on Small Business

Taxation, Financing, and Investment Subcommittee

To resume hearings on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.

424 Russell Building

AUGUST 20

9:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.

235 Russell Building

10:00 a.m.

Finance

Business meeting, to continue markup of proposed legislation to reduce taxes.

2221 Dirksen Building

Governmental Affairs

To continue hearings on S. 2880, proposed Consultant Reform Act.

3302 Dirksen Building

1:30 p.m.

Conferees

On S. 914, authorizing funds through fiscal year 1983 for public works and economic development programs of the Economic Development Administration.

Room to be announced

AUGUST 21

10:00 a.m.

Finance

Business meeting, to continue markup of proposed legislation to reduce taxes.

2221 Dirksen Building

AUGUST 22

10:00 a.m.

Finance

Business meeting, to continue markup of proposed legislation to reduce taxes.

2221 Dirksen Building

AUGUST 26

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities.

324 Russell Building

10:00 a.m.

*Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

Select on Indian Affairs

To hold hearings on S. 2952, to provide for a settlement of judgment funds to the Seminole Indian nation by the Indian Claims Commission.

5110 Dirksen Building

AUGUST 27

9:00 a.m.

Finance

Health Subcommittee

To hold hearings on S. 2809, to provide for a comprehensive system of noninstitutional long-term care services for the elderly and disabled.

2221 Dirksen Building

SENATE—*Tuesday, August 5, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

For Thy blessings upon us in the days that are past, we give Thee thanks O Lord.

And for the promise of Thy guidance in the future, we give Thee thanks.

Attune our minds to Thy mind, our hearts to Thy heart, our wills to Thy will.

Grant to the President, to the Members of Congress, and to all others in the service of the Government, wisdom and strength higher than their own, that in matters great and small Thy will may be known and done. In all our work may we be guided by whatsoever is true and pure and lovely in that higher kingdom whose builder and maker is God.

And finally give to all Thy servants that peace which the world cannot give nor take away. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 5, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

Mr. FORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

THE JOURNAL

Mr. FORD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE AGENDA BEGINNING AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, for the information of my colleagues, I am going to insert in the RECORD a list of major legislation remaining for consideration by the Senate prior to adjournment.

When the Senate returns from the August 6 recess, there are only 37 working days, including Saturdays, before the announced October 4 adjournment. That adjournment will be sine die if all the essential work for the Congress has been completed. However, if it is necessary to return after the November election, I have already announced that the Speaker and I have decided that the Congress will return on Wednesday, November 12. This was at a meeting at which the House leadership was present, the Senate leadership was invited to attend and, for reasons which were meritorious, some of them could not attend.

In any event, that is the date on which the Congress would return.

Obviously, there are a number of essential measures remaining for consideration in the limited time available. Expiring authorizations and appropriation measures will take priority.

Incidentally, the appropriations measures that have been passed by the House and received in the Senate as of the close of business yesterday were these: Energy-water; military construction; legislative; State, Justice; HUD; Agriculture; and Interior. Seven in number. So the Senate has not acted on any of the major appropriation bills.

Now, the list I will submit is not intended to represent the only legislation that will be called up. Any measure on the calendar will be eligible for consideration as time and the schedule permit. This would include such measures as the Criminal Code revision, aspects of regulatory reform, export trading, Antiterrorism and Immigration Act amendments.

The Senate has made excellent progress this year in the area of expiring authorizations—approximately 50 of these essential measures have already passed the Senate. I am confident that with the continued excellent cooperation and assistance by all Members of the Senate, this progress will continue when we return on August 18.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, therefore, a list of legislation to be completed by adjournment, with the understanding, as I have indicated before, that it is not all inclusive and is not intended to represent the only legislation that may be called up.

There being no objection, the list of legislation was ordered to be printed in the RECORD, as follows:

LEGISLATION TO BE COMPLETED BY ADJOURNMENT

EXPIRING AUTHORIZATIONS

Marine Protection Research (Cal. 744).

Title VII, CETA (Cal. 761).

Hazardous Materials Transportation (Cal. 768).

Army Corps of Engineers/Law Enforcement (Cal. 793).

Securities and Exchange Commission (Cal. 802).

Department of Treasury/International Affairs (Cal. 816).

Water Resources Council (Cal. 824).

Military Construction—to be reported.

Department of Energy/Weapons Programs—to be reported.

Health Manpower—to be reported.

Revenue Sharing—after House acts.

Disaster Relief—if reported.

APPROPRIATIONS

Conference Report on Ex-Im Bank Supplemental.

Consideration of all of the thirteen regular appropriations measures for Fiscal Year 1981.

OTHER

Conference Reports.

Second Concurrent Budget Resolution.

Tax Measures.

Hazardous Waste Disposal and Cleanup (Superfund) (Cal. 933).

Youth Employment.

Domestic Violence (Cal. 734, 737).

Fair Housing.

Resolution of Disapproval on shipment of nuclear fuel to India.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, my inquiry is whether or not there are any special orders or any leadership time provided for this morning.

The ACTING PRESIDENT pro tempore. There are no special orders and no leadership time.

Mr. BAKER. I thank the Chair.

Under those circumstances, what will be the pending business at this point?

EXECUTIVE SESSION

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

The ACTING PRESIDENT pro tempore. Under the previous order, the 1 hour under the rule shall be equally divided and controlled between the Sena-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tor from New Jersey (Mr. WILLIAMS) and the Senator from Utah (Mr. HATCH).

The clerk will state the pending nomination.

The legislative clerk read as follows:

Nomination to the National Labor Relations Board of Don Alan Zimmerman of Maryland to be a member.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed in executive session.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I was interested to note in the Wall Street Journal this morning that they had a blurb on the front page which stated the following:

> The Senate stalls on confirming Don Zimmerman to fill an NLRB vacancy. The Senate tried, but failed to cut off debate yesterday. Conservatives, such as Utah Republican Orrin Hatch, don't want to put a political independent in a traditional Republican seat. Zimmerman is the Senate Labor Committee's chief GOP counsel.

Although that is one of the considerations, there is precedent for having independents in these seats in the past, and that is a consideration here when we consider that the Board is already 3 to 1 in favor of labor.

The big consideration is the overbalancing toward one side on the National Labor Relations Board.

The National Labor Relations Board has been a strong entity in the resolution of the labor-management relations problem because, primarily, all Presidents up until now, basically, have recognized the importance of keeping the Board in a balanced condition.

This President, apparently, does not seem to think that is as important as prior leaders in this country.

I think I can state with particularity that the Republican Presidents have been very careful to maintain a careful balance between labor and management. In this case, we are going to have, if this President has his way, the Board turned 4 to 1 against the business sector in this country.

The Board recently has been enacting by Board fiat the labor law reform in bits and pieces. Keep in mind, the labor law reform bill was rejected by the U.S. Senate in 1978, yet these people have been ignoring that rejection and have been, by piecemeal, enacting labor law reform.

I find that particularly reprehensible.

They have been able to do that with a 3-to-2 balance on the Board. Now they want it 4 to 1, or at least that is what many people in the business community feel.

I think, whether that is true or not, in the case of Mr. Zimmerman, who happens to be a friend of mine, that just the appearance alone is enough to cause the unsettled condition among the business people in this country today.

So it is hardly a fact that he may not be Republican enough. That does not even enter into it, as far as I am concerned. It does with some of our colleagues.

I think it is important that there has been balance on the Board and that this has been a Republican seat. But I do not want to overemphasize that.

The important matter to be emphasized is that we are in danger of having labor-management chaos in this country because of the stacking of the National Labor Relations Board. This comes on the heels of this administration putting into the independent General Counsel's position a 100-percent prolabor individual who has worked for 21 years with the 100-percent prolabor chairman of the National Labor Relations Board, Mr. William Lubbers. That battle was fought just a few months ago. It was an unwinnable battle, but it had to be waged because these points have to be made.

If that occurs, the independent General Counsel position and four other members of the Board, assuming the business community is correct in this matter, then where does that leave the management side of the labor-management relations equation?

It would leave it where they could have all the important cases divided between panels of two of the four prolabor members of the Board and leave the incidental matters for a panel of two, with the one who occasionally votes for the business community.

That would be disastrous considering the bitterness throughout this country that the Lubbers nomination has caused, bitterness of the business community as a result of it, and they are really upset in this particular matter.

One of the problems of the early National Labor Relations Board was its role as investigator, prosecutor, and jury all wrapped up in one. With the revisions in the Taft Hartley Act, it was hoped the separateness of the Board as a judicial body and the General Counsel as the prosecutor would be absolute.

This separateness was necessary to maintain management and labor support of the agency by insuring the agency's integrity and its neutral position. With the naming of a man who has served for 20 years as the present pro-union Chairman Fanning's chief staffer as General Counsel, that separateness has been smashed and doubts of fair treatment or neutral handling of management charges of unfair labor practices has been put severely in doubt especially in the minds of employers.

Many in the management community see the entire NLRB as being too partisan and firmly tilted toward organized labor. This latest blow concerning the Lubbers appointment simply solidifies management's opinion of the Board. Further bad feelings are present due to the resignation of Betty Southard Murphy from the Board during the Lubbers controversy. The Carter White House held Ms. Murphy's reappointment up despite strong support to reappoint her from both management and labor. The price the White House demanded for reappointing former Board Chairwoman Murphy to a 5-year term was confirmation of Lubbers. When this did not happen quickly and Ms. Murphy's term was about to run out, she resigned rather than undergo further political gamesmanship.

Now her replacement is Don A. Zimmerman, an aid to Senator JACOB JAVITS, of New York. If he is nominated and confirmed, the Board will seemingly lose all semblance of even the appearance of balance.

Mr. Zimmerman's role as the staff person handling labor matters for Senator JAVITS causes many very real concerns over Mr. Zimmerman's position on issues which could come before the Board and which, like situs-picketing legislation and labor law reform, would, if adopted, be contrary to the best interests of labor relations in this country.

Mr. Zimmerman's confirmation would also alter the manner in which nominees to the Board traditionally are selected. Ever since the Board was made a five member Board, it has consisted of three persons who are members of the same political party as the President and two persons who are members of the party not in the White House.

Mr. Zimmerman is an independent, not registered as a member of either the Republican or Democratic Party being appointed to fill a Republican seat. In fact, in the past, he has been a registered Democrat. If this precedent goes unquestioned by the Senate, it is conceivable that a future President could appoint three persons from his own party and two independents philosophically attuned to the President, thus setting the stage for complete domination of the Board by a single philosophy. Such imbalance would, in turn, destroy the balance needed on the Board to retain the confidence of both management and labor. President Eisenhower did appoint an independent to the Board. In that case, the nominee was nominated to fill one of the three seats reserved for the President's party; the other two seats were reserved for nominees of the party not in power. In that case, therefore, there was a 2–2–1 split (preserving balance) rather than the 3–1–1 split represented by the nomination of Mr. Zimmerman.

The NLRB depends on voluntary settlements. Of the over 50,000 cases initiated each year, over 80 percent are settled. If either management or labor decides the NLRB is highly partisan either toward unions or management that rate will go down drastically. It is estimated it costs the agency an extra million dollars for each percentage point the settlement rate drops. The absolute impossibility of maintaining an effective agency in the face of a severe lack of confidence by unions or employers is certain. Highly controversial candidates such as William Lubbers and Don Zimmerman will eventually cause the destruction of the reputation of the NLRB and the extreme shortsightedness in pushing these candidates by the White House is yet another example of the quality of leadership it has displayed throughout the past 4 years.

Mr. President, on Monday of last week we heard many speeches and read constituent letters which indicate strong opposition to the confirmation of Don Zimmerman as Board member of the National Labor Relations Board. The opposition comes from both sides of this aisle—so it is not strictly a partisan issue.

In part, my concern is based on the fact that other more acceptable candidates to both labor and management have been considered but rejected for this sensitive post. More importantly, however, my uncertainty about the nomination is based on the thought that this appointment may not be in the best interests of the Board or the parties which must rely on the Board for the resolution of labor-management disputes. Finally, I believe that this appointment may well contravene the congressional policy of a balanced Labor Board and consequently would seriously erode public confidence in the NLRB.

My opposition and remarks should not be viewed as a personal attack on Mr. Zimmerman. I do not seek to impugn his integrity in any way. Rather, as I shall explain more fully, I believe that the appointment of a Board member with limited experience in the field of labor relations is contrary to the congressional and Presidential objective of assuring that the Labor Board reflect a balance between management and labor.

The importance of public confidence in the agency should not be underestimated. When the original Wagner Act was signed into law in 1935, President Roosevelt stated that its acceptance by management, labor, and the public with a sense of sober responsibility and of willing cooperation would serve as an important step toward achievement of justice and peaceful labor relations in industry. Contributing in large measure to that acceptance over the years has been the confidence of management, labor, and the public in the guarantee of the independent and unbiased determinations of unfair labor practices by the Labor Board. This confidence in the agency has been vividly demonstrated by the high percentage of settlements and voluntary compliance after unfair labor practice charges have been filed. NLRB statistics indicate that over 90 percent of all unfair labor practice cases are either settled, adjusted by agreement of the parties before issuance of administrative law judge's decisions, withdrawn prior to the issuance of a complaint, or are dismissed administratively. These statistics are proof of the widespread acceptance by both labor and management of the independent respect of the Board. As my fellow Senators will recall, this public acceptance did not always exist, primarily due to the pre-1947 structure of the agency.

As originally enacted, the National Labor Relations Act combined the functions of prosecutor, judge, and jury into one entity—the National Labor Relations Board. Criticism of this arrangement mounted as the Board appeared to many to operate in a biased and arbitrary manner. Ultimately, Congress responded to this criticism and amended the NLRB to establish an independent Office of General Counsel.

CRITICISM OF BOARD PROCEDURES UNDER THE WAGNER ACT

The Wagner Act of 1935, hailed as the "Magna Carta" of labor, had by the 1940's engendered considerable opposition. One of the major criticisms of the National Labor Relations Board stemmed from the mechanisms which empowered the Board to serve simultaneously as "prosecutor, jury, and judge" of unfair labor practice charges. As the court noted in *ILGWU* v. *NLRB* (501 F.2d 823, 828 (D.C. Cir. 1947)):

> Prior to 1947 the Board itself was charged with the duty of determining whether to issue unfair labor practice conmplaints and how they should be prosecuted, for there was no office of the General Counsel. Thus the Board simultaneously played the roles of prosecutor, jury, and judge.
>
> This statutory scheme remained unchanged until 1947, when the Taft-Hartley amendments created the Office of the General Counsel. This office was created in response to heavy criticism of the unfair and uneven results obtained from the amalgamation of prosecutorial and judicial functions in the old board.

The Smith committee, officially entitled the "Special House Committee to Investigate the National Labor Relations Board," issued a report which served as a basis for action which culminated in the Taft-Hartley Act. The Smith committee's report recommended the establishment of an independent administrator to perform the investigative and prosecutorial functions of the National Labor Relations Board.

In this regard, it is crucial that the Labor Board enjoy the confidence of not only the labor-management community, but more importantly the confidence and trust of the public as a whole. If public confidence in the agency is to be maintained it is vital that the NLRB be perceived by all as a completely objective independent and his own man. Because of his lack of experience in labor matters, it must be clear to the Senate, based on the presentations made in this Chamber that Mr. Zimmerman is not viewed by the business community as being independent and clearly does not enjoy the confidence of at least that important segment of the labor-management community.

Never before, in the agency's history, has there been a more compelling need to have a Board member who is perceived as objective and most important, independent. As the Labor Committee is aware, the agency's case load continues to grow at a rapid rate. In fiscal year 1979 there were 55,000 cases filed with the agency. Of these cases 41,700 constituted unfair labor practice charges. In the 2-year period from 1977 to 1979 the intake of unfair labor practice cases alone rose 10 percent. I suggest that this settlement rate could not have been achieved if either labor or management in any way lacked confidence in the office of the NLRB. If one cannot have confidence in the Board, then our appeals court will, indeed, become overburdened.

It is apparent to anyone having firsthand experience with the agency that a Board member must possess an understanding of the day-to-day problems facing labor and management. This understanding can be gained through experience in the private sector or through a substantial period of service in positions of major responsibility in the Office of the General Counsel. The background of Mr. Zimmerman simply does not provide the exposure necessary to effectively discharge the responsibilities imposed by statute on a Board member of the NLRB.

The lack of practical labor relations and administrative experience can impair the effective administration of the statute and adversely affect unions, employers, and individuals that must rely upon the agency for the protection and vindication of their statutory rights.

Mr. President, some of my colleagues have raised the issue that when this matter was reported by the committee, it was reported by a vote of 12 to 0. There are 15 members on our committee, and at least two of us would have voted against Mr. Zimmerman but decided not to do so at that particular time—did not vote for him but decided not to vote against him.

That committee happens to be a committee that is primarily—almost totally—prolabor, as contrasted to consideration of management's problems. We knew there was no real reason to put up a fuss in the committee about this, because it would just take the committee's time unnecessarily. The fact is that there was strong feeling at that time about this nomination.

Frankly, there is no bad feeling toward Mr. Zimmerman personally; nor do I mean to impugn or find any personal fault with Don Zimmerman, who, as I said, happens to be a friend.

However, I believe that the appearance of things sometimes can even supersede the reality of matters; and if the appearance and the reality are as the business community really believes them to be, then we are in for one heck of a miserable time in labor-management relations henceforth, and I do not believe we have to put ourselves in that position.

CONCLUSION

For the reasons stated, I oppose the confirmation of Donald Zimmerman as a member of the National Labor Relations Board. In my view, Mr. Zimmerman lacks the necessary independence and experience for this sensitive Government post. His confirmation would violate the clear congressional intent to maintain the delicate balance that we must have on the board.

I urge the Senate not to confirm Mr. Zimmerman. It would be in the public interest if the administration were to continue discussions with unions and management regarding an alternative and more acceptable nominee.

Mr. WILLIAMS. Mr. President, I ask

unanimous consent that my remarks this morning on the pending nomination not be considered as a second speech on this matter under the rules.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I see my distinguished colleague advancing the nomination of Don Zimmerman in the Chamber. I have a statement, but I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, why does the Senator not go ahead.

Mr. WILLIAMS. Mr. President, this morning, we will have the third, and I certainly hope the last, cloture vote on the nomination of Don A. Zimmerman to be a member of the National Labor Relations Board.

There are few issues that warrant discussion with regard to this nomination. Mr. Zimmerman is unquestionably highly qualified for this post. He is presently serving as labor counsel to the Committee on Labor and Human Resources, on the staff of our distinguished member, Senator Javits. He has served with distinction on the committee staff for 6 years.

His prior record is also distinguished, and it has been made a part of the record of the debate on this nomination. Suffice it to say that this nomination was unopposed at the hearing we held in June; and it was unopposed in committee. We voted 12 to 0 to report the nomination favorably.

In debate on this matter last week, a question was raised about correspondence in support of Mr. Zimmerman. As I stated then, this has not been a controversial matter, and there has been relatively little correspondence either for or against confirmation.

Because I was asked, however, I wish to include in the Record a number of letters in support of Mr. Zimmerman.

These letters in support of the Zimmerman nomination are as follows:

First. R. Heath Larry, former president of the National Association of Manufacturers, now in the private practice of law (July 29, 1980, addressed to Senator Javits).

Second. Richard F. Schubert, president of Bethlehem Steel Corp. (February 12, 1980, addressed to Director of the Presidential Personnel Office). Schubert was Undersecretary of Labor and, before that, Solicitor of Labor during the Nixon administration.

Third. William J. Kilberg, management labor lawyer in the firm of Gibson, Dunn & Crutcher, former Solicitor of Labor during the Ford administration (January 29, 1980 to Director of Presidential Personnel Office).

Fourth. David J. Fitzmaurice, president of the International Union of Electrical, Radio & Machine Workers Union (December 20, 1980, to chairman of the Committee on Labor and Human Resources).

Fifth. J. A. Downs, president of the National Association of Dredging Contractors (July 29, 1980, to chairman of Labor and Human Resources Committee).

Sixth. Clarence M. Mitchell, Jr., formerly legislative representative with the NAACP and formerly president of the Leadership Conference on Civil Rights (December 21, 1979, to Director of Presidential Personnel Office).

Seventh. Joyce C. Miller, president of the Coalition of Labor Union Women (June 9, 1980, addressed to Chairman Williams).

Mr. President, I ask unanimous consent to have printed in the Record all of these letters to which I have made reference.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Reed Smith Shaw & McClay,
Washington, D.C., July 29, 1980.
Senator Jacob K. Javits,
Russell Senate Office Building,
Washington, D.C.

Dear Senator: Since I last wrote to you on January 21, 1980 I have been pleased to learn that the President nominated Donald Zimmerman to serve on the National Labor Relations Board and that the Senate Labor and Human Resource Committee unanimously reported the nomination.

As I expressed earlier to you, everything I know of Don Zimmerman indicates that he will be a fine addition to the National Labor Relations Board. I therefore wish to reaffirm my support for his nomination. If it will help, I would be delighted to make my views known to those of your colleagues who might be interested.

Sincerely,
R. Heath Larry.

Bethlehem Steel Corp.,
Bethlehem, Pa., February 12, 1980.
Mr. Arnold J. Miller,
Director of the Presidential Personnel Office, The White House, Washington, D.C.

Dear Mr. Miller: It has come to my attention that Donald Zimmerman, currently serving as counsel to Senator Javits, is being considered for appointment to the National Labor Relations Board. I've had the pleasure of knowing Don for approximately seven or eight years, originally arising out of my tenure as Solicitor and then Under Secretary of Labor (1971–1975). I would characterize Don, based on my own personal experience, as fair, reasonable, bright and balanced in perspective and orientation. Hence, I am pleased to recommend him to your consideration.

I will be delighted to discuss this orally should you so desire. My telephone number is AC 215, 694–4168.

Very truly yours,
Dick Schubert.

Breed, Abbott & Morgan,
Washington, D.C., January 29, 1980.
Mr. Arnold Miller,
Director, Presidential Personnel Office, Old Executive Office Building, Washington. D.C.

Dear Mr. Miller: I am writing this letter to support the candidacy of Don Zimmerman for the vacant seat on the National Labor Relations Board.

I have known Don for some years, having worked closely with him while I served as Solicitor for the U.S. Department of Labor and he was Minority Counsel of what is now the Senate Committee on Labor and Human Resources. He has always impressed me as a man of honesty and integrity, with a considerable knowledge regarding federal labor statutes. It is my impression, having spent the last three years in the private practice of law representing management in labor matters, that the management community would find him an acceptable replacement for Betty Murphy.

I urge the President to give all due consideration to the appointment of Mr. Zimmerman to that most important position.

Sincerely,
William J. Kilberg.

International Union of Electrical, Radio, & Machine Workers,
Washington, D.C., December 20, 1979.
Hon. Harrison Williams,
U.S. Senate,
Washington, D.C.

Dear Senator Williams: I enjoyed talking with you at our meeting on December 12, 1979, concerning the nomination of Bill Lubbers for NLRB General Counsel.

With regard to Betty Murphy's replacement, I am sure that you share our high regard for Don Zimmerman. The IUE has worked closely with him on a number of pieces of legislation. We have been impressed, as I am sure you have been, with his commitment to encouraging collective bargaining, and to working closely with unions, his competence, his pragmatism and his conscientiousness. In our view, he would provide the NLRB with creativity, drive and a greater understanding of union viewpoints.

I hope that you will join in giving your valuable support to help assure that he is nominated by President Carter to fill the vacancy.

Sincerely yours,
David J. Fitzmaurice,
President.

The National Association of Dredging Contractors,
Washington, D.C., July 29, 1980.
Hon. Harrison A. Williams,
Chairman, Committee on Labor and Human Resources, Russell Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Our Association wholeheartedly supports and endorses the nomination of Don A. Zimmerman, Minority Counsel (Labor) for the Committee, to the National Labor Relations Board. Mr. Zimmerman is an outstanding labor lawyer and is eminently qualified for this post.

Mr. Zimmerman will bring to the Board a calm and well-reasoned approach to Labor-Management issues. His balanced and experienced judgment will be helpful on important issues before the Board. The Dredging Industry strongly urges both Democrats and Republicans alike to support Mr. Zimmerman's confirmation in the Senate.

Sincerely yours,
J. A. Downs,
President.

Mitchell, Mitchell & Mitchell,
Baltimore, Md., December 21, 1979.
Hon. Arnie Miller,
Director of Presidential Personnel, Room 145 Old Executive Office Building, Washington, D.C.

Dear Mr. Miller: Word has reached me that Don Zimmerman, Chief Minority Counsel for the Senate Committee on Human Resources, has been recommended by Senator Jacob Javits for the Republican vacancy on the National Labor Relations Board. I heartily join in expressing my agreement with Senator Javits that Mr. Zimmerman would be an excellent addition to the National Labor Relations Board.

It has been my good fortune to work with him from the beginning of his service on the committee. He is a careful and constructive public servant who has done much to aid the passage of legislation and the consideration of nominees whose names were sent to the committee.

I am sure you have his impressive record and, for that reason, I am not including it in this letter. His nomination would give the National Labor Relations Board an able and effective new member.

Sincerely yours,

CLARENCE M. MITCHELL, Jr.

COALITION OF
LABOR UNION WOMEN,
New York, N.Y., June 9, 1980.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: The Coalition of Labor Union Women (CLUW) is pleased that, as urged by CLUW, President Carter has nominated Don Zimmerman to fill the existing vacancy on the National Labor Relations Board.

CLUW has worked closely with Zimmerman on the passage of the Pregnancy Disability Act and other employment discrimination matters. We have been impressed, as I am sure you have been, with Zimmerman's commitment to eradicating discrimination in the workplace with respect to pregnancy as well as other areas, his marked sensitivity to the critical concerns of working women, and his overall competence. We have every reason to assume that the sensitivities that Zimmerman has demonstrated will carry over to his performance as a National Labor Relations Board Member.

We hope the Senate Labor and Human Resources Committee will quickly recommend his confirmation to the Senate.

Sincerely,

JOYCE D. MILLER,
President.

Mr. WILLIAMS. Mr. President, as my colleagues will readily appreciate, these letters of endorsement for Mr. Zimmerman cut across party lines. And they come from representatives of both industry and labor.

I submit that this serves to confirm the judgment of the Committee on Labor and Human Resources which voted in a bipartisan manner in support of this nominee.

It also emphasizes a point we discussed here last Friday before the first cloture vote—any discussion of party label in talking about members of the National Labor Relations Board can be misleading. The Board's history is filled with examples of splits between members of the same party and agreements in principle between members of different parties.

Some examples of this may be found on the Board today, as I pointed out last week.

Mr. President, on this issue of party label, a letter has come to my attention that I wish to point out to my Senate colleagues. This letter should serve to emphasize the highly partisan nature of the present attempt to block the confirmation of Mr. Zimmerman.

I am referring to a "Dear Colleague" letter that was circulated on July 28, 1980. In this "Dear Colleague" letter, the Senator from Utah, Senator HATCH, urges his Republican colleagues to "slow down, or completely stop, the consideration of fixed-term presidential nominees."

The letter also attempts to use two nominees coming from the Committee on Labor and Human Resources as evidence of a conspiracy on the part of Democratic Senators to speed the confirmation of all existing Presidential appointments.

There is, of course, no such conspiracy. But it is particularly clear in the case of both these nominees from the Labor and Human Resources Committee that their nominations have been proceeding in due course and not out of any desire to speed up confirmations.

In the case of Mr. Zimmerman, it has been well known that he was under active consideration for this Board position going all the way back to last January.

Of course the seat he has been nominated to fill has been vacant since Mrs. Betty Southard Murphy resigned last December. And Mr. Zimmerman might have been nominated much sooner except that the committee and the Senate were occupied for an excessively long time over the Lubbers' nomination.

Mr. Zimmerman was nominated, however, last June 4. At his confirmation hearing, not one witness appeared to testify against him.

Then, the committee reported the nomination of June 17, again without a single dissenting vote.

Finally, the nomination was brought to the Senate floor on July 28, nearly 6 weeks after it was reported by committee.

This is not a good example of hurrying a nomination. It is an example of one that has been on its way for over 6 months now.

The other example cited in support of the argument that confirmations should be slowed down or stopped is the nomination of Ethel Bent Walsh to the EEOC. This is an equally inappropriate case to cite. Mrs. Walsh's term expired on July 1. If she is not confirmed, she will be unable to serve beyond the end of this Congress.

The amazing thing, to me, about this point is that Mrs. Walsh is practically the quintessential Republican.

More importantly, she is practically the quintessential Republican woman—a qualification which I would have thought would make her nomination very attractive to Senator HATCH.

Mrs. Walsh is a member of the advisory council of the Republican Women's Federal Forum. She is a present member and past chairman of Executive Women in Government. And she is a present member and past vice president of the Washington Forum.

Her written statement to the Committee on Labor and Human Resources, made pursuant to her recent renomination to the EEOC, includes in its public portion, the following information about her political affiliations and activities.

I emphasize that this information is in the public record of the Committee on Labor and Human Resources, so I am revealing no secrets here. I do believe it is truly remarkable that Republican Senators should block the nomination of this distinguished public servant with this background of pure Republicanism. The record shows that Mrs. Walsh has been a regular and substantial contributor to the Republican National Finance Committee and to the National Republican Senatorial Committee and Republican Senate Campaign Fund.

In each case her contributions have been to Republicans.

Finally, I observe that her initial appointment to the EEOC in 1971 was by President Richard M. Nixon. Her reappointment in 1976 was, of course, by President Gerald Ford.

Now, she has been renominated for another appointment by President Carter. This nomination would seem to be not only meritorious, but highly nonpartisan. There is no requirement under the law that the President appoint a Republican to any position at the EEOC. Yet, he has chosen someone with about as pure a Republican record as it would be possible to find.

I submit that the campaign against Mr. Zimmerman, like the campaign against Mrs. Walsh, springs from a misguided partisanship that is unfortunate and unrelated to the merits of the nominations or the interests of the agencies to which they have been nominated.

I am confident that three-fifths of the Senate will reject this opposition to qualified nominees, and that we will confirm Mr. Zimmerman's nomination.

Mr. JAVITS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. JAVITS. Mr. President, we have now had very ample time to debate the Zimmerman nomination during which, as any Senator would, I welcome a complete exploration of his character, of his record, and of his ability to perform the responsibilities of being a member of the National Labor Relations Board.

I can only give my personal testimony for a fine lawyer who has been labor counsel to me and labor counsel to the minority on the Committee on Labor and Human Resources, and who has served with diligence, with the highest professional skill, and with great sobriety.

He has represented the points of view which I and other Members had, who may have entrusted him with seeking his views and advice and letting him be operating counsel for us in that committee, in that capacity he acted a way, I think, which is most admirable.

I do not know exactly what will be his philosophic attitude in the position to which he has been nominated. But I have had a lot of experience with staff people and, in my judgment, Don Zimmerman will be a very moderate member of the NLRB. Indeed, I believe he will be a very conservative member in terms of knowing the law and being extremely evenhanded as between management and labor, and truly being a judge and paying attention to both the decided cases, to innovations in the law, and to opposition briefs.

I believe if permitted to do so, and I would hope very much the Senate will permit him to do so, he will be an admirable servant for the United States. We all know the word "bureaucrat" has been used so often and so pejoratively that it sounds like something in which somebody is wrong or there is some moral deficiency involved if you are a bureaucrat.

But we know, those who sit and work on committees, that some of the finest minds and finest characters we have ever been exposed to are in the Federal Government bureaucracy. People who are dedicated, highly professional, highly patriotic, highly motivated, and very much imbued with the American spirit, the American Constitution, and the American sense of life values and life responsibilities.

Such a man is Don Zimmerman.

Mr. President, the legislation in which he has been involved as labor counsel is so extensive as to give him a fantastically rounded experience in addition to his prior training, which has been recounted now many times here on the floor, as a lawyer and as a Government servant.

Mr. President, I ask unanimous consent to have printed in the Record a list of the legislative matters with which he has been involved in this professional capacity during the time he has spent on the staff of the committee and as my own labor counsel.

There being no objection, the material was ordered to be printed in the Record, as follows:

Legislative Activities

Legislation on which Don Zimmerman has had a major involvement, primarily as labor counsel to Senator Jacob K. Javits, includes the following:

1. Equal Employment Opportunity for Handicapped Individuals Act of 1979, reported by the Labor and Human Resources Committee, to bring individuals with physical and mental impairments within Title VII of the Civil Rights Act.

2. Pregnancy Discrimination amendments of 1978 to The Civil Rights Act of 1964, to prohibit employment discrimination against women on the basis of pregnancy and related conditions, reversing the case of *Gilbert* v. *General Electric*.

3. Flextime Amendments of 1978 for Federal employees, providing for the use of voluntary flexible and compressed work schedules.

4. Labor Law Reform legislation, 1977–78, which would have strengthened the remedies and expedited the procedures of the National Labor Relations Act.

5. Fair Labor Standards Act Amendments of 1977, raising the minimum wage, reducing the tip credit and strengthening enforcement authority.

6. Federal Mine Safety and Health Amendments Act of 1977 combining and strengthening occupational health and safety responsibilities in one statute and a single administration.

7. Black Lung Benefits Act of 1977, changing criteria for benefits and reforming the financing system.

8. Age Discrimination in Employment Act Amendments of 1977, raising the prohibition against age discrimination from age 65 to 70.

9. Common Situs Picketing legislation in both the 94th and 95th Congresses, to reform the law concerning secondary boycotts in the construction industry.

10. National Workers' Compensation Standards Act of 1979, which would establish minimum Federal standards for the State workers' compensation system.

11. Service Contract Act Amendments of 1976, to broaden coverage of the Act.

12. National Labor Relations Act Amendments of 1974, which extended coverage of the Act to voluntary hospitals.

13. Federal Employees Compensation Act of 1974, to improve benefits and administration under the Act.

14. Farm Labor Contractor Registration Act Amendments of 1974, to broaden the coverage and strengthen the protections of migrant workers under the Act.

15. Emergency Jobs and Unemployment Assistance Act of 1974, to provide for an expansion of public service jobs and to establish the Special Unemployment Assistance Program of unemployment compensation for workers not covered under the Federal-State system, including domestic, farm workers, and public employees.

16. Emergency Unemployment Compensation Act of 1974, and subsequent Javits amendments thereto, to provide for an extension of the duration of unemployment benefits during the 1975–1977 recession.

17. Unemployment Insurance System Revitalization Act of 1979, which would reform the financing of the unemployment insurance system and the program for extended benefits during recessionary periods.

18. The Farm Labor Contractor Amendments of 1980, a bill to eliminate unnecessary regulatory requirements of farmers, food processors, cotton ginners, canners, and other stationary agricultural employers who employ migrant and seasonal workers and to clarify coverage under the Farm Labor Contractor Registration Act of 1963.

Mr. JAVITS. Mr. President, I think the finest compliment we could pay to Mr. Zimmerman is that I find him as unflappable today as when these proceedings started. He would have a right as a young man, who certainly has absolutely nothing against him, to feel deeply unhappy, even resentful, at the fact that his great opportunity to achieve a high public office has been thwarted for no reason for which he is in any way responsible, for extraneous strategies respecting how the National Labor Relations Board will be composed, and what the political faith shall be of the members who are confirmed.

I might point out, too, that this does not even fall under the barrier which naturally comes to the minds of people on my side of the aisle as they see the Presidency within reach. It happened with the Democrats out in 1976, and it happens with us. But we have consented to quite a few appointments in recent days, and we probably will, consistent with the policy we have adopted here of screening them, consent to others, and I see no reason whatever really why Zimmerman should have been caught in this net. It was not, to my mind, intended for him.

So I hope very much that the Senate will allow him to realize this place for which he is so very eminently fitted, and I feel very deeply it will be a great benefit to our country and that Members will be gratified as they see his performance in this post.

I hope very much this is the day on which we can do what needs to be done to effect cloture, to confirm him, and to go on to our many other responsibilities.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Is it in order to suggest the absence of a quorum?

The ACTING PRESIDENT pro tempore. On the time of the Senator from New Jersey.

Mr. WILLIAMS. It is certainly in order to suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Does the Senator from New Jersey so yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I hope very much that this may be the last word on this nomination. I think we have exhausted the subject, though any post of responsibility in the Federal Government is worth all the time we wish to spend on it. The fact is, Mr. President, that it suddenly begins to reverse upon itself.

I hope very much that today we will act affirmatively upon this nomination, which really should have been completely routine, without any political implication whatever. This nomination simply involves a man who has earned it by a high degree of public service and devotion to his duty in a strictly professional capacity. Incidentally, representing the Republican side in the committee I was the ranking member for a considerable number of years and followed our very distinguished and beloved colleague, Senator Goldwater, in that job. We simply found a good professional and hired him. He served the minority, every Member of the minority, liberal, conservative, moderate, whatever he might have been, with singular devotion, attention to duty, and, as far as I can see, to their complete satisfaction. Here he comes to the high point of his career to be appointed to a job for which he has been training all his professional life, and we get our feet entangled in all kinds of political considerations without embroiling this nomination in those matters, we should make a strictly professional assessment of the man.

It may be of interest to the Senate—I hope it is—that my interest in this nomination was that of any person who had a staff member nominated to office. I was delighted to see Mr. Zimmerman seriously considered by the White House. I recommended him, but I took no special stellar part in his nomination. I believed in his qualifications then, as I do now. I hope he is confirmed today.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The 1 hour having passed since the Senate convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Mr. Don Zimmerman, to be a member of the National Labor Relations Board.

Robert C. Byrd, Harrison A. Williams, Jr., Howard M. Metzenbaum, William Proxmire, George T. Mitchell, Gary Hart, Henry M. Jackson, Spark M. Matsunaga, Max Baucus, Robert T. Stafford, Claiborne Pell, Jacob K. Javits, Paul S. Sarbanes, John A. Durkin, Warren G. Magnuson, George McGovern, Adlai E. Stevenson, Dennis DeConcini, and Jennings Randolph.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 17 Ex.]

Baker
Byrd,
Robert C.
Culver
Garn
Goldwater
Hollings
Javits
Levin
Williams
Zorinsky

The PRESIDING OFFICER (Mr. LEVIN). A quorum is not present. The clerk will call the names of the absent Senators.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 87, nays 2, as follows:

[Rollcall Vote No. 343 Ex.]

YEAS—87

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—2

Goldwater
Weicker

NOT VOTING—11

Bradley
Church
Durenberger
Durkin
Kennedy
Long
Matsunaga
McClure
Stevenson
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Mr. Don Zimmerman to be a member of the National Labor Relations Board should be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessary absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 63, nays 31, as follows:

[Rollcall Vote No. 344 Ex.]

YEAS—63

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Tsongas
Weicker
Williams

NAYS—31

Armstrong
Bellmon
Boschwitz
Byrd,
Harry F., Jr.
Cannon
Chiles
Cochran
Dole
Domenici
Garn
Goldwater
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
Morgan
Nunn
Pressler
Roth
Schmitt
Simpson
Stone
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—6

Church
Durenberger
Long
McClure
Talmadge
Wallop

The PRESIDING OFFICER. On this vote there are 63 yeas and 31 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF DON ALAN ZIMMERMAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. ROBERT C. BYRD. Mr. President, cloture having been invoked, I would now like to inquire of the distinguished Senator from Utah (Mr. HATCH) as to whether or not he would be agreeable to the Senate proceeding immediately to a vote on the nomination.

Mr. HATCH. Mr. President, I do not intend to use my hour, and I do believe the Senate has worked its will, and that by three votes above the minimum necessary, we have invoked cloture, and so not knowing anybody on our side of the aisle who would like to speak—if there is any Member, I would prefer that they do not—but I see the distinguished Senator from New Hampshire wishes the floor, and I yield to the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I certainly want to have at least 2 minutes to address the Senate.

Mr. HATCH. If the Senator from New Hampshire will indulge me——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order.

The Senator from Utah.

Mr. HATCH. As soon as the Senator from New Hampshire has finished with his remarks I suggest that we ask unanimous consent to proceed to a vote and vote up or down on this nomination.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes. May I make this suggestion and see if it is agreeable? I ask unanimous consent that Senators may put their statements into the RECORD as though read today with respect to this nomination, and that the vote proceed on the nomination at no later than 11 a.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I have a statement, but cloture has been invoked, and it would be futile to continue the fight now, and I therefore ask unanimous consent that my statement appear in the RECORD prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in opposition to the nomination by President Carter of Don Alan Zimmerman to be a member of the National Labor Relations Board for the term of 5 years expiring December 16, 1984. This vacancy was occasioned by the resignation of Ms. Betty Southard Murphy, who stepped down "under protest" because of alleged foot-dragging by the White House in recommending to Congress that she be reappointed.

In order that my colleagues may better understand my opposition to the appointment of Mr. Zimmerman, I wish to set forth a brief background of the structure and operations of the National Labor Relations Board. This background will serve to illustrate why it is imperative that the interests of the business and labor communities be taken into account fully if the Federal labor laws are to be administered as Congress intended. At the outset, I question whether a Board comprised of three liberal Democrats who have shown themselves to be prolabor, one Republican, and one reformed Democrat turned "Independent" who is apparently also of a liberal, prolabor philosophy, can sit in judgment of the labor disputes of this country with an objective and impartial frame of mind.

In 1935, Congress enacted legislation which created an administrative agency, the National Labor Relations Board, whose task it was to implement both the unfair labor practice provisions and the elections and representation provisions of the National Labor Relations Act, also known as the Wagner Act. The Board originally was composed of three members appointed by the President and confirmed by the Senate and was charged with the duty of supervising the election process as well as processing unfair labor practice charges through investigation, prosecution, and adjudication.

In 1947, significant and important changes were made in the Labor Act by the enactment of the Taft-Hartley Act. One of the changes made in the law was that the Board was expanded to five members to be appointed by the President and to serve for staggered 5-year terms. Also, in unfair labor practice cases, the five Board members retained the power to adjudicate, but the functions of investigation and prosecution were assigned to the General Counsel. Mr. President, it was only a few weeks ago that the Senate debated thoroughly the nomination of William Lubbers to the position of General Counsel of the National Labor Relations Board because Mr. Lubbers' ability to investigate and prosecute unfair labor practices in an impartial and nonpartisan manner was questioned. Similar objections and concerns have been raised with regard to the Zimmerman nomination. It has been pointed out that the position of member of the National Labor Relations Board carries with it perhaps even greater policy significance than the position of General Counsel.

Mr. President, I ask my fellow Senators to bear in mind that at all times during both the debate leading up to the enactment of the Wagner Act in 1935 and the adoption of the Taft-Hartley Amendments in 1947, the intent of Congress was to structure the Board so that it would be composed of members who would act fairly and impartially in administering the Federal labor laws by taking into account the views of both business and labor.

Mr. President, the policy of the national labor relations laws is to provide for the protection of employees in their right to act in free concert in dealing with their employer. This policy necessarily includes the protection of the right of employees to select or to refrain from selecting representatives of their own choosing. I remind my colleagues that the promotion of employee free choice has not been an easy task. The balance which exists today in the labor laws of this country has been carefully planned and worked out over the years since 1935. To tilt the scale in favor of either labor or management by Board appointments would dangerously contravene express policy of the law of labor-management relations.

Mr. President, I do not question that Mr. Zimmerman is a dedicated, capable individual of good moral character. It is my understanding that he has served ably as Chief Minority Counsel to the Senate Committee on Labor and Human Resources. However, my concern is that the nomination of a reformed Democrat turned "Independent" and, perhaps more importantly, an individual who has a liberal, prolabor philosophy, would upset the balance which was painstakingly implemented by our predecessors in the Congress. It appears to me that this nomination would drastically alter the 43-year-old National Labor Relations Act by allowing the National Labor Relations Board to institute "labor law reform." It is my contention that the confirmation of this nomination would render the policy of employee free choice a complete nullity.

Moreover, I oppose this nomination because Mr. Zimmerman has never practiced labor law and, therefore, does not have the expertise and knowledge which should be required of a person who will interpret the National Labor Relations Act, a highly complex and technical statute which is mastered only after years of study and practice. There has been a trend in recent years of declining court affirmance of National Labor Relations Board decisions; in 1976, the courts upheld 74 percent of the National Labor Relations Board's decisions, but in 1979 this figure dropped to 64.5 percent. This trend would suggest an increasing need for Board members who have demonstrated competence in the field of labor law, an area in which Mr. Zimmerman's experience is notably lacking. In order to stem the tide of increasing court reversals, it seems appropriate to appoint a Board member whose record reflects a more experienced background in labor law.

Mr. President, in conclusion, it is respectfully submitted that the nomination of Don Alan Zimmerman to be a member of the National Labor Relations Board is designed to overturn the national labor relations policy as has been carefully developed through the series of statutes and congressional enactments to which I briefly referred. This nomination is in reality an attempt by the President to stack the Board with four prolabor Democrats, in contradiction to a long-standing policy. Therefore, I urge rejection of Mr. Zimmerman's nomination.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HUMPHREY. Mr. President, reserving the right to object, I wish to be protected for 5 minutes. I do not think I will use that much time, but when we specify 11 o'clock I begin to worry about my rights.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator, who says he does not expect to speak more than 5 minutes, the Senate proceed to vote on the nomination and, as I say again, all Senators will have the right during the day to insert statements in the RECORD in opposition to or in support of the nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, for nearly 30 years, 30 years of tradition, the seat we are about to fill has belonged to the Republican Party. For very nearly 30 years both of the major parties have been allocated seats in proportion to whether the party is the majority or the minority party. If we are to confirm Mr. Zimmerman today, we are going to break that carefully fostered and nurtured tradition. I would entreat my colleagues on the Democrat side of the aisle not to stuff this man down our throats on this side. He is not a Republican. He is a registered Independent, and before that he was a registered Democrat.

There is nothing wrong with being a registered Democrat. I was one myself once upon a time, but today this man is a registered Independent.

We are filling a Republican seat. Please do not shove this man down our throats.

I have nothing against him. I am sure he is the finest public servant in Washington, if not in the Nation. I am sure his character is beyond reproach. But 30 years of tradition say this should be a Republican seat. Mr. Zimmerman by his own admission is a registered Independent.

I thank the Chair.

Mr. WILLIAMS. Mr. President, despite

all the flamboyant rhetoric that has been used to debate this nomination, I am confident that my colleagues will make their decision on the basis of facts. For that reason, I will confine my closing remarks on this matter to a few brief, cogent facts.

First, I would emphasize that Mr. Zimmerman is, and has been for 6 years, minority labor counsel on the Senate Committee on Labor and Human Resources. In that capacity, he has worked very closely with Senator Javits in particular and with other minority members of the committee. And we in the majority have also worked with Mr. Zimmerman and gotten to know him.

Thus, the Senate is about to vote upon the unanimously favorable recommendation of a committee which has known and worked with this nominee for 6 years. In my opinion, there could be no more persuasive circumstance in support of confirmation.

I would also like to reiterate for the benefit of my colleagues that Mr. Zimmerman's experience prior to his tenure with the committee staff will also serve him in good stead as a member of the National Labor Relations Board. This background includes work as special counsel to the trustees of the Penn Central Transportation Co., as a senior associate at the National Manpower Institute, as an analyst at the Office of Management and Budget, and as a foreign affairs officer in the Office of the Secretary of Defense.

As a background for his 6 years of experience as labor counsel to the Committee on Labor and Human Resources, I believe that these responsible and challenging positions will serve him in good stead as he considers the competing interests Board members must weigh in making their important decisions.

I would also like to reemphasize the point that it is entirely appropriate that the President has chosen to nominate for this position on the Board a person who is registered to vote as an independent. As we have discussed repeatedly in connection with this nomination, there is no statutory requirement that the Board membership be divided between the two major political parties. Indeed, I would seriously question the validity of any such requirement.

More importantly, however, there are only three Democrats on this five-member Board, and there is one Republican. With the addition of an Independent, the Board membership will closely resemble the party representation that existed on the Board in the past. There is ample precedent for this type of nomination.

Moreover, I want to emphasize that Mr. Zimmerman is an Independent with a 6-year history of being labor counsel to the Republicans on the Committee on Labor and Human Resources.

As I have said, the committee voted 12 to 0 to report this nomination favorably. And I think that Senator Javits summed up the committee's experience with Mr. Zimmerman very well last week in discussing his own view of Mr. Zimmerman's performance.

Senator Javits stated:

> My feeling about him is that he is a very conservative man on labor issues. If there is going to be, in my judgment, any imbalance in his thinking, it would be for the established order. But I do not see any imbalance in his thinking. He is a very high-level professional of what I consider to be fine judicial temperament. I think he would make a splendid member of the NLRB.

Senator Javits also pointed out that for the entire 6 years that he served the whole minority of the Committee on Labor and Human Resources, insofar as they called upon his services, we have not heard any word uttered against him.

And this is the final point I want to make with regard to this nomination— all the factual arguments about it have been in favor of Mr. Zimmerman. Considered on the merits, this nomination is an excellent one that will not only add a very capable member to the NLRB, but will also serve to broaden the base of experience of the members of that body and keep the party affiliation of its membership consistent with past practice with regard to Board appointments.

Mr. Zimmerman will be an able Board member and I urge my colleagues to support confirmation.

Mr. HAYAKAWA. Mr. President, I wish to join my Senate colleagues who oppose the nomination of Don A. Zimmerman to the vacancy on the National Labor Relations Board.

The Board, which consists of only five members, performs a very important and sensitive role in the labor relations area. It is a quasi-judicial body created by Congress to administer, implement, and enforce the provisions of the National Labor Relations Act, and its authority extends to all firms or labor disputes that affect the commerce of our country. Its two principal functions are to prevent and remedy unfair labor practices by employers and labor or their agents, and to conduct secret ballot elections. Its expenditures for fiscal year 1979 were $100,219,603.

Since the Senate must consent to Presidential nominations to the Board, I believe this body thus bears the responsibility to examine very carefully the makeup of the Board so that the interests of the working men and women are treated in a fair and just manner. While I realize we have a heavy legislative calendar to consider before recess, I believe that this nomination to a very sensitive post for a 5-year term should be given all the time necessary to insure that every consideration is given to the long-range effect it will have on millions of people.

While it is true that there is no statutory provision governing the political persuasion of the members of the NLRB, it is a tradition, accepted by Democrats and Republicans, that the Board be bipartisan. When Independents were named to the Board on very few occasions, this action was in reality a break with tradition. Many people agree that the interests of business and labor are served fairly and well when this traditional bipartisan membership is in effect.

May I say for the record that my opposition to the appointment is not personal in nature. I have no quarrel with the nominee's professional competence or, certainly, with his committee sponsor, my distinguished colleague from New York, Senator Javits. Rather, it stems from my conviction that the general philosophical approach to the important issues that come before the Board should be a matter of public knowledge. While there is no "hard and fast" line to a Republican or Democratic approach to labor issues, the stated political persuasion of the Board members does provide a general indication of their background and record in labor matters for those whose cases come before the Board. A registered Independent, on the other hand, provides an unknown factor that may possibly be detrimental to those seeing Board opinions.

Mr. President, I have given this matter a good deal of thought and I wish to state for the record that I do not support this nomination.

Mr. HELMS. Mr. President, I must oppose the nomination of Don A. Zimmerman to the National Labor Relations Board. My opposition to Mr. Zimmerman's nomination is not personal. Nor does it relate to his professional qualifications, for I understand he is a competent labor attorney.

My concern is that this nomination would have a detrimental effect on labor-management relations.

The National Labor Relations Board was established to administer the Nation's labor relations laws. The principal functions of the Board are to prevent and remedy unfair labor practices, and to conduct elections among employees regarding union representation.

In order to preserve the delicate balance between labor and management, the NLRB must conduct its business fairly and impartially. There are many who believe that this balance has shifted in favor of labor. For example, recently the appellate courts have been reversing an increasing number of the Board's decisions. Leaders in the field of labor law say this is because the Board's decisions have become so biased in favor of labor that the courts are losing confidence in the Board's expertise.

Another example involves the partisan makeup of the five-member Board. The National Labor Relations Act does not require a balance between political parties on the Board. But traditionally, with only a few exceptions, the Board has been bipartisan.

The present Board consists of three Democrats and one Republican. The member whose seat Mr. Zimmerman would take is a Republican. But Mr. Zimmerman is an Independent—formerly a Democrat.

With Mr. Zimmerman on the Board, its composition would be three Democrats, one Independent, and one Republican. I cannot, of course, predict the practical consequences of such composition. It would, however, create an obvious imbalance in favor of the party commonly associated with labor union leaders.

It is imperative that the NLRB have the confidence of both labor and management. There is a feeling in the business community that an attempt is being made to pack the Board with labor advocates.

Chairman John Fanning is considered by many as possibly the most prolabor Chairman the Board has ever had. The new General Counsel, William Lubbers, has a 20-year staff association with Mr. Fanning, and is generally considered to share the Chairman's prolabor bias.

Mr. Zimmerman, while he was minority counsel to the Senate Committee on Labor and Human Resources, was closely associated with prolabor positions on two of the most controversial issues dividing the labor and business communities in recent years—common situs picketing and labor law reform.

His nomination is consequently opposed by such business groups as the U.S. Chamber of Commerce, the Associated Builders and Contractors, and the Associated General Contractors.

The business community has not asked that a business advocate be appointed to the Board. They only ask that the nominee appear objective. In all candor, many are not convinced of Mr. Zimmerman's capability to be objective in this sensitive post, considering his past activities and advocacies.

Further loss of confidence by the business community in the NLRB will have a detrimental effect on labor-management relations. I urge my colleagues to consider this matter carefully, because this nomination could have immense impact, if Mr. Zimmerman is confirmed—an impact that may very well adversely affect our economy.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the nomination.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Don Alan Zimmerman to be a member of the National Labor Relations Board? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. McCLURE) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators desiring to vote?

The result was announced—yeas 68, nays 27, as follows:

[Rollcall Vote No. 345 Ex.]

YEAS—68

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatfield
Heflin
Heinz
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevens
Stevenson
Stewart
Tsongas
Weicker
Williams
Young

NAYS—27

Armstrong
Bellmon
Byrd,
  Harry F., Jr.
Chiles
Cochran
Domenici
Durenberger
Garn
Hatch
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Laxalt
Lugar
Morgan
Nunn
Pressler
Schmitt
Simpson
Stennis
Stone
Thurmond
Tower
Warner
Zorinsky

NOT VOTING—5

Church
Long
McClure
Talmadge
Wallop

So the nomination was confirmed.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the President be immediately notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, may I thank the leadership for their courtesy to me, all those who favored the nomination, and all those in opposition. I think it was very fairly and justly handled. I am very grateful to the leadership on the Republican and Democratic sides and my colleagues who supported this nomination.

This man is really a professional. I think his confirmation should encourage other younger men to take on hard jobs. The Senate has seen its way through this particular nomination in a very satisfactory manner. I thank my colleagues.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the leadership, I thank the Senator for his kind remarks.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 5 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLONEL QADDAFI'S MOTIVES

Mr. HATCH. Mr. President, what is the Government of Libya really up to? Can we really just call Col. Muamar Qaddafi a "madman" and forget him? My view is that this administration and especially Billy Carter are victims of a very shrewd operator who has a carefully thought out plan for himself and his country's future political role in Africa, in the Middle East, and in the world. Once we see what Qaddafi is up to, it is easy to see what Billy Carter's role was to have been in the larger context. If we do not examine Libyan involvement with Billy Carter in its larger strategic context, we will easily condone and forgive the Carter brothers for just trying to be friendly with another Arab country like Egypt or Morocco. Mr. President, I submit that the background evidence I am about to present suggests that Libya is not just another Arab country. For this reason, the sins of Billy Carter go beyond merely wheeling and dealing with an ordinary foreign power and possible violation of the Foreign Agents Registration Act. And I am not even going to mention Libya's well-known support for terrorists.

First, Mr. President, we can see from Colonel Qaddafi's internal political maneuvering that he is no madman but a shrewd politician indeed. Libyan internal politics are not a quiet training ground for statesmen, however. Of the original 12 members of the revolutionary council that overthrew King Idris in 1969, only the colonel and four others are left, and those who have departed the leadership have not done so by natural cause.

In fact, even those in the most trusted positions around the colonel have apparently not been exempt from careful examination. His chief of intelligence, Muhammad Idris Sharif, has been arrested for attempted murder of the colonel. His air force chief has been arrested for similar charges involving a crash of the colonel's helicopter. Five economic ministers were dismissed in 1979. Foreign Minister Abd El Munim, and revolutionary council member Miheishy, as well as the secretary-general of the Arab Socialist Union Party—founded by the colonel—have all fled for their lives in recent years. Even the Soviet advisers in Libya seem to have had their troubles with Libyan internal politics, and—according to the foreign editor of London's Financial Times in a May 10, 1980, article—about 50 Libyan officers were executed last year following a violent confrontation with Soviet advisers.

Mr. President, in this turbulent political environment, how has Colonel Qaddafi survived and led his country these long 11 years since the 1969 coup against King Idris? Before I address the subject of his foreign policy, let me point out a few examples of the colonel's domestic political manipulations. Bear in mind that Libya is really three provinces—Fezan in the south, Tripolitania in the west, and Qiranaika in the east—held together in a shaky coalition rendered unstable by the differences among the tribes in each province, by the differences in wealth and customs of the urban dwellers along the coast against the desert nomads, and by differences among the leadership over how to spend Libya's vast oil wealth.

In this contest, Qaddafi the manipulator has prospered by playing on the same kind of close, family relationships that he has tried to exploit in the Carter family of Georgia. Now, the colonel himself is from a tribe which wandered to Libya from the Western Sahara desert, now located in between the three large provinces. How does he maintain his standing? He married a woman from Qiranaika, the province oriented toward the Arab east. What about the other two provinces? The colonel's propaganda has made the the Fezan people well aware that the colonel's chief of staff (Abu Bakr Yunes Jaber) has a mother from the Fezan-Chad region. The number two leader in Libya is from Tripolitania, Mr. Jaloud. That is the delicate internal political balance of Qaddafi's Libya.

While balancing the regional differences at the top, the colonel tries to penetrate the country by cultivating the army's loyality and spreading his own "Arab Socialist Union Party" as his representative throughout all provinces. Qaddafi has set up "popular committees" which claim to rule in his name, and, more importantly, which impose the bizarre interpretations of Islam contained in Qaddafi's own holy book, the so-called Green Book. Now, the colonel is entitled to his religious views, I suppose, but not according to his own Islamic elders who have been eroding his support. The Islamic elders believe that the colonel should have no right to set himself up as prophet able to innovate within the sacred laws of Islam.

In other words, Mr. President, the colonel is brazen—he not only arranges his internal political situation to insure his lifelong domination of Libya, but even takes on the Islamic elders, always with the army behind him, except for a few mutinies and arrests here and there. And that is the heart of the matter. What must the colonel be doing and keep on doing to maintain the loyalty and support of the Libyan high command? How does he keep the game going against the odds?

That, Mr. President, is where Jimmy Carter and his brother Billy come in. For the question that Billy raises for us is how much the colonel wanted those eight C–130 transport aircraft to be delivered to his armed forces. The C–130 must be designed for a major role. They will, after all, transport impressive amounts of men, weapons, and ammunition to battlefield airstrips. That is how we use them. But where and how does the colonel plan to send soldiers and weapons? There are any number of possibilities that can be guessed from the colonel's recent history of military adventures. Most of the colonel's targets are friends of the United States. Here is an Arab leader, Mr. President, who not only denies Israel's right to exist, but wants to overthrow Sadat as well.

The British press has been covering the colonel's adventures better than our press, Mr. President. Readers of the Sunday Times of February 17 learned of 20 Libyan army camps in which 7,000 guerrilla fighters are being trained from eight African countries with which the United States has good relations—Egypt, Tunisia, Nigeria, Zaire, Mali, the Ivory Coast, Benin, and Guinea. The colonel has several times called for the overthrow of President Sadat of Egypt and has been accused of a major arms smuggling operation into Egypt to help overthrow Sadat after the failure of attempted intimidation of Egypt by border raids. Always aware of public relations, however, the colonel is building an expensive 600-mile-long "Great Wall" between Libya and Egypt which is supposedly to defend poor little Libya. In fact, the colonel has every right to be apprehensive that he may have tried Sadat's patience once too often.

There has been a long list of military interventions by the colonel—in Chad, in Uganda to help Idi Amin, in the Central African Republic. Yet these failures seem only to have emboldened the colonel and, more importantly, attracted even more Soviet support and military equipment. According to the New York Times on March 14, Libya is acquiring 2,000 tanks which will make the colonel the commander of the world's 10th largest armored force. The 700 fighter planes he is acquiring will give him more fighters than Japan has, and his location on the Mediterranean coast will permit Libya to keep track of military movements in the entire area patrolled by our Sixth Fleet. It is no surprise to hear that the Soviets are improving Libya's port of Barada for heavier ships. I wonder whose navy is planning to call?

Mr. President, I see no other reasonable conclusion than that Colonel Qaddafi is out to become Castro No. 2. He is making Libya the Cuba of the Arab World and of Africa. Unlike Fidel, however, the colonel is financed by selling oil, not by Soviet subsidy. This doubles the strategic damage that the colonel can do to our country and our friends. Not only does the colonel have a strategic location better than Cuba's from which he can make mischief north, south, east, or west, but he is able to pay his own way. How pleased Leonid Brezhnev must be to have all the advantages and more of Castro's Cuba, and to make a profit as well.

I do not need to remind Senators what a difference in public reaction there would be if Billy Carter were asked to register as a foreign agent for Castro. Yet, somehow, Libya and its colonel are so far away that we have missed the main point about the Billy Carter-Libyan connection. It is not just that Billy is a foreign agent. It is which foreigner he is an agent for.

If it is any consolation to the President and his brother, I offer this thought: You are not the first to be caught dealing with the colonel. Both the Christian Science Monitor in February and the French journal Le Canard Enchaine last December described the role of President Giscard d'Estaing's nephew in aiding the military objectives of Colonel Qaddafi. But the French connection was no mere release of eight C–130 aircraft. No, the colonel wanted and apparently got something bigger from a French-controlled company—300 tons of uranium. Colonel Qaddafi knows what he needs, I suppose, and he knows how to find friendly relatives of Presidents who can help out.

GENOCIDE: IT CAN BE PREVENTED

Mr. PROXMIRE. Mr. President, 36 years after the holocaust, and 32 years after the introduction of the Genocide Convention, it seems that the Senate has forgotten the practical importance of symbolic moral action.

Many criticize the treaty on the grounds that, because it lacks legal authority, it could never change anything in the real world, it could never really halt genocide. Mr. President, in order to refute this specious claim, I have sought out historical examples of symbolic action that have had tremendous practical significance. Mere statements, such as those in the Genocide Convention, have actually stopped acts of genocide.

In my search for these precedents, the story of religious opposition to Hitler's euthanasia program was particularly outstanding. Operating without the force of law, making use of purely symbolic moral statements, one religious leader in particular made a difference.

This man, Pastor Martin Niemoller, motivated his congregation to vehemently protest the Nazi policy of genocide against the aged, infirm, and mentally retarded. The euthanasia program had begun unannounced shortly after Hitler's rise to power. In the mid to late thirties, families began receiving notices of the death by heart failure of institutionalized relatives. Comparing these notices, relatives of the deceased recognized a similarity among the stated causes of death. Soon it was widely suspected that mass gassings were in fact taking place.

Those living near or working in state institutions confirmed the suspicions and an extraordinary public outcry was heard, spearheaded by the church. Recognizing a fundamental threat to his political power, Hitler felt that he had to compromise with the powerful church elements, lead by Pastor Niemoller. Shortly after the deaths began, they were stopped—a striking example of a moral condemnation with concrete effect.

Mr. President, if anyone has been thought beyond the reach of moral statements and protests, it was Hitler. But even this dictator yielded to a moral proclamation. With this kind of precedent, I ask my colleagues why we still refuse the ratification of a moral document that would go beyond even Pastor Niemoller's statement. The Genocide Convention, if ratified, would carry with it the force of an entire nation.

If such statements could have so profound an impact on the most autocratic regime of modern times, think of its possible benefits to a world order already more humane than the Nazi regime.

Surely if Pastor Niemoller could summon the relatively small effort necessary to rise up in support of the Genocide Convention, which is so perfectly in tune with the fundamental policies of our state.

Mr. President, Pastor Niemoller perished in a concentration camp for his statements in opposition to genocide, but thousands were saved by his moral leadership. In the comfort of our democracy, is there any excuse for us not to reaffirm Pastor Niemoller's moral stand? We cannot see the future clearly enough to be sure that our actions will not someday make a difference.

The case of Pastor Niemoller, who helped call a halt to Hitler's genocidal policy of euthanasia, proves to us that moral statements, even without support from political authority, can make a difference. Let us make a moral statement today—and ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the Senate will now resume consideration of H.R. 39, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged equally to all sides.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, reserving the right to object, I am here and prepared to conduct business, and the others are not. My time is very precious. The others have overwhelming amounts of time compared to what I have.

I would hope that the time will be charged to the main managers of the bill, Senator JACKSON and Senator HATFIELD.

Mr. ROBERT C. BYRD. Mr. President, I do not have any desire to impose on anyone's time. Mr. TSONGAS is here, Mr. HART is here, Mr. GRAVEL is here, Mr. JACKSON is on his way, and Mr. HATFIELD is on his way. I therefore yield the floor.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against anybody's time.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, I do not think we should have quorum calls and not have them charged. I respectfully object to the request.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the time be charged to the Senator from Washington and the Senator from Oregon equally.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. Mr. JACKSON has by far more time than any other Senator. I hope he will not resent my asking that the time be charged against him in this instance. Therefore, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MITCHELL). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am going to put in a live quorum because the time is wasting. I would hope Senators would come to the floor.

I hesitate to put in a live quorum because there are committees that are attempting to meet and I would rather not disturb them.

But I would suggest that if debate does not start on this measure within 5 minutes, I will be constrained to suggest a live quorum which will result in a rollcall vote.

So at the moment, I withhold any indication on the presence of a live quorum, and I shall wait 5 minutes.

Mr. President, I ask unanimous consent that the time be charged on this quorum against Mr. JACKSON, as I earlier conditioned.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, tomorrow is the last day before the August break for the convention, and the Alaska lands bill is now pending. Time is of the essence.

I suppose that close to 20 minutes or a half-hour have passed since the nomination was voted on. I urge that Senators come to the floor and begin work on this bill. Several Senators are in the Chamber, but nobody seems to be willing to proceed at the moment. Everybody is waiting on everybody else, I suppose.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. My understanding was that when we reconvened this morning, we would proceed immediately to the amendments to be offered by the Senator from Alaska, and we are prepared.

Mr. ROBERT C. BYRD. Can the Senator from Alaska proceed with his amendment?

Mr. GRAVEL. Mr. President, it was my understanding that we would have the principals here to engage in working the will of the Senate; and we do not have the principals here—the committee chairman and the other Senator from Alaska. Certainly, I am prepared to send to the desk my amendment and ask that it be considered, but I do not think it is unfair to expect to have all the principals here on this issue.

Mr. ROBERT C. BYRD. I am sure that the other principals will be here. In my judgment, it is not a justification for the Senator not proceeding to call up his amendment. If he calls up his amendment, the leadership will do everything possible to get the Senators here shortly. I hope the Senator will send his amendment to the desk.

Mr. GRAVEL. I am happy to accommodate the majority leader and send my amendment to the desk. I ask that immediately after that, the majority leader put in a quorum call and get the principals here, and be patient until we get the principals here.

I have no problem in making this the pending business, with the proviso that we get the principals here. Otherwise, I will be speaking to two fine colleagues, but they are not the only principals involved in the process.

It is not with disrespect to these honorable men, and certainly with the fullest respect to the majority leader, that I believe I am totally within my right in insisting that these gentlemen partake in the process, since they did partake in the process for a week and a half behind closed doors.

With that proviso, I would be willing to cooperate fully with the majority leader and, as indicated yesterday, to call up my amendment, but then have a quorum call, awaiting the arrival of the

Senator from Oregon and the Senator from Alaska.

Mr. TSONGAS. I will not object to the quorum call, so long as the time is equally divided. If we are going to be in a situation where one person happens to leave the Chamber and we will have everything suspended, we will be here until Christmas.

Mr. GRAVEL. I do not believe that was the intent of my proposal. I believe I am entitled to have the major proponents here at least when I explain the initial part of it. I do not think I would make that request after that. We are about to begin, and no one is here but the three of us.

Mr. TSONGAS. I say to the Senator from Alaska that I have spent a good part of my senatorial career speaking to an empty Chamber.

Mr. GRAVEL. I say to the Senator from Massachusetts that I am trying to improve on the quality of his career.

Mr. TSONGAS. I think the Senator just did.

Mr. ROBERT C. BYRD. Mr. President, I do believe this colloquy is adding to the illumination of Senators on the matter at issue.

Mr. STEVENS is here and Mr. HATFIELD is here; Mr. GRAVEL is here. Mr. JACKSON is on his way.

I hope the Senator will present his amendment and proceed with it, because I do not believe that, in the end, the situation will be influenced by waiting another minute or stating who is not here or who is.

Will the Senator proceed?

UP AMENDMENT NO. 1501

(Purpose: To redesignate certain limited acreage within proposed national parks as park preserves in order to allow the continued opportunity for sport hunting and trapping)

Mr. GRAVEL. I thank the majority leader. Hope springs eternal, and I always think there is a chance that you may persuade someone around here. You never know.

Mr. President, I send to the desk my amendment, and I ask that it be read. It is a very short amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an unprinted amendment numbered 1501:

Page 372, delete lines 5 through 8 and insert the following:

"ing approximately four million three hundred and seventy-nine thousand acres of Federal lands, Gates of the Arctic National Preserve, containing approximately two million five hundred and thirty-nine thousand acres of Federal".

Page 376, delete lines 19 through 22 and insert the following:

"proximately two million two hundred and ninety-five thousand acres of Federal lands, and Lake Clark National Preserve containing approximately one million three hundred and fifty-eight thousand acres of Federal lands,".

Page 378, delete lines 19 through 22 and insert the following:

"taining approximately seven million three hundred and sixty-seven thousand acres of Federal lands, and Wrangell-St. Elias Preserve, containing approximately three million seven hundred and sixteen thousand acres".

Page 381, delete lines 6 through 10 and insert the following:

"(2) Katmai National Monument by the addition of an area containing approximately eight hundred and seventy-seven thousand acres of Federal land. An addition four hundred an sixty-eight thousand acres of Federal land is hereby established as Katmai National Pre-"

Page 381, delete lines 21 through 25 and insert the following:

"(3) (a) Mount McKinley National Park by the addition of an area containing approximately one million eight hundred and sixty-five thousand acres of Federal land, and an aditional one million eight hundred and ninety-one thousand acres of Federal land is hereby es-"

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, a parliamentary inquiry. What is the time situation for all the parties at this time? How much time does the Senator from Washington (Mr. JACKSON) have on the bill?

The PRESIDING OFFICER. Senator JACKSON has 183 minutes. Senators HATFIELD and STEVENS have 114 minutes. Senators DURKIN and TSONGAS have 109 minutes. The Senator from Alaska has 56 minutes.

Mr. GRAVEL. Senators HATFIELD and STEVENS have 114 minutes. Is that what the Chair has stated?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. I thank the Chair.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. I have an hour on this amendment and the opponents have an hour on this amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, I yield myself 10 minutes.

The amendment that I have sent to the desk redesignates approximately 1,970,000 acres of the 22,250,000 acres of national parklands in the Senate committee bill as national park preserve lands.

So what we are doing with this amendment is changing the status of parklands to preserve lands to the tune of 1,970,000 acres.

The amendment includes acreage redesignations in five units of the national park system in the bill: The Gates of the Arctic wherein we designate and preserve 422,000 acres; Lake Clark, 144,000 acres; the Wrangell-St. Elias, 623,000 acres; Katmai, 59,000 acres; and the Denali, 722,000 acres.

If I might take this opportunity to point them out on the map for the benefit of our colleagues, this here is the Gates of the Arctic Area that would be added as a preserve. This is, of course, the McKinley Park which is redesignated as Denali Park. And this is the area that would be designated a preserve. This area here for the Lake Clark Area, and this area here for the Katmai Area, and this area here for the Wrangell-St. Elias.

I do want to thank the distinguished Senator from Massachusetts for his unusual generosity in his compromise. He was able to see fit to include in his compromise this little area here southwest of the present existing park where hunting would be permitted. All the other areas were not accommodated. So I think that this depicts pretty graphically the nature of the compromise. They could have gone into these other areas, but did not except this minor area here.

In all but Denali, the remaining park areas would be reduced by less than 10 percent. Overall, this amendment affects only 9 percent of the national park acreage proposed in the Senate committee bill and only 5 percent of all lands proposed for inclusion in the national park system in Alaska.

Under the provisions of the bill, preserve designation varies from park designation only in that sport hunting and trapping uses are permitted in a preserve.

Mr. President, let me underscore this. We are not talking here about anything that is radical. We are just saying that in all aspects, all other management prescriptions, including those for timber, hard-rock mining, oil and gas, and other developments would be identical to those in the parks. So we are not touching any other facet of these parks other than to permit hunting, guiding, and trapping.

Sport hunting and trapping in addition to subsistence uses of wildlife have been occurring for decades in many of the areas proposed for the national park designation. The outstanding wildlife resources which characterize many of the proposed park units have sustained this hunting and trapping use under State management with no apparent adverse impact on game populations.

Mr. President, in the course of the deliberations of the committee which I attended through the gracious invitation of the distinguished junior Senator from the State of Washington, I had raised the question to the staff and members of the committee if any study had been made to determine the impact on wildlife by denying hunting, since there has been hunting in these areas for decades. What now would be the impact on this wildlife by abruptly cutting off a practice that seems to have created a balance of wildlife?

I think we are all familiar with situations where various wildlife in ecosystems develop a balance and with proper management—and we have had proper management by the State in Alaska—that balance is maintained.

Now if we suddenly cut out the hunting, what will be the impact on the wildlife? No one knows. There are no study done by the committee. There is no study done by the Interior Department. There is a capricious act that is taking place.

So in fact, what could be a sincere desire to take care of the wildlife in the habitat may actually destroy the habitat and the wildlife. A greater abundance of wildlife as a result of no hunting could throw things out of balance and literally destroy the habitat.

We have seen this with the Pribilof seals, where there is great opposition to the harvesting in the Pribilofs. There is ample empirical evidence to show that were we to alter this pattern we likely would drive the Pribilof herd almost literally to extinction.

So with that empirical evidence, to go forward with this in no more than a capricious fashion I think raises strong questions.

When I raised this in the committee I was informed that no study had been made by Interior and no study had been made by the committee. We just capriciously go forward to alter this very delicate natural balance. It is unfortunate because for some reason there are people in our society who do not feel that homo sapiens are part of the balance of nature. For some reason some people think that human beings are outside of the ecosystem and, of course, that is not the case. They are no more outside of the ecosystem than moose, lynx, bear, caribou; than the hundreds of millions of cattle that are slaughtered daily so that we may grace our tables with red meat and enjoy the protein to nourish our bodies.

So if the balance is not injurious to our ecosystem in that respect then I might say that the proponents of this legislation do potential violence to the balance of the Alaskan ecosystem.

Were they to come forward with a study that had anticipated the impact of denying hunting in these areas then I think there would be some merit to their position.

But in the absence of any studies, to make a capricious political decision I think is certainly not dignified to any degree of legislative perpetuity to be demonstrated by the committee.

Although there is a need in some cases to set aside park areas where no sport hunting or trapping can occur for visitor use and appreciation of unhunted wildlife populations, the current bill sets aside over 22 million acres of parklands where all sport hunting and trapping would be prohibited.

I might say for the edification of the body and with the quick perusal we have made of the Tsongas-Stevens-Jackson proposals, which I now hold in my hand——

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. GRAVEL. I yield myself 1 additional minute.

I might say that this adds an additional 2-million-plus acres that will go into additional parks and which would have a potentially adverse impact upon the wildlife in question.

This area we are talking about is an area the size of the State of Maine, an area that is the size of 10 Yellowstone National Parks.

Mr. President, I have laid down a broad outline of my amendment. I think I have made some serious charges about the management of wildlife put forth by the committee, and I would be interested in hearing why we must potentially do so much damage to the wildlife in question. Once we can hear the rationale from the proponents of this most unfortunate act, I would then deal with the human beings who may be adversely impacted by this action.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, is it the Chair's intent to allocate time as to who has the most time remaining?

The PRESIDING OFFICER. It is the Chair's intent to allocate time by who has time.

Mr. TSONGAS. Let me say that it would be our intent, speaking for the committee, to perhaps take at the most 10 minutes in rebuttal at the end of the discussion and, therefore, the committee would not request time at this point.

The PRESIDING OFFICER. If neither side yields time then time will be equally——

Mr. GRAVEL. Mr. President, I yield myself 2 minutes. I do not think I am being dilatory. I have made some serious charges here. I just said this committee is capriciously locking up land, denying hunting, bringing about an imbalance in the wildlife. Maybe the committee might want to set the record straight, and they have time to debate this. So if they do not want to debate it let them yield back the remainder of their time and I will go forward with mine. But they clearly want to be dilatory. I do not want to be dilatory.

I have made a charge. If they can respond to it in the time that is allotted to them I would like to hear the response. I think the committee is acting capriciously and politically. Everybody thinks, "Boy, we are saving Alaska, we are saving the animals in this area," but what I say is that, in fact, there is no study that refutes my argument. Altering the balance that these areas have had for many decades may well put the wildlife in jeopardy. I think that is a charge that should be responded to.

I cannot understand why my colleagues on the other side of the issue are reluctant. Maybe they are struck by the shame of their actions; maybe there is no reason for what is being done other than the avaricious desires of the no-growthers who feel that simple hunting is obviously a part of our growth ecological system.

So, Mr. President, I again would retire for a few moments and see if my colleagues are prepared to respond to these very strong charges against the actions of the committee and against their own actions. There have been no studies made on this. I want somebody to stand up here and tell me——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. GRAVEL. I hope my colleagues will respond to these charges.

The PRESIDING OFFICER. Time is yielded by whom?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Who controls the time in opposition to this amendment?

The PRESIDING OFFICER. The Senator from Washington (Mr. JACKSON).

Mr. JACKSON. In the meantime I have delegated that authority temporarily to Senator TSONGAS.

The PRESIDING OFFICER. Who yields time? If neither side yields time, then time will run equally against both sides.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I have made every effort in these deliberations to not be dilatory. The managers of the bill were party to a time agreement and also were party to the exchange of amendments for consideration. Now because of shame or whatever reason, they have no response to a valid point made. I think the record is going to be very clear that their shame is so great and their actions are so terrible that there is no response to this. I think they ought to hold their heads low because I think they will go home and say that they did something to protect the wildlife of Alaska when, in fact, they could have done just the opposite. They could be altering these balances and doing great damage to the wildlife of Alaska without knowing it.

I see my distinguished colleague from Massachusetts, who is a very fair person, who is a very decent person, who has been gracious to me, rise now. He may obliterate this great shame that now exists because information has not come forward from his side of the aisle.

So I yield the floor to permit him this opportunity to straighten out the record so that we will all know if they are doing the right thing or doing the wrong thing.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Let me simply indicate that the committee response to the amendment is only going to take 5 or 10 minutes. It has been our preference to have that at the end of the discussion rather than at the beginning.

Let me say that yesterday the key words were "down and dirty" and "black day of the Senate." Today's key words are going to be "shame" and what is the other one?

Mr. GRAVEL. I will think of some others. [Laughter.]

Mr. TSONGAS. But our argument is concise and persuasive and I would rather do it at the end than at the beginning. If the Senator wants to use his time, we will simply make the rebuttal and we will be prepared to yield back the remainder of our time. We have no need to take up the full hour.

Mr. GRAVEL. Mr. President, will my colleague yield?

Mr. TSONGAS. Yes.

Mr. GRAVEL. I would be happy to yield back the remainder of my time, too. There are only a few other points I am going to make. If there is no correction of the RECORD and you want it to stand that there has been no study made, that you have made some capricious, political decisions, and if it is only going to take you 10 minutes, then take your 10 minutes or whatever you think it takes to rebut this one point, but let us have a process here. This is supposed to be a debating society to illuminate issues, and I want to say that on your side of the aisle there has been very little illumination thus far.

Mr. TSONGAS. Mr. President, on whose time are we now talking?

The PRESIDING OFFICER. On the Senator from Massachusetts' time.

Mr. TSONGAS. If I am going to be eviscerated I would rather it be done on someone else's time than my own.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, let me go back to the logic of it again. They say they can respond to everything I am going to say, and I will use 3 minutes, Mr. President—they say they can respond to everything I am going to say in 10 minutes. That means they can probably respond to this first point in 2 minutes. Well, why do they not do that? Why do not these distinguished members of the Energy Committee, who have made the decision to not protect the animals up there tell us why they do not want to protect those animals in Alaska? Is that too much to ask?

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. TSONGAS. Several of my constituents often have made the same mistake in the last 2 weeks, I must say.

How much time remains to both sides?

The PRESIDING OFFICER. The Senator from Alaska has 43 minutes and 50 seconds; the Senator from Washington has 55 minutes and 25 seconds.

Mr. TSONGAS. Well, in pursuit of what I understood to be the recommendation of the Senator from Alaska, if he would yield back half an hour, I would be glad to yield back 40 minutes, then we would be down to 13 minutes and 15 minutes, which is about the same, and I think we could make our arguments.

Mr. GRAVEL. Mr. President, if my kind colleague, the distinguished Senator from Massachusetts, would permit me, is it not interesting that we sit here as two U.S. Senators in the most deliberative body on the face of the Earth and nitpick about whether or not we are given 20 minutes or give back time?

I have made some serious charges. If the Senator can respond to those charges of the terrible work that has been done by him and his committee, then do so. And then once that has been stated, if we do not need any more time we can turn it back, but do not stand there and tell me, "Well, let's give back our time."

This is not a game of shrinking time. We are trying to expostulate on issues so that we can understand what we are doing and so the American people can understand. So when the Senator goes back to Massachusetts and tells people that he worked hard on the Alaska lands bill to protect the wildlife, then he is not telling them the truth. Because the truth of the matter is he did nothing to protect the wildlife. What he did is he locked up some land, stopped hunting, and altered the balance. He does not know the consequences of what he has done and those consequences could be very severe for the wildlife. So take that back to Massachusetts.

If the Senator wants to respond to that, if he can do it in 2 minutes, do it in 2 minutes; if it takes him 10 minutes, do it in 10 minutes. He has the time.

Mr. TSONGAS. Mr. President, am I being attacked on my time?

The PRESIDING OFFICER (Mr. EXON). The Senator's time is being charged to the Senator who is speaking, it is the Chair's understanding, with the agreement of the Senator from Massachusetts.

Mr. TSONGAS. Well, I feel better about the attack, then.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself such time as I may use from the time allocated to myself and the Senator from Oregon (Mr. HATFIELD).

This is one of the areas that I wish that we would have had more support through the committee process. These are areas that I, too, tried to get excluded from the restrictions against hunting. I would support the amendments as being amendments that should be adopted.

I think the difficulty with the process is that these are amendments to the Senate committee bill. As I am sure the record will show, we have argued about these areas and tried to have them remain open to hunting. I do believe they should be open to hunting and I am, unfortunately, not in the position of being able to have these amendments voted on as amendments to the Tsongas substitute under the time agreement.

These are amendments to S. 9. I would hope, as I have conveyed to the committee, that the committee would accept the amendments to S. 9 and in the event the Tsongas substitute does not pass, they would be on S. 9 as it went to conference. I would think that would be the proper procedure, and I hope it is the procedure that is followed here in the Senate.

The PRESIDING OFFICER. Who yields time?

Time will run equally against both sides.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alaska is recognized.

Mr. GRAVEL. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. When the distinguished senior Senator from Alaska spoke, did he speak on the time of the Senator from Massachusetts in opposition to my amendment or was there other time that was allotted to him in that regard?

The PRESIDING OFFICER. The senior Senator from Alaska spoke on his own time from the bill.

Mr. GRAVEL. Again, I have made some serious charges about wildlife management. This committee is in charge of this. Those charges have not been responded to by the Senator from Massachusetts. I see him diligently trying to do his homework because he is intently speaking to staff. Maybe it is not too late to change some minds. Maybe he will realize that a study was not done.

But I think that if this is going to be the way the opponents to the amendment or the proponents of the bill conduct themselves, then I think the case is made before the Senate that it is not I being dilatory, it is the distinguished Senator from Massachusetts and his cohorts who are being dilatory. They refuse to speak to the issue and in so refusing deny the American people the elucidation so necessary on legislation like this.

I certainly mean no disrespect to the Senator from Massachusetts. But for him to put himself up as a champion for something that affects entirely the State of Alaska and to sit there mute as to the consequences of his act, it leaves one to wonder about what truly is behind this. He cannot stand up and address this one simple little issue, that here we are denying hunting where hunting has gone on for decades, where a balance in the wildlife exists with the entire ecosystem. If he alters this through a capricious political act and sits there mute, then let him be indicted, because what truly is taking place here is the rape of Alaska, the locking up of Alaska.

And so never let him say on the stump in Massachusetts or anyplace else in the United States that he is saving Alaska. Let the word go forth that what he is doing is just locking it up and he does not know what he is doing and does not know the consequences of it.

So I can only stand here as a person who also was born and reared in Massachusetts and say that I will carry his shame, to some degree, on my shoulders and that when I go back to the home of my birth, it will have to be with that shame. I will try as best I can to explain his unfortunate shortcoming and his being the puppet, the unfortunate puppet, of the no-growthers in this Nation who, in their desire to deny the treasure of Alaska to this great Nation of ours, are willing to sacrifice the wildlife of Alaska, which is essentially what is being done.

Again, Mr. President, I ask the Senator—I implore the Senator from Massachusetts, I implore any Senator who is sitting here who can tell me any rationale that exists for doing this, for denying the historical hunting rights.

Let me ask my good friend from Massachusets, is that sufficient motivation to cause him to stand and defend himself a little?

Mr. TSONGAS. Mr. President, how much time remains at this point?

The PRESIDING OFFICER. The Senator from Alaska has 38 minutes, and the Senator from Massachusetts has 54 minutes.

Mr. TSONGAS. I thank the Chair.

Let me just to my friend from Alaska, that I still intend only to take 5 or 10 minutes to make the rebuttal and still would prefer to do that at the end.

I would also say that, whenever the Senator desires to return to the State of his birth, I would be prepared to welcome him and do everything that is necessary to make him feel at home.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 38 seconds remaining—38 minutes.

Mr. GRAVEL. I thank the Chair. The Chair gave me a slight palpitation.

Mr. President, I yield myself 5 minutes. Since that point is unanswered, I would like to move to another point.

Mr. President, I know that the distinguished Senator from Massachusetts and the other members of the Energy Committee are people that are deeply concerned about employment, because they are experiencing in their States a fair amount of it.

So here we have a situation in these areas which the sportsmen of Alaska and the rest of the country feel is very critical. We have in these areas people who are employed, people who make their living. In fact, the week before last on a special order I recited a story about an individual who lost $10,000 because the Secretary of Interior did not have the milk of human kindness in his heart to permit this person to go through with a season of planned hunting activities. This person had contracted for some horses so that he could take a hunt in. He was denied the ability to do that. That person literally lost all of his net worth as a result of that capriciousness.

I want that kind of hardened, callous approach to really rest at the hands of the committee. What we are doing in this specific piece of legislation—and, of course, it is done at greater length throughout the bill—is telling trappers who live off the land, who try to render no harm to the balance of society, who want to live close to nature, "You cannot make your living here any more."

Maybe a person has spent 10 or 15 years of his life building his cabin and that is all he has, without water or electricity, a cabin that he built with his bare hands. Now you tell that person, "Get lost, Charlie. We do not really care."

You do not care. You can sit here and say, "I will respond to that," but I think the record will be clear that you do not care. These are human beings that you are doing great personal damage to.

We are not talking about somebody at the beginning of his life; we are talking about somebody in the full flower of his life, in his fifties, who will do what, when he has spent most of his life trapping?

Here we have a piece of legislation that is categorically designed to place people on the unemployment rolls, just in this small area.

So I make another charge to the committee. That is a charge of callousness, human callousness and lack of personal concern. Were this to happen in their State, they would be up in arms, outraged. But because it is happening far away, and the numbers are not great, no one cares. No one on this committee cares.

I would say to my distinguished colleague from Massachusetts, who is considered to be sensitive to people's needs, why did the committee not at least put in a grandfather clause? When we do other things in legislation, and I have been party to them, when we hurt people—like when we did something to the Redwood Forest in California—we put up the money to relocate the people, to bring about a new and different life. But did the committee have that degree of sensitivity? Of course not. There is no grandfather clause. There is no money put up. All we have is total callousness, like there are really no human beings involved.

Well, let the record speak to what the committee has done in that regard.

Now that I have made my second charge, the human element, I would hope that a Senator, any one of the Senators on the floor, could speak to that issue. Maybe the committee has done something that I have not spotted.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time? Time will run equally.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GRAVEL. I ask unanimous consent that it be charged to the opponents of my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. TSONGAS. There certainly is, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum and leave it to the imagination of the Chair as to how the time will be charged.

The PRESIDING OFFICER. Under that situation, the time would come from the Senator from Alaska.

Mr. GRAVEL. The precedent——

The PRESIDING OFFICER. Is the Senator from Alaska moving for a quorum call?

Mr. GRAVEL. Let me suggest the Chair is not imaginative enough. The precedent has been that it be shared on both sides, the time on the bill. If we cannot do that——

The PRESIDING OFFICER. As the Senator from Alaska knows full well, that can only be done by unanimous consent. The Chair posed the question. The Chair recognizes, properly, the objection by the Senator from Massachusetts.

Who yields time?

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum. There is not a quorum present. Under the precedents of the bill, that time is charged to both sides. If the Parliamentarian and the Chair are altering that precedent which has already been set, I think we should know that right now.

The PRESIDING OFFICER. The Chair will advise the Senator from Alaska that on page 652 it states:

> Under a unanimous-consent agreement——

Mr. GRAVEL. Will the Chair indulge me until I get my book out? What page is the Chair referring to?

The PRESIDING OFFICER. 652. It is the bottom paragraph on 652.

> Under a unanimous-consent agreement, placing a limitation on debate and providing for control of time, a quorum call is not in order prior to the expiration of the time allotted for the debate, or until yielded back unless the Senator calling for a quorum has sufficient time for such call to be charged against his time for debate, since the time for the quorum call will be charged against the time of the Senator calling for the quorum unless otherwise ordered by the Senate.

I think the precedent is quite clear.

Mr. GRAVEL. A parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. Would it be in order to redistribute the time already allotted on the fill bill under the same clause? We could go back into the RECORD and find out who asked for the quorum calls for the past 2 weeks and properly apportion that time on the bill, which was under a unanimous-consent agreement also. I would ask the Chair to direct the clerk to make that investigation so that we could properly apportion the time that has already been obviously misapportioned on the bill.

The PRESIDING OFFICER. The Chair will advise the Senator from Alaska that in the opinion of the Chair the precedents are very clear. Time agreements have been entered into. The quorum call that was requested by the Senator from Alaska would be in order charged against his time or it would be in order under some other unanimous-consent agreement. Who yields time?

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. The Chair has not responded to my request. That request was that if this clause is applicable to my amendment, it is also applicable to the bill itself, which is under a unanimous-consent agreement. We, for the last 2 weeks, have been charging, and we have had rulings from the Chair—in fact, I made a motion on this very subject on yesterday—that the time would be allotted to both sides when a quorum is not present.

All of a sudden, the rules are being changed and when the lack of a quorum is noted, it is now to be charged only to one party. That is not the way we have been playing it up to this date. If we are going to change the rules now, I ask the Chair to direct the clerk to assess the RECORD and reapportion the time based upon who asked for the quorum calls for the last 2 weeks.

The PRESIDING OFFICER. The point that the Senator from Alaska may be overlooking is that each time, in regard to the last 2 weeks, when a quorum call had been requested, it has been granted, under unanimous-consent agreement that the time be equally charged.

The Chair points out once again to the Senator from Alaska that his call for a quorum equally charged under unanimous consent would have been in order, but the Senator from Massachusetts objected to that. It is the ruling of the Chair, therefore, that if we are going to have a quorum call, the time must be properly charged to the Senator from Alaska.

Mr. GRAVEL. Let me say to the Parliamentarian and also, respectfully, to the Chair, that my memory may sometimes be faulty, but I do not think my memory is faulty here. I think there may have been an instance in the last 2 weeks that unanimous consent was not asked and that we probably did go forward and charge it to both sides. I therefore ask the Chair most respectfully to direct the clerk to make an investigation of the record of the past 2 weeks on this subject so he might report to the Senate that maybe something wrong has happened and that we are changing the rules, and that I might seek some remedy before this august body in the treatment of the time.

Am I in my rights as a Senator to ask the Chair to direct that an investigation be made on that, because my memory just does not coincide exactly with the Chair's? Of course, my memory may be faulty and I shall be prepared to apologize if my memory is faulty in that regard. But it will only take an examination of the record to find that out.

The PRESIDING OFFICER. It is the opinion of the Chair that the request by the Senator from Alaska is not in proper order. The Senator from Alaska does not have the right to direct or request the clerk to make an inquiry along the line that has just been outlined by the Senator from Alaska. Therefore, it is not a parliamentary inquiry in the normal sense.

Mr. GRAVEL. A parliamentary inquiry to the Chair.

I beg to differ with the Chair in that regard, because if we had performed that act, we have set precedent. Since the interpretation of the rules is based upon precedent, all I am asking is that we investigate to see what the precedent was. We only need to investigate the last 2 weeks. So I do not know if it truly is not within the right of a Senator to ask the Chair to ascertain the precedents of the Senate. Surely, that would seem to be a reasonable right.

The PRESIDING OFFICER. The Chair maintains the position that the request of the Senator from Alaska is not a parliamentary inquiry and therefore is not in order. The Chair cannot entertain the request made by the Senator from Alaska, unless it is put in the form of a unanimous-consent request.

Mr. GRAVEL. I thank the Presiding Officer for his patience and I really want to convey my respect.

I should like to make a point of order. That is on the ruling that the time can only be charged to one side in a debate and I would make an appeal from that ruling if it may be permitted. I ask for the yeas and nays on that appeal.

The PRESIDING OFFICER. Is the Senator from Alaska making the point of order that the time should not be charged to the Senator from Alaska under the quorum call that he has requested?

Mr. GRAVEL. That is exactly the ruling that I am asking for and I feel that the time should be charged to both sides in a quorum call, as it has been the practice up until now on the existing bill.

The PRESIDING OFFICER. In the opinion of the Chair, the point of order is not well taken.

Mr. GRAVEL. I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? It is the opinion of the Chair that there is not a sufficient second.

Mr. GRAVEL. Mr. President, if there is not a sufficient second, there obviously is a lack of a quorum and as of yesterday's precedent, I suggest the absence of a quorum and ask that it not be charged to anybody.

Mr. JACKSON. I object.

Mr. GRAVEL. We had precedent yesterday, Mr. President.

The PRESIDING OFFICER. Under the precedent, the quorum call immediately preceding a rollcall is not charged to either side. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. A parliamentary inquiry, Mr. President.

Mr. GRAVEL. I object, Mr. President, the rollcall is in progress.

Mr. TSONGAS. The Senator from Massachusetts was on his feet.

Mr. GRAVEL. I object, Mr. President. A rollcall is in progress.

The PRESIDING OFFICER. The Chair will recognize the Senator from Massachusetts under due course.

Mr. TSONGAS. Mr. President, what is exactly the situation?

The PRESIDING OFFICER. The Chair reminds the Senator from Massachusetts that a quorum call is presently in progress and debate is not in order.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 18 Ex.]

Byrd,
Robert C.
Exon
Goldwater
Gravel
Hollings
Humphrey
Jackson
Pell
Riegle
Stevens
Tsongas

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. President. I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—89

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—3

Goldwater
Proxmire
Weicker

NOT VOTING—8

Church
Javits
Kennedy
Long
McClure
McGovern
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Several Senators addressed the Chair.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I was seeking recognition and ask for the yeas and nays on this motion to table.

I did not even hear if a motion to table were made. I do not know what they are saying.

The PRESIDING OFFICER. There was a motion to table the motion to reconsider the vote. The Chair asked if there was objection to that. The Chair heard none.

Mr. GRAVEL. Mr. President, I must

say to the Chair with all due respect this was made by a Senator in the well whispering to the Chair, and I am standing right here with my ears open and I did not hear any process, except I heard, "table," actually the word "table" somewhere.

I hope the Chair will just properly recognize Senators who promptly speak up so other Senators will not lose their rights under the rules in question.

So I seek recognition now that we have established a quorum is present.

The **PRESIDING OFFICER**. The Senator from Alaska is recognized.

Mr. **GRAVEL**. I thank the Chair.

Now that we have a quorum, I wish to explain to a few of my colleagues what is taking place here.

I have offered an amendment as I indicated I would yesterday. Yesterday I also indicated that I would forgo the right to have the substitute amendment which we now have before us here because of the courtesies extended to me.

I offered my amendment and then I proceeded to debate my amendment and the members of the committee who manage the opposite side at the time sat mute, with really no desire to respond to the points I was making.

And the points I was making were two:

First, that my amendment seeks to open up some areas to hunting. These areas were closed down to hunting because the committee, in my mind, made a capricious and arbitrary decision. When I asked the committee in its deliberations if it had a study done by Interior to determine what the impact of stopping the hunting would be the committee did not call for a study to be done. Interior did not have a study done. So obviously there are those who say that we are protecting the wildlife when in fact we can be seriously damaging the wildlife was the first point I made which was not responded to.

The second point I made is that they are putting people out of jobs. If we put people out of jobs in Michigan, we break a leg to go out and put some money up for Chrysler. But because we are dealing with a small number of people who are put on the unemployment rolls, we are told, after they have spent their very lives building a log cabin and going out trapping, that now this is wiped out. We will send the Federal bureaucrats to burn their cabins to the ground and place these people on unemployment.

When it is in Michigan it means something in this body. But when it is in Alaska and the numbers are smaller, it apparently does not.

Mr. **ROBERT C. BYRD**. Mr. President, will the Senator yield for a question only?

Mr. **GRAVEL**. I am happy to yield to the distinguished majority leader.

Mr. **ROBERT C. BYRD**. Mr. President, I have to go to my office. But it is my intention to move to table the appeal. I do not want to do so until the Senator has completed his statement and I could not because he has the floor anyhow. I would rather not have to move to table.

I am not an advocate on one side or the other with respect to the bill. So I would move to table and I am sure with the understanding of the Senator that I do it reluctantly. I do not like to move to table anyone's appeals. But I hope the Senator will withdraw his appeal so that there will be no necessity for moving to table.

May I say that the Chair ruled that in the event there is a time agreement such as there is at the present time, any quorum call has to come out of someone's time unless the request for a quorum call is just prior to the taking of a vote. If time has expired and a rollcall vote is about to be taken, any Senator has the right under the Constitution and the precedents to suggest the absence of a quorum and, of course, there is no time to be charged against anyone; he has that right. But as long as there is time remaining on the matter no Senator in any time agreement we have ever had is allowed to suggest the absence of a quorum without that time being charged against someone's time or equally, and all the Chair is doing here is upholding the ruling.

Mr. **GRAVEL**. Mr. President, will the majority leader yield?

Mr. **ROBERT C. BYRD**. I yield.

Mr. **GRAVEL**. If I might state on my time and not on the leader's time, we were operating under a precedent of comity where proponents had considerably more time than the opponents in this particular case. All I was asking was that we charge the time to both sides, and the Chair has ruled based upon interpretation of the rule on page 652, which I disagreed with.

I think comity of the Senate would require that we charge the time equally to both sides, since this is a debating organization that prides itself on this and the exhumation of information. The tactic being employed by the managers of the bill in just trying to bleed time out without illuminating the Senate is dilatory tactic.

So, in that regard, I can only take recourse to dilatory tactics myself, and I think they are uncomfortable tactics.

Mr. **ROBERT C. BYRD**. Mr. President, will the Senator yield to me?

Mr. **GRAVEL**. I am happy to yield to the majority leader on his time.

Mr. **ROBERT C. BYRD**. I do not have any time.

Mr. **GRAVEL**. I say I think the majority leader has sufficient consideration in this body. I am the first to join in that group, and if he would ask unanimous consent for a moment for himself he would properly enjoy it. I do not do this out of disrespect for the leader. My problem is I have such little time remaining that I cannot permit deliberations taking place on my time.

Mr. **ROBERT C. BYRD**. Mr. President, does the Senator yield the floor so I may yield such time?

Mr. **GRAVEL**. I yield the floor.

Mr. **ROBERT C. BYRD**. Mr. President, I yield myself such time as I may require under time under Mr. Jackson's control.

The **PRESIDING OFFICER**. The Chair recognizes the majority leader.

Mr. **ROBERT C. BYRD**. Mr. President, I only wish to get rid of the appeal. That is my interest at this point.

The Chair is correct that in light of all precedents of the Senate, always when we have a time agreement if a Senator, let it be this Senator, if I wish to have a quorum call, I have to get someone to yield me time who is controlling time. I have to get someone who is controlling time to yield me time for that quorum. Or I have to get unanimous consent that the time not be charged for the quorum against anyone, or that it be charged equally. That is the way we operate under a time agreement. Otherwise, it would blow the time agreements out of the water. They would be worth very little.

Now once all time is yielded back or utilized on a matter, then the Senator has the right under the Constitution to ask for a quorum or suggest the absence of a quorum before a rollcall vote, and he does not have to ask anyone time because the time has expired. He has that constitutional right.

But at this point Senators have time. The Senator himself has time. So if he asks unanimous consent that a quorum call not be charged to anyone and there is no objection, that is fine. But if there is an objection, then if there is a quorum suggested, it has to come out of someone's time. That is what the Chair was maintaining, that as long as there is time remaining someone has to yield time unless by unanimous consent it is agreed that the time not be charged, or that it be charged equally.

As I say, once all time is used then such a request is moot. If there is a suggestion of an absence of a quorum, the Chair has to proceed with it before a rollcall vote.

Mr. **CANNON**. Mr. President, will the Senator yield for a question?

Mr. **ROBERT C. BYRD**. Yes.

Mr. **CANNON**. I find some difficulty with that. In reading rule VI of the Standing Rules of the Senate, it says:

> 3. If at any time during the daily sessions of the Senate a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

I would like to inquire then as to how a Senator who has no time on the bill or an amendment, for example, myself, under that rule where there is a very clear statement that I am entitled, if I raise the question of a quorum being present, to raise that question, unless we are changing the rules by unanimous consent, and I do not think we can change the rules by unanimous consent.

We have gone up and down the hill on that issue. So I would like to inquire from the majority leader as to how I or some other Senator, who has no time on the issue in question, can raise the question of whether or not a quorum is present.

For example, right now it is obvious—I can count, and I can count nine Senators in the hall, so it is obvious—that a quorum is not present. I might desire to raise that question. But if I have no time on the amendment I certainly cannot get from the manager of the bill in opposition or the manager in support or vice versa any time to raise the question of a quorum being present.

Mr. ROBERT C. BYRD. The Senator is correct. This has been true from the very beginning of the utilization of time agreements. Any time the Senate is operating on any bill or other measure under a time agreement, and any request for a quorum call is made it must either be done by unanimous consent without the time being charged to anybody or somebody has to yield time for that quorum call, unless all time has expired on the matter and the vote is about to occur, in which instance any Senator may suggest the absence of a quorum. So this is nothing new. This is the situation that always obtains under time agreements.

Mr. CANNON. If I may question the majority leader further then, Mr. President——

Mr. ROBERT C. BYRD. Yes.

Mr. CANNON. Does that mean that when there is a time agreement a Senator who has no time cannot, can never under the rules, raise the question of the absence of a quorum?

Mr. ROBERT C. BYRD. He can at the time the vote is about to occur and all time has been used. Let us say the vote is about to occur on the amendment. When all time is used on the amendment or has been yielded back any Senator may, under the Constitution and under the rules and precedents, suggest the absence of a quorum prior to the taking of that vote. Even if the vote is set for a given hour, the vote is set for, let us say, 1 o'clock, all time has expired any Senator may suggest the absence of a quorum before that vote occurs and before the quorum call will be called.

But so long as there is time remaining on that amendment, no Senator may, without unanimous consent, suggest the absence of a quorum without someone's yielding time for that purpose. That has been our practice as long as I have been in the Senate, now 22 years.

Mr. CANNON. I would just like to make one statement then in response to that. The Senator and I came here at the same time, and I must say that I am familiar with the general rule. If there is time the Presiding Officer generally calls "On whose time" if someone suggests the absence of a quorum. But I think if you look at the situation I am suggesting we are trying to change rule VI without going through the proper procedures to change the rules of the Senate where a person who has no time at all on a particular issue, if you read rule VI, he is entitled to raise the question of the absence of a quorum, and if you apply the so-called unanimous-consent agreement to that you are precluding that type of situation.

I am not objecting to the general rule type of provision. but I may say I will find it much harder to agree to unanimous-consent agreements in the future if this means that no one. except those who have time on the bill either for or against a particular proposition can raise the question of the absence of a quorum, and I think that is a clear departure from rule VI itself.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Nevada has served as chairman of the Rules Committee for a good number of years before taking over the chairmanship of the Commerce Committee, and I respect his viewpoint. I am thoroughly familiar with rule VI. But a unanimous-consent agreement, Mr. President, by the order of the Senate, contravenes the Rules of Senate that might otherwise obtain and limits the time for debate. Otherwise there is no limitation of debate. That is the purpose of a time agreement, to limit the time for debate. So once that unanimous-consent agreement is obtained there goes out the window that rule about unlimited debate.

Also unanimous-consent agreements, if agreed to in the usual form, provide that no nongermane amendment can be offered. There goes another rule out the window because without unanimous-consent agreements there is no rule of germaneness in the Senate, and Senators can offer nongermane amendments.

But once a time agreement is entered into, time is limited, and if the agreement is in the usual form germane amendments are in order, but nongermane amendments are not in order.

Furthermore, there are Senators who control the time, and they can yield from their time on any amendment or motion, and unless a Senator gets time from one of the Senators in control he cannot even speak unless he offers an amendment and gets himself some time on that amendment. He may withdraw it later or make a motion of some kind, and time on motions has been provided for in the agreement. But unless he resorts to some action of that kind he cannot even speak. He has to get from this Senator or that Senator, the managers in control of the time, time on which to speak. If he suggests absence of a quorum, until all time has expired, he cannot even suggest the absence of a quorum unless someone gives him time or unless by unanimous consent of the Senate the time will not be charged.

Now, the distinguished Senator from Nevada has many times sat in this chair as manager of a bill. He has yielded time under time agreements, and he has known, and he knows today, I say most respectfully, that in those situations where there are time agreements that Senators cannot suggest the absence of a quorum without his yielding time or the manager on the other side yielding time or the Senate gives its consent that the time will not be charged.

That is what the Chair has done today. The Chair has simply ruled, in accordance with all of the precedents of the Senate heretofore, and in accordance with logic, because if it were not so time agreements would really be worthless as Senators could come in at any time where there was a time agreement, and say, "I suggest the absence of a quorum," and it would not be charged against anybody, and that would enable a filibuster even under a time agreement.

So I do not care to argue the case further. I simply wanted to state that I hope the Senator would withdraw his appeal. If he does not withdraw it I will respectfully move to table in order to get the matter behind us.

Mr. TSONGAS addressed the Chair.

Mr. ROBERT C. BYRD. I do not yield the floor as yet.

Mr. GRAVEL. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. I think the majority leader has given an unusual dissertation of the rules in this regard.

I do share the same view as the Senator from Nevada, and I think many other Senators probably would.

Many times we enter into time agreements in good faith because we want to accommodate the difficult task of the leadership, which is to get the flow of activities going. It is a thankless task that the Senator from West Virginia has.

But I think we are struck when the point is raised by this anomaly that the time agreements can be entered into when Senators who are not here are not parties to it, and it is impossible for all Senators to be here all the time to suffer the dialog of time agreements, and so automatically, because of this process of effecting the flow of business or the exigencies of that requirement, we disenfranchise ourselves from the full flower of our prerogatives.

And I can understand from the majority leader's side why that is necessary. But, from the Members' side, I think that that not-thought-of effect—and I had not thought of it until now and, quite obviously, the distinguished Senator from Nevada (Mr. CANNON), who has been the chairman of the Rules Committee for some time, had not thought of it, either.

So I feel for that reason I would press my appeal and for another reason, Mr. President, which is that we entered into an agreement in February. I entered into it in good faith and I have made every attempt to stay within that agreement. But I must say that the debate that I witnessed today on my amendment is not in keeping with the faith that was put forth in agreeing to the time agreement.

When one agrees to a time agreement, one submits to what he suspects to be a reasonable debate during that constrained time. And if the claim is to be made of dilatoriness, whatever color it is, then one should know that.

So I have been put on notice by the actions of the managers of this legislation that the game is dilatoriness and so I can only respond in kind, and I do it with great chagrin. I will do it without discommoding or trying to discommode Members and the leader as minimally as possible and certainly staying within the narrow constraints of this legislation.

I indicate my desires to do that because of my good will and the fairness that the leader has shown thus far and throughout these deliberations and what he continues to show.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

May I say that I hope that there would

be no dilatoriness on the part of any Senator. I have not seen any dilatoriness up to this point.

If the Senator from Alaska is saying that Senators on the opposite side of his amendment, those who oppose his amendment are not debating it, I hope they would debate his amendment. There is time on both sides and I hope they would.

But I, of course, cannot dictate to any Senator as to whether he ought to stand up and speak or whether he should sit down. I hope there would be that free-flow debate.

If that is what the Senator is concerned about, I hope the Senators who oppose his amendment would oblige him and utilize time in doing that.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. TSONGAS. Mr. President, the argument has been made twice that we are engaged in dilatory tactics. I would like the RECORD to at least reflect the truth, which I hope will not set a precedent on this bill.

First of all, I indicated, even though the opposition had an hour, that we did not intend to use up the hour. I have five points I wish to make in response to the amendment. It will take me 10 minutes.

It is my desire to have my 10 minutes as close to the end as possible. Otherwise, I am in a position where I have to say the same thing six times. I would find that displeasing and I suspect my colleagues would feel the same way.

I offered, since I am only going to use up 10 minutes, to yield back 40 minutes of my time, which is hardly a dilatory tactic—if it is, I better go back to school—in exchange for the Senator yielding back 30 minutes, at which point we would both have 15 minutes and we could make our closing arguments. That was not agreed to.

So I was prepared and I made the offer that 1 hour and 10 minutes of the Senator's time would be yielded back. It was not agreed to. And I am dilatory?

I have five arguments to make against the amendment. I will make it at what I feel to be at the end of the debate. Otherwise, I am in the position of having to repeat it. That is in no one's interest.

But to suggest that somehow speaking for 10 minutes rather than 60 is dilatory is a strange definition of the term "dilatory."

I would also point out to my colleagues to go back and read the RECORD from yesterday when I suggested we were going to end up doing this. No one believed me. Maybe they will as the day wears on.

Mr. GRAVEL addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have someone waiting in my office. I need to go to my office.

I would like to dispose of the appeal. I hope the Senator would withdraw it. Would he be willing to vote by a voice vote?

Mr. GRAVEL. Mr. President, I apologize for imposing upon the leader's time and his guests.

I would only say, on the basis of argument and in appealing to the sense of fairness of the leader, that the tactic here is—what is going on, I have had several Senators tell me that they have been asked by the sportsmen's organizations that are very interested in this legislation and that they would have a perfecting amendment. I do not know of more than two or three Senators, at most, that would do that.

In their exercising that right, I do not think that would be undue delay. But what is afoot here by the managers of the bill is an attempt to let the time bleed out on my side and then they would have their time. They would then bleed out their time, and they would move to table, which would preclude the proposal of any perfecting amendment.

Mr. ROBERT C. BYRD. Will the Senator allow me to interpolate right there?

Mr. GRAVEL. Yes.

Mr. ROBERT C. BYRD. I heard the Senator from Washington (Mr. JACKSON) on yesterday say he would be glad to yield time to the Senator from Alaska, Mr. GRAVEL. I have heard that willingness expressed on the part of at least that Senator to yield time to the Senator. Because on yesterday, as I understood the Senator from Alaska, the Senator from Alaska was desirous of additional time on the amendment. So much for that.

Mr. GRAVEL. Mr. President, let me say to the leader that if that is the case, I ask unanimous consent that at least four Senators be permitted perfecting amendments to my amendment if they choose to exercise that right. Just four. Those are just the people that have talked with me and they cannot get a chance to do that.

Mr. ROBERT C. BYRD. Would that be in accordance with the agreement that was entered into?

Mr. GRAVEL. Yes; very much so. The agreement of February 7 permits unlimited numbers. I am not asking for unlimited numbers. I am asking unanimous consent that four Senators may be able to come forward and offer second degree amendments without having the requirement that the time expire on the first degree amendment.

Mr. ROBERT C. BYRD. Mr. President, I do not mean to shut off the Senator. As I have indicated from the beginning, I am only interested in this particular appeal at the moment. Inasmuch as I am not an advocate on either side of this matter, I just want the Senate to work its will as soon as possible. I may vote against the bill or I may vote for it.

Being a neutral in this current situation, I move to table the appeal.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote who have not done so?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—91

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—9

Church
Javits
Kennedy
Long
McClure
McGovern
Moynihan
Talmadge
Wallop

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Alaska.

Mr. GRAVEL. Mr. President, having voted in the affirmative, I move to reconsider the vote by which the motion was laid on the table. I ask for the yeas and nays.

Mr. President, I have recognition. I moved to reconsider. I asked for the yeas and nays on my reconsideration motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. If there is not a sufficient second, there is obviously not a quorum present. Therefore, I suggest the absence of a quorum and, under prior precedent, that call will not be charged to this Senator.

The PRESIDING OFFICER. The Chair states to the Senator that a denial of the yeas and nays does not reflect on whether or not a quorum is present. The question is on agreeing to the motion to reconsider.

Mr. GRAVEL. I raise the point of order and appeal the ruling of the Chair and ask for the yeas and nays on my appeal.

The PRESIDING OFFICER. The Chair has not determined what is the nature of the Senator s appeal.

Mr. GRAVEL. The Chair has ruled that the quorum call is not in order at this time.

The PRESIDING OFFICER. The Chair did not rule so.

Mr. GRAVEL. I apologize to the Chair, then. I was being presumptive.

I asked the Chair about denial or the lack of a second being apparent, empirical evidence of the lack of a quorum; then I suggested the absence of a quorum.Under the precedent made, just a few moments ago and yesterday's precedent, that quorum would not be charged to any Member.

The PRESIDING OFFICER. The Senator is correct.

QUORUM CALL

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object——

The PRESIDING OFFICER. The Senator may not reserve the right to object, since debate is not in order during a rollcall.

Is there objection?

Mr. GRAVEL. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued and concluded the call of the roll, and the following Senators answered to their names:

[Quorum No. 19 Leg.]

Baker
Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Culver
DeConcini
Durkin
Ford
Goldwater
Gravel
Hatch
Hatfield
Inouye
Jackson
Jepsen
Levin
Mathias
Metzenbaum
Nunn
Pell
Ribicoff
Stevens
Tsongas
Warner

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to direct the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on the instruction of the Sergeant at Arms.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to direct the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. (Mr. BOREN). Is there any other Senator who desires to vote?

The result was announced—yeas 87, nays 3, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—87

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—3

Goldwater
Proxmire
Weicker

NOT VOTING—10

Boschwitz
Church
Javits
Kennedy
Long
McClure
McGovern
Moynihan
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. GRAVEL. Mr. President, I move to table the reconsideration and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second on the motion to table?

Is there a sufficient second?

Senators, please raise your hands so the Chair can see.

There is not a sufficient second.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I object.

The PRESIDING OFFICER. The order for the quorum had been rescinded prior to the objection.

The motion recurs on the motion to table the motion to reconsider.

Mr. GRAVEL. The question is on the motion to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Mr. President, a quorum call is not in order at this point. There has been no intervening business.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, the rule is very clear, that before a vote we can ask for a quorum.

Mr. METZENBAUM. The Senator from Alaska has had his quorum call.

Mr. GRAVEL. Mr. President, a quorum was not established.

The PRESIDING OFFICER. The Senator from Ohio is correct, there had been no intervening business. The quorum call was made and the question would then recur on the motion to reconsider the motion to table.

Mr. GRAVEL. Mr. President——

Mr. MELCHER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MELCHER. Mr. President, my interest is not in prolonging this, but my interest is whether or not we are setting a different precedent than had been set before. A quorum was not established, and the yeas and nays were asked for. Even though they were asked for a second time since a quorum was not established, a call for a quorum is still in order. My parliamentary inquiry is: Is that not correct?

The PRESIDING OFFICER. The Senator is not correct because the proceedings under the quorum call were dispensed with by unanimous consent, objection not having been made. The question now is on the motion to table the motion to reconsider.

Mr. MELCHER. Mr. President, I think we might be getting into a precedent we do not want to establish. The request for a quorum does not fall aside because there was no intervening business.

The PRESIDING OFFICER. The call for the quorum was entered and then the quorum call dispensed with by unanimous consent.

Mr. MELCHER. And a new request for a quorum was made.

The PRESIDING OFFICER. There had been no intervening business after the request for the quorum.

Mr. GRAVEL. Mr. President, I raise a point of order. A timely request was made and, therefore, I appeal the ruling of the Chair and ask for the yeas and nays on the appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Mr. President, a point of order.

Mr. TSONGAS. Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Alaska will state his point of order.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum. I made a point of order. The point of order is being appealed. I requested the yeas and nays. We are about to have a vote and I am entitled to have a quorum call prior to a vote. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator appeals the ruling of the Chair which constitutes intervening business. Therefore, the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names.

[Quorum No. 20 Leg.]

Baker
Baucus
Boren
Dole
Durkin
Gravel
Hart
Hatfield
Helms
Hollings
Humphrey
Jackson
Melcher
Metzenbaum
Riegle
Sarbanes
Thurmond
Tsongas
Warner

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. JACKSON. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 86, nays 5, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—86

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—5

Garn
Goldwater
Hayakawa
Proxmire
Weicker

NOT VOTING—9

Byrd, Robert C.
Church
Javits
Kennedy
Long
McClure
Moynihan
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Chair states that it has carefully reconsidered its ruling on the point of order raised by the Senator from Ohio. The Chair will correct its ruling to rule that the point of order was well taken, that a quorum had not been established.

So that the Chair will be clearly understood, the ruling is based upon a precedent which is not directly in point but which the Chair believes is analogous, and which was established on May 29, 1908, appearing at page 7181 of the CONGRESSIONAL RECORD of that date.

The Chair stated—and I quote from page 642, "Senate Procedure":

> A quorum having been announced, the suggestion of the absence thereof is not in order until there has been some transaction of business.

In this case, a quorum had not been announced, as the call for the quorum had been dispensed with prior to the ascertaining of a quorum being present.

So that the Chair rules that the point of order was well taken, since a quorum had not been ascertained and a quorum had not been announced. Had a quorum been announced, the second call for the quorum would not have been in order.

Mr. GRAVEL. Mr. President, I wish to thank——

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I will be happy to yield to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to ask a parliamentary question. I believe I know the answer——

Mr. GRAVEL. Mr. President, I ask unanimous consent that I not yield on my time.

Mr. GOLDWATER. I do not care what time you yield on. I want to ask a parliamentary inquiry.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I think I know the answer, but maybe there is something in the precedents that would allow this.

We are trying to hold an Intelligence meeting on one of the most important subjects we have had all year, and we cannot hold that meeting with this kind of stuff going on.

What I ask is this: Is it possible that members of the Intelligence Committee could attend the meeting I am referring to and not have a missed vote charged against them?

Mr. GRAVEL. Mr. President, a parliamentary inquiry. I hope that is not charged to my time.

The PRESIDING OFFICER. The time is not being charged.

Mr. GRAVEL. I thank the Chair.

The PRESIDING OFFICER. The Chair is obliged to inform the Senator from Arizona that a Senator would have to be present in the Chamber for his name to be listed as present and recorded as voting when the roll is called.

Mr. GOLDWATER. I thought that would be the answer. I thought there might be an exception, in view——

The PRESIDING OFFICER. Under rule XII, paragraph 1, even a motion to suspend this rule would not be in order, and the Presiding Officer is not allowed, under that rule, to entertain any request to suspend it by unanimous consent.

Mr. GOLDWATER. I ask unanimous consent that the members of the Intelligence Committee be allowed to conduct this most important meeting without having a missed rollcall charged against them.

The PRESIDING OFFICER. Will the Senator clarify his request? Is the Senator asking that the rollcall indicate that the Members are present?

Mr. GOLDWATER. That is correct.

The PRESIDING OFFICER. That would be included under the rule. Under rule XII, paragraph 1, which the Chair has read, the Chair could not entertain that request.

Mr. GOLDWATER. Even under a unanimous-consent request?

The PRESIDING OFFICER. Even under a unanimous-consent request. The rule specifically says:

> No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend it by unanimous consent.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I yield.

Mr. HATFIELD. I suggest that if we could keep 51 Members in the Chamber for the next few minutes to see what the next move of the Senator from Alaska is, we might avoid at least a quorum call and get down to something substantive and find out exactly where we are for the remainder of the afternoon. But when we have such quorum calls and everyone disappears, it is very legitimate to put in another quorum call. However, if we could hold 51 Members here for just a little while, to see what the next move is, we might be able to give the Senator from Arizona a better understanding of what is going to happen for the remainder of the afternoon.

Mr. GOLDWATER. I thank the Senator.

I merely want to say—and I know what the answer is going to be—that we are going out of business tomorrow. I do not know when this important business of America is going to be taken care of. I cannot disclose it, but we are all going to be mighty sorry that we engaged in this horseplay all afternoon and not the business of America.

Mr. HATFIELD. I agree with the Senator from Arizona.

(Applause in the galleries.)

The PRESIDING OFFICER. The galleries will be in order.

Mr. TSONGAS and Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I am very sympathetic to the Senator from Arizona. I fully understand that, and I am sure he is doing important business up there. I felt that we were about to do some important business today, but the committee refused to debate the process and merely wanted to bleed out the time in a very dilatory fashion. So they initiated the dilatory approach, and we are just having more of that.

I believe it is important for the defense of this country that we get as much American oil and gas as possible. I believe it is also important to the defense of this country that we not be dependent upon South Africa and we not be dependent upon the Soviet Union for vital minerals, minerals that exist in Alaska and minerals that are locked up by this legislation.

So I say to my colleague that I do not know the important business that the Committee on Intelligence has taken up today, but I do know the important business of this body, and that important business is to make a judgment as to whether or not the Senate will pass a law locking up more than 50 million acres of sedimentary basin.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GRAVEL. Not on my time.

Mr. GOLDWATER. Then, why do you not let us get the job done? You can parliamentary this thing all over the lot. We know you can do it.

Mr. GRAVEL. Mr. President, I am very persuaded by the Senator from Arizona; and it is because of his powers of persuasion upon me that I now make a point of order on the ruling of the Chair and appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Which point of order?

Mr. GRAVEL. The point of order the Chair made with respect to the Senator from Arizona, wherein the Senator from Arizona made a unanimous-consent request that the Intelligence Committee could meet and still have their votes counted as if they were here. I am persuaded that the Senator from Arizona has made a fine argument.

I know that there are many secret things they are doing that they have to get done today. I hesitate to call for a secret session to go into that; but, absent that, I merely ask for an appeal from the ruling of the Chair.

The PRESIDING OFFICER. The Chair will have to rule on the point of order first. The Chair rules——

Mr. GOLDWATER. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Arizona has withdrawn it.

Mr. GRAVEL. A ruling on a point of order is not debatable. The Chair can rule on the point of order.

The PRESIDING OFFICER. The Senator from Arizona stated a parliamentary inquiry rather than raising a point of order, so he has not stated a point of order, and the inquiry has been answered.

Mr. GRAVEL. Mr. President, I might say to the Presiding Officer most respectfully I know the Senator from Arizona would not make a point of order. The Senator from Alaska made the point of order.

The PRESIDING OFFICER. The Senator from Alaska now makes the point of order.

Mr. GRAVEL. I make the point of order that the Chair ruled in error on the rights of the Senator from Arizona in his unanimous-consent request.

The PRESIDING OFFICER. The Chair has made no ruling.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair has merely answered an inquiry.

Mr. GRAVEL. The Chair ruled.

Mr. TSONGAS addressed the Chair.

Mr. GRAVEL. I ask the clerk to reread—if I have the floor. I am addressing the Chair.

Mr. JACKSON. Let us have order.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. As I understood it, I heard the Senator ask for unanimous consent and the unanimous consent was ruled out of order. I make a point of order of that action.

Mr. JACKSON. He has withdrawn that.

Mr. HATFIELD. Mr. President, a point of order.

Mr. JACKSON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. The Senator from Arizona withdrew the unanimous-consent request. Am I not correct?

Mr. GRAVEL. Mr. President, it was withdrawn after the Chair ruled that the unanimous-consent was out of order.

The PRESIDING OFFICER. The Chair will state that it was an inquiry request which was withdrawn and the Chair never entered a formal ruling upon it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska retains the floor.

Mr. GRAVEL. Mr. President, I make the point of order on the information that was given to the Senator.

The PRESIDING OFFICER. The Senator may not make a point of order unless the Chair has entered a ruling. The Chair has not entered a ruling.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Intelligence Committee be permitted to meet during the deliberations and that their absence in the course of rollcalls not be counted on the RECORD.

The PRESIDING OFFICER. The Chair will rule that request is out of order under rule XII.

Mr. GRAVEL. Mr. President, I make a point of order of the Chair's ruling and appeal it and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS addressed the Chair.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. GRAVEL. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators.

Mr. HATFIELD. The Senator is out of order.

The PRESIDING OFFICER (Mr. BAUCUS). Will the Senator please repeat his request?

Mr. GRAVEL. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

Mr. GRAVEL. Mr. President, I ask unanimous consent—I have two remaining amendments, major amendments——

The PRESIDING OFFICER. A quorum call is presently in progress and debate is out of order. The pending question is on agreeing to the motion to instruct the Sergeant at Arms to compel the attendance of absent Senators. (Putting the question.)

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion of the Senator from Alaska. (Putting the question.)

The motion of the Senator from Alaska was rejected.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The legislative clerk continued the call of the roll.

After some delay, the following Senators entered the Chamber and answered to their names:

[Quorum No. 21 Leg.]

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

The PRESIDING OFFICER (Mr. BOREN). A quorum is present.

The question recurs on the appeal of the ruling of the Chair.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The question occurs on the appeal of the ruling of the Chair.

Mr. GRAVEL. Mr. President, I will not be very long. I would like to say that I have had trouble getting the yeas and nays. I am concerned about that. That is not a normal practice around here, particularly on something like this, when one is fighting for his State's rights.

Mr. President, I ask unanimous consent at this point in time—I only have two major amendments that I negotiated under a time agreement back in February. It appears, from my point of view, that that time agreement is not being kept faith with because of devices to be employed to stop second-degree amendments. I do not think that that is a part of the agreement, because at that time—and I have never indicated and I was prepared to limit the number of second-degree amendments I was prepared to offer.

So, at this point in time, so this record is abundantly clear as to what is going on, I asked unanimous consent that I have the yeas and nays, if on no other subject before this body, at least on my two amendments that remain.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will object to the request of any Senator that the yeas and nays be ordered by unanimous consent. I think the yeas and nays should be ordered in accordance with the mode set forth under the rules.

I will be happy to work with the Senator in attempting to get a vote on his amendments and a vote by yeas and nays. I am simply saying that I would have to object to the Senator's request that the yeas and nays be ordered on any amendment or any motion.

If the Senator would withdraw that request——

Mr. GRAVEL. Mr. President, I accept the objection and feel deeply chagrined about it, because normally I have always given the yeas and nays requested when I was sitting in this Chamber, regardless of whether I opposed totally the person on the other side of the issue.

So we have a little bit of a cabal here where the Senator is denied the yeas and nays when requested. That is a little bit of comity that has been accepted around here. I have seen it violated several times and I just see things changing a little bit. That is why I was going to change things a little bit and will continue to try to change things a little bit.

Mr. ROBERT C. BYRD. If the Senator would allow me, I do not think the Senate will deny him the yeas and nays on his amendments. I do not think they will do that. I think what the Senate is doing now is denying yeas and nays on what are obviously dilatory tactics, and I say that with respect to the Senator.

But when it comes to ordering the yeas and nays on his amendments I, for one, will do everything I can to help get him the yeas and nays on the amendments.

Mr. GRAVEL. I thank my colleague, because I was personally distressed over what I took as a lack of comity. As I said, I have never denied anybody the yeas and nays and never would as long as I will be in this body. Because I think that is a basic right that you can have an up-or-down vote, rather than get shouted or hooted down.

I thank my colleague. I understand the objection to my unanimous-consent request.

I would ask the Chair what the pending business is.

The PRESIDING OFFICER. The pending business is the question on the Senator's appeal of the ruling of the Chair.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Senator's appeal.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. GRAVEL. Mr. President, I yield to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I intend to move to table the appeal if the Senator yields the floor.

Mr. GRAVEL. I do yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I hope the appeal will be tabled because, obviously, it is a contravention of the rules and the Chair has ruled correctly. No Senator may vote after the Chair has announced the vote on any given matter. The Chair, under rule XII, paragraph 1, is not allowed to entertain any unanimous-consent request to allow a Senator to vote after the Chair has announced the outcome of a vote.

Mr. President, I move to table——

Mr. GRAVEL. Will the Senator yield for a second?

Mr. ROBERT C. BYRD. Yes.

Mr. GRAVEL. I do want to thank the Senator for his fairness.

Mr. ROBERT C. BYRD. Mr. President, I move to table the appeal and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal of the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. HEFLIN). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—91

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—9

Church
Domenici
Javits
Kennedy
Long
McClure
Moynihan
Talmadge
Wallop

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the motion was agreed to and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call——

Mr. JACKSON. Mr. President, there is a quorum present and I ask we be tallied.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 22 Leg.]

Baker
Baucus
Bayh
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cochran
Cranston
Danforth
Dole
Domenici
Durkin
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Heflin
Hollings
Humphrey
Jackson
Johnston
Leahy
Lugar
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Ribicoff
Riegle
Sarbanes
Schmitt
Stennis
Stevens
Stewart
Thurmond
Tower
Tsongas
Warner
Weicker

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the motion to reconsider.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that this request for a quorum call is not in order, and the Chair should not even entertain the request. We have just had a quorum call less than 60 seconds ago, and it has been demonstrated that there is a quorum. The request obviously is dilatory.

Mr. GRAVEL. Mr. President, I believe a Senator can look around the room and see a quorum is not present.

The PRESIDING OFFICER. Under the precedents, the denial of the yeas and nays is intervening business, and therefore another quorum call is in order. The point of order is not well taken.

Mr. ROBERT C. BYRD. Mr. President, I did not say in my point of order that there had not been transaction of business. I simply said that a quorum was established not less than 60 seconds ago and that, obviously, the request was dilatory. That was the statement I made.

I withdraw my point of order.

Mr. GRAVEL. I thank my colleague.

Mr. President, what is the order of business?

The PRESIDING OFFICER. There is a request for a quorum call. If there is no objection, the clerk will call the roll.

Mr. GRAVEL. I thank the Chair.

The assistant legislative clerk proceeded to call the roll.

[Quorum No. 23 Leg.]

Baker
Baucus
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durkin
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Jackson
Johnston
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Mitchell
Pell
Percy
Pryor
Randolph
Ribicoff
Sarbanes
Sasser
Schmitt
Schweiker
Stennis
Stevens
Stevenson
Thurmond
Tower
Tsongas
Warner
Weicker

The PRESIDING OFFICER. A quorum is present.

The question is on the motion to table.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

All those in favor——

Mr. GRAVEL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. GRAVEL. The motion to table my reconsideration?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gravel motion to reconsider.

Mr. GRAVEL addressed the Chair.

Mr. TSONGAS. Mr. President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Gravel motion to reconsider.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question recurs on the motion to table the motion to reconsider the first appeal.

Mr. GRAVEL. Mr. President, I ask for the yeas and navs on my motion.

The PRESIDING OFFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate, may I ask?

The PRESIDING OFFICER. The Gravel motion to table the Gravel motion to reconsider the vote by which the first Gravel appeal was tabled.

Mr. ROBERT C. BYRD. So the question is on the motion to table the motion to reconsider the vote by which the appeal was tabled?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I offer a cloture motion.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. ROBERT C. BYRD. No Senator has answered his name.

The PRESIDING OFFICER. The Parliamentarian advises that after a quorum call has been ordered, Senators do not have to answer their name in order for it to be in progress.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, Mr. President, I will be happy to let the majority leader file the cloture motion and then proceed to a quorum call. I ask unanimous consent that the majority leader be permitted to file his cloture motion and that the order for the quorum call then be in order.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I withhold my cloture motion for the moment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

Baker
Boren
Boschwitz
Bumpers
Byrd,
  Robert C.
Chiles
Danforth
Domenici
Exon
Goldwater
Gravel
Hatfield
Heflin
Helms
Jackson
Mitchell
Pell
Percy
Stennis
Stevens
Thurmond
Tower
Tsongas
Warner

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr.

HOLLINGS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 83, nays 6, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—83

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Young
Zorinsky

NAYS—6

Boren
Goldwater
Hayakawa
Jepsen
Proxmire
Weicker

NOT VOTING—11

Church
Garn
Javits
Kennedy
Long
McClure
McGovern
Moynihan
Stennis
Talmadge
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. GRAVEL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Gravel motion to table the Gravel motion to reconsider the vote by which the Gravel appeal was tabled.

The question is on agreeing to the motion.

Mr. GRAVEL. The pending motion, Mr. President, is the motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRAVEL. There is not a sufficient second?

The PRESIDING OFFICER. There is not a sufficient second.

SEVERAL SENATORS. Vote!

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, this motion is not debatable. Under the precedents, I believe a request for the yeas and nays, if denied, constitutes business, does it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

That is a pretty poor precedent, if I may say so, the denial of the yeas and nays should not constitute business.

I am tempted to override the Chair on this, but I will not do it tonight. I am a little tired.

Let us give him the yeas and nays on this motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—88

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—12

Church
Garn
Javits
Kennedy
Long
McClure
McGovern
Moynihan
Stennis
Talmadge
Wallop
Young

So the motion to table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, it is obviously futile to remain on the bill any longer today because we are getting nowhere.

As I indicated last night, the distinguished Senator from Alaska could tie up the Senate all of last night, today, tomorrow, and Wednesday if he so desired.

So I am going to enter a cloture motion on the committee substitute.

Of course, as Senators know, it is not even easy under cloture but at least it will be somewhat more difficult, I believe, for those who oppose the bill to obstruct it by the use of dilatory tactics. I say this with respect to the Senator from Alaska. I have considerable sympathy for his position and I am not an advocate of the bill or an advocate of its defeat. But I do have responsibility to try to move the legislation along.

We have known for months that the legislation was going to be called up and so it is up. I have no intention of calling it down.

I only want to see the Senate work its will on the bill one way or the other.

So I am going to offer a cloture motion, but I want to make a parliamentary inquiry before doing so.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Mr. President, the cloture motion will read as follows:

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.

I ask the Chair if the amendments that are set forth in the time agreement which was entered into on February 7 would be germane. Those are amendments to the substitute. Would those amendments to the substitute be germane in the event cloture is invoked?

And I specifically ask if the Tsongas substitute would be germane in the event cloture is invoked on the committee substitute.

Mr. GRAVEL. Mr. President, if the majority leader will yield, will he be specific on my amendments and the amendments of the other Senator from Alaska?

Mr. ROBERT C. BYRD. I ask if all amendments as set forth in the agreement would be germane.

The PRESIDING OFFICER. All the perfecting amendments would be germane. The printed version of the possible substitute by the Senator from Massachusetts has one provision that is being studied by the Parliamentarian, and it is apparent at this time that that one provision of the amendment is not germane.

Mr. GRAVEL. Would the Chair please repeat? This Senator did not hear the Chair.

The PRESIDING OFFICER. The printed version of the projected substitute by the Senator from Massachusetts has one provision that appears not to be germane.

Mr. ROBERT C. BYRD. But would the substitute itself be germane with that provision or would the substitute be germane only if that provision is deleted or revised?

The PRESIDING OFFICER. If that provision were deleted, the substitute would clearly be germane.

Mr. ROBERT C. BYRD. For the information of the Senate would the Chair mind stating, would the Chair mind identifying, that provision at this time?

The PRESIDING OFFICER. It is the provision dealing with the environmental impact statements under the RARE II provision.

Mr. STEVENS. Mr. President, will the

Senator yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. Is that the so-called release portion that has been discussed?

The PRESIDING OFFICER. It has been so identified.

Mr. ROBERT C. BYRD. Does any other Senator wish me to yield?

Mr. GRAVEL. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield for that purpose.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. GRAVEL. That would mean that obviously the Senator from Massachusetts would have an opportunity to correct it prior to the possibility of it being put to a vote after two legislative days.

The PRESIDING OFFICER. That is correct.

Mr. GRAVEL. Mr. President, will the Senator yield for another parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield to the Senator from Alaska for a parliamentary inquiry.

Mr. GRAVEL. I make these inquiries on the time I have on the bill and not on the time I have on my amendments.

The germaneness with respect to the three amendments that I have is not called into question, is that the situation, the parliamentary situation?

The PRESIDING OFFICER. All of the other amendments have been reviewed and the conclusion is that they are germane.

Mr. ROBERT C. BYRD. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, under the rules when would I be required to file the substitute for it to be in order?

The PRESIDING OFFICER If cloture is filed today it would be at 1 p.m. on the next day, by 1 p.m. on the next day, that the Senate is in session.

Mr. TSONGAS. So it would be 1 p.m. tomorrow if we were to be in session?

The PRESIDING OFFICER. That is correct.

Mr. TSONGAS. Mr. President, will the leader yield to me for two brief comments?

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. I would like to say that sometimes you do not know who your friends are around here. We have a situation where those who basically share my philosophy have been arguing these last 2 days that you should have this put off until after the convention and somehow MORRIS UDALL will be able to work his magic in the Senate.

I wish they would spend a little more time reading the rules because there is no way that can happen since I have to introduce a substitute tomorrow at 1 o'clock.

It seems to me that this body has a certain responsibility and I will tell you that I, for one, take my obligation very seriously, and I feel free at this point to do what I think is right irrespective of any constituency because I think there is a point at which this amateurish effort being made by people on both sides is counterproductive. We have opposite sides doing exactly the same thing for exactly opposite reasons and, by definition, they cannot both be right. So I am going to pursue what I think is the course that is incumbent upon me by my office.

The second point: There are many Senators who have been inconvenienced by this process, and I would like to serve notice on my colleagues that we are going to finish the Alaska lands bill as long as I am in the Senate, and you cannot take this off the floor without the consent of every single Member. I do not intend to allow that to happen. I feel very strongly about this. I do not think one person should be in a position to frustrate the will of 99 others, and to those Senators who come in, establish a quorum and then disappear, as long as that continues to happen, just be prepared to stay and stay and stay.

We are going to get an Alaskan bill this year whether it is acceptable to the National Association or the Alaskan Coalition. That is immaterial to me, but there is a bill going to the House. What they do is their choice. I am committed to that cause, and let nobody make a mistake about that.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I think one thing should be made clear. It cannot be guaranteed by a single Senator that this bill remain the business until it gets his consent. This bill can be disposed of and put back on the calendar within the next 5 minutes without unanimous consent from the Senate, so I say that to my friend.

Let it not be misunderstood that a single Senator will keep this bill before the Senate until his consent is given. The rules do not require that.

But may I also say to the Senator that it is my intention to see the Senate act on this bill one way or the other. That is the reason I am offering the cloture motion.

I yield to the distinguished Senator from Alaska.

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. President, the release language is language the Senator from Oregon and I have worked on, along with the Senator from Washington. It is language that has been previously adopted pertaining to areas that were identified for potential wilderness and, therefore, are released from the wilderness designation when Congress acts on the overall designation on RARE II.

My inquiry to the Chair is should that provision stay in there, a provision which is very vital to the balance of our whole solution as proposed as far as the southeastern portion of Alaska is concerned, if a point of order is raised against it, if the point of order was not sustained by the body that portion of the amendment would not disqualify that amendment. Is it not possible under the procedures of the Senate for it to stay in and for the Senate to determine that it is germane after cloture?

The PRESIDING OFFICER. That is possible.

Mr. STEVENS. It would not take unanimous consent to do that?

The PRESIDING OFFICER. If a point of order was made and the point of order was sustained by the Chair it would be subject to appeal and a vote by the Senate, by a majority vote.

Mr. STEVENS. Mr. President, if the Senator will yield to me for just a comment——

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I find myself in the unfortunate position, of being in a position of having the Senate in position, where I thought we might get, unfortunately, because of dilatory tactics. We are now in the situation where the Senator from Massachusetts can no longer meet some of the objections that I have raised and modify his amendment, as I understand it, after 1 o'clock tomorrow. There will be no opportunity even though the bill may be read by a half million Alaskans over the period of time, and there would be no opportunity to change it in response to those requests because of the dilatory tactics that have been used. We will not have the opportunity to make any changes in the substitute in that period of time.

I think it is unfortunate that we have been put into the position where we cannot work our way through the bill and try to achieve a liveable solution. I still think the Senate version of this bill as it came out of the committee was acceptable to me and could go to a conference and actually come out with even greater balance, I think. But the statements which have just been made by Members of the House alarm me a little bit because the process we are going through now—I had envisioned that we might be able to see the House agree to the final product, even though I would oppose it. I would not hope to see further revisions that would take out some of the concessions that the Senator from Massachusetts has made to those of us who have had discussions with him.

I can only say that I am saddened by the process.

We will be voting on cloture on the day we return, as I understand it. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. Does this mean that the amendments that we already have on file, or since I have the so-called "no more" clause on file that I wanted added to this committee substitute, that, too, has to be modified by 1 o'clock tomorrow, is that correct?

The PRESIDING OFFICER. If it is already on file, it would be eligible to be called up.

Mr. STEVENS. But I would have no right to modify it after 1 o'clock tomorrow afternoon, is that correct? This is a first-degree amendment to the Senate Energy Committee substitute.

The PRESIDING OFFICER. It would be subject to the second-degree amendment which could be filed on the day that the Senate comes back.

Mr. STEVENS. The second-degree

amendment. What about my first-degree amendment?

The PRESIDING OFFICER. That cannot be changed.

Mr. STEVENS. It cannot be changed after tomorrow at 1 o'clock or it cannot be changed now?

The PRESIDING OFFICER. It could be refiled between now and 1 o'clock tomorrow.

Mr. STEVENS. Well, I regret that we have been put in the position where the Senate will face cloture and have the situation develop where 60 votes may terminate the debate on this bill at any time. I think that is unfortunate.

Mr. TSONGAS. Will the Senator yield?

Mr. STEVENS. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. Would the Senator wish to make a unanimous-consent request and would it be in order, Mr. President, that the substitute and the amendments to be offered by the junior Senator from Alaska (Mr. GRAVEL) and the senior Senator from Alaska (Mr. STEVENS) could be filed postcloture vote rather than 1 o'clock tomorrow? Would that request be in order under the unanimous-consent request?

The PRESIDING OFFICER. Such a request can be made.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the amendment of the senior Senator from Alaska (Mr. STEVENS), the three amendments of the junior Senator from Alaska (Mr. GRAVEL), and the substitute be in order if they are filed by 12 o'clock on Monday the 18th of August.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, would the distinguished Senator from Massachusetts add "and that they be determined germane"?

Mr. TSONGAS. Yes.

The PRESIDING OFFICER. I think the Chair should make clear that under the unanimous-consent agreement the junior Senator from Alaska is entitled to two more amendments.

Mr. TSONGAS. I so revise my request.

Mr. GRAVEL. I have one amendment that is pending.

Mr. TSONGAS. I have noticed.

Mr. GRAVEL. And that would still be the pending business.

The PRESIDING OFFICER. That is not affected, the one that is already pending.

Mr. GRAVEL. As long as what we filed, the two amendments, are germane and that they be filed prior to 12 o'clock on the 18th.

The PRESIDING OFFICER. The Senator from Massachusets has made his unanimous-consent request.

Mr. GRAVEL. Will the Chair indulge me? Germane and in order.

Mr. STEVENS. Mr. President, I do not understand that request.

The PRESIDING OFFICER. Is the junior Senator from Alaska asking that they automatically be considered germane?

Mr. GRAVEL. Yes. Otherwise, the purpose of the unanimous-consent request the distinguished Senator from Massachusets is making is of no avail.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, germane to what? To the House bill, to the Senate Energy Committee bill, to the Tsongas substitute, or what?

The PRESIDING OFFICER. It would have to be germane to the Senate committee substitute, that is what cloture is being filed upon.

Mr. STEVENS. The Tsongas substitute is not germane to the Senate committee substitute.

The PRESIDING OFFICER. The unanimous-consent request is that it be considered germane.

Mr. STEVENS. Do I understand the Senator from Alaska is asking that the release language must come out?

The PRESIDING OFFICER. The Chair is trying to determine whether the request is that the amendments be declared germane sight unseen by the Chair. If that is the desire of the unanimous-consent agreement by the Senators and they understand that request, I am ready to propound it and see whether or not there is any objection to it.

Mr. TSONGAS. Mr. President, that is not the request I make. If we want to get to that subsequently, we can. I simply want to change the time requirement from 1 o'clock tomorrow until noontime, August 18. That is the only request that I am making.

Mr. ROBERT C. BYRD. Mr. President, I reserve the right to object and, for the moment, I do object, because I do not know what we are getting into. We have a kettle full of rusty nails as it is.

I wish Senators would just take a few minutes and be sure of what they are doing, make sure that this is what they want to do, and then I would have no objection.

Mr. GRAVEL. Will the majority leader yield?

Mr. ROBERT C. BYRD. But there is a lot of confusion here on the part of the principals who know something about this bill and I know very little about it. I am not sure they understand what the import of this request would be.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Mr. President, it is my understanding that the majority leader's motion that has been signed by other Members of the Senate on cloture is filed to bring about cloture on the committee substitute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. And that means that the Tsongas substitute, being a substitute for that substitute, the vote would occur as it is set forth in the time agreement. The time limit on that amendment would be 4 hours. Is that correct?

The PRESIDING OFFICER. That would not be vitiated by the cloture.

Mr. STEVENS. Is the Senator from Alaska correct in his feeling that that would still mean that the amendments of the two Senators from Alaska would have to be disposed of prior to calling up the Tsongas substitute as it is in the present time agreement?

The PRESIDING OFFICER. That facet of the agreement would stay in force; the Senator is correct.

Mr. STEVENS. And the amendments of the two Senators from Alaska being amendments to the committee substitute, under the time agreement must be germane to the committee substitute. Would that be changed by the request that is being made?

The PRESIDING OFFICER. Under the agreement and cloture, they would both have to be germane.

Mr. STEVENS. And what is the standard for germaneness for the Tsongas substitute, then, under the request that has just been made?

The PRESIDING OFFICER. It would have to be germane to the committee substitute.

Mr. TSONGAS. Parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. TSONGAS. Mr. President, it is my understanding that it would have to be germane to the House bill, as well, since we are dealing with H.R. 39, the committee substitute to that bill.

The PRESIDING OFFICER. If cloture is invoked on the substitute, if it is filed on the substitute, it would have to be germane to that.

Mr. TSONGAS. Is the Chair ruling that, with the exception to the RARE II release issue, that everything in the substitute is germane as it has been filed?

Mr. STEVENS. Will the Senator yield? May I ask the majority leader if he would yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. There is another provision in the Tsongas substitute that is not in the House bill and not in the committee substitute, the "no more" clause that the Senator has added at my request. That is not in either the House bill or the committee substitute.

May I ask, then, with the consent of the majority leader, if a matter is in the Tsongas substitute and neither in the committee substitute nor the House bill, would it be subject to the comments of the Chair concerning germaneness?

The PRESIDING OFFICER. It would be.

Mr. STEVENS. I might say, with the consent of my friend from West Virginia, that it is a very critical subject to me that that amendment stay in. I hope that we will not be tied down by a strict interpretation of germaneness at the request of the other Senator from Alaska to remove the "no more" clause from this bill.

Mr. TSONGAS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TSONGAS. Mr. President, the two issues in question are points that have been raised in negotiations by the Senator from Alaska. They are critically important to Alaska. They are not important, frankly, to my side of the issue. I would suggest perhaps a unanimous-consent request may be filed at this point to make those two issues germane. I would not object to that. We have dealt with them fairly. If they make that request, I would support it, and I think that would eliminate one of the concerns that the Senator has.

Mr. STEVENS. Mr. President, I would, if the majority leader will yield to me for the purpose of adding to the request that will be made, ask him to include in any request that is to be made concerning the postponing of filing these amendments, or in any event the consideration of the amendments under cloture should it be adopted, that the two amendments that have been mentioned, the only two provisions I know of at this time that are in the committee substitute that are not in either—no, they are in the Tsongas substitute as revised, but they are not in the committee substitute or the House bill. One is the so-called "no more" clause and the other is the release language.

I would ask, with the consent of the majority leader, that in the consent agreement that is entered into, if those can be qualified at this time by unanimous consent, and I assume from the response by the Chair that they could be qualified by unanimous consent, if possible they be qualified now to possibly eliminate any points of order on the Tsongas substitute on the basis that those two items would render the substitute nongermane.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. GRAVEL. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. I would like to address a question to the Chair.

Mr. ROBERT C. BYRD. On whose time, Mr. President?

The PRESIDING OFFICER. With the Senator from West Virginia having the floor, it will be assumed to be taken from the time of the Senator from Washington.

Mr. GRAVEL. Mr. President, do the amendments have to be filed 1 day prior to the cloture vote?

The PRESIDING OFFICER. First-degree amendments have to be filed by 1 p.m. the day after cloture is filed.

Mr. GRAVEL. The day after or the day before cloture is filed?

The PRESIDING OFFICER. The day after. They are filed 1 day before the vote.

Mr. GRAVEL. That would be tomorrow. Do I still have the 1 hour on my side on each of the amendments that I have?

The PRESIDING OFFICER. If cloture is invoked, it changes the unanimous-consent agreement as to time, the Senator would have 1 hour on the entire package.

Mr. GRAVEL. Mr. President, I think we now come to something that is pretty fundamental. That is that I do not think it has been done too often in the Senate, and maybe not at all. Maybe the Parliamentarian can enlighten us. Has there been cloture effected or involved with a bill that has had a unanimous-consent time limitation on it?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that, in his recollection, this is the first time it has ever happened.

Mr. GRAVEL. That is what I thought, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. Let me state that if cloture is invoked, cloture will supersede in any area in which the agreement is inconsistent with cloture. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And in areas where the agreement is not inconsistent with the cloture rule, then no change occurs in the agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And if cloture is invoked on the substitute, then the bill itself would be governed by the agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So, Mr. President, I am content now to ask that the clerk state my cloture motion.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.
>
> Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George T. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Richard (Dick) Stone, Carl Levin, Birch Bayh, Patrick J. Leahy, and Warren G. Magnuson.

Mr. ROBERT C. BYRD. Mr. President, I intend to go into morning business shortly, but I want to give Senators an opportunity, if they wish, to discuss a unanimous-consent request, as Mr. TSONGAS did earlier and propounded one. I want them to have that opportunity. I do not want to shut off any opportunity to make progress on the bill or to rule out further unanimous-consent requests. I simply want to make sure that they have adequate time, though, to fully contemplate the results of those unanimous-consent requests. They may appear on the surface to be very progressive in nature and at the same time may open up a lot of new loopholes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, before going into morning business, I would like to ask unanimous consent that the Senate may proceed for an additional 15 minutes on the pending bill; that there then be routine morning business; that Senators may speak during that period of routine morning business up to 5 minutes each, and that I may then be recognized to recess the Senate over until tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Reserving the right to object, Mr. President, this Senator feels we are plowing—and I yield myself time on the bill, Mr. President, not on my amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. Perhaps the Senator will yield me time. If he is hanging on to a short leash, perhaps we can put some time on the leash.

I would say to the distinguished leader that we are plowing some very unusual ground.

Mr. ROBERT C. BYRD. May I say to the Senator I have no objection to staying another half hour, but I want to make sure I have the floor because I am not going until midnight tonight or midnight tomorrow night. I want to be sure that I do not lose my right to the floor any time I wish to reclaim it.

Mr. GRAVEL. I have no problem with that. I just want to tell the majority leader I have a lot of time, too, and I will be happy to stay until midnight.

Mr. ROBERT C. BYRD. Will the Chair protect my right?

The PRESIDING OFFICER. The Senator from West Virginia has the floor, he did not lose it by propounding unanimous-consent request.

Mr. GRAVEL. I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I yielded without losing my right to the floor.

Mr. GRAVEL. That is fine. I will defer to the Senator from West Virginia in any case.

Mr. ROBERT C. BYRD. I simply want to announce to the Senate that so far as I can ascertain, I hope Senators will enjoy my saying this, there will be no more rollcall votes today.

Mr. GRAVEL. If the Senator had permitted me to finish, I might have been able to put myself in the position to do that. Right now, I am not. I would like to engage in a colloquy with the Parliamentarian on this very serious new ground we are plowing. If I am permitted to do that, perhaps I will be able to cooperate with the majority leader. I have tried the best I can.

Mr. ROBERT C. BYRD. I think the Senator is seeing problems where there are none. I am simply saying I am wiling to yield the floor with the understanding that I do not lose it, but will the Senator agree with me that other Senators may go home with the understanding there will be no more rollcall votes tonight?

Mr. GRAVEL. I will be happy to agree with my colleague on that basis if I had some idea of the agenda tomorrow. I would like to raise a point of order at a point that is proper pertaining to the filing of the cloture petition with respect to a unanimous-agreement bill. I think that ground has to be looked at by a lot of Senators here. We are plowing new ground. We should know the consequences of it. And particularly when it is a vitiation of a unanimous-consent agreement by and large by those who were not party to the unanimous-consent agreement.

Mr. ROBERT C. BYRD. What is the Senator's point of order?

Mr. GRAVEL. The unanimous-consent agreement, as I understand it, when we stand on the floor, is a pretty sacred thing and it cannot be changed unless there is a unanimous-consent agreement that is again entered into. Now we have a device to vitiate unanimous-consent agreements by a small cabal or group of Senators who may choose to file cloture.

That may be fine, Mr. President, and that may be what we want to do; that may be the precedent we want to set. But I, for one, think that it is something that should be examined very closely.

I suggest this to the majority leader, that I would be prepared to rise to a point of order on it and have it go over to tomorrow and have a vote on that at a time certain. I think that would be a very fair way to do it. We could sleep on it. I think we are all shooting from the hip a little bit.

With that, we could have a vote on this ruling that I shall ask the Chair to make. The Chair would have an opportunity to study it overnight. I think we are dealing with momentous new areas that have a way of atrophying agreements, atrophying individual prerogatives of Senators. This would permit the matter to come up tomorrow at a proper time that the leader would want. Then we could continue with our deliberations on the legislation tomorrow.

The PRESIDING OFFICER (Mr. Boren). The Chair states that the Chair is prepared to rule.

Mr. ROBERT C. BYRD. Mr. President, first, the cloture vote does not necessarily vitiate the agreement. It only vitiates any portions of the agreement that would be inconsistent with the rule; otherwise, the remainder of the agreement would remain in effect.

Would the Senator like to state his point of order? I shall be glad to yield for that purpose with the understanding that I not lose my right to the floor.

Mr. GRAVEL. If the Senator will yield to me just to make a brief comment in preparation for that.

Mr. ROBERT C. BYRD. Yes; without losing my right to the floor.

Mr. GRAVEL. I really want to assure the leader that I have no intention of intervening with his rights as a leader in that respect. I am sticking very closely to the agreement.

In that regard, we entered into a unanimous-consent agreement. That agreement can only be vitiated by the participants of that agreement. So we are now setting in motion a device of vitiating unanimous-consent agreements through a cloture device. I think that is a new device.

My point of order is that I rise to a point of order that a cloture motion on a bill that has a unanimous-consent agreement is not in order. That is the point of order that I rise to.

I would suggest, and I merely offer this as a suggestion to the leader, that we would be well advised—I respectfully offer this suggestion to the leader—to go over to tomorrow on the determination of this question and we can have just an up or down vote on it. But, at least, everybody would have a chance to take a good hard look at what we are doing at this late hour.

The PRESIDING OFFICER. The point of order having been raised, the Chair is prepared to rule.

The Chair rules that there is no provision in the rules or the precedents of the Senate that would preclude the offering of the cloture motion. I quote from rule XXII, paragraph 2, which uses the term "at any time a motion signed by 16 Senators to bring to close the debate upon any measure, motion, other matter pending before the Senate" and so on.

The Chair rules that the cloture motion was in order and the point of order is not well taken.

Mr. GRAVEL. May I ask the chairman one question?

The PRESIDING OFFICER. The Senator will state the question.

Mr. GRAVEL. As the rules have been changed, does a Senator have 1 hour or does a Senator have 5 minutes under cloture?

The PRESIDING OFFICER. Under the rule as amended last year, the Senator has up to 1 hour. He would not have a guarantee of 1 hour, but under the rules, he has up to 1 hour.

Mr. GRAVEL. What is he guaranteed under the rule, Mr. President?

The PRESIDING OFFICER. A guarantee of 10 minutes.

Mr. GRAVEL. I think Members ought to sleep on this question before they make decisions on how this will be determined.

I respectfully thank the leader and suggest that we vote on this tomorrow.

Mr. ROBERT C. BYRD. Mr. President, may I say to my friend that I think we ought to vote on it tonight. Senators are here. Some Senators will probably not be here tomorrow.

Mr. President, I appeal the ruling of the Chair and I move to lay the appeal on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New York (Mr. Moynihan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Delaware (Mr. Roth), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—72

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cohen
Cranston
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Mitchell
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—16

Byrd,
  Harry F., Jr.
Chiles
Cochran
Culver
Dole
Gravel
Heflin
Helms
Humphrey
Laxalt
Metzenbaum
Morgan
Stennis
Stevens
Tower
Young

NOT VOTING—12

Church
Garn
Goldwater
Javits
Kennedy
Long
McClure
McGovern
Moynihan
Roth
Talmadge
Wallop

So the motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. STENNIS. Mr. President, on the last recorded rollcall vote that we took I came in during the rollcall itself and voted on the pending matter, not fully realizing the possible full import, as I found out later. It is a very sensitive situation, and I would really like a chance to reconsider my vote, but that is out of the question.

I do though, since it will not even touch the result, ask unanimous consent that I may change my vote and let the Record show my vote change.

Mr. BAKER. Mr. President, reserving the right to object—

Mr. STENNIS. I do not want to set a precedent.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object in this case, this is a matter that has been discussed at some length on our side from time to time and, frankly, I understand the statement made by the Senator from Mississippi, and I will not object at this point. But I would simply like the Record to show that absent special circumstances I think it is not a practice that we ought to engage in very liberally.

Mr. STENNIS. Well, Mr. President, I appreciate the Senator's sentiments, and I have never indulged in such request before.

I feel, though, if I had studied it out further and were dissatisfied with the matter, then I would be forced to vote against cloture in most all circumstances should there be an amendment pending. But as a substitute for reconsideration I made the request to be permitted to change my vote.

I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr President, may I say for the record that this request is really not out of the ordinary. On many occasions Senators have in the past by unanimous-consent changed their vote on a given matter provided it did not change the outcome. It is, of course, the right of any Senator to object to the request, but it is done from time to time. The caveat is that the Senator must have voted in the first instance, which the Senator did.

Mr. BAKER. And not change the result.

Mr. ROBERT C. BYRD. And not change the result.

(The foregoing vote has been changed to reflect the above order.)

Mr. ROBERT C. BYRD. Mr. President, I think it is better to have a motion to reconsider made tonight than to be made tomorrow or the second day of session. So I move to reconsider the vote by which the appeal was tabled.

Mr. BAKER. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that I be allowed to file a cloture motion today, on which the vote would occur the second day after the Senate returns. I make this request so that the Senate will not have to be on the bill tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is there any order for the recognition of Senators on tomorrow?

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. I should like to propound a unanimous-consent request, if the majority leader will permit me. It would go something like this:

> Recognizing that we are plowing new ground and that none of us has had an opportunity to judge what that means, particularly in terms of our particular involvement with the amendments we have——

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. It strikes me as not an unreasonable request that we have until the end of the calendar day tomorrow to get our amendments in order with germaneness, to meet with the Parliamentarian, and all that, rather than by noon tomorrow.

I think we are all tired and groggy, and this certainly would necessitate a little more comfortable situation in our case, rather than having to stay up late and get up early in the morning and try to read what is involved.

What is the majority leader's reaction to that request? Can we have it by the end of the calendar day tomorrow, rather than noon?

Mr. ROBERT C. BYRD. If the Senator intends to request that the 1-hour deadline under the rule be extended to the close of business tomorrow, I would have no objection.

Mr. GRAVEL. Not the 1 hour. Is it the filing of amendments? I was not sure what the rule was.

The PRESIDING OFFICER. It is 1 p.m.

Mr. ROBERT C. BYRD. I do not mean 1 hour. I mean 1 p.m.

Mr. GRAVEL. I would like to have that until the end of the calendar day, which would be midnight.

Mr. ROBERT C. BYRD. By the close of business tomorrow. Would that be all right?

Mr. GRAVEL. If the Senate goes out early, that may be a very short day. That is why I was suggesting a calendar day.

Mr. ROBERT C. BYRD. Six o'clock, then?

Mr. GRAVEL. That is fine.

Mr. ROBERT C. BYRD. That the 1 p.m. provision be modified to read 6 p.m. tomorrow.

Mr. GRAVEL. That is fine.

The PRESIDING OFFICER. Is there objection?

Mr. MELCHER. Mr. President, I inquire of the majority leader what tomorrow's program is. Are we going to go on to the pending bill, with the pending amendment, after we lay aside the Alaska lands bill? What is the bill?

Mr. METZENBAUM. H.R. 1197.

Mr. MELCHER. H.R. 1197, with the pending amendment, No. 1959.

Mr. ROBERT C. BYRD. No; it would not be my intention to go back to that tomorrow.

Mr. President, I ask unanimous consent that after the two leaders or their designees——

The PRESIDING OFFICER. There is a pending unanimous request of the Senator from Alaska. Is there objection to the request of the Senator from Alaska?

Mr. STEVENS. Mr. President, reserving the right to object, all amendments must be filed by 6 p.m. tomorrow and they cannot be modified after that. Is that correct?

The PRESIDING OFFICER. Amendments in the first degree would have to be filed by 6 p.m., assuming that cloture is subsequently invoked.

Mr. STEVENS. Am I correct in my understanding that they cannot be modified after that time, under this request?

The PRESIDING OFFICER. Not if cloture is invoked. Then it would require unanimous consent to modify.

Mr. ROBERT C. BYRD. At the present time the hour of 1 p.m. is the bewitching hour.

Mr. STEVENS. To that request, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. I thank my colleague.

Mr. STEVENS. Mr. President, will the Senator yield to me for the purpose of a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, I will make a request as to the amendments that are in the revised Tsongas substitute dealing with the release of wilderness lands, the "no more" provision. I am told there are some questions now that have been raised by the submerged lands and section 6(k) waiver dealing with the eastern part of the State of Alaska. I ask unanimous consent that no point of order lie against the Tsongas substitute because of those four provisions in the Tsongas substitute at my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk in accordance with the order that was entered a moment ago.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act:

Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George T. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Birch Bayh, Patrick J. Leahy, Warren G. Magnuson, and Richard (Dick) Stone.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I see no reason for any rollcall vote tomorrow.

May I inquire of all Senators if they agree with me?

No Senator anticipates calling for a rollcall vote on tomorrow so there will be no rollcall votes tomorrow.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that there be a period for the transaction of routine morning business for not to extend beyond 30 minutes and that Senators may speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1981 BUDGET: BACK TO BALANCE

Mr. HARRY F. BYRD, JR. Mr. President, now that the administration has projected spending of $634 billion and a deficit of $30 billion for 1981, we are being told that this spending boom is inevitable—that forces beyond anyone's control have pushed the Government's obligations through the roof.

Let us examine that claim.

In January, the President sent a budget to the Congress calling for spending of $616 billion.

Shortly thereafter, the then chairman of the Budget Committee, our distinguished former colleague Edmund Muskie, asked me and other Senators who favored a balanced budget to submit to his committee recommendations for spending reductions.

I responded in a letter to Senator Muskie on March 18, detailing more than $26 billion in reductions which I felt were feasible and equitable, although admittedly uncomfortable in some instances.

Incidentally, my proposals did not—repeat not—include any cuts in scheduled social security increases, nor did they reduce Federal employee retirement benefits.

Approximately one-fourth of these reductions actually were made in the first concurrent budget resolution, and as of now it appears that about $6 billion of these cuts are included in the President's budget program.

That leaves $20 billion in savings which have proven unacceptable to the President and the Congress.

Now, if that $20 billion in cuts had been approved, projected spending for 1981 would be not $634 billion, as the President projects, but rather $614 billion.

In submitting his new spending increases on July 21, the President said most of them were necessitated by higher defense costs and higher unemployment compensation payments. In fact, these two items represent $16 billion of the $22 billion in recent spending estimate increases. If the Congress were to deny or offset the remaining $6 billion, the estimate could be reduced by that amount.

Together with adoption of my proposals, that would bring outlays down to $608 billion.

Under these conditions the now-projected deficit of $30 billion would shrink to $4 billion. Most of this remaining $4 billion could be saved by eliminating local revenue sharing, or preferably, reducing categorical grants-in-aid by a like amount.

We would then once again have a budget in balance, or nearly so and further cuts could be made to bring it into balance.

More importantlv, the Congress would have seized control of runaway Federal spending.

This would be a giant step toward fiscal responsibility and a truly meaningful effort to combat the recurring bouts of inflation and unemployment which have plagued our economy in recent years.

DEPORTATION OF LAW-BREAKING IRANIAN NATIONALS

Mr. HAYAKAWA. Mr. President, yesterday I addressed my colleagues on the need for administrative procedures to deport Iranian nationals who are in this country breaking the law. Since giving that statement I have learned that 46 of the 192 Iranians—Khomeini supporters—who were arrested have been released. I find this incredible.

I am told that these demonstrators were originally arrested on charges of disorderly conduct, the punishment being 5 days in jail, which time they have already served. Because they would not identify themselves they were detained by the INS for not disclosing information. However, when they gave their names, they were released. The only action remaining for the INS is to verify the validity of their visas.

If their visas are valid they can reside in this country. They can continue to propagandize against the United States, thus jeopardizing the safety of our hostages in Tehran.

Mr. President, as I said yesterday, these troublemakers would not be allowed to roam unimpeded in our streets if my American Sovereignty Protection Act had become law. It was introduced on March 19. My legislation would have given the President the legal power to define these Iranian dissidents as enemy aliens and placing them in detention centers or deporting them or otherwise restoring civil order.

Therefore, Mr. President, I am asking again my colleagues for their support and their immediate consideration of S. 2437, the American Sovereignty Protection Act.

I thank the Chair.

THE DEATH OF DR. VINCE MOSELEY

Mr. THURMOND. Mr. President, an outstanding South Carolina physician, Dr. Vince Moseley, died recently after more than 30 years of distinguished service to the Medical University of South Carolina (MUSC).

Dr. Moseley left an indelible mark on medicine in South Carolina, and his outstanding work touched countless lives. His selfless efforts on behalf of handicapped children greatly benefited many, and his untiring work for the medical profession will long be remembered.

Dr. Moseley was an able physician whose compassion and skill earned him the respect of people throughout the country. He was the recipient of a special Humanitarian Award from Lake City, S.C.; the Durkee Award for Outstanding Contributions to the Care of the Retarded; the Wisdom Award of Honor and the Dedicated Service and Education Award by the professional staff of the Medical University of South Carolina. The Vince Moseley Diagnostic Clinical Building in Charleston was named in his honor, and it was recently announced that a new lecture series named after Dr. Moselev would be established at the Medical University.

Dr. Moseley played an important role in medicine in South Carolina. He was assistant vice president and coordinator of extramural affairs as MUSC, director of the division of continuing education at MUSC, dean of clinical medicine at the university, and chief of medical services at the Charleston Veterans' Administration Hospital.

His service in the State included chairman of the board of South Carolina Retarded Children's Habilitation Center, president of the Charleston County Medical Society, trustee of Presbyterian College and Palmer College. He was a member of the Governor's Advisory Committee on Vocational Rehabilitation, a member of the health facilities advisory council of the State board of health, and chairman of the Trident Forum for the Handicapped.

For this outstanding service to his State and Nation, Dr. Moseley was awarded an honorary degree of doctor of humane letters, he was named an "Outstanding Educator of America," and was recipient of the MUSC Medical Alumni Association's Distinguished Faculty Award.

Dr. Moseley was an outstanding physician, educator, and humanitarian, and he will be sorely missed. My deepest sympathy is extended to Dr. Moseley's wife, Matilda, and his eight children at this time of sadness. They can take genuine solace, however, from the lifelong benefits gained by sharing a close family association.

Mr. President, in order to share a newspaper article and editorials concerning the death of Dr. Moseley with my colleagues, I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Charleston (S.C.) Evening Post, July 11, 1980]

Dr. Vince Moseley

He was remembered by his fellow physicians as a bedside teacher of students, interns and residents in diagnostics and treatment. To others he was known for his dedication to—and innovations in—the field of mental retardation. To all who knew him he was a thorough, competent clinician with a special love for his fellow man.

Dr. Vince Moseley served at the Medical University of South Carolina until his retirement in 1978 as dean of the division of continuing education and assistant vice president for extramural affairs. He was the prime mover in establishing the MUSC diagnostic and evaluation clinic that bears his name.

A native of Orangeburg, he arrived in Charleston in 1947 following Army duty in World War II and commenced his 31 year association with what was then the Medical College. Over those years his mustachioed, slightly plump figure, often dressed in seersucker, white shoes, bow tie and planter's hat, became part of the scene. His vocation was best described in his own words, "It's easy to be critical of the old family doctor who sat at bedside, took the pulse and temperature and sponged down his patient . . . but a lot of people made recoveries."

His memory will live on in the hearts of thousands who were his students or his patients during a long and illustrious career.

Doctor Vince Moseley, dead at the age of 67.

[From the Columbia (S.C.) State, July 11, 1980]

Charleston Physician, Vince Moseley, Dies

Charleston physician Dr. Vince Moseley died at his home Thursday morning.

Dr. Moseley was 68 years old and had calmly waited several months for death after refusing medical treatment for cancer.

He left deep imprints on medicine in his home state through more than 30 years of association with the Medical University of South Carolina. Dr. Moseley was also deeply involved with improving the lives of handicapped children and was the adoptive father of eight.

Services will be held Saturday at 11 a.m. at the Cathedral of St. Luke-St. Paul at Coming and Vanderhorst streets with interment in the cathedral churchyard.

In commenting upon Dr. Moseley's death, Dr. William H. Knisely, president of the Medical University, said, "Dr. Moseley's passing is a truly tremendous loss to the people of South Carolina and the country.

"His skills as a clinician and teacher are widely acclaimed. His association with the Medical University, spanning 31 years, has left a lasting impact on this institution and upon the many health professionals who were his students. His contributions to the welfare of the mentally retarded were monumental. Dr. Moseley will be remembered by us all as a compassionate, talented physician beloved by all."

Dr. Moseley retired from his position as assistant academic vice president and coordinator of extramural affairs at the Medical University in 1978. His responsibilities included overall administrative direction of the Area Health Education Center, Statewide Family Practice Residency Training Systems, Community-Based Cancer Prevention, the Hospital Consortium of Affiliated Hospitals, the Emergency Medical Services and the Division of Continuing Education.

In his capacity as director of the Division of Continuing Education, Dr. Moseley was responsible for developing the South Carolina Health Communications Network, which provides closed circuit continuing education programs to health care professionals across the state and beyond.

Earlier in his career, he served as dean of clinical medicine at the Medical University and chief of medical services at the Charleston Veterans Administration Hospital.

Dr. Moseley's dedicated efforts on behalf of handicapped children have earned him numerous honors, including the naming in his honor of the Vince Moseley Diagnostic Clinical Building in Charleston.

He was recipient of a special Humanitarian Award from Lake City, the Durkee Award for Outstanding Contributions to the Care of the Retarded, the Wisdom Award of Honor in 1972 and the Dedicated Service and Educator Award by the Professional Staff of the Medical University of South Carolina.

It was recently announced that a new lecture series, named after Dr. Moseley, would be established at the Medical University through a grant from the Department of Mental Retardation. The series is to bring in nationally recognized experts in the field of mental retardation to lecture to medical students.

Dr. Moseley served as chairman of the board of trustees of the South Carolina Retarded Children's Habilitation Center and chairman of the S.C. Commission for Mental Retardation. He was president of the Charleston County Medical Society and trustee of Presbyterian College and Palmer College.

Also, he has served as a member of the Governor's Advisory Committee on Vocational Rehabilitation; a member of the Health Facilities Advisory Council of the State Board of Health; and member and chairman of the Trident Forum for the Handicapped.

In June 1977, Dr. Moseley was awarded an honorary degree of doctor of humane letters from the Medical University.

Dr. Moseley was named an "Outstanding Educator of America" in 1972 and was recipient of the MUSC Medical Alumni Associations' Distinguished Faculty Award in 1972.

In January 1974, Dr. Moseley and the South Carolina Regional Medical Program, for which he was the coordinator from 1968 to 1977, were cited by the S.C. Hospital Association "for an outstanding contribution to health care in the State." A similar honor was accorded Dr. Moseley and the SCRMP by the S.C. Heart Association in 1975.

Dr. Moseley was certified by the American Board of Internal Medicine. He was a member of 16 scientific organizations and medical societies, including the AMA, South Carolina Medical Society, American Clinical and Climatological Association and the American Therapeutic Society. Also, he held the post as South Carolina governor for the American College of Physicians and as chairman of the Medical Section of the Southern Medical Association. He was a member of the International Society of Internists and was a Fellow of the Royal College of Health.

Dr. Moseley was born in Orangeburg. He received his A.B. and medical degrees from Duke University.

During World War II he served with the U.S. Army and rose to the rank of lieutenant colonel. He headed the Medical Service of a 1,000-bed general hospital in Panama and later served as chief of the officers section and assistant chief of the medical section of Letterman General Hospital in San Francisco, Calif., and as executive officer at Wakeman General Hospital.

Surviving are his wife, the former Matilda Holleman, and eight children.

The family suggests that contributions be made to The Health Sciences Foundation of the Medical University of South Carolina for the Vince Moseley lectureship in mental retardation.

[From the Charleston (S.C.) News and Courier, July 14, 1980]

DR. VINCE MOSELEY

During his 31-year association with the Medical University of South Carolina, Dr. Vince Moseley was a clinician, teacher and innovator in the expanding area of continuing education in health education. In all those capacities he gained and held the respect and the admiration of his professional peers and fellow citizens alike.

Dr. Moseley turned his talents alternately from classroom to research to the development of new ways of continually upgrading the knowledge of practicing physicians, nurses and medical technicians. Nowhere, however, was there greater evidence of his total commitment to cause than in the field of mental retardation. He was the prime mover in setting up and then directing a diagnostic and evaluation clinic in Charleston which today bears his name. He was instrumental in the establishment by the state of the rehabilitation center at Ladson. Chairman of the state's commission on mental retardation, he pursued persistently better ways to meet the needs of the retarded.

The clinic named in his honor and other concrete reminders tell something of Dr. Moseley's contributions to medicine and more particularly to the welfare of the mentally retarded. They do not tell all. Affable and quiet spoken, he was the very antithesis of the stern man of science. In the doctor-patient relationship he gave more than medical help. He gave love and understanding.

Compassion was the characteristic that all who knew Dr. Moseley noticed first and remember best. It was demonstrated both in his office and at home. He and Mrs. Moseley adopted eight children.

Dr. Moseley's death Thursday at 67 ended a career dedicated to healing and helping. He will be remembered by many as a most unordinary man who cared always about other people.

SOVIET BASE IN VIETNAM

Mr. THURMOND. Mr. President, the determination of the Soviet Union to spread communism in Southeast Asia and to bring economic pressure through seapower throughout the South Pacific is more evident every day.

An article in the August 3, 1980, issue of the Washington Star entitled "Vietnam's Cam Ranh Base Is Called Soviet Spy Nest" confirms the warnings many of us have issued about Soviet use of its growing military power to extend influence throughout this vital area.

This growing Soviet naval and air base in Vietnam is being used to monitor oil shipment routes in the Straits of Malacca and pressure countries of the Pacific which depend upon oil for their economic survival.

In addition, the Soviets are using these bases to launch bomber flights which can be over the Malacca Straits and other key Pacific points in a few hours.

This major spy center also threatens the U.S. Fleet Headquarters in the Philippines and brings pressure on Thailand to reach some accommodation with the Soviets and the Vietnamese Armed Forces which have taken over Cambodia and are threatening Thailand's border with Cambodia.

Mr. President, Congress has begun to awaken to these threats to our economic lifelines by the Soviets, although the administration still proposes relatively low levels of defense expenditures. We must maintain and increase our military strength to preserve our economic and political independence when we are faced with a major power so determined to expand its control throughout the world.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM CAM RANH BASE IS CALLED SOVIET SPY NEST

PEKING.—China said yesterday the Soviet Union has converted the former American military base of Cam Ranh Bay in Vietnam into a major spy center that threatens the U.S. fleet headquarters in the Philippines, Asian sea lanes and China itself.

Peking warned the Soviet takeover of Cam Ranh Bay, once an American staging area for the Vietnam war effort, was only the first stage in a Soviet buildup in the region.

"Cam Ranh Bay has been practically handed over to the Kremlin and has been made its main naval and air base in Southeast Asia," the official news agency Xinhua said.

Peking said Soviet warships and warplanes are using the massive base 180 miles north of Ho Chi Minh City to closely monitor U.S. naval movements at the Subic Bay base in the Philippines, the South China coast and the Straits of Malacca.

Soviet bombers are within two hours flying time of the Straits of Malacca, a critical chokepoint through which most of Japan's oil passes from the Middle East and which is used by the bulk of shipping in the region.

"It is clear that this Soviet military presence in Southeast Asia is a formidable threat to peace and security of this area and to world peace as well," Xinhua said.

"Whenever opportunity offers, it (the

Soviet military) can easily move into Southeast Asia in force, block the Strait of Malacca and cut off the sea lanes vital for the United States, Japan and other countries," Xinhua said.

The news agency said Cam Ranh Bay was "paving the way for more warships and airplanes to operate from Vietnam" and noted the Soviets already had converted some Vietnamese military facilities into "Soviet bases without a Soviet sign."

U.S. officials also have expressed concern with the increased Soviet military presence in Vietnam and Assistant Secretary of State Richard Holbrooke discussed it with Chinese leaders during his recent visit to Peking.

Western sources said the Soviets had shifted their major military operations in Vietnam from Danang to Cam Ranh Bay and they have begun building up at the bay.

"The Soviets don't have to ask the Vietnamese for anything," one diplomat said. "They can fly in there whenever they damned well please. They are the only act on that airfield."

SOVIET AND CUBAN SUBVERSION IN CENTRAL AMERICA

Mr. THURMOND. Mr. President, two recent newspaper columns point to the ill-advised policy of the Carter administration in Nicaragua and El Salvador.

The failure of administration policies to prevent Communist takeovers of these Western Hemisphere nations covered by the Monroe Doctrine is becoming more apparent every day.

These articles point out that the Soviets and Cubans are using Marxist Nicaragua and Panama to funnel military equipment and personnel into the area to overthrow the Government of El Salvador.

These activities are in part the result of our confusing policy when Soviet troops were placed in Cuba and Soviet airpower there increased.

Not only are we witnessing a major effort to communize nations in our own hemisphere, but the United States is actually providing economic aid to the Marxist government in Nicaragua which appears to be playing a key role in this plan.

Mr. President, these events are of the most serious consequence for the future of Central and South America. I urge the administration to expose these subversive acts by the Soviets and Cubans, and to develop a realistic policy to turn back this unacceptable flow of events.

Mr. President, I ask unanimous consent that these articles—one in the Washington Post by Rowland Evans and Robert Novak on July 30, 1980, entitled "Carter's Caribbean Choice" and the second in the Washington Star by Cord Meyer on August 2, 1980, entitled "The Danger in El Salvador," be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, July 30, 1980]

Carter's Caribbean Choice

(By Rowland Evans and Robert Novak)

Two convoys of ships carrying Soviet arms from Cuba have been secretly unloaded in Marxist Nicaragua to help build a growing weapons cache there for use in the coming battle for neighboring El Salvador, a development that may force beleaguered President Carter to reconsider his courtship of the left in Central America.

This secret supply undercuts the administration's policy of aiding Nicaragua's Sandinista regime in hope of preventing its total embrace of Moscow and Havana. Similarly, the administration has adopted the leftist cause in El Salvador, while giving a cold shoulder to anti-Communist elements.

Thus, the revelation of Marxist Nicaragua's turning into a staging area for subverting El Salvador puts a hard Caribbean choice to Carter. Should he try to rally national support for himself on this issue, he would have to sacrifice his own policy. Yet senators in close touch with the worsening Caribbean crisis, such as Democrat Richard Stone of Florida, may demand exactly that.

Officials here believe the arms sent to Nicaragua are earmarked for use by Marxist factions in the battle for El Salvador. That is the next intended victim of Soviet-backed insurgency in what used to be Uncle Sam's backyard.

Exactly what equipment was delivered is not yet known to U.S. intelligence officials, who described the unopened crates as containing "heavy equipment." What these sources do know is that arms already delivered to Nicaragua include Soviet tanks and long-range artillery pieces. Like the arms in the newly disclosed two convoys, all came from Cuba.

For Jimmy Carter, this continuing evidence of Soviet-Cuban intentions to dominate the Caribbean comes at a precarious political moment in an area of critical sensitivity. If détente is dead elsewhere, Carter's men have worked hard to insulate Central America from the Cold War.

There has been a pattern to Carter decisions in the beleaguered Caribbean since he courted Cuba's Fidel Castro by cancelling a U.S. naval exercise at Guantanamo Bay in January 1977. Time and again, Jimmy Carter has either looked away or explained away each provocation: the sinister Nicaraguan mission to Moscow early this year; the appearance in Cuban waters last year of two Soviet submarines; the late 1978 discovery that Moscow was arming Cuba with late-model MiG23s potentially capable of nuclear delivery.

U.S. diplomats in Central America—especially Nicaragua and El Salvador—have operated on orders that amount to this: a warm embrace for the left, a cold shoulder to the right. Those who did not go along were removed. In sucessfully pressing for aid to Nicaragua, the administration unsucessfully tried to get it on an unconditional basis with no democratic procedures required.

Carter may decide that the new Soviet arms challenge should not be dismissed with wordy assurances that all is well in the Caribbean. With opposition to this renomination rising and his standing in the polls sinking to record lows, Carter may react sharply to this new challenge from the Moscow-Havana axis.

After Carter backed out of his demand last September that the Soviet brigade be withdrawn from Cuba, the Iran and Afghanistan crises revived his political fortunes just in time for the primary season. Could Central America do the same now even if it means standing his present policy on its head?

But the case for action transcends election-year politics. "The Russians and the Cubans are testing, testing," one high-level official told us. If Carter allows this newest test to pass unchallenged, he added, no Caribbean country up to and including Mexico can fail to get the message: "It's up for grabs and they're doing the grabbing."

One Democratic senator who backs Carter's reelection will put this demand to Carter: make a complete disclosure to the American people; cut off the $65 million in U.S. aid now available to the Sandinista regime (and block an additional $70 million aid package now moving through Congress); prepare for action, including a naval blockade, if Castro again thumbs his nose at the White House.

Such actions might help Carter's fallen political fortunes. Far more important; they would finally show a glint of Carter steel at the U.S. back door that would match the genuine efforts he is making to block further Soviet encroachments in more distant parts.

[From the Washington Star, Aug. 2, 1980]

The Danger in El Salvador

While the attention of both press and public is diverted by the Roman circus of "Billygate," Marxist guerrillas in El Salvador with Cuban support are quietly setting the stage for a "final offensive" to take over that Central American country of 5 million people.

Last month, the crash in El Salvador of a Panamanian plane carrying ammunition to the guerrillas provided dramatic proof that the clandestine supply network that helped insure the Sandinista victory in Nicaragua is now functioning to assist the Salvadoran revolutionaries.

More recently, only the Miami Herald has given any coverage to a scandal in Costa Rica in which the minister of security has been forced to resign. The resulting judicial investigation has revealed that at least 16 secret cargo flights of arms of Cuban and Venezuelan origin have flown since December from Panama via Costa Rica to El Salvador, presumably without the knowledge of the non-communist governments involved.

On the basis of good intelligence reporting, Carter officials hinted in congressional testimony last March at the full extent of Cuban intervention. Charging Castro with supplying weapons, funds and training, they testified that "aircraft landings at isolated and remote haciendas" were being used as "a conduit for men and weapons." State Department officials now go further and concede there is evidence that Cuban officers are serving inside El Salvador to coordinate the newly unified guerrilla forces.

Having learned from the Nicaraguan experience the high price of passivity in the face of such aggressive intervention, the Carter administration is now urgently trying to bolster the junta of reform-minded military officers and Christian Democratic leaders who replaced the right-wing regime in El Salvador last October. Although the junta has been weakened by the defection of some moderates, this centrist regime remains the best hope of heading off a Castro-sponsored takeover by extreme radicals whose cruel fanaticism rivals that of Pol Pot in Cambodia.

It is late in the day and the stakes are very high, because a Castroite victory in El Salvador would not only doom whatever hope remains for moderation in Nicaragua but would provide a new base for the destabilization of all Central America, eventually threatening the Panama Canal and the Mexican oil fields. Venezuela, Costa Rica and even Panama seem increasingly aware of the danger and are supporting the El Salvador government.

Carter officials estimate that the junta's chances depend on its ability to fight simultaneously on three separate but related fronts. To win the support of the landless peasantry that makes up nearly half of the Salvadoran population, the junta has pushed through a program of land redistribution that gives title to the land to 150,000 small tenant families and that transforms the large estates into locally owned cooperatives. Former owners are compensated on the basis of assessed value, and the new owners are allowed 30 years to pay for their property.

In a bold move, the Carter administration has not only supported this radical reform but has helped in its implementation by a $1 million grant to the AFL–CIO's American

Institute for Free Labor Development, which has trained many of the cooperative managers. Early indications are that the harvest under the new system will be better than expected, and the recent failure of two Marxist general strikes is proof of the political impact of the reform.

On a second front, that Carter administration is pressuring the junta to control indiscriminate violence by extreme rightwing groups who oppose both Marxism and land reform and who get some support from elements in the National Guard. This rightwing terror has been deliberately exaggerated for propaganda effect by atrocities committed by left-wing guerrillas masquerading in government uniforms.

Finally, all of these efforts cannot succeed unless the Salvadoran army receives the equipment and training it needs to choke off the Cuban-supported influx of arms and trained guerrillas. It is on this front that the Carter performance is weakest. Fearful of being accused of aiding repression, Carter officials have not dared to ask Congress for more than $5.7 million of "non-lethal" equipment for the Salvadoran army, consisting of trucks and communication gear, while Castro shovels in guns that shoot real bullets.

Would a Reagan administration handle the Salvadoran crisis any better than Carter? A poll of Reagan's experts on Latin America produces mixed results. On the plus side, they are unanimous in calling for increased military and economic aid to the beleaguered junta, including the provision of helicopter gunships and weaponry to cut off Castro's supply lines.

On the issue of land reform, Reagan's position is more difficult to predict, although the landed oligarchy in El Salvador is already counting on a Republican administration to give them back their estates.

Watch for a major Reagan policy speech in September. How he handles the land reform issue will tell us a lot about his ability to cope with the Central American arc of crisis.

THE BUDGET PROCESS—ONE COMPLETE CYCLE

Mr. BELLMON. Mr. President, the budget process has now survived through one complete economic cycle—from recession to recovery and back to recession. The recovery was the longest peacetime recovery since World War II and I for one would like to contribute this in some part to the fiscal discipline and organization which the budget process imposes up on Congress. Hopefully every Member of the Senate has gained valuable insights into the importance of fiscal policy.

The one lesson that all of us who have served on the Budget Committee for any length of time have learned is to refrain from over reacting to short-term economic statistics and projections which turn out to be either temporary abberations of the data or short-term disruptions in a longer term economic trend. To paraphrase a great American humorist from Oklahoma—"If you don't like the economic statistics today, just wait a few days and they're sure to change."

More and more I see the similarity between economic forecasts and weather predictions. Few of us have escaped the annoyance of carrying an umbrella on a sunny day, wearing a sweater in 80 degree heat or arriving at the beach in a downpour. A 50 percent success record qualifies a weatherman for the hall of fame and has driven the industry to disguise their forecasts in a cloak of probability. I would contend that the similarity with economic forecasters is substantial, Mr. President. But, the analogy can only extend so far. The weatherman cannot cause rain by merely predicting rain and usually the only harm that comes from an error is to the weatherman's pride and wrinkled clothes. Economic forecasts, however, can so predispose Congress to a certain policy course, it can be said to "cause" serious economic stress. The recent revised CBO forecast is a case in point.

Last month, CBO presented their midsession economic forecast to the Congress. This forecast shows the economy continuing to decline through the fourth quarter of the year, with only a weak recovery beginning in 1981. This forecast also shows the unemployment rate rising to 9 percent by 1981 and remaining at that level throughout the year.

Since the release of that forecast, and others equally pessimistic, Congress has been in a headlong dash toward stimulative policies. I am, however, deeply concerned by the momentum that has gathered behind stimulative tax cuts and increased spending programs, not only because I am concerned about the prudence of the policies themselves, but most importantly, because I believe they are premised on erroneous economic assumptions. This is particularly true with regard to the inflation and unemployment rate assumptions.

This revision alone, without any change in program assumptions appears to put the fiscal year 1981 budget $25 to $35 billion in deficit due to reduced revenues and increased spending. With a 7½ percent unemployment rate as was assumed in our first concurrent resolution (and this is a historically high unemployment rate) the Federal budget is in balance. The deficit we hear about is the result of weather-like economic forecasts that call for economic storms which may never materialize unless the Congress panics.

Already, there is evidence of a turnaround and that unemployment may have peaked. The June composite leading indicators showed a strong 2.5 percent increase over the previous month and the increase was, in large part due to a decrease in the rate of layoffs, together with improvements in the index of building permits and the index of stock prices. These data raise the real possibility of a more rapid recovery than CBO foresees. Also, the June unemployment data, though registering a small increase in the overall unemployment rate, showed an increase in actual employment for the first time in recent months.

Housing starts increased 30 percent above the May number even after making seasonal adjustments. Automobile production indicated renewed strength as the index of automotive production rose 3.4 percent in June. More importantly, last month's statistics indicate an increase in automotive sales.

Mr. President, to proceed with a forecast that increasingly appears out of date is unwise and raises unnecessary questions about the credibility of the budget process. I, for one, intend to press for updated assumptions. But let me be clear, I do not intend to delay the process.

Some of my colleagues may ask why not wait until after the election like the House Budget Committee? Mr. President, the House's willingness to dismiss the timetable so meticulously prescribed and thought out in the Budget Act is ill-conceived and is a serious impediment to a well functioning and meaningful budget process. If the budget procedure is to work, it must adhere to a timetable which allows for orderly consideration of spending legislation and provides sufficient time for monitoring and enforcement of spending ceilings.

It is not a timetable which allows for arbitrary suspension of the timetable for either political or economic uncertainties. We have, in fact, missed the timetable in the last two budget resolutions, but for technical reasons entirely consistent with the intent of the Budget Act. The delay was regrettable and imposed some strains on an orderly process. But they were not delays which were mandated for purely political reasons—avoiding the possible embarrassment of re-estimates and hard priority decisions, the job we are obligated to fulfill. I, for one, Mr. President, am disheartened by my House colleagues' decision to postpone House consideration of the fiscal year 1981 second budget resolution. In the long run, Mr. President, such action could weaken the discipline and effectiveness of the budget process we have all worked so hard to instill.

In summary, Mr. President, I applaud the announced intention of Chairman HOLLINGS of the Budget Committee to proceed with markup beginning August 18, the date of the Senate's return from recess. It is my intention to try to steer a course as close as possible to a balanced budget in fiscal year 1981. It is in the best interest of the budget process and the economy to meet the deadlines we have imposed, yet to avoid acting precipitously on uncertain and incomplete economic evidence. To take another cue from the weatherman, "a balanced budget is something everybody likes to talk about and we, the Congress, can do something about it."

SERVICES FOR MENTALLY RETARDED CHILDREN

Mr. BELLMON. Mr. President, in December of 1971 I introduced an amendment to H.R. 10604, a bill that amended the Social Security Act in certain respects. In part, my amendment provided that publicly operated facilities for the mentally retarded would qualify as intermediate care facilities under title XIX, the medicaid program, if certain standards were met. These standards included provision of active treatment to the residents of such facilities. The purpose of my amendment was to provide medicaid coverage for institutions such as the three State schools for the mentally retarded run by the State of Oklahoma.

My familiarity with these fine State schools goes back to my days as Governor of Oklahoma. At the time I introduced my amendment, the State schools offered, and they continue to offer today, a wide variety of services designed to enhance the capacity of mentally retarded children to care for themselves, to obtain employment, and to achieve their full potential. The amendment I proposed was approved by both the Senate and the House and became part of Public Law No. 92–223.

Each of the State schools in Oklahoma maintains an educational program for its residents. This program is individualized for each resident and reflects the dual requirements of both the individualized education program as reflected in Public Law 94–142. (The Education of Handicapped Children Act) and the individualized plan of care required by medicaid.

Each State school maintains classroom facilities on the premises of the institution, and since 1965 the Oklahoma Department of Human Services—formerly the Department of Institutions, Social and Rehabilitative Services—has contracted with local school districts for the services of teachers to work with the children. The educational and vocational classes play an important role in the overall habilitation and training of the children at the institutions. The cost of the programs, including the salaries of the teachers and the expense of educational materials, is covered largely through State, local, and Federal education funds.

However, the Oklahoma Department of Human Services provides some modest supplementary payments to the school districts and also pays for and maintains the school buildings in which the classes are conducted. In addition, the department purchases certain educational supplies that are not covered by education funds. These expenses are necessary in order for the State to provide the active treatment required by medicaid. The department of human services has always assumed that these expenditures would be matched with Federal funds under the medicaid program, in the same manner as expenditures for other habilitative services that the State schools offer.

Recently, I learned that the Federal Health Care Financing Administration (HFCA) has concluded that the expenditures that the Oklahoma Department of Human Services has made in connection with the educational programs at the State schools are not eligible for Federal matching under the medicaid program. HCFA justifies its position by citing a regulation promulgated by the Department of Health, Education, and Welfare—now the Department of Health and Human Services—providing that Federal funding for institutions for the mentally retarded under title XIX may not include reimbursement for vocational training and educational activities.

If the regulation means what the Health Care Financing Administration seems to suggest, it is plainly inconsistent with the 1971 amendment. As I stated on the floor of the Senate when I introduced the amendment, the institutions to be covered by the amendment were those that offered "rehabilitative, educational, and training services." At the time I was well aware of the educational programs that the Oklahoma State schools offered, and there was no doubt that they were to be included among the services eligible for medicaid funding. In fact, for many children these services are the heart of the Intermediate Care Facilities for the Mentally Retarded (ICF/MR) program. We in Congress surely did not mean to bring ICF/MR's under title XIX only to exclude a major portion of the ICF/MR services from title XIX coverage.

I would have no difficulty with the HEW regulation if it were intended merely to prevent medicaid reimbursement of expenditures that also were covered by Federal education funds. But HFCA funding for educational or vocational services even where these services are key, integral parts of a total rehabilitation program. I am convinced these officials are plainly wrong about the effect of the 1971 amendment. That amendment covered all of the habilitative services that the Oklahoma State schools for the mentally retarded offer, including the fine educational and vocational programs that benefit Oklahoma's mentally retarded children so much and help to make the State schools among the finest institutions of their kind in the Nation.

It was not my intention in 1971 nor is it my intention now to make the medicaid program responsible for funding widespread education or vocational programs for the mentally retarded. It was my intention then and I am certain that it was Congress intent to fund under medicaid those educational and vocational activities which are provided in furtherance of the medicaid active treatment requirements where the funding is not borne by other local, State, or Federal agencies.

THE TRUTH ABOUT COLLECTIVIZATION OF AGRICULTURE IN THE U.S.S.R.

Mr. HELMS. Mr. President, as ranking minority member of the Senate Committee on Agriculture I have had the opportunity to study Soviet agricultural problems, particularly those resulting from the collective system of agriculture. I was therefore particularly interested in the summary published a few days ago in the Wall Street Journal of a 46-page study by Josif Dyadkin, a Soviet dissident, entitled "Evaluation of Unnatural Deaths in the Population of the U.S.S.R., 1927–1958" and thus covering mainly the years of Stalin's rule.

A portion of Mr. Dyadkin's study has already appeared in a French scholarly journal, the Cahiers du Monde Russe et Sovietique (Notebooks of the Russian and Soviet World). In the United States, Murray Feshbach, U.S. Census Bureau specialist in Soviet demographics termed it "a very serious evaluation." Meanwhile, it should be noted that the KGB arrested Mr. Dyadkin for having released his manuscript abroad.

According to the statistics painstakingly compiled by Mr. Dyadkin, who has considerable experience in applied mathematics, "the unnatural deaths in the period from 1927 to 1958 totaled between 43 to 52 million."

Of these, 30 million died during World War II (10 million more than the Soviets admit) while some 13 to 22 million died at other times from forced collectivization, so aptly termed by Solzhenitsyn as "genocide collectivization," the killing of "non-progressive classes," famine, blood purges and the conditions in concentration camps.[1]

Mr. President, because of the importance of the historical references in this matter, I ask unanimous consent that the footnotes in my written text be printed in the Record at the conclusion of my remarks.

The first period of Stalinist control analyzed by Mr. Dyadkin extends from 1929 to 1930 and is that of forced collectivization of agriculture and the wholesale extermination of the more prosperous peasants with their families, a period during which entire regions suffered terrible famine caused not only by nature, but by the government. This period is less known to the general public than the one of the Great Purge (1937–38) but its effects were far more disastrous. Mr. Dyadkin estimates that it brought about the death of more than 10 million, more probably up to 16 million men, women and children.

Mr. President, I ask unanimous consent that the article by James Ring Adams entitled "Revising Stalin's Legacy" and presenting a summary of Mr. Dyadkin's study be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

20 MILLION DEATHS

Mr. HELMS. However, Mr. Dyadkin presents only the statistical outlines of the whole story. The full revelation of the inhumanity of the Soviet collectivization process is evident only through a careful study of other sources, including Soviet sources, to uncover the techniques and the ruthless policy decisions that led to the death of so many millions. Indeed, Dyadkin's estimates can hardly be accused of exaggerating. As I shall shortly point out in some detail, 16 million deaths could well be a bare minimum; even based upon official Soviet sources, a more reasonable calculation could be 20 million and more. A brief historical sketch may help to dispel some of the myths regarding the collectivization of agriculture in the Soviet Union.

This collectivization has been often presented as the sole alternative to an otherwise hopeless situation. The desperate resistance presented by the great bulk of Russian peasantry has been reduced to the resistance of a disgruntled minority of "Kulaks" (tight fists). Indeed, the idea of a collectivized system of agriculture appears to exert a certain fascination for many economists and political scientists, who tend to view it as a good thing on the whole, but unfortunately mishandled in the Soviet Union by that monster Stalin.

To begin with, let us forget the wide-

Footnotes at end of article.

spread myth of the terrible misery of the Russian peasant on the eve of the revolution of 1917. The truth is that, again in the words of Solzhenitsyn, "the material well-being of the peasants was at a level which has never been reached under the Soviet regime." [2]

It is undeniable that until the first years of the present century, agriculture in imperial Russia suffered from many handicaps not the least of which was an antiquated system of landholding by the peasantry, the description of which is outside the scope of this brief outline.

THE STOLYPIN REFORMS OF 1906

But it is an irony of history that a truly revolutionary series of agrarian reforms was started in 1906, only a decade or so before the revolution and became famous under the name of "Stolypin Reforms" after the Prime Minister who initiated them.

But even in these few years, the results of the Stolypin reforms were nothing short of sensational. From 1906 to 1916 Russian peasants acquired close to 9 million hectares of land.[3] By 1916 some 6,200,000 peasant households out of a total of some 16 million owned their farms.[4] Crop yield almost doubled and in 1913 Russia supplied some 40 percent of world wheat exports. Peasant banks and credit unions established prospered so well that by January 1, 1916, there were in Russia 11,412 credit unions with close to 8 million members and 17,000 consumer societies with 3 million members.[5]

The Stolypin reforms laid the base for a swiftly growing class of economically independent and prosperous farmers, solid supporters of law and order and in doing so eliminated the age-old cause of peasant unrest. At the same time the reforms also eliminated the chief arguments of revolutionaries. These now viewed the contented peasants as enemies far more dangerous than the relatively few landed gentry could ever be. The immediate result of their fear was the assassination of Stolypin in 1911. But even his death could not stop the impetus given to the agrarian reform.

Stolypin had estimated that "given 25 years of peace, Russia would be unrecognizable." But World War I broke out in 1914.

The war caused the loss of 4 million lives in Russia and slowed down, but did not stop entirely the development of the Stolypin reforms. The effects of the civil war which followed the revolution of 1917 were far more serious. Seven and one-half million civilian casualties were added to the million killed in combat—some 12½ million in all from 1914 to 1920.[6]

THE BOLSHEVIKS END REFORM

The civil war brought an end to the Stolypin reforms. The Bolsheviks had started by declaring that "land must be handed over to the peasants." [7] But they promptly used the excuse of the civil war to proclaim a state of "war communism" and thus to nationalize the land, trade, industry and peasant labor. Then, on January 24, 1919, "produce levies" were imposed [8] which Lenin declared to be intended "to confiscate all surpluses, to establish a compulsory state monopoly." [9] Peasants were forced to sell at loss or else have their produce confiscated by "produce detachments" that quickly became infamous.[10] Confiscations, punitive expeditions and mass terror followed. The enraged peasants slaughtered their cattle, fields were left fallow, trade stopped. Meanwhile cities starved and desperate workers fled to rural areas only to endure terrible privations there. Predictably uprisings multiplied.

In February 1921, rebellion flared up on an unprecedented scale in the Tambov Province of European Russia, in the present Central Chernozëm or Black Soil Economic Area and spread swiftly to the East, to the Volga, the Urals and into Western Siberia. Military action proved ineffective, the military often siding with the rebels. A terrible cholera epidemic further aggravated the situation. That year the grain harvest was half of that of 1913 and some 20 percent of the horses perished.[11]

THE 1921 FAMINE

The Communists laid the blame for the ensuing horrible famine on the severe enough drought of the summer of 1921, but the real cause of the famine was the total disruption of every normal activity in the country.

Twenty-seven million people were starving at that time in the Soviet Union, particularly in its European part. Foreign aid came mostly from the United States but could reach only some 12 million and domestic help only 3 million. The remaining 12 million were literally left to eat the remaining cattle and even leather and grass.[12] Solzhenitsyn can hardly be accused of exaggerating therefore, when he states that it was "during Lenin's lifetime that no fewer victims died then under Hitler—some 6 million people in the Ukraine and Kuban River basin died of hunger.[13] As he says elsewhere, "the entire Red Trror and the repressions of millions of peasants were formulated by Lenin and Trotsky." [14] Stalin merely took over.

At this point Lenin and his associates realized that the desperate Russian peasant was now more to be feared than foreign armies. A temporary change of policy was needed to pacify the peasant masses.

THE NEW ECONOMIC POLICY

A new economic policy, the so-called NEP, was announced already in March 1921, at the 10th Party Congress. The hated "produce levies" were replaced by a harsh but acceptable produce tax. Freedom of trade and the right to engage in private enterprise within certain limits were also proclaimed.[15]

The results of the NEP were amazingly successful, particularly in view of the prevailing devastations, shortages, the losses of men and cattle and the disruption of communications. Within 2 years the economy of the country was unrecognizable and until 1928 the Soviet Union enjoyed an abundance of food never to be repeated to date.

The situation was developing so well for private enterprise that already in April 1922, at the Eleventh Party Congress, Lenin called a halt to the NEP.[16] By 1923 the U.S.S.R. had accumulated such large grain reserves that in April of that year, the 12th Party Congress issued a decree requiring the government to export the surplus "since it is necessary to provide for the export of peasant grain surpluses that cannot be used within the country" and a year later, in January 1924, the 13th Party Congress stated that "the urban and industrial population of the U.S.S.R. is not a sufficient market for present output".[17] Soviet sources admit that "in 1925 agriculture in the U.S.S.R. reached the pre-war level, yielding 103 percent of pre-war production".[18]

Meanwhile the new Land Code of 1922 gave the peasants the freedom to choose the type of agriculture they preferred. They did so and chose to return to the Stolypin reforms.[19]

It could have been expected that in view of such clear manifestation of the will of the peasants, the new rulers of Russia would give them what they wanted, but such was not the case. The revolutionaries only realized even more clearly that the peasants were still the chief obstacle to their full taking over of power in the country. In April 1925, at the 14th Party Congress, it was decided to "defend the country from any attempts at restorations" (of the old order).[20] And gradually repressive measures were resumed.

THE 15TH PARTY CONGRESS

In December 1927, at the 15th Party Congress, known as the "collectivization Congress", the fate of the peasantry was definitively sealed. And at the beginning of 1928, Stalin began to introduce what was at first a limited terror—repressions, illegal searches, police surveillance, prohibition of sales of wheat in markets and villages and so on.

The peasants now becoming accustomed to their reacquired prosperity reacted with violence. Izvestiya reported (Dec. 8, 1928) that some 24,000 acts of anti-Communist rebellion (armed aggression, arson and so on) had occurred that year. Uprisings started occurring throughout Russia. In the Smolensk area alone, 34 acts of terrorism took place in July–August 1929 and 47 in October.[21]

Stalin then decided to act decisively. Officially he would lay the blame for the troubles on the wealthier elements among the peasantry, the two million or so "kulaks",[22] those who owned from 10 to 12 hectares of land, their agricultural equipment and also employed farm workers and/or rented out their surplus equipment.[23] But criteria varied greatly according to region.

THE LIQUIDATION OF THE KULAKS

In a speech on "Problems of Agrarian Policy" delivered on December 27, 1929, Stalin made it plain that the problem of agrarian policy in the U.S.S.R. was "first and foremost to strengthen the Party dictatorship over the people." [24] Two days later, on December 29, 1929, he announced the "complete liquidation of kulaks as a class." On January 5, 1930, a Decree of the Central Committee of the CPSU on Rates of Collectivization called for the total collectivization of the U.S.S.R. to be completed by the fall of 1931 or the spring of 1932 at the latest.[25] It was by now obvious that col-

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lectivization of agriculture was needed as a form of political and organizational control of the rural population.

Then on February 1, 1930, the government authorized the executive committees of districts and oblasts to use "all means judged useful to fight the kulaks up to and including total confiscation of possessions and expulsion of these elements to certain districts and oblasts."[26]

From January on there followed a horror-filled period of demented terror when kulaks were sent to labor camps where most died of hunger and cold, when even clothing was confiscated. It was moreover difficult if not sometimes impossible to distinguish between classes of peasants: Kulaks, slightly prosperous, or poor peasants, as they refused to be categorized by urban bureaucrats.[27]

Tragically enough, the fate of Russian peasants was mainly in the hands of men from the cities. Most of the officials sent to enforce collectivization were of urban origin, the party having virtually no rural base. By 1930, the Bolsheviks did include some members from rural areas, but many of the so-called peasants were in fact workers sent to the villages to manage local party cells. Rural areas were thus controlled and watched by men ignorant of rural problems.[28]

According to data from the November 1933 Plenum of the CC CPSU on "Political Departments in Agriculture", "shock brigades" totaling some 25,000 volunteers "carefully and personally" picked by the CC CPSU,[29] also members of the Young Communist League and even military contingents,[30] were also sent in 1929 to the rural areas to help quell the fierce and desperate opposition of the so-called anti-Soviet rural elements. A total of some 5,389 political departments were created at Machine and Tractor Stations, or about one in each collective farm.[31]

The Communists were efficient enough. In October 1929 only 4 percent of the peasantry were members of kolkhozes. By March 1930, already 58.1 percent had moved into kolkhozes, but at the cost of close to half of the large horned cattle and the horses.[32] Matters reached the absurd, when for instance a militant Communist was quoted in a publication (Bednota—The Poor) of April 4, 1930 as saying that "it was necessary to collectivize even the hens and the hogs because to preserve them would be to strengthen individualism among the peasants".[33]

But the situation again got out of hand as uprisings and acts of terrorism multiplied. The harvest of 1930 was clearly threatened. And again the government decided to retreat—for a while, and also in a way that proved to be a master stroke of tactics.

STALIN RETREATS

In early March 1930, Stalin published an article entitled "Dizziness Due to Success" in which he laid the blame for the prevailing excesses and abuses squarely on the shoulders of the lower echelons of the party. A few Communists were even shot to prove Stalin's sincerity and instructions from the CC CPSU followed on the ways to restore order and justice.[34]

This was the first time that the party acknowledged having made mistakes and the effect of this new-found humility was all that Stalin could wish for. The people rejoiced at the news that something would be done at last to help them and hoped for better days. The more so since Stalin also declared that the adherence to a collective farm was a "voluntary matter". Delighted at the news, the people immediately showed what they could do in a "voluntary" way. They left the kolkhozes en masse.[35] If in early March 1930, 58.1 percent of the peasants belonged to kolkhozes, only 21 percent did so by September of that year.[36]

But there was a catch to the newly acquired freedom. The peasant leaving the kolkhoz could recuperate his possessions handed over when he joined it, but only in the form of cash at Government prices, 10 to 20 times lower than the market value. He was therefore unable to purchase anything to start afresh on his own. Even so the peasants left the kolkhozes. But once on their own they were beggars and could benefit from none of the allotments of consumer goods distributed to members of kolkhozes.[37] And so it was that by the middle of 1931, more than half of the peasants were back in the collective farms.[38] And in despair many peasants fled in 1930–31 to the cities, and even more so did the same in 1932–33, at the height of the enforced collectivization.[39]

RENEWAL OF OPPRESSION

Meanwhile repressions started again with a renewed vigor and to all the evils was once again added that of a terrible famine in 1931–32.[40] The latter was clearly organized to break down peasant resistance once and for all, because it was largely due to the confiscation of seeds from the farmers and to similar abuses.[41]

Scenes of horror included even cannibalism. At the January 1933 Session of the CC CPSU one of the participants said to Kaganovich: "But they have already started to eat people (in our area)", to which Kaganovich retorted: "If we give way to our nerves * * * they will eat you and me * * * will that be preferable?"[42]

Meanwhile merciless deportations continued until the end of the collectivization in 1933. Conservative western estimates give the tentative figure of some 3 million deportees and set the number of those who "disappeared" at some 5 million.[43]

OFFICIAL SOVIET STATISTICS

Actually it is in Soviet publications that one can find unintended confirmation of the estimates of deaths due to collectivization given by Mr. Dyadkin in his study. For instance in her repeatedly reprinted "History of the U.S.S.R.," Prof. A. M. Pankratova writes that in 1929, shortly before the total collectivization began, there were about 25 million peasant households in the U.S.S.R.[44] These figures are given also elsewhere. Of these households, some 2 million fell into the category of kulaks, 18 million into that of fairly prosperous farmers and 5 million into that of poor farmers.[45]

But then Pankratova writes that in 1937, shortly after collectivization was completed, there were 18.5 million peasant households in collective farms or 93 percent of the total number.[46] No explanation is given for the missing millions.

Other Soviet sources are more specific. Thus in 1939, the Bolshevik, an official organ of the CC CPSU also states that 93 percent of peasant households were in collective farms and gives their total number for that year at 20,152 million. The Bolshevik also gives the figures of 25,725 million peasant households in the U.S.S.R. for March 1930, 20,835 million for 1935 and 20,125 million for 1938.[47] These figures indicate a loss of some five and one-half million peasant households between 1930 and 1938, a loss due to the elimination of "kulaks" and other "harmful elements" and also to the emigration to the cities of such peasants as managed to do so.[48]

If it is assumed that an average household numbered some four of five people, it would result that some 20 to 25 million people "disappeared" in the process of collectivization.

Even taking into account the several million who emigrated to the cities at the height of the collectivization campaign, (some four million according to some estimates)[49] at least 15 to 20 million remain unaccounted for.

How did they disappear? There was the concentration camp, the unheated crowded cattle trains, the firing squad.[50]

By 1933, the situation had become so intolerable, that commissions had to be sent to more critical areas with the power to liberate some arrested peasants in order to save the harvest.[51]

Nevertheless, in 1934, terror was given a fresh impetus as Special Bureaus were created to take care of the "socially dangerous" persons: surviving kulaks, artisans, "nepman" (itinerant rural merchants who proposed during the NEP) and potential "saboteurs" of collectivization.[52]

But even the most inhuman means of coercion could not force the peasants to produce enough food for the survival of Communist domination. And so it was that at the very height of the collectivization campaign, in March of the terrible year of 1932, the Soviet Government was forced to permit peasants to own some cattle. "Each kolkhoz worker must have his own cow" Stalin declared sagely in February of 1933.[53] But this was not a return to the NEP. It was merely a safety valve and also a very reluctantly admitted need to maintain some stable and indispensable even if small supply of available food. By 1938, one such subsidiary plot yielded a profit seven or eight times that of an identical plot cultivated by the same peasants for the collective farm.[54]

To this day the subsidiary plots are the mainstay of Soviet food supply supplemented by massive grain imports.

One may think that the horrors barely outlined here are never to be feared anywhere else but in the Soviet Union and its satellites and that our enlightened social scientists would be incapable of even considering such inhuman measures however attractive the ultimate goal could be.

The remarks of one French social scientist, Pierre Sorlin, concerning the early days of Soviet collectivization may therefore be of some interest:

"But why did the (Soviet) authorities go so far?" asks Sorlin. And he answers: "The only logical answer lies in the examination of society as it was at that time: an amorphous mass in full demographic growth. A whiplash could galvanize energies without presenting any risk. Some individuals would rebel but they would be drowned in the mass. The rural population (of Russia) was already too large, accidents mattered little. On the simple plane of social facts, the reasoning adopted was correct: production fell at first, 4 million (sic) individuals died (1929–32) but the enterprise succeeded."[55]

At the other end of the Eurasian continent, a Chinese Communist leader, Liu Shao Chi gave what is perhaps one of the most accurate definitions of Soviet-style agrarian reform: "Agrarian reform is a systematic and fierce struggle against feudalism * * * Its objective is not to give land to the poor peasants nor to lessen their misery; this is the ideal of philanthropists, not of Marxists. Distribution of land and of possessions may profit the peasants, but this is not the objective sought. The real objective of agrarian reform is the liberation of the forces of the country."[56]

FOOTNOTES

[1] *Time*, Feb. 18, 1980, p. 48.

[2] *Foreign Affairs*, Spring 1980, p. 804.

[3] Pierre Pascal: *Histoire de la Russie des origines à 1917*. Paris, 1967, p. 128.

[4] N. Rutich: *The CPSU in Power*. Munich, 1960, p. 3.

[5] Pascal, *op. cit.*, p. 128, 129.

[6] Pierre Sorlin: *La Société Soviétique 1917–1967*. Paris, 1967, p. 77.

[7] Lenin: *Works*, v. XXII, 3rd edition, 1931, p. 20.

[8] V. S. Mertsalov: *The Tragedy of Russian Peasantry*. Posev, 1949, p. 11.

[9] Lenin: *Works*, v. XXVI, 3rd edition, 1931, p. 247.

[10] Mertsalov: *op. cit.*, p. 11.

[11] Sorlin, *op. cit.*, p. 84, 86.

[12] *Ibid.* p. 86.

[13] *Time*, Feb. 18, 1980, p. 48.

[14] *Foreign Affairs*, Spring 1980, p. 803.

[15] Mertsalov, *op. cit.* p. 12.

[16] A. Avtorkhanov: *The Communist Party Apparatus*, Chicago, 1966. p. 280.

[17] *The CPSU in Resolutions and Decisions* . . . 7th edition. Moscow, 1954, Part I. pp. 708, 788.

[18] A M. Pankratova: *History of the USSR*. Part III. Moscow, 1946. p. 316.

[19] Mertsalov, *op. cit.* p. 13.

[20] *Ibid.* p. 13.

[21] Merle Fainsod: *Smolensk under Soviet Rule*. 1967. p. 271.

[22] Rutich, *op cit.* p. 329.

[23] Sorlin, *op cit.* p. 92.

[24] Rutich, *op cit.* p. 329.

[25] Stalin: *Problems of Communism*. 11th edition. Moscow, 1947. p. 297.

[26] Roland Gaucher: *L'Opposition en URSS*. 1917–1967. Paris, 1967. p. 140.

[27] *Ibid.* p. 141.

[28] Sorlin, *op cit.* p. 148.

[29] Rutich, *op. cit.* p. 332.

[30] Sorlin, *op. cit.* p. 134.

[31] Rutich, *op. cit.* p. 332.

[32] Ibid. p. 329, 330.

[33] Sorlin, *op. cit.* p. 144.

[34] Mertsalov, *op. cit.* p. 38.

[35] *Ibid.*

[36] *Ibid.* p. 39.

[37] *Ibid.* p. 38.

[38] Rutich,, *op. cit* p. 331.

[39] Sorlin, *op. cit.* p. 331.

[40] *Ibid.* p. 145.

[41] *Ibid.* p. 149–50.

[42] *Socialist Herald*, New York, May 1956, quoted in Rutich, *op. cit.* p. 331.

[43] Gaucher, *op. cit.* p. 144.

[44] Pankratova, *op. cit.* p. 330.

[45] Rutich, *op. cit.* p. 329.

[46] Pankratova, *op. cit.* p. 343.

[47] *Bolshevik*, no. 10. 1939, quoted in Mertsalov. *op. cit.* p. 40.

[48] Mertsalov, *op. cit.* p. 40.

[49] Sorlin, *op. cit.* p. 157.

[50] T. K. Chugunov: *Calvary of a Russian Village*, Munich, 1968, p. 97.

[51] Rutich, *op. cit.* p. 331.

[52] Sorlin, *op. cit.* p. 139.

[53] *Ibid* and Rutich, *op. cit.* p. 333.

[54] Sorlin, *op. cit.* p. 152.

[55] Sorlin, *op. cit.* p. 144.

[56] Jean Ousset: *Marxisme et Revolution*. Paris, 1973. p. 85.

EXHIBIT 1

REVISING STALIN'S LEGACY

(By James Ring Adams)

Iosif Dyadkin, a 52-year-old Soviet geophysicist, was a relatively quiet dissident, but that didn't stop the authorities from giving high priority to his arrest this spring. The KGB picked him up in his home city of Kalinin, on the Volga, apparently for the crime of doing some embarrassing statistical detective work. Using officially published population figures, Mr. Dyadkin tried to discover how many people had died unnatural deaths during the years 1927 to 1958, a period primarily consisting of Stalin's rule.

His 46-page *samizdat*, a privately circulated manuscript written in a dry, scientific style, told a shattering story. The unnatural deaths in this period totaled between 43 million and 52 million. The nature of the statistics did not draw distinctions between political deaths from Stalin's repressions and war casualties (which could be called another kind of Soviet government failure). Mr. Dyadkin deduced that fighting, deprivations and prison camps during World War II claimed 30 million Soviet lives; this is some 10 million more than the Soviet government acknowledges. Thus he concluded that some 13 million to 22 million died at other times from forced collectivization, the killing of the "non-progressive" classes, famine, blood purges and the conditions of the Gulag, the Russian acronym for the prison camp system.

However this conclusion offended the KGB less than the news that Mr. Dyadkin's paper had reached the West.

A LITERARY MEMORIAL

The exiled Alexander Solzhenitsyn, who has devoted himself to leaving a literary memorial to the victims of Soviet prison camps, had included its title in a list of documents he planned to publish in Russian. Mr. Dyadkin was arrested almost immediately after. Mr. Solzhenitsyn responded by calling on Western scholars to intervene. "With such methods of suppression," he wrote, "we shall never learn historical truth." Disappointed by the meager response, he released a copy of the *samizdat* exclusively to this newspaper, through the New York-based Center for Appeals for Freedom.

Although not a trained demographer, Mr. Dyadkin cites his considerable experience with applied mathematics. And remarkably, his paper, "Evaluation of Unnatural Deaths in the Population of the U.S.S.R., 1927–1958," is almost the only comprehensive study of the subject published in either the East or the West. Western demographers have not yet had access to the full document, but a portion dealing with World War II has appeared in the French scholarly journal "Cahiers du Monde Russe et Sovietique." Murray Feshbach, U.S. Census Bureau specialist in Soviet demographics, says that that fragment "looked like a very serious evaluation."

Mr. Dyadkin devotes much of his paper to explaining his own methodology because, he says, it is very difficult to see what methods the official Soviet demographers use to derive their figures. He charges that their work is in fact designed to mask the massive loss of life caused by governmental repression. Official tables consistently omit data for the years between 1929 and 1936, when repression in Russia was at its most lethal.

But the main shuffle, he writes, is to assume an average natural growth rate of 3.5 million at the end of the 1920s and then suddenly post a 2.5 million average for the 1930s. Since the net population growth is this natural birth rate minus the number of deaths, and this number has to be given with some accuracy, the government tried to hide the embarrassingly high number of deaths by lowering the figures for the actual birth rate. "It turns out, then," writes Mr. Dyadkin, "that the dynamics of the population cannot reflect forced collectivization, hunger, the Gulag and executions. But the magnitude of the loss is so great that no official effort to conceal it can succeed."

Much of Mr. Dyadkin's work depends on his own guess at the normal rate of growth, and he recognizes how much his choice can change the results. So he gives his estimates in ranges, sometimes with a variation of up to 50 percent, and he makes a point of choosing the more conservative conclusion.

For another approach, Mr. Dyadkin turns to the "question of the missing males." "At no time during the history of the U.S.S.R., including the current time," he writes, "did the percentage of men in the population achieve the proportion that existed during the Czarist period, 1897 to 1913. In 1913, in spite of the Russo-Japanese War and Revolution of 1905, this proportion stood at 49.7 percent." But subsequent troubles decimated the men. World War I and the Russian Civil War lowered the proportion by two full percentage points, so that in 1922 males were only 47.7 percent of the population.

Relative peace and Lenin's New Economic Policy (which tolerated private ownership) allowed a recovery; by 1926, males were up to 48.3 percent. Under normal conditions, this ratio should have improved even further, but the years 1929 to 1939 were far from normal; by 1939, the proportion of males had dropped back to 47.9 percent. But the real demographic disaster came in World War II, which pushed the male population below 44 percent. Only by 1976 had it risen as high as 46.4 percent.

Working with these figures, Mr. Dyadkin proceeds to estimate the casualties in the various periods of the terrible Stalinist years after 1929.

The first period, 1929 to 1936, is that of collectivization and "elimination of the classes," when Stalin took control with his version of Marxist economics. Though less famous than the subsequent Great Purge, this period was far more harrowing for the countryside. Kulaks, or the rich peasants, were exterminated wholesale with their families; whole regions suffered famines caused both by nature and the government. Mr. Dyadkin estimates deaths at more than 10 million men, women and children.

"I am afraid to present the upper limit," he adds, "but it is most probable that, according to the birth rate of 1937, and not the lowest of low birth rates for 1924 to 1939, that some 16 million perished."

In his second period, 1937 and 1938, the Great Purge had reached its peak. Millions of Communist Party members and bureaucrats were summarily sent to the Gulag or execution. Some 1.4 million, plus or minus 0.2 million, died.

In the third period, 1939 and 1940, the purge continued and reached into the Red Army, which also suffered a less significant number of casualties from the Winter War with Finland. The total loss, says Mr. Dyadkin, was 1.8 million, plus or minus 0.2 million.

These last four years, he writes, account for much of the missing males up to World War II. "It is possible to say, in contrast to the years 1929 to 1936, when men and women died equally, that during the repression years of 1937 to 1940, mostly men were killed in labor camps and executions."

Yet the period which obsesses Mr. Dyadkin, and most Russians, is the unimaginably bloody struggle against Nazi Germany, the Great Patriotic War. The official casualty figure is 20 million, and it apparently derives from an off-the-cuff remark former Soviet Premier Khrushchev once made to the prime minister of Sweden. Western analysts have estimated 25 million; but Dyadkin derives a figure of 30 million, give or take a million. Of these deaths, some 20 million may have occurred in actual fighting. He says the rest or 10 million died through deprivation and the Gulag.

But an accurate total is probably unattainable. "Only if we can get casualty figures for every important military operation of the Soviet and German sides" he writes ". . . will it be possible to answer the question: At what price did the Soviet Union achieve victory? . . . On the scale of the casualties depends the answer, was this really a victory?"

DEMOGRAPHIC DEDUCTIONS

His final period, 1950 to 1954, is almost anticlimactic, but men were still dying in prison camps until the death of Stalin in 1953 brought about releases and rehabilitations. Mr. Dyadkin estimates the deaths at 450,000, plus or minus 150,000. This figure comes from his demographic deductions, and he works back from it to extrapolate an estimate of the total prison camp population. Assuming a high mortality rate in the camps, he puts the number of prisoners at 3 million; assuming a low mortality rate, he puts it at 6 million.

The end result is awesome. In the absence of war and repressions, estimates Mr. Dyadkin, the Soviet population would have reached 250 million by 1950, 20 years earlier than it actually did.

"Let us end on an optimistic note," he concludes in the ironic style of the dissidents. "After the 20th Party Congress [in which Khrushchev revealed the crimes of Stalin] we can observe a coincidence of the general and the natural mortality rate and its declining level. We can witness a slow diminishing of the birth rate. This shows that mass repressions have basically ceased and the material level of life in our country has increased above that level to which the population had become accustomed. The population has completely adapted itself to the existing governmental order. In this respect the new Soviet man has indeed been created.

"A small number of dissidents have ceased paying by their silence and forced ovations for the privilege of life outside of prison camps, and this leaves no trace in demographic tables.

"But here we also see positive movement. Now we know their number without the aid of demography; we even know their names."

TRAGEDY ON THE IDITAROD

Mr. STEVENS. Mr. President, on March 14, 1980, a well known Alaskan pilot, Captain Warren "Ace" Dodson, and three members of a Spanish television film crew died in an airplane crash 12 miles south of the Eskimo village of Shaktoolik, on the northwestern coast of Alaska.

They were filming the Iditarod Trail Sled Dog Race, an annual 1,200 mile marathon for man and dog across the Alaskan wilderness, for the award winning Spanish television program, Man and Earth.

Captain Dodson was the son of pioneer Alaskan avaitor, Jim Dodson. Considered by his peers to be one of the few "natural" pilots, Dodson and his father made significant contributions to the people of Alaska and the history of Alaskan aviation. In the days when there were few runways and less radio beacons, the Senior Dodson flew the mail, pregnant mothers and sick children, gold pokes, supplies, food, and all the necessities for life on the Alaskan frontier, often risking his life to do so. Growing up in this atmosphere, Ace Dodson did the same, flying first for Northern Consolidated and then Wien Air Alaska for over 20 years.

With Captain Dodson at the time of the crash were Spaniards Dr. Felix Rodriguez de la Fuentes and cameramen Teodoro Roa Garcia, and Alberto Mariano Huescar.

A world renowned naturalist, Dr. de la Fuentes explored the Earth as his friend and colleague Dr. Jacques Cousteau covered the sea. His award-winning television program, Man and Earth, had won the acclaim of Europe and his death came as a great shock for the continent, and especially his native Spain.

Cameramen Teodoro Roa Garcia and Alberto Mariano Huescar were an integral part of a crew that traveled the world with Dr. de la Fuentes. Away from their families and friends for months at a time, from the Hudson Bay to the African plains, these two men shared in the risk that is a documentary cameraman's life to capture the world for us all to see.

The 2 weeks that the Spaniards spent in Alaska endeared them to the people of our State. Their warmth and interest in the Alaskan people was felt from Anchorage to Nome. In fact, at the news of their deaths, the people of the Indian village of Ruby composed a letter to the families of the Spaniards and people traveled from up and down to Yukon River to sign it.

We wish to join the people of Ruby in expressing our condolences to the families of Captain Warren "Ace" Dodson, Dr. Felix Rodriguez de la Fuentes, Teodoro Roa Garcia, and Alberto Mariano Huescar. They contributed to the lives of all of us. All four were the best in their fields. All four died doing that which they knew and loved best. The people of the United States join the people of Spain in sharing this great loss.

LIBYA

Mr. HATCH. Mr. President, this morning, I spoke about Libya's leader Colonel Qaddafi and how his military adventures have been financed by Libyan oil sales. I have learned that the Carter administration is not without fault in this matter. It seems that Libya is number three in rank among those nations from which we import oil, following Saudi Arabia and Nigeria. Now we might ask ourselves why this is so. Why are our major oil companies buying so much oil from a country the leader of which is dedicated to undermining our national interest? There is no sinister answer, Mr. President. The reason is simple. And the reason is not cheaper prices, or any special discounts.

The reason is that the Colonel's oil is better. It is lower in sulfur content and it is lighter in weight. That means it is cheaper to refine. That means the Colonel s oil is preferable to a lot of other countries which pursue foreign policies more to our liking, but whose oil costs more to refine, like Venezuela. Mr. President, I checked into the question of why we do not buy oil that is a little bit higher in sulfur content and a little bit heavier, just to reduce our relationship with the Colonel.

I was surprised at what I learned. It seems, Mr. President, that our oil companies could indeed refine that kind of oil. We do not have to buy Libyan oil. Except for one thing. The so-called COWPS guidelines, the Council on Wage and Price Stability under the distinguished Mr. Kahn, do not give the oil companies any incentive to invest in oil refinery improvements that would permit processing lower quality crude oil. If COWPS had considered this factor, the companies could have invested in refinery improvements, passing through the costs, and we could have bought less Libyan oil, I hope Mr. Kahn will bear this in mind as he evaluates the draft guidelines for the third-year program.

I understand this factor was "overlooked" last time. I do not know why it was overlooked. Frankly, with this administration, we may find out that Billy Carter has been calling the people at COWPS, too.

THE NEED FOR ARMS CONTROL

Mr. PERCY. Mr. President, yesterday a number of our colleagues spoke on the need, in fact the urgency, to move ahead to Senate consideration of the SALT II treaty. They suggested that, if the treaty could not be considered before the election, it should be brought before a special session following the election or at least as the first order of business next January.

I share the sincere interest in arms control expressed by our colleagues, and last month I went to Geneva to serve as a senatorial adviser to the U.S. delegation to the U.N. Committee on Disarmament, which afforded me the opportunity to discuss arms control issues with the representatives of the Soviet Union, China, India, and many other countries.

I am a firm believer in the arms control process, just as I am a firm believer in a strong U.S. Defense Establishment. Both arms control and defense are important to our national security. Our national security posture depends on the correlation of forces between our potential adversaries and ourselves. If there are not mutual arms restraints, there will be an accelerated race of increasing armament on all sides with grave dangers to the security of all.

However, no matter how desirable it may be to ratify SALT II and proceed to the negotiation of SALT III, I believe it would be a disservice to the arms control process to bring the SALT II treaty to Senate debate and a vote before the Senate can reasonably be expected to ratify the treaty. To defeat SALT II would certainly not help the arms control process.

SALT II simply cannot succeed in the Senate at a time when Soviet forces continue to ravage the innocent people of Afghanistan. The problem is not with the arms control process. Both advocates and opponents of SALT II argued strongly during the consideration of SALT II in the hearings of the Senate Committee on Foreign Relations that SALT II in fact did not go far enough in reducing armaments. Senator **HELMS**, an opponent of the treaty, said last November "There is no logical reason that comes to the mind of this Senator why we do not say now let us embark on a true arms reduction treaty and take it to the court of world opinion."

Likewise, the stalling of SALT II in the Senate is not the fault of the Senate. We had already cleared the schedule for early consideration of SALT II this year. It was the Soviet aggression against Afghanistan which prompted the Senate to delay consideration of the treaty. There was no way we could proceed to floor consideration of SALT II when Soviet forces poured into Afghanistan. The responsibility for the stalling of SALT II lies squarely with the leadership of the Soviet Union who decided that occupying Afghanistan was more important to them than immediate consideration of the treaty.

I recognize and acknowledge the desirability of dealing with SALT II before the treaty requires changes dictated by its deadlines for actions by both parties. However, we cannot deal with the treaty until either the Soviet Union withdraws its forces from Afghanistan or until we have strengthened our own defense establishment and firmly emplaced our deterrent forces in the Persian Gulf region.

WILLIAM A. PATTERSON

Mr. PERCY. Mr. President, on June 13, 1980, William A Patterson, who together with his beloved wife Vera had been my friend for over 30 years, passed on in Glenview, Ill. at the age of 80. As a director of Bell and Howell Co., I have seen his ability to immensely contribute to the spirit, heart and financial well-being of a corporation. He had a vital role in the founding of United Airlines and through the years I have seen how he gradually built United Airlines until it grew and developed into the world's largest commercial air carrier. He has been looked upon as one of the principal figures in the Nation's air transport industry for over 40 years.

Mr. Patterson's rise in commercial aviation is the classic success story of modest beginnings and ascent to corporate leadership. He was born October 1, 1899, in Honolulu, son of Mary and William Patterson. His father, overseer of a sugar plantation at Waipahu near Honolulu, died when the youngster was 8.

Billy, as young Patterson was then called, was enrolled at a Honolulu military academy at 14. His mother moved to San Francisco, and he ran away from school to join her on the Mainland. At 15 he went to work as an office boy at the Wells Fargo Bank, San Francisco, where he earned $25 a month.

The future airline president attended night school regularly and advanced from office boy to paying teller at the bank. Eventually he was named assistant to the vice president in charge of new accounts. In that position he recommended a loan for Pacific Air Transport, pioneer airline on the Los Angeles-San Francisco-Seattle route.

Young Patterson was placed in charge of the airline account. His skill in handling Pacific Air Transport financing brought him to the attention of Philip G. Johnson, president of the Boeing Airplane Co. and Boeing Air Transport. Boeing Air Transport was the first airline to operate between San Francisco and Chicago. In 1929 Johnson offered Patterson a post as his assistant at Seattle.

Patterson joined Boeing at a time when the company was piecing together a coast-to-coast airline system. The routes of three other airlines were joined with Boeing Air Transport to form United Airlines. As United's general manager, Patterson moved to Chicago in 1931 to establish the company's headquarters.

In 1933 Patterson became a vice president of United, and in April of the following year, at the age of 34, he was elected president. United at that time had 1,400 employees stationed across a 2,600-mile system. Under his guidance, the company grew into the world's largest commercial air carrier.

Throughout his career, Patterson pushed for service innovations, greater safety and improved technology. While at Boeing in 1930 he approved the suggestion to have female attendants on flights, thus contributing to the start of stewardess service.

One of his early decisions as United's president was to institute a guaranteed monthly minimum pay scale of $650 for pilots. Under the previous system, pilots were paid on the basis of miles flown during the month. The new system supported a pilot's judgment in electing not to fly when weather conditions were marginal.

In the late 1930's Patterson assigned an engineer to draw up specifications for a "super" airliner. This interest later resulted in joint airline support of a development program by the Douglas Aircraft Co. and construction of a prototype DC-4. Orders were placed, but World War II intervened and the new plane was modified for military operations. The DC-4 finally was placed in commercial service in 1946.

Patterson's interest in technological progress led to his early recognition of jet superiority over piston-engine aircraft. United was the first major U.S. airline to commit for jet planes. The company ordered 30 DC-8's in October 1955. Eventually, Patterson signed orders for more than $1 billion worth of jet equipment.

In 1960-61 Patterson presided over the merger of Capital Airlines into United. The move is now regarded as a textbook model of airline amalgamation. With the addition of Capital's system, United became the world's largest airline.

Patterson has received many honors and citations for his civic activities and business accomplishments. He is a life trustee of Northwestern University, Evanston, Ill.; Presbyterian-St. Luke's Hospital, Chicago; and the Museum of Science and Industry, Chicago.

He received the Monsanto Aviation Safety Award, the Aerospace Medical Association Award, the Elder Statesman of Aviation Award from the National Aeronautic Association, and the Achievement Award of the National Aviation Club.

He also received Seattle University's National Award for Economic Statesmanship, the Horatio Alger Award, the Good Scout Award of the Boy Scouts of America, and the Order of Lincoln conferred by the Lincoln Academy of Illinois. In 1968, he received the Tony Janus Award for outstanding contribution to air transportation.

In 1973, he was inducted into the Illinois Business Hall of Fame and in July 1976, was inducted into the Aviation Hall of Fame at Dayton, Ohio. In December 1976, he received the coveted Wright Brothers Memorial Trophy administered by the National Aeronautic Association for "significant public service of enduring value to aviation in the United States."

In 1980, Fortune magazine's board of editors named Patterson to the Junior Achievement Hall of Fame for Business Leadership.

Patterson's efforts in behalf of education have been recognized with honorary degrees which include Doctor of Law, Hastings College; Doctor of Law, University of Miami; and Doctor of Humane Letters, College of St. Mary's.

A Distinguished Chair in Transportation has been established in Patterson's name at the Northwestern University Transportation Center, Evanston, Ill. Establishment of the $1.25-million Patterson Chair will fund major new research on key transportation problems confronting the Nation. Patterson was instrumental in establishing the Transportation Center in 1954, and he served as a member of its business advisory committee.

To his wonderful wife and companion for 57 years, to their two children, William Allen, Jr. and Patricia P. Kennedy, and six grandchildren, I can only say that all of you who shared in giving "Pat" happiness and the inspiration to continue his remarkable life of service, our undying gratitude.

At the funeral service, Dr. George J.

Kidera, M.D., gave the eulogy in words that eloquently express our feelings about Pat Patterson.

I ask unanimous consent that the text of the eulogy and two United Airlines news releases be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

William Alan Patterson—Pat

Husband, Father, Grandfather, Motivator, Innovator, decisionmaker, business strategist, humanitarian. A man of courage and conviction with great faith in the free enterprise system. An executive who ran his business and personal life on the highest plane of morality.

There is a light within all of us. It determines what we do, how we do it, how we accept success and how we meet adversity. This inner light is important to one's personality but it also is important as to its effect as it touches others. . . . Pat's inner light touched everyone who had been privileged to work with and for him and those he knew socially.

Pat was an achiever and a leader. His every endeavor found him on the first team going back as far as his teens, playing catcher on a San Francisco baseball team.

Pat was a man of great courage. He never backed away from a decision responsibility. In fact, I think he thrived on momentous decisions. His perspicuity and judgment calls had a significant effect on his guidance of United Airlines from its precarious birth in 1933 to its status as the largest airline in the world. But Pat always said he was not interested in United being the biggest in the world—he wanted us to be the best in the world.

His courage could be scathing when taking on giants . . . like the Civil Aeronautics Board—when he believed them to be wrong.

He was a man whose principles could not be compromised. Pat would always stand up and be counted—even at times when he was a lone voice in the industry.

In spite of his individuality, he had abiding respect for other people's opinions.

Pat was a master in the art of communication because he spoke from the heart.

He held reading a speech in disdain. Without a note or script, he could deliver an eloquent speech. His sincerity held his audience.

Pat, in spite of his recognized achievements, accolades and awards was a man of deep humility. On an occasion of receiving one of his most prestigious awards he closed his acceptance speech by saying—

"The greatest danger always in receiving an honor is for one to develop in his own mind an agreement with those who might have selected him. I appreciate your judgment but I want to express my gratitude for all those deficiencies I know you must have overlooked."

Pat was dedicated to aviation safety. His guidance and leadership developed aviation safety technology in United. He freely shared this technology. I can recall Pat saying, "Safety is not something to be patented for anybody's exclusive use."

Pat was a natural born teacher in the practical, not the academic, sense. He had great empathy for anyone trying to learn. He knew what went on in the hearts and minds of people fighting for existence. . . . because he'd been through his experiences, he could put himself in the other fellow's boots. He had an uncanny ability in assessing human potential. When his counsel was sought, he used this ability to provide encouragement, a word of caution or criticism. If criticism was offered, it was always constructive and had the desired effect of training the neophyte to think things through. Little wonder that his counsel and words of wisdom were so frequently sought.

Pat was a firm believer in individualism and our free enterprise system, but he left behind a word of caution. He said, "Individualism thrives best in an atmosphere of freedom such as we have in this country. There are controls, but our system of competitive enterprise offers ample latitude for achievement. You who inherit this system are its trustees. It will be in your custody to improve or impair. Do not supply government with reasons to go beyond its proper areas."

Pat was a people person. He successfully built employee enthusiasm by developing a genuine interest in his people—a term he preferred. The camaraderie he built up was exemplified by the way he was greeted systemwide—"Hello Pat." He said that he always considered it a cherished tribute that people on all levels called him by his first name. Pat was annoyed by the attitude of importance that came over some men when they became top executives.

Pat would always support his people when the chips were down. Several years ago, a child of one of our Seattle employees was scheduled for a tonsilectomy. The morning of surgery at 8 a.m., Pat called inquiring as to how the child fared in surgery. I had to remind Pat that it was only 6 a.m. in Seattle and surgery was at 8 a.m. He said, "OK, but call me as soon as you hear anything." His concern for the well being of family was the same whether it was a tonsilectomy in Seattle or a case of polio in New Jersey.

About six years ago, Pat suffered his first big stroke while in Borrego Springs. For ten days he was hospitalized in San Diego in a semi-conscious state. Vera and I thought it advisable to bring him to Chicago where the doctors more familiar with his other medical conditions could look after him.

Arrangements were made on one of United's regular flights using our stretcher capability. I accompanied the flight. Shortly after takeoff, I heard Pat's voice: "George, what kind of aircraft is this?" I replied, "A Boeing, Pat." "Do they make good airplanes?" I said, "You ought to know—you bought them." In about ten minutes he asked, "Am I in one of those stretchers we developed?" I replied, "Yes, Pat." Pat asked, "How much room does it take?" "Two rows of seats." Pat: "How's the load? Are we displacing any revenue passengers?"

Here was a man who had not uttered a rational sentence in ten days.

These two instances typify Pat's two true concerns—the people of United Airlines and the finances of United Airlines.

Motivator, innovator, decision maker, business strategist, humanitarian.

He once said, "You have an idea? Hang onto it! It's the most valuable thing in the world. Nurture it. Test it. And remember: You can grow a toadstool overnight, but it takes time to grow an oak."

And then he added, "I was engaged in what I believe to be the most thrilling industry in the world—aviation. My heart still leaps when I see a tiny two-seater plane soaring gracefully through the sky. Our great airlines awe me. Yet I know they were not produced in a day or a decade." . . . "It may take years to put your idea into action. But if it has real worth, time will prove it . . . and you will have something that will endure."

The legend of Pat is no fluke—It was the man that made it all possible. . . .

Pat left something that will endure. It will endure in our minds and it will endure in our hearts. Thanks, Pat, and Aloha.

William A. Patterson Is Dead at 80

William A. Patterson, the man who built United into the World's largest commercial air carrier, died this morning at Glenbrook Hospital at Glenview, Illinois. Patterson was 80.

Patterson, director emeritus and honorary chairman of UAL, Inc. and United, was a central figure in the nation's air transport industry for four decades. He served as United's president for 29 years before his election as chairman of the board in 1963. Patterson retired from the board in 1966 but remained active for several years as a consultant for the company.

Under Pat Patterson's guidance and leadership, United grew from a fledgling airline into the world's largest commercial air carrier. Patterson engineered the merger of United and Capital Airlines. The move is regarded as a text-book model of airline amalgamation.

Perhaps Pat Patterson's greatest accomplishment was keeping United in business after the U.S. government in 1934 cancelled all air mail contracts. United was dependent upon mail revenue for 45 percent of its income. Patterson kept the airline flying and built it into a successful operation.

Pat Patterson received many honors for his civic activities and business accomplishments. He receive the coveted Wright Brothers Memorial Trophy for "significant public service of enduring value to aviation in the United States." He was named to the Aviation Hall of Fame, the Junior Achievement Hall of Fame and received the Horatio Alger Award and Good Scout Award of the Boy Scouts of America.

Patterson's efforts in behalf of education were recognized with several honorary degrees.

A distinguished chair in transportation was established in Patterson's name at Northwestern University Transportation Center.

Patterson is survived by his wife, Vera, two children, William Jr. and Patricia Kennedy, and six grandchildren.

Visitation will be on Sunday, June 15, 2–5 p.m., at Scott Funeral Home, 1100 Greenleaf Avenue, Wilmette, Illinois. Funeral services will be held on Monday, June 16, 3:30 p.m., at Alice Millar Chapel, Northwestern University, 1870 Sheridan Road, Evanston, Illinois. Donations may be made to the W. A. Patterson Distinguished Chair in Transportation, Northwestern University, 2001 Sheridan Road, Evanston, Illinois 60201.

William A. Patterson

William Allan Patterson, director emeritus and honorary chairman of UAL, Inc., and United Airlines, has been a central figure in the nation's air transport industry for four decades.

Mr. Patterson served as United's president for 29 years before his election as chairman of the board in 1963. He retired from the board in 1966 but remained active for several years as a consultant for the company. A long-time resident of the Chicago area, he lives in suburban Wilmette and maintains a winter home at Palm Desert, California.

Mr. Patterson's rise in commercial aviation is the classic success story of modest beginnings and ascent to corporate leadership. He was born October 1, 1899, in Honolulu, son of Mary and William Patterson. His father, overseer of a sugar plantation at Waipahu near Honolulu, died when the youngster was 8.

Billy, as young Patterson was then called, was enrolled at a Honolulu military academy at 14. His mother moved to San Francisco, and he ran away from school to join her on the Mainland. At 15 he went to work as an office boy at the Wells Fargo Bank, San Francisco, where he earned $25 a month.

The future airline president attended night school regularly and advanced from office boy to paying teller at the bank. Eventually he was named assistant to the vice president in charge of new accounts. In that position he recommended a loan for Pacific Air Transport, pioneer airline on the Los Angeles-San Francisco-Seattle route.

Young Patterson was placed in charge of the airline account. His skill in handling Pacific Air Transport financing brought him to the attention of Philip G. Johnson, president of the Boeing Airplane Company and Boeing Air Transport. Boeing Air Transport was the first airline to operate between San Francisco and Chicago. In 1929 Johnson offered Patterson a post as his assistant at Seattle.

Patterson joined Boeing at a time when the company was piecing together a coast-to-coast airline system. The routes of three other airlines were joined with Boeing Air Transport to form United Airlines. As United's general manager, Patterson moved to Chicago in 1931 to establish the company's headquarters.

In 1933 Patterson became a vice president of United, and in April of the following year, at the age of 34, he was elected president. United at that time had 1,400 employees stationed across a 2,600-mile system. Under his guidance, the company grew into the world's largest commercial air carrier.

Throughout his career, Patterson pushed for service innovations, greater safety and improved technology. While at Boeing in 1930 he approved the suggestion to have female attendants on flights, thus contributing to the start of stewardess service.

One of his early decisions as United's president was to institute a guaranteed monthly minimum pay scale of $650 for pilots. Under the previous system, pilots were paid on the basis of miles flown during the month. The new system supported a pilot's judgment in electing not to fly when weather conditions were marginal.

In the late 1930s Patterson assigned an engineer to draw up specifications for a "super" airliner. This interest later resulted in joint airline support of a development program by the Douglas Aircraft Company and construction of a prototype DC–4. Orders were placed, but World War II intervened and the new plane was modified for military operations. The DC–4 finally was placed in commercial service in 1946.

Patterson's interest in technological progress led to his early recognition of jet superiority over piston-engine aircraft. United was the first major U.S. airline to commit for jet planes. The company ordered 30 DC–8s in October, 1955. Eventually, Patterson signed orders for more than $1 billion worth of jet equipment.

In 1960–61 Patterson presided over the merger of Capital Airlines into United. The move is now regarded as a text-book model of airline amalgamation. With the addition of Capital's system, United became the world's largest airline.

Patterson has received many honors and citations for his civic activities and business accomplishments. He is a life trustee of Northwestern University, Evanston, Ill.; Presbyterian-St. Luke's Hospital, Chicago; and the Museum of Science and Industry, Chicago.

He received the Monsanto Aviation Safety Award, the Aerospace Medical Association Award, the Elder Statesman of Aviation Award from the National Aeronautic Association, and the Achievement Award of the National Aviation Club.

He also received Seattle University's National Award for Economic Statesmanship, the Horatio Alger Award, the Good Scout Award of the Boy Scouts of America, and the Order of Lincoln conferred by the Lincoln Academy of Illinois. In 1968, he received the Tony Janus Award for outstanding contribution to air transportation.

In 1973, he was inducted into the Illinois Business Hall of Fame and in July, 1976, was inducted into the Aviation Hall of Fame at Dayton, Ohio. In December, 1976, he received the coveted Wright Brothers Memorial Trophy administered by the National Aeronautic Association for "significant public service of enduring value to aviation in the United States."

In 1980, Fortune magazine's Board of Editors named Patterson to the Junior Achievement Hall of Fame for Business Leadership.

Patterson's efforts in behalf of education have been recognized with honorary degrees which include Doctor of Law, Hastings College; Doctor of Law, University of Miami; and Doctor of Humane Letters, College of St. Mary's.

A Distinguished Chair in Transportation has been established in Patterson's name at the Northwestern University Transportation Center (Evanston, Ill.). Establishment of the $1.25-million Patterson Chair will fund major new research on key transportation problems confronting the nation. Patterson was instrumental in establishing the Transportation Center in 1954, and he served as a member of its business advisory committee.

Patterson married Vera Anita Witt of Berkeley, Calif., in June, 1923. They have two children, William Allan, Jr. and Patricia P. Kennedy, and six grandchildren.

JULIAN LEVI

Mr. PERCY. Mr. President, Julian Levi served as chairman of the Chicago Planning Commission since 1976, has been considered one of the outstanding national experts on urban America, and for more than a quarter of a century served as executive director of the Southeast Chicago Commission which saved the South Side communities of Hyde Park and Kenwood, thereby saving one of the world's greatest institutions of higher education, the University of Chicago.

Julian Levi at age 70 is now joining the faculty of Hastings College of Law at the University of California at San Francisco. He took a parting shot at the city that he had loved and worked in for so many decades. I felt privileged to have lived and worked with Julian Levi and have, together with him, loved the City of Chicago, the University of Chicago and have admired through the years what he has done for both great institutions. John McCarron tells about it in a Chicago Tribune article dated June 15 and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JULIAN LEVI'S PARTING SHOT: WORRIED ABOUT CHICAGO

(By John McCarron)

When Author Nelson Algree left Chicago for New Jersey a few years ago, he complained that his native city had become "a huge bore."

This spring, another famous Chicagoan is leaving town. But the things Julian H. Levi has to say about Chicago sound more like fatherly advice than parting shots.

"Chicago is always going to be my kind of town," he told an interview. "But I worry about the city. It seems to have lost the most important thing it had, and that thing is stability."

Stability, and how to get it, have been lifelong pursuits for Levi.

He is the older brother of Edward H. Levi, past president of the University of Chicago and former United States attorney general. Like his brother, he is a student of the law, but he is also a national expert on urban problems, especially the problem of stabilizing racially changing neighborhoods.

Twenty-eight years ago he undertook and shepherded to completion, one of the most ambitious urban renewal efforts ever attempted in an American city.

Its purpose was to prevent the South Side communities of Hyde Park and Kenwood from being absorbed into a fast-encroaching black slum. More specifically, cynics insist, it was to prevent the University of Chicago from being absorbed.

At the time, edgy college administrators were laying plans to move the campus to the shores of Lake Geneva, Wis.

Instead, college President Lawrence Kempton and the board of trustees set up a community-service organization called the South East Chicago Commission [SECC]. And they chose Levi, an alumnus and successful attorney, to run it as executive director.

His mission was as simple as it must have seemed impossible: Turn the tide and make Hyde Park a stable, racially integrated neighborhood.

And that is essentially what Levi and his group did, but not without angering hordes of slumlords and tenants whose buildings were demolished and a few civil rights leaders who branded his efforts a naked, self-serving land grab by the university.

Levi's public demeanor has been likened, by admirers, to that of a Supreme Court justice. Detractors call it arrogance. He calls it a healthy display of willpower.

"Unlike some, I don't claim to have all the civic virtues between my right and left ears," he shot back at an inquiry about his way with words. Delivered in his half-scolding, gravelly voice, the retort was pure Levi—argumentative and eminently quotable.

Whatever one chooses to call it, Levi's manner and his success in Hyde Park won the friendship and respect of former Mayor Richard J. Daley, who appointed him chairman of the Chicago Planning Commission in 1974.

His stewardship of that body came to an end last year with the election of Mayor Byrne, who already replaced Levi with her family attorney.

[And last Friday she replaced her family attorney, George J. Cullen, with yet another plan commission chairman—Miles L. Berger, a prominent real estate appraiser.]

Levi is stepping down from leadership at the SECC and from his urban studies professorship at the U. of C. At age 70, he is beginning a twilight teaching career at the Hastings College of Law of the University of California at San Francisco.

He said he's not going away angry.

"It's about time the good young people around here ran the show," he said, waving a hand at the cluttered SECC office on the second floor of the YMCA on 53d Street. "It's important that I get out of the way."

Michael J. Murphy, a former assistant U.S. attorney and a counsel to the SECC, is taking over as executive director.

"And this program in San Francisco will really be a challenge," he said. "They call it the Sixty-Five Club. It's a group of professors who have reached retirement age elsewhere. You should see the faculty list; it's full of former law school deans."

Besides teaching, Levi will show his employers a thing or two about university-community relations. He already has helped Hastings acquire a rundown hotel on the edge of what he calls San Francisco's "tenderloin district" for use as a college dormitory.

But what of Chicago, and what of Hyde Park where he and his wife Marjorie, have lived in the same house on Woodlawn Avenue for 40 years?

"As I look back I can make a good catalog of my mistakes," he said. "But we were out on the frontier in Hyde Park. When we started, most people said it was hopeless, that you couldn't have a stable interracial community. We proved you can."

They did it by piecing together a partnership, including the university, the city, and new federal urban-renewal programs.

Levi recalls that the college wanted to give the city $14 million which could be used to obtain another $42 million from Washington. The money was needed to buy slum property around the university, clear it, and build new housing, stores, and other improvements.

There was no federal law on the books to allow such a "gift" by the school, so Levi spearheaded a lobbying effort on Capitol Hill to pass one.

"The chairman of the congressional committee was from Kentucky," Levi recalled with relish. "So we led off our testimony with a statement by the president of the University of Louisville. He started talking and you just could hear the bourbon aging in the cask. We got the law passed."

Indeed, enactment of Sec. 112, an amendment to the Federal Housing Act of 1949, was the key to rebuilding Hyde Park.

Levi's political acumen was not lost on Mayor Daley.

"After we got 112 he began calling me up," Levi recalled, "asking me about this and that."

Levi made no apologies about urban renewal in Hyde Park.

"Of course, there was hardship worked on poor blacks," he said. "That's who was living in the buildings that had to come down. And no, we didn't replace these buildings with enough public housing. We got some, but not enough.

"What we did do was create an integrated neighborhood where middle-class blacks and whites can live together.

"To do that we had to tell people living in big homes that they couldn't stay if the only way they could afford it was by cutting it up into a rooming house.

"If we hadn't done that, Hyde Park would be an extension of the black low-income ghetto. And who would that have served? Nobody but the slumlords."

He said his tenure with the plan commission was a mixed bag of successes and disappointments.

"The main thing I set out to do at the commission—to open it up to the public—we accomplished. We stopped some too-dense high rises on the lakefront, and for a time we stopped construction of a permanent band shell in Grant Park." (Levi always favored a performing arts garden on railroad land north of the present bandshell.)

He counts the city's approval of an overly dense Illinois Center office building complex as his worst "dropped ball."

"But the commission is a group of unpaid citizens who don't have all the details they should," he said. "They are prisoners of the reports given them by the city's Department of Planning."

And what of Mayor Byrne?

"All these shifts and shunts of people at City Hall have made people in government constantly frightened," he said of the Byrne administration.

"Dick Daley wasn't worried about the next election. But that's all she's worried about. With her, it's a problem of whom do you trust, and she doesn't trust anyone outside of a small circle of friends and relatives. You can't run a government that way.

"The greatest thing this city had going for it was stability. You could get things done here. There was a willingness by the private sector to step in and solve problems. You don't see that any more."

As for the future of Chicago, Levi said the city "has an uphill fight on its hands."

"The most serious problem is this," Levi said, and he reached into his desk and pulled out a report of a recent survey of prominent scientists. They had been asked to pick one of 10 listed cities where the federal government should build its central energy research facility. Chicago ranked last on their list.

"This has got to be turned around," Levi said in an uncharacteristic whisper, "and it will take an enormous act of will by a lot of people to do it.

"We have got to figure out a way to stop abandoning city neighborhoods so we can always be building somewhere else. Maybe we showed how you do that in Hyde Park."

CORPORATE PROFITS: PART III REGULATORY REFORM

Mr. PERCY. Mr. President, a healthy corporate profit is a pillar of our economic system. Chicago radio station WBBM has recognized the importance profits play in our standard of living and in job creation. Recently it produced and aired a series on corporate profits that I have been sharing with my colleagues the past week.

The third WBBM editorial touched on an important economic point: Compliance with Federal regulations consumes a large part of the earnings of many businesses. The Business Roundtable undertook a study of the incremental costs of some Federal regulations and reported their results last year. The Roundtable study was limited to 48 companies that participated. Furthermore, the regulatory costs of only six Federal regulatory agencies and programs were analyzed.

The Roundtable found that for these participating manufacturing companies alone, there was an incremental regulatory cost of $2.3 billion. This was nearly one-fifth of the net income—after taxes—of these manufacturing firms. It was nearly half their total research and development costs. The Roundtable concluded:

> Some regulations have resulted in the imposition of large cost burdens on the private sector and ultimately on the U.S. economy. Business, government and other interested groups have seriously questioned whether the costs of meeting regulatory objectives are excessive and have also stated that they believe alternate, less costly methods could be employed to achieve desired goals.

The Roundtable study was a major contribution to the congressional effort to reform the regulatory process. The Senate Governmental Affairs Committee, on which I serve as ranking Republican, began work on sweeping regulatory reform legislation well over a year ago. In April of this year we reported a bill, S. 262, that for the first time will spell out a code of behavior for the entire Federal regulatory establishment. One of our chief goals has been to write legislation that will require agencies to consider the economic costs of proposed regulations. I have been working to bring this bill to the floor for a vote because it is one of the most important steps we can take to help the economy over the longrun.

Mr. President, I ask unanimous consent that the WBBM editorial on corporate profits be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CORPORATE PROFIT: THE CAUSE AND EFFECT

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? The controversy—as explained by most of the businessmen, corporate executives and economic experts interviewed for these series of reports—revolves around a growing misconception on the part of the American public of exactly what profits are, where they come from, and what they are used for. Exxon Board Chairman Clifford Garvin explains: that while his corporation—which is the world's largest in sales and profits—earned $1.92 billion over the first quarter of the year—the actual return to the company on every dollar spent was only about five cents. . . .

Actuality/Garvin: "If people can get their hands around five cents on every dollar, it's a lot easier than worrying about whether Exxon made 4 billion dollars last year. That four billion dollars earned a return to the shareholders of about 20 per cent. And my submission is that that's not particularly excessive. There are many industries with large capital requirements that do better than 20 per cent."

The fact is that all major companies reinvest a substantial percentage of their net earnings from sales into new factories and equipment. It is also a fact that a large percentage of the earnings a company makes are eaten up by inflation, depreciation and efforts to comply with tightening government regulations. It is also important to note that companies have bad quarters and good quarters, good years and bad years—as far as profits are concerned. So as Professor Houston Stokes of the College of Business Administration at the University of Illinois explains—the percent of decrease in a company's profits from one quarter to the next, from one year to the next, can be very misleading. . . .

Actuality/Stokes: "When you calculate profit, what you're basically calculating is your return on capital. In other words, if you have a hundred dollars worth of capital and you make—after all your deductions for cost—you make ten dollars, that's a ten percent return on capital and that ten dollars you make could be a hundred percent increase in the profits you made last year if you made five dollars. If you made five dollars of that last year on a basis of a hundred dollars worth of capital, and your profits now were ten dollars this year on a hundred dollars worth of capital, your percent increase in profits was a hundred percent—but your rate of profit on your capital is only ten percent.

"And that's a very important distinction especially in terms of the oil companies because profit increases have been large and the amount of profit that has gone up have been large—but the percent increase is overstated if they had a bad year the year before. It's very important that the public understands the difference."

Profits are indeed necessary to encourage people to invest in various companies—the profit motive being the primary motivating factor which causes most people to risk their money. But aside from benefiting the stockholders or investors—profits are also necessary for the stability and continued growth of the nation's economy—according to former Treasury Secretary William Simon. . . .

Actuality/Simon: "Profits are necessary for a growing economy to provide greater jobs and upward mobility for all of our citizens—and most especially the citizens that are presently being denied due to the insidious inflation—the ability to enter into the free enterprise system . . . the blacks and the other disadvantaged . . . and if we don't make sure that this system is open to all of those people, we can kiss our freedom for America good-bye. And that is the crux of the whole problem today."

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? The attempt in this report has been to explain where profits come from and where they go. Our next attempt will be to explain how various external forces affect profits. With production assistance from Denise Hines—I'm Keith Bromery.

HANS MORGENTHAU

Mr. PERCY. Mr. President, the very able and distinguished Dr. Robert E. Osgood, director of research at the Johns Hopkins Foreign Policy Institute in Washington, D.C., has written a brief fascinating critique of the ideas and writings of Hans Morgenthau, one of our great political scientists who recently died at the age of 76.

Morgenthau, whom I knew for many years, taught at the University of Chicago from 1944 to 1961 and was the founder and director of its Center for the Study of American Foreign and Military Policy. He was an active participant in the University of Chicago Public Affairs Conference Center activities under the direction of Dr. Robert Baldwin, now a resident scholar and director of "A Decade of Studv of the Constitution" American Enterprise Institute.

Dr. Osgood's critique appeared in the Chicago Tribune. I request unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Hans Morgenthau's Foreign Policy Impact

(By Robert E. Osgood)

In the death of Hans Morgenthau this nation has lost an outstanding figure in the intellectual history of its foreign policy. In articulating the call to Americans to come to terms with the realistic management of power on the international stage, he left a lasting impact on a generation of scholars and statesmen.

In his philosophical works, notably "Scientific Man and Power Politics," his teaching at the University of Chicago and elsewhere, his dominant textbook "Politics Among Nations," and his countless speeches, essays, and books on American foreign policy he expounded the gospel of Realpolitik and exorcized the moralistic illusions nurtured during the nation's long isolation from the mainstream of international politics.

Those who charged that his message excluded morality from international relations missed the point. He felt deeply and wrote eloquently about the ideals embedded in the founding of this country. "In order to be worthy of our lasting sympathy," he wrote in "The Purpose of American Politics," "a nation must pursue its interests for the sake of a transcendent purpose that gives meaning to the day-to-day operations of its foreign policy." But in the anarchical world of states, he insisted, moral sentimentality and self-righteousness are the enemies of true moral purpose.

The moral dignity of the national interest, he argued, lies in the responsible use of power in full recognition that moral satisfaction seldom perfectly coincides with the imperatives of national security.

He never made the point more profoundly than in "Scientific Man and Power Politics," the early essay in political philosophy that he sometimes called his best work:

"Neither science nor ethics can resolve the conflict between politics and ethics into harmony. We have no choice between power and the common good. To act successfully, that is, according to the rules of the political art, is political wisdom. To know with despair that the political act is inevitably evil, and to act nevertheless, is moral courage. To choose among several expedient actions the least evil one is moral judgment. In the combination of political wisdom, moral courage, and moral judgment, man reconciles his political nature with his moral destiny."

This was a tough message for Americans to absorb. As Morgenthau expressed it, without embellishment, it shocked and irritated a good many orthodox spokesmen and analysts and touched off a "great debate" of sorts in the early post-war years. Although it seemed to become part of the new orthodoxy as the Cold War matured, this appearance was as much the result of a temporary coincidence of policy with concept as of a fundamental transformation of thinking.

When applied against the crusading rhetoric of anticommunism, the misuses of military power and alliances in the Third World, or the naive formulas for containing revolutions. Morgenthau's realism provide both its integrity and its basic tension with the American ethos.

Many will favorably remember Morgenthau's opposition to America's pursuit of the war in Viet Nam. They should also remember that, on this issue as on others, he refuted the premises of his polemical allies by rejecting their moral pretensions and defining the national interest in terms of the realities of power.

Hans Morgenthau was more of a critic than a prophet, but he was a critic inspired by a mission that is never fulfilled. The reason it is never fulfilled is, on the one hand, that the United States, as he often observed, remains exceptional among nations in the extent to which its citizens insist upon condemning or justifying its actions according to moral principles inseparable from its national identity.

On the other hand, the country has acquired the unexpected and, in a way, unwanted task of managing power in an environment that is inhospitable to these principles. The resulting tension between moral preferences and the imperatives of power, as recent shifts of policy of a self-consciously righteous administration show, guarantees the enduring relevance of Morgenthau's mission.

If it is true that this nation is now overcoming the paralyzing effects of the "Viet Nam syndrome," it is not so clear that we have learned the realist's lesson of attending to the balance of power while keeping power in balance with interests.

Nor is it clear that we have overcome our inveterate national habit of oscillating between the neglect and affirmation of power as we rediscover the gap between our interests and power in each successive crisis.

What is painfully clear in the aftermath of recently dashed hopes of an emergent international system congenial to our moral preferences—one in which the Cold War would recede and we would find ourselves dealing with the "global agenda" on the right side of social and economic change—is that we need the kind of steady, enlightened *Realpolitik* to which Hans Morgenthau dedicated his life in this, his adopted country.

IRS MUST REJOIN THE FIGHT AGAINST ORGANIZED CRIME AND ILLEGAL DRUG PROFITS

Mr. PERCY. Mr. President, the Senate Permanent Subcommittee on Investigations, of which Senator Sam Nunn is chairman and I am ranking minority member, has just recently filed its comprehensive report, "Illegal Narcotics Profits." The report summarizes the subcommittee's extensive investigation of the astounding profits being made by big-time narcotics traffickers and the diminishing role that the Internal Revenue Service has played in recent years in investigating these criminals.

Last December, the subcommittee held 5 days of hearings on illegal narcotics profits and found that in 1978 some $44 to $63 billion flowed through the hands of high-level illicit drug traders. The subcommittee also found that the key to convicting these sophisticated drug profiteers lies in the profits they make for they are vulnerable only to the most complex and detailed financial investigations.

Al Capone, one of the Nation's notorious gangsters, was a case in point. For years, some of the most able and determined prosecutors in the land tried and failed to convict him. Only the IRS, after years of painstaking financial investigation, was able to send the feared Capone to jail.

Yet, the IRS, once the agency that the criminal kingpins feared the most, has been virtually eliminated from the fight against organized crime. For instance, between 1974 and 1979, the amount of IRS staff time devoted to criminal investigations was drastically reduced. An equally important factor contributing to the shift by IRS away from criminal investigations was the enactment of the Tax Reform Act of 1976 in response to revelations of widespread unauthorized use of tax returns. The act strictly limited the IRS' ability to divulge tax-related information to outside agencies.

Unfortunately, the Tax Reform Act, although well-intentioned, has placed an unnecessary handicap on the IRS. The evidence to date demonstrates that the law has been too effective in limiting the transfer of information; it has practically put an end to cooperation between IRS and other law enforcement agencies. Nevertheless, we must not, and will not, abandon those important protections intended to insure the confidentiality of the tax return and the constitutional right of privacy. But, we must move vigorously to remove any unnecessary handicaps to effective law enforcement by making refinements in the existing law.

This past June, I testified before the Senate Finance Committee in support of four bills introduced by Senator Nunn, chairman of the subcommittee. These measures, S. 2402, S. 2403, S. 2404, S. 2405, of which I am principal cosponsor, would amend the Disclosure and Settlements Divisions of the Tax Reform Act. They are essential to restoring the Federal Government's ability to combat organized crime.

In cosponsoring this legislation, however, I had several reservations about certain provisions, such as that which determines when a government attorney must seek a court order to acquire information in IRS hands. While I have not fully made up my mind on this particular issue, I am inclined to agree with the GAO, the American Civil Liberties Union and others that both individual and corporate books and records should be disclosed only upon obtaining a court order. We must make certain that taxpayer information supplied to IRS remains confidential except where a specific showing of need in an investigation of a crime can be made. I am not yet convinced that we should allow disclosures of this kind without judicial review. On balance, however, I believe that these measures are well-targeted proposals vital to our Nation's efforts to eradicate organized crime.

We cannot continue to fight organized crime with one hand tied behind our backs. One of the most effective weapons we have in deterring and punishing organized criminals is a front-page headline announcing that IRS has obtained the conviction of a mobster who has failed to pay his taxes. As the report makes clear, unless IRS rejoins the fight, we can expect organized crime to do serious damage to the economic and political fabric of our Nation.

I would like to thank Senator NUNN, the chairman of the subcommittee, for the valuable work he and his staff have done in the preparation of this report.

IF JAPAN CAN—WHY CAN'T WE?

Mr. PERCY. Mr. President, NBC and Weyerhaeuser Co. have provided a valuable public service in airing the television "White Paper, If Japan Can—Why Can't We?" broadcast on June 24 during prime time, it cast light on one of the most perplexing—and yet economically key—problems of our time: productivity.

I would like to heartily congratulate NBC for producing this excellent program and Weyerhaeuser for sponsoring it. I would also urge them to consider rebroadcasting this important and powerful documentary so that others who may have missed it will have an opportunity to learn from it.

NBC news correspondent Lloyd Dobyns wrote and anchored the white paper. He is to be commended for translating abstract economics into a program that could be appreciated by all Americans. As he said during the program:

> Productivity is not some esoteric economic subject. It is how much we produce and how much it takes to produce it. The object is to make more for less. If you do, everyone benefits.

In the program, our own recent dismal productivity record—U.S. productivity actually declined last year—is contrasted with one of our most formidable trade competitors, Japan. Productivity in Japan soars at annual rates of more than 10 percent, while that in the United States slides.

Mr. President, the handwriting is on the wall with regard to our economic performance and it is not encouraging. The "NBC White Paper" moves us toward a better understanding of where we are and where we should be going.

Just this week the Labor Department released the second-quarter figures of the Nation's productivity. It fell at the astonishing annual rate of 4.1 percent, on top of a similar 1.1-percent drop in the first quarter.

When agriculture—one of our Nation's most productive and innovative sectors—is added to this equation, second-quarter productivity still fell by 3.1 percent. In releasing this second measure—of the "private business sector"—the Labor Department noted that productivity has fallen for 6 consecutive quarters, the longest string since a 7-quarter decline in 1973–74.

This present decline is no doubt tied up with the economy's overall sluggishness and is another sign of the recession.

But there is a larger trend here, of which this is a part. Productivity has been declining in the United States for most of the 1970's. Last year, productivity fell by 0.9 percent, only the second annual decrease in the Labor Department's 33-year history of compiling these statistics. In the 1950's and 1960's, we chalked up annual productivity increases of 2, 3, and 4 percent. That was the way we kept inflation low and made room for healthy wage increases. As Lloyd Dobyns notes in the "NBC white paper"—

> Unless we solve the problem of how to improve our productivity, our children will be the first generation in the history of the United States to live worse than their parents.

The productivity slowdown is a widely acknowledged problem, but as has been said of the weather, everyone talks about it but no ones does anything about it. In Congress we are beginning to fashion policies that will change our regulatory structure and modify the tax laws to encourage productivity improvement. We have a long way to go and programs like NBC's "White Paper" will help us forge a consensus for these needed reforms.

Mr. President, I have carefully read over the transcript of the "NBC White Paper" and selected those parts that I thought would be of most use to my colleagues. I ask unanimous consent that these excerpts, from parts III, IV, and V of the June 24 broadcast, be printed in the RECORD at the close of my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit I.)

Mr. PERCY. Mr. President in closing, I would like to emphasize that improving productivity does not just mean more work out of fewer employees. Too many people have that notion. There are many roads to better productivity. Lloyd Dobyns highlights one in this white paper. He points out that Giant Food, a Washington-area grocery chain, his installed check-out computers, dramatically increasing the company's productivity. Then he notes:

> To the delight of the union, the warehouse work force has gone up almost 50 percent. To the delight of the company, the work being done has gone up more than 100 percent.

So better productivity is better for all of us—labor, management and consumers. I look forward to equally excellent examinations of economic problems in future NBC "White Papers" and urge the network to take other initiatives that will throw light on the complex questions of our economy.

EXHIBIT 1

IF JAPAN CAN . . . WHY CAN'T WE?

PART III

Unidentified Japanese No. 1. (Speaks Japanese).

Unidentified Japanese number 2. As you know, you know that we increased our production quantity.

LLOYD DOBYNS. This is a weekly management meeting at a manufacturing plant in the suburbs of Chicago.

The plant is owned by Matsushita, the Japanese electronics and home appliances giant, but most of its top management is American, including its president, Richard Kraft.

Matsushita bought the failing plant from Motorola and turned it around.

RICHARD KRAFT. Bud, can we have a little report from production?

MIC Manager number 1. I'd like to refer to the charts upon the wall, our productivity charts. 1979 showed an improvement over '78.

DOBYNS. Under Matsushita, there are about four defects for every 100 television sets made. Under Motorola, for every 100 sets, there were 150 defects.

KRAFT. It was pretty evident in the past, in those last few years with Motorola that the corporation was not really putting their best effort forward to make the consumer products division successful.

DOBYNS. For one thing, the assembly line was outdated, and the production workers had to keep up with the set to do their work. That caused mistakes.

Matsushita installed a new assembly line so that each worker could stop the circuit board, do what had to be done, and send it on. They don't have to chase it to work on it.

Incidentally, the work force making Quasar sets for Matsushita is essentially the same group that made Motorola sets.

Some new Matsushita machinery to automate and speed circuit board building has been installed. Even though it is older, slower, and smaller than similar machines in Japan, it is technological progress.

And production workers are more involved. Each week, each line meets with its foreman to hear what the company is doing and what it plans. It isn't quite a QC circle, but it is worker participation.

KRAFT. We basically believe in the concept of dealing directly with our people. We like to feel close to our people. We like to keep them informed. We like to hear from them about their problems and ideas, and this is very much in tune also with Japan.

DOBYNS. So are the employees' quality signs around the plant and their recreational program.

MIC Manager No. 1. I'd like to inform the group as well that our annual spring fashion show is well on its way, and the theme this year will be "Steppin' in Style, Now and Then."

Unidentified Japanese No. 3. I try to wear a kimono. (Laughter)

KRAFT. That's something we haven't tried yet, wearing a kimono.

DOBYNS on camera. For years now, the American steel industry has been losing business to the Japanese, who could produce a ton of steel with fewer men for less money. Now some of that business is starting to come back, attracted by American mills that are small, modern, and beat even the Japanese at producing more for less.

KEN IVERSON. We make steel at a lower cost than any steel company in the world, including the Japanese.

DOBYNS. The plant at Norfolk, Nebraska, is one of 10 owned by Nucor, a profitable, non-union steel company.

IVERSON. We build plants very economically and, secondly, we run them very, very efficiently, the primary thanks to that goes to the employees themselves and the incentive production systems.

Dobyns. Nucor also invests heavily in modern technology, plowing back part of the profits to buy new equipment and experiment with new methods and machine improvements.

Iverson believes technology is important, but not as important as people. And people, he believes, want to be rewarded for their work, so when they produce more, he pays them more.

Iverson. Our production workers work on a production incentive system. They are groups of about 30 people who are doing some complete task, such as producing a certain number of rolled tons. If they exceed that standard in a week, then they receive extra pay based upon how much they exceeded the standard. It's not unusual for the bonuses to run over a hundred per cent. The bonus is paid the next week. There's no maximum on it. The average hourly worker in this plant earned about $22,000 last year; we had melters who earned about $35,000.

Nucor employee No. 1. The job is good, but the money's great.

Iverson. Our, really, the first time we had a worker who had, a group that earned a hundred per cent bonus, I had a feeling in the pit of my stomach I might have created a monster. But it really works.

Nucor employee No. 2. The more steel we make as a crew and roll, the more money we make, and the more money we make, the more money the company makes.

Dobyns. If a man doubles his pay, what does he do next?

Iverson. He doubles it again. There is no cap on it. If we produce, if they produce again twice as much, the bonus would go to 200 per cent. We never change the standard.

Dobyns. Could the huge steel mills do it?

Iverson. Yes, by designing incentives which properly reward workers when they produce added amounts of production. I think there's one problem, though, in this country in that I think many corporate executives are not willing to do it. I think if, they'll give lip service to the fact that if a man does twice as much, I'll pay him twice as much. But if he does and it comes down to it, they'll either say the standard was wrong or he cheated or they'll bring their consultants in to say it for them.

Dobyns. Because of the bonus system, Nucor workers are critically interested in production.

Nucor employee No. 3. It's the people's attitudes here. You look around and you talk to everybody, it's all production. They want to get production up. If we break down or break out ever on the caster, everybody is kind of running around trying to get things going.

Iverson. We're looking for that performance oriented person who, one, has goals and, secondly, sees the reward in those goals, and that's what he's looking for.

Nucor employee No. 4. I like the incentive bonus program probably the best. The job security is another big, big item to me.

Iverson. We have not laid off a single employee for lack of work for more than 10 years.

Dobyns. No one?

Iverson. No one.

Dobyns. Modern equipment, production bonuses, job security and everyone makes a profit, including The United States.

Iverson. For the last four years, our price FOB, which is leaving this plant, has been equal or less than the Japanese price of steel landed dockside in the United States. Actually, most of our market has come from taking that market that used to belong to foreign steel producers.

Dobyns. Speaking of the Japanese, have they ever toured any of your facilities?

Iverson. Yes. They've been in this plant.

Dobyns. Did they like it?

Iverson. Yes, they said it was one of the most productive plants they had ever seen.

Dobyns. From the steel mill to the grocery store, this one a Giant Food Store in suburban Maryland.

Dobyns on camera. What ever happened to the cash register?

Checker. It's gone; it's outdated.

Dobyns. Do customers like this?

Checker. Yes. They really do. It takes them a little while to get used to it, generaly a couple of weeks, and then they just won't go anywhere else because they don't want to waste the time in line.

Dobyns. This is faster?

Checker. Definitely.

Dobyns. How do they know what they've bought?

Checker. Well, the receipt tape, we have two ways. First of all, the display up here, you see Giant Plastic Bags, a dollar nineteen. That's first of all. And then, second of all, everything that you just bought is on here. There's the leeks, lunch bags, lemon juice, apple juice, V-8.

Dobyns. Doesn't it feel funny when you don't have your cash register to. . . .

Checker. No. I don't miss it at all. No. (Laughs)

Dobyns. I see.

Checker. It's like a horse to a rocketship.

Dobyns. When the company's computer system is completed, each store's check-out computer will be linked to this central warehouse computer and stock shipments will be automatic. It is already partially automated, and the gain in Giant Food's productivity has been dramatic.

To the delight of the union, the warehouse force has gone up almost 50 percent. To the delight of the company, the work being done has gone up more than 100 percent.

Productivity.

About 15,000,000 pieces of mail go through the General Post Office in New York every day. Working by hand, one person can sort about 30 pieces each minute. It is demanding, tiresome, lonesome, and often puzzling work.

New keyboard sorters are twice as fast, and the operators work to music. The machines are a productivity improvement, as was the zip code. And if the radio music helps the operators, that, too, contributes to Post Office productivity. And to increase the rate of sorting from 30 letters a minute to 60 is a good stunt.

But it doesn't come close to this optical character reader, which can sort 750 pieces of mail every minute, 45,000 per hour, and needs only a few people to operate.

With equipment like this, each postal worker here handles half again as much mail as he did 10 years ago.

In Detroit, this is a familiar sight: the city garbage truck with a driver and two men to pickup and load. And as wages increase, the cost of garbage collection increases.

So the city began to move to one man garbage trucks in 1976. There are now 25 in service and 70 more on order. With the loading bin on the side near the front and the steering wheel on the right, collecting garbage becomes much more efficient.

Detroit officials say a one man truck picks up as much garbage as a three man truck.

The Donnelly Mirror Company in Holland, Michigan, is well known in industrial circles for its gains in productivity and its success in the marketplace.

The company makes automotive mirrors and glass and specialty glass. It is nonunion, but operates on a bonus and worker participation plan first suggested by a steel union official in the late 1930's.

The plant is organized into teams to figure out better ways to do the work, and everybody gets a share of any productivity profits.

Arlyn Lanting, Donnelly's president, presides over a monthly meeting of workers where almost anything can be discussed.

Because the plant is organized into interlocking teams with information passing up and down among them, everyone in the plant always knows what is happening and what is likely to happen. No one feels left out or ignored.

Arlyn Lanting. We want people involved, we want them to know what's going on, we want them to, to see what they're doing, how that relates to what the corporation's doing.

Donnelly Worker. Participation. We all help, we all are stimulated and motivated by that to do as much as we can.

Dobyns. Workers at Donnelly even come up with ways to eliminate jobs. But if the job is eliminated, the worker isn't. He gets another job.

Donnelly Worker. We used to have only one dynacast machine, what they call, but due to the fact that we had so much time left, I did ask quite a few times, and I finally got my way that they ordered a second machine. It was a lot cheaper for the company, for we could operate two machines in the same time as what we use to do with one machine. It doubled the production, saved a lot of time and energy. Any kind of wild idea, what they call, bring 'em up. They'll look into it, and if it's possible, they will make it work.

Dobyns. Along with productivity increases, Donnelly has benefitted by taking risks to develop and market new products.

Lanting. We've come up with an innovative opera window for the automotive industry, because before this time, they'd have to get in the car and assemble an opera window, and it's a very difficult job. So we developed a window so you can stand outside the car and just pop it in and put three or four screws into the particular window, and it would be assembled. For them it was a cost reduction, they liked it; for us it was a whole new area for our company, and it's our objective now to be a world leader in opera windows.

Dobyns. An opera window is the small window used in limousines, but they are becoming increasingly popular in small sports cars.

Donnelly is already a major supplier of automobile mirrors world-wide and is moving ahead in coated glass. After five years of effort, it recently got an order from Japan.

Lanting. Quality is very, very sacred and very important to the Japanese. It doesn't impress them much what the rest of the world is doing concerning quality. They'll just nod and say, "That's fine, but here's what we want." And they've really helped upgrade our whole quality level. They seem very dedicated, they're very tenacious on productivity. They're doing some things right. How come they can do it, and we can't?

Dobyns. Donnelly is an established company. Romac Industries in Seattle, Washington, is new. And so is its pay system.

Production workers vote on each other's raises on the theory that no one knows how well you work better than the people who work with you.

Bob, when you decided you wanted a raise, what did you do?

Romac employees No. 1, No. 2, No. 3, intercut. I went into the plant manager and asked him for a raise slip . . . and you write also how much you want more an hour . . . everything I said was real sincere about what I was saying . . . I put in that my quality and quantity was up to level . . . it was up there a week.

Dobyns. And who votes?

Employees No. 1, No. 2, No. 3, inter-cut. All the employees here . . . the people that you work with see you more than your managers do . . . and I got voted in for it . . . 11 to three.

Dobyns. You got your raise?

Employees No. 1, No. 2, No. 3, inter-cut Yeah . . . it was unanimous, 15 to two.

Manford McNeil. What we wanted to do is involve our people.

Romac employees No. 4 and No. 5. Hi, Ray. Hello John.

McNeil. We want them to be cognizant that productivity and conscientiousness and relating one to the other are all part of our jobs.

Dobyns. The voting system was part of a five point plan to improve relations after Romac faced two union elections in one year.

A second part was a monthly meeting between worker representatives and the company president. No foremen are allowed. No question is prohibited.

Romac employee No. 6. We have dates set up for the office crew to come out into the shop. You are going to be first.

Dobyns. And once a year, every officer of the company must spend a day working in the shop. McNeil doesn't want any official to forget where the profits really come from.

Romac employee No. 6. When?

McNeil. Yeah.

Employee No. 6. Six-thirty to three.

McNeil. Ah.

Dobyns. Romac Industries makes waterworks pipe fittings, a specialized but potentially highly profitable business. And another part of the Romac plan is profit sharing so that everyone benefits from everyone else's work, a clear reward for group effort.

McNeil, who started Romac doing his own work, is convinced this system builds productivity and trust.

McNeil. Can I do that?

Romac employee No. 7. Yeah, I'll give you that one; you want to finish that one?

Dobyns. McNeil says the idea of his plan is to eliminate the traditional labor-management adversary relationship.

McNeil. Boy, you sure do it faster than I do it, holding a whole handful there . . .

Employee No. 7. I do it faster than anybody because I'm at it all the time.

McNeil. Okay. (Pause) I bet I can run faster than you can.

Dobyns. Building automobiles is considered a typically American industry, but it is in deep trouble. Different companies are reacting in different ways.

Chrysler at Belvedere, Illinois, is taking advantage of advances in technology, like these robot welding machines.

Oldsmobile at Lansing asked its workers how the assembly line could be made more efficient and adopted some of the suggestions, including this wide belt that lets the worker move with the car.

At Buick's complex at Flint, Axle Plant 31 was about to close. The old style axle was to be phased out anyway, and the plant had a poor labor record. Plant management and the union local agreed to cooperate without a formal program to try to get new axle business and keep the plant open.

William Rowland. We had to be competitive, to get new business in because we were about to lose some 1,200 jobs on the axle business, and we set an objective to bring in business and to replace those jobs.

Al Christner. And I felt that with their sincerity of bringing us some work in here, we would then look at trying to cooperate to see that we couldn't, I said that we could do this work as good as anybody at any other UAW plant or anywhere else.

Rowland. Some three years later, the axle is totally phased out. We have replaced that business with X-car business—it's called a trailing axle—and today we have roughly 1,300 people where we had some 1,200 that would have otherwise lost their jobs.

Buick employee No. 1. Our employment today in 31 . . . .

Dobyns. General Motors is now involved in Quality of Work Life programs, which can be described as democracy in the working place. QWL programs are designed to improve the product by increasing worker participation and involvement and making the worker's life better.

Buick employee No. 1. . . . playing a game with high stakes, our jobs.

Roger Powell. Quality of work life is people oriented; it's human. GM in my own opinion got involved in it through fear. Why they got involved I don't, I don't really care. It's the goal we're after.

Rowland. The joint thrust of our union and ourselves and the employees is to improve the quality of the product. When we talk quality of the product, we're talking increased productivity. Because if we build it right the first time, we don't have to tear it down, we don't have to repair it.

Dobyns. At the Buick assembly plant at Flint, workers meet in Employee Circles, not unlike the Japanese Quality Circles, to talk about how to do their work better and make it easier for everyone else.

These utility men discuss how to spot and correct defects immediately and, equally important, how to make working at the plant more pleasant.

Utility man No. 1. . . . can make a world of difference to somebody.

Utility man No. 2. What you usually find in there, too, if guys can switch around on the various jobs, I have found this out in the past, it, it breaks up the monotony of the day, and the day goes by much faster.

Dobyns. The largest and most impressive Quality of Work Life program is at GM's Tarrytown plant.

In 1970, it had the worst labor relations and production records of any GM assembly plant. The company was going to close it, but GM and the United Auto Workers agreed to try a QWL program.

It took seven years, enormous patience, hard work, and more than $1,500,000.

Was it worth it.

Neither the company, nor the union wants to say too much, but with the auto industry in a slump, Tarrytown is going full blast.

Powell. Quality of work life is involvement, involving me in the decision-making process, in treating me as somebody. I want to be somebody.

Dobyns on camera. In almost all the solutions to the problem of productivity, there is a common thread: each of them includes, in some way, worker participation, job security or both.

Every expert to whom we talked agreed that no solution can succeed fully unless it includes the active participation of the people who actually do the work, union or nonunion.

All humans think, and nowhere is it chiseled in stone that those in management think best.

PART IV

Lloyd Dobyns on camera. We have said several times that much of what the Japanese are doing, we taught them to do. And the man who did most of the teaching is W. Edward Deming, a statistical analyst, for whom Japan's highest industrial award for quality productivity is named.

But in his own country, he is not widely recognized. That may be changing.

Dr. Deming is working with Nashua Corporation, one of *Fortune* 500, a company with sales last year of more than $600,000,000. Deming was hired in late 1979 by Nashua's chief executive, William E. Conway.

William E. Conway. I would say that already we're saving millions of dollars. We'll probably improve the over-all productivity of the company something in a few years by 10 to 15 per cent, and every year thereafter you take and get incremental increases in productivity of four or five per cent. Now, I mean that over and above that which you would get by normal capital investments or normal changes in machinery and things like that.

Dobyns. Nashua started in New Hampshire in 1904 as a small paper converting company, and coated paper, like this carbonless paper, is still a substantial part of its business.

Nashua also makes computer memory discs and other office products, including, starting this year, its own office copying machines.

It had worked with a Japanese copy maker and through that relationship heard about Deming. The company sought him out.

Don Hunter. We've applied the Dr. Deming statistical technique to our carbonless coating operation. Once the process was under control, we were able to save up to $500,000 by reducing the coat weight and also maintaining consistent customer quality. And what this also has done is allowed us to free up personnel, make them available for testing in other areas, which we found to be very important. The statistical approach has allowed us to learn more about the system. Before the use of Dr. Deming's techniques, we were constantly changing the conditions on the coater.

Dobyns. The coater is crucial to the carbonless paper business, so Deming insisted that the machine be allowed to run by itself, then analyzed what the machine would do without human adjustments. It was more complicated than that, but based on the quality level Nashua's customers asked for, and the machine's performance on its own, Nashua could change its operation, meet all quality needs, and save money.

Hunter. After applying these techniques, we're able now to sit back and let the coater operate on its own and make less adjustments to the machine.

W. Edwards Deming. If you get gains in productivity only because people work smarter, not harder, that is total profit, and it multiplies several times.

Dobyns. Dr. Deming, who is now 79, and his wife have lived for some years in this house in Washington. His office is in the basement, and Mrs. Deming is one of his assistants.

He works constantly and has absolute faith that his system of statistical analysis helps industry. He was equally certain of it when he went to Japan to teach it there.

Deming. I think that I was the only man in 1950 that believed that the Japanese could invade the markets of the world and would within four years.

Dobyns. If the Japanese were impressed with Deming and his system of quality production through statistical analysis, and they were, they were no more impressed with Deming than he was with them.

Deming. What I saw was a magnificent work force, unsurpassed management and the best statistical ability in the world. It seemed to me that those three forces could be put together, and I put them together, so that Japanese quality instead of being shoddy became known within a few years; in less than four years manufacturers were, all over the world were screaming for protection.

Conway. And, of course, our major supplier of copy machines was a Japanese company. And so we saw the advantages of many things the Japanese companies were doing, and we'd heard about Dr. Deming, and we got off and got underway with our quality program with Dr. Deming.

Deming. They realized that if, what, that the gains that you get by statistical methods are gains that you get without new machinery, without new people. Anybody can produce quality if he lowers his production rate. That is not what I'm talking about. Statistical thinking and statistical methods are to Japanese production workers, foremen and all the way through the company, a second language.

Nashua employee No. 1. And what we need is to have Dr. Deming help us learn what the Japanese so successfully have learned.

DOBYNS. As part of his program, Dr. Deming teaches practical statistics, so that everyone in the plant becames part of the quality control effort, understanding what has to be done and how to go about doing it. Everyone can participate; everyone gets a say. It encourages company loyalty.

Employee No. 1. Japan needed to do this for survival, and they did it, and they've done it well. Now we've got to try and learn the things that they've so successfully done.

Employee No. 2. If Japan did it, we can do it.

DEMING. In statistical control you have a reproducible product hour after hour, day after day. And see how comforting that is to management. They now know what they can produce; they know what their costs are going to be.

CONWAY. Many of these programs on statistics have died in American companies because they didn't get the top management support. Now, why top management does not believe that this is the way the Japanese have improved their industry over the last 30 years, I don't know.

DEMING. I think that people here expect miracles. American management thinks that they can just copy from Japan. But they don't know what to copy.

CONWAY. Probably for the first six months, I would say, of the program, I spent half my time, at least half of my time, talking to people, thinking about it, writing memos, joining groups to take and try to convince them of the importance of this tool and how to use it.

DEMING. The training that the Japanese workers have could be copied here, and is being copied some places, but there's not enough of it.

CONWAY. Even today, probably the top, oh 100, 200 managers in the company are devoting 25 or 30 percent of their time to nothing but furthering the quality program.

DOBYNS. If that sounds like a lot of time and effort, it is. But Dr. Deming never said his system was simple; he only said it would work, and it would pay off. In the experience of Nashua so far, it pays off.

Employee No. 3. Since Monday, the loading and unloading has been much better because Morris, the mechanic . . .

DOBYNS. The Deming system uses statistics to eliminate guesswork.

Statistics is not magic, nor is it a science. It is a method of finding out exactly what is happening and what is likely to happen. Once you know that, any competent management can fix what's wrong.

Employee No. 4. Does everything mesh now? (Garble).

Employee number 3. All except, well there's one that could use a little, number two mandrill could use just a little bit of attention, but other than that, they're pretty good. We begged for deeper grooves in the trays. They, they're not deep enough, they don't really grip. . . .

DOBYNS. The idea is to establish, first, what a product should be or a process should do. From then on, if you leave it alone, it is always the same.

But the Deming method involves constant monitoring of the system, particularly by the people who do the work. The program to do it better, faster, and easier never stops.

Employee number 4. It could be causing aluminum chips in the coating room, so anything like that be sure you let George know or somebody know.

CONWAY. And once we started to have some success stories, we started to use the people who made the successful program talk to other people in small groups and gradually larger groups.

Employee number 4. By dropping the handling damage down from 12 percent to approximately five percent, we are presently saving $30,000 a month, and as our volume grows in the next three or four months, we should double that to $60,000 in cost savings a month.

DOBYNS. That's $720,000 a year in one area, enough to please any management. But one part of Deming's program is not likely to please them. He insists that management causes 85 percent of all the problems.

DEMING. I ask people in management what proportion of this problem arises from your production worker, and the answer is always, always, "All of it." That's absolutely wrong.

Employee No. 4. As we got into it, Dr. Deming was right: 85 percent of the problems were really management, management problems. It was part of the system, whether it be training, morale, mechanical type things. There weren't that many operators out there that just didn't care.

DEMING. Inspection does not build quality, the quality is already made before you inspect it. It's far better to make it right in the first place. Statistical methods help you to make it right in the first place so that you don't need to test it. You don't get ahead by making a product and then separating the good from the bad, because it's wasteful. It wastes time of men, who are paid wages; it wastes time of machines, if there are machines; it wastes materials.

Employee No. 5. The first thing we did was to have some posters drawn up to emphasize handling damage, how it was caused, and how we could, how we could eliminate it. People just didn't understand how delicate a disc is, that by scratching a fingernail across it, you indeed ruined it so that it couldn't be used again. They went out—our original group grew from eight to about 15—and they, it was a lot of peer pressure, you know, they got out on the floor and said, "Oh, by the way, you're not supposed to be wearing rings while you're handling discs. You know, that could cause a problem," and explain.

CONWAY. There's just no question in my mind that Dr. Deming is the father of the third wave of the industrial revolution. There was the first wave way back with Eli Whitney and the cotton gin and the development of the textile industry in England. And the second wave being in the United States, the large homogeneous market, followed up with the low unit cost from mass manufacturing and with standardization of parts. Now this change to the use of statistics to assist all phases of production, marketing, distribution, what have you, that Dr. Deming talked about is just as big as either one of those, and any one who doesn't join that revolution, I think over time is going to be in serious trouble.

DEMING. There's nobody comes out of a school of business that knows what management is or what its deficiencies are. No one coming out of a school of business ever heard of the answers that I'm giving to your questions or probably even thought of the questions.

DOBYNS. That sound a little harsh, Doctor.

DEMING. Yes. I am harsh. I should know what I'm talking about.

DOBYNS. Is there an attitudinal difference between the United States and Japan?

DEMING. They are using statistical methods. They have not only learned them, they have absorbed them, as Japanese absorb other good things of cultures. They are giving back to the world the products of statistical control of quality in a form that the world never saw before.

DOBYNS. Would the same methods work in the United States, could we do the same thing?

DEMING. Why, of course we could. Everybody knows that we can do it.

DOBYNS. Why don't we?

DEMING. There's no determination to do it. We have no idea what, what's the right thing to do, have no goal.

PART V

LLOYD DOBYNS on camera. Americans have always believed that wealth is not limited, that the economic pie always expands, and if you want more, you can get it without taking it from anyone else.

Other people—British and Swedes, for example—have come to believe that the economic pie is one size, and the only way to have a bigger share is for someone else to have a smaller share.

The trouble is that those without want to get more, and those with want to give less, and each side resents the other. That can make for very serious conflict.

The American belief of ever-expanding wealth avoids that conflict, but it works only while productivity increases, what Dr. Deming calls working smarter, not harder.

Productivity is society's dividend, the pay-off for all our work. Increasing productivity pays for fighting society's ills without having to take money away from something else.

So, what is happening to our productivity now comes at a particularly bad time. As we recognize more human needs and try to meet them, our economy is suffering inflation and recession.

The United States has overcome inflation and recession before, but it has never even faced a productivity problem. That is why the United States has been the only industrial country *without* a national productivity policy. Last February 29th, a start was made.

The Office of Productivity, Technology and Innovation was created in the Commerce Department.

Assistant Secretary Jordan Baruch, who heads it, plans to adopt one program from the agriculture industry. Government and industry will establish industry-wide "best practices" programs; that is, everyone will share information on the best way to make something, just as farmers share information on the best way to grow something.

The county agent will finally have a counterpart in industry.

That's a solution rooted in the American experience rather than a slavish copying of the Japanese. Copying won't work.

We are two different societies. They operate by consensus; we, by confrontation. That explains why the United States on a per capita basis has 20 times as many lawyers as does Japan.

And we have more service industries and a huge government sector.

Government and service—banking, insurance, restaurants and that sort of thing—are inherently less productive than manufacturing, and that helps depress our productivity.

Manufacturing, making things, is a smaller percentage of our national economy than of any other industrial coutry, and that makes productivity improvement even more difficult.

Until now, probably because the United States was such an enormous and expanding market, productivity has almost automatically increased.

So, throughout our history, parents have expected their children to live better than they did. And that has *always* been true. We live better than did our parents, and they lived better than their parents.

Unless we solve the problem of productivity, our children will be the first generation in the history of the United States to live *worse* than their parents.

I'm Lloyd Dobyns, NBC News.

A WHITE PAPER: THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT

Mr. MELCHER. Mr. President, it is essential that I give the response of the Subcommittee on Environment, Soil Conservation, and Forestry to the assessment, program, and statement of policy submitted by the administration to the Congress on June 27, in accordance with the provisions of the Forest and Rangeland Renewable Resources Planning Act.

This review paper contains four parts:

A preamble, which sets forth the intent of Congress in passing the law in 1974.

A review of the assessment of the renewable resources of the United States.

A critique of the documents based on subcommittee oversight and a recommended supplement to the statement of policy, based on that oversight.

It is our intention to hold hearings based on the documents submitted to us by the administration and on the white paper we have produced in response to them. We will welcome any additions, subtractions or amendments to our work. At the appropriate time, we will announce dates for the hearings.

I ask unanimous consent that the white paper be printed in the RECORD following Mr. JEPSEN's statement.

STATEMENT ON THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT WHITE PAPER

Mr. JEPSEN. Mr. President, I wish to join the chairman of the Subcommittee on Environment, Soil Conservation, and Forestry in recommending to the Senate and the general public, consideration of the subcommittee's review paper on the Forest and Rangeland Renewable Resources Planning Act (RPA).

As the ranking minority member of the subcommittee, it has been my intent to carefully examine the RPA documents submitted to Congress by the administration on June 27, 1980, and consider the possibility of presenting a supplemental statement of policy to strengthen the RPA's effectiveness. Proper attention to our renewable resources now—and not at some later point in the future—is essential if we are to structure a meaningful planning process for our forest and rangelands.

I support the chairman's announcement that hearings will be conducted on the administration's proposals and the subcommittee's response to them. I likewise agree that no portion of our white paper is final, and therefore will be subject to amendment or revision at any time. Hopefully, with the input and assistance of professional forest organizations and foresters, and others concerned about the well-being of our renewable resources, we will be better able to recommend to the Senate a realistic RPA program based upon our oversight and review.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT: A CONGRESSIONAL RESPONSE TO THE PROPOSED PROGRAM AND STATEMENT OF POLICY

CONGRESSIONAL INTENT

Senator Hubert H. Humphrey introduced the Forest and Rangeland Renewable Resources Planning Act (RPA) on July 31, 1973. It was signed into law by President Gerald R. Ford on August 7, 1974.

The 25 cosponsors of the bill had three major concerns with respect to the management of America's lands:

1. We had barely scratched the surface of achievements possible from our land base;
2. That time was not on our side insofar as dealing with the management problems that existed; and
3. Delays in making the investments necessary on those lands could be fatal to the Nation's long-term well being.

The sponsors of the original bill, believed strongly that the most orderly manner in which to secure the needed investments on the Nation's forest and rangeland was to determine the condition of those lands, with the basic goal in mind that the rate of use not exceed the ability and commitment of the country to renew the resources, and that management be designed to achieve maximum biological outputs from the lands. This first step in the RPA process was labeled the Assessment.

From this body of information the Program for the Forest Service was formulated. Using public participation and the national forum provided by Congress, the sponsors intended the Congress and the Executive Branch to get long-term and short-term goals for forest and rangeland management, and to translate these goals (the Program) into action programs through the annual appropriations process so that the U.S. can come to grips with tomorrow's resource problems before the Nation has an irreversible crisis.

This is not to suggest that the Congress must provide 100 percent of the money required for the preferred Program each year. Obviously the Nation has many kinds of priorities, and expectedly it will often be the case that it is not possible to fully fund the program. But given the orderly RPA process, Congress will know what it is buying if the Program is fully funded, and it will know the benefits foregone if less than 100 percent is funded.

For this reason, the law specifies that the President should send the Congress a preferred program of work, rather than a range of options, so that the Congress will have the benefit of the best professional advice available from the Forest Service, one that examines all resource management opportunities, and develops strategies for actions on inputs and outputs that are economically, environmentally and socially sound.

The third component of this policy development legislation is program evaluation. Each year the Forest Service is required to submit to the Congress a report which demonstrates in quantifiable and qualifiable terms the quality of the stewardship of the agency, so that Congress can determine whether the Forest Service is carrying out policy and its mission in a cost-effective manner.

Finally, the law requires the President to submit with the Program and Assessment a Statement of Policy that recommends a course of action for the Forest Service, but leaves him free to offer other alternatives.

In this regard, Senator Humphrey said on the Senate Floor:

"We agreed that there could be two ways of objecting to a recommended program. Objecting to a recommended program would consist of either a resolution of disapproval or a revised statement of policy emanating from the Congress. It seemed to us that the resolution of disapproval would have merit only where there were wide and irreconcilable differences with the proposed program of the Executive. Generally speaking we thought it better to provide that Congress, working with the Executive, could develop a revised Statement of Policy."

It is the intent of the Subcommittee on Environment, Soil Conservation and Forestry to offer to the Senate this year an amended Statement of Policy.

The RPA is a unique law in that it does not create new Federal programs, but instead establishes a management and policy-making process by:

Putting together the best factual base on resource conditions that can be obtained so that responsible actions may be carried out based on the information. It allows Congress and the Executive Branch to look ahead and weigh future consequences of our actions or inaction. It opens up the budget and policy processes so that Congress has all of the facts that the Executive Branch has had in preparing budgets. And it measures performance by converting annual reports into performance documents.

Given these congressional expectations, it is fair to say that the members of the Subcommittee were disappointed with a number of things in the Program and the Statement of Policy, which were transmitted to Congress in June.

Future targets for action were not well defined, and there is no national focus presented. It is not enough to make projections of demand, and then show a gap in supply. Our target should be what it takes for all renewable resources to be managed in order to meet demands, where possible.

The program presented to Congress provides a range of action levels for each program activity, avoiding the recommendation of a preferred Program as required by the Act. Neither the low program level nor the high level accurately defines the expected outcome for each resource in the five years ahead, nor the impact on the future in terms of targets. Instead, the low bound of the Program assumes that investments on forest and rangeland will be deferred for the next five years, nothwithstanding the demands on those lands as identified in the Assessment.

The law states that the Program must be devised in such a way so that it assists Congress in the framing of budgets. To do this, the Program must provide the best judgment of the professional land managers regarding what they feel must be done to protect and enhance the land. Given such a Program, it would then be the responsibility of the Congress and the Executive Branch to either fund the Program at the recommended level, or refuse to fund it in total because of other, overriding national priorities.

The Subcommittee feels a responsibility to the Appropriations Committee to provide it with a Program for the Forest Service which is responsive to professional requirements for sound land management, and a Statement of Policy which reflects national goals for the future.

1979 RPA ASSESSMENT

The Forest and Rangeland Renewable Resources Planning Act of 1974 directs the Secretary of Agriculture periodically to assess the status of the Nation's forest and rangeland resources and to recommend a program for the Forest Service role in management and use of the resources.

The Congress finds that the 1979 "Assessment of the Forest and Range Land Situation in the United States" as prepared and submitted by the Forest Service, U.S. Department of Agriculture, to be a comprehensive and well prepared document.

The 1979 RPA Assessment reports that, based on expected increases in population, economic activity, income, and a continuation of recent trends (1950–76), the demands for most products are likely to continue growing rapidly in the decades ahead. The amount of increased demand varies from product to product.

Despite the differences, the projected growth in demand is substantial for all products. On the other hand, the Asssessment shows that assuming a continuation of recent trends in investments in forest and rangeland and water programs and facilities, these lands will not yield the achievable output. Thus, the Nation is faced with upward pressures on real prices of market goods and services and increasing competition among users of nonmarket goods and services who use the available supplies. For such products as timber and energy resources, those pressures are severe in the near term. For the others, the demand pressures do not become serious until 2000.

This outlook has some important and adverse economic, social, and environmental implications. For example, the projected imbalance between demand and supply for timber means that the Nation is faced with the prospect of rapid and continuing increases in the prices of stumpage (standing timber) and timber products, relative to the general price level and to prices of most competing materials. This means increased cost to consumers of products such as houses and furniture made wholly or in part from wood and rising environmental costs resulting from the mining, industrial processing, and power generation associated with the increased use of substitute materials; and an acceleration in the rate of use of nonrenewable resources.

As shown in the 1979 RPA Assessment, these widespread and adverse effects associated with this outlook are not inevitable. There is a huge forest and rangeland and water base which can be used to meet demands for nearly all products. In 1977, 1.7 billion acres, some 71 percent of the nation's area, were classified as forest and range land and water. A little over half, or some 820 million acres, was classified as rangeland. Another 737 million acres were classified as forest land, i.e., land that is at least 10 percent stocked with forest trees, or formerly had such cover, and not currently developed for other uses. Of this area, about 482 million acres is commercial timberland, i.e., land capable of producing in excess of 20 cubic feet of industrial wood per acre per year in natural stands and not withdrawn for other uses. The remaining area—some 107 million acres—was classified as water and consisted of lakes, reservoirs, ponds, streams, and estuaries.

To achieve the potential from our forest and rangelands, the 1979 RPA Assessment identified such opportunities as more intensive management of much of the land and water base, the integration of all renewable resources in management plans, construction of new facilities, improvement in the efficiency of utilization, and the preservation of some renewable resources. More specifically, the 1979 Assessment called for:

Outdoor recreation

Providing adequate maintenance of existing facilities and improved pollution abatement.

Constructing additional facilities such as trails, campgrounds, picnic areas, and boat ramps.

Improving access to forest and range land suitable for outdoor recreation, especially near urban areas.

Providing improved opportunities to inform and educate people about outdoor recreation opportunities.

Coordinating and integrating outdoor recreation, including scenic values, with other uses in resources and land planning.

Coordinating the planning and implementation of programs on nonwilderness lands to meet the needs of those who do not require wilderness to satisfy recreation demands.

Wildlife and fish

Implementing programs to increase food supplies, improve cover, stock desirable species, and more fully integrate wildlife and fish into the management of the forest, rangeland, and water base.

Defining, protecting, and augmenting habitats of endangered and threatened species and protecting critical habitat of other species threatened by changes in the management or use of the land and water base. Transplanting or artificially rearing individuals in some circumstances.

Fully integrating the planning, development, and use of fish with other water resources. Avoiding damage to fish by terrestrial resource use. Ensuring free passage of anadromous species.

Providing access by constructing trails, boat landings, and other facilities where the existing wildlife and fish resources are underutilized, and spreading use through time and to developed areas where the resources can support additional use.

Improving the coordination of wildlife- and fish-centered activities of all levels of government and of the private sector.

Range grazing

Shifting grazing from ecosystems with low response to those with higher efficiency of forage production.

Intensifying management on all ranges in all ownerships to improve range conditions, promote production of palatable and nutritious forage, obtain uniform forage utilization, and meet needs of other uses besides grazing.

Improving the amount and quality of forage produced by seeding, introducing improved forage species on selected sites, controlling less productive or less palatable plants on selected areas, controlling poisonous and noxious plants, and employing land treatments to increase production on selected areas.

Improving water facilities, developing water for improved distribution of livestock and wildlife.

Constructing needed livestock control and handling facilities.

Protecting wildfowl nesting areas.

Reducing loss of range forage by controlling wildfire and range insects and diseases.

Reducing livestock loss to diseases, parasites, and predators.

Timber

Increasing the net annual growth and improving tree quality by such measures as controlling species composition, stand density, age classes, and reforestation of nonstocked areas; use of genetically improved planting stock; prompt restocking of harvested stands; control of harvesting methods, and augmenting size quality by fertilization and moisture control.

Reducing timber losses through integrated pest management techniques which prevent or minimize losses caused by insects, diseases, and other destructive agents; better protection against fires, salvage of mortality; and maintenance of site quality.

Increasing use of logging, processing, and urban wood residues, tops, limbs, and rough and rotten trees, and other unused material on harvest sites.

Improving the efficiency of wood processing and the use of wood in manufacturing and construction.

Water

Intensifying watershed protection and management of forest and range lands to enhance the natural recharge of groundwater and improve the timing of flows by storage or vegetation modification, improve water quality, prevent erosion of productive land, and reduce the sedimentation of streams.

Increasing the efficiency of irrigation systems by reducing losses from transmission systems and harmful plants and improving application methods.

Improving the efficiency of central supply systems by elimination of leaks in transmission systems, use of water meters with charges according to use, and implementation of water-saving technology such as more efficient plumbing fixtures and appliances.

Pricing to encourage more efficient use of water.

THE ADMINISTRATION'S PROGRAM DEVELOPMENT EFFORT

The Recommended Program was developed in three steps. First, a series of alternative programs was proposed, representing a wide range of resource emphases, possible investments, potential yields, and impacts on the environment. Second, the alternatives were offered to the public for consideration and comment. And third, after assimilating this information along with analysis of cost effectiveness, irrevocable commitments, policy considerations relating to local and regional stability and national priorities, the Recommended Program was developed. Throughout the entire process, the assessment information and analysis served as both benchmarks and general guide.

Developing the alternatives

The purpose in the first step was to set forth an array of alternative programs that would bracket the range of feasible resource management roles. The myriad possibilities were reduced to a manageable number. To help do this, the "products" of forest and rangeland were separated into two categories: "market resources" and nonmarket resources." For each of these two categories, three general levels of output production were considered—a replay of the 1975 RPA Program regarded as "moderate", one lower than that, and one higher. By applying various combinations of the three output levels to the two resource categories, and by considering different roles for the National Forests as opposed to State and private land, five alternatives were settled on. These alternatives, and the High and Low Bound of the Recommended Program for comparison are:

	Level of activity for—					
	National Forest system		State and private forestry			
	Market	Nonmarket	Market	Nonmarket	Research	Human and community development
Alternative:						
1	Higher	Higher	Higher	Higher	Higher	Lower.
2	Lower	Lower	Lower	Lower	Lower	Moderate.
3	Moderate	Moderate	Moderate	Moderate	Moderate	Moderate.
4	Lower	Higher	Higher	Higher	Higher	Higher.
5	Moderate	Lower	Lower	Lower	Moderate	Moderate.
Low bound	Moderate	Lower	Higher	Lower	Moderate	Lower.
High bound	Higher	Moderate	Higher	Higher	Higher	Moderate.

Because of its decentralized organization, the Forest Service was able to build these alternatives up—on a foundation of basic information submitted from the field—instead of from the top down. Local resource experts in each of the Forest Service's National Forest Regions, State and Private Forestry Areas, and Forest Experiment Stations participated in setting resource goals and evaluating their environmental effects based on Washington Office guidelines. These "mini-programs" were then gathered together by an RPA Core Team and melded into the cohesive national level units just described. The complexity of this approach is justified by its results: the resulting alternatives were feasible options.

Since individual citizens as well as special interest groups often view the management and use of natural resources differently, it was important to involve the public throughout the RPA planning process. Public involvement goals were designed to: (1) improve public understanding of the scope and impact of the RPA Program at local, regional, and national levels; (2) identify what the interested public believed the Nation's forest and rangelands should provide, including appropriate Forest Service programs; (3) identify for public consideration the issues and areas of existing and potential conflict; (4) improve the quality and accuracy of the RPA Assessment and Program; and (5) build public support for the RPA process and the resulting program.

The Forest Service received approximately 1,700 documents from across the country containing more than 50,000 comments on the draft reports.

The Recommended Program represents a multitude of decisions involving large numbers of Forest Service and other U.S. Department of Agriculture personnel and policy officials working closely together.

The final decision process started after the analyses of public comments was completed. When results of this and other analyses were available, regional programs were formulated for the National Forest System, and State and Private Forestry by the Regional Foresters and Area Directors. At the same time, a tentative national program for Research was also formulated.

These relatively unconstrained proposals, based primarily on local needs and capabilities along with the proposed National Research Program, established the starting point for development of the 1980 Program. The proposals were analyzed, element by element. For State and Private Forestry and Research programs, the lowest level (Alternative 2) was selected as the zero base or starting point. For National Forest System, a combination of low-level (Alternative 2) elements and other program elements which provided a positive net present worth, discounted initially at 4 percent and later at 7⅛ percent, was the starting point. Increments were then added for irreversible commitments and major policy decisions. Further analysis and refinement of increments improved overall program efficiency and responsiveness to other evaluation criteria.

These increments and associated information were then presented for final decisions by appropriate Department policy officials and the Chief of the Forest Service.

CONGRESSIONAL OVERSIGHT

Based upon hearings held on June 27, 1980, before the Subcommittee on Environment, Soil Conservation, and Forestry, responses to questions asked as part of the hearings and extensive review of the RPA 1979 Assessment, 1980 Report to Congress, and the President's Statement of Policy, the Subcommittee generally accepts the Administration's proposed "High Bounds" Program as the recommended program called for in the Forest and Rangeland Renewable Resources Planning Act of 1974 with the exceptions noted in the amended Statement of Policy and the following additional direction deemed appropriate based on areas not sufficiently addressed in the proposed program.

The National Forest Management Act of 1976, an amendment to the Forest and Rangeland Renewable Planning Act of 1974 directs that comprehensive plans for units of the National Forest System be developed by September 1985. These plans will provide a base for evaluating actions proposed on the National Forests and provide information for development of future RPA Assessments and Programs. The Subcommittee expects that as the Forest Land Management Plans are developed the process will provide the Congress with the following information: Forest Plan alternatives will estimate the legal maximum sustained yield of each resource output for the planning area without arbitrary budget constraints. This information will represent production possibilities of goods and services that the National Forests are capable of providing, within the constraints of multiple-use and sustained-yield.

With the possible exception of the timber resource, the data bases used to develop Assessment information must be improved across the board as the programs proposed can only be as valid as the information available upon which they are built.

The overall Forest Service planning process including Research, State and Private Forestry, and National Forest Systems efforts as they relate to private or Federal lands and programs will be expected to improve the data bases in terms of basic resource information, and environmental, economic and social data used in developing the basis for future Assessments and proposed Programs in response to Assessment projections reflecting demands and supply.

This information will be retained in a data base capable of providing the Congress with information on capabilities and tradeoffs involved for its next review of RPA.

The program portrays a Wilderness System of 41 million acres on the National Forests. As of July 1, 1979, there were 15.26 million acres of National Forest System lands in Wilderness. In addition the Administration has recommended another 18.6 million acres for designation.

The Administration has identified an additional 10.6 million acres that will be studied further for possible additional wilderness recommendations. The Congress anticipates that most of the studies will be carried out as a part of the Forest Land Management Planning activity now in progress. The Congress will make the final decisions on the size of the Wilderness System involving National Forest lands.

A third item of emphasis on the Forest Land Management Planning process relates to the question of timber supply. The Assessment identifies the decade of the 80's as a period with significant shortages of softwood to meet expected housing demands. It also identifies as a possible source of supply the large inventories of mature and overmature timber on public lands, particularly on certain National Forests in the West. The President has directed the Secretary of Agriculture to use maximum speed in completing land management plans with the objective of estimating the potential for increased supply from mature and overmature timber through departure from the current nondeclining evenflow policy. The Congress accepts and encourages this effort as a reasonable response to the demand anticipated in the Assessment, however any supply identified is expected to be in addition to the volumes identified for harvest in the Program.

In a broader context the Program indicates that more timber will have to come from private, nonindustrial forest lands rather than the public lands, yet the Program anticipates little additional effort by the Federal Government in any program dealing with taxation or State and private forestry cooperation that would assure greater productivity on these lands. Further, the Program assumes that gaps between market demand and supply will be made up with increasing amounts of timber from foreign sources—principally Canada. Meanwhile, the Province of British Columbia has done its own supply study, that indicated current levels of timber products being shipped to the United States cannot be sustained.

This is a serious flaw in the Program, and an indication that timber supplies must be considered in a global context so that reasonable levels of supply can be planned from all four sources of timber—foreign nations, private, nonindustrial lands, industrial lands, and the public lands. Barring this global examination, it cannot be determined what role the United States supply and demand may be playing on world resources; or what the price of timber can be expected to be between the present and 1985; nor what the Forest Service can do to coordinate and improve its cooperative efforts to restock the nonindustrial lands; nor what the appropriate timber goals may be for the public lands, given multiple-use, and sustained-yield constraints.

The very abbreviated 1980 Report to the Congress has some major flaws that the Program when submitted should deal with. If investments in the National Forest System are reduced, as illustrated in the lower bound program, it will only take a couple of years until National Forest receipts are reduced substantially. Information in the Program should inform the public that receipts to the Treasury are generally greater than prudent investments in the National Forest System.

The Program must adequately reflect and display the required inventory of specfic needs and opportunities for both public and private investments, and differentiate between activities that are capital in nature and those of an operational nature.

The Program must delineate the benefits associated with investments in a manner that permits comparison of anticipated costs with the total related benefits and direct and indirect returns to the Federal Government. It should also discuss and describe priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, and expected results and benefits. Finally, the Program must more fully display personnel requirements needed to satisfy existing and proposed program efforts.

PROPOSED SUPPLEMENT TO THE STATEMENT OF POLICY

The essence of the mission of the U.S. Department of Agriculture is to conserve and enhance the land and water capabilities of the United States in order to provide adequate supplies of food and fiber to the Nation's people at reasonable prices and to provide income security for its farmers.

Within this context the Forest Service shall operate the National Forest System, shall operate cooperative renewable resource programs with the States and private landowners, and it shall carry out a program of research in order to provide more productivity and protection within the framework of the first two program elements.

With respect to the National Forest System, the 1897 Organic Act of the Forest Service says in part:

"No National Forest shall be established except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States."

The Multiple-use, Sustained-yield Act of 1960 enlarged upon the role of the National Forests, saying:

"It is the policy of Congress that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes."

Therefore, the role of the Federal Government in managing the National Forests is to protect and enhance the land, and to provide goods and services from those lands to the Nation's people. But the first consideration must be the enhancement and protection of the land, both forest and range.

If the following policies are carried out diligently, the lands of the National Forests will be improved, and the direct outputs of forest and range will be increased in a timely manner. Accomplishment of the basic goal of land stewardship will also improve watersheds, fish and wildlife habitat, and enhance outdoor recreation opportunities available on the National Forests.

To enhance the work already begun with the enactment of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), the Subcommittee on Environment, Soil Conservation and Forestry recommends the acceptance of the Statement of Policy as presented by the President, but recommends also that it be amended in the period through 1985 to refine future goals so that the Nation's needs can be supplied in an economically, environmentally, and socially responsive manner from both public and private forest and rangelands.

The Subcommittee recommends the Statement of Policy be amended to describe two long-term goals that seek to focus attention on the capacity of the Nation's forest and rangelands to meet national requirements at home and abroad.

It is projected that by the year 2030, the population of the United States will increase by 80 million to 300 million people.

The Gross National Product is expected to increase from $1.4 trillion to $5.6 trillion. Energy costs will rise more rapidly than other costs.

Significant gains have been made over the past 25 years in improving the condition of the forest and rangeland. However, the economic and social factors cited above will require greater efforts in the decade ahead if future supplies and services are to be available in sufficient amounts in an environmentally sound way.

The National Forest land base in the United States is 737 million acres, of which 482 million acres are capable of producing wood of commercial value. The current average growth rate on the commercial forest base is 45 cubic feet of wood per year, or 60 percent of the average potential growth—74 cubic feet per year.

The current growth level is 21.7 billion cubic feet per year, which is well above current rates of consumption. However, much of this growth is of low economic utility. Therefore, the effective growth rate of commercially useable wood is lower than it would appear.

By the year 2030, it is expected that 28.3 billion cubic feet of wood will be needed each year. The 482 million acres of commercial forest land could produce 35.7 billion cubic feet annually.

The Subcommittee believes that the target goal for forest productivity should be 90 percent of the land's potential by 2030. This would require certain actions on public, industrial, and nonindustrial private lands that would increase average growth from 45 to 67 cubic feet each year by 2030.

Through actions which combine adequate reforestation with genetically improved material of cut over lands, timber stand improvement, better tree utilization and more effective land management, the Subcommittee believes that this goal can be reached with good technology, and appropriate efforts at all levels.

Further, it is not wise to assume that some of the shortages anticipated in goods and services from the forests of the Nation can be made up with supplies from other nations, when there are strong indications that those supplies will not be available. The United States must begin in 1980 to seek self-sufficiency wherever possible, since it takes so many years to grow timber.

Coordinated Federal actions affecting the public lands, the industrial lands and the nonindustrial forest lands can be of significant value in determining the most effective course for the public forests, for cooperative forestry programs, and for research that seeks answers to unsolved problems.

There are 789 million acres of land within the contiguous United States that has high value for commercial grazing and wildlife, as well as important soil and watershed values. This rangeland acreage will undoubtedly bear the brunt of anticipated large demands for outputs of livestock, wildlife, watershed and soil protection. Most of this land is in the West, and two-thirds of it is privately owned.

The capacity to produce forage for livestock and wildlife from rangeland at the medium level of projections, is 365 million animal unit months each year, up from a 1976 base projection of about 213 million animal unit months.

The demand for range grazing is expected to reach 300 milllion animal unit months by the year 2030. Rangelands are producing forage at only 50 percent of their potential at present. Eighteen percent of the range is classified in poor condition.

The subcommitte recommends that the statement of policy be amended to establish a target whereby in the year 2000, 85 percent of potential range should be in an improved forage-producing state, and that fewer than five percent of the range acres should remain in the poor category.

The RPA program is deficient with respect to forage production, watershed protection and wildlife and fish habitat improvement on America's rangelands. The subcommittee expects the Secretary of Agriculture to use the mechanisms of the RPA and the Soil and Water Resources Conservation Act of 1977 to come up with a series of recommendations for action to provide the range target recomended, using all of the appropriate resources of the Department of Agriculture and the Land Grant Colleges and Universities.

The targets developed in this supplemental Statement of Policy will assist in devising coordinated efforts so that all Federal actions will be measured and tempered by these goals. As a result, the important environmental and multiple resource value concepts will be an integral part of the actions planned and taken each year.

There are many renewable resource uses that cannot be as readily quantified as land condition based upon production of trees and plants. However, if the land is being managed and treated to grow plants at near optimum levels, the Subcommittee believes this growth will be a basic indicator of the land's condition. If the land is in good condition from this standpoint, water, soil, wildlife, fish, recreational, wilderness, and aesthetic values will be substantially improved. It is expected that as further research is conducted, improved systems for measuring these values will be devised. The absence of target levels for these elements indicates that research efforts should be intensified so that measurements for these resources and their uses can be more adequately displayed in 1985.

Finally, the Subcommittee believes that the Statement of Policy should be amended to indicate a desire by the Congress and the Executive Branch that information-gathering activities and program activities associated with the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Soil and Water Resources Conservation Act of 1975 should be carried out in such a way as to avoid duplication of effort and to promote coordination so that the resource interrelationships between the public and private lands can be determined and dealt with in an organized manner.

NATIONAL MINISTERS DAY

Mr. THURMOND. Mr. President, I ask unanimous consent that Senate Joint Resolution 192 be called up, and that the 3-day notice be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

Senate Joint Resolution 192 to designate September 21, 1980, as National Ministers Day.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. THURMOND. Mr. President, I would like to state that this has been cleared with the majority and minority leaders.

The resolution (S. J. Res. 192) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, is authorized and requested to designate September 21, 1980, as "National Ministers Day".

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. I move to lay that on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SASSER I ask unanimous consent that there be a star print of S. 2, the Senate bill, and the report, Rept. No 96–865.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4370. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the lawn and vegetation activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4371. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial management), reporting, pursuant to law, that a study has been conducted with respect to converting the custodial services activity at Tobyhanna Army Depot, Tobyhanna, Pa., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4372. A communication from the Assistant Secretary of the Army (Installations, Logistics and Financial management), reporting, pursuant to law, that a study has the custodial services activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4373. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), reporting, pursuant to law, that a study has been conducted with respect to converting the refuse collection and disposal service activity at Lexington Blue Grass Depot Activity, Lexington, Ky., and a decision has been made that performance under contract is the most cost effective method of accomplishing it; to the Committee on Armed Services.

EC-4374. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed letter of offer to the Netherlands for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4375. A communication from the Deputy Director, Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental and research contracts of $50,000 or more, by company, for the period January 1, 1980, through June 30, 1980; to the Committee on Armed Services.

EC-4376. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, on the actual term of extension in Docket No. 37322, Coal, Belle Ayr and Eagle Junction, Wyo., to Council Bluffs, Iowa; to the Committee on Commerce, Science, and Transportation.

EC-4377. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report on the operation of the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC-4378. A communication from the Chairman, Commission on Security and Cooperation in Europe, transmitting, pursuant to law, a report entitled "Report to the Congress on Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Five Years After Helsinki," August 1, 1980; to the Committee on Foreign Relations.

EC-4379. A communication from the Acting Attorney General, Department of Justice, transmitting, pursuant to law, a report on the administration of the Foreign Agents Registration Act covering calendar year 1979; to the Committee on Foreign Relations.

EC-4380. A communication from the Supervisor of Benefits, 12th Farm Credit District, transmitting, pursuant to law, reports on (1) 12th District Farm Credit Retirement Plan, (2) 12th District Farm Credit Thrift Plan, and (3) PCA Deferred Compensation Plan; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2623. A bill to incorporate the United States Submarine Veterans of World War II (Rept. No. 96-888).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such Act to the date 20 years after such effective date (Rept. No. 96-889).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes (Rept. No. 96-890).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 192. A joint resolution to designate September 21, 1980, as "National Ministers Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL (on behalf of Mr. Church), from the Committee on Foreign Relations, without reservation:

Ex. G, 96-2. 1980 Food Aid Convention (Ex. Rept. No. 96-43).

Ex. FF, 66-1. 1971 International Wheat Agreement Extension (Ex. Rept. No. 96-44).

Ex. B, 96-2. 1978 Partial Revision of the Radio Regulations (Geneva 1959) (Ex. Rept. No. 96-45).

Ex. C, 96-2. Amendment to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Ex. Rept. No. 96-46).

Ex. I, 96-1. Proposed Amendments to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (Ex. Rept. No. 96-47).

Ex. HH, 96-1. Convention on the Inter-American Institute for Cooperation on Agriculture (Ex. Rept. No. 96-48).

Ex. F, G, & H, 96-1. Three Treaties Establishing Maritime Boundaries Between the United States and Mexico, Venezuela, and Cuba (Ex. Rept. No. 96-49).

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

James Bert Thomas, Jr., of Virginia, to be Inspector General, Department of Education.

(The above nomination from the Committee on Governmental Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HARRY F. BYRD, JR. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: In the Reserve of the Army, there are 45 Army Reserve and Army National Guard officers for appointment as Reserve Commissioned Officers of the Army to the grades of major general and brigadier general (list beginning with Brig. Gen. Jason Alfred Aisner); Rear Adm. J. William Cox, Medical Corps, U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral, and Vice Adm. David F. Emerson, U.S. Navy (age 53) for appointment to the grade of vice admiral on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. HARRY F. BYRD, JR. In addition, Mr. President, in the Navy there are 1,001 permanent promotions to the grade of lieutenant (list beginning with Mark M. Adams); in the Marine Corps, there are 420 appointments to the grade of chief warrant officer (W-4) and below, as well as one appointment to the grade of major (list beginning with John Bartusevics); and, in the Regular Air Force, there are 3,486 promotions to the grade of captain (list beginning with Gerald W. Abbott). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record on July 21 and July 23, 1980, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JAVITS (for himself, Mr. Williams, Mr. Riegle, Mr. Moynihan, and Mr. Nelson):

S. 3012. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (by request):

S. 3013. A bill to create a Cuban/Haitian Entrant status, and for other purposes; to the Committee on the Judiciary.

By Mr. HART:

S. 3014. A bill to provide for the subsistence electrical and natural gas needs of elderly residential consumers, promote equity in electrical costing and natural gas through reform of current electric and natural gas rate structures, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS (for himself and Mr. Baucus):

S. 3015. A bill to establish within the National Aeronautics and Space Administration a comprehensive program of automotive research and technology development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 3016. A bill to improve efficiency, effectiveness, and productivity at all levels of government through fuller use of Federal research and development resources of Federal laboratories, to provide for the establishment of Offices of Research and Technology Applications in Federal laboratories, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ARMSTRONG (for himself, Mr. Wallop, Mr. DeConcini, Mr. Goldwater, Mr. Schmitt, Mr. Hatch, Mr. Garn, Mr. Cannon, Mr. Simpson, Mr. Hart, and Mr. Hayakawa):

S. 3017. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

By Mr. HART:

S. 3018. A bill to amend the Congressional Budget Act of 1974 to require the President to report to the Congress whenever an executive agency plans to expend more than 20 percent of its budget within a 2-month period; to the Committee on Governmental Affairs and the Commitee on the Budget, jointly, pursuant to order of August 4, 1977.

By Mr. DANFORTH (for himself, Mr. Dole, Mr. Talmadge, and Mr. Baucus):

S. 3019. A bill to provide for demonstration projects whereby medicare patients receiving chemotherapy or radiation therapy may be housed and boarded in settings other than inpatient hospital facilities; to the Committee on Finance.

By Mr. RIBICOFF (for himself and Mr. Roth) (by request):

S. 3020. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; to the Committee on Finance.

By Mr. McGOVERN (for himself and Mr. Nelson):

S. 3021. A bill to amend certain provisions of the Federal Power Act, 16 U.S.C. 791a et seq., relating to preferences in issuance of preliminary permits or licenses; to the Committee on Energy and Natural Resources.

By Mr. BELLMON:

S. 3022. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers, and to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; to the Commitee on Labor and Human Resources.

By Mr. DeCONCINI:

S. 3023. A bill to amend section 547 of Title 11 of the United States Code, dealing with preferences in bankruptcy cases; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. Roth, Mr. Nelson, Mr. Levin, Mr. Javits, Mr. Eagleton, Mr. Glenn, Mr. Biden, Mr. Lugar, Mr. Bayh, Mr. Boren, Mr. Bradley, Mr. Metzenbaum, Mr. Mitchell, Mr. Hollings, Mr. Stewart, Mr. Sarbanes, Mr. Melcher, Mr. Williams, Mr. Durkin, Mr. Exon, Mr. Dole, Mr. Bentsen, Mr. Kennedy, Mr. Leahy, Mr. Sasser, and Mr. Bumpers):

S.J. Res. 193. A joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. Williams, Mr. Riegle, Mr. Moynihan, and Mr. Nelson):

S. 3012. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT INSURANCE

Mr. JAVITS. Mr. President, as the current recession deepens and unemployment continues to increase it is essential that our Federal-State unemployment insurance system operate effectively to protect the hundreds of thousands of experienced workers who lose their jobs through no fault of their own. Unfortunately, a recent change in the unemployment insurance system is causing great hardship for older workers in our Nation's labor force and I believe the corrective legislation is urgently needed.

I am therefore today introducing a bill, S. 3012, to eliminate the retirement income offset from the unemployment insurance laws. This provision constitutes one of the most unfair and inequitable requirements Congress has imposed on a social insurance system. I am pleased to be joined in cosponsoring this bill by Senators Williams, Riegle, Moynihan, and Nelson and I hope that other Senators will join us promptly.

In brief, the retirement income offset requires every State to reduce the unemployment compensation entitlement of workers, dollar for dollar, by the amount of social security benefits, private or public pensions, or any other retirement income they receive.

Those who argue that an individual receiving retirement income should not be entitled to receive unemployment compensation assume that retired persons—persons drawing social security or pension benefits—are, by definition, no longer active members of the work force. That view, however, ignores the sad and stark realities of the world. It is clearly and plainly incorrect. It reflects a fundamental misunderstanding of the nature and experience of older workers, of the basic purposes of the unemployment compensation system, and of the effectiveness of retirement income security mechanisms now in place.

The pension offset concept is actually a crude device designed to prevent abuse of the unemployment insurance system by individuals who actually retire from the work force and then draw unemployment compensation based on their preretirement earnings in order to supplement their retirement income. At the outset, we must recognize that the unemployment insurance system already contains a mechanism which, if properly administered, prevents such abuse. Federal law mandates, and every State law provides, that workers are to be disqualified from receiving unemployment compensation unless they are both available for work and actively seeking employment. Claimants who seek to take advantage of the unemployment compensation system to achieve a temporary windfall upon retirement should be disqualified from such benefits by State agencies on the ground that they are not actively engaged in seeking employment.

We must also recognize—and indeed Congress has found—that retirement income programs today are not adequate to provide even the basic amenities of life for many older Americans who have given much of their life to productive, industrious work. In enacting the Employee Retirement Income Security Act (ERISA) 6 years ago, Congress found—

> * * * that despite the enormous growth of (Retirement Income Plans) many employees with long years of employment are losing anticipated retirement benefits.

In 1973, the Committee on Finance reported a predecessor of ERISA to the Senate finding that—

> One of the most important matters of public policy facing the nation today is how to assure that individuals who have spent their careers in useful and socially productive work will have adequate incomes to meet their needs when they retire.

It is beyond serious debate that one of the primary factors that motivated the Congress to enact the landmark ERISA legislation was the inadequacy of benefits provided by many existing pension and other retirement plans. It is certainly my hope, as one of its principle architects, that ERISA will operate to assure that when today's workers retire they will be able to live comfortably on the benefits provided by their retirement plans.

The plain, cold fact is that such hope has not yet come to reality. Millions of American workers have retired on pensions that are inadequate to meet their day to day needs, and provide no cushion against inflation or the potential for illness and infirmity that haunt older Americans. Many so-called retired workers, unable to enjoy the comfortable retirement their long labors have earned them, are required to seek employment to supplement their inadequate social security and pension benefits.

Put simply, it is a misconception that retirement as represented by receipt of retirement benefits constitutes withdrawal from the work force. Many so-called retired workers remain active members of the work force because their retirement income is insufficient to support them, or because they choose to remain employed. Many more older workers would like to remain active members of the work force if they could find renumerative employment. The pension offset provision operates upon the erroneous presumption that recipients of retirement income are not longer members of the work force. It assumes this without regard to the amount of retirement income received.

The pension offset provisions also constitute a gross and unfair repudiation of the principles upon which the Federal-State unemployment insurance system is based. Unemployment insurance is not a social welfare system—but rather a social insurance program. Its purpose is to maintain an individual's standard of living during periods of unemployment by restoring part of lost income during periods of job search. The unemployment insurance program is financed by a separate tax levied against employers, and the proceeds are segregated in a special trust fund from which benefits are paid.

Benefit entitlement is based on a worker's labor market attachment—his earnings and work experience during a set period prior to experiencing unemployment. Benefit levels—and benefit entitlement—are not based on need and are not reduced on the basis of an unemployed worker's assets or other nonemployment related income.

Given these principles, it is particularly egregious that we have singled out one type of income—retirement benefits—from all others to reduce or eliminate unemployment benefits. The nature of retirement benefits highlights particularly the unfairness involved. To the extent retirement income is based upon employee contributions, it is simply a savings program. Yet we do not reduce UI benefits because of ordinary savings held by an unemployed worker.

To the extent retirement income is based upon employer contributions to a pension plan, it is a form of deferred compensation. Yet we do not require the States to reduce unemployment insurance benefits by amounts received from other deferred compensation programs.

That many retired workers must find employment after retirement is a documented fact. When such workers are laid off they must rely on unemployment insurance to support themselves—just like younger unemployed workers.

In November 1978, the New York State Department of Labor conducted a survey of unemployment insurance recipients who also received retirement income. That study found—

> Although pensioned workers are commonly referred to as retired workers, receipt of a pension based on former service is not automatically identifiable with retirement from the labor market. Many of the pensioners who were receiving unemployment insurance benefits in November 1978 first applied for pensions years ago. About half claimed pensions before 1977. Fifteen percent first received pensions in 1970 or earlier. Among the pensioners who were 72 years of age or older at the survey date, three-fifths first applied for pensions in 1970 or earlier. Many were still working because pensions of old times were no longer adequate.
>
> Three-fourths of the pensioners in the survey reported some base-year employment that was later than the date of their pension application. About 60 percent applied for pensions before their base year began.

The study found that 63 percent of those receiving unemployment insurance benefits and retirement benefits claimed unemployment insurance benefits based entirely on labor force attachment and earnings occuring after their retirement; three-fourths had some labor market attachment after their retirement. These data demonstrate that the overwhelming majoriy of workers receiving both unemployment insurance and retirement income benefits are gainfully employed after retirement because of a need or desire to supplement retirement income. They are not workers who claim unemployment insurance benefits directly after retirement seeking to reap a windfall from the unemployment insurance system.

Even in the case of an individual who retires with a pension and claims unemployment insurance benefits based on employment with the pensioning employer, it should be understood that in many cases the decision to retire has not been a voluntary one. The New York State study to which I have referred found that 42 percent of retired unemployment insurance claimants applied for retirement benefits because they were laid off from jobs at which they wanted to continue working. An additional 25 percent of the joint unemployment insurance-retirement income recipients in that study reported that they claimed retirement benefits only after they were forced to retire by a company mandatory retirement policy. Only 17 percent reported voluntarily leaving their employment and then claiming retirement benefits. Even among these individuals, the study notes that some unemployment insurance claimants retired and claimed retirement benefits intending to maintain labor market attachment. Policemen and retired military officers who work in the private sector after "retirement" are but two such examples.

Another inequity of the retirement income offset is that it constitutes a substantial financial incentive for employers to single out for layoff older workers who are either eligible for, or already receiving, retirement benefits. As I have noted, unemployment insurance benefits are financed by a payroll tax levied on employers. The rate of that tax is based on an individual employer's so-called experience rating. The experience rating is determined by the number of unemployment insurance recipients claiming benefits based upon employment with that employer, and the amount of benefits paid to such claimants.

Thus, when an employer lays off a portion of his work force, and those laid-off employees claim unemployment insurance benefits, the unemployment insurance tax rate the employer must pay on his remaining payroll increases. If, however, an employer can lay off workers who are not eligible to claim unemployment insurance benefits, or who will be eligible only for reduced benefits, because of the retirement income offset, he can eliminate or at least significantly reduce the effect on his unemployment insurance tax rate.

The effect of this can best be understood with reference to employers who self-insure under the unemployment insurance system. Self-insuring employers—primarily State and local government agencies—do not pay unemployment insurance taxes. Instead, they reimburse their State employment security agency for the actual cost of unemployment insurance benefits paid to their former employees based on employment with the self-insurer.

Thus, for example, if a self-insuring employer lays off 10 workers who claim unemployment insurance benefits at an average entitlement of $100 per week, the State employment security agency will bill that employer $1,000 for each week those laid-off workers collect unemployment insurance benefits. If, however, 5 of the 10 laid-off workers are receiving retirement benefits in excess of their unemployment insurance entitlement—here as little as $4,800 per year—they will receive no unemployment insurance benefits. This hypothetical self-insuring employer would then save $500 per week by choosing to lay off workers who are receiving retirement benefits. If the employer is in a State that has the customary maximum benefit duration of 26 weeks, it would save $2,600 per employee—$13,000 for our hypothetical 5 employees—$130,000 if it laid off 50 workers who were disqualified by the pension offset.

Although the calculations are more complicated and the benefits less immediate, employers who pay payroll taxes will reap similar benefits by electing, where possible, to lay off workers who are disqualified by the retirement income offset provisions.

For 13 years it has been our explicit national policy to prohibit employment discrimination based on age. I am pleased to have been the sponsor of the Age Discrimination in Employment Act of 1967. Only 3 years ago Congress broadened the protections of that act to prohibit age discrimination against employees up to age 70. In the face of this clear national commitment to eradicate age-based employment discrimination, it is disgraceful to enact into Federal law so blatant an incentive to age discrimination as is contained in the unemployment insurance retirement income off-set.

When that provision first was proposed by the Finance Committee as an amendment to the House-passed Unemployment Compensation Amendments of 1976, it would have denied all unemployment compensation to anyone receiving retirement income, no matter how small the amount. After I voiced my opposition to this provision on the Senate floor, the provision was modified, first to provide a dollar-for-dollar offset, and second to delay the provision's effective date so the issue could be studied by the National Commission on Unemployment Compensation.

The Commission examined the issue, and in its interim report of 1978 unanimously recommended that the entire pension offset provision be repealed. The bill we are introducing today would accomplish that result. I expect that further evidence supporting the repeal of this pernicious provision will be contained in the Commission's final report, due next week.

Mr. President, the Commission's Chairman testified before the House Ways and Means Committee in support of the Commission recommendations to repeal the pension offset. He noted the following major points:

(1) Both pensions and unemployment insurance benefits represent deferred compensation for services rendered at an earlier date. The risks that are covered are not duplicative, and protection is appropriate for each.

(2) The repeal is warranted by the recent change by Congress extending compulsory retirement age by employers from age 65 to 70.

(3) All employees contribute to social security and many contribute to other pension plans. The current provision could be perceived as a policy decision opposing individual saving.

(4) State unemployment compensation administrators oppose a Federal standard that enters an area traditionally left to the States. Additionally, many administrative problems arise from the present provision.

(5) While State laws vary considerably on this issue, only 14 States have enacted conforming legislation and eight of these are conditional upon continuation of the current Federal requirement.

The unemployment insurance system represents a unique program of Federal and State cooperation. It is not a perfect system. Nonetheless, it constitutes the first line of defense for millions of American workers against the ravages of recession. Older workers no less than their younger counterparts are in need of and entitled to the protections of that program.

Experience has taught us that even without the incentives of the pension offset, older workers are frequently the first laid-off and last rehired in a recession. Millions of older workers are active participants in the labor force despite their eligibility for and receipt of some form of retirement income. I see no good reason why we should single out such workers for special hardship during periods of unemployment.

Mr. President, I ask unanimous consent that the text of the bill, together with excerpts from the interim report of the National Commission on Unemployment Compensation, be printed at this point in the RECORD.

There being no objection, the bill and excerpts were ordered to be printed in the RECORD, as follows:

S. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out paragraph (15) and by redesignating paragraphs (16) and (17) as paragraphs (15) and (16) respectively.

SEC. 2. The amendment made by Section 1 of this Act shall apply with respect to certifications of State programs for 1980 and subsequent years.

EXCERPTS FROM INTERIM REPORT OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

5.1 RETIREMENT PAYMENTS AND UNEMPLOYMENT COMPENSATION BENEFITS

Legislative history

Public Law 94–566, "The Unemployment Compensation Amendments of 1976," added to requirements for approval of State unemployment compensation laws (for employer offset credit against the Federal Unemployment Tax) provision that: "the amount of compensation payable to an individual for any week which begins after September 30, 1979 (later amended to March 31, 1980), and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week."

No such provision was contained in H.R. 10210 (which upon enactment became Public Law 94–566) as passed by the House of Representatives. It was added in a Senate amendment. As originally recommended by the Senate Finance Committee, the legislation would have prohibited payment of any benefits to an individual receiving a pension, annuity or other retirement pay, in any amount, effective January 1, 1978.

When the bill came to the Senate floor, the present language was substituted. Additionally, the National Commission on Unemployment Compensation was charged with: "evaluation of the feasibility and desirability of restricting the eligibility for receipt of unemployment compensation to persons eligible to receive a pension or retired pay, annuity, or any similar periodic payments."

The conference report stated:

"The conference agreement follows the Senate amendment, except that the requirement would not take effect until 1979, thereby permiting the National Commission on Unemployment Compensation an opportunity for a thorough study of this issue and the Congress to act in light of its findings and recommendations."

In floor discussion on a Senate measure to extend the effective date of the present provision, consistent with an extension of the due date of the final report of the Commission, the sponsor said:

"We need the national commission's views on this provision (the current language), which does not even distinguish between workers receiving pension benefits from a pension fund based upon their own contributions—which may be either voluntary or mandatory—and those who receive benefits from plans which are financed entirely or in large part from employer contributions. Indeed, the provision would exclude from UI payments persons receiving benefits under plans for the self-employed or individual retirement accounts for workers whose employers do not offer retirement plans." (parenthetical language added.)

When the House of Representatives passed H.R. 12232, extending the due dates for the reports of this Commission, a similar extension of the effective date of the provision on pension deduction, from March 31, 1980, to May 31, 1981, was included. This extension was eliminated by the Senate because the issue of a possible conflict with the Budget Act had been cited. Accordingly the Commission finds it desirable to make its recommendation on the issue in this First Interim Report so that the President and the Congress may have sufficient lead time to consider the subject before the March 31, 1980, effective date.

Commission considerations

In addition to reviewing information on the subject during the period since March 1978, the Commission heard testimony from spokespersons for the National Council of Senior Citizens, several veterans organizations, and the Interstate Conference of Employment Security Agencies, representing the administrators of the State unemployment compensation laws.

The Commission is heavily influenced by the arguments that pension payments are not, simply, a substitute for lost wages. Conceptually, there is no unanimity of agreement as to whether unemployment compensation and pensions are duplicative, since they do not derive from efforts to meet the same risk.

The right to unemployment compensation benefits is based solely on recent employment in which services were performed during a specific period, generally during a period of 12 months, the beginning date of which is no earlier than 18 months prior to the date of claim. A pension or annuity may, and frequently does (especially in Social Security), derive from the totality of the lifetime of work experience of an individual.

Should an individual who is involuntarily unemployed and in the active job market be denied the same benefits as those payable to all other job seekers because his past work, extending over a long period of years, has earned him certain retirement rights? (In the case of Social Security, most pensions from Federal, State and local governments, and many private employers, the workers has participated substantially in the cost.)

Witnesses have suggested to the Commission that the new provisions would introduce a form of "needs" test to the unemployment compensation system, inconsistent with the insurance concept on which the program is grounded, since this would treat differently groups of claimants whose qualifications for benefits are identical. Not only would claimants eligible for previously-earned retirement income be discriminated against as contrasted to others not similarly entitled, but additionally, individuals entitled to Social Security or company pensions would have their benefits reduced or eliminated, but recipients of less obvious income such as interest on savings, dividends on securities, rentals on real estate, or the rent-free use of housing owned by the claimant, would not have their benefits reduced. The provision seems to create a public policy favoring employers who do not provide pensions against those who do.

It was stated that pensions were indeed an earned right, a part of the previous conditions of employment. Generally the costs of pensions represent payments not made to an individual in wages during the period over which pension rights have accrued. It has been said to be particularly so where pension rights are established as part of the collective bargaining process. An individual's right to benefits based on recent employment may be reduced or eliminated because of a pension based on services that occurred many years earlier. And, as indicated earlier, the pension, under certain circumstances, may have been paid for entirely by the worker.

The Commission recognizes that many believe that a distinction should be made in those instances in which the worker claims benefits from the same employer for unemployment compensation and retirement, while others believe that such a distinction would be contrary to the pooled-insurance concept on which the unemployment compensation system is based.

At the present time, States vary in provisions as to reduction of unemployment benefit payments because of pension income. While most States which deduct from UI benefits do so only where the pension is from a base period employer (24), 13 States do so with regard to pension from any employer. Since the enactment of Public Law 94–566, there has been little new State action. Those States whose laws are not consistent with the new Federal requirement appear to be awaiting definitive action by the Congress. Only one State, New Mexico, has made changes in State law to conform to the Public Law 94–566 requirements. Another, New

Hampshire, did so amend its State law but later repealed the action.

Three types of claims are involved in this issue: regular State unemployment compensation; unemployment compensation for Federal employees (UCFE) which are generally determined under applicable State law, and unemployment compensation for ex-service personnel (UCX), which are determined under State law except as otherwise specified.

(Appendix 6.4 includes a comprehensive set of tables on provisions of State laws.)

All States consider voluntary retirement to be a quit without "good cause", subject to disqualification. "Good cause" is determined in accordance with State law, as is any other issue relating to separation from work. Similarly, the disqualification to be imposed would also vary in accordance with State law, ranging from a postponement of benefit payments for a limited number of weeks to a disqualification for the entire period of unemployment and a requalifying requirement of a number of weeks of work of the dollar equivalent in new wages.

These considerations apply to both State unemployment compensation and UCFE claims. With respect to UCX, wages earned in the military service are not available to a claimant if service was for less than 90 days (unless terminated earlier because of service-incurred injury or disability) or if he was discharged under dishonorable conditions or for bad conduct. Except for this limitation, cause of separation is not an issue in eligibility for UCX benefits. However, the decision as to deductibility of pension for service in the armed forces, now determined under State law, would be subject to the new Federal requirement.

Conclusions and recommendation

Irrespective of the wide range of reasons that would impel a probable finding that a pension deduction is not appropriate in the unemployment compensation program, the Commission is constrained to make its recommendation on this issue for another clear-cut reason—that this is not presently an area in which a Federal requirement is appropriate. States which have taken action in this direction because of the March, 1980, requirement should reevaluate this action if the Federal standard is eliminated.

Under the current conditions of the Federal-State relationship, all the basic elements of benefit eligibility for regular benefits are left to State determination. These include the extent and nature of work force attachments required for eligibility, the dollar amount of weekly benefits and the number of weeks for which such benefits shall be paid, and the conditions under which an individual may be disqualified or have his right to benefits postponed or curtailed.

Only if it is decided that detailed standards, setting either general or specific guidelines for benefit provisions in State laws are necessary or desirable, should this issue be considered as within the scope of policy determination at the Federal level.

The present Section 3304(a)(15) of the Federal Unemployment Tax Act sets a deadline of March 31, 1980, for adoption of the restriction on benefit payments in all State laws. This Commission is currently instructed to make its final report to Congress by no later than June 30, 1979. Any recommendation of the Commission would require some two to three years before implementation at Federal and State levels can be accomplished.

The Commission accordingly recommends to the President and the Congress that Section 3304(a)(15) of the Federal Unemployment Tax Act be repealed. States should carefully review present provisions of State law if the Federal requirement is repealed.

● Mr. WILLIAMS. Mr. President, I join today with the Senator from New York (Mr. JAVITS) in introducing legislation to repeal the ill-advised Federal law that, since April of this year, has required the States to reduce or deny unemployment compensation benefits for several hundred thousand older workers across the Nation.

Our bill would nullify the requirement of the Federal Unemployment Tax Act which requires that unemployment benefits be reduced by the amount of any pension or retirement benefits.

This "pension-offset" provision, which I have opposed since it surfaced in the Senate 4 years ago, attacks directly the rights of older Americans who have worked hard throughout their lives, contributed to both a pension fund and the unemployment insurance fund, and now are trying to make ends meet on meager, fixed incomes.

They have earned the right to social security benefits, private pensions, or Government retirement benefits during their working years—in most cases making half or more of the contributions to the pension fund. Some have supplemented their employer-based pensions with individual retirement accounts comprising solely their own contributions. Self-employed persons similarly have established personally funded Keogh retirement plans. Veterans retired on pensions that constitute deferred compensation after 20 years or more of poorly paid military service.

All of these sources of retirement income—employee financed or not—have been used since April to offset unemployment benefits to which workers are separately entitled on the basis of substantial earnings over substantial periods of time as an active member of the labor force.

In too many cases, pension benefits are either below the poverty level or insufficient to meet the rising costs of food, housing, clothing, transportation, and medical care. As a result, retirees have been forced to return to work in order to supplement their retirement income.

In other cases, unexpected corporate decisions to close a production or service facility have left large groups of workers suddenly without jobs. In New Jersey, plant closings have put more than 12,000 persons out of work this year alone. Many older workers in these circumstances have little choice but to retire prematurely, with the reduced pensions that result, when other work or opportunities for transfer are not readily available.

In all such cases, however, the unemployment benefits upon which they relied for a measure of cash assistance have been reduced or eliminated, leaving them an unhappy choice between deprivation or welfare if no other work can be found.

In my home State of New Jersey, some 13,500 older workers have been affected by this cruel and unfair provision of Federal law since its April first effective date. Although comprehensive data are not available for all of the States, we believe that 300,000 persons or more have experienced the anger and frustration of learning belatedly that their unemployment benefits are far less than they had anticipated and had every right to expect.

The extremely broad and encompassing language of the current Federal requirement, allowing for no exceptions to a dollar-for-dollar benefit reduction has resulted in inequity upon inequity. The proposal to modify that requirement, adopted by the Senate last Tuesday night as an amendment to H.R. 3904, the ERISA legislation, would reduce the harmful effects of current law, but not eliminate them altogether. Those modifications would reduce the number of retirees who would suffer the cut in unemployment benefits to which they have a right under the unemployment insurance system. Some would suffer smaller reductions in those benefits than under current law.

However, there remains the unacceptable discrimination against older workers whose retirement income derives from pensions or annuities. For these workers, unemployment benefits frequently would be reduced by some or all of the amount of their retirement benefits. But there would be no such offset for those who have retired on the proceeds of regular savings, life insurance, real estate holdings, or investments in securities.

The modifications provide that the States "may" take account of employee contributions to the pension fund, but they should flatly so require and are deficient in this respect. Denying an involuntarily unemployed older worker full entitlement to unemployment compensation benefits, reducing them by the amount of the claimant's own contributions to a pension fund, is one of the patent inequities of current law that probably would remain in some States. The most glaring case in point involves an individual who was self-employed during his regular working years and established a Keogh plan retirement account entirely with his own funds. After retirement and having been laid off from a job that may have been necessary or survival, he finds that his own financial resources are used to reduce his unemployment benefits. This kind of treatment should be flatly prohibited.

Another deficiency of the modifications is that some unemployed workers still would have their unemployment benefits reduced, even if the employer who funded their pension is not the same employer who is charged for the unemployment benefits. In other cases, social security recipients would continue to lose unemployment benefits to the extent of half or somewhat more of their social security benefits.

Finally, the modifications make no allowance for the fact that employees as well as employers in New Jersey, Alaska, and Alabama are taxed for contributions to the State unemployment insurance fund. This may be the most serious affront to fairness in connection with the pension-offset. When employees have contributed for years to the unemployment fund but are denied benefits when they need them most, it is not difficult to understand why they feel cheated by their Government. In New Jersey, this special employee tax has been in effect since 1938; many older workers have paid into the unemployment fund throughout their working lives but never had the need for benefits until now, only to be told that their unemployment insurance has been canceled because they are receiving a pension.

Mr. President, the pension-offset requirement was enacted originally in haste and with little attention to its unfortunate consequences. It was included in a broad unemployment compensation reform bill without opportunity for public testimony on this particular provision. The conference report on that omnibus bill contained expressions of apprehension about the pension-offset, mandating detailed study and recommendation by the new National Commission on Unemployment Compensation and delaying the effective date of the requirement until the Commission could report.

The apprehensions of the conferees were well justified. The National Commission unanimously recommended repeal of the pension offset in testimony before the House Unemployment Compensation Subcommittee and the Senate Finance Committee last September.

Efforts in both the Senate and the House of Representatives to modify the pension-offset, rather than repeal it, would reduce the impact of its inequities but, as I have indicated, would not eliminate them. While there would no longer be a lifetime bar against full unemployment compensation benefits for retirees, the other inequitable implications of the pension-offset remain to some degree. Moreover, those efforts to tailor the requirement to minimize its discriminatory effects will result in a host of difficult, if not in some respects impossible, administrative problems for State unemployment insurance systems.

For these reasons, Mr. President, I endorse the recommendation of the National Commission that the pension-offset be repealed, join with Senator Javits in introducing a bill that would accomplish the repeal, and urge my colleagues to give it their full support and immediate attention.●

By Mr. KENNEDY (by request):

S. 3013. A bill to create a Cuban/Haitian entrant status, and for other purposes; to the Committee on the Judiciary.

HAITIAN AND CUBAN REFUGEES

AMENDMENT NO. 1962

● Mr. KENNEDY. Mr. President, I am introducing today, by request, the administration's legislative proposal to create a Cuban/Haitian entrant status under the Immigration and Nationality Act.

I am also submitting, Mr. President, an amendment in the nature of a substitute. My amendment will simply declare the Cubans and Haitians covered in the administration's bill to be deemed "refugees" under the terms of Public Law 96–212, the Refugee Act of 1980, and make them eligible for all the benefits and assistance that act provides.

Mr. President, I oppose the administration's approach simply because it is unnecessary. The administration could and should have used the Refugee Act to deal with this problem.

We can debate whether the Cubans and Haitians are refugees. I believe the record shows that most are. Clearly, some are not. Those who are criminals have been detained and should be deported. Others are seeking and should be assisted in finding third country resettlement. But the remainder have been admitted to the United States under the Attorney General's parole authority, and they are here. That is the plain fact. And they should be given the same Federal assistance all refugees receive.

Under the administration's proposal, Cuban/Haitian entrants look like refugees, are treated as refugees, but considered only being 75 percent refugees for the purposes of Federal assistance. This has quite properly been protested by the States, local communities, and voluntary agencies who are being asked to fund a Federal program. The Cubans and Haitians are here, they are going to stay, and they should not be dumped upon the communities across our Nation.

Mr. President, the Congress enacted the Refugee Act just 4½ months ago to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal with it. If the President refuses to utilize the authorities and tools which Congress has given him to deal with the admission and resettlement of Cuban and Haitian refugees, then Congress has no other alternative than to legislatively declare the Cubans and Haitians as "refugees" under the terms of the Refugee Act. This is what my substitute amendment accomplishes.

I ask unanimous consent that the text of the administration's proposal and bill, as well as my amendment, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cuban/Haitian Entrant Act of 1980".

Sec. 2. (a) Except as provided in subsection (c) of this section, the following aliens shall be granted Cuban/Haitian Entrant status 30 days after enactment of this Act and may remain in the United States under such conditions as the Attorney General may deem appropriate:

(1) Nationals of Cuba who were paroled into the United States under section 212(d) (5) of the Immigration and Nationality Act after April 20, 1980, and before June 20, 1980;

(2) Nationals of Haiti who on June 19, 1980, were the subjects of exclusion proceedings under section 236 of the Immigration and Nationality Act, including those who on that date were under orders of exclusion and deportation which had not yet been executed;

(3) Nationals of Haiti who on June 19, 1980, were the subjects of deportation proceedings under section 242 of the Immigration and Nationality Act, including those who on that date were under orders of deportation which had not yet been executed;

(4) Nationals of Haiti who were paroled into the United States under section 212(d) (5) of the Immigration and Nationality Act before June 20, 1980, and were physically present in the United States on that date; and

(5) Nationals of Cuba or Haiti who on June 19, 1980, had applications for asylum pending with the Immigration and Naturalization Service.

(b) The Attorney General may in his discretion grant an alien described in subsection (a) of this section authorization to engage in employment in the United States and provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) Cuban/Haitian Entrant status for any alien may be denied or terminated by the Attorney General in his discretion pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien is excludable under § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182) (except paragraph (14), (15), (20), (21), (25) or (32) of subsection (a)), or if the Attorney General determines that

(1) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(2) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(3) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(4) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

Sec. 3. (a) Notwithstanding any numerical limitations in the Immigration and Nationality Act, the Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of a Cuban/Haitian Entrant to that of an alien lawfully admitted for permanent residence if the alien

(1) applies for such adjustment,

(2) is not firmly resettled in any foreign country,

(3) has been physically present in the United States for at least two years after being granted such status, and

(4) is admissible (except as otherwise provided in subsection (b)) as an immigrant under the Immigration and Nationality Act at the time of examination for adjustment of such alien.

(b) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to an alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

Sec. 4. Special Reimbursement Authority for Services and Other Assistance to Cuban/Haitian Entrants for Fiscal Year 1981.

(a) State Plan. Any State intending to claim reimbursement under this section shall, as a condition to the receipt of such reimbursement, submit for the approval of the Secretary of Health and Human Services a State plan. The plan shall describe the need of Cuban/Haitian Entrants for services and other assistance, the particular activities for which amounts will be expended by the State to meet those needs, and the review and supervision that will be performed by the State to assure the proper expenditure of funds for which such reimbursement is sought.

(b) Cash and Medical and Other Services. The Secretary of Health and Human Services is authorized to reimburse from available appropriations (directly or through arrangements with other Federal agencies) not to exceed 75 per centum of the amounts, but only to the extent found necessary in accordance with criteria prescribed by the Secretary in regulation, expended by—

(1) State and local public agencies, in providing cash assistance to Cuban/Haitian Entrants other than those eligible for cash benefits under title XVI or part A of title IV of the Social Security Act, and of providing medical services to Cuban/Haitian Entrants other than those eligible for medical assistance under title XIX of such Act;

(2) State and local public agencies, in furnishing approved services or other approved assistance to Cuban/Haitian Entrants for the purpose of—

(A) providing health (including mental health) services, social services, and educational and other services,

(B) assisting such individuals in obtaining the skills necessary for economic self-sufficiency, including job training, employment services, and day care, and

(C) providing training in English where necessary (regardless of whether the individual is employed or receiving cash or other assistance); and

(3) State and local public agencies, in providing, to Cuban/Haitian Entrants who are children, child welfare services, including foster care maintenance payments and services and health care, but excluding any such payments, services, or care available to such a child under the State's plan approved under part A or part E of title IV of the Social Security Act, or under title XIX of such Act.

(c) Services for Children in Elementary or Secondary School. The Secretary is authorized to reimburse from available appropriations, directly or through arrangements with other Federal agencies, not to exceed 75 per centum of the amounts expended for projects to provide special educational services (including English language training) to Cuban/Haitian Entrants who are children in elementary or secondary schools.

(d)(1) Payments with Respect to Unaccompanied Children. In the case of a Cuban/Haitian Entrant who is a child unaccompanied by a parent or other close adult relative (as defined by the Secretary)—

(A) notwithstanding the preceding provisions of this section, the Secretary is authorized to pay 100 per centum of the reasonable expenditures for assistance or services furnished to or on behalf of such a child for whom the State has assumed legal responsibility, including aid to families with dependent children under part A of title IV of the Social Security Act, State supplementary payments under section 1616 of such Act, and medical assistance under title XIX of such Act, and

(B) payments with respect to such an unaccompanied child will be available with respect to any such assistance or services furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of such Act prescribes for the availability of such services to any other child in that State).

(2) Interim Responsibility. During any interim period while a Cuban/Haitian Entrant who is an unaccompanied child is in the United States but before placement has been arranged for such child under the laws of a State, the Secretary or his designee shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(e)(1) Limitation on Payment. Except as provided in subsection (d)(1)(B), payments under this section with respect to a Cuban/Haitian Entrant shall only be available for assistance or services furnished to such individual during the twelve-month period beginning July 1, 1980, or, if he has been in a Federal processing center or Federal custody, the month in which he leaves such center or custody, if later. No amounts shall be paid to a State or local agency under this section for costs incurred after September 30, 1981, except for services for unaccompanied children and for individuals leaving a Federal processing center or Federal custody after September 30, 1980.

(2) For purposes of this section, there shall not be included for reimbursement any amounts provided in kind.

(f) Administrative Costs; Recordkeeping and Records of Expenditures.

(1) The Secretary is authorized to reimburse State and local public agencies from available appropriations not to exceed 75 per centum (or, with respect to assistance or services referred to in subsection (d)(1)(A), 100 per centum) of the administrative costs which the Secretary determines are necessary and directly related to the provision of assistance or services for which payment is provided under this section.

(2) As a condition to reimbursement under this section, any agency or organization seeking payments under this section shall keep such records and make such reports pertaining to expenditures for which payment is sought as the Secretary may require and shall comply with such other provisions as the Secretary may find necessary to assure the correctness and verification of those records and reports.

(g) Reimbursement for Cuban/Haitian Entrants Granted Asylum. No amount shall be available under chapter 2 of title IV of the Immigration and Nationality Act for payment of costs incurred in providing services or other assistance to an individual after he has been granted Cuban/Haitian Entrant status.

(h) Closing Date on Reimbursement for Certain Applicants for Asylum. Section 401 of the Refugee Act of 1980 is amended by striking out "at any time" and inserting in lieu thereof "at any time prior to July 1, 1980".

SEC. 5. (a) An alien granted Cuban/Haitian Entrant status may not apply for asylum under § 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and any application for asylum under § 208 or under any other provision of law filed by the alien but not approved before the alien was granted Cuban/Haitian Entrant status shall be denied.

(b) Subsection (c) of § 208 of the Immigration and Nationality Act (8 U.S.C. 1158) and subsection (b) of § 209 (8 U.S.C. 1159) of that Act shall not be applicable to an alien granted Cuban/Haitian Entrant status or to the spouse or child of such alien.

SEC. 6. Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by striking out "six months" in subsection (a)(1) and inserting in lieu thereof "thirty days."

SEC. 7. Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding the following new subsection (d):

"(d) Notwithstanding any other provision of law, a denial of an application for asylum and the procedures established to adjudicate asylum claims under this section shall be subject to judicial review only in a proceeding challenging the validity of an exclusion or deportation order as provided for in section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a). The denial of an application for asylum may be set aside, or the cause remanded for further proceedings, only upon a showing that such denial was arbitrary and capricious, or otherwise not in accordance with law."

SEC. 8. Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended as follows:

(a) Subsection (a) is amended to read:

"(a) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an individual case in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft on which he arrived in the United States, unless the alien boarded such vessel or aircraft in foreign territory contiguous to the United States or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, or subject or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case the deportation shall instead be to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or, in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visas or other document or such examination and admission if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority."

(b) A new subsection (b) is added to read as follows:

"(b) If the government of the country designated in subsection (a) will not accept the alien into its territory, the alien's deportation shall be directed by the Attorney General, in his discretion and without necessarily giving any priority or preference because of their order as herein set forth, either to—

(1) the country of which the alien is a subject, citizen, or national;

(2) the country in which he was born;

(3) the country in which he has a residence; or

(4) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable or impossible."

(c) Subsection (b) is redesignated as subsection (c) is amended as follows:

"(c) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interest; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 233 of this Act; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 233 of this Act, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the district director of customs of the district in which the port of arrival is situated or in which any vessel or aircraft of the airline may be found, the sum of $1,000 for each violation in addition to any other penalty provided by law. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay such fine is being determined, nor any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the district director of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine and pending detention costs."

(d) Subsection (c) is redesignated as subsection (d) and is amended to read as follows:

"(d) An alien shall be deported on a vessel or an aircraft owned by the same person who owns the vessel or aircraft on which such alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is affected on a vessel or aircraft not owned by such owner or owners, the transportation expense of the alien's deportation may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft."

SEC. 9. Public Law 89-732 is repealed.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions of this Act.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., July 31, 1980.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for you consideration and appropriate reference a legislative proposal "to create a Cuban/Haitian Entrant status and for other purposes."

This proposal implements the Administration's decision, announced June 20, 1980, to provide special legislation to regularize the status of the 114,000 Cubans and more than 15,000 Haitians who have entered the United States through Southern Florida and to respond to the burdens they have placed on the Federal government, on State and local governments and on voluntary organizations.

This special, one time only, legislation is necessary to meet problems not contemplated by the Refugee Act of 1980. The refugee provisions of the Act do not provide for the sudden and massive arrival of persons to the United States who did not undergo overseas processing. The asylum provisions of the Act must be applied on a case-by-case basis, a process which would be slow, leaving many arrivals without a clear status and without eligibility for federally-funded assistance. Additionally, many of the Cubans and Haitians would not qualify under the strict standards for asylum.

The size of this special population and the difficulty of returning them to their homelands or resettling them in other countries, makes this legislative proposal crucial, so that their status and their eligibility for federally-funded assistance may be clarified.

The proposal creates a special Cuban/Haitian Entrant status, available to Cubans who arrived in the United States after April 20 and before June 20, 1980, and to Haitians who were involved in INS proceedings before June 20, 1980. It provides that the Attorney General may grant Entrants authorization to engage in employment. The Attorney General is also authorized to deny or terminate the Cuban/Haitian Entrant status of any alien who is excludable under the Immigration and Nationality Act, with certain exceptions. It terminates ongoing asylum proceedings for all aliens who are granted Cuban/Haitian Entrant status. The Administration will continue to seek a method to identify and extend Cuban/Haitian Entrant status to those other Haitian "boat people" who arrived in Florida prior to June 20, 1980, but who are not in Immigration and Naturalization Service proceedings.

The legislation provides adjustment of status for Cuban/Haitian Entrants after two years, under terms similar to those of the Refugee Act. These admissions would not count against the numerical limitations of the Immigration and Nationality Act.

It provides 75 per cent Federal reimbursement to States for a broad range of assistance and services to Cuban/Haitian Entrants for a period of one year. For unaccompanied children for whom the State has assumed legal responsibility, full Federal reimbursement is available until the child is 18.

In addition to these major proposals, the legislation contains certain provisions to facilitate the administration of refugee and asylum laws.

The passage of this legislation will make it possible for all of those involved in this problem to resolve it quickly and humanely. The Departments of State and Health and Human Services join me in urging immediate consideration and adoption of this proposal.

The Office of Management and Budget has advised that the enactment of this legislation is in accord with the program of the President.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

CUBAN/HAITIAN ENTRANT LEGISLATION—SECTION-BY-SECTION ANALYSIS

Section 2 of the bill grants "Cuban/Haitian Entrant" status to Cubans who were paroled into the United States between April 20, 1980, and June 20, 1980, or who had applications for asylum pending with the Immigration and Naturalization Service on June 20, 1980, and to Haitians who were (1) subjects of exclusion or deportation proceedings on June 19, 1980, or (2) were paroled into the United States before June 20, 1980, or (3) who had applications for asylum pending on June 20, 1980. Cuban/Haitian Entrant Status would be granted 30 days after enactment of this Act. The Attorney General would be authorized to deny Cuban/Haitian Entrant status to, or terminate the status of, any alien who is excludable under § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182), with certain exceptions. This section would also permit the Attorney General to authorize Cuban/Haitian Entrants to engage in employment in the United States.

Section 3 authorizes the Attorney General to adjust the status of a Cuban/Haitian Entrant to that of an alien lawfully admitted for permanent residence after the alien has maintained Entrant status for two years. The Cuban/Haitian Entrant may be denied adjustment if he is firmly resettled in another country or if he is inadmissible under certain provisions of § 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182). The Attorney General is authorized to waive grounds for exclusion (with the exception of the provisions regarding national security, association with the Nazi government or trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it otherwise would be in the public interest. These adjustments would not count against the numerical limitations of the Immigration and Nationality Act.

Section 4. Special Reimbursement Authority for Services and other Assistance to Cuban/Haitian Entrants for Fiscal Year 1981.

Subsection (a) requires that, in order to obtain reimbursement under this section, the State submit a plan to the Secretary of Health and Human Services. The plan is to describe the need for services and assistance, what the State intends to provide to Cuban/Haitian Entrants, and the State's responsibility for these activities.

Subsection (b) authorizes 75 per cent reimbursement (within the limits of available appropriations) for cash and medical services for Cuban/Haitian Entrants not eligible under the State's programs funded under the Social Securtiy Act, and for health and social services and other services to increase economic self-sufficiency.

Subsection (c) provides comparable participation in the costs of projects to provide special educational services to school children. The Secretary of Health and Human Services will enter into an agreement with the Secretary of Education to carry out the legislative mandate for education services to school-age children. The same types of administrative arrangements and transfer of funds will be used as the two departments are employing under the Refugee Act of 1980.

Subsection (d) deals with services for unaccompanied children. If the State has assumed legal responsibility for such a child, full Federal reimbursement will be available for services or assistance furnished to the child, continuing not just for one year (as is the general rule), but through the time the child is 18 or whatever higher age is specified in the State's plan for child welfare services. There is also express authority for the Secretary to assume responsibility for an unaccompanied child until placement has been arranged.

Subsection (e) limits reimbursement under this section (except as addressed in subsection (d)) to assistance or services for the twelve-month period beginning July 1, 1980, or, if later, the month in which the individual leaves the Federal processing center.

There is no reimbursement for in-kind contributions by the State.

Subsection (f) authorizes reimbursement for necessary administrative costs related to the provision of assistance or services, at the same rate as is available for the assistance or services. The Secretary is authorized to set recordkeeping and reporting requirements.

Subsection (g) provides that if an individual has been granted both asylum under the Immigration and Nationality Act. and Cuban/Haitian Entrant status, the State may not be reimbursed under title IV of the Immigration and Nationality Act for assistance and services provided to him after he has been granted Cuban/Haitian Entrant status.

Subsection (h) amends section 401 of the Refugee Act to close the period during which services to certain applicants for asylum (primarily Haitians) will draw Federal reimbursement. That section would be limited to services provided prior to July 1, 1980, since, thereafter, a Haitian who had previously applied for asylum would be eligible for services and assistance under this section.

Section 5 terminates asylum proceedings for all Entrants who have not been granted asylum under § 208 of the Immigration and Nationality Act (8 U.S.C. 1158) as of the date they are granted Cuban/Haitian Entrant status. An alien granted Cuban/Haitian Entrant status may not apply for asylum under § 208 of the Immigration and Nationality Act. Those aliens granted asylum prior to the enactment of this Act will retain their status and will also be granted Cuban/Haitian Entrant status if eligible under this Act. For purposes of adjustment of status and family reunification, such aliens will be treated as Cuban/Haitian Entrants.

Section 6 amends section 106(a)(1) of the Immigration and Nationality Act (18 U.S.C. 1105a(a)) to shorten the time period in which a deportation order may be appealed from six months to thirty days.

Section 7 will amend 208 of the Immigration and Nationality Act to limit judicial review of asylum proceedings. The denial of applications for asylum, as well as the procedures for the adjudication of asylum claims, will be reviewed only after a final exclusion or deportation order has been entered. This section is intended to expedite asylum processing by providing one opportunity for judicial review of challenges to asylum procedures, denials of asylum claims and denials of 243(h) claims.

Section 8 amends section 237(a) of the Act (8 U.S.C. 1227(a)) to eliminate the problems caused by the current law which specifies that an alien ordered excluded from the United States may be returned only to the "country whence he came." Decisional law has defined "the country whence he came" as the country where the alien last had a place of abode. When, however, that country does not recognize the alien's right to return, the United States Government has no discretion under the Immigration and Nationality Act to apply to a second country which may be willing to accept the alien as a deportee. In contrast, when an alien illegally in the United States is ordered arrested and deported following an expulsion hearing, § 243(a) of the Act (8 U.S.C. 1253(a)) provides that if the country first designated will not accept the alien, application may be made to other countries. This amendment would provide similar options with respect to aliens who have been ordered excluded and deported. It will also eliminate the confusing term "whence he came" and make it clear to which country deportation initially would be sought.

Section 9 repeals P.L. No. 89-732, which authorizes the Attorney General to adjust the status of a Cuban national admitted or paroled into the United States to that of an alien lawfully admitted for permanent residence after one year in the United States.

Section 10 authorizes such appropriations as may be necessary to carry out the provisions of this Act.

AMENDMENT No. 1962

Strike out all after the enacting clause and insert the following:

That (a) for the purposes of the administration of the Immigration and Nationality Act, the following aliens and their respective spouses and children as defined in the first sentence of section 207(c)(2) of that Act (8 U.S.C. 1157(c)(2)), shall be considered "refugees" within the meaning of section 101(a)(42) of that Act (8 U.S.C. 1101(a)(42)), and except as provided in subsection (b), any provision of that Act relating to refugees, including provisions relating to asylum, adjustment of status, and refugee resettlement and assistance, shall apply to such aliens:

(1) Any national of Cuba who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) after April 20, 1980, and before June 20, 1980.

(2) Any national of Haiti who on June 19, 1980, was the subject of exclusion proceedings under section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), including any national who on that date was under an order of exclusion and deportation which had not yet been executed.

(3) Any national of Haiti who on June 19, 1980, was the subject of deportation proceedings under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), including any national who on that date was under an order of deportation which had not yet been executed.

(4) Any national of Haiti who was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) before June 20, 1980, and who was physically present in the United States on that date.

(5) Any national of Cuba or Haiti who on June 19, 1980, had an application for asylum pending with the Immigration and Naturalization Service.

(b) Notwithstanding any provision of the Immigration and Nationality Act, the numercial limitations specified in sections 201, 202, 203, 207, and any other section of that Act containing a numerical limitation relating to admissions shall not apply to the admission of an alien described in subsection (a).

SEC. 2. Public Law 89-732 (80 Stat. 1161) is repealed.

Mr. KENNEDY. Finally, Mr. President, for the RECORD, I would like to insert a copy of a letter I wrote to President Carter last May 20 outlining how and why the administration should have used the Refugee Act of 1980 to deal with the Cuban refugee problem. Had the administration followed this course of action, no new legislation would have been necessary for Cubans.

Mr. President, I ask unanimous consent that the text of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 20, 1980.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am writing pursuant to our previous correspondence on your decision to exercise the emergency provisions of The Refugee Act of 1980 (P.L. 96-212), to deal with the Cuban refugee problem as it had developed as of April 14th. Also, I want to reiterate my recommendations as to how government should proceed in dealing with the escalating problems among both Cuban and Haitian refugees.

First, I believe it is essential that we bring some order to the choas that has surrounded the flow of Cuban refugees to the United States. I believe it is imperative to negotiate a comprehensive agreement on orderly departure with the Cuban government and to press other nations to receive their fair share of refugees for final resettlement. As you probably know, we reviewed these issues in some detail with your representatives during Judiciary Committee hearings on May 12th but serious questions remain and hard decisions have been postponed. The immigration status of Cubans and Haitans who are already in the United States is unresolved. And the issue of federal support for State, local and voluntary agencies helping the refugees has been avoided.

Relative to Cubans, I have repeatedly urged your Administration to utilize, on a case-by-case basis, the emergency provisions of The Refugee Act of 1980. In statements on April 16th and 17th—during the first Judiciary Committee hearing and consultation under the terms of the new Act—I strongly supported your April 14th decision to use the emergency provisions (Section 207(b)) of the Refugee Act to respond to the plight of Cubans in the Peruvian Embassy in Havana.

Following your Executive Order, the Judiciary Committee immediately arranged for expeditious consultations to consider the proposed admission of 3,500 Cubans—as well as other refugees previously scheduled for admission to the United States for the remainder of fiscal year 1980. On April 25th, Senator Thurmond and I wrote to you on behalf of the Committee, supporting your proposals and agreeing that the admission of Cubans met the test of Section 207(b) of the Refugee Act, which states:

> If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed 12 months) . . .

However, during this period of consultation on your original request for Cuban admissions, the situation in Havana changed. Instead of being able to process Cubans at the Peruvian Embassy in Havana, or in Costa Rica as originally planned, the Cuban government halted the airlift to Costa Rica and stimulated a massive sealift of Cubans to the United States.

It is my view that these developments did not create a new refugee situation under the terms of The Refugee Act; rather, they created a changed refugee situation. Cubans flowing out of Havana subsequent to April 14th are part of a single foreign refugee situation which you properly deemed "an unforeseen emergency refugee situation," for which their admission was "justified by grave humanitarian concerns" and "otherwise in the national interest." These changed circumstances should have been dealt with by simply amending your Executive Order of April 14th, and consulting again with the Judiciary Committees.

However, your representatives, particularly Ambassador Palmieri, United States Coordinator for Refugee Affairs, have refused to take this course. They have repeatedly asserted that Congress never intended that the provisions of the Refugee Act should accommodate large numbers of refugees arriving directly to our shores.

This is correct in terms of the asylum provisions of Section 208 of the Act. This section was added to adjust only 5,000 asylum cases each year, for persons already in the United States who are unable to return to their native countries because of a well-founded fear of persecution, as defined in the law.

But the current Cuban refugee flow was initiated under Section 207 of the Act. It was judged to be a foreign refugee situation, and although the modalities of the movement have shifted, and refugees are arriving directly on our shores, it remains a foreign refugee situation. (A similar situation would arise if Vietnamese "boat people" reached Guam or Hawaii—as was considered likely in 1978. Surely they could be treated as refugees under the Indochinese refugee program, as authorized under Section 207 of the Act. Indeed, contingency plans were developed in 1978 to accept Vietnamese refugees reaching our shores the same way we have urged Malaysia or Hong Kong to accept them—by providing safe-haven under the auspices of the United Nations High Commissioner for Refugees until third country resettlement opportunities çan be arranged, either in the United States or elsewhere.)

In no case, however, does this mean the United States must take all who reach our shores, even if they are bona fide refugees under the United Nations Convention and Protocol Relating to the Status of Refugees. Rather, we are required only to provide safe-haven until such refugees are either admitted to the United States, under the terms and conditions we established pursuant to the provisions of the Refugee Act, or until the UNHCR can find third country resettlement opportunities or facilitate voluntary repatriation. I would agree that simply because a Vietnamese boat arrives in the United States—or a Cuban boat—we are not required to resettle such individuals, even though we may have already established a general refugee admission program for Vietnamese (or Cubans) under the terms of Section 207 of the Refugee Act.

What it does mean, however, is that if we choose to do so, we can use this legislation to respond effectively to such refugees and give full and prompt assistance to the communities which receive the refugees. The Congress passed the Refugee Act so as to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal wth it. It is precisely this flexibility which is missing in the current approach to handling the Cuban refugee problem. And it is this that prompted my deep concern at the May 12th hearing—my concern that if we fail to use the Refugee Act now, with the flexibiilty and scope for which it was intended, we will likely compromise its future use just as it has been signed into law.

I would hope that you will see both the wisdom and benefits of using the Refugee Act to handle those Cubans who are already here and who meet, on a case-by-case basis, the criteria and screening we establish to judge their eligibility for resettlement—just as we establish criteria and screening for other refugee programs authorized under Section 207 of the Act. By amending your Executive Order of April 14th and consulting again on a second, more realistic ceiling for the admission of Cuban refugees, you can utilize the tools made available by the Refugee Act.

Finally, with regard to Haitians already in the United States, I urge you again to direct the Attorney-General to use available authorities under the Immigration and Nationality Act of 1952, as amended, to dispense with all pending Haitian cases and to institute fair procedures to handle future Haitian cases under the terms of the Refugee Act. If we do not act now to use the parole authority to resolve the Haitian cases, we will allow this tragic legacy of past injustice and discrimination to continue into the future, poisoning our ability to treat all new arrivals fairly. We must also take diplomatic action, in concert with the U.N. High Commissioner for Refugees and other Hemispheric nations—to determine whether Haitians leaving their country are, as a class, fleeing a well-founded fear of persecution, or whether only individual cases should be processed under the asylum provisions of the new law. Only such a concerted and high-level effort can lay to rest the concerns of many Americans that the Haitian situation is not being taken seriously, and that Haitian refugees are not being treated fairly.

On both the Cuban and Haitian refugee situations, I urge you to direct your representatives to consult with the Judiciary Committees of the Congress and to develop reasonable alternatives to the current unacceptable situation. You have my strong support in any endeavor to treat refugees humanely and generously, consistent with our laws and our traditions.

Many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman.●

By Mr. HART:

S. 3014. A bill to provide for the subsistence electrical and natural gas needs of elderly residential consumers, promote equity in electrical costing and natural gas through reform of current electric and natural gas rate structures, and for other purposes; to the Committee on Energy and Natural Resources.

UTILITY LIFELINE FOR THE ELDERLY RATE REFORM ACT OF 1980

● Mr. HART. Mr. President, utilities are a necessity of modern life; a lifeline keeping American households from the harsh cold of winter and the heat of summer. But increasing energy costs and spiraling inflation have sent utility bills soaring.

This is bad enough for people whose earnings cover most essential needs. But for senior citizens on fixed, limited incomes, constantly increasing prices can be terrifying. In fact, spiraling energy costs may be the number one concern of our elderly citizens. This has recently been brought to light by the tragic deaths of elderly persons throughout the Southwestern and Midwestern regions of our country. Many seniors had air-conditioning or fans in their residences but did not use them for fear of high utility bills. This Mr. President, is a somber reality.

Clearly, we must provide affordable energy for these Americans whose health and safety are especially dependent on this commodity.

I am pleased to introduce today legislation which will ensure availability of a basic amount of electricity and natural gas at minimum cost to our senior citizens.

The bill would require State or local regulatory agencies to establish a subsistence quantity of electricity/natural gas for residences in which the head of the household is at least 65 years of age or receiving social security, Federal railroad retirement or other federally funded retirements benefits. The subsistence level of electricity would be the minimum amount necessary for cooking, food refrigeration, heating, lighting, cooling, medical, and other essential purposes. The rate charged for this amount of electricity/natural gas would be equivalent to the lowest rate charged to any consumer served by a given utility on the date of enactment of this bill. Amounts of electricity and natural gas in excess of the subsistence amount would be priced at the regular rate.

Mr. President, lifeline rates for the elderly represent a significant departure from most current rate schedules. In most States, utilities provide energy for industrial and other large consumers at a cheaper rate than for small residential users. The more energy used, the lower the unit cost becomes. The elderly, therefore, bound to use as little as possible, now pay the highest rates.

With the institution of lifeline rates, the householder aged 65 and over would get a subsistence amount of electricity and natural gas at the same rate as the largest industrial user—the lowest rate instead of the highest.

Mr. President, I view this bill establishing lifeline rates for senior citizens as an important, easily administered, but only interim, solution to a well-documented problem: the need for utility rate reform. The "declining block rate" structure, giving discounts to those who use the greatest amount of electricity or natural gas and charging the most to those who use the least, is regressive. It promotes wasteful consumption by industrial and other large users while residential users bear a disproportionately large burden for increases in utility prices. It serves neither the interests of equity nor the goals of a national energy policy, and it should be changed.

Consequently, this bill looks beyond this interim solution and requires the Department of Energy to study a comparatively new concept in pricing—incremental pricing. This concept, I believe, would do much to promote equity, efficiency, and conservation. Under this rate structure, all consumers would pay a price based on the incremental cost of supplying the energy source. Under incremental costing methodologies—such as peak load and longrun incremental pricing—the incremental cost may exceed the average cost of supplying utilities. Thus, the total revenues based on such a schedule would exceed total cost of operation.

To bring revenues and costs into balance, the Department of Energy would examine various alternatives for selling subsistence quantities of electricity to residences at a lower rate.

Under such a plan, it is possible that monthly utility bills could decline for small-quantity consumers and increase for many large-quantity consumers. Because low-income persons are usually small quantity users, this plan establishes a "progressive" rate structure.

Such a plan would provide significant incentives for conservation and economic efficiency in addition to potential relief for low-income and elderly consumers.

Mr. President, this bill enunciates two important goals which must be an integral part of any comprehensive national energy policy. First is the goal of providing all Americans, particularly the low-income and elderly with adequate, affordable and equitably priced energy. Second is the importance of conservation and the prudent use of our limited energy resources. If current pricing policies remain in effect, they will perpetuate wasteful consumption while failing to provide for the essential needs of an increasing proportion of our population. Lifeline for the elderly is an important first step in converting ours from a consumptive to a quality and conservation-oriented society. Only in this way will we be able to provide for the energy needs of all Americans while protecting our limited energy resources from waste and misuse.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utility Lifeline for the Elderly Rate Reform Act of 1980".

FINDINGS

SEC. 2. The Congress finds that—

(1) more efficient resource conservation measures are necessary with regard to utility distribution systems in the United States;

(2) the Federal Government has long recognized that supplying low-cost electricity and natural gas to all Americans is a fundamental need which is equal in importance to the nutritional, health, education, and other essential needs of our citizenry;

(3) rates for electric energy and natural gas have increased dramatically in recent years, creating severe hardships for many elderly Americans on low fixed incomes who often must choose between this and other essential items;

(4) the vast majority of existing electric and natural gas rate schedules include quantity discount rates and declining block rates which result in large-scale consumers paying less than the full cost of the service they receive;

(5) the inequitable distribution costs in electric and natural gas rate schedules encourages increased and often wasteful consumption of electricity by large-scale consumers while many individual elderly residential consumers must struggle to pay for limited but essential quantities of electric power and natural gas; and

(6) therefore, existing electric and natural gas rate schedules serve neither the interests of equity nor the goals of a comprehensive national energy policy.

PURPOSES

SEC. 3. It is the purpose of this Act to—

(1) provide for the conservation of energy resources by reducing waste due to inverse effects of rate structures;

(2) provide an interim solution for the subsistence residential electrical and natural gas needs of the elderly while Congress attempts to construct an equitable electric and natural gas utility structure which adequately meets the needs of all classes of electrical and natural gas consumers;

(3) promote equity in electrical and natural gas costing; and

(4) demonstrate the effects of lifeline costing on electric and natural gas utility rate structures, consumption patterns and the operation of electric and natural gas utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of American society.

LIFELINE RATES

SEC. 4. (a) No rate schedule of an electric or natural gas utility shall provide for a rate under which the charge per kilowatt-hour or cents per therm to an elderly residential consumer for a subsistence quantity of electric energy or natural gas in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour or cents per therm to any other electric or natural gas consumer to whom energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rate shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric and natural gas consumption in determining the subsistence electric and natural gas needs of elderly residential consumers.

(b) For purposes of this Act, the term—

(1) "subsistence quantity" means the number of kilowatt-hours or therms of natural gas per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric and natural gas needs of elderly residential electric and natural gas consumers at their principal place of residence for uses such as heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

(2) "elderly residential electric or natural gas consumer" means an individual who demonstrates to the supplying electric or natural gas utility for such individual that such individual is—

(A) at least sixty-five years of age; and

(B)(i) the head of a household or principal income earner; or

(ii) is receiving benefits pursuant to title 2 or title 16 of the Social Security Act, the Railroad Retirement Act of 1974 or any other retirement system whereby retirement benefits are paid by the Federal Government; and

(3) "relevant regulatory authority" means the regulatory body which has ratemaking authority with respect to electric or natural gas rate schedules within its jurisdiction.

ENFORCEMENT

SEC. 5. (a) No electric or natural gas utility may sell electric energy or natural gas except in accordance with a rate schedule which has been fixed, approved, or permitted to go into effect by a regulatory authority having jurisdiction over such utility. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 4.

(b) If any person alleges that the action of a regulatory authority or failure to act, violates subsection (a)—

(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

(B) if there is no such statutory review proceeding applicable to such action or failure to act,

by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy or natural gas, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

(A) may be reviewed by any State court of competent jurisdiction, and

(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than six months or both.

FEDERAL ASSISTANCE

SEC. 6. The Secretary of the Department of Energy (hereinafter referred to as the "Secretary") or his successor in any department or agency established by law to carry out the functions of such Department shall provide technical assistance, including grants, or such other financial assistance as he determines necessary and appropriate to State and municipal regulatory authorities to assist in the establishment of subsistence standards for the elderly.

STUDY AND REPORTING REQUIREMENTS

SEC. 7. (a) The Secretary or his successor in any department or agency established by law to carry out the function of the Department of Energy, shall submit a report to Congress not later than 18 months after the date of enactment of this Act on the effects of this Act on electric and natural gas utility rate structures, electric and natural gas consumption, and the operation of electric and natural gas utilities.

(b) The Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (such as long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity and natural gas. In cases where the incremental costs will exceed the average cost of electricity and natural gas, the Secretary shall study the extent to which subsistence levels of electric and natural gas consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

(c) The Secretary shall study—

(1) the extent to which a pricing schedule described in subsection (b) would alleviate the difficulties which low-income residences have in paying electricity and natural gas bills; and

(2) the impacts of a pricing schedule on the conservation efforts of all classes of consumers.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. MATHIAS (for himself and Mr. BAUCUS):

S. 3015. A bill to establish within the National Aeronautics and Space Administration a comprehensive program of automotive research and technology development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL AUTOMOTIVE RESEARCH ACT OF 1980

● Mr. MATHIAS. Mr. President, I am pleased to introduce, along with Senator BAUCUS, S. 3015, the National Automotive Research Act of 1980. This bill is a companion to H.R. 4678, which has been sponsored in the House by Representative TOM HARKIN.

This bill addresses one of the most important and severe problems facing our country today. The United States currently imports about half the oil it uses.

The great majority of that foreign oil comes from the OPEC nations, which, as we all know, have raised their prices from $1.80 to $32 a barrel in just 10 years. This unprecedented jump in oil prices is a major cause of the high inflation and high unemployment that we are experiencing. Time and time again we have been told that the quickest and most effective way to end our reliance on unstable foreign sources of oil is by conserving the supplies that we have.

Any realistic conservation plan must be based on two inescapable facts. First, the United States imports 50 percent of the oil it uses. Second, 90 percent of that imported oil is consumed by the transportation sector of our economy. These facts make it clear that oil conservation efforts in our country must begin with the most popular means of transportation, the automobile.

Despite this obvious conclusion, the Federal Government has not yet taken the necessary steps to encourage the dramatic breakthroughs in automotive fuel efficiency that we desperately need to spur an effective national conservation program. On their own, private automakers have been unable to fill this gap. Understandably, they are currently spending 95 percent of their research and development funds to meet the federally mandated 1985 mileage guidelines.

The National Automotive Research Act of 1980 would launch this needed conservation effort by establishing a major cooperative program through which the three distinct areas of automotive fuel expertise—in the Government, in the universities, and in the auto industry—could work together to create a much more fuel efficient car for the 1980's than will otherwise be possible.

This cooperative program has two major aspects:

It gives the National Aeronautics and Space Administration (NASA) the responsibility for basic research and technology development on automotive fuel efficiency with the results to be available for voluntary use by the auto companies; and

It assigns to NASA the lead agency responsibility for coordinating all Federal automotive research and development activities.

NASA is the logical Federal agency to handle automotive research and development. It has a proven track record of successfully managing high technology research and development programs. Even the Department of Energy has recognized NASA's expertise in this area—and at present subcontracts 60 percent of its automotive fuel research to NASA.

An even more important point in favor of this proposal is NASA's ability to work in close cooperation with American industry. As Lee Iacocca, the chairman of Chrysler Corp., recently said, "we gotta cooperate" to solve our energy problems and the related financial problems of the U.S. auto industry.

The auto companies are reluctant to work with the Federal agencies currently involved in automotive research. Those agencies, including the Department of Energy, the Department of Transportation, and the National Highway Traffic Safety Administration, are primarily regulatory bodies, and the industry is apprehensive about the regulations which might result from their research.

For the Federal automotive research and development program to be a success, we must assign it to an agency with both the technical competence to work as an equal with the auto companies and with the ability to work cooperatively with private industry unencumbered by a history of discord. Based on the record, the one agency which fits this description is NASA.

The relationship between NASA and the auto industry is free of the conflicts which characterize most Government agency-auto industry relationships. NASA has not had any regulatory responsibilities in the past and this bill would not change that. Auto fuel research which supports rulemaking activities would remain with the regulatory agencies. Thus, NASA would be free to work closely with the auto companies in a cooperative, voluntary effort to improve our present automotive fuel technology.

I can assure my colleagues that the assignment of the responsibility for automotive fuel research to NASA will not interfere with the successful completion of NASA's primary mission, the Space Shuttle. The money for the automotive research and development program will not come out of NASA's budget nor will the project be assigned to the same scientists who are working on the Shuttle.

My bill would make money available partly through a transfer of funds from the agencies that have been working on automotive fuel research whose efforts would be taken over by NASA and partly from the windfall profit tax fund or general tax revenues. Some of the staff assigned to this project would also come from the agencies which have been working on fuel research, but the majority would be NASA scientists who are not working on the Shuttle. Many NASA scientists, including experts who specialize in the basic research needed in the energy field, have completed their work on the Space Shuttle and have the necessary time and talents to devote to the automotive fuel research program.

Many of the Federal Government's energy research efforts have been characterized by confusion and conflict with the private industries involved. The passage of S. 3015 would be a big step toward eliminating these problems in the area of automotive fuel research.

Last summer when the American people were sitting in lines at gas stations all across the country and President Carter was in retreat at Camp David trying to decide what to do about it, West German Chancellor Helmut Schmidt, speaking in the Bundestag, appealed to Germany's auto industry to introduce cars with lower fuel consumption. The automakers could accomplish the job in less than 18 months, he said, and would "take a leading international position in the area."

That is the kind of talk that makes sense in an industrial society. The shift to energy-efficient cars is absolutely inevitable. What is not inevitable, and what we should avoid at all cost, is the shift to energy-efficient foreign cars, because that means American jobs. But, if we do not help Detroit come up with viable alternatives, that shift too will be inevitable.

Here is another sure thing: The automaker who comes up first with a car that gets 50 to 75 miles a gallon will corner the world market.

I want that automaker to be American. That is why I want to get NASA into the act.

Once the decision was made to send a man to the Moon, it only took 8 years to accomplish that "giant step for mankind."

Once we make up our minds to kick energy dependence, the future will be ours to command. Passage of this bill will take us a long way toward that goal.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Automotive Research Act of 1980".

DECLARATION OF PURPOSE

Sec. 2. The purpose of this Act is to establish, within the National Aeronautics and Space Administration, the lead agency responsibility for a comprehensive program to advance the state of automotive technology. Such program shall involve the capabilities of other Government laboratories, private industry, and institutions of higher learning.

AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT

Sec. 3. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking out "subsections (a), (b), (c), (d), (e), and (f)" in subsection (g) and inserting in lieu thereof "this section";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection:

"(g) The Congress declares that the general welfare of the United States requires that the unique competence of the National Aeronautics and Space Administration be directed to automotive research and technology development activities. Such activities shall be conducted so as to contribute to the objectives of increased fuel efficiency, safety, and reliability; decreased dependence on foreign petroleum; reductions in adverse environmental effects; conservation of scarce resources; enhanced personal mobility, at reasonable cost; and improvements in the international competitive position of American automotive products.".

(b) Section 103 of such Act (42 U.S.C. 2452) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'automotive research and technology development' means efforts to expand fundamental knowledge related to motor vehicles, devise new component and system concepts, and develop experimental components, subsystems, and vehicles when necessary to verify such concepts.".

(c) Section 203 (b) of such Act (42 U.S.C. 2473) is amended by adding at the end thereof the following new paragraph:

"(3) The Administration shall plan, direct, and conduct automotive research and technology development activities using, to the maximum extent possible consistent with good management practice and the responsibility to achieve program objectives, the capabilities of other Government laboratories, private industry, and institutions of higher learning.".

TRANSFER OF FUNCTIONS

SEC. 4. There shall be transferred to and vested in the National Aeronautics and Space Administration, within two years after the date of the enactment of this Act, in accordance with regulations prescribed by the Director of the Office of Management and Budget, all automotive research and technology development activities currently being conducted by other Federal departments and agencies, along with so much of the positions, personnel, property, and funds of such other Federal departments and agencies as the Administrator of the National Aeronautics and Space Administration in consultation with the heads of such other Federal departments and agencies, shall recommend to the Director of the Office of Management and Budget, except such research and development activities as are authorized to be carried out by any other Federal officer which are necessary for the support of the rulemaking responsibility of such officer.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 5. (a) The Administrator is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research and technology development activities. Such plan shall include a report of progress and further plans for carrying out the provisions of section 4 of this Act.

(b) The Administrator shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within one hundred and twenty days after the date of enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Administrator shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth any changes in—

(1) the anticipated research and technology development objectives to be achieved by the program including detailed milestone goals to be achieved during the next fiscal year;

(2) the management structure, arrangements for interagency, industry, and university coordination and cooperation, and plans for participation of outside advisory groups; and

(3) the content, total estimated cost, and schedule of individual program items.

MISCELLANEOUS PROVISIONS

SEC. 6. (a) Sections 206(a), 305(c), and 306(a) of the National Aeronautics and Space Act of 1958 are each amended by inserting "or automotive activities" after "space activities"; and section 203(c)(3) of such Act is amended by inserting "automotive vehicles," after "space vehicles,".

(b) Paragraph 15 of section 5316 of title 5, United States Code, is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(c) There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration, to carry out the amendments made by this Act, the sum of $25,000,000 for the fiscal year 1981, the sum of $100,000,000 for the fiscal year 1982, the sum of $300,000,000 for the fiscal year 1983, and such sums as may hereafter be provided for in annual authorization Acts for the fiscal year 1984 and subsequent fiscal years.●

By Mr. MATHIAS:

S. 3016. A bill to improve efficiency, effectiveness, and productivity at all levels of Government through fuller use of Federal research and development resources of Federal laboratories, to provide for the establishment of Offices of Research and Technology Applications in Federal laboratories, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENTAL EFFICIENCY IN RESEARCH AND DEVELOPMENT ACT OF 1980

● Mr. MATHIAS. Mr. President, today I have the pleasure of introducing a bill to improve efficiency, effectiveness, and productivity at all levels of Government by making fuller use of the R. & D. resources that already exist in Federal laboratories. The "Governmental Efficiency in Research and Development Act" is the result of a carefully developed, thoughtful effort which has involved both Houses of Congress as well as the executive branch.

The goal sought in this bill has long been a subject of concern to scientists, State and local officials as well as the Federal Government. It was highlighted in former President Nixon's 1972 address to Congress on science and technology; in President Carter's 1977 memorandum on intergovernmental cooperation and his 1979 science and technology message; and most recently in the March 1980 memorandum on State and local needs in Federal R. & D., cosigned by Director of the Office of Management and Budget James McIntyre, Jr.; the President's science advisor, Dr. Frank Press, and by the then special assistant to the President on intergovernmental affairs, Jack Watson.

Interest in this subject, however, has not been restricted to the executive branch. Congress too has demonstrated an acute concern for this issue and has manifested its interest in a number of ways. Last year, for example, Congressman CHRISTOPHER DODD sponsored a major Technology Transfer Conference in Hartford, Conn., for State and local officials from New England, and this March, I cosponsored "the Technology Exchange," a conference and exposition held in Baltimore, Md., for officials from the entire Mid-Atlantic region.

The purpose of both events was to raise awareness at all levels of Government of the numerous Federal scientific and engineering resources that are the fruit of our R. & D. investments and that can help State and local officials solve many of their problems. In addition, a number of hearings have been held on this subject. The most comprehensive being those held in the 1st session of the 96th Congress by the House Science and Technology Subcommittee on Science, Research and Technology.

I am pleased to report that under the able leadership of Representatives WATKINS and BROWN companion legislation to this bill is being introduced in the House. We have worked closely together on this legislation and have planned to hold joint hearings in the near future. In addition, the Office of Technology Assessment of the Congress is about to release its final report on a study of how to make better use of the national laboratories. This study supports the major provisions of the present bill.

State and local officials and professional and scientific organizations all across this country share the enthusiasm of the Federal Government for broadening the application of Federal R. & D. Such a broad consensus is rarely found these days and speaks far more eloquently than I can for the importance, the timeliness and the need for this bill. Victor Hugo pointed out long ago that, "no army in the world can withstand the strength of an idea whose time has come." Although no armies are arrayed in our path, we do have the formidable problem of bureaucratic inertia to combat.

Mr. President, the State, counties, cities and towns of this Nation are facing a rising tide of complex problems: Escalating inflation and a recession, coupled with decreasing revenues and unemployment. These problems make it ever more difficult for elected and appointed officials to provide the vital services and perform the functions which taxpayers expect and deserve. It is important that we keep in mind the fact that State and local governments, far more than the Federal Government, represent the most direct, visible and tangible way in which Americans judge the quality of life, measure the performance of government, and see the fruits of their tax investment.

Americans judge the effectiveness of Government by what they see every day with their own eyes. They evaluate how well their tax dollars are spent in terms of the roads they drive on, the schools their children attend, how their trash is collected, how safe their streets are, and whether or not the water they drink is clean and pure.

All the services that define the quality of an American taxpayer's daily life are provided by State and local governments.

One of the most pressing questions that faces us today is this: What can we do to meet the critical needs of our State and local governments without breaking the backs of the American taxpayers? I believe this legislation supplies at least a partial answer to that question because it will promote better use of our scientific and engineering talents across the board.

Our Nation has achieved greatness in large measure because of our scientific and technological genius. We do not have to look far to see how scientific breakthroughs have profoundly changed our society and our world. The steam engine revolutionized transportation in its day; the airplane has revolutionized transportation in ours, reducing intercontinental travel to a matter of hours. Electronics, computers, satellites, and television have reduced the world to a neighborhood. These discoveries, and others in medicine, in space exploration, and in the social sciences have helped make our country great and have changed our perceptions of ourselves and of our universe.

Our scientific and technological genius is perhaps our greatest national resource. In this area at least, we still hold a lead over the rest of the world. To nurture and maintain the vitality of this precious resource we spend upward of $30 billion each year on federally funded research and development in all areas of science and technology. This is a huge investment by any standard and it has bought us, in addition to sophisticated equipment, complex system and far-sighted plans, a tremendous storehouse of knowledge—a virtual warehouse of scientific and engineering expertise of which we are justly proud.

Unfortunately, however, not enough people have access to this warehouse; we simply are not using it to solve some of the toughest problems facing this country—the operating problems of State and local governments. Many of these problems are technological. I am thinking here, for example, of the major engineering problems with our urban infrastructure, water and sewer systems, subways, bridges, streets, as well as public buildings, in many cities are approaching or have already exceeded their expected useful life. With today's inflation the cost to replace or repair these major capital investments is staggering.

I am also thinking of the urgent necessity we all face to conserve energy, and of the increased efficiency and productivity that could result from better use of computers and modern information processing and communications systems.

These problems could be and should be addressed by our best scientists and engineers. They directly affect the daily lives of all Americans—the citizens who paid to develop our tremendous storehouse of technical expertise. Yet today a shockingly small percentage of the $30 billion spent for Federal R. & D. is directed toward State and local government problems. It is hard to get a firm figure for this, but one estimate I have seen is $200 million—less than 1 percent of our Federal R. & D. expenditures to address problems that account for 14 percent of our GNP. This imbalance seems to me to be striking evidence that our priorities are askew. The American taxpayers deserve a better return on their investment than this, and I believe they can get it if we learn to use our existing resources better. This bill is an important step toward that goal.

Mr. President, this legislation will require that every Federal laboratory devote a portion of its efforts and its resources to State and local problems, and the larger labs—those with annual budgets exceeding $20 million—to employ at least one full-time professional for this purpose. To fund and coordinate this effort, each Federal agency having one or more R. & D. laboratories will be required to reserve one-half of 1 percent of its annual budget. Although this is a very small percentage of the whole, this amount of research and assistance on State and local problems will result in very significant benefits without impairing the primary mission capabilities of these laboratories.

We already have in place a large network known as the Federal Laboratory Consortium for Technology Transfer which has more than 200 member labs, with an organization and contacts all across this country. This bill will strengthen and build upon this nationwide network to provide a delivery mechanism that has credibility with both the scientific community and the users in State and local government. This bill will provide a legislative basis for the Consortium, the Federal Laboratory Program Management Office at NSF, and the Center for the Utilization of Federal Technology at Commerce. Provisions are also made for insuring a strong agency involvement in this effort and establishing an annual reporting requirement.

The present bill and its companion in the House will go a long way toward improving effectiveness and productivity in State and local government, and will insure fuller utilization of one of our Nation's most precious resources—our scientific and engineering genius.

Recently, Mr. President, the Stevenson Technology Innovation Act (S. 1250) passed the Senate and was referred to Representative BROWN's Subcommittee on Science, Research, and Technology. This bill is designed to "promote U.S. technological innovation for the achievement of national economic, environmental and social goals and for other purposes." It focuses primarily on commerce, the private sector and universities.

Recognizing the similarity in purpose between this and the present bill—which my office and his have been developing together—Representative BROWN saw an opportunity for the Congress to take a broader stance on an issue of pressing national importance by combining the major provisions of each bill. This represents a natural and logical marriage of two bills each addressing different aspects of the same problem—"How to best use the limited R. & D. resources of this country."

I fully endorse the Stevenson Technology Innovation Act as amended by the House and encourage my colleagues to join with me in supporting this measure. Nonetheless, I am introducing my own bill as planned in order to give notice that if S. 1250 as amended is not enacted, I will work to achieve passage of my own bill.

Mr. President, I am committed, as I am sure all my colleagues are, to finding better more cost-effective ways to run our Government at all levels. This bill, and the amended Stevenson bill represent an important step in that direction. They will not solve all the problems of State and local government, but they will provide elected and appointed officials access to a valuable resource that can vastly improve their prospects for solving the serious problems that confront them. Most importantly, this legislation will not cost the taxpayer a single additional penny, and it will insure that every penny now being spent on Federal R. & D. will be spent to maximum advantage.

In short, it just plain makes good sense.●

By Mr. ARMSTRONG (for himself, Mr. WALLOP, Mr. DECONCINI, Mr. GOLDWATER, Mr. SCHMITT, Mr. HATCH, Mr. GARN, Mr. CANNON, Mr. SIMPSON, Mr. HART, and Mr. HAYAKAWA):

S. 3017. A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments; to the Committee on Energy and Natural Resources.

WATER RESOURCE DEVELOPMENTS

● Mr. ARMSTRONG. Mr. President, Western States have long recognized the importance of preserving our scarce natural resources. Of these resources, water is the lifeblood of our existence. Throughout our history, we have worked to develop and conserve our scarce water supplies. As the Nation turns to the Western States for increased energy production, it is vital that we continue the development of our scarce resource—water. The future development of Western States and the Nation depends upon our willingness to continue to search for ways to increase and conserve the water supplies in the Colorado River Basin.

The legislation my colleagues and I are introducing today will insure that we continue to examine ways in which our water supplies can be developed so as to insure future development and protection of the water in the Colorado River Basin. This measure allows the Water and Power Resources Service (WPRS) to conduct feasibility studies for several salinity control projects in Colorado, Arizona, Nevada, Utah, and Wyoming. The completion of these studies will help the seven Colorado River Basin States in meeting their commitments to reduce the salt concentration in the Colorado River Basin.

The proposed feasibility studies will enable the WPRS to evaluate the effectiveness of the proposed salinity projects. By examining the salinity concentration of irrigation flows and the seepage rates of irrigation canals and laterals, a project can be designed and evaluated that would reduce the salt loading from the irrigated areas. These proposed studies will also examine a combination of irrigation improvements, vegetation management, and watershed management for most cost-effective projects.

Salinity concentration is a major concern for the future development of the Colorado River Basin. Numeric salinity standards have been established for the Colorado River lower main stem. If the standards are to be maintained and the damages to water users minimized, as much as 2.8 million tons of salt will have to be removed from the system each year. In order to continue the development of the Colorado River basin, it is imperative that we continue to examine projects which could significantly reduce the salt concentration of the Colorado River basin.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following salinity control proposals:

1. Lower Gunnison Basin Unit, located in Delta, Montrose, and Ouray Counties, Colorado.
2. Glenwood-Dotsero Springs Unit, located in Garfield and Eagle Counties, Colorado.
3. Meeker Dome Unit, located in Rio Blanco County, Colorado.
4. McElmo Creek Unit, located in Montezuma County, Colorado.
5. Uinta Basin Unit, located in Duchesne and Uintah Counties, Utah.
6. Dirty Devil River Unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.
7. Price-San Rafael Rivers Unit, located in Carbon, Emery and Sanpete Counties, Utah.
8. LaVerkin Springs Unit, located in Washington County, Utah.
9. Lower Virgin River Unit, located in Clark County, Nevada, and Mohave County, Arizona.
10. Big Sandy River Unit, located in Sweetwater County, Wyoming.●

By Mr. HART:

S. 3018. A bill to amend the Congressional Budget Act of 1974 to require the President to report to the Congress whenever an executive agency plans to expend more than 20 percent of its budget within a 2-month period; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to order of August 4, 1977.

CONTROLLING EXCESSIVE FEDERAL SPENDING AT YEAR'S END

● Mr. HART. Mr. President, today I am introducing legislation which will stop the practice of excessive spending by Federal agencies at the end of each fiscal year. As a result of congressional hearings and media attention, it is now known that some Federal agencies spend money on unneeded services late in the year to fully use their budget.

This wasteful spending practice must be restrained. In the last 2 months of fiscal year 1979 at least seven major agencies spent more than 20 percent of their budgets. For example, the Department of Housing and Urban Development spent 47 percent, the Environmental Protection Agency spent 41 percent, and the Department of Commerce spent 30 percent.

Certainly, the high rate of spending, in the last 2 months by itself does not indicate mismanagement of Federal funds. Some agencies have a normal business management cycle of seeking contracts early in the year, making decisions in the middle of the year, and then awarding contracts at year's end. If such practices are sound, we would not want to discourage them.

My amendment would create incentives for agencies not to spend more than 20 percent of their budget in any 2-month period. It amends the Congressional Budget Act to require the President to report to the Congress 1 month in advance, if any agency in the administration would spend more than 20 percent of its budget in a 2-month period.

By requiring the President to inform the Congress of such spending, we will put a great deal of pressure on the administrative agencies to reduce end-of-the-year spending. The mere fact that an agency would have to report to the White House, and the White House in turn to the Congress, in itself constitutes strong pressure against unwise spending practices.

However, if an agency has a normal practice that would have high rates of spending in a 2-month period, the administration can so inform the Congress, and explain to the people of this country why this spending practice is sound. If it is, then, of course, the President and the administrators of the respective agency have nothing to fear. However, if late-year spending is not sound fiscal management, this new procedure will give Congress enough information to end excessive spending by Federal agencies.

Some colleagues may be interested in a more extreme form of legislation which actually prohibits agencies from spending more than 20 percent of their budget in the last 2 months of the fiscal year. I believe that such a proposal could backfire and induce more inefficiency in Government.

A 20-percent limit on all agencies without exception could create chaos in those that have legitimate reasons for spending at year's end. In contrast, my amendment, which would simply require the President to inform the Congress of a high rate of spending, would leave it up to the agency to justify its position.

Also, simply limiting the 20-percent rule to the last 2 months of the fiscal year could cause wasteful spending earlier in the year.

My amendment can be accommodated easily under existing practices at the Office of Management and Budget. At present, all agencies are required to submit spending plans to OMB and monthly reports displaying the obligations they make each month. Thus, the new procedure for the President to inform the Congress can be done with existing administrative management practices.

In summary, Mr. President, my proposed amendment to the Congressional Budget and Impoundment Control Act of 1974 will control wasteful year-end spending by Federal agencies by exposing such spending in advance to the public view. If spending in excess of the 20-percent rule is justified by sound management procedures, such spending may continue. However, if such spending cannot be well justified, then this amendment will put pressure against its continuance.

Mr. President, in this era of extreme fiscal stringency, the Congress must make every effort to see that Federal agencies trim their spending as much as possible, and spend their appropriations only on high-priority items. Agencies should not be allowed to spend their appropriations to increase their bargaining power for more money in the next year.●

By Mr. DANFORTH (for himself, Mr. DOLE, Mr. TALMADGE, and Mr. BAUCUS):

S. 3019. A bill to provide for demonstration projects whereby medicare patients receiving chemotherapy or radiation therapy may be housed and boarded in settings other than inpatient hospital facilities; to the Committee on Finance.

● Mr. DANFORTH. Mr. President, the bill which Senator DOLE, Senator TALMADGE, Senator BAUCUS, and I are introducing today directs the Secretary of Health and Human Services to test an idea which may make it possible to reduce costs and improve care under the medicare program.

Health insurance is a primary factor in rising hospital costs. In addition to encouraging overuse, health insurance can skew the kind of treatment a patient receives.

Medicare is as culpable as any private insurance carrier in this regard. For example, medicare reimburses 100 percent of laboratory tests and X-rays performed when a medicare beneficiary is a hospital patient. When that same individual needs identical tests, but is not ill enough to require overnight hospital care, he or she must pay 20 percent of the cost. It is only natural for a doctor to be influenced by the cost to the patient when deciding whether the patient should be treated on an inpatient or outpatient basis.

Similarily, medicare reimburses 100 percent of the institutional cost when a surgical procedure is performed in a hospital. However, medicare pays for none of the institutional costs for surgical procedures that can be performed safely in an ambulatory surgicenter or a physician's office. Again, it is natural for a doctor to be influenced by this discrepancy in deciding where to perform an operation.

Some time ago, two of my constituents who are with the Mid-Missouri Professional Standards Review Organization Foundation alerted me to another anomaly in the medicare program. The Mid-Missouri PSRO serves a rural area. Most of the hospitals in the area do not have the facilities to provide radiation therapy and chemotherapy. As a result, many individuals who need that treatment must travel long distances to obtain it; often, treatment must be administered 2 or 3 days a week.

My constituents discovered that doctors would often admit patients to the hospitals where treatment was to be received even in cases where hospitalization was not absolutely required. Their reasons for recommending hospitalization are understandable: Some doctors were concerned that their patients would not travel long distances as frequently as treatment needs required. They were also concerned that constant traveling would be detrimental to older patients' health. In their medical judgment, therefore, it was advisable to admit these patients to an acute care hospital, given the fact that there were no alternatives between acute care treatment and total outpatient care.

The Mid-Missouri PSRO staff believe a better alternative exists. They believe that everyone would be better off if physicians had the option to house patients in facilities other than acute care during the time that they are receiving chemotherapy or radiation therapy. The patients would benefit from being in a pleasant setting where they are not exposed to infectious diseases. The medicare program would be enhanced because quality care could be provided more inexpensively.

The purpose of the legislation we are introducing today is to determine whether the Mid-Missouri PSRO model works, and whether it might serve as a model for the entire Nation. The legislation mandates that the Secretary of HHS carry out at least three demonstrations to make this determination.

The demonstrations should reveal whether and in what circumstances doctors make use of a low-cost housing alternative. The demonstrations should also reveal what safeguards are necessary to insure quality of care and avoid abuses. If the demonstrations show that alternative housing can result in improved quality and substantial savings, I hope that the proposal can eventually be converted into a new benefit for all medicare beneficiaries.●

ALTERNATIVE HOUSING FOR AMBULATORY PATIENTS

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with his distinguished colleagues, Senators DANFORTH, TALMADGE, and BAUCUS, in introduring this legislation designed to provide an opportunity for utilization of less costly and more appropriate housing for certain individuals receiving radiation therapy and chemotherapy.

INSTITUTIONAL BIAS

As this Senator has noted in the past, the medicare and medicaid programs, while providing necessary and appropriate services are frequently found to favor institutionalization or the use of institutionally based services. For example: Currently, medicare can reimburse the physician for professional services in any setting. Also, the institutional costs of ambulatory surgery in a hospital outpatient department can be reimbursed.

However, a charge for the use of special surgical facilities in a physician's private office or a free standing surgical facility that is not hospital affiliated is not reimbursable. A second example is the circumstances surrounding reimbursement that make it less costly to the medicare patient to receive diagnostic tests while in the hospital rather than prior to being admitted.

CURRENT LEGISLATION

Both of these specific problems have been addressed in legislation already agreed to by the Finance Committee. However, there is an additional area the Senator from Kansas believes needs attention: It is housing for patients who must travel great distances to receive radiation therapy and chemotherapy.

AMBULATORY PATIENTS

These individuals we are interested in assisting who travel to obtain needed care are required, in some instances unnecessarily, to stay in acute care hospitals because we will not reimburse for other housing arrangements.

These individuals may require some supervision and continuing evaluation during the duration of their therapy, but this might also be made available in a nonacute setting such as a skilled nursing facility, an intermediate care facility, a custodial care home, or even a hotel under certain circumstances. These alternative housing arrangements could prove to be less costly for the Government, in addition to being both less costly and more humane for those receiving treatments.

NATIONWIDE PROBLEM

The housing problems being experienced by medicare beneficiaries receiving radiation therapy and chemotherapy was brought to the attention of this Senator by a long-time friend and distinguished Kansas physician, Dr. Jack Travis. With the assistance of Dr. Travis, we prepared a questionnaire to determine the extent of the problem and distributed it nationwide. The response was tremendous and the comments universally confirmed that housing in alternative settings would benefit people in many States in addition to Kansas.

The Senator from Kansas also wishes to acknowledge the fine efforts of the Mid-Missouri Professional Standards Review Organization. They have also done a great deal of work in their own State, designing a demonstration project that they believed would provide them an opportunity to test out some forms of alternative housing arrangements.

It is our intention that a number of demonstrations take place, providing us an opportunity to truly evaluate the appropriateness and cost of providing reimbursement for alternative housing arrangements. Obviously we must also be assured of the safety of these arrangements for our beneficiaries.

CONCLUSION

The Senator from Kansas believes very strongly in the need for such demonstrations to take place, and looks forward to evaluating their results and then seeking permanent changes in the law where necessary.

I will also look forward to working with my distinguished colleagues, Senators DANFORTH, TALMADGE, and BAUCUS on this important issue.●

By Mr. RIBICOFF (for himself and Mr. ROTH) (by request):

S. 3020. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; to the Committee on Finance.

CUSTOMS VALUATION PROTOCOL

● Mr. RIBICOFF. Mr. President, today, Senator ROTH and I introduced by request this legislation which is necessary for the United States to implement the recently concluded protocol to the customs valuation agreement negotiated in the multilateral trade negotiations in Geneva. This legislation is introduced under the special procedures for approval of trade agreements under the Trade Act of 1974. It is unamendable, is subject to time limits within which it must be reported by the relevant committees of the House of Representatives and the Senate and voted on by the House and Senate, and is subject to limited debate in the House and Senate.

The customs valuation agreement negotiated in the MTN provides for agreed international rules regarding the valuation of imports for purposes of imposing ad valorem customs duties; that is, duties applied on the basis of the value of the imports. The original agreement was implemented by title II of the Trade Agreements Act of 1979, which became effective on July 1, 1980.

Pursuant to section 102 of the Trade Act of 1974, and in order to encourage less developed countries (LDC's) to accept the customs valuation agreement negotiated in the MTN, the President has negotiated a protocol to the customs valuation agreement. The protocol and proposed implementing bill were submitted to the Senate on August 1, 1980. Since many of the developing countries employ customs valuation systems which have highly arbitrary and protective features that can act as nontariff barriers to international commerce, it was considered important to encourage developing country participation in the agreement. The protocol meets the concerns of the developing countries with some provisions of the valuation agreement while maintaining the integrity of the agreement.

The protocol consists of an amendment to the customs valuation agreement and some common understandings and possible reservations to the agreement by developing countries. At last report, four major LDC's (Argentina, Brazil, India, and the Republic of Korea) had given the U.S. Trade Representative what is called a clear indication that they would sign the agreement if the protocol is adopted, while other LDC's including, but not necessarily limited to Singapore and the Philippines had expressed an interest in signing at a later time.

The amendment to the agreement made by the protocol would eliminate one of four enumerated test values that customs officers may examine under the agreement to see if the transaction value reported for customs purposes in a transaction between related parties (for example, subsidiaries of the same parent corporation) should be accepted as the customs value for purposes of applying duties. The test value to be eliminated is one based on sales by a different seller to unrelated parties of the same product imported from a different country. LDC's objected to this provision on the ground that they thought it could be used to reduce duties on imports from developed countries into developing countries.

Common understandings contained in the protocol essentially restate certain provisions of the customs valuations agreement. There is acknowledgement that certain developing countries have expressed concern that there may be problems in the application of transaction value insofar as it relates to importations into their countries by sole agents, sole distributors, and sole concessionaires; LDC's have treated these as related party transactions in the past, and are concerned about reduced customs revenues if the agreement applies, since they would not be considered related party transactions under it. Therefore, it is agreed that if such problems arise in practice, a study of this question would be made. Parties to the protocol also agree that customs administrators may need to make inquiries concerning the truth or accuracy of any statement, document, or declaration presented to them for customs valuation purposes, and that they have a right to expect the full cooperation of importers in these inquiries. This is designed to allay LDC fears that they could be forced to accept fraudulent information. The final common understanding is that the price actually paid or payable under transaction value includes all payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

The protocol also covers reservations which may be made by developing countries upon signature to the agreement. These include reservations permitting: A request for an extension of the 5-year period for delay in application of the provisions of the agreement by developing countries, with the parties to the agreement giving sympathetic consideration to such a request in cases where the developing country can show good cause; a retention of officially established minimum values on a limited and transitional basis subject to agreement of parties to the agreement; a limitation by a developing country of the right of an importer to choose between constructive and deductive methods of valuation under article 4 of the agreement to those situations where the customs authorities in the developing country agree to the choice; and the application by a developing country of the deductive method of article 5.2 of the agreement whether or not the importer requests the application of such method. These potential reservations are designed to respond to LDC concerns about their technical ability to implement certain aspects of the agreement in a manner which protects them from unwarranted revenue losses and from fraud, and take account of concerns about disruption to the LDC's trade regime from too rapid change in practices.

The implementing bill itself approves the protocol and provides for its acceptance by the President. It amends the Trade Agreements Act of 1979 in several respects. As required by the protocol it would eliminate one of the three tests by which prices between related persons can be confirmed as transaction values for customs valuation purposes. This is accomplished by the deletion of section 402(b)(2)(B)(iii) of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979.

It would also amend section 223(d)(2) of the Trade Agreements Act of 1979 by correcting 19 technical errors in this section and by restoring more appropriate rates of duty to 8 chemicals that were appraised by U.S. Customs as "noncompetitive" under the American selling price (ASP) valuation standard but that are currently grouped with "competitive" chemicals at higher rates of duty within this section. This transfer of these eight items is proposed by the administration at the request of our trading partners, and upon review by the staffs of the U.S. Customs Service and the U.S. International Trade Commission, and after consultations with representatives of the U.S. chemical industry.

Before submitting this implementing bill, the administration consulted with interested private sector parties and with the Senate Finance Committee and House Ways and Means Committee. The Finance Committee held hearings on the protocol and its implementation on April 2, 1980. The implementing bill was drafted in cooperation with the Finance Committee and Ways and Means Committee. No objections to the provisions of the protocol or its proposed implementation have ben received from any source.

Mr. President, following House action on this bill as required by the Trade Act of 1974, I hope the Senate will give its quick approval.●

By Mr. McGOVERN (for himself and Mr. NELSON):

S. 3021. A bill to amend certain provisions of the Federal Power Act, 16 U.S.C. 791a et seq., relating to preferences in issuance of preliminary permits or licenses; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWER

● Mr. McGOVERN. Mr. President, I am today introducing legislation which is designed to assist in development of one of this Nation's most important domestic energy resources—hydroelectric power.

This legislation, which is cosponsored by my distinguished colleague from Wisconsin (Mr. NELSON), is designed to place rural electric cooperatives on equal footing with municipalities and State agencies in the perference licensing of hydroelectric sites as provided for under the Federal Power Act.

The potential of hydropower is well known and need not be elaborated upon here. It is frequently identified as a substantial potential domestic energy resource. This Congress and others have gone on record in supporting development of hydropower. Our Nation is today confronted with spiraling costs for oil and other fossil fuels. As we endeavor to reduce our dependence upon imported energy supplies we cannot afford to overlook the important contribution the accelerated development of feasible hydropower sites can make in helping us achieve energy independence.

Over the last 50 years in numerous statutes, Congress has provided various forms of "preference" in the distribution of public water and power resources. In most instances this preference is shared by consumer-owned, nonprofit rural electric cooperatives, municipalities, and State and Federal Government agencies.

With some 1,000 rural electric cooperatives scattered among 46 States, the cooperatives are in close proximity to sites where additional hydropower potential can and should be developed. For this reason the preference contained in the Federal Power Act should logically be extended to the cooperatives.

The U.S. rural electric cooperatives have the interest and the will to assist in the development of this hydropower potential. This legislation will help them do so.

I ask unanimous consent that the text of this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 796 of title 16, United States Code, is amended as follows:

(1) from paragraph (5) strike the words, "or municipality", and insert "municipality or cooperative"; and

(2) by adding a new paragraph (8) as follows and renumbering as appropriate:

"(8) 'cooperative' means a non-profit-making organization of persons or cooperatives organized primarily for the purpose of supplying electricity to its own members;"

SEC. 2. Section 797 of title 16, United States Code, is amended as follows:

(1) in paragraph (e) insert after the word, "municipality", the words, "or to any cooperative" and

(2) in paragraph (f) strike the words, "State or municipality", and insert "State, municipality or cooperative".

SEC. 3. Section 800(a) of title 16, United States Code, is amended as follows: Strike the words, "States and municipalities", and insert "States, municipalities and cooperatives".

SEC. 4. Section 803(e) of title 16, United States Code, is amended as follows: Strike the words, "States or municipalities", and insert "States, municipalities or cooperatives".●

By Mr. BELLMON:

S. 3022. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers, and to amend the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; to the Committee on Labor and Human Resources.

WORKSHARING AND COMPRESSED WORK SCHEDULE

Mr. BELLMON. Mr. President, today I am introducing legislation which would encourage States to provide unemployment benefits to certain partially unemployed workers and would permit employers to restructure their work programs on the basis of a 4-day workweek of 10 hour days prior to the payment of overtime.

Section 1 through section 3 of my bill directly addresses the problems of cyclical unemployment and costly layoffs by encouraging employers to reduce hours of work rather than laying off employees during economic slowdowns. I want to express my appreciation to Representative Patricia Schroeder for the legislation she introduced in the House (H.R. 7529). My bill encompasses that basic legislation in section 1 to section 3.

Mr. President, the high levels of unemployment in many areas of our Nation are of continuing concern to all of us. This is not a new problem, but is one which needs new approaches. Layoffs this year have been enormous in the construction, automobile, rubber, and steel industries to name a few. With each recession, we seem to experience larger and larger swings in the economy followed by higher plateaus of higher residual unemployment. Layoffs cause loss of income, loss of pride, and probably additional crime and mental breakdowns. Layoffs also cause loss of valuable work skills to be lost to our economy. Those who are laid off cannot meet mortgage and car payments, and frequently will lose their health insurance and other fringe benefits. Layoffs deprive employers of skilled employees. Everybody loses. The Government loses, the employee loses, and the employer loses.

My bill would encourage one more alternative before an expensive layoff option is exercised. This bill would encourage States, employers, and employees to use reduced work hours and short-time compensation to avoid layoffs.

Mr. President, the promotion of work sharing could reduce the heavy burden of unemployment that has been borne by a relatively small portion of the work force. It would allow employed individuals to retain the fringe benefits that accompany job attachment and employment continuity. During a recession, work sharing can contribute to an early and sustaining recovery by retaining or restoring consumer confidence through job retention and retaining a skilled work force to meet required product demands. Work sharing could also help employers preserve the results of affirmative action employment that firms have undertaken. To all, work sharing could help reduce the social costs of unemployment in terms of added medical expenses, possible increases in crime rate, and mental breakdowns.

Mr. President, work sharing is no cure-all concept. It will probably not be practical for many firms. It may be usable only in a limited way by other firms. Work sharing certainly cannot substitute for timely fiscal and monetary policies. However, my legislation would allow those areas of the economy hurt by the business cycle or Government policies, the option to choose to reduce cyclical unemployment by spreading the available work to a large number of employees.

The bill I am introducing also authorizes the Secretary of Labor to develop model legislation, make grants, and provide technical assistance to States to assist in developing, enacting, and implementing short-time compensation programs.

The bill proposes voluntary use of short-time compensation. While State experimentation is encouraged, the legislation provides some basic guidelines to protect employees and the integrity of the unemployment compensation trust funds.

The bill would establish a controlled demonstration project to test the viability of short-time compensation as a way to reduce total layoffs during recessions.

Mr. President, sections 4 through 7 of the bill pertain to legislation, which I have earlier introduced (S. 2577), which would allow firms with Government contracts exceeding $10,000 to restructure their work week to a 4-day schedule while avoiding the increased cost of a longer workday.

Specifically, this part of the bill amends the Walsh-Healey Act of 1936 and the Contract Work Hours Standards Act of 1962 to permit employers to switch to a 4-day, 40-hour workweek without overtime for workers for hours worked in excess of 8 hours in 1 day.

Firms with Government contracts exceeding $10,000 would be allowed to restructure their workweek to a 4-day schedule while avoiding the increased cost of a longer workday.

Mr. President, in recent years experiments with the 4-day workweek have shown considerable promise. Some employers and employees have found it to be an arrangement more suited to their circumstances and desires than the 5-day workweek. Advantages claimed from switching to a 4-day workweek have included greater productivity and lower unit cost; reduced absenteeism, tardiness, and higher weekly output due to reduced startup and closedown time; more "usable leisure" time for employees due to a 50-percent increase in weekends; a reduction in total commuting time and associated energy costs; and reduced employee working costs such as commuting fares. restaurant lunches, and child care.

With our current and potential energy problems, the 4-day workweek has another advantage. For many workplaces, closing for a 3-day weekend would mean a substantial reduction in the consumption of energy for temperature control purposes. Building heat could be reduced to a minimum without endangering the health of employees for 3 out of 7 days of the week.

The potential advantages of a 4-day workweek are not available in the case of some firms—those with Government contracts—because present law would penalize the employer who shifted to a 4-day, 10-hour per day workweek by requiring the payment of overtime after 8 hours in each day. This bill makes it possible for such employers to undertake a 4-day, 10-hour per day workweek without such a penalty. These employers would remain subject to the overtime penalty after 10 hours in each day and, of course, after 40 hours in each week, as are all employers under the basic law governing wages and hours—the Fair Labor Standards Act.

I am sure, Mr. President, that we all recognize the lengthy struggle which American workers undertook to establish the 8-hour day. Viewed against the backdrop of working conditions in the earlier part of this century, that struggle resulted in a significant improvement in the working lives of many Americans. I can understand the reluctance of some workers and their unions, to alter this hard-won pattern. However, circumstances change, and this country is no longer faced with the long daily hours of work it once had. Now we must cope with an energy shortage which threatens the livelihood of a good many people and which is bound to get worse before it gets better. With many examples of successful 4-day workweek experiments around the country, this option would be helpful to the Nation's energy conservation goals.

Mr. President, we need the additional flexibility in our basic wage and hour laws which this legislation would provide. Flexibility is needed to allow us to conserve energy and provide more work-schedule options than is now possible.

Mr. President, I ask unanimous consent that a paper reviewing the experiences with work sharing be included in the Record. I would also like to thank Phil Crouise, a conference board congressional fellow on loan to the Senate Budget Committee from Sun, Inc., for the staff work he has done in the work sharing area. Also, I am deeply appreciative of the work Dick Woods of my personal staff has done on the 4-day workweek.

I ask unanimous consent that the full text of the bill and a statement entitled "Experiences in Work Sharing" be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEVELOPMENT OF STATE PROGRAMS

Section 1. (a) (1) The Secretary of Labor (hereinafter in this Act referred to as the "Secretary") shall develop legislation which may be used by States as a model in developing and enacting short-time compensation programs.

(2) The Secretary may make grants, and provide technical assistance, to States to assist in developing, enacting, and implementing short-time compensation programs.

(3) States are encouraged to experiment in carrying out the purpose and intent of this Act. However, to assure minimum uniformity, the Secretary may require the provisions contained in subsections (b) and (c).

(b) For purposes of this Act, the term "short-time compensation program" means a program under which—

(1) individuals whose workweek has been reduced pursuant to a qualified employer plan by at least 10 percent will be eligible for unemployment benefits,

(2) the amount of unemployment benefits payable to any such individual shall be at least a pro rata portion of the unemployment benefits which would be payable to the individual if the individual were totally unemployed,

(3) short-time compensation benefits attributable to services with employers who have positive reserve accounts shall be financed by the usual manner of charging reserve accounts by experience rating,

(4) employers with negative reserve accounts may be required by the State to make reimbursement to the trust fund quarterly for costs attributable to utilization of short-time compensation benefits charged against their reserve accounts, or may be charged a surtax by the State,

(5) eligible employees may apply for and collect short-time compensation or regular unemployment compensation benefits, as needed; but no employee may collect more than the maximum unemployment compensation benefit to which they would have been entitled for full-time unemployment, and

(6) eligible employees will not be expected to meet the availability for work or work search test requirement while collecting short-time compensation benefits; however, they must be available for their normal workweek.

(c) For purposes of subsection (b), the term "qualified employer plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees rather than total layoffs if—

(1) the employer's short-time compensation plan is approved by the State agency,

(2) the employer certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of total layoffs which would result in an equivalent reduction of work hours,

(3) the employer continues to provide health and pension benefits to employees whose workweeks are reduced under such plan at the same level as provided before such reduction, and

(4) in the case of employees represented by a union, the appropriate official of the union (or union hall) has consented to the plan and implementation is consistent with employer obligations under the National Labor Relations Act.

(d) For purposes of sections 1 through 3 of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

DEMONSTRATION PROJECTS

SEC. 2. (a) The Secretary shall conduct one or more controlled demonstration projects for purposes of evaluating the effectiveness of short-time compensation programs.

(b) Any demonstration project under subsection (a) shall be conducted in cooperation with the State agency which administers the unemployment compensation law for the State in which such project is conducted.

(c) The costs of administering any demonstration project conducted under subsection (a), and of the benefits paid under such project, shall be paid by the Secretary.

REPORTS

SEC. 3. (a) The Secretary shall submit to the Congress two interim reports on the implementation of sections 1 through 3 of this Act. The first of such interim reports shall be submitted on or before October 1, 1982.

(b) Not later than October 1, 1983, the Secretary shall submit to the Congress and to the President a final report on the implementation of sections 1 through 3 of this Act. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable.

WALSH-HEALEY ACT AMENDMENT

SEC. 4. Section 1(c) of the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35) is amended by inserting before the colon the following: ", or, in the case of a four-day workweek, in excess of ten hours in any one day or in excess of forty hours in any one week".

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT AMENDMENT

SEC. 5. Section 102(a) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 328) is amended by adding at the end thereof the following new sentence: "In the case of a four-day workweek, the increased rate of pay provided by the preceding sentence shall apply only to hours worked in excess of ten hours in any calendar day, or in excess of forty hours in the workweek, as the case may be.".

EFFECTIVE DATES

SEC. 6. (a) The amendments made by sections 4 and 5 of this Act shall not affect collective bargaining agreements in effect on the date of enactment of this Act.

(b) The amendment made by section 6 of this Act shall become effective thirty days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. For the fiscal year beginning October 1, 1980, and the two succeeding fiscal years, there are authorized to be appropriated from the general fund of the Treasury such sums (not to exceed a total of $10,000,000 for such 3-year period) as may be necessary to carry out the purposes of sections 1 through 3 of this Act.

EXPERIENCE IN WORK-SHARING

(By Philip C. Crouse, Senate Budget Committee)

I. EUROPEAN EXPERIENCE

A. Societal differences

1. Industrial practice in western European countries has led to a closer attachment of the worker to his job than is prevalent in the United States, thus contributing to differences in historical development.

2. Europeans expect their jobs to be maintained through prosperous periods and recessions.

3. The European attitude and experience is for a far greater use of work-sharing arrangements in slack periods than is common in the United States.

4. Since the normal European work week is well over 40 hours in many cases and overtime is prevalent in some industries, trade unions campaign actively for reductions in standard hours and endorse work-sharing as one method to reach their goal.

B. Areas of implementation

1. Collective bargaining agreements
2. Legislation-state/federal

C. Tools utilized when a temporary slowdown occurs

1. Elimination of overtime
2. Reduction of hours
3. Extensions of vacations
4. Division of work

D. German results

1. Benefits under the 1969 Employment Promotion Act compensate workers for roughly two-thirds of lost wages as a result of temporary work schedules below normal standards for 6 months up to 24 months in some circumstances.

2. In the spring of 1975, an average of 773,300 workers were receiving short work week benefits in Germany, roughly equivalent to the number of fully unemployed workers. In a typical situation, standard working hours were cut by about one-third and the total time compensated would have averaged out to an additional 170,000 unemployed workers. German government officials indicated that such a plan kept unemployment 17% below what it would have been otherwise.

3. Local employment service offices persuade firms to resort to short time working in preference to redundancies. The Federal Minister of Labour is empowered to extend the period of short time payments to 24 months. Short time wages amount to 68% of the wages lost as a consequence of short time schedules. German companies must show that one-third of its workers would be laid off for at least one-tenth of their normal working time for "unavoidable" reasons such as recession

E. Austria experience

1. Short time workers receive about 40–60% of the earnings foregone.

2. Short time work is limited to three months. Employers are obliged to keep their employment level for three months after the short time work. However, the Austrian authorities prefer to utilize another program which provides training instead of short time work. In this case workers are offered 60–80% of normal weekly earnings during the time of retraining.

F. Belgium experience

1. Short time workers receive 60% of lost earnings except that those who have been previously fully unemployed can claim only a 40% rate.

G. Denmark experience

1. Trade unions have issued guidelines for the conclusion of local agreements to reduce working. Under these guidelines the period of reduced working time should not last more than two months. Also, no workers should be discharged in this period for economic reasons, temporary unemployment should be arranged to occur in as long consecutive periods as possible. Distribution of available work is agreed locally. No public funds are utilized to supplement the earnings of workers on part time.

H. France experience

1. Each hour for which benefit is payable entails payment by the firm of an hourly allowance in addition to official partial unemployment benefit so that the worker concerned receives 50 percent of his gross hourly earnings, with a lower limit set. The number of hours for which benefit is paid is fixed at 470 in 1975. The government will reimburse the firm for up to 90 percent of the proportion of benefit for which the firm is responsible.

I. Italy experience

1. Italy provides a guaranteed income of 66 percent of normal earnings for a reduction in working hours not exceeding 16 hours per week and not continuing longer than three months. An area of serious difficulty involves a policy in which the construction industry, even for time lost through bad weather, and firms which are being restructured and converted to new types of operations, can receive compensation amounting to 80 percent of normal earnings.

2. Benefits are financed by a .22 percent levy on firms' salary bills plus a state contribution of 20 billion lira a year.

J. Luxembourg experience

1. A worker who is partially unemployed because of the short term situation receives a gross compensatory wage amounting to 80 percent of his normal gross wage including current bonuses. The first 16 hours not worked per month are not compensated by the Government and the employer and the worker have to fend for themselves.

2. The compensatory wage due for working hours lost above 16 hours per month is advanced by the employer and reimbursed by the Government.

3. Compensation is not paid for hours not worked in excess of 50 percent of those which should have been worked.

4. The gross hourly compensatory allowance may not exceed 250 percent of the minimal standard industrial wage.

5. The benefit is allowed for 6 consecutive or non-consecutive months per firm.

6. Decisions to apply the regulations are taken jointly by the Minister of Labour and

Social Security and the Minister of the National Economy on the basis of financial evidence supplied by the firm and on the advice of a tripartite committee set up for this purpose.

K. The Netherlands experience

1. Law makes it impossible for employers to dismiss workers without the agreement of the Minister of Social Affairs. Investigations are undertaken to see whether employment could be maintained by introducing shorter working hours or by providing temporary financial assistance. Government efforts have continued to be directed towards preventing the closure of enterprises and retrenchments.

2. Employers are forbidden by law to reduce an employee's working hours to less than 45 hours a week without Government permission. If an exception is granted the employer pays the full hourly rate for hours worked, 80 percent of the hours not worked are met from the compensation fund of the appropriate industrial insurance board and the remaining 20 percent is met by the employer on the basis of collective agreements in force.

L. Japan experience

1. Employees who implement systems of non-duty allowances during temporary layoffs can be granted a subsidy to cover part of the allowance.

II. UNITED STATES EXPERIENCE

A. Historical approach

1. Although a number of unions have gained collective bargaining provisions calling for a reduction in hours or sharing of work among employees before layoffs are permitted, in most cases, these clauses are only optional and in only few industries are they systematically observed. The overall U.S. experience with work-sharing has really been quite limited.

B. Collective bargaining agreements data

1. For 1974, 311 of 1550 agreements (2.1 million workers out of 7.2 million workers) include clauses calling for the reduction of hours.

2. For 1974, 119 of 1550 agreements (.8 milion workers out of 7.2 million workers) include clauses calling for the division or sharing of work.

3. For 1979, it is estimated that 25 percent of the agreements contain work-sharing provisions.

4. Division of work clauses predominate in the apparel industry where the technique has been utilized historically to handle the variation in workloads.

5. Provisions calling for the reduction in hours are not concentrated in any industry or group of industries and the use of this procedure is optional rather than mandatory.

6. The normal limit under an hours-reduction clause is to 32 hours.

C. California experience

1. Program for work-sharing provided in August 1978 as a measure to reduce the massive layoffs of public employees anticipated to be caused by Proposition 13.

2. State's unemployment law was temporarily modified to pay partial benefits for up to 20 weeks to workers whose companies put them on short work time.

3. As of October 1979, 312 employers had put some 7,600 workers on short work weeks and used the new system. Of the 312 employers, only 6 were public agencies.

4. California has extended the program until January 1981.

5. The California program was modeled after a similar program, called *Kurzarbiet*, of West Germany.

6. The California plan requires that companies must be faced with a 10 percent reduction in hours for all workers and maximum payment is $21 for idle days. The higher the income of the worker, the less percentage of his reduced salary can be recouped because of the 21 dollar ceiling.

7. California law requires employers who take more out of the unemployment fund than they put in must make higher contributions in the next tax year.

D. General experience

1. Clauses are in fact invoked rather infrequently.

2. Layoffs according to seniority have become the general rule.

By Mr. DECONCINI:

S. 3023. A bill to amend section 547 of title 11 of the United States Code, dealing with preferences in bankruptcy cases; to the Committee on the Judiciary.

● Mr. DECONCINI. Mr. President, I am introducing today a bill, S. 3023, to amend section 547 of title 11 of the United States Code, dealing with preferences in bankruptcy cases.

A problem has arisen with respect to the impact of section 547 of the 1978 Bankruptcy Code on the market for commercial paper notes issued in maturities of up to 270 days which are backed by bank letters of credit or commitments to lend or by indemnity bonds issued by insurance companies.

Such commercial paper has normally been assigned a credit rating by the appropriate rating agencies based upon the credit standing of the bank or insurance company which issues the letter of credit, commitment to lend or indemnity bond rather than the issuer of the commercial paper itself, thereby affording the issuer a less expensive method of borrowing than would be available to it based upon its own credit-worthiness.

In light of the changes effected under the Bankruptcy Code, in the event the issuer becomes a debtor in a proceeding under the Bankruptcy Code, payments received from the issuer by holders of its commercial paper during the 90-day period preceding the filing of the petition could be vulnerable to avoidance by the issuer's trustee as a preferential transfer under section 547. If such payments were avoided by the trustee, the holder of the commercial paper would no longer have recourse against the supporting bank or insurance company inasmuch as any supporting letter of credit would have terminated soon after the maturity date of the commercial paper and in any event long before the trustee sought recovery of any such payment. Any supporting commitment to lend or indemnity bond would most likely have terminated prior to the filing of the petition or would have been used for the benefit of purchasers who were not paid prior to the filing date.

Thus, a purchaser of commercial paper who has been paid by a debtor could be forced to disgorge the payment he has received and would not thereafter have recourse to the bank or insurance company support for which it originally bargained while a purchaser who was not paid prior to the filing of the petition could after the filing date obtain payment from the supporting bank or insurance company.

This type of transaction was not perceived to be a problem under section 60 of the old Bankruptcy Act because of the requirement that the trustee prove that recipients of alleged preferential payments have reasonable cause to believe that the debtor was insolvent. However, given the operation of the commercial paper market, and since purchasers of commercial paper in the above described transactions would not be relying on the credit of the issuer and would, therefore, have no reason to make inquiry with respect to the financial condition of an issuer, such purchasers would not generally have reasonable cause to believe an issuer to be insolvent at the time of payment.

The new Bankruptcy Code, by eliminating the reasonable cause requirement, has created additional exposure for holders of such commercial paper, which may cause reconsideration of credit ratings and otherwise adversely affect such commercial paper transactions in a way which was not intended by Congress. Unless remedial action is taken promptly, the problem described may result in higher costs of borrowing, or possibly loss of access to the commercial paper market, for certain issuers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor in payment of a debt evidenced by a note issued by the debtor which had a maturity not exceeding nine months and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, commitment to lend funds or bonds of indemnity issued by a bank or by an insurance company." ●

By Mr. RIEGLE (for himself, Mr. ROTH, Mr. NELSON, Mr. LEVIN, Mr. JAVITS, Mr. EAGLETON, Mr. GLENN, Mr. BIDEN, Mr. LUGAR, Mr. BAYH, Mr. BOREN, Mr. BRADLEY, Mr. METZENBAUM, Mr. MITCHELL, Mr. HOLLINGS, Mr. STEWART, Mr. SARBANES, Mr. MELCHER, Mr. WILLIAMS, Mr. DURKIN, Mr. EXON, Mr. DOLE, Mr. BENTSEN, Mr. KENNEDY, Mr. LEAHY, Mr. SASSER, and Mr. BUMPERS):

S.J. Res. 193. Joint resolution authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States; to the Committee on Finance.

LIMITATION OF AUTOMOTIVE IMPORTS

Mr. RIEGLE. Mr. President, the resolution being introduced today with 27 cosponsors will give the President explicit authority to enter into negotiations with foreign governments to relieve foreign penetration of the U.S. automobile and truck markets.

This bipartisan coalition of Senators, representing many parts of this Nation and diverse philosophies, is taking this action because further delay endangers millions of American jobs, would cost our Nation billions of dollars and permanently damage the structure of the U.S. auto industry for years to come.

We are proposing a joint resolution that will have the force of law once it passes both Houses of Congress and is signed by the President, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Our proposal is a carefully tailored one. While it would allow the President to begin immediate discussions with the Japanese that could lead to an orderly marketing agreement temporarily reducing Japanese imports, it would not direct the President to enter into such negotiations or give him new powers to impose quotas unilaterally.

The preamble of the resolution would establish that it is the intent of Congress:

First, to permit auto trade negotiations with the Japanese even while the International Trade Commission proceeds with its investigation, and

Second, not to prejudice the question of whether or not negotiations on an auto import agreement could be conducted under any other Presidential powers.

Subsection (a) of the first section would give the President authority to negotiate with foreign governments to obtain import restraint agreements on cars and trucks. That authority and any agreement would expire on July 1, 1985, thus limiting any import reduction to the period vitally needed to convert the U.S. auto manufacturing facilities to the production of highly fuel efficient cars and trucks.

Subsection (b) would require the President to consult with interested parties in the private sector before entering into any agreement. The President could use the system of trade advisory committees that has been established under section 135 of the Trade Act of 1974, as amended, or a less formal procedure if that is more appropriate.

Subsection (c) would enable the President to implement any agreement by authorizing him to regulate the introduction of foreign cars into the U.S. market in accordance with the terms of that agreement.

Section 2 would exempt the act of entering into an auto export agreement, and any action that the Attorney General determines is needed to implement such an agreement, from antitrust and other laws of the United States. This is intended to prevent the implementation of an agreement from being delayed by court suits.

Auto manufacturing is the keystone of this Nation's economy. It directly creates 1 out of every 12 manufacturing jobs and generates prime demand for such basic industries as steel, aluminum, rubber, textiles, machine tooling, and, increasingly, electronics. It affects the economy of every State, and its health is vital to 50,000 small and medium-sized supplier firms and to 28,000 auto dealers.

The collapse of domestic auto sales has caused the layoff of 1 million American workers and has dangerously weakened the financial structure of the U.S. economy's dominant industry. National unemployment now stands at 7.8 percent and is expected to climb to 9 percent by the end of the year. In some States and regions of the country, unemployment has reached levels which are catastrophic.

The Japanese efforts to further penetrate the U.S. market are escalating these problems into a catastrophe. Japanese imports now exceed 22 percent, and the Japanese are expanding their capacity enough to supply 50 percent of this country's vital small car market. That threatens to cause a massive permanent loss of U.S. jobs and a continued rise in the auto trade deficit with Japan well beyond the present $10 billion deficit.

In my own State of Michigan, unemployment is at an almost unbelievable 14.1 percent, the highest for any State since the Great Depression; 607,000 people are now jobless in my State. More than 409,000 people are collecting unemployment insurance, but some 93,000 have been out of work so long that they have exhausted all their unemployment insurance benefits; 161,000 more will exhaust their benefits before the year is out. More than one in nine of our citizens have been forced to turn to some form of public assistance. We are suffering from the greatest economic catastrophe since the Depression of the 1930's. These are stark and brutal facts. They paint a grim picture of the human devastation to the people of my State.

But while the worst of this recession is centered in Michigan, it is a national problem where unemployment has now reached 9.7 percent in Ohio, 8.6 percent in Illinois, 7.9 percent in New Jersey, 7.7 percent in Pennsylvania, and 7.3 percent in New York. Because of the large size of these industrial States, the percentage figures represent millions of persons.

Of particular concern is the strategy of Japanese automakers to penetrate the U.S. market. They have already strengthened their U.S. retail networks, increased overtime and expanded production capacity to capture a whopping 22 percent of the U.S. auto sales in 1980. Because auto consumers typically show strong brand loyalty, the Japanese penetration threatens to permanently restructure the U.S. auto market and reduce the market shares and employment of domestic car manufacturers.

The Japanese Government has indicated its willingness to work out mutually acceptable limits on auto exports and avoid further disruption of the U.S. auto market but they will not act until the President of the United States acts forcefully to raise this issue with them. The administration estimates that a reduction in Japanese imports to the 1979 level of approximately 1,600,000 autos would return 70,000 to 100,000 Americans to work. If, for example, auto imports had remained at that level this year, then Federal and State governments would have avoided an estimated $2.1 billion in lost revenues and increased spending.

Administration officials, however, believe that they need additional legal authority before they can enter into such negotiations. While there is considerable disagreement about the President's present authority to act in this matter, Congress should clear any legal obstacles to negotiations that both sides feel would be in the long-term interests of both countries.

Yesterday, top officials of the Japanese Ministry of International Trade and Industry said they could not unilaterally impose quotas on auto exports to the United States to placate U.S. criticism of Japan's rapid advance into the American auto market. Top officials of the Ministry of International Trade and Industry during a meeting with new Prime Minister Zenko Suzuki, said neither the Ministry nor the auto industry would take steps to set a limit on exports to the United States because such measures might violate U.S. antitrust laws. The officials told Suzuki that the Ministry continues to urge the auto industry to "show restraint" in its exports to the United States.

Clearly an initiative is needed from this side of the Pacific Ocean and is long overdue.

The resolution we introduce today would break the present impasse and give the President explicit authority to enter into such negotiations. The resolution draws on the language of section 204 of the Agricultural Act of 1956, which provided authority for Presidents Kennedy, Johnson, Nixon, Ford, and Carter to conduct textile trade negotiations. This is a precise legislative precedent which provides a solid foundation for the action now needed with respect to auto imports.

It is vital that this legislation pass as quickly as possible and that the President of the United States act without delay to stop the damage being done to American workers, American industry, and our national economy.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 193

Whereas, the President should be able to negotiate agreements with foreign governments to relieve foreign penetration of the United States automobile and truck markets, notwithstanding any proceeding pending before, or investigation being conducted by, the United States International Trade Commission, and

Whereas, the Congress intends to remove any potential obstacle to such negotiations, without prejudicing the President's right to conduct such negotiations under other provisions of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may, whenever the President determines such action appropriate, negotiate with representatives for foreign governments in an effort to obtain agreements limiting the export from such countries, and the importation into the United States, of automobiles and trucks, enter into, and carry out such agreements. The authority provided by the preceding sentence, and any agreement entered into pursuant to such negotiations, shall expire on July 1, 1985.

(b) The President shall seek information and advice from representative elements of the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a) either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

(c) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of such automobiles or trucks to carry out any agreement referred to in subsection (a).

SEC. 2. No action (including agreements between or among private parties) taken pursuant to an agreement referred to in subsection (a) of the first section of this joint resolution that is necessary to carry out obligations undertaken in connection with the agreement (as determined under regulations prescribed by the Attorney General after consultation with the Secretaries of the Treasury and Commerce) shall be treated as a violation of any law of the United States.

• Mr. ROTH. Mr. President, I join my colleague from Michigan in urging support for this most important joint resolution. Our automotive industry is in desperate need of import relief, and if we are to provide our workers and firms with the time they need to adjust to import competition, we must clear the way for the President to negotiate temporary trade restraints. If approved, this joint resolution would provide the President with the authority to enter into serious negotiations with our trading partners. This resolution would help overcome the impasse we have reached with the Japanese, who are unwilling to enter into quantitative arrangements with the United States without a congressionally mandated go-ahead. This joint resolution would give the President the green light he needs to enter into discussions. It does not, however, require him to negotiate.

Imports threaten the very existence of this crucial domestic industry. While from 1970 to 1976, imports served 15 percent of the domestic markets, as of the first quarter of this year, imports had captured 27 percent. Japan accounted for over three-quarters of our imports shipping almost 2.3 million cars to the United States in 1979.

In June, the United Auto Workers of America filed a petition with the U.S. International Trade Commission seeking temporary relief from import competition for U.S. auto producers. In their so-called section 201 petition, the UAW requested tariffs be increased on cars, high import duties be maintained on trucks and quotas be imposed on cars and trucks. The Trade Commission, despite a plea by President Carter and 50 Republican and Democratic Senators to expedite its investigation, will not hold hearings on the UAW petition until October. Mr. President, we cannot wait that long. Our industry must be provided for now, not 4 or 5 months from now when imports will have done even greater damage.

The health of our automotive sector should be of serious concern to all Americans. As a leader of the Free World, we must maintain one of the industries that form the economic and national security backbone of our country. Declines in our automotive industry have sent shocks through our economy. They have meant lost Federal, State, and local revenues, serious declines in employment and a loss of welfare for all Americans.

As of today, more than 300,000 auto workers are out of jobs. Twice that many workers have been laid off in industries that supply needed goods and services to our auto and truck producers. Auto production supports thousands of jobs among producers of steel, rubber, glass, plastics, zinc, electronic products, and aluminum. In the services area, American car haulers, dealers and others in our vast automotive distribution network are seeing their source of livelihood disappear, as imports capture an increasingly larger share of the domestic market. We must reverse the downward spiral of the American truck and auto industry if we are to restore a vital part of our national economy to health.

The U.S. automotive industry has made a commitment to retool and meet foreign competition. Firms are spending tens of billions of dollars to produce small, and technologically advanced cars that will satisfy the needs of American consumers for more fuel-efficient models. It is estimated that, by 1983, our manufacturers should produce 7.6 million small cars, as compared with the 1.4 million they expect to manufacture in 1980. If they do not receive the breathing space they need from ever-expanding import competition, however, many of the dollars they invest now will be wasted.

The United States has traditionally been one of the most open markets in the world. While I applaud this stance, and ardently support free and fair trade over the long term, I believe we must recognize the adverse impact that such free trade policies have had on many of our basic domestic industries. It is high time we rectify this situation and provide relief. Import measures must not become permanent fixtures in the American economy, but to the extent that we can help key industries regain international competitiveness we should do so.

This joint resolution, which provides for the expiration on July 1, 1985, of any quantitative agreement negotiated under this authority, preserves the temporary nature of import relief. I believe it is a resolution we can, and should, agree to in order to give the President the legal basis he needs to negotiate.•

PROPOSED RESOLUTION ON AUTO IMPORT NEGOTIATIONS BY SENATOR GAYLORD NELSON

• Mr. NELSON. Mr. President, I am pleased to join 24 of my colleagues in introducing Senate Joint Resolution 193, a joint resolution giving the President explicit authority to negotiate auto impart limitations with foreign governments.

The U.S. automobile industry is in deep trouble. Domestic producers sold over a million less cars in the first half of 1980 than in the first half of 1979, a drop of some 23 percent. The collapse in auto sales has thrown 350,000 auto workers out of work, together with hundreds of thousands more in related industries, such as steel, rubber, textiles, and tools. According to one study, the crisis in the auto industry could cost Federal and State Governments over $2 billion this year alone in lost revenues and increased spending.

The major reason for the plight of the auto industry is the incredible shortsightedness of the domestic auto manufacturers themselves. They refused to recognize the coming world oil shortage and convert their plants to the production of fuel-efficient autos.

At the same time, however, sales of foreign cars in the United States have increased dramatically in the past several years, and now pose a major threat to the continued vitality of the domestic industry. Foreign cars accounted for a whopping 27 percent of all new car sales in the United States in the first half of 1980, and their market share is increasing. Of particular concern are auto imports from Japan, which alone account for 80 percent of the import share of our market.

Given the steadily rising market share captured by Japanese autos, and the strong brand loyalty typically shown by auto consumers, there exists the danger of permanent structural damage to the domestic industry unless it is given time to retool its production lines for the manufacture of the small, fuel-efficient cars the consumer demands.

In my judgment, therefore, it is imperative that the United States negotiate a temporary import restraint agreement with Japan. In contrast to our de minimis 2.9 percent ad valorem tariff on auto imports, our major trading partners all have tough restrictions on the number of Japanese vehicles they import each year. According to the administration's own figures, a reduction in imports to 1979 levels could increase domestic auto sales by 500,000 units and return 70,000 to 100,000 auto workers to work.

The Japanese Government has indicated its willingness to work out mutually acceptable limits on auto exports and avoid further disruption of the U.S. auto market. The administration, however, has taken the position that it may not have legal authority to negotiate such an agreement, absent a finding of injury by the International Trade Commission in the auto import relief case now before it, or a clear congressional authorization of negotiations. While there is some disagreement over the correctness of the administration's view, the fact remains that the administration will not enter negotiations as long as it believes it lacks the power to do so.

This resolution will remove this cloud of uncertainty, and give the President explicit authority to enter into such negotiations. The resolution draws on the language of section 204 of the Agricultural Act of 1956, which provided authority for Presidents Kennedy, Johnson, Nixon, Ford, and Carter to conduct textile import restraint agreements.

This proposal is a carefully tailored one. It does not direct the President to enter into negotiations, nor does it give him new powers to impose unilateral quotas. Moreover, it would require the President to consider the views of private sector groups, including consumers, before entering any agreement. Finally, the resolution mandates that the President's negotiating authority, and any agreement reached, shall expire no later than July 1, 1985. Therefore, any restrictions that might be imposed would be temporary and limited to the critical period needed to convert the U.S. auto industry to the production of fuel-efficient cars.

In my view, the predicament of the auto industry requires that the President be given negotiating authority promptly. Further delay could well increase the lasting damage to the industry and the permanent loss of American jobs. I would urge my colleagues to give their full support to this resolution.

Mr. President, I ask unanimous consent that the text of this resolution be printed at this point in the Record, followed by two charts concerning auto import restrictions and local content rules established by other countries.

There being no objection, the joint resolution and tables were ordered to be printed in the Record, as follows:

S.J. Res. 193

Whereas, the President should be able to negotiate agreements with foreign governments to relieve foreign penetration of the United States automobile and truck markets, notwithstanding any proceeding pending before, or investigation being conducted by, the United States International Trade Commission, and

Whereas, the Congress intends to remove any potential obstacle to such negotiations, without prejudicing the President's right to conduct such negotiations under other provisions of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may, whenever the President determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries, and the importation into the United States, of automobiles and trucks, enter into, and carry out such agreements. The authority provided by the preceding sentence, and any agreement entered into pursuant to such negotiations, shall expire on July 1, 1985.

(b) The President shall seek information and advice from representative elements of the private sector, including representatives of consumers, with respect to negotiating objectives and bargaining positions before entering into an agreement referred to in subsection (a) either in accordance with section 135 of the Trade Act of 1974 or in accordance with such other procedures as the President may establish.

(c) The President is authorized to issue regulations governing the entry or withdrawal from warehouse of such automobiles or trucks to carry out any agreement referred to in subsection (a).

Sec. 2. No action (including agreements between or among private parties) taken pursuant to an agreement referred to in subsection (a) of the first section of this joint resolution that is necessary to carry out obligations undertaken in connection with the agreement (as determined under regulations prescribed by the Attorney General after consultation with the Secretaries of the Treasury and Commerce) shall be treated as a violation of any law of the United States.

TABLE 1.—NATIONS WITH MAJOR DOMESTIC AUTO PRODUCTION (EXCLUDING JAPAN)

Country	1979 car industry sales (thousands)	1979 Japanese car import market share (percent)	Protection of domestic car industry
Brazil	830	(1)	95 percent local content or 185–205 percent duty.
Mexico	268	(1)	50 percent local content.
Venezuela	94	(1)	51 percent local content or 120 percent duty.
South Africa	213	(1)	66 percent local content or 95 percent duty.
Spain	588	(1)	63 percent local content and import quota of about $500,000 in car value per country.
Italy	1, 329	(1)	11 percent duty[2] and bilateral import quota restricting Japanese imports to 2,000 cars a year.
Argentina	196	1. 2	95 percent local content or 95 percent duty.
France	1, 976	2. 2	11 percent duty[2] and informal limit on Japanese car share to 3 percent or less.
Germany	2, 567	5. 7	11 percent duty.[2]
Canada	1, 005	8. 2	14 percent duty.
United Kingdom	1, 716	10. 8	11 percent duty[2] and agreement with Japanese to restrict car market share to 10–11 percent or less.
Australia	458	15. 2	85 percent local content or 58 percent duty (quota limits import share to 20 percent of market).
United States	10, 510	16. 6	3 percent duty.

[1] Less than 0.1 percent. [2] Effective rate is about 14 percent because of c.i.f. basis (f.o.b. cost plus insurance and freight and value-added taxes

Table 2.—*Local content laws regarding auto trade*

Algeria, 25–40 percent depending on model.

Argentina, 90 percent for cars, 85–95 percent commercial vehicles.

Australia, 85 percent with a variety of small percent decreases in special cases.

Bolivia, considering 80 percent.

Brazil, 85–100 percent depending on model.

Chile, 15–30 percent plus stiff tariff, depending on model.

Columbia, 30–45 percent depending on model.

Egypt, announced goal of 100 percent.

India, 40–45 percent, goal is 100 percent.

Indonesia, 25 percent.

Kenya, 45 percent (100 percent of the engine).

Malaysia, 8 percent cars, 17 percent commercial vehicles.

Mexico, 70 percent cars, 80 percent trucks.

New Zealand, 30–40 percent depending on model.

Nigeria, 15 percent.

Pakistan, depends on model, must use pistons, tires from local producers.

Peru, 30 percent.

Philippines, 62.5 percent cars, 30–60 percent commercial vehicles.

Portugal, 25 percent.

Singapore, 13 percent.

South Africa, 66 percent of weight for cars.

South Korea, 100 percent goal, not enforced.

Spain, 50 percent.

Taiwan, 60 percent cars, 32–46 percent trucks.

Thailand, 40 percent.

Tunisia, 20–26 percent cars, 40–44 percent trucks.

Turkey, 80 percent cars, 65 percent trucks.

Uruguay, 20–25 percent cars, 5 percent commercial vehicles.

Venezuela, 70–75 percent depending on model.

Yugoslavia, 50 percent.

Source.—USTR, LOC Law Library, House Ways and Means Committee, MVMA.●

ADDITIONAL COSPONSORS

S. 621

At the request of Mr. Mathias, the Senator from New York (Mr. Moynihan) was added as a cosponsor of S. 621, a bill to provide for further research and services with regard to victims of rape.

S. 2718

At the request of Mr. Stevenson, the Senator from Utah (Mr. Hatch), the Senator from Louisiana (Mr. Long), the Senator from Tennessee (Mr. Baker), the Senator from Colorado (Mr. Hart), the Senator from Kentucky (Mr. Huddleston), the Senator from South Dakota (Mr. Pressler), and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2809

At the request of Mr. Packwood, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2809, a bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled.

S. 2823

At the request of Mr. Chafee, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

S. 2900

At the request of Mr. Mathias, the Senator from Maine (Mr. Cohen) and the

Senator from Louisiana (Mr. Long) were added as cosponsors of S. 2900, a bill to amend the Internal Revenue Code of 1954 to exempt officers and crewmembers of fishing vessels up to 15 tons from the provisions of the Federal Unemployment Tax Act.

S. 2970

At the request of Mr. Tower, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 2970, a bill to amend section 404 of the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable and for other purposes.

S. 2979

At the request of Mr. Metzenbaum, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 2979, a bill to amend the Railroad Retirement Act of 1974 and the Internal Revenue Code of 1954 to assure sufficient resources to pay current and future benefits and to extend certain cost-of-living increases.

S. 2983

At the request of Mr. Schweiker, the Senator from New Mexico (Mr. Schmitt), the Senator from Nevada (Mr. Cannon), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 2983, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on capital gains.

S. 3010

At the request of Mr. Laxalt, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 3010, a bill to designate the hospital known as the Veterans' Administration Hospital, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans' Administration Medical Center."

SENATE JOINT RESOLUTION 30

At the request of Mr. Williams, the Senator from New York (Mr. Moynihan) was added as a cosponsor of Senate Joint Resolution 30, a joint resolution authorizing and requesting the President to issue a proclamation designating the month of June as "National First Aid Month."

SENATE JOINT RESOLUTION 39

At the request of Mr. Randolph, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of Senate Joint Resolution 39, a joint resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 192

At the request of Mr. Thurmond, the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Ohio (Mr. Glenn), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arizona (Mr. DeConcini), the Senator from Michigan (Mr. Levin), the Senator from Louisiana (Mr. Long), the Senator from Ohio (Mr. Metzenbaum), the Senator from New York (Mr. Moynihan), the Senator from Arkansas (Mr. Pryor), the Senator from New Hampshire (Mr. Durkin), the Senator from Oklahoma (Mr. Boren), the Senator from North Dakota (Mr. Burdick), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Hatch), the Senator from Mississippi (Mr. Cochran), the Senator from North Carolina (Mr. Helms), the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Iowa (Mr. Jepsen), the Senator from Alaska (Mr. Stevens), the Senator from Texas (Mr. Tower), the Senator from California (Mr. Hayakawa), the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Arkansas (Mr. Bumpers), and the Senator from Montana (Mr. Baucus) were added as cosponsors of Senate Joint Resolution 192, a joint resolution to designate September 21, 1980, as "National Ministers Day."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Dole, the Senator from Montana (Mr. Baucus) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the International Year of Disabled Persons.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. Danforth, the Senator from South Carolina (Mr. Hollings), the Senator from New Jersey (Mr. Williams), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution to disapprove the determination of the President not to provide import relief for the Leather Wearing Apparel Industry.

SENATE RESOLUTION 486

At the request of Mr. Mathias, the Senator from New Mexico (Mr. Domenici) and the Senator from Oklahoma (Mr. Bellmon) were added as cosponsors of Senate Resolution 486, a resolution to express the sense of the Senate with regard to Metropolitan Washington Airports Policy.

SERVICE FUNDING FOR VICTIMS OF RAPE—COSPONSOR

Mr. MATHIAS. Mr. President, on July 24, the Mental Health Systems Act passed the Senate. That legislation included a title authorizing service funding for victims of rape. I was pleased to have introduced that title as separate legislation in this Congress as S. 621.

Through an oversight, the name of my distinguished colleague from New York (Mr. Moynihan) was omitted from cosponsorship of the rape service funding bill. I regret that omission and would like to correct the Record to show that, indeed, Senator Moynihan has been a stalwart supporter and cosponsor of S. 621.

AMENDMENTS SUBMITTED FOR PRINTING

CUBAN/HAITIAN ENTRANT ACT OF 1980—S. 3013

AMENDMENT NO. 1962

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to S. 3013, a bill to create a Cuban/Haitian Entrant status, and for other purposes.

(The remarks of Mr. Kennedy when he submitted the amendment appear earlier in today's proceedings.)

EXPORT TRADING COMPANIES, TRADE ASSOCIATIONS, AND TRADE SERVICES—S. 2718

AMENDMENT NO. 1963

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to S. 2718, a bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED AMENDMENTS OF 1980—S. 2708

AMENDMENT NO. 1964

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to S. 2708, a bill to extend title VII of the Comprehensive Employment and Training Act relating to private sector opportunities for the economically disadvantaged, and for other purposes.

DEFINITION OF VIETNAM-ERA VETERAN FOR PURPOSES OF CETA

● Mr. CRANSTON. Mr. President, I submit for printing an amendment to S. 2708, the proposed "Private Sector Opportunities for the Economically Disadvantaged Amendments of 1980" to extend title VII of the Comprehensive Employment and Training Act (CETA), which would amend CETA by modifying the definition of a Vietnam-era veteran in order to remove the age criterion applicable to such definition.

As amended in 1978 by Public Law 95-524, CETA contains a variety of provisions, reflecting the Federal Government's continuing concerns for unemployed and underemployed disabled and Vietnam-era veterans, which are designed to promote maximum job and job training opportunities for such veterans under CETA. Specifically, the Secretary of Labor is required to take appropriate steps to maximize the participation of disabled and Vietnam-era veterans—with special emphasis on those Vietnam-era veterans who served in Southeast Asia—in all activities conducted under CETA. With respect to participation in public service employment programs, CETA prime sponsors are required to give special consideration to disabled and Vietnam-era veterans. Other provisions woven throughout the CETA authority are similarly designed to insure that the needs of veterans are fully served in this keystone of our Nation's employment and training policies and programs. I will insert these provisions into the Record at the conclusion of my remarks.

Under the present provisions of CETA, specifically section 3(31), in order to be considered a Vietnam-era veteran, an individual must have served on active duty at least 180 days, any part of which occurred during the Vietnam era—August 4, 1964, through May 8, 1975—and have been discharged or released from active duty with other than a dishonorable discharge. In addition, the individual must be under 35 years of age. This age criterion was designed—at part of the 1977 amendments to CETA made by section 305 of the Youth Employment and Demonstration Projects Act of 1977 (Public Law 95–22)—in part, to rule out career military personnel who served during the Vietnam era.

Mr. President, the effect of my amendment would be to remove from current law the requirement that in order to be considered a Vietnam-era veteran for CETA purposes, an otherwise eligible individual must be under 35 years of age. In lieu of this requirement, the amendment would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent. This criterion is derived from the approach taken in the Civil Service Reform Act of 1978 (Public Law 95–454), which in section 307(a) used the retirement-related criterion to amend the title 5 civil service law—5 U.S.C. 2108—for the purposes of limiting five-point veterans preference status.

The purpose of this proposed modification is to permit CETA to serve the employment needs of many Vietnam-era veterans who are rapidly approaching or have already passed the age of 35. As of September 1979, more than 2.6 million of the almost 9 million individuals who served during the Vietnam era were 35 years of age or older. The average age of Vietnam-era veterans was 32.9 years at the end of fiscal year 1979. Many of those at or past the cutoff age are those who actually served in Indochina and saw combat. Although these veterans are not experiencing the severe rates of unemployment experienced by younger veterans—in June, the rate of unemployment for Vietnam-era veterans ages 35 to 39 was 4.9 percent—there are still many whose employment-related needs could be served by the veteran-related provisions of CETA.

It should be noted, Mr. President, that all veterans not meeting the definition of disabled or Vietnam-era veteran are not ineligible for CETA; such veterans may and, indeed, do participate in CETA programs currently, but do not receive the special emphasis mandated for disabled and Vietnam-era veterans. Further, status as a disabled or Vietnam-era veteran does not insure eligibility for CETA; the eligibility requirements of the act—such as length of unemployment and income limitations—must still be met.

Mr. President, this amendment is the third prong of my efforts to develop standardized definitions for employment-related purposes for Vietnam-era veterans. Under current law, there are more than a dozen different categories of veterans for various employment-related programs. The programmatic complexity of administering employment initiatives and the confusion both of the veteran and the service provider prevent the provision of maximum effective assistance.

In January, I offered an amendment to the proposed GI Bill Amendments Act of 1980, which would modify the definition of Vietnam-era veteran for the purposes of employment assistance under chapters 41 (job counseling, training, and placement service for veterans) and 42 (employment and training of disabled and Vietnam-era veterans) of title 38. The Senate passed this amendment as part of S. 870/H.R. 5288 on January 24. That approach would define a Vietnam-era veteran as an individual with qualifying service during the Vietnam era who is generally within 12 years of discharge or release from active duty—or within 2 years of the expiration of the individual's delimiting period for educational assistance under the GI bill—and who was not retired from the Armed Forces at the rank of major or above, or its equivalent.

On June 17, joined by Senator Matsunaga, I introduced S. 2838, a bill which would make modifications in the definition of an economically disadvantaged Vietnam-era veteran for the purposes of the targeted jobs tax credit (TJTC) authorized by section 51 of the Internal Revenue Code as amended by section 321 of the Revenue Act of 1978 (Public Law 95–600). The substantive effect of S. 2838 would be to remove from current law the requirement that in order to be considered an economically disadvantaged Vietnam-era veteran for the purposes of the TJTC, an otherwise eligible individual must be under 35 years of age. In lieu of this requirement, S. 2838—just as does the amendment I am introducing today—would require that the individual not have retired from the Armed Forces at the rank of major or above, or its equivalent. This measure is now pending before the Finance Committee and I hope action will be taken on it soon.

Mr. President, I hope that the Senate will support my amendment at the appropriate time and that this final portion of efforts to standardize the Vietnam-era veteran definition so as to facilitate implementation of employment assistance provisions designed to meet the needs of veterans will be enacted.

I ask unanimous consent that the text of the amendment be printed in the Record at this point, preceded by a cordon rule showing the changes to be made in CETA in section 3(31) and the text of the other provisions of CETA making reference to Vietnam-era veterans.

There being no objection, the rule and amendment were ordered to be printed in the Record, as follows:

Comprehensive Employment and Training Act

Changes proposed to be made in existing law by Amendment No. 1964 to S. 2708

* * * * *

Sec. 3. As used in this Act—

* * * * *

(31) The term "Vietnam-era [veterans] *veteran* means [those veterans defined in] *any person who meets the requirements of* section 2011(2)(A) of title 38, United States Code, [who are under 35 years of age] *and (B) is not retired from the Armed Forces at the rank of major or above, or its equivalent.*

* * * * *

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

* * * * *

TITLE I—ADMINISTRATIVE PROVISIONS

* * * * *

COMPREHENSIVE EMPLOYMENT AND TRAININNG PLAN

* * * * *

Sec. 103.

* * * * *

(b) To receive funds for any fiscal year, a prime sponsor shall submit an annual plan, which shall include—

* * * * *

(3) a description of specific services for individuals who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skill development, have limited English-speaking ability, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public-assistance recipients, are 55 years of age or older, are youth, are single parents, are women, or are other individuals who the Secretary determines have particular disadvantages in the labor market;

(4) a description of the services to be provided, the prime sponsor's performance and placement goals (including such goals as may be established with respect to the groups identified in paragraphs (2) and (3)), and the relationship of such goals to the Secretary's performance standards;

* * * * *

CONDITIONS APPLICABLE TO ALL PROGRAMS

Sec. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

* * * * *

(b)

* * * * *

(2)(A) The Secretary shall take appropriate steps to provide for the increased participation of qualified disabled and Vietnam-era veterans (with special emphasis on those who served in the Armed Forces in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in public service employment programs and job training opportunities supported under this Act, but nothing in this Act shall authorize the Secretary to establish a hiring or participation goal for such veterans. In carrying out this paragraph, the Secretary shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs. Such steps shall include employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and employment needs of veterans.

(B) Special efforts shall be made to acquaint such veterans with the employment and training opportunities available under this Act, and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

* * * * *

SPECIAL CONDITIONS APPLICABLE TO PUBLIC SERVICE EMPLOYMENT

SEC. 122. Except as otherwise provided, the following conditions shall apply to all public service employment programs receiving financial assistance under this Act:

* * * * *

(b)

* * * * *

(2) Special consideration shall be given to eligible disabled and Vietnam-era veterans (with special emphasis on those who served in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in accordance with procedures established by the Secretary, and special attention shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

* * * * *

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

* * * * *

VETERANS INFORMATION AND OUTREACH

SEC. 305. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

* * * * *

AMENDMENT No. 1964

Add at the end thereof the following new section:

SEC. 4. Section 3(31) of the Comprehensive Employment and Training Act is amended to read as follows:

"(31) The term 'Vietnam-era veteran' means any person who (A) meets the requirements of section 2011(2)(A) of title 38, United States Code, and (B) is not retired from the Armed Forces at the rank of major or above, or its equivalent.".●

ENVIRONMENTAL EMERGENCY RESPONSE ACT—S. 1480

AMENDMENT NO. 1965

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1980

● Mr. GRAVEL. Mr. President, I am submitting for printing an amendment to S. 1480, the Environmental Emergency Response Act, called the Oil Pollution Liability and Compensation Act of 1980. This provision creates a Federal trust fund for the payment of claims due to oil spills supported by a tax on oil produced or consumed in the United States.

This measure will help to protect the valuable fisheries resources of the United States. Money in the fund is to be used, in part, for the restoration, rehabilitation and replacement of natural resources injured or destroyed by oil spills. These funds can be used to replace natural resources destroyed by oil spills regardless of whether they are privately owned, or administered by State or Federal agencies.

Fisheries are one of America's most important natural resources and Alaska is one of America's most important fisheries. This amendment addresses a problem which we have experienced in Alaska, but which is not unique to my State. In the past year several oil spills and one near disaster have occurred in Alaska. In the Pribilof Islands a foreign fishing vessel went aground spilling considerable quantities of oil into the Bering Sea. In Southeastern Alaska the 741-foot ore freighter, *Lee Wang Zin*, tore its hull open and the resulting spill traveled over 100 miles along the Alaska coast. On January 17, 1980, the oil tanker *Prince William Sound* lost power carrying 42 million gallons of oil and drifted with the winds and tide for 16 hours. Only the chance regaining of power averted a major oil spill disaster in one of America's best fisheries.

These and other similar incidents point out the need for a fund to pay for cleanup costs and from which the victims of oil pollution can be compensated and from which fisheries can be rehabilitated if damaged by oil spills. Compensation and rehabilitation must occur regardless of whether or not the spiller is financially solvent or can even be determined. We must not let our national appetite for crude oil put at risk renewable resources upon which we depend for jobs, income and food.

The amendment establishes liability for oil spills and provides that cleanup costs may be paid from the fund. It also provides compensation to fishermen and others affected by oil spills for personal injuries, loss of or damage to property and loss of income. It requires rapid response to claims by spillers and allows recovery from the fund for all damage if the spiller fails to pay claims quickly, or if the spiller is undetermined.

But, cleanup and compensation are not sufficient to adequately protect America's fisheries resources. Therefore, the amendment provides that up to $10 million per year from the fund may be used for research into new methods of preventing oil spills, dealing with spills which have occurred, and assessing both long and short term damages from spills. Hopefully, the results of this research will decrease the likelihood of oil spills and the damage which occurs in the event of a spill.

The most important aspect to this bill from a national viewpoint is the provision of funds for the restoration, rehabilitation and replacement of natural resources damaged or destroyed by an oil spill. All too often fisheries resources are put at risk through oil spills without any person being financially responsible for the rehabilitation or replacement of those resources which are injured or destroyed.

Many times Federal agencies or States having management responsibility for these resources do not have available funds sufficient to rehabilitate and restore the fisheries resources. In such a case the resource is permanently damaged or lost to future generations of fishermen and consumers. Even where public agencies may have funds available for the rehabilitation and restoration of natural resources damaged by oil spills, it is more appropriate for these costs to be charged to the consumers of oil transported through American waters than to the public at large. Thus, the amendment allocates revenues from a minimal tax on oil, in part, to the rehabilitation, restoration and replacement of natural resources damaged or destroyed by an oil spill.

Mr. President, in order to more fully inform my colleagues and the public regarding the details of this amendment I ask unanimous consent that it be printed in the RECORD and that an additional 50 copies be printed so that it may be widely distributed for comment and suggestions prior to its being offered at such time as S. 1480 should come to the floor of the Senate for consideration. I would encourage my colleagues and others to review this amendment, and I would welcome any suggestions which would help to improve its operation.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1965

At the end of the bill add the following:

TITLE II

This title may be cited as the "Oil Pollution Liability and Compensation Act of 1980."

DEFINITIONS

SEC. 2. (a) For the purposes of this title—

(1) the terms "oil", "discharge", "vessel", "public vessel", "United States", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", and "barrel" shall have the meaning provided in section 311(a) of the Clean Water Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "affiliated" means a relationship between two or more persons in which a person has an ownership interest, whether direct or indirect, in another person or persons, is owned directly or indirectly in whole or in part by or is held directly or indirectly under common control with, another person;

(4) the term "claim" means a request, made in writing for a sum certain, for com-

pensation for damages or removal costs resulting from a discharge of oil;

(5) the term "claimant" means any person who presents a claim for compensation under this title;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this title;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4 of this title;

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this title or section 311(p) of the Clean Water Act;

(9) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(10) the term "owner or operator" means any person operating a vessel or facility or holding title to, or, in the absence of title, any other indicia of ownership of, a vessel or facility, but does not include a person who (either singly or in combination with others) without participating in the management or operation of a vessel or facility, leases or charters to any other person with whom such person is not otherwise affiliated, or holds such title or indicia of ownership primarily to protect a security interest in, the vessel or facility, and, in the case of any abandoned vessel or facility, the owner or operator of such a vessel or facility immediately prior to its abandonment.

(11) the term "refinery" means any facility at which oil is refined.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, civil war, insurrection, or terrorism, (iii) an act or omission by a person other than the owner or operator, an employee or agent of the owner or operator, or a person acting in a contractual relationship under the direction of the owner or operator, or (iv) an act or omission undertaken at the direction of Federal or State authorities, and notwithstanding liability imposed by any other rule or provision of law, such owner or operator of a vessel or an onshore or offshore facility from which oil is discharged in violation of section 311(b)(3) of the Clean Water Act shall be liable for—

(1)(A) all reasonable costs of removal incurred by the United States Government or a State under subsection (c), (d), (e), (b)(2)(B)(v), or (f)(4) of section 311 of the Clean Water Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other reasonable costs or expenses incurred by any person to remove oil as the terms "remove" or "removal" are defined in section 311(a)(8) of the Clean Water Act; and

(2) all damages resulting from such a discharge including, but not limited to:

(A) any personal injury;

(B) any injury to or destruction of any real or personal property;

(C) any loss of use of real or personal property;

(D) any injury to or destruction of natural resources, not limited to amounts which can be used to restore or replace such resources, including the reasonable costs of assessing such injury or destruction;

(E) any loss of use of any natural resources;

(F) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources; and,

(G) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof.

(3) for purposes of this section a discharge of oil into or upon the territorial sea, international waters, or adjacent shoreline of a foreign nation shall be deemed a discharge in violation of section 311(b)(3) of the Clean Water Act.

(b) Claims authorized under subsection (a) may be asserted—

(1) under paragraph (1), by any claimant, provided that the owner or operator of a vessel or facility from which a discharge occurs may assert such a claim only if such owner or operator is entitled to a defense to liability under subsection 3(a) or such owner or operator incurs liability in excess of the limits set forth in subparagraph 3(d);

(2) under subparagraph (A) of paragraph (2) any claimant suffering personal injury;

(3) under subparagraph (B), (C), and (E) of paragraph (2) by any claimant if the property destroyed or injured is owned or leased by the claimant, or the property or natural resources the use of which is lost is utilized by the claimant;

(4) under subparagraph (D) of paragraph (2), by the President as trustee for natural resources over which the United States has sovereign rights or exercises exclusive management authority, and by any State for natural resources within or adjacent to such State and owned, managed, or controlled by such State;

(5) under subparagraph (F) of paragraph (2), by any claimant deriving earnings from activities which utilize the property or natural resources;

(6) under subparagraph (G) of paragraph (2) by the United States and any State or political subdivision thereof;

(7) by a claimant residing in a foreign country, or the government of a foreign country or any agency or political subdivision thereof if—

(A) the claimant is not otherwise compensated for his loss;

(B) the oil was discharged from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel into the navigable waters of the United States; or,

(3) a vessel carrying oil as cargo between two ports subjects to the jurisdiction of the United States; and,

(C) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants: *Provided, however,* That condition (C) shall not apply where the claim is asserted by a resident of Canada and where the oil pollution involves oil that has been transported through the pipeline constructed under the provisions of the Trans-Alaska Pipeline Authorization Act, as amended, has been loaded on a ship for transportation to a port in the United States, and is discharged from the ship prior to being brought ashore in that port.

(c) This section shall in no way affect or reduce the rights of subrogation which (1) the owner or operator of a vessel or facility, (2) the United States, (3) any State, or (4) any person may have against any person whose acts may have caused or contributed to a discharge.

(d)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(f) of the Clean Water Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil in bulk or in commercial quantities as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel of an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs but not including any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil was the result of willful misconduct or negligence within the privity and knowledge of the owner or operator or of a violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Clean Water Act.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all reasonable costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(e) The President may establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (d)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000.

(f) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Clean Water Act and as provided under section 27 of this title notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

OIL SPILL LIABALITY FUND

SEC. 4. (a) There is hereby established in the Treasury of the United States the Oil Spill Liability Fund. The Fund shall be administered by the Secertary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(b) THE FUND SHALL BE CONSTITUTED FROM—

(1) all taxes collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5;

(3) all moneys recovered or collected on behalf of the Fund under this title, including the interest on the investment of Fund assets; and,

(4) any penalties imposed under section 311 of the Federal Water Pollution Control Act (insofar as it relates to oil).

(c) MANAGEMENT OF THE FUND.—The Secretary of the Treasury shall—

(1) transfer at least monthly from the general fund of the Treasury to the Fund the amounts appropriated by subsection (b) on the basis of his estimate of such amounts

and make adjustments in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred;

(2) make payments from the Fund as authorized by this title, appropriations acts, and the Fund Administrator; and,

(3) invest such portion of the Fund as is not required to meet current withdrawals in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary.

(d) The Internal Revenue Code of 1954 is amended by adding the following new sections:

(1) Sec. 4611. Imposition of Tax.

(a) General Rule.—There is hereby imposed a tax of 0.8 cents a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) Surtax and Remission.—If on September 30 of any year, the Secretary of the Treasury determines that

(1) the balance of the Fund is $150,000,000 or less then beginning with the receipt of oil on January 1 of the following year the rate of tax shall increase to 1.6 cents per barrel until the end of the fiscal year of the United States during which such January 1 falls; or

(2) the balance of the Fund is $200,000,000 or more then beginning with the receipt of oil on January 1 of the following year the rate of tax shall be reduced to zero until the end of the fiscal year of the United States during which such January 1 falls;

(3) in order to retire within the next succeeding fiscal year obligations of the Fund purchased by the Secretary of the Treasury a tax in excess of that imposed by subparagraph (1) is required, a surtax, not to exceed 1.4 cents per barrel, shall be imposed in an amount determined by the Secretary of the Treasury to be sufficient to retire the debt of the Fund, beginning with receipt of oil on January 1 of the following year until the end of the fiscal year of the United States during which such January 1 falls.

(c) Tax on Certain Uses and Exportation.—

(1) In general.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a) and (b), then such oil shall, at the time of such use or exportation be deemed crude oil received at a United States refinery.

(2) Exception for use on premises where produced.—Paragraph (1) shall not apply to crude oil used for extracting oil or natural gas on the premises where such crude oil was produced.

(d) Persons Liable for Tax.—

(1) Crude oil received at refinery.—The tax imposed by subsections (a)(1) and (b) shall be paid by the operator of the United States refinery.

(2) Imported petroleum products.—The tax imposed by subsections (a)(2) and (b) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) Tax on certain uses or exports.—The tax imposed by subsection (c) shall be paid by the person using or exporting the crude oil, as the case may be.

(2) Sec. 4612. Definitions and Special Rules.

(a) Definitions.—For purposes of this subchapter—

(1) Crude oil.—The term "crude oil" includes crude oil condensates and natural gasoline.

(2) Domestic crude oil.—The term "domestic crude oil" means any crude oil produced from a well located in the United States.

(3) Petroleum product.—The term "petroleum product" includes crude oil.

(4) United States.—

(A) In general.—The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) United states includes continental shelf areas.—The principles of section 638 shall apply for purposes of the term "United States".

(C) United states includes foreign trade zones.—The term "United States" includes any foreign trade zone of the United States.

(5) United states refinery.—The term "United States refinery" means any facility in the United States at which crude oil is refined.

(6) Refineries which produce natural gasoline.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) Premises.—The term "premises" has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) Barrel.—The term "barrel" means 42 United States gallons.

(9) Fractional part of barrel.—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) Only 1 Tax Imposed With Respect to Any Product.—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

(e) If at any time the moneys in the Fund are insufficient to meet the obligations of the Fund the Secretary of the Treasury may purchase from the Fund notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to the terms and conditions as may be prescribed by the Secretary of the Treasury in amounts not in excess of that which the Secretary of the Treasury determines can reasonably be repaid from amounts received under paragraph (d) of this section and,

(1) the Secretary of the Treasury is authorized, for the purchase of notes or other obligations issued under this subsection, to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the proceeds for which securities may be issued under that Act are extended to include any purchase of these notes or obligations;

(2) the Secretary of the Treasury may at any time sell or otherwise dispose of any notes or other obligations acquired under this subsection and all redemptions, purchases and sales by the Secretary of the Treasury of these notes or other obligations shall be deemed public debt transactions of the United States.

(3) nothing in this subsection or this title shall be construed to create any entitlement in any claimant nor any obligation in the fund to borrow or the Secretary of the Treasury to lend any funds from the general fund of the Treasury for any payment authorized or required by this title.

USE OF THE LIABILITY FUND

Sec. 5. (a) The Fund administrator shall authorize payment of money from the Fund for the following purposes:

(1) payment of any claim for damages provided under section 3;

(2) payment of all reasonable removal costs or expenses and other reasonable costs of carrying out the national contingency plan established under section 311(c) of the Clean Water Act, including reasonable removal costs incurred by any person and approved under such national contingency plan;

(3) subject to such amounts as are provided by appropriation, payment of the reasonable cost of assessing both short and long term injury to, destruction of, any publicly owned or controlled natural resources resulting from a discharge of oil, *Provided however*, That amounts not in excess of $1,000,000 per year shall be available from the Fund for emergency assessment of injury to, destruction or loss of any publicly owned or controlled natural resources resulting from a discharge of oil.

(4) payment of the costs of reasonable expenditures of Federal or State governments for the restoration, rehabilitation, and replacement of publicly owned or controlled natural resources injured or destroyed as a result of any discharge of oil or the acquiring of equivalent natural resources.

(5) reimbursement to any State for the payment of any claims for costs of removal or damages payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan and a contract under subsection (b) of this section;

(6) subject to such amounts as are provided by appropriation not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this title and section 311 of the Clean Water Act, to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. Such research shall include, but not be limited to (A) development and refinement of protocols to determine the type and extent of short and long term injury or destruction of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or destroyed resources, (C) laboratory or field research on the effects of oil on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (h)(2) of this section and officials responsible for such assessments shall be consulted before proposal of any research plan or appropriation request under the preceding sentence; and

(7) subject to such amounts as are provided by appropriation, the reasonable administrative and personnel costs of administering the Fund and this title.

(b) The President shall designate a Fund Administrator who shall have authority to obligate money in the Fund, to administer the Fund in accordance with the provisions of this title, and to promulgate reasonable regulations for the presentation, filing, settlement, and adjudication of claims compensable under this title. The Fund Administrator may delegate his authority to obligate money in the Fund or to settle claims to one or more Federal officials and to officials of a State with an adequate program operating under a contract with the Federal government.

(c) The owner and operator of any vessel or facility from which oil has been discharged shall provide reasonable public notice of the rights of potential injured parties and if the source of the discharge is a public vessel, a matter of dispute or undetermined the Fund Administrator shall provide reasonable public notice of the procedures by which claims may be presented to the Fund.

(d) Any person with a claim authorized by section 3 (a) and (b) shall present such claim to the owner or operator of the vessel, or onshore or offshore facility from which oil has been discharged if such owner or operator can be determined and, if when such claim has not been satisfied within ten days the claimant may commence an action against such owner or operator or present the claim to the Fund for payment in accordance with the reasonable rules and procedures established by the Fund Administrator.

(1) Claims less than $10,000 presented to the Fund shall be determined and paid within 90 days of the date the claim was first made.

(2) No claim may be presented nor may an action be commenced for damages under this title unless that claim is presented or action commenced by the earlier of a date three years from the date of discovery of the loss or ten years from the date of the discharge.

(3) The Fund shall not pay any claim for costs of removal or damages to the extent that the discharge was caused by the negligence or misconduct of the claimant or to the extent that the claimant failed to take reasonable steps, under the facts and circumstances, to mitigate the damages caused the claimant by such discharge.

(e) (1) Except as provided in subparagraph (2), the Fund Administrator shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) upon a determination by the Fund Administrator that advertising is not reasonably practicable. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Fund Administrator.

(ii) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Fund Administrator may use Federal personnel to process claims against the fund.

(iii) Without regard to subsection (b) of section 556 of title 5, United States Code, the Fund Administrator is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes regarding certifications, denials, or benefits which are filed by claimants. Panel members may be appointed from the private sector or from any Federal agency except the staff administering the fund. Each panel member appointed from the private sector shall receive a per diem compensation, and each panel member shall receive necessary travel and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, apply to panel members appointed from the private sector.

(f) (1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this title to any claimant for damages or costs of removal resulting from a discharge of oil shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this title or any other law.

(g) The Fund Administrator shall bring an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this title subject to the limitations on liability provided in Section 3(c) and in addition thereto all reasonable costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator or other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(1) In addition to defenses otherwise available the owner or operator against whom an action is brought may raise as a defense the reasonableness of claims paid for cleanup costs and the amount of damages paid by the Fund to any claimant.

(2) If, in an action to recover amounts paid by the Fund, a final determination is made that any claimant was paid amounts $10,000 or more in excess of reasonable cleanup costs or actual damages the Fund Administrator shall commence an action on behalf of the Fund to recover such excess costs or damages.

(h) (1) (A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this title, shall promulgate reasonable regulations for the assessment of damages for injury to or destruction of natural resources resulting from a discharge of oil, for the purpose of section 3(a) (2) (D) and (E) of this Act, section 5(a) (6) of this Act, and section 311(f) (4) and (5) of the Clean Water Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury or destruction. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(2) In accordance with such regulations, damages for, injury to, or destruction of natural resources resulting from a discharge of oil, for the purposes of section 3(a) (2) (D) and (E) and section 5(a) (1) of this title and section 311(f) (4) and (5) of the Clean Water Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or conservation authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all natural resources. Such officials shall act for the President as trustee under section 3(b) of this title and section 311(f) (5) of the Clean Water Act.

(i) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this title for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by, or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

(g) The Controller General shall audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered and shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund and shall thereafter provide such auditing of the Fund as is appropriate.

FINANCIAL RESPONSIBILITY

SEC. 6. (a) (1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel) using any port or place in the United States or the navigable water or any offshore facility shall establish and maintain in accordance with section 311 (p) of the Clean Water Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subject under section 3(d) (1) of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This section shall take effect May 1, 1981.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil carried as cargo.

(b) (1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 3(d) (1) of this Act or $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Clean Water Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this section or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 7. (a) States are hereby precluded from

(1) the imposition of excise taxes or fees upon oil for purposes of financing activities related to the cleanup of discharges and the payment of damages caused by discharges, and

(2) the imposition of liability for discharges in excess of the limits provided under this title.

(b) Any person who receives compensation for removal costs or damages pursuant to this title shall be precluded from recovering compensation for the same removal costs or damages pursuant to any other State or Federal law. Any person who receives compensation for removal costs or damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same removal costs or damages as provided in this title.

CONFORMING AMENDMENTS

SEC. 8. (a) Review of any regulation promulgated under this title may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia.

(b) Except as provided in subsection (a) of this section, the United States district court shall have exclusive original jurisdiction over all controversies arising under this title without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or release or damages occurred, or in which the defendant resides, may be found, or does business.

(c) No provision of this title shall be deemed or held to moot any litigation concerning any discharge or any damages associated therewtih, commenced prior to enactment of this title.

(b) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska,"

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline," and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1980."

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund other than the liability of those officers or trustees for gross negligence or willful misconduct.

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the tax due under section 4(d) of this title on barrels of oil, and the Secretary of the Treasury shall waive such tax until such time as the total amount of the tax so waived equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified: *Provided*, That, should the tax due under section 4(d) of this title be no longer required whereby the assets transferred and remaining can no longer be used as an advance payment at the end of the second year of the Fund then the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall be rebated by the Secretary directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis to the owners of the oil at the time it was loaded on the vessel; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the tax imposed under section 4 on barrels of oil until such time as the total amount of the 2 cent per barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(D) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this title paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of tax established under section 4(d) of this title, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of tax waived. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of tax under section 4(d) of this title is waived.

(E) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980 shall be available to the Secretary for actions taken under section 5 of this Act."

(c) CLEAN WATER ACT.—Section 311 of the Clean Water Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Pollution Liability and Compensation Act of 1980,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Pollution Liability and Compensation Act of 1980."

(4) One-half of any sums available and uncommitted on the effective date of the Oil Pollution Liability and Compensation Act of 1980 in the Fund established under section (k) of section 311 of the Clean Water Act shall be transferred to the Fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980.

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18 (1) of this Act," and insert in lieu thereof "section 26 of the Oil Pollution Liability and Compensation Act of 1980,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n) and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section," and inserting in lieu thereof: "fund established under section 4 of the Oil Pollution Liability and Compensation Act of 1980."

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d) respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

(f) Any expenditure under section 5(a) of this title, other than those (1) under the authority of section 311(c) of the Clean Water Act involving the balance of the contingency fund established under section 311(p) of the Act and transferred to the Fund under section 28(a)(2) of this title, shall be made after October 1, 1978, for any claim arising before such date and after the date of enactment of this title.

(g) EFFECTIVE DATE.—The provisions of this title shall be effective with respect to discharges which occur after December 23, 1979.●

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold hearings August 19 and 20 on the suspension of U.S. exports of high technology and grain to the Soviet Union. The suspension was announced by President Carter on January 4, 1980, in response to the ruthless Russian invasion of Afghanistan. The President acted under the authority of the Export Administration Act of 1979.

The purposes of the hearing are: First, to review the implementation and effectiveness of the partial export suspension; and second, to receive testimony on S. 2855, a bill to lift the suspension of grain sales.

Large numbers of Soviet troops and tanks invaded Afghanistan the last week of December 1979. As part of the American reply to Russian aggression President Carter suspended delivery of 17 million tons of grain ordered by the Soviet Union and ordered a review of all exports of high technology and other strategic items to the U.S.S.R. The President also temporarily suspended exports of all agricultural commodities and licensing of exports of nonagricultural goods and technology not exportable under general license, pending a thorough review and reconsideration of export control policy concerning the Soviet Union.

Secretary of Commerce Klutznick announced on January 29, 1980, that certain agricultural products unrelated to the Russian feed-livestock complex and which have no strategic significance would be exempt from prior licensing review. Other agricultural products, including wheat, feed grains and seeds, soybeans and animal feeds, meat, poultry, dairy products, and some animal fats were subject to continued prohibition. Products, such as tallow, shrimp, fish and meat extenders, which might be used as feed or meat replacement under extreme circumstances were subjected to case-by-case review.

The export to the U.S.S.R. of phosphate rock and related products was embargoed in February 1980 because fertilizers and animal feed supplements are obtained from phosphate products.

In May Secretary Klutznick announced that the review of high technology exports had been completed, and that more restrictive criteria would be applied to applications for exports of high technology to the Soviet Union.

The United States solicited the cooperation of all allied and friendly countries in implementing export restrictions toward the Soviet Union. Some countries took similar action with respect to their own exports; others agreed not to take actions which would interfere with the effectiveness of the U.S. measures.

The committee hearings will focus on the following questions: First, how effective have the export suspension measures been in imposing costs on the Soviet Union? Second, how much support have other countries given to the U.S. effort to punish Russian aggression? Third, how could the effectiveness of the U.S. actions be increased? Fourth, what effect would termination of the suspension of additional grain sales (beyond the 8 million tons for 1981 agreed to in the 1975 U.S.-U.S.S.R. Agreement) have on U.S. foreign policy, on food prices, and on farm income?

Persons interested in testifying or submitting information to the committee may contact Bob Russell of the committee staff at (202) 224-0819.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold a hearing on several measures affecting the territories of the United States. The measures are:

H.R. 7330. To authorize appropriations for certain insular areas of the United States, and for other purposes.

S. 2735. To provide for tax matching grants to Guam and the Virgin Islands, to authorize technical assistance to the territories, to establish the Commission on Federal Laws in the territories, and for other purposes.

S. 2992. To authorize a study of sail-assisted technology as a means of reducing energy costs for inter-island transportation in the Trust Territory of the Pacific Islands, and for other purposes.

The hearing will be held on August 26, 1980, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building, Washington, D.C.

Anyone wishing to testify or to submit testimony for the record should contact Mr. James Beirne, counsel to the committee, at (202) 224-2564 or write directly to the Committee on Energy and Natural Resources, 3106 Dirksen Senate Office Building, Washington, D.C. 20150.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I would like to announce that the Committee on Labor and Human Resources will hold a hearing on the home energy assistance program on September 11, at 10 a.m. The hearing will be held in room 4232 of the Dirksen Senate Office Building.

This hearing will be the first in a series of hearings that will be held in Washington and in the field by the committee in the anticipation of the reauthorization of this program next year. Announcement of the scheduling of these additional hearings will be made in the near future.

For further information on these hearings, please contact Pat Markey of the committee staff at 224-0326.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. SASSER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations will conduct an oversight hearing on the administration of the Federal Freedom of Information Act on August 19, 1980, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2279, a bill to authorize the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Commitee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2926, the Magnetic Fusion Energy Engineering Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON SMALL BUSINESS

Mr. TSONGAS. Mr. President, I ask unanimous consent that the Select Committee on Small Business be deemed to have had permission to meet during the session of the Senate on August 4 to hold hearings on H.R. 5612, a bill to extend expiring Small Business Administration programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE INVESTIGATING ACTIVITIES OF INDIVIDUALS REPRESENTING INTERESTS OF FOREIGN GOVERNMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee Investigating the Activities of Individuals Representing the Interests of Foreign Governments of the Committee on the Judiciary be authorized to meet during the session of the Senate tomorrow, August 6, 1980, beginning at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HELEN GAHAGAN DOUGLAS

● Mr. CRANSTON. Mr. President, on June 28, 1980, a great American died, already a legend in our times: Helen Gahagan Douglas. To those of us who had the privilege of knowing her personally, her death is a great loss. We mourn her, not only her fellow Californians but all Americans who love and respect the values she stood for. And she stood for them staunchly through good and bad times in our history, ever firm in her commitment to liberty of thought and action, to truth and to justice.

I believe Helen Gahagan Douglas was one of the grandest, most eloquent, deepest-thinking people we have had in American politics. She stands among the best of our 20th-century leaders, rivaling even Eleanor Roosevelt in stature, compassion, and simple greatness. For those of us who loved her—and there are so many—mere words cannot do justice to the spirit and soul of this woman. But the Sacramento Bee, in a July 2 editorial, pays tribute to Helen Gahagan Douglas in a way which I know will evoke many memories in the hearts of her admirers. I would like to share this tribute with my colleagues here in the Senate:

The editorial follows:

HELEN GAHAGAN DOUGLAS

One of the several faces of courage is just being true to oneself in one's own place and in one's own time. Such was the courage of Helen Gahagan Douglas, the actress-turned-congresswoman whose political career ended in a bitter clash with Richard M. Nixon in 1950. Douglas, actress, singer, wife of actor Melvyn Douglas, political activist, served in the U.S. House of Representatives from California along with Nixon for two terms, 1946-50. She was the Democratic nominee for the U.S. Senate in 1950 and was defeated by Nixon in a campaign that made history for its vicious smear tactics.

It was the time of Korea and McCarthyism, and, despite the charges that she was a Communist sympathizer, Douglas refused to run a campaign based on innuendo and smear. Instead, she emphasized preservation of the 160-acre limit on water from federal reclamation projects, and federal control of California's vast tidelands oil resources. She stuck to the issues despite the personal attacks.

In the best of all possible Americas, Helen Gahagan Douglas might have become an influential and respected U.S. senator. When she died Saturday of cancer in a New York hospital, this country lost a gifted person, a principled advocate of women's rights, civil liberties and world disarmament whose contributions to society were eclipsed by the Cold War controversy and the agonies created by the smash-and-grab politics of the 1950's. She strove for the freedom, justice and equality that never go out of style, and, in her personal relationships, extended a warmth and respect that are no less the mark of a person who cares about others.●

INDUSTRIAL CONSERVATION INCENTIVES

● Mr. PACKWOOD. Mr. President, I would like to call attention to an article which appeared in last Thursday's Wall Street Journal. The article is entitled "Industrial Conservation Incentives," and was written by Robert Stobaugh and Daniel Yergin of Harvard University, coeditors of Energy Future.

The message is clear. Even with decontrol of oil prices, there remain significant financial and institutional biases against investment in energy conservation. Stronger tax incentives, such as higher tax credits and accelerated depreciation, are needed to deliver the great potential energy savings in the industrial sector. I fully agree with the gentlemen from Harvard, and will continue to push for legislation which encourages businesses, as well as individuals, to invest in our most promising new energy source.

Mr. President, I ask that this article be printed in the Record.

The article follows:

Industrial Conservation Incentives

(By Robert Stobaugh and Daniel Yergin)

For a variety of reasons, a free market has not been used in the United States to achieve an appropriate balance between energy consumption and energy conservation. This will be true even after domestic oil is decontrolled in September. Thus, American industry, as well as other sectors, is subject to a continuing "consumption bias."

This bias has very serious implications for both the individual company and the nation. It means that conservation is not being achieved at anything like an economic rate. In effect, the industrial sector is seriously underinvesting in energy efficiency. As a consequence, both the country and the private concern will be subject to much higher but unnecessary energy costs in the years ahead.

Much greater effort should be put into stimulating conservation investments in the industrial sector, for this sector is capable of achieving substantial conservation savings quickly. Unfortunately, this sector has received little attention from public policymakers.

One reason that the special problems of industry have received relatively little attention is because industry's record is much better than that of other sectors. Between 1973 and 1978, industrial energy use decreased by 12% per unit of output, whereas there was a 1% increase in per capita energy use in the residential and commercial sector.

Some companies have organized themselves to achieve truly outstanding savings—reductions on the order of 30% to 45%. But many potential savings have not been made. Many corporate energy managers believe that with relatively modest efforts, their companies could achieve 20% to 40% reductions in absolute terms—but are not.

MANY BARRIERS

This is not because of lack of desire or interest. Many barriers stand in the way of adequate levels of investment in energy conservation—unclear organizational responsibilities, institutional obstacles to cogeneration and imperfect information. But the most important obstacle is the financial barrier, which has two parts. First, industrial concerns, as well as other consumers, pay subsidized prices for their conventional energy sources. Second, lack of adequate capital retards investment. Thus, the major remedy lies primarily with financial incentives.

First, subsidized prices. Even after oil-price controls end, the cost of oil products will be below the true cost to the nation, for imported oil embodies a number of side-effects that are costly to the nation, but not to the user, at least not at the time when it makes its decision to use oil or invest in efficiency. These costs include the impact of the marginal U.S. oil imports on the world market. If the United States had kept to its 1975 import level of 6 million barrels a day instead of 8.5 million at the beginning of 1979, we might well have not seen prices reach $35 a barrel—with all the inflationary and GNP losses that accompany it. Our belief is that the marginal cost of the extra several million barrels daily of U.S. oil imports was on the order of $60 to $100 a barrel.

How to correct for this gap between $35 a barrel that the user sees and the $60 to $100 the nation pays? One way is a tariff—of 100 percent or more. A response of this sort is a standard solution of economists when the price of imports works against achieving some national goals. But it is unrealistic to expect a tariff of this magnitude to be enacted—and if it were, it would draw dollars away from conservation investments to paying for current energy costs. To say the least, it would have a harsh impact.

Our other energy prices are also subsidized. Natural-gas price controls, of course, will be in existence for "new" gas until 1985, and for "old" gas indefinitely. Consumers of electricity, for instance, pay average costs rather than the marginal costs engendered by new generating capacity. Moreover, there are obvious side-effects in the use of coal and nuclear power that are not included in the market price—hazy skies in the case of coal and fear of a catastrophic accident in the case of nuclear power. The true cost of these to society is hotly debated, but everyone would agree that the result is that energy prices do not give correct information to consumers, and are unlikely to do so.

The financial barrier is also operative within the corporation. Many who say that "industry will take care of itself" are assuming that a corporation is a single rational actor, with a single mind.

On the contrary, a constant competition takes place within a company over the allocation of capital. Companies establish various hurdle rates in order to make those decisions on a rational basis. Conservation investments must often leap over high hurdle rates two- or three-year paybacks. They are not viewed as having the same strategic impact as new product or additional capacity and so they are postponed. Other claimants are also ahead in line, such as mandated environmental expenditures.

Conservation investments do not attain the same level of interest, commitment, and glamour for top management as do investments that lead to increased sales. Also, energy may not be a significant cost to a firm, and so, even if the payback is good, management will choose to put its dollars elsewhere. After all, the company is purchasing average barrels at $35 not marginal barrels at $60 to $100. Finally, high interest rates and economic uncertainty cause management to pare down its list of investments and conservation investments often fall off the bottom.

The result of the financial barrier is that there is a very large backlog of highly desirable energy-conservation investments that would benefit both industry and the nation—that could perhaps lead to a 20% to 30% absolute reduction in energy use in the industrial sector. Assuming some modicum of economic stability, many of these investments will eventually be made. But they are much more valuable to the nation if done in 1981 rather than in 1986.

TAX CREDITS REQUIRED

Tax or other policies that promote investment in new facilities will speed up energy conservation. Rapid depreciation policies for new facilities could substantially accelerate efficiency. The 1978 National Energy Act provided a limited 10% credit for conservation investments. But, given the financial hurdle, this credit seems much too low. Significantly greater tax credits, up to 40%, plus accelerated depreciation or direct financial payments, are required. In addition, energy-conservation loans and grants for small businesses, which are often cash-strapped, are needed.

Industry executives freely acknowledge that there are many energy-saving innovations in which they could be investing, but are not because of other more urgent claims on capital. One company, for example, was considering a $500,000 investment that could lead to a 40% reduction in energy use—for a 1.5-year payback. It made this investment in its Belgian factory because of the incentives provided by the Belgian government. It did not in its similar American factory because other claims on capital were ahead in line.

Unless adequate incentives are provided to overcome the barriers to investments in more efficient use of energy, the U.S. will be faced with a vicious circle. The recessions resulting from higher world oil prices will retard investment in more efficient plants, thereby slowing energy conservation over the longer term, so that at any given level of economic output there is greater pressure on energy supplies.

There is an alternative: more efficient energy use and the benefits that go with it—to greater economic output, more stability, reduction in the alarmingly large and potentially larger dependence on OPEC oil, a cleaner environment, less tension with our allies and a stronger dollar. By refusing to take sensible policy steps, we foolishly deny ourselves these benefits.

(Note.—Robert Stobaugh and Daniel Yergin are co-editors of "Energy Future: Report of the Energy Project at the Harvard Business School." Mr. Stobaugh is professor of business administration at the Harvard Business School and director of the project. Mr. Yergin is a lecturer at the Kennedy School of Government at Harvard and is editor of "The Dependence Dilemma: Gasoline Consumption and America's Security.") ●

ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS

● Mr. CULVER. Mr. President, it has been the practice in recent years to place in the Congressional Record an accounting of all funds spent for research and development on chemical and biological warfare, both offensive and defensive. I think this is a useful practice because it informs the public and our allies of the extent and nature of our work in these areas. All of us hope the day will come when these types of weapons will not be in the inventory of any nation; however, we are not there yet and so we must take some steps to protect ourselves. However, given some of the practices in the past involving chemical and biological agents, I think it is useful to inform the American public to the widest extent possible of what their country is doing in this area. Therefore, Mr. President, I ask that the report on funds obligated during fiscal year 1979 by the Department of Defense for chemical warfare and biological defense research programs be entered into the Record.

The report follows:

The Under Secretary of Defense,
Washington, D.C., January 29, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: In accordance with the requirements of 50 U.S.C. § 1511 (1976), the report on funds obligated in the chemical warfare and biological defense research programs during FY 1979 is enclosed.

The report provides actual obligations through 30 September 1979.

Section 4 of the Army report provides an adjustment summary that reflects changes to the FY 1978 report to permit the revision of estimated obligations to actual. The Departments of the Navy and Air Force reported no adjustments to their segments of the FY 1978 report.

The enclosed report also has been sent to the Speaker of the House of Representatives.

Sincerely,

William J. Perry.

DEPARTMENT OF DEFENSE—ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), NOV, 30, 1979

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animal Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

DEPARTMENT OF DEFENSE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, RCS DD-D.R. & E. (SA) 1065

[Actual dollars]

	Army	Navy and Marine Corps	Air Force	Tota
Chemical warfare program	$62, 414, 000	$1, 599, 000	$17, 179, 000	$81, 192, 000
R.D.T. & E	36, 416, 000	1, 599, 000	4, 238, 000	42, 253, 000
Procurement	25, 998, 000	0	12, 941, 000	38, 939, 000
Biological research program	16, 495, 000	0	0	16, 495, 000
R.D.T. & E	16, 495, 000	0	0	16, 495, 000
Procurement	0	0	0	0
Ordnance program	35, 894, 000	1, 700, 000	114, 000	37, 708, 000
R.D.T. & E	8, 609, 000	1, 700, 000	114, 000	10, 423, 000
Procurement	27, 285, 000	0	0	27, 285, 000
Total program	114, 803, 000	3, 299, 000	17, 293, 000	135, 395, 000
R.D.T. & E	61, 520, 000	3, 299, 000	4, 352, 000	69, 171, 00
Procurement	53, 283, 000	0	12, 941, 000	66, 224, 00

DEPARTMENT OF THE ARMY ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
Chemical warfare program	3. 101 33. 315	23. 712 12. 704	During the fiscal year 1979, the Department of the Army obligated $36,416,000 for general research investigations, development, and test of chemical warfare agents, weapons systems, and defensive equipment. Program areas of effort concerned with the obligations are as follows: Chemical research: Basic research $850, 000 Exploratory research 4, 155, 000 Engineering research 775, 000 Total chemical research 5, 780, 000 Lethal chemical program: Exploratory development 948, 000 Advanced development 155, 000 Engineering development 891, 000 Testing 187, 000 Total lethal chemical 2, 181, 000 Incapacitating chemical program: Exploratory development 100, 000 Advanced development 0 Engineering development 0 Testing 0 Total incapacitating chemical 100, 000 Defensive equipment program: Exploratory development 14, 871, 000 Advanced development 5, 707, 000 Engineering development 7, 117, 000 Testing 10, 000 Total defensive equipment 27, 705, 000 Simulant test support 650, 000
1. Chemical research	.000 5. 780	5, 196 . 584	
(a) Basic research	(.000) (.850)	(.685) (.165)	Basic research in support of chemical materiel: The objectives of this research are to provide a science base in support of: (1) Chemical defense systems including decontamination and contamination avoidance, detection and identification, physical protection, chemical training agents and simulants, analytical methodology, and chemical materiel vulnerability, and (2) chemical deterrent systems to include state-of-the-art advances in chemistry, physics, and engineering sciences. Information and concepts are sought in areas dealing with chemical agent dissemination, chemical munition breakup, factors controlling chemical agent activity, and new directions in chemical agents. In the area of chemical defense (1) novel instrumentation was developed that allows the monitoring of the decomposition of liquids during heating. A study was completed on use of pattern recognition for correlating the structures of several classes of compounds with their pharmacological activity. This has application to identification of chemical threats. In the area of chemical deterrence (2) research was completed on several aspects of the behavior and properties of thickened chemical agents, including the control of liquid breakup and evaporation of droplets. In fiscal year 1980, emphasis will be on defensive research relating to decontamination and contamination avoidance; e.g., the use of lasers for decontamination, the reactivity of toxic molecules in various detergent solutions, and the interaction of liquid jets and sprays with supported films. Chemical deterrence research will include study of (1) factors controlling the activity of chemical agents, and (2) fundamental physical properties of chemical agents which influence the rheological behavior of thickened agent solutions.
(b) General chemical investigations.	(.000) (4. 930)	(4. 511) (.419)	Exploratory development effort: Chemistry of threat agents and chemical technology: The objectives of this effort are to identify, synthesize, and study the properties o fchemical compounds posing a potential threat to the U.S. chemical defensive posture; and to maintain an up-to-date technology in chemometrics, analytical, organic and physical chemistry in support of chemical defensive investigations.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	

Laboratory research of novel compounds led to the preparation of a new organophosphorus compound for use as a potential threat agent. Conducted chemical process studies on routes to synthesize laboratory quantities of a classified intermediate to a potential threat agent. Toxicity screening studies led to the discovery of 2 classes of organophosphorus compounds. These will be investigated further relative to chemical defense threat. Completed a special inhalation study of EA 4923, a volatile irritant with laboratory animals.

Studies to develop improved screening techniques that are more predictable during the initial pharmacological tests included: A new method for the identification and ranking respiratory irritants.

Over 150 chemical structures were identified and characterized resulting in recommending a series of compounds for laboratory synthesis and toxicity screening.

Developed a new analytical chemistry technique utilizing laser infrared spectroscopy and capillary gas chromatography. Expanded the data base in computer searchable mass spectra.

In the area of physical chemical procedures a vapor pressure measurement apparatus was updated and successfully characterized potential threat agents. Computer software was established for a chemical agent physical property data system.

Completed an experimental design applicable to the jet decontamination of surfaces. Developed a successful method of estimating the mass median diameter for a cloud of particles.

Future efforts to be conducted will result in publications and reports. These include but are not limited to reports on: (a) Summary of organic synthesis research, (b) chemometric computer models of chemical structures, (c) statistical methodology relative to chemical defense mission needs, and (d) development of modern methods of chemical analysis and physical chemical procedures.

Toxicological effects of threat agents and chemicals of mission interest:

The objective of this effort is to determine and evaluate the toxicities of agents and various chemicals of mission interest and to estimate the toxicities for man.

Major accomplishments include publication of reports on (1) acute inhalation toxicity of a binary component of an organophosphorous compound VX, (2) acute toxicity of VX binary components by other routes of administration, and (3) toxicological methodology in small animals thus minimizing the use of dogs and other species in short supply. Progress was made in the development of short-term biological tests for mutagenicity and carcinogenicity. It was shown that thickening did not influence the inhalation toxicity of nerve agent GD. Studies were conducted to evaluate the threat of droplets of GD impacted at different velocities on bare or clothed animals. Acute toxicological evaluation was conducted on several threat agents and several simulants.

Plans are to complete inhalation exposure of animals to determine the toxicological, carcinogenic, reproduction, behavioral, physiologic effects. Evaluate toxic new threat agents. Develop and refine methodology to upgrade or expand our in-house capability to conduct mutagenic, teratogenic, reproduction, and carcinogenic evaluations of threat agents.

Operation science/technology:

The military effectiveness of chemical systems depends on the interaction of the agent, the method of its delivery and dissemination, and the environment in which it is employed. Knowledge of these factors is critical to understanding the cause and effect relationships that govern the ability of chemical detection, protection and decontamination operations to respond effectively to such challenges, as well as providing the basis for conducting threat analysis studies and for guiding the design of efficient deterrent weapons systems. The purpose of this effort is to address and resolve the technology knowledge gaps existing in these areas through investigations of the mechanisms that control the operational performance of chemical defensive/deterrent systems. The output of this research are the technology data bases required for the predictive models and procedures employed in chemical defensive/deterrent/threat systems studies and which support the evaluation of new concepts and improvements to existing systems.

Significant accomplishments in this period include completion of the study of factors controlling droplet formation of thickened bulk liquids released from spinning artillery shells. A predictive model and report was prepared for use in threat/deterrent munition studies. The mechanisms of surface decontamination by jet engine exhaust were investigated and the effectiveness of this technique established for biolgical species and thickened mustard agent. A study of the variables controlling the phsycial removal of contaminants by liquid spray systems was initiated with the goal of maximizing the effectiveness of this standoff technique while minimizing the time and resources required. A research task involving controlled environment experiments was also initiated to identify the vapor sources and hazard levels in armored vehicles produced by entry of contaminated personnel. As a representative to a special Ad Hoc team, a survey and analysis was conducted to identify mission-wide defensive knowledge gaps which will be used to plan and prioritize the near and long range chemical program. Research into clothing penetration by static and dynamic droplets was completed and a technical report issued for assessing the vulnerability of individual protective systems. Basic studies of the factors governing the effective sampling of aerosols by aspirated detection alarms were begun and the assessment of face masks challenged by smoke and dust clouds extended to establish the severity of the loading problem and means to minimize this potential hazard. A rheology program was initiated and a research contract awarded to characterize the critical descriptive properties of thickened liquids necessary to structure predictive models of their behavior and field and wind tunnel experiments were performed to relate the response of these unique liquids to rupturing forces.

Chemical threat assessment technology:

The objective is to determine the potential foreign chemical warfare threat and vulnerability and identify the needs for improved U.S. chemical defensive measures and capabilities based on laboratory and field experimentation on foreign materiel concepts. Outputs will be the establishment of the test, assessment and analytic technology, and the data base required to evaluate foreign capabilities. This effort will identify requirements affecting all other technical areas.

Intelligence information relative to chemical threat was reviewed as it became available and integrated into the threat data base used in chemical defensive development programs. The threat assessment technology and data base was provided to other DOD elements and their contractors on numerous occasions. In order to maintain this technology and data base and to advance the state-of-the-art, a number of specific elements of the technology were addressed in fiscal year 1979. A laboratory test technology was developed, and testing was initiated to quantify the threat from evaporation of thickened liquids from contaminated surfaces and absorption of liquids into porous surfaces to clarify vapor hazard persistence and surface availability of liquids for pickup and transfer of liquid to humans operating in contaminated areas. Current chemical mathematical models which were designed to define the threat at the surface in which infantry ground forces operated were modified to define the threat in the lower air space used by tactical aircraft. The development of an evaluation model for chemical operations in urban areas was initiated with a thorough literature survey and a compilation of all models and data appropriate for the model. Data gaps have been identified. An overall chemical effects model which includes the heat stress and operational degradation of chemical protective equipment and procedures, as well as the chemical casualties, has been under development. The study on explosive dissemination of thickened liquids continued. Small-scale and full-scale munition tests were completed, and work on mathematical models of the process were initiated. A study to establish a data base and mathematical models to assess the degradation in performance due to low level physiological effects of chemicals such as miosis, nausea, muscle weakness, etc., was initiated.

All incomplete studies will be continued in fiscal year 1980. This includes completion of the 1st version of the overall chemical effects model, completion of the experimental program of evaporation and absorption of thickened liquids on porous surfaces, completion of the 1st version of a model for degradation in performance due to less severe chemical effects, completion of a 1st version of a model for explosive dissemination of thickened liquids, quantification of the threat environment in the lower air space, initiation of a study of ventilation characteristics of urban structures (a data gap identified in fiscal year 1979), and initiation of an effort to improve modeling used for high volatility chemical agents when disseminated explosively. Current models have identified deficiencies for which technological explanations are now available. The total technology and data base will be maintained and support supplied to all DOD organizations requesting support in this area.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)				Explanation of obligation
	Prior year	Current fiscal year	In-house	Contract	
					Chemical training agents and equipment: The objective of this effort is to provide simulant agents (persistent and nonpersistent) and disseminating devices to train both individuals and units to survive in a chemical warfare environment through recognition of attack, execution of protective procedures, and decontamination when attack is recognized. Agents must be identifiable through field detection methods and be capable of being decontaminated by field decontamination methods. Studies were initiated of thickened agent simulants using polyethylene glycol (PEG) 200 with various additives which would increase training realism and provide punitive effects when the proper protective measures are not taken. The physical properties of the resultant materials were determined and compared with the properties of nerve agents GD and HD. These studies will be completed in fiscal year 1980. Toxicity tests were conducted with PEG 200 and buytl mercaptan, the persistent agent and nonpersistent agent simulants, respectively, to increase the toxicity data base of these materials. Toxicity tests were also conducted of fluorescein and tinopal CBS tracer dyes, and irritancy tests were performed on a CS/PEG 200 mixture. Exploratory development was completed of an improved airburst simulator with PEG 200 and investigations started to use this same device to disseminate thickened agent simulants. Exploratory development was also completed of nonexplosive disseminating devices for nonpersistent agent simulants. A contract was awarded for development of a radio signal activated M8 alarm training aid which is scheduled for completion in fiscal year 1980. A search for n-butyl mercaptan vapor reactions suitable for use with the M256 detector kit ticket was initiated and will be continued during fiscal year 1980. Engineering development effort: Training system for chemical defense, phase II: Engineering development continued on devices for chemical warfare defense training of military personnel. The design configurations for the simulator, projectile, airburst, liquid (SPAL), XM11; the reusable XM267 5-tube launcher: and the dispenser and chemical agent, simulant; ground, XM137; were completed and feasibility demonstrated in engineering developmental tests. Contracts were awarded for XM11 SPAL burster housings and launcher tubes for development test II (DT II) and operational test II (OT II). The XM137 dispenser is a commercial 1½ liter can and will not require any significant design effort. The outline acquisition plan, preliminary engineering drawings, and draft system specifications were also prepared.
2. Lethal Chemical Program	1.059	1.122	1.732	.449	
(a) Agent investigations and weapons concepts.	(.000)	(.948)	(.925)	(.023)	Exploratory development effort: Lethal chemical agents/weapons: The objective of this exploratory development program is to evolve agent/munition system concepts and supporting technology which will provide the United States with a credible lethal chemical agent deterrent capability. Technological support of the XM736 VX-2 8-in projectile was continued by studying the binary agent and simulant reactions in small, intermediate, and full-scale munition reactors. The simulant binary reactants were then modified to more closely match the simulant reaction temperature and pressure to the same agent parameters. Additionally, minor changes were made to the agent binary reactants which decreased the reaction temperature and pressure and, also, increased the agent yield. These activities complete the exploratory developmental technological support of the XM736 projectile. Chemical compounds were examined as potential binary intermediate volatility agents by studying the binary reaction in several sizes of laboratory reactors. The compound EA 5355 was determined to be unacceptable for weaponization, but analogs and/or homologs of this compound may be acceptable so evaluation of these materials was undertaken. Additionally, studies were undertaken to ascertain the possibility of utilizing binary GD as an intermediate volatility agent. Binary GD reactions were conducted in laboratory reactors, over a temperature range of −20° C to +30° C, with 6 chemicals to evaluate their ability to increase the speed of the binary reaction to produce lethal agent. 2 chemicals showed high potential as reaction promoters and will be further investigated during fiscal year 1980. Additionally, chemicals for thickening the binary GD agent will be evaluated during the forthcoming year. Several munitions were studied for delivery of binary lethal agents. A binary GB, a standard U.S. nerve agent, concept was designed for the 81-mm mortar projectile and components fabricated for dynamic testing in fiscal year 1980. Dissemination trials were conducted of binary intermediate volatility agent simulant filled 155-mm projectiles on an instrumented grid to estimate the casualty producing capability of this munition. Spin fixture trials were carried out to evaluate the effect of nonrigid payloads (e.g., thickened binary agents) on the dynamic stability of artillery projectiles. Additional exploratory development studies of binary conceptual munitions are planned for fiscal year 1980. Systems analysis support was provided to the U.S. Army Ordnance and Chemical Center and School's (USAOCCS's) chemical operations study of lethal chemical agents/munitions. Mathematical modeling techniques were used to predict the casualty producing rates of 65 chemical agents/munitions combinations. The casualty data were ranked by munition type and protection mode of the enemy. USAOCCS selected 20 "best mix" agents/munitions combinations, and laboratory system analysts collected cost data on these items and provided this information to USAOCCS for inclusion in their final report of the chemical operations study planned for publication in early fiscal year 1980. A feasibility study to evolve possible inflight countermeasures against missiles with chemical agent payloads was undertaken. A chemical agent missile scenario was prepared that provided a guide to possible countermeasure techniques for investigation, as well as evaluating residual hazards from the incursion. This information was furnished to a contractor to conduct the feasibility study to achieve a matrix of countermeasure concepts versus the probability of successful incursion and the attendant hazards. This study is planned for completion in fiscal year 1980.
(b) Agent pilot plant investigation.	(.000)	.155	(.155)	.000	Exploratory development effort: Chemical agent process technology: The objective of this exploratory development effort is to develop chemical processing concepts for agents/intermediates manufacture and filling of binary lethal agent munitions which will provide the United States with a credible lethal chemical agent deterrent capability. In support of the XM736 VX-2 8-in projectile project, process data for one of the binary VX reactants (designated as NM) were collected for inclusion in the technical data package of this munition. Process waste stream studies of the other binary VX reactant (designated QL) were conducted in a recently refurbished incinerator. Both the chemical manufacturing process and waste stream studies of NM and QL will be completed in fiscal year 1980. Literature studies on the preparation of pinacolyl alcohol, a reactant for binary GD, were initiated. These studies will continue in the forthcoming year to determine preparative methods, costs, and raw material availability.
(c) Tactical Weapons Systems.	(.891)	(.000)	(.465)	(.426)	Engineering development effort: Lethal chemical ground munitions: In fiscal year 1979, the engineering development program of the XM736 VX-2 8-in projectile continued. A malfunction investigaton, resulting from two problems that occurred during the development test II (DT II) safety phase in fiscal year 1978, was successfuly completed. One problem was liquid leakage from the projectile near the howitzer's muzzle due to over lubrication and subsequent shearing of the projectile's base threads from the setback and spin-up forces. This problem was resolved by keying the long forward QL XM27 canister to the projectile body, thereby removing most of the torque from the projectile's base threads. The second problem was premature functioning of the projectile in its late trajectory before fuze set time when fired at high temperatures and long flight times due to an exothermic secondary reaction within the reactive simulant. By chemically balancing the reactive simulant components, the secondary reaction was moderated to eliminate the early projectile functioning problem. A confirmation test was conducted to verify that these changes resolved the aforementioned problems. The development test II (DT II) safety phase was then resumed and completed in May 1979. Based

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
			on the results of this test, TECOM issued a Safety Release for Operational Test II (OT II) of the XM736 projectile. The D II Transportation Phase was started and continued through Sep 79. The test phase of the Productibility Engineering and Planning (PEP) program of the XM736 projectile was partially implemented. Static testing was completed and dynamic testing was initiated. PEP designs to enhance producibility of the XM736 projectile include improvements to the projectile's base, inertia welded canister end plates, and an inertia welded expulsion cup/ogive assembly. Those designs successfully passing the PEP tests will be incorporated into the preliminary technical data package. Coordination was completed with the simulant/simulation committee. The committee members' consensus was that upon successful completion of a laboratory agent/simulant correlation program, open air testing with binary VX would not be required. This laboratory program was established with the assistance of the committee, coordinated through several Army organizations, and considerable progress made in meeting its objectives. Coordination progressed in preparation for OT II of the XM736 projectile; however, availability of safety qualified and approved M509E1 8-in projectiles for registration is the controlling factor in intiating the test. Principal fiscal year 1980 activities will be the completion of DT II and PEP tests, implementation of OT II, and finalization of the preliminary technical data package in preparation for type classification in fiscal year 1981.
(d) Materiel tests in support of joint operations plan and/or service requirement.	(.000) (.000)	(.000) (.000)	No effort expended in this area.
(e) Army material development tests.	(.168) (.019)	(.187) (.000)	Testing was implemented of binary munitions with the major emphasis on the XM-736 VX-2 8-in projectile. A malfunction investigation of early functioning XM736 projectiles required the testing of 107 projectiles containing several modifications to resolve this problem. The DT II safety phase was resumed and completed utilizing 307 XM736 projectiles of which 278 projectiles were dynamically fired. At the conclusion of the DT II safety phase, TECOM issued a safety release for OT II of the XM736 projectile. Subsequently, the DT II storage/transportation phase with 240 XM736 projectiles and the PEP safety firings using 128 XM736 projectiles were started. These tests will be completed in fiscal year 1980. Also, during fiscal year 1979, 6 intermediate volatility agent simulant filled 155-mm projectiles were fired over an instrumented grid to determine characteristics of the disseminated liquid aerosol.
3. Incapacitating chemical program	.100 .000	.100 .000	
(a) Agent investigations and weapons concepts.	(.100) (.000)	(.100) (.000)	Exploratory development effort: Incapacitating Chemical Agents/Weapons The objective of this effort is to uncover and evaluate incapacitating chemicals, develop concepts of use, and establish the feasibility of munition devices for their delivery. Current emphasis of this program has been on developing physicially incapacitating agents that would not only be effective by inhalation, but would also penetrate clothing and be effective through the skin. 2 approaches to this problem have been investigated. In the 1st, solutions of agents in percutaneously active solvents were screened for enhancement of percutaneous activity and for their ability to penetrate clothing. In the 2d approach, structural analogs of a compound of interest were synthesized, to seek a more volatile compound that would also have percutaneous activity. Explosive dissemination studies of an agent simulant have been continued, to relate droplet size the to dissenination technique. A new study toeexamine and define current concepts for use of incapacitating agents was initiated. It is planned to complete these studies during the current fiscal year. However, the synthesis program is considered to be an ongoing effort due to the need for an incapacitating agent that will penetrate multiple layers of clothing.
(b) Agent pilot plant investigations.	(.000) (.000)	(.000) (.000)	No effort was expended in this area.
4. Defense equipment program	2.042 25.663	16.123 11.582	
(a) Physical protection investigations.	(.335) (4.271)	(2.950) (1.656)	Exploratory development effort: Chemical decontamination and contamination avoidance: The objective of this technical area is to evolve procedures, materials and equipment for use in decontamination of personnel, personal items, clothing and tactical (T.O. & E.) table of equipment by all armed services. Included are studies on designes and materials which preclude chemical contamination and allow for ease and speed of decontamination to the optimum degree practicable. The studies also support decontamination concepts for industrial operations. The major accomplishments are as follows: (a) A study was begun to determine the evaporation characteristics of agents from a variety of surfaces. These data will be used to project hazard levels which are to be addressed by all systems under development. The major accomplishments are as follows: (a) A study was begun to determine the evaporation characteristics of agents from a variety of surfaces. These data will be used to project hazard levels which are to be addressed by all systems under development. (b) A survey of industrial state-of-the-art materials and materials compatibility was continued. Data generated will be used to prepare a materials handbook for use by all military materiel developers. (c) Work was begun to refine previous efforts on design requirements for military materiel to minimize contamination or ease or speed of decontamination. A handbook containing the resulting recommendations will be published for use by materiel developers. (d) An investigation was begun of the feasibility of using laser produced multiple photon dissociation as a new decontamination technique. This study, if successful, would result in a radically new decontamination method. (e) Water based decontaminants were studied as possible substitutes for DS2. If any of the concepts under investigation prove successful, a decontaminant will be available which is noncorrosive and noncombustible and poses less of a logistical burden than DS2. (f) Concept models of jet exhaust, steam/hot water, and high intensity infrared decontaminating systems were produced. Evaluations were begun. The most attractive concept(s) will be further developed into a new large scale (rapid) decontamination system. (g) A study was begun of methods of decontaminating chemical protective clothing; steam, laundry, and microwave methods are to be considered. A successful system will reduce replacement logistics for protective gear. (h) Contracts were begun to address the question of the decontamination of the interior of combat vehicles. Efforts are directed at finding a method which is not destructive of the materials and devices found on the interiors of tanks, shelters, personnel carriers, etc. (i) Planning for a symposium on the entire decontamination program, to be held in the spring of 1980, was begun. The symposium is intended to open the problems of decontamination to the thinking and expertise of private industry and research institutions. Chemical protection technology: The development in this area is to provide improved concepts, methods, and materials for individual respiratory, body and collective protection against all potential threat agents for triservice application. In addition, this work supports concepts for occupational health and safety in industrial operations. This is accomplished by in-house/contractor efforts on sorbents; concepts for residual gas life indicators; studies on materials and methods which reduce energy, logistical and/or physiological demands and improve optical and communications characteristics

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

	Funds obligated (millions of dollars)		
Description of R.D.T. & E. effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
			of protective items; and evaluation of protective systems against all agents. Accomplishment during fiscal year 1979 included: (a) Completion of residual gas life indication application to certain gas filters. (b) Completion of feasibility studies of simplified CP for existing structures. (c) Contractual effort to develop microencapsulated agent-reactive material. (d) Exploitation of replacements for ASC wheterite. (e) Finding new materials for new mask. The probe in bed technique for determining residual gas life using the modular collective protective equipment (MCPE), M12A, M18, and the Canadian mask canister, was investigated under contract by Mine Safety Appliance Co. research. A contract was negotiated to investigate various electronic methods of residual life measurements. A contract was negotiated to investigate various electronic methods of residual life measurements. A draft letter of agreement (LOA) was forwarded to TRADOC. Contractual work at Worcester Polytechnical Institute (WPI) on a methane/ethane pulse method for residual life indicator looks promising for wider filter applications. A new contract for scaled-up studies of viton and trimethylol propane trimethyacrylate was awarded to Lehigh University. Resolution of low temperature flexibility limitations was studied. Laundered overgarments were evaluated for HD vapor capacity and the report published in 4th quarter fiscal year 1979. The contract with Southern Research Institute was awarded in 4th quarter fiscal year 1979 to continue the development of microencapsulated agent-reactive materials for application to protective clothing.
(b) Chemical warning and detection investigation.	(.000) (3.238)	(2.593) (.645)	Exploratory development effort: Chemical detection and identification technology: The objective is to evolve new physical, chemical, and biological concepts for use in new equipment. This equipment will detect and identify lethal and incapacitating (cml) agents in air, in water, and on surfaces. It will include a field capability to sample and analyze unknown toxic chemical agents and individual detectors for soldiers. The aim is to increase sensitivity and ease of use while decreasing the logistical burden. All tasks are applicable to Army, Navy, Air Force, and Marine Corps requirements. A program has been initiated to develop a contamination monitoring system to valuate vehicle, clothing, and terrain surfaces for agent before and after contamination. Studies have been conducted on painted panels and articles of clothing contaminated with different agents to determine the ability of standard items to detect the presence of agent vapor above the surface after various periods of time. Technical reports will be prepared for use by USAOCCS in preparing a manual for field use. A longer range program has begun to develop a complete contamination monitoring system. Studies were begun on an M256 detector kit training device to detect the nonpersistent simulant used during field training exercises. A series of reagents were found which produce colored reaction products with the simulant (butanethiol). These are being evaluated for sensitivity and stability. Also, reagent systems were developed to produce the desired color change when no agent or simulant is present. A program has been initiated to develop an NBC reconnaissance system which will provide a sampling, analysis, and marking capability. As in the contamination monitoring system, the program will produce technical reports for use by USAOCCS in preparing manuals for field use. Work has been started on a long range development to meet all field needs. Chemical alarms technology: The objectives of this area are to evolve new and improved equipment for the automatic detection of all lethal and incapacitating agents. The new alarms will add remote sensing and contamination monitoring capabilities as well as provide a means of disseminating the alarm to a company size unit. Current alarms will be improved by increasing the number of agents detectable and chemical agent sensitivity, while decreasing the logistical burden on the unit. All tasks are applicable to Army, Navy, Air Force, and Marine Corps requirements. A letter of agreement is being processed by TRADOC for the automatic liquid agent detector (ALAD) to provide a capability for automatic detection of liquid agent droplets. Efforts are also being conducted under Air Force funding to provide an ALAD add-on to the Air Force production model of the A/E 23D-2 (ionization detector). Studies to develop an alarm system to satisfy the joint service operational requirement (JSOR) for an advanced chemical agent detector alarm (ACADA) are now being concentrated on the concept of ion mobility spectrometry (IMS). Feasibility studies on two competing experimental IMS alarm systems, each designed by a different contractor, were initiated. One system demonstrated the capability of detecting mustard agent directly while the other system required the use of a Corona generator to convert the mustard to a detectable compound prior to detection. Laboratory tests indicated that both systems should be able to meet the JSOR detection requirements for mustard. Feasibility studies, including sensitivity, interference, and environmental testing, were pursued and results look promising for both systems. Based on results during exploratory development, 1 of these 2 systems will be selected for entrance into advanced development. Studies to develop a chemical method of converting mustard to a compound detectable by the IMS, which would prove superior to the Corona generator method have continued. Some success was achieved in efforts to improve the agent sensitivity of this system by employing a microporous membrane and a suitable adsorbent/desorbent material to preconcentrate the agents.
(c) Advanced development of defense systems.	(1.707) (10.027)	(4.095) (7.639)	Advanced development effort: Chemical decontamination materiel: The decontaminating apparatus, portable: 19 liter, XM13, is being developed to meet one of the needs cited in the U.S. Army Ordnance and Chemical Center and School study, "Improved Chemical Defense for Battalion-Sized Units" made in 1975. The threat of battlefield contamination by thickened and unthickened vesicant and nerve agents dictates the requirements for a crew operated decontamination apparatus which will reduce the toxic chemical agent hazard level of tactical vehicles and weapon systems in the combat zone. The XM13 is being developed to provide an increased capability over the standard M11 unit, especially in terms of greater area that can be decontaminated. Additionally, the XM13 will provide a brushing capability to enhance decontamination of thickened agents. The unit is being designed to be compatible with both the standard decontaminant DS2 and water. The XM13 will be vehicle mounted, man portable, and manually operated. The concept of an auxiliary powered system for emptying the container is being studied. The 1st 6 mo of a 2-yr developmental contract have been completed. Working models have been demonstrated and selection of 2 of these models for further development has been made. The objective of this task is to evolve a materials compatibility handbook to provide guidance in contamination minimization primarily for nuclear weapons systems. Specific studies include detailed investigation of the effect of decontaminants, agents and decontamination breakdown products on material and development of water-based decontaminants which are not combustible, excessively corrosive or deleterious to weapons and weapons sysems. Evaluation and screening studies were begun in an effort to identify a water-based replacement for DS2. 2 contracts were awarded to study 2 types of water-based decontaminants. 1 contract has been completed, the other will terminate by 1st quarter, fiscal year 1980. Studies to quantify the effects of agents and decontaminants with components of a nuclear weapons system were investigated. This information is input to the technology handbook. Studies were initiated on a personal decontamination system which led to a product improvement on the M258 decontamination kit. Chemical warning and detection materiel: Advanced development was reinitiated on the chemical remote sensing alarm, XM21 (SCI-REACH I) based on long path infrared technology. The advanced development contract for this effort was awarded in March 1979. A review will be held in September 1980 to decide whether to enter engineering development in fiscal year 1981. The letter of agreement for a detector kit for chemical agents in water was approved by TRADOC and DARCOM in June 1979. The advanced development program has been initiated. A request was made for a secretarial determination and finding (D. & F.) to authorize the development contract and a scope of the contract was prepared pending approval of the D. & F. A final technical report is in preparation for the XD phase of this program.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
			Engineering development effort: Individual chemical protection: There is a military requirement for a new protective mask to provide respiratory protection against field concentrations of all chemical and biological agents in vapor or aerosol form. This new mask shall replace the M17 and M17A1 field protective masks, M24 air crew mask, M25A1 tank protective mask, M9A1 special purpose mask, and the Navy MK–V mask. Engineering development was initiated on the XM29 mask in Sep 77 under contract with Sierra Engineering Co. (now Scott Aviation-Sierra Products, Inc.), Sierra Madre, Calif. The XM29 mask is molded of transparent silicone rubber with integral lens, referred to as the unimolded design. The large flexible lens of the XM29 mask provides a maximum field of view and is compatible with all field optical devices and weapon sight. An external canister is easily replaced and can be worn on either cheek to accommodate both right-handed and left-handed soldiers. The new mask will fit over 95 percent of the military population including females. With appropriate accessories, the XM29 mask will satisfy the requirements for air crew, tank crew, and special purpose applications. Because of the permeability and soft, tacky surface of silicone, coating of silicone is essential to meet military requirements. Extensive efforts to develop a fully satisfactory coating system were not successful. The program was redirected from the unimolded XM29 design to the separate lens configuration (bonded in lens) of the XM30 design in April 1979. Candidate XM30 mask prototypes with both coated silicohe and uncoated polyurethane lens were furnished by Scott Aviation-Sierra Products, Inc., Mine Safety Appliance Co., and ILC-Dover for in-house comparative evaluation. None of the candidate flexible lens materials were found to satisfy fully military requirements for operation at environmental extremes, resistance to field solvents, and durability. The Army will consider the limitations of the XM30 mask in view of the urgency of the requirements at a special review in October 1979 and decide on whether or not to terminate further development until a fully satisfactory lens material is developed. In the event that engineering development is terminated, alternatives to the flexible lens design will be developed and evaluated concurrent with an expanded exploratory investigation on new flexible lens materials. Note: Since the cut-off date of this report (September 1979), Department of the Army conducted an in-process review (IPR) on the new protective mask program during October 1979 and decided to continue engineering development and concurrently initiate a program to investigate new materials and designs for the new mask.
(d) Collective protection system.	(.000) (.090)	(.085) (.005)	Engineering development effort: Chemical biological collective protection: Modular collective protection equipment must be capable of providing NBC protection for applied systems crew members in environmental categories 1–6. A continuing effort is necessary to adapt and demonstrate capability of MCPE to service AN/TSQ–73. Improved Hawk, Patriot, Sam D, firm CP requirements and any new collective protection requirements established by TRADOC. Testing of the XM5 static frequency converter was completed. MCPE was fabricated with ancillary components. Compatibility tests were made to verify capability of MCPE for servicing new applications.
(e) Warning and detection equipment.	(.000) (1.000)	(.962) (.038)	Engineering development effort: Chemical detection and warning material: The signal, illumination, ground audible, chemical attack warning transmission system, XM207 (CAWTS), entered engineering development this year. It consists of an M158/159 ground signal which has been modified to contain the audible and visual alarm components required by the letter requirement. To provide warning of a chemical agent attack over a company area, this system provides a warning which can be seen and heard at 0.5 kilometers. TRADOC has requested that the alarm package be modified to produce an audible signal lasting 10 seconds and visual single stars consecutively burning white, red, white. Tests have indicated that the changes are achievable. The paper, liquid chemical agent, XM9, is a dye impregnated paper that turns red when hit with liquid agent. The paper is wrapped around the soldier's arms and legs and attached to the outside of vehicles. Positive color changes indicate a liquid chemical agent rain attack. This item will provide the Army and other services with a capability whereby each individual can determine when or if they or their equipment has been exposed to droplets of toxic chemical agents. It does not replace any existing item. This item is in the final stages of development which is scheduled for completion in fiscal year 1980. Development and operational testing has been completed and reports are being prepared by TRADOC and TECOM. The problem of false positive reactions produced by LSA (lubricant, small arms) on this detector paper continues. 2 alternates look promising. Recent data has shown that a nonmutagenic blue dye, which masks the color produced by the LSA, is effective. An alternate lubricant, CLP, which does not produce false positive spots, is presently being evaluated by ARRCOM and standardization seems likely.
(f) Medical defense against chemical agents.	(.000) (7.027)	(5.428) (1.599)	Exploratory development effort: In the area of medical prophylaxis and therapy against nerve agents, considerable data has been collected which indicates that both atropine and benactyzine, 2 potent components of the currently fielded therapy, cause serious neurobehavioral side effects. These side effects seem to be independent and yet temporally sequential. Studies which would elucidate the nature, extent, and duration of these side effects were undertaken and the data indicate that benactyzine has a very short onset and duration while atropine has a slow onset and a long duration. Preliminary data from other novel experimental studies developed to measure defined neurobehavioral systems also inidicate decrements in animal performance after current therapy (TAB) administration without agent exposure. Due to inherent scientific reproducibility and interpretability, these types of studies will continue to be used to study future antidotal compounds which may have fewer side effects and greater efficacy against nerve agent posioning. A better understanding of the mechanisms of action of both the organophosphates and of the therapeutic compounds used to treat organophosphate poisoning is necessary to provide more efficacious antidotes. Mechanistic studies have indicated that neurotransmitters other than acetylcholine are involved in nerve agent poisoning. Data also indicate significant direct involvement of specific brain areas which include critical central respiratory and vision centers. The studies also indicate that these central aberrations are not directly counteracted by current therapy. However, these newly developed techniques will expedite the development and evaluation of new centrally active therapy compounds. Animal studies designed to test the increased efficacy afforded by pyridostigmine pretreatment were developed. Data indicate that pyridostigmine pretreatment enhances protection of current therapy and other novel therapy regimens. Sensitive methods to detect pyridostigmine in human body fluids have been developed. Human studies designed to establish effective doses of pyridostigmine without a decrementation in performance have been deferred at this time. Membrane receptor isolation studies have been developed to study nerve agent and therapeutic compound interactions with receptor sites. These studies are delineating the specific membranal location of agent action in peripheral neuromuscular junctions. This will permit studies involving the synthesis of specific ligands which will bind to and protect the cholinergic receptors from the poisoning effect of nerve agents. Innovative experiments have been designed and developed to study the effects of nerve agents on noncholinergic enzyme systems. Data from these studies indicate that nerve agents may interfere with neuronal membrane transport and metabolic systems thus having more subtle indirect effects on neuronal function than previously realized. Studies of percutaneous protection from nerve agents have been developed to evaluate protective barriers. Data indicate the polyethylene glycol 1500 provides minimal protection against the various nerve agents. The major limitation of this preparation may be its wearability under adverse conditions in a combat situation. More realistic experimental models are being developed to evaluate this and future protective creams and barriers. Exposure of bacterial cells to the chemical agent mustard results in damage to the cellular DNA. This damage interferes with cellular replication and growth and may be the basis for the severe vesication seen as a result of mustard contamination in humans. The search for compounds to protect against mustard induced DNA damage has not been fruitful. Novel approaches are being evaluated, and the mustard research program is being revised. Animal trials of an antidote to replace nitrites for cyanide injury have been initiated. Data indicate that 4-dimethylaminophenol (4-DMAP) is efficacious in the treatment of cyanide poisoning. Preliminary results infer a lack of side effects as seen with the nitrites. Future studies could lead to an investigational new drug (IND) application for 4-DMAP as a replacement item for the nitrites in treatment of cyanide poisoning.

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
			In conjunction with the transfer of the Biomedical Laboratory to the U.S. Army Medical Research and Development Command, panels of experts were convened to review the research programs of medical defense against chemical agents. These reviews resulted in recommendations which will be developed into new programs to assess the efficacy of novel therapy compounds and treatment regimens for medical defense against chemical agents.
(g) Materiel tests in support of joint operational plans and/or service requirements.	(.000) (.000)	(.000) (.000)	No effort expended in this area.
(h) Materiel development tests.	(.000) (.000)	(.000) (.000)	Engineering development effort: Paper, liquid chemical agent, XM9: Performed DT II and agent testing of samples of XM9 returned from environmental sites.
Simulant test support	.000 .650	.561 .089	
(a) Materiel tests in support of joint operational plans and/or service requirements.	(.000) (.650)	(.561) (.089)	Efforts were directed toward the planning, conducting and/or reporting of the following joint operational tests and operations research studies: (1) Simulant review and selection: This is a continuing effort and is designed to determine from laboratory/chamber experiments the physical/chemical properties most important in simulating thickened agents and to develop a spectrum of chemical agent simulants for use in field testing. During this period, a wide spectrum of possible thickeners for a number of candidate test materials has been tested. Literature review has been updated as pertinent data becomes available. 3d annual report has been published covering the fiscal year 1979 efforts. (2) Agent transfer factors: This test is designed to obtain data on the transfer factor and pickup associated with the field employment of vehicle and equipment exposed to thickened agent simulants. Laboratory testing for obtaining the transfer function and evaporation rate has been completed and the report published. Field trials were conducted utilizing various items of material which were contaminated with agent simulants, decontaminated and then subjected to various handling and/or operating sequence by personnel. Technical difficulties with the data reduction analysis and evaluation has delayed the publication of the final report. Report scheduled for completion 1st quarter fiscal year 1980. (3) Effects of chemical attack on tactical staging operations: This study will evaluate the effects of an attack with chemical agents in tactical staging areas and will provide a data base for a realistic appraisal on the effects of such an attack on tactical operations. Literature review has been completed. A general evaporation model was developed and verified with field test data. Study scope was increased to evaluate various targets. Study is currently scheduled for completion 3d quarter fiscal year 1980. (4) Chemical logistics evaluation: This test is designed to evaluate the current U.S. Marine Corps chemical weapon and support systems. Laboratory investigation for the determination of the simulant materials to be used for the field trials has been completed. Trials involving filling and decontamination exercises have beee completed. Dissemination testing has been initiated and 6 of 12 field trials have been completed. The remaining dissemination trials and final report will be completed by the 2d quarter fiscal year 1980. (5) Protective capabilities of standard personnel gear: This test is designed to evaluate the protective capabilities of the standard Army combat environmental uniforms, U.S. Navy foul weather gear, the Army's wet weather gear, Marine Corps/Air Force aircrew antiexposure suit liner, Air Force firefighter equipment and candidate material for future fabrication of foul weather gear. Tests utilizing different combinations of material samples with chemical agents to obtain penetration data have been completed and a draft interim report has been completed. Chemical agent vapor challenges of various ensembles to measure vapor penetration conducted in chambers have been initiated. Laboratory investigations to determine whether the CB overgarment can be effectively decontaminated and still provide protection is in progress. Test completion is scheduled for 1st quarter fiscal year 1980. (6) Agent characteristics and effects: This study is designed to catalogue and describe the characteristics of and the effect in man produced by chemical and biological agents. A literature search has been completed and data are being tabulated for a variety of chemical and biological agents. Study will be completed 1st quarter fiscal year 1980. (7) Weapons effects: This study is designed to evaluate and summarize chemical and biological weapons effects. Scope of effort has been coordinated. A literature search is in progress and data are being tabulated. Study will be completed in the 4th quarter fiscal year 1980. (8) Material/terrain decontaminant evaluation: This is designed to evaluate decontaminant effectiveness on a variety of military equipment surfaces to include aircraft and aerospace equipment. During this period planning and coordination with the services was completed. Testing was initiated with completion scheduled by 3d quarter fiscal year 1980.

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30 1979; RCS DD–D.R. & E. (SA) 1065

Description of PAA effort	Funds obligated (millions of dollars) Prior year Current fiscal year	In-house Contract	Explanation of obligation
Chemical warfare program	0.977 25.021	7.087 18.911	During the fiscal year 1979, the Department of the Army obligated $25,998,000 for procurement activities associated with chemical warfare agents, weapons systems, defensive equipment and production base projects. Program areas of effort, concerned with these obligations were as follows:

Lethal chemical program:	
Materiel procurement	0
Production base projects	398,000
Total lethal chemical	398,000
Incapacitating chemical program:	
Materiel procurement	0
Production base projects	0
Total, incapacitating chemical	0
Defensive equipment program:	
Materiel procurement	23,186,000
Production base projects	2,414,000
Total defensive equipment	25,600,000

SEC. I.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065—Continued

Description of PAA effort	Funds obligated (millions of dollars): Prior year	In-house	Current fiscal year	Contract	Explanation of obligation
1. Lethal chemical program	.000	.398	.398	.000	
(a) Item procurements	(.000)	(.000)	(.000)	(.000)	No obligations were incurred for procurement of lethal chemical end items.
(b) Production base projects	(.000)	(.398)	(.398)	(.000)	Obligations incurred to provide process data for production waste, canister filling and projectile assembly required for the 8-in. binary projectile.
2. Incapacitating chemical program	.000	.000	.000	.000	
(a) Item procurements	(.000)	(.000)	(.000)	(.000)	No obligations were incurred for procurement of incapacitating chemical items.
(b) Production base projects	(.000)	(.000)	(.000)	(.000)	No obligations were incurred for production base projects in support of incapacitating chemical programs.
3. Defensive equipment program	.977	6.689	24.623	18.911	
(a) Item procurements:					
(1) Decontaminating apparatus, M12A1.	(.167)	(.389)	(1.820)	(1.598)	Obligations incurred for in-house support and procurement of M12A1 decontaminating apparatus.
(2) Filter unit, M8A3	(.000)	(.107)	(.662)	(.555)	Obligations incurred for procurement and in-house engineering support for M8A3 filter unit to supply purified air for crewmembers of armored vehicles.
(3) Filter unit, M13A1	(.000)	(.760)	(1.440)	(.680)	Obligations incurred for procurement and in-house engineering support for M13A1 filter unit used to supply purified air for crewmembers of armored vehicles.
(4) Alarm, M8—M10, chemical agent.	(.172)	(1.776)	(16.642)	(15.038)	Obligations incurred for procurement and in-house engineering support of chemical agent alarms used to detect chemical agents.
(5) Shelter system, M51	(.505)	(.505)	(.000)	(.000)	Obligations incurred for in-house engineering support of M51 shelter used to provide CB protection to field units.
(6) Modular collective protective equipment.	(.000)	(.605)	(1.645)	(1.040)	Obligations incurred for procurement and engineering support of modular collective protection equipment used to provide CB protection to field units.
(7) Mask, M24	(.133)	(.133)	(.000)	(.000)	Obligations incurred for in-house engineering support of M24 mask used to provide CB protection to air-crew personnel.
(b) Production base projects:					
(1) MMT CB filters	(.000)	(.400)	(.400)	(.000)	Obligations incurred for establishment of production process data to provide industry for manufacture of numerous large CB filters.
(2) MMT new protective mask.	(.000)	(.629)	(.629)	(.000)	Obligations incurred to establish a pilot facility to prove out production concept for the new protective masks.
(3) MMT biological warning system.	(.000)	(.525)	(.525)	(.000)	Obligations incurred to resolve production problem areas for specific components prior to industry production.
(4) MMT charcoal filter tests	(.000)	(.860)	(.860)	(.000)	Obligations incurred for manufacturing methods and technology efforts in connection with charcoal filter tests.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars): Prior year	In-house	Current fiscal year	Contract	Explanation of obligation
Biological research program	0.134	12.579	16.361	3.916	During the fiscal year 1979 the Department of the Army obligated $16,495,000 for general biological research investigatious and the development and test of physical and medical defensive systems. Program areas of effort are as follows: Biological research: Basic research total $300,000 Defensive systems: Exploratory development 12,295,000 Advanced development 0 Engineering development 3,810,000 Testing 90,000 Total defensive systems 16,195,000 Simulant test support 0
1. Biological research	.000	.149	.300	.151	
(a) Basic research	(.000)	(.149)	(.300)	(.151)	Basic research in support of biological defense materiel: The objectives of this research are: To acquire basic information on support of biological defense systems, and to centinue augmentation of a technology base in nonmedical aspects of biological defense; conduct research on basic phonomena in biochemical, optical, aerobiological and microbiological methodology with relevance to rapid detection, identification and decontamination of bacteria and viruses.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

	Funds obligated (millions of dollars)		
Description of R.D.T. & E. effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
			Methodology was devised for enzymatic release and conversion of tissue cell constituents to fluorescent or colored products. Detection of tissue cell fragments was demonstrated for a peroxidase-linked specific antibody technique. Both of these accomplishments offer a potential for virus detection that can be utilized in the biological agent test kit (BATEK III). In fiscal year 1980, elucidation of enzymatic detection of tissue cell neuraminic acid will be completed, and studies on enzyme linked antibody detection of tissue cell neurominic acid will be completed, and studies on enzyme linked antibody detection of tissue cell antigens will acquire data on the feasibility of these indirect approaches to virus detection. Regarding real-time detection of biological agents, interferometry and Fourier transform spectroscopy studies will be conducted on microwave absorption by biological aerosols.
2. Defensive equipment program	.134 16.061	12.430 3.765	
(a) Physical defense against biological agents.	(.000) (1.045)	(.750) (.295)	Exploratory development effort: Biological detection and alarm technology: The objectives of the investigations in this area are to evolve new concepts for rapid detection and warning of a biological agent attack, new or improved decontaminating agents, equipment, and procedures for use against biological contamination, and to evaluate protective items for biological defense. All tasks are applicable to Army, Air Force, Navy, and Marine Corps requirements. Candidate detection and decontamination concepts are evaluated for feasibility; those with sufficient promise are tested for entry into AD. Potential threats to present and future materiel or systems are considered. No viable alternatives presently exist for achieving the required biological defense capability. Laser induced detection and ranging (LIDAR) hardware for field testing is now being fabricated under an exploratory development contract. This hardware will demonstrate the feasibility of remote sensing techniques in the field using biological aerosols, ambient background, and possible interferents. A rapid responding biological alarm contract was negotiated to fabricate 4 breadboard rapid chemiluminescence devices. The devices are to achieve detection in 20 seconds or less to show feasibility of development. A draft comprehensive report was prepared which analyzed the biological defense system development needs. The biological decontamination effectiveness of the jet exhaust decontamination system was studied. Efforts were continued to provide biological support for the new mask development program.
(b) Biological defense materiel concepts.	(.000) (.000)	(.000) (.000)	No effort expended in this area.
(c) Biological defense materiel.	(.000) (3.810)	(2.614) (1.196)	Engineering development effort: Biological defense materiel: The objective of this project is to complete ED on a first generation biological agent detection and warning system for Army field use. The system will be employed at brigade and division tactical operations centers. This materiel is responsive to the capability requirements of the armed services. The development of this system is scheduled for completion in fiscal year 1981. The unit consists of the XM19 alarm which automatically detects biological agent in the atmosphere by a chemiluminescent reaction. The XM2 sampler, which is then automatically activated, samples the atmosphere for subsequent identification by designated medical laboratories. Engineering development continued with the completion of the engineering design, test, and evaluation phases. Field tests were performed to acquire additional simulant challenge and amibient background performance data. Level III drawings were completed and preparation of specifications initiated. Review of various organizational and operational issues was conducted at a joint working group meeting convened by TRADOC. Studies were initiated to evolve approaches to providing the capability of determining "all clear" conditions after a biological attack.
(d) Medical defense against biological agents.	(.134) (10.939)	(8.799) (2.274)	Exploratory development effort: Medical defense against BW: The experimental programs are targeted toward: (a) Medical defense against biological warfare (BW); (b) infectious illness which pose special problems to our military forces; and (c) the safe study of infectious, highly dangerous microorganisms in the unique and special containment facilities. During the past year, the research programs continued to emphasize studies on some of the most virulent and pathogenic microorganisms known. Priority I studies continued on many high-hazard viruses which require special P–4 containment facilities including viruses that cause Lassa fever, Congo/Crimean hemorrhagic fever, Bolivian hemorrhagic fever, Argentinian hemorrhagic fever, and Korean hemorrhagic fever (KHF). Most recently, another high-hazard P–4 agent, Ebola virus, was successfully introduced into the program. Other priority I studies were concerned with Rift Valley fever, Legionnaires' disease, anthrax and botulism. All priority I studies are concerned with microorganisms which are lethal for man, present enormous safety problems and at the same time possess significant BW potential. USAMRIID is one of the few laboratories in the free world where any such agents can be studied with minimum risk to laboratory personnel and no risk to the surrounding environment. It is the only laboratory in the free world where so many P–4 class agents can be studied at the same time. The goal of the research is to develop safe and effective vaccines or toxoids to prevent these highly dangerous but poorly understood diseases and to discover methods by which they can be treated successfully should they occur. These laboratory studies provide a base of information which can be used to scale-up vaccine or toxoid production to industrial-sized operations, which can then be defined and described by standard operating procedures (SOP). These SOP's represent a unique national resource in emergencies, significantly reducing the time required to produce adequate quantities of a critically needed new vaccine or toxoid. Pathogenesis and immunogenesis studies continue to support the development of vaccines, toxoids and therapeutic measures. Second-order priority studies included work on Japanese B encephalitis, Chkiungunya, and Venezuelan equine encephalomyelitis (VEE). Toxin studies continued with bacterial exotoxins and enterortoxins. New diagnostic capabilities were developed as were new treatment methods for other viruses, bacteria and bacterial toxins. All studies on the rickettsial diseases were transferred to Walter Reed Army Institute of Research with the exception of Q fever, a rickettsial disease with significant BW potential. A national workshop to discuss all aspects of Q fever immunization research was held in August 1979; the leading experts on this topic were invited to this work shop in order to sharpen the thrust of the USAMRIID research program for this disease. Microorganisms or toxins in priority II are also highly dangerous for man, possess significant BW potential and pose special problems of safety; however, at an intermediate order of magnitude. Priority III studies, the lowest order of priority, included work on Western and Eastern equine encephalitis, melioidosis and tularemia. A review of a few of the more important program achievements during 1979 are briefly summarized as follows before specific statements of progress are presented by category. The Institute acquired fixed and transportable P–4 containment plastic human isolators (Vicker's) for the hospital care and safe transport of patients suffering from highly contagious, often lethal infectious diseases. In cooperation with the U.S. Air Force, these units were tested with volunteers under long-flight conditions to simulate the evacuation of a contagious patient from Panama to USAMRIID. The test was most successful and established this unique mode of medical evaluation as an achievable reality for future patients. In conjunction with the Institute's in-house P–4 isolation suite, and the recently upgraded clinical diagnostic laboratory, USAMRIID now has the capability to go anywhere in the world to pick up patients suspected of having a high-hazard infection, to safely transport the patient to the Institute, and to provide "state of the art" medical care for the patient while insuring maximum protection to the medical and laboratory staff personnel. Ebola hemorragic fever virus was introduced into the program during fiscal year 1979 and has been successfully cultured in vitro. The guinea pig was demonstrated to be an effective model for studying this lethal and poorly understood disease. Preliminary data indicate that the virus can be "plagued" and, therefore, can be detected and assayed in a relatively simple, straight-forward manner during future research investigations. This work has increased in importance as the result of September 1979, information that another outbreak of this disease may have occurred in Southern Sudan with 25 deaths among 61 cases. Efforts to confirm the outbreak's cause as Ebola virus are in progress at the Center for Disease Control (CDC), Atlanta.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	

Lethal animal models were developed for studying Lassa fever in rhesus and cynomolgus monkeys and in inbred (strain 13) guinea pigs. Moreover, it was found that cynomolgus monkeys could be treated with partial success using either the antiviral drug, ribavirin, or immune serum. A combination of ribavirin plus immune serum was more effective than either treatment alone. Using this combination, all monkeys could be saved even when treatment was started late in the course of the disease. Application of this new information to human patients being studied by CDC physicians in the Sierra Leone is expected early in fiscal year 1980.

A new generation of Rift Valley fever (RVF) vaccine has been produced in industrial sized quantities and tested in humans. The vaccine was shown to be both safe and immunogenic. USAMRIID is the only source of this human RVF vaccine. This vaccine is contributing to control of the spread of RVF from Egypt to the Sinai, Israel, and other parts of the Middle East. It has been used to protect troops of United States, Sweden, and Canada serving with U.N. Forces in Sinai, and is used to protect laboratory workers and field veterinary diagnostician staffs in Egypt, Israel, South Africa, and Rhodesia.

Finally, 700 liters of human botulism multivalent immune plasma have been collected and stockpiled. This product is also a unique resource, inasmuch as the previously available antibotulinum serum was produced in horses, caused severe side effects in many recipients, and is no longer marketed by American firms.

Specific statements of progress are included under the following headings: Clinical studies, vaccine development, vaccine adjuvant studies, immunological responsiveness studies, pathogenesis studies, diagnostic studies, therapy, and microbial toxin studies.

Clinical studies:

A vigorous program of clinical research was conducted during fiscal year 1979, fully utilizing its pool of medical research volunteer subjects (MRVS) in carefully selected and closely supervised projects of key medical importance. These studies included tests of new investigational vaccines in volunteers; long-term phase III studies of the existing investigational vaccines being used to protect laboratory personnel throughout the United States and in foreign countries; studies performed in collaboration with Walter Reed Army Institute of Research (WRAIR), U.S. Army Research Institute of Environmental Medicine (USARIEM) or the National Institutes of Health (NIH), and, finally, studies conducted during the clinical observation and care of patients admitted to the high-containment (P–4) hospital suite because the patients were suspected of having been exposed to a highly dangerous infectious microorganism.

Major areas of clinical research included: (a) The evaluation of an experimental dengue-2 vaccine; (b) the evaluation of antimalarial drugs against either Plasmodium vivax or Plasmodium falciparium in volunteers. These 2 studies were sponsored by WRAIR but were performed at USAMRIID because of its unique experimental hospital ward; (c) the evaluation of the immunologic response of volunteers to booster administration of botulinum toxoid and the evaluation of additional lots of botulinum toxoid; (d) the evaluation of a new generation of RVF vaccine exploiting recent advances in technology; (e) the evaluation of the physical performance capabilities of volunteers infected with sandfly fever virus in a study conducted as a collaborative project with USARIEM; (f) the evaluation in volunteers of the ability of transfer factor to induce protection against tularemia.

In addition to the studies performed in MRVS, the phase III testing of a large number of investigational vaccines was continued in the laboratory workers and other collaborating institutions. These vaccines were administered primarily for the safety of "at-risk" laboratory workers and included live attenuated TC–83 VEE vaccine, inactivated EEE and WEE vaccines, inactivated phase II Q fever vaccine, attenuated live tularemia (LVS) vaccine inactivated RVF vaccine, inactivated Chikungunya vaccine and polyvalent botulinum toxoid. Assessment studies performed on both the live, attenuated VEE vaccine (TC–83) and the killed VEE vaccine (C–84) suggested that a combination of both vaccines should be used in the future protection of laboratory workers. Accordingly, initial VEE vaccinations are being performed with the live TC–83 product with booster C–84 vaccinations given to those individuals whose anti-VEE titer either does not reach, or falls below, values deemed to be protective. This procedure will improve the safety and efficacy of the vaccination procedure.

The unique isolation facility for the hospitalization of potentially contagious patients was used on 2 different occasions during fiscal year 1979. A senior medical technician was admitted to the isolation suite following an accident in which a stainless steel pin penetrated the skin of a finger while he was working with a partially anesthetized guinea pig exposed 3 weeks earlier to an aerosol of Lassa fever virus. The individual was hospitalized and treated with 200 ml of hyperimmune anti-Lassa fever plasma on the day of the accident. After 21 days in strict isolation, illness failed to develop and the patient was discharged in a healthy state. In another accident, a senior technician was bitten by a squirrel monkey that had been inoculated with the virus of KHF 21 days previously. Because the pathophysiology of KHF is poorly understood, the technician was hospitalized and treated with the hyperimmune anti-KHF plasma on the day of the accident. The patient was discharged 21 days later in a healthy state, again with no emergence of a clinical illness.

Training programs are continually implemented to permit clinical laboratory samples and clinical microbiologic samples to be handled and assayed under the strictest forms of microbiologic containment, by technicians dressed in pressurized whole-body plastic suits with a filtered intake-air supply. The building modification program initiated last year to upgrade the unique ward facilities to permit the care of patients by hospital personnel dressed in protective suits is proceeding but has not been completed.

Vaccine development:

Development of new vaccines constitutes a major requirement in the research mission; this program attempts to create new vaccines against militarily important viruses, with emphasis on arena-viruses, bunyamwera viruses, and the new Ebola/Marburg virus group that produce highly lethal hemorrhagic fevers. The viral vaccine program also includes additional studies on RVF virus, continued work to create an attenuated dengue-1 vaccine, and continued research to improve vaccines for the alphaviruses including VEE, EEE, WEE, and Chikungunya.

Attempts to develop a potent inactivated BHF vaccine in a certifiable substrate were discontinued due to low yields of virus antigen and difficulties in obtaining consistent virus inactivation. In an exciting breakthrough reported last year, the attenuated strain of Junin virus (virulent strains cause Argentine hemorrhagic fever) was found to protect monkeys and laboratory rodents against both the Argentine and Bolivian forms of hemorrhagic fever. Since the attenuated Junin virus, XJ clone 3, has already been used in 600 human recipients in Argentina, this potential vaccine strain and a closely related one were both emphasized during fiscal year 1979. Experiments with inbred as well as outbred guinea pigs have confirmed that continuous passage in mouse brain has attenuated the XJ 44 strain Junin virus to approximately the same degree as that of XJ clone 3. These results indicate that the XJ 44 strain, since it has a defined history, may be certificable as a parent virus for vaccine development. Moreover, adult guinea pigs were shown to be as suitable as the more expensive, less available, primate models for comparative neurovirulence testing prior to final vaccine testing.

Success in cultural methodology for the Ebola hemorrhagic fever virus and the standardization of a guinea pig model represent the initial advances required for the development and testing of a formalinized vaccine against this virus.

In response to a request for assistance by the U.S. Department of Agriculture, the effectiveness of a single dose of human RVF vaccine was demonstrated in sheep. All nonvaccinated sheep challenged with virus developed viremia and several pregnant ewes aborted. None of the vaccinated sheep with significant ($\leq 1:20$) anti-RVF serological responses became viremic, and lambs born to the vaccinated ewes showed good titers of maternal antibody to RVF. In human tests, 6 newly prepared lots of RVF vaccine were compared to tested older lots that had been in frozen storage for many years.

Both the new and old lots were shown to be safe and immunogenic. The new lots of vaccine were prepared using procedures which reflect improved technology over those available 10–12 yrs ago when the older vaccine was made.

Studies with selected clones of the dengue-1 virus were continued and additional tests developed to identify virulence "markers" to permit the selection of an avirulent virus subpopulation that could be used as a possible human vaccine. Unfortunately, temperature sensitive mutants isolated thus far, although less virulent than parent strains, were found to have sufficient residual virulence to be nonacceptable for their continued use in dengue-1 vaccine development. Efforts are continuing to find appropriate "markers of virulence" and to use these markers to select new candidate virus seeds for safe and effective dengue-1 vaccines.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
			Human testing of the Rocky Mountain spotted fever vaccine has continued and the vaccine has consistently been demonstrated to be safe and immunogenic. This vaccine constitutes a limited but unique resource, because in comparative testing with the old commercial vaccine. it was shown to be significantly better. Moreover, the commercial vaccine was recently withdrawn from the market. Further testing of the vaccine is being planned and coordinated with the NIH.
			New studies were initiated to develop an attenuated Chikungunya vaccine. Methods were first developed to obtain an accurate plaque assay technique. Improved plaquing technology has led in turn to the effective selection of individual plaques from a heterogenous virus population. Several plaques have been isolated which show great promise as vaccine candidates. Their level of attenuation approaches that which is considered suitable for use in man; i.e., small plaque size, apparent genetric stability, temperature sensitivity and absence of neurovirulence in mice.
			Preliminary attempts to develop a vaccine to legionnaires' disease, caused by Legionella pneumophila, have been encouragingly successful. Sodium hydroxide extraction of the organism yields a soluble nontoxic antigen which protects mice against lethal challenge. Experiments are underway to determine if this soluble antigen is common to all 6 serotypes of Legionella. The development of a safe and effective vaccine would become extremely important if drug resistance should develop in this gram-negative organism.
			Another important facet of the vaccine development program includes the need for highly standardized carefully monitored laboratory animal data when experimental vaccines are initially tested. Programs are being developed to comply with the specific provisions of the new Good Laboratory practices regulation, as they will apply to certain studies related to vaccine certification. Extensive record-keeping and quality control animal data will be essential for approval of safety of a new vaccine prior to its initial clinical testing in man.
			Computerization of all data relative to vaccine schedules and vaccine responses in laboratory workers has facilitated and simplified the entire special immunization procedures program of the Institute. Unnecessary immunizations have been eliminated while the highest levels of protection have been maintained.
			Vaccine adjuvant studies:
			A portion of vaccine development research is devoted to the study of potential adjuvants that could improve the immunogenicity of marginally effective vaccines. Adjuvants selected for applied study emphasized those with a potential for eventually being approved for use in man. These included a new metabolizable lipid emulsion, a new muramyl dipeptide-like compound (Pfizer CP 20,961), lysine stablized poly (I)poly(C) [poly (ICLC)], and the enzyme lysozyme. While not approved for use by man, Freund's complete and incomplete adjuvants are included as standards of reference for adjuvant responses in animal studies. The study of adjuvants delivered to target cells through liposomal entrapment has been initiated. The methodology for producing liposomal vaccines is in the early stages of development and is being applied to VEE vaccine in collaboration with WRAIR. Although the technology is complex, this concept may raise vaccine efficacy while reducing undesirable side effects.
			The metabolizable lipid emulsion was shown to enhance the initial response to VEE vaccine, WEE vaccine and RVF vaccine. Based on the results, a patent application has been submitted for this new product. The adjuvant CP 20,961 was also shown to have significant enhancement of response using RVF vaccine in mice and hamsters when given in doses of 100 μg/kg.
			In Q fever studies, lysozyme was found to function as an adjuvant to enhance the immunogenicity of the extracted phase I antigen of Coxiella burnetii. Guinea pig protection against challenge was increased 3-4 fold when 25 μg of lysozyme was given subcutaneously 5 hr prior to vaccination. Reactogenicity of the phase I antigen also appeared to be reduced by lysozyme treatment. Preliminary data suggest that the lysozyme may function by inducing or enhancing the cellular immune response.
			Immunologic responsiveness studies:
			Almost half of the Institute's resources are devoted to studies which are designed to improve human protection against militarily important diseases, and, in turn, immunological responsiveness studies constitute an important component of this research. These studies include investigations into the relative efficacy of investigational vaccines administered via different routes; the differences or similarities in the responsiveness of cell-mediated immune mechanisms to vaccines versus full-blown infection, or versus infection-plus-early-therapy; the effects of "selective" and general immunosuppression (such as that produced by acute irradiation); the critical immunologic functions of macrophages and lymphocytes; the formation of immune complexes in plasma and their contribution to pathogenesis; and studies devoted to improved understanding of immunologic defense mechanisms of the lung, a significant portal of entry for many of the microbes under study.
			Because BW defensive systems must anticipate the exposure of troops to an aerosol containing infectious microorganisms or their toxins, research was conducted to determine optimal methods for generating protective immunity on mucosal surfaces throughout the respiratory tract. These included studies of aerosol immunization via the lungs against tularemia and studies of airborne infections with Japanese B encephalitis (JBE) virus in monkeys and mice, and Pseudomonas pseudomallei (melioidosis) infections in mice and hamsters. A prior intranasal treatment with glucan, a nonspecific immunological stimulant, increased survival of rats challenged with aerosols of tularemia or mice exposed to aerosols of P. pseudomallei. Mice surviving an initial infection with JBE virus were solidly protected against rechallenge, but neither killed virus vaccines nor the passive administration of immune serum protected them. Aerosol infections also produced lethal melioidosis in hamsters and squirrel monkeys. Recent results indicate that hamsters are protected against respiratory melioidosis by killed whole-organism vaccines but guinea pigs are not.
			To evaluate cell-mediated immunity, comparisons between leukocyte-adherence inhibition tests and macrophage migration factor tests were followed during tularemia infection in mice. Other studies in mice identified, through Mishell-Dutton assays, the extent of participation of B- and T-lymphocytes and macrophages in response to vaccination with either live or killed tularemia vaccines. Methods were also devised to quantitate delayed hypersensitivity reactions and to detect the magnitude of "suppressor" or "helper" functions of different transfused lymphocyte populations in mice inoculated with the live, attenuated tularemia vaccine. Protection against highly virulent tularemia organisms appeared to require both B- and T-lymphocyte activity. In other research, extended this year, the participation of cell-mediated immune mechanisms were studied in nude mice because of their congenital lack of thymic functions. This approach was especially valuable in attempting to determine why some of the arenavirus infections were capable of producing delayed lethal encephalitis. Studies using the nude mice led to the conclusion that lethal encephalitis caused by Tacaribe virus was immune-mediated and dependent upon the presence of intact functioning T-lymphocyte mechanisms.
			In other basic research, macrophages, which represent a first line defense of host resistance, are being studied in several model systems; i.e., attenuated and virulent strains of Francisella tularensis, phase I and II forms of C. burnetti and virulent and attenuated strains of VEE virus. These microorganisms can only reproduce within host cell. The nonstimulated or nonimmunized macrophage can process and kill the attenuated but not the virulent forms of these organisms. This new and basic approach successfully established an effective model for studying F. tularensis/macrophage relationships. It was demonstrated that phagocytosis of opsonized virulent and avirulent F. tularensis by macrophages resulted in sequestration of both strains within lysosomes. Virulence was therefore expressed as an increased resistance to killing within the intralysomal environment of the phagocytic cell. It was demonstrated that the capsule of F. tularensis was not a virulence-determining factor.
			In certain immunopathogenic aspects of an infectious disease, there is a need to identify soluble immune complexes, including their component parts that are generated by the host in response to either a natural infection or to a deliberate immunization. A complex and sophisticated technology that is reasonably new, isotachophoresis, proved to be successful. IgG, the major host protein response to foreign substances, was isolated rapidly from the many other proteins present in serum and each of the 4 subclasses of IgG antibody were clearly demonstrated and separated. The results were achieved very rapidly, within 15 to 30 min per sample and required very little serum, microgram quantities in microliter volumes. The potential now exists to utilize such measurements as a guide for modifying the antibody pattern obtained following vaccination in order to improve and/or optimize the immune response.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	

Pathogenesis studies:

Pathogenesis studies in animal infections are essential for they form the basis for testing new vaccines, diagnostic techniques and therapeutic measures. During fiscal year 1979, USAMRIID successfully developed suitable model infections in laboratory animals for Legionnaires' disease, KHF, Lassa fever, Congo/Crimean hemorrhagic fever, RVF, and infections with arenaviruses less dangerous than Lassa virus, i.e., Pichinde and Tacaribe. In searching for a representative model, especially for such a difficult disease to study as KHF, a large variety of both common and little used laboratory animal species were tested, including some, such as cotton rats, vesper mice, and voles, which were not available commercially and which had to be bred in-house.

All species of nonhuman primates tested could be infected with KHF virus. However, the development of overt disease seemed to be dependent upon the passage history of the virus used in the experiment. Low passage virus, i.e., less than three cell culture passages, produces disease in squirrel monkeys consistent with KHF in man. Higher passages, 5 or more, induced a subclinical infection but not disease. The KHF virus has now been characterized to be a medium-sized RNA virus averaging 95 nm in diameter and possibly belonging to the Bunyaviridae family.

Because of the importance of airborne infections in medical defense aspects of the USAMRIID mission, pathogenic patterns of illness produced by aerosolized organisms were studies, including bacterial bronchopneumonias, lobar pneumonias, and the role of the respiratory tract in the pathogenesis of viral diseases such as BHF and Lassa fever which may be disseminated in nature via an airborne mechanism. BHF data indicate that this virus could represent a BW threat to U.S. forces, since it can be disseminated as a small particle aerosol, is relatively stable in aerosol after dissemination, and produces aerosols that are infectious and often lethal for guinea pigs and monkeys. These recent findings amply demonstrate the need for developing effective protective measures for this high-hazard virus; that is, vaccine protection as well as therapeutic modalities. Preliminary studies with Lassa fever virus in an aerosol provided similar results to those obtained with BHF; that is, Lassa fever virus was shown to be stable in aerosol and both infectious and lethal for guinea pigs and monkeys when these species were exposed to Lassa virus aerosols.

In BHF, the lung was shown to be the primary organ supporting virus replication following an aerosol exposure of guinea pigs; however, by day 13 following exposure, high concentrations of virus were also found in the brain, liver, and spleen. The infected guinea pigs died of apparent primary hemorrhagic disease from 20 to 30 days following infection, and, in this respect, an aerosol exposure confirmed the results achieved by the more conventional parenteral routes of virus inoculation.

Studies using small particle aerosols of L. pneumophila showed that guinea pigs do not survive an exposure to 10^5 organisms whereas, by intraperitoneal inoculation, the lethal dose requires 30 times more organisms. In additional, the aerosol infecting dose is about 130 organisms, thus indicating that the pathogenesis for the 2 routes of inoculation are probably different. These laboratory data indicate that the organism would be expected to produce high morbidity and low mortality. These results are consistent with other evidence that the disease as experienced in natural outbreaks is transmitted to man by the airborne route.

Pathogenesis data obtained from these high-hazard virus aerosol research are examples of the unique capability at USAMRIID which has the staff and facilities necessary to safely carryout such studies.

Additional nonaerosol pathogenesis studies have been conducted to define some of the physiological and biochemical responses that accompany infectious disease. These included studies of body fluid and electrolyte shifts in yellow fever and after cholera toxin or staphylococcus enterotoxin B (SEB) administration to susceptible animals. Recent data indicate that SEB perfused through rabbit intestine exhibits significantly reduced toxicity if contained in a hypotonic solution versus a normotonic or hypertonic one. This finding has direct application to the management of gastrointestinal poisoning. Studies designed to understand the physiological responses to disease have been strengthened by the acquisition of computerized techniques for collecting and recording data from many on-going simultaneous physiologic measurements.

Biochemical and metabolic methods have also been used to investigate infectious disease mechanisms and the long-term safety of the living vaccine. Published data suggested that the TC-83 VEE vaccine might predispose to the eventual development of diabetes in hamsters or accelerate the onset of diabetes in a mouse strain genetically predisposed to developing diabetes. During this past year, it was demonstrated that the live, attenuated VEE vaccine (TC–83) does not: (a) Replicate in isolated islets of Langerhans; (b) impair glucose stimulated insulin release in hamsters; (c) affect glucose tolerance tests in guinea pigs; (d) become detectable in the pancreases of acutely infected hamsters. While these negative data support the safety of the TC–83 VEE additional studies will be conducted by the Institute.

Biochemical studies included additional work to define the mechanisms used at the cellular level to provide metabolizable energy for the infected host and to characterize the role of the liver in producing the large variety of new "acute-phase reactant" serum glycoproteins and hepatic metallothioneins during a variety of different infections. The molecular mechanisms accounting for the de novo hepatic production of these specific proteins have been partially defined during the past year.

Diagnostic studies:

Diagnostic studies covered several different areas. A major thrust initiated last year to establish and maintain immunologically based diagnostic capabilities for bacterial and virus diseases of special importance to USAMRIID has begun to achieve tangible results. The successful development of improved fluorescent antibody technology, radioimmunoassay (RIA) methods, enzyme-linked immunoabsorbent assay (ELISA), and chemiluminescent-immunoassay (CLIA) techniques were compared with each other, as well as with the more time-consuming and less precise microbiological assay methods. Spot tests on microscopic slides for fluorescent antibody identification of 30 different specific viruses of military importance were prepared, standardized and tested for safety. Slides to test for additional new viruses are currently being developed both in-house and under contract.

Metabolic and functional alterations in host circulating white blood cells (granulocytes) induced by exposure to potential BW agents are being evaluated as an approach to rapid diagnosis. It was demonstrated that circulating gramulocytes from infected animals emitted chemiluminescence of greater intensity than those from noninfected animals. The enhanced chemiluminescence seems to be due in part to activated biochemical mechanisms in phagocytic cells which involve the generation of "excited" oxygen species. This series of events appears to occur in bacterial infections, but not in the viral ones studied to date. In other studies, biochemical changes in blood platelets were not found to be useful in the early detection of infectious disease and these directions of investigation were discontinued.

A modified radioimmunoassay (RIA) was developed using staphylococcai protein A as a solid phase immunoabsorbent. The assay has broad application to early diagnosis of bacterial and viral diseases and to vaccine development since the new RIA is more sensitive, less time consuming, and more reliable in the identification of antibodies than most conventional serological assays. The assay has been successfully used to identify militarily important viruses such as VEE, WEE, and, Chikungunya, RVF, Pichinde, and Lassa fever.

The advances in CLIA technology have been most encouraging, suggesting that this approach can be developed further for the eventual detection of viruses as well as bacteria, and that the achievable sensitivity may permit the detection of as few as 10–100 bacteria or 10^3–10^4 virus plaqueforming units in a specimen. These studies will be useful in collaborative efforts with Chemical-Biological Detection and Alarms Division, Chemical Systems Laboratory, Edgewood Area, Aberdeen Proving Ground.

Upgrading the capabilities of the clinical laboratory has been emphasized during the past 2 yrs. The professional and technical staffs have been increased in both numbers and qualifications, required items of sophisticated equipment have been purchased, standardized and made operational, and continuous training programs for laboratory technicians have been implemented. Construction has been designed and funded to convert 1 clinical laboratory suite to a P–4 facility. Actual work will begin early in fiscal year 1980. These upgradings will have an important impact on the institute's capabilities to provide rapid and reliable diagnostic services in support of high-hazard viral infections and they will replace currently used temporary expedients.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD–D.R. & E. (SA) 1065–Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD–D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	

Further progress was made on computerizing the various diagnostic approaches of a biochemical nature to determine if disease-induced patterns might emerge which would be of greater diagnostic value than changes in any single biochemical parameter alone. Finally, achievements made in the new technology referenced earlier, isotachophoresis, can be applied to diagnostic problems. This technology is expected to permit the ready detection and isolation of immune antigen-antibody complexes from sera.

Therapy studies:

The Institute continues to pursue a vigorous screening program of antiviral drugs which have previously shown promise by other laboratory groups before they are tested with the highly dangerous viruses studied. An expanded antiviral drug program is being designed. Work has continued on the use of aerosolized antibiotics in pulmonary infections, and on the use of metabolic and physiologic approaches for providing supportive therapy. This latter need is especially important during overwhelming infections, including those complicated by disseminated intravascular coagulation or the development of hepatorenal failure.

A dramatic achievement was the discovery that ribavirin was effective for therapy in animal models for such dangerous infections as those caused by members of the arenavirus group of hemorrhagic diseases, RVF, and possbily yellow fever. Earlier work with the interferon-inducing drug, poly (ICLC) was continued, but the major emphasis was placed on studying the therapeutic effectiveness of ribavirin. While ribavirin was previously found to have prophylactic efficacy, the major new finding showed that it was effective even though treatment was not begun until after the onset of clinical illness due to Machupo virus in monkeys and guinea pigs, Lassa fever in monkeys, RVF infection in mice and hamsters, and to a limited degree, yellow fever infection in monkeys. Work is on-going to determine the localization of ribavirin within the tissues, its basic pharmacology in various animals, and the molecular mechanism of its antiviral activity within cells. Recent data using ribavirin in the treatment of VEE virus infection suggest that the drug does not inhibit viral transcription as previously reported in the literature but interferes with the translation of RNA into proteins by affecting formation of the "cap" structure on the viral RNA genome. The positive results which have been achieved with ribavirin and other antiviral drugs has been coordinated with the antiviral drug program at the NIH.

Studies to extend knowledge in the areas of aerosol therapy of antibiotics indicate that pulmonary concentrations of drugs, such as kanamycin, can reach a therapeutic local concentration without dangerous accumulation in the kidneys. Aerosol therapy was more effective against bronchopneumonia in squirrel monkeys than when the drug was given intramuscularly.

Since antimicrobial agents are not available for all lethal infections, continued emphasis was placed on improving metabolic and physiologic support and correction of any disease-induced imbalances. It proved possible to control many of the infection-induced abnormalities in amino acid, protein, carbohydrate, insulin, free fatty acid, and ketone metabolism during experimental infections by the therapeutic administration of appropriate metabolic substrates. For example, loss of body protein can be prevented by the intravenous or oral infusion of appropriate combinations of amino acids and calories. It was also demonstrated that an infected monkey can utilize intravenous or oral infusion of fat as a major energy substrate. These basic metabolic studies illustrate the point that long-term research studies when implemented with patience and persistence, can reach a payoff point with practical results.

Bacterial toxin studies:

Studies have continued during fiscal year 1979 on the botulinum neurotoxins, anthrax toxins, several staphylococcal enterotoxins, enterotoxins produced by cholera and Shigella species, diphtheria exotoxin, and Pseudomonas exotoxin A and exoenzyme S.

A major new program was initiated last year to produce an improved multivalent botulinum toxoid. An older toxoid vaccine only protects against 5 of the 7 known types of neurotoxin, and causes significant local reactions. This program has made excellent progress. The previously used strains of toxin-producing organisms were obtained and fermentation kinetics and optimum medium formulation for maximum production of type A neurotoxin, in both a 50 l fermentor and a 20 l static culture vessel, were developed. Chromatographic procedures were appropriately modified for the purification of the type A neurotoxin, then scaled-up to purify a large pilot lot of toxin. The purified toxin was successfully toxoided and proved to be a safe and immunogenic vaccine when tested in laboratory animals. Work is progressing with the other types of neurotoxin.

In addition, a program was initiated to collect high titer human antibotulinum plasma from individuals who previously had been immunized repeatedly with the existing polyvalent botulinum toxoid. At this time, 700 l of human immune plasma have been collected and processed under contract. Army as well as the Food and Drug Administration approval was obtained for using this human hyperimmune botulinum plasma for the therapy of acute botulism. In addition, contract arrangements are underway to convert large quantities of this plasma into hyperimmune botulinum immunoglobulin, a procedure that should improve the storage, transport, and administration aspects of antibotulinum therapy.

Studies on anthrax toxins and its protective immunogen had been at a virtual standstill for at least a decade. Last year, the laboratory reentered this field in an attempt to produce a more effective immunogen that could be used in man for production of protective immunity. The currently available vaccine is a crude culture filtrate which requires 18 mo for the primary vaccination series. Anthrax organisms produce at least 3 poorly characterized exoproteins: Protective antigen, edema factor and lethal factor. Optimum fermentation conditions have been reestablished for several strains of Bacillus anthracis. These include gas requirements for sparging, definition of a synthetic medium, control of pH, and the time of incubation to achieve maximum toxin production. The reacquisition of this capability, lost during the past 15 yr, was much more difficult to achieve than expected, in large part because of altered toxigenic responsiveness of the long-stored, previously characterized strains of the bacillus.

Basic investigations continue in an attempt to define tertiary and secondary structures of SEB and its component peptides, and to compare them with comparable portions of SEA and SEC, enterotoxins to establish which portions of the protein molecules are immunogenic and which cause toxicity. In other basic work, the mechanism used by staphylococci to excrete their exoprotein toxins was shown to depend upon the fatty acid composition of external staphylococcal membranes. Evidence was also obtained that a proteinase was required to release the toxin into the culture medium.

Several closely related studies are underway to determine the mechanisms by which bacterial exotoxins are internalized and processed by mammalian cells. The ultimate objective of these studies is to formulate effective countermeasures for a variety of exotoxins. Techiques were developed to assay the internalization and degradation of radiolabeled diphtheria toxin by monkey kidney cells. Using these techniques, the kinetics of internalization and degradation were determined. In pharmacological studies, results obtained thus far indicate that drugs and chemicals that block internalization and/or degradation also protect the cells from the cytotoxic action of the toxin. Certain lysosomotropic agents were particularly effective at both blocking degradation and protecting the cells, indicating the involvement of lysosomes in intoxication.

Immunocytochemical and autoradiographic methods have been used to visualize cell surface receptors for toxins. Pseudomonas exotoxin receptors were shown to be localized in specific membrane regions called "coated pits." This unique finding supports the hypothesis that toxins enter cells by adsorptive endocytosis. Collaborative immunization trials with the glutaraldehyde toxoid of Pseudomonas exotoxin A were begun in burn models to test whether immunization protects against infection. Protection was not observed in rats and was partial in mice Similar trials have been initiated in rabbits and dogs. Previously developed Pseudomonas vaccines have not contained the exotoxin component and have been ineffective in preventing infections.

Rickettsiology research:

As noted earlier, all rickettsial research performed at USAMRIID has been transferred to WRAIR with the exception of Q fever studies. In turn, some arbovirus programs previously conducted at WRAIR are being transferred to USAMRIID. These transfers are a part of a broad program designed to maximize the utilization of facilities and personnel available at each laboratory.

SEC. II.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979, DEPARTMENT OF THE ARMY, RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS: DD-D.R. & E. (SA) 1065—Continued

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
			A previously developed formalin inactivated, phase I Q fever vaccine is being readied for its first human testing to determine if this vaccine is more protective and less reactogenic than the currently available phase II vaccines. Laboratory data which supported the human trial indicated that 1 dose, (30 μg) of phase I antigen given to cynomolgus monkeys protected them 6 and 12 mo later to aerosol challenge with virulent phase I rickettsiae. Infection in the cynomolgus monkey model produces a disease which closely resembles the illness seen in man with comparable interstitial pneumonia, hematologic, physiologic and immunologic responses. In another approach, attempts are being made to isolate purified components of C. burnetii in hopes of identifying specific fractions that are highly immunogenic and less reactogenic. Lysozyme treatment of the phase I antigen seems to function as an adjuvant and reactogenicity at the site of vaccination is reduced. Much more research is required before these Q fever vaccine problems are solved. Summary: This brief review of progress during fiscal year 1979 illustrates many successes from a multidisciplinary approach to fulfillment of the mission of the Institute. Work on many high hazard viral agents has been initiated following an upgrading of biohazard containment in several laboratory suites. Additional upgrading work in progress will allow additional agents to be studied in fiscal year 1980. Human diagnosis and therapy is keeping pace with basic virology and vaccine development. Most obstacles to progress toward applied results must be resolved by advances in very basic studies. For example, improvements in antiviral drugs will probably depend on clearer understanding of the function of viral specific proteins/enzymes at the molecular level, followed by biochemical research to selectively interfere with critical events, followed in turn by the pharmacological studies which convert such basic knowledge into a useable drug. Balanced efforts between pursuit of applied goals and extension of basic knowledge is a characteristic of the current program, with continued interchange, reinforcement, and refinement, a result of having both approaches in the same Institute. In some cases a single investigator is able to function effectively in multiple levels of the basic/applied continuum.
(e) Foreign biological threat	(.000) (.177)	(.177) (.000)	Exploratory development effort: The objective of this program is to perform operational research studies and systems analysis of the biological threat to the United States and to U.S. military forces throughout the world, its vulnerability to biological attack, and defensive measures that might be employed in the event of such an attack. Studies are being performed and data compiled to provide an estimate of the threat of foreign biologicals and the vulnerability of the United States and U.S. forces. The establishment of proper criteria is essential to the development of adequate warning capabilities. Operation research studies in progress: 1. Assessment of analog criteria and target matching. 2. Biological defense with suboptimal meteorological conditions. 3. Target vulnerability assessment. 4. Assessment of genetic engineering relative to biological threat. 5. Target vulnerability assessment update. 6. Psychological impact of a mass casualty weapon with respect to target vulnerability. 7. Defeat techniques for protective equipment. 8. Assessment of entomological weapons capabilities as a concern in biological defense. 9. The physical environment of the built-up area and biological defense.
(f) Army materiel development tests.	(.000) (090)	(.090) (.000)	Efforts are directed toward conducting of pre DT II field tracking using simulant aerosol clouds for equipment evaluation.
3. Simulant test program	.000 .000	.000 .000	No effort expended in this area.

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of PAA effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
Biological research program	.000 .000	.000 .000	During the fiscal year 1979, the Department of the Army obligated $0 for procurement activities associated with biological defensive equipment and production base projects.

SEC. III.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year Current fiscal year	In-house Contract	
Ordnance program	1.026 7.583	6.297 2.312	During fiscal year 1979, the Department of the Army obligated $8,609,000 for general research investigations, development and test of smoke/obscurants, riot control agents, and weapon systems and other support equipment. Program area of effort concerned with these obligations are as follows: Smoke/obscurants program $8,093,000 Riot control program 500,000 Other support programs 0 Test support 16,000 Total obligation 8,609,000

SEC. III.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE ARMY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

	Funds obligated (millions of dollars)		
Description of PAA effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
Ordnance program	7.648 19.637	22.222 5.063	During the fiscal year 1979, the Department of the Army obligated $27,285,000 for procurement activities associated with smoke/obsurants, riot control agents, weapons systems and other support equipment. Program areas of effort concerned with these obligations were as follows: Smoke/obscurants program $24,235,000 Riot control program 2,089,000 Other support equipment 961,000

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS, ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065

SEC. 1—CHEMICAL WARFARE PROGRAM

ADJUSTMENT SUMMARY TO THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978

Page	Description	From—		To—	
	SEC. 1—CHEMICAL WARFARE PROGRAM				
	Under explanation of obligations, change figures as follows:				
1	1st line, "Department of the Army obligated"	$28,920,000		$29,179,000	
	Lethal chemical program:				
	Exploratory development	887,000		960,000	
	Engineering development	1,535,000		1,597,000	
	Total lethal chemical	4,355,000		4,490,000	
	Defense equipment program:				
	Exploratory development	11,236,000		11,360,000	
	Total defense equipment	19,134,000		19,258,000	
		From—		To—	
		Prior year Current year	In-house Contract	Prior year Current year	In-house Contract
	Under funds obligated, change figures as follows:				
7	Lethal chemical program	0.251	4.434	0.251	4.323
7	(a) Agent investigations and weapons concepts	4.104 (.000)	.011 (.876)	4.239 (.000)	.167 (.949)
8	(c) Tactical weapons systems	(.887) (.000)	(.011) (1.535)	(.960) (.000)	(.011) (1.441)
10	Defense equipment program	(1.535) .463	(.000) 15.388	(1.597) .463	(.156) 14.545
17	Medical defense against chemical agents	18.671 (.000)	3.746 (6.324)	18.795 (.000)	4.713 (6.314)
		(6.324)	(.000)	(6.448)	(.134)

SEC. II—BIOLOGICAL RESEARCH PROGRAM

No change to fiscal year 1978 report.

SEC. III—ORDNANCE PROGRAM

Under funds obligated, change figures as flollows:

Description	From—		To—	
1st line, "Department of the Army obligated"	$7,494,000		$7,776,000	
	From—		To—	
	Prior year Current year	In-house Contract	Prior year Current year	In-house Contract
Ordnance program	.069 7.425	6.985 .509	.069 7.707	6.679 1.097
	From—		To—	
Smoke/obscurants program	6,567,000		6,840,000	
Riot control program	487,000		496,000	

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS, ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

DEPARTMENT OF THE AIR FORCE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065, SEPT 30, 1979

SEC. 1.—OBLIGATION REPORT OF CHEMICAL WARFARE LETHAL AND INCAPACITATING AND DEFENSIVE EQUIPMENT PROGRAMS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065; DEPARTMENT OF THE AIR FORCE; SEPT. 30, 1979

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE ANNUAL PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

	Funds obligated (millions of dollars)		
Description of R.D.T. & E. effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
Defensive equipment program:			
Research	0.000	0.000	
	.000	.000	
Exploratory development	.000	.000	
	.000	.000	
Advanced development	.000	.000	
	.000	.000	
Engineering development	−.250	.000	Development and testing of agent detection devices. Development of chemical-agent hardened structures. Evaluation and development of protection garments and respirators for aircrews and ground support personnel. Chemical-casualty systems development. Discontinuation of agent and equipment development.
	4.488	4.238	
Total defensive	−.250	.000	
	4.488	4.238	

OBLIGATION REPORT OF PROCUREMENT FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065

	Funds obligated (millions of dollars)		
Description of R.D.T. & E. effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
Chemical warfare program	0.661	0.000	
	3.753	4.414	
Defensive equipment program	.661	.000	
	3.753	4.414	
Protective clothing and equipment.	.661	.000	Obligations used for initial issue of protective clothing and equipment and thereby provide USAF personnel with an initial capability to operate in a toxic chemical environment.
	3.753	4.414	

OBLIGATION REPORT OF OPERATIONS AND MAINTENANCE FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065

	Funds obligated (millions of dollars)		
Description of operations and maintenance effort	Prior year Current fiscal year	In-house Contract	Explanation of obligation
Chemical warfare program	0	8.527	
	8.527	0	
Defensive equipment program	0	8.527	
	8.527	0	
Protective clothing and equipment.	0	8.527	Obligations used to complete initial issue of protective clothing and equipment and thereby provide USAF personnel with an initial capability to operate in a toxic chemical environment.
	8.527	0	

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT .30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065; SEPT. 30, 1979—NEGATIVE

SEC. IV.—ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS ADJUSTMENT SUMMARY, TO REPORT FOR THE PERIOD OCT. 1, 1977, THROUGH SEPT. 30, 1978; DEPARTMENT OF THE ARMY; RCS DD-D.R. & E. (SA) 1065—Continued

DEPARTMENT OF THE AIR FORCE ANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (OCT. 1, 1978, THROUGH SEPT. 30, 1979), RCS DD-D.R. & E. (SA) 1065, SEPT. 30, 1979

SEC. 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE AIR FORCE; RCS DD-D.R. & E. (SA) 1065; SEPT. 30, 1979

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE AIR FORCE; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (SA) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Ordnance program:			
Research	0.000	0.000	
	.000	.000	
Exporatory development	.000	.000	
	.000	.000	
Advanced development	.000	.000	
	.000	.000	
Engineering development	.013	.114	The Big Eye binary chemical munition is a joint development program with the Navy acting as lead service. The Air Force tests and certifies the weapon's compatibility with selected Air Force aircraft.
	.101	.000	
Total ordnance obligations	.013	.114	
	.101	.000	

OBLIGATION REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE NAVY; DATE OF REPORT: SEPT 30, 1979; RCS DD-D.R. & E. (A) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
1. Chemical warfare program	0	0.896	During the period Oct. 1, 1978 through Sept. 30, 1979, the Navy obligated $1,599,000 for research and development efforts.
	1.599	.703	
(a) Defensive equipment program	0	.896	
	1.599	.703	
(1) Exploratory development.	0	.184	Funds support: (1) Defense requirements analysis. (2) Navy liaison and coordination with other services in developing CB defensive equipment through a total DOD program. (3) Operational evaluation of XM-29 protective mask for compatibility with shipboard equipment. (4) Development of an advance warning detection and alarm system. (5) Shipboard evaluation of an automatic point detection and alarm system. (6) Evaluation of several candidate shipboard collective protection systems (Canadian, German, British, United States) for U.S. application.
	.274	.090	
(2) Engineering development.	0	.712	
	1.325	.613	

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065—NEGATIVE

SEC. 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; DEPARTMENT OF THE NAVY; RCS DD-D.R. & E. (A) 1065

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS FOR THE PERIOD OCT. 1, 1978, THROUGH SEPT. 30, 1979; REPORTING SERVICE: DEPARTMENT OF THE NAVY; DATE OF REPORT: SEPT. 30, 1979; RCS DD-D.R. & E. (A) 1065

Description of R.D.T. & E. effort	Funds obligated (millions of dollars)		Explanation of obligation
	Prior year	In-house	
	Current fiscal year	Contract	
Ordnance program:			
Engineering development	0	1.700	Big Eye will provide the Navy/Air Force and air delivered persistent nerve agent retaliatory capability. Big Eye is expected to be ready for initial production in late fiscal year 1982; however, production must be authorized by the President and approved by Congress.
	1.700	0	
Total ordnance program	0	1.700	
	1.700	0	

DEMOCRATIC PROGRESS IN TAIWAN

● Mr. GOLDWATER. Mr. President, within recent weeks there have been major announcements by the Republic of China on Taiwan of governmental reforms that will continue to extend democratic practices throughout the nation.

First, on June 11, the President of the Republic, Chiang Ching-kuo announced national parliamentary elections at the end of this year.

Second, on July 1, the Judicial Yuan of Taiwan assumed complete jurisdiction over the Taiwan High Courts and District Courts in accordance with a newly enacted law totally separating courts of law from the Ministry of Justice.

Third, on July 1, a new law took effect allowing private citizens to recover compensation from the Government for damages caused by wrongful conduct of Government employees.

Mr. President, the governmental authorities of the Republic of China are to be congratulated for proceeding with these great steps toward full representative democracy. It is ironic that the first move, the scheduling of parliamentary elections in December, would have occurred earlier had it not been for President Carter's betrayal of Taiwan in 1978. As a result of the uncertainty created by the administration's abrogation of the defense treaty and cancellation of diplomatic ties, previously scheduled elections in the national legislature were postponed.

However, the elections are back on track and, in fact, the number of parliamentary seats has been increased by 70 percent. There will be 76 additional seats in the National Assembly, 96 new seats in the Legislative Yuan, and 32 in the Control Yuan.

If the election had been held in 1978, as originally intended, 52 seats would have been open in the Legislative Yuan, 53 seats in the National Assembly and 15 in the Control Yuan, for a total of 120 seats in the 3 Houses of Parliament. Under the new policy decided on June 11, there will be 97 seats up for election in the Legislative Yuan, 76 seats open in the National Assembly and 32 in the Control Yuan, for a total of 205 seats.

Let me explain that the Legislative Yuan is the official body similar to our Congress. It exercises the legislative power, passing bills and appropriations. It will have a total of 413 seats.

The National Assembly will consist of 1,218 Delegates. It elects the President and Vice President and has power to amend the Constitution.

The Control Yuan is an independent supervisory body whose origin can be traced back to the ancient Chinese censorial administrative system of the Ch'in and Han dynasties of 221 B.C. to 220 A.D. The Control Yuan has power to impeach or censure officers and employees of the executive branch, including the President and Vice President. It possesses the power of investigation and has its own investigating staff of about 200. The Control Yuan also supervises the auditing of budgets and investigates irregularities in financial matters. It will have a total of 72 seats.

The newly elected members of parliament will be sworn into office on February 1, 1981, and will join colleagues who were previously elected. The new elections will revitalize these three bodies with members to be elected in Taiwan.

The second development, the transfer of the high court (equivalent to our circuit court) and district court system to the Judicial Yuan, carries out an interpretation of the Constitution made by the Council of Grand Justices. The latter body is a group of justices who perform duties similar to our Supreme Court, but act only in cases of interpretations of the Constitution or of laws. Other final judicial appeals are taken to the Republic of China Supreme Court.

The new reorganization laws will guarantee the total separation of courts of law from the prosecution of crimes by procurators, government prosecutors who serve under the continental civil law system adopted by the Republic of China.

This development is a breakthrough long awaited within the Republic of China. At the request of the Control Yuan, the Council of Grand Justices ruled in 1960 that the courts should be placed under the jurisdiction of the Judicial Yuan. The adoption of the new laws not only strengthens the independence of the judiciary in Taiwan, but is a solid victory for the independence and effectiveness of the Control Yuan and Council of Grand Justices.

The third change adopted by the Republic of China is a new government tort liability law, which contains 17 articles. This statute is in futherance of article 24 of the ROC Constitution which provides that any public officer or employee who infringes upon the freedom or right of any person shall, in addition to being subject to disciplinary measures, be held responsible under criminal and civil laws. The injured person may, in accordance with the new law, claim compensation from the Government for damages.

The law goes beyond our own Tort Claims Act and is more in the nature of a civil rights statute, placing greater responsibility for agency or departmental abuses of power on bureaucrats.

Mr. President, persons who are familiar with recent Chinese history and institutions will know that these three steps are sweeping in nature and give proof of the strong dedication by the Government on Taiwan to democratic principles. It also demonstrates complete confidence in political stability in Taiwan.

The ever-expanding practice of freedom and economic progress in Taiwan stands in marked contrast with the tyranny and poverty on the Chinese mainland.

Contrary to the fashionable reports of American politicians who visit Communist China, extreme poverty continues to be widespread among the controlled masses on the mainland. Even in the showcase farm communes there is no running water in houses, there are earthen floors and perhaps two or three 15-watt light bulbs.

According to a recent article by Time-Life News Service, the combined husband-wife incomes of the richest family in the richest commune is only $700 a year. Recent reports in the Chinese Communist press indicate that about 200 million rural Chinese may earn less than a cash income of $33 a year, meaning they are barely able to survive. Some day the people of the mainland will realize that their own real hope of human progress is not in the failures of communism, but in the blessings of liberty awaiting them under the decent and uplifting leadership of the Republic of China.●

THE CERTIFIED NURSE-MIDWIFE

● Mr. INOUYE. Mr. President, today I would like to highlight the unique role of the certified nurse-midwife (CNM) in our Nation's health-care system. Although the term "midwife" has been with us for generations, the certified nurse-midwife is a new breed of well-educated, highly trained professional providing service to often underserved populations. In fact, I understand that over one-third of all nurse-midwives are currently working in communities with populations under 30,000.

A certified nurse-midwife is first of all a registered nurse; that is, a graduate of an approved nursing education program that was authorized by the State to prepare persons for licensure. This graduate must then meet various state requirements for licensure in the State in which he or she wishes to practice. Second, he or she must have completed a special course of study ranging from 1 to 2 years, at one of the 25 approved schools located in 18 States in the country. These approved schools are usually affiliated with a university, such as Georgetown, Johns Hopkins, Columbia, and Yale. Finally, he or she must pass a national certification exam. It is primarily due to this rigorous educative process that certified nurse-midwives bear little resemblance to the traditional "granny" midwife who oftentimes are written up in our Nation's newspapers.

The first nurse-midwife program was started in 1925 with the Frontier Nursing Service in Appalachia. They graduated approximately 12 nurses a year. Today, the American College of Nurse-Midwives, which certifies these individuals, has nearly 1,700 members who practice in 42 States and the District of Columbia. This growing profession has doubled its membership over the past 5 years and there are projections of 5,000 nurse-midwives by the year 1990.

Nurse-midwives provide continuous care throughout the process of birth, including prenatal, delivery, and postpartum stages. They teach preparation for labor (LaMaze) classes, do routine examinations and deliveries, and subsequently give instructions in infant care, family planning and family adjustment. As I am sure each of us is aware, the addition of a child to a family unit often creates a stressful environment for family members. The nurse-midwife is quite aware of this and is expressly prepared to facilitate and counsel the family in integrating the new child into their home.

Nurse-midwives practice in a variety of settings including traditional hospitals, public health departments, private practices with physicians, family planning clinics, and in independent and group practices with other nurse-midwives. It is with the independent and group practice that the need for nurse-midwives to have full hospital admitting privileges becomes paramount.

Physician involvement with the nurse-midwife's management of care of the normal maternity cycle varies from no involvement, to visits at specified intervals and presence in hospital for the delivery. Nurse-midwives use physicians as backup, and what I think is especially important, are trained to determine when a referral is necessary for further medical evaluation.

Unfortunately, our Federal health system, as well as a number of private insurance companies, have been slow in recognizing the independent practice of nurse-midwifery. However, their reimbursement with only minimal physician supervision under the rural health clinics law and their autonomous providership under the Department of Defense's CHAMPUS program, are indeed significant steps forward. I personally am confident that CHAMPUS will find the care provided by nurse-midwives to compare favorably with that delivered by physicians. For example, a report by the Congressional Budget Office reported that physician extenders have performed as well as physicians with respect to patient outcomes, proper diagnoses, frequency of patient hospitalization, manner of drug prescription, documentation of medical findings and patient satisfaction. Practices with nurse practitioners received higher quality of care ratings than all other practices.

Several additional studies have also come to my attention that dramatically demonstrate the effectiveness of nurse-midwives. For example, in Holmes County, Miss., the neonatal mortality rate in 1968 prior to the initiation of the nurse-midwifery program was 28 deaths per 1,000 live births; in 1970, subsequent to the provision of nurse-midwifery services, it was 19.8 and in 1971, it was 7.0. In addition to lower neonatal death rates, there were other positive outcomes associated with nurse-midwifery services:

1. less frequent complications of pregnancy.
2. lower incidence of forcep delivery.
3. higher average birth weight.
4. higher apgar score (means of rating condition of newborn.
5. higher postpartum use of family planning.
6. lower prematurity birth rates.

The Graduate Medical Education National Advisory Committee in April 1979 reported that—

> Nurse-midwives are perceived as providing more time and more emotional support to patients than do physicians and are more flexible and responsive to patient preference.

Ultimately, in my judgment, it should be the client's right to choose the health provider of her choice. I am confident that both physicians and certified nurse-midwives will deliver maternity services that are of high quality and safety both for the mother and her baby. I might add in closing, that I was delivered by a nurse-midwife and I have no complaints.●

GEORGE HOWARD, JR.

● Mr. PRYOR. Mr. President, earlier today it was my privilege to recommend to the Judiciary Committee that George Howard, Jr., be confirmed as U.S. district judge for the eastern and western Districts of Arkansas. He is an outstanding individual who will be an asset to the bench. His past judicial and legal experience make him well qualified to assume the duties of a Federal district judge.

I ask that the text of my remarks before the Judiciary Committee be printed in the RECORD.

The text follows:

STATEMENT BY THE HONORABLE DAVID PRYOR

Mr. Chairman I am pleased today to join with my colleague Dale Bumpers in recommending George Howard, Jr., to fill the existing vacancy for the federal judgeship for the Eastern and Western Districts of Arkansas.

Mr. Chairman I have known George Howard for many years. It was my good fortune to be able to reappoint him to the Arkansas State Claims Commission where he rendered exemplary service as its chairman and to appoint him to fill a vacancy on the Arkansas Supreme Court when I served as Governor of our State. He served with distinction in each of these roles.

His judicial acumen has been further recognized by his subsequent appointment to the Arkansas Court of Appeals. I feel equally fortunate today to recommend this outstanding individual and student of the law for this important post in the federal judiciary.

George Howard will bring to the federal bench a wealth of experience and knowledge of the law. He is held in high esteem throughout the legal community for his fairness in its application. And it is widely recognized that any decision bearing his name will be the product of the most thorough examination and scrutiny.

George Howard, Jr., was reared in Pine Bluff Arkansas and received his Juris Doctor from the University of Arkansas Law School at Fayetteville. A member of both the American Bar Association and the Arkansas Bar Association George has served as president of the Jefferson County, Arkansas, Bar Association. His illustrious public service career has included service on the Arkansas Advisory Committee to the U.S. Commission on Civil Rights, for which he served as chairman in the late sixties.

Mr. Chairman, the Eastern District of Arkansas has one of the highest caseloads per judgeship in the nation. George Howard is the caliber of judge needed to help meet the growing judicial demands of this region.

George Howard, Jr., is well respected throughout Arkansas and possesses all those qualities and attributes that we have come to expect from those who sit on the federal bench. Without reservation, I recommend him for confirmation.●

THE FAA NEEDS TO DECIDE ON A METROPOLITAN WASHINGTON AIRPORTS POLICY

● Mr. MATHIAS. Mr. President, several weeks ago I asked my Senate colleagues to join in a resolution urging the Secretary of Transportation and the Federal Aviation Administrator to come to a prompt decision on a proposed Metropolitan Washington airports policy, now before them. I am pleased to be joined in cosponsoring that resolution by Senators WARNER, SARBANES, HARRY F. BYRD, JR., HATFIELD, JAVITS, GRAVEL, BELLMON, and DOMENICI.

In 1979 National Airport handled 64 percent of the commercial jet traffic in the Baltimore-Washington region. Dulles International Airport, the only other FAA-owned and operated airport, handled only 16 percent of the region's commercial jet traffic and Baltimore-Washington International Airport, operated by the Maryland Aviation Administration, handled 20 percent of the region's jet traffic.

Clearly an imbalance exists among the region's three airports in terms of jets and passenger use.

I wish to share with my colleagues a letter from one of my constituents who recently had occasion to use National Airport. I shall submit the letter at the conclusion of my remarks.

The FAA is currently considering a policy which has been before it since 1978, which would acknowledge the over-utilization of National Airport and would take a modest first step toward establishing a more balanced relationship among the three airports of our region, National, Dulles, and BWI.

Our resolution urges an expeditious decision on that policy. I urge my colleagues to join me in Senate Resolution 486.

The letter follows:

UNION-TIDEWATER FINANCIAL
COMPANY, INC.,
July 22, 1980.

Senator CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR MAC: On July 17, 1980, I was booked on National Airlines flight 24 from Charleston, South Carolina to Washington National Airport. This flight was to leave Charleston at 5:15 p.m., fly to Savannah and then back to Washington to arrive at 7:32 p.m.

The flight was late in leaving Charleston and even later leaving Savannah. All things being equal, we would have touched down in Washington approximately one-half hour late.

But guess what? We circled Washington for the better part of an hour because of heavy traffic and thunderstorms. But that is not the last of it. When we landed there was no available pier on which to off-load the passengers and there we sat for almost one hour with the engines humming, the bodies sweating and no information at all as to when we might expect to disembark.

Now I ask you, having arrived at Charleston Airport at 4:30 p.m. and getting into bed at 12:00 Midnight back in Baltimore, "Isn't this a bit much for a tired businessman to go through?" I was a bit hungry too after a light snack that was provided on the plane when the flight indicated "dinner". I should point out that this is not unusual. Let's face it, National Airport is a disaster. The FAA is obviously being subjected by Capitol Hill to bring as many flights into National Airport to suit every politician's travelling whim. But alas, I suppose the only way BWI will be allowed to handle more traffic is after a major disaster has occurred at National and the public outcry will force traffic to be diverted to Baltimore.

Won't you please try to help us tired business travelers?

Very truly yours,

ELIOT.●

THE MONTANA DROUGHT

● Mr. BAUCUS. Mr. President, it is not news to any Senator from the Midwest or West that this year has been the driest and hottest in recent memory. Farmers, ranchers, and businesses in Montana, for example, will lose millions of dollars as a result of this year's drought.

Montana's drought-stricken farm and ranchland stretches across 21 counties—almost the entire eastern third of our State. I toured nine of those counties during the July 4 Senate recess to get a firsthand look at the conditions. Today I would like to report to the Senate on my findings.

Eastern Montana is parched. The ground is dry, cracked, and barren. It is a gray, desolate place right now. Many parts of eastern Montana have received less rain this year than in the 1930's during the worst of the dust bowl years.

THE CASUALTY LIST

According to the Agricultural Stabilization and Conservation Service (ASCS), 95 percent of the farmers and ranchers in these 21 counties have suffered losses because of the drought.

In McCone County, Mont., for example, normal rainfall each year is 14 inches. This year, 2 inches fell. In Dawson County just to the south, normal rainfall is 13 inches. During the past 12 months, only 3½ inches have fallen. Prairie County has received just slightly more than a quarter of what it normally receives. Sheridan County has received only one-fifth of its normal level of precipitation.

What made matters worse is that there was very little snowpack this winter.

The ASCS disaster damage report filed 3 weeks ago estimates that several counties will lose virtually all their wheat, barley, and hay crops this year. A few examples tell the story:

Carter County has lost 85 percent of its wheat, barley, and hay crops;

Fallon County has lost all its hay crop and 90 percent of its wheat and barley crops;

Prairie County will lose 80 percent of its wheat and barley;

Richland County will lose 95 percent of its wheat, barley, and oats and virtually all the hay crop from dryland farms.

I walked through several fields of winter wheat that would have been—under normal circumstances—just about ready for harvest. But instead of a 30-bushel per acre crop, thin, immature stalks were scattered through the fields. Some farmers have already plowed their crops under; others had let their cattle graze on the fields. In one field I looked for 15 minutes before finding a stalk that held a wheat kernel. One local ASCS official described conditions this year as the worst he has ever seen in the 22 years he has worked for ASCS.

Likewise, Montana's ranchers have been hard hit by the drought. Hay prices have skyrocketed to over $100 a ton. Pastures, normally used for grazing at this time of the year have been dried up by the summer sun. Ranchers are forced either to sell their cattle, or move them hundreds of miles to other grazing areas or to purchase expensive feeds and feed supplements.

Rather than pay these added costs, many livestock producers are selling their cattle. This disruption of the normal cycle will most likely result in a glut of beef on the market in the near future followed by shortages and higher prices as ranchers replenish their herds.

THE ECONOMIC EFFECTS

All this is having a devastating effect on the economy of eastern Montana's small communities. Everywhere business is way down. Merchants say no one is buying much more than what is absolutely necessary. The combination of high interest rates in recent months plus the failure of this year's crop has forced some businesses into bankruptcy.

One businessman—a farm machinery dealer—said that unless he sells a $96,000 combine before the fall, he will have to buy it himself.

Making matters worse, because farmers and ranchers will have little cash crop this year, they are increasingly turning to local banks probably for additional money to pay operating expenses. I was told that banks probably have loaned out 80 percent of their available funds.

Many farmers and ranchers face the prospect of going even more in debt to make it through this year.

Conditions were best summed up by one farmer who said, "We'll make it through this year but if this happens again next year, we're through. There will be so many auctions you won't be able to get to them all."

SUGGESTED REMEDIAL ACTIONS

There are several actions the Federal Government should take that would provide badly needed help for farmers and ranchers.

First, I have urged Agriculture Secretary Bergland to increase the subsidy provided by the emergency feed program from 2- to 3-cents per pound of feed equivalent. At 2 cents per pound ranchers receive about $25 per ton of hay—hay they purchase for roughly $100 per ton. Increasing the subsidy by 1 cent would provide another $15.

Second, some sort of cost-sharing arrangement should be implemented to ease the burden of transporting hay to livestock producers and to reduce the cost of shipping cattle from the feedlot to market. This can be set up only if the President officially declares a disaster and directs that a cost-sharing program be created. I have urged the White House Domestic Council to make that recommendation.

These programs, along with those already in operation, should provide some margin of relief for Montana's drought-stricken farmers and ranchers.

Montana's farmers are somewhat philosophical about all this. They know there is little they can do to bring more rain to their crops. They know that we in Congress cannot legislate rain.

But they also know that Congress does have responsibility for creating circumstances that are making an already bad situation much worse. It is these man-made disasters such as excessively high freight rates on grain shipments, the Russian grain embargo, and prices that are not high enough to cover the production cost that make them mad.

These conditions are under our control; and failure to take corrective action is only driving farmers and ranchers closer to the brink of bankruptcy.

POSSIBLE CHANGES TO THE FARM PROGRAM

Next year Congress will begin hearings that will lead to changes in the Food and Agriculture Act of 1977. The conversations I have held with eastern Montana farmers and ranchers lead me to conclude that several major changes must be made in this Nation's farm program.

First, some mechanism must be devised to bring prices in line with production costs. The USDA has just released its production cost projections for 1980. These estimates indicate that Montana's wheat farmers will pay $5 per bushel to produce wheat that they could sell on today's market for around $3.65.

Something must be done to correct this inequity. Earlier this week, the USDA raised the loan rates on wheat from $2.50 to $3. This action helps establish a floor for prices, but does nothing to insure that prices enable farmers to pay production costs and earn a reasonable profit.

Second, many Montanans report that marginal land—land that is not likely to produce much grain—is being broken and planted. Farmers say this could result in additional erosion, a serious threat in such a dry year, and that these farmers are only out to make a quick buck. Yet, these same farmers are eligible for deficiency payments and for disaster payments from the Federal Government. I do not think that is good public policy and will work to see that it is changed.

Earlier this year I discussed other changes I will recommend when the Senate begins these hearings. These changes would correct some of the problems farmers and ranchers face today.

There also are steps Congress can take now to improve conditions for farmers. First, the Russian grain embargo should be lifted. I have cosponsored legislation that would accomplish this goal, and I urge the Senate to act quickly on that bill.

The President did not embargo steel exports. He did not embargo textile exports, nor did he stop automobile exports. Instead, the President chose to embargo the one product America produces better and more efficiently than any other nation in the world.

Finally, long-term steps must be taken to lower the excessive freight rates Montana farmers are paying to ship their grain. Earlier this year, the Interstate Commerce Commission permitted a 4.50-percent increase in freight rates. Just last month they permitted another 6.58-percent increase.

And, there is no incentive for the one railroad providing service to Montana's farmers and ranchers to reduce their rates. Without effective rail competition in our State, rates will only continue to go higher. Right now it costs more for

Montana farmers to ship wheat to the west coast than to ship it to Japan from coastal ports. That is just simply unfair, and I am prepared to make every effort to hold up the confirmation of any ICC nominee until we get some relief.

Following is an article which appeared in the Great Falls Tribune on July 28 outlining one of the many problems caused by the drought conditions in Montana:

Heavy Cattle Sales Result From Drought

(By Charles S. Johnson)

HELENA.—Drought conditions in eastern Montana have forced many ranchers to sell their cattle early or move them to pastures in western Montana or other states.

With parched pastures and hay prices running twice the normal rate, more cattle sales are anticipated in the coming weeks, according to interviews with ranchers, livestock trade associations, auction yard owners and government officials.

"They're selling a lot of cattle out there," said Les Graham, administrator of the Brands Enforcement Division of the state Livestock Department.

Graham, who was raised in the Miles City area, said he's never seen anything like it before.

"When you go through that country, the cattle numbers just aren't there," he said.

His views were confirmed by auction yard owners.

Total cattle sales in all Montana auction yards were running nearly 50,000 head higher than last year through July 1, according to Patrick Goggins, who owns the Public Auction Yards in Billings. Sales totaled about 373,000 through July 1, he said, compared with about 327,000 last year.

Most of the increase can be attributed to the drought, he said.

Bob Fjeldheim, owner of Glasgow Livestock Sales Co., said he expects to see a large number of cattle being sold in the next two weeks.

It's too late for ranchers to move their cattle to greener pastures so many probably will liquidate large numbers of their herds, he said.

Fjeldheim expects large numbers of cattle to be sold in September and October, while November is usually the big month for sales at his auction yard.

One rancher who decided to move some of his cattle to another state was Bill Cornwell, who ranches west of Glasgow.

Beginning in mid-June, he hauled more than 700 head to the Rock Springs area in Wyoming, a drive of more than 800 miles that takes at least 24 hours. He can haul about 40 head of cattle and their mothers in a single load.

Cornwell figures he's made at least 20 trips at the cost of $1.75 a mile per trip.

"It's pretty costly," he admitted but added that the other option—disposing of his herd—was unacceptable.

He said he hopes to keep the cattle in Wyoming over the winter and bring them back to the Glasgow area next year.

In the 87-year history of the ranch, Cornwell said his family has never before had to rent a pasture in another state.

No statistics were available at this time as to how many cattle have been shipped from eastern Montana to other parts of Montana or to such states as Wyoming, Nebraska and Colorado.

Dean Prosser of the Wyoming Stockgrowers Association said he has heard estimates that up to 25,000 cattle have been moved into Wyoming from Montana and the Dakotas this summer.

It is difficult, however, to determine how much of the movement can be attributed to the drought. As Dr. Russell Burgess, assistant state veterinarian in Wyoming, said, "We get a lot of cattle from Montana routinely."

Meanwhile, those ranchers with bare pastures who want to keep their cattle and not move them are being forced to pay previously unheard of prices for hay.

Prices of $100 a ton, more than double the normal rate, are "not out of the ballpark," according to Cornwell.

Fjeldheim said he has heard of prices ranging from $80 to $110 a ton for hay.

Some hay is going for $60–$70 a ton at the ranch, which means the cost of hauling must be added, Goggings said.

Graham's family paid $80 a ton, and he said, "really good, clean-type hay" might be costing up to $100 a ton in some parts of the state. He predicted prices would rise even higher if Montana experiences a hard winter.

Because of the lack of pasture and inadequate hay supplies, the state Department of Agriculture has been working with the Cooperative Extension Service at Montana State University to set up a clearinghouse for hay and pasture availability.

The clearinghouse will use the Agnet communication system sponsored by the Old West Regional Commission, according to W. Gordon McOmber, director of the state Agriculture Department.

Persons wishing to sell hay or with pastures to lease may list them with the Agent system by contacting their county agents or phoning the Extension Service in Bozeman at 994–2580.

Livestock producers may obtain the listing of hay for sale or pastures for rent by contacting their county agents and asking for the Agent hay and pasture list.

Although the state hay carryover from the 1979 crop was large, poor pasture and range conditions in parts of Montana have forced many ranchers to feed hay most of the summer. This has led to a reduction of the feed supply available for the winter.

In addition, ranchers from Washington and Oregon, whose crops have been contaminated with volcanic ash from Mount St. Helens, have shown increased interest in buying hay from western Montana, he said.●

PROPOSED ARMS SALES

● Mr. PELL. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), I wish to state that section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The information follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–74, and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $96.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–74]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value: Major defense equipment*, $0.0 million; Other, $96.8 million; Total, $96.8 million.

(iii) Description of articles or services offered: One hundred fifty eight (158) conversion kits.

(iv) Military department: Army (VBG).

(v) Sales commission, fee, etc. paid, offered or ageed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report. Case not included in section 28 report.

(viii) Date report delivered to Congress: 29 July 1980.

DEFENSE SECURITY,
ASSISTANCE, AGENCY,
Washington, D.C., July 29, 1980.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–85, concerning the Department of the Air Force's proposed Letter of Offer to Tunisia for defense articles and services estimated to cost $24.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 80–85]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Tunisia.

(ii) Total estimated value: Major defense equipment*, $23.6 million; other $1.0 million; total, $24.6 million.

(iii) Description of articles or services offered: One C–130H aircraft with logistical support and training.

(iv) Military department: Air Force (SBA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case included in report for quarter ending 31 March 1980.

(viii) Date report delivered to Congress: 29 July 1980.●

R. & D.: A KEY TO PRODUCTIVITY

● Mr. RIBICOFF. Mr. President, the Organization for Economic Cooperation and Development (OECD) has a unique global scale. The OECD will soon release a major new study entitled Technical Change and Economic Policy. A summary was printed in the May edition of the OECD Observer. It analyzes the relationship between R. & D. and productivity to improve the standard of living in industrial societies. We must give careful attention to proposals to stimulate research and development if the United States is to successfully meet the challenges of economic interdependence. This article raises a number of issues about the type and direction of R. & D. efforts necessary for stable growth.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

I submit excerpts from this article for printing in the RECORD.

TECHNICAL CHANGE AND ECONOMIC POLICY

(By Jean-Jacques Salomon, Special Adviser to OECD's Directorate for Science, Technology and Industry)

The connection between scientific research, technological development and economic growth is readily accepted today. But it is not easy to describe because the interactions are complex and not amenable to quantitative measurement with presently available tools.

The only reliable data are the statistics on investment in research and development, but they measure input rather than results. Current attempts to widen the range of "scientific and technical indicators"—counting patents, analysing the production and diffusion of innovations, correlating R. & D. efforts with productivity growth—are still in their infancy: nor can hard and fast generalisations be drawn from the micro-economic studies carried out at the level of the firm or industry.

When it comes to economic policy, technical progress is generally treated as an exogenous variable, and it is assumed that the problems of technical change and innovation will be resolved by growth in demand. It is assumed that when the economy prospers—and because of that—conditions for technical change are optimal.

But what happens when, as at present, economic growth starts to lose momentum, flattens out or even approaches zero in some countries including some of the most highly industrialized ones? Can technical progress still be taken for granted, independent of the constraints that burden the economy? Conversely, are the economy's chances of breaking free from these constraints not narrowed by the disruption in the rate and direction of technical change? In a period of crisis is it not something of a delusion to expect a recovery in demand to stimulate technical change, when the inadequate rate of technical change may itself be one of the long-term sources of the stagnation?

DISCONTINUITY, MUTATION OR ADAPTATION

These were some of the questions asked by the group of experts of OECD's Committee for Scientific and Technological Policy. Headed by Bernard Delapalme, research director of France's Elf-Erap, the group comprised leading figures from industry and the universities most of whom have been associated, either directly or in an advisory capacity, with economic or science and technology policy-making. The group's work was based on sectoral studies designed to identify, first, the impact of the past decade's economic and social changes on research and innovation and, second, the circumstances in which such activities can help our economies overcome the difficulties they are up against.[1]

Ten years after OECD sponsored the Brooks Report, Science Growth and Society, this is a fresh attempt to evaluate science and technology policies, an evaluation based on the role of research and innovation in a very different economic and social context: as the report notes "after thirty years of rapid, indeed unprecedented development, where sustained growth proceeded in step with full employment, there is now uncertainty not only regarding the rate of growth which can be achieved, but also the capacity of conventional policy instruments to reduce inflation and unemployment at the same time. Discontinuity, mutation, a period of adjustment or a long-term crisis: the description of the change varies according to one's explanation of its causes and consequences."

STRUCTURAL PROBLEMS AND UNCERTAINTY

On this point, the group rejected from the outset the conjunctural interpretation of recent events, the view that turbulence in our economies is simply a temporary disequilibrium which can be overcome by applying orthodox economic policy measures. Investigating the links between the economy and the research-innovation system, which are necessarily of a long-term nature, inevitably leads to an examination of structural problems.

Furthermore, the group started work at a time when most interpretations of recent changes were dominated by the "exogenous" changes and in particular the oil crisis of the early 1970s. But the persistence of the difficulties and of uncertainty led its members to look beyond short-term fluctuations to see the changes in economic structures and social relations as a fundamental transformation.

"The real explanation of the present situation must be sought, we feel, in a set of factors which have influenced our societies at least since the late 1960s." 1971, the year in which the United States decided to impose a surcharge on imports and to suspend dollar convertibility, is seen to have symbolic significance, as the end of the post-war period in international economic relations; but the changes have earlier roots and structural repercussions which go well beyond. These changes can be classified into four broad, overlapping groups which are interrelated and influence each other both as cause and effect. Together they constitute the new economic and social context:

The slowdown in economic growth and the persistence of unemployment and inflation together.

The new distribution of economic and industrial power: within the OECD area where the role of "locomotive" in the world economy no longer belongs exclusively to the United States but is shared with Japan and Western Europe (especially Germany); and outside the OECD area where some developing countries have attained a stage of industrialization which now enables them to play a more important role in the world market.

The oil crisis and the successive increases in oil prices, which are now determined more openly than ever by political as much as economic considerations.

The emergence of new social values and aspirations, as shown by the increased importance of social goods and services in the demands made on the economic system, the importance attached to protecting the environment, changes in attitudes to work, and a more critical assessment of science and technology.

Electronics is a spectacular exception; it has constantly increased its innovation potential. Since 1975/76 we have seen what has come to be known as the "micro electronics revolution". For example, the capabilities of one of the first electronic computers (ENIAC) built in the 1940s for several million dollars could be produced in 1978 for less than 100 dollars in a micro computer which calculates 20 times faster, is 10,000 times more reliable, requires 56,000 times less power and 300,000 times less space. Such radical innovations are bound to have pervasive effects—in data processing (computing, control, storage, etc.), in manufacturing and in the services as well. Like electricity this is a technology which will influence innovations in almost all sectors (machine tools, for instance, with the spread of numerical control by computer).

In contrast to electronics, innovation in other science-based industries can be said to have slowed down. In pharmaceuticals, pesticides and bulk chemicals for example, more stringent safety and environmental standards have had a considerable impact on costs and the rate of innovation. The number of new chemical entities marketed in the United States fell by about half between 1960 and 1973 while the cost of developing and testing a major new pharmaceutical increased from about $1.2 million in 1962 to about $24 million in 1974 and to $54 million in 1976 (current prices).

This combination of changes points to an uncertain world where long-term prospects have become obscure and medium-term methods of analysis provide no clearcut answers. Some people are even wondering whether the rules of the game—if not the game itself—have not changed: "It is now common practice to note the limits of conventional indicators of economic growth which point to progress without taking into account the social and human costs involved or which even count such costs as benefits. But one might just as easily question the validity of the practices used when the situation in which they are applied is itself new."

THE TECHNOLOGICAL STAKE

Technical change is no more immutable than economic growth. The constraints of the new context require an adjustment in the system of research and innovation since they both impose new demands on and provide new opportunities for it.

For instance, competition from the industrialising countries calls for the OECD countries to initiate a continuous process of change in the composition of output so as to replace those products which the developing countries have begun to produce for themselves or to export. "In this sense, intellectual capital—scientific resources and the aptitude for technological innovation—constitutes the major asset of industrialised countries in the new modes of international competition and interdependence."

The industrial structure of all OECD countries was based on a certain range of relative costs of the factors of production. These factor costs have been upset by increases in the price of oil. It has become imperative to re-structure the existing industrial apparatus to take account of this new system of factor costs. The new constraints of the energy market make it necesary to save energy, to recycle waste and to speed up the development of new energy sources. Similarly, to meet the new social aspirations, innovations are required in the service sector, especially technologies which can improve living and working conditions—areas relatively untouched by the technological evolution that has so profoundly transformed agriculture and manufacturing.

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[1] Four sectors (electronics, machine tools, pharmaceuticals and fertilizers and pesticides) were reviewed, and a statistical analysis of growth trends in labour productivity was also carried out. These studies, published separately from the group's general report, can be obtained from OECD.

THE UPS AND DOWNS OF INNOVATION

How has the system of research and innovation reacted to the turbulence of the last decade? There are many indications that it has suffered from the changes in the economic and social context, and this is confirmed by the sectoral studies. There has been an increase in industrial R & D in Japan and Europe and a relative decline in the United States. For most countries the rate of innovation has slackened, process innovations outnumber product innovations, and research—the cost of which has risen steadily—has been oriented to short-term, low-risk projects. Complaints are heard to the effect that excessive regulation is hampering innovation and that time is spent on paperwork rather than research. As industry cuts back on long-term projects, fundamental research in universities has slowed its rate of increase appreciably.

In contrast to the 1960s when technical change was maintained at the same rate on almost every front, innovation in the 1970s varied widely from sector to sector. In electronics and bio-engineering, breakthroughs are constantly being made (computers/telecommunications, word processing and automation of industry, management and information processing; biotechnologies which will apply fermentation and genetic modification to industry and agriculture). But many other sectors until now regarded as strongly innovative seem to be marking time or losing momentum. For research findings to be applied or innovations introduced and diffused, industry needs investment funds or access to venture capital, and this has been sharply restricted by current economic difficulties.

These trends, which of course vary from industry to industry, are indicative of the changes that have occurred in the rate and direction of technical change, which in turn have affected general economic conditions. "A number of earlier business-cycle theorists such as Schumpeter asserted that investment booms, rapid productivity growth and prosperity were associated with surges of innovation, and that economic stagnation was associated with the drying up of investment opportunities in the absence of innovation." But these theories assumed a basically passive government role in regulating overall demand and supply balance. Now that governments have adopted extremely active policies in this area, what is the interaction between these economic policies and the functioning of the scientific and technical system?

TECHNICAL PROGRESS, ECONOMIC EXPANSION

To answer this question, the experts examined three variables—productivity, prices and employment—and touch upon the central theme of their report: it is more vital than ever to link science and technology policies to economic and social policies if the rate and nature of technical change have a considerable impact on the structure of employment and the level of prices. "Just as rapid technical advance generates expansive economic conditions, an expansive economic environment provides stimulus and support for rapid technical advance."

There is a reasonably close relationship between productivity growth in a given industry and R & D financed by the industry itself or its suppliers. Broadly speaking, productivity has grown fastest in sectors which spend considerable amounts on R & D (such as chemicals) or buy equipment from firms having large expenditures of this kind (such as air transport).

But this observation is merely an empirical one, not a statistical correlation. At sectoral level neither the number of inventions nor a fortiori R & D expenditures indicate anything about changes in productivity; these result not from the innovations themselves, but from their diffusion. More generally a correlation between R & D spending and productivity growth is hard to demonstrate since one would also have to take into account other factors—technical, economic and social—which accompany the diffusion of innovations.

Moreover science and technology may make their contribution not only by increasing capital investment, but also by improving the quality of goods and services. Such improvements are not taken into account in the statistics on GNP or productivity. (A new drug, for example, may be more effective than the one it replaces but cost the same). This means that scientific and technical activities cannot be separated from the other sources of GNP growth; nor can GNP alone measure the full impact of these activities.

Subject to these reservations, technical advance is quite clearly an essential component of productivity growth. For example those countries which have had the most rapid productivity growth since 1960—Japan, Germany and France—are also those which have significantly increased their ratio of R & D to GNP (if defense R & D is left out of the calculation).

1. GOVERNMENT-FINANCED EXPENDITURE ON R. & D. BY SOCIOECONOMIC OBJECTIVES (1977)

[1/10,000 of GNP]

Objective	Canada	France	Germany	Italy	Netherlands	Switzerland	United Kingdom	United States
General advancement of knowledge	8.6	26.8	50.5	15.4	52.5	12.4	24.0	5.3
Agriculture	10.4	4.3	2.2	1.5	7.6	4.7	4.9	2.8
Health	4.1	4.9	3.9	1.4	6.2	.7	2.3	14.0
Defense	3.1	30.6	13.4	1.9	3.0	5.8	57.6	65.8
Civilian industry	11.6	25.9	25.6	17.1	12.7	6.0	16.8	31.3
Of which:								
Industrial growth	7.7	11.6	7.7	4.1	4.8	1.0	5.7	.6
Production of energy	3.9	8.9	13.2	9.5	4.9	3.3	8.2	14.7
Civil space		5.4	4.6	3.5	3.0	1.7	2.9	16.0
Quality of life	8.9	10.8	11.5	2.7	12.8	5.0	6.1	15.0
Of which:								
Transport and telecommunications	1.9	3.4	1.6	.2	1.8	2.0	.7	4.1
Urban and rural planning	.3	1.6	1.4	.5	4.4	.3	2.1	.6
Environment protection	.7	1.0	1.5	.3	NA	1.5	.9	3.8
Social development and services	3.7	1.5	4.8	.8	5.2	.9	1.3	2.9
Earth and atmosphere	2.3	3.3	2.2	.3	1.4	.3	1.1	3.6

Source: OECD.

3. PER CAPITA INDUSTRY-FINANCED EXPENDITURE ON R. & D.

	1967		1975	
	In million United States dollars[1]	United States=100	In million United States dollars	United States=100
Belgium	20.5	43.9	(26.5)	(50.9)
Canada	16.5	35.3	15.2	29.2
France	22.2	47.5	28.4	54.5
Germany	36.9	79.0	49.1	94.2
Italy	8.6	18.4	11.9	22.8
Japan	22.4	48.1	37.9	72.7
Netherlands	37.6	80.5	36.3	69.7
Sweden	30.3	64.2	50.2	96.4
Switzerland	(45.5)	(97.5)	62.0	119.0
United Kingdom	36.6	78.4	33.1	63.5
United States	46.7	100.0	52.1	100.0

[1] At 1970 prices and adjusted exchange rates.

Source: OECD.

4. U.S. INDUSTRIAL R. & D.—CHANGING DIRECTIONS OF EXPENDITURE IN THE 1970'S

	Percentage of industrial R. & D. devoted to—			Percentage of total sales expected from new products in 4 yrs' time
	New products	Improving existing products	New processes	
1971	(42)	(46)	(12)	16
1973	(38)	(44)	(18)	13
1974	36	50	14	14
1975	33	53	14	15
1976	29	58	13	13
1977	26	57	17	14
1978	34	42	24	13

Note: Data for 1971 and 1973 are not strictly comparable to data collected for subsequent years. They show percentage distribution of companies according to the main purpose of their R. & D. activities. Thereafter the percentage distributions reflect expenditure patterns.

Source: McGraw Hill, Business Plans for Research and Development Expenditures, New York.

Data on productivity growth indicate that, after the very rapid increase of the 1950s, there was a leveling-off in most countries or even a decline beginning in the late 1960s (with significant differences between sectors, of course). After 1973 a falling off in productivity or a persistent slowdown was the rule. What lies behind this break in trend?

PRODUCTIVITY AND PRICES

"Economists agree on a list of factors but are not in full agreement regarding the weights to assign to each, or upon the fundamental mechanisms of causation", the report notes. It is useless, the report adds, to assign specific weights to the various contributory factors: demographic changes in the composition of the workforce; a shift in the allocation of the workforce away from high productivity industries to the service sector where productivity growth seems to be lower (and is admittedly more difficult to measure); inflationary recession after the 1973 oil-price rise, etc.

In particular, the reinforcement of environmental and safety regulations has necessitated investment and industrial R & D of a kind which may have slowed down the growth of productivity as measured. But it is important to recognise that these shifts in resource allocation were the very object of the regulations and that they reflect a change in social and private values. "A broader method of assessing the net social benefits of economic activity than on the basis of GNP would have revealed less of a decline in productivity growth. But GNP, as we measure it, does not directly value environmental quality or safety, and these shifts in resources therefore show up in the decline in measured productivity growth."

The report adds another factor, the restrictive fiscal and monetary policies applied since 1973 to counter inflation and balance-of-payments deficits. There can be a dilemma between the needs of macro-economic and technological policies. Restrictions on demand growth has discouraged physical investment, curbed the rate at which new technologies are introduced and damped down the incentives to carry out R & D while the deceleration of productivity growth has cut the size of the product to be shared out and hence reduced the impact of the anti-inflationary measures.

How can one assess whether the un-measured costs of technical advance outweigh its un-measured benefits? This question, posed at several points in their analysis, is raised by the experts in the context of inflation. For if the cost-of-living index more adequately reflected certain improvements in the quality of the product or in the quality of the environment—which it does not—the price increase to be fed into escalator clauses would be less, and politicians would be less concerned about inflation and less prone to draw in the economic reins, since measured inflation would be less. We are not denying here that inflation is a serious problem in the OECD countries, the experts insist. "We ask consideration, however, of the possibility that our instruments for measuring the problem may in fact magnify it."

Technical change may of course also be inflationary if it means the introduction of technologies which have only minimal real benefits as compared to their costs: certain kinds of hospital equipment are cited as a recent example.

Finally, the increase in R & D costs of the last decade may spur inflationary pressures—directly, by increasing the R & D costs that need to be amortized over the life of a new product or process, or indirectly by damping down the rate of technical progress.

TECHNICAL CHANGE AND EMPLOYMENT

There are numerous signs that there is now a strong bias towards capital-using technologies rather than labour-using ones. The capital-intensive micro-electronic revolution (micro-processors, micro-computers, etc.) with its favourable growth prospects can of course contribute to a rapid increase in demand, boost investment and, as it spreads through the economy, help those sectors to adjust where productivity is low. But there is also a dark side to the picture which suggests proceeding with caution.

In all the industrialized countries, employment in agriculture has continued to decline while farm output has continued to increase. In industry, the number of jobs expanded substantially during the 1950s, and fluctuated during the 1960s, but over the last decade a trend towards stagnating or even declining employment can be discerned. Only in the service sector has employment increased. Are these trends likely to persist in the 1980s? The answer, says the report, will depend mainly on whether or not OECD countries are able to relax their policies of demand growth restriction. But there are other factors which must be taken into account when considering the prospects for any resumption of employment growth in industry: the relative capital intensity of the various sectors, the rate of introduction of more capital-intensive techniques and changes in the international distribution of industry.

However, if the service sector is to be the source of the new jobs, technical change must proceed at a pace and in directions which will ensure that the new activities offset the displacement or elimination of jobs. But the information sector which accounts for an important part of the services is highly vulnerable to the impact of the micro-electronic revolution, and technical change may, in the medium term, have adverse effects on employment in that sector.

"The higher society's standard of living, the smaller the proportion of the labour force which must be employed to produce those goods and services which satisfy the essential needs of the population", the report notes. "The sectors which satisfy other needs must therefore make it possible to offset any reduction in the level of employment in the essential manufacturing industries. If this is correct, it must mean not the loss or absence of employment but the creation of an increasing number of new occupations and leisure activities. Two questions therefore arise: to what extent the growth of the service sector will compensate and even over-compensate, for the reduction in the labour force in manufacturing, a process similar to that experienced in the transfer of employment from agriculture to industry; and in what conditions technical progress will modify the very nature of work and leisure by creating activities and occupations increasingly remote from traditional production tasks."

Thus, what will happen in the coming decade is an open question. The experts take neither a pessimistic nor an optimistic view but emphasize that demand management policies, though necessary, are not sufficient to solve the structural problems which prevent conventional policies from being effective. Conversely, technical innovation, far from being peripheral, is central to the solution of these problems and can facilitate the use of demand management policies.

"Historical performance as well as theoretical analysis suggest that it may be easier to maintain full employment when technical advance is rapid than when it is slow provided the direction of technical change is not adverse." Hence, the importance to governments of being aware of the potential problems involved in a strongly capital-intensive technical advance rather than a labour-intensive one. This is why the rate and direction of technical change are at the heart of economic policy options.

The conclusions and recommendations of the experts revolve around the concern to overcome "the cultural and organizational problem" raised by communication between economic and social policy makers and those responsible for science and technology policies. It is by integrating research and innovation policies more closely with other aspects of public policy, in particular economic and social policy, that governments can implement decisions that take into account both the opportunities provided and the constraints imposed by science and technology.

THE TECHNOLOGICAL IMPERATIVE AND SOCIAL OBJECTIVES

"We do not subscribe to the denigration of technical change as such" the experts note. "We are convinced that technological opportunities have not been exhausted. When society provides an environment appropriate to the encouragement and adaptation of technical change, there is a vast potential for new useful technologies and related scientific advances." This conclusion led the experts to emphasize the importance of three objectives:

Maintaining and improving the innovative capacity.

The structural adaptation of our economies hinges upon the technological imperative; the report accordingly stresses the measures by which governments may strengthen innovative capacity in manufacturing and the services and fundamental research in the universities. This is the most revealing sign of change in the economic and social context compared with the previous decade: the debate which then centered on the contributions of R & D to economic growth, today focuses on the dangers faced by research and innovation as a consequence of the slowdown in growth. Innovation policies must once again be viewed in a long-term perspective, and basic research must be shielded from the consequences of recession.

Sustaining a higher rate of technical advance and productivity increase.

The group makes specific recommendations on the need to support research into fundamental technologies the achievement of which depends on research which may appear in the view of the universities too applied and in the view of industrial firms too risky or ill-defined. Such technologies (e.g., corrosion prevention and control, materials resistance, etc.) may have wide application in essential sectors of the economy—agriculture, energy, mechanical engineering, industrial chemistry.

In this context the experts stress the need for technological pluralism, by which they mean keeping the door open to alternative technological solutions in order to avoid being caught short, as in the energy crisis, by political or technological "surprises".

The constraints of the new context are such that attention must be given to scientific and technological research which can help overcome specific bottlenecks: environmental regulations, adjustment of productive capacity to more competitive products, more selectivity in long-term research, and training and retraining of manpower in the micro-electronic revolution.

Promoting social innovation and technologies.

The technological imperative is only one of the challenges made by the new context: the transfer of demand to services, public and private, also has repercussions for scientific and technical research which could help improve the quality and efficiency of social services. Developing and implementing "social innovations and technologies" call for special support from governments since the organisation of demand here is less clear than in the marketing of consumer goods. The social sciences and technologies must be used in tandem (transport, health, the environment and urban development) to improve collective services, the quality of life, working condition and the educational and cultural framework.

A POLICY OF PARTICIPATION

If there is little justification for assuming limits to science and technology, the report concludes, there are limitations imposed by political, economic, social or moral factors which may retard, inhibit or paralyse both scientific discovery and technical innovation. "The most intractable problems lie not in the potential of science and technology as such but rather in the capacity of our economic systems to make satisfactory use of this potential. The success of adjustment policies will largely depend on the ability of our societies to exploit their intellectual and technological capital in responding to the social and economic challenges confronting us in the final decades of this century."

This implies that technical change is no more an end in itself than economic growth: "It must find its ultimate legitimisation and indispensable political support in a high degree of correspondence with the aspirations and decisions of the population of our countries." The experts stress that while the public, over the past thirty years, has become accustomed to the economic aspects of the management of society, much remains to be done to add to its knowledge of the implications and potentialities of technology.

"The demand for public participation is the legitimate expression of a more educated public in a period of profound change, which entails also changes in values and a measure of dissatisfaction with the idea that problems can best be presented and decisions taken by the bureaucracy." Fuller information and education open the door to more balanced perception of the technological options and the stakes at issue. "Truly democratic participation is the only guarantee for our societies to overcome the resistance inevitably generated by the technical changes upon which their survival depends."

If the health of the innovative system is to be restored, the acceptance of a higher rate of technical change depends on a widespread social commitment. "This commitment will be forthcoming only if there is a satisfactory balance between the generation of new employment and the loss of old jobs and if technical change is welcomed in our societies because it is perceived to improve the quality of life." Thus, the combination of changes which make up the new economic and social context calls for the establishment of new sorts of relationships in the area of science and technology—not only between those responsible for different kinds of public policy but also between scientists, engineers, technicians and industrialists on the one hand and, on the other, trade unions, consumers' organisations and representatives of the public.●

PRIVACY PROTECTION

● Mr. BAYH. Mr. President, yesterday the Senate passed S. 1790, legislation which I and several of my colleagues introduced in response to the Supreme Court's decision in the case of Zurcher against Stanford Daily. It has been almost 2 years since the Court handed down a ruling which came as a surprise to many of us. A majority of the Court said that a police officer armed with a warrant could present himself at the office or home of any one of us, without notice, and forcibly search the premises for evidence of a crime, even though we knew nothing of and were not implicated in any way in the offense under investigation.

In our Nation's heritage there has long been embedded the notion that a man's house is his castle. As William Pitt said:

> The poorest man in his cottage may bid defiance to all forces of the crown. It may be frail, its roof may shake, the wind may blow through it, the storm may enter, but the King of England cannot enter.

Well before our Bill of Rights, our English legal traditions proclaimed that there are boundaries beyond which the state cannot intrude on people's lives and property. In America, the colonists suffered long and painful experience with the king's men entering and ransacking homes and businesses on the mere showing of general warrants or writs of assistance. It was out of these traditions and personal encounters that the fourth amendment was drafted to establish "the right of the people to be secure in their persons, houses, papers, and effects." Suddenly, the Stanford Daily case made clear to us that there were limits we had not known of in our "right to be secure."

I was particularly concerned by the chilling effects the Court decision would pose on the vigorous exercise of first amendment rights by the press. As our hearings clearly showed, the very nature of the news media requires them to gather information concerning a wide variety of people and organizations. When investigating corruption, the fruits of these investigations could almost routinely be considered "evidence" relating to crimes and would therefore be subject to seizure in unannounced police raids of newspapers, radio, and television stations.

Since the Supreme Court decision two other newsroom searches have come to our attention making quick action on this legislation even more important. One occurred in Flint, Mich., in the newsroom of a small local paper, the other in Boise, Idaho, at a local TV station newsroom. The video tapes taken of the police search of the Boise TV station and the reports of that search, which has been widely characterized as almost a raid of the station's tape library, make clear just how serious this problem is, not only for the press but for all of us who rely upon the press to give us the information we want and need about our communities, our Government, and our fellow citizens.

I believe S. 1790 addresses the underlying issue posed by the Supreme Court: How to balance the rights of individual citizens and the rights of Government. Many citizens today are concerned that this balance is being lost. At times, the raw power of the Government, the size of the bureaucracy, the blizzard of regulations, and the tax burden seem to overwhelm the individual American citizen. With the Stanford Daily decision, we have encountered a new and even more disturbing issue—the right of the Government to search through confidential information for evidence of someone else's crimes.

Therefore, we have to ask ourselves: How do we balance the offensive intrusion on the privacy of the ordinary citizen against society's interest in law enforcement? It is not an easy question to answer. As Justice Jackson remarked over 30 years ago:

> The right to be secure against searches and seizures is one of the most difficult to protect.

Certainly, one of our first responsibilities is to adequately ascertain just how society's interest in law enforcement is affected by protecting the individual from unannounced searches. Will law enforcement, in fact, be weakened by insisting on less intrusive investigative means when dealing with people who are not involved in any crime? For me, commonsense tends to dictate that there are reasons to treat third parties differently from suspects. If we do not, it is a strong possibility that the Stanford Daily type search will become commonplace.

The Citizens Privacy Protection Act of 1980 provides broad protections against searches without a subpena by Federal, State, and local authorities for documentary materials which are in the possession of those engaged in first amendment activities. When materials consist of work product a general no-search rule applies, when they are documentary materials other than work product a subpena-first rule is generally applicable.

After the Justice Department objected to a bill which would cover all innocent third parties who would have confidential relationships with clients such as lawyers and doctors, a compromise was reached which is contained in section 201 of S. 1790. This section permits the Federal law enforcement agencies to carry out their functions operating under a set of established guidelines to prevent unnecessary and unconstitutional violations of our citizens' privacy.

It has been said from time to time that law enforcement officers rarely, if ever, abuse their authority to search, and that therefore it is unnecessary to legislate. Experience even in the 2 years since the Court's decision has shown us that instances of abuse do occur. Even beyond the evidence of abuse, however, we must look to the potential for abuse. Our liberties are too fragile to be assumed. I am reminded of Thomas Jefferson, writing in some alarm from his post in revolution-torn France to the drafters of the American Constitution, when he learned that they had not included a bill of rights in the document, he warned them:

> You must specify your liberties and put them down on paper.

With that admonition in mind, the Senate has acted today.●

PRAYER IN PUBLIC SCHOOLS—STATEMENT OF DR. WILLIAM R. BRIGHT

● Mr. ARMSTRONG. Mr. President, over the last several years, the issue of prayer in public schools has generated much controversy but little insight. Unfortunately, the question of when and if to permit voluntary prayer has become so emotionally supercharged that rational discussion has been hindered.

That is why I am particularly pleased to call the attention of my colleagues to a thoughtful and scholarly statement on this subject submitted to the House Judiciary Committee by Dr. William R. Bright.

Dr. Bright is the president of Campus Crusade for Christ, an organization which he and Mrs. Bright founded on the campus of a California university. From a modest beginning, Campus Crusade has grown to become one of the most significant and influential ministries in all of Christian history. In less than three decades, Campus Crusade for Christ has spanned the globe bringing the Gospel to literally hundreds of millions of persons in more than 100 nations.

During the same time, Dr. Bright has gained recognition for his dynamic spiritual leadership and unique abilities. He is a great organizer; he is a person of extraordinary ability to inspire and motivate; but most importantly, Dr. Bright is a person who is irrevocably and totally yielded to the Lord. In my opinion, it is his remarkable faithfulness and dependence on the Lord which accounts for the success of his unique ministry.

It is from this perspective of total commitment to God's purpose that Dr. Bright has approached his statement on the issue of school prayer. I believe that every Senator will benefit from studying his comments. And I am confident that even those who may disagree with some or all of Dr. Bright's conclusions will find his arguments thought-provoking and of great value as Congress continues to consider this important issue.

My good friend and distinguished colleague CARLOS MOORHEAD of California has inserted Dr. Bright's statement into the CONGRESSIONAL RECORD of July 31, 1980 at page E3744. I urge all Senators to carefully consider Dr. Bright's statement.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PELL. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), I wish to state that section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that seven such notifications were received—five on July 29 and two on July 30, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Lieutenant General, USA,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 30, 1980.
Dr. HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

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The Department of State is considering an offer to an African country for major defense equipment tentatively estimated to cost in excess of $7 million.

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ERNEST GRAVES,
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Director.●

S. 1641: THE NATIONAL JOURNAL OFFERS AN ANALYSIS OF TITLE II AND NATIONAL WATER POLICY

● Mr. DOMENICI. Mr. President, the National Journal recently included a most informative article: "Water Politics as Usual May Be Losing Ground in Congress," by Lawrence Mosher.

Because of the significance of this article, in conjunction with the provisions of title II of S. 1641, now on the calendar, I ask that the article be printed in the RECORD.

The article follows:

WATER POLITICS AS USUAL MAY BE LOSING GROUND IN CONGRESS

(By Lawrence Mosher)

The Ogallala aquifer, in case you haven't heard, is drying up.

This vast underground water system lies beneath parts of six states: Texas, New Mexico, Colorado, Oklahoma, Kansas and Nebraska. It supports 40 per cent of the nation's cattle industry, a fourth of its cotton crops and much of its grain production.

In 1937, only 600 wells probed the Ogallala. Now there are more than 70,000 wells operating in the region, and the water table is falling. This "overdraft" is expected to exhaust the Ogallala by the end of the century if it is not replenished.

The federal government, which spends some $2 billion a year on water projects, ignored the dwindling Ogallala until only two and a half years ago. Now it is spending $600,000 for a study by the Army Corps of Engineers and the Commerce Department's Economic Development Administration.

Since 1971, however, the federal government has committed $621.7 million to the Tennessee-Tombigbee Waterway, a 232-mile ditch that will connect the Tennessee River with the Gulf of Mexico. Another $225 million is pending in Congress, and the "Tenn-Tom," as it is called, is expected to cost more than $3 billion before it is finished later this decade. It is the costliest water project ever undertaken by the corps and also one of the most controversial.

To critics such as Sen. Daniel Patrick Moynihan, D-N.Y., the new chairman of the Environment and Public Works Subcommittee on Water Resources, and a small but growing number of other water policy reformers on Capitol Hill, the Ogallala and the Tenn-Tom have come to symbolize what's wrong with how the federal government is managing the nation's water resources. While the government continues to pay for such traditional projects as the Tenn-Tom—which Moynihan calls "a plan to clone the Mississippi"—it pays scant attention to vanishing aquifiers and other deteriorating water systems.

"Under the present system there are no real national goals," Sen. Pete V. Domenici, R-N.M., said in an interview. "So we get a combination of pork and parochialism because of historic needs. The waterways need money, but they take the color of pork because they aren't the only kind of water needs in the country anymore. The cities of America have a dramatic water problem now. And in the West, we have these diminishing aquifiers."

Water politics, it seems, are changing on Capitol Hill.

NEW SYSTEM

Domenici joined with Moynihan last year to propose legislation that sought a radical change in Congress process of selecting water projects. Their bill would have allocated $4 billion a year to the states according to a formula based on area and population. The states—rather than the congressional authorization and appropriations committees—would determine what projects got built, and when.

The Domenici-Moynihan bill died last year in the Water Resources Subcommittee. But this year the two Senators have succeeded in getting a modified version approved by the Environment and Public Works Committee. This bill (S. 1641) would establish a five-year "demonstration" program by allocating up to $1 billion a year to the states under the area-population formula. The program would run side by side with the present water project financing.

It is not clear whether the proposed block grant system would result in increased water resource spending. Rather than go through the regular appropriations route, the states could use the new program as a fast-track system for previously authorized projects.

"It would not be $1 billion beyond what would be spent otherwise," a Moynihan aide explained. "We would probably end up at the same spending level that we have now."

The Domenici-Moynihan proposal would significantly shift where federal water money goes, however. Historically, 76 percent of the federal funds have gone to the western and southeastern states. Under the new plan, the share to the northeastern states would more than double to 13 per cent, while the western and southeastern states' share would drop to 66 per cent.

For Moynihan, the motivation is clear. "The Northeast is asking for some measure of equity in the distribution of the federal water project funds," he explained. One project for which Moynihan wants federal help is a third water tunnel for New York City, a $1 billion project that was halted in 1975 because of the city's financial crisis. New York City's two water supply tunnels reportedly lose half their water through leaks, but neither can be shut down for repairs because both are needed to meet the city's water demand.

Municipal water systems have traditionally fallen outside the scope of federal water project financing. The Office of Management and Budget (OMB) continues to block money for "single-purpose water supplies," fearing a flood of new spending.

While federal money generally isn't being spent to rescue deteriorating city water systems, particularly in the Northeast, it is being used to provide water for cities in the Southwest through the multi-purpose dam and irrigation projects built by both the Corps of Engineers and the Interior Department's Water and Power Resources Service (formerly the Bureau of Reclamation).

"There is a legitimate claim on the federal budget for some assistance in improving aging city water systems," Debra S. Knopman of Moynihan's staff contended. "It's the OMB mentality that we can't open the floodgates on this, but that is not policy making."

Domenici's reasons for pushing for greater regional equity in water project funding are not as treasonous as they seem. The Senator from Albuquerque sees diminshing support for water programs if nothing is done to change the financing system.

"There is a far greater need for water resource money in this country than we have been appropriating," Domenici explained. "So long as the procedures and the selection process remain as is, instead of more money going to meet the water crisis under a broadened water policy, there will be less."

A recent vote in the Senate appears to confirm Domenici's fears. During a Senate debate on the 1981 budget last May, Sen. William S. Cohen, R–Maine, introduced an amendment to delete $500 million in water projects. It lost, 40–54, but as one Senate aide put it, there were 40 Senators who thought they had nothing to lose by eliminating about a fourth of the budget's water projects.

CARTER'S POLICY

The Carter Administration, which has been attempting its own water policy reform, has taken no position on the Domenici-Moynihan initiative. Officials, however, don't think the plan will work.

"It doesn't put the money where the water problems are," Leo M. Eisel, director of the Water Resources Council, said in an interview. Eisel also faulted the plan for not requiring the states to pay part of project costs.

Cost sharing by the states is an integral part of the water policy reform proposal President Carter first outlined two years ago.

Congress, however, has shown no interest in enacting the President's legislation, which would generally require states to pay 10 per cent of construction costs for income-producing projects such as hydropower dams and 5 per cent for others. The purpose of cost sharing is to promote better project decisions by involving the states financially.

Carter would also eliminate the existing bias against "nonstructural" solutions to flood control, such as land for parks (as opposed to housing) on flood plains. Currently, the states have to put up as much as 20 per cent of the cost of nonstructural solutions; in such cases, Carter would impose the same rate of cost sharing for structures such as dams and levees.

Carter's water policy has sought to avoid wasteful projects, promote water conservation and encourage environmentally sound solutions. To accomplish these goals, the Water Resources Council, a small, independent body run by the heads of eight federal agencies and chaired by Interior Secretary Cecil D. Andrus, developed a procedural manual and project criteria for use by the four main water agencies—the Corps of Engineers, the Water and Power Resources Service, the Agricultural Department's Soil Conservation Service and the Tennessee Valley Authority. The manual was issued earlier this year.

"Up to now, each agency has used its own arithmetic to figure a project's cost-benefit analysis," Robert Smythe, a senior staff member of the Council on Environmental Quality, explained. "You couldn't really judge whether a cost-benefit ratio was meaningful or not. Now all four agencies are using the same system for easier comparison."

Whether such administrative reforms can discourage more pork barrel fights between Congress and the Administration isn't clear. Shock waves continue to reverberate from Carter's 1977 "hit list" confrontation, when the President challenged 18 continuing water projects as either economically unsound, poorly planned or environmentally harmful.

The list, however, represented only the surface of Carter's battle to wrest control of water project selection from the powerful authorization and appropriation committees of Congress. Carter also struck at the heart of the pork barrel process by blocking the flow of reports from the main water agencies to Congress that are needed in both the authorization and appropriations processes.

"He stopped the system," Senate Water Resources Subcommittee staffer Thomas F. Donnelly said in an interview. "Carter held everything at OMB for two years, causing Congress to complain that he was exercising a pre-veto over what Congress could consider.

"When Congress put together its 1978 authorization bill, it was in a mood to show him up. Congress didn't just take the reports held at OMB. It opened Pandora's box and everybody started reaching down the pipeline to bring up their pet projects."

The 1978 authorization bill never got to conference. Robert W. Edgar, D-Pa., stopped it in the House on a technicality as the 95th Congress was adjourning.

PORK BARREL RITUAL

Edgar has become a leading critic of the pork barrel process in Congress and what he calls its "manhood ritual."

According to Edgar, new Members of Congress take water projects they have in mind to Ray Roberts, D-Texas, chairman of the House Public Works and Transportation Subcommittee on Water Resources, and Tom Bevill, D-Ala., chairman of the House Appropriations Subcommittee on Energy and Water Development.

"The chairmen say, 'Sure, we'll put your projects in our bills as long as you keep your mouth shut about bad projects,' " Edgar said, "So a lot of good people get silenced by this process. But I think this is now beginning to change."

In separate interviews, both Roberts and Bevill defended the present process.

"I think the system works pretty good," Bevill said. "I don't know of a single water project that's been built in 200 years that hasn't more than paid its way.

"The White House, of course, would like to tell Congress what projects to act on. But as you know the Constitution authorizes the Congress to make appropriations."

Roberts accused Carter of trying to stop all water projects. "They holler pork barrel," he said, "but all my projects except flood control are repayable with interest. We don't give them anything."

In fact, the federal government pays 70 per cent of the cost of all water projects; local operating authorities pay the rest.

Earlier this year, the House passed a new $4.4 billion water projects authorization bill (HR 4788). The Carter Administration found it even more objectionable than the 1978 bill. The Administration supports only 63 of the bill's 214 projects.

Michael Blumenfeld, assistant Army secretary for civil works, explained in a Jan. 19 letter to Rep. Harold T. Johnson, D-Calif., chairman of the Public Works and Transportation Committee, that many of the projects lacked full documentation by the Corps of Engineers. "If we are to evaluate—and the public is to have confidence in—the engineering, economic, environmental and social feasibility of these proposed projects," Blumenfeld wrote, "completion of the report by the chief of engineers and full executive branch review are essential."

The main issue is over the nature of "executive branch review." In his water policy message two years ago, Carter called on the Water Resources Council to conduct an independent review of water projects in their planning stages to determine if they were in compliance with his reform measures.

Project reports from the water agencies are normally forwarded to OMB, where they may remain for months or even years. Carter wanted a "policy neutral" body to review the technical merits of a project both to weed out bad projects and reduce litigation later by ensuring they are in compliance with environmental and other regulations.

The independent review would be completed in 60 days. Its results would be returned to the agency, where a final decision on the project would be made. Further, the review would be part of the project's public record, unlike the OMB review. If approved, the project would then go to OMB.

But Congress has never liked the council. It attempted to kill it two years ago, and now the council is the object of a power struggle between Carter and the House authorization and appropriations chairmen over the new water authorization bill, which is stalled in Moynihan's Water Resources Subcommittee.

The House chairmen won't authorize funds for the council for 1981 until Carter withdraws his objections to the omnibus water bill. But Carter has indicated he will veto the bill in its present form. In the meantime, Congress has blocked money for the council's independent review role. And in retaliation, Carter earlier this year ordered that there be no "new starts"—construction of previously authorized projects—without a review by the council.

"It's a game of chicken now," commented one Carter aide. Meanwhile, completed water project reports from the Corps of Engineers and the other agencies continue to pile up at the Water Resources Council. At last count, there were 43.

NEW PRACTICE

There have been no new water project authorizations since 1976. About $38 billion in projects remain in the backlog, some dating from the 1930s. Congress traditionally has added dozens of new projects to presidential budgets, but Carter, in confronting Congress on water policy, has upset the practice. He has, however, initiated 42 projects that were previously authorized since he launched his water policy reform. (*See table, p. 1189.*)

For fiscal 1981, neither Congress nor Carter has sought money for new projects. The House appropriations bill passed last month listed $2.2 billion in continuing projects, exceeding the President's budget request by only $100 million. The Senate bill is still before the Appropriations Subcommittee on Energy and Water Development.

Environmental lobbyists such as Brent Blackwelder of the Environmental Policy Center now view Carter's water policy reform as a partial sellout. "It's true Carter is jamming the pipeline on new projects. But he's still allowing the old pipeline to run on for several more decades. Are we going to be able to upgrade some of the deteriorating water systems in the Northeast? The answer is no, unless we scrap some of the boondoggles like the Tenn-Tom waterway. There isn't going to be enough money to do both."

Blackwelder and such congressional reformers as Pennsylvania's Edgar think Carter should have vetoed the 1977 and 1979 appropriations bills. Carter did veto the 1978 bill, which carried six projects on his 1977 hit list; the veto was sustained.

But Edgar does believe that Carter's reform measures have had an impact, pointing out that the current House appropriations bill for fiscal 1981 listed no new projects. "That's a first," Edgar said. "I think Tom Bevill is a little bit more gun-shy about putting in bad projects because of the President's water policy."

Senate reformers Moynihan and Domenici, however, argue that the Carter water policy is structurally flawed. Although they applaud the independent review role of the Water Resources Council, they argue that it takes place too late in the project selection process to be effective.

"Carter has not gone to the heart of the problem," Moynihan's aide Knopman contended. "If you are not going to touch the congressional process—the authorization and appropriation roles—then you are not going to get the pork."

The Domenici-Moynihan plan to shift water project spending to the states, however, alarms Blackwelder, who fears it could result in more environmentally damaging projects.

"The mere fact that the states establish priorities will help," Blackwelder said. "But our fundamental objection is that it does not redirect the program toward cost-effective, environmentally sound solutions. There is a great variety among the state legislatures. While you might get a very good program in Massachusetts, you might get a really crummy one in Arizona."

That may be a gamble the environmentalists will have to take. The one thread linking the Domenici-Moynihan proposal to the Carter policy is the objective of getting the states more involved in the project selection process. Last year's original Domenici-Moynihan bill required the states to put up 25 percent of project costs. It was dropped under pressure from State organizations, which also have opposed Carter's latest proposal to reward states that voluntarily adopt the 5 to 10 percent cost-sharing proposal by giving their projects a higher national priority.

The initiative to break the current water policy stalemate now lies with Moynihan. The Water Resources Subcommittee chairman plans to hold a hearing on the controversial Tennessee-Tombigbee Waterway project later this month to challenge its proposed $225 million appropriation for 1981. In addition, Moynihan may attempt to use his state block grant demonstration bill as a vehicle for reaching a compromise with the House over its omnibus water authorization bill. The Senate authorization bill (S. 703) is now considered dead.

Most observers predict that the Moynihan-Domenici initiative will fail, and that the standoff between Carter and Congress will continue. Two Senate staffers with the Water Resources Subcommittee offer opposite interpretations of the significance for pork barrel politics.

"Congressmen are far less interested in the pork barrel process now than a few years ago," Harold H. Brayman said. "Getting a dam built back home just doesn't have the political charm it once had. Other concerns, including protecting the environment, are catchier to the voters now."

Donnelly disagrees. "This is what we saw in the 1950s when there was a fight between Congress and the Eisenhower Administration over water projects," he said. "We went through eight years without an authorization bill. There was talk then about how bad the program was, and how it didn't work. But it does work. We just are having a terrible problem with the President right now."●

IRS CAN DEVOTE MORE RESOURCES TO MAJOR DRUG CASES

● Mr. RIBICOFF. Mr. President, as chairman of the Governmental Affairs Committee, I want to commend the Permanent Subcommittee on Investigations for its continuing effort to improve the Federal Government's ability to combat illicit drug trafficking.

Under the leadership of its chairman, Senator NUNN, and its ranking minority member, Senator PERCY, the subcommittee is evaluating the Federal strategy for controlling the multibillion dollar illegal drug trade in this country.

As the subcommittee points out in a report filed on Monday, the Federal strategy suffers from the absence of the Internal Revenue Service as a full-time participant in major drug investigations.

I support the subcommittee's efforts to have the IRS return to its previous active role in investigations of major narcotics traffickers and other organized criminals.

Americans are frustrated by their Government's inability to stem the tide of illicit drugs. Statistics indicate that the size of the narcotics trade in the United States is approximately equal to the amount of money Americans spend on new cars.

Federal estimates are that in dollars the drug trade is between $44 and $63 billion, according to 1978 data. That same year Americans spent about $50 billion on new cars.

The Internal Revenue Service is capable of being the Government's most effective force in immobilizing the big drug smuggling and distribution syndicates.

But, in part because of constraints imposed by Congress and in part because of its own unwillingness to investigate organized crime, the IRS has reduced its participation in Government efforts to prosecute major drug dealers.

Congress can help by amending the Tax Reform Act of 1976, which placed severe limitations on what IRS can do in participating in joint investigative projects such as organized crime strike forces.

Major drug traffickers rarely touch or come near the illicit narcotics shipments that enrich them. You will not find the major traffickers handling drugs. They hire operatives for that duty. It is important, of course, to apprehend the underlings in the drug traffic. That can be achieved by the more traditional investigative methods.

But underlings are easily replaced in the major drug syndicates. The syndicates continue smuggling and distributing their product. To actually immobilize the organization itself, the leaders must be detected and prosecuted. That is the only way this Nation will bring under control the narcotics problem that afflicts the country.

To investigate the major dealers and ultimately put their syndicates out of business, the key tactic will be highly specialized kind of inquiry known as financial investigation. Financial investigation focuses on the profits traffickers realize from their drug dealings. No endeavor generates more cash more quickly than does drug trafficking at the high levels. Drug traffickers must do something with their profits. They go to great lengths to conceal the way they dispose of this cash. IRS investigators are trained to detect the flow of these illicit profits. That is financial investigation and IRS agents are the best there are at it. Yet, unfortunately, all indicators show that IRS is virtually removed from the illicit narcotics field.

I am cosponsoring legislation introduced by Senators NUNN and PERCY to amend the Tax Reform Act of 1976 to enable IRS to cooperate more readily with other law enforcement agencies in organized crime cases after established procedures of disclosure are adhered to.

The disclosure provisions of the Tax Reform Act were passed to counter abuses stemming from the Watergate era when White House operatives tried to use IRS to destabilize and otherwise damage persons and groups perceived to be enemies of the President.

The statute has been successful in keeping taxpayers' privacy a major concern to IRS and the law enforcement community. However, if, as the subcommittee has found, the statute also unnecessarily adversely affects law enforcement, then we should take steps to amend the law. That process has already begun.

Our goal should be an amended statute that assures taxpayer privacy and, at the same time, enables law enforcement to carry out its duties effectively, responsibly and constructively.

The important thing is that IRS return to its vital role in investigations of major narcotics dealers and other organized criminals. The IRS expertise in this endeavor is much too valuable to be excluded from the Government efforts to control drug trafficking.

The Investigations Subcommittee held 5 days of hearings in December of 1979 on Federal drug enforcement and IRS's diminishing role in it.

The Nunn-Percy legislation, S. 2402, S. 2403, S. 2404 and S. 2405, are a result of those hearings. The Investigations Subcommittee issued a 132-page report on Monday on its hearings.●

CHESAPEAKE BAY ROCKFISH NEED THE SUPERFUND

● Mr. MATHIAS. Mr. President, the Chesapeake Bay is the main spawning ground for rockfish, or striped bass as it is known outside the Chesapeake tidewater region. This fish is a major Atlantic coast species which spawns in the Chesapeake and migrates throughout Atlantic coastal waters. It is good eating as well as a popular sport fish.

Recent research into the decline of this anadromous fish indicates toxics in the water where the fish spawn are one of the principal causes of the decline of this fish.

Recently the findings of a Federal laboratory in Missouri have added to the growing evidence that chemicals in our Nation's waterways play a heavy role in the decline of this fish species.

Mr. President, I ask that a Washington Post article describing those findings be printed at this point in the RECORD.

The article is as follows:

STUDY ON ROCKFISH DECLINE POINTS FINGER AT CONTAMINANTS

(By Angus Phillips)

One small piece of the huge puzzle that marks the decline of striped bass on the Atlantic Coast is falling into place in a federal laboratory in Missouri.

Scientists there are studying the effects of chemical contaminants on juvenile stripers. They have discovered significant levels of poisons in tiny stripers spawned in the Hudson, Potomac and Nanticoke rivers.

Working with sophisticated equipment that measures contaminant levels in fish as small as a half-inch long, the scientists have found relatively high amounts of PCBs, lead and cadmium in Hudson River fish; lead, zinc, arsenic and selenium in Potomac fish, and arsenic and selenium in fish from the Nanticoke River on Maryland's Eastern Shore.

According to Dr. Paul Mehrle of the National Fisheries Research Laboratory in Columbia, Mo., the research showed juvenile fish with high levels of contaminants had less backbone strength than uncontaminated fish in a control group. Also, he said, trends indicate that their growth rate is slower.

"During early life stages of fish life, if you have chemicals causing altered bone development and slow growth, these fish will not be as likely as uncontaminated fish to survive environmental stresses. It decreases the organism's ability to survive."

While the indication that contaminated fish grow more slowly is only that so far—an unsubstantiated trend—bone weakness was measured at the lab. Hudson River fish were shown to have 42 percent weaker backbones than those from an uncontaminated control group, and the fry taken from the Potomac and Nanticoke had 20 percent weaker bone structures.

The huge majority of East Coast stripers use the Chesapeake Bay and its rivers as spawning grounds. The Hudson is another major spawning area. Stocks of these prized game and table fish have fallen off dramatically over the last eight years, reaching a 21-year low in 1978.

Chesapeake sport fishermen have all but given up on the striped bass (called rockfish locally) and have switched their principal interest to bluefish.

Whether chemical contamination of fry plays a significant part in the decline is not known but Mehrle said, "If we're going to find a time when the effects of these contaminants are likely to be the greatest, it would be in these early life stages."

He said when fish are in the fry stage they have their hardest battle to compete for food, respond to environmental stresses and avoid predators.

He said the effects of chemical contamination would not be seen in anything as obvious as a massive fish kill. Instead, affected fish simply would be less likely to survive these normal competitive pressures as tiny organisms in a large environment.

PCBs, the contaminants found in heavy doses in Hudson River fish, are chemicals that have been banned by the federal government as a suspected cause of cancer. These organic contaminants are thought to be particularly debilitating.

Lead, cadmium, selenium and arsenic are so-called heavy metals, inorganic substances that occur naturally as well as from industrial pollution.

PCB levels in Potomac striper fry were very low, Mehrle said.

The contaminants get into the flesh of the young fish in three ways, Mehrle said. Some exist at birth, passed on by the parent. Others can be absorbed through the gills and still more are taken in through the food chain.

Mehrle said levels of all contaminants increased as the fish increased in size, indicating there was continued absorption of poisons as the fish matured.

It has been known for some time that mature striped bass have contaminants in their systems, but Mehrle said the federal study was the first concerted effort to determine levels in juvenile fish and the effects of the contaminants.

The issue of chemical contaminants is only one of a number of problems the Interior and Commerce Departments are studying as part of a three-year effort to determine why striper stocks are down.

Other suspected causes are habitat deterioration, including the decline of bay grasses that formerly served as nursery areas for young stripers: suspected overfishing by commercial and sport interests; industrial development, and an extended sequence of natural events that worked against any single highly successful reproduction year.

Striper stocks have risen and fallen in years past, and some observers believe the current decline is simply one of these normal fluctuations.

Mr. MATHIAS. Mr. President, virtually every research effort involving water quality of our Nation's largest estuary, the Chesapeake, point the finger at deadly chemicals. PCB's, lead, cadmium, arsenic, and selenium are among the heavy metals which are found in the bay's water and bottom. Industrial pollution and the ever-present threat of hazardous cargo spills in the bay from the constant shipping traffic are the most prominent fears of those who care about the environmental health of the bay.

Congress and the people of our Nation have recognized the need to address the industrial pollutant problem by establishing a fund fed by appropriations and industrial fees to be used to clean up and make safe hazardous waste sites from the past as well as spill in the future. A bill has been reported by the Senate Environment and Public Works Committee to create such a superfund, of which I am pleased to be a cosponsor.

The Senate must act on this important issue this year. Contaminants to our Nation's waterways grow daily and their effects last more than a lifetime. Chesapeake Bay's rockfish are but one of the many casualties of such toxic contamination which must not be allowed to continue.●

SCOTT D. HIMSEL

● Mr. BAYH. Mr. President, it is indeed a pleasure to share with my colleagues the accomplishments and aspirations of one of my constituents, Scott D. Himsel.

Scott, who will be a senior at Jasper, Ind., high school this fall, attended the American Legion's Boys Nation as Indiana Boys State's governor. He was appointed the under secretary of energy. In this capacity, Scott guided legislation dealing with gasohol and coal through the committee process. Unfortunately, when the legislation was presented for final passage, it was narrowly defeated.

Scott has played an active role in his high school marching band, the varsity choir, the debate team, and the Redeemer Lutheran Church. He was a State finalist in the Optimist International speech contest in 1978, the IHSFA speech contest in 1979 and 1980, and the Indiana State champion of the American Legion speech contest. Scott is also a member of the National Honor Society.

Scott plans on furthering his education with interests in political science, education, history, and government. He hopes for a career in law and politics, and I am sure you would join with me and all Hoosiers in wishing Scott every success in whatever he undertakes. It was a pleasure meeting this outstanding young man and sharing an evening with those participating in Boys Nation as one of their keynote speakers.●

A GODDARD SUCCESS STORY

● Mr. MATHIAS. Mr. President, too often, Americans focus their attention on the problems of the day and on what is wrong with the Nation. As a people, we tend not to comment upon our successes and significant achievements. One such achievement is our space program, which American ingenuity and skill, still preeminent, have made the envy of the world.

In one key aspect of this program, space science, our Nation is without doubt the world's leader. In exploring the planets and in trying to learn what makes the universe tick, American scientific spacecraft have made significant discoveries, helping us to understand our own planet and the environment in which it sails.

A major element of this scientific enterprise is located at the Goddard Space Flight Center, near here in Prince Georges County, Md. Goddard is a remarkable place. It represents a valuable national resource, for at Goddard are built and controlled many of NASA's scientific spacecraft. One such satellite, managed by the Flight Center, is the International Ultraviolet Explorer (IUE).

Launched by the National Aeronautics and Space Administration into Earth-orbit in January 1978, the mission is a joint undertaking of NASA, the United Kingdom, and the European Space Agency. The IUE consists of a 45-cm telescope equipped with two spectrographs capable of analyzing ultraviolet wavelengths—radiation that ground-based scientists can never study due to the protective layer of atmosphere around the Earth.

Scientists can observe with the telescope just as they would with an instrument at a ground observatory. The flexibility gained by this method of operation has contributed significantly to the scientific productivity of the IUE. While NASA's Goddard Space Flight Center manages the IUE, over 600 scientists from around the world have used this unique facility in a broad range of science programs, ranging from studies of our nearest neighbors, the planets, to studies of objects at the very edge of our universe, the quasars. The list of discoveries and accomplishments of this mission is very long. Let me mention a few.

The interaction of the solar wind with the Earth's magnetic field and atmosphere causes a phenomenon known as aurorae, or Northern Lights. The IUE has discovered a similar phenomenon on Jupiter. We now have the unique ability to study how changes in levels of solar activity affect two very different planetary atmospheres. The study of auroral activity under a broad range of physical conditions should lead to a more thorough understanding of this phenomenon.

Before IUE, the study of solar-type activity (flares and spots, for example) was limited to the closest star, our own Sun. With the IUE, we have detected similar phenomena in literally hundreds of other stars. Solar-like activity has been found to be quite common among cool stars like our Sun, but more importantly, many stars exhibit such activity at levels a thousand to a million times more violent. Many theories have been put forth to explain the cause of activity on our Sun, but now for the first time, the validity of these theories or models can be tested critically under a very board range of circumstances. Since many scientists believe that long-term climatic change on the Earth may be linked to solar activity levels, a more complete understanding of these phenomena is especially important. The IUE is now supplying some of the basic data needed to achieve this goal.

Ultraviolet spectra from IUE have also provided essential data on the physical conditions of both the gaseous and particulate constituents of active galaxies. When combined with information from other spectral regions, a picture has emerged of complex assemblages of material excited by various energy mechanisms. The ultraviolet spectra show a combination of hot thermal gases, very high-temperature fluorescent clouds, and an underlying nonthermal energy source. The energy can be explained by the acceleration of material onto a massive degenerate core, perhaps a black hole.

In its very brief history, IUE has provided significant new information to help answer long-standing astrophysical questions. It has made many new discoveries.

It is a success story, one of which we all can be proud.●

CHESTER BLAND

● Mr. RIBICOFF. Mr. President, Chester Bland of West Hartford, Conn., was one of my oldest and closest personal friends. In many ways he was a special human being. Not only was he a successful businessman but his accomplishments in every field of endeavor were outstanding. His recent death was deeply mourned by his family, his many friends and admirers. At the funeral services Rabbi Howard A. Berman of the Congregation Beth Israel gave a most meaningful tribute which was sensitive and reflective of the life of Chester Bland. I ask that the tribute of Rabbi Berman be placed in the Record.

The tribute follows:

Chester Bland

And so we have come . . . to this place, at this moment in eternity, to pay our final tribute of love and respect to our cherished husband, father and brother, associate and friend—Chester Bland. We come filled with sadness at the loss of such a fine and good man. And yet, in the midst of our sorrow, we must also express a deep and profound sense of gratitude for this noble life and spirit which touched so many people in such significant ways.

Many of you have come today to pay tribute to the public life and accomplishments of Chester Bland—a record of success and service widely recognized. And yet, as important as his career was, and as broad as his professional concerns and involvements were, in the world of business and industry, there was a more private and personal dimension to his character which is not so well known. If this is so, it is because of his quiet, unassuming and deeply private personality, a modesty and humility that hid a significant part of his life from all but his closest friends and family. And yet, at this moment, it is this personal side of Chester Bland that emerges in such great beauty as the most significant dimension of his life and character. It is somewhat ironic that Chester achieved his greatest success and his public image in the business world—for his deepest interests and commitments had always been directed in very different ways. It was the fluke of circumstance that first put him in the midst of the corporate and industrial environment. And though he went on to build a great career, he never abandoned the other interests and pursuits which had been his earliest goals.

He was, as a young man, and always remained, a student—an academician—whose love of learning and whose boundless intellectual horizons never dimmed. He may have sat at the Board Room tables of great corporations, but his heart and soul were more at home in the classroom and in libraries, museums and concert halls. None of his professional affiliations and involvements ever occupied a greater role in his consciousness than his life long devotion to his Alma Mater, Clark University. Clark always remained Chester's great love. He was forever grateful for the education he received within its walls, and when success came to him, he used his means to become one of its most loyal patrons and supporters. His own field of study had been history, and through the Chester Bland History Fund, its Lectureship Program, and the Library Fund, he enabled countless other young people to pursue their own studies in the past of our civilization.

And of all his accomplishments in business, probably none gave him greater satisfaction than his teaching of business courses at Clark. This love of learning remained with Chester throughout his life. Ten years ago, at the age of 62, a stage in life when the curiosity and vitality of so many others is dulled, he was determined to recapture again the joy of study, and so he and Shirley went to Europe to enroll at the Universities of Geneva and Nice for Graduate studies. These last years in Switzerland and France were among the happiest and most fulfilled of Chester's life. In the midst of it all, his lingering illness had begun to take its exhausting and devastating toll. And yet, even in the midst of the pain and suffering which were his constant companions for almost 20 years, his mind and spirit soared, and he preferred to endure pain rather than take any medical measures that would impair his mental vitality. In a very real sense, to use an image from the history whose study he loved, Chester Bland was a "Renaissance Man"—a figure of great accomplishment and success, whose interests and horizons were broad and all encompassing . . . a patron of learning and culture, who employed the means with which he was blessed, to promote and further scholarship and the arts.

Yet another side of this quiet and modest man that few ever saw, was the private life of family and friends which were the most important focus of his concern. Chester loved the intimacy of home and family, and dreaded those social and professional obligations that took him away from them. With his beloved Shirley, he shared forty-seven beautiful and happy years in a marriage marked by a total mutuality of respect and consideration. They shared each other's interests and accommodated themselves to each other's needs. They supported and cared for each other through good times and long periods of difficulty as well. As a loving and proud father, he instilled in Deborah and Linda the values and ideals which he cherished, and was a "father-in-love" rather than a father-in-law to Jason and Ed. The grandchildren—Emily, Annie and Charlotte; Owen, Daniel and Benjamin, were also his pride and joy. He shared a very special kind of love together with them. And though some of the children could not be here today, travelling and broadening their own horizons in a way Poppy loved and would have wanted them to do, they are surely with us at this moment in spirit. And there were the cherished life long friends—those who knew they could always turn to Chester for help and counsel—those of the smaller inner circle of his closest associates, who knew him as a loyal and generous spirit, and a Rock of strength and support.

And now, after a life of great fulfillment, accomplishment and indeed nobility . . . he is at rest and at peace. And to all of you—Shirley, his loving family, the children and grandchildren, loving sister Reina . . . indeed to all you who were bound to Chester Bland by whatever tie of love or friendship . . . to all of you who represent those institutions and organizations that benefitted from his generosity of spirit, wise counsel and loyal commitment . . . we pray that you will be granted the strength of all the generations of our People, who in the midst of bereavement proclaimed:

"Adonai Natan, Adonai Lakach
Yi-hee Shem Adonai Mi-vorach . . ."

The Lord has given
And the Lord has taken away . . .
But for the love and happiness that was,
And those beautiful memories that will be,
We will praise the name of the Lord—
Now and forever!—Amen●

A HOOSIER SUCCESS STORY—ERIC BOESEN AND THE BOESEN DAIRY

● Mr. BAYH. Mr. President, it is indeed a pleasure at this time of great crisis for America's family farmers to be able to bring to the Senate's attention a significant success story by one of my constituents, Mr. A. Eric Boesen of Greencastle, Ind.

During 1980, Eric Boesen will be celebrating the 75th year that his family has been breeding registered holstein cattle and producing superior grade A milk. At a time when we hear a lot about the imminent demise of the American family farmer, it is well to remember some of the storms that the Boesen dairy has weathered in the past 75 years. This period saw two World Wars, a crippling depression, numerous recessions, countless fluctuations of the market, and the current inflationary pressures.

Throughout all of the changes that American agriculture has undergone, family farmers like Eric Boesen have always proven their competency, efficiency, and resilience.

Mr. Boesen has been appointed honorary commissioner of agriculture for Indiana. I know that my colleagues in the Senate will join with me in congratulating the Boesen dairv for its success in the past, and to thank farmers like Eric Boesen who are currently feeding the United States and much of the rest of the hungry world.●

THE 190TH ANNIVERSARY OF THE U.S. COAST GUARD

● Mr. CANNON. Mr. President, yesterday was the 190th anniversary of the U.S. Coast Guard—one of the oldest, most important, and least appreciated of all Federal agencies. The Coast Guard was established by one of the first acts of Congress in 1790 at a time when it was recognized that the survival of the new Nation was largely dependent on the success of its maritime commerce. Congress took a key step toward maritime success by creating the Coast Guard to enforce the Nation's customs and other maritime laws.

In addition to its maritime "cop-on-the-beat" functions, over the years the Coast Guard has acquired a wide variety of other responsibilities. Perhaps its most important function is search and rescue—saving lives and property that would otherwise be lost at sea. The Coast Guard is charged with the enforcement of marine safety laws and the maintenance of aids to navigation designed to prevent accidents at sea. It also enforces laws designed to prevent marine pollution and, when spills occur, is responsible for cleaning up pollution at sea. In addition to its many peace-time responsibilities, the Coast Guard maintains an effective state of military preparedness and operates as a service in the Navy in time of war.

Over the years, the Coast Guard has established for itself a reputation as a "can-do" service; it has performed its many and growing responsibilities with efficiency and competence. Partly because of this reputation, we have continued to provide it with new responsibilities as our national demands on the oceans have increased, to the point where, today, the Coast Guard is stretched very thin. It has had serious difficulties in taking on new jobs without increased resources to perform them properly.

But despite these recent difficulties, the Coast Guard remains an institution with an important mission and dedicated members. We should regard this occasion of its 190th birthday as an opportunity to gain a greater appreciation and understanding of the Coast Guard's important national role and to dedicate ourselves to assuring that it will be able to continue in that role with the excellence for which it has become famous.●

SENATOR MATHIAS' ADDRESS TO THE INSURANCE INFORMATION INSTITUTE

● Mr. DOLE. Mr. President, Federal regulation has been a major concern of the present Congress. We have acted on legislation to deregulate several major industries: We have closely scrutinized the regulatory activities of some Federal agencies that have aroused a public outcry; and we expect to consider an omnibus regulatory reform bill before the end of the session.

There is considerable momentum in the Congress at present to redirect the regulatory arm of the Federal Government. We have come to recognize the serious impact of regulatory compliance costs on our productivity and on the impoverishment of our citizens through inflation. The Senator from Kansas has been active in the Senate's efforts to develop practical reform of the regulatory system. Last fall in the "Rulemaking Improvements Act" and presently in a proposed amendment to the omnibus regulatory reform legislation, this Senator has advocated a measure which would mandate a nonmathematical evaluation of the tradeoffs of each regulation, allow for public comment, and insure that a new regulation is the most cost effective means to a desired goal. With such a mechanism in place, we can start to control the unjustified costs of regulation.

In the midst of this work, it is worthwhile to pause and study the unusual way the regulation issue has cropped up in the insurance industry, which has traditionally been regulated at the State rather than the Federal level. The industry is also unusual in that, under the McCarran-Ferguson Act of 1945, it enjoys limited immunity from the antitrust laws. Legislation has been introduced in the Judiciary Committee to alter these circumstances by establishing Federal minimum standards to govern State regulation and by partially repealing the McCarran-Ferguson Act.

The Insurance Information Institute recently held a seminar on the subject of "State v. Federal Standards in the Insurance Industry," and they invited my colleague on the Judiciary Committee, Senator CHARLES McC. MATHIAS, JR., to expound his perspectives on the question. I want to commend Senator MATHIAS on his sensitive discussion of a wide range of insurance industry issues that have faced us in this Congress. The Senator urges caution on the new proposals to impose Federal standards on this industry. He acknowledges the concerns that have led to the call for Federal intervention, and sends a clear warning to the industry that it will have to clean up its own house in some respects, if it does not want the Government to do it for them. But he also sends a compelling message to us in Congress not to rush in with drastic solutions on this last stronghold of State regulation and self-regulation.

"The Government should be the regulator of last resort," Senator MATHIAS counsels, and I think it is well for us all to heed these words.

I ask that Senator MATHIAS' talk at the insurance information institute seminar be printed in the RECORD.

The statement follows:

FEEDING THE FEDERAL HAND BEFORE IT BITES YOU

I am delighted to be here today to participate in your Government Briefing session. The subject of our panel discussion, "Federal Insurance Standards—State Regulation," couldn't be more timely in terms of what's happening in the Senate.

There is a new focus on the insurance industry in the Congress today. It is a tribute to your tremendous importance and to your impact on the lives of every American. But I'm sure you feel about it the way the man who was being run out of town on a rail felt. "If it weren't for the honor," he said, "I'd rather walk." For better or worse, however, you've got our attention, and now it's up to you to turn our scrutiny into an opportunity to improve your industry.

Two thousand years ago, Herodotus sprinkled his long history of the Persian wars with repeated references to a saying popular at the time: "Count no man happy until he dies." While the insurance business may not have made Herodotus' warning entirely obsolete, it has certainly helped to remove or minimize some of our worries about the future. It has increased the security of our private and professional lives, our families, and our possessions. And, in the process, it has made an enormous social contribution in this country. Just think of the difference that a life insurance policy makes for the peace of mind of the father and mother of a young family, or the difference health insurance makes for everyone in this day of skyrocketing hospital costs.

The value that the American people place on insurance and its benefits is reflected in the staggering size of the insurance business. Insurance premiums are estimated to represent over 11 percent of the disposable income in the United States. If you add the investment income received by the industry, you reach a figure of $212 billion—well over a third the size of this year's federal budget.

When you're dealing in such megabusiness terms, even the smallest shortcoming or slip tends to look large, and any sharp practice is bound to light the short fuse of a major national controversy. And when you consider that insurance is the only major interstate financial industrial regulated by the States, then it is not surprising that complaints might lead the federal government to question whether or not some change is needed in the regulation of the insurance industry.

Let me state at the outset that I have always preferred state and local regulation to centralized federal regulation. So, as a member of the Senate who believes that the federal government should be the regulator of last resort, I am eager to work with you to see how we can keep the long arm of federal government out of the insurance business.

To do that we are going to have to produce some convincing answers for those who think the states—or some of the states—are falling down on their job. I think the majority of my colleagues would rather see the controversy resolved by reform from within and by improving the state regulatory process than by federal intervention. But that will require a strong show of leadership from representatives of the industry, a high degree of prudence from Congress, and vigorous cooperation between the two.

It may strike you as strange that a serious move is afoot to impose federal regulation on the insurance industry at the very time so many other efforts are underway to curb government interference in the marketplace and to regulate the regulators. Right now two major regulatory reform bills have completed the Senatorial committee process and are ready for debate on the floor. The close scrutiny that we gave the Federal Trade Commission this winter and the list of industries that have been deregulated in the last two Congresses show the direction the tide is running: we have unfettered the airlines, natural gas, domestic crude oil, the railroads, and, to a limited extent, banking. We have done all these things in the name of strengthening the economy.

The move to tighten the federal reins on the insurance industry in this political climate is like a boat beating against the current. Even so, you are wise to take it seriously.

In the last century, state regulation was the universal rule not the exception. And, if you look at the genesis of the major federal regulatory bodies that have been created in this century, you will find that in every case the new federal institution was spawned by a breakdown in regulatory efforts at the state level.

In many cases, state laws that regulate the activities of corporations in various industries have proved inadequate because they are based on the assumption that, in the industry's eyes, less is more. States have engaged in a "race to the bottom" with one another and this attitude in some states seemed to invite federal intervention. To attract new business, they carried the doctrine of laissez-faire to its outermost limits, and like the cheshire cat in Alice in Wonderland, all that remained was a big, benign smile. That is the picture your critics paint of the insurance industry and its relations to the state authorities.

GAO REPORT

One complaint is that state governments have filled their insurance departments with former employees of the industry they are supervising. The recent General Accounting Office report on state regulation of the insurance industry, which you have all no doubt studied closely, found that about half of the state insurance commissioners were formerly employed by the insurance industry, and roughly the same fraction returned to industry after leaving their state jobs.

The GAO didn't consider this a serious problem. To quote its report: "We did not conclude that most commissioners are 'revolving door' appointments or that there is anything necessarily wrong with industry employment before or after department service."

The GAO did find another serious problem, however: inadequate staff and money for the state regulatory agencies. The study concluded that the departments are understaffed, undertrained, underpaid, and that the retention rate of experienced employees is low and getting lower. As a result of the GAO findings in this area, I expect we will see greater budgetary allotments for the state insurance departments in the future. This is the type of positive response that the report should prompt.

FTC AUTHORIZATION

The insurance industry was also involved in Congress' debate over the Federal Trade Commission. The Senate Commerce Committee, in response to a clamor of complaint, voted to prohibit the FTC from investigating the insurance industry. The episode convinces me that the Senate does not want the federal government getting involved in the insurance industry period. The majority of my colleagues do not want a federal solution. The final version of the bill prohibits the FTC from any investigation of the insurance business unless one is requested by a majority vote in either the Senate or the House Commerce Committee. The conference report states: "If the (FTC) believes that the McCarran Act should be amended and a broader federal role established with respect to the regulation of insurance, the FTC should exercise the authority it has to propose such legislation as it considers appropriate."

THE COMPETITION IMPROVEMENT ACT—S. 2474

Last year the President's Commission for the Review of Antitrust Laws and Procedures recommended by a vote of 19–2 that the insurance industry's antitrust immunity under the McCarran-Ferguson Act be repealed. As you all know, Senator Metzenbaum has conducted extensive hearings on competition and fairness standards in the insurance markets before the Antitrust Subcommittee. Now, what everyone in the insurance business is concerned about is the new insurance bill Senator Metzenbaum just introduced: the Insurance Competition Improvement Act, S. 2474.

The scope of this bill is widely misunderstood. The bill does not impose federal regulation on the industry, or otherwise precipitate a deluge of federal bureaucrats on the insurance industry. Rather, it attempts to set out some minimal standards for state regulators. It would do this in two ways: first, by partial repeal of the McCarran-Ferguson Act in order to limit the immunity from federal antitrust law, and second, by eliminating discriminatory classification standards.

I'd like to examine these proposals with you briefly, telling you what I think the bill is trying to do, what complaints or considerations led to their inclusion in the bill, and what alternative solutions have been suggested. I hope we can have an exchange of views on the details and fine print of the bill.

The repeal of the antitrust immunity in the McCarran-Ferguson Act is the core of the bill. At the hearings, Senator Metzenbaum repeatedly raised the question: Why do the insurance companies want to maintain exemption from the antitrust statutes? He wondered why they needed the exemption if they were not conspiring to fix prices. Clearly, what Senator Metzenbaum had in mind was the industry rating bureaus that have been in existence ever since the McCarran-Ferguson Act made them possible. Conformity to the bureau rates is mandatory in some states, others allow deviations. Even where deviation is possible, proponents of the McCarran repeal claim the existence of the bureaus tends to undermine independent, competitive pricing.

For example, one witness at the most recent round of hearings maintained that insurance companies often have aggregated their expense dollars for ratemaking purposes, which in his view was clearly an anticompetitive and actuarially unnecessary manipulation. He also criticized the tendency of these rating organizations to get together and agree on the basic assumptions of ratemaking, a practice which he said yields higher profit margins for the companies that use the rates. He concluded that this system protects inefficient companies and establishes rate levels that allow cream skimming and price manipulation by the larger, more efficient companies. These are the charges that the Senate has heard. Now we want to hear from you.

As I mentioned, S. 2474 also sets out federal minimum standards to elminate discrimination by group or territorial classifications. During the hearings, the Antitrust Subcommittee was told of widespread, unfair discrimination in marketing insurance policies on the basis of classifications and territories. At one of the hearings, we listened to the story of a 20-year-old bachelor from Chicago who had a perfect driving record stretching back several years, yet because he was single and lived within city limits his car insurance had soared to levels he could no longer afford. When it reached $1700 per year, he was forced to start looking around for another, more reasonable insurer. Nowhere in his search did he find a price lower than $2000-a-year—in one instance the figure given him was $3400. So far, the young man has not obtained a new insurance policy on his car.

Industry representatives respond that classification is an accepted procedure in other areas of American life. It underlies how we determine a threshold age for the privilege of voting in national election, or for serving in the armed forces. They also point out that it is always possible to highlight exceptional cases, but that it is improper to generalize on them to indict risk classification in principle.

The Metzenbaum bill would prohibit classifications based on marital status or sex—two categories that have come under increasing public protest. It would also encourage the adoption of merit rating systems based on individual driving records, for example, in automobile insurance, rather than on presumed group characteristics. The bill would also impose limits on the maximum rate differentials allowed for auto insurance price variations based on geographical location or other group classifications, with the exception of merit classification, or classifications based on mileage, make, age, and other relevant characteristics of the insured vehicle.

I do think the public dissatisfaction over arbitrary classification standards of pricing requires a response of some sort. I think the imposition of rigid federal minimum standards, however, would be premature, and I hope that the insurance companies themselves and the state authorities will address on the problem forcefully to preclude the necessity for federal action.

An interesting aside was raised at the last hearing when an exasperated insurance executive lamented to the Chairman that the industry was being attacked from two directions in the Senate—the Antitrust Subcommittee accused the industry of restricting the availability of insurance, while other Senators accused it of encouraging arson and car theft by reckless, indiscriminate distribution of insurance to bad risks.

I hope you will give me your views on the bill, and let me know what response the industry is contemplating to the problems I have discussed. Whatever reservations we may have about the avenue of change he proposes, Senator Metzenbaum has certainly stirred the pot and prompted a great deal of self-examination. Only you can make sure that something useful and constructive comes of the debate.

FAIR HOUSING ACT

Another topic that concerns the insurance industry, and that overlaps with the issues S. 2474 addresses, is the applicability of the civil rights laws to the marketing of insurance. On March 1, 1979, I introduced the Fair Housing Act along with Senators Bayh, Metzenbaum, Javits, and Heinz, as an effort to implement finally and fully Title VIII of the Civil Rights Act of 1968. It seeks to provide a hearing process within the Department of Housing and Urban Development for individual discrimination cases. This new enforcement mechanism will enable HUD's existing conciliation process to work much more effectively in mediating disputes between tenant and landlord, buyer and seller. In his State of the Union Address, the President called this bill his "highest legislative priority in the area of civil rights."

One section of the bill, recently removed by the Senate subcommittee during a markup session, would have affected the insurance industry. That section reaffirmed that the writing of insurance was subject to our nation's civil rights laws, and that one could not refuse to write, or discriminate in the writing of hazard insurance because of the race, color, religion, sex, handicap, or national origin of people owning or residing in the insured house, or in the neighboring houses. The bill also provided that state insurance regulatory bodies, operating under substantially equivalent laws and procedures as those established by the Fair Housing Act, be certified by HUD, and that any insurance discrimination cases be referred to those state agencies for resolution.

I was surprised and disappointed that the representatives of the insurance industry objected so strenuously to this basic reaffirmation of our nation's civil rights laws. Civil rights have traditionally been a responsibility of the federal government, and this provision was not a foot in the door to a larger federal role in insurance generally. Even so, the insurance industry was successful in exempting itself from the bill. Still, I think the insurance provisions in my Fair Housing Act are a good example of a sensible compromise to reinforce the state regulatory process in order to avert more radical solutions down the road.

PRODUCT LIABILITY

I would like now to turn briefly to much narrower insurance-related legislation that I introduced last year, my product liability self-insurance bills. These initiatives have met with some resistance from the insurance industry, though I feel that the threat to their markets that the insurers perceive is overstated.

Over the past 20 years, product liability law has changed substantially. Traditionally, the law required an injured user of a product to show that the manufacturer had been negligent in making the product and that the negligence probably caused this injury.

The late Dean William Prosser, a professor of law at the Hastings College of Law and an eminent legal commentator, called this high standard of proof a "citadel" that has shielded the manufacturer from liability.

Under current product liability law, however, an injured user of a product need only prove that his injuries were caused by a defective condition in the product; that such a condition made the product unreasonably dangerous; and that the defective condition existed at the time the product left the control of the manufacturer.

This change has exposed the supplier of a product to potentially ruinous liabilities and, in turn, has dramatically increased the cost of insurance that engineers must pay to protect themselves from such liability.

The severe problem of product liability and professional liability was addressed in the 95th Congress to a limited degree. But the problem persists. In 1978, we amended the Tax Code to make it lawful for a corporation to build up a loss reserve account for product liability, but only with after-tax dollars. We also extended from three years to ten years the carryback of losses attributable to product liability. Unfortunately, however, these actions don't help small companies much and they are the ones with the most severe problem.

A special panel of the House Small Business Committee reported in 1977 that small manufacturers had experienced a 945 percent increase in product liability insurance costs over the previous six years. The National Tool Builders Association states that 20 percent of its members have "gone bare," or in other words, gone without product liability insurance.

I do not expect my product liability bills to cut into the business of the insurance companies. I think most manufacturers and design professionals will use the trust fund to cover the low end of their upper exposure. With the high risk end covered, they will pay a lower premium and could even afford more insurance, which is in everyone's interest.

It not only benefits the self-insurer, but it helps to see that the injured consumer is compensated. The legislation deals fairly and constructively with the needs of small business. It is a refinement of bills studied in the 95th Congress. For example, the strict limitations placed upon the trust fund accounts should cut down significantly the earlier estimates of revenue loss to the U.S. Treasury.

I have worked closely on this with Congressman Barber Conable, the ranking Republican on the House Ways and Means Committee, and together I think we can get this bill to move. In fact, the House has already been moving on this issue. H.R. 6152, the Risk Retention Act, was passed overwhelmingly—332 to 17—in March, and hearings on this bill have been held in the Senate Commerce Committee. A similar bill, S. 1789, is also being reviewed by the Senate Commerce Committee. Both bills are based on a study conducted by the Department of Commerce, and would allow manufacturers, retailers, and distributors to form cooperatives to provide product liability self-insurance. They would also permit group purchase of product liability insurance through regular commercial markets, which at present is prohibited in the majority of states. I have heard from many insurance executives about these bills, and most of them have told me that they greatly prefer my approach to the problem to the Risk Retention approach.

The Congress faces some very tough decisions right now that affect the insurance business. I hope we can develop a dialogue because we need expert advice and I can't think of a better place to find it than right here in this room.

Everett Dirksen used to tell a story about a man who bought a parrot that spoke four languages. He paid $100 for it and had it delivered to his house.

When he got home that night, he asked his wife if the bird had arrived. She said it had.

"Well, where is it?" he asked.

"In the oven," she replied.

"In the oven! Oh no," he wailed in despair, "that bird spoke four languages!"

"Well then," said the wife, "why didn't it?"

I hope you won't make the fatal mistake that educated parrot made. We live under the most effective economic system the world has ever known. You are the people who keep it going and if you don't squawk when you're in trouble, we may all end up in the oven.●

REDUCTION OF EXPENDITURES FOR TRAVEL AND EMPLOYMENT OF CONSULTANTS, AND IMPROVED PROCEDURES TO COLLECT DELINQUENT DEBTS

● Mr. STEWART. Mr. President, I rise in enthusiastic support of Senate Resolution 489. The economy is the No. 1 concern of the American people today. The working men and women of this Nation have been forced to endure months of spiraling inflation rates. And now increasing numbers of our workers are being forced onto the unemployment rolls, victims of an economy in recession.

Let us face facts. The people we represent are not worrying about which luxury item to cut out of their personal budgets—they cut all those out a long time ago. It is about time Washington responded to the real life concerns of the American taxpayers by putting this sprawling Federal bureaucracy on a no frills diet of fiscal responsibility.

This resolution includes three major provisions, each one a serious attempt to rein in excessive Government spending. Now, we are not talking about cutting out programs that are of great need to the American people. We are talking here about cutting back on activities of the Government. for the Government, activities which are luxuries the American people cannot afford.

Mr. President, the first area of cuts will come in Government travel. There will be $500 million cut from this budget which has gone up 12 percent in the last year alone. Now, I am not talking here about the travel needs of the Defense Department to support our combat readiness. Instead, this cut will go to the funds used by civil servants for travel on Government business. The amount of money in the Federal budget for travel is shocking—almost $9 billion. It is appalling to even consider raising the travel budget for the bureaucracy when so many folks cannot even figure out how they are going to pay their way to and from work each day. While I personally think much more should be cut out of the budget, this $500 million cut is a good start on readjusting Government habits to the economic reality that this Nation is facing.

At a time when I see hardworking farmers struggling to get the money together to put a crop, when I see small businessmen trying to stay afloat in these times of inflation, I cannot condone the use of taxpayer funds to support a more comfortable work-style for Government workers. Too much money is being wasted by folks in Government who just do not believe that the day of fiscal reckoning in this country is here. By starting with cuts in Federal travel, I think we send a clear message to the agencies, to the bureaus, that they are going to have to economize, and the time is now.

The second aspect of this budget cutting resolution addresses a relatively unknown area of Government spending. I am referring to the estimated $5 billion this Government spends on consultants each year. Often called the "invisable bureaucracy", this army of private consultants is paid for by taxpayers dollars to do the job the Government is supposed to do. Of course, there are some cases where specialized consultants do provide a service to the country, but all too often I see stories where the Government has paid incredible sums of money to consultants to produce a "thought" paper, which no one ever reads. Now, I want to be very frank about one motivation for the growth in the use of consultants. It is not popular to admit this, but I think that the truth has to be told. In case after case, an agency will contract out special projects so to enable them to cut back on the number of agency workers, thus giving the appearance of a cutback in Federal personnel. False impressions of personnel cuts and freezes are just so much show, if we have to spend similar amounts of funds to hire consultants to do the work. It is nothing more than a gimmick, and I think it is time to stop playing tricks on the American people. Again, I feel that a cut of $500 million does not go far enough in trimming our reliance on consultants, but it is an important beginning.

Finally, Mr. President, this resolution supports the conclusions of the GAO that the Federal Government can improve its debt collection. Currently the GAO found, the Federal Government is doing a poor job of collecting the debts owed it. An unbelievable $95 billion in debts was still outstanding at the end of 1979. It is time for the Government to put aside its costly and unproductive debt collection practices and begin to use up-to-date commercial practices as recommended by the GAO. For too long the Government has allowed folks to default on their payments to the Government. We have allowed those with student loans, for example, to get away with taking Federal student loans, and then never paying these loans back. This kind of laxness has got to stop.

You know, these three provisions, the two which cut the budget and this last one on improving debt collection, all reflect, in my mind, a return to the principles of good government. We need a Government that is responsible in its spending practices, one which does not waste public funds, one that does not create a class of privileged Federal workers. We also need a Government that takes money seriously and that will collect its debts. It is only when we achieve a responsible Government—and I have no doubt that we can—that the American people will once again come to trust Government officials and have confidence in our Federal system.

Mr. President, I am pleased to join with my colleague from Tennessee, Senator SASSER, and my colleague from Arkansas, Senator PRYOR in sponsoring this meaningful budget cutting resolution.●

THE FLIGHT OF THE LOGGERS

● Mr. PRESSLER. Mr. President, today I take this opportunity to address my colleagues concerning the plight of the logging industry in western South Dakota. The Black Hills National Forest is traditionally a fertile source of lumber and employment for many small, independent businesses. Unfortunately, the very livelihood and existence of independent loggers are presently in immediate danger.

Independent is a word that has been used often in recent times. Yet, independent may not be a strong enough word to describe loggers, who are hardworking individuals in the true pioneer spirit of America.

The loggers in South Dakota must invest substantial amounts of money in trucks, loaders, skidders and other equipment to conduct their business. Many stand to lose everything at this point because their basic tools—their equipment—are about to be repossessed. In fact, it has been estimated that up to 30 percent of the loggers in South Dakota have gone out of business already. More loggers will suffer the same fate unless something is done.

As a last resort, the logging industry has petitioned the Government for assistance. They are not looking for a handout—they only seek temporary assistance to help them keep their equipment and earn a living.

Mr. and Mrs. Myron Doud, of Black

Hawk, S. Dak., are fine examples of the hard working and committed individuals in the logging industry. They have organized and coordinated a petition drive to show the urgency of this serious problem. I have presented a copy of the petition to Mr. A. Vernon Weaver, Administrator of the Small Business Administration, and have met with him concerning this matter. I appreciate the cooperation of Mr. Weaver and persons at all levels within SBA. The prompt attention Mr. Weaver has given to this matter will allow our loggers an opportunity to plan for the rough times ahead, whatever Mr. Weaver's final decision.

Mr. President, the dedication and commitment of the individuals in the logging industry is obvious from the petition and number of signatures. I ask that this petition and list of individuals who signed it be printed in the RECORD.

The material follows:

PETITION FOR FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LOGGERS

We, the undersigned, support the members of the logging industry in their petition for federal financial assistance.

The present slump in the U.S. economic situation, and especially in the lumber industry, has created a condition which necessitates the need of low-interest federal financial assistance to the independent logger in the Black Hills logging industry. Financial assistance is necessary to offest losses over the last few months and to enable loggers to keep equipment and thereby maintain their livelihood. Loggers have their whole lives, their money, and their souls wrapped up in their equipment. Right now, independent loggers are hanging on by a string. Many are operating from payday to payday, some have lost their equipment, others are on the verge of going under.

There is presently very little to no work, due to mill closures or curtailments, consequently, payments can not always be met.

Low-interest federal loans will allow loggers to keep their equipment and maintain their businesses and lives until the lumber industry picks up allowing the loggers to resume their regular productive place in the economy of South Dakota and this country.

This petition seeks the 100% cooperation of the general public as well as from the cutter in the woods to the man who runs the sawmill.

Ronald Carlson, Virgil Bennett & Sons, Jan Rohru, Janie Dillman, Alan Leeling, Bob Stadler, Richard Smith, Mike Basker, Kenneth Phillip, Madelon Holpp, Beth Jeffery, Marie Farrier, Patsy Kidder, Howard Larson, K. Corey, Roy T. Frankman, Arthur M. Mathison, Kay S. Jorgensen, Jim Rarick, and Bill McGrath, Jr.

Gordon L. Jones, Jerome Bertsch, Bill Scobee, Robert L. Olen, Joel Wagenaar, Steward W. Reed, Lee Anne Sachau, May Jean Wical, Clare Wical, Darin Shryock, Jane Wollsum, Butch Ziwath, Jo Heck, Bill Robinson, John Quanzer, Robert Evers, John Priewe, Dan P. Island, C. E. Moser, and Loretta Moser.

Paula Moser, Jim Wette, Del Ladson, Laurel Ford, G. E. Huntley, Darwin Lamb, Floyd Sumners, Dennis Clausen, Edna Boettcher, Linda Lesewski, Keith D. Nelson, Virginia Nelson, LeAnn Vette, Herbert J. Stender, James L. Kelley, John Carson, Mary Ann Geenen, Linda Scott, Evelyn Price, and Charles Schmid.

Harold Gutsche, Dale Bennett, Wallace Robidou, Loretta Klein, Neil Sandidge, Albro C. Ayres, John H. Lee, Robert Fischer, Karen Krietlow, K. C. Phillip, Sylvia Lanphear, Teresa Hamilton, Genevieve Eastmo, Herbert Butcher, Julie Reiter, T. Morris, Lynn Rhode, Edwin C. Stephens, Dr. Charles H. Lineader, and Joanne Howard.

R. L. Evans, George A. Olsen, Laurie Meyers, Peggy Cargin, Don Erfman, Ronald M. Walker, Dan Driscoll, Don Busse, Skip Lewis, Jerry Mailloux, Roger T. Cemo, George B. Owens, Marlyn Aker, Sharon Hudsen, Brad Bruns, Dale Denzin, Marie Schreiner, Wesley D. Johnson, Lewis Spencer, and Don Wynia.

Patricia Kae Wolf, Phyllis Tremaine, Darryl Sterling, Mrs. Robert Larson, Albertine Jensen, Janet Jensen, Terri Holliday, Robert Molitor, Shirley Molitor, Darwin Heuer, Steve Baldwin, Elmer Buchholz, Karen K. Richardson, Ed Hartmen, Bob Studt, JoAnn Engle, Don Engle, Kaye Ohrtman, Rhonda Hirte, and Peg Dailey.

Merlyn Aker, Randy Holst, D. J. Derosier, Beverly Leeling, Reed Wilson, Ken Hall, Chuck Charles, Mary Lee, Florence Phillip, Kathy Maynard, Connie Grenstiner, Cindy Westphal, Clyde Burrows, Mary Thumb, Dave Morris, Kenneth Anderson, Roger F. Eckholm, Mary Owens, Charity A. Murphy, and LuVerne S. Thares.

Donald J. Thares, Michael R. Wallace, Paul Salverson, Wayne Reynolds, Chris A. Hansen, Dena Robbins, Dawn Klumb, Susan Ames, Dee Dee Benning, Helen Wingenbach, Judy Woodworth, Paul Martin, Dee Ostwaldt, Larry Ostwalt, Helen L. Holzer, Paul J. Holzer, Maynard Briggs, L. Cudmore, E. Francis, and Katie Barkley.

James J. Humphrey, Mary Fields, Sally Allen, Mrs. Virgil Aker, Steve Torgerson, Herman Bueno, Arden Loughlin, Betty J. Gould, Gladys Larson, Jessie Y. Sundstrom, Paul Herrmann, Delilah Blackmore, A. W. (Slim) Hendrickson, Marlin Mills, Linda Dubbelde, Omar Ness, Robert A. Morton, Clarence Kewley, Mick Buffington, and Mary Ann Peterson.

Walter R. Thomas, Linda Zachow, D. R. Martinez, Francis Hermes, Ron Fechner, Pete Himmel, Donna Barney, Pat King, Kenneth Lee, Lonie Beachem, Karen Beachem, John Talley III, Steve Hartle, Jorge Meza, Rush Elliott, Tim Straub, Tom Johnson, John H. Essink, Jr., Pat Uhrig, and Lyold Sandelin.

M. A. Pendo, Warren Fagerland, Erna Goehring, Philip Bowman, Alvin Murphy, James Hopkins, Edward B. Whillock, Robert Olson, David W. Ellis, Donald Fildes, Howard R. Freidel, Paul R. Noble, Tom Symonds, Ray Miles, Pat Baumgartner, Hank Bak, Ralph L. Mercer, Mary Ann Kassube, G. K. Miller, and John Church.

Pat Dodge, Eric Stahlecker, Barb Moser, Francis Bickle, Lester J. Rankin, Terrence (Ted) Hoffman, Yvonne Kisinger, Irene Grenstiner, Glenda Lanphear, Gregory Kopp, Wayne King, Larry D. Fish, S. W. Allen, Larry Patenode, Sam McRann, Dianna Rath, Robin Robeck, Marvin Swisher, Glen Hubbard, and Betty Tennis.

Albert W. Slaughter, Sr., Norman Flora, Jeff Essink, Mary Lafrentz, Jim Gross, Dave Lafrentz, Brian Rogge, Barbara Sandidge, Bruce Sandidge, Phil Reib, Dan Essink, Ruben Papka, Peg Dailey, Bob Studt, Barbara Pierce, George Gerdes, Roy Hendrickson, Dick Tisdall, Harold Roew, and Marvin Erickson.

J. Wittmer, Linda Bobzin, Ron Roelandt, James W. Ayres, Kate Eich, Gene Overbolt, Myron Doud, Vicki Schilling, Davis A. Morgan, Linda Morgan, Gail Brandis, Goodney Huisey, John F. Scherer, Betty Lou Hansen, Richard Hansen, Mary Buxcel, B. H. Kassube, Darrell Lich, George Buxcel, and Carol Dietrich.

Ken Dietrich, Joe L. Martin, Jeff Henderson, Rose Goodro, Richard Plocek, Maxine Harter, Lyle Fischer, Mr. Jan Doll, David Sommer, Orvel Hilscher, Bob Shull, Laurie Ford, Virginia Deyo, Chris Allison, Dian Van Tassel, Royce Price, Norma Swisher, Greg Scott, Andy Johnson, and Richard A. Kopp.

Terry Kewley, Rick Cobb, Larry Brazell, Cliff Bebbington, Harry H. Evans, Margie Ford, Jane Smidt, Richard Smidt, LaVern A. Goodsell, Ronald Geisner, Donnie M. Quaschnick, Douglas Quaschnick, Ty Thompson, Ivan Hebbring, Bob Shull, Joyce Busskohl, Cyril S. Ellenbecker, Delphine "Del" Buffington, Bernard Eides, and Curtis Eisenbraun.

Steve Abraham, LaDonna Barker, Richard B. Parsons, Rick Wheeler, D. W. Brazell, Duane Kudlock, Donnie Doud, Ken Smith, Robert Ulmer, Mary Hoffman, Ray Hoffman, Marvin Kallenberger, Eugene E. Bingham, J. Dower, Beverly Leeling, Neil Sandidge, Elmer Jenner, David E. Loup, Leo Thovson, and Larry Rosch.

Richard Saks, Bev Banigan, Matthew McGruder, Neil Plocek, Evelyn Murdy, Leo Quillian, Evelyn Cossart, Garrit Cheeseman, Gloris Lanphear, Jim Koch, William Pinkerton, Cindy Creager, Janelle L. Jones, Esther Matthesen, Yvonne Rath, Jane Wolbaum, Darrel Swisher, Mona Huck, Leonard Schien, and John Culbertson.

James D. Doud, Diane Koch, Rod Cardy, Steve Miller, Terry Kurzenberger, Dorothy Brown, Jim Fitzgerald, Greg Cob, JoDean Beckers, Ray Hansen, Tami McLean, Evan Maddison, Lawrence Steger, Elmer Stalcup, Lowell Swedlund, Dennis Jenner, Bill Howard, Merle Keats, Kenny Dutcher, Dick Keats, Clarence M. Junel, and Byron Dutcher.

Lee Dutcher, Stephen Morrissey, Eva Hanson, Jerri MacKaben, C. E. Moser, Robert Hobbs, B. A. Honomichl, Denise Carl, Don Miles, Dale Nelson, Bill Albrecht, Shirley Sorage, Dave Larsh, Ken Johnson, Ronald Steward, John Steeves, Dan O'Dea, Marvin Klingman, Duane Tomm, Carla Erfman, Harold L. Boyle, Margaret Maltaverne, and Mike Salem.

Norval Kurzenberger, Thelma Nelson, J. Ommen, Alice Kidder, Mrs. Norval Kurzenberger, Ruth Anderson, Robert C. Herr, Vic Huether, Bob Zuhr, Dale Schrier, James Pickering, Virgil Aker, Conrad Comer, Donna Cearns, Louis J. Truman, David Heemstra, Edward Gillespie, Lauren Erickson, DeAnna Dutcher, Leo Cassidy, JoAnne Clevenger, and Tom Calhoon.

Sandy Pool, Elizabeth Fidler, Lana Wenzel, Glenda Eixenberger, Kenneth P. Neiman, Richard A. Cleveland, Ed Carlson, Tom Harper, Joel Carlson, Blanche Garhart, Jacque Craven, Carol Schutte, Nancy Larsh, Jack R. Frost, Karl Webb, Mark Burke, Marty O'Dea, Robert N. Waisanen, Keith Hale, Clayton Overland, Donn Boyle, Karen Page, and Norman Tolsma.

David Campbell, Donnie Kurzenberger, Pat Doud, Philip Dachtler, Frances Allen, Lonnie Hall, Irene M. Lampert, George Semler, Nick Ganje, Robert Siemonsma, Larry Martian, Michael Aker, Sherman Teigen, Mick Buffington, Roger Butrum, Mike Dutcher, Selvin Tollefsrud, Gordon Gillespie, Dean Sorenson, Brian Hallock, Tina Dutcher, and Charles Dutcher.

Lucile Dunwoody, Josie Ewing, Terry Wenzel, Dennie Dykeman, Art Erickson, Robbie Robbins, Chuck Henderson, Donna Carter, Ed Price, Kathy Harker, Larry Burtzlaff, Lucy Heisinger, Marie Jungers, Susie Stewart, Kenneth Smith, Lisa Erfman, Dan Rhiley, Mel Waisanen, Norman Bergstrom, Mrs. Richard Bartels, H. W. Morrison, and Cathy Carlson.

Bobby R. Olsed, Roxy Willstein, Norman Jacobsen, Joe Brinkman, Ann Gilbert, Dale E. Fischer, Charles Whisler, Russell H. Halvorson, Gene Overbolt, Lloyd Sandelin, Patty Page, Lola Kletzmayer, James D. Mason, Loretta Peterson, Jackie Findley, Scot Littleton, Sharon Peck, Dick Olson, and Julie Olen.

Clara Calhoon, Dennis Coleman, Bob Nelcon, Garth Virkula, Shirley Mohr, Chuck Hodges, Wayne Yates, Ray C. Edwards, Mark Jensen, Paul Hennessey, Lance Hoffman, Joheph Langer, Dave Langer, Bob Moore, Bill Foster, Jr., Carol J. Hills, Tom Harvey, Art Wilson, and Bruce Sandidge.

Gary Kirkpatrick, Wayne Coulter, Collette Brink, Jerry Swanson, Ray Hussey, Ernest Schleuning, Robert D. Antior, Dwight M. Guffey, Duane Kudlock, Pat Uhrig, Susan Pickett, Herman Kletzamayer, David W. Waterson, Connie Rath, Ed Findley, Joe Miller, Linda Johnson, Scott Sieler, and Colleen Langer.

Don Calhoon, Mrs. L. Hall, Cherie Gerving, Denis Caron, Margie Nold, Walter Mickelson, Rickey Hanrich, Jean A. Edwards, Herbert Hubbard, Tom Nelson, Lloyd D. Shockey, Richard Langer, Bruce Ehrlicher, Bill Watkins, Ramona Klein, Von Ackerman, Jerome A. Hall, and Lyle Baumeister.

Fran Blakeman, S. F. Mahoney, Florence Surface, Bruce Gill, Paul Huntimer, Eddie Rypkema, J. F. England, James D. Hopkins, Marvin J. Erikson, Rita Lutz, D. Kellogg Beverly M. Frost, Loretta Mason, M. Pickering, Charles Littleon, Don Peck, Gladie Smith, Terri Haeger, and Lisa Edwards.

John Hoffman, Mr. W. Hall, John D. Lipp, Paula Katon, Kris Rieff, Sylvia Mickelson, Dorothy Edwards, Rayetta Jensen, Colleen Hennessey, Gayle L. Weaver, John Collins, Mike Langer, Gary Hoff, Mark Strickland, Karen Bridges, Deon A. Mattson, Arlo L. Grass, and Charles Plocek.●

TELECOMMUNICATION LEGISLATION

● Mr. SCHMITT. Mr. President, the introduction in June of S. 2827, the Communications Act Amendments of 1980, was an important step toward congressional enactment of comprehensive telecommunications legislation. This bill was the result of work which began in the 95th Congress. After hearings held by the House and Senate Communications Subcommittees in 1977 and 1978, members of the Senate Communications Subcommittee were convinced that rapid advances in telecommunications technologies made the regulatory structure created by the Communications Act of 1934 obsolete. The testimony demonstrated that competition among companies seeking to provide new and innovative telecommunications services was possible in a marketplace environment free of pervasive Government regulation.

On March 12, 1979, Senators GOLDWATER, PRESSLER, STEVENS, and I introduced S. 622, the Telecommunications Competition and Deregulation Act of 1979 in response to that testimony. Senators HOLLINGS and CANNON introduced S. 611, the Communications Act Amendments of 1979 on the same day. Thereafter, the Communications Subcommittee held 22 days of hearings on these two bills, taking testimony from 156 witnesses.

After the hearings, the minority staff of the Communications Subcommittee was directed to revise S. 622. In November, 1979, a "discussion draft" reflecting those revisions was circulated to interested parties for their comments. The majority staff of the subcommittee revised S. 611, and in December, Senators CANNON and PACKWOOD circulated a "staff working draft." Soon after the first of the year, at the request of the committee chairman, Senator CANNON, and the ranking Republican member Senator PACKWOOD, the minority and majority staffs began working to develop a bipartisan bill.

S. 2827 was the result of that joint effort and represents the compromises necessary to begin the markup process in committee. This process would be difficult and protracted, but necessary. As with most compromises, the bill has not pleased everyone.

After S. 2827 was introduced, the committee received comments from interested parties which, not surprisingly, ranged from praise to criticism.

Most comments indicated satisfaction with the bill's emphasis on creating a competitive environment for providing telecommunications services; however, some criticized the means used to achieve that objective. Telephone companies thought the bill contained too much unnecessary regulation. Data processors, some specialized carriers, and certain telecommunications equipment manufacturers believed that the safeguards included to insure a fair competitive environment were inadequate. A.T. & T. viewed the bill as giving the FCC too much flexibility; others felt it did not give the Commission enough. Broadcasters found the deregulatory effect inadequate, while some public interest groups thought the bill did not retain enough regulation. Newspaper publishers were concerned about A.T. & T. getting into the electronic newspaper business. Some State and city representatives felt that their jurisdiction over cable television was being diminished.

Because not all the interested members could attend, markup, which had been scheduled for June, was postponed. More comments were filed during the July recess. On July 30, the committee announced its decision to hold additional hearings. On July 31, the House Interstate and Foreign Commerce Committee reported its communications bill, dealing only with common carrier issues.

Mr. President, this recitation of history indicates to me that we have made substantial progress toward enacting comprehensive telecommunications legislation. Obviously, the process has been filled with peaks and valleys. This was not unexpected in such an important and complex legislative effort. S. 2827 may not have made all the right decisions, and revisions and improvements will undoubtedly be made as the legislative process continues. However, it provides a firm foundation for proceeding with further hearings this session, followed by early action in the next Congress.

We have devoted substantial amounts of time and resources toward achieving this objective. Our effort should not falter.

As I have said repeatedly in the past, Congress should be making telecommunications policy—not the FCC or the courts. However commendable or condemnable recent FCC decisions may be, it is imperative that the Congress provide policy guidance, and the sooner the better.●

REAL MONEY—THE SURVIVAL OF THE WEST

● Mr. HELMS. Mr. President, in the August issue of Harper's magazine there is an outstanding article by Lewis Lehrman, president of the Lehrman Institute of New York. His article, "Real Money," brought to mind a work by Elgin Groseclose, a prominent Washington attorney and author of "Money Man." This book is a history of monetary affairs that expertly illustrates the fact that the decline and collapse of nations is accompanied by the inflation of their currencies.

I strongly believe that we ignore lessons of history at our own peril. The inflationary policies which we have been following in recent years are no small, bothersome difficulties. Inflation kills societies. It is undermining not only the American economy, but other institutions of our Nation as well.

Mr. Lehrman, like a growing number of economists, journalists, and Members of Congress, believes that the United States must adopt a gold-based monetary system.

Voltaire observed that paper money always reaches its intrinsic value. That value is, of course, zero. The dollar, as we are all too painfully aware, is rapidly headed in that direction, and the only thing that will save it is a credible, gold-based monetary reform.

Mr. President, I ask that Mr. Lehrman's article be printed in the RECORD at the conclusion of my remarks.

The article follows:

REAL MONEY

(By Lewis E. Lehrman)

The world economy of the nineteenth century was, above all, characterized by the gold standard. Each great power defined its currency by a weight unit of gold and guaranteed such convertibility. Thus all national currencies were linked by a specified ratio to an underlying and universal common denominator, gold, which functioned as a neutral world currency. The gold standard was the impartial arbiter of the world financial system. Though linked to all national currencies, gold was nevertheless a reserve currency asset, "outside" and beyond the manipulation of any sovereign country.

World War I ended the preeminence of the classical European states system. On the eve of war, the belligerents suspended the gold standard—the guarantor of a hundred years of price stability. War and the prospect of inflationary war finance doomed the maintenance of a gold-linked currency. In order to stem runs on central-bank gold reserves, the governments of Europe ceased to honor the gold convertibility laws. The expansionary credit policies subsequently pursued by the European central banks led, during the next decade, to the great paper-money inflations in France, Germany, and Russia—among other European countries.

An Age of Inflation began. Writing as early as 1919, while attending the Paris Peace Conference, John Maynard Keynes argued that there was no surer means of "overturning the existing basis of society than to debauch the currency." Inflation, he warned, "engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose."

Decades later, I watch—both at home and abroad—the disintegration of the value of the paper dollar. Inflation is upon us once again. The astronomical rise of the price of gold from $35 in 1971 to $600 in June of 1980 merely denotes the meaning of inflation—i.e., the debasement of the dollar and all other paper currencies. This corrosive process began, however, after the early years of the Great Depression (1929–32), when President Franklin D. Roosevelt abrupt ended the domestic gold standard in 1933 and in 1934 devalued the dollar by raising the price of gold from $20 to $35 per ounce.

At the time, Roosevelt and his economic advisers believed that in order to arrest the deflation of prices it was necessary to stimulate the economy. To this end they raised the price of gold, and thus lowered the value of paper money, hoping also to raise depressed commodity prices. By manipulating the gold price and depreciating the currency, FDR hoped to cause all other prices to rise and, as a result, restore prosperity. The dollar was, as the phrase went, no longer "as good as gold." For Americans, the dollar would no longer be linked domestically to an article of wealth. In the future, the dollar would be a managed currency, its value substantially determined and regulated by the opinions of the members of the board of governors of the Federal Reserve System. But the dollar-depreciation policy failed. Five years later, in 1939, unemployment still exceeded 10 percent of the work force. Later, World War II ended the Depression.

At Bretton Woods in 1944, ten years after Roosevelt's dollar devaluation, an international monetary agreement, largely determined by the Americans and the British, was concluded. The Bretton Woods agreement established the dollar as the "official" world reserve currency. The values of foreign currencies were to be determined by their relationship to the U.S. currency, which was convertible only for foreigners at $35 per ounce.

Between 1945 and 1958, the European countries ran huge government budget deficits and financed part of their debt by creating new money at their central banks. At that time, the U.S. government budget deficits were not chronic, nor were they very large. Keynesian fiscal policies were possible in Europe because European currencies were not mutually convertible into gold at a fixed rate. Convertibility would have limited the freedom of their central banks to create new money. Thus the European governments created excess money, which caused their currencies to be chronically weak compared with the relatively stable dollar. The economic experts called this problem the "permanent dollar shortage."

After 1958, the leading European nations reestablished mutual convertibility of their currencies, limited their budget deficits, and ceased to finance government debt with the creation of new money. But the United States, especially after 1960, developed annual budget deficits and practiced the same expansive central-bank credit policies that had characterized the European countries during the 1940s and 1950s. Predictably, the excess dollars, created by government budget deficits and "accommodating" central-banking monetary policy, gave rise to chronic balance-of-payments deficits and a weak currency. Almost overnight a glut of dollars replaced a shortage.

Throughout the 1960s the American balance-of-payments deficit, generated by these expansive U.S. monetary policies, led to periodic foreign-exchange crises and eventually to foreign-exchange controls. The Bretton Woods system groaned under the flood weight of excess U.S. dollars in financial markets abroad, where they were accumulated in the official foreign-exchange reserves of America's trading partners. Thus was the U.S. deficit recycled. Excess dollars went abroad: they were purchased by foreign central banks and were then reinvested in dollar securities, often Treasury securities. In effect the excess dollars went abroad, but the dollars then returned from abroad to finance the U.S. Treasury deficit. This legerdemain was described by one critic as "a deficit without tears." In a word, the *reserve currency* country, the United States, had no incentive to end its deficit. The adjustment mechanism of a true gold standard, needed to ensure equilibrium in the budget and in the balance of payments, had been immobilized. This failure of the adjustment mechanism was the chief defect of the Bretton Woods system, based, as it was, on a managed national currency—the dollar.

Indeed, the United States enjoyed the exorbitant privilege of running deficits to finance inordinate social programs at home and irresolute and costly wars, like Vietnam, abroad. Only the reserve-currency country gained this unique seigniorage, at the expense of the rest of the world. Even the nominal gold link was diminished during the 1960s by abolishing the domestic gold reserve required to back the dollar. And predictably, with the discipline of a legally required gold cover brushed aside, budget deficits, inflation, and the balance-of-payments crises intensified.

During the 1960s, professional economists—Keynesians and monetarists alike—made the case for a new era of central-bank "managed money." A managed currency was especially the triumph of Keynesian economists, who dominated economic policy and academic circles between 1945 and 1965. Their "demand management" policies, designed to eliminate recessions, relied on federal budget deficits substantially financed by the Federal Reserve's willingness to create new money.

On the international side, both Keynesians and monetarists criticized the faltering Bretton Woods fixed exchange rates. Ironically, on this issue these intellectual enemies agreed, but not on the reform of Bretton Woods. Instead they advocated its demolition. In the place of the convertible currencies of Bretton Woods, they proposed central-bank-managed currencies, floating exchange rates, and the demonetization of gold.

Even Richard Nixon as president was gradually converted to Keynesian economics. ("We are all Keynesians now," he remarked.) But Nixon also absorbed some of the teachings of the monetarist school—in particular, the desirability of replacing the Bretton Woods fixed-rate system with floating exchange rates. On August 15, 1971, Nixon closed the gold window, refusing to redeem excess dollars for gold, as the British government had demanded a few days earlier under the terms of the Bretton Woods treaty. The last remnant of a tattered gold-exchange standard was discarded by the leader of the free world. Thereafter, the dollar ceased to be a real money—that is, a money linked objectively to an article of wealth such as gold. Now it would be a nominal money, a paper monetary token, linked to nothing but the subjective opinions of its regulators at the Federal Reserve System.

Lenin once observed that gold should adorn the floors of latrines. Keynes labeled the gold standard a "barbarous relic," and Milton Friedman has recently said that for a monetary standard one may as well use pork bellies.

When President Nixon demonetized gold in 1971, Henry Reuss, chairman of the House Banking and Currency Committee, predicted that the price of gold would fall to $6 per ounce. It is true that gold remained below $40 until 1972. But by January of 1980, the price of gold was soaring above $800. Recently it has fluctuated between $500 and $600. What caused the exponential rise, fluctuations, and fall of the gold price? I believe that the cause of the violent rise was the same as the cause of other commodity-price rises. Indeed, the same cause was behind the balance-of-payments deficits of the 1960s and the inflation of the 1970s: quite simply, the excessive expansion of money and credit, engineered by the Federal Reserve System in order to finance the Treasury deficit and fine-tune the economy.[1]

Thus there is irony in the comments of the monetary authories who declaim that gold is too volatile to stabilize the monetary system once again. On the contrary, it is not the gold price that is unstable. From 1940 to 1976, the purchasing power of gold has remained constant, according to Prof. Roy Jastram in his book "The Golden Constant." In fact, it is the value of the dollar that is unstable, an instability caused in the past by the Fed's unpredictable and expansionary monetary policies.

The truth is that the Federal Reserve managers are honest and well-intentioned. But they believe they can achieve a goal that is not within their power to achieve—namely, to manage the currency. Moreover, they believe they can fine-tune the world's most complex economy by changes in credit policy. The Fed's ever-changing open-market interventions to this end have only creatd uncertainty and disorder in the financial markets.

The fundamental problem of Federal Reserve monetary policy is that the amount of money in circulation cannot reliably be determined by the Federal Reserve board of governors. Therefore, the Fed should stop trying to do so. The Fed simply cannot either accurately know the demand for money in the market or fix precisely its supply. Nor does the Fed possess the information, the operating techniques, or the vision to bring about a certain rate of growth of money supply and credit. Nor could this growth of supply be consistent with the precise demand for money in the market. Moreover, as history shows, no stipulated level of money supply during a specific market period is necessarily correlated either with a specified rate of inflation or deflation or with price stability. For example, during part of 1978 the quantity of money in Switzerland grew approximately 30 percent, while the price level rose only about 1 percent. While inflation rates in Switzerland have subsequently accelerated, inflation has persisted at a modest fraction of the growth in the quantity of money. Conversely, in the United States in 1979, the money supply grew about 5 percent while the consumer price index rose 13 percent and the wholesale price index even more.

Previous experience also gives one little confidence in the limitless discretion of the Federal Reserve governors under the present system of floating exchange rates. Consider what the Federal Reserve is: First and foremost, it is a bank. More precisely, it is the "bank of issue." It has a balance sheet and it has an income statement. As a banking institution it can perform no magic with money. The Fed buys assets with the resources provided by the liabilities it assumes. But it is important to recognize that, within limits, the central bank can also vary

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[1] The credit policy of the Fed can be observed in the following numbers.

Total FRB credit expansion

(Average annual compound rates)

	Percent
1960–65	8.6
1965–70	8.8
1970–75	8.4
1975–79	8.7

As the table shows, the expansion of central-bank credit has for two decades been almost three times the rate of economic growth. The excess credit created by the Fed went abroad in the 1960s when it was known as a balance-of-payments deficit. The same excess credit also caused domestic prices to rise in the late 1960s. During the 1970s the excess money created by the Fed caused inflation at home and the decline of the dollar abroad.

the composition of Federal Reserve credit, its assets. Federal Reserve credit is a precise magnitude that tends to regulate the rise and fall of credit and money supplied by the Fed to the banking system. If the credit or money supplied is actually desired in the market, the price level will tend to be stable. If some of the new credit created by the Fed is undesired, it will quickly be spent at home and abroad, the price level will tend to rise, and the value of the dollar at home and abroad will tend to fall.

This problem of equalizing the supply of credit and the demand for it in the market illustrates the problem of monetary policy and central banking. To conduct the operations of the central bank, there must be a goal. If the goal is both price stability and a specific amount of money in circulation, the Fed must know precisely, among other things, not only the amount of money in circulation but also the volume of money and credit actually desired in the market. For only when the supply of money equals the amount desired in the market will there be no inflation. If by open-market operations the Fed unwittingly creates excess money in the market, prices will rise, as the excess money is rapidly used for purchases.

But, if, instead of a specific quantity of money, the goal of the central bank were primarily price stability, the Fed would promptly reduce the amount of credit it made available to the commercial banks when excess credit was causing inflation. As Fed credit growth contracted, so would the money stock. As a result, excess money would be absorbed until the level of actual cash balances in the market was strictly equal to the amount of cash balances desired for economic growth. During such a market interval, inflation—or excess demand—would dissipate and prices would gradually stabilize.[2]

If the goal of the central bank during a period of inflation must be to restore reasonable price stability, then the central bank should reduce the quantity of money in circulation to make it once again equal to desired cash balances. Under this restrictive monetary policy the banking system must tend to avoid making new bank loans. This is a monetary policy that will work, because the supply of money and credit will, as a result, tend to decline and to equal the desired amount. If cash balances are strictly equal to the level of desired cash balances, prices will be stable. If there is no excess money in the market, there can be no inflation.

The consequences of such a monetary policy will make themselves felt throughout the economy. Since the supply of money will tend to equal the level of money desired, consumers as a whole will not wish to make purchases with their existing cash balances until they first produce something new. In a word, consumers will not make demands in the market without first offering supplies. Under such conditions the price level will be stable. It will vary moderately around unity, and there will be no inflation arising from excess cash balances created by the central banking system.[3]

History and economic analysis show that the policy best suited to ensure price stability is to make the value of paper money equal to a weight of gold. Thus the volume of currency would be linked to a real commodity, gold, the supply of which grows over the long run at 2 percent a year, roughly proportionate to the rate of economic growth over long periods.

A currency convertible at a fixed price into gold is a long-run stabilizer of the money supply, while central-banking discretionary instruments are useful only for providing elasticity to credit and currency supplies in the short and intermediate term.

Although one wants to give the managers of our central bank a certain degree of discretion in order to supply money for the market, one doesn't want to give them so much discretion that in the short run, for political reason, they might abandon the goal of reasonable price stability—a goal that only the convertible currency will ensure.[4]

Indeed, a convertible currency constrains all central-banking techniques. For if money is pumped into the system, there will appear on the market a surfeit of cash balances. Those receiving money in excess of desired levels would then appear at the central bank with a demand for redemption in gold. Such evidence of excess money offered at the fixed price for redemption in gold will signal unequivocally to the monetary authorities that there are indeed excess cash balances. The true signal of excess money can be given only by people and firms, concretely expressed by those who would desire to convert such excess funds at the central bank for gold. Such money would be clearly unwanted or it would not be brought in for redemption at the bank. On this signal the Fed would gradually reduce credit to absorb these excess cash balances. The inflationary episode would be cut short because of the requirement to sustain the fixed convertibility ratio between the limited quantity of gold and the undesired currency.

Some would argue that a gold-backed currency is costly, in social and economic terms, compared with a pure paper currency. But whatever the minor social cost of a currency convertible at a fixed parity into gold, it is a superior monetary stabilizer and a more efficient price regulator. As Professor Jastram shows in "The Golden Constant," the history of the gold standard provides evidence of reasonable, long-term price stability. If the goal of the United States is an end to inflation and reasonable price stability, it is not an excessive cost to allocate a minor share of our resources to the regulating mechanism of the money supply. Nothing else but real money will assure the indispensable virtue of permanent trust in the currency. Without real money, saving evaporates, investment languishes, and the future is impoverished.

Consider also that Americans are required by law to accept paper dollars in exchange for production and labor of a stipulated value. Money, therefore, if it is to be anything, must be at least an efficient and trustworthy instrument by which working people accumulate savings. Men and women carefully save cash balances from the proceeds of their labor. Surely they must insist that the future value of their money closely approximate the objective present value of their labor. The implied convertibility between a unit of real money produced by labor and an article of wealth created by human labor for the market must be assured. Therefore, the value of the monetary unit should have a real objective regulator. But the value of money has an objective regulator only when it is linked to a real commodity, like gold, itself requiring the cost of human labor to be produced. By comparison, the value of inconvertible paper money has no objective regulator, its marginal cost of production being nearly zero.

The covenant between any worker and society must be underwritten by something more lasting than a nominal paper currency or mere monetary tokens. In exchange for work, there must be the payment of real money, the value of which endures. Over thousands of years a gold-related currency has performed this function for civilized men. By establishing real money, men rule out its debasement. In the long run, the value of an ounce of gold is proportionate to an objective quantity, namely the amount of labor invested to mine and to fabricate it. Moreover, a gold currency exhibits the properties that make real money the foundation of an exchange economy. It is scarce, storable, measurable, divisible, immutable, transportable, malleable, and fungible.

Above all, the value of a monetary unit, defined by a weight unit of gold, has a fair and efficient regulator of its value in the world economy, namely, its cost of production. For example, if it requires fifty man-hours to produce one ton of coal and a hundred man-hours to produce one ounce of gold in an open market, then approximately two tons of coal will be exchanged for monetary units sufficient to buy one ounce of gold. If men were able to exchange one ton of coal (fifty hours of labor) for the money to buy one ounce of gold (one hundred hours of labor), men would cease to mine gold in a free market and they would dig enthusiastically to mine coal. They would produce more coal for money and purchase the gold they desired. The increased demand for gold and the increased supply of coal would gradually reestablish an equilibrium ratio between the two commodities—a ratio roughly proportionate to the quantity of labor required to produce them.

Therefore, in order to end inflation permanently and to bring about stability and trust in the U.S. currency, the dollar must be defined in law as equal to a weight unit of gold, at a statutory convertibility rate that ensures that average wages do not fall. Nothing less will yield an enduring currency and a stable social order. Currency and a stable social order. Currency convertibility into gold at a fixed rate is virtually a constitutional guarantee of the purchasing power of money and, therefore, of the future value of savings. The legal framework of a convertible currency makes of money a lasting political institution. It is now time for the United States to offer the world a real money, underwritten by a guarantee of gold convertibility.

As a result of a true international gold standard, no central bank, not even the Federal Reserve System, could expand credit beyond the desired level in the market. This self-denying ordinance of central banks is the principal foundation of financial order. The ordinance must work, because to create an excess supply of money and credit in the market would cause the prices to rise and the exchange rate to fall—while the gold-convertibility price of the currency would remain the same. Therefore, the stable gold price would be falling relative to rising general prices. The demand for the relatively cheap gold would create an increasing cash demand for a limited supply of gold. This unique signal of excess cash balances now offered for exchange into gold at the bank would alert the Fed to the danger of inflation.

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[2] Cash balances are the ready means of payment we hold in our pockets or at the bank. So is money. Money is often used by people to mean wealth. But money is not the same thing as wealth. Modern money consists of currency and checkbook deposits. Money is, therefore, that balance of our wealth that we choose not to hold in the form of financial assets, goods, and services. This money balance is cash. Money, strictly defined, is a synonym for cash balance.

[3] This concrete monetary policy finally comes to grips with the quantity theory of money and Jean Baptiste Say's Law of Markets, famous classical issues of economics that preoccupied Lord Keynes in *The General Theory*. Say's Law holds that the value of total supply always equals total demand. Keynes disagreed, and he was right. If Say's Law were correct, there could never be an imbalance between supply and demand; therefore, no inflation could occur. But inflation does occur.

The monetary policy to be derived from a *modified* Say's Law is clear: minimize the difference between actual and desired cash balances, and supply through the regulating mechanism of the central bank only the amount of money actually desired in the market.

[4] A favorite gambit of presidents seeking reelection is to throw monetary sheets to the wind and expand the money supply, thus inducing a false sense of prosperity among the electorate.

It is clear that a true gold standard will assure that the supply of money will tend to equal the quantity of money desired for steady economic prosperity. What matters is that the amount of cash balances and the level of interest rates be determined in the open market, not in the Open Market Committee of the Federal Reserve System. There is no need in such a market for monetarist fine-tuning of the money stock through continuous open-market operations. Indeed, the effects of Keynesian fiscal fine-tuning are the same: they create chronic instability of the price level and, in this expansionist era, inflation.●

RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow Messrs. ARMSTRONG and BENTSEN be recognized for each not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, will the majority leader add to that the Senator from Virginia?

Mr. ROBERT C. BYRD. Yes. I add Mr. HARRY F. BYRD, JR., to that request for not to exceed 15 minutes and so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand that our colleagues from New Mexico wish a little time on tomorrow to eulogize their colleague in the House of Representatives, who died on this morning.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I hope the majority leader then will add to the special orders 15 minutes each for Senator SCHMITT and for Senator DOMENICI.

Mr. ROBERT C. BYRD. I thank the minority leader.

And I so make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with respect to the orders for the recognition of Senators on tomorrow, Mr. BENTSEN's name appear last on the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. JAVITS be recognized for not to exceed 15 minutes on tomorrow just prior to the period for morning business which has already been ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

ORDER FOR THE PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the order for the recognition of Senators, there be a period for the transaction of routine morning business not to extend beyond 2 hours and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in and dispatch with the orders for the recognition of Senators and with routine morning business, after which the Senate will go out for the August break.

On the 18th of August, upon its return at 11 a.m., the 1 hour under the cloture rule will begin running and at 12 o'clock noon the clerk will be asked to call the roll to establish a quorum, and upon the establishment of a quorum the Senate will vote on the motion to invoke cloture on the committee substitute to H.R. 39.

May I have the attention of Senators because they will be asking questions later?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I thank the Chair.

I hope all Senators will be prepared on Monday, August 18, for what will happen.

If cloture is invoked, and that vote will occur at around 12:15 p.m., the Senate will continue action on the committee substitute to H.R. 39 to the exclusion of all other business until final action on that committee substitute, which means there will be rollcall votes during the afternoon and evening. If the Senate does not invoke cloture on Monday, August 18, the Senate will resume consideration of H.R. 39 under the time agreement listed on the calendar, and we have seen today what may be expected on Monday, August 18 in that event, which means rollcall votes.

I wish to take this occasion to thank all Senators and express my gratitude to Mr. GRAVEL for the cooperation that he has given. He has resorted to a few dilatory motions and tactics today but up until today he passed up a good many opportunities to engage in such tactics and did not choose to do so, and I appreciate that.

I thank all other Senators and especially those who are managing the bill for their cooperation and for their forbearance.

I thank all Senators, I am going to say now there will be no more rollcall votes today and may all Senators have a good August break and may the Democrats nominate the winner for November 4 for this year.

Mr. BAKER. Mr President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield to the minority leader.

Mr. BAKER. Mr. President, I agree with almost everything he said.

But seriously I join him in wishing everyone well.

I might say facetiously I have been telling Senators there will be no more votes since 2 p.m. and I will have a swarm of angry Senators returning on August 18 to hold me accountable for that appraisal. But I thank him for those words.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield to the distinguished minority whip.

Mr. STEVENS. I thank my good friend.

Mr. President, I inquire about the Chair's prior ruling with regard to amendments being in order where they hit the bill in more than one place. We had an understanding by virtue of the time agreement as to those amendments that would be in order that were called for under the time agreement, even though they did hit the bill in more than one place. May I inquire from the Chair whether that prior ruling would be modified by cloture, a subject which I might state to the Chair, might be raised by amendments by both Senators from Alaska.

Mr. GRAVEL. Mr. President, I was engaged in a colloquy and I did not hear my colleague from Alaska. Will he repeat his inquiry?

Mr. STEVENS. Under the prior ruling of the Chair, under the time agreement, amendments that were called for under the time agreement could be in order even though they might hit the bill in more than one place. I asked the Chair whether that ruling of the Chair would apply to amendments that would be offered under cloture, assuming cloture is voted by the Senate.

The PRESIDING OFFICER. The invocation of cloture would not affect the ruling.

Mr. STEVENS. I thank the Chair. That applies to Senator GRAVEL's amendments and mine. It does not apply to the substitute. It is not a matter with respect to the substitute.

The PRESIDING OFFICER. That is clear.

THE REVEREND BOB W. BROWN OF LEXINGTON

Mr. FORD. Mr. President, the Commonwealth of Kentucky lost one of its most dedicated spiritual and civic leaders on Monday when the Reverend Bob W. Brown of Lexington was fatally stricken with a heart attack.

Reverend Brown, who served for 22 years as pastor of the Trinity Baptist Church in Lexington, was a good and valued friend of mine who cared very deeply about the well-being of his fellow man. His life was dedicated to service to God and his church and service to all humanity as well.

As Governor, I appointed Reverend Brown to serve on the State Board for Elementary and Secondary Education, a position he held for 8 years. During that period, he made many valuable contributions which improved the quality of education throughout Kentucky, and he directed every ounce of energy he had to making this world a better place for future generations.

He was a graduate of the Southern Baptist Theological Seminary in Louisville and he was active in many organizations, including the Kentucky Baptist Convention, the Kentucky Cancer Commission, Planned Parenthood, Inc., and the Bluegrass Association for Retarded Children.

He is survived by his wife, the former Helen White; a daughter, Amy, and a son, Jeffrey. I extend my heartfelt sympathy to his family.

Mr. President, 4 years ago, Reverend Brown gave the closing prayer at the July 13 session of the 1976 Democratic National Convention. The words of that prayer sum up what life meant to Bob Brown and, as tribute to this individual who left a legacy that will be very difficult to follow, I ask unanimous consent that the prayer be printed in the RECORD.

There being no objection, the prayer was ordered to be printed in the RECORD, as follows:

> Father, we are grateful for every good thing that we enjoy. We are reminded tonight, as we are so often, that some of us are spectators and some participants. We pray that all of us might find some participating involvement as we have heard a recitation of the Platform of this Party which sets forth the needs of the world in which we live. We ask that you will help us as individuals to get some handle on our own involvement. It is easy for us to speculate and to criticize. It is not quite so easy for us to find our own place.
>
> Help us to use the gifts that Thou has given us, use the opportunities that we have with responsibility. May we serve with faith, hope and love.
>
> Amen.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 7:10 p.m., recessed until Wednesday, August 6, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1980:

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring August 27, 1985 (reappointment).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Richard Bryant Lowe III, of New York, to be Inspector General Department of Health and Human Services, vice Thomas D. Morris, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate August 5, 1980:

NATIONAL LABOR RELATIONS BOARD

Don Alan Zimmerman, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring December 16, 1984.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SENATE—*Wednesday, August 6, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God our Father, eternal and unchangeable, the same yesterday, today, and forever, we yield our lives henceforth to Thy providence. Watch over us in our work this day and in our absence one from another. Give journeying mercies to those who travel. Comfort those who mourn. May the Lord be with us in our going out and our coming in, in our labor and in our leisure, in our laughter and in our tears, in our work and in our play. Shepherd us across the highways and byways of this life until we come safely at last to that fold where pilgrim souls rejoice in the light and love of Thy presence.

Through Him who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 6, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MIDDLE EAST PEACE

Mr. ROBERT C. BYRD. Mr. President, recent developments have cast a shadow over the efforts to continue the peace process in the Middle East.

A resolution approved overwhelmingly by the United Nations General Assembly called for Israel to begin withdrawing from occupied Arab territories by November 15, and for the establishment of an independent sovereign state for the Palestinian people.

The United States opposed this resolution. I believe this was the correct position, even though we were one of only seven countries to vote against it. There were 24 abstentions.

The resolution omitted all mention of Israeli security concerns. This failure to acknowledge Israel's right to live in peace within secure and recognized borders is inconsistent with U.N. Resolution 242 of 1967, which is supposed to serve as a basis for peace negotiations. Nonetheless, the overwhelming size of the vote for the resolution is indicative of the broadening international opposition to Israel's position on the occupied territories.

A further complication of the peace process results from actions by the Israeli Government in regard to Jerusalem. The Knesset has approved a bill which would make all of Jerusalem, including the Arab sector, the capital of Israel. Prime Minister Begin also intends to move his office to East Jerusalem.

Since the United States—along with most other governments—does not recognize this annexation, there is serious question as to whether the U.S. Ambassador to Israel and other American officials could make official visits to the Prime Minister.

I have strong doubts about the appropriateness of any U.S. official making such visits to east Jerusalem, because they could be interpreted as at least indirectly sanctioning this action by Israel.

The Camp David accords call for the city's status to be determined by negotiations, and that is the course that should be followed.

I view the Israeli actions as shortsighted and contrary to peace in the region.

The future of Jerusalem is a complex issue that will not be resolved by attempts at preemptive legislative action.

Our goal and, I hope, that of the Israelis and the Egyptians, should be to persevere on the path toward peace and not to succumb to tempting political acts which can only make the goal more difficult to attain and which will make it more difficult for other nations to join in the process.

Mr. President, the former U.S. Ambassador to Egypt and to Saudi Arabia, Hermann Eilts, has written a thoughtful and perceptive analysis of the current situation in the Middle East. Mr. Eilts points out that the peace process must center on a satisfactory resolution of the Palestinian issue, but that this must be balanced against Israel's legitimate security needs. What is necessary, Mr. Eilts points out, is to foster once again an element of trust between and among the parties. If confidence continues to erode and there are no signs of willingness to seek compromises, the seemingly contradictory notions necessary for peace cannot be blended.

I ask unanimous consent to have the article by Mr. Eilts, now university professor of international relations at Boston University, printed in the RECORD. It appeared in the Baltimore Sun on July 30.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MIDDLE EAST PEACE PROCESS

(By Hermann Frederick Eilts)

BOSTON.—Twice in the past two months the Middle East peace process has suffered temporary setbacks and a third may be imminent.

Following the introduction of a bill into the Israeli parliament (Knesset) to confirm Jerusalem as Israel's capital, President Anwar Sadat of Egypt suspended peace talks. Carter administration officials were convinced the Jerusalem-sovereignty bill did not warrant concern because, they thought, it was a private member's bill lacking the support of the Begin government. President Carter persuaded Mr. Sadat to resume talks.

Shortly afterward, a legal committee of American, Israeli and Egyptian representatives found itself stalemated because of an inability to agree on an agenda. Though disappointing, this was hardly surprising. Such inability on the part of Israel and Egypt to reach agreement on an agenda, which structures the nature of the talks, has been a frequent occurrence in past negotiations. American proposals were usually required to break the impasse.

Most recently, to the Carter administration's chagrin, the Knesset has proceeded with the Jerusalem-sovereignty bill, confirming Israeli annexation of formerly Arab East Jerusalem and predictably reviving Mr. Sadat's concern for Arab and Muslim claims on the city. Once again the talks are threatened.

The Middle East peace negotiations are alive, even if they are not especially well nor flourishing.

A year and a half of talks has produced no significant breakthrough on meaningful West Bank-Gaza autonomy, one aspect of the unresolved Palestinian core issue.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Granted, the issues involved are difficult for all parties, far more so than were the Sinai negotiations. But a satisfactory resolution of the autonomy issue is essential if the cement of the Israeli-Egyptian peace treaty is to hold. The two sides remain poles apart on it.

The vagueness of the second Camp David accord, a "Framework for Peace in the Middle East," along with Israeli settlements on the West Bank since Camp David, have hindered the process. The "spirit" of Camp David needs new life.

For Israel, the West Bank, in particular, and to a lesser extent Gaza, represent vital security concerns.

To Prime Minister Menachem Begin and to like-minded Israelis, there is an additional biblical imperative about the West Bank as part of *Eretz Israel.* The depth of their conviction deserves respect, however dubious such ancient historical claims may be in modern times.

Some Israelis also view the issue as belated fulfillment of Britain's Balfour Declaration of 1917 and the subsequent multilateral League of Nations mandate for Palestine of 1922. These sanctioned Jewish settlement in all the Palestine Mandate, including the West Bank and Gaza, but without detriment to the political and social rights of the inhabitants.

Yet not all Israelis wish to retain these territories, and Israeli's Labor Party leaders have spoken of returning the greater part of the West Bank to Jordan, should they return to power in the 1981 elections or before.

Arabs denounce the Israeli government's position as expansionism. From an Arab vantage point, this interpretation is understandable. They would do better to try to understand the Israeli concern with security, as President Sadat has done, and to seek feasible options to assure such security without territorial accretions.

For the Arabs, Camp David was a blow, even for friends of the United States such as Saudi Arabia and Jordan. Many saw it as an effort contrived by the United States to achieve a long-standing Israeli purpose: to divide the Arabs by the conclusion of a separate Israeli-Egyptian peace treaty. American and Egyptian protestations that the 1978 Camp David accords represent the "cornerstone" of a comprehensive peace are disbelieved.

The Palestinians, both those residing in the West Bank and Gaza and those in the Palestinian diaspora, all under the effective control of an absentee, hardline PLO leadership, adamantly refuse to accept or to participate in the autonomy talks. Arab skeptics have been confirmed in their negative judgment by the lack of progress in the autonomy talks and by Israeli settlement activities.

Egypt, under the leadership of Mr. Sadat, a man of extraordinary vision and statesmanship, is caught between the two. President Sadat's concern for the Palestinians, to which I can attest from numerous talks with him, is real. Mr. Sadat is an Arab nationalist. But he is also president of Egypt, responsible for his own people, and is fed up with the Palestinian leadership's persistent internal disputes and unreconstructed approach.

For too long, in his view, Egypt, despite its enormous sacrifices for the Arab cause, has been hostage to Palestinian, Syrian and Jordanian lowest common denominator tactics. Unrealistic Arab negotiation positions, he believes, have prevented earlier recovery of occupied Arab territories; instead, by freezing the situation, they have permited Israel, as the occupying power, to create faits accomplis.

Yet, as long-time leader of the Arab world, President Sadat also recognizes that Egypt, since Camp David and the Israeli-Egyptian peace treaty, is a virtual outcast in the Arab and Muslim worlds. This was less Mr. Sadat's doing than it was an American miscalculation of the likely reaction of Arab friends to the qualitative disparities of the two Camp David accords.

Whatever the cause, Egypt knows it can only regain its Arab leadership role by insuring that West Bank-Gaza autonomy negotiations results in something substantially attractive to the Palestinians. Only then is there an outside chance that indigenous West Bank and Gaza Palestinians might be induced to try out the new arrangement. This in effect means broad powers and responsibilities for the transitional West Bank-Gaza governing body; powers not limited to people, as Israel wishes, but at least on a shared basis to control of land and water as well.

The United States is a "full partner" in the talks. To Egypt, this means an obligation to present substantive proposals, coupled with the hope that these will be reasonably consistent with President Carter's March, 1977, public statement endorsing a Palestinian "homeland," or "entity" as he later called it, and a return to the June, 1967, frontiers with only minor rectifications. To Israel, American proposals are not especially welcome lest they offer more to the Palestinians than Prime Minister Begin considers desirable.

Where then are we going? For the moment, probably nowhere. In an election year, President Carter's hands are tied and his schedule is such as to keep personal intervention in so controversial an issue to a minimum. Yet, having once intervened through summit diplomacy, nothing less is likely to suffice. The efforts of Ambassadors Robert Strauss and Sol Linowitz, both able men, will not be adequate.

Should Mr. Carter be re-elected, Egypt and America's moderate Arab friends will expect him to work for his previously publicly stated commitments. More than any of his predecessors, the president recognizes the centrality of the Palestinian issue, but he must balance this against Israel's legitimate security needs.

Can these seemingly contradictory notions somehow be blended? Yes, if some element of trust can again be fostered between and among the parties. No, if as seems now to be the case, confidence continues to erode and there are no signs of willingness to seek compromises.

The Camp David accords, if they are to serve the high purpose for which they were intended, should not be regarded as negotiating straitjackets. Rather they should be viewed as guidelines for rational political compromise.

They need to be flexibly interpreted by all parties in seeking to structure a West Bank-Gaza self governing body. If the result is to be acceptable to the Palestinians, who will have to live with it, more than is now being offered is clearly necessary; yet less than complete independence during the five-year transitional period, as coveted by the Palestinians, will have to be accepted.

Options for the future will have to be left open. If the will is there, existing hurdles can be overcome; if it is not, the situation in the area will deteriorate and American interests will be adversely affected. But with patience and continued effort, it should be possible to achieve rational compromise which gives meaning to self-government. (The so-called European initiative, while hardly deserving the panicky reaction on our part that it received, is unlikely to go far.)

Should President Carter not be re-elected and Ronald Reagan become president, a learning process for the new White House occupant will be necessary. To Mr. Sadat, this will mean further delay; to Mr. Begin, a welcome respite.

Most likely, however, despite Mr. Reagan's genuine concern with Israel's well-being and the inevitable election campaign rhetoric, a new president will quickly find himself constrained by the same narrow set of choices of his predecessor when assessing the Middle East scene.

The "peace process" has come a long way, even if Camp David had negative as well as positive aspects. A new president will not simply be able to jettison past achievements. Nor will he find it prudent significantly to alter the thrust of long established American policy toward the region. Camp David, despite its critics, will have to be the starting point of any new policy initiatives.

Eventually, whoever is president, renewed efforts will have to be made to broaden the "peace process," as a *process* rather than a blueprint, for the Jordanians and the Palestinians as well as some of the Western states which may have to be included.

Mr. Eilts was U.S. ambassador to Saudi Arabia from 1965 to 1970 and ambassador to Egypt from 1973 to 1979. He is now University Professor of International Relations at Boston University.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. I yield such time as he may require to Mr. PROXMIRE.

Mr. PROXMIRE. Mr. President, I thank the majority leader.

IN MEMORY OF JOHN KIRK McGEE

Mr. PROXMIRE. Mr. President, it is with great sadness that I note the death of John Kirk McGee, son of Janice and John McGee of Ojai, Calif. John Kirk McGee died in an accident while working for an oil company on a student scholarship program.

John Kirk McGee was known to me through his family and, in particular, his father, John McGee. John McGee was responsible for saving the Federal Government millions of dollars by exposing an illegal scheme in Southeast Asia designed to syphon off U.S. petroleum products.

John Kirk McGee, the son, was an outstanding scholar and leader. He was class valedictorian, a member of Who's Who in American High School Students and various honor societies. He will be missed by all those who had the advantage of knowing him and working with him.

My sympathy and condolence go out to the McGee family. But perhaps no more fitting tribute could be made than to once again consider John Kirk McGee's very brief valedictorian speech. Mr. President, I ask unanimous consent that this speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

NORDHOFF HIGH SCHOOL GRADUATION PRESENTATION

(By John Kirk McGee)

Parents, administrators, teachers, and fellow students, this is a day we have been looking forward to—we are graduating from high school. At times, we may have thought that we would never make it. But here we are and contrary to what we have heard, I think we have received an education as good or better than the classes who graduated before us. We are better informed of the national and world affairs and the problems that lie ahead. The challenges which we will have to confront will be unique and the solutions we arrive at will set precedents for generations to come.

Clearly this assigned task and this imposed burden will strain our capacities to the utmost. It is an enormous responsibility and a formidable challenge that we must continue to confront in a competitive and demanding world.

The responsibility must be accepted. The job must be done. But, beyond this assigned task, beyond these outer limits of responsibility, we cannot go. It is not what we ought to do, but what we can do.

We cannot immediately end the problems we will be faced with. It is financially impossible, technically impossible, economically impossibe, morally impossible and physically impossible.

It is financially impossible to continue our standard of living with the increased cost. There is not that much money to be had from any source. It is technically impossible to continue the same standard of living without increasing the costs. This cannot be done by any means, using any device.

It is economically impossible to bring the Nation to a complete halt while we study the problem and propose a solution.

It is morally impossible to be denied the standard of living we have been accustomed to and it is physically impossible, even if everything else could be done, to compress the work of a decade into a day, a month, or a year.

The problems we must face are not isolated, but a total national problem, the result of universal neglect and unanimous irresponsibility and a prolonged, overwhelming, devastating, mass assault on our Democratic system by millions of Americans in ignorance or disregard of the consequences.

We are not ignorant. But the assault continues, because of the insistent, unrelenting pressure of consumer needs, wants, desires, and demands, and this ultimately is the problem we must face.

Any major solution to this problem requires a profound change in personal expectations, habits, attitudes, and actions of all of us. A common national problem demands a common united national effort. The job belongs to us all.

Thank you.

HIROSHIMA REMINDS US OF OUR OBLIGATIONS

Mr. PROXMIRE. Mr. President, the unleashing of the atomic bomb, 35 years ago today, hastened the end of World War II and helped to bring to a close a bloody, brutal chapter of history. On this birthday of the atomic age, let us recommit ourselves to the hope and prayers of the world that were expressed at the end of World War II.

World War II had exposed the world to more horrors than the destructive power of the atom. The world had experienced the horrors of genocide in Hitler's Germany on a massive scale. The end of the war revealed a world that desired to insure that the atrocities endured would not return to haunt our children. One document emerged that formulated definitions and deterrents in the crusade to eliminate genocide. The Genocide Convention was proposed through the United Nations.

The United Nations proposed to present a document acceptable to all the nations of the world. The document presented was not prefect, but today, it represents a strong stance against genocide with world wide approval. Yet, of all the industrial nations of the world, only the United States has floundered in this effort to take a united stand against the brutal horror of genocide. Only the United States has failed to strengthen the chain in this link of conscientious nations acting in the spirit of rebuilding a better world.

Today, on the 35th anniversary of Hiroshima, let us recapture the spirit of rebuilding. Let us bond together in common commitment to oppose the recurrence of genocide. Let us do more than remember the anniversary of Hiroshima. Let us act. Let us ratify the Genocide Convention.

Mr. President, I yield the floor and thank my good friend, the majority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

I advise the distinguished majority leader that I have now been notified that Senator ARMSTRONG, the Senator from Colorado, does not require his time under special orders, which will follow after leadership time. So, at the appropriate time, I hope the majority leader might vitiate that order for this morning.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. Will he yield?

Mr. BAKER. I do yield.

Mr. ROBERT C. BYRD. Mr. President, I do not know of anyone who would have use for the time, so I join with the minority leader in asking that—I ask unanimous consent that that time be placed under the control of the distinguished minority leader, because a Senator may wish to have some time to speak.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have no requirement for time under the standing order and I have no request for time under this time. Therefore, in view of the fact that we have a little time this morning that is not otherwise committed, I ask unanimous consent to reserve my time so it may be aggregated with any time I have under the standing order previously assigned to Senator ARMSTRONG.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. **960, 962, and 963.**

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the purpose of the reservation is to advise the majority leader that all three items just identified by him have been cleared on our calendar and we have no objection to their consideration and passage.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980

The Senate proceeded to consider the bill (S. 2649) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Veterans' Disability Compensation and Housing Benefits Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by—

(1) striking out "$48" in subsection (a) and inserting in lieu thereof "$55";

(2) striking out "$88" in subsection (b) and inserting in lieu thereof "$101";

(3) striking out "$133" in subsection (c) and inserting in lieu thereof "$152";

(4) striking out "$182" in subsection (d) and inserting in lieu thereof "$208";

(5) striking out "$255" in subsection (e) and inserting in lieu thereof "$291";

(6) striking out "$321" in subsection (f) and inserting in lieu thereof "$367";

(7) striking out "$380" in subsection (g) and inserting in lieu thereof "$434";

(8) striking out "$440" in subsection (h) and inserting in lieu thereof "$503";

(9) striking out "$495" in subsection (i) and inserting in lieu thereof "$566";

(10) striking out "$889" in subsection (j) and inserting in lieu thereof "$1,016";

(11) striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,262" and "$1,768", respectively;

(12) striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,262";

(13) striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,391";

(14) striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,581";

(15) striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,768";

(16) striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$759" and "$1,130", respectively;

(17) striking out "$995" in subsection (s) and inserting in lieu thereof "$1,137"; and

(18) striking out "$192" in subsection (t) and inserting in lieu thereof "$219".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended by—

(1) striking out "$54" in clause (A) and inserting in lieu thereof "$62";

(2) striking out "$91" in clause (B) and inserting in lieu thereof "$104";

(3) striking out "$121" in clause (C) and inserting in lieu thereof "$138";

(4) striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$173" and "$34", respectively;

(5) striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) striking out "$67" in clause (F) and inserting in lieu thereof "$77";

(7) striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$111" and "$34", respectively;

(8) striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) striking out "$98" in clause (I) and inserting in lieu thereof "$112"; and

(10) striking out "$82" in clause (J) and inserting in lieu thereof "$94".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$274".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$373
E-2	385
E-3	394
E-4	419
E-5	431
E-6	441
E-7	462
E-8	487
E-9	[1] 510
W-1	472
W-2	491
W-3	505
W-4	535
O-1	472
O-2	487
O-3	522
O-4	551
O-5	608
O-6	684
O-7	741
O-8	812
O-9	872
O-10	[2] 954

"[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the application time designated by section 402 of this title, the surviving spouse's rate shall be $549.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,023.";

(2) striking out "$38" in subsection (b) and inserting in lieu thereof "$43";

(3) striking out "$98" in subsection (c) and inserting in lieu thereof "$112"; and

(4) striking out "$49" in subsection (d) and inserting in lieu thereof "$56".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$165" in clause (1) and inserting in lieu thereof "$189";

(2) striking out "$237" in clause (2) and inserting in lieu thereof "$271";

(3) striking out "$306" in clause (3) and inserting in lieu thereof "$350"; and

(4) striking out "$306" and "$62" in clause (4) and inserting in lieu thereof "$350" and "$71", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$98" in subsection (a) and inserting in lieu thereof "$112";

(2) striking out "$165" in subsection (b) and inserting in lieu thereof "$189"; and

(3) striking out "$84" in subsection (c) and inserting in lieu thereof "$96".

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

SEC. 301. (a) Section 801 is amended by inserting "(a)" before "The Administrator" at the beginning and adding at the end the following new subsection:

"(b) The Administrator shall, under regulations which the Administrator shall prescribe, assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for permanent and total service-connected disability—

"(1) due to blindness in both eyes, with 5/200 visual acuity or less, or

"(2)(A) due to the loss of both upper extremities at or above the wrist;

"(B) due to the loss of use of both upper extremities if such loss of use results in a degree of impairment that is not less than the degree of impairment such veteran would have suffered from the anatomical loss of both upper extremities at or above the wrist; or

"(C) due to the loss of one upper extremity at or above the wrist and the loss of use of the other upper extremity if such loss of use results in a degree of impairment that is not less than the degree of impairment such veteran would have suffered from the anatomical loss of such extremity at or above the wrist,

to acquire such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability, if the Administrator determines that such veteran is residing in (or, if such residence is to be constructed or purchased, will be residing in) and reasonably intends to continue residing in a home owned by such veteran or by a member of such veteran's family.".

(b) Section 802 is amended—

(1) inserting "(a)" before "The" at the beginning;

(2) inserting "(a)" after "section 801"; and

(3) adding at the end the following new subsection:

"(b) Except as provided in section 804 (b)(2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 is amended by—

(1) inserting "(a)" before "Any veteran" at the beginning;

(2) striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) adding at the end the following new subsection:

"(b) A veteran eligible for benefits under section 801(b) of this title shall not by reason of such eligibility be denied—

"(1) benefits for which such veteran becomes eligible under section 801(a) of this title; or

"(2) benefits relating to home health services under section 612(a) of this title,

but no particular type of adaptation, improvement, or structural alteration shall be provided to any such veteran more than once.".

(d) Section 805 is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefore, or adaptation".

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

CONVENTIONAL AND CONDOMINIUM HOME LOAN PROVISIONS

SEC. 401. (a) Section 1803(c)(3)(A) is amended by inserting "or (b)(2) or section 1819(a)(4) of this title" after "section 1810 (a)(5)".

(b) Section 1810 is amended by—

(1) amending subsection (b) by—

(A) inserting "(1)" before "No" at the beginning;

(B) redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(C) striking out in the second sentence "paragraph (5)" and inserting in lieu thereof "clause (E)"; and

(D) inserting at the end the following new paragraphs:

"(2) Notwithstanding subsection (a) of this section and paragraph (1) of this subsection, a loan to a veteran-obligor under a previous loan guaranteed, insured, or made under this chapter for which such veteran's entitlement was used (or, if such veteran is deceased and if such veteran's surviving spouse was a co-obligor under such previous loan, a loan to such veteran's surviving spouse who shall, only for the purposes of a refinancing loan under this paragraph, be considered to be a veteran eligible for benefits under this chapter) may be guaranteed under this chapter if—

"(A) the purpose of such loan is to refinance such previous loan and the interest rate of such refinancing loan is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same dwelling or farm residence as was such previous loan and such dwelling or residence is owned and occupied by the veteran concerned (or such veteran's surviving spouse) as such veteran's (or surviving spouse's home;

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not exceed the term of such previous loan.

"(3) Notwithstanding any other provision of this chapter, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in subsection (a) of this section who applies, pursuant to paragraph (2) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (2) of this subsection, be further charged."; and

(2) amending subsection (c) by striking out "$25,000" and inserting in lieu thereof "$30,000".

(c) Section 1811 is amended by—

(1) amending subsection (b) by inserting "(but not including the refinancing of a loan under section 1810(b)(2) or 1819(a)(4))" after "section 1810(a) or 1819";

(2) amending subsection (d)(2)(A) by striking out "$25,000" both places it appears and inserting in lieu thereof "$30,000"; and

(3) amending subsection (d)(2)(B) by striking out "$17,500" both places it appears and inserting in lieu thereof "$20,000".

MOBILE HOME-LOAN PROVISIONS

(d) Section 1819 is amended by—

(1) amending subsection (a) by inserting at the end the following new paragraphs:

"(4) Notwithstanding any other provision of this section, a loan to a veteran-obligor under a previous loan guaranteed, insured, or made under this chapter for which such veteran's entitlement was used (or, if such veteran is deceased and if such veteran's surviving spouse was a co-obligor under such previous loan, a loan to such veteran's surviving spouse who shall, only for the purposes of a refinancing loan under this paragraph, be considered to be a veteran eligible for benefits under this chapter) may be guaranteed under this section if—

"(A) the purpose of such loan is to refinance a previous loan guaranteed under this section at an interest rate that is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same mobile home or mobile-home lot, or both, as was such previous loan and such mobile home (or a mobile home on such lot) is owned and occupied by the veteran concerned (or such veteran's surviving spouse) as such veteran's (or surviving spouse's) home;

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs (including any discount) as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not exceed the term of such previous loan.

"(5) Notwithstanding any other provision of this section, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in paragraph (1) of this subsection who applies, pursuant to paragraph (4) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (4) of this subsection, be further charged."; and

(2) amending subsection (c) by striking out "$17,500" each place it appears and inserting in lieu thereof "$20,000".

HOME-LOAN PROGRAM DISCLOSURES AUTHORITY

SEC. 402. Section 3301 is amended by—

(1) amending subsection (c) by inserting "(1)" after "(c)" at the beginning and adding at the end the following new paragraph:

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan program authorized under chapter 37 of this title shall be made available to any person who applies for such report or certificate.";

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection (g):

"(g)(1) The Administrator may, pursuant to regulations which the Administrator shall prescribe and which shall not become effective until 30 days following publication in the Federal Register, release the name, address, and other information relating to the identity of an individual, to any person in a category of persons that is described in such regulations and specified as a category of persons to whom such information may be released, if the release of such information is necessary for the purpose of—

"(A) determining the credit worthiness, credit capacity, income, or financial resources of an individual who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purpose of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved an individual's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the credit worthiness, credit capacity, income, or financial resources of such individual;

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) to the extent not otherwise authorized by this paragraph, providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

"(2) No contract entered into for any of the purposes of this subsection, and no action taken pursuant to any such contract or this subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(3) For the purposes of this subsection, the term 'consumer reporting agency' (A) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (B) shall also mean any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (i) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purpose of furnishing such information to third parties, or (ii) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(2) of this section, any".

TITLE V—MISCELLANEOUS AMENDMENTS

CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE DOCUMENTS

SEC. 501. (a) Subchapter I of chapter 57 is amended by adding at the end the following new section:

"§ 3305. Confidentiality of medical quality assurance documents

"(a) All records and documents which are created by the Veterans' Administration as part of a systematic Veterans' Administration medical quality assurance program shall be confidential and privileged and shall not be disclosed to any person except as provided in subsection (b) of this section.

"(b) A record or document described in subsection (a) of this section shall be disclosed in the following circumstances pursuant to regulations which the Administrator shall prescribe, except that name of and other identifying information regarding an individual Veterans' Administration patient or employee, or other individual associated with the Veterans' Administration for purposes of the quality assurance program, contained in such record or document shall be deleted if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy:

"(1) To a committee of either House of Congress, or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

"(2) To a Federal agency or private organization as needed by such agency or organization to perform licensing or accreditation functions related to, or statutorily mandated monitoring of, Veterans' Administration health-care facilities.

"(3) To a Federal executive agency or a provider of health-care services as required for participation in health-care programs with such agency or provider.

"(4) To any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such records and documents be provided for a purpose authorized by law.

"(5) To medical personnel to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

No person to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided herein.

"(c) For the purposes of this section, the term 'medical quality assurance program' means all Veterans' Administration systematic health care review activities designated pursuant to regulations which the Administrator shall prescribe and carried out by or for the Veteran's Administration for the purpose of improving the quality of medical care or the utilization of health-care resources in Veterans' Administration health-care facilities.

"(d) Any person who knowingly and willfully discloses any record or document described in subsection (a) of this section for any purpose other than those prescribed in subsection (b) of this section shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.".

(b) The table of sections at the beginning of chapter 57 is amended by adding after the item relating to section 3304 the following:

"3305. Confidentiality of medical quality assurance documents.".

LAND TRANSFER

SEC. 502. Public Law 89-345 (79 Stat. 1304) is amended by—

(1) amending section 2 by inserting "the first section of" after "pursuant to this"; and

(2) adding at the end of the following new section:

"SEC. 3. (a)(1) A tract consisting of four acres, more or less, of the tract of land previously conveyed (pursuant to the first two sections of this Act) by the Administrator of Veterans' Affairs to the city of Cheyenne, Wyoming, by quitclaim deed dated November 1, 1966, may be used by the city of Cheyenne, Wyoming, for roadway purposes in connection with the expansion and improvement of a roadway known as Converse Avenue and in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, or his designee, interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming.

"(2) The exact location and legal description of such tract of four acres, more or less, shall be determined by the Administrator of Veterans' Affairs, and, if a survey is required in order to make such determination, such city shall bear the expense of such survey.

"(3) The Administrator of Veterans' Affairs is authorized to convey, without monetary consideration, to such city such tract of four acres, more or less, free and clear from the park and recreational use restrictions established by the first two sections of this Act and the deed of conveyance executed pursuant to section 2 of this Act.

"(b) Any deed of conveyance made pursuant to this section shall—

"(1) provide that the land so conveyed shall be used solely for roadway purposes and in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, or his designee, interfere in any manner with the care and treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming;

"(2) contain such additional terms, conditions, reservations, easements, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States;

"(3) provide that if the city of Cheyenne, Wyoming, violates any provision of such deed of conveyance or alienates or attempts to alienate all or any part of the land so conveyed, title thereto shall revert to the United States;

"(4) provide that a determination by the Administrator of Veterans' Affairs, or his designee, or any such violation or alienation or attempted alienation shall be final and conclusive; and

"(5) provide that, in the event of such reversion, all improvements made by such city on the land so conveyed during such city's occupancy thereof shall vest in the United States without payment of compensation therefor.".

POST-VIETNAM VETERANS' EDUCATIONAL ASSISTANCE PROGRAM (VEAP) PROVISIONS

SEC. 503. Section 1622 is amended by—

(1) amending subsection (a) by—

(A) striking out in the first sentence "Each" and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(B) striking out in the second sentence "$50" and "$75" and inserting in lieu thereof "$25" and "$100", respectively;

(2) inserting after "Forces" in subsection (c) a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section"; and

(3) adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by any participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631 (a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

MODIFICATION OF CHAPTER 34 TERMINATION DATE

SEC. 504. Section 1662 is amended by—

(1) amending subsection (a) by—

(A) inserting after "1955" in paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(3) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be entitled to educational assistance under this chapter after (A) the expiration of the five-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty or (B) December 31, 1989, whichever is the later."; and

(2) striking out subsection (e) in its entirety.

ASSIGNMENTS BY VA INSURANCE BENEFICIARIES

SEC. 505. (a) Section 718 is amended by adding at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the benficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended by inserting "(a)" before "Any" at the beginning and adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REVOLVING SUPPLY FUND PROVISIONS

SEC. 506. Section 5021 is amended by—

(1) inserting after "direct" in clause (2) of subsection (a) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) striking out the last sentence in subsection (a) and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

TITLE VI—EFFECTIVE DATES

SEC. 601. (a) Except as provided in subsections (b) and (c) of this section, the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of titles I, II, and III and section 401 (b) (2), (c) (2) and (3), and (d) (2) shall take effect on October 1, 1980.

(c) The amendments made by section 506 shall be effective retroactively to October 1, 1979.

(The following statement occurred later in the day and is printed at this point in the RECORD by unanimous consent.)

Mr. CRANSTON. Mr. President, earlier today the Senate acted on H.R. 7511, the Veterans' Disability Compensation bill, by inserting it in the text of S. 2649 as reported. As chairman of the Committee on Veterans' Affairs, I am delighted with this action and thank the distinguished majority leader for his help in expediting action on this vital measure.

H.R. 7511/S. 2649, "VETERANS' DISABILITY COMPENSATION AND HOUSING BENEFITS AMENDMENTS OF 1980"

Mr. President, I rise in support of S. 2649 as reported, the proposed Veterans' Disability Compensation and Housing Benefits Amendments of 1980. The bill as reported would provide, effective October 1, 1980, for a 14.3 percent cost-of-living increase in service-connected disability compensation and dependency and indemnity compensation—DIC—benefits and make certain improvements in Veterans' Administration housing, medical, insurance, and educational assistance programs.

BACKGROUND

Mr. President, on May 2, I introduced S. 2649 at the request of the administration. As introduced, the bill provided for a 14.4-percent increase in the rates of disability compensation and dependency and indemnity compensation.

Previously, on February 4, 1980, our very able ranking minority member, the Senator from Wyoming (Mr. SIMPSON) introduced S. 2254, to authorize the VA to remove certain restrictions on land previously conveyed to Cheyenne, Wyo.; and on February 26, 1980, my distinguished colleague on the committee, the Senator from Georgia (Mr. TALMADGE) introduced S. 2330, to provide for the confidentiality of Veterans' Administration medical-care quality assurance records.

On June 12, 1980, with the cosponsorship of six committee members, I submitted amendment No. 1888 to S. 2649, to provide for limited specially adapted housing grants for certain very severely disabled veterans, to authorize the VA to guarantee certain refinancing loans at interest rates lower than the rates under the original loans, to provide for increases in the maximum amounts for VA home-loan guarantees, and to clarify the circumstances under which disclosures of certain information are permitted in conjunction with the management of the VA home-loan programs.

On June 17, 1980, Senator TALMADGE, at my request, held hearings on S. 2649, amendment No. 1888, S. 2330, and certain other bills pending before the committee.

On June 19, 1980, the committee held oversight hearings on the role of educational incentives in the All-Volunteer Force.

On June 27, 1980, I introduced administration-requested bills to provide for an expansion of the class of beneficiaries to whom assignments of certain VA life insurance proceeds may be made—S. 2897—and to amend the Post-Vietnam Era Veterans' Educational Assistance Act of 1977 to improve participation in the program established under that act—S. 2898. On July 24, 1980, I introduced S. 2960, an administration-requested bill to modify the VA's authority with regard to the operation of the revolving supply fund.

After reviewing the testimony received during the June 17 and June 19 hearings, the committee met in open session on July 30, 1980, to consider S. 2649, amendment No. 1888, and other related bills and amendments, and by a unanimous 10-to-0 vote ordered reported and reported S. 2649 with an amendment in the nature of a substitute—derived in part from the provisions of amendment No. 1888, S. 2254, S. 2330, S. 2897, S. 2898, and S. 2960—and a title amendment.

HIGHLIGHTS

Mr. President, S. 2649 as reported—which I will refer to as the committee bill—would provide for a 14.3-percent cost-of-living increase in compensation benefits for our Nation's service-connected disabled veterans and dependency and indemnity compensation—DIC—benefits for the survivors of those who gave their lives for our country. The 14.3-percent increase is the same rate of increase provided to social security and VA pension beneficiaries effective June 1, 1980. Our committee believes that the increase for these most deserving groups of veterans and survivors should be no less than the increase provided under the indexed social security and VA pension programs. Our committee, in its March budget views and estimates report, recommended this increase, and we have worked hard to assure that the levels in the budget resolution for function 700, veterans' benefits and services, would be adequate. Thus, I am pleased to note that the Veterans' Affairs Committee's allocation under the first budget resolution for fiscal year 1981—House Concurrent Resolution 307—allows for this increase, which would benefit more than 2,271,000 disabled veterans and 360,000 survivors of those who gave their lives in the service of our country.

Mr. President, the committee bill would also provide for limited specially adapted housing grants for certain very severely disabled veterans, authorize the VA to guarantee certain refinancing loans at interest rates lower than the rates under the original loans, provide for increases in the maximum amounts for VA home-loan guarantees, and clarify the circumstances under which disclosures of certain information are permitted in connection with the management of the VA home-loan programs.

These are important, needed improvements in VA housing programs. The provisions relating to refinancing would benefit more than 36,000 veterans who were caught in the high-interest-rate credit crunch this past winter and spring. H.R. 7458, a bill containing similar provisions, was passed by the House on July 28.

Mr. President, the committee bill also contains provisions designed to enhance the post Vietnam-era veterans' educational assistance program—VEAP—under chapter 32 of title 38, United States Code, and to modify the 1989 termination date for GI bill educational assistance applicable to the current Vietnam-era GI bill under chapter 34 of title 38. These amendments are designed to enhance the attractiveness of participation in the chapter 32 contributory-matching VEAP program and encourage the recruitment and retention of high caliber men and women in our Nation's All-Volunteer Armed Forces. The provisions were developed in close consultation and cooperation with the distinguished Senators from South Carolina (Mr. THURMOND), Hawaii (Mr. MATSUNAGA), and Virginia (Mr. WARNER).

In addition, the committee bill would provide needed protection to VA medical-quality assurance records in order to help assure the effectiveness of VA programs for the review of VA health-care activities and, consequently, to help maintain the quality of care in VA facilities.

SUMMARY OF PROVISIONS

Mr. President, I would like to summarize very briefly the provisions of the committee bill. The committee bill contains six titles: Title I, Veterans' disability compensation benefits; title II, survivors' DIC benefits; title III, special home adaptation grants for certain severely disabled veterans; title IV, Veterans' Administration home-loan program amendments; title V, miscellaneous amendments; and title VI, effective dates.

Title I, veterans' disability compensation benefits, and title II, survivors' DIC benefits, would amend chapters 11 and 13, respectively, of title 38, United States Code, to provide, effective October 1, 1980, a 14.3-percent increase—the same increase provided to social security and VA pension beneficiaries effective June 1, 1980—in disability compensation benefits for service-connected disabled veterans and DIC benefits payable to the surviving spouses and certain children of veterans whose deaths were service connected.

Title III, special home adaptation grants for certain severely disabled veterans, would amend chapter 21 of title 38 to provide for limited specially adapted housing grants, up to a maximum of $5,000, and eligibility for direct VA home loans, to certain veterans who, as a result of service-connected disability, are totally blind or have lost or lost the use of both upper extremities.

Title IV, Veterans' Administration home-loan program amendments, contains amendments to chapter 37 of title 38 which would:

First, enable veterans who have used their VA loan-guaranty entitlement in obtaining a loan for the purchase of a conventional home, condominium, or mobile home to refinance such loan, under certain circumstances and at a lower interest rate, with a VA loan guaranty for the refinancing loan.

Second, increase, from $25,000 to $30,000, the maximum VA loan guaranty amount for a conventional home or condominium.

Third, increase, from $17,500 to $20,000, the maximum VA loan guaranty amount for a mobile home, mobile home lot, or mobile home and lot.

Fourth, authorize the VA to make certain disclosures of information pertaining to individual veterans as necessary in connection with the management of VA home-loan programs.

Title V, miscellaneous amendments, includes amendments which would:

First, amend chapter 57 of title 38 to make records and documents created by the VA as part of the agency's medical quality assurance program privileged and confidential and to bar disclosure of such records and documents except to specified recipients in specified circumstances.

Second, amend Public Law 89-345 to authorize the VA to convey to the city of Cheyenne, Wyo., free and clear of the park and recreational use restrictions established by the VA deed made pursuant to Public Law 89-345, which originally authorized the conveyance of the tract in question, with regard to a certain part of that tract needed by the city for the expansion and improvement of a roadway.

Third, amend chapter 32 of title 38 to make certain modifications in the way in which contributions are made to a servicemember's VEAP account, namely: Lowering the minimum and raising the maximum permissible monthly contributions, making clear the Secretary of Defense's authority to make contributions on behalf of servicemembers, and permitting servicemembers to make lump-sum contributions.

Fourth, amend chapter 34 of title 38 to delete the December 31, 1989, termination date for the current GI bill—for which generally only persons entering service before 1977 are eligible—and provide that a veteran discharged from active duty on or after January 1, 1980, may use his or her entitlement to GI bill educational assistance only until: First, the expiration of 5 years after he or she begins a program of education following discharge, if he or she begins a program of education within 2 years of discharge; or second, December 31, 1989, whichever occurs later.

Fifth, amend chapter 19 of title 38 to expand the categories of persons to whom assignments, under very specific and limited circumstances, of National Service Life Insurance and U.S. Government life insurance proceeds may be made.

Sixth, amend chapter 81 of title 38 to allow VA revolving supply fund reimbursements to be based on the cost of recent significant purchases of the items involved and to provide for the return to the Treasury at the end of each fiscal year of only such amounts as the Administrator determines to be in excess of supply fund needs.

Mr. President, so that all Senators and the public may have a full understanding of the provisions of the committee bill, I ask unanimous consent that appropriate excerpts from our committee's report on S. 2649, S. Rept. No. 96-876, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I would like to thank the distinguished ranking minority member of the committee, the Senator from Wyoming (Mr. SIMPSON), for his always excellent help and cooperation on the bill, the Senator from Georgia (Mr. TALMADGE) for his fine work and guidance, and all the other committee members who are all cosponsors of this measure and whose help was invaluable during our work on the bill, Senators RANDOLPH, STONE, DURKIN, MATSUNAGA, STAFFORD, THURMOND, and HUMPHREY.

In addition, I would like to thank members of the majority staff, especially our hardworking and devoted editor, Harold Carter, and his able assistants, James MacRae and Walter Klingner, and Mary Sears, Janice Orr, Babette Polzer, Bill Brew, Ed Scott, Jon Steinberg, Julie Susman, Molly Milligan, Ingrid Post, Terri Morgan, Julia Butler, and Becky Walker, and Senator TALMADGE's assistant, Bobby Avary, as well as members of the committee's minority staff—Garner Shriver, Ken Bergquist, and John Pressly—for all of their very hard and effective work in developing this important measure.

Mr. President, on behalf of the Veterans' Affairs Committee, I urge the Senate's favorable consideration of the committee bill.

EXHIBIT 1

DISCUSSION

TITLES I AND II: VETERANS' DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

Background

Disability Compensation

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nations Armed Forces. This program ranks as the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10 to 100 percent. A totally disabled veteran is thus compensated at not less than the 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program currently provides benefits for 2,271,808 veterans who have service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 31,900 World War I veterans: 1,206,300 World War II veterans; 236,600 Korean-conflict veterans; and 546,400 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1.—AVERAGE COST AND CASELOAD OF VETERANS DISABILITY AND SURVIVOR COMPENSATION CASES

[Total cost in thousands of dollars]

Total cost	Fiscal year 1979			Fiscal year 1980 (estimated)			Fiscal year 1981 (estimated)		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Compensation (total)	2, 622, 685	$2, 586	$6, 783, 538	2, 631, 941	$2, 832	$7, 453, 726	2, 644, 321	$2, 879	$7, 580, 000
Veterans (total)	2, 261, 507	2, 456	5, 554, 098	2, 271, 808	2, 692	6, 115, 808	2, 284, 708	2, 698	6, 163, 200
Spanish-American War	4	4, 230	17	3	4, 650	14	3	4, 650	14
Mexican border period	5	8, 968	45	5	9, 290	46	5	9, 295	46
World War I	35, 995	3, 043	109, 545	31, 900	3, 333	106, 310	28, 300	3, 336	94, 410
World War II	1, 228, 286	2, 305	2, 830, 935	1, 206, 300	2, 523	3, 043, 417	1, 183, 800	2, 523	2, 987, 210
Korean conflict	237, 695	2, 781	660, 947	236, 600	3, 045	720, 392	235, 500	3, 048	717, 776
Vietnam era	528, 405	2, 499	1, 320, 729	546, 400	2, 737	1, 495, 618	563, 900	2, 740	1, 545, 129
Peacetime service	231, 117	2, 734	631, 880	250, 600	2, 993	750, 011	273, 200	2, 996	818, 615
Survivors (total)	361, 178	3, 366	1, 215, 677	360, 133	3, 672	1, 322, 494	359, 613	3, 696	1, 329, 000
Indian wars	1	2, 868	3	1	3, 152	3	1	3, 155	3
Civil War	6	3, 679	22	5	4, 000	20	5	4, 005	20
Spanish-American War	154	3, 916	603	125	4, 176	522	105	4, 180	439
Mexican border period	3	4, 151	15	2	4, 500	9	2	4, 525	9
World War I	31, 522	3, 846	121, 220	30, 600	4, 186	128, 078	29, 800	4, 199	125, 140
World War II	177, 916	2, 932	521, 698	174, 300	3, 169	552, 271	170, 900	3, 181	543, 687
Korean conflict	39, 227	3, 241	127, 137	39, 200	3, 532	138, 473	39, 100	3, 547	138, 673
Vietnam era	63, 411	3, 898	247, 151	66, 400	4, 288	284, 774	69, 700	4, 300	299, 747
Peacetime service	48, 938	4, 042	197, 827	49, 500	4, 411	218, 374	50, 000	4, 426	221, 282
Clothing allowance (total)	(63, 431)	217	13, 763	(65, 100)	237	15, 424	(66, 300)	238	15, 800

Source: Department of Veterans' Benefits, Veterans' Administration, July 1980.

History of Cost-of-Living Increases

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits kept pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85–168, Oct. 1, 1957 monthly rate	Public Law 87–645 Oct. 1, 1962		Public Law 89–311 Oct. 31, 1965		Public Law 90–493 Jan. 1, 1969		Public Law 91–376 July 1, 1970		Public Law 92–328 Aug. 1, 1972	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	0.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28
(b)	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51
(c)	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77
(d)	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106
(e)	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149
(f)	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179
(g)	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212
(h)	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245
(i)	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275
(j)	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493
(k)											
(l)	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616
(m)	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678
(n)	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770
(o)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862
(p)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862
(q)											
Subsec. (r) "aid and attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958:											
(1)	150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370
(2)											
Subsec. (s) (housebound cases) Public Law 86–663, effective Sept. 1, 1960	265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554
(t)											
Sec. 362 of title 38											

Sec. 314, title 38, subsection—	Public Law 93–295 May 1, 1974		Public Law 94–71 Aug. 1, 1975		Public Law 94–433 Oct. 1, 1976		Public Law 95–117 Oct. 1, 1977		Public Law 95–479 Oct. 1, 1978		Public Law 96–128 Oct. 1, 1979	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	15	$32	9.4	$35	8.6	$38	6.6	$41	7.3	$44	9.9	$48
(b)	15	59	10.2	65	7.7	70	6.6	75	7.3	80	9.9	88
(c)	15	89	10.1	98	8.2	106	6.6	113	7.3	121	9.9	133
(d)	15	122	9.8	134	8.2	145	6.6	155	7.3	166	9.9	182
(e)	15	171	9.9	188	8.0	203	6.6	216	7.3	232	9.9	255
(f)	18	211	11.9	236	8.1	255	6.6	272	7.3	292	9.9	321
(g)	18	250	12.0	280	7.9	302	6.6	322	7.3	346	9.9	380
(h)	18	289	12.1	324	8.0	350	6.6	373	7.3	400	9.9	440
(i)	18	325	12.0	364	8.0	393	6.6	419	7.3	450	9.9	495
(j)	18	584	12.2	655	7.9	707	6.6	754	7.3	809	9.9	889
(k)	10	52	0	52	8.0	879	6.6	56	0	56	0	[1] 56
(l)	18	727	12.0	814	8.0	879	6.6	937	7.3	1,005	9.9	1,104
(m)	18	800	12.0	896	8.0	968	6.6	1,032	7.3	1,107	9.9	1,217
(n)	18	909	12.0	1,018	8.0	1,099	6.6	1,172	7.3	1,258	9.9	1,383
(o)	18	1,017	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547
(p)	18	1,017	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547
(q)												
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958:												
(1)	18	437	11.9	489	0	528	6.6	563	7.3	604	9.9	664
(2)									(2)	900		989
Subsec. (s) (housebound cases) Public Law 86–663, effective Sept. 1, 1960	18	654	11.9	732	7.7	791	6.6	843	7.3	905	9.9	995
(t)									(2)	175		19
Sec. 362 of title 38					8.6	190	6.6	203	7.3	218	9.9	24

[1] (k) $62 effective Sept. 1, 1980 (9.9 percent increase).
[2] From Oct. 1, 1978.

Source: Department of Veterans' Benefits, Veterans' Administration, July 1980.

Dependency and Indemnity Compensation (DIC)

The dependency and indemnity compensation (DIC) program, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84–881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot thereafter receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

DIC benefits are currently paid to or for 360,133 surviving spouses and children.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service connected. Under Public Law 95–588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouses and children of veterans whose deaths are not determined to be service connected where the veteran received compensation at the 100-percent rate over an extended period of time immediatly prior to his or her death.

Committe bill provisions

The Committee bill provides for a 14.3 percent cost-of-living increase, effective October 1, 1980, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase is the same percentage increase provided to social security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95–588.

The Committee's rationale for establishing these rate increases at this level is set forth at pages 20 through 21 of the Committee's budget views and estimates report for fiscal year 1981, which was submitted to the Senate Budget Committee on March 19, 1980 (Committee Print No. 24).

Disability compensation increases

The 14.3-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rates specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30 percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specific dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the current rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2649 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(a)	10	$48	$55	879,168
(b)	20	88	101	354,759
(c)	30	133	152	316,584
(d)	40	182	208	185,064
(e)	50	255	291	114,368
(f)	60	321	367	124,214
(g)	70	380	434	89,742
(h)	80	440	503	40,232
(i)	90	495	566	13,896
(j)	100	889	1,016	120,655
HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES				
(k)(1)	Anatomical loss or loss of use of 1 or more creative organs, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss.	[1] 56	62	85,827
(2)	Maximum limit for veterans receiving payments under (a) to (j), above.	1,104	1,262	
(3)	Maximum limit for veterans receiving payments under (l) to (n), below.	1,547	1,768	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1,104	1,262	9,199
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1,217	1,391	5,011
(n)	Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1,383	1,581	689
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	1,547	1,768	64
(p)(1)	For blindness of both eyes together with bilateral deafness rated at 40 percent or more disabling or total deafness of 1 ear, next higher rate or intermediate rate, respectively, is payable—but compensation may not exceed.	1,547	1,768	1,866
(2)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	1,547	1,768	
(q)	[This subsection repealed by Public Law 90–493.]			
(r)(1)	If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate.	664	759	8,766
(2)	If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	989	1,130	
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound.	995	1,137	6,847
(t)	If veteran entitled to compensation under (a) through (i), above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	192	219	46

[1] $62 effective Sept. 1, 1980.

Source: Department of Veterans' Benefits, Veterans' Administration, July 1980.

Dependents' Allowances Increases

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 14.3 percent. Such dependents' allowances are prorated according to the percentage of disability. In 1979, the number of dependents for whom veterans received additional compensation exceeded 1 million.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$54	$62
Spouse and child	91	104
No spouse, 1 child	37	42
Each additional child	30	34
Each dependent parent	44	50
Each child age 18 to 22 attending school	82	94
Spouse in nursing home or severely disabled	98	112

Source: Department of Veterans' Benefits, Veterans' Administration, July 1980.

Dependency and Indemnity Compensation Increases

The Committee bill would also provide (in title II) for a cost-of-living increase of 14.3 percent in DIC rates for surviving spouses and children, the same rate of increase provided service-connected disability veterans under title I of the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or housebound helpless children age 18 or over, and children between the ages of 17 and 23 attending school would also be increased by 14.3 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2649 AS REPORTED

Veterans' pay grade	From—	To—
E-1	$326	$373
E-2	337	385
E-3	345	394
E-4	367	419
E-5	377	431
E-6	386	441
E-7	404	462
E-8	426	487
E-9	446	510
W-1	413	472
W-2	430	491
W-3	442	505
W-4	468	535
0-1	413	472
0-2	426	487
0-3	457	522
0-4	482	551
0-5	532	608
0-6	598	684
0-7	648	741
0-8	710	812
0-9	763	872
0-10	835	954
Surviving spouse in need of regular aid and attendance	$98	$112
Surviving child (where no surviving spouse is entitled)	165	189
2 such children [1]	237	271
3 such children	306	350
More than 3 children, addition for each additional child	62	71
Addition if child is helpless	98	112
Helpless child, where surviving spouse is also entitled	165	189
Child attending school	84	96

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

The 14.3-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States

Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

TITLE III: SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

This title would establish a program of limited specially adapted housing grants to veterans who, as a result of service-connected disability, are totally blind or have lost or lost the use of both upper extremities.

Background

These provisions, which are derived from similar provisions in Amendment No. 1888 to S. 2649, submitted by the Chairman on June 12, 1980, respond to concerns that these veterans' needs for special adaptations are not being met by the furnishing of home improvements and structural alterations under the home health services provisions of section 612(a) of title 38, United States Code. Section 612(a) presently authorizes the VA to assist service-connected disabled veterans by providing home health care and, where it is determined that home improvements or structural alterations are necessary in connection with the veteran's disability, authorizes such modifications to be furnished at the VA's expense, up to a maximum limit of $2,500.

In 1978, Senator Domenici sponsored legislation—S. 3312, 95th Congress—to provide for limited specially adapted housing benefits for service-connected disabled veterans who are totally blind.

At the time Senator Domenici's bill was introduced, little information was available as to the extent of such blinded veteran's needs for home modifications and the effectiveness of the section 612(a) program in providing for those needs. The result was legislation enacted as section 505 of Public Law 96–22 to require the VA to study these issues.

The section 505 study provisions directed the VA to examine the implementation of the VA's home-health services program under section 612(a) of title 38 with regard to the home-modification needs of veterans who are totally blind from service-connected causes. That study, submitted to the Committee on January 16, 1980, indicated that the section 612(a) program is inadequate to meet the needs of blinded veterans—in part because there is an absence of information about it among blinded veterans and in part because the VA's implementation of the section 612 (a) program is, apparently, very inadequate in terms of meeting the needs of these veterans. However, the study did provide some information concerning the types of home modifications that are helpful in assisting blinded veterans to achieve maximum independence and safety within their homes. Such modifications may include, for example, railings, sliding doors, various braille devices on appliances, the elimination of protruding cabinet fixtures, and, in the case of certain blinded veterans, special lighting.

A totally blinded veteran is currently ineligible for the $30,000-maximum specially adapted housing grant under chapter 21 unless he or she has also suffered the loss or loss of use of one lower extremity. However, it does not appear that blinded veterans—who have not lost the use of a lower extremity—have home adaptation needs so extensive as to warrant providing those veterans with eligibility for the assistance currently provided under chapter 21. Those grants are provided to assist veterans whose severe disabilities make movement impossible without the aid of a wheelchair or prosthetic device and are intended to assist such veterans in acquiring specially adapted homes with major adaptations, such as wheelchair ramps and extra-wide hallways, to provide for the veteran's health and safety. Thus, the maximum specially adapted housing grant under current law is not appropriate in the case of totally blinded veterans who do not have serious mobility problems.

The same analysis applies to a second group of severely disabled veterans whose home adaptation needs are currently not being met—those who have lost or lost the use of both upper extremities. Such a veteran, it should be noted, is not currently eligible for a specially adapted housing grant unless the veteran has also suffered the loss or loss of use of one lower extremity. Nevertheless, these veterans experience serious difficulties in coping with ordinary demands of living in a home environment. For such veterans, simple tasks like manipulating doorknobs, opening and closing windows, and operating appliances are extremely arduous, and their need for special adaptations, such as special bathroom and kitchen fixtures and other devices, is readily apparent.

The Committee notes that veterans eligible for the current specially adapted housing grants are also eligible for VA direct home loans under section 1811(i) of title 38 without regard to the general requirement under the VA's direct home-loan program that the proposed housing unit be located in a housing-credit-shortage area. Such loans are available, up to a maximum of $33,000, if the veteran meets other requirements such as creditworthiness and credit capacity.

Also, veterans receiving chapter 21 grants are eligible under section 806 of title 38 for mortgage protection life insurance (MPLI), up to a maximum face amount of $40,000. If an eligible veteran elects MPLI coverage, the veteran pays a standard premium and the VA pays that portion of the premium attributable to the higher-than-usual mortality rate of these veterans.

The coverage under such an MPLI policy may not exceed the lesser of $40,000 or the face amount of the loan, and such coverage is reduced over time in accordance with the amortization schedule of the loan.

Committee bill provisions

The Committee bill would provide for specially adapted housing grants, up to a maximum of $5,000 or the actual cost of the special adaptations, whichever is the lesser, for service-connected disabled veterans who are blind or have lost or lost the use of both upper extremities.

The criterion in the Committee bill for eligibility based on blindness is the same as the criterion for additional compensation for certain totally disabled veterans under section 314(1)—blindness in both eyes with 5/200 visual acuity or less. This criterion includes veterans who have suffered the anatomical loss of both eyes and those who have no light perception or only light perception. Moreover, under VA regulations governing section 314 (1) awards, concentric contraction of the field of vision beyond 5 degrees is considered the equivalent of 5/200 visual acuity. It is the Committee's intention, based on the extent of visual impairment of those eligible for additional compensation under section 314(1) and the Committee's review of such veterans' needs for special home adaptations that all such veterans be considered eligible for assistance under the Committee bill provision.

In connection with the $30,000-maximum specially adapted housing grant program under chapter 21 of title 38, the Committee notes that, with respect to that program's criterion regarding blindness, only veterans with blindness in both eyes, having only light perception, are—if they also have suffered the loss or loss of use of one lower extremity—currently eligible for such grants. Thus, veterans with bilateral 5/200 visual acuity or concentric contraction of the field of vision beyond 5 degrees do not now qualify for that grant program. The extent to which such grants should be extended to such a veteran, if he or she has suffered the lower extremity impairment required for eligibility, is an issue that the Committee will study in light of experience under the limited program provided for in the Committee bill.

Veterans receiving such grants would also be eligible for MPLI coverage under chapter 21 and VA direct loans under section 1811(i) of title 38.

The Committee notes that the VA has adopted a very successful referral procedure to assist veterans applying for direct loans to receive private-sector financing where available and urges that maximum efforts be made to assist all veterans eligible for existing and proposed chapter 21 benefits to obtain private-sector financing.

TITLE IV: VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

The amendments made by this title would assist any veteran who used his or her VA home-loan guaranty entitlement to purchase a conventional home, condominium, or mobile home during the high-interest-rate crunch this past winter and spring by enabling him or her to refinance the high-interest-rate loan with a new VA loan guaranty.

This title provides for increases in the VA loan guaranty maximums for conventional homes, condominiums, and mobile homes and lots and for a clarification of the VA's authority to make disclosures of information to certain parties in connection within the VA home-loan programs.

Refinancing provisions

During the period October 1979 to April 1980, the VA maximum interest rate for conventional homes and condominiums rose from 10.5 percent to 14 percent. Since April, it has declined, as have interest rates generally, and is now 11.5 percent. It appears that the maximum interest rate may decline further. The maximum interest rate for mobile-home loans rose from 12 percent in early October 1979 to 17.5 percent in April 1980. It has since declined to 14.5 percent and also may decline further.

During the February–April period, when VA interest rates were at all-time highs, more than 36,500 veterans purchased conventional homes with VA-guaranteed financing, and more than 2,000 veterans purchased mobile homes. Many of these veterans needed their homes immediately for family reasons or feared that any delay in purchasing a home would be accompanied by a further substantial rise in housing prices. Thus, they could not await an eventual decline in interest rates.

Today, those veterans are, in effect, paying a substantial penalty that will continue throughout the terms of their loans. For example, the veteran who borrowed $50,000 at 14 percent, using his or her loan guaranty entitlement, will pay, over the 30 years of the loan, more than $36,000 more than if he or she had been able to secure VA-assisted financing at the current 11.5-percent rate. Monthly payments on the loan at 14 percent would be $97 higher than the monthly payment on an 11.5-percent loan.

Current law—which generally precludes the use of loan guaranty entitlement for VA-guaranteed loan refinancing purposes—does not permit such a veteran to use his or her VA home-loan guaranty entitlement to refinance his or her VA-guaranteed loan in order to take advantage of lower interest rates that later become available. The purpose of generally precluding the use of the

VA loan-guaranty entitlement to refinance a VA-guaranteed loan is to limit the use of the loan-guaranty entitlement to the purpose intended, that is, to assist the veteran to acquire a suitable residence. However, in the Committee's view, enabling veterans caught in the interest-rate crunch to refinance their loans at lower interest rates—and thus be relieved of an unduly heavy interest burden—is not inconsistent with that purpose.

Section 401 of the Committee bill would authorize the VA to guarantee a refinancing loan in order to enable the veteran to obtain a lower interest rate and would apply both to loans guaranteed for conventionally built houses and condominium apartments and for mobile homes, including mobile home-lot combinations and mobile home lots on which the veteran has installed a mobile home that he or she already owns. The amount of the loan could not exceed the amount of the remaining balance of the existing loan together with reasonable closing costs (including discount points charged by the lender) in accordance with VA regulations that the VA would be required to prescribe, and the term of the refinancing loan could not exceed the original term of the previous loan.

The Committee notes that, under section 1810(a)(5) of title 38, a veteran may use his or her VA loan-guaranty entitlement to refinance an existing (non-VA-guaranteed) indebtedness that is secured by a mortgage of record on a home owned and occupied by the veteran. Under section 1803(c)(3), such veterans may pay to the refinancing lender in such cases any reasonable discount required by the lender in connection with the refinancing loan.

Discount points—each point representing one percentage point of the face amount of the loan—are charged by lenders to compensate for the lower interest rate they may receive on a VA-guaranteed loan than they charge on a loan not guaranteed by the VA. Such discount points may range from one to five or six or more, depending on the difference between the maximum VA rate and the prevailing conventional rate. If, for example, the discount points are 3, and the face amount of the loan is $50,000, the discount charged would be $1,500. Ordinarily, such amounts would be payable at the closing of the loan. Under the provisions of the Committee bill, however, the veteran would be permitted to include the discount points in the refinancing loan.

The Committee bill provisions would apply to veterans who previously used their entitlement for a VA-guaranteed or insured loan or a direct home loan. In the event a married veteran, whose spouse was a co-obligor under the loan to be refinanced, is deceased, the Committee bill would enable the surviving spouse to benefit from these provisions. Such surviving spouses would, of course, be required to qualify in terms of creditworthiness and credit capacity for such refinancing loans, and all provisions of chapter 37 applicable to VA-guaranteed refinancing loans made to veterans would also be applicable to loans to such surviving spouses.

Increases in loan guaranty maximums

The VA loan guaranty is designed to substitute, in large measure, for the downpayment that would otherwise be required when a veteran purchases a home. Under current law, the guaranty is limited to 60 percent of the loan amount of $25,000, whichever is the lesser, for conventionally built homes and condominium apartments, and 50 percent or $17,500, whichever is the lesser, in the case of mobile homes. Lenders are thus assured of the substantial protection afforded by the VA loan guaranty and are willing to make loans to veterans without the necessity of a downpayment or with a lower downpayment than would otherwise be required.

Lenders are generally willing to make VA loans as long as the "percentage of guaranty"—that is, the proportion of the face amount of loan covered by the loan guaranty—affords sufficient protection in the event of the veteran's default. When the guaranty maximum remains constant but housing prices and thus the face values of loans rise, the average percentage of guaranty necessarily falls. Thus, the average percentage of guaranty provides an index of the general availability of private credit for VA-guaranteed loans. As the average percentage of loan guaranty declines, veterans who wish to make use of their loan guaranty entitlement may find it very difficult to locate a lender willing to make a VA-guaranteed loan.

Housing prices have risen substantially since the Congress, in 1978, most recently increased the VA loan guaranty maximum and restructured the mobile-home program to provide for a mobile-home loan guaranty maximum. Prior to the enactment of the Veterans' Housing Benefits Act of 1978, Public Law 95–479, which increased the maximum guaranty for conventional homes and condominiums from $17,500 to $25,000, the average guaranty to lenders was approximately 44 percent. As a result of that law, the average percentage of guaranty rose to 60.7 percent in the first quarter of 1979. Housing prices have risen substantially since that time, and the average percentage has declined to 49.9 percent.

Section 401 of the Committee bill would increase, from $25,000 to $30,000, the maximum amount of VA loan guaranty entitlement for the purchase of a conventional home, a single-family residential unit in a condominium, or a farm residence and would increase, from $17,000 to $20,000, the maximum guaranty for mobile homes.

Under section 324 of S. 2719, the proposed "Housing and Community Development Amendments of 1980", as passed by the Senate on June 21, the maximum loan amounts for mobile homes purchased under the FHA program would be increased. Under section 311 of that measure, the maximum amount of an FHA-insured loan for a single family residence would be $67,500 or 95 percent of the median price for a one-family home in the area, whichever is the greater. Thus, the increases being proposed in the Committee bill with regard to the VA loan guaranty program for conventional homes, condominiums, and mobile homes are consistent with efforts underway to assure that the FHA program is responsive to rising home prices.

Home-loan program disclosure authority

The Committee bill would clarify the VA's authority to make certain disclosures of veterans' names and addresses and other relevant information as necessary in the operation of the loan guaranty program. The need for this clarification became evident during the Committee's consideration of S. 1518, Administration-proposed legislation to enhance the VA's ability to collect overdue GI Bill debts by, in part, enabling the VA to disclose, under certain circumstances certain identification, information pertaining to the debtors. As a result of the Committee's inquiry into the VA's authority to disclose the identities of veterans to consumer reporting agencies—more commonly known as credit bureaus—it became evident that, although the VA has adopted regulations permitting it to make reasonable disclosures in a variety of contexts related to the efficient operation of the loan-guaranty program, it lacks express statutory authority for such regulations.

In addition, issues have arisen in connection with VA implementation of the Privacy Act (5 U.S.C. § 552a) and the scrutiny of Federal agency disclosure practices, as to the effect of the proscriptions of section 3301 of title 38 with regard to disclosures, for loan-guaranty purposes, of veterans' names and addresses. Section 3301 generally prohibits disclosures by the VA except as specifically provided under that section. Yet such disclosures are necessary for the VA to obtain information necessary in determining the creditworthiness and credit capacity of veterans applying for loan-guaranty benefits, to facilitate the auditing of loan-guaranty cases, to enable the VA, in selling loans from its portfolio, to provide information to prospective investors, and otherwise to facilitate the administration and management of the loan-guaranty program and other veterans' home-loan programs.

Section 402 of the Committee bill would clarify the VA's authority to make such disclosures, under certain circumstances, where necessary for the effective and efficient operation of the VA home-loan programs. In a letter to the Chairman dated June 11, 1980, the VA's General Counsel indicated the Administration's support for this provision.

TITLE V: MISCELLANEOUS AMENDMENTS

Confidentiality of medical quality assurance documents

Under the VA's medical quality assurance program, known as the Health Services Review Organization (HSRO) program, VA medical professionals review the health-care activity in a facility to determine what deficiencies exist in such care so as to recommend corrective action. The program is divided into two main components: An external review process—the Systematic External Review Program (SERP)—involving teams composed of VA medical and dental professionals from outside a particular VA facility who conduct a comprehensive review of all facets of the facility's operation and a program of ongoing reviews in each VA facility conducted by designated committees made up of the facility's own physician and other health professional staff—the Systematic Internal Review Program (SIR). Each component of this quality assurance program produces various documents which contain information identifying individual VA patients, employees, or others involved with such review efforts (such as those conducting the reviews), citing and describing any inappropriate medical practices and deficiencies discovered in the provision of health care, and making recommendations for corrective actions. Such recommendations, in the form of summary reports, are available to the Administrator, the Chief Medical Director, the Inspector General, the Associate Deputy Chief Medical Director, whose office includes the Office of Evaluation and Analysis, and various individuals at the medical center in question—including the Director, the Chief of Staff, and, to the extent that recommendations pertain to specific health-care services, the service chiefs involved. The raw data collected in the course of both SERP and SIR proceedings are available only on a strict "need to know" basis and only to enable appropriate responses to be made to specific recommendations with respect to the quality of health care being provided at a VA medical facility. In sum, SERP and SIR summary reports are available to various VA officials—health-care professionals and lay personnel—directly involved with administrative and operational decisionmaking at all levels in the VA Central Office and at individual VA health-care facilities in order to assure that insights and recommendations resulting from these two quality assurance processes are, in a timely manner, fully evaluated and the recommendations promptly implemented as indicated.

It is the Committee's view that, in general, this quality assurance program has had a significant beneficial impact on the quality of health-care provided in VA facilities by acting as a continuing check on such health care and thus should be maintained. The key to the success of this program is the willingness of those health professionals participating in the program—either as part of an external review team or as a member of an internal review committee within a particular facility—to be candid in their appraisal of the quality of health care being provided or the performance of their peers in providing such care. Likewise, it is essential that staff whose activities are under scrutiny be candid and cooperative with the reviewers.

The Committee is concerned that, unless the physicians and other health professionals participating in the program can be assured that their remarks and evaluations incorporated in SERP and SIR reports will be kept confidential, the necessary level of candor will be lost. Further, if the results of the review activity are readily available to the public, it is likely that the staff whose activities are under review as well as, perhaps, some of their colleagues, may become extremely guarded or uncooperative in the review process. In either event, the Committee believes that a failure to provide confidentiality for SERP and SIR reports could seriously undermine the value of the review process under the HSRO program—and, ultimately, adversely affect the quality or care being provided in VA health-care facilities. In this regard, the Committee notes the statement made by the VA, in written response to a question submitted to the agency following the Committee's June 17 hearing that:

"The strongest evidence of the fact that, without confidentiality [for SERP and SIR reports], physicians will not speak openly and frankly about their colleagues' work is the situation in the Long Beach, California VA medical center where the releasibility of medical peer review documents is currently being litigated. In that center, peer review activities have virtually come to a halt by consensus of participating physicians."

The Committee believes that such a situation may ultimatly have a serious impact on the quality of medical care and that, since it is impossible to force individuals to speak frankly, guaranteeing the needed confidentiality of the review records now appears necessary, given the challenges to the confidentiality of these reports, in order to maintain an effective VA health-care quality assurance program.

Section 501 of the Committee bill would create a statutory scheme that would significantly limit the disclosure of VA medical quality assurance documents, including disclosure pursuant to the Freedom of Information Act (FOIA).

Under the provisions in the Committee bill, all records and documents created as part of the agency's medical quality assurance programs would be made confidential and disclosures prohibited, under penalty of criminal law, except in certain specified situations when disclosure is required. Provision would be made for disclosure to Congressional committees, to Federal agencies or private entities for licensing or accreditation functions or as required for monitoring of VA health-care activities, to other Federal executive agencies for participating in joint programs, law enforcement agencies, or to medical personnel in the event of emergency circumstances affecting any person. In situations involving disclosure, provisions in the proposed new section would require the VA to remove names (or other identifiers) of individuals as necessary to avoid a clearly unwarranted invasion of personal privacy.

The Committee notes that, on December 10, 1979, the Finance Committee reported H.R. 934 (S. Rept. No. 96–471) with a similar provision—section 251—to provide for the confidentiality of sensitive information collected by Professional Standards Review Organizations (PSRO's), the quality assurance mechanisms for Medicare and Medicaid, under title XI of the Social Security Act. Just as does the VA's HSRO program, the PSRO program relies on voluntary service by local physicians for the purpose of conducting peer review. The Finance Committee concluded that, absent stricted safeguards relative to the dissemination of data collected by PSRO's, ". . . recruitment of physicians to perform PSRO functions would become increasingly difficult." Under H.R. 934 as reported, confidential information would be disclosed only to the extent necessary to carry out program purposes to assist with the identification of fraudulent and abusive activities, and to assist health-planning activities; and the Secretary of Health and Human Services would be required to promulgate regulations to specify cases and circumstances under which disclosures may be made to different agencies and persons.

Removal of restrictions on land in Cheyenne, Wyoming

Under authority of Public Law 89–345, 27 acres of land were conveyed in 1966 to the city of Cheyenne, Wyoming, with the use by the city restricted to park and recreational purposes only. The city now plans to expand and improve Converse Avenue, which is on the land conveyed under Public Law 89–345. In order for the city to be able to accomplish this, the recreation and park use restriction must be removed for a tract of land of approximately 4 acres.

Section 502 of the Committee bill would amend Public Law 89–345 to authorize the removal of that restriction on a 4-acre tract of the land previously so conveyed by the VA to the city of Cheyenne, in order to allow for the expansion and improvement of Converse Avenue.

Under the Committee bill provision, this 4-acre tract would be subject to a restriction limiting its use to roadway purposes, and the remaining 23 acres would remain subject to the park and recreational use restrictions imposed by Public Law 89–345 and the deed by which the land was conveyed under that law.

The Committee has been advised that this provision is supported by the members of the Wyoming Congressional delegation and the Wyoming State components of the major veterans' organizations. The VA has no objection to this provision.

Modifications of post-Vietnam era veterans' educational assistance program

Background

The chapter 32 Post-Vietnam Era Veterans' Education Assistance program—popularly known as "VEAP"—was enacted as a successor to the current GI Bill in 1976 in Public Law 94–502. VEAP was designed, in part, to provide the armed services with an educational incentive program to promote recruitment into the All-Volunteer Force and reflected an effort to achieve a reasonable balance between those who sought termination of GI Bill benefits completely for persons entering the service after the end of the Vietnam era and those who supported continuation of the Vietnam-era GI Bill without alteration.

The chapter 32 program provides an educational assistance opportunity to those persons who initially entered the Armed Forces after December 31, 1976, and who are not eligibile for the current chapter 34 GI Bill. The program was established to assist young men and women in obtaining an education they might not otherwise be able to afford and to promote and assist the All-Volunteer Force by attracting qualified men and women to serve in the Armed Forces.

Presently, the Veterans' Administration and the Department of Defense share the responsibility for administration of the program.

Under VEAP, servicemembers who are eligible for benefits may elect to contribute from $50 to $75 per month toward their VEAP account. After completion of the servicemember's initial tour of duty or 6 years of service (whichever is the lesser), the VA matches the servicemember's contribution on a two-for-one basis if the individual enrolls in an approved educational program. The maximum contribution by servicemembers is $2,700 which, matched with $5,400 of VA funds, provides a total of $8,100 for the veteran's educational expenses.

Participation in VEAP has increased each year since 1977. Overall, more than 200,000 enlistees—or about one out of every four potential eligibles—and 2,000 officers enrolled in VEAP between 1977 and 1979. Participation rates among the service branches vary dramatically—from 30.2 percent for the Army to 7.3 percent for the Air Force; the overall participation rate is 23.3 percent.

Department of Defense data show that a substantial number of servicemembers delay entry into VEAP participation until their second or third year of service, and more than half of all enlisted VEAP participants make the $50 minimum contribution. The participation rates for minorities are higher than for whites, and enlisted personnel with a high school diploma or GED certificate participate in VEAP at rates slightly above those of their counterparts who did not graduate from high school. Individuals with some college education have the highest relative participation rates. Considerable evidence exists that the major reason for electing not to participate in VEAP is personal financial constraints.

The VA, which administers the payment of educational benefits upon a veteran's entering training, reports that as of December 31, 1979, there were a total of 426 persons training under VEAP. Only 470 persons have ever received benefits for any type of training under VEAP—or approximately 0.2 percent of the total ever participating. It should be noted that the initial tour of duty for most VEAP participants entering the military after December 31, 1976, was a 3-year enlistment. This means that the first wave of potential VEAP trainees is only now beginning to enter training.

The Department of Defense, in its June 1980 "Third Annual Report to the Congress on the Post-Vietnam Era Veterans' Educational Assistance Program", concluded that "VEAP played a moderately important role in the enlistment decisions of some participants, and there was evidence that VEAP benefits were most appealing to those with at least a high school diploma and those in the higher mental categories." However, the report recommended that "Actions should be taken to lessen the 'financial burden' of participation experienced by some individuals." The report also suggested that there is a "need for a careful reassessment of the program structure as a whole and possible changes to enhance the program's overall 'attractiveness' as an enlistment incentive." The VA, in its portion of the third annual report on VEAP, submitted on

May 2, 1980, concluded that "early indicators lead to a less than optimistic view as to the program's viability."

The VEAP authority is scheduled to expire on December 31, 1981, unless the President makes a recommendation to the Congress that the program should be continued, neither the House nor the Senate adopts a resolution of disapproval of the President's recommendation, and the Department of Defense assumes responsibility for the matching funds.

The Committee has already begun its review of VEAP at hearings held on the role of educational incentives in the All-Volunteer Force on June 19, 1980. The Committee is concerned by the reports of declining quality and quantity of recruits in the military and recognizes the impact that educational incentives may have in this regard. There are a number of legislative proposals pending before the Congress which would establish new programs of educational assistance for the All-Volunteer Force; however, the Committee believes that the consideration of the possibility of a successor to VEAP is most appropriate in the context of VEAP's expiration at the end of 1981. Thus, the Committee plans to devote substantial time and resources during the remainder of this Congress and throughout 1981 in an effort to develop appropriate legislation in this area.

At the same time, the Committee believes that there are certain modifications to VEAP that are both appropriate and necessary to be made at this time. It is the Committee's hope that enactment of these modifications will assist the Congress in determining the effectiveness of VEAP and its potential as a recruitment and retention device.

Committee bill provisions

The Committee bill would make three modifications in the authority for VEAP. These modifications are based on recommendations made by the VA and the Department of Defense in their annual reports on VEAP, on the Department of Defense's February 9, 1980, "Educational Incentives Study", on testimony presented at the Committee's June 19 hearing on the role of educational incentives in the All-Volunteer Force, and on discussions with representatives of the Department of Defense.

1. Modification of the Minimum and Maximum Contribution: Under present laws (section 1622(a) of title 38), as noted above, a servicemember may contribute from $50 to $75 a month to a VEAP account through a payroll deduction. Experience with VEAP to date has shown that the range for monthly contributions may be too restrictive. For some junior enlisted personnel the $50-a-month deduction from pay represents a significant financial burden—and, therefore, a disincentive to participation. Also, the $75-a-month ceiling is too low for some 2- and 3-year enlistees who delay entry into the program or have enlisted for periods of time which will not allow them to make the maximum $2,700 contribution. The Department of the Army, on behalf of the Department of Defense, recently submitted legislation to modify the minimum and maximum contributions. The bill was introduced by the Chairman at the request of the Administration on June 7, 1980, as S. 2898. This proposed modification has been incorporated in section 503(1) of the Committee bill. The Department of Defense has estimated that these new rates would increase participation in VEAP by approximately 5 percent. It should be noted that the maximum level of a servicemember's contributions and the maximum level of VA matching assistance ($2,700 and $5,400, respectively) would not be affected by this amendment.

2. Authority for DOD to Pay Contributions: Current law (section 1622(c) of title 38) provides that the Secretary of Defense may contribute to the fund of any VEAP participant such amounts as are deemed necessary or appropriate to encourage persons to enter or remain in the Armed Forces. At the request of the Congress and in an effort to gather data on the effectiveness of VEAP in the All-Volunteer Force, the Department of Defense began testing, in 1979, the 2-year enlistment option and enhanced VEAP incentives in the Army and the Navy. Department of Defense contributions to servicemembers' VEAP accounts—so called VEAP "kickers"—were offered in conjunction with various enlistment options, at variable levels, to certain high school graduates in selected occupational specialties. Preliminary test results—through November 1979—have demonstrated only "a modest drawing power" for the VEAP kicker when coupled with a required European assignment.

Based on these results, the Department of Defense has extended the kicker test through 1980 on a nationwide basis and revised it to remove the assignment restriction. The revised test includes 2-, 3-, and 4-year kickers at $2,000, $4,000, and $6,000, respectively. Thus, it is possible for some eligible recruits to accrue $17,100 in a combination of benefits: $2,700 in personal contributions, $5,400 in maximum VA matching funds, $6,000 in kicker funds, and a $3,000 cash bonus for service in a specified occupational specialty.

H.R. 6974, the proposed "Department of Defense Authorization Act, 1981", as passed by the Senate on July 2, 1980, would authorize the appropriation of $45 million for an educational assistance program and is designed to provide certain new authorities in connection with VEAP on a pilot-program basis. Specifically, in one pilot test, the Secretary of Defense would be authorized to make initial contributions to the VEAP accounts on behalf of certain servicemembers who possess critical skills which are in short supply in the military. As noted above, under title 38, the Secretary has authority to make special "kicker" contributions to servicemembers' VEAP accounts in addition to the monthly contributions made by the servicemember. However, no explicit title 38 authority exists for the Secretary to make the monthly contribution on behalf of the servicemember—that is, in lieu of or to reduce the servicemembers' monthly contribution.

The Committee is concerned that the conduct of this 1-year pilot program and the other tests called for by the provisions of H.R. 6974 as passed by the Senate will not provide a sufficient basis for decisionmaking in time to allow the Congress to consider the future of VEAP. However, because the Committee believes that it would be helpful in the conduct of this test for the Department of Defense to have specific legislative authority to make contributions on behalf of servicemembers, language has been incorporated in section 503(2) to provide such authority.

3. Lump-Sum Contributions: Under current law (section 1622(a) of title 38), a servicemember's contributions to a VEAP account must be made monthly, and the number of months in which a servicemember makes contributions is used in computing (under section 1631(a)) the number of months of entitlement which is earned—up to a maximum of 36 months of entitlement.

One of the proposals made by the Department of Defense's "Educational Incentives Study" focused on the ability of a servicemember to "pre-pay" his or her VEAP contribution by authorizing all or part of an enlistment or reenlistment bonus to be applied to his or her VEAP account. Thus, rather than making only monthly contributions, it is proposed that the servicemember be permitted to deposit up to the $2,700 maximum—by monthly or lump-sum contributions, or a combination thereof—at any time during his or her enlistment period.

The Committee believes that affording this flexibility could enhance the VEAP program. Thus, the amendment in section 503(3) of the Committee bill would permit servicemembers to make lump-sum contributions of up to $2,700.

For purposes of computing the number of months of entitlement to benefits—which are based, in part, on the number of monthly contributions made by the servicemember—this lump sum would be considered to have been made in monthly contributions of $75, unless specified otherwise by the servicemember (for example, as $50 monthly contributions) pursuant to joint VA/DOD regulations.

Modification of 1989 termination date for current GI bill

Under the current Vietnam-era GI Bill, no chapter 34 educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 94-502, was designed to permit those who entered the service prior to December 31, 1976—the general termination date for entry into the service for current GI Bill benefits eligibility—to complete their initial enlistments and then have a 10-year period in which to use their GI Bill benefits.

The Committee is concerned by reports from persons now on active duty with eligibility for the GI Bill suggesting that they will leave the service in order to utilize their GI Bill benefits prior to the 1989 expiration date. Testimony by the Department of the Army at the Committee's June 19 hearing tended to confirm these reports as more than a scattered phenomenon.

On June 18, Senator John Warner introduced S. 2846, a bill which would modify the termination date for veterans eligible for chapter 34 assistance by providing that no assistance could be provided after December 31, 1989, or the date occurring 5 years after a servicemember's discharge or release from active duty. On July 25, Senator Thurmond introduced S. 2977, the proposed "Veterans' and Servicemembers' Education Benefits Act of 1980", which contains a provision which would similarly modify the termination date by providing that no assistance could be provided after December 31, 1980, or the date 4 years after discharge or release, whichever is the later. This bill also proposes changes in the VEAP provisions that are similar to those proposed in the Committee bill.

Section 504 of the Committee bill would address the problem of the termination date by modifying the 1969 termination date by providing that a veteran who is discharged after December 31, 1979, would not be entitled to educational assistance after (1) a period of 5 years following his or her initiation of a program of education under the GI Bill after discharge if such initiation occurs within 2 years after discharge or release from active duty, or (2) December 31, 1989, whichever is the later.

The following are examples of how this provision would apply in certain cases:

1. A male veteran discharged on January 1, 1982, would have until December 31, 1989, to utilize his GI Bill benefits. This represents no change from current law.

2. A female veteran discharged on January 1, 1985, if she begins her first post-service

program of education by December 31, 1986, would have 5 years from the date on which she begins that program of education to use GI Bill benefits. Thus, is she begins a program of education on September 1, 1986, GI Bill benefits would be available through August 31, 1991. If she did not begin a program of education on or before December 31, 1986, the December 31, 1989, cut-off date would apply.

3. A male veteran discharged on December 31, 1990, would have until December 31, 1992, to begin a program of educational assistance. If he began his first post-service program of education on September 1, 1992, he would have until August 30, 1997, to utilize his benefits. If he did not begin a program of education prior to December 31, 1992—or 2 years after discharge—entitlement to educational benefits would be lost.

The Committee's intention in this proposed amendment is to remove the incentive for experienced and well-qualified military personnel to fail to reenlist—or otherwise to leave the service with sufficient time prior to December 31, 1989—because they want to leave the service in order to use their GI Bill benefits. For every servicemember who is retained in the service, the need for new recruits—and the accompanying costs of training—are reduced, the cost of maintaining our Nation's Armed Forces is reduced, and the defense of our Nation is strengthened. The Committee believes that these factors substantially outweigh the administrative considerations behind fixing and continuing a date certain for terminating the current GI Bill. At the same time, the Committee does not believe that the current 10-year delimiting period for chapter 34 benefits should be applicable to these servicemembers since they will have had at least 8 years to have determined their educational goals prior to their discharge and they should be prepared to utilize their benefits promptly upon release from military service.

Expansion of categories of persons to whom life insurance proceeds may be assigned

Under current law, although the insured veteran may designate any person as a beneficiary, sections 718 and 753 of title 38 provide that only certain close relatives of the insured veteran may be assigned, by a beneficiary, any interest in the proceeds of a National Service Life Insurance (NSLI) policy (section 718) or United States Government life insurance (USGLI) policy (section 753). For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents. The class for USGLI assignment encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured.

The current restrictions on assignments are administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may direct payment only to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases and helps to assure that the proceeds are paid directly to a person closely related to the deceased veteran.

Occasionally, however, in NSLI and USGLI cases, there is a contest between two or more persons as to the identity of the last designated beneficiary. Those contests may involve an individual to whom an assignment is not possible, such as a former spouse with custody of children of the veteran or a close friend.

A settlement of the dispute can occasionally be facilitated by cross-assignments of the policy proceeds by each claimant to the other, that is, by the claimants agreement that each shall receive part of the proceeds. In such cases, the liability of the Federal Government is fully discharged. However, under current law, no assignments are lawful, as has been noted, unless the assignee is within the categories of family members of the insured veteran specified in sections 718 (NSLI) and 753 (USGLI). Thus, when, for example, a dispute over proceeds results from the fact that the veteran exercised his or her right to change the beneficiary without notice to the prior beneficiary, and the last-named beneficiary concedes that the prior beneficiary should receive all or part of the proceeds, an assignment cannot be made, regardless of the merits of the claim or the wisdom of the proposed assignment, unless the prior beneficiary is a specified family member. The result is that litigation may ensue.

Section 505 of the Committee bill would provide for a limited expansion of the classes of persons to whom all or part of the proceeds of a NSLI or USGLI policy may be assigned.

Under this provision, such assignments could be made to certain other persons who are not within the classes of specified close relatives: Any person who was ever designated by the insured veteran as a beneficiary, any person with whom the insured veteran had contracted to designate as the beneficiary, and any person whom a court ordered the insured veteran to designate or retain as the beneficiary. In this way, an assignment would be authorized only to a person whose claim to the proceeds was based on one of the specified legal relationships with the veteran prior to the veteran's death. These requirements are designed to provide limited authority for assignments that would cover the common types of cases identified by the VA as involving disputes that could appropriately be resolved by assignments.

Under these provisions, in any case where the proceeds are to be paid other than in a lump sum, any such assignment must be joined in by the designated contingent beneficiary, if any, if the assignor is a person upon whose death or disqualification the contingent beneficiary's claim to the proceeds would be predicated. This would provide a further safeguard against the abuse of the power to assign and is similar to a provision in current law regarding assignments to specified members of the insured veteran's family.

Thus, these carefully limited provisions are intended to facilitate the resolution of disputes without opening the door to abuse of these VA insurance programs.

These provisions are identical to provisions passed by the Senate on August 3, 1979, as part of H.R. 2282 and are similar to provisions contained in S. 2897, an Administration bill introduced by the Chairman by request on June 27, 1980.

Revolving supply fund provisions

Section 5021 of title 38 authorizes a VA revolving supply fund for the purposes of operating and maintaining a supply system to facilitate the procurement of supplies, equipment, and services for the VA and other Federal agencies. Under current law, the fund is reimbursed—from the appropriations accounts for the programs to which items are provided—only for the price that the fund paid for the particular inventory items plus indirect (overhead) costs. The fund is intended to maintain self-sufficiency by replenishment of its resources through reimbursements. However, in times of continuing inflation, the fund experiences losses because reimbursements are less than amounts being paid out for replacement purchases.

For example, in September 1979, the supply fund purchased gauze pads at a cost of $32.49 per case. In May 1980, the cost to the fund of a case had risen to $44.80, but the fund could receive reimbursements of only $32.49 (plus indirect costs) for a case it had purchased the previous September. Thus, in May, the supply fund, in order to replenish its inventory of gauze pads, purchased gauze pads costing $12.31 per case more than it could charge for direct costs.

Section 5021 also currently provides that the Administrator must generally return to the Treasury of the United States, as miscellaneous receipts, any net income of the fund at the end of each fiscal year. During fiscal year 1980, the VA supply fund has been able to more than offset its losses through the sale of silver recovered from used X-ray film. As a result, the VA estimates that $11 million will have to be returned to the Treasury at the end of fiscal year 1980. This surplus is due to an unpredicted windfall from the sale of silver during the period in the past year in which the price of silver rose sharply. No similar, unexpected source of income can be expected to overcome supply fund losses in future years.

The Committee bill includes, in section 506, two provisions derived from S. 2960, an Administration-requested measure which the Chairman introduced by request on July 24, 1980.

First, section 506 would provide the revolving supply fund with express authority to be reimbursed for supplies and equipment on the basis of the cost of such items at the time of recent significant purchases. Thus, in the example cited above, the supply fund could be reimbursed $44.80—the cost of the pads at the time of the most recent significant purchase of that type of item—for the direct cost to the fund of a case of gauze pads. In a time of continuing inflation, such markups should enable the supply to be sustained at approximately a break-even level. In this connection, the Committee notes that the authority to base reimbursements on recent significant purchases is discretionary, and the supply service would not be required to base reimbursements on such purchases during a period of deflation and thus incur substantial losses. It is the Committee's intention—and the Committee understands, the VA's intention also—that this authority be used in a financially responsible manner to help assure the self-sustaining operations of the supply fund.

The Committee also understands that the term "recent significant purchases" would generally be construed by the VA as those made in accordance with the economic order quantity principle prescribed in section 101-27.102 of the Federal Property Management Regulations—that is, normal inventory replenishments based upon the demand for particular inventory items. Thus, incidental purchases to fill in needed inventory on a short term basis and fire-sale types of procurement would generally not be considered "recent significant purchases".

Second, the Committee bill would authorize the Administrator to retain, in the supply fund, income from the operations of that fund in such amounts as the Administrator determines to be required for the maintenance of an adequate inventory and effective financial management of the fund. Thus, the Administrator would be required annually to return to the Treasury as miscellaneous receipts such income as is in excess of amounts needed for those purposes. For example, when supply fund operations have produced substantial net income over the course of a fiscal year, but it is clear that all or a portion of that income would be needed, in the absence of direct appropriations to the fund, to make necessary purchases in the following fiscal year, this new authority could be used to retain that portion of the net income that the Administrator determines would be so needed. In the case of this proposed new authority, the intention is to foster the self-sustaining operations of the fund.

The Committee expects that these authorities would be used to avoid any need for direct appropriations to the fund—except in extraordinary circumstances, such as unusual economic circumstances that could not reasonably have been foreseen and that would adversely affect the supply fund's financial situation.

POW study legislative recommendations

Background

On June 2, 1980, the VA submitted its report on the study, mandated by Public Law 95-479, of veterans who are former prisoners of war. The law directed the study to address the disability compensation and health-care needs of former POW's. The report contained three legislative recommendations—(1) remove the present 2-year limitation on the "presumptive period" for former POW's suffering from psychosis and thus establish a presumption that a former POW's psychosis is service-connected whenever it becomes manifest; (2) provide eligibility to former POW's for VA hospital care and medical services for any disease or neuropsychiatric disability; and (3) provide for an annual POW-MIA Recognition Day. Following the Committee's June 17 hearing, which included, as part of its agenda, the POW report, the Chairman addressed questions in writing to the VA on various issues that arise from these legislative proposals. The VA's responses were received by the Committee on July 24, 1980.

The Committee does not wish to move on the basis of inadequate information or in a fragmented manner and has thus not recommended that action be taken during this Congress on those proposals The Committee plans to undertake an indepth examination of the report, its findings, and the issues it raises during the remainder of this year and move ahead promptly with appropriate legislation early in 1981. This will also enable the Committee to make appropriate and necessary recommendations regarding the fiscal year 1982 budget designed to assure adequate funding for any legislation that the Committee recommends for improvements in benefits and services to be provided to veterans who are former POW's.

Report recommendations to be carried out administratively

In addition to legislative recommendations, the VA's report made a variety of recommendations to be implemented by VA administrative action, as follows:

Post-Traumatic Stress Neurosis

First, the report recommended that the VA's forthcoming guidelines on "post-traumatic stress neurosis" include an explicit reference to veterans who are former POW's as well as to other veterans who served in combat and that those guidelines be used specifically for the diagnosis and treatment of former POW's who are suffering from anxiety neurosis or similar neurotic disorders as well as for rating purposes. The Committee notes that, on March 17, 1980, the VA provided to the Committee a copy of an internal policy directive (Change 282 to Program Guide 21-1) concerning post-traumatic stress neurosis. Subsequently, on April 18, the VA published in the *Federal Register* (vol. 45, No. 77, page 26326) an amendment to the Schedule of Rating Disabilities to provide for the new diagnostic classification of such neurosis. The Committee urges the VA to implement this recommendation promptly and set forth the text of the revised policy directive in full in the *Federal Register* so that interested members of the public may have the opportunity to review and comment on it.

Standardized Protocol

Second, the report recommended that the VA adopt a standardized protocol for compensation examinations for all former POW's that would be similar to the protocol developed by the Department of Defense for former Vietnam-era POW's, and that each VA medical center designate certain physicians who are knowledgeable about former POW's and their medical problems to conduct or supervise such examinations in order to assure adequate followup and to assist in ongoing research.

The Committee urges that this recommendation be promptly implemented by all VA medical centers.

Followup Treatment of and Research Concerning Vietnam-Era Former POW's

Third, the report recommended that the Department of Defense continue followup treatment of and research concerning Vietnam-era former POW's who have been separated from service and that the VA furnish the Defense Department with the results of such followup and research and other statistical reports concerning former POW's. The Committee urges that, in addition to implementing this recommendation, the VA undertake to advise fully Defense Department personnel concerned with following up Vietnam-era former POW's on the findings of the VA report and all other studies that relate to the difficulties experienced by former POW's.

Advisory Committee

Fourth, the report recommended that the VA establish an advisory committee, to include recognized authorities in the field of POW studies, to provide for a continuing assessment of the medical evidence concerning disabilities prevalent among former POW's and to advise the Administrator on policies and procedures concerning former POW's. The Committee notes that the VA has begun action on this recommendation and urges the inclusion on the advisory committee of veterans who are former POW's as well as knowledgeable representatives of service organizations (including organizations whose members are chiefly former POW's).

Collection of Pathological Information

Fifth, the report recommended that the VA implement procedures for conducting thorough pathological examinations of former POW's using surgical, cytological, or autopsy methods, as appropriate, and provide such data as evidence in claims to assist in determining whether the veteran's death was service connected. The Committee notes that the VA has entered into an agreement with the Armed Forces Institute of Pathology to collect and register such pathological materials for research purposes and urges that the VA take prompt steps to assure that this recommendation is fully implemented.

POW Indicators on VA Records

Sixth, the report recommended that the VA review its manual and computerized records and forms to identify those which should be identified by POW indicators and assure that such indicators are added where necessary. The Committee urges prompt action to implement fully on this administrative procedure, which is intended to assure that every veteran who was interned as a POW is provided with appropriate benefits and services.

Outreach

Seventh, the report recommended that the VA emphasize, periodically, through VA information and educational programs, the benefits and services available to former POW's and provide a copy of the POW report as a reference document to each VA medical center and regional office. The Committee trusts that this recommendation will be conscientiously carried out.

Designation of Coordinators

Eighth, the report recommended that the VA designate one or more central office coordinators to assist in the implementation of ongoing VA programs for former POW's, to serve as liaison with individual former POW's, former POW groups, and the Defense Department's Office of POW/MIA Affairs, and to monitor the implementation of the report recommendations. The Committee notes that the VA has already designated a coordinator of POW issues and urges that contact persons also be designated in each medical center and regional office for the effective coordination of all matters relating to former POW's.

Implementation

The Committee plans to monitor closely the implimentation of the report's administrative recommendations and hereby requests the Administrator to submit a report, not later than November 1, 1980, on the status of those recommendations.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $1,038.5 million in fiscal year 1981; $1,102.4 million in fiscal year 1982; $1,114.1 million in fiscal year 1983; $1,125.9 million in fiscal year 1984; and $1,138.9 million in fiscal year 1985. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATES—JULY 30, 1980

1. Bill number: S. 2649.

2. Bill title: Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

3. Bill status: As ordered reported by the Senate Committee on Veterans' Affairs, July 30, 1980.

4. Bill purpose: To amend title 38, U.S.C., to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children: and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Title I:					
Required budget authority	890.2	902.3	912.0	921.8	931.5
Outlays	819.0	901.3	911.3	921.0	930.7
Title II:					
Required budget authority	197.3	199.7	201.4	203.1	204.3
Outlays	181.5	199.5	201.2	202.9	204.2
Title III:					
Required budget authority	1.0	.7	.5	(1)	(1)
Outlays	1.0	.7	.5	(1)	(1)
Title IV:					
Budget authority	0	0	0	0	0
Outlays	(1)	(1)	(1)	(1)	(1)
Title V:					
Budget authority	0	−.3	.2	1.0	3.1
Outlays	−1.1	−2.3	−2.0	−.6	1.5
Total budgetary impact:					
Budget authority	1,088.5	1,102.4	1,114.1	1,125.9	1,138.9
Outlays	1,000.4	1,099.2	1,111.0	1,123.3	1,136.4

[1] Less than $500,000.

6. Basis for estimate:

Title I

This title would increase the monthly rates of disability compensation for veterans and their dependents by approximately 14.3 percent, with the exception of the monthly rate under section 314(k) (title 38, U.S.C.), which would not be changed. This provision would be effective on October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	890.2	902.3	912.0	921.8	931.5
Outlays	819.0	901.3	911.3	921.0	930.7

The cost of this title was estimated by multiplying by 14.3 percent the projected average cost for all veterans receiving compensation in each year. The resulting average increase in cost was then multiplied by the estimated number of disability compensation cases in each year. This gross cost figure was then reduced by the estimated savings from not increasing the rate for section 314(k) cases. The cost of the increase in the clothing allowance was estimated by multiplying the projected number of cases receiving clothing allowance by the amount of the increase.

Title II

This title would increase the monthly rates for dependency and indemnity compensation (DIC) by approximately 14.3 percent. This provision would be effective on October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	197.3	199.7	201.4	203.1	204.3
Outlays	181.5	199.5	201.2	202.9	204.2

The cost of this title was estimated by multiplying the projected average cost for all DIC cases in each year by 14.3 percent, then multiplying the resulting average increase in cost by the estimated number of cases in each year.

Title III

This title would provide for a new program of grants for special housing adaptations, for certain disabled veterans. Veterans with blindness in both eyes or with loss or loss of use of both upper extremities at or above the wrist would be eligible for grants equal to the actual cost of such adaptations but not to exceed $5,000. The provision would be effective October 1, 1980.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Required budget authority	1	0.7	0.5	(1)	(1)
Outlays	1	.7	.5	(1)	(1)

(1) Less than $500,000.

According to the VA, there are currently 125 veterans receiving compensation for the anatomical loss of both upper extremities, 542 for the loss of use of both upper extremities, and 1,016 for total bilateral blindness. If all eligible veterans received the maximum grant available, the total cost of the new program would be $4.2 million. This estimate assumes that some eligible veterans have already made necessary adaptations with section 612(a) (title 38, U.S.C.) grants, that some otherwise eligible veterans would be ineligible because they do not own their homes, and that some veterans would find special adaptations undesirable.

Title IV

Section 401: This section would permit veterans to refinance loans guaranteed under sections 1810 or 1819 of title 38, U.S.C., in order to obtain a lower rate of interest, as long as the refinanced loan is secured by the same property as the originally guaranteed loan, the principal balance of the refinanced loan does not exceed the outstanding balance of the original loan, and the term of the refinanced loan does not extend beyond the last day of the term of the original loan. This provision is not expected to result in any significant cost to the Federal Government. The refinancing of loans at lower rates of interest would make it easier for veterans to make their monthly mortgage payments and, thereby, preclude some defaults. The administrative cost of processing the applications for refinancing would not be expected to be significant.

This section would also increase the maximum loan guaranty amount from $25,000 to $30,000 for houses and from $17,500 to $20,000 for mobile homes. Significant costs in the loan guaranty program are only incurred in the case of foreclosures. The VA's new program of financial counseling for veterans who are having difficulty making the payments on their guaranteed loans has been quite successful in substantially reducing the number of loans going into foreclosure. The increased cost for those loans which would result in foreclosure should be offset by the proceeds from the sale of the property involved.

Section 402: This section would permit the disclosure of the name, address and other identifying information on veterans to consumer reporting agencies under certain limited circumstances. The provision is not expected to have a significant cost impact.

Title V

Sections 501 and 502 deal with technical issues and would have no budgetary impact.

Section 503: Under the current Veterans Education Assistance Program (VEAP) veterans contribute between $50 and $75 per month out of their monthly pay into the post-Vietnam era veterans' education account. This money is matched by the VA in the amount of $2 for every $1 contributed when the veteran later draws his money out to take training. This provision would expand the contribution range to a minimum of $25 per month and a maximum of $100 per month. It would also allow veterans to pay in lump sum amounts to the VEAP accounts up to a maximum of $2,700. Although it is not possible to estimate with any degree of precision what the cost of this new provision would be, CBO expects the broader rule structure of the program to result in additional participants. CBO assumes that liberalizing the contribution procedure will result in 5,000 additional participants each year (3,000 the first year). The assumption is made that in the third year of the program the average monthly contribution would be $25 per month for 2,000 participants for 9 months, $100 per month for 2,000 participants for 9 months, and lump sum payments of $1,150 from the remaining 1,000 participants. Total contributions are, therefore, expected to reach $3.4 million in that year. First and second year contributions are expected to be less than this because of normal startup procedures. No change in contribution levels are assumed for those who would have participated in the $50 to $75 program as it stands now. VA matching payments are not expected to occur under the new provision until fiscal year 1983 (Outlays in fiscal year 1982 represent disenrollments.) and then only at a fairly low level. Subsequent years should show additional outlays.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Deductions from military pay:					
Budget authority	−1.1	−2.6	−3.4	−3.4	−3.4
Outlays	−1.1	−2.6	−3.4	−3.4	−3.4
Post-Vietnam era veterans education:					
Budget authority	1.1	2.3	3.6	4.4	6.5
Outlays	0	.3	1.4	2.8	4.9
Function 700 total:					
Budget authority	0	−.3	.2	1.0	3.1
Outlays	−1.1	−2.3	−2.0	−.6	1.5

Section 504: Current GI Bill benefits under chapter 34 are due to expire on December 31, 1989. This provision would allow veterans discharged after December 31, 1979 to take training beyond this time provided they enroll in a program of education under chapter 34 within 2 years of their separation from the service. As an additional restriction, they must use their entitlement within a 5-year period beginning from the date they initiate their training.

CBO assumes that some veterans who would have left the service to take advantage of their chapter 34 entitlement before it expired, would remain in the service should this provision become law. This is expected to result in savings starting in fiscal year 1984 because of postponed GI Bill usage. CBO assumes a savings of $1.5 million in fiscal year 1984 (500 veterans at $3,000 per year) and $3.0 million in fiscal year 1985 (1,000 veterans at $3,000 per year). As in the previous section, these cannot be regarded as precise estimates.

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Budget authority	0	0	0	−1.5	−3
Outlays	0	0	0	−1.5	−3

Section 505: This section would provide for a limited expansion of the class of persons to whom all or part of such proceeds of a National Service Life Insurance, Veterans Special Life Insurance or U.S. Government Life Insurance policy may be assigned in cases in which two or more claimants are involved in a dispute over insurance proceeds. Since this provision would affect only the disposition of the proceeds from a policy, rather than the amount of the proceeds, the budgetary impact is not expected to be significant.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: K. W. Shepherd and Al Peden (225-7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF S. 2649 AS REPORTED

Section 1

Subsection (a) of section 1 would provide that this Act may be cited as the "Veterans Disability Compensation and Housing Benefits Amendments of 1980".

Subsection (b) of section 1 would provide that, except when otherwise expressly provided, an amendment to or repeal of a section or other provision shall be considered to be an amendment to or repeal of a section or other provision of title 38, United States Code, relating to veterans' benefits.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

Section 101

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 14.3 percent the basic monthly rates of compensation paid to veterans with disabilities rated from 10 to 100 percent. Currently, a veteran with a 10-percent disability receives $48 monthly, and a veteran with a disability rated as total—100 percent—receives $889 monthly. Those rates would be increased to $55 and $1,016, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage. This section would also increase by 14.3 percent the higher monthly rates of compensation authorized under subsections (l) through (o) of such section for veterans with certain combinations of severe disabilities, the aid-and-attendance allowance rates authorized under subsection (r), the housebound rate authorized under subsection (s), the additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other, paired extremity; and the limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314. Also, the maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in such section 314, or who is both blind and deaf, would be increased by 14.3 percent.

Subsection (b) of section 101 would authorize the Administrator of Veterans' Affairs to increase by 14.3 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; and section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Section 102

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disability ratings of 30 percent or more who have spouses, children, and dependent parents, to increase those allowances by 14.3 percent.

Clauses (1) through (10) of section 102 would amend clauses (A) through (J) of present section 315(1) of title 38, relating to additional compensation—"dependents' allowances"—payable monthly to a totally disabled veteran who has dependents, to increase those allowances by 14.3 percent. Under existing law, a veteran so disabled who has a spouse, but no child, receives a monthly allowance of $54; if the married veteran has one child, the amount is $91; if two children, $121; if three children, $151; and if more than three children, $151 plus $30 for each child in excess of three. Under the Committee bill, those amounts would be increased to $62, $104, $138, $173, and $34, respectively.

Also, under existing law, a totally disabled veteran who has no spouse receives a monthly allowance of $37 for one child; $67 for two children; $97 for three children; and $30 for each child in excess of three. Under the Committee bill, those amounts would be increased to $42, $77, $111, and $34, respectively.

The Committee bill would also increase by 14.3 percent the amount of the dependents' allowance payable monthly to a totally disabled veteran who has a dependent parent or parents, from $44 (for each such parent) to $50; to such a veteran who has a severely disabled spouse, from $98 to $112; and to such a veteran who has a child age 18 or over who is pursuing a course of education at an approved educational institution, from $82 to $94.

Under paragraph (2) of present section 315, the additional compensation payable to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent would receive 30 percent of the amount specified in paragraph (1) of such section.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 14.3 percent, from $240 to $274.

Title I—Cost: This title would benefit approximately 2,271,808 veterans and its enactment is expected to cost $890.2 million in fiscal year 1981.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

Section 201

Would amend present section 411 of title 38, United States Code, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths were service connected.

Clause (1) of section 201 would amend section (a) of present section 411, relating to basic dependency and indemnity compensation rates payable to surviving spouses of veterans whose deaths were service connected, to increase by 14.3 percent the DIC benefit payable monthly to such a surviving spouse. Under current law, DIC benefits are paid according to the pay grade—service rank—of the deceased veteran; and the amounts range from $326 per month for the surviving spouse of a veteran who had attained the grade of E-1 to $835 for the surviving spouse of a veteran who had attained the grade O-10. Those rates would be increased to $373 and $954 respectively; and proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. These increases would automatically result in identical increases in the benefits payable at DIC rates under section 410 (b) of title 38, United States Code, to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Clause (2) of section 201 would amend subsection (b) of present section 411, to increase by 14.3 percent, from $38 to $43 the additional amount—dependents' allowances—payable for each child under the age of 18 to a surviving spouse receiving DIC.

Clause (3) of section 201 would amend subsection (c) of present section 411 in order to increase by 14.3 percent, from $98 to $112, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home, or who is helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person.

Clause (4) of section 201 would amend subsection (d) of present section 411 to increase by 14.3 percent, from $49 to $56 the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound, but not in need of regular aid and attendance.

Section 202

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service connected, to provide an 14.3 percent increase in the monthly rates of DIC payable for the veteran's children where no surviving spouse is entitled. The current rates of $165 for one child, $237 for two children, $306 for three children, plus $62 for each additional child would be increased to $189, $271, $350, and $71, respectively. Benefits payable at DIC rates under present section 410(b) of title 38, to the surviving children of certain veterans compensated at the 100-percent rate, veterans whose deaths were not service connected would also be automatically increased as a result of the section 413 increase.

Section 203

Would amend section 414 of title 38, relating to supplemental DIC for certain surviving children.

Clause (1) of section 203 would amend present section 414(a) to provide an 14.3 percent increase, from $98 to $112 in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (2) of section 203 would amend present section 414(b) to provide an 14.3 percent increase, from $165 to $189 in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (3) of section 203 would amend present section 414(c) to provide an 14.3 percent increase, from $84 to $96 in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Benefits payable at DIC rates under present section 410(b) of title 38 to similarly-situated surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of the section 414 increase.

Title II—Cost: This section would benefit approximately 360,133 survivors, and its enactment is estimated to cost $197.3 million in fiscal year 1981.

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

Section 301

Would amend present chapter 21 of title 38, United States Code, relating to specially adapted housing for disabled veterans, to provide for limited specially adapted housing grants for certain severely disabled veterans.

Subsection (a) of section 301 would amend present section 801, relating to veterans' eligibility for specially adapted housing and assistance, to redesignate present section 801 as subsection (a) and to add a new subsection (b), as follows:

New subsection (b): Would entitle any veteran—other than a veteran eligible for specially adapted housing assistance under subsection (a) of present section 801, as redesignated by this section—who is entitled to compensation under chapter 11 of title 38 for a permanent and total service-connected disability resulting from (1) total blindness, blindness in both eyes with 5/200 visual acuity or less, or (2) the loss or loss of use of both upper extremities at or above the wrist, to assistance in acquiring special home adaptations that are necessary because of such disability. Under this provision, the VA would (subject to the limits set forth in new subsection (b) of present section 802 as proposed to be added by subsection (b) of this section of the Committee bill) assist any eligible veteran to acquire reasonably necessary adaptations to the veteran's residence—either the veteran's present home or home to be constructed or purchased—if the Administrator determines that the veteran reasonably intends to continue residing (or to reside) in the home and the home is owned (or is to be owned) by the veteran or by a member of the veteran's family.

Subsection (b) of section 301 would amend present section 802, relating to limitations on assistance furnished under chapter 21, to redesignate present section 802 as subsection (a) and to add a new subsection (b), as follows:

New subsection (b): Would limit the assistance to be furnished to veterans eligible for specially adapted housing assistance under new subsection (b) of present section 802 (as proposed to be added by subsection (a) of this section of the Committee bill) to the actual cost of the special adaptations determined to be reasonably necessary or $5,000, whichever is the lesser. Under this new subsection, such limitation would also be subject, in appropriate cases, to new subsection (b) of present section 804 (as proposed to be added by subsection (c) of this section of the Committee bill) which would preclude the furnishing of a particular type of adaptation to any veteran more than once.

Subsection (c) of section 301 would amend present section 804, relating to veterans' eligibility for specially adapted housing assistance in addition to home-loan benefits under chapter 37 of title 38, and clarifying that such assistance may be provided only on a one-time basis.

Clause (1) of subsection (c) of section 301 would redesignate present section 804 as subsection (a).

Clause (2) of subsection (c) of section 301 would clarify that the one-time limitation concerning specially adapted housing grants under section 801 would not apply in the case of certain veterans eligible for benefits under new subsection (b) of present section 801 (as proposed to be added by subsection (a) of this section of the Committee bill).

Clause (3) subsection (c) of section 301 would further amend present section 804 to add a new subsection (b), as follows:

New subsection (b): Would provide that any veteran who is eligible for assistance under new subsection (b) of present section 801 (as proposed to be added by subsection (a) of this section of the Committee bill) shall not, by reason of such eligibility, be denied benefits for which such veteran subsequently becomes eligible under subsection (a) of present section 801 (as proposed to be redesigned by subsection (a) of this section of the Committee bill) or benefits relating to home health services under present section 612(a). This new subsection would also specify that no particular type of home adaptation, improvement, or structural alteration shall be provided to any such veteran more than once.

Subsection (d) of section 301 would amend present section 805, relating to the nonliability of the Federal Government for specially adapted housing units and necessary land therefor acquired under the provisions of chapter 21, to specify that no such liability shall accrue in connection with any adaptation acquired under the provisions of chapter 21.

Title III—Cost: The enactment of this title is expected to cost $1 million in fiscal year 1981.

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

Section 401

Would amend present chapter 37 of title 38, relating to home, condominium, and mobile home loans to veterans, to authorize the VA to guarantee certain refinancing loans made to veterans and to increase the VA maximum home-loan guaranties.

Subsection (a) of section 401 would amend present section 1803(c)(3)(A) of title 38, relating to a veteran's payment of a discount to a lender to specify that, where a veteran is eligible for a VA guaranty for a refinancing loan pursuant to paragraph (2) of subsection (b) of section 1810 or paragraph (4) of subsection (a) of section 1819, as proposed to be added by this section of the Committee bill, present section 1803(c)(1), which provides for maximum interest rates for VA-guaranteed loans, shall not operate to prevent a veteran who obtains a refinancing loan, including a loan for a mobile home, from paying a reasonable discount required by the lender as a condition of the loan. Present section 1810(c)(3)(A) authorizes such a discount to be paid by the veteran in connection with a VA-guaranteed loan to refinance an existing (non-VA-guaranteed) indebtedness. However, such a discount, to the extent it exceeds a loan fee, is regarded as additional interest and is thus not payable by the veteran in connection with a loan for the purchase of a conventional home, condominium apartment, or mobile home.

Clause (1) of subsection (b) of section 401 would amend present section 1810, relating to loans for the purchase or construction of homes, to redesignate subsection (b) of section 1810 as paragraph (1), to redesignate clauses (1) through (6) of subsection (b) as clauses (A) through (F), and to make a technical conforming amendment to the second sentence of subsection (b)(1) as so redesignated, and to add at the end new paragraphs (2) and (3), as follows:

New paragraph (2): Would provide that, notwithstanding the limited purposes for which loans to veterans may be guaranteed automatically under chaper 37 of title 38, as specified in present section 1810(a), and the further limitations in present section 1810(b)(1) (as proposed to be redesignated by this subsection of the Committee bill), a loan may be guaranteed under chapter 37 if—

(1) the purpose of the loan is to refinance a previous VA loan—either a loan guaranteed under chapter 37, a loan insured pursuant to section 1815, or a direct loan made pursuant to section 1811;

(2) the interest rate of the refinancing loan is less than the interest rate of the previous loan;

(3) the refinancing loan is secured by the same residence as the previous loan and the veteran still owns and occupies the property;

(4) the principal balance of the refinancing loan does not exceed the total of the remaining balance of the previous loan and reasonable closing costs (including a discount); and

(5) the term of the refinancing loan—the total period of months over which the loan is to be repaid—does not exceed the term of the previous loan.

Under this new paragraph eligibility for such refinancing would also be extended, in cases where a veteran who would have been eligible for such refinancing is deceased, to the veteran's surviving spouse if such spouse was a co-obligor under the previous loan. For the purposes of this provision, such a surviving spouse would be considered to be a veteran with regard to other applicable chapter 37 provisions. Reasonable closing costs, including any discount charged by the lender as a condition of making the loan, would be those authorized by the VA under regulations to be prescribed.

New paragraph (3): Would clarify that the veteran's loan-guaranty entitlement used for such previous loan would be deemed available for the refinancing loan. Thus, this new paragraph would assure the refinancing loan would have no effect on the veteran's unused entitlement, including any additional entitlement provided for under this section of the Committee bill.

Clause (2) of subsection (b) of section 401 would amend subsection (c) of present section 1810, relating to the amount of loan guaranty entitlement available to a veteran, to increase such amount from $25,000 to $30,000. Under present section 1803(a)(1), the maximum amount of a loan guaranty may not exceed 60 percent of the loan. However, the maximum amount of a veteran's entitlement provides an additional limitation in cases where 60 percent of the loan amount would exceed the amount of such entitlement. Since, in almost all cases today, the maximum entitlement is less than 60 percent of the loan amount, this entitlement increase, from $25,000 to $30,000, would, for practical purposes, provide for an increase in the maximum loan guaranty.

Subsection (c) of section 401 would amend present section 1811 of title 38, relating to direct home loans.

Clause (1) of subsection (c) of section 401 would amend present subsection 1811(b) to clarify that the refinancing provisions proposed to be provided for under this section do not authorize the VA to make a direct loan for such refinancing purposes.

Clause (2) of subsection (c) of section 401 would amend present section 1811(d)(2)(A) to make adjustments in the formula governing a veteran's entitlement for a direct loan to purchase a conventional home or condominium apartment so as to reflect the increase in loan-guaranty entitlement proposed to be made by subsection (b)(2) of this section of the Committee bill.

Clause (3) of subsection (c) of section 401 would amend present section 1811(d)(2)(B) to make adjustments in the formula governing a veterans' entitlement for a direct loan to purchase a mobile home, mobile home lot, or mobile home and lot combination so as to reflect the increase proposed to be made by subsection (d)(2) of this section in the mobile-home loan-guaranty entitlement.

Subsection (d) of section 401 would amend present section 1819 of title 38, relating to loans for the purchase of mobile homes and lots.

Clause (1) of subsection (d) of section 401 would amend subsection (a) of present section 1819 to add new paragraphs (4) and (5), as follows:

New paragraph (4): Would provide that, notwithstanding the limited purposes for and the conditions under which mobile-home loans to veterans may be guaranteed under present section 1819(a), a mobile-home loan, including a loan for a lot on which to place a mobile home already owned by the veteran, may be guaranteed by the VA if—

(1) the purpose of the loan is to refinance a previous loan guaranteed, insured, or made under present section 1819;

(2) the interest rate of the refinancing loan is less than the interest rate of the previous loan;

(3) the refinancing loan is secured by the same property (mobile home or lot or mobile home-lot combination) as the previous loan and the veteran still owns and occupies the property;

(4) the principal balance of the refinancing loan does not exceed the total of the remaining balance of the previous loan and reasonable closing costs (including a discount); and

(5) the term of the refinancing loan—the total period of months over which the loan is to be repaid—does not exceed the terms of the previous loan.

Under this new paragraph, eligibility for such refinancing would be extended, in cases where a veteran who would have been eligible is deceased, to the veteran's surviving spouse if such spouse was a co-obligor under the previous loan. For the purposes of this provision, such a surviving spouse would be considered to be a veteran with regard to other applicable chapter 37 provisions. Reasonable closing costs, including discounts would be those authorized by the VA under regulations to be prescribed.

New paragraph (5): Would clarify that the veteran's loan-guaranty entitlement used for such previous loan would be deemed available for the refinancing loan. Thus, this new paragraph would assure that the refinancing loan would have no effect on the veteran's unused entitlement, including any additional entitlement provided for under this section of the Committee bill.

Clause (2) of subsection (d) of section 401 would amend subsection (c) of present section 1819 to increase, from $17,500 to $20,000, the maximum loan guaranty entitlement available to a veteran for the purchase of a mobile home or lot or mobile home-lot combination and to make conforming adjustments relating to determinations of entitlement.

Would amend present section 3301 of title 38, relating to the confidential nature of claims files, to authorize the VA to make disclosures necessary for the operation of VA home-loan programs under certain specified circumstances.

Clause (1) of section 402 would redesignate subsection (c) of present section 3301 as paragraph (1) and add a new paragraph (2), as follows:

New paragraph (2): Would specify that any appraisal report or certificate of reasonable value that is submitted to or prepared by the VA in connection with any chapter 37 home loan program shall be made available to any person who makes a request for such a report or certificate. Appraisal reports generally are prepared by appraisers who are either VA employees or under contract to the VA, and certificates of reasonable value are prepared by the VA on the basis of appraisal reports. Such documents are useful to persons involved in real estate transactions as a guide to market values.

Clause (2) of section 402 would redesignate subsection (g) of present section 3301 as subsection (h) and insert a new subsection (g), as follows:

Paragraph (1) of new subsection (g): Would authorize the VA to release the name and address of an individual, together with other identifying information, to any person in a category of persons that is, in regulations to be prescribed, described and specified as a category of persons to whom such information may be released. Such disclosures would be permitted only if necessary for the purpose of—

(1) determining the creditworthiness, credit capacity income, and financial resources of an applicant for chapter 37 benefits or an individual seeking to purchase VA-acquired property;

(2) verifying information submitted by a lender concerning a chapter 37 applicant, either prior to VA approval of an application or, in connection with a VA audit of a lender's prior submissions, thereafter;

(3) offering for sale or other disposition property acquired under chapter 37 by the VA; or

(4) providing assistance to any chapter 37 applicant or administering chapter 37 benefits, if the VA promptly records the fact of the disclosure in the records pertaining to the individual identified in the release of information.

Under this new paragraph, the VA would be required to publish the required regulations (specifying the categories of persons to whom releases would be authorized) in the Federal Register at least 30 days prior to their becoming effective.

Paragraph (2) of new subsection (g): Would specify that the Federal Privacy Act (section 552a of title 5, United States Code) would not be applied to any consumer reporting agency or an employee thereof involved in a contract entered into for any of the purposes specified in new paragraph (1) of this new subsection (g).

Paragraph (3) of new subsection (g): Would define, for purposes of this new subsection (g) of section 3301, the term "consumer reporting agency" to have the meaning provided in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and also to mean any person who regularly, on a for-profit or cooperative not-for-profit basis, is involved full time or part time in (1) obtaining credit information or other consumer information from consumer reporting agencies (as defined above) for the purpose of furnishing such information to third parties, or (2) serving as a marketing agent to enable third parties to obtain such information.

Clause (3) of section 402 would amend subsection (h) of present section 3301 (as proposed to be redesignated by clause (2) of this section of the Committee bill) to make a technical conforming amendment to such subsection.

Title IV—Cost: The enactment of this title is not expected to result in any significant cost.

TITLE V—MISCELLANEOUS AMENDMENTS

Section 501

Would amend subchapter I of chapter 57 of title 38, United States Code, relating to Veterans' Administration records, to add a new section 3305, entitled "Confidentiality of medical quality assurance documents", as follows:

New section 3305: Would create a specific statutory scheme that would significantly restrict the disclosure of VA records and documents associated with the agency's medical quality assurance program by making such records and documents confidential and privileged and limiting disclosure to certain specified situations and recipients.

The new section would consist of subsections (a) through (d) as follows:

Subsection (a): Would provide that all records and documents that are created by the VA as part of a systematic VA medical quality assurance program shall be confidential and privileged and shall not be disclosed except as otherwise provided for in this new section.

Subsection (b): Would set forth the specific instances in which the restricted records and documents, with such deletions of names and identifiers as would be necessary to avoid unwarranted invasions of personal privacy, would be disclosed, as follows:

Clause (1) of subsection (b): Would provide for disclosure to a committee of either House of Congress or a joint committee if the record or document pertains to a matter that is within the committee's or joint committee's jurisdiction.

Clause (2) of subsection (b): Would provide for disclosure to a Federal agency or private organization for licensing or accreditation functions, such as to the Joint Commission on Accreditation of Hospitals, or as required for statutorily mandated monitoring of VA health-care facilities, as, for example, in conjunction with VA participation in renal disease networks.

Clause (3) of subsection (b): Would provide for disclosure to a Federal executive agency or a provider of health-care services, such as community or university hospital, as needed in conjunction with a cooperative health-care program involving such agency or provider. For example, under this clause, the VA would make appropriate reports available to an affiliated medical school as necessary in conjunction with such entity's evaluation of the desirability of expanding its resource sharing arrangements with a VA medical center.

Clause (4) of subsection (b): Would provide for disclosure to a governmental law enforcement agency or instrumentality upon a written request by a qualified representative of such agency or instrumentality for a record or document for a purpose authorized by law, such as providing a report on drug dispensing activity, at a facility to the Drug Enforcement Administration for that agency's use as part of an investigation into fraudulent acquisition of prescription drugs.

Clause (5) of subsection (b): Would provide for disclosure to medical personnel in the case of an emergency affecting any person's health or safety.

Subsection (b): Would further provide a bar to redisclosure by any person to whom a record or document was disclosed except for a purpose authorized in the subsection.

Subsection (c): Would define the phrase "medical quality assurance program" to mean all VA systematic health care review activities, designated pursuant to regulations and carried out by or for the VA, that are intended to improve the quality of patient medical care and treatment, such as routine patient care audits, or to improve the overall utilization of health-care resources in VA health-care facilities, such as routine utilization review actions.

Subsection (d): Would provide criminal penalties of not more than $5,000 in the case of a first offense and of not more than $20,000 in the case of any subsequent offense for knowing and willful disclosure of any record or document described in subsection (a) of the new section except for a purpose as provided in subsection (b) of the new section. These penalties are generally consistent with the penalties prescribed in present section 3301(g) for prohibited disclosures of the names and addresses of present and former members of the Armed Forces.

Section 501—Cost: The enactment of this section is not expected to result in any significant cost.

Section 502

Would amend Public Law 89-345, which authorized the conveyance of a 27-acre tract of VA land to the city of Cheyenne, Wyoming, subject to a park and recreational use restriction, to add a new section 3, as follows:

New section 3: Would authorize the VA to convey to the city of Cheyenne, Wyoming, free and clear of an existing park and recreational use restriction but subject to a roadway use restriction, approximately 4 acres of the 27-acre tract previously conveyed to that city pursuant to Public Law 89–345. The new section would also require the city to bear the expense of any survey needed to determine the exact location and legal description of the 4-acre tract and provide for the deed of conveyance to (1) include provisions imposing a restriction limiting the use to roadway purposes in a manner that will not interfere with the care and treatment of patients at the Veterans' Administration Center, Cheyenne, Wyoming, (2) contain such terms, conditions, easements, and the like which the Administrator determines necessary to protect the interest of the United States, and (3) provide for the reversion of title to the United States, with improvements on the land vesting in the United States without payment of compensation, if the Administrator, or the Administrator's designee, determines that the city has violated any provision of the deed or alienates or attempts to alienate all or any part of the 4-acre tract.

Section 502—Cost: The enactment of this section is not expected to result in any significant cost.

Section 503

Would amend present section 1622 of title 38, relating to contributions to educational assistance accounts and the provision of matching funds in connection with the Post-Vietnam Era Veterans' Educational Assistance program (VEAP) conducted under chapter 32, in order to enhance the attractiveness of participation in the program by making certain modifications in the way in which contributions may be made to a servicemember's VEAP account.

Clause (1) of section 503 would amend subsection (a) of present section 1622 to reduce the minimum monthly contribution required to be made by a servicemember to a VEAP account from $50 to $25 and to increase the maximum monthly contribution from $75 to $100. The purpose of this amendment is to provide more flexibility to the servicemember in terms of designating the amount to be deducted monthly from his or her pay, thereby lessening the financial burden for those unable to make a $50 monthly contribution and permitting those who can make larger contributions to do so.

Clause (2) of section 503 would amend subsection (c) of present section 1622 to permit the Secretary of Defense to make contributions to a servicemember's VEAP account in lieu of, or in order to reduce, the servicemember's monthly contribution. Under current law, the Secretary of Defense may make contributions to a servicemember's VEAP account in addition to the contributions made by the servicemember, but no authority exists for the Secretary to make all or any part of the initial contribution. In this regard, the Committee notes that the Senate has recently passed provisions in H.R. 6974, the proposed "Department of Defense Authorization Act, 1981", which would authorize the appropriation of $45 million for an educational assistance pilot program. In one test authorized by the provisions of H.R. 6974 as passed the Senate, the Secretary of Defense would be permitted to make contributions to the VEAP accounts of certain servicemembers who possess critical skills which are in short supply in the military. The purpose of this amendment is to provide specific legislative authority for such contributions to be made on behalf of the servicemember in order to permit a more adequate test of this approach as a recruitment device.

Clause (3) of section 503 would amend present section 1622 to add a new subsection (d), as follows:

New subsection (d): Would provide that, subject to the maximum total contribution of $2,700 prescribed by present section 1622 (a), a servicemember may make a lump-sum contribution to his or her VEAP account. Under current law, a servicemember's contributions to his or her account must be made by monthly deductions from his or her pay. The purpose of this amendment is to permit a servicemember to "prepay" his or her VEAP contribution by depositing a lump-sum, such as an enlistment or reenlistment bonus, in the account, without regard to the requirement for monthly contributions. For the purpose of computing the number of months of entitlement—which, pursuant to present section 1631(a)(2), is based on the number of monthly contributions made by the servicemember—a lump-sum contribution would be considered to have been made in monthly contributions of $75, unless specified otherwise by the servicemember pursuant to joint VA/Department of Defense regulations.

Section 503—Cost: Enactment of the provisions of section 503 would result in fiscal year 1981 outlay savings of $1.1 million.

Section 504

Would amend section 1662, relating to time education under chapter 34, the so-called "current GI Bill".

Clause (1) of section 504 would amend subsection (a) of present section 1662, relating to the delimiting period for completion of a program of education.

Subsection (A) of clause (1) of section 504 would amend paragraph (1) of section 1662 (a) to limit expressly to veterans who are discharged or released from active duty before January 1, 1980, the provision specifying that eligible veterans generally have no more than 10 years after discharge or release in which to use their entitlement to benefits under chapter 34. This amendment would not reduce the period of time in which any veteran has to use entitlement under this chapter, since, under current law, veterans who are discharged from active duty before January 1, 1980, would not be eligible for educational assistance under the current GI Bill after the December 31, 1989, termination date provided in present section 1662 (e).

Subclause (B) of clause (1) of section 504 would amend present section 1662(a) by adding a new paragraph (3) as follows:

New paragraph (3): Would provide that no educational assistance would be available under chapter 34 to an eligible veteran discharged or released from active duty on or after January 1, 1980, beyond (1) the expiration of the 5-year period following the veteran's initiation of a program of education under chapter 34 following discharge or release from active duty if such initiation occurs within 2 years of such discharge or release, or (2) December 31, 1989, whichever is the later. The purpose of this provision is to provide relief for those persons who are now on active duty in the military and who have eligibility for the current GI Bill—generally, those who entered the service prior to January 1, 1977—who will lose the opportunity to use their GI Bill benefits December 31, 1989, as a result of the December 31, 1989, termination date established by present section 1662(a) (which is proposed to be repealed by clause (2) of this section of the Committee bill).

The Committee notes that this provision would not affect veterans discharged on or before December 31, 1982, since their cut-off date for GI Bill benefits would remain December 31, 1989. However, veterans discharged after December 31, 1989, would be assured a 5-year period in which to utilize their benefits if they take advantage of the opportunity to begin to pursue their educational goals within 2 years after discharge from active duty.

Clause (2) of section 504 would delete subsection (e) of present section 1662, relating to the December 31, 1989, termination date for the current GI Bill, and thus repeal that termination date.

Section 504—Cost: Enactment of the provisions of section 504 is not expected to result in any significant cost.

Section 505

Would amend present chapter 19 of title 38, relating to insurance, to provide for a limited expansion of the categories of persons to whom assignments of National Service Life Insurance (NSLI) and United States Government life insurance (USGLI) policy proceeds may be made.

Subsection (a) of section 505 would amend present section 718, relating to assignments of insurance policy proceeds by beneficiaries of NSLI policies, to add a new subsection (c), as follows:

New subsection (c): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a NSLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute betwen them. Under present section 718, a designated beneficiary or other person to whom NSLI proceeds are payable (other than under present section 722(b)) may assign all or any portion of the proceeds only to the insured veteran's surviving spouse, child, parent, grandparent, brother, or sister, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment.

An assignment is authorized under this new subsection only with respect to NSLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, would be required to join in any assignment by a person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated. This new subsection does not apply to payments of insurance granted under present section 722 (b) of title 38, to statutorily designated survivors of certain mentally incompetent veterans.

Subsection (b) of section 505 would amend present section 753, relating to assignments of insurance policy proceeds by beneficiaries of USGLI policies, to add to new subsection (b) as follows:

New subsection (b): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a USGLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute. Under present section 753, a person to whom USGLI proceeds are payable may assign all or any portion of the proceeds only to the insured veteran's spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law or sister-in-law, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment. An assignment is authorized under this new subsection only with respect to USGLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum the designated contingent beneficiary, if any, must join in any assignment by the person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated.

Section 505—Cost: The enactment of this section is not expected to result in any significant cost.

Section 506

Would amend section 5021(a) of title 38, relating to the VA's revolving supply fund.

Clause (1) of section 506 would amend present section 5021(a)(2) to provide the revolving supply fund with express authority to be reimbursed for supplies and equipment on the basis of the cost of such items at the time of recent significant purchases. Under the VA's interpretation of current law, the fund is reimbursed only for the price that the fund paid for the particular item involved (plus certain indirect costs) and, as a result of inflation, such reimbursements may not be adequate to enable the fund to purchase replacement items. Thus, by authorizing the costs of recent significant purchases to be taken into account, this provision would help to assure that the fund is self-sustaining.

Clause (2) of section 506 would amend the last sentence of present section 5021(a) to require the Administrator to return to the Treasury of the United States as miscellaneous receipts at the end of each fiscal year only such amounts from the revolving supply fund as the Administrator determines to be in excess of the requirements necessary for the maintenance of an adequate inventory and effective financial management of the fund. Under current law, the Adminstrator must return any net income of the fund after making provision for prior for the self-sustaining operation of the fund. Thus, this provision also would help to assure the self-sustaining operation of the fund.

Section 506—Cost: The enactment of this section is not expected to result in any significant cost.

TITLE VI—EFFECTIVE DATES

Section 601 would provide for effective dates for the provisions of the Committee bill.

Subsection (a) of section 601 would provide that the provisions of the Committee bill would be effective on the date of enactment except as provided in subsections (b) and (c) of this section.

Subsection (b) of section 601 would provide that the effective date of titles I, II, and III and section 401 (b)(2), (c), and (d)(2) would be October 1, 1980.

Subsection (c) of section 601 would provide that section 506 would be effective retroactively to October 1, 1979.

Mr. STAFFORD. Mr. President, I rise in support of S. 2649, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

Each year our Committee on Veterans' Affairs gives careful consideration to the service-connected disability compensation program to be sure it provides reasonable and adequate compensation for disabled veterans and their families. It has been our responsibility to periodically review the compensation program and provide cost-of-living increases to keep pace with inflation.

I consider this bill providing cost-of-living increases for the service-connected disability compensation program as one of the most important responsibilities of our Veterans' Affairs Committee. This year it is especially important because of the large and significant rise in the cost of living. Our committee considers this program as the highest program priority of the Veterans' Affairs Committee.

We are proposing in S. 2649, a cost-of-living increase of 14.3 percent to become effective October 1, which incidentally is the same percentage of increase provided to social security and VA pensioners effective June 1, 1980, and represents the actual increase that has occurred.

The basic purpose of the disability compensation program has been to provide relief for the impaired earning capacity of veterans disabled as the result of their military service. The amount payable varies according to the degree of disability, which represents to the extent practicable the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations. Last year Congress provided for a 9.9 percentage of increase; the year before the percentage of increase was 7.3 percent; the year before that, 6.6 percent, and thus it has been—dependent upon what Congress considered to be the proper percentage of increase.

S. 2649 also provides for a 14.3-percent increase in the dependency and indemnity compensation (DIC) program. This compensation is paid to surviving spouses at rates determined by the pay grade—service rank—of deceased veterans whose deaths resulted from service connection. DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between 18 and 23 enrolled in school, and to certain needy parents—of servicemen or veterans who died on or after January 1, 1957, under circumstances prescribed by law.

The provisions of S. 2649 are of great importance to the 2.3 million veterans disabled during their period of military service and receiving service-connected disability compensation. The provisions of S. 2649, providing a 14.3-percent increase in the rates of dependency and indemnity compensation (DIC), is very important, also, for the more than 360,000 surviving spouses and children of those who gave their lives for their country. It is of great importance that we in the Congress accept our responsibility in providing adequate cost-of-living increases to service-connected veterans, their widows and survivors and in keeping faith with those who made great sacrifice in behalf of our great Nation.

It should be reported during this discussion that the costs for the committee's recommended 14.3-percent increase are within the budget resolution and within our committee's report filed on June 30, 1980. I urge that the Senate approve the much-needed cost-of-living increase as unanimously recommended by the members of our Senate Veterans' Affairs Committee.

The bill now before us would increase the VA loan guaranty maximum, from $25,000 to $30,000, in the case of conventional homes and condominium apartments, and from $17,500 to $20,000 in the case of mobile homes. Under existing law, the guarantee is limited to 60 percent of the loan amount or $25,000, whichever is the lesser, relating to conventionally built homes and condominium apartments, and $17,500, whichever is the lesser for mobile homes.

Housing prices, as all of us know, have risen substantially since the Congress in 1978 last increased the VA loan guaranty maximum. It is time and certainly appropriate that the loan guaranty maximum be again increased, consequently our committee urges support of the reasonable increases provided in S. 2649.

The VA maximum interest rate for conventional homes rose from 10.5 percent in October 1979, to 14 percent in April 1980. Since April the maximum interest rate has declined and is now 11.5 percent. It is expected to decline further. Veterans who financed their homes during the period of extremely high interest rates are paying a substantial penalty, which will continue through the term of their loan. Under current law a veteran is precluded from using the VA home loan guaranty entitlement to refinance his or her VA-guaranteed loan in order to take advantage of lower interest rates that later were available.

S. 2649 contains authorization for the VA to guarantee a refinancing loan up to the same amount of guaranty provided for the existing loan in order to obtain a lower interest rate. The amount of the loan could not exceed the amount of the remaining balance of the existing loan together with reasonable closing costs, and the term of the existing loan could not be extended. This provision would apply to loans guaranteed for conventionally built houses and condominium apartments and for mobile homes. It is estimated that approximately 50,000 veterans would be eligible for the refinancing provision.

This bill contains a section to clarify the Veterans' Administration authority to make certain disclosures of veterans' names and addresses and relevant information as needed for the effective and efficient operation of the VA home loan programs. This provision is needed to assist the VA in its ability to collect overdue GI bill debts. Such debts now are in the hundreds of millions of dollars. The VA should be given such statutory assistance as required to effectuate collection of debts owed to the Federal Government.

This bill also provides for limited specially adapted housing grants to those service-connected disabled veterans who are totally blind and to certain other very severely disabled veterans who have lost or lost the use of both upper extremities. Such grants, up to a maximum of $5,000 are provided to make adaptations to their homes to enhance their independence and to increase safety in their homes.

On June 19, 1980, the Senate Committee on Veterans' Affairs held oversight hearings on the role of educational incentives in the All-Volunteer Force. This hearing and other information available to the committee has resulted in our committee's concern of the reports of declining quality and quantity of recruits in the military and the impact that educational incentives may have in this regard. It should be noted that a number of bills have been introduced in the Congress to establish new programs of educational assistance for the All-Volunteer Force.

The post-Vietnam era veterans' educational assistance program—known as VEAP, successor to the present GI bill, was designed, at least in part, to provide the armed services with an educational incentive program to promote recruitment into the All-Volunteer Force.

The VEAP authorizing legislation expires at the end of 1981. The committee believes that there are certain modifications to this program needed at this time to assist in further consideration of VEAP, its effectiveness, and its recruitment and retention possibilities. The legislative changes in the legislation as contained in S. 2649 have been recommended by the Department of Defense and are designed to enhance the attractiveness of participation in this contributory-matching educational assistance program and to assist in recruitment and retention of high caliber men and women in our Nation's All-Volunteer Armed Forces.

The modifications include lowering the minimum and raising the maximum monthly contributions, with the Secretary of Defense having authority to make contributions on behalf of servicemembers and permitting servicemembers to make lump-sum contributions.

Under the existing GI bill, no educational assistance benefits may be paid after December 31, 1989. This date of termination was added in 1976 to permit those who entered the service prior to December 31, 1976, the general termination date for entry into the service for GI bill benefits eligibility to complete their initial enlistments and then have a 10-year period to use their GI bill benefits.

Our information indicates that many now on active duty may leave the service to utilize their GI bill benefits prior to the 1989 expiration date. This would be unfortunate. We are proposing in S. 2649 to delete the December 31, 1989, termination date of the current GI bill and provide that a veteran discharged from active duty on or after January 1, 1980, may use his or her entitlement to GI bill educational assistance only until the expiration of 5 years after he or she begins a program of education following discharge, if he or she begins a program of education within 2 years of discharge, or December 31, 1989, whichever occurs later.

Mr. President, S. 2649 will be of tremendous benefit to disabled wartime veterans and their families. Once again we are fulfilling our obligation to those who have served our Nation so well in time of war and conflict. Because of provisions other than disability compensation benefits, S. 2649 will be beneficial to all veterans and to the Nation. I commend to you the changes and improvements we are now recommending and urge your support of S. 2649.

Mr. THURMOND. Mr. President, I rise in support of S. 2649, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980.

The major feature of this measure is a 14.3-percent cost-of-living increase for recipients of VA compensation, and a similar increase for recipients of dependency and indemnity compensation benefits.

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program ranks as the highest priority program of the Veterans' Affairs Committee. The committee periodically reviews the service-connected disability compensation program and the DIC program, which is paid to certain surviving spouses and children, with a view toward assuring that these benefits keep pace with inflation.

The Veterans' Administration disability compensation program currently provides benefits for approximately 2,271,000 veterans who have service-connected disabilities. This number is composed of disabled veterans with the following period of service: 31,900 World War I veterans; 1,206,300 World War II veterans; 236,000 Korean conflict veterans; and 546,000 Vietnam-era veterans.

S. 2649, as reported, contains features which affect the VA home loan guaranty program. First, a housing grant of up to $5,000 will be available to the veteran who has lost the use of both upper extremities, and also this grant would be available to the totally blinded veteran. There are approximately 3,000 veterans eligible for this housing grant which would be used to modify the veteran's home in view of the veteran's disability.

Second, S. 2649 would grant the VA authority to refinance home loans made under the loan guaranty program during the recent period of high interest rates. The amount of the refinanced loan could not exceed the initial loan nor could the term of years of the initial loan be extended.

Third, the maximum amount of the home loan guaranty is increased from $25,000 to $30,000 and from $17,500 to $20,000 for mobile homes.

Mr. President, in the area of educational benefits, S. 2649 amends the existing program within chapter 32 of title 38 United States Code. The current program is contributory on the part of the servicemember with the VA matching the servicemember's portion.

This program has not worked well in the past 4 years; in fact, only 25 percent of the servicemembers have participated and a much smaller number have actually utilized these benefits after service. The provisions of S. 2649 would expand the range of contributions, grant authority to the Secretary of Defense to make the individual's contribution, allow a lump-sum contribution, and modify the 1989 termination date for certain chapter 34 recipients. These measures are similar to S. 2977, a bill I introduced and I am hopeful that with the adoption of this bill, the various armed services will be able to recruit and retain higher quality personnel.

Mr. President, I believe S. 2649 is a meritorious bill and I urge my colleagues to support this measure.

● Mr. SIMPSON. Mr. President, the Veterans' Disability Compensation and Housing Benefits Amendments of 1930 comes before the Senate in S. 2649. I believe this measure to be a just and reasonable bill which benefits the veterans of this country in this period of high inflation and weaker buying power of the U.S. dollar. Additional compensation is needed by these veterans and it should be afforded by this body.

The provisions of this bill will provide greater financial assistance to disabled veterans, special housing grants to severely disabled veterans, increased survivor's compensation, a slightly revised home loan program, and various modifications to the United States Code for insurance, disclosure of documents, and other purposes.

Specifically, Mr. President, titles I and II of S. 2649 would provide for a 14.3 percent cost-of-living increase in the service-connected disability compensation and dependency and indemnity compensation (DIC) benefit rates. This percentage increase is the same as that afforded to social security recipients and eligible VA pensioners under the new pension program that came into being during the last Congress through the enactment of Public Law 95–588.

Under title I of the bill, the disability compensation increase of 14.3 percent would apply to the monthly rates of disability compensation as specified under section 314 of title 38 United States Code. This would include all disabled veterans except for those under the "K" rate. However, higher statutory awards would be granted to these veterans under the "K" rate, along with those of over 30 percent disability, and for clothing allowances. The total number of disabled veterans who would receive this rate increase is 2.3 million.

The dependents' allowance increase would be accorded to those veterans whose disabilities are rated at 30 percent or more, for the purpose of providing additional financial assistance for their dependents. This increase would also be 14.3 percent. There were, in 1979, over 1 million of these dependents.

Title II also provides for a cost-of-living increase of 14.3 percent in dependency and indemnity compensation rates for the surviving spouses and children of 100 percent disabled veterans. This is the same rate of increase afforded for service-connected disabled veterans under title I of the bill. At present, there are approximately 360,000 survivors receiving DIC benefits. The total cost of these rate increases, according to the Congressional Budget Office, is estimated at $1.078 billion for fiscal year 1981.

Title III of S. 2649 would establish a program of limited, specially adapted housing grants to veterans who are totally blind or have lost the use of both hands as a result of a service-connected disability. These veterans would receive grants of up to $5,000 from the VA for home improvements or alterations where necessary.

These modifications in their homes may include, for example, railings, sliding doors, various braille devices on appliances, and the elimination of protruding cabinet fixtures. In addition these severely disabled veterans would not be eligible for the $50,000 maximum specially adapted housing grant program under chapter 21 of title 38 except under certain circumstances. The money might well be used for widening the halls of a house for wheelchairs and various similar alterations. Veterans receiving such grants would also be eligible for mortgage protection life insurance (MPLI), up to a maximum face value of $40,000. The expected cost of this provision is $1 million in fiscal year 1981.

Title IV of this bill is a provision that would assist any veteran who used his or her VA home-loan guaranty entitlement to purchase a conventional home, condominium apartment, or mobile home during the high interest rate crunch this past winter and spring. It would enable him or her to refinance the high interest rate loan with a new VA home loan guaranty.

During the first 3 months of the year, VA interest rates were at all-time highs. They rose to 14 percent and have since declined to 11.5 percent. Mobile home loans rose to 17.5 percent and have also declined, but only to 14.5 percent.

Today those veterans are, in effect, paying a substantial penalty that will continue throughout the term of their loans. There were more than 26,500 veterans who purchased conventional homes at these high interest rates and more than 2,000 who purchased mobile homes during this same time.

Under this provision, the amount of the loan could not exceed the amount of the remaining balance of the existing loan together with reasonable closing costs, including discount points charged by the lender, in accordance with VA prescribed regulations, and the term of the existing loan could not be extended. This provision would entail no additional cost but would enable such veterans to reduce their monthly payments, and thus reduce the chance of defaulting on the loans.

This title would also raise from $25,000 to $30,000, the maximum amount of the VA loan guaranty entitlement for the purchase of a conventional home or condominium, and would increase from $17,500 to $20,000 the maximum guaranty for mobile homes. These increases with regard to the VA loan guaranty program for these homes are consistent with efforts underway to assure that the Federal Housing Authority program is responsive to housing home prices.

This provision would not result in any significant cost to the Federal Government since the lenders are generally willing to make VA loans as long as the average percentage of guaranty—that is, the proportion of the face amount of the loan covered by the loan guaranty—affords sufficient protection in the event of the veteran's default. The default is more unlikely because of the preceding provision that would decrease the interest rates.

Another provision under title IV of this bill would clarify the VA's authority to make certain disclosure of veterans' names and addresses and other relevant information pertinent to the loan guarantee program. The VA, at present, lacks the statutory authority to make such disclosures, and would, under this provision, now be able to disclose certain limited identification pertaining to the debtors but only under certain circumstances. There would be no costs resulting from the enactment of this provision, which would be effective upon enactment.

Title V of this bill pertains to the various amendments included in this measure. The first section pertains to the confidentiality of medical quality assurance documents under the health services review organization (HSRO) program of the VA. The second refers to the removal of previous revisionary deed restrictions on 4 acres of land which will now be used for street improvements in the city of Cheyenne, Wyo.

The third calls for modification of post-Vietnam-era veterans' educational assistance (VEAP) program by lowering the minimum contribution to a VEAP account and raising the maximum that is allowed at present. Another section of title V calls for the modification of the 1989 termination date of the current GI bill. The fifth section calls for the expansion of the class of categorized persons to whom life insurance proceeds may be assigned under the National Service Life Insurance (NSLI) policy or the U.S. Government Life Insurance (USGLI) policy assignments.

The sixth provision of this title modifies the operation of the revolving supply fund for reimbursement of supplies and equipment at fair market value in the VA health centers, and provides for the retention of income from the operations of the fund in such amounts as the Administrator of the VA may deem necessary.

The final provision calls for a legislative study of the disability compensation and health care needs of former POW's based on the recommendations as set forth by the VA in its report mandated by Public Law 95-479. There would be no significant costs occasioned by title V of this bill.

Mr. President, I believe this is a very fair and just bill that is critically needed by our Nation's veterans and their families. Inflation and the declining buying power of the dollar calls for the swift remedial action to be taken by the Senate in aiding veterans disabled due to wartime service. I trust my fellow colleagues will agree with the provision of S. 2649 and will act favorably on this bill.●

Mr. ROBERT C. BYRD. Mr. President, is there a comparable bill, H.R. 7511, at the desk?

The ACTING PRESIDENT pro tempore. There is a comparable House bill at the desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 7511, that it be considered as having been read the first and second time, that the Senate proceed to its immediate consideration, that all after the enacting clause be stricken and that the language of S. 2649, as amended, be inserted in lieu thereof, that the House bill then be passed, the motion to reconsider laid on the table, and that S. 2649 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7511) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 7511) was read the third time, and passed.

The title was amended so as to read:

A bill to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited specially adapted housing grants for certain severely disabled veterans, to authorize Veterans' Administration loan guaranties for certain refinancing loans made to veterans, to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical-care quality assurance records; and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, on the House bill, the motion to reconsider has been laid on the table, has it not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

JOE L. FRAZIER

The Senate proceeded to consider the bill (S. 453) for the relief of Joe L. Frazier, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 6, strike "$3,503.47" and insert "$1,857.70";

On page 1, line 8, strike ", and for expenses incurred for temporary quarters while transferring from Nairobi, Kenya, to Elko, Nevada, in 1975";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joe L. Frazier of Elko, Nevada, the sum of $1,857.70 as reimbursement for expenses incurred by the said Mr. Frazier in transporting household goods to Nairobi, Kenya, from New Meadows, Idaho, in 1973. All such expenses were incurred while the said Mr. Frazier was an employee of the United States Forest Service and was on temporary assignment to the United States Agency for International Development.

SEC. 2. No part of the amount appropriated by this Act in excess of 15 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Any violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments were agreed to, en bloc.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

REGULATORY FLEXIBILITY ACT

The Senate proceeded to consider the bill (S. 299) to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) in numerous instances compliance with Federal regulatory and reporting requirements imposes inequitable demands and burdens on individuals, small businesses, small organizations, and small governmental jurisdictions;

(2) regulatory effects to protect the health, safety, and economic welfare of the Nation have in many instances imposed unnecessary and burdensome legal, accounting, and consulting costs upon individuals, small businesses, small organizations, and small governmental jurisdictions and thereby are adversely affecting competition in the marketplace;

(3) the scope and volume of rules or regulations have created high entry barriers in many industries and have discouraged potential entrepreneurs from introducing beneficial products and processes;

(4) the practice of treating all regulated individuals, businesses, organizations, and governmental jurisdictions as equivalent has led to inefficient use of regulatory agency resources, enormous enforcement problems, and, in some cases, actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(5) in many instances reasonable alternative rules or regulations could be adopted to minimize adverse economic effects on individuals, businesses, organizations, and governmental jurisdictions subject to regulation without significant loss of regulatory efficiency;

(6) Government information collection has not adequately weighed the privacy rights of individuals and enterprises against the need of the Government for information because the design of the regulatory process has encouraged regulators to treat information as a free goods; and

(7) deep public dissatisfaction with the regulatory process has stemmed in large part from a public perception that burdensome rules or regulations fail to correct key national problems.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that regulatory and informational requirements fit the scale of the individuals, businesses, organizations, and governmental jurisdictions subject to a rule and that fewer and simpler requirements be made of individuals, small organizations, small businesses, and small governmental jurisdictions. To achieve this principle, agencies are encouraged to issue rules or regulations which apply differently to different segments of the regulated population and are required to solicit and consider alternative regulatory proposals from the public prior to the adoption of final rules.

AGENCY RULEMAKING REQUIREMENTS

SEC. 3. (a) Section 553(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon; and

(3) by adding immediately after paragraph (3) the following:

"(4) a succinct statement of the need for and objectives of the rule and of the statutory authority on which the rule is based;

"(5) a description and estimated number of the individuals, businesses, organizations, and governmental jurisdictions to which the proposed rule will apply;

"(6) an identification, to the extent practicable, of all relevant rules which the proposed rule may duplicate, overlap, or affect;

"(7) a statement that the agency seeks and shall consider alternative proposals to the proposed rule which would accomplish the goals and purposes of the proposed rule while substantially reducing the burdensome economic impact of the rule on individuals, small businesses, small organizations, and small governmental jurisdictions affected by the rule,

"(8) an analysis of the proposed rule describing whether the rule will have a significant economic impact on individuals, small businesses, small organizations, and small governmental jurisdictions, including a description of reasonable alternatives to the proposed rule which accomplish the stated objectives of the proposed rule in a manner consistent with the goals and objectives of applicable statutes and which minimize the burdensome effect of the proposed rule on such individuals, businesses, organizations, and governmental jurisdictions, including alternatives consistent with the goals and objectives of applicable statutes such as—

"(A) the establishment of differing compliance or reporting requirements that take into account the amount of resources available to individuals, businesses, organizations, and governmental jurisdictions;

"(B) an exemption from coverage of the proposed rule, or any part thereof, for such individuals, businesses, organizations, and governmental jurisdictions;

"(C) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed rule for such individuals, businesses, organizations, and governmental jurisdictions; or

"(D) the use of performance rather than design standards or any other reasonable means to reduce, in a manner consistent with the goals and objectives of applicable statutes, the burdensome effect of the rule on such individuals, businesses, organizations, and governmental jurisdictions; and

"(9) with regard to any reporting or recordkeeping requirement which the agency anticipates requiring of ten or more members of the public pursuant to the proposed rule—

"(A) a statement of the purpose of the requirement and a description of its form, its length, and the type of professional skills necessary for preparation of the report or record;

"(B) an estimate of the classes of persons who will be subject to the requirement and, to the extent practicable, the number of persons who would be required to submit or maintain the reports or records; and

"(C) an estimate of the time required to complete such reports or records.".

(b) Section 553(c) of such title is amended to read as follows:

"(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in rulemaking through submission of alternative proposals, written data, views, or arguments with or without opportunity for oral presentation. After consideration of all relevant matter presented, the agency shall incorporate in the rule adopted a concise general statement of its basis and purpose. In addition, the agency shall publish a description of any alternative proposals to the proposed rule which were considered and a statement of the reasons for adopting the final rule, and a statement of the reasons why each one of the alternative proposals which would have had a less burdensome economic impact on individuals, small businesses, small organizations, or small governmental jurisdictions were rejected by the agency. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.".

(c) Section 553 of such title is amended by adding at the end thereof the following new subsection:

"(f) An agency is not required to prepare the analysis required by clause (8) of subsection (b) of this section if the head of the agency (1) certifies that the rule will not, if promulgated, have any significant economic effect on a substantial number of individuals, small businesses, small organizations or small governmental jurisdictions and (2) incorporates such certification in the general statement of basis and purpose for the rule adopted under subsection (c) of this section.

"(g) For the purposes of this section—

"(1) the term 'individual' does not include any individual who is affected by a rule primarily in his capacity as an officer or employee of a business, organization, or governmental jurisdiction;

"(2) the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act, unless an agency, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, establishes by rule in accordance with this section a definition of such term which is appropriate to the activities of the agency or any rule of the agency;

"(3) the term 'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes by rule in accordance with this section a definition of such term which is appropriate to the activities of the agency or any rule of the agency;

"(4) the term 'small governmental jurisdiction' means governments of cities, counties, towns, villages, school districts, or special assessment districts, with a population of less than 100,000, unless an agency establishes by rule in accordance with this section a definition of such term which is appropriate to the activities of the agency or any rule of the agency and which is based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction.".

DEFINITIONS

SEC. 4. Section 551(4) of title 5, United States Code, is amended by inserting "recordkeeping or reporting requirements estimated to apply to ten or more persons in any calendar year, and" immediately after "includes".

REVIEW OF REGULATIONS

SEC. 5. (a) Within one hundred and eighty days after the date of enactment of this Act, each agency shall publish a plan for the review of the rules and regulations of that agency. The purpose of such review shall be to determine whether the rules and regulations of the agency are achieving, in an efficient and equitable manner, the goals of the statutes under which such rules and regulations were promulgated. Each plan for the review of agency rules and regulations shall include a statement of the criteria the agency will employ to select rules and regulations for review under this section. Each agency shall periodically review its rules and regulations in accordance with the schedule and criteria set forth in its published plan.

(b) In selecting for review and evaluating rules and regulations, the agency shall consider such factors as—

(1) the continued need for the rule or regulation;

(2) the type and number of complaints or suggestions received concerning the rule or regulation;

(3) the burdens imposed on persons directly or indirectly affected by the rule or regulation, especially the burdens placed on individuals, small businesses, small organizations, and small governmental jurisdictions;

(4) the need to simplify or clarify the language of the rule or regulation;

(5) the need to eliminate overlapping and duplicative rules or regulations;

(6) the need to resolve conflicts between the rules and regulations of the agency and the rules, regulations, or laws administered by other agencies; and

(7) the length of time since the rule or regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule or regulation.

(c) Each year, each agency shall publish in the Federal Register a list of rules and regulations which it expects to issue during the succeeding twelve months and a list of rules or regulations to be reviewed during the succeeding twelve months. The list shall include, for each rule or regulation, a brief description of the rule or regulation, the need for such rule or regulation, and the legal basis for such rule or regulation.

REPORT

SEC. 6. The Chief Counsel for Advocacy of the Small Business Administration shall monitor and evaluate agency compliance with the provisions of this Act and shall report annually thereon to the President and to the Committee on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

UP AMENDMENT NO. 1502

Mr. ROBERT C. BYRD. Mr. President, I have a substitute amendment by Mr. CULVER that I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. CULVER, proposes an unprinted amendment numbered 1502 in the nature of a substitute:

That this Act may be cited as the "Regulatory Flexibility Act."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(2) laws and regulations designed for application to large scale entities have been applied uniformly to small businesses, small organizations, and small governmental jurisdictions even though the problems that gave rise to Government action may not have been caused by those smaller entities;

(3) uniform Federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources;

(4) the failure to recognize differences in the scale and resources of regulated entities has in numerous instances adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;

(5) unnecessary regulations create many barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(6) the practice of treating all regulated businesses, organizations, and governmental jurisdictions as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(7) alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules on small businesses, small organizations, and small governmental jurisdictions;

(8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.

"(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and information requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

SEC. 3. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

"Chapter 6—THE ANALYSIS OF REGULATORY FUNCTIONS.

"Subchapter I—Regulatory Flexibility

"SEC. 601. DEFINITIONS.

"For purposes of this subchapter—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title;

"(2) the term 'rule' means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term 'rule' does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances;

"(3) the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

"(4) the term 'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

"(5) the term 'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register; and

"(6) the term 'small entity' shall have the same meaning as the terms 'small business', 'small organization' and 'small governmental jurisdiction' defined in paragraphs (3), (4), and (5) of this section.

"SEC. 602. REGULATORY AGENDAS.

"(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

"(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

"(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking, and

"(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

"(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

"(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.

"(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

"SEC. 603. INITIAL REGULATORY FLEXIBILITY ANALYSIS.

"(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

"(b) Each initial regulatory flexibility analysis required under this section shall contain—

"(1) a description of the reasons why action by the agency is being considered;

"(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

"(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

"(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

"(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

"(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

"(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

"(3) the use of performance rather than design standards; and

"(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

"SEC. 604. FINAL REGULATORY FLEXIBILITY ANALYSIS.

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

"(3) a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

"(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register at the time of publication of the final rule under section 553 of this title a statement describing how the public may obtain such copies.

"SEC. 605. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

"(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

"(c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604, and 610 of this title.

"SEC. 606. EFFECT ON OTHER LAW.

"The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.

"SEC. 607. PREPARATION OF ANALYSES.

"In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.

"SEC. 608. PROCEDURE FOR WAIVER OR DELAY OF COMPLETION.

"(a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.

"(b) An agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than 180 days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within 180 days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

"SEC. 609. PROCEDURES FOR GATHERING COMMENTS.

"When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

"(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

"(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

"(3) the direct notification of interested small entities;

"(4) the conduct of open conferences or public hearings concerning the rule for small entities; and

"(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

"SEC. 610. PERIODIC REVIEW OF RULES.

"(a) Within one hundred and eighty days after the effective date of this subchapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this subchapter within ten years of that date and for the review of such rules adopted after the effective date of this subchapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

"(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors—

(1) the continued need for the rule;

(2) the nature of complaints or comments received concerning the rule from the public;

(3) the complexity of the rule;

(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

"(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

"SEC. 611. JUDICIAL REVIEW.

"(a) Except as otherwise provided in subsection (b), any determination by an agency concerning the applicability of any of the provisions of this subchapter to any action of the agency shall not be subject to judicial review.

"(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this subchapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

"SEC. 612. REPORTS AND INTERVENTION RIGHTS.

"(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this subchapter and shall report at least annually thereon to the President and to the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

"(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized the present his views with respect to the effect of the rule on small entities.

"(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect January 1, 1981, except that the requirements of sections 603 and 604 of title 5, United States Code (as added by section 3 of this Act) shall apply only to rules for which a notice of proposed rulemaking is issued on or after January 1, 1981.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 1502) was agreed to.

THE REGULATORY FLEXIBILITY ACT—AN IMPORTANT REFORM FOR SMALL BUSINESSES

Mr. CULVER. Mr. President, today the Senate takes a major step forward in creating a more fair, a more efficient, and a more responsive Federal regulatory system for small businesses in this country by the enactment of S. 299, the Regulatory Flexibility Act.

With the passage of this act, Federal regulations can be developed only after agencies thoroughly assess their impact on small businesses, small organizations or small governmental jurisdictions.

Agencies will be required to assess the cost of compliance with regulations for small business. They will have to prepare an assessment of the paperwork burden which a new regulation would impose. And they will have to give small businesses a greater opportunity to participate in shaping rules which would affect them.

By passing this legislation, the Senate is finally addressing one of the most pressing problems facing our Nation's small businesses, local governments and small organizations—the problem of complying with hundreds of thousands of complex regulations which apply across the board to every business, government or other organization without regard to differences in size or resources.

Every Senator has heard America's small business men and women express outrage because they believe they have suffered unfairly from burdensome Federal regulations. This is not the result of the willful intent of regulators to single out small businesses to comply with costly regulations. Rather, it is more often the failure of Federal regulatory agencies to apply commonsense when drafting complex or conflicting rules without giving adequate consideration to the resources or the ability of smaller entities to comply with them.

Over the past two decades, our country has made great strides in providing safer places for our citizens to work, cleaner air to breathe and water to drink, and insuring the manufacture of safer products. Many of these benefits are the result of new laws which Americans still support and which continue to provide important safeguards for all of us. It is not the intent of regulatory flexibility legislation to undermine these important achievements.

Rather it is a recognition that we can do better in implementing these laws. In our efforts to secure benefits for the public at large, we often have created conflicting standards or needlessly complex reporting or compliance requirements for small businesses. This legislation requires agencies to address that problem squarely and directly.

The best example of this failure to use commonsense has taken place in regulations which often are written to apply uniformly to small and big businesses alike, to big cities and to small rural towns alike, and to major national organizations and local nonprofit community groups without any distinction.

The Regulatory Fexibility Act will encourage agencies to make that distinction while still complying with the basic intent of the law. Basically, it establishes the principle that regulations can and should be designed to fit the scale and abilities of the institutions being regulated.

The measure spells out a series of new procedural steps to assure that the regulatory agencies in carrying out their statutory mandates carefully consider the needs and interests of small entities. Except for these steps, the bill does not alter present procedural requirements. Nor does it amend in any fashion substantive law. We intend the agencies to continue to enforce those laws in a fully effective fashion. Indeed, we believe that the added management tool we are providing in this legislation will increase the agencies ability to do so.

Mr. President, the passage of this bill represents 3 years of work on regulatory flexibility. I wish to thank my distinguished colleague, Senator GAYLORD NELSON of Wisconsin, who, with me, first introduced the bill in August 1977, as S. 1974. His leadership, as chairman of the Senate Small Business Committee, has helped establish a range of new Federal policies and programs to benefit small business. S. 1974 is similar to the one adopted today. The Senate passed its unanimously in the 95th Congress. I would also like to thank Senator PAUL LAXALT of Nevada, whose work on regulatory reform and regulatory flexibility has proved invaluable.

In the 96th Congress, the Subcommittee on Administrative Practice and Procedure held a series of hearings on the need to reform the Federal regulatory process. Case after case was presented to the subcommittee documenting the unfair and inequitable impact which "uniform" regulations can have on small businesses, local governments, and other small organizations. These are the very entities often least able to cope with mounting redtape and paperwork.

The mayor of Fort Madison, Iowa, Robert Hatala, told the subcommittee that:

> Uniform regulations have a disproportionate impact on small cities [which] lack the financial resources and capacity to comply

with those regulations. Because of this disproportionate impact, small cities must hire costly consultants where large cities can rely on their own staffs, limit the size and scope of projects, or, if they can, choose not to take part in a particular program.

A small car wash owner in Marshalltown, Iowa, told us that if she had been forced to comply with certain regulations proposed by the Environmental Protection Agency, she would have had to close her business. She added that:

> There are 48,000 car washes in the United States, all of which are small businesses. This is going to cost a lot of jobs, if this kind of regulation come through. . . . Small business people are really getting discouraged. They are not only fighting inflation and fighting to try to get the consumer to come to their business when their disposable income is going down, but they are fighting rules and regulations, and more and more regulations every day. They are really getting discouraged.

Since those hearings, the momentum for regulatory flexibility has grown. At almost every meeting I have had with small business owners in Iowa, the major topic of discussion has been the need to revitalize the economy and, more specifically, the need to ease the burden of Federal paperwork. Reams of reports and answers to questions from Federal agencies are a constant source of headaches for small business operators.

Mr. President, it is time Congress takes firm action to deal with this problem.

In S. 299, we have established a series of measures which can assure that agencies do just that.

First, we require each Federal agency to prepare a regulatory flexibility analysis of proposed rules, in which they must estimate the economic and paperwork impact of proposed rules before they are issued and to develop alternatives which can be less burdensome for small businesses, small organizations, and small governmental jurisdictions. And this analysis will be subject to appropriate judicial oversight.

Second, to insure timely notice of pending actions, S. 299 requires agencies to publish a regulatory flexibility agenda once every 6 months. The agenda is designed to give people outside of Washington, D.C., the time and opportunity to comment on proposed agency rules which will have a significant impact on a substantial number of small entities.

Third, to further assure that small businsses, organizations, and governmental units are given an appropriate role in the regulatory process, agencies will be directed to develop a number of outreach programs such as more public hearings and open conferences.

Finally, the bill establishes a procedure for reviewing significant regulations at least once every 10 years to determine whether they can be rewritten to minimize their impact on small businesses, organizations, and local governments.

Thus, regulatory flexibility represents a concerted effort to encourage agencies to tailor their rules to the size and capacity of those being regulated. What is good for General Motors is not necessarily right for the small carwash owner in Iowa, Nevada, Wisconsin, or Vermont.

I should note that President Carter last November issued a memorandum directing agency heads to insure that new and existing rules "be applied in a flexible manner." S. 299 expands on this initiative and extends it by statute to all Federal agencies.

At the same time, it helps assure that more Americans will participate in the regulatory process and gives Congress the authority to play a more effective role in overseeing agency compliance with the intent and spirit of the law.

Mr. President, we are all deeply concerned about the state of our economy. With inflation and unemployment at unacceptable levels, with our business productivity on the decline, and with the imbalance in our foreign trade position, the importance of passing legislation such as S. 299 is not only good policy, it is vital for the future of our Nation.

By removing burdensome requirements on our Nation's small businesses and small governments, we can begin to free vitally needed capital and human resources from wasteful activities and direct that energy to more productive and efficient purposes so that we can speed up our economic recovery and get America moving again.

Mr. President, because of the importance of enacting regulatory flexibility legislation in the 96th Congress, we have gone to extraordinary lengths to assure that it has the support of a broad coalition of interested groups. Particular credit should be given to the National Federation of Independent Business, the National Small Business Association, and the Office of the Chief Counsel for Advocacy in the Small Business Administration. Without their encouragement and cooperation, this legislation would not have progressed as far as it has. I also want to thank the staff of the Subcommittee on Administrative Practice and Procedure, including Bob Nichols, John Podesta, Pat Singleman, Jim Davidson and Al Regnery, and Tom Cator of the Small Business Committee, for their tireless efforts in drafting this substitute for S. 299.

The subcommittee also has had the continued and constructive cooperation of the administration, organized labor, public interest groups, as well as the valuable assistance of Members of the House of Representatives who share our goal for the enactment of regulatory flexibility into law this year.

Since the Judiciary Committee reported S. 299 in May, weeks of negotiations with all of these groups have culminated in the legislation which we adopt today. In order to explain the substitute which is being offered for S. 299, we have prepared a revised description of this legislation, the major issues which it addresses, and a section-by-section analysis of its provisions.

Mr. President, I ask unanimous consent to have printed in the RECORD the section-by-section analysis, the regulatory impact statement, and three letters on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
August 5, 1980.

Hon. JOHN CULVER,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR CULVER: The National Federation of Independent Business (NFIB), representing more than 600,000 small and independent businesses, has been an original and strong supporter of regulatory reform, and specifically the Regulatory Flexibility Act. We have worked with you and other members of the Judiciary and Small Business Committees in developing legislation which will require Federal regulatory agencies to take into account the size of the regulated entity, and to eliminate or alter wasteful and unnecessary regulations and procedures. The amendments to S. 299, which you are proposing today, achieve this objective by establishing this important agency mandate as an essential chapter of the Administrative Procedures Act.

We fully support S. 299, as amended, and urge its immediate approval by the Senate.

With best regards

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director of Federal Legislation.

NATIONAL SMALL BUSINESS
ASSOCIATION,
Washington, D.C., August 5, 1980.

Hon. JOHN C. CULVER,
Chairman, Subcommittee on Administrative Practice and Procedure, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: The National Small Business Association is pleased to offer its wholehearted support for the revised version of S. 299, regulatory flexibility for small business.

As you recall, we fully supported your successful effort in the 95th Congress and feel that same effort will once again be rewarded with passage of this badly needed regulatory reform legislation.

The small business community owes you a debt of gratitude for your perserverance in pushing this matter even when confronted with opposition from the Administration.

Sincerely yours,

JEROME R. GULAN,
Vice President, Government Affairs.

U.S. GOVERNMENT,
SMALL BUSINESS ADMINISTRATION,
Washington, D.C. August 5, 1980.

Hon. JOHN C. CULVER,
Chairman, Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, Washington, D.C.

DEAR SENATOR CULVER: As Chief Counsel for Advocacy for Small Business I heartily support the substitute S. 299, the Regulatory Flexibility Act.

This bill represents an important opportunity for small businesses to insure that their special problems and concerns receive adequate consideration by Federal agencies. This legislation will go a long way toward the implementation of reasonable and effective regulations. As you know this was one of the key recommendations of the White House Conference on Small Business.

Let me take this opportunity to thank you for your efforts to help small business through the enactment of this legislation.

Sincerely,

MILTON D. STEWART,
Chief Counsel for Advocacy for Small Business.

DESCRIPTION OF MAJOR ISSUES AND SECTION-BY-SECTION ANALYSIS OF SUBSTITUTE FOR S. 299

PURPOSE AND SUMMARY

The purpose of the Regulatory Flexibility Act is to encourage federal agencies to utilize innovative administrative procedures in dealing with small businesses, small organizations, and small governmental bodies that would otherwise be unnecessarily adversely affected by federal regulations.

The bill creates new sections 601 through 612 of title 5, United States Code, requiring the preparation of regulatory flexibility analyses of proposed agency rules. These analyses represent important new management tools for regulatory agencies to estimate the impact of a proposed rule and its alternatives upon small businesses, small organizations and small governmental jurisdictions.

The analyses are required for all agency rules unless the head of the agency certifies that the rule, if adopted, would not have a significant economic impact upon a substantial number of small entities.

The purpose of these and other bill provisions is to require agencies to solicit and discuss alternatives to proposed rules which would minimize their burdensome impact on small institutions. Uniform regulations applicable to all entities without regard to size or capability of compliance have often had a disproportionate adverse effect on small concerns. The bill, therefore, is designed to encourage agencies to tailor their rules to the size and nature of those to be regulated whenever this is consistent with the underlying statute authorizing the rule.

To ensure timely notice of pending actions, the bill requires agencies to publish a regulatory flexibility agenda every six months. This agenda will facilitate the preparation of comments by interested persons on any rules which the agency expects to consider, propose or issue during the following year which will likely have a significant economic impact on a substantial number of small entities.

In addition, agency heads are required to ensure that small businesses, small organizations and small governmental units are given ample opportunity to participate in rulemaking proceedings through public hearings, open conferences or other outreach techniques.

Finally, the bill establishes a procedure for a ten-year review of all existing regulations which have a significant effect upon small entities and requires new rules to be periodically reviewed to minimize needless burdens on small businesses, organizations and governments.

Greater participation by small institutions in the rulemaking process is also a goal the Administration pursued in issuing an Executive Order on "Improving Government Regulations" (Executive Order 12,044, 43 *Fed. Reg.* 12,661 (1978)). S. 299 is entirely consistent with agency actions to comply with this Executive Order.

More recently, in his President Memorandum of November 16, 1979, on regulatory flexibility, the President directed heads of executive agencies to ensure that new and existing rules "will be applied wherever possible in a flexible manner, taking into account the size and nature of the regulated businesses and organizations while fulfilling the social and economic goals of the underlying statutes."[1]

The bill extends that mandate throughout the federal government (to independent regulatory commissions as well as Executive Branch agencies), ensures that it becomes a more permanent part of the administrative process through statutory enactment, and enables Congress to better participate in oversight of agency compliance with regulatory flexibility provisions.

LEGISLATIVE HISTORY

On August 1, 1977, Senators Culver and Nelson introduced S. 1974, the Regulatory Flexibility Act (95th Cong., 1st Sess. (1977)) and on September 9, 1977, Amendment No. 849, containing alternative language for certain sections of the bill.

Hearings on S. 1974 were held on October 7, 1977, and August 23, 1978, by the Subcommittee on Administrative Practice and Procedure.[2] The latter hearing was held jointly with the Select Committee on Small Business and also addressed S. 3330 (93rd Cong., 2d Sess. (1974)), introduced by Senators Culver and Nelson on July 21, 1974.

On September 7, 1978, the Subcommittee on Administrative Practice and Procedure unanimously ordered S. 1974 reported favorably to the full Judiciary Committee with an amendment in the nature of a substitute. On September 20, 1978, the bill was considered by the full Committee and, by unanimous consent, was ordered favorably to the floor. On October 14, 1978, the full Senate considered and passed the Regulatory Flexibility Act (S. 1974). The House of Representatives was unable to consider the bill prior to adjournment.

The bill was reintroduced by Senator Culver in January, 1979, as S. 299, "The Regulatory Flexibility Act" (96th Cong., 1st Sess. (1979)). Three days of hearings were held by the Subcommittee on Administrative Practice and Procedure as a part of its comprehensive study of more than a dozen regulatory reform measures. The hearing days devoted especially to regulatory flexibility were June 21, August 8, and August 20, 1979.[3] Based on testimony received at these sessions and the hearings in 1977 and 1978 on this topic, the Subcommittee unanimously reported S. 299 to the full Committee on December 19, 1979, along with a more comprehensive reform bill, S. 2147, authored by Senator Culver and Laxalt. Subchapter IV[4] of S. 2147 contained a modified version of the regulatory flexibility provisions of S. 299, which more explicitly describes in statutory language the scope of judicial review intended by the Committee.

On May 7, 1980, the Committee unanimously adopted both bills containing regulatory flexibility provisions, S. 299 and S. 2147, and ordered them reported to the Senate floor. On July 30, 1980, S. 299 was formally reported to the Senate with accompanying report. Clearly, the history of Judiciary Committee action confirms that the Committee was convinced that meaningful regulatory reform legislation had to include the concept of regulatory flexibility.

MAJOR ISSUES

I. The Need for Flexible Regulations:

There is a general presumption in our legal tradition that everyone should be treated equally by their government. We believe that exceptions should be made in this policy only if there are very good reasons for doing so.

It is also a tenent of our jurisprudence that the government ought to respect the "differences" between persons, organizations and businesses; that those in radically dissimilar circumstances should not be treated as if they were alike.

When the government chooses to act through regulation by defining acceptable conduct through administrative rules, it faces squarely this basic tension in law: the inescapable conflict between uniformity and diversity, between rule and discretion, and between the "rough justice" of broad categories and justice tailored to the equities of individual situations. Schuck, Regulation: Asking the Right Questions; National Journal (March 28, 1979) at 711–717.

Today, it is quite clear that government agencies nearly always choose the former of each of those alternatives. Regulations tends to be uniform in design, permit little discretion in their implementation and implicitly assume that all those subject to them are basically alike.

It is also true that these regulations of general and uniform applicability tend to place a disproportionate burden upon small businesses, small organizations and small governmental bodies. It is this basic fact—that uniform regulations often have a disproportionately greater economic impact upon small entities—that underlies the concept of regulatory flexibility contained in this bill.

Evidence supporting this finding comes both from practical experience and economic theory. The economic argument was articulated by Dr. Milton Kafoglis, then a member of the President's Council on Wage and Price Stability, in testimony before the Subcommittee on Administrative Practice and Procedure:

"There seem to be clear economies of scale imposed by most regulatory endeavors. Uniform application of regulatory requirements thus seems to increase the size firm that can effectively compete. The cost curve of the firm is shifted upward and to the right with its minimum point (or the elbow in an L-shaped cost curve) occurring at a larger output. If one employs the economists' theoretical 'dominant firm' model and introduces such upward shifts in cost curves (the small firms' cost curve shifting more than that of the dominant firms), the share of the dominant firm will increase while that of small firms will decrease. As a result, industrial concentration will have increased. This hypothesis has not been questioned and is consistent with most of the case analyses that have been completed. It suggests that the 'small business' problem goes beyond mere sympathy for the small businessman, but strikes at the heart of the established national policy of maintaining competition and mitigating monopoly. *Regulatory Flexibility Hearings,* Part 1 at 26."

The two major reasons uniform rules have this disparate effect on small entities were succinctly summarized by Alfred Dougherty, Jr., Director of the Bureau of Competition of the Federal Trade Commission:

"Why does 'neutral' regulation have a differential impact on large and small firms? Two general observations should be made. First, even if actual regulatory costs are equal between competing large and small firms, small firms have fewer units of output over which to spread such costs and must include in the price of each unit a larger component of regulatory cost. Second, where small firms have smaller actual regulatory costs than large firms (as is generally the case), small firms remain at a competitive disadvantage because they are unable to take advantage of the 'economies of scale' of regulatory compliance. Large firms generally already have extensive 'in-house' data compilation and reporting systems and specialized staff accountants, lawyers and managers whose primary function is regulatory compliance. Small firms, by comparison, must either hire additional personnel or purchase expensive consulting services in order to acquire the necessary regulatory expertise." Regulatory Reform Hearings, Part 3 at 350–351.

This analytical explanation of the disparate impact of uniform rules upon small businesses and other small entities was supplemented by dozens of practical examples from hearing witnesses. Representatives of small businesses—organizations representing over two million small businesses testified in favor of the concept of flexible regulations—small organizations (schools and hospitals), and small governmental jurisdictions (towns and special assessment districts) all submitted numerous examples of regulations that could be made more flexible.[5]

Other practical difficulties faced by small entities in complying with rules include their limited access to capital either through retained earnings or public sale of stock compared to large businesses. In addition, small concerns traditionally must borrow heavily to make equipment modifications, finance inventory and otherwise keep their operation running. Even if small business can afford additional debt, banks and other lenders are often reluctant to loan money for improvement purposes not related to productivity.[6]

Recent studies have confirmed that this differential cost burden shouldered by small business can be very large. After an inten-

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sive analysis of small and moderate size businesses in the State of Washington, one such study concluded:

"[T]he theoretical predictions are strongly confirmed. Small businesses do face higher compliance costs in terms of dollars, hours and number of physical and work routine changes, than moderate size businesses. The mean cost level for small businesses is on the average *seven to ten times as high* as for larger businesses." [Emphasis supplied.][7]

Other scholarly studies[8] and reports[9] fully support this finding.

The differential impact of rules on small entities is particularly evident with respect to reporting and recordkeeping requirements. As a recent staff study of the Joint Economic Committee reported:

"Federal paperwork is particularly burdensome for smaller businesses. Small businesses file over 305 million federal forms a year, totalling over 850 million pages and containing over 7.3 billion questions. The average annual cost to each small business is estimated to be about $1,270, a total cost of more than $17 billion.

"The $17 billion figure is large, but it measures only the direct costs of paperwork compliance. Small businesses typically lack the manpower and specialized skills to respond quickly and efficiently to federal data requests. Too often the time of the owner-operator is spent on paperwork at the expense of a careful monitoring of other activities essential to the survival and growth of the small enterprise."[10]

The effect was vividly described in several hearings by representatives of business businesses, small schools and hospitals and officials of small towns.[11] A similar conclusion was documented by the Commission on Federal Paperwork.[12] In a series of tables prepared by the Commission, several different government forms were analyzed and the costs were estimated by the size of the firm. For each of these forms, without exception, reporting costs per employee and per dollar of sales were higher for small businesses than for large ones.[13]

A widespread feeling of unfair regulatory burden within the small business community and that of small organizations and governmental jurisdictions was a continuing theme of the witnesses. The Federal Paperwork Commission, the National Federation of Independent Business, and the U.S. Chamber of Commerce referred to surveys they had conducted which suggested widespread dissatisfaction. Commission Director Warren Buhler testified:

"In the small business survey conducted by the Commission, when respondents were asked: "Do you feel that there are unique aspects of small business that should be taken into consideration by the Federal Government when developing its information requests?", the overwhelming response of small businessmen was affirmative (85 percent), with the most frequent statement relating to real differences between large and small businesses. Many suggested exactly what is proposed in the Regulatory Flexibility Act—that the Federal Government should attempt to discriminate among businesses by size. In general the respondents felt that most information requests in agency rules were designed with large businesses in mind, and that the data derived from the smaller concerns was not worth the relative burden involved in complying." Regulatory Flexibility Hearings, Part 1 at 80.

Further evidence of this widespread disenchantment with regulations among small businesses, organizations and towns is contained in a report commissioned by the U.S. Regulatory Council based on extensive interviews with small town residents.[14] Among the findings in the report are: (1) people in business, labor and city government often see little connection or relationship between the activities regulation has imposed on them and the societal goals regulation is supposed to achieve; and (2) there is a sense that regulation has saddled small communities with the burden of responding to problems that are occurring elsewhere.

The conclusion of the author of this report emphasized the significance of the problems:

"[The findings] argu[e] for nothing less than a fundamental rethinking of the regulatory system as a whole: its goals, the methods developed to achieve those goals, the workings of the regulatory process, and the impact regulation has at the local level. For a growing number of people, regulation has become either their first or most frequent direct contact with government. If they feel the regulatory process ignores them, if they believe they have no voice or influence in decisions regarding regulation, and if they are convinced that those empowered to correct this situation have chosen not to do so, the result may be far more serious than turning people away from regulation. It could also turn them away from representative democracy."[15]

Criticism of rigid regulatory strategies was also heard from witnesses representing small educational institutions and small communities. The conditions toward which many rules are directed often do not exist in smaller organizations and communities, and the complexity of meeting the requirements for participation in government programs discourages many small concerns from taking part. Ironically, these smaller organizations, businesses, and communities are often the very populations toward which the programs are supposed to be directed.

All witnesses stressed that they do not view the bill as means of obtaining special advantages for the entities covered by the bill, but as a mechanism to help equalize the relative impact of federal regulations or create more equal access to the benefits of federal programs.[16] It is intended that this principle govern implementation of the bill by the agencies.

II. Current Agency Use of Flexible Alternatives:

During recent years, flexible regulatory strategies have been used on a widespread but ad hoc basis throughout the agencies. An example of a two-tiered reporting requirement with which most Americans are familiar is the income tax form. Salaried persons earning less than $20,000 are permitted to file their tax returns on Form 1040A (the "short form"), while other taxpayers are required to fill out Form 1040 (the "long form"). In this instance, the Internal Revenue Service has made a determination that less information is necessary from low and middle income taxpayers with a single major source of income than is necessary from other taxpayers.

Milton D. Stewart, Chief Counsel for Advocacy of the Small Business Administration, presented a chart outlining all promulgated industry-specific regulations of the Environmental Protection Agency which explicitly take the size of the affected business into account.[17] The list included forty-eight different rules which provided either exemptions or accommodations on the basis of size.

For some time, the Interstate Commerce Commission ("ICC"), the Federal Communications Commission and the banking regulatory agencies have divided their respective regulated industries into size classes for reporting and accounting purposes. The ICC, for example, in 49 C.F.R. §§ 1240–1259 (1979)[18] divides carriers into report classes based on operating revenue.

In addition, the ICC published a Proposed Policy Statement on the Impact of Commission Decisions on Small Business[19] which would commit the agency to a procedure to ensure that it considers the impact of its decision on small business. It states, in part, that:

"In rulemaking proceedings, the Commission will include in its notice of proposed rules a discussion of any significant adverse impacts [on small business] which might result from adoption of the rules. . . . Small business impact will be an issue in all Commission proceedings which might result in an increase in reporting or record keeping requirements. . . . If the Commission must take an action that will have an adverse impact on small business, the Commission will try, wherever possible, to minimize the adverse impacts of its action."

The Securities and Exchange Commission recently developed a new form, S–18, specifically for use by small business. The new form will be used by smaller companies making a public stock offering. Small companies were previously required to file form S–1, a lengthy document which often discouraged small companies from making public offerings.

Other examples of existing regulations of the Department of Energy, the Department of Labor, the Internal Revenue Service, the ICC, the Environmental Protection Agency and the Occupational Safety and Health Administration were provided by the National Federation of Independent Business.[20]

Unfortunately, however, efforts to promote regulatory flexibility have until now been sporadic, lacking in overall Congressional guidance and, at times, ill-considered. For example, the General Accounting Office testimony drew attention to the Department of Energy's crude oil entitlements program, which has enabled smaller refineries to purchase crude oil at subsidized prices. An unintended consequence of this program was that 37 of the 38 refineries built in the United States between January, 1974, and September, 1977, were designed to process less than 40,000 barrels per day, the threshold of the entitlements program, whereas the minimum technologically-efficient refinery size is 175,000 barrels per day.

The most direct and practical solution to counterproductive flexible regulations, as well as to burdensome uniform regulations, is to stimulate a much greater degree of participation in rulemaking by affected parties. Offering agencies the means for tailoring regulations to the resources of affected parties must be accompanied by a strong mandate to involve those parties in the deliberations. The most workable approach to this involvement is to require agencies to "solicit and consider" alternative, less burdensome regulatory strategies from the public.

S. 299 requires agencies to perform activities that are consistent with recent efforts by the Administration but also that are more far-reaching.

The Office of Management and Budget is in the process of implementing Executive Order 12,044 (43 *Fed. Reg.* 12,661), issued by the President in March, 1978, on the subject of "Improving Government Regulations."

The Executive Order requires that regulations should be as simple and clear as possible and should achieve legislatively mandated goals effectively and efficiently. It states that:

"They shall not impose unnecessary burdens on the economy, on individuals, on public and private organizations, and on state and local governments."

While this policy is completely consistent with the purposes of S. 299, such as reducing unnecessary requirements and simplifying and clarifying necessary ones, there are numerous provisions of S. 299 which are not addresesd in the Executive Order.

The Order does not address the issue of the different impact of uniformly-applied regulations on individual segments of the population, nor does it urge agencies to is-

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sue rules which apply differently to such segments of the population. Although the Order does improve the opportunities for public comment on substantive rules, its provisions are narrower than those of S. 299, and it does not open reporting requirements for public comment.

Finally, it is important to note that agency compliance with the Order is not subject to judicial review and the Order is not permanent law, but may expire or be rescinded by subsequent Presidents. Adherence to the Order by the independent regulatory agencies, which are not part of the Executive Branch, is completely voluntary.

Thus, S. 299 would not conflict with the Executive Order and does not represent a duplication of objectives. S. 299 would supplement and strengthen the Order in several ways, notably by improving public participation and providing for the assessment of alternative regulatory strategies in light of their impact on small concerns.

This finding was more recently given additional weight by the issuance of a Presidential Memorandum to the heads of Executive Branch agencies on regulatory flexibility for small business.[21] This memorandum, dated November 16, 1979, directs agency heads to ensure that existing and new rules "will be applied whenever possible in a flexible manner, taking into account the size and nature of the regulated businesses and organizations while fulfilling the social and economic goals of the underlying statutes." The President also sent letters to independent regulatory agencies requesting that they voluntarily consider taking similar action.

This is welcome evidence that the Administration believes the concept of flexible regulations for small entities is an idea whose time has come. This procedure should now be codified in statute by S. 299 to ensure that it becomes a permanent part of the administrative process, that it apply with equal force to independent agencies, and to enable Congress to better participate in oversight of agency compliance.

Apart from these administrative considerations, there also exists an important body of precedents in case law for the differential treatment of different segments of the regulated public. This case law, including Supreme Court decisions, has been summarized by the American Law Division of the Congressional Research Service with a finding that, "it would appear that legal precedent would generally support the type of regulatory classification you are proposing." [22]

III. Preserving Statutory Objectives:

There have only been three concerns about regulatory flexibility which have been fairly consistently expressed during the hearings on various versions of this concept over the past four years. All three of them have been straightforwardly addressed in this version of the bill in a clear and responsible manner.

These concerns are: (1) that a regulatory flexibility statute might require agencies to significantly compromise the objectives of underlying statutes authorizing rulemaking; (2) that compliance with such a bill would increase agency administrative costs significantly if it applied to every rulemaking; and (3) the statute may lead to increased litigation over small business impact studies which may dilute the objectives of health, safety and social statutes and cause undue delay.

The first two of these concerns—compromising social legislation and undue burdens on agenices—will be discussed in this and the following portions of the report respectively. The third and perhaps major concern is addressed in the fifth major issue report section.

Senator Culver emphasized what has consistently been the goal of supporters of regulatory flexibility in his opening statement at the June 21, 1979 hearing:

"I want to note that it is not the purpose of these hearings or of S. 299 to undermine worthwhile federal regulatory efforts.

"It is not the aim of this legislation to allow the continuation of practices which are dangerous to workers, consumers or the environment.

"But the agencies which promulgate regulations in these areas must begin to consider the wide diversity of our economic and local governmental systems and try to tailor their regulatory requirements to the different circumstances which they face." [23]

Similar statements appear in the report accompanying S. 1974, S. 299's predecessor in the 95th Congress, which passed the full Senate in October, 1978.[24] The following are relevant excerpts from that report:

"The Committee seeks no abandonment of regulatory goals, but rather, a more realistic match between the scale of regulation and the scale of the regulated entity. (page 4)

* * * * *

"The bill clearly stipulates that there is to be no loss of regulatory goals. (page 9)

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"In both its written and its oral testimony before the Subcommittee, the General Accounting Office emphasized that it saw nothing in the bill that would require or permit agencies to compromise the legislatively mandated goals of the statutes pursuant to which a rule is being promulgated." (page 9)

The focus of the concern with undermining agency mandates was the list of flexible alternatives now contained in Section 603(c) of the bill. Witnesses noted that not all the listed alternatives would be appropriate to every rulemaking in every agency. As Mr. Peter Petkas, Director of the Regulatory Council, stated on June 21, 1979, to Senator Culver chairing the hearing:

"[B]usinesses should not be exempt from important social legislation simply because they are small. A small company may create a significant adverse effect on its employees or the surrounding community, particularly with regard to worker health and safety, the environment. You know as well as anyone in the Congress, because of your work in the Resource Protection Subcommittee, the devastation caused by Life Sciences, Inc., of Hopewell, Virginia, a small business manufacturing Kepone. The possibility of similar catastrophes will have to be avoided in every area where tiering is used." [25]

The bill makes clear that such environmental, health or safety catastrophes must never be made more likely because of flexible regulations. This is clarified in two separate bill sections. First, in Section 603(c), where agencies are required to describe any significant alternatives to the proposed rule which may minimize its impact on small entities, it is expressly provided that any such alternatives must "accomplish the stated objectives of applicable statutes." This same qualifying phrase is also placed in the next sentence of that section which introduces the list of flexible alternatives. This is to further emphasize that agencies are not required to adopt any of the alternatives listed in Sections 603(c)(1)–(4) if they are inconsistent with the stated objectives of the statutes which authorize issuance of the proposed rule.

In some rare instances, the adoption of a flexible alternative may clearly be legally impermissible. If so, an agency may so indicate with a simple statement such as: "Under Section X of the Y Act, the agency is required to promulgate these rules in a uniform manner upon all members of the public;" or "Under the Supreme Court decision in X v. Y, no exceptions to this rule can be permitted;" or "Differing standards of compliance can be required only under circumstances described in Section A of the B Act, and those circumstances do not occur in this situation."

In other instances, particularly with regard to laws protecting health, safety or the rights of specific groups, not all of the listed flexible alternatives may be consistent with the stated objectives of the underlying statutes. A worker in a machine shop with fifteen employees must not be forced to operate dangerous machinery without the same basic safety protection as an operator of similar equipment in a huge factory.

As a representative of the National Federation of Independent Business testified on April 24, 1979, before the House Subcommittee on Special Small Business Problems, "tiering of health and safety regulation would primarily involve means, not ends." Thus, while agencies should use a variety of techniques to reduce the burden of their health and safety regulations upon small businesses, not each listed technique may be appropriate for every rule.

The second section which clarifies the intent of the bill in this regard is Section 606, entitled "Effect on Other Law." It succinctly states that this bill does not alter the substantive standard contained in underlying statutes which defines the agency's mandate.

The purpose of this section can perhaps best be made clear by discussing an example. Under the Clear Air Act, as amended, the Environmental Protection Agency ("EPA") is charged with issuing national primary ambient air quality standards which are "requisite to protect the public health." 42 U.S.C. § 7409(b)(1). Courts have interpreted this standard to mean pollution sources must achieve the highest emission control level that is "technologically and economically feasible." *Bunker Hill Co.* v. *Environmental Protection Agency*, 572 F. 2d, 1286 (9th Cir. 1977).

The EPA recently adopted the "bubble concept" to give businesses the flexibility to think of reducing total emissions from an imaginary canopy, or bubble, placed over all the emission sources of a plant. If they find it is cheaper to tighten the control of a pollutant at one point and relax controls at another, they can do so as long as the total pollution from the plant does not exceed the sum of the current limits on individual sources of pollution in the plant.

The important point for purposes of this discussion is that the "bubble concept", a type of flexible regulation, in no manner altered the basic statutory substantive standard of the EPA: that it issue standards "requisite to protect the public health" or mandate the highest control level "technologically and economically feasible." This is the purpose of Section 606 of the bill. No regulatory flexibility analysis alters the substantive standard otherwise applicable by law to agency action.

Other agencies have also chosen to adopt flexible regulations and have done so without changing their fundamental statutory mandate. The Securities and Exchange Commission adopted Rule Number 242 in January, 1980, in order to provide small businesses with more flexibility in raising capital without the uncertainty of determining the quality of the purchases that generally is involved in securities offerings. For example, the issuer may offer the securities to an unlimited number of "accredited persons"; there is no requirement of "sophistication" or "wealth" for persons to whom the securities are offered nor is the issuer required to file any offering materials with the Commission. These exemptions and more expansive definitions are accomplished without altering, in any manner, the underlying substantive standards of securities laws.

It is important that health, safety and environmental agencies not ignore the possibilities for adopting flexible regulations merely because their statutory mandate—

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the end to be achieved—may not be amendable to "tiering". The means by which the statutory ends are to be achieved, even in matters of health and safety, can often be profitably tailored to the special needs of small entities. Less frequent reporting deadlines, longer timetables for achieving compliance, fewer and simpler paperwork requirements are all flexible approaches which will often be consistent with the stated objectives of agency statutes.

This section also clarifies that the requirements of the bill to publish regulatory flexibility analyses do not alter procedural requirements contained in other statutes applicable to the agency. For example, the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act[26] required the Federal Trade Commission to follow certain special procedures in its rulemaking. The requirements of Sections 603 and 604 do not alter the Magnuson-Moss procedural steps. They merely require the Federal Trade Commission to perform regulatory flexibility analyses pursuant to this bill in addition to the procedures required by Magnuson-Moss.[27]

IV. Administrative Efficiency:

The concern of some witnesses that agencies not be required to perform too many regulatory flexibility analyses has been addressed in Section 605(b). That section permits the agency head to certify that the proposed rule will not have any significant economic impact upon a substantial number of small entities. If such a certification is made and published, the regulatory flexibility analyses need not be performed.

A central feature of regulatory flexibility legislation is the determination by the agency that a regulatory flexibility analysis shall be conducted. Two critical requirements have been fashioned to assure that appropriate deliberation is undertaken to assess the impact of proposed rules on small entities. The first is that the agency head must certify personally that a proposed regulation would not have a significant economic impact on a substantial number of small entities before the agency may be exempt from preparing a regulatory flexibility analysis. The second is a requirement that such certification be provided to the Chief Counsel for Advocacy of the Small Business Administration.

The term "significant economic impact" is, of necessity, not an exact test. Because of the diversity of the community of small entities and of the rules themselves, any more precise definition might prove counter-productive. Any more specific definition would clearly require preliminary work to determine whether the analyses required by the bill is needed. But the same is true if the definition is a general one like "significant economic impact". Thus, there would seem to be little to gain and perhaps some to lose in terms of equity and flexibility by trying to predetermine what is a significant economic impact through definitional language.[28]

Among the factors which an agency should consider in determining whether a rule may have a significant impact on small entities are (1) the type of business, organization or local government involved; (2) the compliance and reporting requirements likely to be involved; (3) the direct and indirect effects of the proposed regulation including the effect on competition; and (4) the relationship of the regulation to those issued by other programs and agencies which apply to the same class of regulated entity.

Not every rule promulgated by an agency will have an impact of significance for small entities. One of the difficulties, however, in fashioning a definition or test of what rules should be subject to the requirements of this subchapter is the lack of experience by the agencies and small entities in classifying federal regulations which have an impact worth recognition. Three developments in this area are encouraging. The first is the establishment within the Office of Management and Budget of the capability to conduct regular oversight of the regulatory process. This establishes within the executive branch for the first time a regulatory management function which is expected to enhance public understanding of the federal regulatory process and its impact on various sectors of the economy, including small businesses, other small organizations and local governments.

Second, the President, on November 16, 1979, issued a memorandum which directs federal agencies to give consideration to the impact of all rules and regulations on smaller entities. Finally, several federal agencies already have demonstrated significant progress in adopting their rules and regulations to the concerns of small businesses. The experience gained from these actions should give agencies a greater ability to assess the impact of regulations on these important segments of our economy.

It has been estimated that federal agencies issue up to 7,000 regulations each year. Of these, the Office of Management and Budget has determined that 150 to 200 regulations meet a generally accepted definition of what constitutes a "major rule" for the purpose of conducting a regulatory analysis under Executive Order 12,044—that is, rules which have a $100 million impact on the economy.

It is estimated that approximately 500 rules each year could be expected to have a significant enough impact on small business to require an agency to conduct a regulatory flexibility analysis, based on consultations with the Congressional Budget Office, the Office of Management and Budget and the Small Business Administration. To assure that agencies establish procedures to assess the impact of proposed rules on small entities, the Office of Management and Budget and the Small Business Administration are expected to consult with agencies to develop guidelines for applying this standard. The Small Business Administration has already prepared a useful outline in this regard.[29]

Agency experience already is growing in this area as efforts have begun to implement the Presidential memorandum on regulatory flexibility.

For example (as discussed earlier), the Securities and Exchange Commission determined that with respect to public offerings by small companies, particularly where the offering was less then $5 million, the cost of legal and accounting fees in the preparation of the offering was a strong disincentive to seeking capital in the public market. In addition, the agency found that the principal investors in such companies tended to be institutions or more sophisticated investors rather than individuals. As a result, the Securities and Exchange Commission modified the requirements applicable to such issues in an effort to reduce the costs for small companies.[30]

In a similar vein, for purposes of accounting and reporting requirements, the Interstate Commerce Commission has established three classes of railroads based on operating revenue, with the third class including the smallest rail operations.[31] Last year, the Interstate Commerce Commission moved 470 out of a possible 510 railroads from class two to class three status thereby reducing the number of forms required to be filed and saving companies at least 175 staff hours annually.

The term "substantial number" of small entities is intended to mean substantial number of entities within a particular economic or other activity. In other words, it is not meant to require that agencies find that a large number of the whole universe of small businesses, small organizations and small governmental jurisdictions would be affected by a rule. One particular rule may well affect a substantial number of school districts, for example, but have no impact on small businesses or organizations. Such a rule should be considered to have satisfied this portion of the test in such an instance.

It is important to note that S. 299 may be less burdensome on agencies than the requirements of Executive Order 12,044 (43 Fed. Reg. 12,661 (1978)). Consideration of alternatives recommended by small businesses representatives, for example, is likely to be far less costly and time-consuming for an agency than an elaborate study of all potential market structure impacts of a rule on all sizes of businesses. Many of the provisions of S. 299 can be met largely through attentiveness by rulemakers to the unique problems of smaller institutions. Many of the problems regulations create for small concerns do not appear to be the result of an inability of agencies to weigh less burdensome alternatives to proposed rule, but a lack of interest in such alternatives. Requiring routine consideration of these alternatives, by Congressional action, appears to be the most promising approach to regulatory equity.

Finally, it should be emphasized that regulatory flexibility should be considered a means of improving administrative effectiveness in enforcing the regulatory statutes which the Congress has enacted rather than an additional bureaucratic burden. Many social costs do indeed vary by the size of the entity and thus are a variable cost to society. The imposition of fixed and uniform standards upon all entities, in effect, treats variable costs as they were constant costs. Forcing all entities to assume fixed financial obligations in such situations unfairly ignores the nature of the actual social costs involved.

Regulatory strategies which take variable costs to society into account actually stand a better chance of achieving the legislatively mandated goals of rulemaking and of doing so without unnecessarily harming our smaller institutions which employ more than 60 percent of the national workforce and produce most of the innovation leading to much needed increases in productivity.

As Senator Culver stated:

"I firmly believe that flexible regulations can be an important management tool for regulators. It will enable them to focus their efforts and resources where they will do the most good and where most of the problems reside. By placing the biggest burden on the broadest back, flexible regulations are more likely to be successful and less likely to generate the active hostility of those being regulated, which greatly diminishes voluntary cooperation.[32]

V. Judicial Review:

The bill's treatment of judicial review differs from that of several other major regulatory reform proposals offered in this and earlier Congresses. For example, both S. 262 and S. 755[33] specifically barred judicial review of impact analyses similar to the regulatory flexibility analyses described in S. 299. This approach left it unclear whether a court, when reviewing the validity of a rule, could read or examine the contents of an analysis since that analysis could be expected to contain the basic reasoning of the agency in the development of the rule.

In its treatment of judicial review, this bill is also different in form but not in intent, from the version of regulatory flexibility which passed the Senate last Congress[34] and which was ordered reported by the Judiciary Committee in May, 1980.[35] The subject of judicial review was not addressed specifically in the text of these versions of regulatory flexibility, although it was discussed in the legislative history.[36]

Footnotes at end of article.

In Section 611, this bill clarifies the role of the court in the examination of the rule and the regulatory flexibility analysis in specific terms.

First, Section 611(a) states that agency determinations concerning whether the provisions of the bill apply to any action by the agency—including a decision by the agency head to certify that a rule will not have a significant economic effect on small entities—shall not be subject to judicial review. To do otherwise would be counter to the key principle underlying the Administrative Procedure Act that only the final rule is subject to the "arbitrary and capricious standard (usually described as the "reasonableness" standard). The bill is designed to give agencies the analytic tools and administrative procedures to identify and adopt imaginative techniques to minimize needless burdens on small entities and thus to improve agency decision-making.

Second, it is clearly stated that neither the regulatory flexibility analyses themselves (required by Sections 603 and 604) nor agency compliance or noncompliance with the provisions of this subchapter shall be subject to judicial review, either pursuant to this act, or section 706(2) (D) of this title, or any other provision of law.

However, it would be unrealistic to tell a court that it could not or should not examine a document which the agency devoted resources to preparing when that document carries much of the agency's rationale and documentation concerning development of a rule. Nor would it be sound public policy.

Therefore, Section 611(b) provides that the contents of the regulatory flexibility analysis shall, to the extent relevant to an issue before the court, be available to and considered by a court when the court is determining the validity of the rule which is the subject of the analysis. When a challenge to the rule is instituted in a court, the regulatory flexibility analysis shall constitute part of the whole record of agency action in connection with the review.

In any judicial review, the issue before the court will remain whether the rule itself is valid. The court will look to the statement of the basis and purpose published by the agency along with its final rule to determine the validity of a challenged rule. In making that determination, the court will consider the contents of the regulatory flexibility analysis along with other relevant material.

As this discussion demonstrates, the bill strikes a balance between two central aims with regard to the role of the courts. The first is to insure that an agency's compliance with the objectives of this bill be subject to meaningful, yet responsibly defined, judicial oversight. A flat prohibition of any such oversight might give the erroneous impression that regulatory flexibility provisions may be ignored with impunity. The bill clearly provides that the contents of the regulatory flexibility analysis shall become part of the administrative record that is before a court to determine the validity of a challenged rule. The uneven record of agency implementation of Executive Order 12.044 (43 Fed. Reg. 12.661 (1978))[37] and the Presidential Memorandum on regulatory flexibility (November 16, 1979; see Regulatory Reform Hearings, Part 3, at 247–248), both of which are completely immune from judicial review, supports this concern.

On the other hand, the bill avoids the substantial disruption of agency rulemaking inherent in allowing separate judicial review of the regulatory flexibility analysis itself in the manner of an environmental impact statement under the National Environmental Policy Act of 1979.[38] Under the bill, it is still the legality of the rule, not of the regulatory flexibility analysis itself, which is the subject of the "arbitrary and capricious" test.

This careful balance avoids overturning three decades of case law under the Administrative Procedure Act and still delineates an appropriate scope of judicial oversight. For example, in the unlikely event that following an agency head's decision not to certify that a particuler rule will have no significant economic impact on a substantial number of small entities (pursuant to Section 605(b)), the agency then completely ignores the resulting requirement to perform regulatory flexibility analyses, an injured party would have grounds to argue that this fact is evidence of the unreasonableness of the rule. Similarly, if it can be demonstrated that a regulatory flexibility analysis has not been prepared in good faith and the agency therefore is unable to provide substantive grounds supporting the final rule in the statement of basis and purpose, the court would have grounds to invalidate the rule. In addition, if an agency completely fails to respond to a clearly available significant alternative to the rule less burdensome on small entities and raised in public comments, then this failure would be grounds for finding the rule unreasonable under established case law. *See Portland Cement* v. *Ruckelshaus*, 486 F.2d 375 (D.C. Cir. 1973), *cer. denied*, 417 U.S. 921 (1978); and *Automotive Parts and Accessories* v. *Boyd*, 407 F.2d 330, 338 (D.C. Cir. 1968); *see also Kennecott Copper Corp.* v. *EPA*, 462 F.2d 846, 849–50 (1972).[39]

FOOTNOTES

[1] Presidential Memorandum for the Heads of Executive Departments and Agencies, November 16, 1979; *see Regulatory Reform; Hearings Before the Sen. Judiciary Subcom. on Administrative Practice and Procedure* (hereinafter *"Regula-Reform Hearings"*), Part 3; 96th Cong., 1st Sess. (1979) at 247.

[2] *The Regulatory Flexibility Act, S. 1974; Hearings Before the Sen. Judiciary Subcom. on Administrative Practice and Procedure*, Parts 1 and 2; 95th Cong., 1st and 2d Sess. (1977–78) (hereinafter *"Regulatory Flexibility Hearings"*).

[3] *Regulatory Reform Hearings*, Parts 3 and 4.

[4] S. 2147, "The Regulatory Flexibility and Administrative Reform Act of 1979", also reported as S. 262 (Calendar No. 850 (96th Cong., 2d Sess. (1980)), 96th Cong., 1st Sess. (1979), introduced December 18, 1979; *see* § 102(a), creating new Subchapter IV of Chapter 6, title 5, United States Code.

[5] *Regulatory Reform Hearings*, Parts 3 and 4.

[6] Occupational Safety and Health Administration, *Occupational Safety and Health Administration's Impact on Small Business;* July, 1976, at 13; and *see* White House Conference on Small Business, *Final Report of the White House Commission on Small Business;* April, 1980, at 30.

[7] Batelle Human Affairs Research Center (Cole and Sommers), *Costs of Compliance in Small and Moderate Size Business: Final Report;* February, 1980, prepared under Contract 79–2663 of the Small Business Administration.

[8] Center for the Study of American Business (Chilton and Weidenbaum, *Small Business Performance in the Regulated Economy*, Working Paper No. 52; February, 1980; Small Business Administration (Burney), *The Cost of Government Regulation on Small Business;* undated; and Joint Economic Committee, *Government Regulation: Achieving Social and Economic Balance*, Special Study on Economic Change; June, 1980, at 6, 14, 18 and 27.

[9] White House Conference on Small Business, *Final Report of the White House Commission on Small Business;* April, 1980, at 14, 29, 53 and 84; and Department of Commerce, Advisory Committee on Industrial Innovation, *The Effects of Domestic Policies of the Federal Government Upon Innovation by Small Businesses, Final Report;* September, 1979.

[10] Joint Economic Committee, *Government Regulation: Achieving Social and Economic Balance*, Special Study on Economic Change; June, 1980, at 14.

[11] *Regulatory Flexibility Hearings*, Part 3, at 44, 47–50, 71, 136, 150, 156, 159–160; and *Federal Paperwork Requirements; Hearings Before the Sen. Select Comm. on Small Business, Subcom. on Government Regulation and Paperwork*, 96th Con., 1st Sess. (1979).

[12] *Regulatory Flexibility Hearings*, Part 1 at 20, 63, 69–81; Part 2 at 4, Appendix F.

[13] *Regulatory Flexibility Hearings*, Part 2, Appendix.

[14] United States Regulatory Council, *Regulation: The View from Janesville, Wisconsin, and a Regulator's Perspective; Regulatory Reform Hearings*, Part 3, at 268–328.

[15] *Id.* at 328.

[16] For example, *see* testimony of Robert S. Hatala, Mayor of Ft. Madison, Iowa, in *Regulatory Reform Hearings*, Part 3, at 32–36.

[17] Testimony of Milton D. Stewart; *Regulatory Reform Hearings*, Part 3, at 90–93.

[18] This set of regulations appears in *Regulatory Reform Hearings*, Part 3, at 94–98.

[19] 45 *Fed. Reg.* 13,223 (1980).

[20] *Regulatory Flexibility Hearings*, Part 1 at 66.

[21] The text of this memorandum appears on pages 247–248 of the *Regulatory Reform Hearings*, Part 3.

[22] 123 *Cong. Rec.* S13,206 (1977) (remarks of Senator Nelson on S. 1974).

[23] *Regulatory Reform Hearings*, Part 3, at 2.

[24] *Report to Accompany S. 1974, The Regulatory Flexibility Act*, S. Rep. No. 1322, 95th Cong., 2d Sess. (1978).

[25] *Regulatory Reform Hearings*, Part 3, at 4.

[26] Pub. L. No. 93–637, 88 Stat. 2153 (1975).

[27] For other examples of legislation requiring "hybrid" rulemaking procedures, *see* the Toxic Substances Control Act of 1976, 15 U.S.C. §§ 2601-2629 (1976), and especially § 2605(c); Clean Water Act of 1977, P.L. No. 95–219, 91 Stat. 1566–1611 (1977), especially § 53(a) (2), 91 State. 1589–90 (to be codified at 33 U.S.C. § 1317). For a general description, *see* 2 Davis, *Adminis*-Law Treatise, § 6.10 (1978); Rodgers, *A Hard Look at Vermont Yankee*, 67 Geo. L. J. 699, 716–18 (1979).

[28] *See* Exhibit 16: Compilation of Answers of Witnesses to Common Questions; *Regulatory Reform Hearings*, Part 1, at 178–179.

[29] See *Regulatory Reform Hearings*, Part 3, at 98–99.

[30] *See* SEC Rule No. 242 (January, 1980).

[31] *See Regulatory Reform Hearings*, Part 3, at 94–98; 49 C.F.R. §§ 1240–1259.

[32] Senator John C. Culver, *Special Consideration is Fair Treatment;* "The Voice of Small Business" (Guest Editorial) (National Small Business Association), July, 1979.

[33] Both bills are 96th Cong., 1st Sess. (1979).

[34] S. 1974, 95th Cong., 1st Sess. (1977), passed the Senate on October 14, 1978 (124 *Cong. Rec.* S19,018 (daily ed. Oct. 14, 1978)).

[35] S. 299, 96th Cong., 1st Sess. (1979). The bill, modified by an amendment, was unanimously adopted by the Judiciary Committee on May 7, 1978, and formally reported to the Senate July 30, 1980, with accompanying report.

[36] It is very clear from the legislative history of these earlier versions of regulatory flexibility that the intent to avoid changes in judicial review under the Administrative Procedure Act. For example, the report on S. 1974, S. Rep. No. 1322, 95th Cong., 2d Sess. (1978), contains the following discussion on pages 8 and 9.

> The bill does nothing to alter the right of review of agency action as outlined in 5 U.S.C. § 702. . . . S. 1974 would neither expand

nor diminish existing rights to contest federal rulemaking actions in federal courts. . . . These procedural requirements, however, provided no basis for a substantive challenge to the exercise of discretion by the agency in determining what rule ultimately to promulgate. Therefore, if an alternative were proposed to an agency during the public comment period and was rejected by the agency in favor of another more burdensome rule, S. 1974 would give an injured party no substantive grounds upon which to challenge agency action. . . . In any judicial review the courts shall give great deference to a determination by an agency that it has adopted a more burdensome alternative in order to protect health and safety or other regulatory goals.

See similar language in the report accompanying S. 299, reported to the Senate on July 30, 1980, and in the report to accompany H.R. 4660 (H.R. Rep. No. 519, 96th Cong. 1st Sess. (1979)), a bill similar in purpose to S. 299.

[37] *See Regulatory Reform Hearings*, part 2, especially testimony on June 13, 1979.

[38] 42 U.S.C. § 4321 *et seq.*

[39] *See also* Professor Davis' comment: "As a part of an agency's statement of basis and purpose or as a part of its statement of reasons, an agency should explain its response to important comments. It should especially explain its rejection of the most vital comments." 1 Davis, *Administrative Law Treatise*, § 6:12 at 505 (1978); and Skelly Wright, *The Courts and the Rulemaking Process: The Limits of Judicial Review*; 59 Cornell L. Rev. 375 (March 1974) in *Regulatory Reform Hearings*, Part 1, at 498.

S. 299, "THE REGULATORY FLEXIBILITY ACT": SECTION-BY-SECTION ANALYSIS

Section 2. Findings and Purposes.

Section 3. Amends title 5, United States Code by inserting a new chapter 6, subchapter 1. (The following section numbers refer to the new sections created by the bill.)

Section 601. Definitions:

Section 601 defines the six terms which have particular significance in this subchapter. These are "agency", "rule", "small business", "small organization", "small governmental jurisdiction" and "small entity".

Section 601(1) defines an agency by reference to the definition in Section 551(1) of title 5 of the United States Code. Both executive and independent agencies are included in this definition.

Section 601(2) defines "rule" to be any rule for which an agency must publish a general notice of proposed rulemaking pursuant to Section 553(b) of title 5 of the United States Code or any other law. Additionally, rules of general applicability pertaining to federal grants to state and local governments for which the agency provides an opportunity for notice and comment are included under the definition. The definition of rule excludes rules of particular applicability relating to, *inter alia*, rates, wages, corporate or financial structures or prices.

Section 601(3) defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act (15 U.S.C. § 631 *et seq.*). The Small Business Act has essentially a three-part definition of small business concern: (a) one that is independently owned and operated; (b) which is not dominant in its field; and (c) which falls within the size standards regarding sales and/or employment established by the Small Business Administration by rule.

In so defining small business for purposes of this Act, it is not intended that the Small Business Act definition be established as an absolute standard. The Small Business Administration, for purposes of various loan, procurement and other Congressionally mandated programs, establishes standards to determine eligibility for various Small Business Administration programs. It is the most convenient and appropriate reference point for the analyses required under this Act.

However, there will be instances in which it may be more appropriate for an agency to issue different regulations for various sizes of businesses. The Act encourages an agency to vary the definition of a small business where appropriate as long as certain procedural requirements are fulfilled. This is to encourage agencies to adopt their definitions of small business so that they complement the subject of the agency's regulatory responsibility.

It is the intent of the bill that agencies should first try to adopt the Small Business Act definition appropriate to their needs. There are two reasons for this approach. First, the Small Business Administration presently possesses most of the information and expertise in the federal government concerning business size. Second, having agencies adopt the Small Business Act definition when possible, could avoid conflicts from the use of varying definitions by different agencies.

If an agency can establish that the Small Business Act definition is inappropriate to one or more of the agency's activities, however, it may adopt an alternative definition provided that: (a) the Office of Advocacy of the Small Business Administration is consulted; and (b) the new definition is adopted after giving the public an opportunity to comment on the proposed new definition. This provision does not require agencies to promulgate a new rule under 5 U.S.C. § 553 to establish its definition or definitions of small business (or of the other definitions in this subchapter). However, when considering changes in agency guidelines for this purpose, agencies must notify the public and provide opportunity for comments on the definition.

One definition of small business may not be appropriate when applied uniformly to all rules of an agency. Therefore, the bill gives agencies the flexibility to adopt special definitions of small business for application to a particular rule or category of rules. This should be done only when necessary to enable the agency to better comply with the intent of the bill and to apply the concept of flexible regulations to *more* regulations. Caution should be used to avoid the confusion resulting from too many different definitions of small business within an agency. In addition, this flexibility should not be interpreted to require agencies to adopt separate definitions of small business for each regulation.

Finally, it is clearly not the intention of the bill to alter the definitions of the Small Business Act, or the Small Business Investment Act of 1958, or in rules, such as those affecting the federal government, which have been promulgated by the Small Business Administration pursuant to those acts. Nor should an agency use its own definition of small business permitted under this section to supersede or alter the definitions contained in those acts. An agency may not, for example, redefine "small business" to relieve the agency of the obligation of complying with any rule of the Small Business Administration under which the agency may be required to act.

Section 601(4) defines "small organization" as a not-for-profit enterprise which is independently owned and operated and not dominant in its field. As with the definition of a small business, an agency may adopt another definition or definitions of "small organization" appropriate to its activities after opportunity for public comment. The intent of this provision is to cover other small concerns that may fall outside the definition of small business and to assure that the application of the term "small organization" is guided by the same considerations which were used in developing the definition of a small business.

The phrase "not dominant in its field" should be interpreted liberally with respect to non-profit public service organizations. While some such organizations, for example, YMCA's/YWCA's or Boy Scouts/Girl Scouts, may have activities nationwide, decisions on whether to treat them as small organizations should depend on an analysis of several factors. For example, the agency should examine the structure and operating characteristics of the organization at the local as well as the national level, and should consider the organizational resources and ability to comply with rules and reporting requirements at both the local and national levels.

It is not the intent of the bill that nationwide not-for-profit public service organizations be excluded from being defined as small organizations merely by virtue of their nationwide status. If for-profit and not-for-profit enterprises offer similar goods or services, agencies should consider the same factors for both types of enterprises in determining which are small.

Section 601(5) defines the term "small governmental jurisdiction" to include cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000 unless an agency establishes another definition or definitions appropriate to its activities after opportunity for public comment. Definitions established by an agency need not adhere strictly to the 50,000 population standards nor are they restricted to the types of requirements the agency may impose under a rule affecting governmental jurisdictions. Also relevant are factors such as location in a rural or relatively sparsely populated area even if the total population of the government unit exceeds 50,000 in that particular governmental jurisdiction.

Section 601(6) defines the term "small entity" as having the same meaning as the terms "small business", "small organization" and "small governmental jurisdiction" which are defined in the preceding three paragraphs The term "small entity" is used to refer to all of the other three terms taken together and, by permitting the substitution of one term for three terms, simplifies the language of the bill.

Section 602. Regulatory Flexibility Agendas:

Section 602(a) requires agencies to publish in the Federal Register in October and April of each year a regulatory flexibility agenda. Section 602(a)(1) provides that this agenda shall contain a brief description of the subject area of any rules which the agency expects to propose or promulgate during the succeeding twelve months which are likely to have a significant economic impact on a substantial number of small entities.

The bill also requires a description of rules which are likely to have a "significant economic impact on a substantial number of small entities." Agencies should not give a narrow reading to what constitutes a "significant economic impact" for purposes of this section or other sections in which the term is used. The effect need not be significant on every business subject to the regulation for the total effect of a rule to be significant and thus be required to be published in the agenda and subject to the required analyses

Likewise, a determination of significant economic effect is not limited to easily quantifiable costs. For example, a reporting form which requires extensive bookkeeping translations from a customary system to one which would produce an answer in a format required by the agency certainly could have a significant impact on a substantial number of small businesses. An agency cannot avoid the requirements of this bill by suggesting that such a form does not have an "economic" effect.

The term "substantial number" of small entities is intended to mean substantial numbers of entities within one of the listed categories or groups which are the focus of this legislation—that is, small businesses, small organizations and small governmental jurisdictions. In order to meet this test, agencies are not required to find that an overwhelming percentage of small businesses, small organizations and small governmental jurisdictions would be affected. One particular rule may well affect a substantial number of school districts, for example, but have no impact on small businesses or organizations. Such a rule would be considered to have satisified this portion of the test in such an instance.

Section 602(a)(2) further requires the agency to summarize the rule or area of regulation under consideration for each subject appearing on the agenda, along with the objectives and legal basis for the rule. In addition, this paragraph requires the agenda to include an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking.

The purpose of this section is to give advanced notice of pending agency rulemaking activity to better enable small entities to participate in the development of the rule, if any. The agenda would not, however, require agencies to announce enforcement proceedings which they are contemplating or planning.

Section 602(a)(3) provides that the agency must list the name and telephone number of an agency official who can answer questions about the subject area or rule contained in the agenda. This is to facilitate prompt assistance in understanding the agenda item for any interested member of the public.

Section 602(b) provides that copies of each regulatory flexibility agenda shall be forwarded to the Chief Counsel for Advocacy of the Small Business Administration to facilitate the receipt of any comments.

Section 602(c) directs agencies to take additional steps to enable small entities and their representatives find out about agency regulatory flexibility agendas. Agencies must use methods such as direct notification or publication of the agenda in publications likely to reach such businesses, organizations, and governmental jurisdictions. Comments and suggestions from these groups are to be invited on all agenda items.

Section 602(d) makes clear that the announcement of regulatory activities contained in the regulatory flexibility agenda is solely for the purpose of providing information to affected small entities, the Congress, and to the public. Thus, in those instances in which an agency must consider or act upon a rule that did not appear on the agenda, it may do so. Similarly, an agency will not be required to consider or act on any matter solely because it appeared in an agenda.

Section 603. Initial Regulatory Flexibility Analysis:

Section 603(a) states that when an agency is required by Section 553 of title 5, United States Code, or any other law, to publish a general notice of proposed rulemaking, the agency must also prepare an initial regulatory flexibility analysis of that proposed rule. This analysis will be a preliminary agency assessment of the impact of the proposed rule on small businesses, small organizations and small governmental jurisdictions. The initial analysis in a summary will be published in the Federal Register at the time the general notice of proposed rulemaking is published. A copy of the initial analysis will also be sent to the Chief Counsel for Advocacy of the Small Business Administration for comments, if any.

Section 603(b) contains a list of five items which must appear in the initial regulatory flexibility analysis. In Sections 603(b)(1) and (2), the analysis is required to describe why action by the agency is being considered and state the objectives of, and the legal basis for, the proposed rule. One of the reasons for these requirements is to force agencies to recognize that the best agency course may be not to act, despite the existence of authority to issue a rule.

Section 603(b)(3) mandates that initial analyses provide a description of, and, if feasible, an estimate of the number of small businesses, small organizations, and small governmental jurisdictions to which the rule will apply.

Section 603(b)(4) requires an estimate of the projected reporting, recordkeeping or other paperwork requirements of the proposed rules, a description of the types of small entities subject to these requirements, and an estimate of the skill required to comply with them. At the time the rule is proposed, these estimates will be just that—estimates or projects—and will not be as precise as estimates could be expected to be when the final rule is published. However, by requiring agencies to make these early projections, there will be an opportunity to consider the often overlooked burden created by rules, especially upon small entities. It is also designed to enable affected small entities to more easily suggest ways to minimize the unnecessary effects of a rule.

Section 603(b)(5) requires agencies to attempt to identify, to the extent feasible, relevant federal rules which may duplicate, overlap or conflict with the proposed rule.

Section 603(c) provides that an initial regulatory flexibility analysis shall contain a description of any significant alternatives to the proposed rule which would accomplish the stated objectives of applicable statutes and which may minimize any significant economic effect of the proposed rule on small entities.

Alternative approaches listed in this section include: (1) varying compliance and reporting requirements and timetables which schedule compliance deadlines to take into account the limited resources of small entities; (2) clarifying, consolidating or simplifying the compliance and reporting requirements of the proposed rule for small entities; (3) adopting performance rather than design standards to provide greater flexibility for entities with limited resources; and (4) providing exemptions for small entities from all or part of the proposed rule or its paperwork requirement.

Agencies are not limited to the alternatives listed in this subsection when they search for means to accomplish their statutory mandates while reducing the impact of a rule on small entities. In fact, it is expected that agencies will seek and discover other innovative techniques of tailoring regulations to small entities consistent with the stated objectives of the underlying statute authorizing the rule.

It is important to note that the bill does not require agencies to adopt all or any of the listed flexible alternatives in this section. Agencies must consider only those alternatives which are "consistent with the stated objectives of applicable statutes". If an alternative does not allow the agency to effectively enforce its existing statutes, that alternative would not meet this test with regard to the underlying statute authorizing the rule and the agency would not be required to adopt that alternative.

It is evident that not all of the listed alternatives are appropriate in each agency context, particularly with regard to laws protecting health, safety or the rights of specific groups. For example, a worker in a machine shop with fifteen employees must not be forced to operate dangerous machinery with less than the basic safety protections accorded an operator of similar equipment in a much larger factory.

Nor would this bill, as it applies to environmental or health and safety laws, require or authorize an agency to allow a small chemical company to discharge a hazardous chemical such as kepone into nearby rivers while, because of the inherent danger involved, forbidding such action by a large firm.

The objective of regulatory flexibility is not to create a double standard of protection for beneficiaries of health, safety or environmental laws based on the size of the entity involved. The purpose is to require agencies to consider the wide range of diversity among regulated entities and try to tailor their regulatory requirements to the different circumstances which they face.

As stated with regard to section 602(a), the term "significant economic impact" should not be interpreted to mean that agencies may ignore effects of the rule which are burdensome and non-trivial but not susceptible to precise quantification in economic terms. For example, the nature, complexity and frequency of reporting and recordkeeping requirements are to be analyzed in each rulemaking whether or not these burdens have been strictly quantified. The discussion of the term "substantial number" in relation to subsection 602(a) also applies to this subsection.

Section 604. Final Regulatory Flexibility Analysis:

Section 604(a) requires an agency to prepare a final regulatory flexibility analysis when it publishes a final rule which was subject to a legal requirement to publish a general notice of proposed rulemaking. Even if an agency was not required to publish an initial regulatory flexibility analysis, it may later determine, on the basis of comments received or other reasons, that the rule would have a significant economic impact on a substantial number of small entities. If so, the agency must publish a final regulatory flexibility analysis. The analysis must contain a statement of the need for and objectives of the rule; a summary of the significant issues raised by the public and of the agency assessment of those issues; and an explanation of any changes made in the rule in response to public comments.

Section 604(a)(3) requires the agency to describe in the final regulatory flexibility analysis each of the significant alternatives to the rule designed to minimize any significant economic impact on small entities which the agency considered. For each such alternative which the agency rejected, it must state its reasons. This is an important provision designed to assure that agencies engage in principled decision-making.

The agency does not have to find that every alternative to the rule which it rejects is by definition one which would minimize the significant impact of the rule upon small entities. Some alternatives suggested by the public or agency staff with the purpose of minimizing the impact of the rule on small entities may not, after careful analysis, achieve that end. If so, a statement to that effect would satisfy the requirement of this section.

As in the case of section 603, this provision does not require that an agency adopt a rule establishing differing compliance standards, exemptions, or any other alternative to the proposed rule. It requires that an agency, having identified and analyzed significant alternative proposals, describe those it considered and explain its rejection of any which, if adopted, would have been substantially less burdensome on the specified entities. Evidence that such an alternative would not have accomplished the stated objectives of the applicable statutes would sufficiently justify the rejection of the alternative. The purpose of this provision is to require agencies to explain the rationale for their actions to assure that significant alternatives identified by the agency or proposed by the public were, in fact, given serious consideration.

Section 604(b) provides that copies of the final regulatory flexibility analysis will be available to members of the public. Agencies are directed to publish a statement in the *Federal Register* explaining how copies may be obtained.

Section 605. Avoidance of Duplicative or Unnecessary Analyses:

Section 605(a) has two purposes—it is designed to help reduce paperwork and delay by authorizing agencies to consider a series of closely related rules or alternatives as one rule or alternative in complying with the requirements of Sections 603 and 604 to prepare initial and final regulatory flexibility analyses. And it directs agencies that they are not to avoid the requirements of this Act by dividing a larger rule into smaller units with less impact. In addition, agencies may incorporate in a regulatory flexibility analysis any data or analysis contained in any other impact statement or analysis required by law.

Section 605(b) permits agency heads to certify that a proposed or final rule will not have a significant economic effect on a substantial number of small entities. If so, the agency must publish the certification in the *Federal Register* in addition to a brief statement of the reasons for the decision. Following this certification, the agency is not required to prepare an initial or final regulatory flexibility analysis on that rule.

It is possible for this determination to be made at several points in the rulemaking process. If it comes prior to the publication of a general notice for proposed rulemaking, the agency must publish a statement explaining its decision at the time the general notice is published. If this determination is made after the general notice of proposed rulemaking but prior to publication of the final rule, the agency must publish and explain its decision when it is made or at least at the time of publication of the final rule.

The term "significant economic impact" is, of necessity, not an exact standard. Because of the diversity of both the community of small entities and of rules themselves, any more precise definition is virtually impossible and may be counterproductive. Any more specific definition would require preliminary work to determine whether the regulatory analysis must be prepared. But the same is true if the definition is a general one like "significant economic impact". Thus, there would seem to be little to gain and perhaps some to lose in terms of equity and flexibility by trying to predetermine what is a significant economic impact through definitional language.

Agencies may find that the Small Business Administration guidelines for measuring the impact of rules on small businesses could be of assistance to other agencies in making these determinations.[1]

The term "substantial number" of small entities is intended to mean substantial numbers of entities within one of the listed categories of groups which are the focus of this bill—that is, small businesses, small organizations and small governmental jurisdictions. In order to meet this test, agencies are not required to find that an overwhelming percentage of small businesses, small organizations or small governmental jurisdictions would be affected. A particular rule may well affect a substantial number of school districts, for example, but have no effect on small businesses or organizations. Such a rule should be considered to have satisfied this portion of the test in such an instance.

Section 605(c) permits an agency to consider a series of closely related rules as one rule for purposes of Sections 602 (agenda), 603 (initial regulatory flexibility analysis), 604 (final regulatory flexibility analysis) and 610 (periodic review of rules) to avoid duplicative action.

Section 606. Effect on Other Law:

Section 606 makes it clear that the requirements for the preparation of the initial and final regulatory flexibility analyses in Sections 603 and 604 do not change the substantive or procedural standards otherwise applicable by law to agency action. Thus, if a statute directs an agency to issue rules to "protect the public health", the requirements in Sections 603 and 604 do not alter that mandate, but merely require the agency to consider alternative methods for implementing the mandate which minimize unnecessary burdens on small entities.

Agencies are required to consider only those alternatives to the proposed rule which are consistent with the stated objectives of the statute authorizing the issuance of the rule.

Section 607. Preparation of Analyses:

Section 607 informs agencies which are required to analyze alternatives to minimize the significant economic impact of rules on small entities in Sections 603 and 604 that such analyses need not be limited to a quantification or numerical estimation of the effects of the rules. Instead, agencies are encouraged to make reasoned estimates or quantifiable and non quantifiable effects of various proposals, basing such estimates upon experience and expertise of agency personnel and any other information made available to the agency by external sources. If such a reasoned estimate is not practicable, the agency should state generally a description of the nature and extent of non-quantifiable effects of the rules.

Section 608. Procedures for Waiver or Delay of Completion:

Section 608(a) allows the head of an agency to waive or delay completion of an initial regulatory flexibility analysis pursuant to section 603 by publishing a statement in the Federal Register that the agency's action is in response to an emergency which makes compliance or timely compliance impracticable. Such publication should be made not later than the date of publication of the final rule and should include reasons for the waiver or delay. This section shall not apply if an agency issues a rule pursuant to sections 553(b)(3)(B) or 553(d)(3) of title 5, United States Code.

Section 608(b), however, precludes waiver of the final regulatory flexibility analysis required to be promulgated in Section 604. Thus, a final regulatory flexibility analysis must be performed and published for every rule, including those developed in response to an emergency.

The completion of the requirement for a final analysis may be delayed (for not more than ninety days after the date of publication of the final rule) by the agency head only upon certification that such delay is due to an emergency which makes timely compliance impracticable. The certification should be made through publication in the Federal Register and should include reasons for the delay. If the final regulatory analysis is not published within the alloted 180 days, the rule lapses and may not be reissued until a final regulatory flexibility analysis has been completed by the agency.

Section 609. Procedures for Gathering Comments:

Section 609 requires the head of any federal agency which is preparing to adopt a rule which would have a significant economic impact on a substantial number of small entities to assure that these groups have adequate opportunities to comment upon the rule prior to its adoption. Suggested methods include the following: (a) direct notification of interested small businesses, organizations and governmental jurisdictions; (b) placing notice of the proposed rule in publications likely to be obtained by such small entities; (c) the conduct of open conferences or public hearings; and (d) the adoption or modification or procedural rules to reduce the complexity or cost of participation in the rulemaking by small entities. The bill grants to agencies the discretion to choose among these and other methods of outreach.

The purpose of this section is to encourage agency heads to establish procedures to guarantee increased participation in rulemaking by small entities. The procedures mentioned herein are intended to be used as a part of the normal rulemaking process as required by chapters 5 and 6 of title 5, United States Code, and are not designed to establish inconsistent or separate procedures.

Section 610. Periodic Review of Rules:

Section 610(a) provides that within one hundred and eighty days after the effective date of this subchapter, each agency will publish a plan for the periodic review of its rules which have or will have a significant economic impact on a substantial number of small entities. The purpose of the review is to determine whether the rule should be rescinded or amended, consistent with the stated objectives of applicable statutes, to minimize the unnecessary impacts of the rule on such small entities. The plan must provide for the review of all such rules existing on the effective date of this subchapter within ten years (which may be extended yearly up to five additional years). In addition, it must provide for the periodic review (at least every ten years) of rules having a significant economic impact on small businesses, organizations and governments which are issued after the effective date of this subchapter.

Section 610(b) lists several factors to be considered during the period review of rules to determine whether the rule should be amended or rescinded to minimize the impact on small entities: the continued need for the rule; the nature of complaints about the rule's operation; the complexity of the rule; the extent to which it overlaps, duplicates or conflicts with other federal rules; and, if possible, with state and local rules; and the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. These additional factors are contained in Executive Order 12,044 (43 Fed. Reg. 12,661 (1978); Improving Government Regulations), issued by President Carter on March 23, 1978. Thus, agencies which are currently complying with that order will not be unduly burdened by applying these same criteria to the periodic review of agency rules which significantly impact small businesses, organizations and governmental jurisdictions.

Section 611. Judicial Review:

Section 611(a) provides that there is no judicial review of any determination by an agency regarding the applicability of any provision of this subchapter except as provided in Section 611(b). This means, for example, that the decision by an agency with respect to what proposed rules would have a significant economic impact on a substantial number of small entities pursuant to Section 605(b) shall not be subject to judicial review. Thus, the decision regarding when the agency shall conduct a regulatory flexibility analysis remains in the sole discretion of the agency. Also not subject to judicial review are agency determinations regarding the agenda (section 602), the procedures for gathering comments (section 609), the periodic review of rules (section 610) and any other administrative determinations under this act.

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[1] See *Regulatory Reform Hearings*, Part 3, at 98–99.

Section 611(b) provides that a regulatory flexibility analysis is a management tool and administrative procedure to effect improved rulemaking. Neither the manner of conducting regulatory flexibility analyses nor the content of the analyses should be subject to judicial review, either pursuant to this act or pursuant to Section 706(2)(D) of title 5, United States Code, or pursuant to any other provision of law. But once a regulatory analysis has been prepared, its contents may, if relevant, be considered by the reviewing court along with other relevant material in determining the validity of the rule which is the subject of the analysis.

The court will look to the statement of the basis and purpose published by the agency along with its final rule to determine whether the rule is valid. In making that determination, the court may consider the contents of the regulatory flexibility analysis along with any other relevant material.

Section 611(c) provides that if another impact statement or analysis is required by a different statute, this section does not affect existing requirements regarding judicial review of that statement or analysis.

Section 612. Reports and Intervention Rights:

Section 612(a) requires the Chief Counsel for Advocacy of the Small Business Administration to monitor agency compliance with this chapter. This Office must report at least annually to the Committees on the Judiciary of the Senate and House of Representatives and the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

Section 612(b) authorizes the Chief Counsel for Advocacy of the Small Business Administration to appear as amicus curiae in any action brought in court to review the legal validity of a rule. The Chief Counsel may present his views regarding the effect of the rule on small businesses, small organizations or small governmental jurisdictions. The Chief Counsel currently has the right to appear in federal agency proceedings on behalf of small business. This section extends that right to include appearance in federal court proceedings also.

Section 612(c) provides that a court of the United States shall grant the Chief Counsel for Advocacy permission to appear in a court action regarding a rule for the purposes described in Section 612(b).

Section 4 of the bill provides that the effective date of this act is January 1, 1981, except that the provisions regarding regulatory flexibility analyses will apply only to rules for which a notice of proposed rulemaking is issued on or after that date.

Regulatory Impact Statement for S. 299 as Reported by the Judiciary Committee

Pursuant to paragraph 11(b) of rule 26 of the Standing Rules of the Senate, the Committee estimates that the bill will have a regulatory impact as described in the preceding report. Because the purpose of the bill is to reform federal rulemaking procedure, it is necessary to refer to the body of the Committee Report accompanying the bill to adequately describe the regulatory impact of the bill.

Mr. NELSON. Mr. President, excessive, unnecessary and arbitrary regulations are a growing threat to the survival of small business in this country. All too often, uniform Federal regulatory and paperwork requirements have imposed unnecessary and disproportionate burdens, including legal, accounting and consulting costs, on small business. The Regulatory Flexibility Act successfully addresses that problem without undermining necessary regulations and achievement of important national goods such as cleaner environment.

Essentially, by requiring Federal agencies to assess the impact of a proposed regulation on small business and by permitting regulatory agencies to tailor regulations to the size and capacity of businesses affected, this bill will greatly simplify the regulatory demands of the Federal Government on small businesses. These businesses simply do not have the resources to comply with the voluminous demands for information and the costs of compliance.

The paperwork alone generated by regulation, creates massive problems and a tremendous workload for small business. The Small Business Administration has made some startling findings about the terrific Government burden that has been placed on small business from paperwork requirements, many of which are unnecessary.

A total of 305 million Federal forms a year; 850 million pages a year; 7.3 billion questions a year; $1,270 average annual cost per small business; and $10 billion total cost to small businesses each year to meet Federal paperwork requirements.

This principle was most recently endorsed by the President in his November 16, 1979, regulatory flexibility memorandum to the heads of executive agencies. In that memorandum, the President directed those heads of agencies to insure that new and existing rules "will be applied in a flexible manner, taking into account the size and nature of the regulated businesses and organizations while fulfilling the social and economic goals of the underlying statutes."

The Regulatory Flexibility Act extends that mandate throughout the Federal Government (to independent regulatory commissions as well as executive branch agencies), insures that it becomes a permanent part of the administrative process through statutory enactment and enables Congress to better participate in oversight of agency compliance with regulatory flexibility provisions.

We share an obligation to design and implement the best possible and least burdensome regulatory system. This legislation offers the Federal Government the flexibility to target regulatory requirements to the areas of greatest need and to reduce unnecessary regulations and paperwork. It is a much needed substantive reform of the regulatory system. I urge my colleagues to support it.

Mr. THURMOND. Mr. President, I am a cosponsor and strong supporter of S. 299, the Regulatory Flexibility Act of 1980. This bill, as did S. 1974 which was passed by the Senate during the 95th Congress, makes some very needed changes in the way that agencies go about developing and promulgating regulation. Agencies would be required to be sensitive to the impact of regulation on small businesses, small organizations, and small governmental bodies and to carefully study ways to lessen the differential impact which regulation has on smaller entities.

As the committee report on S. 299 explains, this differential impact can be documented by analytical model and by the firsthand experiences of numerous small businessmen attempting to cope with such regulation. I think it is very important to note the analytical justification for the regulatory flexibility approach set forth in the report since it very clearly establishes that the need for this legislation goes beyond a sympathetic attitude to the small businessman.

Mr. President, this bill makes several important changes in current law which would provide for greater participation by small businessmen in the rulemaking and which require the agency to look closely at what effect regulation has on such small entities.

The requirement that a regulatory flexibility agenda be published every 6 months would, for example, give interested persons better information regarding what rules an agency might be interested in promulgating. Such advance notice will help to insure more effective participation by small businessmen in the rulemaking process. Along the lines of improving participation in rulemaking, S. 299 would require that small entities be given ample opportunity to become involved in such proceedings through means such as public hearings, conferences, or similar techniques. The involvement of those individuals who will be subject to the regulation is absolutely essential, in my opinion, to achieving a final product which is workable and not unduly burdensome on such smaller entities.

Through the mechanism of preparing initial and final regulatory analyses, the agency is required to take an in-depth look at the impact of a particular rule on small entities. The agency, for example, is specifically directed to look at such issues as the need for a particular rule, to provide a description of the small entities to which the rule will apply, to describe projected reporting or other compliance requirements, to carefully consider significant alternatives which would minimize the economic impact of a particular rule on small businesses, and to respond to significant issues raised by the public regarding the rules. Mr. President, it is our committee's intent that the analyses will be carefully and thoughtfully prepared by the agencies and will be used effectively as a decisionmaking tool. If so, they should result in narrower, more cost-effective rules which will not place an undue burden on small businesses, organizations, or governmental bodies.

Mr. President, I am very pleased about the greater sensitivity which this legislative body is demonstrating to the economic impact which ill-conceived and even unfair regulation has had on the economic well-being of the Nation's small businesses. This legislation, together with S. 265 which the Senate passed last summer by the overwhelming vote of 94 to 3, are important steps to alleviating some of this economic burden. As I am sure my colleagues are aware, S. 265 provides that an agency shall pay for attorney fees and other litigation costs in cases challenging agency action where the agency cannot demonstrate the substantial justification of its position. S. 265 is only applicable to businesses and individuals whose net worth is below a certain level. I might also add that I have introduced my own bill, S. 2571, which is patterned after S. 265 but which is applicable only to actions involving the Occupational Safety and Health Administration.

Mr. President, there are similar provisions to those of S. 299 contained in the more comprehensive regulatory reform reported by the Judiciary Committee in May of this year. I believe, however, that it is desirable for S. 299 to continue to move on a separate track and to not be tied to the more uncertain fate of a broader and more controversial piece of legislation. The changes made by S. 299 are very important to the Nation's small businessmen and should be enacted into law as soon as possible.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to amend title 5, United States Code, to improve Federal rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small entities, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, who are the Senators now to be recognized under the orders?

The ACTING PRESIDENT pro tempore. The Senator from Virginia (Mr. HARRY F. BYRD, JR.), to be followed by the Senator from New Mexico (Mr. SCHMITT).

Mr. BAKER. Mr. President, if it is helpful to the majority leader, I would be willing to have a quorum call charged against the time, previously provided for, for Senator ARMSTRONG and allocated to me by unanimous consent.

Mr. ROBERT C. BYRD. I would be pleased if the Senator would proceed.

Mr. BAKER. Mr. President, I suggest the absence of a quorum under those circumstances.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senators for whom orders were entered yesterday may proceed out of sequential order, without prejudice to the others, if they so wish.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

ON THE FALLING OF A GIANT

Mr. SCHMITT. Mr. President, yesterday, New Mexico lost a Congressman. The Nation lost a statesman. I and many others lost a very dear friend.

Death came yesterday to Representative HAROLD RUNNELS of New Mexico, representing the second district, in the predawn darkness of the Sloan-Kettering Institute in New York City.

Known as "MUD" to his friends—I am sure he had no enemies—HAROLD RUNNELS, I am sure, did not go quietly into the dark of the night.

The name "MUD" symbolized his success outside of politics. Throughout my part of the United States, one will see advertisements and indications of the Runnels Mud Co. Many of my colleagues may wonder what a mud company is. If they knew, they probably would better understand the vast knowledge and capability that HAROLD RUNNELS had in his chosen profession, which was that of the production of energy, something he believed in very strongly throughout his life. The mud business is essential to the drilling of oil and gas wells. It is that simple.

There was nothing small about "MUD" RUNNELS. He was a big man. He was big physically, morally, and intellectually. He had the biggest heart and the most robust soul of anyone I have known in a long time. He set a standard of political conduct, with even higher standards of good humor, to which New Mexicans and all Americans can aspire.

He was one of the modern Representatives and Senators who, after being extraordinarily successful through hard work in a chosen profession, realized that their success and opportunities were the result of a political system second to none in the world. So he began to contribute his time and his resources—and indeed his life—to the political process.

He was as successful in politics as he ever had been in his other professions. He was known by his colleagues as the most knowledgeable Congressman on the subject of energy, the most knowledgeable and dedicated Congressman in many areas concerning our national defense.

Most important, his principal motivation in serving in the U.S. Congress was to represent the people of the Second District, and I am proud to have been one of his constituents. On many, many occasions when Congressman RUNNELS and I appeared together, he would refer to the fact that he was the only Congressman in history and in the United States who had two constituents who had walked on the Moon. We used to laugh and chuckle at that, but he obviously was very, very proud of that contribution of his district to the Nation.

Mr. President, we cannot bear another's grief; we can only share. As I stand here today in this historic Chamber, I share, as do all his friends and colleagues, the grief of his wife, Dorothy, and his four children—Michael, Philip, Matt, and Eydie—as well as the grief of all his hundreds of friends throughout this great land.

"MUD" RUNNELS served exactly one decade in the U.S. Congress. However, his personality and influence and memories will be felt for many decades to come. We will remember him always. We will remember his integrity and high morality in public office. We will remember his wit, oftentimes sharp and biting, but never cruel and mean. It was the wit of the one-liner. It was the wit of the interaction with the moment, with the people of the moment.

We will remember his devotion and dedication to his State and Nation; his love and loyalty to his family and friends; his love and loyalty to the honorable profession of politics and to those involved in politics, no matter what their particular political persuasion might be.

What does one say when a man like this has fallen? One says, "Thank you." One says, "Godspeed."

"MUD" RUNNELS was my colleague. He was my personal Congressman, as I am a resident of the Second District of New Mexico. Most importantly he was my friend.

Someone once said: "Service to others is the rent we pay for the space we occupy on Earth."

HAROLD RUNNELS departs this Earth having paid his mortgage in full.

Mr. President, I reserve the remainder of my time for the distinguished senior Senator from New Mexico (Mr. DOMENICI).

And I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR DOMENICI

The ACTING PRESIDENT pro tempore. The Senator from New Mexico (Mr. DOMENICI) is recognized.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. Does the Senator from New Mexico have time?

The ACTING PRESIDENT pro tempore. There is a special order for the Senator from New Mexico (Mr. DOMENICI) for 15 minutes.

Mr. DOMENICI. Mr. President, if it is in order, I wish to commence my 15 minutes. Is that in order at this time?

The ACTING PRESIDENT pro tempore. It is in order at this time.

IN MEMORY OF REPRESENTATIVE HAROLD RUNNELS

Mr. DOMENICI. Mr. President, I rise to join with my colleague, Senator SCHMITT, in paying tribute to one of New Mexico's very distinguished public servants who died yesterday, Representative HAROLD RUNNELS.

I rise to inform the Senate that my good friend, Representative HAROLD RUNNELS from the Second Congressional District of New Mexico, has died.

Congressman RUNNELS passed away early on Tuesday, August 5, after a long and courageous battle. To his wife, Dorothy, and his family, I send the most heartfelt condolences from my wife, Nancy, my family, and me, and, I believe, from all the people of our State.

HAROLD RUNNELS was a man who never forgot his roots. He successfully ignored the fads and fancies of too much American life and embodied the kinds of virtues that formed this Nation and made it great, commonsense, courage, hard work, and ability to laugh at himself and at the world, and generosity. He represented as truly as anyone could the kinds of people who live in his district in our State, people who work the land for food, fiber, minerals, and energy for this country and who are not ashamed to admit that they believe in God, their family, and their country.

HAROLD RUNNELS served in the U.S. Congress as a Representative from New Mexico, starting in 1971, having been elected November 3, 1970, and served in each succeeding Congress. He was so popular in his district that he became the first Federal office-holder in our State's history to run without opposition in either the primary or general elections in 1978, and easily defeated token opposition in his primary year. He had no general election opponent, so well did he represent the feelings and aspirations of the Second Congressional District of the State of New Mexico.

HAROLD RUNNELS made it the hard way. He was born in Dallas, Tex., and after attending Cameron State Agricultural College in Lawton, Okla., enlisted in the Air Force Reserve during World War II. He then joined the Federal Bureau of Investigation, where he further served his country.

Like so many pioneers in our history, HAROLD RUNNELS decided to try for the best life he could get for his family. He took a small company that provided mud for drilling activities in the oil fields and built it into an empire. He formed the Runnels Mud Co. and RunCo Acidizing and Fracturing Co. in southeastern New Mexico and was one of the founders of the Permian Basin Petroleum Association. He was a member of the American Petroleum Institute and brought his special expertise in this field to Congress, where all too often Congress ignored his advice and embarked on energy courses that proved, as Congressman RUNNELS had predicted, to be flawed and counterproductive.

As a member of the New Mexico State Senate, Congressman RUNNELS gained a reputation for honesty and straightforwardness that soon made him a powerful force. It was on this base that he launched what many thought a hopeless campaign for Congress in 1969. True to his form, HAROLD proved the so-called experts wrong and defeated the incumbent Congressman to begin his decade-long career here in the House of Representatives.

In Congress, Representative RUNNELS continued the same way of doing business that always characterized him—he would look you in the eye and tell you what he thought. He worked hard to protect the interests of his district, his State, and the country. As a member of the House Armed Services Committee and the House Interior and Insular Affairs Committee, HAROLD stood for a strong national defense, second to none in the world, and a commonsense approach to the Nation's natural resources that would balance our energy and mineral needs with the demands of water, land, and the environment.

Congressman RUNNELS represented one of the most diverse districts in the Nation. He had growing metropolitan areas, very large numbers of Indians from a variety of tribes and nations, a substantial proportion of Hispanic-Americans, farmers, ranchers, oil and natural gas workers, and some of the most beautiful landscape in the world. That he was able to represent so well such a diversity is a great tribute to him.

I worked with HAROLD RUNNELS on many projects, some of them among the most complex, far-reaching problems facing the Congress. He was very active in attempting to handle the controversial waste isolation pilot project in a logical and reasonable manner. He worked hard on a variety of projects to help the Indian people of our State. He was active in water legislation, in national defense measures, and in a whole host of energy measures. In all of these, he distinguished himself by his diligence, his intelligence, and his tenacity.

But, I remember HAROLD RUNNELS not just as a legislator, but as a friend. He was generous, kind, and looked the disease which eventually led to his death in the eye with courage and unfailing good spirits. He was an inspiration to us all. He will never be replaced either in our hearts nor in the hearts of the people of our State.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. SCHMITT. The distinguished Senator's remarks I am sure will be much appreciated by Mr. RUNNELS' family.

I would ask him if he recalls those times when he and I and HAROLD RUNNELS and our other distinguished Congressman from New Mexico, MANUEL LUJAN, had appeared together on platforms and found that the interaction of the four of us formed some of the most delightful and rewarding periods that I can remember. I have not been in politics that long. One can always think that the catalyst of the group very often was HAROLD RUNNELS, not only in bringing points clearly into focus but also in providing that unique brand of humor that he could provide on those occasions.

Mr. DOMENICI. I certainly do remember. In fact, I will never forget it.

I do not think, I say to my good friend, if I serve the public for the rest of my life, I do not think we are going to find an opportunity to have this kind of man with us as political figures.

I have a tendency, as you know, Senator, to be too serious. He was tremendous for me because I used to give these very tough, serious speeches, and he would constantly remind us that the Senate talked too much and that we needed a 3-minute rule, that the House rule was very good because anybody who could not say what he needed to say in 3 minutes did not know what he had to say. He used such expressions as that.

I think the Senator's point is truly well taken. He will be missed for his approach which was, indeed, serious. But he never took himself seriously, and he let everybody know that. He was not ashamed to laugh at himself and to poke good fun at others. He had a great wit. Sometimes that deceived people. I am sure in Washington when he first came here people used to maybe take that for some kind of a shortcoming in terms of ability, intelligence, and commonsense. But you and I and others know that was not the case, but quite to the contrary.

Mr. SCHMITT. As one of his constituents in the second district, I know that his constituents did not worry about that. They knew exactly who HAROLD RUNNELS was and what he was doing in Congress.

He also was taking very seriously his desire to become Governor of the State of New Mexico.

In the last year or so that desire became even clearer and maybe accented by the struggle he was having with cancer and with the side effects of that dread disease.

Unfortunately, New Mexico will never have a chance to find out if HAROLD RUNNELS was to be their Governor. Certainly you and I goodnaturedly told him we would do everything we could to see that he was not Governor. But that was part of the political rhetoric and part of the political scene of our great State.

Nevertheless, he wanted to be Governor—I truly believe that. It is probably a disappointment to a large number of New Mexicans, if not a majority, that he never had the opportunity to serve in that capacity.

Mr. DOMENICI. I think that is right. I also think it means something else. You know, here is this man who literally started his life in a chicken coop. He was born in a chicken coop. He was eminently successful in business, served the State as a State senator with distinction, and came from that part of the State that some people in other parts of the State did not appreciate and kind of looked at with concern, and yet while he served in that position he served with broad acclaim in the State.

Then he came up here for 10 years and did not need more success. But what is his ultimate goal? To return to the State. What he wanted to do was to go back to New Mexico. He felt he owed the State more than he could ever give, I am sure. So his goal was to go back and wrap up a political career by being Governor. I do not have any doubts that he would have made it.

I think it would have been a real experience for New Mexicans to have had someone of his forthrightness, his singlemindedness, as Governor. He always had a purpose.

I think our State is on the brink of some real greatness in terms of its potential. It is beginning to come into fruition, great energy resources, natural resources, natural beauty, environmental beauty, and it would have been an exciting thing to see what a fellow whom you and I know to be so well-balanced and with such great commonsense would have done with that.

I want to close here today by saying we know his family at the moment is extremely sad. We both have extended our sympathies to them. I think the life he led, the successes, political and otherwise, and yet his humility, will serve them well through these times. The sadness will give way to memories of a tremendous husband and great father as far as his family is concerned.

I yield the floor.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I ask that the Senator withhold.

Mr. SCHMITT. I withhold.

Mr. STEVENS. Mr. President, I would like to join with my two colleagues from New Mexico in saying a word of tribute to our good friend, Congressman HAROLD RUNNELS.

I think we are all shocked anytime a bright young person departs from our world prematurely.

I found the Congressman a very interesting, capable young man to work with without regard to partisanship. He was a close friend of our Congressman from Alaska. He worked unceasingly as a Member of the House Interior Committee on issues that protected the Nation, in general, but particularly on issues that pertained to the West.

He was a great friend of Alaska and of Alaskans. and we shall miss his advice, his assistance, and his guidance in dealing particularly with the public lands problems that affect the West as a whole and Alaska so specifically.

I would not want the time to go by without extending on behalf of all Alaskans our gratitude in the form of a message of condolence to his family and his survivors.

It is really a sad thing to see a man so young and in the prime of his life depart so quickly.

Mr. DOMENICI. I thank the Senator.

Mr. SCHMITT. If the Senator will yield, Mr. President, I know that his family certainly and Senator DOMENICI and I thank you and the Alaskans for those kind remarks.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

NO LAMEDUCK SESSION

Mr. ARMSTRONG. Mr. President, during the last few days there have been rumors, speculations, and announcements about the possibility that Congress may reconvene for a postelection session. I just want to make it clear that the Senator from Colorado does not approve of such an idea, does not intend to cooperate in such an idea, and will do nothing to facilitate a postelection session.

I want to be heard now, well ahead of the time that actual decision is made, and say that this is one of the worst possible courses of action that could be undertaken by the Congress of the United States.

Such a lameduck session would literally mean that after the election, after we have voted out of office Senators and Representatives, that they would be coming back to Washington, traipsing back here to continue to legislate after their people at home had said, "No, we have had enough of your services."

That might be a tolerable kind of thing if the Nation were at war or if war were imminent, or if there were some other kind of national emergency, which by definition is the kind of thing we cannot plan now for what might happen after November.

Mr. President, it would be a travesty if this body reconvenes to continue its legislative work after the election. The very idea of such a session, except in a grave, unforeseen national emergency, smacks of illegitimacy. I am confident that most of my colleagues, and the overwhelming majority of the people of this country, will feel as I do, that lameduck Senators and Representatives should not continue to legislate.

Mr. President, may I also point out that unless we promptly disavow the thought of a lameduck session, we are setting up a situation in which there is going to be an almost irresistible temptation to put off all the remaining tough issues before the Congress until after the election. So we are going to end up postponing those issues, ducking out on the tough decisions before election day, and wasting all or most of the time between now and the scheduled adjournment on October 4.

Mr. President, obviously the Congress has important business which must be handled before adjournment: The budget resolution, the appropriation bills, tax cuts, and a handful of other high priority matters. But there is no reason, in my judgment, no proper reason, why we cannot complete action on these items between now and October. Let us do so. Let us get on with our business.

I think the vast majority of Senators wish to do so and are willing to cooperate in expediting, properly, the business of this body. But let us put to rest once and for all any thought of reconvening for a lameduck postelection session.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BENTSEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized for not to exceed 15 minutes.

THE STATE OF THE AMERICAN ECONOMY

Mr. BENTSEN. Mr. President, the problems of the President's younger brother currently serve as a magnet to draw attention away from legitimate issues of overriding national concern; issues like the state of the American economy.

When all the questions have been asked and answered the dust will slowly settle on the Billy Carter tempest and America will go to the polls to elect a President. Probably the most important issue in that election, the issue that may well determine the outcome, is economic strategy for the eighties. Who can come up with the best program to deal with the economic difficulties besetting America and threatening our future as the most powerful and stable economic entity in the history of the world? That, rather than the behavior of the President's brother, is the sort of pivotal issue that determines elections in a democracy.

Mr. President, I doubt if any one would challenge the assertion that the American economy is in a sorry state of disrepair. For 30 years we have demonstrated an alarming inability to manage our economic affairs. Our obvious economic ineptitude has afficted both major parties, a series of administrations, Congress, and economists of every size, shape, and persuasion.

America has ridden the inflation/unemployment seesaw; we have been whipsawed by alternating shocks of inflation and tight money policies; we have suffered, year after year, from deficit spending; by constantly neglecting the supply side of our economy we have driven down levels of savings, investment, and productivity to all time lows. We have created economic conditions in which inflation is virtually inevitable.

The purpose of my remarks today is not to assess blame but to determine what we can do together as a nation to hammer out new economic policies for a new decade. Can we, at this low ebb in our economic fortunates, look beyond the issues of the moment and focus our attention on legitimate problems of the future? Are there any fundamental economic principles, any departures from past practice that make sense to Republicans and Democrats, to Liberals and

Conservatives, to sunbelt and snowbelt legislators?

I would submit that such an area of common agreement does exist. If we can identify it today, perhaps we can expand it tomorrow and work together to depoliticize economic policymaking and restoring America to its traditional position of economic preeminence.

The first point I would make is that a recession is, in many respects, like a common cold. By the time you become aware that you are stricken, it is too late to take remedial action. And in many cases purported "cures" are worse than the illness itself.

We have had six recessions in America since the end of World War II, none of them accurately anticipated. The pattern is depressingly familiar: A recession begins and no one notices. By the time the symptoms are identified there is no longer any policy action available that can affect the duration or intensity of the recession. By the time we know that we are in a recession, we are generally well on the road to recovery.

Nevertheless, the reality of recession inevitably gives rise to political pressures to "do something." Then, in a sort of perverse pavlovian reaction, we reach out for the same tired, shop-worn, ineffective spending policies that led to the impasse in the first place. We try to cure recession, or at least its political symptoms, with the hair of the dog that bit us. Or we cast about for simple, catchy, painless remedies for our economic problems.

The most recent economic fad evokes echoes of the past as we hear recommendations for a return to the gold standard. It is as though we were replaying the 1970s—the 1870s—and the gold rush were on in full force. Have we learned nothing from the painful experience of having our economy battered and held hostage by the OPEC cartel? Do the new proponents of the gold standard really want to place the American dollar at the tender mercies of the world's only major gold producers, South Africa and the Soviet Union?

No, Mr. President, we have tried a whole series of easy answers and they do not work. They will not work. It is too late now for positive, long-term, supply-side action to preempt the current recession, but that is no reason to compound our problems by relying on slogans or repeating the costly mistakes of the past. We must resist the impulse to enact once again expensive, countercyclical programs that do nothing to cure recession but frequently impede the process of recovery.

When it comes to economic policy, we have been making the same mistakes for almost three decades. We had a recession back in 1953–54. The recession began undetected in July, 1953. President Eisenhower's January, 1954 economic report to Congress nevertheless described the economy as "marvelously prosperous."

When the recession was more than half over, the President belatedly proposed a number of stimulative programs like public works and tax reductions. None of these programs took effect until the recovery was well underway.

In 1972 Congress approved a public works impact program designed to combat a recession that ended in 1970. Two public works programs were enacted in response to the 1973–75 recession; one was approved in 1976 and the other in 1977. Congress is currently considering a $2 billion public works bill to combat the 1979–80 recession, the worst of which may be over. If passed, these projects would probably not break ground before 1982.

Mr. President, the economic history of the past 35 years demonstrates beyond any doubt that there has never been a single countercyclical policy action that has affected the intensity or duration of a recession in the United States of America.

Most countercyclical actions have, in fact, been counterproductive. The various tax cuts have inevitably been designed to stimulate consumption, to help us "spend our way out of a recession," thereby planting the seed of our present problems. Public works programs have tended to stay on the books forever and have succeeded only in creating a relatively small number of public sector jobs at a huge cost to the American taxpayer.

But, despite an historical pattern that clearly demonstrates the failure of countercyclical measures as a response to recession, we continue to repeat the mistakes of the past. Politics, rather than economics, remains the driving force in our response to hard times.

If there remains any doubt on that score, one need only examine the environment surrounding current proposals for a tax cut. I called for a substantial tax cut, oriented toward the supply side of our economy, more than a year ago. If we had cut taxes a year ago, the current recession would have been shorter and shallower. Investment would have held up; unemployment would not have been so severe.

But, once again, it took the reality of a recession to awaken Congress and the administration to the need for a tax cut. But now it is too late for tax legislation to have an impact on the current recession.

Mr. President, I am totally convinced that we should foresake the use of tax legislation for countercyclical purposes. Tax cuts are not an appropriate antidote for recession. Tax policy should be designed to increase American competitiveness, enhance American productivity, eliminate inequities, and provide incentives for the sort of steady, long-term savings and investment our economy so desperately requires.

The last thing America needs at this time is a political tax cut designed just to put a few extra dollars in the pocket of the consumer. That kind of tax cut can only stimulate demand; it can only stimulate inflation; and it can only stimulate larger budget deficits. It does not respond to the urgent and legitimate requirements of the long neglected and abused supply side of our economy. It does not contribute to the effort to restore stability and real growth to the American economy.

As the process of recovery from our most recent recession gains momentum, we need a tax cut that will enhance the ability of our economy to produce goods and services more efficiently. At least one-half of the next tax cut should be targeted at increasing productivity in America.

For the past 30 years we have starved supply while force-feeding demand. The result of this long-term imbalance has been chronic inflation, boom and bust cycles in the economy, and the lowest rates of savings, investment, and productivity growth of any industrialized democracy. America can no longer tolerate those trends: We can no longer afford the economics of demand stimulation.

The individual taxpayer also has a legitimate claim to tax relief in an era of spiraling inflation, rising tax burdens, and lagging wages. But recent polling strongly suggests that the people of America have a strong, innate grasp of what is wrong with our economy. They clamor less for a tax cut and more for policies of fiscal responsibility that will lead to stability and balanced budgets in the future.

The next time Congress moves to provide individual tax relief, we should do so with an eye toward assuring that we do not further stimulate demand in the system. We must, instead, design individual tax reductions that will lower labor costs, encourage job-creating new investment, and provide incentives for personal savings. Tax cuts that will offset impending increases in social security taxes would serve these objectives far more successfully than any straight, across-the-board percentage reduction in individual rates or a one-time rebate.

Tax policy, Mr. President, is the issue of the hour in Congress. I have tried to demonstrate that tax cuts are a wasted asset when used as a countercyclical tool against recession. Tax policy, however, can and must be used to buttress the supply side of our economy and provide noninflationary relief to the hard-pressed individual taxpayer.

A sound, innovative tax cut policy can help point the way toward restoration of a prosperous, stable American economy in the decade of the eighties, but tax policy alone cannot cure an economic malady that has been decades in the making.

We can encourage greater efficiency and productivity in our economy by taking a careful look at the regulatory burden leveled by Washington with such reckless abandon on the private sector. It costs our economy over $100 billion a year to fill out forms and comply with the dictates of Washington, and that is a heavy burden for an ailing economy to bear.

If America is to prosper in the eighties, we must also continue our efforts to curb energy consumption and spur domestic production. President Carter's policies have produced some important successes in this area; we currently produce more energy domestically and import less from abroad than in 1976.

New incentives for personal savings, which provide the raw material for investment flows so vital in our free enterprise system, must also be high on the list of economic priorities for the coming decade. The recent congressional initiative providing a $200 exemption for dividends and interest earned from a savings institution is a welcome step in the right direction, but it does not go far enough.

As we move to achieve some basic economic reforms in our domestic economy, we must also take urgent, bipartisan action to restore America's competitive position in world trade. We must eliminate disincentives to American exports, demand equal access to the markets of our major trading partners, create a greater export awareness in the American business community, and provide the sort of financing and official Government support that will enable this country to compete from a position of equality in the international marketplace. One does not have to be an economic expert to appreciate the consequences of a chronic balance-of-trade deficit that could approach $40 billion this year.

As we look to the future of America, it is important to understand that our recent failures are in the realm of economic policy. When it comes to economic potential, America remains supreme. Our problems would be solutions in most nations of the world.

Hobart Rowan of the Washington Post recently noted in the Washington Journalism Review that:

> Underlying economic trends cry out for more attention than they get . . . we frequently miss opportunities to put things in perspective.

Mr. President, I agree that it is time to take a new look at the underlying trends and put things in perspective. I think it is time for a tax cut oriented toward the supply side of our economy—time to resist pressures for costly, ineffective counter-cyclical spending to cope with a recession already on the road to recovery. I think it is time for more spending by the private sector and less by Government; more freedom and less regulation; more economic incentives and less taxation.

It is not going to be easy and it is not going to happen overnight, but if we are prepared to pay the price—if we can repair the long-neglected supply side of our economy—we have the assets to get this economy on the move again. We can beat inflation and restore real growth and stability to our economy. We can make the eighties the most dynamic and prosperous decade in American history. And we can look with assurance to the challenges of the future.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for 15 minutes.

THE BUDGET

Mr. HARRY F. BYRD, JR. Mr. President, on July 21, President Carter submitted to Congress revised budget figures. His July 21 report confirms that the Federal Government will run a deficit exceeding $60 billion for the current fiscal year. It also projects a deficit of $30 billion for the upcoming fiscal year, namely fiscal 1981.

Since the President submitted that report on July 21 I have spoken in the Senate each day on this subject, this now being August 6.

Today I shall summarize the facts which I have presented to the Senate.

First, the new budget figures show that the increase in spending for the current fiscal year—1980—over the preceding year is the largest spending increase in the history of the U.S. Government. It is an almost unbelievable $85 billion.

Second, the official deficit for the current year will be $61 billion, and that is the second highest in our history.

Third, if we go beyond the official budget figures and add in the so-called "off budget outlays" of the Government, thus taking into account, all the spending of the Government, then the deficit for this fiscal year of 1980 tops all previous deficits of the Government. The total is $77 billion.

Fourth, the huge deficit for the current year has forced the U.S. Treasury into the money market in a big way. Before the end of 1980, the Treasury will have to raise between $48 and $52 billion to finance the swelling deficit. This borrowing will squeeze the money market, make lendable funds scarcer, raise interest rates, discourage capital investment in job-creating capacity and result in higher consumer prices. So the Government's reckless spending policies are promoting both unemployment and inflation.

All this has to do with the budget for the current year, fiscal year 1980. Clearly, this is a disastrous year for the finances of the Federal Government, for the stability of the economy and for the wellbeing of the hard-working taxpayers of the United States.

Now, what about the upcoming year—the fiscal year of 1981, which begins on October 1?

For months both the administration and the Congress trumpeted a balanced budget for 1981. Next year was proclaimed to be the year of a resurgence of fiscal responsibility—the year when the Government really got tough in the fight against inflation. As late as June, both the administration and the Congress were projecting a budget in balance for 1981 and claiming that spending had been brought under control.

Yet when the President issued his revised budget on July 21, the Nation suddenly was told that spending would be $22 billion greater than previously stated, and that a deficit of $30 billion was now inevitable.

Frankly, these "revisions" came as no surprise to the Senator from Virginia. From the outset, I warned that the so-called balanced budget would prove a hoax, and that the Government would run a deficit of at least $30 billion. The only surprise to me was that the administration acknowledged the facts as soon as it did.

Now a few points concerning the budget for the year of 1981, which as I said will commence on October 1.

First, the projected deficit of $30 billion for 1981, if it materializes—and I have no doubt that the deficit will be at least $30 billion—will violate the law. Legislation which I sponsored in 1978, and which was signed into law by President Carter on October 10 of that year as part of Public Law 95–435, prohibits any Federal deficit in 1981 or any subsequent fiscal year. It will be interesting to see how the Congress deals with a budget which mandates a violation of the law.

Second, the 1981 budget needs to be considered in conjunction with the 1980 budget. The reason for this is that a great deal of spending has been loaded into 1980 in order to make 1981 look better—that is, to give the appearance of a degree of restraint by lessening the apparent spending increase for 1981. Actually, the American people have been treated to a budgetary shell game: with attention focused on the 1981 figures, the administration and the Congress have permitted 1980 spending to go through the roof.

The really meaningful figure is the 2-year increase from 1979 to 1981. In spending, that increase is a staggering $140 billion—far and away the biggest 2-year boost in history. The cumulative deficit for 1980 and 1981 will be $91 billion.

Third, the estimate of a $30 billion deficit for 1981 may well be low. Some economists have advised the Senate Finance Committee that a deficit of $50 billion or more is in prospect for the year beginning on October 1. There is strong evidence for this—one point being that as each successive estimate was released for spending in the current year of 1980, the spending total rose drastically, and we already have started down the same road with the 1981 projections.

Fourth, we now are facing the prospect that consideration of the next congressional budget resolution will be delayed until after the election. That is according to Speaker O'NEILL. Assuming that the Speaker's plan is followed, we can look for much greater spending than is now being forecast, because after the election much of the public pressure for restraint will have dissipated.

Fifth, it is not correct that the surge in spending which the administration now is projecting is all caused by increases in defense expenditures and unemployment compensation payments. When the President submitted his budget in January, I recommended cuts totaling some $26 billion to the Committee on the Budget, with no defense cuts and only a minor adjustment in the unemployment payment formula. About $6 billion of these recommended changes were adopted. If the rest were approved, and if the President's increases outside defense and unemployment were denied, the budget would be very close to balance. Spending would be in the neighborhood of $608 billion, instead of the presently predicted $634 billion.

I should note that my recommendations included no—repeat no—cut in scheduled increases for social security beneficiaries or Federal retirees.

Mr. President, in my judgment the financial condition of the Federal Government is grave.

In the light of the findings which I have presented to the Senate since July 21, I foresee no likelihood of any improvement in that grave condition.

And that in turn points to the probable continuation of high inflation and high interest rates, with no prospect for job-creating economic expansion.

It is a dismal picture. I regret having to present it to the Senate.

But if there is to be any hope of a change of course—any hope of financial restraint and responsibility in Washington—then I feel the facts must be before us.

That is why I have spoken as I have since July 21. I urge the Senate, before it is too late, to take a long, hard look at the real financial condition of the Government and its implications for the economic future of our Nation.

I ask unanimous consent that at this point in the RECORD there be printed tables showing: First, the history of the national debt in the 20th century; and second, unified budget receipts, outlays and surplus or deficit for fiscal years 1958–81, inclusive.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NATIONAL DEBT IN THE 20TH CENTURY (JULY 1980)[1]

[Totals at the end of fiscal years, rounded to the nearest billion dollars]

Year	Amount	Year	Amount	Year	Amount
1900	1	1928	18	1956	273
1901	1	1929	17	1957	272
1902	1	1930	16	1958	280
1903	1	1931	17	1959	288
1904	1	1932	19	1960	291
1905	1	1933	23	1961	293
1906	1	1934	27	1962	303
1907	1	1935	29	1963	311
1908	1	1936	34	1964	317
1909	1	1937	36	1965	323
1910	1	1938	37	1966	329
1911	1	1939	48	1967	341
1912	1	1940	51	1968	370
1913	1	1941	58	1969	367
1914	1	1942	79	1970	383
1915	1	1943	143	1971	410
1916	1	1944	204	1972	437
1917	3	1945	260	1973	468
1918	12	1946	271	1974	486
1919	25	1947	257	1975	544
1920	24	1948	252	1976	632
1921	24	1949	253	1977	709
1922	23	1950	257	1978	780
1923	22	1951	255	1979	833
1924	21	1952	259	1980[2]	907
1925	21	1953	266	1981[2]	962
1926	20	1954	271		
1927	19	1955	274		

[1] Gross Federal debt.
[2] Estimated figures.

Source: Office of Management and Budget, fiscal year 1981 budget.

UNIFIED BUDGET RECEIPTS, OUTLAYS, AND SURPLUS OR DEFICIT FOR FISCAL YEARS 1958–81, INCLUSIVE

[In billions of dollars, July 1980]

[Prepared by Senator Harry F. Bryd, Jr., of Virginia]

	Receipts	Outlays	Surplus (+) or deficit (−)
Fiscal year:			
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+.3
1961	94.4	97.8	−3.4
1962	99.7	106.8	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−215.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
1975	281.0	326.2	−45.2
1976	300.0	366.4	−66.4
1977	357.8	402.7	−45.0
1978	402.0	450.8	−48.8
1979	465.9	493.7	−27.7
1980[1]	517.9	578.8	−60.9
1981[1]	604.0	633.8	−29.8

[1] Estimates.

Source: Office of Management and Budget.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "Unified Budget Receipts, Outlays, and Surplus or Deficit for Fiscal Years 1958–81, Inclusive," and a table entitled "Deficits in Federal Funds and Interest on the National Debt for Fiscal Year 1959–81, Inclusive."

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

UNIFIED BUDGET RECEIPTS, OUTLAYS, AND SURPLUS OR DEFICIT FOR FISCAL YEARS 1958–81, INCLUSIVE (JULY 1980)

[In billions of dollars]

[Prepared for Senator Harry F. Byrd, Jr., of Virginia]

	Receipts	Outlays	Surplus (+) or deficit (−)
Fiscal year:			
1958	79.6	82.6	−3.0
1959	79.2	92.1	−12.9
1960	92.5	92.2	+.3
1961	94.4	97.8	−3.4
1962	99.7	106.8	−7.1
1963	106.6	111.3	−4.7
1964	112.7	118.6	−5.9
1965	116.8	118.4	−1.6
1966	130.8	134.6	−3.8
1967	149.5	158.2	−8.7
1968	153.7	178.8	−25.1
1969	187.8	184.6	+3.2
1970	193.8	196.6	−2.8
1971	188.4	211.4	−23.0
1972	208.6	231.9	−23.3
1973	232.2	247.1	−14.8
1974	264.9	269.6	−4.7
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1978	402.0	450.8	−48.8
1979	465.9	493.7	−27.7
1980[1]	517.9	578.8	−60.9
1981[1]	604.0	633.8	−29.8

[1] Estimates.

Source: Office of Management and Budget.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT FOR FISCAL YEAR 1959–81, INCLUSIVE (JULY 1980)

[In billions of dollars]

[Prepared for U.S. Senator Harry F. Byrd, Jr., of Virginia]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest[1]
Year:				
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+0.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.6
1970	143.2	156.3	−13.1	20.0
1971	133.8	163.7	−29.9	21.6
1972	148.8	178.1	−29.3	22.5
1973	161.4	187.0	−25.6	24.8
1974	181.2	199.9	−18.7	30.0
1975	187.5	240.1	−52.6	33.5
1976	201.1	269.9	−68.8	37.7
1977	241.3	295.8	−54.5	42.6
1978	270.5	332.0	−61.5	49.3
1979	316.4	362.4	−46.1	59.8
1980[2]	348.7	417.8	−69.0	74.8
1981[2]	410.2	444.6	−34.4	80.4

[1] Interest on gross Federal debt.
[2] Estimated figures.

Source: Office of Management and Budget.

MULTIEMPLOYER PENSION PLANS

Mr. WILLIAMS. Mr. President, at the end of last week the Congress of the United States proved unable to enact desperately needed amendments to the Employee Retirement Income Security Act of 1974. These amendments, embodied in Senate bill S. 1076, modify ERISA's title IV, which provides protection of retiree's benefits if their private sector pension plan becomes unable to pay.

As the other body is now in recess and the Senate will also shortly begin a recess, I believe I must take a few moments to be sure the record accurately reflects the reasons why the amendments are sought and risks that are present in light of Congress failure to act in an affirmative and constructive fashion on those amendments. I would hope that during the recess all Senators will review my remarks so that when the Senate returns to this issue after the recess—as it inevitably will—Senators will have a more complete understanding of the consequences of their actions.

The ERISA termination insurance rules provide, basically, that upon the termination of a covered pension plan that is not fully funded, the Pension Benefit Guaranty Corporation (PBGC) assures the payment of promised pensions to those already retired and workers who are vested but have not yet retired. The PBGC is financed by premiums that are paid by the covered plans. When ERISA was enacted, Congress was somewhat uncertain about the application of the termination insurance rules to collectively bargained multiemployer plans and therefore provided that although all of these plans would pay premiums to the PBGC, the guarantee of pensions if any one of them terminated was not to be mandatory as it was in the case of single-employer plans, but would be optional at the discretion of the PBGC. Mandatory coverage was to begin on January 1, 1978.

By the autumn of 1977, it had become clear that mandatory guaranty coverage under existing law probably would not work and might even be counterproductive, possibly even encouraging terminations of multiemployer plans. The PBGC and unions and employers in multiemployer plan industries urged the Congress to delay the effective date for mandatory coverage.

In December of 1977, Congress delayed the effective date for 18 months and at the same time directed the PBGC to make recommendations for revisions in the law so that the mandate of 1974 could be fulfilled and workers covered by multiemployer plans could have the same peace of mind regarding their retirement income that their counterparts in single-employer plans already enjoyed.

Mr. President, what followed between then and now was a lot of hard, agonizing work by the administration and by the labor and tax committees of both Houses of Congress, culminating in legislation that significantly revises the PBGC benefit guarantee program as it relates to multiemployer plans.

In brief, the legislation makes the following major changes in the program for multiemployer plans:

It changes the insurable event from the termination of a plan to plan insolvency. This revision makes it far more difficult for either of the collective bargaining parties to manipulate the insurance system, and also makes certain that the plan's resources are completely exhausted before PBGC assistance is given.

It strengthens the funding requirements for multiemployer plans to make it less likely that any will become insolvent.

It lowers the guarantee level, thereby removing another incentive toward manipulation, and raises the premium amount to assure that the PBGC will have sufficient assets to pay benefits up to the guarantee level for those plans that do become insolvent.

It provides a statutory "reorganization" mechanism for plans which become financially unsound. Plans in reorganization have to meet additional funding requirements so they can stabilize and continue to provide promised benefits.

It institutes liability for employers who withdraw from plans that have unfunded, vested liabilities. A withdrawing employer's liability is its fair share of the plan's total unfunded, vested liability and is to be paid back to the plan in annual installments for a period not exceeding, in the case of the Senate version, 20 years.

Mr. President, that is what this bill does, and I hasten to add that the process of arriving at this legislative format has been a painful one, for the legislation does not offer a perfect solution from anyone's standpoint. All parties involved have had to make sacrifices and compromises have been necessary at every step along the way. The difficulties were great and the process took so long that Congress has had to postpone the effective date for mandatory coverage under existing law three additional times since 1978.

But we did what we had to do to be sure that the 8 million workers covered by 2,000 multiemployer plans could have the peace of mind that they will not lose all their benefits if their pension plan becomes unable to pay.

Mr. President, the House passed its bill in May. In the Senate, we took additional time, working out our own differences and improving the bill considerably in the process. With the most recent postponement due to expire at midnight last Thursday, we brought the bill to the Senate floor on Tuesday, leaving sufficient time to work out with the House the differences between the two bills. Although there were numerous differences, we had reason to believe that the House principals would urge their colleagues to accept most, if not all, of the Senate bill.

However, this expectation was thwarted when the Senate agreed to three completely nongermane amendments. The addition of those amendments was completely unacceptable to the House managers and created enough confusion to prevent the House from acting on a further postponement of the effective date before it began its recess on Friday.

I know that Senator Javits wishes to add his thoughts on this issue but before I yield, I want to be sure that my message is clear.

The sponsors of the three nongermane amendments all stated that they had no intention of jeopardizing the ERISA legislation. Yet that is precisely what they have done. Those three, and the other Senators who voted for those amendments assumed, I suppose, that the House would swallow the amendments or, at worst, would simply pass another bill extending the period of discretionary coverage.

As Senator Javits and I predicted, that assumption was faulty and mandatory coverage under existing law became effective at midnight on Thursday for multiemployer plans. Not only is the ERISA bill in jeopardy, the retirement income of some 8 million workers is in jeopardy. Although I cannot predict the future, it is clear that we have been cast into dangerous, uncharted waters.

Mr. JAVITS. Mr. President, I join Senator Williams in reporting on the dangerous situation that has developed regarding plan termination insurance for multiemployer plans.

Last Tuesday, the Senate passed, by a vote of 85 to 1, the Multiemployer Pension Plan Amendments Act of 1980 (H.R. 3904, S. 1076). The ERISA-title IV amendments contained in that measure are absolutely necessary to make multiemployer plan termination insurance a workable program which will protect plan participants and beneficiaries. Unfortunately, the Senate also added three nongermane amendments to H.R. 3904 which have caused a legislative deadlock in the House resulting in the bill being stalled and the 1974 ERISA provisions going into effect on August 1.

The three nongermane amendments I am referring to are: The Boren OSHA amendment which would grant a permanent blanket exemption for certain small businesses from the enforcement provisions of the Occupational Safety and Health Act; the Wallop MSHA amendment which would transfer regulatory authority of stone, sand, gravel, clay, and phosphate surface mining from the Mine Safety and Health Administration to the Occupational Safety and Health Administration; and the Schweiker affirmative action amendment which would exempt Government contractors with five or fewer employees from the affirmative action requirements of any equal employment opportunity executive orders. The Senate attached other amendments to the ERISA bill, a week ago last Tuesday, but my understanding is that these amendments did not cause the deadlock in the House.

During the Senate debate on H.R. 3904, Senator Williams and I urged upon our colleagues that certain amendments, if adopted, would sidetrack the ERISA bill and result in the July 31, 1980, deadline for action not being met. I regret to say it, but our admonitions were correct and the worst has happened—that is, present ERISA law on multiemployer plan termination insurance has gone into effect.

Under present law, which goes back some 6 years, a multiemployer plan may voluntarily terminate, thereby making the Pension Benefit Guaranty Corporation (PBGC) responsible for guaranteeing and paying 100 percent of the plan's vested benefits, even though the plan is terminated. The PBGC may collect from participating employers their share of the plan's unfunded guaranteed benefits but only up to 30 percent of the employer's net worth. In certain cases, it is economically advantageous for employers to terminate the plan because of the 30 percent cap and for unions to agree to termination because of the 100 percent guarantee. At this time, I am aware of at least five plans in this situation, whose gross termination liabilities total $1.1 billion. Assuming collection of employer liability similar to what PBGC has experienced to date, the net liability which could be shifted to the PBGC by these five plans alone is about $800 million. In light of the present low, annual 50 cent premium per participant and the fact that the PBGC has already committed virtually all of its funds to plans covered during the discretionary insurance period, which was this interim period of 6 years to which I have referred, the PBGC, even with its borrowing authority from the Treasury, which amounts to $100,000,000, would have insufficient resources to pay the potential guaranteed benefits under these plans.

In order to meet this possibly dire situation, the Congress could, among other things, drastically raise the premium, thereby penalizing healthy multiemployer plans, or could appropriate general revenues to assist the PBGC. I should also point out that the withdrawal liability rules under present law may accelerate the termination of viable multiemployer plans.

An employer that remains with a plan until it terminates or withdraws within 5 years of the plan termination is liable to the PBGC for unfunded guaranteed benefits up to 30 percent of the employer's net worth, as I stated before. However, an employer that withdraws more than 5 years before the termination escapes any liability. Thus, an employer will be encouraged to abandon a plan at the earliest opportunity and hope, or at least gamble, that the plan continues for 5 years or more, in which case, he would have no liability. Of course, once this attitude spreads, a "last man out" mentality can develop, leading to a plan's demise.

It must be emphasized that at this point no one can know with certainty whether plans will terminate and, if so, what liabilities would be involved. Only experience will give us the answers. It is quite possible that no plans will terminate in the near future because of collective bargaining cycles or relationships or because of uncertainty about future congressional action. I earnestly hope that this will be the case. What Senator WILLIAMS and I are doing today is to alert our colleagues to the potential dangers which the recent actions by the Senate dealing with these nongermane amendments, and by the House, which I have already described, have spawned.

I will do everything I can to see that the House Rules Committee will see fit to grant a rule which will permit this bill to come to the House floor for a vote. If that occurs and the House sends the bill back to the Senate, the Senate will have another opportunity to help the more than 8 million participants and beneficiaries in multiemployer pension plans to have their benefits protected.

Finally, Mr. President, I point out that these nongermane amendments are not necessary on this bill. There are many bills on which they could go. We have no rule of germaneness in this Chamber.

In addition, the Committee on Labor and Human Resources is a very active committee, as is the Committee on Finance, and both committees have jurisdiction of this particular measure.

So I hope that during the recess we will all take a "think" on this matter. We have created a very dangerous situation for millions of workers and many employers who are involved in these multiemployer pension plans in perfectly good faith. We have erected a system through the PBGC which can be of inestimable value to millions of workers in this country and can help give basic assurances as to the integrity of the private pension system which is becoming such an important factor in light of the resource inadequacies of the social security system and the need to encourage capital formation.

I hope that the actions of the other body and our own actions will be equal to the occasion and that those who embraced these nongermane amendments with such enthusiasm may now reconsider and realize that responsibility and accountability require that the ERISA bill be enacted into law at the earliest possible moment. It is hoped that this may cure the situation, though the August 1 date having come and gone and present law now being in effect, we are bound to have more trouble than we otherwise conceivably should have had.

HANDGUN CONTROL

Mr. JAVITS. Mr. President, each year an average of 250,000 citizens are assaulted with handguns, and more than 9,000 Americans die as a result of these attacks. In fact, these handguns, which are so easily obtainable and for which no one is truly accountable, cause an average of 24 deaths per day. Furthermore, I inform Senators, with great dismay, that there are 50 million handguns—an astounding number—now circulating, with an additional influx of 2.5 million guns per year. Not only is this a horrifying figure, but also one which clearly warrants Federal control.

Last Monday, the New York Times published an editorial opposing a bill which weakens further the 1968 Federal Gun Control Act. As the editorial states:

> For Congress to contemplate weakening the Federal laws about (handgun) traffic would be perverse.

I take this opportunity to share this editorial with my colleagues, and hope that it receives their every consideration.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GREEN LIGHT FOR GUN TRAFFIC

We noted during New York's recent debate over state handgun controls that Federal controls would be the most effective answer to the national tragedy of threats and death from concealable weapons. Federal controls to date have been sadly inadequate. And now Congress is considering a bill to weaken them further.

Senator James McClure, Republican of Idaho, and Representative Harold Volkmer, Democrat of Missouri, last fall proposed a law that would seriously undercut the 1968 Federal Gun Control Act. The measure—which has now gathered 53 sponsors in the Senate and 157 in the House—would make it easier to merchandise firearms across state lines, and harder to convict those accused of Federal gun violations. The law should be moving exactly the other way.

The McClure-Volkmer bill would let persons other than Federally licensed manufacturers, importers or dealers make interstate gun transfers so long as they did not violate any state or local law at the guns' destination. It would also require prosecutors to prove that an accused violator had knowingly broken the law, thus eliminating the traditional presumption that gun dealers know what's illegal. The measure would limit the use of trial evidence by the Bureau of Alcohol, Tobacco and Firearms to lift or suspend dealers' licenses. And, people convicted of nonviolent Federal felonies could, as they cannot now, legally own guns.

Some members of Congress who generally favor stricter gun controls have been drawn to this legislation. Why? Because the gun lobby's capacity to finance the campaigns of friendly Congressmen, and to punish those who favor controls, is undiminished. Beyond that, the lobby has apparently persuaded some legislators that the Bureau of Alcohol, Tobacco and Firearms has been abusing citizens' civil rights. Proponents of the new bill are attracting support by publicizing a 1978 case in which the bureau had David Moorhead, a Vietnam veteran and gunsmith, prosecuted for owning a machine gun. The "machine gun" was actually an M-14 rifle that Mr. Moorhead kept as a collector's item and which was merely capable of being converted into a fully automatic weapon. The case was thrown out of court.

The bureau erred in the Moorhead case. And there have been other mistakes. But lately G. R. Dickerson, who became director of the bureau last year, has been improving supervision of overzealous agents. He recently assured Congress that the agency had redirected its energies from individual violations toward major interstate trafficking in illegal guns.

The Times not long ago reported how one New York City "businessman" makes $100,000 a year selling illegal guns. He reported how he easily purchased weapons in other states to sell in New York. For Congress to contemplate weakening the Federal laws about such traffic would be perverse.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BURDICK). Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 2 hours, with statements therein limited to 5 minutes each.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 o'clock today.

There being no objection, the Senate, at 11:10 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry. How much time remains under morning business?

The PRESIDING OFFICER. Eight minutes and 42 seconds.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that there be 2 hours for the transaction of routine morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENT ORANGE: UPDATE

Mr. President, as chairman of the Committee on Veterans' Affairs, I would like to bring my colleagues up to date on the issue of agent orange. I know that all Senators share my view that finding the answers to the questions that have been raised about that defoliant, which was used in great quantity in South

Vietnam during the war, particularly as those questions relate to Vietnam veterans, is—and should be—a very high priority for the Congress and for the Federal Government.

Mr. President, last Friday, August 1, 1980, the President's task force—the Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (the IAG)—submitted its fourth progress report to the White House. The report includes discussion of currently available scientific findings on dioxin—the toxic chemical contaminant in agent orange—including the IAG's assessment of five epidemiological studies of workers exposed to dioxin in Sweden and West Germany.

One important point raised by the IAG is that none of the studies now planned "* * * will be able to be used to determine whether agent orange is the cause of particular health decrements of Vietnam veterans, particularly if the studies do not identify any rare or unique diseases associated with agent orange exposure." Thus, the IAG recommends that the VA study mandated by Public Law 96–151 be expanded to include a focus to determine whether service in Vietnam, as opposed to exposure only to agent orange, may result in increased risk of Vietnam veterans developing certain health problems.

The implications of this recommendation are provocative, to say the least. However, the IAG does not make clear the full dimensions of this recommendation and what such an expansion of the VA epidemiological study would entail. I will be in contact with the IAG and the VA to clarify this point.

In addition, Mr. President, the IAG submitted to the White House its review—which I requested during a February 21 oversight hearing on the agent orange issue—of the Air Force protocol for the proposed study of ranch hand personnel. My colleagues will note that, although the IAG points out that the proposed design contains several inherent limitations, the IAG's assessment is that the design is "* * * a reasonable and appropriate approach to this kind of study * * *", and that, in order to preclude further delay in this very important study of a group of U.S. personnel whose exposure to agent orange can be quantified, the Air Force should conduct the ranch hand study, and that the conduct of the study should be monitored by an independent peer review committee—comprised of representatives of the science work group of the IAG, private sector scientists, academic scientists, and other persons with scientific backgrounds nominated by veterans' organizations—to assure that, to the greatest extent possible, the findings will be accepted as objective and valid.

On Friday the IAG also released a copy of a recently completed national toxicology program 20-week study of male mice exposed to heavy doses of agent orange and of nearly 5,000 offspring of those male mice. The results of this study are important because the male mice were exposed for 8 weeks—more than a complete spermatogenic cycle in mice—to the same mixtures of 2,4-D, 2,4,5-T, and dioxin that were contained in the agent orange sprayed over South Vietnam and no significant harm to fertility or reproduction was found and there was no evidence that paternal exposure to agent orange affected, in any way, the development or survival of offspring.

In this connection, it is important to note that the Center for Disease Control in Atlanta has begun a 2-year case-control epidemiological study of human birth records in the Atlanta area—which is also commented on in the IAG's progress report—in order to determine if Vietnam veterans are experiencing a high rate of specific birth defects in their children.

Although these studies will not resolve the agent orange matter, I am hopeful that, taken together, they will shed some light on one of the most troubling questions related to agent orange exposure—that of the possible effect such exposure could have on a veteran's children or on a veteran's ability to have children.

For the further information of my colleagues, I would note that today the VA Advisory Committee on Health-Related Effects of Herbicides is holding a meeting with a very busy agenda.

Finally, Mr. President, I believe that my July 31 letter to the Administrator of Veterans' Affairs regarding several agent orange-related matters that I raised early in June would be informative to all Senators. Therefore, Mr. President, I ask unanimous consent that the IAG's progress report, the IAG's assessment of the ranch hand protocol, the male mouse study, the VA Advisory Committee's agenda for August 6, and my July 31 letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND
HUMAN SERVICES,
Washington, D.C., August 1, 1980.

Hon. STUART EIZENSTAT,
The White House, Washington, D.C.

DEAR MR. EIZENSTAT: I am forwarding the fourth report of the Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants. Enclosed is the progress report for the months of June and July by the Chair of the Group's Scientific Panel, Dr. John Moore. During June and July the Work Group considered the Air Force protocol for the Ranch Hand study, the state of scientific knowledge on Agent Orange, and the format for a public meeting to be held in the near future.

I am also forwarding to you today under separate cover the Work Group report and recommendations with respect to the Ranch Hand study designed by the Air Force be conducted, and that the Air Force be the entity conducting the study. The Work Group's recommendations are fully detailed in the separate transmittal, which includes a report of the Scientific Panel on the Ranch Hand study.

In the third Work Group report to you, I noted that the Work Group had asked the Scientific Panel to report on the state of current scientific knowledge on Agent Orange. A copy of the memorandum to me from the Scientific Panel in response to that request is also enclosed.

The memorandum notes that some study results will be available in the near future. Results of a study to determine whether exposure of male mice to Agent Orange causes birth defects in their offspring or reduces fertility among the exposed mice will be released in early August. Additionally, results of health evaluations of workers in West Virginia and Arkansas who were exposed to 2,4,5-T and TCDD during manufacturing accidents are anticipated in late August. These studies are expected to shed light on the persistence of clinical findings and symptoms many years after exposure.

Specifically as to cancer, the Scientific Panel evaluated four Swedish papers and one German paper on the carcinogenicity of chemicals that were constituents of Agent Orange. A memorandum from the Panel on its evaluation is enclosed as an attachment to the Panel's progress report. The Panel concluded that, despite the studies' limitations, they do show a correlation between exposure to phenoxy acid herbicides and an increased risk of some forms of cancer.

Additionally, results from a cancer bioassay on TCDD, the dioxin contaminant contained in Agent Orange, have been released by the National Cancer Institute. The results confirm earlier reports that TCDD is carcinogenic in laboratory animals.

Given the research already under way or being planned by the Federal Government and others, and with the exception of the above studies, the Scientific Panel has concluded that it is unlikely that our scientific knowledge about the long-term health effects of Agent Orange will significantly increase in the next six months and that two to three years longer will be required. The Work Group believes that longer term studies should be aggressively pursued.

A major stumbling block continues to be an inability to identify a population of ground troops the nature and extent of whose exposure to Agent Orange can plausibly be reconstructed or documented with any degree of reliability. The Ranch Hand study results will not permit the establishment of a quantitative risk for ground personnel because exposure among Ranch Hand personnel is estimated to have been much greater.

Further, neither the Ranch Hand study nor any future studies of ground troops will be able to be used to determine whether Agent Orange is the cause of particular health decrements of Vietnam veterans, particularly if the studies do not identify any rare or unique diseases associated with Agent Orange exposure. Moreover, many of the adverse health effects about which concerns have been raised by veterans and others are already known to be found in the general population as the result of other causes. However, the Ranch Hand study and studies of ground troops (if a population can be identified whose nature and extent of exposure can be documented) can define an association between exposure to Agent Orange and an increased risk of health effects.

It remains the opinion of the Scientific Panel that certain health decrements may be present in the veterans population that are a consequence of Vietnam service and not directly associated with Agent Orange. Taken together with the difficulty in reliably determining the nature and extent of individual exposures, the Scientific Panel believes that additional studies should be considered which focus on the health status of Vietnam veterans, so as to determine whether service in Vietnam, rather than solely Agent Orange exposure, may have placed Vietnam veterans at higher risk of suffering certain health decrements. Consistent with this belief, the Scientific Panel has recommended that a study be initiated to determine if an increased risk of cancer is associated with service in Vietnam.

We believe that the judgments of the Scientific Panel as to the state of scientific knowledge about Agent Orange are of interest and importance to the public. Therefore, the

Work Group has decided to make this information one subject to a public meeting to be scheduled in the near future. The purpose of the meeting will be to transmit information to the public on the results of the group's efforts to date as well as to receive information and answer questions from the public.

Sincerely,

JOAN Z. BERNSTEIN,
General Counsel.

MEMORANDUM

To Chair, Interagency Work on Phenoxy Herbicides and Contaminants.
From Chair, Scientific Panel.
Subject Progress Report.

The Scientific Panel continued to give priority consideration to activities relevant to health consequences of Herbicide Orange exposure. A status report on Herbicide Orange, which summarizes current knowledge, major ongoing activities, and the perceived utility of these data, has been prepared (attachment 1). Two major points that were presented in the report are:

a. Attempts to identify an adequate population upon which to conduct studies on a broad range of health indices have, to date, been unsuccessful. An inability to document Herbicide Orange exposure in a population of sufficient size remains and completely frustrates these studies. This led the Scientific Panel to emphasize that large scale epidemiology studies should focus on determining if service in Vietnam is a casual factor in the development of adverse health effects. The use of a variety of other herbicides, drugs, and chemicals in Vietnam are compelling reasons for developing a broader etiologic focus.

b. A number of studies will be completed in the next one to six months; additional data on the possible toxic effects of Herbicide Orange will not be realized for approximately two years.

Other specific activities of major interest are summarized below:

1. Review of the Proposed Epidemiologic Study of Air Force Personnel Following Exposure to Herbicide Orange (Ranch Hand Study).

The Scientific Panel considered the utility of this proposed study as well as the responsiveness of the Air Force to the comments contained in the four peer reviews of the proposed protocol. The Panel recommended that the study, as designed by the Air Force, be conducted. The Ranch Hand personnel represent the only population whose time and duration of exposure to Herbicide Orange is known. The detection of adverse health effects in this heavily exposed group would provide a focus as to the type of health effects that may occur in other personnel (ground troops) exposed to Herbicide Orange. The complete report of the Scientific Panel Review is attached (attachment 2).

2. Evaluation of five scientific papers on the carcinogenicity of chemicals that were constituents of Agent Orange. The opinion of the Panel on these papers which deal with human exposures were transmitted in a memorandum to you on June 25 (attachment 3).

The Panel previously recommended that human birth records data maintained for the Metropolitan Atlanta area be utilized for a case control epidemiology study to determine if Vietnam Veterans are siring children with an increased incidence of specific malformations. This study has been initiated and the Scientific Panel will review a detailed protocol that is currently being developed.

The Scientific Panel expects to receive a final report on the effects of the constituents of Herbicide Orange on fertility and offspring of treated male mice on August 1. It also is communicating with scientists in England and Czechoslovakia to ascertain if there is additional information on the long-term health consequences of accidental occupational exposures to the dioxin contaminant 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). It also remains in contact with the two medical groups that are conducting studies on the health of the Nitro, West Virginia, worker population. We are informed that these data may be available to the Panel by the end of the summer.

JOHN A. MOORE, D.V.M.

MEMORANDUM

To Chair, Interagency Work Group on Phenoxy Herbicides and Contaminants.
From Scientific Panel.
Subject Herbicide Orange Status Report.

The Scientific Panel has given priority attention to the concern of Vietnam Veterans as to possible long-term health effects as a consequence of exposure to Herbicide Orange. Current scientific knowledge does not permit unequivocal judgments as to the health risk associated with each of the wide spectrum of health effects alleged to have resulted from exposure to these phenoxy acids or their dioxin contaminants. It is our opinion that, with few exceptions, a significant increase in our knowledge is not likely to be realized for several years. The status of current knowledge, difficulties inherent in defining studies to enhance that knowledge, and the utility of pertinent studies whether planned or in progress are summarized in this report.

In an issue of this type the preferred course for gathering scientific knowledge is to identify an exposed population and conduct the appropriate medical studies. Attempts to identify a population from ground troops who served in Vietnam have not been successful. This completely frustrates any study whose objective is to define what risk, if any, is associated with Herbicide Orange exposure. To embark upon a study without accurate knowledge as to actual exposure results in errors of misclassification and jeopardizes the accurate interpretation of results. The Scientific Panel is aware of current Department of Defense efforts to identify a ground troop population of battalion size whose exposure to Herbicide Orange can be plausibly documented. The results of these efforts will be known in September.

The Air Force Ranch Hand personnel, who applied Herbicide Orange, constitute a population, whose dates of service and frequency and duration of exposure are documented. The Scientific Panel has recommended that studies of the health status of this group as designed by the Air Force be conducted. Their phenoxy acid herbicide exposure may equal or exceed that of the more exposed domestic applicators of these herbicides. The detection of adverse health effects in this study should provide a focus as to the type of health effects that may possibly occur in other (ground troop) personnel. Because their exposure is estimated to be much greater than ground troops, the data would not permit an establishment of quantitative health risk for ground personnel. The Ranch Hand population numbers (1160) imposes definite limitations on the level of confidence that can be placed on failure to detect an increased incidence of a variety of health effects.

The Ranch Hand Study (or studies of ground troops if a population with documented exposure is identified) will only define an association between exposure to Herbicide Orange and increased risk of observed health effects. Assuming that a rare or unique disease is not identified, extrapolation of these data to each veteran will require a policy determination as to how the diagnosis of a disease which is seen with some frequency in a "general" population is to be interpreted as to plausible service connection.

It remains the opinion of the Scientific Panel that certain health decrements may be present in the veteran population that are a consequence of Vietnam service and not directly associated with Herbicide Orange exposure. Since the nature and degree of Herbicide Orange exposure is apparently impossible to ascertain, it is our opinion that a prudent approach is to design and conduct studies that indicate service in Vietnam as the casual factor. We also note that the Australian investigation of Vietnam veterans acknowledges that contact with other herbicides or chemicals may possibly be associated with adverse health effects.

The alleged Herbicide Orange health effects can be subdivided into four major areas which are discussed below:

BIRTH DEFECTS AND FERTILITY

The principal issue is that *male* veterans allege and fear that they are at increased risk of siring malformed children years after exposure to Herbicide Orange. It is known from toxicology studies that exposure of *female* rats and mice to 2,4,5-T or 2,3,7,8-TCDD (a constituent and a contaminant of Herbicide Orange, respectively) can produce malformed offspring, fetal toxicity or fetal death. One cannot predict male effects from results obtained through studies of female exposure. Logic dictates that ability to sire malformed offspring years after Agent Orange exposure could plausibly occur only if there was permanent genetic damage (mutation) to the spermatogonial cells. Current data on the mutagenicity of the Herbicide Orange components, 2,4-D, 2,4,5-T, and 2,3,7,8-TCDD, are judged to be inadequate. These chemicals are being retested using the best current techniques. The first results are available and more will be forthcoming the next year.

A direct method of securing relevant toxicology data is through the administration of the constituents of Herbicide Orange to male laboratory animals and examining their sperm, ability to fertilize untreated females, examination of offspring for viability and malformations. Such a study in mice is completed with results scheduled for release in early August.

A third approach is to study and evaluate human birth records data. The Scientific Panel evaluated the potential utility of a birth defects registry that has been maintained since 1963 in the metropolitan Atlanta area. The Panel recommended that a case control epidemiological study be conducted using this registry.

The Panel felt that such a study would have a good probability of determining if Vietnam veterans are siring an increased incidence of specific malformations. Detailed planning of this study is underway and is expected to require two years to complete. The study is unlikely to be able to indicate that Herbicide Orange was responsible for increased incidence of malformations should such a phenomenon exist. This latter point is not of major concern from a policy standpoint since the precept of veterans compensation rests on service connection effect rather than specific knowledge as to etiology.

In summary the ongoing mutagenicity tests and the male mouse studies should provide data in the next few months that will permit a reasoned opinion as to whether there is a scientific basis for the concern that Herbicide Orange exposure may pose a risk of males siring malformed offspring. The case control human birth records study should buttress the toxicology findings and additionally indicate if there were other factors or circumstances that resulted in Vietnam veterans fathering an increased incidence of children with specific congenital malformations.

Fertility assessment is a major parameter being studied in the mouse reproduction study to be released in August. Further, the epidemiologic study of the Air Force Ranch Hand personnel includes fertility assessment. The results of this study will not be available for 2–3 years.

CANCER

Veterans are concerned that cancer (death, illness, or an increased risk) is associated with Herbicide Orange exposure.

TCDD was found to cause an increased incidence of cancer in three studies involving rats and in one study of mice. Additional experiments have clearly indicated that TCDD is also a potent cancer promoter, i.e., ability to enhance the development of cancer due to exposure to other carcinogens. In addition, several recent case control epidemiology studies suggest that there is an increased risk of developing soft tissue tumors or malignant lymphomas as a consequence of exposure to phenoxy acids. These latter studies would be further strengthened by independent verification.

While these studies do establish a cancer risk from TCDD and possibly phenoxy acid exposure, the data do not lend themselves to the establishment of quantitative risk for veterans exposed to Herbicide Orange. To determine if "risk" is resulting in tumor occurrence, the veteran population should be studied directly. As previously stated, an exposed Herbicide Orange population cannot be identified; therefore, the results are unlikely to indicate if an increased cancer incidence is directly related to Agent Orange; it should provide evidence that increased risk of cancer is associated with Vietnam service, i.e., that the risk is service connected. A valid scientific criticism of such a study conducted at this time is that the study may be premature and prone to a false negative result given that the time elapsed since exposure in Vietnam is less than the 15-20 years that is typically required for excess cancer incidence to become manifest. However, the perception of cancer risk is a current concern, and in some instances excess cancer may appear in a population 10 years after exposure. Therefore, such a study should be initiated. The rationale for this recommendation is:

1. A negative finding would allay the current and possible increasing fear that Herbicide Orange or Vietnam service already is resulting in excess cancer deaths.

2. A positive finding would establish service connection and permit appropriate and rational policy decisions with respect to service connected disability and right to compensation.

3. A positive finding would identify the types of cancer for which there is increased risk and the medical community could focus attention on specific surveillance for early detection of tumors with a possible attendant increases in successful treatment.

4. An appropriate cohort will have been registered that can and must be resurveyed at appropriate time periods to detect changes in major morbidity or cancer incidence.

Such a study could easily be included as part of the VA epidemiology study that is in the planning stage. Since results from this study are not expected for several years, other mechanisms should also continue to be explored. The proposed Air Force Ranch Hand Study will study cancer incidence; however, the limitation of study size dictates that a larger study also be planned.

CHLORACNE

The consensus is that the presence of this skin disorder in a veteran should, as a practical matter, be accepted as a prior evidence of Herbicide Orange exposure. Other chemicals are also known to cause this condition but the symptom is sufficiently unique to permit it to serve as a signal marker. The utility of its application has, to date, proven to be of limited value; the VA has identified but two veterans with this condition. The low prevalence may indicate lack of herbicide exposure; failure of the conditions of herbicide exposure to result in development of this condition despite its appearance in many people exposed to TCDD in occupational or accidental contaminations; the condition may have occurred and disappeared in the time period that has elapsed since herbicide exposure.

OTHER CLINICAL FINDINGS AND SUBJECTIVE SYMPTOMS

Studies of people associated with industrial and accidental contamination detected symptoms and clinical findings that include: enlarged liver or alterations in clinical chemistry indices or liver function; a decrease in the velocity by which nerves conduct impulses, altered lipid metabolism as evidenced by alterations in serum cholesterol or triglyceride levels, neuralgia, weight loss, muscle weakness, and psychiatric changes. The ability of a physician to determine that these symptoms or clinical findings represent a sequelae of Herbicide Orange exposure is very difficult given that each may result from a number of causative factors.

Further, there is a paucity of data describing symptom appearance or persistence some years after exposure. An occupational exposure that has been extensively followed and reported in the scientific literature occurred in Czechoslovakia. Persistence of some of these symptoms and signs has been reported. Recent correspondence with these scientists reveals that two additional reports are to be published in the next 6–8 months.

The Scientific Panel has also made similar inquiries in Great Britain where it understands a 10 year followup of an accidentally exposed population was recently performed. Reports on health evaluation of worker populations in West Virginia and Arkansas are expected in late August, which should also provide information on the persistence of many of these clinical findings.

These new data which are expected to be released in the next few months, coupled with a review of the existing literature, constitute the information base from which to formulate policy as to their utility in the Vietnam veteran issue. Substantial additional data will not be available for several years. It is likely that these data can only be of relevant utility if an informed policy is established which states that the simultaneous presence of some portion of these nonspecific clinical findings or subjective symptoms will be acknowledged as plausible cause for presumptive herbicide exposure. Such considered action would clearly represent a policy decision to arbitrarily augment imprecise medical or scientific knowledge.

The Scientific Panel is aware of several ongoing studies in the U.S. that are being conducted and financed by the private sector. The direct utility of these data to the Herbicide Orange issue can only be determined upon receipt of more complete details of the study designs or review of the completed reports.

JOHN A. MOORE, D.V.M.,
Chair, Scientific Panel.

MEMORANDUM

To Chair, Interagency Work Group on Phenoxy Herbicides and Contaminants.
From Scientific Panel, IWG.
Subject Evaluation of Five Scientific Papers on the Carcinogenicity of Chemicals that were Constituents of Agent Orange.

The Scientific Panel is in receipt of 4 Swedish and 1 German paper. They are:

1. L. Hardell and A. Sandstrom. Case Control Study: Soft Tissue Sarcomas and Exposure to Phenoxy Acetic Acids or Chlorophenols. British Journal of Cancer 39: 711–717 (1979).

2. M. Eriksson, L. Hardell, N. O. Berg, T. Moler, and O. Axelson. Case Control Study on Malignant Mesenchymal Tumors of the Soft Tissue and Exposure to Chemical Substances Lakartidningen 76: 3872–3875 (1979). (EPA Translation)

3. L. Hardell, M. Eriksson and P. Lenner. Malignant Lymphoma and Exposure to Chemical Substances, Especially Organic Solvents, Chlorophenols and Phenoxy Acids. Lakartidningen 77(4): 208–210 (1980). (EPA Translation)

4. O. Axelson, L. Sundell, K. Andersson, C. Edling, C. Hogstedt, and H. Kling. Herbicide Exposure and Tumor Mortality; An Updated Epidemiological Investigation on Swedish Railroad Workers (Manuscript from 1980).

5. A. M. Thiess and R. Frentzel-Beyme. Mortality Study of Persons Exposed to Dioxin Following an Accident which Occurred in the BASF on November 13, 1953. Presented at the Fifth International Conference on Medichem, San Francisco, California, September 1977.

EVALUATION

Papers Nos. 1, 2, and 3 have a common design with L. Hardell appearing as first or second author. Each of the three studies appear to have been well executed although fairly permissive exposure criteria were utilized. Of particular interest to the Scientific Panel are the analyses which the authors defined as exposure only to phenoxy acid herbicides which identified a relative risk for soft tissue sarcoma of 4.3 (paper #1) or 6.8 (paper #2); and for malignant lymphoma 4.8 (paper #3). The phenoxy acid exposures in paper #1 are reported to be with 2,4,5-T and 2,4-D; thus the possible role of 2,3,7,8-tetracholorodibenzo-*p*-dioxin (TCDD) cannot be discounted. In paper #2 the authors suggested that the increased risk may also be associated with phenoxy acids that do not contain TCDD. Paper #3 did not present separate data as a function of exposure to phenoxy acids with or without the TCDD contaminant.

The similarity of design and involvement of at least one investigator in all three instances could permit the recurrence of an "unobserved bias" which weakens the Panel's acceptance that studies #1 and #2 represent a true independent verification of the findings.

In spite of the reservations that are generally associated with these case control epidemiology studies, i.e., permissive criteria for establishing "exposure" which varied between the studies; memory bias by patients or relatives that there was "exposure" because of a traumatic event such as cancer, the studies show a correlation between exposure to phenoxy acid herbicides and an increased risk of some forms of cancer. Independent vertification would further validate these studies.

Paper #4 represents 348 persons which is small for this type of mortality study. The authors reported that the observed number of tumor deaths is higher than expected and that the causal relationship to specific agents (amitrol and phenoxy acids) are unclear. The interpretation of three stomach cancers is very tenuous due to the size of the population and the possible bias of familial or genetic relationship.

Paper #5 represents a study of 75 workers which should be considered as a clinical observation. Genetic or familial association of the three stomach carcinomas needs to be ascertained.

The full utility of small populations such as are represented in papers #4 and #5 can best be realized through the development of an International Registry which includes a number of such populations where the statistical power of such analyses can be substantially enhanced. The development of such a Registry is being actively pursued.

JOHN A. MOORE, D.V.M.,
Chair, Scientific Panel.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, D.C., August 1, 1980.

Hon. STUART EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy, the White House, Washington, D.C.

DEAR MR. EIZENSTAT: I am writing to advise you of the conclusions the Interagency Work Group on the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants has reached concerning the Epidemiologic Study of Ranch Hand Personnel designed by the Air Force.

The Work Group agrees that the study should be conducted and endorses the judgments and recommendations on study design of its Scientific Panel, which are set out fully in the attached memorandum to me from Dr. John Moore, Chair of the Scientific Panel. Recognizing that there are several inherent limitations in the study design which are outlined in Dr. Moore's memorandum, the Work Group nevertheless reached the consensus that the Air Force designed a reasonable and appropriate approach to this type of study.

However, the Work Group conditions its approval of the Ranch Hand study on an explicit recognition and commitment by the Executive Branch and the Congress that the evaluation may have to continue for a period of time much longer than five years—perhaps up to 20 years—in order to have a much better chance of detecting and validating latent or subtle effects. Although Ranch Hand and other studies can be expected to provide a substantially clearer health effects picture in a much shorter period, a serious effort must be made to insure that necessary resources will be available to conduct the Ranch Hand study for as long as necessary. In this regard, the Work Group recommends that the Administration take appropriate steps to insure support for this objective.

The Work Group noted that no peer review group questioned the ability of the Air Force scientists to conduct the study. However, the Work Group did consider whether the public would perceive the study's findings to be credible if the Air Force conducts the study. As you know, this issue was raised by the National Academy of Sciences (NAS) and other peer review groups in their reports on the Air Force protocol.

We recognize that the appearance of an organizational conflict of interest in the conduct of the study by the Air Force could affect the credibility of the study. While we understand the reasoning that prompts this concern, we believe the concern can be properly and adequately addressed by independent review and monitoring of the study. Accordingly, the Work Group recommends that the conduct of the Ranch Hand study by the Air Force be overseen for at least the first five years by an independent peer review committee which could report to the White House Office of Science and Technology Policy or some other high-level entity. The peer review committee should be comprised of representatives of the Work Group, scientists from the private sector and academia, and persons with scientific backgrounds nominated by veterans organizations. The Work Group is prepared to devote special attention to defining more fully the nature of the independent peer review committee and the relationship between the committee and the Air Force. The independent peer committee, together with the quality of the scientific expertise which the Air Force will bring to the study, can and should assure a high quality, unbiased study.

The Work Group also believes the study should be conducted by the Air Force because it is convinced that significant delays in beginning the study—and thus in obtaining even preliminary results—will be caused if an entity other than the Air Force must conduct the study. It is the view of the Work Group that such delays must be avoided in light of the seriousness and sensitivity of the health concerns of Vietnam veterans. Indeed, it is imperative, in the judgment of the Work Group, that this important study be commenced as soon as possible.

In summary, the Work Group strongly recommends that the Ranch Hand study, with appropriate protocol modifications and with outside peer review and monitoring, be commenced by the Air Force as soon as possible.

Sincerely,

JOAN Z. BERNSTEIN,
General Counsel.

MEMORANDUM

To Chair, Interagency Work Group on Phenoxy Herbicides and Contaminants.

From Scientific Panel, IWG.

Subject Proposed Epidemiologic Investigation of Health Effects of Air Force Personnel Following Exposure to Herbicide Orange (Ranch Hand Study).

The Scientific Panel has considered the utility of the proposed study in determining the Long Term Health Effects that may be associated with exposure to Herbicide Orange. It has also reviewed the responsiveness of the Air Force to the comments contained in the four peer reviews of the proposed protocol.

In conducting this task the Scientific Panel's expertise was augmented by the participation of six scientists that are knowledgeable in the design and conduct of epidemiology studies or in the toxicity associated with the constituents or contaminants of Herbicide Orange. These scientists are: Dr. Aaron Blair, NCI, Dr. David Erickson, CDC, Dr. Carl Keller, NICHD, Dr. Renate Kimbrough, CDC, Dr. Phil Landrigan, NIOSH, Dr. Walter Rogan, NIEHS.

The Scientific Panel requested and received the following documents from the Air Force:

1. Current Chronology of Herbicide Orange Events.
2. Protocol: Project Ranch Hand II.
3. University of Texas, School of Public Health Report.
4. Air Force Scientific Advisory Board (SAB) Report.
5. Air Force Response to the SAB Report.
6. Armed Forces Epidemiological Board (AFEB) Report.
7. Air Force Comments on the AFEB Report.
8. National Academy of Sciences Report.

The Scientific Panel met on June 17th and benefited from a briefing of several hours duration on the proposed study. A list of attendees is attached. The following areas were detailed during the briefing:

1. The nature of the Vietnam Ranch Hand operation and the "occupational exposure" experienced by Air Force personnel.
2. A description of the epidemiological design.
3. Methods of data collection and verification.
4. The composition of the medical evaluation.
5. Statistical methodology.
6. A statistical comparison of data that would be realized from the Ranch Hand population, a theoretical group of U.S. Marines, and a composite analysis of both groups.
7. The Air Force's response to the NAS Review of the Ranch Hand Protocol (memorandum of June 6 from Col. Lathrop to USAFSAM/CC was distributed at the meeting).
8. A variety of options that the Air Force has considered relative to the conduct of the proposed study.

The Scientific Panel is of the opinion that the Air Force did consider the suggestions and critical observations that were reported by the four peer review evaluations of its protocol.

The limitations of population size was identified in several reviews. The Air Force did examine the feasibility of expanding the populations and properly concluded that the result would be detrimental. The Ranch Hand population numbers 1160 which imposes definite limitations on the level of confidence that can be placed on failure to detect an increased incidence of a variety of health effects, i.e., lack of statistical power. This was a concern of the National Academy of Sciences and USAF Science Advisory Board panels that reviewed the Air Force protocol. Augmenting the Ranch Hand population with U.S. Marine or Army ground troops is not an acceptable means of increasing the study population. The Air Force presented convincing data which demonstrated that adding ground troops merely adds a noncomparable population whose exposure is uncertain and whose magnitude of exposure is significantly less than that of the Ranch Hand personnel, i.e., it dilutes the truly exposed cohort which diminishes the likelihood of detecting an untoward health effect.

Several peer reviews observed that the protocol was too comprehensive as to the spectrum of health parameters included in the health evaluation. However, there were no consistent recommendations as to which parameters should be deleted. The diffuse nature of the health indices reflects the lack of current knowledge as to which parameters are of principal importance in evaluating potential herbicide toxicity. It remains a legitimate concern that the substantial amount of time that an individual must commit in agreeing to participate in the study will seriously increase the risk of decreased participation. Reduction of the scope of the health examination to reduce the time commitment would be an arbitrary choice but should be considered if it results in a substantive increase in participation.

The other consistent concern constantly raised by the peer reviewers was the issue of public perception of a credible study. The Scientific Panel notes this comment and defers the issue to the parent Interagency Work Group in the belief that this is not an issue restricted to science. It is to be noted, however, that none of the peer reviewers questioned the ability of the Air Force to conduct the study in a credible manner.

The Scientific Panel is of the opinion that the Ranch Hand personnel represent an occupational group that is unique from the standpoint of known time and duration of exposure to Herbicide Orange. Their phenoxy acid herbicide exposure may equal or exceed that experienced by other groups involved in some of the more intensive domestic uses of these herbicides. It is not aware of any other group that is likely to be identified whose exposure can be documented or was of similar intensity and duration.

The Scientific Panel recommends that the Epidemiologic Study of Ranch Hand Personnel as designed by the Air Force be conducted. The Ranch Hand personnel were heavily exposed to Herbicide Orange and should be provided information that indicates if they are manifesting adverse health effects or are at increased risk of developing future adverse effects as a result of this exposure.

The detection of adverse health effects also would provide a focus as to the type of health effects that may possibly occur in other personnel (ground troops) exposed to Herbicide Orange.

The Scientific Panel's recommendation is conditional based on the following points:

That the study be undertaken with an explicit commitment that the evaluation period should continue much longer than five years—possibly up to 20 years in order to optimize the chance of detecting late or subtitle effects. A study of 5 years duration may be incapable of detecting long-term health effects.

That a table be promptly prepared that displays the detectable relative risks for specific causes of death as well as for reproductive outcomes.

Statistical power is an inherent limitation in the study. The only way to enhance the power is through a high rate of participation in the extensive questionnaire and health evaluation phases of the study. The Scientific Panel is concerned that a health evaluation that requires several days may result in poor participation which will jeopardize the entre study. Enhanced participation by aggresively insuring that participants experience no loss of income, or even through directed participation, should be seriously considered.

The protocol be revised to succinctly outline the procedure to be utilized for assessment of reproductive outcome. Its diffuse identification throughout the protocol does not permit a clear evaluation.

That the Ranch Hand personnel, the public, and the scientific community clearly understand that the stated health goal in the Air Force Protocol may not be fully realized. That goal is "to identify veterans or active duty Air Force personnel who manifest adverse health effects attributable to herbicide exposure or who are at risk of developing future adverse health effects."

This caveat does not imply flaws in protocol design; it is to emphasize the inherent limitation of study size which cannot be augmented—there are no more Ranch Hand personnel. Because of this, it needs to be clearly understood that failure to identify increased risk in a variety of health parameters is to be interpreted as inconclusive and not necessarily a true lack of effect.

A major criticism of the NAS report was that the study could not fulfill the other stated goals "to satisfy the social concerns for proper investigation voiced by the lay and scientific communities" and "to clarify the question of compensation awards to the VA claimants."

The Scientific Panel agrees with that observation; however, the Panel does have the perspective that the Ranch Hand study is but one segment of a larger effort. There are other studies that are also critical to the overall effort, some of which are: the U.S. Dioxin Registry; the proposed International Dioxin Registry; the Case Control Study of Human Birth Defects; the Health Evaluation of the Nitro, W. Va. worker population; the proposed VA Epidemiology Study; the "Agent Orange" male mouse study; and ongoing laboratory studies such as those which are assessing the potential of Herbicide Orange components to cause genetic damage (mutation). It is the sum of these activities that may result in the attainment of these goals.

John A. Moore, D.V.M.,
Chairman.

List of Attendees, Scientific Panel Meeting, June 17, 1980

Name, organization, and telephone number

Terrie Gale, HHS–OGC, 245–7542.
Walter Rogan, NIEHS. 629-4578.
Philip C. Kearney, USDA, 344–3533.
Alvin L. Young, USAF, Brooks AFB, TX, 512 536–2604.
Michael Gough, OTA, 224–4142.
Dave Erickson, CDC, 236–4035.
William Wolfe, USAF, Brooks AFB, 512 536–2715.
Joel Michalek, USAF, Brooks AFB, 512 536-3441.
R. A. Albanese, USAF, Brooks AFB, 512 536–3441.
George Lathrop, USAF, Brooks AFB 512 536–2604.
Renate Kimbrough, CDC/HHS, 404 452–4176.
William S. Augerson, OASD(HA)/OSD, 697–8973.
Lt. Col. Ronald D. Burnett, AFSC/SGP, 981–5235.
Major Phil G. Brown, HQUSAF-SGES, 767–5078.
Bill Welch, USAF, Brooks AFB, 512 536-3705.
Carlos Stern, USAF/Pentagon, 697–9297.
Fredric Doppelt, AFSC/SG, 981–4562.
Gerald W. Parker, HQUSAF/SGH, 767–5050.
Patricia Moynahan, USAFSAM EKO, 512 536–2600.
Sherrill G. Laney, SAF/MIQ, 697–9297.
Philip J. Landrigan, NIOSH/CDC, 513–684–2427.
Lawrence B. Hobson, VA, 389–2616.
J. A. Moore, NTP, 629–3267.
Pat Honchar, NIOSH, 684–3593.
David Logan, OSHA, 523–9603.
Carl Keller, NICHD, 496–1711.
Don Barnes, EPA, 755–4362.
Barclay Shepard, VA, 389–2241 or 2331.

Reproduction and Fertility in Treated Male Mice and Evaluation of Congenital Malformations in Their Offspring

(By James C. Lamb IV, John A. Moore and Thomas A. Mraks)

ABSTRACT

This study was undertaken to determine the effects of mixtures (simulated Agent Orange of 2,4-dichlorophenoxyacetic acid (2,4-D), 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) and 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) on reproduction and fertility of treated male mice.

Male C57B/6 mice were given feed containing varying concentrations of 2,4-D, 2,4,5-T and TCDD such that daily doses of approximately 40 mg/kg 2,4-D, 40 mg/kg 2,4,5-T and 2.4 µg/kg TCDD (Group II) or 40 mg/kg 2,4-D, 40 mg/kg 2,4,5-T and 0.16 µg/kg TCDD (Group IV) or 20 mg/kg 2,4-D, 20 mg/kg 2,4,5-T and 1.2 µg/kg TCDD (Group III) would be achieved. Controls (Group I) were given a diet with only the corn oil vehicle added to the feed. In the treated animals, dose-related liver and thymus toxicity were found and body weight gain was significantly reduced. Liver and thymus toxicity showed significant or complete recovery when the mice were returned to a control diet. Sperm concentration, motility and percent sperm abnormalities were evaluated and no significant effect was noted during or after the dosing period.

At the conclusion of an eight week dosing period treated males were mated to untreated virgin females (three per male per week for eight weeks). Mating frequency, average fertility, percent implantation and resorption sites and percent fetal malformations were all measured in relation to the treatment. No significant decrement in fertility or reproduction was noted in the study. There was evidence of germ cell toxicity. Survival of offspring and neonatal development were apparently unaffected by paternal exposure to the simulated mixtures of Agent Orange.

INTRODUCTION

Chlorinated phenoxyacetic acid compounds are used extensively as herbicides in forestry and agriculture. The Department of Defense tested and used a number of different herbicides containing chlorinated phenoxy acids in Vietnam as defoliants; these included Herbicide Orange, Herbicide White, Herbicide Purple, Herbicide Pink and Herbicide Green (Young et al., 1978). The herbicide most extensively used was Herbicide Orange, a 1:1 mixture of the n-butvl esters of 2,4-dichlorophenoxyacetic acid (2,4–D) and 2,4,5-trichlorophenoxyacetic acid (2,4,5–T). It has been estimated that 107 million pounds were sprayed with the majority used in the years 1967 to 1969 (77% of total herbicide sprayed) (Young et al., 1978).

During the synthesis of 2,4,5-trichlorophenol (TCP) and subsequently 2,4,5–T, but not 2,4–D, a highly toxic contaminant is formed. This contaminant, 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), has been found in Herbicide Orange at an average concentration of 2 ppm with individual analysis of up to 47 ppm reported (Young et al., 1978). Occupational or environmental exposure to humans to TCDD has been associated with a number of clinical disorders (Firestone, 1977; IARC, 1978). The heaviest exposures have involved industrial accidents which occurred in plants synthesizing TCP. The most consistently documented clinical manifestation has been chloracne, a severe form of pustular folliculitis which is most frequently observed on the face, neck and upper extremities. Other less common clinical findings following TCDD exposure include porphyria cutanea tarda, central and peripheral nervous system disorders, depression and irritability, hepatic dysfunction and altered serum lipid concentrations (Firestone, 1977; IARC 1978; Young et al., 1978).

A number of Vietnam Veterans have expressed concern as to health effects that may have resulted from exposure to Herbicide Orange either through application of the herbicide or through inhabiting defoliated areas (Holden, 1979; Rawls, 1979). A particular concern is that Herbicide Orange exposure may be related to reported decreases in both libido and fertility (low sperm counts and abnormal sperm forms) and that it may also be responsible for birth defects observed in offspring sired by veterans who were exposed to Agent Orange (Bogen, 1979; Holden, 1979).

The toxicity of TCDD and the phenoxy acids 2,4-D and 2,4,5-T has been studied in some detail. The biological effects of these chemicals are well documented in a number of mammalian test systems (Gehring and Betso, 1978; Moore, 1978). 2,4-D, 2,4,5-T and TCDD have all been investigated for teratogenicity and fetotoxicity when given to pregnant females. 2,4-D acid and 2,4-D esters show signs of fetotoxicity and embryotoxicity in hamsters and rats at high dose levels, but it is unclear whether the compounds are actually teratogenic (Collins and Williams, 1971; Khera and McKinley, 1971; Schwetz et al., 1971). Exposure of mice to 2,4,5-T during pregnancy results in congenital malformations (Courtney and Moore, 1971; Neubert and Dillman, 1972; Hood et al., 1979). Studies in rats (Sparschu et al., 1971) and monkeys (Dougherty et al., 1975), indicate that the teratogenicity of 2,4,5-T may be a species-dependent phenomenon, since gestational exposure to this compound produced fetotoxic but not teratogenic effects (Gehring and Betso, 1978).

Early studies with 2,4,5-T samples which are contaminated with 30 ppm of TCDD indicated that the herbicide was teratogenic in rats (Courtney et al., 1970). Subsequent studies by Courtney and Moore (1971), using purified 2,4,5-T, showed that both 2,4,5-T and TCDD were teratogenic in three strains of mice but in rats only TCDD was fetotoxic and possibly teratogenic. TCDD has been shown by other laboratories to be teratogenic and/or embryotoxic in mice at levels above 0.1 µg/kg/day (Smith et al., 1976) and rats at 0.125–2.0 µg/kg/day (Sparschu et al., 1971).

Although fetotoxicity and teratogenicity associated with gestational exposures to these compounds have been extensively studied, there is a paucity of data as to the effects of male exposure on fertility and development of their offspring. Investigations in male rats undertaken to determine whether dominant lethal mutations could be caused by TCDD were negative. However, the incidence of fertile matings was decreased but it was not determined whether this was due to the systemic toxicity of TCDD or a direct effect on reproduction (Khera and Ruddick, 1971). Other studies that have considered reproductive competence in males have generally been multigeneration studies of animals treated during their entire lives with one of the compounds of interest. In those studies neither 2,4-D (Hansen et al., 1971) nor 2,4,5-T (Smith et al., 1978) significantly reduced fertility when males and females were given feed containing the herbicides. Three-generation studies with TCDD demonstrated that ingestion of levels greater than 0.1 μg/kg/day decreased fertility and litter survival in the f_0 generation; exposure to 0.01 μg/kg/day decreased fertility in the f_1 and f_2 generations, but not the f_0 generation (Murray et al., 1979). In that case, an increase in the percentage of resorbed implantation sites could be related to female exposure to TCDD, but not to male exposure (Murray et al., 1979).

The consequences of chemical toxicity on male reproductive capabilities might include loss or decrease in fertility, abnormal sperm morphology, decreased sperm concentration and/or motility, or lesions in the reproductive tract and accessory sex glands (Gomes, 1970; Manson and Simons, 1980). In addition to effects on reproduction or fertility, chemical exposure might cause genetic mutations in the male germ cells which could be expressed in the offspring as an inherited anomaly, or embryo and fetal death (Joffe, 1979; Manson and Simons, 1980). Another mechanism to explain fetal effects via the male would be that the chemical might actually be transmitted to the female in the seminal plasma which could then result in a direct exposure of the ova.

The dominant lethal (Epstein, 1973; Generoso, 1973) and sperm morphology (Wyrobek, 1979) assays, used routinely in mice to evaluate potential chemical mutagenicity in male germ cells, were employed in this study. Both of these test systems involve chemical exposure followed by fertility testing or sperm evaluation of the animals for the duration of the spermatogenic cycle (approximately 35 days in mice). This approach is necessary since male germ cells are constantly dividing and differentiating during transit from spermatogonia to spermatozoa with each developmental stage varying in its sensitivity and susceptibility to chemical toxicity or mutagenicity. Experimental designs which are directed at determining male germ cell toxicity must consider this sperm maturation process to assure that all stages of development are tested.

The following investigations were undertaken to determine if composite exposure to 2,4-D, 2,4,5-T plus TCDD (ie., Herbicide Orange), could affect reproductive function in male mice.

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MATERIALS AND METHODS

Test chemicals and purity

2,4-dichlorophenoxyacetic acid (2,4-D) (AGR 171114, 98.5 percent pure) and 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) (AGR 133711, 98.7 percent pure) were supplied by the Dow Chemical U.S.A., Midland, Michigan. Both samples were analyzed by Dow Chemical for TCDD contamination who reported no TCDD or other dioxin detected in the samples (Tables 1 and 2).

The free acid was used to eliminate the volatility problem associated with the butyl ester which would compromise quantification of dose administered and pose an exposure risk to laboratory personnel. The free acid form is readily absorbed from this gastro intestinal tract.

TABLE 1.—ANALYSIS OF 2,4-D SAMPLE FOR DIOXINS

	Concentration	Detection limit
2,3,7,8-Tetrachlorodibenzo-p-dioxin.	Not detected	1 ppb.
Hexachlorodibenzo-p-dioxin	Not detected	1 ppb.
Heptachlorodibenzo-p-dioxin	Not detected	20 ppb.
Octachlorodibenzo-p-dioxin	Not detected	5 ppb.

TABLE 2.—ANALYSIS OF 2,4,5-T SAMPLE FOR DIOXINS

	Concentration	Detection limit
2,3,7,8-Tetrachlorodibenzo-p-dioxin.	Not detected	0.5 ppb.
Hexachlorodibenzo-p-dioxins	Not detected	0.03 ppm.
Octachlorodibenzo-p-dioxin	Not detected	0.3 ppm.

2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) was synthesized by the Environmental Chemistry Branch, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina. The TCDD was reported to be of greater than 98% purity by gas chromatographic analysis performed by NIEHS. The principal contaminate was 2,3,7,-trichlorodibenzo-*p*-dioxin.

Animals and husbandry

Four week old male and 10 week old female C57BL/6 StCr/BR inbred mice (Cesarean-Originated, Barrier Sustained) were purchased from the Charles River Breeding Laboratories, Inc., Wilmington, Massachusetts. Upon arrival the mice were eartagged and housed in plastic cages with stainless tops (males, one per cage; females, ten per cage). Absorb-dri hardwood bedding (Barnes Supply, Durham, N.C.) was used, and cages were cleaned once each week. The animals were kept in constant temperature (20±2°C) and humidity R.H. 50±10%) on a fixed cycle of 12 hours light-12 hours darkness. The mice were allowed food and water *ad libitum*. The powdered diet was open formula NIH-31 prepared by Zeigler Bros. Co. of Gardners, Pa.

Preparation of diets

Stock solution of the test chemicals were prepared in a corn oil vehicle. The calculated and analytical values are given in Table 3. The test diets were prepared each week for 8 weeks by adding the appropriate stock solution into the feed (2% vol/wt). The concentration of chemicals in the feed was not changed during the 8 week exposure period study. Feed consumption (gm/mouse) was measured once a week. Approximate dose levels were projected using consumption of 5 gm feed/day by a mouse weighing 25 gm. The controls (Group I) were given a diet containing 2% corn oil. Group II consisted of mice that received about 40 mg/kg/day of 2,4-D, 40 mg/kg/day of 2,4,5-T and 2.4 μg/kg/day of TCDD for a total dose of 2.24 gm/kg of 2,4-D and 2,4,5-T each and 0.13 mg/kg of TCDD over the entire 8 weeks. Group III mice were treated at a rate of 40 mg/kg/day of 2,4-D and 40 mg/kg/day of 2,4,5-T (same as Group II), but received only 0.16 μg/kg/day of TCDD; the total dosages of 2,4-D and of 2,4,5-T were 2.24 gm/kg and 0.009 mg/kg of TCDD. The mice in Group IV received 20 mg/kg/day of 2,4-D, 20 mg/kg/day 2,4,5-T, and 1.2 μg/kg/day of TCDD, resulting in a total 8 week exposure of 1.12 gm/kg of 2,4-D and of 2,4,5-T and 0.067 mg/kg of TCDD. After the 8 week exposure period all mice were fed standard pelleted NIH 31 diet.

TABLE 3.—2,4-D, 2,4,5-T AND TCDD CONCENTRATIONS IN STOCK CORN OIL SOLUTIONS[1] AND PROJECTED DOSAGES IN FEED

	2,4-D[2]			2,4,5-T[2]			TCDD[4]		
Treatment group	Ppm[1]		Mg/kg/day[3]	Ppm[1]		Mg/kg/day[3]	Ppb[1]		μg/kg/day[3]
I (Control)	0	(0)	0	0	(0)	0	0	(0)	0
II	10,000	(9,380)	40	10,000	(9,590)	40	600	(505)	2.4
III	10,000	(9,310)	40	10,000	(9,480)	40	40	(39)	.16
IV	5,000	(4,880)	20	5,000	(4,830)	20	300	(271)	1.2

[1] Calculated prepared concentrations and in ( ) amounts detected by analysis.

[2] Samples of oil collected for 2,4-D and 2,4,5-T analyses were extracted with ethyl ether, derivatized with diazomethane, extracted with hexane and analyzed on an electron capture gas chromatograph (ECGC) by the Midwest Research Institute.

[3] Dose levels based on ideal concentrations in feed and an average feed consumption of 5 gm feed per day per 25 gm mouse.

[4] Samples of oil collected for TCDD analysis were saponified in ethyl alcohol and potassium hydroxide, then extracted with hexane and analyzed with an ECGC by the Midwest Research Institute.

Experimental design

Two hundred male mice were weighed and sorted (by weight) into eight groups (25 per group). One half of the male mice (4 groups of 25 each) were used for toxicity evaluation, while the other half (4 groups of 25 each) were used for fertility and reproductive studies.

All males were then acclimatized on NIH-31 laboratory chow for three weeks before the chemical exposures were begun. Chemical exposure began when the males were eight weeks old. Body weights and food consumption were recorded on a weekly basis. The males were assigned to experimental and control groups such that weight differences between groups were minimized. The mice were then treated with one of the four treated or control diets for eight consecutive weeks.

Toxicopathology

One hundred of the mice were studied during and after the 8 week feeding period. Four animals from each of the four dose groups were killed by decapitation at 1, 4, 5, 8, 12 and 16 weeks after first receiving treated feed. Each mouse received a gross autopsy examination; body and organ (brain, liver, spleen, kidney, thymus and testis/epididymis) weights were measured. These organs as well as lung, duodenum, ear, prostate, seminal vesicle, coagulating gland and urinary bladder were fixed in 10% neutral buffered formalin, dehydrated and embedded in paraffin blocks. Six μm histologic sections were prepared and stained with hematoxylin and eosin. The tissues were examined for evidence of histopathologic change.

Also at sacrifice, the vas deferens were removed and spermatozoa milked into a 1.0 ml volume of 0.9% saline. The concentration of sperm per vas deferens was estimated with a hemocytometer immediately after collection. Additionally, the percent motile (any movement vs. no movement) sperm was enumerated. The sperm sample was then stained with 0.25% eosin Y for 30 minutes. The sperm were evenly distributed within the staining solution using a Pasteur pipette and four slide preparations were prepared from each sample. The smears were allowed to air dry, were cover slipped and were examined at 400 X. Three hundred sperm were studied for each sample and sperm were classified as normal or abnormal using the criteria of Wyrobek and Bruce (1975) and Soares et al (1979).

Fertility and reproduction

Fertility and reproduction assessments were conducted on the remaining 100 mice (four groups of 25).

After the male mice had been treated with the test chemicals for eight weeks they were returned to control feed. Beginning the next day, each male was housed with three virgin female mice (fourteen weeks of age) for up to 5 days each week for eight weeks. Each female was examined each morning for evidence of mating by detection of a vaginal plug (Day 0 of pregnancy). Each mated female was removed from the cage, weighed and placed in a cage with other mated females in that group. Females which did not appear to have mated during the 5-day cohabitation period were observed for three more weeks to permit detection of possible pregnancies for which vaginal plugs were not observed. Apparent failure of a female to mate or conceive was verified three weeks after cohabitation by killing the animal, removing the uterus, and staining it with ammonium sulfide to better identify implantation sites (Kopf et al., 1964).

For each weekly mating trial one female bred to each male was put in a group to be sacrificed on day 18 of pregnancy for teratology examination. A second bred female from each male was placed in a group which was allowed to deliver her offspring. All remaining dams found to have plugs were placed in a "teratology backup group" to be subjected to teratological evaluation if the dam selected for day 18 sacrifice was found not to have any live fetuses. The above pregnant mice were systematically distributed to the teratology, postnatal or "backup" groups such that no one group was biased with dams which mated first, second or third. However, if less than three dams had mated, priority was generally given to the teratology group. All mated dams were weighed on days 0, 7, 11, 15 and 18 of gestation.

On day 18 of gestation, the dams designated for teratology examination were coded to permit identification only by number so that laboratory personnel conducting the teratogenic analysis did not know the test group. The mice were killed by servical dislocation of their reproductive status was determined. Implantation sites in each uterine borne were counted and the general condition of each conceptus was recorded. The detection of implantation sites in the uteri of apparently nonpregnant females was achieved through use of ammonium sulfide (Kopf et al., 1964). Live fetuses were weighed individually, sexed internally (surgical incision below navel), and examined for external malformations. Live fetuses weighing <0.5 g, or weighing less than two-thirds the mean of their larger littermates, were designated as being "stunted". At least one-half of the fetuses of each litter, all "stunted" fetuses and fetuses having external malformations, were examined for visceral alterations (Staples, 1974). The bodies of all fetuses were then processed for skeletal examination (Staples and Schnell, 1964). The heads of each fetus subjected to visceral examination (with the exception of any fetuses which had external head malformations) were cut off at the base and examined by the free-hand sectioning technique described by Wilson (1965).

The remaining dams (postnatal groups) were allowed to deliver their litters. Live and dead offspring as well as birth weight were recorded (day 0). The pups were reweighed on days 4, 7 and 21 and viability also was recorded. The dams and their offspring were killed on day 21.

The above procedures were repeated weekly for eight weeks resulting in a total of eight sets of data. Four weeks after the conclusion of the breeding study, (week 20 of the experiment), the male mice were killed and autopsied in a manner identical to that described for the males sacrificed for toxicopathologic evaluation.

Statistical evaluation

Statistical evaluations of possible pairwise treatment-control differences in food consumption, body weights, organ weights, fertility, mating efficiency, and sperm number, motility and abnormalities were made by Dunnett's test (Miller, 1966). Analyses of variance procedures were employed to assess the significance of differences among groups, week-to-week variability, and week by group interactions. Analyses of abnormalities among the offspring were carried out employing pairwise comparison of control versus treated groups with the Mann Whitney U test. The analysis of malformations considered the average percent malformed fetuses per litter as the experimental unit.

RESULTS

Feed consumption and body weight

The projected food consumption of 35 gm/week (5 gm/day) proved to be a conservative estimate in all groups throughout the period of chemical exposure. Lower food consumption for all groups is indicated in week-2 because only a fraction of the week (5 days) was measured. The addition of 2,4–D, 2,4,5–T or TCDD did not significantly decrease feed consumption during the full eight week dosing period in any treatment group, as compared to the controls. Statistically significant changes in feed consumption were only found in sporadic cases and no general trend of decreased feed consumption could be attributed to the addition of either phenoxy acids or TCDD.

Body weight and weight gain, however, showed significant reductions in the treated animals when compared to controls. This reduction in body weight was most pronounced in group II (2.4 µg TCDD/kg/day and 80 mg phenoxy acid/kg/day) from weeks 3 through 8 of the study. The Group II animals recovered most of their weight deficit when returned to control diet.

Generally all of the mice appeared healthy throughout the course of the study. Only two animals died during the twenty weeks, one in group IV at 5 weeks and one in group II at 19 weeks. Their deaths did not appear to be treatment-related.

Organ weights and histopathology

Statistically significant increases in liver weight (Figure 4) were observed in all treated groups and was positively correlated with the amount of TCDD exposure (i.e., $2.4 > 1.2 > .16$ µg/kg TCDD/day, groups II, IV and III respectively). After conclusion of exposure the liver weight returned toward normal, although Groups II and IV continued to show significantly elevated values even at week 20. The livers of treated mice were enlarged, lighter in color than normal and mottled. The thymus was decreased in weight, which also appeared to be a function of the level of TCDD rather than phenoxy acid exposure. Although the thymus weights were significantly ($p < .01$) reduced in Groups II and IV relative to controls throughout the treatment period (weeks 1–8), thymic recovery appeared complete and weights were not statistically different from the controls by 4 weeks after the last exposure. No significant treatment-related effects were observed in the spleen, testis, kidney or brain. Histopathological evaluation showed no treatment-related changes in any organs, with the exception of the liver. Even the thymus, which had decreased in size to as much as one-third that of the control thymus, appeared histologically normal. The mild toxic effects observed in the liver included hepatocellular swelling, scattered single cell necrosis, increased numbers of mitotic figures, excess extramedullary hematopoiesis, and leukocytic infiltration. These changes were most apparent in group II (2.4 µg/kg/day TCDD; 80 mg/kg/day phenoxy acids) and least apparent in Group III (0.16 µg/kg/day TCDD; 80 mg/kg/day phenoxy acid). These signs of toxicity diminished substantially by the end of the twelfth week of the study (four weeks after chemical exposure was concluded).

* * * * *

Fertility

The average percent matings and overall fertility of the males through 8 weeks of the study are given in Table 4. There was a significant reduction in the mating frequency in males from group III (80 mg/kg/day phenoxy acid, 0.16 µg/kg/day TCDD). This effect was not observed in Group II whose phenoxy acid exposure was similar and whose TCDD exposure was 15-fold greater. Therefore, no dose-related effect could be attributed to this decrease. Also, the percent fertile matings and total fertility were not significantly reduced in Group III or in any group when compared to the control.

When fertility was evaluated on a week by week basis, no treatment-related changes were observed. Fertility was also studied on an individual per male basis and no significant changes were detected within treated males as compared to controls. At the conclusion of the study sperm concentration and motility and percent abnormal sperm were measured. These values were analyzed, on an individual male basis, to determine whether any correlation existed between low fertility performance (plug frequency, percent fertile matings and total fertility) and low values for sperm quality (concentration, motility, percent abnormal). In all groups there was no correlation between the parameters measured. This would indicate that, even though there was considerable variability within these parameters, variations in fertility could not generally be attributed to specific changes in sperm quality. The values for sperm concentration and sperm motility fluctuated considerably from week to week. Percent abnormal sperm were less variable. No treatment-related changes were observed in these parameters. The marked reductions in sperm concentration and increase in sperm motility which were observed from weeks 16 to 20 of the study might be at least partly explained by the fact that the males whose sperm were checked on week 20 had been through an 8-week intensive mating program whereas the males monitored in the earlier weeks were virgins.

TABLE 4.—FERTILITY AND MATING EFFICIENCY IN TREATED AND CONTROL C57B1/6 MICE, 8-WEEK TOTAL

Treatment group[1]	Mating frequency[2]	Fertile matings (percent)[3]	Total[4] fertility (percent)
I (Control)	74.6±1.6	56.2±2.2	42.0±1.9
II (80; 2.4)	70.3±2.4	58.3±2.9	41.0±2.6
III (80; 0.16)	[5]67.8±2.4	55.3±2.3	37.7±2.2
IV (40; 1.2)	73.0±2.0	60.8±2.9	44.2±2.3

[1] Calculated daily exposure is given in parentheses as total milligram phenoxy acids per kilogram per day; µg TCDD per kilogram per day.

[2] Percent plugs observed per total females housed with males.

[3] Percent fertile matings per females with plugs.

[4] Percent fertile matings per total females housed with males.

[5] $P<0.05$ relative to controls.

Note: Values are mean plus or minus standard error of the mean, n equals 25 per group.

Teratological examinations

The results of the teratology examination of the dams mated with treated or control males for each group by week are detailed in Tables 5–8. A comparison of the tables indicates that the average number of implants per litter, average number of resorptions per litter or average number live fetuses per litter (Tables 5–8) were unaffected by the male's chemical exposures. For example, the mean values for control and Group II (most heavily exposed) were 7.1 vs. 7.4 implant sites per litter; also in Groups I and II there were 4.9 vs 5.0 live fetuses per litter and 2.18 vs 2.37 resorptions per litter. The average fetal weight was significantly ($p<0.05$) greater in all treatment groups as compared to controls. The total number of dead fetuses (i.e., offspring which weighed more than 0.3 gm; offspring weighing <0.3 gm were listed as a resorptions) was 1 in Group I, 2 in Group II, 1 in Group III and 0 in Group IV for the entire 8 week study. The ratio of male to female fetuses was also determined; no treatment group exhibited any significant change (p<0.10) in this ratio as compared to the control.

Congenital malformations were not significantly increased in the offspring of treated versus control males (Tables 5–10). Visceral malfunctions were observed with less frequency than external and skeletal malformations in all groups. The incidences of the most frequently observed malformations are summarized in Table 9: eye defects (anophthalmia and microphthalmia), jaw anomalies (agnathia, micrognathia), were observed in 1.4 to 2.4 percent and 1.2 to 1.6 percent of the fetuses, respectively. Cleft palate and heart or major blood vessel anomalies were observed in all groups in somewhat lower incidences (Table 9). The total percent malformed fetuses (Table 10) ranged from 3.1 to 3.6 percent and the weekly percentage did not show any treatment-related increases in congenital malformations. A comprehensive listing of malformations observed during the study has been included (Appendix Table 1).

TABLE 5.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON FETAL DEVELOPMENT, GROUP I CONTROL

	Week of study								Total, 8 weeks
	1	2	3	4	5	6	7	8	
Number of females examined	19	22	22	25	23	19	22	19	171
Maternal weight gain	13.1±1.0	12.8±0.7	12.7±0.7	12.0±0.8	10.0±0.7	10.1±0.7	11.4±0.8	12.1±0.8	11.8±0.3
Number of implants per litter	8.1±0.5	7.7±0.4	8.0±0.4	7.4±0.6	5.4±0.5	5.8±0.4	7.2±0.5	6.6±0.6	7.1±0.2
Number of resorptions per litter	2.16±0.38	2.41±0.32	2.18±0.32	2.16±0.25	2.39±0.25	2.16±0.33	2.27±0.3	1.68±0.30	2.18±0.1
Number of live fetuses per litter	5.9±0.7	5.3±0.5	5.9±0.5	5.2±0.6	3.0±0.5	3.7±0.4	4.9±0.5	4.9±0.6	4.9±0.2
Average fetal weight per litter	1.04±0.03	1.06±0.02	1.05±0.03	1.00±0.02	1.03±0.02	1.04±0.03	0.99±0.03	1.01±0.03	1.03±0.0
Male/female	59/52	47/68	63/64	69/60	38/32	32/38	52/53	42/52	404/419
Visceral malformations:									
Number of fetuses examined	60	62	68	73	39	39	62	52	455
Number with visceral malformations	0	0	0	1	1	0	0	0	2
Skeletal and external malformations:									
Number of fetuses examined	113	117	129	129	70	70	108	94	830
Number with malformations	2	3	4	4	4	0	4	5	26

Note: Values are mean plus or minus standard error of the mean.

TABLE 6.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON FETAL DEVELOPMENT, GROUP II

	Week of study								Total 8 weeks
	1	2	3	4	5	6	7	8	
Number of females examined	19	18	21	17	22	20	17	14	148
Maternal weight gain	14.1±0.5	12.7±0.9	12.2±0.8	11.5±1.0	10.8±0.7	10.4±0.9	12.6±0.9	12.0±1.0	12.0±0.3
Number of implants per litter	9.2±0.4	7.4±0.6	8.2±0.4	6.2±0.6	7.1±0.4	6.2±0.5	7.5±0.4	7.0±0.7	7.4±0.2
Number of resorptions per litter	2.37±0.27	1.94±0.37	2.71±0.40	1.76±0.22	2.55±0.36	2.30±0.45	1.88±0.38	3.43±0.71	2.37±0.1
Number of live fetuses per litter	6.8±0.3	5.5±0.7	5.6±0.5	4.5±0.7	4.5±0.4	3.9±0.6	5.6±0.6	3.6±0.7	5.0±0.2
Average fetal weight per litter	1.00±0.02	1.14±0.03	1.08±0.03	1.09±0.02	1.02±0.03	1.11±0.03	1.02±0.02	1.10±0.03	1.08±0.0
Male/female	62/67	39/60	61/48	36/39	45/54	43/34	42/54	28/20	355/376
Visceral malformations:									
Number of fetuses examined	66	53	61	42	54	42	47	28	393
Number with viscreal malformations	0	0	0	0	0	0	2	0	2
Skeletal and external malformations:									
Number of fetuses examined	129	99	115	78	100	7	96	50	744
Number with malformations	2	6	4	0	5	7	7	1	26

Note: Values are mean plus or minus standard error of the mean.

TABLE 7.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON FETAL DEVELOPMENT, GROUP III

	Week of study								Total, 8 weeks
	1	2	3	4	5	6	7	8	
Number of females examined	18	15	21	17	19	22	21	12	145
Maternal weight gain	12.9±0.9	12.9±0.9	11.9±0.7	12.0±0.9	10.7±0.8	10.9±0.8	10.2±0.6	12.2±1.1	11.6±0.3
Number of implants per litter	8.4±0.6	7.6±0.5	7.5±0.4	6.6±0.6	7.2±0.5	6.6±0.6	6.8±0.4	7.0±0.6	7.2±0.2
Number of resorptions per litter	2.65±0.58	2.27±0.44	2.14±0.35	1.65±0.28	2.84±0.37	2.14±0.34	2.05±0.30	2.33±0.72	2.26±0.1
Number of live fetuses per litter	5.7±0.7	5.4±0.6	5.3±0.5	5.0±0.5	4.3±0.4	4.5±0.5	4.8±0.4	4.7±0.7	4.9±0.2
Average fetal weight per litter	1.06±0.03	1.11±0.02	1.15±0.02	1.09±0.03	1.09±0.02	1.05±0.03	1.00±0.02	1.09±0.03	1.08±0.01
Male/female	47/50	41/39	58/53	33/50	46/35	51/47	51/49	29/26	356/349
Visceral malformations:									
Number of fetuses examined	53	44	60	44	47	58	56	32	394
Number with visceral malformations	1	3	0	0	0	0	0	1	5
Skeletal and external malformations:									
Number of fetuses examined	97	81	112	85	82	98	100	56	711
Number with malformations	2	1	4	2	5	0	5	1	20

Note: Values are mean plus or minus standard error of the mean.

TABLE 8.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON FETAL DEVELOPMENT, GROUP IV

	Week of study								Total, 8 week
	1	2	3	4	5	6	7	8	
Number of females examined	18	23	20	24	21	21	18	19	164
Maternal weight gain	11.6±0.8	12.9±0.8	11.5±0.7	12.2±0.8	9.9±0.8	9.9±0.8	11.9±0.8	11.9±0.9	11.5±0.*
Number of implants per litter	8.9±0.7	7.3±0.6	7.0±0.6	7.6±0.5	6.0±0.5	6.5±0.5	7.5±0.6	5.9±0.7	7.0±0.2
Number of resorptions per litter	4.00±0.50	1.77±0.29	1.30±0.28	1.88±0.30	1.95±0.37	2.43±0.35	2.39±0.48	1.58±0.30	2.11±0.*
Number of live fetuses per litter	4.9±0.6	5.6±0.6	5.7±0.5	5.8±0.6	4.1±0.5	4.1±0.4	5.1±0.6	4.3±0.7	5.0±0.2
Average fetal weight per litter	1.12±0.04	1.16±0.03	1.09±0.02	1.11±0.02	1.10±0.03	1.07±0.03	1.05±0.03	1.07±0.03	1.10±.0*
Male/female	33/45	59/69	58/54	63/75	45/41	40/46	42/46	36/44	376/420
Visceral malformations:									
Number of fetuses examined	41	67	62	77	50	50	50	46	443
Number with visceral malformations	0	2	1	1	1	0	0	0	5
Skeletal and external malformations:									
Number of fetuses examined	78	129	113	139	86	86	92	82	805
Number with malformations	2	5	5	3	2	0	4	4	25

* Figures not supplied.

Notes: Values are mean ± standard error of the mean.

Postnatal litter examinations

When females were allowed to carry their litters to term, the survival and development of their offspring were studied. The number of live pups and their mean body weight were compared in treated and control offspring (Tables 11–14). The lack of a toxic effect is graphically demonstrated by comparing values for control (Group I) animals to those for the animals exposed to the highest dose of phenoxy acid and TCDD (Group II). There was a marked reduction in the number of litters from day 0 to day 4 in all groups. In group I the number of litters fell from 80 to 44 and in group II from 90 to 60. This was accounted for in all groups by cannabalism by the mothers. After day 4, the loss of litters was greatly decreased. Other parameters show little difference between Groups I and II; on day 0, the number of live pups per litter were 4.40 and 4.19, number of dead pups per litter was 0.92 in both groups, and the average pup weights were 1.37 and 1.39. At day 21 the number of live pups per litter were 5.15 and 4.59 and the average pup weights were 7.48 and 7.60, respectively, for groups I and II. No effect on postnatal viability or growth could be attributed to the exposure of the adult male mice to phenoxy acids or to TCDD.

The pups were examined externally on day 0 for malformations (Tables 15 and 16). During the entire eight weeks the total malformation rate in these mice was between 2.9 and 4.4 percent. The only individual values which approach statistical significance are the malformation rates for week four group IV (40 mg/kg/day phenoxy acid, 1.2 ug/kg/day TCDD) (Table 15) versus control. In that case the control animals had no malformations and the treated had 13% malformations; all of these were either eye or jaw anomalies.

As seen in the prenatal evaluations, eye and jaw malformations accounted for the majority of the defects noted (Table 16). Anopthalmia or micropthalmia were seen in 1.7 to 2.6 percent of the pups and agnathia or micrognathia were seen in 1.3 to 1.9 percent of the pups for all treatment groups.

TABLE 9.—SUMMARY OF MOST FREQUENTLY OCCURRING DEFECTS IN FETUSES SIRED BY MALES TREATED WITH 2,4-D, 2,4,5-T AND TCDD

	Treatment group			
	I	II	III	IV
Anopthalmia/micropthalmia	1.4 (12/830)	1.9 (14/744)	2.0 (14/711)	2.4 (19/805)
Agnathia/micrognathia	1.3 (11/830)	1.2 (9/744)	1.4 (10/711)	1.6 (13/805)
Cleft palate	.6 (5/830)	.7 (5/744)	.7 (5/711)	.7 (6/805)
Heart/vessels anomalies	.2 (1/455)	.5 (2/393)	1.0 (4/394)	.7 (3/443)

Note: Values are percent incidence of specific anomalies; number of specific malformations per number observed is given in parenthesis.

TABLE 10.—PERCENT MALFORMED FETUSES SIRED BY MALES TREATED WITH 2,4-D, 2,4,5-T AND TCD

Week	Treatment group			
	I	II	III	IV
1	1.8 (2/113)	1.6 (2/129)	3.1 (3/97)	2.6 (2/78)
2	2.6 (3/117)	6.1 (6/99)	3.7 (3/81)	5.4 (7/129
3	3.1 (4/129)	3.5 (4/115)	3.6 (4/112)	5.3 (6/113)
4	3.1 (4/129)	0 (0/78)	2.4 (2/85)	2.2 (3/139)
5	5.7 (4/70)	5.0 (5/100)	6.1 (5/82)	3.5 (3/86)
6	0 (0/70)	1.3 (1/77)	0 (0/98)	0 (0/86)
7	3.7 (4/108)	8.3 (8/96)	5.0 (5/100)	4.3 (4/92)
8	5.3 (5/94)	2.0 (1/50)	1.8 (1/56)	4.9 (4/82)
Total	3.1 (26/830)	3.6 (27/744)	3.2 (23/711)	3.6 (29/805)

Note: Values are percent malformed fetuses, number malformed per number observed is given no parentheses. No values are significantly different from controls ($p<0.05$).

TABLE 11.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON POSTNATAL DEVELOPMENT OF OFFSPRING OF TREATED MALES, GROUP I CONTROL

	Week of study								Total, 8 weeks
	1	2	3	4	5	6	7	8	
Day 0:									
Number of litters	17	15	15	10	5	10	5	3	80
Number live pups per litter	3.94±0.70	4.67±0.80	6.00±0.62	2.60±0.85	4.00±1.10	3.70±0.91	5.40±0.51	5.00±2.51	4.40±0.32
Number dead pups per litter	1.47±0.43	1.33±0.45	0.20±0.20	1.10±0.41	1.00±0.78	0.44±0.18	0.20±0.20	1.33±1.33	0.92±0.16
Average pup weight	1.39±0.03	1.34±0.02	1.37±0.48	1.41±0.02	1.36±0.04	1.38±0.05	1.33±0.03	1.30±0.03	1.37±0.01
Day 4:									
Number of litters	8	5	10	4	4	6	5	2	44
Number live pups per litter	5.00±1.20	6.60±0.93	5.30±0.75	5.50±0.50	4.75±0.75	4.00±0.78	5.40±0.51	7.50±0.50	5.30±0.33
Average pup weight	1.87±0.10	2.22±0.19	2.04±0.15	2.43±0.10	2.71±0.24	2.32±0.28	2.35±0.19	2.25±0.29	2.22±0.07
Day 7:									
Number of litters	8	5	9	4	4	5	5	2	42
Number live pups per litter	4.29±0.99	6.60±0.93	5.78±0.64	5.50±0.50	4.75±0.75	4.00±0.95	5.40±0.51	7.50±0.50	5.32±0.31
Average pup weight	3.13±0.29	3.64±0.33	3.60±0.19	4.07±0.18	4.71±0.29	4.67±0.26	4.03±0.24	3.59±0.35	3.83±0.12
Day 21:									
Number of litters	8	4	9	4	4	5	5	2	41
Number live pups per litter	4.75±0.98	6.00±0.91	5.78±0.64	5.25±0.63	3.50±1.04	4.00±0.95	5.40±0.51	7.50±0.50	5.15±0.32
Average pup weight	6.43±0.51	7.02±0.75	7.34±0.32	8.74±0.21	8.62±0.54	7.71±0.65	8.07±0.51	6.41±0.12	7.48±0.21

Note: Values are mean plus or minus standard error of the mean.

TABLE 12.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON POSTNATAL DEVELOPMENT OF OFFSPRING OF TREATED MALES, GROUP II

	Week of study								Total, 8 weeks
	1	2	3	4	5	6	7	8	
Day 0:									
Number of litters	17	16	14	5	16	11	6	5	90
Number live pups per litter	4.76±0.53	4.88±0.68	5.29±0.74	2.80±1.20	3.55±0.59	1.55±0.74	3.67±0.92	4.00±1.41	4.19±0.2*
Number dead pups per litter	0.88±0.40	1.06±0.30	0.64±0.27	1.00±0.78	0.79±0.26	1.25±0.45	1.33±0.80	1.00±0.45	0.92±0.1*
Average pup weight	1.39±0.03	1.39±0.04	1.33±0.02	1.47±0.05	1.42±0.03	1.42±0.09	1.38±0.07	1.36±0.04	1.39±0.0*
Day 4:									
Number of litters	11	11	11	3	14	3	3	4	60
Number live pups per litter	4.63±0.46	5.25±0.56	5.36±0.61	4.67±0.67	4.64±0.58	4.50±0.50	3.67±0.33	4.25±1.44	4.79±0.25
Average pup weight	2.21±0.11	2.30±0.14	2.11±0.06	2.59±0.19	2.47±0.10	2.44±0.18	2.36±0.18	2.47±0.21	2.33±0.05
Day 7:									
Number of litters	11	11	11	3	14	3	3	4	60
Number live pups per litter	4.20±0.44	4.73±0.65	5.36±0.61	4.67±0.67	4.64±0.58	3.67±0.88	3.33±0.68	4.25±1.44	4.58±0.25
Average pup weight	3.61±0.19	3.65±0.25	3.58±0.10	4.12±0.29	4.08±0.22	3.03±0.90	4.19±0.21	4.04±0.24	3.79±0.09
Day 21:									
Number of litters	10	10	10	3	13	3	3	4	56
Number live pups per litter	4.00±0.49	5.00±0.58	5.10±0.64	4.67±0.67	4.92±0.55	3.67±0.88	3.33±0.67	4.25±1.44	4.59±0.25
Average pup weight	7.28±0.48	7.71±0.24	7.20±0.39	8.11±0.45	8.43±0.21	5.30±0.14	8.43±0.11	7.58±0.52	7.60±0.16

Note: Values are mean plus or minus standard error of the mean.

* Figures not supplied.

TABLE 13.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON POSTNATAL DEVELOPMENT OF OFFSPRING OF TREATED MALES, GROUP III

	Week of study								Total, 8 weeks
	1	2	3	4	5	6	7	8	
Day 0:									
Number of litters	14	11	12	9	10	11	11	3	81
Number live pups per litter	5. 64±0. 52	3. 91±1. 01	5. 67±0. 85	6. 11±1. 03	3. 80±0. 80	2. 73±0. 75	3. 82±0. 89	1. 67±1. 67	4. 44±0. 32
Number dead pups per litter	0. 57±0. 34	1. 55±0. 43	0. 27±0. 14	0. 11±0. 11	0. 60±0. 34	0. 50±0. 27	0. 90±0. 41	1. 00±0. 58	0. 67±0. 13
Average pup weight	1. 32±0. 02	1. 39±0. 06	1. 37±0. 27	1. 36±0. 04	1. 32±0. 06	1. 39±0. 05	1. 37±0. 02	1. 38	1. 36±0. 01
Day 4:									
Number of litters	12	3	8	4	8	5	7	1	48
Number live pups per litter	5. 30±0. 47	4. 33±0. 67	5. 25±0. 10	5. 25±0. 75	4. 25±0. 49	4. 60±0. 40	5. 57±0. 53	5. 00	4. 91±0. 25
Average pup weight	2. 03±0. 09	1. 76±0. 89	2. 19±0. 16	2. 25±0. 16	2. 50±0. 10	2. 79±0. 08	2. 73±0. 07	2. 81	2. 37±0. 06
Day 7:									
Number of litters	12	3	8	4	8	5	7	1	48
Number live pups per litter	5. 00±0. 44	4. 33±0. 67	5. 13±1. 04	5. 25±0. 75	4. 25±0. 49	4. 60±0. 40	5. 57±0. 53	5. 00	4. 92±0. 24
Average pup weight	3. 25±0. 21	2. 79±0. 17	3. 52±0. 93	3. 67±0. 23	4. 16±0. 13	4. 67±0. 14	4. 54±0. 13	4. 66	3. 82±0. 12
Day 21:									
Number of litters	12	3	7	4	8	5	6	1	46
Number live pups per litter	5. 00±0. 44	4. 00±0. 58	5. 43±0. 97	5. 00±0. 71	4. 25±0. 49	4. 60±0. 40	5. 50±0. 62	4. 00	4. 87±0. 23
Average pup weight	6. 83±0. 22	7. 43±0. 64	7. 12±0. 37	8. 39±0. 25	8. 15±0. 18	7. 66±0. 24	8. 59±0. 28	10. 31	7. 67±0. 15

Note: Values are mean plus or minus standard error of the mean.

TABLE 14.—EFFECT OF 2,4-D, 2,4,5-T AND TCDD ON POSTNATAL DEVELOPMENT OF OFFSPRING OF TREATED MALES, GROUP IV

	Week of study								
	1	2	3	4	5	6	7	8	Total, 8 weeks
Day 0:									
Number of litters	19	23	14	11	15	10	11	5	108
Number live pups per litter	4.84±0.64	5.35±0.68	5.29±0 83	3.82±1.06	3.67±0.56	2.60±1.19	4.45±0.71	3.80±1.66	4.41±0.2*
Number dead pups per litter	0.95±0.29	0.74±0.20	0.79±0.38	1.09±0.32	0.79±0.28	1.50±0.50	0.27±0.14	0.80±0.49	0.84±0.1*
Average pup weight	1.36±0.02	1.36±0.03	1.39±0.03	1.44±0.05	1.39±0.03	1.43±0.05	1.38±0.03	1.43±0.06	1.39±0.0*
Day 4:									
Number of litters	10	10	8	4	9	4	8	3	56
Number live pups per litter	5.57±0.43	5.40±0.67	6.00±0.66	6.25±1.03	3.33 0.50	5.75±1.49	4.88±0.55	4.67±0.88	5.13±0.2*
Average pup weight	2.24±0.16	2.41±0.08	2.60±0.97	2.30±0.13	2.40±0.19	2.94±0.50	2.54±0.16	2.38±0.28	2.41±0.0*
Day 7:									
Number of litters	10	10	8	4	9	4	8	3	56
Number live pups per litter	5.00±0.47	5.40±0.67	6.00±0.66	6.00±1.08	3.33±0.50	5.75±1.49	4.88±0.55	4.67±0.88	5.04±0.2*
Average pup weight	3.28±0.31	4.08±0.15	4.06±0.18	3.88±0.24	3.98±0.41	3.80±0.33	4.24±0.25	3.99±0.46	3.94±0.1*
Day 21:									
Number of litters	10	10	8	4	9	4	8	3	56
Number live pups per litter	5.00±0.47	5.30±0.63	5.75±0.59	6.00±1.08	3.33±0.50	5.75±1.49	4.75±0.59	4.67±0.88	4.96±0.2*
Average pup weight	6.99±0.34	8.15±0.33	7.53±0.40	8.20±0.09	8.53±0.68	6.66±0.74	8.34±0.37	7.38±0.97	7.80±0.1*

Note: Values are mean plus or minus standard error of the mean. * Figures not supplied.

TABLE 15.—SUMMARY OF MALFORMATION RATES (PERCENT) IN POSTNATAL STUDY[1]

	Treatment group							
Week	I		II		III		IV	
1								
2	5.4	(5/92)	2.1	(2/96)	1.1	(1/87)	1.9	(2/105)
3	2.2	(2/90)	3.2	(3/95)	5.0	(3/60)	0	(0/140)
4	1.1	(1/93)	6.0	(5/83)	6.6	(5/76)	2.4	(2/85)
5	0	(0/37)	5.3	(1/19)	8.9	(5/56)	13.0	(7/54)
6	4.0	(1/25)	1.1	(1/88)	4.5	(2/44)	2.7	(2/73)
7	2.2	(1/45)	0	(0/32)	2.1	(1/48)	2.1	(1/47)
8	7.1	(2/28)	13.3	(4/30)	3.8	(2/53)	3.8	(2/52)
	5.3	(1/19)	8.0	(2/25)	0	(0/8)	4.3	(1/23)
Total	3.0	(13/429)	3.8	(18/468)	4.4	(19/432)	2.9	(17/579)

[1] All fetuses (live or dead) were assumed to be at risk.

TABLE 16.—SUMMARY OF SPECIFIC MALFORMATIONS IN POSTNATAL STUDY

	I		II		III		IV	
Anopthalmia/micropthalmia	1.9	(8/429)	2.6	(12/468)	2.5	(11/432)	1.7	(10/579)
Agnathia/micrognathia	1.4	(6/429)	1.3	(6/468)	1.9	(8/432)	1.4	(8/579)
Cleft lip/palate	.2	(1/429)	.4	(2/468)	0	(0/432)	0	(0/579)
All else	0	(0/429)	0	(0/468)	[1].5	(2/432)	0	(0/579)

[1] 1 exencephaly; 1 clubbed right hind limb.

DISCUSSION

In these studies we have evaluated the toxicity of three combinations of 2,4-D, 2,4,5-T and TCDD, in combination, on reproduction in male mice. Mating frequency, fertility, germ cell mutagenesis, and fetal or postnatal development were all considered in the selection of toxicological endpoints. Male mice were continuously exposed to high doses of 2,4-D plus, 2,4,5-T mixed with 2 or 30 ppm TCDD in the phenoxy acid for 8 weeks. These TCDD levels represent average and high contamination levels within Herbicide Orange used in Vietnam (Young *et al.*, 1978).

This study employed the free acids of 2,4-D and 2,4,5-T rather than the butyl esters which were components of Herbicide Orange because of the lower volatility of the acids. The esters are rapidly metabolized to the free acid in both plants and animals, and therefore, the systemic toxicity can be attributed to the free acid (Gehring and Betso, 1978) and should be comparable on a molar basis. The does levels employed exhibited moderate to low direct toxicity in exposed male mice as evidenced by decreased body weight gain, changes in thymus and liver weights and morphologic changes in the liver. The mortality, however, was quite low. The severity of these toxic effects appeared to be primarily related to the TCDD content of the simulated "Herbicide Orange" mixture.

Despite the use of continuous, moderately toxic, chemical exposures throughout the complete period of spermatogenesis, no significant increase in reproductive abnormalities in the 2,4-D, 2,4,5-T or TCDD exposed groups were observed. TCDD has previously been demonstrated to alter spermatogenesis in C57BL/6 mice (McConnell *et al.*, 1978), however, that study used a single high (lethal range) does of TCDD. Additionally, testicular lesions were only found in clinically ill animals, as opposed to those which survived exposure to similar doses (McConnell *et al.*, 1978). Altered spermatogenesis has also been reported in rats (Kociba *et al.*, 1976), guinea pigs (McConnell *et al.*, 1978), and monkeys and chickens (Norback and Allen, 1973), although these were again toxic exposures. In the present study, morphological changes were not observed in the testis of treated mice. Throughout this study testis weight was not affected, nor was sperm motility or percent abnormal spermatozoa. Mean sperm concentration, however, was slightly reduced after five and eight weeks of dosing, although the effect was not statistically significant ($p > 0.10$).

The levels of TCDD chosen for this study were within the range that had already been shown to result in cleft palate and kidney anomalies when given to plegnant C57BL/6 female mice (Moore et al., 1973). Mixtures of phenoxy acids plus specific levels of TCDD were used in order to better mimic human exposures to Herbicide Orange. Additionally, previous investiagtors (Neubert et al., 1973), showed that adding as little as 0.1 μ/kg TCDD to 2, 4, 5–T increased the teratogenicity in mice of 2, 4, 5–T in offspring of exposed mothers above that expected by a simple additive effect. The dose of TCDD in this study is at or above the 0.1 μg/kg/day level. Also, it should be emphasized that human exposures involved mixtures of 2, 4–D, 2, 4, 5–T and TCDD (Herbicide Orange).

Certain chemicals, when given to adult males, can cause fetal death or alter normal development in offspring sired by those males (Joffe, 1979; Manson and Simons, 1980), however, such signs of toxicity were not elicited in these experiments by exposing male mice to the 2, 4–D, 2, 4, 5–T and TCDD mixtures. As evidenced by the numbers of implants and resorptions, neither embryo toxicity nor dominant lethal mutations could be attributed to exposure to these chemicals. The unaffected values for percent abnormal sperm, which is a test for mutagenicity (Wyrobek, 1979) also leads one to the conclusion that the chemicals, as given, were not mutagenic towards the male germ cells. This correlates well with previous multigeneration studies (Murray et al., 1979) and dominant lethal assays (Khera and Ruddick, 1971).

The values for percent malformed fetuses also indicated that 2, 4–D, 2, 4, 5–T and TCDD had no influence on the offspring of exposed males. The study was designed such that, if the overall percent malformed fetuses (3%; see Appendix Table 1) was doubled in one of the experimental groups, there was a 90% chance that it would have been detected. There was a 70–80% chance of detecting a four-fold increase in congenital defects in any one week. For any specific malformation or class of malformations the corresponding powers would be somewhat less. For example, for visceral defects (background rate 0.44%; see Table 5) the experiment had approximately a 90% chance of detecting an overall rate as high as 3% in any particular treatment group. The only variation which we could find elevated in treated versus control offspring, in the entire study, was the incidence of fused sternebrae (Appendix Table 2). In that case, we observed a statistically significant ($p < 0.05$) increase in fused sternebrae in Group III at week 3 and in Group IV at week 4. The incidence in the controls at those times, however, was unusually low (0 in both weeks 3 and 4). This type of skeletal variation has been described as occurring as often as 5–15% or more of offspring from untreated pregnancies in mice and although they are frequently observed, the incidence is apparently inconsistent and this anomaly is considered variation and not a malformation (Wilson, 1973).

APPENDIX TABLE 1.—SUMMARY OF ALL MALFORMATIONS OBSERVED IN FETUSES SIRED BY MALES TREATED WITH 2,4–D, 2,4,5–T AND TCDD

	Treatment group							
	I		II		III		IV	
Visceral malformations:[1]								
Heart/vessels anomalies	0.2	(1/455)	0.5	(2/393)	1.0	(4/394)	0.7	(3/443)
Kidney Agenesis	.2	(1/455)	0	(0/393)	.3	(1/394)	0	(0/443)
Liver—2 lobes only	0	(0/455)	0	(0/393)	0	(0/394)	.2	(1/443)
Lung—lobes ⅔ normal size	.2	(1/455)	0	(0/393)	0	(0/394)	0	(0/443)
Right kidney—½ normal size	0	(0/455)	0	(0/393)	0	(0/394)	.2	(1/443)
Skeletal and external malformations:[1]								
Anopthalmia/micropthalmia	1.4	(12/830)	1.9	(14/744)	2.0	(14/711)	2.4	(19/805)
Agnathia/micrognathia	1.3	(11/830)	1.2	(9/744)	1.4	(10/711)	1.6	(13/805)
Cleft palate	.6	(5/830)	.7	(5/744)	.7	(5/711)	.7	(6/805)
Cleft lip/nose	0	(0/830)	0	(0/744)	.3	(2/711)	0	(0/805)
Open eye	.5	(4/830)	0	(0/744)	0	(0/711)	0	(0/805)
Exencephaly/hydrocephaly	.2	(2/830)	.4	(3/744)	.1	(1/711)	.2	(2/805)
No tongue	0	(0/830)	0	(0/744)	.1	(1/711)	0	(0/805)
Umbilical hernia	.1	(1/830)	.3	(2/744)	.3	(2/711)	.1	(1/805)
Ribs fused/missing	.1	(1/830)	.3	(2/744)	0	(0/711)	0	(0/805)
Spinal centra doubled/misalined	.1	(1/830)	0	(0/744)	.1	(1/711)	0	(0/805)
Spinal arches fused	0	(0/830)	0	(0/744)	.1	(1/711)	0	(0/805)
Mandibles fused	0	(0/830)	0	(0/744)	.1	(1/711)	0	(0/805)
Skull bones missing	0	(0/830)	.1	(1/744)	.1	(1/711)	0	(0/805)
Eye bones missing	0	(0/830)	.1	(1/744)	0	(0/711)	0	(0/805)
Facial bones fused	.2	(2/830)	.5	(4/744)	.4	(3/711)	0	(0/805)
Kinked tail	.1	(1/830)	0	(0/744)	0	(0/711)	0	(0/805)
Total malformations[2]	5.2	(43/830)	5.8	(43/744)	6.6	(47/711)	5.7	(46/805)
Total malformed fetuses[2]	3.1	(26/830)	3.6	(27/744)	3.2	(23/711)	3.6	(29/805)

[1] Values are percent incidence of specific anomalies; number of specific malformations per number of observations is given in parentheses.

[2] Values are percent incidence of malformations or malformed fetuses; number of malformations per malformed fetuses per number of observations is given in parentheses.

APPENDIX TABLE 2.—INCIDENCE OF FUSED STERNEBRAE IN FETUSES SIRED BY MALES TREATED WITH 2,4,–D, 2,4,5–T AND TCDD

	Treatment group							
Week	I		II		III		IV	
1	0.9	(1/113)	1.6	(2/129)	1.0	(1/97)	1.3	(1/78)
2	1.7	(2/117)	3.0	(3/99)	3.7	(3/81)	1.6	(2/129)
3	0	(0/129)	.9	(1/115)	[1] 7.1	(8/112)	2.7	(3/113)
4	0	(0/129)	2.6	(2/78)	2.4	(2/85)	[1] 5.0	(7/139)
5	1.4	(1/70)	2.0	(2/100)	3.7	(3/82)	2.3	(2/86)
6	1.4	(1/70)	5.2	(4/77)	3.1	(3/98)	3.5	(3/86)
7	3.7	(4/108)	2.1	(2/96)	0	(0/100)	2.2	(2/92)
8	2.1	(2/94)	2.0	(1/50)	0	(0/56)	1.2	(1/82)
Total	1.3	(11/830)	2.3	(17/744)	2.8	(20/711)	2.6	(21/805)

[1] $p < 0.05$ versus controls.

Certain anomalies are associated with embryotoxicity, not teratogenicity or mutagenicity. However, with chemical exposure only to the males, not pregnant females, embryotoxicity would not be expected in their offspring. If exposure of the embryo directly to the chemicals had occurred, via seminal plasma or sperm, one would expect to observe increased embryotoxicity in the first weeks of the study, when the chemical levels in the body (or ejaculate) were the highest. One would have also anticipated that during the first weeks of the teratology study germ cell toxicity would most likely have been detected, unless the spermatogonia were affected, because the spermatozoa that were evaluated in the first week of mating had been exposed to the chemicals throughout all stages of the spermatogenic process. If the spermatogonia had been affected by the exposure, the effect would have been most apparent in the last weeks of the mating, because at that time, we were evaluating spermatozoa which were spermatogonia during the entire 8 week dosing period and only began to proceed through the spermatogenic cycle near the end of chemical exposure.

Thus, there does not appear to be a residual or transient effect of 2,4-D 2,4,5-T and TCDD at the concentrations in this study, on the fertility of exposed male mice. In addition, exposure to these chemicals did not appear to influence the fetal or neonatal development or the viability of offspring sired by these mice.

ACKNOWLEDGEMENTS

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ADVISORY COMMITTEE ON HEALTH-RELATED EFFECTS OF HERBICIDES

8:30 a.m. Call to Order and Opening Remarks, Barclay M. Shepard, M.D., Chairman.

8:35 a.m. Report on VA Activities:

Chloracne Task Force, Dr. Shepard.

Literature Analysis, Dr. Shepard.

Agent Orange Registry, Dr. Shepard.

Data Analysis, William F. Page, Ph.D.

Epidemiological Study, Lawrence B. Hobson, M.D.

9:00 a.m. VA Policy Coordinating Committee, Mr. Guy McMichael, General Counsel.

9:10 a.m. Environmental Protection Agency Hearings, Adrian Gross, Ph.D.

9:30 a.m. Comments from Chief Medical Director, Donald L. Custis, M.D.

9:45 a.m. Comments from Administrator of Veterans Affairs, Mr. Max Cleland.

10:00 a.m. Veteran Attitudes, Irving B. Brick, M.D., Mr. Ronald W. DeYoung, Mr. Charles A. Thompson.

10:30 a.m. Presentations and Discussions:

Follow-up on Industrial Exposure Data and Discussion on Swedish and West German Studies, Raymond R. Suskind, M.D.

Professor Ton-That-Tung's Latest Study, Walter J. Rogan, M.D.

Center for Disease Control Proposed Birth Defects Study, J. David Erickson, D.D.S., Ph.D.

NIOSH International Dioxin Registry, Pat Honchar, Ph.D.

AFIP Registry and Proposed Studies, Carolyn H. Lingeman, M.D.

Ranch Hand Study, Major Phillip G. Brown.

Department of Agriculture Activities, Philip C. Kearney, Ph.D.

11:30 a.m. Questions and Answers, Dr. Shepard.

12:00 Noon, Adjournment.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C. July 31, 1980.

Hon. MAX CLELAND,
Administrator of Veterans' Affairs,
Washington, D.C.

DEAR MAX: I am writing to follow up on your plans to deal with several Agent Orange related issues.

First, during a June 3 telephone conversation you had with several members of the Committee staff, you agreed that the VA must intensify its efforts to assure Vietnam veterans who are concerned about the possible health effects of exposure to Agent Orange, particularly those suffering from a disease or disability that they believe might be the result of such exposure, that they can receive a physical examination in a timely fashion and any necessary followup at the nearest VA Medical Center.

In light of this agreement, I announced, during my remarks at the convention of the California Department of the Disabled American Veterans on June 5, the VA's intention to intensify its public information activities in order to assure Vietnam veterans that they can receive medical help from the VA for illnesses or disabilities they believe are caused by exposure to Agent Orange. On July 17, a pamphlet entitled "Worried about Agent Orange?" was made available to the Committee, and, on a very limited basis. all other members of Congress. I hope that this event indicates that the intensified outreach effort discussed during the June 3 telephone call will soon be fully underway. I would appreciate hearing from you at your earliest convenience about other aspects of this outreach effort that you have planned.

Second, I have received no indication about the VA's plans in response to my recommendation, which I also announced at the California DAV convention and about which you also were advised during the June 3 telephone call, that the management of the Congressionally-mandated epidemiological study being planned by the VA about the effects on human health of exposure to Agent Orange should be placed in the hands of an independent organization outside the Federal Government. As you know, I made this recommendation reluctantly after coming to the conclusion that the intensity of emotions surrounding the Agent Orange issue indicates that it is unlikely that the findings of a study managed by the VA would be acceptable to Vietnam veterans and the public. In my view, this is a very serious matter which deserves your immediate attention, and I would appreciate your response as soon as possible.

Third, I am enclosing copies of reports by the President's Interagency Work Group on Dioxin and the Office of Technology Assessment on reviews I requested of the four Swedish and the West German epidemiological studies of workers exposed to dioxin in those countries. The reports discuss the implications of those studies as they relate to possible effects on human health of exposure of dioxin—the toxic contaminant contained in Agent Orange. Specifically, Dr. John A. Moore, Chairman of the Scientific Panel of the Interagency Work Group (IAG), states that "In spite of the reservations that are generally associated with these case-control epidemiological studies . . . the studies show a correlation between exposure to phenoxy acid herbicide and an increased risk of some forms of cancer. Independent verification would further validate these studies."

OTA states that Dr. Richard Remington, Dean of the School of Public Health, University of Michigan, who reviewed the five studies, concluded that the three case-control studies carried out on Swedish workers are ". . . among the most carefully conducted investigations of their type that I have ever seen. In toto, the Swedish work is credible if not fully conclusive." OTA also indicates that these three studies would be very useful in the process of designing the mandated VA study.

I believe that these IAG and OTA reports strongly justify a reevaluation of the VA preliminary position regarding the validity and significance of these studies as set forth in an April 16, 1980, letter to Congressman David E. Bonior: "my scientific advisers . . . do not think the papers make a major contribution to answering the problem. . . . ". Moreover, I believe that the VA must have a constructive response to the increased possibility evidenced in these three studies that soft-tissue sarcomas and malignant lymphomas are related to exposure to dioxin, keeping in mind, of course, the necessity for further studies before any positive conclusions about any cause and effect relationship can be made.

I urge your immediate consideration of these matters, Max, and look forward to hearing from you about them in the near future.

Thank you for your continued cooperation with the Committee.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., June 30, 1980.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN CRANSTON: Thank you for your letter of May 22, 1980, concerning five epidemiologic studies of phenoxyacid herbicides. Michael Gough of the Office of Technology Assessment Health Program had earlier reviewed these papers on an informal basis in response to a request from your committee staff. To obtain an expert outside review of the papers, we asked Dr. Richard Remington, Dean of the School of Public Health, University of Michigan to read and comment on the papers Dean Remington has, as you know, agreed to serve as chairman of the OTA Advisory Panel for the review of the VA Epidemologic Study of Viet Nam Veterans.

Dean Remington's letter to Michael Gough and his review of the five papers are attached. I wish to bring your attention to two points made in the letter. The first is the high marks accorded to the three case-control studies carried out by the Swedish workers. Dean Remington cites those as ". . . among the most carefully conducted investigations of their type that I have ever seen. *In toto,* the Swedish work is credible if not fully conclusive." I would add a further reservation, because all of the Swedish case-control studies have some authors in common, a possibility exists that some unconscious, undetected bias colors all the studies. This is not to suggest that the work is less than excellent, but only to point out that verification of those studies by an independent investigation would remove that reservation. I understand that the Interagency Work Group on Phenoxyacid Herbicides has also concluded that the Swedish case-control studies have merit. Taken all together, these studies do suggest that health effects have resulted from exposure to phenoxyacid herbicides in forestry work.

The other point made by Dean Remington is that he now thinks " . . . that it would be possible using combined military experience to design a useful study of reasonable sensitivity . . ." He refers, of course, to the proposed VA study.

Thank you for this opportunity to aid you in your efforts to keep abreast of developments in this difficult area.

Sincerely yours,

JOYCE C. LASHOF, M.D.,
Assistant Director.

THE UNIVERSITY OF MICHIGAN,
Ann Arbor, Mich., June 19, 1980.

Dr. MICHAEL GOUGH,
Project Director, Office of Technology Assessment, Congress of the United States, Washington, D.C.

DEAR MIKE: I have now been able to review the five investigations into possible relationships between Agent Orange and human health and disease. My detailed critique of the individual studies is attached to this letter. Two of the studies are cohort or prospective investigations. The first of these involving the BASF workers exposed in 1953 is almost totally unhelpful. I do not believe it is even worth citing as evidence in one direction or the other. However, the four Swedish studies are generally good and do considerably raise the index of suspicion concerning possible carcinogenicity of phenoxy acids. The prospective study of Axelson et al. is small and suffers from some analytical difficulties. The case control investigations are among the most carefully conducted investigations of their type that I have ever seen. In toto, the Swedish work is credible if not fully conclusive. Certainly this work would seem to justify further investigation.

I have also been able to review the critique by the NAS panel of the proposed Air Force "ranch hand" investigation. The critique is good and I generally agree with the views of the majority. However, Dr. Kurland raises important points in his minority report. I must frankly admit that my level of optimism concerning the possible utility of prospective epidemiologic investigations in this area has increased since studying these documents. I now believe that it would be possible using combined military experience to design a useful study of reasonable sensitivity to important health effects.

Thank you for your patience. See you soon.
Best personal regards.

Sincerely,
Richard D. Remington, Ph. D.,
Dean.

Specific Summary Critique of Five Investigations Related to Concerns About Agent Orange

(By Richard D. Remington)

1. "Mortality Study of Persons Exposed to Dioxin Following an Accident Which Occurred in the BASF on 13 November, 1953" by Thiess and Frentzel-Beyme.

This study reports on an average 20-year follow-up experience of 73 employees of the BASF in West Germany in 1953. A matched control group and three external control series, based on local and regional vital statistics were selected. The study purports to show an increased frequency of stomach cancer in the dioxin-exposed group.

Unfortunately, both the report and the investigation itself are inadequate and shed little light on the important questions under investigation. The case series is small and the risk of cancer of specific sites even over so long a follow-up period remains at a low level. Indeed, the number of stomach cancer cases in the exposed group is only four. All cause mortality in the exposed group is lower than that of one external comparison group and not different from the other two groups. It is somewhat higher than that of the internal control group. Inadequacies in the description of the investigation include (1) no age breakdown of the exposed population; (2) no description of the matching procedure beyond the global statement that matching by age and date of entry into the factory took place. Was the age matching to a single year, for example, or only to five-year age groups? Within what limits was date of entry controlled? (3) The comparison group is stated to have been selected "at random from the universe of all persons ever included in a cohort study until now." This description is unclear and inadequate. Did a formal randomization occur, i.e., using random number tables?

The authors select stomach cancer for particular attention, and this may not be unreasonable. However, they ignore other differences, for example, among violent deaths. Comparisons between mortality structure by cause with all four control groups reveals substantial variation. In fact, inspection of differences among the external control groups reveals some very large discrepancies, for example, in cardiovascular diseases, overall natural deaths, and all cause mortality rates. These differences themselves cast doubt upon other comparisons within the investigation.

Finally, tests of significance using the Poisson distribution produce estimated p values for the study. This is a "default" type of analysis. The authors seem to believe that use of the Poisson distribution is justified whenever one is inspecting small numbers of events. Nothing could be farther from the truth. The homogeneity assumption for individual event probabilities is almost certainly violated in these data, involving as they do a broad range of ages and other basic characteristics. This lack of homogeneity might well induce an appropriate model whose true variance is well in excess of that of the Poisson distribution.

In summary, this investigation really does not bear centrally on the question of Agent Orange's possible carcinogenicity. The study is inadequately described. The experience is limited. The analytical techniques are questionable. Thus, this investigation neither establishes nor excludes a possible association between dioxin and stomach cancer (or any other cause of death).

2. "Herbicide Exposure and Tumor Mortality: An Updated Epidemiological Investigation on Swedish Railroad Workers" by Axelson, Sundell, Andersson, Edling, Hogstedt, and Kling.

This updated epidemiologic investigation by Swedish railroad workers exposed to herbicides has been carefully conducted and is well described in the research report. A cohort of 348 individuals were followed through October 1978. Mortality ascertainment is very complete and the follow-up experience is excellent. The authors have included only individuals exposed to herbicides for more than 45 days during the period 1957 through 1972. This again is a strength of the investigation. In addition, they have subdivided exposure to amitrol from that to phenoxy acids, again a strength. Statistical significance is once again assessed by the Poisson distribution and earlier reservations apply here. Thus, estimated p values can only be taken as approximations.

The results of this investigation are suggestive. Overall tumor mortality to workers exposed to phenoxy acids appears to have been increased as does mortality due to stomach cancer. This would appear particularly to be true for workers exposed in the early years, although here the numbers appear to be inadequate to provide a breakdown into amitrol and phenoxy acid subgroups.

Once again, the numbers available to this study are inadequate to permit definite conclusions. However, the results of this careful investigation must raise the index of suspicion concerning possible carcinogenicity of phenoxy acids.

3. "Case-Control Study: Soft-Tissue Sarcomas and Exposure to Phenoxyacetic Acids or Chlorophenols" by Hardell and Sandstrom.

This case control study compares 52 living or deceased male patients with soft-tissue sarcomas admitted to the Department of Oncology in Umea, Sweden in 1970–77 with carefully selected matched controls. Aside from the intrinsic limitations of case control methodology, this is an excellent investigation. The authors are unusually careful to exclude questionable cases and controls and to detect and eliminate obvious sources of bias. Thus, their finding of a relative risk of 5.3 for exposure to phenoxyacetic acids must be taken seriously. Their statistical procedures are modern and carefully selected. Their attention to detail is exemplary.

The only misgiving concerning the study is a generic one. Case control studies are uniquely susceptible to hidden sources of bias of ascertainment, recall, and patient selection. The methodology, no matter how careful, cannot guarantee the absence of such biases. Even so, the findings of this particular investigation are suggestive and serve further to raise the index of suspicion concerning induction of soft-tissue sarcoma by exposure to phenoxyacetic acids.

4. "Case-Control Study on Malignant Mesenchymal Tumors of the Soft Tissue and Exposure to Chemical Substances" by Eriksson, Hardell, Berg, Moller, and Axelson.

This study is similar to No. 3 above but concentrates on experience in Southern Sweden. The results are generally similar to that of the earlier investigation and the methods virtually identical. Again, the results are consistent with the hypothesis that phenoxy acid exposure increases the risk of tumors of this type. Once again, the investigators have exercized unusual care to exclude biasing effects as far as they are able to do so. However, again, case control methodology is intrinsically susceptible to subtle and unmeasurable biases.

5. "Malignant Lymphoma and Exposure to Chemical Substances, Especially Organic Solvents, Chlorophenols and Phenoxy Acids" by Hardell, Eriksson and Lenner.

This case control study is by the same investigative unit responsible for references 3 and 4 above. This time a case control study of patients with malignant lymphoma was conducted using methodology similar to that in the earlier investigations of soft tissue sarcoma. Again, a substantial and statistically significant relative risk is found for this group of tumors. And again, phenoxy acid exposure is specifically incriminated. Earlier comments concerning the care these investigators have applied to the study are also appropriate here, and similar limitations of case control methods should be noted.

Memorandum

To: Chair, Interagency Work Group on Phenoxy Herbicides and Contaminants.
From: Scientific Panel, IWG.
Subject: Evaluation of Five Scientific Papers on the Carcinogenicity of Chemicals that were Constituents of Agent Orange.

The Scientific Panel is in receipt of 4 Swedish and 1 German paper. They are:

1. L. Hardell and A. Sandstrom. Case Control Study: Soft Tissue Sarcomas and Exposure to Phenoxy Acetic Acids or Chlorophenols. British Journal of Cancer 39: 711–717 (1979).

2. M. Eriksson, L. Hardell, N. O. Berg, T. Moler, and O. Axelson. Case Control Study on Malignant Mesenchymal Tumors of the Soft Tissue and Exposure to Chemical Substances. Lakartidningen 76: 3872–3875 (1979). (EPA Translation)

3. L. Hardell, M. Eriksson and P. Lenner. Malignant Lymphoma and Exposure to Chemical Substances, Especially Organic Solvents, Chlorophenols and Phenoxy Acids. Lakartidningen 77(4): 208–210 (1980). (EPA Translation)

4. O. Axelson, L. Sundell, K. Andersson, C. Edling, C. Hogstedt, and H. Kling. Herbicide Exposure and Tumor Mortality; An Updated Epidemiological Investigation on Swedish Railroad Workers (Manuscript form 1980).

5. A. M. Thiess and R. Frentzel-Beyme. Mortality Study of Persons Exposed to Dioxin Following an Accident which Occurred in the BASF on November 13, 1953. Presented at the Fifth International Conference on Medichem, San Francisco, California, September 1977.

EVALUATION

Papers Nos. 1, 2, and 3 have a common design with L. Hardell appearing as first or second author. Each of the three studies appear to have been well executed although fairly permissive exposure criteria were utilized. Of particular interest to the Scientific Panel are the analyses which the authors defined as exposure only to phenoxy acid herbicides which identified a relative risk for soft tissue sarcoma of 4.3 (paper No. 1) or 6.8 (paper No. 2); and for malignant lymphoma 4.8 (paper No. 3). The phenoxy acid exposures in paper No. 1 are reported to be with 2,4,5-T and 2,4-D; thus the possible role of 2-3-7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) cannot be discounted. In paper No. 2 the authors suggested that the increased risk may also be associated with phenoxy acids that do not contain TCDD. Paper No. 3 did not present separate data as a function of exposure to phenoxy acids with or without the TCDD contaminant.

The similarity of design and involvement of at least one investigator in all three instances could permit the recurrence of an "unobserved bias" which weakens the Panel's acceptance that studies No. 1 and No. 2 represent a true independent verification of the findings.

In spite of the reservations that are generally associated with these case control epidemiology studies, i.e., permissive criteria for establishing "exposure" which varied between the studies; memory bias by patients or relatives that there was "exposure" because of a traumatic event such as cancer, the studies show a correlation between exposure to phenoxy acid herbicides and an increased risk of some forms of cancer. Independent verification would further validate these studies.

Paper No. 4 represents 348 persons which is small for this type of mortality study. The authors reported that the observed number of tumor deaths is higher than expected and that the causal relationship to specific agents (amitrol and phenoxy acids) are unclear. The interpretation of three stomach cancers is very tenuous due to the size of the population and the possible bias of familial or genetic relationship.

Paper No. 5 represents a study of 75 workers which should be considered as a clinical observation. Genetic or familial association of the three stomach carcinomas needs to be ascertained.

The full utility of small populations such as are represented in papers No. 4 and No. 5 can best be realized through the development of an International Registry which includes a number of such populations where the statistical power of such analyses can be substantially enhanced. The development of such as Registry is being actively pursued.

John A. Moore, D.V.M.,
Chair, Scientific Panel.

POW'S AND MIA'S IN SOUTHEAST ASIA

Mr. THURMOND. Mr. President, in the August 1980, issue of the American Legion magazine, there is a shocking article by Maj. Gen. John K. Singlaub. U.S. Army, retired, entitled "Let's Find Our Missing Men." It presents the tragic status of more than 2,800 POW's/MIA's unaccounted for in Southeast Asia, including 2,490 in Vietnam and at least 389 in North Korea, or China.

General Singlaub summarizes extensive available evidence that some of these servicemen were known to be alive after the Communists allegedly returned all known POW's and bodies of others. It is abundantly clear from available information that the Communists are not telling the truth, as has been proven several times on previous occasions in regard to POW's and MIA's.

Mr. President, our country is not doing enough with the available evidence to bring world pressure on Vietnam and North Korea for complete cooperation in accounting for our servicemen. I am confident that more can be done. These heroes must not be forgotten, or written off, for the sake of normal relations with Vietnam and North Korea, as some would have us do.

An accounting for the missing in action, including any POW's, should be more vigorously pursued by the Carter administration and the Congress. Our improved relations with China should be used more positively in this effort. The intransigence of North Korea and Vietnam must be condemned by the world.

I urge my distinguished colleagues to read this article. We must reaffirm our determination, as a nation, to continue to press for more action by the administration and the Congress to account for the missing in action in Southeast Asia.

Mr. President, I ask unanimous consent for the article in the August 1980, issue of the American Legion magazine entitled "Let's Find Our Missing Men,"

There being no objection, the article was ordered to be printed in the Record, as follows:

Let's Find Our Missing Men!

(By Maj. Gen. John K. Singlaub, U.S.A. (Ret.))

It's a shocking and tragic fact that today more than 2,800 U.S. servicemen remain unaccounted for in the Far East—2,490 from the Vietnam War and 389 from the Korean War 30 years ago.

All but a few of the Americans unaccounted for in the Vietnam War have been declared "presumptively dead" by the Department of Defense. Since that war's end in May 1975, the grim roster of POW's—prisoners of war—and MIA's—missing in action—has relentlessly been whittled to near zero.

It must be recognized that a number of conscientious U.S. officials are continuing by a variety of means their efforts to determine the fate of American servicemen still missing. At the same time, however, others in the bureaucracy often seem more interested in "normalizing" future relations with Hanoi than in demanding a full accounting of our POW's and MIAs as called for in the 1973 Paris peace agreement.

All Americans unaccounted for after the Korean War were long ago given up for dead by the U.S. Government. Yet, it is an established fact when that war ended in 1953 and a prisoner exchange took place, 389 Americans were believed to have been alive and in Communist hands.

Now, more than 25 years later, it seems unlikely any of the Americans left in captivity after the Korean War remain alive. Those who were released told horror stories of torture and mass starvation. In one notorious North Korean prison—Camp No. 5 at Pyoktong near the Manchurian border—hundreds of American POW's died, victims of Communist mistreatment. One returning American told of burying 38 of his fellow prisoners in just one day during the terrible winter of 1951–52. Those men who did emerge from captivity were little more than walking skeletons, weakened by malnutrition, and wracked by dysentery and other diseases.

Nonetheless, stories persist that some Korean War POWs may still be languishing in remote prison sites in China or Russia, swallowed up in the labyrinth of "gulags" darkening the Communist world to this day. One such story is based on a report that two train loads of American prisoners—some 700 men in all—had been observed at a railway station in Manchouli in north China in 1953 as they were awaiting transfer to the Trans-Siberian Railway—destined, presumably, for slave labor camps somewhere inside the Soviet Union.

Indochina is a newer and therefore more plausible story. From Vietnamese refugees have come scores of eyewitness accounts of groups of emaciated Americans, some in chains, being led under heavy guard along jungle trails or through villages to unknown destinations. Some of the first-hand sightings were reported as late as this year—five years after the fall of Saigon and seven years after the return of 566 American POWs from Hanoi, supposedly the last of our survivors. (It is noteworthy that 13 French prisoners captured at Dienbienphu were not released by Hanoi unitl 16 years later.)

Countless hours of testimony have been taken from refugees claiming to have seen American captives. As of May 10, the Defense Intelligence Agency was checking out 370 "live sighting" reports alleged to have been made since 1975. Of these, 222 were said to have been first-hand sightings and the remainder hearsay. Exhaustive interrogation sessions, including polygraph tests, have convinced even skeptical U.S. authorities that many of the refugee reports are valid.

Last October, the Board of Directors of the National League of Families of American Prisoners and Missing in Southeast Asia unanimously adopted a resolution declaring that it had obtained "sufficient evidence to prove that American prisoners are being held in Southeast Asia." The 10-year-old Washington-based League, composed of some 1,000 families of American POWs and MIAs, vowed to "continue to secure evidence to support (these findings) and to work in every forum for the fullest possible accounting for all our missing men." As a result of the League's unceasing efforts, the Defense Department has increased substantially the number of personnel working on the POW/MIA issue.

The League is now placing "information wanted" ads in Vietnamese and Laotian refugee publications in the U.S., Western Europe and in resettlement camps in Southeast Asia. One ad was answered by a former South Vietnamese officer who claimed to have seen more than two dozen American prisoners in central Vietnam in 1978. Another first-hand report from a North Vietnamese defector stated that some 30 Americans were held near Hanoi long after all of our POWs supposedly were returned in 1973.

One of the most credible accounts concerning American POWs in Vietnam was provided by a recent high-ranking defector from Hanoi, now living in France. The defector, identified as Hoang Huu Quynh, a 37-year-old former Communist official, said he had not personally seen any POWs but that it was "common knowledge among the party's cadre" that an undetermined number of Americans were being held for possible use in future bargaining with the U.S. for aid, trade and diplomatic recognition.

Hoang was interviewed at a secret location in Paris by Mrs. Li Thi Anh, a Vietnamese refugee leader from the Washington, D.C., area. He defected late last year in Turin, Italy, while serving as deputy chief of a 13-member delegation of visiting Vietnamese technicians. He had become disillusioned with Communism after coming to Saigon and seeing for himself the contrast between the remnants of the former free society and the oppression and austerity of Hanoi.

Thus far, Hanoi has played an utterly ruthless and inhumane game of hide-and-seek with our POWs and MIAs. Despite repeated requests by U.S. officials for information about the unaccounted-for Americans, the Hanoi regime has refused to provide information known to be in their possession. Over the past seven years, the remains of only 75 American servicemen have been returned by Hanoi—a few at a time and only in the context of getting something in return.

U.S. intelligence analysts say they are convinced the bodies of more than 400 U.S. servicemen are being held in a former prison camp in Hanoi known to our POWs as the "plantation." But when a delegation of six American Congressmen visited Hanoi last January and asked to see the site, they were refused. Later, after the Congressmen left Hanoi, North Vietnam's deputy foreign minister, Phan Hien, sent a cable denying that the remains of the Americans were being held and branding the report a propaganda hoax by Hanoi's enemy, Peking. The North Vietnamese message also complained that the U.S. had not met Hanoi's demands for war "reparations" and for "normalization" of relations. Said Rep. Benjamin Gilman (R.-N.Y.) "They're apparently utilizing the remains as a bargaining chip."

Ann Mills Griffith, executive director of the League of Families, is more blunt. She accuses Hanoi of "body blackmail."

In a "fact sheet," the League says it is determined not to allow "a repeat of the Korean experience."

Indeed, some Korean War veterans and others with long memories charge that our government abandoned the last unaccounted-for American GIs in North Korea, even though it knew that at least 389 were still prisoners of the Communists months after other POWs were released.

One such Korean War veteran is Robert Dumas of Canterbury, CT. Dumas has an obsession. It began on September 12, 1953, when a telegram from the Defense Department arrived at the Dumas family home. It said there was "reason to believe" that Cpl. Roger A. Dumas—Robert's younger brother—was among 944 Americans who had been captured in North Korea but remained unaccounted for despite the truce ending the Korean War and a formal exchange of prisoners.

The telegram added that a list of the 944 Americans had been presented to the North Koreans at Panmunjom with "an urgent request for such an accounting." And it said that "all possible efforts are being made to obtain information regarding Corporal Dumas . . ."

Until then, Roger had been listed as "missing in action" after Chinese Communist forces overran his infantry company at Anju, near the Manchurian border, on November 4, 1950. A last letter from the slightly built soldier, then 19 and a Private 1st Class, had been written the previous day during a rest break in an apple orchard. Roger told of the bitter cold—it was 30 below zero—and how his water-cooled machine gun had frozen. But a recorded message by Gen. Douglas MacArthur, played over the public address system, had assured the GI's that the enemy was on the run and they would be home for Christmas.

For nearly three years afterward, Roger Dumas' family had had no word. Now, however, there was hope that he still was alive.

But that hope was soon rudely shaken. Only five month later, another telegram arrived from Washington informing the Dumas family that Roger was "presumed dead," apparently because it could not be confirmed that he was still alive!

The roster of those 944 Americans, once believed to have been prisoners of the North Koreans, was reduced to 450 men. Belated information from the Communists said the other Americans had died in captivity.

But Robert Dumas, himself a veteran of 20 months of combat service in Korea, never gave up hope that his brother was still alive—even after the list of "unaccounted for" Americans was further reduced in 1972 to just 389 names.

It took some doing merely to obtain the list. At first, Washington insisted there was no such list. But Robert kept digging through mountains of records and writing letters to everyone from the President on down.

Finally, in 1977, when Robert Dumas was hospitalized after an operation, a letter arrived from Washington enclosing a copy of an official U.S. Army report dated April 29, 1957. Based on statements from four repatriated POWs, the report confirmed that "Dumas, Roger A., Co C, 19th Inf, 24 Inf Div," had been captured and held prisoner at Pyoktong, North Korea. One of the ex-POWs, Cecil V. Preston, had stated after his return on April 24, 1953, that "a Private Dumas was alive but in poor physical condition in Camp No. 5." The Army's report said statements from three other former POWs were "not in agreement as to the date on which Private Dumas is *supposed* (sic) to have died, but are agreed that he was held in Camp No. 5."

In 1978, Robert Dumas tracked down ex-POW Preston in Seattle. He recalled Roger Dumas as a fellow prisoner. "I remember the day that I left Camp No. 5," wrote Preston. "He (Roger) asked me to please let the people back in the States know that he and the others left behind . . . were still alive.

"He gave me the address of his family so that I could contact them to let them know he was still alive, but that he was very sick."

Preston said that before he was returned to U.S. authorities at Panmunjom, "the Chinese took all of the addresses and also a big bunch of dog tags away from me just before I was released so I could not notify anyone or let the Americans know how many guys died in my camp."

In his letter to Robert Dumas, Preston enclosed a photograph he said had been taken in Camp No. 5 by the Communists for propaganda purposes. Standing at the rear of a group of POWs was the frail figure of Roger Dumas.

Armed with proof that Roger had been seen alive in a prison camp, Robert redoubled his efforts to determine the fate of his long-lost brother. From the dusty records came another "find," courtesy of Congressman Christopher J. Dodd (D-CT). It was a copy of Congressional resolution H–140, dated March 12, 1957, nearly four years after the Korean truce.

"Whereas four hundred and fifty American prisoners of war in the hands of Communist forces have not been repatriated or otherwise accounted for since the cessation of hostilities in Korea; and

"Whereas under the terms of the Korean armistice agreement all American prisoners of war should have been accounted for long before now; and

"Whereas the United States of America has never acquiesced in actions by foreign nations which illegally deprive our citizens of their liberty; and

"Whereas the historic policy of firmly supporting the rights of American citizens should be continued: Now, therefore, be it

"*Resolved by the House of Representatives* (*the Senate concurring*), that it is the sense of the Congress that the President, through his own offices, and those of the Secretary of State and the Secretary of Defense, should make the return of the four hundred and fifty American prisoners of war still imprisoned by Communist forces the foremost objective of the foreign policy of the United States."

Also introduced into the Congressional record was a list of 450 American POWs—including the name of Roger A. Dumas.

That list, finally reduced to 389 names, remains as mute testimony to the inhumanity of the North Koreans, certainly one of the most rigidly closed societies on earth. Nor have the Chinese Communists and the Soviets shown any compassion.

Last January, retired Army Col. Phelps Jones, National Security and Foreign Affairs director of the Veterans of Foreign Wars, wrote to the chief of the People's Republic of China Embassy in Washington on behalf of Robert Dumas. Two months later, Jones received a laconic reply from the Embassy's Second Secretary stating, "I am very sorry to inform you that, according to the competent authorities, no information on Private Roger Armand Dumas is available. He is *believed* to have died."

How they "believed" Dumas had died was not explained.

Robert Dumas does not give up easily. He wrote directly to the President of the United States about his brother, Roger. He received a letter from the State Department's China and Mongolia Affairs Desk Officer on March 22, 1979. The letter confirmed that "the name Roger Dumas appears on our list of the 389 American servicemen missing and unaccounted for after the Korean hostilities.

"As you may know," the letter continued, "all of these servicemen have been declared dead. Neither the Department of State nor any other United States Government agency has ever received any reliable evidence that any of these Americans might be alive and held prisoner in China, the Soviet Union or North Korea. The Chinese have several times told us they hold no American servicemen, and all the collateral information we have received has confirmed this. We send our condolences to you and the other members of your family on the tragic loss of your brother."

Later, however, Sen. Strom Thurmond (R-SC) a member of the Senate Armed Services Committee, wrote to Rep. Sam Stratton (D-NY), a member of the House Armed Services Committee, suggesting that "an investigation is in order. . . ."

And despite a 15-page summary report from the Army's Board for Correction of Military Records denying an appeal to change the status of Cpl. Roger Dumas from "presumed dead" to POW, Robert Dumas has not quit. Not even destruction of his brother's Army records in a fire that swept the National Personnel Records Center in St. Louis in 1973 has deterred Dumas from his singular mission. Before their mother died in 1958, she had asked Robert to "go find your brother and bring him home." He is determined to keep trying.

Another American, retired Air Force Lt. Col. O'Wighton Delk Simpson of North Palm Beach, FL, also is determined to unearth the facts. In 1955, while U.S. Air Attaché in Hong Kong, Col. Simpson had had an extraordinary meeting with a young emigré newly arrived from the Chinese mainland. The emigré, of Polish-Russian extraction, had been working at the railway station at Manchouli, where the Chinese rail system links up with the Soviets' Trans-Siberian Railway. According to Col. Simpson, the emigré said he had "observed uniformed prisoners being unloaded on the station platform while the train's undercarriage was changed. He said they were Americans from the Korean War and described their uniforms, even with a drawing of the chevrons. He never before had seen anyone with black skin and this drew his particular attention. He said that he had been quite close to the individuals and had heard them speaking English. The number of prisoners he estimated to be about 700 . . ."

Col. Simpson said the information was supplied to him without request for any reward. The emigré said he was en route to a new home in Australia.

Unable to forget the conversation, Col. Simpson has contacted an association of Australian veterans of the Korean War. They are now asking their members for any information concerning the whereabouts of the informant so that he might come forward and repeat his testimony about those 700 forlorn Americans bound for Russia in 1953.

Has the Pentagon acted too hastily in writing off American MIAs and POWs from the Korean and Vietnam Wars? In issuing "presumptive finding of death," or PFD in Pentagonese, the bureaucracy in Washington relieves itself of the responsibility of carrying the "unaccounted for" GIs on active-duty rosters. Widows or other survivors are eligible for lump-sum death payments. The books thus close ever tighter on the aftermath of those cruel conflicts that claimed more than 100,000 American lives—54,000 in Korea and 57,000 in Indochina. Not including the more than 2,800 who remain "unaccounted for."

In his lonely, 25-year crusade to learn the fate of his younger brother in Korea, Robert Dumas encountered a maze of official confusion and double talk. He now believes that our own government is trying to conceal the fact that hundreds of Americans were left in the hands of the enemy. He calls it "the biggest cover-up the country has ever seen."

Representative Stratton agrees that "it's certainly possible that some POWs were left behind."

As for myself, as a career officer who served over 35 years in the military and who saw duty in World War II, Korea and Vietnam, I was reluctant to accept the idea that our government would abandon any prisoners of war. However, in recent months, I have talked with too many former POWs who make it quite clear that they knew of people who had been left in specific camps.

There are others who, in the process of being moved from North to South Korea, passed areas in which prisoners of that war were being held. There are reports from non-U.S. citizens who claim to have seen caucasian men being held prisoner, and who were told by a third party that these were American POWs from the Korean War. So, I am forced to accept the basic idea that there were many people who were alive and in the hands of the North Koreans and the Chinese during the Korean War who never were repatriated or accounted for.

As far as the Vietnam War is concerned, we are constantly getting reports from Southeast Asia, particularly from the "boat people," of eyewitness accounts of U.S. military men being seen in the hands of the North Vietnamese. This is long after all of the prisoners were supposed to have been returned.

So, I believe that in both the Korean and Vietnam conflicts, there is now what I consider to be adequate evidence from a variety of sources that we did in fact "write off" some of our men and that we have not sufficiently pressed the North Vietnamese and North Koreans for an adequate accounting. I think it is important that a thorough, full-scale investigation be held.

All those ex-POWs who through the years have remained silent on the subject, on the advice of the State Department, should be asked to come forward now and to give the information that they know so that we can develop a positive document to guide us in future negotiations with the Communists.

In my opinion, this investigation should be done by Congress, preferably by Rep. Stratton's Investigation Subcommittee of the House Armed Services Committee.

Has there been a "cover-up"? I only know that there are just too many instances of former POWs being told to "cool it" and to stop talking about prisoners left behind. We know there has been an element within the State Department that has wanted to remove any obstacle to "normalizing" relations with Hanoi. Certainly for them it's a lot easier just to write off these people. They're all presumed dead after so many years anyway, thus why not just clear the slate so that it's no longer a problem?

It may be that some of these people are well motivated. But if we are so concerned about those 53 U.S. hostages in Iran, why not a commitment to the more than 2.800 Americans known to have been in the hands of the enemy in Korea and Vietnam? We cannot afford simply to write of these men.

What kind of pressure can we apply?

We should document the time and place and the specifics of where our POWs were known to be in the past. During my own experience as a U.N. representative at Panmunjom, our side simply turned over to the Communists a list of names. It didn't document the camps in question, and didn't specify when last our unaccounted-for GIs were seen by other Americans. This kind of information has been lacking.

In any case, if we had a well-documented report, it could be produced whenever anyone suggested "normalization" or "reparations." We should then say that we're certainly not going to consider any such steps until we get a complete accounting of all our missing men. The absence of such a solid piece of evidence has made it relatively easy for those who wanted to brush aside this problem and to get on with future relations.

Such an official POW/MIA document also would show our military people that they would not be abandoned in any future conflict and that the government would always do its utmost to obtain their release.

As for the future, it is important that we have an active "escape and evasion" mechanism that would constantly be working to get prisoners out during any conflict and to assist the escape of those who avoided capture. Too often in past wars, many of our people were in POW camps before there was any mechanism for escape and evasion. That was a demoralizing thing because the POWs couldn't be sure anyone out there was working to get them out.

Secondly, it's very important that active records be maintained based on detailed interrogation of all returned prisoners so that we have a complete, update list of all men known to be in enemy hands. Then you do not drop the issue for political reasons.

We must say: "Our people may be dead, but until we have a positive statement and preferably the return of their bodies, we shall not consider that the war is over." That should be a part of any peace agreement and I think that if that's known in advance it is going to be a great boost to morale. There's nothing more demoralizing than to think that you not only are risking your life for your country in battling the enemy, but also, if by some unfortunate circumstances you might be captured, you could be written off as "unimportant."

Above all, we must make sure that never again will American servicemen be left behind and forgotten when the fighting is over.

CONTINUED SOVIET ATTACKS ON AFGHANISTAN

Mr. THURMOND. Mr. President, the World Press continues to report that in recent days the military forces of the Soviet Union are pounding away to destroy Afghan rebels, Afghan army troops who have attempted to overthrow Soviet rule and Afghan towns and cities where rebel forces have operated.

Not since World War II have the military forces of a major power been used with such brutality against the military personnel and populace of a neighboring and defenseless nation.

Why is it we hear little about these crimes in the United Nations? Why is it that the peaceniks of America are not out in the streets calling on world opinion to force an end to this slaughter? Why is the President of the United States generally silent during this Soviet destruction of Afghanistan?

Certainly our intelligence agencies know what is going on in that war-torn country. Our Government should release this information and bring the full weight of world opinion against the Soviets in the hope that this murder of the Afghan people can be slowed or ended.

As one Member of the Senate, I urge our Government to give whatever aid possible to the Afghan rebels who are trying to defend their nation with rifles against Soviet tanks. We certainly should provide small arms and other weapons through a clandestine operation. In addition we should disclose any information available to bring pressure on the Soviets to stop this war against the people of Afghanistan.

Mr. President, an excellent editorial on this subject appeared in the July 30, 1980 issue of the Aiken Standard newspaper in Aiken, S.C., entitled "Afghan Slaughter."

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at the conclusion of my remarks along with a July 29, 1980 article which appeared in the Christian Science Monitor entitled "Soviets Fly in Reinforcements" and a July 29, 1980 article in the Washington Star entitled "Soviet Jets Bid To Crush Mutiny by Afghan Troops."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFGHAN SLAUGHTER

The Soviet army has never been known for its adherence to the internationally accepted rules of engagement. The conduct of Russian troops in Eastern Europe and Germany during the closing months of World War II and again in Hungary in 1956 equalled some of the worst depradations of the Nazi SS.

But even these appalling excesses may pale by comparison with the cold-blooded methods now being employed by Soviet forces in Afghanistan. The latest news filtering out of that tortured nation tells of a new Soviet strategy obviously designed to exterminate not only the Afghan guerrillas but the rural villagers whose support and sympathy they enjoy.

The search-and-destroy tactics the Russians tried earlier this year in an effort to whittle down the insurgent bands have given way in recent weeks to widespread and indiscriminate attacks on the civilian population. Typically, the Soviets employ MiG fighter bombers, helicopter gunships, and cannon-firing armored vehicles in coordinated surprise attacks on villages and small towns.

The attendant civilian casualties seem not to bother the Russians in the least. Indeed, because the slaughter of civilians is inevitable in such attacks, it can only be regarded as a calculated objective of the new Soviet strategy.

It is as though the Soviets had recognized Mao Tse-tung's famous dictum—"the countryside and its people are the water in which the guerrilla fish swim"—and had determined to eliminate the water. To be sure, this may be less strenuous and because the villagers are unarmed and helpless, less costly to the Soviet army. But it also constitutes barbarism elevated to the status of official political and military policy.

These atrocities ought to shock the conscience of the civilized world. But they haven't. Protest where it is sounded is muted and isolated.

Worst of all, what has happened to the whispered promises from the Carter administration and from certain Islamic nations to sustain resistance to the Soviet invasion by supplying arms to the Afghan guerrillas?

A few weeks ago, Philadelphia Inquirer reporter Richard Ben Cramer slipped clandestinely into Afghanistan's Konar Province. Its location on the Afghan-Pakistan border makes it a natural route for any covert supply of arms to the resistance fighters.

But Cramer found Konar province's demoralized guerrillas just hopelessly outgunned as they were during his first visit last winter. One guerrilla band of 65 men had only 400 rounds of ammunition between them. And there were none of the hand-held anti-tank and anti-aircraft rockets so desperately needed by the guerrillas to give them a chance against Soviet armor and aircraft.

Whether this lack of assistance reflects a decision by Pakistan to seek accommodation with Moscow or, conversely, shameless timidity in Washington, we do not know. But the net result is that Afghan guerrillas are crippled in their heroic resistance to a Soviet invasion and occupation now assuming the dimensions of mass murder.

To abandon the Afghans in the face of such an assault could only make Islam and the West accessories to the crimes being committed by the Soviet Union.

SOVIETS FLY IN REINFORCEMENTS

NEW DELHI.—Thousands of Soviet jet fighters, helicopter gunships, and air transports in Kabul, Afghanistan, over the weekend engaged in what one Western diplomatic source calls "the largest display of aerial activity since the December 1979 invasion."

Other sources reported heavy fighting in the beseiged Afghan capital.

One unconfirmed report said the 14th Afghan Division of 10,000 regular Afghan troops stationed in Ghazni have revolted and were fighting Soviet troops stationed "very close" to the 14th Division.

If so, it would signify the defection of about one-third of the troop strength of the Afghan Army, estimated at 80,000 to 100,000 before the Soviet invasion last year.

The sources said the heavy air activity to and from the southwest indicated that Soviet officers had rushed reinforcements to Gazni to deal with the uprising.

SOVIET JETS BID TO CRUSH MUTINY BY AFGHAN TROOPS

NEW DELHI, INDIA.—Soviet MIG jets and helicopter gunships have staged their largest display of aerial might in an apparent attempt to crush a massive mutiny by Afghan government troops in the country's southeastern Ghazni province, according to Western diplomatic sources.

In Islamabad, Pakistan, meanwhile, two Afghans arriving from Kabul, Afghanistan's capital, said yesterday that the governor of eastern Nangahar province has been arrested for defying President Babrak Karmal.

They said the governor, Nasir Shamladar, was a member of the Khalq faction in Afghanistan's ruling Marxist People's Party. The Khalqis have been bickering with Karmal's Parcham faction. Shamladar was arrested by Soviet troops after he refused Karmal's invitation to Kabul for a party meeting of both factions, they said.

The jets and helicopter gunships were seen over the weekend and the diplomatic sources said yesterday that it was "the largest display of aerial activity" seen over the Afghan capital since the Soviets invaded in December.

The aerial strike force was thought to have been triggered by the continuing revolt of Afghan troops in bases south of Kabul, they said.

One unconfirmed report said the 14th Armored Division of 10,000 Afghan soldiers mutinied "in whole or in part" at their Ghazni provincial headquarters, 60 miles southwest of Kabul. If true, it signifies the defection of about one-third of the remaining Afghan government troop strength, which military experts estimated at 80,000 to 100,000 before the Soviet invasion.

Other diplomatic reports said the Soviets have sealed off Kabul with artillery and fast moving tanks.

Witnesses said at one roadblock on the highway leading to Pagman, 11 miles west, 122mm guns could be seen supported by eight of the Soviets "off-the-road tanks," which just arrived. They are like the swift Soviet armored personnel carriers fitted with cannons, the witnesses said.

"Afghan troops stop all vehicles entering Kabul and search many of them," one witness said.

Almost nightly shootings and assassinations have engulfed the capital in the last months, sparked by the Khalq and Parcham feud and attacks by guerrillas.

During the recent party summit, Karmal tried to woo his Khalq party rivals by getting the plenum session to agree to pay "serious attention" to the party leadership within the army and improve living conditions among the troops, especially officers. One of Karmal's biggest threats comes from the officers—80 percent of whom belong to the Khalq faction.

THE LOBBY DISCLOSURE BILL

Mr. DURENBERGER. Mr. President, the Senate Governmental Affairs Committee reconvened on July 22 to continue the markup of S. 2160, the lobby disclosure bill. A key vote was taken on the compromise dues disclosure amendment which I had introduced. That amendment was rejected by a 7 to 7 tie vote, thus effectively ending committee consideration of the bill during the 96th Congress.

As a member of the Governmental Affairs Committee, I have been working on disclosure of information about lobbying. For some strange reason this, for many years, has been one of the most controversial issues facing the Senate. Rarely does a topic attract the attention of so many people representing such a broad spectrum of political interests. Rarely have so many sought so much protection from a Constitution they use to force legislative change on others. Rarely have I been lobbied as intensively as on this topic. Because of this, I feel that it is crucial to speak out on the issue, particularly on the dues disclosure amendment I proposed. This amendment has been misrepresented and misunderstood.

Petitioning a Member of Congress, or any public official, is a right guaranteed by the Constitution. I strongly uphold that right, and believe that individuals and organizations should contact public officials on any issue. I want my constituents to contact me; otherwise, I could not represent or serve their interests.

Lobbying is one way to exercise that constitutional right. Organizations of persons or institutions with common interests which lobby those interests are an integral part of the national legislative process. They help shape legislation, they are a valuable source of information, and they are a link between public officials and private individuals and their private institutions. In short, lobbyists have considerable power.

Because of their tremendous influence on the shaping of our society, I believe every citizen has a right to identify these organizations, their major organizational contributors, and their public policy concerns. This information should be made public not because lobbying is an evil to be discouraged, but because it is a major part of lawmaking that should not be done under cover.

Many people who contacted me do not object in principle to requiring organizations which lobby to register and report on some activities. They object to specific information required to be reported, and the disclosure compliance burdens placed on the lobby organization. I heard complaints that the reporting requirements of the lobby bill are another example of unnecessary Federal intrusion into the activities of businesses and nonprofit organizations.

I could not agree more that the last thing this country needs is more unnecessary Government paperwork. We have more information required to be reported now than report recipients can read or absorb. There is no doubt that we need to rid ourselves of those which are not serving any useful purpose.

My goal in the Governmental Affairs Committee was to shape a lobby disclosure bill which would achieve its purpose with minimal compliance burdens to the reporting organization. The dues disclosure amendment I offered was fashioned to eliminate from the original bill the reporting of the amount of dues paid to parent lobby organizations, because I do not believe that information is relevant to the lobby activity. However, I firmly believe that the public has a right to know what individual and institutional interests in our society are supporting organizations which lobby for changes in public policy. Therefore, my amendment would have required disclosure of organizations which give large amounts of money—over $3,500 per year—in dues or contributions to others who lobby.

Opponents of my amendment claimed that it would have required an organization to report indirect contributions and in-kind services. It was never my intention to require disclosure of anything but payments of large dues and financial contributions. Donated time, facilities, or services were excluded. The amendment was clear on this point, as were my statements before the committee.

Opponents further claimed that my dues disclosure amendment would have resulted in disclosure of names of individuals who belong to lobby organizations. This argument by the opposition could not be substantiated, either by a reading of the amendment or by my statements of intent on the record.

Because of the widespread misunderstanding and misinterpretation of my dues disclosure amendment, I prepared a question and answer sheet addressing the major issues raised. I ask unanimous consent that this information appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, due to intense lobbying, the dues disclosure amendment was rejected by the committee on a 7-to-7 tie vote. S. 2160 will not be taken up again this session; however, it is possible that the Mathias lobby disclosure bill will be considered by the Senate Governmental Affairs Committee this session.

I continue to believe that the public would be well served by a bill that would reveal who helps shape public policy and how. Congress is required to conduct its business in full public view, and this is appropriate. Yet, the general public sees only a part of the legslative process if it cannot find out what role special interests are playing.

EXHIBIT 1

QUESTIONS AND ANSWERS ABOUT THE DURENBERGER DUES DISCLOSURE AMENDMENT

Q. Is this dues disclosure amendment necessary for a meaningful lobby disclosure bill?

A. Yes. Frequently lobby groups are composed of businesses and organizations which bind together in a common interest behind a name which does not reveal the purpose of the organization or the public issues it is interested in. By revealing the organizations which finance a lobby group, the cloak of secrecy is removed, and the public and Members of Congress know what interests are actually being served.

My amendment is designed to disclose the interests behind front or "dummy" lobbying groups, such as:

1. Calorie Council: A group which came to the forefront in the issue of banning saccharin. While the name would lead one to think that it was a health group, or organized dieters, in fact, it was composed of the biggest soft drink manufacturers in the country: Coca-Cola and Pepsico.

2. American Industrial Health Council: It lobbies to effect carcinogen standards, and receives large contributions from DuPont, Gulf, Dow, and other manufacturers with an economic stake in government decisions.

3. Citizens for Government Fairness: It spent over $368,000 in 1978 on lobbying. Its name reveals nothing about who the group represents. In fact, Citizens for Government Fairness is supported by landowners and businesses located in the Imperial Valley of California who want more access to irrigation water.

Q. Will the amendment require disclosure of an organization's membership list?

A. No. The amendment specifically states that organizations will be listed, not individuals. Opponents argue that organizations might be required to disclose lists of individual members under a CID. The intent of my amendment was not to disclose the names of individual members, under any circumstances. To make this intent perfectly clear, Senator Levin was prepared to offer an amendment forbidding the Justice Department from obtaining individual members' names under a CID. I welcomed this amendment.

Q. Will the amendment require disclosure of indirect lobby expenses or contributions of time and expertise?

A. No. The amendment will not cover contributions in-kind, only cash contributions. Organizations will not be required to account for services donated, only for cash payments over $3,500 in a calendar year.

Q. Will the amendment require burdensome recordkeeping?

A. No. Every organization keeps records of dues and contributions already. The registered organization is simply required, by this amendment, to list the names of the organizations giving more than $3,500. The amendment does not require disclosure of specific amounts of money nor does it require disclosure of membership lists.

The amendment will not impose burdensome requirements on small lobby organizations because small organizations probably do not meet the other thresholds provided in the bill, and therefore would not be required to register.

Q. Will the amendment result in the disclosure of confidential business information?

A. No. The listing of actual amounts contributed was omitted from this amendment precisely to avoid disclosure of confidential information.

Q. Isn't the dues disclosure provision unnecessary, because "everyone" knows who is behind lobbying efforts?

A. No. Information about lobbyists is not generally available to the public outside of Washington, D.C. Most of the people of this country do not read the Washington Post or the Washington Star, and are not privy to the "inside" information about who influences legislation.

Q. Is the amendment Constitutional?

A. Yes. The Supreme Court upheld the reporting requirements of the 1946 law in the Harriss case, and then recently reconfirmed that decision by sustaining a Washington State Supreme Court decision upholding the disclosure of major contributors to lobbying organizations, both individuals and organizations. My amendment requires only organizations which contribute to be listed, and so is well within the Constitutional limits. The Attorney General has testified on this point.

MINNEAPOLIS, MINN.

Mr. DURENBERGER. Mr. President, we continue to hear about the increasing fiscal and social problems facing this Nation's larger cities. On August 5, 1980, an article by Lawrence Ingrassia appeared in the Wall Street Journal, outlining the creative, forward thinking efforts by both the private and public sector to nurture growth and prosperity in Minneapolis, Minn., the State which I am proud to represent in the Senate. It is refreshing to see that through good government and civic pride, a city can continue to flourish through good as well as bad economic times. I ask unanimous consent that this article be printed in the RECORD for the enlightment of those of my colleagues with a concern for the continued vitality of the major cities of this country.

There being no objection, the article was ordered to be printed in the RECORD as follows:

A NORTHERN CITY THAT WORKS: HOW MINNEAPOLIS MANAGES IT

(By Lawrence Ingrassia)

Now that Chicago doesn't work, Minneapolis is being viewed as the city that does—at least as well as any aging Northern city can. With a bit of good fortune and good government, Minneapolis has managed to avoid the big-city blues. A diversified economy, civic-minded businessmen and forward-looking public officials share the credit with a strong tax base and generous state handouts.

Downtown Minneapolis is thriving. Fancy new office buildings complement a stylish shopping mall and "skyway" network of second-story walkways that connect major buildings. Growing agribusiness and high-technology companies make Minneapolis a white-collar town. And though a few neighbors are tattered, most are flourishing. Compared with other big Northern cities, Minneapolis has no ghetto.

In studies by urbanologists, Minneapolis comes up again and again as a fiscally and physically healthy city. It scored third-best (after Dallas and Seattle) in a 1978 report by the Congressional Budget Office that ranked 39 cities by social need. (Newark, N.J., Cleveland and St. Louis were judged worst off. New York was 19th.)

Minneapolis finished 1979 with a $17.2 million budget surplus. It has a AAA bond rating from both Standard & Poor's and Moody's. Standard & Poor's gives Chicago an A-minus, Detroit a BBB-minus and suspended ratings to Cleveland and New York.

As big cities go, Minneapolis is small. It's population of 372,000 makes it the 38th largest U.S. city. "Minneapolis isn't so big that you can't comprehend it, so the problems seem manageable," says Oliver Byrum, the city's planning director.

What problems? For one, much of the housing stock is pre-World War II. The bitter cold of long Minnesota winters brings a host of troubles—steep heating bills, cabin fever, heavy wear on cars and roads. An epidemic of Dutch Elm disease has destroyed thousands of the city's shade trees. Blacks frequently complain of abusive treatment from the predominantly white police force. Runaway teens sometimes turn to prostitution and find their way to New York City's Times Square. And of even greater concern to some residents, Minnesota's professional sports teams don't win often enough.

Nor is Minneapolis a boom town. Its population has declined nearly 14 percent from 432,000 in 1970. "People think of Minneapolis as a strong, growing city like the Sun Belt cities, but it's not true," says Richard P. Nathan, an urbanologist at Princeton University. "Minneapolis is well off compared to older Northern cities, but cities like Dallas, Houston and Phoenix are much stronger in terms of growth."

Racial tension occasionally boils up in Minneapolis, but to a lesser degree than in most big U.S. cities. The city was settled in the last half of the 19th Century by Scandinavian and German immigrants who nurtured a strong work ethic and community spirit. Today, minorities make up just 12 percent of the city's population, compared with about 19 percent in Milwaukee, 44 percent in Cleveland, 51 percent in Chicago and 60 percent in Detroit.

Diversity has made the economy of Minneapolis somewhat recession-resistant. Such locally based food companies as Pillsbury and General Mills, such high-technology companies as Honeywell and Control Data, and a variety of medical-products companies have grown in good times and bad.

"Unemployment is always about two percentage points below the national rate," observes John Brandl, a public affairs professor at the University of Minnesota. The city's unemployment rate for May (the latest available) was 4.8 percent, versus 7 percent nationwide. Unlike many big cities, Minneapolis lost few jobs in the 1970s. The 1980 estimate is 280,000, down slightly from the 1970 total of 290,000. And the city's tax base has increased 24 percent since 1974.

Businesses provide social clout as well as jobs. Leaders of the close-knit corporate community often buttonhole colleagues to support each other's pet projects in the arts and social services. Several years ago, local business leaders formed the nation's first so-called 5 percent club to encourage companies to donate 5 percent of pre-tax profits every year to charities and the arts.

High taxes have helped, too. Partly because of a hefty state income tax, Minneapolis ranks 10th among big cities in per capita state aid. As a result, city services often are a notch above what other big cities provide. The park system, built around 13 lakes, puts most residents within minutes of boating in the summer and skating in the winter.

Chicagoans envy the efficiency of Minneapolis snow-removal crews. Garbage collection is free and frequent. But Minneapolis hasn't taken on the costly burden of operating its own university or hospital, as New York City does. And about 10 years ago, the city's welfare costs were transferred to the county.

Government officials also get high marks from urban experts for facing problems before they become crises. Over the past few years, the city had created a separate, less-expensive pension system for all new employes, cutting pension costs 5 percent. Meanwhile, the state legislature has pioneered a noval form of local revenue-sharing. For tax purposes, all new commercial and industrial development in the seven-county region is pooled. The municipality where the business is located gets to tax 60 percent of its value; the remainder is divided among other municipalities.

The policy makes suburbs share the wealth of new development with Minneapolis, adding about $2.5 million a year to the city's coffers. But real estate experts note that industrial growth within the city is severely limited except for the downtown area "Because of its strong emphasis on residential property," says Kenneth Sandstad of Coldwell Banker real estate brokerage, "Minneapolis doesn't have any large tracts of land for industrial development."

PRESERVING RAILROAD BRANCH LINES

Mr. DURENBERGER. Mr. President, it is a pleasure to join my distinguished colleague from Iowa, Senator CULVER, in sponsoring the significant legislation embodied in S. 2962

S. 2962 recognizes the fact that shippers, communities, and railroad employees have as much stake in preserving railroad branch lines as the railroads themselves. In the past year, I have watched with frustration as groups of Minnesota shippers and employees have struggled to purchase threatened segments of the Milwaukee and Rock Island Railroads. These groups have made financial commitments, and have generally proposed sound operating plans. But in too many cases, they simply lack the financial capacity to get those plans off the ground.

In the past, Congress has seen fit to provide "transactional financial assistance" to railroads facing similar problems in their efforts to acquire threatened lines. The bill we now propose extends that same type of assistance to shippers and employee groups. These groups are every bit as deserving as the carriers. And by assisting them, Congress achieves the same goal—preservation of essential branch line service.

We need to recognize that railroads, rail empolyees, shippers, and serviced communities have an equal stake in preserving the viability of the Nation's rural rail system. This bill insures that those groups will each have reasonable access to transactional assistance programs, and I urge every Senator to join us in supporting it.

LIMIT COAL SEVERANCE TAXES IMPOSED BY STATES

Mr. DURENBERGER. Mr. President, I am pleased to have had the opportunity today to testify before the Energy and Natural Resources Committee as a cosponsor of S. 2695, a bill to limit the severance taxes that States can impose on coal produced on Federal lands. I want to thank the Energy and Natural Resources Committee and its chairman for scheduling prompt hearings on this legislation. S. 2695 raises difficult questions regarding the economic interrelations among States, and the committee is to be commended for its courage in bringing these issues to public attention.

During the debate of the windfall profits tax last year, it became apparent that there are three forces which by their interaction will create a new economic order among the States over the next decade. Each of these forces is an aspect of our national energy crisis and each is an issue of importance in designing a national energy policy.

The first of these forces is control by the OPEC nations of crude oil supply and price in the world market. Twice in the last decade this control has led to the rapid escalation of petroleum prices and corresponding recessions in the economies of the Western World. And by all estimates we have not seen the end to spiraling oil prices. Currently, various U.S. Government agencies are projecting world crude oil prices to increase at the rate of inflation in Western economies plus a 2 percent real growth each year. If these projections are realized, the price of oil will be near $90 per barrel by 1990.

The second force that will alter the economic geography of the United States is decontrol of energy prices. For two and one-half decades the price of natural gas has been controlled at the wellhead and at the point of retail sale. The Natural Gas Policy Act of 1978 will lift controls from the wellhead price for many classes of natural gas by 1985.

On April 5, 1979, President Carter moved to decontrol crude oil prices, as well. By September 1981 all oil produced from domestic wells will sell at the world market price—a price now controlled by the OPEC cartel. Estimates by various Government agencies put the cost of decontrol at approximately $1 trillion over the next decade. These dollars will flow from consumers to producers, from the manufacturing industries to the mineral industries and from the energy-consuming to the energy-producing States.

Although most Americans are familiar with the economic implications of the OPEC cartel and the decontrol decisions, few have an understanding of the third world force that will reshape the economic structure of our nations. As the billions and trillions of dollars flow across State borders to pay for energy priced at the whim of OPEC, a few States will reap unexpected and unimagined wealth from a variety of taxes on the energy industries. The taxes designed to tap this new wealth are numerous. The list includes income taxes, royalty payments, severance taxes, lease bonus payments, ad valorem taxes, tariffs on transportation, and in some cases, even profit-sharing arrangements with the energy producers.

I realize that the hearing today focused on a bill to limit severance taxes imposed by States on coal taken from Federal lands. But I want to say that I joined as a cosponsor of this legislation, not because the taxes of Montana and Wyoming on coal are so unusual that they alone require immediate legislative redress. Rather I joined because the severance taxes of these two States are illustrative of the much larger problem caused by the escalating prices for energy and the fiscal implications of this price inflation for all States—consumers and producers, alike. I would like to develop a record on this issue—the issue, I call "fiscal disparities"—as a part of today's hearings.

SEVERANCE TAXES AND ENERGY REVENUES

The facts and figures at the heart of the fiscal disparities issue are difficult to pin down. The numbers are slippery. Because there are so many types of taxes applying to the energy industries, because the taxes are imposed by both State and local governments, because the taxes are subject to annual revision and because the future of energy prices is so uncertain, it will be difficult for the committee to find statistics on which everyone can agree. Personally, I have reviewed three sets of data purporting to describe the mineral severance taxes of the States and although similar in most instances, they do vary somewhat in the detail for some States.

The data I presented is drawn from a variety of sources and represents my best effort to compile an accurate accounting from the information available. First, I would like to present three tables which describe the crude oil, natural gas, and coal severance taxes of the various States. As can be seen from even a brief glance at these tables, there is wide variation in the structure of the taxes imposed. Some States use a price/quantity formula and others a percentage of gross or market value. Some States allow credits against the tax for small producers and others impose special excise taxes on top of the basic severance tax rates. Furthermore, the tables hide some complexity in the tax of a few States and do not touch upon local taxes at all. It is difficult to judge the comparative tax burdens imposed by the various States from this type data alone.

I have a fourth table drawn from a publication by the Independent Petroleum Association of America that reports the value of all State and local severance taxes on crude oil and natural gas as a percentage of the value of those fuels in 1977. Unfortunately, comparable data for the coal taxes is not available. With the exception of Alaska, this table presents an accurate picture of the oil and gas severance taxes by State as of 1977.

However, in 1977 both crude oil and natural gas were price controlled. The average price of $8.57 for a barrel of oil in 1977 is less than one-quarter the average selling price ($36–$38) of decontrolled domestic oil today.

Quadrupling the dollar amounts in table 4 gives one some idea of the extraordinary new revenues that will be flowing into the treasuries of the producing States over the next decade. An estimate by the Department of Treasury indicates that crude oil decontrol alone will add $127.6 billion to the revenues of the producing States. And $104 billion of this amount will go to four States—Alaska, Texas, California, and Louisiana.

The situation in Alaska is quite astounding. The yearly revenues from various petroleum taxes are now triple the amount of state expenditures. The State has recently repealed its income tax and instituted a tax-rebate program that provides checks to every Alaskan based on the number of years of residence. A recent budget report projected the Alaska state surplus to be $184,130,000,000 by the year 2000. In amazement, the Anchorage Times noted that the value of all the gold in Fort Knox was only $123 billion.

Although Alaska is a very extreme case, it is not alone among the States in its expectation of substantial revenues from energy taxes. In some States energy taxes are already a substantial portion of State revenues.

Table 7 presents 1977 State government revenues in total, revenues from severance taxes and royality payments, and the percentage that the mineral tax contributes to the total. Revenues from energy taxes in four States exceeded 10 percent of the total. In Louisiana severance taxes and royalty payments accounted for one-fifth of the total revenues raised by the State. And again, I would point out that these figures are for 1977 when crude oil and natural gas were price controlled.

FISCAL DISPARITIES

The data cited above has been called "highly inflammatory" by those who would defend the right of the States to impose any tax of their own design. Indeed, it does provoke some to engage in an attack on the producing States in the name of the energy consumer. The producing States are accused of being a domestic OPEC and the media of consuming States give wide play to the many schemes designed to spend the new found wealth in some State treasuries.

As provocative as these statistics may be, I believe that the crusade on behalf of the consumers' pocketbook prompted by these numbers may hide more fundamental and more difficult issues caused by the growing disparities among the fiscal capacities of the States.

In fact,the impact of severance taxes on the consumers' pocketbook may be only a short-term phenomenon. If energy commodities are eventually sold in domestic markets with any resemblance to the markets described in the economic textbooks, the severance tax will not be imposed entirely upon the consumer but may be partly imposed on the producer, as well. With OPEC controlling the world price of oil, severance taxes imposed by State and local governments on domestic oil will most certainly fell upon the producer.

In the case of coal, where contracts are written between the coal producer and the electric utility for the life of the mine and the powerplant or where the coal company is a subsidiary of the utility and the transaction not subject to independent negotiation, increases in coal severance taxes will be passed on to the consumer in the form of higher electric rates. And this is the situation that brings the issue of coal severance taxes before this committee today. Several utilities locked into contracts for Wyoming and Montana coal have brought suit arguing that the severance taxes are an unfair burden on interstate commerce. Their challenge, heard in the Montana Supreme Court, has so far been denied and they now seek legislative remedy in the name of fairness to their consumers.

By my comments today, I do not mean to minimize the significance of the coal severance tax issue, the legislation designed as a remedy or the burden that the Wyoming and Montana taxes place on the consumer. However, I would like to suggest that behind the pocketbook issue lie other concerns with implications that I am convinced will require consideration by the Congress.

First, is the impact of the severance, royalty, ad valorem and other tax mechanisms on our national struggle for energy independence. Although severance taxes may in some instances not raise the price to the consumer, they do reduce the revenue of the producer. Whether the severance tax is paid by producer or consumer or split down the middle, it can only retard our efforts at energy independence.

The recent lease sale in the State of Alaska is the most dramatic example of this impact. In addition to the usual bonus bid for many of the tracts, Alaska offered some parcels on a profit-sharing basis. For two of the tracts Amerada Hess offered 93.2 percent and 91.2 percent of the profits from development to the State of Alaska to acquire the bid. It is hard to believe that Amerada Hess will aggressively develop an oil field with profits limited to 7 or 8 percent, while average profits in the industry hover around 20 percent. Speculation within the industry indicates that these tracts may not even be explored unless oil in adjoining regions is found in significant quantity. These tracts are near the Prudhoe Bay field and it would appear that in its attempt to acquire virtually all of the income from oil production, the State of Alaska may have slowed rather than advanced the Nation's efforts at energy independence.

A second question that the Congress will be called upon to consider is the impact of growing severance tax and royalty revenues on the formulas used to allocate Federal grant and revenue sharing dollars among the States. Many of the formulas includes a "tax effort" factor. As per capita State revenues increase, Federal dollars allocated under these formulas also increase. The theory behind these formulas is that Federal dollars should at least in part be used to relieve tax burdens where a State can show high tax efforts.

But the severance tax and royalty revenues will soon make a mockery of the Federal formulas. As I noted before, Alaska has repealed its income tax and is sending out checks to residents to rebate the energy dollars. But in the formulas used to allocate Federal dollars, Alaska shows as the State with the highest tax effort and thus its share of revenue sharing and other Federal formula programs is increased. Senator MOYNIHAN has already introduced a bill to revise the medicaid formula to recognize the changing definition of "tax effort" and I believe that changes in the formulas of other programs will be warranted, as well.

The third issue of concern is the impact of the energy tax revenues on the "business climate" of the various States. Dollars flowing to the energy-producing States as a result of decontrol and new severance taxes will be used to reduce or abolish other taxes on income, capital, and property. Lowering these taxes will improve the "business climate" in the energy-rich States and no one should be surprised to see capital investment and job opportunities follow the energy dollar. The "business climate" impact of the energy tax revenues will magnify the disparities of high energy prices and will provide permanence to the upheaval in economic geography caused by monopoly pricing and decontrol.

Whether one sees this shift as banditry by a domestic OPEC or the natural outcome benign economic forces, there can be no doubt that significant economic, social and political problems will attend the relocation of America's economic resources. Problems associated with economic stagnation and decline are likely to increase dramatically in the East and Midwest, while jobs of every type go begging in the West, and boomtown inflation threatens the savings of lifelong residents.

It strikes me that States like nations have their own, somewhat independent economic systems and that—as is the case with nations—the balance of payments is an important measure of their current and future economic health. Energy independence for our nations is important not only because the possibility of sudden interruption threatens economic depression and the security of the Western alliance, but also because the steady economic drain—reflected in a negative balance of payments—is slowly eroding the foundation on which our standard of living and political stability rest. Energy independence would remove the threat of supply interruptions for every American in every State, but it does not lessen the economic hemorrhage caused by OPEC control of the world price. In fact, to the extent that price decontrol is necessary to achieve energy independence—and I believe that it is—the balance of payments problem will become more critical. Energy-producing States will find it hard to invest the energy revenues internally without causing spiraling inflation. And energy-consuming States will watch as the capital drain makes it impossible to rebuild aging plants and retain necessary jobs.

I would like to raise one further "fiscal disparity" concern for the committee's consideration this morning. There is some possibility that the enormous energy revenues and increasing severance tax rates will set off economic warfare among the States with trade barriers of all types designed to export the cost of State government to commodity consumers in other regions of the Nation. There are States in the Union with virtual monopoly control over nonfuel minerals and other commodities vital to the Nation's economy. These States could, if they chose, exact the same kind of tribute reflected in coal severance taxes of Montana and Wyoming. One such State is Minnesota.

I am entirely comfortable as a cosponsor of S. 2695 because Minnesota has a history of responsible severance tax policy that is now more than a century old. The first iron mine in Minnesota opened in 1884. The mining industry developed rapidly, and by 1905 Minnesota's Iron Range was supplying one-half of the Nation's iron ore. Over Minnesota's "iron century" more than 3.5 billion tons of ore have been shipped from Northeastern Minnesota to the steel plants of the Great Lakes.

After the Second World War the iron content of the natural ore began to decline and many mines were closed. But thanks to the research efforts of scientists at the University of Minnesota, particularly W. Davis, new methods were found to extract high grade pellets from the low-quality taconite ores remaining. Today, Minnesota supplies two-thirds of the iron ore input to the Nation's steel industry. The 5 million tons of taconite pellets put on the Great Lakes in 1978 had a value of $1.72 bililon.

A recent study by the State planning agency indicates that Minnesota's mineral wealth is not limited to taconite ores. It is now estimated that copper deposits in Minnesota are equal to one-fourth of the Nation's copper reserves. Minnesota minerals also include 12 percent of the world nickel resource and the only known cobalt deposit in the Nation. The State planning agency estimates the value of these resources at $80 billion at 1979 prices and they indicate that Minnesota minerals will be vital to the Nation's economy for many decades to come. Minnesota is the Nation's No. 1 nonfuel mineral resource State.

What of our severance tax on iron and taconite ore? We do have such a tax and have had a severance tax for a number of decades. The current tax is $1.25 per ton, and all but one penny goes to support the tax base and social services of the counties and cities located on the Iron Range. The penny goes to the State's general fund. Although the mineral wealth of the area is unparalleled, the economic climate has not been characterized by stability or diversification over the years. Today, with auto plants and steel mills closed, thousands of miners on the Iron Range are temporarily out of work, America's recessions hit hard in northeastern Minnesota.

Frankly, with the cyclical nature of the iron and steel industry a "heritage fund" or some such device to tide us over in the lean times might look good to some Minnesotans. With the current severance tax on averaging 4.6 percent of the gross value, we could easily justify an increase to more accurately reflect the social costs of extraction and the irreplaceable quality of the resource. And the 30-percent coal severance tax of Montana and the combined State and local tax of 17 percent on coal in Wyoming would certainly serve to deflect the criticism from steel State Senators that might attend any increase. The $418.8 million annual revenue from 30-percent tax on taconite would certainly help the Governor in his attempts to keep other Minnesota tax rates low.

There may in the future come a time when some Minnesotans see a need to raise the severance tax on taconite ore to protect our business climate and our competitive economic position among the States. I do not doubt that it is possible, nor do I doubt that we have the power to exact the tribute, if we so decide. I can only suggest that the issue debated here, today, and the outcome of that debate will have an impact on Minnesota's future course—and thus an impact on the future of America's steel industry. Montana and Wyoming are close neighbors and their example is not well hidden from the electric utility consumers now paying the Montana coal tax or the Minnesota Legislature.

As I said earlier, economic warfare among the States with trade barriers of all kinds that depress the free flow of goods and services across the country is not beyond imagining. I think it is important for us to examine those possibilities now, as a part of these hearings and in connection with this legislation, before the barriers are raised much higher and by other States, as well.

FEDERAL REMEDIES

I have no doubt that the "fiscal disparities" issue will arise in many forms in the Congress over the next decade. This morning I would like to review several policy approaches that might show the rush for new energy taxes and preserve harmonious economic relations among States.

First, it is clear to me that programs which allocate Federal dollars among the States based on formulas including "tax effort" must be examined and revised where appropriate. Allowing exportable severence taxes to serve as a definition of tax effort makes nonsense of important programs carefully designed to relieve the tax burdens of the States. I am quite certain the necessary revisions will be brought to the attention of the Congress by the appropriate committees in the near future.

Second, I believe that we should examine the general pattern of the Federal budget to determine whether and to what extent Federal tax and spending policies exacerbate or ameliorate the balance of payments problems facing some States. We must realize that many Federal programs (like job training) are designed to cure the very problems that might be caused by a negative balance in the flow of wealth across State borders. We should look not only to the capacities and training of the individual in our efforts to combat unemployment, but also at the economic health of the community, State and region in which the individual seeks a job.

Third, I believe that there are a series of policies like the Danforth amendment to the windfall profits tax that openly recognize the fiscal disparities problems created by rapid energy price escalation and seek to solve those problems in the context of Federal policy. Senator DANFORTH sought to remove an exemption from the tax for the royalty oil of State and local governments. The general policy reflected in the windfall profits tax is that revenue from decontrol that does not provide a significant incentive to expanded domestic oil production will be taxed by the Government and used to provide tax and other financial incentives for the development of alternative and renewable energy resources. That, at least, was the theory and consistent with that theory, royalty oil should be taxed because decontrol provides no incentive to state and local governments to expand oil production.

Fourth, I believe that we should reexamine the royalty-sharing policy of the Federal Government. Currently—with the exception of Alaska, which receives a 90-percent share—States receive one-half of the 12.5-percent Federal royalty—or 6.25 percent—paid by producers who extract energy resources from Federal lands. These funds are intended to reimburse the States for the social, environmental and institutional impacts resulting from energy development and production on Federal land that is otherwise not taxable by the States. This royalty-sharing arrangement is widely acknowledged to be sufficient to offset the negative impacts of energy development on Federal lands. In addition, many new Federal laws require that the energy producers restore land and other environmental values to the proproduction condition and that the cost of such restoration be included in the price of the fuel to the consumer. These laws will further reduce the economic burden on States that results from energy production.

In my view, it is unnecessary and unreasonable to share a portion of the Federal royalty with States that apply an additional severance tax of extraordinary magnitude on these same energy resources—resources which are produced from land owned by all Americans.

Fifth, the Federal Government now provides assistance to State and local governments in the form of grants, loans, and loan guarantees to plan and construct facilities that will offset the impact of new energy developments. The two most important existing programs are authorized by the Powerplant and Industrial Fuel Use Act of 1978 and Coastal Zone Management Act Amendments of 1976. In addition to these programs, the Senate has just added a new energy impact assistance package including a $2 billion authorization as an amendment to the DOE authorization bill for fiscal year 1981.

Although I recognize that energy developments like coal mines, oil shale retorts, hydroelectric dams, and electric powerplants can have large impacts on local communities, I also recognize that the cost of managing these impacts is not beyond the means of States like Montana and Wyoming with substantial severance taxes. Again, I believe that we should deny "energy impact assistance" from the Federal Government to State and local governments in States where energy taxes are exorbitant.

Finally, we come to a direct limitation by Federal statute on the severance taxes that State and local governments may impose. This limitation is currently proposed in three forms. Last fall Senator BENTSEN introduced legislation imposing a flat limit on all energy severance taxes. Bills in the House of Representatives impose the limit on coal severance taxes only. S. 2695, on which you take testimony today, is even more restricted. It applies the limit only on severance taxes charged against coal produced on Federal and Indian lands.

Short of continued price control the Federal preemption of State tax authority which is included in these three bills, is the most extreme form of action that the Congress might take to address the fiscal disparities problem. I have often wished that this action might not be necessary. However, as my comments indicate, I believe that the fiscal disparities issue caused largely by rapidly escalating energy prices will be an extreme problem for many of the States in the next decade. I also believe that the 30 percent Montana coal severance tax and the combined State and local coal tax of 17 percent in Wyoming are extreme and unreasonable as a burden on the commerce of the Nation, as a threat to our efforts at achieving energy independence, and as an example to other States with taxing powers as broad and commodities as vital to our Nation's economy. I therefore join with the other Senators as a cosponsor of this legislation and ask the Energy Committee for favorable and prompt action on S. 2695.

Mr. President, I ask unanimous consent that the tables to which I have referred in my statement, together with a letter addressed "Dear Coalition Member" signed by JAMES L. OBERSTAR and PHILIP R. SHARP, Members of Congress, dated July 31, 1980, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—*State severance taxes on crude oil as of July 1, 1980*

State and description of tax:

Alabama, 8 percent of gross value.

Alaska, 12.5 percent of gross value.

Arkansas, 5 percent on wells producing more than 10 barrels/day 4 percent plus .5¢/barrel for other wells.

California, Rate set annually by Department of Conservation.

Colorado, Rates range from 2 to 5 percent of gross income.

Florida, 8 percent of gross value.

Georgia, .5¢/barrel.

Idaho, .5¢/barrel.

Indiana, 1 percent of gross value.

Kansas, Nominal tax set by State Board of Health.

Kentucky, 4.5 percent of market value.

Louisiana, 12.5 percent of gross value.

Michigan, 6.6 percent of gross value.

Mississippi, the greater of 6¢/barrel or 6 percent of gross value.

Montana, 2.1 percent of gross of first $6,000 and then 2.65 percent of gross value.

Nebraska, 2 percent of gross value.

Nevada, 5 mills/barrel.

New Mexico, 3.75 percent of gross value.

North Dakota, 5 percent of gross value.

Ohio, 3¢/barrel.

Oklahoma, 7.065 percent of gross value.

South Dakota, 4.5 percent of gross value.

Tennessee, 1.5 percent of sale price.

Texas, 4.875¢/barrel of oil.

West Virginia, 4.34 percent of gross value.

Wyoming, 4 percent of gross value.

Note: Royalties, ad valorem taxes and local severance taxes not included.

TABLE 2.—*State severance taxes on natural gas as of July 1, 1980*

State and description of tax:

Alabama, 8 percent of gross value.

Alaska, 10 percent of gross value.

Arkansas, 3¢/mcf.

California, Rate set annually by Department of Conservation.

Colorado, Rates range from 2 to 5 percent of gross income.

Florida, 5 percent of gross value.

Georgia, .5¢/mcf.

Idaho, .5 mill/mcf.

Kansas, Nominal tax set by Board of Health.

Kentucky, 4.5 percent of market value.

Louisiana, 7¢/mcf.

Michigan, 6.6 percent of gross value.

Mississippi, Greater of 6 percent of gross value or 3 mills/cf.

Montana, 2.1 percent of gross of first $6,000 and then 2.65 percent of gross value.

Nebraska, 2 percent of gross value.

Nevada, 5 mills/50 mcf.

New Mexico, 11.1¢/ mcf.

North Dakota, 5 percent of gross value.

Ohio, 1¢/mcf.

Oklahoma, 7.065 percent of gross value.

South Dakota, 4.5 percent of gross value.

Tennessee, 1.5 percent of sale price.

Texas, 7.5 percent of market value.

West Virginia, 8.63 percent of value in excess of $5,000.

Wyoming, 4 percent of gross value.

TABLE 3.—*State severance taxes on coal as of July 1, 1980*

State and description of tax:

Alabama, 13.5¢/ton mined.

Arizona, Ad valorem property taxes only for state. Production taxes at local level only.

Arkansas, 2¢/short ton.

Colorado, 60¢/ton after 8,000 tons quarterly plus 3 percent excise tax. Ad valorem on unmined value.

Florida, 5 percent of gross value.

Idaho, 2 percent of net value.

Kentucky, 4.5 percent of gross value. Property tax on value of unmined coal.

Louisiana, 10¢/short ton.

Montana, Greater of 12–40¢/ton or 20–30 percent of FOB mine price dependent on BTU value.

New Mexico, 20.6¢/ton on metallurgical and 72.8¢/ton on steam coal. Local production tax and 4.75 percent excise tax.

North Dakota, 85¢/ton with escalator clause.

Ohio, 4¢/ton.

Oklahoma, 5¢/ton.

South Dakota, 4.5 percent of gross value.

Tennessee, 20¢/ton.

West Virginia, 3.5 percent of gross value.

Wyoming, 10.5 percent of gross value; 3 percent excise tax; local production tax.

TABLE 6.—*Additional State revenues as a result of oil decontrol, 1979–1990*

(Revenue in billions)

State	
Alaska	$37.3
Texas	33.2
California	21.8
Louisiana	13.8
Wyoming	3.5
Oklahoma	3.1
New Mexico	1.5
Kansas	0.9
Others	12.6
Total	127.6

TABLE 4.—1977: STATE AND LOCAL SEVERANCE TAXES AS A PERCENTAGE OF PETROLEUM AND NATURAL GAS WELLHEAD VALUES

State	Total value petroleum and natural gas	State and local severance taxes	Taxes as percent of total value
1. Texas	$19,007,782,000	$902,801,000	4.75
2. Louisiana	9,878,136,000	485,339,000	4.91
3. California	2,728,870 000	6,841,026	.25
4. Oklahoma	3,099,138,000	193,614,535	6.25
5. Alaska	1,172,478,000	52,946,037	4.52
6. New Mexico	2,247,951,000	132,516,583	5.89
7. Wyoming	1,088,829,000	36,520,846	3.35
8. Kansas	1,285,233,000	0	0
9. Florida	666,904,000	34,636,654	5.19
10. Colorado	585,188,000	6,032,762	1.03
11. Mississippi	408,353,000	24,501,217	6.00
12. Michigan	561,082,000	9,729,175	1.73
13. Utah	386,558,000	6,441,000	1.67
14. Illinois	397,243,000	0	0
15. Montana	324,562,000	6,884,718	2.12
16. North Dakota	225,939,000	9,603,903	4.25
17. Arkansas	228,322,000	9,206,033	3.19
18. Alabama	256,802,000	11,528,608	4.49
19. Ohio	266,776,000	1,146,000	.43
20. West Virgina	200,474,000	0	0
21. Kentucky	160,167,000	408,131	.25
22. Nebraska	57,591,000	1,241,000	2.15
23. Indiana	69,548,000	722,535	1.04
24. Pennsylvania	122,634,000	0	0
25. Tennessee	11,350,000	27,551	.25
26. New York	22,094,000	0	0
27. South Dakota	9,077,000	17,934	.19
28. Nevada	7,513,000	0	0
29. Arizona	2,460,000	0	0
30. Missouri	858,000	0	0
31. Virginia	9,166,000	11,737	.12

Source: Independent Petroleum Association of America.

TABLE 5.—1977: PETROLEUM AND NATURAL GAS LIQUIDS PRODUCTION BY STATE

State	Barrels per day	Total value	Dollars per barrel
1. Texas	3,919,554	$12,612,573,000	$9.00
2. Louisiana	1,852,104	5,215,429,000	8.00
3. California	979,621	2,349,703,000	6.53
4. Oklahoma	549,441	1,887,048,000	9.85
5. Alaska	465,497	1,079,311,000	6.35
6. New Mexico	348,589	1,111,757,000	9.35
7. Wyoming	335,361	930,505,000	7.60
8. Kansas	240,523	762,016,000	10.25
9. Florida	150,206	609,583,000	11.75
10. Colorado	133,063	469,858,000	10.05
11. Mississippi	118,863	340,437,000	7.85
12. Michigan	108,122	419,141,000	11.25
13. Utah	97,614	345,675,000	9.85
14. Illinois	91,971	395,518,000	13.25
15. Montana	90,762	294,214,000	8.90
16. North Dakota	67,717	209,369,000	8.50
17. Arkansas	57,042	209,123,000	10.10
18. Alabama	51,739	206,277,000	11.00
19. Ohio	32,781	158,536,000	13.25
20. West Virginia	28,537	84,149,000	13.50
21. Kentucky	27,761	112,167,000	13.50
22. Nebraska	16,854	57,416,000	9.50
23. Indiana	14,068	69,323,000	13.50
24. Pennsylvania	8,882	43,434,000	13.50
25. Tennessee	2,247	11,275,000	13.75
26. New York	2,030	10,004,000	13.50
27. South Dakota	1,938	9,077,000	13.50
28. Nevada	1,814	7,513,000	11.50
29. Arizona	1,175	2,360,000	5.50
30. Missouri	184	838,000	12.50
31. Virginia	8	37,000	12.50

Source: Independent Petroleum Association of America.

TABLE 7.—1977: STATE GOVERNMENT REVENUES FROM SEVERANCE TAXES AND ROYALTIES

[Dollar amounts in thousands]

	Total revenues	Total severance taxes	Oil and gas severance	Percent of total	Total royalties	Percent of total
Alabama	$3,124,417	$13,757	$3,843	0.12	$1,045	0.03
Alaska	1,391,605	23,705	23,705	1.70	38,375	2.76
Arizona	2,107,037	(1)	(1)	(1)	8,292	.39
Arkansas	1,568,624	10,495	(2)	(2)	196	.01
California	26,108,228	1,530	1,530	0	107,695	.41
Colorado	2,394,258	2,320	2,244	.10	23,678	.99
Connecticut	2,857,967	(1)	(1)	(1)	(1)	(1)
Delaware	712,204	(1)	(1)	(1)	(1)	(1)
Florida	5,707,077	47,076	26,439	.46	(1)	(1)
Georgia	3,579,450	(1)	(1)	(1)	2,391	.07
Hawaii	1,456,564	(1)	(1)	(1)	1,035	.07
Idaho	785,989	203	(2)	(2)	3,493	.44
Illinois	9,582,612	(1)	(1)	(1)	(1)	(1)
Indiana	3,763,796	580	580	0	79	0
Iowa	2,542,726	(1)	(1)	(1)	13	0
Kansas	1,766,107	816	816	.05	547	.03
Kentucky	2,980,435	113,005	408	0	(1)	(1)
Louisiana	3,685,114	495,498	485,339	13.45	220,514	5.98
Maine	1,024,998	(1)	(1)	(1)	(1)	(1)
Maryland	3,933,699	(1)	(1)	(1)	(1)	(1)
Massachusetts	5,669,948	(1)	(1)	(1)	(1)	(1)
Michigan	9,689,212	9,574	9,459	.10	13 545	.14
Minnesota	4,385,035	59,718	0	0	3,792	.09
Mississippi	2,030,629	25,358	23,417	1.25	292	0
Missouri	3,099,660	(1)	(1)	(1)	(1)	(1)
Montana	850,823	43,543	6,884	.80	14,454	1.70

	Total revenues	Total severance taxes	Oil and gas severance	Percent of total	Total royalties	Percent of total
Nebraska	1, 119, 368	1, 131	(²)	(²)	8, 874	.79
Nevada	762, 457	105	(²)	(²)	527	.07
New Hampshire	636, 339	144	0	0	108	.20
New Jersey	7, 038, 175	(¹)	(¹)	(¹)	(¹)	(¹)
New Mexico	1, 349, 306	102, 783	96, 196	7.13	110, 094	8.16
New York	22, 667, 068	(¹)	(¹)	(¹)	203	0
North Carolina	4, 574, 592	(¹)	(¹)	----------	467	0
North Dakota	736, 073	15, 418	9, 288	1.26	5, 494	.75
Ohio	8, 975, 675	3, 918	1, 146	.01	1, 134	.01
Oklahoma	2, 283, 116	191, 351	(²)	(²)	18, 290	.80
Oregon	2, 638, 018	3, 680	0	0	749	.03
Pennsylvania	11, 091, 470	(¹)	(¹)	(¹)	10, 318	.09
Rhode Island	1, 037, 637	(¹)	(¹)	(¹)	8, 476	.82
South Carolina	2, 414, 949	(¹)	(¹)	(¹)	459	.01
South Dakota	543, 702	536	(²)	(²)	2, 245	.41
Tennessee	2, 933, 213	2, 052	(²)	(²)	14	0
Texas	8, 847, 332	907, 281	902, 801	10.20	318, 186	3.60
Utah	1, 237, 698	8, 931	6, 441	.52	8, 233	.66
Vermont	572, 997	(¹)	(¹)	(¹)	(¹)	(¹)
Virginia	4, 098, 080	705	(²)	(²)	(¹)	(¹)
Washington	4, 478, 283	35, 265	0	0	5, 805	.13
West Virginia	1, 875, 742	(¹)	(¹)	(¹)	46	.00
Wisconsin	4, 931, 994	698	0	0	(¹)	(¹)
Wyoming	563, 376	46, 969	(²)	(²)	17, 388	3.09

¹ No severance tax.

² Not available.

Source: U.S. Bureau of the Census.

TABLE 8.—*1977 Royalties and severance taxes as a percentage of State government revenues*

Rank, State:	*Percent*
1 Louisiana	19.43
2 New Mexico	15.78
3 Texas	13.85
4 Wyoming	11.42
5 Oklahoma	9.18
6 Montana	6.82
7 Alaska	4.46
8 Kentucky	3.79

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 31, 1980.

DEAR COALITION MEMBER: Over the past decade, rapidly increasing severance taxes on coal exported from two states—Montana and Wyoming—have added significantly and directly to escalating energy costs. In addition, the size of the tax has effectively exported part of the tax burden of those states. Our consumers are paying an ever greater share of taxes which benefit taxpayers in the coal producing states.

We would like to alert you to two identical bills, recently introduced by two Coalition members, which seek to combat excessive state severance taxes on coal: H.R. 6625, introduced by Rep. Sharp and H.R. 6654, introduced by Rep. Devine.

These bills would place a ceiling of 12.5 percent on coal severance taxes imposed by state and local governments. The Energy and Power Subcommittee has already held two days of hearings on the legislation, on March 21 and June 5, and will be moving on the legislation before the end of this session.

Congress and the Administration have agreed that one of the ways to reduce our dependence on unstable foreign sources of oil and to relieve the extreme pressure of volatile energy prices on our economy is to encourage more rapid conversion to coal.

Montana's tax of 30 percent and Wyoming's combined state and local tax of 17 percent violate the spirit and intent of these national efforts. This is particularly true in light of the 350 percent increase in Montana's severance tax since the national policy goals were announced in 1974. Some American cities, such as San Antonio, Texas, are even now looking at the possibility of importing cheaper foreign coal. We do not want the goals of coal conversion and energy independence to become mutually exclusive.

Ninety-eight percent of our nation's fossil fuel reserves are coal and 40 percent of this is located in reserves in Montana and Wyoming. Three-quarters of the coal is located on federal lands.

Montana's and Wyoming's taxes are significantly higher than those in other states. Most coal severance taxes in other coal states fall below 10 percent. Kentucky's is 4 percent, Utah's is 1 percent, West Virginia's coal severance tax is 3.5 percent and Idaho's tax is 2 percent. Other severance taxes placed on non-renewable resources are also lower than those imposed by Montana and Wyoming—Texas' tax on natural gas is 7.5 percent, Minnesota's iron ore tax runs between .8 percent and 7.8 percent, Ohio's tax on oil is .3 percent and on gas it is .5 percent and Michigan's tax on oil and gas is 3 percent. The excessive severance tax rates imposed in Montana and Wyoming go far beyond the additional costs imposed in those states by energy development. Wyoming and Montana taxes bear little relation to the cost of economic and environmental impact or production costs. A recent CBO study shows revenues exceeding costs dramatically. In fact, a full 50 percent of Montana's tax revenues are earmarked for a trust fund established for "future generations."

We are understanding about and sympathetic to the need for these energy producing states to have sufficient revenues to effect full reclamation of the land after it is mined. We also feel that planning for increased state and local services needed by those developing the resource is wise. Schools, roads and sewers must be constructed, and there is a need for front end money to accomplish those tasks before the improved tax base resulting from new people and new industry begins to pick up some of the slack. For these reasons we supported the federal reclamation fund and energy impact assistance to producing states. For these reasons we feel that reasonable severance taxes are justifiable and should be allowed. However, we feel that there must be some relationship to the actual costs incurred by the states, and that they should not be using the severance tax to reduce local property taxes, increase the standard deduction for state income taxes and otherwise reduce the tax burden on their own citizens by taxing citizens in the energy consuming states. And the need for a trust fund expected to contain a minimum of $20 billion over the next thirty years should give us pause as we contemplate our own states' problems as energy consumers.

The energy producing states have the right to expect a reasonable contribution toward their efforts to plan and to provide essential services to their citizens. The energy consumers have a right to expect that, at least in this country, they will not be asked to bear an unduly larger burden, particularly one which might enrich one area of the country and impoverish the others. We would like to see a proper relationship between impact costs and taxes and to minimize unnecessary or retaliatory increases in future severance taxes.

In the long run, severance tax wars are not unforeseeable. Nothing would prevent Minnesota or Iowa, who jointly paid coal severance taxes of $19 million to Montana and Wyoming in 1978, from placing a severance tax on corn and wheat they export. Similarly, states which export natural gas, oil, and other non-renewable resources could establish long-range trust funds through increased severance taxes.

The underlying purpose of the coal severance tax ceiling legislation is to insure a proper relation between impact costs and taxes and to inhibit any unnecessary or retaliatory increases in future severance taxes. This legislation underscores the belief that all states should share in the natural resources of the nation.

Fifty-three members have cosponsored H.R. 6625; twenty-six have cosponsored H.R. 6654. Forty-eight cosponsors are Coalition members. This Coalition support is bi-partisan, with cosponsors from both midwestern and eastern states. The National Coal Consumers Alliance formed to support this legislation represents governmental units, consumer organizations, corporations, public utilities, cooperatives and municipal utilities. Among the organizations supporting the legislation are the United Auto Workers, the Consumer Federation of America, the American Public Power Association, the U.S. Conference of Mayors, Commonwealth Edison (Chicago), Detroit Edison, Iowa Power and Light, the National Rural Electric Cooperative Association and more.

Coal severance taxes are an important regional issue. Additional information may be obtained by contacting the offices of either sponsor of the bills or from the Coalition. If you would like to cosponsor the legislation, please call Shelly Fidler (58140) in Mr. Sharp's office or Cindy Chapline (55355) in Mr. Devine's office.

Sincerely,

JAMES L. OBERSTAR,
PHILIP R. SHARP,
Members of Congress.

THE ALASKA LANDS LEGISLATION

Mr. EAGLETON. Mr. President, as so often happens in the reporting of complex issues, the questions involved in the Alaska lands legislation have been reduced by headline writers to the simple proposition of development versus preservation. The impression is left that we must make a choice between two extremes and that there is no compromise between them. I do not believe that is the case.

Regardless of the rhetoric, one thing I feel we all agree upon: The beauty of Alaska—its lands and its wildlife—must be preserved and available for all generations of Americans to enjoy. Of particular concern to me is the fate of Alaska's wildlife.

No one here wants to see the caribou or grizzly or Dall sheep go the way of the passenger pigeon or the way the bison was headed at the turn of the century.

After generations when market hunters and poachers nearly denuded this great land of wildlife, men and women of firm resolve dedicated themselves to bringing back our wildlife resources.

Today, we have more deer, elk, moose, wild turkey, than at any time in this Nation's history; and that includes the pristine days before Europe discovered America.

It has been less than a century that we have rolled up our sleeves to scientifically work to preserve the Nation's wildlife. And we have done a great job.

But the bulk of the work fell directly on the shoulders of the Nation's "sport hunters." The men and women who created the State systems of wildlife management, who forced the Federal Government to set aside moneys for wildlife management through a self-imposed tax on hunting equipment. The Nation owes a debt to our sport hunters. These are the true conservationists. And hunting is one of the vital tools the State has to efficiently insure that the habitat has a balanced and healthy wildlife population.

Whatever measure is voted out of this body must include the proper designation of those areas containing Alaska's wildlife. To ban hunting in these significant areas would be to tie the hands of the wildlife managers charged with conserving Alaska's wildlife resources. Corrective action must be taken to insure that those regions in Alaska in which the wildlife is concentrated are open to hunting. To do less is to do a terrible disservice to Alaska's wildlife and to all Americans.

PRIVILEGE OF THE FLOOR

Mr. **MOYNIHAN**. Mr. President, I ask unanimous consent that Dr. Stephen Sestanovich be granted privileges of the floor during the remainder of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

CHANGE IN AMERICAN MILITARY DOCTRINE ON NUCLEAR WAR

Mr. **MOYNIHAN**. Mr. President, this morning's press contains articles, one in the New York Times and one in the Washington Post, which report a momentous change in American military doctrine with respect to the single most important issue which the Nation and the world face in our time, the question of nuclear war.

At the outset of my remarks, Mr. President, I ask unanimous consent to include these articles in the Record at this time.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Carter Said To Back a Plan for Limiting Any Nuclear War

(By Richard Burt)

Washington.—The Carter Administration has adopted a new strategy for nuclear war that gives priority to attacking military targets in the Soviet Union rather than to destroying cities and industrial complexes, Government officials said today.

The revised policy, the officials said, requires American forces to be able to undertake precise, limited nuclear strikes against military facilities in the Soviet Union, includng missile bases and troop concentrations. They said it also calls for the United States to develop the capacity to threaten Soviet political leaders in their underground shelters in time of war.

The policy, reportedly approved last week by President Carter after almost four years of debate, contrasts with the policy adopted in the 1960's, which relied on the threat of the destruction of Soviet cities to deter a major war.

Administration offices asserted that giving American forces the capacity to undertake limited nuclear strikes against Soviet military facilities would lessen the likelihood of a major war because it would deter Moscow, in any future crisis, from launching pinpoint nuclear attacks of its own.

"The whole point is to deter," said one official. "There is no question that we need the capacity to destroy Soviet cities and industry. But as the Soviet Union has achieved the ability to threaten our land-based missiles and other strategic forces, we have concluded that we need a similar capability."

Mr. Carter, acceding to this view, is said to have signed a document known as Presidential Directive 59, which asserts that the best way to prevent a major conflict with Moscow is to be capable of waging a prolonged but limited nuclear war. Government specialists maintain that the Soviet Union has long been committed to acquiring such a nuclear capability.

Officials said Mr. Carter's new directive has received strong backing from Secretary of Defense Harold Brown and Zbigniew Brzezinski, Mr. Carter's national security adviser. The officials said neither the State Department nor the Arms Control and Disarmament Agency had been involved in formulating the strategy.

The concept of threatening military targets with nuclear weapons rather than cities has been criticized by some nuclear experts because, in their view, it could make a nuclear war more likely. They assert that, if both Washington and Moscow obtain a "first strike" capability against each other's military forces, the pressures for both sides to launch their missiles in a severe crisis would become enormous.

Critics of "limited war" nuclear strategies also maintain that the plans would require much larger and more sophisticated forces than now exist. In addition to a new $34 billion mobile missile, they contend that the United States would be forced to spend billions not only on a new submarine-launched rocket able to hit military targets but on new reconnaissance and communications gear to allow the Pentagon to engage in precision nuclear warfare.

The Republican Party, in its platform adopted last month in Detroit, endorsed a "clear capability to destroy military targets," and some officials believe that the new Administration policy will aid Mr. Carter in the coming Presidential campaign.

At the same time, officials expect that the policy will come under attack from the liberal wing of the Democratic Party, and aides said that an announcement of the new strategy had been postponed until after next week's Democratic National Convention in New York City. Secretary Brown, they said, is scheduled to announce the strategy change in a speech at the United States Naval War College in Newport, R.I., at the end of the month.

Several officials said that the new policy could not be carried out without the Air Force's proposed new mobile missile, the MX, and associated improvements in military command, control and communications capabilities.

Two hundred Air Force MX missiles, equipped with 10 multiple warheads each, would be designed to survive any Soviet first strike attack and to retaliate against Soviet rocket silos and other military targets.

Although officials said that the effort to revise nuclear policy was initiated by Mr. Brzezinski early in 1977, Mr. Carter and a number of senior officials gave little indication in public statements that a substantial shift in nuclear strategy was under way. Mr. Carter, in an interview with The New York Times in 1976, before he took office, said he did not believe it was possible for Washington and Moscow to fight a limited nuclear war.

Later, in his State of the Union Message in January 1979, Mr. Carter said "our deterrent is overwhelming" and added: "Just one of our relatively invulnerable Poseidon submarines, comprising less than 2 percent of our total nuclear force, carries enough warheads to destroy every large and medium-size city in the Soviet Union."

But officials reported that over the last three years, Mr. Brown, Mr. Brezinski and other senior national security aides gradually reached the conclusion that Moscow did not accept Washington's concept of mutual deterrence and that the United States needed to be able to fight a small-scale nuclear war.

Officials said the policy finally adopted by Mr. Carter contained the following changes in nuclear policy:

Prime nuclear targets are to be Soviet military forces and the country's political leadership. While an official stressed that American missiles and bombers would still be able to destroy Soviet cities and industrial facilities, he said that special emphasis would be placed on threatening "the targets the Soviet leadership values most: its military forces and its own ability to maintain control after a war starts." To attack military targets and Soviet civilian and military leaders in underground bunkers, the official said, the United States needs highly accurate systems such as the MX rocket and new air- and ground-launched cruise missiles.

The possibility of fighting a prolonged nuclear war, lasting weeks and even months, is envisaged. Officials said that the new directive called for the creation of a "secure strategic reserve," a missile force that would not be used in the early phases of a conflict and could thus deter Moscow from launching a major nuclear strike later on. The secure missiles, they said, would have to be invulnerable to attack and United States leaders would have to be able to communicate with the force in the event of a prolonged war.

Emphasis is placed on the ability to find new targets and destroy them once a war begins. At present, nuclear targets in the Soviet Union are listed in a highly secret document known as the Single Integrated Operations Plan, which is kept at the headquarters of the Strategic Air Command in Omaha, Neb. Under the revised strategy, new targets could be added in wartime to the plan when they were detected by reconnaissance satellites and other intelligence systems.

The revised strategy is almost certain to enliven the debate on nuclear policy that has proceeded since the late 1940's.

Carter Directive Modifies Strategy for a Nuclear War

(By Michael Getler)

President Carter has signed a new directive that modifies the strategy the United States would use in fighting a nuclear war with the Soviet Union, according to high-ranking administration officials.

The new strategy involves placing less emphasis on all-out retaliation against Soviet cities in the event of a Russian attack. Instead, there would be greater emphasis on destroying Soviet military forces and both political and military command centers early in a conflict in hopes of convincing Moscow that it could not ultimately "win" a war.

> Presidential directives on such matters are milestones in the 35-year history of the atomic age. They have an important and immediate impact on U.S. military policy and thinking.
>
> Presidential Directive No. 59 is understood to have been signed within the past two weeks by Carter after being developed by the staff of the National Security Council and top military and civilian defense officials.
>
> The idea behind the shift in strategy actually is not new, having evolved over several years. Former secretary of defense, James Schlesinger, talked openly about it in 1974 and the current secretary, Harold Brown, has also referred to the need for what he calls a "countervailing" strategy in his last two annual reports to Congress on the U.S. defense posture.
>
> What is new, however, is that there is now an updated presidential directive in force, empowering the bureaucracy to do more about putting these ideas into the country's war plans.
>
> And, it comes at a time when the United States has the beginnings of more accurate new weapons and will soon have better ways to control and target them than it did six years ago, officials say. This makes the strategy more feasible now, they claim.
>
> Several factors went into the new directive, these officials explain.
>
> For much of the past two decades, the United States has relied on having enough nuclear might to smash all major Soviet cities and industries, even after absorbing a first strike by Moscow, so that the Soviets would be deterred from such an attack in the first place.
>
> This was called by the appropriate name of MAD, for mutual assured destruction. It still is a major part of U.S. strategy.
>
> But as the Soviet missile force grew larger than the U.S. force and as its accuracy improved, the Soviets not only could threaten U.S. cities but U.S. land-based missiles as well.
>
> Furthermore, an appreciation grew among some specialists in this country that Soviet military doctrine did not necessarily accept the idea that a nuclear war could have no winners.
>
> Thus, it is reasoned here, no matter how a nuclear war should start, the Soviets might still think that with their large atomic and conventional forces and civil defense program they could carry on longer than the West, and therefore reap some spoils.
>
> Under the new strategy, the United States might no longer just fire a warning shot or an all-out salvo. Rather, it might try to quickly destroy tank divisions, military command centers and perhaps underground shelters housing civilian leaders in the attack region to show that the thrust of the U.S. response would not be just to kill Soviets but to prevent military victory.
>
> The United States, officials say, has always been able to hit some military targets, but is now in a better position to do this because new, more accurate weapons, such as the Navy's Trident I submarine-launched missile, are now entering service along with the Mk 12A warhead for the land-based Minuteman III force. Beyond that, new air-launched cruise missiles with advertised accuracy are also to be deployed soon.
>
> But in order to carry out this new strategy with any precision or success, the United States would have to know the location of likely targets in the midst of undoubted chaos. This would require sophisticated spy satellites and other kinds of intelligence-gathering and a secure communications system. Sources suggest the United States doesn't have enough of this to do the job at this time, but the directive also is supposed to give impetus to acquiring it.
>
> This desired flexibility, one official said, "is more an aspiration than a reality now. But unless at some point somebody decides to do it, the problem never gets solved."
>
> The timing of the new directive would also seem to have a political target in this country—Ronald Reagan—with the administration seeking to show it is moving to improve U.S. defense though it came to office claiming it would cut defense spending.
>
> Nevertheless, Carter, a number of officials claim, has shown more active interest in U.S. nuclear planning and in how those forces are controlled by the president than most of his recent predecessors.
>
> His chief national security aide, Zbigniew Brzezinski, has also been talking for some time about the need for new strategies and crisis management tactics to meet the changed strategic balance the United States now faces in the 1980s.

Mr. MOYNIHAN. The first article, in the New York Times by the eminent military correspondent and analyst, Mr. Richard Burt, is entitled "Carter Said to Back a Plan for Limiting Any Nuclear War. New Strategy Would Stress Strikes on Military Objectives Rather Than Cities, Officials Say."

A similar article by the well-known journalist, Mr. Michael Getler of the Washington Post, has this headline, "Carter Directive Modifies Strategy for a Nuclear War."

Now, Mr. President, the first point I wish to make is that we have here information about a momentous change in our military posture of a kind which affects the security of this Nation, of the Western alliance, and which, in its largest context, concerns the future of the human race, for it involves the question of a full-scale exchange of nuclear arms between the Soviet Union and the United States.

There is not a larger issue, none.

For 35 years the United States has pursued a particular strategic doctrine, known as assured destruction to the rather narrow circles which address these matters and have in the main been able to formulate policy. It had as its principal tenet that the United States would never be the first to initiate a nuclear exchange, but that our arms must be adequate to deter attack. We would need a sufficient force such that should the Soviets or, for that matter, another power that might emerge, attack first, the United States could strike back with a devastating and annihilating attack upon the cities of the nation that initiated the exchange. With its destruction assured it would be wholly irrational for any nation to attack us. This is the doctrine of deterrence.

Now, that doctrine had its critics. It still has them. But so far as the Nation is concerned or knows, it has been in place for almost the whole of the nuclear era, from the time the United States first devised a strategic doctrine to correspond to the existence of these weapons.

Indeed, the proponents of the doctrine of deterrence, thoughtful and usually mild men that they are, scientists that most of them are, have regarded the idea of any other arrangement as one likely to lead to nuclear annihilation. They had not regarded this as a marginal matter but as an ultimate matter. They have feared and opposed the doctrine announced in the press this morning.

This brings me to a second point, the manner of the announcement.

Mr. President, we are given to understand that a major change in the nuclear strategic doctrine of the United States of America has taken place; that the President has signed Presidential Directive No. 59. Lest anyone suppose that this was not a formal presentation to the press, both Mr. Burt and Mr. Getler refer to this particular document.

The U.S. Congress has not been told, the American public has not been told; the information has been leaked to the press anonymously. One has to ask: What has become of openness and integrity in American Government?

There are two explanations of what has happened, Mr. President, at least that I could think of. One is that Presidential Directive 59 is thought to be a highly secret matter which ought never to be open and never to be revealed. If so, there are persons in the Government who have dishonored their pledge to maintain the secrecy of such matters. Had they any residual sense of responsibility, they would resign. They will not. And I do not say that they should, because there are two possibilities.

The second possibility is that this is a matter which the President indeed wishes made public and wishes discussed. Why then does he not do so or have his officials do so in public? Why must we read a leaked story about this important military decision? Have the persons involved so little sense of the processes of democracy that they would not bring this matter to us in the Congress, ask that it be considered on its merits, expect it to be debated? They want their decision to be known, but prefer not to do so directly.

The story by Mr. Burt, who like Mr. Getler obviously has been briefed, explains why this might be the case. I will read the paragraph:

> Officials said Mr. Carter's new directive has received strong backing from Secretary of Defense Harold Brown and Zbigniew Brzezinski, Mr. Carter's national security adviser. The officials said neither the State Department nor the Arms Control and Disarmament Agency had been involved in formulating the strategy.

In other words, what we might have here is a familiar bureaucratic pattern in which one part of the Government fights another part of the Government. Matter made public may thereafter become difficult to reverse or may embarrass and weaken one party or another. If this is the case, it is squalid.

Mr. President, are we in the U.S. Senate to be told that a fundamental change in U.S. strategic doctrine has taken place with respect to nuclear weapons and strategy and that the State Department has not been consulted? An official so states. And that the Arms Control and Disarmament Agency has not been consulted? An official so states.

It is a good thing for these men and a bad thing for this Nation that Hubert Humphrey, who helped create the Arms Control and Disarmament Agency, is not on this floor today to say what he would think of such a procedure. Thank God for them and God help America that Hubert Humphrey is not here to speak.

I speak on the same floor, a person of far less worth, far less experience. But not, I hope, with less indignation than he would do.

I do not believe that the President of the United States has permitted this to happen. I think he is being used. For had he decided to shift his entire strategic doctrine without consulting the Secretary of State, the Secretary might well have to resign.

Mr. President, I repeat that, the Secretary of State would have little choice but to resign.

I have served in the President's Cabinet. I have indeed resigned on two occasions. Once I was persuaded not to carry out that resignation in the time span I had asked, and the other my resignation was accepted directly. In the latter case, I had the sense of having lost the confidence of my superiors which made me feel my usefulness was at an end. I resigned.

For the Secretary of State not to be consulted would leave him no choice. He might as well resign because he no longer is involved in the most important decisions made in the Government concerning his role.

And for the Director of the Arms Control and Disarmament Agency to stay in place after such an event would weaken his agency. He, too, might have to resign if he had been kept out of policy considerations.

I do not think it is the case. My respect for the President is so much greater.

But he must face the fact that either he repudiates these stories or it will be assumed to be the case. The President cannot control what others assume. He must know that.

I have had no success in making this point on this floor or in private conversations with the administration. Our distinguished Presiding Officer may just recall that not many weeks ago I entered into the CONGRESSIONAL RECORD the national intelligence estimates, those most confidential of documents. I did not enter the actual documents. Rather, I entered the news stories, the news reports, of these documents as they were leaked in the Washington Post and in the New York Times to responsible journalists by irresponsible men, who would break their oath of confidence and present the most closely held facts of American military strategic doctrines to the press so as to advance some interest of their own, leaving our intelligence community exposed in the most important work it does. They do it. They seem to have no compunction about doing it.

Mr. President, I do not suggest that Dr. Brown or Dr. Brzezinski are involved in these disclosures. It is just that by the reports, this new change has their strong backing. One would sense that it is persons who support the doctrine who have made the information public.

Dr. Brown is a distinguished physicist. He is not unknown to Government. He was Secretary of the Air Force from 1965 to 1969, and in that capacity helped shape American policy during the Vietnam war. He has long been involved in military matters and knows something of the responsibilities of confidence.

Dr. Brzezinski before coming to his present post served almost 2 years on the policy planning staff of the Department of State, and is not unfamiliar with Government.

They must know how important the integrity of these processes is, to wit: keep secrets if they are secrets. And if they are not secrets, discuss them openly.

Mr. President, I have made two statements. I have, first of all, called attention to this extraordinarily important change in strategic doctrine and, second, I have discussed the mode in which it took place and the alarming implications that this mode has. I now go on to discuss the issue in brief, why this has come about, and, finally, I shall suggest the implications for the SALT treaty that it appears to have.

Mr. President, in Mr. Getler's article, there is an important passage which I shall take the liberty of reading. It states:

> For much of the past two decades the United States has relied on having enough nuclear might to smash all major Soviet cities and industries, even after absorbing a first strike by Moscow, so that the Soviets would be deterred from such an attack in the first place.
>
> This was called by the appropriate name of MAD, for mutual assured destruction. It still is a major part of U.S. strategy.
>
> But as the Soviet missile force grew larger than the U.S. force and as its accuracy improved, the Soviets not only could threaten U.S. cities but U.S. land-based missiles as well.
>
> Furthermore, an appreciation grew among some specialists in this country that Soviet military doctrine did not necessarily accept the idea that a nuclear war could have no winners.

Mr. President, that is a very pregnant set of paragraphs. It begins by describing the doctrine of deterrence which we have followed through the years. It then goes on to say that this was called by the "appropriate" name of MAD.

Mr. President, there is a bit of ideology in that sentence. The idea was known as assured destruction and a gentleman—alas now dead—a very distinguished analyst at the Hudson Institute, had the inspiration, because he did not approve of the doctrine, of adding "mutually" to "assured destruction." As I have said on this floor, it became possible to caricature a doctrine that was born in the profound concerns of men, such as Hans Bethe, who helped build the first bomb as somehow mad. In truth it was an effort to see that the United States would never be attacked; we would have the capacity to strike back in such a way that nobody would ever strike first. In any event, MAD is a loaded term, and intended to be.

The third paragraph makes the point—I read it again—"but as the Soviet missile force grew larger than the U.S. force and as its accuracy improved"—Mr. President, that is the history of strategic arms limitation talks with the Soviet Union.

Their force has grown larger than ours, their accuracy has improved, and this increases the effectiveness of their force. In SALT, we have not limited them, they have not limited us. But we have allowed them to go beyond us in such a way that the doctrine of deterrence, to protect which we began the SALT talks, has become, in the evident view of our military planners, untenable.

Let me repeat, Mr. President, what I have said. The strategic arms limitations talks were conceived as a method to stabilize the weapons situation of both sides at that point where either side had a deterrent second strike. With this stability no further weapons would be necessary on either side. This is as much stability as could be expected from these weapons. Each side had great destructive power, but would know that to use it first would bring a retaliation of such devastating nature that to use it first would, in effect, be suicidal and only a suicidal power—presumably none that we know—would actually do so. Our strategic arms limitation talks were designed to put that doctrine in place securely as a matter of agreement between the two powers.

Then, what happened is that the Soviets did not behave as we were expecting. That behavior is described in the next paragraph of Mr. Getler's article, in which he says:

> Furthermore, an appreciation grew among some specialists in this country that Soviet military doctrine did not necessarily accept the idea that a nuclear war could have no winners.

In such journals as Commentary, such distinguished analysts as Richard Pipes and others have for some time been making this point, that Soviet doctrine has, in fact, accepted the possibility of a war-winning strategy. We may face not just one exchange, but two exchanges three exchanges, four exchanges, until, indeed, you begin to think of nuclear war as a mode of artillery. It is no longer the ultimate weapon, one or two uses of which leaves nothing more to destroy.

A recent work has described the Soviet behavior in these matters in somewhat different terms. Prof. Michael Mandelbaum at Harvard University, in a book on the subject, has described the Soviet attitude toward these weapons as being that of mercantilists. The analogy here is with the 18th century economic doctrine that a nation ought to accumulate as much gold as it can. Gold, like nuclear weapons in the Soviet view, was seen to increase a state's power; the more, the better.

In any event, we have begun to see a movement of our own doctrine in the same direction. The Soviets are forcing us to adopt their approach.

Mr. President, some time ago, last fall, as we prepared for the debate on SALT, a time when it appeared to be the case that the SALT treaty, SALT II, would be the first item of business in this session of the Congress, I wrote for the New Yorker magazine an analysis of the situation as I then saw it. I raised many of these issues and, I think, anticipated to some degree our change of doctrine. While it is a lengthy article, I ask unanimous consent that I may have it printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SALT PROCESS

(By DANIEL PATRICK MOYNIHAN)

In the summer of 1978, when it began to be clear that the SALT II treaty would be signed with the Soviet Union, the Select Committee on Intelligence of the United States Senate began to prepare for its role in the procedures by which the Senate would take up a resolution of ratification. As a member of the committee, I journeyed to Geneva to talk to the negotiators of the draft agreement that was taking shape and began to go over the history of SALT I, more formally known as the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms and the Treaty on the Limitation of Anti-Ballistic Missile Systems, signed in 1972.

It did not take long to establish that, whatever else SALT I might have done, it accomplished little by way of limiting strategic offensive arms. For that matter, it wasn't even an agreement about weapons as ordinarily understood. Rather, it was an agreement to limit the number of launchers each party would have for its long-range ballistic missiles. A launcher (or silo, in the usage of the military) for a land-based missile is a hole in the ground. You could get hurt by falling into one, but it is missiles, and, more specifically, the warheads of missiles, that kill people, and these were not at all limited by SALT I. Nor, it appeared, would they be much limited by SALT II. From the time of the first agreement, the number of American warheads increased steadily, and those of the Soviets more than doubled. It appeared they would double again under SALT II.

This was hardly reassuring. But more troubling still was the realization that this all came as news to me. I had never given great attention to the subject, but from the time of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water, of 1963, I had had the impression that things were going well enough, or at least not badly. I did not have the excuse most persons might have for being vague about the details. I had served in four successive Administrations, from that of Kennedy on. I had known virtualy all of the principal arms negotiators and, from university life, a good number of the strategic-arms theorists. I had sat at the Cabinet table of two Presidents listening to reports on progress. Always they were reports on progress. Or such was the impression I took away. I now began questioning my own judgment, then that of others—especially as the Carter Administration began to proclaim the virtues of SALT II in terms I could recognize as essentially the same as those in which the Kennedy, Johnson, Nixon, and Ford Administrations had presented their achievements in arms control. I began to wonder whether anyone from the most recent Administration, or more generally from the world of arms control, would ever describe the agreements in terms that comported with what now appeared to me as a different, even new reality.

I was to wait almost a year, until the morning of Wednesday, July 11, 1979, when Dr. William J. Perry, Under-Secretary of Defense for Research and Engineering, testified on SALT II before the Committee on Foreign Relations. Perry, a mathematician, speaks plainly and, as with many in his rarefied profession, is a man of unassuming appearance and manner. All the more was the contrast with the Caucus Room of the Old Senate Office Building, in which the hearings were held. The Caucus Room is a place of unashamed exhibition and splendor dating from 1906, when Theodore Roosevelt, having built the West Wing of the White House, commenced to challenge the Congress from his new office, and the Senate decided to get itself an office building of its own. Until that period, Presidents had worked in their living rooms, as it were, and senators at their desks in the Senate Chamber. Neither facility had been much expanded from the time of Jefferson, although during the eighteen-forties a kind of box was fitted onto the tops of Senate desks, adding a little storage space. (Daniel Webster declined the extravagance, so that to this day his desk is single-storied.) If the interior of the Capital can be said to be Palladian and given to republican virtues in design, the Caucus Room, only slightly smaller than the Senate Chamber itself, is Roman Imperial, and make no mistake. It struck me as a not inappropriate setting for Dr. Perry's subject, SALT II.

The Secretary of Defense, Harold Brown, had just finished his prepared statement in favor of the arms-limitation treaty. Curiously, the charts and displays he had brought along to illustrate his points, in the manner of military briefings, were exclusively concerned with recent and prospective improvements in and additions to the nuclear arms of both countries. The capabilities of both the United States and the Soviet Union to destroy so-called hard targets, such as missile silos, were represented as about equal, with the Soviets slightly ahead as of now and maintaining a slight lead through 1990—when both capabilities would have about trebled.

Perry's testimony began. He had no prepared statement, it being his role to provide answers to technical questions the Secretary's testimony might have raised. But he said a few words anyway, and in doing so made perhaps the best case yet presented for SALT II, while describing with a technician's candor its shortcomings. He said:

"SALT I's success was in getting the process started. There was a substantial arms control success in the [Anti Ballistic Missile] Treaty, but essentially there was no success in reducing the number of offensive weapons. The best evidence of that is, just look to see what happened to the number of warheads indicated on that chart since SALT I. Both the United States and the Soviet Union have added about 3,000 warheads since 1972.

"The Vladivostok agreement [of 1974] was one more important advance in this process. It did specify upper bounds. It included bombers, not just missiles in the forces, but it still permitted substantial increases in warheads as of that time.

"President Carter tried to break that upper spiral with his March, 1977, proposal for SALT, and as you well know, that was rejected by the Soviet Union. In fact, it is my belief that any SALT proposal in this time frame that does not preserve the Soviets' right to modernize their ICBM [Intercontinental Ballistic Missile] force would be rejected. My judgment is, they have made a very substantial commitment to that. The ICBM is really the only strong component of their strategic forces, and they seem to be resolutely opposed to making any substantial reduction in it.

"Therefore, the SALT II treaty which we have arrived at, while it is a major improvement over the Vladivostok agreement . . . still allows significant upward spiral of the number of nuclear weapons.

"I anticipate that the Soviet Union will continue to pursue the modernization of their ICBM program as indicated in the figures which Dr. Brown showed you, and that we will respond to that, so that both sides then will continue to have significant increases in nuclear warheads.

"That is the bad news. The good news that comes with that is that SALT II also establishes a process and goals. The most significant goal is the one to achieve a real reduction in nuclear weapons—not in delivery vehicles but in actual weapons. My question then, as a defense planner, is how do we structure our strategic programs in the years ahead to be compatible with that goal—not only to be compatible with it but actually to facilitate the achievement of that goal of getting a reduction, a real reduction, in nuclear weapons in the future."

The master term here is "process." Clearly, neither the first nor the second agreement did much to limit arms. Weapons and weapons systems on both sides continue to accumulate. But the agreements did establish a forum in which the two nations discussed these matters, and entered, into a degree of cooperation concerning them. This was the case, I had understood for some time, in the matter of monitoring—the various means by which each nation keeps track of the activities of the other in order to verify that the SALT agreements are being kept. Whether our abilities here are sufficient was the question the Intelligence Committee faced when it began formal hearings on the issue of verification soon after SALT II was signed by Presidents Carter and Brezhnev in Vienna, on June 18th.

Alone of the standing or select committees, the Select Committee on Intelligence normally does its work in closed sessions, which meet in the Capitol dome in a small hearing room that is suspended, you might say, from the cupola. It was built up there for the use of the Joint Committee on Atomic Energy, the first committee of the Congress that routinely did its work in camera. Of the materials the Intelligence Committee deals with, none are more sensitive, because they really are secrets, than those concerning information about Soviet strategic nuclear forces, and, more especially, concerning the means by which that information is obtained. A minuscule fraction of the information comes from agents of one or another sort—HUMINT, in the contraction favored by the intelligence community. Early in the postwar period, it was judged that the Soviet Union was much too closed a society to be penetrated by agents. Machines were put to work, with ever-increasing sophistication; today, by far the greatest portion of our information comes from what are known as "technical collection systems." Basically, there are three such systems.

First, a number of satellites continuously circle the earth taking photographs of the Soviet Union, as can now be done with extraordinarily high resolution. (The technicians speak of picking out "the golf ball on the green.") Second, the United States can monitor the radio signals, known as "telemetry," which the Soviet missiles send back in flight. Third, American ships watch incoming missiles in the Pacific firing zones, establishing distances travelled, the pattern in which multiple warheads land (known as the "footprint"), and other such information. The Russians have comparable systems. Either side can effectively count the number of land-based missiles set in silos and ready to be launched on the other side. The numbers of submarines and launchers are readily enough established, as are the numbers of intercontinental bombers.

Each side, naturally, hopes that the other side will not know when some new advance has been made in detection systems, and on this score there was some difficulty to be resolved as the Senate prepared to consider verification under the SALT II agreement. In recent years, Soviet intelligence in the United States had scored a number of successes that alerted the Russians to the development of new American intelligence technology.

In 1975, Soviet agents had obtained information about a major satellite system known as Rhyolite. In 1978, it was learned that agents had also obtained the operating manual for the most advanced of our satellites now in operation, the KH-11. In both instances, the espionage had seemingly been simple and inexpensive; in one case, the materials were acquired, for quite modest amounts of money, from a youthful employee of the TRW corporation, and in the other from an employee of the Central Intelligence Agency itself.

This suggested that the Soviets have no great difficulty learning what we are capable of spotting, and can take appropriate evasive action. In addition, the loss to the United States of listening posts in Iran which monitored activity of a missile range near the Aral Sea, in south-central Soviet Asia, involved a considerable loss of information not easily obtained otherwise. Then, on June 28, 1979, the White House leaked to the New York Times that the United States had a similar station in Norway. The leak was intentional, to reassure those favorable to the treaty, but at the same time it jeopardized the Norwegian "asset," to use another term of the intelligence community. Thus, the question arose as to whether the United States would be able to be certain that the Russians were abiding by the terms of an arms-limitation treaty that would extend through 1985.

The record of SALT I was both reassuring and cautionary. There was no conclusive proof that the Soviets had committed any major violations of SALT I strictly construed. By and large, what they agreed not to do they did not do. But where we said we hoped they would not do something they paid not the least attention.

This, as it turned out, was no small matter. One of the principal negotiating objectives on the American side in SALT I was to insure that neither side built any more "heavy" missiles. This is a term for missiles big enough to carry a huge "payload," which can deliver a large number of nuclear warheads capable of reaching and destroying missiles on the other side. They are potential "counterforce" weapons, because they can be used effectively against other forces. (Missiles aimed against cities are called "countervalue" weapons.) As of 1972, the Russians had three hundred and eight heavy SS-9 missiles, while the United States had no modern heavy missiles. In SALT I, it was agreed to freeze both sides, meaning that the Soviets would and we would not have modern heavy missiles.

Although this appeared to be an imbalance, American strategic doctrine at that time did not call for counterforce weapons, and we were well enough content. It was understood that the Soviets would replace their SS-9 missiles with a new model, or "generation"—the SS-18. However, the Soviets were then also planning to replace a medium-sized missile, the SS-11, with another new model, the SS-19, which was so much bigger and more accurate as to become, for practical purposes, a new heavy. As the Intelligence Committee stated on October 5, 1979, in the public portion of its report to the Senate on the capabilities of the United States to monitor SALT II:

"The Soviets' unanticipated ability to emplace the much larger SS-19 in a slightly enlarged SS-11 silo circumvented the safeguards the United States thought it had obtained in SALT I against the substitution of heavy for light ICBMs.

"Similarly, in SALT I the United States conceded to the Soviets the right to build a larger number of missile-carrying submarines than we were permitted, in order to compensate for the Soviets' "geographical disadvantage." (To reach the open Atlantic Ocean, for instance, Soviet submarines must pass through the relatively narrow gaps between Greenland, Iceland, and the United Kingdom; our submarines reach the open ocean at once.) But the range of the SS-N-8, the new Soviet submarine-launched ballistic missile, turned out to be considerably greater than expected, enabling it to be fired at American targets while the submarine remained in the Barents Sea. There is little reason to think the Soviets cheated by misrepresenting the range of their weapon at that time. They simply remained silent about its full potential. But in any case they got an edge on us.

"Our monitoring system soon established that the SS-11 had been replaced by the SS-19, although the newer missiles used the same silos, slightly enlarged. The State Department was provided the facts and presented them to the Soviets. It was then that the problem arose. The Soviets agreed, or did not disagree, that they were putting an entirely new strategic-weapons system in place but asserted that nothing in the SALT I agreement prevented their doing this. Nothing did."

SALT I—the Anti-Ballistic Missile Treaty permanently limiting each side's ABM systems, and the "interim" executive agreements that essentially prohibited each side from building additional ballistic-missile launchers for five years—was signed by President Nixon in Moscow on May 26, 1972. In an address to a joint session of Congress on the day he returned to the United States, the President hailed the event, saying, "This does not mean that we bring back from Moscow the promise of instant peace, but we do bring the beginning of a process that can lead to lasting peace." However, two weeks later, in a message transmitting the agreements to the Senate, he stated that while together these were an "important first step in checking the arms race . . . it is now equally essential that we carry forward a sound strategic modernization program to maintain our security and to ensure that more permanent and comprehensive arms-limitation agreements can be reached."

At this time, the Secretary of Defense, Melvin R. Laird, was maintaining that the Congress must go ahead with programs for offensive-weapons systems permitted by SALT I, such as the Trident submarine and the B-1 bomber. In a press conference on June 22, 1972, Nixon stated that Laird was correct in this judgment:

"Mr. Brezhnev made it absolutely clear to me that in those areas that were not controlled by our offensive agreement that they were going ahead with their programs. For us not to would seriously jeopardize the security of the United States and jeopardize the cause of world peace.

"SALT I, he added, 'while very important, is only the first step, and not the biggest step.'

"SALT II has so far followed precisely this pattern. Just as Nixon had done, President Carter, immediately upon returning to the United States from his summit meeting, delivered an address to a joint session of Congress last June in which he hailed the agreement, and in the same address (not waiting two weeks) he announced there would be more weapons. Indeed, he asserted that one of the principal advantages of the treaty is that it would enable us to go forward with a new missile system—the MX. This missile experiment (one day it will no doubt be named for a Greek god) is to be a mobile landbased missile, our first. It will be more powerful even that the liquid-fueled Atlas and Titan giants of the nineteen-fifties, the only heavy missiles the United States has ever, so far, deployed. On September 7th, President Carter announced the basing mode and other specifics of the MX. Each would be placed on a vehicle and moved to a couple of dozen different launching emplacements around a 'race track,' in random and presumably unpredictable ways, so as not to be 'targeted' by Soviet missiles. Each would carry ten warheads, each of these with a yield equivalent to hundreds of kilotons of explosives. (The Hiroshima bomb was twenty kilotons.) The 'race tracks' will require thousands of miles of road and an area the size of Massachusetts. The President said the new MX 'is not a bargaining chip,' to be bartered away in any future arms negotiations, but will represent a permanent 'unsurpassed' feature of the nation's strategic nuclear deterrent. Two hundred MX missiles would be deployed in Nevada and Utah. This mode, the President said, met requirements he had set for a mobile missile system: survivability, verifiability, affordability, environmental soundness, and consistency with arms-control goals. On this occasion, Secretary Brown, while predicting that the Soviets would respond 'negatively' to this United States announcement, said that if they engaged in 'a fruitless race' to try to overwhelm our new system they would strain their economic resources, and that if they created a new land-based missile system of their own they would be vulnerable to United States attack, presumably from the new American system.

"The Federation of American Scientist promptly declared the MX to be 'not just an inflationary multi-billion-dollar strategic mistake, but an arms-control disaster.' The F.A.S., begun in 1946 as the Federation of Atomic Scientists, has since that time been a leading advocate of nuclear-arms control. Its judgment was stern:

"The MX missile announced today contains the seeds of its own destruction since, as a counter-force weapon, it will necessarily stimulate the Soviet Union to procure still more warheads which will, in turn, quickly threaten MX quite as much as the Minuteman missiles are presently threatened. In the process, the SALT limits will become untenable. Worse, the Air Force will ask for the right to abrogate the ABM treaty to get anti-ballistic missiles to defend the MX. Thus the ABM treaty will also be threatened and the arms race will really be back with a vengeance."

The F.A.S. warned that there was "no strategic need to imitate the Russian preference for large land-based missiles," and added, "The precipitous quality of the decision to move to match the Soviets in land-based missile throw-weight has been induced by SALT." Induced by Salt? If this seems a contradiction in terms—or, at the very least, "counterintuitive," to use a term of systems analysis—then all the more reason to pay heed. There are systems that exhibit such properties, producing the opposite of their intended outcome, with the consequence that intensifying the effort to achieve the desired one achieves even more of the undesired.

As the summer passed into autumn, attacks on SALT II from arms-control advocates increased. Just two days after the F.A.S. issued its statement, Richard L. Barnet, who served in the Arms Control and Disarmament Agency in the Kennedy Administration, described the treaty in an article in the Washington *Post* as "something to stir the hearts of generals, defense contractors, and senators from states brimming with military reservations and arms plants." His tone verged on the contemptuous:

"The 100-page treaty, which reads like the prospectus for a bond issue, is neither disarmament nor arms control but an exercise in joint arm management. The treaty has secured the acquiescence of the military in both countries because it ratifies the huge weapons-acquisition programs both are pushing."

In the fall issue of *Foreign Policy*, Leslie H. Gelb began an essay on the future of arms control with the blunt assertion "Arms control has essentially failed." He had a friendly word for SALT II, which is perhaps not surprising, for, as a director of the Bureau of Politico-Military Affairs from 1977 to 1979, he had had the principal responsibility in the Department of State for conduct of the negotiations once the Carter Administration came to office. But he concluded that in the main the process had not worked.

Only a few weeks ago, the *Times*, with what measure of irony one cannot say, called for ratification by declaring, "SALT II is a sound agreement that will confine the nuclear arms race to specified channels." It is perhaps not fair-minded to press the images of editorialists too far, but it may be noted that when a diffused flow is forced into a confined channel the result is acceleration. Whatever became of arms control?

At each stage of the SALT negotiations, and with each new agreement, the nuclear forces on both sides have increased. Those of the Soviets have increased faster than those of the United States, but this trend was present prior to SALT. When the talks were first proposed, in 1967, the Soviets had nine hundred nuclear warheads. They have some five thousand today. At the expiration of the SALT II treaty in 1985, it is now estimated, they will have roughly twelve thousand. During that period, the number of United States warheads will grow, from the present nine thousand two hundred, to about twelve thousand also. By 1985, the Soviets will have four warheads for every county in the United States, and the United States will have four warheads for every *rayon*, a comparable unit of government in the Soviet Union. But the Soviet warheads in total will have more than three times the megatonnage of the American warheads. Although it is possible that these rates of growth would be greater without the treaties, it is also possible that they would be lower.

At the hearings concerning our ability to verify the Russians' compliance with the treaty, men of formidable learning and experience, some passionate, some detached, came before the Intelligence Committee to argue the probabilities and the difficulties of verification, but always in the context of ever-increasing Soviet numbers. It came to me that, with numbers so great, verification couldn't much matter. Suppose that by foul duplicity, compounded by American incompetence, the number of Russian warheads increased in the years immediately ahead from five thousand to thirteen thousand, rather than to only twelve. If an additional thousand mattered, surely an additional seven thousand mattered more. Well, not necessarily—only if the increase provided the Soviets some special edge. But they would have an edge on megatonnage in either event. Indeed, they already have that edge. There was something unreal about our inquiry. The possibility that the Soviets might increase their nuclear forces at a pace greater than agreed to was an object of much concern, but almost no heed was being paid to the fact that both they and (now) we are roaring ahead in an arms race, and using the treaty as an argument for doing so.

Was this "the bureaucratic mind at work"? Preoccupied with predictability, but scarcely at all distressed when what seems predictable is disaster? In part, yes. The Arms Control and Disarmament Agency has been in place for almost two decades now, and may be assumed to be as committed to the SALT process as the Bureau of Reclamation is to irrigation, and process can become sufficient unto itself. Jay Forrester, at M.I.T., has contributed the playful maxim that with respect to complex social problems intuitive solutions are almost invariably wrong. Among the intuitive and the severely logical alike, what is happening is known as a vicious circle.

There was, in any event, a more portentous paradox to be resolved, and as the Intelligence Committee hearings droned on my attention drifted away from verification toward the subject of doctrine. The SALT process has its premise in the doctrine of deterrence. The MX missile is incompatible with the doctrine of deterrence. It is, as its advocates in the Administration like to say, a "hard-target-kill counter-force weapon." But the strategic doctrine of deterrence specifically precludes either side from obtaining counter-force weapons. How, then, could we be building the missile that undermines the doctrine in order to sustain the doctrine?

A paradox? Yes, and the makings also of tragedy beyond human dimension. I had best be out with it directly. Deterrence was a stunning intellectual achievement. It "solved" the seemingly insoluble problem of how to control the use of nuclear weapons. But it was flawed and has been undone by the intuitive but wrong assumption that the Soviets would see the logic of our solution and do as we did. Especially that they would see the meaningless of strategic "superiority."

As no other subject, strategic-arms doctrine has been the realm of the intellectual and the academic. This is military doctrine, to be sure, but it has never, in this nation, been formulated by military men. It began with the physicists who created the weapons—men such as J. Robert Oppenheimer, Hans Bethe, and Leo Szilard—who were then joined by other physicists and scientists, and also by social scientists. These latter—men such as Albert Wohlstetter, Herman Kahn, Fred C. Iklé, Alain C. Enthoven, Henry Rowen, and Henry Kissinger—came to be known collectively as "defense intellectuals." They moved in and out of Washington, but in the main they kept to their campuses and think tanks, or almost always returned to them, where their task, in Kahn's phrase, was "thinking about the unthinkable." Indeed, they have been something of a caste apart, even in academia. Oppenheimer at Alamogordo as the first atomic bomb exploded—"I am become death, the shatterer of worlds"—gives something of the aura of it. They ate at their own tables in the faculty clubs, and held seminars to which few were invited. They met with Russians when few others did.

And they developed the doctrine of deterrance—a doctrine of weapon use of which the first premise was that the weapon must never be used first, and of which the principal object was that it never be used at all. The nuclear power was to deploy its forces so that if attacked it could attack back, inflicting assured destruction on the party that had attacked in the first place. This capacity could be achieved by a fairly limited number of missiles aimed at the cities of the potential adversary. Only two developments could undermine the doctrine. If the adversary developed and deployed a defensive weapon—an ABM—that could protect his cities, then his destruction would not be assured and he could become aggressive and threatening. Or if the adversary possessed an offensive weapon that could destroy the missile force aimed at his cities—which is to say a counterforce weapon—then, also, his destruction could not be assured and he could become aggressive and threatening. SALT I blocked the first development. SALT II seems destined to insure the second.

This has come about, in the main, because the Russians did not keep to our rules. There has been nothing academic about their strategic doctrine, or at least not that we know of. They appear to have just gone plodding on, building bigger and better weapons, until, by an incremental process, they are on the point of being able to wipe out American land-based missiles—a counterforce ability. At one level, this achievement has been spectacular; at another, less so. For all the sophistication involved, nuclear weapons today are still nothing more than improved versions of the V-2 rocket with an atom bomb on top. But the improvements have reached the point where the doctrine that was to prevent their use has evidently been utterly undone. It had been the hope of the early arms-control negotiators that we would teach the Soviets our doctrine and they would abide by it. If there was something patronizing in the notion of "raising the Russians' learning curve," as the phrase went, there was also much respect in the belief that once we had come to the correct solution of a complex problem they were indeed correct. These were serious American academics, who held their Russian counterparts in full regard. But the enterprise failed. And why? Because the Russian situation is not our situation, the Russian experience not our experience. If intellect must fail, let it fail nobly; and it is in nobly rejecting the notion of failure that intellect fails most often.

Perhaps that is too strong. To state that an enterprise has failed is to suggest that it might have succeeded. Yet from the outset this has somehow seemed improbable. Let it be said for the postwar strategic nuclear theorists that they were not intimidated by their subject, nor immobilized by it. They did not shrink from action in the face of an incredible new dimension of war.

The influence of the theorists was to be seen early on, when the United States government, in 1946, proposed to turn its atomic bombs over to the United Nations—a proposal that the Soviet Union blocked. Then, for a period, the theorists receded from influence as the United States, with the only strategic nuclear force around, adopted, or said it had adopted, a policy of "massive retaliation," which contemplated the use of nuclear weapons in response to aggression by conventional ones. By the late nineteen-fifties, however, the Soviets commenced to have a strategic nuclear force of their own, whereupon the true issue was joined. How to face an adversary with the same powers of destruction?

In one respect, this was an issue as old as the airborne bomb—a development recognized as revolutionary long before it became so. George Quester, in his fascinating book "Deterrence Before Hiroshima," has traced the "prehistory" of nuclear deterrence. In 1899, the First Hague Conference banned bombing from balloons, but the Germans went ahead even so to develop the first strategic bombing force, using dirigibles, while the British may be said to have prepared for them with a theory. In a study, "Aircraft in Warfare," published in 1916, a British mathematician, F. W. Lanchester, offered a quite contemporary notion of what we think of as the nuclear deterrent:

"A reprisal to be effective must be delivered with promptitude like the riposte of a skilled fencer. A reprisal which is too long delayed possesses no moral weight and has every appearance of an independent act of aggression; it may even plausibly be given as an excuse for a subsequent repetition of the original offence. . . . The power of reprisal and the knowledge that the means of reprisal exists will ever be a far greater deterrent than any pseudo-legal document."

There was much discussion in the pre-nuclear era of the utility of attacking cities, of the ability to defend cities, of preempting the enemy's offensive air forces, and the like. In a letter written in 1914, Winston Churchill revealed himself a firm advocate of what would be known as "counterforce." "The great defence against aerial menace," he wrote then, "is to attack the enemy's aircraft as near as possible to their point of departure." However, perhaps because the opportunity was so new, most thinking concentrated on attacking cities.

In this respect, the outlines of an enduring argument were apparent well before the technology itself was at hand. It was in the Second World War that technology created opportunities to implement speculation.

What to do with a strategic bombing force? What to do with emerging missile forces? We now know from the United States Strategic Bombing Survey, conducted at the war's end, that the bombing of German cities was less effective in weakening Germany than was thought at the time. We also know that Hitler's V-2 rockets might also had significant impact if, instead of being used as terror weapons against city populations, they had been used against the Channel ports—the staging areas for the Allied offensive into the Continent—which is where some of the German generals wanted to send them.

Consideration of these issues in the nuclear era was surely colored by the use of the atomic bomb against Hiroshima and Nagasaki, in what current theorists would call a "countervalue" mode. So awesome was the scale of destruction from what, by today's standards, was a small bomb that the destruction of whole countries could now be envisioned. Had the distinction between military and civilian targets disappeared? It was this possibility, immobilizing to many, that brought forth the doctrine of deterrence. The problem for the United States, as earlier it had been for Great Britain, was to deter aggression. We were the great power, with no need or desire to attack others but wishing to avoid being attacked. We had not succeeded with Germany and Japan. But the nuclear weapon suggested that the power of retaliation had become awesome indeed—enough to inhibit any would-be aggressor who had any sense of the realities involved. Not only awesome but capable, in Lanchester's words, of being "delivered with promptitude," in contrast to the long buildup that had been required for American forces before they could be effectively used in the Second World War.

Albert Wohlstetter conceived the "second strike" as the key concept of deterrence. This is to say, the nuclear riposte. If an enemy strikes, you will strike back with devastating consequences. In addition, Wohlstetter offered two crucial insights. There is an essential requirement for the invulnerability of one's ability to strike back. The design of strategic forces and their emplacement has to insure this. But it is also the case that this can never be insured once and for all. Any force becomes vulnerable over time, especially if an adversary is working hard at making it so. Hence, there can be no final deterrent.

It was Wohlstetter's insights that made defense planners aware, in the late nineteen-fifties, that the bombers of the Strategic Air Command were becoming vulnerable to Soviet attack. When the Russians had few warheads and no missiles, two dozen dispersed SAC bases were secure enough. But as Soviet capabilities grew in the nineteen-fifties the airplanes became vulnerable. In response, however, from 1962 to 1967 the United States deployed a thousand Minuteman missiles in the Midwest in "hardened" silos—that is to say, in launchers dug deep and heavily protected. This was then an invulnerable second-strike force. But soon enough this invulnerability was in doubt. Not only did the Soviets acquire more missiles and more warheads, which was predictable, but an unpredictably rapid rise in accuracy also took place. Missiles once meant to hit within miles of a target now possessed accuracies prescribed in hundreds of yards. Hardened silos could be destroyed.

Another technology was also being developed—that of destroying missiles in flight with an anti-ballistic missile. Whereupon the issue of defense arose. Essential to the doctrine of deterrence was that neither side have any defense. In effect, each side exchanged hostages, whose lives thereafter depended on their side's good behavior. The Russians were given American cities, to be destroyed instantly if the United States launched a nuclear attack on Russia. This was our guarantee to the Russians that we would not launch such an attack. The Russians were deemed to have given us their cities. But now there was talk of hedging. It seemed the Russians might be developing a means to defend themselves against incoming missiles, much as anti-aircraft defenses were developed in an earlier period. ABM systems are highly technical in design but simple enough in concept. One bullet shoots down another bullet. But if the systems worked, if our second strike did not assure the destruction of Soviet cities, then the Soviets could contemplate a first strike, and deterrence would fail. In this scenario, the nation that defends its cities can strike first, knowing that its cities are no longer hostage. In another scenario, the nation watching this defense being built strikes first, before it has lost its hostage. This is how SALT began.

They are not impersonal intellectuals who made these calculations. Some are intense and committed as few men of the age. But to share their passion it is necessary to enter their logic. What do you mean, one could ask, when you say that we must not defend ourselves because if we do our enemy will attack? The problem of public perception was not great in the nineteen-sixties. A deference system—a willingness to leave difficult decisions to experts—which had been in place since the bomb was built, continued undisturbed. But then heresy appeared in the midst of the close-knit and almost closed community of experts. Some began to talk of defense, or "damage limitation," as it was termed. If damage limitation was possible, how could it be foregone? Wohlstetter talked of defending the missile sites. The logic was impeccable. The Air Force, understandably, was worried about the vulnerability of our Minuteman, and with a straightforward military logic proposed to double their number: with more targets, a Soviet first strike would have less chance of wiping out our second strike. But with twice as many Minutemen the United States could target the Soviets' missiles as well as cities, and so reduce their capacity for a retaliatory strike. Doctrine has it that, given available technology, two warheads must be aimed at a silo to have a satisfactory probability of a "kill." Given the number of Soviet missiles at the time, one thousand single-warhead Minutemen could not be counted on to "take out" the Soviet strike force, but two thousand could. (There is the ever-present problem of "fratricide," whereby the first warhead to land destroys its mate—but enough.) It was our doctrine to deny ourselves any such capacity, lest the Soviets understandably become alarmed. Better to keep to the one thousand, but to defend them. Not so, said others, most especially Robert S. McNamara, the Secretary of Defense. If we defend anything, the demand will spread to defend everything.

John Newhouse begins "Cold Dawn," his account of SALT I, which originally appeared in this magazine, by likening the debate to the disputations of the Church Fathers:

"So much of the substance and vocabulary of SALT are at least as remote from reality, as most of us perceive it, as early Christian exegesis. . . . As in the case of the early Church, contending schools form around antagonistic strategic concepts. The most relevant of these are known as assured destruction and damage limitation, and each can claim broad support and intellectual respectability. Debates between the two schools recall those between the Thomists and the essentially Franciscan followers of Duns Scotus. The Thomists prevailed, as have the proponents of assured destruction, who assert, for example, that ballistic-missile defense of population is immoral because it may degrade your adversary's ability to destroy your own cities in a second strike. His confidence undermined, he might then be tempted in a crisis to strike pre-emptively; in short, knowing you are effectively protected from his second-strike assault and fearing your intentions, he may choose to strike first. Thus, stability, a truly divine goal in the nuclear age, becomes the product of secure second strike nuclear offenses on both sides."

This is the first thing to know about SALT: The decision to propose talks, and the first agreements, constituted a victory for a specific doctrine—"assured destruction." It was even then a contested doctrine and gave signs of how vulnerable it might be to ideological attack in the form of caricature. In 1969, Donald Brennan, of the Hudson Institute, labelled it "mutual assured destruction," so that the acronym "MAD" came into play, like some new weapons system all its own. But even earlier, in the 1964 film "Dr. Strangelove," Stanley Kubrick had caricatured a proposal of Herman Kahn, "the doomsday machine," which would automatically produce a second strike, so that the victim of a first strike could never hesitate to retaliate and decide instead to surrender. Making a second strike inevitable in order to prevent a first strike was eminently logical, but its proponents could also be made to seem crazy, like the mad scientist in Kubrick's film—a caricature which suggested that because so many of the defense intellectuals were Germans, their thinking must also be Teutonically rigid.

Looking back, it seems clear that the urgency with which the Americans approached the Russians in the hope of obtaining an arms agreement that would protect the assured-destruction doctrine arose as much out of concern to secure the doctrine in American strategic policy as to introduce it to the strategic policy of the Soviet Union. If it could be codified in an agreement with the Soviets which committed both sides, then the argument at home would be more secure. For good or ill, attacks on MAD had about them a quality of the political left. If the Russians could be shown to have the same dispassionate view of nuclear realities, this might mollify such opposition in the United States. Of course, if Americans of both left and right persuasions would argue later on that assured destruction is a strategy that places exceptional reliance on the good faith and good judgment of quite unreliable adversaries, the adversaries could well remark that this was our idea, not theirs.

But there was also a technological imperative. In the middle nineteen-sixties, the Soviets began to deploy their own missiles in hardened silos, which over time might give them a second-strike capability, and even a first-strike capability, to destroy U.S. land-based missiles in a surprise attack. No great technological feats were involved—just a steady creep of numbers, size, and accuracy. Planners in the Pentagon and defense intellectuals began to talk of defenses that would preserve our second strike. Wohlstetter advocated an ABM defense of the Minutemen. But doctrine decreed that this, too, would be destabilizing. Once an anti-ballistic-missile defense was perfected, the temptation to use it to defend cities as well as missile silos would grow. And the other side could never be sure that we weren't planning to do exactly that, as quickly as possible, at a time of our own choosing.

The decision point came on December 6, 1966—"the precise beginning of SALT," as Newhouse has it—at a meeting between McNamara and Lyndon Johnson, in Austin, Texas. Instead of going forward with an ABM system, as proposed by the Joint Chiefs of Staff, McNamara urged that a decision be put off until the State Department could explore with Moscow the idea of talks on limiting strategic arms.

In these events, as in others, McNamara emerges as a man of deep feeling and utter integrity, but almost too much of the latter. A Captain Vere without serenity. It was his judgment that assured destruction required an ability to destroy twenty to twenty-five percent of the Soviet population and fifty percent of its industrial capacity in a retaliatory strike. He also judged that the Soviets must be convinced that they could do as much damage to the United States if it fell to them to retaliate. Hence, there must be no American missile defense. In a speech at Ann Arbor, in 1962, he had questioned the prudence, even the morality, of such a targeting doctrine, but thereafter he put qualms behind him and did his duty. He held unflinchingly to the proposition that deterrence "means the certainty of suicide to the aggressor." Through the nineteen-sixties, pressure grew for the United States to develop modern heavy missiles, as the Soviets had done, or to double the Minuteman force. He successfully blocked each effort, asserting, in 1967, when the United States had five thousand warheads, that this number was "both greater than we had originally planned and in fact more than we require." He repeatedly warned against the "mad momentum intrinsic to . . . all new nuclear weaponry," adding, "If a weapon system works—and works well—there is strong pressure from many directions to procure and deploy the weapon out of all proportion to the prudent level required."

In June, 1967, seven months after the meeting in Austin, Soviet Prime Minister Alexei Kosygin arrived in Glassboro, New Jersey, for a summit meeting with President Johnson. Dean Rusk, who was Secretary of State at that time, later recalled for Newhouse that the Americans tackled Kosygin in a "go for broke fashion." The Russians, naturally, wondered what we were up to. When told of the dangers of the ABM, Kosygin replied, in effect, "How can you expect me to tell the Russian people they can't defend themselves against your rockets?" This surely is a recognizable political instinct. At about this time, Senator Richard Russell was saying that if there was a nuclear war and only two persons survived he wanted them both to be Americans.

A year later, on June 24, 1968, the Senate voted funds for the deployment of an ABM system known as Sentinel, which had been developed but not put in service. Three days later, Soviet Foreign Minister Andrei Gromyko announced that his government was ready to begin negotiations. Roger P. Labrie, of the American Enterprise Institute for Public Policy Research, writes that "SALT, like all previous attempts at negotiating limitations on nuclear weapons, stemmed from the interaction of new weapon programs with prevailing strategic concepts."

Then the Russians invaded Czechoslovakia. The first SALT talk, scheduled for September 30, 1968, was put off, and before the atmosphere had cleared Richard Nixon had succeeded Lyndon Johnson. But the two Presidents differed little in strategic doctrine. Nixon, if anything, was the more concerned with the nuclear race. Finally, the talks began. Kissinger took over. SALT I was signed.

What was SALT I? First, agreement was reached that neither side would deploy a general ABM defense. This was a success, surely—at least for doctrine. There would be little defense against strategic missiles (Each party was to be allowed two truncated ABM sites, but no more.) Second, the Soviets obtained agreement to nuclear parity with the United States. This was a large achievement for them, in both symbolic and real terms, but one that doctrine allowed the United States to concede. At the time the SALT process began, McNamara calculated that the United States had a three- or four-to-one advantage in number of warheads, which he considered the true measure of nuclear power. But the doctrine of assured destruction minimizes the question of advantage. As long as the second strike is devastating, it is sufficient. Superiority, in this perspective, loses its meaning. In July, 1974, after the SALT II negotiations had begun, Kissinger responded to a question in a press conference thus: "What in the name of God is strategic superiority? What is the significance of it . . . at these levels of numbers?" After a point, numbers meant nothing—to us.

The doctrine of assured destruction holds that the curve relating numbers of weapons to strategic power flattens out at a fairly early stage. It may or may not be chance that this stage was seen to have been reached at about the number and extent of the weapons system the United States already had in the mid-sixties. In 1971, two of the most gifted and experienced defense intellectuals, Alain Enthoven and K. Wayne Smith (the former an official of the Kennedy and Johnson Administrations, the latter an official of the Nixon Administration), wrote in their book "How Much is Enough?":

"The main reason for stopping at 1,000 Minuteman missiles, 41 Polaris submarines and some 500 strategic bombers is that having more would not be worth the additional cost. These force levels are sufficiently high to put the United States on the flat of the curve."

It may be said that this judgment was reached at a time when the atmosphere of the Vietnam War made it pointless to consider any increases. Even so, there should be no question that the view was sincerely held.

Again, looking back, it seems clear that this doctrinal consideration took the edge off the American disappointment that SALT I did not provide for any real arms reduction. The United States had hoped to put a freeze on the development of any further heavy missiles, with their greater capacity to knock out an enemy's ability to retaliate after a first strike. But the Russians were going ahead with both their SS–18 and SS–19, and there was no stopping them. In ballistic-missile-firing submarines, the Russians were accorded a numerical advantage of sixty-two to our forty-four to "compensate" for the greater distances their underwater craft would have to travel to be on station. As noted above, they soon equipped these submarines with a longer-range missile, wiping out their disadvantage, and thus coming out ahead of where they had been. If we were disposed to think that such margins didn't matter, clearly the Russians were not. The United States very much hoped to obtain agreement that neither side would deploy a mobile intercontinental ballistic missile—e.g., the MX—but nothing came of this.

The great and debilitating failure of SALT I, however, is that it did not produce any agreement between the two nations on strategic doctrine. It might have seemed that it did, and certainly Americans hoped that it did, but it did not. This failure was made clear in July, 1972—two months after the treaty was signed—by William R. Van Cleave, a political scientist who has served as an adviser to the SALT delegation. In testimony before a Senate subcommittee headed by Henry M. Jackson. Van Cleave made a point that it was time some political scientist made:

"The U.S. arms-control community has always had an academic character and a hyper-rationalistic approach to arms control that assumes arms control to be an intellectual problem rather than a political one."

Van Cleave was critical of the "eagerness" of the American negotiators for an agreement that, he felt, led them repeatedly to change positions. He was scornful of the belief, as he saw it, that we and the Soviets shared an overriding common goal of strategic stability as defined by American strategic and arms-control concepts. The over-all evidence, he said, "is persuasive that the Soviet leaders do not share our assured-destruction doctrine. That they do is an unsupportable notion."

What doctrine *did* the Soviets espouse? This seemed evident enough to Van Cleave: "The Soviets—in contrast to the United States—have seen the strategic-force balance as an expression of political power." It had been McNamara's view, and it persisted, "that the strategic-force balance had no important political meaning." Whatever the ease, it was clear to Van Cleave that the Soviets thought otherwise. To have the power to blow up the world three times was to have more power than did he who could blow it up only twice. The Soviet military seemed to have a simple notion that more was better than less. There were, at the very least, those among them who were prepared to think of nuclear wars as winnable, in the sense that one side would emerge better off than the other. This sort of thinking, of course, is incompatible with the doctrine of assured destruction.

The Soviet Union's military were, in any event, very much in control. Strategic doctrine in the Soviet Union is not made by professors. In his book "My Country and the World," Andrei D. Sakharov, the Russian physicist, recounts an event in 1955 in Siberia, where he had successfully tested a Soviet hydrogen bomb:

"The evening after the test, at a private banquet attended only by the officials in charge of the tests, I proposed a toast that 'our handiwork would never explode over cities.' The director of the tests, a high-ranking general, felt obliged to respond with a parable. Its gist was that the scientists' job is to improve a weapon; how it is used is none of their business."

The American negotiators of SALT I were to learn early on just how firmly the Soviet military were in charge when they found that they knew more about Soviet strategic forces than did their Soviet civilian counterparts. Military secrets are not widely shared in the Soviet Union, and at one point in the negotiations a Russian general suggested to an American that it wasn't necessary to talk about such matters in the presence of—what?—unauthorized listeners! Soviet military plans were not, in any significant measure, subject to negotiation with Americans or anyone else. In consequence, the Americans returned home to face a second negotiation with their own military. What seems to happen in SALT talks is that when negotiators have, in effect, agreed with the military forces of another nation that those forces should be increased they are almost required to return and agree with their own military forces that their forces should be increased also. It is a matter of relationships. If the Russians were building a Caribbean fleet, and the United States was either ignoring this or else snarling and snapping and threatening, American admirals, while they would certainly be urging a Baltic fleet or some such countermeasure, could nonetheless be told to stay out of the argument and leave foreign affairs to the President. But once the President had agreed with the Soviets that it was quite acceptable for them to have a flotilla in the Caribbean he simply would not be in a position to tell his own admirals that they would be allowed no compensatory increases. He could, of course, but he would be dscredited as a man who preferred the interests of other people's military to his own. In a situation where the Soviet military always insists on more, the process will always end with the American military insisting on more as well.

One display Secretary Brown brought to the Senate Foreign Relations Committee last July compared the Poseidon missile, now deployed in the Poseidon nuclear submarines, with the Trident missile that has been designed for the new Trident submarines, the first of which will go to sea sometime next year. Secretary Brown's display ticked off the revelant information:

Trident Improvements Over Poseidon

Weight—15% greater
Fuel—advanced technology, more efficient
Accuracy—⅓ more accurate at same range
Range—twice as great
Explosive power—twice as great

Those who follow weaponry would have noted that the new missile, with far more destructive power, is nonetheless about the same size as its predecessor. In fact, Trident I missiles can be fitted in the launchers of the Poseidon submarine. (This is now being done, with the result that our submarine fleet will have much greater megatonnage in its warheads even before the new Tridents begin to be commissioned.)

As one though connects to another, I found my attention drifting away from Secretary Brown's exhibit and back to a sunny June day in 1977, my first year in the Senate, with many things still unfamiliar. The Navy was launching a new submarine, the U.S.S. New York City—the first warship ever named for our town—and I had been asked to speak at the ceremonies in the shipyard of the Electric Boat company, in Groton, Connecticut, where it was to be launched. I had done a spell in the Navy at the end of the Second World War, and shipyards were familiar. But as the official party walked along to the ways where the modest New York City awaited us, a never equalled leviathan hove in sight. There, broadside to the river—for it would fair stretch to the opposite bank if launched in the conventional manner—was the hull of the first Trident submarine. There has never been such a thing, and anyone who has been to sea would know it. My U.S.S. Quirinus, 40-mm. gun mounts and all, could have been taken on board as a ship's launch. James R. Schlesinger, then Secretary of Energy, was walking beside me. He had been Secretary of Defense during the period when the Trident program was getting under way, and he recalled expressing misgivings about it, saying that the boats were too big, too vulnerable—that smaller ones would have done better. What had possessed us? I asked. It was the price of SALT I, he replied.

And so an American buildup of sorts commenced, ending the long freeze of the late nineteen-sixties. But we hadn't our heart in it; we just did it. We never admitted to ourselves that the Russians did not accept deterrence as doctrine; that, unless stopped by the most forceful intervention, they would build until they achieved superiority. They might, for example, have been told in 1969 that this would be a wholly unattainable goal. That we would outspend them two to one. That we would still be spending when they were bankrupt. But this was a threat we could not make, even though, ironically, it is one we could have carried out. I fear that those may turn out to have been the days when the peace of the world was irretrievably lost.

They did not seem so. Nixon deeply desired that a SALT II agreement—a permanent treaty this time—would put an end to increases in nuclear weapons and possibly bring about actual decreases. But he fell, and negotiations made no progress in that direction under President Ford, although he, too, was altogether committed to the process. Then came the new Carter team, including many old faces from the Johnson years. They were hopeful, even exhilarated by the opportunity they now had, and they moved quickly with a bold proposal.

In March, 1977, the Carter Administration, in the person of Cyrus Vance, who had been Deputy Secretary of Defense under Johnson and was now Secretary of State, proposed to Moscow a significant reduction in nuclear weapons. This Comprehensive Proposal would have reduced the number of launchers for MIRV's (multiple independently targetable reentry vehicles) from 1320, which had emerged as the lowest level the Soviets would accept, to between 1,100 and 1,200, with a separate sublimit of 550 on the number of MIRVed ICBMs, the most accurate and worrisome kind. (A MIRVed missile has more than one warhead, each of which can be independently aimed at a different target. As the "bus" travels through space, it ejects first one warhead, then another, in different trajectories and at different velocities.) Five hundred and fifty is the number of MIRVed ICBMs the United States has deployed.

Paul Nitze, who has been officially involved in arms negotiations under Presidents Kennedy, Johnson, and Nixon (there are not many qualified persons in this field, and careers show greater durability than in any other field of policy), has testified that Vance's 1977 proposal offered the Soviets "complete assurance against any significant counterforce threat from the United States." But the Russians abruptly turned it down. Gromyko was scarcely polite. He all but suggested that to propose to the Soviets that they reduce strategic arms was an insult. (To be sure, his actual remarks were addressed to the suddenness with which the proposal was made.) In any event, with significant reductions dismissed, the SALT II negotiations proceeded to a wan conclusion, the basic numbers almost unchanged after two and a half years of negotiations by the new team. At Vladivostok, in 1974, President Ford and General Secretary Brezhnev had agreed that each party should have 2,400 strategic nuclear delivery vehicles (missiles and bombers), with a sublimit of 1,320 MIRVed missiles plus bombers capable of carrying cruise missiles. (A cruise missile is essentially a pilotless plane. Unlike a ballistic missile—which simply goes where it has been aimed, like a bullet—a cruise missile can be directed in flight.) SALT II reduces this over-all limit to 2,250 by 1981, but without any consequence. The Soviets will scrap some antiquated missiles they have probably kept around only for bargaining purposes. We will hold on to our B-52s—planes that are now as old as the pilots who fly them. SALT II limits the number of warheads per MIRVed ICBM, but each side is to be permitted an entirely new ICBM and to improve its existing ones within limits that may or may not permit fundamental advances. There are no limitations of significance.

One again, a second negotiation took place back in Washington. The result was the MX. Recall that a principal American objective in SALT I was to prevent the Soviets from building any more heavy missiles, which they proceeded to do regardless. Again, no reduction in modern heavy missiles could be agreed to; thus SALT II provided that the Soviets should continue to have 308 and we should continue to have none. Opponents of SALT II make much of this "imbalance." But, as Ambassador Ralph Earle II, chairman of the American delegation to SALT, told the Senate Foreign Relations Committee in July, the MX, while not a heavy missile, does have as much "equivalent effectiveness as Soviet heavy ICBMs." In a word, the MX is a counterforce missile. And that is what the issue has been from the first. The United States would now do what we vowed we would never do. And so SALT II produced precisely the advance in counter-force weaponry which SALT I had hoped to prevent. Spokesmen for the Carter Administration began to stress that the content of the treaty really didn't matter much, that it was the process that had to be preserved.

But if the process meant anything, it had to be one that protected assured destruction as a strategic doctrine. The proposal to go ahead with the MX implied that we ourselves were abandoning that doctrine. Of course, by 1979 assured destruction was already in ideological danger in its own sanctuaries. Newhouse, likening much of the debate in the nineteen-sixties to earlier debates about heresy, also notes that heresies somehow never die out. However much orthodoxy always asserted itself in the end, McNamara continued to have doubts. In 1964, less than two years after his Ann Arbor speech, he declared in a Defense Department "posture statement" that " a damage-limiting strategy appears to be the most practical and effective course for us to follow." Such a strategy would involve trying to destroy some of an adversary's missiles in order that his retailiatory strike would not be so devastating. (Of course, implicit in this concept is the possibility that the United States might, after all, strike first—in response, for example, to a Soviet invasion of Europe.) At this time, United States missiles were presumably aimed at Russian cities. McNamara acknowledged that a damage-limiting strategy would require greater forces than the "cities only" strategy, but he thought it would be worth it, especially with a Chinese nuclear forces coming on line. In 1966, he appeared to favor an anti-Chinese ABM system. This would be a "thin" system, designed to defend against only a few missiles. The Russians would know that such a system was not directed against their large and growing force, simply because it would offer no effective defense. The proposal is worthy of note as an example of logic producing illogic. The reasoning that led to the decision was flawless, save that the Chinese had no missiles. McNamara soon enough recanted. In the middle of the Vietnam War, he could scarcely ask for more nuclear weapons, but his doubts were on record. He was not alone.

In the spring of 1968, just as the SALT talks were about to begin, Harold Brown, then Secretary of the Air Force, told the Senate Preparedness Subcommittee:

"In addition to the basic deterrent capability, our measurement of deterrence should include two other criteria, less central but still important: (1) ratios of surviving population and industry must not be badly adverse to the United States, and (2) the surviving military balance should remain in our favor . . . if deterrence should fail, a favorable surviving military balance could make it easier for us to negotiate an end to the war and limit further damage to the United States."

At this time, Schlesinger, still at Rand, commenced to argue that the United States could not allow the Soviets to develop an "asymmetric capacity against us." That is to say, they should not have a counterforce capability greater than our own. For either side to have such a capacity would be fatal to the doctrine of assured destruction, properly construed; for both to have it would be doubly fatal. Schlesinger persisted, and in 1973, as Secretary of Defense, he proposed that the United States develop a "heavy throw-weight" missile to offset Soviet developments. This missile became the MX.

More to the point, in the course of the nineteen-seventies Pentagon officials began to talk openly of targeting Soviet military facilities in terms of "limited strategic options." The Trident II missile, to be deployed aboard the giant submarine, would verge upon a counterforce capability. (Submarine-launched missiles are still not as accurate as land-based missiles. Thus, while they are fully effective in an assured-destruction mode—they can be sure of hitting Leningrad, for example—they are less so in a counterforce mode, where the target is a hole in the ground ten or fifteen feet in diameter, requiring that a warhead land within several hundred feet or so in order to "kill.") Nothing dramatic by way of a great debate ending in a break with previous policy occurred. Rather, as the Soviets crept toward a first-strike capability, American strategic doctrine slowly changed also. This was never really acknowledged, except in the edginess and growing anxiety of those who could sense the drift of events but could not arrest them.

An episode in the fall of 1976 revealed the depths of this anxiety. Once each year, the intelligence community produces the National Intelligence Estimate, known locally as the N.I.E. A measure of grumbling began about the relative optimism concerning Soviet intentions and kept being repeated. Leo Cherne, of the President's Foreign Intelligence Advisory Board, had the inspired notion to set up competing teams, one to defend the official estimate and one to challenge it. George Bush, as Director of the Central Intelligence Agency, had the self-confidence and good grace to agree. The exercise went forward and was concluded. The B Team made a powerful case—more so than had been anticipated. In October, word of the exercise leaked; in December, the Times reported the results. The B Team, headed by Richard Pipes, of Harvard, had come to the conclusion that the Russians were seeking strategic superiority.

The indignation in Washington was palpable. The very suggestion was greeted with horror, as will happen when a doctrine grows rigid. The B Team members were near to anathematized. They had been invited to challenge the conventional wisdom, but they had made too good a case. Senator Malcolm Wallop subsequently observed:

"While consciously refusing to entertain the Soviets' own conception of what they are about militarily, the authors of the NIE's over the years have evaluated Soviet strategic forces using indexes which tend to stress our own doctrine of MAD."

The 1976 N.I.E., Wallop noted, did mention that the Soviets seem to think in terms of ability to win nuclear wars. Nevertheless, the estimates continued to interpret both United States and Soviet forces according to the criterion of assured destruction. But how could this interpretation be reconciled with Soviet conduct? By 1976, they were (as they still are) spending twelve to fourteen percent of their gross national product on defense—the sign, if the nineteen-thirties offer any evidence, of a county planning to go to war. "Bureaucratic inertia" was an explanation put forth, and it could well be the right one, although "momentum" might be the better term. But after a point larger possibilities had to be confronted. In his 1978 annual report as Secretary of Defense, Brown said that because of "a substantial and continuing Soviet strategic effort," the strategic balance "is highly dynamic." Although puzzled as to "why the Soviets are pushing so hard to improve their strategic nuclear capabilities," he noted that "we cannot ignore their efforts or assume that they are motivated by consideration either of altruism or of pure deterrence." Then, in May 1979, in the commencement address at Annapolis, Brown asserted that Moscow had long sought to threaten American land-based missiles and would probably be able to achieve this capability in the early nineteen-eighties. In an analysis of the speech, Richard Burt, of the Times, a formidably well informed and well connected journalist, offered the judgment that Brown had accepted the B Team's analysis.

As perspectives on Soviet conduct began to change, American conduct began to be seen in different light also. Was it the case that the Soviets were "catching up"? Were we "falling behind"? It must be understood that these were new questions. In the McNamara era, it had been assumed that American strategic superiority was as certain as was the validity of American strategic doctrine. But now it began to be noted that while the United States budget for strategic arms had been level for a decade and a half, that of the Soviets had continued to rise. In rough terms—they can only be that—the Soviets since 1968 have been outspending the United States in strategic forces by a margin of two to one. Dr. Perry reported to the Foreign Relations Committee that current United States spending on strategic forces is about $12 billion a year, while the Soviets spend on the order of $25 billion. (More recently, the Arms Control and Disarmament Agency reported that the Soviet Union spent a total of $140 billion on all its armed forces in 1977—almost one-third of all military spending in the world. The United States spent $101 billion. Wohlstetter calculates that American strategic spending, in constant dollars, actually peaked back in fiscal 1952.) The Soviet buildup has been steady over a generation now, leading an arms-control expert from the Kennedy era to remark recently that if the familiar man from Mars were to be presented with a chart showing the rise of Soviet weaponry over the past three decades and told that somewhere during that period an arms-limitation agreement was signed with the United States, the visitor would be quite unable to pick the year.

The result is to be seen in numbers of warheads. If plotted, it would be seen that the the Soviet curve has been steeper for some time now—up from a more than five-to-one disadvantage in 1967 to less than two-to-one today, on to parity in 1985 and to superiority thereafter, if the trends persist.

Number of warheads, however, is not the only measure of nuclear power. Size matters, and accuracy matters even more. It is not a question of projecting a time when the Soviets will have attained superiority; they have already done so. In this area, Nitze's estimates are indispensable, both because they are his and because they are public. In throwweight—the pounds of "payload" that can be sent aloft—Nitze estimates that the Soviets by 1977 had an advantage of 10.3 million pounds to the United States' 7.6 million, this being the effect of the Soviet heavy missiles. By 1985, he projects a widened gap: 14.5 million for the Soviets, eight million for the United States. The gap is even more dramatic in the critical category of explosive power—in what is called "equivalent megatonnage." Nitze gives the Soviets a nearly three-to-one advantage for 1977: 9,319 equivalent megatons for the Soviets, 3,256 for the United States. For 1985, he projects a slightly widened gap but not greatly increased amounts of megatonnage on either side.

How did this come about? As near an answer as we are likely to get is that a synergistic relationship developed between the doctrine of assured destruction and the combined restraints on the United States imposed by the experience of Vietnam and the hopes aroused by detente. If this seems complicated, let it be said that nothing simple is likely to explain how the world's most powerful military nation lost its advantage over an economically and technologically inferior competitor in the course of a decade—and with almost no one noticing.

The doctrine of assured destruction, as I have noted, holds that the curve relating numbers of weapons to strategic power flattens out at a fairly early stage. One of the virtues of the assured-destruction doctrine was that it permitted the civilians in the Pentagon and in the Bureau of the Budget to form an estimate of what the military really needs. How many warheads, for example, were required to insure that fifty percent of the industrial capacity of the Soviet Union would be destroyed in a second strike? The doctrine fitted in surprisingly well with the management ethos that McNamara and others brought to defense issues. It suited even better the needs of the government leaders of the later nineteen-sixties who, while seeking strategic-arms limitations, were also waging war in Vietnam. Holding back expenditure in the strategic area eluded the fury that would have arisen had they proposed otherwise, and may have moderated opposition to the war. (An interesting aftermath: those most bitter about the Vietnam policies of the Johnson era are today likely to be most supportive of the strategic policies put in place by that Administration, while those who supported Johnson in Vietnam are likely now to be suspicious of SALT.)

These considerations were, if anything, even more intensive in Nixon's first term. Certain defense intellectuals of the Johnson era began to assert that Soviet strategic behavior was basically imitative of ours—two apes on a treadmill, as the image went—overlooking, presumably, that the fondest hope of the community in the early sixties was that Soviet behavior would become imitative. In any event, this was presented as an argument against increasing American forces. Then Nixon embarked on the policy of detente with the Soviets, which added further grounds for allowing United States force levels to remain frozen. And that is what happened.

The irony of all this was nicely illustrated in an article in The New Republic, in August, 1979, by the journalist Morton Kondracke. At the end of July, Henry Kissinger had testified before the Foreign Relations Committee, declaring himself not so much opposed to SALT II—he allowed he would have initialed the treaty—as in favor of great new military expenditures to prevent a further weakening of the United States of a sort that, he said, had brought about a "crisis situation threatening the peace of the world." Kondracke interpreted this as the familiar (although puzzling) charge that he seems to have taken the charge personally. In any event, he retorted with some vehemence:

"According to Kissinger, when the US left Vietnam, the Republican administration of which he was a part planned to build major new strategic weapons systems: the B-1 bomber by 1981, the MX missile by 1983, the Trident submarine and missile by 1979, and various kinds of cruise missiles in the 1980s. These weapons would have reversed the trend toward Soviet superiority, 'but every one of these programs has been canceled, delayed, or stretched out by the current administration.'

"Kissinger's version of history scarcely squares with the facts or with Pentagon figures. Far from trying to reverse the strategic doctrines of the Johnson administration, Kissinger and President Nixon accepted them completely. The US land-based missile force was not increased by a single launcher during eight years of Republican administration. In fact, the Nixon and Ford administrations cut back on strategic spending from the levels reached in the closing Johnson years. Johnson's last budget called for $22 billion in strategic outlays, but the Ford and Nixon administrations averaged $10 billion a year in comparable dollars. Some cuts were imposed by Congress, but most were called for in Nixon-Ford budgets. It's true, few liberals were impressed when Republican officials boasted that they were continuously cutting defense spending, but they really were."

All true enough. The Nixon-Ford years were a time of unprecedented increase in social spending, and of decline in military spending. Rather like the Hitchcock film in which the diamond is hidden in the chandelier, this information was effectively concealed from the American people by publishing it in the budget. It may well prove that the historic mission (as Governor Jerry Brown might say) of the Carter Administration is to increase defense spending and cut social spending. There is a mild law of opposites in American politics. Republicans frequently do what Democrats promise, and the other way around. President Carter was the most dovish of candidates in 1976, promising to cut the defense budget by five to seven billion dollars a year. Nothing of the sort happened, however. Social spending was effectively frozen, but defense spending began immediately to rise. In an address in Washington on September 27th of this year, Zbigniew Brzezinski, Assistant to the President for National Security Affairs, made a good deal of this:

"While our critics say they would have been strong for defense if they had remained in office, in fact, defense spending in constant dollars declined in seven of the eight years of the Nixon-Ford Administration. For the past decade, there has been a steady decline in the level of the defense budget in real dollar terms. We began to reverse that trend in the first three budgets of the Carter Administration, and President Carter is the first President since World War II to succeed in raising defense spending for three straight years in peacetime."

Brzezinski was not just taking credit for increasing defense spending. He was asserting that his Administration, unlike its predecessors, was awake to the Soviet challenge. It has been a quiet development, this emergent challenge. Those who espy some special cunning at work have a difficult case to make. The plain fact is, as Van Cleave testified in 1972, that the Soviets never gave any indication that they accepted assured destruction as a strategic doctrine and would not seek nuclear superiority. How does the proverb go? The fox knows many things, the hedgehog knows one thing. The one thing their hedgehog generals seemed to know is that more is better. So they kept getting more. In this manner, the Soviets have acquired, or are about to acquire, a first-strike capability against our land-based ICBMs. We hope to do the same to theirs. Everything the SALT process was designed to prevent has come about.

The Soviets did not do this by cheating or by startling technological break-throughs. They did it by the steady accumulation of more missiles (an additional thousand in the course of the nineteen-seventies) with greater accuracy, and more warheads with greater explosive power. They aimed them, as evidently they have always done, at our silos—in violation, that is, of our doctrine that they should be aimed at our cities, so that they could retaliate with vast destruction in case we attacked first. They either now can or soon will be able to take out our silos, leaving the United States with a much reduced second-strike capability. Not enough, it is generally thought. Besides, Nitze writes, the Soviets now have a third and fourth strike—an ability to deter our retaliatory strike by threatening our surviving cities and population. If it is all unthinkable, the Soviets seem nonetheless to have been thinking about it.

As have we. Heresy and recantation abound, and one of the more striking events of the SALT II debate so far is that both Secretary Brown and Kissinger appear to have joined Schlesinger. In his testimony before the Foreign Relations Committee on July 11th, Brown said that the Administration's primary goal was maintaining essential equivalence with Moscow in nuclear forces, but that to do it "we need to show the Soviets that they do not have an advantage in attacking military targets—that we, too, can do so." And he elaborated a bit, in response to a question from Senator George McGovern: "It is not a matter of us pushing the Soviets into being able to destroy our silo-based missiles. They have gone that route." Brown stressed that the mobile MX missiles, in addition to being able to survive attack, had another attribute: "Because of their accuracy and their warhead capability they will be able to hit Soviet silos, and that will, indeed, give the Soviets a motive for going away from silo-based missiles."

A month after testifying before the Foreign Relations Committee, Henry Kissinger spoke in Brussels at a meeting of military experts. As reported, he said he now believed that successive United States Administrations, including the Nixon and Ford Administrations, were wrong in thinking they could adequately protect the United States and Western Europe against Soviet attack with a strategic nuclear force primarily designed to wipe out Russian cities and factories rather than to strike at missile silos and other military targets. The policy of mutual assured destruction had created a "paradoxical world [in which] it is the liberal, humane, progressive community that is advocating the most blood-thirsty strategies." It was absurd, he continued, "to base the strategy of the West on the credibility of the threat of mutual suicide." It was necessary for the United States to develop a new nuclear "counterforce capability" consisting of missiles designed to be used against military targets rather than civilian ones.

Herein resides the final irony of the SALT process. Not only has it failed to prevent the Soviets from developing a first-strike capability; it now leads the United States to do so. The process has produced the one outcome it was designed to forestal. And so we see a policy in ruins.

What are we to do? First, we must try to get some agreement on what our situation is. Is it wrong to think that something of the sort is emerging? The Washington Post noted on August 1st, "Here it is barely midsummer, and a growing chorus of important voices (whose opposition had been most feared) is saying that the treaty itself is no villian, that its ratification is almost a matter of indifference, that the fundamental strategic problems that most concern them are in fact beyond the power of the treaty, as such, either to remedy or even make much worse."

Jimmy Carter is the exception. On July 31st, the same day Kissinger testified before the Foreign Relations Committee, the President declared, in Bardstown, Kentucky, that SALT II will "stop the Soviets' buildup." It will not do anything of the sort. Nor does anyone in the Carter Administration who is in a position to know argue any longer that it does. Last spring and summer, the Joint Chiefs of Staff, testifying before the Senate Armed Services Committee, were unanimous in their conclusion that Soviet strategic power, under the agreement, would expand beyond what it is now. At the July 11th meeting of the Foreign Relations Committee, the Chairman of the Joint Chiefs, General David C. Jones, said, "Some may conclude that the agreement, by itself, will arrest the very dangerous adverse trends in Soviet strategic forces, including current and projected qualitative improvements. This is simply not the case." And later: "Similarly, the focus on constraining what the Soviets could do without a SALT agreement had obscured the more fundamental recognition of what they have done, are doing, and can do within the SALT framework." The director of the Arms Control and Disarmament Agency, George M. Seignious II, has stated that the Soviets will continue to engage in a "relentless" strategic-arms buildup with or without the SALT II treaty.

We can hope that the President now knows he has been wrong. If this is so, we can hope he will say so. The SALT II treaty is in trouble, because many senators feel it has been misrepresented. A profound change could take place if the President were simply to say that it is a chilling agreement but the best he could get, and that it is in our interests only if SALT III brings true reductions. Secretary Vance, in his letter of June 21, 1979, submitting the treaty to the President for transmission to the Senate, said, candidly enough, "For the first time, we will be slowing the race to build new and more destructive weapons." If the President were to say only as much—that we are at most slowing the race—things could be different. If he does not, there is no alternative save to oppose him on the facts, and try to develop a national policy without him. This is not easily done with a President engaged. But, in my view, it must be done. For those in charge of American strategic policy—including the President, whether or not he has thought it through—are now advocating a course of action which, if successful, will bring about the very nuclear face-off that not ten years ago was unhesitantly defined as the worst-case condition. This is to say that the United States and the Soviet Union will be confronting each other knowing that both have the capacity to attack and destroy the other's land-based missile forces, and can do so in forty-five minutes.

If still further irony is desired, it may be noted that, in the most explicit way, American behavior has turned out to be imitative of the Soviets. This was implicit in the aftermath of SALT I, when the Trident submarine and the B-1 bomber were agreed to. But these weapons were at least compatible with an assured-destruction doctrine. The price of SALT II, negotiated within the Administration before the treaty was even signed, was the MX missile. From the time Schlesinger first proposed it, it has been understood that the MX is a counterforce missile. In other words, after only two rounds of negotiations, acquiring a counterforce capacity has become the condition of salvaging the very negotiations that were begun with the object of preventing either side from obtaining a counterforce capacity.

In any event, the world is sure to be different for the United States, and considerably less secure. Within months, the Soviet Union will have the capacity to destroy the Minutemen, our land-based deterrent. These are the missiles that were meant to deter the Soviets from initiating any nuclear exchange. Following such a first strike by the Soviets, an American President could send in bombers and launch our submarine missiles. No one can estimate the horror that would follow in the Soviet Union and then, of course, in the United States. It may be that this prospect will be sufficient to deter the Soviets from launching a first strike, whatever the degree of provocation or panic. But is there reason to suppose that nuclear superiority will have no effect on their international behavior? Certainly men such as Nitze think otherwise. He writes:

"To some of us who lived through the Berlin crisis in 1961, the Cuban crisis in 1962, or the Middle East crisis in 1973, the last and key judgment in this chain of reasoning—that an adverse shift in the strategic nuclear balance will have no political or diplomatic consequences—comes as a shock. In the Berlin crisis of 1961 our theater position was clearly unfavorable; we relied entirely on our strategic nuclear superiority to face down Chairman Khrushchev's ultimatum. In Cuba, the Soviet Union faced a position of both theater inferiority and strategic inferiority; they withdrew the missiles they were deploying. In the 1973 Middle East crisis, the theater and the strategic nuclear balances were more balanced; both sides compromised.

"It is hard to see what factors in the future are apt to disconnect international politics and diplomacy from the underlying real power balances. The nuclear balance is only one element in the overall power balance.

But in the Soviet view, it is the fulcrum upon which all other levers of influence—military, economic, or political—rest.

"In any international crisis seriously raising the prospect that the military arms of the United States and of the USSR might become engaged in active and direct confrontation, those directing U.S. and Soviet policy would have to give the most serious attention to the relative strategic nuclear capabilities of the two sides.

"Unequal accommodation to the Soviet Union would then have resulted not in cooperation and peace but in forced withdrawal."

It has been said that the Soviets have learned to live with American nuclear superiority and that we can learn to live with theirs. No doubt we can. But will anyone assert that in such circumstances we will not be living differently? And if one is drawn to the unhappy conclusion that the SALT process has not limited the number of weapons in the United States and the Soviet Union, what are we to think about the nature of world politics when many nations possess the nuclear weapon? What will be their views—the views of India, Pakistan, South Korea, Israel, South Africa, Libya, Argentina, Brazil, perhaps others—on deterrence, assured destruction, and the rest? Kissinger suggests that once the present state of affairs is understood, "panic" will spread through the world.

The decisive techological event that led to the shift in the balance of power, it seems to me, was the deployment of MIRVs—a term first used in public in 1967. Packing a number of warheads on each missile no doubt seemed an elegant and economical solution the problems that the Johnson Administration faced. (In the United States, development of MIRV began in 1965. The first flight tests took place on August 16, 1968. The first Soviet test took place five years later, in August, 1973.) But it profoundly transformed the significance of the Soviets' huge rockets, with their tremendous throwweight. Once the Soviets could install MIRVs, they were bound to be "ahead." As viewed in hindsight, it might have been perceived that the MIRV technology would work ultimately to the Soviet advantage. If it were the case that the American interest in MIRV was related to a desire to overcome a putative ABM system in Russia, the elimination of AMB should have argued simultaneously for the elimination of MIRV as well. But this assuredly did not happen. So long as no one had a defense, deterrence doctrine tended to ignore the proliferation of offensive weapons.

In what sense, it is asked, do the Soviet heavy missiles mean that the Soviets are "ahead?" This is the question with which adherents to assured destruction automatically respond when the Soviet superiority is mentioned. President Carter, in his 1979 State of the Union Message, reported that "just one of our relatively invulnerable Poseidon submarines . . . carries enough warheads to destroy every large and medium-sized city in the Soviet Union." His proposal that the giant new mobile missiles be deployed on a racetrack system was openly a response to those who question whether submarines alone provide assured destruction. The Times, on September 11th, stated that "President Carter's choice of a new basing system to make American missiles mobile and and invulnernerable to surprise attack removes the only real obstacle to ratifiaction of the SALT treaty." This is, of course, the Administration's view also: as long as a second strike is assured, received strategic doctrine remains valid, and technicalities such as the size of an adversary's forces are not relevant. This is to say that if the Soviets are "ahead" merely in the sense that they have more, it just doesn't matter that much.

And what happens if we don't, in fact, build the MX? The deterence structure that previously surrounded nuclear strategy is no more. (Who, reading this article, can remember noting that the Johnson Administration had decided to develop a multiple independently targetable reentry vehicle?) In a nation where nuclear power plants can no longer be built, does anyone seriously suppose that the government can dig up Utah and Nevada to put in place our largest missiles without arousing passionate opposition, of which the statement of the Federation of American Scientists is merely a foretaste? The opposition to the Alaska pipeline will be recalled; a key amendment protecting the pipeline from court challenges by environmentalists passed the Senate by one vote.

The Air Force has identified thirty-eight federal laws that could have bearing on the MX and on the vast network of shelters that will have to be dug in Utah and Nevada in order to hide it. (This list still overlooks that Wild, Free-Roaming Horse and Burro Act of 1971.) In Washington, it is all too plain that a considerable body of opinion is remaining muffled on the MX so as not to jeopardize SALT II. Once SALT II is adopted, this opposition will become open, and will find leadership in the political world from prominent, even dominant figures such as Governor Brown, who has opposed the MX with special intensity.

If environmental obstacles fail, opposition will surely arise to the spending involved. Indeed, it already has arisen. Early in the debate on SALT II, it was reasonably safe to assume that there was a high correlation between support for the treaty and opposition to defense spending. The correlation was not perfect, but it was significant. Thus, on January 26th, Senator Edward M. Kennedy, a dependable critic of military spending, said, in a detailed statement fiercely attacking the Carter Administration's 1980 budget, "Only defense receives a real increase in funding." He said these increases should be given the closest scrutiny:

"First, in the strategic field, we should not reorient our defense posture more to fight a nuclear war than to prevent it. We should not develop weapons systems that increase the threat of nuclear war. We should not buy weapons to appease the opponents of SALT.

"Here our number one concern ought to be the MX missile and its basing system. The Administration plans to spend nearly $1 billion in the FY 1979 Supplemental and the FY 1980 budget. This billion is but a foot in the door for many additional billions. Even without cost overruns, the system will cost us at least $30 billion to build and deploy.

"The MX missile is highly accurate and devastating. It is so threatening to Soviet nuclear forces that it could tempt Soviet leaders to strike us first in a crisis. The result will be unparalleled destruction to both societies."

But President Carter went ahead in any event. And then went beyond that. Carter had accepted increases in defense spending; he now began to advocate them. Public-opinion polls showed that the strongest argument for SALT II was that it would improve our strategic position. The public felt strongly that we should not cut defense spending if there was a new SALT treaty, and many seemed to think the right course was to have both—SALT II and a bigger defense budget. Whatever the case, SALT II was no more than signed when the President—"to the consternation of liberals," as the political scientist William Schneider observes—began to argue that the new treaty allows for higher United States military spending in order to reach parity with the Soviet Union. More immediately, a number of senators, such as Sam Nunn, began to state that they could not support any treaty unless there was such an increase in military spending. The Administration agreed, and before long the SALT debate had produced what Richard Falk, of Princeton, who does not at all approve, has called "a mood of bipartisan militarism." Senator Ernest F. Hollings said:

"The SALT hearings did have a shocking effect on this Congress and on the people of the United States. . . . Rather than a disarmament arms limitation, we had, in contrast, rearmament hearings and a rearmament conference and a rearmament treaty between the American people and our leadership."

In the course of all this, the Senate doves of a sudden found themselves in a hawk trap. In 1972, the SALT I ABM treaty passed easily, by a vote of 88 to 2, but by the autumn of 1979 it was hard to count thirty-five votes for SALT II. If a resolution of ratification were to pass, a great many undecided votes would have to be obtained, and many of these set as their price an increase in defense spending. Senator Nunn called for a true increase of five per cent per year for the coming five-year period. On September 18th, the Senate, by an overwhelming 78–19 vote, agreed to a true increase of three per cent for the coming fiscal year. (Kennedy voted for the increase, and has come out in favor of development, but not deployment of the MX.) Next, by a surprising 55–42 vote, a five-per-cent true increase was agreed to for fiscal year 1981 and 1982. The 1982 defense appropriation would be in the neighborhood of $170 billion. The total outlay for fiscal 1976 was $87.9 billion.

A case can be made for this fall's increases. (I supported both.) But not for the blindness with which the Administration and its supporters are going about it. The dominant mood in the last Congress was to bring a halt to increases in federal spending. This culminated in an amendment to a tax cut bill in 1978 which was sponsored by Senator Nunn and Senator Lawton Chiles, both Democrats. The amendment, which was passed by the Senate but failed of adoption in the House, would have required that total federal outlays as a proportion of the gross national product decline by stated intervals from 21.5 per cent in 1979 to 19.5 percent in 1983. Very simply, if the country wants the over-all budget ceiling to come down and the military budget floor to rise, social spending will be crushed. A pretty price for an arms limitation treaty that increases arms.

Of course, advocates of social spending are at least as influential as those who want to see military outlays increased. The record over the decade, as Dr. Brzezinski's speech of September 27th suggests, is that they are more powerful. There is every reason to think that once SALT II is ratified, they will withdraw their support for the military increases, having realized what such costs—the defense budget would about double, to $250 billion by fiscal 1985—will mean to domestic outlays. There is room for much misunderstanding and not a little bitterness in all this.

And if these pressures are not sufficient, the Soviets will surely launch a determined propaganda campaign. The MX, they will say—have said!—is contrary to the "spirit of SALT." Those who supported SALT will be rallied to oppose this abandonment of SALT principles. In 1978, the Soviets demonstrated that they could reverse with relative ease the United States' decision to deploy the neutron bomb the "capitalist" bomb that "destroyed people but not property." The MX missile will certainly arouse yet fiercer passions.

For two decades now, the doctrine of deterrence has led us to believe that strategic superiority doesn't matter. "What in the name of God is strategic superiority?" Kissinger asked. There is a simple answer. Strategic superiority is the power to make other people do what you want them to do. Already, the Soviets, approaching a palpable strategic superiority, give signs that it is their intention to control our defense policy. They set out to block the deployment of the neutron bomb in Europe, and they did. They evidently intend also to try to prevent our deployment of intermediate-range Pershing II missiles in Europe. They have given plain notice that they will not permit the United States to deploy an MX missile that, would in fact be an "invulnerable" counterforce weapon. In the best of circumstances, the missiles could not be in place until late in the nineteen-eighties. SALT II, if ratified, expires in 1985. By then, the Soviets will know all there is to know about the capabilities of the new American weapon. They know enough already to be certain that it is a counter-force missile, and we do not pretend otherwise. It will have a combination of yield and accuracy that gives to each warhead a kill probability against a Soviet silo without precedent in our missile force. In response, the Soviets need only say that if we go ahead they will have to abandon the "fractionation" limits of a maximum of ten warheads per land-based missile which are imposed by SALT II. President Carter has said that it is these limits which make the MX viable. If the Soviets went to say, thirty warheads per missile, as the size of their heavy missiles permits, they would effectively have a first-strike capability against the MX. Tom Wicker, writing in the Times, states:

"Without the limit of 10 warheads per missile . . . the treaty would impose, the Soviets could put so many warheads on their giant SS–18 missiles that not even the mobile MX missile system could be made safe."

This, alas, is not the likely "scenario." When the Soviets announce that they are increasing the number of warheads per missile, as they will be permitted to do once SALT II expires at the end of 1985, the President of the United States, whoever he is, will announce that in view of this Soviet action our reaction must be to double the size of the MX. Whereupon the Soviets will announce that they are putting mobile missiles on highways. (A trench system will be too expensive for them.) SALT II will have effectively brought an end not only to the hope of arms limitation but to the SALT process itself.

Is there no hope? There is some, if not much. We should be clear that we are in for a very bad time, and that the longer we put off recognizing our condition the worse it will become. It may just be possible to join hawk and dove, liberal and conservative (hopeless, deceitful terms!) in recognizing that we have held to a strategic doctrine that cannot be sustained. It would work only if the Russians shared it, but evidently they do not, and neither do a growing number of Americans. The physicist Freeman Dyson has argued most vigorously that only defense weapons are moral in a nuclear world, making the nice point that we don't have such defenses in part because there is no elegance in their development. In his memoir, "Disturbing the Universe," some of which originally appeared in this magazine, Dyson writes, "The intellectual arrogance of my profession must take a large share of the blame. Defensive weapons do not spring, like the hydrogen bomb, from the brains of brilliant professors of physics. Defensive weapons are developed laboriously by teams of engineers in industrial laboratories." Engineers!

Dyson continues:

"Mutual assured destruction is the strategy that has led the United States and the Soviet Union to build enormous offensive forces of nuclear bombers and missiles, sufficient to destroy the cities and industries of both countries many times over, while deliberately denying both any possibility of a defense. . . . The basic idea of mutual assured destruction is that the certainty of retaliation will stop anybody from starting a nuclear war."

Dyson is a believer in damage limitation:

"The ground on which I will take my stand is a sharp moral distinction between offense and defense, between offensive and defensive uses of all kinds of weapons. The distinction is often difficult to make and is always subject to argument. But it is nonetheless real and essential. And at least its main implications are clear. Bombers are bad. Fighter airplanes and anti-aircraft missiles are good. Tanks are bad. Anti-tank missiles are good. Submarines are bad. Antisubmarine technology is good. Nuclear weapons are bad. Radar and sonar are good. Intercontinental missiles are bad. Anti-ballistic-missile systems are good."

Just as Dyson's views were being published in The New Yorker, the political scientist Karl O'Lessker was making almost precisely the same point in The American Spectator, an organ of pronounced conservative views:

"Older readers will recall that most notorious of all presidential campaign television commercials, the one in 1964 that showed a little girl plucking the petals from a daisy while the voice-over recited the countdown to an all-obliterating nuclear explosion. Paid for by the Democratic National Committee, it was designed to impute to Senator Barry Goldwater a degree of recklessness, bordering on insanity, that would, were he to be elected President, in all likelihood lead to a nuclear holocaust killing tens of millions of little children around the world. The ghastly irony of that commercial is that at the very time it was receiving the personal approval of President Johnson, his own Secretary of Defense, Robert McNamara, was fixing in concrete an American military strategy that had no options other than this nation's surrender or the indiscriminate slaughter of countless millions of civilians here and in the Soviet Union in a militarily pointless nuclear exchange. What makes it all the more appalling is that the Russians, by contrast, were then elaborating a strategy designed to gain victory by destroying Western armed forces while minimizing civilian casualties: an application of classic Clausewitzian doctrine. . . .

"It is this reality that underlies the anti-MAD, anti-SALT partisans' call for the development of city-protection systems, from fallout shelters to anti-ballistic missiles. And it is one of the sovereign ironies of our age that the proponents of MAD have succeeded in portraying the anti-SALT camp as being indifferent to the horrors of nuclear war, while in point of fact it is MAD, and MAD alone, that postulates the nuclear annihilation of great cities as the logical culmination to international conflict."

Andrei Sakharov, a fervent supporter of SALT II, in a review of Dyson's book in the Washington Post, made a similar point. Sakharov repeats Dyson's words "Somewhere between the gospel of nonviolence and the strategy of Mutual Assured Destruction there must be a middle ground on which reasonable people can stand—a ground that allows killing in self-defense but forbids the purposeless massacre of innocents." Sakharov then comments, "With all my heart and soul, I support this thesis," adding his agreement with George Kennan that first-strike nuclear weapons are both amoral and, in the West, can lead to, in Sakharov's words, "dangerous complacency with regard to conventional weapons." (He refers to the decline of Western conventional arms.)

Moving and humane as such a comment may be, it ignores the fact that, in principle, assured destruction was not an offensive strategy. Cities would be levelled only as a response to aggression: the very terribleness of the response to aggression was supposed to prevent it. It were well that, before abandoning the doctrine, we remember why we adopted it in the first place. But that, in a way, is the most telling point. It is hard to remember just why we did it. As a set of ideas, deterrence theory was perhaps not very complex; but it was too complex.

Political ideas must be simple. Which is not to say they must be facile. To the contrary, the most profound propositions are often the simplest as well. Whitehead's rule to "seek simplicity and distrust it" is appropriately cautionary, but he did first of all say: seek simplicity. Imagine explaining assured destruction to a rally. There was a time when no one had to do that, when the essential information was held in a few hands and a deference system made it possible for decisions to be made without much being questioned. That was the political situation in which assured destruction was adopted as national strategy. That situation no longer exists. We will never knowingly agree to start building the MX merely as a bargaining chip, as some have suggested, intent on stopping as soon as a bargain is reached. A shift in American strategy to defensive modes that the Soviets could not think aggressive or destabilizing would now require an open debate on strategic doctrine of the kind we have not had. For what it may suggest, let me note that after a year's immersion in the subject I have no view of my own, save the disposition to think that political ideas, in order to be viable, must be simple. Assured destruction is the kind of idea that wins acceptance in a faculty seminar. Damage limitation, by contrast, is instinctive—the idea of defending oneself is easy to grasp.

But, above all, is it not possible to return to the simplicity of the idea that nuclear arms should be controlled? Wohlstetter has remarked of SALT that it is a problem posing as a solution. Part of the problem has been the attachment of the process of negotiation to the specific assumptions of a strategic doctrine that only one side entertained. Yet a further problem has arisen from the unreal notion that there is somehow a distinction between "strategic" nuclear weapons and other kinds. The Pershing II missile, which the United States would like NATO to deploy in Western Europe, is as much a strategic weapon as far as Britain and Holland are concerned as is the Trident in the United States. Almost the best case for SALT II is that SALT III could engage the whole panoply of nation-busting nuclear arms. The United States and the Soviet Union today have far too many nuclear weapons. They ought not to have any. Yet while the other does, both will. But need we have more and more? Need we sign treaties to legitimate an arms race that neither side might be willing shamelessly to go forward with unilaterally?

An agreement on principles accompanying SALT II asserts that it is the intention of the parties to achieve in SALT II what are called "significant and substantial reductions in the numbers of strategic offensive arms." But already the Carter Administration—this strangely ambivalent Administration whose pronouncements Senator Charles McC. Mathias, Jr., has described as "an antiphonal chorus of hawk and dove"—has been warning us not to expect anything of the sort. Gelb, in his Foreign Policy article, noting that "many people insist that only through reductions can one achieve 'real arms control,'" warned against "a fascination with reductions." Not many weeks after the article appeared, this became a distinct Administration line. When the Foreign Relations Committee began in mid-October to "mark up" the SALT II treaty, "highly placed" sources were all over Capitol Hill warning against the very thought that SALT III might produce arms reductions. Vernon A. Guidry, Jr., reported in the Washington Star:

"One key SALT analyst still in government, who did not want to be named, says any new treaty will have to include reductions because they have come 'to represent strategic seriousness.'

"But as for making 'deep cuts' the test of any new agreement, he says, 'we've got to get our arms control constituency thinking in a more sophisticated and mature way about these things.'

"Gelb and other analysts point to the need to look more closely at elements within the over-all total of strategic weapons, such as agreements that would help keep missile submarines safe.

"Within government, thorough examination of these questions has only recently begun. There is no expectation of breakthrough negotiations next time. 'The next SALT agreement will indeed be modest,' said one knowledgeable Pentagon official."

Is it truly not possible to propose to the Soviets that some reductions be negotiated forthwith? So that the world, ourselves included, will know that the time is coming when the strength of our respective forces will at last begin to decline? And if the Russians refuse then at least we will know what we are in for.

A senator can take refuge in what the body calls the "pending business." And that is the SALT II treaty. The debate over its ratification ought to be an opportunity for the illumination of our situation, an opportunity to examine the quality of the ideas that have brought us to our present pass. On August 1st, I proposed an amendment to the treaty in the hope that it might prove clarifying. I have taken the language about "significant and substantial reductions in the numbers of strategic offensive arms" from the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations which accompanies the treaty and inserted it as the last paragraph of the treaty and specified that unless such reductions are agreed to by December 31, 1981, the treaty terminates.

This date corresponds to the period of a protocol accompanying the treaty which prohibits either side from deploying mobile ICBM launchers—an MX, for instance—or deploying sea-launched or ground-launched cruise missiles with a range in excess of six hundred kilometres, of the sort we now contemplate placing in Western Europe. The Joint Statement of Principles provides that these issues will be discussed in SALT III. But on October 26th President Carter assured Senate Majority Leader Robert C. Byrd that he was utterly and irrevocably committed to going forward with both the MX and the cruise missiles and would never bargain them away in return for Soviet reductions. And so it has come to this. Determined above all else to win Senate approval for a treaty with arms limitation in the title, a President pledges himself never to limit arms but rather to raise them to unprecedented levels. This, of course, will mean the collapse of SALT III—unless we agree now that by a time certain in the near future actual reductions will be agreed to. This is to say, before the MX momentum is so great that the Russians shift into a yet higher gear in order to outrace us, while we become ever more panicky as the realization spreads that two decades of deterrence have left us desperately exposed to Soviet threat.

I expect all manner of criticism of my particular initiative. It will be argued, by defenders of the SALT process, that two years is too short a time to complete the task. I will be told that wisdom dictates that the pace of arms-reduction negotiations not be forced. Yet one wonders whether such objections by defenders of the process do not indict that very process—by pointing out the futility of trying to make it do what it is supposed to. I will be reminded that the Soviets resisted the proposals for armed reductions offered by Secretary Vance in March of 1977. If they would not agree even to discuss them in 1977, why should they do so now? I believe this question needs to be answered, and as soon as reasonably possible. I think it best that the SALT II treaty itself oblige the Soviets to give us their answer—one way or the other—so that we are no longer able to delude ourselves about our prospects.

We did delude ourselves after SALT I. An amendment by Senator Alan Cranston to the Joint Resolution of Congress that endorsed the Interim Agreement called on the President at the earliest practicable moment to begin "Strategic Arms Reduction Talks (SART)" with the Soviet Union, the People's Republic of China, and other countries. In a prescient speech on the Senate floor on September 14, 1972, Cranston said:

"As I look ahead, I see what looks like endless series of escalators broken only by occasional landings which lead in turn to other escalators. A partial limitation will be followed by a new build-up, which may in turn be limited by a new freeze and superseded by new and sophisticated forms of escalation. And so it will go."

An amendment by Senator Edward S. Brooke declared:

"Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first-strike potential."

Clearly, neither expression of congressional intent and desire had the least effect on the outcome of SALT II.

But have we ever probed deeply into Soviet feelings on this matter? We have never asked them to face, directly, the intellectual dilemma of an arms-limitation negotiation that produces arms expansion. Or is this what the Soviets have wanted all along? Surely, they have prospered militarily and geopolitically during the life of the SALT negotiations. Has that been their purpose? We have nothing whatever to lose if we try to find out. At the least, I have been convinced that the SALT process is not self-corrective, and that, accordingly, the energy necessary to change its present direction must be generated from outside the SALT process. It is a process grown unreal, producing results opposite to those intended but thereupon defended as valuable in their own right. Gibbon has been described as detecting a "leakage of reality" in the late Roman Empire. There was a Pope then, and it didn't help, and it may not help that there is one still. But John Paul II certainly had a point when he said, at the United Nations, that the nuclear buildup shows there is "a desire to be ready for war, and being ready means being able to start it."

Mr. MOYNIHAN. Mr. President, it is not possible to deny certain facts on the substance of the issue. The numerical balance between Soviet and American forces is now such that even with the changes by the United States that Mr. Burt describes, for example, the United States will not have a disarming first strike capability.

This is not the goal of this reported doctrinal change. Rather, the administration is moved by the fear that the Soviet forces may soon be so large and capable as to launch a strike while keeping large forces in reserve.

This is a new idea in strategic doctrine, newly appearing in the discussion, what might be called the third strike.

Imagine a Soviet first strike against our weaponry. An American retaliatory strike would be devastating, no doubt. Nonetheless, it might leave a sufficient power in the Soviet Union to strike yet another time, that being the third strike. The knowledge on our part that the Soviets would have that residual power might in fact restrain us from the second strike altogether.

In other words, the deterrence doctrine is immobilized. Our threat of massive retaliation is no longer a viable threat because it is known it will not be massive. Because of the size and capability of Soviet forces. We could not threaten to take out their cities without knowing ours would be instantly destroyed as well. We are left, in theory I suppose, immobilized.

The present doctrine has a history of consideration, as far back as 1962, in a speech at Ann Arbor to which I referred in my article in the New Yorker.

The then Secretary of Defense McNamara spoke of a counterforce strategy, based on weapons accurate enough to strike at Soviet forces. He raised the possibility, but it was discarded. The United States at that time decided to stay with the nuclear arsenal we had. At this moment, though improved in many ways, it is still basically all we have. We did not need to change in major ways for we had not changed our doctrine.

The Soviets, on the other hand, went on and built the huge missiles with their ever greater capacity for accuracy that gives them now, in the evident judgment of our people in the Pentagon and the national security staff, a first-strike capability.

Accordingly, we have at last to respond by changing our doctrine.

It is a large and agonizing decision to make.

Mr. President, it must not be made in secrecy and leaked furtively to the press. It would be intolerable if the State Department, and the Secretary of State, were not even consulted. Or if the Arms Control and Disarmament Agency were not at all involved. Yet, this appears to be our situation.

The administration cannot remain silent and expect this body to take up the SALT treaty seriously.

I am one of those who is an advocate of SALT. I am one of those who sought actively with the majority whip to bring about enactment of SALT. I proposed an amendment having to do with helping bring about significant and substantial reductions in SALT III, but I wanted SALT II.

Mr. President, the administration so badly handled the matter that at the time of the Afghan invasion we did not have 35 votes in the Senate for the treaty. The invasion saved the treaty, ironically, by deferring a vote.

The fact of the matter, as a brilliantly insightful article by Charles Horner of Georgetown University in a forthcoming Washington Quarterly makes clear, is that SALT was lost in 1977. SALT was lost when a choice for negotiator was made which did not command a two-thirds majority of the Senate. Indeed, 40 votes were cast against it, only the third time in the 20th century a Presidential nomination received 40 votes or more in opposition and has nonetheless approved.

There was no desire not to approve Mr. Warnke, a man for whom we have such high personal regard. We wanted simply to send a message to the administration about the mood of the Senate with respect to arms reductions, to indicate our suspicion of what Soviet behavior was really like.

Our suspicion was that Soviet behavior would be just as it has been described in these leaked stories from the Defense Department and the National Security Council today.

We said in 1977, that is the way the Soviets are behaving. The negotiator said the opposite is so, and the Soviet imitated us. Now they say we were right.

I remember walking from the floor of this body, Mr. President, after that vote was taken, and calling the national security adviser and asking if he understood what had just taken place, what 40 votes meant.

He did not seem much impressed. In any event, nothing happened.

The United States then went to Moscow and proposed reductions. The Soviets, in personally offensive terms, ridiculed our idea of reductions. Rather than stay with it, we withdrew the proposal and gradually accepted the Soviet terms, that there would be no reduction, that the arms race would go on and on and on. There was an inner logic in this retreat from our insistence on reductions. The negotiators may have been unaware of it, but the retreat led us to the events reported in this morning's paper.

Mr. President, this matter is not about personalities. The world is at issue. We have had to accept the Soviet's insistence on ever-increasing weaponry. Since they will attain the first-strike capacity, we will have to move to first-strike capacity also. Both nations will be at flash point, leaving each the barest interval of time to decide whether to launch the most destructive weapons the world has ever known, weapons that, in fact, are capable of destroying the world. This is the context in which we are going to have to take up the SALT treaty.

The SALT treaty was negotiated while the previous doctrine of deterrence was in place and, as far as we knew, unquestioned by our negotiators, who came from the State Department and the Arms Control Disarmament Agency. If as we change our doctrine, these organizations are not consulted, then we have a government in disarray. After they read the paper, they may have some comment on this point.

Now, if the doctrine has changed as fundamentally as we are given to understand, then what about the treaty?

The treaty reflects our strategic weapons doctrine, which has been the most arcane and intellectual of activities in our public life. If the doctrine has now changed, can the treaty stand?

I plead with the Secretary of Defense to speak to this matter. It is reported that he is contemplating an address later this month at the Naval War College in Newport. I urge him to address the subject. How is this new doctrine related to the complete failure of his administration to bring about any nuclear arms reduction? Let him also explain this leaking. While professing one approach, has he embraced another without consulting the parties responsible?

The Secretary of Defense does not make foreign policy, and this is foreign policy. Where is the Secretary of State?

I plead with Dr. Brzezinski, as assistant to the President for national security affairs, to do the work of the National Security Council and make a coherent and unified policy of this most fundamental question to the Government. This very moment, he should be disavowing the idea that there is a new doctrine in place about which the Secretary of State has not been consulted, unless it is true. If it is true, somebody had better resign or confess fast.

Mr. President, these have been strongly stated views because they involve matters of such huge consequence. I mean no disrespect to any member of the executive branch. I ask only that they respect that branch as we hope it always will be respected.

We should not read of such fateful changes in policy when they are meant not to be known, which would be terrible—I think they must be made known—or, if they are meant to be known, then they should be associated with the name of the official making them. It should be open, it should be democratic, and it should be debated.

I have great respect for Mr. Brown; I have great respect for Dr. Brzezinski; I admire all these men and wish them well; but I ask that they remember that they are operating in a democracy, that these are decisions that must be made in cooperation with the legislative branch, and that the people have to participate in an issue that so profoundly involves their lives.

Finally, I plead with them that if a SALT treaty is ever to be ratified, we must know how it relates to strategic doctrine. The administration has now let it be known that it has changed the doctrine, and of course it has not changed the treaty. I want a treaty.

I repeat that the Afghan invasion, in a curious way, was a blessing, if it can be a blessing in any respect, because it delayed the certain defeat of the treaty. The treaty was dead last year. Let no one in this body think otherwise; we counted carefully and we did not have 30 votes. We will not have 30 votes next year, unless we hear from the administration, openly and coherently, what their new strategic doctrine is, if it has changed, and unless we hear that it has the support of the entire executive branch.

With that, Mr. President, I conclude these remarks.

Mr. DURENBERGER. Mr. President, if the Senator will yield, I thank my distinguished colleague from New York for his remarks today. I remind him, in connection with his statement, that if the late Senator Humphrey were here today, I would not be. I am sure that both of us join in the memory of Senator Humphrey's contributions to this body and most importantly his commitment to arms control, the subject to which the Senator has most eloquently addressed himself today.

Mr. MOYNIHAN. Mr. President, I thank my friend, the Senator from Minnesota.

AN OPEN DEMOCRATIC CONVENTION IS OPPOSED BY SENATOR RANDOLPH

Mr. RANDOLPH. Mr. President, I am against the so-called open convention.

Both political parties are trying to persuade Americans that ours is a participatory democracy and that every eligible citizen has a duty to vote.

In connection with the duty to vote, I remind my colleagues and all who read this record that in the congressional races, Senate and House, in 1978, only 34 percent of the eligible voters of the United States cast their ballots. Four years before, in the contests for Senate and House seats, with no President on the ticket in either of the 2 years I mention, the percentage of eligible voters was 38.

So, during the 4-year period, we dropped 4 percent. We are, in fact, becoming a country not with the majority calling the shots over the minority. The minority often can become a majority, as back and forth it works it way; but a country in which—and this saddens me—a majority of the minority of our citizens work its will over the remaining part of the electorate. The reason is that less than 50 percent of the American citizens go to the polls.

Incidentally, in the country of New Zealand, where there is no mandatory voting, where there are no penalties for those individuals who do not vote, 87.4 percent of the men and women eligible to vote in the last elections cast their ballots.

Mr. President, I have said that both political parties are urging people to vote in this country. We are, however, now witnessing a furor over the issue of an open or closed convention.

It is my belief that the surest way to instruct millions of voters that their votes do not count is to attempt to discount the electoral decisions made by voters over the past few months. To ask the pledged delegates to the convention convening next week to so act is to ignore those voters who sent them to New York City and to say that the painful primary process did not achieve the desired result. Therefore, they are saying delegates should close this convention and decide for themselves what should be done.

Mr. President, on August 5 I made the following statement:

> In response to an ABC News poll on Thursday, July 31, I expressed opposition to the so-called "open" convention. Having stated at that time my position, it is my feeling that I should give the basis for my views on this critical issue.
>
> The delegates to our National Convention in New York City next week are the representatives of approximately 20 million Democratic party members who selected them through a long process of caucuses and primaries, beginning last February. It was the most open and participatory system of delegate selection in the history of our party, as a result of the reform movement broaden the selection base to include more women and minorities.
>
> The proposals to wipe out this reform process by releasing delegates pledged to individual candidates would, in my opinion, nullify the progress we have made over the past decade. It would change the rules and

lead to a chaotic condition where splinter groups and self-interest factions could "horse-trade" for support. It would, in effect, become a closed convention in the old, smoke-filled room tradition.

Mr. President, I continued in that statement:

I believe the delegates will reaffirm the trust placed in them by the party members who selected them on the basis of their pledged support of the candidates. They will not turn their backs on the millions of party participants who, many for the first time, worked to elect the delegates to this convention.

Mr. President, the Charleston, W. Va., Gazette, in its lead editorial published this morning, "Honoring a Pledge," has declared:

For many years, this newspaper was critical of the sight-unseen balloting for convention delegates in West Virginia. We were pleased when voters finally were permitted to select from a list of delegate candidates whose names were followed either by their preference for president or by "uncommitted."

We believe a promise is implied when the name of a candidate for convention delegate is followed on the ballot by the name of that candidate's presidential choice. We believe casting a vote for a convention delegate candidate whose presidential preference is listed on the ballot is the same thing as instructing that delegate candidate, should he win, to cast his first convention vote for the person whose name he lists.

Thus we do not join those who are demanding that the Democratic National Convention repeal a rule requiring first-ballot votes for listed preferences.

Their reasoning is this: Circumstances have changed drastically since Carter, non-campaigning in his rose garden, acquired the delegate support that could give him the nomination on the first ballot. The assertion is correct. But circumstances always change between primary balloting and the conventions. Who has the right to say that changed circumstances permit an American voter's intent to be disregarded? Where is the line to be drawn, and who shall be authorized to draw it?

Is it to be Edward Kennedy, who won the endorsement of this newspaper? Robert C. Byrd? Shall it be congressmen terrified of the prospect of running with a loser at the head of the ticket? Not if we can help it. The present rule may be imperfect, but it has the effect of giving the ordinary voter a small part in the selection of his party's nominee.

Our position is this: A vote for a delegate who names a presidential preference on the ballot is less a pledge to a presidential candidate than a pledge to the voter who names the delegate his convention spokesman.

Mr. PERCY. Mr. President, will the distinguished Senator yield?

Mr. RANDOLPH. I yield.

Mr. PERCY. Mr. President, I wish to comment on the same subject.

Speaking as a Republican, I never get into Democratic politics, even though some members of my family, such as my daughter and son-in-law and grandchildren in West Virginia, are involved.

Mr. President, I ask unanimous consent to have printed in the RECORD a remarkable article written by a distinguished constituent of mine, Mrs. Marjorie Craig Benton, who is the U.S. Representative to the Executive Board of UNICEF, who has taken an active role in disarmament and is a civic leader in Chicago, formerly president of the Chicago Better Government Association, and who is chairman of the board of the Save the Children Federation.

In this article, which appeared in the Washington Post on Sunday, August 3, Mrs. Benton expresses exactly the same point of view as the one expressed in the editorial in the Charleston Gazette, a newspaper that I follow closely and for which I have the highest regard.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A DELEGATE REPLY: NO "OPEN CONVENTION"

(By Marjorie Craig Benton)

DEAR MR. BOVE: Readers of this paper saw the case for an "open convention" that you made last week in a letter to the president, and your reasons for now opposing the party rule requiring delegates to vote on the first ballot for the candidate they were elected to support.

At the very least, your argument that the rule prevents those of us who will be delegates from raising questions on the issues and from talking about "how the people in their states feel" is curious. The 1980 convention will be the most open, most deliberative convention in our party's history. We will have debates on credentials, on charter changes, on resolutions, on rules, on the platform, on instructions to the 1984 convention. And we will have them because 12 years of reform have guaranteed that debate.

Your arguments, it must be conceded, have a certain superficial appeal. Surely, you maintain, there must be an opportunity for delegates to have second thoughts about their presidential choices. What if the pollsters report that a front-runner's approval rating has slipped and the delegate, too, senses changed feelings in the electorate? In any event, you add, few, if any, voters knew about Rule 11(h) or Rule F(3)(c) at the time they voted, so that they could not have had expected that reflection of their presidential preferences would be assured.

While your concerns may be sincere, your answer to them—allowing delegates to act as free agents at the convention, regardless of the primary and caucus votes—is fundamentally antidemocratic and unfair.

For as well-developed as your conscience or political antennae may be, neither entitles you—based on your subjective evaluation of "changed circumstances"—to exercise veto power over the expressed preference of the voters of your state.

Circumstances always change in politics, or could be alleged to have changed. (May Carter supporters, for example, have a recount in Pennsylvania after last month's record rise in the leading economic indicators?) And if polls could supersede campaigns and elections, then the president need not have even declared in the fall of 1979, when he trailed his principal challenger by more than 2 to 1.

Finally, your implication that since voters may not have known of the first-ballot binding rule, they therefore have no right to rely on it is perhaps the most dubious of all. What would plainly surprise and outrage voters—whether or not they had heard of F(3)(c) or 11(h)—is if they were told, after the fact, that their votes for Carter or Kennedy would not cause one or the other to gain more or less convention delegates.

When I was elected as a convention delegate, I held myself out as representing a particular, identified choice only on the question of the presidential nominating vote. The voters who elected me did not necessarily think of me as a solar energy delegate, or an ERA delegate, or an anti-MX delegate. But they did think of me—and they have the right to think of me today—as a Carter delegate who will vote their presidential preference on the first ballot.

Make no mistake: I will be a vocal, aggressive delegate ready to join in challenges on specific issues and push our party to support specific commitments. But every delegate must know—as every voter surely understood—that the reason we are permitted to go to the convention in the first place is that we pledged to support one candidate, and no other, on the first ballot.

The "open convention" argument must be seen for what it really is—an attempt to disenfranchise the voters, deprive them of their voice at the convention, and change the rules after the game has been played. That is not only unfair: It is also disingenuous. Because what those behind it are actually up to—despite their high-toned appeals to conscience—is theft; theft of the nomination by candidates who have not won and candidates who have not run.

I was a delegate in 1972—and I saw the Humphrey forces try to steal California delegates from George McGovern with the rhetoric of "open conventions."

I was there when Joseph Rauh told the 1972 convention's credentials committee: "If the rules can be changed after the game has been played, then all that remains of our great Democratic Party is naked political power." I agreed with him then—even if Mr. Rauh, a Kennedy delegate, does not agree with himself now.

I was a member of the Mikulski Commission in 1973 and 1974—and helped write the rules that would protect voters from being double-crossed at future conventions.

I was there when Barbara Mikulski insisted that delegate allocation must "fairly reflect the expressed preference" of voters. I agreed with her then—even if Rep. Mikulski, a Kennedy delegate, does not agree with herself now.

I was a delegate in 1976—and I saw supporters of Sen. Jackson and other losing candidates try to deny Jimmy Carter the nomination in the name of an "open convention."

I was there when Ted Kennedy denounced that attempt, saying, "If a political party denies [the candidate with the most delegates] the nomination, I'd question how valuable the nomination would be. I think it would be a real distortion of the expressed will of the working members of the Democratic Party." I agreed with him then—even if Sen. Kennedy does not agree with himself now.

I was a supporter of the Winograd Commission in 1977 and 1978—and I applauded their rule for binding delegates for primary and caucus winners. I was there when Morley Winograd called that rule "a brilliant piece of legislative draftsmanship." I agreed with him then—even if Mr. Winograd, a Kennedy delegate, does not agree with himself now.

I'd be happy to let you, Mr. Bove, and any other members of this movement fly the "open convention" standard—as long as you make it clear what the slogan really means: open to bossism, open to backroom bargaining, open to betrayal.

Either you believe in letting the people decide whom they want to nominate, or you believe in something else. Perhaps cliffhangers make good drama. Perhaps rumor wildfires make good television. Perhaps smoke-filled rooms make good political columns. But they do not make good conventions, honest politics, or open parties.

If it is to be slogans that sway opinions in this debate, our side can rise to the challenge. For the 1980 battle of the buttons, why not this one: "Free the Democratic 20 Million."

Mr. PERCY. Mr. President, I thank my distinguished colleague.

CORPORATE PROFITS: PART IV

THE NEED FOR TAX REFORM

Mr. PERCY. Mr. President, Chicago radio station WBBM, the local CBS affiliate, recently ran a series of programs on the role of corporate profits in our economy. Businessmen, economists and Government officials were interviewed and their comments formed the basis for this excellent series.

In previous remarks about this series, I have commended WBBM for its initiative in this area. I would like to reiterate my support for responsible and creative reporting of this nature. I would also like to commend the Illinois Manufacturers Association for publicizing this series through their newsletter, Executive Memo. The WBBM editorials are equally valuable whether heard over the radio or read in print.

In the last two installments of the programs, WBBM focused on the role of Federal depreciation rules in the level of corporate profits and the importance of consumer choice in influencing corporate behavior and, subsequently, profits.

Mr. President, I ask unanimous consent that the last two parts of the WBBM series on corporate profits be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, Congress has been considering tax changes to spur investment for several years. In the Revenue Act of 1978, we took the major step forward of lowering the capital gains tax from a maximum of 49 to 28 percent.

I am now waging with some of my colleagues another battle to reduce the capital gains tax to a maximum of 20 percent and hopefully less. I was proud to be in the forefront of this winning battle.

This small action has already resulted in a new infusion of venture capital into the marketplace and an increase in the number of equity offerings. Furthermore, it has also resulted in increases in Federal revenues: The Treasury estimates that as much as $1 billion a year will be generated by the increased economic activity generated by the cut.

We are also looking more closely at the depreciation rules in the tax code. They are quite punitive in this highly inflationary age and they prevent businesses from purchasing the most up-to-date equipment. The resultant slowdown in productivity means that our goods cost more than foreign goods and leads to a loss of jobs here at home.

The best way to reduce this trend is to spur, through tax law changes, investment and modernization. The Capital Cost Recovery Act, of which I am a cosponsor, would move us a long way toward providing important investment incentives.

It is essential that we enact legislation along these lines as soon as possible, not only for corporate profits, but for the health and well-being of our economy.

EXHIBIT 1

CORPORATE PROFIT: THE CAUSE AND EFFECT

REPORT NO. 4

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? Simply put—profit constitutes the difference between investment and return—or the amount of money spent to produce and market products subtracted from what they are sold for. However—this formula is not as simple in application as it appears on paper. The fact is, profits are affected by a myrid of external factors that superimpose themselves over the equation—the results of which can often be unpredictable and uncontrollable. . . .

Actuality/ONG: "Congressional legislation and government regulation can effect profits in a whole host of ways. I think in recent years the two principle areas that have had an effect on profits have been—one, of course tax legislation . . . that's a very easy way to make corporate profits go up and down simply by adjusting the amount that's paid to Uncle Sam and other state and local governments in taxes. And secondly, government regulation in such areas as environment for example, or energy usage and the like has had a big impact on corporate profits because obviously the expense, costs that businesses have had to incure in order to comply with those regulations, have been a straight deduction from their profits."

John Ong, Chairman and President of the B. F. Goodrich Company, said other factors that effect corporate profits include inflation and depreciation. And Ong's assessment was backed up by Professor Houston Stokes of the College of Business Administration at the University of Illinois. . . .

Actuality/STOKESS "The business cycle can be transmitted between countries and when the business starts booming, profits go up. Then that stimulates more investment which stimulates more profits. But after a while people have invested enough . . . they've built up their capital stock to the desired level. Then the amount of investment starts to slow down and the slowing down of the investment increases and begins to slow the economy, and regenerates the cycle."

Another often over-looked factor which has a substantial effect on profits is depreciation—as explained by Beryl Sprinkel, who is an economist with the Harris Trust Bank. . . .

Actuality/SPRINKEL: "We have some problems with the profits as we report them presently. In a period of high and accelerating inflation some of what we've had in recent years, under the ground rules that are established, we tend to overstate the profits. We do not, we can not depreciate on the basis of a replacement cost for capital. We must depreciate on the basis of original cost. It cost a lot less to buy a machine ten years ago then it costs today. Hence you report something as profits and pay taxes on it but it really isn't profits. It means that you're actually letting your capital run down. Now this has a very adverse effect on our standard of living."

And Dr. Sprinkel maintains that excessive governmental taxing of corporate profits—such as the so-called Windfall Profits Tax on the oil industry—is having a negative effect not only on stockholders' dividends but on the overall condition of the nation's economy as well. Corporate profit! What is it? Where does it come from and where does it go? Is is a good or a bad thing? The attempt here has been to explain how external forces or factors outside of the "investment-production and sales scheme"—affect profits. Our next and concluding report in this series will attempt to integrate the consumer into the overall profit picture. With production assistance from Denise Hines—I'm Keith Bromery.

CORPORATE PROFIT: THE CAUSE AND EFFECT

REPORT NO. 5

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? And perhaps more importantly—how does the average consumer fit into the overall scheme of things? Well, according to Professor Houston Stokes of the College of Business Administration at the University of Illinois it is mostly the avearge citizen who benefits from corporate profits—a fact which ironically appears to conflict with the prevailing view. . . .

Actuality/STOKES: "Profits are not held by some nameless person, they're held by citizens. Now some very rich people would gain more if profits went up if they owned a lot of stock—but a large majority of the stock on the New York Stock Exchange which is the ownership of corporations, and the other exchanges, is held by trust department and pension plans . . . they're held by the small guy."

And aside from benefiting from corporation profit gains—at least one economist maintains that it is the average consumer who actually decides where companies reap their profits. . . .

Actuality/SPRINKEL: "It's happening in the automobile industry . . . they're having to make changes to smaller cars as tastes change, and costs of regulation. Also, costs of gasoline change so that its really again the buying public that makes the decision as to how we allocate what capital we have. That's where I think the decision ought to be."

Dr. Beryl Sprinkel—an economist with the Harris Trust Bank—said the general public often fails to appreciate the fact that it is the average consumer who holds in his or her hands the power to make or break companies. So, if it is indeed the case that the consuming public holds the reins of power in its hands—why the misconceptions—why the overt resentment. . . .

Actuality/BERGREN: "I think a lot of stations and print media are not really economically sophisticated as to the true role and need in our economic system for adequate earnings. There seems to be a general resentment against anything except the lowest possible profit because profit somehow or other has come to have a dirty word connotation."

Like most of the other businessmen, corporate executives and economists interviewed in connection with this series—Orville Bergren of the Illinois Manufacturers Association maintained that the general public is simply not being educated about the reality of the corporate profit situation. And where most see ignorance as being the root-cause of the misconception—others see a conspiracy. . . .

Actuality/SIMON: "Thomas Carlyle called economics the dismal science. I like to think about economics as Alfred Marshall once described it as the business of everyday life. And I guess the fact that the political demagogues, aided by many hostile members of the press and media, have distorted the whole idea of corporate profits and the function of business in our society . . . that its led, of course, by the entire energy debate and responsible of many in the press and media, as well as the politicians, have been of cosmic proportions in my opinion."

Former U.S. Treasury Secretary William Simon believes that an economic educational process will have to be initiated in order for Americans to fully understand the functioning of the economic system today and the true meaning of free enterprise. Many of this nation's large corporations—mainly in the oil industry—have been trying to educate the public regarding profits . . . witness the full-page newspaper ads and prime-time television commercials that appear from time-to-time—usually following the release of their quarterly profit figures. Journalists are apparently only now beginning to do their part in this area.

Corporate profit! What is it? Where does it come from and where does it go? Is it a good or a bad thing? With production assistance from Denise Hines—I'm Keith Bromery.

COMMITTEE TO FIGHT INFLATION

Mr. PERCY. Mr. President, it is often argued that there is no organized constituency for balanced budgets and spending restraint. There are many groups organized for the purpose of increasing Federal spending in their particular areas, but who speaks for the taxpayer or the millions of Americans caught in the bind of inflation?

In recent years, we have seen the emergence of groups that have begun to speak for large numbers of Americans who want better government or a lower tax burden or less Federal spending. These groups have begun to play a major role in the legislative process and serve as useful counterweights to those who call for more spending and taxation.

None of the existing major groups, however, has a unified approach to the economy. No one has previously brought together an interdisciplinary approach to inflation and slow economic growth. We know these are complex economic problems which cannot be solved by passage of a single proposal. There are many elements to restoration of a sound American economy and their scope has seemed to evade a single coalition.

Now that has changed.

I was pleased to see the formation in June of the Committee to Fight Inflation. Chaired by the distinguished former chairman of the Federal Reserve Board, Dr. Arthur Burns, and under the vice-chairmanship of former Treasury Secretary Henry Fowler, the committee is a welcome addition to the Capital. The list of founding members of the bipartisan committee is impressive, indeed.

Their goal is to slow the fires of inflation and their plan is to propose multifaceted remedies. In the committee's initial publication, it notes that:

> Chronic inflation at unprecedented levels is a serious threat to the stability of our system—economic, social and political. Since efforts to control inflationary pressures have not been successful, a serious crisis of confidence has developed. The growing public concern about the destructive effects of inflation has created an opportunity to marshal and maintain broad support for effective anti-inflation policies. A committee of private citizens with extensive experience in government has been formed to promote such policies.

Mr. President, I ask unanimous consent that the policy statement of the Committee to Fight Inflation be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, there is no more crying need in this country than to halt inflation in its tracks and begin to remove the inflationary biases from the economy. We simply cannot afford an "underlying" inflation of 7 or 8 percent. The present Consumer Price Index for 1980 is over 15 percent; last year's cumulative rate was over 13 percent. We need to consider policies that will begin to roll back the rate of inflation to the low level we have experienced in the past. Economic stability is essential to our democratic way of life.

I look forward to working with these distinguished economists in the months ahead. We look forward to their position papers and recommendations.

EXHIBIT 1

COMMITTEE TO FIGHT INFLATION

Chronic inflation at unprecedented levels is a serious threat to the stability of our system—economic, social, and political. Since efforts to control inflationary pressures have not been successful, a serious crisis of confidence has developed. The growing public concern about the destructive effects of inflation has created an opportunity to marshal and maintain broad support for effective anti-inflation policies. A committee of private citizens with extensive experience in government has been formed to promote such policies.

Founding members of the committee include:

Arthur F. Burns, Chairman, former Chairman of the Board of Governors, Federal Reserve System.

Henry H. Fowler, Vice Chairman, former Secretary of the Treasury.

W. Michael Blumenthal, former Secretary of the Treasury.

John W. Byrnes, former Ranking Minority Member, Ways and Means Committee, U.S. House of Representatives.

Frederick L. Deming, former Under Secretary of the Treasury.

C. Douglas Dillon, former Secretary of the Treasury.

Paul W. McCracken, former Chairman of the Council of Economic Advisers.

George H. Mahon, former Chairman of the Appropriations Committee, U.S. House of Representatives.

William McC. Martin, Jr., former Chairman of the Board of Governors, Federal Reserve System.

Wilbur D. Mills, former Chairman of the Ways and Means Committee, U.S. House of Representatives.

George P. Shultz, former Secretary of the Treasury.

William E. Simon, former Secretary of the Treasury.

John J. Williams, former Ranking Minority Member, Finance Committee, U.S. Senate.

A POLICY STATEMENT

The problem of inflation has reached crisis proportions in our country. From an annual average rate of rise in prices of 1.9 percent over the eleven years ending in 1967, inflation accelerated to a rate of 6.3 per cent over the next eleven years, ending in 1978; and then to a rate of 13 percent in 1979 and to a still higher rate in early 1980.

The rapidity of price advances will abate during the recession that is now underway; indeed, the most recent price indexes suggest that such a process has already begun. We must be alert to the danger that this slowing will lead to complacency about inflation, and that the concurrent rise in unemployment will again elicit highly stimulative fiscal and monetary policies. In that event we can be certain that prices will be rising more rapidly at the start of the next economic recovery than in any preceding recovery, that inflation will have gained strong new momentum, and that the hope of ending it in the reckonable future will sharply diminish.

The urgency of dealing with the inflation problem can hardly be exaggerated. By causing economic imbalances, inflation has been the primary channel through which recession—and with it widespread unemployment—has come twice to our country since 1973. The signs of havoc brought on by inflation are all around us. Inflation has created large and wholly arbitrary redistributions of income and wealth. Inflation has eroded the real value of everyone's money income and monetary assets. For example, the real value of a 1967 dollar had declined to 41 cents by early 1980.

Inflation has thus been depriving people of effective means of planning for their future and of providing against the contingencies that arise in life. It has been destroying the self-respect of many of our citizens by forcing them onto the welfare rolls. It has damaged our nation by increasing anxiety, and by breeding discontent and social tension. It has reduced the efficiency of financial markets and of the workshops of our economy, and it has made our economy more vulnerable to recession. Ultimately, inflation threatens the survival of free competitive enterprise and of our democratic institutions.

Our rapid domestic inflation has already substantially reduced the value of the dollar abroad ,and with it the power and prestige of the United States in the international arena. As inflation continues, it poses a continuing threat of flight from the dollar, and thus of further contraction of its value in foreign exchange markets. Such a development would intensify domestic inflation by raising the costs of all imported goods, and it would further weaken our country's international prestige.

We cannot afford delay in taking the measures needed to restore the general price stability in our country. If we are to route inflationary psychology we must act with determination to see the matter through despite the short-run costs that will be incurred by some, perhaps many, of our citizens. Under present circumstances, we must forswear superficially attractive but ultimately counter-productive measures such as mandatory wage and price controls.

We urge the prompt adoption of a program dealing with the following areas:

Fiscal policy

During recent decades there have been sharply rising pressures on Congress to adopt new spending programs and to expand existing programs. Pressures for spending cuts or tax increases have been much weaker. The result has been a virtually unbroken string of budget deficits over the last twenty years. Moreover, these deficits have been generally increasing both in dollar amounts and—since the 1950's—as a percentage of the gross national product. This persistent pattern of deficit financing has contributed powerfully to the impetus of inflation and to the rapid spread of inflationary psychology.

In the Budget Act of 1974 Congress adopted new procedures designed to deal on a unified basis with separate revenue and expenditure decisions. While these procedures represent an important step forward, it is essential that the ability of Congress to resist pressures for deficit financing be considerably strengthened. We recommend a further revision of the budget process that would make it much more difficult to run deficits. Our proposal would require a balanced budget unless a deficit is authorized by something more than a simple majority—say, two thirds—of each house of Congress. Such a measure would demonstrate to the public that the Congress is finally ready to take stern and responsible action to end the persistent budget deficits that have nourished our inflation.

Deficits can, of course, be eliminated either by raising taxes or by holding down expenditures. We believe that the national interest would now be best served by restraints on expenditures. We recognize that significant over-all savings are becoming difficult to achieve partly because of the requirements of national defense but also because of rapid growth of social security, federal pensions, and other entitlement programs that are automatically linked to rising prices. We therefore urge the Congress to consider proposals to weaken the tie between the price indexes and outlays under the entitlement programs, insofar as that can be done without injuring those most in need. In addition to its beneficial effect on federal spending, such a course would strengthen the constituency opposed to inflation, and it would also set a constructive example for the private economy.

Monetary policy

The ability of the Federal Reserve System to combat inflation has in the past been limited by lack of understanding and support in the Congress. Although the System has at times stepped hard on the monetary brakes, its policies have at other times accommodated a good part of the inflationary pressures in the market place. At present, the general thrust of monetary policy is appropriately restrictive. The Federal Reserve has been and will remain the faithful agent of Congress; but if it is to continue to combat inflation forthrightly and with vigor, it must have the strong and steadfast support of Congress. We recommend that Congress adopt a concurrent resolution stressing the importance of restrictive monetary policies in furthering the goal of ending inflation.

Government price-raising actions

Over the years, our government has persistently acted to raise prices by measures that served to boost incomes and protect employment of particular groups at the expense of the public at large. These measures include tariffs, import quotas, marketing agreements and other restraints on international trade. They include farm price supports and acreage restrictions that raise the cost and reduce the supply of food. They include the minimum wage and Davis-Bacon legislation that tend to raise labor costs throughout the economy. They include also restrictions on competition in the transportation and numerous other industries. In view of overwhelming evidence of the power of market competition to serve the public interest by holding down prices, it is vitally important that Congress, first, stop raising prices by enacting new restraints on trade; and second, that it proceed methodically to dismantle, or at least weaken, much of existing legislation that impedes the competitive process.

Government regulation

During the past decade Congress has poured out a flood of legislation in response to public concerns about degradation of the environment and hazards to the health and safety of both workers and consumers. Much of this legislation and the regulations promulgated under it have been running up costs and prices unnecessarily.

It is essential that there be a thorough reform of outstanding laws and regulations, and more careful design in any future measures, so that basic national objectives may be achieved at minimum feasible cost. The reform should take full account of costs as well as benefits; it should seek the most efficient means of reaching agreed-upon goals; it should give careful attention to the pace at which changes in processes, practices, or products are mandated; and it should provide expeditious procedures that yield timely and definitive conclusions.

The environment for business investment

Inflationary pressures have been fostered in recent years by a flattening-out of the trend in the output of goods and services per manhour, and most recently by an absolute decline in productivity. Our country needs urgently to encourage productivity-enhancing capital investments and, more generally, a greater willingness by business firms to innovate and assume risks. The Congress should promote these objectives by scheduling reductions in business taxes in each of the next five to seven years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation, supplemented in due course by reduction in the capital gains tax, would not run up the budget deficit in this critical year or next; it would thus scrupulously avoid fanning the fires of inflation. Its passage would, however, release powerful forces to expand capital investment, thereby improving the nation's productivity and exerting downward pressure on prices later on. Such tax legislation would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of other parts of our suggested program.

Other measures to increase productivity

We urge that other feasible means be adopted to increase the productivity of our economy. These should include larger private and public outlays for research and development; more carefully designed manpower training programs; productivity councils in individual plants, shops, and offices in communities across the country, in which employees and employers can pool their ideas for improving the efficiency with which their tasks are discharged; and other means of encouraging cooperative efforts of labor and management in furthering their common interests in greater efficiency.

Energy

The problem of energy is intertwined with that of inflation. On the one hand, skyrocketing costs of imported oil have contributed to our domestic inflation; on the other hand, governmental actions to limit the rise in domestic prices of oil products have weakened incentives for conservation and for expansion of the domestic supply of oil and of alternative sources of energy. We believe that, despite the short-run effects on the price level, the rapid decontrol of oil prices—and perhaps the addition of consumption taxes—would serve the national interest by speeding the day when our nation regains substantial independence in the energy area. Only then will we be free of the threat to the stability of our price level—and to our national security—that is posed by present dependence on foreign energy supplies.

CONCLUDING COMMENTS

Our critical problem of inflation did not emerge suddenly. It has been gathering force for many years. Its roots lie deep in the political and philosophical attitudes that emerged from the Great Depression of the 1930's.

While our inflation is largely a consequence of government actions, those actions in turn reflect excessive public demands for the good things of life—rising living standards, better provisions for income security, more assistance to the disadvantaged among us, a cleaner environment, fuller protection of the public's health and safety, and special benefits for a growing number of interest groups. Each of these demands is thoroughly understandable. Together, however, they release persistent inflationary forces—first, by requiring of government greater outlays than tax revenues can finance, second, by demanding of the private economy greater output than its languishing productivity can support.

At best, the task of ending inflation will be difficult. But there is no hope of eventual success unless the American people come to understand the nature of the problem and are prepared to support the stern measures required to solve it. We see some signs that the needed understanding and support are growing. And we look forward to the time when our nation will again experience the economic progress that is possible in an environment of generally stable prices.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

A TRIBUTE TO C. MALCOLM DAVIS

Mr. WILLIAMS. Mr. President, the State of New Jersey suffered a tragic loss in June with the death of C. Malcolm Davis, chairman of the board of the Fidelity Union Bancorporation in Newark.

As a business executive, he enjoyed almost a legendary success, rising to a preeminent position of leadership and making Fidelity Union one of the State's biggest financial institutions. But, he never lost sight of human values. Despite the enormous pressures and responsibilities of his work, he engaged in a wide variety of activities to help the people of Newark and New Jersey and to promote the cultural life of our State. One of the activities closest to his heart was his service on the board of the Newark Museum. My wife, Jeanette, had the honor of serving with him on that board and constantly told me of the enormous and productive energies which he was able to devote to that institution.

C. Malcolm Davis was a loving husband and father. Those of us who were privileged to know him as a friend always will feel a void in our lives because of his loss.

At the services for Mr. Davis, Kevin Shanley, executive vice president of the bank, delivered a eulogy which most eloquently summed up the feelings of all of us there. Mr. President, I ask unanimous consent that Mr. Shanley's eulogy be inserted in the RECORD at this point so that my colleagues may share this tribute to an extraordinary man, a truly decent man.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

EULOGY

All of us here today have our own special memories of Malcolm Davis.

I will not attempt to give shape and sound to the deep private feelings we all have at the tragedy that has taken Malcolm from us. I hope, however, that in giving a brief personal perspective, I will be able to touch on many of the qualities that made Malcolm a rare and special person.

One cannot begin to think of Malcolm without immediately associating his name with the institution that bears his stamp.

Malcolm Davis loved the Fidelity Union and its people, and all of us at the bank returned that affection in full measure. His firm, creative hand is evident in every phase of our operation. He set the standards—he set the example—and he instilled in all of us his total commitment to his trust. Malcolms goal of responsible growth was crowned the very day he died with a decision that once again will make Fidelity the largest bank in our State. The irony of this timing should not obscure the fact that Malcolm enjoyed a feeling of justifiable pride and great personal satisfaction on the final day of his life.

Malcolm Davis was a man committed to the pursuit of excellence, and it was his long term view of things, his ability to communicate, counsel and inspire, which motivated those of us who worked with him.

Make no mistake, Malcolm Davis was a fierce competitor, but there were no sharp edges on his competitiveness. He was to all of us who knew him best a gentle man. Tough-minded, yes, but never insensitive to the feelings of those around him.

This gentleness that we all found in Malcolm was a reflection of the compassion that triggered so many of his charitable endeavors. His service as a trustee and treasurer of the Victoria Foundation, as a trustee of the Dodge Foundation, and a trustee of the Business Arts Foundation, to mention just a few, focused his incisive mind on practically every worthwhile charitable and cultural activity in the State.

Many came to seek his help and advice and few, if any, were turned away.

I cannot begin to enumerate Malcolm Davis' involvements in the cultural and charitable life of our State. I have chosen, therefore, to mention only two causes which meant a great deal to him and which exemplify his labors.

Culturally, his major love was the Newark Museums. As a member of its executive committee for many years and more recently its President, Malcolm gave unstintingly of his time to the preservation and growth of this State treasure. Working with his friend, Sam Miller, Malcolm labored to broaden the Museum. The success of their labors is attested to by the museum's truly international reputation.

Secondly, many of us here are especially proud that Malcolm was among the small handful of pioneers who had the vision and the courage to help transform a swampland into the internationally recognized sports and entertainment center that has enhanced New Jersey's reputation around the world.

Malcolm Davis, the civic leader and business statesman, had as his first and foremost objective the well-being and the vitality of the city of Newark. He served for many years as a financial advisor to the city as a friend to Ken Gibson. He served in numerous roles at the State level, and his counsel was sought by governors and legislators, who knew of the depth of his commitment to our State, and who welcomed the confidence the business community placed in his judgment.

Malcolm Davis touched the lives of everyone here today, but it is easy to forget that his career has literally touched the lives of millions who have never had the opportunity to know him as we did.

All of us should feel that our friendship with Malcolm carries with it a special responsibility. All of us, at a time when shock and grief numbs the stoutest heart, must reach into the reserves of our spirit and dedicate ourselves to be faithful to the goals and the examples he set for us.

We have all lost a good friend; especially those who knew Malcolm as a jovial and loving husband and father. We must remember, however, he would want us indeed—expect us—to go forward with strength; to continue the momentum of our lives and works undaunted by the soreness of our hearts.

TAIWAN

Mr. GLENN. Mr. President, the Taiwan Relations Act (TRA), Public Law 96–8, section 12(d) required the executive branch to report to the Congress concerning the status of economic relations between the United States and Taiwan. The Foreign Relations Committee has just received a report for the first 6 months of 1980 which, as chairman of the Subcommittee on East Asian and Pacific Affairs, I would like to share with my colleagues in the Senate.

Many of us were concerned when the TRA was formulated, that Taiwan's economy might be hurt by the new unofficial relationship which we were creating. Now 18 months have passed, and the overall economic indicators still remain positive. It looks like the unofficial relationship is working well. Total January-May 1980 foreign trade reached $15.5 billion, about 35 percent higher than during the same period in 1979. Foreign investments also increased rapidly, surpassing the high levels achieved during the same period in 1979.

One negative note was the overall growth of the economy which slowed somewhat. The rising cost of imports—food, essential raw materials and especially fuel—caused higher prices and a slight drop in productivity. Taiwan hopes to cope with this problem by reducing its reliance on imported oil. Plans are underway, for example, to increase the role of coal, nuclear fuel and hydroelectric power in the economy, while reducing the percentage of crude oil consumed. Theirs is an ambitious program, but one which I believe will succeed and greatly ease Taiwan's dependency on imported oil.

Like many of my colleagues, I have been concerned about the drop in American productivity which has made it possible for a number of our leading trading partners, particularly in Asia, to build up sizable trade surpluses year after year. Our trade with Taiwan is no exception. In the first 5 months of 1980 United States-Taiwan trade totaled $4.4 billion, 30 percent higher than in the same period in 1979. Imports from the United States totaled some $1.85 billion and exports to the United States were valued at $2.6 billion, giving Taiwan a favorable trade balance of $782.6 million.

Unlike some nations in the region, however, Taiwan instituted a program several years ago specifically designed to reduce such trade surpluses with the United States. For one thing, "buying missions" were dispatched to purchase U.S. products. The first mission, which began in 1978 bought goods totaling some $269 million. Subsequently, four missions have visited the United States and purchased $4.001 billion worth of manufactured and agricultural goods.

In addition, Taiwan has not restricted the importation of automobiles from the United States. Moreover, several joint ventures, which are underway with United States firms for the manufacturing of high technology and industrial equipment help ease the U.S. balance of payments problem. Finally, Taiwan is making a good faith effort to eliminate bureaucratic barriers to U.S. imports.

I think this effort deserves a commendation. Taiwan's actions are truly those of a friend who recognizes some of the short-term difficulties we are experiencing. They remember that not too long ago they needed assistance and we were always there ready to lend a helping hand.

Mr. President, I ask unanimous consent to have printed in the RECORD the report concerning the status of economic relations between the United States and Taiwan.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

TAIWAN: ECONOMIC RELATIONS WITH THE UNITED STATES IN THE PERIOD JANUARY 1–JUNE 30, 1980

INTRODUCTION AND SUMMARY

The economy grew at a slower pace—real growth of about 6 percent—in the first two quarters of 1980 than during the same period in 1979. Inasmuch as the economy is heavily dependent on imports of food, fuel and essential raw materials—annual imports of goods and services amount to more than 50 percent of GDP—domestic price levels have risen sharply in response to rising unit costs of imports, particularly crude oil. The result is that domestic stabilization measures have been undercut, despite conservative and constructive monetary and fiscal policies. In 1979 wholesale and consumer prices went up by 13.8 percent and 9.8 percent respectively; in the first four months of 1980 they went up 23 percent and 17 percent over the same period in 1979. These price advances, while perhaps less drastic than those elsewhere in the industrialized world, are matters of concern, and will doubtless be aggravated by future OPEC price increases.

In the same way that domestic economic policies are skewed by rising costs of imports, the level and direction of exports respond to the strength in various markets of the U.S. dollar, to which the new Taiwan dollar is pegged (at a rate of 36.1 since August 1978). This means in practice that as a result of the strengthening of the U.S. dollar against the Japanese yen during 1979–80,[1] Taiwan-made goods were in the period January-June 1980 much more expensive in Japan than they were one year earlier, and sales slowed. In fact exports to Japan in 1980 are running at a real rate only 3 percent higher than in 1979—poor performance by Taiwan standards.

Conversely, because European currencies

Footnote at end of article.

have been generally stronger than the U.S. dollar, Taiwan's exports to European Economic Community (EEC) countries soared dramatically during the first five months of this year: for example, by 174 percent to West Germany, Taiwan's largest EEC customer and by 470 percent to the EEC as a group. Presumably this growth will continue, as a result of market diversification efforts as well as floating exchange rates.

FOREIGN TRADE

Increases in oil and other import prices were responsible for an uncharacteristic trade deficit of $212.6 million in the first five months of this year.[2] Total January–May trade reached $15.54 billion, about 35 percent higher than in the same period in 1979. Exports grew by about 30 percent in the period to a total of $7.66 billion, but were overwhelmed by imports totalling $7.87 billion. This was an increase of about 45 percent in the value of imports, led by a 148 percent increase in value of oil imports and a 69 percent rise in value and large increase in volume of machinery imports. The oil price increases were largely inflationary, but the machinery import increases stemmed from a rush by manufacturers in the second half of 1979 to take advantage prior to April 1, 1980 of a "temporary" 50 percent machinery tarff cut designed to stimulate capital investment. In May the tariff reduction was extended for another year, and presumably will smooth out new machinery orders.

Taiwan's two-way trade probably will rise by more than 25 percent to reach about $39 billion by year's end—about $19.5 billion in exports and nearly the same in imports—with perhaps a trade surplus of about $25–$50 million, due to the continuous rise in oil prices. This compares with total two-way trade of $30.9 billion in 1979 and a favorable balance of $1.2 billion.

If there is a bright spot in this picture, it is that tax revenues, of which about 25 percent come from import duties, in the first five months of the year were nearly 19 percent higher than in the same period in 1979. As has become customary, Taiwan had a budget surplus as well as a favorable balance of trade in 1979.

U.S.-Taiwan trade in the first five months totalled $4.44 billion, about 30 percent higher than in the same period in 1979. Imports from the U.S. were valued at $1.85 billion and exports to the U.S. at $2.64 billion, giving Taiwan a favorable trade balance of $782.6 million, about the same as for the same period in 1979. Detailed trade data for the period January–May are listed in Table 1.

Trade authorities believe commerce with Europe will reach $5 billion this year, as compared with 4 billion in 1979. The increase in trade with OECD countries was reflected in announcements in May that the National Federation of Industries and Commerce of the Federal Republic of Germany and the Italian-ROC Friendship, Cultural and Economic Association of Rome plan to open trade offices in Taipei this year.

Although firm data are lacking, there is little doubt that indirect trade between Taiwan and the PRC is increasing dramatically. There are even unsubstantiated reports of a few direct trade transactions. An interesting commentary on this trade came when the "People's Daily" in Beijing on June 11 reprinted a report by a pro-Taiwan newspaper in Hong Kong to the effect that PRC-Taiwan trade via Hong Kong totalled $79.1 million in 1979. (Some additional goods reportedly travel via Japan, Singapore, or Malaysia and some reportedly are exchanged clandestinely by fishermen from both sides of the Taiwan Strait during encounters at fishing grounds in the Strait). The report said that Taiwan goods entering the PRC via Hong Kong in 1979 were valued at $21.3 million—mostly chemical fertilizers, machinery, and electric appliances—while PRC goods reaching Taiwan—mostly Chinese herb remedies, fruits and vegetables—totalled $47.4 million. It is estimated that Taiwan-PRC trade via all channels totalled about $100 million in 1979, and presumably is running at higher levels this year.

FOREIGN INVESTMENT AND BANKING

Foreign investment has continued to mount rapidly in 1980. Approved ventures totalled $205.5 million in the first five months of the year. This was $45 million more than in the same period in 1979. Of the total, $64.9 million came from U.S. sources, 228 percent higher than U.S. investment in the same period in 1979. About 80 percent of the new investment will go into chemical, cement and electronic and electric appliance plants. Major U.S. investors were Wang Laboratories, for consruction of a plant to build computers, and General Motors, in a joint venture for construction of trucks and diesel engines. According to press reports, Cargill Corporation is planning a $120 million expansion of its Taiwan facility.

Interestingly, for the first time there are signs of important investments in the United States by Taiwan firms. Prior Taiwan projects here have been few in number and generally small-scale, and totalled an aggregate of about $7 million (see Table 2). In recent months, however, Taiwan entrepreneurs have held detailed discussions on, or made firm commitments to, projects in the U.S. valued at several hundred million dollars.

For example: (1) China Petroleum Corporation (CPC) is reportedly exploring a proposal under which CPC and Pacific Resources, Inc. of Hawaii would each invest $30 million, and cooperate in borrowing an additional $60 million, to expand production at the Pacific Resources refinery in Hawaii; (2) In May, Sampo Corporation announced plans to build a $5 million plant in Atlanta, Georgia, to produce television sets, beginning in 1981 (Sampo established a distribution facility in Chicago in 1976.) (3) Formosa Plastics Group has announced plans to invest up to $120 million in U.S. plants to produce petrochemical intermediate goods and plastics. The largest investment reportedly will be a $40 million joint venture with Louisiana Chemical and Plastics Corporation. About half of the new plant's output will be shipped back to Taiwan while part will be used to supply another proposed plant in the U.S. for the production of plastic sheets. Construction on the Louisiana plant will begin soon; it is scheduled for completion in early 1982.

As in 1979, foreign banks continue to view Taiwan as an important new market. To date this year, five European banks have been authorized to open branch offices in Taiwan: Grindlays Bank Ltd. of Britain; European Asian Bank of West Germany; Societe General of France; Banque de Paris et des Pays-Bas, also of France; and Hollandsche Bank-Unie N.V. of the Netherlands. Two other banks—Banque Nationale de Paris and Banque de I'Indo-Chine et de Suez, both of France—are reportedly assessing the possibility of opening branches in Taiwan. The recent approvals bring to 21 the number of foreign banks represented in Taipei: 11 American, five European and one each from Japan, Canada, the Philippines, Singapore, and Thailand.

Foreign loan activity has also maintained its brisk pace. For example, on March 28 Taiwan Power Company signed a $100 million loan syndicated by a group of U.S. and European Banks, and on June 10, the Chinese Petroleum Corporation (CPC) signed three loans for $100 million each to finance the procurement of equipment from the U.S. for a $200 million naphtha cracker plant. The remaining $100 million will go for local expenditures.

The CPC loans are the largest extended by foreign banks since Taiwan lost its seat in the International Monetary Fund (IMF) on April 18 and the World Bank (IBRD) on May 15.[3] They include: a $50 million loan agreement with the Republic National Bank of Dallas acting on behalf of the U.S. Eximbank, and a $20 million loan, and a $30 million loan in agreements with eight foreign banks (seven of them U.S. banks).

There is no indication to date that loss of a seat in the Fund and Bank has had any effect on Taiwan's economy, or access to international financing.

TEN-YEAR PLAN: FUELS AND ENERGY

A new 10-year economic development plan unveiled in May aims at raising the annual per capita GNP from about $1800 in 1980 to $6,000 in 1989. The plan calls for aggregate fixed investment of $149 billion, of which 60 percent will be channeled into physical development programs.[4] This level of procurement would be of obvious importance to U.S. manufacturers and exporters. In the past, similar planning guidelines have been followed closely and targets have generally been met.

The plan envisages an average annual growth in real terms of 7.9 percent, and total annual imports and exports of goods and services by the year 1990 in the neighborhood of $100 billion.

Three economic problems have been given special attention in the 10-year plan: energy, trade, and manpower. The Taiwan economy's rapid growth over the past 20 years in particular has been attributable in no small measure to the availability of cheap energy, unprecedented expansion of foreign trade globally, and ample supply of productive, disciplined labor at low cost. Clearly, these favorable conditions, particularly the cost of energy and labor, are changing.

To meet these changes the plan calls for increasing the pace of the deliberate ongoing shift from labor-intensive to capital/skill-intensive industries; inflation is to be held at no more than 5 percent annually, and population growth is to drop to 1.5 percent from the 1.8 percent average annual rate of recent years.

With regard to energy, the plan calls for development of alternatives to Taiwan's heavy dependence on imported oil, by initially reducing the growth in oil consumption. These plans in particular will be of interest to U.S. industrial and mining firms. Under the 10-year oil import plan, growth rates will be reduced from the present 10 percent annual increment to 8 percent in the 1980–84 period, and will be cut further in the second five years, to average 5.3 percent for the decade. This will be done by substituting coal and nuclear power for the oil now used by the Taiwan Power Company (Taipower) to generate electricity.

Currently, Taipower consumes one-half of the oil imported by Taiwan and depends on oil for 70 percent of its power generation.[5] By the end of the century, Taipower intends to supply 38 percent of its fuel needs from uranium, 38 percent from coal, 14 percent from oil and natural gas, and 10 percent from hydro-electric plants.

Taipower's first nuclear power plant has already gone on line, the second and third are under construction, and the company is planning ot spend $2.5 billion to complete construction of a fourth nuclear power plant within the next eight years.[6] In April Taipower decided to locate the plant in the northeast, and later this year will invite international bidding for the purchase of reactors and generators. Construction will start early in 1981. In addition, Taipower is looking for a site for its fifth nuclear plant, for completion around the year 2000. The new plant may be built floating, or underground.

Footnotes at end of article.

Personnel have already been detailed to receive training in France, Sweden, and Norway on subterranean plant construction.

In addition, China Petroleum Corporation (CPC) is stepping up oil exploration on land and offshore and in several foreign ventures, and coal consumption in 1980 is expected to reach 7 million tons, of which 3 million tons will be produced in Taiwan. The remainder will be imported from the United States, South Africa, Australia and Indonesia. Taipower alone will import some 3 million tons of coal this year, while China Steel Corporation, another public sector enterprise, is expected to import 1.2 million tons of coking coal.

There is every reason to hope that the share of business likely to fall to U.S. firms as a result of the foregoing plan will help to redress the imbalance, perhaps to create a favorable balance, in U.S.-Taiwan trade.

INTERNAL CONDITIONS

Salaries for public-sector employees, military servicemen, and public school teachers were increased 20 percent effective July 1, 1980. The increase is one of the largest adjustments in recent years: 16 percent in 1978, and 13.8 percent in 1979. Under recent heavy inflationary pressures mainly caused by oil price hikes, the increase in civil and military service pay will probably push the industrial wage level up by at least 20 percent in 1980. In fact, some leading private companies plan to raise the pay for their employees by as much as 25 percent over January 1980 levels. (Wage increases in the manufacturing sector averaged 15 percent in 1978 and 21 percent in 1979.) This could have an adverse effect on Taiwan's export competitiveness, and unless industrial production shows a significant productivity improvement, the competitive advantage in cheap labor will be further eroded in the wake of a fractional decline in labor productivity but a substantial rise in industrial wages in 1979.

Unemployment is in the range of 1 percent to 3 percent, and really is only "frictional" in nature; the average period of unemployment is less than one month, and many of the "unemployed" are recent school graduates entering the job market for the first time. In January 1980 the labor force totalled 6,633,000 persons, of whom 6,569,000 were employed. Total population was about 17.5 million.

In sum, despite the cessation of official relations 18 months ago, the people of Taiwan continue to thrive and prosper, and it appears that Taiwan will become an increasingly important trading partner for the United States.

TABLE 1.—FOREIGN TRADE, JANUARY TO MAY 1980

[Dollar amounts in millions of U.S. dollars]

Countries	Exports		Imports		Balance
	Amount	Percent	Amount	Percent	
Total	$7,664.6	100.0	$7,877.2	100.0	–$212.6
United States	2,636.7	34.4	1,854.1	23.5	782.6
Japan	876.4	11.4	2,125.5	27.0	–1,249.1
Hong Kong	593.6	7.7	98.6	1.3	495.0
West Germany	435.7	5.7	311.4	4.0	124.3
Saudi Arabia	219.9	2.9	645.5	8.2	–425.6
Indonesia	194.8	2.5	230.6	2.9	–35.8
Netherlands	187.6	2.4	64.0	.8	123.6
United Kingdom	187.2	2.4	135.3	1.7	51.9
Singapore	206.4	2.7	100.3	1.3	106.1
Australia	188.5	2.5	180.7	2.3	7.8
Canada	175.8	2.3	72.6	.9	103.2
Italy	121.4	1.6	82.9	1.1	38.5
France	100.4	1.3	48.5	.6	51.9
India					
Korea	94.5	1.2	81.3	1.0	13.2
Kuwait	73.4	1.0	951.3	12.1	–877.9
Philippines	81.9	1.1	54.6	.7	27.3
Malaysia	70.9	.9	148.8	1.9	–77.9
South Africa	47.3	.6	111.9	1.4	–64.6
Iran	10.2	.1	98.4	1.2	–88.2
Thailand	80.6	1.1	39.9	.5	40.7
Others	1,081.4	14.2	441.0	5.6	640.4

TABLE 2.—*Taiwan investors in the United States*

[Cumulative as of April 1980]

Taiwan Company, United States Company, and amount (in US$).

China Trade & Development Corp., China Trade & Development Corp. in the USA, $900,000.

Nan Ya Plastics Corporation, Formosa Plastics Corp. in the USA, $500,000.

Taiwan Glass Industry Corporation, Pacific Tempered Glass Corp., $461,210.

Rung Hsue She Education Supplies Corporation, Swallow International, Inc., $40,000.

Lin Tzer Sewing Machine Mfg. Co. Ltd., T.W.I. Machine Inc., $200,000.

Rung Hsue She Inc., Rung Hsue She Inc., USA, $400,000.

Sampo Corporation, Sampo Corporation of America, $1,500,000.

Far Eastern Department Store Inc., Far Eastern Department Store, Inc., USA, $2,000,000.

Tong Yuan Electric Machinery Ltd., Teco America Inc., $285,000.

China Merchants Steam Navigation Co., Ltd., Solar International Shipping Agency, $50,000.

Tatung Co., Ltd., Tatung America Co., $300,000.

Southeast Cement Co., Ltd., Southeast Cement Co. Guam Inc., $50,000.

Shihlin Paper Corp., American Recycling Supplies, Inc., $50,000.

Ching Mei Printing Dyeing Co. Ltd., Ching Mei Printing Dyeing Co., Ltd. USA, $400,000.

Pan Asia Engineer Construction Co., Pan Asia Engineer Construction Corporation Guam, $25,000.

Total, $7,121,250.

TABLE 3.—*Revenues of major private firms*

According to a survey conducted by Taiwan's Economic Daily News, 228 private firms in Taiwan had revenues of more than US$5.5 million (NT$200 million) last year. This was an increase of 51 firms compared with 1978. The top ten private firms in 1979 were:

(1) Nan Ya Plastics Corp.: $495.5 million, 34.7-percent increase over 1978.

(2) Formosa Plastics Corp.: $399.4 million, 30.2 percent.

(3) Yue Loong Motor Co.: $374.3 million, 52.4 percent.

(4) Tatung Co.: $373.1 million, 30 percent.

(5) Formosa Chemical Fiber Corp.: $289.3 million, 25.8 percent.

(6) Far Eastern Textile Co.: $256.9 million, 21.4 percent.

(7) Cathay Life Insurance Co.: $232.6 million, 44.2 percent.

(8) Sampo Corp.: $220 million, 34.5 percent.

(9) Taiwan Cement Corp.: $218.9 million, 21.4 percent.

(10) Matsushita Electric (Taiwan) Co.: $207.7 million, 37 percent.

FOOTNOTES

[1] The rate fell from around Y195 per US$1 in February 1979 to 252–1 in November 1979, a decline of about 25 percent. It reached 264–1 in April 1980 and on June 30 was 220–1.

[2] Taiwan Customs data.

[3] The Fund and Bank members voted to accord the "China" seat in those organizations to the People's Republic of China.

[4] In this dynamic economy, 228 private firms had revenues of more than $5 million in 1979, and 10 were in the $200–$500 million range (see Table 3). Public sector giants such as Taiwan Power Company (Taipower) and China Petroleum Corporation will also play major roles. For example, Taipower officials estimate investment expenditures will total $2–$3 billion annually for each of the next 10 years.

[5] In the first four months of 1980 oil accounted for 21 percent of the total import bill compared with only 12.5 percent in the same period in 1979.

[6] Each plant has two units, with a reactor in each unit.

PROTECTION FOR FOREIGN SERVICE SPOUSES

Mr. PELL. Mr. President, yesterday the Foreign Relations Committee completed its markup on and approved a bill entitled, the Foreign Service Act of 1980. This bill would replace and improve upon the Foreign Service Act of 1946 which has long needed updating. One of the glaring inequities needing correction involved the ability of a retiring Foreign Service employee to deny or reduce survivor benefits for his or her spouse without even informing the spouse of the action taken. This inequity has been corrected in the bill recommended by the Senate Foreign Relations Committee.

In a recent editorial, the New York Times stated that the White House opposed safeguards against such secret waivers of survivor benefits. I chaired all of the Foreign Relations Committee's hearings and markup sessions on this bill, and at no time did any administration official express support for secret waivers of survivor benefits. In fact, the original administration bill (S. 1450) provided in section 821(b)(2) that an employee could waive or reduce the maximum survivor annuity for his or her spouse only with the written concurrence of a spouse of 10 years or more.

The Foreign Relations Committee considered the amendment offered by Congressman WILLIAM D. FORD and included in the House bill; and although the Ford amendment did not provide for the concurrence of a spouse to any denial or reduction of survivor benefits, it expressly provided that a spouse be informed of any such action. At no time did any administration spokesman propose that the possibility under current law for a secret waiver be continued.

The Foreign Relations Committee rejected the Ford amendment in favor of an alternative almost identical to the provision sponsored in the House by

Congresswoman **Patricia Schroeder**. Although the administration had problems with the provision adopted by the Foreign Relations Committee, the differences of view had nothing to do with secret waivers of survivor benefits.

Mr. President, Assistant to the President Sarah Weddington recently clarified the administration's position on this issue in a letter to the editor of the New York Times, and I ask unanimous consent that the full text of her letter together with the original New York Times editorial on this issue be printed in full at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

A Foreign Service Spouse's Due

To the Editor:

I an editorial on June 24 regarding pending legislation to provide survivor annuities to Foreign Service wives, you stated that the Administration supports a bill introduced by Representative Ford which would delete a proposed safeguard against a secret waiver by an employee of survivor benefits for his or her spouse. This is not the case.

The Administration is against the "secret waiver" (a part of present law) because it permits an employee to elect against providing a survivor annuity to his or her spouse without telling the spouse of the decision. The sad result is that many individuals who had expected to receive a survivor annuity find themselves without income when they are widowed. Since the Foreign Service does not provide Social Security coverage, the lack of a survivor annuity may leave the widowed person destitute.

The Administration is deeply concerned about this problem; one of our most important proposals for reform is elimination of the secret waiver.

The bill we sent to the Congress specifically recognizes the sacrifices of spouses of Foreign Service personnel, "whose opportunities to achieve economic independence and self-sufficiency are severely curtailed by the disruptions of frequent reassignment and by the inherent limitations of service abroad on employment and career development." For this reason, the bill prohibits the retiring employee from electing against a survivor annuity unless the spouse of 10 years or more gives written concurrence.

Representative Ford has introduced a bill on his own behalf which would permit Foreign Service employees to waive the survivor annuity after notice to the spouse, but without written concurrence. Thus, contrary to your editorial, neither the Ford bill nor the Administration version would permit continuance of the secret waiver.

However, the Ford bill has not been endorsed by the Administration in this regard because we are asking that the waiver be permitted only with written concurrence of the spouse.—Sarah Weddington, Assistant to the President, Washington, July 3, 1980.

Give Government Wives Their Due

Reform of the laws regulating marriage and divorce has been one of the most important achievements of the drive for equality of the sexes. Alimony, once awarded only to women, may now go to men. Custody of children, once routinely assigned to mothers, now often goes to fathers. A bill now coming before the House would further advance the cause by striking down a disturbing form of discrimination against the former wives of Foreign Service officers. It could lead to even broader reforms of the laws governing all the military and civil services.

Under current law, members of the mostly male Foreign Service cannot assign any share of their survivors' benefits to former wives. What's more, they can sign away their wives' rights to survivors' benefits without even informing them. As a result, there are men in the service today whose marriages are on the rocks but who will not divorce because of the cruel financial consequences for their spouses. Even more common are the cases of women impoverished by the deaths of Foreign Service officers; no benefits are available when their alimony payments end.

The inequity should be obvious. A modern marriage is a partnership of equals. Property accumulated during such a marriage should be equally distributed if the partnership ends. In the Foreign Service, the equality should be especially clear because wives play a central role in their husbands' careers; they move from post to post, usually unable to pursue a separate profession, and they work beside their husbands as unpaid diplomats. Until 1972, the State Department even graded its officers on the performance of their wives.

A bill drawn up by Representative Patricia Schroeder of Colorado would address the inequities. It would give anyone married to a Foreign Service officer for a decade or more a pro-rated share of the officer's pension and survivors' benefits. Either party, however, could ask for more in court. And the secret waiver of survivor benefits would be prohibited.

But these fair and sensible proposals will be challenged in the House by Representative William Ford of Michigan. His amendment, supported by the White House, would knock out the safeguard against a secret waiver of survivor benefits. It would permit diplomats to assign pension and death benefits to former spouses but would leave their division entirely to the courts. In the absence of guidelines favoring equality, such judicial discretion has tended to favor husbands.

President Carter's support for this amendment seems odd. Only last month, his Commission on Pension Policy proposed reforms like that put forward by Mrs. Schroeder. If the Government is finally prepared to recognize an important principle of equality in marriage, why not do it right?

CLOSING OF U.S. CONSULATES ABROAD

Mr. PELL. Mr. President, yesterday the Washington Post published an excellent Op-Ed article by Philip Geyelin regarding the Carter administration's closing of U.S. consular posts abroad. In this artcle, Mr. Geyelin makes a very persuasive case that it would be penny wise and pound foolish to reduce America's official representation in foreign countries.

For over a year, I have been trying to persuade the administration that it should not pursue its plans to close down consulates in Europe, the Middle East, and in East Asia; so I am very sympathetic to Mr. Geyelin's views. Early last year, I learned that the administration planned to close consulates in Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia. I believed strongly that these posts should be kept open and so advised the State Department.

When my advice went unheeded, I resorted to legislation and was successful in having enacted an amendment to the State Department authorization act for 1980–81 that prohibited these consulates from being closed. Although the President signed this bill into law, he took issue with my amendment and said he would consider it as merely advisory since it allegedly infringed upon his authority under the Constitution to appoint consults. I regretted that action very much, as I believed that the Congress was acting properly in indicating how it wanted authorized and appropriated funds to be spent.

The President did, however, delay action in closing these posts. But then early this year he decided to close seven of the ten posts listed in my amendment—Salzburg, Bremen, Nice, Turin, Goteborg, Mandalay, and Brisbane. Although I was pleased that the President reversed his decision to close Adana, Tangier, and Surabaya, I was dismayed that the other posts were to be closed.

Accordingly, when the supplemental authorization bill for the State Department came before the Senate a couple of months ago, I introduced another amendment to save the consulates while avoiding the constitutional question involved in my amendment of last year. Under my latest amendment, which passed the Senate, I have relied strictly on the Congress power of the purse to keep the consulates open. My amendment would prohibit the use of any appropriated funds to close the seven consulates on the administration's latest hit list, and it would also earmark $1.7 million which could be used only for the operation of these seven consulates.

Unfortunately, since the House of Representatives has not acted on the State Department bill, a conference cannot take place on my amendment. All of the consulates have now been closed to the public, and all of the expenditures that would have been prohibited by my amendment may now have been made. It is possible, however, some of the closings could yet be reversed by my amendment; so I shall continue my effort. I hope very much, in this connection, that the House will soon act on the State Department supplemental bill.

Mr. President, I would like to share with my colleagues the very compelling article that Philip Geyelin wrote; and I ask unanimous consent that it be printed in full at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

10 Places Uncle Sam Can't Help You

On the road to Mandalay, be careful not to lose your passport. The U.S. Consulate there was shut down a month or so ago and the nearest help is 400 miles away at the embassy in Rangoon.

For your loved ones' sake, try not to die in Nice. Or get arrested in Brisbane. Don't bother looking for help on a business deal from U.S. commercial attachés in Turin, Italy, or the German port of Bremen. American consulates in those cities were also closed down at the same time.

All told, the Carter administration has eliminated 10 consulates around the world in the past two years. In so doing, it has managed to 1) enrage influential congressional leaders, 2) anger a lot of private citizens, 3) dismay a fair number of close allies, and 4) measurably shrink America's presence worldwide at a time when the Soviets are expanding their consulates and trade missions and the Republicans are making a big campaign issue out of this country's prestige, power and influence abroad.

All that, for a saving of $1,886,000 annually.

And this cost-accounting doesn't include the loss of useful political and economic reporting that, along with services to American citizens overseas, constitutes the important work of the consular service.

Example: Mandalay's two-man consulate offered a unique vantage point from which to monitor heroin traffic from the Golden Triangle (Burma, Thailand, Laos). which accounts for up to 40 percent of the heroin supply in the United States.

The damage, let's be clear, won't be devastating. There will be substantial losses in trade promotion opportunities, services to American travelers and information-gathering capabilities. But embassies and the more than 100 surviving consulates around the globe can fill some of the gaps.

What's really troubling is what this says about the workings of the Carter White House. Here is an administration professing to have a large, conceptual world view. It is bent on firmly resisting the expansion of Soviet influence "by whatever means." Presence is power, so we move ships, men and supplies to the Persian Gulf and angle for military base rights in the area. We increase defense spending and "signal" our resolve with draft registration.

What sort of signal is it if, at the same time, we are closing down consulates around the world?

A second equally troubling question in the matter of the consulates has to do with Jimmy Carter's sense of the value of things—both material and political. A cruise missile costs $1.5 million. For just a bit more, the president could not only have kept the consulates but saved himself a lot of grief.

This decision wasn't made routinely by economy-minded bureaucrats in the Office of Management and Budget. In the end, it was a personal decision by the president, doggedly resisted at the State Department and angrily opposed by Congress—so much so that last year an amendment to the State Department money bill specifically instructed the president not to close the 10 consulates then on his hit list.

One of them was in Goteberg, Sweden, a big favorite with Minnesota's Swedish population, which had been closed down once before. But in 1975, Sen. Hubert Humphrey sponsored a bill ordering it to be reopened. President Ford complied.

Not Jimmy Carter. For him, presidential authority as well as budget-balancing was at stake. The constitutional right of the president to appoint consular officials, he argued, implied the right to decide where to send them. He has simply ignored the amendment.

So the American consulate in Goteberg is once again closed. Meanwhile, in that same city, the Russians are building a new $4 million, two-building complex, including a trade and cultural center, to house their 60-man consulate staff.

"How can you be a major world power and act like that?" asks an official high up in the Carter entourage.

Well, actually, it's not hard. Jimmy Carter is a moralist, and stubborn. Right makes might, and Congress was not going to be allowed to muscle him. He is also a former engineer. And the way to balance the budget is to engineer it item by item. Don't look up—or around.

Jimmy Carter is also a former naval officer, which makes it easier to recognize the value of the American flag at sea.

What seems to be missing in the Carter scheme of things is whatever it would have taken to make the next, small, almost cost-free leap in logic. That's the leap that would be required to recognize the value of the American flag on land.

THE DEATH OF REV. JAMES FRANKLIN BURRISS

Mr. THURMOND. Mr. President, recently, the Reverend James Franklin Burriss, of Lancaster, S.C., passed away, at the age of 74, ending a long and distinguished career of public service.

Reverend Burriss served 55 years as a faithful Baptist minister. Several of those years were at the First Baptist Church in Edgefield, S.C., where I was a member until I moved to Aiken, S.C.

He was born in Oconee County and was a graduate of Furman University in Greenville, S.C., and Southern Seminary in Louisville, Ky. He later served both as a trustee.

After graduating from seminary, Reverend Burriss served churches in Portsmouth, Va., Walhalla, Ridge Spring, Edgefield, Lancaster, and West Columbia, S.C., where he retired.

He served on the Home Mission Board of the Southern Baptist Convention, the South Carolina Baptist Foundation and was vice president of the South Carolina Baptist Convention.

Reverend Burriss was an able and devoted minister who was dedicated to preaching the word of God.

He was a Mason, past district governor of the Lions Club and was active in the South Carolina Boy Scouts.

I am extremely proud to have known this outstanding man. He was a close personal friend and I feel a great loss in his passing.

My deepest sympathy is extended to his lovely wife and daughter, Mrs. Belle Gibson Burriss, and Mrs. Betty Jean Emanuel of Lancaster, and also to his three sisters, Mrs. Olin McGill of Anderson, Mrs. Fred Anderson of Westminster and Mrs. Barnie Cargile of Seattle, Wash. I know he will be sorely missed.

Mr. President, in order that I might share with my colleagues some articles, editorials, and a church bulletin, concerning Reverend Burriss, I ask unanimous consent that they appear in the Record at the conclusion of my remarks.

[From the Lancaster News, S.C. July 5, 1980]

James F. Burriss, 74, Baptist Minister, Dies

Lancaster.—The Rev. James F. Burriss, 74, died Thursday at a local nursing home.

He was born in Oconee County, a son of the late S.L. and Lula Isbell Burriss.

He was a retired Baptist minister and a graduate of Furman University. He was also a graduate of Southern Seminary in Louisville, Ky.

The Rev. Burriss served churches in Portsmouth, Va., Walhalla, Ridge Spring, Edgefield, Lancaster and West Columbia. He served on the Home Mission Board of the Southern Baptist Convention and South Carolina Baptist Foundation. He was past trustee of Furman University and Southern Seminary and former vice president of South Carolina Baptist Convention.

He was also a Mason, past district governor of Lions International of South Carolina and was active in South Carolina Boy Scouts.

Surviving are his widow, Mrs. Belle Gibson Burriss; a daughter, Mrs. Betty Jean Emanuel of Lancaster; three sisters, Mrs. Olin McGill of Anderson, Mrs. Fred Anderson of Westminister and Mrs. Barnie Cargile of Seattle, Wash.; and five grandchildren.

Services will be at 3 p.m. today at First Baptist Church. Burial will be in Lancaster Memorial Park.

The family suggests that those who wish may make memorials to Baptist Foundation in Columbia.

Mahaffey Funeral Home is in charge.

[From the Westminster (S.C.) News, July 9, 1980]

A Memorial to Rev. James F. Burriss

(By James Brown)

We buried my uncle, Rev. James F. Burriss last Saturday afternoon, at Lancaster, S.C.

He came into my family about fifty-three years ago, when he married my mother's youngest sister, Aunt Belle Gibson. I was still a pre-schooler, but I faintly recall their "courting days" while they were students at Long Creek Academy.

He was a "favorite" of mine as well as the other boys and girls, and he remained so, for a half of a century. He paid us some attention, and kept us laughing.

He had a one-seated Star car in the days when I thought all cars were Fords. I thought that was something, having an uncle with a Star car. It might be compared today to having an uncle with a Rolls-Royce.

He was known and respected by a large number of Westminster citizens, as well as other Oconee residents. This is also true of other cities and counties, wherever he labored. He touched the lives of many people and the world is a better place to live because of his influence.

James F. Burriss was born and reared in a Christian home in the South Union Community, and since that was, and is, a Westminster Post Office rural route, he considered Westminster his home. We can proudly claim him as one of our own.

During the last few days, I have thought a lot about him and his family. I wonder if our homes, schools, and churches of today still have the attributes to produce the caliber of a man that all of us saw in the life of James F. Burriss.

He talked to me more than once about the many fine people that had influenced him over the years, and how he was grateful for all that helped him along the way. One example that stands out in my memory, shows how appreciative and humble he was.

He said, for some reason sometime after his birth, in the first decade of this century, that his mother was unable to nurse him, and that a colored woman living on their farm that helped his mother some, let him nurse her, which gave him the nourishment as a baby that was necessary. He said, "I wish I knew where that colored woman's grave is, so I could erect a special marker there to honor her for providing food for my body and sustaining my young life."

Among South Carolina Baptists, Rev. Burriss was considered among the great of this century. He served in many state wide leadership positions on a number of boards and committees, as well as in the association where he served as pastor.

He was a graduate of Furman University and Southern Seminary, and later served both as a trustee.

He was pastor at West Union Baptist Church and at Rocky Knoll Baptist Church, while at the same time teaching at Walhalla High School, before going to the seminary in the midst of the great depression of the 30's.

It was in his home in Walhalla that I heard and saw my first radio. It was battery-powered with ear-phones. Also, he had the first typewriters that I recall seeing and getting to use.

Life wasn't easy during the depression and doubly so for a young couple in the seminary at Louisville, Kentucky, who were there on faith. I recall my mother getting letters from Aunt Belle telling about someone sending them some money just as they were down to their last penny, not knowing how they would get their next meal. I'm sure that lessons were learned from these experiences that made Uncle James and Aunt Belle better Christian servants in the good years that followed.

After completing studies at the seminary, First Baptist Church of Walhalla called him as paster, where I'm sure he was loved and appreciated as much as he was in other places. There followed successful pastorates at Ridge Springs, Edgefield, Lancaster, Portsmouth, Va., and finally at West Columbia, where he retired. Afterwards, he served as interim pastor at numerous churches which included First Baptist in Columbia, and Westminster Baptist Church.

He had an outstanding record of service to the Lions Club, having served in various clubs as a District Governor. He believed in the work with the blind supported by the Lions, and gave freely of himself to promote this worthy cause.

Uncle James and Aunt Belle were acquainted with personal tragedies in their life, but they kept on in the faith, never doubting. Their first son died shortly after birth and their third child, also a son, died at age thirty-seven, a few years ago. He held an important engineering position with the S.C. Highway Department in Chester, and was slated for a promotion before losing a hard-fought battle to cancer. He left a very fine wife, a son and a daughter, who continue to reside in Chester.

The only other child of the Burriss' is Betty Jean who was born while they were in seminary. When they returned to South Carolina, we thought she looked like Shirley Temple, and she continues to be just as lovable as a housewife and mother of three children of her own residing in Lancaster.

When Uncle James retired from West Columbia, they bought the Walker Bearden place at Oakway. And he delighted in doing some remodeling and repair himself. As his health began to fail, they decided they should move closer to their children, so they relocated in Lancaster. His health failed rapidly and he spent most of the last two years in a rest home at Ridgeway and later in a convalescent wing of the hospital in Lancaster, just up the street from their home.

As with most great or near-great men, they achieved their success largely through the inspiration and encouragement of a help-mate. It was never more true than in the case of Uncle James and Aunt Belle. She not only supported him in the ministry but has had her own ministry in every place they have lived. Aunt Belle faithfully fulfilled her vows to be faithful to her husband in sickness and in health.

The memorial service Saturday afternoon, wasn't sad in the way that many are. Rather it was a tribute to one that had responded to the call to be a minister of the Gospel, and had been faithful to the opportunities and duties as he saw them. He had lived beyond the three score and ten years, and since he could no longer be a servant, and was helpless as a child without hope for improving, we all realized that his home-going was a welcome release for him.

He would have liked the recessional hymn as the large congregation sang enthusiastically.

"O God, our help in ages past,
Our hope for years to come,
Our shelter from the stormey blast,
And our eternal home!"

[From the Baptist Courier, July 7, 1980]

RETIRED PASTOR DIES; WAS BAPTIST LEADER

James F. Burriss, retired Baptist pastor, died July 3 in Lancaster.

Burriss was a native of Oconee County, and a graduate of Furman University and Southern Seminary.

He had been pastor of churches in Walhalla, Ridge Spring, Edgefield, Lancaster, West Columbia, and Portsmouth, Va.

He had been a member of the Home Mission Board, and was a trustee of Furman and Southern Seminary. A former vice president of the South Carolina Baptist Convention, Burriss had served also on the board of the Baptist Foundation.

TRIBUTE TO FRIENDS

I lost two friends, and South Carolina Baptists lost a present and a past leader last week in the deaths of Dan T. Wallen and James F. Burriss. Wallen was pastor of First Church, Honea Path, and first vice president of the state Convention. Burriss was a retired pastor who had been second vice president of the Convention in 1963.

Each of these men had been especially helpful to me at different times and in quite different ways, and I am grateful. Burriss was pastor of First Church, West Columbia, when I came to the *Courier* 15 years ago. He became my mentor and friend. He had a great mind for interpreting issues and relating them to events. I sought his counsel often during my first few months as editor.

As Convention president this year I have been working closely with Dan Wallen in preparation for the annual session in November. I shall miss his sage advice, his clever wit, and his assistance in presiding. He was a minister of rare quality who has left his mark written large on the work of South Carolina Baptists.

—JOHN E. ROBERTS

[In Memoriam]

REV. JAMES FRANKLIN BURRISS

Who served as a faithful minister for 55 years, serving Student pastorates in Indiana, the First Baptist Churches of Walhalla, Ridge Spring, Edgefield, Lancaster and West Columbia and Parkview Baptist of Portsmouth, Virginia, as well as key offices in his state and across the Southern Baptist Convention.

"How beautiful upon the mountains are the feet of them that bring good tidings—Isaiah 52:7.

He passed to his reward Thursday night and his funeral was Saturday at 3:00 P.M. in this auditorium built during his ministry of 14 years here.

[From the First Baptist Church, Lancaster, S.C.]

PASTOR'S PERSPECTIVE

(By Robert E. Cuttino)

Jim Burriss was my friend as only a former pastor can be to a present pastor. This beautiful sanctuary we worship in was built under his ministry and a result largely of his vision and leadership. Every time we worship a part of him will be worshipping with us. This great mission-minded church responds to missions so quickly because he led in mission-mindedness. So many of the "pillars" of this church were nourished and cultivated by his ministry. Children's children lead now who might not have known he helped give their parents and forefathers the leadership they needed to get where we are today.

Our deepest love and sympathy are extended to Mrs. Belle and Betty Jean and the grandchildren. His whole life, especially his 55 years ministering, should lead to a reward hard for us to envision.

He has gone to be a guest of God. We thank God for him.

THE BURRISS LOVE FUND

The members and friends of our congregation are invited to share in a love-gift whereby some of the tremendous expenses involved in his nursing care over the last two years may become more manageable. Eldredge Caskey, chairman of the Deacons and I, as Pastor, recommend to you that this opportunity be opened whereby we can show our love and smypathy in a tangible way. Any desiring to contribute are simply instructed to make the gift or check earmarked, "Burriss Fund."

Sincerely,

ELDREDGE CASKEY,
Chairman, Deacons.
ROBERT E. CUTTINO,
Pastor.

SENATOR ALAN CRANSTON

Mr. ROBERT C. BYRD. Mr. President, during the 4 years that he has served as assistant Senate majority leader, I have had the invaluable support of my friend from California (Mr. CRANSTON). As majority whip, ALAN CRANSTON has won the confidence of not only the Democratic Members of this body, but also of the entire Senate.

In an essay on political leadership, David Broder describes the skills and personality needed to be a successful legislator. Broder writes:

> We need people who have demonstrated the skills of negotiation and compromise, the insights, the articulateness and boldness to overcome the centrifugal forces tugging at the government.

This accurately describes the senior Senator from California. When he first came to the Senate, Mr. CRANSTON was determined to learn his job as quickly and as thoroughly as he could. More than that, he came into the Senate determined to understand and befriend his colleagues.

He quickly established himself as a key member of the Democratic conference and developed an ability to assess Senate votes on critical issues.

He has been effective on the Senate floor by developing trust and respect on both sides of the aisle. He is trusted and respected by his colleagues, and he trusts and respects his colleagues.

I know few Senators who have mastered the techniques and skills of the legislative arena as well as Senator CRANSTON. And, I know of no other Senator who has better represented his State than ALAN CRANSTON. He gets things done for California.

He gets things done by studying the issues, by knowing the rules and procedures of the Senate, and by lining up votes in advance of floor action.

Let me illustrate this with just one example:

In 1971 the Lockheed Corp.—based in California—was in deep financial trouble and asked the Government for a $250 million loan guaranty. ALAN CRANSTON believed that, with Government assistance, Lockheed could revive itself and regain its successful position in the aerospace industry. The Senate was sharply divided on the issue, and Senator CRANSTON knew the vote would be very close.

As it turned out, the bill passed by a single vote. Senator CRANSTON got that vote. He concentrated on determining who would vote for and against the bill and who was undecided.

In the end, it came down to one Senator. ALAN CRANSTON was able to persuade that Senator to vote for the loan bill, and thus preserved the thousands of jobs which were at stake.

The Senator from California was

proved right in his assessment of the Lockheed situation. The loans were granted with Government guaranty, Lockheed went ahead with the L-1011, regained financial strength and repaid the loan, and, incidentally, the people of the United States made a profit on the interest.

During his 12 years in the Senate, Senator CRANSTON has been involved in hundreds of issues affecting the State of California and in virtually every major issue of national and international affairs.

There are a few of the major issues ALAN has wrestled with here in the Senate:

PEACE AND NATIONAL DEFENSE

ALAN has worked for both a durable peace and a strong national defense program.

He has been a key leader in the effort to ratify the Strategic Arms Limitation treaties with the Soviet Union. He has supported defense budgets and arms programs to back up our negotiations with the Soviets.

He believes that arms control is the critical issue for the entire international community, not just the Soviets and the people of the United States. He also believes the United States must back up with a credible military posture our commitments to NATO, to Israel, and our other friends in the Middle East and to the emerging, nonalined Third World nations. He has consistently supported the security of Israel as the keystone of democracy in the Middle East.

We have that strong military posture today, and we will be stronger in the years ahead as the result of action taken this year to strengthen our rapid deployment forces, beef up our naval strength and maintain our powerful Air Force. ALAN CRANSTON has worked with other Members of the Senate to achieve this.

FISCAL RESPONSIBILITY

ALAN CRANSTON has shown that thrift, prudence, and fiscal responsibility are not incompatible with compassion and concern for human rights and dignity.

Long before proposition 13 was proposed in California, ALAN was fighting here on the floor of the Senate for a new budget control process. We passed the Budget Act, and ALAN CRANSTON was a charter member of the Budget Committee, which in those early years created mechanisms to eliminate wasteful spending and apply discipline to the budget process.

Using the budget process which he helped to create, Senator CRANSTON fights hard for the programs he believes in and which have worked well. But he also fights hard to reduce Government spending. He has sustained the tough budget actions required to check inflation without harming the elderly, the disabled, and others unable to care for themselves.

ENERGY

California has a direct stake in solving our energy problems. The State has enormous and valuable deposits of heavy oil. During deliberations on the windfall profit tax, Senator CRANSTON worked to assure that heavy oil production would not be hindered. Encouraging greater oil production is part of the solution to the problem of reducing the Nation's dependency on foreign oil and this measure will help California's economy. He has been a strong advocate of the rights of oil-producing States and localities.

My colleague from California has been a leader in the Senate in the promotion of solar energy and other alternative energy resources. In 1974 he authored the Solar Heating and Cooling Demonstration Act, one of the first major solar bills in the Congress. By his vigorous action in the Senate and by pressing the Department of Energy, he has initiated and sustained interest in geothermal energy, a field in which California is the leader.

Senator CRANSTON worked hard to protect the interests of California motorists, farmers, and industry in the new emergency gasoline rationing plan and in fuel allocation regulations.

ENVIRONMENT

ALAN CRANSTON has a long and impressive list of legislative accomplishments in environmental protection. California is a big State with extraordinary coastal, mountain, desert, and forest environs. ALAN has done a first-rate job to insure that valuable scenic and ecologically important national treasures are preserved for present and future generations of Americans.

He authored or cosponsored legislation extending the Redwood National Park, creating the Santa Monica Mountains and the Golden Gate National Recreation areas, the Santa Barbara Channel Islands Park, the Point Reyes National Seashore, including Mineral King in Sequoia National Park, and creating the California Desert Study Commission.

He has authored or cosponsored legislation creating or extending 12 wilderness areas.

He has been in the forefront of legislative initiatives for clean air and water.

VETERANS

Every Member of this body is aware of Senator CRANSTON's accomplishments as chairman of the Health and Hospitals Subcommittee and, recently, as chairman of the full Veterans' Affairs Committee.

He has shown compassion and understanding in responding to the needs of our war veterans. Legislation which he authored and steered through the Senate will benefit the lives and health of millions of men and women who have served in our armed services, and their families.

I have touched only on the highlights of the career of our distinguished colleague and friend from California. His record, which also includes legislation in the areas of health, housing, child welfare, the space program, aging, and earthquake research, is one of which he and the people of California can be proud.

David Broder's essay asserted that our leaders:

> Need to be people who draw enjoyment, moral sustenance and energy from the political process itself, and who see their essential contribution as forwarding that process rather than achieving a particular place in history for themselves or enacting every paragraph of their own program without amendment.

These insightful words apply and succinctly describe ALAN CRANSTON and his contributions to the Senate.

CRANSTON: THE SENATOR FROM CALIFORNIA

Mr. ROBERT C. BYRD. Mr. President, I have recently obtained Eleanor Fowle's excellent biography of her brother, our distinguished colleague from California, Senator ALAN CRANSTON.

Even in scanning this account of ALAN CRANSTON's life, several themes emerge, among them: His uncanny ability to be where important things are happening, his commitment to peace and human rights, his devotion to the Senate, and, no less important, the love and admiration which Mrs. Fowle expresses for her brother.

I appreciate the kind remarks Mrs. Fowle made about me and my working relationship with the majority whip.

It is both pleasurable and useful for me to know more about the life of any of my colleagues and, especially, about the majority whip, with whom I work so closely. I thank Mrs. Fowle for the opportunity to know better the senior Senator from California.

The book, "Cranston: The Senator from California," traces Senator CRANSTON's life—from his boyhood in Los Altos, Calif., through his college years and his assignments as a foreign correspondent. It goes on to describe his early years in California politics, including his first election to public office, and recalls his election to the Senate 12 years ago and his selection as majority whip. Incidentally, the book reveals that the Senator is an author in his own right, having written a book in 1945 on the Senate's debate on the League of Nations.

I would recommend this book to any of my colleagues who wish further insights into the Senate and the life of one of its most effective Members.

SENATOR FRANK CHURCH

Mr. ROBERT C. BYRD. Mr. President, my friend from Idaho, Mr. CHURCH, is an especially effective Member of the Senate. As the senior Senator from the State of Idaho, as a committee chairman, and as a knowledgeable and articulate contributor to a wide range of public issues, FRANK CHURCH is an esteemed colleague.

Senator CHURCH was elected to the Senate at age 32, and since then has earned his reputation as a man of integrity, intelligence, and courage. Before coming to the Senate, he served in military intelligence during World War II in the China, Burma, and India theaters. FRANK had enlisted as a private in the Army, and on his 20th birthday was commissioned an officer. Born in Idaho, he had attended public schools in Boise, and later practiced law there.

FRANK CHURCH has earned the reputation as one of the most effective legislators in the Senate—for his own State of

Idaho, and for the protection of the elderly, and in the field of foreign affairs.

Perhaps the two most important accomplishments of Senator CHURCH in the 96th Congress for his own State—but also benefiting the Nation—are his bill to establish the River of No Return Wilderness Center in central Idaho, and his sponsorship of the Reclamation Reform Act of 1979, now pending in the House of Representatives.

In Idaho, the question of the future of the central Idaho wilderness had been a matter of controversy for 16 years. This large, roadless area has long been recognized as the most uniquely qualified area for wilderness status in the continental United States. As Senator CHURCH observed when the legislation was before the Senate last year:

> This area is what Idahoans mean when they refer to Idaho as "God's country."

In an effort to resolve the controversy over the future of this area, Senator CHURCH first introduced three separate bills to provide the basis for a decision: A bill advocated by the timber industry, one proposed by environmentalists, and one submitted by the administration. He conducted hearings throughout Idaho, where more than 600 people presented testimony. He then drafted a carefully constructed piece of legislation which passed the Senate last year, and the House this spring. President Carter signed the bill into law on July 23. The bill was unique in that it drew support not only from environmentalists, but also from representatives of the timber industry and the mining industry because of its careful balance in protecting Idaho's watershed, and in assuring the continued economic health of Idaho's wood products and mining industries.

Another piece of legislation which Senator CHURCH can be justifiably proud is his bill to overhaul the outdated Reclamation Act of 1902, which has been the subject of litigation for many years. In the West, reclamation has been critical to the development of family farms over the past three-quarters of a century, providing the water that makes the desert bloom. But the old law had been ignored, prompting court challenges and controversy. The Reclamation Reform Act, which passed the Senate a year ago under Senator CHURCH's sponsorship and is now pending in the House, is designed to bring reclamation law into conformity with modern needs, assuring a stable base for family farms in the West, now and in the future.

The elderly have been one of Senator CHURCH's special interests over the years. Senator CHURCH has referred to his service as chairman of the Senate Aging Committee as "perhaps the most satisfying of my Senate career." That is understandable, for his contributions to the needs and well-being of the Nation's senior citizens are many indeed.

In 1972, it was Senator CHURCH who offered the amendment that provides for an annual cost of living increase for social security recipients to make social security "inflation proof." And in 1978, it was FRANK CHURCH who offered the amendment which provides that those over age 55 may sell their homes and not pay Federal capital gains taxes on the first $100,000. For the vast majority of senior citizens, that means that when their children have grown and left home, they may sell their homes and move to smaller, more manageable housing without having the profits eaten up by capital gains taxes. Instead, their investment in a home becomes a source of income to help them out in years of retirement.

Senator CHURCH's service as chairman of the Senate Aging Committee can be characterized by his concern that Federal laws and programs be designed to allow the elderly to lead proud, productive lives in their own homes, surrounded by family and friends. Senator CHURCH has worked over the years to provide services that reflect these goals: "Meals on Wheels," home nursing services, community senior citizen centers, and programs to help the elderly cope with the spiraling cost of fuel.

Senator CHURCH also serves on the Senate Energy Committee, where he is the chairman of the Subcommittee on Energy Research and Development. Here, Senator CHURCH has worked for legislation that will enable the United States to end its dependence on foreign oil by developing alternatives to petroleum.

In this area, one of Senator CHURCH's special concerns has been the development of alcohol fuels that will enable us to stretch supplies of gasoline. He sponsored that section of the recently passed synthetic fuels bill which provides for the nationwide marketing and distribution of gasohol, by making the government the "purchaser of last resort" for all alcohol produced for motor fuel use from natural resources, and which provides loan guarantees to build the production capacity needed to move into large-scale development of alcohol fuels.

Senator CHURCH has also been a proponent of other alternative fuels—coal, hydroelectric power, geothermal heat, solar energy, and nuclear power. The geothermal development bill recently passed by the Senate was sponsored by Senator CHURCH, and he has been one of the Senate's leading proponents of safe nuclear power to help us end our dependence on costly foreign oil.

Senator CHURCH is probably best known to the country as the chairman of the Foreign Relations Committee. Here, Senator CHURCH's leadership has proved crucial on numerous matters.

Shortly after he became chairman of the committee in 1979, the Senate was faced with legislation to provide unofficial relations with Taiwan after the decision was made by President Carter to normalize relations with China.

At that time, it was widely thought that this matter would result in a long and bitter debate in the Senate over the decision to recognize Beijing. Yet, under the leadership of Senator CHURCH, the Foreign Relations Committee approved sound and sensible legislation to assure continued friendly relations with the people of Taiwan. So well-drafted was this legislation that it was approved by the Senate by an overwhelming vote of 90 to 6.

Most of the time of the Senate Foreign Relations Committee in 1979 was taken up with hearings and deliberations concerning the SALT II Treaty. Those deliberations—stretched over July, August, and September—were perhaps the most thorough ever held on a new treaty. Both proponents and opponents of the treaty were given a full opportunity to present their views. After the committee voted to approve the treaty—with several modifications—a report was filed with the Senate which is regarded as one of the most comprehensive ever to accompany a treaty.

There is one other matter before the Foreign Relations Committee that deserves comment. It is not widely known that in addition to handling treaties and foreign policy legislation, the committee also deals with international commodity agreements which have a special impact upon the farmers of America.

An example is the new International Sugar Agreement, meant to stabilize the international sugar market, and in consequence, help American sugar growers who have suffered in recent years because of the world-wide glut of sugar.

Senator CHURCH believed that such an international agreement should be balanced by domestic legislation to protect American sugar growers in case the international agreement should fail. Thus, he insisted that before the ISA was ratified, the administration provide assurances that it would use its authority to provide higher sugar prices for domestic growers, which was done. This is an example—one of many—of how foreign policy issues have a large impact upon domestic policy.

It has been my special pleasure to work with Senator CHURCH on matters that affect Idaho, our Nation, and the world. He is an extremely effective Member of the Senate leadership team. He has contributed greatly to the creativity and drive of the Senate. His judgment is looked to, and relied upon, by all of us.

I look forward to working with the Senator from Idaho for many years to come.

SENATOR GEORGE McGOVERN

Mr. ROBERT C. BYRD. Mr. President, agricultural issues are of great importance to all Americans, including those who live far away from the farm belt States in the agricultural heartland of the Nation.

Our solid agricultural base is one of the fundamental strengths of this country and a cornerstone of the American economy.

One of the foremost voices on behalf of the American farmer and American agriculture is the senior Senator from South Dakota, Mr. McGOVERN. As the ranking majority member of the Committee on Agriculture, Nutrition, and Forestry, GEORGE McGOVERN has been an effective advocate for the family farmer.

Now serving his 18th year in the Senate, our colleague from South Dakota has not only successfully represented the interests of his State, but has responded to the broader problems which have faced the Nation and the world.

GEORGE McGOVERN has never hesitated to take the unpopular stand, demonstrating the courage of his convictions. And his courage has been combined with some remarkable foresight—as was the case in his early but prescient opposition to the U.S. military involvement in Vietnam.

Senator McGOVERN has rendered valuable leadership and service to his State and the Nation in many areas, but I want to concentrate on his work in the agricultural area. Since the mid-sixties, he has been a major factor in shaping farm legislation within the Senate. He has consistently worked to insure that farmers receive fair prices for their crops.

He has also acted quickly and effectively on behalf of ranchers and farmers in times of special difficulties, such as the 1976 drought that struck South Dakota. Senator McGOVERN steered through Congress legislation which provided much-needed assistance to those in drought-stricken counties. More recently, the McGovern amendment to the 1980 price-support bill extended the disaster programs through the 1980 crop year, making assistance available to those affected by the current drought.

A hallmark of Senator McGOVERN's efforts on behalf of agriculture has been his support of the family farm. He has been particularly concerned with encouraging young people to pursue farming and to keep large corporate interests from squeezing out the family farmers.

Senator McGOVERN recognizes the importance of agriculture to this Nation's economic well-being and to our international trade balance. Serving on both the Senate Agriculture and Foreign Relations Committees, he is particularly well qualified to provide leadership in this area.

With his special concern for world hunger, as the former director of the food for peace program, and from his perspective as a member of the Agriculture and Foreign Relations Committees, Senator McGOVERN has been uniquely positioned to lead the way in using the abundance of American farms in the campaign against hunger. Mr. McGOVERN has sought not only to feed the hungry peoples of the world, but to aid the stability of Third World nations, promote their economic development, and create new commercial markets for American grain.

He has also been concerned about hunger and nutrition at home. His 1968 resolution led to the establishment of the Senate Select Committee on Nutrition and Human Needs, and he became chairman of the committee. The committee made a major contribution to awareness of nutritional needs in this country. Again, his knowledge of agriculture, combined with his humanitarian concerns, enabled Mr. McGOVERN to make an effective contribution.

Under Senator McGOVERN's leadership, nutrition has remained under the jurisdiction of those who understand and support American agriculture. When the select committee's mandate ended in 1977, the Senator from South Dakota made sure that responsibility for nutrition programs was allocated to the Agriculture Committee. The Senate changed the committee's name from Agriculture and Forestry to Agriculture, Nutrition, and Forestry and set up a permanent Subcommittee on Nutrition. Appropriately, Mr. McGOVERN was named chairman of the subcommittee. I say that this was appropriate because Senator McGOVERN has been widely recognized for his leadership in this field. For example, Family Health magazine honored Mr. McGOVERN for his statesmanship in nutrition, and the American School Food Service Association awarded him its outstanding leadership award.

Along with his strong role in agriculture and nutrition, Senator McGOVERN has taken a special interest in rural development. Throughout his Senate career his initiatives have contributed significantly to the development of rural America. He has emphasized the sensible use and preservation of natural resources, improved rural housing, adequate power and transportation facilities for rural residents, and strengthened educational programs.

I have focused on Senator McGOVERN's effective leadership on agricultural and rural issues, but he has made significant contributions in a number of important areas. His support for more equitable taxes, price controls, productivity incentives, and gasohol production have all been part of his effort to ease the burden of unfair taxes and high prices and to deal with the problems of a sluggish economy and scarce energy supplies.

Above all, GEORGE McGOVERN is a man who cares about the future. In seeking a better future for the people of South Dakota, the United States, and the world, GEORGE McGOVERN has consistently acted with courage and compassion in his 18 years of service in the U.S. Senate.

(Mr. PELL assumed the chair.)

CONGRESSMAN PAGE BELCHER

Mr. BOREN. Mr. President, this week, Oklahomans have been saddened by the passing of former Congressman Page Belcher, who served his State and Nation with distinction in Congress for 22 years from 1950 to 1972.

During his life, Congressman Belcher maintained that his successes came from "listening to my constituents." His wise advise to a freshman Member of Congress on one occasion was to "simply go home and sit down on a wagon tongue and listen to what the people have to say."

At the time of his retirement, Congressman Belcher was ranking minority member of the House Committee on Agriculture. In this capacity, he left his mark on every major piece of farm legislation.

He was first elected to Oklahoma's old Eighth Congressional District. At the time of his election, he was an attorney in Enid.

After the State underwent redistricting after the 1950 census, Enid and Tulsa were placed in the same congressional district. Thereafter, Congressman Belcher was First District Congressman.

In this capacity, he played a key role in getting construction started on the Arkansas River Navigation Project which has been very important in stimulating the economy of Oklahoma.

Congressman Belcher was born on April 21, 1899, on a farm near Jefferson in Grant County, Okla. His father had staked out this farm as a claim during the run of 1893.

His first successes came as an athlete at Jefferson High School and at Medford High School, and later at the University of Oklahoma where he earned college letters in football, basketball, baseball, and track.

Many of the lessons which he learned in sports were the same ones he applied to his career in politics.

Most notably, this lesson was that "you can never afford to be overconfident."

His first political contest was winning a seat on the Enid School Board in 1931. The next year, he ran for county commissioner. He and his opponent tied, and Congressman Belcher won the office on the flip of a coin.

He was elected court clerk in 1934 and again in 1938, and in 1938 was appointed municipal judge in Enid.

Congressman Belcher first came to Washington in 1949 as administrative assistant to Congressman Ross Rizley after managing Rizley's successful election campaign. He returned a short time afterward to become executive secretary of Oklahoma's Republican Party.

Upon his election to Congress in 1950, Congressman Belcher said:

> I'm not a crusader or a reformer. I'm not going to take the job too seriously and go to Washington with the idea of making a great record.

Instead, Congressman Belcher became beloved to Oklahomans because he went to Washington, not to become part of the spotlight, but to represent his constituents. Time after time his hard work bore fruit. I personally feel a sense of loss in the passing of Page Belcher. He constantly encouraged me, in my younger years, to take an interest in politics. Page Belcher was a gentleman of unquestioned integrity and kindness toward all with whom he had dealings.

I join my colleagues in expressing sympathy to the members of Congressman Belcher's family, particularly to his wife, Gladys, his son, Page, Jr., and his daughter, Mrs. Carol Williams.

The Tulsa Daily World and the Tulsa Tribune, among other publications, have paid tribute to Congressman Belcher in recent issues. Mr. President, I ask unanimous consent that the texts of two editorials which appeared in these publications be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PAGE BELCHER'S MONUMENT

After he retired from Congress, grateful fellow citizens put his name on a Federal Court House and a public golf course in Tulsa.

But Page Belcher—who died Saturday at

the age of 81—left his own most important and enduring monument. It is the memory and the example of a life of unselfish public service, shaped and guided always by a sense of duty, consistent principles and good will.

In Congress, as in most important enterprises, there are show horses and work horses. Plain, gentle Page Belcher considered himself a work horse. And indeed he was.

There are really two Houses of Representatives. One is the public forum in which members and their constituent interest groups discuss and illuminate a few controversial issues, many of them important, some merely provocative or interesting.

The other House is the working part—the committee apparatus where the extremely important but often dull details of legislation are hammered out. It was in this "other House" that Page Belcher performed his greatest service. As senior Republican on the House Agriculture Committee for many years, the Oklahoman left his stamp on practically every important farm bill. His influence, of course, reached far beyond a single committee.

Belcher's advice was sought frequently by Presidents and by the leaders of both Parties in the Congress. He was a vigorous partisan who boasted of what he called his Republican "regularity." But a generous spirit and an instinct for comity and tolerance won him the friendship and respect of men and women of both parties and of all political persuasions.

Oklahoma will remember Page Belcher as a faithful public servant, a work horse of a Congressman, but most of all as a friend to all who sought his help or counsel.

WISE OLD COUNTRY BOY

Page Belcher, who served 12 consecutive terms as congressman for the First District of Oklahoma, is dead at 81. He leaves a legacy of political wisdom.

Belcher had little "flash." He was no orator. But he liked to talk sense, and he listened carefully. He was proud of his humble origins, but he was comfortable with the power brokers. He recognized government as the art of the possible, and he worked hard trying to find rational routes through government dilemmas. Although for nearly 15 years he was the only Oklahoma Republican in either house, he got on well with his Democratic colleagues in pushing those measures which he felt Oklahomans deserved and wanted.

Beneath his homespun exterior, he was a many-sided man. A school athlete of note, he played semi-pro baseball.

NO SOLUTION FOR GAS LINES

Mr. PERCY. Mr. President, our Nation is critically vulnerable to a sudden cutback in the flow of imported oil. Thus, two of the most important responsibilities of the Department of Energy must be to make careful plans for coping with supply shortages and to manage those shortages fairly and effectively when they do occur. I am convinced that DOE is not fulfilling these responsibilities.

The Senate Permanent Subcommittee on Investigations, of which I am ranking minority member, held hearings July 24 and 25 to examine DOE's gasoline allocation program. This program is intended to assure an equitable and orderly distribution of available gasoline supplies during a shortage. It is the Nation's first line of defense against a major crude oil shortage and just about the only defense against a minor supply interruption. However, our hearings revealed that, far from being an effective defense against the chaos of a sudden supply shortage, the allocation program may be worse than no program at all. I have therefore concluded that the Congress and the Nation cannot wait any longer for DOE to adequately address the issue of contingency planning.

When the Nation experienced a 4 percent gasoline shortfall following the Iranian revolution, the failure of DOE's contingency planning and its allocation program was quickly apparent. Motorists in about half the States found themselves waiting in lines, sometimes for hours, to buy gas, while motorists in other States had all the gas they needed. And, we can expect gas lines to come back again with a renewed vengeance. Two witnesses before the subcommittee, Mr. Lawrason Thomas, executive vice president of Amoco, and Mr. Alvin Alm, formerly assistant Secretary for Policy and Evaluation at DOE, agreed that it is highly likely that within the next 10 years the United States will face a major oil supply disruption.

New York State's Energy Commissioner, James Larocca, testified that far from alleviating the effects of a shortage, the allocation program actually worsened last year's gas lines. Furthermore, as the subcommittee hearings demonstrated, if another supply shortage were to occur today, DOE remains unprepared to manage the crisis effectively.

One reason for this debacle, according to Comptroller General Elmer Staats of the General Accounting Office, was that DOE had neglected the allocation program for years, on the assumption that gasoline would soon be decontrolled, and the allocation bureaucracy dismantled. Adding to the chaos, the allocation regulations had not been substantially updated for several years prior to the 1979 shortfall. As a result, the Economic Regulatory Administration, the DOE branch responsible for setting the allocation rules, was forced to make 27 separate rule changes during the crucial period of the shortage. These frequent revisions caused havoc within the industry and left ERA ill-equipped to handle the flood of informational requests and applications from all segments of the petroleum industry. Case backlogs quickly developed and many in the industry—especially small businessmen—suffered serious financial hardships. Suppliers temporarily held back gasoline while they determined their responsibilities under the new allocation rules, adding to the growing gas lines.

The Administrator of ERA, Ms. Hazel Rollins, candidly testified before the subcommittee that the allocation program has serious shortcomings, including a lack of accurate data on supply and demand. Consequently, ERA, which has the authority to redirect supply to where it is needed, often cannot do so because its data is unreliable. Our hearings also demonstrated that ERA had difficulty maintaining the integrity of the program. In one case, ERA directed a major refiner to supply 600,000 gallons of gasoline per year to an empty field in rural California.

Another consequence of the shortage and ERA's belated rule changes was an onslaught of relief applications submitted to the DOE Office of Hearings and Appeals (OHA). OHA has been delegated the authority to rule on applications for adjustments or exceptions from all DOE regulations as well as appeals from ERA determinations. From March to December 1979, OHA received close to 20,000 applications, or roughly one from every eight gasoline retailer or jobber claiming that the supply cuts imposed by the allocation regulations had caused them financial hardship. Clearly, 20,000 relief applications bear witness to a regulatory system that was poorly prepared to cope with even a minor shortfall. We can well imagine what would have happened had the shortfall been greater.

At OHA, like ERA, applicants suffered lengthy delays, illustrated at the hearings by the testimony of three gasoline dealers who had applied for relief. One dealer, Mr. Herschel Brock of Bloomington, Ill., submitted his application to OHA in May 1979—more than 14 months ago—and still has not received a final decision. In the meantime, the future of his truckstop—a $1 million investment—is in serious doubt. Today, an OHA decision would simply be irrelevant, since gasoline is currently in plentiful supply. But when Mr. Brock most needed the system, during last year's shortage, it failed him. Unfortunately, Mr. Brock's situation is not unique.

Several witnesses testified that OHA, which has been delegated the authority to decide individual relief applications, frequently has been forced to address allocation policy questions through the exceptions process. The apparent reason for this development is that ERA, which is responsible for allocation rulemaking has failed to address shortcomings in the system in a timely fashion. When it has addressed the shortcomings, ERA's rules have often been poorly drafted and ill considered.

Mr. Jack Blum, an attorney with wide experience in the energy field, testified that this splitting of policymaking roles between ERA and OHA has created tremendous uncertainty within the petroleum industry as to what allocation rules are operative. What has resulted is a system where those who can afford the time and money to learn the ins and outs of OHA decisions can get relief, while the small businessman cannot.

Prof. William Mayton, an administrative law professor at Emory University testified before the subcommittee that rulemaking through the exceptions process does not allow for the public notice and comment safeguards which are required by the Administrative Procedures Act. This practice is contrary to the letter and spirit of the APA. It is bad public policy as well.

The Director of OHA, Mr. Melvin Goldstein, did not appear to share my concerns about the lengthy delays and the odd sharing of regulatory responsibilities between ERA and OHA. Mr. Goldstein, of course, cannot be held solely answerable for this regulatory imbalance. That is an overall management issue, for which the Secretary of Energy is responsible. In this light, I have invited Secretary Duncan to appear before the subcommittee later this month to discuss the respective roles of the ERA and OHA as well as DOE's inept performance with respect to contingency planning.

In conclusion, every motorist should keep a good novel in his or her dashboard, for some day the gas lines will return. Next time, the lines might well be lengthier, affect more people, stay around longer, and cause more serious economic hardships. Unfortunately, the Department of Energy appears incapable of doing much about gas lines when they do occur. I am deeply concerned that we as a nation have little more than paper mache plans for coping with future supply crises—notwithstanding the fact that 7 years have passed since the oil embargo first signaled our Nation's vulnerability to supply interruptions, 18 months since the sudden cutback in Iranian oil exports, and 8 months since Iran risked military reprisals by taking American hostages. Why have we failed to heed these warnings?

MESSAGES FROM THE HOUSE

At 10:55 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 7831. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 389. A concurrent resolution condemning the harassment and persecution by the Soviet Government of Vladimir Kislik and other Soviet human rights activists.

HOUSE MEASURES REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 7831. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 389. A concurrent resolution condemning the harassment and persecution by the Soviet Government of Vladimir Kislik and other Soviet human rights activists; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 3027. An original bill to extend authorization for the Disaster Relief Act, and for other purposes (Rept. No. 96–891).

By Mr. DeCONCINI, from the Committee on the Judiciary, without amendment:

S. 3028. An original bill to amend certain provisions of title 28, United States Code, relating to venue, and to provide for special venue provisions in cases relating to the environment (Rept. No. 96–892).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 507. An act to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes (Rept. No. 96–893).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special report on "The Second Monetary Policy for 1980" (together with additional views) (Rept. No. 96–894).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Charles E. Fraser, of South Carolina, to be Commissioner General of the U.S. Government for Energy-Expo 82.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Lyle Franklin Lane, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States to Paraguay.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Lyle Franklin Lane.
Post: Asuncion.

Contributions and amount

Self: None.
Spouse: None.
Children and spouses names: None.
Parents names: None.
Grandparents names: None.
Brothers and spouses names: None.
Sisters and spouses names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Barbara M. Watson, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to Malaysia.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Barbara M. Watson (Miss).
Post: Malaysia.
Nominated: April 14, 1980.

Contributions and amount

Self: none.
Spouse: n/a.
Children and spouses names: n/a.
Parents names: deceased.
Grandparents names: deceased.
Brothers and spouses names: James L. and D'Jaris Watson, none; Douglas and Barbara Watson, none.
Sisters and spouses names: Grace E. Watson, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EAGLETON:

S. 3024. A bill for the relief of certain named veterans; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself and Mr. Chiles):

S. 3025. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EAGLETON (for himself, Mr. Percy, and Mr. Mathias):

S. 3026. A bill to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency; to the Committee on Governmental Affairs.

By Mr. BURDICK (from the Committee on Environment and Public Works):

S. 3027. A bill to extend authorization for the Disaster Relief Act, and for other purposes. Original bill reported and placed on the calendar.

By Mr. DeCONCINI (from the Committee on the Judiciary):

S. 3028. A bill to amend certain provisions of title 28, United States Code, relating to venue, and to provide for special venue provisions in cases relating to the environment. Original bill reported and placed on the calendar.

By Mr. MATSUNAGA (for himself and Mr. Inouye):

S. 3029. A bill to amend the Social Security Act with respect to professional mental health services; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. Percy, Mr. Bentsen, Mr. Hayakawa, Mr. Baucus, Mr. Pell, Mr. Tsongas, and Mr. Hatfield):

S. 3030. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle, to exclude from gross income certain amounts received in connection with the provision of alternative commuter transportation, to provide employers a credit against tax for costs incurred in ride-sharing programs, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 3031. A bill to amend title 5, United States Code, to restore to Federal civilian employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 3032. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the "marriage penalty"; to the Committee on Finance.

By Mr. SASSER:

S. 3033. A bill for the relief of Clemente Diaz Ibarra; to the Committee on the Judiciary.

S. 3034. A bill for the relief of Juan Aristorenas, M.D.; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. Riegle):

S. 3035. A bill to amend the Trade Act of 1974 to provide readjustment assistance to workers and firms supplying essential parts or services, or extracted minerals, to import-impacted firms; to the Committee on Finance.

By Mr. COCHRAN:

S. 3036. A bill to encourage on-the-scene emergency care aboard aircraft by relieving licensed medical personnel and air carrier employees from civil liability for damages resulting from any act or omission in rendering such care; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. Jackson):

S. 3037. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAYH:

S. 3038. A bill to prohibit the imports of canned beef from Argentina; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself and Mr. Chiles):

S. 3025. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EAGLETON (for himself, Mr. Percy, and Mr. Mathias):

S. 3026. A bill to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency; to the Committee on Governmental Affairs.

INSPECTOR GENERAL ACT AMENDMENTS OF 1980 AND FINANCIAL INTEGRITY ACT OF 1980

Mr. EAGLETON. Mr. President, beginning with the revelations about GSA in mid-1978, the public has been bombarded continually with headlines reporting the staggering level of fraud, waste and mismanagement in Federal programs. In one stunning revelation, the Inspector General at Health, Education, and Welfare estimated that between $6.3 billion and $7.4 billion was misspent annually at his department as a result of fraud, abuse, and waste—"at a minimum." Surveying the entire landscape, an official of the General Accounting Office, knowledgeable in this area, estimated in 1978 that fraud in Federal programs ranged from $12 to $15 billion annually to perhaps as high as $25 billion.

This level of fraud, program abuse, and just plain waste in Federal programs is unacceptable. We cannot permit the squandering of billions of dollars at this time of double-digit inflation and scarce budgetary resources. It fuels the fires of inflation. It robs Federal resources which might otherwise be available to meet legitimate—even pressing—needs. It promotes understandable public cynicism about all Federal programs, eroding support for these activities.

There is no miracle cure to these problems. A government as large as ours will never be perfectly administered, and there is a morally bankrupt, but widely-held notion that stealing from the Government is somehow "less bad" than stealing from an individual.

But there are significant steps that can be taken to improve the situation, to insure that Federal programs are administered vigilantly, and those who hold and seek Federal office have an obligation to devise constructive approaches and solutions to the problem. Campaign rhetoric about fraud and waste in Federal programs comes easy, but many vocal critics, trying to make political points, offer nothing but empty phrases.

Governor Reagan, the Republican nominee, is a prime example. Everyone knows his promises to reduce taxes; sharply increase defense spending; maintain all vital services and balance the budget at the same time. How is he going to do that? Easy—"cut out fraud and waste." Governor Reagan apparently thinks that there is a line item in the Federal budget labeled "fraud and waste." I guess that's what he means by his repeated claim that there are "simple answers." Resorting to rhetoric is certainly easier than coming up with constructive solutions to difficult problems, but the public deserves something more.

Through my Subcommittee on Governmental Efficiency, I have worked to pinpoint reasons that fraud and waste in Government occur and devise ways to combat it. Today, I am introducing two bills, enactment of which would lead to a substantial reduction in the Federal Government's susceptibility to fraud and waste and an increase in its capability for fighting it. Both pieces of legislation carry forward the effort of the Inspector General Act of 1978, which I sponsored in the Senate and which is generally regarded as the Federal Government's most significant step to combat fraud, waste, and mismanagement.

The 1978 IG legislation created offices of Inspector General in 12 major executive departments which administer many domestic spending programs (earlier legislation had created IG's at HEW and Energy). The Inspector General legislation consolidated auditing and investigating responsibilities under a single high-level official reporting to the head of the department. It responded directly to the subcommittee's findings that lack of independent audit and investigative resources had crippled the Federal effort to prevent and detect fraud, waste, and mismanagement. Agencies expending billions of dollars annually were policing their operations with a handful of auditors and investigators. Moreover, the auditors and investigators who were on the job often found themselves reporting and responsible to the very officials whose programs they were reviewing—a less than ideal arrangement for promoting vigorous, independent auditing and investigation. The legislation guaranteed the independence of the new IG's, insuring that even the agency heads could not interfere with the IG's audit or investigative activities, or their reports to Congress.

The Inspector General legislation is working. Highly qualified IG's appointed by the President and confirmed by the Senate, with the independence needed to do a hard-nosed job of auditing and investigation, have identified hundreds of millions of dollars in fraud and waste and laid the foundation for thousands of prosecutions of criminal conduct and civil actions to recover moneys misspent. For example, at the Agriculture Department between April 1, 1979, and April 1, 1980, the IG's office issued 1,119 audit and 2,138 investigative reports; identified $133 million in recoveries, erroneous payments, management improvements, claims and judgments; and produced 681 indictments, largely for felonies such as food stamp trafficking or fraud in loan programs.

At HUD, the Inspector General's work during fiscal 1979 led to conviction of 182 persons or firms who received fines totaling $546,000 and aggregate prison terms of 106 years, plus indictments of 207 persons or firms conducting business with the agency. Combined audit findings of the IG and non-Federal auditors of HUD programs came to about $76.4 million in potential savings for the first half of fiscal 1980 alone. Even as they have provided a new impetus and focal point for the battle against fraud and waste, the IG's have also contributed helpful insight into further valuable steps for this effort.

I. ADDITIONAL INSPECTORS GENERAL

The first piece of legislation I introduce today would create new offices of Inspector General at the Departments of Justice, State, Treasury, and Defense and in the International Development Cooperation Agency (IDCA). The bill incorporates the provisions of S. 1548, which Senator Chiles and I introduced last year, which would enhance the powers of the IG's at Energy and HEW, to put them on a par with the dozen created in the 1978 act. Senator Chiles, who also joins me in introducing this legislation, has continuously provided great leadership in the effort—to create and maintain strong offices of Inspector General, and in the battle against fraud and waste in Government in general. Similar legislation was introduced last week in the House by Representatives Brooks and Fountain who have been leaders in the effort to create and refine the Inspector General concept.

Justice, Treasury, State, and Defense are the only executive departments which do not have statutory inspectors general at the present time. Obviously, the appropriateness of the inspector general concept for each department must be carefully assessed. However, it is my preliminary view that each of the agencies would benefit from the centralized authority over audits and investigations and the independence which are the hallmarks of the other inspectors general.

A. JUSTICE DEPARTMENT

The Justice Department assigns responsibility for its audit efforts to an Internal Audit Staff (IAS) located in the Justice Management Division. Senator Baucus' Judiciary Subcommittee held a hearing in March of this year which laid out some of the deficiencies in the current arrangement. IAS reports to the Assistant Attorney General for Administration, who also has responsibility for some programs which are subject to audit, rather than directly to the Attorney General. Further, according to Senator Baucus—

> IAS has been unstable and frequently reorganized. Its internal structure and organizational location . . . have been changed repeatedly to accommodate the whims of management.

The office lacks the resources, mandate and the sheer clout needed to effectively coordinate audit efforts in the Department of Justice.

Senators Baucus and Cochran have introduced S. 2618, legislation to statutorily upgrade the DOJ audit effort. My legislation would take a somewhat different approach by assigning existing audit responsibilities to a Department of Justice Inspector General. However, I look forward to working with them to find the best possible structure to insure a capable, independent audit capacity at DOJ.

B. THE STATE DEPARTMENT AND IDCA

In suggesting an IG for the Department of State and one for the International Development Cooperation Agency (IDCA) and its largest component, the Agency for International Development (AID), this legislation seeks to bring the important safeguards of the 1978 omnibus IG legislation to the two entities which now oversee foreign expenditures—the IG for Foreign Service at State and the Auditor General for AID, which, since the 1978 reorganization, is a part of IDCA.

As presently constituted, the IG for Foreign Service has as its chief responsibility the oversight of American embassies and missions, including evaluation of embassy operations and the grading of foreign service officers. The Auditor General of AID, meanwhile, employs a staff of 127 auditors and inspectors to investigate and audit all of the Nation's economic foreign assistance funds. Prior to 1977 some of the duties of the AID Auditor General were shared by a third audit operation—the Inspector General for Foreign Assistance (IGA)—but that office was seriously flawed and was abolished by Congress.

While the AID Auditor General has wide administrative authority, Congress has already sought to upgrade his status and responsibility; legislation which would provide him with most of the protections and guarantees of the 1978 omnibus IG law is now in conference. In addition, legislation which would equate in many respects the State Department's IG, Foreign Service, with the 1978 omnibus IG's, has also been reported to the House floor.

In my view, however, both IG operations in the foreign area should come under one omnibus umbrella. Therefore, our tentative solution in this legislation is to create: First, a statutory office of Inspector General at State with responsibility for reviewing the operations of our installations abroad; and second, a statutory Inspector General at IDCA/AID who would have the authority for reviewing all our foreign assistance operations.

C. THE TREASURY DEPARTMENT

Since 1978, Treasury has had an administratively created IG. Reporting directly to the Secretary and Deputy Secretary, the IG is authorized to conduct investigations into possible misconduct of Treasury employees, to review the ways in which Treasury offices and bureaus investigate misconduct, and to coordinate in Treasury the Government-wide program to eliminate "waste, fraud, and error."

The day-to-day inspection and audit work, however, is not handled by the Treasury IG. Each bureau has its own internal security staff, including an internal audit unit, which report to the heads of the bureau. The four major inspection bureaus are those in the Internal Revenue Service; Customs; Secret Service; and the Bureau of Alcohol, Tobacco, and Firearms. The Department itself has an Office of Audit, a policy guidance operation which until this year reported to the Assistant Secretary for Administration. While this Office of Audit now reports to the IG, it has only 15 professional slots, some of which are not filled.

In its approach to audit and investigation, Treasury resembles several of the departments which Congress decided to cover through the 1978 act. They, too, came forth with hastily created offices of inspector general, with a paucity of resources under their control, while the vast majority of the available audit, investigation, and inspection resources remained decentralized throughout the department. Treasury's IG has only six professional positions in addition to the Office of Audit; in comparison ,the internal security staffs of the bureaus employ 515 people.

Unlike most of the departments covered by the 1978 act, Treasury has a law enforcement mission; consequently, the bureaus' interests in keeping audit and investigative resources must be evaluated carefully. This legislation reflects my present view that the advantages of a centralized audit and investigative capability and the permanence resulting from a statutory IG outweigh the competing concerns of the bureaus, except for IRS, whose special mission and autonomy makes exclusion from this legislation advisable.

D. THE DEFENSE DEPARTMENT

No serious effort to combat fraud and waste in the Federal Government can overlook the Defense Department because it represents about one-fourth of the entire budget and because serious instances of waste and mismanagement at the Pentagon—compiled by Congress, GAO and the press—go back at least to the days of Senator Harry Truman.

Unlike many of its civilian counterparts, DOD commits substantial resources to audit, investigation, and inspection. The effectiveness of these units—and whether they are organized for best results—is open to serious question.

In 1978, the Governmental Affairs Committee found that many of the same problems signaling the need for Inspectors General in other departments—auditors and investigators reporting to the wrong people; lack of independence; poor cooperation with the Justice Department—prevailed at Defense. The committee eventually concluded that DOD would benefit from a statutory IG. (See Sen. Rpt. No. 95-1071, pp. 16-24.)

The idea encountered resistance from Defense, and Congress agreed to a task force study of Defense's approach to the audit, investigation, and inspection components. The task force reported in June and recommended numerous organizational changes at DOD, including a new statutory Under Secretary for Review and Oversight to insure greater focused authority over DOD's audit, investigative, and inspection efforts. In comparing the task force's recommended undersecretary to the statutory IG envisioned by the committee in 1978, I find some significant parallels and some substantial differences. The task force and the committee did agree that some statutory reorganization would be beneficial, and I look forward to working with my colleagues to devise the best possible approach.

E. THE ENERGY DEPARTMENT

As happens frequently, the Department of Energy merits a special word. It has become clear from hearings held by Senator Chiles and myself that DOE has undercut its Inspector General in almost every imaginable way virtually since the day the office opened. In 1979, while pledging to expand the IG's office, DOE sought to slash the size of his staff instead, and left the bulk of the Department's auditors in field offices outside the IG's authority. (See statement of Senator Eagleton, Congressional Record, July 20, 1979, 19875-19877.) When Congress acted through the appropriations process to prevent the potential loss—and then some—DOE continued to dawdle over whether to give the IG authority over the field auditors. The Department also resorted to increasingly brazen attacks on the IG's independence, culminating in a highly publicized and grossly inept effort to rid itself of the IG by offering him a posh job in Paris which had been custom-made for him. Senator Chiles and I have expressed our concern about the sequence of events before in a letter to Secretary Duncan on April 21, 1980, and in a joint hearing of our subcommittees on May 21, 1980.

By conforming the DOE inspector general's mandate to those of the other IG's, this legislation would provide specific additional guarantees of the IG's independence. The legislation would also order the immediate transfer of the auditors in DOE's field offices to the Office of the Inspector General. The move is long overdue, and it is crystal clear that the DOE will not act until forced.

II. STRENGTHENING INTERNAL CONTROLS

The second piece of legislation I introduce today, along with Senators PERCY and MATHIAS, is designed to strengthen the internal accounting and administrative controls maintained by Federal agencies. This is not exactly a glamorous subject, but it is a vitally important area. Comptroller General Staats has called internal controls the "first line of defense" against fraud, waste and program abuse, and he is entirely right.

At about the same time that the GSA scandal was making daily news, a GAO report stated that poor internal controls are the number one problem in Federal Government agencies. A preoccupation with detecting fraud and waste after the fact obscured the possibility that weakness in internal controls may have opened the door to abuses in the first place. As Mr. Staats has stated:

> Important as the detection of fraud, abuse and error is, detection should not be our primary concern as government managers. Our prime concern should be directed toward constructing systems of management control that will prevent fraud and abuse, make it more difficult, and decrease the likelihood of error and waste.

Horror stories where fraud, waste, and mismanagement can be directly attributed to inadequate internal controls abound. For example:

Over $25 million has been paid out erroneously because of internal control weaknesses in the supplemental security income program (GAO Report, August 9, 1979).

The Department of Justice cannot adequately monitor the collection of fraud debts because its management information system does not provide accurate and comprehensive data on such debts (GAO Report, October 25, 1979).

An IG audit of logistics operations—office supply, warehousing, and purchasing—at one NASA installation disclosed a need for several improvements in basic internal controls. Major problems were that supplies were being procured at substantially higher prices from commercial sources than prices available through GSA, and that inventory records and supply activity data were not being adequately maintained (NASA IG Report for period ending September 30, 1979).

According to the IG in the Department of Commerce, internal controls in the Bureau of the Census payroll system were inadequate to prevent duplicate payments or identify fictitious employees. Neither was the system adequate to handle the volume of transactions projected in the 1980 census year (DOC IG Report for period ending September 30, 1979).

A special audit by Inspectors General of 17 agencies, released in March 18, 1980 hearings before Senator CHILES' Subcommittee on Open Government indicates that over the last 10 years Washington-based Federal agencies bought $1.2 billion worth of new office furniture even though $373 million worth of new or slightly used furniture was in storage. Agencies have no management systems to determine what furniture they have on hand before buying new items. The audit also revealed that agencies spent $36 million on new furniture in the preceding 4 months despite a freeze imposed on such purchases by OMB and GSA.

These cases where the wrongdoing or problem was detected represent only the tip of the iceberg. The Comptroller General pointed to the existence of the iceberg in no uncertain terms testifying before the Senate Appropriations Committee earlier this year:

> Based on our work, we believe that all of the agencies visited are vulnerable to fraud and abuse. This is because Federal headquarters, regional offices, and other field locations and grantees have inadequate internal controls over their operations. As a result, there is insufficient assurance that Federal funds spent at these locations are spent for the purposes intended. In fact, during our testing of selected internal control systems, we found Federal funds and equipment that had been abused and misused at most locations visited.

GAO reports a total of 130,000 cases of fraud and other illegal acts alleged against 21 major agencies in the 2½ years ending March 31, 1979. The Comptroller General has stated that these problems occur "because of the lack of adequate internal controls over particular tasks that must be performed." Surely, sound internal controls could have greatly reduced this number.

There is a pressing need to return to basics: Strong, integrated systems of accounting and administrative controls to insure that Government employees know what to do and do it effectively, that funds are spent for what is intended, that maximum return is received for every dollar, and that services are delivered as promised.

In recent years, Congress has devoted considerable effort to making corporations and other private entities more accountable for their actions. In response to revelations concerning corporate bribery abroad, Congress enacted the Foreign Corrupt Practices Act. FCPA obligated the chief executive officers of corporations to verify that their corporations maintained internal control systems adequate to insure that such misuse of corporate funds was not occurring. Federal agency heads must be similarly accountable. It is necessary to convince Federal managers that the responsibility to deliver funds and services carries with it the obligation to do so in a financially responsible way. This requires blasting loose some ingrained attitudes. As Comptroller General Staats has said:

> The reason internal control systems are in a state of disrepair is that top management has devoted most of its concern and emphasis to delivering funds and services and that effective controls over tasks and functions which lead to the delivery of these funds and services has had a low priority. Because of top management's insufficient concern for internal controls, middle management reflects this same indifference.

The legislation I introduce today would change that approach significantly. It provides that the head of each agency would be required by December 31 of each year, beginning in December 1981, to report on the adequacy of the agency's systems of internal accounting and administrative control. GAO and OMB are required to establish the format for such reports and, more importantly, to provide guidelines for performing control evaluations.

The agency heads would be required to certify that the agency's internal accounting and administrative control systems provided reasonable assurances that the objectives of internal accounting and administrative control as specified in the legislation were achieved. Any material weaknesses which prevent the agency head from expressing an unqualified opinion that those objectives were achieved must be identified and the plans and schedule for remedying those material weaknesses described in detail.

I am under no illusion that imposing these reporting requirements on agency heads will solve all the problems which have led to fraud and waste in Federal programs. However, if this legislation were enacted, I expect that the agency heads would assume more formal responsibility for the quality of the agency's internal accounting and administrative controls, with resulting improvements in agency operations likely from top to bottom. Enacting this legislation would also reflect Congress recognition that the internal controls of Federal agencies are too important to be left to the accountants and auditors; literally billions of dollars are at stake, and the issue demands the attention of top management in the executive branch as well as the continuing oversight of Congress. It is my intention to hold prompt hearings on both measures which I introduce today.

Mr. President, I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Inspector General Act Amendments of 1980".

ESTABLISHMENT

SEC. 2. (a) Section 2(1) of the Inspector General Act of 1978 is amended—

(1) by inserting "the Department of Defense" immediately after "the Department of Commerce";

(2) by inserting "the Department of Energy, the Department of Health and Human Resources" immediately after "the Department of Education,";

(3) by inserting "the Department of Justice," immediately after "Interior,";

(4) by inserting "the Department of State," immediately after "Labor,";

(5) by inserting "the Department of the Treasury," immediately after "Transportation,"; and

(6) by inserting "the International Development Cooperation Agency," immediately after "General Services Administration,".

(b) Paragraph (1) of section 11 of the Inspector General Act of 1978 is amended—

(1) by inserting "Defense," immediately after "Commerce,";

(2) by inserting "Energy, Health and Human Services" immediately after "Education,";

(3) by inserting "State," immediately after "Labor,";

(4) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or the Treasury, the Attorney General,"; and

(5) by inserting "the International Development Cooperation Agency," immediately after "General Services,".

(c) Paragraph (2) of section 11 of the Inspector General Act of 1978 is amended—

(1) by inserting "Defense (including the Departments of Army, Navy and Air Force)," immediately after "Commerce,";

(2) by inserting "Energy, Health and Human Services" immediately after "Education,";

(3) by inserting "Justice," immediately after "Interior,";

(4) by inserting "State," immediately after "Labor,";

(5) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or the Treasury"; and

(6) by inserting "the International Development Cooperation Agency (including the Agency for International Development)," immediately after "General Services Administration,".

TRANSFERS

SEC. 3. Section 9(a)(1) of the Inspector General Act of 1978 is amended by striking out "and" at the end of subparagraphs (L) and (M) and by inserting at the end thereof the following new subparagraphs:

"(N) of the Department of Defense, the offices of that department referred to as the 'Defense Contract Audit Agency' the Defense Audit Service and the 'Office of Inspector General, Defense Logistics Agency', and that portion of the office referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations and program abuse;

"(O) of the Department of Justice, the offices of that department refered to as the 'Internal Audit Staff, Justice Management Division', the 'Evaluation Staff, Justice Management Division', and the 'Office of Audit and Investigations, Law Enforcement Assistance Administration';

"(P) of the Department of State, that portion of the office of that department referred to as the 'Office of the Inspector General of the Foreign Service' which is engaged in auditing and investigative activities;

"(Q) of the Department of the Treasury, the offices of that department referred to as the 'Office of Inspector General, Office of the Secretary', the 'Office of Audit, Office of the Secretary', the 'Internal Audit Division, Bureau of Alcohol, Tobacco and Firearms', the 'Office of Audit, Bureau of Printing and Engraving', the 'Office of Assistant Comptroller for Auditing, Bureau of Government Financial Operations', the 'Internal Audit Staff, Bureau of the Mint', the 'Division of Internal Audit, Bureau of Public Debt', the 'Office of Inspections and Audits, Office of Comptroller of the Currency', the 'Internal Audit Staff, Federal Law Enforcement Training Center', and the 'Internal Audit Unit, Office of Inspection, Secret Service';

"(R) of the International Development Cooperation Agency, the office of that agency referred to as the 'Office of Auditor General, Agency for International Development'; and

"(S) of the Department of Energy, the office of that Department referred to as the 'Office of Inspector General' in existence prior to the effective date of the Inspector General Act Amendments of 1980;

"(T) of the Department of Health and Services, the office of that Department referred to as the 'Office of Inspector General Act Amendments of 1980;'"; and

SPECIAL PROVISIONS

SEC. 4. (a) Section 8 of the Inspector General Act of 1978 is amended to read as follows:

"SPECIAL PROVISIONS: DEPARTMENT OF DEFENSE

"SEC. 8. (a) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.

"(b) The Inspector General of the Department of Defense shall conduct a further study of the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse, including a review of the findings of the task force on evaluation of audit, inspection, and investigative components of the Department of Defense, and shall make a report thereon to the Secretary of Defense and to the Congress not later than September 30, 1983. Such report shall include the views of the Inspector General concerning the desirability of further statutory and administrative changes in the organization and operations of such components.".

(b) For administrative purposes, the Office of Inspector General of the International Development Cooperation Agency may be located in such bureau or component of that Agency as the head of that Agency, with the agreement of the Inspector General, shall prescribe by regulation.

(c) The Department of Energy shall have a centralized audit system in which all Departmental auditors engaged in internal auditing and contract auditing will be a part of the Office of Inspector General. There shall be transferred to the Office of Inspector General on the effective date of this legislation the following positions:

(1) The auditor positions that were in existence as of October 1, 1979, or the current auditor positions, whichever number is greater, at the following Department of Energy Offices: Albuquerque, Chicago, Idaho, Nevada, Oak Ridge, Richland, San Francisco and Savannah River Operations Offices; Clinch River and Grand Junction Project Offices; Pittsburgh and Schenectady Naval Reactors Offices; and the Bonneville Power Administration.

(2) The auditing clerical and support positions that were in existence as of October 1, 1979, or the current auditing clerical and support positions, whichever number is greater, at the above-mentioned Department of Energy offices.

(3) Such administrative positions, numbering not less than five, as are needed to enable the personnel transferred pursuant to subsection (a) (1), (2), and (3) to discharge their responsibilities.

(d) There shall also be transferred to the Office of Inspector General of the Department of Energy the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a).

(e) Personnel transferred pursuant to subsection (d) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(f) Personnel engaged in compliance and enforcement auditing in the Federal Energy Regulatory Commission and the Energy Regulatory Administration shall not be transferred to the Office of Inspector General under this section.

AMENDMENTS TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 5. (a) Section 208 of the Department of Energy Organization Act is repealed.

(b) Section 643 of the Department of Energy Organization Act is amended by inserting "(a)" after the section designation and by adding the following new subsection at the end thereof:

"(b) The authority of the Secretary under this section does not extend to the abolition of the Office of Inspector General established in the Department by the Inspector General Act of 1978, or of any organizational unit or component of such office, or to the transfer of functions vested by that Act in such Office.".

REPEAL OF CERTAIN PROVISIONS

SEC. 6. Title II of the Act entitled "An Act to authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation." (90 Stat. 2429, approved October 15, 1976) is repealed.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 7. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following paragraphs:

"Inspector General, Department of Defense.

"Inspector General, Department of Justice.

"Inspector General, Department of State.

"Inspector General, Department of the Treasury.

"Inspector General, Department of Energy."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Inspector General, International Development Corporation Agency.".

S. 3026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—

This Act my be cited as the Financial Integrity Act of 1980.

SEC. 2. (a) FINDINGS.—

The Congress hereby finds that

(1) Fraud, waste, and mismanagement have caused a serious crisis of confidence in Federal Government programs and agencies.

(2) Fraud and errors in Federal programs are more likely to occur from a lack of effective systems of internal accounting and administrative control in the Federal agencies.

(3) Effective systems of internal accounting and administrative control provide the basic foundation upon which a structure of public accountability must be built.

(4) Effective systems of internal accounting and administrative control are necessary to provide assurance that Federal assets and funds are adequately safeguarded as well as to produce reliable financial information for the agency.

(5) Systems of internal accounting and administrative control are necessarily dynamic and must be continuously evaluated and where necessary improved.

(6) Reports regarding the adequacy of the systems of internal accounting and administrative control of each federal agency are necessary to enable the executive branch, the Congress, and the public to evaluate the

agency's performance of its public responsibilities and accountability.

(b) Policy.—

It is hereby declared to be the policy of the United States that

(1) Each Federal agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices.

(2) The systems of internal accounting and administrative control of each federal agency shall be evaluated on an ongoing basis and when detected, weaknesses must be promptly corrected.

(3) All levels of management of the federal agencies must involve themselves in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds.

Sec. 3. As used in this Act—

(a) The term "President" means the President of the United States.

(b) The term "Comptroller General" means the Comptroller General of the United States.

(c) The term "Director" means the Director of the Office of Management and Budget.

Sec. 4. Section 113 of the Accounting and auditing Act of 1950, as amended (31 U.S.C. § 66a), is amended by adding at the end thereof the following new subsection:

(d)(1) To ensure that the requirements of subsection (a)(3) of this section are fully complied with, the head of each executive agency which the Director determines to be covered by this subsection, shall prepare a report stating an opinion on the adequacy of the agency's systems of internal accounting and administrative control by December 31, 1981, and by December 31 following the end of each fiscal year thereafter.

(2) The reports shall be signed by the head of each executive agency and addressed to the President. Such reports shall also be made available to Congress and the public.

(3) By December 31, 1980, the Comptroller General in consultation with the Director shall establish a system of reporting and a general framework to guide the agencies in performing evaluations on their systems of internal accounting and administrative control. The Comptroller General, in consultation with the Director, may modify the format for the report or the framework for conducting the evaluations from time to time as deemed necessary.

(4) Internal accounting and administrative controls are to be defined by the Comptroller General, and shall provide reasonable assurances that:

(i) All obligations and costs were in compliance with applicable law.

(ii) All funds, property, and other assets were safeguarded against waste, loss, unauthorized use or misappropriation.

(iii) All revenues and expenditures applicable to agency operations were properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

Any inadequacy or material weaknesses in an agency's systems of internal accounting and administrative control which prevents the head of the agency from stating that the agency's systems of internal accounting and administrative control provided reasonable assurances that each of the objectives specified above were achieved shall be identified and the plans and schedule for correcting any such inadequacy described in detail.

(5)(a) The Inspector General of an executive agency or, if no Inspector General exists for an agency, the head of the internal audit staff, shall receive and investigate any allegation that an employee of the agency provided false or misleading information in connection with the evaluation of the agency's systems of internal accounting and administrative control or in connection with the preparation of the annual report on the systems of internal accounting and administrative control.

(b) If, in connection with any investigation under subparagraph (a), the Inspector General or the head of the internal audit staff, as appropriate, determines that there is reasonable cause to believe that false or misleading information was provided, he shall report that determination to the head of the agency.

(c) The head of the agency shall review any matter referred to him under subparagraph (b) and shall take action under Chapter 75 of Title 5, United States Code, or such other disciplinary or corrective action as he deems necessary.

By Mr. MATSUNAGA (for himself and Mr. Inouye):

S. 3029. A bill to amend the Social Security Act with respect to professional mental health services; to the Committee on Finance.

PROFESSIONAL MENTAL HEALTH SERVICES

Mr. MATSUNAGA. Mr. President, I am pleased to introduce today on behalf of myself and my colleague from Hawaii, Mr. Inouye, a bill which we believe will provide a firm foundation for great improvements to be made in mental health care under our Nation's public and private health insurance plans.

The bill would create a commission to be appointed by the President and composed of nationally recognized mental health care practitioners and researchers which, in collaboration with the Department of Health and Human Services (DHHS), would determine the mental health services that should be reimbursed under medicare and other Social Security Act programs on the basis of the best available evidence on the safety, efficacy, and appropriateness of such services.

The four principal mental health care professions—psychiatry, clinical psychology, clinical social work, and psychiatric nursing would be represented on the commission. The commission's work would take the form of recommendations to the Department of Health and Human Services concerning the mental health services which should be reimbursed under the Social Security Act, as now written, and proposals to Congress on changes to provide additional mental health services to the beneficiaries of the Federal programs.

It would also have the authority, together with the necessary funds, to propose research which it believes is necessary to validate mental health services for which the safety, efficacy, and appropriatness are still in doubt. These activities will not only promote a greatly needed expansion of the mental health service provisions in the Social Security Act; they will provide needed precedents and benchmarks for private health insurance programs as well.

Important provisions in this legislation are the elimination of the special 50 percent patient cost sharing requirement that now applies to medicare payments for outpatient psychiatric benefits and the substantial increase in the annual limit of $250 on the amount of outpatient psychiatric benefits a patient may receive. Under the bill, medicare would pay 80 percent of the reasonable charges for psychiatric services, as is presently the case for other physician's services, up to a maximum of $1,000 in reasonable charges per year. The bill would also authorize for the first time, direct professional reimbursement to clinical psychologists, clinical social workers, and psychiatric nurses who practice in health maintenance organizations and in hospital outpatient programs.

Over the past 10 years, a great deal of concern has been expressed by mental health professionals, advocacy groups, and by the general public about the adequacy of mental health benefits and the limitation on the types of providers that are eligible to participate in the medicare program. As an original cosponsor of the enabling legislation introduced in the House of Representatives which authorized the establishment of the medicare program in 1965, I have shared this concern from the very inception of the program. Indeed, I have authored and cosponsored numerous legislative proposals since 1965 which would mandate the expansion of mental health benefits and the independent participation of certain qualified mental health practitioners in the medicare program. However, these proposals unfortunately have not been acted upon by Congress to date.

With a rapidly increasing aged population, it is obvious that a new, comprehensive and coordinated strategy for providing and financing mental health care must be developed in the near future in order to meet more effectively and efficiently the growing demand for these services. Such a policy must be targeted to the care that is actually needed, rather than to cursory and often meaningless diagnoses. It must also promote appropriate care rather than focus narrowly on a specific type of professional health care provider. I believe that ultimately such a policy will benefit people of all ages.

The development of this proposal began as the result of testimony received by the Committee on Finance during its hearing on August 18, 1978, on proposals to expand the coverage of mental health under medicare-medicaid. During the hearing, Dr. Nicholas A. Cummings, then-president-elect, American Psychological Association, presented convincing testimony on the effectiveness of psychotherapy services in reducing medical care utilization in the Kaiser-Permanente Health Plan in San Francisco, Calif., over a period of 18 years.

Dr. Cummings stated that through the use of psychotherapy services during routine medical visits, the Kaiser-Permanente Health Plan was able to reduce medical care utilization by 60 percent after just one psychotherapy session. A 75-percent reduction in medical care utilization was documented by Dr. Cummings at the Kaiser plan after 5 to 8 psychotherapy sessions.

Testimony subsequently received by the committee from Dr. Donald F. Klein, director of Research, New York State Psychiatric Institute, however, raised significant questions on the general scientific validity, effectiveness, and appropriateness of psychotherapy services. Dr. Klein stated that proper scientific documentation on the effectiveness of any psychotherapy service was lacking and that in the absence of such documentation, the Federal and State governments would not be justified in expanding support of psychotherapy services with public funds.

Dr. Klein advocated the development of a carefully controlled research program to study the use of psychotherapy services for a sufficient length of time which would then provide a reasonable basis for evaluating further Government support of the services. Dr. Klein also recommended that upon the completion of the study, Government reimbursement for psychotherapy services be limited to specific diagnoses where patient benefits from treatment could be expected, based upon objective evidence.

In view of the great need to expand mental health benefits and providers under medicare and to control the rapidly rising costs of health care, I found the testimony of Dr. Cummings and Dr. Klein particularly intriguing and pertinent to my interests and the interests of the Finance Committee. The proposal which is being introduced today is the product of an extensive, yearlong consultation on this issue with the four principal mental health professional disciplines and with representatives from the Alcohol, Drug Abuse, and Mental Health Administration, Department of Health and Human Services.

I believe that this bill represents a reasonable, prudent and responsible approach to the orderly expansion of mental health benefits and qualified providers under the medicare program. It closely parallels the approach which has been pioneered by the Blue Cross and Blue Shield health insurance organizations in evaluating the safety, efficacy and appropriateness of the physically oriented medical services for which they provide reimbursement.

I do not believe that the Federal Government can any longer afford to expand health care benefits without appropriate controls to assure the safety, effectiveneric form to other health-care services provided. If this demonstration project proves successful, its application in geness and appropriateness of the services for which payment is made in whole or in part by the Federal Government will likely follow.

As a member of the Finance Committee's Subcommittee on Health, I will request hearings in the subcommittee on this proposal at the earliest possible date. I urge my colleagues to give their most thoughtful consideration on this important proposal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

To amend the Social Security Act with respect to professional mental health services.

S. 3029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XI of the Social Security Act is amended by adding at the end thereof the following new part:

"Part C—PROFESSIONAL MENTAL HEALTH SERVICES

"DECLARATION OF PURPOSE

"Sec. 1180. In order to assure that professional mental health services for which payment may be made under this Act are efficacious, safe, and appropriate to the patient's need, and in recognition of the interest of patients, the public, mental health practitioners, and providers in improved mental health care, it is the purpose of this part to assure that the professional mental health services for which payment may be made under this Act conform to appropriate professional standards.

"DEFINITIONS

"Sec. 1181. When used in this part—

"(a) The term 'psychiatrist' means a physician (as defined in section 186(r)(1)) who is Board certified by the American Board of Psychiatry and Neurology or who has successfully completed a minimum of three years of approved graduate medical training in psychiatry.

"(b) The term 'clinical psychologist' means a psychologist who is licensed or certified at the independent practice level of psychology by the State in which he so practices, possesses a doctorate degree in psychology from a regionally accredited educational institution, and possesses two years of supervised experience in health services, at least one year of which is post-doctoral.

"(c) The term 'psychiatric nurse specialist' means a nurse who is licensed to practice nursing by the State in which he so practices, possesses a Master's degree in psychiatric nursing or a related field from an accredited educational institution, and is certified as a psychiatric nurse by a duly recognized professional nurse organization.

"(d) The term 'clinical social worker' means a social worker who—

"(1) is licensed or certified as a clinical social worker by the State in which he so practices, or, if such State does not have an applicable law which provides for the licensing or certification of clinical social workers, is either listed in the Register of Clinical Social Workers of the National Association of Social Workers, or meets equivalent requirements prescribed by the Secretary;

"(2) possesses a Master's degree in social work; and

"(3) has performed at least two years of supervised clinical social work.

"(e) The term 'professional mental health care specialist' means an individual who meets the requirements of any of the preceding subsections of this section.

"NATIONAL PROFESSIONAL MENTAL HEALTH SERVICES COMMISSION

"Sec. 1182. (a)(1) There shall be established a National Professional Mental Health Services Commission (hereinafter in this part referred to as the 'Commission') which shall consist of 13 individuals appointed by the President without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) Members of the Commission shall be appointed no later than December 31, 1980, for a term of three years, except that the Secretary may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than five members shall expire in any one year. Members of the Commission shall be eligible for reappointment for no more than two consecutive terms.

"(3) The Secretary shall from time to time designate one of the members of the Commission to serve as Chairman thereof.

"(b)(1) Each member of the Commission shall be an individual of recognized standing and distinction in his field.

"(2)(A) The membership of the Commission shall include one or more of each of the following mental health care specialists, who are primarily engaged in the care of mentally ill individuals:

"(i) A psychiatrist.

"(ii) A clinical psychologist.

"(iii) A clinical social worker.

"(iv) A psychiatric nurse specialist.

"(B) The membership of the Commission shall also include—

"(i) one or more physicians (as defined in section 1861(r)(1)) who specialize in family practice or internal medicine, and

"(ii) one individual recommended by the Office of Technology Assessment.

"(C) No more than six individuals described in subparagraph (A) and clause (i) of subparagraph (B) may be members of the Commission at the same time. Such individuals shall be selected from among a number (specified by the Secretary) of qualified individuals who have been recommended to the President by national professional organizations recognized by the Secretary as being broadly representative of mental health professionals.

"(3) The balance of the Commission members shall be individuals, including at least one individual from each of the professional mental health care specialties described in paragraph (2)(A), who have achieved recognized standing and distinction in their field with demonstrated expertise in research meeting generally accepted scientific standards, and may include individuals who conduct research in the behavioral, biological, physical, or social sciences.

"(c) The Secretary shall arrange for the assignment and assistance of such technical, professional, and administrative personnel as may be found by the Commission to be qualified and satisfactory in performance, and such other assistance, as may be required to carry out the Commission's functions under this part.

"(d) Members of the Commission, while serving on business of the Commission, shall be entitled to receive compensation at a rate fixed by the Secretary (but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"(e) The Commission shall have the following duties:

"(1) To determine on the basis of careful and thorough evaluation of the most credible and professional clinical and scientific information available (with formal expressions as to the adequacy and sufficiency of such information for purposes of making definitive recommendations), which combinations of patient characteristics (including the nature and severity of the patient's condition), therapeutic techniques, characteristics of mental health professionals, and types of setting are safe, effective and appropriate in treating specified mental problems (taking into account alternative types, methods, settings, and relative expense of treatment) and to make specific recommendations (including any conditions, restrictions, or other limiting considerations) based on these determinations, to the Secretary with respect to their reimbursement under this Act. The Commission, in collaboration with the physicians' advisory panel established pursuant to subsection (f), shall also determine and submit appropriate recommendations as to those conditions (preliminary or confirmed) which would ordinarily indicate the appropriateness of a physical examination by a physician. Any such recommendation of the Commission shall include an adequate description of the clinical and other research bases (or lack thereof) upon which the recommendation is based. Effective with respect to services provided after December 31, 1980, no payment shall be made under this Act for any mental health professionals' services with respect to which the Commission formally recommends that payment not be made unless the Secretary disagrees with such recommendation and notifies the Commission in writing of his disagreement within 120 days of the date he receives such recommendation. No payment may be made under this Act for any mental health services furnished by mental health professionals or by any provider on or after January 1, 1984, unless payment therefor has been specifically recommended by the Commission and such recommendation has not been specifically disapproved. There shall be no judicial review of the Commission's recommendations nor of the Secretary's ultimate decision. No payment may be made under this Act for any mental health services which (A) in the case of an individual who is not an inpatient of a hospital or an intermediate care facility for mentally retarded persons, are not reasonable and necessary in order to prevent the patient's institutionalization, inability to carry out activities in society which are generally accepted as being essential, or becoming a danger to himself or others, or (B) in the case of an individual who is an inpatient of a hospital or an intermediate care facility for mentally retarded persons, are not reasonable and necessary in order to diagnose or treat a mental condition which necessitates diagnosis or treatment in such a facility, and which can reasonably be expected to improve or prevent the deterioration of such condition.

"(2) To develop and provide for the National Professional Standards Review Council such information and data as will assist such Council in carrying out its duties and functions under this title. The Council may in its own behalf or on behalf of individual PSRO's, transmit such suggestions or information as it believes will assist the Commission in carrying out its charge. The Commission shall also make recommendations for the establishment of a professional review program, coordinated and integrated with PSRO's, to continually and regularly review, on an adequate sample or other basis, the validity, frequency, adequacy, and efficacy of professional mental health care. The Secretary, taking such recommendations into account, shall provide for the establishment of such a system of review beginning no later than January 1, 1984.

"(3) To recommend to the Secretary such specific research projects and studies, conducted in accordance with generally accepted scientific principles, as would assist in carrying out its duties under paragraph (1) of this subsection. Such studies shall be conducted or arranged for by the Secretary in accordance with the request of the Commission except where the Secretary specifically disapproves a requested study, in whole or in part, within 180 days of the receipt of a formal request from the Commission or where the Secretary requests additional information which has not been supplied by the Commission.

"(f) There shall be established a physician advisory panel to assist the Commission in carrying out the duties specified in subsection (e) which involve a consideration of services which may be performed only by a physician (as defined in section 1861(r)(1)). Such panel shall consist of three physicians [(as defined in section 1861(r)(1)), and may include members of the Commission, who—

"(1) are individuals of recognized standing and distinction in the care of mentally ill individuals;

"(2) have been selected from among a number (specified by the Secretary) of qualified individuals who have been recommended to the President by national organizations recognized by the Secretary as being broadly representative of such physicians;

"(3) shall be appointed in accordance with subsection (a) except that the term of no more than one member shall expire in any one year;

"(4) shall be entitled to compensation in accordance with subsection (d).

If the panel disagrees with any recommendation which the Commission makes to the Secretary and which concerns the medical services referred to in the first sentence of this subsection, such panel shall submit a statement of its disagreement, and its basis therefore to the Secretary.

"(g) The Office of Technology Assessment shall submit, on an annual or more frequent basis, a report on its assessment of the Commission's effectiveness in carrying out the duties specified in subsection (e), and on such other matters as it deems to be pertinent, to those committees of the Congress having substantive jurisdiction over the provision of or payment for mental health services under this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1183. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"(b) The Secretary shall, in carrying out the provisions of this part transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, to the fund utilized for carrying out this part, amounts which the Secretary determines to be appropriate to reimburse such fund for expenses attributable to the administration of this part with respect to part A and part B of title XVIII respectively.

"(c) The amount payable with respect to the studies requested by the Commission pursuant to section 1182(e)(3) shall not exceed $20,000,000 in any fiscal year.

"SUNSET PROVISION

"SEC. 1184. The National Professional Mental Health Services Commission established by section 1182 shall cease to exist after December 31, 1990.".

INCREASED COVERAGE OF PROFESSIONAL MENTAL HEALTH SERVICES UNDER MEDICARE

SEC. 2. (a) Section 1833(c) of the Social Security Act is amended by striking out all that follows "purposes of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000.00.".

(b) Section 1861(s)(2)(A) of such Act is amended by inserting before the semicolon at the end thereof the following: "(except that such services and supplies furnished at a facility maintained by a health maintenance organization by a professional mental health care specialist employed by such health maintenance organization need not be incident to a physician's professional service)".

(c) Section 1861(s)(2)(B) is amended to read as follows:

"(B) hospital services rendered to outpatients (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) which are incident to physicians' services (except that such hospital services rendered by a professional mental health care specialist need not be incident to physicians' services):".

(d)(1) The National Professional Mental Health Services Commission, established pursuant to section 1182 of the Social Security Act, shall conduct a study, with primary emphasis on coordinated, comprehensive care properly provided in organized settings to appropriate patients under the most economical alternatives, of the need for—

(A) inclusion under title XVIII of the Social Security Act of any additional professional mental health services; and

(B) safeguards relating to utilization, cost, efficacy, safety, and quality of such services which may be appropriate.

The Commission shall give particular attention to the appropriateness of providing reimbursement under such title for the services of mental health professionals which may be appropriately furnished through community mental health centers and other organized settings.

(2) The Commission shall at the earliest practicable time, but not later than July 1, 1983, submit a report of its findings to the Secretary of Health and Human Services. The Secretary shall, within three months of the receipt of such report, submit it, together with his analysis of the findings and the estimated cost of implementing them, to the committees of the Congress that have substantive jurisdiction over title XVIII of the Social Security Act.

(e)(1) The amendment made by subsection (a) of this section shall be effective with respect to services performed after December 31, 1982.

(2) The amendments made by subsections (b) and (c) of this section shall be effective with respect to services performed after December 31, 1980.

By Mr. DURENBERGER (for himself Mr. PERCY, Mr. BENTSEN, Mr. HAYAKAWA, Mr. BAUCUS, Mr. PELL, Mr. TSONGAS, and Mr. HATFIELD):

S. 3030. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle, to exclude from gross income certain amounts received in connection with the provision of alternative commuter transportation, to provide employers a credit against tax for costs incurred in ride-sharing programs, and for other purposes; to the Committee on Finance.

COMMUTER TRANSPORTATION ENERGY EFFICIENCY ACT OF 1980

Mr. DURENBERGER. Mr. President, I am pleased to introduce the "Commuter Transportation Energy Efficiency Act of 1980." And I am particularly pleased to be joined in this significant energy conservation effort by my colleagues, Senator PERCY of Illinois, Senator BENTSEN of Texas, Senator HAYAKAWA of California, Senator BAUCUS of Montana, Senator TSONGAS of Massachusetts, Senator PELL of Rhode Island, and Senator HATFIELD of Oregon.

Mr. President, in the past decade the United States has experienced two crude oil supply interruptions as a result of events in the Middle East. The first interruption occurred in 1973–74 and led to the most severe recession since World War II. The economic impact of the oil shortfall and the resulting price increases cost the American economy billions of dollars. Each year the higher OPEC prices have caused a massive transfer of wealth from American consumers to Middle East nations.

The second disruption in crude oil supply occurred in 1979 at the time of the Iranian revolution. Once again, oil prices increased dramatically and it now appears that another recession has begun. The expected downturn in the economy will rob Americans of additional billions of goods and services. In comparison to the potential, the disruptions that have been experienced are minor events. OPEC supplies the world with 30 million barrels of oil per day and most of it is shipped through a narrow strait in the Persian Gulf. A war or terrorist act which blocked the gulf would cost the United States one-third of its daily oil supply. Although the disruptions that we have experienced created chaos in international oil markets, they did not actually reduce the amount of oil available for imports.

Faced with continued dependence on OPEC oil and the threat of supply disruptions and massive price increases, the American public has demanded a national energy policy with energy independence as the primary objective. Three administrations and four Congresses have responded with a variety of proposals.

One-half of our oil supply is used for transportation. One-half of that amount is used in the automobile. It is not surprising, therefore, that many of the policies have focused on the automobile and gasoline demand as a primary target to solve the energy crisis.

Mr. President, I have some tables which I ask unanimous consent to have printed in the Record with my comments this morning which demonstrate the relationship between automobile use and our petroleum dependence.

There being no objection, the tables were ordered to be printed in the Record, as follows:

Sector:	*MMBD*
Electric utilities	1.6
Residential and commercial	3.5
Industrial	3.2
Rail, air, water transport	2.1
Truck	1.9
Automobile	5.2
U.S. total	17.5

Source.—Automobile Transportation System, Office of Technology Assessment.

Table II.—*Passenger car use, 1969*

Passenger:	*Percent of trips*
Work-trip	36
Family business	31
Education, civic, religious	9
Social and recreational	23

Source.—Federal Highway Administration.

Table III.—*Average travel distances*

(In miles)

Purpose:	*Distance in miles*
Work-trip	19.4
Shopping	4.4
Education, religious	4.7
Family business	6.5
Medical	8.4
Visiting, social	12.0
Pleasure	20.0

From.—U.S. Department of Transportation, Federal Highway Administration *Household Travel in the U.S., Nationwide Personal Transportation Study*, Report #7, Washington, D.C., 1972, p. 4.

Table IV.—*Principal means of transportation used for work-trips in the U.S. 1975*

Means of transportation	Number	Percent
	('000s)	
All Workers	77,540	100
Automobile or truck	67,869	87.5
Single occupant	52,294	67.4
Carpool	15,575	20.1
Public transportation	4,825	6.2
Bus or streetcar	3,100	4.0
Subway	1,179	1.5
Heavy rail	405	.5
Taxicabs	141	.2
Bicycle	471	.6
Motorcycle	297	.4
Walk only	3,778	4.9
Other	299	.4

Source.—Journey to Work in the U.S., Bureau of the Census, July 1979.

Mr. DURENBERGER. Mr. President, the first table presents petroleum demand by sector in 1976. It shows that the automobile consumed more than three times as much oil as electric utilities and 50 percent more than either space heating in the residential/commercial sector or process uses in industry.

The second table describes passenger car use. It shows about one-third of all automobile trips are consumer trips to and from work.

The third table I am introducing presents the average miles traveled for each type of automobile trip. The average commuting distance between home, work, and home again, is 19.4 miles; 80 million Americans make this trip every day and 52 million make the commuting trip in a single occupant automobile. These facts demonstrate the scope of the petroleum problem and the role that daily commuting plays in our dependence on uncertain foreign oil.

Mr. President, the transportation conservation policies that have been suggested can be classified in three groups. Some attempt to reduce traffic demand by increasing the price of fuel or restricting supply. In this group we have crude oil price decontrol which President Carter announced last April and which will cost the American public $1 trillion over the next decade. A second form of price increase is the gasoline tax or oil import fee. The 50-cent-per-gallon tax most often discussed would transfer $55 billion per year from automobile drivers to the Federal Government.

Finally, there is gasoline rationing which would impose a Government-controlled limit on the amount of oil consumed. The price impact would be seen in the value of the coupons necessary to obtain gas at the pump. The Department of Energy estimates that rationing would lead to payments from businesses to individuals—mostly families with several cars—to purchase coupons. Business would of course recover this cost by charging higher prices to everyone, including those who own no cars and, thus, get no coupons. Additional billions would be added to the cost of rationing for administration.

A second type of transportation conservation policy can be called technological efficiency. These policies include modifications in automobile design and the development of alternative fuels. After the first energy crisis, Congress mandated fuel economy improvements for the American automobile. Congress is currently reexamining this mandate and representatives of the Environmental Protection Agency have suggested a mandatory standard of 85 miles per gallon by 1995. Such a standard would cost the automobile industry billions of dollars in retooling and development costs. It would also greatly alter what we know as the American car. In the area of alternative fuels, President Carter last summer proposed a synthetic fuels corporation to spend $88 billion to simply demonstrate the technology. Congress is about to approve a large portion of this program.

Reducing traffic demand through higher prices and the technological fix are the policies most often debated and most likely to be imposed by the Federal Government. As can be easily seen, these alternatives are very expensive and require much Government and regulation. There is another type of policy—modal efficiency—which has the promise of saving as much or more energy and at a far lesser cost. Modal efficiency includes the carpool, the vanpool, the bus, and other forms of mass transit. Today, there are more than 80 million commuters in America and the vast majority drive to and from work in single-occupant cars. Less than 10 percent take mass transit. Only 20-percent carpool or share a ride. This pattern of commuter traffic persists despite the fact that vanpools consume one-sixth the energy per passenger mile consumed by the single-occupant car and despite the fact that ridesharing can dramatically reduce the cost of commuting to and from work.

Mr. President, I ask unanimous consent to have two additional tables be printed in the Record which show the energy and dollar savings that can be achieved by concentrating our transportation energy policy on ridesharing.

There being no objection, the tables were ordered to be printed in the Record, as follows:

Table V.—*Energy required by urban transportation modes*

Mode:	*BUT's passenger mile*
Single occupant auto	11,000
Average automobile (1.4 persons)	7,860
Carpool	3,670
Vanpool	1,560
Heavy rail	2,540
Commuter rail	2,625
Light rail	3,750
Bus	2,610

Source.—*Urban Transportation and Energy*, Congressional Budget Office.

Table VI—*Price of commuting per person in 1979*

Mode:	*Cost in cents/mile*
Single occupant automobile	48.8
Rail transit	36.1
Two occupant atuomobile	24.4
Bus	23.1
Four occupant automobile	12.2
Ten occupant vanpool	5.7

Source.—Pocket Fact Book, 1980, Highway Users Federation.

Mr. DURENBERGER. The first of these tables is taken from a study by the Congressional Budget Office. It lists the Btu's consumed for each passenger-mile of commuting for each of the principal commuter modes. These figures reflect operating energy only. The table indicates that the vanpool is 700 percent more efficient than the automobile with a single occupant. Each of the ridesharing or mass transportation modes show significant energy savings.

Ridesharing can also save dollars. The evidence I have indicates that the average commuter trip in a single-occupant automobile can cost 50 cents per mile. With the average commuter traveling 20 miles a day, 250 days a year, the dollar savings can be truly significant.

Because ridesharing has such promise for energy conservation and for reducing the cost of the worktrip, I believe that it will be an important part of the future solution to the energy crisis. It will happen whether Government takes action to encourage it or not. In fact, thousands of vanpools are operating across the Nation today. Many of these vanpools are sponsored by companies who provide administrative and/or financial support so that their employees can save money and energy getting to work. Since about 1973 the number of vanpools has doubled each year. Today, the United States total is 7,050.

Mr. President, I have a table listing the number of vanpools operating in each State and ask unanimous consent that it be printed in the RECORD with my comments.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE VII.—*Vanpool State totals*

	No. of vans
Alabama	56
Arizona	39
Arkansas	47
California	1218
Colorado	127
Connecticut	278
District of Columbia	36
Florida	70
Georgia	23
Hawaii	16
Idaho	8
Illinois	224
Indiana	15
Iowa	53
Kansas	8
Kentucky	65
Louisiana	81
Maryland	184
Massachusetts	110
Michigan	404
Minnesota	422
Mississippi	7
Missouri	66
Montana	2
Nebraska	10
New Hampshire	4
New Jersey	864
New Mexico	10
New York	43
North Carolina	51
North Dakota	13
Ohio	42
Oklahoma	47
Oregon	22
Pennsylvania	172
Rhode Island	5
South Carolina	5
South Dakota	1
Tennessee	429
Texas	1238
Utah	10
Vermont	6
Virginia	348
Washington	112
West Virginia	1
Wisconsin	55
Wyoming	3
United States	7050

Mr. DURENBERGER. At a time when Government is considering a vast array of expensive and complicated new programs like synthetic fuels, rationing, gasoline taxes, and high Mps cars, I think it is important that we look closely at ridesharing and understand the role that it can play. The Commuter Transportation Energy Efficiency Act provides the Nation an opportunity to choose the most energy efficient and least costly solution to our petroleum problem.

Mr. President, title I of the "Commuter Transportation Energy Efficiency Act of 1980" provides a tax incentive to the individual who buys a van (commuter highway vehicle) and uses it for ridesharing. Current law only offers ridesharing incentives to the business which purchases a van for employee programs. The measure we are introducing would amend the 1978 Energy Tax Act to provide the same incentive for ridesharing that is currently available for the purchase of home insulation or storm windows. Under the provisions of CTEEA, any individual who purchased a van and used it for ridesharing over a 3-year period would be eligible for a 15-percent tax credit based on the cost of the van.

Title II of this legislation is designed to remove some of the ambiguity in current law regarding employer programs to support and encourage ridesharing and mass transit utilization by employees. This bill would exclude from taxable income any payment by an employer to an employee made as a subsidy for the cost of mass transportation, vanpooling or carpooling. If the employer provides bus fare or transportation to and from work in a vanpool, the cost of that transportation would not be included as income for tax purposes. Any administrative cost borne by the employer for ridesharing programs would also be excluded.

Section 202 of title II provides that a driver in a ridesharing vehicle who collects fees from his or her riders is not required to report the fees as taxable income.

Title III amends the current law to increase the tax incentive for businesses purchasing or leasing vans for use in employee ridesharing programs. It adds vanpool vehicles to the list of energy properties qualifying for the business energy tax credit and sets the energy percentage at 10 percent. This brings the total investment credits for the purchase of vanpool vehicles to 20 percent.

Title III makes two additional changes in the existing business incentives for ridesharing. Current law restricts the investment tax credit to vehicles used by the taxpayers employees. Under these provisions it is not possible for a third-party ridesharing management firm to receive the credit for vans leased to the employees of a client company. Third-party ridesharing firms offer great promise for small companies with few employees. Ridesharing management allows the employees from several small firms in one location to be pooled for more efficient commuter transportation. Title III provides an incentive for this arrangement by removing the word "taxpayer" from current law.

Current law also restricts the investment credit to vehicles on which 80 percent of the mileage is used for ridesharing purposes. This prevents a business from purchasing a van primarily for business purposes (that is deliveries), using it occasionally for pooling and claiming the credit. This limitation is known as the 80/20 rule.

In many cases, corporations purchase the vans and essentially loan them to the driver. The driver is responsible for maintenance and fuel, for recruiting the riders and collecting the fees. As an incentive to encourage employees to serve as drivers, the company will allow the driver to use the van in nonworking hours for personal and family purposes. The 80/20 rule restricts the attractiveness of "driver incentive mileage" as an inducement to volunteer as a driver. Therefore, the bill we introduce today excludes driver incentive mileage from the 80/20 rule.

Title IV of the "Commuter Transportation Energy Efficiency Act" provides a business tax credit for a series of costs that businesses might incur as administrative overhead for an organized employee ridesharing program. These costs include assigning personnel to manage the program, adjusting working hours to facilitate ridesharing, computer matching of potential riders and drivers, surveying the commuter transportation habits and needs of the employees, distributing information on ridesharing opportunities, improving parking facilities for ridesharing vehicles, contracting for assistance in managing a ridesharing program, providing liability insurance for ridesharing vehicles, and maintaining emergency vehicles for use of employees who commute in ridesharing vehicles to work.

This credit is limited to the amount actually incurred by the company in providing the service or to an amount based on a sliding scale whichever is less.

Mr. President, I have a table prepared which illustrates the sliding scale and ask unanimous consent that it be printed in the RECORD at this point with my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE VIII.—*Upper limit on value of business credit*

If the percentage of employees participating in the program is:	*The value of the credit is:*
0 to 14 percent	$00.00
15 to 19 percent	5.00
20 to 24 percent	7.50
25 to 29 percent	10.00
30 to 34 percent	12.50
35 to 39 percent	15.00
40 to 44 percent	20.00
45 to 49 percent	25.00
50 or more percent	30.00

Mr. DURENBERGER. Mr. President, if less than 15 percent of a company's employees participate in a qualified ridesharing program, this credit has no value. However, if more than 15 percent participate, the company is eligible for the credit and the value of the credit per employee increases as the percentage participating increases. There is no doubt in my mind that company-managed employee ridesharing programs can make a great contribution to resolving our national energy crisis. Many corporations, including 30 Minnesota-based employers led by 3M, provide administrative assistance to the vanpooling and ridesharing programs operated by their employees. Title IV of the Commuter Transportation Energy Efficiency Act offers powerful incentives for other companies to get involved in these programs.

Finally, title V of this bill restores the gasoline tax deduction against Federal taxable income for taxes paid on gasoline and motor fuels used in ridesharing vehicles. Ridesharing vehicles are defined in this title to include carpools operating at least 176 days per year and carrying an average of three persons. Gasoline taxes eligible for the deduction are State and Federal excise taxes, State sales taxes, and any import fees or other administrative or legislative fees designed and imposed to increase the price of gasoline.

Mr. President, I would like to thank Clarence Shellbetter, president of Ridesharing, Inc., who is also a member of the President's National Ridesharing Task Force, and Peter Morse, a research assistant at the Alliance to Save Energy, for their assistance in preparing this legislation and the accompanying materials. Mr. President, I ask unanimous consent that a letter from Mr. Morse and his colleagues, Linda Parke Gallagher, executive director, and Robert Rauch, general counsel, at the Alliance to Save Energy, be printed in the RECORD at this point of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ALLIANCE TO SAVE ENERGY,
Washington, D.C., August 1, 1980.
Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: We strongly support the bill you are introducing today. This legislation is an effective first step in encouraging private firms to expand ridesharing—the quickest, least costly means for reducing oil consumption.

The potential for this resource is enormous. The Alliance has done studies that show, while presently there are only 8,000 vanpools, the vanpooling market could yield 850,000 more. 850,000 vanpools would save 450,000 barrels of oil per day. That is equivalent to one-third of the oil we are now producing in Alaska.

We must expand the market quickly if ridesharing is to have a substantial effect on our energy situation. The tax credits you propose will give the private sector the incentive needed to begin that effort.

If we can be of any help in lobbying for this bill or can provide information on ridesharing that your staff needs, please do not hesitate to call us. We would be honored to testify at the hearings on the bill if the opportunity arises.

Sincerely,
LINDA PARKE GALLAGHER,
Executive Director.
ROBERT J. RAUCH,
General Counsel.
PETER M. MORSE,
Research Assistant.

Mr. DURENBERGER. Mr. President, earlier this year I introduced portions of the Commuter Transportation Energy Efficiency Act as legislation. Two of these bills, S. 2610 and S. 2611, have been reviewed by the President's National Ridesharing Task Force and I ask unanimous consent that a letter from Tom Bradley, mayor of Los Angeles and chairman of the task force be printed in the RECORD with my comments this morning.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY
OF TRANSPORTATION,
Washington, D.C., June 27, 1980.
Hon. DAVID DURENBERGER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DURENBERGER: Last year, President Carter established a National Task Force on Ridesharing comprised of major public and private sector leaders committed to implementing ridesharing programs throughout the Country. At the President's request, I have been privileged to serve as Chairperson of the Task Force.

Recently, the Task Force has had the opportunity to review your proposed legislation, S. 2610 and S. 2611. The Task Force strongly supports your efforts to increase the investment tax credit to 20%. The Task Force also supports your efforts to exclude from gross income assistance received by employees for commuter transportation by various ridesharing alternatives. To encourage all forms of ridesharing, the Task Force would urge that you expand your definition of "Qualified Transportation" to include all ridesharing modes, including carpools, vanpools, public or private commuter buses, taxipools, jitneys or public transit. This definition will insure that assistance for all forms of ridesharing can be excluded from income.

The Task Force is currently completing its Interim Report and is finalizing a series of legislative recommendations. We look forward to an opportunity to discuss these additional recommendations with you in the near future.

You have our deep appreciation and support for your continued interest in ridesharing. Please feel free to call on me or any member of the Task Force if we can be of assistance in your efforts.

Sincerely,
TOM BRADLEY,
Mayor of Los Angeles,
Chairman, National Task Force
on Ridesharing.

Mr. DURENBERGER. Mr. President, I have a third letter from one of my constituents, Dave O'Connell of the Employers Association of Greater Minneapolis, which provides an excellent outline of the problems employers are facing as a result of our current high-cost energy-intensive transportation system. I ask unanimous consent that this letter be printed in the RECORD, as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EMPLOYERS ASSOCIATION
OF GREATER MINNEAPOLIS,
June 19, 1980.
Hon. DAVID DURENBERGER,
U.S. Senator,
Washington, D.C.

DEAR DAVID: Enclosed is a copy of the Employers Association Newsletter for June 12, 1980. In my Legislative Affairs section I talked about your recent proposal for free rides to employees and then we reprinted the entire article from the Minneapolis Tribune. Every two weeks we send our Newsletter to over 1,400 members of the Association. I suspect this may generate a few letters, I know it did from our Association President and Director of Labor Relations Services.

Since I do have this opportunity, I just wanted to make a few short comments on your proposal as well.

I have spent the spring making plant visits with State Legislators to our member companies. And the one issue that almost always comes up (worker's compensation always comes up) is transportation. Before the current recession hit, many employers in this area were having trouble attracting employees and the reason is lack of adequate transportation. People can no longer afford to travel great distances to work, this limits the type of people that employers can attract. The problem is particularly serious for small employers. What do you do if you build a new plant in an industrial park out away from the downtown area and yet not in one of the highly populated suburbs? Where do you get your employees from?

The lack of an adequate mass transportation system is apparent. People cannot count on the MTC or its supporting lines to get them to work. There just are not enough routes or buses. And here is where I think your proposal makes the most sense. We should not pour high sums of money into a larger and larger mass transportation system to benefit a few private companies. What we should do is to work with those companies to develop their own systems which will take the pressure off of our failing mass transit systems.

I would like to see you look at something like industrial park car pooling, van programs, and area transit systems. When a designer or developer goes into an area and builds a new industrial park, I think they also ought to be required to look at the employment needs of the tenants and think about transportation systems that might be able to accommodate those needs. It seems to me that many developers come into an area, develop it just enough to attract the tenants and then run away from it with lots of money in their pockets. I think we ought to require these people to help with some of the concerns you have expressed.

I also feel that a better tax incentive program for small employers to buy vans for the employees is imperative. The 3M model of van pooling has been a success, we need to expand the concept to the smaller employers, the ones who cannot afford the initial outlay of capitol dollars for a fleet of vans for the use of employees.

I just visited Phillips Temro, Inc., a small company employing about 150 workers. They used to be in Bloomington. They needed a new facility so they built a brand new facility in Eden Prairie. in an industrial park. The employees wanted to stay with the company, but they did not want to drive another six miles to work. Most lived in the Bloomington area. The employees put the problem to the company and said look, we want to stay with you but we will need at least a 10 to 15% raise in order to offset the higher cost of transportation.

The employers listened and suggested a counter proposal, a 4-day work week of 10 hours a day. Which they instituted at first only for production workers, and now for everyone in the company. The result is very positive. The employees are extremely happy, their transportation costs are cut by one fifth, and the company can save money by completely shutting down on Fridays which saves energy costs. Here is an innovative approach by a private company that didn't cost the taxpayers a dime, it's highly successful, saves gas, and energy. There ought to be more incentives for this kind of action.

I believe your proposal is unique and innovative, something that many people will be sure to resist. The only criticism I have is that you are starting with Federal employees and the cost seems to be extremely high. I wonder if it might not be better to start with a different group, such as smaller employers outside of a major metropolitan area not served by a mass transit system. As I remember Washington, D.C., the mass transit system is extremely effective and people should be encouraged to make use of it. Alternative programs should only be used to supplement an effective mass transit system.

Thanks for listening, keep up the good work.

Mr. DURENBERGER. Finally, Mr. President. I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commuter Transportation Energy Efficiency Act of 1980."

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1954 Code; table of contents.

TITLE I.—INDIVIDUAL INCOME TAX CREDIT

Sec. 101. Providing a 15 percent individual income tax credit.
Sec. 102. Effective date.

TITLE II.—EXCLUSION OF QUALIFIED TRANSPORTATION INCOME FROM GROSS INCOME

Sec. 201. Qualified transportation excluded from gross income.
Sec. 202. Income from operation of transportation pools.
Sec. 203. Effective date.

TITLE III.—BUSINESS ENERGY INVESTMENT CREDIT

Sec. 301. Providing a 20 percent business investment credit.
Sec. 302. Investment credit not restricted to employers.
Sec. 303. Driver incentive mileage.
Sec. 304. Effective date.

TITLE IV.—EMPLOYERS TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS

Sec. 401. Providing a tax credit for qualified ride-sharing programs.
Sec. 402. Effective date.

TITLE V.—GASOLINE TAX DEDUCTION

Sec. 501. Providing for a deduction for qualified motor fuel taxes.
Sec. 502. Definition of qualified motor fuel taxes.
Sec. 503. Effective date.

TITLE I.—INDIVIDUAL INCOME TAX CREDIT

SEC. 101. PROVIDING A 15-PERCENT INDIVIDUAL INCOME TAX CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by

(a) inserting before section 45 the following new section:

"SEC. 44F. COMMUTER HIGHWAY VEHICLE

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost to the taxpayer to acquire a qualified commuter highway vehicle.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the credits allowable under a section of this part having a lower number of letter designation than this section, other than credits allowable by sections 31, 39 and 43.

"(2) JOINT ACQUISITION.—If any qualified commuter highway vehicle is jointly acquired by 2 or more individuals, the amount allowable as a credit for the taxable year shall be apportioned among such individuals on the basis of their respective shares of the cost.

"(C) 3-YEAR USE REQUIREMENT.—

"(1) IN GENERAL.—If, during the 3-year period beginning on the date of acquisition of any qualified commuter highway vehicle, the taxpayer—

"(A) disposes of such vehicle, or

"(B) otherwise ceases to use such vehicle as a qualified commuter highway vehicle, then the tax under this chapter for the taxable year in which such cessation or disposition occurs shall be increased by an amount equal to the amount of the credit allowed under subsection (a) with respection to such vehicle.

"(2) SUBSECTION NOT TO APPLY.—Paragraph (1) shall not apply to a disposition by reason of death.

"(3) DETERMINATION OF OTHER CREDITS.—Any increase in tax under subsection (a) for any taxable year shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart for such year.

"(d) QUALIFIED COMMUTER HIGHWAY VEHICLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified commuter highway vehicle' means a highway vehicle—

"(A) the seating capacity of which is at least 8 adults (not including the driver).

"(B) at least 50 percent of the mileage use of which can reasonably be expected to be—

"(i) for purposes of transporting individuals between their residences and places of employment, and

"(ii) on trips during which the number of individuals transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the drive), and

"(C) which is not used in trade or business.

"(2) TRADE OR BUSINESS.—For purposes of paragraph (1)(C), use of a commuter highway vehicle for the purposes described in paragraph (1)(B) shall not be considered a trade or business if—

"(A) the taxpayer would otherwise travel from his principal residence to his place of employment over such route or a similar route even if other individuals were not transported by him, and

"(B) such vehicle is generally not available to the public."

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44E the following item:

"SEC. 44F. COMMUTER HIGHWAY VEHICLES."

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and "44F."

SEC. 102. EFFECTIVE DATE.—The amendments made by the first title of this Act shall apply to taxable years beginning after December 31, 1980.

TITLE II.—EXCLUSION OF QUALIFIED TRANSPORTATION INCOME FROM GROSS INCOME

SEC. 201. QUALIFIED TRANSPORTATION EXCLUDED FROM GROSS INCOME.—

(a) Subsection (b) of section 124 is amended to read as follows:

"(b) QUALIFIED TRANSPORTATAION.—For purposes of this section, the term 'qualified transportation' means transportation—

"(1) by a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof), or

"(2) which is scheduled land or water transportation which is—

"(A) in a vehicle or vessel with seating capacity of 8 or more adults (not including the operator),

"(B) along regular routes, and

"(C) available to the general public."

(b) Paragraph (1) of section 124(d) (defining provided by the employer) is amended to read as follows:

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by the employer if—

"(A) the transportation is furnished in a commuter highway vehicle (described in subsection (b)(1)) operated by or for the employer; or

"(B) the employer pays for qualified transportation (described in subsection (b)) or reimburses the employee for the cost to the employee of such qualified transportation."

(c) Section 124 (relating to qualified transportation provided by an employer) is amended by redesignating subsection (e) as (f) and inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR RIDE-SHARING PROGRAMS.—

"(1) IN GENERAL.—For purposes of subsection (a), any services provided by an employer in connection with a ride-sharing program shall be treated as qualified transportation provided by the employer.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) RIDE-SHARING PROGRAM.—The term 'ride-sharing program' means any program to assist employees in locating other employees to share transportation between the employees' residence and places of employment

"(B) SERVICES PROVIDED BY EMPLOYER.—The term 'services provided by the employer' include but is not limited to—

"(i) any amounts contributed by the employer,

"(ii) any compensation paid to any employee operating or assisting in a ride-sharing program,

"(iii) any computer services provided by the employer,

"(iv) any one or all of the services listed in section 44(G)(d)(2) of subpart A of part IV of subchapter A of chapter 1.

SEC. 202. INCOME FROM OPERATION OF TRANSPORTATION POOLS.—

(a) Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

SEC. 128. INCOME FROM OPERATION OF TRANSPORTATION POOLS.—

"In the case of an individual who—

"(1) owns a motor vehicle the seating capacity of which is not more than 15 adults;

"(2) transports individuals between their places of residence and places of employment or other places of gathering;

"(3) would otherwise travel to one such place of employment or gathering even if he did not transport any other individuals; and

"(4) does not make such vehicle generally available to the public,

gross income does not include amounts received as compensation for the providing of transportation to such individuals."

(b) The table of sections for such subpart is amended by striking out the item relating to section 128 and by inserting in lieu thereof the following:

"128. Income from operation of transportation pools.
129. Cross references to other Acts."

SEC. 203. EFFECTIVE DATE.—The amendments made by this Title shall apply to taxable years beginning after December 31, 1980.

TITLE III.—BUSINESS ENERGY INVESTMENT CREDIT

SEC. 301. PROVIDING A 20-PERCENT BUSINESS INVESTMENT CREDIT.—

(a) Subparagraph (A) of section 48(1) (2) (defining energy property) is amended—

(1) by striking out "or" at the end of clause (viii),

(2) by inserting "or" at the end of clause (ix), and

(3) by adding at the end thereof the following new clause:

"(x) commuter highway vehicles (as defined in section 46(c) (6) (B)),".

(b) The table contained in clause (i) of section 46(a) (2) (C) of such Code (relating to energy percentage) is amended by adding at the end thereof the following new subclause:

"VII. Commuter Highway Vehicles.—Property described in section 48(1) (2) (A) (x), 10 percent January 1, 1981, December 31, 1985."

SEC. 302. INVESTMENT CREDIT NOT RESTRICTED TO EMPLOYEES.—Paragraph (6) of section 46(c) (relating to special rule for commuter highway vehicle) is amended by striking out "the taxpayer's" in subparagraph (B) (ii) (I) thereof.

SEC. 303. DRIVER INCENTIVE MILEAGE.—Paragraph (6) of section 46(c) (relating to special rule for commuter highway vehicle) is amended by adding at the end thereof the following new subparagraph:

"(C) DRIVER INCENTIVE MILEAGE.—If an individual other than the taxpayer is the regularly scheduled driver of a highway vehicle, the taxpayer shall not take into account, for purposes of determining if such a vehicle meets the requirements of subparagraph (B) (ii), the number of miles which the driver uses such vehicle for personal purposes."

SEC. 304. EFFECTIVE DATE.—The amendments made by this Title shall apply to property acquired after December 31, 1980.

TITLE IV.—EMPLOYER'S TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS

SEC. 401. PROVIDING A TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS.—

(a) Subpart A of part IV of subchapter A of chapter 1 is amended by inserting before section 45 the following new section:

"SEC. 44G. RIDE-SHARING PROGRAMS OF EMPLOYERS.

"(a) GENERAL RULE.—In the case of an employer operating a qualified ride-sharing program, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) the amount paid or incurred in connection with such program during such taxable year, or

"(2) the amount determined under subsection (b).

"(b) SUBSECTION (b) AMOUNT.—

"(1) IN GENERAL.—The amount determined under this subsection is equal to the product of—

"(A) the average number of employees of the employer during the taxable year, multiplied by—

"(B) the amount determined under the table under paragraph (2).

"(2) TABLE.—

If the percentage of employees participating in the program is:	The amount is:
0 to 14 percent	$00.00
15 to 19 percent	5.00
20 to 24 percent	7.50
25 to 29 percent	10.00
30 to 34 percent	12.50
35 to 39 percent	15.00
40 to 44 percent	20.00
45 to 49 percent	25.00
50 or more percent	30.00

"(3) DEFINITION AND SPECIAL RULES.—For the purposes of this subsection—

"(A) PERCENTAGE OF EMPLOYEES PARTICIPATING.—The term 'percentage of employees participating in the program' means a percentage equal to a fraction—

"(i) the numerator of which is the number of employees whose transportation between their principal residence and place of employment at least 176 days during the calendar year in which the taxable year begins is qualified transportation, and

"(ii) the denominator of which is the number of employees determined under paragraph (1) (A);

"(B) EMPLOYEES TAKEN INTO ACCOUNT.—For purposes of paragraphs (1) (A) and (3) (A) (i) only employees at places of employment of the employer where a qualified ride-sharing program is in operation during the taxable year shall be taken into account.

"(C) WHOLE PERCENTAGE.—Any fraction of a percentage determined under subparagraph (A) shall be rounded to the next highest whole percentage.

"(C) LIMITATIONS.—

"(1) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CERTAIN COSTS NOT INCLUDED.—No amount paid or incurred for—

"(A) the acquisition and maintenance of any vehicle (other than a vehicle described in subsection (d) (2) (I)),

"(B) fuel to operate any such vehicle, or

"(C) mass transportation fares or subsidies, shall be taken into account for purposes of subsection (a) (1).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED RIDE-SHARING PROGRAM.—The term 'qualified ride-sharing program' means any program to employees in obtaining qualified transportation between their principal residence and place of employment which—

"(A) provides at least one of the services described in paragraph (2);

"(B) is set forth in a separate written plan; and

"(C) does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) SERVICES INCLUDED.—Services described in this paragraph include—

"(A) the surveying of employees to determine current commuting patterns and interest in qualified transportation,

"(B) the distributionof informational material on the advantages and availability of qualified transportation,

"(C) contracting for assistance in establishing, sponsoring, or operating a qualified ride-sharing program,

"(D) providing assistance (including computer costs) for employee matching to establish carpools or vanpools,

"(E) assessing the impact of qualified ride-sharing programs,

"(F) signing or improving parking spaces reserved for qualified transportation vehicles,

"(G) adjusting working hours for employees participating in a qualified ride-sharing program,

"(H) providing liability insurance for qualified transportation vehicles,

"(I) providing emergency or business vehicles for the use of employees (during normal working hours) who commute to work in qualified transportation vehicles, and

"(J) such other services as the Secretary, after consultation with the Secretary of Transportation, determines contributes to the effectiveness of the qualified ride-sharing program.

"(3) QUALIFIED TRANSPORTATION.—The term 'qualified transportation' means transportation—

"(A) by a commuter highway vehicle, as defined in subparagraph (B) of section 46 (c) (6) except that such subparagraph shall be applied without regard to clause (iii) or (iv);

"(B) by any highway vehicle—

"(i) the seating capacity of which is less than 8 adults (including the driver), and

"(ii) which is used for transporting an average of 3 employees between their residences and their place of employment for at least the lessor of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such highway vehicle during such calendar year; or

"(C) which is scheduled land or water transportation which is—

"(i) in a vehicle or vessel with seating capacity of 8 or more adults (not including the operator),

"(ii) along regular routes, and

"(iii) available to the general public.

"(4) PASS THROUGH IN THE CASE OF SUBCHAPTER 5 CORPORATIONS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply."

(b) (1) The table of sections for such subpart A is amended by inserting after the item relating to section 44F the following new item:

"SEC. 44G. RIDE-SHARING PROGRAM OF EMPLOYERS."

SEC. 402. EFFECTIVE DATE.—The amendments made by this Title shall apply to taxable years beginning after December 31, 1980.

TITLE V.—GASOLINE TAX DEDUCTION

Sec. 501. Providing For a Deduction For Qualified Motor Fuel Taxes.—Subsection (a) of section 164 (relating to deduction for taxes) is amended by inserting immediately after paragraph (5) the following new paragraph:

"(6) Qualified motor fuel taxes."

Sec. 502. Definition of Qualified Motor Fuel Taxes.—Section 164 (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

"(f) Qualified Motor Fuel Taxes.—For purposes of this section—

"(1) In general.—The term 'qualified motor fuel taxes' means Federal, State or local taxes on the sale of gasoline, diesel fuel, and other motor fuels used as a fuel in a ride-sharing vehicle.

"(2) Import adjustments treated as tax.—For purposes of paragraph (1), any increase in the sales price of any fuel as a result of any action taken by the President to adjust imports of petroleum and petroleum products under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862) (or any other corresponding provision of law) shall be treated as a Federal tax imposed on such fuel.

"(3) Ride-sharing vehicle.—The term 'ride-sharing vehicle' means—

"(A) a commuter highway vehicle, as defined in subparagraph (B) of section 46(c)(6) except that such paragraph shall be applied without regard to clause (iii) or (iv), and

"(B) any highway vehicle—

"(i) the seating capacity of which is less than eight adults (including the driver) and

"(ii) which is used for transporting an average three employees between their residences and their place of employment for at least the lesser of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such highway vehicle during such calendar year.

"(4) Publication of table.—The Secretary may publish tables to assist taxpayers in computing the amount of the deduction allowable under subsection (a)(6). Such tables shall take into account—

"(A) the rate of taxes (including the price impact attributable to any import adjustment).

"(B) the number of days a ride-sharing vehicle was used for ride-sharing purposes, and

"(C) the number of miles such vehicle is used for such purposes."

Sec. 503. Effective Date.—The amendments made by this title shall apply to taxable years beginning after December 31, 1980.

Section-by-Section Analysis

Section 1. Short title; amendment of 1954 Code; table of contents.

TITLE I.—INDIVIDUAL INCOME TAX CREDIT

Section 101. Providing a 15% individual income tax credit.

This section provides an individual income tax credit equal to 15% of the cost to the taxpayer to acquire a qualified commuter highway vehicle. A qualified 'commuter highway vehicle' is a highway vehicle (van or bus) with a seating capacity of at least 8 individuals and 50% of the mileage on which is used to transport individuals between places of residence and places of employment. To qualify, the average occupancy on commuting trips must be at least one-half the seating capacity. The vehicle must be used for ride-sharing purposes for 3 years to qualify for the credit. The credit is not refundable.

Section 102. Effective date.

Amendments made by this title are effective for taxable years beginning after December 31, 1980.

TITLE II—EXCLUSION OF QUALIFIED TRANSPORTATION INCOME FROM GROSS INCOME

Section 201. Qualified transportation excluded from gross income.

This section provides that any qualified transportation service provided by the employer to the employee or any payment by the employer to the employee to subsidize qualified transportation services shall be excluded from the gross income of the employee for tax purposes.

Qualified transportation services include transportation in a ride-sharing vehicle, payments for ride-sharing transportation, compensation paid to employees operating or assisting a ride-sharing program, administrative costs of ride-sharing programs detailed in Title IV.

Section 202. Income from operation of transportation pools.

This section provides that any payment from a rider to a driver in a ride-sharing vehicle (vanpool or carpool) in compensation for providing transportation shall be excluded from the gross income of the driver.

Section 203. Effective date.

Amendments made by this title are effective for taxable years beginning after December 31, 1980.

TITLE III.—BUSINESS ENERGY INVESTMENT CREDIT

Section 301. Providing a 20 percent business investment credit.

This section adds a 10% energy investment credit for the purchase of qualified commuter highway vehicles (vans) to the business energy credits established by the Energy Tax Act of 1978 and the Crude Oil Windfall Profit Tax.

Section 302. Investment credit not restricted to employees.

The Energy Tax Act of 1978 required that commuter highway vehicles be used by the "taxpayer's" employees to qualify for the investment tax credit. This section strikes the word "taxpayer" to allow vehicles leased to an employer and owned by a third party to qualify for the investment tax credit and the business energy credit provided for in Section 301.

Section 303. Driver incentive mileage.

The Energy Tax Act of 1978 required that 80% of the mileage on a commuter highway vehicle be mileage for pooling purposes to qualify the vehicle for the investment tax credit. This limitation prevents a business from claiming the credit, if the vehicle is used primarily for other purposes and only occasionally for ride-sharing. This section excludes "driver incentive mileage" from the 80/20 rule. Driver incentive mileage is mileage put on the vehicle by the driver for his personal use. Many businesses allow drivers personal use of the vehicle outside working and commuting hours as an incentive to recruit drivers.

Section 304. Effective date.

Amendments made by this title are effective for taxable years beginning after December 31, 1980.

TITLE IV.— EMPLOYER TAX CREDIT FOR QUALIFIED RIDE-SHARING PROGRAMS

Section 401. This section provides a tax credit to the employer for the cost of providing qualified transportation services. The credit is limited to the cost of the services or a dollar amount per employee varying according to the percentage of employees participating in a ride-sharing program whichever is less. The dollar amount per employee begins at $5.00 per employee if at least 15% participate in a ride-sharing program and rises to $30.00 per employee if at least 50% participate.

Qualified transportation services specifically include surveying employees to determine commuter transportation needs, distribution of ride-sharing information, contracting for ride-sharing management, providing employee matching, adjusting hours, improving parking spaces for ride-sharing vehicles, and such other services as the Secretary may determine.

Qualified transportation services specifically exclude the cost of purchasing ride-sharing vehicles, fuel or maintenance for such vehicles and transit subsidies.

Section 402. Effective date.

Amendments made by this title are effective for taxable years beginning December 31, 1980.

TITLE V.—GASOLINE DEDUCTION

Section 501. Providing for a deduction for qualified motor fuel taxes.

This section provides a deduction for taxes paid on qualified motor fuels.

Section 502. Definition of qualified motor fuel taxes to include all federal, state and local taxes (including any import adjustment designed to raise the price of motor fuels) paid on motor fuel used in commuter highway vehicles (vans) or highway vehicles used for carpooling. A carpool is defined to be a highway vehicle with a seating capacity of less than 8 persons used for commuting at least 176 days per year and carrying an average of at least 3 persons.

Section 503. Effective date.

Amendments made by this title are effective for taxable years beginning after December 31, 1980.

By Mr. LEVIN:

S. 3031. A bill to amend title 5, United States Code, to restore to Federal civilian employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1980

● Mr. LEVIN. Mr. President, today I am introducing a bill to reform the Hatch Act as it applies to Federal civilian employees. This bill is similar to the one which I introduced earlier in this session for postal employees. The bill protects the merit system which has governed Federal civilian employment for numerous years but it also frees Federal civilian employees to engage in voluntary political activities away from work. This reform is long overdue and particularly vital considering the growing apathy which exists in today's electorate.

The Hatch Act was originally passed in 1939 in response to widely recognized abuses during the 1938 elections. Most of the abuses involved employees of various work relief programs, particularly the Works Progress Administration. Those employees were in a real sense political appointees who owed their jobs, in an era when jobs were very scarce, to the influence of some political figure. There were many who argued during the debate on the Hatch Act that the sweeping prohibitions were not necessary to cure the abuses that had occurred in the 1938 elections. Many raised the point that we may effectively be stripping Federal employees of some basic political rights. While those voices were not heeded in

1939, we do well to listen to their wisdom today.

We must seriously consider what the present day implications are of prohibiting 2.8 million Federal employees from engaging in voluntary political activity away from work. There is no threat of an army of civil servants welded together to serve the political interests of the party in power. The threat now is that too many citizens have lost interest in the political process and no longer even choose to vote. Some are predicting that less than 50 percent of the eligible voters will cast their ballots in the 1980 election. Our claim to be a "representative democracy" fades with the fading of the interest of the electorate. We must take reasonable steps to reverse this alarming trend.

This legislation is one such step. There is little justification for existing restrictions on voluntary participation of Federal employees in the political process.

While permitting Federal civilian employees to exercise their rights of voluntary political activity away from their place of work, this bill does have several sensible restrictions.

It prohibits the use of official authority, influence, or coercion with respect to the right to vote, not vote, or otherwise engage in political activity.

It prohibits solicitation of political contributions by supervisory officials and the making or soliciting of political contributions in Government buildings or rooms.

It prohibits, with certain limited exceptions, political activity while on official duty, in Federal buildings, or in uniform.

Requires that employees who seek elective office do so on their own time and that employees shall upon request, be granted accrued annual leave or leave without pay to seek elected office.

Retains the prohibitions of existing law for employees in foreign intelligence positions, law enforcement, auditing, and contracting positions which have been designated "restricted" by the Office of Personnel Management.

It is time that we allow fuller political rights to be granted to Federal employees. They are citizens and there is nothing inherent in their employment which provides a justification for denying them the right to voluntary political participation. This bill clearly lists what is allowed activity and what is prohibited. It provides for penalties for those who violate the law in regard to prohibited activity. Nothing in this legislation will interfere with the provision of service by Federal employees. We will be granting these employes most of the same rights that all our other citizens have always enjoyed.●

By Mr. MOYNIHAN:

S. 3032. A bill to amend the Internal Revenue Code of 1954 to reduce the tax effect known as the "marriage penalty"; to the Committee on Finance.

MARRIAGE PENALTY

Mr. MOYNIHAN. Mr. President, I am introducing a bill today that would reduce, and in most instances virtually eliminate, the so-called marriage penalty.

The "marriage penalty" is a well-known phenomenon. The term refers to the extra tax that some couples must pay when they get married and switch from computing their taxes individually, at the rates for single taxpayers, to filing jointly. The amount of penalty varies. It can be as high as 7.4 percent of a husband and wife's after-tax income. In some cases, this may add up to several thousand dollars. Or there may be no penalty at all. Couples with only one spouse working, or with both spouses working, but whose lesser-paid spouse earns no more than 20 percent of the couple's income, pay no marriage penalty. In fact, they have a marriage bonus. Their taxes are lower after they get married than they were before.

I ask, Mr. President, that a table showing how the penalties and bonuses are distributed by income grouping be printed following my remarks in the RECORD.

While the pattern of penalties and bonuses may not seem logical, it is not exactly unintended or accidental. Beginning in 1913, with the first income tax laws, each taxpayer reported and paid taxes on his own income as if he were single. There was no marriage penalty, but there were other problems.

One such problem was that eight States had community property laws that gave a husband and wife equal shares in any property that the coupled acquired during the course of the marriage. In a community property State, the husband, who was often the only spouse with income, could file separate returns for himself and his wife, splitting his income in two and taking advantage of the lower tax rates for people with less income. This was a decided advantage. It was denied taxpayers in other States.

In 1930, after some 10 years of litigation, the Supreme Court upheld income splitting in community property States in the case Poe against Seaborn. And in a companion case, Lucas against Earl, it specifically denied income splitting to an attorney who had tried to take advantage of it in a noncommunity property State by contracting to give his wife half of his fees and other earnings.

The two cases prompted four more States to adopt community property laws, and they sparked an effort in Congress to change the way married couples are taxed.

In 1948, Congress finally acted. It required that couples should file joint returns as a general rule, and it extended the advantages of income splitting to everyone by, in effect, allowing couples to split their incomes in half.

The 1948 act explains, in large measure, why some couples have marriage bonuses. Note first that income splitting offers no gain to a couple with both spouses working and each earning the same amount of money, since the couple's income is already split evenly. There are gains for others, though, and they grow in size as the salary of the second spouse approaches zero. Thus, income splitting offers the greatest gains to one-wage-earner couples, and it is they who have the largest marriage bonus.

If the tax rates had not been changed in 1948, there would probably have been a marriage bonus for every couple, except the one with both spouses working and earning the same income. Every couple, except the one, would probably be better off with income splitting, and being married, than it was before.

But the tax rates did not remain the same. They were changed in 1948 and again in 1969. The effect of these adjustments in rates—and in tax brackets—was to offset, and then some, the gains from income splitting for taxpayers with a more even income split than 80/20. A marriage penalty was created for these taxpayers. And the effect was to reduce, but not eliminate, the marriage bonus for others.

The bill I am introducing today would minimize, if not eliminate, the marriage penalty. I submit that this is a very reasonable and desirable objective. First, many Americans believe that the tax system should be "marriage neutral," that it should neither encourage nor discourage people to live alone or to get married. Eliminating the marriage penalty is a significant step toward that end.

Second, the existence of a penalty causes headaches for the Internal Revenue Service, since it gives couples an incentive to get divorced in order to reduce their taxes. During the mid-1970's, several couples tried divorce-remarriage schemes, splitting up before December 31, the day on which one's filing status is determined, and marrying again in January. The IRS announced in 1976 that it would not recognize such divorces, calling them "sham transactions." But there is nothing it can do about taxpayers who continue to live together, but do not remarry. And two cases are now pending in the U.S. Tax Court challenging the legality of the 1976 revenue ruling.

Third, the number of taxpayers who are affected by the marriage penalty—and, therefore, the degree of discomfort caused by it—is constantly increasing. In 1979, 49.4 percent of married women, still living with their husbands, had jobs. Of that number, perhaps 60 percent earned enough money to subject themselves to the marriage penalty.

The bill I have had drafted is simple and straightforward. It would give each couple a tax credit for the amount of marriage penalty, if any, on their earned income. Earned income is defined as the couple's wages, less the zero bracket amount—known until recently as the standard deduction—and personal exemptions of $1,000 apiece.

The IRS would compute the marriage penalty for each income class and income split—50/50, 80/20, so forth—and publish a table. On the top margin would be the wages of spouse No. 1 and along the left-hand margin would be the wages of spouse No. 2. A taxpayer need only match up his and his spouse's wages to determine his credit. For couples with just wages and no investment income, the credit would completely offset the marriage penalty. For others, the penalty would be significantly reduced.

In a sense, this is a version of the "optional separate filing" plan—the suggestion that married individuals should be able to pay taxes as if they were single. But unlike other versions, it is very simple for the taxpayer to use and relatively unsusceptible to abuse. The taxpayer would save time because he would not have to compute his taxes twice to determine whether filing separate returns would save him money. And a potential pitfall is avoided by addressing only the problem of the marriage penalty on a couple's wages, less the zero bracket amount and personal exemptions.

Absent such a limitation, it would be very easy for a couple to apportion their nonwage income and deductions between them in a way that would minimize their taxes. As the staff of the Joint Tax Committee explained in a recent report about the marriage penalty:

> If the allocation rules for investment income and deductions attempted to duplicate what would happen if the couple were not married, there would be opportunities to create marriage bonuses by careful tax planning (for example, by shifting investment income and deductions to the spouse with the lower amount of earned income . . .).

The plan was first proposed by the tax section of the American Bar Association in 1978, and it still carries their endorsement. It is an idea that I think my colleagues will find worthy of their support.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subpart A of part IV of subchapter A of Chapter 1 (relating to credits allowable) is amended by inserting immediately after section 44E the following new section:

SEC. 44F. MARRIED EARNERS CREDIT.

(a) GENERAL RULE.—In the case of married individuals each of whom has earned income for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

(1) the section 44F amount for such taxable year if the married individuals file a joint return, or

(2) one-half of the section 44F amount for such taxable year for each married individual if the married individuals file separate returns.

(b) SECTION 44F AMOUNT.—For purposes of subsection (a) of this section, married individuals' section 44F amount for the taxable year shall be the amount of tax imposed on their taxable earned income by this chapter for the taxable year in excess of the sum of the amounts of the tax that would have been imposed by this chapter on each such married individual's taxable earned income for such taxable year if each such married individual were an unmarried individual other than a surviving spouse or a head of household.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) EARNED INCOME.—The term "earned income" means income that is—

(A) personal service income within the meaning of section 1348(b)(1)(A) without regard to subparagraph (B), provided that whenever included in personal service income the term "wages" means wages as defined in section 3401(a) without regard to paragraphs (1), (2), (5), (6), (9), (13), (16) and (17), and

(B) earned income (within the meaning of section 401c(2)(A)).

(2) TAXABLE EARNED INCOME.—The term "taxable earned income" means earned income of an individual less an amount equal to one exemption allowed a taxpayer under section 151(b) for the taxable year.

(3) MARITAL STATUS.—Marital status for the purposes of this section shall be determined under section 143.

SEC. 2. (a) The table of sections for such subpart is amended by inserting after the items related to section 44E, the following new item:

"SECTION 44F MARRIED EARNERS CREDIT.".

(b) Subsection (b) of section 6096 of such Code is amended by striking out "and 44E" and inserting in lieu thereof "44E and 44F".

SEC. 3. The amendments made by sections 1 and 2 shall apply to taxable years beginning after December 31, 1980.

EFFECT OF MARRIAGE ON TAX LIABILITY AT SELECTED INCOME LEVELS AND EARNINGS SPLITS BETWEEN HUSBAND AND WIFE[1]

Total family income	Share of lesser-earning spouse										
	0	5	10	15	20	25	30	35	40	45	50
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
$5,000	−250	−210	−170	−133	−98	−63	−28	0	0	0	0
$7,000	−378	−315	−252	−189	−126	−66	−10	46	98	147	168
$10,000	−475	−370	−275	−180	−85	10	100	162	182	200	202
$15,000	−710	−515	−328	−148	32	132	183	220	236	243	251
$20,000	−1,092	−760	−460	−160	42	150	238	300	355	381	391
$25,000	−1,505	−1,055	−630	−268	−30	160	310	447	535	594	611
$30,000	−1,929	−1,334	−749	−334	−26	214	439	644	785	875	903
$40,000	−2,801	−1,821	−939	−338	177	667	1,031	1,329	1,564	1,644	1,692
$50,000	−3,344	−2,094	−1,094	−286	454	1,133	1,731	2,121	2,439	2,574	2,674
$100,000	−3,464	−1,214	359	1,691	2,699	3,474	4,014	4,314	4,369	4,394	4,394

[1] Assumes that taxpayers have no dependents and do not itemize deductions. Marriage penalties would be smaller, and marriage bonuses larger, for itemizers. Marriage penalties are positive in he table, marriage bonuses are negative.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 3035. A bill to amend the Trade Act of 1974 to provide readjustment assistance to workers and firms supplying essential parts or services, or extracted minerals, to import-impacted firms; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE

● Mr. LEVIN. Mr. President, today I am introducing a bill on behalf of myself and Mr. RIEGLE which will extend Trade Adjustment Assistance benefits to those workers in the mineral extraction industries. Under current law, only those workers in firms which produce a product impacted by imports competitive with that product are eligible. The House of Representatives has passed a bill, H.R. 1543, which would make those supplying essential parts or services to the impacted firm eligible for TRA. This bill is currently pending on the Senate calendar.

Those workers who mine or extract the minerals that go into the manufacture of the parts for impacted products are injured as much as those who produce the parts. In Michigan, 2,000 iron ore workers were recently laid off. This was a direct result of the severe problems of the auto industry. These iron ore workers were as severely impacted as the auto workers and for the same reasons. This is not a subtle connection but a rather direct one. Iron ore is the essential product in the manufacture of autos. The Senate report for H.R. 1543 makes that point by indicating that under that legislation, if steel were the impacted product, iron ore miners would be covered. It seems to me that it makes eminent sense to carry these benefits one step further. Of course, under my bill not all workers in an industry would be covered, for it would be necessary to prove that a particular direct and significant supplier relationship existed between the mineral extraction firm and the supplier firm and that the employment in the mineral extraction firm was adversely affected by imports competing with the impacted product.

It would not only be iron ore miners who would benefit. Many minerals, such as copper, bauxite and lead, go into the production of parts which contribute to the makeup of impacted imports and employees of firms which extract these minerals could also be certified if this legislation was adopted. The Congressional Budget Office estimates that if this bill is adopted and these employees become eligible for TRA, 15,500 workers would receive benefits in fiscal year 1981 at a cost of $40 million.

The history of TRA legislation demonstrates that its purpose is to provide assistance to those employees in firms which have been impacted by the changing patterns of international trade. As part of the U.S. trade policy, which has increasingly been to reduce barriers to foreign imports, we have provided these benefits to those employees of companies who have lost their jobs because of a decrease in sales or production due to an increase in imports. It is certainly logical to extend TRA to those workers employed in firms which extract minerals when they have also been injured through the loss of their jobs due to imports.●

By Mr. COCHRAN:

S. 3036. A bill to encourage on-the-scene emergency care aboard aircraft by relieving licensed medical personnel and air carrier employees from civil liability for damages resulting from any act or omission in rendering such care; to the Committee on the Judiciary.

THE GOOD SAMARITAN ACT

Mr. COCHRAN. Mr. President, there are literally thousands of inflight emergencies which occur each year aboard passenger aircraft. Incredibly, basic medical equipment is not available on board these aircraft to deal with these emergencies. According to the Federal Aviation Administration, such equipment is not provided because airline employees, as well as any doctors or nurses who happen to be on board, can be held personally liable for offering emergency assistance to an ill or injured passenger.

I am, therefore, introducing legislation to encourage on-the-scene emergency care aboard aircraft rendered by licensed medical personnel and air carrier employees. This bill would eliminate the civil liability of such persons who render medical assistance in good faith in an emergency situation. Not only will such legislation help eliminate the possibility of improper litigation, more importantly it will encourage airlines to provide better medical equipment and assistance to those passengers who find themselves suddenly in need of such assistance.

There is broad support for such legislation from the Nation's air carriers, airline pilots, flight attendants and the medical profession. They realize as I do that such action is necessary to help insure the safety of passengers. The bill would provide legal protection to the people who can best provide assistance when a medical emergency arises.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Good Samaritan Act".

Sec. 2. Any licensed medical personnel, or any air carrier employee who, in good faith, renders emergency care to an injured or ill person aboard an aircraft shall not be liable for any civil damages as a result of any act or omission by such licensed medical personnel or air carrier employee in rendering such care, except for any act or omission done with intent to cause damage or recklessly and with knowledge that damage would probably result. Any such licensed medical personnel or air carrier employee shall not be liable for any such act or omission in rendering continued emergency care to the injured or ill person from the time of disembarkation and continuing through transportation from the aircraft to a medical facility for further treatment or care: *Provided however*, That nothing contained herein shall be deemed to alter or abridge the authority of the pilot in command of the aircraft, including whether, where or when emergency care should be rendered.

Sec. 3. The relief from liability accorded by section 2 of the Act shall extend to the owner or operator of any aircraft subject to this Act, to the cockpit crew and cabin attendants of said aircraft, and to the employer of any other protected employee, said persons being further relieved from liability by reason of the carriage aboard any aircraft subject to this Act of medical supplies, drugs, and equipment intended for emergency care.

Sec. 4. The relief from liability accorded by sections 2 and 3 of this Act extends to actions brought in both Federal and State courts of the United States.

Sec. 5. For purposes of this Act—

(1) the term "licensed medical personnel" means any person, including a physician or a nurse, who is licensed in any of the States, including the District of Columbia, territories or possesions of the United States to practice medicine or to render services ancillary thereto;

(2) the term "air carrier employee" means any person who is employed by any air carrier, as the latter term is defined in section 101(3) of the Federal Aviation Act (49 U.S.C. 1301);

(3) the term "good faith" means a reasonable opinion that the situation is such that the rendering of care is needed and should not be postponed;

(4) the term "emergency care" means care, first aid, treatment, or assistance rendered to an injured or ill person, and includes providing or arranging for further medical treatment or care for such person; and

(5) the phrase "aboard an aircraft" includes—

(a) civil aircraft of the United States;

(b) aircraft of the national defense forces of the United States;

(c) any other aircraft within the United States;

(d) any other aircraft outside the United States—

(i) that has its next intended destination or last point of departure in the United State, if that aircraft next actually lands in the United States; or

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircaft lands in the United States with the alleged offender still aboard; and

(e) other aircraft leased without crew to a lesee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States; from the time of embarkation of any States;

from the time of embarkation of any through flight and culminating with the disembarkation of all flight crew members and passengers.

By Mr. MOYNIHAN (for himself and Mr. Jackson):

S. 3037. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

RECONSTRUCTION FINANCE CORPORATION ACT OF 1980

Mr. MOYNIHAN. Mr. President, my colleague, Senator Jackson, and I are introducing a bill today that would create a new Reconstruction Finance Corporation.

The new RFC would serve as a lender of last resort to financially-troubled businesses and municipalities, providing a safety net for them in times of fiscal crisis. The need for this was eloquently argued by Felix Rohatyn in the Washington Post of June 20, 1980, where he wrote that "Both of these national problems—large business failures and major municipal difficulties—require national initiatives." The new entity embodied in our bill would retain the essential features of its namesake, the Depression-era Reconstruction Finance Corporation and of the antecedent War Finance Corporation. But it would have a somewhat narrower and more clearly-defined purposes.

That purpose is simply stated: it is to help businesses that are about to become insolvent—and whose loss would have "an adverse and severe effect" on the general economy—either to become profitable again or to shut down in as short a time as possible without destabilizing the economy. For municipalities, the RFC would extend credit on condition that they straighten out their finances. The agency would start with $3 billion in capital, and have the authority to borrow another $30 billion by selling bonds. It would be limited to lending money and issuing loan guarantees to borrowers who meet its stringent conditions.

The old RFC had a broader charter. It was a product of the Hoover Administration, and lasted from 1932 to 1954. It is probably best remembered for saving thousands of banks, railroads and businesses through massive loans and investments. During its heyday, from 1932 to 1945, the agency loaned or gave away more than $35 billion and, in the words of its administrator, Jesse Jones, it "grew to be America's largest corporation and the world's largest and most varied banking organization."

During the Second World War, Congress gave the RFC still broader powers, directing it to do whatever it could to advance the Nation's preparations for battle. The RFC set up a Defense Plant Corporation to buy factories and mills and lease them to private companies to operate. It had a Defense Supplies Corporation that purchased various strategic materials and stockpiled them. Its Rubber Reserve Company was responsible for creating the domestic synthetic rubber industry. And there were literally hundreds of other such corporations, as well.

There are two reasons why we now need a contemporary counterpart. First, the 1980's will be a period of difficult economic adjustment, as we wean ourselves from dependence on OPEC and strive to restore our international competitiveness as a producer and exporter of manufactured goods. The transition will almost certainly be painful. But if it is too painful to too many people and communities it may be slowed down considerably or not occur at all.

The RFC served us well in similar circumstances. Of the more than $35 billion that it loaned or spent, only $9.3 billion was unrecoverable. and the loss was foreseen and specifically authorized by Congress as a contribution to the war effort. President Hoover remembered the agency as one of his most important accomplishments, writing in his memoirs "I summarize here the highlights of our successes . . . First. We created the Reconstruction Finance Corporation." I see the need for such an adjustment mechanism today.

Second, we must do a better job of

spelling out precisely how, and under what conditions, we will help failing businesses and fiscally distressed municipalities in the future. Setting up an RFC forces us to do so. Indeed, that is a major function of the bill.

Four times during the past ten years, we have voted loan guarantees or other aid from private companies. In 1970, Congress approved up to $125 million in guarantees for the Penn Central Railroad. The following year, it passed a bill offering a Federal loan guarantee of $250 million for the Lockheed Aircraft Corp. The vote on that bill was 49 to 48 in the Senate and 192 to 189 in the House, and the debate lasted almost 6 months.

In 1974, Congress rejected a request by Pan American for an emergency subsidy of $10.2 million a month, but voted instead to raise the airmail rates paid by the U.S. Postal Service to airlines that carry U.S. mail overseas. Then late last year, we voted a complex and arduously-negotiated program to undergird the Chrysler Corp., involving up to $1.5 billion in Federal loan guarantees.

I do not dispute the fact that there are times when one needs to assist such corporations. We cannot permit the financial distress of individual enterprises to spread and cause severe dislocation to the general economy. But we need a far better process for defining how and under what conditions the Federal Government will help businesses. I believe we need a set of general principles, and an independent body to implement them, rather than to continue the present practice of handling requests by individual companies on an ad hoc basis as crises arise.

But some caution is required. One must be careful to avoid repeating the mistakes of the British with their National Enterprise Board. The NEB, which was set up in 1975, to "promote industrial efficiency" and "safeguard productive employment," not only lends money to ailing businesses, but also buys them when all else has failed. This approach has resulted in British Shipbuilding, British Steel, and British Leyland. None of these companies shows any sign of ever becoming profitable. In the meantime, the need to subsidize them has forced Britain to divert a growing share of her liquid capital to inefficient and unproductive uses.

The bill I am introducing today has twelve sections, described in the accompanying fact sheet. I want to highlight the key provisions.

The RFC would be managed by a seven-member Board of Directors. The Treasury Secretary, the Federal Reserve Board Chairman and the Chairman of the Council of Economic Advisers would be Board members, by virtue of their positions, and that the President would name four additional Directors whose appointments would require Senate confirmation. No more than two could be members of the same political party. The general powers of the corporation are spelled out in section 4.

Sections 5 and 6 are the heart of the bill. Under section 5, the RFC would be empowered to lend money or issue loan guarantees to businesses that, in the opinion of the RFC Board, are about to become insolvent and that, were they to fail, would cause a severe disruption of the national economy, or of the economy of a multi-State region. In addition, the businesses must be unable to find credit elsewhere. The intention, as I said earlier, is not to interfere with the dynamics of capitalism, a process that Joseph Schumpeter called one of "creative destruction," but rather to provide an adjustment mechanism that would ease the pain from that process.

Businesses that the RFC has reason to believe can be made profitable again would be treated differently from those that ought simply to be shut down. For the potentially profitable, the company—or, possibly, the RFC—would draw up a plan of reorganization and recovery. Once it has come up with a plan that the RFC Board considers realistic and feasible, it would be eligible for loans and guarantees. The RFC could not provide more than half the aid required under the plan. And there is a general limit on aid to any one business or municipality of $1.65 billion.

For a company about to fail and unable to draw up a plan that the Board is "reasonably certain" will restore it to profitability, the RFC would only be able to lend money or guarantee loans on condition that the company has a plan of gradual liquidation that would shut it down in as short a time as possible, while minimizing the disruption to the economy.

In addition, the RFC would have limited authority to buy the assets of a failing company, or to lend money to another, healthy concern in situations where, by doing so, the RFC would reduce its losses and make the failing company sufficiently attractive that another concern would take it on. This provision resembles one in the charter of the Federal Deposit Insurance Corporation which can take such extraordinary steps to get a healthy bank to merge with a failing or failed one.

Aid to municipalities may be required for somewhat different reasons. The New York Times said it well in a July 27 editorial. "Turmoil in the national economy is forcing a (new) phase in the enduring urban crisis," the Times noted:

> Even older cities that were getting by five years ago are in crisis today as their service economies, drained of much industrial employment, hit the rocky bottom of inflation and recession. This developing (new) phase of the urban crisis may be the toughest of all, requiring unprecedented national help.

Indeed, the new phase is not really an "urban" crisis at all—it is a problem of national dimensions. The cities have not the means to solve it by themselves.

The nature and origin of the crisis are well known. Many cities have lost industries and workers to the suburbs. Left behind is a population and economic infrastructure that generates too little wealth to pay for the welfare, medical, educational, and other social services that a humane society must provide. Consequently, many cities are strained to the breaking point. Add a major recession and, for many cities, the strain becomes unmanageable. The urban poor are the first to be laid off and the last to get back their jobs.

There is little, in the short run at least, that a city can do. It may increase its taxes, or lay off sanitation workers and teachers, but the higher taxes, or dirty streets and crowded classrooms make it a less desirable place to live. This causes remaining businesses and people to flee, and leaves the city in an even worse position than it was before.

It is up to the national government to improve the economy so that the urban poor will be employed. But until this has been done, the Government should stand ready to serve as a lender of last resort to cities in need.

A municipality would be eligible for aid, under our bill, if, as a practical matter, it can neither balance its budget nor borrow what it requires at fair rates in the credit markets or from banks. Again, the RFC would be limited to lending money and guaranteeing loans or bonds. But before it could help a city, the State would have to set up an independent watchdog agency, with control over the city's finances, and it would have to form an entity similar to New York's Municipal Assistance Corporation to borrow for the city until it is able to meet its credit needs on its own. In addition, the city and its watchdog State agency together would have to present the RFC with a recovery plan that would give the city a balanced budget and renewed access to the credit markets in no more than 5 years, or in less time if the RFC feels it appropriate.

The RFC could have no more than $1.65 billion in credit to any one city outstanding at one time, and in no event could it pay more than half of the deficit during the period of time covered by the city's recovery plan.

Section 7 outlines the terms and conditions for RFC aid. In general, any loans would have to be fully and adequately secured. The Government would have a first lien on any property in case of default. And the agency would charge its clients whatever it cost the Government to borrow.

The corporation would start with $3 billion in capital stock and would be owned entirely by the Federal Government. During hearings and subsequent deliberations, we will consider where this money would come from. Some have suggested that a 50 cent-per-gallon tax on gasoline, the proceeds of which would pay for the RFC. I have also heard it suggested that the necessary capital might be raised through a special surtax on large corporations. That is an issue that must be considered and debated. For the present, the bill simply authorizes the entire $3 billion.

Finally, the RFC would have authority to borrow up to 10 times its subscribed capital stock, that is, up to $30 billion.

Mr. President, enactment of this bill is a necessary step down the road to economic recovery. It is a large step. I do not suggest that it is the only step that must be taken. I would hope that, in conjunction with my colleagues, it will prove possible within the very near future to come forward with additional measures that would result in a more effective partnership among the Federal Government, private industry and labor in securing the needed economic reinvigoration of the United States.

I ask unanimous consent that the bill be printed at this point in the Record, together with the fact sheet summarizing its provisions and Mr. Rohatyn's article.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited at the "Reconstruction Finance Corporation Act of 1980."

Sec. 2. Creation of Corporation.

There is created a Reconstruction Finance Corporation (hereinafter referred to as the "RFC").

Sec. 3. Board of Directors.

(a) Composition of the Board.—The management of the RFC shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of seven members, three of whom shall be the Secretary of the Treasury (or, in his absence, the Undersecretary of the Treasury), the Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the Council of Economic Advisers, who shall be members ex officio. Four other individuals shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Directors appointed by the President.—The term of each Director appointed by the President shall be three years, but a Director may continue in office after the expiration of his term until a successor has been appointed and confirmed. Whenever a vacancy shall occur among the Directors so appointed, the individual appointed to fill such vacancy shall hold office for the unexpired portion of the term of the Director whose place he is selected to fill. No more than two of the Directors appointed by the President shall be members of the same political party. Each shall receive salaries at the rate of $50,112 per annum.

(c) Conflicts of interest.—No Director, officer, attorney, agent or employee of the RFC shall in any manner, directly or indirectly, participate in the deliberation upon or in the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

Sec. 4. General Powers.

Immediately upon enactment of this Act, the RFC shall become a body corporate and as such shall have power—

(a) To adopt and use a corporate seal.

(b) To have succession until dissolved by an Act of Congress.

(c) To make contracts.

(d) To sue and be sued, to complain and defend, in any court of competent jurisdiction, State or Federal.

(e) To appoint by its Board of Directors (subject to the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5) such officers and employees as shall be necessary for the transaction of the business of the RFC, to define their duties, to fix their compensation, and to require bonds of them and fix the penalty thereof.

(f) To prescribe, amend and repeal, by its Board of Directors, bylaws, rules and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised and enjoyed, including the selection of its Chairman and Vice Chairman, together with provision for such committees and the functions thereof as the Board of Directors may deem necessary for facilitating its business under this Act.

(g) To make use of the United States mails in the same manner and upon the same conditions as the executive departments of Federal Government.

(h) To do all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all the rights and powers granted to it.

Sec. 5. Special Powers; Financial Aid to Eligible Business Entities

The RFC is authorized to extend aid, in the forms and under the terms and conditions described herein and in section 7, to any eligible business entity.

(a) "Business entity."—For purposes of this Act, the term "business entity" means any individual, corporation, company, association, firm, partnership, society or other concern that is engaged in the manufacture or production of goods and services in the United States.

(b) Eligibility.—A business entity is eligible for aid if the Board has certified that the entity is certain to become insolvent, that its closure would adversely and severely affect the economy of the United States or any sizable region thereof, and that credit is not otherwise available to the entity on terms and conditions that are conducive to its survival.

(c) Forms of aid.—

(1) The RFC may, in the discretion of its Board of Directors, lend money to any eligible business entity, or guarantee the payment, in whole or in part, of interest, principal, or both, on loans made by non-Federal lenders to any such entity: *Provided*, That

(A) the Board has obtained or developed a Plan of Reorganization and Recovery that, in the judgment of the Board, is reasonably certain to restore such entity to profitability within the period for which credit or other assistance is extended. The Plan must specify all actions to be taken, including reductions and other economies, sources of revenue and other credit, and the contributions to be made by all interested parties. The Board shall review such Plan periodically, and from time to time make such revisions as shall be necessary to keep the Plan realistic and feasible; and

(B) where no such Plan of Reorganization and Recovery can be obtained or developed, the Board has obtained or developed a Plan of Gradual Liquidation that, in the judgment of the Board, will lead to the closing of the entity in as brief a period as possible without having an adverse and severe effect on the economy, but in no case longer than 3 years.

(2) Whenever, in the judgment of the Board, such action would reduce the risk or avert a threatened loss to the RFC and would facilitate a merger or consolidation of an eligible business entity with another business entity, or facilitate the sale of assets and the assumption of liabilities of an eligible business entity by another business entity, the RFC may purchase any such assets, or lend money or guarantee the payment, in whole or in part, of interest, principal, or both, on a loan by a non-Federal lender to another business entity: *Provided*, That any assets so acquired are sold by the RFC as soon as is practical, but in no case longer than 2 years.

Sec. 6. Special Powers; Financial Aid to Eligible Municipalities.

The RFC is authorized to extend aid, under the terms and conditions described herein and in section 7, to any eligible municipality.

(a) "Municipality."—For purposes of this Act, the term "municipality" means a city, township, or other political subdivision of a State (other than a county) which is a unit of general government, including the District of Columbia.

(b) Eligibility.—A municipality is eligible for aid if the Board has certified that the municipality is effectively unable to bring all of its expenditures other than capital items into balance with its revenues and to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the municipality's financing needs.

(c) Forms of Aid.—The RFC may, in the discretion of its Board, lend money to any eligible municipality, or guarantee the payment, in whole or in part, of interest, principal, or both, on loans made by non-Federal lenders to such municipality: *Provided*, that

(1) the State (except in the case of the District of Columbia) has created an agency, board, or other entity authorized by the law of the State to control the fiscal affairs of such municipality during the entire period for which assistance under this section will be outstanding (hereinafter referred to as the "independent fiscal monitor");

(2) the State (except in the case of the District of Columbia) has created an agency, board or other entity authorized by the law of the State to act on behalf of or in the interest of the municipality as its financing agent; and

(3) the municipality has submitted, with the approval of the independent fiscal monitor, a Recovery Plan that, in the judgment of the Board, will enabe the municipality to bring all of its expenditures other than capital items into balance with its revenues, in a budget reported in accordance with accounting principles established under State law, and to resume borrowing for itself to the full extent required, within a reasonable period of time, but in no case more than 5 years.

(d) Interest on certain guaranteed obligations to be taxed.—Section 103(f) of Title 26, United States Code, is amended by inserting ", or under section 6 of the Reconstruction Finance Corporation Act of 1980," immediately after "New York City Loan Guarantee Act of 1978."

Sec. 7. Special Powers; Limitations and Conditions.

(a) Limits on the Amount of Aid.—

(1) In no case shall the aggregate amount of aid given under sections 5 and 6 of this Act to, or in connection with, any one business entity and its subsidiary or affiliated business entities, or any one municipality—

(A) exceed at any one time 5 per centum of the sum of (i) the authorized capital stock of the RFC, plus (ii) the aggregate amount of bonds of the RFC authorized to be outstanding when the capital stock is fully subscribed;

(B) exceed, in the case of an eligible business entity with a Plan of Reorganization and Recovery, 50 per centum of the amount of aid required by such Plan (without regard to any subsequent revisions to it); and

(C) exceed, in the case of an eligible municipality, 50 per centum of the deficit in the operating budget of such municipality during the period covered by its Recovery Plan.

(2) The aggregate of the principal amounts of the loans outstanding at any one time with respect to which guarantees have been made and of the loans that the RFC has made directly shall not exceed 10 times the sum of the subscribed capital stock of the RFC.

(b) Terms and Conditions for Loans and Loan Guarantees.—

(1) Each loan or loan guarantee made under section 5 or 6 of this Act may be made for a period not exceeding 10 years, though in no case shall the period exceed the useful

lives of any physical assets purchased with such loan. The RFC may from time to time extend the time of payment of any loan, through renewal, substitution of new obligations, or otherwise, but the time for such payment shall not be extended beyond 12 years from the date upon which the loan was made originally.

(2) Each such loan shall bear interest at a rate not less than the current average market yield (as certified by the Secretary of the Treasury to the RFC) on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan adjusted to the nearest ⅛th of 1 percent.

(3) Each such loan shall be fully and adequately secured except that such requirement may be waived by the Board for loans made pursuant to a Plan of Gradual Liquidation. The RFC, under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loan. Each such loan may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the RFC may approve, except that no loan or advance shall be made upon foreign securities or foreign acceptances as collateral or for the purpose of assisting in the carrying or the liquidation of such foreign securities and foreign acceptances.

(4) The RFC may not guarantee a loan unless it determines that the terms, conditions, and security (if any), and the schedule and amount of repayments with respect to the loan are sufficient to protect the financial interest of the RFC and are otherwise reasonable, including a determination that the rate of interest on such loan does not exceed such rate as the RFC determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans.

(5) The RFC shall be entitled to recover from an applicant for a loan guarantee under section 5 the amount of any payment made by the RFC pursuant to such guarantee upon the failure of the applicant to pay when due the principal of and interest on the loan with respect to which the guarantee was made, unless the RFC for good cause waives the right of recovery; and the RFC shall be subrogated to all of the rights under such loan of the recipient of such payment.

(6) Any loan guarantee by the RFC under section 5 shall be incontestable (A) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (B) as to any person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(7) Further conditions.—Loans, and guarantees of loans and of municipal debt shall be subject to such further terms and conditions as the RFC may prescribe to carry out the provisions of this Act.

(d) PROHIBITION AGAINST FEES.—No fee or commission shall be paid by any applicant for a loan or a guarantee under this Act in connection with any such application or any loan or a guarantee made under this Act, and the agreement to pay or the payment of any such fee or commission shall be unlawful.

SEC. 8. CAPITALIZATION OF THE RFC; OTHER FINANCIAL PROVISIONS.

(a) AUTHORIZED CAPITAL STOCK.—

(1) The RFC shall have capital stock of $3,000,000,000, subscribed by the United States of America, payment for which shall be subject to call in whole or in part by the Board of Directors of the RFC.

(2) There is authorized to be appropriated the sum of $3,000,000,000 for the purpose of making payments upon such subscription when called.

(b) FUNDS ON DEPOSIT WITH TREASURY OR FEDERAL RESERVE BANK.—All monies of the RFC not otherwise employed may be deposited with the Treasurer of the United States subject to check by authority of the RFC or in any Federal Reserve bank, or may by authorization of the Board of Directors of the RFC, be used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the RFC, and the RFC may reimburse such Federal Reserve banks for their services in the manner as may be agreed upon. The Federal Reserve banks shall act as depositories, custodians, and fiscal agents for the Reconstruction Finance Corporation in the general performance of its powers conferred by this Act.

(c) ISSUANCE OF NOTES, DEBENTURES AND BONDS.—

(1) The RFC is authorized, with the approval of the Secretary of the Treasury (hereinafter referred to as the "Secretary") to issue, and to have outstanding at any one time in an amount aggregating not more than the sum of 10 times its subscribed capital stock its own notes, debentures, bonds, or other such obligations (hereinafter referred to as "obligations"). Obligations of the RFC shall mature not more than 12 years from their respective dates of issue, shall be redeemable at the option of the RFC before maturity in such manner as may be stipulated in such obligations, and shall bear such rate or rates of interest as may be determined by the RFC.

(2) The RFC, with the approval of the Secretary, may sell on a discount basis short-term obligations payable at maturity without interest.

(3) The obligations of the RFC may be secured by assets of the RFC in such manner as shall be prescribed by its Board of Directors. Obligations of the RFC may be issued in payment of any loan authorized by this Act or may be offered for sale at such price or prices as the RFC may determine with the approval of the Secretary.

(4) Obligations of the RFC shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof. In the event that the RFC shall be unable to pay upon demand, when due, the principal of or interest on obligations issued by it, the Secretary shall pay the amount of such principal or interest, which amount is authorized to be appropriated, out of any monies in the Treasury not otherwise appropriated. To the extent of the amounts so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations.

(d) SALES OF RFC OBLIGATIONS TO THE TREASURY; PUBLIC-DEBT TRANSACTIONS.—

(1) The Secretary, in his discretion, is authorized to purchase any obligations of the RFC to be issued under this section, and for such purpose the Secretary is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act or under any other general bond-issuing authority granted.

(2) The purposes for which securities may be issued under the Second Liberty Bond Act or under any other general bond-issuing authority granted are extended to include any purchases of the RFC's obligations.

(3) The Secretary may, at any time, sell any of the obligations of the RFC acquired by him under this section.

(4) All redemptions, purchases, and sales by the Secretary of the obligations of the RFC shall be treated as public-debt transactions of the United States.

(5) Obligations of the RFC shall not be eligible for discount or purchase by any Federal Reserve bank.

(e) EXEMPTION FROM TAXATION.—

(1) Any and all obligations issued by the RFC shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(2) The RFC, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the RFC shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value that other real property is taxed.

(f) FORMS OF OBLIGATIONS; PREPARATION BY THE SECRETARY OF THE TREASURY.—In order that the RFC may be supplied with such forms of obligations as it may need for issuance under this Act, the Secretary is authorized to prepare such forms as shall be suitable and approved by the RFC to be held in the Treasury subject to delivery, upon order of the RFC. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary. The RFC shall reimburse the Secretary for any expenses incurred in the preparation, custody, and delivery of such obligations.

(g) RFC AS A DEPOSITARY OF PUBLIC MONEY; OBLIGATIONS CONSIDERED LAWFUL INVESTMENTS.—

(1) When designated for that purpose by the Secretary, the RFC—

(A) shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary;

(B) may be employed as a financial agent of the Government; and

(C) shall perform all such reasonable duties, as depositary of public money and financial agent of the Government, as may be required of it.

(2) Obligations of the RFC shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) COOPERATION WITH OTHER FEDERAL AGENCIES.—

(1) In order to enable the RFC to carry out the provisions of this Act, the Treasury Department, the Comptroller of the Currency, the Federal Reserve Board, the Federal Reserve banks, the Interstate Commerce Commission, the Internal Revenue Service, and all other executive departments, agencies, boards, commissions, and independent establishments of the Federal Government, are hereby authorized, under such conditions as they may prescribe, to make available to the RFC, in confidence, such reports, records, or other information as they may have available relating to the condition of business entities or municipalities with respect to which the RFC has had or contemplates having transactions under this Act, or relating to individuals, associations, partnerships, or corporations whose obligations are offered to or held by the RFC as security for loans to business entities of municipalities under this Act, and to make through their examiners or other employees for the

confidential use of the RFC, examinations of such business entities and municipalities.

(2) Every applicant for a loan or a guarantee under this Act shall, as a condition precedent thereto, consent to such examinations as the RFC may require for the purposes of this Act and that, upon request, reports of examinations by constituted authorities may be furnished by such authorities to the RFC.

(b) Reports by the RFC.—The RFC shall make and publish a report quarterly, the first such report being made on January 1, 1981, of its operations to Congress, and each such report shall include a statement of—

(1) the aggregate loans and guarantees made to each borrower;

(2) the number of borrowers and amount borrowed segregated by States;

(3) the assets and liabilities of the RFC; and

(4) the names and compensation of all individuals employed by the RFC whose compensation exceeds $1,500 a month.

(c) Audit of Financial Transactions; Report on Audit.—

(1) The accounts of the RFC shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the RFC are normally kept. All books, accounts, financial records, reports, files, and all other papers, things or property belonging to or in use by the RFC and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) A report of each such independent audit shall be included in the appropriate quarterly report submitted to Congress under subsection (b) of this section. The report of each such independent audit shall set forth the scope of the audit and shall include—

(A) such statements as are necessary to present fairly the RFC's assets and liabilities and surplus or deficit;

(B) an analysis of the changes therein during the year;

(C) a statement in reasonable detail of the RFC's income and expenses during the previous year;

(D) a statement of the sources and applications of funds; and

(E) the independent auditor's opinion of such statements.

Sec. 10. Criminal Provisions.

(a) Willful Misrepresentations to the RFC.—Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the RFC, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than $5,000 or by imprisonment of not more than 2 years, or both.

(b) Counterfeiting and Other Mishandling of RFC Obligations.—Whoever—

(1) falsely makes, forges, or counterfeits any obligation or coupon in imitation of or purporting to be an obligation or coupon issued by the RFC;

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged or counterfeited obligation or coupon purporting to have been issued by the RFC, knowing the same to be false, forged or counterfeited;

(3) falsely alters any obligation or coupon issued or purporting to have been issued by the RFC;

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true any falsely altered or spurious obligation or coupon issued or purporting to have been issued by the RFC, knowing the same to be falsely altered or spurious; or

(5) willfully violates any other provision of this Act;

shall be punished by a fine or not more than $10,000 or by imprisonment for not more than 5 years, or both.

(c) Defrauding the RFC, its Auditors, or the Public.—Whoever, being connected in any capacity with the RFC—

(1) embezzles, abstracts, purloins, or willfully misapplies any monies, funds, securities, or other things of value, whether belonging to the RFC or pledged or otherwise entrusted to it;

(2) with intent to defraud the RFC or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the RFC, makes any false entry in any book, report, or statement of or to the RFC, or, without being duly authorized, draws any order or issues, puts forth or assigns any obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

(3) with intent to defraud, participates, shares, receives directly or indirectly any money, profit, property or benefit through any transaction, loan, commission, contract, or any other act of the RFC; or

(4) gives any unauthorized information concerning any future action or plan to the RFC which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the RFC;

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than 5 years, or both.

(d) Use of Words "Reconstruction Finance Corporation" by Others.—No individual, association, partnership, or corporation shall use the words "Reconstruction Finance Corporation" or a combination of these three words, as the name or a part thereof under which he or it does business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $1,000 or imprisonment not exceeding one year, or both.

(e) Section 433 of Title 18, United States Code, is amended by inserting "of 1980" immediately after "the Reconstruction Finance Corporation Act."

Sec. 11. Authorization of Appropriations.

There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of this Act: *Provided*, that notwithstanding any other provision of this Act, no authority to make payments, loans, or guarantees under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Sec. 12. Separability of Provisions.

The right to alter, amend, or repeal this Act is hereby expressly reserved. If any part of this Act shall for any reason by adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the Act.

Reconstruction Finance Corporation: Fact Sheet

Section 1. States the name of the proposed legislation: "The Reconstruction Finance Corporation Act of 1980".

Section 2. Creates the Corporation.

Section 3. Describes the composition of the seven member Board of Directors (the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Council of Economic Advisers, *ex officio*, plus four additional members to be appointed by the President with the advice and consent of the Senate, not more than two of whom may be members of the same political party) and prohibits conflicts of interest.

Section 4. Sets forth the general powers of the Corporation.

Section 5. Sets forth special powers with respect to aiding eligible business entities. A business would be eligible if it is "certain to become insolvent", if "its closure would adversely and severely affect the economy of the United States or any sizable region thereof" and if private credit is not available to it. The RFC is empowered to make or guarantee loans, but only if it has a "Plan of Reorganization and Recovery" describing steps to be taken to restore the financial health of the business or a gradual liquidation plan for the business. The RFC is also empowered, under certain circumstances, to purchase assets and hold them for short periods.

Section 6. Sets forth special powers with respect to aiding eligible municipalities. Loans may be made or guaranteed to municipalities that are unable to balance their expense budgets and unable to obtain credit elsewhere, provided that certain requirements are satisfied. These include the creation by the state of a fiscal "watchdog" agency for the municipality, and the preparation of a "recovery plan" for the municipality.

Section 7. Sets forth the limits and conditions on RFC aid, which may not exceed half of the aid required by a business' Plan of Reorganization and Recovery or of the deficit described in a municipality's Recovery Plan, nor may the aid to any business or municipality exceed $1.65 billion.

Section 8. Capitalizes the RFC at $3 billion, to be subscribed by the federal government. The RFC is also authorized to issue notes, bonds and other obligations, guaranteed by the federal Treasury, up to $30 billion.

Section 9. Sets forth a number of administrative procedures and arrangements.

Section 10. Provides criminal penalties for willful misrepresentations to the RFC, mishandling of RFC obligations and defrauding the RFC.

Section 11. Authorizes "such sums as may be necessary" to carry out the provisions of this act.

Section 12. Provides for the separability of the Act's various provisions should any of them be invalidated by a court.

Reconstructing the RFC

(By Felix Rohatyn)

Recent economic developments suggest the need for a new version of the Reconstruction Finance Corporation of the 1930s. In the private sector, there now exists the prospect of major business failures. We need only examine the present conditions in the auto, airline and steel industries to foresee the possibility of future petitions, similar to Chrysler's, for federal assistance to avert massive bankruptcy. Certain of our large financial institutions are also considerably more fragile than they seem.

A comparable condition besets major American cities. New York City is unlikely to regain full access to public markets by the end of fiscal 1982, as anticipated when Congress authorized loan guarantees in 1978. The combination of economic decline and reduction in anticipated federal aid has caused repeated modification in the city's financial plan, showing potentially large budget gaps for 1982.

With some variation, the same picture may be drawn for Cleveland, Chicago, Philadelphia, Newark and other cities. Local action to raise revenues or cut expenses beyond a reasonable point only deepens the economic crisis.

Both of these national problems—large business failures and major municipal difficulties—require national initiatives. Over the long term, fiscal and monetary policy, formula revisions, federal aid and other changes in the fiscal relationships among levels of government will no doubt be debated. These are surely needed. But in the present circumstances, some action is needed now to provide a safety net for both businesses and municipalities in crisis.

A new Reconstruction Finance Corporation could supply the capital assistance and serve as the catalyst needed to avert even larger problems. The RFC would be created by the federal government and authorized to assist businesses and municipal governments whose failure would have a material impact on the country or a significant region. This assistance would take the form of loans or, in the case of businesses, loans as well as equity investments.

There are several reasons that support the creation, through federal legislation, of a new RFC:

First, the threshold determination of whether the public interest supports federal intervention has essentially been made. In the cases of Lockheed, Chrysler and New York City, Congress did commit large sums to take the company or city out of bankruptcy. The philosophical line has been crossed with the argument that the social consequences of both business and municipal failures, of the scope indicated, are vast, and largely uncharted.

Second, applying the appropriate remedy requires a professional nonpolitical approach as well as a broader set of options. Providing guaranteed loans at high interest rates to a failing company, overburdened with debt and with inadequate permanent capital, may buy time but will clearly not cure. The ability to make equity investments, as part of an overall, multilateral rescue package, can come only from an RFC.

Third, it should be evident that the legislature is a poor forum to determine specific cases. Under the pressures of the emergency, delicate negotiations with unions, banks, stockholders and suppliers are impossible. Congress is besieged with simple but urgent demands for action. Negotiations would benefit from the insulation provided by setting up a professional mechanism that could make the decision to commit or not to commit aid using the leverage that often does not exist in the legislative process.

Fourth, the problem of massive business and municipal collapse is a national responsibility simply because neither private lenders nor states are able to cope with needs of this magnitude. Each of the participating interests must play a part in any rescue plan, but it requires a coordinating agency with sufficient authority and capacity to bring about a solution.

Fifth, the RFC would have the advantage of providing continuity as well as professionalism in the design of a fiscal strategy for each particular case. The RFC should be managed by paid professionals with its own board of directors, the majority of whom would be private citizens and would include the secretary of the Treasury, the chairman of the Federal Reserve, the chairman of the Securities and Exchange Commission and the chairman of the Council of Economic Advisers.

Finally, the RFC should only be a temporary investor. It should remain an investor only until it can divest itself of its commitments through the marketplace and should never provide more than 50 percent of the capital required by any type of rescue. It should be a revolving fund—profitable, one hopes—stepping in where no alternatives are available and stepping out when the public interest has been served and market forces operate.

Certain risks and objections to the RFC have to be acknowledged: the risks to federalism and to private entrepreneurial decisions; the contention that it might reduce incentives for efficiency and for good management; that it amounts to discrimination against small companies and cities that may not be eligible for aid; that its intervention in credit allocation will politicize competitive markets; that the government will be left in a conflict of roles, as lender-investor and as regulator.

Each of these objections and others should be explored in detail. Some may be mitigated by the procedures for accountability and the standards for intervention that are built into the RFC legislation. Others are more fundamental and require a basic judgment about the need for some institutions and a comparative analysis of the alternatives. Since part of the RFC's activities would be for the benefit of private business, part of the capital should come from the business sector. The management, as in the original RFC, should be professional and non-political.

On balance, I believe that the RFC is needed and is preferred to the kind of ad hoc legislative response that has characterized the Lockheed, Chrysler and New York City petitions. This does not lead to state capitalism. If Chrysler ultimately fails, it will not prove that government should not have tried the cure, it will prove that the wrong medicine was applied too late. The right medicine should be available in the future. It will quite probably be needed.

By Mr. BAYH:

S. 3038. A bill to prohibit the imports of canned beef from Argentina; to the Committee on Finance.

● Mr. BAYH. Mr. President, today I am introducing legislation to prohibit the importation of canned and processed beef from Argentina. On July 24, when I was joined by several of my colleagues in proposing Senate Resolution 490 to protest the long-term grain deal which the Soviet and Argentine Governments concluded, I also announced my intention to offer legislation to make it clear to the Government of Argentina that it cannot have it both ways: profit at the expense of the American farmer and a continuation of high levels of sales to our country of an export item important to them.

To give my own colleagues an idea of how important exports of canned and processed beef to the United States are to Argentina, the $147 million of this product shipped to the United States in 1979 represents over 25 percent of the value of Argentina's total exports to this country. At the same time, the United States accounted for 18 percent of all trade with Argentina. But to understand the real implications of the long-term commitment which Argentina had made with the Soviet Union is to reveal very grave shortsightedness on the part of Argentina's leadership.

The 5-year arrangement which Argentina has undertaken means that at least 3 million tons of corn, 1 million tons of sorghum and 500,000 tons of soybeans will go to the U.S.S.R. each year. Compared to the total harvest tonnages of the 1978–79 crop year, these figures are even more revealing. They mean that 33 percent of Argentina's corn crop over the next 5 years is committed to one source—the Soviet Union, assuming these harvests remain as high as the 1978–79 levels. At the same time, projections for future crop years are likely to be even lower—7 to 7½ million tons. And of that total, 3½ to 4 million tons are expected to be exportable, which means the Soviet Union could receive almost all of the corn raised for export by Argentina.

Mr. President, while we might thank Argentina for getting out of other corn markets which U.S. producers might fill at higher levels, the extent of the economic dependence which this South American nation has elected to inflict upon itself in its relations with the Soviet Union is extremely disturbing in and of itself. For this reason, as well as for the sake of demonstrating that we as a nation are prepared to take steps to make our sanctions stick, I am offering this legislation today.

It is my hope that the Government of Argentina will reconsider its present course and take the necessary steps to reduce the levels of grain exports which are indicated in the long-term arrangement announced a few weeks ago between the U.S.S.R. and Argentina.

Mr. President, at this point, I ask unanimous consent that the text of the legislation I am introducing today be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) the headnotes to subpart B of part 2 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"2. The entry, or withdrawal from warehouse, for consumption of beef in airtight containers (provided for it items 107.48 and 107.52) which are the product of Argentina is prohibited.".

(2) The amendment made by paragraph (1) applies with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

(b) (1) On or after the date of enactment of this Act, no shipment of any product containing beef in airtight containers may be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the product in such shipment does not contain beef in airtight containers originating in Argentina. (2) As used in the first paragraph—

(A) the term "certificate of origin" means such certificate as the Secretary may require, with respect to a shipment of any product containing beef in airtight containers issued by the government of the country in which such product was produced certifying that the product in such shipment contains no beef in airtight containers originating in Argentina; and

(B) the term "Secretary" means the Secretary of the Treasury.●

ADDITIONAL COSPONSORS

S. 110

At the request of Mr. Nelson, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 110, a bill to amend the Internal Revenue Code of 1954 to provide accelerated and simplification depreciation for small business.

S. 336

At the request of Mr. Mathias, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 1480

At the request of Mr. Randolph, the Senator from Massachusetts (Mr. Kennedy), the Senator from North Dakota (Mr. Burdick), the Senator from Michigan (Mr. Riegle), the Senator from Hawaii (Mr. Inouye), the Senator from Maryland (Mr. Mathias), the Senator from New York (Mr. Javits), the Senator from Rhode Island (Mr. Pell), the Senator from Vermont (Mr. Leahy), the Senator from Massachusetts (Mr. Tsongas), the Senator from Kentucky (Mr. Huddleston), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

S. 2414

At the request of Mr. Durenberger, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 2414, a bill to extend for 4 years the general revenue sharing program under the State and Local Fiscal Assistance Act of 1972.

S. 2569

At the request of Mr. Helms, the Senator from North Carolina (Mr. Morgan) was added as a cosponsor of S. 2569, a bill to amend the United States Grain Standards Act to permit the Administrator of the Federal Grain Inspection Service to delegate authority, under certain circumstances to a State agency to perform official inspection at export port locations within the State if such State agency performed official inspections under such act at an export port location at any time before July 1, 1976, and such State agency is presently designated to perform official inspections at locations other than export port locations.

S. 2596

At the request of Mr. Armstrong, the Senator from Maryland (Mr. Mathias), and the Senator from Missouri (Mr. Danforth) were added as cosponsors of S. 2596, a bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after September 30, 1980 to provide for the cancellation of certain education loans in the case of individuals who perform service in the Selected Reserve of the Ready Reserve of an Armed Force, and for other purposes.

S. 2623

At the request of Mr. Goldwater, the Senator from Utah (Mr. Hatch), and the Senator from Florida (Mr. Stone) were added as cosponsors of S. 2623, a bill to incorporate the U.S. submarine veterans of World War II.

S. 2823

At the request of Mr. Boschwitz, the Senator from Utah (Mr. Hatch), the Senator from Idaho (Mr. McClure), and the Senator from Wyoming (Mr. Wallop) were added as cosponsors of S. 2823, a bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas.

S. 2890

At the request of Mr. Levin, the Senator from New Mexico (Mr. Schmitt), the Senator from Pennsylvania (Mr. Heinz), the Senator from Ohio (Mr. Metzenbaum), the Senator from Maryland (Mr. Mathias), and the Senator from Florida (Mr. Chiles) were added as cosponsors of S. 2890, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko.

S. 2923

At the request of Mr. Cranston, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 2923, a bill to reduce the capital gains tax rate and for other purposes.

S. 2962

At the request of Mr. Culver, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 2962, a bill to amend the "Rock Island Transition and Employees Assistance Act."

S. 2998

At the request of Mr. Nelson, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 2998, a bill to amend the Internal Revenue Code of 1954 to promote capital investment in small business, and for other purposes.

S. 3017

At the request of Mr. Armstrong, the Senator from Nevada (Mr. Laxalt) was added as a cosponsor of S. 3017, a bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

SENATE RESOLUTION 490

At the request of Mr. Bayh, the Senator from Nebraska (Mr. Exon) was added as a cosponsor of Senate Resolution 490, a resolution to express the disapproval of the Senate regarding the agreement between Argentina and the Union of Soviet Socialist Republics.

SENATE RESOLUTION 499—SUBMISSION OF A RESOLUTION TO DISAPPROVE THE PROPOSED EXEMPTION FROM INCREMENTAL PRICING OF NATURAL GAS FOR SMALL BOILER FUEL USERS

Mr. JACKSON submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. Res. 499

Resolved, That the Senate does not approve the proposed rule under section 206 (d) of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was transmitted to the Congress on July 29, 1980.

INCREMENTAL PRICING OF NATURAL GAS FOR SMALL BOILER FUEL USERS

Mr. JACKSON. Mr. President, the Natural Gas Policy Act of 1978 required the Federal Energy Regulatory Commission (FERC) to implement an incremental pricing program for boiler fuel users of natural gas. The incremental pricing provisions result in industrial boiler fuel users of natural gas paying a larger portion of new, higher natural gas prices than do other users.

The statute exempted certain specified users from the incremental pricing program. It also gave FERC authority to provide additional exemptions, which are subject to congressional review. Statutorily exempt users include existing small boiler fuel facilities. The FERC has submitted a proposed amendment to the existing program which will exempt new small boiler fuel facilities, thus giving both new and existing small boiler facilities the same treatment.

The proposed amendment may be vetoed by passage of a simple resolution of disapproval by either the Senate or the House of Representatives.

As I have in the past on proposed incremental pricing exemptions, I am submitting a pro forma resolution of disapproval of the proposed incremental pricing action.

The Committee on Energy and Natural Resources is seeking comments on the resolution of disapproval, and thus on the proposal itself. I ask unanimous consent that a letter explaining the Commission's proposed action be printed in the Record.

Questions or comments concerning this matter should be directed to Elizabeth A. Moler, staff counsel, (202) 224–0611.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Federal Energy Regulatory Commission,
Washington, D.C., July 29, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: The Federal Energy Regulatory Commission (FERC) herewith submits regulations which would exempt new small industrial boiler fuel facilities from the incremental pricing program required by Section 201 of the Natural Gas Policy Act of 1978 (NGPA). These regulations are designed to place new small facilities in the same position as existing small facilities under Title II, the incremental pricing provisions, of the Act.

This exemption is submitted under Section 206(d) of the NGPA, which provides that the Commission may exempt any category of incrementally priced facilities, subject to Congressional review.

The NGPA provides for phased deregulation of most newly discovered natural gas by 1985. The incremental pricing provisions required the FERC to institute a program transfering a larger proportion of the higher costs of new gas to industrial users. The purpose of the incremental pricing provisions is to partially shield residential and other high priority users from the full immediate impact of higher gas costs and to mitigate potential disruption in the natural gas market following deregulation.

The statute required that incremental pricing be implemented in two phases. Phase I applies to large industrial facilities using natural gas as a boiler fuel (to generate steam or electricity). An exemption from incremental pricing was provided for small industrial boiler fuel facilities which were defined in the Act on an interim basis as facilities in existence on the date of enactment using not more than 300 thousand cubic feet of natural gas per day on the average during the month of peak consumption during 1977.

The statute required the Commission to develop a permanent definition based on the lesser of (1) 300 thousand cubic feet per day or (2) such figure as would assure that exempt "small" industrial boiler fuel facility use of natural gas does not exceed five percent of the volume of gas transported by interstate pipelines for boiler fuel use in 1977.

The Commission implemented Phase I of the incremental pricing program on November 9, 1979. Final regulations governing the existing small boiler exemption were issued on May 8, 1980.

Calculations performed by the Energy Information Administration showed that, taken together, small boiler fuel facilities using 300 thousand cubic feet of natural gas per day or less used less than 5 percent of the interstate boiler fuel gas in 1977.

Accordingly, the Commission permanently defined small boiler fuel facilities as those using 300 thousand cubic feet per day of natural gas or less on the average during the month of peak use in 1977.

The proposal submitted today would extend the existing small boiler exemption to new small boilers: those facilities which were not in existence on the date of enactment of the NGPA and those facilities which have reduced average daily peak month consumption to 300 thousand cubic feet or less.

The Commission has determined that it would be both equitable and consistent with the purposes of the incremental pricing program to provide an exemption for all small boiler fuel facilities.

If not disapproved by either House of Congress, these regulations will take effect the date of the first day following 30 days of continuous session.

With this letter, the Federal Energy Regulatory Commission respectfully submits for Congressional review these regulations which would exempt all small boiler fuel facilities from the incremental pricing program, under the authority provided in section 206(d) of the Natural Gas Policy Act of 1978.

Sincerely,

CHARLES B. CURTIS,
Chairman.

SENATE RESOLUTION 500—SUBMISSION OF A RESOLUTION TO PREVENT U.S. FUNDING OF PLO ACTIVITIES

Mr. DOLE (for himself and Mr. HEINZ) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 500

Whereas, a UN sponsored Mid-Decade Women's Conference was held in Copenhagen, July 14–30; and

Whereas, the purpose of the conference was to stimulate interest and discussion on current issues relative to women and to improve educational, health and employment opportunities for women throughout the world; and

Whereas, the separate agenda item at Copenhagen on Palestinian women as refugees, accompanied by a document prepared by the Arab States and the Palestinian Liberation Organization that was accepted without debate as an official paper, perverts the intent of the women's conference by referring to a poliitcal issue beyond the scope and intent of the conference; and

Whereas, the resolution brought before the Senate on June 24 of this year deplored the politicization of the Mid-Decade Women's Conference and urged the United States delegation to oppose any politically motivated resolutions at the conference; and

Whereas, the result of this episode is a one-sided, political attack on Israel; and

Whereas, the United States voluntarily provides 25 percent of the budget for the UN, and, in addition, on a humanitarian basis, gives 30 percent to the UN Works and Relief Agency for Palestinian Refugees; and

Whereas, if the Palestinian Liberation Organization succeeds in its plan to take the Copenhagen resolution in favor of Palestinian women before the General Assembly, and it passes that body, then the PLO will be in a position to act as an intermediary for any appropriated funds between Palestinian women and the UN; therefore, be it

Resolved, that it is the sense of the Senate that—

(1) United States contributions to the fund for Palestinian refugees shall be halted immediately in the event that the PLO be designated either the conduit for, or as a consultant in the distribution of UN funds for Palestinian refugees;

(2) The United States contribution to the UN shall be reduced by the amount which represents the United States share of any funds allocated to any program for which the PLO is the designated conduit or consultant for the distribution of its funds.

THE MID-DECADE WOMEN'S CONFERENCE

Mr. DOLE. Mr. President, the Senator from Kansas wishes to express his concern regarding the discriminatory actions which occurred at the Mid-Decade Women's Conference in Copenhagen against Israel. Because of this concern I am submitting today a resolution to make clear the Senate's position on the stand the United States should take in response to this perversion of humanitarian goals. The purpose of this conference was to stimulate interest and discussion on current issues relative to women. Through its objectives and programs, the aim of the conference was to improve educational, health, and employment opportunities for women throughout the world.

It seems to me that discussion of political issues, irrelevant to the conference objectives, notably the Arab/Israeli conflict, only serves to defeat the stated purpose of the conference and destroy its positive benefits to all women of every race. Apparently the fears have been realized that many of us had about the increasing misuse of U.N. funds in efforts to criticize Israel, and to turn international conferences into unnecessary, polemical political discussions.

The separate agenda item at Copenhagen on Palestinian women as refugees, accompanied by a document prepared by the Arab States and the PLO that was accepted as an official paper, perverts the intent of the women's conference. The result is a one-sided, racist attack on Israel. My colleagues will remember the resolution brought before the Senate in June expressing this exact fear. At that time, we considered the resolution "Deploring the politicization of the Mid-Decade Women's Conference and urging the U.S. delegation to oppose any politically-motivated resolutions at the conference."

It was resolved at that time that the discussion of Palestinian women as a separate agenda item was intruding on the main objective of the conference and that the U.S. delegation should strongly oppose any actions not directly related to the conference's aims. As a result, the American delegation in Copenhagen did offer a motion protesting this racial discrimination but had to withdraw it to avoid amendment by other nations.

Nevertheless, the conference accepted the agenda item (which was submitted by India, by the way) entitled "Assistance to Palestinian Women Inside and Outside the Occupied Territories." This item calls for assistance "that will be channelled through the Palestine Liberation Organization." Its first goal is "to provide legal, humanitarian and political assistance to Palestinian women inside and outside the occupied territories in order to exercise their inalienable rights." The second provision emphasizes the politcal aims of this document to fund PLO propaganda with U.N. funds. I quote:

> To collect and disseminate information and data about the effects of Israeli occupation on the social and economic conditions of the Palestinian women and their struggle for achieving self-determination, right of return and to establish their independent state in Palestine.

CONSEQUENCES OF PROGRAMS

The consequences of this episode are very grave. The U.N. and its agencies have become vehicles through which the democratic nations of the world are attacked, obscuring the important issues. The United States contributes 25 percent of the U.N.'s total budget. In addition, on a humanitarian basis, we voluntarily give 30 percent of the total budget for Palestinian refugees supported by the U.N. through discretionary funds.

If the PLO and the Arab States succeed in their present intention to take the Copenhagen resolution in favor of Palestinian women before the General Assembly, the PLO will then be in a position to act as an intermediary for any appropriated funds between the Palestinian women and the U.N. The potential for misuse of these funds by what is still, after all, a terrorist organization is very large. The PLO recognizes no international laws or standards except when they serve their own purposes. The taking of American diplomats as hostages in Tehran has been supported by the PLO.

They are an outlaw organization, still not ready to accept the responsibility of government, yet eager to grasp the power available from the mistaken solidarity of Third World nations. Also, we must realize that in the Mideastern culture, women traditionally have very few rights and it is quite likely they will neither control nor receive any money. This lack of equal rights is one of the concerns that should have been addressed by the Copenhagen delegates—not the nongermane issue of the Israeli/Arabic conflict.

If the United Nations goes along with the PLO Copenhagen resolution, then the Senator from Kansas questions whether it will be any longer in the U.S. interest to contribute to discretionary funds. There is no obligation to furnish funds, solicited on a volunteer basis, to further the political goals of the PLO and its allies. This is an appropriate matter for the Senate to consider before the convening of the U.N. General Assembly.

Americans deplore our U.N. money going through a terrorist organization, and we do not recognize the PLO as a spokesman for or representative of all Palestinians. For this reason I am introducing this resolution.

AMENDMENTS SUBMITTED FOR PRINTING

ALASKA NATURAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 1967

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to H.R. 39, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

FUTURE EXECUTIVE ACTIONS

Mr. STEVENS. Mr. President, pursuant to the understanding that was entered into last evening, I send to the desk a revision of the remaining amendment that I have which would be an amendment to the Senate Energy Committee version of the Alaska lands legislation. This is an amendment that is identical to the same provision that is in the revised Tsongas substitute. I ask that it be printed as a modification of the amendment I intend to offer.

The PRESIDING OFFICER. The amendment will be received and printed and lie on the table.

Mr. STEVENS. Mr. President, I also ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1967

Page 645, line 25, add the following new section and renumber the other sections accordingly:

"FUTURE EXECUTIVE ACTIONS"

"SEC. 1324. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands for the single purpose of considering the establishment of a conservation system unit, special management area, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congresses.".

CRIMINAL CODE REFORM ACT OF 1979—S. 1722

AMENDMENT NO. 1968

(Ordered to be printed and to lie on the table.)

Mr. JEPSEN submitted an amendment intended to be proposed by him to S. 1722, a bill to codify, revise, and reform title 18 of the United States Code, and for other purposes.

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES CLAIMS ACT AMENDMENTS

AMENDMENT NO. 1969

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. LUGAR, Mr. HEFLIN, Mr. COHEN, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to H.R. 6086, a bill to provide for the settlement and payment of claims of U.S. civilian and military personnel against the United States for losses resulting from acts of violence directed against the U.S. Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country.

● Mr. DOLE. Mr. President, the Senator from Kansas rises to send to the desk a measure which will be proposed as an amendment to H.R. 6086 when that bill is brought before the Senate. This Senator is joined in this effort by his distinguished colleagues, Senators HEFLIN, LUGAR, COHEN and SCHMITT.

Mr. President, American citizens have been held captive in Iran for over 8 months. Congress has patiently, and in the view of this Senator properly, refrained from taking any steps in the hope that other efforts might free the hostages. At this time, the release of the hostages is still nowhere in sight. Yet an opportunity for responsible action will soon be presented to the Senate.

On July 23, the Judiciary Committee ordered favorably reported two companion bills, S. 2582 and H.R. 6086. These bills amend the Military Personnel and Civilian Employees' Claims Act of 1964 to raise the maximum compensation for civilian employees and military personnel who lose property in foreign countries as a result of evacuation or hostile acts from $15.000 to $40,000. The need for such legislation is self-evident. As a result of recent events in Iran, Pakistan, and Libya, many families have suffered considerable losses, some losing all their belongings. Consequently, this Senator supports this measure.

In addition, this legislation offers the opportunity to take some action to aid the families of the American hostages in Iran, if not the hostages themselves. This amendment proposes such a step.

The provisions of this amendment are quite straightforward. It provides for the transfer of the blocked Iranian assets to the Federal Government to set up a fund from which payments will be made to the hostages of their families. These payments will be calculated by a set formula: For each day from being taken hostage to the enactment of this legislation each hostage will be entitled to $200; for each day from the enactment of this law to the day of release from Iran, each hostage will be entitled to $500. Payments made while the hostages are still in captivity would be held in trust for them by family members. The remainder of the assets will be used to pay damages which may be awarded to the hostages or to others by the courts.

This is not the place to recount all the exigencies of this crisis which motivate this proposal. Yet the Senator from Kansas believes that such legislation will impress upon the Iranian leaders that they cannot continue to violate with impunity the customs and laws which govern intercourse between civilized nations. This mechanism will also give the hostages and their families some, if inadequate, compensation for the suffering they have endured. Though this proposal gives the hostages priority over the many other claims, mostly of a commercial nature, which will be made against Iran: By preserving the Iranian assets in a Treasury Department fund, this amendment insures that commercial claims will be adequately satisfied.

In short, this amendment proposes a basically fair remedy for the many hostile Iranian actions against this country and its citizens, actions which have been condemned by the international community as brazen violations of international law and custom. This amendment seeks only the compensation which is our due. Having vainly sought help in the proper international forums, we are within our rights in taking this action not only under the Constitution, but under international law. This is a measured step taken only after extreme provocation. The Senator from Kansas invites all his colleagues to join with him in this effort.

Mr. President, I ask that the full text of this amendment appear in the RECORD following these remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1969

On page 4, immediately below line 9, insert the following:

SEC. 3. (a) All right, title, and interest of the Government of Iran in all assets which were blocked by Executive Order 12170 of November 14, 1979, shall be transferred to the Government of the United States.

(b) (1) There is established in the Treasury of the United States a special fund to be designated as the Iranian Claims Fund (hereafter in this section referred to as the "Fund").

(2) The Secretary of the Treasury shall cover into the Fund assets described in sub-

section (a) and may liquidate any part of such assets as may be necessary for transfer into the Fund.

(c)(1) The Secretary of the Treasury, out of sums covered into the Fund, shall pay to—

(A) each citizen or national of the United States taken hostage in Iran on November 4, 1979, except as provided in paragraph (2), or

(B) the estate of such citizen or national if such citizen or national is deceased, an amount equal to the product obtained by multiplying $200 by the number of days between November 4, 1979, and the date of enactment of this section that such citizen or national was held hostage as described in clause (A) and an amount equal to the product obtained by multiplying $500 by the number of days after the date of enactment of this section that such citizen or national was held hostage as described in clause (A). Such payments shall not be subject to any federal or state income tax.

(2)(A) If such citizen or national is held hostage at the time payments are to be made under this subsection, then such payments shall be made to—

(i) the spouse of such citizen or national;

(ii) the children of such citizen or national, in equal shares, if payments cannot be made under clause (i);

(iii) each parent of such citizen or national, in equal shares, if payments cannot be made under clauses (i) or (ii); and

(iv) each sibling of such citizen or national, in equal shares, if payments cannot be made under clauses (i), (ii), or (iii).

(B) Payments made under this paragraph shall be held in trust for the citizen or national so held hostage until such citizen or national returns to the United States.

(3) After making payments under paragraph (1) and after deducting, pursuant to subsection (d), administrative expenses related to such payments, the Secretary of the Treasury shall make payments to the estates of members of the uniformed services, as defined in section 101 of title 37, United States Code, who died after November 4, 1979, while in performance of duties in response to the taking hostage of United States citizens or nationals in Iran, as determined by the President and certified to the Secretary of the Treasury.

(d) There shall be deducted from the amount of each payment made pursuant to paragraphs (1) and (3) of subsection (c) administrative expenses incurred by the United States in carrying out this section, but not to exceed an amount equal to 5 per centum of such payment.

(e) Subject to the provisions of any claims agreement to be entered into between the Government of the United States and the Government of Iran, any payment made pursuant to this section shall not be construed as having divested any claimant or the United States on his behalf of any rights against the Government of Iran for the unpaid balance of his claim.

(f)(1) The district courts of the United States shall have original and exclusive jurisdiction of—

(A) any civil action by a citizen or national of the United States for a tort arising out of the taking or holding hostage of a citizen or national of the United States taken hostage in Iran on November 4, 1979; and

(B) any civil action brought by a citizen or national of the United States against the Government of Iran, any agent of the Government of Iran, or any citizen or national of Iran arising out of a contract dispute.

(2) The Secretary of the Treasury is authorized, under such regulations as he may prescribe, to make available for the satisfaction of judgments rendered by the district courts pursuant to paragraph (1) amounts remaining in the Fund after payments have been made pursuant to subsection (c) and administrative expenses have been deducted pursuant to subsection (d).

(g) After the making of payments under subsection (c) have been completed, and after the Secretary of the Treasury reasonably determines that payments to satisfy judgments rendered by the district courts pursuant to paragraph (1) of subsection (f) have been completed and that further such payments are unlikely, the President may order the balance of the Fund conveyed into miscellaneous receipts of the Treasury of the United States, or the President may order such balance conveyed to the Government of Iran.●

ALASKA NATURAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NOS. 1970 AND 1971

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted two amendments intended to be proposed by him to the bill H.R. 39, supra.

ALASKA NATURAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 1961 AS MODIFIED

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS (for himself, Mr. ROTH, Mr. JACKSON, and Mr. HATFIELD) submitted a modified amendment intended to be proposed by them, jointly, to the bill H.R. 39, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

Mr. DECONCINI. Mr. President, I wish to announce that the Subcommittee on Improvements in Judicial Machinery will hold hearings on S. 3023, a bill to amend title 11 of the United States Code dealing with preferences in bankruptcy cases on August 18, 1980, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

Mr. DECONCINI. Mr. President, I wish to announce that the Subcommittee on Improvements in Judicial Machinery will hold hearings on S. 2082, a bill to amend title 17 of the United States Code dealing with exceptions to the copyright law, on August 20, 1980 at 9:30 a.m. in room 2228 of the Dirksen Senate Office Building.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Friday, August 22, 1980, at 10 a.m. in room 44232 Dirksen Senate Office Building, on the nomination of John C. Truesdale, of Maryland, to be a Member of the National Labor Relations Board.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider S. 2695, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MARRIAGE TAX PENALTY

● Mr. MAGNUSON. Mr. President, today I am announcing my support and cosponsorship of a measure designed to rectify what is currently an inequitable situation among a large number of taxpayers—married couples. Elimination of the "marriage tax penalty" is part of a package of tax measures I am cosponsoring and supporting in order to assist individuals during these tax burdened times and to spur investment and productivity of small businesses.

Mr. President, I have been here in Congress a long time, and I have heard many arguments about changing the tax laws in one way or another. However, the one situation that appears the most inequitable in terms of burdens to taxpayers is the "marriage tax penalty."

Under present law, when a husband and wife file their tax returns, they usually end up paying higher taxes than single persons or married couples in which only one of the spouses works. Therefore, in those instances where both the husband and wife earn an income there exists a penalty against marriage.

When the Internal Revenue Code was originally written, all wage earners were treated alike for tax purposes whether married or single. However, under some State community property laws, married couples were permited to file their income tax returns by splitting their income and filing individual returns. This had the effect of reducing their tax liability significantly. In order to correct this inequity, Congress in 1948 changed the tax code to extend income splitting to all married couples.

During the 1960's the growing single population came to believe that the income splitting that had been granted to married couples was in effect providing a tax shelter to the one-income married couples.

Recognizing this problem, Congress in 1969 again attempted to rectify this apparent inequitable situation by lowering the tax rates for single individuals. This, however, did not end the controversy because it created another problem—the marriage tax penalty. Lowering tax rates for single individuals to compare more equally to the one-income married couple resulted in a situation where the two-income married couple carried an inequitable share of the tax burden. Married couples find they must pay higher income taxes being married than if they were single and earning the same incomes.

This tax penalty has become increasingly apparent and troublesome as more and more families have both spouses employed in order to keep up with the rising cost of living. In addition, the desire of more women to enter the work force regardless of the need to assist the family financially has added to this dilemma. The marriage penalty is an obstacle to women's full involvement in the work force during a time when women are gaining more prominence in the labor market. As the penalty increases with this participation, women will be hesitant to undertake full-time employment and active fulfillment due to the resulting tax burden that would be imposed on the family's income.

While much concern is lately being raised over the demise of the traditional family structure, it strikes me as indefensible that the tax code would actually encourage two-income couples to save money by divorcing and simply living together, or by deciding against marriage because of an inequitable tax burden.

Single taxpayers often become justifiably outraged when they discover that they would incur larger tax liabilities should they become married. To correct this gross injustice, I find it both appropriate and necessary to support legislation which would allow married couples to file separate returns and compute their tax at the same rate as single people.

Mr. President, this legislation would alleviate the adverse effects the marriage tax penalty has on the family structure. This would be done without increasing the tax burden of either the one-income family or single taxpayers. This bill would permit a married person to file his or her tax return individually and calculate the tax owed on tax tables applicable to single taxpayers. Married couples who prefer to file jointly would still be allowed to do so. Therefore, married couples would not have to pay more than their fair share, or more than an individual taxpayer would be subject to in regard to his or her tax liability.

Mr. President, while much discussion is being conducted about the need for major tax reduction and tax reform, I find that it is most important to direct efforts toward correcting inequities as they exist in the current tax code. Eliminating the marriage tax penalty would not only remove such inequity, but it would also provide for a tax break to the family. A tax break that is not a bonus for matrimony but, rather, a tax reduction that is owed to the very foundation to which this country is founded—the family.

Mr. President, I urge that the elimination of the marriage tax penalty be a priority consideration as Congress reviews tax measures to benefit the taxpayer during these tax burdened times.●

R. & D.: AN ALCHEMIST'S DREAM

● Mr. STEVENSON. Mr. President, I would like to share with my colleagues a speech Senator MATHIAS recently made before the Intergovernmental Science, Engineering, and Technology Advisory Panel (ISETAP). ISETAP consists of State and local officials who advise the President's science and technology adviser regarding the use of R. & D. at the State and local level. Senator MATHIAS shared with these Governors, State legislators, mayors, and county officials his views on the importance of R. & D.

Senator MATHIAS shares the view that U.S. scientific and technological expertise is one of this Nation's greatest resources. He has been a supporter of Federal funding for R. & D. and at the same time has tried to insure that Federal funding have value to the economy and taxpayer. Toward this end he has advocated efforts to improve the transfer and utilization of federally sponsored R. & D.

This speech outlines some of Senator MATHIAS' views in this area, including recommendations on how to improve the application of R. & D. to State and local problems. I recommend his speech to the Members, and, Mr. President, ask that it be printed in the RECORD.

The speech follows:

R. & D.: AN ALCHEMIST'S DREAM

It is a pleasure to have this chance to meet with the Intergovernmental Science, Engineering and Technology Advisory Panel and to talk with you about a subject of fundamental and growing importance to this nation. That subject, of course, is R. & D. and how we can most effectively apply the fruits of R. & D. to solving the array of complex problems that have accumulated on our doorstep.

Alchemists in the Middle Ages used to dream of discovering a Philosopher's Stone that would turn base metals into gold. They believed there was a universal cure for disease waiting to be discovered; that there was a key that would unlock the secret of prolonging life waiting to be found.

Here in 20th Century America the wildest dreams of alchemy have come true. R. & D. is our Philosopher's Stone. It may not literally have transformed base metals into gold, but it has certainly transformed this world of ours.

The evidence is all around us. The jet engine, electronics, computers, earth satellites and television have profoundly changed our society. These scientific breakthroughs have reduced our far-flung world to a sometimes cozy, sometimes not so cozy, neighborhood.

Our biochemical research has produced miracles to gladden any wizard's heart. We have substantially prolonged life. We have eliminated some diseases and found cures for others. And we have discovered powerful ways of treating intractable diseases whose cures still elude us.

Hundreds of thousands of discoveries in many different areas of science led to these dramatic improvements in the quality of our lives. Basic scientific research has made them possible. But there's much more to this success story than that, as you well know.

The other critical element in the equation is that we have applied our scientific know-how in the right places, in the right way, at the right times. That element of the R. & D. equation is what I want to talk about today.

Basic research is the bedrock on which our future is grounded. But basic research by itself is of little value. We can admire it in a vacuum but we can't benefit from it. To be useful, research findings must be applied to real problems that trouble real people in a real world.

Our scientific and technological genius is perhaps our greatest national resource. In this area, at least, we still hold the lead over the rest of the world. To nurture and sustain this critical national resource, we spend upward of $30 billion a year on federally-funded research in all areas of science and engineering. This is an enormous investment by any standard.

Those of us in the Congress who are involved in appropriating R&D funds and those in the federal government who are involved in spending R&D funds share a solemn obligation to see that the taxpayers get their money's worth. Since I have been a particularly vocal advocate of funding for R&D on the Senate Appropriations Committee, I feel this responsibility keenly.

In the final analysis, the value of scientific research can only be measured by the benefits to mankind that come from applying it to society's problems. We, at the federal level, have a dual responsibility here. We must first fight to see that funding for R&D is adequate, then we must fight to see that our R&D results are applied with maximum effect where the need is greatest.

This brings me directly to the questions that spurred the creation of your advisory panel: Why is so little of our federally-funded R&D effort targeted at the serious problems state and local governments face and what can we do to correct this situation?

In March, I explored some answers to these questions. At that time, I got together with the Federal Laboratory Consortium for Technology Transfer to sponsor the first Technology Transfer Conference and Exposition ever held in the Mid-Atlantic region. We invited state and local officials from all over the region to come to Baltimore's magnificent new convention center to see firsthand what a wealth of scientific and technological resources has been bought and paid for through federally-funded R&D. We also examined ways of applying these resources to the increasing number of technical problems that plague state and local governments all across the land.

In the course of two exciting days I, along with the other conference participants, discovered many good and sufficient reasons to link state and local governments with the federal R&D community, both as users of the federal R&D product and as clients actively helping to determine the federal R&D agenda.

It makes good sense on economic grounds alone.

Local governments face a rising tide of problems: inflation and recession, decreasing revenues and mounting unemployment. These problems make it harder and harder for municipal and county officials to provide vital services and perform the functions which taxpayers expect and have a right to expect.

Right now some of our cities are quite literally falling apart. Water and sewer systems, subways, bridges, streets and roads, public buildings, all are approaching or have exceeded their useful life expectancy. But with inflation, the cost to replace or renovate these major capital investments is simply staggering.

Estimates show that Newark needs $200 million worth of street repairs; Cleveland needs $700 million worth of street, bridge and water and sewer repairs, and New York City needs to spend nearly $40 billion over the next 10 years to bring city-owned structures up to reasonable safety standards.

Today public sector costs represent almost one-third of our Gross National Product and the cost of running state and local governments is almost half that amount. Anything that improves the productivity, efficiency or effectiveness of this vast and growing segment of our economy is bound to mean substantial savings for the taxpayers of this country.

But to me the most compelling reason to make federal R&D available to state and local officials is the simple fact that what state and local governments do, or fail to do, affects the quality of American lives more directly than anything the federal government does—except, of course, what it does to us every April 15th.

Americans judge the effectiveness of government by what they see every day with their own eyes. They evaluate how well their tax dollars are spent in terms of the roads they drive on, the schools their children attend, how their trash is collected, how safe their streets are and whether or not the water they drink is clean and pure.

All the services that define the quality of an American taxpayer's daily life are provided by state and local government. So, obviously, anything that can be done to improve these services—especially if it can be done at little or no cost to the taxpayer—should be done. Technology transfer fits that description to a "T".

Forming this panel was a giant step in the right direction. You are living proof that the federal government sees the need for technology transfer and takes the question seriously.

Another positive step was the recent memo, jointly signed by the White House, OSTP and OMB, that requires each federal agency to consider state and local needs in its R&D program and to report each year on its efforts to meet those needs. You deserve the lion's share of credit for this important achievement. I congratulate this panel for seeing to it that now, for the first time, the needs of state and local governments will be considered in the process of setting the federal R&D agenda. That is a real milestone on the road to effective technology application.

With all this activity in the Executive Branch, I am happy to be able to tell you that Congress is not lagging behind on this question either. Growing Congressional awareness of the need to apply federal R&D more broadly has expressed itself in technology fairs, such as the one I sponsored, and in a number of hearings.

One very positive theme has emerged from all our activities. It is that the Federal Laboratories—all 779 of them—are a vast reservoir of science and technology just waiting to be tapped by state and local officials. The system is decentralized. There are labs in almost every state, spanning the spectrum of scientific and engineering expertise. And it has been proven in a number of ways that these labs can help solve state and local problems without impairing their primary mission effectiveness.

A second, less positive, theme also emerged. It is that there are obstacles in the way of technology transfer which must be removed if we are to realize the maximum return possible on our federal R&D investment.

Some of these obstacles can only be removed by legislation. So, for the past several months, my staff and I have been working with Representative George Brown and his staff to prepare companion bills for the House and Senate that would require each federal laboratory to devote a portion of its efforts and its resources to state and local problems. This legislation would require the largest labs—those with budgets exceeding $20 million—to employ at least one full-time professional to handle state and local requirements.

Other provisions of our legislation would strengthen the agency role in this effort, include annual reporting requirements and formally establish the Federal Laboratory Consortium and its Program Management Office at the National Science Foundation. We plan to introduce our bills in the very near future.

In the meantime, the "Stevenson Technology Innovation Act", S. 1250, passed the Senate and was referred to Representative Brown's Subcommittee on Science, Research and Technology. This bill is designed "to promote United States technological innovation for the achievement of national economic, environment and social goals and for other purposes". It focuses primarily on commerce, the private sector and universities.

Recognizing the similarity in purpose between this and the federal labs bill, Representative Brown saw an opportunity for the Congress to take a broader stance on an issue of pressing national importance by combining the major provisions of each bill.

The amended version of S. 1250, as it affects federal labs, is unchanged except that it does not formally establish the Federal Laboratory Consortium or its Program Management Office. Instead, because of the strong commerce and private sector involvement in the rest of the bill, it strengthens the existing Center for the Utilization of Federal Technology at the Department of Commerce and requires that this center coordinate the individual laboratory offices established by the bill.

This has caused some concern on the part of the other mission agencies but, as I understand it, this coordination mechanism would not challenge the jurisdiction of any agency over its own labs. It merely establishes a single point to coordinate and simplify outside contact and reporting. S. 1250, as amended, has been marked up in committee and should soon be brought before the full House.

In closing, I'd like to return now to the broad theme of my remarks: that R&D is a national resource and that we must work together to assure that it serves the best interests of this nation and the world.

There are important changes in prospect and in progress that can have great influence on the future of R&D. The NSF is seeking a new Director and Deputy Director; the National Science Board will soon be electing a new chairman, a new vice-chairman and seven new board members, and last, but not least, we are involved in a national election that may mean new faces in a lot of other places.

We may be entering a golden age for science and the R&D community or we may be facing a time of crisis. It is up to people like you—people who are leaders, who are at home in a number of disciplines—and most importantly who are concerned about the future of this country—to determine which it shall be.

Personally, I agree with Winston Churchill that: "Modern science is standing on tiptoe, ready to open the doors of a golden age".

Working together, I think we can give science a powerful assist.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 4, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–84, and under separate cover the classified annex thereto. This transmittal concerns the Department of the Air Force's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $63.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director,
Defense Security Assistance Agency.

TRANSMITTAL No. 80–84—*Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act*

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value:

	Million
Major Defense Equipment	$58.5
Other	5.0
Total	63.5

(iii) Description of Articles or Services Offered: Up to seventy-five (75) ALQ–131 Electronic Countermeasures Pods with support equipment, spare parts, and training.

(iv) Military Department: Air Force (YAM).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be sold: See Annex under separate cover.

(viii) Section 28 Report: Included in report for quarter ending 30 June 1980.

(viii) Date Report Delivered to Congress: August 4, 1980.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

CAPITAL FOR SMALL BUSINESS

● Mr. MAGNUSON. Mr. President, today I am announcing my support and cosponsorship of two measures designed to spur investments and help address capital formation problems that exist in small businesses. S. 110, the Small Business Depreciation Reform Act, which would accelerate and simplify depreciation for small business and S. 2993, the Small Business Investment Act, are part of a package of tax measures I believe would stimulate capital investment and productivity in small businesses.

Mr. President, as we all know, many businesses today are struggling to prosper. By the time a company has recovered the cost of a piece of equipment through depreciation, the cost of new equipment to replace the old has skyrocketed. The expense of determining and setting up depreciation schedules for this equipment alone is a major cost of doing business today. That is why I am cosponsoring S. 110, a bill designed to bring the depreciation laws back to reality and help small business recover the capital they have locked up in their equipment more quickly.

Essentially, the bill would permit any

business to recover more rapidly the capital which it has invested in machinery and equipment. It would allow companies to recover the full amount of equipment up to $25,000 over a 3-year period rather than over a period of more than 10 years as is typically the case. In addition to this more rapid depeciation, the full investment credit would still be applied.

One of the most complex areas of tax law today is in the area of depreciation. Depreciation is a major cause of errors on tax forms submitted by small businesses. These businesses expend large amounts of money and time in preparing and submitting their tax returns, and a major portion of this expense is involved in preparing depreciation schedules. Not only is this procedure costly and time consuming, it is also confusing.

There are a number of different depreciation methods one may choose from which include sum-of-the-digits, declining balance, or straight line, the latter being chosen often by small businesses because it is less complicated though often not the most beneficial.

If we are to assist small businesses in capital formation in order to increase productivity, we must relieve them of the burden of filling out complex forms and encountering regulations. We must give them a more simplified method of depreciation to provide for a system of capital recovery for investment in machinery and equipment. Studies have indicated that 85 percent of all businesses are likely to spend $25,000 or less in the purchase of machinery and equipment in 1 year. This shows that passage of this bill would be beneficial in small business capital formation problems. We must encourage economic growth and modernization to increase capital investment and expanded employment opportunities.

Mr. President, in addition to supporting this bill designed to assist small businesses in their capital formation, I feel it necessary to do more to assist these businesses in increasing their productivity. For the last few months I have talked to many individuals and groups representing small businesses including delegates to the White House Conference on Small Business, various mayors and chambers of commerce, as well as the owners of small businesses. In talking with these people it is very clear that small businesses need an economic shot in the arm. That is why I have decided to cosponsor the Small Business Investment Act, S. 2998, as well as S. 110. This measure would increase business incentives for investment so that small businesses will have the money they need to operate and grow, and would cut taxes that are hindering small business growth. The following are a few of the things the Small Business Investment Act would provide for small businesses:

First, this measure would allow taxpayers to defer capital gains on the sale of an interest in a qualifying small business provided that the proceeds from the sale are reinvested in another small business within 18 months from the date of sale.

It would increase the surtax exemption from $100,000 to $150,000 and expand the present graduated corporate rate structure enacted by Congress during the 1976 Tax Reform Act.

This bill would provide a new investment tax credit equal to 10 percent of the first $10,000 and 5 percent of the next $40,000 invested in a small business for a maximum of $3,000 for an individual and $6,000 for a joint return.

Another provision would increase the amount of used equipment eligible for the general 10-percent investment tax credit from $100,000 to $200,000. Additionally, the amount of accumulated earnings that a business may retain without being taxed would increase from $150,000 to $250,000.

Other provisions would increase the number of permissible shareholders in a subchapter S corporation from 15 to 25. The bill would also permit employees to take stock options, in lieu of salary, without the recognition of income. The option would be taxed at capital gains rates when the employee sells the stock. This would allow small businesses to attract skilled employees at a modest cost in this highly competitive job market.

Another provision in this proposal would permit broker-dealers in market securities to establish tax-deferred reserves similar to the reserves that are currently available for the banking and insurance industries. This would permit such dealers to defer taxes on profits from market activities in small business securities and thus grant broker-dealers with some protection against losses incurred in these transactions.

Mr. President, this measure, which implements many of the proposals developed at the White House Conference on Small Business, would be extremely beneficial not only to small businesses but to all businesses in increasing their capital formation needs. This comprehensive package I am supporting is needed if the business sector is to increase its productivity and provide for increased employment opportunities. I believe that this proposal represents a rational and well developed approach to a productivity related tax cut.

Mr. President, I urge my colleagues to support these measures as Congress considers tax proposals to benefit individuals as well as small businesses. It is time we more effectively address a major source of our economic woes—lack of productivity.●

HYDROELECTRIC POWER

● Mr. **NELSON**. Mr. President, I am pleased to join my colleague from South Dakota (Mr. McGOVERN) in introducing S. 3021, legislation which would afford equal preference status for consumer owned, nonprofit rural electric cooperatives, along with municipal and State entities, as contained in the Federal Power Act, in the licensing of hydroelectric projects.

Under existing law, municipalities and State agencies are given preferred treatment when competing with private entities, such as individuals and investor-owned utilities, for permission to develop a particular hydroelectric site. Cooperatives do not currently enjoy this preferred status. This bill amends the Federal Power Act to include cooperatives, along with States and municipalities, as entities which will receive preferred treatment when requesting a license or permit to develop a hydro site.

Since the creation of the rural electric program, the Congress has consistently indicated that these cooperatives should receive equal preference along with municipalities and State agencies in such matters as power output from Federal projects. This legislation makes the Federal Power Act consistent with other laws that give equal preference.

Hydroelectric power is one of our best and most immediately available sources of renewable, inflation-proof, and nonpolluting energy. I have been working for over a year on programs to encourage the rehabilitation of existing dams to produce hydroelectric power. In March, my package of tax incentives for small-scale hydropower development was included in the windfall profits tax legislation.

In my own State of Wisconsin, the Corps of Engineers has identified 437 undeveloped, potential hydropower sites. The Corps of Engineers has also stated:

> Although the total potential for hydropower is small compared to projected U.S. electric generation needs, in conjunction with other evolving energy production systems such as solar, wind, tidal, biomass conversion, geothermal and other small-scale techniques, (hydropower) could provide a significant amount of relief to our current dependence on foreign fossil fuels.

It is with pleasure that I join in sponsoring this legislation.●

THE U.S. SECURITY INTEREST IN A DEMOCRATIC PHILIPPINES

● Mr. **CRANSTON**. Mr. President, conferees on the International Development and Security Cooperation Act will shortly be called upon to consider an amendment adopted in the House which reduces by $5 million fiscal year 1981 U.S. military assistance to the Philippines.

I urge my colleagues to support this reduction, which offers the Congress an important opportunity to signal to Philippine leaders and to the Philippine people Americans' concern over the continued failure of the Marcos regime to make progress toward establishment of a more secure, democratic government.

The United States has vital security interests at stake in the Philippines, where two of our most modern foreign military bases operate in Subic Bay and Clark Airfield. These interests are threatened when escalating repression by the ruling Philippine regime identifies the United States in Filipino's eyes with an unrepentant dictatorship. Our security interests in the Philippines are long term. Therefore we must do all in our power to encourage movement toward a more stable broad-based government in the Philippines. The alternative of giving unqualified support to the Marcos dictatorship promises to do significant harm to the future position of the United States in the Philippines. For if we are silent on current human rights violations of the Marcos regime, we undermine our position with any future, post-Marcos government and jeopardize the continued access to Clark and Subic Bay which our tactical and strategic interests require.

A symbolic reduction in U.S. military credits to the Philippines could play a significant role both in spurring Marcos toward more democratic reforms and in indicating to the Philippine people that the U.S. commitment is to security and democracy for their nation, not necessarily to the defense of the current autocratic regime which rules the Philippines.

The Philippines has a long history of support for democratic traditions. In this respect the situation there is quite different from Somoza's Nicaragua or Iran under the Shah. We have good reason to be optimistic about the U.S. position under a post-Marcos government—or even under a reformed Marcos Presidency. We will not pull the rug out from under friends of the United States. But neither must we turn a blind eye when governments which we support drift farther and farther away from their own people. Therefore, I support the token reduction in U.S. military aid to the Philippines.

Mr. President, Mr. Raul S. Manglapus, former Foreign Minister and senator in the Philippines who is currently the president of the Movement for a Free Philippines, recently addressed this issue in a thoughtful article in the Washington Post. I commend this article to the attention of my colleagues. The text is as follows:

[From the Washington Post, June 30, 1980]

PHILIPPINE FREEDOM, AMERICAN SECURITY

(By Raul Manglapus)

Somewhat belatedly, the United States has just recalled its ambassador and withdrawn military aid in protest against the military coup in Bolivia. And now from Peru, The Post reports the inauguration of a freely elected president after "steps the Carter administration took to ensure that the military here stuck to the timetable."

Why not apply a variation of this formula to the dictatorship of Ferdinand Marcos in the Philippines before it is too late? Because, it is argued, unlike Bolivia and Peru, the Philippines is vital to U.S. security. Therefore, the regime "must not be rocked because it is providing stability."

What stability? The Central Bank governor has reported that the country's external debt increased to a disastrous $10,438 billion at the end of March 1980. The Food and Nutrition Council has admitted that "80 percent of the population suffer from malnutrition." The ministry of labor records current underemployment at 25 percent.

Official corruption has made the Marcos family "perhaps the richest in the world," according to Cosmopolitan. The authors of an underground study entitled "Some Are Smarter Than Others" (the cynical reply by Imelda Marcos to a question on corruption) now believe the Marcos family "makes $5 million a day."

Marcos and President Nixon were on overseas telephone a few days before the Marcos coup in September 1972. The American Chamber of Commerce in Manila sent Marcos a congratulatory telegram the morning after. But the euphoric acclaim has now soured.

Frost & Sullivan, Wall Street forecasters, have just come out with an 18-month prediction of devaluation, expropriation of international business and "a nationalistic, left-wing or military takeover." The Far Eastern Economic Review notes "a surge of foreign divestments."

This is the "stability" that the U.S. government would like to preserve in opposing a symbolic cut (actually a "deferral") of $5 million in the current $105 million proposal for miitary aid. The aid is part of the five-year $500 milion deal of January 1979, when the United States, in order to keep military bases to which it already possessed treaty rights until 1991, backed down before a Marcos bluff.

Democratic Reps. Tony Hall and Lester Wolff have stressed that the cut is not so large that it will destabilize the country. But it does meet the suggestion by Republican Rep. James Jeffords "to send a strong message to Marcos that unless certain things are done, there is going to be a change in the relationship," for "martial law and the denial of free elections threatens U.S. security in the Philippines."

The nagging question "after the dictator, what?" carries for the Philippines no ominous implication of a chaotic void. Decades of democratic practice have produced a rich harvest of leaders of high integrity and national stature. Sen. Benigno Aquino Jr., released from seven years of detention for a heart operation in the United States, indubitably is the rallying point for democratic forces today.

These united leaders can head off the growing popular outcry for violent action only if Marcos and/or the armed forces can be made to cooperate. The Catholic Church, embracing 86 percent of the people, is doing its part, with Jaime Cardinal Sin publicly asking Marcos to step down "'lest there be violence." The Philippine military, once apolitical, is now the most important political instrument of Marcos.

Marcos, for all his occasional anti-American bluster, has betrayed a crucial sensitivity to the United States. He spends vast sums on U.S. public relations agents. A chance meeting between President Carter and Imelda Marcos at the recent Ohira funeral in Tokyo was splashed on Manila front pages with the headline "Carter Cites Son's Good Word for the Philippines," linking the encounter to Jeff Carter's lavish comparison of Imelda with his mother.

Marcos and his army can be "nudged to reform," but the time for rhetoric is over. U.S. condemnatory language without supplementary action merely amuses, indeed emboldens, Marcos and his pampered officers, and is regarded by Filipinos with mounting cynicism. Filipino leaders perceive in the Hall-Wolff amendment, which passed the House and is pending in conference committee, as the first timely signal that the United States is ready to bend in its flagrant support of Marcos in order not to scuttle their efforts for a peaceful transition to democracy.

President Carter, in a letter to Marcos accompanying the 1979 agreement, said only that he would "exert" his "best efforts" to secure the appropriation of the $500 million package. A cut of the seemingly insignificant sum of $5 million could begin to spell the difference between violent and peaceful change in the Philippines, and between security and disaster for America in Southeast Asia.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

○ Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 4, 1980.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 4, 1980.

Dr HANS BINNENDIJK,
Acting Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of Information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director.●

EAST COAST FISHERY AGREEMENT

● Mr. MITCHELL. Mr. President, the East Coast Fishery Agreement (commonly referred to as the United States-Canadian Treaty) was signed by Canada and the United States on March 29, 1979. President Carter submitted the treaty to the Senate for ratification on May 3, 1979. In April 1980, the Senate Foreign Relations Committee held hearings to consider the effect of the treaty on the U.S. fishing industry. Since my appointment to the Senate in May, I have carefully reviewed the treaty and evaluated its effect on the people of Maine.

During the past few weeks I have discussed the treaty with Governor Brennan, Secretary of State Muskie, U.S. Ambassador to Canada Curtis, and Senator COHEN. I have met with the Maine Fishermen's Cooperative Association as well as other individuals and businesses directly affected by the treaty. Recently

I met with 15 members of the Canadian Parliament for a full day devoted exclusively to this matter.

The United States and Canada share the longest undefended border in the world. Canada is our greatest trading partner, engaging in more trade with the United States than all of the Western European countries combined and three times as much as Japan. Since becoming a nation in 1867, Canada has been a friend, supporter and ally of the United States. By geography, by culture, by tradition, Canada and the United States are bound together in a North American partnership.

We in Maine have special ties to Canada. We share a common border. Many Maine citizens trace their heritage to Canada. Maine plays host each year to thousands of Canadians who vacation here, contributing to our economy and our culture. We look to Canada for power, which they have in surplus. We have not, we cannot, take for granted our friends to the north.

The East Coast Fishery Agreement is the end product of negotiations begun in 1970 to establish the United States-Canadian maritime boundary in the Gulf of Maine. The disagreement over the location of the boundary was based upon a difference of opinion over the applicable legal principles. Because they apply different legal theories, both Canada and the United States claim the eastern one-third of Georges Bank, one of the world's richest fishing grounds and a promising area for oil and gas development.

Until 1976, the negotiations were not critical. But when in that year both countries extended their fisheries' jurisdiction to 200 miles, the location of the boundary became extremely important because it affected each country's right to the fish on Georges Bank. For that reason, President Carter and Premier Trudeau each appointed negotiators with the rank of Ambassador to try to reach agreement on the boundary.

U.S. Ambassador Cutler and Canadian Ambassador Cadieux negotiated for over 2 years, in consultation with representatives of both the United States and Canadian fishing industries. Because they felt that agreement on allocation and management of the fishery resources would make it easier to reach agreement on location of the boundary, the negotiators linked the two and worked toward a comprehensive treaty.

Prior to and during the negotiations, the United States and Canada were party to agreements which allowed nationals of each country to fish in the waters of the other. This right was terminated by the Canadian Government because of differences growing out of the negotiations. At no time since June 1978, have either United States or Canadian vessels been allowed to fish in the waters of the other country.

After 2 years of negotiation the east coast agreement was signed and sent to the Senate for ratification. To this day, the United States and Canadian Governments have not agreed upon a boundary, nor have they allowed each other's nationals the right to fish in each other's waters. Despite basic agreement on the terms of a fishing treaty, the governments could not reach agreement on a boundary. The best the negotiators could do with respect to the boundary was to agree to arbitrate the line, but only if the fishery treaty was signed.

The treaty has three major sections. It establishes a comprehensive binational management system for all fish stocks of commercial importance in the Gulf of Maine; it divides each stock of fish into shares and assigns them to the fishermen of the United States and Canada; and it establishes the areas within which the fishermen of both countries can harvest their shares.

The management created by the treaty sets up a Joint Commission made up of an equal number of representatives from each country. The treaty establishes cochairmen to resolve disputes which occur in the Joint Commission and an arbitrator to resolve differences between the cochairmen. The objective of this system is to immediately manage all commercially valuable stocks of fish in accordance with management standards similar to those which are found in our Fisheries Management and Conservation Act of 1976.

Upon application of these standards the management system will decide how much fish can be harvested and what regulations should be imposed on fishermen of both countries. The treaty also establishes each country's management priority for each stock of fish. Some stocks are managed exclusively by either Canada or the United States after consultation with the other country. Other stocks are managed by the Joint Commission on the basis of management plans proposed by the country of priority. A third category of stocks include those over which neither country has a priority and which are managed entirely within the Joint Commission procedures.

The treaty division of stocks establishes the percentage of available fish which can be taken by United States and Canadian fishermen. In combination with quotas, these percentage shares establish a ceiling for the catch of both United States and Canadian fishermen. These percentages can be adjusted after 10 years, but never by more than one-third of the original share. In this way, the treaty guarantees each country a set share of the available fish no matter what the result of the boundary arbitration.

The treaty also establishes the area of the Gulf of Maine in which the United States and Canadian fishermen can harvest their shares. Generally speaking, the treaty provides greater access to Canadian vessels in indisputably U.S. waters than it provides U.S. vessels in the undisputed waters of Canada.

One of the more controversial aspects of the treaty is its permanence. The treaty provides that it will continue in force until both parties agree to terminate it; it contains no notice and termination provision. The practical effect is that neither party can terminate the agreement unless it has first obtained the consent of the other. Thus, despite the provision for adjusting the division of shares of stocks every 10 years, the basic provisions of the fishery agreement are permanent in nature.

The debate about the effect of the treaty on the fishing industry of Maine has been going on for over a year. During this debate the pros and cons of the treaty have been clearly identified. One significant factor regarding the treaty is that it is important to good relations with Canada. Some have even suggested that failure to sign this agreement will result in open hostility between the United States and Canada in the Gulf of Maine.

The arguments in favor of the treaty are that it establishes a procedure for conservation of the Gulf of Maine fish stocks and provides access for the vessels of both countries to the waters of the other. In this regard the treaty guarantees U.S. fishermen access to Canadian waters for redfish. This provision is particularly important to those Maine companies which use large amounts of Canadian redfish to sustain markets they have developed. Without redfish from Canada these companies will either be forced out of business or will be required to shift to other fisheries to survive.

Those who oppose the treaty have responded to these points. First, they contend that a fishery agreement with a good neighbor like Canada should be evaluated on the basis of its impact on the fishing industry of both countries, and not on the basis of its foreign affairs consequences. Second, they argue that it is extremely unlikely that such good neighbors would engage in open hostilities in the Gulf of Maine or anywhere else. With respect to access, they note that rising fuel costs make it unprofitable to fish in Canadian waters and point out that Maine redfish fleets are already converting to groundfish.

Another argument against the treaty is that the Joint Commission management procedures are both unrealistic and unnecessary, and that a permanent ordering of United States and Canadian fishery relationships on a comprehensive basis is inappropriate because of the rapidly changing nature of the New England fisheries.

Based upon my review of the treaty and its present status, I have reached the following conclusions:

First. There should be a treaty. Although not every fish stock is in immediate need of joint management, enough important stocks are to justify the need for a treaty. While each country has a management program, in the long run, the absence of a joint management program will be a prescription for disaster in certain stocks.

Second. In fairness to the Canadians, who obligated themselves to the treaty in March 1979, the Senate should act on the treaty. One way or the other, up or down, they have a right to know what our position is.

Third. The treaty in its present form will not be ratified by the Senate. There are serious problems with some of the major provisions of the treaty; those problems must be dealt with if the treaty is to be ratified.

Fourth. I will support ratification of a treaty if it is modified to meet those problems, among which are:

Resolution of the boundary dispute should not be tied to the fishery agreement. Both countries have agreed to arbitrate the boundary dispute. That must and will be accomplished. But to tie a resource agreement to an unresolved boundary dispute is to ask each country to gamble on the outcome of the boundary dispute. There is no compelling reason for such linkage. We should and will proceed to resolve the boundary dispute. We should, independently, reach an agreement on sharing and management of fishing resources.

The treaty should not be permanent. Rarely do sovereign nations consent to be bound to the will of other nations. Of the 232 bilateral agreements entered into between the United States and Canada since 1950, not one is permanent. This treaty must be subject to review after a specified period of time.

In addition, other problems exist. The management procedures provided in the treaty are too complex. The fairness to U.S. fishermen of the shares established by the treaty has been challenged, particularly with respect to pollock and scallops.

Maine has committed itself to the resurgence of its fishing industry. We have authorized State and Federal investment in fish piers along the Maine coast. We must provide support for market development and, where appropriate, for private initiative.

But these actions will avail us of little if we do not resolve the United States-Canadian situation, since the stiffest competition Maine fishermen face is from the Canadian fishing industry, which is heavily subsidized by their Government.

For these reasons, it is not enough to simply say "No" to this treaty. That would be easy, but it would not be in the interests of the people of Maine or the Nation, or consistent with my responsibilities as a U.S. Senator. Unlike other public officials, a U.S. Senator has a special responsibility under our Constitution in the treatymaking process. That responsibility goes beyond merely approving or disapproving policies or agreements presented by the executive branch; it requires participation in the development of such policies and agreements.

The proper course for us now is to identify the problems and work to meet them. If we approach this matter in the good spirit which has characterized our relations with our Canadian friends in the past, a treaty that is in the interests of the fishermen of Maine and New England, and fair to the Canadians, is feasible.●

DAY CARE REGULATIONS

● Mr. CRANSTON. Mr. President, I want to share with my colleagues an article that appeared in the New York Times on Wednesday, July 30, by Dr. Edward Zigler, sterling professor of psychology at Yale University. Dr. Zigler has written a very thoughtful analysis of the Senate's action on June 30 during consideration of S. 2885, the proposed Reconciliation Act of 1980, which proposes to suspend the implementation of the new standards for day-care programs funded by the Department of Health and Human Services. His article offers a thoughtful analysis of the implications of the Senate's action and its responsibility to consider the needs and interests of low-income children and families relying on federally funded day care.

I ask that Dr. Zigler's article be printed in the RECORD.

The article follows:

[From the New York Times, July 30, 1980]

MUST BUDGET AX FALL ON CHILDREN?

(By Edward Zigler)

When the Senate voted last month to postpone implementation of new Federal day-care standards, it dealt a severe below to millions of American children and their parents. The Federal Government spends $2 billion a year on day care for 2.5 million children, but there are virtually no Federal standards to govern how the money is spent and to insure the quality of programs.

Quality standards were instituted in 1968 but have been virtually unenforced. In 1975, Congress placed a moratorium on compliance with the key provision of the standards, the staff-to-child ratics. Consequently, Federal money helps pay for day care in states such as Florida, Mississippi and New Mexico, where 10 infants may be cared for by one adult.

Patricia Roberts Harris, the Secretary of Health and Human Services, approved new standards in March that address this and other problems. In light of the opposition to day-care standards, Secretary Harris displayed considerable courage in presenting the standards to Congress. They were to take effect this September, but on June 30, the Senate voted to delay imposing them.

The 1980 standards are not perfect. They do not represent the ideal for which all day-car services should strive. They do represent a solid floor of quality in that they require care givers to have some basic training, an essential ingredient of quality care. They also impose limits on the number of children in a day-care group and on the number of children allowed per care giver.

The new standards were developed after a four-year, $8 million study of Federally funded child-care programs and a Congressionally mandated report by the department on the appropriateness of Federal standards. The conclusion was that new standards were essential, and they were drafted. They were subject to a year of public comment. A coalition of 30 concerned child-care groups endorsed them. Even private, for-profit day-care centers, who would presumably be most interested in keeping operating costs low, formed a coalition to endorse the new standards. Just when it seemed that the standards would be enacted, the Senate Finance Committee voted for the moratorium as part of the budget-trimming Reconciliation Act of 1980. But the House-Senate conference committee, which will meet to resolve the differences between the House and Senate versions of the bill, can still let the standards take effect.

The Senate vote was obviously motivated by more than a desire to trim the budget. The Congressional budget office estimated that carrying out the standards would cost about $20 million, about one percent of annual national expenditures for day care. According to an analysis by the department, full enforcement would cost $200 to $300 million less than enforcement of the 1968 standards. Also, delaying implementation seems unnecessary because the Finance Committee exceeded its required savings recommendations by $200 million.

It seems, therefore, that what lies behind the Senate vote is a growing trend toward deregulation and decentralization. Even advocates of the new standards oppose overregulation. No one wants a bureaucratic, monolithic system of Federally administered day care with identical programs in all communities. The new standards are intended to impose requirements only for nutritious meals, protection from fires, parental visitation rights and, perhaps most impotrant, training for care givers.

Without Federal regulations, we run the risk of scandals like those in the nursing-home field that have periodically shocked the country. Although some states have regulations, other states do not, and if regulations are left entirely to states, the outlook for quality day care will be bleak. As Frances Walker of the California Department of Education testified at a hearing on the new regulations, "When it gets down to services for poor children and their families, the password in most states tends to be 'cheap.' "

In 1970, the White House Conference on Children voted quality day care the No. 1 need of American children and families. This year, three regional meetings for the White House Conference on Families—in Baltimore, Minneapolis and Los Angeles—all emphasized that a solution was needed to the growing day-care problem. Federal policy makers should take notice and act.●

THE IOANNIS A. LOUGARIS VETERANS' ADMINISTRATION MEDICAL CENTER

● Mr. CANNON. Mr. President, I am today joining Senator LAXALT as a sponsor of S. 3010, a bill to designate the hospital known as the Veterans' Administration Medical Center, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans' Administration Medical Center."

Ioannis Lougaris is 93 years old, of Greek ancestry. He came to the States when he was 19, and is a practicing attorney having passed the Nevada and California bar in 1927 and 1930, respectively. He enlisted in the U.S. Army in 1917 and saw service in France during World War I. In addition to serving as assistant district attorney for Elko, Nev., handling criminal cases and spending 52 years in the legal profession, Lougaris also was responsible for getting a veterans hospital in Reno, due to his dedication and advocacy for better services to veterans for more than half a century.

With this in mind, it is entirely fitting that the name of the Reno VA Hospital be changed to the Ioannis A. Lougaris VA Hospital. Without objection, I ask that the following newspaper article by Lenita Powers be printed in the RECORD. The article depicts well the courage and determination that has marked the long and fruitful life of Mr. Lougaris.

The article follows:

IN 1919, THEY SAID HE'D LIVE 6 MONTHS; THEY ALSO TOLD LOUGARIS HE'D NEVER BE AN ATTORNEY

(By Lenita Powers)

The story of John Lougaris, probably Nevada's oldest practicing attorney at age

92, is the story of a Greek immigrant who fled poverty for the promise of America.

It's the story of a young man who spent 31 days aboard a ship which sailed into New York Harbor in the early 1900s under the gaze of the Statute of Liberty.

It's a tale of struggle and success for a man who peddled bananas in Carson City and who became an attorney despite being told he was too stupid.

The story began on Feb. 17, 1887, when Ioannis Anastasiou Lougaris was born in Zante, Greece.

"In Greece that time was a lot of poverty," said Lougaris from his office on the second floor of a downtown Reno bank building.

"My father had four sons. I'm the third. And we didn't have enough food to support us. As for me, I wanted to leave and come to America."

Lougaris's father mortgaged 5½ acres of land, a burro and one goat in order to raise $100 to send his 19-year-old son to the United States.

"I was very happy, but I was frightened, too," Lougaris recalled. "When you come into the country, they give serious examinations. They look at you physically and see if you have diseases. And if you do, they send you back."

A disease-free Lougaris was allowed into the country and began shining shoes and selling peanuts for five cents a bag from a push cart along the streets of New York.

"Then 1907 was panic and there were no jobs. I couldn't get a job. I remember long lines outside Edison Phonograph Company."

Day after day, Lougaris joined the line, hoping for a job.

He only had a $5 gold piece in his pocket.

"So I say. 'I came to America and I want to be like American.'

"I had long hair and little moustache and thick Greek shoes. I go to a barber shop and get a shave and haircut for 10 cents. And I part my hair in the middle, like Americans. Then I go to little Jewish shop next door.

"I say, 'How much you charge to fix me up? I want American double-breasted suit, a bow tie and American shirt.'

"I say. 'How much you charge me?' I'll never forget. The owner say. '$3.50.' I say, 'I give you $2.95.' And he dress me up for that much money. I look like a million dollars."

Lougaris gives out a hearty laugh.

His large, long-fingered hands move restlessly, now gesturing for emphasis, then pointing to his lip to show where the little moustache had grown and next tugging at an imaginary bow tie he once bought.

Despite being almost a century old, the spritely little lawyer's brown eyes peer astutely out from behind glasses as his mind easily grasps memories and wrings dates and names out of them.

"The next day, I get up at 5 a.m. I am first in line and man sees me and goes like this," Lougaris said, crooking his finger in a come-hither motion.

Lougaris got a job that day at the Edison Phonograph Co., cleaning off records as they came off the press for 12 hours a day. He earned $4.75 a week.

"This Greek fellow asks if we work on railroad they were building from San Francisco to Chico. He hired 15 of us and shipped us out by freight. The trip to Sacramento was nine to 10 days and we were boxed in like in a bunch of mules—one, two, three, four.

After arriving in Sacramento, Lougaris decided be couldn't stand working on railroads anymore.

"But they pay your expenses to go there. You're sold to them. You're supposed to work, not leave. I didn't want to work pick and shovel anymore. I don't know what to do.

"Then my mind—your mind is greatest thing in the world—my mind tell me I'm not going to do this.

"I get sick in my stomach," Lougaris said, clutching his stomach. "Tears come to my eyes. So I start to cry."

A foreman told Lougaris that if he were sick, he should go to the bathroom.

Lougaris never came back.

He took a freight to San Francisco.

"I got together with more Greeks. They don't like us there. We were like the blacks."

While working in the Bismark Cafe in San Francisco, Lougaris placed an advertisement in the newspaper, seeking a room in a private home where he would have an opportunity to improve his English.

"I got seven letters, I went to each house and they ask me what nationality I am. When I tell them, they say, 'We don't want no Greeks.' "

Finally, Lougaris went to 744 Castro St., the home of Frank C. Fry, his wife and his mother-in-law.

"I tell them I am Russian. Mrs. Fry was very sweet. She taught me English. Two years later, my brother write me letter with Greek postmark."

When Mrs. Fry confronted Lougaris with the letter, he admitted being Greek.

"She hug and kiss me. They had no children and they were fond of me. I always called her mama."

On Dec. 17, 1917, Lougaris enlisted in the Army to fight in World War I.

He fought in several battles in France, including the Meuse-Argonne offensive and defensive sections, until he was seriously wounded and sent state-side.

Afflicted with tuberculosis, Lougaris was released from a Chicago veteran's hospital in 1919 where doctors told him he probably had only six months left to live.

So Lougaris decided to take a train West in 1920.

The train stopped over in Sparks to add a second engine for the tough haul over Donner Summit.

Lougaris stepped down from the coach to stretch his legs.

He gulped down a cool, clean draught of Truckee Meadows air and gazed at the serene Sierra and the glistening mantle of snow.

"I saw a very handsome man about 6 foot high and I said, 'Mister, what town is this?' He said, 'This is Sparks, Nevada.' I said, 'What is population of this town?' He said to me. 'It is about 500 people.' I said to him, 'Is there a town bigger than this?' He said, 'Reno's three miles below.' I said, 'What is population of Reno?' He said, '9,000.'

"Then I made up my mind to stay," Lougaris said.

After working a while at the Economy Market at a Commercial Row in Reno, Lougaris went to Carson City to open a banana stand.

He had become active in the American Legion, an organization to which he would contribute much over the years.

"There were only 2,500 people in Carson City then and they were lovely people," Lougaris recalled. "I was active in the veterans' post and in the Republican Party. I became campaign manager in Carson City for an attorney.

That's when Lougaris made up his mind to become a lawyer.

"I said to myself, 'This guy's an attorney. I can be an attorney.' If you ask me why I wanted to become one, I couldn't tell you even today."

In 1923, he applied to the Stanford School of Law.

"They sent three men up to examine my brains," Lougaris said. "Later I received a letter which said I never went through grammar school or high school or college. These men told me I didn't have the intelligence of a 12-year-old."

Lougaris was rejected by Stanford but he received an advertisement from a correspondence law school. He answered it, paid his $225 for the course and passed the Nevada State Bar examination in 1927.

He then went on to become a member of the California bar in 1930.

Then came sweet revenge.

Lougaris was hospitalized for a while at the veteran's hospital in Palo Alto, Calif. After his stay, he was taken before a hospital board and asked if he had any suggestions on how to improve the service.

"I told them I had no suggestions on how to improve the service. But I said I have one complaint to make. 'Three of you,' I told these baldheads, 'came up to examine my brains,' I said, '10 years ago, you said I didn't have the education, the English language or the intelligence of a 12-year-old to become attorney.' Well, I present you with my card.' "

With that, Lougaris handed them his business card listing him as a member of both the Nevada and California bars, turned on his heel and walked out.

Lougaris didn't take a bride until he was 57, marrying a Greek girl named Athena Topal in 1944 in San Francisco.

Lougaris and his wife have a daughter, Betty Ioanna Soldo.

In addition to serving as assistant district attorney for Elko, handling criminal cases and spending 52 years in the legal profession. Lougaris also was responsible for getting a veteran's hospital in Reno.

"The important thing is not to work for yourself but to be kind to others and to work for them and your country," said Lougaris, who became an American citizen in 1913.

When will he retire?

"You want me to die?" he asks in return. "Well if I retire, I kick the bucket. I have to keep busy. I retired for two months a couple of years ago and I almost went crazy."

However, Lougaris said he considers himself too old to handle criminal cases and, therefore limits himself to civil cases, such as divorces, making up contracts and wills.

"I can't be idle. As long as my mind functions. It doesn't function 100 percent but it's pretty good. I'm in good physical shape. My eyes are still good. My hearing not so great, though.

"But idleness is a disease, my dear. Always remember that. Idleness is a disease." ●

SENATE JOINT RESOLUTION 193—LIMITATION OF AUTOMOTIVE IMPORTS

● Mr. LEVIN. Mr. President, yesterday I joined with Senator RIEGLE and 25 other colleagues to introduce Senate Joint Resolution 193, authorizing the President to enter into negotiations with foreign governments to limit the importation of automobiles and trucks into the United States. Given the activity taking place on the floor, I was unable to make the statement I prepared in support of that resolution but I am pleased to be able to do so at this time. Mr. President, I am pleased to be associated with my friend and colleague from Michigan, Senator RIEGLE, in this effort. And I want to begin my statement by paying tribute to the work he has done both on this resolution in particular and auto issues in general. His efforts have certainly helped make the administration and the Congress more sensitive to and aware of the immense and complex problems facing the auto industry.

This resolution is designed to address one of those problems. It is a problem symbolized by the record losses reported by the domestic auto companies this quarter. And it is a problem symbolized by the hundreds of thousands of autoworkers who are unemployed. And it is a problem symbolized by the thousands of car dealerships that have closed their doors and the millions of people who have been touched, in one way or another, by the current depression in the auto industry.

The problem is simply that imports are capturing an increasing percentage of the auto market. And with each import sold, we lose more American jobs and more capital which could be used to speed the redevelopment of the industry.

The problems of the auto industry run far deeper than imports. But most of those problems cannot be solved until the import issue is addressed. Because until we address that issue, we simply are not going to have an industry which can generate the capital it needs to retool; we simply are not going to have an economic recovery in this Nation: and we surely are not going to have an opportunity to "reindustrialize" the private sector.

Earlier this year we made a real beginning on this problem. Fifty of my colleagues joined me in request to the International Trade Commission urging them to expedite its hearings on the UAW petition for import relief. The President joined us in that request. Unfortunately, the ITC did not see fit to make more than a token effort to honor that request and, as a result, we remain vulnerable to continued Japanese intrusions into the market.

But we need not wait for action by the ITC in order to accomplish meaningful action. I have always said that the President has the authority now—right now—to begin negotiations with Japan designed to reach an agreement which would involve voluntary restraint on their part. The administration at times claimed, without foundation in my opinion, but claimed nonetheless, that such activity would be improper. This resolution is designed to eliminate that imaginary hurdle. And once it is removed, perhaps we can get some action.

I think we can get some action because other nations have. I shall submit for the Record at the conclusion of my remarks an article appearing in the Japan Economic Journal of July 22, 1980. That article explains that England has had a "gentlemen's agreement" restricting Japan to no more than 11 percent of the British market. And when recent figures indicated that Japan's share of the market had jumped to almost 14 percent, Japan indicated a willingness to cut their shipments to England and bring their sales back into line with their original agreement.

Australia has a limit on imports, France has a limit on imports. Italy has a limit on imports. In fact, virtually every other nation protects its industry through quotas, local content requirements, or duties much higher than the 3 percent we impose. Other nations can get agreements and they can have those agreements honored. So can we.

I also think we can get some action because Japan has not expanded their industrial capacity to meet our demand—they have just expanded their work schedules. Based on data I have seen, it appears that Japanese manufacturers are producing 1.5 million units a year through overtime. If you just get Japan to cut back on overtime, their workers do not lose jobs—but ours will get some. And our industry will get the kind of sales it needs to finance the transition now in progress toward smaller more fuel-efficient cars.

Everyone can find someone to blame for the present state of the auto industry. I do not want to find someone to blame—I want to find someone to praise. This resolution removes any questions which some have raised for one reason or another about the President's ability to pursue an agreement with Japan which would culminate in voluntary import restraint. And if he pursues such an agreement, with or without passage of this resolution, that would indeed be an act worthy of praise.

The article follows:

EXPORT OF CARS TO U.K. WILL BE CURBED

Eight Japanese automakers including Toyota, Nissan and Honda, have decided to hold down their passenger car exports to Britain to around 10,000 vehicles monthly.

Up to now, their exports have averaged 20,000 monthly. The self-restraint will be carried out from September shiploadings.

While there has been a tacit understanding between the auto industries of the two countries to limit the share of Japanese cars in the British market to 10–11 per cent annually, the Japanese share in June shot up to 13.8 per cent.

The Japanese auto producers thus decided to curb their exports since if nothing is done about the situation, the market share is likely to top the 11 per cent line by a wide margin this year.

As for the British auto industry, it has begun to experience a worsening of recession, just as in the case of its American counterpart.

This has led to heightening moves in the British industry to make Japan the scapegoat for its plight.

The Japanese automakers thus hope that voluntarily restricting exports to Britain will have the effect of mollifying such British criticism of Japanese exports.

The so-called gentlemen's agreement on limiting Japan's market share to 10–11 per cent has been in effect since 1975.

Last year, for instance, when sales of passenger cars in Britain reached 1,716,000 vehicles, the share of Japanese cars came to 185,000, or was held to a 10.78 per cent share.

At the end of January, this year, a meeting of representatives of the auto industries of Japan and Britain, held at Acapulco, Mexico, confirmed holding down the Japanese share to "10 per cent."

However, sales of passenger cars in the British market have worsened sharply since May from initial expectations.

This has led to a drop of the sales share of British automakers, including BL, and a relative gain in sales of Japanese cars.

The Japanese share which had been 9.9 per cent for the January-April period, swelled in June at a stroke to 13.8 per cent.

Details of the latest export curb are not clear as to number of vehicles as this is being left up to makers to decide.

THE MIDDLE GEORGIA WARRIORS BASEBALL TEAM

● Mr. NUNN. Mr. President, I am delighted to bring to the attention of my colleagues the exceptional record of the Middle Georgia Warriors Baseball Team. For the second consecutive year, the Warriors have won the National Junior College Athletic Association Championship.

I join Governor Busbee of our State in congratulating the Warriors and in paying tribute to them for their outstanding achievement.

I submit for the Record the proclamation signed by the Governor commending the team.

The proclamation follows:

PROCLAMATION: MIDDLE GEORGIA COLLEGE WARRIORS BASEBALL TEAM

Whereas: The Middle Georgia College Warriors Baseball Team has won the National Junior College Athletic Asociation Championship; and

Whereas: Their season record this year was 48 wins and 3 losses; and

Whereas: This year marks the second consecuitve year a Georgia team has won the NJCAA title, considered the World Series Baseball Championship; and

Whereas: This fine team is coached by Robert Sapp, who has been named Coach of the Year for the second consecutive year by the National Junior College Athletic Association; now

Therefore: I George Busbee, Governor of the State of Georgia, do hereby commend the Middle Georgia College Warriors Baseball Team for their outstanding accomplishment and for the honor they have brought their school and their state.●

TURKEY'S TURN ON CYPRUS

● Mr. KENNEDY. Mr. President, the 1980's will be a critical decade for the Atlantic Alliance. We and our allies face an array of political, economic, and security problems that will test the fundamental unity and strength of NATO. How we respond to these problems—whether or not we can muster the cooperative and determined efforts necessary to meet them successfully—will determine, in large part, the future of the Alliance.

Nowhere are the challenges to Alliance unity more formidable than along NATO's southern flank. Greece remains outside NATO's military structure and Turkey is beset by severe political and economic instability. Meanwhile, the greatest obstacle to Alliance cooperation in southern Europe remains the tragic conflict on Cyprus, which has continued since 1974. Over the past 6 years, little, if any, progress has been made in resolving the dispute, and Turkish troops continue to occupy the island. A July 5 New York Times editorial accurately describes the situation:

> It is now six years since Turkey invaded Cyprus, carving the island into inequitable parts and uprooting 180,000 Greek Cypriots. Turkish Cypriots make up 18 percent of the population but control 37 percent of the land. They have repeatedly rebuffed attempts to unite them with the Greek community in a federal structure. This stalling feeds fear that the Turkish Federated State of Cyprus will declare itself independent and scuttle unification talks.

The Times editorial points out that alliance contributions have produced a large loan for Turkey, and that Turkey is to be the recipient of a $1.65 billion credit from the International Monetary Fund—"the largest (credit) in relation to a country's quota that the IMF has ever extended." The granting of these credits is an encouraging sign, as the Times editorial states, "that the alliance is well."

But, as the New York Times also states, these achievements "contrast sadly with the alliance's failure to budge Turkey's stubbornness when it comes to Cyprus." Not only has Turkish intransigence in the Cyprus dispute inflicted great suffering and hardship on the peoples of the region, it has "poisoned Turkey's relations with Greece and thereby weakened NATO." Resolution of the Cyprus conflict is critical to efforts to strengthen NATO's southern flank against Soviet power.

Mr. President, I strongly believe that Turkey must demonstrate a sincere willingness to enter into negotiations leading to a peaceful and lasting resolution of this tragic crisis. In particular, I favor the full implementation of United Nations Resolution 3212, the withdrawal of all Turkish military forces from Cyprus, the return of all refugees to their homes in safety, the cooperation of all parties with a negotiated solution, and full peace and respect for human rights in Cyprus. As the Times stated cogently, "in the matter of Cyprus, it is Turkey's turn to give."

Mr. President, I ask that the New York Times editorial be printed at this point in the RECORD.

The editorial follows:

TURKEY'S TURN

When the NATO ministers gathered in Ankara last week, it was simply Turkey's turn to serve as host; the site had no special significance. But the circumstances were special. Turkey's NATO partners have dug deep to help an afflicted ally. In addition to loans of more than $1 billion from 25 industrial nations, Turkey is also getting a credit of $1.65 billion from the International Monetary Fund—the largest, in relation to a country's quota, that the I.M.F. has ever extended.

These outlays show that the alliance is well, and generous when it comes to bailing out a troubled democracy. That achievement contrasts sadly with the alliance's failure to budget Turkey's stubbornness when it comes to Cyprus, scene of a long conflict that endangers the eastern flank of NATO.

Turkey occupies a strategic bridgehead between Europe and the Middle East, sharing frontiers with Iran, Iraq and the Soviet Union. Geography partly explains why the West has committed billions to a minority Government in a society shaken by violence. The monthly death toll has reached 200, double that of a year ago. And there are at least 47 terrorist factions—half of them leftist, the remainder a miscellany of separatists and religious or right-wing zealots.

What tilted the balance in Turkey's favor was Prime Minister Demirel's uncommon pluck in carrying out unpopular reforms. Since January, he has scrapped the subsidies and protectionism that hobbled a low-growth economy. At the cost of short-term hardship, his austerity plan paid for the oil Turkey needs to move production into low gear. If Mr. Demirel can survive parliamentary challenges without making crippling compromises—as he did, narrowly, on Wednesday—he may bring Turkey out of the infirmary.

Yet that other trouble, Cyprus, persists. It is now six years since Turkey invaded Cyprus, carving the island into inequitable parts and uprooting 180,000 Greek Cypriots. Turkish Cypriots make up 18 percent of the population but control 37 percent of the land. They have repeatedly rebuffed attempts to unite them with the Greek community in a federal structure. This stalling feeds fear that the Turkish Federated State of Cyprus will declare itself independent and scuttle unification talks.

Moral considerations aside, the issue has poisoned Turkey's relations with Greece and thereby weakened NATO. No one can reasonably ask Prime Minister Demirel to produce a "solution," but he could at least help bring about a resumption of talks between the two national communities on Cyprus. In propping up Turkey's economy, no diplomatic conditions were imposed on Ankara. Yet the allies' concern obviously extends to political as well as monetary equities in the region. In the matter of Cyprus, it is Turkey's turn to give.

AMENDMENT NO. 1906: GI BILL DOLLARS FOR VETERANS, NOT BUSINESSES

• Mr. CRANSTON. Mr. President, when S. 1188, the proposed Disabled Veterans' Rehabilitation Act of 1980, is considered by the Senate, the junior Senator from South Dakota (Mr. PRESSLER), joined by the junior Senator from Pennsylvania (Mr. HEINZ), has indicated an intention to offer an amendment, amendment No. 1906, which would establish a veterans' career development, advancement, and training assistance program. Although I appreciate and share the concerns of the Senators which have prompted them once again to put their proposal before the Senate, I cannot support its adoption by the Senate.

Mr. President, amendment No. 1906 would establish a "career development, advancement, and training program" for certain disabled and Vietnam-theatre veterans. The amendment would provide financial incentives—essentially what amounts to wage subsidies—to employers to hire, train, or promote certain veterans. The thrust of this amendment is identical to the thrust of those—unprinted Nos. 917 and 921—offered by Senators PRESSLER and HEINZ during the Senate's consideration in January of S. 870, the proposed GI Bill Amendments of 1980. Those amendments were defeated by votes of 56 to 38 and 53 to 37, respectively.

In essence, I oppose this kind of amendment because I believe that funds for veterans' benefits should be used for direct payments to veterans not for incentive payments for private firms, and because I have grave reservations about whether this approach would really produce jobs for the veterans involved.

I believe, Mr. President, that it is most important to stress that the program proposed by the Senators is in reality a wage-subsidy-type program. The proposal does provide for some rather standard safeguards to curb misuse, but the vast potential for rip-offs and abuses still is inherent in its structure. Historically, wage subsidy programs, unless very tightly structured and monitored—through a process which involves enormous amounts of redtape, Federal regulations, investigations, and Government intervention creating its own administrative monstrosity—result in situations where there is substitution, dead end jobs, and exploitation of those who are intended to be helped by such programs.

Take for example the owner-operator of the Ma and Pa grocery store who presently employs a married Vietnam veteran as a checker. Under this proposal, if he wanted to, he could say to the veteran, "I'm going to give you a raise of $20 a week, but, first, you have to quit for 6 months. You can collect unemployment insurance in the meantime, and I'll hire you back under the GI bill 6 months from now." In this way, the veteran would get a $20-a-week raise; a 6-month sabbatical paid for by—in some cases—substantial tax-free UI dollars. However, the employer would qualify for a wage-subsidy of $370 a month and come out about $290 ahead and, thereby, very substantially lower his expenses.

I would remind my colleagues of the years of experience we have had with employment and training programs conducted by the Department of Labor—first under the Manpower Development and Training Act of 1964 and then under CETA. As a long-time member of the Employment Subcommittee of the Labor and Human Resources Committee, I can personally attest to the hundreds of long hours and hard work that have gone into trying to design an "abuse-proof" program. Yet those efforts are undermined daily by reports of outrageous abuses and ripoffs, and the Department of Labor, an agency with extensive experience in administering job and job-training programs, spends millions of dollars and hundreds of employee-hours in attempting to remedy these problems.

The program intended to be proposed by the Senator from South Dakota would establish this brand new, untested program in an agency with no such employment-monitoring experience in this area—the Veterans' Administration. In my opinion, this substantially compounds the potential for abuse and misuse.

Mr. President, since Senator PRESSLER first proposed this program, we have taken a close look at it and received testimony on it. Here is what the VA said about it at hearings held by the Committee on Veterans' Affairs on March 4:

> Contrary to its expressed intention of addressing employment problems of Vietnam-era veterans, enactment of this measure would result in a vague, ill-defined program which would convert veterans educational entitlements into substantial employer subsidies at considerable cost to the taxpayer. These subsidies would be highly subject to abuse and there is no assurance that the Federal resources expanded would be effectively directed to providing meaningful training and job training opportunities for those veterans who need them.

Here is what the Labor Department said about it:

> A job subsidy program for Vietnam-era veterans would be difficult to administer. Further, it proposes to duplicate veterans assistance programs currently operated by

DOL, by establishing a major new employment-related program within the Veterans Administration.

Here is what the Disabled American Veterans said about the approach at hearings held by the House Veterans' Affairs Committee on March 6:

> [W]e are opposed to the concept of "paying" employers to hire veterans. Rather, Mr. Chairman, we believe that the Department of Labor should be expanding its emphasis on enforcement of existing laws passed by Congress over the last several years—laws which are designed to enhance the employment opportunities of all veterans and which, if properly and aggressively implemented, could make a significant impact upon the high rate of unemployment among Vietnam Era veterans.
>
> The very idea that we should have to pay employers to hire those who served our country during a period of armed conflict is extremely distasteful to the Disabled American Veterans.

Here is what was said about the approach by the American Legion at the House committee's March 6 hearing:

> [W]e are quite concerned with the specific guidelines under which this program would operate in that there is a general lack of substantive controls to ensure accountability and preclude fraud and abuse on the part of the veterans and/or the employer. Without adequate controls built into such a program, we would question whether or not those veterans participating would, in fact, receive meaningful employment opportunities.

Finally, as Dr. Sar Levitan, the highly regarded and well-known labor market economist, testified at the hearing:

> Neither the Veterans' Administration nor the Labor Department have the capability to monitor the employers who hire veterans, nor is it desirable to provide such a capability to the government agencies. In the absence of such an army of inspections, there is little assurance that the beneficiaries of the proposed program would be veterans, and the program may result in a bounty to employers.

Dr. Levitan went on to state that with respect to the approach taken by the Senator's amendment "the costs of monitoring the subsidized employers would be prohibitive and intolerable."

Mr. President, over the years, the Congress and the Federal Government have developed, enacted, and implemented a myriad of programs designed to meet the employment needs of veterans.

The current GI bill—in section 1787 of title 38—provides for a program of apprenticeship and other on-job-training opportunities for eligible Vietnam-era veterans. In a 1978 study, the General Accounting Office found that this program had an outstanding record of success with almost 90 percent of those who participate in the program being placed in permanent jobs upon the completion of training.

Currently, under the VA-OJT program, a married veteran with two dependents may be paid by the VA a training assistance allowance of $226 a month for the first 6 months of apprenticeship of other on-job training. This is in addition to the salary he or she would receive directly from the employer. Those OJT benefits are available for up to 2 years at a declining rate during the veteran's employment. Under the provisions of H.R. 5288 as passed by the Senate in January, the period of time in which Vietnam-era veterans have to participate in this program would be extended for 3 years. Also, under provisions contained in S. 1188 as reported, the criteria and approval process for VA-OJT slots would be streamlined and improved—resulting in increased participation in this valuable program.

Other provisions in S. 1188 as reported are designed to increase the VA's responsibility and effectiveness in employment-related areas. First, the measure would require the Administrator to take increased responsibility for active advocacy and promotion of effective implementation, enforcement, and application of all laws and regulations relating to employment, training, and other opportunities for veterans. It would also require the Administrator, in cooperation with the Secretary of Labor, to seek actively to promote the development and establishment of employment, training, and other employment-related opportunities for veterans. Finally, the Administrator, and the Secretary of Labor, would be charged with responsibility of promoting the development of VA-OJT opportunities for eligible veterans.

Cumulatively, through fiscal year 1979, nearly half a million Vietnam-era veterans have trained under the VA's OJT program. This year, it is estimated that more than 74,000 Vietnam-era veterans will receive OJT benefits under the current program. If the modifications I have noted are enacted, it is estimated that an additional 15,300 veterans would find employment through this program.

In addition, the Department of Labor, under the authority in the Comprehensive Employment and Training Act, conducts a program called "HIRE"—Help Through Industry Retraining and Employment. In this program, private sector employers are reimbursed for any extraordinary costs they incur in training Vietnam-era veterans they hire. More than 59,000 Vietnam-era veterans have been placed in jobs through this initiative.

There is also the targeted jobs tax credit—TJTC—enacted in October 1978 in Public Law 95-600. Under this authority, employers may receive a tax credit of up to $3,000 for hiring individuals who are members of certain mandated target groups, including low-income Vietnam-era veterans under 35 years of age. Since the enactment of this program, more than 7,500 Vietnam-era veterans have benefited from it. The removal of the age limitation applicable to this program—as proposed by S. 2838, which Senator MATSUNAGA and I introduced on June 17, would permit additional Vietnam-era veterans to be served by this initiative. That measure is now pending before the Finance Committee, and I hope action will be taken on it soon.

In addition, there is, of course, CETA, under which the Secretary of Labor is required to take special steps to maximize opportunities for Vietnam-era and disabled veterans in all programs conducted by prime sponsors, such as job training, upgrading, and retraining, public service employment, and private sector initiatives. Almost 3 million Vietnam-era veterans have been served by CETA since its enactment in 1973.

Further, Mr. President, under the authority in section 2012 of title 38, as it would be amended by H.R. 5288 as passed by the Senate in January, all eligible Vietnam-era veterans regardless of the length of time they have been out of service, would be covered for at least 2 years by the affirmative action and mandatory listing requirements imposed by law in connection with Federal contracts. Under those requirements, any firm with a contract with the Federal Government involving more than $10,000 must have an approved affirmative action plan for Vietnam-era veterans and disabled veterans and is required to list job openings with the local employment service which in turn is required to give eligible veterans priority in referral to jobs. Over 540,000 Vietnam-era veterans have found jobs as a result of this initiative.

Finally, Mr. President, there is the highly successful disabled veterans outreach program—D-VOP—conducted by the Department of Labor. Under the D-VOP program, nearly 1,500 disabled veterans are currently working in State and local employment security agencies and offices, providing employment assistance to disabled and Vietnam-era veterans through counseling, job development, and placement services. Since the inception of this program, D-VOP staff have contributed to the successful placement in jobs of more than 135,000 disabled Vietnam-era veterans.

Mr. President, S. 1188 as reported would establish, on a permanent basis, a program modeled on the D-VOP program—the veterans' employment and training outreach program—VETOP. Under the committee bill, VETOP would expand the current D-VOP initiative and increase the emphasis on job development and placement in the private sector—particularly in terms of small- and medium-sized employers.

Mr. President, throughout this session of the Congress, the Veterans' Affairs Committee has held a series of five hearings focusing on the continuing readjustment needs of Vietnam-era veterans. We have attempted to discover where we are and what still remains to be done in this area. Throughout these hearings the committee has received very compelling testimony to the effect that what is not needed is new programs and new initiatives. There are good and effective programs and laws already in existence. What is needed is forceful and vigorous implementation of those programs and laws.

Mr. President, let me stress that neither I nor my colleagues on the Veterans' Affairs Committee, nor many of the members of this body who joined in defeating the very similar proposal made by the Senator in January, believe that enough has been done in the area of veterans' employment—particularly for younger veterans, disabled veterans, and minority group veterans. Certainly, there is no disputing the statistical evidence published monthly that shows unacceptably high rates of unemployment for certain categories of veterans. But much has been done and much more can be done under existing programs. I am continuing my efforts to seek effective implementation of current laws and on-going initiatives designed to assist veterans. Evidence of my very deep concerns in this area are reflected in the many employment-related provisions of S. 1188 as reported as well as the provisions of the proposed GI Bill Amendments Act of 1980 passed by the Senate in January.

Mr. President, under the amount assigned for veterans' entitlement programs to the Senate Veterans' Affairs Committee in the first concurrent resolution on the budget for fiscal year 1981—amounts I believe are totally inadequate—the committee is working very hard to assure the enactment of important legislation designed to meet the very real needs of our Nation's veterans. As it stands now, however, there are barely sufficient funds available for the provision of a badly needed 10-percent cost-of-living increase in GI bill benefits—the first since 1977—and an appropriate cost-of-living increase in veterans' service-connected disability compensation, and the Senate has already unanimously voted, in approving by an 89 to 0 tally on June 30, title VIII of S. 2885, the proposed Reconciliation Act of 1980, to defer that GI bill increase until January 1981. Thus, every dollar given to an employer under the Pressler amendment would be a dollar in compensation benefits taken away from a service-connected disabled veteran or a survivor of one who has died from a service-connected disability or from a GI bill benefit recipient.

In this regard, it is important to note that the author of amendment No. 1906, a member of the Senate Budget Committee, offered no amendments during the consideration of the first concurrent resolution on the budget for fiscal year 1981 that would have allowed sufficient funds for consideration of a proposal along the lines he proposed—and that he voted for veterans' function figures considerably lower than the Senate eventually adopted as a result of the Randolph-Thurmond-Cranston amendment. I believe it is not appropriate now to come to the floor with an amendment—estimated by CBO to cost $18.5 million in the first year and $202.1 million through fiscal year 1984—when the dollars have not been sought or provided in the budget process.

Mr. President, I ask unanimous consent that copies of letters from the Veterans of Foreign Wars and the Disabled American Veterans in opposition to amendment No. 1906 appear in the RECORD at the conclusion of my remarks.

Mr. President, as I noted, the Senate rejected this approach in January. It should do likewise now. I urge the Senate to defeat the amendment when it is offered.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
June 17, 1980.

To: All Members of the U.S. Senate.

From: Howard E. Vander Clute, Jr., National Commander-in-Chief, Veterans of Foreign Wars of the United States.

Subject: Job vouchering.

It has come to my attention that when S. 1188, the "Disabled Veterans Rehabilitation Act of 1980," is considered by the full Senate, that Honorable Larry Pressler or some other Senator may offer an amendment to authorize job vouchering wherein employers would be paid the unused educational assistance allowance of Vietnam Era veterans to defray, in part, salaries paid by employers for their employment, career development or training of Vietnam veterans.

Although the V.F.W. has historically supported legislation to assist our wartime veterans in their readjustment to civilian life, we do have reservations with respect to job vouchering as follows:

1. We believe there are already sufficient laws with respect to the employment of Vietnam veterans and disabled veterans if effectively and rigorously enforced. We have on-the-job training, apprenticeship, Help Through Industry Retraining and Employment (HIRE II), the Comprehensive Employment and Training Act (CETA), the Disabled Veterans Outreach Program (DVOP), Affirmative Action and Targeted Job Tax Credit. Also, Section 209 of S. 1188 would establish the Veterans Employment and Training Outreach Program (VTOP) wherein the Secretary of Labor shall make available to each state, directly or by grant or contract, such funds as may be necessary to support a program of employment and training outreach designed to meet the employment need of veterans, especially disabled veterans of the Vietnam Era.

2. The cost of job vouchering is estimated to be approximately $70 million. As I am sure you are all aware, House Concurrent Resolution 307, the First Concurrent Budget Resolution for Fiscal Year 1981, not only establishes an inadequate budget for the Veterans Administration of $21.2 billion in outlays but, also, mandates the introduction and advancement of cost-saving legislation in the amount of $400 million by the Veterans Affairs Committees of both Houses. This "bare bones" budget is, in our opinion, approximately $1 billion short of funding necessary to properly maintain the benefit programs and the Veterans Administration Hospital and Medical Care System. As a result of diminishing, inadequate budgets the past several years, the Veterans Administration Hospital and Medical Care System is understaffed and underfunded. Veterans in receipt of compensation for their service-connected disabilities have received less than actual cost-of-living increases, our Vietnam veterans availing themselves of educational benefits under the G.I. Bill have not received a cost-of-living increase since October, 1977 and while the Congressional Budget Office has stated they will need at least a 30 percent increase by this October, the budget recommends only a miserly 10 percent and the readjustment counseling and expanded Drug and Alcohol Treatment Programs for Vietnam veterans under the provisions of P.L. 96–22 are underfunded and understaffed.

In view of the foregoing, the V.F.W. could only support job vouchering if a supplemental appropriation for such is approved and under no circumstances can we support the inclusion thereof in S.1188 if funding is intended to be obtained by granting less than actual cost-of-living increases in the existing benefit programs already mandated by Congress.

With best wishes and kind regards, I am,

Sincerely,

HOWARD E. VANDER CLUTE, Jr.,
National Commander-in-Chief.

DISABLED AMERICAN VETERANS,
Washington, D.C., June 19, 1980.

Hon. ALAN CRANSTON,
Chairman, Senate Veterans Affairs Committee, Washington, D.C.

DEAR SENATOR CRANSTON: It has recently come to our attention that Senator Larry Pressler intends to offer legislation that would provide for a career development program for certain Vietnam Era veterans.

The Disabled American Veterans is opposed to the idea of paying employers to hire veterans. As you may know, the Subcommittee on Education, Training and Employment of the House Committee on Veterans Affairs held hearings on March 6, 1980. Several bills were discussed at that hearing to include H.R. 5581, which was the House version of a career development act. Stephen Edmiston of our Legislative Staff appeared and I accompanied him at those hearings and testified in opposition to H.R. 5581. I am enclosing a copy of the March 6, 1980 testimony and your attention is directed to page five where we comment on H.R. 5581.

If you have any questions regarding our position on this matter, please do not hesitate to contact me.

Sincerely,

RONALD W. DRACH,
National Employment Director.

STATEMENT OF STEPHEN L. EDMISTON

Mr. Chairman and members of the subcommittee: On behalf of the 658,000 members of the Disabled American Veterans, I wish to thank you and the members of the Subcommittee for allowing us this opportunity to express our views on legislation presently pending before the Subcommittee which would impact upon employment and education programs for veterans and affect the education program for the survivors and dependents of service-connected disabled veterans.

At the outset, Mr. Chairman, at the DAV would like to take this opportunity to extend to you and the members of the Subcommittee our sincere appreciation for the legislation passed by the House (H.R. 5288) during the First Session of the 96th Congress that would improve and modernize the VA Vocational Rehabilitation Program (Chapter 31) for service-connected disabled veterans.

As you know, the DAV membership is composed of honorably discharged veterans who were wounded, injured or otherwise disabled in the wartime military service of their country. It therefore follows that our organization is primarily concerned with veterans educational benefits provided by the Vocational Rehabilitation Program under Chapter 31 and the Survivors and Dependents Educational Assistance Program provided under Chapter 35 of Title 38, U.S. Code.

However, though our organization was founded on the principle that, in terms of veterans benefits and services, this nation's first obligation rests with the rehabilitation of its service-connected wartime disabled, the DAV is also concerned over those federal programs designed to enhance the educational opportunities of veterans in general.

Therefore, we are grateful to you, Mr. Chairman, and the members of the Subcommittee for holding these hearings and for exhibiting your sincere interest in these programs.

H.R. 6165

H.R. 6165 proposes to amend Title 38, United States Code to allow certain veterans with active military service prior to January 1, 1977 to participate in the Post-Vietnam Era Veterans Educational Assistance Program (Chapter 32).

We understand this proposed amendment is an effort to remove an inequity which presently exists in current law which precludes an individual who did not "initially" enter into active military service on or after January 1, 1977 from participating in the contributory educational assistance program under Chapter 32.

Apparently, Mr. Chairman, there is a small group of active service personnel who "initially" entered active service prior to January 1, 1977 and, for valid reasons, were released from active duty with less than 180 days of active service. Accordingly, these individuals were not eligible for veterans' educational assistance under Chapter 34, Title 38, U.S. Code.

Subsequent to January 1, 1977 many of these individuals again enlisted in the military service with full expectation of being able to participate in the Post-Vietnam Era Educational Assistance Program. Unfortunately, under current law, individuals are only eligible for this program if they "initially" enter active service on or after January 1, 1977.

While the DAV has no official position on the proposal set forth in H.R. 6165, we have no objections to the provisions which seek to correct an inequity inadvertently created in the Chapter 32 Education Program.

H.R. 6166, H.R. 6167 AND H.R. 6168

Through appropriate amendment of Section 1624, Title 38, United States Code, H.R. 6166 would provide for disbursement of unused Post-Vietnam Era Veterans' Educational Assistance contributions upon the death of a participant. Mr. Chairman, the DAV believes this proposal, in addition to improving current statutory language, provides a clear and concise delineation for disbursement of unused Chapter 32 contributions in the event of the participant's death.

As you may know, Mr. Chairman, the VA is currently in the process of perfecting regulations which would accommodate the proposal set forth in H.R. 6167. If enacted, this measure would amend Section 1692(b)(2) of Title 38, United States Code to preclude the payment of tutorial assistance to eligible veterans when the assistance is provided by the veteran's parent, spouse, brother or sister.

The Disabled American Veterans is not aware of any abuse in this area. However, over the years our organization has consistently supported initiatives designed to curtail abuse and to eliminate the possibility of wasteful expenditures in the Veterans Administration.

H.R. 6168, introduced by yourself, Mr. Chairman, proposes to increase by 15 percent the rates of educational assistance and special training allowance paid to eligible veterans and individuals participating under Chapters 34, 35 and 36 of Title 38, United States Code.

The last time the rates of educational assistance and the special training allowance were increased for those eligible for benefits under Chapters 34, 35 and 36 was October 1, 1977 (Public Law 95–202). At that time, these individuals were afforded a 6.6 percent adjustment in their benefits. There have been no further adjustments of these rates while the Consumer Price Index has risen by more than 20 percent in the two years since the enactment of Public Law 95–202. Further, there seems to be no relief in sight as current projections for calendar year 1980 again reflect double digit inflation.

Mr. Chairman, the DAV has no National Convention mandate supporting the enactment of any of the provisions outlined in H.R. 6166, H.R. 6167 or H.R. 6168. However, as two of these measures seem to be designed to clarify the intent of Congress and because VA education subsistance allowances have fallen victim to the ever-spiraling cost of living, we do not oppose the enactment of these measures.

H.R. 5581

Mr. Chairman, we have had an opportunity to review and analyze in detail H.R. 5581 which is intended to enhance the employment of Vietnam Era veterans through a program of outreach and supportive services and through a career development, advancement and training program. Shortly after its introduction this measure became known as the "HIRE III" Program since its concepts incorporate the guidelines of the original Help Through Industry Retraining and Employment Program (HIRE I & II).

While we certainly commend Mrs. Heckler and Mr. Daschle for their ongoing efforts to address the unemployment problems faced by all too many Vietnam Era veterans, we are opposed to the concept of "paying" employers to hire veterans. Rather, Mr. Chairman, we believe that the Department of Labor should be expanding its emphasis on enforcement of existing laws passed by Congress over the last several years—laws which are designed to enhance the employment opportunities of all veterans and which, if properly and aggressively implemented, could make a significant impact upon the high rate of unemployment among Vietnam Era veterans.

The very idea that we should have to pay employers to hire those who served our country during a period of armed conflict is extremely distasteful to the Disabled American Veterans. Mr. Chairman, as you know, veterans are the only group identified in law to receive priority services through the Employment Security System. Despite that, development and implementation of public policy over the years has relegated the veteran to a second class citizen. Current and past Administrations have placed more emphasis on the needs of other disadvantaged groups than on those who, in time of national need, served this country. It is our opinion that Vietnam veterans continue to suffer a disproportionate share of the high rate of unemployment in our nation today. Several factors contribute to the staggering unemployment of Vietnam Era veterans. They include the lack of training and education, poor design and implementation of new programs and a total lack of commitment to enforce existing laws and regulations.

The Congressional Budget Office estimates a cost of $502 million to implement the program outlined in H.R. 5581. It is our opinion, Mr. Chairman, that the money could be put to better use by increasing existing resources and continuing a relatively successful program such as the Disabled Veterans Outreach Program (DVOP). At current expenditures, we could fund DVOP for approximately another 20 years for the amount estimated to implement H.R. 5581. In our view, we don't need to pay employers as much as we need to redirect DOL emphasis on job development, counseling and placement activities for veterans. Further, we are apprehensive that such a program may open the door for fraud and abuse on the part of employers.

We believe, Mr. Chairman, that employers do not react to "subsidies," but rather to external pressures. Barnhill-Hayes, a management consultant firm in Milwaukee, Wisconsin, recently surveyed 300 employers. One of those survey questions was designed to extract from employers their feelings as to which employee group would make the most significant employer gains over the next several years. Vietnam Era veterans came in last.

Employers gave as reason for their pessimism the fact that "Vietnam veterans had no clout." This statement vividly confirms our belief that the Department of Labor has little interest in "wielding clout" when it comes to enforcement of existing affirmative action laws on behalf of Vietnam veterans.

H.R. 6327

Mr. Chairman, H.R. 6327, introduced by Mr. Daschle, is similar in nature but not in scope to H.R. 5581. For the reasons stated above, we are also unable to support this bill. Again, Mr. Daschle should be commended for his efforts to improve the plight of Vietnam Era veterans. However, we do not believe that the approach outlined in H.R. 6327 properly addresses the current unemployment problems of Vietnam Era veterans. Additionally, we believe that without assurances of permanent employment, many employers would take unfair advantage of eligible veterans—using them to supplement their work force on a temporary basis while concurrently receiving subsidies from the federal government.

It is significant to note, Mr. Chairman, that proposals similar to H.R. 5581 and H.R. 6327 were recently debated and rejected (by a substantial margin) on the floor of the Senate.

This completes my statement, Mr. Chairman, and I wish to again thank you and the members of the Subcommittee for allowing the Disabled American Veterans to present its views on these important subjects.●

GOVERNMENT REGULATIONS

● Mr. DURENBERGER. Mr. President, by one estimate Government regulation costs over $100 million a year. That figure is certainly hard to place in its proper perspective. It is, unfortunately, easier to realize the impact of the loss of $69,000 to the customers of one bank in Minnesota.

That sum was the cost of printing and distributing 115,000 copies of a 4,500-word booklet concerning the bank's electronic money transfer services. The material was prepared exactly in the manner described under the detailed disclosure requirements of regulation E.

I say that $69,000 was lost due to the results of an experiment conducted by Northwestern National Bank of Minneapolis. In 100 of the 115,000 copies of the booklet the bank included an extra paragraph that read:

> Any customer who receives (in the mail) a disclosure that includes this paragraph can get $10 simply by writing "Regulation E" and the customer's name and address on a card and sending it along with a self-addressed, stamped envelope, to Northwestern National Bank of Minneapolis, 7th and Marquette, Minneapolis, Minn. 55480.

Thus far not a single person has responded. I doubt that any Minnesotan that I know would pass up such an opportunity if he read it. My only conclusion is that these booklets were not read very widely.

In this day of widespread economic distress I would much rather see this money back in the hands of the bank's customers or stockholders than being spent for unneeded paperwork. I cannot believe that the consumer would not have been better served by a brief notice about changes in the law with a complete explanation available on request.

Not only must we spend tax dollars wisely, we must seek out the most efficient, least costly form of regulation if we have to impose regulation at all. The following article shows that we must be even more diligent in these efforts:

Minneapolis Bank Wins $1,000 Bet

(By Herb Greenberg, business writer)

Northwestern National Bank of Minneapolis bet $1,000 its customers aren't reading those long, detailed pamphlets required by the government disclosing changes in banking regulations.

The bank won.

As part of a May and June mailing to 115,000 customers regarding the Federal Reserve's new "Regulation E" pertaining to electronic fund transfers, the bank ran an experiment. It printed a special pamphlet that contained an extra paragraph midway through. The paragraph said:

"Any customer who receives (in the mail) a disclosure that includes this paragraph can get $10 simply by writing 'Regulation E' and the customer's name and address on a card and sending it along with a self-addressed, stamped envelope to Northwestern National Bank of Minneapolis, 7th & Marquette, Minneapolis, Minn. 55480."

The Bank mailed the special pamphlets to 100 randomly selected checking account customers.

How many responded?

None.

The experiment was prompted by the bank's concern that the detailed pamphlets are a waste of money—it cost Northwestern $69,000—and that such disclosures are "laborious and difficult to read," said Paul Eisen, senior vice president of marketing.

Instead, Northwestern would have preferred to distribute a statement notifying customers that the disclosure notices were available on request.

"Based on our experience, total costs to all banks across the nation might well be in the tens of millions of dollars," Eisen said. "Somewhere along the line, all those costs will have to be paid by the bank's customers." ●

WILL JUSTICE PREVAIL UNDER MUGABE IN ZIMBABWE?

○ **Mr. HELMS.** Mr. President, Senators should be mindful of a shocking incident that took place in Zimbabwe, formerly Rhodesia, in recent days involving one of Prime Minister Mugabe's Cabinet members, Minister of Manpower, Edgar Tekere, Mr. Tekere is also the secretary general of Mr. Mugabe's political party, the Zimbabwe African National Union-Patriotic Front Party.

It appears from accounts in today's newspapers that Mr. Tekere was involved in the recent murder of a farmer, Mr. Gerald Adams, in Zimbabwe. Subsequently, the minister was apprehended after a siege by heavily armed police units. Later, his home was found to contain a significant number of automatic weapons.

Mr. President, I urge Senators to watch the developments in this case very closely. We shall see whether Prime Minister Mugabe's rhetoric about equal justice for all applies also to members of his own government who are engaged in lawlessness.

Mr. Mugabe promised the people of Zimbabwe that his election would mean the end of the war, and the end of violence. Thus far, these promises have not been fulfilled.

The government claims that hundreds of armed gangs are terrorizing large part of the countryside—and that they are completely beyond the control of the army and the police to contain. The government also claims that the lawless elements are not being coordinated or encouraged by members of Mr. Mugabe's government.

According to the New York Times and the Washington Post Minister Tekere was seen fleeing the scene of the murder of Mr. Adams who happened to be a white farmer. He was apprehended only after massive siege operations by members of the police. His home was found to contain large numbers of automatic weapons. It would appear from this evidence that a strong case can be made for bringing Minister Tekere to trial.

If Minister Tekere can get away with murder, what message does this send to the people of Zimbabwe and to the people of the world? It means that the Government of Zimbabwe either condones such violence or that it lacks the moral or physical strength to deal with terrorism. If Mr. Mugabe cannot control even the members of his own Cabinet it bodes ill both for the future of democracy and for the future of the long-suffering people of Zimbabwe.

So, we should watch the development of the Tekere case. Its official handling by Mr. Mugabe's government will be a clear sign for the future. If he is brought to justice, there may yet be hope. But if this matter is shamefully swept under the rug, and Minister Tekere gets away with a slap of the wrist for a cold-blooded murder, then all of our worst fears will have been confirmed.

Mr. President, I ask that two articles dealing with this incident be printed in the Record at the conclusion of my remarks. The first is an article by John Burns in the August 6 issue of the New York Times, the other is by Jay Ross in the August 6 issue of the Washington Post.

The articles follow:

High Zimbabwe Aide Questioned in Killing of a White

(By John F. Burns)

Salisbury, Zimbabwe, August 5.—A senior Cabinet officer was questioned today in connection with the killing of a 68-year-old white farm manager, threatening a scandal that could shake Prime Minister Robert Mugabe's Government.

A police statement confirming the questioning of Edgar Z. Tekere, Minister of Manpower Planning, was issued tonight more than 24 hours after Mr. Tekere and several associates were surrounded in a police siege of a downtown Salisbury apartment building. Police sources said that the siege, lasting most of last night, ended with the surrender of several weapons, including a pistol taken from Mr. Tekere.

The siege followed the fatal shooting on a farm 12 miles west of Salisbury yesterday afternoon. A police statement said that the victim, Gerald William Adams, died after "a group of armed men" opened fire on the homestead and its outbuildings. An unconfirmed report said that the shooting developed when the Tekere entourage went to the farm to pursue a feud with blacks belonging to a paramilitary unit called the Guard Force that was stationed on the property by the white minority Government that previously ruled here.

Policemen at the scene said that Mr. Adams had apparently died from a burst of fire from at least one AK–47 automatic rifle. Since this country became Zimbabwe under a black Government in April, the Soviet-designed AK–47, manufactured in several Communist countries, has been the standard weapon of senior officials' bodyguards.

The incident appeared likely to shake confidence among the country's 220,000 whites, who are adjusting uneasily to life under the black Government. But its main political significance lay in the difficulties that it could provoke for the Government with a radical faction that has coalesced around the 43-year-old Mr. Tekere, who is secretary general of the ruling Mugabe party.

Since independence, Prime Minister Mugabe has laid down a policy of reconciliation with whites, pledging to respect their property rights and to maintain a democratic system. But Mr. Tekere has stirred controversy with attacks on white civil servants and on the Anglican Church, and by insisting that the militant socialism espoused by the governing party during the guerrilla war be put into practice.

On several occasions Mr. Mugabe has repudiated his associate's statements, describing them as personal opinions. But the Prime Minister has had to tread warily since Mr. Tekere has a large following in the party, particularly among youthful elements and the 25,000-man guerrilla force that fought for majority rule under the party's banner.

MINISTER FAILS TO RETURN

Senior officials said tonight that Mr. Mugabe had been kept informed of developments in the shooting incident and one account was that he had intervened to head off a second incident between the Manpower Minister and the police. This was said to have occurred when Mr. Tekere, who was released after the overnight siege, failed to return to police headquarters for further questioning.

According to police sources, the siege developed after people living near Stamford Farm, scene of the killing, reported having seen two cars, a white Mercedes and a blue Jaguar, racing away after the shooting. The Jaguar, which the sources identified as Mr. Tekere's personal car, was found parked later in a residential area a short distance from the government building where the Manpower Minister has his office.

The police said that after tracing Mr. Tekere and his associates to a nearby apartment building they sealed off the area and posted marksmen on neighboring roofs. A stalemate of several hours ensued before the men surrendered.

Until the police statement tonight confirming Mr. Adam's death and the questioning of Mr. Tekere, all that most Salisbury residents knew of the siege was a small item in a morning newspaper reporting that three truckloads of policemen had surrounded a downtown building.

POLICE DEPLOYED AROUND HOME

The police said that Mr. Tekere had been released after surrendering his pistol on condition that he return with his lawyer later for further questioning. When he failed to appear, the police said, more heavily armed policemen were deployed around the Manpower Minister's home in the Salisbury suburb of Hatfield, a predominantly white area close to the sprawling black township of Highfields. It was at this point that Mr. Mugabe reportedly intervened to prevent a showdown.

At dusk the police reached a new agreement with the Manpower Minister, under which Mr. Tekere undertook to report for questioning tomorrow. The police then departed taking with them a number of weapons, including the AK-47 rifles that were to be submitted to ballistics tests.

KEY AIDE IN MUGABE'S GOVERNMENT QUESTIONED IN WHITE FARMER'S MURDER

(By Jay Ross)

SALISBURY, ZIMBABWE, August 5.—Edgar Tekere, a key Cabinet minister and the third-ranking official in Prime Minister Robert Mugabe's ruling party, was questioned today in connection with the murder of a white farmer near Salisbury, police said.

A number of reports circulated here that some of Tekere's bodyguards had been arrested and that Tekere's official vehicle was observed at the scene of the killing of Gerald William Adams, 68, at a farm west of Salisbury, but police officials refused to elaborate beyond the terse three-sentence announcement.

It was known, however, that Tekere's house and an apartment where he was staying came under separate police sieges during the last 24 hours.

The police silence reflected the delicacy of the situation since any involvement of Tekere, minister of manpower and secretary general of the ruling Zimbabwe African National Union-Patriotic Front Party, would present Mugabe with a difficult dilemma.

There have been numerous complaints from the nervous white community of about 200,000 persons and from some blacks that Mugabe's former guerrillas and some members of his party have flouted the law with impunity since the party gained power in April through elections.

Tekere, however, would be the highest level official involved in such complaints and also the first such official to be linked to a murder case.

Mugabe and Tekere spent more than 10 years in prison under the white-minority government of former prime minister Ian Smith and then went to Mozambique together in 1975 to wage their successful war of independence.

Any legal or political action against the party secretary general could also cause problems among Mugabe's more than 25,000 restless guerrilla forces, living in temporary assembly camps.

Tekere concentrated much of his time during the seven-year war on helping to build camps for the guerrillas in Mozambique and thus is popular with the troops of the Zimbabwean Army.

The incident came at an embarrassing time for the prime minister who is hosting Mozambican President Samora Machel, the first official state visitor to the newly independent nation.

Tekere missed the state dinner for Machel last night, instead spending the time in a Salisbury apartment building that came under police siege after his official car was located at the building.

Witnesses said three truckloads of police surrounded the block for hours until Tekere emerged. He was questioned briefly and said he had to see Mugabe before undergoing any further interrogation.

It was not known whether he talked to the prime minister, but Tekere apparently failed to show up for further interviews today with the police, who then surrounded his suburban home in St. Martin's. The police statement said a number of weapons were removed from the house.

It was understood that Tekere agreed to undergo further questioning Wednesday, but police refused to confirm the report. It was also unknown whether any persons had been arrested in connection with the killing, but the spokesman said no one was being held "at present."

The official also said the police had been in touch with Mugabe about the incident. Mugabe arrived late for the dinner for Machel tonight and "did not look his normal self," according to a government official.

Tekere has been one of the most militant leaders of Mugabe's party and has been a cause for concern among whites whom Mugabe is seeking to retain in the country.

Last month Tekere called for Home Affairs Minister Joshua Nkomo, leader of the Patriotic Front Party allied with Mugabe's organization, to be "crushed."

Tekere represented Mugabe's party at last year's Commonwealth summit conference in Lusaka, Zambia, which worked out the formula that led to eventual solution of the issue of independence for Zimbabwe, formally called Rhodesia. After the conference, Tekere was sharply critical of some aspects of the agreement, although Mugabe later took a more moderate line from his headquarters in Mozambique.

Mugabe sent Tekere to the United States for a long period during the crucial stages of the London conference that ended the seven-year guerrilla war. The trip was reportedly intended to remove Takere's hardline influence.

The Tekere incident cast something of a pall over Machel's visit, since today Mugabe had gone to great lengths to make it a festive occasion honoring Mozambique's support of the Zombabwean liberation cause.

One Mozambican official said, "We didn't support these guys so they could go around shooting white farmers after independence."●

NATURAL RESOURCES: A COUNTRY BALLAD OF TRAGEDY AND HOPE

● Mr. SCHMITT. Mr. President, on May 11, 1980, Dr. Robin Brett, director of the Division of Earth Sciences for the National Science Foundation, gave the commencement address at the University of North Dakota. "Natural Resources: A Country Ballad of Tragedy and Hope" focuses on the important issue of our Nation's policy on materials and minerals. In addition to this address being an extremely informative explanation of the status of our domestic materials and minerals policy and hopefully the fact that it was presented to a group of young people in this country is of vital importance particularly as we consider the Alaska lands legislation before us.

The Congress is once again examining the issue of developing a national materials and minerals policy and hopefully will have better results than previous Congresses. In the past 2 months, 6 days of hearings have been held in the Senate by two committees. Yet, what must be recognized is that once Congress has acted, the problems and issues will not rapidly dissolve. Production and use of our natural resources will be a matter for the next generation to deal with.

It has been, and still continues to be, difficult for the Congress to legislate long-term policies. In the past, we have ignored what the impact of our decisions is on future generations. It is only in the last few years that we have begun to step-up to our responsibility in this area. As we learn, we must also help educate the public so they, too, will think in longer-range terms. It is through addresses like this to America's young people that will better educate them on what our Nation's problems are now; and hopefully, this will lead them to begin thinking of ways to rationally approach the use of our Nation's and our fragile Earth's resources.

Mr. President, I ask that the text of Dr. Brett's speech be printed in the RECORD.

The speech follows:

SPEECH BY DR. ROBIN BRETT

I feel uniquely qualified to address you today. This is my first commencement address. Not only the first one I've given—the first one I've heard. I have not read one either. Although I have received degrees at four different commencements, I managed to be on geological field trips for the second, third, and fourth of those. The first, and only one I attended, was in Australia and I don't believe an address was given. On the other hand, I always forget unpleasantness, so I could have heard one and blotted it out.

Since I am neither rich, famous, nor powerful, I can only infer that I am here because I might have something worthwhile to say. This is a plausible inference; but, not necessarily valid. I could, for example, quote you the memorable lines from an old wrangler to his horse:

Far from water, and far from wood,
You're going to leave this place for good.

Or, I could tell you that something miraculous is happening today, and that when you wake up tomorrow morning it'll be all different. That's not true, and some of you will have hangovers and feel rotten.

Or, I could pontificate about foreign devils, domestic satans, and hell on earth. But, what I really want to do is share with you some thoughts about a subject that will never leave you alone—no matter what your field of endeavor.

I want to talk about natural resources. Not the human kind, which are the most interesting and important, but that's not my field and this University does an excellent job in that field. The College for Human Resources Development is a rare institution in a university and is a most important one. I won't talk about agricultural resources either. I want to say a few things about the minerals industry in this country: mainly about the non-fuel minerals—things like lead and chromium, and iron ore and aluminum.

I chose the title "Natural Resources: A Country Ballad of Tragedy and Hope" because I'm a country music fan. I caught the bug from an astronaut friend of mine when we were locked up together in quarantine after the Apollo 12 mission to the moon. Both of us had been exposed to lunar rocks and NASA, in its wisdom, believed in a quarantine system to protect the world from lunar bugs. To this day, I don't know which bug is worse.

Mineral planning and future projections for this country are a tragedy; but in every country song, tragedy nurtures hope. The classic country songs also involve pickup trucks, prison, railroad trains, alcohol, unrequited love, dogs, and mothers-in-law. The pickup truck represents our gasoline dilemma, the train our iron ore and steel industry, and unrequited love or unrealistic expectation of never ending limitless supplies. The alcohol is a new energy hope, and prison is one we've made for ourselves. I need help though, as I can't work in dogs and mothers-in-law. When we do, we can all sing it together.

One measure of progress in human society is its use of minerals. Ages of early man have been named after the minerals used—the Stone Age, the Iron Age and the Bronze Age. World exploration was dominated by hopes of mineral treasures; if there were rich deposits on the moon, we'd still be going there. The Romans, with their advanced civilization, even had lead plumbing which may have helped them go soft in the head and be conquered, according to some. Can you imagine writing an environmental impact statement in Latin?

Sir Macfarlane Burnett, a Nobel prize-winning Australian, said in 1966: "There are three imperatives: to reduce war to a minimum, to stabilize human population, and to prevent the progressive destruction of our natural resources."

George Washington recognized the two basic industries of man—agriculture and mining—by having a crossed pick and shovel painted in the ceiling of his banquet hall at Mt. Vernon.

Every man, woman, and child in the U.S. in 1976 used 40,000 lb. (20 tons) of mineral materials per person. This includes 8,000 lb. of stone, 8,000 lb. of sand and gravel, 1,000 lb. of iron and steel, 7,600 lb. of petroleum, and 4,200 lb. of natural gas. This is twice the amount of two decades ago. We don't produce all of it in the U.S., and what we have will run out. That's the tragedy. We have all assumed until recently that necessary materials would be available at an acceptable price. Resources are finite in one way but not in another: except for a few tons that have gone to the moon and other places, they never leave the earth. So we must learn to recycle more.

The U.S. uses one quarter of the world's total mineral resources. In the period 1937-1967 we used more minerals and fuel than the entire world had done for all of history before 1967. In that year the average American used nearly 6 times more iron and copper and 8 times more lead than any other country. Can the world suffer this U.S. consumption of ore and the attendant energy necessary for smelting? Minerals have figured prominently in the causes of trade problems and wars in the past, and they will again—unless we're a lot wiser than we have been.

Our balance of trade with respect to minerals, even without considering fossil fuels, is decidedly negative; there was a $32 billion deficit in 1976—this includes oil—and it has grown worse. A balance was achieved until recently by export of agricultural produce and military hardware. It doesn't make me feel very comfortable to think that we're using more resources than enyone else and are very active in arming the world at the same time.

We are now using over 4 billion tons of new mineral materials annually—as I mentioned before, twice as much as two decades ago. If we keep on going at this rate, a $13 billion deficit in 1972 increases to $100 billion deficit in 2000. Putting it simply, we run out of some things while going broke at the same time. Projecting again, our self sufficiency drops from 89 percent in 1950 to 73 percent in 1972 to 44 percent in the year 2000.

World population is increasing, as is standard of living with its accompanying demands at the minerals trough. Thomas Robert Malthus in 1798 was smart to have made this statement before the industrial revolution: "The power of population is indefinitely greater than the power in the earth to produce subsistence for man."

World population doubles in far less than a century. Fifteen more doublings means 1 person for every square meter of the land area of the earth, including Antarctica and Greenland, and we have to share our square meter with the trees, rats, elephants, and skunks.

Human population can either rise briefly and fall to a level capable of being sustained by the world's energy and minerals. That's the best possibility. Or it can overshoot, fall way back through calamity and rise to a plateau where it can be sustained. Or it can exhaust all the resources and fall to a point where a primitive existence (and I mean primitive) is sustaining. Unlimited and continuous growth is no longer possible.

Let me now discuss some specific minerals. We import most of our aluminum, nickel, and one-third of our iron ore. We have enough iron ore for quite a while, but we import much of our steel because some countries, Japan especially, can produce and ship it more cheaply than we can make it, even though it imports both the iron ore and coal, mainly from Australia.

For some minerals, we are entirely dependent on foreign countries. Chromium, manganese, cobalt, and the platinum group metals are the commodities of greatest concern because they are so called strategic minerals and because they are all imported mostly from southern and central Africa, an increasing political instability. Should supplies from there become unavailable, we would have to be dependent on our second largest supplier of chrome and platinum group metals, the Soviet Union. That's the worst group, but we rely heavily on imports for a lot of other minerals.

Since we're discussing the Soviet Union, one sided discussion that it is, let's look at what shape they're in. The contrast in the U.S. and Soviet positions is as follows:

First, the Soviet Union emphasizes mineral self sufficiency. The United States has taken few steps to improve its position in self sufficiency. Second, the Soviet Union restricts consumption of minerals if necessary, to avoid import deficiencies. The United States as a consumer economy places no limitations on consumption other than to suggest the desirability of increased recycling. Third, the Soviet Union is a major exporter of minerals and uses mineral exports to obtain foreign currency. The United States imports of minerals are steadily increasing. The net effect of this has been to help weaken the U.S. dollar. Fourth, and I'm proud of this one, the Soviet Union expresses sentiments of interest in the Third World, but it has not, in fact, materially assisted developing countries in the development of their mineral industries. The United States has made capital available on favorable terms and has extended trade concessions. Finally, and I'm partly proud of this one—exploitation of Soviet mineral deposits is in no way inhibited by environmental considerations. In the United States, the proliferation of environmental and safety regulations puts a heavy burden on capital and operating costs in the mineral industries. These comments come from Simon D. Strauss, President of American Smelting and Refining Company, given in a paper at a recent mining convention.

What I've talked about so far is the tragedy. I don't come here to spread doom and gloom. I'm not barefooted with a banner saying the end is near. We don't need Superman or the Lone Ranger to rescue us—even Herbert Hoover in some position of authority would do, because despite other alleged shortcomings, he was an excellent mining engineer. We're in the position of James Branch Cabell's 1926 definition of an optimist and pessimist: "The optimist proclaims that we live in the best of all possible worlds, and the pessimist fears this is true."

How did we get into this fix? Energy and mineral shortages could have been avoided with appropriate planning from the 1960's on. The resources, not infinite, but enough, are certainly there and with the help of the sun for more energy, we could have been in a much better position than we are. Improved technology could have been developed. There is a prevailing misconception that we do not have the information on which to base sound government actions, just as some still believe that there is no energy crisis, and blame it on the President, or the oil companies, or the Arabs. Natural gas and petroleum reserves and their consequences were well predicted 15 years ago by King Hubbert, a brilliant oil company and government geologist. Everyone ignored this cassandra—it could never happen.

The mining and metallurgical industries have been short on research and development for a long time, and much of our mineral technology now comes from abroad. The USSR and Japan are edging us out on substitutes for mineral products; but then there aren't substitutes for all, especially cobalt, manganese, chromium, tin and mercury, all of which we import.

The universities have not helped. In the 1960's, the big push after Sputnik was in materials research—the study of the properties of materials, so important in the aerospace and electronics industries among others. Many mining departments closed down: 21 percent between 1962 and 1969. In 1964, the ratio of chemists in industry to new graduates was 15:1; in mining, engineers to new graduates was 50:1. There weren't enough new graduates to replace those who retired at a time when we desperately needed research. The same sort of figures apply to the field of extractive metallurgy. Recently, the situation has remedied itself—we are just getting the practitioners but still need the research. Fortunately, miners no longer believe that the sky, or even the roof, will collapse if women go down a mine, so we are at last tapping the enormous talents of women in the mineral industry.

Now for the Federal and State Governments. There is no coherent federal policy on mineral research, exploitation, and planning. A myriad of federal agencies are involved from the State Department to the Department of Commerce, to the Environmental Protection Agency to the CIA, to name a few, but there is little coordination and little long-range planning. Few states have agencies of mineral technology.

There is no coordinating mechanism for assuring the routine and effective involvement of Federal officials with responsibility for minerals policy in the formulation of tax policy, environmental policy or other broad national policies which may significantly affect non-fuels mineral supply and consumption. It therefore is impossible to identify conflicts among policies and to make trade-offs in recognition of possible consequences. A major problem in coordination is complicated by the fact that there are more than 20 different agencies, departments, councils and commissions whose policies and programs significantly affect non-fuel mineral supply and consumption. Furthermore, these units operate under more than 80 different laws, executive orders which deal directly, specifically, or by implication with non-fuel minerals. I'm not even mentioning in this list laws such as tax and antitrust laws, stockpiling laws affecting a single mineral, or state and local laws and regulations. These statements on the role of government are well documented in a recent government report.

Concern over the lack of a coordinated policy making process has existed for the past quarter century. For example, in 1952, the President's Materials Policy Commission, looking at the broader category of materials, stated that: "There must be somewhere a mechanism for looking at the problem as a whole, for keeping track of changing situations, and the interrelation of policies and progams." The National Commission on Materials Policy, 21 years later, expressed the same concerns and hopes. A lot of the time policy analyses occur at a time of crisis; these are ad hoc and do not address themselves to the long haul. A case in point is the fuels crisis that had to reach the stage of short term shortages before long term policies and plans began to be established. I hope we can do better, with time to spare, when dealing with other resources.

It may have been a coincidence, but when the Apollo 8 crew first circled the moon and saw the earth as a distant fragile planet, blue from its water, white from the clouds in its atmosphere and looking inviting, unlike any other planet in the solar system, people at last became aware of its fragility, its uniqueness, and the need to preserve its limited resources. Jack Schmitt, the Apollo 17 astronaut, now a U.S. Senator, said while on the moon: "You've seen one earth, you've seen 'em all" and he was right, as it's the only one. The environmental movement grew and we are witnessing the very beneficial effects of that movement already." Rivers and lakes are being cleaned up, the air is getting cleaner, and companies are being prosecuted more commonly if they've been bad. I'm all for it. But, like all movements relatively early in their history, the pendulum can swing too far in some instances; it's a price that we pay.

It's interesting that the American west would not have opened up nearly as fast under today's regulations. Coal burning locomotives would have been banned as fire hazards and polluters, and the western mining and smelting methods were landscaped destroyers, pollution makers, and safety hazards. I'm mostly pleased that the west opened the way it did, and also pleased that those methods would be illegal today. It's rather like the saint: "Lord make me good, but just not yet."

The environmental problem raises some interesting issues regarding national need versus totalitarianism versus individual rights. Some areas ask the people to vote whether or not they want a mine in their area. If not, and it's a copper mine, and we have plenty of copper mines elsewhere, there's no problem. What if it's a huge chromium deposit and we have no chromium? There are many national, local, legal and moral issues involved. It's discouraging for companies who spend a lot of money proving that a deposit exists to find that they can't mine it.

I know a state where the legislators, to avoid spoiling an attractive, but by no means beautiful area and to raise revenue, have raised the taxes on ore such that some companies who have deposits in the area have no plans to mine. What's the answer to that one?

Nuclear power plant development is slowed down due to environmental concerns both for the plants themselves and for the disposal of waste. After Three Mile Island, and even before, that's only proper. I don't want to discuss nuclear power in any way except to state that the public should be informed on all issues pro and con. The public can make up its mind wisely. At present I don't believe the general public has absorbed all the information available, so that the community is polarized. Misinformation resulted in people picketing factories with steam engines in the nineteenth century because of their danger; and in fact, many people were killed in early accidents. The message clearly is, if we decide to do it, let's do it right.

The main relevance of environmental issues in the present context is that they do slow things down and increase costs in the U.S. compared to some other countries. To give you an example of the costs: in 1973 it cost companies in the east $4 to $5 to mine a ton of coal, and 15 to 90 cents to reclaim the land. In the west, mining costs were $1.25 to $2.50 a ton, and 3 to 10 cents a ton to reclaim. There's also a tax that coal companies pay to help the Federal Government reclaim areas mined out before environmental issues were important. All this is fair enough, but it adds to U.S. costs compared to those of other countries.

Then there are certain environmental criticisms that are fashionable, well-meaning, but ill-formed. I will mention a number, quoting heavily from an address by a colleague, Paul Barton, of the U.S. Geological Survey.

Consider the uproad about the strip mining of coal. Both miners and owners prefer strip to underground mining because it is a safer and more economical way to mine. But many people, seeing the destruction of landscape, insist that mining must be underground. But all that does is hide the problem. Recovery of strip mined land is very feasible, but it costs money. Recovered strip mined land need never be a source of pollution in the future. On the other hand, underground coal miners leave almost half in the coal in the ground as pillars, the workings partially cave creating acid generation so that a rich source of acid water is provided to surface waters for centuries. So the people who for the best motives advocate underground mining maximize that which they hoped to prevent.

People complain about mine dumps. They take up about the area that the nation needs to park its cars, but unlike cars, they are mostly visible to relatively few people. Can we afford them? Can we afford not to have them? Incidentally, another example of good intentions and poor knowledge is the hailing of the automobile in its early days as a means of preventing pollution. The pollutant in this case was horse manure.

It's not only they, the general public, who can be misinformed. Medical doctors and professional environmentalists are the culprits in this story. Crocidolite is a form of asbestos that causes cancer of the lung when inhaled. On the other hand, there is good evidence from statistics on miners that chrysotile, the major asbestos mineral, does not cause cancer. These two minerals, and many other minerals, some that are not even asbestos, have been lumped together by many doctors and environmentalists, causing anguish to the general public in many parts of the country, and threatening some parts of the mining industry with unnecessary regulation.

The same people that brought you this asbestos crusade are seeking to put into the Class 1 carcinogen category a number of clearly poisonous metals—not only arsenic, but also copper, silver, and nickel. We're lucky that silver coins have been withdrawn from circulation, but if you're worried about the nickel and copper coins you may have with you, I'm sure the university would be happy to relieve you of your health hazard as you leave—and who knows what paper coated with green ink will do?

One final example. Environmental Protection Agency standards call for no more than 0.5 ppm zinc in water effluent from mines in the Wisconsin lead-zinc district. On the other hand, the Public Health Service allows no more tharn 5 ppm zinc (10 times as much as the mine drainage) to be in drinking water. One mine's effluent was 2.5 ppm, 5 times the EPA standard, one-half the Public Health standard. The EPA initiated that standard to permit more fish in the streams. The EPA finally forced the mine to close. But, the natural local groundwater contains just about as much zinc as did the mine drainage that had been branded as a pollutant—so the trout aren't better off either. Finally, it seems that the EPA offices in Washington, according to Paul Barton, use drinking water containing 20 ppm zinc—but I guess they don't bother about trout in their faucets.

The story tells a lot of what I want to say. People in the area lost jobs, the company lost potential revenue, the nation, at least temporarily, lost resources. How did it happen? Misinformation and lack of coordination by well-meaning people. Even the fish aren't better off, and there may be more fishing by the unemployed.

More and more land is being excluded from mining. This is good in one way, as long as we have done a good appraisal to say that we haven't missed any large mineral deposit in the area. For many areas though we don't know for certain if we've missed any major deposit, as we don't know enough about finding subsurface ore deposits. Many companies have spent a fortune in exploration in an area and give up, only to have another company come in and find a big ore body. We could be denying ourselves valuable and strategic deposits. At least 80 million tons of copper-zinc ore lie under a tract of woods and cow pasture in Wisconsin. Twenty years ago, we lacked the expertise to find it. It's another dilemma—we want to preserve our public lands and we need our resources. I can't tell you the answer—it's for some of you to solve, perhaps.

So to sum up how we got in this fix: we fell behind in professional workers in the mineral industry—it's a rough industry with difficult working conditions often in remote locations. We fell behind in research to develop cheaper and better methods. Many more new mining and metallurgical techniques were imported from overseas than previously. Metallurgy is especially important because it allows us to mine lower grade ores at a profit. More mines have been found by metallurgists than geologists because one break through can open up many deposits that were previously uneconomic. Our government still isn't coordinated as well as it could be in terms of mineral policy and planning. At this stage let me make the usual cautious bureaucratic statement that I am speaking not as a government employee today but giving some opinions that occur mainly in government and National Academy of Sciences publications. Environmental procedures and taxes in some areas have raised the cost of mining, making the U.S. a less attractive place for mineral exploration that it was. At the same time, we have consumed minerals in a way that history will probably say was very piggish; and because of this consumption, to paraphrase Mae West, a good mine is hard to find.

What can we do? Here's the hope part of my title, and there's a lot of hope, if we act fast. We must move fast because, for example, the percentage of the nation's start up capital used for energy technology has risen from 22 to over 35 percent. This strains the system, and the longer we leave the solution to our energy problems the worse it will be. Such drawing of capital will cause a drop in capital for health, education, housing, and transport among other things, and perhaps we're already beginning to see the results.

It takes 10 years to develop a new mine. We are very short of some minerals, but even in the case of copper where we have a 30 year supply, or lead where we have 40 years worth, we can't neglect exploration for 25 years.

I quote from Paul Barton: "Even in the worlds where decisions could be reached without emotional or selfish motives, the competition for limited resources will create severe stresses on our social structure. At some time, the lives of people will become noticeably affected—as we have seen in the gas lines, the modification of vacation plans, the renaissance of wood burning stoves, and so on. When stressed even further, particularly when there is no recognizable common enemy, the response of people could take several courses, most of them undesirable. For example, we might find ourselves irrevocably locked into far left or far right, one party political systems. Remember that half a century ago Adolph Hitler came to power, appearing for a time like a saviour to a people with severe economic woes not so different from those that threaten us today. It is a path that most of us would not care to follow."

We therefore must act fast. Some experts don't believe this for most minerals. They say that resources are always available if we lower the grade we seek, and that price rises and technical advances will make low grade ores profitable. They neglect the higher costs, the higher energy demands, and the greater social, political and economic costs associated with higher priced minerals. It can't get better, but we can learn to live with it by reaching a balance with the problem. A great obstacle to happiness is to expect too much, and we're still expecting too much. Many of you can remember exotic vacations that weren't nearly as good as ones closer to home. I can and realize that I expected too much from the expensive exotic ones, and expected little from the more pedestrian ones, and they were fun.

Let's look at some of the things we can do. We can improve our technology in the mineral industry. We can do more geological, geochemical, and geophysical research to find ore bodies buried below the surface. Twenty years ago this was rare, now it's common; and we're learning more all the time. We can improve mining and metallurgical methods to make cheaper mining possible. An example of the benefit of increased metallurgical knowledge is Broken Hill, Australia, and it's not alone in this story. For years they pumped the tailings—the ground up rock from which the ore had been extracted, under the ground to fill the holes left by mining. Due to a metallurgical breakthrough, they could extract more metal from the tailings, so they finished up mining and then pumping back the new waste. It's a classic waste of money and time—if only the metallurgy had come earlier.

There's a huge amount of low grade nickel in Minnesota—we need to develop the metallurgy to make its mining a feasible economic proposition.

It would be great for all except the mining companies if they just broke even and never made a profit. I once knew the president of a small Canadian molybdenite mine who had enough money to believe that his role was to give jobs to the area for as long as possible, and to get as much molybdenite out of the ground as he could. Therefore, when they hit high grade ore, they'd dilute it with lower grade ore until they just broke even. It meant that much less molybdenite was left in the ground, never to be recovered than in the usual mine. Surprisingly, the price of the stock fluctuated like any other Canadian penny mining stock—I played it happily through graduate school.

We need to develop undersea mining—there is as much copper in manganese nodules as there is on land, and we're just learning to mine them. These nodules also contain nickel and a number of other metals as well as the manganese.

There has been much talk of extracting almost all the metals we need from sea water, but that uses an enormous amount of energy and is very costly, so at least at present the timing is wrong.

We have hardly any bauxite, the main ore of aluminum, but we can develop the technology to mine clay and other materials for aluminum. We need to think of that sort of substitute, and develop substitutes for certain uses of metals. An obvious example is silver in photographic film—people have been working on that for a long time, and we'll do it some day.

We need to learn to recycle more. Why throw it away? Tests by the U.S. Geological Survey show that the sewage sludge in Menlo Park and Palo Alto, California, is richer in gold than in some goldmines. I heard that a company, whose name I fortunately don't remember, is mining it. Apparently there are a lot of dentists out there who throw gold down the sink. So if we can get gold from sewage, aluminum from clay should not be too difficult.

We need to do much more research on waste disposal (and I'm now speaking of the nuclear kind) and nuclear energy and its safety factors.

We need to develop our regional energy resources. This state has coal, another has sunshine, another has geothermal energy, another hydroelectric energy, another fast growing plants for gasohol. The energy resources of the future will become much more varied and regional.

There are over 100 billion barrels of oil in depleted oil reservoirs—the ratio of salt water to oil became too great for successful operation. Let's find a way to get it out.

The National Science Foundation and eight oil companies are embarking on a joint venture to use the *Glomar Explorer*, a ship with a past, to explore the ocean margins. These areas at the edge of the ocean plains and continental shelf contain huge volumes of sedimentary rocks in water depths from about 6000 to 13,000 feet. We want to drill through the water to depths of over 20,000 feet and over 30,000 feet, if one includes the water, in all. We geologists believe we will learn a great deal about the evolution of the continents and ocean basins, and the oil companies are also interested in the resource potential of these areas. If there is oil and gas in the margins, we need to develop the technology to extract oil from 12,000 feet beneath the sea, and as many thousands of feet below the sea bottom.

We need to develop coal much more as an alternative energy source. We have enough coal to replace petroleum and gas for 100 years or more—by then we will better understand fusion, solar and nuclear energies, to name a few.

Coal only provides about $\frac{1}{5}$ of our energy needs. Coal can quickly replace the oil and gas used in our power plants. Gasification and liquefaction of coal are presently not economic, but may become so with research. But we can burn coal directly in our power plants—if we did so, oil imports would be reduced by over 20 percent, and our gas consumption by over 15 percent. To do this would need doubling our coal production over 10 years.

It is lack of demand for coal that has kept down consumption, and the principal villain is sulfur in eastern and midwestern coals, and the physical isolation of the relatively sulfur-free western coals from the eastern and midwestern power plants.

The Environmental Protection Agency demands limestone scrubbers to remove the sulfur. A 100 Megawatt power plant produces 600,000 tons of calcium sulfate waste sludge a year from this cleaning process, so no wonder coal is not popular. The U.S. Bureau of Mines advocates the citrate process for sulfur extraction—no limestone is needed, no sludge is produced, and there is sulfur at the end of the line to sell, according to Dr. Elburt Osborne, ex-Director of the Bureau of Mines.

We can learn to clean coal more before burning it, and learn to extract the valuable elements like lead and vandalism instead of wasting them. So there is a big future for coal if we work at the research and the politics.

Included in coal research are better ways of mining, better ways of rehabilitating the ground after mining, and improving mine safety and health detection methods and cures for coal mining diseases like black lung. Over $1 billion is paid by the Federal Government in compensation for this disease—this is greater than the National Science Foundation budget to support research in universities. What a waste of people and money compared to a cure for this disease.

We need more research on the effect of sulfur in the environment; especially acid rain which is slowly destroying our land and forests miles from the power plant. But most of all, we need to eliminate the sulfur problem, and we can do it.

Switching now to Government, surely we can formulate a coherent, cohesive, Federal policy on conservation of materials, energy and the environment. We need to get better international sharing by agreements. We need national stockpiles and a better capacity for long-range forecasting.

We need to use less of everything. To achieve this and nearly everything else that I have mentioned, we need education—of the policy makers, of the researchers, of the technologists, and of the general public. It should be as important for the future voter to realize the realities of our resource-environment situation as it is to read the ballot. This education begins in grade school.

All too many pre-law, political science, economics, journalism and even science majors are never exposed to a course on resource and environmental subjects, with their difficult but necessary blend of scientific, social, economic, and legal subject matter. We must all learn that mineral resources are truly rare gems in a sea of mud. We must all learn that just as the earth is limited in its resources, it is limited in its ability to consume our wastes. We must also never forget that aesthetic resources are of value.

As I mentioned earlier, the universities have failed. In part, this was due to a lack of Federal support to universities in the minerals field. This has recently been partly remedied by Congress by the creation of Mining and Mineral Resources Research Institutes in a number of states. The competition among universities to be considered qualified by a committee formed by the Secretary of Interior was intense, and I am very happy that this university was not only considered highly qualified by the committee but was selected to have an Institute by the Secretary.

The program provides mad money, scholarships, and research grants. The mad money can be spent on what suits the particular institute—from paying salaries of new faculty to equipment. We on the Secretary's Committee consider research to be the most important part of the program.

Whenever a new challenge comes along, we revert to a frontier atmosphere. People seem happier despite hardship and they work steadily to a goal. I've seen this in towns in the middle of nowhere in Australia, in Canada, and in Houston with the challenge of the Apollo program. It truly is exciting, there's a lot of hope, and there's something in it for everyone. Smart businessmen make fortunes at times of major change (less smart ones lose them). The history of this country documents these booms well.

So there's excitment for mining and metallurgical engineers, geologists, environmentalists, sociologists, economists, medical researchers, political scientists, politicians, bureaucrats, journalists, lawyers, diplomats, historians, and as important as any of the above, educators and researchers.

We can all do it, once we realize that resources, particularly fuel and mineral resources, constitute the platform on which our civilization is built. They are the key to our future and their availability and proper management the key to our economc well being.

Queen Victoria never looked behind her when she sat down, because she knew a chair would always be there. We have behaved like Queen Victoria about our resources. Unless we stop emulating her, we will fall loudly and painfully on our behinds. But we're smart, aren't we; so we won't, will we? It's up to us.●

AUTHORITY FOR CERTAIN ACTION UNTIL 6 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may have until 6 p.m. today to file reports, that conference reports may be filed until 6 p.m. today, and that Senators may have until 6 p.m. today to introduce bills, resolutions, and insert statements in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN DULY ENROLLED BILLS JOINT RESOLUTIONS DURING THE RECESS UNTIL 11 O'CLOCK A.M. ON AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess over until 11 o'clock on August 18, the Vice President of the United States, the President pro tempore of the Senate, the acting President pro tempore, and the majority leader may be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS AND CONFERENCE REPORTS ON WEDNESDAY, AUGUST 13, 1980, BETWEEN 9 A.M. AND 3 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until August 18, committees may file reports and conference reports on Wednesday, August 13, between the hours of 9 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

WIND ENERGY SYSTEMS RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 5892 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration, and other Federal agencies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1980.)

• Mr. MATSUNAGA. Mr. President, I am pleased to report to the Senate that the committee of conference on H.R. 5892 has succeeded in resolving major differences in the House bill and the Senate substitute so that a coherent approach for promoting the widespread utilization of wind energy systems is embodied in the conference report. I believe that this legislation will provide necessary additional incentives for the perfection and utilization of both small and large wind turbines.

The benefits of wind energy to our society can only be realized if the cost of wind energy systems is brought down to a level competitive with conventional energy sources. In the 8-year program envisioned by this legislation, I believe that we will achieve that goal. The first place that wind energy will be most useful is to displace electric generating capacity using expensive imported oil for generating purposes. The use of wind energy systems in Hawaii looks extremely attractive due to a primary dependence on oil and firing utility boilers. If we can create a sufficient market in those areas where oil causes an excessively high cost for electricity, we can promote the mass production required to bring wind energy systems down to a cost for which the electricity generating rates will be competitive in other areas of the country with those from conventional energy sources. Now, there are several aspects of the conference report which I believe we should elaborate upon in order to be clear as to the intent of the conferees:

As stated in section 3(1) of the conference report and as described in the statement on the part of the managers:

> Transmission system expenses are to be included within the cost of the wind energy system to the extent such expenses are necessary to appropriately connect the wind energy system with the regular electrical grid.

I might point out that there will be cases, as are likely to occur in the State of Hawaii and other remote locations in the United States, where these transmission system costs may be a large part of the total system cost. The statement of managers makes it clear that the Secretary should not allow these expenses to be included in the wind energy system costs for purposes of this act to the extent that these expenses exceed 25 percent of the total capital costs of a wind energy project. In cases in which the transmission system expenses are of the ordinary nature, the statement of managers sets forth a guideline of 10 percent for purposes of determining how much transmission costs should be allowed as a percentage of total system costs. This is not meant to be a hard and fast rule but rather a guideline for the Secretary as is the 25-percent figure noted above. I want to call to the attention of the Members of the Senate that there is a typographical error in the discussion of section 3, in which the next to the last sentence of the statement of managers comments should read, "In all other cases the 10 percent guideline shall apply."

I call to the attention of the Members a typographical error in the text of section 6(e), where the word "to" before the word "establish" should be omitted. The conferees agreed to permit the Secretary to loan up to 75 percent of the total purchase and installation costs of wind energy systems. I wish to note that the Congress has allowed geothermal producers to receive loans of up to 90 percent of the total project costs in the Energy Security Act. Additionally, in title IV of the Public Utility Regulatory Policies Act of 1978, the Congress allowed small hydroelectric developers up to 75 percent of the total costs incurred in developing small hydroelectric projects. At this point in time, wind energy systems are a more risky proposition in many instances than small hydroelectric development. Therefore, the Secretary, in administering section 6(f)(1) of this act, should not set a percentage for loans which would result in making geothermal development and small hydroelectric development so much more attractive an investment by reason of the percentage of the loan so as to discourage capital investment in wind energy systems.

Section 6(f)(2) states that each loan shall be for a term which the Secretary deems appropriate, but no loan shall extend 20 years beyond the date the wind energy system becomes operational. As was stated at the time this bill was before the Senate on November 8, 1979, I agreed to this provision with the expectation that the Secretary will give favorable consideration to grant these loans for the full 20-year period authorized by this paragraph. As I stated at that time, and as I emphasize again, this favorable consideration would carry out our intent of encouraging alternative energy programs, such as the wind energy development program under this act, to the maximum extent practicable.

For the purposes of making legislative history, I wish to clarify one small point in section 6(i) of the conference report. Section 6(i) states that:

> New Federal assistance for technology applications systems shall terminate upon the appropriate determination by the Secretary, in the annual update of the comprehensive program management plan pursuant to section 4. Termination of the small wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1985, whichever occurs first. Termination of the large wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

I merely wish to clarify that the technological assistance called for in this subsection applies prospectively and does not affect obligations already entered into prior to that time. This is important to those who receive financial assistance under this section. They need to be assured that the time frame for repayment of any obligations is not affected by the Secretary terminating new financial assistance in the future.

For the purposes of making legislative history, I wish to make it clear that nothing in section 12(c) or any other provision of this bill is intended to preclude or restrict utility participation and involvement in the programs conducted pursuant to the provisions of this act.

Section 13(b) makes it clear that this act applies in a geographic sense to each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States, including the Trust Territory of the Pacific Islands. Therefore, in section 7 of the act where the Secretary conducts a 3-year national wind resource assessment program, the Secretary shall conduct the program throughout the United States as described above.

Furthermore, in making the various forms of Federal assistance called for in this act available to the public, the Secretary should allow full eligibility to applications from all of the States and other territorial possessions of the United States as noted above. There are opportunities to reduce the dependence of small island possessions and territories of the United States in the Pacific on imported crude oil where vintage World War II diesel engines provide high cost and unreliable electrical power to the people who live on these islands. Wind energy systems may be of great assistance to the economic viability and prosperity of these isolated island economies.

I urge the adoption of the conference report by my colleagues.●

● Mr. HATFIELD. Mr. President. I rise in support today of the conference agreement on H.R. 5892, the Wind Energy Systems Act. The conference agreement establishes a well-defined and aggressive program for the development of this Nation's vast wind energy resource, which has been estimated to have the potential to reach 1.7 quads by the year 2000.

One of the most outstanding features of H.R. 5892 is the creation of well-defined objectives for the commercialization of wind energy systems. These objectives would include the establishment of an 8-year program to reduce the cost of wind energy systems to a level competitive with conventional energy systems, and the goal of a total capacity of 800 megawatts by 1988 with 100 megawatts provided by small wind systems. These objectives will serve as benchmarks for the wind energy industry, as well as Federal policy.

These objectives, combined with the financial incentives of contracts, grants, loans, direct Federal procurement and cost-sharing grant programs, will provide the necessary impetus to commercialize this energy resource. At the present time, wind energy represents probably the greatest near-term potential for development amongst existing alternate energy resources. The costs for small wind energy systems are competitive in some areas of the country and large wind energy systems are rapidly approaching cost competitiveness. This act should provide the necessary shot in the arm for this growing industry to reach the potential envisioned in the act.

Incidentally, the Wind Task Force of the Oregon Alternate Energy Development Commission issued a final report in June, 1980, that estimates the "net" potential in the State of Oregon to be 1,400 megawatts by the year 2000. This report arrived at that estimate after considering a wide variety of factors; such as the need for extensive wind resource assessment, more appropriate financial incentives, expanded public information and education programs, well-established goals for the use of wind energy and demonstration programs for all sizes of wind energy systems. A close examination of H.R. 5892 would indicate that all of the considerations and recommendations of the Wind Task Force are embodied in H.R. 5892.

It would seem to me, then, that the Oregon Alternate Energy Commission report on wind energy confirms the need for H.R. 5892, as well as indicating the general consensus nationwide on what avenues must be pursued to expand wind energy utilization in the United States. I urge my colleagues to support the conference agreement for it represents the proper and consensus approach for the development and commercialization of wind energy in the United States.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until 11 o'clock a.m. on Monday, August 18, the Secretary of the Senate be authorized to receive messages from the other body and/or the President of the United States and that they be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE ON CLOTURE AT 4 P.M. ON MONDAY, AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, on yesterday I stated the program for the 18th of August, that upon its return at 11 o'clock a.m. the Senate would resume consideration of the Alaska lands bill, with the hour on the cloture vote to begin running, and at 12 o'clock noon the clerk will be asked to call the roll to establish a quorum. Upon the establishment of a quorum the Senate will vote on the motion to invoke cloture.

Mr. President, I am going to ask unanimous consent shortly to have the vote on cloture occur at 4 o'clock, so as to accommodate Senators who are returning from long distances, these Senators being on both sides of the aisle. But having made the statement on yesterday, I will delay putting the request, which I have discussed with the distinguished minority leader, for another 5 minutes so as to give cloakrooms an opportunity to see if the 4 o'clock vote on cloture would discommode any Members.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, almost 10 minutes have passed since I indicated that the cloakrooms would ascertain whether or not a 4 o'clock p.m. vote on cloture on August 18 would discommode any Senator. No calls have come back. I, therefore, ask unanimous consent that the vote on the motion to invoke cloture occur at 4 o'clock p.m. on Monday, August 18.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR DIVISION OF TIME UNDER CLOTURE RULE ON MONDAY, AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, beginning at the hour of 2:30 p.m. on Monday, August 18, the time be equally divided between the majority and minority leaders or their designees. This is the time for debate under the cloture rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, last evening, I asked that certain points of order be waived with regard to the revised Tsongas substitute on the Alaska lands bill.

I should like to add to the list that I articulated at that time the subjects of the entitlements for the Forest Service area of southeast Alaska, the Tongass Forest, and the changes that may be made in the Tsongas substitute pertaining to the southeast forest known as the Tongass Forest.

I ask unanimous consent that no point of order lie against the entitlements provisions or the Forest Service provisions that affect only the southeast in the revised Tsongas substitute.

The matter has been discussed with the principals involved. It is my understanding that Senator GRAVEL has conveyed to his staff and to the majority leadership that he has no objection to that specific exclusion of the southeast Tongass Forest revisions in the revised Tsongas substitute.

The PRESIDING OFFICER. Do the Senator's comments include Senator TSONGAS and Senator JACKSON?

Mr. STEVENS. That is right. There are changes which Senator TSONGAS, himself, must make; and when he files his substitute today——

The PRESIDING OFFICER. And the other Senator from Alaska?

Mr. STEVENS. The junior Senator

from Alaska has conveyed to the majority leader his understanding of the entitlements in the forest revision.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has this request been cleared with Mr. JACKSON?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. Has this been cleared with Mr. GRAVEL?

I am informed by my staff that it has been cleared with Mr. GRAVEL. Has it been cleared with Mr. TSONGAS?

Mr. STEVENS. Mr. TSONGAS will make the change.

Mr. ROBERT C. BYRD. So it has been cleared with all the principals whose names are set forth in the underlying unanimous-consent agreement?

Mr. STEVENS. That is correct. I did not personally check this with Senator GRAVEL. It is my understanding that his staff will convey it to the staff of the majority leader.

Mr. ROBERT C. BYRD. I am informed by my staff that Senator GRAVEL's staff has called to say that the request is agreeable. So I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Chair, and I thank the leadership.

THE DEMOCRATIC WAY

● Mr. ROBERT C. BYRD. Mr. President, last week, at my regular Saturday press conference, I was asked several questions about the Democratic Convention which will be held next week in New York City. Reports of the press conference were carried by the media this past weekend.

I take this opportunity to share with my colleagues my views on the convention and related subjects. The statement which I am about to make is not a summary or transcript of this past Saturday's press conference, although it does include and reflect the comments which I made at that time.

I stated that it is my personal opinion that delegates to the Democratic National Convention should not be bound by a rule to vote for a particular candidate. Even with respect to States which held primaries—and not every State did—economic, political and international conditions can change substantially between primary day, or the selection of delegates, and the convention. The delegates should be free to exercise some independent judgment based on circumstances which may have changed substantially during the months following the close of the selection process. This is the democratic way—"democratic" with a small "d."

The Democratic Party is diverse—and it is democratic. It is issue-oriented. This is not going to be a staged convention. I think that the American people are going to see some open and wide-ranging debate on the issues that are important to them. But then the party is going to unite behind its nominee. The papier mache and cosmetic nature of the Republican convention, its platform, and its candidate are going to be held up to public view by the Democrats.

The Democratic candidate can win and will win. Democratic candidates for the Congress can and will turn back challengers.

I am going to support the party's nominee—and I am going to do so wholeheartedly. I believe that President Carter will be the nominee, whether or not rule F(3)(c) is adopted. I said on Saturday that he would be in a stronger position if he receives the nomination from a convention which is not bound by rule F(3)(c). His mandate would be stronger, and would represent a deeper vote of confidence if it were secured by delegates voting their preferences according to current circumstances, and it would make for greater unity after the convention.

I will have no problem defending the President's leadership. I have a very positive perception of many of the actions he has taken as President.

My position with respect to rule F(3)(c) is consistent with the position which I took some time ago with respect to debates between candidates for the Democratic nomination. Indeed, it is a logical extension of that premise—which is for free debate and discussion, so that the people, and in this case, the delegates to the convention, can make informed judgments.

I emphasize that this is my own personal view. It is based upon my belief that the national convention, the highest authority within the party, is, so to speak, "a law unto itself."

There has been some uncertainty as to whether or not State laws bind delegates to cast votes for a particular candidate on one or more ballots. In its 1975 decision in the case of Cousins against Wigoda, the Supreme Court said that the constitutional protection afforded the freedom of association supersedes State laws which attempt to control national convention rules.

The rule, which is being supported by the Democratic National Committee, is not yet a convention rule. The National Convention may adopt, revise, or reject the proposed rule.

The convention delegates who assemble in New York next week are the ones who must decide which rules they wish to adopt. I trust their judgment.●

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, August 18, when the Senate resumes meeting, it will meet at 11 a.m.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume its consideration of H.R. 39, the Alaska lands bill.

At 2:30 p.m., the time for debate on the motion to invoke cloture, as referred to under rule XXII, will begin running, by order of the Senate; and the time will be divided equally between the majority leader and the minority leader, or their designees, at that point.

At 4 p.m., the Senate will proceed to vote on the motion to invoke cloture. If cloture is invoked, the Senate will continue action on that bill, to the exclusion of all other business, except by unanimous consent, until action has been completed on H.R. 39. If cloture is not invoked on H.R. 39 on that Monday, the Senate will continue action nevertheless on H.R. 39. In either event, there will be rollcall votes throughout the afternoon and into the evening.

Mr. President, Senators will be aware that rollcall votes are expected on Monday, August 18. I should state, very carefully and deliberately, that rollcall votes, in all likelihood, will occur on that Monday prior to 4 p.m. I mention the hour of 4 p.m. only because the vote on the motion to invoke cloture will occur at that time. This does not preclude rollcall votes from occurring prior to that hour.

Mr. President, I hope Senators will be able to get some rest during the August break. I expect an interesting Democratic Convention. I hope that when the Senate returns, following the convention, Senators will be prepared to knuckle down again, to do a lot of hard work. Much remains to be done.

Yesterday, I stated some of the primary and more major pieces of legislation that remain to be done prior to adjournment sine die.

It is still to be hoped that the Senate can complete its work and adjourn sine die by October 4. However, as I have indicated heretofore, even if the Senate is not able to complete action on Saturday, October 4, the Senate will adjourn until after the election. In that event, in accordance with the agreement reached between the House leaders and the Senate leaders, the Senate would resume work on Wednesday, November 12, immediately following the observation of Veterans Day on November 11.

In that event, it would be hoped that the Senate could complete its work by Thanksgiving and be prepared to adjourn sine die.

RECESS UNTIL 11 A.M., MONDAY, AUGUST 18, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 113, that the Senate stand in recess until the hour of 11 a.m. on Monday, August 18, 1980.

The motion was agreed to; and the Senate, at 2:19 p.m., recessed until Monday, August 18, 1980, at 11 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 7, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 18

9:30 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 3023, Making provisions to section 547 of the 1978 Bankruptcy Code dealing with preferences in bankruptcy cases.
6226 Dirksen Building

11:00 a.m.
Finance
Business meeting, to markup proposed legislation to reduce taxes.
2221 Dirksen Building

2:00 p.m.
Appropriations
Business meeting, to resume consideration of proposed subcommittee budget ceiling allocations for fiscal year 1981.
S-128, Capitol

AUGUST 19

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Barbara S. Thomas, of New York, to be a Member of the Securities and Exchange Commission.
5302 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the implementation of the Federal Freedom of Information Act.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2855, to lift the suspension of grain sales to the Soviet Union; and to review the implementation and effectiveness of the partial export suspension.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings to study the potential impact of international applications of renewable energy resources on the growth of fossil-fuel consumption, the domestic solar industry, and global environmental problems.
3110 Dirksen Building

Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

Governmental Affairs
To hold hearings on S. 2880, proposed Consultant Reform Act.
3302 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of Indian housing programs.
5110 Dirksen Building

Select on Small Business
Taxation, Financing, and Investment Subcommittee
To resume hearings on the procedural difficulties encountered by smaller business in dealing with the Internal Revenue Service.
424 Russell Building

AUGUST 20

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.
235 Russell Building

9:30 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2082, to exempt nonprofit veterans' and fraternal organizations from the requirement that certain performance royalties be paid to copyright holders.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 2855, to lift the suspension of grain sales to the Soviet Union; and to review the implementation and effectiveness of the partial export suspension.
5302 Dirksen Building

Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

Governmental Affairs
To continue hearings on S. 2880, proposed Consultant Reform Act.
3302 Dirksen Building

Rules and Administration
To hold hearings on S. 2, to provide for a review of Government programs every 10 years; and to consider other legislative and administrative business.
301 Russell Building

1:30 p.m.
Conferees
On S. 914, authorizing funds through fiscal year 1983 for public works and economic development programs of the Economic Development Administration.
Room to be announced

AUGUST 21

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To resume oversight hearings to study the potential impact of international applications of renewable energy resources on the growth of fossil-fuel consumption, the domestic solar industry, and global environmental problems.
3110 Dirksen Building

Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

AUGUST 22

10:00 a.m.
Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

AUGUST 26

8:00 a.m.
Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To hold oversight hearings on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities.
324 Russell Building

9:30 a.m.
Labor and Human Resources
To hold oversight hearings to examine the effectiveness of current workers' compensation programs in dealing with occupational disease claims, and to explore alternatives to the present compensation systems (S. 381, 1827, and 2847).
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
To hold hearings on H.R. 7330, authorizing funds for fiscal year 1981 for certain insular areas of the United States; S. 2735, proposed Territorial Assistance Act; and S. 2992, to provide for a review of current energy needs of U.S. trust territories, and to analyze potential applications of sail-assisted technology to reduce energy cost for interisland transportation.
3110 Dirksen Building

*Veterans' Affairs
To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.
412 Russell Building

Select on Indian Affairs
To hold hearings on S. 2952, to provide for a settlement of judgment funds to the Seminole Indian nation by the Indian Claims Commission.
5110 Dirksen Building

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUGUST 27

9:00 a.m.
Finance
Health Subcommittee
To hold hearings on S. 2809, to provide for a comprehensive system of noninstitutional long-term care services for the elderly and disabled.
2221 Dirksen Building

9:30 a.m.
Labor and Human Resources
To continue oversight hearings to examine the effectiveness of current workers' compensation programs in dealing with occupational disease claims, and to explore alternatives to the present compensation systems (S. 381, 1827, and 2847).
4232 Dirksen Building

SEPTEMBER 10

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).
4232 Dirksen Building

SEPTEMBER 11

10:00 a.m.
Labor and Human Resources
To hold oversight hearings on the implementation of the home energy assistance program.
4232 Dirksen Building

SENATE—*Monday, August 18, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord of life and history, in the brooding silence of this moment of prayer, make us to know that while we are building a nation we are building a character in ourselves and in the Nation. Make us better than we are. We would be true for there are those who trust us; we would be pure, for there are those who care; we would be strong for there is much to suffer; we would be brave for there is much to dare; we would be humble for we know our weakness. Grant that we may be mentally alert, morally straight, and spiritually strong to match the large demands of the day. We commend to Thy sustaining grace all who serve Thee by serving in this Government of this Nation.

We pray in the name of Him who was the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 18, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

A TIME FOR ACTION

Mr. PROXMIRE. Mr. President, the genocidal policies of the Third Reich put all Nazi occupied lands under a reign of horror and fear.

Those who dared to help Jews faced death. Those who openly advocated support for Jews were often sent to concentration camps. Few disobeyed the edicts of the Gestapo.

But Metropolitan Andreas Szeptychi, head of the Ukrainian Greek Church, dared to fight the Nazi scourge.

In 1941, the Germans brought their policy of genocide to Galicia. By 1942, they were massacring Galician Jews with the aid of many Ukrainians. Szeptychi decided to defy the Nazi censors. Publicly he spoke out:

> All men who shed innocent blood make of themselves outcasts of human society by disregarding the sanctity of man.

He prohibited the rendering of religious services to individuals who embraced the Nazi gospel of murder.

He even dared to write a letter of protest to Heinrich Himmler, Hitler's hangman.

But, more importantly, Andreas Szeptychi did more than raise his voice in protest. Fifteen Jewish children and several adults hid in his cathedral church on the Mountain of St. George.

Under his orders, 150 Jewish children were hidden in the convent in eastern Galicia. None fell prey to Nazi genocide.

Despite his outspoken opposition, Andreas Szeptychi lived to see the Nazis driven from his country. He died soon after the liberation, but his spirit endures.

Metropolitan Andreas Szeptychi did more than risk death by publicly opposing genocide. He acted in support of his belief.

The strength of conviction that compelled Andreas Szeptychi to action should inspire this Senate to action.

It is one thing to publicly condemn genocide, as this country does. It is another to act against genocide. Our strongest course of action is to ratify the Genocide Convention. Let us delay no longer. I urge my colleagues to act soon to ratify this important treaty.

I thank my good friend the majority leader, and I yield the floor.

ORDER FOR THE CONVENING OF THE SENATE AT 10 A.M. THROUGH FRIDAY OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene at the hour of 10 a.m., daily through Friday of this week.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the minority leader my time, and if he does not need it, yield it back.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the majority leader and I appreciate his courtesy in yielding the remainder of his time under the standing order to me, but I have no need for the time this morning. I have no request for time and I am, therefore, prepared to yield back my time under the standing order.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 39, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, National Wilderness Preservation Systems, and for other purposes.

The Senate resumed consideration of the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and Senators may speak therein for a period not to extend beyond 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand recessed until 1 p.m. today.

There being no objection, the Senate, at 11:13 a.m., recessed until 1 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. H.R. 39 is the pending business.

Mr. ROBERT C. BYRD. I thank the Chair.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.

Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George J. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, John C. Culver, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Carl Levin, Birch Bayh, Patrick J. Leahy, and Warren G. Magnuson.

Mr. ROBERT C. BYRD. Mr. President, the hour under the cloture rule will begin running at 2:30 p.m. today, will it not?

The PRESIDING OFFICER. It will be an hour and a half, beginning at 2:30.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 2:30 p.m. and that Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as no Senator wishes to speak at this time and the Senate is just awaiting the outcome of the cloture vote, I will utilize this opportunity to continue my series of speeches on the U.S. Senate.

I do not want to take the time of the Senate when Senators wish to have the floor or when there is business to transact; but at the present time, Senators are awaiting the cloture vote, there is no other business I can call up at this time, and no Senators seek recognition, so I shall proceed.

This is the 19th in my series of speeches.

Today, I shall speak on the meeting places of the Senate.

(The remarks of Mr. ROBERT C. BYRD relating to the U.S. Senate are printed later in today's RECORD, by unanimous consent.)

INSPECTION AND MANNING OF SMALL VESSELS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 971.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. The purpose of the reservation is to advise the majority leader that that item is cleared on our calendar and we have no objection to its consideration and passage.

The PRESIDING OFFICER. The bill will be stated.

The legislative clerk read as follows:

A bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on page 10, line 19, after the period, insert the following:

For service on a vessel of less than five hundred gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, a person may be rated as able seaman-special who has at least six months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.

The amendment was agreed to.

Mr. LONG. Mr. President, what this bill does is bring the merchant marine laws up to date to take into account the emergency of a new industry; that is, the offshore oil operations and the servicing of those operations by small boats operating from shore, or relatively small boats. So far as I know, there is no opposition to this bill. It has been thoroughly considered by the committees in both the House and the Senate and passed by the House. I urge that the Senate pass the bill.

On April 2, 1980, Senator JOHNSTON and I introduced S. 2523, a bill designed to amend certain inspection and manning laws applicable to small vessels. Essentially the same legislation was introduced in the House of Representatives as H.R. 5164. H.R. 5164 was reported unanimously by the Merchant Marine and Fisheries Committee on March 12, 1980, and passed the House by voice vote on June 30, 1980. On August 1, 1980, the Senate Commerce Committee reported H.R. 5164, amended to conform with S. 2523.

This legislation addresses for the first time the special needs of a very large segment of our merchant marine fleet. This segment is made up of small commercial and special purpose industrial vessels under 1,600 gross tons.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt of my previous remarks on this matter.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

U.S. commercial fishing vessels, coastal and oceangoing tugs, small freight or passenger vessels carrying goods, or people "for hire" in the coastal trade, vessels in the Great Lakes and offshore and inland mineral and oil service boats are among the numerous types of vessels included in that diverse segment of the maritime industry.

The supply vessels that constitute the offshore mineral and oil supply industry are part of a domestic oil and gas production network that has evolved subsequent to the enactment of Federal statutes, principally 46 U.S.C. 404, governing inspection and manning requirements for deep-sea, oceangoing vessels engaged in traditional for hire carriage.

This proposed legislation is designed to clarify and amend certain antiquated manning and inspection statutes which affect such special-purpose vessels. Many of these statutes, written earlier in this century and intended for larger, ocean-going vessels, are clearly excessive in their requirements when applied to smaller commercial vessels.

Although the House hearings on this bill focused on solutions to problems being experienced by the offshore marine service industry, there are important provisions in this and the House bill which address other problems being experienced by the merchant marine fleet generally. Both before and during the House hearing, the Coast Guard and the Maritime Administration confirmed the scope of the problem. State Marine School spokesmen agreed. All stressed the need for remedial legislation.

The Coast Guard testified that "enactment of this bill as amended (by the Coast Guard and Navigation Subcommittee amendments) would improve safety standards on small vessels * * * particularly mineral and oil service vessels."

A principal purpose of this legislation is to foster the development of career patterns in the maritime industry so that there is a constant influx and progression of licensed, certificated personnel within the ranks of merchant seamen. The fact that some personnel are available does not help the situation, if they are not licensed and certified.

The absence today of career patterns in much of our small vessel merchant marine fleet is the source of the personnel (licensed and certificated) shortages. A 1979 Maritime Administration study pointed out that if existing manning and licensing laws were fully enforced, 36 percent (1,038) of the offshore marine service fleet would have to be laid up. This would have a devastating impact on U.S. energy supplies.

Similar problems would be created for owners, operators, and crew of other small vessels in different trades, that is, fishing vessels, tugs, and other small freight and passenger vessels.

This legislation requires that all small commercial vessels over 15 gross tons will be subject to Coast Guard inspection, manning and licensing requirements. In establishing these requirements, the Coast Gaurd is directed to:

(1) re Inspection: "take into consideration the characteristics of the vessel, their method of operation, and the service in which they are engaged."

(2) re Manning and licensing: "establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged."

It should be noted that this legislation does not reduce the number of personnel required aboard these vessels. It only modifies, with U.S. Coast Guard approval, the period of sea service time or other qualifications needed to be tested for advancement to a higher position.

These modifications, which greatly enhance career development potential, apply to small vessels from 15 to 500 gross tons (which favorably affect the career paths of all personnel serving aboard fishing vessels, tugs, mineral and oil service vessels and other small vessels), vessels from 500 to 1,600 gross tons, vessels over 1,600 gross tons (deep sea), and vessels on the Great Lakes.

Inspection of vessels, as well as reasonable manning and licensing requirements for personnel aboard the vessels must be dealt with simultaneously, as this bill does. To illustrate, I would like to quote from a letter addressed to me, dated April 13, 1979, by Rear Adm. Paul Yost, Commander of the 8th Coast Guard District.

It is really difficult to talk about certification (inspection) without considering licensing and manning in almost the same breath. Certification of a vessel triggers the requirements that the vesesl be manned by licensed personnel. There are not, at this time, sufficient licensed personnel available in the Gulf to man vessels operated by the offshore industry. Any solution to the certification problem will have to be accompanied by a solution to the licensing and manning problem.

As I have already stated, the bill addresses these problems in an integrated, comprehensive manner, as set forth below.

The bill would require all vessels over 100 gross tons carrying passengers or freight for hire to be inspected under 46 U.S.C. 404. Vessels under 100 gross tons would be moved for inspection purposes to 46 U.S.C. 390, the Small Vessel Inspection Act.

I want to emphasize that this provision of the bill would bring all vessels under inspection. The inspection requirements would be tailored by the Coast Guard to the special circumstances of the method of operation and service in which the vessels engage. This segment of our merchant marine industry has made the point that vessels which carry their own or the charterer's freight or personnel should not be held to the same very high standards as vessels which hold themselves out to the public for common carriage (for hire).

What is required by this segment of the merchant marine is that the Coast Guard be delegated the responsibility to determine the safety needs of these noncommon carriage standards on them. The bill does this by providing a new section 46 U.S.C. 404(a), which addresses offshore supply vessels. As long as these vessels carry their own (or the charterer's) freight or personnel, they will not be considered engaged in common carriage or "for hire" operations.

While the vessels remain subject to the inspection standards of either 46 U.S.C. 404 or 46 U.S.C. 390, depending on size, the Coast Guard is directed to establish the inspection standards, taking "into consideration the characteristics of these vessels, their method of operations, and the service in which they are engaged."

Existing offshore supply vessels are also brought under inspection. However, these vessels will not have to make major structural or major equipment changes unless necessary to "remove an especially hazardous condition." Nevertheless, all vessels which turn 20 years old on or after January 1, 1989, will have to be brought under full inspection compliance or be removed from service.

I want to emphasize that these aspects of the bill do not create a "grandfather" provision for existing vessels so as to exempt them from inspection. Instead, all existing vessels presently operating under U.S. Coast Guard certificate would continue to be inspected fully under title 52 and all other existing vessels would have to pass inspection procedures to be developed by the Coast Guard.

Finally, all vessels would have to meet full title 52 inspection requirements when they become 20 years old, or be removed from service.

As I stated earlier, shortages of licensed engineers have been identified in industries other than the offshore marine service industry. This bill would ease these shortages by providing that a "licensed engineer and a licensed pilot" would be required on vessels over 300 gross tons. Below this figure, the requirement would be at the discretion of the Coast Guard.

The bill also provides that no offshore supply vessel may be navigated without a licensed deck officer and, if over 200 gross tons, a licensed engineer. Again, the Coast Guard would have the discretion to require a licensed engineer on vessels below 200 gross tons.

Because all offshore marine service vessels will now become subject to inspection, the bill directs the Coast Guard to establish a suitable career pattern for masters, mates, AB's, and engineers within the industry. In classifying licensed officers, the Coast Guard is directed to "establish suitable career patterns and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged."

As a result of the current shortage of qualified personnel, there are currently many individuals filling positions for which they do not have a proper certificate. These individuals are currently safely performing their jobs, and the bill gives the Coast Guard discretion to issue emergency temporary certificates to these individuals until they have qualified formally for the licenses.

The bill, in addition, reduces the minimum age requirements to qualify as an able seaman from 19 years to 18 years of age and creates three categories of able seamen: First, "unlimited"—requires 3 years sea service on the oceans or Great Lakes; second, "limited"—requires 18 months sea service on oceans, navigable waters of the United States or Great Lakes; third, "special"—requires 12 months sea service on oceans, navigable waters of the United States or Great Lakes.

However, for vessels under 500 gross tons engaged in the offshore marine service industry, the sea service requirement may be reduced to 6 months in oceans, navigable waters of the United States or Great Lakes.

The bill also continues the requirement that 65 percent of the deck crew, exclusive of licensed officers, be able seamen. However, the bill provides that on vessels entitled to use the two-watch system (offshore marine service vessels) this percentage may be reduced to 50 percent.

The serious shortage of 12-month and 18-month able seamen is addressed by the bill through language setting up able seamen clarification and reducing qualifying sea time before a seaman is eligible for a particular rank. The number of seamen aboard the vessel is not reduced, only the qualifying time, and then only where consistent with safety, according to the Coast Guard.

These provisions in the bill will assist in overcoming personnel shortages, and contribute to career pattern development among broad categories of vessels that operate in waters off coastal States (tugs, small freighters, and passenger vessels), in the Great Lakes, where shortages are acute, and in the offshore mineral and oil industry.

Maritime labor asked for sea service modifications in the trades where it benefits and has jobs at stake, that is, the Great Lakes, but it opposed these same modifications for the mineral and oil industry, in which only 2 percent of the fleet is unionized. This bill recommends much-needed changes in both areas.

It is important to note that seamen qualifying for able seaman special category (6 months, based on Coast Guard discretion) for the offshore mineral and oil industry, will not be permitted to use that certificate in any other trade, union or nonunion.

Moreover, union seamen will have the same opportunity to compete for jobs in the mineral and oil industry as any other seaman and the bill is neutral on union organization of previously nonunionized segments of the maritime industry.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. LONG. I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL POLICIES RESTRICT AND PROHIBIT EXPLORATION FOR NEEDED MINERAL POTENTIAL

Mr. STEVENS. Mr. President, America has become increasingly dependent on foreign sources for a whole array of strategic minerals and oil and gas. This dependence puts the United States in an unacceptable position; a situation which cannot be allowed to continue. Fortunately, it is within our power to reverse this tide. It is Federal policies which are restricting and even prohibiting exploration for much needed mineral potential.

For example, the Federal Government owns over 760 million acres of land. I am sure that my colleagues have become more and more aware of the potential of this land as the debate on Alaska's Federal lands continues. Federal lands in Alaska and in the "lower 48" may contain as much as 135 billion barrels of crude oil and gas liquids and almost 760 trillion cubic feet of natural gas. These lands can be explored in such a way that it is compatible with sensitive environmental areas. If these lands are not explored and if other impediments to the exploration of oil and gas as well as hardrock minerals are not removed, this Nation will fall further and further behind in its attempt to stay even in what appears to be a global resource war for survival. As Mr. J. Allen Overton, Jr., president of the American Mining Congress puts it: "This Nation has now been fighting the energy crisis for about twice as long as it fought in World War II, and it has yet to buckle down to business."

It is time that we get down to the business of solving our energy crisis. The solution does not require that we abandon our desire to protect our great works of nature or America's scenic beauty, it simply requires that we not underestimate the works of man.

Mr. Overton's recent address before the Montana Coal Council outlines the difficulties our Nation faces in regard to these problems. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY J. ALLEN OVERTON, JR.

This is the third year in a row that you have kindly asked me to address the annual meeting of the Montana Coal Council, and I deeply appreciate the chance to be with you again.

I am increasingly concerned, however, that we in the mining industry might be spending too much time talking to each other, and not communicating our message effectively enough to the public and to those who profoundly influence the fortunes of our industry and the destiny of the nation.

We are certainly either not getting our story across in Washington or we are hitting a stone wall of persistent refusal to face the facts.

Last month it was my privilege to participate in the 18th World Affairs Forum, sponsored by the prestigious World Affairs Council of Pittsburgh. Its theme was "The Resource War in 3-D: Dependency, Diplomacy, Defense."

This forum brought together a notable congregation of experts and leaders from academic and research institutions, industry and finance, government and the foreign policy establishment, the military, communications media and others.

The overwhelming consensus was that the United States now is—and long has been—engaged in "a war called peace." In the view of these many eminent authorities, World War III began before World War II ended.

Many other people have failed to recognize this, because their perceptions of the future have been shaped on too narrow a reading of the past.

Just as these people were caught off guard by the blitzkrieg that initiated the Second World War, because their thinking had been habituated by the trench warfare of the First World War, so they now believe any ultimate conflict between the superpowers will be marked by the final big bang of the atomic era.

This is far from being necessarily true. On the contrary, as the great military strategist Clausewitz once observed, an aggressor never wants war but conquest. What the Soviets seek is not a nuclear holocaust, but global hegemony without it.

It is frankly shocking to me to hear the President of the United States and the presumed leader of the Free World declare that it took the Russian invasion of Afghanistan to open his eyes to the true nature of Russian intentions. And even at that, he seems to have managed only a squint.

One thing we have to recognize is that the modern communist state of the Soviet Union has never renounced the expansionist ambitions of the old Czarist regime.

It had to be pushed out of Iran in 1946.

It took the Truman Doctrine of aid to Greece and Turkey to deter Soviet meddling in the strategic area of the Dardanelles.

The continuing squabble with China over border claims predates the Bolshevik Revolution.

And don't forget that the British Empire first moved into Afghanistan to keep the Russians out.

A second great constant in the Soviet Union has been its unswerving adherence to the doctrine of communism and the determination to see its social system imposed on the rest of the world.

The ultimate goal of ideology has been enunciated as starkly and frighteningly as Hitler revealed his in Mein Kampf.

The rigidity of communist doctrine should be clear enough for all to see:

From the great purges of all dissidents in the 1930's to those that continue today.

From turning armies of liberation into forces of conquest at the end of World War II, compelling Eastern Europe into the Russian orbit.

The crushing of rebellion in Hungary and Czechoslovakia.

The support of armed conflict from Korea to Vietnam to Angola.

I ask you, how much more evidence do we need that the Soviets have remained steadfast in their unholy purpose?

But against this menace, America has pursued policies of vagueness and vacillation that confuse our citizens, demoralize our friends and send dangerously mistaken signals to our foes.

One other thing we appear to have forgotten is how much the strength of our industrial base underpins the security of the West and the developing world.

This is truly a tragic lapse of memory, coming so shortly after the might of America's productive economy turned the tide in World War II.

Because communism is more an economic doctrine than a political one, the Russians have learned the lessons of history well.

Even before the Bolshevik Revolution, Lenin declared that "political institutions are a superstructure resting on an economic foundation."

And on the eve of the Revolution, he vowed that "the war is relentless. It puts the alternative in a ruthless relief: either to perish, or to catch up with the advanced countries and outdistance them, too, in economic matters."

As the Soviet's chief rival, the United States becomes its principal target. And the communist leaders have long been explicit in stating how they hope to achieve their goals.

Way back in 1921, Josef Stalin said, "If Europe and America may be called the front, the nonsovereign nations and colonies—with their raw materials, fuel, food and vast stores of human material—should be regarded as the rear, the reserve of imperialism. In order to win a war, one must not only triumph at the front, but also revolutionize the enemy's rear, his reserves."

More recently, Leonid Brezhnev put it even more bluntly. He told the African leader, "Our aim is to gain control of the two great treasure houses on which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of central and southern Africa."

How much more start can the warning be?

Yet now that the United States is engaged in what amounts to a global resource war for survival, it is unilaterally demobilizing the home front.

We have become more and more dependent on the increasingly expensive and vulnerable oil resources of the Persian Gulf and other foreign sources, while our government throws up more and more impediments to the development of our own energy reserves, including coal and nuclear power.

This nation has now been fighting the energy crisis for about twice as long as it fought in World War II, and it has yet to buckle down to business.

In previous talks with you, I have detailed how America is becoming increasingly dependent on foreign sources for a whole array of strategic minerals, so I won't go into the recitation again.

Suffice it to say that the country is allowing itself to be sucked deeper and deeper into a vortex of vulnerability.

Take the case of cobalt, for example. This is an absolutely vital material, essential to such things as jet engines, guided missile controls, armor-piercing shells, nuclear propulsion systems, precision tools, mining and drilling bits, refinery catalysts, and many other components of national defense and a strong economy.

The United States is now totally dependent on imports for its cobalt, with most of them coming from Zaire and Zambia. I need not remind you that these are hardly bastions of stability.

Moreover, these countries and many of our other foreign sources are located at the far end of long and vulnerable shipping lanes.

In view of this, it is sobering to read in that authoritative journal, *Jane's Fighting Ships*, that "Failure to offer any protest to Soviet moves into countries in which there can be no reason for their presense other than plans for expansion and eventual control is presenting the Soviet navy with a series of bases and safe havens which are remarkably similar in their geographical locations to those available to the United Kingdom 80 years ago. Indecision and miscalculation by many non-communist powers have resulted in a position where insufficient ships are available for surveillance of the Soviet Fleet, much less inter-position. By dropping the shield of maritime security, the Western leaders have so weakened their own position that they are moving towards a position of vulnerability to blackmail. The results of that blackmail? Deprivation of raw materials, markets and the freedom of those friends who are not strong enough to guarantee their own security are some of them."

In light of such ominous developments, it should have been highly encouraging to the Administration and Congress that there is an area of Idaho potentially rich in cobalt and that Alaska is a veritable treasure trove of minerals.

But what happens?

The mining industry had to fight tooth-and-nail to keep the land in Idaho from being locked up as permanent wilderness, and it looks as though the long and valiant battle to keep much of Alaska open to multiple-use will be lost.

Meanwhile, in adjacent Siberia, the Soviets are building new mining towns, hydroelectric facilities and a 2,000-mile railroad to speed the extraction of its mineral wealth and further enhance its virtual self-sufficiency in the great majority of strategic materials.

In the midst of such utter folly on our part, is it any wonder that the Soviets question our determination to stand up to them, if they don't question our very sanity itself?

The big question, of course, is: What should we do about it?

To begin with, delightful as gatherings like this one are, I believe all of us in the mining industry must get out more and talk with others instead of ourselves.

In this election year, it's particularly important to talk with the politicians and with those who strongly influence them.

We must declare unequivocably that it's time to cut the double-talk.

One can't endorse booze and abstinence at the same time.

He can't oppose surface mining and favor energy independence.

He can't be for locking up the land and building up the national defense.

I don't question anybody's patriotism, but I do assert that we're seeing some of the most misguided concepts of it since Neville Chamberlain went to Munich.

America must forge a new compact between people and government and set a new agenda of action.

Among the most urgent items are these:

The wholesale locking up of the land must stop. Where mining represents the best and highest use of the land, or where it can be conducted with environmental responsibility, it must be allowed.

The gross imbalance between environmental and other regulations and the economic needs of the nation must be put aright. Not one extreme or the other, but a balance that makes sense.

The United States is lagging woefully behind the rest of the world in such key terms as capital investment, productivity, share of GNP devoted to productive rather than defensive research and development, and the modernization of plant and equipment.

We are losing our capacity to compete in the marketplace of the globe and even to preserve our traditonal share of the markets at home.

There was a time when "Made in Japan" meant shoddy and imitative, and "Made in America" meant excellent and innovative. Not anymore.

Why? Are they so much better than us?

No! U.S. industry is being compelled to spend so much of its limited capital, managerial talents and technological resources to meet the demands of Washington, that it can't match the wishes of its customers.

It's high time all that were changed.

This nation has the lousiest depreciation laws of any advanced country in the world, and the result is a private sector that's on the verge of malnutrition.

It's high time that were changed.

There have to be greater profits . . . more savings . . . increased investment . . . improved productivity . . . and a new alliance among business, labor and government that takes account of the paramount national interest.

I'm deeply concerned about the Soviets, but we shouldn't have to be afraid of Moscow. We know what they're up to.

It's Washington that terrifies me, because our government appears not to know either what the Russians are doing or what it's doing itself.

So this is where we have to get change: in the nation's capital.

And in some of the city halls, and state houses and courthouses all across this land of ours.

It has nothing to do with party, but it has everything to do with principle, and it's time to start holding all the politicians to strict account.

The coming months will give us a unique oppportunity, and we better prepare to seize it.

I've had to quote several leaders of communism this morning, but I'm mindful that we have better heroes of our own and I'd like to conclude by recollecting their words as well.

To those of you who get dispirited by the seemingly endless struggles that are so often lost, I say: Don't Give Up the Ship.

To those benighted souls in Washington and elsewhere who think they've got us on the run, let us all say: We Have Not Yet Begun to Fight.

JACQUELINE COCHRAN'S DARING AND DEDICATION HELPED PUSH BACK BARRIERS OF TIME AND SPACE

Mr. RANDOLPH. Mr. President, I notice that the Senator from Arizona, Mr. GOLDWATER, and the Senator from Nevada, Mr. CANNON, are present in the Chamber.

Mr. President, on Saturday, August 9, the world's leading aviatrix, Jacqueline Cochran Odlum, died at the age of 73 at her California home.

She was a successful businesswoman as well, and helped her late husband, Floyd Odlum, operate an 800-acre ranch. At the time of her passing Jackie held more speed, distance, and altitude records than any other living pilot. She made major contributions to the advancement of aviation.

Jackie Cochran was a close personal friend and we shared a longstanding enthusiasm for the development of aviation. She was a recognized, respected and renowned pilot and a dedicated citizen.

I recall her interest in the future and in youth. She was guest speaker in 1967 at the annual Capitol luncheon which I host for representatives of the 50 States at the National Youth Science Camp. These are the outstanding science students, the top two high school seniors from each State.

Jackie was the first woman pilot to break the sound barrier, in 1953. Yet she praised the courage of West Virginia's Charles "Chuck" Yeager for his 1947 flight at mach 1. She called it a breakthrough even greater than the Wright Brothers or space flight.

She described her life's course as running from "sawdust to stardust." She said: "Until I was eight, I had no shoes." Orphaned at infancy, she became self-supporting as a teenager, taking jobs which carried her from the Georgia cotton mills to, eventually, Saks-Fifth Avenue.

In 1932, during a 3-week vacation, she decided to learn to fly. She made her first solo flight after 3 days of instruction.

During World War II, Jackie organized and directed the Women's Air Force Service Pilots group (WASP) which supplied the Army Air Force with 1,074 female pilots. Convinced that women pilots would be needed in the war effort, and encouraged by Gen. Henry H. "Hap" Arnold and Lord Beaverbrook, Jackie flew a bomber to England in 1941 and a year later took a group of American women pilots to England for training.

Mr. President, Jacqueline Cochran's niche in the aviation hall of fame is assured, so that future generations will know of her daring and dedication to aviation. Those of us who knew and loved her feel sorrow at her going away, but we feel solace in that her boundless energy and enthusiasm helped push back the barriers of time and space. I ask unanimous consent that an article on her remarkable life, in the August 10 Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JACQUELINE COCHRAN ODLUM DIES AT 73; FAMOUS AVIATRIX AND COSMETIC MAKER

(By Maureen Joyce)

Jacqueline Cochran Odlum, 73, an aviation pioneer who was regarded for many years as the world's leading aviatrix and was a former cosmetics manufacturer, died Saturday at her 800-acre ranch in Coachella, Calif.

Mrs. Odlum had worn a pacemaker since suffering a heart attack 10 years ago. A family spokesman said she had been in ill health for the past month and a half.

The former president of Jacqueline Cochran, Inc., manufacturers and distributors of cosmetics and perfume, she became a world-famous figure for her aviation feats.

She began her flying career in 1932 and won her first major air race, the Bendix transcontinental, in 1938.

In 1941, before the United States entered World War II, she became the first woman to fly a bomber across the Atlantic as a captain in the Royal Air Force auxiliary. After Peral Harbor, she returned to this country to teach women to fly transport planes.

In 1943, she was named commander of the Women's Air Force Service Pilots (WASPS). When the WASPS were phased out, she became a war correspondent for Liberty magazine.

She resumed speed flying in the late 1940s. In 1953, she became the first woman pilot to break the sound barrier, flying an F–86 Sabre Jet fighter.

She also set three flying records that year and, in 1961, set an altitude record of 53,253 feet. In 1964, she set a world speed record of

1,429 miles per hour flying an F104G Superstar jet plane.

Mrs. Odlum established so many flight records, principally for speed, that she was awarded the Clifford Burke Harmon trophy of the International League of Aviators as the outstanding woman aviator in the world for three successive years, 1937 through 1939.

In 1956, after receiving many of aviation's highest awards, she ran unsuccessfully for California's 29th congressional district seat.

She had lived in California since her marriage in 1936 to the late Floyd Odlum, a California rancher.

During her flying career, Mrs. Odlum received the Gen. Billy Mitchell award for her contribution to aviation progress.

Mrs. Odlum received the Distinguished Service Medal in 1945, as a civilian. She later received a commission as a lieutenant colonel in the Air Force Reserve, from which she retired in 1970 with the rank of colonel.

She was born in a sawmill camp in northern Florida and orphaned at an early age. As a child she worked in cotton mills in Georgia and had earned her own living ever since.

She established her own cosmetics firm after working as a beauty operator in a small-town beauty shop and later in New York City. She sold her cosmetics business in 1964.

Mrs. Odlum also was a director of Northeast Airlines and was voted "Woman of the Year in Business" in Associated Press polls in 1953 and 1954.

Her only survivors are grandchildren of her late husband, Floyd Odlum, by a previous marriage.

Mr. GOLDWATER. Mr. President, I wish to express my admiration to the Senator from West Virginia (Mr. RANDOLPH) for having recognized, although briefly, the career of Jacqueline Cochran.

I first knew and flew with Jacqueline Cochran back about 1933 or 1934 when she was first beginning to fly. I later flew one or two missions with her in World War II and flew with her organization, the Women's Auxiliary Service Pilots.

By a strange coincidence I had just contacted Jackie about a month before her passing, inquiring as to her health. I had her usual cheerful letter saying that everything was fine. So I was quite shocked and surprised when I read of her passing.

She was a very delightful woman, an unusual woman, in that she had two outstanding careers. She started her own business in the beauty field, making a tremendous success of that, and went into piloting, flying, and was an immediate success in that, having flown such aircraft of ours as the F–86 and the F–104 past the speed of sound.

I remember speaking one day with Maj. Gen. Chuck Yeager, who was her mentor. He told me as far as he was concerned she was every bit as good a pilot as any man who ever came around.

We will sorely miss her as we miss those people who have helped to establish anything, particularly aviation, which is so young and yet so old. Aviation is something for which we owe so much to so many. We owe a lot to Jackie. I join my friend from West Virginia in paying tribute to her.

Mr. CANNON. Mr. President, I, too, join my colleagues in tribute to Jackie Cochran. She was a great lady and a great flyer. I flew with her on a number of occasions. She was always interested in her principal interest, which was aviation. We will indeed miss her.

I, too, contacted her not long ago. I did not realize she was as ill as she was.

I suggest to the Senator from West Virginia that he might want to correct the record as to her age. I do not think she ever really told anyone what her true age was. There has been controversy for many years about that. I think if anyone really tried to describe her true age, they would be in error.

We will certainly miss her. She was a great lady, a great pilot, and a great asset to the aviation community.

I thank the Senator for yielding.

SENATOR HELMS ON GOLD STANDARD

Mr. GARN. Mr. President, in today's Wall Street Journal, a letter to the editor is printed from my good friend, the senior Senator from North Carolina (Mr. HELMS).

The letter discusses an issue that is growing in importance—the issue of monetary reform. More specifically, Mr. President, Senator HELMS discusses the question of the language in the recently adopted Republican platform and whether that platform calls for a new gold standard.

An editorial in the Wall Street Journal of July 28 interpreted the platform as "calling for a return to the gold standard." Senator HELMS disagrees, but points out that the platform does set a new direction in monetary policy, "a direction thoroughly consistent with the supply side economics incorporated into the remainder of the platform."

I believe that it is good for us to seriously debate this issue. On July 22, Senator PROXMIRE engaged the Chairman of the Federal Reserve Board, Paul Volcker, in a discussion of the gold standard and the Republican platform. The Chairman of the Fed said that he interpreted the Republican platform as concluding "with the thought that you needed a disciplined stable currency, that is an economy without inflation, as I recall the words. I agree with that sentiment entirely."

Chairman PROXMIRE said, "But you have no commodity in mind?" and Mr. Volcker said, "That statement says we want to get rid of inflation. That statement that I recall said that we want to have a firm monetary standard. I agree with that."

How we go about providing for a monetary standard is what we should be debating. The very fact that the gold standard is not widely understood indicates that more attention should be given to it—as well as to any alternative monetary system that will provide for an economy without inflation.

Mr. President, the debate is heating up. I understand that on July 23, in New York an important meeting was held at the University Club under the sponsorship of the Committee for Monetary Research and Education. The keynote speaker was Professor Arthur Laffer who delivered a brief summary of his paper, "The Reinstatement of the Dollar: the Blueprint," which outlines a means of moving toward a gold standard with economic growth and stable prices. Sharing the platform with him was Lawrence Kudlow, chief economist with the Bear, Stearns investment bank; Lewis Lehrman, president of the Lehrman Institute; and Henry Hazlitt, noted author and economist.

Mr. President, I ask unanimous consent that Senator HELMS' letter to the editor in today's Wall Street Journal be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TOWARD A DOLLAR GOOD AS GOLD

I read with interest your July 28 editorial ("The Standard Bearers") declaring that the Republican Party approved a platform "calling for a return to a gold standard."

I am convinced that the United States must have a new gold standard—one not subject to the political manipulation that led to the downfall of the Bretton Woods system. Ronald Reagan could be the President who will move the nation toward a new gold standard and the prosperity that it could help bring.

But I do not believe that it was the intent of members of the Republican Platform Committee or the delegates to the convention that the platform language should be interpreted as an outright call for a gold standard. The language did set a new direction in monetary policy, a direction thoroughly consistent with the supply-side economics incorporated into the remainder of the platform. This new direction is away from inflation and toward a sound dollar—a dollar "as good as gold."

My own view is that a new gold standard is not feasible in the short term—however badly needed—because its economics are not sufficiently understood by public policy makers or those who influence them. The demand-siders—the Galbraiths and the Steins—are rapidly losing credibility, but they are still listened to in many quarters.

Having first offered a monetary reform bill based on a market-established gold price in 1976, I am heartened by the intellectual and political achievements that have been made toward this goal. Let us build on those achievements so that it will become pragmatically possible for President Reagan to urge a gold-based monetary reform.

The apoplexy which your editorial caused in various bastions of orthodox Keynesianism indicates that we have a lot of educating yet to do.—JESSE HELMS, U.S. Senate.

DEBATING THE GOLD STANDARD

Mr. HELMS. Mr. President, I thank the distinguished Senator from Utah (Mr. GARN) for his generous comments. His efforts as ranking minority member of the Senate Banking Committee have made him an important spokesman on the monetary and general economic policies of our Nation.

I heartily endorse his call for increased debate on monetary policy, and I believe that the United States must have a new monetary system based on the discipline that only gold can provide.

As my friend, Senator GARN, mentioned, Prof. Arthur Laffer has prepared a paper discussing this issue and proposing a gold standard that will bring not only stable prices, but help bring the economic growth so needed if our Nation is to solve its major domestic and international problems.

The Laffer paper is an important contribution to the growing debate on monetary reform, and it should be reviewed by all who are interested in working out a means of solving our chronic problem of inflation.

For this reason, Mr. President, I ask unanimous consent that a synopsis of the paper, "The Reinstatement of the Dollar: The Blueprint," which was published in the Bulletin of the Institute on Money and Inflation, be printed at this point in the RECORD.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

The Reinstatement of the Dollar: The Blueprint

(By Arthur B. Laffer)

The issue of a gold based monetary system has again come of age. The impulse originates in the debacle of the current system in which inflation and rising interest rates have reached epidemic proportions. The threat of monetary disintegration provides fertile ground for a radical change in the world's monetary system; an early reinstatement of the dollar as world currency convertible into gold no longer is inconceivable. The pressing issue is whether a return to a gold standard will be used to avert a financial collapse or come in its aftermath.

Restoration of a link between gold and the dollar does not, per se, guarantee stability. Done improperly, such a policy change could cause enormous dislocations to the economy. The blueprint for a successful return to dollar convertibility, presented here, includes a transition period to assure that it is the gold market, not the economy, that makes the initial adjustment inherent in a return to a gold based monetary system. "Safety valves" also are provided to minimize the chances of altercations in the gold market being forced upon the economy as a whole.

THE BLUEPRINT

One could well imagine a reordering of the world's monetary system and the reemergence of gold convertibility in something of the following form:

The U.S. would announce a double-faceted program providing for the restoration of dollar convertibility into gold. The first part of the program would allow a transition period designed to permit the gold market in particular, and financial markets in general, to adjust to dollar convertibility before its implementation.

The second part of the program would provide the requisite technical specifications necessary to make the new monetary system workable and credible.

The transition phase would encompass the following policy initiatives:

The U.S. would announce its full intention of returning to a convertible dollar at some prespecified time in the future; say three months.

At the time of this pre-gold price fixing announcement, the U.S. also would provide the financial markets with as much potentially relevant information as could be made available. Gold and other metal stockpiles would be enumerated precisely. This would require a resurrection of the Treasury's gold budget, which was abandoned in the early 1970s.

The U.S. could announce that during this three month interval neither the Federal Reserve nor the U.S. Treasury would intervene in the foreign exchange markets or have any net intervention in the open market. Net loans of reserves to member banks in the Federal Reserve System through the discount window would also be frozen at their current level. Stated simply, during this three month interval, the Federal Reserve and Treasury would "take a vacation" so as not to disrupt the natural forces in the private market. The monetary base would, as a result of the absence of actions, remain literally unchanged during this three month interval.

The same announcement would outline the actual exchange mechanism linking the dollar to gold. It would read something like this:

Three months hence, the Federal Reserve has been instructed to establish parity between a dollar unit of its liabilities (currency in circulation and member bank reserves) and a fixed quantity of gold at the day's average transaction price in the London gold market. This will be the official value of the dollar and price of gold. From thenceforth on:

The Federal Reserve will stand ready to sell gold to all demanders at a price 0.7 percent higher than the official price in exchange for units of its liabilities (Monetary Base).

The Federal Reserve will stand ready to purchase gold from all sellers at a price 0.7 percent below its official price in exchange for units of its liabilities.

When valued at the official price, the Federal Reserve will attempt over time to establish an average dollar value of gold reserves equal to 40 percent of the dollar value of its liabilities. This average reserve (AR) will be a "Target Reserve Quantity" around which policy operates.

A gold reserve band will be instituted whereby a reserve level equal to 70 percent of the dollar value of the Federal Reserve's liabilities would be designated as the Upper Reserve Limit and a reserve level equal to 10 percent of its liabilities would be designated as the Lower Reserve Limit.

Once established, the Target Reserve Quantity of gold will determine the mandatory policy trigger points. Within a band of 25 percent either side of the Target Reserve level, the monetary authorities would have full discretion in exercising control over the monetary base. As long as the monetary authority maintains the official price via direct convertibility, there will be no strictures placed on actions taken to change the monetary base. Open market operations, discounting and even exchange rate interventions would be solely under the discretion of the monetary authority as long as the dollar value of the quantity of gold was between .30 and .50 of the Monetary Base; i.e., within the 25 percent band of target reserves.

If actual reserves were, however, to fall within the range of .20 and .30 of the Monetary Base, then the monetary authority's discretion would be removed in its entirety. The monetary authority would be required to run policies such that the monetary base would experience absolutely no growth. This, in effect, means that the monetary authority would be required to offset fully any gold/dollar conversion as long as actual gold reserves fell between one-half and three-quarters of the target reserve level (.20 and .30 of the Monetary Base).

If, in spite of the cessation of the growth of the monetary base, actual reserves fell between fifty percent and twenty-five percent of target reserves (.10 and .20 of the Monetary Base), the monetary authority would then be compelled to contract the monetary base at the rate of one percent per month. This means that the monetary authority must act to effectuate a decline in the monetary base effects of maintaining gold convertibility. If the decline in the base due solely to gold sales were greater than, or less than, one percent, then open market operations would be used to limit or increase, respectively, the change in the base to the prescribed amount.

A symmetric set of mandatory policy dicta result when actual reserves grow to between 1.25 and 1.5 of target reserves and 1.5 and 1.75 of the target reserves. The monetary base rules in each of these ranges are an increase of one percent per month and two percent per month, respectively, again inclusive of all gold/dollar conversions.

If the gold reserves protection measures fail to preserve the actual value of reserves between 0.25 and 1.75 of the target level of reserves while maintaining convertibility, all gold/dollar conversion provisions cease. The dollar's convertibility will be temporarily suspended and the dollar price of gold will be set free for a three month adjustment period.

During this temporary period of inconvertibility, the monetary authorities will be required to suspend all actions that would affect the monetary base. Again, the price of gold would be reset as before and convertibility would be reinstated.

Once the official price for gold is established, the actual reserves of gold held by the monetary authority would be different from the level of target reserves. If, as appears most likely for an initial move back to convertibility, the actual amount of reserves is in excess of the amounts needed for the target reserves, then this gold should be segregated and sold in a systematic manner. A reasonable solution would be to sell the entire amount in equal monthly installments over a five-year period. Quite symmetrically, if there were a deficiency, there should be a five-year plan to acquire gold in equal monthly amounts. The deficiency or surplus should have no bearing on the monetary authority's behavior. In the monetary authority's account for the purposes of maintaining dollar convertibility, the initial amount of gold would be the Target Reserve Quantity, or 40 percent of the Monetary Base.

PROBLEMS AND SOLUTIONS

The above proposal would attempt to rectify two serious defects inherent in most systems to return to gold convertibility. The original fixing price of gold no longer would be left to the vicissitudes of political pressures. With full knowledge, the market and its transactors who, with the threat of losses and the hopes of profit, would select the appropriate price for gold. This would thus avoid the necessity of making the overall economy adjust to some inappropriate price of gold.

The second criticism to which the proposal is responsive is to an explicit change in the market for gold itself. If gold became excessively plentiful or scarce due to conditions beyond the control of the monetary authority, it makes no sense whatsoever to force the economy to either deflate or inflate to accommodate an altered market for gold itself. Whenever such disturbances occur, the dollar would be defended until excessive reserves of gold were acquired or lost. At such a time, the price of gold would again be set free and allowed to adjust to the overall economy.

Another issue that invariably arises when discussing gold convertibility is the role to be played by gold coins. As a matter of practice, the issue is neither complex nor central to the workings of an effective system.

Nonetheless, if coins are to circulate and be used as money, the value of the coin when used as money must be greater than the value of the metal contained in the coin. If the value of the metal were equal to or greater than the monetary value, coins would be melted down and disappear from circulation. The value of the coin as a money need not be much in excess of the value of the metal. In fact, gold coins today have a premium of less than ten percent unless they have other characteristics. It would seem reasonable, then, that the monetary authority would mint gold coins and place them in circulation. Counterfeiting legislation should also be enacted to guarantee the quality of circulating coins. The minting of gold coins is a natural way for the monetary authority to rid itself of gold reserves in excess of those to be held against the monetary base.

IMPLICATIONS

A policy change leading back to dollar convertibility along these lines would change dramatically the outlook for inflation, the economy, and harmony among the industrial nations.

Inflationary expectations would fall precipitously. With the monetary system hinged to the real world through gold—a surrogate for all goods and services—price stability would return in short order. Announcement of the program alone would tend to increase confidence in the dollar, leading to an incipient excess demand for dollars relative to their supply. That is a necessary condition to arresting inflation. The growth in the monetary aggregates would tend to accelerate to accommodate this excess demand for dollars. Velocity would fall such that this increase in money would be consistent with lower rates of inflation.

Interest rates over horizons both near and far would fall. Most likely, the greatest initial adjustment would be in short term maturities. As confidence extended out over longer time horizons, longer term rates would continue to decline. The more credible the program, the more precipitous the decline in interest rates.

Once the dollar were as good as gold, demand for dollars would surge in international markets as well. The foreign exchange value of the dollar would tend to rise. Foreign monetary authorities, however, might offset this shift in demand out of their own currencies into the dollar through offsetting foreign exchange operations; i.e., selling dollar reserve assets into the foreign exchange markets in exchange for their domestic money. Such a move by foreign monetary authorities would be all to the good. By securing the value of their currencies relative to the dollar, their monetary systems, too, would be linked through the dollar to gold. Inflationary expectations and interest rates would fall in these currencies as well.

Benefits also would accrue to the real sector of the economy. Uncertainty over the value of money both in terms of goods and the cost of financing is itself an impediment to capital formation. It is an additional, external factor outside of the control of management that increases the risk of engaging in long term investments. Moreover, the sharp reduction in the rate of inflation that would ensue with a return to dollar convertibility would diminish the illusory component of corporate profits due to undercosting of goods sold and underdepreciation of fixed assets. Effective tax rates on corporate profits would fall. Real after-tax returns would rise. Corporate economic activity and profits would expand.

The stock market would rise. Two factors would be evident. First, expected future after-tax profits would be higher, because of the expansion in corporate activity and the reduction in effective tax rates. Second, the real value of these profits would more closely approximate reported profits—smaller adjustments would have to be made to correct for illusory gains. Thus, price/earnings ratios based on accounting profits would go up.

Individuals would benefit by a return to dollar convertibility for similar reasons. Resources devoted to protecting savings from the danger of unexpected changes in the value of the dollar in terms of goods would be directed toward increasing production and wealth. "Bracket creep"—the rise of nominal incomes into high tax brackets even while real incomes remain constant—also would cease, removing the expectation of ever-increasing effective personal income tax rates without legislative relief. Employment would rise, unemployment would fall.

The financial health of the government also would improve. Interest expense on the Federal deficit for fiscal year 1979 was $60 billion—the third largest budget item. A fall in interest rates, *per se*, would reduce the cost of financing the government debt. The expansion in the economy following a restoration of dollar convertibility also would increase the tax base—leading to an increase in revenues. In a healthy economic environment, demands for government spending decline. Higher tax revenues and lower spending reduce directly the deficit. The financial health of the Federal government would improve.

Finally, the return to dollar convertibility would reinstate the United States as central banker to the world. The importance of this change is difficult to underestimate. For almost a decade, the world has been without a numeraire, a North Star by which to guide international commerce and investment. The resulting cumulative economic inefficiencies have subtracted from the wealth of all nations. It is not too much to say that many of the political and social tensions of the era have been due, in part, to these real costs. With the dollar once again the world numeraire, these inefficiencies would be removed, and global resources freed would be employed toward productive ends.

New York's position as the center of world finance would be elevated and the competitive position of U.S. banks would be enhanced, relative to London and other overseas money centers. But all Western commercial centers would gain in the absolute expansion of global wealth. Assuming most of the major trading nations of the world would link their currencies to the dollar global inflation would be effectively arrested. Inflation's destructive impact on domestic economies would be curbed as well, although the need for global tax reforms would remain to offset the effects of a dozen years of inflation on fiscal systems.

Transcending these not inconsequential commercial considerations, though, are the benefits that restoration of the dollar as a stable world currency would bring to world political order. Protectionist pressures in the West would be mitigated, although not eliminated. And an element of cohesion would be returned to the Western alliance, which, along with the present monetary system, threatens fracture and disintegration.

Throughout history, it has been the world's premier economic and military power that has put its strength and responsibility behind the maintenance of a stable world currency. The United States abandoned this element of global leadership when it unhinged the dollar from gold. It is not within the capacity of any other nation or cluster of nations to take on this responsibility. The United States can signal its willingness to resume this critical role by once again placing the dollar within the disciplined framework I have outlined here.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 2:09 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Mitchell).

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

Mr. ROBERT C. BYRD. Mr. President, I believe under the order entered earlier, Mr. Baker and I have control of the time under the cloture rule, do we not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time be charged equally against Mr. Baker and myself.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1961, AS FURTHER MODIFIED

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Tsongas—I have discussed this with Mr. Gravel—I ask unanimous consent that the amendment in the nature of a substitute—I did not feel it would be proper to put the request until I had discussed it with Mr. Gravel and others—I ask unanimous consent that the amendment in the nature of a substitute, No. 1961 (as modified), filed on August 6, 1980, by the Senator from Massachusetts (Mr. Tsongas) for himself and others, be further modified to make it clear that it is a substitute for the committee substitute and not for the bill.

Mr. STEVENS. Mr. President, reserving the right to object——

Mr. GRAVEL. Mr. President, reserving the right to object—and I would like to yield to my colleague from Alaska on this since we would have a modification of the unanimous-consent request which, I believe, would be acceptable to all sides—I yield to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to ask the majority leader if I could add to that request for unanimous consent an additional unanimous-consent request that notwithstanding the unanimous-consent agreement on H.R. 39 and cloture, if it is invoked thereon, that amendment No. 1961, as modified, and/or any other substitute submitted by the Senator from Massachusetts (Mr. Tsongas), be modified further to include an amendment which I would like to send to the desk which corrects the Tsongas revised substitute in three instances which have been agreed to by all parties concerned.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, has it been agreed to by Mr. Tsongas?

Mr. STEVENS. It has been, by Senator Gravel, myself, Senator Hatfield, and Senator Jackson. It has been agreed to by all parties.

I send this amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the clerk report the amendment or is it necessary?

The PRESIDING OFFICER. It is not necessary.

Mr. STEVENS. Mr. President, I ask that the reading of that amendment be waived and that it be adopted as part of the unanimous-consent request.

Mr. ROBERT C. BYRD. What amendment?

Mr. STEVENS. This amendment.

Mr. ROBERT C. BYRD. Which has been agreed to by the aforementioned parties?

Mr. STEVENS. That is correct.

Mr. ROBERT C. BYRD. Mr. President, have the requests been agreed to?

The PRESIDING OFFICER. Without objection, they have been.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank both Senators from Alaska.

Mr. STEVENS. Mr. President, if I might yield time to myself from the time allocated to the minority leader, I might state that that amendment corrects three deficiencies in the Tsongas substitute which had been previously discussed. One cares for the problem concerning Little Diomede Island. The other two deal with problems concerning subsistence in the Wrangles and in Mount McKinley.

I appreciate the courtesy of everyone concerned. It does correct errors of omission in the Tsongas substitute rather than intentional errors.

Mr. President, how much time remains at this time on the precloture time?

The PRESIDING OFFICER. The Senator from Alaska has 38 minutes remaining, and the Senator from West Virginia has 39 minutes remaining.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask that the Chair notify the Senator from Alaska when 20 minutes remain—I intend to call the quorum off at that time—20 minutes of my time and the time to be charged against my time for the quorum call.

Mr. ROBERT C. BYRD. Mr. President, I do not believe that order can be assured of execution, may I say kindly to my friend.

Mr. STEVENS. Then I will ask unanimous consent that it be charged to both sides.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time have I remaining under my control?

The PRESIDING OFFICER. The Senator has 32 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I yield 20 minutes to the Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. I thank the leader for yielding me that time. It will permit me to try to reposition the issue, now that we have come back from our recess, for the edification of the Members.

We shortly will have a vote on cloture, wherein a decision will be made on limiting debate on this subject.

I would like to make the record extremely clear that my reasoning for the extended debate is, as I view it, very much within the context and tradition of the U.S. Senate.

This body is the only body of its kind in the world. Under our system, in its original design, it had an unusual mission, other than legislating the policy and laws of the Nation. It had an extra mission—to give succor and justice to minorities.

Our Founding Fathers, in their wisdom, understood full well the abuses of power at the hands of a monarch, but that understanding was even more refined. They understood the abuse of power that could take place in a democracy at the hands of a majority. Of course, this was extensively treated in the Federalist Papers.

So it was very clear from the very beginning that the Senate should guarantee that protection because no other institution afforded that protection, or literally could be designed to guarantee that protection. So in the design of the Senate, our Founding Fathers developed a vehicle wherein the minorities would be protected. It was a simple and a very just one, because, as Thomas Jefferson, in the introduction to our first rules, pointed out, the majority protects itself by its very numbers, and if a democracy is to survive, a degree of accommodation must be given to minorities. So was devised the process that minorities would be protected in this institution by the rules.

That initial rule required that two-thirds of the Senators could be required to vote in order to shut off debate. This rule was subsequently changed to where we have it today, where 60 votes in the affirmative can end debate, requiring the Senate to proceed in its deliberations to discharge the matter.

What this has set in motion is a requirement that if there is a sufficient, willful minority that wants to press the issue, it can and does require that the Senate have the 60 votes. The political import is that where it would take only 51 votes to pass legislation, on this kind of an issue that is so strongly contested it literally would take 60 votes.

I only wish that it were still two-thirds, because I think, in the press of our present-day society, many times, we go forward in haste to try to do things. I think the consequence of that generally is to increase the size of Government, thinking that Government can solve all the problems. If we go forward and pass a lot of legislation, that truly does not solve the problem; it merely exacerbates the problem.

Put in the kindest terms, that is exactly what this Alaska lands bill does. I think the motivation of those who seek its passage is, without question, sincere and honorable. The correctness or the rightness of the act, however, is totally dissociated from their motivation or their sincerity or their commitment to what they think is right. I think this legislation does great harm.

It does great harm to the very cause that they seek to bring about; that is, to set aside lands to be protected. I think, in the long run, what we shall see is the swing of the pendulum. Whenever we see one extreme, we always see the second extreme, which is begotten by the first.

So we see an environmental community in this Nation, led by a group of preservationists who, as a reaction to the excesses of unorganized growth arising from the industrial revolution, are now attempting to right all the wrongs and all the sins by imposing a no-growth policy upon the United States of America. The centerpiece of this policy and this scenario is to take the subcontinent of Alaska—I might say, a subcontinent that is blessed with unbelievable treasure in all forms—to take it out of the inventory of lands that we may use to the benefit of our American and the global society.

I am not just talking in terms of oil and gas minerals. I am talking in terms of tourism, of access, of people being able to enjoy its beauty, and a host of other ramifications. So, although they have a policy that they think is correct, I wish to address in general terms where the mistake is made.

During the recess, I read a report on a book that a distinguished author has written on a very distinguished man, one of the geniuses of all time. That is a book by Mr. Stone called "The Origin of Species," involving the life of Mr. Darwin, a gentleman who, about 150 years ago, identified something that has altered the course of science and the course of human belief. What Darwin discovered 150 years ago is exactly the point at issue today on the Alaska lands bill, and is particularly relevant to those "no-growthers" in our society, who think that the answer to our difficulties on this planet is to regress or try to turn back the clock economically.

What Mr. Darwin discovered was that change in society is a constant. Change in our ecology, change in our ecosystem, is a constant. There is constant evolution and this is inevitable. What does that mean in terms of the issue before us? It means, very simply, that if change is a constant and inevitable, then growth, which is the beneficial part of change, is constant and inevitable also.

So those who attempt to stop growth because they think it is wrong for human beings to effect growth on this planet are just about as on target as those who denied and were emotionally disturbed over the great discovery of Darwin.

There is no way to turn back the clock. There is no way to stop growth. The only way that the species can improve itself is through growth; through understanding and organizing it so that the best human judgment can be made on it.

The views that I hold with respect to Alaska, and those are views which I hold with respect to all the United States, are that we can have our cake and eat it too. We can have wilderness, we can have parks, we can have oil and gas, we can have minerals, we can have a tourism industry to enjoy the unusual beauty of Alaska. We can have all this and a sound economy at the same time. All it requires from us is intelligent judgment, rational judgment. But that is not the kind of judgment being exercised in this particular piece of legislation.

I should like to summarize the position that we were in when the Senate first took up the legislation and the position in which we will find ourselves if cloture is invoked. If cloture is invoked, we shall proceed to some amendments that I have and then, eventually, to the amendment of the distinguished Senator from Massachusetts. I hope that my amendments will prevail, but I predict that if the votes are sufficient to invoke cloture, the votes are sufficient to pass the Tsongas substitute. Let me say where that substitute takes us. The impact of that legislation, some 400-odd pages, will be to lay over the subcontinent of Alaska a blanket of bureaucracy, costing on the order of $200 million a year, which must be pierced by those wishing to pursue economic activities.

(Mr. BAUCUS assumed the chair.)

Mr. GRAVEL. That blanket will discourage them. That bureaucracy will cost some $200 million. It will expand Government over literally a virgin area. It will cost more than the population of Alaska—a mere 400,000 people—will be able to afford and still continue with the full flower of their economic potential.

So we see the Senate working toward conclusion on a piece of legislation that initially came to us from the distinguished Energy Committee. It came to us with a delineation of some 38 million acres of wilderness, which now has been increased to 56 million acres.

We see a bill that came to us from the committee which directly took out of inventory 30 million acres of sedimentary basin. We now see that expanded by an additional 10 million acres. It is as if from the period of time the bill left the committee, there has been an improvement in the energy situation in the United States, the price of energy has gone down, and we can act cavalierly on the amount of sedimentary basin we choose to lock up.

It tests one's credibility to understand the economic situation that exists in the Nation today, where we hemorrhage billions and billions of dollars, exporting this wealth abroad, our wealth, the savings of prior American generations. We send this money abroad, particularly to the Middle East, to the Arab shiekdoms, and this money comes back to buy property in Alaska, to buy property on Fifth Avenue, to buy American banks, to buy American financial institutions, and American industries.

It is, literally, giving them the savings of our forebears on a platter because we refuse to go to a part of the American soil where technology and science tell us there exists oil and gas. We merely must dig it out of the ground.

So we refuse to make that rational decision, for whatever reason, and lock up 40 million acres of sedimentary basin. The entire lockup of sedimentary basin actually will be on the order of 100 million acres, because when the whole issue of access is tested we will find, to our bitter sorrow next year, the year after, a decade from now, two decades from now, that access was not really given to all of this land.

So these fine words that have echoed in this Chamber, or have been written on parchment, will not avail us because we will have worked ourselves into a Gordian knot. We will not have the ability as we founder for want of the energy we need, to reach out, to grab it. It is much like a person who is dying from dehydration in the desert and is about a hundred feet from an oasis and does not have the strength to get there to drink the water. That is what we are doing to ourselves in this particular case with oil and gas.

With respect to minerals, we have added Green Creek, one of the mineral finds, which, along with borax, is probably the largest or second largest molybdenum mine in the world. We write the bureaucratic language, or write the scenario, saying that we will have access to prove it up. But, in point of fact, the decision is not made whether development will take place. That will have to meet some future test of compatibility with the monuments.

We have experience in that because we had that test when something was going to take place at Glacier Bay National Monument. When that possibility existed, this body and the House of Representatives, moving at all speed, closed out that possibility.

Now, I venture to say, that is what will happen in the future.

I think the harm we do is much beyond these two particular world class mineral sites. The harm is that in the subcontinent we, literally, are saying that we will not look for minerals. That is what we say when we take this much land out of economic inventory, and take it in such a strategic manner that it will stop access to other areas.

I placed in the RECORD earlier in this debate some figures that compared our subcontinental mineral potential with that of two others. It was estimated that in the next generation, the next 20 to 25 years, that the amount of mineral wealth we would be denying to the American economy, a good part of which does not exist presently anywhere else under the American flag, would amount to approximately $9.16 trillion.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twelve minutes and 19 seconds remaining.

Mr. ROBERT C. BYRD. I yield an additional 5 minutes to the Senator.

Mr. GRAVEL. That will be fine.

So what we see is a situation where we are denying ourselves $9.16 trillion. Some $160-odd billion of this figure is the amount that would be spent in Alaska. The remaining $9 trillion is the wealth that would be funneled and recirculated within our entire economy over the next generation.

The cost, of course, with respect to the Vietnam war, was about $150 to $200 billion.

We know now, today, that the major part of the economic difficulties we bear is a product of that waste.

Let me just say, if that kind of mistake is causing the present reverberations, what will a $9 trillion economic mistake cause in the future?

I question whether this Nation, economically, could survive with that kind of error.

Another part of this bill calls for expanding the areas closed to hunting in such a way that $2.5 million in revenue will be lost. These are losses to our economy, and to a way of life that is so important to my State.

The access language is made even more horrendous in that when we seek a Presidential appeal, in certain areas, the President is limited in the nature of the relief he can grant in that it must be compatible with the system.

So if somebody's application to put a pipeline across the refuge is denied, and he then appealed to the President, the President could only grant relief if it were compatible with the refuge itself. Of course, that kind of activity would not be compatible.

We regress as a result of such constraints. Fisheries research, aquaculture facilities and fisheries enhancement facilities, for example, would be limited.

I think the impact of this is not understood by the fishing community of the State of Alaska and will only be understood with time.

Damage is done the timber industry, at least to certain facets of it. The hopes held out in prior legislation are now removed and it is a straightforward situation; we are depending upon subsidies in the future. But if these subsidies do not come forward, we will not see the employment level maintained within the State of Alaska. We move away from the historical allowance of 520 million board feet, now reduced to 450 million board feet.

All these deficiencies are multiplied. By how much? No one in this Chamber knows, and no one on the face of the Earth can divine, because law is a living thing.

So what we see here is a document of some 450 pages which will pass into law, but this is the veritable tip of the iceberg. What will come after this law will be a thousandfold more than this, and it is called regulation. It will be regulation that will be developed over the years. After the regulation will come judicial interpretation of the regulation and of the law, the ramifications of which are truly immeasurable. But from what little experience I have garnered in this body, I know one thing: It will not be beneficial to my State and its inhibitants. It will not be beneficial to the people of the United States. It will impair not only the economy of our great Nation but also our ability to defend ourselves in a very immature world.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. GRAVEL. I thank the majority leader for yielding me the time to make this statement, and I appreciate his graciousness.

Mr. STEVENS. Mr. President, I have just returned from a trip to my State where I visited a series of communities: Fairbanks, Eagle, Nome, Bethel, Anchorage, Chena Hot Springs, Kotzebue, and Chevak.

I have uniformly responded to questions in those areas concerning the revised Tsongas substitute. This substitute now is a version of the Senate Energy Committee bill, but it does not satisfy the seven points that our State legislature asked us to address in connection with this legislation.

I have told Alaskans that while I cannot vote for the Tsongas substitute, I think it has to be judged as being a compromise that is better than the existing situation under the national monuments and certainly better than those the President has indicated he will impose if a bill does not pass.

Our State legislature asked us to address seven points. We call them the consensus points.

The first, they said, was to revoke the antiquities withdrawals made by President Carter. The substitute does this, as did the Senate Energy Committee bill.

Then the legislature requested, be certain that we get all of our State and Native lands. This substitute does that, as did S. 9 as it came out of committee.

Third, the consensus points sought to preserve the traditional balance between the State and Federal people in terms of the management and taking of fish and game in Alaska. This revised substitute not only incorporates the language of the Senate committee bill, but also, the Senator from Massachusetts has adopted a portion of my amendment which actually improves on the committee language.

The legislature also requested that we get an access provision that would give us access to inholdings and to the State and Native lands. The Tsongas substitute adopts the provisions of the Energy Committee substitute with regard to access. Those are the best access provisions that would apply to any public lands State following the enactment of this bill.

Above that, there is a provision in access portions of this bill that will give Alaskans an extra prerogative. We do not have to go to court. If we are dealing with an access route that is in the interest of national security and they wish to make a case to that effect, Alaskans can go to the President and inform the President of the denial of an access petition, a petition for access across Federal lands, and make the case on the basis of national security; the President can order that that access route be granted in the interest of national security.

That does not constitute less rights than exist in other Western States. It constitutes more rights than exist in other Western States.

In addition, the access provision reverses the normal burden of proof in the case of an application for right-of-way across Federal lands.

The fifth injunction of the legislature was to be sure that there is what we call a no-more provision. This was a provision I insisted on in 1978. It was in the so-called Huckaby bill. It was in the bill that almost was approved in 1978. That clause is not in the committee bill. It is in the revised Tsongas substitute because of an agreement we had in committee that when the bill had reached its final version on the floor of the Senate, the committee would agree to the no-more clause. Realizing that the Tsongas revised substitute may be the final version, the Senator from Massachusetts, at my request, has included that.

So, of the seven points, five are in this revised Tsongas substitute in total. As to the other two, one that dealt with high value resources we have not met 100 percent. As a matter of fact, I would grade it about 50 percent of the objective we sought, because there are lands which are now closed to mining which were open to mining under the Senate committee version.

That leads to the seventh point, and that is the lifestyle question—the right to use motorboats, aircraft, and snow machines, as well as the right for cabins on public lands, and so forth.

This substitute contains the Senate Energy Committee version of those lifestyle questions; but, because they apply to fewer lands, due to the fact that we do not have complete access to the same amounts of lands, we have to give that a lesser value.

Those who have analyzed this bill on the basis of awarding 10 points for each of the 7 consensus points tell me they would grade this at 57 out of 70, or 81 percent of what the legislature asked us to get. That is not 100 percent. At a later time, when we can get some education going in the country, I hope to be able to achieve some of the items we have not achieved now.

For example, Mr. President, the wildlife refuges are open to oil and gas leasing but are not open to mining. I believe that as oil and gas exploration goes forward and mineral deposits of national significance are discovered, the country will want to allow mining in wildlife refuges. I believe it would be in the interest of our Nation and would be consistent with a balanced approach to our Federal lands to allow that. We cannot achieve that now. We do not have the total availability of these lands for mining.

I will tell the Senate what we do have. Of Alaska's 375 million acres, 350 million acres will be open to hunting, under this revised substitute.

Of the 375 million acres, 300 million acres will be open to oil and gas leasing.

Of the 375 million acres, 250 million acres will be open to hunting under this problem is difficult because of the great national petroleum reserve of Alaska. That question is not settled. That is 27 million acres.

The military areas are not open to mining. That is an additional acreage of about 12 million to 15 million acres in total.

In other words, the problem with regard to mining relates to military reservations and to wildlife refuges. If those two areas open to hunting would also be opened to mining, we would have about the same figure for mining as for hunting.

The unfortunate part of it is some of the resource areas that are closed are high-value areas. We know them to be high value, and the legislature knew them to be high value. Therefore, I cannot get to the point where I could support the Tsongas substitute as I did the Senate committee version.

But under the circumstances that exist here with regard to the votes that we have backing the various positions, I am compelled to say and I have said to my people at home that the Senator from Massachusetts has been fair under the circumstances.

That gets us to the point of where are we now? The question is should we have cloture?

I have been one who has opposed cloture traditionally. As a westerner here from the Far West, I think that filibusters start many times because we want to have time to get information back from our States or we want to have time to alert our whole region as to the problem involved.

I have never seen a filibuster when there was a time agreement in effect. Most of us did not feel that a filibuster could or should take place when a time agreement is in effect.

Having been one who agreed to the time agreement, and therefore impliedly at least made a commitment to the Senate that there would be no filibuster, I have not filibustered and I do not intend to filibuster under a time agreement. It is a commitment to the Senate to vote, and the Senator from Massachusetts received a commitment from us that his Tsongas substitute would be voted upon just as I received a commitment that my amendments would be voted upon.

I do, however, still retain my basic engrained dislike for the cloture procedure and on that basis I shall vote against cloture today, not because I support the procedures that my colleague is following but because I feel that the precedent of cloture might be a bad one for those of us from the West, and I do not want to set a bad precedent.

But, Mr. President, if one looks at a bill such as this, as complex as it is, and I did look at it a couple times in the hands of Alaskans, and they ask me how could they tell whether this was a good or bad bill for Alaska. It is a bill some 446 pages long. My answer to them is very simple, and my answer to the Senate is the same. We accept bills like this on the basis of faith in the people who present them. The people who worked on this bill have been people who were members of the committee who disagreed in many ways but tried to resolve those differences as honorably as possible.

I have not achieved 100 percent of what I wanted in this revised substitute, and the Senator from Massachusetts knows that, but I am grateful to him for the concessions that he has made to us, knowing that he has the votes to pass the bill. He has still given concessions that in some instances have aggravated those for whom he articulates the environmentalist position, but they are concessions that mean that Alaskans will be able to live easier, they will be able to continue their lifestyle, not completely as we wish, but at least 81 percent of the concessions we sought are in this bill.

And for myself I intend to be back next year. I am sure we will have some changes. Maybe then we will have more votes, and we can get some of these things changed. The political process is the process of change, and it is the process, also, I think, of Senators realizing that we deal not only with land, we deal not only with wildlife, but we deal with the rights of human beings, when we are dealing with a bill like this. In terms of the human being quotient I am pleased to say that although he is on the other side of the aisle I am proud of the Senator from Massachusetts. We have been able to work out the human being problems. We have met the mining problem, the oil and gas problem, and some of the timber problem. They relate to human endavor in terms of job opportunities. But when it came to the question of cabin sites, of traditional means of access, of protecting a road that is essential for one area, or meeting the needs of the native people of a particular village, I can say I cannot remember one of those that was not met.

So my statement to the Senate is that I have the feeling that we are going to get to the Tsongas substitute soon. This substitute is now the Tsongas-Jackson-Hatfield substitute, and that to me means it is as close to the committee substitute as we can possibly get because the chairman and the ranking Republican on that committee have now put their name on it. They put their name on it because they, too, sat through hour after hour after hour of negotiation with the Senator from Massachusetts and me in trying to work out the differences between us. It is a product, Mr. President, that represents a good-faith effort. It represents the expertise and knowledge of the chairman after his so many years in dealing with public lands and of the Senator from Oregon, our ranking Republican based upon his leadership, knowledge, and good judgment. I am unwilling to see another year go by without a bill, leaving us to live under the monuments created by the President and under additional monuments. A monument, for instance, in the Arctic Wildlife Range would prohibit oil and gas exploration. A monument in the Yukon Flats could prohibit the mining operations there. It prohibits the national recreation area; it prohibits the State's selections. Alaska would be terribly harmed to be left under the national monuments created by the President and additional monuments created by the President.

Whether I support him or not, I believe President Carter when he says he would draw more lands under the Antiquities Act because he did it before.

Mr. President, it is not easy to tell anyone that you have not achieved 100 percent of your goal, but I would rather make the record that I hope to improve this bill in the future and dedicate myself to improving the bill in the future than I would to dedicate myself to start all over again in January to try and get back as far as we are now.

I think, as I said, under the circumstances the votes are not here to support my position. As a matter of fact, if I had the votes to support my position I would not pass a bill at all because I do not think that the people of the Nation need a bill to protect Alaska from Alaskans, but there are many who do, and they are here on the floor of the Senate and the House of Representatives which voted again overwhelmingly in favor of such a bill as it did 2 years ago.

So if this reassurance is necessary and it is a condition precedent to our getting our State lands and our Native lands, 150 million acres out of Federal ownership, then I for one am prepared to say that this bill is better than the existing status quo. This bill meets 81 percent of the legislature's objectives. This bill I know detail by detail, not as well as Mike Aarvey and Tom Williams and my good friend Tony Bevinetto or my assistant Steve Silver. They know it word for word, and I know it section by section, and I think the Senator from Massachusetts has the same knowledge.

But I will defend it to anyone as being the best job we can accomplish under the circumstances now, and for me what is involved from here on out is trust. If the people of Alaska and if the Members of this body trust those of us who know what the issue is about, I think this bill, or hopefully maybe even one that will improve it—you know hope springs eternal; the Senator from Massachusetts might yield on something else before this is over—is better than the monuments, and I expect to see it become law during this session.

Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. TSONGAS. Mr. President, who controls the time?

The PRESIDING OFFICER. In answer to the inquiry from the Senator from Massachusetts, the Senator from Alaska and the majority leader control the time.

Mr. TSONGAS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes remaining and the majority leader has 7 minutes remaining.

The Senator from Alaska may, if he chooses, ask for unanimous consent for an additional 1 minute to allow the Senator from Massachusetts time of the Senator from West Virginia.

Mr. STEVENS. Mr. President, I had agreed at the time of the last quorum call to yield to the Senator from West Virginia a portion of the time under our control to so, in effect, pay back for the quorum call that I put into effect.

I yield to the Senator from West Virginia 5 minutes of my time and then I am certain that I have his authority to yield that from his time to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. I thank the Chair.

Mr. President, let me say that the remarks made by Senator Stevens just now justify the trust that we put in his words during the last month that I spent with him. I would rather spend the time with my family. Since that was not possible, I am glad that I spent the time with him.

Let me address the issue of cloture if I might. I think it is critical that we resolve the issue this year and apparently that will be done only if cloture is invoked.

Most of the Members of the Senate were here last year rather than the 2 years ago now wherein the Alaskan issue was before us and it was not resolved. I was in the House of Representatives at the time as was the Presiding Officer.

The House voted last year 360 to 65 on H.R. 39, which is a bill that is far more environmentalist oriented than the substitute we are talking about here today.

The senior Senator from Alaska pointed out that 81 percent of the objectives of the State legislature in Alaska had been met by the compromise. If I had known it was that high, I would have been more difficult to deal with.

We entered into a time agreement, if I remember correctly, in February. It was understood that rather than have an endless debate with various amendments and the process of proceeding ad infinitum and, perhaps, ad nauseam, we would have this agreement and we would all have our shots.

Various amendments were allocated to various members, and the substitute was to be originally, in essence, the club in the closet.

What happened after that was that it became obvious to me and to others that we were heading down the road where people on the extremes of both positions felt that no bill was a plausible and preferable position. Those on one side argued that, well, we might have a new administration next year. Not willing to look at exactly what that means in terms of the legalities, they argued that somehow it could be a better situation. Those on the other side, the environmentalists, argued that we have no bill—with the President committed to withdrawals. That, they argued is better than what we had come up with in the substitute.

I happen to think that both of those positions are irresponsible because the only people who will benefit are the lawyers. As a reformed lawyer myself, I am very hesitant about playing into their hands.

What Alaska needs now is certainty, and the question was whether we could fashion a substitute that was fair. I think we have done it.

You basically have six interests in the Alaskan issue: The people who hunt, oil and gas interests, timber, mining, environmentalists, and the State.

What took the time of the Members was trying to give each of those six interests their top priorities so that nobody walks away with 100 percent, because in order to do that someone else obviously has to lose.

The only reason the substitute was fashioned was because of a happy coincidence. What was important to one group as its top priorities did not happen to be the most important to the other groups. There was a capacity to negotiate because they did not have that serious overlap that is often the case on these kinds of issues.

For example, on the State the substitute conveys all the State-selected lands inside conservation system units which are valid selections, and that was the point at which the discussions broke down here some three weeks ago.

Second, on the wish list lands they are conveyed outside the conservation system units, which meets the major objectives of the State.

In terms of hunting, 91.4 percent of Alaska is open for hunting. In terms of oil and gas 95 percent of the high and favorable oil and gas potential is open. The other 5 percent, as you know, is being studied by seismic tests, that issue to be resolved down the road.

In terms of timber, in the Southeast area alone the bill provides 4.5 billion boardfeet over the next decade.

In terms of mining, 62 percent of the lands with potential available minerals are outside the conservation units, and we have made specific provision for Greens Creek, for Quartz Hill, where the borax mine is, and the Ambler area in the Boot.

In terms of the environmental community, the refuges amount to 54 million acres, the parks amount to 24.6 million, the preserves are 19 million, and that, I think, is a notable achievement compared to S. 9.

What we have done is to try to put together a package that accommodates legitimate needs on all sides.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator from Alaska yield additional time to the Senator from Massachusetts?

Mr. ROBERT C. BYRD. I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts has 3 additional minutes.

Mr. TSONGAS. I thank the majority leader for rescuing me from the situation.

Let me say, Mr. President, that there is no one who walked away from this with everything that he or she wanted. By definition that was not possible.

What we tried to do was to meet the legitimate needs, even though most of us in the process were prepared to say "No" to the constituencies that we represented, and that does not often happen, but it was done because there is a larger interest here.

The no-bill posture is what we are talking about if cloture is not invoked. We were here 10 days ago in utter frustration when we went from quorum call to parliamentary inquiry, to appeal of that inquiry, to quorum call, and nothing was done at all. There is no hope that that process would not continue, and every indication is that it will.

What cloture does simply is to give the Senate a chance to work on the agreement that was arrived at back in February. Let the process continue. If there was an advantage to the filibuster that has taken place, it is that it has given us time to be fairer to all concerned.

I will say that in working out the compromise I extend my gratitude to those who participated in the process. I would also like to say to Senator GRAVEL that even though we may differ perhaps on whether the substitute is meaningful, I have to acknowledge and respect his willingness to fight for his constituency, and I hope that when this is all said and done that history will show we were as fair as we could be to all those various interests and, perhaps, in time he may see the virtue of what we tried to do.

I hope and trust it will not affect our relationship in the future. I would like to acknowledge his courage and his unfortunate skill in parliamentary procedure.

I thank the majority leader for the time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum and ask that it be charged equally to both sides.

The PRESIDING OFFICER. Under the precedents of the Senate, there is not a sufficient amount of time remaining for a quorum call.

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senate is to vote on cloture at 4 p.m. today.

I ask unanimous consent that Mr. MAGNUSON may be recognized to call up a House message and that the message may be disposed of in not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXPORT-IMPORT BANK AUTHORITY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 589.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House disagree to the amendment of the Senate to the resolution (H.J. Res. 589) entitled "Joint resolution providing additional program authority for the Export-Import Bank."

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Utah and then I will make my statement afterwards.

Mr. GARN. Mr. President, I think it is obvious to all who have observed the behavior of the Senate over the past 18 months that we have been right about Exim's financial needs. We have conducted ourselves in a perfectly correct manner.

By contrast, the House has been unreasonable in its negotiating posture and flat wrong in its financial proposals to deal with the bank's problems. Coincidentally, the administration, which has been the "brains" of the House's proposals, has proven itself—if such proof is necessary—to be stubborn, incompetent, and no friend of the exporting community.

Mr. President, at this moment the Export-Import Bank of the United States is unable to carry out its programs in support of U.S. exports. It is unable to do so for the very simple reason that it is out of money.

Members of the Senate, particularly Senator INOUYE and myself, realized long ago that this would happen unless the Congress provided additional authority for Export-Import Bank program lending in fiscal year 1980. From the beginning I have actively and strongly supported efforts to provide additional authority to the Export-Import Bank.

On July 2, when the Congress was considering fiscal year 1980 supplemental appropriations, the House of Representatives rejected additional Export-Import Bank lending authority.

On July 31, the House passed House Joint Resolution 589 which provided that we in the Senate thought to be an inadequate increase in Eximbank lending authority. On that same day, the Senate adopted my amendment to the House resolution and provided funding adequate to Eximbank needs. The House again rejected this additional funding for support of U.S. exports and refused to consider additional funding before the House went in recess.

Now, today, the House has again sent to the Senate its original version of House Joint Resolution 589. It still provides an inadequate amount for funding to meet the needs of our exporters. Nonetheless, Mr. President, I am going to move that the Senate accept the House version.

Tomorrow, the House will enter reestimates of Government spending into its budget authority and outlay scorekeeping system. Once it has done that it will not be possible to bring forward any Export-Import Bank spending legislation for fiscal year 1980. We must act now, if we are going to provide any further support of U.S. exports in fiscal year 1980.

Mr. President, I reluctantly support the adoption of House Joint Resolution 589. I say reluctantly, because I think it is inadequate. But, it is the best we can do at this time and I do not want to lose this opportunity to help U.S. exporters and our balance of payments.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, on July 2, as the Senate was in the final moments of debate on the supplemental appropriations bill for fiscal year 1980, I pledged to do my part, as chairman of the Appropriations Committee, to take care of the Export-Import Bank in a separate supplemental. Now we have before the Senate a House-approved resolution on Eximbank.

Prior to the August recess, the Senate passed its own version, a Garn proposal, which I cosponsored, along with a number of my colleagues, including the chairman of the Foreign Operations Subcommittee, Senator INOUYE, who is ill and cannot be here today. I commend both Senator GARN and Senator INOUYE, for their continuing, untiring efforts to bring financial relief to the Eximbank.

As we all know, the Export-Import Bank is now essentially out of funds. New loan authority is desperately needed. The Garn resolution provides for needed direct loan authority for Eximbank while the House proposal utilizes a less favorable approach combining direct loan authority with an increase in loan guarantees.

I understand Senator GARN's insistence on pressing his resolution last month. We all might prefer to have the Garn resolution enacted, however, it is clear that we no longer have the time to press our preference with the other body. Today, the House rejected the Garn proposal and sent back to the Senate its version of the Eximbank resolution. If we are to provide the stopgap funding for the bank, we must act today. Approval of the House resolution assures that the bank will at least receive some relief in fiscal year 1980.

Mr. STEVENSON. Mr. President, the Export-Import Bank has no authority remaining for loans this year in support of U.S. exports. The Bank has been held to its 1979 level by the failure of Congress to pass an appropriations bill containing a higher ceiling for fiscal 1980. Already the Bank has deferred about $2 billion in commitments until fiscal year 1981. Unless Congress completes action today on a supplemental appropriation bill, the Bank will be compelled to defer or deny another $1 billion in export credits.

The Senate has repeatedly passed appropriations measures this year containing higher ceilings on Eximbank direct credit. Each time the House has resisted. It has been a frustrating experience for the Senate. I commend my colleagues on the Appropriations Committee, the Senator from Hawaii (Mr. INOUYE) and the Senator from Utah (Mr. GARN) for their perseverence in support of Exim and U.S. exports.

Today the Congress has a last chance to provide loan and guarantee authority for Eximbank. The House has sent back the supplemental appropriations bill, House Joint Resolution 589. The bill would increase the ceilings on loans and guarantees in a manner which would enable Eximbank to issue an additional $1.3 billion in export support this year.

The House has insisted on using guarantees instead of loans, as the Senate version would have done. The Senate version was better; it provided the authority to issue direct credits of $5 billion for fiscal 1980. The House version will achieve essentially the same result for 1980 by using guarantees, but sets a bad precedent for future years. The Bank cannot go on indefinitely on guarantee authority, as my colleagues on the Appropriations Committee have pointed out.

Failure to pass to a supplemental measure today, however, would be far worse. The 150 function in the fiscal 1981 budget would be impacted so severely by deferred Exim commitments that Congress could be compelled to choose between honoring U.S. commitments to the international development agencies and Eximbank commitments to U.S. exporters. Either way the United States would lose exports, jobs and authority in the world.

Mr. President, the United States is trying to negotiate an end to export credit subsidies. Our competitors are going all out to back their exports. China, one of the largest new markets for exports, has received $20 billion in heavily subsidized credit offers from foreign competitors. If we unilaterally disarm, the U.S. negotiating position on export subsidies will be weakened and the United States will be unable to compete effectively for billions of dollars in export business. Some markets could be lost prematurely.

I reluctantly urge my colleagues to accept House Joint Resolution 589. It is not the preferred position, but it appears to be the only option left for this year.

Mr. GARN. Mr. President, I move that the Senate recede from its amendment to the resolution (H.J. Res. 589) entitled "Joint Resolution Providing Additional Program Authority For The Export-Import Bank."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table. The motion to lay on the table was agreed to.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

CLOTURE MOTION

The PRESIDING OFFICER. Time for debate having expired, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring a close debate on the committee substitute to H.R. 39, the Alaska Lands Act.
>
> Robert C. Byrd, Paul E. Tsongas, Abraham Ribicoff, Wendell H. Ford, Barry Goldwater, Mark O. Hatfield, Howard M. Metzenbaum, Charles McC. Mathias, William S. Cohen, J. James Exon, Henry M. Jackson, George T. Mitchell, Max Baucus, David Pryor, Alan Cranston, Rudy Boschwitz, Jennings Randolph, Walter D. Huddleston, Gaylord Nelson, Richard (Dick) Stone, Carl Levin, Birch Bayh, Patrick J. Leahy, and Warren G. Magnuson.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute to H.R. 39, the Alaska National Interest Lands Conservation Act, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Colorado (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 63, nays 25, follows:

[Rollcall Vote No. 354 Leg.]

YEAS—63

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Goldwater
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Jepsen
Kassebaum
Kennedy
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stevenson
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—25

Armstrong
Baker
Bellmon
Boren
Byrd,
  Harry F., Jr.
Cannon
Dole
Garn
Gravel
Hatch
Heflin
Helms
Humphrey
Johnston
Laxalt
Long
Melcher
Morgan
Schmitt
Simpson
Stennis
Stevens
Tower
Wallop
Young

NOT VOTING—12

Bradley
Church
Culver
Durkin
Hart
Inouye
Javits
McClure
Pressler
Schweiker
Stewart
Talmadge

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. JACKSON. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

Will Senators please take their seats or retire to the cloakroom?

The Senator may proceed.

Mr. JACKSON. Mr. President, I yield briefly to the majority leader.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, it is hoped the the Senate will complete action on this bill today. If it does not complete action on today, of course, it will resume consideration of the bill early tomorrow, shortly after 10 o'clock a.m. But there is a chancce now that cloture has been invoked that the Senate will complete its work on the bill today.

Mr. GRAVEL. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator.

Mr. GRAVEL. Will the Senator repeat his plan of action?

Mr. ROBERT C. BYRD. I stated, I say to the distinguished Senator from Alaska, it is possible now that cloture has been invoked that the Senate will complete action before the day is over.

So, if Senators would stay around, we

would know within a couple of hours whether we can finish it today, or not.

Mr. GRAVEL. I state that I certainly would not be an impediment, postponing consideration and passage of the bill. My amendment is pending. I am prepared to call that up at the disposition of the leadership and prepared to proceed at whatever pace the leadership chooses.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. He has been most cooperative.

Mr. JACKSON. Mr. President, yesterday the Seattle Times published a paid advertisement by Mr. Don Snellman of Seattle, on the Alaska lands issue entitled "Don't let Seattle become the 'Gateway to Disaster'." The advertisement makes several erroneous statements leading to the false conclusion that passage of an Alaska lands bill would mean disaster for Seattle, Alaska, and the United States. I would like to take this opportunity to correct the false impressions which this ad may have left with some of its readers in Seattle.

OIL AND GAS

First, the advertisement states that the Tsongas substitute would prevent exploration and development of 108 million acres in Alaska. This is not true. The new substitute (amendment 1961 (as modified)) designates a total of 104.1 million acres of Federal lands as components of either the National Park System Forest System, Wildlife Refuge System and Wild and Scenic Rivers System. Of this total only 24.6 million acres would actually be closed to oil and gas leasing. These lands are units of the National Park System and generally have low oil and gas potential. Furthermore, the substitute leaves most of the lands in Alaska with high potential for oil and gas entirely outside of conservation system units, and potentially available for exploration and development. The two key onshore oil and gas areas in Alaska, according to the USGS and industry, are the Arctic Wildlife Range and NPRA. The National Petroleum Reserve—Alaska is not affected by the substitute and will be opened to leasing under other legislation. The coastal plain of the Arctic Wildlife Range is subject to a seismic exploration program under the substitute.

In short, Alaskan oil is not locked up under the substitute. Rather, as indicated in the August 11 issue of the Oil and Gas Journal, the "bill would open most Federal land in Alaska."

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, next on timber.

TIMBER

The advertisement states that "Other affected lands include trillions of board feet of timber." This statement is extremely vague and is therefore difficult to respond to. Of course, some of the affected lands contain timber, particularly the Tongass Forest in southeast Alaska. What is important to note, is that, the basis of the committee bill, and of amendment 1961, the substitute to be offered today, is maintenance of the timber industry at existing levels, through designation of an adequate multiple use land base in Alaska's National Forests.

MINERALS

The advertisement further states that the affected lands contain 21 critical minerals needed by our Nation. On this issue I would point out that the boundaries of the substitute and the committee bill were drawn in every instance to exclude significant known deposits of critical minerals, for example the Red Dog mining distrist, the Ambler mining district, Greens Creek, and Quartz Hill.

EFFECT OF NO BILL

Finally, the advertisement concludes that resource development can occur in Alaska "without harming the environment" as demonstrated by the Alaska pipeline. I agree. Furthermore, I believe that this legislation is the only way to achieve the resource development goals espoused in this advertisement.

The Secretary of the Interior has made it clear that he will continue to make restrictive administrative withdrawals of Alaskan Federal lands if legislation is not enacted this Congress. Furthermore, he has written me a letter which sets the record straight on the legal status of those administrative withdrawals and the Presidential monument designations. I ask unanimous consent that the letter, dated August 18, 1980, be printed following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JACKSON. Mr. President, some have argued that a future administration can negate the actions of the Carter administration in Alaska and open the Alaska lands to development. This is not true—only Congress can revoke the Refuges and National Monuments. The more flexible and balanced provisions of the legislation the Senate will vote on, hopefully today, will permit Alaska's future economic development and its contribution to the resources of the United States economy. A "no-bill" result would insure the "disaster" of "no growth" referred to in the advertisement.

EXHIBIT 1

BILL WOULD OPEN MOST FEDERAL LAND IN ALASKA

A Senate compromise bill on the disposition of more than 100 million acres of federally owned land in Alaska would permit exploration in most areas.

The legislation also permits seismic exploration—but not drilling—on the William O. Douglas Arctic Wildlife Range.

The Senate is poised to vote on the bill next week. Proponents of the measure say it has the support of most senators and the tacit approval of House leaders (OGJ, Aug. 4, p. 29).

The bill doesn't provide for private exploration of the National Petroleum Reserve-Alaska, although the House recently passed such legislation (see p. 50).

Excluding the NPR-A, the Douglas range, and some wilderness areas, the compromise Senate bill permits seismic exploration and leasing on most federal land in Alaska.

It requires the Interior Department to study potential oil and gas resources and environmental and wildlife considerations of exploration on those lands.

As part of that study, private geological and geophysical exploration may be permitted.

The Interior secretary is required to report to Congress by Oct. 1, 1981, and annually thereafter on his efforts regarding leasing, exploration, and development of those lands.

The Interior Department is authorized to issue noncompetitive leases for the lands—except in areas near recent discoveries or within favorable petroleum geological provinces, where competitive leases would be issued.

Douglas range. The bill permits seismic exploration of the coastal plain of the Douglas range, but no sooner than 2 years after enactment.

It expressly bans any leasing or production of oil and gas from the range until authorized by an act of Congress.

The bill directs the Interior secretary to study oil and gas resources, possible pipeline routes, wilderness characteristics, and wildlife resources of federal onshore lands north of 68° N. Lat. and east of the western boundary of the National Petroleum Reserve other than lands included in NPR-A.

As part of that study, the Interior secretary may permit seismic exploration by individuals, companies, and the U.S. Geological Survey if their exploration plans comply with Interior's environmental and wildlife impact guidelines.

The Interior secretary may suspend activities or modify seismic exploration plans. Seismic exploration by USGS may occur only if no individual or private firm has submitted an acceptable exploration plan.

Interior is required to report to Congress at 5 and 8 years following enactment on the production potential, fish and wildlife resources, effect of production on wildlife and the environment, and whether the nation needs the potential oil and gas production.

Unlike the House bill, the compromise Senate measure doesn't automatically make the Arctic wildlife refuge a wilderness area but does require Interior to review the question of wilderness designation for the area.

Senate delay. After Sen. Paul Tsongas (D-Mass.) apparently structured a bill which Senate and House leaders would accept, he was prevented from getting a vote in the Senate.

The spoiler was Sen. Mike Gravel (D-Alaska), who prefers no bill at all to either the Senate energy committee's bill or the compromise bill.

Gravel charges that the legislation is a "backroom compromise" which some senators are trying to ramrod.

"This isn't a balanced piece of legislation. It is designed by the no-growthers of the nation to deny the resources of Alaska to development," he said.

Gravel's delaying tactics forced Senate majority leader Robert Byrd (D-W. Va.) to file a cloture petition.

If 60 senators approve cloture—as expected—when the Senate reconvenes Aug. 18, a vote might be held later that week.

Meanwhile, Rep. Morris Udall (D-Ariz.), chairman of the House interior committee and chief architect of the House bill, indicated the House might not accept the compromise Senate bill—thus forcing a move to a conference committee.

Many senators have said the time required for a conference committee and the chances of filibustering the conference bill on the Senate floor would prevent passage of the Alaskan lands bill this session of Congress.

Udall didn't flatly rule out the possibility that the House might accept the Senate bill.

But he declared, "The Alaskan lands issue is too important to be resolved without a deliberate, two-step process.

"The first step is an agreement that represents the position of the Senate. The second step will be negotiations with the House on a final bill. I anticipate that this second step necessarily will take time to achieve a proper resolution."

The Alaska Coalition, a group of 52 conservation and environmental groups, went on record against the compromise Senate bill last week. The group supports the tougher House-passed bill.

One of the coalition's main objections to the compromise bill is that it feels the measure fails to provide adequate protection for caribou calving grounds on the coastal plain of the Douglas range.

Exhibit 2

U.S. Department of the Interior,
Washington, D.C., August 18, 1980.
Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

Dear Mr. Chairman: I recognize that some people are urging that the Senate not act this year on the Alaska lands bill. The "no bill" proponents argue that a future administration can negate the actions taken by the Carter Administration to protect the Alaska lands and could open them up to development. I would like to set the record straight on this point.

Under the Federal Land Policy and Management Act and the 1976 Refuge Act amendments, lands within the Wildlife Refuge System can be removed from the system only by an Act of Congress. In addition, the law is clear that Presidents may not abolish national monuments, and no President has ever done so. While in the past Presidents have made boundary modifications in monuments, it is litigable whether the President retained even this power after enactment of FLPMA.

Various parties, including the State of Alaska and the Anaconda Copper Company, have challenged the legality of the executive actions taken by President Carter and me. Thus far, the Court has ruled in our favor. Most recently, on June 26, in the U.S. District Court in Alaska, Judge Fitzgerald ruled on the summary judgment motion filed in Anaconda's suit and upheld the authority of the President to establish the three monuments being challenged in that case—Admiralty Island, Yukon Flats and Gates of the Arctic. I think it is fair to say that should the Senate again be prevented from acting, any future efforts to undo the executive withdrawals would be challenged in the courts by the environmental community.

Mr. Chairman, I share your view that the time has come to resolve the Alaska lands issue so that the people of that State can move ahead with rational development. While our administrative actions have protected the areas of highest scenic, wildlife, scientific and historic values, the Administration has always preferred a legislative solution to this issue and we will continue to work toward one for the remainder of this Congress. But I want no one to labor under the false impression that our past actions—and any additional executive actions we might be forced to take if legislation fails to pass—can be undone with the stroke of a pen. Only the Congress can revoke the Refuges and National Monuments.

Sincerely,

Cecil D. Andrus,
Secretary.

Mr. JACKSON. Mr. President, I yield briefly to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, I ask unanimous consent to speak briefly out of order on a nongermane matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR KENNEDY RETURNS TO THE SENATE

Mr. McGOVERN. Mr. President, our colleague, the Senator from Massachusetts (Mr. Kennedy), has returned to the Senate.

I heard the President say on Thursday night that his party needs him and that the President needs him. I am sure that is true. But I also think it is true that the Senate needs him and welcomes him back to take his place in this important Chamber.

I think the Senator from Massachusetts, in the minds of all of us, took on new stature in the valiant campaign he made for the Presidential nomination.

The speech that he delivered on Tuesday night is being widely hailed as one of the great political speeches of our time. That was my own assessment of it.

While he did not prevail in terms of winning the nomination, I think he did take on an even greater reputation and he will come back to the Senate better able to play his part here. There are millions of people all across this country that were inspired by what he did.

In a larger sense, when a person stands for what he believes, he never really loses.

So I thank the Senator from Washington for yielding to me to be able to make that observation and to welcome the Senator back to the Chamber.

Mr. CRANSTON. Mr. President, I join in welcoming Senator Kennedy back to us.

He, indeed, is in a position to provide very effective leadership on legislative matters, on national issues, and on international issues, as he always has, but he comes back to the Senate with new strength.

I am delighted that when I will be counting votes on issues from time to time, there will be added strength on those issues, both in terms of the vote Senator Kennedy will give and the forcefulness with which he provides leadership in the Senate. He is a man of great capacities. I am delighted that those capacities are going to be present in this Chamber in the days ahead.

Mr. JACKSON. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from South Dakota and the distinguished Senator from California.

I believe that our friend and colleague from Massachusetts demonstrated that he is a real trouper. In the 40 years I have been in the House and the Senate, I never have known a candidate with more determination and more dedication than the Senator from Massachusetts. Others would have given up long ago. He stayed the course, and his greatest triumph came after he asked that his name not be placed in nomination.

His address to the convention electrified the convention. It stopped everything at that moment. It was one of the finest orations ever delivered in a political convention. Moreover, it was an eloquent statement of the fundamental principles of the Democratic Party.

We are delighted to welcome back Senator Kennedy and to have him with us here in the Senate.

Mr. JOHNSTON. Mr. President, I should like to add my congratulations as well to the Senator from Massachusetts. His growth as an individual and as a candidate and his forcefulness as a speaker are the talk of the press and of my colleagues. I hope he will use that great forcefulness to help convince people with respect to a few bills I have, on which I would like him to join me. [Laughter.]

Mr. KENNEDY. Mr. President, a funny thing happened to me on the way to the White House.

I accept your warm welcome. It is not a Presidential nomination—but under the circumstances, it will do just fine.

I am happy to be back in the Senate which has been my home for more than 17 years.

The most urgent business before us is the cause that has been at the heart of my campaign. We must restore our economy and put America back to work.

I will join my colleagues in this Chamber in the effort to achieve a just economy and a fair prosperity.

Finally, let me say a personal word about the events of recent months.

I am grateful to my friend, Senator Robert C. Byrd, the majority leader, for his understanding and his cooperation in helping me carry on my work in the Senate while I was giving so much time to the campaign.

I am also grateful to the Members of both parties who serve with me on the Judiciary Committee for helping me do the committee's work during all these hectic months.

I am especially grateful to my colleagues in the Congress who supported me in 1980. I shall never forget all that you did. And I look forward to working with my colleagues and friends in the Senate and the House as we meet the hard challenges of the years ahead.

Although I had once hoped to be occupied elsewhere today, I am glad to be back here with all of you.

[Applause.]

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The Senate continued with the consideration of H.R. 39.

The PRESIDING OFFICER. Who yields time?

The Senate is operating under both cloture and a time agreement.

AMENDMENT NO. 1966

Mr. GRAVEL. Mr. President, I believe I have an amendment pending at the desk.

The PRESIDING OFFICER. The Senator is correct. The amendment of the Senator from Alaska is the pending business.

Mr. GRAVEL. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GRAVEL. Mr. President, how much time do I have remaining on this amendment?

The PRESIDING OFFICER. The Senator has 10 minutes remaining on his amendment.

Mr. GRAVEL. I thank the Chair for

the generosity. When we left for the recess, I thought I had 7.

Mr. President, I shall not take all my time. This amendment can be explained very briefly, if I may have the attention of my colleagues.

The amendment redesignates approximately 1.97 million acres of the 22.25 million acres of national park lands in the Senate committee bill as national park preserve lands.

The amendment includes acreage redesignations in five units of the National Park System in the bill: Gates of the Arctic (0.422 million acres); Lake Clark (0.144 million acres); Wrangell-St. Elias (0.623); Katmai (0.059); and Denali (0.722). In all but Denali, the remaining park areas would be reduced by less than 10 percent. Overall, this amendment affects only 9 percent of the national park acreage proposed in the Senate committee bill and only 5 percent of all lands proposed for inclusion in the National Park System in Alaska.

Under the provisions of the bill, preserve designation varies from park designation only in that sport hunting and trapping uses are permitted in a preserve. All other management prescriptions, including those for timber, hardrock mining, oil and gas, and other developments would be identical to those of national parks.

Sport hunting and trapping in addition to subsistence uses of wildlife have been occurring for decades in many of the areas proposed for national park designation. The outstanding wildlife resources which characterize many of the proposed park units have sustained this hunting and trapping use under State management with no apparent adverse impact to game populations.

Although there is a need in some cases to set aside park areas where no sport hunting or trapping can occur for visitor use and appreciation of unhunted wildlife populations, the current bill sets aside over 22 million acres of park lands where all sport hunting and trapping would be prohibited. This is an area the size of the State of Maine, or an area the size of 10 Yellowstone National Parks.

The amendment would seek more of a balance in the hunting/no-hunting distribution of park lands. Although it is true that there would be other State and Federal lands open to sport hunting under the bill, the 2 million acres proposed for redesignation as preserves represent some of the most important areas in the State identified by the State of Alaska and national and State sportsmen organizations where sport hunting, guiding, and trapping activities are currently occurring. It is not simply a question of how many acres would remain open to hunting under the bill, but what is the importance and quality of various areas in providing existing hunting and trapping opportunities.

At the same time, the 20 plus million acres of park lands which would remain in no-hunting status still contain areas where sport hunting, guiding, and trapping are occurring. Some of the State's most significant wildlife populations, including Dall sheep, grizzly bear and moose, would remain within the park boundaries, closed to all sport hunting and trapping, for visitor and scientific appreciation.

Although literally hundreds of sport hunters, guides, and trappers would be unable to continue their current uses of the proposed park units, the amendment would enable some of these users to pursue their activities in several important areas. The amendment would restore several critical areas assigned by the State to guides allowing them to continue their livelihoods. Other economic interests such as air taxi operators, local suppliers, and outfitters would similarly benefit to the degree that these areas opened to sport hunting and trapping.

The configuration of proposed preserve additions complements measures taken by the committee in providing for continued sport hunting and trapping opportunities. In all cases, boundaries are proposed which follow ecosystem boundaries and adjoin other areas designated in the bill where hunting is permitted.

Properly regulated hunting, trapping, and wilderness guiding are generally acknowledged to be legitimate conservation activities which are conforming uses of national park preserves. These activities would continue to be carefully regulated by the State of Alaska to protect population levels and by the National Park Service in its protection of habitat.

GATES OF THE ARCTIC

The amendment would designate as preserve 422,000 acres on the northeast side of the Alatna River adjacent to the existing preserve in the bill in the John River drainage. The upper Alatna River drainage, including Survey Pass, and the area south and west of the river, including Takahula Lake and the Arrigetch Peaks area, would remain closed to hunting within the park unit. The redesignations would reduce the park area by 9 percent and would provide for continued hunting of Dall sheep and bear and for trapping in the area.

LAKE CLARK

The amendment would designate as preserve 144,000 acres in the Turquoise Lake and upper Kijik River drainages. These areas are contiguous with the existing preserve designation on the west side of the unit. The Twin Lakes drainage, recognized for its high potential as a visitor entrance and use area, would remain entirely within park designation and be closed to hunting. The redesignation would reduce the park acreage by 6 percent and provide continued sport hunting opportunities, primarily for local residents, for caribou, moose, sheep and bear. Trapping, particularly in the Kijik River drainage, is also significant.

WRANGELL-ST. ELIAS

The amendment would designate two areas as preserves totaling 623,000 acres. One area removes the upper Lakima River drainage from park and includes it with the remaining drainage in preserve. The adjacent Kuskulana River drainage would remain entirely within park status. The other area consists of the Chitina Glacier, Logan Glacier, and Goat Creek drainage. The additional preserve areas would reduce the park area by about 8 percent and are composed largely of high glacier and rock areas seldom visited by recreationists other than hunters.

The upper Chitina drainage to be redesignated is of international fame for Dall sheep hunting opportunities and includes key guiding areas assigned by the State.

KATMAI

The amendment redesignates 59,000 acres from park to preserve in two areas: The Nonvianuk Lake area on the north side of the existing monument (52,000 acres); and the Kejulik River drainage on the south side (7,000 acres). Changing these areas reduces the park area by 6 percent and does not affect any area within the original national monument.

Both boundary changes are relatively minor and provide primarily for better ecosystem boundaries for enhanced administration of hunting/no-hunting areas and the provision of hunting opportunities for both guided and local use.

DENALI

The amendment would redesignate 722,000 acres as preserves. Approximately 630,000 acres would be added to the designated preserve north and west of the existing Mount McKinley Park, and about 95,000 acres would be added in the upper Yentna River drainage south of the park (the lower Yentna drainage is already included in preserve). These changes would reduce the park designation added to the existing 2-million-acre park by about 28 percent.

The northern redesignation consists almost exclusively of broad lowlands of little relief. The area bears almost no resemblance to the mountainous terrain within the existing park and is seldom used by recreationists other than hunters. The Kantishna Hills which have been identified as having high wildlife values closely associated with animal population in the existing park are not included in the preserve designation. This northern area is important primarily for local hunting of moose and for trapping by local residents.

Several guides are currently assigned to the Yentna drainage which is important for sheep, moose, and bear. The amendment would add the upper drainage to the preserve to include the entire eco-system under a single management regime.

Mr. President, I feel that this amendment has broad support from the national sports organizations, and I hope my colleagues will join me in adopting it.

With that statement, I yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Forty minutes remain to the Senator from Washington.

Mr. **JACKSON**. Mr. President, I am prepared to yield back my time, if the Senator from Alaska is.

Mr. **STEVENS**. Mr. President, will the Senator yield?

Mr. **JACKSON**. I yield.

Mr. **STEVENS**. Mr. President, as the RECORD will show, I supported this amendment. It is to S. 9, but I hope it will be adopted.

The **PRESIDING OFFICER**. Is all time yielded back?

Mr. JACKSON. I yield back my time.

Mr. GRAVEL. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. Bradley), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from New Hampshire (Mr. Durkin), the Senator from Colorado (Mr. Hart), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), the Senator from Hawaii (Mr. Inouye), and the Senator from Louisiana (Mr. Long) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. Durkin), would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. Javits), the Senator from Idaho (Mr. McClure), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 56, nays 31, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—56

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Goldwater
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Lugar
Morgan
Nunn
Packwood
Pressler
Pryor
Sasser
Schmitt
Simpson
Stennis
Stevens
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—31

Biden
Chafee
Cranston
Glenn
Hollings
Jackson
Kennedy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Stafford
Stevenson
Stone
Tsongas
Weicker
Williams

NOT VOTING—13

Bradley
Church
Culver
Durkin
Hart
Inouye
Javits
Long
McClure
Schweiker
Stewart
Talmadge
Young

So Mr. Gravel's amendment (No. 1966) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1967

(Purpose: To provide congressional oversight for major modifications of areas established or expanded by this Act and to require congressional approval for future major executive withdrawals of certain public lands in Alaska)

Mr. STEVENS. Mr. President, I call up my amendment No. 1967.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an amendment numbered 1967.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 645, line 25, add the following new section and renumber the other sections accordingly:

FUTURE EXECUTIVE ACTIONS

Sec. 1324. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands for the single purpose of considering the establishment of a conservation system unit, special management area, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

Mr. STEVENS. Mr. President, this language is identical to the language in the Tsongas revised substitute. It is my hope that the amendment will be accepted.

I am prepared to yield back the remainder of my time. It is the so-called no more clause that appears in the revised Tsongas substitute.

Mr. JACKSON addressed the chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time accept the amendment.

Mr. STEVENS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska (Mr. Stevens).

The amendment (No. 1967) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1970

(Purpose: To provide interim protection of unpatented mining claims, to clarify the system of disposing of hardrock minerals in certain areas, and to make other changes regarding the location and operation under the United States mining laws and mineral exploration within conservation system units)

Mr. GRAVEL. Mr. President, I call up my amendment No. 1970.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Gravel) proposes an amendment numbered 1970.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 454, lines 20–21, strike the words "section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and insert in lieu thereof the following: "The Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act),".

Page 633, line 1, following the word "by", strike remainder of line 1 and insert in lieu thereof the following: "the Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act), and he may".

Page 633, strike line 2.

Page 588, line 1 strike the words "be given by the Secretary" and insert in lieu thereof the following: "have".

Page 588, after line 7 add the following new subsection:

"(c) Access to Claims.—Pursuant to the provisions of this section, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1984.".

In title XIII, add the following new section where appropriate:

"Sec. . Preference Rights for Mining Claims.—The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws and on public lands located within the boundaries of any unit established by this Act, or within any area added by this Act to an existing unit, shall be entitled during a two-year period after the date that the Secretary exercises his authority to open an area containing such claim to mining, (1) to a preference right to re-record and develop his claim under applicable law or (2) to obtain a lease to remove nonleasable minerals from the claim under sections 606 or 1312.".

Page 414, line 23, add the following new subsection:

"(e) Leases for Mineral Milling Purposes.—If the surface estate of lands comprising claims for which patents have been issued or which have been determined to contain a valid mineral discovery pursuant to the terms of this Act is inadequate for the purposes of extraction or milling of the mineral estate, the Secretary shall issue leases for other adjacent public lands at fair market value for mining or milling uses in connection with the extraction or milling of minerals from the claims.". Renumber the following subsections accordingly.

Page 412, line 7, after the word "areas" insert the following: "or other conservation system unit".

Page 412, lines 10 through 12, strike "the date of the withdrawal of such area from further appropriation under the mining laws of the United States" and insert in lieu thereof the following: "November 16, 1978.".

Page 412, line 20, strike "during the 1979 mining season." and insert a period after the phrase "rior".

Page 412, line 21, strike "1982" and insert in lieu thereof "1984".

Page 413, line 7, strike the word "scenic".

Page 413, line 24, after the word "mining" insert the following: "or milling".

Page 414, line 8, strike "1982" and insert in lieu thereof "1984".

Page 414, line 10, strike "1982" and insert in lieu thereof "1984".

Page 414, line 12, strike "1982" and insert in lieu thereof "1984".

Page 414, line 13, strike "one hundred and eighty" and insert in lieu thereof the following: "two hundred and forty".

Page 414, line 17, strike "one-" and on line 18, strike "hundred-and-eighty" and insert in lieu thereof "two-hundred-and-forty".

Page 415, line 3, strike "1982" and insert in lieu thereof "1984".

Page 415, lines 4 through 16, delete entire subsection (f).

Page 383, line 4, strike "and minerals" and insert the following: "and the value and national significant of minerals".

Page 383, line 11, after the word "properties," add the following: "the impact on domestic mineral reserves of not developing such properties,".

Page 383, line 18, strike the ";" after the word "environment" and insert in lieu thereof ".".

Page 383, strike lines 19 through 25.

Page 384, strike lines 1 through 2.

Page 388, after line 25, after the word "Corporations" strike the period and insert in lieu thereof the following: ", *Provided,* That the Secretary under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from these lands in a manner prescribed by the Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act)".

Page 410, line 24, strike "may" and insert in lieu thereof "shall".

Page 411, line 1, after the word "and" insert the word "shall".

Page 411, line 8, strike the word "scenic".

Page 411, line 12, after the word "mining" insert the following: "or milling".

Page 418, lines 22–24, strike the words "section 10 of the Act of August 4, 1939, as amended (53 Stat. 1126; 43 U.S.C. 387)" and insert in lieu thereof the following: "the Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act)".

Page 418, lines 16 and 17, strike "the Porcupine National Forest and".

Page 425, lines 4 and 5, strike "(B) that that the use of the site to be leased will not cause irreparable harm to the Monument; and" and renumber the subsections accordingly.

Page 425, lines 20–22, strike subsection (B) and insert in lieu thereof the following:

"(B) upon failure of the lessee to use the leased site for three consecutive years unless such nonuse is waived annually by the Secretary.".

Page 427, lines 12 and 13, strike the lines and insert in lieu thereof the following:

"(B) the unperfected claim is within one mile of the exterior boundary of one".

Page 428, lines 1 and 2, strike the lines and insert in lieu thereof the following:

"(2) (A) each exploration permit issued under this section shall terminate on the date seven years after the".

Page 428, line 11, strike "five-" and insert in lieu thereof "seven-".

Page 430, lines 17 and 18, strike "(A) that the use of the site to be leased will not cause irreparable harm to the Monument; and," and renumber the subsections accordingly.

Page 431, lines 5–7, strike the lines and insert in lieu thereof the following:

"(B) upon failure of the lessee to use the leased site for three consecutive years unless such nonuse is waived annually bv the Secretary.".

Page 566, lines 12 through 16, strike all after the word "lands." on page 12 through "monuments," on page 16 and insert in lieu thereof the following: "The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on all public lands, including conversation system units,".

Page 568, line 13, after "permitted." and the additional sentence: "Such study shall also include an assessment of the critical and/or strategic needs of various minerals inventoried by the United States."

Page 632, lines 21 and 22, strike "Except with respect to the Noatak National Recreation Area, the" and insert in lieu thereof "The".

Page 633, lines 5 through 7, strike ", if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas." and insert a period after "laws" on line 5.

Page 463, line 24, strike "may" and insert in lieu thereof "shall".

Page 464, line 1, prior to the word "open", insert the word "shall".

Page 383, line 16, strike "valid mining claims" and insert in lieu thereof the following: "unperfected mining claims".

Page 384, line 2, add the following new subsection:

"(d) Holders of unperfected mining claims in the study area shall be afforded access to such claims pursuant to the provisions of section 1110 of this Act."

and renumber the subsections of the section accordingly.

Page 410, lines 18 and 19, strike "the Materials Act of 1947, as amended (30 U.S.C. 601–603)." and insert in lieu thereof the following: "the Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act).".

Page 407, line 3, strike the period after "laws" and insert the following: ", *Provided,* That the Secretary under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from these lands in a manner prescribed by the Act of August 7, 1947 (30 U.S.C. 351–359) (which shall apply to public lands, as defined by this Act)".

Page 363, between lines 2 and 3, insert the following new paragraph:

"(d) It is further the intent and purpose of this Act to assure the reasonable exploration and development of the mineral resources of Alaska.".

Page 363, line 3, strike out "(d)" and insert in lieu thereof "(c)".

Page 388, strike out lines 16 through 25.

Page 407, line 1, immediately after the first comma insert the words 'but not".

Page 407, line 2, strike out "but not" and insert in lieu thereof "nor".

Page 410, line 16, strike out "may" and insert in lieu thereof "shall".

Page 411, line 12, insert a period after the word "purposes", and strike out everything thereafter, down through line 13.

Page 413, line 24, strike out the colon and insert in lieu thereof a period, and strike out everything thereafter down through line 4 on page 414.

Page 418, line 20, strike out everything beginning with the second comma, and on line 21 strike out "deems appropriate,".

Page 418, line 25, beginning with the comma, strike out everything down through the word "area" on line 2, page 419.

Page 420, line 16, insert a period after the word "claim" and strike out everything thereafter, down through line 19.

Page 425, strike out lines 14 through 16.

Page 425, line 17, strike out "(3)" and insert in lieu thereof "(2)".

Page 427, line 9, strike out "two hundred and seventy" and insert in lieu thereof "three hundred and sixty-five".

Page 428, strike out lines 15 through 17.

Page 429, line 6, strike out "eighteen" and insert in lieu thereof "twelve".

Page 429, line 21, strike out the comma and insert in lieu thereof a period, and strike everything thereafter down through line 24.

Page 430, strike out lines 22 through 24, and on page 431 strike out "(4)" and insert in lieu thereof "(3)".

Mr. GRAVEL. Mr. President, I will not be very long. I just want to put a few items in the RECORD.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, the amendment substitutes the Act of August 7, 1947 (30 U.S.C. 315–359) for the Act of August 4, 1939 (43 U.S.C. 387) as the authorized means for disposal of nonleasable minerals within areas designated by the bill as potentially open to hardrock mineral leasing (Wild and Scenic River Corridors, NRA's, NCA's). In addition, the amendment would permit the Secretary, if he found desirable, to use this leasing system for hardrock minerals in refuge and park units.

Research has revealed that the 1939 act provides legally insufficient authority for such leasing. The 1939 act, which authorizes the disposal of sand and gravel for the construction of reclamation projects, has been found by the Department to not be applicable for the use prescribed in the Senate bill. Thus, the change to the 1947 act which provides for leasing for acquired lands would realistically meet the objectives of the legislation.

The amendment would expand the language in the bill for NRA's and NCA's calling for a moratorium of validity challenges for mining claims to include all conservation system units. Claimants in the units, most of them small operators, cannot afford an immediate validity contest against claims which were lawfully located, but have been difficult to develop due to the uncertainty of the ultimate lands status, rapidly changing governmental regulation, and the short work seasons in Alaska.

The amendment would not validate any claims which were invalid when first located, but would only place a 4-year moratorium on the ability of the Government to contest the validity of the claim, thus allowing the claimant sufficient time to "prove-up" his claim and demonstrate a valuable ore discovery once the land status is determined by the bill. Since the proposed language requires that claims, once validly located, must be maintained in compliance with applicable State and Federal law, the Government would not be denied the opportunity to challenge claims on other grounds, such as the claimant's failure to perform annual assessment work.

This provision recognizes the more complex nature of mineral discovery today, when outcrop deposits are rare and locations are made on the basis of geologic inferences and time-consuming scientific analyses.

The amendment would provide the authority for the Secretary to lease millsites to operators of valid mining claims in conservation system units. The provision is modeled after those for millsites in the Quartz Hill moly area of Misty Fiords Monument.

This clears up a dilemma created by land withdrawals and uncertain land status surrounding validly located mining claims. Without the ability to obtain a site to extract or process minerals from otherwise valid claims, a miner may well be prevented by economics from extracting minerals from his claim. This indirect means of thwarting operations on a valid claim is resolved by the amendment by allowing the Secretary to lease millsites lands near or adjacent the claims.

The amendment also extends the access rights granted to holders of "valid existing claims" to holders of "unperfected mining claims" for the purpose of "proving up" a valid discovery during the moratorium period. This would eliminate another "Catch 22" situation where the holder of a mining claim, which was legally located and for which assessment work has been done, was denied access to continue to "prove-up" his claim because he had not yet proved a "discovery" and thereby insuring that he would never be able to make such "discovery" under the terms of the mining law.

The provision in the bill for NRA's and NCA's granting preference rights to those who had tried to stake claims in areas which were then subsequently opened to entry by the Secretary would be expanded by the amendment to include any conservation system unit subsequently opened for entry under the terms of the act.

Mr. President, many miscellaneous provisions are included in the amendment which insure that the previous main guarantees of access and ability to prove-up and work otherwise valid claims are extended to all claims involved with conservation system units in the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from a law firm in Alaska which deals with the problems in question, a letter from the American Mining Congress adding substance to the question, and an editorial published in the Wall Street Journal dated August 8, 1980.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIRCH, HORTON, BITTNER AND MONROE,
Washington, D.C., February 27, 1979.
MR. PAT POURCHOT
c/o Senator MIKE GRAVEL,
Dirksen Senate Office Building,
Washington, D.C.

DEAR PAT: I am sorry that MAPCO's chief geologist, Mr. Arnold Buzzalini, was called back to Tulsa, Oklahoma. This letter summarizes MAPCO's problems, suggested solutions, and rationale underlying the solutions.

MAPCO holds 1384 claims in what is now the Yukon Flats National Monument. Most of these claims were located and filed in the summer of 1977, and a small number were filed in 1978. MAPCO has recently issued press releases stating that their exploration data indicate the presence of large uranium deposits of six to seven percent. By any standards, a six to seven percent ore deposit is an extremely rich uranium deposit.

Despite the outstanding test results and MAPCO's substantial expenditures in the exploration and development of these claims, unless the area is either deleted from the Yukon Flats National Monument or the proposed wildlife refuge or designated a multiple use conservation unit, MAPCO may be precluded from developing its uranium discovery. While the reservation of the Yukon Flats National Monument or the proposed designation of Yukon Flats Wildlife Refuge ostensibly grandfathers "valid existing rights", the determination of what constitutes a valid existing right lies solely within the discretion of Interior. MAPCO's preliminary discussions with the Solicitor's Office give it reason to believe that despite two summers of exploration and the expenditure of substantial sums, Interior will find that none of MAPCO's mining claims are based on valid mineral discoveries and hence do not fall within the legal definition of a valid existing right.

The proof necessary to preserve mining claims supports MAPCO's fears that its 1384 mining claims will be repudiated and justifies MAPCO's desire to have the Cache Mountain and Mt. Prindle region deleted from the Yukon National Monument or the proposed Wildlife Refuge. In order for a mining claim to achieve the status of a valid existing right, the claimholder must prove that it was predicated on a "valid mineral discovery". The legal standards for a "valid mineral discovery" require exposed ore or proof of its presence in commercial quantity and quality that would prompt a prudent man to spend his own money to develop it. The jurisprudence and rules for the 1872 Mining Law generally have required digging a discovery shaft which would reveal the exposed deposit in such quantities as to meet the "prudent man" test.

Needless to say, the techniques of mineral exploration have advanced well beyond the discovery shaft. MAPCO used several exploration methods, including track etch cups, geochemical samples. stream sedimentary samples, and aerial radiographs. The above tests were made at designated stations, pursuant to a grid map which covers all of MAPCO's claim groups. The data from the foregoing tests was compiled and compared to determine which areas consistently showed positive results. The test results generally coincided with specific areas indicating high quantities of uranium ore at certain points on this grid. Based on the coincidence of these anomolies and the high percentage of uranium ore in the assayed samples, MAPCO concludes that this is one of the largest uranium deposits in the United States. However, MAPCO's failure to dig a "discovery shaft" permits Interior to find that MAPCO cannot prove a present valid mineral discovery.

In October 1978, MAPCO asked BLM for an access permit to drill seven holes in this area for the summer of 1979. The application was returned when the area was included in the Yukon Flats National Monument December 1, 1978. BLM officials conceded that if the monument had not been created, MAPCO would have been permitted to drill those holes. So long as this area remains in a single use conservation area, the chances of development are substantially reduced.

MAPCO has expended substantial sums on this area and intends to spend more. Uranium ore is selling for approximately $44 a pound, which makes extraction in Alaska economically feasible. The area is accessible and a ready labor pool can be found in nearby Fairbanks. The Steese Highway is within a few miles of the claim groups and a number of unused but still visible spur roads permit access into the bush. Up to now, MAPCO has used helicopters for all exploration activities and plans to do so in the future. Mr. Buzzalini will seriously consider the use of helicopters even when the mines are open, in order to minimize surface disturbance.

Contrary to many expectations, extraction will be done underground, not by open pit. Tailings will be put back into the underground mine, thus eliminating unsightly tailings and tailings ponds. Finally, MAPCO proposes to use the water from Beaver Creek. The amount of water used will depend on whether the milling is done on site or in Fairbanks. If the milling is done on site, more water will be necessary but that water will be filtered and purified before its return to the creek. These processes have been done effectively in the Lower 48, and more often than not the water is returned cleaner than before.

If the milling is done in Fairbanks, the ore can be shipped entirely by helicopter or partly by helicopter to a spur road and then driven out by truck. The uranium mine will cause a minimum of surface disturbance and probably provide as many as 300 new jobs for the economically depressed Fairbanks area.

Two major conflicts support the deletion of this White Mountains region from a conservation unit. First, it is a highly mineralized area featuring lead, zinc, and copper, in addition to substantial quantities of uranium discussed above. Anaconda, Cominco and Union Carbide all hold a number of claims in this same area. Nick Bush, Exxon's Washington representative, informs me that Exxon would like to explore this region for oil and gas.

Secondly, approximately 115,000 acres are subject to State land selection applications filed November 14, 1978 and refiled January 1979. This area is adjacent to State land selections made in 1972. This specific area was the subject of a public land withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (hereinafter referred to as ANCSA) which permitted entry or location and patent under the 1872 Mining Law. The State gave this area a high priority selection rating because of its recreation, minerals and access values.

If the State wins its lawsuit with respect to the conveyance of its land selections, this area will become State owned. Despite Secretary Andrus' statement of February 14, 1979, that these selections are invalid, a close reading of Section 17(d)(1) and an understanding of the Secretary's withdrawal authority at the time these withdrawals were made, clearly shows that the Secretary had and has no authority whatsoever to withdraw that land from selection by the State of Alaska. Thus, the State land selections made November 14, 1978 were valid and subsequent Executive action does not revoke them.

Last summer, the Senate Energy and Natural Resources Committee declined to delete the area. The Committee did recognize the State selections of the recreation potential and mineral conflicts by designating 1 million acres as the White Mountains National Recreation Area and 1.2 million acres as the Steese Construction Area. Most of MAPCO's claims lie in the Steese Conservation Area, while two claim groups are included in the White Mountains National Recreation Area.

Moreover, the Senate Energy and Natural Resources' Committee specifically provided that State interest land selections which lie within the boundaries of recreation areas, conservation areas, and national forests would be honored. Thus, the State's land selections in this area would eventually be conveyed, thereby protecting MAPCO's interest.

Last year the House of Representatives never considered land classifications other than the traditional park, preserve, refuge and forest designations. This Committee should utilize alternative designations to accommodate competing interests affecting many areas, such as BLM Conservation Units or National Recreation Areas. The Cache Mountain-Mt. Prindle area has several competing values which can best be accommodated by a multiple use designation. Without the significant wildlife values typical of other parts of the refuge, it is more appropriate to use a multiple use designation to protect the water quality for the refuge and still accommodate the other interests.

If you have any further questions, please do not hesitate to call. When Mr. Buzzalini returns, I am certain he will want to elaborate on this letter. He will probably be most helpful in explaining the exploration processes used, the scope of the data, and their future plans for development.

Very truly yours,

CONSTANCE E. BROOKS.

AMERICAN MINING CONGRESS,
Washington, D.C., August 4, 1980.

DEAR SENATOR: The American Mining Congress believes that the Alaska lands bill now before you must not be enacted into law.

Senator Jackson, Senator Stevens and the members of the Senate Energy and Natural Resources committee are to be commended for the countless hours spent in carefully crafting a balanced bill.

As Alaska's Senator Gravel advised the Senate on June 23, "The better deal as I see it, from Alaska's point of view and the nation's point of view, was struck in committee by Senator Stevens."

Enactment of the revised Tsongas substitute amendment would be a disservice to the people of Alaska. And it is further a disservice to the people of the United States. National security and the economic well being of this country are dependent upon a strong, domestic mineral base. The plethora of environmental laws and regulations now on the books adequately protects areas of environmental concern.

The revised substitute recognizes known world-class mineral deposits, but withdraws millions of acres of prospectively valuable mineral lands, producing a chilling effect on exploration and mineral development. Alaska is probably the most geologically favorable environment for mineral discovery in the nation. The loss of these lands, added to the restrictions already placed on other Federal lands, reduces the ability of the United States to produce strategic and critical minerals. This is a condition that cannot be tolerated from the standpoint of our national security and economic well being.

We urge defeat of this bill.

Sincerely yours,

J. ALLEN OVERTON, Jr.,
President.

[From the Wall Street Journal, Aug. 8, 1980]

MORE BILKED ALASKA

It's coming down to the wire for the Alaskan lands bill, which would inhibit development of much of the state's wilderness. Senate leaders, tired of Sen. Mike Gravel's admirable delaying tactics, want a vote in August to limit further debate of the measure. Senators who want to see more wilderness opened up for energy development will have a real fight on their hands.

Something of the tenor of the discussion over Alaskan lands use came through in an overwrought letter we provoked from Secretary of the Interior Cecil Andrus talking of "crocodile tears" when we criticized the "armchair environmentalists in the East" for trying to tell Alaskans what to do with their land. In fact Washington has not only been telling Alaskans what to do and not to do with their energy riches, but for a long time has also managed to tie up mineral development in the state, the nation's storehouse for many strategically vital metals and minerals.

The U.S. economy is growing increasingly dependent on mineral imports. In 1960, the U.S. imported 52 percent of its nonferrous metal needs, and these imports rose to 64 percent by 1978. For many important minerals, such as manganese, cobalt, chromium, platinum, tin, nickel and mercury, U.S. reliance on imports ranges from 60 percent to 100 percent. "We are now more dependent on foreign countries for our nonferrous minerals than we are for oil and gas," Sen. Harrison Schmitt pointedly remarked during the Senate debate on the Alaskan lands bill.

The U.S. is dependent on imports of at least 17 strategically vital minerals, in the sense that they are essential for national defense and we rely on sources outside our national boundaries. Major suppliers of these minerals include Brazil, Canada, India, Australia, South Africa, Thailand, Zaire, Zambia, the Soviet Union, Turkey, Indonesia, Bolivia and China. Virtually all of the world's mineral reserves of chrome, vanadium, manganese and platinum are held in South Africa, Russia and Zimbabwe (formerly Rhodesia).

A State of Alaska geological survey says that 14 of these 17 strategic minerals, along with other important reserves, can be found in varying amounts in the state. But recent public lands classifications, it asserts, have withdrawn "nationally significant reserves" of these minerals from development and also discouraged or prohibited work on several promising mineral belts throughout the state. A University of Alaska study reported that only 17 percent of the public domain in Alaska is now open to mineral development.

Environmentalists argue that mineral exploration and development in Alaska wou'd despoil the natural surroundings. However, substantially more damage would be done to the wilderness if, in the case of a national emergency, we were to embark on a panic mining effort. Such an effort might not even be successful for some mining ventures require up to a decade of lead-time. Preservation of the environment and our national security would best be served by an Alaskan lands bill which permitted the orderly development of these vital resources.

Mr. GRAVEL. Mr. President, that completes my statement. I am happy to yield the floor and then, when the managers of the bill have completed their statement, I will be prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I oppose the amendment offered by the Senator from Alaska (Mr. GRAVEL). The amendment has several provisions and while I wish to make it clear that I oppose the entire amendment, I would like to bring one major problem with the amendment to the attention of my colleagues.

The Gravel amendment would give holders of unpatented mining claims 4 years after the enactment of this act to prove up their claims without being challenged for validity under the 1872 mining law. Mr. President, an amendment similar to this was proposed during the committee markup last year. It was a controversial proposal and was narrowed significantly during committee markup to meet what I believe were the well-founded objections of many of the committee members. The compromise provision in the committee bill establishes a 2-year moratorium on validity determinations which is limited to unperfected mining claims in the four national conservation areas and one national recreation area managed by the Bureau of Land Management. I fail to see the need or justification for extending the moratorium an additional 2 years and making it applicable to national parks, wildlife refuges, and wild and scenic river areas as proposed in this amendment.

The committee bill protects valid existing rights, including valid mining claims, in all of the new areas designated in Alaska. Under the 1872 mining law, the validity of unpatented claims may be contested by the Federal Government at any time. This ability to contest mining claims is important for the equitable administration of the mining law and the protection of the public interest. The committee provision on unperfected mining claims is a fair compromise which recognizes mining exploration interests in certain areas of Alaska which will be managed for multiple use. The Gravel amendment is an unwarranted expansion of the committee compromise provision.

I urge my colleagues to cast their votes against the amendment proposed by the Senator from Alaska.

Mr. President, the amendment would also change the statutory authority for leasing of nonleasable minerals provided in the committee bill. I would like to insert in the RECORD a letter from the Solicitor of the Department of the Interior stating the provisions of the committee bill are "appropriate" as a procedure for the removal of locatable minerals.

I ask unanimous consent that I may do that.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C. May 22, 1980.

Hon. HENRY M. JACKSON,
U.S. Senate, Committee on Energy and Natural Resources, Washington, D.C.

DEAR SENATOR JACKSON: By letter of May 1, 1980, you were advised that this office was in the process of reviewing part of the language of section 1312 of the Alaska lands bill reported last fall by the Committee on Energy and Natural Resources (Senate Rept. No. 96–413). The pertinent language is a provision authorizing the Secretary to "permit the removal of nonleasable minerals from lands or interests in lands within the recreation area [except the Noatak National Recreation Area] in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387) . . ."

This language has been under review by this office pursuant to our effort to write new mineral leasing regulations for national recreation areas currently under the administration of the National Park Service. As you know, language almost identical to that of section 1312 was used in the enabling legislation for Ross Lake, Lake Chelan, Whiskeytown and Glen Canyon. The Lake Mead National Recreation Area enabling legislation simply authorizes mineral leasing, without referring to section 10 of the Act of August 4, 1939.

A review of the administrative and legislative history for Lake Mead and Whiskeytown reveals that it was clearly the intention of the Administration and the Congress that the Secretary have the discretionary authority to allow the removal of locatable minerals.

The enabling legislation for Ross Lake and Lake Chelan as well as Glen Canyon was subsequent to and used the same language as the Whiskeytown legislation with respect to removal of nonleasable minerals. It is therefore our conclusion that the language under review permits the removal of locatable minerals from the above national recreation areas, and our forthcoming regulations will reflect this Secretarial Authority.

In light of the history of the use of section 10 as a procedure for the removal of locatable minerals from lands closed to entry and location under the mining laws, we believe its use in the Alaska lands bill is appropriate to accomplish that result.

With respect to Lake Mead National Recreation Area I am informed by the National Park Service that it has not discontinued the past practice of leasing locatable minerals. As previously discussed, leasing is permitted in Lake Mead under a discretionary standard. However, the mineral leasing policy for this area is currently under review in conjunction with the mineral leasing policies for other national recreation areas open to mineral leasing. I am also informed by the Service that an assessment of the results of past leasing activity in Lake Mead indicates that there is apparently little potential for development of locatable minerals in the area.

Sincerely,

FREDERICK N. FERGUSON,
Deputy Solicitor.

Mr. HATFIELD. Mr. President, I must compliment the junior Senator from Alaska. He has drawn an amendment which required a great deal of research, legal work, and time to bring it to the floor of the Senate. Some of his points may very well be valid if this was a debate on revision of the 1872 mining law and the Mineral Leasing Act for acquired lands. It is not.

The committee, in section 404 of the bill, was deliberate in limiting the applicability of the concept of giving extended rights to holders of unperfected mining claims. The committee limited the provision to national conservation areas and the White Mountains NRA. To apply the concept to conservation system units is to negate the purpose for which most of those units would be established.

I am opposed to mandating access across all conservation system units for the State. The procedures now in the committee bill give unprecedented access unique to Alaska. Most importantly, congressional approval is required for permanent transportation facilities across NP lands (except NRA's).

Mr. JACKSON. Mr. President, I am ready to vote.

Mr. GRAVEL. Mr. President, I yield back the remainder of my time.

Mr. TSONGAS. Will the Senator yield?

Mr. JACKSON. I yield.

Mr. GRAVEL. I will yield to the Senator from Massachusetts, Mr. President.

Mr. TSONGAS. I thank the Senator from Alaska for the time. I will not take very long, Mr. President.

Let me point out that the amendment not only provides changes which go beyond what is in the agreed-upon substitute, but in fact it goes beyond what is in the committee bill. It adds not one thing to the spectrum, being the committee bill on the right, the substitute in the middle, and H.R. 39 on the left, but this, in fact, is off the spectrum, because in four areas it provides for sweeping changes regarding mining and mineral leasing that even the Senate version does not contain.

It would open wildlife refuges to mining of hard rock minerals. Neither the Energy Committee bill, nor the House bill, nor the substitute would have provided for that.

Second, it would open national parks to mining by deleting the committee bill's withdrawal language in providing for the leasing of such minerals, again outside the spectrum of either the committee bill, the House version, or the substitute.

Third, it attempts to open all public lands in Alaska to leasing of hard rock minerals, again going beyond what is even in the committee version.

Fourth, it would grant access rights throughout Alaska to not only valid mining claims but also to thousands of claims which are not valid. That, again, goes beyond anything contemplated either in the committee or in the House version.

I would hope that that would be recognized and that the amendment will be rejected. I appreciate the time yielded to me by the Senator from Alaska.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JACKSON. I yield back the remainder of my time.

Mr. GRAVEL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. McCLURE), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER (Mr. HEFLIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 14, nays 75, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—14

Bentsen
Boren
Byrd, Robert C.
Gravel
Heflin
Helms
Humphrey
Schmitt
Simpson
Stennis
Stevens
Tower
Wallop
Young

NAYS—75

Armstrong
Baker
Baucus
Bayh
Bellmon
Biden
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stevenson
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—11

Bradley
Church
Culver
Durkin
Inouye
Javits
Long
McClure
Schweiker
Stewart
Talmadge

So Mr. GRAVEL's amendment (No. 1970) was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, would the Chair recognize the Senator from Alaska and then I will ask him to yield to me.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I think I have cleared this request all the way around. There are some Senators on both sides of the aisle who are absent and they want to vote on final passage of this bill.

Mr. President, I ask unanimous consent that the Senate proceed through third reading and up to final passage of the bill today, and that is not going to be difficult, from my understanding: That on tomorrow at 11 a.m. the Senate resume consideration of H.R. 39, and that the Senate vote on final passage of H.R. 39 at 11 a.m. tomorrow, with paragraph 4 of rule XII waived; and that upon the disposition of the bill there be no time for debate on any motion to reconsider.

Mr. BAKER. Mr. President, reserving the right to object, the distinguished majority leader and I discussed this matter a few moments ago.

We have made an effort to clear the agreement on this side. As the majority leader correctly reports, it does accommodate the convenience of a number of Members on this side to handle the matter in this way.

I believe there is an order for the Senate to convene at 10 in the morning. The only complication I can foresee is if there were a number of special orders, because I understand from the distinguished assistant Republican leader that he will require a little time to finish his presentation of a legislative history before we have final passage.

I will not object, but I inquire of the majority leader: If there are special orders in the morning, could that be scheduled prior to 10 o'clock instead of after that hour?

Mr. ROBERT C. BYRD. There are no special orders. The Senate will come in at 10. I will change my request by striking out the provision that would require resumption of consideration of the bill at 11 o'clock.

I will include in the unanimous-consent request a provision that the time between 10 and 11, allowing for the prayer and the disposition of the approval of the Journal, be divided equally between the majority leader and the minority leader, as was the case today; that the Senate vote at 11 o'clock on final passage; that no other motions be in order—no motion to recommit, no motion to table, no other amendments, no points of order; and that the Senate vote at 11 on final passage.

Mr. BAKER. I thank the majority leader. That does accommodate the only request we had on our side, and I have no objection to the request.

Mr. ROBERT C. BYRD. That includes the provision that there would be no time on a motion to reconsider.

Mr. GRAVEL. Mr. President, reserving the right to object, to make inquiry of the majority leader, what would that permit with respect to time? As I have said, I would want to make a closing statement, not of undue length, but of proper duration.

Mr. ROBERT C. BYRD. I would have a half hour, and I would be glad to yield as much of that half hour to the Senator from Alaska as he wishes.

Does Mr. TSONGAS want any time? Five minutes to Mr. TSONGAS, 5 minutes to Mr. JACKSON, and 20 minutes to Mr. GRAVEL.

Mr. GRAVEL. I appreciate that consideration.

Mr. JACKSON. Senator HATFIELD wants 5 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Virginia would like to speak tonight prior to the vote on the Tsongas substitute. Would the unanimous-consent request preclude that?

Mr. ROBERT C. BYRD. No. This request has nothing to do with that.

Mr. PERCY. Mr. President, reserving the right to object—and I shall not object—as a point of inquiry to the majority leader, is it possible to get some estimate as to how many votes we will have tonight and about what time the last vote will occur?

Mr. ROBERT C. BYRD. It is my understanding that the Senator from Alaska (Mr. GRAVEL) has one more amendment, and there will be no other amendments, other than the substitute by Mr. TSONGAS.

Mr. PERCY. So that we will have the last vote tonight about what time?

Mr. TSONGAS. There are 4 hours on the substitute. I do not expect to take an hour.

Mr. ROBERT C. BYRD. It appears that it will be 7 o'clock, give or take a little.

Mr. PERCY. I thank the majority leader.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1971

(Purpose: To alter various provisions in the bill dealing with transportation and access uses in and across conservation system units to insure that traditional access needs and future transportation and utility access needs are accommodated)

Mr. GRAVEL. Mr. President, I call up my amendment No. 1971.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes an amendment numbered 1971.

Mr. GRAVEL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 362, line 16, after the word "hunting" insert the following: "and appropriate access for such uses,".

Page 363, line 2, delete the period after "so" and insert the following: ", including appropriate access for such subsistence-oriented lifestyle.".

Page 363, line 7, after the word "needs" insert the following: ", including transportation needs,".

Page 367, line 16, after the subsection add the following new subsection:

(19) The term "access" as used means transportation or right-of-way by a variety of methods including, but not limited to the following: foot, nonmotorized and motorized watercraft, snowmachine, wheel, ski, or float-equipped aircraft, all-terrain vehicle, or other vehicles.".

Page 370, line 2, strike the period after "visitors" and insert ", and to ensure appropriate access for such visitors.".

Page 370, line 25, after the word "viability" insert the following: "and accessibility".

Page 371, line 4, strike the period after "area" and insert the following: "and other visitor areas in the unit.".

Page 371, line 6 and 7, strike "within a one-hundred-foot right-of-way along either side of an existing route" and insert in lieu thereof the following: "within a two-hundred-foot right-of-way along either side of an existing route".

Page 371, line 8 through 11, insert a period after the word "Highway" and strike the remainder of the sentence through line 11.

Page 372, line 1, after the word "viability" insert the following: "and accessibility".

Page 372, line 1, strike the period after the word "resources" and insert the following: "and to provide for appropriate access for visitor use of the unit.".

Page 372, line 20, strike "reasonable access" and insert in lieu thereof: "reasonable and appropriate access".

Page 372, line 25, after the words "Subsistence uses" insert the following: ", including reasonable access for such uses,".

Page 373, line 12, after the sentence, add the following new sentence: "such surface access is deemed to be of national significance in that critically needed domestic supplies of minerals are dependent on such access.".

Page 373, line 14, strike "(a), (b), and (c)" and insert in lieu thereof the following: "(b) and (c)".

Page 374, line 18, after the word "habitat," insert the following: "and access to such wildlife resources for management purposes".

Page 375, line 3, strike "1106" and insert in lieu thereof the following: "1107".

Page 375, line 3, after the period insert the following new sentence: "If after sixty days the appropriate authorizations have not been issued, the application by the applicant shall be considered approved.".

Page 375, line 17, strike "is authorized to develop access" and insert in lieu thereof the following: "shall develop access".

Page 375, line 18, after the word "Icefield" insert the following: "and other appropriate locations in the unit".

Page 376, line 11, after the word "uses" insert the following: ", including reasonable access for such uses,".

Page 376, line 6, after the word "cultures;" insert the following: "to provide for reasonable access for visitation of the unit;".

Page 376, line 16, strike "aircraft to continue to land at sites" and insert in lieu thereof the following: "aircraft to land at sites".

Page 377, line 7, after the word "state;" insert the following: "to provide for access for recreational use;".

Page 378, line 9, after the word "resources;" insert the following: "to provide for access for recreational use of the unit;".

Page 379, line 12, strike "reasonable access" and insert in lieu thereof: "reasonable and appropriate access".

Page 380, line 1, strike "benefit" and insert in lieu thereof the following: "use, including access for such use,".

Page 380, line 11 and 12, strike "aircraft to continue to land at sites" and insert in lieu thereof: "aircraft to land at sites".

Page 381, line 3, after the word "routes," insert the following: "of ensuring access for recreational use,".

Page 381, line 16, after the word "others," insert the following: "of ensuring access for recreational use,".

Page 382, line 11, strike "reasonable access" and insert in lieu thereof the following: "reasonable and appropriate access".

Page 383, line 4, after the word "sources," insert the following: "access needs,".

Page 383, line 17, after the word "claims," insert the following: "and to have reasonable access to their claims,".

Page 383, line 18, strike the ";" after the word "environment" and insert in lieu thereof: ". The holders of unperfected mining claims shall be afforded similar reasonable access during the study period.".

Page 384, line 5, strike "and operating" and insert in lieu thereof: "transportation and visitor facilities and operating such".

Page 384, line 15, after the word "facilities," insert the following: "and transportation systems for providing access,".

Page 387, line 4, after the word "uses" insert the following: ", including reasonable access for such uses,".

Page 388, line 9, after the word "cabins," insert the following: "motorboat use,".

Page 389, line 13, after the word "activity" insert the following: ", including access,".

Page 396, line 23, after the word "equipment" insert the following: "and access,".

Page 397, line 5, strike "navigation and access by boat" and insert in lieu thereof the following: "navigation and access by boat or other over-water craft".

Page 398, line 24, strike the period after the word "refuge" and insert in lieu thereof the following: ", as are the recreational uses and their accompanying access of these areas.".

Page 400, line 4, after the word "construction" insert the following: ", or the necessary accompanying access for such construction,".

Page 401, line 15, after the word "equipment," insert the following: "and access,".

Page 402, line 22, after the word "facilities" insert the following: ", including necessary access for construction of such pipelines or facilities,".

Page 404, line 5, strike "the development of agricultural potential" and insert in lieu thereof the following: "the access to and the development of agricultural potential".

Page 408, line 1, strike "motorized vehicles," and insert in lieu thereof the following: "motorized watercraft, motorized vehicles,".

Page 408, line 2, strike "directly".

Page 410, line 2 strike "caribou range and Birch Creek" and insert in lieu thereof the following: "caribou range and the recreational use and access to the area via Birch Creek".

Page 411, line 2, strike "and patent" and insert in lieu thereof the following: "patent, and reasonable access for such uses".

Page 411, line 6, strike "to assure" and insert in lieu thereof the following: "to assure reasonable access and to assure".

Page 411, line 24, after the word "use" insert the following: ", and reasonable access for such use,".

Page 412, line 18, strike "mining access" and insert in lieu thereof: "mining or other access".

Page 414, line 25 and Page 415, line 1, strike "reasonable access shall be granted to an unperfected mining claim" and insert in lieu thereof the following: "reasonable access shall be granted to an unperfected mining claim, or, to a patented claim,".

Page 416, line 6, after the word "activities" insert the following: ", including reasonable access for such activities,".

Page 417, line 19, after the word "activities" insert the following: ", including reasonable access for such activities,".

Page 418, line 11, after the word "Act" insert the following: ", or to obtain access to such lands conveyed,".

Page 420, line 3, strike "the provisions of section 1106(b) of this Act" and insert in lieu thereof: "the provisions of title XI".

Page 420, line 15, after the word "rights" insert the following: ", including access rights,".

Page 422, line 18 through 21, strike subsection (A) and renumber subsections accordingly.

Page 431, line 11, strike "shall be entitled to the same access" and insert in lieu thereof the following "shall have the same access".

Page 431, line 23, after the word "existing" insert the following: "right, including access rights", and strike "right.".

Page 443, line 8, add the following new subsection:

"( ) Nothing in the Act shall in any way be construed as to deny access to the lands to be conveyed to Shee Atica, Incorporated, pursuant to this section.".

Page 452, line 1, strike the word "access" and insert in lieu thereof the following: "surface access".

Page 454, line 16, after the word "permit" insert the following: "access to and".

Page 460, line 17, strike "Existing mechanized portage equipment" and insert in lieu thereof: "Access and the related existing mechanized portage equipment".

Page 463, line 17, after the word "necessary" insert the following: ", including access,".

Page 469, line 19, after the word "uses" insert the following: ", including the access for such uses,".

Page 472, line 4, strike "subsistence uses" and insert in lieu thereof the following: "subsistence uses, and access for such uses.".

Page 486, line 7, strike "The Secretary shall ensure that persons" and insert in lieu thereof the following: "Persons".

Page 486, line 13, strike "surface transportation" and insert in lieu thereof: "transportation".

Page 486, lines 14 and 15, strike ", subject to reasonable regulations." and insert a "." after the word "residents".

Page 569, line 22, insert following "any" the words "State, local or".

Page 570, line 18, insert following "liquids" the word "or gasses".

Page 571, line 4, insert following "improved" the words "or unimproved".

Page 571, line 12, strike the word "minimally".

Page 571, line 13, strike the sentence beginning with "Such related structures".

Page 572, line 6, strike following the word "Act" the following: ", the Secretary, the Secretary of Agriculture, and".

Page 572, line 16, strike the words ", together with appropriate Federal agencies,".

Page 572, line 19, strike the words "(ii), (iii), or (vii)".

Page 572, line 21, strike the words "provide to the" and insert in lieu thereof "consult with".

Page 572, line 22, strike the words "such planning and other assistance as may be appropriate".

Page 572, line 25, strike the words "on the same day".

Page 573, line 1, strike the words "each appropriate Federal agency" and insert in lieu thereof "the Secretary of Transportation".

Page 573, line 5, strike the word "sixty" and insert in lieu thereof the word "thirty".

Page 573, line 7, strike the entire line and the first word of line 8, and insert in lieu thereof "Secretary of Transportation".

Page 573, line 9, strike the words "appears to contain" and insert in lieu thereof the word "contains".

Page 573, line 10, strike the words "insofar as that agency is concerned".

Page 573, line 17, strike the words "head of the Federal agency" and insert in lieu thereof "Secretary of Transportation".

Page 574, line 2, strike the words "with which the application was filed under subsection (c)" and insert in lieu thereof "whose participation is requested by the Secretary of Transportation".

Page 574, line 5, strike the sentence beginning with "Such nine-month and one-year periods".

Page 574, line 19, strike the words "in the District of Columbia" and insert in lieu thereof "at".

Page 574, line 23, strike the word "joint".

Page 574, line 25, strike the words "plus any extension thereof provided for in subsection (e)".

Page 575, line 9, insert following the word "individuals" the word ", corporations,".

Page 575, line 10, strike the word "four" and insert in lieu thereof the word "two".

Page 575, line 13, strike the words "each Federal agency" and insert in lieu thereof "the Secretary of Transportation".

Page 575, lines 13 and 14, strike the words "make a decision to".

Page 575, line 17, strike the words "head of each Federal agency" and insert in lieu thereof "Secretary of Transportation".

Page 577, line 10, strike the words "head of the Federal agency concerned" and insert in lieu thereof "Secretary of Transportation" and strike the word "four" and insert in lieu thereof the word "two".

Page 577, strike line 16 through 20 and insert in lieu thereof "that such system would be compatible with the purposes for which the unit was established.".

Page 578, line 4, strike "each Federal agency concerned decides to approve" and insert in lieu thereof "the Secretary of Transportation approves".

Page 578, line 6, strike "system shall be deemed to be approved and each such agency" and insert in lieu thereof "Secretary of Transportation".

Page 578, line 12, strike "one or more Federal agencies decide to disapprove" and insert in lieu thereof "The Secretary of Transportation disapproves".

Page 578, line 14, strike "the system shall be deemed to be disapproved and".

Page 578, line 18, strike "four" and insert in lieu thereof "two".

Page 578, line 19, strike "decide whether to approve" and insert in lieu thereof "approve".

Page 578, line 25, insert following "public" ", the State of Alaska,".

Page 579, line 2, strike "that rendered a decision with respect to the application" and insert in lieu thereof "the comments of which were requested by the Secretary of Transportation".

Page 579, line 8, strike "each Federal agency concerned" and insert in lieu thereof "the Secretary of Transportation".

Page 579, line 22, strike "each Federal agency concerned" and insert in lieu thereof "the Secretary of Transportation".

Page 579, line 24, strike "agency" and insert in lieu thereof "Secretary of Transportation".

Page 579, line 24, strike "its" and insert "his".

Page 580, line 2, strike "agency position" and insert "position of the Secretary of Transportation".

Page 580, line 4, strike "four" and insert "two".

Page 580, line 7, insert following "public" ", State of Alaska".

Page 580, line 9, strike "decide whether or not" and insert "approve or disapprove".

Page 580, line 10, strike "concerned should be approved".

Page 580 line 14, delete all after the period and delete lines 15 through 25 and lines 1 through 25 on page 581, lines 1 through 21, page 582.

Page 582, lines 23 and 24, strike "appropriate Federal agencies" and insert "Secretary of Transportation."

Page 583, lines 2 and 3, strike "appropriate Federal agencies" and insert "Secretary of Treasury".

Page 582, line 7, insert following "with" "reasonable regulations,".

Page 583, line 12, strike ", or the Secretary of Agriculture when National Forest Wilderness is involved" and insert "of Transportation".

Page 583, line 14, insert after "title," "reasonable".

Page 583, line 16, strike ", to the maximum extent feasible,".

Page 583, line 25, strike "applicable" and insert "reasonable".

Page 584, line 2, strike "established pursuant to law".

Page 584, line 3, after "(4)" insert "reasonable".

Page 584, line 3, strike ", including the minimum necessary width,".

Page 584, line 10, following "(5)" insert "reasonable".

Page 584, line 14, following "(6)" insert "reasonable".

Page 584, line 21, following "such" insert "reasonable".

Page 584, line 23, following "not" insert "unreasonably".

Page 585, line 10, strike through line 14 and insert in lieu thereof the following: "There is hereby authorized regional requirements".

Page 585, line 15, strike through line 22 and insert in lieu thereof the following: "for transportation and utility systems to be conducted by the Secretary of Transportation in consultation with the State which study shall be updated in a similar manner no less than every five years.".

Page 585, line 25, strike through line 2 on page 585 and insert in lieu thereof the following: "judicial review of any administrative actions pursuant to this title shall be expedited to the maxi-".

Page 586, line 5, strike through line 5 and insert in lieu thereof the following: "administrative action pursuant to this title".

Page 586, line 15, strike the word "ninety" and insert in lieu thereof the following: "sixty".

Page 587, line 2, insert between the words "airplanes" and "and" the following: "other motorized vehicles,".

Page 586, add the following new section and renumber the following sections accordingly:

"Sec. 110. (a) Notwithstanding any other provision of this Act or other law, the Secretary and the head of any other Federal agency with decisionmaking responsibility shall issue such permits, certificates, or rights-of-way as may be necessary for a transportation or utility system across a conservation system unit, national conservation area, national recreation area, natural resource area, special management area, or the National Petroleum Reserve—Alaska for which an application has been submitted by the State in accordance with the provisions of this section.

"(b) Upon the filing of an application by the State for a transportation or utility system across a conservation system unit or other unit referenced in subsection (a), the Secretary, the Secretary of Transportation (where he has programmatic responsibility), and the head of any other Federal agency with decisionmaking responsibility, shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the issuance of necessary rights-of-way and other authorizations for such system. This analysis shall be completed within one year, and the draft thereof within nine months of the receipt of the application, and shall be prepared in lieu of any environmental impact statement which would otherwise be required under section 102(2)(c) of the National Environmental Policy Act, and shall not be subject to judicial review. Such analysis shall consider the following:

"(i) Alternative routes, including the consideration of economically feasible and prudent alternative routes across the affected unit or units or adjacent areas which would result in fewer or less severe adverse impacts upon the unit.

"(ii) The environmental, social, and economic impacts of the system, including impacts upon wildlife, fish, and their habitat, rural and traditional lifestyles, including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts or to enhance positive impacts.

"(c) Within sixty days of the completion of the environmental and economic analysis, the heads of any Federal agencies with decisionmaking responsibility shall jointly agree upon a route and issue the necessary permits, certificates, or rights-of-way across the conservation system unit or other units referenced in subsection (a). If a route is selected and permitted other than that described in the application by the State, such alternative route shall be in accord with the requirements of subsection (b)(i) of this section. If after sixty days the appropriate authorizations have been issued, the application by the State shall be considered approved.".

Mr. GRAVEL. Mr. President, I say to my colleagues that I will be brief. I have a brief explanation; and if they will indulge me, we can proceed to a vote.

Mr. President, I ask for the yeas and nays. This is a pretty important amendment from our point of view.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, the amendment makes many cuts and bites, a type of modification. Essentially, this amendment would establish an expansion of the access provisions that presently exist in the bill.

Under the present situation, we are told that there is adequate access or that the access is the best that will exist in law. Unfortunately, I do not read it that way. As I see it, there are several different types of access:

One would require an act of Congress. Two, the President could make a decision. Three, the Secretary could make a decision. Four, there would be access, but you would be subject to the rules and regulations established by a bureaucracy.

I might say that if any one of those groups or bodies was adverse to having access, access would not be granted.

I have had experience with the Wetlands Act and a few other pieces of environmental legislation. Cases across the country are legion with respect to people who thought they had access, but a willful bureaucracy or a willful Secretary or a willful Chief Executive or a willful Congress decides there is no access.

Probably the best example in our history was the Alaska oil pipeline, when access was thwarted with a very simple and fundamental act, NEPA, which I think is very good legislation, because all NEPA requires is that the Government study something before something is done. Certainly, no one can fault that. But that simple piece of legislation was contorted and distorted into a situation in which a project as fundamental to the economic survival of the United States of America as the Alaska oil pipeline was thwarted for 3-plus years in a litigatory process that had no end in sight.

It was typical of the bureaucracy and almost of Congress to play the game of government, the unfortunate game of Catch-22. So we had a situation in which only with great effort did Congress at a point step forward and go on record that it was going to make the judgment, after tens of millions of dollars—perhaps even more than a hundred million dollars—was spent on studying this project. But it took an act of Congress to cause it to be built. In other words, somebody had to make a decision, and of course Congress did make a decision in that particular respect. This body, I might say, made that decision by only one vote.

Had that decision not been in the affirmative, we obviously would not have seen the contribution that that pipeline and that oil are making to our economy, because it would be party to this process we are now undertaking, the Alaska lands legislation, and it would be no more significant than Green Creek or any other mineral area or, for that matter, the Arctic range.

It would be put through one device or another, into the deep freeze. This is the Prudhoe Bay discovery that would have suffered that fate, had this legislation been in existence at that time.

That is why I have submitted this access language, to try to put forth some process or try to make some sense of the bureaucratic labyrinth that is created. I must confess that the labyrinth still will be there. All this does is paint a little yellow line through the labyrinth, in the hope that people, in their economic pursuits, may be able to follow that line.

The guts of this proposal is not that a private company can get across, not that an average citizen will have unusual access. Underlying this proposal is the fact that the State of Alaska, the sovereign State of Alaska, will have access.

I do not think that is asking too much, unfortunately, at this late date in this most unusual process.

Mr. President, I ask unanimous consent to have printed in the Record a memorandum that I have delineating that.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM

GENERAL

The amendment makes many "cut and bite" type modifications designed to strengthen access provisions in the following areas: (1) Access for traditional uses in conservation system units, such as hunting, recreation, subsistence uses; (2) access to inholdings, including access to mining claims; (3) access for future visitor use of new park units; and (4) access across conservation system units for transportation and utility systems.

TRANSPORTATION AND UTILITY SYSTEMS

This is the most significant change in the bill and an area where the bill most adversely impacts potential use of adjacent state and Native lands.

The amendment would strengthen the language of the transportation title making a meaningful role for the Dept. of Transportation in the access process.

It would also remove some of the agency roadblocks in the granting of rights-of-way.

It would add a new section to the transportation title to include a separate procedure for the granting of access when the applicant is the State of Alaska.

Upon an application by the State, an economic and environmental analysis would be conducted jointly by the Department of Interior and Transportation and other federal agencies with decision-making authorities. A draft must be completed within 9 months and a final within one year.

After completion of the analysis, a joint agency selection of a route and the issuance of necessary permits made within 60 days. If no decision within 60 days, the application of the State would be considered approved.

The amendment patterned closely after the special access language for the "boot" in the Gates of the Arctic. Only applies to State, not companies.

Special access provisions are needed for the State because the circumstances relating to transportation and utility systems are unique in Alaska. The rudimentary existing transportation and utility systems, the large amount of federal ownership—particularly in restrictive conservation systems designated in the bill—and the very real potential for future energy and other resource developments on nonconservation system lands contribute to the great need for an access process that is truly workable.

Unlike other Western States, which even up to 10 years ago merely filed a notice with the BLM to construct a road across public domain lands, when future needs arise for a road or pipeline in Alaska, the State will be presented with nearly insurmountable legal, regulatory, and judicial barriers to obtain access across Federal lands to adjacent State and Native lands. By the designation of over 100 million acres of conservation system units—some of which link up to form barriers several hundred miles in length—major areas of Alaska in State and private ownership could be rendered economically unusable by the denial of access.

The State of Alaska, unlike private companies or other entities, has sovereign powers afforded it under the Statehood Compact, has sophisticated planning processes, and has a demonstrated environmental concern and body of law warranting this specialized access procedure.

This provision is not a carte blanche for the State; ultimate authority for the choice of routes and terms and conditions of any right-of-way or other permit remain with Federal agencies.

Mr. GRAVEL. Mr. President, I yield the floor and when the managers of the bill are prepared to yield back the remainder of their time I will be happy to do likewise.

Mr. JACKSON. Mr. President, the amendment proposed by the Senator from Alaska deals with a subject which the committee spent a great deal of time on—access. The substitute contains provisions which guarantee access to inholdings, special access for traditional activities, including subsistence and for travel to and from villages and homesites. It also contains a carefully worked out process for agency decisions on major rights of way across conservation system units.

The amendment in my view is unnecessary and I urge its defeat.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the distinguished Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I will not take the Senate's time but to point out that this amendment not only goes beyond the House version and it not only goes beyond the substitute, but it goes beyond what the committee itself has worked out.

I yield back the remainder of my time.

Mr. GRAVEL. Mr. President, before yielding back my time, I wish to make one brief comment and I shall be happy to yield time if anyone wishes to respond to it.

I do not think it requires a response. It is an argument that I have made before.

But I think it goes to the guts of the situation, and that is when the argument is made, and it has been made in the House of Representatives repeatedly by some of the managers of the bill, that we Alaskans were greedy and we wanted all the land and that we just want to tear it all up and develop it and that what is being done here is we are safeguarding and we have no right to make these claims on Federal lands.

I think it should be clearly understood that we Alaskans are just like anyone else. We are citizens of the United States of America and we are citizens of our State.

I would have no quarrel at all if the majority of the people in this country, acting through Congress, decide that they want to take the Federal domain and lock it up; that is fine. We can make that collective mistake. But I think when it is done in such a fashion, the way this is done, where land is selected across the subcontinent of Alaska in such a device so that the State lands and the Native lands, which amount to about 150 million acres collectively, that we have no guarantee that that 150 million acres will be made available to ourselves in our economic pursuit to make a living in this area that we call our home, Alaska.

The State of Texas is about 170 million acres. So the view that I have held all along and would have found very easy to compromise on is fine, if we want to make a national mistake that is terrible and unfortunate, go ahead and do it.

But where I do have deep quarrel and some degree of anger in my heart is with this process of bureaucratic overkill, of setting up a monstrous, gargantuan animal that will overlay the State and there is no real provision mandatorily that Alaskans can get to our land of our will, then there is something wrong, because what is being breached is the compact under the Statehood Act and the law of great justice which gave the Natives of Alaska their rightful legacy.

I know that many accept the words of the managers of the bill and the proponents of the bill saying that yes, there is access. But I think time will bear out that that access is not worth the paper that it is written on and that the rights and the sovereignty of the State of Alaska and the people of Alaska will have been breached on this day and on tomorrow.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield to my distinguished colleague from Massachusetts.

Mr. TSONGAS. Mr. President, let me say, although this may be cold comfort, I am willing to work with the Senator from Alaska to put together language in a report that would make it clear to any bureaucracy, judiciary, administrative, whatever, that the access provisions provided in the bill were put in there seriously, that it is the intent of all parties concerned that they should be lived up to. I would be glad between now and tomorrow to try to work with the Senator from Alaska in putting that in the bill because that is the intent certainly on the part of this Senator. I am not sure that is very helpful, but I think it would certainly be enough.

Mr. GRAVEL. I thank my distinguished colleague from Massachusetts. I do not question in the slightest degree his intent. I am happy to take up his generous offer to try and fashion some language in the report.

I only say to my colleague from Massachusetts that it may not be his intent and certainly I know my intent. But I just harken back to the 1906 Antiquities Act to the colloquy that took place between two gentlemen on the floor of the House of Representatives where one gentleman specifically stood up and said can this act ever be used to lock up large acreages in the millions and millions of acres and the other Member of the House of Representatives said no, it specifically cannot; it is for small pieces of acreage to safeguard Indian artifact sites.

So I say to my colleague he may be of good will and I may be of good will, but he and I will have very little to say to the damage that will be done to the compacts that presently exist.

Mr. TSONGAS. Mr. President, will the Senator yield on that point?

Mr. GRAVEL. I yield.

Mr. TSONGAS. First of all, I am not sure that 74 years from now anyone will either talk about it or certainly be able to pronounce my name 74 years from now, but I say to the extent that legislation would be necessary to give the access provided in this bill I will join with the Senator from Alaska to provide that and I gave him that commitment right now.

Mr. GRAVEL. I thank my colleague for his expression and I know it is heartfelt on his side and it is heartfelt received.

I can take it and put that aside, and then I take recourse to my own experiences in 16 years of public service and knowing the views that I held at one time and the views I hold today as the product of my experiences, and I know empirically that if history follows the history of the past, which it generally does, the outcome of this process and I know the purpose of why things were selected. I have flown over them, and I know as to the lands that are put into systems there is no reason to do that. I have seen the land. The classic example is the "boot," and I do not mean to rehash all argumentations that were made, but there is only one reason to bring the "boot" around. It is not that that land is characteristic to the land north of the "boot" at all, not at all. But the reason it is there is that this is a toehold at Bering.

So, as I interpret this, and I know that is not the intent of the Senator from Massachusetts—I know that and I would not question that—but I might question those outside of this Chamber who have been pushing for this legislation. I do not question it from the Senator from Massachusetts and I know the purpose of the takings, and this is the great tragedy, I think, being performed in this legislation. The game was not the game to work out a compromise so that we could have a balance. The game was to take that subcontinent which is a great treasure of America and fix it so that that treasure cannot be used. That is the game.

That is the game. Not everybody who was party to this game on the other side of the issue from me was party to that goal.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. GRAVEL. But that does not stop us from realizing what we are doing.

I do yield to the Senator from Montana.

Mr. MELCHER. I thank the Senator from Alaska (Mr. GRAVEL) for yielding. I want to commend the Senator for the amendment he is offering. It is clear that the purpose of the amendment is to allow access across Federal lands for Alaskans to get where they need to go for legitimate purposes.

I also want to commend him as the Senator from Alaska for his hard fight to allow the State of Alaska a chance to participate in its own destiny.

The Alaskan lands bill has many limitations under any form, whether it is the House-passed bill or the Senate Energy Committee bill or the substitute that will be offered. Any of these versions of the Alaskan lands bill has many facets that are indeed very difficult for the people of Alaska to deal with. The restrictions in the bills are very evident and, therefore, the Senator is to be commended for his efforts to work out as much as possible the opportunity for Alaskans to have a chance to develop their own State as other citizens in other States have had that opportunity.

That responsibility the Senator has attempted to fulfill—the responsibility of presenting Alaska's rights—that he has shouldered very well here in the Senate, is a responsibility that every Senator from every other State of this Union respects.

I respect the Senator's efforts to shoulder that responsibility. It has been a tough and hard fight for Alaskans in this Congress in all of their dealings with this bill in all of its various forms.

I want to commend the Senator for his efforts to make the best out of it that is possible. I believe every Senator on this should recognize that the Senator's efforts have been very valiant, very determined.

Mr. GRAVEL. I want to thank my colleague for those kind statements and for the support he has given on the bill and his efforts in committee and, of course, not only here but in the past for Alaska when he was a distinguished leader in the House of Representatives.

Mr. President, I close by saying that when the Federal Government cannot guarantee a sovereign State access to its lands then I think we have come to an unusual situation. I know the Federal Government has made incursions in our lives for many reasons, and I know a good many of those problems existed and there were abuses or there was a need, a human need, unmet, and the Federal Government stepped in.

In this particular case the State of Alaska has not abused its land. The State of Alaska has probably the most enviable record of safeguarding its land, its wildlife, and its ecosystem which is far superior in my mind to that of any other State in the Union.

So, before the fact, to take the premise that the sovereign State of Alaska should not have the right to guaranteed access, as is done in this legislation, I think is a great misdeed and will go down in history as one of the great invasions of States rights. It may not be appreciated today, but with time I am sure this will be realized.

I would be happy to yield additional time to my colleague from Massachusetts. If not, I would be happy to yield back the remainder of my time if the managers of the bill are prepared to yield back their time.

Mr. HATFIELD. Mr. President, I yield back my time.

Mr. GRAVEL. I yield back my time.

The PRESIDING OFFICER (Mr. PRYOR). The question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. STENNIS), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 15, nays 74, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—15

Boren
Byrd,
Harry F., Jr.
Byrd, Robert C.
Garn
Gravel
Hatch
Heflin
Helms
Humphrey
Laxalt
Matsunaga
Melcher
Randolph
Stevens
Young

NAYS—74

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boschwitz
Bumpers
Burdick
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Goldwater
Hart
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
McGovern
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Simpson
Stafford
Stevenson
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—11

Bradley
Church
Culver
Durkin
Inouye
Javits
McClure
Schweiker
Stennis
Stewart
Talmadge

So Mr. GRAVEL's amendment (No. 1971) was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1961, AS MODIFIED

(Purpose: To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes)

Mr. TSONGAS. Mr. President, I call up Senate printed amendment No. 1961, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. No Senator having sought to call up one of the eligible amendments, the amendment is in order. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) for himself, Mr. ROTH, Mr. JACKSON, and Mr. HATFIELD, proposes an amendment numbered 1961, as modified.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, am I correct that there are 4 hours allocated on the substitute?

The PRESIDING OFFICER. The Senator is correct.

Mr. TSONGAS. For the information of my colleagues, I do not intend to use more than perhaps 10 minutes. I suspect that my attitude is shared by the other participants in this debate. Perhaps we could have a vote in approximately 1 hour.

Mr. STEVENS. Will the Senator yield?

Mr. TSONGAS. I yield.

Mr. STEVENS. Mr. President, there are a series of colloquies being worked out which will become legislative history should the Tsongas substitute be adopted. After clearing this on both sides, I ask unanimous consent that any colloquy that takes place tomorrow before the final vote be printed in the permanent RECORD prior to the vote on the Tsongas revised substitute this evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1961, AS FURTHER MODIFIED

Mr. STEVENS. Will the Senator yield for another inquiry?

Mr. TSONGAS. I yield.

Mr. STEVENS. Mr. President, there are four places in the Tsongas revised substitute words that have been interposed. I believe these have been checked with the staff of the Senator. They deal with the use of the word "protection" as opposed to "conservation." I would like to ask if my friend would agree that I can send an amendment to the desk and ask unanimous consent that his amendment be modified accordingly to take care of those four items.

Mr. TSONGAS. Mr. President, I have no objection.

Mr. STEVENS. Mr. President, I ask unanimous consent that despite the cloture order and despite the time agreement that this amendment be modified in accordance with those four items. It has been cleared, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as further modified, is as follows:

In lieu of the language intended to be proposed, insert the following:

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

TABLE OF CONTENTS

TITLE I—PURPOSES, DEFINITIONS, AND MAPS

Sec. 101. Purposes.
Sec. 102. Definitions.
Sec. 103. Maps.

TITLE II—NATIONAL PARK SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.
Sec. 203. General administration.
Sec. 204. Native selections.
Sec. 205. Commercial fishing.
Sec. 206. Withdrawal from mining.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 301. Definitions.
Sec. 302. Establishment of new refuges.
Sec. 303. Additions to existing refuges.
Sec. 304. Administration of refuges.
Sec. 305. Prior authorities.
Sec. 306. Special study.

TITLE IV—NATIONAL CONSERVATION AREA AND NATIONAL RECREATION AREA

Sec. 401. Establishment of Steese National Conservation Area.
Sec. 402. Administrative provisions.
Sec. 403. Establishment of White Mountains National Recreation Area.
Sec. 404. Rights of holders of unperfected mining claims.

TITLE V—NATIONAL FOREST SYSTEM

Sec. 501. Additions to existing national forests.
Sec. 502. Mining and mineral leasing on certain national forest lands.
Sec. 503. Misty Fjords and Admiralty Island National Monuments.
Sec. 504. Unperfected mining claims in Misty Fjords and Admiralty Island National Monuments.
Sec. 505. Fisheries on national forest lands in Alaska.
Sec. 506. Admiralty Island land exchanges.
Sec. 507. Cooperative fisheries planning.

TITLE VI—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

Sec. 601. Additions.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 602. Additions.

PART C—ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

Sec. 603. Additions.
Sec. 604. Designation for study.
Sec. 605. Administrative provisions.
Sec. 606. Other amendments to the Wild and Scenic Rivers Act.

TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

Sec. 701. Designation of wilderness within National Park System.
Sec. 702. Designation of wilderness within National Wildlife Refuge System.
Sec. 703. Designation of wilderness within National Forest System.
Sec. 704. Designation of wilderness study area within National Forest System.
Sec. 705. National forest timber utilization program.
Sec. 706. Reports.
Sec. 707. Administration.
Sec. 708. RARE II release.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

Sec. 801. Findings.
Sec. 802. Policy.
Sec. 803. Definitions.
Sec. 804. Preference for subsistence uses.
Sec. 805. Local and regional participation.
Sec. 806. Federal monitoring.
Sec. 807. Judicial enforcement.
Sec. 808. Park and park monument subsistence resource commissions.
Sec. 809. Cooperative agreements.
Sec. 810. Subsistence and land use decisions.
Sec. 811. Access.
Sec. 812. Research.
Sec. 813. Periodic reports.
Sec. 814. Regulations.
Sec. 815. Limitations, savings clauses.
Sec. 816. Closure to subsistence uses.

TITLE IX—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

Sec. 901. Submerged lands statute of limitations.
Sec. 902. Statute of limitations.
Sec. 903. Administrative provisions.
Sec. 904. Tax moratorium extension.
Sec. 905. Alaska Native allotments.
Sec. 906. State selections and conveyances.
Sec. 907. Alaska Land Bank.
Sec. 908. Protection of Native lands in contingency areas under timber sales.
Sec. 909. Use of protraction diagrams.
Sec. 910. National Environmental Policy Act.
Sec. 911. Technical amendment to Public Law 94-204.

TITLE X—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

Sec. 1001. Overall study program.
Sec. 1002. Arctic National Wildlife Range coastal plain resource assessment.
Sec. 1003. Prohibition on development.
Sec. 1004. Wilderness portion of study.
Sec. 1005. Wildlife resources portion of study.
Sec. 1006. Transportation alternatives portion of study.
Sec. 1007. Arctic research study.
Sec. 1008. Oil and gas leasing program for non-North Slope Federal lands.
Sec. 1009. Oil and gas lease applications.
Sec. 1010. Alaska mineral resource assessment program.
Sec. 1011. Presidential transmittal.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

Sec. 1101. Findings.
Sec. 1102. Definitions.
Sec. 1103. Effect of title.
Sec. 1104. Procedural requirements.
Sec. 1105. Standards for granting certain authorizations.
Sec. 1106. Agency, Presidential, and congressional actions.
Sec. 1107. Rights-of-way terms and conditions.
Sec. 1108. Expedited judicial review.
Sec. 1109. Valid existing rights.
Sec. 1110. Special access and access to inholdings.
Sec. 1111. Temporary access.
Sec. 1112. North Slope Haul Road.
Sec. 1113. Stikine River region.

TITLE XII—FEDERAL-STATE COOPERATION

Sec. 1201. Alaska Land Use Council.
Sec. 1202. Federal Coordination Committee.
Sec. 1203. Bristol Bay cooperative region.

TITLE XIII—ADMINISTRATIVE PROVISIONS

Sec. 1301. Management plans.
Sec. 1302. Land acquisition authority.
Sec. 1303. Use of cabins and other sites of occupancy on conservation system units.
Sec. 1304. Archeological and paleontological sites.
Sec. 1305. Cooperative information/education centers.
Sec. 1306. Administrative sites and visitor facilities.
Sec. 1307. Revenue-producing visitor services.
Sec. 1308. Local hire.
Sec. 1309. Klondike Gold Rush National Historical Park.
Sec. 1310. Navigation aids and other facilities.
Sec. 1311. Scenic highway study.
Sec. 1312. Administration of the White Mountains National Recreation Area.
Sec. 1313. Administration of national preserves.
Sec. 1314. Taking of fish and wildlife.
Sec. 1315. Wilderness management.
Sec. 1316. Allowed uses.
Sec. 1317. General wilderness review provision.
Sec. 1318. Statewide cultural assistance program.
Sec. 1319. Effect on existing rights.
Sec. 1320. Bureau of Land Management land reviews.
Sec. 1321. Authorization for appropriation.
Sec. 1322. Effect on prior withdrawals.
Sec. 1323. Access.
Sec. 1324. Yukon Flats National Wildlife Refuge agricultural use.
Sec. 1325. Terror Lake Hydroelectric Project in Kodiak National Wildlife Refuge.
Sec. 1326. Future Executive actions.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 1401. Stock alienation.
Sec. 1402. Selection requirements.
Sec. 1403. Retained mineral estate.
Sec. 1404. Vesting date for reconveyances.
Sec. 1405. Reconveyance to municipal corporations.
Sec. 1406. Conveyance of partial estates.
Sec. 1407. Shareholder homesites.
Sec. 1408. Basis in the land.
Sec. 1409. Fire protection.
Sec. 1410. Interim conveyances and underselections.
Sec. 1411. Escrow account.
Sec. 1412. Limitations.

PART B—OTHER RELATED PROVISIONS

Sec. 1413. Supplemental appropriation for Native Groups.
Sec. 1414. Fiscal Year Adjustment Act.
Sec. 1415. Relinquishment of selections partly within conservation units.
Sec. 1416. Bristol Bay Group Corporation lands.
Sec. 1417. Pribilof Islands acquisition authority.
Sec. 1418. NANA/Cook Inlet Regional Corporations lands.
Sec. 1419. Doyon Regional Corporation lands.
Sec. 1420. Hodzana River study area.
Sec. 1421. Conveyance to the State of Alaska.
Sec. 1422. Doyon and Fortymile River.
Sec. 1423. Ahtna Regional Corporation lands.
Sec. 1424. Bering Straits Regional Corporation lands.
Sec. 1425. Eklutna Village Corporation lands.
Sec. 1426. Eklutna-State Anchorage agreement.
Sec. 1427. Koniag Village and Regional Corporation lands.
Sec. 1428. Chugach Village Corporation lands.
Sec. 1429. Chugach Regional Corporation lands.
Sec. 1430. Chugach region study.
Sec. 1431. Arctic Slope Regional Corporation lands.
Sec. 1432. Cook Inlet Village settlement.
Sec. 1433. Bristol Bay Native Corporation lands.
Sec. 1434. Shee Atika-Charcoal and Alice Island conveyance.
Sec. 1435. Amendment to Public Law 94-204.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

Sec. 1501. Areas subject to the national need recommendation process.
Sec. 1502. Recommendations of the President to Congress.
Sec. 1503. Expedited congressional review.

TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

SEC. 101. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

(d) This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

DEFINITIONS

SEC. 102. As used in this Act (except that in titles IX and XIV the following terms shall have the same meaning as they have in the Alaska Native Claims Settlement Act, and the Alaska Statehood Act)—

(1) The term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means lands the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(4) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(5) The term "Alaska Native Claims Settlement Act" means "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes," approved December 18, 1971 (85 Stat. 688), as amended.

(6) The term "Native Corporation" means any Regional Corporation, any Village Corporation, and any Urban Corporation.

(7) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(8) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(9) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

(10) The term "Native Group" has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

(11) The term "Native land" means land owned by a Native Corporation or any Native Group and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native Group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(12) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(13) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890).

(14) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339), as amended.

(15) The term "State" means the State of Alaska.

(16) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

(17) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(18) The term "take" or "taking" as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

MAPS

SEC. 103. (a) The boundary maps described in this Act shall be on file and available for public inspection in the office of the Secretary or the Secretary of Agriculture with regard to the National Forest System. The boundaries of areas added to the National Park, Wildlife Refuge and National Forest Systems shall, in coastal areas not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(b) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 201. The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of Federal lands, and Aniakchak National Preserve, containing approximately three hundred and seventy-six thousand acres of Federal lands, as generally depicted on map numbered ANIA–90,005, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for, and populations of, fish and wildlife, including, but not limited to, brown/grizzly bears, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors. Subsistence uses by local residents shall be permitted in the monument where such uses

are traditional in accordance with the provisions of title VIII.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of Federal land, as generally depicted on map numbered BELA–90,005, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for acheological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations, of, fish and wildlife including, but not limited to, marine mammals, brown/grizzly bears, moose, and wolves; subject to such reasonable regulations as the Secretary may prescribe, to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance with sound range management practices; to protect the viability of subsistence resources; and in a manner consistent with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel during periods of adequate snow cover within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

(3) Cape Krusenstern National Monument, containing approximately five hundred and sixty thousand acres of Federal lands, as generally depicted on map numbered CAKR–90,007, and dated October 1979. The monument shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat for and populations of, birds, and other wildlife, and fish resources; and to protect the viability of subsistence resources. Subsistence uses shall be permitted in the monument in accordance with the provisions of title VIII.

(4) (a) Gates of the Arctic National Park, containing approximately seven million fifty-two thousand acres of Federal lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR–90,011 and dated July 1980.

The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering, and other wilderness recreational activities; and to protect habitat for and the populations of, fish and wildlife, including, but not limited to, caribou, grizzly bears, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII.

(b) Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this subsection.

(c) Upon the filing of an application pursuant to section 1104 (b), and (c) of this Act for a right-of-way across the Western (Kobuk River) unit of the preserve, including the Kobuk Wild and Scenic River, the Secretary shall give notice in the Federal Register of a thirty-day period for other applicants to apply for access.

(d) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act. Such analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. Such environmental and economic analysis shall be prepared in accordance with the procedural requirements of section 1104(e). The Secretaries in preparing the analysis shall consider the following—

(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer or less severe adverse impacts upon the preserve.

(ii) The environmental and social and economic impact of the right-of-way including impact upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(e) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of section 1107 of this Act.

(5) Kenai Fjords National Park, containing approximately five hundred and sixty-seven thousand acres of Federal lands, as generally depicted on map numbered KEFJ–90,007, and dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of mechanized equipment on the icefield for recreation.

(6) Kobuk Valley National Park, containing approximately one million seven hundred and ten thousand acres of Federal lands as generally depicted on map numbered KOVA–90,009, and dated October 1979. The park shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in an undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bears, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the park in accordance with the provisions of title VIII. Except at such times when, and locations where, to do so would be inconsistent with the purposes of the park, the Secretary shall permit aircraft to continue to land at sites in the upper Salmon River watershed.

(7) (a) Lake Clark National Park, containing approximately two million four hundred thirty-nine thousand acres of Federal lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of Federal lands, as generally depicted on map numbered LACL–90,008, and dated October 1978. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; to protect habitat for populations of fish and wildlife including but not limited to caribou, Dall sheep, brown/grizzly bears, bald eagles, and peregrine falcons.

(b) No lands conveyed to the Nondalton Village Corporation shall be considered to be within the boundaries of the park or preserve; if the corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner, and any such lands so acquired shall become part of the park or preserve, as appropriate. Subsistence uses by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of title VIII.

(8) (a) Noatak National Preserve, containing approximately six million four hundred and sixty thousand acres of Federal lands, as generally depicted on map numbered NOAT–90,004, and dated July 1980. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for, and populations of, fish and wildlife, including but not limited to caribou, grizzly bears, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

(b) All lands located east of centerline of the main channel of the Noatak River which are—

(1) within

(A) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the village of Noatak, and

(B) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph.

(2) adjacent to public lands within a unit

of the National Park System as designated under this Act, and

(3) not conveyed to such village or other Native Corporation before the final conveyance date, shall, on such final conveyance date, be added to and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the preceding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (1).

(9) Wrangell-Saint Elias National Park, containing approximately eight million one hundred and forty-seven thousand acres of Federal lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of Federal lands, as generally depicted on map numbered WRST-90,007, and date August 1980. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes, and streams, valleys, and coastal landscapes in their natural state; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals and to provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities. "Subsistence uses shall be permitted in the park, where such uses are traditional, in accordance with the provisions of Title VIII."

(10) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and thirteen thousand acres of Federal lands, as generally depicted on map numbered YUCH-90,008, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcons and other raptorial birds, caribou, moose, Dall sheep, grizzly bears, and wolves; and in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area. Except at such times when and locations where to do so would be inconsistent with the purposes of the preserve, the Secretary shall permit aircraft to continue to land at sites in the Upper Charley River watershed.

ADDITIONS TO EXISTING AREAS

SEC. 202. The following units of the National Park System are hereby expanded:

(1) Glacier Bay National Monument, by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional Federal land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978; furthermore, the monument is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect a segment of the Alsek River, fish and wildlife habitats and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather.

(2) Katmai National Monument, by the addition of an area containing approximately one million and thirty-seven thousand acres of Federal land. Approximately three hundred and eighty thousand acres of additional Federal land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,007 and dated July 1980; furthermore, the monument is hereby redesignated as "Katmai National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect habitats for, and populations of, fish and wildlife including, but not limited to, high concentrations of brown/grizzly bears and their denning areas; to maintain unimpaired the water habitat for significant salmon populations, and to protect scenic, geological, cultural and recreational features.

(3) (a) Mount McKinley National Park, by the addition of an area containing approximately two million four hundred and twenty-six thousand acres of Federal land, and approximately one million three hundred and thirty thousand acres of additional Federal land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980 and the whole is hereby redesignated as Denali National Park and Preserve. The park additions and preserve shall be managed for the following purposes, among others to protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations, and to protect habitat for, and populations of fish and wildlife including, but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wilderness recreational activities. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine. Subsistence uses by local residents shall be permitted in the additions to the park where such uses are traditional in accordance with the provisions in title VIII.

(b) The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park as generally depicted on a map entitled "Kantishna Hills/Dunkle Mine Study Area" dated October 1979, and report thereon to the Congress not later than three years from the date of enactment of this Act. The study and report shall evaluate the resources of the area, including but not limited to, fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and shall include those recommendations respecting resources and other relevant matters which the Council determines are necessary. In conjunction with the study required by this section, the Council, in consultation with the Secretary, shall compile information relating to the mineral potential of the areas encompassed within the study, the estimated cost of acquiring mining properties, and the environmental consequences of further mineral development.

(c) During the period of the study, no acquisition of privately owned land shall be permitted within the study area, except with the consent of the owner, and the holders of valid mining claims shall be permitted to operate on their claims, subject to reasonable regulations designed to minimize damage to the environment: *Provided, however*, That such lands or claims shall be subject to acquisition without the consent of the owner or holder if the Secretary determines, after notice and opportunity for hearing, if such notice and hearing are not otherwise required by applicable law or regulation, that activities on such lands or claims will significantly impair important scenic, wildlife, or recreational values of the public lands which are the subject of the study.

GENERAL ADMINISTRATION

SEC. 203. The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq), and, as appropriate, under section 1313 and the other applicable provisions of this Act: *Provided, however*, That hunting shall be permitted in areas designated as national preserves under the provisions of this Act. Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this Act, in national monuments and parks. Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park and Preserve or Glaciar Bay National Park and preserve, as appropriate.

NATIVE SELECTIONS

SEC. 204. Valid Native selections, or lands identified for selection by Regional Corporations pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act, within the boundaries of the Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and this Act.

COMMERCIAL FISHING

SEC. 205. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including the use of Federal lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges, except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a signicant expansion of the use of park lands beyond the level of such use during 1979.

WITHDRAWAL FROM MINING

SEC. 206. Subject to valid existing rights, and except as explicitly provided otherwise in this Act, the Federal lands within units of the National Park System established or expanded by or pursuant to this Act are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska Native Claims Set-

tlement Act except as specifically modified by section 12(b)(1) of Public Law 94-204 and section 1432(c) of this Act.

(2) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 302 or 303 of this Act;

(B) any existing unit of the National Wildlife Refuge System in Alaska not included within any unit referred to in subparagraph (A);

(C) any unit of the National Wildlife Refuge System established in Alaska after the date of the enactment of this Act; or

(D) any addition to any unit described in subparagraphs (A), (B), or (C) above.

ESTABLISHMENT OF NEW REFUGES

SEC. 302. The following are established as units of the National Wildlife Refuge System:

(1) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately three million five hundred thousand acres of public lands as generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge," dated October 1979 and shall include the lands on the Alaska Peninsula transferred to and made part of the refuge pursuant to section 1427 of this Act.

(B) The purposes for which the Alaska Peninsula National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, the Alaska Peninsula caribou herd, moose, sea otters and other marine mammals, shorebirds and other migratory birds, raptors, including bald eagles and peregrine falcons, and salmonoids and other fish;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) above, the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(2) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge," dated July 1980.

(B) The purposes for which the Becharof National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, salmon, migratory birds, the Alaskan Peninsula caribou herd and marine birds and mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(3) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The purposes for which the Innoko National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, peregrine falcons, other migratory birds, black bear, moose, furbearers, and other mammals and salmon;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(4) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and thirty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Kanuti National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, white-fronted geese and other waterfowl and migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), and furbearers;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(5) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Koyukuk National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their national diversity including, but not limited to, waterfowl and other migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), furbearers, and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(6) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on a map entitled "Nowitna National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Nowitna National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, trumpeter swans, white-fronted geese, canvasbacks and other waterfowl and migratory birds, moose, caribou, martens, wolverines and other furbearers, salmon, sheefish, and northern pike;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(7) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public land generally depicted on the map entitled "Selawik National Wildlife Refuge", dated July 1980. No lands conveyed to any Native Corporation shall be considered to be within the boundaries of the refuge; except that if any such corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner and any such acquired lands shall become public lands of the refuge.

(B) The purposes for which the Selawik National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Western Arctic caribou herd (including participation in coordinated ecological studies and management of these caribou), waterfowl, shorebirds and other migratory birds, and salmon and sheefish;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) The Secretary shall administer the refuge in such a manner as will permit reindeer grazing uses, including the construction and maintenance of necessary facilities and equipment within the areas, which on January 1, 1976, were subject to reindeer grazing permits.

(8) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred thousand acres of public land as generally depicted on a map entitled "Tetlin National Wildlife Refuge", dated July 1980. The northern boundary of the refuge shall be a line parallel to, and three hundred feet south, of the centerline of the Alaska Highway.

(B) The purposes for which the Tetlin National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, raptors and other migratory birds, furbearers, moose, caribou (including participation in coordinated ecological studies and management of the Chisana caribou herd), salmon and Dolly Varden;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence users by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in pargraph (i), water quality and necessary water quantity within the refuge;

(v) to provide, in a manner consistent with subparagraphs (i) and (ii), opportunities for interpretation and environmental education, particularly in conjunction with adjacent State visitor facilities.

(9) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of approximately nine million seven hundred and seventy thousand acres of public lands as generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Yukon Flats National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, canvasbacks and other migratory birds, Dall sheep, bears, moose, wolves, wolverines and other furbearers, caribou (including participation in coordinated ecological studies and management of the Porcupine and Fortymile caribou herds) and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner cosistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

ADDITIONS TO EXISTING REFUGES

SEC. 303. The following areas, consisting of existing refuges and the additions made thereto, are established or redesignated as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of eleven existing refuges, including all lands (including submerged lands), waters and interests therein which were a part of such refuges and are hereby redesignated as subunits of the Alaska Maritime National Wildlife Refuge; approximately four hundred and sixty thousand acres of additional public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the coastal areas and adjacent seas of Alaska, and an undetermined quantity of submerged lands, if any, retained in Federal ownership at the time of statehood around Kodiak and Afognak Islands, as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge," dated October 1979, including the—

(i) Chukchi Sea Unit—including Cape Lisburne, Cape Thompson, the existing Chamisso National Wildlife Refuge, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the Chukchi Sea, but excluding such other offshore public lands within the Bering Land Bridge National Preserve. That portion of the public lands on Cape Lisburne shall be named and appropriately identified as the "Ann Stevens-Cape Lisburne" subunit of the Chukchi Sea Unit;

(ii) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands) National Wildlife Refugee, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Punuk Islands, Egg Island, King Island, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the Bering Sea;

(iii) Aleutian Islands Unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands;

(iv) Alaska Peninsula Unit—including the existing Simeonof and Semidi National Wildlife Refuges, the Shumagin Islands, Sutwik Island, the islands and headlands of Puale Bay, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands south of the Alaska Peninsula from Katmai National Park to False Pass including such offshore lands incorporated in this unit under section 1427; and

(v) Gulf of Alaska Unit—including the existing Forrester Island, Hazy Islands, Saint Lazaria and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor Island, Pye and Chiswell Islands, Ragged, Natoa, Chat, Chevel, Granite and Middleton Islands, the Trinity Islands, all named and unnamed islands, islets, rocks, reefs, spires, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood surrounding Kodiak and Afognak Islands and all other such public lands on islands islets, rocks, reefs, spires and designated capes and headlands within the Gulf of Alaska, but excluding such lands within existing units of the National Park System, Nuka Island and lands within the National Forest System except as provided in section 1427 of this Act.

(B) The purposes for which the Alaska Maritime National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents;

(iv) to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Any lands acquired pursuant to section 1417 of this Act shall be included as public lands of the Alaska Maritime National Wildlife Refuge.

(2) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of the existing Arctic National Wildlife Range including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood and an addition of approximately nine million one hundred and sixty thousand acres of public lands, as generally depicted on a map entitled "Arctic National Wildlife Refuge," dated August 1980.

(B) The purposes for which the Arctic National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(3) IZEMBEK NATIONAL WILDLIFE REFUGE.—(A) The existing Izembek National Wildlife Range including the lands, waters and interests of that unit which shall be redesignated as the Izembek National Wildlife Refuge.

(B) The purposes for which the Izembek National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(4) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of the existing Kenai National Moose Range, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as the Kenai National Wildlife Refuge, and an addition of approximately two hundred and forty thousand acres of public lands as generally depicted on the map entitled "Kenai National Wildlife Refuge," dated October 1978, excluding lands described in P.L.O. 3953, March 21, 1966, and P.L.O. 4056, July 22, 1966, withdrawing lands for the Bradley Lake Hydroelectric Project.

(B) The purposes for which the Kenai National Wildlife Refuge is established and shall be managed, include—

(i) to conserve fish and widlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(ii) to ensure, to the maxmum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge;

(iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and

(v) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife-oriented recreation.

(5) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the existing Kodiak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which is redesignated as the Kodiak Island Unit of the Kodiak National Wildlife Refuge, and the addition of

all public lands on Afognak and Ban Islands of approximately fifty thousand acres as generally depicted on the map entitled "Kodiak National Wildlife Refuge," dated October 1978. The described public lands on Afognak Island are those incorporated in this refuge from section 1427 of this Act.

(B) The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonoids, sea otters, sea lions and other marine mammals and migratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(6) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of the existing Cape Newenham National Wildlife Refuge, including lands, waters, and interests therein, which shall be redesignated as a unit of the Togiak National Wildlife Refuge, and an addition of approximately three million eight hundred and forty thousand acres of public lands, as generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Togiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, salmonoids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(7) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of the existing Clarence Rhode National Wildlife Range, Hazen Bay National Wildlife Refuge, and Nunivak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as units of the Yukon Delta National Wildlife Refuge and the addition of approximately thirteen million four hundred thousand acres of public lands, as generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Yukon Delta National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds, salmon, muskox, and marine mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local rural residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within areas where such use is, and in a manner which is, compatible with the purposes of this refuge.

(D) Subject to reasonable regulation, the Secretary shall administer the refuge so as to not impede the passage of navigation and access by boat on the Yukon and Kuskokwim Rivers.

ADMINISTRATION OF REFUGES

SEC. 304. (a) Each refuge shall be administered by the Secretary, subject to valid existing rights, in accordance with the laws governing the administration of units of the National Wildlife Refuge System, and this Act.

(b) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose described in such section 4(d) unless such use (including but not limited to any oil and gas leasing permitted under paragraph (2)) or purpose is compatible with the purposes of the refuge. The Secretary shall prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that activities carried out under any use or easement granted under any authority are so compatible.

(c) All public lands (including whatever submerged lands, if any, beneath navigable waters of the United States (as that term is defined in section 1301(a) of title 43, United States Code) were retained in Federal ownership at the time of statehood) in each National Wildlife Refuge and any other National Wildlife Refuge System unit in Alaska are hereby withdrawn, subject to valid existing rights, from future selections by the State of Alaska and Native Corporations, from all forms of appropriation or disposal under the public land laws, including location, entry and patent under the mining laws but not from operation of mineral leasing laws.

(d) The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges: *Provided*, That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.

(e) Where compatible with the purposes of the refuge unit, the Secretary may permit, subject to reasonable regulations and in accord with sound fisheries management principles, scientifically acceptable means of maintaining, enhancing, and rehabilitating fish stock.

(f) (1) The Secretary is authorized to enter into cooperative management agreements with any Native Corporation, the State, any political subdivision of the State, or any other person owning or occupying land which is located within, or adjacent or near to, any national wildlife refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner or occupant in a manner compatible with the major purposes of the refuge to which such land pertains including the opportunity for continuation of subsistence uses by local rural residents.

(2) Each agreement shall—

(A) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (f)(1);

(B) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(C) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(D) set forth those services or other consideration which the Secretary agrees to provide the owner or occupant in return for the owner or occupant entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife and the protection, maintenance and enhancement of any special values of the land subject to the agreement;

(E) set forth such additional terms and conditions as the Secretary and the owner or occupant may agree to as being necessary and appropriate to carry out the management goals as set forth in subsection (f)(1); and

(F) specify the effective period of the agreement.

(g)(1) The Secretary shall prepare, and from time to time revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the fish and wildlife resources of the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, scenic, or wilderness value of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1305 and 1306 of this Act;

(D) present and potential requirements for access with respect to the refuge, as provided for in title XI; and

(E) significant problems which may adversely affect the populations and habitats of fish and wildlife identified and described under subparagraph (A).

(3) Each plan shall—

(A) be based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values;

(ii) specify the programs for conserving fish and wildlife and the programs relating to maintaining the values referred to in paragraph (2)(B), proposed to be implemented within each such area; and

(iii) specify the uses within each such area which may be compatible with the major purposes of the refuge; and

(B) set forth those opportunities which will be provided within the refuge for fish and wildlife-oriented recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the purposes of the refuge.

(4) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of local villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan or revisions.

(5) Before adopting a plan for any refuge, the Secretary shall issue public notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service and provide opportunity for public views and comment on the plan.

(6) With respect to refuges established, redesignated, or expanded by sections 302 or 303 the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date;

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment; and

(D) in the case of any refuge established, redesignated, or expanded by this title with respect to which a wilderness review is required under this Act, at the same time the President submits his recommendation concerning such unit under such section to the Congress, the Secretary shall submit to the appropriate committees of the Congress the conservation plan for that unit.

PRIOR AUTHORITIES

SEC. 305. All proclamations, Executive orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by or described in sections 302 or 303, be included within such refuge. All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

SPECIAL STUDY

SEC. 306. (a)(1) The Congress finds that the barren-ground caribou are a migratory species deserving of careful study and special protection, and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance.

(2) The Secretary of the Interior shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, an ecological study of the barren-ground caribou herds north of the Yukon River and the herds that have been known to migrate between the United States and Canada, including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, composition and age structure, behavioral characteristics, habitats (including but not limited to calving, feeding, summering and wintering areas, and key migration routes) that are critical to their natural stability and productivity and the effects on the herds of development by man, predation, and disease. In conducting this study the Secretary shall review the experience of other Arctic circumpolar countries with caribou and is authorized to enter into such contracts as he deems necessary to carry out portions or all of this study.

TITLE IV—NATIONAL CONSERVATION AREA AND NATIONAL RECREATION AREA

ESTABLISHMENT OF STEESE NATIONAL CONSERVATION AREA

SEC. 401. (a) In order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality, the Steese National Conservation Area is hereby established.

(b) The Steese National Conservation Area shall include approximately one million two hundred twenty thousand acres of Federal lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

SEC. 402. (a) The Secretary, through the Bureau of Land Management, shall administer the Steese National Conservation Area established in section 401 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 403.

(b) No public lands within the national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181–287) or the Materials Act of 1947, as amended (30 U.S.C. 601–603). Subject to valid existing rights, the minerals in Federal lands within national conservation areas are hereby withdrawn from location, entry, and patent under the United States mining laws (30 U.S.C. 22–54). Where consistent with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22–54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 403. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of Federal lands, as generally depicted on the map entitled "White Mountains National Recreation Area—proposed", and dated October 1978. The Secretary shall administer the area in accordance with the provisions of section 1312 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

SEC. 404. (a) The term "unperfected mining claim" as used in this section, means a mining claim which is located on lands within the boundaries of the White Mountains National Recreation Area or Steese National Conservation Area established pursuant to this title with respect to which a valid mineral discovery within the meaning of the mining laws of the United States, was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

(b) MORATORIUM ON CONTEST PROCEEDINGS.—Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided*, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the Steese National Conservation Area or the White Mountains National Recreation Area or any affected conservation system units established or expanded by this Act.

(c) VALID MINERAL DISCOVERY.—If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided*, That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

(d) VALIDITY DETERMINATION.—If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1982, the validity of each claim shall be determined as of the date of the patent application or September 30, 1982, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1982, shall submit to the Secretary within one hundred and eighty days after such date all mineral data compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided for in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) ACCESS TO CLAIMS.—Pursuant to the provisions of this section and section 1110 of this Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982.

(f) PREFERENCE RIGHTS.—The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on lands located within the boundaries of the Steese National Conservation Area, or the White Mountains National Recreation Area established by this title, shall be entitled during a two-year period after the date that the Secretary exercises his authority under section 402 or 1312 to open an area containing such claim to mining, (1) to a preference right to rerecord his claim under applicable law and to develop such claim under section 402 or (2) to obtain a lease to remove nonleasable minerals from the claim under section 1312.

TITLE V—NATIONAL FOREST SYSTEM

ADDITIONS TO EXISTING NATIONAL FORESTS

SEC. 501. (a) The following units of the national forest system are hereby expanded:

(1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately one million nine hundred thousand acres of Federal land, as generally depicted on the map entitled, "Chugach National Forest additions—proposed", and dated October 1978; and

(2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres of Federal lands, as generally depicted on the map entitled "Tongass National Forest additions—proposed", and dated October 1978.

(b) Lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978. *Provided*, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary.

MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

SEC. 502. Subject to valid existing rights, the minerals in Federal lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and the Act of March 4, 1917 (39 Stat. 1150; 16 U.S.C. 520), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the areas. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

SEC. 503. (a) There is hereby established within the Tongass National Forest, the Misty Fjords National Monument, containing approximately two million two hundred and eighty-five thousand acres of Federal lands as generally depicted on a map entitled "Misty Fjords National Monument—Proposed", dated July 1980.

(b) There is hereby established within the Tongass National Forest, the Admiralty Island National Monument, containing approximately nine hundred and twenty-one thousand acres of Federal lands as generally depicted on a map entitled "Admiralty Island National Monument—Proposed", dated July 1980.

(c) Except as provided in this section, the National Forest Monuments (hereinafter in this section referred to as the "Monuments") shall be managed by the Secretary of Agriculture as units of the National Forest System to protect objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.

(d) Within the Monuments, the Secretary shall not permit the sale of harvesting of timber: *Provided*, That nothing in this subsection shall prevent the Secretary from taking measures as may be necessary in the control of fire, insects, and disease.

(e) For the purposes of granting rights-of-way to occupy, use or traverse public land within the Monuments pursuant to title XI, the provisions of section 1106(b) of this Act shall apply.

(f)(1) Subject to valid existing rights and the provisions of this Act, the lands within the Monuments are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, including location, entry, and patent under United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations;

(2)(A) After the date of enactment of this Act, any person who is the holder of any valid mining claim on public lands located within the boundaries of the Monuments, shall be permitted to carry out activities related to the exercise of rights under such claim in accordance with reasonable regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which the Monuments were established.

(B) For purposes of determining the validity of a minimum claim containing a sufficient quantity and quality of mineral as of November 30, 1978, to establish a valuable deposit within the meaning of the mining laws of the United States within the Monuments, the requirements of the mining laws of the United States shall be construed as if access and mill site rights associated with such claim allow the present use of the Monuments' land as such land could have been used on November 30, 1978.

(g) MINING IN THE PARKS ACT.—The Act of September 28, 1976 (Public Law 94-249), shall not apply to the Monuments.

(h) (1) Any special use permit for a surface access road for bulk sampling of the mineral deposit at Quartz Hill in the Tongass National Forest shall be issued in accordance with this subsection.

(2) The Secretary of Agriculture, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, shall prepare a document which analyzes mine development, concepts prepared by United States Borax and Chemical Corporation on the proposed development of a molybdenum mine in the Quartz Hill area of the Tongass National Forest. The draft of such documents shall be completed within six months after the date of enactment of this Act and be made available for public comment. The analysis shall be completed within nine months after the date of enactment and the results made available to the public. This analysis shall include detailed discussions of but not necessarily be limited to—

(A) the concepts which are under consideration for mine development;

(B) the general foreseeable potential environmental impacts of each mine development concept and the studies which are likely to be needed to evaluate and otherwise address those impacts; and

(C) the likely surface access needs and routes for each mine development concept.

(3) The Secretary shall prepare an environmental impact statement (EIS) under the National Environmental Policy Act of 1969 which covers an access road for bulk sampling purposes and the bulk sampling phase proposed by United States Borax and Chemical Corporation in the Quartz Hill area. A draft of such EIS shall be completed within twelve months after the date of enactment of this Act. This EIS shall incorporate all relevant data and other information included in the EIS previously prepared by the Secretary on access to the Quartz Hill area. Such EIS shall also include but not necessarily be limited to—

(A) an evaluation of alternative surface access routes which may minimize the overall impact on fisheries of both access for bulk sampling and mine development access;

(B) an evaluation of the impacts of the alternatives on fish, wildlife, and their habitats, and measures which may be instituted to avoid or minimize negative impacts and to enhance positive impacts;

(C) an evaluation of the extent to which the alternatives can be used for, and the likelihood of each alternative being used as a mine development road, including the impacts of widening a road, realinements and other design and placement options;

(D) plans to evaluate the water quality and water quantity, fishery habitat, and other fishery values of the affected area, and to evaluate, to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under a plan of operations of the fishery habitat as it affects the various life stages of anadromous fish and other food-fish and their major food chain components.

(4) (A) Within four months after the publication of the final environmental impact statement required in subsection (h)(3), the Secretary shall complete any administrative review of a decision on the proposal covered by the EIS and shall issue to the applicant a special use permit for a surface access road for bulk sampling unless he shall determine that construction or use of such a road would cause an unreasonable risk of significant irreparable damage to the habitats of viable populations of fish management indicator species and the continued productivity of such habitats. If the applicant should seek judicial review of any denial of the permit for a surface access road, the burden of proof on the issue of denying the permit shall be on the Secretary.

(B) The Secretary shall not issue a special use permit until after he has determined that the full field season of work for gathering base line data during 1981 has ended.

(5) It is the intent of Congress that any judicial review of any administrative action pursuant to this section, including compliance with the National Environmental Pol-

icy Act of 1969, shall be expedited to the maximum extent possible. Any proceeding before a Federal court in which an administrative action pursuant to this section, including compliance with the National Environmental Policy Act of 1969, is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days after the date the response to such challenge is filed unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(6) When such activities are not compatible with wilderness, the Secretary of Agriculture shall, consistent with the provisions of section 1110(b), and based upon his findings, permit use of that land necessary within the Misty Fjords National Monument Wilderness for activities associated with development of the mineral deposit at Quartz Hill, including, but not limited to (1) navigation aids, (2) docking facilities, and (3) staging and transfer facilities.

(7) Within the Misty Fjords National Monument Wilderness the Secretary of Agriculture shall, to the extent he finds necessary, allow salvage, cleanup, or other activity related to the development of the mineral deposit at Quartz Hill, including activities necessary due to emergency conditions.

(8) Designation of the Misty Fjords National Monument Wilderness shall not result in any new substantive or procedural requirements regarding the use of offshore waters adjacent to the Monument Wilderness for the disposal of mine tailings or access related to the development of the mineral deposit at Quartz Hill.

(i)(1) With respect to the mineral deposits at Quartz Hill and Greens Creek in the Tongass National Forest, the holders of valid mining claims under subsection (f)(2)(B) shall be entitled to a lease (and necessary associated permits) on lands under the Secretary's jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from such claims situated within the Monuments only if the Secretary determines—

(A) that milling activities necessary to develop such claims cannot be feasibly carried out on such claims or on other land owned by such holder; and

(B) that the use of the site to be leased will not cause irreparable harm to the Misty Fjords or the Admiralty Island National Monument; and

(C) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

With respect to any lease issued under this subsection, the Secretary shall limit the size of the area covered by such lease to an area he determines to be adequate to carry out the milling process for the mineral bearing material on such claims.

(2) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

(3) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or,

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(j) Special Use Permits and Facilities.—Permits issued by the Forest Service, before the date of the enactment of this Act, for a dwelling or campsite in the Admiralty Island National Monument, Misty Fjords National Monument, or any wilderness area, shall expire not later than ten years after the date of enactment of this Act, except that the Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either—

(1) fifteen years after the date of enactment of this Act, or

(2) the lifetime of the permittee, as designated in such permit as of January 1, 1979, or the surviving spouse or child of such permittee, whoever lives longer,

so long as the management of the lodge remains consistent with the purposes of the Admiralty Island National Monument.

UNPERFECTED MINING CLAIMS IN MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

Sec. 504. (a) Definitions.—As used in this section:

(1) The term "unperfected claim" means a mining claim:

(A) which is within the Misty Fjords or Admiralty Island National Monuments;

(B) with respect to which a valid mineral discovery, within the meaning of the mining laws of the United States, was not made as of November 30, 1978; and,

(C) which was, as of such date, properly located, recorded, and maintained.

(2) The term "core claim" means—

(A) a patented mining claim; or,

(B) an unpatented mining claim which—

(i) contained a valid mineral discovery within the meaning of the mining laws of the United States as of November 30, 1978, and

(ii) was, as of such date, properly located, recorded, and maintained.

(b) Entitlement.—Any holder of an unperfected mining claim who meets the requirements of this section shall be entitled as provided in this section—

(1) To receive an exploration permit with respect to such claim, and

(2) To receive a patent only to the minerals upon making a valid mineral discovery on such claim within the meaning of the mining laws of the United States.

(c) Exploration Permits.—

(1) Permits authorizing the exploration of an unperfected mining claim shall be issued by the Secretary under this section upon application under subsection (d) if the Secretary determines that—

(A) an application for such permit has been submitted within two-hundred-seventy days after that date of the enactment of this Act and such application meets the requirements of subsection (d);

(B) the unperfected claim is within three-quarters of a mile of the exterior boundary of one or more core claims, and both the unperfected claim and core claim were held by the applicant as of May 1, 1979 (or were acquired by such applicant after such date by inheritance or devise); and,

(C) the core claim and the unperfected claim which is within the area referred to in subsection (B) are properly located, recorded, and maintained, to the extent required by law, as of the date of the Secretary's determination under this subsection.

(2)(A) each exploration permit issued under this section shall terminate on the date five years after the date of the enactment of this Act, or where applicable, the date provided under subparagraph (c)(2)(B).

(B) for any permit applicant, with respect to which the Secretary fails to meet the eighteen-month deadline under subsection (d) for any reason (including delays caused by administrative or judicial proceedings) beyond the control of the applicant, the exploration permit issued under this section shall terminate at the end of the period (after expiration of the five-years referred to in subparagraph (c)(2)(A)) as is equal to the time during which the Secretary failed to meet such deadline.

(3) Any permit under this section shall include such reasonable conditions and stipulations as may be required by the Secretary.

(d) Applications for Exploration Permits.—An application under subsection (b) shall contain—

(1) the applicant's name, address, and telephone number;

(2) the name of the claim, the date of location of the claim, the date of recordation of the claim, and the serial number assigned to such claim under the Federal Land Policy and Management Act of 1976, and

(3) evidence that the requirements of subparagraphs (B) and (C) of subsection (c)(1) are met.

Upon the Secretary's determination that the requirements of subsection (c) are met with respect to any claim, the Secretary shall issue an exploration permit for such claim not later than eighteen months after the date on which he receives the application under this subsection concerning such claim.

(e) Valid Mineral Discovery.—

(1) If the holder of an unperfected mining claim for which an exploration permit was issued under this section notifies the Secretary before the expiration of such permit, that he has made a valid mineral discovery within the meaning of the mining laws of the United States on such claim, and if it is determined that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States, together with a right to use so much of the surface of the lands on such claim as may be necessary for mining and milling purposes, subject to such reasonable regulations as the Secretary may prescribe for general application to mining and milling activities within the National Forest System.

(2) Any unperfected claim for which an exploration permit under this section was issued shall be conclusively presumed to be abandoned and shall be void upon expiration of such permit unless the owner of such claim has notified the Secretary in writing as provided in paragraph (e)(1).

(f) Leases for Milling Purposes.—

(1) The Secretary may issue leases (and necessary associated permits) on lands under the jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from any valid mining claim situated within the Misty Fjords or Admiralty Island National Monuments.

(2) A lease may be issued under this subsection if the Secretary determines—

(A) that the use of the site to be leased will not cause irreparable harm to the Monument; and,

(B) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

(3) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

(4) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(g) Access to Mining Claims.—The holder of an unperfected mining claim with respect to which a valid mineral discovery is made under an exploration permit under this section shall be entitled to the same access rights as the holder of a valid mining claim is entitled to under section 1110. The holder of the unperfected claim with respect to which an exploration permit is in effect under this section shall be entitled to such adequate access, as described in section 1110 as may be necessary to carry out exploration under such permit.

(h) PUBLIC NOTICE.—The Secretary shall provide public notice of the requirements of this section not later than ninety days after the date of the enactment of this Act.

(i) SAVINGS PROVISION.—

(1) Nothing in this section shall impair any valid existing right.

(2) Nothing in this section diminishes authorities of the Secretary under any other provision of law to regulate mining activities.

(3) Nothing in this section shall be construed to affect, in any way, any other provision of Federal law outside the State of Alaska.

(j) This section shall not apply to any unperfected mining claim which is located within one mile of the center line of the Blossom River from its headwaters to its confluence with the Wilson Arm.

FISHERIES ON NATIONAL FOREST LANDS IN ALASKA

SEC. 505. (a) The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection.

(b) Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine—

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the national stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values; and

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat and anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations.

(4) (A) The Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats.

(B) The Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities.

(5) Upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Except as specifically provided in subsection (b) (5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

ADMIRALTY ISLAND LAND EXCHANGES

SEC. 506. (a) (1) Congress hereby recognizes the necessity to reconcile the national need to preserve the natural and recreational values of the Admiralty Island National Monument with the economic and cultural needs and expectations of Kootznoowoo, Incorporated, and Sealaska, Incorporated, as provided by the Alaska Native Claims Settlement Act and this Act.

(2) Nothing in this section shall affect the continuation of the opportunity for subsistence uses by residents of Admiralty Island, consistent with title VIII of this Act.

(3) Subject to valid existing rights, there is hereby granted to Kootznoowoo, Incorporated—

(A) all right, title, and interest in and to the following described lands, rocks, pinnacles, islands, and islets above mean high tide:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, 36;

Township 50 south, range 68 east, sections 30, 31, and that portion of section 32 south of Favorite Bay;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13;

Township 51 south, range 68 east, that portion of section 5 south of Favorite Bay, sections 6, 7, and 8, west half of section 9, northwest quarter of section 16; and north half of section 17;

subject to those subsurface interests granted to Sealaska, Incorporated, in paragraph 7 herein, and subject to any valid existing Federal administrative sites within the area.

(B) The right to develop hydroelectric resources on Admiralty Island within township 49 south, range 67 east, and township 50 south, range 67 east, Copper River Base and Meridian, subject to such conditions as the Secretary of Agriculture shall prescribe for the protection of water, fishery, wildlife, recreational, and scenic values of Admiralty Island.

(C) All rights, title, and interest in and to the rocks, pinnacles, islands, and islets, and all the land from the mean high tide mark to a point six hundred and sixty feet inland of all shorelands, excluding the shores of lakes, in and adjacent to the inland waters from Kootznahoo Inlet to the rangeline separating range 68 east and range 69 east, Copper River Base and Meridian, and including those parts of Mitchell, Kanalku, and Favorite Bays west of that line, subject to the following reserved rights of the United States:

(i) All timber rights are reserved subject to subsistence uses consistent with title VIII of this Act.

(ii) The right of public access and use within such area, subject to regulation by the Secretary of Agriculture to insure protection of the resources, and to protect the rights of quiet enjoyment of Kootznoowoo, Incorporated, granted by law, including subsistence uses consistent with title VIII of this Act.

(iii) The subsurface estate.

(iv) The development rights, except that the Secretary of Agriculture is authorized to permit construction, maintenance, and use of structures and facilities on said land which he determines to be consistent with the management of the Admiralty Island National Monument: *Provided*, That all structures and facilities so permitted shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape.

(D) Any right or interest in land granted or reserved in paragraphs (3) (A, B, and C) shall not be subject to the provisions of the Wilderness Act.

(E) The Secretary of Agriculture shall consult and cooperate with Kootznoowoo, Incorporated, in the management of Mitchell, Kanalku, and Favorite Bays, and their immediate environs, and the Secretary is authorized to enter into such cooperative arrangements as may further the purposes of this Act and other provisions of law, concerning, but not limited to: permits for any structures and facilities, and the allocation of revenues therefrom; regulation of public uses; and management of the recreational and natural values of the area.

(4) Subject to valid existing rights, Kootznoowoo, Incorporated is granted all right, title, and interest to the surface estate of twenty acres to be selected in one reasonably compact contiguous block in Basket Bay, township 48 south, range 65 east, sections 29, 30, 31, 32, and 33. Upon selection, the Secretary of the Interior shall issue an appropriate instrument of conveyance, subject to any trail easement which the Secretary of Agriculture may designate.

(5) Subject to valid existing rights, there is hereby withdrawn for the herein provided selection by Kootznoowoo, Incorporated, the following lands described by Value Comparison Units (VCU's) in the Tongass National Forest Land Management Plan; VCU's 677, 678, 680, 681, 682, and that portion of VCU 679 outside the area of the Lancaster Cove-Kitkun Bay Timber Sale, as such sale has been delineated by the United States Forest Service.

(A) Within one year of this Act, Kootznoowoo, Incorporated, shall select the surface estate to twenty-one thousand four hundred and forty acres from the lands withdrawn. The selection of such lands will be in compact tracts described in aliquot parts in accordance with the Alaska Native Claims Settlement Act land selection regulations of the Bureau of Land Management: *Provided*, That the Secretary of Agriculture may reserve for the benefit of the United States such easements as he deems necessary for access to and utilization of adjacent Federal or State lands. All timber within the confines of such easements shall be the property of Kootznoowoo, Incorporated; all rock, sand, and gravel within such easements shall be available to the Secretary of Agriculture without charge. The Secretary of the Interior shall issue appropriate documents of conveyance subject to and incorporating any easements designated by the Secretary of Agriculture. After conveyance to Kootznoowoo, Incorporated, of the twenty-one thousand four hundred and forty acres, with any designated easements, the herein provided withdrawal on the remaining public lands shall terminate.

(B) Subject to valid existing rights, the subsurface estate in the lands conveyed to Kootznoowoo, Incorporated, pursuant to paragraph (5) shall be granted to Sealaska, Incorporated.

(6) Nothing in this Act shall restrict the authority of the Secretary of Agriculture to exchange lands or interests therein with Kootznoowoo, Incorporated, pursuant to section 22(f) of the Alaska Native Claims Settlement Act, or other land acquisition or exchange authority applicable to the National Forest System.

(7) Subject to valid existing rights, all right, title, and interest to the subsurface estate of the following described lands shall be granted to Sealaska, Incorporated:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, and 36;

Township 50 south, range 68 east, sections 30, 31;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13;

Township 51 south, range 68 east, sections 6 and 7; comprising one thousand six hundred acres, more or less.

(8) (A) The provisions of this section shall take effect upon ratification by appropriate resolution of all its terms by Kootznoowoo, Incorporated, or by its failure to take any action, within one hundred and eighty days of enactment of this Act. In the event that Kootznoowoo, Incorporated, disapproves by appropriate resolution the provisions of this section, this section shall be of no force and effect and Kootznoowoo, Incorporated, shall be entitled to its previous land selections on Admiralty Island pursuant to section 16 of the Alaska Native Claims Settlement Act.

(B) In the event that the provisions of this section are duly ratified by Kootznoowoo, Incorporated, the lands, interests therein, and rights conveyed by this section shall constitute full satisfaction of the land entitlement rights of Kootznoowoo, Incorporated, and SEAlaska, Incorporated, and be deemed to have been conveyed pursuant to the Alaska Native Claims Settlement Act, and shall supersede and void all previous land selections of Kootznoowoo, Incorporated, pursuant to section 16 of that Act, and any previous subsurface rights of SEAlaska, Incorporated on Admiralty Island not otherwise conveyed by this Act.

(C) Prior to the issuance of any instruments of conveyance, the Secretary of Agriculture and Kootznoowoo, Incorporated, may, by mutual agreement, modify the legal descriptions herein to correct clerical errors.

(b) The Secretary is authorized and directed to convey to Goldbelt, Incorporated, representing the Natives of Juneau with respect to their land entitlement under section 14(h)(3) of the Alaska Natives Claims Settlement Act, and to SEAlaska, Incorporated, the lands and interests in lands described in paragraphs A and C of the Exchange Agreement, dated April 11, 1979, between those Corporations and the Departments of Agriculture and of the Interior on the terms of and conditions set forth in such agreement. Such conveyances shall not be subject to the provisions of the National Environment Policy Act of 1969 (83 Stat. 852), as amended. The terms of the Exchange Agreement, as filed with the Committee on Interior and Insular Affairs of the House of Representatives, are hereby ratified as to the duties and obligations of the United States and its agencies, Goldbelt, Incorporated, and SEAlaska, Incorporated, as a matter of Federal law: *Provided*, That the agreement may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress.

(c) (1) In satisfaction of the rights of the Natives of Sitka, as provided in section 14 (h) (3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior, upon passage of this Act, shall convey subject to valid existing rights and any easments designated by the Secretary of Agriculture, the surface estate in the following described lands on Admiralty Island to Shee Atika, Incorporated:

Copper River Meridian, Alaska

Township 45 south, range 66 east,

Sections 21, south half of the southeast quarter; 22, east half of the southwest quarter and southwest quarter of the southwest quarter; 26, southwest quarter of the southwest quarter; 27, south half of the south half, and northwest quarter of the southwest quarter, and the west half of the northwest quarter; 28, all; 29, south half of the south half of the north half; 33, east half and east half of the west half and the southwest quarter of the southwest quarter; 34, all, excluding Peanut Lake; 35, west half of the west half;

Township 46 south, range 66 east,

Sections 1, southeast quarter of the southeast quarter, and the south half of the northwest quarter, and the north half of the southeast quarter, and the southwest quarter excluding Lake Kathleen; 2, south half excluding Lake Kathleen, and the south half of the north half excluding Lake Kathleen, and the northwest quarter of the northwest quarter; 3, all excluding Peanut Lake and Lake Kathleen; 4, west half, and the west half of the east half, and southeast quarter of the southeast quarter, and the east half of the northeast quarter, excluding Peanut Lake; 10, east half, excluding Lake Kathleen; 11, northwest quarter of the northwest quarter, excluding Lake Kathleen, and the northeast quarter of the northeast quarter, and south half of the southwest quarter; 12, north half excluding Lake Kathleen; 14, west half and southwest quarter of the southeast quarter; 15, north half of the northeast quarter and southeast quarter of the northeast quarter; 22, east half of the northeast quarter and northeast quarter of the southeast quarter; 23, west half and southeast quarter, and south half of the northeast quarter and northwest quarter of the northeast quarter; 24, southwest quarter of the southwest quarter; 25, all; 26, northeast quarter; 35, east half and east half of the southwest quarter, and southeast quarter of the northwest quarter; 36, north half, and north half of the south half;

Township 47 south, range 66 east,

Sections 2, east half and the east half of the west half; 11, south half excluding Lake Florence, and northeast quarter, and east half of the northwest quarter; 12, south half excluding Lake Florence, and the south half of the northwest quarter; 13, south half and the south half of the northeast quarter, and the southeast quarter of the northwest quarter, and the north half of the northwest quarter, excluding Lake Florence, and the northeast quarter of the northeast quarter, excluding Lake Florence; 14, north half of the north half excluding Lake Florence, and the east half of the southeast quarter; 23, northeast quarter of the northeast quarter; 24, north half of the north half;

Township 45 south, range 67 east,

Sections 21, southeast quarter of the southeast quarter; 22, south half of the southwest quarter; 27, west half of the west half, and east half of the northwest quarter, and the northeast quarter of the southwest quarter; 28, southeast quarter, and the south half of the northeast quarter, and the northeast quarter of the northeast quarter; 31, south half of the southeast quarter; 32, south half; 33, southwest quarter, and the south half of the northwest quarter, and the northeast quarter, and the north half of the southeast quarter, and the southwest quarter of the southeast quarter; 34, northwest quarter of the northwest quarter;

Township 46 south, range 67 east

Sections 4, northwest quarter, and the west half of the northeast quarter; 5, north half and the north half of the south half, and the southwest quarter of the southwest quarter; 6, south half, and the northeast quarter, and the southeast quarter of the northwest quarter; 7, north half of the north half; 8, northwest quarter of the nothwest quarter; 11, south half of the south half, and the north half of the southeast quarter; and the southeast quarter of the northeast quarter; 12, north half of the south half, and the south half of the north half; 14, west half, and the northeast quarter, and the northwest quarter of the southeast quarter; 15, southeast quarter, and the southeast quarter of the northeast quarter, and the southeast quarter of the southwest quarter; 19, south half of the south half, and the north half of the southeast quarter, and the northeast quarter of the southwest quarter; 20, south half; 21, south half, and south half of the north half; 22, west half, and the west half of the east half, and the east half of the northeast quarter, and the northeast quarter of the southeast quarter, 23, west half, and the southeast quarter, and the southwest quarter of the northeast quarter; 26, north half of the northeast quarter; 27, north half of the northwest quarter, and the northwest quarter of the northeast quarter; 28, north half, and the north half of the southwest quarter, and the northwest quarter of the southeast quarter, and the southwest quarter of the southwest quarter; 29, all; 30, all; 31, northwest quarter and the west half of the northeast quarter;

Township 47 south, range 67 east

Section 1, northwest quarter, and the west half of the northeast quarter; 2, north half of the south half, and the south half of the north half; 3, south half, and the southeast quarter of the northeast quarter; 7, north half of the northeast quarter, and the northeast quarter of the northwest quarter, and the south half excluding Lake Florence, and the south half of the north half excluding Lake Florence; 8, all, excluding Lake Florence; 9, southwest quarter excluding Lake Florence, and the west half of the northwest quarter excluding Lake Florence, and the northeast quarter of the northwest quarter excluding Lake Florence, and the west half of the east half, and the east half of the northeast quarter, and the southeast quarter of the southeast quarter; 10, north half of the northwest quarter; 15, west half of the southwest quarter; 16, west half, and the west half of the northeast quarter, and the north half of the southeast quarter, and the southeast quarter of the southeast quarter; 17, all; 18, all.

Concurrently with this conveyance, the Secretary shall convey the subsurface estate in the above described lands to Sealaska, Inc. As a condition to such conveyances, Shee Atika Incorporated, shall release any claim to land selections on Admiralty Island other than those lands described in this subsection, and Sealaska, Inc., shall release any claim to subsurface rights on Admiralty Island which correspond to the land selection rights released by Shee Atika.

(2) In the instrument of conveyance provided for in paragraph (1), the Secretary of the Interior shall reserve such easements as are described in section 17(b)(1) of the Alaska Native Claims Settlement Act, as the Secretary of Agriculture may designate for public access to and utilization of the adjacent Federal lands.

(d) In recognition of the considerable land selection costs incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act, and in identifying suitable lands for exchange outside Admiralty Island, the Secretary of the Interior shall reimburse those corporations for such reasonable and necessary land selection costs, including all costs for negotiating land exchanges, court costs, and reasonable attorney's and consultant's fees, incurred prior to the date of conveyance of land to such Native corporations. Authorization for payment of such land selection costs shall begin in the fiscal year 1981, but shall include earlier costs. There is authorized to be appropriated an amount not to exceed $2,000,000, for the purposes of this subsection.

COOPERATIVE FISHERIES PLANNING

Sec. 507. (a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

TITLE VI—NATIONAL WILD AND SCENIC RIVERS SYSTEM

Part A—Wild and Scenic Rivers Within National Park System

ADDITIONS

Sec. 601. Designation.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(25) Alagnak. Alaska.—That segment of the main stem and the major tributary to the Alagnak, the Nonivianuk River, within Katmai National Preserve; to be administered by the Secretary of the Interior.

"(26) Alatna, Alaska.—The main stem within the Gates of the Arctic National Preserve; to be administered by the Secretary of the Interior.

"(27) Aniakchak, Alaska.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

"(28) Charley, Alaska.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

"(29) Chilikadrotna, Alaska.—That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(30) John, Alaska.—That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(31) Kobuk, Alaska.—That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

"(32) Mulchatna, Alaska.—That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(33) Noatak, Alaska.—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

"(34) North Fork of the Koyukuk, Alaska.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(35) Salmon, Alaska.—That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

"(36) Tinayguk, Alaska.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(37) Tlikakila, Alaska.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.".

Part B—Wild and Scenic Rivers Within National Wildlife Refuge System

ADDITIONS

Sec. 602. Designation.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(38) Andreafsky, Alaska.—That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(39) Ivishak, Alaska.—That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(40) Nowitna, Alaska.—That portion from the point where the river crosses the west limits of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(41) Selawik, Alaska.—That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the confluence of the Kugarak River; within the Selawik National Wildlife Refuge to be administered by the Secretary of the Interior.

"(42) Sheenjek, Alaska.—The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(43) Wind, Alaska.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.".

Part C—Addition to National Wild and Scenic Rivers System Located Outside National Park System Units and National Wildlife Refuges

ADDITIONS

Sec. 603. Designation.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

"(44) Alagnak, Alaska.—Those segments or portions of the main stem and Nonvianuk tributory lying outside and westward of the Katmai National Park/Preserve and running to the west boudary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"(45) Beaver Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

"(46) Birch Creek, Alaska.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east; to be administered by the Secretary of the Interior.

"(47) Delta, Alaska.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

"(48) Fortymile, Alaska.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"(49) Gulkana, Alaska.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(50) Unalakleet, Alaska.—The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.".

DESIGNATION FOR STUDY

SEC. 604. Section 5(a) of the Wild and Scenic Rivers Act as amended (16 U.S.C. 1271), is further amended as follows:

(a) After paragraph (76) insert the following new paragraphs:

"(77) Colville, Alaska.
"(78) Etivluk-Nigu, Alaska.
"(79) Utukok, Alaska.
"(80) Kanektok, Alaska.
"(81) Kisaralik, Alaska.
"(82) Melozitna, Alaska.
"(83) Sheenjek (lower segment), Alaska.
"(84) Situk, Alaska.
"(85) Porcupine, Alaska.
"(86) Yukon (Ramparts section), Alaska.
"(87) Squirrel, Alaska.
"(88) Koyuk, Alaska.".

(b) Section 5(b) of such act is amended by adding the following paragraphs:

"(4) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from date of enactment of this paragraph. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) shall satisfy the requirements of this section.

"(5) Studies of rivers listed in paragraphs (79) and (80) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 1204 of the Alaska National Interest Lands Conservation Act.".

ADMINISTRATIVE PROVISIONS

SEC. 605. (a) Rivers in paragraphs (25) through (37) in units of the National Park System, and (38) through (43) in units of the National Wildlife Refuge System are hereby classified and designated and shall be administered as wild rivers pursuant to the Wild and Scenic Rivers Act.

(b) The Alagnak, Beaver Creek, Birch Creek, Gulkana, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechemstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development in an environmentally sound manner, of asbestos deposits in the North Fork drainage.

(c) The following segments of the Fortymile River component are hereby classified and shall be administered as scenic river areas pursuant to such Act: the main stem within the State of Alaska; O'Brien Creek, South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; and Hutchinson Creek. The Wade Creek unit of the Fortymile component and the segment of the Delta River from opposite milepost 212 on the Richardson Highway to a point one-half mile north of Black Rapids are classified and shall be adminstered as recreational river areas pursuant to such Act.

(d) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title with respect to the Alagnak, Beaver Creek, Birch Creek, the Delta, Fortymile, Gulkana, and Unalakleet components. With respect to the river components designated in parts A and B of this title, the Secretary shall take such action under said section 3(b) at the same time as, and in coordination with, the submission of the applicable conservation and management plans for the conservation system units in which such components are located.

(e) The Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of designating such rivers as wild and scenic rivers is served to the greatest extent feasible.

OTHER AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

SEC. 606. (a) The Wild and Scenic Rivers Act, as amended, is further amended by inserting the following after section 14 and redesignating sections 15 and 16 as sections 16 and 17, respectively:

"SEC. 15. Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act—

"(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

"(2) the withdrawal made by paragraph (iii) of Section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.".

(b) Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(c) Section 8(b) of such Act is amended by adding the following at the end thereof "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.".

TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF WILDERNESS WITHIN NATIONAL PARK SYSTEM

SEC. 701. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in section 201 and 202 of this Act are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

(1) Denali Wilderness of approximately one million nine hundred thousand acres;

(2) Gates of the Arctic Wilderness of approximately seven million and fifty-two thousand acres;

(3) Glacier Bay Wilderness of approximately two million seven hundred and seventy thousand acres;

(4) Katmai Wilderness of approximately three million four hundred and seventy-three thousand acres;

(5) Kobuk Valley Wilderness of approximately one hundred and ninety thousand acres;

(6) Lake Clark Wilderness of approximately two million four hundred and seventy thousand acres;

(7) Noatak Wilderness of approximately five million eight hundred thousand acres; and

(8) Wrangell-Saint Elias Wilderness of approximately eight million seven hundred thousand acres.

DESIGNATION OF WILDERNESS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 702. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in sections 302 and 303 of this Act or the maps specified below are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

(1) Aleutian Islands Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Aleutian Islands Wildreness", dated October 1978;

(2) Andreafsky Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated April 1980;

(3) Arctic Wildlife Refuge Wilderness of approximately eight million acres as generally depicted on a map entitled "Arctic Na-Wildlife Refuge", dated August 1980;

(4) Becharof Wilderness of approximately four hundred thousand acres as generally depicted on a map entitled "Becharof National Wildlife Refuge" dated August 1980;

(5) Innoko Wilderness of approximately one million two hundred and forty thousand acres as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated October 1978;

(6) Izembek Wilderness of approximately three hundred thousand acres as generally depicted on a map entitled "Izembek Wilderness", dated October 1978;

(7) Kenai Wilderness of approximately one million three hundred and fifty thousand acres as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated October 1978;

(8) Koyukuk Wilderness of approximately four hundred thousand acres as generally depicted on a map entiled "Koyukuk National Wildlife Refuge", dated July 1980;

(9) Nunivak Wilderness of approximately six hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated July 1980;

(10) Togiak Wilderness of approximately two million two hundred and seventy thousand acres as generally depicted on a map en-

titled "Togiak National Wildlife Refuge", dated July 1980;

(11) Semidi Wilderness of approximately two hundred and fifty thousand acres as generally depicted on a map entitled "Semidi Wilderness", dated October 1978;

(12) Selawik Wilderness of approximately two hundred and forty thousand acres as generally depicted on a map entitled "Selawik Wildlife Refuge", dated July 1980: and

(13) Unimak Wilderness of approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Unimak Wilderness", dated October 1978.

DESIGNATION OF WILDERNESS WITHIN NATIONAL FOREST SYSTEM

SEC. 703. (a) In accordance with subsection 3(c), of the Wilderness Act (78 Stat. 892), the lands within the Tongass National Forest within the boundaries depicted as "Proposed Wilderness" on the maps referred to in the following paragraphs are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

(1) Admiralty Island National Monument Wilderness of approximately nine hundred thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated July 1980;

(2) Coronation Island Wilderness of approximately nineteen thousand one hundred and twenty-two acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

(3) Endicott River Wilderness of approximately ninety-four thousand acres, as generally depicted on a map entitled "Endicott River Wilderness", dated October 1978;

(4) Maurelle Island Wilderness of approximately four thousand four hundred and twenty-four acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

(5) Misty Fjords National Monument Wilderness of approximately two million one hundred and thirty-six thousand acres, as generally depicted on a map entitled "Misty Fjords Wilderness", dated July 1980;

(6) Petersburg Creek-Duncan Salt Chuck Wilderness of approximately fifty thousand acres, as generally depicted on a map entitled "Petersburg Creek-Duncan Salt Chuck Wilderness", dated October 1978;

(7) Russell Fjord Wilderness of approximately three hundred and seven thousand acres, as generally depicted on a map entitled "Russell Fjord Wilderness", dated July 1980;

(8) South Baranof Wilderness of approximately three hundred and fourteen thousand acres, as generally depicted on a map entitled "South Baranof Wilderness", dated October 1978;

(9) South Prince of Wales Wilderness of approximately ninety-seven thousand acres, as generally depicted on a map entitled "South Prince of Wales Wilderness", dated October 1978;

(10) Stikine-Le Conte Wilderness of approximately four hundred and forty-three thousand acres, as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated October 1978;

(11) Tebenkof Bay Wilderness of approximately sixty-five thousand acres, as generally depicted on a map entitled "Tebenkof Bay Wilderness", dated October 1978;

(12) Tracy Arm-Fords Terror Wilderness of approximately six hundred and fifty-six thousand acres, as generally depicted on a map entitled "Tracy Arm-Fords Terror Wilderness", dated January 1979;

(13) Warren Island Wilderness of approximately eleven thousand three hundred and fifty-three acres, as generally depicted on a map entitled "Coronation-Warren-Maurelle Islands Wilderness", dated October 1978; and

(14) West Chichagof-Yakobi Wilderness of approximately two hundred and sixty-five thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated October 1978.

(b) Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.

DESIGNATION OF WILDERNESS STUDY AREA WITHIN NATIONAL FOREST SYSTEM

SEC. 704. In furtherance of the purposes of the Wilderness Act the Secretary of Agriculture shall review the lands depicted as "Wilderness Study" on the following described map and within three years report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all areas within such wilderness study boundaries for preservation of wilderness: Nellie Juan-College Fiord, Chugach National Forest as generally depicted on a map entitled "Nellie Juan-College Fiord Study Area", dated October 1978.

NATIONAL FOREST TIMBER UTILIZATION PROGRAM

SEC. 705. (a) The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least $40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided*, That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.

(b) (1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated $5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Within three years after the date of enactment of this Act, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).

REPORTS

SEC. 706. (a) The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. If, at any time after the date of enactment of the Act, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.

(b) Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; and (4) the status of the small business set aside program in the Tongass Forest.

(b) The study required by this section shall be conducted in cooperation and consultation with the State, affected Native corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

ADMINISTRATION

SEC. 707. Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

RARE II RELEASE

SEC. 708. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Alaska and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest lands in States other than Alaska, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Alaska;

(2) With respect ot the National Forest lands in the State of Alaska which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act or the area listed in section 704 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision

of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) area reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

SEC. 801. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents;

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 802. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued validity of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

DEFINITIONS

SEC. 803. As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, for barter, or sharing for personal or family consumption and for customary trade. For the purposes of this section, the term—

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

PREFERENCE FOR SUBSISTENCE USES

SEC. 804. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded preference over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such preference shall be implemented through appropriate limitations based on the application of the following criteria:

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

LOCAL AND REGIONAL PARTICIPATION

SEC. 805. (a) Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary in consultation with the State shall establish—

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this title in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

(e) (1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be certified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 804.

FEDERAL MONITORING

SEC. 806. The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the implementation of this title including the State's provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

JUDICIAL ENFORCEMENT

SEC. 807. In performance of his monitoring responsibilities required in section 806, if the Secretary and appropriate State agency are notified in writing by a local advisory committee or regional advisory council established by the Secretary or the State pursuant to section 805 that the preference for subsistence uses set forth in section 804 is not adequately provided in its region, setting forth the facts upon which such belief is based and detailing efforts to obtain timely relief through available State grievance procedures, the Secretary shall investigate and report publicly on the results of his investigation. If the Secretary determines that the preference for subsistnce uses is not adequately provided and that timely relief has not been obtained, he shall submit his views to the Governor and seek to ensure the adequate and timely provision of such preference through discussions with the State. The Secretary shall inform the committee or council which submitted the notification to him of the results of such discussions. If the Secretary determines in writing setting forth substantial evidence supporting such determination that the State has failed to make adequate and timely provision for the preference for subsistence uses after having been provided a reasonable opportunity to do so and that such failure threatens the ability of local residents to satisfy their subsistence needs, at the request of the committee or council which submitted the notification to him, the Secretary shall bring an action in the United States district court on behalf of such committee or council to require the State to take such actions as are necessary to provide such preference. Such action shall be assigned for hearings at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time and shall be expedited in every way by such court. Upon the filing of the complaint, if the pleadings indicate that the State has failed to adequately provide for the preference for subsistence uses, that such failure imminently threatens the ability of local residents to satisfy their subsistence needs, that immediate relief is necessary to assure that those residents who may have been adversely affected by such failure are provided a timely opportunity to satisfy such needs, and that immediate relief will not threaten the continued viability of fish and wildlife populations toward which such relief may be directed, the district court shall issue an order directing the State to show cause why the features of the State's provision of the preference which render such provision inadequate should not be enjoined and the State be directed to permit the taking of such fish or wildlife populations only for subsistence uses by those residents who have been adversely affected by the State's failure to provide for the preference. No order granting such temporary relief shall be issued until the State has been provided an opportunity for hearing, and such order shall provide that such taking for subsistence uses shall be subject to regulation by the State in a manner which adequately provides for the satisfaction of the subsistence preference requirement. The court shall provide relief, other than temporary relief, by directing the State to submit regulations which satisfy the subsistence preference requirement. A final order shall be valid only for such period as normally provided for the regulations at issue by State law. This section shall constitute the sole Federal judicial remedy created by this title for a local advisory committee or regional advisory council which determines that the preference for subsistence uses set forth in subsection 804 has not been adequately provided by the State in its region.

PARK AND PARK MONUMENT SUBSISTENCE RESOURCE COMMISSIONS

SEC. 808. (a) Within one year from the date of enactment of this Act, the Secretary and the Governor shall each appoint three members to a subsistence resources commission for each national park or park monument within which subsistence uses are permitted by this Act. The regional advisory council established pursuant to section 805 which has jurisdiction within the area in which the park or park monument is located shall appoint three members to the commission each of whom is a member of either the regional advisory council or a local advisory committee within the region and also engages in subsistence uses within the park or park monument. Within eighteen months from the date of enactment of this Act, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or park monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local advisory committees and regional advisory councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or park monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or park monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

(b) The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the conservation of healthy populations of wildlife in the park or park monument, is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

COOPERATIVE AGREEMENTS

SEC. 809. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 810. (a) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management prin-

ciples for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

(b) If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, he shall provide the notice and hearing and include the findings of such environmental impact statement.

(c) Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

(d) After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

ACCESS

Sec. 811. (a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Notwithstanding any other provisions of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

RESEARCH

Sec. 812. The Secretary, in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of local residents engaged in subsistence uses; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 805, and other appropriate persons and organizations.

PERIODIC REPORTS

Sec. 813. Within four years after the date of enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 806;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local advisory councils and regional advisory councils established by the Secretary or the State pursuant to section 805, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

Sec. 814. The Secretary shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this title.

LIMITATIONS, SAVINGS CLAUSES

Sec. 815. Nothing in this title shall be construed as—

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or enlarging or diminishing the Secretary's authority to manipulate habitat on any portion of the public lands;

(3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd–jj), the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1, 2, 3, 4), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a–754), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669–6691), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801–1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777–777K), or any amendments to any one or more of such Acts.

CLOSURE TO SUBSISTENCE USES

Sec. 816. (a) All national parks and park monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence uses and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title and other applicable laws of the United States and the State of Alaska.

(b) Except as specifically provided otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

TITLE IX—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

SUBMERGED LANDS STATUTE OF LIMITATION

Sec. 901. (a) Notwithstanding any other provision of law, the ownership by a Native corporation or Native group of a parcel of submerged land conveyed to such corporation or group pursuant to the Alaska Native Claims Settlement Act or this Act, or a decision by the Secretary of the Interior that the water covering such parcel is not navigable, shall not be subject to judicial determination unless a civil action is filed in the United States District Court within five years after the date of execution of the interim conveyance if the interim conveyance was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the interim conveyance was executed on or before the date of enactment of this Act. If a parcel of submerged land was conveyed by a patent rather than an interim conveyance, the civil action described in the preceding sentence shall be filed within five years after the date of execution of the patent if the patent was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the patent was executed on or before the date of enactment of this Act. The civil action described in this subsection shall be a de novo determination of the ownership of the parcel which is the subject of the action.

(b) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of water covering a parcel of submerged land selected by a Native corporation or Native group pursuant to the Alaska Native Claims Settlement Act unless a determination by the Bureau of Land Management that the water covering a parcel of submerged land is not navigable was validly appealed to such agency or board prior to the date of enactment of this Act. The execution of an interim conveyance or patent (whichever is executed first) by the Bureau of Land Management conveying a parcel of submerged land to a Native corporation or Native group shall be the final agency action with respect to a decision by the Secretary of the Interior that the water covering such parcel is not navigable, unless such decision was validly appealed prior to the date of enactment of this Act to an agency or board of the Department of the Interior other than the Bureau of Land Management.

(c) If the court determines that a parcel of submerged land which is the subject of a civil action described in subsection (a) is owned by the Native corporation or Native group to which it was conveyed pursuant to the Alaska Native Claims Settlement Act or this Act, each defendant Native corporation and Native group shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

(d) No Native corporation or Native group shall be determined to have been conveyed its acreage entitlement under the Alaska Native Claims Settlement Act until—

(1) the statutes of limitation set forth in subsection (a) have expired with respect to every parcel of submerged land conveyed to such corporation or group; and

(2) a final judgment or order not subject to an appeal has been obtained in every civil action filed pursuant to subsection (a).

(e)(1) Whenever a parcel of submerged land to be conveyed to a Native corporation or Native group is located outside the boundaries of a conservation system unit such corporation or group and the State of Alaska may mutually agree that such parcel may be selected by and conveyed to the State under the provisions of section 6(b) of the Alaska Statehood Act.

(2) In any instance in which the State could have selected a parcel of submerged land pursuant to an agreement between the State and a Native corporation or Native group pursuant to paragraph (1) if such parcel had not previously been conveyed to such corporation or group, such corporation or group is authorized to reconvey such parcel to the Secretary, and the Secretary shall accept such reconveyance. If the surface estate and subsurface estate of such parcel are owned by different Native corporations or Native groups, every corporation and group with an interest in such parcel shall reconvey its entire interest in such parcel to the Secretary.

(3) In any agreement made between a Native corporation or Native group and the State of Alaska pursuant to paragraph (1), and in any reconveyance executed by a Native corporation or Native group pursuant to paragraph (2), each affected corporation or group shall disclaim its interest in the parcel which is the subject of the agreement or reconveyance. If such parcel underlies a lake having a surface area of fifty acres or greater or a stream having a width of three chains or greater, the Secretary shall determine the acreage contained in the parcel. If such parcel underlies a lake having a surface area of less than fifty acres or a stream having a width of less than three chains, the Secretary, the State, and the affected Native corporation or Native group shall determine the acreage contained in the parcel by mutual agreement. The affected Native corporation or Native group shall receive replacement lands in an amount equal to the acreage of the parcel as determined by the processes set forth in this paragraph.

(4) Upon receipt by the Secretary of an agreement executed pursuant to paragraph (1) or a reconveyance executed pursuant to paragraph (2), the parcel which is the subject of the agreement or reconveyance shall be deemed vacant, unappropriated, and unreserved public land available for selection by the State pursuant to section 6 of the Alaska Statehood Act, and the State is authorized to file a land selection application for such parcel pursuant to section 6(b) of the Alaska Statehood Act. The acreage within such parcel shall be charged against the State's land entitlement. If the water covering a parcel of submerged land selected by or conveyed to the State pursuant to this subsection is later determined (without regard to the statutes of limitation contained in this section) by a court of competent jurisdiction to be navigable and title to such parcel to be vested in the State pursuant to section 6(m) of the Alaska Statehood Act, such selection or conveyance shall not diminish the State's land entitlement under section 6(b) of the Alaska Statehood Act, nor shall such judicial determination of navigability affect the land entitlement of any Native corporation or Native group pursuant to the Alaska Native Claims Settlement Act. Land selections made by the State pursuant to this subsection shall not be subject to the size limitations of section 6(g) of the Alaska Statehood Act or this Act. Notwithstanding the survey requirements of section 6(g) of the Alaska Statehood Act and section 13 of the Alaska Native Claims Settlement Act, no ground survey or monumentation shall be required on any parcel selected by and conveyed to the State or excluded from a conveyance to any Native corporation or Native group pursuant to this subsection.

(5) Any Native corporation or Native group which is entitled to receive conveyance of replacement acreage in lieu of acreage within a parcel of submerged land relinquished or reconveyed pursuant to this subsection shall receive conveyance of such replacement acreage from among existing selections made by such corporation or group pursuant to the Alaska Native Claims Settlement Act or this Act. If such selections are insufficient to fulfill the acreage entitlement of such corporation or group pursuant to the Alaska Native Claims Settlement Act, the provisions of section 1410 shall apply to such corporation or group, but no land within the boundaries of a conservation system unit shall be withdrawn for such corporation or group pursuant to section 1410 unless such land was withdrawn under section 11(a) of the Alaska Native Claims Settlement Act. Any replacement acreage conveyed to a Native corporation or Native group from lands withdrawn pursuant to section 1410 shall be subject to the provisions of sections 12, 14, 16, 17, and 22 of the Alaska Native Claims Settlement Act.

(f) The procedures and statutes of limitation set forth in this section shall not apply to administrative or judicial determinations of the navigability of water covering a parcel of submerged land other than a parcel conveyed to a Native corporation or Native group pursuant to the Alaska Native Claims Settlement Act or this Act.

(g) As used in this section, the terms "navigable" and "navigability" mean navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States, pursuant to the Submerged Lands Act of 1953 (67 Stat. 29), and section 6(m) of the Alaska Statehood Act.

(h) Notwithstanding any other provision of law, any civil action contesting the legality or authority of the United States to legislate on the subject matter of this section shall be barred unless the complaint is filed within one year after the date of enactment of this Act. The purpose of this limitation on suits is to ensure that, after the expiration of a reasonable period of time, the right, title, and interest of Native corporations and Native groups in submerged lands conveyed to them under the Alaska Native Claims Settlement Act and this Act will vest with certainty and finality and may be relied upon by such corporations and groups and all other persons in their relations among themselves and with the State and the United States.

STATUTE OF LIMITATIONS

SEC. 902. (a) Except for administrative determinations of navigability for purposes of determining ownership of submerged lands under the Submerged Lands Act, a decision of the Secretary under this title or the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or the date of enactment of this Act, whichever is later: *Provided*, That the party seeking such review shall first exhaust any administrative appeal rights.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in regulations promulgated by the Secretary.

ADMINISTRATIVE PROVISIONS

SEC. 903. (a) LIMITATIONS CONCERNING EASEMENTS.—With respect to lands conveyed to Native Corporations or Native groups the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on Native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

(b) ACQUISITION OF FUTURE EASEMENTS.—Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act.

(c) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after the date of enactment of this Act to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) as part of the entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

(d) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94–456 and 95–178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

TAX MORATORIUM EXTENSION

SEC. 904. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provided*, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further,* That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange."

ALASKA NATIVE ALLOTMENTS

SEC. 905. (a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe land that was unreserved on December 13, 1968, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (43 U.S.C. 270–11).

(3) When on or before the one hundred and eightieth day following the effective date of this Act the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided,* That "nonmineral", as that term is used in such Act is defined to include land valuable for deposits of sand or gravel.

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an allotment application describes land which has been patented or deeded to the State of Alaska or which on or before December 18, 1971, was validly selected by or tenatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11 (a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection and subsection (d) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act, and other applicable law.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for-allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided,* That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further,* That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further,* That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

(c) An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided,* That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further,* That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further,* That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Where the land described in an allotment application pending before the Department of the Interior on or before December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however,* That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further,* That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further,* That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after the effective date of this Act if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended, or other Act of Congress.

(e) Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting National Forest lands.

STATE SELECTIONS AND CONVEYANCES

SEC. 906. (a) EXTENSION OF SELECTION PERIOD.—(1) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(2) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsection (j) and (k) of section 6 of the Alaska Statehood Act

(c) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction survey in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(d) PRIOR STATE SELECTIONS.—(1) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant unappropriated, and unreserved lands, including lands subject to subsection (1) of this section, which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary except those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary. If any of those townships listed above contain lands within the boundaries of any conservation system unit, national conservation area, national recreation area, new national forest or forest addition established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) In furtherance of the State's entitlement to lands under section 6(a) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all valid land selections made from the national forests under authority of said section 6(a) which have been approved by the Secretary of Agriculture prior to July 1, 1979.

(3) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (1) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(4) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(5) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(6) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(e) FUTURE "TOP FILINGS".—Subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such applications, available within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsection (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(f) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(g) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests, and forest additions, established, designated, or expanded by this Act, which are specified in the list entitled "State Selection Lands May 15, 1978", dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such list which are not, on the date of enactment of this Act, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section.

(h) LIMITATION OF CONVEYANCES OF SPECIFIED LANDS TENTATIVE APPROVALS; SURVEYS.—(1) Lands identified in subsection (g) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (l) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having such adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(i) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuance of tentative approval.

(j) CLARIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act;

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act;

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987);

(4) classifications or designations pursuant to the National Forest Management Act, 90 Stat. 2949, as amended; and

(5) classifications, withdrawals exceeding 5,000 acres (except withdrawals exceeding 5,000 acres which the Congress, by concurrent resolution, approves within 180 days of the withdrawal or the effective date of this Act, whichever occurs later), or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(k) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State:

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, right-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(l) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States prior to selection of the underlying lands by the State of Alaska.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated.

Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) EXTINGUISHMENT OF CERTAIN TIME EXTENSIONS.—Any extensions of time periods granted to the State pursuant to section 17 (d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections.

(n) EFFECT ON THIRD-PARTY RIGHTS.—(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94–204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94–456), or section 3 of the Act of November 15, 1977 (Public Law 94–178).

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subject to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12(b) of the Act of January 2, 1976 (Public Law 95–204), as amended.

(3) Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or interference with, aboriginal interests if any, occurring prior to December 18, 1971.

(o) STATUS OF LANDS WITHIN UNITS.—Notwithstanding any other provision of law, subject to valid existing rights any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation, or unless before the date of the enactment of this Act, such land has been validly selected by, and after the date of enactment of this Act is conveyed to the State. At such time as the entitlement of any Native Corporation to land under the Alaska Native Claims Settlement Act is satisfied, any land within a conservation system unit selected by such Native Corporation shall, to the extent that such land is in excess of its entitlement, become part of such unit and administered accordingly: *Provided*, That nothing in this subsection shall necessarily preclude the future conveyance to the State of those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary: *And provided further*, That nothing in this subsection shall affect any conveyance to the State pursuant to subsections (b), (c), (d), or (g) of this section.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

(p) PYK LINE.—The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (g) of this section but shall apply to future State selections.

ALASKA LAND BANK

SEC. 907. (a) ESTABLISHMENT: AGREEMENTS.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated Management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (c)(2) whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That lands not owned by landowners described in subsection (c)(2) shall not be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be prompted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not insist on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) TERMS OF AGREEMENT.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in subsection (c)(2) shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions in paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands.

(3) If the surface land owner so consents, such lands may be made available for local or other recreational use: *Provided*, That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner—

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(c) BENEFITS TO PRIVATE LANDOWNERS.—So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

(2) As to Native corporations and all other persons or groups that have received or will receive lands or interests therein pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

(A) adverse possession;

(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided*, That such immunity shall cease if the lands involved are leased or developed, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act.

(C) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native corporation or Native group or any officer, director, or stockholder of any such corporation or group. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native corporation or group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided*, That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsections (c)(2)(C).

(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law.

(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 901 and 902 of this title for a period of three years from the date of conveyance or the date of enactment of this Act, whichever is later: *Provided*, That this subsection shall not apply to any lands which on the date of enactment of this Act are the subject of a mortgage, pledge or other encumbrance.

(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

Sec. 908. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "Sec. 15." and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION DIAGRAMS

Sec. 909. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram.

NATIONAL ENVIRONMENTAL POLICY ACT

Sec. 910. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act.

TECHNICAL AMENDMENT TO PUBLIC LAW 94-204

Sec. 911. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13, S. M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE X—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

OVERALL STUDY PROGRAM

Sec. 1001. (a) The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than lands included in the National Petroleum Reserve—Alaska and in conservation system units established by this Act.

(b) The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, the North Slope Borough, the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval.

(e) The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act. The Secretary shall submit annual reports to Congress on the progress in carrying out this title.

(f) Nothing in this title shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act, and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act.

ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN RESOURCE ASSESSMENT

Sec. 1002. (a) Purpose.—The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

(b) Definitions.—As used in this section—

(1) The term "coastal plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980.

(2) The term "exploratory activity" means surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain.

(c) Baseline Study.—The Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons, shall conduct a continuing study of the fish and wildlife (with special emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat. In conducting the study, the Secretary shall—

(A) assess the size, range, and distribution of the populations of the fish and wildlife;

(B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;

(C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;

(D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and

(E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Within eighteen months after the enactment date of this Act, the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) Guidelines.—(1) Within two years after the enactment date of this Act, the Secretary shall by regulation establish initial guidelines governing the carrying out of exploratory activities. The guidelines shall be based upon the results of the study required under subsection (c) and such other information as may be available to the Secretary. The guidelines shall include such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife, their habitats, or the environment, including, but not limited to—

(A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;

(B) temporary or permanent closing of appropriate areas to such activity;

(C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and

(D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

(2) The initial guidelines prescribed by the Secretary to implement this subsection shall be accompanied by an environmental impact statement on exploratory activities. The initial guidelines shall thereafter be revised to reflect changes made in the baseline study and other appropriate information made available to the Secretary.

(e) EXPLORATION PLANS.—(1) After the initial guidelines are prescribed under subsection (d), any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as "exploration plans") to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines, including, but not limited to—

(A) a description and schedule of the exploratory activity proposed to be undertaken;

(B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;

(C) the area in which the activity would be undertaken; and

(D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

(2) Upon receiving any exploration plan for approval, the Secretary shall promptly publish notice of the application and the text of the plan in the Federal Register and newspapers of general circulation in the State. The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d). If the Secretary determines that the plan is so consistent, he shall approve the plan: except that no plan shall be approved during the two-year period following the date of enactment of this Act. Before making the determination, the Secretary shall hold at least one public hearing in the State for purposes of receiving the comments and views of the public on the plan. The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h). The Secretary, as a condition of approval of any plan under this section—

(A) may require that such modifications be made to the plan as he considers necessary and appropriate to make it consistent with the guidelines;

(B) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Secretary; and

(C) shall make such data and information available to the public except that any processed, analyzed and interpreted data or information shall be held confidential by the Secretary for a period of not less than two years following any lease sale including the area from which the information was obtained.

(f) MODIFICATION TO EXPLORATION PLANS.—If at any time while exploratory activity is being carried out under an exploration plan approved under subsection (e), the Secretary on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect fish or wildlife, their habitat, or the environment, the Secretary may suspend the carrying out of activities under the plan or permit for such time, make such modifications to the plan or to the terms and conditions of the permit (or both suspend and so modify) as he determines necessary and appropriate.

(g) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated any provision of a plan approved under subsection (e) or any term or condition of a permit issued under subsection (f), or to have committed any act prohibited under subsection (d) shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) REPORT TO CONGRESS.—Not earlier than five years after the enactment date of this Act and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) EFFECT OF OTHER LAWS.—Until otherwise provided for in law enacted after the enactment date of this Act, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

PROHIBITION ON DEVELOPMENT

SEC. 1003. Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

SEC. 1004. (a) As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 1001 and report his findings to the President.

(b) The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) Subject to valid existing rights and the provisions of section 1002 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

SEC. 1005. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

SEC. 1006. In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider—

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route; and

(3) the environmental and economic costs and other values associated with such alternative routes.

ARCTIC RESEARCH STUDY

SEC. 1007. (a) The Secretary, the Secretary of Defense, and the Secretary of Energy shall initiate and carry out a study of the mission, facilities and administration of the Naval Arctic Research Laboratory (NARL), at Point Barrow, Alaska. The study shall review the historical responsibilities carried out at NARL and their contribution to applied and basic Arctic research. The study shall specifically address and the Secretary shall make recommendations on the need for redirecting the United States Arctic research policy and the role of the NARL facilities in developing and implementing that policy.

(b) The Secretaries shall assess the future use of NARL in—

(1) developing relevant scientific information on the Arctic environment and utilizing applied research to (A) deal with the unique problems the Arctic presents in providing public services; (B) minimize the impact of resource development on the environment and the culture of the Native people; and (C) promote international cooperation among the Nations which share responsibility for the Arctic environment;

(2) assessing the impact of oil and gas exploration, development, and transportation on the Arctic environment, including impact on fish, marine and land mammals, and migratory waterfowl;

(3) developing advanced design technologies, operational practices, and transportation systems to improve the environmental safety and efficiency of oil and gas exploration and production in the Arctic, including offshore activities;

(4) enlarging the body of knowledge on Arctic ice conditions and developing practical and efficient means of dealing with potential oil spills and other hazards associated with resource development in Alaska's Arctic; and

(5) developing a comprehensive Arctic policy for the Federal Government that will accommodate the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment and the needs of its Native residents.

(c) After completion of the study, the Secretaries shall make recommendations on—

(1) changes in the mission and management of NARL necessary to accomplish the research and policy goals addressed in the study;

(2) the appropriate Federal agency or agencies that should have primary responsibility for management of NARL;

(3) changes in the organizational structure of NARL that would allow greater involvement by State and private organizations in the use, management and/or funding of NARL; and

(4) the appropriate level of Federal funding for scientific and technological research on the Arctic environment and its uses.

(d) In the course of the study, the Secretaries shall consult with representatives of the Department of Navy, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Smithsonian Institution, the State of Alaska, local governments, representatives of public and private institutions conducting Arctic research, and Native Village and Regional Corporations in the areas now affected by the activities of NARL. The Secretaries shall provide an opportunity for public review and comment on the draft report and proposed recommendations prior to final approval, and shall include any recommendations of the local community in the final study.

(e) The Secretaries shall submit the study and their recommendations to the Congress no later than one year after the date of enactment of this Act.

(f) Pending submission of the study to the Congress, the President is directed to continue the operation of NARL at the level of funding provided for in fiscal year 1979.

OIL AND GAS LEASING PROGRAM FOR NON-NORTH SLOPE FEDERAL LANDS

SEC. 1008. (a) The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, as amended, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1001 of this Act, other than lands included in the National Petroleum Reserve—Alaska. Such program shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b)(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which land should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(4) The Secretary shall report to the Congress by October 1, 1981, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands.

(c) At such time as the studies requested in subsection (b)(4) are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas (hereinafter referred to as "favorable petroleum geological provinces"). In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.

(d) Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe. Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.

(e) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive leasing in the area and shall determine the favorable petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.

(f) Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(i) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

OIL AND GAS LEASE APPLICATIONS

SEC. 1009. (a) Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

ALASKA MINERAL RESOURCE ASSESSMENT PROGRAM

SEC. 1010. (a) MINERAL ASSESSMENTS.—The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. For purposes of this Act, core and test drilling means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells. To the maximum extent practicable, the Secretary shall consult and exchange information with the State of Alaska regarding the responsibilities of the Secretary under this section and similar programs undertaken by the State. In order to carry out mineral assessments authorized under this or any other law, including but not limited to the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1001 of this Act.

(b) REGULATIONS.—Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTIAL TRANSMITTAL

SEC. 1011. On or before October 1, 1982, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United State Geological Surveys, Bureau of Mines, and any other Federal agency.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

FINDINGS

SEC. 1101. Congress finds that—

(a) Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly, continuous decisionmaking process involving the State and Federal Governments and the public;

(b) the existing authorizes to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent; and

(c) to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process, a single comprehensive statutory authority for the approval or disapproval of applications for such systems must be provided in this Act.

DEFINITIONS

SEC. 1102. For purposes of this title—

(1) The term "applicable law" means any law of general applicability (other than this title) under which any Federal department or agency has jurisdiction to grant any authorization (including but not limited to, any right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part be established or operated.

(2) The term "applicant" means any public or private person, including, but not limited to, any Federal department or agency.

(3) The term "Federal agency" means any Federal department or agency that has any function or duty under applicable law.

(4) (A) The term "transportation or utility system" means any type of system described in subparagraph (B) if any portion of the route of the system will be within any conservation system unit, national recreation area, or national conservation area in the State (and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area).

(B) The types of systems to which subparagraph (A) applies are as follows:

(i) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.

(ii) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.

(iii) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(iv) Systems for the transmission and distribution of electric energy.

(v) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.

(vi) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(vii) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

Any system described in this subparagraph includes such related structures and facilities (both temporary and permanent) along the route of the system as may be minimally necessary for the construction, operation, and maintenance of the system. Such related structures and facilities shall be described in the application required by section 1104, and shall be approved or disapproved in accordance with the procedures set forth in this title.

EFFECT OF TITLE

SEC. 1103. Except as specifically provided for in this title, applicable law shall apply with respect to the authorization and administration of transportation or utility systems.

PROCEDURAL REQUIREMENTS

SEC. 1104. (a) IN GENERAL.—Notwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are complied with.

(b) (1) CONSOLIDATED APPLICATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary, the Secretary of Agriculture, and the Secretary of Transportation, in consultation with the heads of other appropriate Federal agencies, shall jointly prescribe and publish a consolidated application form to be used for applying for the approval of each type of transportation or utility system. Each such application form shall be designed to elicit such information as may be necessary to meet the requirements of this title and the applicable law with respect to the type of system concerned.

(2) For purposes of this section, the heads of all appropriate Federal agencies, including the Secretary of Transportation, shall share decisionmaking responsibility in the case of any transportation or utility system described in section 1102(4) (B) (ii), (iii), or (vii); but with respect to any such system for which he does not have programmatic responsibility, the Secretary of Transportation shall provide to the other Federal agencies concerned such planning and other assistance as may be appropriate.

(c) FILING.—Each applicant for the approval of any transportation or utility system shall file on the same day an application with each appropirate Federal agency. The applicant shall utilize the consolidated form prescribed under subsection (b) for the type of transportation or utility system concerned.

(d) AGENCY NOTICE.—(1) Within sixty days after the receipt of an application filed pursuant to subsection (c), the head of each Federal agency with whom the application was filed shall inform the applicant in writing that, on its face—

(A) the application appears to contain the information required by this title and applicable law insofar as that agency is concerned; or

(B) the application does not contain such information.

(2) Any notice provided under paragraph (1) (B) shall specify what additional information the applicant must provide. If the applicant provides additional information, the head of the Federal agency must inform the applicant in writing, within thirty days after receipt of such information, whether the information is sufficient.

(e) ENVIRONMENTAL IMPACT STATEMENT.—The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection (c). The final environmental impact statement shall be completed within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to each environmental impact statement under this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in such section 304. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.

(f) OTHER VIEWS.—During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e), the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(g) Agency Decision.—(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.

(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to—

(A) the need for, and economic feasibility, of the transportation or utility system;

(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(C) the feasibility and impacts of including different transportation or utility systems in the same area;

(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles.

(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;

(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(G) measures which should be instituted to avoid or minimize negative impacts; and

(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.

STANDARDS FOR GRANTING CERTAIN AUTHORIZATIONS

Sec. 1105. In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agency concerned shall, within four months after the date of filing of any final Environmental Impact Statement, make recommendations, for purposes of section 1106 (b), to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that—

(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system.

AGENCY, PRESIDENTIAL, AND CONGRESSIONAL ACTIONS

Sec. 1106. (a)(1) Agency Action in Cases Other Than Those Involving Section 1105 or Wilderness Areas.—In the case of any application for the approval of any transportation or utility system to which section 1105 does not apply or that does not occupy, use, or traverse any area within the National Wilderness Preservation System, if, in compliance with section 1104—

(A) each Federal agency concerned decides to approve each authorization within its jurisdiction with respect to that system, then the system shall be deemed to be approved and each such agency shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system; or

(B) one or more Federal agencies decide to disapprove any authorization within its jurisdiction with respect, to that system, then the system shall be deemed to be disapproved and the applicant for the system may appeal the disapproval to the President.

(2) If an applicant appeals under paragraph (1)(B), the President, within four months after receiving the appeal, shall decide whether to approve or deny the application. The President shall approve the application if he finds, after consideration of the factors set forth in section 1104(g)(2), that such approval would be in the public interest and that (1) such system would be compatible with the purposes for which the unit was established; and (2) there is no economically feasible and prudent alternative route for the system. In making a decision, the President shall consider any environmental impact statement prepared pursuant to section 1104(e), comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations, if any, of each Federal agency that rendered a decision with respect to the application. The President's decision to approve or deny the application shall be published in the Federal Register, together with a statement of the reasons for his determination.

(3) If the President approves an application under paragraph (2), each Federal agency concerned shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system.

(4) If the President denies an application under paragraph (2), the applicant shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

(b) Agency Action in Cases Involving Section 1105 or Wilderness.—(1) In the case of any application for the approval of a transportation or utility system to which section 1105 applies or that proposes to occupy, use, or traverse any area within the National Wilderness Preservation System, each Federal agency concerned shall promptly submit to the President notification whether the agency tentatively approved or disapproved each authorization within its jurisdiction that applies with respect to the system. Such notification shall be accompanied by a statement of the reasons and findings supporting the agency position.

(2) Within four months after receiving all notification referred to in paragraph (1) and after considering such notifications, any environmental impact statement prepared pursuant to section 1104(e), and the comments of the public and Federal agencies received during the preparation of such statement, the President shall decide whether or not the application for the system concerned should be approved. If the President denies an application the applicant shall be deemed to have exhausted his administrative remedies, and may file suit in any appropriate Federal court to challenge such decision. If the President approves the application, he shall submit to Congress his recommendation for approval of the transportation or utility system covered, whereupon the Congress shall consider the application as provided in subsection (c). The President shall include with his recommendation to Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;

(D) a statement of the conditions and stipulations which would govern the use of the system if approved by the Congress.

(c) Congressional Approval.—(1) No application for any transportation or utility system with respect to which the President makes a recommendation for approval under subsection (b) shall be approved unless the Senate and House of Representatives approve a resolution described in paragraph (4) within the first period of one hundred and twenty calendar days of continuous session of the Congress beginnng on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(2) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(3) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(4) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for under Title XI of the Alaska National Interest Lands Conservation Act submitted by the President to the Congress on , 19 ."; the first blank space therein to be filled in with the appropriate transportation or utility system and the second blank therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate.

(5) Except as otherwise provided in this subsection, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(6) After an application for a transportation or utility system has been approved under subsection 1106(a), the appropriate Federal agencies shall issue appropriate authorizations in accordance with applicable law. In any case in which an application for a transportation or utility system has been approved pursuant to section 1106(b), the appropriate Federal agencies shall issue appropriate authorizations in accordance with Title V of the Federal Lands Policy Management Act or other applicable law. After issuance pursuant to this subsection, the appropriate land managing agency shall administer the right-of-way in accordance with relevant management authorities of the land managing agency and Title V of the Federal Lands Policy Management Act.

RIGHTS-OF-WAY TERMS AND CONDITIONS

Sec. 1107. (a) Terms and Conditions.—The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title, terms and conditions which shall include, but not be limited to—

(1) requirements to insure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit, national recreation area, or national conservation area was established or is managed.

(2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land;

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent—

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) WILD AND SCENIC RIVERS SYSTEM.—Any transportation or utility system approved pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) PIPELINE RIGHTS-OF-WAYS.—In the case of a pipeline described in section 28 (a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

EXPEDITED JUDICIAL REVIEW

SEC. 1108. (a) It is the intent of Congress that any judicial review of any administrative actions, including compliance with the National Environmental Policy Act of 1969, pursuant to this title shall be expedited to the maximum extent possible.

(b) Any proceeding before a federal court in which an administrative action, including compliance with the National Environmental Policy Act of 1969, pursuant to this title is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.

VALID EXISTING RIGHTS

SEC. 1109. Nothing in this title shall be construed to adversely affect any valid existing right of access.

SPECIAL ACCESS AND ACCESS TO INHOLDINGS

SEC. 1110. (a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

(b) STIPULATION AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultant with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

STIKINE RIVER REGION

SEC. 1113. Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

TITLE XII—FEDERAL-STATE COOPERATION

ALASKA LAND USE COUNCIL

SEC. 1201. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

(b) COCHAIRMEN.—The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Cochairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and

(3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECISION NOT TO PARTICIPATE.—If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Cochairman, the agencies referred to in subsection (c)(1) and the representatives of the Alaska Native Regional Corporations referred to in subsection (c)(3). The Council, so composed, shall carry out the administrative functions required by this title and shall make recommendations to Federal officials with respect to matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) COMPENSATION AND EXPENSES.—

(1) The Federal Cochairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V, United States Code.

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees, or members of the Council referred to in subsection (c)(3), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Cochairman and other State members of the Council have been compensated in accordance with applicable State law.

(f) ADMINISTRATIVE AUTHORITY.—

(1) The Cochairman, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Cochairman during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) MEETINGS; AUTHORITIES; REPORTS.—The Council shall meet at the call of the Cochairmen, but not less than four times each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Cochairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance for the purposes of this section.

(h) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Cochairman shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

(i) FUNCTIONS OF THE COUNCIL.—

(1) The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(2) It shall be the function of the Council—

(A) to make recommendations to appropriate officials of the United States and the State of Alaska with respect to—

(i) proposed regulations promulgated by the United States to carry out its responsibilities under this Act;

(ii) management plans and studies required by this Act including, but not limited to, plans and studies for conservation system units, wild and scenic rivers, and wilderness areas;

(iii) proposed regulations promulgated by the State of Alaska to carry out its responsibilities under this Act and other State and Federal laws;

(B) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(C) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(D) to make recommendations to appropriate officials of the Government of the United States and the State of Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(E) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native corporations upon their request;

(F) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands;

(G) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(H) to make recommendations to appropriate officials of the Governments of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(j) COOPERATIVE PLANNING.—

(1) The Council shall recommend cooperative planning zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members including, but not limited to, such areas as the Northwest Arctic, the North Slope, and Bristol Bay. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(3) Cooperative agreements established pursuant to this section shall include a plan for public participation consistent with the guidelines established by the Council pursuant to subsection (m).

(k) NONACCEPTANCE OF COUNCIL RECOMMENDATIONS.—If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsections (i) or (j), such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

(l) TERMINATION.—Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Cochairman shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommendations for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(m) PUBLIC PARTICIPATION.—The Council shall establish and implement a public participation program to assist the Council to carry out its responsibilities and functions under this section. Such program shall include, but is not limited to—

(1) A committee of land-use advisors appointed by the Cochairmen made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Native corporations, and other public and private organizations. To the maximum extent practicable, the membership of the committee shall provide a balanced mixture of national, State, and local perspective and expertise on land and resource use issues; and

(2) A system for (A) the identification of persons and communities, in rural and urban Alaska, who or which may be directly or significantly affected by studies conducted, or advice and recommendations given by the Council pursuant to this section, and (B) guidelines for, and implementation of, a

system for effective public participation by such persons or communities in the development of such studies, advice and recommendations by the Council.

FEDERAL COORDINATION COMMITTEE

Sec. 1202. There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

BRISTOL BAY COOPERATIVE REGION

Sec. 1203. (a) Definitions.—For purposes of this section—

(1) The term "Governor" means the Governor of the State of Alaska, and

(2) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1979.

(b) Purpose.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to provide for the rational and orderly development of economic resources within the region in an environmentally sound manner;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify any further lands within the region which are appropriate for selections by the State under section 6 of the Alaska Statehood Act and this Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) Federal-State Cooperation in Preparation of Plans.—(1) If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(A) the identification of the significant resources of the region;

(B) the identification of present and potential uses of land within the region;

(C) the identification of areas within the region according to their significant resources and the present or potential uses within each such area;

(D) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of other resources within the region; and

(E) the specification of the uses which may be permitted in each area identified under paragraph (C) and the manner in which these uses shall be regulated by the Secretary or the State, as appropriated, if such plan is approved.

(2) The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary or the Governor:

(i) may modify without prior approval of both parties to the plan; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) Action by Secretary if State Does Not Participate in Plan.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) (and containing a specification of those elements in the plan which the Secretary may modify without prior approval of Congress), and submit copies of such plan to the Congress, as provided in subsection (e)(2), within three years after the date of the enactment of this Act.

(e) Taking Effect of Plan.—

(1) If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State.

(2) If the plan prepared pursuant to this section is agreed to by the Secretary and the Governor includes any recommendations regarding (i) the exchange of State lands, (ii) the management of Federal lands within any conservation system unit, or (iii) any other actions which require the approval of either the Congress or the Alaska State Legislature, then the Secretary and the Governor shall submit to the Congress and the State Legislature as appropriate, their proposals for legislation necessary to carry out the recommendations contained in the plan.

(f) Transitional Provisions.—On the date of the enactment of this Act, and for a period of three years thereafter, all Federal land within the region (except that land conveyed by title IX of this Act to the State of Alaska and Federal lands located within the boundaries of conservation system units) shall be withdrawn from all forms of appropriation under the public land laws, including selections by the State, and from location and entry under the mining laws and from leasing under the Mineral Leasing Act, and shall be managed by the Bureau of Land Management under its existing statutory authority and consistent with provisions of this section.

TITLE XIII—ADMINISTRATIVE PROVISIONS

MANAGEMENT PLANS

Sec. 1301. (a) Within five years from the date of enactment of this Act, the Secretary shall develop and transmit to the appropriate Committees of the Congress a conservation and management plan for each of the units of the National Park System established or to which additions are made by this Act.

(b) National Park Service Plan Requirements.—Each plan for a unit established, redesignated, or expanded by title II shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned National Park System unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of any areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities, if any.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(c) Consideration of Factors.—In developing, preparing, and revising a plan under this section the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for Alaska Natives residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas

adjacent to, or surrounded by, the concerned unit.

(d) Hearing and Participation.—In developing, preparing, and revising a plan under this section the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will be significantly affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

LAND ACQUISITION AUTHORITY

Sec. 1302. (a) General Authority.—Except as provided in subsections (b) and (c) of this section, the Secretary is authorized, consistent with other applicable law in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit other than National Forest Wilderness.

(b) Restrictions.—Lands located within the boundaries of a conservation system unit which are owned by—

(A) the State or a political subdivision of the State;

(B) a Native corporation or Native group which has Natives as a majority of its stockholders;

(C) the actual occupant of a tract, title to the surface estate of which was on, before, or after the date of enactment of this Act conveyed to such occupant pursuant to subsections 14(c)(1) and 14(h)(5) of the Alaska Native Claims Settlement Act, unless the Secretary determines that the tract is no longer occupied for the purpose described in subsections 14(c)(1) or 14(h)(5) for which the tract was conveyed and that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located; or

(D) a spouse or lineal descendant of the actual occupant of a tract described in subparagraph (C), unless the Secretary determines that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located—

may not be acquired by the Secretary without the consent of the owner.

(c) Exchanges.—Lands located within the boundaries of a conservation system unit (other than National Forest Wilderness) which are owned by persons or entities other than those described in subsection (b) of this section shall not be acquired by the Secretary without the consent of the owner unless prior to final judgment on the value of the acquired land, the owner, after being offered appropriate land of similar characteristics and like value (if such land is available from public lands located outside the boundaries of any conservation system unit), chooses not to accept the exchange. In identifying public lands for exchange pursuant to this subsection, the Secretary shall consult with the Alaska Land Use Council

(d) Improved Property.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(e) Retained Rights.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years, or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(f) Definition.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1980 (hereinafter referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1980, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1980, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(g) Consideration of Hardship.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(h) Exchange Authority.—Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(i)(1) The Secretary is authorized to acquire by donation or exchange, lands (A) which are contiguous to any conservation system unit established or expanded by this Act, and (B) which are owned or validly selected by the State of Alaska.

(2) Any such lands so acquired shall become a part of such conservation system unit.

USE OF CABINS AND OTHER SITES OF OCCUPANCY ON CONSERVATION SYSTEM UNITS

Sec. 1303. (a) Improved Property on National Park System Lands.—

(1) On lands not owned by the claimant within the boundaries of any unit of the National Park system created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: *Provided*, That the claimant of the structure by application:

(A) Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.

(2) On lands not owned by the claimant, within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: *Provided, however*, That the claimant, by application:

(A) Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

(3) Cabins or other structures not under permit as specified herein shall be used only for official government business: *Provided, however*, That during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.

(4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) Improved Property on Other Units or

AREAS ESTABLISHED OR EXPANDED BY THIS ACT.—

The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section.

(1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(3) No special use permit shall be issued under subsections (b) (1) or (2) unless the permit applicant:

(A) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location.

(C) Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon non-renewal or revocation of the permit; and

(D) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

(4) The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: *Provided, however,* That during emergencies involving the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) PERMITS TO BE RENEWED FOR LIFE OF CLAIMANT AND IMMEDIATE FAMILY.—

(1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.

(2) Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) EXISTING CABIN LEASES OR PERMITS.—Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect at the time of passage of this Act for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings, following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the values for which the unit was established, he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit subject to such reasonable regulations as he may prescribe in keeping with the management objectives of the unit. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the Secretary, or the Secretary of Agriculture from transferring such a lease or permit to another person at the election or death of the original permittee or lessee.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1304. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Monument, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Park, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

COOPERATIVE INFORMATION/EDUCATION CENTERS

SEC. 1305. The Secretary is authorized in consultation with other Federal agencies; to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land at a site adjacent to the Alaska Highway, and to investigate and plan for similar centers in Anchorage and Fairbanks, Alaska. For the purposes of this investigation, the Secretary shall seek participation in the program planning and/or operation of such centers from appropriate agencies of the State of Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives. The Secretary of Agriculture is authorized to investigate and plan for, in a similar manner, an information and education center for visitors to Alaska in either Juneau, Ketchikan, or Sitka, Alaska. No information center shall be developed pursuant to investigations and plans conducted under authority of this section unless and until such development is specifically authorized by Congress.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1306. (a)) ESTABLISHMENT.—In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1307. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE. — Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents; and

(3) shall, consistent with the provisions of this section, offer to Cook Inlet Region, Inc. in cooperation with Village Corporations within the Cook Inlet Region when appro-

priate, the right of first refusal to provide new revenue producing visitor services within the Kenai National Moose Range or that portion of the Lake Clark National Park and Preserve within the boundaries of the Cook Inlet Region that right to remain open for a period of ninety days as agreed to in paragraph VIII of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204).

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or effect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.

LOCAL HIRE

SEC. 1308. (a) PROGRAM.—After consultation with the Office of Personnel Management, the Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. 1309. The second sentence of subsection (b) (1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1310. (a) EXISTING FACILITIES.—Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.

(b) NEW FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

SCENIC HIGHWAY STUDY

SEC. 1311. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States. Nothing in this section shall be construed to preclude minor road realignment, minor road improvement, or the extraction of gravel for such purposes from lands withdrawn or affected by the study mandated herein.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS-15.

(c) COOPERATION NOTICES: HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. Such report shall include the views and recommendations of all members of the study team. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

ADMINISTRATION OF THE WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 1312. (a) The White Mountains National Recreation Area established by this Act shall be administered by the Secretary in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such area. Except as otherwise provided in this Act, the Secretary shall administer the recreation area in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation area, the Secretary may utilize such statutory authorities available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(b) The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(c) All receipts derived from permits and leases issued on lands or interests in lands within the recreation area under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

ADMINISTRATION OF NATIONAL PRESERVES

SEC. 1313. A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. Consistent with the provision of this Act, within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing and trapping activities and representatives of affected subsistence users.

TAKING OF FISH AND WILDLIFE

SEC. 1314. (a) Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution.

(b) Except as specifically provided otherwise by this Act, nothing in this Act is intended to enlarge or diminish the responsibility and authority of the Secretary over the public lands.

(c) The taking of fish and wildlife in all conservation system units, and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park monuments in the State shall be closed to the taking of fish and wildlife, except that—

(1) notwithstanding any other provision of this Act, the Secretary shall administer those units of the National Park System, and those additions to existing units, established by this Act and which permit subsistence uses, to provide an opportunity for the continuance of such uses by local rural residents; and

(2) fishing shall be permitted by the Secretary in accordance with the provisions of this Act and other applicable State and Federal law.

WILDERNESS MANAGEMENT

SEC. 1315. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) AQUACULTURE.—In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) EXISTING CABINS.—Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(d) NEW CABINS.—Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protecton of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.

(e) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber or relevant lands within such units.

(f) BEACH LOG SALVAGE.—Within National Forest wilderness and national forest monuments designated by this Act, the Secretary of Agriculture may permit or otherwise regulate the recovery and salvage of logs from coastlines.

ALLOWED USES

SEC. 1316. (a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act of other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.

(b) Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.

GENERAL WILDERNESS REVIEW PROVISION

SEC. 1317. (a) Within five years from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section 3(d) of the Wilderness Act relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act.

(c) Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

STATEWIDE CULTURAL ASSISTANCE PROGRAM

SEC. 1318. In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native corporation or Native group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

EFFECT ON EXISTING RIGHTS

SEC. 1319. Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on lands within the State of Alaska;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1320. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

AUTHORIZATION FOR APPROPRIATION

SEC. 1321. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECT ON PRIOR WITHDRAWALS

SEC. 1322. (a) The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79–17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to the enactment of this Act. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, new national forest, special management area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976, or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

(b) This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national recreation areas, and forest additions, established, designated, or expanded by this Act.

ACCESS

SEC. 1323. (a) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyable thereof: *Provided*, That such owner comply with rules and regulations applicable to access across public lands.

YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

SEC. 1324. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

SEC. 1325. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

FUTURE EXECUTIVE ACTIONS

SEC. 1326. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

STOCK ALIENATION

SEC. 1401. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be cancelled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions—

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary—

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions specified in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

(b) Section 8(c) of such Act is amended to read as follows:

"(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

(c) At the end of section 1696(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

SELECTION REQUIREMENTS

SEC. 1402. Subsection (a)(2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(2)), is amended by adding to the end of that subsection the following: "*Provided*, That the Secretary in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.".

RETAINED MINERAL ESTATE

SEC. 1403. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may elect, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

VESTING DATE FOR RECONVEYANCES

SEC. 1404. (a) Section 14(a)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971 (except that occupany of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation)" after "title to the surface estate in the tract occupied".

(b) Section 14(c)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

SEC. 1405. Section 14(c)(3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in truth; *Provided, however*, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;".

CONVEYANCE OF PARTIAL ESTATES

SEC. 1406. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.".

(b) Sections 14(h)(2) and 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613 (h)(2) and (h)(5) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616 (h)(6) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended.".

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h) is amended by adding at the end thereof the following new paragraphs:

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary, or, as to Cook Inlet Region, Inc., from those areas designated for in lieu selection in paragraph I.B.(2) of the document identified in section 12(b) of Public Law 94-204. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

"(11) For purposes set forth in subsections (h)(1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act.

SHAREHOLDER HOMESITES

SEC. 1407. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows:

"(j) A real property interest distributed prior to December 18, 1991, by a Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

BASIS IN THE LAND

SEC. 1408. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(c) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of the Internal Revenue Code of 1954, as amended: *Provided, however*, That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of such Code. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent.".

FIRE PROTECTION

SEC. 1409. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h)(3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland".

INTERIM CONVEYANCES AND UNDERSELECTIONS

SEC. 1410. Section 22(j) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(j)(1) Where lands to be conveyed to a Native, Native corporation, or Native group pursuant to this Act as amended and supplemented have not been surveyed, the same may be conveyed by the issuance of an 'interim conveyance' to the party entitled to the lands. Subject to valid existing rights and such conditions and reservations authorized by law as are imposed, the force and effect of such an interim conveyance shall be to convey to and vest in the recipient exactly the same right, title, and interest in and to the lands as the recipient would have received had he been issued a patent by the United States. Upon survey of lands covered by an interim conveyance a patent thereto shall be issued to the recipient. The boundaries of the lands as defined and conveyed by the interim conveyance shall not be altered but may then be redescribed, if need be, in reference to the plat of survey. The Secretary shall make appropriate adjustments to insure that the recipient receives his full entitlement. Where the term 'patent,' or a derivative thereof, is used in this Act, unless the context precludes such construction, it shall be deemed to include 'interim conveyance,' and the conveyances of land to Natives and Native corporations provided for this Act shall be as fully effectuated by the issuance of interim conveyances as by the issuance of patents.

"(2) Where lands selected and conveyed, or to be conveyed to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), (11)(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.".

ESCROW ACCOUNT

SEC. 1411. (a) Subsection (a) of section 2 of Public Law 94-204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-ways, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damage occurring on the respective lands during the period the lands were withdrawan for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.

"(5) Lands withdrawn under this subsection include all Federal lands identified under appendices A, B-1 and B-2 of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204) for Cook Inlet Region, Incorporated, and are deemed withdrawn as of the date established in subsection (a) of section 2 of the Act of January 2, 1976.".

(b) Section 2 of Public Law 94-204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

LIMITATIONS

SEC. 1412. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PART B—OTHER RELATED PROVISIONS

SUPPLEMENTAL APPROPRIATION FOR NATIVE GROUPS

SEC. 1413. The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act and finally certified as a Native Group, an amount not more than $100,000 or less than $50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act.

FISCAL YEAR ADJUSTMENT ACT

SEC. 1414. (a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act, shall, for the purposes of section 5 of Public Law 94-204 only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act notwithstanding any other provision of law.

(b) For the fiscal year in which this Act is enacted, the money appropriated shall be deposited within 10 days of enactment, unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: *Provided*, That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

(c) Notwithstanding section 38 of the Fiscal Year Adjustment Act or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051), and deposited in the Alaska Native Fund on or after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act.

RELINQUISHMENT OF SELECTIONS PARTLY WITHIN CONSERVATION UNITS

SEC. 1415. Whenever a valid State or Native selection is partly in and partly out of the boundary of a conservation system unit, notwithstanding any other provision of law to the contrary, the State or any Native Corporation may relinquish its rights in any portion of any validly selected Federal land, including land underneath waters, which lies within the boundary of the conservation system unit. Upon relinquishment, the Federal land (including land underneath waters) so relinquished within the boundary of the conservation system unit shall become, and be administered as, a part of the conservation system unit. The total land entitlement of the State or Native Corporation shall not be affected by such relinquishment. In lieu of the lands and waters relinquished by the State, the State may select pursuant to the Alaska Statehood Act as amended by this Act, an equal acreage of other lands available for such purpose. The Native Corporation may retain an equal acreage from overselection lands on which selection applications were otherwise properly and timely filed. A relinquishment pursuant to this section shall not invalidate an otherwise valid State or Native Corporation land selection outside the boundaries of the conservation system unit, on the grounds that, after such relinquishment, the remaining portion of the land selection no longer meets applicable requirements of size, compactness, or contiguity, or that the portion of the selection retained immediately outside the conservation system unit does not follow section lines along the boundary of the conservation system unit. The validity of the selection outside such boundary shall not be adversely affected by the relinquishment.

BRISTOL BAY GROUP CORPORATION LANDS

SEC. 1416. (a) Congress finds that the individual Natives enrolled to Port Alsworth are enrolled at-large in the Bristol Bay Native Corporation. The roll prepared by the Secretary shall be determinative of this fact and such enrollment shall be final.

(b) The individual Natives enrolled to Port Alsworth have formed a group corporation which shall hereafter be referred to as Tanalian, Incorporated. The benefits bestowed by this section upon these Natives shall accrue to such group corporation, regardless of its name.

(c) If Tanalian Incorporated is certified as a group under the Alaska Native Claims Settlement Act, Tanalian Incorporated shall be entitled to make selections in accordance with subsection (d) hereof.

(d) (1) Tanalian Incorporated if certified shall be entitled to make selections of the surface estate of public lands as that term is described in section 3(e) of the Alaska Native Claims Settlement Act from the following described lands, except it may not select any land of Power Site Reserve 485 (the Kontrashibuna Power Site), land acquired by the United States after January 1, 1979, or land subject to a valid existing right, in the amount agreed to by Bristol Native Corporation (not to exceed 320 acres per person or 2240 acres, whichever is less) and charged against Bristol Bay Native Corporation's rights to select under section 14(h) as provided for in 43 CFR 2653.1(b):

Seward Meridian

Township 1 north, Range 29 west, sections 3, 4, 5, 8, 9, 10, 16, 17, 18, 19, 20, and 21.

(2) If Tanalian Incorporated is certified as a group, the Secretary shall give written notice within sixty days of such certification to Bristol Bay Native Corporation.

(3) If such notice is given, Bristol Bay Native Corporation shall, within sixty days thereafter, give written notice to the Secretary and Tanalian Incorporated as to the amount of acreage Tanalian Incorporated may select.

(4) Within one hundred and eighty days after receipt of such notice, Tanalian Incorporated may select, pursuant to section 14 (h) (2) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (d) (1).

(5) Within one hundred and eighty days after Tanalian Incorporated makes selections in accordance with subsection (d) (1) hereof, Bristol Bay Native Corporation may select subject to any valid existing right an amount of subsurface estate from public lands as defined in the Alaska Native Claims Settlement Act previously withdrawn under sections 11 (a) (1) or 11(a) (3) of the Alaska Native Claims Settlement Act within its boundaries equal to the surface estate entitlement of Tanalian Incorporated. Bristol Bay Native Corporation will forego an in lieu subsurface selection in that portion of the Nondalton withdrawal area which falls within the Lake Clark Preserve. Selections made by Bristol Bay Native Corporation shall have priority over any selections made by the State after December 18, 1975. Such subsurface selections shall be in a single contiguous and reasonably compact tract and the exterior boundaries of such selections shall be in conformity with the public lands survey system.

(e) If there is any conflict between selections made by Tanalian Incorporated pursuant to this section and valid Cook Inlet Region, Inc. or Cook Inlet Region Village selections, the selections of Cook Inlet Region, Inc. or the Cook Inlet Region Village shall prevail.

(f) The Secretary shall convey to Tanalian Incorporated and to Bristol Bay Native Corporation the surface and subsurface estate, respectively, of the acreage selected by the corporation pursuant to this section.

(g) Nothing contained in this section, or done pursuant to authorizations made by this section, shall alter or affect the acreage entitlements of Cook Inlet Region, Inc., or Bristol Bay Native Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act nor the boundaries of Cook Inlet Region, Inc. or Bristol Bay Native Corporation, respectively.

PRIBILOF ISLANDS ACQUISITION AUTHORITY

SEC. 1417. (a) Congress finds and declares that—

(1) certain cliff areas on Saint Paul Island and Saint George Island of the Pribilof Islands group in the Bering Sea and the entirety of Otter Island, and Walrus Island, are used by numerous species of migratory birds, several of them unique, as rookeries;

(2) these areas are of singularly high value for such birds;

(3) these cliff areas, from the line of mean high tide to and including the bluff and areas inland from them, and the entirety of Otter Island, and Walrus Island, aggregating approximately eight thousand acres, properly ought to be made and be managed as a part or parts of the Alaska Maritime National Wildlife Refuge free of any claims of Native Corporation ownership;

(4) this can best be accomplished through purchase by the United States.

(b) The Secretary is authorized and directed to acquire the lands described in subsection (a) (3) of this section on the terms of and conditions set forth in the Agreement known as the "Pribilof Terms and Conditions", between Tanadgusix, Incorporated, Tanaq, Incorporated, the Aleut Corporation, and the Department of the Interior, incorporated as an Attachment of the letter of the Director, Fish and Wildlife Service, Department of the Interior, dated August 4, 1980, file reference FWS 1366, addressed to the Aleut, Tanadgusix and Tanaq Corporations. The "Pribilof Terms and Conditions," as referenced in this subsection, are hereby ratified as to the duties and obligations of the United States and its agencies, Tanadgusix, Incorporated, Tanaq, Incorporated, and the Aleut Corporation: *Provided*, That the "Pribilof Terms and Conditions" may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress. Upon acquisition by the United States, the lands described in such subsection (a) (3) shall be incorporated within, and made a subunit of, the Alaska Maritime National Wildlife Refuge and administered accordingly.

(c) There are hereby authorized to be appropriated for the purposes of this section, out of any money in the Treasury not otherwise appropriated, for the acquisition of such lands, not to exceed $7,500,000 to remain available until expended, and without regard to fiscal year limitation.

(d) The land or money exchanged under this section shall be deemed to be properly exchanged within the meaning of section 21 (c) of the Alaska Native Claims Settlement Act.

NANA/COOK INLET REGIONAL CORPORATIONS LANDS

SEC. 1418. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h) (8) of the Alaska Native Claims Settlement Act and this section:

Kateel River Meridian

Township 32 north, range 18 west, sections 3 through 10, 13 through 36, except those lands within the Kelly River drainage;

Township 32 north, range 17 west, sections 29 through 32, except those lands within the Kelly River drainage;

Township 31 north, range 18 west;

Township 31 north, range 17 west, sections 5 through 8, except those lands within the Kelly River drainage, 17 through 20, 29 through 32;

Township 30 north, range 19 west, sections 1 through 18;

Township 30 north, range 18 west, sections 1 through 9;

Township 30 north, range 17 west, section 6.

(b) (1) On or prior to one hundred eighty days from the date of enactment of this Act, NANA Regional Corporation, Incorporated, may select, pursuant to section 14 (h) (8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a). In addition, on or prior to such date, Cook Inlet Region, Incorporated, if it receives the written consent of NANA Regional Corporation, Incorporated, and of the State of Alaska, may select from such lands, such selection to be credited against the Secretary's obligation under paragraph I(C) (1) of the document entitled, "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as Clarified August 31, 1976", and any such selections conveyed shall be conveyed in partial satisfaction of the entitlement of Cook Inlet Region, Incorporated, under section 12 of Public Law 94–204, as amended.

(2) The lands selected by NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, unless otherwise provided in a waiver of this paragraph (b) (2) by the Secretary, shall consist of tracts which—

(A) contain not less than eight sections or 5,120 acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a meanderable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of either NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by either NANA Regional Corporation, Incorporated or Cook Inlet Region, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d) (1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

(f) Nothing in this section shall be construed as granting or denying to any Regional Corporation, including NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, the right to select land pursuant to section 14(h) (8) of the Alaska Native Claims Settlement Act outside the areas withdrawn by sections 11 and 16 of such Act.

DOYON REGIONAL CORPORATION LANDS

SEC. 1419. LAND EXCHANGE.—(a) (1) The Secretary is authorized, on the terms and conditions provided in this section and in section 1420, to accept from Doyon, Limited, a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, a relinquishment of all selections filed by that corporation under sections 12(c) and 14(h) (8) of such Act which—

(A) lie within the watershed of the

Charley River, were withdrawn for selection by Doyon pursuant to section 11(a)(3) of such Act and lie within the following townships:

Fairbanks Meridian

Township 2 north, range 23, 24, 25, and 26 east,

Township 3 north, range 23, 24, 25, and 26 east,

Township 4 north, range 24, 25, and 26 east,

Township 2 south, range 20 east;

(B) lie in the following townships outside, but adjacent to, the Charley River watershed:

Fairbanks Meridian

Township 2 north, range 23 east,

Township 2 north, range 24 east, sections 19 through 21, 28 through 33, inclusive;

(C) lie within the following townships inside the Kanuti National Wildlife Refuge:

Fairbanks Meridian

Township 15 north, range 20 west, sections 4 through 9, 16 through 18, inclusive,

Township 17 north, range 23 west; and

(D) lie within the following townships along the Yukon River:

Kateel River Meridian

Township 19 south, range 3 west. That portion lying west of the mean high water line of the Yukon River.

Township 20 south, range 3 west. All except the Yukon River and Bullfrog Island.

Township 21 south, range 3 west. That portion of sections 7, 8, and 9 lying south of Honeymoon Slough, and sections 16, 17, and 18.

Township 21 south, range 4 west. Sections 12 and 13 above the mean high water line of the Yukon River, and sections 2, 3, 10, 11, 14, 15, 19 through 23, and 27 through 34 all lying west of the mean high water line of the Yukon River.

(2) Doyon, Limited, shall have ninety days after the date of enactment of this Act to effect the relinquishment of all the land selections described in subsection (a) hereof, and shall not be entitled to any of the benefits of subsections (b), (c), and (d) hereof or of section 1420 of this Act if the relinquishment of all such selections does not occur during that period.

(3) Following the relinquishment by Doyon, Limited, of all the land selections described in subsection (a) hereof, the Secretary shall determine the acreage so relinquished by such measuring techniques, including aerial photography but not ground surveys, upon which he and Doyon may agree.

(b)(1) In exchange for the lands relinquished pursuant to subsection (a) hereof, the Secretary shall convey to Doyon, Limited, pursuant to the provisions of the Alaska Native Claims Settlement Act, subject to valid existing rights and on the terms and conditions hereinafter set forth, such lands as Doyon may select, within one year after the Secretary's acreage determination pursuant to subsection (a)(3) hereof, on an acre-for-acre basis up to the total acreage so relinquished, from the following described lands:

Fairbanks Meridian

Township 35 north, range 7 west, sections 19 through 36.

Township 34 north, range 7 west, sections 1 through 21, and 28 through 33.

Township 29 north, range 13 west, sections 1 through 3, and 10 through 15,

Township 20 north, range 10 west, within the study area delineated in section 1420.

Township 20 north, range 11 west, within the study area delineated in section 1420.

Township 20 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed.

Township 21 north, range 10 west, within the study area delineated in section 1420.

Township 21 north, range 11 west, within the study area delineated in section 1420 and all the remaining lands in the township which are outside of the Hodzana River watershed.

Township 21 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed.

Township 1 north, range 25 east, sections 13, 14, 15, 21 through 28, and 33 through 36: *Provided*, That Doyon may not receive a land conveyance within any of the following watersheds:

(1) Arctic Creek, a tributary of Flume Creek;

(2) Diamond Fork of the Seventy-mile River;

(3) Copper Creek, a tributary of the Charley River.

Township 1 south, range 25 east, sections 1, 2, 3, 10 through 14, 23, 24, and 25: *Provided*, That Doyon may not receive a land conveyance within the watershed of Copper Creek, a tributary of the Charley River.

Township 3 south, range 30 east, sections 20 through 29 and 32 through 36.

Township 4 south, range 28 east, sections 10 through 15, 22 through 28, 33 and 36: *Provided*, That Doyon may not receive a land conveyance any closer than one mile to the mean high water line of the North Fork of the Fortymile River, nor any closer than one-half mile to Champion Creek.

Township 4 south, range 29 east, sections 18 through 22, and 25 through 36: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek.

Township 4 south, range 30 east, sections 1, 2, 11, 12, 13, 24, 25, and 28 through 36: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek.

Township 4 south, range 31 east, sections 6, 7, 8, 17 through 20, and 29 through 32: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek.

Township 5 south, range 30 east, sections 1 through 6, 11, and 12: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek.

Township 5 south, range 31 east, sections 4 through 9: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek.

Township 5 south, range 25 east, sections 12, 13, and 24: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River.

Township 5 south, range 26 east, sections 7, 8, and 17 through 20: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River.

Township 6 south, range 18 east, sections 4 through 9 and 16 through 18.

Township 7 south, range 17 east, sections 12, 13, 24, 25, 26, and 36.

Township 7 south, range 18 east, sections 7, 8, 17 through 20, ad 29 through 32.

Township 8 south, range 18 east, sections 1 through 4, 9 through 16, 21 through 28, and 33 through 36.

Township 6 south, range 28 east, sections 31 through 33: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Hutchison Creek.

Township 7 south, range 28 east, sections 4 through 9, 14 through 23, and 26 through 35.

Township 8 south, range 28 east, sections 2 through 11, and 14 through 18.

Township 7 south, range 21 east, sections 11 through 14, 23 through 26, 35, and 36.

Township 7 south, range 22 east, sections 2 through 11.

Copper River Meridian

Township 27 north, range 6 east, sections 1, 2, 11, and 12.

Township 27 north, range 7 east, sections 1 through 12.

Township 28 north, range 7 east, sections 31 through 36.

Township 28 north, range 6 east, sections 35 and 36.

(2) Unless a waiver of any such requirement is obtained from the Secretary, the lands selected by Doyon pursuant to subsection (b)(1) shall consist of tracts which: (a) contain not less than eight sections or five thousand one hundred and twenty acres, whichever is smaller, except for the last tract required to complete Doyon's land entitlement; and (b) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, to conform to section lines where a section is less than standard size, or to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection). Selections under subsection (b)(1), subsection (c), and section 1420 shall not be subject to or charged against the maximum acreage limitations set forth in paragraph 3B(2) (a) and (b) of the Stipulation and Agreement entered into by Doyon and the Secretary in Doyon, Limited against Morton, civil action numbered 1586–73, in the United States District Court for the District of Columbia.

(3) The lands selected by Doyon, Limited, and conveyed by the Secretary pursuant to subsection (b) hereof shall be treated as if such lands had been withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act and had been selected by Doyon pursuant to section 12(c) of that Act. A failure by Doyon, Limited, to select its total land entitlement under subsection (b)(1) shall not affect Doyon's total land entitlement under section 12(c) and 14(h)(8) of such Act.

(4) Beginning on the date of enactment of this Act, the lands described in subsection (b)(1) hereof shall be withdrawn from all forms of appropriation under the public land laws as if such lands had been withdrawn pursuant to section 11(a) of the Alaska Native Claims Settlement Act. The Secretary is authorized to terminate such withdrawal with respect to lands not selected by Doyon, Limited, either one year after the Secretary's acreage determination pursuant to subsection (a)(3) hereof or, with respect to the lands subject to such release, upon the giving of notice by Doyon to the Secretary that the corporation is releasing its selection rights under this paragraph to all or part of the withdrawn lands, whichever first occurs. Such withdrawal shall not prevent reasonable surface studies or mineral exploration, including core drilling, by Doyon or its assigns on the lands withdrawn, subject to such rules and regulations as the Secretary may prescribe: *Provided*, That the issuance of regulations under this subparagraph, or any permits thereunder, shall not be subject to any requirement for preparation or submission of an environmental impact statement contained in the National Environmental Policy Act of 1969.

(c)(1) During the withdrawal period specified in subsection (b)(4) hereof, the lands so withdrawn shall also be available for selection by Doyon, Limited, subject to the requirements of subsection (b) (2), in whole or partial satisfaction of its land entitlement under section 14(h) (8) of the Alaska Native Claims Settlement Act, and the period of withdrawal shall be extended with respect to any lands so selected until the date of conveyance pursuant to section 14(e) of such Act. The Secretary shall issue a decision to convey title to the lands selected by Doyon pursuant to this subparagraph, subject to valid existing rights, within one hundred and eighty days after each selection.

(2) At any time after enactment of this Act, but no later than six months after termination of the withdrawal provided in subsection (b) (4) hereof, any or all of the land entitlement of Doyon, Limited, under section 14(h) (8) of the Alaska Native Claims Settlement Act may be satisfied by Doyon's identification of the appropriate acreage within lands withdrawn pursuant to section 11(a) (3) of the Alaska Native Claims Settlement Act, which were selected by Doyon on or before December 18, 1975, under section 12(c) of such Act, and have not been relinquished. Upon identification by Doyon, Limited, under this paragraph, such acreage shall no longer be deemed a section 12(c) selection, shall be charged against Doyon's section 14(h) (8) land entitlement and shall be conveyed by the Secretary to Doyon in accordance with the provisions of the Alaska Native Claims Settlement Act.

(3) In the event Doyon, Limited, effects a relinquishment under subsection (a) hereof, and the provisions of this paragraph thus become operative, the corporation shall not thereafter make selections under section 14 (h) (8) of the Alaska Native Claims Settlement Act on lands which were (a) withdrawn pursuant to section 11(a), but not selected under section 12(c) of such Act and (b) lie within a conservation system unit created or expanded pursuant to this Act: *Provided*, That all Doyon's other selection rights under section 14(h) (8) shall not be affected.

(d) (1) In recogniiton of the potential need of Doyon, Limited, for access in a southerly direction from its landholdings in the watersheds of the Kandik and Nation Rivers across the Yukon River, the Secretary shall review applications submitted by Doyon, Limited, for one or more rights-of-way which, in order to provide such access, would pass through public lands within the Yukon-Charley National Preserve.

(2) The Secretary shall approve an application reviewed under paragraph (1) of this subsection, and shall grant the right-of-way requested in such application, if he determines that there exists no economically feasible or otherwise reasonably available alternative route.

(3) Each right-of-way granted under this subsection shall be subject to such reasonable regulations issued by the Secretary as are necessary to minimize the adverse impact of such right-of-way upon any conservation system unit.

(4) No rights-of-way shall be granted under this subsection which would cross the Charley River or which would involve any lands within the watershed of the Charley River.

HODZANA RIVER STUDY AREA

SEC. 1420. (a) Subject to the provisions of subsection 1419 (b) and (c) of this Act, the following described lands, during the period of withdrawal specified in subsection 1419 (b) (4), shall be set aside and managed as a study area by the United States Fish and Wildlife Service in cooperation with Doyon, Limited:

Beginning at elevation point 2970 which lies within the northeast one quarter of section 10, township 21 north, range 9 west Fairbanks meridian;

thence westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 10, 9, 8, 7, and 6 of township 21 north, range 9 west Fairbanks meridian to the true point of beginning which is the intersection of the crest of the ridgeline of which elevation point 2970 is a part with the township line which separates section 6, township 21 north, range 9 east Fairbanks meridian and section 1, township 21 north, range 10 east Fairbanks meridian;

thence from the true point of beginning; westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 1, 2, 3, 4, 9, 8, 5, 7 and 6 of township 21 north, range 10 east Fairbanks meridian, and through sections 1, 2, and 3 of township 21 north, range 11 east Fairbanks meridian to the intersection of the crest of the aforementioned ridgeline with the crest of the ridgeline which is the watershed boundary between the Hodzana River and west flowing tributaries of the South Fork of the Koyukuk River;

thence southerly and westerly along the crest of this watershed boundary through sections 3, 10, 15, 16, 17, 20, 21, 29 32 and 31 of township 21 north, range 11 west Fairbanks meridian, section 36 of township 21 north, 12 west Fairbanks meridian, sections, 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 36, 34, and 35 of township 20 north, range 12 west Fairbanks meridian, and to the northeast one quarter of section 3, township 19 north, range 12 west Fairbanks meridian where the crest of the watershed of the Hodzana River turns in an easterly direction and becomes, first the divide between the watersheds of the Hodzana and Kanuti Rivers and then the divide between the Hodzana and Dall Rivers;

thence easterly along the crest of this watershed to the peak of Dall Mountain which lies within the southeast one quarter of section 1, township 19 north, range 11 west Fairbanks meridian;

thence northeasterly along the crest of Dall Mountain to the intersection of the crest of Dall Mountain with the line between township 20 north, range 9 west Fairbanks meridian and township 20 north, range 10 west Fairbanks meridian which intersection lies approximately on elevation point 3491, the highest point of Dall Mountain on the eastern line of section 36 township 20 north, range 10 west Fairbanks meridian;

thence north along the township line between townships 20 and 21 north, ranges 9 and 10 west Fairbanks meridian to the true point of beginning at the intersection of the crest of the heretofore described west trending ridgeline and this township line, which point lies between section 6 township 21 north, range 9 west Fairbanks meridian and section 1 township 21 north, range 10 west Fairbanks meridian.

This description is based upon United States Geological Survey Quadrangle Beaver, Alaska, 1956 with minor revisions 1972, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F–2, F–3, F–6, and F–7 Fairbanks meridian, and United States Geological Survey Quadrangle Bettles, Alaska 1956 with minor revisions 1973, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F–3, F–4, F–5, and F–6. The use of these quadrangles and the protracted land lines thereon is for purposes of convenience in describing the lands within the Hodzana River Study Area. The actual area is to be within the above described basin, and should any discrepancy appear upon the ground determination of the location of the watershed boundary, the watershed boundary shall control, not the land lines protracted upon the aforementioned United States Geological Survey Quadrangles.

(b) During the study period herein provided, Doyon, Limited, may, under such reasonable rules and regulations as the Secretary finds necessary to protect the water quality and quantity of the Hodzana River, conduct such investigations within the study area, including core drilling, which will not materially disturb the land surface, as are required to determine the extent of mineralization therein. During the study period, the Fish and Wildlife Service is authorized to undertake such studies of the Hodzana River and its environs as are required to determine the measures to undertake and the regulations necessary to protect and maintain the water quality and quantity of the Hodzana River should lands in its watershed be selected by Doyon, Limited and the minerals therein be developed. Upon agreement with Doyon, Limited, the Secretary is authorized to extend the study period up to an additional two years; if so, the duration of the withdrawal from appropriation for the lands described in subsection (1) hereof and the time during which Doyon, Limited may select such lands or identify such lands for conveyance shall be extended for a like period.

(c) The right of Doyon, Limited to land conveyances within the study area shall be limited to twenty-three thousand forty acres. Any selections or land identifications by the corporation within the study area also shall be subject to the provisions of subsection 1419(b) (2) of this Act, unless the results of the study indicate, and Doyon and the Secretary agree, that some or all of such requirements should be waived.

(d) In the event Doyon receives conveyance in the study area, the corporation shall have those rights of access to the lands involved as are reasonably necessary for the economic operation of such mineral developments. Upon final termination of mining activity, Doyon shall restore any access roads as may be agreed upon by Doyon and the Secretary.

(e) The National Environmental Policy Act of 1969 shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement before the issuance of regulations under this paragraph, or any permit relating to mineral development, the conduct of any investigation in the study area, the conveyance of interests therein to Doyon or the grant of any easement or right-of-way to the lands involved. The Secretary, however, is authorized to promulgate such regulations as may reasonably be necessary to protect the water quality and quantity, and to prevent substantial adverse environmental degradation, of the Hodzana River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act.

CONVEYANCE TO THE STATE OF ALASKA

SEC. 1421. In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act and regardless of whether such lands lie within the boundaries of a conservation system unit established, designated, redesignated, or expanded by this Act, the United States shall, upon Doyon's meeting the terms and conditions set forth in section 1419(a) (1), convey to the State of Alaska all right, title and interest of the United States in:

(1) the following lands located south of Circle on the Yukon River:

Fairbanks Meridian

Township 8 north, range 18 east, section 1;

Township 8 north, range 19 east, That portion of sections 1 through 18, inclusive, lying south and west of the mean high water line of the Yukon River;

Township 8 north, range 20 east, That portion of sections 7 and 18 lying west of the mean high water line of the Yukon River;

Township 9 north, range 17 east;

Township 9 north, range 18 east, That portion lying south and west of the mean high water line of the Yukon River;

Township 9 north, range 19 east, That portion lying south and west of the mean high water line of the Yukon River;

(2) Upon relinquishment by Doyon, Limited of all land selections pursuant to section 1419(a) of this Act, the lands described in subparagraphs 1419(a)(1)(D).

DOYON AND FORTYMILE RIVER

SEC. 1422. (a) Subject to the provisions of subsections (b) and (c) of this section, Doyon, Limited shall have the right within one year after the date of enactment of this Act to identify some or all of the following described lands, previously selected by such corporation, in partial satisfaction of its entitlement under section 12(c) of the Alaska Native Claims Settlement Act.

(1) Lands withdrawn pursuant to section 17(d)(1) and formerly withdrawn pursuant to section 17(d)(2), of the Alaska Native Claims Settlement Act:

Fairbanks Meridian

Township 1 south, range 27 east, sections 24, 25, 34, 35, 36;

Township 1 south, range 28 east, sections 19, 20, 21, 28 through 32;

Township 2 south, range 27 east, sections 1 through 4, 8 through 12, 14 through 17, 19 through 22, 26 through 33;

Township 3 south, range 24 east, sections 20 through 25, 27 through 34;

Township 3 south, range 25 east, sections 2 through 5, 8 through 10, 15 through 22, 27 through 24;

Township 3 south, range 26 east, sections 13, 22 through 28, 31 through 36;

Township 3 south, range 27 east, sections 4 through 8, 17, 18;

Township 3 south, range 28 east, sections 1 through 5, 9 through 11, 14 through 16, 21 through 23, 26, 27;

Township 3 south, range 29 east, sections 11 through 15, 20 through 24, 26 through 34;

Township 4 south, range 25 east, sections 1 through 5, 8 through 17;

Township 4 south, range 26 east, sections 2 through 10, 17, 18;

Township 4 south, range 28 east, sections 1, 2;

Township 4 south, range 29 east, sections 1 through 18;

Township 5 south, range 25 east, sections 1, 4 through 10, 12 through 17, 20 through 24, 28, 29;

Township 5 south, range 26 east, sections 4 through 8, 17 through 19;

Township 6 south, range 23 east, section 34;

Township 6 south, range 25 east, sections 22, 27, 28, 32 through 35;

Township 7 south, range 22 east, sections 23 through 26, 35, 36;

Township 7 south, range 23 east, sections 3 through 9, 17 through 19, 30, 31;

Township 7 south, range 24 east, sections 1, 2, 10 through 16, 21 through 24, 26 through 29, 31 through 34;

Township 7 south, range 25 east, sections 6 through 8, 17 through 21, 28 through 33;

Township 8 south, range 21 east, sections 13, 23 through 28, 33 through 36;

Township 8 south, range 22 east, sections 1 through 4, 8 through 23, 28 through 33;

Copper River Meridian

Township 19 north, range 16 east, sections 3 through 9, 17 through 20;

Township 20 north, range 14 east, sections 1 through 18, 20 through 22;

Township 20 north, range 15 east, sections 2 through 11, 13 through 17, 21 through 28, 32 through 36;

Township 20 north, range 16 east, sections 13, 14, 21 through 29, 31 through 36;

Township 21 north, range 12 east, sections 2 through 10, 17 through 20, 30;

Township 21 north, range 13 east, sections 1 through 5, 10 through 14, 23 through 24;

Township 21 north, range 15 east, sections 30, 31, 32;

Township 22 north, range 12 east, sections 4 through 11, 13 through 27, and 36;

Township 22 north, range 13 east, sections 18 through 21, 26 through 36;

Township 24 north, range 11 east, sections 22 through 27, 34 through 36;

Township 24 north, range 12 east, sections 3 through 33;

Township 24 north, range 13 east, sections 2 through 4, 7 through 11, 14 through 23, 30;

Township 25 north, range 11 east, sections 4 through 10, 14 through 18, 20 through 28, 34 through 36;

Township 25 north, range 12 east, sections 31, 32, 33;

Township 25 north, range 13 east, sections 1 through 3, 9 through 16, 21 through 23, 26 through 28, 32 through 35;

Township 26 north, range 13 east, sections 1 through 3, 12;

Township 26 north, range 14 east, sections 4 through 10, 14 through 18, 20 through 23, 26, 27, 31 through 36;

Township 27 north, range 9 east, sections 1 through 3, 9 through 12, 14 through 16, 20 through 23, 26 through 29, 32 through 34;

Township 27 north, range 10 east, sections 2 through 4, 9 through 11, 14 through 16, 21 through 27, 34 through 36;

Township 27 north, range 13 east, sections 3 through 10, 14 through 17, 21 through 28, 34 through 36;

Township 27 north, range 14 east, sections 30, 31, 32;

Township 28 north, range 9 east, sections 35, 36;

Township 28 north, range 10 east, sections 31 through 35;

(2) Lands withdrawn pursuant to section 17(d)(2) of the Alaska Native Claims Settlement Act some or all of which may not be included within the boundaries of the Fortymile Wild, Scenic and/or Recreational River.

Fairbanks Meridian

Township 3 south, range 27 east, sections 19 through 36;

Township 3 south, range 8 east, sections 28 through 34;

Township 4 south, range 28 east, sections 3 through 6, 8 through 17, 19 through 33, 36;

Township 4 south, range 29 east, sections 19 through 22, 25 through 36;

Township 4 south, range 30 east, sections 1, 2, 11 through 13, 24, 25, 28 through 36;

Township 4 south, range 31 east, sections 6 through 8, 17 through 20, 29 through 32;

Township 5 south, range 25 east, sections 25 through 27, 33 through 36;

Township 5 south, range 26 east, sections 13 through 15, 20 through 35;

Township 5 south, range 27 east, sections 7 through 24, 29, 30;

Township 5 south, range 28 east, sections 2 through 5, 7 through 10, 15 through 23, 25 through 30, 33 through 36;

Township 5 south, range 29 east, sections 29 through 32;

Township 5 south, range 30 east, sections 1 through 6, 11, 12;

Township 5 south, range 31 east, sections 4 through 9;

Township 5 south, range 32 east, sections 24 through 27, 34 through 36;

Township 5 south, range 33 east, sections 2 through 4, 8 through 11, 14 through 22, 28 through 32;

Township 6 south, range 23 east, sections 2, 3, 10 through 15, 22 through 27, 35, 36;

Township 6 south, range 24 east, sections 13, 14, 17 through 36;

Township 6 south, range 25 east, sections 2 through 5, 7 through 11, 15 through 21, 29, 30;

Township 6 south, range 32 east, sections 1 through 5, 8 through 11, 14 through 17, 20 through 22, 27 through 29, 32 through 35;

Township 7 south, range 31 east, sections 13 through 17, 19 through 34;

Township 7 south, range 32 east, sections 3 through 5, 7 through 10, 13 through 30, 34 through 36;

Township 7 south, range 33 east, sections 13, 19, 24 through 27, 29 through 36;

Township 7 south, range 34 east, section 4, 7 through 9, 16 through 21, 28 through 33.

Copper River Meridian

Township 26 north, range 14 east, sections 12, 13, 24, 25.

(b) Doyon, Limited, shall have a right to identify only those lands described in subsection (a) hereof which are not included within a conservation system unit pursuant to this Act, and each selection so identified shall be subject to the provisions of subsection 1419(b)(2) of this Act. The Secretary shall convey title to the land promptly after its identification by Doyon, Limited, subject to valid existing rights.

(c) The provisions of this section shall take effect only upon the execution and filing of a stipulation by Doyon, Limited, consenting to the dismissal, with prejudice, of Doyon, Limited against Andrus, Civil Action numbered 78-1148 in the United States District Court for the District of Columbia, within sixty days after the effective date of this Act.

AHTNA REGIONAL CORPORATION LANDS

SEC. 1423. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section:

Fairbanks Meridian

Township 20 south, range 5 west, sections 7 through 9, 11 through 14, 16 through 21, 23 through 26, 28 through 33, 35, 36;

Township 20 south, range 6 west, sections 1 through 36;

Township 20 south, range 7 west, sections 1 through 5, 8 through 14, 23 through 36;

Township 20 south, range 8 west, sections 1 through 28, 33 through 36;

Township 20 south, range 9 west, sections 22 through 27, 34 through 36.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Ahtna, Incorporated, may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a).

(2) The lands selected by Ahtna, Incorporated, unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which:

(A) contain not less than eight sections or one thousand two hundred and eighty acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the conveyance of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Ahtna, Incorporated, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Ahtna, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

BERING STRAITS REGIONAL CORPORATION LANDS

SEC. 1424. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section:

Kateel River Meridian

Tract one—Township 6 north, range 36 west, sections 2, 3, 4, 9, 10, 11, 14, 15, 16;
Tract two—Township 1 north, range 40 west, sections 19, 20, 21, 28–33;
Tract three—Township 3 south, range 21 west, sections 23, 26, 35;
Township 4 south, range 21 west, sections 1, 2, 3;
Tract four—Township 7 south, range 35 west, sections 11, 14, 23, 26, 34, 35, 36;
Township 8 south, range 35 west, sections 1, 2, 3;
Tract five—Township 8 south, range 33 west, sections 19, 20, 21, 27–34;
Tract six—Township 10 south, range 9 west, section 31;
Township 10 south, range 10 west, sections 35, 36;
Township 11 south, range 9 west, sections 6, 7;
Township 11 south, range 10 west, sections 1, 2, 11, 12;
Tract seven—Township 16 south, range 13 west, sections 5, 6, 7, 8;
Tract eight—Fairway Rock located within Teller Quadrangle 65 degrees 35 minutes north, 165 degrees 45 minutes west.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Bering Straits Native Corporation may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a).

(2) The lands selected by Bering Straits Native Corporation unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which—

(A) are not less than the lesser of (1) the entire area within any single tract withdrawn pursuant to subsection (a), or (2) eight sections, or (3) five thousand one hundred and twenty acres; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyance pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Bering Straits Native Corporation shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

(f) Any selection pursuant to section 14(h)(8) of any land withdrawn by subsection (a) of this section shall preempt any prior selection by Bering Straits Native Corporation under any other authority of the same lands. Failure to select any particular lands withdrawn by subsection (a) of this section under section 14(h)(8) of the Alaska Native Claims Settlement Act will not affect any prior valid selection under section 14(h)(1) of the Alaska Native Claims Settlement Act but such prior selection shall be adjudicated and conveyed, if valid, pursuant to the Alaska Native Claims Settlement Act and any applicable regulations.

(g) In recognition that the Punuk Islands are located within the boundary of the former Saint Lawrence Island Reindeer Reserve, pursuant to section 19(b) of the Alaska Native Claims Settlement Act there is hereby conveyed to and vested in the Gambell Native Corporation and Savoonga Native Corporation all of the right, title, and interest of the United States in and to said Islands, including adjacent islets and rocks, located at Kateel River Meridian, Saint Lawrence Quadrangle, 63 degrees, 5 minutes north latitude, 168 degrees, 50 minutes west longitude.

EKLUTNA VILLAGE CORPORATIONS LANDS

SEC. 1425. EKLUTNA-STATE AGREEMENTS AND NEGOTIATIONS.—(a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to consolidate ownership among the United States, the State of Alaska, the Municipality of Anchorage, Eklutna, Incorporated, and Cook Inlet Region, Incorporated, thereby facilitating land management, a fair implementation of the Alaska Native Claims Settlement Act, the protection of State public park lands and resources, and appropriate development patterns in and about Anchorage, Alaska.

(b) The Secretary shall accept relinquishments and make conveyances of selections in accordance with the specific terms, conditions, covenants, reservations, and other restrictions set forth in any agreement respecting the lands described in subparagraph (1) below, executed by the State of Alaska, by the Municipality of Anchorage, and by Eklutna, Incorporated, and hereafter submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs and filed with the Secretary, the execution and implementation of which agreement are hereby authorized as to those duties and obligations of the United States, the State of Alaska, the Municipality of Anchorage, and Eklutna, Incorporated, which arise under Federal law: *Provided, however*, That any conveyance under such agreement of lands to Eklutna, Incorporated, shall be only of the surface estate, with a subsequent conveyance to Cook Inlet Region, Incorporated, of the subsurface estate except as otherwise provided in subsection (h). In aid thereof:

(1) The following lands located within the townships described in sections 11(a) (1) and (2) of the Alaska Native Claims Settlement Act with respect to the Native Village of Eklutna are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and including Public Law 94–204, except section 12 thereof, and from selection under the Alaska Statehood Act, or any statutes authorizing selections by the State of Alaska: (A) lands withdrawn or reserved for national defense purposes; and (B) lands determined by the Secretary under section 3(e) (1) of the Alaska Native Claims Settlement Act not to be public lands for purposes of the Alaska Native Claims Settlement Act. This withdrawal and the agreement shall not affect the administrative jurisdiction of the Department of Defense or any other holding agency over the lands withdrawn, but all forms of disposition other than in accordance with this section and the agreement are prohibited: *Provided*, That the foregoing to the contrary notwithstanding, lands placed prior to July 15, 1979, in the pool contemplated by part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8–13–76", but only to the extent authorized by that document under section 12 of Public Law 94–204 as amended heretofore and in accordance with the procedures and with the consents and approvals required by laws, regulations and Executive orders in effect on such date of placement, may be selected by Cook Inlet Region, Incorporated, free of the effects of the agreement pursuant to this section; if the lands placed in that pool are not thereafter selected in accordance with part I.C.(2) of that document any agreement pursuant to this section shall govern: *Provided, further*, That neither the revocation of certain withdrawals of lands made by subsection (b) effective upon the filing of the agreement, nor the expiration of the withdrawal made by subsection (b) in the event no agreement is reached, shall be deemed an action causing those lands affected thereby to be subject to disposition under such section 12. The withdrawal made by this subsection (b) will expire March 15, 1982, if an executed agreement described in this section is not filed by the parties thereto on or before that date with the Secretary in the Alaska State Office of the Bureau of Land Management; but if an agreement is so executed, rights under the agreement shall vest as of the effective date of this Act, and this withdrawal shall become permanent, except as otherwise provided in the agreement. The agreement shall not impose upon the United States obligations or outlays of funds, except as reasonable in the ordinary course of business, or impose any procedural requirements or require the reassignment of personnel; and any of its provisions to the extent to the contrary shall be void as against the Secretary.

(2) Upon termination or revocation of any national defense withdrawal or reservation or of any other withdrawal in effect December 18, 1971, respecting lands described in subsection (b)(1), or upon declaration of their excess status in whole or in part, whichever first occurs, but not before, and from time to time, the lands excessed or as to which the withdrawal is terminated or revoked shall be conveyed to Eklutna, Incorporated as to the surface estate and Cook Inlet Region, Incorporated as to the subsurface estate, or to the State of Alaska (for reconveyance by the State of Alaska in whole or in part to the Municipality of Anchorage), as may be provided in the agreement described in this subsection: *Provided, however*, That such conveyance shall not be made of lands in the pool established under part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8–31–76" under section 12 of Public Law 94–204 as amended heretofore, unless and until removed from that pool in accordance with such part I.C.(2). This section and the agreement shall preempt the procedures of the Federal Property Act (40 U.S.C. 471, et seq., and of 41 CFR 101–47.000 et seq.), (other than as to fixtures and personalty) and the preference right for State selection of section 6(g) of the Alaska Statehood Act. The conveyances to Eklutna, Incorporated, of lands withdrawn by this subsection called for by the agreement shall not be subject to section 1613(c) of title 43, United States

Code. This section shall revoke PLO 5187 as it pertains to any lands withdrawn by this subsection and any power project withdrawals other than Power Project 350 as to such lands, effective upon the date of filing of the agreement. Lands conveyed to the State of Alaska, the surface of lands conveyed to Eklutna, Incorporated, and the subsurface estate conveyed to Cook Inlet Region, Incorporated, pursuant to this section and the agreement, shall be charged against their respective entitlements under sections 12 and 14 of the Settlement Act and be considered conveyed and received pursuant to the Settlement Act, and section 6 of the Alaska Statehood Act or section 906(c) of this Act.

(c) If an agreement to the following effect executed by the State of Alaska and Eklutna, Incorporated, is hereafter filed with the Secretary in the Alaska State Office of the Bureau of Land Management on or before April 2, 1982, the public lands as defined in the Settlement Act, located within township 17 north, range 3 east, Seward Meridian, Alaska, shall be deemed to have been withdrawn pursuant to section 11(a) of the Settlement Act as of December 18, 1971, and, selections heretofore made by Eklutna, Incorporated, with respect to lands therein shall be processed by the Secretary as though said selections had been made within a township heretofore validly withdrawn pursuant to section 11(a). If no such agreement is filed, this subsection shall not be held to affect the validity or invalidity of such selections. Whether or not any agreement is filed, this subsection shall not be held to affect the validity or invalidity of any third party interest heretofore created by the State of Alaska.

(d) Notwithstanding other provisions of this Act, the State and Eklutna, Incorporated, are each authorized to relinquish, in whole or in part, pursuant to either or both of the agreements contemplated by subsections (b) and (c), any one or more land selections affecting lands to be conveyed under the agreement to the other whether or not such selections have been previously approved or tentatively approved. The lands affected by the State selections so relinquished shall be deemed public lands as of December 18, 1971, as that term is defined in the Settlement Act.

(e) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A–78–24 Civil in the United States District Court for the District of Alaska, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all lands in township 17 north, range 3 east, Seward Meridian, which are to be conveyed to Eklutna, Incorporated, under the agreement referred to in subsection (c).

(f) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A–78–192 Civil in the United States District Court for the District of Alaska except as to the lands affected thereby which under the agreement referred to in subsection (b) are to remain in litigation in that cause, if any, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all those lands which under the agreement the State agrees are to be conveyed to Eklutna, Incorporated, from among those selected at one time by the State under the authority of the Mental Health Enabling Act of 1956 (70 Stat. 709).

(g) The Secretary shall convey to Eklutna, Incorporated, its entitlement without regard to the acreage or interests which may ultimately be conveyed to Eklutna, Incorporated, under the agreement from within lands withdrawn by subsection (b). The agreement shall, however, require Eklutna, Incorporated, to subject to section 907 of this Act one or more compact tracts of lands of at least equal acreage to that ultimately to be conveyed to Eklutna, Incorporated, under the agreement from those withdrawn by subsection (b). The agreement shall require Eklutna, Incorporated, to reconvey to the State lands from those subject to section 907 in an amount provided by the agreement, upon the occasion of each receipt of lands by Eklutna, Incorporated, from among those withdrawn by subsection (b). Lands received by the State in such a reconveyance from Eklutna, Incorporated, shall be charged, to the extent of the acreage received by Eklutna, Incorporated, in the relevant conveyance to it, against the State's entitlement under section 6 of the Alaska Statehood Act, or section 906(c) of this Act, as the State may elect. If thereby the State receives more than its entitlements under the Act elected, it shall reconvey to the United States a compact tract of unencumbered State lands of equal acreage contiguous to lands belonging to the United States. Eklutna, Incorporated, shall also subject to section 907 of this Act, once an agreement under subsection (c) exists and thereafter from time to time, one or more compact tracts which equals the acreage amount by which Eklutna, Incorporated's entitlement would be over satisfied considering the acreage already conveyed to Eklutna, Incorporated; to the extent such a risk of over entitlement abates the lands may be withdrawn from the Land Bank.

(h) In the event that Eklutna, Incorporated, receives a conveyance from the United States of the surface estate in lands withdrawn by subsection (b) pursuant to the agreement authorized in that subsection, and if a reconveyance from Eklutna, Incorporated, of the surface estate in land to the State from those subject to seciton 907 of this Act is thereby occasioned, a conveyance of the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be withheld until the Secretary ascertains to whom the subsurface estate is to be conveyed under this subsection. The entity owning the subsurface estate in those reconveyed lands shall retain that interest, unless it in the agreement or separately consents to convey the same to the State. In the event such entity so consents to convey the subsurface to the State, the Secretary shall convey the subsurface estate in the lands conveyed to Eklutna, Incorporated, to that entity; if such entity does not so consent, the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be conveyed to the State.

EKLUTNA-STATE ANCHORAGE AGREEMENT

SEC. 1426. (a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to implement section 14 of the Settlement Act under the unique circumstances of the Native Village of Eklutna, with respect to the municipality of Anchorage.

(b) The terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Agreement of Compromise and Settlement" submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, executed by Eklutna, Incorporated, and the municipality of Anchorage, acting by its mayor, and to be executed by the State of Alaska, acting by the commissioner of the department of community and regional affairs, are hereby ratified as to the rights, duties, and obligations of the State of Alaska, the municipality of Anchorage, and Eklutna, Incorporated, which arise among them under section 14(c) (2) and (3) of the Settlement Act, and Eklutna, Incorporated, is discharged accordingly from section 14(c)(3) thereof as to all lands heretofore selected by it.

(c) If, for any reason, the foregoing agreement is not executed by the State of Alaska this section shall be of no force and effect.

KONIAG VILLAGE AND REGIONAL CORPORATION LANDS

SEC. 1427. (a) As used in this section, the term—

(1) "Afognak Island" means Afognak Island, and Bear, Teck, Hogg, and Murphy Islands, above the line of mean high tide within the exterior boundaries of the Chugach National Forest, Murphy Island is that unnamed island shown on USGS Topographical Map, Scale 1:63360 entitled 'Afognak B–2, 1952, Rev. 1967,' lying in Seward Meridian, Alaska, Township 21 south, Range 19 west, that shares the common corner of sections 27, 28, 33 and 34.

(2) "Deficiency village acreage on the Alaska Peninsula" means the aggregate number of acres of public land to which "Koniag deficiency village corporations" are entitled, under section 14(a) of the Alaska Native Claims Settlement Act, to a conveyance of the surface estate on account of deficiencies in available lands on Kodiak Island, and to which Koniag, Incorporated is entitled under section 14(f) of that Act to conveyance of the subsurface estate.

(3) "12(b) acreage on the Alaska Peninsula" means the aggregate number of acres of public lands to which "Koniag 12(b) village corporations" are entitled under section 14(a) of the Alaska Native Claims Settlement Act by reason of section 12(b) of that Act, to conveyance of the surface estate and to which Koniag, Incorporated, under section 14(f) of that Act, is entitled to conveyance of the subsurface estate, less the aggregate acreage of 12(b) lands on Kodiak Island as to which Koniag 12(b) village corporations will receive conveyances, the latter being estimated to be approximately fifteen thousand acres.

(4) "Koniag deficiency corporation" means any or all of the following:
Afognak Native Corporation,
Nu-Nachk-Pit, Incorporated,
Ouzinkie Native Corporation,
Leisnoi, Incorporated.

(5) "Koniag 12(b) village corporation" means the village corporations listed in subparagraph (4) above, if within sixty days of the effective date of this act Koniag, Incorporated, by a resolution duly adopted by its Board of Directors, designates them as such as a class, and all of the following: Natives of Akhiok, Incorporated, Old Harbor Native Corporation, Kaguyak, Inc., Karluk Native Corporation and each of the corporations listed in subsection (e)(2) of this section which files a release as provided for in subsection (e)(1) of this section.

(6) "Koniag region" means the geographic area of Koniag, Incorporated, under the Alaska Native Claims Settlement Act.

(7) "Koniag village" means a Native village under the Alaska Native Claims Settlement Act which is within the Koniag region.

(8) "Koniag village corporation" means a corporation formed under section 8 of the Alaska Native Claims Settlement Act to represent the Natives of a Koniag village and any village corporation listed in subsection (e)(2) of this section which has filed a release as provided in subsection (e) (1) of this section.

(9) "Koniag 14(h)(8) lands on the Alaska Peninsula" means the aggregate number of acres of public lands to which Koniag, Incorporated Regional Native Corporation is entitled under section 14(h)(8) of the Alaska Native Claims Settlement Act, less the acreage of lands withdrawn for conveyance to that corporation by Public Land Order Numbered 5627 (42 F.R. 63170) and conveyed to that corporation.

(10) Any term defined in subsection 3(e) of the Alaska Native Claims Settlement Act has the meaning therein defined.

(11) "Alaska Peninsula" means the Alaska Peninsula and all islands adjacent thereto which are withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and Koniag, Incorporated, including but not limited to Sutwik, Hartman, Terrance, Nakchamik, and West and East

Channel Islands, except those islands selected by Koniag, Inc. pursuant to section 15 of Public Law 94–204.

(b)(1) In full satisfaction of (A) the right of Koniag, Incorporated, Regional Native Corporation to conveyance of Koniag 14(h)(8) lands on the Alaska Peninsula under the Alaska Native Claims Settlement Act; (B) the right of each Koniag Deficiency Village Corporation to conveyance under that Act of the surface estate of deficiency village acreage on the Alaska Peninsula; (C) the right of each Koniag 12(b) Village Corporation to conveyance under the Alaska Native Claims Settlement Act of surface estate of 12(b) acreage on the Alaska Peninsula; (D) the right of Koniag, Incorporated under the Alaska Native Claims Settlement Act to conveyances of the subsurface estate of the deficiency village acreage on the Alaska Peninsula and of the 12(b) acreage on the Alaska Peninsula; and (E) the right of Koniag, Incorporated, to receive the minerals in the subsurface estates that, under subsection (g)(3) of this section and sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, it will be conveyed on the Alaska Peninsula, other than oil and gas and sand and gravel that it will be conveyed as provided in subsection (l) of this section; and in lieu of conveyances thereof otherwise, the Secretary of the Interior shall, under the terms and conditions set forth in this section, convey as provided in subsection (c) of this section the surface estate of all of the public lands on Afognak Island except those lands referred to in subparagraphs 2 (A), (B), (C), and (D) of this subsection, and simultaneously therewith, the Secretary shall, under the terms and conditions set forth in this section, convey the subsurface estate of such lands to Koniag, Incorporated.

(2) There are excepted from the conveyances provided for in subparagraph (1) of this subsection:

(A) Selections of the State of Alaska on Afognak Island heretofore made under section 6(a) of the Alaska Statehood Act and described as follows:

Seward Meridian, Alaska

Parcel I

Township 22 south, range 17 west, section 30, 31 fractional all southwest quarter;

Township 22 south, range 18 west, section 36, southeast quarter;

Township 23 south, range 17 west, sections 6, northeast quarter, 7, west half; 18, west half; 19, west and and southeast quarter; 20, southwest quarter; 29 west half, 30 all;

Township 23 south, range 18 west, section 1, east half; 12, east half; 13 all; 24 all; 25 all;

Parcel II

Township 22 south, range 17 west, section 30, all; 31 all;

Township 22 south, range 17 west, section 6, northeast quarter;

(B) Surface estate of lands on Afognak Island to which Afognak Native Corporation, Ouzinkie Native Corporation and Natives of Kodiak, Incorporated are entitled pursuant to the Alaska Native Claims Settlement Act and the subsurface estate of such lands;

(C) The land on Afgonak Island referred to in subsection (d) of this section if conveyed as therein provided

(D) The following described lands:

Seward Meridian, Alaska

Beginning at the point for the meander corner of sections 7 and 18, township 22 south, range 21 west, Seward meridian at the line of mean high tide on the easterly shore of Foul Bay, southeasterly of Ban Island;

thence easterly, between sections 7 and 18, 8 and 17, 9 and 16, approximately 2¼ miles to the corner of sections 9, 10, 15, and 16, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 9 and 10, approximately 1 mile to the corner of sections 3, 4, 9 and 10, township 22 south, range 21 west, Seward meridian;

thence easterly, between sections 3 and 10, 2 and 11, approximately 2 miles to the corner of sections 1, 2, 11 and 12, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 1 and 2, approximately one-half mile to the one-quarter section corner of sections 1 and 2, township 22 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 1, approximately one-half mile to the center one-quarter section corner of section 1, township 22 south, range 21 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 1 and 36, approximately 1 mile to the center one-quarter section corner of section 36, township 21 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 36, approximately one-half mile to the one-quarter section corner of sections 31 and 36, township 21 south, ranges 20 and 21 west, Seward meridian;

thence northerly, between ranges 20 and 21 west, approximately 2½ miles to the corner of sections 13, 18, 19, and 24, township 21 south, ranges 20 and 21 west, Seward meridian;

thence easterly, between sections 18 and 19, 17 and 20, approximately 1½ miles to the one-quarter section corner of sections 17 and 20, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 17, approximately one-half mile to the center one-quarter section corner of section 17, township 21 south, range 20 west, Seward meridian;

thence easterly, on the east-west centerline of section 17, approximately one-half mile to the one-quarter section corner of sections 16 and 17, township 21 south, range 20 west, Seward meridian;

thence northerly, between sections 16 and 17, approximately one-half mile to the corner of sections 8, 9, 16, and 17, township 21 south, range 20 west, Seward meridian;

thence easterly, between sections 9 and 16, approximately one-half mile to the one-quarter section corner of sections 9 and 16, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 4 and 9, approximately 2 miles to the closing subdivision corner of section 4, township 21 south, range 20 west, Seward meridian;

thence westerly, on the fifth standard parallel south, approximately 2½ miles to the standard corner of sections 31 and 32, township 20 south, range 20 west, Seward meridian;

thence northerly, between sections 31 and 32, approximately 1 mile to the corner of sections 29, 30, 31, and 32, township 20 south, range 20 west, Seward meridian;

thence westerly, between sections 30 and 31, approximately one-half mile to the one-quarter section corner of sections 30 and 31, township 20 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 30, approximately one-half mile to the center one-quarter section corner of section 30, township 20 south, range 20 west, Seward meridian;

thence westerly, on the east-west centerline of section 30, approximately one-half mile to the one-quarter section corner of sections 25 and 30, township 20 south, ranges 20 and 21 west, Seward meridian;

thence southerly, between ranges 20 and 21 west, approximately one-half mile to the corner of sections 25, 30, 31, and 36, township 20 south, ranges 20 and 21 west, Seward meridian;

thence westerly, between sections 25 and 36, approximately 1 mile to the corner of sections 25, 26, 35, and 36, township 20 south, range 21 west, Seward meridian;

thence northerly, between sections 25 and 26, approximately one-half mile to the point for the meander corner of sections 25 and 26, township 20 south, range 21 west, Seward meridian, at the line of mean high tide of the southerly arm of Bluefox Bay;

thence, westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point for the intersection of the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian on the northerly shore of Devil Inlet;

thence southerly, on the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian, across Devil Inlet, to the line of mean high tide on the southerly shore of Devil Inlet;

thence westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point of beginning.

(3) All public lands on the Alaska Peninsula withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated and all lands conveyed to such corporations subject to reconveyance to the United States upon enactment of this section; are hereby withdrawn, subject to valid existing rights and Native selection rights under that Act as modified by this Act, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act and shall remain so withdrawn subject to the provisions of section 1203 of this Act. Following the filing with the Secretary of the Interior of (A) all resolutions pursuant to subparagraph (4) of this subsection, (B) the joint venture agreement referred to in subsection (c) of this section, (C) releases by such of the Koniag Village Corporations referred to in subsection (e)(2) of this section as file releases as provided in subsection (e)(1) of this section, and (D) all reconveyances of lands and interests in lands to the United States required by agreements with the Secretary of the Interior upon enactment of this section; and upon the conveyances by the Secretary of the Interior of all public lands on Afognak Island to be conveyed as provided in subsection (c) of this section, all Native selection rights in and to public lands on the Alaska Peninsula withdrawn under section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated, shall, except as provided in subsection (g) of this section, be extinguished and all claims thereto arising under this Act or the Alaska Native Claims Settlement Act shall be barred, and such public lands (except as provided in subsection (g) of this section) shall be included within the Alaska Peninsula National Wildlife Refuge and administered accordingly.

(4) As a condition precedent to the conveyances provided for by subparagraph (1) of this subsection, Koniag, Incorporated, each Koniag Deficiency Village Corporation and each Koniag 12(b) Village Corporation shall file with the Secretary of the Interior resolutions duly adopted by their respective boards of directors accepting the conveyances provided for in this subsection as being in full satisfaction of their respective entitlements to conveyances of Koniag 14(h)(8) lands on the Alaska Peninsula, of deficiency village acreage on the Alaska Peninsula and of 12(b) acreage on the Alaska Peninsula, and Koniag, Incorporated, shall further file with the Secretary of the Interior a resolution duly adopted by its board of directors

accepting the provisions of subsection (1) of this section.

(5) The lands on Afognak Island required to be conveyed pursuant to paragraph (1) of this subsection shall remain open and available to sport hunting and fishing and other recreational uses by the public under applicable law (but without liability on the part of Koniag, Incorporated or any Koniag Village Corporation, except for willful acts, to any user by reason of such use), subject only to such reasonable restrictions which may be imposed by Koniag, Incorporated and the affected Koniag Village Corporations for the purposes of limiting or prohibiting such public uses in the immediate vicinity of logging or other commercial operations which may be undertaken by the corporations upon the affected lands. Such restrictions shall comprise only those restrictions necessary to insure public safety and to minimize conflicts between recreational and commercial uses. Koniag, Incorporated and the affected Koniag Village Corporations shall permit access to the lands on Afognak Island conveyed to them by employees of the State for purposes of managing fish and wildlife and by other State officers and employees, and employees of political subdivisions of the State, for the purposes of carrying out this subsection.

(6) To further accomplish the purposes of paragraph (5), Koniag, Incorporated and the Koniag Villages are authorized to enter into cooperative agreements regarding lands on Afognak Island with the Secretary of the Interior, the State of Alaska, and those political subdivisions of the State which desire to participate and which have jurisdiction over the portions of Afognak Island affected. Each such agreement shall—

(A) permit the Secretary of the Interior reasonable access to such land to carry out the obligations of the Secretary under the agreement;

(B) set forth those services which any other party agrees to provide, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(C) set forth such additional terms and conditions as the parties may agree to as being necessary and appropriate to carry out the terms of the agreement; and

(D) specify the effective period of the agreement.

(c) The Secretary of the Interior shall convey the surface estate on Afognak Island to be conveyed under subsection (b)(1) of this section to a joint venture providing for the development of the surface estate on Afognak Island to be conveyed under this subsection, consisting of the Koniag Deficiency Village Corporations, the Koniag 12(b) Village Corporations, and Koniag, Incorporated (or wholly owned subsidiaries thereof), in which (1) the share of the Koniag Deficiency Village Corporations as a class in the costs and revenues of such joint venture is determined on the basis of a fraction, the numerator of which is the deficiency village acreage on the Alaska Peninsula and the denominator is the sum of the deficiency village acreage on the Alaska Peninsula plus the 12(b) acreage on the Alaska Peninsula plus the Koniag 14(h) acreage on the Alaska Peninsula, which fraction shall be multiplied by the number of acres on Afognak Island to be conveyed by reason of subparagraph (b)(1) of this subsection; (2) the share of the Koniag 12(b) Village Corporations as a class is determined on the basis of a fraction, the numerator of which is the 12(b) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above, which fraction shall be multiplied by the number of acres on Afognak Island referred to (1) above; and (3) the share of Koniag, Incorporated is determined on the basis of a fraction, the numerator of which is the Koniag 14(h) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above which fraction shall be multiplied by the number of acres on Afognak Island to in (1) above. In such joint venture, each Koniag Deficiency Village Corporation shall participate in the share of the Koniag Deficiency Village Corporations as a class in the ratio that the entitlement of each to deficiency village acreage on the Alaska Peninsula bears to the total deficiency village acreage on the Alaska Peninsula and each Koniag 12(b) Village Corporation shall participate in the share of the Koniag 12(b) Village Corporations as a class in the ratio that the number of Natives enrolled under the Alaska Native Claims Settlement Act to the village that corporation represents bears to the number of Natives enrolled to all villages represented by Koniag 12(b) Village Corporations. The conveyance shall be made as soon as practicable after there has been filed with the Secretary of the Interior a duly executed joint venture agreement with provisions for sharing of and entitlements in costs and revenues of such venture as provided in this subsection. The conveyance shall not indicate the respective interests of each of the corporations in the surface estate conveyed but such interest shall be as provided in this subsection which shall be incorporated by reference into the conveyance. The subsurface estate in the foregoing lands shall be conveyed simultaneously to Koniag, Incorporated. Neither the joint venture, and Koniag Village Corporation having an interest in the joint venture or the lands conveyed thereto, nor Koniag, Incorporated shall take or permit any action which may be inimical to bear denning activities on the Tonki Cape Peninsula.

(d) In the event the Ouzinkie Native Corporation and Koniag, Incorporated, within ninety days after the effective date of this Act, enter into an agreement to convey to the Kodiak Island Borough their respective rights, titles, and interests in and to the surface and subsurface estate respectively in the following described land:

Seward Meridian, Alaska

Township 27 south, range 20 west,
Sections 9 through 12 inclusive, all;

Sections 13, north half, excluding Monashka Bay; southwest quarter; north half southeast quarter, excluding Monashka Bay; southwest quarter south east quarter;
Sections 14, 15, and 16, all;
Sections 21 and 22, all;

Section 23, north half, north half southwest quarter, southwest quarter southwest quarter, northwest quarter southest quarter;
Section 24, north half northwest quarter;
Section 27, north half, southwest quarter, west half southeast quarter;

the Secretary of the Interior shall convey to Ouzinkie Native Corporation the surface estate and to Koniag, Incorporated the subsurface estate in the following described land on Afognak Island:

Seward Meridian, Alaska

Township 22 south, range 19 west,
Sections 6, 7, 15, all;
Section 18, west half;
Sections 19, 22, 28, all;
Sections 31 through 35 inclusive, all;
Section 36, south half.

The agreement between Kodiak Island Borough, Ouzinkie Native Corporation and Koniag, Incorporated may contain the provisions agreed to by the parties including, but not limited, to easements across the lands to be conveyed to the Kodiak Island Borough.

(e)(1) Each village listed in paragraph (2) of this subsection which, through the Koniag Village Corporation listed alongside it, files with the Secretary of the Interior, within sixty days from the effective date of this Act, a release duly authorized by its board of directors releasing, in consideration of the benefits provided for in this section, the United States, its officers, employees, and agents from all claims of the village and the village corporations to lands and interests therein arising under the Alaska Native Claims Settlement Act or compensation in any form therefor (except as provided in paragraph (3) of this subsection) along with a release by Koniag, Incorporated, duly authorized by its board of directors, releasing the United States, its officers, employees, and agents, from Koniag's claims to subsurface estate under the Alaska Native Claims Settlement Act arising out of the claims of such village or compensation in any form therefor (except as provided in paragraph (3) of this subsection) shall be deemed an eligible village under the Alaska Native Claims Settlement Act. This section shall be inoperative as to any such village which does not file such a release but shall be operative as to each of such villages which files such a release.

(2) The villages and Koniag village corporations referred to in the foregoing paragraph are:

Anton Larsen Bay—Anton Larsen, Incorporated
Bells Flats—Bells Flats Natives, Incorporated
Uganik—Uganik Natives, Incorporated
Litnik—Litnik, Incorporated
Port William—Shuyak, Incorporated
Ayakulik—Ayakulik, Incorporated
Uyak—Uyak Natives, Incorporated

(3)(A) When Uyak Natives, Incorporated, Uganik Natives Incorporated, or Ayakulik, Incorporated (and Koniag, Incorporated in respect of such corporations) executes a release as provided for in paragraph (1) of this subsection, the Secretary of the Interior shall convey to each village corporation executing such release the surface estate of the one square mile of land excluded from the Kodiak Island National Wildlife Refuge by Public Land Order Numbered 1634 on account of the village it represents. The Secretary of the Interior shall by reason of conveyance of surface estate to a village corporation under this paragraph (3) convey to Koniag, Incorporated the subsurface estate in such lands.

(B) Upon conveyance of each Koniag Village Corporation of that land described in subparagraph (A), such village corporation shall comply with the requirements of subsection (f) of this section, except that it shall be required to convey twenty acres to the State in trust or any Municipal Corporation established in the Native village in the future for community expansion and appropriate rights of way for public use, and other foreseeable community needs.

(4) There shall vest in the Native village corporation representing each village that files a release as provided for in subsection (e)(1) of this section the right to all revenues received by Koniag, Incorporated from the Alaska Native Fund which would have been distributed to it by Koniag, Incorporated under subsections (j) and (k) of section 7 of the Alaska Native Claims Settlement Act (subject to subsection (l) of section 7 of that Act) had such village been determined to be eligible at the time of such distributions, less amounts heretofore paid by Koniag, Incorporated under subsection (m) of section 7 of that Act to stockholders of such corporations as members of the class of at-large stockholders of Koniag, Incorporated. Each corporation representing a village that files a release as provided for in subsection (e)(1) of this section shall hereafter be entitled to share pro rata with all other Koniag village corporations in distributions of funds to village corporations made by Koniag, Incorporated out of funds hereafter received by Koniag, Incorporated

from the Alaska Native Fund or from any other source and shall be eligible for all other rights and privileges to which Alaska Native village corporations are entitled under any applicable laws, except as limited by this subsection. Nothing in this paragraph shall prohibit Koniag, Incorporated from withholding out of funds otherwise due a village corporation that files a release as provided for in subsection (e)(1) of this section, such sums as may be required to reimburse Koniag, Incorporated for an equitable portion of expenses incurred by Koniag, Incorporated in connection with or arising out of the defense of or assertion of the eligibility of the village represented by such corporation for benefits under the Alaska Native Claims Settlement Act, including costs incident to land selection therefor.

(f) All conveyanecs made by reason of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances (including patents) had been made or issued pursuant to that Act.

(g) Nothing in this section shall be deemed to affect (1) section 15 of the Act of January 2, 1976 (Public Law 94–204) as amended by section 912 of this Act; (2) the right, subject to subsection (l) of this section, of Koniag, Incorporated to in lieu subsurface estate on the Alaska Peninsula under sections 12(a) (1) and 14(f) of the Alaska Native Claims Settlement Act, less the acreage of such in lieu subsurface estate conveyed to Koniag, Incorporated under the provisions of law referred to in subdivision (1) of this subsection; or (3) the right under the Alaska Native Claims Settlement Act of Koniag, Incorporated, subject to subsection (l) of this section, to subsurface estate in and to the following described land:

Seward Meridian, Alaska

Township 37 south, range 48 west,
Section 9,
Section 15 through 17 inclusive,
Sections 20 through 22 inclusive,
Sections 28, 33;
Township 37 south, range 49 west,
Sections 21 through 23 inclusive,
Sections 26 through 28 inclusive,
Sections 33 through 35 inclusive,
Township 38 south, range 48 west,
Sections 4 through 9 inclusive;
Township 38 south, range 49 west,
Sections 1 through 4 inclusive,
Sections 6 through 23 inclusve,
Sections 26 through 34 inclusive;
Township 38 south, range 50 west,
Sections 1 through 3 inclusive,
Sections 10 through 12 inclusive,
Sections 13 through 15 inclusive,
Sections 22 through 26 inclusive,
Sections 35, 36;
Township 39 south, range 49 west,
Sections 3 through 7 inclusive,
Sections 9 through 10 inclusive,
Sections 18, 19, 30;
Township 38 south, range 50 west,
Sections 1, 2, 7, 8, 12, 13,
Sections 15 through 18 inclusive,
Sections 20 through 22 inclusive,
Section 24 through 27 inclusive,
Section 35.

(h) All public lands on Afognak Island, other than those lands referred to in subsections (b)(2)(A) and (B) of this section are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act as amended, and shall remain so withdrawn until and unless conveyed pursuant to this Act. Any such lands not conveyed under this section except those lands described in subsections (b)(2)(D) may be opened by the Secretary of the Interior to the extent he deems appropriate.

(i) As additional consideration for the relinquishment by Koniag village corporations of rights to surface estate on the Alaska Peninsula and by Koniag, Incorporated of rights to surface and subsurface estate thereon as provided in subsection (b)(4) of this section, Koniag, Incorporated shall, solely for purpose of prospecting for, extraction and removal of sub-surface resources retained by it under subsection (l) of this section on the Alaska Peninsula, have the same rights of access and use of surface estate, after consultation with the surface owner, as are now provided for in 50 CFR 29.32.

(j) The acreage to be allocated to Koniag, Incorporated under section 12(b) of the Alaska Native Claims Settlement Act shall be determined as though each village listed in sub-paragraph (e)(2) of this section had selected 69,120 acres under section 12(a) of the Alaska Native Claims Settlement Act. Acreages allotted to other regional corporations under section 12(b) of the Alaska Native Claims Settlement Act shall be determined on the basis of the acreages actually conveyed to such villages under this section or the Alaska Native Claims Settlement Act.

(k) Koniag, Incorporated's interest in the timber resources of the joint venture referred to in subsection (c) of this section, determined as therein provided, shall for purposes of section 7(i) of the Alaska Native Claims Settlement Act be deemed to be Koniag's timber resources. Koniag, Incorporated shall be entitled to deduct from its share of proceeds therefrom any and all expenses of the kind and nature which regional corporations are entitled to deduct from revenues from timber resources prior to the distributions required by said section 7(i).

(l) In conveying subsurface estate to Koniag, Incorporated on the Alaska Peninsula, whether under subsection (g)(3) of this Act or as in lieu subsurface estate as provided in sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall retain all minerals other than oil and gas and sand and gravel used in connection with prospecting for, extracting, storing or removing oil and gas: *Provided*, That removal of oil and gas and sand and gravel shall, after consultation with the surface owner, be accomplished as now provided in 50 CFR section 29.32. Koniag, Incorporated may in its discretion enter into agreements with the owner of the surface estate in such lands for the conveyance of the subsurface estate to the surface owner without compensation, but this provision shall not be construed to require such conveyances without Koniag, Incorporated's agreement.

(m) All public lands, including submerged lands, adjacent to and seaward of Afognak Island from the line of mean high tide to the exterior boundary of the former "Afognak Forest and Fish Culture Reserve," part of the existing Chugach National Forest, as reserved by proclamation dated December 24, 1892, and as shown on the diagram forming a part of the proclamation dated February 23, 1909, are hereby included within the Alaska Maritime National Wildlife Refuge and the lands described in subdivision (D) of subsection (b)(2) of this section are hereby included within the Kodiak National Wildlife Refuge: *Provided*, That notwithstanding the inclusion of Delphin and Discover Islands in the Alaska Maritime National Wildlife Refuge, the joint venture provided for in subsection (c) of this section shall be entitled to and there shall be conveyed to the joint venture in the conveyance provided for in subsection (c) hereof, the right to timber resources on such islands: *Provided*, That management and harvest of such timber resources shall be only in accordance with management plans jointly developed by the joint venture and the Secretary of the Interior.

(n) Section 22(j)(2) of the Alaska Native Claims Settlement Act as amended by section 1410 shall not apply to Koniag, Incorporated or to any Koniag Village Corporation.

(o) Nothing in this section shall abrogate any existing Forest Service timber contract on Afognak Island or revoke existing cabin leases or term special use permits on Afognak Island.

CHUGACH VILLAGE CORPORATION LANDS

SEC. 1428. (a) Notwithstanding the restrictions applicable to the village corporation selections under section 12(b) of the Alaska Native Claims Settlement Act imposed by section 12(a) of the Settlement Act, including but not limited to the sixty-nine thousand one hundred and twenty-acre conveyance limitation placed on land selected by village corporations within the National Forest, National Wildlife Refuge System, or State selected lands, the Secretary shall convey under section 14(a) of the Alaska Native Claims Settlement Act from lands previously selected from lands withdrawn pursuant to section 11 of such Act in the Chugach National Forest by the village corporations created by the enrolled residents of the villages of Chenega, Eyak and Tatitlek, those additional entitlement acreages which are reallocated to these corporations under section 12(b) of such Settlement Act by the Regional Corporation for the Chugach region.

(b) Within ninety days after the enactment of this act, the three village corporations referred to in subsection (a) of this section shall file with the Secretary a list of those lands selected by each of them under section 12(b) from lands withdrawn pursuant to section 11 of the Settlement Act from within the Chugach National Forest, in the order of priority in which they wish to receive conveyance to such lands: *Provided, however*, That the village of Chenega shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act on the mainland in the area of Icy Bay and Whale Bay, as depicted on the map entitled "Areas not available for Chenega 12(b) conveyance," dated April 1979: *Provided, further*, That the village of Eyak shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act in the area east of Mountain Slough and in the area more than a thousand feet south of the centerline of the Copper River Highway as depicted on the map entiled "Areas not available for Eyak 12(b) conveyance," dated April 1979.

(c) The Board of Directors of Chugach Natives, Incorporated, shall, within ninety days after the enactment of this Act, file with the Secretary a resolution indicating the number of acres allocated to each of these village corporations under the regional corporation's existing sixty-four thousand four hundred-acre 12(b) allocation, and the basis on which future 12(b) allocations made by the Secretary, if any, are to be reallocated among the village corporations in the Chugach region.

(d) The Secretary shall process the lands for conveyance in the priority listed, and subject to the requirements of the settlement act for selection, tract size, compactness, and contiguity, convey to the corporations such acreage to which they are entitled: *Provided, however*, That applicants for selection filed by the State of Alaska under section 6(a) of the Alaska Statehood Act, as amended, shall take precedence over such Chugach Village Corporation 12(b) selections within the Chugach National Forest, except in the area of Windy and Cedar Bays on Hawkins Islands, where applications for State selections in township 15 south, ranges

4 and 5 west of the Copper River Meridian, shall be subordinated to 12(b) selections filed by the Eyak Corporation; and except further in the area of Boswell Bay on Hinchenbrook Island, where State applications for selection in township 17 south, range 5 west of the Copper River meridian, except for those in sections 10 and 15 of said township, shall be subordinated to 12(b) selections filed by the Eyak Corporation. State applications for selection of any of the above-described lands which are not subordinated to Chugach village selections shall be adjudicated and approved or disapproved pursuant to section 6(a) of the Alaska Statehood Act: *Provided, however,* That any disapproval of such State selections shall not vest any selection right in any Chugach Village Corporation.

(e) Should the corporations fail to timely file the information required by subsections (b) and (c) of this section or if the priority listing submitted under subsection (b) does not meet the tract size, compactness, or contiguity requirements of the Settlement Act, the Secretary may provide the corporations thirty days from the date of notice to file the information to make the necessary corrections.

(f) If any Chugach Village Corporation voluntarily relinquishes any selection of lands within the boundaries of a conservation system unit, such lands shall be added to such unit and administered accordingly.

CHUGACH REGIONAL CORPORATION LANDS

Sec. 1429. (a) Subject to valid existing rights, within one hundred and eighty days after the enactment of this Act, Chugach Natives, Incorporated, shall be entitled to select public lands not reserved for purposes other than National Forests from within the Chugach Region under section 14(h)(8) of the Alaska Native Claims Settlement Act from within the boundaries of the Chugach National Forest. Chugach Natives, Incorporated, shall make no selection of lands within the areas identified on the maps entitled "Western Prince William Sound Areas Not Available for Chugach 14(h)(8) Selection" and "Copper River Delta Area Not Available for Chugach 14(h)(8) selection," both dated April 1979.

(b) The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, as though such lands were available for selection under such provision.

(c) The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations: *Provided, however,* That the corporation shall make no selection of lands, which overlap selection applications filed by the State of Alaska under section 6(a) of the Alaska Statehood Act as amended, on or before September 1, 1978, and that any disapproval of such selection applications shall not vest any selection right in Chugach Natives, Incorporated.

(d) If Chugach Natives, Incorporated, elects to select any or all of its lands to which it is entitled under section 14(h)(8) of the Settlement Act from lands within the Chugach National Forest made available pursuant to this authority, the following lands within the Carbon Mountain regional deficiency area shall be adjudicated as though they were timely filed by Chugach Natives, Incorporated, under section 12(c) of the Settlement Act, notwithstanding any prior relinquishment of 12(c) selections and subsequent selection of these lands by Chugach Natives, Incorporated, under section 14(h)(8) of the Settlement Act:

Township 16 south, range 9 east, sections 7 through 10, 16 through 31.

Township 19 south, range 9 east, sections 1 through 36.

Township 20 south, range 9 east, sections 1 through 36.

Township 20 south, range 10 east, sections 5 through 8, 17 through 20, 29 through 32.

(e) If legislation is enacted or a proposal implemented pursuant to section 1430 of this Act, selections by the Chugach Natives, Incorporated, under this section shall also be subject to the provisions of such legislation or proposal.

(f) The Secretary shall process the lands for conveyance under this section subject to the requirements of the Settlement Act for selection tract size, and compactness. These selections shall also be subject to any requirements regarding contiguity which are agreed to as a result of the study established by section 1430.

CHUGACH REGION STUDY

Sec. 1430. (a) Participants; Purposes.—The Secretary of the Interior, the Secretary of Agriculture, and the Alaska Land Use Council, in conjunction with Chugach Natives, Incorporated, and the State of Alaska, if the State chooses to participate, are directed to study the land ownership and use patterns in the Chugach region. The objectives of the study are: to identify lands, pursuant to guidelines contained in section 1302(h) of this Act, and in section 22(f) of the Settlement Act, as amended, which can be made available for conveyance to Chugach Natives, Incorporated; for the purpose of consolidation of land ownership patterns in the Chugach region; to improve the boundaries of and identify new conservation system units; to obtain a fair and just land settlement for the Chugach people; and realization of the intent, purpose and promise of the Alaska Native Claims Settlement Act by the Chugach Natives, Incorporated. The study participants are directed to identify in-region and out-of-region lands, including lands within the Chugach National Forest and State lands but excluding lands in private ownership, which can be made available to Chugach Natives, Incorporated, in satisfaction of its regional land entitlement pursuant to section 12(c) of the Alaska Native Claims Settlement Act, to consider monetary payment in lieu of land and to consider all other options which the participants in the study consider to be appropriate to achieve the objectives set forth above.

(b) Lands.—Lands identified to meet the study objectives outlined in subsection (a) shall be, to the maximum extent possible, lands of like kind and character to those traditionally used and occupied by the Chugach people and shall be, to the maximum extent possible, coastal accessible, and economically viable. The inclusion of lands within the areas designated as conservation system units or for wilderness study by this Act within the Chugach region shall not preclude the identification of those lands to meet the study objectives outlined in subsection (a).

(c) Procedures.—The study participants shall hold at least three public hearings, at least one of which shall be in Anchorage and at least two of which shall be in the Chugach region. In conducting the study, the study participants shall seek review and comment from the public, including the residents of the Chugach region, and all meetings of the study participants shall be open to the public.

(d) Report.—The study shall be completed and the President shall report to the Congress within one year of the date of enactment of this Act. He shall also transmit with the report any legislation necessary to implement the study recommendations.

(e) Deadline.—If legislation is necessary to implement the recommendations of the study submitted by the President, then any selection deadlines for Chugach Natives, Incorporated, under section 12(c) of the Alaska Native Claims Settlement Act or section 14 (h)(8) of such Act pursuant to section 1429 of this Act will be extended for one year following the date of enactment of the legislation enacted to implement the recommendations of the study submitted by the President.

(f)(1) Land Status During Study.—Until Congress takes final action on any legislation transmitted by the President which is necessary to implement the study or until the recommendations of the study are implemented, whichever occurs first, all State selections filed after July 21, 1979 pursuant to section 6 of the Alaska Statehood Act or title 9 of this Act within the Chugach region shall be considered timely filed but shall not be adjudicated or conveyed except as provided in this section: *Provided,* That nothing in this section shall impede or be interpreted so as to restrict the adjudication and conveyance of State selections filed before September 1, 1978: State selections filed after July 21, 1979 within the Chugach region shall be subordinate to the results of the study as implemented or to legislation enacted to implement the study as to the land as affected and any such selection which is in conflict with the results of the study as implemented shall thereupon be denied.

(2) Except for lands within the areas designated as conservation system units or for wilderness study by this Act, the Secretary of the Interior is hereby authorized to withdraw, subject to valid existing rights, any federal lands identified for possible selection and conveyance or exchange to Chugach in the proposed study report submitted by the President. The Secretary shall specify all forms of appropriation or disposal, if any, prohibited on such lands in such withdrawals, including but not limited to selections by the State of Alaska, appropriations under the mining laws; leasing under the mineral leasing laws or appropriations under any other public land laws. The consent of the head of any agency administering the land in the area to be withdrawn shall not be necessary prior to such withdrawal. Such withdrawal shall remain in force and effect for one year following the date of enactment of the legislation authorizing implementation of the recommendations in the study report signed by the President unless the Secretary shall earlier determine that the lands of any part thereof included in the withdrawal no longer need the protection of the withdrawal. If lands are selected by Chugach Natives, Incorporated, the withdrawals of the selected lands shall remain in force and effect until the selection is conveyed or finally rejected. The withdrawal and any modification, amendment or revocation thereof shall be published in the Federal Register and shall be effective on the date of publication in the Federal Register.

(3) Prior to conveyance, any lands selected by Chugach Natives, Incorporated pursuant to the study of legislation implementing the study, shall be subject to administration by the Secretary of the Interior or by the Secretary of Agriculture in the case of national forest lands under applicable laws and regulations, and their authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal: *Provided, however,* That the Secretary shall not make any contract or grant any lease, permit, right-of-way or easement without prior consultation with Chugach Natives, Incorporated. Any lands irrevocably selected by Chugach Natives, Incorporated, shall not be subject to any contract, lease, permit, right-of-way or easement without the prior consent of Chugach Natives, Incorporated. However, the Secretary shall not be prohibited, if otherwise authorized, from issuing permits without prior consultation with Chugach Natives, Incorporated, or without the consent of Chugach Natives, Incorporated, on lands irrevocably selected by Chugach Natives, Incorporated, to the Prince William Sound Fisheries Management Council for aquaculture sites identified to the Secretary by the Prince William

Sound Fisheries Management Council and Chugach Natives, Incorporated, within thirty days after the enactment of this Act.

(4) Lands withdrawn pursuant to this section shall not be construed to be "lands held for the benefit of Indians, Aleuts, and Eskimos" pursuant to section 103(e)(2) of Public Law 94–579 (43 U.S.C. 1702 (1976)).

(5) All lands withdrawn under this subsection shall be subject to section 2 of Public Law 94–204 (43 U.S.C. 1613).

(g) INTERIM MANAGEMENT.—Until Congress takes final action on any legislation transmitted by the President pursuant to this section or until lands agreed to by the participants in the study are conveyed, whichever comes first, the Secretary of the Interior and the Secretary of Agriculture shall manage lands under their control in the Chugach region in close consultation with Chugach Natives, Incorporated, and, to the maximum extent possible, in such a manner so as not to adversely affect or preclude any option which the participants in the study may consider.

(h) RELINQUISHED AREAS.—Any lands within the exterior boundaries of a conservation system unit or a national forest previously selected by Chugach Natives, Incorporated, but relinquished by Chugach Natives, Incorporated, shall, upon receipt of any such relinquishment become a part of the unit and administered accordingly.

(i) CONVEYANCE OF EXISTING SELECTIONS.—Prior to the enactment of new legislation to implement the recommendations of the study, nothing in this section shall be construed to prevent Chugach Natives, Incorporated, from notifying the Secretary of its desire to receive conveyance of lands previously selected or the power of the Secretary to adjudicate such selections and to convey those lands properly selected.

ARCTIC SLOPE REGIONAL CORPORATION LANDS

SEC. 1431. (a) PURPOSES; REFERENCE DOCUMENT.—In order to further the purposes of:

(1) Satisfying land entitlements in the Arctic Slope Region;

(2) Consolidating and exchanging land holdings for the mutual benefit of the United States and the Native Corporations within the Arctic Slope region; and

(3) Providing for oil and gas operations in the Kurupa Lake area, consistent with environmental protection,

Congress enacts this section. The specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Exchanges and Resolution of Conveyancing Issues in Arctic Slope Region, Between the Department of the Interior and Arctic Slope Regional Corporation" (hereafter in this section referred to as "Terms and Conditions"), which was executed on June 29, 1979, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate are hereby incorporated in this section, and are ratified, as to the duties and obligations of the United States and the Arctic Slope Regional Corporation, as a matter of Federal law.

(b) TRANSFER TO THE UNITED STATES.—The Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Fairbanks Meridian

Township 34 north, range 21 west, sections 4 through 9, 16 through 18;

Township 34 north, range 22 west, sections 1 through 6, 11 through 14;

Township 35 north, range 20 west, sections 1 through 24;

Township 35 north, range 21 west, sections 1 through 4, 9 through 16, 21 through 24, 28 through 33;

Township 35 north, range 22 west, sections 1 through 12, 17 through 20, 27 through 34;

Township 35 north, range 23 west, sections 1 through 3, 10 through 17, 20 through 24, 28, 29, 32, 33;

Township 36 north, range 21 west, sections 1 through 4, 9 through 20, 23 through 26, 29 through 32, 35, 36;

Township 36 north, range 22 west, sections 5 through 8, 25 through 36;

Township 36 north, range 23 west, sections 1, 5 through 8, 12 through 30, 34 through 36;

Township 36 north, range 24 west, sections 1 through 3, 10 through 12;

Township 37 north, range 21 west, sections 25 through 36;

Township 37 north, range 22 west, sections 25 through 36;

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30;

Township 12 south, range 12 west, sections 13 through 16, 21 through 28;

Township 17 south, range 2 west, partial, sections 3 through 6;

Township 17 south, range 3 west, partial, sections 1 through 4;

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

(c)(1) LAND EXCHANGE.—As a land exchange, contingent upon Arctic Slope Regional Corporation's relinquishment of lands described in subsection (b) and upon conveyance of lands described in paragraph (4) below, and subject to valid existing rights, (1) the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands, subject to valid existing rights and to the terms, conditions, procedures, covenants, reservations, and restrictions specified in the "Terms and Conditions";

Umiat Meridian

Township 13 south, range 4 east, sections 1 through 36;

Township 14 south, range 3 east, sections 9 through 16, 21 through 28, 32 through 36;

Township 15 south, range 3 east, sections 25 through 30, 33 through 36;

Township 15 south, range 4 east, sections 6, 7, 18 through 36;

Township 16 south, range 3 east, sections 1 through 3, 6, 7, 9 through 16, 18 through 30;

(2) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands subject to the terms, conditions, procedures, covenants, reservations and restrictions specified in the "Terms and Conditions":

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30;

Township 12 south, range 12 west, sections 13 through 16, 21 through 28;

Kateel River Meridian

Township 34 North, range 18 east, sections 9 through 16, 21 through 24;

The Secretary shall except and reserve access easements for park-related purposes from Kurupa Lake to federally owned lands within Gates of the Arctic National Park limited to: The right to land and store aircraft at Kurupa Lake, the right to ingress and egress from the Lake along specific corridors leading to federally owned lands in Gates of the Arctic National Park and the right to camp overnight at the lakeshore and along the specific easement corridors. The conveyance shall be subject to the following covenants: The requirement for a plan of oil and gas operations prior to any exploration or development activities, the authority of the Secretary to modify or revoke any plan of operations for oil and gas exploration which does not utilize available technologies least damaging to the resources of the Kurupa Lake area and surrounding Federal lands and the authority of the Secretary to require good faith consultations to develop a plan of operations for oil and gas development which utilizes available technologies minimizing damage to the resources of the Kurupa Lake area and surrounding Federal lands. Such exceptions, reservations, and covenants shall be binding on Arctic Slope Regional Corporation, its successors and assigns.

(3) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States, except sand and gravel, in the subsurface estate of the following described lands, subject to the terms, conditions, procedure, covenants, reservations, and restrictions specified in the "Terms and Conditions".

Umiat Meridan

Township 12 south, range 9 east, sections 1 through 31;

Township 12 south, range 10 east, sections 1 through 18;

(4) The Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 13 south, range 1 west, sections 31 through 36;

Township 13 south, range 1 east, sections 31 through 36;

Township 14 south, range 2 east, sections 6, 7, 18, 19, 30, 31;

Township 14 south, range 4 east, sections 1 through 3, 10 through 15, 22 through 27, 33 through 36;

Township 15 south, range 1 west, sections 1 through 6, 11, 12, 19, 20, 27 through 34;

Township 15 south, range 1 east, sections 5 through 8, 17 through 20;

Township 16 south, range 2 east, sections 13 through 15, 22 through 27, 34 through 36;

Township 16 south, range 4 east, sections 1 through 4, 9 through 16, 19 through 36;

Township 17 south, range 1 west, sections 1, 2, 5, 6, partial;

Township 17 south, range 1 east, partial;

Township 17 south, range 3 east, partial;

Township 16 south, range 2 west, sections 19 through 36;

Township 16 south, range 3 west, sections 19 through 28, 33 through 36;

Township 15 south, range 4 west, sections 2 through 4, 9 through 11, 14 through 16, 19 through 23, 26 through 32;

Township 16 south, range 4 west, sections 5 through 8, 17 through 24.

(d) TRANSFERS TO NATIVE CORPORATION.—The Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands selected or identified for selection pursuant to the Alaska Native Claims Settlement Act, and to the extent such lands lie outside the boundaries of the National Petroleum Reserve in Alaska:

Umiat Meridian

Township 3 south, range 6 west, sections 24 through 26, 33 through 36;

Township 4 south, range 6 west, sections 1 through 5, 7 through 36;

Township 4 south, range 7 west, sections 11 through 16, 19 through 36;

Township 4 south, range 8 west, sections 23 through 29, 32 through 36;

Township 5 south, range 6 west, sections 1 through 18;

Township 5 south, range 7 west, sections 1 through 36;

Township 5 south, range 8 west, sections 1 through 5, 7 through 36;

Township 5 south, range 9 west, sections 25 through 27, 34 through 36;

Township 6 south, range 6 west, sections 19, 30, 31;

Township 6 south, range 7 west, sections 1 through 18, 22 through 27, 34 through 36;

Township 7 south, range 6 west, sections 5 through 8, 17 through 20, 29 through 32;

Township 7 south, range 7 west, sections 1, 2, 11 through 14, 19 through 36;

Township 7 south, range 8 west, sections 19 through 36;

Township 7 south, range 9 west, sections 22 through 27, 34 through 36;

Township 8 south, range 6 west, sections 4 through 9, 16 through 36;

Township 8 south, range 7 west, sections 1 through 36;

Township 8 south, range 8 west, sections 1 through 18, 22 through 27, 34 through 36;

Township 9 south, range 6 west, sections 1 through 36;

Township 9 south, range 7 west, sections 1 through 36;

Township 9 south, range 8 west, sections 1 through 36;

Township 10 south, range 5 west, sections 19 through 36;

Township 10 south, range 6 west, sections 1 through 36;

Township 10 south, range 7 west, sections 1 through 36;

Township 10 south, range 8 west, sections 1 through 36;

Township 10 south, range 9 west, sections 19 through 36;

Township 10 south, range 10 west, sections 19 through 36;

Township 11 south, range 5 west, sections 1 through 18;

Township 11 south, range 6 west, sections 1 through 18;

Township 11 south, range 7 west, sections 1 through 21, 28 through 33;

Township 11 south, range 8 west, sections 1 through 36;

Township 11 south, range 9 west, sections 1 through 36;

Township 11 south, range 10 west, sections 1 through 36;

Township 11 south, range 11 west sections 1 through 36;

Township 11 south, range 12 west, sections 1 through 36;

Township 11 south, range 13 west, sections 1 through 36;

Township 12 south, range 8 west, partial, sections 1 through 24;

Township 12 south, range 9 west, partial, sections 1 through 24;

Township 12 south, range 10 west, partial, sections 1 through 24;

Township 12 south, range 11 west, sections 1 through 16, 21 through 28;

Township 12 south, range 12 west, sections 1 through 12, 17 through 20, 29, 30;

Township 12 south, range 13 west, sections 1 through 30;

KATEEL RIVER MERIDIAN

Township 34 north, range 16 east, sections 7 through 24;

Township 34 north, range 17 east, sections 7 through 24;

Township 34 north, range 18 east, sections 7, 8, 17 through 20.

(e) (1) ACQUISITION AND EXCHANGE AUTHORITY.—(1) The Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase or exchange any of the following described lands which have been or may hereafter be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c) (2) of this section or pursuant to the Alaska Native Claims Settlement Act:

UMIAT MERIDIAN

Township 12 south, range 8 east, sections 1 through 36;

Township 12 south, range 7 east, sections 7 through 36;

Township 12 south, range 6 east, sections 10 through 15, 22 through 27, 34 through 36;

Township 13 south, range 7 east, sections 1 through 18;

Township 13 south, range 6 east, sections 1 through 18;

Township 12 south, range 11 west, sections 17 through 20, 29, 30;

Township 12 south, range 12 west, sections 13 through 16, 21 through 28;

KATEEL RIVER MERIDIAN

Township 34 north, range 18 east, sections 9 through 16, 21 through 24;

(2) Lands specified in paragraph (1) of this subsection may be acquired for such purposes only with the consent of Arctic Slope Regional Corporation. If such lands are so acquired by the Secretary, or if any such lands are not conveyed to Arctic Slope Regional Corporation, such lands shall become, and be administered as, a part of Gates of the Arctic National Park; the boundaries of the Park shall thereby be deemed to include such lands to the same extent as if the lands were included within such boundaries by this Act: *Provided*, That no such boundary change shall take effect until ninety days after the Secretary provides notice in writing to the Congress of his intention to consummate an acquisition that would result in such boundary change.

(3) To facilitate an exchange provided for in this subsection, the Secretary is authorized to make available to Arctic Slope Regional Corporation lands, or interests therein, from public lands within the Arctic Slope Region, as determined pursuant to section 7(a) of the Alaska Native Claims Settlement Act, including lands, or interests therein, within the National Petroleum Reserve—Alaska in the event that lands within the reserve are made subject to leasing under the Mineral Leasing Act of 1920, as amended, or are otherwise made available for purposes of development of oil, gas, or other minerals.

(f) LAND EXCHANGE.—As a land exchange:

(1) contingent upon Arctic Slope Regional Corporation conveying the lands described in paragraph (2) below and upon receiving interim conveyances to the following described lands:

Umiat Meridian

Township 9 south, range 2 west, sections 22 through 27, 34 through 36;

Township 9 south, range 3 west, sections 1 through 3, 10 through 12;

Township 9 south, range 12 west, sections 1 through 18;

Township 9 south, range 13 west, sections 1 through 3, 10 through 15, 22 through 24;

the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands:

Umiat Meridian

Township 9 south, range 12 west, sections 19 through 24;

Township 9 south, range 11 west, sections 4 through 9, 16 through 21;

Township 9 south, range 3 west, sections 13 through 15, 22 through 27;

Township 9 south, range 2 west, sections 28, 33;

(2) the Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 8 south, range 11 west, sections 13 through 15, 22 through 27;

Township 8 south, range 10 west, sections 7 through 11, 13 through 21, 28 through 33.

(g) KAKTOVIK EXCHANGE.—As a land exchange, contingent upon Kaktovik Inupiat Corporation conveying the lands described in paragraph (1) of this subsection and upon the Arctic Slope Regional Corporation conveying the lands described in paragraph (4) of this subsection—

(1) the Secretary is authorized to accept from Kaktovik Inupiat Corporation all right, title and interest of Kaktovik Inupiat Corporation in the surface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36;

Township 2 south, range 24 east, sections 1 through 24, 29 through 32;

(2) the Secretary shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

All those lands on Kaktovik Island—Barter Island Group, Alaska, which were not properly selected by Kaktovik Inupiat Corporation on or before December 18, 1975, and which were not on January 1, 1979, in a defense withdrawal.

Provided, That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22 (g) of said Act, except that the acreage limitation for village corporation selection of lands within the National Wildlife Refuge System shall not apply;

(3) Kaktovik Inupiat Corporation shall identify additional lands it desires to acquire pursuant to this exchange from within the following described lands, and to the extent necessary to acquire the surface estate of an aggregate total of twenty-three thousand and forty acres, including the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g) (2) hereof:

Umiat Meridian

Township 7 north, ranges 32 through 36 east;

Township 8 north, ranges 32 through 36 east;

Township 9 north, ranges 33 through 34 east;

or such other adjacent lands as the Secretary and Kaktovik Inupiat Corporation may mutually agree upon. Upon the concurrence of the Secretary in the lands identified, he shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the lands so identified: *Provided*, That such lands shall be contiguous to lands previously conveyed to Kaktovik Inupiat Corporation pursuant to section 14(a) of the Alaska Native Claims Settlement Act: *Provided further*, That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22(g) of said Act, except that the acreage limitation for village corporation selection of lands within the National Wildlife Refuge System shall not apply;

(4) the Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title and interest of Arctic Slope Regional Corporation in the subsurface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36;

Township 2 south, range 24 east, sections 1 through 24, 29 through 32.

(h) WEYUK LANDS TRANSFER.—Upon the concurrence of the Secretary of Defense, the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in all or part of the following described lands:

Beginning at Weyuk, United States Coast and Geodetic Survey Survey Mark (1586) north 62 degrees east 2,900 feet, more or less, the true point of beginning of this description, thence north 1,100 feet, more or less, thence easterly, meandering along the coast approximately 2,000 feet, more or less, thence south 700 feet, more or less, thence west 1,800 feet, more or less, to the true point of beginning.

(i) Naval Arctic Research Laboratory.—The Secretary shall convey to Ukpeagvik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

Umiat Meridian

Township 23 north, range 18 west, sections 13 fractional excluding interim conveyance numbered 015, 14 excluding northwest quarter; southwest quarter; west half southeast quarter, 23 excluding northwest quarter; west half northeast quarter; southwest quarter, southeast quarter, 24 excluding east half, southwest quarter and interim conveyance numbered 015, 28 excluding northeast quarter; southeast quarter, 29 fractional, 32 fractional, excluding United States Survey 4615, United States Survey 1432, and interim conveyance numbered 045, 33 excluding northeast quarter; east half east half northwest quarter; northeast quarter southeast quarter; northeast quarter northwest quarter southeast quarter and interim conveyance numbered 045.

(j) Rights-of-Way, Etc.—(1) In recognition that Arctic Slope Regional Corporation has a potential need for access in an easterly direction from its landholdings in the Kurupa Lake area and the watershed of the Killik River to the Trans-Alaska Pipeline corridor, the Secretary is authorized and directed, upon application by Arctic Slope Regional Corporation for a right-of-way in this region, to grant to such corporation, its successors and assigns, according to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended, a right-of-way across the following public lands, or such other public lands as the Secretary and Arctic Slope Regional Corporation may mutually agree upon, for oil and gas pipelines, related transportation facilities and such other facilities as are necessary for the construction, operation and maintenance of such pipelines:

Umiat Meridian

Township 11 south, range 10 west;

Township 10 south, ranges 8 through 10 west;

Township 10 south, range 7 west, sections 19 through 36;

Township 11 south, range 7 west, sections 1 through 18;

Township 11 south, range 6 west;

Township 11 south, range 5 west, sections 1 through 18;

Township 10 south, range 5 west, sections 19 through 36;

Township 10 south, ranges 1 through 4 west;

Township 10 south, ranges 1 through 10 east;

The final alignment and location of all facilities across public lands shall be in the discretion of the Secretary.

(2) The Secretary shall make available to Arctic Slope Regional Corporation, its successors and assigns, such sand and gravel as is reasonably necessary for the construction or maintenance of any pipeline or facility and use of rights-of-way appurtenant to the exercise of the rights granted under this subsection, such sand and gravel to be provided to Arctic Slope Regional Corporation, its successors and assigns, for fair market value by negotiated sale.

(k) NEPA.—The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of any environmental document for any action taken by the Secretary or the Secretary of Defense pursuant to this section.

(l) Surface Uses, Etc.—(1) With respect to the following described lands, the subsurface estate of which is to be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c) hereof:

Umiat Meridian

Township 12 south, range 9 east, sections 1 through 31;

Township 12 south, range 10 east, sections 1 through 18;

Arctic Slope Regional Corporation shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and removal of oil and gas from said subsurface estate, subject to such rules and regulations by the Secretary that are applicable to the National Park System.

(2) The Secretary shall identify for Arctic Slope Regional Corporation, its successors and assigns, reasonably available sand and gravel which may be used without cost to the United States in the construction and maintenance of facilities and use of rights-of-way appurtenant to the exercise of the rights conveyed under this subsection, notwithstanding the provisions of section 601 et seq., title 30, United States Code, and sand and gravel shall be made available at no charge to Arctic Slope Regional Corporation.

(m) Relation to Entitlements.—(1) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12 (c) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (c)(4) of this section.

(2) The Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsections (c)(1), (c)(2), (d), (f)(1) and (h) of this section.

(3) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (g)(4) of this section.

(4) Notwithstanding the exception by the United States of sand and gravel, the Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsection (c)(3) of this section.

(5) The Secretary shall reduce the acreage charged against the entitlement of Kaktovik Inupiat Corporation pursuant to section 12 (a) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Kaktovik Inupiat Corporation to the United States pursuant to subsection (g)(1) of this section.

(6) The Secretary shall charge against the entitlement of Kaktovik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g) (2) and (3) of this section.

(7) The Secretary shall charge against the entitlement of Ukpeagvik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Ukpeagvik Inupiat Corporation pursuant to subsection (i) of this section.

(8) In no event shall the conveyances issued by the Secretary to Arctic Slope Regional Corporation, Kaktovik Inupiat Corporation, and Ukpeagvik Inupiat Corporation pursuant to the Alaska Native Claims Settlement Act and this section exceed the total entitlements of such Corporations under the Alaska Native Claims Settlement Act, except as expressly provided for in subsection (g) of this section.

(n) Reserved Lands.—(1) Congress finds that it is in the public interest to reserve in public ownership the submerged lands in the bed of the Colville River adjacent to lands selected by Kuupik Corporation and in the beds of the Nechelik Channel, Kupigruak Channel, Elaktoveach Channels, Tamayayak Channel, and Sakoonang Channel from the Colville River to the Arctic Ocean, and (2) notwithstanding any other provision of law, conveyance of the surface estate of lands selected by the Kuukpik Corporation pursuant to section 12 (a) and (b) of the Alaska Native Claims Settlement Act and associated conveyance of the subsurface estate to Arctic Slope Regional Corporation pursuant to section 14(f) of such Act shall not include conveyance of the beds of the Colville River and of the channels named in this subsection, and the acreage represented by the beds of such river and of such named channels shall not be charged against the land entitlement of Kuukpik Corporation and Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act.

(o) Future Option To Exchange, Etc.—(1) Whenever, at any time within forty years after the date of enactment of this act, public lands in the National Petroleum Reserve—Alaska or in the Arctic National Wildlife Range, within seventy-five miles of lands selected by a Village Corporation pursuant to the provisions of section 12(a)(1) of the Alaska Native Claims Settlement Act, are opened for purposes of commercial development (rather than exploration) of oil or gas, Arctic Slope Regional Corporation shall be entitled, at its option, within five years of the date of such opening, to consolidate lands by exchanging the in-lieu subsurface lands which it selected pursuant to the provisions of section 12(a)(1) of the Act for an equal acreage of the subsurface estate, identified by Arctic Slope Regional Corporation, beneath the lands selected by the Village Corporation. Prior to the exercise of such option, Arctic Slope Regional Corporation shall obtain the concurrence of the affected Village Corporation. The subsurface estate identified for receipt by Arctic Slope Regional Corporation pursuant to this subsection shall be contiguous and in reasonably compact tracts, except as separated by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than five thousand seven hundred and sixty acres.

(2) Arctic Slope Regional Corporation shall not be entitled to exchange, pursuant to the provisions of paragraph (1) of this subsection, any in-lieu subsurface estate which the corporation has developed for purposes of commercial extraction of subsurface resources; unless the Secretary determines such an exchange to be in the national interest.

(3) The Secretary shall take such steps as may be necessary to effectuate an exchange sought by Arctic Slope Regional Corporation in accordance with the provisions of paragraph (1).

(4) With regard to subsurface estates acquired by Arctic Slope Regional Corpora-

tion pursuant to this subsection, the Secretary may promulgate such regulations as may be necessary to protect the environmental values of the Reserve or Range and consistent with the regulations governing the development of those lands within the Reserve or Range which have been opened for purposes of development, including, but not limited to, regulations issued pursuant to section 22(g) of the Alaska Native Claims Settlement Act.

(p) CONDITIONS.—All lands or interests in lands conveyed by the Secretary in subsections (d), (f)(1), (g)(2), (g)(3), (h), and (i) of this section to Arctic Slope Regional Corporation or a village corporation, as the case may be, shall be subject to valid existing rights, and in accordance with, and subject to, the provisions of the Alaska Native Claims Settlement Act, as amended, as though the lands were originally conveyed to such corporation under the provisions of such Act.

COOK INLET VILLAGE SETTLEMENT

SEC. 1432. The Secretary is directed to:

(a) Terminate the review of the eligibility of Salamatof Native Association, Inc. and withdraw any determination that said village corporation is not eligible for benefits under section 14(a) of this Act;

(b) Implement the agreement among the Secretary, Cook Inlet Region, Inc. and Salamatof Native Association, Inc., which agreement dated August 17, 1979, had been filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, the terms of which are hereby authorized;

(c) Remove from the Kenai National Moose Range the surface estate of any land, therein to be conveyed to Salamatof and the subsurface estate of any lands therein conveyed or to be conveyed to Cook Inlet Region, Inc., pursuant to the agreement authorized to be implemented under subparagraph (ii) of this paragraph;

(d) Implement an agreement among Cook Inlet Region, Inc., the corporation representing the Village of Alexander Creek, the corporation representing the group of Alexander Creek and the United States, if such agreement is filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives prior to December 18, 1979, the terms of which are hereby authorized, and upon performance of the conditions precedent set forth in said agreement, certify Alexander Creek, Inc., as a group corporation, eligible for land and other benefits under the Alaska Native Claims Settlement Act and this Act;

(e) Treat lands conveyed to Alexander Creek as lands conveyed to Village Corporations for the limited purpose of calculating the acreage to be charged against the entitlement of Cook Inlet Region under section 4 of Public Law 94-456; and

(f) Accept any lands that are tendered by the State of Alaska for the purpose of implementing the agreement described in subparagraph (i) of this paragraph, such tender not to be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

BRISTOL BAY NATIVE CORPORATION LANDS

SEC. 1433. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section:

Seward Meridian

Township 14 south, range 56 west, sections 6, 7, 18, 19, and 30.

(b) On or prior to one hundred and eighty days from the date of enactment of this Act, Bristol Bay Native Corporation may select pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (a).

(c) The Secretary shall convey to Bristol Bay Native Corporation the surface and subsurface estate of the acreage selected by it Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bristol Bay Native Corporation, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not conveyed to Bristol Bay Native Corporation, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17 (d)(1) of the Alaska Native Claims Settlement Act, subsection 204(e) of the Federal Land Policy and Management Act, and the provisions of section 906(k) of this Act.

SHEE ATIKA-CHARCOAL AND ALICE ISLAND CONVEYANCE

SEC. 1434. In partial satisfaction of the rights of Shee Atika, Inc., under section 14 (h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall convey to Shee Atika, Inc., subject to reservation of easements as provided in section 17 (b)(3) of that Act, the surface estate, and to Sealaska Corporation the subsurface estate, in and to the land owned by the United States in section 1, township 56 S, range 63 E, Copper River meridian, comprising Charcoal and Alice Islands, excluding, however, the land therein occupied under Federal permit by the Mount Edgecombe Grade School, the lands comprising the Mausoleum of the United States Public Health Service, as designated by that Service, and the lands comprising the maintenance and warehouse buildings of the Bureau of Indian Affairs, Department of the Interior, as designated by the Bureau of Indian Affairs, and approximately 1.5 acres, heretofore declared excess to the needs of the United States Public Health Service and transferred to the General Services Administration. Shee Atika, Inc., shall designate from the land heretofore selected by or conveyed to it pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act, a block of land equal in acreage to the lands to be conveyed to it under this provision, and all claims and rights of Shee Atika, Inc., in and to the surface estate, and all claims and rights of Sealaska Corporation, in and to the subsurface estate of such designated lands shall be deemed extinguished.

AMENDMENT TO PUBLIC LAW 94–204

SEC. 1435. Section 12(b) of the Act of January 2, 1976 (Public Law 94–204), as amended by section 4 of the Act of October 4, 1976 (Public Law 94–456) and section 3 of the Act of November 15, 1977 (Public Law 95–178) is hereby amended to add the following new paragraphs:

"12(b)(7)(i) Until the obligations of the Secretary and the Administrator of General Services under subsection 12(b)(6) of this Act are otherwise fulfilled: (a) Cook Inlet Region, Inc., may, by crediting the account established in subsection 12(b)(7)(ii), bid, as any other bidder for surplus property, wherever located, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended. No preference right of any type will be offered to Cook Inlet Region Inc., for bidding for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(e)(2) of the Federal Property and Administrative Services Act; (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to (40 U.S.C. 484(e)(3)) to be offered Cook Inlet Region, Inc. for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act: *Provided*, That nothing in this subsection 12(b)(7)(i)(b) shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. If the Region accepts such property, it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document, referred to in subsection (b) of this section. Prior to any disposition under subsection 12(b)(7)(i)(b), the Administrator shall notify the governing body of the locality where such property is located and any appropriate State agency, and no such disposition shall be made if such governing body or State agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

"(ii) The Secretary of the Treasury shall establish a Cook Inlet Region, Inc. surplus property account, which shall be available for the purpose of bidding on Federal surplus property. The balance of the account shall be the acre-equivalent exchange value established by paragraph I(C)(2)(e) of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Inc., the effective date of this subsection to acre of acre-equivalents under paragraph I(C)(2)(g) of the document referred to in this subsection and shall be adjusted to reflect transfers or successful bids under 12(b)(6) of this section.

"(iii) The amount charged against the Treasury account established under subsection (ii) shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to (40 U.S.C. 485(b)), as amended.

"(iv) The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Inc., under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e) of the document referred to in subsection (b) of this section shall be prima facie evidence of such fair value.

"12(b)(8) Cooks Inlet Region, Inc., the Secretary and/or the Administrator shall have until July 15, 1982, to complete the nomination of lands for the pool described in subsection 12(b)(6): *Provided, however*, That the Secretary shall report to Congress on January 15, 1982, as to:

"(i) Such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, within the exterior boundaries of the Cook Inlet Region, or elsewhere can be made available to the Cook Inlet Region, Inc., to the extent of its entitlement;

"(ii) The feasibility and appropriate nature of reimbursement to Cook Inlet Region, Inc., for its unfulfilled entitlement as valued in paragraph I(C)(2)(e) of the document referred to in this subsection; and

"(iii) The extent to which implementation to the mechanisms established in subsection 12(b)(7) promise to meet said unfulfilled commitment; and

"(iv) Such other remedial legislation on administrative action as may be needed.

At page 28, line 3, delete "northern addition" and insert "additions."

At page 442, after line 11, add the following:

SEC. 1436. INALIK NATIVE CORPORATION LANDS.—

(a) Upon the filing of a valid relinquishment by the State of Alaska of its selection of the following described lands, said lands are hereby withdrawn, subject to valid existing rights for a period of one year for selection by the Inalik Native Corporation:

Kateel River Meridan

Township 1 south, range 41 west;
Township 1 south, range 42 west;
Township 1 south, range 43 west.

(b) The Inalik Native Corporation is authorized to select the lands described in subsection (a) in partial satisfaction of its entitlement under section 14 of the Alaska Native Claims Settlement Act. The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12 of the Alaska Native Claims Settlement Act, and shall convey said lands to the Inalik Native Corporation and the Bering Straits Native Corporation pursuant to section 14 of the Alaska Native Claims Settlement Act.

(c) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of the Inalik Native Corporation and Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

AREAS SUBJECT TO THE NATIONAL NEED RECOMMENDATION PROCESS

SEC. 1501. The process contained in this title shall apply to all public lands within Alaska except for lands within units of the National Park System and the Arctic National Wildlife Range.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 1502. (a) RECOMMENDATION.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1501. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(b) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity; and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) REPORT.—Together with his recomendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the reqiurements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(d) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

SEC. 1503. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for in submitted to the Congress on 19 .", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

Mr. TSONGAS. Mr. President, I will simply present a few remarks.

Mr. President, the amendment in the nature of a substitute to the committee substitute to H.R. 39 represents a compromise worked out during many hours of debate and discussions on these issues not only between the principals but also, and in some ways more importantly, between the staffs of the principals.

The situation that we were in on July 22 was not unlike a high stakes, "winner take all" poker game. It was my concern and that of others that that situation would have led to the defeat of the bill, which I do not think would have been an equitable resolution either for Alaskans or for those non-Alaskans who are concerned with conservation.

On that day we embarked on a course of action aimed at trying to protect in a balanced way the legitimate concerns of numerous interest groups, and I believe we have done the best we could to be fair to all concerned.

While no one interest has achieved all that it wanted in the substitute, the fact is that each side is receiving most of the important objectives it wished to achieve. That could only occur because in many cases the top priorities of each group did not directly conflict with each other.

Here are a few examples in terms of the State of Alaska:

Much of what it wanted in their State interest lands is conveyed to it.

In terms of sport hunting, 91.4 percent of Alaska is open to sport hunting.

The mining community is assured that the mining companies in the Ambler area at Quartz Hill, and Greens Creek can proceed.

The oil industry is allowed to conduct seismic surveys on the Arctic wildlife refuge coastal plain.

Ninety-five percent of the land that has high or favorable potential is open for oil and gas exploration. The other 5 percent will have seismic surveys undertaken on it.

The timber industry is assured of a timber supply adequate to protect jobs in southeastern Alaska.

The Native communities' subsistence rights are protected, and certain lands are conveyed pursuant to the Alaska Native Claims Settlement Act.

The environmental community is assured that, for the most part, the "crown jewels" of Alaskan natural beauty will be protected.

I would like to insert, if I might, my appreciation for the hard work and incredible dedication of the Alaskan Coalition. There are a lot of people who have dedicated themselves for a number of years, at not only below the minimum wage, but at below subsistence wages, to protect the natural beauty of Alaska. I hope that when this bill is finally resolved, they will take some comfort and satisfaction in a job well done.

Depending on one's perspective, one can praise or damn the positions reached on the various titles of this compromise. From my vantage point as one of the cosponsors of five strengthening amendments to H.R. 39, as reported from the Energy Committee, the compromise is a weakening of our amendments, as well as a weakening of the original Tsongas-Roth substitute, but a substantial improvement over the reported bill. In fact, if you look at H.R. 39 and S. 9 issue by issue, the substitute pretty much comes in the middle between those two bills. We did not intend it to work out that way, but, in fact, that is what happened.

Not only did we attempt to strike a balance between the reported bill and our amendments but also, in many respects, between the reported bill and that which was given to us by the House.

I would like to point out that our task of improving the reported bill was greatly enhanced by the success of the chairman of the Committee on Interior and Insular Affairs of the House of Representatives, Representative Mo Udall, and the chairman of the Public Lands Subcommittee of the House, Representative John Seiberling, in guiding H.R. 39 to a 360-to-65 victory last year in the House. That victory, combined with a strong base of support for improving the bill among my colleagues in the Senate, has been a key element in our ability to achieve many improvements in our view to the reported bill in this compromise.

This compromise substitute, cosponsored by Senators Jackson, Roth, Hatfield, and myself, is based on the reported bill, the amendments, and the House bill, all of which have been available for months. I shall describe some of the more significant changes that we are recommending for our colleagues' approval.

TITLE II—NATIONAL PARKS

GATES OF THE ARCTIC NATIONAL PARK

The substitute would redesignate the western national recreation area (NRA) in the reported bill as a national preserve open to sport hunting. It would redesignate the eastern NRA as park, and retain the northeastern portion of central preserve as preserve. In total, it would redesignate approximately 1,034,000 acres of NRA as park or preserve, reduce the total preserve acreage to 1,217,000 acres, redesignate 2,251,000 of preserve and/or NRA to park.

NOATAK NATIONAL PRESERVE

The substitute would add 1.046,000 acres to the Noatak Preserve. Part of that acreage is 386,000 acres deleted from the Noatak National Recreation Area. In essence, this is the House Noatak Boundary.

WRANGELL-ST. ELIAS NATIONAL PARK

The substitute would add 207,000 acres in the Chitina area to the Wrangells/St. Elias National Park, and add 1,078,000 acres to the Wrangells/St. Elias National Preserve. It would delete the 1,235,000 acre national recreation area in the reported bill, which is incorporated into the preserve as a part of the acreage listed above.

The substitute also would:

Add 101,000 acres to Katmai National Park by deleting 101,000 acres of preserve.

Add 161,000 acres to Denali National Preserve by deleting 161,000 acres from Denali National Park.

Delete the Tokositna study provisions from the Denali National Park.

In summary, the substitute would add approximately 2.4 million acres to the committee's 22,255,000 acres for a total of 24,653,000 acres of national parks. It would add 917,000 acres to the committee's 18,022,000 acres—for a total of 18,939,000 acres of National preserves. It would delete all NRA's—2,655,000 acres—by incorporating them into park or preserve status.

TITLE III WILDLIFE REFUGE

The substitute would make the following changes to the reported bill:

Strike the definition of "conserve."

Add the "purposes" of refuges from the Hart amendment.

Add Becharof Lake to the boundaries of the Becharof Refuge.

Change the acreage of the Koyukuk Wildlife Refuge from 3,535,000 acres to 3,550,000 acres.

Establish a Nowitna Wildlife Refuge where the reported bill had a BLM national conservation area.

Change the Tetlin Refuge northern boundary to a line 300 feet south of the Alaska Highway. This allows the State of Alaska to place its visitor facilities on the north side of the highway.

Change the acreage of the Yukon Flats Wildlife Refuge from 5,710,000 acres to 9,770,000 acres.

Delete the Porcupine National Forest and make it part of the Arctic Wildlife Refuge additions and the Yukon Flats Wildlife Refuge. This is close to the House position in that area.

Change the Arctic Wildlife Refuge addition from 5,650,000 to 9,270,000. This would include the Chandalar NCA as refuge, as the House bill does, but not the Your Creek drainage, which the substitute would convey to the State of Alaska.

Correct the Gravel amendment regarding the Bradley Lake hydro project but retain it in the substitute.

Change the acreage in the Togiak Refuge from 3,310,000 acres to 3,840,000.

Change the acreage in the Yukon Delta Refuge from 11,130,000 to 13,400,000 acres. This makes the Yukon Delta and Togiak Refuges essentially the same as the House position.

Add a provision authorizing the Secretary to permit, where compatible, means of maintaining, enhancing and rehabilitating fishstocks.

Adopt the management provisions of the Hart amendment generally, as discussed on the Senate floor earlier in the debate on the bill.

TITLE IV NATIONAL CONSERVATION AREAS

The substitute would:

Delete the Baird Mountains National Conservation Area of 2.2 million acres. Half of it goes to the Noatak Preserve, and the other half goes to the BLM public domain status.

Change the Chandalar National Conservation Area—0.9 million acres—to an addition to the Arctic Wildlife Range.

Delete the Nowitna National Conservation Area. As mentioned in the discussion of the refuge title, about half of this area would be added to the Wildlife Refuge System.

TITLE V—NATIONAL FORESTS

The compromise substitute would make the following changes to the reported bill:

Add 0.4 million acres of the Copper River to the Chugach National Forest.

Establish the Admiralty Island Monument—with basically the same management rules as the Misty Fjords National Monument. The Greens Creek mineral deposit inside the monument is excluded from the wilderness on Admiralty.

Adopt special use permits—Thayer Lake Lodge—language from the House bill.

Establish the Misty Fjords National Monument to include East Behm Canal and the southern portion of the Misty Fjords area, which were not included in the committee's monument.

Enlarge the wilderness exclusion for U.S. Borax in the Misty Fjords by roughly 15,000 acres on the southern boundary of the previous exclusion.

Add a requirement for the Secretary to allow lands along water courses leading into Quartz Hill to be used for navigation aids, docking facilities, and staging and transfer facilities. Normally, such facilities would not be permitted in a wilderness area.

Require the Secretary to allow salvage, cleanup, or other activity necessary to meet emergency conditions such as a barge going aground, a "moly" spill, et cetera. Normally, the Secretary could not allow such activities to be carried out in a wilderness.

Preclude changing the requirements U.S. Borax would have had to have met regarding their use of offshore waters if wilderness had not been designated.

Provide for the exchange of lands owned by the village of Angoon—Kootznoowoo—on Admiralty for lands on South Prince of Wales Island.

Add cooperative fisheries planning language of the House bill.

Delete the Seward National Recreation Area.

TITLE VI—WILD AND SCENIC RIVERS

The substitute would make the following changes to the reported bill:

Add Nowitna as a wild river within the Nowitna Wildlife Refuge.

Add the Squirrel and Koyuk Rivers as study rivers.

Change the acreage limitation for the boundary of designated rivers from one-quarter mile in the Senate committee bill, to one-half mile. The boundary would exclude State lands and would not surround private lands.

Study rivers—a 2-mile corridor would be withdrawn during the study period—maximum of 7 years—after which the withdrawal would be revoked if Congress had not acted.

TITLE VII WILDERNESS

The substitute would make the following changes to the reported bill:

Park additions

[Millions of acres]

Gates of the Arctic	2.25
Noatak	0.40
New park wilderness	2.65

Wildlife refuge additions

Arctic Range (all except coastal plain)	8.00
Becharof	0.40
Koyukuk	0.37
Innoko	1.20
Nunivak	0.60
Togiak	2.30
Yukon Delta	1.40
New wildlife refuge	14.27

National forest—Wilderness additions

W. Admiralty	0.46
Russel Fjords (Harlequin Lake)	0.05
East Behm Canal	0.24
South Misty Fjords	0.59

Provide an assurance of funding to the Secretary of Agriculture necessary to maintain a supply of timber from the Tongass of 4.5 billion board feet per decade—that is, 450 mmbf per year.

Delete all special management areas.

Add release language for areas previously studied for wilderness.

TITLE IX STATE AND NATIVE LANDS

The substitute would make these changes to the reported bill:

Drop expedited conveyance procedures for Native lands.

Add a submerged lands statute of limitations provision which has been worked out by the various parties concerned.

Add language clarifying the effect of the State conveyance title on Native "fallout" lands—selections not finally conveyed to native corporations—within conservation system units.

TITLE X OIL AND GAS LEASING

The substitute would change the reported bill as follows:

Change timing for an Arctic coastal plan study.

Seismic work would begin no sooner than in 2 years. The results of the study would be reported to Congress no earlier than 5 years, nor later than 5 years and 9 months.

Prohibit core and test drilling for mineral assessments in preserves as well as parks and monuments.

Clarify that core and test drilling in the mineral assessment provision does not include oil and gas test wells.

Delete a report to Congress on areas to be opened to mineral extraction.

TITLE XI TRANSPORTATION TITLE

The substitute would make the following changes:

Change language so that the heads of all appropriate Federal agencies share decisionmaking responsibility. This helps clarify that DOT does not have sole or primary decisionmaking responsibility.

Make other changes to help reassure that the agency having lead responsibility for an EIS under the transportation process will be assigned that responsibility under CEQ guidelines.

Strike reference to statewide or regional transportation plans and section 1108.

Add criteria for the President's consideration of an appeal from the Secretary's decision on a right-of-way application where there is existing law providing for consideration of such an application.

TITLE XII FEDERAL-STATE COOPERATION

The substitute would change the reported bill as follows:

The membership of Alaska Land Use Council is changed by deleting the Commissioner of the Alaska Department of Community and Regional Affairs.

The section on refuge cooperative management agreements is deleted, as it is incorporated in title III.

TITLE XIII ADMINISTRATIVE PROVISIONS

The substitute would change the reported bill as follows:

Change the effective date for use of cabins from December 18 to December 31, 1973.

Add "minor" to ability to realine or improve the Denali Scenic Highway during 3-year life study.

Add "temporary" to "use of motorized equipment" and access for aquaculture.

Delete fishery research in parks.

Delete waiver resolution requirement from Congress on building a new cabin.

Delete scientific research requirement in wilderness, covered in the Wilderness Act.

Clarify that existing law applies to Yukon Flats agriculture.

Add a "no-more" provision. This is one of the State's seven consensus points and a provision important to Senator STEVENS. Basically it provides that any future executive withdrawal for conservation system unit purposes would terminate if not ratified by passing a joint resolution of Congress within 1 year after the notice of such a withdrawal has been submitted to Congress.

TITLE XIV

The substitute adds new provisions on Punuk Islands land conveyance, and Inalik Native Corporation lands—Little Diomede selection.

Mr. President, let me say finally that this has been termed as the conservation vote of the 20th century. This is not just another vote. It is not just the final product of reasonable compromises in recent days. It is the overall result of months and years of deliberation over the public's wildlands in Alaska. It represents the best efforts of my distinguished colleagues and myself to achieve balance for the many competing interests concerned about the management of Federal lands in Alaska.

This legislation's compromises are carefully crafted to protect the rights of Alaskans now and in the future. These protections coexist with provisions that respect the public's right to our natural legacy in Alaska.

This substitute legislation is not a victory of one interest group over another. It meshes major goals of the contending sides. It constitutes a reasonable compromise because it treats no interested party unfairly, and it satisfies no single interest completely. Over these weeks, these months, and, indeed, these years, we have developed what I sincerely believe is an equitable resolution of a seemingly impossible task.

Mr. President, time is not kind to missed opportunities for conservation. The federally owned lands in Alaska give Congress one great last chance to do the job right the first time. Painstakingly, we have taken the time to create a fair and, I believe, a balanced bill. It is, indeed, the most important conservation legislation of the 20th century, the most important one that my colleagues and I will ever vote on.

Now, finally and thankfully, it is time to act.

Mr. President, I yield to the distinguished chairman of the committee, who has been involved with this issue longer than I have.

Mr. JACKSON. Mr. President, I rise in support of the substitute offered by the Senator from Massachusetts. During the past several weeks, Senator TSONGAS and I, as well as Senators ROTH, HATFIELD, and CRANSTON, have attempted to draft a compromise substitute amendment. We have before us an amendment which we believe represents an equitable solution to the Alaska lands issue.

The compromise substitute amendment, in most instances, retains the basic structure and language of the committee reported bill. However, in some cases, the substitute incorporates the approach taken by the House bill, the Tsongas-Roth substitute, or the Tsongas amendments.

For example, the compromise adopts the approach to the wildlife refuge title taken by Senator HART and others in their wildlife refuge amendments. The subsistence title, however, is taken almost entirely from the committee reported bill.

With regard to specific areas, the substitute attempts to find a compromise between the Senate committee bill and the other versions, including the House-passed bill and the Tsongas-Roth substitute. Without question the compromise substitute before the Senate now significantly increases the amount of Federal land to be designated as part of the various land conservation systems. At the same time, the compromise recognizes the legitimate interests of a wide variety of interest and user groups and excludes areas with key commodity resource values.

The Senate committee bill would designate some 42.6 million acres of wildlife refuges in Alaska. The House bill and the Tsongas-Roth substitute would designate approximately 80 million acres of wildlife refuge lands. The compromise substitute before the Senate now proposes approximately 54 million acres for wildlife refuge status.

With regard to national park system units, each of the various proposals would designate approximately the same total acres—some 43–44 million acres. The compromise amendment does not change this overall total. However, the substitute does make several changes to the committee reported bill with regard to specific classifications.

The House bill and the Tsongas-Roth substitute designate some 27 million acres of national parks while the committee bill so designates 22.2 million acres. The substitute creates 24.6 million acres of new parks. The committee bill designated 18 million acres of preserves whereas both the House and the Tsongas-Roth substitute designated 17 million. The substitute would increase the committee's total to 19 million. This increase results primarily from the redesignation of several park system national recreation areas to preserve status. The 2,655,000 acres of park system national recreation areas are incorporated into park preserve units. Therefore, like the House-passed bill and the Tsongas-Roth substitute, the compromise would designate no national recreation areas to be administered by the Park Service.

In terms of wilderness, the House bill and the Tsongas-Roth substitute would include 67.5 million acres in the national wilderness preservation system. The committee reported bill provided wilderness protection for some 38.3 million acres. The compromise substitute designates some 56 million acres of wilderness.

NATIONAL CONSERVATION AREAS

The committee bill would designate 7.1 million acres of national conservation areas to be administered by the Bureau of Land Management. The House bill and the Tsongas-Roth substitute designated no such areas. The compromise retains the Steese Mountain National Conservation Area; leaves approximately 2.7 million acres under BLM management without designation and incorporates the remainder of the national conservation areas into refuges or preserves.

FORESTS

The committee bill would create a new national forest in the interior of Alaska. The other versions do not include such a designation. The compromise substitute deletes the Porcupine Forest.

WILD AND SCENIC RIVERS

The House bill and the Tsongas-Roth substitute provide for a 2-mile corridor for wild and scenic rivers in Alaska and a 2-mile corridor withdrawal for these rivers designated for wild and scenic study. The compromise provides for the 2-mile withdrawal during the study but limits the corridor for those rivers designated as wild and scenic to one-half mile. Language has been added to insure that State lands are not included within the corridor and that the corridor does not effectively block access to private lands along the river. The compromise substitute also designates the Nowitna River as a wild and scenic river and adds the Squirrel and Koyuk as study rivers, in addition to the rivers included in the committee bill.

SOUTHEASTERN

All versions deal with essentially the same areas in southeast Alaska. The committee bill designated some 4.25 million acres of wilderness and an additional 1.75 million acres of special management areas. The House bill and the Tsongas-Roth substitute would designate approximately 6 million acres as wilderness.

The compromise substitute designates approximately 5.3 million acres of wilderness and deletes the special management areas entirely. Section 705(a) of the committee substitute has been modified to assure the availability of at least $40 million annually for timber management programs in the Tongass forest. These funds will be available for the regular costs of sale and road layout and preparation and will also provide moneys for stand improvement. the timber road program. and related capital investments. These funds and the increased timber "base" on the forest will insure that adequate timber supplies will be available to the dependent timber industry in southeast Alaska.

Under this amendment, 14 outstanding wilderness areas are established representing a broad spectrum of ecological types in southeast Alaska. In addition to the 4.2 million acres of wilderness designated in the committee reported bill, an additional 1.1 million acres has been designated. These additions provide wilderness protection for all of Admiralty Island and Misty Fjords. Both of these areas are also designated as national monuments to be administered by the Department of Agriculture.

SUBSISTENCE

The compromise substitute retains the approach to subsistence contained in the committee reported bill. While some technical changes have been incorporated, the Senate Energy Committee language is virtually intact.

IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

The so-called State conveyance title in the substitute is almost identical to the committee bill. A provision dealing with the submerged lands issue as it relates to native land selections is included as is a provision clarifying the fact that the State cannot make selections of Native "fall-out" lands within conservation system units. Both these changes bring the substitute more in line with the House-passed bill.

NORTH SLOPE STUDY AND OIL AND GAS EXPLORATION PROGRAM

The substitute retains the Senate Energy Committee's language relative to an oil and gas exploration program on the Arctic Coastal Plain in the existing Arctic Wildlife Range. Several changes in the committee's provisions were incorporated regarding the wildlife portion of the Arctic Slope study. The timing of the seismic exploration program and the Secretary's report to the Congress regarding further oil and gas exploration on the plain were also modified slightly. Finally, the substitute proposes to designate some 400,000 acres on the extreme eastern portion of the coastal plain as wilderness.

Taken together, this approach provides adequate protection for the affected wildlife in the area—including the Porcupine caribou herd—while insuring that an assessment of the area's oil and gas potential is undertaken.

TRANSPORTATION

The compromise substitute retains the committee's approach to the development of transportation systems across conservation system units. The role of the Secretary of Transportation is modified to make it clear that he shares decisionmaking responsibility with the affected land manager.

FEDERAL-STATE COOPERATION

In terms of the establishment of an Alaska Land Use Council and the Bristol Bay Cooperative study, the compromise substitute includes the committee reported bill language almost without change.

MANAGEMENT PROVISIONS

Each of the various Alaska lands proposals include a number of special management provisions. In my view, the substitute incorporates the most desirable features of each of the proposals and strikes a reasonable balance among the several versions. For example, the substitute includes language taken from the House-passed bill regarding the preparation of conservation and management plans for refuges and parks. The substitute adopts language taken from Senator TSONGAS' parks amendment making it clear that core drilling for mineral data is not permitted in national park preserves.

On the other hand, the committee's access provisions with regard to a possible transportation corridor across the so-called boot portion of the Gates of the Arctic are retained as is the committee language regarding the permissibility of rustic shelters in all areas where hunting and fishing is permitted.

In total, I believe the special management provision package included in the substitute represents an equitable solution.

AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

The Native conveyance title of the substitute, title 14, is little changed from the committee reported version.

NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

The provisions in the committee reported bill regarding the procedures whereby the President can notify the Congress of a national need with regard to mineral extraction, production, and development and trigger an expedited congressional procedure to open certain classes of conservation system units to mineral activities are retained.

Mr. President, for amost 10 years now, Congress has been involved with the Alaska lands issue, trying to find a reasonable balance between preservation and development. Too often, the rhetoric on both sides has urged this body to adopt an "all or nothing" strategy. It is time for both sides to step back and reflect on how far we have come together in resolving this issue. It is time for all parties to look at the positive aspects of the work we do today rather than dwell on the negative aspects. It is time for all of us to realize how close we are to resolving this incredibly complex and emotional issue.

Mr. President, I submit that it is time to put the Alaska lands debate behind us. I urge my colleagues to adopt this compromise in the positive spirit in which it is offered.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an acreage summary of amendment 1961 as modified.

There being no objection, the acreage summary was ordered to be printed in the RECORD, as follows:

ACREAGE SUMMARY—AMENDMENT 1961 (AS MODIFIED)

	Committee	House	Substitute
Refuges	42.6	80	54
Parks	22.2	27	24.6
Preserves	18	17	19
NRA	2.6	0	0
BLM national conservation areas/NRA's	7.1	0	2.2
National forest additions	8.43	2.74	3.0
Wild and scenic rivers	1.2	1.5	1.3
Total	102.1	128.2	104.1
Wilderness [1]	38.3	67.5	56
National forest wilderness (SE)	4.2	6.0	5.3
National forest special management	1.75	0	0

[1] Includes wilderness in Southeast.

Mr. HATFIELD. Mr. President, the chairman of the Energy Committee and my colleague from Massachusetts have discussed the major provisions of this complex substitute which is before us today. I am privileged and proud to associated myself with their remarks. I, too, am convinced that this proposal is a good bill and it is in the public interest. It represents a landmark effort in preservation. It represents additional environmental protection and safeguards for an enormous amount of public land. It is much stronger environmentally than the committee reported bill. Generally speaking, it is a middle ground between the House bill and the Senate committee measure. This does not mean than those lands not given further protection will be raped and ruined; it merely means that most of those lands will be under more flexible management regimes, with all the significant environmental safeguards accorded to other public lands.

Nevertheless, Mr. President, I believe the added protections and increased wilderness acreage in this substitute are improvements in the committee bill and I strongly support this legislative solution to a long-standing, emotionally charged issue.

Alaska needs this legislation to resolve the uncertainty surrounding State and Native land selections, as well as to provide appropriate protection for large segments of these public lands.

The use of Executive withdrawals for such large segments of land is ill advised. The President's large-scale withdrawals under the 1906 Antiquities Act and FLPMA do not permit enough flexibility to tailor land management measures to fit different resource values. The establishment of these withdrawals—presently 96 million acres—by the President's own admission is basically a temporary holding action.

Under the circumstances, it is clear that Congress should and must make these important land classification and management framework decisions.

Throughout this long and difficult process, the committee members and the proponents of the amendments to the committee bill have been guided by our chairman with his vast knowledge of public lands and his strong and sensitive leadership. Over the last weeks, he has spent an enormous amount of time and energy to reach a compromise agreement with the many parties involved in this issue.

During that long process, no one acted in a more statesmanlike manner than the Senator from Massachusetts (Mr. TSONGAS). He has negotiated from a position of strongly held principles, but in a spirit of conciliation befitting this body.

Mr. President, we have been aided in this process by the senior Senator from Alaska (Mr. STEVENS) with his 20 years of public land law experience. He actively participated in all the 58 markup sessions of the committee during two Congresses. No one worked more diligently than the assistant minority leader to get a bill. Although the senior Senator does not support this substitute proposal, he has contributed his leadership and skills over the last 4 years in developing a satisfactory proposal. Without the use of his input and expertise, I am convinced that we would not have arrived at a point to be able to offer this proposal to the Senate today.

With these brief thoughts and remarks, I stand with the distinguished chairman of the Energy and Natural Resources Committee, the Senator from Massachusetts (Mr. TSONGAS) and other proponents in urging the Senate to support this substitute proposal.

Mr. HARRY F. BYRD, JR. addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the Alaska lands legislation poses questions which have been difficult for the Senator from Virginia to resolve.

First, I have a keen interest in environmental legislation. I sponsored legislation to create a wilderness area in my beloved Shenandoah National Park in Virginia and have supported many park and wilderness programs around the Nation. So I favor the setting aside of substantial acreage in Alaska for national parks, national wildlife refuges and national wilderness preservation.

Alaska is an area of breathtaking beauty. It is appropriate that many millions of acres be set aside to be forever protected under permanent Federal ownership and management.

The questions are: Where does the Congress draw the line on what is reasonable; how much weight must be given to the need for energy independence by the United States; to how great an extent should exploring for new oil be restricted; how can the Congress assure fairness to the State of Alaska; and what is the proper disposition of that State's vast non-energy resources, such as timber?

The Senate Energy and Natural Resources Committee studied the matter for 3 years and presented to the Senate legislation the principal purpose of which was to designate approximately 105 million acres of land in Alaska for protection under permanent Federal ownership and management.

The bill more than doubled the size of the National Park System and the National Wildlife System. It tripled the size of the National Wilderness Preservation System.

It is difficult to comprehend the vast area to which this legislation purports to deal. For example, one could set the entire 40,817 square miles of the Commonwealth of Virginia into Alaska—14 times.

The committee bill would establish and expand 13 units of National Park System in Alaska alone for a total of 42.8 million acres. This is an area almost double the size of Virginia.

The committee bill would establish and expand 14 management units for the National Wildlife Refuge System totaling 42.5 million acres.

The committee bill would establish four entire conservation units totaling 7.4 million acres—equal to 29 percent of the total acres in Virginia.

The committee bill would establish a single new national forest of 4.5 million acres—equal to 21 percent of the area of Virginia.

The committee bill would designate 39 million acres as part of the National Wildlife Preservation System. This area alone is 3.5 million acres larger than the entire state of Virginia.

I cite the above figures to dramatize the vast areas that would be set aside.

To go much further seems to me unfair to the State of Alaska and unfair to the national interest, bearing in mind the great need for Alaskan resources—particularly oil and natural gas. Alaska now produces 1.6 million barrels of oil a day representing 13 percent of all U.S. domestic production.

Furthermore, Alaska is rich in fish, timber, and mineral resources which may need to be tapped in the future. It is estimated that Alaska contains almost one-half of the Nation's coal reserves; among the hard mineral resources vital to our national security which could be adversely affected by too-restrictive legislation, are cobalt, nickel, silver, zinc, lead, copper, and chrome.

The State of Alaska has published reams of material relative to this bill; the Alaska Coalition has produced an equally impressive body of commentary for consideration by the Senate committee. Each of the many groups supporting or opposing the committee bill has presented additional material.

All of the questions discussed in this vast body of material had been before the committee during its consideration of the bill. So the legislation reported to the Senate by the committee represented a carefully reasoned compromise.

I think the Senate should keep in mind that the question we are considering is not just a matter of total acreage. The substitute legislation does set aside more acres than the committee bill; but equally important is the fact that the substitute is far more restrictive as to the present and future use of the more than 100 million acres involved.

The committee bill was a strong pro-environment piece of legislation. It did not propose the desecration of millions of acres, but rather carefully selected areas for Federal protection in order to protect the Nation's interest in the scenic and environmental treasures of Alaska, while at the same time providing for controlled exploration and development of Alaska's other resources: oil, gas, minerals, timber, and recreational sites. It seemed a balanced bill which would preserve and protect the Nation's treasure chest.

Now, however, Senators must face the reality of a situation which faces the Senate in the form of a negotiated substitute bill.

Indicative of the changed state of the legislation is this important fact: The substitute is being opposed by both Alaska Senators, all of its elected Statewide officials, its former Governors, the majority of its legislature, plus a multitude of national organizations. Previously, all of these except one recognized the need for strong preservation legislation and were willing to accept the carefully drawn committee proposal. But there was a point beyond which they were unwilling to go.

Of course the Congress has the power to disregard the views of those who represent Alaska.

But is it reasonable to support a substitute which is so different from the carefully developed committee bill that virtually all Alaskans in positions of responsibility strongly oppose it?

Is it reasonable to support such a substitute, when it not only increases the acreage banned from development, but also greatly increases the restrictions on usage?

In my view, the proposals worked out by three Senators behind closed doors should not be substituted for the carefully developed committee bill.

Therefore, I shall vote against substituting the Tsongas proposal for the committee approved bill.

Mr. LEVIN. Mr. President, I support the substitute before us. The original package of Tsongas amendments contained many modifications of the Energy Committee bill which were important to shaping a good Alaskan lands bill. Unfortunately not all of those modifications are incorporated into this substitute. I regret that the parliamentary situation was such that we could not proceed on that course. However, given the realities of this situation, I believe that this substitute represents an acceptable means toward achieving a speedy resolution of this issue in the Senate, and that it corrects many of the serious deficiencies of the original committee bill. On that basis, I intend to support it.

I am a cosponsor, with Senator TSONGAS and Senator NELSON, of the original wilderness amendment to this legislation. I will leave it to other Senators to discuss the other portions of this substitute while I address myself to its wilderness aspects.

WHY WILDERNESS?

Of all the land management designations which Congress can provide for a given piece of land, wilderness is the most restrictive. When Congress established the National Wilderness Preservation System in 1964, it declared a national policy of designating lands to be "administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness." Over the past 16 years, Congress has created wilderness areas throughout the continental United States, and in this bill we have the opportunity to add to the wilderness system lands in Alaska which best exemplify the intent and philosophy of the Wilderness Act.

There are a number of reasons for designating lands, especially lands in Alaska, as wilderness. Perhaps the most important is the protection of subsistence lifestyles which depend on the wildlife and vegetation in wilderness areas. Subsistence uses of land in some areas may not be able to continue, if forced into competition with other uses that would be permitted under less restrictive land designations, such as intensive visitor use. The Committee bill provides for protection of traditional subsistence uses, as well as traditional means of access to and through areas for subsistence purposes.

In order to protect subsistence users, one must of course protect the wildlife resources on which they subsist. This is another critically important purpose of wilderness. Certain species of wildlife, many of which are represented in Alaska, are easily disturbed by minor intrusions into their habitat, with potentially serious consequences. Such animals may exist in a delicate relationship with their environment which could be upset even by what seems to be sensible management.

Relative to this point, Lynn Greenwalt, Director of the Fish and Wildlife Service, writes:

> Alaskan wildlife, in general, tend to be characterized by species that have evolved to inhabit the relatively stable conditions associated with ecological climax. Caribou, grizzlies, wolverine, muskox, Dall sheep, eagles, swans and cranes are a few examples of "wilderness" (i.e., climax) species. To these species, early plant successions, close association with man or his work or a combination of those factors can mean substantial declines in population and possibly even extinction. Man's technological intrusion into certain vital habitat areas (e.g. caribou calving grounds, bear denning areas, peregrine falcon nesting areas) can have particularly severe impacts on the species and, therefore, the community or ecosystem to which they are a constituent element.
>
> Wilderness designation then, serves as a "management tool" for climax species. Such designation allows natural events and circumstance to prevail and, thus, allows those species to remain almost totally free from sudden and widespread disruptions.

Another value of wilderness is that it serves as a yardstick, for measuring both our success in managing wildlife and vegetation in other areas, and our success in restoring wilderness conditions to areas in the Lower 48. Alaskan wilderness is unique in that much of it has been de facto wilderness up to the present time. Wilderness designated areas in the continental United States have experienced human impacts to a greater or lesser degree, and efforts must therefore be made to return them to a wilderness situation. Alaska wilderness can guide those efforts.

Lynn Greenwalt also addresses the value of wilderness as a yardstick for assessing wildlife management, as follows:

> A second function of wilderness in Alaskan refuges is related to the scientific principle of "baseline" or "control group" values. Simply put, this is an area, wildlife community or population against which to measure the ramifications of man-caused or other significant change. Thus, the land manager can utilize the wilderness components of his designated area to serve as a constant measure of relative success or failure of his "applied" management tools or other changes resulting from man's activities in or adjacent to his land management unit. This would hold true for habitat manipulations, public use programs, economic use activities, hunting and fishing activities, etc. Seldom in the history of the U.S. has such a concept been viable because wildlife management has usually followed man-caused changes and baseline data and areas were generally absent. In Alaska, the opportunity exists to provide the land manager with this special capability.

There are other, less tangible reasons for preserving wilderness, reasons which are rooted in our psychological make-up as individuals and our collective consciousness as a Nation 60 years ago, Frederick Jackson Turner wrote:

> To the frontier the American intellect owes its striking characteristics. That coarseness and strength combined with acuteness and inquisitiveness; that practical, inventive turn of mind, quick to find expedients; that masterful grasp of material things, lacking in the artistic but powerful to effect great ends; that restless nervous energy; that dominant individualism, working for good and for evil, and withal that buoyancy and exuberance which comes with freedom—these are traits of the frontier, or traits called out elsewhere because of the existence of the frontier.

The frontier today is not what it was a century ago, but the knowledge that there remain unspoiled, uncivilized, wide open spaces is still an important ingredient of our national consciousness. In a real sense, Alaska is our last frontier; let us make it a lasting one as well.

Wilderness gives us on opportunity to experience our roots; to acquaint ourselves with the experiences of our forefathers. It also gives us the chance to reestablish contact with the more primitive side of our own natures, which for many of us is necessary in order to maintain a certain balance in a world that often seems a little too frantic, a little too civilized.

DOUGLAS ARCTIC RANGE

The most important change in this substitute, relative to the original wilderness amendment, concerns the coastal plain of the William O. Douglas (Arctic) National Wildlife Range, where the substitute authorizes a seismic oil and gas study which our amendment did not. This was an issue of great controversy, and I would like to explain my concerns about the study.

Let me begin by quoting the present State of Alaska Commissioner of Natural Resources. When asked if the Range fulfilled the qualities of wilderness, Commissioner LeReche responded:

> Yes, I have reviewed proposals for wilderness . . . this is the one I think that almost epitomizes the purposes of the Wilderness Preservation Act.

Section 2(c) of the Wilderness Act describes the special character of wilderness that the act seeks to preserve:

> A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor and does not remain.

Too often in our past, we treated our wilderness in a way which assumed that the land and its resources were so vast that they would somehow last forever. History has unfortunately shown otherwise—in Texas, in Colorado, in California, in Florida, in Michigan, in every State. Only Alaska, beginning with one of the crown jewels of the State, the Arctic National Wildlife Range, offers us the opportunity to start afresh.

In 1976 the people of Alaska, the Government of the State of Alaska and the Alaska congressional delegation all testified to the importance of maintaining the pristine character of the Range when asked for their opinions on a gas pipeline which would have cut through the Alaska National Wildlife Range.

Governor Jay Hammond testified to the Federal Power Commission:

> The Arctic National Wildlife Range is one of the last large areas of Arctic coastal plain and has been unaffected by the works of modern man. So far as we in Alaska are concerned, the question in respect of the Range is not simply whether adequate safeguards are taken to minimize the effect that construction of a pipeline would have on caribou, musk oxen, snow geese and other wildlife and on vegetation; the question is a basic question of philosophy. We believe that we should not squander the rare and precious resource of untouched northern wilderness. Some day perhaps, we will need to have the oil and gas resources of the Range, if any, even more than we need to have the resource of wilderness, but clearly we should not allow construction of a gas pipeline in the Arctic National Wildlife Range when other less damaging alternatives are available, as they are.

The State of Alaska testified:

> Moreover, Alaskans value highly the pristine character of their land. As proposed, the "prime" route for the Trans-Canada line would cut through the entire width of the Arctic National Wildlife Range. An intrusion upon an untouched area is irreversible, whatever steps are taken to mitigate its effects, and an intrusion into the Wildlife Range would be a tragedy.

And one distinguished member of the Alaska congressional delegation said:

> Some have appropriately compared splitting the Arctic National Wildlife Range by a 48-inch pipeline and haul road with slicing a razor blade across the face of the Mona Lisa.

RESOURCE CONFLICTS

There are a number of reasons why oil exploration in the range is extremely risky. These relate to the wildlife which frequent the range, the stability of whose existence could be threatened by exploratory activity.

A number of species in the Douglas Arctic Range are wilderness species—that is, species with very low tolerance for changes that result from human intrusions in their habitat. These species include the caribou, polar bear, grizzly, wolf, wolverine, trumpeter swan, and muskox. These animals will quite possibly sustain major declines when modern man invades their range.

The most serious threat in the range is to the porcupine caribou herd, the largest in Alaska. Alaska's caribou population has dropped dramatically in recent years, and development in Prudhoe Bay seems to have altered the migration patterns of the herd in that area. The porcupine herd's principal calving ground nearly coincides with what some geologists consider the most promising oil structures in the coastal plan, making conflicts extremely difficult to avoid.

Other potentially serious wildlife conflicts exist as well. Some female polar bears den in the coastal plain, and are extremely sensitive to human interference during that period. Hundreds of thousands of snow geese annually stage in the wildlife range prior to their flight to Texas and Louisiana. Abundant fish occur in all drainage of the range, and their ability to survive the winter in deep pools could be affected by excess water use or gravel removal from stream beds.

Because of the threats to wildlife in the range, especially caribou, a number of groups with interests in the wildlife have expressed concern about maintaining an acceptable wilderness habitat for them. Two of those groups are the native peoples living near the range, and the Canadian Government.

I spoke earlier about the importance of subsistence uses of wilderness lands, on which I believe high priority must be placed. It is extremely significant that all of the native communities who depend upon the Arctic Range for subsistence have expressed their support for wilderness designation, and their opposition to oil and gas exploration. The people of Kaktovik, on the northern edge of the coastal plain, have said that they "are opposed to the plan to explore for oil in the calving ground of the Porcupine Caribou Herd." The assembly of the North Slope Borough has adopted a resolution opposing "an exploration or development in the calving area of the porcupine caribou herd that would endanger subsistence hunting or fishing." A letter from the mayor of Fort Yukon states that "The people of northeastern Alaska want Wilderness for the William O. Douglas Arctic Wildlife Range, especially on the coastal calving ground of the porcupine caribou herd. And, on a recent visit to Alaska. I spoke with residents of Arctic Village, on the southern boundary of the Range, who were equally concerned that oil activity in the Range would disturb caribou migration and calving.

The objections cannot be taken lightly. I hope we can reassure the native users that oil exploration can take place in a manner which will not disturb the caribou and other wildlife.

The Canadian Government has also been concerned about the protection of the Porcupline herd, and has been working with our Government to establish a bilateral agreement to protect the herd throughout its migration route. A recent diplomatic note from the Canadian Government to ours expressed the hope "that the Alaska National Interest Lands legislation finally adopted will afford sufficient protection to critical areas of caribou habitat, such as calving grounds, to ensure that this herd may be protected and managed according to the best principles of scientific wildlife management." Some limited mineral exploration was done on the Canadian side of the Range, but since the withdrawal of 9.6 million acres as a protective zone oil and gas leasing has ceased, and no new mineral claims are being accepted.

Thus, the possible conflicts between oil activity and wildlife resources are widely acknowledeged to be serious ones. These conflicts should be resolved before we allow exploration to take place.

Those are the reasons why I did not believe that seismic exploration should be authorized in the coastal plain until after a study of its possible effects was completed. However, the chairman of the Energy Committee, Senator JACKSON, has quite persuasively advocated a different position and it is clear that the votes are with Senator JACKSON. I have reluctantly decided to support the compromise seismic program contained in this substitute amendment for a number of reasons.

The substitute now provides that while the seismic study is going on, an intensive study also be made of the fish and wildlife in the Range and their habitat. This requires that stringent standards and procedures are adhered to in carrying out the seismic testing program, that it cannot begin until a minimum of 2 years after enactment of the act, and that once the results of the seismic study are reported to us, we in the Congress can decide whether to proceed with further exploration, and in making that decision we can have fuller knowledge of the dangers involved. It is my hope that we will not have to go further with oil and gas activity in the Arctic Range, once the seismic study is completed. But if we decide to do so, we should not be blind to any damage which may be done.

Furthermore, we vastly improved upon the committee bill in terms of the area designated as wilderness. Whereas 38.2 million acres would have been so designated under the committee bill, 56.2 million acres are designated under this substitute—almost all of the 58.7 million acres which would have been designated under the original Tsongas-Nelson-Levin amendment. This is still somewhat less than the 67.5 million acres designated as wilderness under the House bill.

NATIONAL PETROLEUM RESERVE (NPR–A)

The original Tsongas-Nelson-Levin wilderness amendment, unlike this substitute, would have opened up the National Petroleum Reserve-Alaska to oil leasing. We did so for two primary reasons:

First, that seems to be where the oil is. The most recent estimate for the NPR–A indicate a 95 percent chance of 550 million barrels of oil in place, and a 50 percent probability that 5.2 billion barrels are in place in the Reserve. By comparison, the best appraisals of the petroleum potential of the Arctic National Wildlife Range indicate a 95 percent probability of 160 million barrels of oil being in place, and a 50 percent probability that there are 2.7 billion barrels in place.

Second, by opening up the reserve to oil leasing, we should be able to keep the trans-Alaskan pipeline full well into the 1990's, giving us time to assess the impact of, as well as the need for, oil development in the range. The Prudhoe Bay oil field is expected to begin a severe decline by 1990, providing excess capacity in the pipeline. However, onshore pools nearby and potential finds in the just-leased Beaufort Sea should keep the pipeline operating at capacity well beyond 1990. When this supply begins to decline, the estimated reserves in the NPR–A could, alone, sustain the pipeline for another 2 years (at the 50 percent probability and a 25 percent recovery rate). Viewed in this context, it makes little sense to rush into the fragile Arctic National Wildlife Range before we know what effect oil exploration and development would have on the area. In short, the existing reserves on the North Slope outside the range should provide a cushion which will obviate the need for oil from the range at least until the mid-1990's.

I believe there is widespread agreement within the Senate that NPR–A should be opened to leasing; the disagreement revolves around how that should be done. The chairman of the Energy Committee has introduced legislation to accomplish that, and has given assurances that his committee will promptly consider the matter. It is certainly that committee's prerogative to determine what regime should govern oil activity in NPR–A, and so long as all parties agree that we should move rapidly in that direction, I can accept leaving that issue unresolved in this legislation. I hope such assurances will be forthcoming in this debate.

Let me now discuss some of the other areas contained in this amendment. I am pleased to say that almost all of the park and refuge wilderness proposed in our amendment has been incorporated into this substitute.

The substitute, like the original amendment, does not add any new lands to the conservation units already contained in the Energy Committee bill. What it does is overlay more protective wilderness designation on lands which the committee has made national parks or wildlife refuges, in areas where the resources will be better protected as wilderness. All the areas affected by this amendment are areas that the committee has already decided to place in some protective status, and the issues raised by this amendment relate to the degree of protection and the form of management of those areas which the committee has decided to set aside as conservation units in Alaska.

With regard to the Arctic Range, this substitute would designate the entire range, exclusive of most of the coastal plain, as wilderness. We were able to obtain a critical concession during negotiations which will result in wilderness designation being applied to the easterly one-quarter million acres of the coastal plain itself, more exactly the portion of the plain lying east of the Aichlik River. We also negotiated a township line in the coastal range itself, south of which no exploration will be allowed.

The result is wilderness protection for a vast and unique stretch of arctic terrain, along with the habitats of many important wildlife species. The amendment also creates a wilderness park in Gates of the Arctic, incorporating much of the ruggedly beautiful Brooks Range. These two areas, under wilderness management, are certainly among the crown jewels of our national conservation system.

This amendment would also provide wilderness protection for portions of many wildlife refuges in Alaska. Earlier in my statement I discussed the value of refuge wilderness. The wilderness areas in this amendment will protect both some unique and some representative wildlife areas in Alaska. It would create new wilderness within Becharof, Innoko, Koyukuk, Nunivak, Togiak, and Andreafsky Wildlife Refuges, each of which contains important and distinctive ecological features.

Finally, this amendment would add park preserves to the areas studies for future wilderness designation under the committee wilderness review provision. With this modification, all conservation system units, including those in our original amendment which have now been dropped, would be studied to determine their appropriateness for wilderness. Congress will have the opportunity to consider the results of these studies and designate additional wilderness if it so desires.

In summary, this substitute amendment would provide wilderness protection for almost all of the park and refuge areas which were included in our original amendment, and would provide wilderness study for the remainder. I remain concerned about oil exploration in the coastal plain of the Arctic range, and I hope the advocates of that program are correct that seismic work can be done without adverse impact. I hope the Senate will act quickly on this substitute, and thereby resolve the long-festering Alaskan lands issue in a fair and responsible manner.

Mr. PERCY and Mr. TSONGAS addressed the Chair.

Mr. TSONGAS. Mr. President, I yield to the Senator from California.

Mr. PERCY. Mr. President, who sought recognition first?

Mr. CRANSTON. I am glad to yield.

Mr. PERCY. Mr. President, the debate that has been raging on the Alaska lands bill seems to be almost endless, but now it is going to reach a terminal point. It really involves some of the most difficult problems this Nation has faced for many years.

In the 1950's, 1960's, the 1970's, and now in the 1980's, we have been arguing and debating the issue of environment. What does this Nation do as we move forward, industrialized, as we crowd more and more people on this Earth? How do we protect the water, the air, the land, and how do we preserve them?

The battle that should have been raging all these years, and which has not been raging long enough, is the energy battle. How do we find a way to feed, clothe, and house increasing billions of people? These are tremendous conflicts we are facing—the battle between environment and energy and mineral resources, adequate resources to keep this economy and the world economy going.

That is why the feelings are strong. That is why everyone is fighting, in good conscience, for what they believe is right for the future of this country and the free world, and the debate has come up to the highest levels of the Senate.

Mr. President, the debate over the Alaska lands bill forces us to consider some of the basic choices facing our Nation. In this legislation we must balance issues such as the preservation of spectacular wilderness areas and the need to explore for important sources of strategic fuels and minerals upon which our national security may someday be dependent.

In striking this balance, we must insure that Alaska's environment and wildlife are adequately protected. This State has been blessed with some of the world's finest scenic wonders and contains the habitat for a variety of important wildlife species. It is vital that we protect much of our Nation's "last frontier" from the same types of overdevelopment that has scarred much of the lower 48 States. Failure by this Congress to adequately protect Alaska's wilderness resources would be long remembered as a serious mistake by future generations of Americans.

Equally important to the preservation of Alaskan wilderness, however, is the need to provide a greater level of security for future generations of Americans. Our Nation's past mistakes in the energy area, for example, have resulted in the very dangerous energy dependence that we live with today. For too many years, this country has followed the "path of least resistance" in making its energy choices. This path has been the easy one, in which we simply turned to foreign oil to meet our energy needs.

This path has ignored the vital questions of national security and the survival of our economy and our way of life. We continued to follow this path in spite of warnings such as the Arab oil embargo of 1973–74. In fact, the United States imported about 44 percent of its oil in 1979, whereas our oil import level before the embargo was at the substantially lower level of 36 percent.

Although there is currently an oversupply of oil on the international market, we are still in a very precarious situation. The world's current surplus could evaporate all too quickly in the event of an emergency that limited the exports from one or more of the major supply regions. Our dependence on Persian Gulf oil is especially critical. This is one of the world's most politically volatile regions and history has demonstrated the folly of overdependence on this area.

Depending upon the severity of the supply loss, an interruption of oil imports from the Persian Gulf could result in a wide range of consequences. A relatively minor interruption might produce inconveniences such as further jumps in prices and a return to gasoline lines such as those caused by last year's crisis in Iran. A more serious cutback would produce devastating results such as severe economic dislocations and a weakening of our military position. Even the survival of our Nation could be put into jeopardy during such a crisis.

The problem of overdependence on oil is also international in scope. Europe, Japan, and other nations around the world would be similarly affected in the event of a widespread oil crisis. The continued survival of these nations depends on the strategically important flows of oil through the international marketplace.

No one can be certain that a devastating oil crisis will occur at any time in the future. However, a consensus seems to be forming that there is a very great likelihood of one or more serious crises during the coming decade. There is no doubt that we should be making plans to prepare for this likelihood. At this time we do not have sufficient strategic reserves of petroleum and we have inadequate administrative processes for coping with a serious supply shortfall. The disruption in domestic oil markets that resulted from last year's Iranian crisis indicates that we are even unprepared to cope with moderate cutbacks in our oil imports.

In order to allow for the systematic reduction of our long term energy dependence and to more adequately prepare for the possibility of a major supply interruption, it is imperative that we maintain the ability to assess the energy resource potential of some of the Nation's most promising unexplored areas. One of these is the coastal portion of the William O. Douglas Wildlife Range, an area that offers a real chance of eventually providing substantial quantities of oil and gas. It is possible that the energy resources of this area might someday be required to play an important role in maintaining our country's economic well-being and national security. It is necessary, therefore, that we learn more about the energy potential of the coastal portion of the Douglas Range.

However, while assessing the area's potential, we must insure that the region's wildlife and fragile environment are adequately protected. Care must be taken, for example, to minimize the impacts of exploration on the Porcupine caribou herd, which uses the areas as a calving ground during the summer.

Mr. President, these issues of wilderness protection and energy security have been extremely difficult ones in the Alaska lands debate. As we all know, numerous Senate hearings and markups, and countless hours of debate have been spent in searching for an acceptable compromise formula on these and other Alaskan issues. At last, however, I feel that we have found the long-sought compromise on which the Senate should agree.

The compromise amendment developed by Senators TSONGAS, JACKSON, ROTH, and HATFIELD provides a balanced approach that I can wholeheartedly support. It provides for substantial additions to our national park system, our wildlife refuges, and our national forest system. In addition, it provides wilderness status to about 56-million acres of land, preserving some of Alaska's most spectacular areas, such as the "Gates of the Arctic," for the enjoyment of future generations.

The Tsongas compromise amendment also provides for a balanced approach to the exploration for oil and gas in the Douglas Range.

Under this compromise, two-thirds of the range's coastal region would be explored and the guidelines suggested by the Energy Committee would be followed. Those guidelines include strict limitations on exploratory procedures. For example, no test drilling would be allowed; instead, seismic testing would be employed as the major exploratory technique. In addition, this would only be allowed during the winter months when the caribou herds are elsewhere.

The compromise amendment also prohibits exploratory drilling and production without congressional approval. The decision by Congress would be based upon much more information than is currently available since it would follow a 5-year study into the wildlife and energy resources of the coastal portion of the Douglas Range. It is apparent to me that the environmental concerns of the Douglas Range have been adequately accounted for in this amendment.

Mr. President, because of the appropriate balance which it achieves, I urge my colleagues to support the compromise amendment as put forth by Senators TSONGAS, ROTH, JACKSON, and HATFIELD. I commend my colleagues for doing a superb job in balancing out the equities of the situation, in which the demands of the environment have been met along with the demands for future energy needs.

This amendment will not only preserve vast reaches of Alaska's lands for future generations of Americans, but also will allow us to move ahead, in an environmentally acceptable manner, with assessments of Alaska's energy potential which may prove vital to the future security of our Nation.

Mr. CRANSTON. Mr. President, will the Senator yield me 5 minutes?

Mr. TSONGAS. I yield.

Mr. CRANSTON. Mr. President, today the Senate is considering the most important bill in the history of world conservation—important because never since the dawning of the age of the environment has so vast an expanse of undefiled wilderness been potentially subjected to the restraint and enlightenment which ecological understanding has brought us.

We have before us the one-time-only opportunity to protect and preserve over 100 million acres of virgin Alaskan lands.

Alaska is the last remaining, truly natural, total ecosystem in America.

It is blessed with some of the most breathtaking scenery anywhere and is the home of numerous wildlife species not found in the contiguous 48 States.

It embraces some of the highest and most magnificent mountain peaks in our Nation, the largest glaciers, the biggest island, the most bald eagles and Dall sheep and grizzly bears.

Alaska is, in every sense, truly the "Great Land."

Its peace and grandeur can once again revive for the sojourner the ancient harmonies we lost in what we thought of as the struggle to conquer nature. That conquest brought us heat and locomotion and power—it eased our bodies and prolonged our lives—but it never overcame that eternal yearning for a oneness with the life we saw and heard and sensed in the forests, the streams, and in the mountains. The mystery beyond the hills has been called many things by many men and women—as Frost said, "I would rather he said it for himself."—but whatever it is called, it is not a subdivision or a strip mine or a logging operation.

Through the Alaska lands bill, we can protect the calving grounds of America's largest remaining caribou herd, the spawning grounds of most of the Pacific salmon, and the breeding habitat of a substantial portion of our waterfowl.

We can protect the magnificent Mount McKinley, the glacier-studded Brooks Range north of the Arctic Circle, the Wrangell-St. Elias Park, the Yukon Flats with its nesting grounds for millions of ducks and geese, the mighty Yukon River, the virgin rain forests of Admiralty Island and Misty Fjords, and Glacier Bay. These lands are of incomparable beauty and wildlife value. They must not be developed and destroyed. They belong to the people of this Nation as a whole. I strongly support the Tsongas-Roth approach to this legislation, and have been an active advocate of the package of strengthening amendments proposed by the junior Senator from Massachusetts (Mr. TSONGAS)—who has done such marvelous, skillful, thoughtful work on this issue—because these amendments provide a greater degree of protection to these Alaska lands—protection which is needed and deserved.

As my colleagues know, when Senate consideration of the bill was stymied the week of July 21, the leadership and those Senators principally involved in this legislation concluded that discussions held off the Senate floor might be useful in expediting ultimate Senate action. I have been one of this group of Senators involved in a series of meetings to develop a compromise bill. This compromise is the Tsongas-Roth-Jackson-Hatfield substitute.

This substitute, I believe, is a substantial improvement over the bill reported by the Senate Energy and Natural Resources Committee. It sets aside some additional lands as wildlife refuges, designates more wilderness areas, and designates as preserves areas classified as national recreation areas in the committee bill.

The compromise, however, does not protect in entirety the William O. Douglas Arctic Wildlife Range, or the Admiralty Islands National Monument, or Misty Fjords—areas which demand full protection.

Nonetheless, I believe that the substitute which has been developed after 2 weeks of negotiations and consultations is better than the committee bill, and I am going to support it.

I want to make it clear that with the substitute we can still meet our need to develop oil and gas in Alaska. One hundred percent of the offshore sites would remain available to exploration and development and 95 percent of the onshore sites that have been identified as having high oil and gas potential. The substitute would permit seismic work in the Arctic coastal plain.

With the substitute, we will still have ample opportunities for sport hunting and trapping. Over 90 percent of the lands in Alaska will remain open for this purpose.

With the substitute, we will still be able to harvest timber on a sustained yield, silviculturally sound basis, without a loss of jobs for Alaskans.

With the substitute, we still will be able to develop known valuable deposits of minerals. But without the substitute, critical environmentally sensitive areas will be opened up to development. I, for one, feel that the final resolution of the Alaskan lands issue should be made by Congress. This substitute is a key step in that process.

I expect that in the coming weeks

House leaders will be meeting to develop a response to the Senate position. Should the Alaska lands issue come to the Senate floor yet another time this year, I will seek and vote for cloture against any filibuster brought by any Senator.

I hope that an acceptable, truly protective bill can be enacted in the 96th Congress. I will continue to work to achieve this goal. So often Congress moves to protect an area after development has already started to take place—when a crisis has arisen. With Alaska, we have a chance to do it right the first time. I am proud of the role I am taking to get a good, strong conservationist bill which balances America's current resource needs with its future needs, spiritual and material.

All of us who have joined together on this issue will be proud in the future for standing up to the intense pressures against the Tsongas-Roth approach and for steadfastly supporting the pending substitute. Future generations will know that our generation met its responsibilities in saving the Gates of the Arctic and the many other areas of Alaska renowned for their beauty.

Mr. STEVENS and Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I wish to say that although I and Senator Roth have received perhaps the publicity on this issue, in fact, as anyone who participated in those sessions knows, the solid rock of the environmentalist position was that of the Senator from California, although he will neither be praised nor maligned as I have been. In fact, he was the one who held my feet to the fire, and that should be recognized.

Mr. CRANSTON. I thank my colleague very much. It has been a very great privilege to work with him on this issue.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. TSONGAS. Mr. President, I yield to the Senator from Delaware.

Mr. ROTH. Mr. President, I am pleased to be the principal Republican cosponsor of this Alaska lands substitute. As a cosponsor of the original substitute, amendment No. 626, I am glad we have been able to reach this compromise, which was developed through the determination and good faith of all Members involved.

Mr. President, I pay my special respect to the junior Senator from Massachusetts for the leadership he has provided in this most difficult task.

This compromise is a delicate balance between the legitimate development needs and desires of the great State of Alaska and the national wilderness treasures which belong to all Americans. The forests, the fowl, and the fjords are irreplaceable, and this bill will protect them for our future generations.

This substitute bill has been carefully worked out only after long and hard studying and negotiating by all the staff and principals involved. In trying to satisfy as many of the major concerns as possible, all parties involved made significant concessions. The greatly discussed Arctic National Wildlife Refuge has been carved back so that the boundary is not in conflict with seismic oil and gas exploration. This was done to insure that the United States can continue in every way to free itself from the bondage of foreign oil imports. This is of utmost concern to every American and is necessary, but it was also done at a high cost—the cost of relinquishing our last untouched Arctic coast from its proposed wilderness designation.

Wording has been changed so that anticipated transportation and corridor access possibilities will not be hampered or restricted and Alaskans will have the mobility they desire for the growth and development of their States resources.

Land classifications in the Gates of the Arctic have been changed so that there is one uniform designation creating a solid park, but providing for needed access and desired hunting.

In the Southeast especially, hard fought for areas were conceded. An average timber cutting level of 450 million board meet for the Tongass National Forest was agreed on, following the professional guidelines determined by Tongass land management plan. We have assured that timber jobs will not be lost in southeast Alaska. Boundaries have been changed to allow that significant mining interests at Greens Creek, and the Borax claim at Quartz Hill are not detrimentally restricted. Of extreme significance is the wilderness and National monument designations that are maintained in the Misty Fiords and enlarged to contain East Behm.

On Admiralty Island we have kept 900,000 acres of wilderness and maintained national monument status, although exclusions for minerals and native needs were developed. Wilderness has been proposed for the Coronation, Maurielle and Warren Islands, South Baranof, Tebenekof Bay and other areas for a total of over 4 million acres of wilderness. Mr. President, I think this compromise is reasonably well balanced. I think it is responsive to areas of concern and I think this bill is fair. I urge my colleagues to join me in support of this Alaska Lands bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, does any other Senator seek time on this bill at this time?

Mr. TSONGAS. Mr. President, if the Senator will yield, I indicated that I will yield to Senator Gravel.

Mr. President, as far as I am concerned, after the senior Senator from Alaska speaks, I will yield time to the junior Senator. I understand Senator Mathias wishes time.

Mr. STEVENS. Mr. President, I yield to the Senator from Maryland such time as he may require.

The PRESIDING OFFICER (Mr. Johnston). The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Alaska for yielding me time to comment briefly on the development of the substitute which has been the result of an enormous amount of effort and work on the part of Members of the Senate, on the part of the staff, and not less on the part of the interested public.

Mr. President, the substitute bill before the Senate on Alaska national interest lands is a compromise which I believe all parties can support. It has involved serious give and take by the Senate Energy and Natural Resources Committee members as well as proponents of the Tsongas-Roth substitute.

Neither side is delighted with the outcome, which leads me to believe that, indeed, a compromise has been struck. The important issue now before us is to come to a decision on Alaska lands. We have been debating this issue since 1978 and failed to meet our own legislatively imposed deadline for making this decision at the end of 1978.

In terms of the parks and preserves designations contained in the substitute before us, I am satisfied that the most serious land-use conflicts have been removed, namely, the committee's willingness to drop "national recreation areas" from the lexicon of Alaska lands. Those areas proposed by the committee as "national recreation areas" have been redesignated under the substitute as "national preserves," or "national parks." The effect of this change to "preserve" designation is to continue to permit sport hunting while foreclosing future new mineral entry in our national parks and preserves in Alaska.

The heart of the Gates of the Arctic has been designated as a national park, one of my principal goals as the sponsor of the parks and preserves amendment to the committee bill. And, although a mandated transportation corridor remains across the so-called "boot" of the Gates, I continue to believe this was an illogical designation in light of the transportation title included in the bill. It is my belief that the transportation corridor will ultimately fail to come into being, once further economic feasibility and regional transportation planning have been conducted.

In the Wrangells-St. Elias National Park, a reasonable compromise has been struck between park and preserve designations, enabling park visitors traveling by auto to view the area's famed Dall sheep, bear, moose, and mountain goat from the road. At the same time, sport hunters' interests are protected by the dropping of a "national recreation area" designation from part of the Wrangells, which would have introduced new mining activities incompatible with the area's native wildlife, particularly the Dall sheep.

The Federal lands of the lower Noatak River basin have been designated "preserve" in order to protect this internationally recognized ecosystem.

The other major improvement in the substitute concerns the protection of Katmai's brown bear population in a critical denning and feeding area adjacent to the State's McNeil River bear sanctuary.

So, based on these changes, I am willing to support the substitute now before the Senate and I urge my colleagues to join me in making a decision about Federal intentions in Alaska. It has been said that compromise is the essence of the legislative process. I believe that is what has taken place between the members of the Energy and Natural Resources committee and the sponsors of the Tsongas-Roth substitute in an extraordinary good faith effort also involving the two Senators from Alaska, my Republican colleague and minority whip (Mr. STEVENS) and my Democratic colleague (Mr. GRAVEL).

I urge my colleagues to lend their support to this compromise.

I support the substitute bill offered by Senators TSONGAS, JACKSON, and HATFIELD. The substitute includes the fundamental elements of my parks and preserves amendment to the committee bill which was introduced with Senator TSONGAS. I wish to praise the chairman of the Energy Committee, Mr. JACKSON, the ranking minority member, Mr. HATFIELD, and Mr. TSONGAS for the long, hard work that they have put into this effort and the preparation of the substitute. I thank them for including the essential elements of the Tsongas-Mathias amendment in the substitute, thus assuring that the integrity of the National Park System will be protected and that key units in Alaska will receive the full protection that they merit. I appreciate the opportunity to work with my colleagues on this important issue.

The substitute builds upon the work of the Energy Committee and includes several important improvements. On behalf of Senator TSONGAS and myself, I ask unanimous consent that additional information which serves to explain the purposes of title II and those issues which affect the National Park System and the national preserves be printed in the RECORD to serve as legislative history for this substitute. This material is based on the report by the Committee on Energy and Natural Resources on H.R. 39 and supplementary material provided by the Department of Interior.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OVERVIEW

Our Nation's great system of national parks represents a special and unique ethic in land preservation, one that has its roots in the American frontier. Born with the creation of the world's first National Park, Yellowstone, in 1872, the National Park System contains the treasured symbols of our heritage. They are no less wondrous to Americans today than Yellowstone was to Americans over a century ago. Embracing more than 31 million acres of land in 310 areas (excluding the Alaska National Monuments established on December 1, 1978) in 49 States and in Puerto Rico, Guam, and the Virgin Islands, our National Park System is now visited by more than 260 million people annually.

As Yellowstone did in the last century, the proposed parks in the Alaska National Interest Lands Conservation Act offer Congress and the public an opportunity to protect what part of our last frontier—Alaska—by endowing a major legacy of parks for future generations of Americans. The proposed parks were selected and their boundaries drawn after extensive surveys and comparative analyses of all the unreserved Federal lands in Alaska. They have been aptly called Alaska's "crown jewels".

These parks offer a full range of nature and history in Alaska, mighty landforms and entire ecosystems of naturally occurring geologic and geomorphic processes, intricate waterforms and spectacular shorelines, majestic peaks and gentle valleys, diverse plant communities and equally diverse fish and wildlife.

Some illustrate regional diversity; others evidence the on-going processes still shaping the landscapes; still others represent ecosystems of vegetation and successional stages of plant growth. Certain units have been selected because they provide undisturbed natural laboratories—among them the Noatak, Charley, and Bremmer River watersheds. These can serve as benchmarks by which one can compare the effects of human activity on similar landscape elsewhere.

Four of the units in large part—Gates of the Arctic, Mount McKinley, Katmai, and Glacier Bay National Parks—are intended to be large sanctuaries where fish and wildlife may roam freely, developing their social structures and evolving long periods of time as nearly as possible without the changes that extensive human activities would cause. Several—including the Bering Land Bridge National Preserve, Cape Krusenstern National Monument and the Kobuk Valley National Park—show the evidences of geologic development of the terrain and trace the development of human ways of life from ancient to recent times.

The overall objective of title II is to establish as complete as possible a system of parks in Alaska, representing the most outstanding available characterizations of natural and historical themes. These National Park System units will also provide an opportunity for people to enjoy a wide array of recreational experiences unique in our Nation—ranging from the solitude and challenge of remote wilderness to the simple pleasures of hiking an accessible trail, or rafting down a crystal clear river, or learning about a quirk of nature or history from a park ranger. Although seemingly remote now, the Alaskan parks are more readily accessible than was Yellowstone at the time of its establishment; thus as population pressures increase and technological advances make all the world more accessible, it becomes ever more important that actions be taken now to protect these splendid lands and waters.

The new and expanded national park units in Alaska, like all national parks, are to be places for people. They are the heritage of our past and the treasures of our present. Most of all, like Yellowstone, the Grand Canyon, and the others before them, they will be our generation's legacy for the future.

The substitute seeks to reaffirm the goals established by the Committee in this Congress concerning the National Park System Title and strengthen the protection for the new National Park System units in Alaska. Several of the units established in this Act are the same as recommended by the Committee, and their intent is the same as described by the Senate Committee in its report on H.R. 39. Bering Land Bridge National Preserve, Cape Krusenstern National Monument, Kobuk Valley National Park, Yukon-Charley Rivers National Preserve, Kenai Fjords National Park, the additions to Glacier Bay National Park, and Aniakchak National Monument and Preserve remain essentially unchanged from the recommendation made by the Committee.

Significant changes were made in several units established by the Substitute, compared with the Committee recommendation. In the Noatak, the Federal lands in the lower Noatak Valley were added to the Preserve and the National Recreation Area was eliminated and the lands reclassified as part of the Preserve. In the Gates of the Arctic, the National Recreation Area category has been dropped, with the John River, Anaktuvuk Pass, and North Fork of the Koyukuk portions of the area added to park status. The Itkillik Lake and Upper Kobuk River portions of the Gates of the Arctic will be Preserves. Thus, the Gates will have one large National Park unit and two small Preserves in the northeast and the southwest. The northern boundary of the Gates of the Arctic Park and Preserve conforms the boundary to the agreement entered into between the Arctic Slope Regional Corporation and the Department of the Interior on June 29, 1979. In the Wrangell-St. Elias area one change has been made to expand the Park in the vicinity of the entrance to the Chitina Valley. In Katmai the Park has been expanded to include Battle Lake and Kulik Lake while the Preserve was expanded to include lands south of the Alagnak River in the northwest corner of the Park system unit. At Denali, a small expansion has been made in the Southern Preserve to increase the amount of lands in the unit that would be open to hunting.

Sections 201 and 202 provide for the establishment or expansion of 13 units of the National Park System. In each case, the bill provides an approximate acreage figure and an approximate map reference. In the designation of boundaries the map's boundary line, not the acreage stated for each unit, is controlling except that all coastal units do not extend seaward beyond the mean high tide line. Only a small part of Alaska has been surveyed. The acreage is only approximate and descriptive of an estimate of the public lands within the units at this time. Final conveyances to Native corporations, surveys, and any lands acquired may result in different acreage calculations. The Park Service should periodically publish in the Federal Register the most recent calculation of the Federal acreage and the amount of inholdings within each unit.

Section 201 and 202 also set forth the purposes of each designated unit and additions to existing units. Enumeration of purposes is not exclusive, but is set forth as a guide to management. For example, although the protection of an endangered species such as the peregrine falcon may not be stated as a purpose for a particular park or wildlife refuge system area, the Committee expects the Secretary to adopt such administrative controls on public use and other usese as are necessary to protect the area around nesting sites of this species during the periods when they breed and rear their young.

SECTION 201(1): ANIAKCHAK NATIONAL MONUMENT AND ANIAKCHAK NATIONAL PRESERVE

The Aniakchak National Monument and Aniakchak National Preserve are located on the Alaska Peninsula approximately 350 air miles south of Anchorage. The Aniakchak National Monument consists of 138,000 acres of public lands above mean high tide. The management unit, monument and preserve, contains 514,000 acres of public lands, and is established to protect and provide for public use and enjoyment of one of the world's great dry volcanic calderas, its environs, and the Aniakchak River.

Aniakchak's 30 square mile caldera, a registered national natural landmark, contains examples of volcanic activity, including lava flows, cinder cones, a lava plug, warm springs, explosion pits, and layers of volcanic and sedimentary rocks exposed by volcanic action. Within the caldera is Surprise Lake; the Aniakchak River flows from the lake and cuts a spectacular gorge through the caldera's 2,000-foot wall as it tumbles 27 miles to the Pacific Ocean. Surrounding the caldera are ash fields, tundra-covered lowlands and portions of the Aleutian Mountain Range. A coastline is also present in the preserve as are a few small islands.

Brown bear and moose are found throughout the area with concentrations along the streams and bays on the eastern coast. The cliffs and offshore islands harbor oceanic birds, sea lions, sea otters, and seals. The gentle mountains to the east northeast provide backcountry hiking opportunities.

The monument is composed entirely of Federal lands. The Preserve is a combination of Federal land, Native subsurface inholdings likely to be developed should exploration confirm the existence of hydrocarbons, and Native village surface selections. Federal land management should be in close cooperation with other landowners in mutually beneficial management of the resources of the Preserve.

The Aniakchak Monument and Preserve is to be managed to assure retention of natural conditions and to provide for the optimum level of recreational use compatible with resource preservation as well as to provide opportunities for research into natural and cultural phenomena.

Under reasonable regulation, sport hunting and subsistence uses shall be allowed to continue within the Preserve. The Preserve is to be managed similarly to the monument, except that hunting, commercial trapping, and the development of Native oil and gas rights may be allowed.

Nothing in this act is intended to modify the intent of Public Law 94–204, which provides for the Koniag Native Corporations the right to own oil and gas subsurface rights on certain lands within the Preserve. Section 912 of this Act corrects some technical errors in the description of the lands from which Koniag may receive ownership of any oil and gas only.

The Substitute recommends national monument status for the core of the area rather than national park status as included in H.R. 39. While the size of the area on a nationwide basis qualifies the Aniakchak for park status, in the context of Alaska, the area is small and the primary purpose of the core area is the scientific importance of the volcanic features associated with the volcano. Thus, the substitute adopted monument status for the unit. There will be no difference in the management of the area whether it is a park or a monument.

The Committee recommended a national monument containing approximately 138,000 acres of Federal lands and a national Preserve of approximately 376,000 acres of Federal lands. The Committee further recommended that the monument be closed to subsistence uses. In the substitute the Aniakchak National Monument and Preserve are the same as recommended by the Committee except that subsistence uses by local residents shall be allowed in the monument where such uses have been traditional. The substitute recognizes that traditional subsistence uses may take place in portions of the monument. To the extent that they do, these uses are protected. Sport hunting and trapping are not allowed in the monument, while sport fishing is allowed. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the Preserve in accordance with the provisions of this substitute.

SECTION 201(2): BERING LAND BRIDGE NATIONAL PRESERVE

The Bering Land Bridge National Preserve is located on the Seward Peninsula in northwestern Alaska, between Nome and Kotzebue. The area encompasses approximately 2,457,000 acres of public land above mean high tide. The official boundary map indicates an offshore boundary in the vicinity of Cape Espenberg. The intent of this line is to include all offshore islands within the preserve but not, at this time, any off-shore water or submerged lands.

The Bering Land Bridge National Preserve is part of a relic backbone of a much larger area which was the Bering Land Bridge connecting Asia and North America. During several of the Pleistocene's great ice ages Alaska was linked to Asia by a 1,000 mile-wide land bridge. Over this connection came the first people into the New World, probably between 28,000 and 25,000 years ago. From western Alaska, these early hunters spread into North, Central, and South America to become the ancestors of all American Indian groups. Along with man, plants and animals also migrated between Asia and North America. The area contains innumerable paleontological deposits relating to Land Bridge times, including remains of mammoths, horses, bison, beaver dams, ancient forests and tundra landscapes. Extensive pollen profiles have provided excellent information about the vegetation and climate during the times the Land Bridge was present. Recognizing the importance of the cultural resources of the preserve, the National Park Service should develop a continuing program of paleontological, archeological, and biological research, publication, and interpretation to further the Nation's understanding of the Bering Land Bridge and its cultural and biological significance to the Nation and the New World.

Two nationally significant volcanic processes are also represented. Lava flows in an arctic environment cover large areas in the southern portion of the area. To the north, steam explosions have left unusual deep crater lakes and buried beneath the ash is a prehistoric ecosystem, nearly totally preserved. These maar craters are very unusual in the Arctic and are of special interest here since they formed in pairs, an occurrence not known elsewhere in the world.

Wildlife values of the preserve are internationally significant: of the 112 migratory bird species found in the area, 87 nest here and about half of the Pacific Flyway population of snow geese stops in this area. Migrations occur to six continents. The migratory bird life is also a clear remnant of the Bering Land Bridge times. A number of Old World species nest in the preserve, one of the few places in the New World where they may be seen.

Of the marine mammals which occur in nearby water, four—the Bowhead, Humpback, Grey and Pacific White Whales—are on the endangered species list. Other mammals include grizzly bear, wolf, polar bear, moose, and a variety of furbearers.

Native uses of the land in and around the proposal are primarily of two types, subsistence use and reindeer herding. Both uses shall continue under the Committee amendment.

Recent socioeconomic studies of reindeer herding sponsored by the National Park Service have demonstrated the importance of traditional reindeer herding on the Seward Peninsula of northwest Alaska. Villages here depend upon the reindeer herd for a steady source of inexpensive meat. While it is recognized that reindeer herding is critical to the continued viability of the people of the Seward Peninsula, it is not considered a subsistence use for the purposes of this Act. In order to prevent undue hardship for these villages, it is the intent that traditional reindeer herding activities, including dehorning, be permitted to continue within the Bering Land Bridge National Preserve, consistent with good resource management and the purposes for which the preserve was created. Expansion of reindeer herding may take place but it is not intended that such expansion will necessitate any expansion of processing facilities on Preserve lands, or that expansion would be allowed to increase to a point that would result in any substantial damage to the Preserve resources.

A provision was included in the substitute bill which clarifies that the National Park Service has the authority to regulate reindeer herding within the preserve to insure the protection of the environment and the resources of the area. While it is the clear intent that reindeer herding be allowed to continue within the preserve, it must be done in such a manner so that the purposes of the area are not degraded and that there is no permanent or substantial harm to the area.

It is the intent that this Act not be interpreted as permitting reindeer herding to be instituted on conservation system unit lands elsewhere in the State where it does not now occur, unless otherwise specified in this Act, or unless the Secretary finds that such herding would not interefere with the purposes of a conservation system unit.

An existing transportation route utilized by the people living on the Seward Peninsula exists within the preserve. It is the intent that past levels and types of winter access be permitted to continue under National Park Service management along the winter trail between the Kougarok River and the Inmachuk River. This trail has, in the past, been used during the winter for hauling supplies from Nome to the Deering area by tractor and sled, as well as for snow machine travel by local residents. The winter trail extends from the Nome to Taylor road to the Confluence of Hannum Creek and the Inmachuk River and is generally shown as a "tractor trail" on the Bendeleben 1:250,000 scale U.S.G.S. map published in 1950.

It is not the intent that this winter trail be upgraded or improved beyond its current condition through this action unless as part of the unit management plan. Rather the bill intends only to guarantee that the existing use pattern would be allowed to continue. Since the route has been traditionally used as a winter trail only, the Committee expects that the route would not be used during times or by such means that terrain damage might occur owing to unfrozen ground or insufficient snow cover.

Serpentine Hot Springs has been used throughout history for bathing and recreation purposes by the local residents of the Seward Peninsula, and remains popular today. The springs area is also geologically significant, containing values which should be preserved. It is intended that the springs continue to be available for public enjoyment and recreation, while at the same time, the National Park Service takes such steps as are necessary to insure that critical resources are protected. In order to accomplish these two functions, the National Park Service should develop a specific development concept for the Serpentine Hot Springs area, in addition to the overall management plan for the entire preserve. The plan should address such concerns as the need for continued and expanded access to the area, including airplane, automobile and snow machines, such structures as may be needed to further the management and visitor use of the area, and such actions as may be necessary to protect significant natural and cultural values of the site.

Development within the preserve should be managed to adequately protect the resources of the preserve while making them available to the public for its enjoyment and understanding. The area is to be managed as a national park, except that hunting and trapping shall be allowed. Subsistence hunting is an important use throughout much of the preserve and would be allowed to continue. Under the terms of this Act subsistence hunting shall have priority over sport hunting when healthy populations are insufficient to support both. It is further expected that the National Park Service should consider locating interpretative facilities for the preserve at, or near, Nome, Alaska.

The bill recognizes that the National Park Service is the most appropriate agency to manage the myriad of significant features and resources that compose the Bering Land Bridge National Preserve. Although significant waterfowl populations supported an alternative for management by the Fish and Wildlife Service, such waterfowl populations are only one of many nationally significant resources within the preserve. Other places exist in Alaska with high waterfowl values but the preserve is a unique remnant of the Bering Land Bridge over which the ancestors of all American Indians entered the Western Hemisphere. Vast paleontological deposits exist within the Preserve which relate to the land bridge theme. Additionally, nationally significant botanical resources; volcanic formations, and archeological, historical, and contemporary cultural resources exist within the preserve, as well as the opportunity to include an arctic tundra continuum, from mountain to sea, within the National Park System.

The Committee recommended a National Preserve of approximately 2,457,000 acres of Federal lands in Bering Land Bridge. The Committee provided for the continuation of customary patterns and modes of travel along an existing winter trail route between Deering and the Taylor Highway. The Committee further provided in its report on the bill that the route should not be improved. Rather, the intent is to protect existing uses.

In the Substitute, the Bering Land Bridge is the same as recommended by the Committee. The Substitute also includes provisions for continued reindeer grazing use and for use of the Deering to Taylor Highway winter trail, both with the same intent as the Committee. The substitute seeks to clarify the intent in allowing public use of the Deering to Taylor Highway route as provided in the Committee report through statutory language that makes it clear that this is a winter trail only and there must be adequate snow cover to protect the environment before the trail can be used. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the Preserve in accordance with the provisions of this Act.

SECTION 201(3): CAPE KRUSENSTERN NATIONAL MONUMENT

Cape Krusenstern National Monument is situated north of the Arctic Circle approximately 40 miles from the city of Kotzebue in northwestern Alaska. The area is a level coastal plain dotted with sizable lagoons and backed by gently rolling limestone hills. On the east, the plain meets an ancient sea cliff now mantled with tundra and a veneer of blue-gray limestone rubble. The Chukchi Sea bounds the Cape on the west. The Cape Krusenstern National Monument contains approximately 560,000 acres of public lands. Additional acreage within the area which is currently selected by local native corporations will become part of the monument should the lands not be conveyed to the natives or at some point in the future are acquired by the National Park Service. The monument will protect an internationally significant series of archeological sites which illustrate, in a horizontal stratigraphy, every major period of Eskimo cultural history in Alaska.

During the past 6,000 years, since the oceans attained their present level, a constant wave-driven flow of shoreline gravel has supported the construction of the Cape, which is a series of 114 beach ridges. Each of these ancient shorelines, in its day, was the dwelling place, hunting site, and burial ground for Eskimo people. The cultural remains and artifacts contained by this rolling beachscape represents the complete chronological order of all major phases of Eskimo culture, and comprise one of the most important archeological sites in arctic Alaska. This beach ridge succession extends more than 3 miles inland from the sea and represents more than 4,500 years of human history, from the early Denbigh Flint people (the first to be recognized as Eskimo) to today's Eskimo who still retain a dependency on the Cape's offshore marine and estuarine resources. Unglaciated during Pleistocene times, the Cape's low-lying plain also offers as important geological display in its remnants of "esker" formations, a glacier gravel deposition of late Illinoisian times, 225,000 years ago—the only example known in Alaska.

The substitute included the entire watersheds of the Omikviorok River, and Rabbit Creek within the monument. Through the inclusion of these watersheds and their related portions of the arctic coastline, it is the intent that the entire beach gravel "cell" that has and continues to form Cape Krusenstern be included within the monument and protected in perpetuity. It is the intent that this portion of the arctic coastline be managed in a way which does not interfere with the natural beach building process for Cape Krusenstern and its related adjacent beaches.

The Committee recommended a National Monument of approximately 560,000 acres of Federal lands in Cape Krusenstern. In the Substitute the Monument is the same as recommended by the Committee. The intent of the Committee concerning the management and use of the Monument is retained in the Substitute. Subsistence uses by local residents should be permitted in the Monument in accordance with the provisions of the subsistence title. Sport hunting and trapping are not allowed in the Monument, while sport fishing is allowed.

It is further recognized that at certain times of the year, Cape Krusenstern is actively utilized for subsistence purposes by the local people. It is the intent that future uses and development of the area not adversely impact the local people in their traditional pursuit of subsistence resources. Research programs should be initiated which investigate the archeological and cultural values of the Monument, but they should also be conducted so as not to adversely impact the local people and their culture. The involvement of the local Eskimo people in the management, use, and interpretation of area is planned and expected. Traditional subsistence uses will be continued throughout the monument and the resources on which the subsistence uses depend will be maintained.

There is little sport hunting in the area at this time while this is one of the most important and concentrated subsistence use areas in the State. Allowing sport hunting within the area could create a conflict with subsistence uses. The subsistence activities that take place here now are a logical extension of the tradition that has evolved here for thousands of years. Because Cape Krusenstern is primarily a cultural area the Committee feels that it is appropriate to allow subsistence uses to continue within the monument.

SECTION 201(4): GATES OF THE ARCTIC NATIONAL PARK, GATES OF THE ARCTIC NATIONAL PRESERVE

The Gates of the Arctic National Park, and Preserve are located in Alaska's central Brooks Range. The park system unit is a vast, wild region of superlative natural beauty and exceptional scientific value, the last such essentially untouched mountain area of its scale in the United States.

In the 1930's the region was first extolled in the writings of Robert Marshall, an explorer-forester and one of the founders of the American Wilderness System. Marshall pointed out that "in Alaska alone can the emotional values of the frontier be preserved." The name Gates of the Arctic is itself derived from Marshall's name for a pair of peaks which flank the broad valley of the North Fork of the Koyukuk River.

The park is characterized by a maze of deep glaciated valleys and gaunt and rugged mountains, culminating in Mount Igikpak, the highest peak in the central Brooks Range. Many of the summits and waterways remain nameless, but sources of several major rivers are in the area: the North Fork of the Koyukuk, the John, the Killik, the Kobuk, the Alatna, and the Noatak. Two special resources, Walker Lake and Arrigetch Peaks, are on the National Register of Natural Landmarks, and 11 other features have been recommended for national landmark status.

Although the boreal forest reaches up the southern drainages, with stands of spruce and birch, most of the park is tundra clad. The park contains habitat for and migration routes of the western arctic caribou heard which has recently suffered a severe population decline, and is prime habitat for the barren-ground grizzly bear, Dall sheep, and wolf, all of which require extensive ranges and would be perpetuated within the park complex. The park complex is also important for raptors, as peregrine falcons and gyrafalcons nest throughout the central Brooks Range. Scores of lakes within the area support grayling, lake trout, arctic char and northern pike.

The wilderness values of the Gates of the Arctic are paramount and provide a special value to the National Park System. The Administration recommended that the area be classified as the park system's first "wilderness park", but the substitute did not adopt this classification. The park and preserve should be managed with a minimum of development. One proposal which would limit use of the complex to 4,000 people per day, was disagreed to as sufficient information is not available to support that limit on use. The National Park Service should conduct thorough studies, with public input, to determine the extent that visitation and development can occur within the area, within the limits of the wilderness resource.

The substitute designates a two-unit Preserve, the Kobuk unit in the Southwestern portion of the area and the Itkillik unit in the Northeast. The Preserve portion of the complex is to be managed the same as the Park, except that sport hunting and trapping shall be allowed. The substitute rejected the idea that the John River Valley should be classified as a recreation area, thus facilitating the development of a transportation corridor through the Valley. It is noted that the State of Alaska agreed to a court order in 1974 which closed the "Hickel Highway" through the John River Valley to further use. The suit was brought by the people of Anaktuvuk Pass who sued to protect the natural subsistence values of the John Valley. The John River is a critical portion of the National Park complex and its natural and wilderness character should be managed in such a manner so as to protect these values.

The Kobuk unit of the preserve is adjacent to a nationally significant mineralized zone, within which several new mines may be developed within the next few years. The subcommittee provided for a single transportation corridor through the Kobuk unit to connect the mineral district with an existing haul road along the trans-Alaska oil pipeline. Should the need arise for a transportation corridor through this area, the Secretary will grant a right-of-way through the Kobuk unit for that purpose. In granting the right-of-way the Secretary, planning jointly with the Secretary of Transportation, is to locate the environmentally preferable location for the route, one that would have minimum impact upon the natural resources of the recreation area, while still providing an economically sound route for access purposes.

Since the people of the village are dependent upon caribou for their survival, they often have to follow the movements of the caribou. Thus, subsistence use of some areas of the park may be essential periodically or continuously for the continued survival of the local people. The subsistence patterns of the park are well known and can be identified. The following drainages within the park have apparently been used for subsistence hunting: Etivluk River, Outwash Creek, Kurupa River, Oolamnagavik River, Killik River (and all its tributaries), Okpikruat

River, Alapah Creek, Kayak Creek, Erratic Creek, Nanushuk River, Kuhsuman Creek, Anaktukuk River, Ernie Creek and the Itkillik River. In addition the lands surrounding Anaktuvuk Pass and a major portion of the John River Valley portion of the park are important to a continued subsistence lifestyle for the people of Anaktuvuk Pass. It is noted the Arctic Slope Regional Corporation traded certain lands, selections, and identifications to the Secretary in exchange for other lands. A fundamental part of that agreement was an understanding that in relinquishing its selections and identifications that the people of Anaktuvuk Pass would still be able to continue their subsistence lifestyle on these lands which are now part of the park. This Act, in continuing subsistence uses within the park, implements this understanding.

Should the results of a study prove that other valleys have been traditionally used by the people of Anaktuvuk Pass and are needed in the future for subsistence purposes then the Secretary shall, at the recommendation of the commission, adjust the subsistence zone within the park.

It is the intent of the Committee that the Secretary, in managing the area, take into consideration the sporadic movement of caribou from year to year, and be in a position to react quickly if needed to provide subsistence hunting zones for the local people, should the caribou move to different locations. Hunting would also be allowed within the Preserve.

It is noted that the State of Alaska has expressed its willingness to discuss the possibility of land exchanges that would bring some of the lands selected by the State adjacent to the park into Federal control. It is the intent that should any of the lands now selected by the State in this area and contiguous to the park complex return to Federal control, they would automatically become part of the Gates of Arctic Park complex.

The Secretary has the authority to acquire adjacent State lands by either donation or exchange. Any of the State lands which are required are to be automatically added to the park system unit. Further authorization from the Congress would not be necessary if these lands are contiguous to the park complex, but the Secretary would advise the appropriate Committees of the Congress any time that such lands are added. The Secre- does not have to acquire all of the lands now selected by the State in this area and contiguous to in the potential addition are to be added to the Gates of the Arctic as soon as they are acquired.

The Committee recommended a National Park containing approximately 4,801,000 acres of Federal lands, and a National Preserve containing approximately 2,117,000 acres of Federal lands and a National Recreation Area of approximately 1,034,000 acres of Federal lands in the Gates of the Arctic. The Committee proposal provided for subsistence uses to be continued within the park, where such uses are traditional in accordance with the provision of the subsistence title. The Committee proposal also provided for a process whereby a single transportation corridor may be granted across the upper Kobuk River unit to provide needed access to the mineralized zone in the Bornite-Picnic Creek region so that commercial development of those mineral properties can occur.

In the Substitute there is a substantial change of the classification for the Park System unit. However, the external boundary of the Gates of the Arctic unit of the National Park System and the purposes for which the area is added to the system are the same as recommended by the Committee. In the Substitute the National Recreation Area classification and management are eliminated. The upper Kobuk unit is classified as a Preserve, rather than a Recreation Area. The north fork of the Koyukuk unit is classified as part of the Park, rather than a Recreation Area. The large central Preserve in the Committee recommendation which included the John River Valley and the Anaktuvuk Pass region has been classified as part of the Park in the Substitute. A small Preserve in the northeast corner of the unit remains. Thus, in the Substitute the Gates of the Arctic National Park would contain approximately 7,052,000 acres of Federal lands and the Preserve would contain approximately 900,000 acres of Federal lands. The Substitute recognizes the superb park and wilderness values that are found in the Gates of the Arctic. Thus, in this proposal the park is expanded into one large park unit with two small preserves; in the northeast at Itkillik Lake and in the southwest along the upper Kobuk River. The park values of the John River/Anaktuvuk Pass portion of the unit and the north fork of the Koyukuk are outstanding, have superb wilderness recreation potential, and merit the full protection of park status.

The Committee recommendation provided for subsistence uses to be continued by the people of Anaktuvuk Pass within the Park, where such uses are traditional in accordance with the provisions of the subsistence title. In addition to that portion of the Park which the Committee identified as important for subsistence, the Anaktuvuk Pass area and a major portion of the John River Valley portion of the Park, which were Preserve under the Committee recommendation, are also important to the subsistence lifestyle of the Anaktuvuk people. Therefore, these additional areas should be considered part of the Park's subsistence zone in addition to the drainages identified by the Committee in its report. Sport hunting, and trapping are not allowed in the Park, while sport fishing is allowed. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the two Preserve units, in accordance with the provisions of this substitute.

The northern boundary now conforms with the Arctic Slope agreement and the House bill. Consistent with the Arctic Slope agreement the Committee provided the Secretary the authority to acquire certain adjacent Native owned lands. If acquired they are to be added to the park automatically without further action by the Congress. The Committee expects the Secretary to notify the Committee before such acquisition is made.

SECTION 210(5): KENAI FJORDS NATIONAL PARK

Kenai Fjords National Park is established to insure the preservation, interpretation, and study of a spectacularly beautiful interrelated icefield and fjord/rainforest system and its associated population of seabirds and marine mammals. The park is located immediately south of Seward, Alaska, which is only a 2½ hour drive from Anchorage, the largest city in Alaska and a tourist focal point.

One of the four major icecaps in the United States today, the Harding Icefield is a reservoir of ice for glaciers that continue to carve deep glacial valleys through the Kenai Mountains. Three major glaciers and several minor ones flow from the icefield into the present fjords, where these tidewater glaciers frequently carve huge blocks of ice into the sea. On adjacent headlands, a moss covered spruce rainforest clings tenaciously to steep rocky slopes amidst the cool, moist climate which created and sustains the icefield above. At this interface of land and water, where the Kenai Mountains are drowning in the sea, marine mammals and seabirds abound. Stellar sea lion and harbor seal haul out of ledges and ice flows respectively and warm in the sun of mid-summer days; killer whale, porpoise, and sea otter swim just offshore. Puffins, gulls and other seabirds inhabit rocks and cliffs by the tens of thousands, while eagles nest in trees overlooking the edible riches of the tidal fringe. The abundant life of the intertidal zone supports many of the larger animals mentioned above. Shoreward from the park's eight major bays, black bear, wolverine, river otter, and mountain goats are found. The scenic quality of the fjords is outstanding and its potential for marine-oriented recreation such as sight seeing, sport fishing and boating is excellent.

The Kenai Fjords National Park consists of 567,000 acres of public lands, above the means high tide. The official boundary map indicates an offshore boundary. The intent of this line is to include Nuka and Ragged Islands but not any offshore waters or submerged lands within the area. unless future agreements with the State or situations allow for this. Native and State lands are also included within the area, which will automatically be added should they be acquired in the future.

The Kenai Fjords National Park will be managed as a natural area of the National Park system. Small clusters of offshore islands (the tops of largely submerged mountains extending out from the fjords), will be managed by the Fish and Wildlife Service.

The substitute includes all of the Chiswell Islands in the coastal refuge, as they are all closely related to one another. In the Pye Islands, Outer Island and other unnamed islands and rocks are in the refuge, leaving Ragged Island in the park. Ragged Island is related to the mainland portion of the park and contains lower wildlife populations than the remainder of the island groups.

Nuka Island, which is State owned, is within the park. It offers a location that may be jointly used by both the State and the National Park Service in a cooperative manner for the management of Kachemak Bay State park and the Kenai Fjords National Park. The Park Service should explore the possibilities of developing cooperative management and visitor facilities with the State here, or in another more appropriate locale. Cooperative agreements concerning the State and National Park here are encouraged.

The Kenai Fjords are a biological island, physically isolated from the remainder of the Kenai Peninsula by the Harding Icefield, the Kenai Mountains, and the ocean. Thus, the Kenai Fjords National Park represents a small distinct ecosystem, best managed by the Park Service.

The coastal refuge does include most of the nesting colonies and marine hauling grounds of the region, with some bird and mammal concentrations inside the park. The Park Service and the Fish and Wildlife Service should cooperate in these two units in developing and implementing a plan which provides for the protection of wildlife values, as well as allowing recreation in the fjords and around the islands.

Language was included which authorized the National Park Service to construct facilities to provide access by visitors up to the Harding Icefield. In recent years, a road up the Resurrection Valley to the vicinity of Exit Glacier has been constructed. The National Park Service, in its recommendation for the area, indicated that this location was ideal for the construction of a visitor center, campgrounds, and some means, such as a tramway, up the Kenai Mountains, in the vicinity of the Exit Glacier, to provide visitors access to the icefield. The Park Service should explore this further and initiate a development concept plan for the Resurrection Valley-Seward vicinity as soon as possible. As the park and the valley are road accessible today, the Kenai Fjords should be considered for development of visitor facilities as early as possible, upon the completion of all necessary planning and appropriate environmental statements. In order to facilitate early completion of a visitor complex in this area, specific authorization for facilities and motorized use of the icefield was included in the substitute.

The Committee recommended a National Park of approximately 567,000 acres of Federal lands in Kenai Fjords. In the substitute, the Kenai Fjords National Park is the same as recommended by the Committee. The intent of the Committee concerning the management and use of the park is retained in the Substitute. Subsistence uses, sport hunting, and trapping are not allowed in the Park, while sport fishing is allowed.

SECTION 201(6) KOBUK VALLEY NATIONAL PARK

The Kobuk Valley National Park is located above the Arctic Circle in the central Kobuk River valley of northwestern Alaska, 100 miles east of Kotzebue. The park is located in a basin, encircled on the north by the crest of the Baird Mountains and on the south by the Waring Mountains—the boundaries forming a natural hydrographic system. The Kobuk Valley National Park encompasses approximately 1,710,000 acres of public lands.

The management area has nationally significant geological, biological, and cultural features. The Kobuk River, with its myriad meander sloughs and oxbow lakes, winds its way west through the heart of the park. The Great Kobuk Sand Dunes, covering 35 square miles, are the active relics of a prehistoric dune area which once covered over 300 square miles. The park is representative of both the western interior and Brooks Range physiographic provinces and includes the northwest limit of the boreal forest. An unusually wide variety of habitat types and vegetational communities, from arctic wetlands, open tundra and arctic woodland to sand dunes and barren jagged mountain tops, are present. Although 35 miles above the Arctic Circle, the well drained valley floor contains sage brush plant communities which are relics of the late Pleistocene times when the Bering Land Bridge connected Asia with North America. One species, *Oxytropis kobukensis*, a legume, occurs nowhere else on earth. The northern portion of the winter range of the western arctic caribou herd and several of its most important and consistently used migration routes lie within the area. Moose, black and grizzly bear, and wolves are indigenous.

Onion Portage, which has a record of at least 10,500 years of human occupation and is one of the two most significant archeological sites in arctic Alaska, lies within the parks eastern boundary. Midway in the Kobuk's River's meander through the proposal, over 100 ancient housepits along a river bend known as "Ahteut" comprises the largest neo-Eskimo archeological site in arctic Alaska, dating to 1250 A.D. Numerous other archeological sites lie within the park along the river valleys, as well as in the mountain passes used by caribou migration.

The park is comprised entirely of public lands except for an area, approximately one township in size along the eastern boundary, which is Native-selected.

The Kobuk Valley National Park is to be managed for the perpetuation of its natural, historical, wilderness, and subsistence values. The Committee recognizes that most of the management unit is used for subsistence hunting by the local people, and that continuation of subsistence hunting is essential to their traditional lifestyle. Traditional subsistence uses, including hunting and gathering activities, will be continued within the park. Involvement of the Kobuk Valley Eskimos in the management, use and interpretation of the areas is planned and expected.

As the northwest extension of the boreal forest, the Kobuk Valley can accommodate a limited degree of appropriate visitor development and use perhaps better than any other conservation system unit in the arctic. The amount of use will be limited by the fragile nature of arctic ecosystems. Thus, this area will be managed in a manner that encourages visitor use within the limits of the natural and cultural resources. Furthermore, any visitor related facilities should cause the least possible impact and adverse effect on wildlife and scenic landscapes of the area. Most visitor services could be provided outside of the management area in nearby villages in cooperation with the local residents. However, it is expected that the Kobuk Sand Dunes will be made available for visitor use and enjoyment. It is the intent that the National Park Service be allowed to provide and develop visitor facilities and accommodations within the national park that would directly relate to visitor use and enjoyment of the Kobuk Sand Dunes. This provision would apply even though this portion of the park is also classified as wilderness. In developing a plan for the sand dunes, the National Park Service should study the possibilities of constructing mobile or impermanent facilities, such as floating structures on the Kobuk River, which would minimize environmental impacts.

The Committee included the entire watershed of the Salmon River within the park. The Salmon may have some of the best recreational opportunities of any Arctic river. It is the intent that the National Park Service make the Salmon River available for visitor use and enjoyment by permitting, to the extent compatible with the purposes for which the park is established, aircraft to continue to land at sites in the upper Salmon River Watershed.

The Committee expects the National Park Service to designate an aircraft landing site in the headwaters for access by fixed wing aircraft for visitors who may desire to float the river. Should no natural landing site be available, the National Park Service should construct such a backcountry airstrip as necessary to accommodate fixed wing "bush" type aircraft. The landing site should provide ready access to the river, yet not impair the character of the wild river.

The diversity and quality of the resources within the area merit full national park status. The Kobuk Valley park is approximately the size of Yellowstone and includes the rich diversity of resources that exemplifies national parks. The biological, archeological, cultural, and geological resources of the park combine to create a great national treasure.

The Committee recommended a National Park of approximately 1,710,000 acres of Federal lands in the Kobuk Valley. In the substitute, the Kobuk Valley National Park is the same as recommended by the Committee. The intent of the Committee concerning the management and use of the park is retained in the Substitute. Subsistence uses by local residents shall be permitted in the Park in accordance with the provisions of the subsistence title. Sport hunting and trapping are not allowed in the Park, while sport fishing is allowed.

SECTION 201(7): LAKE CLARK NATIONAL PARK, LAKE CLARK NATIONAL PRESERVE

Lake Clark National Park and Lake Clark National Preserve are established to protect and interpret a region of highly diverse resources, containing outstanding examples of Alaska's finest natural and recreational values, available within an hour's air flight time of Anchorage, the State's major population center.

The 3,653,000 acre area straddles both the Alaska and Aleutian Mountain Ranges. On the south end is Lake Clark, 50 miles in length, on the north is rugged Merrill Pass, and to the west is a series of glacier-created lakes, frequently referred to as the Switzerland of Alaska, the region is large, intricate, and mostly unexplored, and contains a wide spectrum of outdoor recreational opportunities. National Park Service studies of the Lake Clark region began in the early 1950's, and several bills have been introduced to create a national park in this area.

Lake Clark National Park contains about 2,439,000 acres of public lands and the Preserve encompasses approximately 1,214,000 acres of public lands.

Mountains, lakes, rivers, and woodlands support a diverse range of fish and wildlife populations, and offer varied recreation and educational opportunities. Scores of waterfalls cascade down mountain slopes. Numerous valleys weave through a jumble of mountain peaks, often meeting other drainages in low passes, resulting in a maze of natural hiking and climbing routes. These routes permit access to a spectacular mountain environment where two major mountain ranges intersect in a medley of rugged spires, glaciers, waterfalls, and volcanoes. Two active volcanoes, Mount Redoubt and Mount Iliamna have been added to the National Registry of Natural Landmarks, and Lake Clark Pass has been recommended for natural landmark status for its glacial phenomena. The still-smoking volcanoes are excellent examples of the geologic forces that continue to shape much of Alaska's skyline. Immediately west of the Chigmit Mountains is a string of beautiful tourquoise-colored lakes nestled against the mountain flanks.

Vegetation and wildlife are as diverse as the topography. Brown and black bear, trout, moose, salmon and Dall sheep can be found within the area. The Mulchatna caribou herd feeds and calves on the tundra plains and hills in the western portion of the park/preserve. Plant communities range from the Cook Inlet coastal lowlands of spruce, marshes, and swamps to the alpine meadows and lichen growth of the mountainous areas and include the southernmost known inholding of the arctic tundra biome. The foothills region west of the lake country supports a complex of many small lakes, ponds, and marshes that along with the tundra supplies a varied habitat for caribou moose, waterfowl, and fish. Marine life such as harbor seals, Beluga whales, and otters can be observed feeding near the river mouths along the Cook Inlet coast. The area includes a headwaters portion of the Iliamna-Kvichak watershed—an extremely important part of the world famous Bristol Bay red-sockeye salmon fishery.

Portions of the unit have been selected by the Nondalton village corporation and the Cook Inlet regional corporation. The Cook Inlet land exchange, endorsed by the 94th Congress in Public Law 94-204, as amended, set the land ownership pattern in the Cook Inlet region and will not be altered by this legislation. Pursuant to the land exchange regional deficiency selections in the southern portion of the area will remain in Federal ownership for the purpose of including them within the Lake Clark National Park/Preserve. Also included are the Cook Inlet village selection lands along the Cook Inlet coast, which are also part of the Cook Inlet exchange. That agreement stipulated that the Natives supported the inclusion of their lands within the park. The Cook Inlet exchange is not affected or in any way modified by the action of the Committee or this substitute in establishing this area.

The Committee and the substitute agree with the House that the Tazimina Lakes and the lower end of Lake Clark should be included within the unit. The committee noted that these lands are, in fact, within the boundaries of the Bristol Bay Regional Corporation and were not part of the Cook Inlet exchange. Some scattered native ownership remains within this portion of the area. This addition to the Administration's proposed boundary will provide protection for important recreation resources, critical salmon spawning grounds and the lower end of Lake Clark which is integral to the park. The boundary excludes the village of Nondalton from the preserve. By excluding Six Mile Lake, a natural boundary was adopted that included the important natural features that relate to the park, while leaving out the village site itself and its associated developments. The village of Nondalton is located on the periphery of the Lake Clark Preserve, and its inclusion is not essential for the protection of natural and cultural values. The substitute includes a provision which excludes those lands conveyed to the village of Nondalton from the preserve. This amendment does not change the boundary of the preserve but provides that the lands which the village receives pursuant to ANSCA which are not part of the village proper shall not be treated as inholdings.

The substitute agreed to the exclusion of existing state selected lands. These occur generally in three locations. The Chilikadrotna-Mulchatna watersheds are on the western edge of the proposal. The Committee recognizes that these two rivers are nationally significant and their environment would add a desirable contrasting lowland section to the preserve. The Chilikadrotna may be second only to the Charley River in quality in Alaska. The Committee expects and encourages the Secretary to seek land exchanges with the state which would bring these lands into the National Park System. If at any time in the future the Secretary acquires any contiguous lands within the potential addition they shall automatically become a part of the national preserve.

The Stony River watershed is located in the northwest corner of the preserve and is mostly selected by the state of Alaska. Since most of the lands within the watershed are state selected, the watershed could be deleted from the park system unit. The Committee recommends that the following Federal lands which are within the park/preserve to be traded to the state of Alaska for an equivalent acreage in the Chilikadrotna-Mulchatna area:

SEAWARD MERIDIAN

T. 16 N R. 21–23 W—(Those portions outside the Chilligan River watershed);

T. 15 N R. 23 W—(That portion in the Stony River watershed and outside the Necons River watershed);

T. 14 N R. 24 W—(That portion in the Stony River watershed and outside the Necons River watershed);

T. 13 N R. 25—Section 1–11, 15–22, 27–30 (Those portions in the Stony River watershed and outside the Necons River watershed);

T. 13 N R. 26 W—All;

T. 12 N R. 26 W—Sections 4–8, 18–19, 30–31;

T. 11 N R. 27 W—Sections 1–12, 14–21, 29–30;

T. 11 N R. 28 W—Section 1–30, S.M.

The accomplishment of an exchange in this area would leave the State of Alaska with most of the Stony River watershed and a complete management unit under the control of the State. This trade would also add to the National Preserve some critical lands to the west in the vicinity of the Bonanza Hills and the Chilikadrotna-Mulchatna watersheds.

While nothing in this substitute expressing authorizes this particular exchange, the Secretary is encouraged to negotiate with the State to accomplish this.

The third area of State selection lands deleted was in the northeast portion of the area in the Chakachamina Lake area. Under the provisions of the 1972 Federal-State agreement, the State of Alaska was granted priority selection rights in this area. These lands have high potential for exchange. The lands in question possess important park and recreation values, including the features associated with Chakachamina Lake and Mt. Spur Volcano. It is recommended that this area, like the Chilikadrotna-Mulchatna be automatically added to the Park System, in this case as a park, should the lands be acquired by the Federal Government. Any of the lands within this potential addition that are not transferred to State of Alaska ownership, or are acquired at a later date are to be added automatically to the park. The Secretary is also encouraged to enter into cooperative management agreements with the State for this area to insure the protection of national significant natural values. Another smaller area of potential for exchange of lands is at the eastern entrance to Lake Clark Pass.

The Lake Clark National Park and Preserve is to be managed as a natural area of the National Park System.

The Committee recommended a National Park of approximately 2,440,000 acres of Federal lands and a National Preserve of approximately 1,210,000 acres of Federal lands in Lake Clark. In the Substitute the Lake Clark National Park and Preserve are the same as recommended by the Committee. The intent of the Committee concerning the management and use of the Park and Preserve is retained in the Substitute. Subsistence uses by local residents shall be permitted in the Park, where such uses are traditional, in accordance with the provision of the subsistence title. Sport hunting and trapping are not allowed in the park, while sport fishing is allowed. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the Preserve in accordance with the provisions of this Substitute. The Substitute includes the same provision as the Committee concerning the treatment of the Non Dalton village lands within the boundary of the Preserve. The intent of this provision is the same as provided by the Committee.

SECTION 201(8): NOATAK NATIONAL PRESERVE

The establishment of the Noatak National Preserve in the National Park System is intended to protect the scientific values of a unique wilderness environment in western Arctic Alaska. The Preserve comprises a complete hydrographic system which includes all headwaters and tributaries of the Noatak, except for that portion of the watershed within the Gates of the Arctic National Park, to its downstream boundary with the Native selected lands for the village of Noatak.

The Preserve is located in northwest Alaska above the Arctic Circle, but south of the Arctic Divide. The nearest city is Kotzebue, about 60 air miles south and southwest of the area. It is bounded on the east by the Gates of the Arctic National Park, on the southwest by the Native selected lands in the Noatak valley, and on the south by the Kobuk Valley National Park. The National Petroleum Reserve is contiguous with the Noatak on the north.

The Noatak is the largest mountain-ringed river basin in North America still virtually unaffected by human activities. The management unit, composed of the preserve and the national recreation area, has nationally significant biological, geological, and cultural features. Its chief resources include a botanical diversity equal to or surpassing the flora of the entire north slope of the Brooks Range. It also contains prime examples of geological history, which are exposed in the various canyons along the river. About midway, the Noatak winds through a gentle "S" curved canyon known as the "Grand Canyon of the Noatak." an outstanding recreational feature which is biologically and geologically significant. Where bluffs rise above the river, as in the Grand Canyon, peregrine falcon and gyrfalcons nest. The area also includes critical caribou migration routes for Alaska's western arctic caribou herd, as well as habitat and wildlife representing a wide array of arctic species, including wolf, wolverine, barren-ground grizzly, and a variety of raptors.

The area embraces nearly 300 miles of the Noatak River, Alaska's 11th largest river in watershed area and 15th in flow volume, as well as 8 major tributary rivers, 25 other named tributaries and 13 large lakes. Topographic features include a broad central basin as well as extensive mountain regions to the north, in the De Long Mountains and adjacent ranges, and to the south in the Baird Mountains. The Kelly River is the second most important tributary to the Noatak, contributing a significant portion of the Noatak's waterflow.

Though mostly tundra-covered, the basin contains the northwestern-most extension of the boreal forest in North America and the area's array of flora may well be the most diverse in the entire northern latitudes of the earth. A transition zone and migration route for plants and animals between subarctic and arctic environments, the basin is probably without peer in North America in its variety of terrain and habitats. This situation creates habitats used by a rich diversity of birdlife, including Asian species. The basin is crossed twice a year by two-thirds of the Arctic Caribou Herd, and is prime habitat for the barren-ground grizzly bear. The river supports the northernmost chum salmon run in Alaska and is important also for arctic char.

Underscoring the importance of the Noatak Valley—both nationally and internationally—the area has been designated a "Biosphere Reserve," as part of UNESCO's Man and the Biosphere program. This worldwide system, under the auspices of the United Nations, represents the finest examples of the earth's unaltered ecosystems. The Noatak may prove to be one of the most important scientific areas in North America, and it is this value that is paramount in the establishment of the area.

Officials of the Smithsonian Institution have referred to the Noatak as "one of the most biologically significant land-water units still left in a pristine state." The Center for the Northern Studies in its investigations of the Noatak found virtually every type of arctic habitat known to exist within the Noatak drainage, and concluded that the basin may have the finest array of flora anywhere in the Arctic. "The size of the Noatak basin is such that it is a true wilderness rather than an enclave of wild country surrounded by civilization on all sides. In terms of the scope and complexities of the environment, there is certainly no situation left in the 'lower 48' that is remotely comparable." The Noatak valley and the surrounding countryside affords one of the last opportunities in the United States, or for that matter the entire world, to set aside for the future wilderness of such size, variability and complexity that it functions as a complete ecosystem. If this opportunity is not seized upon, it will never occur again.

The fisheries of the Noatak River comprise more than half of the commercial salmon fishery of Kotzebue Sound, as well as an important part of Native subsistence harvest of arctic char, whitefish, and chum salmon. The Noatak makes a major contribution of freshwater to the Kotzebue Sound estuary.

Approximately 265 miles of the Noatak River (to its downstream confluence with the Kelly River) qualifies for designation as a Wild River, in the National Wild and Scenic Rivers System.

The Noatak Valley also holds an outstanding archeological resource. Over 135 archeological sites have been discovered representing 11 different cultural assemblages which include three early traditions of men in the arctic: American Paleo-Artic; Northern Archaic, and Arctic Small Tool Tradition. Human occupation in the Noatak Valley can be traced back at least 10,000 years to early "Paleo-Indian" people of the region. The most extensive chert quarry found in northwest Alaska, which supplied the raw materials for early lithic cultures, lies in the headwaters of the Kelly River.

In a world dominated by human systems, preservation of this outstanding natural area will provide an essential base against which to judge environmental dynamics of the future. An advisory board of distinguished scientists should be established by the Secretary to encourage and guide a comprehensive, interdisciplinary scientific research program within the area. The board should include representatives of all major disciplines of arctic research and should meet a sufficient number of times each year to actively guide, review, and develop research programs in the Noatak. The National Park Service should budget sufficient funds for the board to operate.

Uses permitted in the preserve will include existing subsistence uses, baseline scientific research in the ecological sciences, archeological investigations, environmental education, and compatible recreational uses, such as canoeing, hiking, camping, hunting and fishing of types and intensities that will not interfere with the scientific education purposes of the preserve or the subsistence uses of the local people.

The Noatak National Preserve is also intended to aid the United Nation's Man and the Biosphere program, which has as its primary focus "the interrelationship of man to the ecosystems and the extent to which his activities and his perception of himself are affected by this interrelationship."

It is expected that the National Park Service will manage public use in the preserve to the appropriate degree, in keeping with the scientific research values and preservation of the natural integrity of the area. The Park Service should work closely with Native village inhabitants of the region to assure that Native cultural values are enhanced by establishment of the Noatak National Preserve.

The Committee recommended a National Preserve containing approximately 5,413,000 acres of Federal lands and a National Recreation Area containing approximately 386,000 acres of Federal lands in the Noatak basin. The Committee further authorized the Secretary to establish a Scientific Advisory Board to advise him and promote research programs in the Noatak. In the Substitute there has been a major change in the area compared to the Committee recommendation.

The National Recreation Area in the Kelly drainage has been eliminated and the lands classified as part of the Preserve. Furthermore, the Federal lands in the lower Noatak which are East of the river have been added to the Preserve. Thus, under the Substitute a Noatak National Preserve containing approximately 6,460,000 acres of Federal lands would be established.

The Baird Mountains National Conservation area that was recommended by the Committee has been dropped in the Substitute. The lands in the lower Noatak have been added to the Preserve for administration by the National Park Service while the lands within the Squirrel River drainage will remain under the administration of the Bureau of Land Management.

The purposes of establishing the Preserve are the same as recommended by the Committee. The entire area is now to be managed as a Preserve in accordance with the provisions of this Substitute. Subsistence uses, sport hunting, sport fishing, and trapping are allowed within the Preserve.

The national preserve is to be managed in a manner similar to that of a national park, except that sport hunting and commercial trapping shall be allowed; recreational uses are to be compatible in nature and the scientific values of the area shall predominate over others.

Subsistence uses by local rural residents shall be allowed within the Preserve. A combination of the lands deleted from the Noatak forming a north-south corridor and the lands which the State will receive between the Noatak and the coast provide an access route within the region, for the "Red Dog" mineral area, and the western portion of the North Slope.

SECTION 201 (9): WRANGELL-ST. ELIAS NATIONAL PARK, AND WRANGELL-ST. ELIAS NATIONAL PRESERVE.

The Wrangell-St. Elias National Park, and Preserve in southcentral Alaska stretches north 170 miles from the Gulf of Alaska to encompass a superlative 12-million-acre region of mountains and forelands bounded by the Copper River on the west and the Kulane National Park and Territorial Game Sanctuary of Canada to the east. Together, these American and Canadian units encompass the greatest expanse of valleys, deep canyons, and towering mountains in all of North America and include ten of the highest peaks of the continent.

This area has been studied for some 40 years and was proposed for national park status by then-Governor (later Senator) Ernest Gruening of Alaska, who reported to the Secretary of the Interior that "The area is superlative in its scenic beauty and attractiveness and measures up fully and beyond the requirements for its establishment * * * as a National Park. It is my personal view that from the standpoint of scenic beauty, it is the finest region in Alaska."

The essence of the Wrangell-St. Elias National Park and Preserve is best captured in the tremendous variation in psysiography. Contained within the boundaries are much of the Wrangell, St. Elias, and Chugach Mountain Ranges, including Mount St. Elias (18,008 feet) and three other peaks over 16,000 feet—Mount Mona, Mount Blackburn, and Mount Sanford.

Dominating the high mountains are great ice and snow fields intersected by enormous glaciers. Some of the largest (Malaspina), longest (Nabesna), and most active (Hubbard and Yahtse) glaciers in the world are found here. (To illustrate the scale of some of these features, the Malaspina Glacier alone is larger than the State of Rhode Island.) Supplied by glacial meltwaters, large braided river systems drain the region. The Chitina and Cooper Rivers are among the Nation's large river systems. While many of the most spectacular features are designated as wilderness, ample non-wilderness areas are included in the units from which the outstanding wilderness features can be viewed by tourists using mechanized access.

The diverse landforms in the proposal, from seacoast to high mountains, provide hahitats for an excellent representation of the fauna of interior Alaska. Dall sheep, brown and black bear, moose, mountain goat, caribou, bison and wolf are all found here. Of special interest is the large coastal fringe along the Malaspina Glacier, where sea lion, otter, harbor seal, and several species of whales inhabit waters adjacent to the park. The valleys and lowlands of the unit are also particularly important, supporting a diverse spectrum of biologic communities which are evolving in direct response to changing natural conditions and the advance and retreat of the glaciers.

There are several historic placer gold mining sites located along the river valleys within the proposal. The focal points of mining history in the region are the Kennecott copper mine, abandoned for four decades, and the nearby town of McCarthy, both located in the preserve.

The State of Alaska holds title to about 50,000 acres in the Chitina Valley. There are also a number of scattered backcountry cabins and camps. In most cases existing levels of residential use are low. It is expected that the National Park Service shall generally permit such existing uses to continue under appropriate regulation, including but not limited to, year-round residence at remote cabins, controlled gathering of firewood, and use of snowmachines for access in the winter.

It is expected that the Secretary will cooperate with local residents, private landowners, and the State in the development of plans and the implementation of regulations to assure that development of and access to private lands within the unit is compatible with the purposes of this section and the quality of the experience of park and preserve visitors. One example for such cooperation is the scenic highway study provided for in Section 1311.

Subsistence uses will continue in areas of the preserve, where they now occur, but not in the park. Sport hunting, under reasonable regulation, shall be permitted in the preserve.

The Wrangell-St. Elias National Park abuts both the Canadian Kluane National Park and Territorial Game Sanctuary. Both national parks will share a common physiography, resource, visitor use and safety demands, and management problems. Close cooperation between the National Park Service and Parks Canada, in particular Kluane National Park, is thus essential.

Furthermore, the Wrangell-St. Elias region is relatively close to the population centers of Alaska and the periphery of the region is accessible via the interconnected, paved state highway system. As a result, the Wrangell-St. Elias units can and should support a large share of increased visitation to Alaskan parks. There is opportunity to develop visitor facilities at scenic locations on or near the existing improved highway system, primarily on private lands.

The Committee recommended a national park of approximately 7,990,000 acres of Federal lands, a national preserve of approximately 3,093,000 of Federal lands, and a national recreation area of approximately 1,235,000 acres of Federal lands. In the substitute there has been a change in the internal boundary between park and preserve and a change in classification for portions of the area, but the external boundary of the management unit is the same as recommended by the Committee. In the substitute the National recreation area classification and management have been dropped and the lands designated as part of the preserve. In addition, lands at the entrance of the Chitina Valley and the Kuskklunana River valley have been designated as park rather than preserve. Thus, the substitute establishes a national park of approximately 8,147,000 acres of Federal lands and a national preserve of approximately 4,171,000 acres of Federal lands.

The purposes for the park and preserve and the intent of the Committee for the park and preserve management are retained in the substitute. Subsistence uses, sport hunting, and trapping are not allowed in the park, while sport fishing is allowed. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the preserve, in accordance with the provision of this substitute.

SECTION 201 (10): YUKON-CHARLEY RIVERS NATIONAL PRESERVE

The Yukon-Charley National Preserve combines two nationally significant resources: the upper Yukon River with its historic, biotic, and geologic resources, and the Charley River drainage, an entire watershed essentially undisturbed by modern man, containing one of Alaska's best whitewater rivers and a wealth of scientific values. The area of 1,713,000 acres of public land includes diverse wildlife, a fine cross section of interior Alaska flora, outstanding paleontological resources, scenic diversity, and high potential for varied recreational uses. The nearby town of Eagle, a historic district on the National Register of Historic Places, complements and is symbolic of the rich cultural heritage within the area.

The history of the upper Yukon River area is rich and still visible. Along the banks of the Yukon, the remains of many old buildings attest to the river's historic use as an artery of trade, travel, and communication. The endangered peregrine falcon, which nests in extraordinary concentrations within the area, heads the list of biotic resources protected. In addition there are Dall sheep, moose, bear, wolf, and other large mammals; nearly 200 species of birds including 20 different raptors; salmon, grayling, and numerous other fish.

Geologic features of the area include a nearly unbroken visible cross section of rock strata dating from pre-Cambrian times. The oldest exposures have yielded fossils estimated to be 700 million years old, including some of the earliest forms of animal life. Of particular importance to the science of paleontology is the triangle formed by the Kandik River, the Canadian border, and the Tintina Fault, which parallels the south side of the Yukon River.

The entire Charley River basin is significant because of its undisturbed nature and its cross section of interior Alaska flora and fauna and has been recommended for preservation for its scientific values by the Institute of Northern Forestry.

Boating and camping along the Charley River and the lower reaches of its principal tributaries, as well as primitive hiking in bluff and highland areas, will provide high quality experiences for visitors. Because the basin area was largely unglaciated in the Pleistocene era, a rich botanical history is preserved, including relics of previous climatic periods. Recent archeological finds in the upper Charley basin, with artifacts dating back possibly thousands of years, signifly the presence of ancient hunters ancestral to the modern Athabascan people.

The National Park Service is the appropriate management agency for the area, and the preserve classification is the most suitable management classification. Outstanding natural, historic, paleontological, archeological, and biological features of the area, especially when combined with what may be the best wild river in the State of Alaska, the Charley, strongly indicate that the inclusion of this area in the National Park System is clearly in the national interest. The Yukon-Charley Rivers National Preserve would be designated for a variety of appropriate uses. The area should be managed in the same manner as a national park, except that hunting and trapping shall be allowed. Subsistence uses by local residents are allowed throughout the area. Protection and use of recreational, historical, and natural values will dominate other resource use considerations. Scientific research will be encouraged. Sport hunting shall be permitted under sound management principles. A segment of the Charley River canyon may be closed to hunting to maintain presence of Dall sheep close to the river for observation.

As one of the finest whitewater streams, the Charley River should be available for public use and enjoyment, while preserving the wilderness character of the terrain. Therefore, it is the intent that the National Park Service permit, to the extent compatible with the purposes for which the preserve was established, aircraft to continue to land at sites in the upper Charley River watershed. It is recommended that an air strip be constructed in the headwaters of the river in order to provide access for people desiring to float the river. The Park Service should conduct a thorough study of the basin in order to locate the environmentally best location for a landing site by fixed wing "bush" aircraft.

There are numerous backcountry cabins along the Yukon River; many are historic while many others recently built are used today by the local people. Many of the cabins legally located under the Federal homesteading laws will be private inholdings within the preserve. Others are in trespass on Federal lands, the people settling in the area after the public land orders were issued which closed this region to entry under the public land laws of the United States. The provisions of Section 1303 of this Act will apply to these cabins. The Park Service should conduct a thorough review of all cabins and residents within the preserve and develop a specific management plan which addresses this issue, the people involved, and their cabins. No new homesites or trespassers are to be allowed. Nothing in this Act is intended to grant any legal interests or rights to those trespassers on the Federal lands. For lands in which a fee interest is held, Federal condemnation authority is to be used only as a last resort after approval by Congress of the necessary appropriations. The agency should conduct public hearings on the management plan and submit copies of the plan, and the hearings to the appropriate Committees of the Congress. The plan should include a list of all homesteads, mining claims, and trespassers and outline how the agency proposes to deal with this situation and the people involved.

The Committee recommended a National Preserve of approximately 1,713,000 acres of Federal lands in the Yukon-Charley Rivers areas. In the substitute the Preserve is the same as recommended by the Committee. The intent of the Committee concerning the management and use of the preserve is retained in the substitute. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the preserve in accordance with the provision of this substitute.

SECTION 202(1): GLACIER BAY NATIONAL PARK AND NATIONAL PRESERVE

Glacier Bay National Monument was established in 1925 to protect a dramatic landscape of coastal mountains undergoing uniquely rapid and dynamic glacial fluctuations. While the fastest retreat of glacial ice in history continues to occur in the area, other glaciers within the boundaries are today reclaiming territory from the pioneering plants and animals which had begun inhabiting postglacial areas. The addition to Glacier Bay adds an area integral to the monument's dynamic intermingling of the awesome power of storm and ice and life's quiet tenacity. Designation of this entire area of about 2,792,000 acres as Glacier Bay National Park recognizes the diversity of its physical and biological systems and the outstanding opportunities for interpretation and recreation that they provide. The entire existing monument, including waters and submerged lands, is included within the park.

Closely guarded on one side by the formidable coast ranges and on the other by the Gulf of Alaska, the 120-mile stretch of beach between Lituya and Yakutat Bays in a rich biological island, access to which from the interior is limited to one major pass—the Alsek River valley. The Alsek addition would protect a significant portion of this biological island which is closely related ecologically to lands already within the boundaries. Continued access to this prime habitat by such large mammals as moose, bear, and wolves will be assured by the inclusion of the vital segment of the Alsek River corridor within the park. Also included within the addition are the northwest flanks of Mount Fairweather, the scenic cornerstone of the present monument. The Deception Hills contain ecologically significant and extremely old plant communities which are important to scientific investigations of southeast Alaska.

The Alsek River and its tributary the Tatshenshini has high potential for white water recreation and is a major international natural resource. Rising high in the St. Elias Mountains in Canada, the Alsek tumbles to the sea through tight canyons offering a supreme test to the white water enthusiast while the Tatshenshini offers an easier route. Recreational use of the river has been increasing in recent years as it has become better known.

The new National park consists of all of the land and waters within the present national monument and an addition of 523,000 acres of public lands, above mean high tide. Also established is a national preserve of 57,000 acres of public lands above mean high tide. The preserve is to be managed in the same manner as the park, except that hunting and trapping may be allowed. Also within the preserve, the existing commercial fishing operations are allowed to continue their operations at Dry Bay. Several commercial fishermen operate out of the Dry Bay area; in addition, there is an airstrip fishery related facility within the preserve which shall continue to be used and maintained. The lands are important additions to the National Park System, and the addition provides for a natural boundary between the park system unit and the national forest. Dry Bay is the terminus for float trips down the Alsek that originate in Canada, and the Park Service has considered using that location for management and visitor related facilities. The preserve classification was used so that the sport hunting which occurs within the area could be continued. Recreation and interpretation activities compatible with ecological values of the Park System addition will be encouraged. Subsistence uses will be allowed within the preserve, but not in the park. The Secretary is encouraged to seek cooperative agreements with Canada which serve to protect the entire watershed of the Alsek River, and provide for cooperative visitor use of the river and its environs.

The Committee recommended a national park addition to the existing Glacier Bay National Monument of approximately 523,000 acres of Federal lands and the establishment of a national preserve containing approximately 57,000 acres of Federal lands. In the substitute the Glacier Bay National Park and Preserve are the same as recommended by the Committee. The intent of the Committee concerning the management and use of the park is retained in the substitute. The entire Glacier Bay National Monument and its park addition are reclassified by the substitute as Glacier Bay National Park. Subsistence uses, sport hunting, sport fishing, and trapping are not allowed in the park. Subsistence uses, sport hunting, sport fishing, and trapping are allowed in the preserve in accordance with the provisions of this Act.

SECTION 202(2): KATMAI NATIONAL PARK AND KATMAI NATIONAL PRESERVE

Katmai National Monument, containing about 2,790,000 acres on the Alaska Peninsula, was established in 1918 by Presidential proclamation to preserve a scenic region containing an area devastated in 1912 by volcanic eruptions and ash deposition. Later expansions included a variety of natural and biologically significant resources, including the Naknek Lake system and brown bear habitat, in the monument.

The park/preserve complex combines presently existing national monument lands with certain additions and designates the area as Katmai National Park and Preserve. The existing monument including waters and submerged lands is designated a part of the park.

Resources within the proposed additions include the headwaters of the Alagnak River and Nonvianuk Lake. Land between McNeil River State Bear Refuge and the present park boundary, also a part of the unit, will give the park a protected ecosystem sufficiently large to include a largely unhunted population of the giant Alaskan brown bear. The northern part of the park and the preserve will also offer many backcountry recreation opportunities amidst highly scenic and varied types of terrain from rolling tundra, wooded valleys, and alpine lakes to rugged snow and glacier-clad peaks. Pristine watersheds necessary for support of the red salmon fishery and water quality protection within the existing monument are included within the addition.

Katmai National Park/Preserve will continue to be managed as a natural area with the primary objective of insuring maximum retention of lands and lifeforms in a near natural state. Hunting, trapping, and commercial fishing will not be allowed in the park, but appropriately regulated sport fishing will be allowed. The preserve is to be managed in the same manner as the park, except that hunting, trapping and fishing shall continue, under regulation. Existing subsistence uses will continue in the preserve but will not be allowed in the park.

The primary overnight use facility at the park/preserve will be at the west end of Naknek Lake. Secondary facilities may be located elsewhere. Aircraft tours can be continued for aerial viewing of significant vistas. Canoe and small boat travel will be encouraged, and hiking will be an increasingly popular use of the Park/Preserve.

The Committee recommended a national park of approximately 936,000 acres of Federal lands and a national preserve of approximately 409,000 acres of Federal lands in Katmai. In the substitute there has been a change in the internal boundary line between park and preserve but the external boundary of the management unit is the same as recommended by the Committee. The watersheds of Battle Lake and Kulik Lake have been added to the park rather than being part of the preserve, while lands in the northwest corner of the area, south of the Alagnak River, have been classified as preserve rather than park. Thus, the substitute establishes a national park addition of approximately 1,037,000 acres of Federal lands and a national preserve of approximately 308,000 acres of Federal lands. The existing national monument and its park addition are re-classified as Katmai National Park. The purposes for the park and preserve and the intent of the Committee for the areas' management are retained in the substitute. Subsistence uses, sport hunting, and trapping are not allowed in the park, while sport fishing is allowed. Subsistence uses, sport hunting, sport fishing, and trapping are allowed within the preserve in accordance with the provision of this substitute.

SECTION 202(3): DENALI NATIONAL PARK, AND NATIONAL PRESERVE

Mount McKinley National Park, containing about 1,940,000 acres, was established by an Act of Congress of February 26, 1917, for the purposes of public recreation and the preservation of animals, birds, fish, natural curiosities, and scenic beauty. The park has recently been designated a Biosphere Reserve as part of UNESCO's "Man and the Biosphere" program.

Both the Park and Preserve are renamed Denali, adopting the ancient Athapascan name for the mountain. However, no action was taken to change the name of the mountain.

By these actions there was no way intention to indicate approval or disapproval of the proposal to change the name of the mountain to Denali which has been pending before the Board of Geographic Names. This Board is the entity which should make such a decision and it is recommended that the Board continue its examination of this proposal and reach a decision based on the merits of the case at the earliest possible time.

The north addition will add to the park sufficient habitat to sustain its large mammal populations of moose, wolf, and caribou. The southern addition will include the southern lower slopes of Mount McKinley itself and its associated mountain and glacial features. The Alaska Railroad right-of-way already is located within the existing park, and this action clarifies the intent of Congress in establishing the area in 1917 that the right-of-way will be subject to the same restrictions relative to hunting, fishing or other public uses as the remainder of the park.

The prime resource for which the north addition is established is the critical range necessary to support populations of moose, wolf, and caribou as part of an integral ecosystem. Public enjoyment of these outstanding wildlife values would thus continue to be assured.

The south addition includes that part of the Mount McKinley massif not presently within the park and its associated spectacular glacial gorges and valleys. Also included would be the intricately dissected, awesomely beautiful Cathedral Spires. Lowland areas in the southern addition provide ecologic diversity and opportunity for recreation and access.

Denali National Park will be managed as a natural area of the national park system. Existing subsistence uses will continue within the Preserve and the northern addition to the Park. Hunting and trapping may continue, under regulation, in Denali National Preserve. North of the Alaska Range, the major development will remain at the present entrance to the park, which will serve as a staging area, information center, and transportation system terminus. Small campgrounds are located along the park road and a hostel and interpretation center can possibly be developed in the historic Kantishna area in the park. Transportation within the existing park and the proposed northern addition will continue to be via public transportation for the most part.

It is recognized that three blocks of adjacent State lands have high potential for recreational values and have park quality. These occur primarily in three areas. In the northeast portion of the area, near the existing headquarters, there are some 3 townships of state lands which are critical for sheep, caribou, and wolf habitat and should eventually become a part of the park. In the west are watersheds near the Cathedral Spires with wildlife and habitat and ecological values which relate to the park. On the south, the Chelatna Lake country has some of the best access to the south side of the park and has high potential for recreational uses.

It is recommended that the Secretary seek land exchanged with the State of Alaska that would serve to bring these areas into the Park. Should the Federal government acquire any or all of these lands at any time in the future, they are automatically to be added to the Park/Preserve, as appropriate. It is recommended that the Kantishna hills and the Dunkle Mine area be studied because of their mineral resources by the Alaska Land Use Council in cooperation with the Secretary, to further evaluate the nationally significant resources of the two areas, including fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and mineral potential. These lands are to remain within the park. However, the Council and the Secretary should report to the appropriate committees of the Congress with the results of the study and any recommendations that they may have for the future management of the area. During the study, valid mining claims may continue to be operated and any claim acquisition should be on a willing buyer/willing seller basis.

The Secretary is prohibited from using his condemnation authority in this area during the study period unless he determines that activities will result or threaten to result in significant resource damage.

Field investigations this summer by the National Park Service revealed that there are approximately 80 acres of land which contain mining claims within the boundaries of the Denali National Park additions, in the vicinity of Dutch Hills. These claims are all located on the very edge of the boundary and are part of watersheds that flow outside the park. As such, it would be appropriate for the National Park Service to examine the desirability of the Secretary's using his authorities under the minor boundary adjustment section of Title I to exclude these lands from the park. This exclusion would also remove a trail that has been used in the past by miners who have worked these claims. This is considered a unique situation.

The Committee recommends the establishment of a two-unit preserve within the overall management unit, in the northeast and southeast. The Committee recommends the establishment of the preserve (Cathedral Spires and Minchumina units) in order to provide for sport hunting, subsistence uses and continued trapping within the area. The preserves shall be managed in the same manner as the park, except that hunting, trapping and other subsistence activities shall be allowed. Subsistence uses shall be permitted within the preserve portion of the management unit, and in the northern park addition only.

The Committee recommended a national park addition of approximately 2,587,000 acres of Federal lands and a national preserve of approximately 1,169,000 acres of Federal lands. The Committee recommended no subsistence uses be allowed in the park. In the substitute there has been a change in the boundary between park and preserve but the external boundary of the management unit is the same as recommended by the Committee. The southern preserve at Cathedral Spires has been expanded slightly to the north changing the affected lands from park to preserve compared within the Committee recommendation. Thus, the substitute established a national park addition of approximately 1,220,000 acres of Federal lands.

The existing Mount McKinley National Park and its park addition are reclassified as Denali National Park. The Committee recommendation included an authorization for the Secretary to delete up to 46,080 acres from the park in the vicinity of Tokositna Glacier for conveyance to the State of Alaska. That authorization and its associated study are not included or provided for in the substitute. The substitute does include a proposed study of the Kantishna Hills/Dunkle mine area as recommended by the Committee.

The purposes for the park and preserve and the intent of the Committee for the area's management are retained in the substitute. The substitute recognizes that traditional subsistence uses may take place in portions of the northern park additions. To the extent that they do, these uses are protected in the northern addition. Sport hunting and trapping are not allowed in the park, while sport fishing is allowed. Subsistence uses are allowed in the northern addition only. Subsistence uses, sport hunting, sport fishing and trapping are allowed in the preserve in accordance with the provisions of this substitute.

SECTION 203: ADMINISTRATION

The consumptive use of wildlife resources for subsistence, recreational, and other purposes is a recognized and permitted use of such resources within National Park Preserves. Section 203 clarifies that such use of wildlife resources within areas designated by Sections 201 and 202 as National Park Preserves shall continue subject to reasonable regulation, including the provisions of title VIII.

Since the establishment of the National Park System in 1916, the consumptive use of wildlife resources within National Parks and National Monuments has been prohibited. Such units have traditionally been viewed as wildlife sanctuaries for the nonconsumptive enjoyment of the American public. However, when establishing new units of the National Park System the Congress has had a longstanding traditional practice of reviewing those values and activities within new units which, if immediately curtailed, might result in substantial hardships to the local residents of the area. Consequently, in appropriate instances certain grazing and inholder activities have been phased out of such units gradually, rather than terminated immediately at the time of establishment of the unit.

In other instances, because of their unique significance to the Nation the Congress has authorized the continuation of certain uses within new parks and monuments which would be prohibited under traditional National Park Service management policies. For example, in Hawaii Volcanoes National Park and the Big Cypress National Preserve certain types of subsistence activities are authorized to continue as a result of congressional recognition of their cultural significance. In both units subsistence activities within the park and preserve were specifically linked by the Congress to culturally distinct groups of people: Native Hawaiians at the Volcanoes Park, and the Miccosukee and Seminole Indian tribes of Florida in Big Cypress. The Congress also adopted a similar approach with respect to the continuation of local commercial fishing within the Virgin Islands National Park.

With respect to the situation of local residents in and near certain new national parks and monuments established by this Act, the Committee believes that the establishment of these units should protect the opportunity for local rural residents to continue to engage in a subsistence way of life. The Committee notes that the Alaska Native people have been living a subsistence way of life for thousands of years, and that the Alaska Native way of life in rural Alaska may be the last major remnant of the subsistence culture alive today in North America. In addition, there is also a significant non-Native population residing in rural Alaska which in recent times has developed a subsistence lifestyle that also is a cultural value.

In addition to the cultural importance of the subsistence lifestyle, curtailment of subsistence uses would impose major hardships upon many residents of rural Alaska. It is a combination of these factors which has led to the conclusion that there is a need to continue the opportunity for subsistence uses of renewable resources, including wildlife, within certain National Parks and Monuments by local rural residents who have, or are a member of a family which has, an established or historical pattern of subsistence uses within such units. Local rural residents who maintain their primary, permanent residence within or near such units should have the opportunity to decide for themselves the course, pace, and extent, if any, of their own lifestyle and community evolution.

In order to protect the significant subsistence use areas in Alaska which are critical to the continued subsistence lifestyle of local rural residents in Alaska, the substitute opens specific parks and monuments to traditional subsistence uses. All National preserves are open to subsistence uses and such uses shall have a priority over other consumptive uses such as sport hunting and trapping. National Parks and Monuments shall be closed to subsistence uses unless specifically authorized in the subsection establishing the area. In two areas, Cape Krusenstern National Monument and Kobuk Valley, National Park subsistence uses are wide-spread throughout the park units. In other instances subsistence uses have traditionally occurred in selected portions of the areas and on specific populations of wildlife. The intent of authorizing subsistence within Gates of the Arctic, the northern addition to Denali, Lake Clark, and Aniakchak is to protect those traditional uses in traditionally used portions of the units and on traditionally used populations. The Secretary should continue his research efforts to add to existing data concerning which portions of the parks and which populations have traditionally been for subsistence purposes. The Secretary should work with the Subsistence Council to define "subsistence zones" within those parks and monuments which authorize subsistence.

It should be noted that in most new units of the National Park System the taking of wildlife by local rural residents for subsistence uses has not necessitated the use of aircraft as a means of access, but this concept is not absolute. For example, some years the caribou herds do not use the mountain passes near the village of Anaktuvuk Pass during their annual migration. Since this village has no alternative sources of food, the use of aircraft is essential for the continued survival of the Anaktuvuk Pass people. Similarly, residents of Yakutat have customarily used aircraft for access to the Malaspina Forelands in the Wrangell-St. Elias area for subsistence purposes, since traveling by boat, the only other possible means of transportation, can be extremely dangerous due to the violent storms that frequent the Gulf of Alaska. Although there may be similar situations in other areas of Alaska in which aircraft use for subsistence hunting may be appropriate and should be permitted to continue, these types of situations are the exception rather than the rule and that only rarely should aircraft use for subsistence hunting purposes be permitted within National Parks, National Monuments and National Preserves. It is not the intent to invite additional aircraft use, or new subsistence uses in parks and monuments where such uses have not traditionally and regularly occurred.

Local rural residents within the Gates of the Arctic National Park, and local rural residents within or near the Cape Krusenstern National Monument and Kobuk Valley National Park have depended upon the subsistence uses of wildlife within those units as the foundation of their lifestyle. Local rural residents within or near the Aniakchak National Monument and the Lake Clark National Park may use a portion of those areas and are dependent upon the subsistence uses of wildlife within the portions of those units utilized as the foundation of their lifestyle. Therefore it is intended, and sections 201, 202, and 203 authorize subsistence hunting and other uses within those five units by local rural residents to continue subject to reasonable regulations, including but not limited to the provisions of Title VIII.

It should be emphasized that this modification of National Park Service policy is based upon the commitment of the Committee and the National Park Service to the protection and continuation of the lifestyle of local rural residents who have, or who are a member of a family which has, an established or historical pattern of subsistence hunting within the park or monument, during those periods of time during which such persons maintain their primary, permanent residence in or near the park or monument.

Consistent with the policy set forth in section 802(1), communities which contain concentrations of local rural residents with established or historical patterns of subsistence use of wildlife within those units be identified and designated as "resident zones". Persons whose primary, permanent place of residence is within a zone should be permitted to harvest wildlife within the park or monument for subsistence uses without obtaining a National Park Service permit. Of course, such activities would continue to be regulated by the State of Alaska and the National Park Service pursuant to the provisions of title VIII and other State and Federal laws.

Designation of resident zones rather than National Park Service regulation of subsistence hunting by individual permit has a number of advantages. The National Park Service is spared the expense and administrative complications attendant in the implementation of a comprehensive permit system. The traditional movement of local rural residents between rural villages and Alaska's larger population centers can continue, consistent with unit values, without the interference of a complicated administrative structure. And most importantly, rural communities and cultures will not be burdened by implementation of a complex, and in many instances culturally disruptive, regulatory system, unless necessary in specific instances to protect and administer unit values.

In the latter regard, the resident zone approach to subsistence hunting is consistent with the protection of park and monument values only so long as such zones remain composed primarily of concentrations of residents with an established or historical pattern of subsistence uses of wildlife within the units. The direction of the evolution of many rural communities within resident zones is as yet undetermined. As a result, the composition of residents within a particular community may alter substantially in the future. If so, and section 203 and title VIII so authorize, the National Park Service to protect unit values by determining eligibility of residents of communities within previously designated resident zones for subsistence hunting purposes through implementation of an individual permit system.

The Committee also recognizes that there may come a time when wildlife available for subsistence uses may be insufficient to satisfy the subsistence needs of local rural residents who choose to continue the subsistence way of life. For example, pressures on a wildlife population may become sufficiently intense that in order to insure the perpetuation of a viable self-sustaining population within the park system unit there may be a need to restrict the subsistence take of such population by residents of communities properly within designated resident zones and by residents who engage in subsistence uses by permit. In such situations local rural residents of communities or areas which are the most dependent upon the resource and which have the least access to alternative resources should be given a priority use of the population for subsistence purposes pursuant to the provisions of section 804. Priority among local rural residents within such communities or areas also should be established pursuant to the criteria set forth in section 804. The Committee expects the National Park Service to make such critical allocation decisions in close consultation with the State of Alaska and affected communities and local rural residents.

In authorizing subsistence uses within National Parks, Monuments and Preserves, it is the intent of the Congress that certain traditional National Park Service management values be maintained. It is contrary to the National Park Service concept to manipulate habitat or populations to achieve maximum utilization of natural resources. Rather, the National Park System concept requires implementation of management policies which strive to maintain the natural abundance, behavior, diversity, and ecological integrity of native animals as part of their ecosystem, and that concept should be maintained. The National Park Service recognizes that subsistence uses by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the natural food chain. It is expected that the National Park Service will take appropriate steps when necessary to insure that consumptive uses of fish and wildlife populations within National Park Service units not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years. Accordingly, the National Park Service will not engage in habitat manipulation or control of other species for the purpose of maintaining subsistence uses within National Park System units.

Several of the new park units, established by this legislation, most notably the Gates of the Arctic, Wrangell-St. Elias, the Denali additions, and Lake Clark, encompass some of the most magnificent, remote and untouched mountain terrain in North America. Within these units, whole mountain ranges intersect in a spectacular jumble of unclimbed, uncharted peaks, with rugged spires, great glaciers and snow fields and deep, glacier-carved gorges. These features offer unparalleled opportunities for the whole range of climbing and mountaineering activities, from short day hikes and overnight trips to long treks and major expeditions in truly rugged and remote terrain. It is expected that future management of these areas for such purposes will allow such recreational uses with minimal formal regulatory requirements, and with recognition of the desire of such users for solitude, self-reliance and freedom of movement. These uses, and management practices, must be accomplished in a manner consistent with the purposes for which the areas are established and within the limits of sound management principles, including providing for visitor and resource protection.

Section 204 addresses the need of Congress to make a determination concerning those lands withdrawn in accordance with section 17(d) (2) (E) of the Alaska Native Claims Settlement Act (ANCSA). The lands in question were withdrawn for park purposes under section 17(d) (2) and for possible selection by the Chugach Regional Corporation under section 11(a) (3) of ANSCA. Under the terms of section 204, the Chugach Regional Corporation will be able to receive the valid selections and identifications that they made on the dual withdrawn lands. Those lands that are not conveyed to Chugach will become part of the national park.

There were two other areas in the State that had dual withdrawals in addition to the area in the Wrangell-St. Elias area. The Gates of the Arctic had dual withdrawals for park and Arctic Slope Regional Corporation selections and the Lake Clark area had dual withdrawals for park and Cook Inlet Regional Corporation selections. In both the Gates of the Arctic and the Lake Clark areas the dual withdrawal issues were resolved between the Department and the affected regional corporation through negotiation and agreement. The Arctic Slope land exchange as included in title XIV of this Act and the Cook Inlet Land exchange as included in P.L. 94-204 resolved these issues, thus relieving Congress of the need to decide the issue. Section 204 resolves the last remaining dual withdrawal issue in Alaska.

All of the units established by this Act are established subject to valid existing rights, which includes valid selections by Native Corporations. Therefore, it was not necessary to include a specific reference in the statute that recognized continuing validity of all Native selections. It was necessary to include statutory language in this specific instance where the Congress had a requirement to resolve the controversy posed by dual withdrawals.

SECTION 205: COMMERCIAL FISHING

Section 205 provides that commercial fishing within certain units of the National Park System shall be allowed to continue. In all three units the actual fishing takes place offshore in the ocean, outside of the units. The fishermen are dependent upon the park units for land based support facilities for their fishing activities. It is intended that the Secretary allow these existing land based facilities to continue, including campsites, cabins, motorized vehicles, and aircraft landing on existing strips. The Secretary shall be permitted, however, to issue reasonable regulations to insure that such activities do not result in any permanent or substantial harm to the environment. Commercial fishing permits shall continue to operate under State law. The intent of this section is to allow existing levels of use to continue, subject to reasonable regulation. It is not to authorize or permit any significant expansion or new use to occur.

This section includes Cape Krusenstern National Monument in the list of where this activity is permitted. The Dry Bay area of Glacier Bay National Preserve and the Malispina Glacier forelands area of the Wrangell-St. Elias National Park and Preserve were previously included. At Cape Krusenstern it is not the intent of the section to allow commercial fishing that takes place on allotments to expand onto Federal lands as that would constitute a significant expansion. The Secretary is expected to manage this section of Cape Krusenstern National Monument in such a manner that archeological sites and artifacts are protected.

SECTION 1313: ADMINISTRATION OF NATIONAL PRESERVES

The substitute established several national preserves to be administered by the National Park Service. Like the House-passed bill, this Act directs that a preserve be managed as a national park except that all forms of hunting be permitted to continue. This includes sport, subsistence, and guided hunting.

It can be expected that some hunting guides that currently have guiding districts within various national parks established by this Act will be shifted by the State guiding board to new territories, which could include the preserves. The National Park Service should work with the State to make this transition as smooth as possible. Guided hunting will not necessarily conflict with the management of preserves and the Park Service should work to insure that guided hunting can continue to be a viable part of the Alaska hunting scene.

The Park Service, however, must continue to manage the resources of the preserves, including the wildlife species. Therefore, this substitute gives the Secretary authority to close any portion or all of any preserve, if necessary, for the purposes of public safety, administration, floral or faunal protection and management, or public use and enjoyment. Such closures may be temporary or permanent. The Secretary should, however, consult with the Alaska Department of Fish and Game before taking any such action to close an area, unless the closure is part of an emergency action. In addition to closing portions of preserves, the Secretary may also close preserves to hunting of specific species or during certain seasons, as appropriate.

In allowing trapping to continue within preserves, it was not the intent to allow exploitative forms of commercial trapping to occur. The intent is to allow individual Alaskans to continue to operate their own trap lines within the preserves, even though those individuals might not qualify as subsistence users. It is clearly not the intent of this Act that preserves would be a place where more extensive forms of commercial trapping would be allowed where, for example, the trapping itself becomes a business with employees paid to support the trapping operation. The Secretary, through the National Park Service, is expected to monitor trapping operations within the preserves and the associated wildlife populations and issue appropriate regulations to insure that exploitative forms of trapping do not take place and that there is no substantial or permanent harm to the wildlife populations.

SECTION 1307. REVENUE-PRODUCING SERVICES

This section establishes a mechanism whereby concessions operations and programs within the conservation system units established by this Act would be granted to Alaskans, Alaska companies and Native Corporations. All such operations must meet the qualifications and provide adequate services in accordance with the standards set by the Department of the Interior.

Section 1307 grants the highest priority to those individuals who are currently engaged in revenue-producing services. So long as those individuals and concerns are operating in accordance with agency standards, they should be allowed to continue, which includes the right to expand as appropriate.

For new revenue services the substitute seeks to grant a preference to local individuals and Native Corporations most affected by the conservation system unit.

Native Corporations and local individuals are granted equal status under this section and it is expected that the Secretary shall develop regulations and procedures whereby concessions contracts can be granted, and competing local and Native interests can be evaluated. For the purposes of this section, the substitute makes a determination that the Native corporation most affected by the establishment of the Kenai National Wildlife Refuge and the Cook Inlet region portion of the Lake Clark National Park is the Cook Inlet Regional Corporation.

SECTION 601. WILD AND SCENIC RIVERS

This section establishes several Wild and Scenic Rivers within units of the National Park System in Alaska. To clarify an error in the Substitute, it should be noted that the Alatna River is within the Gates of the Arctic National Park, not the Preserve.

The Alagnak River is designated both within and outside of the Katmai National Preserve. It is the intent of this substitute that the National Park Service be the administering agency for both portions of the river.

The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. TSONGAS. Mr. President, who controls the time in opposition?

Mr. STEVENS. I do.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Mr. President, I ask a parliamentary inquiry along the same lines. It is my understanding the Senator from Washington supports this substitute and I oppose it.

The PRESIDING OFFICER. Then the

time in that case will go to the minority leader or his designee.

Mr. STEVENS. I thank the Chair.

Mr. TSONGAS. Mr. President, I yield to the Senator from Alaska.

Mr. GRAVEL. I thank my colleague from Massachusetts.

I will be extremely brief. I had made comments earlier in the afternoon and evening in opposition to the substitute that delineated several areas where it does damage. It literally does damage in all parts. Whether it is in terms of worse access, whether it is in terms of denying less hunting, less impact on our lifestyle, denying less ability to seek oil and gas finds, or with respect to minerals, there is not an area that does not tighten up and I think it adversely affects the economy of the Nation and affects the economy of Alaska.

So for that reason I oppose it and have opposed this effort to the best of my ability for the last 2-plus years.

I only say to my colleague from Massachusetts, who has been a most unusual adversary in this regard, he is a very gracious one. I have come to admire him. I think the group of preservationists and environmentalists who sought a standard bearer picked the right person, recognizing that he was new to the body, but they picked a person who really brought great skills and sincerity to it.

So I say that as strong as I am opposed to the legislation and as strong as I feel about the nature of the mistakes that we are making, I feel equally that strong in my respect for the distinguished Senator from Massachusetts.

I ask unanimous consent to insert in the RECORD a statement that delineates a summary analysis of this work. I think it would be edifying for anybody who might want to peruse it in detail or for historians who may want to go back and chart in detail how the damage was done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

D-2 BILL COMPARISON ACREAGES

[Millions of acres]

	1979 Senate committee	House-passed H.R. 39	Tsongas substitute
National Park System:			
Aniakchak:			
Monument	.138	0.300	0.138
Preserve	.376	.210	.376
Bering Land Bridge: Preserve	2.457	2.590	2.457
Cape Krusenstern: Park	.560	.560	.560
Gates of the Arctic:			
Park	4.801	8.220	7.052
Preserve	2.117	0	.900
National Recreation area	1.034	0	0
Kenai Fjords: Park	.567	.570	.567
Kobuk Valley: Park	1.711	1.700	1.710
Lake Clark:			
Park	2.439	2.500	2.439
Preserve	1.214	1.150	1.214
Noatak:			
Preserve	5.413	6.460	6.460
National recreation area	.386	0	0
Wrangell-St. Elias:			
Park	7.990	7.950	8.147
Preserve	2.961	4.240	4.171
National recreation area	1.235	0	0
Yukon-Charley: Preserve	1.713	1.720	1.713
Glacier Bay addition:			
Park	.523	.590	.523
Preserve	.057	0	.057
Katmai additions:			
Park	.936	1.160	1.037
Preserve	.409	.210	.308
Denali additions:			
Park	2.587	3.410	2.426
Preserve	1.169	.480	1.330
Subtotals:			
Parks, monuments	22.252	26.960	24.599
Preserves	17.886	17.060	18.986
National recreation area	2.640	0	0
Park totals	42.778	44.020	43.585
National wildlife refuge system:			
Alaska Maritime	.460	.460	.460
Arctic additions	5.650	9.900	9.160
Becharof	1.200	1.200	1.200
Clarence Rhode additions (Yukon Delta)	11.130	14.060	13.400
Innoko	3.850	3.800	3.850
Kanuti	1.420	1.450	1.430
Kenai additions	.240	.280	.240
Kodiak additions	.050	.050	.050
Koyukuk	3.535	3.650	3.550
Selawik	2.150	3.300	2.150
Tetlin	.765	.770	.700
Yukon Flats	5.710	10.600	9.770
Alaska Peninsula	3.500	3.500	3.500
Togiak	3.310	3.140	3.840
Copper River Delta	0	.600	0
Nowitna	0	1.560	1.560
Teshekpuk-Utukok (MPRA)	0	22.500	0
Total	42.970	80.820	54.860
National Forest system:			
Tongass Forest additions	1.450	1.500	1.450
Chugach Forest additions	1.500	1.300	1.900
Porcupine National Forest	5.480	0	0
Misty Fjords National Monument	1.433	2.285	2.285
Admiralty Island Monument	0	1.100	.921
Total	9.863	6.185	6.556
National Wild and Scenic Rivers	1.000	[1]2.000	1.000
National Recreation and National Conservation areas (BLM):			
Baird Mountains NCA	2.200	0	0
Chandalar NCA	.880	0	0
Nowitna NCA	3.070	0	0
Steese NCA	1.220	0	1.220
White Mountains NRA	1.000	0	1.000
Total	8.370	0	2.220
Grand totals:			
New systems	104.981	133.025	108.221
Wilderness (includes both new and existing units)	38.390	68.000	56.00

[1] Approximates.

NEW TSONGAS SUBSTITUTE SUMMARY

(Compared to Senate Committee bill)

PARKS

Closes an additional 2.5 million acres to hunting and trapping.

National Recreation Areas in Noatak, Gates, and Wrangells changed to Preserves and Park (east NRA in Gate).

Largest Preserve to Park designation in Central Gates of Arctic. Also, Preserve to Park in north Katmai.

Deletes Tokositna recreation site study for possible Park deletion.

Retains Senate boundaries in regard to any State wish-list lands excluded.

Special "boot" access language retained in Gates.

WILDLIFE REFUGES

Adds approximately 12 million acres to refuge system.

Eliminates Nowitna, Baird Mountain, and Chandalar National Conservation Areas and puts all but half of Baird Mountain into refuges and Noatak Preserve.

Eliminates Porcupine National Forest and places into Arctic and Yukon Flats Refuges.

White Mountains NRA and Steese NCA retained with mining language.

NATIONAL FORESTS

Rude River area added to Chugach Forest (.400 mil.).

Misty Fjords Monument (2.285 mil.) and Admiralty Id. Monument (.921 mil.) established. Similar to present monuments.

Special fish and wildlife management language for Copper R. Delta.

Angoon village corporation entitled to select 21,000 acres of timber land on Prince of Wales Id. in lieu of timber land around Angoon on Admiralty Id. Corp. to retain some lands around village.

Retains Shee Atica land selections in former Goldbelt Inc. area on northwest side of Admiralty Id. (Lake Kathleen area).

Special mining access and proving-up provisions for Borax (and now Greens Creek on Admiralty) retained.

WILD AND SCENIC RIVERS

Adds Nowitna wild river.

Adds Squirrel and Koyuk study rivers.

Increases boundaries from ¼ mile to ½ mile to either side of river.

WILDERNESS

Adds approximately 18 million acres of wilderness—to 56 mil.

Major wilderness added to central part of Gates, existing Arctic Range except for north slope area, Innoko refuge, Togiak refuge, Yukon Delta refuge, Nunivak Id. refuge, Koyukuk refuge, and Becharof refuge.

1.1 mil. acres of wilderness added in Tongass Forest (from 4.25 to 5.36 mil.).

Special Management Areas deleted.

All but 21,000 acres around Greens Creek designated wilderness in Admiralty Id. Monument.

All but 150,000 around Quartz Hill (Borax) designated wilderness in Misty Fjords Monument.

Special money entitlement of $40 million established from natural resource revenues from Ag and Interior lands from which Sec. of Ag can use for timber management in Tongass to provide yield of 450 MMBDFT. Monies not subject to budget impoundment or annual appropriation.

Without additional management monies, annual yield of Tongass with wilderness designations is approximately 385 MMBDFT.

Provision that RARE II wildern. review program over with these designations and additional lands not subject to further review.

SUBSISTENCE

Several minor changes to clarify traditional state and federal fish and wildlife management responsibilities.

NATIVE AND STATE LAND CONVEYANCES

Deletes expedited conveyance procedures for Native lands.

Adds provision regarding submerged lands. Limits court challenge of navigability to 5 years for lands conveyed after Act, and to 7 years for lands conveyed before Act.

Contains provisions for trading submerged lands to be conveyed to Native corporations for in lieu State or federal lands. State submerged lands inside of conservation lands could also be traded for other federal lands.

OIL AND GAS EXPLORATION

Alters oil and gas exploration in Arctic Range to limit seismic-only work to only after 2-year biologic baseline study completed and final exploration report in no earlier than 5 years or later than five years, nine months after enactment.

Adds park preserves to park areas for which federal core drilling for mineral exploration will not be allowed.

Such core drilling on other lands clarified to not include oil and gas exploratory wells.

Special report to Congress on suitability of opening any conservation system lands to mineral leasing or entry deleted.

TRANSPORTATION ACCESS

Clarifies that DOT not lead agency, only shares in decision-making, for transportation, utility process across conservation system units.

Additional criteria included in the case of an appeal to the President when one or more agencies have disapproved access across a non-park or non-wilderness unit. In addition to finding in the public interest, the President would have to find the application consistent with the purposes of the unit and that there is no prudent and feasible alternative in order to approve the application.

Expands access study of Stikine River region to include other than just road access to Canada.

ADMINISTRATIVE PROVISIONS

Limits authorization of aquaculture facilities in wilderness to only national forest wildernesses. Special fishery research provisions for national park wilderness deleted.

Adds national park preserves to lands to studies for wilderness (all park and refuge system lands, not designated by this Act).

Special small hydroelectric provision deleted.

Special Congressional finding regarding level of funding of Alaska units be commensurate with level of other national units deleted.

Special language for agriculture in Yukon Flats refuge and for Terror Lake hydroelectric project in Kodiak refuge modified to include case-by-case assessment under existing law by Secretary.

Includes so-called "No More" clause which bars President or the Secretary from making any land withdrawals greater than 5,000 acres for more than one year unless approved by Congress. Also, no further studies of potential conservation system units in Alaska except as provided in this Act.

ANCSA AMENDMENTS

Adds provision for conveyance of Punuk Islands to St. Lawrence Id. corporations.

Deletes provision dealing with townsites.

Includes specific authorization to acquire Pribilof Islands bird cliffs for $7.5 million.

Mr. GRAVEL. I thank my colleague for yielding.

Mr. STEVENS. Mr. President, I do not know whether any other Senator wishes to speak.

I would just like to make one closing comment. This bill reflects national sentiments with regard to certain activities on Federal lands, namely mining on wildlife refuges, and hunting in national parks.

In the attempt to meet the problems of Alaska dealing with national parks, the Tsongas substitute does use the classification, as the Senate Energy Committee did, of national park preserve in which hunting is permitted even though the area is administered by the National Park Service.

With regard to the wildlife refuges, after this bill passes, 80 percent of the wildlife refuges in the United States will be in one State, my State of Alaska.

It is one thing to have a wildlife refuge in one of the smaller States of the south 48, 100,000, 500,000 acres closed to mining. It is an entirely different thing to have a wildlife refuge of 14 million to 16 million acres closed to mining. That wildlife refuge being opened to oil and gas, as I have said, in all probability the data are going to be forthcoming from the oil and gas exploration activity to demonstrate the location of mineral prospects of national significance.

Similarly as we look at the park system with two-thirds of the national park acreage to be in one State, the State of Alaska, it appears to me not to be unreasonable to believe that the time will come when the people of the Nation will realize that it is a different thing to close a national park of from 14 million to 16 million acres in Alaska to hunting on the theory that the national parks of the south 48, none of which exceed 2 million acres, are closed to hunting because of the heavy tourist potential.

I believe in the future those two national policies of closing wildlife refuges to mining and closing national parks to hunting must be reexamined, and I intend to draft legislation to bring that about in the next Congress, and to continue to pursue the concept that Alaska national parks should be made available for hunting to the maximum extent possible.

Alaska wildlife refuges should be made available to mining, particularly mining prospects where the minerals are of national significance and necessary for the national security and survival of our country.

With the exception of those two areas, I do not feel that this bill is defective. As I said, it meets five of our seven consensus points outright, and the two that it misses it meets us better than half way with regard to the areas that are in controversy. As such it is a bill that is, from my point of view, preferable to no bill at all, and although I will vote against it, I anticipate its becoming law this year.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I am prepared to yield back the remainder of our time if the Senator from Massachusetts is prepared to yield back the remainder of his time.

Mr. TSONGAS. I know of no other requests.

Mr. STEVENS. I know of no other requests on this side.

IN SUPPORT OF TSONGAS-ROTH-JACKSON-HATFIELD AMENDMENT

• Mr. DOLE. Mr. President, as I have stated earlier and as my colleagues have agreed, now is the time to achieve a balanced conservation measure to protect the Alaska lands and its natural resources. The spectacular scenery and the fragile ecosystems of Alaska's wildlife demand no less. It is incumbent to protect for ourselves and for our children the breathtaking scenery and the myriad wild creatures of the virgin land while at the same time doing all we realistically are able to do toward utilizing our Nation's vast energy resources.

This amendment presents the opportunity to protect the Alaskan lands in advance, rather than trying to repair the damage later. Unless we forge legislation acceptable to our colleagues in the House, we may lose further congressional authority to the executive branch. If that becomes the case, it will be as a result of our own doing. Many of us are already disturbed by executive branch decisions which literally lock up this Nation's domestic chest of energy wealth.

In addressing this concern, I jointly introduced Senate Joint Resolution 184, cited as the "Unlocking America's Resources Act" with the aim of opening lands containing federally owned energy resources. The Tsongas modification to the original Senate Energy Committee bill is the best hope that we have to achieve a balanced conservation and to prevent the Carter administration from taking the matter into its own hands. Past administration action indicates that we should resolve the matter once and for all.

DEVELOPING ALTERNATIVE ENERGY SOURCES

Those who oppose the amendment argue that it is unwise to close the Arctic National Wildlife Range (ANWR) to oil and gas exploration. My initial reaction is to agree with the reasoning of its opponents. However, as many of us realize, and as I have long advocated, we can and must overcome our energy dependence on foreign sources such as OPEC by developing available resources without despoiling their very source. While estimates dealing with the probability and amount of oil located in the Arctic National Wildlife Range are uncertain, the natural beauty and wildlife surrounding the purported oil is undisputed.

For some, opening the ANWR to gas and oil exploration seems an easy solution toward solving the energy problem. However, that there are no simple or easy solutions to this potential crisis should be abundantly clear to all of us. We must take steps to encourage productivity of existing, known and quantifiable resources, be they coal, nuclear energy, oil, gas, alcohol, or solar energy. Perhaps designating the ANWR wilderness, as the substitute mandates, will not only protect the ecosystems of the caribou and the lifestyle of many Alaskans, but also will serve notice on those here in Washington that other more significant and far-reaching energy actions are necessary.

The coastal plain within the Arctic National Wildlife Range should be the last place we look for oil and gas, only after we have exhausted the millions of acres in other prospective locations where surface conflicts are not so extreme. It must be noted that this substitute leaves open to development 95 percent of Alaska's oil and gas potential.

FUTURE OF TIMBER INDUSTRY

There has been a great deal of concern generated in Southeast Alaska about the future of the timber industry should the Tsongas - Roth - Jackson - Hatfield amendment be enacted. I share the concern of those who see this legislation as a threat to their economic well-being. Certainly we need not add to President Carter's program of fighting inflation by increasing unemployment. The amendment deletes the lowest level mandated on the committee bill for Tongass National Forest. After careful consideration of the facts involved, this amendment appears to balance the timber industry's health and conservation of the Tongass National Forest. The high cost of harvesting, transporting, and processing timber makes the timber products from the Tongass National Forest substantially noncompetitive in U.S. markets. They are exported primarily to Japan.

In fact, the timber industry in southeast Alaska is controlled by two multinational corporations, one of which is wholly Japanese owned. These two conglomerates have taken over nearly all of the once independent small sawmills and control over 90 percent of the timber harvested on the Tongass. Historically, the harvest level on the Tongass, as a whole, has been 520 million board feet annually, but this level has not been achieved since 1974. The average from 1975 to 1978 has been only 435 MMBF due to a reduced market demand in Japan. I am satisfied that the timber industry will not be adversely affected by the substitute. In fact, it may stimulate the area economy by encouraging commercial fishing and tourism in southeast Alaska.

TOURISM WILL FLOURISH

Tourism can be expected to grow throughout Alaska as a result of the passage of the substitute. The State lands and Native lands as well as other public lands will be the basis for direct economic development. But the conservation system units themselves will be an economic asset to the State of Alaska and its people, as well as for all the Nation and the world. They should offer a tremendous boost to the recreation industry in Alaska. Although still in its infancy compared to that of other States, Alaska recreation industry is currently increasing at a rate of between 10 and 15 percent per year. According to the Energy Committee, visits to Alaska's existing national parks have more than quadrupled since 1971, growing more than 87 percent per year between 1971 and 1976.

The State of Alaska calculated tourism income in 1977 at $150 million from 270,000 tourists. By contrast, a recent study in next-door British Columbia reports that in 1976, 10.5 million visitors spent $1.2 billion and tourism is expected to be British Columbia's biggest industry by 1982. Although air fares and growing public awareness are attracting more and more people to Alaska, the State has yet only scratched the surface of its tourism potential. The substitute, by designation of conservation units will encourage Alaska to reach its tourism potential.

Deadlines have come and gone for Congress to define a national policy of protection and development for some 100 million acres in America's largest State. Negotiation of a suitable Alaska lands bill has been fraught with factionalism and as is true of any good compromise, no party is absolutely content with its terms. Nevertheless, legislation is the art of the possible. I believe that the enactment of this substitute is the first critical step toward an equitable settlement of Alaskan resources.●

KAKTOVIK LANDS

● Mr. LEVIN. Mr. President, the Inuit Village of Kaktovik is situated on Barter Island, within the William O. Douglas Arctic National Wildlife Range. Under the provisions of section 12A of the Alaska Native Claims Settlement Act, Kaktovik is entitled to approximately 92,160 acres, of which just over 89,000 acres have been conveyed to date. Within the William O. Douglas Arctic National Wildlife Range, Kaktovik will receive the surface estate to about 69,000 acres of which 65,292 acres have been conveyed. Kaktovik has repeatedly expressed their desire to protect those lands for subsistence uses.

Under this bill, seismic studies can be conducted on certain Federal North Slope lands including lands within the William O. Douglas Arctic National Wildlife Range. Kaktovik's lands are limited to a narrow strip along the northern coast of the wildlife range. Would I be correct in stating that this bill does not grant any right or incur any obligation upon the Federal Government to engage in any activity which it is not presently entitled or obligated to do?

Mr. JACKSON. That is correct. In this regard, the legislation does not alter Native surface rights which were granted by the Alaska Native Claims Settlement Act. I would also like to clarify the high standards of environmental protection which are to accompany this exploration program; that it is the intent of the Senate that any exploration activities within the range shall be conducted in a manner which will assure the maximum protection of surface resource and wildlife values as is consistent with the requirements of this act for the exploration of the range.

WILDLIFE PROTECTION

Mr. NELSON. Mr. President, throughout the long debate on the question of whether to open the Arctic Wildlife Range to oil exploration and development, you and other proponents of such exploration have reiterated your concern for protecting the magnificent wildlife and wilderness resources of the refuge. And you have contended that you felt it would be possible, under carefully controlled conditions, to gain more information about the possible oil potential through a seismic study of the range without adversely affecting the wildlife. Is that a fair statement?

Mr. JACKSON. Yes. I believe that the energy situation makes it imperative that we at least know more about the oil and gas potential of the range, and we have included a seismic study in the compromise bill to provide us with such information. I also believe that this information can be obtained in a manner that is compatible with wildlife protection.

Mr. NELSON. As the Senator knows, I was prepared to offer an amendment to the committee bill which would have designated the entire existing Arctic Range as wilderness, directed an 8-year study of the impacts of technology on caribou and other wildlife, and opened up the national petroleum reserve to leasing. I felt that the added information we could gain would help us make a more informed decision in the future as to whether we had to turn to the Arctic Range for oil and gas. My amendment cannot now be offered, and I would like to clarify some points concerning the exploration program.

Instead of the 8 years my amendment would have provided, the compromise bill allows only 18 months in which to gather the information needed to insure that adequate environmental protection is afforded. In so brief a time, it seems to me especially important that this evaluation pay particular attention to the relative environmental effects of seismic techniques, so that the Secretary of the Interior has some basis for determining the manner in which the seismic program is to be conducted.

As noted by the committee's November 1979 report, "The nationally and internationally recognized wildlife and wildland values of the study area are to be protected to the maximum extent consistent with accomplishment of the oil and gas survey."

May I conclude, therefore, that it is intended that the seismic exploration program will be carried out using the least environmentally harmful techniques? And may I conclude further that the guidelines developed for the seismic program will adopt from the findings of the preliminary study not only those seismic techniques with least adverse environmental effect but also the conditions, such as time period, location of support facilities, et cetera, under which they can be employed safely?

Mr. JACKSON. Yes, the Secretary is given discretion and we would expect him to include in the seismic exploration program those stipulations that will provide the highest level of protection to the fish and wildlife and their habitats.

Mr. NELSON. I thank the Senator.

I have another question. Although the bill does not explicitly say so, I would assume that it is your intent that the Fish and Wildlife Service have the lead within the Department of the Interior in designing the criteria and guidelines to protect the caribou, other wildlife and their habitat. Of course, other agencies would also be involved and consulted, but it seems to me appropriate that the FWS play the key role in this program. Does the Senator agree?

Mr. JACKSON. Yes, I believe it is appropriate for the FWS to have the lead responsibility for developing the wildlife protection stipulations, in coordination with the appropriate offices of the Interior Department.●

Mr. TSONGAS. I yield back the remainder of our time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back, and the question is on agreeing to the amendment of the Senator from Massachusetts, as further modified. The yeas and nays have not been ordered.

Mr. TSONGAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote who has not yet voted?

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—72

Armstrong
Baker
Baucus
Bayh
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stevenson
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—16

Bellmon
Bentsen
Byrd,
Harry F., Jr.
Garn
Gravel
Hatch
Heflin
Helms
Humphrey
Laxalt
Long
Schmitt
Stevens
Tower
Wallop
Young

NOT VOTING—12

Bradley
Church
Culver
Durkin
Goldwater
Inouye
Kennedy
McClure
Schweiker
Stennis
Stewart
Talmadge

So Mr. TSONGAS' amendment (No. 1961), as further modified, was agreed to.

Mr. TSONGAS. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining on the bill?

The PRESIDING OFFICER. The Senator from Washington has time on the bill.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I yield to the Senator from North Carolina such time as he may require.

Mr. MORGAN. Mr. President, at long last, the debate over the Alaska lands issue seems to be drawing to a close. I can remember few debates that have been so exhaustive or so exhausting. The interest generated across this country in the legislation before us has been immense. My constituents in North Carolina have written thousands of letters, made hundreds of phone calls, and kept my staff and me constantly busy with visits. The support on both the environmental side and the developmental side has been strong and vocal and I think no one can say that there has not been ample consideration of the arguments on both sides.

No one can fail to be impressed by the efforts of both Senators from Alaska on this bill which is so vital, so essential, so fundamental to the health and the future life of their home State. It seems to me that the almost Herculean attempts by Senator STEVENS to hammer out a compromise that preserves many of the elements in the original Energy Committee bill that he labored over for years deserve praise. Likewise, the parliamentary manuevers by Senator GRAVEL have practically opened a new chapter in the use of the Senate rules. Would not any Senator on this floor who felt his State seriously threatened by Federal action not be tempted to wage his battle in that way? As the Senator has noted, Thomas Jefferson intended that the rules protect a minority.

Mr. President, the vast territory which is at issue here was made very real to me by a visit to Alaska with Senator STEVENS in 1978. Needless to say, Alaska dwarfs my own equally lovely North Carolina. And the wilderness and park lands that we are about to set aside dwarf North Carolina. If the original Energy Committee bill had been adopted without any changes, an area triple the size of my State would have been set aside under Federal trusteeship.

My visit to Alaska impressed on me how badly the people of Alaska need legislation in order that they might proceed with the acquisition of their State land that is now in limbo. The visit impressed on me how important Alaska is both to our economy and our defense. As Senator JACKSON put it during the first day of this debate, the Alaska bill is much more than an environmental issue.

My travel in Alaska also convinced me how deeply the Alaskan people care about the land and how vigorous they have been in protecting the environment with careful planning and management. It seemed to me that whether it was water use, wildlife management, timber harvests, oil and gas exploration, or the protection of outstanding State lands, that the State government had been especially heedful of the great natural gifts of that great land.

The new compromise that has been worked out with the aid of the chairman of the Energy Committee adds several million new acres of new national park lands to the original committee bill, adds 3 million acres to the Douglas Arctic Wildlife Range, and adds 18 million acres in wilderness designation. In short, the compromise creates a Federal reservation of a vast scale. At the same time, attempts were made to limit the damage to the timber industry and to the amount of land available for initial oil and gas exploration. And some additional areas have now been added for sport hunting.

Mr. President, the Congress has been deliberating over the Alaska Lands bill for 4 years now. The legislation we deliver out of the Senate this week may bring to a close this long and heated debate. I believe the people of Alaska will, upon reflection, be glad to have the lands question settled so that they may concentrate their considerable energies on the work of building and prudently developing their enormous territory. I wish them well and again salute the impressive work done by Alaska's Senators.

ALASKA LANDS COMPROMISE IS A MIXED BLESSING

Mr. PELL. Mr. President, I have voted in favor of amendment 1961, the Tsongas-Roth-Jackson-Hatfield Alaska lands substitute, although it represents a mixed blessing.

As a cosponsor of the original Tsongas-Roth Alaska lands substitute, I preferred the original substitute as strong conservation legislation that would assure the preservation of Alaska's priceless natural heritage for future generations.

I have voted consistently for strong legislation to protect this heritage and, in light of the compromise represented by the new substitute, against concessions that would add to those already incorporated in the new substitute.

As one of those who encouraged President Carter to use the Antiquities Act to safeguard Alaska lands, I would have preferred stricter legislation and I devoted considerable study to each compromise made in this complicated series of concessions.

The new Tsongas compromise is a substitute for a substitute for a substitute. As with any successful compromise, this legislation is a mixed blessing which both sides of this issue can curse and praise with equal passion.

We are talking about a vast land, where acres become almost meaningless measurements—since they are counted in thousands and millions. If we must err, and surely we will with such a complex and mammoth land, I have always felt we should err on the side of caution and conservation.

I have said this before, but it bears repeating, that once we have destroyed a wilderness, it is gone forever. The species that rely upon the lost wilderness are not expendable. When they pass, our esthetic, genetic, and environmental heritage is impoverished. We cannot call them back by an act of Congress.

Critics may charge that even this new compromise "locks up" millions of acres in Alaska. I prefer to note that it opens up millions of acres currently locked up under the Antiquities Act and makes vast areas available for responsible exploration and development.

This new compromise is necessary because, despite the need to conserve Alaska's wilderness heritage, we have an urgent need to develop and exploit more of that vast land's untapped wealth of forest, energy and raw materials.

I believe this compromise represents the best balance the Senate is likely to achieve between our need for development and our need for conservation. It combines the hard work of the Senate Energy Committee bill and the Tsongas-Roth substitute, as well as painful but productive concessions by both.

In the final analysis, this bill is better than no bill at all and this compromise will go a long way toward assuring that we achieve a fair balance between our development and conservation needs.

CLOTURE MOTIONS IN THE CONTEXT OF TIME AGREEMENTS

Mr. DOLE. Mr. President, the debate on any bill or amendments thereto may be limited by the use of the cloture rule. In the case before the Senate today, however, a time agreement has already been entered into by unanimous consent of this chamber—100 Senators.

As stated by the Chair to the majority leader, the motion for the invocation of the cloture rule was to apply only to inconsistent portions of the agreement. Mr. President, there are no inconsistencies before us. In my judgment a positive vote on cloture implies one result: The will of 60 Senators today will undo the deliberate will and choice of the Chamber as an entity. To hold that this body must bend to the desires of 60 Members where no inconsistencies exist, is to deflate the very strength of the Senate procedural process.

Perhaps it would have been a wiser decision to ask unanimous consent to vitiate the original time agreement and then file and vote on the cloture petition for only in this way would the integrity of this body and its rules be upheld.

It is the opinion of the Senator from Kansas, a dangerous precedent to set and therefore I urge my colleagues to join with me in voting against cloture.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment in the nature of a substitute, as amended, and third reading of the bill.

The amendment in the nature of a substitute, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. ROBERT C. BYRD. Mr. President, the cloture vote that was scheduled for tomorrow and the day after tomorrow has been vitiated by the cloture vote today. Is unanimous consent necessary to tie this down for the record?

The PRESIDING OFFICER. Unanimous consent is not necessary.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, there will be no more action on this measure today.

Mr. TSONGAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TSONGAS. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. TSONGAS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TSONGAS. Mr. President, I wanted to make some remarks about the other participants in this process. Since they are not here, I will do that tomorrow, if I could have time.

Mr. ROBERT C. BYRD. Yes. I thank the distinguished Senator. I will be of assistance to him tomorrow in that regard.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, the period not to extend beyond 30 minutes, that Senators may speak therein up to 5 minutes each, and any Senator who wishes to insert his statement into the RECORD today prior to the vote on the substitute may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 965, 969, 970, 973, 974, and 978.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that the six calendar items identified by him are cleared on our calendar as well and we have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the clerk proceed with Calendar Order No. 969 first.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTHERN CHEYENNE INDIAN RESERVATION LEASES

The Senate proceeded to consider the bill (S. 2126) relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

(1) certain mineral leases and prospecting permits entered into between the Northern Cheyenne Tribal Council and private parties in 1969, 1970, and 1971, presently encumber approximately 56 per centum of the lands within the boundaries of the Northern Cheyenne Indian Reservation;

(2) due to the likelihood of permanent and largescale physical and social disruption of their tribal community that would result from development under such leases and permits, the Northern Cheyenne Indian Tribe has been and continues to be opposed to any development under these leases and permits;

(3) although such leases and permits were approved by representatives of the Secretary of the Interior, there are serious questions whether such approval is lawful and consistent with the trust responsibility of the Secretary of the Interior to "act in the best interests" of Indian tribes and individuals;

(4) the present impasse with regard to such leases and permits, unless resolved, can only result in expensive and time-consuming litigation that does not hold out the likelihood of a satisfactory solution that would be fair to all parties; and

(5) cancellation of such leases and permits, and providing a fair remedy to any party or parties whose property interest, invested in good faith, would be adversely affected by such cancellation, appears to be the most direct and effective manner within which to resolve this impasse.

SEC. 2. For the purpose of entering into a cancellation agreement under section 3 of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to negotiate with the

Northern Cheyenne Tribe and each party holding a lease, permit, or right to a lease issued under the provisions of the Act of May 11, 1938, (52 Stat. 347; 25 U.S.C. 396a), as follows:

Name of companies	Document Nos.	Document dates
Leases: Peabody Coal Co.	14-20-0257-897	Nov. 17, 1970
	14-20-0257-899	Do.
	14-20-0257-900	Do.
	14-20-0257-901	Do.
	14-20-0257-902	Do.
	14-20-0257-903	Do.
Permits:		
Peabody Coal Co.	C-57-P-30	Aug. 18, 1969
	C-57-P-31	Do.
	C-57-P-32	Do.
Bruce L. Ennis (now assigned to Chevron Oil)	C-57-P-42	May 21, 1971
Bruce L. Ennis	C-57-P-45	June 14, 1971
Norsworthy & Reger, Inc.	C-57-P-46	Do.
	C-57-P-47	Do.
Consolidation Coal Co.	C-57-P-43	May 21, 1971
Meadowlark Farms, Inc. (subsidiary of AMAX, inc.)	C-57-P-40	Do.
	C-57-P-41	Do.
	C-57-P-44	Do.

SEC. 3. (a) With respect to any lease, permit, or right to a lease referred to in section 2 of this Act, the Secretary is authorized to execute a cancellation agreement under which the Secretary, the Northern Cheyenne Tribe, and the party holding such lease, permit, or right to a lease agree in writing that such lease, permit, or right to a lease is canceled and under which such party shall be issued:

(1) a noncompetitive lease or leases for such federally owned coal deposits which for the foreseeable future are unlikely to be separately mined efficiently or economically except by incorporation into an existing mining unit controlled by such party, and for the surface of public lands containing such deposits, as may be agreed upon by the Secretary and such party. Such lease or leases shall be issued at the fair market value provided for in subsection (c) of this section only after a determination by the Secretary that such deposits and lands are acceptable for further consideration for coal leasing: *Provided*, That such cancellation agreement shall also provide that if, after further consideration, the Secretary determines that all or any part of such deposits or lands are not acceptable for coal leasing, such party shall be issued a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interests on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement, multiplied by the percentage of the otherwise recoverable tonnage of any coal deposits for which the party does not, by reason of such determination by the Secretary, receive a lease under this subsection; or,

(2) a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interest on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement.

(b) A determination by the Secretary under subsection (a)(1) of this section shall be final.

(c) Any noncompetitive lease issued under subsection (a)(1) of this section shall be valued at a sum equal to fair market value, as determined by the Secretary. Any bonus due may be reduced by an amount equal to so much of the investment and interest on such investment, compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease, to be canceled under this section as the Secretary may consider appropriate.

(d) Any lease issued under subsection (a)(1) of this section shall, except as provided in this Act, be issued under, and be subject to the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

SEC. 4. (a) With respect to any lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, before November 1, 1980, by the Secretary, the Northern Cheyenne Tribe, and the party holding the lease. If such cancellation agreement is not so executed, such lease shall be canceled on November 1, 1980.

(b) With respect to any permit or right to a lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, on or before January 1, 1982, by the Secretary, the Northern Cheyenne Tribe, and the party holding the permit or right to a lease. If such cancellation agreement is not so executed, such permit or right to a lease shall be canceled upon the expiration of a period ending ninety days after any date on which the Secretary, the Northern Cheyenne Tribe, and such party agree in writing that negotiations under section 2 of this Act are at an impasse, or on January 1, 1982, whichever occurs first.

(c) If any lease, permit, or right to a lease is canceled under subsections (a) or (b) of this section, the United States Court of Claims shall have jurisdiction to render judgment on any claim against the United States arising out of such cancellation.

SEC. 5. (a) Execution of any cancellation agreement under section 3 of this Act shall extinguish any claim or liability that may otherwise arise in connection with the lease, permit, or right to a lease canceled under such agreement.

(b) With respect to any lease, permit, or right to a lease canceled under section 4 of this Act, nothing in this Act shall establish or extinguish any claim or liability that may arise in connection with such lease, permit, or right to a lease so canceled.

SEC. 6. Not later than March 1, 1982, the Secretary shall report to the Congress on the implementation of this Act.

● Mr. MELCHER. Mr. President, the bill the Senate is considering at this time, S. 2126, relates to certain coal leases and coal exploration permits that were entered into by the Secretary of the Interior on behalf of the Northern Cheyenne Tribe with Peabody Coal Co., Consolidation Coal Co., AMAX, Inc., Bruce L. Ennis and Norsworthy & Reger, Inc., in 1969, 1970, and 1971. These leases and permits cover over half of the tribe's reservation of approximately 450,000 acres.

In 1974, the tribe petitioned the Secretary of the Interior to cancel these leases and permits, contending that they were entered into in violation of existing regulations and in violation of the Federal Government's trust responsibility to Indian tribes. The Secretary's response was to suspend all development under these leases and permits. This impasse, created in 1974, still exists today. The tribe maintains its firm position that the leases and permits are illegal. None of the parties involved, either the coal companies, the tribe, or the Department, are anxious to engage in costly and protracted litigation that will leave the status of the tribe's trust lands in doubt for many years to come. Instead, all parties are eager to negotiate and S. 2126 provides the mechanism that will allow negotiations to proceed.

The bill directs the Secretary to enter into negotiations and authorizes him to enter into cancellation agreements with the companies. In return for giving up all rights to leases and permits on the reservation, the companies may receive leases of Federal by-pass coal that will be incorporated into an existing mining unit controlled by the company and/or bidding rights based on the actual cash investment, plus interest up to 7 percent, made by the company in connection with the leases and permits. The necessary legislative authority for the Secretary to enter such agreements and to issue by-pass leases and/or bidding credits is provided for in S. 2126.

It should be emphasized that there is no acre-for-acre or ton-for-ton exchange being considered. In fact, the by-pass coal being discussed is only a fraction of the acreage and tonnage now being held under leases or permits on the reservation. The intent is to provide for recovery of out-of-pocket costs expended by the companies. The bill does not preclude court action if agreements cannot be reached but, by authorizing agreements, it provides the framework within which all parties concerned can avoid expensive and lengthy litigation.

S. 2126 is supported by the administration, the Northern Cheyenne Tribe and the coal companies now holding leases and permits.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining measures that were included in the order be considered en bloc, that amendments, where shown, to the measures and/or the titles be agreed to, that the measures be passed, and that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

WASTE OIL RECYCLING ACT OF 1980

The Senate proceeded to consider the bill (S. 2412) to amend the Resource Conservation and Recovery Act to further encourage the use of recycled oil, which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 1, line 3, strike "Resource Conservation and Recovery" and insert "Solid Waste Disposal";

On page 3, beginning with line 5, strike through and including line 7;

On page 3, line 8, strike "(2)" and insert "(1)";

On page 3, line 15, strike "(3)" and insert "(2)";

On page 3, line 20, strike "(4)" and insert "(3)";

On page 3, line 23, strike "substantially equivalent in quality to virgin oil";

On page 3, line 24, after "purpose" insert "as virgin oil";

On page 4, line 4, strike "(5)" and insert "(4)";

On page 4, line 9, strike "(6)" and insert "(5)";

On page 5, line 7, strike "Public Law 94-580," and insert "subtitle C of this Act";

On page 5, line 13, strike "VIRGIN";

On page 5, line 14, strike "virgin";

On page 6, line 16, after "6003" insert "of this Act";

On page 7, line 4, strike "require or";

On page 7, line 20, strike "oily wastes,";

On page 8, line 4, strike "is" and insert "are";

On page 8, line 6, after "next" insert "four";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Solid Waste Disposal Act (Public Law 94-580) is amended by adding a new subtitle as follows:

"Subtitle I—Recovery and Reuse of Used Oil

"CONGRESSIONAL FINDINGS

"SEC. 9001. USED OIL.—The Congress finds with respect to used oil—

"(a) that used oil constitutes a valuable energy and material asset for the United States;

"(b) that the technology exists and has been applied to re-refine, reclaim, and otherwise recycle used oil into a valuable and environmentally acceptable product;

"(c) that the recycling of used oil into environmentally acceptable products has been unduly and unnecessarily hindered by a bias in favor of virgin oil;

"(d) that said bias has been fostered by the regulations and policies of the United States Government;

"(e) that used oil containing or masking contaminants constitutes a threat to the health and welfare of the Nation; and

"(f) that it is therefore in the national interest to provide a program to eliminate any unfounded bias against recycled oil, and to protect the health and welfare of the Nation against threats posed by used or waste oil which is contaminated or improperly disposed of.

"DEFINITIONS

"SEC. 9002. As used in this subtitle—

"(1) the term 'reclaimed oil' means oil produced through the use of physical methods (short of those used in re-refining) to cleanse used oil for further use in its original or some other purpose. Cleansing methods may include settling, heating, dehydration, filtration, and centrifuging and may also entail the use of oil additives.

"(2) the term 'recycled oil' means oil produced as a result of recycling, re-refining, reclaiming, reprocessing, or other treatment of used oil so that it is suitable for reuse as oil for the original or a new purpose;

"(3) the term 're-refined oil' means oil produced through the application of petroleum refining techniques to used oil to produce lubricants or other petroleum products that are intended for the same purpose as virgin oil. Re-refining may include a combination of distillation, acid, caustic, solvent, clay and/or hydrogen treating, and other physical and/or chemical treatments including formulation with additives.

"(4) the term 'used oil' means oil the characteristics of which have been changed by use, storage, or handling, whether or not it has thereby been rendered unsuitable for use for the purpose for which it was originally intended;

"(5) the term 'waste oil' is oil which through use, storage, or handling has become unsuitable for its original purpose and which is uneconomical to recycle.

"LABELING REQUIREMENTS AND AUTHORITIES

"SEC. 9003. (a) (1) LABELING OF RECYCLED OIL.—Authority to prescribe labeling, packaging, marketing, or other requirements related to the sale or distribution of used, waste, or recycled oil shall be vested in the Administrator of the Environmental Protection Agency. Regulations promulgated prior to the date of enactment of this subtitle by the Federal Trade Commission relating to the labeling of recycled and re-refined oil shall be void and of no effect.

"(2) Within six months after the date of enactment of this subtitle, the Administrator of the Environmental Protection Agency shall promulgate regulations to—

"(A) assure that purchasers of recycled or re-refined oil are fully and accurately apprised of the nature and quality of the product and its fitness for its intended use;

"(B) encourage the recycling, and especially re-refining, of used oil; and

"(C) to the extent not adequately provided for by regulations promulgated pursuant to the implementation of subtitle C of this Act assure that waste oil and used oil are collected, manifested, processed, re-refined, recycled, or otherwise treated or handled in such a way as to minimize the threat which they pose, or may pose, to public health or the environment.

"(b) (1) LABELING OF OIL.—Effective twelve months after the date of enactment of this subtitle, oil containers shall bear the following legend, prominently displayed:

"DON'T POLLUTE—CONSERVE RESOURCES, RETURN USED OIL TO COLLECTION CENTERS".

"(2) The Administrator of the Environmental Protection Agency shall review the wording of said labeling requirement from time to time and shall, as necessary, revise it to encourage the conservation and recycling of oil.

"PROHIBITED ACTS

"SEC. 9004. (a) (1) It shall be unlawful for any person to enter into any contract or agreement the intent of which is to discourage the use of recycled oil, if such use is consistent with the required labeling for such recycled oil.

"(2) Any party injured or otherwise aggrieved by an agreement or contract in violation of paragraph (1) shall be entitled to treble the damages caused by said contract or agreement. An injured person may file suit to enforce this section in either a Federal or State court which otherwise has jurisdiction. Once filed, said suit shall be nonremovable except on jurisdictional grounds.

"(b) Notwithstanding any other law, no Federal or State regulation shall require labeling on re-refined oil which identifies said oil as "previously used".

"COORDINATION WITH OTHER LAWS

"SEC. 9005. (a) SOLID WASTE DISPOSAL ACT.—In the implementation of sections 5001, 5002, 5003, 5004, 6001, 6002, and 6003 of this Act the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Administrator of the General Services Administration, the Secretary of Defense, and the personnel of the Office of Procurement Policy shall accord the development of standards, markets, specifications, and regulations relating to recycled, and especially re-refined, oil the highest priority.

"(b) STATE PROGRAMS.—Each of the States is hereby encouraged to develop a plan to—

"(1) institute to the maximum feasible extent the use of recycled oil in all areas of State and local government;

"(2) encourage persons contracting with such State to use, to the maximum extent feasible, recycled oil;

"(3) encourage the private use of recycled oil;

"(4) establish public awareness of the uses of recycled oil;

"(5) provide for the collection, manifesting, treatment, reclaiming, re-refining, reprocessing, or other recycling of used oil in such a way as to assure that—

"(A) the dangers to health and the environment posed by contaminated used oil or by waste oil are eliminated;

"(B) the production and sale of recycled oil which fails to meet applicable specifications or which is unsuitable for its intended use is eliminated;

"(C) waste oil, sludges, or other such hazardous wastes generated by the use or recycling of oil are treated, stored, or disposed of properly.

To the extent necessary to encourage development of such programs, the Administrator may delegate the authorities under this Act to any State which has developed a program meeting the requirements of this subsection.

"AUTHORIZATIONS

"SEC. 9006. There are hereby authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1982, and for each of the next four succeeding fiscal years, for grants to States for the purpose of establishing and implementing programs meeting the requirements of section 9005 of this subtitle.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-879), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

S. 2412 focuses on the impediments to reuse of used oil which have been created by the Federal Government. It contains a bias in favor of re-refinement, but recognizes that other recycling methods can be acceptable if properly implemented.

Specifically, the bill provides for the following:

Labeling.—All oil must be labeled to encourage its return and reuse. Re-refined oil must be labeled to apprise the consumer of its suitability for its intended use. However, use of the term "previously used" is prohibited.

Procurement.—The Federal Government is required to assign the highest priority to the development of quality control and procurement standards for re-refined oil.

State programs.—States are encouraged to develop programs for the collection and recycling of used oil. To assist them, the bill provides for $25 million per year in Federal grant assistance. It also authorizes the Administrator of the Environmental Protection Agency to delegate the authorities of the Resource Conservation and Recovery Act to assist states in developing their programs.

Regulation of reuse.—To assure that reuse of used oil other than through re-refinement is carried out properly, the EPA is authorized to regulate the collection, disposal or processing of used oil as a hazardous waste.

Prohibitions.—Contracts or agreements intended to discourage the use of recycled oil (if the use is consistent with the required labeling) are prohibited. Injured parties may recover three times the damages suffered.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to amend the Solid Waste Disposal Act to further encourage the use of recycled oil.

DOCUMENTATION OF "SCUBA KING"

The bill (S. 762) to permit the vessel *Scuba King* to be documented for use in the fisheries and coastwise trade of the United States, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), or any other provision of law to the contrary, the vessel known as the Scuba King, official numbered 532376, owned by Bernard Despins, shall be entitled to be documented to engage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this Act, continuously owned by a citizen of the United States. For the purposes of this Act, the term "citizen of the United States" includes corporations, partnerships, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–885), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purpose of the bill is to authorize documentation of the vessel, *Scuba King,* as a vessel of the United States entitled to engage in the fisheries and coastwise trade of the United States.

U.S. SUBMARINE VETERANS OF WORLD WAR II

The bill (S. 2623) to incorporate the U.S. Submarine Veterans of World War II, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Wilbur L. Meyer, Indianapolis, Indiana; Henry T. Vande Kerkoff, Elmhurst, Illinois; Edmond Kay, Garden Grove, California; James A. Woodall, Galveston, Texas; Reverend John F. Marshall, O.F.M., Allegany, New York; John Kreis, San Diego, California; Harry D. Freeburn, Boerne, Texas; Ernst T. Rosing, La Grange Park, Illinois; Fred A. Judd, Baltimore, Maryland; Arthur F. Rawson, Bethesda, Maryland; E. J. Newbould, Alexandria, Virginia; Richard C. Cooper, Phoenix, Arizona; Charles A. Hennessey, Sacramento, California; Donald L. Smith, Middletown, Ohio; J. Daniel Lopp, New Albany, Indiana; Edward H. Bland, Cincinnati, Ohio; James H. Piper, Clifton Springs, New York; Rex W. Chenoweth, Brighton, Michigan; Cornelius R. Bartholemew, Miles City, Montana; James L. Kornegay, Centerville, Alabama; J. Allen Mactier, Omaha, Nebraska.

Reverend Jerome Kircher, O.F.M., Carville, Louisiana; Grover S. McLeod, Birmingham, Alabama; Harold A. Ballenger, Los Angeles, California; Frank W. Giehart, Cincinnati, Ohio; William O. Herring, Medford, Oregon; James A. Brillowski, San Diego, California; Donald E. Chauvin, Birmingham, Alabama; Joseph M. Ferrell, Sun City, Arizona; George H. McMinn, Marion, Arkansas.

Raymond A. Tiraschi, San Francisco, California; Edwin Klaver, Denver, Colorado; Clarence A. May, Midway, Texas; William F. Hughes, Honolulu, Hawaii; LaVerne A. Nordenberg, Rockford, Illinois; Charles F. Crothers, Greenfield, Indiana; David B. Wright, Des Moines, Iowa; Harry E. Howell, Louisville, Kentucky; Ovila J. LaPlante, Waterville, Maine; John K. Mayer, Eufaula, Alabama.

Warren Stien, Ionia, Michigan; Ernest E. Van Deventer, Saint Paul, Minnesota; Harvey G. Joeckle, Overland, Missouri; Joseph E. Federle, Omaha, Nebraska; William D. Beal, Junior, Jackson, New Hampshire; Herbert J. Georgius, Junior, Paramus, New Jersey; Gordon E. Lucht, Hobbs, New Mexico; William P. Bosch, Massapequa, New York; Charlie E. White, Pennsocola, Florida.

Vern R. Atha, Portland, Oregon; Arthur B. Clarke, Perkiomenville, Pennsylvania; Wayne I. Miller, Houston, Texas; Lewis H. Barkdoll, Mount Vernon, Washington; Stephen N. Petreshock, Manitowoc, Wisconsin; Charlie R. Ray, Birmingham, Alabama; John O. Bolin, Omaha, Nebraska, any other person who, on the date of enactment of this Act, is a member in good standing of the United States Submarine Veterans of World War II, a corporation organized and existing under the laws of the State of New Jersey, and their successors, are created, in the District of Columbia, a body corporate by the name of United States Submarine Veterans of World War II (hereinafter in this Act referred to as the "corporation") and by such name shall be known and have perpetual succession of the powers, limitations, and restrictions contained in this Act.

COMPLETION OF ORGANIZATION

Sec. 2. A majority of the persons named in the first section of this Act may complete the organization of the corporation by the selection of officers and employees, the adoption, amendment, and revision of a constitution and bylaws not inconsistent with the provisions of this charter, and the doing of such acts as may be necessary for such purpose.

PURPOSES OF THE CORPORATION

Sec. 3. The object and purposes of the corporation shall be—

(a) to perpetuate and establish memorials to the memory of those shipmates who served aboard United States submarines and gave their lives in submarine warfare during World War II,

(b) to further promote and keep alive the spirit and unity that existed among the United States Navy submarine crewmen during World War II,

(c) to promote sociability, general welfare, and good fellowship among its members,

(d) to pledge loyalty and patriotism to the United States Government,

(e) to sponsor and award annual college scholarships,

(f) to make the general public aware of life aboard submarines during World War II, by obtaining, restoring, and displaying the submarines that were in service at that time.

(g) to perform such acts of charity as provided for by the constitution and bylaws, and

(h) to promote and support membership in "Wives of United States Submarine Veterans of World War II" and "The Sons and Daughters of United States Submarine Veterans of World War II.".

POWERS OF THE CORPORATION

Sec. 4. Subject to all applicable laws of the United States, and of any State in which the corporation operates, the corporation shall have the power—

(a) to sue, be sued, complain, or defend in any court of competent jurisdiction;

(b) to adopt, alter, and use a corporate seal for the sole and exclusive use of the corporation;

(c) to choose such officers, managers, and agents as may be necessary to carry out the purposes of the corporation;

(d) to charge and collect membership dues;

(e) to adopt, amend, apply, and alter a constitution and bylaws not inconsistent with the laws of the United States of America or of any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(f) to contract and be contracted with as may be necessary to carry out the purposes of the corporation;

(e) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real, personal, or mixed, necessary or convenient for attaining the objects of the corporation, subject, however, to applicable provisions of law of any State (1) governing the amount or kind of real and personal property which may be held by, or (2) otherwise limiting or controlling the ownership of real and personal property which may be held by, or (3) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State;

(h) to transfer, lease, or convey real or personal property;

(i) to borrow money for the purposes of the corporation and to issue bonds or other evidences of indebtedness therefor and to secure the same by mortgage or pledge subject to applicable Federal or State laws; and

(j) to do any and all acts necessary and proper to carry out the purposes of the corporation.

PRINCIPAL OFFICE; TERRITORIAL SCOPE OF ACTIVITIES, RESIDENT AGENT

Sec. 5. (a) The principal office of the corporation shall be located in the District of Columbia, or in such other place as may be determined by the board of directors in accordance with the bylaws of the corporation, but the activities of the corporation shall not be confined to that place and may be conducted throughout the United States and in all other locations as may be necessary to carry out the purposes of the corporation.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent or mailed to the business address of such agent shall be deemed as service or notice upon the corporation.

MEMBERSHIP RIGHTS

Sec. 6. (a) Membership shall be restricted to those members of the United States submarine crews and United States submarine relief crews who were on active duty between December 1, 1941, and December 31, 1946.

(b) In addition to the general membership, there shall be special classes of honorary membership, qualification or eligibility for which, and rights and obligations of which, shall be as provided from time to time by the bylaws of the corporation.

(c) All persons who are members of any class of the United States Submarine Veterans of World War II, an association, on the date of enactment of this Act shall retain their membership in such class as members of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

Sec. 7. (a) Upon the enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the present officers of the United States Submarine Veterans of World War II, including the immediate past president of said organization, or such of them as may then be living and are qualified officers of that association, to wit: James L. O'Conner, Baltimore, Maryland; Joseph McGrievy, La Mesa, California; Elroy F. Wilke, Denver, Colorado; Henry T. Vande Kerkhoff, Elmhurst, Illinois; Andrew M. Gasper, North Huntingdon, Pennsylvania.

(b) Thereafter the board of directors of the corporation shall consist of such number (not less than five) as shall be selected in such manner (including the filling of vacancies), and shall serve for such terms as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall during the intervals between corporation meetings be responsible for the general policies and program of the corporation. The board of directors shall be responsible for all finances of the corporation.

OFFICERS

SEC. 8. (a) The corporation shall have such officers as may be provided for in the bylaws.

(b) The officers shall have such powers consistent with this charter, as may be determined by the bylaws.

(c) The officers of the corporation shall be elected in such manner and have such terms and duties as may be prescribed in the bylaws of the corporation.

DISTRIBUTION OF INCOME OR ASSETS TO MEMBERS; LOANS

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director as such, or be distributed to any of them during the life of the corporation, or upon its dissolution or final liquidation, nor shall any member or private individual be liable for the obligations of the corporation. Nothing in this section, however, shall be construed to prevent—

(1) the payment of bona fide expenses of officers of the corporation in amounts approved by the board of directors; or

(2) the support of scholarships to descendants of submarine veterans or other scholarships and works of charity as may be deemed appropriate by the directors and controlled by the constitution and bylaws of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any officer or director who votes for or assents to the making of a loan to any officer, director, or employee of the corporation and any officer who participates in the making of such loan shall be jointly and severally liable to the corporation for the amount of such loan until the payment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers and directors as such, shall not contribute to or otherwise support or assist any political party or candidate for elective public office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock or declare or pay dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account. It shall also keep minutes of the proceedings of its membership and of the board of directors. It shall also keep at its principal office a record giving the names and addresses of its members, directors, and officers. All books and records of the corporation may be inspected by any member or his agent or attorney for any proper purpose at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (78 Stat. 635; 36 U.S.C. 1101 et seq.) is amended by adding at the end thereof:

"(50) United States Submarine Veterans of World War II.".

USE OF ASSETS UPON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon final dissolution or liquidation of the corporation, and after discharge or satisfaction of any outstanding obligation or ability the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the constitution, the bylaws of the corporation, and all other applicable Federal and State laws.

TRANSFER OF ASSETS

SEC. 16. The corporation may acquire the assets of the United States Submarine Veterans of World War II, a corporation, organized under the laws of the State of New Jersey, upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such corporation and upon complying with any applicable Federal or State law.

EXCLUSIVE RIGHT TO NAME, CORPORATE SALES, EMBLEMS, AND BADGES

SEC. 17. The corporation and its duly authorized State groups and other local subdivisions shall have the sole and exclusive right to have and use in carrying out its purposes the name "United States Submarine Veterans of World War II", and to have and use such seals, emblems, and badges as the corporation may lawfully adopt.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right of the Congress to alter, amend, or repeal this Act is expressly reserved.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-888), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The bill proposes to grant a Federal charter to U.S. Submarine Veterans of World War II, which was founded in August of 1955, and incorporated in the following year in the State of New Jersey. The membership of the organization is composed of American veterans who served in submarines in World War II. Later submarine veterans are admitted as associate members. In the words of a statement received by the committee from the group, their primary purpose is "to keep alive that spirit that existed during the war when such a great impact was made by their actions." Another objective they have is to erect memorials to their deceased shipmates who were less fortunate and lost their lives while on patrols in submarines.

CHESAPEAKE AND OHIO CANAL DEVELOPMENT ACT AMENDMENT

The bill (H.R. 5182) to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-889), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The purpose of H.R. 5182, as reported by the Committee on Energy and Natural Resources, is to provide for an extension of the life of the Chesapeake and Ohio Canal National Historical Park Commission from ten to twenty years.

ORDER VITIATING SENATE ACTION ON H.R. 5182

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask that the action on Calendar Order No. 974, H.R. 5182, be vitiated and that the measure be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRINITY RIVER FISH HABITAT—CALIFORNIA

The Senate proceeded to consider the bill (H.R. 507) to authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 1, line 4, strike "of the Bureau";

On page 2, line 13, strike "Bureau of Reclamation" and insert "Water and Power Resources Services";

On page 2, line 18, strike "1981" and insert "1982";

On page 3, line 7, strike "Bureau of Reclamation" and insert "Water and Power Resources Services";

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-893), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Trinity River Division of the Central Valley Project was authorized in 1955. Principal feature of the Division is Trinity Dam which was completed in 1962. With the closure of the Dam, the velocity of the flows in the Trinity River were reduced with a related reduction in the River's capability to transport sediment and scour the River's bed. Subsequently, valuable anadromous fish spawning beds were buried beneath sediment and there has occurred an estimated 90-percent reduction in fish runs.

In 1974, a task force was formed to examine the fish and wildlife problems on the Trinity River and to recommend corrective actions. In 1978, the task force recommended a program of watershed management, construction of a debris dam and reservoir to catch sediment on Grass Creek, a tributary of the Trinity River, and establishment of a sand dredging program.

H.R. 507 authorizes the Secretary of the Interior to undertake construction, operation, and maintenance of the debris dam and sand dredging program as recommended in the task force report. It should be noted that the Act also conveys to the Secretary the authority to contract with the State of California for the sand dredging program and that the State is required to match on a dollar-for-dollar basis the costs associated with the sand dredging program.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ANTITRUST PROCEDURAL IMPROVEMENTS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. METZENBAUM, I submit a report of the committee of conference on S. 390 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 390) a bill to expedite and reduce the cost of antitrust litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARINE PROTECTION, RESEARCH AND SANCTUARIES AUTHORIZATIONS—TITLE III

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1140.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1140) entitled "An Act to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 301 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended by adding at the end thereof a new sentence to read as follows: "The term 'State', when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.".

SEC. 2. Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in subsection (b), by inserting "(1)" after "(b)", by striking out the second sentence thereof, and by inserting at the end thereof the following new paragraph:

"(2) A designation under this section shall become effective unless—

"(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

"(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f)(1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.";

(2) by amending subsection (f) to read as follows:

"(f)(1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

"(3) The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.

"(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title."; and

(3) by inserting at the end thereof the following new subsection:

"(h)(1) For purposes of subsection (b)(2)(B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b)(2)(B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered transmitted to Congress by the Secretary of Commerce on : ', the blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved).

"(2) For the purpose of paragraph (1) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

"(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.".

SEC. 3. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,"; and

(2) by adding immediately after "fiscal year 1978" the following: "and not to exceed $2,250,000 for fiscal year 1981".

Mr. BAKER. Mr. President, is there more than one amendment?

The PRESIDING OFFICER. There is one amendment.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move on behalf of Mr. CANNON that the Senate concur in the House amendment.

The motion was agreed to.

ADMINISTRATION OF HISTORIC SITES, BUILDINGS, AND ANTIQUITIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BUMPERS, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2680.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2680) entitled "An Act to improve the administration of the Historic Sites, Buildings, and Antiquities Act of 1935 (49 Stat. 666)", do pass with the following amendment:

Page 2, after line 15, insert:

SEC. 3. (a) In order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary may acquire—

(1) by donation, the site and structures comprising the home and studio situated in Abiquiu, New Mexico, and

(2) by purchase, donation, or exchange not to exceed one acre of detached land for off-site support facilities which the Secretary of the Interior deems necessary for the purposes of this section.

The Secretary may also accept the donation of furnishings and other personal property in connection with the site.

(b) When the site, structures, and other properties authorized for acquisition under subsection (a) have been transferred to the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice to that effect in the

Federal Register. The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–7).

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, not to exceed $40,000 for acquisition and $100,000 for development.

(d) Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.).

Sec. 4. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

(1) in subsection 2(a), at the end thereof, add the following: "For the purposes of this Act, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works. The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.".

(2) in subsection 5(b), change "three" to "five" and add at the end thereof: "Provided, That the terms of those members who have been either appointed or reappointed subsequent to January 1, 1979, shall be extended so as to expire not before June 1, 1985."; and

(3) in subsection 5(g), change "ten" to "twenty".

Sec. 5. The Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended by inserting the following after the first sentence of subsection 2(d): "As used in this section, the Charlestown Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as building numbered 58, 60, and 105.".

Sec. 6. Subsection 4(b) of the Act entitled "An Act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units and for other purposes," approved October 20, 1976 (90 Stat. 2692, 2694), is amended by revising the proviso to the first sentence in paragraph (2) to read as follows: "Provided, however, That, except for not more than approximately three and thirty-five one-hundredths acres designated herein as wilderness and approximately eleven and thirteen one-hundredths acres designated herein as potential wilderness additions, which may be excluded pursuant to an exchange consummated in accordance with paragraph (3) of this subsection, lands designated as wilderness pursuant to this Act may not be excluded from the monument.".

Sec. 7. (a) Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain, the Golden Spike National Historic Site", approved July 30, 1965 (79 Stat. 426) is amended by striking out "Proposed Golden Spike National Historic Site, Utah, prepared by the National Park Service, Southwest Region, dated February 1963" and inserting in lieu thereof "Boundary Map, Golden Spike National Historic Site, Utah, numbered 431–80,026, and dated December 6, 1978".

(b) Section 3 of such Act is amended by striking out "$5,422,000, as may be necessary for the acquisition of land and interests in land and for the development" and inserting in lieu thereof "$348,000 for the acquisition of land and interests in land and $5,324,000 for development".

(c) Within two years from the effective date of this section, the Secretary shall complete and submit, in writing, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a report on the feasibility of providing passenger rail service from the city of Ogden, Utah, to the Golden Spike National Historic Site. Said report shall include an assessment of existing rail facilities and rolling stock, additional development as might be required, as well as alternatives with respective costs for the operation of passenger rail service. There is hereby authorized to be appropriated not to exceed $100,000 to carry out the provisions of this subsection.

Sec. 8. Section 8 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.), is amended as follows—

(1) at the end of the second sentence, insert the following new sentence: "Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan."; and

(2) at the end of the fifth sentence, insert the following new sentence: "Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.".

Sec. 9. The Land and Water, Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601), is amended—

(1) in section 4(a) by deleting the second sentence of paragraph (2) and substituting the following: "A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.";

(2) by adding at the end of section 4(a) the following new paragraph:

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States, if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal law as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection."; and

(3) by amending the last sentence of section 4(b) to read as follows: "Any Golden Age Passport permittee, or permittee under paragraph (5) of subsection (a) of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.".

Sec. 10. Title III of the Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended by addition at the end thereof the following new section:

"USE OF FUNDS

"Sec. 307. (a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this Act. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

"(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this Act.".

Sec. 11. The Act of October 27, 1972 (86 Stat. 1308), is amended—

(1) in subsection 3(b) by deleting the word "constructed" and by adding at the end thereof: "To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area."; and

(2) in subsection 4(b), by changing "eleven members" in the first sentence to "fifteen members" and by changing "three members" in paragraph (5) to "seven members".

Sec. 12. The area formerly known as "Moores Creek National Military Park", established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the "Moores Creek National Battlefield".

Sec. 13. Section 201(e)(1) of the Act entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes", approved November 10, 1978 (92 Stat. 3635), is amended—

(1) by changing "seven members" in the first sentence to "eleven members", and

(2) by changing "two members" in paragraph (F) to "six members".

Sec. 14. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of section 5(a):

"(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abingdon, Virginia, to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morganton, North Carolina); from the mustering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain, South Carolina, as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled 'Overmountain Victory Trail' dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

SEC. 15. The Secretary shall conduct a study to determine appropriate measures to protect and interpret for the benefit and education of the public the Falls of the Ohio, including a three-hundred-million-year-old fossilized coral reef which is exposed along the Ohio River in the vicinity of Louisville, Kentucky, and Jeffersonville, Indiana. The Secretary shall, in the course of the study, consult with and seek the advice of, appropriate scientific organizations and representatives of interested municipal, State, and other Federal agencies. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of the study, including the estimated costs of alternative measures that may be undertaken to protect and interpret the resources of the area for the public, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, together with his recommendations for such further legislation as may be appropriate.

SEC. 16. Section 3(a) of the Wild and Scenic Rivers Act is amended in paragraph (22) by changing "which may be established" in the eighth sentence to "which shall be established".

SEC. 17. In order to provide for the appropriate commemoration of George Meany, past president of the American Federation of Labor and Congress of Industrial Organizations, and his contributions on behalf of the working people of the United States, the Secretary is authorized to investigate sites associated with the life and work of George Meany and to submit, within two complete fiscal years from the effective date of this Act, a report thereon to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall consult with representatives of the family of George Meany and the President of the American Federation of Labor and Congress of Industrial Organizations as a part of his investigation.

SEC. 18. The Secretary shall conduct, in consultation with the National Aeronautics and Space Administration, the Department of Defense, and any other entities considered by the Secretary to be appropriate, a study of locations and events associated with the historical theme of Man in Space. The purpose of such study shall be to identify the possible locations, components, and features of a new unit of the national park system commemorative to this theme, with special emphasis to be placed on the internationally historic event of the first human contact with the surface of the moon. The study shall investigate practical methodologies to permanently safeguard from change the locations, structures, and at least symbolic instrumentation features associated with this theme, and to display and interpret these for visitor appreciation. Governmental entities controlling these locations, structures, and features are hereby requested to preserve them from destruction or change during the study and congressional review period insofar as is possible. A comprehensive report derived from this study, including potential action alternatives, shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resqurces of the United States Senate no later than one complete fiscal year after the effective date of this section.

SEC. 19. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

SEC. 20. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Mr. BUMPERS. Mr. President, these amendments consist of a number of noncontroversial provisions which have passed the House on several occasions.

I submit a brief summary of these provisions so they may appear in the RECORD at this point.

The summary is as follows:

SUMMARY

GEORGIA O'KEEFFE NATIONAL HISTORIC SITE

The Secretary of the Interior would be authorized to accept the donation of the home and studio of the artist Georgia O'Keeffe at Abiquiu, New Mexico, pursuant to this section. A one-acre off-site support facility would also be authorized for acquisition. Upon acquisition, the Secretary would be authorized to establish the Georgia O'Keeffe National Historic Site by publication of a notice in the Federal Register. Sums not to exceed $40,000 for acquisition and $100,000 for development would be authorized to be appropriated.

GOLDEN GATE NATIONAL RECREATION AREA

This section would add three parcels of land to the recreation area. The GGNRA Advisory Commission membership would be expanded from seventeen to eighteen members. The terms of the members would be extended from three to five years and the terms of existing members set to expire before June 1, 1985, would be extended on that date.

BOSTON NATIONAL HISTORICAL PARK

This section would add the Ropewalk, Tar House, and the Chain Forge and Round House at the Charleston Navy yard to the historical park. The addition of the approximately 2.5 acres will be by donation.

PINNACLES NATIONAL MONUMENT

This section would authorize a deletion of 14.65 acres designated as wilderness and potential wilderness additions in connection with an exchange which the National Park Service has negotiated with the landowner. The exchange will result in a savings in acquisition cost and a net addition of about 32 acres to the monument.

GOLDEN SPIKE NATIONAL HISTORIC SITE

This section would authorize a boundary adjustment to add 534.93 acres and increase the land acquisition authorization by $259,000. This section would also direct the Secretary to study the feasibility of providing rail passenger service from Ogden, Utah, to the national historic site within two years, and it authorizes $100,000 for the study.

AMENDMENTS TO REPORTING REQUIREMENTS

This section amends section 8 of the 1970 General Authorities Act to require that reports on areas which appear to have potential for establishment as units of the National Park System include reference to the theme represented in the National Park System Plan, and that annual listings of such areas include an update on the condition of areas previously listed.

LAND AND WATER CONSERVATION FUND

This section includes three amendments as follows:

(1) This amendment would authorize the Secretary to designate for each entrance fee area the number of consecutive days (1–15) that would constitute a single visit. The 1973 amendments to the Land and Water Conservation Fund Act of 1965 narrowly defined the term "single visit" and permitted entry and exit only during the first day of what could logically be considered a single visit.

On August 10, 1976, in a letter to the Honorable James A. Haley, Chairman of the Committee on Interior and Insular Affairs, the Department supported a similar amendment. They again recommend support of this amendment.

(2) This amendment authorizes the Secretaries of the Interior and Agriculture to establish procedures for the issuance of a lifetime admission permit to any citizen or person domiciled in the United States if that person is blind or disabled for purposes of receiving benefits under Federal law. This amendment would convey the same waivers and benefits relating to entrance fees as are currently enjoyed by Golden Eagle and Golden Age passport holders.

(3) This amendment provides that those blind or disabled persons who qualify for the waiver of entrance fees, as discussed above, shall also receive a 50 percent reduction in the established user fee within Federal recreation areas.

LOWELL NATIONAL HISTORICAL PARK

This section would amend the Act of June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc *et seq.*), by adding a new section 307 permitting the Lowell Historic Preservation Commission to retain any revenues or other assets received, without regard to fiscal year limitations. Annual audits would be required to ensure that the revenues and assets involved are used in a manner consistent with the 1978 Lowell legislation.

GATEWAY NATIONAL RECREATIONAL AREA

This section directs the Secretary to take appropriate action to inform the public of the contributions of Representative Ryan to the creation of the recreation area on or about October 27, 1982, the tenth anniversary of the establishment of the area.

MOORES CREEK NATIONAL BATTLEFIELD

The title is changed from national military park to national battlefield.

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

This section increases the membership of the San Antonio Missions National Historical Park Advisory Commission from seven to eleven. The four new members are to be appointed by the Secretary from the general public.

OVERMOUNTAIN VICTORY TRAIL

This section designates the Overmountain Victory Trail as a National Historic Trail and a component of the National Trail System. The proposal is consistent with the draft study report prepared in 1979 pursuant to the study provision of the Act.

FALLS OF THE OHIO

This section directs the Secretary to study and determine measures to protect the Falls of the Ohio between Kentucky and Indiana.

UPPER MISSOURI RIVER

This section directs the Secretary to establish an advisory body for the Upper Missouri Wild and Scenic River.

GEORGE MEANY STUDY

This section would direct the Secretary to investigate sites associated with the former President of the AFL–CIO, George Meany, and report to the Committees of Congress within two years.

MAN IN SPACE HISTORICAL STUDY

This section would direct the Secretary to investigate locations and events associated with the historical theme of Man in Space. This theme is listed on the National Park Service list of areas that have potential for study under the National Park Service new area study process.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Senator BUMPERS, that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nominations beginning with U.S. Army on page 3, going through U.S. Army on pages 4 and 5, through U.S. Navy on pages 5 and 6, and the nominations placed on the Secretary's desk in the Air Force, Navy, and Marine Corps.

Mr. BAKER. Mr. President, if I may, reserving the right to object, and, once again, I shall not object, I utilize the reservation for advising my friend, the majority leader, that all the nominations identified by him on the Executive Calendar are cleared on this side and if we proceed with their consideration, we shall support their confirmation.

Mr. ROBERT C. BYRD. I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforementioned nominations be considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

Brig. Gen. Jason Alfred Aisner, to be major general.

Brig. Gen. Robert Melvin Carter, to be major general.

Brig. Gen. Jack Howard King, to be major general.

Brig. Gen. Joseph Melvin Lojek, to be major general.

Brig. Gen. Charles Dunford Palmer, to be major general.

Brig. Gen. Emory Conrad Parrish, to be major general.

Brig. Gen. Herbert Joseph Riley, to be major general.

Brig. Gen. Will Hill Tankersley, to be major general.

Col. Max Baratz, to be brigadier general.

Col. Richard Ogden Christiansen, to be brigadier general.

Col. Ralph William Coan, Jr., to be brigadier general.

Col. Craig Crawford Esary, to be brigadier general.

Col. William Holman Gibbes, to be brigadier general.

Col. Everett Hughes Holle, to be brigadier general.

Col. William Stanton Hollis, to be brigadier general.

Col. Robert Stratton Holmes, to be brigadier general.

Col. Talmadge Jefferies Jacobs, to be brigadier general.

Col. Oral Dean Nelson, to be brigadier general.

Col. Donald Adrian Pearson, to be brigadier general.

Col. Kenneth Joseph Printen, to be brigadier general.

Col. William Arthur Richter, to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

Brig. Gen. John Joseph Dillon, to be major general.

Brig. Gen. Joseph Patrick Hegarty, to be major general.

Brig. Gen. Harold Joseph Lavell, to be major general.

Brig. Gen. Anthony Louis Palumbo, to be major general.

Col. James Thomas Dennis, to be brigadier general.

Col. Kenneth William Dermann, to be brigadier general.

Col. Robert Frank Ensslin, Jr., to be brigadier general.

Col. John Luke Franklin, to be brigadier general.

Col. Luis Ernesto Gonzales-Vales, to be brigadier general.

Col. James Floyd Ingram, to be brigadier general.

Col. Vernon Elwood James, to be brigadier general.

Col. William John Jefferds, to be brigadier general.

Col. Lawrence Allen Keller, to be brigadier general.

Col. Robert Lee Lott III, to be brigadier general.

Col. Robert Lee Lester Merchant, to be brigadier general.

Col. Alan Craig Roland, to be brigadier general.

Col. Duane Ronald Smith, to be brigadier general.

Col. Clinton Elton Wallace, to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

Brig. Gen. Frank Jose Schober, Jr., to be major general.

Col. Robert Wayne Cundiff, to be brigadier general.

Col. Calvin George Franklin, to be brigadier general.

Col. Gray Williamson Harrison, Jr., to be brigadier general.

Col. Francis Edward Jones, Jr., to be brigadier general.

Col. Jerome Martin Shinaver, Jr., to be brigadier general.

IN THE NAVY

Vice Adm. David F. Emerson, U.S. Navy, (age 53) for appointment to the grade indicated on the retired list pursuant to the provisions of title 10, United States Code, section 5233, to be vice admiral.

Rear Adm. J. William Cox, Medical Corps, U.S. Navy, for appointment as indicated in accordance with title 10, United States Code, section 5137(a), to be Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, NAVY, AND MARINE CORPS

Air Force nominations beginning Gerald W. Abbott, to be captain, and ending Dale A. Young, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 23, 1980.

Navy nominations beginning Mark M. Adams, to be lieutenant, and ending Harriet E. Zech, to be lieutenant, which nominations were received by the Senate on July 18, 1980, and appeared in the CONGRESSIONAL RECORD on July 21, 1980.

Marine Corps nominations beginning John Bartusevics, to be chief warrant officer, and ending Charles P. Erwin, to be major, which nominations were received by the Senate on July 18, 1980, and appeared in the CONGRESSIONAL RECORD on July 21, 1980.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WE REMEMBER AUGUST 21, 1968

Mr. PERCY. Mr. President, it is now 12 years since the fateful day of August 21, 1968, when the Soviet Union projected its immense power into Czechoslovakia and forcefully occupied that country. The military occupation continues today in violation of the United Nations Charter and international law.

Those of us who have known refugees from Czechoslovakia now living in the United States understand very clearly the human suffering and the deprivation of freedom endured by the Czech and Slovak peoples as a result of the Soviet action against their country. All of us sympathize with those who have fled from communism in Czechoslovakia, communism imposed in February 1948, communism which continues to subjugate their homeland.

We sympathize as well with those who continue to live in Czechoslovakia, subjected to a harsh foreign influence over their country. We especially sympathize with the patriotic and courageous signers of Charter 77 who speak out for human rights and justice.

All of us blessed to live in a free and democratic society remember August 21, 1968. And we shall not forget.

PUBLIC BUILDINGS ACT OF 1980

Mr. MOYNIHAN. Mr. President, one of the most important initiatives of S. 2080, the Public Buildings Act of 1980, which passed the Senate on June 20 by a vote of 71 to 8, is its requirements that architects for major Government buildings be selected through design competitions. Design competitions have led to some of the most notable architecture in the world and in our country. Although many distinguished architects, and lesser known architects, too, have endorsed them as a means of improving Federal architecture, the American Institute of Architects has opposed their use in the reformed public buildings program established in S. 2080.

I was, therefore, gratified to see an editorial strongly in favor of competitions in the August 1980, issue of Preservation News, the monthly newspaper of the National Trust for Historic Preservation. This public interest organization, which has a vested interest in nothing but the preservation of our Nation's distinguished architectural legacy and the refurbishment of our traditional cityscape, states what should be obvious to any American who thinks about it: "just as competition is good for business, so is it good for architecture."

Under current Federal procedures for selecting architects, there is little or no public competition. Architects are not required to submit competitive bids, nor, in my opinion, should they be; one does not select the professional submitting the lowest bid when one is looking for quality. But neither are architects asked to compete on the basis of talent and imagination, their stock in trade. A design competition is conducted on just that basis: it is a contest of talent, ideas, and ability.

Public buildings reform legislation is now being considered by the Committee on Public Works and Transportation of the House of Representatives. I believe that we shall have a conference on S. 2080 and a new public buildings law before this Congress adjourns. I believe that design competitions will be a key ingredient of the new public buildings program we will establish.

I was privileged to have alongside me in developing S. 2080 and managing its fortunes in the Senate the distinguished ranking minority member of the Committee on Environment and Public Works, Senator Robert Stafford. Senator Stafford first introduced legislation promoting Federal architectural competitions over 2½ years ago. I am certain that he, too, will be gratified to read the editorial in the recent Preservation News and I ask unanimous consent that the editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

PROMOTING COMPETITION

Just as competition is good for business, so is it good for architecture. Many of this country's finest architectural achievements, starting with the U.S. Capitol, were the result of design competitions, In recent years, however, the concept has been used less often by the federal government, although two major renovation/restoration projects now underway—the Old Post Office in Washington, D.C., and in St. Louis—were the results of competitions sponsored by the U.S. General Services Administration during the enlightened leadership of then-Administrator Jay Solomon.

Not quite two years ago, the National Endowment for the Arts developed a new kind of competition. In short, the community is involved in the design process. Conceived by architectural critic William Marlin, this plan was tested successfully in historic Provincetown, Mass., with the new Provincetown Playhouse and Eugene O'Neill archive (PN, February 1979). Seven architectural firms were invited to the seaside community for a week to design the building; each afternoon townspeople could come in to ask the architects questions and make comments. Then a nine-member jury chaired by I. M. Pei and including three town residents chose the winning design, that by William Warner of Exeter, R.I.

With encouragement, and funding, from the endowment, the same concept was tried last November in San Francisco to develop a new master plan for Fort Mason, an abandoned Army post within the Golden Gate National Recreation Area that is listed in the National Register of Historic Places. The Fort Mason Foundation, under a cooperative agreement with the National Park Service, is developing the old warehouses, piers and other buildings (more than 300,000 square feet of covered space) into a multi-use cultural complex for 40 varied groups. Eight architectural and planning teams were invited to the site for a three-day charette observed by the users of Fort Mason, the National Park Service and area residents.

Michael J. Pittas, director of the endowment's Design Arts Program, believes strongly in such community involvement design competitions. "The process ought to be as public as the function of the building," he says. He points out several benefits: "The client sees many concepts. Competitions have great publicity value in helping start a capital fund drive. The solutions are often more responsive to the users' needs." The endowment has sponsored a similar competition in New Orleans for a plaza and is looking actively for more.

Mark Kasky, acting director of the Fort Mason Foundation, points out another excellent benefit from the use of federal funds. He reports that the San Francisco competition was supported by a $20,000 grant from the endowment and estimates that each of the eight teams expended $15,000 in billable time for a total of $120,000 in design work. "That's great leverage," he says.

Legislation that has passed the U.S. Senate and is awaiting action in the U.S. House of Representatives will encourage more competitions at the federal level. S 2080, introduced by Sen. Daniel P. Moynihan (D–N.Y.), would change federal policy from leasing space to owning it (giving priority to the reuse of existing historical buildings). It would also mandate design competitions for 50 percent of all federal building projects (new construction or renovation) costing more than $5 million.

The competitive spirit is what built America, and is what can help rebuild it as well. With greater public involvement in design, there is bound to be increased support for improving the overall quality of the built environment. This is a significant area where preservationists can make a positive contribution to the future well-being of their communities.

DONALD G. HERZBERG

Mr. MOYNIHAN. Mr. President, it is my sad duty to report to the Senate the death of a dear friend and esteemed colleague, Donald G. Herzberg, dean of Georgetown University.

It was my privilege to hear Father Healy of Georgetown deliver a magnificent eulogy last Friday at Princeton. Listening to it, could not but realize how great is the loss that all of us in the world of politics and government suffered from Don's passing. I would like to defer to his remarks, if I may, and I ask unanimous consent that they be printed in the Record.

The most important function of our schools and universities is what Aristotle called "the education of the citizenry in the spirit of the polity" this was Don Herzberg's calling—there is none higher—and we shall not soon find another of his like.

There being no objection, the eulogy was ordered to be printed in the Record, as follows:

DONALD G. HERZBERG

Speaking a eulogy for a friend like Don is difficult. Not for the choke of emotion, or injurious time that crams our rich knowledge into the rude brevity of leave taking. Incompleteness is worse, not getting it whole or right. All I can say will fall far short of Don's warm ironic being. My one consolation is to imagine how he would have mocked the effort.

So what I say is meant to stir and start. You who knew Don at Syracuse, at Wesleyan or Chatham, through the long years at Eagleton, all of you must fill out what I can but fumble at. I knew him four good years, at the height of his powers, as a friend, as a counselor and as a strong support. Right up to last Sunday, and a late phone call about Cambodia, immigration, the convention and Lord knows what else. I heard him, for all the coming dark, still busy with the bright things of day.

I would like to speak of two Dons. The scholar, teacher and workman in the politics of a free society. Second, the member and officer of a university, who threaded its ways, and read its soul.

A great gift of Don to his friends was his unbeatable, unshakeable trust in Democracy as a rational activity. Of course he remembered failure and incompleteness; he knew how far government fell below men's dreams. But he also pulsed to that dream, and the power and beauty it had created. He could even spot in politics touches of generosity, compassion and of understanding. His scholar's sense that one could read elections like a textbook, also taught him that the probing, thrusting mind was man's best defense of freedom.

He took pride in his own skill as analyst and interpreter. He looked forward to his election nights in the back room at ABC, delighted in identifying precincts with a prophetic value and reveled in an early correct call. There was glee, and humor, and high pride as he said, "We beat CBS by 45 minutes."

It was his capacity for analysis that made him scornful of unreal reform of parties and tampering with process. He had the practitioner's disdain for those whose vision was theoretical, and the workman's contempt for high blown scholasticism which trapped the well intentioned. Cloud nine was fine for academicians, esthetes and school boys. Don recognized how very shaky a place it was to build a government.

No mind as balanced as his could approach politics except with deep humility. He had the ironic Roman sense of limit which let him see how the best works of men fall short of the least works of God. I once accused him of having all the instincts of a Renaissance Cardinal, preferably a Medici, and the intricate insult pleasured him no end. He understood the pride of Virgil's vision: "to govern men, to school peace to continuity, to remember the hurt and disdain the proud." But he brought to it a tactile American sense of the limit of the good that men can work.

He would also bring to it something quite un-Roman, a bubbling, catching humor. There was no end to his political stories, each funnier than the one that went before. Each also captured Don's essential compassion, and the Petronian ironies of an elegant mind. He told of walking the streets with Senator Benton who when roundly cursed out by a voter turned and said, "Donald, put him down as doubtful." One of his favorite illustrations was of the man being ridden out of town on a rail saying to his fellow citizens, "If it weren't for the honor of the thing, I'd just as soon walk." He reveled in shocking the company with Senator Benton's instructions as how to render an "ambiguous answer." Better than most men he grasped Chesterton's insight that we can only really mock what we love. And behind the mockery, behind the irony, was an unassailable trust in this republic, in this people, a belief that in this time and place it could be made to work, if not perfectly, then at least for the good of most of us.

The second ground I share with Don was Georgetown—as a symbol of a university in the service of a free society. He brought to his Deanship his feel for research and for clean-lined intellectual work. The shoddy was as corrosive for the university as it was dangerous for the Republic. In the graduate school he was a workman-like support and help to the serious, and the bane of those who felt that appointment or tenure beckoned retirement.

He understood Georgetown's fit into time and place, the burden, and the glory, of its tradition. He understood both what John Carroll had reached for in 1789, and how the growth of Church and state had altered that reach in the fulfillment of the '80's. Because of Georgetown's Catholic past he crowded and pushed the University into the problems of immigration and refugee management. His last work for Georgetown was a visit to Thailand to check on our graduate and undergraduate teams and to gain a first-hand knowledge of how the University might extend its service and its research.

To the understanding of government and of universities which so many of Don's friends share, many more deeply and fully than I do, I must now add my own memory of him as colleague and friend over the last four years.

He brought all of us two rare gifts, wisdom and compassion. A dozen times when I was set to fly off the handle, Don recalled me not to prudence, but to principle. Even when on occasions we faced stupidity or ill will, he kept a tough understanding, a forgiveness, an ability to rise above resentment. I knew him angry and tolerant, compassionate and hurt, sure and tentative; I never knew him confused, unkind, or blind. He was good at his trade because he read human nature truely as the stuff that dreams are made on, but also could see it in its littleness, its weakness, its hopeless fright.

His was far from a passive presence. He was an energizer, a prod, a stimulus. He could get excited, spin wild dreams until the room filled with a complex vision. He could stand a whole meeting on its ear by opening up the future some of us had dimly grasped but which he could see as clearly as next Monday and every bit as attainable. He persuaded the Lilly Foundation to back the nation's best training ground for citizen politicians below the level of state legislatures. With equal energy he started Georgetown on its involvement with immigration, and the terrible human wastage of our time, refugees. Here he understood quite fully that the flow of immigrants from Spanish America was as much problem and opportunity for this nation, as it was problem and opportunity for the Catholic Church John Carroll founded Georgetown to serve. Into this problem he threw all his energy, his brains, and above all, all his common sense and humor. He even survived a 5 a.m. call to Panama City from a reporter writing on the Canal Plebiscite who had him confused with Ted Hesburgh. On the same trip I can see him puffing one of General Torrijos best Cuban cigars and giving the good General as shrewd a reading of the Canal Treaty prospects as he was likely to get from any gringo politician.

I wish I had known Don in the years when he served as legislative assistant to Senator Benton, particularly on the Sunday mornings when huddled in a corner on Wisconsin Avenue, he brunched with John Lane, Max Kampelman, Julie Edelstein—the other aides to liberal senators; the four of them cowering under the lash of McCarthy, and gathering fragments to shore against the ruins of the Republican wasteland. Another image I keep is of a late night talk over the debris of a good dinner in The Palm at a time when it looked like the entire American republic was going down the drain, with Don insisting to me and to three law students. "This government works, sometimes badly, sometimes well, but damn it, it works."

Such pictures, my own shored fragments, I will cherish all the more because of his sudden and unexpected death, the swift arrest of so much movement and life. I see him now as he would have been content to be seen, even if by an Irish poet, going "proud, open-eyed and laughing to the tomb." It might be fairer to pick a statement about himself which he liked so much he hung over his desk in the office. The words are by Jack London, and in their dry wit and ironic pride speak to me of Don Herzberg.

> "I would rather be a meteor, every atom of me in magnificent glow than a sleepy and permanent planet.
>
> "The proper function of man is to live, not to exist.
>
> "I shall not waste my days in trying to prolong them.
>
> "I shall use my time."

Indeed, he did.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 231

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I hereby transmit the Annual Report of the Railroad Retirement Board for fiscal year 1979.

This report includes the 14th triennial actuarial valuation of the railroad retirement system, which was completed in August 1979. It is the first Board analysis to project the fund's future income and outgo under five sets of economic and legislative assumptions. This approach, involving alternative sets of assumptions, more thoroughly takes into account the variable factors which can significantly affect the system in the coming years, and provides more information for an examination of the system's financial condition. The general conclusion is that the railroad industry retirement system has an acute short-term financial problem as well as long-term financial problems, and corrective legislation is needed to assure sound financing of benefits by the railroad sector.

The 1979 14th valuation projected a cash shortfall under all but the most optimistic set of assumptions. Chairman Adams has advised me that the situation has become markedly worse and that funds will be inadequate to pay rail industry benefits by 1983. The latest projections, based on the economic assumptions used in the March 1980 revisions to the Budget, indicate that the railroad retirement trust fund will exhaust its balance during fiscal year 1983, and could run out of cash in fiscal year 1982.

As discussed by Chairman Adams in the report, the Administration has proposed legislation to protect current and future railroad beneficiaries by sponsoring a fair and evenhanded method for sound financing of the rail industry pension without additional subsidies from general tax revenues. A financially sound rail industry pension is vital to the one million annuitants now receiving benefits, and to the half-million workers now qualified for benefits in the future. The Administration invited, for the second year, a rail management and labor proposal to restore solvency to the rail industry pension without additional general revenue subsidies. Resolution of the system's financial problems is a serious, pressing concern for rail workers, the rail industry, and the million rail pension beneficiaries.

JIMMY CARTER.

THE WHITE HOUSE, *August 18, 1980.*

REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 232

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with Section 163 of the Trade Act of 1974, I am pleased to submit herewith the Twenty-Fourth Annual Report on the Trade Agreements Program—1979. This Report also complies with provisions of Section 135(1) of the

1974 Act, as well as Section 304d(3) of the Trade Agreements Act of 1979.

The highlights of last year's activities were the conclusion of the Tokyo Round of Multilateral Trade Negotiations (MTN); the passage by the Congress of the Trade Agreements Act of 1979, which implemented the MTN agreements for the United States; and the reorganization of governmental trade responsibilities. In arriving at a successful completion of these negotiations, we benefitted from the interest and cooperation of many Members and committees of Congress, as well as of advisors from the private sector.

The Tokyo Round agreements establish strict new codes covering international trade, reductions of barriers to agricultural trade, and tariff reductions on industrial goods. These actions achieve our principal objective—a fairer and more open trading system that will benefit U.S. citizens.

By adopting these new codes, our major trading partners have agreed to limit the use of major nontariff measures that distort international trade. The negotiated agreements that deal with subsidies, dumping, product standards, customs valuation, licensing and government procurement will open up foreign markets to our domestic industries and exporters. Additional agreements were negotiated in the areas of agricultural trade, industrial tariffs, and civil aircraft, providing important future economic benefits to the United States through expanded exports. Also of great value are the modernized procedures for handling trade disputes under the General Agreement on Tariffs and Trade that were negotiated in the Tokyo Round.

Most agreements entered into force at the beginning of 1980. The rest will become effective by January 1, 1981. The initial reductions in tariff rates made by the United States and its trade partners took effect on January 1, 1980. The full tariff reductions will be phased in over an eight-year period. Our tariff reductions will benefit consumers and have a desirable anti-inflationary impact, while the reductions by our trade partners will benefit our workers, farmers and businesses.

As a result of the successful conclusion of the most far-reaching and comprehensive multilateral trade negotiations ever held, the United States enters the decade of the 1980's with greatly expanded opportunities to strengthen its international trade performance. In order to take full advantage of these opportunities and to strengthen U.S. export performance, I have restructured Executive Branch responsibilities for international trade activities. This reorganization consolidates trade policy leadership and all trade negotiation responsibilities in the Office of the United States Representative, formerly the Special Representative for Trade Negotiations. The reorganization also places the responsibility for the administration of trade programs, including export promotion, in the Department of Commerce.

I have instituted these changes in order to meet our current and future global economic and trade challenges. My administration places a high priority on assuring that the full trade potential of the United States is realized, in order to maintain and improve the economic health of our Nation. Approximately 17 percent of all goods produced in this country are exported. The agricultural produce of one out of every three acres of U.S. farmland is shipped to foreign countries, and approximately one out of every eight manufacturing jobs is directly or indirectly related to U.S. exports.

We made great progress in improving our international trade position last year. Our merchandise exports grew by 26 percent in 1979, our trade balance in manufactures improved by more than $10 billion, and our traditional agricultural surplus grew by 24 percent to more than $18 billion. Our trade deficit was reduced by almost $4 billion despite rapidly rising oil prices that substantially increased the value of our petroleum imports.

Further enhancement of United States exports is a prime objective of my Administration and I will continue my efforts to ensure that government programs help achieve that end. I look forward in the coming year to working with Congress in strengthening our foreign trade performance, and to reporting to you further successes in our international trade program.

JIMMY CARTER.

THE WHITE HOUSE, *August 18, 1980.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on August 8, 1980, he had approved and signed the following act:

S. 1916. An act to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILLS SIGNED

Under authority of the order of August 6, 1980, the Secretary of the Senate, on August 11, 1980, received a message from the House of Representatives, which reported that the Speaker has signed the following enrolled bills:

H.R. 7102. An act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes; and

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

The enrolled bills were subsequently signed by the Vice President.

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under authority of the order of August 6, 1980, the following reports of committees were submitted on August 13, 1980, during the recess:

By Mr. STENNIS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes (Rept. No. 96–895).

By Mr. CHAFEE (for Mr. BAYH), from the Select Committee on Intelligence, with an amendment to the title:

S. 2216. A bill to improve the intelligence system of the United States, and for other purposes (Rept. No. 96–896).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

H.R. 2743. An act to provide for a national policy for materials and development and to strengthen the materials research and development capability and performance of the United States (Rept. No. 96–897). Referred to the Committee on Energy and Natural Resources, pursuant to order of June 24, 1980.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3317. An act for the relief of Ohio Wesleyan University, Delaware, Ohio (Rept. No. 96–898).

By Mr. NUNN, from the Committee on Governmental Affairs, without an amendment, but with a preamble:

S. Res. 502. An original resolution directing the Senate Legal Counsel to bring civil action to enforce subpoena of the Permanent Subcommittee on Investigations (Rept. No. 96–899).

By Mr. MAGNUSON, from the Committee on Appropriations:

Special report entitled "Allocation to Subcommittees of Budget Totals from the First Concurrent Resolution, Fiscal Year 1981" (Rept. No. 96–900).

By Mr. PRYOR, from the Committee on Governmental Affairs, with amendments:

S. 2566. A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes (Rept. No. 96–901).

By Mr. PRYOR, from the Committee on Governmental Affairs, without amendment:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes (Rept. No. 96-902).

H.R. 5410. An act to amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election (Rept. No. 96-903).

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes (Rept. No. 96-904).

By Mr. PRYOR, from the Committee on Governmental Affairs, with an amendment:

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes (Rept. No. 96-905).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ZORINSKY:

S. 3039. A bill for the relief of Attilio Antonio LaFatia, Maria Rosa Scrofani (LaFatia), Piziana LaFatia, JoAnna LaFatia, and Mazzia LaFatia; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. DANFORTH, Mr. RIBICOFF, Mr. NELSON, Mr. MATSUNAGA, and Mr. BAUCUS):

S. 3040. A bill to amend the Internal Revenue Code of 1954 to provide faster tax deductions for depreciation and larger investment tax credits in order to help combat inflation and increase the United States position in world trade; to the Committee on Finance.

By Mr. PACKWOOD:

S.J. Res. 194. Joint resolution to designate the square dance as the national dance of the United States of America; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself, Mr. DANFORTH, Mr. RIBICOFF, Mr. NELSON, Mr. MATSUNAGA, and Mr. BAUCUS):

S. 3040. A bill to amend the Internal Revenue Code of 1954 to provide faster tax deductions for depreciation and larger investment tax credits in order to help combat inflation and increase the United States position in world trade; to the Committee on Finance.

ACCREDITED DEPRECIATION TAX DEDUCTIONS AND INCREASED INVESTMENT TAX CREDITS—METHODS TO FIGHT INFLATION AND INCREASE THE U.S. COMPETITIVE POSITION IN WORLD TRADE

● Mr. BENTSEN. Mr. President, today I am introducing for myself and Senators DANFORTH, RIBICOFF, NELSON, MATSUNAGA, and BAUCUS, a bill to help strengthen our economy by boosting productivity through faster tax deductions for depreciation and an increase in the rehabilitation tax credit for certain structures. This legislation incorporates many of the suggestions presented at hearings of the Senate Finance Committee and House Ways and Means Committee in recent weeks.

The legislation will substantially simplify depreciation computations. This is particularly important to small business. It will provide the kind of investment incentives that are needed if the United States is to compete successfully in world trade.

There is general agreement that any comprehensive program to stabilize our economy—to reduce both inflation and unemployment—must address the problem of lagging productivity. One of the primary reasons for lagging productivity is a lack of capital for modernizing the productive capacity of this country. We need to put new tools in the hands of American workers. But we will not get those new tools until people are willing to invest in them. Faster depreciation is a very efficient method to encourage the investments needed to boost productivity.

Productivity is defined as average output per man-hour. If you give a worker a new piece of equipment that enables him to increase his output, then this would enable the company to provide somewhat higher wages and also reduce the price of the goods manufactured.

This is a very effective way to hold down inflation.

Low productivity usually indicates not that workers are not working hard, but that businesses are not investing in newer, more efficient equipment and machinery.

When increases in productivity fail to keep pace with increases in wages, businesses have to charge higher prices for their products and inflation results.

Gains in productivity helped contain labor costs before 1976. However, productivity gains have declined in recent years and the result has been built-in inflationary pressures.

This depreciation and investment tax credit legislation would provide the kind of encouragement needed to increase investment in the kind of modern equipment we need to help fight inflation.

The importance of this legislation is highlighted by the fact that the United States ranks last in a list of seven major industrial nations with respect to productivity growth. We are even behind Great Britain.

PRODUCTIVITY MEASURES FOR VARIOUS COUNTRIES

	Average annual percentage change in productivity		
	1950–65	1965–73	1973–78
Japan	7.2	9.1	3.1
West Germany	5.2	4.3	3.2
Italy	5.1	5.6	1.3
France	4.7	4.5	2.8
Canada	2.7	2.3	.8
United Kingdom	2.2	3.3	.9
United States	2.4	1.6	.4

Note: Measured by growth in real domestic product per employed person, using own country's price weights.

Source: Bureau of Labor Statistics.

Higher productivity would also enable U.S. firms to compete more effectively in world trade. We must do this if we expect to reverse our trade imbalance. Japan, for example—one of our toughest competitors—turns over its industrial base every 10 years. We turn ours over every 30 years. Is it any wonder that they are more competitive?

Our trade deficit contributes to inflation, destroys the value of our currency and creates doubt about our free market system. Fundamental improvement in our trade position is critical to a healthy American economy.

Mr. President, I would like to briefly summarize the four major features of this legislation.

First, the legislation would provide a simplified system of tax incentives for investment in equipment and machinery. Basic manufacturing capacity in our Nation must be modernized as part of our efforts to curb inflation and boost exports. Faster depreciation tax deductions for investments in equipment and machinery can help achieve these objectives. Under this legislation, equipment and machinery would be depreciated over either 2, 4, 7 or 10 years. Generally, such equipment and machinery would be depreciated 40 percent faster than under present law.

A simple "open account" system for computing depreciation deductions, which has been successful in Canada, would replace the complicated "vintage account system" of present U.S. law.

In addition, investment tax credit rules would be modified. A full 10-percent credit would be allowed for equipment depreciated over 7 years or longer. Property depreciated over a 2-year period would be eligible for a 2.5-percent investment tax credit and property depreciated over 4 years would be eligible for a 6-percent investment tax credit.

Second, at the option of the taxpayer, structures and structural components would be eligible for 20 year straight line depreciation with section 1250 recapture. This compares to a useful life of some 30 years for apartments, 35 years for industrial structures and 40 years for commercial structures under present law. Also at the option of the taxpayer, low income rental housing would be given 15 year straight line depreciation with section 1250 recapture. This compares to a useful life of some 30 years for low income rental housing under present law. These provisions would provide an "audit proof" system for taxpayers. These provisions would encourage the construction of new factory buildings, provide assistance to the depressed housing industry and create jobs for construction workers.

Third, in an effort to provide real simplification and a significant investment incentive for small business, taxpayers could elect a first year writeoff (expensing) of the first $50,000 of annual investments in equipment and machinery.

Fourth, in an effort to help revitalize some of the urban centers around the Nation, this legislation would increase the existing 10-percent investment tax credit for the rehabilitation of industrial and commercial structures to 25 percent.

Mr. President, I would now like to describe this legislation in further detail.

SIMPLIFIED COST RECOVERY (SCR)

This legislation would replace the current depreciation rules for equipment and machinery (tangible personal property) with a simplified cost recovery system. (SCR)

Compared to present law, the new system would simplify the computation of depreciation on most tangible personal property and shorten the period over which the cost of such property can be recovered.

Under the Bentsen system, the cost of all depreciable tangible personal property (other than public utility property, property subject to amortization, and property depreciable on a basis other than time) would be eligible and would be classified in one of the following four recovery accounts with a recovery period of 2, 4, 7, or 10 years:

Current law (midpoint life under ADR)*	*Bentsen bill*
6 years or less	2 years
6–11 years	4 years
11–16 years	7 years
Greater than 16	10 years

*Asset Depreciation Range.

The taxpayer could elect to exclude from the SCR system any livestock for which special capital gain treatment is allowed under section 1231 of the Internal Revenue Code.

This legislation mandates that the period for depreciation of property be at least 40-percent shorter than the current midpoint useful life (under the existing asset depreciation range system). No recovery period, though, can be reduced below 2 years.

As examples, machines used to manufacture clothing which currently have a midpoint life of 9 years would be reduced to 4 years under the legislation. Equipment used to manufacture metal working machinery now has a midpoint life of 12 years and would be reduced to 7 years under the bill.

Used property which is at least 3 years old would be depreciated one category faster than comparable new equipment; 3-year-old property that could be depreciated over 7 years when new, for example, would be depreciated over 4 years.

The Treasury Department would be required to publish simplified tables which incorporate the shortened depreciation schedules in the Bentsen bill.

SCR is a simplified approach to depreciation. It eliminates the dozens of categories that now exist and replaces them with four.

SCR will also eliminate all disputes as to the salvage value of property. Since the entire cost of an asset is depreciated without reductions for estimated salvage value, salvage computations are no longer required.

The bill speeds depreciation in two ways. It not only reduces the number of years involved, but it also provides a weighing process so that the bulk of the property can, in fact, be depreciated during the first part of the period in question.

For example, property can be depreciated at a range of either 200 percent, 150 percent, or 100 percent of the straight line rate. In addition, the depreciation method can be changed from year to year for any of the four recovery accounts.

The legislation generally adopts the so-called half-year convention of the present ADR system. Under this convention, one-half of an asset's cost is placed in an account which may include more than one asset in the first year. The other half of the asset's cost is added to the account in the next year.

Under SCR gains or losses on assets that are sold are generally deferred. Instead, the amount realized in the sale reduces the balance of the depreciation account which, in turn, would reduce depreciation deductions for other assets in the account during subsequent years. Where the amount realized from sale of assets reduces the balance of an account to a negative figure, the amount of the negative balance would be recaptured as ordinary income.

INVESTMENT TAX CREDIT

Modifications of the investment tax credit are needed to supplement the simplified cost recovery system in order to encourage additional investment in equipment and machinery.

Under present law, if an otherwise eligible asset has a useful life of at least 7 years, 100 percent of the basis of the asset qualifies for the investment tax credit. If the useful life is 5 or 6 years, 66⅔ percent of the basis is eligible for the investment tax credit. If the useful life is 3 or 4 years, 33⅓ percent of the basis is eligible for the investment credit. The useful life used for depreciation purposes is generally the useful life that applies for investment credit purposes.

Under the bill I am introducing today, 25 percent of the basis of an asset is eligible for the investment credit if the property is in the 2-year recovery period. Sixty percent of the basis of the asset is eligible for the investment tax credit for assets in the 4-year period. The full basis qualifies for the investment tax credit for assets that fall in the 7- or 10-year categories.

PUBLIC UTILITIES

The bill also reduces the depreciable life of public utility property. This is achieved by increasing to 30 percent the 20 percent variance currently allowed for public utility property under the asset depreciation range system (ADR).

With respect to utilities, I am also a sponsor of S. 1543 which provides an option for a stockholder to exclude from gross income the value of common stock received by the stockholder under a "qualified dividend reinvestment plan." The amount excluded annually would be limited to $1,500 ($3,000 in the case of joint return).

OPTIONAL 20-YEAR STRAIGHT LINE DEPRECIATION FOR STRUCTURES AUDIT-PROOF SYSTEM

At the option of the taxpayer, structures and structural components would be eligible for 20 years straight line depreciation with section 1250 recapture. Also at the option of the taxpayer, certain low income rental property would be eligible for 15 year straight line depreciation with section 1250 recapture. This "audit-proof" system will provide certainty for taxpayers by eliminating disputes over useful life between taxpayers and the Internal Revenue Service.

These provisions would encourage the construction of new factory buildings and help create jobs in the construction industry. Modernization of basic manufacturing capacity—through investment in new factory buildings and new equipment—is essential if we are to compete successfully in world trade. Improvements in productivity require modernization of both the factory building as well as equipment since the structures and machinery are often integrally related. In making investment decisions, businessmen look at the after-tax cost of a business' total fixed capital investment.

In an effort to provide additional assistance to lower income rental property, the legislation provides 15 year straight line depreciation for these structures. More favorable tax incentives for investment in low income housing—as compared to other structures—is needed to compensate for the restrictions on return and limited potential for appreciation inherent in low income housing.

Were low-income housing to be limited to the same 20-year depreciation of other structures, low-income housing might fail to attract investment capital that might otherwise be available. Such capital would flow instead to real estate projects which are not as risky as low-income housing and which are not encumbered by other restrictions. Low-income housing normally is limited, either by Federal or State laws or regulations, as to the rate of return payable to investors and the rents which may be charged to tenants.

Under the bill, "low income housing" is that housing which is intended for rental to families and individuals of low and moderate income. These are persons who cannot afford to pay the fair market rent for standard quality (not superior or luxury quality) rental units without some form of assistance. Generally, these persons have incomes of 80 percent or less of the area median.

The bill maintains the definition of low-income housing presently contained in the Internal Revenue Code which includes so-called section 8 housing, sections 221(d)(3) and 236 housing, rural low-income housing assisted through the farmers home loan program, rehabilitated low-income housing, and similar low-income housing programs assisted by direct loan or tax abatement under State law. In addition, the legislation extends the definition to the section 221(d)(4) housing program (which serves persons of low and moderate income) and other Government-assisted housing where at least 20 percent of the dwelling units are rented or held for rental to families or individuals who qualify for section 8 assistance or other assistance to assure that they do not pay more than one-quarter of their income for rent.

In a further effort to help the housing industry, which has suffered more than other segments of the economy in recent months, the bill repeals section 189 of the Internal Revenue Code which requires that certain construction period interest and taxes be amortized over a 10-year period. Under the bill, these expenses could be deducted in the year in which the payments are made.

Taxes are an out-of-pocket expense. Tax bills come out yearly and are paid as they are issued. In other businesses, a deduction is allowed for taxes in the year in which they are paid. Construction interest is attributable to a construction loan which exists only during the 12- to 24-month period when a multifamily housing project is under construction, for example. When construction is complete, the construction loan is paid off. Construction period interest is clearly an expense of the short construction term and should be allowed as a deduction during that period.

CURRENT DEDUCTION FOR THE FIRST $50,000 INVESTED IN EQUIPMENT AND MACHINERY ANNUALLY

Any tax cut legislation enacted by Congress must recognize the particular problems of small business. Thus, this legislation would give taxpayers the option to receive a current deduction for the first $50,000 of annual expenses for equipment and machinery. This change would be a substantial simplification for small businessmen across the Nation. Taxpayers that elect this option would no longer have to worry about burdensome depreciation calculations. They would simply deduct the full cost of the asset in the year paid or incurred. Under this legislation, the general recapture rules of section 1245 of the tax code would apply and the bonus first year depreciation rules of present law would be repealed.

Small businesses carry a disproportionate share of the burden during periods of inflation and recession. It is essential that Congress recognize the vital role played by small business in creating jobs and providing healthy competition in our economy. This proposal for a first year write off was one of the recommendations of the recent White House Conference on Small Business.

REHABILITATION OF INDUSTRIAL AND COMMERCIAL STRUCTURES

In an effort to provide special assistance to older industrial sections of the country, this legislation would increase the present 10-percent rehabilitation tax credit for industrial and commercial structures to 25 percent.

The 1978 Revenue Act extended the 10-percent investment tax credit to rehabilitation expenses of nonresidential structures. Eligible buildings include factories, office buildings and retail and wholesale stores.

In order to qualify as a rehabilitation expenditure, the expense must be incurred in connection with the rehabilitation of a building which has been in use for at least 20 years. Capital expenditures for the replacement of plumbing, electrical wiring, flooring, permanent interior partitions and walls, and the heating or air-conditioning systems could qualify as qualified rehabilitation expenditures when incurred in connection with a rehabilitation. In situations where a part of a building is rehabilitated, the rehabilitation costs will qualify for the credit only if the rehabilitated part constitutes a "major portion" of the building.

CONCLUSION

In conclusion, this bill will help spur lagging investment and help modernize the productive capacity of this country. Our country's economic potential remains the greatest the world has ever seen but we have fallen far short of our potential for many years now. As of 2 years ago this country had slipped into fifth place among the world's industrialized nations so far as per capita gross national product is concerned. We fell behind Switzerland, Denmark, West Germany, and Sweden and we were rapidly losing ground to Japan. Is it any wonder that we are losing ground? The United States invests only 10 percent of its total goods and services, while a country like West Germany is investing 15 percent and Japan 20 percent.

A tax bill designed to put modern tools in the hands of the American worker, such as the bill I am introducing today, can be of substantial help in our efforts to increase productivity and thereby hold down prices while at the same time creating hundreds of thousands of new jobs.

I urge the Senate to promptly approve this legislation.

Mr. President, at this point I ask unanimous consent that a fact sheet describing my proposal as well as a section-by-section analysis be printed in the RECORD.

There being no objection, the fact sheet and analysis were ordered to be printed in the RECORD, as follows:

FACT SHEET

Senator Lloyd Bentsen on Monday, August 18, 1980, introduced a bill featuring tax reductions targeted to encourage investment. The Bentsen bill would be effective January 1, 1981.

This tax legislation offers broad incentives to invest.

1. Simplified cost recovery (SCR)—The bill establishes a Simplified Cost Recovery System (SCR) which provides tax incentives for investment in equipment and machinery. Under the legislation, equipment would be classified in one of four recovery accounts with a recovery period of 2, 4, 7 or 10 years. Generally, equipment and machinery would be depreciated 40 percent faster than under present law. A simple "open-ended account" system for computing depreciation deductions, which has been successful in Canada, would replace the complicated "vintage account" system of present law. In addition, the investment tax credit rules would be modified.

2. Structures—At the option of the taxpayer, structures and structural components would be eligible for twenty year straight line depreciation with Section 1250 recapture. This compares to a useful life of some 30 years for apartment buildings, 35 years for industrial structures and 40 years for commercial structures under present law. Also at the option of the taxpayer, certain low income rental housing would be eligible for 15 year straight line depreciation with Section 1250 recapture. This compares to a useful life of some 30 years for low income housing under present law. These provisions would provide an "audit-proof" system for taxpayers by eliminating disputes over useful life between businessmen and the Internal Revenue Service.

These provisions will encourage the construction of new factory buildings which is so important in modernizing our industrial base. The new rules will provide a needed stimulus to the depressed housing industry and help create jobs in the construction industry. Additional incentives are provided for low income housing.

In addition the bill repeals the requirement of present law that certain construction period interest and taxes be amortized over a ten year period. Under this legislation, these expenses could be deducted in the year incurred. Construction period interest and taxes are "out-of-pocket" expenses and should be deducted when incurred.

3. Rehabilitation of commercial and industrial structures—In an effort to help revitalize some of the older industrial sections of the nation, the legislation increases the existing 10 percent investment tax credit for the rehabilitation of commercial and industrial structures to 25 percent.

4. Small business simplification and incentive—In an effort to provide substantial simplification and a real tax incentive for small business, taxpayers can elect a first year write-off (expensing) for the first $50,000 of annual investments in equipment and machinery. Hundreds of thousands of small businessmen across the nation would no longer have to worry about burdensome depreciation calculations if they elect this option.

(According to preliminary estimates by the staff of the Joint Committee on Taxation, the Bentsen bill would reduce taxes $10 billine in 1981 and $35 billion a year by 1985, These figures could change substantially, however, as the committee staff refines its estimates.)

SECTION-BY-SECTION ANALYSIS

Section 1. The legislation is cited as the Investment Tax Act of 1980.

Section 2. The legislation amends the Internal Revenue Code of 1954.

Section 3. A Simplified Cost Recovery System using "open-ended accounts" is established for most equipment and machinery. Under this proposal, the cost of most depreciable personal property would be classified into one of four (4) recovery accounts with a recovery period of 2, 4, 7 or 10 years. Property would be assigned to a recovery period that is at least 40 percent shorter than its current midpoint useful life under the Asset Depreciation Range (ADR).

Used property which is at least three years old would be assigned to the next lower recovery period than its normal recovery period. The taxpayer could elect to place any item of property in the class having the next longer recovery period.

This cost recovery proposal would utilize a declining balance method for computing depreciation for all assets with the same recovery period. Under this proposal, the costs of all eligible property with the same recovery period are placed in one open-ended account. The amount of depreciation allowable for a particular taxable year is determined by multiplying the closing balance or unrecovered costs in the account by the "recovery percentage." The recovery percentage reflects the number of years in the recovery period and the depreciation method elected for that year.

Under the proposal, depreciation methods can be either 200 percent, 150 percent or 100 percent of the straight-line rate, and the depreciation method can be changed from year to year for any of the four (4) recovery accounts. The amount of the depreciation for the year is then subtracted from the account to establish the balance of the account which is used to determine the next year's deduction.

Under this system, gains and losses on the disposition of assets in the account generally are deferred. When the asset in the account is disposed of, no gain or loss generally is recognized. Instead, the amount realized on the disposition reduces the balance of the account which, in turn, will reduce the amount of the depreciation deductions in subsequent years. Where the amount realized from the disposition of the assets reduces the balance of the account to a negative figure, the amount of the negative balance would be recaptured as ordinary income.

The bill generally adopts the so-called "half-year convention" of the present ADR system. Under this convention, one-half of the asset's cost is placed in the account in the year that the asset is placed in service. The other half of the asset's cost is added to the account in the next subseqeunt year.

In addition, the entire cost of the property is added to the account unreduced by the property's estimated salvage value. Thus, the new system will eliminate all disputes as the salvage value of the property.

Recovery property would not include utility property, property subject to amortization and property depreciable on a basis other than time.

In general, the Simplified Cost Recovery system would be effective for property placed in service in a taxable year beginning after December 31, 1980. In addition, property placed in service prior to that time can become subject to the system, at the election of the taxpayer, in taxable years beginning after December 31, 1984.

Section 4. The 20 percent ADR variance for public utility property is increased to 30 percent.

Section 5. The bill provides that 25 percent of the basis of an asset is eligible for the investment tax credit if its useful life is at least two years but less than four years. Sixty percent of the basis of an asset is eligible for the investment tax credit if its useful life is at least four years but less than seven years. If the useful life is seven years or greater, the full basis of an asset qualifies for the investment tax credit.

Section 6. At the election of the taxpayer, structures and structural components are eligible for 20 year straight line depreciation with Section 1250 recapture. At the election of the taxpayer, low income housing is eligible for 15 year straight line depreciation with Section 1250 recapture.

Component depreciation is disallowed for a taxpayer that elects either the 20 or 15 year straight line depreciation.

Low income housing includes housing assisted under Sections 221(d)(3) and 236 of the National Housing Act, Section 8 of the United States Housing Act of 1937, Section 221(d)(4) of the National Housing Act, Title V of the Housing Act of 1949 as well as certain other assistance programs.

Section 7. Section 189 of the Internal Revenue Code (relating to amortization of real property construction period interest and taxes) is repealed.

Section 8. At the election of the taxpayer, the first $50,000 of expenditures for equipment or machinery paid or incurred by him during the taxable year, is eligible for a first year write-off (expensing). The Section 1245 depreciation recapture rules of present law are applicable.

Section 9. Section 179 of the tax code (relating to additional first year depreciation allowances for small business) is repealed.

Section 10. The rehabilitation tax credit for nonresidential structures under present law is increased from 10 percent to 25 percent.

Section 11. Except as otherwise expressly provided, the amendments made by this Act shall apply to property placed in service in taxable years beginning after December 31, 1980.●

By Mr. PACKWOOD:

S.J. Res. 194. Joint resolution to designate the square dance as the national dance of the United States of America; to the Committee on the Judiciary.

● Mr. PACKWOOD. Mr. President, today I am introducing a joint resolution to designate the "square dance" as the national dance of the people of the United States of America. I am proud to say that it is already the official dance of the State of Oregon. The origins of the dance and characteristic dress reflect Oregon's pioneer heritage, and that of every State. The lively spirit of the dance exemplifies the friendly, free nature and enthusiasm that is part of the Oregon character, just as it is part of our national character.

Square dancing has been around our land ever since the establishment of the early colonies, and in Europe since the 15th century. Like our own citizens, the many variations of square dancing have roots in countries all around the world. Austria, Italy, Norway, and England, to name a few, have contributed dances which, without losing their individuality, have come together in America to form this truly national pastime.

Mr. President, as the early settlers began moving westward along the long wagon trails toward the Pacific Coast, the dance was very much a part of their lives. It followed the hard work they did together, whether at husking bees, quilting bees, barn raisings, or other types of community work. The dance was always a means of celebration, and a reflection of community spirit.

Today, the square dance has never been more popular. It is performed by 6 million people across America and throughout the world. Just in Oregon, there are 160 clubs and 10,000 dancers. It is a hometown dance with international flair, performed by married people, single people, young and old alike. Its national conventions attract thousands from every walk of life. The atmosphere at these gatherings is best described as full of vigor and happiness. Wherever the dance is performed, it is often called, "Friendship Set to Music".

Mr. President, adoption of this resolution to make square dancing the national dance will only serve to increase our Nation's pride, as well as the pride of the people of the State of Oregon. In the House, this legislation already has strong support. I urge the Senate to unanimously adopt the joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 194

Whereas the People of the United States have acknowledged and appreciated symbols of the heritage, nature, spirit and character of America and its people by designating a national anthem, a national flag, and a national motto; and

Whereas the designation of national symbols for America is an important method of reaffirming the heritage, nature, spirit, and character of the United States and its people; and

Whereas the characteristic dress of square dancing and the pioneer origins of square dancing reflect the pioneer heritage of America and its people; and

Whereas square dancing is not only a source of pleasure for Americans past and present but also reflects the friendly nature, the free spirit, and the enthusiasm that have always been and continue to be a part of the American character; now, therefore

Be it resolved by the Congress of the United States of America:

That the square dance be and hereby is declared the national dance of the United States of America.●

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. Mathias, the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 1287

At the request of Mr. Goldwater, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older.

S. 1411

At the request of Mr. Chiles, the Senator from Michigan (Mr. Levin) and the Senator from Illinois (Mr. Percy) were added as cosponsors of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management, and for other purposes.

S. 2293

At the request of Mr. Roth, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 2293, a bill to amend the Revenue Act of 1978 to provide that the inclusion in gross income of certain amounts of unemployment compensation shall not apply to unemployment compensation which is payable by reason of a work stoppage in 1973 but was not paid until 1979.

S. 2437

At the request of Mr. Hayakawa, the Senator from North Dakota (Mr. Young) and the Senator from South Dakota (Mr. Pressler) were added as cosponsors of S. 2437, a bill to amend section 4067 of the Revised Statutes to define further the circumstances under which certain aliens within the United States may be treated as alien enemies.

S. 2718

At the request of Mr. Stevenson, the Senator from North Carolina (Mr. Helms) and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 2718, an original bill to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade services generally.

S. 2753

At the request of Mr. Bayh, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of S. 2753, a bill to prohibit the importation into the United States of motor vehicles, and of parts of motor vehicles, that are products of the Union of Soviet Socialist Republics.

S. 2773

At the request of Mr. Stevenson, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2773, a bill to establish a national export policy for the United States.

S. 2852

At the request of Mr. Morgan, the Senator from California (Mr. Cranston), the Senator from North Carolina (Mr. Helms), the Senator from New York (Mr. Moynihan), the Senator from Maryland (Mr. Sarbanes), and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 2852, a bill to provide for the establishment of the National Archives and Records Administration.

S. 2899

At the request of Mr. Cranston, the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 2899, a bill to establish the Orange Coast National Urban Park, and for other purposes.

S. 2987

At the request of Mr. Boren, the Senator from Louisiana (Mr. Johnston) and the Senator from Maryland (Mr. Mathias) were added as cosponsors of S. 2987, a bill granting the consent of Congress to the Southern States Energy Compact, and for related purposes.

SENATE JOINT RESOLUTION 148

At the request of Mr. Mathias, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of Senate Joint Resolution 148, joint resolution to authorize and request the President to proclaim March 1, 1981, through March 7, 1981, as "National Weights and Measures Week."

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. Danforth, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of Senate Concurrent Resolution 108, concurrent resolution to disapprove the determination of the President not to provide import relief for the leather wearing apparel industry.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. Glenn, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of Senate Concurrent Resolution 109, concurrent resolution disapproving the proposed export to India of low-enriched uranium for the Tarapur Atomic Power Station pursuant to export license applications XSNM-1379 and XSNM-1569.

SENATE RESOLUTION 490

At the request of Mr. Bayh, the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of Senate Resolution 490, resolution to express the disapproval of the Senate regarding the agreement between Argentina and the Union of Soviet Socialist Republics.

AMENDMENT NO. 1906

At the request of Mr. Pressler, the Senator from Rhode Island (Mr. Chafee), the Senator from Kansas (Mr. Dole), and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of amendment No. 1906 intended to be proposed to S. 1188, a bill to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

SENATE RESOLUTION 501—SUBMISSION OF A RESOLUTION COMMENDING JAMES M. ROCHE AS CHAIRMAN OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Mr. WARNER submitted the following resolution, which was referred to the Committee on Armed Services:

S. Res. 501

Whereas in a true spirit of patriotism and public responsibility, Mr. James M. Roche, at great personal sacrifice and inconvenience, voluntarily pioneered the implementation and performance of the National Committee for Employer Support of the Guard and Reserve in an operating element in the office of the Secretary of Defense which he served as Chairman from June 1972 until August 1980; and

Whereas under Mr. Roche's dynamic leadership, the committee reached hundreds of thousands of American employers urging them to support employee participation in National Guard and U.S. Reserve forces training; and

Whereas his exceptional guidance and effort has resulted in pledges of support from over 360,000 employers covering over 55 million employees, or 61 percent of all working Americans; and

Whereas through these signed Statements of Support, Mr. Roche has succeeded in ensuring that Guard and Reservist employees may participate fully in Guard and Reserve training, thus becoming an integral and essential part of this Nation's total force structure; and

Whereas through his profound dedication, unfailing judgment, and tireless effort, Mr. Roche has contributed immeasurably to this important national defense program and has admirably served the thousands of men and women in the National Guard and Reserve forces of the United States: Now, therefore, be it

Resolved, that it is the sense of the Senate that Mr. James M. Roche deserves the appreciation and congratulations of all Americans for his exemplary voluntary service to our Nation and its armed forces during his eight years as Chairman of the National Committee for Employer Support of the Guard and Reserve.

Mr. WARNER. Mr. President, I send to the desk a proposed Senate resolution and ask it be referred to the appropriate committee.

This resolution expresses the sense of the U.S. Senate that James M. Roche should be commended for his pioneering voluntary service as Chairman of the National Committee for Employer Support of the Guard and Reserve.

During my tenure as Secretary of the Navy I had the opportunity to work with Mr. Roche on many occasions, the former chairman of the Board of General Motors Corp., who voluntarily gave of his time to encourage employers throughout the United States to make available opportunities for young men and young women to continue in their employment and also serve our Nation in National Guard units.

SENATE RESOLUTION 502—ORIGINAL RESOLUTION REPORTED DIRECTING SENATE LEGAL COUNSEL TO BRING CIVIL ACTION TO ENFORCE SUBPENA OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN, from the Committee on Governmental Affairs, reported the following original resolution, which was placed on the calendar:

S. Res. 502

Whereas, the Senate Permanent Subcommittee on Investigations subpoenaed William Cammisano to testify at a Subcommittee hearing on May 1, 1980 and was immunized under court order against self-incrimination by his testimony but refused to answer the Subcommittee's questions, and

Whereas, under section 703(b) of the Ethics in Government Act of 1978, 2 U.S.C. 288b (b), the Senate Legal Counsel shall bring a civil action to enforce a subpoena of a Senate subcommittee only when directed to do so by the adoption of a resolution by the Senate, Therefore, be it

Resolved, that the Senate Legal Counsel shall bring a civil action in the name of the Senate Permanent Subcommittee on Investigations to enforce the Subcommittee's subpoena to William Cammisano, and that the Senate Legal Counsel shall conduct all appeals, contempt proceedings, and other ancillary legal proceedings, relating to testimony of William Cammisano before the Subcommittee; and be it further

Resolved, that the Senate Permanent Subcommittee on Investigations has certified a continuing interest in and need for the proposed testimony of William Cammisano concerning organized crime in Kansas City and related matters for the remainder of the 96th Congress and throughout the 97th Congress.

REFUSAL OF WILLIAM CAMMISANO TO TESTIFY

Mr. NUNN. Mr. President, I am today reporting an original resolution from the Committee on Governmental Affairs which directs the Senate Legal Counsel to bring a civil action to enforce a subpena issued by the Permanent Subcommittee on Investigations to William Cammisano.

The subcommittee's ongoing program of investigations is aimed at exposing the structure and operations of organized crime today. Earlier this year we received considerable information and testimony which indicated that Mr. Cammisano has firsthand knowledge of organized crime in Kansas City and elsewhere. Consequently, we subpenaed Mr. Cammisano to testify on May 1, 1980, at our hearings on organized crime and the use of violence.

The Committee on Governmental Affairs also voted, by a two-thirds majority, to seek immunity for Mr. Cammisano's testimony. Despite this grant of immunity, Mr. Cammisano refused to answer a series of questions put to him during his appearance before the subcommittee.

The subcommittee had two major recourses available to it in light of Mr. Cammisano's refusal to testify.

On the one hand, we could have recommended that the Senate refer the matter to the Justice Department for a criminal contempt of Congress prosecution—which is the way the subcommittee has proceeded in similar situations in the past.

On the other hand, we have the new civil proceeding which is authorized by section 705 of the Ethics in Government Act of 1978. Under this procedure, the full Committee on Governmental Affairs reports a resolution—along with an explanatory report—which directs the Senate Legal Counsel to initiate a civil action to enforce our subpena. In effect, the U.S. District Court issues an order directing Mr. Cammisano to testify. If he still refuses, the Court can hold him in contempt and order him to be incarcerated for no more than 18 months—or until he testifies, or until the subcommittee certifies that it no longer has an interest in his testimony.

Mr. Cammisano already is a Federal prisoner serving a 5-year sentence for extortion; any additional time served under the court order will not count toward completion of that original sentence.

The subcommittee chose to recommend, and the full committee has approved, the civil remedy primarily because it is designed to compel Mr. Cammisano to testify. It also gives him a chance to raise any legal objections, arguments, or appeals at each step of the judicial process—as opposed to a criminal prosecution in which he can appeal only after being convicted of contempt of Congress.

Mr. President, the subcommittee has a continuing interest in the testimony of William Cammisano and other such witnesses as we move forward with our program of investigations of organized crime. This is the first time that the new civil procedure has been used, and the Permanent Subcommittee on Investigations believes that this is a very appropriate first case.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation and Renewable Resources.

The hearing is scheduled for August 25, 1980 beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony will be received regarding S. 2807, a bill to authorize the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and H.R. 7434, a bill to provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts.

For further information regarding the hearing, you may wish to contact Deborah Merrick at 224–7150.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation and Renewable Resources, Room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, I announce for the information of Senators and the public that on August 26, the Committee on Veterans' Affairs, which I am privileged to chair, will conduct a public joint hearing with the Select Committee on Small Business, chaired by myself and my distinguished colleague from Wisconsin (Mr. NELSON). The hearing will deal with oversight of Small Business Administration programs concerning veterans. It is scheduled to begin at 10 a.m. in room 412 of the Russell Senate Office Building.

Persons interested in testifying at this oversight hearing should contact Babette Polzer, professional staff member of the Veterans' Affairs Committee, at (202) 224–9126, or Tom Cator, professional staff member of the Select Committee on Small Business, at (202) 224–5175.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing on S. 2717, to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits.

The hearing will be held on Thursday, September 4, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to Mr. George Dowd, counsel for the subcommittee staff at 224–2564.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will continue its hearing on procedural difficulties encountered by smaller business in dealing with the IRS, on August 19, 1980.

The hearing will begin at 10 a.m. in room 424 of the Russell Senate Office Building.●

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold a hearing on S. 2858, to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241).

The hearing will be held on Tuesday, September 9, at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to Mr. Thomas L. Laughlin, of the subcommittee staff, at 224–2564.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the sessions of the Senate this week.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow, August 19, to consider nominations and committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RED CHINESE INTERVENTION IN U.S. ELECTION

● Mr. GOLDWATER. Mr. President, a UPI report from Peking, dated July 16, indicates that Communist China has made an unprecedented personal attack on an American Presidential candidate.

The Chinese attack came in a lengthy public article in the People's Daily.

UPI reports that the article is full of "sly digs at both Reagan the man and his policies."

The effort of a Reagan adviser to ease concern about the candidate's policies was mockingly dismissed by the Chinese press as "letting off wind."

Mr. President, these statements are a shocking intervention by Communist China in our election process. The effort by a foreign nation to mount a personal attack in public on a U.S. Presidential candidate is highly improper. Red China should stay out of our domestic affairs.

The Red Chinese criticism of what they think Republican policies will be in Asia is itself a lot of wind. They do not mean what they say and none should be fooled by their loud talk.

No less an authority than former Secretary of State Henry Kissinger, the official who negotiated the openings to Red China, instructs us that it was the Chinese who needed us, not we who needed to crawl before them.

In his recently published memoirs, "White House Years," Dr. Kissinger writes:

> China was not important to us because it was physically powerful . . . Peking needed us to help break out of its isolation and as a counterweight to the potentially mortal threat along its northern border.

In 1968 the Soviet Union had invaded Czechoslovakia. Dr. Kissinger reminds us that the Brezhnev Doctrine, claiming the right of intervention in socialist countries for Russia, clearly applied as much to Red China as to any Eastern European country.

The Chinese knew full well that the Soviets had begun a large scale military buildup along the Chinese border. In 1966 the Soviets began transferring highly trained and well equipped combat units from Eastern Europe to the Far East.

In January 1966 the Soviet Union signed a 20-year Treaty of Mutual Aid with Mongolia that allowed it to station troops and maintain bases there. The number of Soviet divisions along the

Chinese border increased from 12 understrength divisions to over 40 modernized divisions by 1970. The Russians even began installing nuclear-tipped surface to surface rockets at the border.

There had been numerous Soviet intrusions and clashes between Chinese and Russian units in 1969. The Soviet Union was clearly the aggressor in these conflicts.

On August 18, 1969, a Soviet Embassy official asked a State Department specialist in Soviet affairs what the U.S. reaction would be to a Russian attack on Chinese nuclear facilities. The possibility of open war between China and the Soviet Union was obvious.

In 1970, the Soviets actually tried to draw the United States into a formal political alliance against China. Under the guise of an agreement protecting against "accidental war," the Soviets proposed that we jointly take a stand to prevent the outbreak of war by accidental or provocative action from any quarter. The Soviet negotiator wanted the United States to let other countries know that we would act together with the Russians to deal with any attempted provocations. The proposal was a blatant effort at an anti-China pact.

In the face of these diplomatic maneuverings and confronted by the Soviet buildup on the 4,000 mile common border, Communist China clearly needed to reduce the number of its foes and to obtain a counterweight to Russia. They wanted strategic reassurance against hostile encirclement.

In a private memo to President Nixon after his first visit to Communist China in 1971, Dr. Kissinger wrote:

> The Chinese want to relieve themselves of the threat of a two front war, introduce new calculations in Moscow about attacking or leaning on the PRC, and perhaps make the U.S.S.R. more pliable in its dealings with Peking.

In his memoirs, Dr. Kissinger reveals that the Chinese never emphasized abandoning our relationship with Taiwan. They were interested in an America that was strong enough in Asia and elsewhere to be a serious force in maintaining the global balance of power.

Dr. Kissinger states that during his second visit to Peking, he reached nearly complete agreement on the draft of what came to be known as the Shanghai Communique. He records that the Chinese understood we would not renounce our Taiwan ties. It was a unique statement of differences, as well as common positions, to reassure allies and friends that their interests had been defended.

Throughout his revelations of secret negotiations and dealings with Chinese Communist officials, Dr. Kissinger mentions that the issue of Taiwan was placed on a subsidiary level. In discussing President Nixon's first meeting in 1972 with Chairman Mao, Dr. Kissinger writes:

> Neither then, nor in any subsequent meeting, did Mao indicate any impatience over Taiwan, set any time limits, make any threats, or treat it as the touchstone of our relationship.

As stated by Mao:

> This issue (Taiwan) is not an important one. The small issue is Taiwan, the big issue is the world.

According to Dr. Kissinger the views of Mao, Chou En-lai and Teng Hsiao-'ping were identical.

Elsewhere in his monumental work, Dr. Kissinger writes:

> The overwhelming impression left by Chou, as by Mao, was that continuing differences over Taiwan were secondary to our primary mutual concern over the international equilibrium. The divergence of views on Taiwan would not be allowed to disturb the new relationship that evolved so dramatically and that was grounded in geo-political interests.

In discussing the Shanghai Communique Dr. Kissinger discloses that Peking "had agreed not to attack—or even to mention—our defense treaty with Taiwan."

He adds:

> Both sides understood that the American role in the defense of Taiwan did not depend on the few forces on Taiwan. The real American security role on Taiwan was defined by the 1955 mutual defense treaty.

Dr. Kissinger writes that this treaty's "continued validity had been reaffirmed in the President's Foreign Policy Report published a week before his departure for Peking."

Strikingly, Dr. Kissinger discloses that "our defense commitment to Taiwan was reaffirmed again, that time on Chinese soil," when he briefed the press in Shanghai on February 27, 1972.

In describing the briefing he gave to the press on the communique that afternoon, Dr. Kissinger states that he had specifically discussed his purpose of reiterating the defense commitment to Taiwan with the Chinese prior to the briefing. He records:

> I reiterated the continuing validity of the defense treaty by reaffirming the appropriate sections in the President's Foreign Policy Report published just three weeks previously. There was no Chinese reaction.

Not only did Dr. Kissinger reiterate our defense commitment with Taiwan on Chinese Communist soil, but he reminds us that at the moment of his welcome home at Andrews Air Force Base, President Nixon referred to the treaty by making clear that we had not given up "any U.S. commitment to any other country."

Moreover, Dr. Kissinger writes:

> Again and again in the years following the Nixon visit the Chinese leaders stressed Mao's precept that Taiwan was a subordinate problem.

Mr. President, I can personally affirm that everything published in Dr. Kissinger's book conforms to what he, President Nixon, and President Ford told me in confidence at the time these negotiations and events were occurring.

I was personally assured, on repeated occasions in personal meetings by President Nixon, President Ford, and Dr. Kissinger, that the United States would never agree to terminate our mutual defense treaty with Taiwan and that Red China did not insist upon it.

Dr. Kissinger's assurances regarding the lack of priority accorded to the Taiwan Defense Treaty by the Chinese Communists are also confirmed in the report by former Under Secretary of State Eugene Rostow of his visit in Peking with Vice Premier Teng on June 22, 1978. Under Secretary Rostow has stated that the Vice Premier specifically declared that:

> The organization of strategic and economic cooperation between our two countries did not have to wait on the final resolution of the Taiwan question.

What we have here, Mr. President, is a consistent, documented historical record that proves beyond any question the Carter administration could have instituted relations with Communist China without abrogating the defense treaty and without serving all Government-to-Government dealings between the United States and Taiwan.

For reasons known only to himself and his advisers, President Carter was more Chinese than the Chinese. The policies he adopted were not insisted upon by Communist China officials. Instead they are the policies of American amateurs who are preoccupied with what seems fashionable at the moment, rather than what is sound or necessary over the long run.

It is no secret that the Soviets have not altered their threatening posture toward the Chinese. The Soviets have increased their military units facing Red China in Outer Mongolia and have more than 70 combat ships operating out of bases on the Siberian coast.

In these circumstances, the new administration, elected in November, need have no real concern that Communist China will toss aside its entire working relationship wtih the United States if our Government decides to improve relations with the authorities on Taiwan.

There are many steps that can be taken under existing law to strengthen friendship with Taiwan short of restoring full diplomatic relations. The next administration must explore these opportunities and not be bullied into weak policies by the faked blustering of Red China and her American sympathizers.●

THE CONTINUING PRAGUE WINTER

● Mr. GLENN. Mr. President, August 21 marks the 12th anniversary of the "Day of Shame" in Czechoslovakia. On that fateful summer day in 1968, the fragile bud of liberalization that had begun to flower during Alexander Dubcek's "Prague Spring" was brutally crushed by the Soviet Union. Lest we be tempted to conclude that the recent Soviet invasion of Afghanistan was an isolated or aberrant event, let us briefly recall the events of a dozen years ago in Czechoslovakia.

In February of that year, Alexander Dubcek became General Secretary of the Czechoslovakian Communist Party. Though a loyal Marxist, Mr. Dubcek recognized that in order to enjoy popular support, a government must respect the traditions of its people. For Czechs and Slovaks, the proud traditions of nationalism and self-determination date back to the 9th century when the princedom of Great Moravia was the strongest and most highly developed state in all of central Europe. Immediately after assuming office, Mr. Dubcek began instituting a series of reforms designed to restore a measure of self-government to his people. By late spring, victims of the

Stalinist purge trials had been released from prison, restrictions were lifted on travel to and trade with the West, religious restraints had been eased and press censorship was all but abolished.

These fledgling attempts to achieve "marxism with a human face" were welcomed enthusiastically by the people of Czechoslovakia. But the noble experiment was destined for an early demise. After only 7½ months in power, the Dubcek government awakened on August 21 to find 650,000 Russian, Bulgarian, East German, Hungarian and Polish troops—backed by tanks and machine guns—occupying the streets of Prague. For the Soviets, the Dubcek reforms posed a threat of monumental proportions. The passion for liberty, if indulged in Czechoslovakia, could easily infect the rest of Eastern Europe—and perhaps spread even to the Soviet Union itself.

Because the invasion was a clear violation of both international law and the United Nations Charter, international condemnation was quick and vociferous. In response, the Soviets concocted a cynical justification for their aggression: the "Brezhnev Doctrine." The doctrine asserts a Soviet right of military intervention any time a "fraternal" Communist government conducts its country's affairs in a manner which displeases the U.S.S.R.

Mr. President, the rape of Czechoslovakia is of far more than passing historical interest. Under the iron fist of the puppet regime that continues to rule in that country, the denial of human rights and basic freedoms persists unabated. Despite signing the 1975 Helsinki accords, the Soviet Union and her satellites have increased their gruesome repressions.

In a Prague show trial conducted only 10 months ago, six prominent members of the Charter 77 group were convicted of "subversion against the Czechoslovak Republic" and sentenced to as much as 5 years in prison. Among them was Calav Havel, the award-winning playwright whose drama "The Memorandum" was produced in New York and acclaimed the best foreign play of 1968. Last October 28, Amnesty International proclaimed that the Prague six were "prisoners of conscience" and vowed to work for their unconditioned release. Predictably, Amnesty International was promptly denounced by the Czech Government as being implicated in "the system of anti-Communist, subversive activity."

And the list of persecutions grows longer with each passing month. In May 1980, Dr. Julius Tomin, a philosopher and one of Charter 77's leading spokesmen, was arrested—along with 11 of his students—while conducting a college seminar in his home. In June, another Charter spokesman, Rudolf Battek, was arrested on the trumped-up charge of "hooliganism." Actions like these, with their international ramifications, could not take place without the direct approval—if not outright participation—of the Soviets themselves. Clearly, Moscow intends for these trials and arrests to serve as a warning to dissidents throughout Eastern Europe that the human rights guarantees of the Helsinki Final Act are not to be taken seriously.

Later this week, Mr. President, Czechoslovakia's "Day of Shame" will have become "Twelve Long Years of Shame." And there is no end in sight. What are we to do about it? Realistically, the United States cannot compel an end to the occupation of Czechoslovakia, nor can we force a cessation of internal repression in that nation. But surely conscience demands that we proclaim our outrage and demonstrate our disapproval at every opportunity. We must let the Czech and Soviet Governments know that there is one thing of which they may be absolutely certain. So long as Russian troops remain on Czechoslovakian soil, and so long as there is persecution of dissidents whose only "crime" is a belief that human rights and international agreements ought to be respected, it is not the defendants who are indicted in the eyes of the world, but the Communist system itself.●

SENATOR BENTSEN WORKS EFFECTIVELY TO STRENGTHEN AMERICAN ECONOMY

● Mr. RIBICOFF. Mr. President, since coming to the Senate in 1971, Senator Bentsen has worked effectively to strengthen the U.S. economy.

He is known for being a dedicated, resourceful expert on the economy, a man of vision who anticipates future problems and has the ability to fashion policies to meet those problems.

Senator Bentsen exercises strong and constructive leadership as chairman of the Joint Economic Committee and the Finance Committee's Subcommittee on Capital Markets.

In the 1970's, Senator Bentsen was one of the first public figures to point out the need for increased incentives to invest and save. Similarly, he brought to public attention the significance of the Nation's lagging industrial and manufacturing productivity.

Productivity levels would have to rise or the Nation would not keep pace with foreign competition, Senator Bentsen warned. He was right.

In April, the Finance Committee's Subcommittee on Trade joined with the New York Stock Exchange to sponsor a conference at Harvard on the need to improve America's ability to compete in world markets. As chairman of the Trade Subcommittee, I asked Senator Bentsen to take part in the conference. He agreed and made a great speech and a major contribution to the success of the conference.

I am proud to serve on the Finance and Joint Economic Committees and in the Senate with Lloyd Bentsen. The Congress and the Nation are fortunate to have a man of his intelligence and strength of character in the Senate.

In the New York Times of August 17, 1980, Judith Miller wrote an article about Senator Bentsen's increasing role in shaping the Nation's economic policies. Mr. President, I ask that the article be printed in the Record.

The article follows:

Economics Bentsen Style

(By Judith Miller)

The average American family, after paying "inflation-swollen prices" for the necessities of life, has nothing left to save, Senator Lloyd M. Bentsen, Democrat of Texas, once argued.

Inflation had to be brought under control, he said, so that business and individuals could begin to channel money into the most productive investments. Federal spending had to be reduced, so that the tax system could be reformed. More permanent policies that emphasized increased productivity had to be adopted. Unless coherent economic policies were put in place, he maintained, the nation's industrial base would be eroded and permanently weakened.

That was Senator Bentsen on July 31, 1974, as he lambasted President Richard Nixon's economic stewardship in a nationwide television address on behalf of the Democratic Party.

Today, Senator Bentsen is saying much the same things. Only now, the mainstream of economic thinking has caught up with him—and he's consolidated his power, having forged broad support on the Joint Economic Committee he chairs for the policies he has pushed for so long. It wasn't always so.

"Back in 1973, I formed a subcommittee on capital formation," the Senator mused recently, gingerly munching on a lettuce leaf at a quiet lunch in the Capitol. "Even some business groups used to ask me if the subcommittee had something to do wtih architecture in Washington."

Capital formation, of course, is now part of the economic jargon that has become the rhetorical rage on Capitol Hill. And Senator Bentsen is clearly gratified by Congress's new enthusiasm for the concepts he has promoted for years. "It's just common economic sense," he said in his quiet determined manner.

His positions, he said, are derived from his own successful business career. In 1948, at the age of 27, he won a special election and became the then-youngest member of the House of Representatives. But after three terms, he gave up his $12,500-a-year salary to return to Texas and the private sector. For the next 16 years, he parlayed his considerable family wealth into a vast fortune based on insurance operations.

In 1970, he was elected to the Senate after a fierce battle in which he toppled incumbent Ralph Yarborough, the hero of Texas liberals. Since then, he has crafted a middle-of-the-road position, at times surprising both conservatives and liberals by his unpredictable votes.

In 1976, he made an unsuccessful bid for the Democratic Presidential nomination. But he says he no longer seeks that job. Instead, he has settled into serious contemplation of policy and a campaign to receive the sagging American economy. His low-key, but intense style has won the respect of many colleagues, though few describe him as a friend.

"He has his own agenda, and remains friendly, but very aloof," said one Senate colleague. His staff aides offer a similar description: very professional, demanding, and distinct.

Under Senator Bentsen's leadership, the Joint Economic Committee has enjoyed a powerful resurgence. It has been at the cutting edge of the movement to restructure Federal economic policies in favor of investment and production, known as "supply-side economics," thanks to the remarkable consensus that Senator Bentsen has forged among the panel's Democratic and Republican members. He has helped move the committee toward more conservative policies that reflect the shift that has occurred throughout the economic community.

"Lloyd Bentsen is a businessman. He has a businessman's mind," said Senator Jacob K. Javits, Republican of New York. "And the things that attract him are business problems."

Perhaps the most significant example of the committee's new unity occurred in March 1979, when it issued an annual report that said declining productivity was among the nation's most pressing economic problems. For the first time, the report was endorsed by all 20 members. And last February, they issued a unanimous endorsement of the "economics of hope," better known as supply-side economics.

In the second report, the committee argued that "modest supply-side tax cuts" could by 1990 reduce prices by 4 percent, increase productivity by more than 3 percent and increase business fixed investment by 15.6 percent.

The committee had quite a way to go before gaining its current prestigious role. Originally established as the Congressional counterpart to the President's Council of Economic Advisers, the committee has traditionally been marked by substantial partisanship.

Moreover, it was most often seen as a repository of traditional liberal economic thought, dominated by such chairmen as the late Senator Hubert H. Humphrey. During the Eisenhower Administration, it functioned as an intellectual counter to Republican policies.

The committee's newfound bipartisan agreement on fundamental economic policy is even more impressive, given Senator Bentsen's increasingly visible role as the unofficial chief economic spokesman for Congressional Democrats. When NBC was scouting for a Democrat who would critique the Republican Party's economic plank at last month's convention in Detroit, for example, Lloyd Bentsen led the attack. In September, he is scheduled to unveil recommendations of the Senate Democratic task force that is working on a comprehensive program to shore up the nation's ailing economy.

With the Senator acting as the Democrats' economic pointman, some analysts have begun to wonder if the joint committee can maintain its bipartisan spirit and economic consensus during what may be a spirited and bitter Presidential campaign.

"I believe so," Senator Bentsen said, "I think all of us have come to understand that this nation desperately needs economic policies that encourage savings, investment, and increased productivity. I don't see any of us retreating from those goals now."

The next few weeks will test that view. When Congress returns this week, Senator Bentsen intends to offer his own tax-cut proposal. Predictably, it will be geared toward enhancing investment and production. The Bentsen plan will contain a variation of the highly popular call for accelerated depreciation rates, and will provide a 25 percent investment tax credit for refurbishing old buildings and factories.

The Democratic task force on the economy that he chairs has already approved four subcommittee reports on monetary policy, trade, housing, and employment. The tax subcommittee, he hopes, will eventually adopt a version of his own tax-slashing plan.

Finally, the Joint Economic Committee is struggling with its midyear economic review, a document that Mr. Bentsen hopes will once again be unanimously approved by the panel.

"If Senator Bentsen can achieve that goal in the midst of a political campaign," said one staff assistant, "it will be a great accomplishment, and it will be an indication that the consensus he has helped mold has become the equivalent of economic gosepl."●

GOVERNOR REAGAN'S AFFINITY FOR PERCEPTIONS OF AMERICANS

● Mr. HATFIELD. Mr. President, Gov. Ronald Reagan, the Republican Presidential nominee, has long had a unique capacity to understand the problems of the ordinary citizen. He proved this point once again in his compelling speech before the National Urban League Convention recently in New York and his visit to the Charlotte Street neighborhood in the south Bronx. He knows that for most Americans life is not acted out on center stage in the glare of floodlights, but in the homes, workplaces, and neighborhoods of our land.

Mr. John McClaughry recently authored an article on Governor Reagan's grassroots, human-scale perceptions of Americans and their lives, which many will find of considerable interest. Since writing the article, Mr. McClaughry, a one-time staff member of mine, has been named senior policy adviser to Governor Reagan, and will be involved in a number of issues such as neighborhood revitalization, urban policy, and small business concerns. His focus will be the constant reemphasis of Ronald Reagan's commitment to restoring the vitality of this country from the grassroots.

Mr. President, I ask that the article, "President Reagan Would Restore a Sense of Community," from the July 19, 1980, issue of Human Events, be printed in the RECORD.

The article follows:

PRESIDENT REAGAN WOULD RESTORE A SENSE OF COMMUNITY

(By John McClaughry)

The common people of America suffer from a number of afflictions. They are overtaxed, overregulated and over-governed. Their savings have disappeared as their government has methodically destroyed the value of the dollar. Their security against foreign enemies is a matter of considerable controversy. They face the continual prospect of shivering in the dark, thanks to foolish energy policies concocted by a Congress and President seemingly determined to make us ever more dependent on OPEC.

All these problems are regularly recounted in the mass media, as if anyone needed to be reminded. But there is another affliction, a slow, creeping malady, that over the past half-century has created an ever-rising barrier to the application of the creative energies of free people. The affliction is the growth of giantism in American life .

It is the giantism of remote, impersonal, bureaucratic government that at best treats the individuals as nothing but a statistic, and, more commonly, as an insect.

It is the large absentee-owned corporation which makes decisions vital to a local community from a distant corporate headquarters.

It is the international labor union which enforces its policies on the dissenting members of a local.

It is the international bank which collects billions in deposits to lend to Socialist and Communist governments hostile to the United States and to the freedom of their own people.

It is the giantism of large social institutions like the national media and the mega-university.

This dominance of giantism in our political, economic and social institutions is becoming an increasing burden to the common people of this country, who are pushed hither and yon by forces they do not fully understand and over which they have little or no control—and who are periodically requested, one way or another, to foot the bill for it.

Those who share the increasing repugnance to this giantism in American life are looking for a leader who feels that same repugnance and who will, as President work to shape national policy to encourage rather than extinguish, the human scale institutions of this nation.

They want a leader who can look at America not only from the pinnacle of the presidency, but also through their own eyes—who can understand and share their hopes and fears, their dreams and despairs. In Ronald Reagan they have at last found their man.

For despite a lifetime of extraordinary accomplishment in both private and public life, Ronald Reagan has never lost that vital capacity to look at the world through the eyes of the common man and woman. He was not born into an upper-income family, where the nice things of life came easily and others did the hard work. He still remembers, one Christmas Eve in the depths of the Depression, his father opening a letter from his boss. Instead of a Christmas greeting, it was a blue slip telling him that he no longer had a job. "The memory of him sitting there holding that slip of paper and then saying in a half-whisper, 'That's quite a Christmas present'—it will stay with me as long as I live," Reagan was to say years later.

Ronald Reagan worked his way through a Christian college with less than a thousand students. He landed a job as small-time radio announcer, broadcasting high school sports to hometown fans in Illinois and Iowa. Then came the screen test and the beginning of a career that led him to the governor's office in Sacramento. But although he was called upon in public life to take a broad view of the problems of the nation's largest state, his natural instinct was to go behind the computer printouts and expert advice to try to see public problems through the eyes of the little guy who bore the burden and paid the bills.

Ronald Reagan's response to the urban rioting of 1968 was characteristic. Quietly, without fanfare, the governor of California set out to meet with leaders of minority groups in communities throughout California. He made it a point to seek out the real grass-roots leadership, the people who had influence in their community or neighborhood, but who lacked the press agents of the leaders featured in the news media. In his own words, "I listened to their grievances, their suggestions, their hopes and their hopelessness." He met with bitterness and sorrow—but from it he learned how poor black and Hispanic citizens viewed the world. He learned how the schools had failed them, how the economic system had too often denied them a chance to become owners and producers, how government programs had raised hopes they could not possibly fulfill.

"In these meetings," Reagan recounted later, "I found responsible, fine men and women of our minority communities, following disappointment after disappointment with a patience that is hard for us to comprehend, scrounging for contributions, trying to keep some of the more effective programs going, after some whim on the part of the government planners had canceled or reduced them." From this kind of first-hand experience, the son of an Irish shoe salesman gained a new understanding. And the experience affirmed once again his belief in the creative potential of the American people, working in their neighborhoods, villages and communities to improve the circumstances of their lives.

In the fall of 1975, preparing for his first serious quest for the presidency, Ronald Reagan gave a major address in Chicago setting out the themes of his coming campaign. Quoting one-time Kennedy adviser Richard Goodwin, Reagan put his finger squarely on this issue: "The most troubling political fact of our age is that the growth in central power has been accompanied by a swift and continual diminution in the significance of the individual citizen, transforming him from a wielder into an object of authority."

eRagan went on to point out how bureaucrats and social planners had attempted to force their programs down the throats of people in towns and neighborhoods throughout the land, while ignoring one important truth. "The truth is," Reagan said, "that people all over America have been thinking about all of these problems for years. This country is bursting with ideas and creativity, but a government run by bureaucrats in Washington has no way to respond. . . . The more we let the people decide, the more we'll find out what policies work and what policies don't work."

"I am calling also for an end to giantism," said Reagan, "for a return to human scale, that human beings can understand and copy with; the scale of the local fraternal lodge, the church congregation, the block club, the farm bureau. It is the locally owned factory, the small businessman who personally deals with his customers and stands behind his product, the farm and consumer cooperative, the town or neighborhood bank that invests in the community, the union local.

"In government, the human scale is the town council, the board of selectmen and the precinct captain. It is this activity on a small, human scale that creates the fabric of community, a framework for the creation of abundance and liberty."

Unfortunately, Reagan was unable to wrest the Republican nomination from Gerald Ford, and in due course the presidency passed to Jimmy Carter. But Ronald Reagan did not retire to his beloved ranch. He launched a series of radio commentaries and newspaper columns to focus public attention on the key issues of the day. The majority of those commentaries dealt with major national issues like foreign affairs, inflation, unemployment, and government interference into the lives of its citizens. But a review of the hundreds of Reagan scripts reveals a continual return to the themes of the individual citizen and the human scale.

One early radio script was a review of Morgan Doughton's book People Power, published in 1976. Reagan told how the book described a number of small-scale, self-help projects in Detroit, Houston, Indianapolis and elsewhere. And he offered a ranging endorsement of the book's thesis: that "if the dead hand of government can be lifted—or ignored—groups of citizens can and will come together to deal effectively with the problems facing them. The key is devising a system in which power and responsibility are dispersed at the grass roots, instead of being concentrated in a hierarchy of bureaucrats and institutions.

Another script took the side of a raggedy bunch of dropouts from urban life who had migrated to northern California. All they asked was to live peacefully in backwoods homesteads, but the county authorities tried to drive them off by the enforcement of ridiculous building codes. He took the side of a group of young Puerto Ricans in New York, whose efforts to rehabilitate an abandoned tenement building had been thwarted by a government-enforced requirement that they hire 12 licensed plumbers for each young man contributing his own labor to earn an equity in his own apartment.

Reagan told the story of Nguyen Huy Han, a hard-working refugee from Vietnamese communism, who did so well in the restaurant business in Pontiac, Mich., that he gave $10,000 in rebates to the faithful customers who had made it possible for him to succeed in a land of freedom. He talked about a professor's battle against one government agency after another to preserve the life of a small rural community in Michigan's wild upper peninsula. "The real issue," Reagan said, "can no longer be discussed in terms of Left and Right. The real issue is how to reverse the flow of power and control to ever more remote institutions, and to restore that power to the individual, the family, and the local community."

Several of Reagan's commentaries dealt with the potential for energy self-help at the community level. He devoted one broadcast to the remarkable wind generator built by the students and faculty of a small Danish college, using second-hand materials scrounged from all over northern Europe.

He quoted solar energy pioneers Steve Baer and Tom Bender, who made the point that the solar age will come only through local responsibility and action, not through grants from government bureaucracies. "Leave people alone with enough wealth after they pay their taxes," Reagan approvingly quoted Baer as saying, "and they will invent, develop, trade with each other and do a good job of solving their own problems. Foolish people will waste their money on inefficient cars and badly built houses; isn't that their business?"

Another commentary lauded the pathbreaking Franklin County, Massachusetts, energy project, where a local energy task force discovered that some 40 per cent of the county's payroll was being exported to pay for energy, a revelation which launched a grass-roots, county-wide program of conservation and local energy production.

Reagan devoted another script to the Frank Graham Center in North Carolina, an on-the-farm school dedicated to equipping young men and women—many of them poor black sharecroppers—to become productive, independent owners of their own farms and homesteads. In another he paid tribute to the late Ed Wimmer, whose life was devoted to the cause of the small, independent businessman battling against predatory practices of giant corporations.

When a Californian named Jose Salcedo was killed in an accident, leaving behind a wife and 13 children, Reagan was quickly on the air nationwide with an appeal for help. And when the leading spokesman for self-reliance and decentralism in India, Jaya Prakash Narayan, passed away late in 1979, Reagan was one of the few Americans in public life (along with former Ambassador to India Daniel Patrick Moynihan) to pay tribute to his life and works.

In all these instances and more, Ronald Reagan revealed his deep and abiding faith in the common man and woman. Time and time again he argued for a restoration of the human scale in American life, a devolution of political, economic and social power to the level where ordinary people can once again come to understand and deal with it.

Reagan has seen America and the world not only from the seat of power, but from the perspective of the citizen. He has urged his party to be "the party of main street, the small town, the farmer, the city neighborhood where working people live. Our strength," he declares, "comes from the shopkeeper, the craftsman, the cop on the beat, the fireman, the blue-collar and the white-collar worker." And those are precisely the people who, when November's great referendum on continued giantism versus human scale takes place, will put Ronald Reagan into the White House.●

DON'T DROP THE TORCH, AMERICA

● Mr. GOLDWATER. Mr. President, sometimes wisdom and experience speaks to us from the opinion pages of our daily newspaper. An example of what I am talking about appeared in the July 8 issue of the Sentinel Star in Orlando, Fla. It was a message from an American who had lived and worked in more than 12 of our continental States during a long and productive lifetime. He urges our citizens to complain and bellyache all they want to, but to never "drop the torch." Mr. President, I submit this message to America written by Mr. Dolph "Red" Leffler for the Record.

The material follows:

Message to America: Don't Drop the Torch

(By Red Leffler)

Editor: As an elderly citizen and a proud American who has lived in more than a dozen of our continental states and worked in all of them, I wish you would pass the following simple message to your readers: "Don't drop the torch, America."

Complain, bellyache, cuss and belittle your leaders all you wish. That is your privilege and may it ever be so. But don't drop the torch, America.

Our pilgrim forefathers had problems of the greatest magnitude yet they established the basis for the greatest nation the world has ever known.

Our hardy pioneers moved westward through difficulties unheard of. They never looked back, and as a result our borders expanded from the Atlantic to the Pacific.

Through the Revolutionary War, the Mexican War, the Civil War, the two great world wars, the Korean War and even Vietnam, our armed forces saw us through—human lives given for a cause.

In little more than 200 years we have had many ups and some truly low downs. If we think inflation today is bad, and it surely is, that of the early '20s would make this seem insignificant. And if we think our unemployment figure of 7½ percent is bad, we had that many people selling apples on the streets of our great cities in the early '30s. So, don't drop the torch, America.

We have had many great leaders, some mediocre leaders and some just plain poor leaders. We have had honest politicians and dishonest politicians. We have had increasing crime, a bad dope problem and racial problems and Lord knows what else; but we have never gone backward for any extended period. We have learned from our errors and with determination, a high level of patriotism and, of course, hard work we have forged ahead. Don't drop the torch, America.

Today we stand as the last bastion of free people everywhere. If we falter and fall by the wayside—forget it—for that will be all she wrote. In less than 10 years the entire world could be dominated by you-know-who. Freedom and individual rights will go down the drain and we better believe it. Don't drop the torch, America.

The media seem to thrive on all things bad. If our papers and television and radio stations would spend more time extolling the wonders of this fantastic country and all the good it stands for, we may begin to feel better. And if we feel better about this land of ours, we will see it shift into high gear and move forward and upward as never before. And it doesn't matter who our leaders are. We the people will make it so.

And so, my fellow Americans, when you lay your head on your pillow tonight and just before you fall alseep take a moment or two to thank the good Lord above for all our blessings. Thank him for this glorious land we call America. And especially thank him for never allowing us "to drop the torch."

On the eve of my 72nd birthday, I just thought I would get the above thoughts off my mind. I believe in this great land and I think 99 percent of my fellow citizens feel the same way.●

FOREIGN RELATIONS

● Mr. HAYAKAWA. Mr. President, I am increasingly concerned with the direction our foreign policy is taking. The events of the past year in Cuba, Cambodia, and Thailand, Iran, and Afghanistan demonstrate the inadequacy of the Carter administration's approach to foreign relations. One of the major causes of our current problems has been the President's failure to meet the challenge posed by the Soviet Union.

The following editorial by Roscoe Drummond, which appeared on August 8, 1980, in the Christian Science Monitor, warns that "it is well to pay close attention to what the Soviets say to their allies and to be wary of what they say to their adversaries." I believe that this is extremely good advice for the current administration. I hope they heed it.

I ask that this editorial be printed in the Record.

The editorial follows:

Moscow Settles Down for a Long Stay

Washington.—There is no evidence that the Russians will be pushed out of Afghanistan or negotiated out of Afghanistan as far as one can see ahead.

It is well to pay close attention to what the Soviets say to their allies and to be wary of what they say to their adversaries.

You can take it for granted that, when Moscow reassures the East Europeans that it has no intention whatsoever of abandoning Afghanistan, it means exactly what it says.

But it is also well to realize that when Moscow lets the United States and its European allies think or hope or guess that there might be some give if we would turn our attention to détente, the diplomatic road may contain pitfalls.

When Mr. Brezhnev talked with Helmut Schmidt recently he told the German chancellor that a political solution might be possible, but he had already informed his allies in Eastern Europe that there would be no abandoning of Afghanistan.

Chancellor Schmidt was representing the views of the West when he made the plea to the Soviet president that he "could contribute significantly to reducing the dangerous crisis if you could state that the announced withdrawal of some Soviet troops from Afghanistan is the beginning of a continuous process which will go on to complete withdrawal."

It is at this point that Mr. Brezhnev said yes in words but not in substance. He did this by asserting that any settlement which would permit Soviet withdrawal would have to be "based on the proposals of the present Afghanistan government."

Here is the catch. Compare the two positions:

What the allies—at President Carter's initiative and at Chancellor Schmidt's initiative in his talks in Moscow—are proposing is that they would guarantee the neutrality of Afghanistan and help establish a transition arrangement during the process of staged withdrawal.

What Mr. Brezhnev in his reply to Mr. Schmidt is proposing is that the West play a part in guaranteeing the continued existence of the pro-Soviet regime in Kabul which Moscow has installed by force of arms, and that we help to conquer Afghanistan by preventing the rebels from obtaining weapons with which to carry on their resistance to the presence of the Russian troops.

Can it mean other than that the West would be keeping in power in Kabul a regime taking orders from Moscow and, in effect, doing Moscow's work by demobilizing the Afghan freedom fighters?

This is why it is wise to believe that the Soviets are telling the truth when they inform their East European satellites that they are not abandoning Afghanistan.

This is why it is wise to be wary when Mr. Brezhnev wants us to believe that the prospect of a negotiated withdrawal could be just around the corner.

It isn't. The evidence is that the Soviets want to resurrect détente and eat Afghanistan too.

Because the Russians avow they will not "abandon Afghanistan" and are prepared to negotiate "withdrawal" only under terms which would leave them there in control—this does not mean that the time will never come when they may decide that the price of occupying their Afghan neighbor is too high.

Politically, diplomatically, and militarily, the attempted conquest is costing the Soviets dearly. The Afghan freedom fighters, poorly organized and poorly equipped, are bravely forcing the Soviets Union to pay a very high price for trying to bring this fiercely independent people to heel. To date they are not succeeding. The cost in casualties is considerable and the price in enmity throughout the Islamic world is high.

The Russians are uncomfortably aware that some of the East European communist government leaders have been criticizing the Afghan invasion. The Soviets know that during the recent Vienna meeting of Secretary of State Muskie and Foreign Secretary Gromyko, one East-bloc official remarked not sotto voce: "Call it what you like, when you put troops across someone else's frontier, it is invasion, whether it is Russia in Czechoslovakia or Afghanistan, the Chinese in Vietnam, or the Vietnamese in Cambodia."

The end of the tunnel in Afghanistan is not yet visible.●

DEATH OF DEAN DONALD G. HERZBERG

● Mr. CHILES. Mr. President, last week marked a very sad occasion for myself and many Members of this body, the untimely death of Dean Donald G. Herzberg of Georgetown University. I first became acquainted with Don Herzberg through the Eagleton Institute of Politics when I was a State legislator and over the years I have valued his friendship and counsel. I have met few men who understood our governmental process, its potential and problems, as well as Don. His contributions as teacher, political analyst, and catalyst for new ideas will be sorely missed.

Timothy S. Healy, S.J., President of Georgetown University, delivered the eulogy for Professor Herzberg and captured much of the essence of the man. I want to share his remarks with my colleagues and ask that the eulogy be printed in the Record.

The eulogy follows:

Donald G. Herzberg

Speaking a eulogy for a friend like Don is difficult. Not for the choke of emotion, or injurious time that crams our rich knowledge into the rude brevity of leave taking. Incompleteness is worse, not getting it whole or right. All I can say will fall far short of Don's warm ironic being. My one consolation is to imagine how he would have mocked the effort.

So what I say is meant to stir and start. You who knew Don at Syracuse, at Wesleyan or Chatham, through the long years at Eagleton, all of you must fill out what I can but fumble at. I knew him four good years, at the height of his powers, as a friend, as a counselor and as a strong support. Right up to last Sunday, and a late phone call about Cambodia, immigration, the convention and Lord knows what else, I heard him, for all the coming dark, still busy with the bright things of day.

I would like to speak of two Dons. The scholar, teacher and workman in the politics of a free society. Second, the member and officer of a university, who threaded its ways, and read its soul.

A great gift of Don to his friends was his unbeatable, unshakeable trust in Democracy as a rational activity. Of course he remembered failure and incompleteness; he knew how far government fell below men's dreams. But he also pulsed to that dream, and the power and beauty it had created. He could even spot in politics touches of generosity, compassion and of understanding. His scholar's sense that one could read elections like a textbook, also taught him that the probing, thrusting mind was man's best defense of freedom.

He took pride in his own skill as analyst and interpreter. He looked forward to his election nights in the back room at ABC, delighted in identifying precincts with a prophetic value and reveled in an early correct call. There was glee, and humor, and high pride as he said, "We beat CBS by 45 minutes."

It was his capacity for analysis that made him scornful of unreal reform of parties and tampering with process. He had the practitioner's disdain for those whose vision was theoretical, and the workman's contempt for high blown scholasticism which trapped the well intentioned. Cloud nine was fine for academicians, esthetes and school boys. Don recognized how very shaky a place it was to build a government.

No mind as balanced as his could approach politics except with deep humility. He had the ironic Roman sense of limit which let him see how the best works of men fall short of the least works of God. I once accused him of having all the instincts of a Renaissance Cardinal, preferably a Medici, and the intricate insult pleasured him no end. He understood the pride of Virgil's vision; "to govern men, to school peace to continuity, to remember the hurt and disdain the proud." But he brought to it a tactile American sense of the limit of the good that men can work.

He would also bring to it something quite un-Roman, a bubbling, catching humor. There was no end to his political stories, each funnier than the one that went before. Each also captured Don's essential compassion, and the Petronian ironies of an elegant mind. He told of walking the streets with Senator Benton who when roundly cursed out by a voter turned and said, "Donald, put him down as doubtful." One of his favorite illustrations was of the man being ridden out of town on a rail saying to his fellow citizens, "If it weren't for the honor of the thing, I'd just as soon walk." He reveled in shocking the company with Senator Benton's instructions as to how to render an "ambiguous answer." Better than most men he grasped Chesterton's insight that we can only really mock what we love. And behind the mockery, behind the irony, was an unassailable trust in this republic, in this people, a belief that in this time and place it could be made to work, if not perfectly, than at least for the good of most of us.

The second ground I shared with Don was Georgetown—as a symbol of a university in the service of a free society. He brought to his Deanship his feel for research and for clean-lined intellectual work. The shoddy was as corrosive for the university as it was dangerous for the Republic. In the graduate school he was a workman-like support and help to the serious, and the bane of those who felt that appointment or tenure beckoned retirement.

He understood Georgetown's fit into time and place, the burden, and the glory, of its tradition. He understood both what John Carroll had reached for in 1789, and how the growth of Church and state had altered that reach in the fulfillment of the '80's. Because of Georgetown's Catholic past he crowded and pushed the University into the problems of immigration and refugee management. His last work for Georgetown was a visit to Thailand to check on our graduate and undergraduate teams and to gain a first-hand knowledge of how the University might extend its service and its research.

To the understanding of government and of universities which so many of Don's friends share, many more deeply and fully than I do, I must now add my own memory of him as colleague and friend over the last four years.

He brought all of us two rare gifts, wisdom and compassion. A dozen times when I was set to fly off the handle, Don recalled me not to prudence, but to principle. Even when on occasions we faced stupidity or ill will, he kept a tough understanding, a forgiveness, an ability to rise above resentment. I knew him angry and tolerant, compassionate and hurt, sure and tentative; I never knew him confused, unkind, or blind. He was good at his trade because he read human nature truely as the stuff that dreams are made on, but also could see it in its littleness, its weakness, its hopeless fright.

His was far from a passive presence. He was an energizer, a prod, a stimulus. He could get excited, spin wild dreams until the room filled with a complex vision. He could stand a whole meeting on its ear by opening up the future some of us had dimly grasped but which he could see as clearly as next Monday and every bit as attainable. He persuaded the Lilly Foundation to back the nation's best training ground for citizen politicians below the level of state legislatures. With equal energy he started Georgetown on its involvement with immigration, and the terrible human wastage of our time, refugees. Here he understood quite fully that the flow of immigrants from Spanish America was as much problem and opportunity for this nation, as it was problem and opportunity for the Catholic Church John Carroll founded Georgetown to serve. Into this problem he threw all his energy, his brains, and above all, all his common sense and humor. He even survived a 5 a.m. call to Panama City from a reporter writing on the Canal Plebiscite who had him confused with Ted Hesburgh. On the same trip I can see him puffing one of General Torrijos best Cuban cigars and giving the good General as shrewd a reading of the Canal Treaty prospects as he was likely to get from any gringo politician.

I wish I had known Don in the years when he served as legislative assistant to Senator Benton, particularly on the Sunday mornings when huddled in a corner on Wisconsin Avenue, he brunched with John Lane, Max Kampelman, Julie Edelstein—the other aides to liberal senators; the four of them cowering under the lash of McCarthv, and gathering fragments to shore against the ruins of the Republican wasteland. Another image I keep is of a late night talk over the debris of a good dinner in The Palm at a time when it looked like the entire American republic was going down the drain, with Don insisting to me and to three law students, "This government works, sometimes badly, sometimes well, but damn it, it works."

Such pictures, my own shored fragments, I will cherish all the more because of his sudden and unexpected death, the swift arrest of so much movement and life. I see him now as he would have been content to be seen, even if by an Irish poet, going "proud, open-eyed and laughing to the tomb." It might be fairer to pick a statement about himself which he liked so much he hung over his desk in the office. The words are by Jack London, and in their dry wit and ironic pride speak to me of Don Herzberg.

I would rather be a meteor, every atom of me in magnificent glow
Than a sleepy and permanent planet.
The proper function of man is to live, not to exist.
I shall not waste my days in trying to prolong them.
I shall use my time.

Indeed, he did.●

TONNAGE MEASUREMENT SIMPLIFICATION ACT

● Mr. MELCHER. Mr. President, amendment No. 1959 is the pending business of the Senate after the final vote on the Alaskan lands bill.

Amendment No. 1959 to a House passed Commerce bill, H.R. 1197, to regulate tonnage on certain vessels has nothing to do with that bill. Amendment No. 1959 is a repeat of S. 1403 which guts the Strip Mine Act.

Secretary Andrus has pointed out the defects of the amendment and the reasons for not needing any precipitous action that would result only in chaos in the coal fields. I include his letter, as follows:

U.S. Department of the Interior,
Washington, D.C., August 18, 1980.
Hon. John Melcher,
U.S. Senate,
Washington, D.C.

Dear Senator Melcher: The Department of the Interior is now in the final stages of completing its review of programs submitted by 24 coal producing States under the landmark Surface Mining Control and Reclamation Act of 1977. The prompt review and the granting of primacy to the States in the regulation of surface mining has been a major goal of my Department, and that process will soon be completed. I have approved the programs of Montana and Texas, so they have full power to reglate surface coal mining. It is now quite likely that eight or more States will receive approval shortly. Large parts of many other State programs will be approved in September. By January, I will have made final decisions on all State proposals, and I expect that most of them will gain primacy under the Act. Even though the State program review process will be completed in the next five months, a last minute effort is being made to pass a revised version of S. 1403 which could delay that process for years. Such a radical step is both unwarranted and unwise.

S. 1403 was originally considered by the Senate a year ago to accomplish three goals: (1) extend the deadline for submission of State programs, (2) delay implementation of the Federal lands program, and (3) eliminate the existing statutory requirement that State programs be consistent with the Department's regulations.

I shared the Senate's concern over the first two problems; but these have already been accomplished and no longer require Congressional action. As a result of judicial and administrative changes in the deadlines, all States had time to submit programs. I adopted regulations to delay implementation of the Federal lands program to coincide with the approval of State programs. Legislative changes are no longer needed in these two areas.

Only the third provision of S. 1403—eliminating Federal regulations—has not been implemented because it is totally unproductive. The attempt to eliminate the requirement that State programs must be consistent with the Department's regulations runs completely counter to the intent of the original Act. Congress knew that the Department needed to adopt regulations to insure that the environmental purposes of the Act are met. The legislative history is clear that the general language of the Act must be supplemented by regulations to insure its full implementation.

Our experience with the Act confirms the wisdom of this legislative history. The Department's regulations were adopted after careful consideration and lengthy public participation and have been subjected fully to judicial scrutiny. They set the basic regulatory yardstick for measuring all State programs. Removal of the regulations will throw questions of basic statutory interpretation resolved by those regulations into 24 separate district courts across the country. The law will be interpreted differently in Kentucky than in Tennessee, in Illinois than in Indiana. Prime farmland provisions, for example, could be interpreted with wide variation, thus critically weakening the important protection that Congress gave to our Nation's agricultural productivity.

The harmful effects of eliminating these regulations should not be underestimated. The differing court-imposed interpretations of the statute could last for years while the judiciary struggles to resolve the conflicts. States with strong laws would be penalized; those with weak ones would be rewarded. The lack of definitive standards will cause the coal industry great uncertainty. We know from long experience that prudent coal industry management will hesitate to invest in new mines while standards remain unsettled. The Nation cannot afford this delay.

The deletion of the Department's regulations will also cause untold delay and confusion in the process of approving State Programs. Under S. 1403, each provision of the State progam would have to be individually scutinized and lengthy documentation compiled to be certain that my final decision withstands judicial challenge. New hearings would have to be held to allow industry, States and the public to reevaluate each State program. This alone would take months. Litigation by citizens, the industry and perhaps even the States, would mushroom if S. 1403 becomes law. Again, this means more delay. The bill cannot help but delay the passage of power to the States: State program approvals will be tied up; meanwhile dual State/Federal regulation will be extended. This is the opposite of what the Department and the Congress have sought—turning reclamation authority over to States that have adopted strong regulatory programs. S. 1403 would similarly delay the use of the abandoned mine land fund to reclaim thousands of acres of orphan lands stripped of vegetation, polluition by acid drainage from abandoned mines, and scarred by subsidence, gob piles and other hazards.

One year ago, the Senate received many letters from States accusing the Office of Surface Mining of being inflexible and insensitive to States' concerns. The States said that the path to primacy was rocky, if not impassable. As a result, we redoubled our efforts to work with the States. We revised our regulations to give States more time to submit programs. At the request of the Western States. we changed the schedule for the implementation of the Federal lands program to coincide with the approval of State programs. We made great efforts to demonstrate the flexibility in the regulations and to show the States how to gain approval of alternative regulations. These efforts have produced good results. All States that wished to submit programs were able to do so on time. Two State programs have been approved and several more approvals are imminent. Other States are making great progress. The process has been flexible. Wyoming's program, which is near approval, has hundreds of variations from OSM's regulations. Kentucky's program, which is in the initial review process, also has countless differences which may well be approvable. All States contain some variations and over a hundred alternative State regulations have ben proposed specifically to meet local conditions perceived by the States themselves. These accomplishments have been realized by following the law that Congress passed in 1977 and with the active participation of the public, the States and the coal industry.

In five months, without S. 1403, we will know the results of the State program approval process. If changes are needed, they can be made then. By contrast, if the bill becomes law, we will move into an unknown area and begin a process that could cost us years without giving us any benefits. The best interests of States, the industry and the public will be served by completing, without change, the process the Congress began in 1977.

Sincerely,

Cecil D. Andrus,
Secretary.●

ADDRESS OF SENATOR EDWARD M. KENNEDY AT THE DEMOCRATIC NATIONAL CONVENTION

Mr. ROBERT C. BYRD. Mr. President, one of the most dramatic moments of this Democratic Convention or any convention in my memory was the speech of our colleague, Senator Edward Kennedy last week in New York. He gave us an eloquent vision of the principles of the Democratic Party and the future of our country. In defeat, he enlarged our common hopes for the future.

It is easy to stand tall in victory. It is not so easy to stand tall in defeat. Mr. Kennedy stood tall and I think that his actions and his words went far in promoting the unity of the party. All who watched his campaign and who saw him at the convention saw a man of great force and character, of commitment and courage, firm resolve, and high purpose.

I welcome Senator Kennedy back to the Senate. May I say, he has been missed while he has been away, but he will be back now and I am sure all our colleagues welcome him back.

Mr. President, I ask unanimous consent that his address to the Democratic Convention be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of Senator Edward M. Kennedy, Democratic National Convention, New York City, August 12, 1980

Well, things worked out a little different than I thought, but let me tell you, I still love New York.

My fellow Democrats and my fellow Americans: I have come here tonight not to argue for a candidacy, but to affirm a cause.

I am asking you to renew the commitment of the Democratic Party to economic justice. I am asking you to renew our commitment to a fair and lasting prosperity that can put America back to work.

This is the cause that brought me into the campaign and that sustained me for nine months, across a hundred thousand miles, in forty different states. We had our losses; but the pain of our defeats is far, far less than the pain of the people I have met. We have learned that it is important to take issues seriously, but never to take ourselves too seriously.

The serious issue before us tonight is the cause for which the Democratic Party has stood in its finest hours—the cause that keeps our party young—and makes it, in the second century of its age, the largest political party in this Republic and the longest lasting political party on this Planet.

Our cause has been, since the days of Thomas Jefferson, the cause of the common man—and the common woman. Our commitment has been, since the days of Andrew Jackson, to all those he called "the humble members of society—the farmers, mechanics, and laborers." On this foundation, we have defined our values, refined our policies, and refreshed our faith.

Now I take the unusual step of carrying the cause and the commitment of my campaign personally to our national convention. I speak out of a deep sense of urgency about the anguish and anxiety I have seen across America. I speak out of a deep belief in the ideals of the Democratic Party, and in the potential of that party and of a President to make a difference. I speak out of a deep trust in our capacity to proceed with boldness and a common vision that will feel and heal the suffering of our time—and the division of our party.

The economic plank of this platform on its face concerns only material things; but is also a moral issue that I raise tonight. It has taken many forms over many years. In this campaign, and in this country that we seek to lead, the challenge in 1980 is to give our voice and our vote for these fundamental Democratic principles:

Let us pledge that we will never misuse unemployment, high interest rates, and human misery as false weapons against inflation.

Let us pledge that employment will be the first priority of our economic policy.

Let us pledge that there will be security for all who are now at work. Let us pledge that there will be jobs for all who are out of work—and we will not compromise on the issue of jobs.

These are not simplistic pledges. Simply put, they are the heart of our tradition; they have been the soul of our party across the generations. It is the glory and the greatness of our tradition to speak for those who have no voice, to remember those who are forgotten, to respond to the frustrations and fulfill the aspirations of all Americans seeking a better life in a better land.

We dare not forsake that tradition. We cannot let the great purposes of the Democratic Party become the bygone passages of history. We must not permit the Republicans to seize and run on the slogans of prosperity.

We heard the orators at their convention all trying to talk like Democrats. They proved that even Republican nominees can quote Franklin Roosevelt to their own purpose. The Grand Old Party thinks it has found a great new trick. But forty years ago, an earlier generation of Republicans attempted that same trick. And Franklin Roosevelt himself replied "Most Republican leaders . . . have bitterly fought and blocked the forward surge of average men and women in their pursuit of happiness. Let us not be deluded that overnight those leaders have suddenly become the friends of average men and women . . . . You know, very few of us are that gullible."

And four years later, when the Republicans tried that trick again, Franklin Roosevelt asked: "Can the Old Guard pass itself off as the New Deal? I think not. We have all seen many marvelous stunts in the circus—but no performing elephant could turn a handspring without falling flat on its back."

The 1980 Republican convention was awash with crocodile tears for our economic distress but it is by their long record and not their recent words that you shall know them.

The same Republicans who are talking about the crisis of unemployment have nominated a man who once said—and I quote: "Unemployment insurance is a prepaid vacation plan for freeloaders." And that nominee is no friend of labor.

The same Republicans who are talking about the problems of the inner cities have nominated a man who said—and I quote: "I have included in my morning and evening prayers everyday the prayer that the federal government not bail out New York." And that nominee is no friend of this city and of our great urban centers.

The same Republicans who are talking about security for the elderly have nominated a man who said just four years ago that participation in Social Security "should be made voluntary." And that nominee is no friend of the senior citizen.

The same Republicans who are talking about preserving the environment have nominated a man who last year made the preposterous statement, and I quote: "Eighty percent of air pollution comes from plants and trees." And that nominee is no friend of the environment.

And the same Republicans who are invoking Franklin Roosevelt have nominated a man who said in 1976—and these are his exact words: "Fascism was really the basis of the New Deal." And that nominee, whose name is Ronald Reagan, has no right to quote Franklin Delano Roosevelt.

The great adventure which our opponents offer is a voyage into the past. Progress is our heritage, not theirs. What is right for us as Democrats is also the right way for Democrats to win.

The commitment I seek is not to outworn views, but to old values that will never wear out. Programs may sometimes become obsolete, but the ideal of fairness always endures. Circumstances may change, but the work of compassion must continue. It is surely correct that we cannot solve problems by throwing money at them; but it is also correct that we dare not throw our national problems onto a scrap heap of inattention and indifference. The poor may be out of political fashion, but they are not without human needs. The middle-class may be angry, but they have not lost the dream that all Americans can advance together.

The demand of our people in 1980 is not for smaller government or bigger government, but for better government. Some say that government is always bad, and that spending for basic social programs is the root of our economic evils. But we reply: The present inflation and recession cost our economy $200 billion a year. We reply: Inflation and unemployment are the biggest spenders of all.

The task of leadership in 1980 is not to parade scapegoats or to seek refuge in reaction but to match our power to the possibilities of progress.

While others talked of free enterprise, it was the Democratic Party that acted—and we ended excessive regulation in the airline and trucking industry. We restored competition to the marketplace. And I take some satisfaction that this deregulation was legislation that I sponsored and passed in the Congress of the United States.

As Democrats, we recognize that each generation of Americans has a rendezvous with a different reality. The answers of one generation become the questions of the next generation. But there is a guiding star in the American firmament. It is as old as the revolutionary belief that all people are created equal—and as clear as the contemporary condition of Liberty City and the South Bronx. Again and again, Democratic leaders have followed that star—and they have given new meaning to the old values of liberty and justice for all.

We are the party of the New Freedom, the New Deal, and the New Frontier. We have always been the party of hope. So this year, let us offer new hope—new hope to an America uncertain about the present, but unsurpassed in its potential for the future.

To all those who are idle in the cities and industries of America, let us provide new hope for the dignity of useful work. Democrats have always believed that a basic civil right of all Americans is the right to earn their own way. The party of the people must always be the party of full employment.

To all those who doubt the future of our economy, let us provide new hope for the reindustrialization of America. Let our vision reach beyond the next election or the next year to a new generation of prosperity. If we could rebuild Germany and Japan after World War II, then surely we can reindustrialize our own nation and revive our inner cities in the 1980s.

To all those who work hard for a living wage, let us provide new hope that the price of their employment shall not be an unsafe workplace and death at an earlier age.

To all those who inhabit our land, from California to the New York Island, from the Redwood Forest to the Gulfstream waters, let us provide new hope that prosperity shall not be purchased by poisoning the air, the rivers and the natural resources that are the greatest gift of this continent. We must insist that our children and grandchildren shall inherit a land which they can truly call America the beautiful.

To all those who see the worth of their work and their savings taken by inflation, let us offer new hope for a stable economy. We must meet the pressures of the present by invoking the full power of government to master increasing prices. In candor, we must say that the federal budget can be balanced only by policies that bring us to a balanced prosperity of full employment and price restraint.

And to all those overburdened by an unfair tax structure, let us provide new hope for real tax reform. Instead of shutting down classrooms, let us shut off tax shelters.

Instead of cutting out school lunches, let us cut off tax subsidies for expensive business lunches that are nothing more than food stamps for the rich.

The tax cut of our Republican opponents takes the name of tax reform in vain. It is a wonderfully Republican idea that would redistribute income in the wrong direction. It is good news for any of you with incomes over $200,000 a year. For the few of you, it offers a pot of gold worth $14,000. But the Republican tax cut is bad news for middle income families. For the many of you, they plan a pittance of $200 a year. And that is not what the Democratic Party means when we say tax reform.

The vast majority of Americans cannot afford this panacea from a Republican nominee who has denounced the progressive income tax as the invention of Karl Marx. I am afraid he has confused Karl Marx with Theodore Roosevelt, that obscure Republican President who sought and fought for a tax system based on ability to pay. Theodore Roosevelt was not Karl Marx—and the Republican tax scheme is not tax reform.

Finally, we cannot have a fair prosperity in isolation from a fair society.

So I will continue to stand for national health insurance. We must not surrender to the relentless medical inflation that can bankrupt almost anyone—and that may soon break the budgets of government at every level.

Let us insist on real controls over what doctors and hospitals can charge. Let us resolve that the state of a family's health shall never depend on the size of a family's wealth.

The President, the Vice President, and the Members of Congress have a medical plan that meets their needs in full. Whenever Senators and Representatives catch a little cold, the Capitol physician will see them immediately, treat them promptly, and fill a prescription on the spot. We do not get a bill even if we ask for it. And when do you think was the last time a Member of Congress asked for a bill from the federal government?

I say again, as I have said before: if health insurance is good enough for the President, the Vice President, and the Congress of the United States, then it is good enough for all of you and for every family in America.

There were some who said we should be silent about our differences on issues during this convention. But the heritage of the Democratic Party has been a history of democracy. We fight hard because we care deeply about our principles and purposes. We did not flee this struggle. And we welcome this contrast with the empty and expedient spectacle last month in Detroit where no nomination was contested, no question was debated and no one dared to raise any doubt or dissent.

Democrats can be proud that we chose a different course—and a different platform.

We can be proud that our party stands for investment in safe energy instead of a nuclear future that may threaten the future itself. We must not permit the neighborhoods of America to be permanently shadowed by the fear of another Three Mile Island.

We can be proud that our party stands for a fair housing law to unlock the doors of discrimination once and for all. The American house will be divided against itself so long as there is prejudice against any American family buying or renting a home.

And we can be proud that our party stands plainly, publicly, and persistently for the ratification of the Equal Rights Amendment. Women hold their rightful place at our convention; and women must have their rightful place in the Constitution of the United States. On this issue, we will not yield, we will not equivocate, we will not rationalize, explain, or excuse. We will stand for E.R.A. and for the recognition at long last that our nation had not only founding fathers, but founding mothers as well.

A fair prosperity and a just society are within our vision and our grasp. We do not have every answer. There are questions not yet asked, waiting for us in the recesses of the future.

But of this much we can be certain, because it is the lesson of all our history:

Together a President and the people can make a difference. I have found that faith still alive wherever I have traveled across the land. So let us reject the counsel of retreat and the call to reaction. Let us go forward in the knowledge that history only helps those who help themselves.

There will be setbacks and sacrifices in the years ahead. But I am convinced that we as a people are ready to give something back to our country in return for all it has given us. Let this be our commitment: Whatever sacrifices must be made will be shared—and shared fairly. And let this be our confidence at the end of our journey and always before us shines that ideal of liberty and justice for all.

In closing, let me say a few words to all those I have met and all those who have supported me at this convention and across the country.

There were hard hours on our journey. Often we sailed against the wind, but always we kept our rudder true. There were so many of you who stayed the course and shared our hope. You gave your help; but even more, you gave your hearts. Because of you, this has been a happy campaign. You welcomed Joan and me and our family into your homes and neighborhoods, your churches, your campuses, and your union halls. When I think back on all the miles and all the months and all the memories, I think of you. I recall the poet's words, and I say: "What golden friends I had."

Among you, my golden friends across this land, I have listened and learned.

I have listened to Kenny Dubois, a glassblower in Charleston, West Virginia, who has ten children to support, but has lost his job after 35 years, just three years short of qualifying for his pension.

I have listened to the Trachta family, who farm in Iowa and who wonder whether they can pass the good life and the good earth on to their children.

I have listened to a grandmother in East Oakland, who no longer has a phone to call her grandchildren, because she gave it up to pay the rent on her small apartment.

I have listened to young workers out of work, to students without the tuition for college, and to families without the chance to own a home. I have seen the closed factories and the stalled assembly lines of Anderson, Indiana and South Gate, California. I have seen too many—far too many—idle men and women desperate to work. I have seen too many—far too many—working families desperate to protect the value of their wages from the ravages of inflation.

Yet I have also sensed a yearning for new hope among the people in every state where I have been. I felt it in their handshakes; I saw it in their faces. I shall never forget the mothers who carried children to our rallies. I shall always remember the elderly who have lived in an America of high purpose and who believe it can all happen again.

Tonight, in their name, I have come here to speak for them. For their sake, I ask you to stand with them. On their behalf, I ask you to restate the reaffirm the timeless truth of our party.

I congratulate President Carter on his victory here. I am confident that the Democratic Party will reunite on the basis of Democratic principles—and that together we will march toward a Democratic victory in 1980.

And someday, long after this convention, long after the signs come down, and the crowds stop cheering, and the bands stop playing, may it be said of our campaign that we kept the faith. May it be said of our party in 1980 that we found our faith again.

May it be said of us, both in dark passages and in bright days, in the words of Tennyson that my brothers quoted and loved—and that have special meaning for me now:

I am a part of all that I have met . . .
Tho much is taken, much abides . . .
That which we are, we are—
One equal temper of heroic hearts . . . strong
 in will
To strive, to seek, to find, and not to yield.

For me, a few hours ago, this campaign came to an end. For all those whose cares have been our concern, the work goes on, the cause endures, the hope still lives, and the dream shall never die.

Mr. BAKER. Mr. President, will the majority leader yield for one brief remark?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I feel compelled to say that as Senator KEN-

NEDY appeared on the floor today and expressed his appreciation to his colleagues for their support and his disappointment, of course, in not gaining the Presidential nomination of his party, I felt a certain kinship with Senator KENNEDY.

I told him privately that he should be comforted by a pillow that my wife embroidered for me shortly after I withdrew from the Presidential contest, and that pillow is inscribed, "The trouble with being a good sport is you have to lose in order to prove it."

Mr. ROBERT C. BYRD. May I say that the wife of the distinguished minority leader spoke a very true and wise proverb, and said it with eloquence.

THE UNITED STATES SENATE

MEETING PLACES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, no matter how many times I enter this building and walk its marbled halls, I never fail to be struck by the beauty and history around me. I am sure this is true of my colleagues as well. The awe which we felt for this hallowed building and this special chamber when we first set foot in it never quite wears off. And this is a very good thing. I think I would begin to worry if I did not continue to feel the specialness of every tile and portrait that surround us here.

We come to this building day after day, sit at these antique desks, many of them dating back to the earliest days of the Congress, and sometimes it seems that this building and this chamber are timeless—that this is how it has always been. But that is not the case. Washington was, in fact, the third stop of the Congressional cavalcade which opened briefly in New York and moved on to Philadelphia for a decade before settling here. Once in Washington, the Senate was still restless. We see the beautifully restored Old Supreme Court Chamber on the first floor where the Senate met during the first decade of the nineteenth century. We often pass by the lovely old chamber just down the corridor on the second floor here, where the Senate sat from 1810–1859, with the exception of five years when it was forced out of the building entirely because the British set it ablaze in 1814.

I should like to talk today about the first two meeting places of the Senate, New York and Philadelphia. It is a fascinating story of grumbling architects and conniving city-fathers, but the story of the various places which have housed the Senate also mirrors the ups and downs in the nation's history.

The story begins in New York City. At sunset on March 3, 1789, the big guns along the Battery thundered out the message that the weak government under the Articles of Confederation was about to expire. The next day, huge crowds gathered to cheer the news that eleven states, all of the original thirteen except North Carolina and Rhode Island, had ratified the Constitution. A new national government had been born.

The waning days of the Confederation Congress had witnessed a long and inconclusive debate over the site for the new government's home. No one could agree. Finally, all agreed to disagree and decided to put the matter aside. For the time being, New York City, where the old Congress had been meeting, would be home for the new. The city fathers were overjoyed. It was, of course, a great honor to serve as the temporary seat of the new government, but it also gave New York a chance to prove itself fit to be its permanent home as well, a position which would, it was believed, mean vastly increased revenues for whichever city was chosen.

New York in 1789 was the young republic's second largest city—Philadelphia was the largest. During the Revolution, it was occupied by the British and suffered severely from fire and looting. Within the decade after the war's end, however, New York was back on its feet, a boomtown well on its way to surpassing Philadelphia as the new nation's number one city. The mayor of New York lost no time in providing Congress with proper facilities. City Hall, on Wall Street, opposite Broad Street, just a short walk north of the Battery, was put at the government's disposal.

City Hall had been built in 1704, remodeled in 1763, and managed to survive the Revolutionary War unscathed. Now it was to have another face-lift. The plans submitted by the thirty-five-year-old Frenchman, Major Pierre Charles L'Enfant, a volunteer officer in the Continental Army and destined to play an important role in the development of Washington, were selected. The work of enlarging and remodeling the old City Hall began on October 6, 1788. By the deadline of March 1789, the old building had been transformed into a handsome, elegantly fitted-out capitol and renamed Federal Hall. The project eventually cost $65,000.

Almost three times as large as City Hall, Federal Hall measured 145 feet by 95 feet. The architectural details of its interior and exterior were unique to America and placed it in the vanguard of a new Federal architectural style. In this style, L'Enfant tried to combine European classical forms with details that symbolized American independence.

No sooner had Federal Hall been completed when both praise and scorn were heaped upon it. Much of each was motivated by politics rather than aesthetics. Anti-federalists viewed the grand structure as a symbol of Federalist aristocracy. One, Frederick Muhlenberg, a Representative from Pennsylvania who hoped the permanent capital would be in his state, sarcastically referred to Federal Hall as "really elegant and well designed—for a trap," and expressed his hope that "however well contrived, Congress would get out of it." The Federalists, on the other hand, were delighted with their new home. Once the noble eagle was affixed to the frieze overlooking the portico, the pro-Federalist Gazette of the United States pronounced "the general appearance of this front is truly august." A visiting Englishman, perhaps more impartial, noted that Federal Hall was an "elegant and grand building well adapted for a senatorial (sic) presence."

For descriptions of what Federal Hall actually looked like, we must rely on contemporary accounts and drawings, and an excellent 1970 study of the old records by Louis Torres, because the building itself was torn down in 1812. It seems a shame to have lost such a historic building and one that must have been quite beautiful. I read from one description of Federal Hall that appeared in the Massachusetts Magazine in June 1789:

> This building is situated at the end of Broad Street, where its front appears to great advantage. The basement story is Tuscan, and is pierced with seven openings; four massy pillars in the center support four Doric columns and a pediment. The frieze is ingeniously divided to admit thirteen stars in the metopes; these, with the American Eagle and other insignia in the pediment, and the tablets over the windows, filled with the 13 arrows and the olive branch united, mark it as a building set apart for national purposes.
>
> After entering from Broad Street, we find a plainly finished square room, flagged with stone, and to which the citizens have free access; from this we enter the vestibule in the center of the pile, which leads in front to the floor of the Representatives' room, or real Federal Hall, and through two arches on each side, by a public staircase on the left, and by a private one on the right, to the Senate Chamber and lobbies . . .
>
> After ascending the stairs on the left of the vestibule, we reach a lobby of nineteen by forty eight feet, finished with Tuscan pilasters; this communicates with the iron gallery before mentioned, and leads at one end to the galleries of the Representatives' room, and at the other to the Senate Chamber.
>
> The Senate Chamber is decorated with pilasters, etc. which are not of any regular order; the proportions are light and graceful; the capitals are of a fanciful kind, the invention of Major L'Enfant, the architect; he has appropriated them to this building, for amidst their foliage appears a star and rays, and a piece of drapery below suspends a small medallion with U.S. in a cypher. The idea is new and the effect pleasing; and although they cannot be said to be of any ancient order, we must allow that they have an appearance of magnificence. The ceiling is plain, with only a sun and thirteen stars in the center. The marble which is used in the chimneys is American, and for beauty of shades and polish is equal to any of its kind in Europe. The President's chair is at one end of the room, elevated about three feet from the floor, under a rich canopy of crimson damask. The arms of the United States are to be placed over it. The chairs of the members are ranged semi-circularly, as those in the Representatives' room. The floor is covered with a handsome carpet, and the windows are furnished with curtains of crimson damask.

Let us look a little closer at the Senate Chamber where our predecessors first convened. As we have just stated, it was on the second floor of Federal Hall, while the House was on the first. The House was down below, and the Senate was on the next floor above. The New York Journal of March 26, 1789, describes the Senate Chamber as being "neatly wainscotted." The same article mentions fireplaces, but not how many. Judging from the early drawings of the building, which show two chimneys above the chamber, there were probably two fireplaces to help ward off the bitter winter chill.

Hanging in the lobby just outside the chamber were numerous works of art including American artist John Trumbull's portraits of George Washington, Alexander Hamilton, and George Clinton. A poem of the period describes the scene in this lobby of the Senate: In verse we learn of Senators who:

> . . . desert their seats,
> And walking forth as if for air,
> Strait to the ante-room repair,
> View Trumbull's forms sublimely blase,
> And feel the paint—with wondering gaze,
> Justly admire the glowing work.
> A lasting honor to New York;
> An honor to our corporation,
> A future honor to our nation.

Besides the lobby and the chamber, there were other rooms on the second floor of Federal Hall.

I read in some of my earlier statements from the marvelous Journal kept during the first 2 years of the Senate's life by the strongly-opinionated, irascible anti-Federalist Senator from Pennsylvania, William Maclay. Maclay seems to tell us something about everything in those busy days, and his discerning eye roved over Federal Hall. Maclay makes numerous references to a committee room and implies that it adjoined the Senate chamber. And he refers to the "Secretary's Office," meaning the Secretary of the Senate, and an audience room as well.

Still another room on the same floor was the "machinery room" which Maclay also mentions. His entry for September 28, 1789, begins:

> Felt pretty well in the morning. Dressed and went to the Hall; sat a little while, but had to get up and walk in the machinery-room. Viewed the pendulum mill—a model of which stands there. It really seems adapted to do business. Returned and sat awhile with the Senate, but retired and came home to my lodgings.

Since Congress did pass on new inventions and patents, Federal Hall was a logical place to exhibit such models, and this is apparently what Maclay saw.

This, then, was the beautiful building awaiting the first session of Congress. Unfortunately, no one seemed in a great hurry to initiate the proceedings. I have commented before on the slow start that Congress got off to, but it always amazes me to think back upon those long days in New York with a few eager senators awaiting their tardy colleagues with straining patience. On the morning of March 4, 1789, the day appointed for the starting of the new government, when the House of Representatives assembled in its chamber on the first floor of Federal Hall, they found themselves to be only fifteen of the fifty-nine men elected from the eleven states. Upstairs, on the next floor, under the ceiling with the sun and the stars, things were no better. Facing the seat to be occupied by the still un-named Vice President were only eight senators from five states. New Hampshire, Connecticut, and Pennsylvania were fully represented; one senator had arrived from Massachusetts and even one from far away Georgia. New York had not yet elected its senators, and would not do so until mid-summer.

Without a quorum in both houses of the legislative branch, the work of the other two branches of government was stymied. Until Congress counted the ballots of the first Electoral College, there could be no President or Vice President. Before the judicial branch could begin, Congress would have to create a system of federal courts.

Every day for a week the eight senators, Maclay among them, trudged from their boardinghouses to Federal Hall and up the stairs to their crimson chamber only to find that no one else had as yet arrived in town. True, a series of bad storms was delaying packets and stages, but, as these conscientious eight reasoned, if they had moved heaven and earth to get to New York on the appointed day, so could the others.

As Alvin Josephy, Jr. points out in his beautifully written and illustrated book, The American Heritage History of The Congress of The United States, which I found very helpful in preparing these remarks, there were worse places to be forced to mark time than in New York. New York in 1789 was an exciting city. There were 200 taverns and public houses, many famed for their food and hospitality, churches, theaters, a bustling harbor, and many noted men and women with whom one could spend a pleasant evening. Nevertheless, the eight senators were growing impatient. At the end of another week, not a single additional senator had appeared. The case was almost as bad in the House where a very annoyed Massachusetts representative, Fisher Ames, wrote a friend in Boston:

> This is a very mortifying situation . . . We lose credit, spirit, everything. The public will forget the government before it is born.

Finally, a quorum being present on April 6, the Senate could get down to business. The House had already been organized on April 1. The House is a little older than the Senate and the Senate is a little older than the Executive, the Presidency of the United States.

John Adams traveled down from Braintree, Massachusetts to New York during the third week of April 1789. His picture hangs in my office. I just put it in my office recently. I thought it would be well to have the portrait of first Vice President of the United States, the first Presiding Officer of the United States Senate, hanging in my office. I took out Ulysses S. Grant and put in John Adams.

For a while I tolerated U. S. Grant. I was able to do so by bringing into my office a portrait of Stonewall Jackson, so I would have both a picture of a Union leader and one of the Confederate generals in my office. The Confederate general was born in what is now Clarksburg, West Virginia. So we West Virginians have a special affinity, a close one, with Stonewall Jackson, he having been born in what is now Clarksburg.

So I decided, after I had read William Maclay's Journal that I ought to have the portrait of John Adams hanging in my office. So, after looking around, I said, "Well, whose portrait can I do without? I do not want to take out George Washington's or Thomas Jefferson's; I do not want to take out Andrew Jackson's; surely I do not want to take out Stonewall Jackson's or Woodrow Wilson's. I will just take out U. S. Grant's."

So I now have John Adams' portrait hanging there in my office for all to see.

On April 21, he was conducted to Federal Hall and up the stairs to the Senate chamber for his inauguration as the first Vice President. Adams was greeted by Senator John Langdon of New Hampshire, the president pro tempore, and led to the grand chair of his office.

In his inaugural address, Adams made it clear that he intended to be more than a figurehead in the chamber. Good to his warning, as Vice President, he often exasperated senators by intruding into their debates and lecturing them. Maclay had a lot to say about that.

On the last day of April 1789, Federal Hall was the scene of one of the most important events in our nation's history—the inauguration of its first president. On April 23, George Washington had been rowed across New York harbor from New Jersey in a barge manned, symbolically by thirteen members of New York's Marine Society. Vessels of every description joined his procession and thousands of people lined the shore. The next six days were a whirlwind of celebrations and dinners.

It was ordinarily planned that Washington should take the oath of office in the House of Representatives Chamber at Federal Hall. But it was obvious that every New Yorker and, indeed, every American who could get to New York, hoped to witness the historic event. There was a change in plans. The most impressive feature of Federal Hall was a beautiful second story porticoed balcony, off the Senate Chamber, which overlooked Wall Street. From this balcony, in full view of the people, George Washington took the oath of office.

On the long-awaited day, April 30, the Senate assembled in its chamber at 11:30. Even the gruff Maclay, no great admirer of Washington, was "dressed in my best clothes." The noise of drums, bagpipes, and clattering horses' hooves announced Washington's arrival. He was attired, Maclay noted, "in deep brown, with metal buttons, with an eagle on them, with stockings, a bag and a sword."

Washington entered the chamber, bowed to the members of both Houses, and Vice President Adams announced that all was ready for him to take the oath. Maclay described what happened next:

> . . . the President was conducted out of the middle window into the gallery, and the oath was administered by the Chancellor. Notice that the business was done was communicated to the crowd by proclamation, etc., who gave three cheers, and repeated it on the President's bowing to them.

Washington went back inside and delivered his inaugural address to the assembled senators and representatives. I think it makes our first President seem a little more human to us today to learn that he was nervous on this occasion. Again, Maclay reported:

> This great man was agitated and embarrassed more than ever he was by the leveled cannon or pointed musket. He trembled, and several times could scarse make out to read.

After the address, the Congress joined the new President in a procession to St. Paul's Chapel on Broadway for a prayer service conducted by Bishop Samuel Provoost, who was also the first chaplain of the Senate. Following the service, the senators returned to Federal Hall to resume the business of the day. That night there was a great display of fireworks. Maclay noted that several buildings were beautifully illuminated, among them Federal Hall.

Once the inaugural festivities died away, the Senate settled down to consider a host of serious matters. We must remember just how small a deliberative body this was, making the decisions that continue to guide our nation today. The first session of the First Congress was nearly over before its membership exceeded twenty. The group's smallness made for intimate acquaintance and appraisal. Maclay pictured many informal sessions in the Senate chamber.

On the chilly afternoon of May 7, 1789, exasperated with Adams for straining at gnats, the members left their seats and gathered about the fireplaces to continue their discussions. Were it not for Maclay, we would have few glimpses into the chamber at Federal Hall. The Senate met behind closed doors then. For five years, its sessions were secret and its debates unpublished.

High in priority in those first debates were matters of organization and procedure. As I noted in an earlier speech, one of the first orders of business was the establishment of a set of twenty rules of conduct. Chaplains were selected, rules for holding conferences with the House established, ballots were drawn to determine who would serve for two-, four-, or six-year terms. Maclay tersely noted, "I fell in the first class." The Senate's Constitutional power to provide "advice and consent" for appointments and treaties was tested, and, in what was probably the Senate's most important action, the Judiciary Act of 1789 created the third branch of the government.

After a long New York summer filled with hours of debate in the elegant but stifling Senate Chamber—just imagine how it was with no airconditioning in those days—the two Houses of Congress ended their first session on September 29, 1789, and its Members dispersed for a well-deserved rest.

The Congress reconvened on January 6, 1790. This time both Houses achieved quorums on their first day back and business resumed. Two days later, President Washington arrived in person in the Senate chamber from his own office in Federal Hall to deliver his first State of the Union message. Maclay rather testily described the scene:

> All this morning nothing but bustle about the Senate chamber in hauling chairs and removing tables. The President was dressed in a second mourning, and read his speech well. The Senate, headed by their Vice-President, were on his right.
>
> The House of Representatives, with their Speaker, were on his left. His family with the heads of departments attended. The business was soon over and the Senate were left alone.

One nagging issue, held over from the first session was the question of where to locate the nation's permanent capital. Actually the matter had been unresolved since October 1783, and it was clear that a decision had to be reached soon. As I noted, it was generally assumed that wherever Congress located the capital, there a great commercial center would arise. Thus, the promise of upwards of $100,000 additional revenue, more than prestige or legislators' convenience, fanned the controversy over the "residence bill" and led half a dozen towns and states to offer Congress land for its permanent home, with jurisdictional rights thereto. Most legislators agreed that the site should be central, but few agreed on just what that meant. The nation's geographic center was in Virginia. Its population center, however, was slightly to the east of Baltimore.

The Pennsylvania delegation was particularly active in its lobbying efforts. At weekly dinners, which extended from three in the afternoon until well into the evening, that state's two senators and eight House members mixed discussions of relocation with an ample diet of oysters and wine. Yet the delegation soon polarized between the views of its two senators, Maclay and financier Robert Morris.

Maclay had come close to winning support for a location on the Susquehanna River, around Harrisburg or Lancaster. In fact, his measure passed the House and was agreed to by the Senate. But Morris preferred a capital closer to a business center, and got the Senate to substitute Germantown for Maclay's Susquehanna River site. As a consequence of the stalemate, both locations were dropped.

And, of course, the incident, as one might expect, did not improve relations between the two Senators from Pennsylvania.

Feelings reached a peak in June 1790 and coincided with the tension over legislation providing for federal assumption of state debts incurred during the Revolution. Most members were willing to agree to a temporary move to Philadelphia, with Baltimore, Wilmington, and the Potomac River region all being considered for the permanent site. Despite energetic efforts by each area's partisans, the situation seemed to be at an impasse.

According to Washington's Secretary of State, Thomas Jefferson, neither geography nor demography, but a political bargain finally fixed the location of the new capital. Early in June, Jefferson hosted a private dinner party and brought together Secretary of the Treasury Alexander Hamilton and Representative James Madison of Virginia, who stood on opposite sides of both the assumption and the residence question. As Jefferson recalled it, by evening's end, a compromise had been worked out. Greatly simplified, it provided that in return for Hamilton's marshaling northern support for a southern capital, the Virginians would support the northern states' desire for federal assumption of the state Revolutionary War debts.

In truth, the situation was probably not as simple as Jefferson would have had us believe. For some time, before his dinner party, backstage maneuvering between Pennsylvania and Virginia, unrelated to assumption, was pushing for a temporary capital at Philadelphia and a permanent one on the Potomac. While Virginians did switch positions and vote to support assumption, theirs were not the critical votes, as many votes had changed on both sides of the issue.

The newly hammered out bargain passed the Senate on June 30, was approved by the House, and enacted into law on July 17, 1790. The permanent capital would be a federal district ten miles square on the Potomac, the exact selection of the site left to President Washington and commissioners he would appoint. The law specified that for the next decade, while the new capital city was being built, the seat of government would be Philadelphia.

On August 12, 1790, the Senate met for the last time under the ceiling with the sun and stars in their chamber in Federal Hall. The final item before adjournment was the following resolution:

> Resolved, unanimously, that the thanks of the Senate be given to the corporation of the city of New York, for the elegant and convenient accommodations provided for Congress . . .

On December 6, 1790, Congress reassembled in William Penn's "City of Brotherly Love." Only thirteen senators were present, but they constituted a quorum, and the third session of the First Congress was under way. Many of the senators present were no strangers to Philadelphia. In the uncertain first days of nationhood in the early 1780's, several, like Benjamin Hawkins of North Carolina and Oliver Ellsworth of Connecticut, had been in Philadelphia as members of the Continental Congress. Others, like Pierce Butler of South Carolina and William Few of Georgia, had been members of the Constitutional Convention in 1787 and had affixed their signatures to the Constitution on September 17 at the State House.

The Philadelphia which greeted the Congress in 1790 was a larger, but quieter city than New York. It was the capital of Pennsylvania and would remain so until Harrisburg won the honor in 1812. The first American city with regularly laid out streets, thanks to William Penn, its sedate squares were lined with trees and the stately homes of prosperous Quaker merchants.

Though it lacked the excitement of New York, Philadelphia offered more of the urban amenities. Indeed, Philadelphia had been in the vanguard of many colonial city improvement efforts. By 1744, every house in the city had its own well. Streets had been cobbled and, in 1751, a night watch was ordered and plans made for "enlightening the city." In 1768, the first arrangements were made for regular trash collections and street cleaning. Philadelphia led the nation in fire protection as well. Its citizens were proud of their city and did not hide the fact. To one Congressman, the Philadelphians he met seemed:

> very plain and simple in their manners, and affairs—a stately distance in their intercourse with Strangers.

Pretty good idea.

> In their Economy they are frugal—
> Quite wise, also.
>
> and in their business industrious. They believe themselves to be the first people in America as well in manners as in arts, and like Englishmen they are at no pains to disguise this opinion.

The originator of many of the movements for civic improvement was Benjamin Franklin, who had come to Philadelphia from Boston in 1723 as a young printer. He worked to bring order to the city's rival and raucous firefighting companies and, in the 1750's, helped found a hospital and a college which grew into the University of Pennsylvania.

Benjamin Franklin, Philadelphia's most famous citizen, had died and been buried in the yard of Christ Church in April before the Congress he had worked so hard to create moved to Philadelphia. But the warmth and wisdom of his spirit still enveloped the red-brick State House and its neighboring buildings on State House Yard, where so many great events had already taken place.

Like other colonial seaports, Philadelphia had been affected by trade difficulties with England. In the midst of increasing ferment, the First Continental Congress assembled in Carpenter's Hall in September 1774. The following April, word reached the town of the battles of Lexington and Concord. In May, the second Continental Congress met at the State House, which we know today as Independence Hall. There the Declaration of Independence was hammered out and signed on July 4, 1776. On July 8, it was read to the throng gathered on the State House lawn. The bell in the tower, our cherished Liberty Bell, rang out and the city was ablaze with bonfires.

Following their victory at the Battle of Brandywine, the British moved to occupy Philadelphia in September 1777. They stayed on in comfort through the winter while Washington's army suffered in the cold at Valley Forge, twenty-five miles to the west. The British finally evacuated the city in June 1778 and Congress, which had fled to York, Pennsylvania, returned. Nine years later, in 1787, the Constitutional Convention met in Philadelphia's State House with George Washington as its president and, as I noted, brought forth the Constitution for the people to examine and ratify on September 17.

This was the illustrious heritage of the State House Yard where Congress would meet for the next decade. When Philadelphia was selected to serve as the temporary capital, until the Federal City on the Potomac could be built, the Philadelphia County Commissioners offered to Congress the use of their recently completed Court House. Begun in 1787, just to the west of the State House and opposite Carpenter's Hall, the Court House had been finished only in March 1789, in time for a meeting of freeholders to nominate candidates for the office of alderman.

Built of red brick in the Georgian tradition, the Court House complemented the State House in style and material. It was two stories tall with a large bay window in the rear. Inside, there was a single courtroom on the first floor and a small courtroom and two other rooms on the second.

Even though the building was brand new, the County Commissioners graciously refitted and refurnished it for its new occupants. The House was to meet in the big room on the first floor. In the bay at the southern end of the room, a dais was set up for the Speaker. A local carpenter, Thomas Affleck, made rows of "shining mahogany" writing desks and black leather armchairs for the more than sixty representatives. A long gallery, which could hold three hundred to four hundred spectators, was erected in the new House chamber.

Once again, as in New York, the Senate was the "upper chamber." It was to meet in the smaller, but more elegantly furnished, chamber on the second floor. Two smaller rooms, flanking the second floor hallway, were fitted up as a Senate committee room and an office for the Secretary of the Senate, Samuel Otis. Unlike New York's Federal Hall, which was razed over a century and a half ago, I am happy to report that Congress Hall, as the Court House came to be known, still stands. It has been beautifully restored and, along with Independence Hall, and Carpenter's Hall, it is an important part of Independence National Historical Park. The Park Service has done a magnificent job with these buildings. It is a truly moving sight to view the silent, cracked Liberty Bell; to visit the room where Jefferson, Adams, and Franklin worked through that sweltering June of 1776 to write the Declaration of Independence; to stand in the second Senate chamber where our predecessors struggled with questions of procedure and public law, just as we do today. The Senate chamber in Congress Hall is very, very beautiful. I hope all of my colleagues, indeed, all Americans, will have the opportunity to view it and feel the history it radiates.

I would like to describe the chamber in Philadelphia and to mention briefly some of the events which enfolded there.

Carpenter Affleck, who made the representatives' desks and chairs, also made thirty-two desks for the senators. Although there were only thirteen states, thus twenty-six senators, when the Senate first conveyed in Congress Hall, by 1800 when it left, there were sixteen states. The new ones were Vermont, Kentucky, and Tennessee. These were the very first desks the senators had. In New York, they had only had chairs, all in a row facing the Vice President's big chair.

Affleck also made the senators' thirty-two mahogany armchairs. Amazingly enough, though they had to be retrieved from all over the nation, twenty-two of them have been returned to Congress Hall where they can be seen today. One of them even has some of the original upholstery tacks! The senators' chairs were covered with crimson morocco (goatskin) and crimson moreen (watered wool).

The available records are not clear on how the seating arrangements for senators was determined. Maclay leads us to believe that members selected their seats at random. Senator Roger Sherman suggested in a memorandum that seating was based on length of federal service, yet this does not seem to square with other contemporary accounts. Writing a hundred years later, Senator William Peffer asserted, from unspecified sources, that senators sat geographically, beginning on the right with New Hampshire and ending on the left with Georgia.

The Vice President, first John Adams and then Thomas Jefferson, presided over the sessions in the chamber from a red leather chair beneath an impressive crimson damask canopy, lined with green silk, in the bay of the room. Adding more color was the Vice President's table, covered with tasseled green silk, and lavish crimson curtains. Covering the windows were wooden Venetian blinds, then very fashionable, made by David Evans of Philadelphia. Evans was also commissioned, in 1790, to make fifty "spitting boxes" for Congress, to be divided among the rooms.

The ceiling of the chamber was decorated with a plaster centerpiece made by Thackara and Jones, Philadelphia plasterers. Flickering candlelight from the candlesticks on each desk, the chamber's only illumination, would play softly over the plasterwork during sessions that extended into the twilight hours.

While John Trumbull's portraits remained in Federal Hall in New York, his skill was nonetheless represented in the new Philadelphia chamber. In 1799, he donated to the Senate two prints made after his paintings, "The Battle of Bunker Hill," and "The Death of General Montgomery in the Attack on Quebec." They probably hung over the two fireplaces where Maclay tells us senators liked to congregate to thaw out and converse on blustery days. It is uncertain whether coal or wood was burned in the stoves in the fireplaces. Secretary Otis purchased considerable quantities of each. Though Maclay thoroughly disliked Otis, he probably appreciated the warmth he provided.

While the Vice President's crimson canopy and Trumbull's prints attracted considerable attention, the most dazzling feature of the Senate chamber, at Congress Hall, was its beautiful rug. This elaborate rug was made especially for the room in 1790 by William Peter Sprague of Philadelphia. A visitor to Sprague's factory in 1791 reported:

> The carpet made for the President, and others for various persons are masterpieces of their kind, particularly that for the Senate chamber of the United States—the Whole being executed in a Capitol style, with rich bright colours, has a very fine effect.

The carpet was quite large, about forty by twenty feet, and had a very elaborate design. The U.S. Gazette for June 22, 1791, gives us a very detailed description of the colorful figure:

> The device wove in . . . is the Crest and Armorial Achievements appertaining to the United States. Thirteen stars forming a constellation, diverging from a cloud, occupy the space under the chair of the Vice-President. The American Eagle is displayed in the centre, holding in his dexter talon an olive branch, in his sinister a bundle of thirteen arrows, and in his beak, a scroll

> inscribed with the motto *E pluribus unum.* The whole surrounded with a chain formed of thirteen shields, emblematic of each State. The sides are ornamented with marine and land trophies, and the corners exhibit very beautiful Cornu Copias, some filled with olive branches, and flowers expressive of peace, whilst others bear fruit and grain, the emblems of plenty. Under the arms, on the pole which supports the cap of liberty, is hung the balance of Justice.

On their red leather armchairs, atop this beautiful carpet, the senators began their 10-year stay in Philadelphia.

Once more, the President opened the Congress with an address to a joint session on December 8, 1790. Again, Maclay describes the scene:

> This was the day assigned for the President to deliver his speech, and was attended with all the bustle and hurry usual on such occasions. The President was dressed in black, and read his speech well enough, or at least tolerably.

In his journal, Maclay repeatedly directed his scorn at Washington. Even the President's voice annoyed him. He complained a few days after the opening address, "His voice (is) hollow and indistinct, owing, as I believe, to artificial teeth before his upper jaw, which occasioned a flatness * * *."

Washington took up residence in Philadelphia in a beautiful four-story, brick mansion on High Street, put at his disposal by Senator Robert Morris, the wealthiest man in Philadelphia, if not in the United States.

The most pressing problem confronting the Senate was legislating sound, workable financial measures. The Nation's financial matters were closely supervised by the brilliant Secretary of the Treasury, Alexander Hamilton, only thirty-four years old. Hamilton, to Secretary of State Thomas Jefferson's great annoyance, not only submitted financial reports to the Congress, but then proceeded actively to direct his Federalist supporters in the House and Senate, widening the gulf between the two Cabinet members and making their philosophical differences more public. During the next ten years, Philadelphia witnessed the birth of the American political party system in the battles between Hamilton's Federalists and Jefferson's Republicans.

On the evening of March 2, 1791, by candlelight, in Congress Hall, the First Congress came to an end. During its three sessions, the new Congress had received 268 bills and enacted 118 of them. Perhaps even more important, the Senate had begun to develop as an institution, to establish its relationships to the other branches of the government, and to draw up its own precedents and rules, many of which continue to govern our deliberations today.

As the first Congress waned, new elections were taking place in the states. While most Senate incumbents were reelected by their state legislatures, there were some notable exceptions. In New York, Senator Philip Schuyler was replaced by the ambitious and charismatic Aaron Burr. Just as he expected, William Maclay's abrasiveness had made him too many enemies, and he was not returned. While his colleagues did not miss his cutting remarks a bit, when Maclay left the Senate, his wonderful and revealing journal of life on the Senate floor, which has given me a great deal of pleasure, was closed forever.

The first session of the Second Congress opened in Congress Hall on October 24, 1791. It would be marked by increasing tensions between the emerging parties. The Federalists controlled the Senate. John Adams still sat in the Vice President's grand chair. Though he had learned to interfere less, his irritation with the office grew. In his eight years as Vice President, he cast twenty-nine tie-breaking votes, more than any other Vice President since, but he still complained, "My country has in its wisdom contrived for me the most insignificant office that ever the invention of man contrived or his imagination conceived." Richard Henry Lee of Virginia, a converted Federalist, was president pro tempore.

The first session of the second Congress adjourned on May 8, 1792, and the second began on November 5. In the interim, the public feud between Hamilton and Jefferson had become more vicious, and the first signs of the coming storm over Hamilton's excise tax on whiskey were visible on the horizon. News of unsettling developments in the French Revolution disturbed the summers of many senators. Washington had hoped that this would be his last year as president and was looking forward to retirement at Mt. Vernon. But it was not to be. With the future looking grim, men of both factions, Hamilton and Jefferson themselves, pleaded with him to accept a second term and hold the nation together. Washington reluctantly agreed. In the fall elections, he was overwhelmingly reelected. Adams was again elected to the office he despised, Vice President. In the Senate, the Federalists outnumbered the Republicans 17 to 13.

Shortly before noon on March 4, 1793, Washington's handsome cream-colored coach, with cherubs painted on the doors, rolled up to Congress Hall. The President stepped out, dressed in a handsome black velvet suit trimmed with silver lace, yellow kid gloves, and diamond-studded knee and shoe buckles. At precisely twelve o'clock, he strode up the steps to the Senate chamber, where the members of both houses of Congress, the Justices, Cabinet members, and foreign ministers and citizens of Philadelphia awaited him. Vice President John Adams could not be there. His wife, Abigail, was sick in Massachusetts and he rushed to her bedside.

President Washington gave a concise speech of 135 words, the shortest inaugural address in history. Since Maclay was not present, we do not know how well it was delivered! Supreme Court Justice William Cushing administered the oath of office. To three cheers from the people, Washington left the Senate chamber. His second administration had begun.

During the period between the inauguration and the December 1793 convening of the Third Congress, several changes were made in Congress Hall. With the reapportionment of the House of Representatives following the first Federal census in 1790, that body's membership had increased from 65 to 106. As the old chamber was much too small for the new House, the county commissioners agreed to enlarge the building, extending it 26 feet into the State House Yard. This gave the Representatives much more room for their three semi-circular tiers of seats. In the slightly enlarged Senate chamber above, the senators sat at desks arranged in two semi-circular rows. The addition provided enough space for two much-needed Senate committee rooms.

During this recess, foreign affairs took on great importance. Many Americans watched with horror as the French Revolution reached its bloody climax. War broke out in Europe and the United States found itself in a difficult position between France, its close ally in the fight for independence, and England, whose powerful navy ruled the seas and with whom this nation traded. The situation was serious enough for Washington to cut short his vacation at Mt. Vernon to return to Philadelphia and summon his cabinet. But it was not thought necessary to call a special session of Congress. When Congress reconvened on December 3, 1793, Washington devoted his fifth annual address to foreign affairs. Two days later, he submitted to Congress the correspondence documenting the efforts of France's minister to the United States, Citizen Edmond Genet, to draw America into war.

Embarrassed by the "Genet Affair," Jefferson asked to resign as Secretary of State in July 1793. Washington urged him to stay on until the end of the year, partly because of the confusion resulting from a terrible yellow fever epidemic that struck Philadelphia in August. Before it was over, 4,000 Philadelphians, one tenth of the city's population, were dead, their bodies piled high in carts and trundled out of town. Fortunately, the Senate was in recess, and most Congressmen escaped the illness. Jefferson remained in town, after other government officers fled to nearby Germantown, and remained untouched, but Hamilton caught the fever and nearly died.

When the Third Congress convened, war with England seemed inevitable. Congress began preparations for the nation's defense. In the spring of 1794, Chief Justice John Jay went to England to negotiate a treaty ending the threat of war. For months, no news came back. The Senate, closely guarding its treaty powers, fumed in Philadelphia while Jay negotiated. Finally, in January 1795, word came that agreement had been reached. Washington called the Senate into special session on June 8, and submitted the treaty for ratification. The Senate immediately decided to keep its debates and the treaty strictly secret, but to no avail. Within days, the treaty had been leaked to the press.

So there were leaks away back then, just as there are leaks today in the press.

After nearly three weeks of bitter

debate, on June 24, the Senate voted 20 to 10, exactly the Constitutionally required two-thirds majority, to ratify the Jay Treaty.

When the Fourth Congress convened on December 7, 1795, the doors of the Senate were permanently opened to the public. To accommodate the spectators, a small, cramped gallery, which could barely hold fifty people, was erected in the chamber. The next year, the floor of the Senate chamber, weak since the enlargement in 1793, but now unable to bear the added strain of visitors, was repaired and raised.

The presidential election of 1796 did little to heal the developing political schisms. The principal candidates were Federalist John Adams and Republican Thomas Jefferson. When the 138 electoral votes were counted, Adams won 71. Ironically, the man most hated and feared by the Federalists, Jefferson, won 68 and would be Adams' Vice President.

At 11:00 o'clock on March 4, 1797, Jefferson took the oath of office as Vice President in the Senate chamber. An hour later, Adams was sworn in, in the House of Representatives' chamber below, with George Washington looking on. For the next four years, never consulted, he claimed, by the President on a single matter, Jefferson publicly confined himself to his single constitutional duty, president over the Senate. In private, however, he planned for his own victory four years hence.

Every day the Senate met, Jefferson would ascend the stairs of Congress Hall and assume his red leather chair. In his four years as President of the Senate, Jefferson presided over, among other events, deteriorating relations with France and the Alien and Sedition Acts which he despised. From his central vantage point in the Senate, it soon became clear to him that some basic rules were necessary to maintain order amidst the chaos over which he presided. He needed, he claimed, rules "by which I judge and am willing to judge," and the result was his Manual of Parliamentary Practice, a brilliant treatise which is widely consulted, even today.

In the summer of 1797, between the first and second sessions of the Fifth Congress, the dreaded Yellow Fever returned to the Nation's capital. President Adams was prepared to convene Congress elsewhere, fearing that infected visitors to the galleries might subject members to an even greater risk of contracting the disease. By November, the epidemic had abated, and Congress met as scheduled. Again in 1798, the deadly visitor returned, taking an average toll of seventy persons each day. While Congress was in recess, most government offices moved briefly to Trenton until cooler weather brought relief in time for a returning Congress to maintain its Philadelphia residence without interruption.

The first session of the Sixth Congress opened on December 2, 1799. It would be the last session of Congress which would find the thirty senators gathered together in Congress Hall. In the spring, ships full of government documents began to leave Philadelphia's harbor, bound for the new capital on the Potomac. Word was filtering back to Philadelphia that the new site was far from ready. The new capital was said to be filled with mud and mosquitoes. Federal buildings were rumored to be barely half finished and sinking into the mire. Unfortunately, most of the rumors were true. No handsome building like Congress Hall, which had sheltered the senators for ten years, awaited them there. No civilized city like Philadelphia with its broad streets, elegant homes and sophisticated cultural life beckoned from the south.

No wonder senators were more than a little reluctant to pull up stakes and set off for the unknown, some said nonexistent, Federal City. It must have been with heavy hearts that on May 14, 1800, many senators attended their last session on the second floor of Congress Hall. Their very last act was this heartfelt resolution:

> *Resolved,* That the thanks of the Senate of the United States be presented to the Commissioners of the city and county of Philadelphia for the convenient and elegant accommodations furnished by them for the use of the Senate, during the residence of the national government in the city . . .

With that done, the senators dispersed to their various homes. When next they gathered, on November 17, 1800, it would be in the new Federal City. But that is another story, best left for another day.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at 10 o'clock a.m. After the prayer and the disposition of the approval of the Journal, the Senate will resume consideration of the Alaska lands bill, H.R. 39. There will be 1 hour of debate, the time to be equally controlled between the majority and minority leaders or their designees. At the hour of 11 o'clock, a vote will occur on passage of H.R. 39. No motion to recommit or to table or to postpone will be in order. Upon the disposition of the vote, any motion to reconsider will not be debatable under the order entered.

Upon the full disposition of H.R. 39, the Senate will resume consideration of Calendar Order No. 937, H.R. 1197, an act to simplify the tonnage measurement of certain vessels. The question at that time will be on adoption of an amendment offered by ROBERT C. BYRD and other Senators. That amendment consists of the surface mining amendments that were passed by the Senate last September, which have, since that time, been delayed in the other body.

It is hoped—at least I hope—that the Senate will, after reasonable debate, adopt the amendment and pass the bill. Conceivably, there could be rollcall votes tomorrow afternoon on the amendment or in relation thereto or in connection with the bill, and I expect that the Senate will not be in late tomorrow.

Mr. President, I have nothing further to say. If no other Senators seek recognition——

Mr. BAKER. Mr. President, if the Senator will yield, as I understand the sequence of events for tomorrow, the Senate will convene at 10 a.m. and vote at 11 a.m., with the hour following immediately after the prayer divided and under the control of the majority and minority leaders. I have a slight problem in that I am aware of the fact that the Senator from Oregon has a resolution he wishes to introduce tomorrow. I gather from the announcement just made by the majority leader that there will not be leader time and there will not be time for morning business.

It is also my understanding, however, that the resolution to be offered by Senator HATFIELD will take only a brief time, a minute or so. I wonder if it might be agreed that, notwithstanding the order that we have just agreed to, it would be in order for him to introduce that resolution for, say, not to exceed 2 minutes.

Mr. ROBERT C. BYRD. Absolutely. Mr. President, I ask unanimous consent that the Chair include that in the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the majority leader.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Does the Chair have any further business?

The PRESIDING OFFICER. The Chair has no further business to lay before the Senate and is ready to entertain a motion to recess.

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the order entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:52 p.m., the Senate recessed until tomorrow, Tuesday, August 19, 1980, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 18, 1980:

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Harry Augustus Griffith, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Mason Thompson, [redacted] Army of the United States (brigadier general, U.S. Army).

IN THE MARINE CORPS

Lt. Gen. Edward J. Miller, U.S. Marine Corps, age 57, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Richard E. Carey, [redacted], U.S. Marine Corps.

IN THE ARMY

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Michael H., [redacted].
Aberg, Eric T., [redacted].
Abraham, Robert L., [redacted].
Ackels, Alden D., [redacted].
Adam, Leroy A., [redacted].
Adams, Bertram E., Jr., [redacted].
Adams, Curtis H., Jr., [redacted].
Adams, Luther M., Jr., [redacted].
Adams, Nolan J., [redacted].
Ahrens, Roger W., [redacted].
Alden, William M., [redacted].
Aldrich, Clifton H., [redacted].
Alexander, Edward G., [redacted].
Allen, Cary D., [redacted].
Allport, George H., II, [redacted].
Ambrose, Richard S., [redacted].
Ammon, Stephen L., [redacted].
Anderson, Cecil T., [redacted].
Anderson, Donald R., [redacted].
Anderson, Edward G., III, [redacted].
Anderson, George L., Jr., [redacted].
Andresen, Martin W., [redacted].
Andrew, Edward L., [redacted].
Anthony, Henry G., Jr., [redacted].
Applebaum, Lawrence, [redacted].
Appler, Donald E., [redacted].
Applin, Frank M., [redacted].
Arko, Anthony, [redacted].
Armijo, Gabriel C., [redacted].
Armstrong, Curtis L., [redacted].
Armstrong, Douglas W., [redacted].
Arnold, David B., [redacted].
Arthur, David W., [redacted].
Asplund, Ralph E., [redacted].
Atchley, Oscar L., III, [redacted].
Augsburger, Grayson T., [redacted].
Austin, Andrew L., [redacted].
Avant, Jack B., [redacted].
Ayres, Larry F., [redacted].
Azuma, Eric K., [redacted].
Babich, James M., [redacted].
Badgley, Eddie D., [redacted].
Baer, Barry S., [redacted].
Bailey, Joseph W., [redacted].
Bailey, Ronald B., [redacted].
Baker, Bruce W., [redacted].
Baker, Hugh M., Jr., [redacted].
Baker, James L., [redacted].
Baldinger, Robert W., Jr., [redacted].
Balentine, Jimmie Y., [redacted].
Ball, Michael G., [redacted].
Ballard, Joe N., [redacted].
Bambini, Adrian P., Jr., [redacted].
Bane, Joseph F., [redacted].
Banta, Donald J., [redacted].
Barber, Paul F., [redacted].
Bardot, Kenneth H., [redacted].
Barker, Ballard M., [redacted].
Barnes, James H., [redacted].
Barnhart, Robert N., [redacted].
Barnhill, Jerry R., [redacted].
Baron, David V., [redacted].
Barry, Robert J., [redacted].
Barton, Jay W., [redacted].
Bartosik, Harry J., Jr., [redacted].
Batchelder, Michael J., [redacted].
Bauer, Stephen M., [redacted].
Bayer, James W., [redacted].
Bayliss, William A., Jr., [redacted].
Beamer, Ralph D., [redacted].
Beaton, Edward A., [redacted].
Behler, Gene R., [redacted].
Beinlich, William A., [redacted].
Bell, Douglas J., [redacted].
Beller, Richard L., [redacted].
Belt, Richard L., II, [redacted].
Berry, Clyde M., [redacted].
Best, David S., [redacted].
Bettin, Patrick J., [redacted].
Bezek, Robert J., [redacted].
Bhalla, Arun K., [redacted].
Bickel, Charles W., [redacted].
Bigen, William K., [redacted].
Bielenberg, Douglas G., [redacted].
Biggs, Willie M., Jr., [redacted].
Birchfield, Walter D., [redacted].
Bischoff, Robert C., [redacted].
Bishop, Gilbert L., [redacted].
Black, Elbert C., III, [redacted].
Blacker, Blair K., [redacted].
Blanchard, James A., Jr., [redacted].
Blaylock, James R., [redacted].
Bliss, Stephen M., [redacted].
Blizzard, Bardon, Jr., [redacted].
Blodgett, David S., [redacted].
Blood, George H., [redacted].
Bockman, Frank W., [redacted].
Bodelson, Patrick J., [redacted].
Boegler, Kenneth G., [redacted].
Boettcher, Wolfgang G., Jr., [redacted].
Bohannon, Melvin L., [redacted].
Bolin, Daniel H., [redacted].
Bon, Virgil D., [redacted].
Bonnett, Mitchell E., Jr., [redacted].
Borchert, Lloyd D., [redacted].
Bouchard, Raymond E., [redacted].
Bowers, Norman L., [redacted].
Bowman, Kenneth M., [redacted].
Boyd, Clinton B., [redacted].
Boykin, John T., [redacted].
Boyle, David J., [redacted].
Braccia, Joseph C., [redacted].
Brammer, Craig W., [redacted].
Bratcher, Arnold T., Jr., [redacted].
Braun, Bruce A., [redacted].
Bray, William G., Jr., [redacted].
Brede, Lawrence, Jr., [redacted].
Brickman, James F., [redacted].
Briggs, Michael R., [redacted].
Brinkley, Barry A., [redacted].
Briscoe, Charles H., [redacted].
Broadwater, Terry W., [redacted].
Brock, George R., [redacted].
Brock, Thomas S., [redacted].
Brogdon, James M., II, [redacted].
Brown, James H., [redacted].
Browne, John T., Jr., [redacted].
Brownlee, William R., [redacted].
Bruning, Theodore L., [redacted].
Bryant, James W., Jr., [redacted].
Bryant, John T., III, [redacted].
Bryant, Michael W., [redacted].
Bryson, Thomas E., [redacted].
Buchan, James C., [redacted].
Budzyna, Fred K., [redacted].
Bunner, Ronald C., [redacted].
Buntz, Burke O., [redacted].
Burch, Harold E., [redacted].
Burch, William C., [redacted].
Burdge, Lloyd H., [redacted].
Burnette, Larry R., [redacted].
Burpee, David H., [redacted].
Burres, Stephen W., Jr., [redacted].
Burnett, John W., Jr., [redacted].
Bush, John R., [redacted].
Butcher, Joe L., [redacted].
Bynum, Welfert L., [redacted].
Cabanillas, Claude E., [redacted].
Cabaniss, Edward H., V, [redacted].
Cabell, Lawrence C., Jr., [redacted].
Caggiano, Anthony F., [redacted].
Cahill, Peter J., [redacted].
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Cain, Joel M., [redacted].
Calder, Frederick V, III, [redacted].
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Castillo, Victor E., [redacted].
Cato, Robert B., [redacted].
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Caudill, Watson G., Jr., [redacted].
Cavanaugh, Charles G., Jr., [redacted].
Cavett, Donald L., [redacted].
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Chapman, Thaddius, [redacted].
Chappelle, John C., [redacted].
Charles, Frederick J., II, [redacted].
Chavez, Juan I., [redacted].
Childs, Ernest L., Jr., [redacted].
Chiota, Robert J., [redacted].
Christopher, Edwin A., [redacted].
Christy, William B., [redacted].
Cimral, Ted A., [redacted].
Clark, Asa A., V, [redacted].
Clark, Hugh D., [redacted].
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Comi, Thomas R., [redacted].
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Dahlin, Stanley C., [redacted].
Daleo, Francis B., [redacted].
Dalton, John W., [redacted].
Daly, Lawrence T., [redacted].

Daniel, James L., xxx-xx-xxxx.
Davies, James, III, xxx-xx-xxxx.
Davis, Chester H., xxx-xx-xxxx.
Davis, Harry L., xxx-xx-xxxx.
Davis, Wilbur J., xxx-xx-xxxx.
Deakin, Craig E., xxx-xx-xxxx.
Dean, Wilbert M., xxx-xx-xxxx.
Debiase, James P., xxx-xx-xxxx.
Deems, John M., xxx-xx-xxxx.
Defrain, Dennis A., xxx-xx-xxxx.
Defrancisco, Joseph E., xxx-xx-xxxx.
Dejong, Robert V., Jr., xxx-xx-xxxx.
Delgado, Richard, xxx-xx-xxxx.
Demoor, Maurice A., xxx-xx-xxxx.
Dempsey, Harry J., xxx-xx-xxxx.
Dent, Norman M., xxx-xx-xxxx.
Deputy, Thomas M., xxx-xx-xxxx.
Devine, Michael R., xxx-xx-xxxx.
Devitto, John C., xxx-xx-xxxx.
Devlin, Barbara, xxx-xx-xxxx.
Devney, Alan E., xxx-xx-xxxx.
Devoe, Smith A., Jr., xxx-xx-xxxx.
Dewitt, Clyde H., Jr., xxx-xx-xxxx.
Dickey, James L., xxx-xx-xxxx.
Dicks, James C., xxx-xx-xxxx.
Dimsdale, Roger, xxx-xx-xxxx.
Dipierro, Joseph, xxx-xx-xxxx.
Doerfel, John S., xxx-xx-xxxx.
Donaldson, Charles W., xxx-xx-xxxx.
Donnan, Edward F., Jr., xxx-xx-xxxx.
Donnithorne, Larry R., xxx-xx-xxxx.
Doolittle, Douglas R., xxx-xx-xxxx.
Dorsey, Mercer M., Jr., xxx-xx-xxxx.
Doughty, Robert A., xxx-xx-xxxx.
Douglass, David G., xxx-xx-xxxx.
Dowden, Russell H., Jr., xxx-xx-xxxx.
Dowdy, James T., xxx-xx-xxxx.
Dowling, John F., xxx-xx-xxxx.
Dowling, Ted K., xxx-xx-xxxx.
Doyle, James T., xxx-xx-xxxx.
Drake, Van T., xxx-xx-xxxx.
Duarte, Henry E., Jr., xxx-xx-xxxx.
Dubay, Donald A., xxx-xx-xxxx.
Duck, Theodore A., xxx-xx-xxxx.
Duckworth, Walter L., Jr., xxx-xx-xxxx.
Duedall, Robert L., xxx-xx-xxxx.
Dunning, Jeffrey P., xxx-xx-xxxx.
Durbin, James P., xxx-xx-xxxx.
Dutko, Thomas M., xxx-xx-xxxx.
Dutter, Wilbert A., xxx-xx-xxxx.
Dysart, James E., xxx-xx-xxxx.
Earp., Edwin L., xxx-xx-xxxx.
Eaton, Harmon L., Jr., xxx-xx-xxxx.
Echols, Eugene W., Jr., xxx-xx-xxxx.
Echols, William H., xxx-xx-xxxx.
Edgar, Michael W., xxx-xx-xxxx.
Eichorn, Frederic N., Jr., xxx-xx-xxxx.
Elders, Telford E., xxx-xx-xxxx.
Elley, George D., xxx-xx-xxxx.
Elliott, Lynn B., xxx-xx-xxxx.
Emerson, William K., xxx-xx-xxxx.
Emmons, James B., xxx-xx-xxxx.
Emmons, Mary A., xxx-xx-xxxx.
Engle, Clifford L., xxx-xx-xxxx.
English, Ronald W., xxx-xx-xxxx.
Ervin, Charles P., Jr., xxx-xx-xxxx.
Essig, Frederick H., xxx-xx-xxxx.
Etheridge, John T., xxx-xx-xxxx.
Evankovich, Genevieve I., xxx-xx-xxxx.
Evans, Melvin R., xxx-xx-xxxx.
Everett, Harry, Jr., xxx-xx-xxxx.
Eyler, Christopher B., xxx-xx-xxxx.
Falke, William P., xxx-xx-xxxx.
Farmelo, Gene R., xxx-xx-xxxx.
Farmer, Marvin R., xxx-xx-xxxx.
Farrell, Henry R., xxx-xx-xxxx.
Farris, Karl, xxx-xx-xxxx.
Farrow, Elvus J., xxx-xx-xxxx.
Faulkner, William L., xxx-xx-xxxx.
Faust, Edmond L., III, xxx-xx-xxxx.
Feast, Joseph, Jr., xxx-xx-xxxx.
Featherston, George D., Jr., xxx-xx-xxxx.
Featherston, Michael S., xxx-xx-xxxx.
Feight, James W., xxx-xx-xxxx.
Feret, John M., xxx-xx-xxxx.
Ferguson, Arthur D., xxx-xx-xxxx.
Ferguson, James E., xxx-xx-xxxx.
Fergusson, Thomas G., xxx-xx-xxxx.
Ferland, Paul E., xxx-xx-xxxx.
Fernandez, Carlos M., xxx-xx-xxxx.
Ferris, Marshall A., xxx-xx-xxxx.
Fiebig, Heinz, xxx-xx-xxxx.
Finch, Alfred J., xxx-xx-xxxx.
Findeisen, Edgar J., xxx-xx-xxxx.
Findlater, John W., Jr., xxx-xx-xxxx.
Fish, Grosvenor W., Jr., xxx-xx-xxxx.
Fitt, Charles B., xxx-xx-xxxx.
Fix, Donald J., xxx-xx-xxxx.
Fleig, Franz W., xxx-xx-xxxx.
Flesch, Joseph E., xxx-xx-xxxx.
Floca, Samuel W., Jr., xxx-xx-xxxx.
Flowers, Jack L., xxx-xx-xxxx.
Flynn, Joseph M., xxx-xx-xxxx.
Ford, David R., xxx-xx-xxxx.
Fordiani, Daniel C., xxx-xx-xxxx.
Forster, Paul H., xxx-xx-xxxx.
Forville, David R., xxx-xx-xxxx.
Foster, Garry D., xxx-xx-xxxx.
Fowler, James R., xxx-xx-xxxx.
Foy, June M., xxx-xx-xxxx.
Franklin, Wililam A., xxx-xx-xxxx.
Fraser, James H., Jr., xxx-xx-xxxx.
Frazar, Joe N., III, xxx-xx-xxxx.
Frederick, James L., xxx-xx-xxxx.
Fredricks, Grant L., xxx-xx-xxxx.
Freedman, Albert, xxx-xx-xxxx.
Frenn, Gary A., xxx-xx-xxxx.
Friedrich, Russell H., xxx-xx-xxxx.
Friel, George E., xxx-xx-xxxx.
Fry, Michael D., xxx-xx-xxxx.
Frye, Richard H., xxx-xx-xxxx.
Fuller, Cornell, xxx-xx-xxxx.
Fulmer, John A., xxx-xx-xxxx.
Fulton, John S., xxx-xx-xxxx.
Galloway, Joseph W., xxx-xx-xxxx.
Garcia, Augustine, xxx-xx-xxxx.
Garraway, Samuel W., Jr., xxx-xx-xxxx.
Gass, James M., xxx-xx-xxxx.
Gebott, Bradley W., xxx-xx-xxxx.
Gehringer, George S., xxx-xx-xxxx.
Genetti, Thomas R., xxx-xx-xxxx.
Gentine, Carl W., xxx-xx-xxxx.
George, Michael S., xxx-xx-xxxx.
Georgecink, Robert S., xxx-xx-xxxx.
Gerlach, Stephen R., xxx-xx-xxxx.
Gerzel, John I., xxx-xx-xxxx.
Gettig, Charles E., Jr., xxx-xx-xxxx.
Getz, John E., xxx-xx-xxxx.
Gibson, Claud L., xxx-xx-xxxx.
Gibson, Stephen C., xxx-xx-xxxx.
Giddings, Warren P., xxx-xx-xxxx.
Gill, Americus M., Jr., xxx-xx-xxxx.
Gilliam, James W., xxx-xx-xxxx.
Gilmore, Lee R., xxx-xx-xxxx.
Gilson, Dennis R., xxx-xx-xxxx.
Ginsberg, Alvin L., xxx-xx-xxxx.
Gipson, Arthur J., xxx-xx-xxxx.
Girard, Albert R., xxx-xx-xxxx.
Gius, Gary A., xxx-xx-xxxx.
Glass, Maurice J., Jr., xxx-xx-xxxx.
Glynn, Michael S., xxx-xx-xxxx.
Goff, John E., xxx-xx-xxxx.
Goodridge, James P., xxx-xx-xxxx.
Goodwin, Lawrence B., Jr., xxx-xx-xxxx.
Gordon, Francis G., xxx-xx-xxxx.
Gore, Willie L., xxx-xx-xxxx.
Gorka, Paul A., xxx-xx-xxxx.
Gornto, Ronald E., xxx-xx-xxxx.
Gorski, Richard V., xxx-xx-xxxx.
Goss, Barry W., xxx-xx-xxxx.
Goularte, Richard W., xxx-xx-xxxx.
Grace, Thomas H., xxx-xx-xxxx.
Gragg, Larry L., xxx-xx-xxxx.
Graham, Joe D., xxx-xx-xxxx.
Graham, Richard J., xxx-xx-xxxx.
Grassi, Augustine M., xxx-xx-xxxx.
Green, Gary L., xxx-xx-xxxx.
Green, James E., Jr., xxx-xx-xxxx.
Greene, Lee F., xxx-xx-xxxx.
Greenhouse, Aloysius, xxx-xx-xxxx.
Greeson, Jon M., xxx-xx-xxxx.
Gregg, Steven C., xxx-xx-xxxx.
Gresdo, Dennis J., xxx-xx-xxxx.
Gretka, John F., xxx-xx-xxxx.
Griffard, Bernard F., xxx-xx-xxxx.
Griffin, Roger A., xxx-xx-xxxx.
Grohowski, Gerald A., xxx-xx-xxxx.
Gruner, Kenneth A., xxx-xx-xxxx.
Guerin, William J., III, xxx-xx-xxxx.
Gunton, Joseph A., Jr., xxx-xx-xxxx.
Guthrie, John C., xxx-xx-xxxx.
Guy, Robert A., xxx-xx-xxxx.
Haack, Duane G., xxx-xx-xxxx.
Haase, Thomas A., xxx-xx-xxxx.
Hadden, Mayo A., III, xxx-xx-xxxx.
Hagen, John F., xxx-xx-xxxx.
Hagie, Leslie E., xxx-xx-xxxx.
Haight, Robert Q., Jr., xxx-xx-xxxx.
Hail, Thomas A., xxx-xx-xxxx.
Hair, Dwight E., xxx-xx-xxxx.
Hale, Clyde J., xxx-xx-xxxx.
Hale, David R., Evan., xxx-xx-xxxx.
Hallissey, Stephen C., xxx-xx-xxxx.
Halvorson, Colin O., xxx-xx-xxxx.
Handley, John M., xxx-xx-xxxx.
Hansmann, Jack, xxx-xx-xxxx.
Happe, Robert W., xxx-xx-xxxx.
Haraszko, Dennis A., xxx-xx-xxxx.
Hardin, James C., xxx-xx-xxxx.
Harding, Kenneth W., xxx-xx-xxxx.
Harkins, Gerald R., xxx-xx-xxxx.
Harley, George E., xxx-xx-xxxx.
Harman, Steven C., Jr., xxx-xx-xxxx.
Harmeyer, George H., xxx-xx-xxxx.
Harrington, John B., xxx-xx-xxxx.
Harris, Aubrey E., xxx-xx-xxxx.
Harris, Bruce A., xxx-xx-xxxx.
Harris, Edwin C., xxx-xx-xxxx.
Harris, Steven R., xxx-xx-xxxx.
Harrison, Matthew C. J., xxx-xx-xxxx.
Harry, Robert E., xxx-xx-xxxx.
Harter, Robert L., xxx-xx-xxxx.
Hartford, Thomas F., xxx-xx-xxxx.
Harting, Bruce W., xxx-xx-xxxx.
Hartley, Charles R., xxx-xx-xxxx.
Hartley, David A., xxx-xx-xxxx.
Hartley, Lonnie G., xxx-xx-xxxx.
Hartline, Franklin Y., xxx-xx-xxxx.
Hartmeyer, James T., xxx-xx-xxxx.
Harvey, James R., Jr., xxx-xx-xxxx.
Haseman, John B., xxx-xx-xxxx.
Hassett, James P., xxx-xx-xxxx.
Hawkes, Allen W., xxx-xx-xxxx.
Hawkins, Raymond J., xxx-xx-xxxx.
Hawley, David B., xxx-xx-xxxx.
Hawthorne, James N., Jr., xxx-xx-xxxx.
Hayden, Lee L., III, xxx-xx-xxxx.
Hayman, Jack H., xxx-xx-xxxx.
Hays, Melvin M., xxx-xx-xxxx.
Hecker, William F., Jr., xxx-xx-xxxx.
Heebner, David K., xxx-xx-xxxx.
Henderson, James A., xxx-xx-xxxx.
Hennessey, James T., Jr., xxx-xx-xxxx.
Herndon, Robert L., xxx-xx-xxxx.
Heslin, John G., xxx-xx-xxxx.
Hester, Arthur C., xxx-xx-xxxx.
Heuple, Jerry H., xxx-xx-xxxx.
Hewitt, Leland H., xxx-xx-xxxx.
Hewitt, William F., xxx-xx-xxxx.
Hibbard, Ronald D., xxx-xx-xxxx.
Hickman, James L., xxx-xx-xxxx.
Hicks, Norman A., xxx-xx-xxxx.
Higgins, Robert W., xxx-xx-xxxx.
Hill, Karl B., Jr., xxx-xx-xxxx.
Hindsley, Joseph D., xxx-xx-xxxx.
Hines, Kerry G., xxx-xx-xxxx.
Hock, Frank M., Jr., xxx-xx-xxxx.
Hoebeke, Gary L., xxx-xx-xxxx.
Hoffman, Peter D., xxx-xx-xxxx.
Hogler, James L., xxx-xx-xxxx.
Holcomb, Larry D., xxx-xx-xxxx.
Holcomb, Vernon A., xxx-xx-xxxx.
Holder, James R., xxx-xx-xxxx.
Holder, Leonard D., Jr., xxx-xx-xxxx.
Holland, Francis B., xxx-xx-xxxx.
Holland, James G., III, xxx-xx-xxxx.
Holland, Joseph B., xxx-xx-xxxx.
Hollis, Joseph P., Jr., xxx-xx-xxxx.
Holmes, Gilbert L., xxx-xx-xxxx.
Holton, William E., xxx-xx-xxxx.
Holtz, Douglas J., xxx-xx-xxxx.
Hookness, Robert S., xxx-xx-xxxx.
Horalek, John L., xxx-xx-xxxx.
Hotard, Ernest P., xxx-xx-xxxx.
Hotop, Arthur R., xxx-xx-xxxx.
Houdyshell, Walter L., xxx-xx-xxxx.
House, Jerry L., xxx-xx-xxxx.
Houser, Bruce J., xxx-xx-xxxx.
Howell, John M., xxx-xx-xxxx.
Howell, Samuel A., xxx-xx-xxxx.
Hoyer, Anthony X., xxx-xx-xxxx.

Huff, William S., II, [redacted].
Huffman, Dennis G., [redacted].
Hughes, Lyttle P., [redacted].
Hughes, Michael D., [redacted].
Hughes, William D., [redacted].
Huizi, Richard A., [redacted].
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Surles, Thomas B., xxx-xx-xxxx.

Real growth in GNP (average per year)	2. 4
Inflation rate (GNP deflator, average per year)	7. 7
Productivity growth (average per year)	1. 1
Unemployment rate (average per year)	6. 7

Under the second set of assumptions, the "pessimistic" scenario, the level of investment is assumed to fall to 9.6 percent. The effects of such a decline are significant. Unemployment would rise from 6.7 to 8.9 percent. Productivity growth would fall from 1.1 percent growth per year to 0.9 percent. The inflation rate, as measured by the GNP deflator, would rise from 7.7 to 8.9 percent. As the NYSE study states:

> The pessimistic model underscores the direct relationship between low investment in plant and equipment and the one-two punch of fewer new employment opportunities and high rates of inflation.

Low growth scenario, 1980–90

	Percent
Non-residential fixed investment/GNP	9. 6
Real growth in GNP (average per year)	2. 0
Inflation rate (GNP deflator, average per year)	8. 9
Productivity growth (average per year)	0. 9
Unemployment rate (average per year)	8. 9

The third scenario analyzed by the NYSE study contains the same assumptions as the "base case" and the "pessimistic" simulations with regard to oil prices, Federal Government defense expenditures, and monetary policy.

However, this scenario assumes that tax policies are implemented that would increase the investment/GNP ratio to 12.1 percent. In addition, it was assumed that Government regulation was eased somewhat such that productivity growth would increase by one-half of 1 percent over the period 1980–90. The impact of these policy changes is powerful. The following table shows the effect of an improvement in the investment/GNP ratio on inflation, productivity, unemployment, and economic growth:

High growth scenario, 1980–90

	Percent
Non-residential fixed investment/GNP	12. 1
Real growth in GNP (average per year)	3. 4
Inflation rate (GNP deflator, average per year)	6. 7
Productivity growth (average per year)	2. 0
Unemployment rate (average per year)	5. 8

The result is a full percentage point increase in GNP growth over the base case scenario, accompanied by improvements in productivity, reduced inflation and an unemployment level of 5.8 percent, a level considered to be very near "full employment" by many economists. The following table compares the economic impact of three different levels of investment over the coming decade:

3 SCENARIOS, 1980–90

[In percent]

	Pessimistic	Base case	Optimistic
Investment to GNP	9. 6	10. 3	12. 1
Real growth in GNP	2. 0	2. 4	3. 4
Inflation (GNP deflator)	9. 5	7. 7	6. 4
Unemployment rate	8. 9	6. 7	5. 8

Clearly, the levels of economic growth, unemployment, productivity, and price stability achieved through the higher ratio of investment to GNP represent the most desirable outcome for the future.

Mr. President, the key variable in achieving the economic goals of full employment and low inflation is the rate of investment. Low investment leads to poor productivity growth, which results in high inflation and reduced GNP growth. These effects combined with increased unemployed produce lower personal savings. A shortfall in personal savings means fewer funds for investment, and the cycle repeats itself. This vicious circle must be broken and the most effective means of breaking it is to create new economic incentives that will encourage individuals to shift economic activity from consumption to savings and investment. The bill I am introducing today will help accomplish this goal. This legislation will affect every American with a savings account or investments.

Over 44 million Americans will benefit from reduced taxes on interest and dividends. Low- and moderate-income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth, and overall increase in economic prosperity that will result. Older Americans on fixed incomes, facing high inflation, will benefit through an improved rate of return on their savings. In short, all aspects of the economy and all segments of our population will benefit from this proposal.

I urge my colleagues to join me in this effort to improve the rate of return our people receive on their savings and investment, for this is the key to economic growth in the decade ahead.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Savings and Investment Incentive Act of 1980.

Sec. 2. (a) Paragraph (1) of subsection (b) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusions of interest and dividends received by individuals) is amended to read as follows:

"(1) Maximum amount.—

"(A) In general.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed the sum of—

"(i) $200 ($400 in the case of a joint return under section 6013), plus

"(ii) 25 percent of so much of the amount of interest and dividends received during the taxable year which are not taken into account under clause (i) as does not exceed $50,000.

"(B) Transitional rule.—For purposes of applying subparagraph (A)(ii) for taxable years beginning before January 1, 1985, the following percentages shall be substituted for '25 percent' in the case of taxable years beginning in the calendar year to which each such percentage applies:

Calendar year:	*Percentage*
1981	5
1982	10
1983	15
1984	20.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.

Tax Incentives Without Deficits

(By Martin Feledstein)

Despite the best efforts of the Carter administration, the tax cut debate has fortunately moved from "whether" to "what kind." There is of course the danger of a quick-fix election year tax cut aimed at stimulating employment and camouflaging next year's Social Security tax rise. But what is really needed is a multi-year program of tax cuts that will reduce some of the existing strong disincentives to capital formation and production. And if it is done in the right way, a multi-year tax cut could bring immediate increases in investment, saving and individual effort without any increases in the government deficit now or in the future.

The most important thing to consider in a tax-cut strategy is that all important economic decisions are based on expectations. What matters for current actions—investment, saving, the choice of jobs—is not the current tax rates but the rates that are expected.

Congress can therefore improve current incentives without any increase in the current deficit by enacting now a schedule of future tax cuts. These precommitted tax cuts can be financed as they occur out of the automatic revenue increases produced by inflation and out of the savings that could result from a slowdown in the growth of government spending. The commitment to a schedule of future tax cuts would give Congress and the government agencies time to shape their spending plans to the lower lever of available revenue. Thus, while an immediate tax cut generally means an increased deficit, precommitted future tax cuts can change incentives without any deficits.

STIMULATING SAVING

Consider the problem of stimulating individuals to save more. Today the combination of inflation and high tax rates makes the real after-tax return negative for many individuals. To stimulate saving, the key requirement is to raise the real after-tax return that savers can expect to receive in the future on additions to their assets. One simple and direct way to achieve this would be to treat interest and dividends like capital gains—i.e., exclude 60 percent of all interest and dividends from taxable income. Of course, if this 60 percent exclusion were allowed all at once in 1981, the revenue loss would probably exceed the increased saving. The government's borrowing to finance this revenue loss would then absorb more than all of the increased saving—and the amount available for investment in plant and equipment would actually be reduced.

But what if the 60 percent exclusion were enacted now with its effective date postponed until 1985? The government would clearly lose no revenue in the next four years. But households would have a strong incentive to start saving more immediately in order to have more assets on which to take fuller advantage of the lower tax rate when it becomes effective. Starting with a small exclusion in 1981 and allowing it to rise to 60 percent by 1985 would make the prospect of the full future exclusion more credible without changing the fundamental point that the immediate increase in saving can be substantially greater than the concurrent increase in the deficit.

The same idea of a precommitted tax cut can work to stimulate investment. Consider the effect of a major cut in the corporate tax rate—say from 46 percent to 36 percent—that is enacted now with an effective date in 1985. Although there would be no change in tax rates from 1981 through 1984,

Holberton, Roger E., [redacted].
Howard, John R., [redacted].
Inazu, William M., [redacted].
Ingraham, Larry H., [redacted].
Jacobs, Gerald D., [redacted].
Jones, Thomas C., [redacted].
Langeliers, Leonard L., Jr., [redacted].
Leblanc, Robby J., [redacted].
Lenz, Ernest J., Jr., [redacted].
Lewis, Charles H., [redacted].
Livermore, Philip E., [redacted].
Lull, Robert W., [redacted].
Lynch, Edward F., [redacted].
MacFarlane, George J., [redacted].
Madkins, Lawrence H., Jr., [redacted].
Manning, Randolph, [redacted].
Manoil, Robert, [redacted].
Matt, John E., [redacted].
Maykuth, Paul B., [redacted].
McAlear, Hugh M., [redacted].
McGinley, Michael P., [redacted].
McKelvey, L. P., [redacted].
McLain, Frederick R., Jr., [redacted].
McLaughlin, Peter M., [redacted].
McLaurin, Benjamin F., V., [redacted].
Micek, Jerome J., [redacted].
Miller, Dewey R., Jr., [redacted].
Moody, Hershell L., [redacted].
Moore, Robert T., [redacted].
Moore, William E., [redacted].
Munnell, Thomas C., [redacted].
Myrland, Eric H., [redacted].
Nalepa, Thomas F., [redacted].
Obrien, Robert M., [redacted].
Perkins, Philip H., [redacted].
Pitts, Walter G., [redacted].
Platte, Ronald J. [redacted].
Pleasants, James L., [redacted].
Porter, Steven J., [redacted].
Pozniak, Thomas B., [redacted].
Pyle, John F., [redacted].
Richardson, William O., II, [redacted].
Roberts, Daniel C., [redacted].
Roberts, Donald R., [redacted].
Robertson, James W., Jr., [redacted].
Salko, Joseph E., [redacted].
Schlenker, Austin C., Jr., [redacted].
Schopper, Aaron W., [redacted].
Schumaker, Richard L., Jr., [redacted].
Schuyler, Linden E., [redacted].
Scott, James A., [redacted].
Sedge, Roy K., [redacted].
Seefeld, Herman W., III, [redacted].
Sellers, Maurice E., [redacted].
Sevelius, Arthur E., [redacted].
Sharp, Fred P., [redacted].
Sierra, Albert J., Jr., [redacted].
Slifer, William E., [redacted].
Smith, Clarence W., Jr., [redacted].
Sorensen, Wayne B., [redacted].
Sowder, Norman G., [redacted].
Soyak, John A., [redacted].
Steen, David B., [redacted].
Stotler, Richard E., [redacted].
St. Pierre, Wayne A., [redacted].
Sullivan, Michael F., [redacted].
Taylor, Philip L., [redacted].
Tonniges, Gary L., [redacted].
Usry, Robert T., [redacted].
Vatne, Clarence G., [redacted].
Ward, Stewart R., [redacted].
Washington, Curtis L., [redacted].
Wesselmann, Albert H., [redacted].
Whitesell, Thomas C., [redacted].
Wiggins, David E., [redacted].
Wilson, Edward B., [redacted].
Wisdom, Harry A., Jr., [redacted].
Workman, Dale H., [redacted].
Yox, John E., [redacted].
Zumek, David T., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bajema, Sheldon L., [redacted].
Bruns, Robert D., [redacted].
Ellsworth, Paul D., [redacted].
Garfield, Mary M., [redacted].
Grabhorn, Juanita J. [redacted].
Hartwick, Ann M., [redacted].
Ingeman, Peter L., [redacted].
Kersey, Douglas A., [redacted].
Naranjo, Carmen J., [redacted].
Palm, Leah, [redacted].
Reid, Barbara C., [redacted].
Swift, Roy A., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Bunte, Ralph M., [redacted].
Burris, William K., Jr., [redacted].
Chapple, Frank E., [redacted].
Denniston, Joseph C., Jr., [redacted].
Konermann, Leo L., Jr., [redacted].
Lafontaine, Daniel E., [redacted].
Linn, Jeffrey M., [redacted].
Lollini, Lance O., [redacted].
Raflo, Charles P., [redacted].
Ridgway, Robert L., [redacted].
Stephen, Edward L., [redacted].
Ward, George S., [redacted].
Wilson, Byron L., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Albaugh, Beverly A., [redacted].
Anundson, William D., [redacted].
Arndt, Georgene E. [redacted].
Barsh, John E., [redacted].
Berry, Richard L., [redacted].
Bevis, Denise W., [redacted].
Blackwood, Lynn G., [redacted].
Breeden, Linda J., [redacted].
Brillant, Eugene G., [redacted].
Brisendine, Esther A., [redacted].
Brown, Irvin L., [redacted].
Burchard, Joyce A., [redacted].
Cade, Carolyn S., [redacted].
Chapman, Joanne E. [redacted].
Chase, Harold M., Jr., [redacted].
Cooper, Marie, [redacted].
Cudnohufsky, Eugene R., [redacted].
Delacruz, Jesse M., [redacted].
Diskin, Patricia A., [redacted].
Downey, Doris P., [redacted].
Earnest, Ralph E., [redacted].
Eckels, Ann D., [redacted].
Feske, Mary A., [redacted].
Franks, James L., [redacted].
Frelin, Alyce J., [redacted].
Fritz, John F., [redacted].
Garman, Anita A., Wagner, [redacted].
Gaynor, Mary E., [redacted].
Gruenewald, Armie K., [redacted].
Guida, Robert A., [redacted].
Gumbert, Terrence B., [redacted].
Gurley, Marshall E., Jr., [redacted].
Hanna, Jerry N., [redacted].
Harvey, Florence J., [redacted].
Hazle, Elaine H., [redacted].
Hertel, Arthur J., [redacted].
Johnson, Tony B., [redacted].
Kanusky, Joseph T., [redacted].
Kazmierczak, Eugene S., [redacted].
Kruger, Elizabeth A., [redacted].
Kurlansik, Edward, [redacted].
Lackovich, Sophie M., [redacted].
Laur, Margaret H., [redacted].
Layman, Kay F., [redacted].
Learmann, Paul C., [redacted].
Lebel, Leo A., [redacted].
Lenig, Richard C., [redacted].
Lewis, Otis H., [redacted].
Lobody, Mary E., [redacted].
Lord, Ellen V., [redacted].
Mary, Margarete E., [redacted].
McCamley, John J., [redacted].
McEntire, Jackie J., [redacted].
Meyer, Robert A., [redacted].
Mika, Walter V., Jr., [redacted].
Miller, Elizabeth A., [redacted].
Miller, Esther R., [redacted].
Minahan, Sue P., [redacted].
Mitten, John N., [redacted].
Mort, Mary A., [redacted].
Moskovites, John P., G., [redacted].
Murtonen, Ruth E., [redacted].
Nelson, Janice M., [redacted].
Newman, Peggy J., [redacted].
Page, Peggy A., [redacted].
Parsons, Robert W., [redacted].
Pastrano, Charles O., [redacted].
Patnode, Louis G., [redacted].
Price, Barbara J., [redacted].
Purcell, Shirley A., [redacted].
Riedman, John A., [redacted].
Roscoe, Ronald R., [redacted].
Rovinski, Charles J., Jr., [redacted].
Scanlon, Sally D., [redacted].
Shipley, Susan B., [redacted].
Shirley, Lois G., [redacted].
Sollenberger, Karen S., [redacted].
Southby, Janet R. [redacted].
Stamper, Roy R., [redacted].
Stanfield, John C., [redacted].
Steinbruckner, Kenneth P. [redacted].
Swenson, Mary A., [redacted].
Tangel, Cecilia W., [redacted].
Thesing, William H., [redacted].
Victor, Joseph A., [redacted].
Walchek, Dennis E., [redacted].
Walckner, Edward, [redacted].
Walker, Prince A., Jr., [redacted].
Weddell, Rose M., [redacted].
Wehner, Robert J., [redacted].
Wheeler, Marvin W., [redacted].
Wimett, William J., [redacted].
Wimmer, Sidna P., [redacted].
Zebbs, Barbara F., [redacted].
Zegarski, John J., [redacted].

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

Burrows, Gary D., [redacted].
Conner, Patrick D., [redacted].
Davis, James Jr., [redacted].
Deadwyler, William S., [redacted].
Ferguson, Harry, [redacted].
Flowers, Jack L., [redacted].
Fournia, Paul H., [redacted].
Ganas, Ernest P. S., [redacted].
Gibson, Gary J., [redacted].
Glover, Carl V., [redacted].
Glynn, Michael S., [redacted].
Henderson, Jerald D., [redacted].
Hess, Robert J., [redacted].
Hoover, Richard W., [redacted].
Hudson, Olin Jr., [redacted].
Johnson, Clyde W., Jr., [redacted].
Kerns, Robert Z., [redacted].
McAdam, William J., [redacted].
McKay, Eugene C., [redacted].
Meeks, Roy E., [redacted].
Miller, Danny C., [redacted].
Morris, Raymond C., [redacted].
Mott, John B., [redacted].
Northamer, Kenneth W., Jr., [redacted].
Palmer, Donald W., [redacted].
Rogers, David R., [redacted].
Rountree, Thomas E., [redacted].
Sheffied, Robert A., [redacted].
Sikora, Stanley F., Jr., [redacted].
Smith, Russell H., [redacted].
Stanley, William S., [redacted].
Tumminello, Albert J., Jr., [redacted].
Williams, James C., Jr., [redacted].

To be captain

Ackerman, Michael W., [redacted].
Adams, Ronald E., [redacted].
Adams, Samuel A., [redacted].
Adolf, Peter J., [redacted].
Agee, Darrell G., [redacted].
Alsup, Charles W., [redacted].
Anderson, William V., [redacted].
Apgar, Gerald L., [redacted].
Armstrong, Robert N., [redacted].
Asta, John J., [redacted].
Baird, Robert L., [redacted].
Barragan, Robert A., [redacted].
Beahon, James L., [redacted].
Beletsky, William W., [redacted].
Biggs, Michael E., [redacted].
Blackburn, Wayne M., [redacted].
Bond, John M., [redacted].
Borges, Dwight L., [redacted].
Borman, Charles M., [redacted].
Bradley, Peter M., [redacted].
Brown, Eber E., Jr., [redacted].
Bukowski, Victor R., Jr., [redacted].
Burke, Charles M., [redacted].

Burritt, William D., xxx-xx-xxxx.
Butler, Geraldina R., xxx-xx-xxxx.
Carlos, Benjamin A., xxx-xx-xxxx.
Carothers, Michael A., xxx-xx-xxxx.
Carter, Arnold W., xxx-xx-xxxx.
Casey, Judith A., xxx-xx-xxxx.
Caviani, Martha E. Y., xxx-xx-xxxx.
Clark, Russell L., Jr., xxx-xx-xxxx.
Clark, Shelby T., xxx-xx-xxxx.
Cline, David D., xxx-xx-xxxx.
Cochran, Barry J., xxx-xx-xxxx.
Compton, George J., xxx-xx-xxxx.
Copeland, Clinton D., xxx-xx-xxxx.
Cowan, Charles E., Jr., xxx-xx-xxxx.
Cunningham, Philip L., xxx-xx-xxxx.
Daniels, Robert W., xxx-xx-xxxx.
Deets, Eric C., xxx-xx-xxxx.
Doesburg, John C., xxx-xx-xxxx.
Domeck, Robert C., xxx-xx-xxxx.
Donahue, Michael L., xxx-xx-xxxx.
Donaldson, Steven D., xxx-xx-xxxx.
Dull, Daniel R., xxx-xx-xxxx.
Eggle, David J., xxx-xx-xxxx.
Epkins, Steven A., xxx-xx-xxxx.
Etsell, Stephen C., xxx-xx-xxxx.
Fenton, Jerry L., xxx-xx-xxxx.
Ferruzzi, David F., xxx-xx-xxxx.
Fetterolf, Charles E., III, xxx-xx-xxxx.
Flanigan, William E., Jr., xxx-xx-xxxx.
Fleck, Joseph P, II, xxx-xx-xxxx.
Flynn, Robert J., xxx-xx-xxxx.
Frazier, Thomas T., xxx-xx-xxxx.
Garrett, Earl T., xxx-xx-xxxx.
Gatti, John S., xxx-xx-xxxx.
Gentry, John E., xxx-xx-xxxx.
Gesell, Robert A., xxx-xx-xxxx.
Gibson, William D., III, xxx-xx-xxxx.
Grafel, Larry E., xxx-xx-xxxx.
Grubb, Joseph W., xxx-xx-xxxx.
Gulesserian, Edward S., xxx-xx-xxxx.
Hammond, Alan R., xxx-xx-xxxx.
Hardie, Ricky E., xxx-xx-xxxx.
Harris, John A., xxx-xx-xxxx.
Harris, Warren K., xxx-xx-xxxx.
Hauser, William C., xxx-xx-xxxx.
Heath, Herman S., xxx-xx-xxxx.
Hendley, Gerald W., xxx-xx-xxxx.
Hendrickson, Linn M., xxx-xx-xxxx.
Hensley, Donald M., Sr., xxx-xx-xxxx.
Hill, Ollis D., Jr., xxx-xx-xxxx.
Hopkins, Gary W., xxx-xx-xxxx.
Hopson, James D., xxx-xx-xxxx.
Housley, James A., xxx-xx-xxxx.
Huff, William K., xxx-xx-xxxx.
Hunt, Joseph F., xxx-xx-xxxx.
Jensen, Christopher D., xxx-xx-xxxx.
Jolly, Michael G., xxx-xx-xxxx.
Juarbe-Cruz, Luis A., xxx-xx-xxxx.
Kane, Raymond J., xxx-xx-xxxx.
Kiggins, Thomas R., III, xxx-xx-xxxx.
Kjellstrom, Richard E., xxx-xx-xxxx.
Kraus, Albert J., xxx-xx-xxxx.
Kuhn, Gary L., xxx-xx-xxxx.
Laidig, Arnold W., xxx-xx-xxxx.
Larkins, Victor E., xxx-xx-xxxx.
Leahy, James V., xxx-xx-xxxx.
Lewis, Roy D., xxx-xx-xxxx.
Little, Ronald E., xxx-xx-xxxx.
Lopez, Carol K., xxx-xx-xxxx.
Lorber, Roger L., xxx-xx-xxxx.
Lujan, Joseph L., xxx-xx-xxxx.
Magnin, David D., xxx-xx-xxxx.
Marcum, Philip C., xxx-xx-xxxx.
Marks, Floyd B., III, xxx-xx-xxxx.
Massmann, Peter W., xxx-xx-xxxx.
Matthews, Franklyn G., xxx-xx-xxxx.
Matthews, Robert A., xxx-xx-xxxx.
McCune, William D., xxx-xx-xxxx.
McGuire, Thomas J., xxx-xx-xxxx.
McKown, James E., Jr., xxx-xx-xxxx.
Mellon, John W., III, xxx-xx-xxxx.
Mercado, William, xxx-xx-xxxx.
Michael, Terry R., xxx-xx-xxxx.
Miles, Robert A., Jr., xxx-xx-xxxx.
Miller, Herbert D., xxx-xx-xxxx.
Mills, John A., xxx-xx-xxxx.
Moore, Thomas D., xxx-xx-xxxx.
Morin, Stephen J., xxx-xx-xxxx.
Murray, Thomas R., xxx-xx-xxxx.
Oder, Joseph E., xxx-xx-xxxx.
Parrish, David W., xxx-xx-xxxx.
Patalano, Francis F., xxx-xx-xxxx.
Patton, David L., xxx-xx-xxxx.
Persic, David L., xxx-xx-xxxx.
Peterson, Blair A., xxx-xx-xxxx.
Plowden, William C., xxx-xx-xxxx.
Pollman, Mark A., xxx-xx-xxxx.
Powell, Douglas L., xxx-xx-xxxx.
Price, Forrest R., xxx-xx-xxxx.
Prout, John F., xxx-xx-xxxx.
Pulsipher, William, Jr., xxx-xx-xxxx.
Quander, Francis A., Jr., xxx-xx-xxxx.
Quay, Gary M., xxx-xx-xxxx.
Quick, Hubert L., Jr., xxx-xx-xxxx.
Quinn, Thomas E., xxx-xx-xxxx.
Radke, John W., xxx-xx-xxxx.
Raymond, Gene L., xxx-xx-xxxx.
Revell, Joseph L., xxx-xx-xxxx.
Rhodes, James W., xxx-xx-xxxx.
Rhodes, Ronald G., xxx-xx-xxxx.
Richmond, Douglas W., xxx-xx-xxxx.
Roman, Stephen P., xxx-xx-xxxx.
Roope, William R., xxx-xx-xxxx.
Ross, Michael A., xxx-xx-xxxx.
Russell, Jeffrey W., xxx-xx-xxxx.
Ruth, Robert H., xxx-xx-xxxx.
Salveson, Knud H., xxx-xx-xxxx.
Satterlee, Peter H., xxx-xx-xxxx.
Schaeffer, Thomas C., xxx-xx-xxxx.
Shawn, Gregory L., xxx-xx-xxxx.
Schuster, Michael W., xxx-xx-xxxx.
Seagrove, James D., xxx-xx-xxxx.
Sellman, Gerry K., xxx-xx-xxxx.
Shadburn, Robert P., xxx-xx-xxxx.
Shanahan, Edward P., xxx-xx-xxxx.
Shepard, Aubrey D., xxx-xx-xxxx.
Shipes, Joe F., xxx-xx-xxxx.
Siepielski, Robert E., xxx-xx-xxxx.
Smith, Carlos W., xxx-xx-xxxx.
Smith, David G., xxx-xx-xxxx.
Smith, Samuel T., xxx-xx-xxxx.
Snow, Jimmie D., xxx-xx-xxxx.
Sorrell, John A., xxx-xx-xxxx.
Sprabary, Larry D., xxx-xx-xxxx.
Spunaugle, Gary L., xxx-xx-xxxx.
Steele, William A., III, xxx-xx-xxxx.
Steklasa, Dorene, xxx-xx-xxxx.
Stephenson, Roy R., xxx-xx-xxxx.
Sterbling, Philip R., xxx-xx-xxxx.
Sun, Peter F., xxx-xx-xxxx.
Synovec, Joseph P., xxx-xx-xxxx.
Tarter, Donald W., xxx-xx-xxxx.
Taylor, Clifton J., xxx-xx-xxxx.
Thomas Alfred S., III, xxx-xx-xxxx.
Thomas, Charles G., xxx-xx-xxxx.
Tingle, Earl L., Jr., xxx-xx-xxxx.
Torbert, Tommy E., xxx-xx-xxxx.
Trackwell, Robert E., xxx-xx-xxxx.
Troutman, Keith G., xxx-xx-xxxx.
Urik, Regis A., xxx-xx-xxxx.
Vandongen, Charles M., xxx-xx-xxxx.
Virusky, Edmund J., Jr., xxx-xx-xxxx.
Watford, Raymond E., Jr., xxx-xx-xxxx.
Welch, Michael A., xxx-xx-xxxx.
Westenburger, Marvin W., xxx-xx-xxxx.
White, Steven L., xxx-xx-xxxx.
Whitehead, Alvin W., Jr., xxx-xx-xxxx.
Whittingstall, William C., xxx-xx-xxxx.
Whittington, Larry R., xxx-xx-xxxx.
Wiebe, William D., xxx-xx-xxxx.
Wiese, Robert H., xxx-xx-xxxx.
Wills, Guy A., xxx-xx-xxxx.
Withycombe, Howard J., Jr., xxx-xx-xxxx.
Wittig, Dale W., xxx-xx-xxxx.
York, Joseph O., xxx-xx-xxxx.
Yost, Burrwood, Jr., xxx-xx-xxxx.
Young, Jeffrey O., xxx-xx-xxxx.
Youngs, Charles D., xxx-xx-xxxx.

To be first lieutenant

Adolph, Robert B., Jr., xxx-xx-xxxx.
Angevine, John R., xxx-xx-xxxx.
Babb, Charles S., Jr., xxx-xx-xxxx.
Barnett, Luke J., III, xxx-xx-xxxx.
Barrera, Ricardo S., xxx-xx-xxxx.
Bartell, Arthur M., xxx-xx-xxxx.
Batchelor, Frederic M., xxx-xx-xxxx.
Bates, Robert H., xxx-xx-xxxx.
Beard, Glenn P., xxx-xx-xxxx.
Beattie, Mark A., xxx-xx-xxxx.
Beley, Douglas G., xxx-xx-xxxx.
Boland, James A., Sr., xxx-xx-xxxx.
Boyd, George G., xxx-xx-xxxx.
Boyer, Steven L., xxx-xx-xxxx.
Brodowski, Jerrold J., xxx-xx-xxxx.
Brooks, John R., xxx-xx-xxxx.
Broom, Cecil B., xxx-xx-xxxx.
Browne, James M., xxx-xx-xxxx.
Bryan, James L., xxx-xx-xxxx.
Buchanan, William B., xxx-xx-xxxx.
Callanan, Paul R., xxx-xx-xxxx.
Campbell, Donald L., xxx-xx-xxxx.
Cannon, Samuel M., xxx-xx-xxxx.
Carr, Lloyd W., xxx-xx-xxxx.
Castle, James M., xxx-xx-xxxx.
Chong, Allan, xxx-xx-xxxx.
Christian, Gregory W., xxx-xx-xxxx.
Corlew, Linda A., xxx-xx-xxxx.
Craft, Walter M., Jr., xxx-xx-xxxx.
Crary, John G., xxx-xx-xxxx.
Cross, Tommy, xxx-xx-xxxx.
Daugherty, Nancy D., xxx-xx-xxxx.
Davidson, Lewis M., xxx-xx-xxxx.
Denys, Albert J., Jr., xxx-xx-xxxx.
Distasio, John J., xxx-xx-xxxx.
Dotchin, Richard D., xxx-xx-xxxx.
Endreson, Dale R., xxx-xx-xxxx.
Farmer, Leonard R., xxx-xx-xxxx.
Fay, Mary L., xxx-xx-xxxx.
Ferguson, Richard G., xxx-xx-xxxx.
Fontenot, Ronald M., xxx-xx-xxxx.
Forsythe, Ralph F., xxx-xx-xxxx.
Frank, George R., xxx-xx-xxxx.
Furlow, John T., xxx-xx-xxxx.
Furphy, Lawrence R., xxx-xx-xxxx.
Garrity, John F., III, xxx-xx-xxxx.
Goracke, Mark L., xxx-xx-xxxx.
Gravitz, Robert M., xxx-xx-xxxx.
Graziano, Harold A., xxx-xx-xxxx.
Greene, Glenn D., xxx-xx-xxxx.
Gregory, Paul A., xxx-xx-xxxx.
Hale, Monique M., xxx-xx-xxxx.
Hamilton, Edward A., xxx-xx-xxxx.
Hauck, Gerald W., xxx-xx-xxxx.
Hiler, Sonja K. B., xxx-xx-xxxx.
Hill, Freeman S., Jr., xxx-xx-xxxx.
Hill, Joseph G., xxx-xx-xxxx.
Hilling, David B., xxx-xx-xxxx.
Howell, Gail S., xxx-xx-xxxx.
Jacques, Georges F., xxx-xx-xxxx.
Jago, Mark L., xxx-xx-xxxx.
James Morris, xxx-xx-xxxx.
Johnston, Larry R., xxx-xx-xxxx.
Kaufmann, Joseph G., Jr., xxx-xx-xxxx.
Kay, Ronald E., xxx-xx-xxxx.
Keenum, Stephen S., xxx-xx-xxxx.
Kelly, Paul P., xxx-xx-xxxx.
Kenney, John T., xxx-xx-xxxx.
Kings, Howard J., Jr., xxx-xx-xxxx.
Koziar, William J., xxx-xx-xxxx.
Kucan, Paul M., xxx-xx-xxxx.
Lanier, John R., xxx-xx-xxxx.
Launstein, Robert J., xxx-xx-xxxx.
Lawrence, Herbert W., xxx-xx-xxxx.
Ledebuhr, Charles K., xxx-xx-xxxx.
Leinberger, Robert C., xxx-xx-xxxx.
Linthicum, David O., xxx-xx-xxxx.
Manley, Jean-Pierre, xxx-xx-xxxx.
Marks, Tommy L., xxx-xx-xxxx.
Masengill, Addison S., xxx-xx-xxxx.
McCarty, Patricia, xxx-xx-xxxx.
McCormick, Robert A., xxx-xx-xxxx.
McMaster, Charles F., xxx-xx-xxxx.
Medina, Paul M., Jr., xxx-xx-xxxx.
Morgan, Michael E., xxx-xx-xxxx.
Murray, Albert, Jr., xxx-xx-xxxx.
Mutispaugh, Ronald R., xxx-xx-xxxx.
Neumann, Deborah A., xxx-xx-xxxx.
Newman, Blake L., xxx-xx-xxxx.
Nossov, Robert D., xxx-xx-xxxx.
Nowack, Elisabeth A., xxx-xx-xxxx.
O'Neill, Kevin F., xxx-xx-xxxx.
Ogborn, Robert J., xxx-xx-xxxx.
Owens, Harry D., Jr., xxx-xx-xxxx.
Perrenot, Steven S., xxx-xx-xxxx.
Peterson, Ann M., xxx-xx-xxxx.
Petree, Neal C., III, xxx-xx-xxxx.
Pierce, Phillip R., xxx-xx-xxxx.
Portante, Robert A., xxx-xx-xxxx.
Powell, Lula M., xxx-xx-xxxx.
Puttmann, William R., Jr., xxx-xx-xxxx.

Quick, Grandvial H., [redacted].
Reeves, Connie L., [redacted].
Reynolds, Richard D., [redacted].
Riggins, James R., [redacted].
Rosario, Carlos, Jr., [redacted].
Rose, Gary M., [redacted].
Rose, Peter W., II, [redacted].
Ross, Mitchell S., [redacted].
Schnabel, David E., [redacted].
Schnibben, John H., III, [redacted].
Scott, Daniel B., [redacted].
Seetin, Robert E., [redacted].
Sherman, William F., [redacted].
Silas, Harold L., [redacted].
Sills, Norris E., Jr., [redacted].
Sims, David C., Jr., [redacted].
Slovensky, Stephen A., [redacted].
Smith, William M., [redacted].
Soward, Fred R., [redacted].
Sprott, Ronald D., [redacted].
Starr, David W., [redacted].
Sutton, Donald R., [redacted].
Sutton, Michael J., [redacted].
Swain, Alan D., [redacted].
Sweeney, Duane W., [redacted].
Taylor, Allen E., Jr., [redacted].
Thornsvard, Harry C., Jr., [redacted].
Touhill, James D., [redacted].
Trimble, James E., [redacted].
Tyler, Melvin E., Jr., [redacted].
Vanderburg, Diane C., [redacted].
Vaughn, Charlotte E., [redacted].
Walker, Charles D., [redacted].
Wheeler, Douglas W., [redacted].
Whiting, Brian W., [redacted].
Whittington, David E., [redacted].
Williams, Adrian D., [redacted].
Winters, Michael B., [redacted].

To be second lieutenant

Carlson, David W., [redacted].
Duckworth, Thomas M., [redacted].
Dunham, William J., [redacted].
Phillips, Gregory B., [redacted].
Smith, Larry, [redacted].

In the Marine Corps

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 2107, subject to the qualifications therefor as provided by law:

Abe, Timothy C.
Aldridge, Aaron E.
Allison, John S.
Andrus, Paul M.
Arens, Mark P.
Atwell, Stephen J.
Augustine, James M.
Baker, Michael L.
Barber, Gary W.
Barnes, Joseph S.
Barrett, Sean P.
Barth, Fritz J.
Bell, Richard D. Jr.
Benet, Gabriel M.
Berger, David H.
Blunck, Timothy W.
Bombard, Wilfred L.
Bonham, Geoffrey R.
Bonson, Terry K.
Boothwilliam, D.
Braden, Thomas C.
Brier, Paul W.
Brockmann, James W.
Brown, Jerome W.
Bruner, Erich C.
Brunswick, Lois A.
Bryant, John J.
Brynuldson, Robert G.
Brzozowski, Mark M.
Buckner, Edward C.
Budak, Aydin D.
Calkins, Brian D.
Carlson, George N.
Carretti, John M.
Carter, Eric B.
Casto, Paul C.
Chadwick, David J.
Chandler, Scott E.
Check, Paul N.
Clark, Lawrence S.
Clements, David J.
Conlin, Christopher C.
Conner, Richard L.
Correa, Michael W.
Corso, Joseph A.
David, John W.
Davison, James D.
Deguzman, Enrico G.
Denny, Joel W.
Despain, Ronald K.
Detwiler, Leslie D.
Dickman, John C.
Dixon, Vinca A.
Dorn, Christopher K.
Duncan, David L.
Dvorak, Robert F.
Emerson, Sylvia
Ennis, Timothy K.
Enos, Gerald A.
Eskew, Mitchell A.
Evans, Timothy M.
Finamore, Theodore M.
Fitzgerald, James P.
Fulcher, Mark A.
Gaido, John M.
Gallagher, Bartley M.
Gardner, Christopher
George, Gregg L.
Gillespie, David G.
Gilliland, James T.
Gilliland, Shaun
Goddard, Susan D.
Godfrey, Dennis L.
Goehring, Harvey L.
Golebiowski, Joseph J.
Gonzales, Kenneth J.
Grace, William R.
Greenburg, David S.
Greene, Patrick J.
Guth, David L.
Guzik, Dennis M.
Halterman, Jeffrey A.
Harrison, Kathleen V.
Hayward, Dale B.
Hedeen, Ross R.
Heitkamp, Mark C.
Hellinger, Mark S.
Heplin, Edwin D.
Hertwig, Joseph L.
Hession, Kevin J.
Heule, Thomas D.
Higgins, Vincent P.
Holcomb, Grant K.
Holley, Timothy
Holman, Nicholas H.
Hornilla, Lamberto Z.
Hoskins, Estil L.
Hughes, George L.
Ikens, Charles G.
Ingram, Melvin T.
Ioffreda, Richard E.
Jaks, Jacob R.
Jenkins, Nicholas
Johnson, Mark W.
Jordan, James T.
Jordan, Mark Y.
Jozwiak, Stanley J.
Kaish, Terri
Kelly, Donald W.
Kilian, James K.
Kiscadden, Richard J.
Kline, Thomas W.
Kluegel, David M.
Kronlage, Ronald S.
Langley, Michael W.
Leary, Joseph T.
Leblanc, Stephen G.
Leftwich, William G. I.
Liddell, Daniel E.
Linterman, Barbara M.
Locks, Charles E.
Losinski, Paul V.
Lucas, Daniel B.
Lukas, Michael J.
Luigard, Timothy E.
Lutz, Edward J.
MacAulay, Bruce A.
MacVeigh, Craig A.
Maher, Thomas M.
Mallon, James C.
Marks, Glen E.
Martin, Jonathan B.
McCollum, Roger M.
McGee, Ronald E.
Melton, William G.
Meuschke, Paula A.
Miller, Robert D.
Morowski, Peter J.
Morton, Ulysses L.
Mulligan, John R. Jr.
Nelson, John P.
Nelson, Richard A.
New, Larry C.
Noriega, Carlos I.
Olsen, David P.
Olson, Mark A.
ONeal, Allen M.
ONeil, Richard E.
Osgood, Jerry V.
Osterhout, Karol E.
Owermohle, Kurt S.
Painter, David E.
Parlier, Terry L.
Parsons, Richard M.
Pearson, Warren L.
Peleti, Tui S.
Peterson, David V.
Pike, Robert F. Jr.
Primeaux, Russel O.
Puraty, Randy J.
Purvis, David A.
Quigley, Francis R.
Radelt, Michael W.
Rassel, Gregory J.
Rebholz, Jon W.
Rebholz, William J.
Reeves, Timothy J.
Reeves, Walter S.
Rehder, Carol A.
Reistrup, James A.
Rich, Thomas H.
Riley, Patrick D.
Rimer, John R.
Robbins, Jack A.
Rossetti, Robert F.
Ruark, Robert R.
Rudolph, Michael E.
Sampsel, Kirby L.
Sapp, Donald W.
Schmitt, John F.
Schnorf, Charles J.
Schwarzkopf, Michael
Scott, Gregot G.
Scott, Thomas C.
Sedor, John W.
Seitz, Stephen G.
Shannon, Frances A.
Shaw, James W.
Shawhan, Kelly T.,
Shoemaker, Scott R.
Shue, Jeffrey P.
Shupp, Michael A.
Singleton, Bradford P.
Sitler, David F.
Skinner, James C.
Smith, Douglas B.
Smith, Duncan A.
Smith, Paul J.
Soechting, Robert G.
Sorfleet, William D.
Starnes, Glenn T.
Stent, Thomas N.
Stewart, John T.
Stimson, John P.
Stokes, Christopher L.
Stokes, Kirby A.
Stone, Maureen A.
Stromswold, David J.
Stuebe, John A.
Sugimoto, Lee M.
Sullivan, Patrick F.
Sullivan, Sean T.
Takenaka, Terrence S.
Taylor, Chester A., Jr.
Tharp, Thomas H., Jr.
Tipples, Darrel S.
Trachsel, Michelle M.
Trahan, James R.
Underhill, John R.
Vanous, Mark W.
Vaughn, Clovis B.
Vergara, Samuel I.
Vogle, Gregory W.
Walters, Tony L.
Ward, Jeffrey G.
Watson, Wayne K.
Wesighan, Frank C.
Wilkinson, Elbridge G.
Williams, John N.
Wilson, Jimmy L.
Winter, Dianne G.
Woltman, Clyde M.
Young, Jack W.
Ziegler, Timothy S.
Zymanek, Thomas J.

The following-named Marine Corps enlisted commissioning education program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 5583, subject to the qualifications therefor as provided by law:

Armistead, Paul J.
Bawden, Scott B.
Baynard, Frank C., Jr.
Bean, Mark H.
Bland, Tommie, Jr.
Breshers, Jerry C.
Brown, William M.
Chapman, Dean E.
Clark, Randy
Daly, James E.
Despain, Thomas S.
Dillon, Douglas R.
Dowling, Steven W.
Duckworth, Frank H.
Garcia, Derek A.
Gibson, Kenneth
Gile, Michael M.
Gordy, Bonnie F.
Hance, Judy L.
Hartman, Guy F.
Haugh, Scott C.
Hetzel, Walter E.
Hines, Mark P.
Hunzinger, Leslie D.
Johnson, Eddie L.
Manuto, Joseph M.
Marvin, Claire C.
Maser, Lawrence M.
McGrath, Steven J.
Medina, Thomas G.
Menhennett, Kay L.
Miles, Walter N.
Oehninger, Daniel S.
Peek, Horace E.
Purvis, Barbara L.
Quintenz, Phillip D.
Reynolds, Harriett S.
Silva, Manuel
Szendel, Timothy N.
Taylor, James J.
Trebwasser, Brad
Weigand, John F.
Williams, Andres L.

The following-named Navy enlisted scientific education program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 5583, subject to the qualifications therefor as provided by law:

Ballinger, Mark D.
Borrego, Jesus G.
Connolly, James
Fuhrman, David W.
Lewis, Michael E.
Shannon, Larry R.

CONFIRMATIONS

Executive nominations confirmed by its Senate August 18, 1980:

In The Army

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Jason Alfred Aisner, [redacted].

Brig. Gen. Robert Melvin Carter, [redacted].

Brig. Gen. Jack Howard King, [redacted].

Brig. Gen. Joseph Melvin Lojek, [redacted].

Brig. Gen. Charles Dunford Palmer, [redacted].

Brig. Gen. Emory Conrad Parrish, [redacted].

Brig. Gen. Herbert Joseph Riley, [redacted].

Brig. Gen. Will Hill Tankersley, [redacted].

To be brigadier general

Col. Max. Baratz, [redacted].

Col. Richard Ogden Christiansen, [redacted].

Col. Ralph William Coan, Jr., [redacted].

Col. Craig Crawford Esary, [redacted].

Col. William Holman Gibbes, [redacted].

Col. Everett Hughes Holle, [redacted].

Col. William Stanton Hollis, [redacted].

Col. Robert Stratton Holmes, [redacted].

Col. Talmadge Jefferies Jacobs, [redacted].

Col. Oral Dean Nelson, [redacted].

Col. Donald Adrian Pearson, [redacted].

Col. Kenneth Joseph Printen, [redacted].

Col. William Arthur Richter, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. John Joseph Dillon, [redacted].

Brig. Gen. Joseph Patrick Hegarty, [redacted].

Brig. Gen. Harold Joseph Lavell, [redacted].

Brig. Gen. Anthony Louis Palumbo, [redacted].

To be brigadier general

Col. James Thomas Dennis, [redacted].

Col. Kenneth William Dermann, [redacted].

Col. Robert Frank Ensslin, Jr., [redacted].

Col. John Luke Franklin, [redacted].

Col. Luis Ernesto Gonzales-Vales, [redacted].

Col. James Floyd Ingram, [redacted].

Col. Vernon Elwood James, [redacted].

Col. William John Jefferds, [redacted].

Col. Lawrence Allen Keller, [redacted].

Col. Robert Lee Lott, III, [redacted].

Col. Robert Lester Merchant, [redacted].

Col. Alan Craig Roland, [redacted].

Col. Duane Ronald Smith, [redacted].

Col. Clinton Elton Wallace, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Frank Jose Schober, Jr., [redacted].

To be brigadier general

Col. Robert Wayne Cundiff, [redacted].

Col. Calvin George Franklin, [redacted].

Col. Gray Williamson Harrison, Jr., [redacted].

Col. Francis Edward Jones, Jr., [redacted]

Col. Jerome Martin Shinaver, Jr., [redacted]

In the Navy

Vice Adm. David F. Emerson, U.S. Navy, (age 53) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. J. William Cox, Medical Corps, U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral in accordance with title 10, United States Code, section 5137(a).

In the Air Force

Air Force nominations beginning Gerald W. Abbott, to be captain, and ending Dale A. Young, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on July 23, 1980.

In the Navy

Navy nominations beginning Mark M. Adams, to be lieutenant, and ending Harriet E. Zech, to be lieutenant, which nominations were received by the Senate on July 18, 1980, and appeared in the Congressional Record on July 21, 1980.

In the Marine Corps

Marine Corps nominations beginning John Bartusevics, to be chief warrant officer, and ending Charles P. Erwin, to be major, which nominations were received by the Senate on July 18, 1980, and appeared in the Congressional Record on July 21, 1980.

HOUSE OF REPRESENTATIVES—*Monday, August 18, 1980*

The House met at 12 o'clock noon.

The Reverend Dr. Elmer W. Matthias, Concordia Seminary, St. Louis, Mo., offered the following prayer:

Almighty God, Father of the human family, Lord of the nations, our help in ages past, our hope for years to come, we come before You with our prayer of thanks for the greatness of resources, both in persons and possessions, in land and human ingenuity, in beauty of nature and strength of spirit, which You have richly showered upon our Nation. Bless now, we implore You, the Members of the Congress with wisdom and understanding, perception and resolve, so that responding to the needs of our people, the designs of our foes, and the unique challenges of our age, we may continue to live in Your favor. Help all of us, elected leaders and citizens, to render to our Government the things which belong to a government, but not to forget that we must render to You, our Lord and Master, what belongs to You. May Your name be hallowed, for Jesus' sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On August 4, 1980:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization; and

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

On August 8, 1980:

H.R. 827. An act to establish dispute resolution procedures to settle disputes between supervisors and the U.S. Postal Service;

H.R. 1198. An act to clarify the authority to establish lines of demarcation dividing the high seas and inland waters;

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard; and

H.R. 6613. An act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

On August 11, 1980:

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice-Presidential candidates during the 120-day period before a general Presidential election.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5766. An act to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes; and

H.R. 7511. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5892) entitled "An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2597) entitled "An act to authorize appropriations for fiscal year 1981 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency retirement and disability system, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. STEVENSON, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. MOYNIHAN, Mr. BIDEN, Mr. GOLDWATER, Mr. MATHIAS, Mr. CHAFEE, Mr. WALLOP, Mr. DURENBERGER, and Mr. LUGAR; and for matters of interest to the Committee on Armed Services: Mr. NUNN; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 273. An act for the relief of Maxine Ann Fricioni;

S. 308. An act for the relief of Rosita N. Pacto;

S. 453. An act for the relief of Joe L. Frazier of Elko, Nev.

S. 1790. An act entitled the "Privacy Protection Act of 1980";

S. 2041. An act for the relief of Michael Whitlock;

S. 2189. An act to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes;

S. 2332. An act to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1981, and for other purposes;

S. 2358. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; and

S.J. Res. 192. Joint resolution to designate September 21, 1980, as "National Ministers Day."

The message also announced that the Senate passed the following resolutions:

S. RES. 464

Resolved, That the Senate disapproves the proposed deferral of $15,500,000 of budget authority relating to the Cumberland Gap Tunnel (deferral D80–56), as set forth in the message transmitted by the President to the Congress on April 16, 1980, under section 1013 of the Impoundment Control Act of 1974.

S. RES. 470

Resolved, That the Senate disapproves the deferral of $3,247,948,114 of budget authority for Environmental Protection Agency grants for waste treatment works (authorized under section 201 of the Federal Water Pollution Control Act) set forth in the special message transmitted by the President to the Congress on May 20, 1980, under section 1013 of the Impoundment Control Act of 1974.

CONFERENCE REPORT ON H.R. 6974, DEPARTMENT OF DEFENSE AUTHORIZATION, 1981

Mr. BENNETT submitted the following conference report and statement on the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian per-

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sonnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–1222)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1981".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

Aircraft

For aircraft: for the Army, $1,076,400,000; for the Navy and Marine Corps, $6,150,600,000, of which $33,600,000 shall be available only for procurement of aircraft for the Navy Undergraduate Helicopter Pilot Training Program; for the Air Force, $9,365,143,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

Missiles

For missiles: for the Army, $1,580,500,000; for the Navy, $2,236,400,000; for the Marine Corps, $94,043,000; for the Air Force, $3,176,184,000.

Naval Vessels

For naval vessels: for the Navy, $8,363,200,000.

Tracked Combat Vehicles

For tracked combat vehicles: for the Army, $2,313,500,000; for the Marine Corps, $45,825,000.

Torpedoes

For torpedoes and related support equipment; for the Navy $386,600,000.

Other Weapons

For other weapons: for the Army, $334,500,000; for the Navy, $195,500,000; for the Marine Corps, $69,490,000.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 102. There is authorized to be appropriated for fiscal year 1981 the sum of $382,000,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL (AWACS) PROGRAM

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1981, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

PATRIOT MISSILE SYSTEM

SEC. 104. Not more than $494,100,000 of the funds authorized to be appropriated by this title for the Army may be used for procurement of the PATRIOT missile system, and no funds authorized to be appropriated by this title for the Army may be obligated or expended for the procurement of PATRIOT missile system end-items unless and until the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives that, based upon operational and development testing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,248,005,000.

For the Navy (including the Marine Corps), $5,112,775,000, of which $45,251,000 is authorized only for the research, development, test, and evaluation of Lightweight Armored Vehicles.

For the Air Force, $7,159,857,000.

For the Defense Agencies, $1,367,802,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1981 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this title.

MX MISSILE AND BASING MODE

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable.

(b) The Secretary of Defense shall proceed immediately with the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode and shall continue such development in a manner that will achieve an Initial Operational Capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

(d) In accordance with the finding of the Congress expressed in subsection (a), a full system of at least 4,600 protective shelters may be deployed in the initial deployment area if, after completion of a study to be conducted by the Secretary of Defense of an alternate site for a portion of the system, it is determined by the Congress that adverse cost, military considerations, or other reasons preclude split basing.

C–X AIRCRAFT PROGRAM

SEC. 203. (a) None of the funds authorized to be appropriated by this title may be obligated or expended for the full-scale engineering development or procurement of the C–X or any other new transport aircraft until the Secretary of Defense has certified in writing to the Congress—

(1) that the national security requirements of the United States for additional military airlift capability merit initiation of the C–X aircraft program;

(2) that the magnitude and nature of the military cargo and material to be airlifted to the Indian Ocean area and other areas of potential conflict are sufficiently well defined to permit identification of a deficiency in military airlift capability;

(3) that the magnitude and characteristics of military cargo and material to be transported by air to such areas are sufficiently well defined to provide clear justification and design parameters for such aircraft; and

(4) that plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

(b) The Secretary of Defense shall conduct a study to determine overall United States military mobility requirements. Such study shall include an analysis of the total mix of airlift, sealift, and prepositioning of war materials required for the United States to respond to military contingencies in the Indian Ocean area and other areas of potential conflict during the decade of the 1980's. The Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1981, on the results of such study, together with such comments and recommendations as the Secretary considers appropriate, including recommendations for specific programs to provide an adequate overall military transportation capacity for the United States.

(c) Not more than $35,000,000 of the funds authorized to be appropriated by this title may be obligated or expended for the C–X aircraft program. Of such amount, not more than $15,000,000 may be obligated or expended before February 1, 1981, and the remainder of such amount may be obligated or expended only after the expiration of 60 days following the submission to the Congress of the report required by subsection (b).

MULTI-ROLE STRATEGIC BOMBER

SEC. 204. (a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload, and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

(b) Of the funds authorized to be appropriated for the Air Force under this title, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services of the Senate and House of Representatives by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B–1 bomber aircraft and derivatives of the B–1 aircraft, and the FB–111B/C aircraft.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 205. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95–485; 92 Stat. 1612), and section 203 of the Department of Defense Authorization Act, 1980 (Public Law 96–107; 93 Stat. 805), the Secretary of the Navy shall resume research and development work on the Extremely Low Frequency (ELF) Communications System. Notwithstanding any provision of law restricting the availability of such funds, the Secretary of the Navy shall use any unobligated funds previously appropriated for such system for fiscal year 1979 for the purpose of resuming such work.

(b) Not later than April 1, 1981, the President shall submit to the Congress a plan for the deployment of an operational Extremely Low Frequency (ELF) Communications System.

RESTRICTION ON FUNDS FOR DEVELOPMENT OF THE 120-MILLIMETER TANK GUN

SEC. 206. Of the amount authorized to be appropriated for the Army by this title, not more than $62,061,000 is authorized for development of the 120-millimeter tank gun. However, none of such funds may be obligated or expended for development of such gun until (1) the Secretary of the Army prepares a plan on how the life-cycle costs for incorporating the 120-millimeter gun into the tank force of the Army can be reduced by $600,000,000 through efficient training practices, (2) the Secretary of Defense approves such plan, and (3) such plan is submitted to the Congress.

STUDY OF FAST LOGISTIC SURFACE EFFECT SHIP

SEC. 207. Of the funds appropriated to the Department of Defense for fiscal year 1980 which have not previously been obligated or expended, not more than $6,000,000 are available for study of a logistic surface effect ship weighing between 5,000 and 7,000 tons and capable of a speed of not less than 70 knots.

INCREASES IN DOLLAR CEILINGS FOR INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

SEC. 208. Section 203 of Public Law 91–441 (84 Stat. 906; 10 U.S.C. 2358 note) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a)(1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) On October 1, 1983, and once every three years thereafter, the Secretary of Defense may, based upon economic indices that the Secretary has selected, adjust the amounts in subsections (a)(1) of this section in accordance with economic changes reflected in those indices.".

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1981, as follows:

(1) The Army, 775,300.
(2) The Navy, 537,456.
(3) The Marine Corps, 188,100.
(4) The Air Force, 564,500.

LIMITATION ON ENLISTMENT AND INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE SCORE ON THE ARMED FORCES QUALIFICATION TEST IS BELOW A PRESCRIBED LEVEL

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning on October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 35 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b)(1) Chapter 31 of title 10, United States Code, relating to enlistments in the Armed Forces, is amended by adding at the end thereof the following new section:

"§ 520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level

"(a) For the fiscal year beginning on October 1, 1980, the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in the armed forces during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into the armed forces during such fiscal year. For the fiscal year beginning on October 1, 1981, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year. For any fiscal year beginning after September 30, 1982, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 20 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year.

"(b) When the Secretary of Defense determines that, because of national security reasons, the limitation contained in subsection (a) should not be effective for any fiscal year, the Secretary may waive such limitation for such fiscal year to the extent he considers necessary, but any such waiver shall be effective only if—

"(1) the Secretary notifies the Congress in writing of such determination, of the reasons therefor, and the extent to which he proposes to waive such limitation; and

"(2) the Congress adopts a concurrent resolution stating in substance that it approves the proposed waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level.".

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of section 520 of title 10, United States Code, as added by subsection (b), have a negative impact on combat readiness.

(d) It is the sense of the Congress—

(1) that secondary educational institutions in the United States, the Commonwealth of Puerto Rico, and the territories of the United States should cooperate with the Armed Forces by allowing recruiting personnel access to such institutions; and

(2) that it is appropriate for such institutions to release to the Armed Forces information regarding students at such institutions (including such data as names, addresses, and education levels) which is relevant to recruiting individuals for service in the Armed Forces.

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. 303. (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the military manpower and defense-related manpower of the United States. Such plan shall include—

(1) any new and improved procedures for the registration and classification of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

(3) such other administrative changes considered necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the military manpower and defense-related manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact, if any, of the reinstatement of registration under the Military Selective Service Act, and the impact of implementing the plan described in subsection (a), on the recruitment and retention of personnel for the active duty and reserve forces of the United States. The Secretary of Defense shall submit the results of such study to the Congress not later than April 2, 1981.

(c) The Secretary of Defense shall submit a report to the Congress not later than January 31, 1981, containing the Secretary's projections for each of the five fiscal years 1981 through 1985 with respect to (1) the total manpower needs of each active duty and reserve component of the Armed Forces, and (2) the desired and planned characteristics (including educational attainment, mental ability, marital status, sex, and other pertinent personal characteristics) for the personnel of each such component.

(d) The Secretary of Defense shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and shall submit a report to the Congress not later than April 2, 1981, containing the results of such study. Such report shall include (1) the estimated shortages in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and obtaining such additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in such situations.

TITLE IV—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 401. (a) For fiscal year 1981, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 371,200.

(2) The Army Reserve, 204,500.

(3) The Naval Reserve, 87,700.

(4) The Marine Corps Reserve 33,700.

(5) The Air National Guard of the United States, 94,300.

(6) The Air Force Reserve, 58,800.

(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed in subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1981, the following number of reserve component members to be serving on fulltime active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 10,159.

(2) The Army Reserve, 5,400.

(3) The Naval Reserve, 708.

(4) The Marine Corps Reserve, 67.

(5) The Air National Guard of the United States, 3,207.

(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1981, of 986,000.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established under section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial and industrial type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1981 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by section (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

(e) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropriated, on a schedule consistent with the requirements of national security and military readiness.

STRENGTHENING OF RESTRICTIONS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

SEC. 502. (a) No commercial or industrial type function of the Department of Defense that on October 1, 1980, is being performed by Department of Defense personnel may be converted to performance by a private con- CONTRACTORS

(1) to circumvent any civilian personnel ceiling; or

(2) unless the Secretary of Defense provides to the Congress in a timely manner—

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor;

(B) a detailed summary of a comparison of the cost of performance of such function by Department of Defense personnel and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

(C) a certification that the Government calculation for the cost of performance of such function by Department of Defense personnel is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense personnel; and

(D) a report, to be submitted with the certification required by subparagraph (C), showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function;

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

(b) If, after completion of the studies required for completion of the certification and report required by subparagraphs (C) and (D) of subsection (a)(2), a decision is made to convert to contractor performance, the Secretary of Defense shall notify Congress of such decision.

(c) The Secretary of Defense shall submit a written report to the Congress by February 1 of each fiscal year describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

(d) This section shall take effect on October 1, 1980.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1981, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 53,128.

(2) The Navy, 64,545.

(3) The Marine Corps, 21,393.

(4) The Air Force, 46,238.

(5) The Army National Guard of the United States, 7,177.

(6) The Army Reserve, 6,880.

(7) The Naval Reserve, 953.

(8) The Marine Corps Reserve, 3,144.

(9) The Air National Guard of the United States, 1,930.

(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), the following components of the Armed Forces are authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.

(2) The Army National Guard of the United States, 6,839.

(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TEMPORARY REDUCTION IN THE NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 602. Notwithstanding the provisions of section 2031(b) of title 10, United States Code, relating to the establishment and maintenance of units of the Junior Reserve Officers' Training Corp, during the period beginning on September 1, 1980, and ending on August 31, 1981, the Secretary of any military department may maintain a unit of the Junior Reserve Officers' Training Corps at any public or private secondary educational institution if—

(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less; and

(2) the unit meets such other requirements (in addition to the requirements prescribed by section 2031(b) of title 10, United States Code) as may be established by the Secretary of the military department concerned.

TITLE VII—ATTACK-RELATED CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is hereby authorized to be appropriated for fiscal year 1981 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251–2297) the sum of $120,000,000.

IMPROVED CIVIL DEFENSE PROGRAM

SEC. 702. (a) The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) is amended by adding after title IV the following new title:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for the relocation of the population of risk areas, including the larger United States cities, during a period of strategic warning resulting from an international crisis may be effective in protecting the population;

"(2) the present civil defense program should be improved; and

"(3) an improved civil defense program can be developed which could enhance the civil defense capability of the United States.

"(b) It is further the sense of Congress that an improved civil defense program should be implemented while—

"(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

"(2) enhances deterrence, contributes to perceptions of the United States-Soviet strategic balance and crisis stability, and reduces the possibility that the United States might be susceptible to coercion by an enemy in time of increased tension;

"(3) does not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence;

"(4) includes planning for the relocation of certain segments of the population during times of international crisis; and

"(5) is adaptable to help deal with natural disasters and other peacetime emergencies.

"ELEMENTS OF AN IMPROVED CIVIL DEFENSE PROGRAM

"SEC. 502. (a) In order to carry out the sense of Congress expressed in section 501, the President shall, to the extent practicable, develop and implement an improved civil defense program which includes—

"(1) a program structure for the resources to be used for attack-related civil defense;

"(2) a program structure for the resources to be used for disaster-related civil defense; and

"(3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably.

"(b) In developing a program structure for attack-related civil defense pursuant to subsection (a), the President shall give consideration to including in such program structure the following elements:

"(1) Nuclear civil protection planning for more rapid population relocation during times of international crisis.

"(2) Nuclear civil protection planned for improved inplace population protection during times of international crisis in the event circumstances preclude population relocation.

"(3) A survey of the shelters inherent in existing facilities.

"(4) Planning for the development during times of crisis of additional shelter.

"(5) Development of capabilities for shelter management.

"(6) Marking and stocking of shelters.

"(7) Development and procurement of ventilation kits for shelters.

"(8) The development of emergency evacuation plans for areas in which nuclear powerplants are located.

"(9) The improvement of civil defense warning systems.

"(10) The improvement of systems and capabilities for direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operation centers.

"(11) The improvement of radiological defense capabilities.

"(12) The improvement of emergency public information and training programs and capabilities.

"(13) The development of plans for post-attack economic recovery and the development of plans for postdisaster economic recovery to the extent that planning for postdisaster economic recovery planning does not detract from planning for postattack economic recovery.

"(14) The improvement of and training in self-help nuclear war survival skills.

"(15) Civil defense-related research and development.

"(16) The development of other appropriate systems and capabilities to increase the lifesaving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing the program required by section 502.".

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Elements of an improved civil defense program.
"Sec. 503. Administrative provisions.".

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 703. (a)(1) Title II of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281–2286) is amended by adding at the end thereof the following new section:

"REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.".

(2) The table of contents at the beginning of such Act is amended by adding below the item relating to section 205 the following new item:

"206. Requirement for State matching funds for construction of emergency operating centers.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

PILOT PROGRAM TO STUDY DESIGN AND CONSTRUCTION OF BUILDINGS TO MINIMIZE EFFECTS OF NUCLEAR EXPLOSIONS

SEC. 704. (a) The Director of the Federal Emergency Management Agency shall establish a pilot program of designing and constructing buildings to enhance the ability of the buildings to withstand nuclear explosions and to minimize the damage to such buildings caused by a nuclear explosion. Such program shall include the designing and constructing of at least two building projects chosen by the Director so that the buildings in the projects will be able to better withstand nuclear explosions and so that any damage to the buildings in the project caused by a nuclear explosion will be minimized.

(b) The Director of the Federal Emergency Management Agency shall submit a report to the Senate and the House of Representatives not later than April 1, 1981, on the establishment under subsection (a) of the pilot program.

(c) Of the sums authorized to be appropriated under section 701, $400,000 shall be available to carry out the pilot program established pursuant to subsection (a).

(d) This section shall take effect on October 1, 1980.

AUTHORIZATION TO ACQUIRE CERTAIN LEASED REAL PROPERTY AT THE FEDERAL EMERGENCY MANAGEMENT AGENCY FACILITY AT OLNEY, MARYLAND

SEC. 705. Effective October 1, 1980, the Director of the Federal Emergency Management Agency is authorized to acquire, in accordance with the provisions of section 201 (h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)), fee title to those parcels of real property which are currently leased by such agency at the facility of such agency in Olney, Maryland, which (1) are used as a site for a communications antenna, or (2) contain the water wells for such facility.

TITLE VIII—COMPENSATION AND RELATED BENEFITS

PAY INCREASE OF 11.7 PERCENT FOR MEMBERS OF THE UNIFORMED SERVICES

SEC. 801. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

(b) (1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the percentage increase specified under paragraph (1) the same manner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 803 of this Act, to allocate any percentage increase described in subsection (b) (3) of section 1009 of such title, except that—

(A) the provisions of subsection (d) (2) (B) of such section shall not apply to this subsection or any action of the President under this subsection; and

(B) the overall average percentage increase in the elements of compensation specified in subsection (a) of such section in the case of any member of the uniformed services with four years or less service may not exceed 11.7 percent.

RECOMMENDATIONS WITH RESPECT TO METHOD OF ADJUSTMENT OF MILITARY PAY

SEC. 802. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he considers necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS-OF-SERVICE CATEGORIES

SEC. 803. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu thereof "subsections (c) and (d) of this section,";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whenever";

(B) by inserting "of this section" after "subsection (b)(3)" both places it appears and after "subsection (a)"; and

(C) by striking out "per centum" and inserting in lieu thereof "percent";

(3) by redesignating subsection (d) as paragraph (2) and in such paragraph (as so redesignated)—

(A) by striking out "under subsection (c)" both places it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(B) by inserting "of this section" after "subsection (a)" and after "subsection (b) (3)"; and

(C) by inserting "of this title" after "section 403(b) or (c)" both places it appears;

(4) by inserting after subsection (c) the following new subsection (d):

"(d) (1) Subject to paragraph (2) of this subsection, whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grade and years-of-service categories as he considers appropriate.

"(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1) of this subsection—

"(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection or under subsection (c) of this section (or under both such subsections) may not be less than 75 percent of the amount of the increase in the element of basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under subsection (b) (3) of this section; and

"(B) the overall percentage increase in the elements of compensation specified in subsection (a) of this section in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) in subsection (e)—

(A) by inserting "or (d) of this section" after "subsection (c)"; and

(B) by striking out "among the different elements of compensation"; and

(6) in subsection (f)—

(A) by striking out "among the three elements of compensation"; and

(B) by inserting "of this title" after "section 1008(b)".

ENLISTMENT AND REENLISTMENT BONUSES FOR ACTIVE FORCES

SEC. 804. (a) (1) Subsection (a) of section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(A) by striking out "ten years" in clause (A) and inserting in lieu thereof "fourteen years";

(B) by striking out "$15,000" and inserting in lieu thereof "$20,000"; and

(C) by striking out "twelve years" and inserting in lieu thereof "sixteen years".

(2) Subsection (f) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

(b) (1) Subsection (a) of section 308a of such title, relating to enlistment bonuses, is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

(2) Subsection (c) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

(c) The amendments made by this section shall only apply to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980.

ENLISTMENT AND REENLISTMENT BONUSES FOR RESERVE FORCES

SEC. 805. (a) (1) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 308c as following new sections:

"§ 308d. Special pay: Bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

"(a) (1) Except as provided in paragraph (2) of this subsection, any person who enlists or reenlists, or voluntarily extends an enlistment, in an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a period of not less than three years may be paid a bonus as provided in subsection (b) of this section.

"(2) A bonus may not be paid under this section to any person who failed to complete satisfactorily any original term of enlistment in the armed forces.

"(b) Eligibility for a bonus under this section, and the amount and method of payment of such a bonus, shall be determined in accordance with regulations prescribed under subsection (c) of this section, except that the amount of such a bonus may not exceed $600.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

"(d) (1) A member who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such member as the period which such member failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

"(e) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment after September 30, 1981.

"§ 308e. Special pay: Bonus for reserve affiliation agreement

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a bonus for reserve affiliation to any person—

"(1) who—

"(A) is serving on active duty, has 180 days or less remaining of his active duty obligation, and upon his discharge or release from active duty upon the completion of such active duty obligation will have a reserve service obligation under section 651 of title 10 or under section 6(d) (1) of the Military Selective Service Act (50 U.S.C. App. 456(d) (1)); or

"(B) has served on active duty for any period of time, was discharged or released from such active duty under honorable conditions, and is serving a period of reserve service obligation under section 651 of title 10 or section 6(d) (1) of the Military Selective Service Act (50 U.S.C. App. 456(d) (1)); and

"(2) who meets the requirements of subsection (b) of this section.

"(b) To be eligible to receive a bonus for reserve affiliation under this section, a person must—

"(1) be eligible for reenlistment or for an extension of his active duty service;

"(2) have completed satisfactorily any term of enlistment or period of obligated active duty service;

"(3) hold and be qualified in a military specialty designated by the Secretary of Defense for the purposes of this section;

"(4) have a grade for which there is a vacancy in the reserve component in which the person is to become a member;

"(5) not be affiliating in a reserve component to become a Reserve, Army National Guard, or Air National Guard technician;

"(6) enter into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty; and

"(7) meet all the other requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

"(c) (1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs a reserve affiliation agreement under this section. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs a reserve affiliation agreement under this section and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

"(d)(1) A person who signs a reserve affiliation agreement under this section and who fails during the period covered by such agreement to serve satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

"(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308c the following new items:

"308d. Special pay: Bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.

"308e. Special pay: Bonus for reserve affiliation agreement.".

(3) Section 308d of title 37, United States Code, as added by paragraph (1), shall apply only to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980. Agreements may not be entered into under section 308e of such title, as added by such paragraph, before October 1, 1980.

(b) Sections 308b(g) and 308c(f) of such title, relating to reenlistment and enlistment bonuses for members of the Selected Reserve of the Ready Reserve, are amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

CONTINUATION BONUS FOR AVIATION CAREER OFFICERS

SEC. 806. (a)(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301a the following new section:

"§ 301b. Special pay: aviation career officers extending period of active duty

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in a pay grade below the pay grade of O–7;

"(3) is qualified to perform operational flying duty (as such term is defined in clause (6) of section 301a(a) of this title);

"(4) has at least 6 but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed the product of four months' basic pay (computed at the rate applicable to the officer at the time the agreement is executed) and the number of years (or the monthly fractions thereof) that the officer agrees to remain on active duty under the agreement. An agreement under this section may not extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (d) of this section, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

"(b) Special pay under this section is in addition to any other pay and allowances to which an officer is entitled.

"(c) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

"(d)(1) Under regulations prescribed by the Secretary of Defense or by the Secretary of Transportation, as appropriate, refunds shall be required, on a pro-rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty in aviation service specified in the agreement. Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301a the following new item:

"301b. Special pay: aviation career officers extending period of active duty.".

(b) Agreements may not be entered into under section 301b of title 37, United States Code, as added by subsection (a), before October 1, 1980.

PER DIEM ALLOWANCE FOR MEMBERS TRAVELING ON OFFICIAL BUSINESS

SEC. 807. (a) Section 404(d) of title 37, United States Code, relating to per diem travel and transportation expenses, is amended by striking out "$35" and "$50" and inserting in lieu thereof "$50" and "$75", respectively.

(b) The amendments made by subsection (a) shall only apply to travel and transportation expenses incurred after September 30, 1980.

EXPENSES FOR TRANSPORTATION OF HOUSE TRAILERS AND MOBILE HOMES

SEC. 808. (a)(1) Section 409 of title 37, United States Code, is amended to read as follows:

"§ 409. Travel and transportation allowances: house trailers and mobile homes

"(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d) of this section.

"(2) Except as provided in subsection (c) of this section, transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

"(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

"(b) Any payment authorized by this section may be made in advance of the transportation concerned.

"(c) A member or member's dependent who is entitled to the transportation of baggage and household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile home dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(d) The Secretaries concerned shall prescribe regulations to carry out this section.

"(e) In this section, 'continental United States' means the 48 contiguous States and the District of Columbia.".

(2) The item relating to section 409 in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"409. Travel and transportation allowances: house trailers and mobile homes.".

(b) The amendments made by subsection (a) shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980.

FAMILY SEPARATION ALLOWANCE FOR JUNIOR ENLISTED MEMBERS

SEC. 809. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out "(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall take effect with respect to months after September 1980.

IMPROVEMENT IN CERTAIN BENEFITS UNDER THE CHAMPUS PROGRAM

SEC. 810. (a) Subsection (a) of section 1079 of title 10, United States Code, relating to contracts for medical care for dependents of members on active duty, is amended—

(1) by inserting "of dependents over two years of age" in clause (2) after "immunizations"; and

(2) by striking out "routine care of the newborn, well-baby care, and" in clause (3).

(b) Subsection (e)(2) of such section is amended by striking out "$350" and inserting in lieu thereof "$1,000".

(c) The amendments made by this section shall apply to medical care provided after September 30, 1980.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAMS

SEC. 811. (a) Section 209 of title 37, United States Code, relating to members of precommissioning programs, is amended by adding at the end thereof the following new subsection:

"(d)(1) Except when serving on active duty, a member who is enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as an officer and who is not enrolled in a program established under chapter 103 of title 10 or an academy established under chapter 403, 603, or 903 of title 10 may be paid a subsistence allowance at the same rate as that prescribed by subsection (a) of this section for a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10.

"(2) No subsistence allowance may be paid under paragraph (1) of this subsection for any period after September 30, 1982.".

(b) The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (37 U.S.C. 209 note), is repealed.

CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

SEC. 812. (a)(1) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest 1/10 of one percent.

(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

(b)(1) Effective August 31, 1981, but subject to paragraph (3), section 1401a(b) of title 10, United States Code, relating to adjustment of retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.".

(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective.

(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceding sentence is applicable.

(c) For the purposes of this section, the term "uniformed services" means—

(1) the Armed Forces; and

(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

CHANGE IN METHOD OF COMPUTATION OF RETIRED PAY FOR PERSONS BECOMING MEMBERS OF THE UNIFORMED SERVICES AFTER THE ENACTMENT OF THIS ACT

SEC. 813. (a)(1) Chapter 71 of title 10, United States Code, relating to computation of retired pay, is amended by adding at the end thereof the following new section:

"§ 1407. Retired pay base

"(a)(1) The retired pay or retainer pay of any person who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is determined using the monthly retired pay base or monthly retainer pay base computed under this section. In making any computation under this section, the rates of basic pay to be used are those most favorable to the member.

"(2) In this section, 'uniformed service' means—

"(A) any of the armed forces;

"(B) the commissioned corps of the Public Health Service; or

"(C) the commissioned corps of the National Oceanic and Atmospheric Administration.

"(b)(1) In the case of a member who is retired under section 1201 or 1202 of this title, the monthly retired pay base is—

"(A) 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service; or

"(B) in the case of a member who served on active duty for less than 36 months, the amount equal to the total amount of basic pay which the member received during the period he served on active duty as a member of a uniformed service divided by the number of months (including any fraction thereof) which he served on active duty.

"(2) In the case of a member who is retired under section 1204 or 1205 of this title, the monthly retired pay base is—

"(A) 1/36th of the total amount of monthly basic pay which the member would have received if he had served on active duty as a member of a uniformed service during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service preceding the date on which he became entitled to retired pay; or

"(B) in the case of a member who was a member for less than 36 months, the amount equal to the total amount of basic pay which he would have received if he had served on active duty during the period he was a member of a uniformed service divided by the number of months (including any fraction thereof) he was such a member.

"(3) In the case of a member who is retired under section 1331 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay to which the member would have been entitled during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service had he served on active duty during such months.

"(4) In the case of a member who is retired under section 564, 1263, 1293, or 1305 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(5) In the case of a member whose retired or retainer pay is recomputed under section 1402a(d) of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(c)(1) In the case of a member whose retired pay is computed under section 3991 of this title (other than a member who is retired under section 3914 of this title) or who is entitled to retired pay under section 3992 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(2) In the case of a member who is retired under section 3914 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member.

"(d)(1) In the case of a member whose retired pay is computed under section 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, or 6400 of this title or who is advanced on the retired list under section 6151 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(2) In the case of a member transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the monthly retainer pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member.

"(e)(1) In the case of a member whose retired pay is computed under section 8991 of this title (other than a member who is retired under section 8914 of this title) or who is entitled to retired pay under section 8992 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(2) In the case of a member who is retired under section 8914 of this title, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member.

"(f) In the case of a member who is retired under any section of title 14, the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(g) In the case of a member whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(h) In the case of a member who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g) and 212(a)), the monthly retired pay base is 1/36th of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"SEC. 1407. Retired pay base.".

(b)(1) The table contained in section 1401 of title 10, United States Code is amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(b). For all others, take".

(2) Section 1402 of such title is amended by inserting "who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and" in subsections (a), (b), and (c) after "of an armed force".

(3)(A) Chapter 71 of such title is amended by inserting after section 1402 the following new section:

"§ 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981

"(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty as follows:

Col. 1, take—	Col. 2, multiply by—	Col. 3, subtract—
Monthly retired or retainer pay base under section 1407 of this title which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	2½ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.[1]	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying the percentage factor, credit a part of a year that is 6 months or more as a whole year, and disregard a part of a year that is less than 6 months.

"(b) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has been retired other than for physical disability and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

"(c) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who—

"(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list;

"(2) incurs, while on active duty after retirement or after his name was placed on the temporary disability retired list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on that list; and

"(3) is qualified under section 1201, 1202, 1204, or 1205 of this title;

is entitled, upon his release from active duty, to retired pay under subsection (d).

"(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed as follows:

Col. 1, take—	Col. 2, multiply by—	Col. 3, add—	Col. 4, subtract—
The monthly retired pay base computed under sec. 1407(b) of this title.	As member elects— (1) 2½ percent of years of service credited under sec. 1208 of this title;[1] or (2) the highest percentage of disability attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be.	Add amount necessary to increase product of cos. 1 and 2 to 50 percent of pay upon which computation is based, if member is on temporary disability retired list.	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying percentage factor, credit a part of a year that is 6 months or more as a whole year, and disregard a part of a year that is less than 6 months.

"(e) Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from that active duty, to have his retired pay or retainer pay—

"(1) computed according to the formula set forth in subsection (a) but using the monthly retired pay base under which his retired pay or retainer pay was computed when he entered on that active duty; and

"(2) increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 1402 the following new item:

"Sec. 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981.".

(C) Sections 1373 and 1403 of such title are amended by inserting "or 1402a(d)" after "1402(d)".

(D) The second sentence of section 205(a) of title 37, United States Code, is amended by inserting "and section 1402(a)-(d)" after "1402(a)-(d)".

(c) The tables contained in sections 3991 and 3992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(c). For all others, take".

(d)(1) Subsection (c) of section 6322 of title 10, United States Code, is amended to read as follows:

"(c) Each officer who is retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the highest basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service or (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d) of this title.".

(2) Subsection (e) of section 6323 of such title is amended to read as follows:

"(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service(as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(3)(A) Subsection (a)(2) of section 6325 of such title is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(B) Subsection (b)(2) of such section is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade he would hold if he had not received such an appointment; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(4) Clause (2) of Section 6326(c) of such title is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher; or

"(B) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, computed by multiplying the monthly retired pay base computed under section 1407(d) of this title by 75 percent.".

(5) Subsection (c) of section 6330 of such title is amended to read as follows:

"(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ of the basic pay that he received at the time of transfer or, in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d) of this title;

multiplied by the number of years of active service in the armed forces.

"(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

"(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

"(4) In no case may a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which the computation of retainer pay is based.".

(6)(A) Subsection (a)(2) of section 6381 of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(B) Subsections (b) and (c) of such section are amended by inserting "or monthly retired pay base, as the case may be," after "basic pay".

(7) Section 6383(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(8) Section 6390(b)(2) of such title is amended to read as follows:

"(2) to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(9) Subsection (h) of section 6394 of such title is amended to read as follows:

"(h) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(10) Clause (2) of section 6396(b) of such title is amended to read as follows:

"(2) with retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

(11) Clause (2) of section 6398(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

(12) Clause (2) of section 6400(b) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.

(13) Subsections (b) and (c) of section 6151 of such title are amended to read as follows:

"(b)(1) Each member, other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve, who is advanced on the retired list under this section is, unless otherwise entitled to higher retired pay, entitled to retired pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade to which advanced; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.

"(2) In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

"(c)(1) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay based upon the grade to which advanced. Such retired pay shall be at the rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay is based, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

"(2) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the monthly retired pay base upon which the computation of retired pay is based.".

(e) The tables contained in sections 8991 and 8992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(e). For all others, take".

(f)(1) Subsection (b) of section 288 of title 14, United States Code, is amended to read as follows:

"(b) Except as provided in section 423(b) of this title, the retired pay of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.".

(2) Section 423 of such title is amended—

(A) by striking out "The" at the beginning of such section and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(B) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, the retired pay of each officer or enlisted member of the Coast Guard who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is computed at the rate of 2½ percent of the monthly retired pay base (computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 75 percent of such monthly retired pay base.".

(g) Section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

"Sec. 16. (a) Each commissioned officer on the retired list shall receive retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the rank with which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, United States Code;

multiplied by the number of years of service that may be credited to him under section 1405 of title 10, United States Code, as if his service were service as a member of the Armed Forces, but the retired pay so computed may not exceed 75 percent of the basic pay of the rank with which retired or 75 percent of the monthly retired pay base, as the case may be.

"(b) A fractional part of a year of six months or more shall be considered a full year in computing the number of years of service for the purposes of subsection (a).".

(h)(1) Paragraph (3) of section 210(g) of the Public Health Service Act (42 U.S.C. 211 (g)(3)) is amended by striking out "law)" and all that follows in such paragraph and inserting in lieu thereof "law)—

"(A) in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, 2½ per centum of the monthly retired pay base computed under section 1407(h) of title 10, United States Code, for each year, not in excess of thirty, of his active commissioned service in the Service.".

(2) Section 211(a) of such Act (42 U.S.C. 212(a)) is amended—

(A) by striking out "A commissioned officer" in paragraph (4) and inserting in lieu thereof "Except as provided in paragraph (6), a commissioned officer";

(B) by striking out "and his" in paragraph (5) and inserting in lieu thereof "and except as provided in paragraph (6), his"; and

(C) by adding at the end thereof the following new paragraph:

"(6) In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, the monthly retired pay base computed under section 1407(h) of title 10, United States Code, shall be used in lieu of using the basic pay of the highest grade held by him as such officer.".

TITLE IX—ARMED FORCES EDUCATIONAL ASSISTANCE PROGRAMS

DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAM FOR PERSONS ENLISTING OR REENLISTING FOR SERVICE ON ACTIVE DUTY

SEC. 901. (a) Subtitle A of title 10, United States Code, is amended by inserting after chapter 106 the following new chapter:

"Chapter 107.—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

"Sec.
"2141. Educational assistance program: Establishment.
"2142. Educational assistance program: Eligibility.
"2143. Educational assistance: Amount.
"2144. Subsistence allowance.
"2145. Adjustments of amount of educational assistance and of subsistence allowance.
"2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
"2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
"2148. Duration of entitlement.
"2149. Applications for educational assistance.

"§ 2141. Educational assistance program: Establishment

"(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

"(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among several armed forces.

"(c) In this chapter, 'enlistment' means original enlistment or reenlistment.

"§ 2142. Educational assistance program: Eligibility

"(a) (1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to educational assistance under section 2143 of this title at the time of such enlistment.

"(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

"(3) (A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

"(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

"(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

"(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

"(2) are graduates from a secondary school; and

"(3) meet such other requirements as the Secretary may consider appropriate for the purpose of this chapter and the needs of the armed forces.

"§ 2143. Educational assistance: Amount

"(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

"(b) (1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

"(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed $1,200, adjusted in accordance with section 2145 of this title.

"(c) In this section, 'accredited institution' means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

"§ 2133. Subsistence allowance

"(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance is provided such person. The amount of a subsistence allowance under this section is $300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

"(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educatioanl assistance to which such person is entitled.

"(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by the Secretary concerned).

"§ 2145. Adjustments of amount of educational assistance and of subsistence allowance

"(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

"(b) In this section, 'actual cost of attendance' means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a) (2) (B) (iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a) (2) (B) (iv)).

"§ 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance

"(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which establishes such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

"(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

"(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

"(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

"§ 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children

"(a)(1) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such entitlement elect to transfer all or any part of such entitlement to the spouse or dependent child of such person. Any transfer under the preceding sentence may be revoked at any time by the person making the transfer.

"(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

"(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

"(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

"(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

"(d) In this section:

"(1) 'Dependent child' has the meaning given the term 'dependent' in section 1072 (2)(E) of this title.

"(2) 'Surviving spouse' means a widow or widower who is not remarried.

"§ 2148. Duration of entitlement

"The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

"§ 2149. Applications for educational assistance

"To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.".

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle are amended by inserting after the item relating to chapter 106 the following new item:

"107. Educational assistance for persons enlisting for active duty------2141".

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

SEC. 902. (a)(1) Subject to the provisions of this section, the Secretary of Defense may repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of such Act, after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for—

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an Armed Force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the Armed Forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is—

(1) 15 percent or $500, whichever is greater for each year of service, in the case of service described in subsection (a)(2)(A); or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B).

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

(g) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

SEC. 903. (a)(1) As a means of encouraging enlistments and reenlistments in the Armed Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Veterans Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

(2) Notwithstanding the provisions of section 1631(a)(4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Veterans Education Account.

(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

(f) As used in this section:

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION OF APPROPRIATIONS

SEC. 904. (a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901), and sections 902 and 903 a total of $75,000,000.

(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the repayment as authorized by section 902 of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 and of loans made under part E of such Act, and the educational assistance program provided for under section 903.

REPORT ON EDUCATIONAL BENEFITS INCENTIVE PROGRAMS

SEC. 905. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), and of the programs provided for under section 902 and 903.

(b) The Secretary of Defense shall also submit to such committees, not later than December 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the Post-Vietnam Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, and the program established under section 902 have encouraged persons to enter or remain in the Armed Forces. The Secretary shall include in such report—

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the Armed Forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage persons to enter and remain in the Armed Forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage persons to enter and remain in the Armed Forces.

IMPROVEMENT AND EXTENSION OF EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

SEC. 906. (a)(1) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000", respectively.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1980.

(b) Section 2135 of such title 10, United States Code, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

TITLE X—GENERAL PROVISIONS

REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION AND MAINTENANCE

SEC. 1001. (a)(1) Section 138(a) of title 10, United States Code, relating to annual authorization of appropriations, is amended—

(A) by striking out "or" at the end of clause (5);

(B) by inserting "or" at the end of clause (6); and

(C) by inserting after clause (6) the following new clause:

"(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);".

(2) The amendments made by paragraph (1) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

(b) Section 138 of such title is further amended—

(1) by striking out "subsection (e) of this section" in subsection (a)(6) and inserting in lieu thereof "subsection (f)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

"(e)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

"(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

"(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

"(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

"(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

"(3) The Secretary shall also include in each such report a projection (made in accordance with paragraph (4) of the combat readiness proposed to be maintained during the next fiscal year of—

"(A) each Army and Marine Corps division, brigade, and regiment;

"(B) each Navy, Air Force, and Marine Corps air wing and squadron;

"(C) each Navy aircraft carrier, other major surface combatant, general purpose submarine, ballistic missile submarine, and amphibious ship;

"(D) each Air Force strategic and tactical airlift squadron; and

"(E) such other units as the Secretary considers appropriate.

"(4) Each projection made pursuant to paragraph (3) shall be made—

(A) using the overall readiness ratings and the four resource-related readiness ratings of the Unit Status and Identity Report of the Department of Defense; and

(B) using the levels of funding proposed in the Budget of the President for the next fiscal year.".

(c) Subsection (f) of such section, as redesignated by subsection (b)(2), is amended—

(1) by striking out "For purposes of subsection (a)(6) of this section" and inserting in lieu thereof "(1) In section (a)(6)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) In subsection (f):

"(A) 'Combat arms battalions' means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

"(B) 'Major repair work' means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.".

(d)(1) The heading of such section is amended to read as follows:

"§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports".

(2) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.".

DENIAL OF CERTAIN BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 1002. (a) Chapter 49 of title 10, United States Code, relating to prohibitions and penalties, is amended by adding at the end thereof the following new section:

"§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

"(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

"(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.".

DELAY OF EFFECTIVE DATE FOR CEILING ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND OF REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

SEC. 1003. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), is amended—

(1) by striking out "October 1, 1980" in paragraph (1) and inserting in lieu thereof "October 1, 1981"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS–13 through GS–18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to 96 percent of the number of such employees employed by the Department of Defense on July 30, 1977. After September 30, 1982, the total number of such employees may not exceed the number equal to 94 percent of the number of such employees employed by the Department of Defense on July 30, 1977.".

BASIC PAY OF WOMEN OF THE NAVY SERVING IN THE GRADE OF REAR ADMIRAL

SEC. 1004. (a) Subsection (k) of section 202 of title 37, United States Code, relating to assignment of certain officers to the pay grade of rear admiral of the upper half, is amended to read as follows:

"(k) When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. A woman officer serving as a rear admiral under such an appointment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

(b) The amendment made by subsection (a) shall apply with respect to basic pay payable for periods beginning on or after the date of the enactment of this Act.

EXEMPTION OF CERTAIN CONTRACTS FROM CERTAIN PROFIT LIMITATIONS

SEC. 1005. (a) The provisions of sections 2382 and 7300 of title 10, United States Code, relating to profit limitation on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply with respect to any contract for the construction or manufacture of all or any part of any aircraft or naval vessel, or to any subcontract of such a contract, for which final payment is made before October 1, 1981.

(b) Neither the Secretary of Defense nor the Secretary of the Treasury may require that any report be submitted under section 2382 or 7300 of title 10, United States Code, before October 1, 1981, and neither such Secretary may prescribe regulations to implement such sections (or either of such sections) to take effect before October 1, 1981.

REPORT ON ALLIED COMMITMENTS TO DEFENSE SPENDING

SEC. 1006. (a) In recognition of the growth, relative to the United States, in the economic strength of Japan, Canada, and Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of Congress that—

(1) the burdens of mutual defense now assumed by the countries allied with the United States under those agreements are not commensurate with their economic resources; and

(2) the continued unwillingness of those countries to increase their contributions to the common defense to more appropriate levels would endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c) The Secretary of Defense shall submit to the Congress not later than March 1, 1981, a report providing—

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist;

(2) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(3) estimates of the real growth in defense spending in fiscal year 1981 projected for each NATO member nation compared to the annual real growth goal in the range of 3 percent set in May 1978;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1981; and

(5) an explanation of those instances in which the commitments to real growth in defense spending and to the Long-Term Defense Program have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments.

CIVIL AIR PATROL

SEC. 1007. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of clause (3) and inserting in lieu thereof ", including unit capability testing missions and training missions;";

(2) by striking out "and" at the end of clause (6);

(3) by striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new clause:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Subsection (c) of such section is amended by striking out the period and inserting in lieu thereof ", and for purposes of determining the civil liability of the Civil Air Patrol (or any member thereof) with respect to any act or omission committed by the Civil Air Patrol (or any member thereof) in fulfilling such mission, the Civil Air Patrol shall be deemed to be an instrumentality of the United States.".

(2) The amendment made by paragraph (1) shall be effective with respect to services of the Civil Air Patrol provided to the Department of Air Force before the date of the enactment of this Act as well as to such services provided on or after such date, but such amendment shall not be construed (A) to revive any cause of action barred by an applicable statute of limitation, or (B) to serve as grounds for the reopening or appeal of any case which became final before the date of the enactment of this Act.

ADHERENCE TO THE WAR POWERS RESOLUTION

SEC. 1008. Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93-148), United States foreign and defense policies could be subject to misinterpretation: it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.

And the Senate agree to the same.

Melvin Price,
Charles E. Bennett,
Richard H. Ichord,
Lucien N. Nedzi,
Charles H. Wilson,
Richard C. White,
Bill Nichols,
Bob Wilson,
William L. Dickinson,
G. William Whitehurst,
Floyd Spence,
Robin L. Beard
(for consideration of differences regarding intelligence-related activities only),
Edward P. Boland,
Bill D. Burlison,
J. K. Robinson,
Managers on the part of the House.

John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd, Jr.,
Sam Nunn,
John Culver,
Gary Hart,
Robert Morgan,
J. James Exon,
Carl Levin,
John Tower,
Strom Thurmond,
Barry Goldwater,
John W. Warner,
Gordon Humphrey,
William S. Cohen,
Roger W. Jepsen,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6974) to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vesels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROCUREMENT

AIRCRAFT

ARMY

C-12 aircraft (Huron)

No procurement authorization was requested for the C-12D utility aircraft. The House bill authorized $29.9 million for the procurement of 20 aircraft. The Senate amendment contained no authorization for C–12D aircraft.

The conferees recommended authorization of $9 million for the procurement of 6 aircraft.

AH–1S helicopter (Cobra-TOW)

No procurement authorization was requested for the AH–1S helicopter. The House bill authorized $54.2 million for 17 helicopters. The Senate amendment did not contain any authorization for the AH–1S.

The conferees recommend an authorization of $44.5 million for the procurement of 17 AH–1S helicopters.

The Senate recedes with an amendment.

UH–60A helicopter (Black Hawk)

The budget request contained $291.1 million for the procurement of 80 UH–60A helicopters. The House bill authorized $324 million for the procurement of 80 helicopters. The Senate amendment contained $388.4 million for the procurement of 96 UH–60A helicopters.

The conferees recommended an authorization of $352.3 million for the procurement of 88 helicopters.

AH–1S helicopter (Cobra-TOW modifications)

The House bill contained $34.5 million for modifications of the OH–1S helicopters. No authorization for such modifications was requested. The Senate amendment provided no authorization for such modifications.

The conferees agreed to recommend an authorization of $17.2 million for modifications of 12 AH–1S helicopters.

The Senate recedes with an amendment.

Aircraft spares and repair parts

The budget request contained $127.6 million for aircraft spares and repair parts, including $41 million for UH–60A helicopter spares. The House bill authorized $128.4 million for spares and repair parts, including $0.8 million for AH–1 helicopter spares and $41 million for UH–60A spares. The Senate amendment contained an authorization of $141.2 million for spares and repair parts, including $54.6 million for UH–60A helicopter spares and nothing for AH–1 spares.

The conferees recommend an authorization of $138.7 million for spares and repair parts, including $1.6 million for AH–1 helicopter spares and $50.5 million for UH–60A helicopter spares.

NAVY

A–6E (Intruder)

The budget request contained $49.1 million for A–6E aircraft program in fiscal year 1981. Of this amount $38.6 million was requested for airframe avionics and engine peculiar ground support equipment and other support items. The request also included $10.5 million for initial spares. No authorization was requested for the procurement of new aircraft.

The House bill contained an authorization of $225.3 million for 12 A–6E aircraft in fiscal year 1981 and $12.0 million for advance procurement for the procurement of 12 aircraft in fiscal year 1982.

The Senate amendment approved the $38.6 million requested for airframe avionics, ground support equipment, and other support items and provided $62.7 million in advance procurement authorization for 6 aircraft in fiscal year 1982.

The conferees agreed to an authorization of $225.3 million to procure 12 aircraft in fiscal year 1981 and to an authorization of $12.0 million for long-lead funding. The conferees also agreed to an authorization of $15.1 million for initial spares for the A–6E aircraft.

The Senate recedes.

F–14A (Tomcat)

The budget request contained $570.4 million to procure 24 F–14A fighter aircraft in fiscal year 1981, $85.0 million for advance procurement and $65.3 million for initial spares in fiscal year 1981.

The House bill provided $714.7 million to procure 30 F–14A aircraft in fiscal year 1981, $147.9 million for long-lead procurement and $65.3 million for spares and repair parts. The House deleted $21.9 million requested for the Tactical Air Reconnaissance Pod System (TARPS) and added $35.0 million for additional F–14A aircraft support.

The Senate amendment provided an authorization of $701.6 million for 30 F–14A aircraft in fiscal year 1981, $147.9 million for advance procurement and provided $65.3 million for initial spares. The Senate did not delete the authorization for the Tactical Air Reconnaissance Pod System or add an additional authorization for aircraft support.

The conferees agreed to an authorization of $701.6 million for 30 F–14 aircraft in fiscal year 1981, advance procurement of $147.9 million for 30 aircraft in fiscal year 1982, and $65.3 million for initial spares.

The House recedes.

F/A–18 fighter/attack aircraft (Hornet)

The budget request included $1,352.4 million for 48 F/A–18 aircraft, $85.0 million for advance procurement of 96 aircraft in fiscal year 1982 and $197.5 million for initial spares. The House bill contained an authorization of $1,780.6 million for the procurement of 72 aircraft, $118.2 million for advance procurement of 108 aircraft in fiscal year 1982 and $228.1 million for initial spares. The Senate amendment included an authorization of $1,561.8 million for the procurement of 60 aircraft, $94.2 million for advance procurement of 96 aircraft in fiscal year 1982 and $207.5 million for initial spares. The conferees recommend an authorization of $1,591.5 million for the procurement of 60 F/A–18 aircraft in fiscal year 1981 and $118.2 million for advance procurement in fiscal year 1982. The conferees also recommend an authorization of $209.1 million for initial spares for the F/A–18 aircraft.

The recommendation of the conferees represents the desire to direct a more efficient and economical production rate for the F/A–18 aircraft. The F/A–18 aircraft has been chosen as the replacement for old or obsolescent Navy and Marine Corps F–4 fighter aircraft and to replace attack and reconnaissance aircraft now in the Navy and Marine Corps inventory. The conferees believe that considerable costs can be avoided by procuring these aircraft at a faster rate. In addition, procurement of the F/A–18 at a faster rate will address Navy and Marine Corps fighter shortfalls and should reduce maintenance costs associated with the current inventory of fighter and attack aircraft.

With respect to the number of aircraft to be procured in fiscal year 1981, the House recedes with an amendment. With respect to the funding authorization for advance procurement, the Senate recedes.

CH–53E helicopter (Super Stallion)

No procurement authorization was requested for the CH–53E helicopter (Super Stallion). The Senate amendment provided an authorization of $2.0 million for advance procurement of long-lead items for additional CH–53E helicopters. The House bill contained no authorization for this purpose. The conferees agreed to an authorization of $2.0 million for advance procurement.

The House recedes.

SH–2F ASW helicopter (Sea Sprite)

No authorization for procurement of the SH–2F ASW helicopter (Sea Sprite) was requested. The House bill contained $48.0 million for advance procurement of long-lead items for the procurement of 18 helicopters in fiscal year 1982. The Senate amendment contained an authorization of $20.0 million for advance procurement. The conferees approved an authorization of $25.0 mililon.

The House recedes with an amendment.

P–3C patrol aircraft (Orion)

The budget request included $183.6 million for the procurement of 8 P–3C patrol aircraft (Orion) in fiscal year 1981. The House bill provided $254.8 million for 12 aircraft. The Senate amendment provided $253.0 million for 12 aircraft. The conferees recommend an authorization in the amount of $254.8 million.

The Senate recedes.

C–9B airlift aircraft (Skytrain)

No authorization was requested for C–9B airlift aircraft for fiscal year 1981. The House bill contained $109.6 million for 6 aircraft. The Senate amendment contained no authorization for the C–9B aircraft.

The conferees recommend an authorization of $37.0 million for 2 C–9B aircraft for fiscal year 1981.

The Senate recedes with an amendment.

Modification of Navy aircraft

The budget request contained $687.4 million for the modification of Navy aircraft including $11.6 million for modifications associated with the Tactical Air Reconnaissance Pods System (TARPS). The House bill provided an authorization of $692.8 million and deleted the authorization requested for TARPS. The Senate amendment provided an authorization of $719.4 million including $11.6 million for the TARPS system, $12.0 million for H–3 helicopter modifications, $1.0 million for H–2 helicopter modifications, $1.0 million for EP–3E aircraft modifications and $1.0 million for AV–8A aircraft modifications.

The conferees recommend an authorization in the amount of $719.4 million.

The House recedes.

Aircraft spares and repair parts (Navy)

The budget request contained $953.2 million for Navy aircraft spares and repair parts.

The House bill provided $1,001.7 million including $4.6 million for additional A–6E aircraft spares, $30.6 million for additional F/A–18 aircraft spares, $1.1 million for additional P–3C aircraft spares and $9.4 million for C–9B aircraft spares.

The Senate amendment provided an authorization of $1,103.4 million for aircraft spares and repair parts including $10.0 million for additional F/A–18 aircraft spares, $1.9 million for additional P–3C aircraft spares and $135.5 million for additional replenishment spares.

The conferees agreed to an authorization of $1,109.9 million for Navy aircraft spares and repair parts including $4.6 million for additional A–6E spares, $11.6 million for additional F/A–18 spares, $1.1 million for additional P–3C aircraft spares, $3.9 million for C–9B aircraft spares and $135.5 million for additional replenishment spares.

The House recedes with an amendment.

Restriction on the use of aircraft procurement funds

Section 101 of the House bill provided that of the funds authorized to be appropriated for Navy and Marine Corps aircraft procurement, $33.6 million shall be available only for procurement of aircraft for the Navy Undergraduate Helicopter Pilot Training Program. The Senate amendment contained no similar provision.

The Senate recedes.

AIR FORCE

New strategic aircraft

No procurement authorization was requested for a new strategic aircraft. The House bill provided an authorization of $200.0 million for advance procurement of long-lead items and tooling for a strategic weapons launcher aircraft utilizing B–1 bomber technology.

The Senate amendment contained no authorization for procurement for a new strategic aircraft.

The conferees agreed to an authorization in the amount of $75.0 million for long-lead items to be associated with the procurement of a new multi-role strategic aircraft.

The Senate recedes with an amendment.

Note: This item is discussed in detail in the discussion of Title II, Research, Development, Test, and Evaluation.

A-7K attack aircraft (Corsair II)

No authorization was requested for procurement of A-7K attack aircraft (Corsair II) in fiscal year 1981.

The House bill contained an authorization of $148.5 million for the procurement of 12 aircraft in fiscal year 1981, $8.0 million for advance procurement and $8.7 million for A-7K aircraft spares and repair parts.

The Senate amendment contained no authorization for A-7K aircraft.

The conferees agreed to authorizations in the amount of $112.6 million for procurement of 6 aircraft in fiscal year 1981 and $6.1 million for spares and repair parts.

The Senate recedes with an amendment.

A-10 attack aircraft—two-seat configuration (Thunderbolt II)

No authorization was requested for the purpose of converting A-10 attack aircraft to a two-seat configuration able to accept night and all-weather avionics.

The House bill contained an authorization of $30.0 million to convert to a two-seat configuration 30 of 60 A-10 attack aircraft otherwise authorized to be procured in fiscal year 1981.

The Senate amendment contained $24.0 million for two-seat A-10 aircraft.

The conferees recommend an authorization in the amount of $24.0 million.

The House recedes.

F-15 fighter aircraft (Eagle)

An authorization of $666.0 million was requested for the procurement of 30 F-15 fighter aircraft (Eagle) in fiscal year 1981. Also requested was $90.2 million for advance procurement and $114.4 million for initial spares and repair parts.

The House bill provided authorization in the amounts and for the number of aircraft requested.

The Senate amendment contained an authorization of $924.8 million for the procurement of 48 F-15 aircraft in fiscal year 1981, $128.5 million for advance procurement and the amount requested for spares and repair parts.

The conferees recommended the authorization of $845.0 million for 42 F-15 aircraft in fiscal year 1981, $90.2 million for advance procurement and $114.4 million for initial spares and repair parts.

The House recedes with an amendment.

KC-10 advanced tanker cargo aircraft (ATCA)

The budget request included $298.4 million to procure 6 KC-10 advanced tanker cargo aircraft for fiscal year 1981.

The House bill provided an authorization of $397.5 million to procure 8 KC-10 aircraft.

The Senate amendment provided an authorization in the amount requested.

The conferees recommend an authorization in the amount of $298.4 million for 6 KC-10 aircraft.

The House recedes.

C-130H transport aircraft (Hercules)

No authorization was requested for C-130H transport aircraft procurement in fiscal year 1981.

The House bill contained an authorization of $93.6 million to procure 8 C-130H aircraft in fiscal year 1981 and $3.5 million for spares and repair parts.

The Senate amendment contained no authorization for C-130H aircraft.

The conferees recommend the authorization of $70.8 million to procure 6 C-130H aircraft in fiscal year 1981 and $1.7 million for spares and repair parts.

The Senate recedes with an amendment.

Modification of aircraft

The budget request contained $1,816.6 million for the modification of Air Force aircraft for fiscal year 1981 including $100.6 million for classified projects and $79.8 million for the Civil Reserve Air Fleet (CRAF) program.

The House bill contained an authorization of $1,899.6 million including $25.0 million for 6 additional Tactical Electronic Reconnaissance (TEREC, ALQ-125) modifications, $98.6 million for classified projects and $79.8 million for the CRAF modification program.

The Senate amendment contained an authorization of $1,796.8 million for Air Force aircraft modifications including $100.6 million for classified projects, but contained no authorization for additional TEREC ALQ-125 modifications or for the Civil Reserve Air Fleet.

The conferees rcommend the authorization of $1,874.6 million for Air Force aircraft modifications in fiscal year 1981 including $25.0 million for 6 additional TEREC ALQ-125 modifications, $100.6 million for classified projects and $54.8 million for the CRAF program.

The Senate recedes with an amendment.

Aircraft spares and repair parts

The budget request contained $1,566.9 million for the procurement of Air Force aircraft spares and repair parts in fiscal year 1981. The House bill contained an authorization in the amount of $1,879.5 million for this purpose, including additional spares, as follows:

[In millions]

A-7K aircraft spares	$8.7
F-15 aircraft engine spares	86.2
F-16 aircraft engine spares	167.1
KC-10 aircraft spares	14.7
C-130H aircraft spares	3.5

The House bill contained no authorization for additional replenishment spares or for additional war reserve spares.

The Senate amendment contained an authorization in the amount of $2.078.7 million for aircraft spares and repair parts, including additional spares, as follows:

[In millions]

F-15 and F-16 engine spares	$38.1
Additional replenishment spares	260.0
Additional war reserve spares	181.3

The conferees recommend an authorization in the amount of $2,042.3 million for aircraft spares and repair parts, including additional spares, as follows:

[In millions]

A-7K aircraft spares	$6.1
F-15 and F-16 aircraft engine spares	38.1
C-130H aircraft spares	1.7
Additional replenishment spares	215.8
Additional war reserve spares	181.3

The additional replenishment and war reserve spares are for the purpose of improving the combat readiness of Air Force units by improving aircraft mission readiness rates, and enabling the Air Force to carry out its planned flying-hour program.

The House recedes with an amendment.

Aircraft support equipment and facilities

The authorization request contained $1,536.1 million for Air Force aircraft support equipment and facilities for fiscal year 1981 including $382 million for the United States' contribution to the NATO Airborne Warning and Control System (AWACS) program. The request also included $75.0 million for 79 ALQ-131 electronic countermeasures pods.

The House bill provided an authorization of $1,212.6 million for aircraft support equipment and facilities. The House bill deleted the $382 million requested for the NATO AWACS program from the amount requested for aircraft support equipment and facilities and included that amount in a separate section. The House bill also contained an additional authorization of $58.5 million for procurement of 58 additional ALQ-131 electronic countermeasures pods.

The Senate amendment contained an authorization of $1,526.1 million, including $372 million for the NATO AWACS contribution and $75.0 million for 79 ALQ-131 electronic countermeasures pods.

The conferees recommend an authorization for fiscal year 1981 of $1,192.6 million for Air Force aircraft support equipment and facilities including $38.5 million for additional ALQ-131 electronic countermeasures pods.

The conferees agreed to include the authorization of $382 million for the NATO AWACS contribution for fiscal year 1981 in a separate section of the bill (Section 102).

The Senate recedes with an amendment.

Restriction on the use of aircraft procurement funds

Section 101 of the Senate amendment provided that of the funds authorized to be appropriated for procurement of aircraft for the Air Force, $518.8 million shall be available only for procurement of war reserve materiel spares. The House bill contained no similar provision.

The House recedes.

MISSILES

ARMY

Chaparral

The House bill authorized $44.4 million, including authorization for procurement of 32 fire units to serve as a repair cycle float. The Senate amendment authorized $3.4 million.

The Senate recedes.

Hawk modifications

The House bill authorized $50.1 million, including authorization for procurement of the Tracker Adjunct System and passive decoys. The Senate amendment authorized $26.1 million.

The House recedes.

Roland missile spares

The House bill authorized $23.1 million for procurement of Roland missile spares and repair parts. The Senate amendment authorized $45.7 million.

The conferees agreed to an authorization of $35.1 million. The $10.6 million reduction from the budget request was made without prejudice. If additional Roland spares are required, the Army may submit a reprogramming request.

Defense acquisition radar

The House bill authorized $45 million for procurement of 9 Defense Acquisition Radars to enhance the long range target acquisition capabilities and battle management of I-Hawk systems. The Senate amendment authorized no funds for the procurement of these radars.

The conferees agreed to an authorization of $35.7 million for procurement of 5 Defense Acquisition Radars.

NAVY

BGM-109 cruise missile (Tomahawk)

The budget request included $66.8 million for the procurement of 20 BGM-109 cruise missiles (Tomahawk) in fiscal year 1981 and $4.9 million for advance procurement of long-lead items associated with the Tomahawk program. The House bill included an authorization of $246.4 million to procure 106 Tomahawk missiles in fiscal year 1981 and $28.9 million for advance procurement. The Senate amendment contained authorizations in the amount and for the number of missiles requested.

The conferees agreed to authorizations in the amount of $163.0 million for the procurement of 50 Tomahawk cruise missiles in fiscal year 1981 and $14.1 million for advance procurement.

The Senate recedes with an amendment.

AIM/RIM-7F/M missile (Sparrow)

The budget request contained $126.9 million to procure 770 AIM/RIM-7F/M Sparrow missiles in fiscal year 1981. The House bill provided an authorization in the amount and for the number requested. The Senate amendment included an authorization in the amount $136.6 million for the procurement of 870 Sparrow missiles in fiscal year 1981.

Information provided to the conferees by the Navy indicated that an authorization and appropriation of $141.0 million would be required in fiscal year 1981 for the procurement of 770 Sparrow missiles. The conferees agreed to an authorization in the amount of $141.0 million which is expected to be sufficient to procure 770 AIM/RIM-7F/M Sparrow missiles in fiscal year 1981.

The House recedes with an amendment.

AIM-54A/C missile (Phoenix)

The budget request contained $108.1 million for the procurement of 60 Phoenix missiles in fiscal year 1981. The House bill contained an authorization in the amount of $148.8 million to procure 210 Phoenix missiles. The Senate amendment contained an authorization of $149.1 million to procure 210 Phoenix missiles. The conferees agreed to an authorization of $148.8 million for the procurement of 210 Phoenix missiles.

The Senate recedes.

RIM-66 missile (Standard MR)

The budget request contained an authorization of $80.5 million to procure 260 RIM-66E Standard MR missiles in fiscal year 1981. The House bill contained an authorization of $120.5 million to procure 500 Standard MR missiles in fiscal year 1981. The Senate amendment contained an authorization in the amount and for the number of missiles requested. The conferees agreed to an authorization in the amount of $120.5 million for 500 Standard MR missiles in fiscal year 1981.

The Senate recedes.

AGM-88A missile (HARM)

The budget request contained $15.2 million for long-lead procurement of items associated with the HARM missile. The House bill contained an authorization in the amount of $100.4 million to procure 80 HARM missiles. The Senate amendment contained an authorization in the amount of $104.0 million to procure 80 HARM missiles. The conferees agreed to an authorization in the amount of $100.4 million.

The Senate recedes.

Missile support equipment and facilities

The budget request was in the amount of $112.4 million for Navy missile support equipment and facilities for fiscal year 1981. Contained within the request of $112.4 million was $25.9 million requested for missile spares and repair parts. The House bill contained an authorization of $218.4 million for missile support equipment and facilities including $131.9 million for missile spares and repair parts. Included in the House amount were the following amounts for additional spares and repair parts:

[In millions]

BGM-109 Tomahawk missile spares	$19.3
RIM-7M Sparrow missile spares	11.8
RIM-66 Standard missile spares	22.5
AGM-88A HARM missile spares	3.1

The Senate amendment provided for an authorization of $161.7 million for missile support equipment and facilities, including $75.2 million for missile spares and repair parts.

The conferees recommend an authorization for Navy missile support equipment and facilities in the amount of $175.8 million, including $89.3 million for spares and repair parts. Included within the $89.3 million is $11.0 million for additional BGM-109 Tomahawk missile spares and repair parts and $3.1 million for AGM-88A HARM missile spares.

The Senate recedes with an amendment.

MARINE CORPS

Hawk

The House bill authorized $55.8 million for procurement of missile and ground support equipment for the I-Hawk missile system. The Senate amendment authorized $2.9 million. The conferees agreed to authorize $20 million for I-Hawk missile and ground support.

Laser Guided Maverick

The House bill authorized $5 million for long-lead procurement on the Laser Guided Maverick missile system. The Senate amendment authorized no funds for that purpose. The conferees agreed to authorize $2.5 million for Laser Guided Maverick.

AIR FORCE

Minuteman III upgrade and expansion program

No authorization was requested for a Minuteman III expansion program in fiscal year 1981. The request contained $19.7 million for the Minuteman III survivable power program associated with the Minuteman II and III missiles.

The House bill authorized the $19.7 million requested for Minuteman survivable power modifications but provided no authorization for the deployment of additional Minuteman III missiles in Minuteman II silos.

The Senate amendment provided an authorization of $10.4 million as the first increment of a program designed to deploy 100 additional Minuteman III in existing Minuteman II silos. The Senate amendment also authorized $39.7 million for the Minuteman survivable power program.

The conferees agreed to authorize $5 million for fiscal year 1981 for the deployment of additional Minuteman III missiles in Minuteman II silos and $24.7 million for the Minuteman survivable power program.

The House recedes with an amendment.

AIM-7F/M Sparrow air-to-air missile

The budget request contained $117.6 million to procure 910 AIM-7F/M Sparrow air-to-air missiles in fiscal year 1981. The House bill provided the amount requested. The Senate amendment contained an authorization of $139.9 million for 1,140 Sparrow missiles.

The conferees agreed to an authorization in the amount of $139.9 million.

The House recedes.

Rapier short-range air defense missile

No authorization was requested for fiscal year 1981 for the procurement of the Rapier short-range air defense missile. The House bill contained an authorization of $100 million to procure 280 Rapier missiles, 8 fire units and 4 radars for the defense of United States air fields in the United Kingdom. The Senate amendment contained an authorization of $50 million for initial Rapier missile systems procurement.

The conferees agreed to an authorization in the amount of $90.0 million for the procurement of Rapier missile systems in fiscal year 1981.

The Senate recedes with an amendment.

Other missile support

The budget request included $1,885.3 million for Air Force other missile support activities in fiscal year 1981 including $94.3 million for the Defense Satellite Communications System and $13.4 million for a classified program.

The House bill contained $1,859.6 million for other missile support. Of the $94.4 million request for the Defense Satellite Communications System, $12.3 million was transferred to Title II, Research, Development, Test, and Evaluation at the request of the Department of Defense. The House bill also deleted the $13.4 million requested for a classified program.

The Senate amendment contained an authorization for other missile support in the amount and for the items requested.

The conferees recommend an authorization in the amount of $1,831.6 million including $2.0 million for the classified program and also recommend the transfer of $12.3 million of the amount requested for the Defense Satellite Communications System to Title II, Research, Development, Test, and Evaluation.

The Senate recedes with an amendment.

NAVAL VESSELS

The House bill authorized a shipbuilding program totaling $8,387.1 million. The Senate amendment authorized a shipbuilding program totaling $8,385.2.

The conferees agreed on a compromise shipbuilding program totaling $8,363.2 million as follows:

[In millions]

SSN-688 class attack submarine (2)	$1,105.3
FFG-7 guided missile frigate (6)	1,510.0
MCM mine countermeasure ship (long lead)	16.0
BB-62 Reactivation (1)	255.0
CV-34 Reactivation (1)	305.0
SL-7 (8)	285.0
Programs not in dispute	4,886.9
Total, Naval vessels, Navy	8,363.2

The conference agreement relating to major areas of difference is further discussed below.

SSN-688 nuclear attack submarine

The House bill authorized $1,371.1 million for three SSN-688 nuclear attack submarines.

The Senate amendment authorized $1,105.3 million for two SSN-688 nuclear attack submarines. The Senate amendment also contained $302 million for advanced procurement of nuclear attack submarines, including two additional in fiscal year 1982 and one additional in fiscal year 1983.

The House recedes.

FA-SSN fast attack submarine

The House bill authorized $25 million for acquisition of long-lead time nuclear reactor plant and equipment, and the commencement of contract design for an advanced design SSN-688 class submarine.

The Senate amendment contained no similar provision.

The conferees noted that additional funds for advanced submarine development have been included in the R.D.T. & E. account for fiscal year 1981.

The House recedes.

FFG-7 guided missile frigate

The House bill authorized $1,528.1 million for six FFG-7 guided missile frigates.

The Senate amendment authorized $1,510.0 million for six FFG-7 guided missile frigates.

The House recedes.

MCM mine countermeasure ship

The House bill authorized $16.0 million for long lead funding for one MCM mine countermeasure ship.

The Senate amendment contained no similar provision.

The Senate recedes.

BB-62 (New Jersey) reactivation

The House bill authorized $255 million for reactivation of the battleship U.S.S. *New Jersey*.

The Senate amendment authorized $294 million for reactivation of the battleship U.S.S. *New Jersey*. The Senate figure included purchase of the Sea Sparrow AAW suite.

The Senate recedes.

CV-34 Oriskany reactivation

The House bill authorized $305 million for reactivation of the carrier U.S.S. *Oriskany*.

The Senate amendment authorized $304 million for reactivation of the carrier *U.S.S. Oriskany*.

The Senate recedes.

SL–7

The Senate amendment authorized $285 million for purchase and modification of eight SL–7 commercial ships.

The House bill contained no similar provision.

The conferees request the Navy to insure that the funds used to purchase these vessels from their current owners are deposited into a capital construction fund of the type authorized by statute (46 U.S.C. 1177) to finance the construction of replacement ships in U.S. shipyards.

The House recedes.

TRACKED COMBAT VEHICLES

ARMY

M88A1 recovery vehicle

The House bill authorized $124.8 million for the procurement of 166 M88A1 recovery vehicles. The Senate amendment authorized $124.7 million.

The House recedes.

XM–1 tank advance procurement

The House bill authorized $174.9 million, including long-lead items for an additional 307 XM–1 tanks in fiscal year 1982. The Senate amendment authorized $96.9 million.

The Senate recedes.

Tracked combat vehicle modifications

The House bill authorized $226.3 million, including $100.3 million for procurement of modification kits to convert M60A1 tanks to the M60A3 configuration. The Senate amendment authorized $176.3 million including $50.3 million for M60 modification kits.

The conferees agreed to an authorization of $201.3 million, including $75.3 million for M60A1/A3 modifications.

XM–1 tank production base support

The House bill authorized $30 million for a pilot program in the XM–1 and Fighting Vehicle Systems projects for facilitization of second sources at the third and fourth tier vendor level to increase availability and competitive pricing of key items such as detectors, bearings, forgings and castings. The Senate amendment contained no authorization for this program.

The House recedes.

Fighting vehicle systems

Section 104 of the Senate bill directed the Army to select a second source for final assembly of the Fighting Vehicle Systems (FVS) by June 30, 1981, and to procure at least 5 of the vehicles from the fiscal year 1981 program from that second source.

Prior to the conference, the Army proposed an alternative program leading to facilitization of a second source with fiscal year 1983 appropriations and to procurement of the first competitively produced vehicles with fiscal year 1984 appropriations. The conferees expect the Army to work to implement this plan—or to accelerate competition if this becomes feasible.

The conferees are seriously concerned over increasing costs in the FVS program and believe that the timely introduction of competition at all contracting levels, consistent with sound business practices can, over time, contribute significantly to cost reduction. The conferees agree that the Army's new procurement strategy calling for competition by fiscal year 1984 is a positive step that should be encouraged and supported.

The conferees expect the Army to continue to explore all options for cost reduction on the FVS program and to report to the Committees on Armed Services at regular intervals on the status of its efforts.

The conferees wish to emphasize that they regard the delivery of a maximum number of fighting vehicles to the field in the earliest possible time frame as a matter of co-equal importance with expressed concerns over cost. The conferees believe that the baseline FVS production program calling for 600 vehicles in fiscal year 1982, and increasing to a rate of 90 vehicles per month in fiscal year 1984, is the minimum acceptable rate of production consistent with a prudent response to the threat. Adherence to this program should not be compromised. Costs associated with the introduction of competitive sources should therefore be additive to the baseline program.

The Senate recedes.

MARINE CORPS

Modification of tracked combat vehicles

The House bill authorized $9.2 million for modification of Marine Corps tracked combat vehicles. The Senate amendment authorized $2.9 million.

The House recedes.

TORPEDOES

MK–48 torpedo

The House bill authorized $125.3 million for 144 MK–48 torpedoes. The Senate amendment authorized $125.4 million for 144 MK–48 torpedoes.

The Senate recedes.

MK–46 torpedoes

The House bill authorized $65 million for procurement of 288 MK–46 torpedoes. The Senate amendment authorized $55.5 million for procurement of 288 MK–46 torpedoes.

The conferees agreed to authorize $62 million for procurement of 288 MK–46 torpedoes.

Torpedo modification

The House bill authorized $68.5 million for torpedo modification. The Senate amendment authorized $52.7 million for torpedo modification.

The House recedes.

OTHER WEAPONS

ARMY

DIVAD gun

The House bill authorized $178.9 million for procurement of 12 DIVAD gun systems and $6.4 million for advance procurement. The Senate authorized $95.3 million for DIVAD advance procurement.

The conferees agreed to an authorization of $140 million for DIVAD advance procurement including initial production facilities and long-lead items.

Lightweight armored vehicle

The House bill authorized no money for procurement of lightweight armored vehicles. The Senate amendment authorized $6 million for the procurement of 30 vehicles.

The Senate recedes.

M198 howitzer

The House bill authorized $34.1 million for procurement of 108 M198 howitzers. The Senate authorized $34 million to procure the same number of howitzers.

The House recedes.

Vulcan modifications

The House bill authorized $41.3 million for the procurement of Vulcan modification kits (PIVADS). The Senate amendment contained no authorization.

The conferees agreed to an authorization of $26.8 million for Vulcan modification kits.

DIVAD spares

The House bill authorized $12.3 million for DIVAD spares and repair parts. The Senate amendment contained no authorization.

The House recedes.

MARINE CORPS

Lightweight armored vehicle

No funds were requested for procurement of lightweight armored vehicles. The Senate authorized $50 million for these vehicles. The House bill contained no authorization.

The conferees authorized $26 million for procurement of lightweight armored vehicles for fiscal year 1981. The precise number of vehicles to be obtained in fiscal year 1981 is to be determined after the Marine Corps conducts a source selection to evaluate candidate vehicles. Funds to support this source selection are provided in the Landing Vehicle Assault program in research and development.

M19 grenade launcher

The House bill authorized $9 million for procurement of 856 M19 grenade launchers. The Senate amendment contained no authorization.

The House recedes.

OTHER PROVISION

Section 104—Patriot missile system

Section 102 of the Senate amendment contained language providing that, of the funds authorized to be appropriated, not more than $494.1 million could be used for the procurement of the Patriot missile system. The language also restricted obligation and expenditure of unobligated fiscal year 1980 funds and funds authorized to be appropriated in fiscal year 1981 for procurement of the Patriot missile system until the Secretary of Defense certifies that the system is suitable for hardware production.

The House bill contained no similar provision.

The conferees agreed to delete that portion of the language dealing with a restriction on unobligated fiscal year 1980 funds. Because of the concerns expressed by the Senate that recent operational testing of the Patriot system reflected serious failures and discrepancies and because of the importance of the Patriot system in meeting the Army's air defense needs, the conferees further agreed that the program is of special interest and any transfer of funds into or out of the Patriot missile system procurement must be the subject of a prior approval reprogramming request.

The House recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Department of Defense requested authorization of $16,478,315,000 for the fiscal year 1981 Research, Development, Test and Evaluation appropriations. The following table summarizes the Senate and House modifications to the research and development budget request:

R.D.T. & E. SUMMARY

[In thousands of dollars]

	Request	House	Senate	Conference
Army	3, 234, 483	3, 158, 449	3, 258, 524	3, 248, 005
Navy [1]	4, 865, 639	5, 111, 554	5, 116, 396	5, 112, 775
Air Force	7, 033, 393	7, 115, 654	7, 160, 197	7, 159, 857
Defense agencies	1, 302, 700	1, 286, 702	1, 326, 500	1, 325, 702
Director, test, and evaluation	42, 100	42, 100	42, 100	42, 100
Total, R.D.T. & E	16, 478, 315	16, 714, 459	16, 903, 717	16, 888, 439

[1] Includes $2,760,000 for special foreign currency.

As shown, the conferees agreed on a total of $16,888,439,000 which is $410,124,000 more than the amount requested for fiscal year 1981.

The details of the differences between the House bill and the Senate amendment and the changes adopted by the conferees are reflected in the following table:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION SUMMARY OF CONFERENCE ACTION

ARMY—FISCAL YEAR 1981

[In thousands of dollars]

Item No.	Program element	Budget request fiscal year 1981	House authorization	Senate authorization	Change from House	Conference
101	Defense research sciences	137, 366	130, 755	137, 366	+6, 611	130, 755
102	Atmospheric investigations	6, 781	6, 064	6, 781	+717	6, 064
103	Missile technology	30, 657	26, 657	30, 657	+4, 000	26, 657
104	High energy laser technology	20, 581	15, 581	20, 581	+5, 000	20, 581
105	Tank and automotive technology	15, 707	11, 707	15, 707	+4, 000	13, 707
106	Small cal and fire control technology	10, 344	13, 832	10, 344	−3, 488	13, 832
107	Mil environmental criteria dev	3, 943	2, 643	3, 943	+1, 300	3, 400
108	Environmental quality tech	10, 183	5, 018	10, 183	+5, 165	7, 500
109	Undistributed reduction	0	0	−29, 000	−29, 000	−10, 000
110	Aircraft weapons	6, 527	3, 046	6, 527	+3, 481	3, 046
111	Rotary wing controls/rotors/structures	13, 908	14, 908	15, 908	+1, 000	15, 408
112	Terminally guided projectiles	7, 541	15, 541	7, 541	−8, 000	15, 541
113	Missile/rocket components	0	0	6, 900	+6, 900	6, 900
114	Advanced land mobility systems concepts	12, 387	12, 387	37, 387	+25, 000	37, 387
115	Army small arms program	0	1, 135	0	−1, 135	1, 135
116	Combat vehicle propulsion system	11, 656	5, 434	5, 456	+22	5, 434
117	Adv tech demo test/measure/diagnostic	1, 216	0	1, 216	+1, 216	0
118	Combat engineering systems	234	0	234	+234	0
119	Adv electronic devices dev	2, 902	0	2, 902	+2, 902	0
120	Advanced rocket control system	0	0	29, 000	+29, 000	29, 000
121	Ballistic msl def sys tech	134, 114	134, 114	159, 114	+25, 000	149, 114
122	High-to-medium air defense dev	36, 238	36, 238	0	−36, 238	0
123	Surf-to-surf msl rocket sys	2, 717	0	2, 717	+2, 717	1, 000
124	Short range air def self protection weapon	16, 982	10, 160	16, 982	+6, 822	10, 160
125	Corps support weapon system	7, 691	14, 891	7, 691	−7, 200	14, 891
126	Field artillery ammo dev	8, 026	18, 206	8, 026	−10, 000	18, 026
127	Identification—Friend or foe dev [1]	2, 968	406	2, 968	+2, 562	406
128	UH-1 modernization [1]	3, 078	0	3, 078	+3, 078	0
129	Heliborne missile—Hellfire	55, 374	50, 477	45, 074	−5, 403	50, 477
130	Fire and forget Hellfire	7, 068	6, 592	25, 068	+18, 476	14, 000
131	Tank gun cooperative development (120mm gun)	62, 061	0	62, 061	+62, 061	62, 061
132	Chapparal	20, 786	24, 786	20, 786	−4, 000	24, 786
133	Combat vehicle improve prog	14, 383	8, 753	14, 383	+5, 630	10, 753
134	Operations control and command support system	16, 417	0	16, 417	+16, 417	8, 000
135	Aircraft avionics	8, 599	4, 264	8, 599	+4, 335	4, 264
136	Material systems analysis	14, 037	11, 964	14, 037	+2, 073	13, 000
137	Program-wide activities	59, 040	58, 293	54, 040	−4, 253	56, 293
138	Product improved Vulcan	0	9, 600	0	−9, 600	9, 600
139	Army administrative TDY, undist	0	600	0	−600	0
140	Army studies and analysis, undistributed	0	10, 400	0	−10, 400	0
141	Army personnel undistributed	0	10, 400	0	−10, 400	0
142	Undist, reductions taken in amend	0	−1, 154	0	+1, 154	−1, 154
143	Classified programs	90, 676	90, 467	83, 476	−6, 991	81, 517
	All other, Army	2, 382, 696	2, 394, 464	2, 394, 464		
	Total, Army R.D.T. & E.	3, 234, 483	3, 158, 449	3, 258, 614	+100, 165	3, 248, 005
	NAVY—FISCAL YEAR 1981					
201	Defense research sciences	231, 177	231, 290	231, 177	−113	225, 000
202	Ships/subs/boats tech	41, 653	35, 434	41, 653	+6, 219	35, 434
203	Command/control technology	29, 185	36, 685	29, 185	−7, 500	36, 685
204	High energy laser	32, 525	52, 525	32, 525	+20, 000	50, 525
205	Materials technology	28, 714	28, 714	30, 714	+2, 000	30, 714
206	Energy and environmental protection	9, 457	6, 175	9, 457	+3, 282	7, 700
207	Undistributed reduction technology base	0	0	−48, 600	−48, 600	−48, 600
208	A/A msl adv tech demos	3, 081	1, 054	3, 081	+2, 027	1, 054
209	Environmental protection	5, 608	4, 000	5, 608	+1, 608	4, 500
210	Manufacturing technology			16, 300	+16, 300	10, 000
211	Trident II missile sys	36, 897	16, 539	97, 897	+81, 358	65, 000
212	SSBN-X	12, 642	12, 642	0	−12, 642	0
213	SSBN subsystem technology	20, 182	15, 295	20, 182	+4, 987	20, 182
214	Extremely low frequency comm	453	453	10, 000	+9, 547	2, 500
215	HYDRUS	6, 400	0	6, 400	+6, 400	1, 000
216	V/STOL acft dev	20, 707	0	8, 307	+8, 307	10, 000
217	Air-to-ground weapons	9, 735	2, 000	0	−2, 000	0
218	Medium range A–A surf msl	23, 009	0	23, 009	+23, 009	23, 009
219	Submarine sonar dev	41, 466	41, 466	35, 466	−6, 000	35, 466
220	New ship design	11, 098	11, 098	9, 098	−2, 000	9, 098
221	Advanced identification techniques	4, 149	0	4, 149	+4, 149	1, 000
222	Radar surveillance eq	1, 852	1, 852	0	−1, 852	0
223	Advanced communications	7, 859	7, 859	3, 235	−4, 624	3, 235
224	Submarine combat sys dev	38, 194	0	38, 194	+38, 194	12, 000
225	Over-the-horizon targeting	19, 508	5, 285	10, 000	+4, 715	10, 000
226	Sea Bass	35, 519	35, 519	15, 000	−20, 519	23, 519
227	DD-963 anti-air warfare mod	70, 835	0	46, 500	+46, 500	0
228	DDGX design	20, 398	150, 998	5, 000	−145, 998	0
229	DDGX combat system	30, 952	0	25, 952	+25, 952	0
230	Ship development	21, 871	18, 771	17, 771	−1, 000	17, 771
231	Adv design sub nuclear prop	4, 713	4, 713	0	−4, 713	2, 500
232	Combat system integration	2, 956	2, 956	0	−2, 956	1, 000
233	Landing vehicle assault	22, 251	45, 251	31, 251	−14, 000	45, 251
234	Acft engine component improve prog	87, 783	70, 083	87, 783	+17, 700	73, 083
235	Area air defense	30, 899	25, 799	19, 357	−6, 442	25, 799
236	Surface launched weaponry sys tech	32, 113	34, 113	29, 113	−5, 000	34, 113
237	Air/air msl sys engr	30, 014	28, 043	39, 714	+11, 671	39, 714
238	Close-in wpn sys (Phalanx)	3, 125	2, 125	3, 125	+1, 000	2, 125
239	Hi-speed anti-radiation msl	67, 753	57, 753	52, 753	−5, 000	57, 753
240	NATO Sea Sparrow	5, 546	5, 546	3, 546	−2, 000	3, 546
241	Surface missile warhead development	0	18, 200	−6, 052	−24, 252	4, 000
242	Vertical launch std	22, 289	0	19, 289	+19, 289	0
243	Radar surveillance eq	11, 759	11, 759	8, 759	−3, 000	11, 759
244	Ship development	33, 615	28, 715	26, 086	−2, 629	26, 086
245	Unguided convl air launched weapons	28, 131	28, 131	13, 531	−14, 600	13, 531
246	FCS electro optics	11, 288	16, 788	6, 183	−10, 605	16, 788
247	Jt Army/Navy semi-active laser guided proj	21, 210	28, 810	21, 210	−7, 600	22, 000
248	Tactical information systems	31, 677	31, 677	21, 677	−10, 000	31, 677
249	AN/SQR-18 improvement	5, 900	5, 900	0	−5, 900	5, 900
250	Operational reactor development	6, 589	0	6, 589	+6, 589	0
251	Laser Maverick	0	3, 000	0	−3, 000	3, 000
252	Vertical launch systems	0	68, 463	0	−68, 463	68, 463
253	MK 48 advanced capability torpedo	0	22, 800	0	−22, 800	10, 000
254	AIM-9C semi-active radar improvement	0	12, 000	0	−12, 000	5, 000

Item No.	Program element	Budget request fiscal year 1981	House authorization	Senate authorization	Change from House	Conference
255	Seamod	0	6, 000	8, 000	+2, 000	8, 000
256	Polaris/Tomahawk	0	9, 000	0	−9, 000	0
257	New class carrier design	0	0	30, 000	+30, 000	30, 000
258	LH–X	0	0	18, 000	+18, 000	9, 000
259	AV–8B+	0	0	5, 000	+5, 000	0
260	Diesel electric submarine	0	0	10, 000	+10, 000	2, 000
261	MK–92 fire control upgrade	0	0	20, 000	+20, 000	20, 000
262	Combat systems architecture	0	0	10, 000	+10, 000	8, 000
263	Retract Amber	0	0	5, 000	+5, 000	5, 000
264	Undistributed travel reduction	0	0	−10, 000	−10, 000	−10, 000
265	Attack submarine/SLCM integration	0	0	14, 900	+14, 900	9, 000
266	Special programs	0	0	70, 000	+70, 000	15, 000
267	Patrol combatants	949	0	949	+949	949
268	R.D.T.E. instrumentation/material spt	35, 634	37, 634	35, 634	−2, 000	37, 634
269	Occupational safety/health adm spt	327	0	327	+327	0
270	Undist. reductions taken in amend	0	3, 010	0	−3, 010	−13, 000
271	Deep submergence tech	219	219	0	−219	0
272	Major surface combatants	0	0	0	0	113, 900
	All other, Navy	3, 553, 773	3, 787, 412	3, 787, 412		
	Total, Navy R.D.T. & E	4, 865, 639	5, 111, 554	5, 116, 396	+4, 842	[2] 5, 112, 775
	AIR FORCE—FISCAL YEAR 1981					
301	Defense research sciences	125, 240	127, 640	125, 240	−2, 400	125, 240
302	Pers utilization tech	5, 700	5, 200	5, 700	+500	5, 200
303	Aircraft subsystems tech	1, 800	1, 800	5, 300	+3, 500	5, 300
304	Conventional weapons	23, 800	21, 800	23, 800	+2, 000	21, 800
305	Advanced radiation tech	59, 081	79, 081	59, 081	−20, 000	74, 081
306	Advanced computer technology	4, 100	4, 700	4, 100	−600	4, 700
307	Counter/countermeasures	5, 800	6, 800	5, 800	−1, 000	6, 800
308	Comd contl + comm adv dev	9, 200	11, 000	9, 200	−1, 800	11, 000
309	Bomber penetration evaluation (B–1)	31, 000	0	31, 000	+31, 000	0
310	Strategic bomber enhancement	15, 300	0	15, 300	+15, 300	0
311	B–52 squadrons	118, 500	102, 200	143, 500	+41, 300	102, 200
312	Minuteman squadrons	48, 800	48, 800	53, 800	+5, 000	53, 800
313	Air Force sat comm sys	62, 000	39, 800	62, 000	+22, 200	39, 800
314	Strategic weapons launcher	0	400, 000	0	−400, 000	0
315	Advanced tech strat bomber	0	0	91, 000	+91, 000	0
316	Next generation trainer acft	2, 000	0	2, 000	+2, 000	2, 000
317	Enforcer aircraft	0	6, 000	0	−6, 000	6, 000
318	Night attack program	75, 500	75, 500	40, 200	−35, 300	60, 000
319	Adv msl subsystems demonstration	6, 600	0	6, 600	+6, 600	6, 600
320	Adv medium range air-to-air msl	25, 900	25, 900	24, 500	−1, 400	24, 500
321	Adv attack weapons	25, 000	44, 900	24, 900	−20, 000	34, 900
322	Air-launched assault breaker	7, 200	7, 200	0	−7, 200	3, 000
323	Advanced communications technology	4, 200	4, 200	600	−3, 600	4, 200
324	Side looking airborne radar	27, 700	17, 700	27, 700	+10, 000	22, 700
325	Acft avionics equipment development	17, 300	17, 300	25, 300	+8, 000	25, 300
326	Engine model derivative prog	49, 100	83, 100	49, 100	−34, 000	74, 100
327	Integrated digital avionics	1, 000	0	1, 000	+1, 000	0
328	C–X	81, 296	0	50, 000	+50, 000	35, 000
329	Common multimode radar	4, 500	4, 500	0	−4, 500	0
330	Wide-area anti-armor munition	20, 500	20, 500	18, 500	−2, 000	19, 000
331	Close air support weapon system	40, 700	40, 700	47, 400	+6, 700	47, 400
332	Low level laser guided bomb	9, 100	2, 100	9, 100	+7, 000	5, 000
333	Guided hard structures munition	600	600	0	−600	0
334	Tac C^3 countermeasures	15, 900	15, 900	9, 900	−6, 000	15, 900
335	Acft identification systems	11, 100	2, 600	10, 100	+7, 500	2, 600
336	Surface def suppression	37, 600	0	18, 000	+18, 000	9, 000
337	Protective systems	71, 700	48, 700	71, 700	+23, 000	53, 700
338	Precision location strike system	30, 900	0	62, 900	+62, 900	30, 900
339	Jt tac info dist sys spt	72, 200	72, 200	42, 100	−30, 100	60, 000
340	F–111 squadrons	7, 400	17, 400	7, 400	−10, 000	10, 000
341	A–10 squadrons	13, 700	33, 700	37, 700	+4, 000	33, 700
342	EF–111 squadrons	10, 600	5, 600	10, 600	+5, 000	5, 600
343	Gun pod 30-millimeter	0	0	13, 600	+13, 600	13, 600
344	NAVSTAR GPS	127, 900	127, 900	168, 900	+41, 000	150, 000
345	Defense dissemination program	9, 640	2, 040	9, 640	+7, 600	9, 640
346	Def satellite comm sys	21, 300	33, 600	21, 300	−12, 300	33, 600
347	Communications security	1, 100	2, 000	1, 100	−900	2, 000
348	Special activities	670, 984	559, 484	727, 584	+168, 100	673, 684
349	Development planning	2, 000	0	2, 000	+2, 000	0
350	Studies and analysis	−26, 461	0	−26, 461	−26, 461	−26, 461
351	Undistributed reduction	0	−17, 500	0	+17, 500	−47, 640
352	Air Force travel, undistributed	0	3, 400	0	−3, 400	0
353	Undist reductions taken in amend	0	2, 196	0	−2, 196	0
354	Classified Programs	11, 400	8, 400	11, 400	+3, 000	11, 400
355	New strategic aircraft	0	0	0	0	300, 000
	All other, Air Force	5, 035, 513	4, 999, 013	4, 999, 013		
	Total, Air Force R.D.T. & E	7, 033, 393	7, 115, 654	7, 160, 197	+44, 543	7, 159, 857
	DEFENSE AGENCIES—FISCAL YEAR 1981					
401	Defense research sciences	96, 800	96, 800	105, 100	+8, 300	105, 100
402	Strategic technology	114, 900	114, 900	130, 700	+15, 800	130, 700
403	Experimental eval maj innovative tech	203, 050	203, 050	223, 050	+20, 000	223, 050
404	Undistributed reduction	0	0	−22, 500	−22, 500	−10, 000
405	WWMCCS system engineer	31, 062	31, 062	30, 062	−1, 000	31, 062
406	Technical support to USDR/E	14, 397	12, 000	14, 397	+2, 397	13, 000
407	General support for PA/E	3, 302	0	3, 302	+3, 302	1, 500
408	General support for ISA	1, 257	0	1, 257	+1, 257	0
409	General support for net assessment	3, 742	1, 000	3, 742	+2, 742	2, 000
410	Classified programs		−6, 300	+3, 200	+9, 500	−900
411	General Reduction (all other Defense agencies)					−4, 000
	All other, Defense agencies	834, 190	834, 190	834, 190		
	Total, Defense agencies	1, 302, 700	1, 286, 702	1, 326, 500	+39, 798	1, 325, 702

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[1] Without prejudice.

[2] Includes $2,760,000 for Navy special foreign currency.

ARMY

Ballistic missile defense (BMD)

The conferees agree that the Department of Defense should restructure ballistic missile defense programs so as to produce a demonstrated BMD capability which can be responsive to increases in the Soviet strategic threat. In this regard, the conferees find no compelling reason for the BMD Advanced Technology Program and System Technology program to be equally funded. The conferees recommend that the BMD program for fiscal year 1981 and future years recognize the high priority of the Low Altitude Area Defense System (LOADS) system by protecting the option for a significantly earlier pre-prototype demonstration of LOADS than is now funded. Toward that end, the conferees agree to the addition of $15 million to protect the option of accelerating LOADS.

In addition, the Secretary of Defense is requested to prepare a comprehensive study of: (1) contributions to the increased survivability of present and planned land-based intercontinental ballistic missile systems of the United States which would be possible through a planned exploitation of strategic defense technologies, to include endo-atmospheric and exo-atmospheric intercept missiles and space-based systems and (2) the implications of Soviet ballistic missile defense activities for United States strategic force requirements. The results of such study shall be submitted to the Congress no later than February 1, 1981.

Environmental protection programs

The following table summarizes the action taken by the conferees on the Department of Defense request for Army and Navy Environmental Protection programs.

[In millions of dollars]

Service and program	Request	House	Senate	Conference
Army:				
Military and criteria development	3.943	2.643	3.943	3.4
Environmental quality programs	10.183	5.018	10.183	7.5
Navy:				
Energy and environmental protection	9.457	6.175	9.457	7.7
Environmental protection	5.608	4.0	5.608	4.5

The conferees expressed concern over the need for so many programs in the treatment of a problem—environmental quality—that is common to most Department of Defense facilities. The conferees urge the Department of Defense to consolidate environmental quality research and development programs to the maximum practical extent for fiscal year 1982 into a tri-Service effort that meets the needs of the Department of Defense in fulfilling environmental protection regulations.

Operations Control and Command Support System (OCCSS)

The Army requested $16.274 million for the Operations Control and Command support System (OCCSS) and $7.936 million for the Tactical Computer System/Tactical Computer Terminal (TCS/TCT) program.

The House bill supported the TCS/TCT program but deleted the request for authorization for the OCCSS program. The House expressed concern over the Army's inability to specify a baseline set of requirements against which this battlefield automated information system is to be designed.

The Senate amendment authorized the full Army request for the OCCSS and TCT/TCS programs.

The conferees agree on the need to develop and deploy a master battlefield command and control system but believe that the Army should not solicit industry for alternative system design concepts until the Army can better define the system requirements.

The conferees, therefore, agree to authorize $8 million for the OCCSS program for the purpose of introducing the TCT/TCS hardware into Europe during 1981 so as to be able to evolve the ultmiate system design based on feedback from the field.

Rotary Wing Aircraft Escape System

The House bill authorized $1 million for the development of a helicopter escape system while the Senate amendment authorized $2 million. The Department of Defense did not request authorization for this project.

The National Aeronautics and Space Administration has developed a helicopter inflight escape system for its rotor system research aircraft (RSRA-HELO), but Army R&D related to rotary wing controls, rotors, and structures contains no program for demonstrating the feasibility of such escape system.

The conferees agreed to authorize $1,500,000 for the purpose of evaluating and demonstrating the feasibility of adapting the RSRA escape system for tri-Service combat applications (COBRA, SOTAS).

Surface-to-Surface Missile Rocket System

The House bill denied the entire request for $2.717 million to initiate the development of a terminal guidance subsystem for the Army's general support rocket. The Senate amendment authorized the full request.

The conferees agreed to an authorization of $1 million for the purpose of integrating state-of-the-art guidance subsystems with the rocket. The conferees emphasize that these funds are not to be used to initiate development of a new terminal guidance subsystem.

Tank gun cooperative development program (Sec. 206)

The Department of Defense requested $62.061 million for the continued design and development of the Army 120mm gun. The House bill deleted the entire request while the Senate amendment provided full authorization.

The Federal Republic of Germany designed and developed the 120mm gun for use on its Leopard II tank. Under the tank gun cooperative development program the U.S. was to adapt the FRG design in order to integrate the 120mm gun on the MX-1 tank. A major military advantage provided by this program is that both the FRG and U.S. would have a high level of interoperability in a combat environment. The House bill deleted the request for several major reasons:

The increased cost of the 120mm program coupled with the Army's serious affordability problem in procuring weapon systems hardware.

The reluctance of the FRG to accept the U.S.-developed 120mm ammunition and incorporate the ballistics required to fire this ammunition in the Leopard II fire control system.

The Chief of Staff of the Army has stated that projected life-cycle costs of the XM-1 tank fleet equipped with the 120mm gun can be decreased. The conferees understand that significant savings can be realized if 105mm ammunition were to be used for some phases of XM-1 crew training instead of higher cost 120mm projectiles. Specifically, substitution of 105mm training ammunition could reduce a $1.7 billion life cycle cost increase attributable to the 120mm gun by $600 million to nearly $1 billion dollars. The conferees believe that this approach to training would reduce the cost impact of obtaining more combat performance for the XM-1 with the 120mm gun.

The conferees agreed that if the Army will develop and submit a plan approved by the Secretary of Defense to the Congress describing how cost savings of $600 million in life cycle costs will be obtained through efficient training practices, then the 120mm tank gun development program should continue.

Future support for this program can be expected to the extent that:

Development costs of the 120mm gun and ammunition do not increase.

The Federal Republic of Germany and the United States reach a firm agreement on the procurement of common ammunition coupled with the actual system for incorporating the ballistic data in the tanks that will in reality provide each side with the ability to effectively fire common 120mm ammunition.

NAVY

Advanced design submarine nuclear propulsion

The Department of Defense requested $4.7 million for the Navy Advanced Design Submarine Nuclear Propulsion program. The House bill provided full authorization while the Senate deleted all funds.

The conferees agreed to authorize $2.5 million to finish development and test of the Advanced Nuclear Propulsion system in fiscal year 1981.

Combat system architecture

The Department of Defense did not request authorization for the Navy Combat System Architecture program. The House bill provided no authorization for this project while the Senate amendment contained authorization of $10 million.

The conferees agreed with the Senate that a Combat System Architecture program will result in enhanced Navy weapon control capability. Accordingly, the conferees agreed with the Senate rationale based on assurances from the Navy that an intensive review of the Combat System Architecture effort would be conducted followed by the establishment of a dedicated organization to implement the principles of Combat System Architecture. Therefore, the conferees agreed to authorize $8 million for this program.

Diesel electric submarines

The Senate amendment contained $10 million to examine the potential role and mission of diesel electric submarines in a mixed force which includes a minimum of 90 nuclear-powered submarines. Included in the examination is the survey of existing diesel submarine designs and the prospects for non-nuclear, non-diesel electric submarines.

The House bill contained no funding of this effort.

The House recedes to the Senate with an amendment. The conferees agreed to authorize $2 million for the study and survey.

Extremely low frequency (ELF) submarine communications program (Sec. 205)

The House bill authorized the $453,000 requested for the ELF submarine communications system. The Senate amendment authorized $10 million for the program and further included legislative language that would remove previously imposed Congressional restrictions on the expenditure of funds for the research and development of an ELF communications system. The Senate amendment also directed the President to select a deployment site for an ELF communications system and to report on that selection to the Congress by April 1, 1981.

The conferees agreed that the time has come for the President to inform the Congress on the need for an ELF submarine communications system. With the growing vulnerability of our land based Intercontinental Ballistic Missile (ICBM) force and our concern for the bomber force, the conferees agreed that it is imperative that all steps be taken to insure the survivability of our submarine force. In this regard, the conferees agreed to include legislative language in the Conference Report requiring the

President to report by April 1, 1981, on his plans for deploying an operational ELF communications system. In developing this plan, the conferees further request that the President specifically address the site selection issue.

The conferees agreed to authorize $2.5 million in fiscal year 1981, and to further make available all remaining fiscal year 1979 funds, approximately $2.5 million, for the ELF research and development program. The conferees further agreed that a reprogramming request would be considered should the Department of Defense need additional funds for carrying out the proposed ELF communications deployment plan.

Landing vehicle assault

The Department of Defense requested $22.3 million for this program. The House added $23.0 million to accelerate development of the Mobile Protected Weapon System (MPWS), while the Senate amendment added $9 million to support further development of an advanced 75mm automatic cannon. The House bill further required that the $45.3 million total authorization for this program be used only for the development of the MPWS.

The Senate recedes to the House with the understanding that the Marine Corps will continue the development of the MPWS components and fund the test and evaluation of lightweight armored vehicles—to select such vehicles for near-term procurement ($26.0 million in procurement funds has been approved by the conferees for this purpose).

LH-X (VSS)

The Senate authorized $18 million to initiate design of the LH-X (VSS), a new class of amphibious air-capable ship which could also perform the V/STOL support ship mission with a view toward procurement of the first vessel in fiscal year 1983.

The House provided no funds for this purpose. The conferees agreed on the importance of early improvement of U.S. amphibious capabilities and, therefore, of holding to the 1983 objective for procurement of the first vessel.

The conferees agreed to authorize $9 million for fiscal year 1981.

Major surface combatants

The conferees are concerned with the projected shortage of major surface combatant ships with effective anti-air warfare (AAW) and offensive strike capability.

The House bill authorized $150.998 million to accelerate development of the DDG-X, an AAW ship approximately 5/8 the cost of the CG-47 Aegis cruiser.

The Senate amendment provided a total of $30.95 million for the DDG-X combat system and design development effort.

The Senate favored the Navy recommendation for competition for the DDG-X combat system while the House in authorizing lead ship construction in 1983 strongly endorsed an Aegis derivative system.

The conferees recognize the need for adequate numbers of capable surface combatant ships for the Navy. The following recommendations for authorization of appropriation are believed to best support progress toward needed modernization of Navy's surface combatant forces. Adequate numbers of both the CG-47 and the proposed new lower cost DDG-X are required if U.S. Naval forces are to effectively carry out their mission.

DDG-X design

The conferees agreed to authorize $73.933 million for the DDG-X design effort to develop a new class follow-on destroyer for the mid-1980s. The new multi-mission guided missile destroyer will be a complement to and not a replacement for the new Aegis CG-47 cruiser. Design of the combat suite for the DDG-X will be optimized over the AAW strike and anti-surface and anti-submarine warfare capability of surface combatants. Intensive industry participation with a competitive approach for radar alternatives as defined by the combat system design is anticipated by the conferees.

CG-47 Aegis product improvement

The conferees also agreed to authorize the $40 million for the Spy-I radar product improvement program for the Aegis CG-47 cruiser. The Spy-I radar product improvement effort is to be directed at the development of a lower cost, lighter weight, Spy-I radar derivative to be incorporated in the Aegis class cruisers as a Block II improvement in the 1983-84 timeframe. The intent of the conferees is that newer technologies now available be incorporated in the phased array radar design and in the Spy-I data processing system to achieve a lower cost derivative without sacrificing AAW capability.

It is the intent of the conferees that the CG-47 Aegis cruiser be procured in adequate numbers to meet minimum Navy requirements. The conferees further agreed that, in the event that slippage occurs in the planned DDG-X lead ship authorization in 1985, procurement of CG-47 Aegis cruisers will continue until the DDG-X is fully developed and ready for deployment.

MK 48 advanced capability program

The Department of Defense did not request fiscal year 1981 authorization to accelerate the Navy's MK 48 torpedo modification program to extend its capability. The House bill provided additional authorization of $22.8 million for this purpose while the Senate amendment contained no authorization.

The conferees agreed to an authorization of $10 million to accelerate the MK 48 torpedo enhancement program. This authorization is above that requested by the Navy for MK 48 improvements.

Medium range air-to-surface missile

The Department of Defense requested $23 million for the joint Navy/Air Force Medium Range Air-to-Surface Missile (MRASM) program. The House bill provided no authorization while the Senate amendment authorized the full request.

The conferees agreed that both the Navy and Air Force required greater stand off missile capability and, consequently, agreed to authorize $23 million for MRASM based on assurances from the Office of the Under Secretary of Defense for Research and Engineering, that the development program as structured and presented to the Committees on Armed Services of the House of Representatives and Senate would be a joint Navy/Air Force effort.

New class carrier design

The Senate amendment authorized $30 million which would have allowed for the development of a new class of aircraft carrier. The Department of Defense requested no funds for such purpose, and the House bill contained no authorization.

If the United States Naval Forces are to continue to carry out their mission, there is strong evidence to support the need for additional aircraft carrier forces. For over three years, the Navy has been studying various sea-based aircraft platform alternatives. Despite this intense study effort, no program has been forthcoming to increase naval air capability at sea. Air-at-sea continues to provide the greatest flexibility in meeting new and challenging technological changes in warfare. It would be shortsighted indeed to fail to provide adequate forces, and especially air capable platforms, in this era of increasing Soviet naval capability. In providing for adequate forces in the years ahead, the Navy should consider carriers of all various designs.

Therefore, $30 million is authorized for such additional R&D effort as may be required to permit a definitive recommendation by the Navy to the Congress for a new class of aircraft carrier.

SEAMOD

The House bill authorized $6 million for the SEAMOD program. The Senate amendment provided $8 million for this effort. The conferees agreed to authorize $8 million for SEAMOD but direct that $2 million be used to continue development efforts on the Rankine Cycle Energy Recovery (RACER) system. The RACER program seeks to develop a waste heat recovery system for modern gas turbine powered ships. If successfully developed, the RACER system offers the potential for greatly increased ship fuel efficiencies.

Stand-off jammer suppression system

The Department of Defense requested $27.99 million for the Navy Area Air Defense program which included $11.524 million for the development of a Stand-Off Jammer Suppression (SOJS) system. The House reduced the Stand-Off Jammer effort by $5.1 million while the Senate amendment denied the entire request for the SOJS.

The conferees agreed to the House position with the understanding that the development of a Stand-Off Jammer System will be a tri-Service effort as directed by the Office of the Under Secretary of Defense for Research and Engineering.

Surface missile warhead development

The Department of Defense requested no funds for fiscal year 1981 to develop an alternate warhead for the Navy's Standard Missile. The House bill provided authorization of $18.2 million for this purpose while the Senate amendment provided no authorization.

The conferees agreed to an authorization of $10.5 million to initiate the warhead development program during fiscal year 1981. Of the $10.5 million, $4.0 million is new authorization. The conferees intend that unobligated and unexpended authorizations from fiscal year 1979 for the alternate warhead be available in fiscal year 1981. This authorization together with unobligated fiscal year 1980 funds totals approximately $6.5 million.

V/STOL development

The Department of Defense requested $20.7 million for the Navy V/STOL aircraft development program. The House bill did not authorize funds for this program while the Senate authorized $8.3 million.

The conferees agreed to authorize $10 million for this program of which $5 million is to be used for the AV-8B+ program. The conferees emphasize, however, that future funding for the V/STOL aircraft program is contingent upon the Navy's completion of a V/STOL study. The results of this study together with recommendations should be submitted with the fiscal year 1982 defense budget request.

The authorization provided for the AV-8B+ is for two projects—the conduct of a 15-hour bench test of the Pegasus 11-35 engine configuration to demonstrate a thrust increase of at least 1,500 pounds and the design and ground test of an APG-65 radar modification compatible with the AV-8B+ fuselage. It is the understanding of the conferees that the United Kingdom will provide equal funding for the Pegasus engine demonstration.

AIR FORCE

Air Force Satellite Communications System

The Department of Defense requested $62 million for the Air Force Satellite Communications System. The House bill authorized $39.8 million deleting the request for the dedicated Strategic Satellite System. The Senate amendment authorized the full request.

The conferees agreed that it is important to provide survivable communications for our strategic forces. There is inconclusive data, however, on whether to provide a dedicated satellite system or acquire more single-channel transponders particularly on the NAV–STAR system.

The conferees urge the DOD to refine the cost and effectiveness estimates of these two approaches and to present a comprehensive analysis to the Committees on Armed Services of the House and Senate before selecting either approach. Accordingly, the conferees agreed to the House position to provide authorization of $39.8 million.

Aircraft identification systems

The House bill deleted the Navy's authorization request for $4.149 million and reduced the Air Force request of $11.1 million to $2.6 million for the development of Aircraft Identification Systems. The Senate amendment provided full authorization.

The House conferees expressed serious concern that tactical air forces lack adequate long-range identification capability despite the fact that identification techniques have been studied and developed for well over a decade.

The conferees support advanced technology efforts but place higher priority on deploying a baseline identification system reflecting state-of-the-art technology as soon as possible. Consequently, $1 million is authorized for the Navy and $2.6 million is authorized for the Air Force Advanced Identification System programs.

Air-launched assault breaker

The Department of Defense requested $7.2 million for the Air Force Air-Launched Assault Breaker program. The House bill provided full authorization while the Senate amendment deleted the entire authorization request.

It is the understanding of the conferees that $3 million is required for fiscal year 1981 to demonstrate the Assault Breaker concept by launching a missile compatible with the Army's Corps Support Weapon system from an attack aircraft against armored targets.

The conferees accordingly provided $3 million for this purpose.

C–X aircraft (Sec. 203)

The Air Force requested $81.3 million to begin full-scale development of a new strategic airlift aircraft designated C–X. The House authorized no funds for this program, while the Senate authorized $50.0 million.

Because the Air Force estimated that the C–X would require $6.7 billion in R&D and procurement funds for fiscal years 1982 through 1985, and because the conferees share a number of concerns about the C–X program, language was adopted for the bill that:

Restricts the authorization of the $35 million for development of this aircraft agreed to by the conferees. None of these funds may be obligated or expended for full-scale development or procurement of the C–X aircraft until the Secretary of Defense certifies to the Congress:

That the requirements for additional military airlift capability merit initiation of the C–X program,

That the magnitude and nature of the military cargo and materiel to be airlifted to the Indian Ocean area and other areas of potential conflict are sufficiently well-defined to permit identification of the need for additional airlift capability,

That the magnitude and characteristics of military cargo and materiel to be transported by air to such areas are sufficiently well-defined to provide clear justification and design parameters for such aircraft, and

That plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

Requires the Secretary of Defense to perform a study on overall U.S. military mobility requirements. This study is to include an analysis of the total mix of airlift, sealift and prepositioning programs to allow the U.S. to respond to military contingencies during the 1980's—to include contingencies in the Indian Ocean area. The Secretary shall report to the Congress not later than February 1, 1981, on the results of this study, and he shall make recommendations on specific programs to provide an adequate overall military transportation capacity for the United States.

Restricts the funds that can be obligated and expended prior to February 1, 1981, to $15,000,000. Remaining funds may be obligated and expended 60 days following submission of the report required by the Secretary.

The study that provides the basis for the report should focus on lift demands posed by situations of concern to field commanders in the Indian Ocean and Persian Gulf regions, but should also treat situations in other theaters (such as those in NATO) as necessary—to explore fully the need for additional investment in long-range lift.

Specifically, for each situation of concern to field commanders that is chosen for study, each of the following should be thoroughly addressed:

The threat to be neutralized by the employment of U.S. military forces;

Those U.S. forces considered necessary to meet the threat—deployed in an operationally sound time sequence;

The lift demand created by deployment of these U.S. forces—in terms of unit equipment, ammunition, support times and resupply items. (Two aspects of time should be shown for lift demand. This demand should be displayed by day of mobilization (day 5, day 10, etc.)—for each year of the decade of the 1980's.);

Those portions of the demand for transportation capacity which would require special treatment such as large, outsized equipment, flammables, high explosives, and time-urgent replenishment;

Special considerations imposed by the environment of the areas under consideration such as airfield and port facilities;

The capability of existing lift resources against this need. (These resources should include airlift, sealift and prepositioning—both land-based and maritime.);

Where gaps are shown to exist between the lift demand and the capabilities provided by existing lift resources, preferred additions to existing resources that will close these gaps within the following categories:

Incremental airlift and support (including tankers);

Incremental outsize airlift and support (including tankers);

Incremental sealift and support;

Incremental prepositioning and support;

Other additions;

The cost of the preferred set of additions—as a profile of costs through the 1980's and 1990's to include:

Development costs;

Procurement costs;

Operating and support costs;

To demonstrate the cost-effectiveness of the preferred set of additions, the capabilities and costs provided by at least one alternative set of additions to present lift forces—in the same format as the preferred set.

Enforcer aircraft

The conferees continue to be concerned that current and projected tactical aircraft procurement and operating costs are approaching the point where the United States in many instances is not acquiring aircraft faster than the attrition rate. It was because of this problem that $6 million was authorized and appropriated in fiscal year 1980 to evaluate the Enforcer aircraft.

The conferees are greatly disturbed and displeased that this evaluation has not been undertaken, in apparent disregard of Congressional direction. The conference again directs that an evaluation to determine potential reductions in procurement costs, operation and support costs, and improvements in reliability and availability be conducted immediately through the acquisition and operational test of four Enforcer aircraft.

The conferees agreed to authorize for fiscal year 1981 an additional $6 million for the second and final year to complete the $12 million program to acquire and test four aircraft with the understanding that emphasis will be placed on low cost, efficient acquisition and test methods.

Joint Tactical Information Distribution System (JTIDS)

The House bill authorized the entire amounts requested for the Air Force and Navy JTIDS programs. The Senate amendment deleted $10 million from the Navy JTIDS request of $31.677 million and $30.1 million from the Air Force JTIDS request of $72.2 million. These deletions were accompanied with Senate direction that work on the class 2 JTIDS fighter aircraft terminal be deferred until the Navy and Air Force settled on a common class 2 terminal design configuration that could be used by both Services.

The conferees are concerned that the Services are considering disbanding their joint approach to developing a tactical information distribution system for providing high capacity, antijam, secure data and communication capability. There is clearly a need for each Service to have this capability and the conferees do not support separate Service research, development and acquisition programs to meet this common requirement.

Subsequent to action on the Senate amendment, the Department of Defense decided on a JTIDS class 2 fighter terminal architecture. This architecture will use the Time-Division-Multiple-Access (TDMA) technology in the baseline class 2 terminal and will incorporate Distributed Time-Division-Multiple Access (DTDMA) in the advanced class 2 terminal. The Advanced Time-Division-Multiple Access (ATDMA) approach that was under consideration for the advanced terminal design has been terminated in favor of the DTDMA approach.

The conferees, therefore, agreed to authorize the full Navy JTIDS request of $31.677 million and $60.0 million for the Air Force to continue this joint effort to develop a modern tactical data distribution system.

Low-level laser guided bomb

The House bill reduced the Department of Defense request of $9 million to enhance the performance of the laser guided bomb to $2 million. The Senate amendment authorized the full amount.

The purpose of this program is to extend the capability of the laser guided bomb by permitting lower altitude aircraft release. The conferees concur in the need for this capability. The House conferees, however, believed that a tested alternative approach will achieve a low-altitude release capability at a lower cost by adapting a guidance and control approach similar to the existing Shrike missile system that was successfully demonstrated by the Navy in 1978 and 1979. This approach offers a low risk near-term means of upgrading the laser guidance bomb inventory of the present aircraft program.

The conferees agreed to a total authorization of $5 million of which $3 million is only for the Navy low-cost alternative approach.

MX missile system (Sec. 202)

The Senate bill limited the initial phase of construction for the MX missile in the Great Basin area of Nevada and Utah to 2300 protective shelters and directed the Department of Defense to study the concept of locating the remaining 2300 shelters outside the Great Basin area. The House bill contained no reference to split basing nor a limitation on the number of shelters.

The compromise bill language adopted is intended to make clear that Congress is committing itself to a complete MX system of 200 missiles and 4600 shelters, wherever the missiles and shelters may be located, while directing the Department of Defense to study the feasibility of the concept known as "split basing." The conferees direct that the Secretary of Defense submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1, 1981, the results of this study identifying locations, in addition to the Great Basin of Nevada and Utah, that might be suitable for construction of the remaining multiple protective shelters and evaluating the costs and the military, environmental, and socioeconomic consequences associated with such further construction and deployment in all such areas.

The conferees, of course, recognize that in the deployment of the MX system the Department of Defense is required to fully comply with the provisions of the National Environmental Policy Act, which requires extensive study of the environmental and socioeconomic impact of the system. The Department of Defense is, therefore, directed to press forward with full scale development and deployment of the MX system and the MPS basing mode as directed by Congress with the understanding that the split basing study directed above should in no way delay the achievement of either the initial operating capability or the full deployment of the system.

NAVSTAR global positioning system

The Department of Defense requested $127.9 million for the Air Force NAVSTAR program. The House bill authorized the full request while the Senate amendment increased the authorization to $168.1 million. The intent of the increased authorization was to preserve the integrity of the program since funding was reduced by the Department of Defense during the budget review cycle and to provide NAVSTAR capability as early as possible in order to enhance the capability of our tactical and strategic weapon systems.

The conferees agreed to an authorization of $150 million for NAVSTAR and urge the Department of Defense to fund the program in a manner that will deploy this system as soon as practicable.

New strategic aircraft (Sec. 204)

The House bill authorized $400 million for development of a Strategic Weapons Launcher (SWL) aircraft. The SWL is a fixed-wing variant of the B–1 bomber to be used as a replacement for the B–52 aircraft as a cruise missile carrier.

The Senate amendment authorized $91 million for advanced development and engineering of a multi-role strategic bomber which can achieve an Initial Operational Capability (IOC) in 1987. The Senate amendment directed that candidates for such advanced development and engineering development shall include but not be limited to the FB–111B/C aircraft; a B–1 or a derivative of the B–1 bomber aircraft; an advanced technology aircraft, or an appropriate mix of such aircraft, so long as such aircraft have the capability of performing the missions of conventional bomber, cruise missile launch platform and nuclear weapons delivery system. The Senate amendment also directed the Secretary of Defense to submit a report to the Committees on Armed Services of the House and Senate by February 15, 1981, on the results of this effort in terms of cost and military effectiveness.

The conferees authorized $300 million for full-scale engineering development of a multi-role bomber aircraft to achieve an Initial Operational Capability (IOC) as soon as practicable, consistent with the aircraft selected but not later than 1987. This aircraft should have the capability of performing the missions of conventional bomber, cruise missile launch platform and nuclear weapons delivery system. The Secretary of Defense is directed to submit a status report to the Committees on Armed Services of the House and Senate on this effort by March 15, 1981, to include his recommendations on which aircraft should be developed. The Secretary shall include in the report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include but not be limited to advanced technology aircraft, the B–1 bomber aircraft and derivatives of the B–1 aircraft and the FB–111B/C aircraft.

The conferees agree that funds from this program may be used for study and analysis of the alternative aircraft as well as technical experiments necessary to aid in reaching a recommendation as to which aircraft should be developed.

Next generation trainer (NGT)

The House bill deleted the $2.0 million requested by the Air Force for the Next Generation Trainer (NGT) program. The Senate amendment authorized the full amount requested for the NGT program.

The conferees agree to authorize $2.0 million for the NGT program but request that the program be restructured to include among the various alternatives being evaluated as potential replacement aircraft for the T–37, a full, open and objective evaluation of the current Navy primary trainer aircraft.

Night attack program

The House bill provided the full authorization request of $75.5 million for the Air Force Low-Altitude Navigation and Targeting Infrared System for Night (LANTIRN) and Single-Seat Laser Designator projects. The Senate amendment deleted the $35.3 million requested for the single seat laser designator program.

The conferees concur in the Senate position. In the absence of the interim single-seat laser designator system, the conferees agreed that the LANTIRN program should be accelerated. Accordingly $60 million is authorized to accelerate LANTIRN and its ancillary subsystems. Prior year authorization for the interim system can also be applied to LANTIRN.

Precision location strike system (PLSS)

The Department of Defense requested $30.9 million for the Air Force Precision Location Strike System (PLSS). The House bill deleted all funds for this program while the Senate amendment authorized $62.9 million.

The House conferees strongly opposed providing any authorization for this program because of the erratic funding profile and the lack of commitment by the Department of Defense to continue the development program in a manner that would lead to the timely deployment of the PLSS.

The Senate conferees were firm in their support for the program and want the Department of Defense to fund the program adequately to develop and deploy the program in timely manner.

The conferees agreed to an authorization of $30.9 million for fiscal year 1981 but caution that future support for this program depends on the strength of the Department of Defense commitment to the PLSS development and deployment program.

Rapport III

The Senate in its report authorizing appropriations for fiscal year 1981 (Report No. 96–826) requested the Air Force to actively evaluate the Rapport III electronic countermeasure system that is being developed for the Belgian Air Force F–16 aircraft.

The conferees agree that should the Rapport III system meet United States Navy and Air Force requirements, cost savings as well as NATO interoperability could be realized. Consequently, the conferees fully support the Senate position requesting the active evaluation of the Rapport III system during fiscal year 1981.

30-Millimeter gun pod

Both the House bill and the Senate amendment provided authorization to complete the research and development to initiate the procurement of 30mm gun pods. The House bill provided authorization of $15 million for the Navy while the Senate amendment provided no authorization for the Navy and authorization of $13.6 million for the Air Force.

The conferees agreed to the Senate position but concur in the House assessment that very little remaining R&D is necessary to complete the development of the 30mm gun pod and that the pods are to be procured through the Air Force GAU–8 program office. The transition from R&D to procurement should be structured in order to provide an Initial Operational Capability as early as possible and in accordance with the Air Force plan to deploy the system during 1982. This procurement strategy will provide the tactical air assets with a urgently needed capability and at the same time reduce administrative and overhead costs.

DEFENSE AGENCIES

Charged particle beam technology

The conferees agreed that additional funding is required for the Defense Advanced Research Projects Agency to effectively carry out the charged particle beam and neutron beam technology projects. Accordingly, the conferees agreed with the Senate position to provide an additional amount of $8.3 million to the DARPA charged particle and neutron beam programs with emphasis on the auto-resonant accelerator proof of principle task.

The conferees further agreed that of the $8.3 million authorization $1 million is to be applied only for the Navy's pulse power project. This task places emphasis on the critical items in directed energy weapons such as high repetition rate switching, high energy density stores, and repetitive behavior of dielectrics. This authorization will accelerate the technology in these critical areas.

World wide military command and control system (WWMCCS)

The House bill authorized the full amount requested by the Defense Communciations Agency for the WWMCCS System Engineering program but requested that the Department of Defense submit a detailed WWMCCS Automated Data Processing (ADP) modernization plan with the fiscal year 1982 budget request. The Senate amendment deleted $1.0 million from the $31.062 million request.

The conferees agreed to authorize the $31.062 million requested for the WWMCCS System Engineering program and strongly endorsed the House report language calling for a detailed WWMCCS ADP modernization plan to be submitted with the fiscal year 1982 budget request. The conferees further agreed that this plan should contain a separate section that addresses the ADP requirements of the WWMCCS strategic warning system.

SPECIAL CONSIDERATIONS

Restrictive provisions

Section 201(a) of the House bill contained language limiting use of research and development funds in certain instances. Specifically, language provided that of the funds authorized for the Navy and Marine Corps, $243,000,000 was authorized only for full scale engineering development of the Marine

Corps Harrier AV-8B aircraft, and $150,700,000 was authorized only for the design and development of the DDG-X vessel; and of the funds authorized for the Air Force, $400 million was authorized only for research, development, test, and evaluation of the Strategic Weapons Launcher. The conferees agreed to delete these specific language restrictions from the conference report.

The $243,000,000 for the AV-8B aircraft was approved by both Houses. A specific dollar amount was not at issue in conference.

The conferees agreed to authorize $73,933,000 for the DDG-X design effort, and this is discussed earlier in this Statement of Managers under the heading "Major Surface Combatant Platforms".

The conference agreement on authorization incorporating consideration of the Strategic Weapons Launcher is discussed earlier in this Statement of Managers under the heading "New Strategic Aircraft".

Section 201(b) of the House bill contained a provision stating: "In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1981 such additional sums as may be necessary for increases in salary, pay, retirement and other employee benefits authorized by law." The conferees recognize that without this authorization any pay increase for the Department of Defense civilians working on programs authorized under Title II would come directly from the programs' funding resulting in a net reduction in the level of effort.

The Senate recedes, and the language is incorporated in Section 201(b).

The House bill required the Department of Defense to conduct a study using prior year authorizations not to exceed $6 million to evaluate a Logistic Surface Effect Ship weighing between 5,000 and 7,000 tons and capable of speed of not less than 70 knots. This provision is incorporated as Section 207 of the conference report.

The Senate recedes.

The Senate amendment contained a provision (Section 206) requiring the Secretary of Defense to prepare a comprehensive study of potential contributions of Strategic Ballistic Missile Defense technology.

The Senate recedes on the language.

Under the heading "Ballistic Missile Defense (BMD)" elsewhere in this Statement of Managers is discussed the conference agreement requesting the Secretary of Defense to prepare a comprehensive study related to BMD technology.

Government R. & D. laboratory-university contracting

The conferees recognize the widespread, cost-effective benefits of allowing and, indeed, encouraging college-level students to provide short-term technical support to Government research and development laboratories. The Navy research and development laboratories have had a successful and mutually beneficial student services program with universities and other non-profit entities. The key factor to the success of these contracts is the "tutor-apprenticeship" relationship between government research and development personnel and the students.

The conferees intend that Navy as well as all defense R&D laboratory student service contracts be exempted from applicable defense contracting restrictions on personal service contracts.

TITLE III—ACTIVE FORCES

Active duty military strengths for the Army and the Navy in the House bill and the Senate amendment differed by a total of 1,856. There was no disagreement on the Marine Corps strength. The conferees' agreement is summarized in the following table:

	House	Senate	Conference
Army	775, 800	775, 300	775, 300
Navy	537, 456	536, 100	537, 456
Marine Corps	185, 200	185, 200	188, 100
Air Force	564, 500	564, 500	564, 500
Total	2, 062, 956	2, 061, 100	2, 065, 356

The conferees accepted the Army strength contained in the Senate amendment and the Navy strength in the House bill. The conferees agreed to the Navy strength in order to implement the programs recommended in the reports of the Committees on Armed Services of the House and Senate. Although there was no disagreement on the Marine Corps strength, the Marine Corps has indicated it can maintain a higher strength for fiscal year 1981 because of recent improvements in recruiting and retention of quality personnel. The conferees agreed to authorize a strength of 188,100 for fiscal year 1981.

Quality of active force recruits (Sec. 302)

The Senate amendment contained a provision (sec. 302) placing the following limitations on new accessions for the military:

No more than 32 percent non-high school graduates among the male non-prior service accessions for the Army in fiscal year 1981;

No more than 25 percent of personnel enlisted or inducted into all of the services in fiscal year 1981 scoring in mental category IV on entrance tests; and

No more than 20 percent of personnel enlisted or inducted in each of the services in fiscal year 1982 and thereafter scoring in mental category IV.

The Senate provision required a quarterly report by the Secretary of Defense on any impact on combat readiness resulting from the above limitations and, also, expressed the sense of the Congress that Armed Forces recruiters should have access to high schools and that educational institutions should cooperate in providing directory information necessary for recruiting.

The House bill contained no similar provision.

The House recedes with an amendment establishing the following limitations on new accessions for the military:

For fiscal year 1981, the Army can enlist or induct no more than 35 percent non-high school graduates among the male non-prior service accessions in the Army;

For fiscal year 1981, the services as a whole may not enlist or induct more than 25 percent of the new accessions from personnel who score between the 10th and 30th percentile on the entrance examination;

For fiscal year 1982, each service may not enlist or induct more than 25 percent of its new accessions from personnel who score between the 10th and 30th percentile on the entrance examination;

For fiscal year 1983 and each fiscal year thereafter, each service may not enlist or induct more than 20 percent of its new accessions from personnel who score between the 10th and 30th percentile on the entrance examination.

The Secretary of Defense may exceed the limitations on personnel scoring between the 10th and 30th percentile if he determines it is in the interest of national security and the House and Senate pass a concurrent resolution of approval.

A score between the 10th and 30th percentile on the Armed Forces Qualification Test, the entrance examination, is referred to as mental category IV. Those who score below the 10th percentile are already prohibited by law from military service (50 App. U.S.C. 454).

The conferees also agreed to express that it is the sense of the Congress that recruiters have access to high schools and to information relevant to recruiting from secondary educational institutions.

The conferees are seriously disturbed by errors in measuring aptitude test scores for new recruits.

To insure that the difficulties in administering and evaluating the entry test results do not recur, the conferees request the Secretary of Defense establish an independent review board composed of professionals in the field of psychological and educational testing procedures from organizations such as the American Psychological Association and other such professional organizations.

The Secretary of Defense should advise the Committees on Armed Services of the House and Senate on the implementation of the new testing process, on the correlation between the test scores and other measures of quality and actual job performance, and on the creation of the independent review board no later than December 31, 1980.

Comprehensive manpower mobilization plan (Sec. 303)

The Senate amendment contained a provision (sec. 303) requiring three studies intended to improve the management of the Nation's mobilization resources. The House bill contained no similar provision.

The conferees agreed on the necessity of performing the studies contained in the Senate amendment and, in addition, provided language directing the Secretary of Defense to assess and report on the projected characteristics of the total force over the next five years.

The House recedes with an amendment.

TITLE IV—RESERVE FORCES

The Senate amendment increased the Administration request for full-time reservists on active duty in the Naval Reserve by 500.

The House recedes.

TITLE V—CIVILIAN PERSONNEL

The Department of Defense requested an end strength of 990,000.

The House authorized a Department-wide end strength of 727,800 which excluded the approximately 262,400 civilian employees of industrially funded activities.

The Senate authorized an end strength for each of the services totaling 981,050.

The conferees agreed to provide an overall Department of Defense authorization for civilian personnel of 986,000, a reduction of 4,000 from the administration request. The conferees agreed that none of the reductions proposed would come from activities that are industrially funded.

The conferees request the Secretary of Defense to provide by November 1, 1980 a list of all Department of Defense activities that are industrially funded as of September 30, 1980. The conferees also agreed that the Secretary of Defense shall notify the Committees on Armed Services of the House and Senate in writing of a decision to reduce the manpower levels of industrially funded activities below the level planned for fiscal year 1981 in the President's budget.

The reports of the Senate and House Committees on Armed Services contain recommended allocations of Department of Defense civilian employees. In accommodating the authorized level provided for by the conferees, the Department of Defense should give consideration to the areas addressed in those reports concerning civilian personnel.

Exclusion of civilian personnel at industrially funded activities

The House bill contained a provision (sec. 503) excluding personnel at industrially funded activities from the civilian strengths. The Senate amendment contained no similar provision.

The House reluctantly recedes.

The conferees are convinced that past reductions at industrially funded activities have been caused not by the congressionally authorized strengths but rather by administrative decisions within the Department of Defense and the Office of Management and Budget and by funding limitations contained in appropriations legislation. Industrially funded activities and other activities engaged in maintenance, construction, engineering acquisition, or repair are items of particular interest, and the conferees intend to ensure that the important work performed at these activities is not hampered by arbitrary personnel limitations.

Accounting for part-time personnel (Sec. 501(a))

The House bill contained a provision (sec. 501(c)) that would permit the Department of Defense to recognize that some personnel are employed on a part-time basis in accounting for civilian personnel under the authorized strength. For example, two individuals employed on a half-time basis would be counted as one for purposes of the authorized strength. The Senate amendment contained no similar provision.

The Senate recedes.

Authority to exceed the civilian authorized strength (Sec. 501(d))

The House bill contained a provision (sec. 501(d)) that would increase the amount by which the Secretary of Defense may exceed the civilian authorization from the 1¼ percent in current law to 2 percent. The Senate amendment contained a provision (sec. 501 (c)) that would have continued the current level of 1¼ percent. The House bill also contained a provision (sec. 502) that would amend the fiscal year 1980 defense authorization bill to increase the authority to exceed the authorized strength to 2 percent for fiscal year 1980.

The House bill contained another provision (sec. 501(e)) that would also permit the Secretary of Defense to exceed the civilian authorization by up to 9,000 spaces when proposed conversions do not prove feasible.

The conferees agreed to permit the Secretary of Defense to exceed the authorization for fiscal year 1981 by 2 percent when he considers it in the national interest, and additionally, when proposed conversions to private contract that were anticipated in the President's budget do not prove feasible.

Civilian manpower for maintenance-related activities (Sec. 501(e))

The Senate amendment contained a provision (sec. 501(d)) that directs the Secretary of Defense to manage manpower resources in a manner that will insure that activities engaged in maintenance, construction, engineering acquisition, or repair are provided sufficient civilian manpower to perform the work for which funds have been appropriated. The House bill contained no similar provision.

The House recedes.

Restrictions on contracting out (Sec. 502)

The House bill contained a provision (sec. 804) establishing a restriction on the conversion to performance by private contractors of functions now being performed by Department of Defense personnel. The section proscribes such conversion to avoid civilian personnel ceilings, and prohibits conversions unless the Secretary of Defense provides notification of a decision to study a function for conversion, provides a cost comparison of government and private contractor costs, certifies the government activity is organized in the most efficient manner, provides a report on the impact of the conversion, and notifies the Congress of a final decision to convert the function. The section also permits a government employee who receives a reduction-in-force notice as a result of a conversion to file suit in U.S. District Court.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that deletes the subsection permitting a government employee to file suit in U.S. District Court and that requires the Secretary of Defense to submit a detailed summary of the cost comparison to Congress while certifying the complete cost comparison is available. The complete cost comparison should be made available for public review consistent with current law.

The conferees agreed to ask the General Accounting Office to conduct a detailed analysis of decisions to contract out in the Department of Defense to date, as well as those planned for the future. The General Accounting Office study is to be available by February 15, 1981, in time for congressional review of the Department of Defense fiscal year 1982 program.

INTELLIGENCE ANALYSIS

The conferees agree on the continued need to improve intelligence analysis capabilities. The conferees strongly recommend an increase of 275 active-duty military and 139 civilians for the Defense Intelligence Agency and military services. The United States must continue to invest in high technology systems for intelligence collection, but it must not neglect the need to train and maintain an adequate number of expert analysts to give meaning to the intelligence data collected. The conferees intend that these increases be used for top quality analysts and not for intelligence collection or covert activities. Increasing the number of intelligence analysts must receive priority attention, and intelligence activities, including the National Security Agency (although the civilian strength for that agency is not included in this title for security reasons), should not be subject to hiring freezes.

TITLE VI—MILITARY TRAINING STUDENT LOADS

The Senate amendment and the House bill differed on military training student loads for the Army, Army National Guard, and Army Reserve.

The Senate amendment specifically authorized a portion of the requested student loads for utilization solely for One Station Unit Training.

The House bill, although containing the same numbers overall, authorized these training loads without any specific allocation for One Station Unit Training.

The House recedes.

Junior Reserve Officer Training Corps (Sec. 602)

The House bill contained a provision (sec. 805) that would amend section 2031 of title 10, United States Code, by changing the minimum number of qualified students required to maintain a Junior Reserve Officer Training Corps (JROTC) unit from 100 students to 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or 100 students, whichever is less. The Senate amendment contained no similar provision.

The Senate recedes with an amendment to provide for a one year test of this provision.

The conferees request that the Secretary of Defense provide a report to the Congress by December 31, 1981, on the JROTC Program to include the effectiveness and efficiency of implementing this new provision, along with recommendations on the desirable standards for establishing and maintaining JROTC units. The conferees agreed that the secretaries of the military departments may use their discretion in determining when units should be discontinued, even though they may satisfy the minimum enrollment requirements.

TITLE VII—ATTACK-RELATED CIVIL DEFENSE

The House bill (Sec. 701) provided $167 million for civil defense. The Senate amendment (Sec. 701) authorized $114.5 million. The conferees agreed to authorize $120 million.

The Senate amendment (Sec. 702) modified the Federal Civil Defense Act to retain the Federal-state matching requirement for the construction of emergency operating centers. The House bill contained no similar provision. The House recedes.

Both House (Sec. 704) and Senate (Sec. 703) versions contained comprehensive civil defense policy statements and related program elements. The conferees agreed to the Senate language with minor changes to clarify legislative intent as it relates to overall United States civil defense policy.

The House bill (Sec. 702) authorized the Federal Emergency Management Agency to acquire certain real property at Olney, Maryland. The Senate amendment contained no similar provision. The Senate recedes.

It is the understanding of the conferees that the Army Corps of Engineers will serve as the acquisition agent in this transaction, that a purchase contract will be executed only on the basis of a formal independent appraisal and that the Army Corps of Engineers will retain title to the acquired property.

The House bill (Sec. 703) authorized a blast slanting design and construction research program. The Senate amendment did not include this provision. The Senate recedes.

TITLE VIII—COMPENSATION AND RELATED BENEFITS

Pay increase of 11.7 percent for members of the uniformed services (Sec. 801)

The Senate amendment contained a provision (sec. 307) that would suspend the current military pay raise mechanism for one year and provide instead an 11.7 percent increase on October 1, 1980. This increase could be reallocated among pay grades and years of service, but members with less than 4 years of service could not receive an overall percentage increase of more than 11.7 percent.

The House bill contained no similar provision.

The House recedes.

Recommendations with respect to method of adjustment of military pay (Sec. 802)

The Senate amendment contained a provision (sec. 308) that requires a report by April 1, 1981, by the President regarding recommendations to change the adjustment mechanism for adjusting military pay.

The House bill contained no similar provision.

The House recedes.

Authority to allocate pay increases among pay grades and years-of-service categories (Sec. 803)

The Senate amendment contained a provision (sec. 309) that would provide a new reallocation authority allowing the President to reallocate a portion of the annual pay raise by grade and years of service.

No more than a total of 25 percent of the basic pay raise could be reallocated including all reallocations into quarters and subsistence allowances (currently authorized) as well as reallocations by grade and years of service. Members with less than 4 years of service could not receive an overall percentage increase of more than the average increase in the civilian general schedule in future years.

The House bill contained no similar provision.

The House recedes.

Enlistment and reenlistment bonuses for active forces (Sec. 804)

The Senate amendment contained a provision (sec. 310) that would increase the maximum amount of the enlistment bonus from $3,000 to $5,000 and extend the authority to pay the enlistment bonus for another two years.

The Senate amendment would also increase the maximum amount of reenlistment bonus from the current maximum of $15,000 to a maximum of $20,000, permit payment of the bonus to service members with between 10 and 14 years of service, and extend the authority to pay reenlistment bonuses for another two years. The conferees agreed that the maximum amount of $20,000 be limited to enlisted personnel in nuclear skills and that a maximum amount of $16,000 would be available for other personnel.

The House bill contained no similar provision.

The House recedes.

New Reserve bonus authority (Sec. 805)

The Senate amendment contained a provision (sec. 402) authorizing two new Reserve bonus programs. Authority is provided for a selective affiliation bonus to encourage skilled prior active service personnel to join Selected Reserve units and a bonus for enlistment, reenlistment and voluntary extensions in the individual Ready Reserve (IRR) for a period of three years or more. The House bill contained no similar provisions.

The House recedes with an amendment limiting eligibility for the IRR bonus to personnel who have completed their term of enlistment on active duty in the case of individuals who have prior service. Because the major shortages in the IRR are for personnel in the combat skills, the bonuses should only be provided to individuals who have or will be trained in combat skills.

Continuation bonus for aviation career officers (Sec. 806)

The Senate amendment contained a provision (sec. 311) that would authorize a continuation bonus for aviators of up to 4 months basic pay for each year an aviator extends on active duty. Personnel with between 6 and 18 years of service would be eligible for the bonus, and it would be paid in accordance with regulations issued by the Secretary of Defense. The bonus would be in addition to aviation career incentive pay.

The House bill contained no similar provision.

The conferees believe that this bonus, if focused at the critical retention points, would be useful in addressing the pilot shortage being experienced today. However, to be fully effective, it must be implemented with a view toward avoiding problems that may cause extreme discontent among the pilots.

The conferees intend that the bonus be implemented in such a way as to minimize pay inversions between junior and senior pilots and between non-rated personnel and rated personnel serving in non-rated positions. Because eligibility for the bonus would be limited to those with less than 19 years of service, the conferees desire that, at the very least, the bonus be phased down as Regular Military Compensation increases with years of service so as to preclude significant "pay cuts" for senior personnel as they pass through the second decade of their service.

The House recedes.

Per diem allowances for members traveling on official business (Sec. 807)

The Senate amendment contained a provision (sec. 313) that would increase the maximum reimbursement rate for actual and necessary expenses for temporary duty travel from $35 per day to $50 per day. The amendment also increases the maximum reimbursement rate for high cost areas or for unusual circumstances from $50 per day to $75 per day.

The House bill contained no similar provision.

The House recedes.

Expenses for transportation of house trailers and mobile homes (Sec. 808)

The Senate amendment contained a provision (sec. 314) that would provide entitlements for members of the uniformed services who own mobile homes comparable to existing entitlements for personnel who are required to move but who are not mobile home owners.

The provision removes the current limitation on the cost of transporting a house trailer or mobile dwelling but provides that such cost may not exceed the cost of transporting the maximum weight allowance for baggage and household effects to which the member or dependent is entitled, including reimbursement for necessary costs such as packing, pickup, linehaul or drayage, delivery, and unpacking.

The House bill contained no similar provision.

The House recedes.

Family separation allowances for junior enlisted members (Sec. 809)

The Senate amendment contained a provision (sec. 315) that would authorize family separation allowance payments for members in pay grade E–4 with four years of service or less and members in pay grades E–1 through E–3.

The House bill contained no similar provision.

The House recedes.

Improvements in the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) (Sec. 810)

The Senate amendment contained a provision (sec. 316) that would increase the maximum allowable government cost-sharing for mentally and physically handicapped dependents of active-duty members from $350 to $1,000 a month and that would include routine medical examinations and immunizations of children of active-duty members, two years of age or younger, under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

The House recedes.

Subsistence allowances for members of Marine Corps officer candidate programs (Sec. 811)

The Senate amendment contained a provision (sec. 602) that would extend authority for 2 years to provide Marine Corps officer candidates in the Platoon Leaders Class program the same $100 per month subsistence allowance that is provided for ROTC participants. The current authority will expire on September 30, 1980.

The House bill contained no similar provision.

The House recedes.

Contingent once-a-year adjustment of retired or retainer pay (Sec. 812)

The Senate amendment contained a provision (sec. 318) designed to replace permanently the current semi-annual increase in military retired pay with an annual adjustment. The Senate amendment would provide for a similar change in retirement programs for the Central Intelligence Agency, the Public Health Service and the National Oceanographic and Atmospheric Administration. However, no changes to retired pay adjustments would be made unless similar changes are made for Federal civilian retirees.

The House recedes with an amendment that provides that the September, 1980, increase be deferred; that the increase in March, 1981, be based on a full year's change in the Consumer Price Index; and that the increases thereafter continue on a semi-annual basis unless the civil service retirement system is changed to provide for annual adjustment in the future. The deferral of the September, 1980, increase for military retired pay is contingent upon a similar deferral of either the September, 1980, or the March, 1981, adjustment to civil service retired pay.

Change in method of computation of retired pay (Sec. 813)

The Senate amendment contained a provision (sec. 312) that would change the basis for calculating retired pay for members of the uniformed services from final basic pay to an average of the highest three years of basic pay. The amendment included a provision that would continue the current practice of calculating retired pay on the basis of terminal basic pay for all members with ten or more years active service. Retired pay for reservists would be based on an average using the pay tables in effect for the three years prior to entitlement to retired pay at age 60 and not an actual pay received.

The House bill contained no similar provision.

The House recedes with an amendment limiting the applicability of this provision to those service members who initially enter active duty after the date of enactment.

Exemption of military personnel from pay parking

The Senate amendment contained a provision (sec. 322) that would exempt military personnel on active duty from any charge for parking facilities. Charges for Federal civilian employees would be unaffected.

The House bill contained no similar provision.

The House conferees argued that the issue of pay parking for Federal employees should be addressed in the context of energy conservation measures and a single category of personnel should not be considered separately.

The Senate recedes.

Special pay for extended sea duty

The House bill contained a provision (sec. 808) that would authorize a payment of up to $65 per month to officers and enlisted personnel who serve a period of duty of at least 84 consecutive days at sea. The provision would only apply to personnel serving in the Indian Ocean-Persian Gulf area prior to September 1, 1980.

The Senate amendment contained no similar provision.

The Senate conferees argued that the provision would be extremely difficult to administer in an equitable manner.

The House recedes.

Legal assistance programs

Section 320 of the Senate amendment provided authority for legal assistance to members of the Armed Forces and their dependents in conjunction with their personal legal affairs. The House bill contained no similar provision.

The conferees endorse a program of legal assistance for members of the Armed Forces and their dependents. However, the conferees feel that more information on current legal assistance programs and those planned is needed. Therefore, the Secretary of Defense is requested to report to the House and Senate Committees on Armed Services by December 31, 1980, on current programs of legal assistance, on new programs planned, and on the effect of statutory authority on those programs. The report should include a description of programs that provide counsel to members; that provide services such as the drafting of wills, real estate agreements, etc.; that would permit military lawyers to represent military members in a civilian court of law; and other programs of legal assistance.

The Senate recedes.

TITLE IX—EDUCATIONAL ASSISTANCE TEST PROGRAMS

The Senate amendment contained a provision (sec. 304) authorizing the Secretary of Defense to repay 15 percent or $500, whichever is greater, of Higher Education Act loans for individuals who enlist or reenlist between September 30, 1980, and October 1, 1981, in the Selected Reserve in specified military specialties. In addition, under this provision, enlisted members of the active forces serving in specified military specialties would qualify for loan repayments at the rate of 33⅓ percent of the loan amount or $1,500, whichever is greater. Enlistees in the active and reserve forces will receive one year of loan repayment eligibility for each year of service.

The House recedes.

The Senate amendment contained a provision (sec. 305) authorizing the Secretary of Defense to pay the monthly contribution for individuals enlisting during fiscal year 1981 who participate in the post-Vietnam era Veterans' Educational Assistance Program (VEAP), and recommended higher levels of government contribution and shorter terms of enlistment be included in DOD tests of educational assistance programs under authority in current law. This provision also authorizes the enlisted member to transfer some or all of the benefits accrued under the VEAP to a spouse or child.

The House recedes.

The Senate amendment contained a provision (sec. 306) requiring the Secretary of Defense to submit quarterly reports to the Congress on the effectiveness of the various features of the pilot educational assistance programs, as they relate to recruitment and retention. The Secretary of Defense is to recommend to the Congress by December 31, 1981, any new educational programs or revisions to existing programs that will improve recruitment or retention in our armed forces.

The House recedes.

The House bill contained a provision (sec. 901) authorizing the establishment and test of a noncontributory educational assistance program for a period of one year. The level of participation in the test would be at the discretion of the Secretary of Defense. The Secretary of Defense is authorized to provide enlistees and reenlistees of the active forces who are high school graduates with up to $1,200 an academic year for tuition, fees, and related expenses, and a monthly subsistence allowance of up to $300 for a nine month period for each year of service. An enlistee may accrue a maximum of four years of educational benefits. The enlisted member must complete two years of service before he is eligible to participate in the program. The program provides eligible members with these options: to receive a lump sum payment of 60 percent of the amount to which he is entitled, to retain the eligibility for himself, or to transfer the eligibility to his spouse or child.

The Senate recedes.

The Senate amendment (sec. 304) authorized the appropriation of $45 million to test the proposed programs. The House bill authorized such funds as would be appropriated to support its educational program. The conferees agree on the need to provide sufficient funds to ensure that a realistic and reliable test of feasible alternatives to the present educational assistance program is conducted. Accordingly, the conferees agreed to increase the authorization of appropriations from the proposed $45 million to $75 million, which will be used to test all the programs as contained in this Act.

The conferees recommend that the current VEAP Program funded by the Veterans Administration be extended to June 30, 1982, in order to provide sufficient time for the Department of Defense to test and evaluate the pilot programs contained in the conference report.

The conferees agreed that the current recruiting and retention situation warrants expeditious action. The implementation of an effective educational assistance program may well be the best approach for the volunteer force to attract personnel of needed quality.

TITLE X—GENERAL PROVISIONS

Requirement for annual authorization of appropriations for operations and maintenance (Sec. 1001)

Section 802 of the House bill required annual authorization of appropriations for operation and maintenance beginning with fiscal year 1982. Section 105 of the Senate amendment required annual authorization of major repair work on naval ships over 3,000 tons and placed restrictions on the Service Life Extension Program for the aircraft carrier Forrestal.

The Senate recedes with respect to the requirement of annual authorization of appropriations for operation and maintenance with an amendment requiring the Secretary of Defense to submit an annual report recommending, justifying, and explaining the number of and operation and maintenance funds for aircraft flying hours, ship steaming hours, combat arms battalion field training days, ships to undergo major repair work, airframe overhauls, aircraft engine reworks, and vehicle overhauls.

The Senate recedes with respect to the requirement for annual authorization of major repair work on ships, which is encompassed within the provision for total authorization of operation and maintenance appropriations, and the Senate also recedes with respect to the restrictions on the Service Life Extension Program for the aircraft carrier Forrestal.

While all appropriations for operation and maintenance will be subject to authorization, the conferees agreed that the Armed Services Committees should concentrate their efforts on reviewing those aspects of the operation and maintenance account with the most significant impact on military force readiness. The conferees also agreed that the staffs of the Armed Services Committees should complete prior to submission of the fiscal year 1982 budget request a joint study recommending standardized procedures for the review of the operation and maintenance account in connection with the annual authorization process.

The conferees further agreed that the report required from the Secretary of Defense on certain operation and maintenance activity levels should include but not be limited to the following information:

For aircraft flying hours, ship steaming hours, and combat arms battalion field training days—

An estimate and explanation of the level of activity and operation and maintenance funds, including major cost elements, by major program and within each major program—

By aircraft type

By major ship category

By battalion; and

An estimate of assigned aircrews-to-aircraft ratios by aircraft type and an explanation of the flying hours required to maintain aircrew proficiency;

For each ship on which major repair work is proposed—

An estimate of the total cost by appropriation category;

The estimated time for completing the work; and

The number of personnel from all sources planned for the work;

For airframe reworks, aircraft engine reworks, and vehicle overhauls—

The activity level and operation and maintenance funds by major program and by equipment type;

The total inventory of equipment by type; and

The backlog of deferred reworks and overhauls.

Eligibility for benefits (Sec. 1002)

The Senate amendment contained a provision (sec. 319) that would restrict eligibility for benefits awarded based on service in the military to those who have completed at least two years of active service, except in cases of injury or certain unusual circumstances relating to hardship or disability. The House bill contained no similar provision.

The House recedes.

Delay in effective date for ceilings on flag officers and senior grade civilians (Sec. 1003)

The fiscal year 1978 authorization act required a reduction in the number of generals and admirals to 1,073 by September 30, 1980. This number represented a reduction of 6 percent from the proposed fiscal year 1978 level. The Senate amendment contained a provision (sec. 319) that would extend the date by which the flag and general officer limitations have to be met to September 30, 1981.

The House bill contained no similar provision.

The House recedes.

The fiscal year 1978 authorization act also required a reduction of approximately 6 percent in the number of high grade Department of Defense civilian employees (GS–13 to GS–18) by September 30, 1980. The reduction was delayed until September 30, 1981, by an amendment to the fiscal year 1980 authorization act.

The House bill contained a provision (sec. 803) that would repeal the requirement to reduce high-grade civilians below the number currently employed.

The Senate amendment contained no similar provision.

The conferees agreed to require that two-thirds (4 percent) of the original reduction (6 percent) in high grade Defense civilians be accomplished by the end of fiscal year 1981 and that the full reduction be accomplished by September 30, 1982.

The conferees reemphasized that civilian manpower, particularly high grade civilians, needs better management attention and that this reduction should not be applied across-the-board. Instead, the Secretary of Defense should consider whether or not work load and total civilian employment of an activity is increasing or decreasing. These reductions should be concentrated in those activities where work load and total civilian strengths are being reduced. The conferees further will request a report by the General Accounting Office by March 15, 1981, analyzing the large changes in the grade structure of Defense civilian employees since the base year of 1964. This report should assess how much of this grade inflation is due to increased or changing technology of weapons systems, contracting out, automation of clerical functions, reaction to pay caps, lack of management attention, or other factors.

The Senate recedes with an amendment.

Basic pay of women officers serving in the grade of rear admiral (Sec. 1004)

No authority exists in current law to promote women line officers in the Navy from the grade of rear admiral (lower half) to rear admiral (upper half). For male officers, this promotion is automatic when they reach the point where they become senior to half of the officers in the grade of rear admiral.

The Senate amendment contained a provision (sec. 321) that would provide the same promotion system for women line officers of the Navy.

The House bill contained no similar provision.

The House recedes with an amendment to prohibit retroactive pay as a result of enactment of this provision.

Exemption of certain contracts from certain profit limitations (Sec. 1005)

The Vinson-Trammell Act of 1934 profit limitation provisions have been codified in Sections 2382 and 7300 of Title 10. Section 2382 places fixed limits of 12 percent on profits on contracts or subcontracts over $10,000 for the manufacture of military aircraft and of 10 percent on contracts or subcontracts over $10,000 for the construction of naval vessels. These provisions were dormant for many years because of the Renegotiation Act passed in 1951. However, when the Renegotiation Act expired on September 30, 1976, the profit limitation provisions of the Vinson-Trammell Act again became effective.

The Senate amendment contained a provision (Sec. 802) that exempted certain contracts from liability for payment under the Vinson-Trammell Act, and prohibited the responsible agencies from implementing the statute before October 1, 1981. The purpose of this provision was to relieve contractors of contingent liability under the statute, for which no regulations have been promulgated, until Congress has an opportunity to revise the outmoded law. The conferees agreed that some exemption for current and past contracts was in order, but emphasized their commitment to develop an alternative profit limitation system and to make recommendations to their respective bodies so that legislation can be enacted before October 1, 1981.

The House recedes with an amendment.

Report on allied commitments to defense spending (Sec. 1006)

Section 803 of the Senate amendment directed the Secretary of Defense to submit an annual report evaluating the degree to which the United States and its NATO allies are meeting the 3 percent annual real growth commitment and their commitments to accomplish the NATO Long-Term Defense Program, including what the United States is doing to encourage fulfillment of these commitments. That section also directed the Secretary of Defense to report to the Congress annually on the scope and composition of burden-sharing within the NATO Alliance and with Japan, including an explanation of the disparity in per capita defense spending between the United States and its NATO Allies and Japan and an explanation of any measures being undertaken by the U.S. to equalize the sharing of defense burdens with its NATO allies and Japan. The Senate amendment further urged the President to seek, through appropriate bilateral and multilateral arrangements, greater contributions to the support costs of U.S. forces stationed in allied countries.

The House bill contained no similar provision.

The conferees agreed to revised language expressing the sense of Congress that NATO allies and Japan should increase their contributions to common defense to levels more commensurate with their economic resources and that the President should seek from those allies greater acceptance of international security responsibilities and greater contributions to the common defense including, where appropriate, greater contributions to host nation support.

The conferees also agreed to require the Secretary of Defense to submit a one-time report by March 1, 1981, addressing the issues of burden-sharing, real growth in defense spending and implementation of common defense commitments by NATO member nations and Japan.

The House recedes with an amendment.

Civil Air Patrol (Sec. 1007)

Both bills contained provisions amending present law to make it clear that the Civil Air Patrol is an instrumentality of the United States Government. The Senate amendment (sec. 804) contained an additional sentence specifying that the change in law is effective as to services provided by the Civil Air Patrol before the date of enactment of the section, while the House bill (secs. 806 and 807) contained no comparable language.

The conferees agreed to modify the Senate language to make it clear that the statutory change covers services performed in the past by the Civil Air Patrol that may be involved in currently pending litigation, but does not revive old cases or change any applicable statutes of limitations.

The House recedes with an amendment.

Adherence to the War Powers Resolution (Sec. 1008)

The Senate amendment contained a section expressing the sense of Congress that the War Powers Resolution be strictly adhered to when the rapid deployment force is to be utilized.

The House recedes

Transfer of funds for Selective Service System

The Senate amendment authorized the transfer of $13.3 million from the Department of Defense to the Selective Service System to begin the registration of young men in fiscal year 1980. This authority has been enacted in another provision of law.

The Senate recedes.

The conferes endorse the Specific Fundings on registration of women contained in the Senate report.

Consultant contracts

Section 806 of the Senate amendment required certain new reporting requirements with respect to sole-source procurement of experts and consultants by the Department of Defense.

The House had no similar provision.

The conferees agree that there is cause for concern about the abuses resulting from noncompetitive awarding of contracts for experts and consultants. The conferees recognize that legislation has been introduced in both Houses of Congress relating to contracts for procurement of experts and consultants and that the present regulations require certain types of notification prior to award of such contracts, and therefore agreed to delete the language in the Senate amendment.

The conferees insist, however, that in order to closely monitor such contract awards, the Secretary of Defense, during fiscal year 1981, submit, on a quarterly basis, a report containing a listing of all contracts for consultants and experts that are (1) awarded without the required 10 days publication and (2) on a basis other than advertisement and acceptance of the lowest competitive bid. Each such report should include the type of contract, the scope of work, the reason for a sole-source or other award, and the reason for the waiver of notification or other waiver being given.

The Senate recedes.

Phoenix missiles owned by the Government of Iran

Section 805 of the Senate amendment contained certain restrictions on payments or the transfer of funds to the Government of Iran and contained other provisions concerning Phoenix AIM-54A missiles and other military items purchased by Iran that are now within the territorial jurisdiction of the United States. The House bill contained no similar provision. Both the House bill and the Senate amendment would authorize the appropriation of funds to procure 150 Phoenix missiles now in storage that were manufactured for Iran.

The conferees recommend the deletion of section 805 of the Senate amendment. The conferees, however, direct that no funds authorized to be appropriated by this authorization Act shall be transferred to or used directly or indirectly to make any payment to the Government of Iran prior to the release of United States citizens being held hostage in Iran.

In order to improve the readiness of the Navy's fighter forces, the Secretary of Defense is directed to expeditiously procure and deploy the additional Phoenix AIM-54A missiles that have been manufactured for Iran. Further, the Secretary of Defense shall submit, to the Committees on Armed Services of the Senate and House of Representatives on or before February 1, 1981, an inventory of all military equipment and materiels that have been purchased on behalf of the Government of Iran and that are now within the territorial jurisdiction of the United States, along with his recommendations as to the most effective disposition of such equipment and materiels consistent with the national security of the United States and the readiness of the United States armed forces.

The Senate recedes.

Melvin Price,
Charles E. Bennett,
Richard H. Ichord,
Lucien N. Nedzi,
Charles H. Wilson,
Richard C. White,
Bill Nichols,
Bob Wilson,
William L. Dickinson,
G. William Whitehurst,
Floyd Spence,
Robin L. Beard
(for consideration of differences regarding intelligence - related activities only),
Edward P. Boland,
Bill D. Burlison,
J. K. Robinson,
Managers on the Part of the House.

John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd, Jr.,
Sam Nunn,
John Culver,
Gary Hart,
Robert Morgan,
J. James Exon,
Carl Levin,
John Tower,
Strom Thurmond,
Barry Goldwater,
John W. Warner,
Gordon Humphrey,
William S. Cohen,
Roger W. Jepsen,
Managers on the Part of the Senate.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

RATIFYING SETTLEMENT AGREEMENT IN LAND DISPUTE BETWEEN PAMUNKEY INDIAN TRIBE AND SOUTHERN RAILWAY CO.

The Clerk called the bill (H.R. 7212) to ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Co., and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 7212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that:

(1) The Pamunkey Indian Tribe of King William County, Virginia (hereafter in this Act referred to as the "Tribe") and the Southern Railway Company, a public common carrier by railroad (hereafter in this Act referred to as the "Railroad"), seek to resolve a dispute concerning the title and use of certain lands located in King William County, Virginia, and used by the Railroad in its operations as a common carrier by railroad.

(2) The claims of the Tribe are based in part on the doctrine of aboriginal title and in part on section 12 of the Act entitled "An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.", approved June 30, 1834.

(3) The Tribe and the Railroad have executed a Settlement Agreement, dated November 21, 1979, to resolve the dispute referred to in paragraph (1). Such Settlement Agreement requires ratification by the Congress as a condition to its effectiveness, and provides generally that—

(A) all claims of the Tribe or any of its members against the Railroad arising from the acquisition or use by the Railroad or any predecessor railroad of certain described lands for its operations as a common carrier by railroad are waived and surrendered;

(B) the Railroad shall have a right to continued and perpetual use of certain described lands used by the Railroad as a railroad right of way;

(C) the Railroad shall pay to the Tribe $100,000;

(D) the Railroad shall make to the Tribe an annual payment based on a certain fair rental value amount, commencing November 21, 1989; and

(E) all rights and title of the Railroad in certain described lands shall revert to the Tribe if and when the Railroad shall abandon and no longer use those lands.

(4) The terms of the Settlement Agreement fairly resolve the dispute between the Tribe and the Railroad, and assure that the Railroad will be able to continue its present common carrier operations on the disputed lands.

SEC. 2. As used in this Act, the term "lands" shall include any interest in or right involving lands, waters, or lands submerged by waters, including rights-of-way thereon; the term "transfer" shall include the creation or continuance of any such interest; and the term "Settlement Agreement" shall mean the Settlement Agreement described in paragraph (3) of the first section of this Act.

SEC. 3. The Congress hereby approves and ratifies the Settlement Agreement.

SEC. 4. The Congress, in approving and ratifying the Settlement Agreement, approves and ratifies all transfers of lands provided for in the Settlement Agreement.

SEC. 5. Any transfer of lands provided for in the Settlement Agreement shall be deemed to have been made in accordance with all laws of the United States that are specifically applicable to transfers of lands from, by, or on behalf of any Indian, Indian nation or tribe of Indians, including section 2116 of the Revised Statutes of the United States (25 U.S.C. 177).

SEC. 6. All claims, including claims for trespass damages and claims arising out of use and occupancy, of the Tribe or any of its members, whether brought by themselves or by the United States or any other person or entity on behalf of such Tribe or its members, against the United States with respect to the lands which are the subject matter of the Settlement Agreement or against the Railroad, arising before the Settlement Agreement becomes effective, shall be waived and surrendered.

SEC. 7. For purposes of chapter 1 of the Internal Revenue Code of 1954, the gross income of the Tribe shall not include any amount received or accrued by such Tribe under the Settlement Agreement, including the $100,000 referred to in paragraph (3) (C) of the first section of this Act and the payments referred to in paragraph (3) (D) of such section. Nothing in the preceding sentence shall be construed to prevent the inclusion in the gross income of any individual of any amount so received or accrued which is distributed to such individual.

SEC. 8. The Tribe is hereby authorized to, by resolution of its duly constituted council or in such manner as provided by its laws or customs, grant easements or rights-of-way across, or lease, lands owned and occupied by the Tribe upon payment of adequate compensation. Any conveyance of the Tribe's entire interest in any land owned or occupied by it shall be subject to any applicable Federal restrictions.

SEC. 9. Nothing in this Act constitutes recognition of the Pamunkey Indians as a tribe subject to the plenary control of Congress or affects the rights of the Pamunkey Indians to petition the Secretary of the Interior for acknowledgement of their status as an Indian tribe and to seek entitlement to all rights, privileges, and immunities enjoyed by other recognized tribes.

SEC. 10. To the extent that there may be any conflict between any provisions of this Act and any other applicable Federal law or laws, the provisions of this Act shall govern.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

That the Congress finds and declares that:

(1) The Pamunkey Indian Tribe of King William County, Virginia (hereafter in this Act referred to as the "Tribe") and the Southern Railway Company, a public common carrier by railroad (hereafter in this Act referred to as the "Railroad"), seek to resolve a dispute concerning the title and use of certain lands located in King William County, Virginia, and used by the Railroad in its operations as a common carrier by railroad.

(2) The claims of the Tribe are based in part on the doctrine of aboriginal title and in part on section 2116 of the Revised Statutes of the United States (25 U.S.C. 177).

(3) The Tribe and the Railroad have executed a Settlement Agreement, dated November 21, 1979, to resolve the dispute referred to in paragraph (1). Such Settlement Agreement requires ratification by the Congress as a condition to its effectiveness, and provides generally that—

(A) all claims of the Tribe or any of its members against the Railroad arising from the acquisition or use by the Railroad or any predecessor railroad of certain described lands for its operations as a common carrier by railroad are waived and surrendered;

(B) the Railroad shall have a right to continued and perpetual use of certain described lands used by the Railroad as a railroad right-of-way;

(C) the Railroad shall pay to the Tribe $100,000;

(D) the Railroad shall make to the Tribe an annual payment based on a certain fair rental value amount, commencing November 21, 1989; and

(E) all rights and title of the Railroad in certain described lands shall revert to the Tribe if and when the Railroad shall abandon and no longer use those lands.

(4) The terms of the Settlement Agreement fairly resolve the dispute between the Tribe and the Railroad, and assure that the Railroad will be able to continue its present common carrier operations on the disputed lands.

SEC. 2. As used in this Act, the term "lands" shall include any interest in or right involving lands, waters, or lands submerged by waters, including rights-of-way thereon; the term "transfer" shall include the creation or continuance of any such interest; and the term "Settlement Agreement" shall mean the Settlement Agreement described in paragraph (3) of the first section of this Act.

SEC. 3. The Congress hereby approves and ratifies the Settlement Agreement and all transfers of land provided for in the Settlement Agreement. All such transfers shall be deemed to have been made in accordance with all laws of the United States that are specifically applicable to transfers of lands from, by or on behalf of any Indian, Indian nation, or tribe of Indians including section 2116 of the Revised Statutes of the United States (25 U.S.C. 177).

SEC. 4. All claims, including claims for trespass damages and claims arising out of use and occupancy, of the Tribe or any of its members, whether brought by themselves or by the United States or any other person or entity on behalf of such Tribe or its members, against the United States with respect to the lands which are the subject matter of the Settlement Agreement or against the Railroad arising before the Settlement Agreement becomes effective, shall be waived and surrendered when the Settlement Agreement becomes effective.

SEC. 5. The United States hereby accepts the waiver executed by the Tribe on May 31, 1980, of all claims (including but not limited to trespass damages, claims based on use and occupancy, breach of trust or the right to just compensation) against the United States, its officers or agents, any State or subdivision thereof, or any other person or entity, with respect to the lands which are the subject matter of the Settlement Agreement, arising before the Settlement Agreement becomes effective or out of the enactment of this Act.

SEC. 6. For purposes of chapter 1 of the Internal Revenue Code of 1954, the gross income of the Tribe shall not include any amount received or accrued by such Tribe under the Settlement Agreement, including the $100,000 referred to in paragraph (3) (C) of the first section of this Act, and the payments referred to in paragraph (3) (D) of such section. Nothing in the preceding sentence shall be construed to prevent the inclusion in the gross income of any individual of any amount so received or accrued which is distributed to such individual.

SEC. 7. Notwithstanding any restriction of Federal law which may be applicable to the transfer of lands of the Tribe, the Tribe is hereby authorized, by resolution of its duly constituted council or in a manner as provided by its laws and customs, to lease for a term not to exceed twenty-five years with a renewal for one additional term of not to exceed twenty-five years with the consent of both parties, lands owned by the Tribe; or to grant easements or rights-of-way across lands owned by the Tribe. Any other transfer shall be subject to any Federal restriction which may be applicable to the transfer of lands of the Tribe.

SEC. 8. Nothing in this Act constitutes recognition or acknowledgement of the Pamunkey Indians as a tribe subject to the plenary control of Congress or affects the rights of the Pamunkey Indians to petition the Secretary of the Interior for acknowledgement of their status as an Indian tribe and to seek entitlement to all rights, privileges, and immunities enjoyed by other recognized or acknowledged tribes. Nothing in this Act imposes any trust responsibility on the United States with respect to the Tribe.

SEC. 9. To the extent that there may be any conflict between any provisions of this Act and any other applicable Federal law or laws, the provisions of this Act shall govern.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN D. LARKINS, JR., FEDERAL BUILDING

The Clerk called the bill (H R. 4231) to designate the "John D. Larkins, Jr., Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 4231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at Market Street, Trenton, North Carolina, is hereby designated as the "John D. Larkins, Jr., Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John D. Larkins, Jr., Federal Building.

● Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 4231, a bill to designate the Federal building located at Market Street in Trenton, N.C., as the "John D. Larkins, Jr., Federal Building."

John Davis Larkins, Jr., was born on June 8, 1909. He attended Wake Forest University and began practicing law in North Carolina in 1930. For nearly 20 years he served in the North Carolina State senate.

Upon the recommendation of Senators Sam Ervin and E. Everett Jordan, President John F. Kennedy appointed John Larkins to the U.S. district court for the eastern district of North Carolina. Judge Larkins took the oath of office on September 15, 1961. On August 2, 1975, he became chief judge serving in that capacity until he assumed his present position of senior U.S. district court judge on June 8, 1979. During his 18 active years on the Federal bench he served with courage and distinction.

During his judicial tenure, Judge Larkins was instrumental in the location of this particular Federal building in Trenton, which is a small town of 471 people. The building presently houses Judge Larkins' chambers, the office of the Federal Crop Insurance Corporation, Soil Conservation Service, Farmers Home Administration, General Services Administration, and the Trenton Post Office.

In recognition of his outstanding public service to our country, it is appropriate to designate the Federal building in his honor and be known as the "John D. Larkins, Jr., Federal Building." ●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4231, a bill to designate the Federal building located at Market Street in Trenton, N.C., the "John D. Larkins, Jr., Federal Building."

John Larkins, Jr., served admirably in the North Carolina State senate for nearly 20 years. Subsequently, he was appointed to the U.S. district court for the eastern district of North Carolina. He was appointed to the bench on September 15, 1961, and during his 18 active years on the Federal bench he served with courage and distinction.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

O. C. FISHER FEDERAL BUILDING

The Clerk called the bill (H.R. 5732) to designate the Federal Building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 5732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 33 West Twohig, San Angelo, Texas, shall hereinafter be called and designated as the "O. C. Fisher Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the O. C. Fisher Building.

With the following committee amendments:

Page 2, line 1, after "Fisher" insert "Federal".

Page 2, line 4, after "Fisher" insert "Federal".

The committee amendments were agreed to.

○ Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 5732, a bill to designate the Federal Building located at 33 West Twohig in Sangelo, Tex., as the "O. C. Fisher Federal Building."

O. C. Fisher represented the 21st District of Texas for 32 years, from 1942 until his retirement at the end of the 93d Congress in 1974. For 25 years Congressman Fisher served on the Armed Services Committee, where he served as subcommittee chairman.

O. C. Fisher was born in Kimble County, Tex., on November 22, 1903, and attended public schools at Junction, Tex. He was graduated from the University of Texas at Austin and the law department of Baylor, Waco, Tex. He commenced law practice in San Angelo, Tex., and engaged in the ranching business. O. C. Fisher, in addition to the 32 years of Federal public office, served as county attorney from 1931 to 1935, of Tom Green County, and served in the Texas State House of Representatives from 1935 to 1937, and served as district attorney from 1937 to 1943.

In recognition of his long and faithful public service, it is appropriate to designate the Federal building located at 33 West Twohig, San Angelo, Tex., the "O. C. Fisher Federal Building."●

○ Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 5732, a bill to designate the Federal building located at 33 West Twohig in San Angelo, Tex., the "O. C. Fisher Federal Building."

Congressman O. C. Fisher served admirably in the U.S. House of Representatives for 32 years. He was a consistent voice for an American defense second to none, and he served with distinction for 25 years on the House Armed Services Committee.

The building in San Angelo, which will bear his name, was the site of Mr. Fisher's office for much of his tenure in Congress. It continues to serve the same people he served so long and so well. It is, therefore, fitting to honor O. C. Fisher in this fashion for his most distinguished service to Texas and to our Nation.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate the Federal Building located at 33 West Twohig, San Angelo, Tex., as the O. C. Fisher Federal Building."

A motion to reconsider was laid on the table.

MINTON-CAPEHART FEDERAL BUILDING

The Clerk called the bill (H.R. 6531) to name a certain Federal building in Indianapolis, Ind., the Minton-Capehart Federal Building.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 575 North Pennsylvania Street, Indianapolis, Indiana, shall hereinafter be known as, and is hereby designated as, the "Minton-Capehart Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Minton-Capehart Federal Building.

● Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 6531, a bill to designate that the Federal Building located at 575 North Pennsylvania Street, in Indianapolis, Ind., be known as the "Minton-Capehart Federal Building."

Sherman Minton, Democrat, and Homer Capehart, Republican, both deceased, served the State of Indiana as U.S. Senators.

Sherman Minton was born in Floyd County, Ind., October 20, 1890, attended local schools, and was graduated from the law department of Indiana University, Bloomington, in 1915 and from Yale University in 1916, and commenced law practice in New Albany, Ind. He served as captain in the Motor Transport Corps in World War I. He practiced law until his election to the U.S. Senate in 1934; served as administrative assistant in the Executive Office of the President in 1941, and was appointed judge of the circuit court of appeals from 1941 to 1949. In 1949, President Truman appointed Sherman Minton to the U.S. Supreme Court where he served until 1956 when he resigned due to ill health. Justice Minton is the only resident of Indiana ever to serve on the Nation's highest legal body as Associate Justice.

Homer Capehart was born in Pike County, Ind., June 6, 1897. He attended local schools and was graduated from high school at Polo, Ill. He entered the U.S. Army and served in the 12th Infantry from 1917 to 1919. He was engaged in the radio, phonograph, and television manufacturing business. He was elected to the U.S. Senate in 1944 and served for 18 years, where he initiated significant housing projects for military personnel. Many "Capehart housing" units are still in use on military installations. He retired to Indianapolis and his farm near Washington in Daviess County.

In view of their long and outstanding careers, it is appropriate to designate the Federal building in Indianapolis, Ind., as the "Minton-Capehart Federal Building."●

○ Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 6531, a bill to designate the Federal building located at 575 North Pennsylvania Street in Indianapolis, Ind., as the "Minton-Capehart Federal Building."

The words "Minton-Capehart" are not full names. They refer to two former members of the U.S. Senate one, Sherman Minton, a Democrat and the other, Homer Capehart, a Republican. The entire Indiana delegation supports enactment of this bill in view of the outstanding service these two distinguished gentlemen gave to their country.

Thus, I urge enactment of the legislation.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES M. HANLEY FEDERAL BUILDING

The Clerk called the bill (H.R. 7130) to designate the building known as U.S. Court House and Federal Building in Syracuse, N.Y., as the "James M. Hanley Federal Building."

There being no objection. the Clerk read the bill, as follows:

H.R. 7130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 100 Clinton Street, Syracuse, New York (commonly known as the United States Court House and Federal Building), shall hereafter be known, called, and designated as the "James M. Hanley Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be a reference to the "James M. Hanley Federal Building".

○ Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7130, a bill to designate that the building at 100 Clinton Street in Syracuse, N.Y., be known as the "James M. Hanley Federal Building."

JAMES M. HANLEY was first elected to Congress in 1964 and has served the 32d District of New York through the 96th Congress, when he will retire at the end of this term. Congressman HANLEY has served on the Committee on Post Office and Civil Service, first as chairman of the Postal Service Subcommittee, since renamed the Postal Operations and Service Subcommittee, then in the 96th Congress as chairman of the full committee.

He has pressed for more effective postal service through the device of a service subsidy for the so-called private postal service. He also instituted the present district work periods for Congress, so that Members of Congress could make advance plans to meet commitments in their districts.

Congressman HANLEY is a native of Syracuse, born on July 19, 1920, where he attended local schools and was graduated from St. Lucy's Academy in 1938. He served in the U.S. Army from 1942 to 1946.

It is fitting and proper to designate the Federal building in Syracuse, N.Y., the "James M. Hanley Federal Building." The local community is already on record in support of this action. The city councils of Syracuse and Onondaga, civic and veterans groups have all passed resolutions urging designation of this Federal building in Mr. HANLEY's honor.●

○ Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7130, a bill to designate the U.S. courthouse and Federal Building in Syracuse, N.Y., as the "James M. Hanley Federal Building."

Congressman HANLEY was first elected to the U.S. House of Representatives in 1964 and is now serving his eighth consecutive term. Members on both sides of the political aisle were saddened to learn that the chairman of the Post Office and Civil Service Committee will retire from Congress at the end of his present term. His talents as a legislator, his personality as a colleague, his effectiveness as a spokesman for the people of his district in New York, will be missed in this Chamber.

In view of Congressman HANLEY's outstanding service to his country, it is a fitting tribute to name the building in his honor.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EDITH GREEN FEDERAL BUILDING

The Clerk called the bill (H.R. 7309) to designate the Federal building in Portland, Oreg., the "Edith Green Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 7309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, 1220 Southwest Third Avenue, Portland, Oregon, is hereby designated the "Edith Green Federal Building".

SEC. 2. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building be held to be reference to the "Edith Green Federal Building".

○ Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7309, a bill designating that the Federal Building at 1220 Southwest Third Avenue in Portland, Oreg., be known as the "Edith Green Federal Building."

Congressman Edith Green was born in Trent Moody County, S. Dak., January 17, 1910. She moved with her parents to Oregon in 1916; attended schools in Salem, Oreg., and Willamette University 1927–29 and was graduated from the University of Oregon, 1939.

The list of Mrs. Green's achievements before, during, and after her tenure in Washington is impressive. Before coming to Congress in 1955 she taught school for 14 years. She brought that broad experience to bear in many ways, and left a lasting mark on the structure and role of American education.

Edith Green was elected as a Democrat to the 84th Congress and to the eight succeeding Congresses (January 3, 1955–January 3, 1973). During her 20 years in the U.S. House of Representatives, Mrs. Green rose to be second ranking on the Education and Labor Committee and chaired its Special Subcommittee on Postsecondary Education from which much of her most important legislative work was done. As the chairperson of the subcommittee, Mrs. Green originated and spearheaded landmark education legislation. She was largely responsible for the passage of the Higher Education Acts of 1965 and 1967 and the Higher Education Facilities Act. These bills are living monuments to a woman who believed that access to education was the means to an individual life of fulfillment and a national goal of the highest priority.

During her years in Congress, she also served very ably on the Interior and Insular Affairs Committee. A defender of women's rights, she worked for equality quietly and effectively. She sponsored and urged passage of the Equal Pay Act of 1963, a bill marking a definite step toward the eradication of discrimination in all jobs. The city of Portland honored Edith Green by presenting her that city's First Citizen Award, and Who's Who in America in 1967 listed her as the outstanding woman in the field of government.

It is fitting, in view of her long and distinguished career, to name the Federal Building in Portland, Oreg., in her honor as the "Edith Green Federal Building."●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7309, a bill to designate the Federal building in Portland, Oreg., the "Edith Green Federal Building."

Mrs. Green served this body and the Third Congressional District of Oregon with distinction for 20 years. During this time she became known as a champion of education, being responsible in large measure for the Higher Education Acts of 1965 and 1967, as well as the Higher Education Facilities Act. Her work had a profound impact on the educational structure of our Nation, and will continue to affect our institutions of higher learning and their students for years to come.

A defender of women's rights, she worked for equality quietly and effectively. The Equal Pay Act of 1963 is indelibly marked with her name. The city of Portland honored Edith Green by presenting to her that city's "First Citizen" Award, and Who's Who in America in 1967 listed her as the outstanding woman in the field of government.

It is appropriate that her successor, Bob Duncan, chose to introduce this bill to honor both Edith Green and the beautiful city of Portland by naming the Federal building the "Edith Green Federal Building." I urge my colleagues to support this legislation.●

Mr. DUNCAN of Oregon. Mr. Speaker,

I, of course, support my bill, H.R. 7309, to name the new Federal Building in Portland, Oreg., the Edith Green Federal building. I am confident that it will pass without objection, and I hope it will be speedily approved by the Senate, as a fitting tribute to the lady who served for 10 years with such distinction as my predecessor in Congress from the Third Congressional District in Oregon. I have previously lauded Mrs. Green's accomplishments many times before this body; however, they are certainly worth enumerating once more: her rise to second ranking and chair, respectively, of the Education and Labor Committee and the Special Subcommittee on Post-Secondary Education; her work for education and women's rights culminating in the Higher Education Acts of 1965 and of 1967, the Higher Education Facilities Act, and the Equal Pay Act of 1963; her active participation in the Democratic Party and in all realms of public life, from business to academic.

This impressive record is not yet complete, as Edith has continued to be active in Oregon politics and on the board of directors for several major corporations. Her vitality and energy are still being poured into life, into achievements that benefit all. For this reason in particular I hope that Congress will act expeditiously to extend recognition of these achievements even as the list still grows. Too frequently we wait to honor our friends until it is too late. Too often we wait to call or write old friends until it is too late. This is an exception. Her former colleagues in the House today honor Edith Green in the full bloom of her productive life, and hope soon to see her name up on the Portland Federal building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

J. MARVIN JONES FEDERAL BUILDING

The Clerk called the bill (H.R. 7414) to designate the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 7414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building known as the Federal Building and United States Courthouse in Amarillo, Texas, shall hereafter be known called, and designated as the "J. Marvin Jones Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "J. Marvin Jones Federal Building".

● Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7414, a bill to designate that the Federal Building and U.S. Courthouse in Amarillo, Tex., be known as the "J. Marvin Jones Federal Building."

Marvin Jones served the Panhandle of Texas from 1917 to 1940. When he retired from Congress he was the chairman of the Agriculture Committee of the House of Representatives. He was appointed to the Court of Claims in 1940, but took leave from the bench to serve as War Food Administrator during World War II. He returned to the court and served as chief judge from 1947 until his retirement in 1964. He passed away in 1976.

Marvin Jones was born in Cooke County, Tex., February 26, 1886, and attended local schools. He was graduated from Denton College in 1902, Southwestern University in 1905 and the law school of the University of Texas at Austin in 1907. He commenced the practice of law in Amarillo. He served in Company A, 308th Battalion of the tank corps during World War I.

It is fitting and proper to designate the Federal Building and U.S. Courthouse in Amarillo, Tex., the "J. Marvin Jones Federal Building."●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 7414, a bill to designate the building known as the Federal Building and U.S. Courthouse in Amarillo, Tex., as the "J. Marvin Jones Federal Building."

Congressman Marvin Jones served admirably in the House of Representatives from 1917 to 1940 and represented the panhandle of Texas. During his years in the House, his brilliant legislative skills were well recognized as chairman of the Agriculture Committee. Congressman Jones was highly regarded by his colleagues and had a national reputation in the areas of agriculture. It is proper that his memory and his legacy be recognized in this manner.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN S. MONAGAN FEDERAL BUILDING

The Clerk called the bill (H.R. 7450) to designate the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 7450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 135 Grand Street, Waterbury, Connecticut (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "John S. Monagan Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "John S. Monagan Federal Building".

● Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 7450, a bill to designate that the U.S. Court House and the U.S. Post Office Federal Building at 135 Grand Street in Waterbury, Conn., be known as the "John S. Monagan Federal Building."

Congressman John S. Monagan was born in Waterbury, Conn., on December 22, 1911. He attended Driggs, St. Mary's and Crosby High Schools in Waterbury; graduated from Dartmouth College in 1933 and from Harvard Law School in 1937.

John Monagan's entire career of public service is inextricably linked with Waterbury. As a young lawyer, he began his legal career there; he served his fellow townsmen as president of the board of aldermen then as their mayor, and finally, as their voice in the U.S. House of Representatives from 1959 until his retirement from public life in 1973.

In his seven terms as a Member of Congress, Representative Monagan served with distinction on the Committees on Foreign Affairs and Government Operations. He held the post of chairman of the Legal and Monetary Subcommittee. Congressman Monagan represented the United States on numerous commissions established by the President to advance the cause of world peace.

Congressman Monagan served in the U.S. House of Representatives with integrity of purpose and deep devotion to the cause of improving the lives of his constituents and all citizens of our Nation and our world.

In view of his long and distinguished career, it is fitting and proper to name the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Conn., as the "John S. Monagan Federal Building."●

● Mr. JOHNSON of California. Mr. Speaker, it was my honor and privilege on May 28 to introduce along with every member of the Connecticut delegation, H.R. 7450, a bill to designate the U.S. Courthouse and U.S. Post Office Federal Building located at 135 Grand Street in Waterbury, Conn., as the "John S. Monagan Federal Building." This legislation was unanimously reported favorably to the House by the House Committee on Public Works and Transportation and today, I urge my colleagues to support enactment of this legislation. On May 28, I inserted a statement in the CONGRESSIONAL RECORD in support of H.R. 7450 and today would like to make that statement part of the record at this point.

Mr. Speaker, it is most appropriate that the Federal building in Waterbury, Conn., should be named to honor one of that city's most distinguished public men, former Congressman John Stephen Monagan, and I am today introducing legislation to accomplish this objective.

A native of Waterbury, John Monagan's entire career of public service is inextricably linked with Waterbury. As a young lawyer, he began his legal career there; he served his fellow townsmen as president of the board of aldermen, then as their mayor, and finally, as their voice in the U.S. House of Representatives from 1959 until his retirement from public life in 1973.

In his seven terms as a Member of Congress, Representative Monagan served with distinction on the committees on Foreign Affairs and Government Operations. He held the post of chairman of the Legal and Monetary Subcommittee. Congressman Monagan represented the United States on numerous commissions established by the President to advance the cause of world peace.

John Monagan served in this body with integrity of purpose and deep devotion to the cause of improving the lives of his constituents and all citizens of our Nation and the world. He was not afraid of hard decisions, and he always carried the heavy responsibilities of his job gracefully and effectively.

I urge all Members of the House to consider and support the bill which I and the entire Connecticut delegation are introducing today to pay proper tribute to this great citizen and public servant.

I urge my colleagues of the House to support this fitting recognition of a distinguished public servant, John Monagan. In the years which I had the privilege of serving with Congressman Monagan, he made no promises he could not keep. His many accomplishments during his years of service live on. This House of Representatives, the Nation, and the world were made better because of his service. This legislation will provide a proper tribute to his distinguished service.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF INTERIOR TO EXCHANGE FEDERAL COAL LEASES AND ENCOURAGE RECOVERY OF CERTAIN COAL DEPOSITS

The Clerk called the bill (H.R. 6816) to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)) to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized and directed to issue leases for coal on other Federal lands in the State of New Mexico to the owner or owners of Federal coal leases, serial numbered NM0186612 and NM0186613, upon surrender and relinquishment of such leases, or portions thereof. Such exchange shall be completed within two years of the effective date of this Act: *Provided, however,* That failure of the Secretary to complete such exchange in such period shall not prejudice the rights of the owner or owners of the designated coal leases, and the exchange shall be completed as expeditiously as possible after the expiration of such time period upon request of such owner or owners.

(b) Leases to be issued by the Secretary pursuant to the authority granted by subsection (a) of this Act shall be from the Federal lands nominated and described as follows:

Township 23 North, Range 12 West

Section 5: South half
Section 6: South half
Section 7: All
Section 8: All
Section 9: West half
Section 17: East half, east half west half, northwest quarter northwest quarter
Section 18: North half north half
Section 20: Northeast quarter, northeast quarter northwest quarter
Section 21: West half northwest quarter

Township 23 North, Range 13 West

Section 1: Northwest quarter, northwest quarter southwest quarter, north half northeast quarter, southeast quarter northeast quarter northeast quarter southeast quarter

(e) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof or rights to leases to be exchanged therefor shall be equal, based on the fair market value consistent with the establishment of logical mining units. If such leases, or portions thereof, or rights to leases are unavoidably not of equal value, the Secretary is authorized to receive, or pay out of funds available for that purpose, cash in an amount up to 25 per centum of the value of the lease or leases to be issued by the Secretary in order to equalize the value of the lease or lease rights to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered, or in case of a surrendered lease right, the same terms and conditions as those to which the lease applicant would be entitled.

(e) This subsection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

(f) Any Federal coal leases issued pursuant to subsections (a) and (b) must be consistent with the existing land use planning policy of the Department of the Interior.

With the following committee amendment:

Strike all after the enacting clause and insert the following:

That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized and directed to issue leases for coal on other Federal lands in the State of New Mexico to the owner or owners of Federal coal leases, serial numbered NM0186612 and NM 0186613, upon surrender and relinquishment of such leases or portions thereof. Such exchange shall be completed within 30 months of the date of enactment of this Act: *Provided, however,* That failure of the Secretary to complete such exchange shall not prejudice the rights of the owner or owners or the designated coal leases, and the exchange shall be completed as expeditiously as possible after the expiration of such time period upon request of such owner or owners.

(b) Leases to be issued by the Secretary pursuant to the authority granted by subsection (a) of this Act shall be from within the Federal lands described as follows:

TOWNSHIP 23 NORTH, RANGE 12 WEST

Section 5: South half.
Section 6: South half.
Section 7: All.
Section 8: All.
Section 9: West half.
Section 17: East half, east half west half, northwest quarter northwest quarter.
Section 18: North half north half.
Section 20: Northeast quarter, northeast quarter northeast quarter.
Section 21: West half northwest quarter.

TOWNSHIP 23 NORTH, RANGE 13 WEST

Section 1: Northwest quarter, northwest quarter southwest quarter, north half northeast quarter, southeast quarter northeast quarter, northeast quarter southeast quarter.

The selection of lands pursuant to this subsection shall be consistent with existing land use planning policy and leasing procedures established by the Secretary.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof to be exchanged therefor shall be of equal value. If such leases or portion thereof are unavoidably not of equal value, the Secretary is authorized to receive from the lessee, or effective October 1, 1981, to pay the lessee out of funds appropriated in advance for that purpose, cash in an amount up to 25 per centum of the value of the lease or leases to be issued by the Secretary in order to equalize the value of the leases to be exchanged.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered on the date the exchange takes place.

(e) Except as otherwise herein provided, any lease issued pursuant to this Act shall be consistent with the Mineral Leasing Act of 1920 as amended (30 U.S.C. 184 et seq.).

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State."

A motion to reconsider was laid on the table.

DECLARING THAT TITLE TO CERTAIN LANDS IN THE STATE OF NEW MEXICO ARE HELD IN TRUST BY THE UNITED STATES FOR THE RAMAH BAND OF THE NAVAJO TRIBE

The Clerk called the bill (H.R. 5003) to delare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.

There being no objection, the Clerk read the bill, as follows:

H.R. 5003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the date of the enactment of this Act, title to the following described lands shall be held by the United States in trust for the Ramah Band of the Navajo Tribe:

Township 7 north, range 15 west, New Mexico principal meridian: sections 7, 19, and 31.

Township 7 north, range 16 west, New Mexico principal meridian: sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

DR. ELMER W. MATTHIAS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, it is my pleasure to welcome Dr. Elmer W. Matthias to the Congress to offer today's opening prayer. Dr. Matthias served as senior pastor of Zion Lutheran Church of Anaheim for over 22 years. During his time as pastor of that church it experienced tremendous growth and has become one of the largest parishes in my congressional district in California.

Dr. Matthias has always been a growth oriented evangelist. His first assignment after leaving Concordia Seminary in St. Louis was to a mission church in the suburbs of Houston, Tex. There he founded a congregation and built a church while serving as pastor for 10 years. After accepting a call to Anaheim, Calif., to be pastor of Zion Lutheran Church, Dr. Matthias led the congregation on a building program that has resulted in a million dollar church plant serving a broad variety of needs in the local community. This church ministry in my district includes family counseling, a day-care center and a parochial school.

While serving as pastor of Zion Lutheran Church, Dr. Matthias earned his doctor of ministry at Fuller Theological Seminary. For the last 2 years he has served as associate professor of practical theology at Concordia Seminary in St. Louis, Mo.

Mr. Speaker, it is our pleasure to have Dr. Elmer Matthias and his wife Ruth with us today.

NO LAMEDUCK SESSION NEEDED

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I was disappointed to hear intimations before the recess that the majority leadership is contemplating a lameduck session following the November 4 elections. This delay is alleged to prevent publication of proposed dramatic cuts in defense spending and startling new deficits.

There is time to act on the vital issues facing the House unless the leadership deliberately sets a leisurely pace or clutters up the legislative calendar with inconsequential legislation.

Mr. Speaker, I predict that any attempt by the majority to postpone consideration of important and controversial bills until after the election could itself become an issue this fall and further infuriate the electorate which is increasingly dissatisfied with the practices of the big spending majority in Congress.

THE TIME IS NOW

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, the time for a tax cut is now. The content of the cut is obviously negotiable, but I hope it will be kept simple so that it can be achieved promptly. Even the size of the cut is subject to reasonable disagreement, since our transient economic statistics are full of ambiguities. But now is the time: Now, before the pain of a sagging economy drives us into foolish Government expenditure; now, before the rigidities of our budget system gives us reason to delay; now, before the massive social security tax increase of January 1 takes effect; now, before the accountability of an imminent election gives way to the assurance of a fixed term.

We are not going to clear up the Nation's tax problems with a simple cut. There will be plenty left to do for the 97th Congress and a new administration. But I am one who does not want to see this Congress leave office having permitted the Federal tax burden to reach the highest point in history. As a Member of this Congress, I refuse to accept that responsibility, for which there is no reasonable excuse—economically, fiscally, or politically.

Some of my colleagues claim to have polled their constituents and to have found that they do not want a tax cut. Perhaps—there are well-to-do people out there whose standards of living are not yet eroded by taxation who still yearn for more Government—but responsible legislators should worry also about how the less well-to-do can get ahead carrying this burden, and how our economic system can function with the Government's siphoning off so much of its available resource. We have time if we have the inclination. I think a tax cut now is not just an opportunity, but a duty.

□ 1210

THE PANIC INDEX

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I came over here at 5 minutes to 12 today figuring that I would not have an opportunity to speak until about 1 o'clock. I figured that there would be at least 50 or 60 lined up on the other side to be telling the American people the virtues and the great things that happened at their convention, their platform, their nominee. But, strangely enough, the Speaker had to recognize Republicans right off the bat.

I do take this time to announce that there is going to be a new index established. We are going to call it, "The Panic Index." We have AFL–CIO ratings; we have a Chamber of Commerce index; we have an American Conservative Union rating chart. I think we need a Panic Index, because in the next few weeks we are going to see a lot of panic on the other side. We are going to see meaningless jobs bills which will soak the taxpayers billions. They are going to throw money around like they had it. Even their famed ability to run the money printing presses day and night will not be adequate.

An index that will check in very close degree the panic on the other side will be most appropriate.

Mr. Speaker, to borrow loosely from Newton, I think for the last few weeks we could sum up the situation here by saying that the panic on the other side will be inversely proportional to the square of the distance between the Members and their districts. Or, in layman's language, if we get out of here soon there will be less panic, so let us end this panic as soon as possible and do the American taxpayers a favor.

GOVERNOR REAGAN OUTLINES MEANS TO STRENGTHEN OUR NATIONAL DEFENSE

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, today Gov. Ronald Reagan in a speech before the Veterans of Foreign Wars Convention, outlines what desperately needs to be done in order to strengthen our national defense.

As Governor Reagan says, America has been sleepwalking for too long. We are losing that critical margin of safety so essential to maintaining peace. The national security of this country is the most important priority of Government. Without security from aggression, every other program is worthless.

Yet if present trends continue, this Nation will become increasingly vulnerable to Soviet bullying—or worse.

When it comes to national defense, second place means last place. We need a defense program which will make America once again strong enough to deter war. It is critical that the Congress hear his message, and begin doing something about our eroding strength—before it is too late.

LIBYA, PLO, NICARAGUA, BILLYGATE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, while some may laugh at or criticize the poor judgment shown by both the President and his brother in the handling of the so-called Billygate affair, one fact that has received universal condemnation by the Congress and the people of this country is the involvement of the Libyan Government. The willingness of the President's brother to try to enrich himself through collaboration with what has to be one of the most vile, despicable terrorist regimes on the face of the Earth is outrageous. At the same time, the White House's actions in not only failing to discourage this action but actually to seek to exploit it as a tool in their foreign policy raises serious questions about their judgment and competence.

As the world's leading outlaw state, Libya most recently tried to finance an Islamic atomic bomb, has undertaken a worldwide assassination campaign and continues to bankroll and sponsor the PLO and its terrorists acts.

It is curious therefore to note the lack of similar criticism right in our own backyard, where the Libyan financed PLO has recently opened its first office in Central America in Nicaragua. The Carter administration's continued efforts to portray the Marxist terrorists in Nicaragua as merely strong-willed nationalists, once again flies in the face of reality.

During a recent visit to Managua by PLO leader Yasser Arafat, it was revealed that not only had the PLO supplied and trained the Sandinistas, but also that the PLO had fought in the Nicaraguan War and that apparently the Sandinistas have fought in the Middle East for the PLO.

PLATFORM HIGHLIGHTS OF DEMOCRATIC CONVENTION

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, we just completed a Democratic Convention in which I was privileged to serve as a delegate. I know there have been some comments, but let me assure all of my colleagues in the House that if I were to choose a convention to attend and participate in, I certainly would prefer the one that was just completed. I especially salute the overwhelming majority of delegates who rejected the so-called open convention. It was a testimonial to the inherent integrity of our party.

The fact of the matter is, I think the country was well served by the presence of Senator KENNEDY and his candidacy for the office of President, and also for the many issues that he raised; specifically, with relation to the economic portions of the Democratic platform.

What the Democratic platform did in fact was rededicate itself to an economic recovery program with a centerpiece of providing more jobs. Specifically at the urging of Senator KENNEDY, the platform includes a $12 billion antirecession jobs program committed to 800,000 additional jobs including full funding for the countercyclical assistance program for the cities, and a major expansion of youth employment and training programs. The platform truly is a blueprint upon which an effective short- and long-term economic policy can be developed.

Senator KENNEDY's efforts as reflected in the final platform language successfully raised the fundamental issue that most affects the people of our Nation—the economy. It will be on these issues that the next President and the next Congress will be elected. Unfortunately, for whatever reason the attention of the media and the American people has not been focused on these issues. I believe the Democratic Convention has succeeded in elevating these issues to their rightful prominent place.

My comments about the convention would not be complete without a tribute to our distinguished Speaker THOMAS "TIP" O'NEILL, who presided over the convention with scrupulous fairness and remarkable efficiency.

Finally to President Carter and Vice President MONDALE a warm congratulations and best wishes for a successful campaign. The Democratic Party is stronger and more unified than it was before the convention. Hopefully in unity there will be strength.

The platform has elevated these issues to greater prominence, and, as a result, I believe the people will start looking to it as the standard upon which to measure candidates for various offices. Those who campaign with full endorsement of the platform should fare better than those who do not.

My colleague spoke today, saying that Governor Reagan addressed himself to peace. I am glad he acknowledges it. Yet it would be far more appropriate to congratulate the President because during his 3½ years in office, that is what we have had in this country. We have had peace; not a single soldier has engaged in international combat.

THE LATE CONGRESSMAN HAROLD RUNNELS OF NEW MEXICO

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, it is with heavy heart that I advise my colleagues that our very close friend, the Honorable HAROLD RUNNELS, of New Mexico, passed away on August 5. He had been hospitalized for some time but we all believed he was on the road to full recovery. His sudden death was truly a shock to his family and friends.

Time does not permit us today to express fully our grief at the loss of this tried, true, and trusted friend and colleague, but I rise to invite all Members to join me on Monday, August 25, when I have requested a special order for the purpose of paying our respects to this great and dedicated public servant.

Each of you will be notified by letter within the next few days as to the details, and I urge each of my colleagues to take this opportunity to pay tribute to HAROLD RUNNELS, whose devoted patriotism, vast legislative experience, keen insight and hard work made him one of the most respected and effective Members of this body.

☐ 1220

PROVIDING ADDITIONAL PROGRAM AUTHORITY FOR EXPORT-IMPORT BANK

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 589) providing additional program authority for the Export-Import Bank, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause, and insert:

That the limitation on program activity of the Export-Import Bank of the United States is increased as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

LIMITATION ON PROGRAM ACTIVITY

(1) In addition to amounts otherwise authorized for such purpose for the fiscal year 1980, not to exceed $251,000,000 is authorized for the fiscal year 1980 for other than administrative expenses of the Export-Import Bank of the United States, which amount shall be available for direct loans.

(2) In addition to the amount authorized by paragraph (1), not to exceed $664,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans: *Provided,* That the amount authorized by this paragraph shall not be available for disbursement before October 1, 1980.

(3) In addition to the amounts authorized by paragraphs (1) and (2), not to exceed $335,000,000 is authorized for the fiscal year 1980 for other than administrative expenses, which amount shall be available for direct loans: *Provided,* That the amount authorized by this paragraph shall not be available for obligation or disbursement before October 1, 1980.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. LONG of Maryland. Mr. Speaker, reserving the right to object, and I will not object, let me point out that this action will restore the House bill and allow funding for the Export-Import Bank—an additional $525,750,000 in lending authority for the Export-Import Bank in fiscal year 1980.

As you will recall, the Senate greatly increased the funds in the bill, and due to a lack of time, we were unable to deal with it.

This is our last opportunity to deal with this matter as the new budget estimates are likely to be filed tomorrow and would preclude consideration of any further spending measures under normal circumstances.

Regular funds for the Export-Import Bank are provided in the foreign aid appropriations bill. But because the fiscal year 1980 conference report has not been passed, most programs have received lower funding levels in the continuing resolution than would otherwise have been the case. We attempted to provide additional funds for the Eximbank and other programs in the recent supplement but that effort was not successful.

The Export-Import Bank is now essentially out of money for its direct loan program, having exhausted its authority of $3.75 billion. The Bank reports that some $2 billion of loans for U.S. exports have been deferred that could have otherwise been made if sufficient funds were available. Funds in this bill will take care of a large portion of these needs.

The $525,700,000 in the bill consists of two parts—$251,000,000 in direct loans and $274,750,000 in guaranteed loans. The amount for guaranteed loans will generate a level of $1,099,000,000 since only 25 percent of the total guarantee program is required to be authorized. Thus the funds in the bill will provide a total additional authority of $1,350,000,000.

The amounts recommended in this bill will allow Eximbank to meet the bulk of the approved "preliminary commitments" which it has made for the remainder of fiscal year 1980.

Some important facts to note in considering this measure include the following:

In fiscal year 1979, the Bank's programs supported $13.6 billion of U.S. export sales;

These exports generated 544,000 American jobs. It is estimated that every billion dollars of exports supports 40,000 U.S. jobs;

The Eximbank makes a profit in its operations. Last year the profit was $158.7 million, and

Eximbank pays dividends to the U.S. Treasury out of its earnings. Last year the Bank paid $35 million in dividends and since 1945 has paid a total of over $1 billion in dividends to the Treasury.

This bill is within the budget ceiling set forth in the amended second concurrent resolution.

This bill has support from both sides of the aisle. The subcommittee and full committee votes to pass this resolution were unanimous.

Mr. Speaker, I urge my colleagues within the House to support this bill and forward the matter to the Senate for their consideration and action.

I would also say, Mr. Speaker, that this is the highest level of funds that can be provided under the present budget resolution and that I would resist any efforts to increase this amount.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Speaker, this resolution represents a small but essential step toward relieving the budget squeeze on the Export-Import Bank. It raises the current ceiling on Exim's lending authority by $251,000,000, and the ceiling on Exim's total program activity by $525,750,000. These are not huge amounts, but they are desperately needed. For all of this year the Eximbank has had to live within the limitation set by a continuing resolution from fiscal 1979. That ceiling is woefully inadequate to meet the current needs of U.S. exporters.

The Eximbank has virtually exhausted its authority to finance U.S. exports under the current ceiling. Unless it is raised, U.S. exporters will have to face the competition of heavily subsidized foreign exporters without any recourse whatsoever to assistance from the Export-Import Bank.

Support for exports is one of the major policy initiatives the Government can take to mitigate the current recession. And it is one of the few such steps which seem to command wide political support. To make that support concrete Exim must be given adequate authority to meet the demand for export finance. If, instead, we put Exim out of business, for the rest of this year, through failure to pass this resolution, the United States will lose badly needed exports, and our trading competitors will judge our export policies to be all rhetoric, no action.

Mr. Speaker, the administration is now attempting to negotiate a major reform in the international arrangement on export credits. Those rates are too low, compared to market rates around the world. Our trading competitors are quite willing to continue subsidizing their exports by offering export credit at those unjustifiably low rates. We do not approve of such subsidies, and would like to negotiate changes in the international arrangement to abolish them, or at least minimize them.

The Declaration of the Venice Economic Summit pledged the participants "to strengthen the international arrangement on export credits with a view to reaching a mutually acceptable solution * * * by 1 December 1980." This reform of the international arrangement is supposed "to bring its terms closer to current market conditions and reduce distortions in export competition." While this declaration of intent is welcome, it falls short of a commitment to abolish subsidies. It offers ample leeway to our competitors to try to preserve some of the unfair advantages they derive from their credit subsidies.

Mr. Speaker, our attempts to reduce these subsidies, through negotiations, will depend on our ability to convince our trading competitors that they cannot continue to take business away from the United States by subsidizing their own exports.

To do that, the Export-Import Bank must be in a position to offer U.S. exporters competitive financing, on a carefully selected, case-by-case basis, wherever they face unfair foreign credit competition. Instead, the administration has been forced to negotiate from a position of potentially fatal weakness, since our competitors know Exim has no authority left for lending this year, and they probably doubt it will be funded in time, at an adequate level, to counter their own predatory financing practices in fiscal year 1981.

Mr. Speaker, there is only one solution. Immediate relief from Exim's budget squeeze must be granted by the Congress. I strongly urge the House to adopt this resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I support the chairman's motion on House Joint Resolution 589, a bill to provide additional authority for the Export-Import Bank.

The chairman's proposal provides everything the House passed, by a vote of 400 to 14, on July 30. It provides exactly what the President requested on July 31.

Many of you will recall that during the final moments of debate on the fiscal year 1980 supplemental appropriations bill, the funding for Exim became the victim of the revenue sharing program. I pledged then, along with other Members of this House including the distinguished chairman of the Appropriations Committee, to secure the funds so desperately needed by the Export Import Bank. This bill is the manifestation of that pledge.

Mr. Speaker, it is no exaggeration to state that the economic situation we are embroiled in is nothing less than perilous. Unemployment continues to skyrocket, reaching levels not paralleled since 1941. Our balance, or more rightly, imbalance of trade, has registered a deficit of $20 billion for the first 6 months of this year. At the same time, American goods are displaced daily by foreign products both in the United States and the international market. These three closely linked trends can and must be reversed—and the means by which to do so is to increase U.S. exports.

Before sounding overly simplistic about such a solution, I would like to point out that there is a fundamental reason for the decline in the U.S. share of trade, and it is a reason which we can begin to correct today. And that reason stems not from any deterioration in the quality of American goods. No, Mr. Speaker, U.S. goods are still technologically and qualitatively superior to most products of our trading partners.

The problem in large part rests with inadequate financing of U.S. exports precisely at a time when the other industrialized nations are providing their exporters with lucrative terms for financing. And I am sad to say that as a result, millions of dollars in sales have been lost—losses which are reflected in declining levels of employment at home.

We have an opportunity today to begin to rectify this situation. While I am not going to promise you that this appropriation will solve the financing problem, I will tell you that it is a first step in what I would like to see as stronger U.S. support for both Exim and U.S. exports. The $251 million in direct loan authority will enable Exim to finance a portion of the $2 billion in sales currently pending—sales which could be completed if financing were available. In addition, $274,750,000 in guarantees will allow the Private Export Funding Corp. to finance sales of $1.1 billion on top of that.

Mr. Speaker, last year Exim supported $13.6 billion worth of export sales. In terms of employment this translates into 544,000 jobs. In terms of our balance of trade, it enables us to counterbalance the phenomenal outflow of U.S. dollars for oil imports. And in terms of the value of the dollar, increased demand keeps its worth high. I would also like to point out that since its inception, Exim has returned approximately $1 billion to the U.S. Treasury.

Exim's need for the funds is obvious. As obvious to me is the U.S. economy's need for Exim Bank. If we are as committed to grappling with the problems of unemployment, the balance of trade and loss of U.S. markets as we claim, we will pass this legislation today.

I am hopeful that the Senate will go along with the chairman's motion and not try to kill the Bank with kindness. The Bank is broke, and we must take final action immediately. Thousands of jobs are at stake.

I urge you to support the motion to revive the Export-Import Bank.

Mr. LONG of Maryland. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may I just address a question to the gentleman from Mississippi (Mr. WHITTEN)?

I understand the terms of the legislation, as passed by the other body, and this request simply disagrees to their amendment. Can the gentleman explain to us why, if this is such important legislation, and my office has received calls about it and I have gotten mail from corporations about it, why this has been delayed now for almost 6 weeks?

This matter was first addressed on the night we had the big Nicaraguan farrago here on the floor, and we were told it had to be passed. When we came back the first week after the Republican Convention it was again scheduled. Then it laid around for 2 more weeks. The last night, before the Members recessed for the Democratic Convention, it was scheduled, and we could have had this agreed to on the last night but it never was called up.

What is the problem with this bill, since everybody concedes that it is needed?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, certainly, in view of the budget ceiling which has been imposed by the Congress on itself and for fiscal year 1980 and with the situation we face with the possibility of further emergencies, it is my belief—and I think it is concurred in by my colleague, the gentleman from Massachusetts (Mr. Conte), who joined me in introducing the legislation—that we should provide additional funding for Eximbank but not draw on the fiscal year 1981 budget ceilings.

Mr. Speaker, as everyone knows, on July 30 we passed House Joint Resolution 589, providing $525.7 million in additional program authority for the Export-Import Bank which would allow the Bank an additional $1.3 billion in additional credit or credit support for export sales in fiscal year 1980. The Senate has amended the resolution to allow the Bank an additional $1.2 billion in additional credit support but they have placed the entire authority increase in the direct loan program. The Senate, by using this device, has completely used up the remaining budget authority and outlays currently available under the third concurrent budget resolution for fiscal year 1980.

In addition, the Senate amendment would also have the effect of adding $722.5 million in budget authority and $456.3 million in outlays in fiscal year 1981. As everyone knows, the budget situation for the coming fiscal year is in considerable question. The House has not yet had an opportunity to consider the regular fiscal year 1981 appropriations bill. In addition, the Budget Committee has yet to consider the reconciliation bill for the coming year or had the opportunity to react to the mid-session review of the budget submitted the latter part of July by the Office of Management and Budget. In short, the Senate amendment comes at a time of significant budgetary unknowns.

Mr. Speaker, I support the Export-Import Bank today as I have in the past. Along with the ranking minority member of the committee (Mr. Conte), we introduced House Joint Resolution 589 which the House adopted. Personally, I am supportive of the intent of the Senate amendment but cautious about its financial effect on the upcoming year. I believe both bodies should consider the advance appropriation for the Export-Import Bank for fiscal year 1981 in the context of the regular appropriation bill which was reported by the Appropriation Committee on July 29.

Mr. Speaker, I would like to explain that the Senate proposition would defer, in effect, an advance appropriation for fiscal year 1981 of an additional $722.5 million in budget authority and $456.3 million in outlays. If we accept the Senate level as is, we would be drawing on the fiscal year 1981 budget ceilings in advance before we have even considered the regular appropriation bills.

By disagreeing to the Senate amendment, we will be allowed to proceed with the regular order and if the Bank needs additional authority, we could act on it in the fiscal year 1981 regular appropriation bill which may possibly be before the House later this month.

Mr. Speaker, let me point out that the U.S. trade deficit reached in excess of $30 billion last year and is currently running at an annual rate of over $40 billion for 1980. American goods are being displaced by foreign competition not because they are technologically superior but because they are being subsidized by the foreign governments and the exporters can receive more favorable terms to export these foreign products. This is a time to provide additional financing to promote increased U.S. exports and that is accomplished with the House-passed resolution.

The Export-Import Bank is an independent agency whose purpose is to facilitate the export of U.S. goods and services. Established by an Executive order in 1934 and incorporated by Congress in 1945, Exim has assisted in the sale of more than $100 billion of U.S. exports. Let me make the following points which illustrate the benefits occurring from the Bank's operation.

In fiscal year 1979, the Bank's programs supported $13.6 billion of U.S. export sales.

These exports generated 544,000 American jobs. These workers, and their companies, paid billions of dollars in Federal, State, and local taxes.

The Bank makes a profit in its operations. Last year its profit was $158.7 million.

Eximbank pays dividends to the U.S. Treasury out of its earnings. Last year the Bank paid $35 million in dividends and since 1945 has paid a total of over $1 billion in dividends to the Treasury.

Eximbank funds never leave the United States because they are disbursed to U.S. suppliers. The Bank is repaid in dollars in the United States by the foreign purchaser of the U.S. exports.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, there is some hope now that we will reach some conclusion to this?

Mr. WHITTEN. There is. I have talked to various individuals. I have never asked for a definite commitment, because one does not ask for that, but I think everyone understands the situation we face. It is my belief everyone understands we have to go ahead with this action and adopt the House passed resolution.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
August 18, 1980.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted July 31, 1980, the Clerk has received the following messages from the Secretary of the Senate:

(1) On Monday, August 4, 1980, that the Senate passed without amendment, House Concurrent Resolution 391.

(2) On Monday, August 4, 1980, that the Senate passed without amendment H.R. 7786.

(3) On Monday, August 4, 1980, that the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, denists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veteran's Administration, and for other purposes.".

With kind regards, I am,

Sincerely,
Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.
W. Raymond Colley,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted the Speaker on Thursday, July 31, 1980, the Speaker did on Friday, August 1, sign the following enrolled bill:

H.R. 827, an act to establish dispute resolution procedures to settle disputes between supervisors and the U.S. Postal Service.

And on Sunday, August 10, the Speaker signed the following enrolled bills:

H.R. 7102, an act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

H.R. 7786, an act to amend Public Law 90–331, to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

ANNOUNCEMENT BY THE SPEAKER AS TO APPOINTMENT OF MEMBERS OF COMMITTEE ATTENDING FUNERAL OF THE LATE HAROLD RUNNELS OF NEW MEXICO

The SPEAKER. The Speaker desires to announce that pursuant to the provisions of title 2, United States Code, section 124, and the order of the House of August 1, 1980, empowering him to appoint commissions, boards, and committees authorized by law or by the House, he did on August 7, 1980, appoint the following Members of the House of Representatives as a committee to attend the funeral of the late Harold Runnels, of New Mexico:

Mr. Lujan, of New Mexico;
Mr. Ichord, of Missouri;
Mr. White, of Texas;
Mr. Davis, of South Carolina;
Mr. Hightower, of Texas;
Mr. Hall, of Texas;
Mr. Rahall, of West Virginia; and
Mr. Hance, of Texas.

The Chair is very grateful to those Members who attended the funeral of the late Honorable HAROLD RUNNELS, of New Mexico.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
August 18, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit a sealed envelope received from The White House at 3:00 p.m. on Friday, August 1, 1980, and said to contain a message from the President wherein he transmits a Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, together with required attachments.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

PROTOCOL OF THE TRADE AGREEMENT RELATING TO CUSTOMS VALUATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–353)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

(For message, see proceedings of the Senate of Friday, August 1, 1980.)

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. AUCOIN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

(For message, see proceedings of the Senate today, August 18, 1980.)

TWENTY-FOURTH ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

(For message, see proceedings of the Senate of today, August 18, 1980.)

☐ 1230

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

WOOD RESIDUE UTILIZATION ACT OF 1980

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6755) to authorize a pilot program to encourage the efficient utilization of wood and wood residues, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wood Residue Utilization Act of 1980".

SEC. 2. The purpose of this Act is to develop, demonstrate, and make available information on feasible methods that have potential for commercial application to increase and improve utilization, in residential, commercial, and industrial, or powerplant applications, of wood residues resulting from timber harvesting and forest protection and management activities occurring on public and private forest lands, and from the manufacture of forest products, including woodpulp.

SEC. 3. (a) The Secretary is authorized to establish pilot projects and demonstrations to carry out the purposes of this Act. The pilot projects and demonstrations established under this section (1) may be operated by the Secretary, or (2) may be carried out through contracts or agreements with owners of private forest lands or other persons, or in conjunction with projects, contracts or agreements entered into under any other authority which the Secretary may possess: *Provided,* That nothing contained in this Act shall abrogate or modify provisions of existing contracts or agreements, including contracts or agreements for the sale of national forest timber, except to the extent such changes are mutually agreed to by the parties of such contracts or agreements.

(b) Pilot projects and demonstrations carried out under this section may include, but are not limited to (1) establishment and operation of utilization demonstration area; (2) establishment and operation of fuel wood concentration and distribution centers; and (3) construction of access roads needed to facilitate wood residue utilization: *Provided,* That residue removal credits may be utilized by the Secretary only as provided in section 4.

SEC. 4. The Secretary is authorized to carry out pilot wood residue utilization projects under which purchasers of National Forest System timber under contracts awarded prior to October 1, 1985, may, except as otherwise provided in this section, be required to remove wood residues not purchased by them to points of prospective use in return for compensation in the form of "residue removal credits." Such projects may be carried out where the Secretary identifies situations in which pilot wood residue utilization projects on the National Forest System can provide important information on various methods and approaches to increasing the utilization, in residential, commercial and industrial, or power-plan applications, of wood residues and where such information cannot reasonably be obtained unless the pilot projects are done in conjunction with normal National Forest timber sale activities. The residue removal credits shall be applied again the amount payable for the timber purchased and shall represent the anticipated cost of removal of wood residues. The following guidelines shall apply to projects carried out under this section:

(1) Except in cases where wood residue removal is determined to be necessary for fire prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary may not provide for removal of wood residues in instances where the anticipated cost of removal would exceed the anticipated value.

(2) The residue removal credits authorized by this section shall not exceed the amount payable by the purchaser for timber after the application of all other designated charges and credits.

(3) The Secretary is authorized to sell the wood residues removed to points of prospective use for not less than their appraised value.

(4) Pilot projects, demonstrations, and other programs established pursuant to this Act shall be carried out in a manner which does not result in an adverse effect on the furnishing of timber, free of charge, under any other provision of law.

(5) Wood residues shall be collected from a site so as to avoid soil depletion or erosion giving full consideration to the protection of wildlife habitat.

(6) For the purposes of the sixth undesignated paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500), (A) any residue removal credit applied under this section shall be considered as "money received" or "moneys received", respectively, and (B) the "money received" or "moneys received", respectively, from the sales of wood residues removed to points of prospective use shall be the proceeds of the sales less the sum of any residue removal credit applied with respect to such residues plus any costs incurred by the Forest Service in processing and storing such residues.

SEC. 5. The Secretary shall make annual reports to the Congress on the pilot wood utilization program authorized by this Act. These reports shall be submitted with the reports required in section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)). In the first report, the Secretary shall recommend necessary and desirable amendments to existing authorities, including but not limited to, the Act of August 11, 1916 (16 U.S.C. 490).

SEC. 6. The Secretary shall issue such regulations as the Secretary deems necessary to implement the provisions of this Act.

SEC. 7. For purposes of this Act, the term:

(1) "Anticipated cost of removal" means the projected cost of removal of wood residues from timber sales areas to points of prospective use, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(2) "Anticipated value" means the projected value of wood residues as fuel or other merchantable wood products, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(3) "Points of prospective use" means the locations where the wood residues are sold or otherwise put to use, as determined by the Secretary in accordance with appropriate appraisal and sale procedures.

(4) "Person" means an individual, partnership, joint-stock company, corporation, association, trust, estate, or any other legal entity, or any agency of Federal or State government or of a political subdivision of a State.

(5) "Secretary" means the Secretary of Agriculture.

(6) "Wood residues" includes, but is not limited to, logging slash, down timber material, woody plants, and standing live or dead trees which do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria and which, in the case of live trees, are surplus to growing stock needs.

SEC. 8. There is hereby authorized to be appropriated (1) such sums as may be necessary to carry out the pilot projects and demonstrations authorized by section 3 of this Act and the residue removal credits authorized by section 4 of this Act for fiscal years 1981, 1982, 1983, 1984, and 1985, which sums shall be in addition to those provided under other provisions of laws and shall remain available until expended: *Provided*, That the total cost of such projects, demonstrations and credits shall not exceed $35,000,000; and (2) such sums as may be necessary to carry out other provisions of the Act, including administrative expenses, but not to exceed $2,500,000, for the period beginning October 1, 1980, and ending September 30, 1985.

SEC. 9. This Act shall become effective October 1, 1980.

The SPEAKER pro tempore. Is a second demanded?

Mr. SYMMS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 6755, as amended, the Wood Residue Utilization Act of 1980. The bill would authorize the Secretary of Agriculture to establish pilot programs to encourage the efficient utilization of wood residues resulting from timber harvesting and forest protection and management activities on public and private lands and from the manufacture of forest products.

Information presented to the committee during consideration of this bill indicates that forest biomass can contribute 9.5 quadrillion British thermal units (quads) of energy or about 14 percent of U.S. energy needs. Current use of this source produces between 1.1 to 1.7 quads of energy. To state the matter in another way, for every ton of residues left in the forests, the United States buys three barrels of oil.

In Oregon there is enough wood left in the national forests to heat three-quarters of our homes. In New England 70 percent of the homes are heated with wood already. Even in the sunbelt, people are burning wood to lower their energy costs.

It has been estimated that 29 million dry tons of dead and dying material and 7.4 million tons of excess growth and small trees are available annually on national forest system lands. Much of this material is not accessible by road or is so scattered that it has not been practical to consider it for harvest. However, it is estimated that 10 to 15 million tons of the material could reasonably be recovered on a sustained basis. In addition, there is a backlog of insect-killed timber over millions of acres of the Rockies and the Pacific Northwest that could raise the annual energy harvest to approximately 20 million tons over the next two decades. There are also large quantities of wood residues on private lands.

While large volumes of wood residues exist, there are presently limited or sporadic markets for them. This is due to various factors, such as irregularity in supply, difficulty in removal from forest sites, and lack of information on recovery, use and sales techniques. There are real possibilities that these obstacles can be overcome, and that an under-utilized resource can be made to contribute significantly to the Nation's needs for energy and other wood-related purposes. The pilot projects authorized by H.R. 6755 are vehicles for testing and exploring these possibilities.

H.R. 6755 authorizes two types of programs. One is a pilot wood utilization program to determine whether the collection and consolidation of forest residues will result in new or increased uses of the residues. The other is a pilot wood residue removal credit program to be used in the national forests.

The pilot wood residue utilization program would establish and test efficient approaches to utilization of wood residues through projects such as demonstrations of harvesting and utilization technology, development of firewood concentration and distribution centers, for Forest Service and Bureau of Land Management as well as private forest lands, and construction of access roads to facilitate residue utilization. Under the bill, the Forest Service could enter into contracts or other agreements with private landowners and others to operate pilot projects. The funds provided for the pilot program would be used for projects which cannot be entirely funded under other authorities the Secretary may possess.

The bill will also encourage the Forest Service to sell residues in small quantities to individual loggers and manufacturers and I fully expect the Forest Service to use this authority to do so.

The pilot residue removal credits program would complement these projects and other Forest Service programs. It would authorize the Secretary to require purchasers of national forest timber to remove residues which otherwise would remain in the forests. Removal operations would have to be carried out so as to avoid soil depletion or erosion, and give full consideration to protection of wildlife habitat. Timber purchasers who remove the residues would be compensated in the form of credits to be applied against the purchase price of timber.

In this regard, the bill provides that the Secretary may not require residue removal when the anticipated cost of removal would exceed the anticipated value of the residues, except in limited circumstances where removal is determined necessary. Further, the residue removal credits may not exceed the net amount payable by the timber purchaser.

The residue removal credit program would provide greater flexibility in the pricing of timber than the conventional timber appraisal allowance procedure. In usual timber sale preparation, it is difficult to estimate the volume of residues which might be generated in a sale area. If economic conditions warrant, it is anticipated that the purchaser of timber would utilize the residues, in which case, of course, no credits would be earned. However, the credits approach would allow the Secretary to compensate the purchaser for removing volumes of residues which the purchaser does not elect to utilize. Sales of residues removed from the national forests under the program by the Forest Service could not be made for less than their appraised value—which means their fair market price. It is anticipated that such sales will largely make the program self-sustaining. Under no circumstances will the bill be used to compete with private markets. It is not our intent to subsidize the removal of wood residues.

While the programs authorized by the bill will have a direct impact on the use of wood residues, they will have other beneficial effects. They can result in reducing hazards to forests through fire, insects and diseases, regenerating harvested areas, encouraging thinning, and reducing the need for burning wastes. They will complement other forest management objectives.

Under the bill, the residue removal credits and the net proceeds from the sales of wood residues would be considered as "moneys received" from the national forests, for purposes of legislation providing for payments to the States of 25 percent of moneys received from the national forests. Thus, there would be no diminution of payments which would otherwise be made to the States.

H.R. 6755 also provides that the programs it authorizes are to be carried out so as not to adversely affect the Forest Service free-use wood fuel program under other provisions of law. Permits for wood fuel gathering have grown from 64,000 in 1973 to 370,000 in 1978. These permits represent approximately 3.7 million tons of wood, the equivalent of about 9 million barrels of oil.

Finally, the bill authorizes appropriations of not to exceed a total of $35 million for the pilot projects, demonstrations and residue removal credits for the 5 fiscal years 1981 through 1985. The bill, as amended, subjects the removal credits, as well as the projects and demonstrations, to the appropriation ceiling. This change was not contained in the bill as ordered reported by the committee. The bill also authorizes appropriations of not to exceed a total of $2.5 million for the 5-year period for carrying out other provisions of the legislation.

The Wood Residue Utilization Act was introduced 2 years ago. We have taken the time to gain widespread support from industry, environmental and professional groups. The National Forest Products Association and the American Forestry Association have worked closely with the committee in developing this bill. It is enthusiastically supported by the Wood Energy Institute.

The Committee on Agriculture ordered the bill reported by a rollcall vote of 33 to 5. I urge the Members to join me in support of the bill H.R. 6755, as amended.

□ 1240

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6755, the Wood Residue Utilization Act of 1980, which authorizes the Secretary of Agriculture to conduct a 5-year program of pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues on private and public forest lands.

The bill contains two parts. The first part provides for a 5-year pilot program for the purpose of developing, demonstrating and making available information on methods to increase the utilization of wood and wood residues that result from timber harvesting forest management activities and forest manufacture involving both public and private lands. The Secretary, in establishing these pilot projects and demonstrations, could make them in conjunction with projects, contracts and agreements entered into under other authorities. A wood utilization pilot project for example, could be a part of a contract for the sale of national forest timber, except that an existing contract could not be modified to include a project until both the timber purchaser and the Federal Government agreed to its addition.

The second part of the bill provides for a residue removal incentive credit to timber purchasers on timber sale areas of the national forests to encourage the removal of wood residues. These wood residues, which could be slash, down timber, woody plants and standing live or dead trees that are presently unmerchantable and surplus to our growing stock needs, would be taken to a wood concentration or distribution center, either Government or commercially operated, or a wood manufacturing facility, where they would be sold by the Federal Government for further processing or for use as fuel. Timber purchasers would not be required to remove wood residues where the cost of removal would exceed their anticipated value, and the U.S. Forest Service intends to utilize the residue removal incentive in conjunction with a pilot project or a demonstration project which will provide for important information on methods of wood utilization not obtainable elsewhere.

Both parts of the bill would be complementary to utilization efforts the Forest Service has underway, working in cooperation with private organizations, State forestry agencies, and other Federal agencies.

At the present time, Mr. Speaker, we have hundreds of millions of tons of wood and wood residues left on the floors of our forests annually, and going to waste. This legislation is designed to accelerate ongoing research and technology into the more efficient use of unmerchantable wood and residues. In the private sector, for example, a Wood Energy Association has been formed to seek ways to better utilize waste products from the timber industry for cogeneration and other purposes. The forest industry in my State of Idaho is already making use of wood waste for cogeneration and attempting to develop improved technology for that purpose. This legislation complements these efforts.

However, more needs to be done in recycling our wood wastes as an alternative energy source. With the pilot demonstrations and projects provided for in H.R. 6755, we can hopefully speed up the process of utilizing the tremendous amount of wood wastes presently not being used to the fullest extent possible on our public and private forest lands, often in scattered and remote areas.

For these reasons, Mr. Speaker, I urge enactment of H.R. 6755.

● Mr. JOHNSON of Colorado. Mr. Speaker, I rise in support of H.R. 6755, a bill to authorize the Secretary of Agriculture to conduct a 5-year program of pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues on public and private forest lands.

The bill combines two concepts into a single bill. The program would be a 5-year pilot effort for the purpose of developing, demonstrating, and making available information on methods to increase the utilization of wood and wood residues that result from timber harvesting forest management activities, and forest manufacture. The Secretary would establish pilot projects and demonstrations involving both public and private lands to carry out this purpose, and these projects could be in conjunction with projects, contracts and agreements entered into under other authorities. Thus, a wood utilization pilot project could be a part of a contract for the sale of national forest timber, except that an existing contract could not be modified to include a project unless both the timber purchaser and the Federal Government agreed to its addition.

The second concept is designed to test ways to encourage the removal of wood residues from timber sale areas on the national forests through the use of a residue removal incentive credit to timber purchasers. These wood residues are defined as logging slash, down timber material, woody plants, and standing live or dead trees that are presently unmerchantable and surplus to our growing stock needs.

The point of use may be wood concentration or distribution centers, either Government or commercially operated, or a wood manufacturing facility. The residue removal incentive would be operated in conjunction with a pilot project or a demonstration, and would be limited to those timber sales that can provide important information on methods of wood utilization and where that information cannot reasonably be obtained in another manner. Timber purchasers would not be required to remove residues where the cost of removal would exceed their anticipated value.

The residue would be sold by the Government at appraised value for further processing or for use as fuel. The bill prescribes that the incentive would be considered as "moneys received" by the U.S. Government so as not to impact on the payments received by State and local governments.

Mr. Speaker, it has been estimated that 150 to 250 million tons of wood and wood residue are left annually on timber-harvest areas in the national forests alone, and it is believed that a significant portion of this material may be economically feasible for utilization if we provide some incentives. There are provisions in this bill which would be of great assistance to the utilization efforts already underway in the private and Government sectors, working cooperatively with private organizations, State forestry agencies, universities, and other Federal agencies. Provisions in this bill would be helpful and complementary to ongoing programs to aid in identifying, handling, and selling wood residues. In addition, the bill would directly support ongoing research programs, providing the means to test promising new research technology.

Given the high cost of conventional fossil fuels and the need to decrease our dependence on imported petroleum, it is imperative that we seek alternatives in our own country. One of these alternatives is the better utilization of wood and wood residues. Utilizing our wood wastes, for example, is no different than a municipality recycling its wastes to generate power and heat at a reduced cost. We have a variety of energy alternatives available to us, and we will not know which of these alternatives is best in different areas of the country until they are tried and tested.

The efficient utilization of the tremendous debris in our forests is certainly an energy option which we should not overlook, including the fact that the removal of much of the debris would better enhance the control of brush and fire hazards, provide a better environment for the flora and fauna, and provide better growth for our trees.

This bill is an attempt to better utilize our renewable resources. The $37.5 million authorized for a 5-year period, which includes both the authorization and the residue removal credits, is a small sum to test promising new technology for further processing of wood, and for use as a fuel.

Mr. Speaker, I urge enactment of this legislation.●

● Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 6755, the Wood Residue Utilization Act of 1980. This bill authorizes the Secretary of Agriculture to conduct a 5-year program of pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues on public and private forest lands.

Some of my colleagues have already discussed the details of this legislation, so I will not cover the same ground. However, Mr. Speaker, I would like to say that we have reached the point where we can no longer ignore the nonutilization or underutilization of the hundreds of millions of tons of wood and wood residues left in our forests each year. Given the high cost of conventional fossil fuels and the high cost of wood products, we must redirect our efforts toward better and more efficient utilization of wood and wood residues not presently being used.

In my own State of Virginia, for example, we have paper-pulp plants which have cut their fuel costs by nearly one-half by utilizing wood wastes. However, the managers of these plants point out that much more needs to be done to utilize the tremendous amount of unmerchantable wood, and wood residues, left in our forests each year. The major stumbling block, however, is one of economics. While progress is being made in this area, more needs to be done on a cooperative basis.

H.R. 6755 provides the Secretary of Agriculture with the authority to conduct pilot projects and demonstrations over a 5-year period on public and private lands. These efforts will be coordinated with ongoing research programs in the private and government sectors, which includes private organizations, State forestry agencies, universities, and other Federal agencies such as the Department of Energy. As my colleagues know, I have been a longtime supporter of research programs, both in the Department of Agriculture and the U.S. Forest Service. The excellent research programs undertaken by the USDA over the years, in conjunction with public and private organizations, have given us tremendous increases in food and fiber, which have benefited not only our people, but other nations as well.

H.R. 6755 complements the ongoing research in the Department of Agriculture. The problems which the bill seeks to address will benefit both public and private forest lands in all areas of the country, and also seek to utilize a tremendous resource not now being used to the extent that it could be. I feel confident that the 5-year program will produce tangible results in guiding us on how to better use unmerchantable wood for wood products, provide for the utilization of wood wastes for fuel, remove the debris in our forests which are fire hazards, provide a better environment for wildlife habitat, and increase healthier tree stocks.

For these reasons, Mr. Speaker, I urge enactment of the Wood Residue Utilization Act of 1980.●

Mr. WEAVER. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. SYMMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of the bill, H.R. 6755, the Wood Residue Utilization Act of 1980.

I think oftentimes we ignore the obvious, and, certainly in many areas of the country that obvious has not been ignored. Truthfully in my State, I know over half of our homes are already heated by wood. Better utilization of wood residues can be a substantial benefit to this country if properly organized and used, as this bill would provide.

Mr. Speaker, during Agriculture Committee consideration of the bill, the committee adopted an amendment which Mr. MARLENEE was good enough to offer on my behalf. Although I have a deep interest in this legislation, my responsibilities as ranking member of the Employment Opportunities Subcommittee prevented me from participating in the markup.

The amendment which I proposed, and the committee accepted, added language specifying that wood residues may be used in residential, commercial, and industrial, or powerplant applications. My intent in offering this amendment was to emphasize the possible uses of wood residues for energy applications in a broad range of settings, including residential, commercial, and industrial or powerplant facilities.

It is important, Mr. Speaker, that we work toward making this country energy independent—the use of wood residue as a source of energy can help us meet that goal.

In my own State of Vermont, wood is an alternative to imported oil. A recent survey conducted in Vermont shows that over 50 percent of residential homes use wood as a heat source. A public utility, Burlington Electric, is now using wood as a heat source for steam for electrical power generation and they have applied to the State public service board to expand that operation.

Wood residues should be used to help us become energy independent. This bill will help to make wood residues more available for both public and private application.

Mr. SYMMS. Mr. Speaker, I yield such time as he may consume to the distinguished ranking Republican on the Committee on Interior and Insular Affairs, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of the bill before us today, the Wood Residue Utilization Act of 1980. This legislation is designed to develop, demonstrate and make available information on methods to increase and improve wood residue utilization with emphasis on methods that are feasible and have potential for commercial application in homes, businesses, industries, and powerplants.

Wood is one of our most valuable renewable resources and it is about time the country recognized its importance as an alternative energy source.

According to the information made available during committee consideration of this bill, it has been estimated that there are 29 million tons of dead and dying trees and 7.4 million tons of excess growth and small trees on national forest lands. While a considerable amount of this material is not accessible, it is estimated that 10 or 15 million tons could be reasonably recovered on a sustained basis.

Irregularity of supply, difficulty in removal from forest sites, and lack of information on recovery, use, and sales techniques are contributing factors to the limited market for wood residues. This legislation addresses these problems by authorizing two pilot projects to act as vehicles for testing and exploring the possibilities for overcoming these obstacles.

The first project is a pilot wood utilization program to determine if the collection of forest residues will result in the discovery of new uses for such residues. The second project is a pilot wood residue removal credit program to be used in national forests. The program will authorize the Secretary of Agriculture to require the removal of residues which would otherwise remain in national forests. Timber purchasers who remove the residue would be compensated by credits to be applied against the purchase price of timber.

This legislation is a positive step in our efforts to reduce our dependence on foreign oil as well as an indication of our continued commitment to research and development of alternative energy sources. For every ton of residue left in our forests, the United States must buy three barrels of oil. This fact certainly speaks for itself and I urge my colleagues favorable consideration of this important legislation.

● Mr. FOLEY. Mr. Speaker, I rise in support of the bill, H.R. 6755, as amended, the Wood Residue Utilization Act of 1980. The bill would authorize the Secretary of Agriculture to establish pilot programs to encourage the efficient utilization of wood residues resulting from timber harvesting and forest protection and management activities on public and private lands and from the manufacture of forest products.

Information presented to the committee during consideration of this bill indicates that forest biomass can contribute 9.5 quadrillion British thermal units (quads) of energy or about 14 percent of U.S. energy needs. Current use of this source produces between 1.1 to 1.7 quads of energy. To state the matter in another way, for every ton of residues left in the forests, the United States buys three barrels of oil.

It has been estimated that 29 million dry tons of dead and dying material and 7.4 million tons of excess growth and small trees are available annually on national forest system lands. Much of this material is not accessible by road or is so scattered that it has not been practical to consider it for harvest. However, it is estimated that 10 to 15 million tons of the material could reasonably be recovered on a sustained basis. In addition, there is a backlog of insect-killed timber over millions of acres of the Rockies and the Pacific Northwest that could raise the annual energy harvest to approximately 20 million tons over the next two decades. There are also large quantities of wood residues on private lands.

While large volumes of wood residues exist, there are presently limited or sporadic markets for them. This is due to various factors, such as irregularity in supply, difficulty in removal from forest sites, and lack of information on recovery, use and sales techniques. There are real possibilities that these obstacles can be overcome, and that an underutilized resources can be made to contribute significantly to the Nation's needs for energy and other wood-related purposes. The pilot projects authorized by H.R. 6755 are vehicles for testing and exploring these possibilities.

H.R. 6755 authorizes two types of programs. One is a pilot wood utilization program to determine whether the collection and consolidation of forest residues will result in new or increased uses of the residues. The other is a pilot wood residue removal credit program to be used in the national forests.

The pilot wood residue utilization program would establish and test efficient approaches to utilization of wood residues through projects such as demonstrations of harvesting and utilization technology, development of firewood concentration and distribution centers, and construction of access roads to facilitate residue utilization. Under the bill, the Forest Service could enter into contracts or other agreements with private landowners and others to operate pilot projects. The funds provided for the pilot program would be used for projects which cannot be entirely funded under other authorities the Secretary may possess.

The pilot residue removal credits program would complement these projects and other Forest Service programs. It would authorize the Secretary to require purchasers of national forest timber to remove residues which otherwise would remain in the forests. Removal operations would have to be carried out so as to avoid soil depletion or erosion, and give full consideration to protection of wildlife habitat. Timber purchasers who remove the residues would be compensated in the form of credits to be applied against the purchase price of timber. In this regard, the bill provides that the Secretary may not require residue removal when the anticipated cost of removal would exceed the anticipated value of the residues, except in limited circumstances where removal is determined necessary. Further, the residue removal credits may not exceed the net amount payable by the timber purchaser.

The residue removal credit program would provide greater flexibility in the pricing of timber than the conventional timber appraisal allowance procedure. In usual timber sale preparation, it is difficult to estimate the volume of residues which might be generated in a sale area. If economic conditions warrant, it is anticipated that the purchaser of timber would utilize the residues, in which case, of course, no credits would be earned. However, the credits approach would allow the Secretary to compensate the purchaser for removing volumes of residues which the purchaser does not elect to utilize. Sales of residues removed from the national forests under the program by the Forest Service could not be made for less than their appraised value—which means their fair market price. It is anticipated that such sales will largely make the program self-sustaining.

While the programs authorized by the bill will have a direct impact on the use of wood residues, they will have other beneficial effects. They can result in reducing hazards to forests through fire, insects and diseases, regenerating harvested areas, encouraging thinning, and reducing the need for burning wastes. They will complement other forest management objectives.

Under the bill, the residue removal credits and the net proceeds from the sales of wood residues would be considered as "moneys received" from the national forests, for purposes of legislation providing for payments to the States of 25 percent of moneys received from the national forests. Thus, there would be no diminution of payments which would otherwise be made to the States.

H.R. 6755 also provides that the programs it authorizes are to be carried out so as not to adversely affect the Forest Service free-use wood fuel program under other provisions of law. Permits for wood fuel gathering have grown from 64,000 in 1973 to 370,000 in 1978. These permits represent approximately 3.7 million tons of wood, the equivalent of about 9 million barrels of oil.

Finally, the bill authorizes appropriations of not to exceed a total of $35 million for the pilot projects, demonstrations and residue removal credits for the five fiscal years 1981 through 1985. The bill, as amended, subjects the removal credits, as well as the projects and demonstrations, to the appropriation ceiling. This change was not contained in the bill as ordered reported by the committee. The bill also authorizes appropriations of not to exceed a total of $2.5 million for the 5-year period for carrying out other provisions of the legislation.

The Committee on Agriculture ordered the bill reported by a rollcall vote of 33 to 5. I urge the Members to join me in support of the bill H.R. 6755, as amended.●

● Mrs. HECKLER. Mr. Speaker, I strongly support the Wood Residue Utilization Act of 1980, a bill that can lead the way for future interest and investment in legislation that capitalizes on one of this country's prime natural and renewable resources.

While all Americans gain from a decreased dependence on foreign oil, the New England area has a vital interest in the promotion of homegrown sources of fuel. This bill finds application in the White Mountain and Green Mountain National Forests in the New England region, but this is just a small portion of an area that has one of the highest concentrations of forest land in the country. Therefore, if H.R. 6755 finds legislative life, future wood utilization programs may hold more promise.

In my work on the Agriculture Committee over the past few years, I have seen enthusiasm grow for a greater reliance on American agriculture and forestry know-how for solutions to this country's energy problems. As a nation, we are just beginning to free ourselves from energy sources that have proven to be unreliable and dangerous. The passage of the Wood Residue Utilization Act is valuable as one of the first steps toward greater energy self-sufficiency through the use of wood.●

● Mr. D'AMOURS. Mr. Speaker, I rise in strong support of H.R. 6755, the Wood Residue Utilization Act. Wood energy is today our No. 1 near-term renewable energy. According to the Department of Energy's widely circulated Booz-Allen report, wood energy is capable of delivering 9 quads of energy a year. That is 12 percent of our entire yearly energy consumption. A comprehensive study released last week by the Office of Technology Assessment has reinforced the Booz-Allen findings and, in fact, now estimates a possible utilization level of 10 quads.

The realization of the potential for oil displacement by wood-burning stoves, furnaces, and boilers has grown significantly in recent years. We have heard promising reports of the potential for electrical generation from wood combustion and for reduction in gasoline use through the production of wood-derived methane.

So the technologies are there; and so is the raw material. By all estimates, our as-yet-unutilized wood resource is vast. What is needed, and what H.R. 6755 provides, is a catalyst. The Wood Residue Utilization Act is that all-important link between the promising technology and the ample raw material. This bill cuts through the institutional barriers, the patchwork of small landowners and public landowners, the embryonic wood harvest and wood market infrastructure, the general undercapitalization of the wood industry.

If we are really sincere about drawing 20 percent of our energy supply from solar-derived sources by the year 2000, then this is the time and the place to start. This is a modest program by DOE standards. It is, however, an important first step. My distinguished colleague, Mr. WEAVER, has done an admirable job of putting together this legislation. I urge support of his efforts and speedy passage of H.R. 6755. In this way, we will be sending a message to the American people that we are indeed serious about our commitment to renewable energy. Thank you.●

● Mr. DICKS. Mr. Speaker, I support this bill. The Forest Service should take the lead in demonstrating the benefits of wood residue removal and utilization. As a member of the Interior Subcommittee of the House Appropriations Committee, which oversees the Forest Service budget, I know how much it costs to cut a tree and how much wood is left in the forests each year when that tree is cut.

Leaving the wood residue in the forests costs us money in two ways. First, there is the value of the residue left in the forests. The price of slash has quadrupled in recent months. Second, there is the cost of managing lands with excess residues. Insect infestations, disease, and fire can all result from dead and dying timber on a forest floor.

My only reservation about this bill is the authorization section. Both the pilot projects and demonstrations and the residue credit removal program will be subject to appropriations. Because of the manner in which the Forest Service sells its timber, this section will place the pilot projects and demonstrations in direct competition with the residue credit removal program.

This does not make sense because funds earmarked for the purchase of residues will be returned to the Treasury. This provision simply ties up appropriated funds from the time a timber sale contract is signed to the time when a tree is cut. That can be as long as 3 to 5 years, in other words, the entire length of the pilot program.

Because this bill has such wide support and because it is on the suspension calendar I will vote for it anyway. However, I will work to see that adequate authorization is provided for both programs.●

Mr. SYMMS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 6755, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6755, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from the further consideration of the Senate bill (S. 1996) to authorize the Secretary of Agriculture to encourage the efficient use of wood and wood residues through pilot projects and demonstrations and a pilot wood utilization program; and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wood Utilization Act of 1980".

PURPOSE

SEC. 2. The purpose of this Act is to develop, demonstrate, improve, and make available information on feasible methods that have potential for rapid commercial application to increase and improve utilization of wood, wood residues, and woody plants resulting from timber harvesting and forest protection and management activities on public and private forest lands, and from the manufacture of forest products, including woodpulp.

PILOT PROJECTS AND DEMONSTRATIONS

SEC. 3. (a) The Secretary of Agriculture may establish and operate pilot projects and demonstrations to encourage the efficient utilization of wood and wood residues.

(b) Pilot projects and demonstrations may be established under this Act in conjunction with projects, contracts, or agreements entered into under any other authority that the Secretary may possess. However, nothing contained in this Act shall abrogate or modify the applicable provisions of existing contracts for the sale of National Forest System timber except to the extent such changes are mutually agreed upon by the parties to such contracts.

(c) Pilot projects and demonstrations on National Forest System lands may include, but are not limited to (1) development and operation of utilization demonstration areas, (2) development and establishment of fuelwood concentration and distribution centers, and (3) construction of access roads needed to facilitate wood and wood residue utilization.

PILOT WOOD UTILIZATION PROGRAM

SEC. 4. Where the Secretary of Agriculture identifies situations in which pilot utilization studies on National Forest System lands can provide important information on various methods and approaches to increasing the use of wood residues and where such information cannot reasonably be obtained unless the pilot study is done in conjunction with normal National Forest System timber sale activities, the Secretary of Agriculture may establish a pilot wood utilization program. In carrying out the program, the Secretary shall use residue removal incentives to pay purchasers of National Forest System timber, for sales awarded prior to October 1, 1986, for defined costs of activities necessary for the removal of wood residues from timber sale areas to points of prospective use. The incentives shall be used as a credit against the amount payable for the timber and shall be the estimated cost of activities necessary for residue removal as determined in accordance with appropriate appraisal and sale procedures and the following guidelines and definitions:

(1) The form and method of activities necessary for removal shall be prescribed by the Secretary in accordance with appropriate appraisal and sales procedures.

(2) The Secretary, in making sales of National Forest System timber, may require timber purchasers to remove wood residues to points of prospective use.

(3) Except in cases where wood residue removal is determined to be necessary for fire prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary shall not require wood residue removal in instances where it would be more expensive to remove the residue than the anticipated value such residues would provide as fuel or other merchantable wood products.

(4) The amount of the wood residues handled under the residue removal incentive authorized by this section shall be limited to that portion of the estimated cost of the work covered by the value of the timber in excess of other designated charges.

(5) Except for that volume designated for free use disposal, wood residues shall not be sold for less than the appraised value when a market for such material exists.

(6) Wood residues shall be collected from a site so as to avoid soil depletion or erosion and full consideration shall be given to the protection of wildlife habitat.

(7) The residues removal incentive used in payment for National Forest System timber and revenues from the sale of wood residues, which shall be calculated on the basis of the estimated value of the residues before removal and any processing, shall be considered as "moneys received" within the meaning of the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, and section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended: 16 U.S.C. 500).

(8) For purposes of this section, the term "wood residues" includes, but is not limited to, logging slash, down timber material, and standing live or dead trees that do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria and are surplus to growing stock needs.

(9) Point of prospective use is to be determined in accordance with appropriate timber appraisal and sale procedures.

ANNUAL REPORTS

SEC. 5. The Secretary of Agriculture shall submit annual reports to Congress on the pilot wood utilization program authorized by this Act. These reports shall be submitted with the reports required under section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974.

REGULATIONS

SEC. 6. The Secretary of Agriculture shall issue such regulations as the Secretary deems necessary to implement the provisions of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 7. There is hereby authorized to be appropriated annually not to exceed $50,000,000 for fiscal years 1982, 1983, 1984, 1985, and 1986 for the purpose of funding the pilot projects and demonstrations authorized by section 3 of this Act. Such sums shall be in addition to those provided under other provisions of law and shall remain available until expended.

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall become effective October 1, 1980.

MOTION OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WEAVER moves to strike out all after the enacting clause of the Senate bill, S. 1996, and insert in lieu thereof the text of the bill, H.R. 7655, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6755) was laid on the table.

U.S. GRAIN STANDARDS ACT AMENDMENTS

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 5546, to amend the U.S. Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended by—

(1) in subsection (aa) striking out the

period and inserting in lieu thereof "; and", and

(2) adding at the end thereof the following new subsection:

"(bb) the term 'intracompany shipment' means the shipment, with the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.".

SEC. 2. Section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)) is amended to read as follows:

"(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided*, That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington (Mr. FOLEY) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. HAGEDORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 5546, a bill to amend the U.S. Grain Standards Act, as amended.

Many of my colleagues may recall the action taken by the House in 1976 as a result of disclosures of irregularities in grain inspection and weighing at several of the major export port locations in the United States. It appeared that grain was being short-weighed through scale manipulations, improper diversions of grain back into storage after weighing, and alterations of weight tapes. In order to protect the reliability and integrity of our grain exports, the House passed legislation establishing the Federal Grain Inspection Service. The Agency, under the Secretary of Agriculture, was vested for the first time with the authority to regulate weighing of grain, particularly with regard to exports.

The act provides that no person shall ship any grain from the United States to any place outside of the United States unless the grain is officially weighed and a valid official certificate showing the certified weight has been provided by official personnel. In addition, the act provides that all grain transferred into and all grain transferred out of an export elevator at an export port location must be officially weighed. The Department may waive the weighing requirement in emergency or other circumstances that would not impair the objectives of the act.

Under the weighing program of the Federal Grain Inspection Service, official inspection personnel must be present at export elevators to monitor and certify official weights of grain entering and being discharged from the elevators. The elevators are billed by the inspection agency based on an hourly rate of pay for the agency employee who directly monitors the activities of the elevator employees who actually weigh the grain. The elevator in turn passes these costs on to the shipper.

According to the Department of Agriculture the national average cost for official weighing at export elevators is one-fifth of 1 cent per bushel for inbound weighing and an additional one-fifth of 1 cent per bushel for outbound weighing. Individual elevators may have costs as high as 2 or 3 cents per bushel. Based on this average cost figure of one-fifth of 1 cent per bushel, the private sector incurred over $9 million in expense for official inbound weighing for 1979 grain exports.

While there is agreement that export weights are more accurate since enactment of the U.S. Grain Standards Act Amendments of 1976, some controversy surrounds the amount of Government involvement necessary to maintain the reliability and integrity of U.S. grain exports.

In 1979, the Office of the Inspector General of the U.S. Department of Agriculture and the Office of the Comptroller General investigated the operation of the Federal Grain Inspection Service and reported to Congress on their findings. Both reports reflect widespread dissatisfaction by the trade with the requirement that grain at export elevators be weighed as it enters as well as when it exits an export elevator. Both reports recommend modifications to the weighing program.

The bill as reported by the committee exempts two categories of grain from the inbound weighing requirement, namely, intracompany shipments and grain transferred into the elevator by truck or rail.

Approximately 25 percent of the grain transferred into export elevators is grain owned by a company which is moved from the company's own interior elevator to its own export elevator. Because the company is merely transferring its own grain within its own facilities, it is not necessary to weigh the grain for purposes of a settlement price.

The accuracy of the weights of grain shipped by rail or truck has a certain amount of inherent protection. The loading and unloading of a truck of grain is easily monitored by the truck driver. Shipments of grain by rail are subject to the requirement of the American Association of Railroads that at least 25 percent of the grain transported by rail be monitored to provide a basis for assessing freight charges and settling claims for grain losses during transport.

The bill retains existing law in regard to grain transported to an export elevator by barge because this method of transportation has the greatest potential for abuse and the per unit cost for official weighing is significantly less than for other methods of transportation. Grain shipped by barge generally is sold based on destination weights, and no shipper's representative or third party, other than official weight monitoring personnel, is available to confirm weight accuracy. Considering the risks involved in these shipments and the relatively low cost per unit for monitoring, the committee retained the requirement of current law that all grain transferred into an export elevator by barge receive an official weight.

The bill also exempts from the official weighing requirement grain being discharged from an export elevator for a destination within the United States. Such grain constitutes less than 1 percent of the total volume of grain handled by export elevators. This provision is consistent with current provisions of law which do not require official weights for domestic shipments of grain.

The bill as reported by the committee does not change the requirement in current law that all grain discharged from an export elevator for a destination outside the United States must be officially weighed and officially supervised by State or Federal inspection personnel. In addition, notwithstanding the limited exemptions from official weighing provided by the bill, official weights must be obtained upon a request by either the shipper or receiver. The modifications proposed by H.R. 5546 to the inbound weighing requirements of the U.S. Grain Standards Act will result in a more reasonable inspection program which will continue to assure the integrity of U.S. grain exports. Official outbound weighing by State or Federal weighing and supervisory personnel provide sufficient protection to insure the integrity of U.S. grain exports.

It is worthwhile to note that the Committee on Agriculture ordered the bill reported by a vote of 34 to 3.

I urge my colleagues to support H.R. 5546.

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Mr. HAGEDORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5546, the bill to amend the U.S. Grain Standards Act.

This legislation would ease some of the regulatory burden on export companies without compromising the integrity of U.S. exports of agricultural commodities. Seven years ago, as the Members will remember, we had widespread irregularities in grain inspection and weighing systems in the country—particularly in the Gulf States—and as a result, we passed the U.S. Grain Standards Act of 1976.

This legislation has been designed to effect regulatory reform in such a way as to not interfere with our export trade. However, as in all cases, there is always a chance that you go too far and make the reform more burdensome than really need be.

Under the existing weighing requirements, companies must obtain official weighing services for every bushel of grain entering an export elevator, even if that grain is coming from another elevator owned by the same company. Official weighing in such circumstances has no commercial significance and serves only to compound the problems involved in moving grain to markets.

In addition, often the charges imposed by the Federal Government for the weighing services are higher than for similar work by private companies. This legislation, by eliminating this unnecessary weighing, can mean lower prices for producers and improve competition for U.S. grains in world markets.

Farm groups such as the American Farm Bureau Federation, the National Grain & Feed Association, the National Council of Farmer Cooperatives, the National Grain Trade Council, and many local grain producers and elevator associations have endorsed the concept of this legislation, which, as previously explained, would modify, to a limited extent, the U.S. Grain Standards Act.

I urge the passage of this legislation.

Mr. FOLEY. Mr. Speaker, I have no further requests for time.

Mr. HAGEDORN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill, H.R. 5546, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR UNITED STATES TO HOLD IN TRUST FOR THE TULE RIVER INDIAN TRIBE CERTAIN PUBLIC DOMAIN LANDS FORMERLY REMOVED FROM THE TULE RIVER INDIAN RESERVATION

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4124) to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation, as amended.

The Clerk read as follows:

H.R. 4124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600-601) are declared to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

SEC. 2. The lands referred to in section 1 are the following:

MOUNT DIABLO MERIDIAN, CALIFORNIA

TOWNSHIP 21 SOUTH, RANGE 31 EAST

Section 16:

That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.

Section 17:

That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 18:

That portion of the northeast quarter northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

South half northeast quarter.
Southeast quarter northwest quarter.
Section 20:
East half northeast quarter.
Southwest quarter northeast quarter.
South half northeast quarter.
Section 21:
Northwest quarter northwest quarter.
Section 28:
Tract 48.

SEC. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands located east of section 16. Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

SEC. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4124 provides that approximately 1,240 acres of forest lands be added to the Tule River Indian Reservation in California.

The Tule River Reservation was established by an Executive order of 1873 pursuant to an act of Congress. Shortly thereafter, a public survey of the boundaries of the reservation was conducted and approved.

In 1881, a private survey was made of the northeast corner of the reservation and approved by the General Land Office in 1884. This survey, later proven to be a deliberate fraud, excluded 1,480 acres of the best lands from the reservation, including the 1,240 acres involved in H.R. 4124.

These lands were first sold to private parties and, finally, were reacquired for inclusion in the national forest.

H.R. 4124 would correct this erroneous survey based upon fraud by restoring the land to the reservation.

Mr. Speaker, I urge passage of the bill, as amended.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4124. This bill provides for the United States to hold in trust for the Tule River Indian tribe to Tulare County, Calif., 1,240 acres of land currently in the public domain and administered by the U.S. Forest Service. This transfer to the tribe would be subject to valid existing rights, including those of the Forest Service, to have access to adjoining forest lands. This is a legislative vehicle that has as its purpose the advancement of the concept of self-determination for this California Indian tribe.

The land in question was originally part of the Tule River Indian Reservation as established by Executive order in 1873. It was excluded from the original reservation boundary by a fraudulent survey which enabled the surveyors themselves to buy the land and then sell it for a profit to non-Indian interests. The land was later added to the 1-million-acre Sequoia National Forest after nearly all of the timber had been removed. It has since been reforested and is valued by the Forest Service at $737,000.

Transfer of this small parcel to the Tule River tribe would return to it the only major economic resource it has ever had. Using sustained yield principles, the approximately 400 Tule River Indians can establish for the first time a viable, self-sustaining economic base. Without it, they and their reservation are extremely poor. Less than 200 acres of the 54,000-acre reservation are suitable for agriculture. Except for the timber, the rest is rough and rocky, potentially usable for grazing only if extensive irrigation facilities are installed.

I note with regret that the Forest Service opposes this bill, arguing that the Indians should not receive these lands because they benefited from errors in another survey involving another part of the reservation boundary, and because the Forest Service is better qualified to manage the land. The Interior Committee weighed the Forest Service position and determined that the larger Federal interest is in seeing the reservation's economic base enhanced and in righting the longstanding wrong committed against the Tule River Indians.

The committee reported the bill without dissent. The Senate in March of this year passed an identical bill with the support of both California Senators. I am pleased to note also that the two local county boards of supervisors and the two Members of Congress in whose districts the reservation is located are on record in support of H.R. 4124.

I therefore strongly urge the House to pass H.R. 4124.

Mr. PHILLIP BURTON. Mr. Speaker, I yield to the gentleman from California (Mr. Thomas), in whose district the reservation exists and who has worked long and hard to get the committee to advance this legislation to its conclusion.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from California for yielding.

Hopefully, this is the final chapter in what is all too often a sordid tale in terms of Federal Government relations with native Americans.

The Tule Indian Reservation, about 54,000 acres in Tulare County, had congressional authorization back in 1864 with President Grant establishing by Executive order in 1873 the grant of land.

As my colleague, the gentleman from California indicated, a survey, which with only a cursory examination of the facts would show was clearly fraudulent, deprived the Tule Indians of 1,480 acres. The surveyors themselves then acquired the land. Twelve hundred and forty acres are available to give back to the Indians, which was rightfully theirs by the Executive order of 1873, with the exception of 80 acres held by an individual and 160 acres held by the Boy Scouts of America.

Mr. Speaker, I would ask that this be approved by the Members.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time.

Mr. CLAUSEN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Phillip Burton) that the House suspend the rules and pass the bill, H.R. 4124, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1998) to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, and I do not intend to object, I just want to ask a question.

It is my understanding that the thrust of the request of the gentleman from California is to simply take the Senate version and substitute the House-passed version. They are exactly the same in nature. There are no differences and everyone is in concurrence with this, both the House and the Senate Members involved.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, the measure is similar and the gentleman is correct. I do intend to insert the House language.

Mr. CLAUSEN. The gentleman does intend to insert the House language in the Senate bill?

Mr. PHILLIP BURTON. Yes.

Mr. CLAUSEN. I understand that that meets with the approval of the principals from the California delegation involved.

Mr. PHILLIP BURTON. That is my understanding.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600–601), are declared to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

Sec. 2. The lands referred to in section 1 are the following:

Mount Diablo Meridian, California

Township 21 South, Range 31 East

Section 16: that portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.

Section 17: that portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 18: that portion of the northeast quarter, northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River. South half northeast quarter, southeast quarter northwest quarter.

Section 20: east half northeast quarter, southwest quarter northeast quarter, south half northeast quarter.

Section 21: northwest quarter northwest quarter.

Section 28: tract 48.

Sec. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands located east of section 16. Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

Sec. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.

□ 1300

MOTION OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Phillip Burton moves to strike out all after the enacting clause of the Senate bill, S. 1993, and to insert in lieu thereof the provisions of H.R. 4124, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4124) was laid on the table.

GENERAL LEAVE

Mr. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ESTABLISHING A RESERVATION FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7267) to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon, as amended.

The Clerk read as follows:

H.R. 7267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Subject to all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of the enactment of this Act, all right, title, and interest of the United States in the following parcel of land (consisting of approximately three thousand six hundred and thirty acres and located in the State of Oregon) is held in trust for the Confederated Tribes of Siletz Indians of Oregon:

(1) In township 9 south, range 9 west, Willamette meridian—

(A) in section 13 the southeast quarter of the northwest quarter;

(B) in section 14 the northeast quarter of the northeast quarter;

(C) in section 15 lot 2;

(D) in section 20 the east half of the east half of northeast quarter and the east half of the northeast quarter of the southeast quarter;

(E) in section 21 the south half of the northeast quarter, southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter;

(F) in section 22 the north half of the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the south half of the northwest quarter;

(G) in section 23 lots 3, 4, and 5, the southwest quarter of the northeast quarter, and the northwest quarter of the southeast quarter;

(H) in section 24 the northeast quarter of the southwest quarter;

(I) in section 25 lots 3 and 7, the southeast quarter of the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, and the southeast quarter;

(J) in section 26 the southeast quarter;

(K) in section 27 the south half of the northeast quarter of the northeast quarter, the south half of the northeast quarter, the south half of the southwest quarter of the northwest quarter, the southeast quarter of the northwest quarter, and the north half of the southeast quarter;

(L) in section 31 lot 20 and the southeast quarter of the northeast quarter;

(M) in section 32 the north half of lot 21;

(N) in section 34 the east half of the west half of the northwest quarter, the east half of the northeast quarter of the southeast quarter, the east half of the southwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter;

(O) in section 35 the north half of the southwest quarter, the southwest quarter of the southwest quarter, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter; and

(P) in section 36 the southwest quarter of the southeast quarter.

(2) In township 10 south, range 9 west Willamette meridian—

(A) in section 2 the north half of lot 7 and the north half of lot 8;

(B) section 3 lots 1, 2, 3, and 14;

(C) in section 4 the east half of the east half of the southwest quarter, the east half of the southeast quarter, the east half of the northwest quarter of the southeast quarter, the southwest quarter of the northwest quarter of the southeast quarter, and the southwest quarter of the southeast quarter;

(D) in section 6 the east half of the southwest quarter of the southwest quarter;

(E) in section 8 lot 3;

(F) in section 9 lots 1, 2, and 3 and the east half of lot 4;

(G) in section 13 the southwest quarter of the southeast quarter;

(H) in section 15 lot 1;

(I) in section 16 the southeast quarter of the southeast quarter;

(J) in section 17 lot 4;

(K) in section 18 lot 1;

(L) in section 20 lot 11;

(M) in section 21 lots 5 and 8;

(N) in section 22 lots 4, 5, and 17;

(O) in section 24 lots 1, 2, and 12;

(P) in section 25 the west half of the northeast quarter; and

(Q) in section 26 the southwest quarter of the southeast quarter.

(3) In township 10 south, range 10 west, Williamette meridian—

(A) in section 13 the east half of the northwest quarter;

(B) in section 14 the southeast quarter of the southwest quarter;

(C) in section 15 the south half of the northeast quarter and the east half of the southeast quarter of the northwest quarter;

(D) in section 20 lot 1 lying south of the southern boundary of the former Siletz Indian Reservation;

(E) in section 23 lots 6 and 7; and

(F) in section 24 lot 8.

(4) In township 10 south, range 8 west, Willamette meridian—

(A) in section 18 the southeast quarter of the northwest quarter and the southeast quarter of the southeast quarter;

(B) in section 20 the south half of the southeast quarter;

(C) in section 22 the southwest quarter of the northeast quarter; and

(D) in section 30 lot 1.

SEC. 2. The Secretary of the Interior, acting at the request of the Confederated Tribes of Siletz Indians of Oregon, shall accept (subject to all valid liens, rights-of-way, licenses, leases, permits, and easements existing on the date of the enactment of this Act) any deed or other instrument conveying to the United States the following parcel of land (consisting of approximately thirty-eight and forty-four one hundredths acres and located in the State of Oregon in the northeast quarter of section 9 and the southeast quarter of section 4 in township 10 south, range 10 west, Willamette meridian) conveyed to the city of Siletz on July 27, 1956 (known as Government Hill), and hold such land in trust for the Confederated Tribes of Siletz Indians of Oregon:

Beginning at a ¾-inch iron pipe at the northeast corner of section 9, township 10 south, range 10 west, Willamette meridian, in Lincoln County, Oregon. Said point being the true point of beginning; thence north 0 degrees 36 minutes 9 seconds east, 658.81 feet to a found 2-inch iron pipe; thence north 88 degrees 41 minutes 18 seconds west, 653.16 feet; thence south 1 degree 30 minutes 45 seconds west, 681.49 feet to a found ¾-inch iron pipe, thence south 89 degrees 17 minutes 43 seconds west, 564.83 feet to a stone marked with an "X", said point lying north 89 degrees 47 minutes east, 100.26 feet from a stone marked with an "X" at the northwest corner of the northeast quarter northeast quarter of section 9, township 10 south, range 10 west, Willamette meridian; thence south 0 degrees 6 minutes east, 660.48 feet to a 2-inch iron pipe; thence south 89 degrees 31 minutes west, 100.00 feet; thence south 59 degrees 43 minutes 18 seconds east, 1,298.82 feet; thence north 89 degrees 45 minutes east, 54.20 feet, to a point lying south 89 degrees 45 minutes west, 165.00 feet from a 1-inch pipe at the southeast corner of the northeast quarter northeast quarter of section 9, township 10 south range 10 west, Willamette meridian; thence north 0 degrees 34 minutes west, 598.98 feet; thence north 89 degrees 45 minutes east, 165.00 feet; thence north 0 degrees 34 minutes west, 730.79 feet to the point of beginning.

The Secretary of the Interior is directed to pay to the city of Siletz, Oregon, upon adequate documentation, an amount equal to the costs and expenses, not to exceed $5,000, incurred by the city of Siletz, Oregon, in connection with its consideration of, and planning for, the conveyance of said parcel, and in conveying said parcel to the United States.

SEC. 3. The parcel of land described in section 1 and any land described in section 2 conveyed to the Secretary of the Interior shall constitute the reservation of the Confederated Tribes of Siletz Indians of Oregon and shall be subject to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), and the provisions reapplied to such tribes pursuant to section 3 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711 et seq.). Such lands shall be subject to the right of the Secretary of the Interior to establish, without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or to serve adjacent or nearby Federal lands.

SEC. 4. The establishment of the Siletz Reservation or the addition of lands to the reservation in the future, shall not grant or restore to the tribe or any member of the tribe any new or additional hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980. Those rights as declared and set forth in the May 2, 1980, final judgment and decree shall constitute the exclusive and final determination of all tribal rights to hunt, fish, or trap that the Siletz Tribe or its members possess.

SEC. 5. The State of Oregon shall have civil and criminal jurisdiction with respect to the reservation constituted pursuant to section 3 and to any individual on the reservation, in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code.

The SPEAKER pro tempore (Mr. Foley). Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. Phillip Burton) will be recognized for 20 minutes, and the gentleman from California (Mr. Clausen) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Siletz Indians of Oregon had their Federal recognition terminated by act of Congress in 1954 pursuant to the now-discredited policy of rapid termination of Federal involvement in Indian affairs. Under this act, their reservation lands and other assets were sold and the proceeds distributed per capita.

In the last Congress, we recognized the mistake that had been made in terminating this tribe of Indians and passed a law restoring the tribe to Federal recognition including eligibility for the various Federal programs made available to Indians and Indian tribes. The Restoration Act did not reestablish a reservation for the tribe, but did require the Secretary of the Interior to study the need for such a reservation and to make recommendations to the Congress for the establishment of a reservation if found necessary.

H.R. 7267 is based upon the report of the Secretary recommending the creation of a reservation for the tribe from a small tract of land donated by the city of Siletz and from certain tracts of BLM lands.

Mr. Speaker, I urge the passage of the bill as amended.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7267. This bill provides for the establishment of a 3,630-acre reservation for the Confederated Tribes of Siletz Indians of Oregon. Creation of this reservation will provide the Siletz with a viable economic base and permit them to fully function as a federally recognized tribe.

H.R. 7267 is the product of an intensive 2-year effort by the tribe, the Bureau of Indian Affairs and State and local planners. As a result of the involvement of virtually all concerned parties in the preparation of the reservation plan, the bill is virtually without opposition.

The Interior Committee hearing on the bill found the administration, the Oregon congressional delegation, Congressman AuCoin, in whose district the reservation is located, the Governor of Oregon, affected local governments and the citizens of the city of Siletz in support. The committee reported the bill without dissent. It is in a form which I am advised will be acceptable to the Senate, which passed a similar bill, S. 2055, in March of this year.

In view of the record of support, the lack of opposition and the cause to be served, I urge the Members of the House to approve H.R. 7267.

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. AuCoin.

Mr. AuCOIN. Mr. Speaker, this bill is needed to reestablish a reservation for the Confederated Tribes of Siletz and allow the tribe to deal with its overriding social problems and become economically self-sufficient. The Restoration Act passed by the 95th Congress restored the tribe to official Federal tribal status and made its members eligible for certain health, education, and employment benefits. But more needs to be done.

Unemployment among tribal members continues at a critically high level. In Lincoln County, Oreg., alone, Indians have a 44 percent unemployment rate.

Over one-third of the Siletz families in the tribal service area have incomes below the official U.S. poverty level ($7,410 for a nonfarm family of four), while per capita income is only 38 percent of the State average.

Alcoholism affects virtually every Siletz family.

Nutritional problems are severe, as evidenced by the tribe's 44 percent death rate due to cardiovascular disease.

Nearly half of the adult tribal members did not complete high school.

The reservation will provide sufficient income so that the tribal government will have the resources and continued capability to address these problems. It will allow the tribe to meet its goal of economic self-sufficiency.

The bill transfers 3,630 acres of BLM timberland (in 37 different parcels) to the Bureau of Indian Affairs to be held in trust for the tribe. Harvested on a sustained yield basis, the timber is expected to generate approximately $600,000 a year in revenues.

The bill also transfers a 36-acre parcel known as Government Hill. This will be the site for the tribe's community facilities. A part of the former Siletz Reservation, this parcel was donated by the Federal Government to the city of Siletz and is now being returned voluntarily by the city. It was once the tribal cemetery and so is culturally significant to the tribe.

Revenues from reservation timber sales will be used for a long-range construction program of community facilities, including a clinic and community hall.

Establishing the reservation will create approximately 35 permanent, full-time jobs including tribal positions, in addition to many temporary construction jobs.

The reservation will favorably impact the surrounding Lincoln County community, both socially and economically.

Using economic base multipliers, it has been estimated that the reservation will generate 91 permanent full-time jobs.

The reservation plan calls for 5 percent of timber sales to be paid to the county of Lincoln for a period of 25 years.

At the height of the construction program, wages from tribal operations and construction will boost Lincoln County personal earned income by $1.4 million. If all construction and operational supplies are purchased locally, income to Lincoln County residents could reach $6 million.

Community facilities constructed at Government Hill will be available to residents of the city of Siletz.

The bill provides that the city of Siletz will be reimbursed for costs incurred in planning for the transfer of the Government Hill parcel, not to exceed $5,000 and to be paid out of existing moneys already budgeted to the BIA.

The bill will not aggravate the question of superior hunting and fishing rights. Indeed, it provides a resolution to the issue.

The tribe, Oregon Fish and Wildlife Department and the U.S. Department of the Interior negotiated a definition of the tribe's superior hunting and fishing rights, defining those rights in minuscule terms, but respecting the tribe's need for a cultural fishery.

The agreement was ratified by a Federal district court consent decree on May 2, 1980.

Section 4 of the bill references the consent decree, thus giving the terms of the agreement the force of an act of Congress.

The reservation plan is the product of an extensive consultation process and the bill implementing it enjoys widespread support in Oregon. The Department of Interior and the tribe undertook an extensive consultation and notification process in developing the plan, meeting frequently with State, county and city officials. This process included the establishment of a State-level Siletz committee, representing all affected State agencies.

The Oregon Environmental Council:

> The OEC's support for the Plan and legislation is based on its judgement that the social benefits to the tribe and local community from implementing the Plan are likely to be large, while the impacts on the natural environment are apt to be negligible.

Northwest Steelheaders: Testified on April 21 before the Oregon Fish and Wildlife Commission in support of the agreement on hunting and fishing rights.

Oregon Fish and Wildlife Commission: Supports the approach of the reservation bill, saying:

> The agreement and the specific reference to that (agreement) in H.R. 7627 removes any concern the Commission has regarding the fishing and hunting aspects of the proposed Siletz Indian Reservation, inasmuch as it confirms state authority to manage fish and wildlife.

Mr. CLAUSEN. Mr. Speaker, I have no further requests for time.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 7267, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 2055) to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I will make the same request of the gentleman from California (Mr. PHILLIP BURTON) that I made regarding the California Tule River Indian bill. The gentleman is attempting to substitute a Senate bill that has essentially the same language as the House-passed bill, H.R. 7267, in order to expedite the process: is that correct?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman.

Mr. PHILLIP BURTON. The gentleman is correct. If I understand the gentleman's question, it is my intent to insert all after the enacting clause the House language as just adopted by the House in lieu of the language of the other body.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements, all right, title, and interests of the United States in the land described below is declared to be held in trust for the Confederated Tribes of Siletz Indians of Oregon:

WILLAMETTE MERIDIAN, OREGON

Township 9 South, Range 9 West

Section 13: Southeast quarter northwest quarter;

Section 14: Northeast quarter northeast quarter;

Section 15: Lot 2;

Section 20: East half east half northeast quarter, east half northeast quarter southeast quarter;

Section 21: South half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter;

Secion 22: North half northwest quarter northeast quarter, northeast quarter northwest quarter, south half northwest quarter;

Section 23: Lots 3, 4, 5, southwest quarter northeast quarter, northwest quarter southeast quarter;

Section 24: Northeast quarter southwest quarter;

Section 25: Lot 3, lot 7, southeast quarter northeast quarter, southeast quarter northwest quarter, east half southwest quarter, southeast quarter;

Section 26: Southeast quarter;

Section 27: South half northeast quarter northeast quarter, south half northeast quarter, south half southwest quarter northwest quarter, southeast quarter northwest quarter, north half southeast quarter;

Section 31: Lot 20, southeast quarter northeast quarter;

Section 32: North half lot 21;

Section 34: East half west half northwest quarter, east half northeast quarter southeast quarter, east half southwest quarter southeast quarter, southeast quarter southeast quarter;

Section 35: North half southwest quarter, southwest quarter southwest quarter, northwest quarter southeast quarter, southeast quarter southeast quarter;

Section 36: Southwest quarter southeast quarter.

Township 10 South, Range 9 West

Section 2: North half of lot 7, north half of lot 8;

Section 3: Lots 1, 2, 3, and 14;

Section 4: East half east half southwest quarter, east half southeast quarter, east half northwest quarter southeast quarter, southwest quarter northwest quarter southeast quarter, southwest quarter southeast quarter;

Section 6: East half southwest quarter southwest quarter;

Section 8: Lot 3;

Section 9: Lots 1, 2, 3, and the east half of lot 4;

Section 13: Southwest quarter southeast quarter;

Section 15: Lot 1;

Section 16; Southeast quarter southeast quarter;

Section 17: Lot 4;

Section 18: Lot 1;

Section 20: Lot 11;

Section 21: Lots 5 and 8;

Section 22: Lots 4, 5, and 17;

Section 24: Lots 1, 2, and 12;

Section 25: West half northeast quarter;

Section 26: Southwest quarter southeast quarter.

Township 10 South, Range 10 West

Section 13: East half northwest quarter;

Section 14: Southeast quarter southwest quarter;

Section 15: South half northeast quarter and east half southeast quarter northwest quarter;

Section 20: Lot 1 lying south of the south boundary of the former Siletz Indian Reservation;

Section 23: Lot 6 and lot 7;

Section 24: Lot 8.

Township 10 South, Range 8 West

Section 18: Southeast quarter northwest quarter, southeast quarter southeast quarter;

Section 20: South half southeast quarter;

Section 22: Southwest quarter northwest quarter;

Section 30: Lot 1.

Containing 3,630 acres, more or less.

SEC. 2. The Secretary of the Interior, acting at the request of the Confederated Tribes of Siletz Indians of Oregon, shall, subject to all valid existing rights-of-way, licenses, leases, permits, and easements, accept any deed or other instrument conveying to the United States the land conveyed to the city of Siletz on July 27, 1956, known as Government Hill, and hold such land in trust for the Confederated Tribes of Siletz Indians of Oregon. Such land is described as:

WILLAMETTE MERIDIAN, OREGON

Township 10 South, Range 10 West

Section 4: South half of lot 32,

Section 9:

North half of lot 1,

North half of lot 2,

(except that portion of School Board Tract 62, described as:

Beginning at the 1/16 corner of the section line common to sections 4 and 9, this being the northwest corner of lot 2, and the true point of beginning, thence north 89 degrees 17 minutes east, 100 feet, thence south 0 degrees 01 minutes east, 660.31 feet, thence south 89 degrees 31 minutes west, 100 feet, thence north 0 degrees 01 minutes west, 659.84 feet, to the place of beginning),

Cemetery tract 61 described as:

Beginning at the section corner common to sections 3, 4, 9, and 10, thence south 0 degrees 34 minutes east, 664.74 feet, to the true point of beginning, thence south 89 degrees 31 minutes west, 1335.60 feet, thence south 59 degrees 44 minutes east, 1299.25 feet, thence north 89 degrees 45 minutes east, 54.2 feet, thence north 0 degrees 34 minutes west, 598.98 feet, thence north 89 degrees 45 minutes east, 165 feet, thence north 0 degrees 34 minutes west, 65.76 feet, to the true point of beginning.

Containing 35.03 acres, more or less.

SEC. 3. The lands described in the first section and (upon conveyance to the Secretary) section 2 of this Act shall constitute the reservation of the Confederated Tribes of Siletz Indians of Oregon and shall be subject to the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), and other provisions reapplied to such tribes pursuant to section 3 of the Siletz Indian Tribe Restoration Act (91 Stat. 1415; 25 U.S.C. 711a). Such lands shall be subject to the right of the Secretary of the Interior to establish without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or serve adjacent or nearby Federal lands.

SEC. 4. The establishment of the Siletz Reservation or the addition of lands to the reservation in the future shall not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation.

SEC. 5. The State of Oregon shall have civil and criminal jurisdiction with respect to the Siletz Reservation and persons on the reservation in accordance with section 1360 of title 28 and section 1162 of title 18, United States Code.

MOTION OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PHILLIP BURTON moves to strike out all after the enacting clause of the Senate bill, S. 2055, and to insert in lieu thereof the provisions of H.R. 7267, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7267) was laid on the table.

□ 1310

DESIGNATING CERTAIN PUBLIC LANDS IN CALIFORNIA AS WILDERNESS

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7702) to designate certain public lands in the State of California as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Wilderness Act of 1980".

DESIGNATION OF WILDERNESS

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated July 1980 (except as otherwise dated) are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Inyo National Forest, California, which comprise approximately forty-nine thousand nine hundred acres, as generally depicted on a map entitled "Boundary Peak Wilderness—Proposed", and which shall be known as the Boundary Peak Wilderness;

(2) certain lands in the Cleveland National Forest, California, which comprise approximately five thousand nine hundred acres, as generally depicted on a map entitled "Caliente Wilderness Proposal" dated July 1980, and which shall be known as the Caliente Wilderness;

(3) certain lands in the Eldorado National Forest, California, which comprise approximately fourteen thousand acres, as generally depicted on a map entitled "Caples Creek Wilderness—Proposed", and which shall be known as the Caples Creek Wilderness;

(4) certain lands in the Lassen National Forest, California, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Caribou Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Caribou Wilderness as designated by Public Law 88-577;

(5) certain lands in the Stanislaus and Toiyabe National Forests, California, which

comprise approximately one hundred ninety thousand acres, as generally depicted on a map entitled "Carson-Iceberg Wilderness—Proposed", and which shall be known as the Carson-Iceberg Wilderness: *Provided, however*, That the designation of the Carson-Iceberg Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities in the Wolf Creek Drainage on the Toiyabe National Forest in the same manner and degree in which such access was occurring as of the date of enactment off this Act;

(6) certain lands in the Shasta Trinity National Forest, California, which comprise approximately seven thousand three hundred acres, as generally depicted on a map entitled "Castle Crags Wilderness—Proposed", and which shall be known as the Castle Crags Wilderness;

(7) certain lands in the Shasta Trinity National Forest, California, which comprise approximately eight thousand two hundred acres, as generally depicted on a map entitled "Chancelulla Wilderness—Proposed", and which shall be known as Chancelulla Wilderness;

(8) certain lands in the Lassen National Forest, California, which comprise approximately fifteen thousand five hundred acres, as generally depicted on a map entitled "Cinder Buttes Wilderness—Proposed", and which shall be known as the Cinder Buttes Wilderness;

(9) certain lands in the Angeles National Forest, California, which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled "Cucamonga Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Cucamonga Wilderness as designated by Public Law 88-577;

(10) certain lands in the Inyo National Forest, California, which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Deep Wells Wilderness—Proposed", and which shall be known as the Deep Wells Wilderness;

(11) certain lands in the Los Padres National Forest, which comprise approximately sixty-seven thousand acres, as generally depicted on a map entitled "Dick Smith Wilderness—Proposed", dated October, 1979, and which shall be known as Dick Smith Wilderness: *Provided*, That the Act of March 21, 1968 (82 Stat. 51), which established the San Rafael Wilderness is hereby amended to transfer four hundred thirty acres of the San Rafael Wilderness to the Dick Smith Wilderness and establish a line one hundred feet north of the centerline of the Buckhorn Fire Road as the southeasterly boundary of the San Rafael Wilderness, as depicted on a map entitled "Dick Smith Wilderness—Proposed", and wherever said Buckhorn Fire Road passes between the San Rafael and Dick Smith Wildernesses and elsewhere at the discretion of the Forest Service, it shall be closed to all motorized vehicles except those used by the Forest Service for administrative purposes;

(12) certain lands in the Sierra National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dinkey Lakes Wilderness—Proposed", and which shall be known as the Dinkey Lakes Wilderness: *Provided*, That within the Dinkey Lakes Wilderness the Secretary of Agriculture shall permit nonmotorized dispersed recreation to continue at a level not less than the level of use which occurred during calendar year 1979;

(13) certain lands in the Sequoia National Forest, California, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Domeland Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of the Domeland Wilderness as designated by Public Law 88-577;

(14) certain lands in the Stanislaus National Forest, California, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Emigrant Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Emigrant Wilderness as designated by Public Law 93-632;

(15) certain lands in the Inyo National Forest, California, which comprise approximately forty-six thousand four hundred acres, as generally depicted on a map entitled "Excelsior Wilderness—Proposed", and which shall be known as the Excelsior Wilderness;

(16) certain lands in the Angeles National Forest, California, which comprise approximately thirty-two thousand nine hundred acres, as generally depicted on a map entitled "Fish Canyon Wilderness—Proposed", and which shall be known as the Fish Canyon Wilderness;

(17) certain lands in the Tahoe National Forest, California, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Granite Chief Wilderness—Proposed", and which shall be known as the Granite Chief Wilderness;

(18) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand six hundred acres, as generally depicted on a map entitled "Granite Peak Wilderness—Proposed", and which shall be know as the Granite Peak Wilderness;

(19) certain lands in the Cleveland National Forest, California, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Hauser Wilderness Proposal" dated July 1980, and which shall be known as the Hauser Wilderness;

(20) certain lands in Toiyabe National Forest, California, which comprise approximately forty-nine thousand two hundred acres, as generally depicted on a map entitled "Hoover Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Hoover Wilderness as designated by Public Law 88-577;

(21) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately forty-one thousand eight hundred and forty acres as shown on a map entitled "Ishi Wilderness—Proposed", and which shall be known as the Ishi Wilderness;

(22) certain lands in the Inyo National Forest, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Inyo National Forest—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the John Muir Wilderness as designated by Public Law 88—577;

(23) certain lands in the Sierra National Forest, California, which comprise approximately eighty-two thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Sierra National Forest—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the John Muir Wilderness as designated by Public Law 88-577: *Provided*, That the Secretary of Agriculture is authorized to modify the boundaries of the John Muir Wilderness Additions and the Dinkey Lakes Wilderness as designated by this Act in the event he determines that portions of the existing primitive road between the two wilderness areas should be relocated for environmental protection or other reasons. Any relocated wilderness boundary shall be placed no more than three hundred feet from the centerline of any new primitive roadway and shall become effective upon publication of a notice of such relocation in the Federal Register: *Provided further*, That the nonwilderness jeep corridor between Spanish Lake and Chain Lakes which is surrounded by the John Muir Wilderness Additions as designated by this Act shall be open to the public only for one week each year between July 15 and August 15 and one week between September 15 and October 15;

(24) certain lands in the Lassen National Forest, California, which comprise approximately three thousand nine hundred acres, as generally depicted on a map entitled "Lassen Volcanic Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Lassen Volcanic Wilderness as designated by Public law 92-510;

(25) certain lands in the Klamath National Forest, California, which comprise approximately thirty-eight thousand acres, as generally depicted on a map entitled "Marble Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Marble Mountain Wilderness as designated by Public Law 88-577;

(26) certain lands in the Sierra and Inyo National Forest, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "Minarets Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Minarets Wilderness as designated by Public Law 88-577;

(27) certain lands in the Eldorado, Stanislaus, and Toiyabe National Forests, California, which comprise approximately sixty thousand acres, as generally depicted on a map entitled "Mokelumne Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Mokelumne Wilderness as designated by Public Law 88-577;

(28) certain lands in the Sierra and Sequoia National Forests, California, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Monarch Wilderness—Proposed", and which shall be known as the Monarch Wilderness;

(29) certain lands in the Shasta Trinity National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Mt. Shasta Wilderness—Proposed", and which shall be known as Mt. Shasta Wilderness;

(30) certain lands in the Six Rivers National Forest, California, which comprise approximately eight thousand one hundred acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed", and which shall be known as the North Fork Wilderness;

(31) certain lands in the Shasta Trinity National Forest, California, which comprise approximately twenty-eight thousand acres, as generally depicted on a map entitled "Pattison Wilderness—Proposed", and which shall be known as the Pattison Wilderness;

(32) certain lands in the Cleveland National Forest, California, which comprise approximately thirteen thousand one hundred acres, as generally depicted on a map entitled "Pine Creek Wilderness—Proposed", and which shall be known as the Pine Creek Wilderness;

(33) certain lands in the San Bernardino National Forest, California, which comprise

approximately seventeen thousand acres, as generally depicted on a map entitled "Pyramid Peak Wilderness—Proposed", and which shall be known as the Pyramid Peak Wilderness;

(34) certain lands in the Klamath and Rogue River National Forests, California, which comprise approximately twenty-five thousand three hundred acres, as generally depicted on a map entitled "Red Buttes Wilderness—Proposed", and which shall be known as the Red Buttes Wilderness;

(35) certain lands in the Klamath National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Russian Wilderness—Proposed", and which shall be known as the Russian Wilderness;

(36) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Gorgonio Wilderness as designated by Public Law 88-577;

(37) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "San Jacinto Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Jacinto Wilderness as designated by Public Law 88-577: *Provided however*, That the Secretary of Agriculture may pursuant to an application filed prior to January 1, 1982, grant a right-of-way for, and authorize construction of, a transmission line or lines within the area depicted as "potential powerline corridor" on the map entitled "San Jacinto Wilderness Additions—Proposed": *Provided further*, That if a power transmission line is constructed within such corridor, the corridor shall cease to be a part of the San Jacinto Wilderness and the Secretary of Agriculture shall publish notice thereof in the Federal Register;

(38) certain lands in the Sierra and Inyo National Forests and the Devils Postpile National Monument, California, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "San Joaquin Wilderness—Proposed", and which shall be known as San Joaquin Wilderness: *Provided however*, That nothing in this Act shall be construed to prejudice, alter, or affect in any way, any rights or claims of right to the diversion and use of waters from the North Fork of the San Joaquin River, or in any way to interfere with the construction, maintenance, repair, or operation of the Jackass-Chiquito hydroelectric power project (or the Granite Creek-Jackass alternative project) as proposed by the Upper San Joaquin River Water and Power Authority: *Provided further*, That the designation of the San Joaquin Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities nor operation and maintenance of the existing cabin located in the vicinity of the Heitz Meadow Guard Station within the San Joaquin Wilderness, in the same manner and degree in which such access and operation and maintenance of such cabin were occurring as of the date of enactment of this Act;

(39) certain lands in the Cleveland National Forest, California, which comprise approximately thirty-nine thousand five hundred and forty acres, as generally depicted on a map entitled "San Mateo Canyon Wilderness—Proposed", and which shall be known as the San Mateo Canyon Wilderness;

(40) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand acres, as generally depicted on a map entitled "San Rafael Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Rafael Wilderness as designated by Public Law 90-271;

(41) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty thousand one hundred and sixty acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", and which shall be known as the Santa Rosa Wilderness;

(42) certain lands in and adjacent to the Sequoia National Forest, California, which comprise approximately forty-eight thousand acres, as generally depicted on a map entitled "Scodies Wilderness—Proposed", and which shall be known as the Scodies Wilderness;

(43) certain lands in the Angeles and San Bernardino National Forests, California, which comprise approximately forty-four thousand six hundred acres, as generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", and which shall be known as Sheep Mountain Wilderness;

(44) certain lands in the Cleveland National Forest, California, which comprise approximately five thousand two hundred acres, as generally depicted on a map entitled "Sill Hill Wilderness Proposal" dated July 1980, and which shall be known as the Sill Hill Wilderness;

(45) certain lands in the Six Rivers, Klamath, and Siskiyou National Forests, California, which comprise approximately one hundred and one thousand acres, as generally depicted on a map entitled "Siskiyou Wilderness—Proposed", and which shall be known as the Siskiyou Wilderness;

(46) certain lands in the Mendocino National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Snow Mountain Wilderness—Proposed", and which shall be known as Snow Mountain Wilderness;

(47) certain lands in the Sequoia and Inyo National Forests, California, which comprise approximately seventy-seven thousand acres, as generally depicted on a map entitled "South Sierra Wilderness—Proposed", and which shall be known as the South Sierra Wilderness;

(48) certain lands in the Modoc National Forest, California, which comprise approximately one thousand nine hundred and forty acres, as generally depicted on a map entitled "South Warner Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the South Warner Wilderness as designed by Public Law 88-577;

(49) certain lands in the Lassen National Forest, California, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Thousand Lakes Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Thousand Lakes Wilderness as designated by Public Law 88-577;

(50) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Timbered Crater Wilderness—Proposed", and which shall be known as the Timbered Crater Wilderness;

(51) certain lands in and adjacent to the Klamath, Shasta Trinity and Six Rivers National Forests, California, which comprise approximately five hundred thousand acres, as generally depicted on a map entitled "Trinity Alps Wilderness—Proposed", and which shall be known as the Trinity Alps Wilderness;

(52) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand seven hundred and fifty acres, as generally depicted on a map entitled "Ventana Wilderness Addition—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Ventana Wilderness as designated by Public Laws 91-58 and 95-237; and

(53) certain lands in and adjacent to the Six Rivers and Mendocino National Forests, California, which comprise approximately forty-six thousand acres, as generally depicted on a map entitled "Yolla-Bolly Middle Eel Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Yolla-Bolly Middle Eel Wilderness as designated by Public Law 88-577.

(b) The previous classifications of the Sierra Primitive Area, Emigrant Basin Primitive Area, and the Salmon-Trinity Alps Primitive Area are hereby abolished.

MONACHE WILDERNESS STUDY AREA

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this Act:

(1) certain lands in the Sequoia National Forest, California, which comprise approximately forty-two thousand acres, as generally depicted on a map entitled "Monache Wilderness Study Area", dated July 1980, and which shall be known as the Monache Wilderness Study Area.

(b) Subject to valid existing rights, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System; Provided, That within the Monache Wilderness Study Area the level of use existing during the year ending June 30, 1980, shall be permitted to continue.

NORTH MOUNTAIN PLANNING AREA

SEC. 4. (a) The following planning area shall be reviewed by the Secretary of Agriculture as to their suitability or nonsuitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this Act:

(1) certain lands in the Stanislaus National Forest, California, which comprise approximately four thousand acres, as generally depicted on a map entitled "North Mountain Planning Area", dated July 1980.

(b) Subject to valid existing rights, the planning areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character.

(c) Until Congress determines otherwise, timber volumes within the planning areas designated by this section shall be included in the base used to determine potential yield for the national forest concerned.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary concerned in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) Within the National Forest wilderness areas designated by this Act—

(1) as provided in subsection 4(d)(4)(2) of the Wilderness Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies and practices as the Secretary deems necessary, as long as such regulations, policies and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this Act;

(2) as provided in subsection 4(d)(1) of the Wilderness Act, the Secretary concerned may take such measures as are necessary in the control of fire, insects, and diseases, subject to such conditions as he deems desirable; and

(3) as provided in section 4(b) of the Wilderness Act, the Secretary concerned shall administer such areas so as to preserve their wilderness character and to devote them to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(c) Within sixty days of the date of enactment of this Act, the Secretary of Agriculture shall enter into negotiations to acquire by exchange or otherwise (on a willing-buyer-willing-seller basis and at the landowner's option) all or part of any privately owned lands within the Trinity Alps, Granite Chief, Castle Crags, and Mt. Shasta Wilderness areas as designated by this Act. Such acquisition shall to the maximum extent practicable, be completed within three years after the date of enactment of this Act. Market and exchange values shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 6. As soon as practicable after enactment of this Act, a map and a legal description on each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADDITIONS TO NATIONAL PARK SYSTEM

SEC. 7. (a) The following lands are hereby added to the National Park System:

(1) certain lands within the Stanislaus National Forest, California, which comprise approximately four thousands acres, as generally depicted on a map entitled "North Mountain Addition, Yosemite National Park—Proposed", dated July 1980, and which are hereby incorporated in, and which shall be deemed to be a part of Yosemite National Park;

(2) certain lands in the Sierra National Forest, California, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Mt. Raymond Addition, Yosemite National Park—Proposed", dated July 1980, and which are hereby incorporated in, and which shall be deemed to be a part of Yosemite National Park;

(3) certain lands in the Sequoia National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Jennie Lakes Additions, Sequoia-Kings Canyon National Park—Proposed", dated July 1980, and which area hereby incorporated in, and which shall be deemed a part of Sequoia and Kings Canyon National Parks.

(b) Upon enactment of this Act, the Secretary of Agriculture shall transfer the lands described in subsection (a) of this section, without consideration, to the administrative jurisdiction of the Secretary of the Interior for administration as part of the National Park System. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

(c) The Secretary of the Interior shall study the lands hereby added to the National Park System for possible designation as National Park Wilderness, and shall report to the Congress his recommendations as to the suitability or nonsuitability of the designation of such lands as wilderness by not later than three years after the effective date of this Act.

NATIONAL PARK WILDERNESS

SEC. 8. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Yosemite National Park Wilderness, wilderness comprising approximately six hundred seventy-seven thousand six hundred acres, and potential wilderness additions comprising three thousand five hundred and fifty acres, as generally depicted on a map entitled "Wilderness Plan, Yosemite National Park, California" numbered 104-20, 003-E dated July 1980, and shall be known as the Yosemite Wilderness;

(2) Sequoia-Kings Canyon National Park, wilderness comprising approximately seven hundred and thirty-six thousand nine hundred and eighty acres; and potential wilderness additions comprising approximately one hundred acres, as generally depicted on a map entitled "Wilderness Plan—Sequoia-Kings Canyon National Parks—California," numbered 102-20, 003-E and dated July 1980, and shall be known as the Sequoia-Kings Canyon Wilderness.

MAP AND DESCRIPTION

SEC. 9. A map and description of the boundaries of the areas designated in section 7 of this Act shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in this title. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 10. Any lands (in section 7 of this Act) which represent potential wilderness additions upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

ADMINISTRATION

SEC. 11. The areas designated by section 7 of this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SIX RIVERS PLANNING AREAS

SEC. 12. (a) The following "Planning Areas" shall be reviewed by the Secretary of Agriculture as to their suitability or nonsuitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this Act:

(1) certain lands in the Six Rivers and Klamath National Forests, California, which comprise approximately sixty thousand acres, as generally depicted on a map entitled "Eightmile and Blue Creek Planning Areas", dated July 1980; and

(2) certain lands in the Six Rivers National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Orleans Mountain Planning Area", dated July 1980: *Provided*, That within the area shown on such map as the "Ski Study Area" the Secretary shall conduct a special study as to the suitability or nonsuitability of the area for location of an alpine ski facility. In conducting such ski study the Secretary shall consider the need for an alpine ski facility in the region, climatological factors, the feasibility and location of possible road access to any ski facility and the impact of ski development on other multiple uses.

(b) Subject to valid existing rights, the planning areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character.

(c) Until Congress determines otherwise, timber volumes within the Planning Areas designated by this section shall be included in the base used to determine potential yield for the national forest concerned.

(d) Notwithstanding any existing or future administrative designation or recommendation, mineral prospecting, exploration, development, or mining or cobalt and associated minerals undertaken under the U.S. Mining Laws within the North Fork Smith roadless area (RARE II, 5-707, Six Rivers National Forest, California) shall be subject to only such Federal laws and regulations as are generally applicable to national forest lands designated as nonwilderness.

WILDERNESS REVIEW CONCERNS

SEC. 13. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest roadless areas in California and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to na-

tional forest lands in States other than California, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of California;

(2) upon enactment of this Act, the injunction issued by the United States District Court for the Eastern District of California in State of California versus Bergland (483 F. Supp. 465 (1980)) shall no longer be in force;

(3) with respect to the National Forest lands in the State of California which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94–588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case to the date established by law for completion of the initial planning cycle;

(4) areas reviewed in such Final Environmental Statement and not designated as wilderness by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans;

(5) Unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of California for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

DILLON CREEK

SEC. 14. (a) Certain lands in the Klamath National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dillon Creek Further Planning Area," dated July 1980, shall be considered for all uses, including wilderness, during the preparation of a forest plan for the Klamath National Forest pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (as amended).

(b) Pending completion of the plan, development activities such as timber harvest, road construction, and other activities that may reduce wilderness potential of the land will be prohibited. Activities permitted by prior rights, existing law, and other established uses may continue pending final disposition of the area. Although no harvesting of timber will be allowed other than for emergency reasons, standing timber on commercial forest land in the area will be used to determine allowable sale quantity.

(c) Recommendations for the Dillon Creek Further Planning Area shall be submitted to the Congress and, unless the Congress enacts legislation to the contrary within 180 calendar days while Congress is in session, the Dillon Creek Area shall be designated for the use recommended and managed accordingly, beginning January 1, 1986.

SEVERABILITY

SEC. 15. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

The SPEAKER pro tempore (Mr. AUCOIN). Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as chairman of the Subcommittee on Public Lands, I have spent a great deal of time on this bill both in hearings, in field trips, in markup, and in working with the various members of the California delegation. I strongly support H.R. 7702, the California Wilderness Act of 1980, which I believe represents a reasonable compromise solution to several urgent problems.

Without going into the details of all of those problems at the moment, I feel that it is a remarkable achievement, much of the credit for which is due to the gentleman from California (Mr. PHILLIP BURTON) who, as the ranking Californian on the House Committee on Interior and Insular Affairs, took the lead in getting the various members of the California delegation, particularly those in whose districts some of these lands are situated, to look at this bill in detail and to work out compromise solutions, which, while not completely satisfying everyone in every respect, I believe go about as far as we can go in legislation toward reaching a consensus.

For those who may not have had the privilege of working closely with our colleague, PHILLIP BURTON, on a complex and important legislative proposal, I would add that, in his mastery of detail, his ingenuity at finding constructive solutions to knotty conflicts, his knowledge of the many and varied interests in his home State, his sense of balance, his legislative expertise and, above all, his unflagging dedication to the public good, he is one of the truly great public servants of our time.

While this bill is the result of the combined efforts of many, many people, to the extent it bears the stamp of any one person, that person is PHILLIP BURTON.

I would like also to acknowledge the constructive contributions of our colleague, DON CLAUSEN, the ranking minority member of the Interior Committee, as well as BOB LAGOMARSINO and CHIP PASHAYAN, all members of the committee from California.

As chairman of the subcommittee, it has been my task, in the last year and a half, to attempt to sort out the fate of some 62 million acres of national forest roadless lands in the United States which were reviewed for wilderness designation under the Forest Service's RARE II program. Nowhere has this task been more urgent than in California where a growing population is leading to greater and greater demands to preserve wildlands in their natural state, while at the same time their commodity use is expanding.

A resolution of the California RARE II issue was made urgent this year by a U.S. district court decision in the State of California against Bergland which declared the RARE II process to be legally insufficient to support wilderness decisions on almost 1 million acres of roadless lands in California and which placed an injunction on any development in those 1 million acres. In short, if there is no RARE II wilderness legislation enacted for California this year, over three-fourths of the national forest roadless land in the State, or some 4.7 million acres will remain in a wilderness "limbo," where development is constrained either by court order or existing law and administrative policy. Included in these constraints would be a freeze on lands which have an annual estimated timber harvest of 125 million board feet (almost 6 percent of the total national forest harvest potential in California) and which would be freed for possible harvest if H.R. 7702 is enacted. Mineral development, potential ski sites, several hydroelectric projects and transmission lines, and off-road vehicle use on popular routes would also either be blocked or remain under a cloud of uncertainty if no bill is enacted. And the next Congress would be forced back to the reconsideration of widely divergent bills which propose wilderness additions ranging from 1.3 to 5.1 million acres of national forest lands.

Important as the issues of ending uncertainty and opening lands for commodity production and development may be, Mr. Speaker, I should stress the positive conservation benefits of H.R. 7702. Enactment of this legislation will go a very long way toward completing the National Wilderness Preservation System in California and protecting the State's remaining scenic and natural gems. Not only will the wilderness designations of H.R. 7702 preserve outstanding opportunities for primitive recreation and scenic diversity, but perhaps more importantly, it will provide significant long-term economic and other benefits by protecting critical salmon and steelhead fisheries, insuring continued high quality water flows and supplies, and preserving a diverse undisturbed gene pool of wildlife and plant species. However, rather than consuming the House's time with a lengthy description of the bill allow me to highlight some of the bill's major provisions and effects:

First. The 2.1 million acres of national forest wilderness and wilderness additions of H.R. 7702 represent a compromise between the high of 5.1 million acres and the low of 1.3 million acres in the two major California wilderness bills (H.R. 5578 and H.R. 5586) which were before the committee. These compromise wilderness proposals cover widely diverse areas and ecosystems ranging from the second largest unprotected national forest roadless area in the lower 48 States, to the world famous Mount Shasta and the biologically unique Russian Peak roadless area, to the desert ecosystems of southern California. Notable features protected in various areas include critical bighorn sheep habitat in the mountains surrounding the Los Angeles basin; all or portions of streams containing the remaining summer steelhead runs in the State; the Nation's highest desert mountains; the world's largest Joshua tree;

two of the most spectacular river canyons in the Sierra; native golden, Paiute, and San Gorgonio trout habitat; major segments of the Pacific Crest Trail; a portion of the range of the California condor; some of the richest and most genetically diverse conifer forests in the world; several sites of critical religious and cultural significance to Native Americans; and numerous undeveloped lands in close proximity to Los Angeles and San Diego.

Second. In contrast to its wilderness designations, the bill frees some 580,000 acres of roadless lands from a court injunction on development, and also will result in the termination of further wilderness study and interim wilderness protection on another 240,000 acres of Presidentially recommended further planning lands. As noted earlier, this will free up some 125 million board feet of annual potential timber yield for possible harvest. This volume is over twice as much the potential that the bill puts into wilderness over and above the President's recommendations.

Third. The major minerals conflict of which the committee is aware was resolved by exempting an area of cobalt, nickel and chrome potential from any further constraints on development which might result from administrative wilderness consideration of the area.

Fourth. With few exceptions, the areas identified by the ski industry as promising ski development or expansion sites have been excluded from wilderness. Areas available for ski development will include Giddy Giddy Gulch on Mount Shasta, the Sherwin Bowl, the San Joaquin ridge, Mitchell-Maddox, Mount Reba and Kirkwood expansion areas, and Sherman Peak.

Fifth. Several major potential hydroelectric sites or projects, including the Spicers Meadow expansion, the Dinkey Creek project, and the Granite Creek-Jackass project have either been excluded from the bill's wilderness proposals or have been otherwise accommodated.

Sixth. Many major off-road vehicle travel routes, including the State's longest 4-wheel-drive trail, have been left out of wilderness.

Seventh. The so-called release language of the bill prohibits further wilderness-related lawsuits and insulates some 2.2 million acres of national forest lands from wilderness study in the near future * * * most probably until at least 1993. The bill also precludes any further statewide wilderness reviews of national forest roadless lands in California, and thereby guarantees that there will be no likelihood of a RARE III in the State.

Eighth. The bill and accompanying committee report incorporate guidelines on livestock grazing in wilderness in order to insure that activities necessary to the continuation of livestock grazing operations will be allowed to be pursued in wilderness. The Forest Service and the Department of Agriculture have indicated that they will honor both the letter and spirit of these guidelines, and efforts are underway to inform Forest Service field personnel thereof. Due to the keen interest in this issue, I am including a copy of Chief Peterson's letter of July 29, 1980, on the subject, so that it will appear in the CONGRESSIONAL RECORD along with my remarks.

The letter follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., July 29, 1980.
Hon. JOHN F. SEIBERLING,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a summary of action taken to date to implement the gazing guidelines contained in the conference report on S. 2009, the Central Idaho Wilderness Act of 1980.

First, let me state that we intend to apply the guidelines uniformly to all National Forest wildernesses. Steps are underway to review existing policy and inform our field personnel on how to apply the Congressional guidelines.

Implementation of the guidelines was discussed with all Regional Foresters at a meeting earlier this month. In a July 25 memorandum to all Regional Foresters we provided them with a copy of a Forest Service Manual Interim Directive that will be issued soon and urged that it be provided to all appropriate line and staff officers. This Interim Directive contains the Congressional grazing guidelines. In addition, steps are underway to examine existing Forest Service Manual direction to determine where policy change is needed to insure guideline implementation.

Sincerely,
R. MAX PETERSON,
Chief.

Mr. Speaker, I would like to stress that the subcommittee worked very closely with representatives of the National Forest Service not only in developing the grazing provisions and "release" provisions but in working out the boundary changes and the impact on timber yield. The timber yield estimates were based on very precise mapwork and estimates by Forest Service field personnel. On this point, I am including at this point in the RECORD a copy of Chief Peterson's letter to me dated July 30, 1980.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C. July 30, 1980.
Hon. JOHN F. SEIBERLING,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We reviewed the probable impact H.R. 7702 would have on timber potential yield with Andy Weissner of your staff on July 25. As discussed with Mr. Weissner, yield figures based on proportional acreage calculations and other sources are probably the best estimates that can be produced in a relatively short period of time.

A more accurate calculation of the potential yield of these proposed wildernesses could be obtained if we sent maps with boundaries to the field. The National Forests involved could calculate yield based on their in-place data base for the specific area included. It would require at least two weeks to complete this task.

We suggested a couple of changes as we reviewed the potential yield figures. In lieu of site specific data acquired as described above, we believe Mr. Weissner's estimates are reasonable indicators of timber impacts resulting from H.R. 7702.

Sincerely,
R. MAX PETERSON,
Chief.

I would also like, at this opportunity to express my profound thanks and commendation to the superb professional work by Mr. Andy Wiessner of the subcommittee staff. He was admirably assisted at various times by Mr. Stan Sloss and Ms. Loretta Neumann, also of the subcommittee staff, as well as by Jim Huska, Public Lands Subcommittee Minority staff; Dale Crane and Clay Peters, National Parks Subcommittee staff; and Jean Toohy and Gary Ellsworth, of the Interior Committee minority staff. Dora Trapkin and Allison Baxter provided their usual excellent administrative support.

In conclusion, Mr. Speaker, allow me to reiterate my contention that H.R. 7702 represents a well balanced response to an exceedingly complex set of conditions and interests. Aside from the Alaska lands bill, I cannot think of a land conservation proposal during my tenure in Congress that has involved as many diverse issues and areas of land and I believe H.R. 7702 deals with the matter in a manner that is fair to all interests concerned.

I am aware that there are some in the timber industry who are dissatisfied with the bill, and I can only say to them that if the bill passes, 94 percent of the current potential yield of the national forest lands in California will remain in the timber harvest base. In addition, I would observe that in order to accommodate expanded timber production, the committee dropped from the bill such longstanding conservationist wilderness proposals as Red Buttes, the South Fork Trinity River watershed, portions of the Siskiyous, Rincon, Rancheria, the North Fork of the American River, and many other areas. In short, compromises were made on both sides in order to reach a reasonable final compromise product.

I heartily endorse that final product, and urge my colleagues' support of H.R. 7702.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, H.R. 7702 provides for the designation of certain wilderness areas in the State of California and is the result of some year-long discussions and negotiations by and between the various elements of our society that have access to public lands, as well as various individuals involved in the environmental community and, most fundamentally, among the various members of our rather diverse California delegation. I am particularly proud of this product because it does reflect in fact the best judgment possible under all the circumstances of the various individual Members on both sides of the aisle with reference to this very important problem affecting our great State of California.

Unlike any other State in the country, my California colleagues are aware of the fact that we have a Federal district court decision that in effect has enjoined a great, great number of areas of our State from multiple use, and its potential impact on our State's economy could be, in the absence of dealing with that injunction, quite serious. So with the knowledge and with the view that the California situation is in fact sui generis, we in fact have a problem that no other State in the Nation has. We in fact have an enormous stake that this matter be reconciled. We have come forth with this bill that I believe reasonably accommodates for the here and now most of the legitimate and reasonable interests, if not all of the needs, of the various elements of the California society. I would be remiss if I did not first give plaudits not only to all of my colleagues in our State but to our distinguished chairman of the Subcommittee on Public Lands, the gentleman from Ohio (Mr. Seiberling), who has been truly outstanding in his efforts to achieve a balanced allocation of these lands. His knowledge and diligence and persuasiveness, as well as his patience, I might observe, have provided the glue to hold these competing viewpoints together.

I would like to underscore my appreciation to the most able staff on both sides of the aisle for their effective efforts in this respect.

The staff of the Interior Committee, in particular Andy Wiessner, Dale Crane, Gary Ellsworth, and Judith Lemons, as well as Chuck Bosley, Jean Toohey, Larry Adams, and Reed Boatwright have worked long hours under difficult circumstances on these complex issues bringing much credit to the professionalism of our staff. I am particularly grateful to the members of the California Environmental Coalition who have worked so hard on this bill: Tim Mahoney, Washington coordinator; Russ Shea, California coordinator; Doug Scott, San Francisco; Everett and Delphine Fountain, Humboldt County; Bob and Susie Morris, Trinity County; Louis Ireland, Sacramento; John Moore, San Francisco; Sally Reid, Los Angeles; Ken Croker, San Diego; George Whitmore, Fresno; Bob Barnes, Fresno; David and Ellen Drell, Citizens Committee To Save Our Public Lands; Jim Dupree, Mount Shasta; Tim McKay, North Coast Envioronment Center; John Modin, San Joaquin Wilderness Association; Joe Fontaine and Dr. Ed Wayburn, Sierra Club; and Bob Leonard, Granite Chief Task Force have all been very helpful to me and to other members of the delegation.

I should also commend the organizational efforts of the Sierra Club, the Wilderness Society, Friends of the Earth, and the Audubon Society. Also to be commended are Bob Roberts, Sierra Ski Area Operators Association; Dave McCoy, Mammoth Mountain Ski Association; Alan Nedry, Southern California Edison Co.; Upper San Joaquin River Water and Power Authority; Steve DeMaria and Nancy Reyonlds, Bendix Corp.; Terry Bracy, Pratt-Whitney organization relating to the cobalt-nickel deposits in northern California; and Gary Magnuson, State of California representative.

Last, but not least, this legislation would not have been possible but for the vision and early leadership of Dr. Rupert Cutler, Assistant Secretary of Agriculture. Rupert Cutler's initiative and persistence in setting in motion the RARE II study process was an essential ingredient that has made today's effort possible. This RARE II process and the resulting fruits thereof should stand as a monument to this great human being and environmentalist.

Mr. Speaker, H.R. 7702 (introduced by Mr. Phillip Burton and cosponsored by Mr. Udall, Mr. Beilenson, Mr. John L. Burton, Mr. Coelho, Mr. Dellums, Mr. Dixon, Mr. Edwards of California, Mr. Miller of California, Mr. Stark, Mr. Waxman, Mr. Kastenmeier, Mr. Bingham, Mr. Weaver, Mr. Eckhardt, Mr. Won Pat, Mr. Vento, Mr. Corrada, Mr. Kostmayer, Mr. Markey, and Mr. Murphy of Pennsylvania) represents a synthesis of viewpoints expressed in a number of bills.

H.R. 5578 (introduced by Mr. Phillip Burton and cosponsored by Mr. John L. Burton, Mr. Bingham, Mr. Dellums, Mr. Edwards of California, Mr. Kastenmeier, Mr. Kostmayer, Mr. Markey, Mr. Miller of California, Mr. Ottinger, Mr. Patterson, Mr. Roybal, Mr. Stark, Mr. Vento, Mr. Waxman, Mr. Beilenson, Mr. Won Pat, Mr. Evans of the Virgin Islands, Mr. Moffett, Mr. Kildee, Mr. Weiss, Mr. Dixon, Mr. Brodhead, Mr. Mitchell of Maryland, and Mrs. Fenwick) required wilderness designation for all lands recommended by the President for wilderness, all lands recommended for further planning and nonwilderness lands which were recommended for wilderness by the State of California.

H.R. 5586 (introduced by Mr. Johnson of California and cosponsored by Mr. Clausen, Mr. Danielson, Mr. Pashayan, and Mr. Coelho) was introduced by my friend Bizz Johnson and included only those lands recommended by the President for wilderness, except that an area on Mount Shasta was excluded to permit a ski development. H.R. 5586 also included specific language to prevent wilderness consideration in the future on any California national forest lands not designated as wilderness in this bill. Representative Johnson also introduced H.R. 3299 establishing a wilderness area and ski development area near Mount Shasta.

Our colleague, Jim Lloyd introduced H.R. 5541 to include the Sheep Mountain Wilderness Area incorporating lands which would protect the range of the Nelson Big Horn sheep.

H.R. 5817 was introduced by the very able and dedicated member of our committee from the 19th District, Robert Lagomarsino, to establish the Dick Smith Wilderness in the Los Padres National Forest. While not a member of the California delegation, our very good friend from Oregon, Jim Weaver, recognized the ecological continuity of the Red Buttes area in Oregon and California and introduced H.R. 4383 to designate the area wilderness. H.R. 3299, H.R. 5541 and H.R. 5817 were essentially included in H.R. 7702.

This list of bills gives only a parital idea of the complexity of the California problem. However, to add to the complexity our delegation faced, the State of California, with my very good friend Huey Johnson, Administrator of the Resources Agency at the forefront, filed suit against the Secretary of Agriculture challenging the process upon which the President's nonwilderness recommendations were made on over 40 areas in the State. The courts concurred with the State of California and enjoined any development in those areas that would change the wilderness character until the wilderness value had been properly considered.

Huey Johnson's leadership in this effort placed our effort in a most useful context of reality.

Mr. Speaker, H.R. 7702 would add 53 areas (listed below) of national forest lands in the State of California, totaling 2,136,630 acres, to the National Wilderness Preservation System. Another 166,000 acres would be slated for further wilderness evaluation as classified wilderness study or planning areas. Twenty three thousand acres of national forest roadless areas would be added to the National Park System, and some 1,418,230 acres of existing park land would be classified as National Park Wilderness. The bill also lifts the court imposed injunction on logging and other development on some 580,000 acres of roadless lands, and insulates these and other lands from further wilderness studies in the near future.

Area	*Acreage*
Boundary Peak Wilderness	49,900
Caliente Wilderness	5,900
Caples Creek Wilderness	14,000
Caribon Wilderness Additions	1,800
Carson-Iceberg Wilderness	190,000
Castle Crags Wilderness	7,300
Chancelulla Wilderness	8,200
Cinder Buttes Wilderness	15,500
Cucamonga Wilderness Additions	4,400
Deep Wells Wilderness	7,600
Dick Smith Wilderness	67,000
Dinkey Lakes Wilderness	30,000
Domeland Wilderness Additions	31,000
Emigrant Wilderness Additions	6,100
Excelsior Wilderness	46,400
Fish Canyon Wilderness	32,900
Granite Chief Wilderness	25,000
Granite Peak Wilderness	10,600
Hauser Wilderness	8,000
Hoover Wilderness Additions	49,200
Ishi Wilderness	41,840
John Muir Wilderness Additions (Inyo National Forest)	9,000
John Muir Wilderness Additions (Sierra National Forest)	82,000
Lassen Volcanic Wilderness Additions	3,900
Marble Mountain Wilderness Additions	38,000
Minarets Wilderness Additions	9,000
Mokelumne Wilderness Additions	60,000
Monarch Wilderness	45,000
Mt. Shasta Wilderness	37,000
North Fork Wilderness	8,100
Pattison Wilderness	28,000
Pine Creek Wilderness	13,100
Pyramid Creek Wilderness	17,000
Red Buttes Wilderness	25,300
Russian Wilderness	12,000
San Gorgonio Wilderness Additions	21,500
San Jacinto Wilderness Additions	10,900
San Joaquin Wilderness	110,000
San Mateo Canyon Wilderness	39,540
San Rafael Wilderness Additions	2,000

Area	*Acreage*
Santa Rosa Wilderness	20,160
Scodies Wilderness	48,000
Sheep Mountain Wilderness	44,600
Sill Hill Wilderness	5,200
Siskiyou Wilderness	101,000
Snow Mountain Wilderness	37,000
South Sierra Wilderness	77,000
South Warner Wilderness Additions	1,940
Thousand Lakes Wilderness Additions	7,000
Timbered Crater Wilderness	22,000
Trinity Alps Wilderness	500,000
Ventana Wilderness Additions	2,750
Yolla-Bolly Middle Eel Wilderness Additions	46,000

The bill also designates wilderness within two units of the National Park System; Yosemite National Park, 677,600 acres (3,550 acres potential wilderness), Sequoia-Kings Canyon National Park, 736,980 acres (100 acres potential wilderness).

JOHN SEIBERLING has worked many hours with delegations from the timber industry and environmental groups to resolve the convoluted legal problems of the State of California lawsuit. The resulting language in the bill is, in my opinion, a monument to JOHN's mastery of the legal profession.

H.R. 7702 incorporates those wilderness areas included in the bills introduced by our colleagues and preserves future options of the Congress to evaluate other areas where a concensus was not reached.

I would like to close my remarks by observing that I have seldom had the pleasure of observing firsthand the tough-minded and mature judgment exercised by all of our various colleagues from our State who come at this problem from varied philosophical points of view, and given the stark reality that we had to have some solution, we have, with their help, been able to hammer out this accommodation. An accommodation that has produced the longest single wilderness bill—for any of the lower 48 States—that has ever been approved in the history of the U.S. House of Representatives.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding. I would only echo the remarks of my colleagues that this is an example of a very difficult situation being worked out in a relatively short period of time by persons on all sides being willing to compromise. In that regard if I could just receive some assurance from the gentleman regarding my particular case in the 18th Congressional District, which, as the gentleman knows, was a map signed off by those particular interests in the district. Over the district work period I spent 4½ days in the wilderness on horseback, four-wheeled drive vehicles, and in a helicopter examining some of those lines that have been drawn on the map.

Mr. PHILLIP BURTON. I am impressed.

Mr. THOMAS. The horseback part especially would have been impressive—about 40 miles. Some of the lines are probably not as appropriate as we initially considered. Movement of some of the lines several hundred yards north, or south, or east, or west to a ridge for example might be more appropriate, providing a more identifiable and boundary for the agency involved. Do I have the assurance of my colleague that if we can get agreement of all the parties on the original map that these kinds of adjustments can be made as the bill moves along?

Mr. PHILLIP BURTON. Absolutely.

Mr. THOMAS. I thank the gentleman very much.

Mr. SEIBERLING. I think it is time that the Members on the other side of the aisle have time.

☐ 1320

GENERAL LEAVE

Mr. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CLAUSEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the California RARE II legislation began almost a year ago with the introduction of two bills, H.R. 5578 introduced by the gentleman from California (Mr. PHILLIP BURTON) and H.R. 5586 introduced by my colleague, the distinguished chairman of the Committee on Public Works and Transportation (Mr. JOHNSON of California), myself and other Members of the California delegation.

Around these bills, as I think most of the Members know, two different groups actually rallied and then subsequently polarized with little hope of reaching an agreement.

The original Burton bill was never considered in recognition of the fact that it was an extreme position and was not advanced by its author at any time during the committee's consideration of the issue or markup sessions.

All efforts centered instead around a series of extensive and demanding negotiations that involved representatives of every interest group concerned about public lands generally and the mangement of those lands specifically.

More than 10 months later we are now in the full House asking for suspension of the rules in order to expedite passage of a bill which a major portion of the California delegation supports. This has not been an easy process. A series of long and very difficult negotiations have brought us to this point.

It must be said, however, that not everyone agrees with all aspects of the legislation before us and it contains a number of provisions which remain highly controversial but I believe in the overall it is the best possible product developed under very difficult circumstances.

Of particular significance is the agreement reached on the so-called release language or as others have described it, "sufficiency language."

It should be noted that the Interior Committee does not have jurisdiction over matters affecting management of our national forests, such as the "release language" provisions incorporated in the bill. This area of responsibility more properly lies within the jurisdiction of the Agriculture Committee. In recognition of this fact, an exchange of letters has taken place to acknowledge that the action taken by the Interior Committee has no effect on the jurisdictional interests of the Agriculture Committee.

The final language is a result of honest and open negotiations and I believe represents a good faith effort to address the problems created by the California lawsuit which has been alluded to earlier by my colleagues, the gentleman from California (Mr. PHILLIP BURTON) and the gentleman from Ohio (Mr. SEIBERLING).

The injunction is deemed to be no longer in force. The language also removes any basis for new litigation in California by declaring the EIS not subject to any further judicial review. The section goes on to say that we will not reconsider the released areas for wilderness during the first generation of forest plans nor is the Forest Service in any way obligated to manage these areas to protect their wilderness quality.

The acceptance of this language is demonstrated by the fact that it has already been inserted almost word for word in the Colorado RARE II bill pending in the Senate Energy and Natural Resources Committee and in the compromise Alaska lands bill being debated by the full Senate.

Without enactment of release language for California the timber supply coming off our national forests will be interrupted causing higher stumpage prices, higher housing costs, the closing of mills, and the obvious loss of employment.

Delays in timber sales on the north coast of California would have a particularly serious impact. Quite frankly, Mr. Speaker, we are still reeling from the impact of the Redwood National Park expansion in the lands that were taken in association with that legislative vehicle.

This is not to say, of course, that we should pass bad legislation to obtain enactment of the release language portion. The two issues cannot be separated. The boundaries contained in the bill for wilderness should receive close scrutiny and may require some adjustments before final enactment of a California bill.

The areas of greatest controversy are those placed in "planning area" or study status. The committee chose this classification as a way of leaving the door open for further fine tuning modification or revising of the land management plans of these particular areas. This effort will have to be made before the overall proposal is, in fact, ultimately and finally acceptable.

If those involved truly want a solution to this issue this year, this process will take place. With this understanding, I intend to support the advancement of this legislation on the Senate.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from the State of Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I take this time to reaffirm the jurisdictional interest of the Committee on Agriculture in the so-called sufficiency language found in section 13 of H.R. 7702.

I personally appreciate the willingness of my colleagues on the Committee on Interior to work with me and with the staff of the Agriculture Committee on this extraordinarily difficult and complex issue. The committee report to accompany this measure contains an exchange of letters between the two committees reaffirming the provisions found in the Speaker's letter of November 29, 1979, that any bill which includes "release" or other language addressing the management of national forest lands not designated as wilderness is a matter properly for referral to the Committee on Agriculture along with the Committee on Interior and Insular Affairs.

I want to commend my colleague from Ohio (Mr. SEIBERLING) and my colleagues from California (Messrs. JOHNSON, PHILLIP BURTON, DON CLAUSEN, and others) for their efforts in bringing about this compromise that is acceptable to the administration and generally acceptable to a number of the competing interest groups. I believe that enactment of this type of legislative language will reduce the uncertainty that has plagued the management of our public lands and will enable the Forest Service to get on with the business of managing these lands so that they will play an important role in providing employment, reducing inflation, and contributing commodities and uses that are vital to the well-being of our society.

There is, however, one particular issue that I do want to raise with the floor manager of this bill. A question has been raised whether the legislation implies that present statute requires that so-called first generation plans must be completed by September 30, 1985. That is not the case.

The National Forest Management Act, signed into law in 1976, provides that the Department of Agriculture shall make every effort to complete the first generation of plans by that date, but the act does not require that this be done.

I recognize and appreciate the fact that the Forest Service will continue to work toward the goal of completing these first generation plans by September 30, 1985, and I fully appreciate that the committee does not intend by this language that there be any loophole that will allow any interest group or individual to force consideration of the wilderness option if, in the unlikely event, the Forest Service is unable to complete a first generation plan until 1986 or 1987.

I am concerned that such a situation could arise because of unforeseen delays, including appeals from either side, and thus force the consideration of the wilderness option.

I would appreciate hearing from the floor manager so that this point might be clarified and so that we will not be providing any cause for concern over the actual meaning of this language.

Mr. SEIBERLING. Mr. Speaker, I completely concur with the statement just made by the gentleman from Washington. There is no intent, so far as I know—and as chairman of the subcommittee I believe I would know—that there would be anything in this bill that would force consideration of the wilderness option in the unlikely event that the Forest Service were unable to complete a first generation plan until 1986 or 1987.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I wanted to concur in the remarks made by the distinguished chairman of the Committee on Agriculture (Mr. FOLEY) and the gentleman from Ohio (Mr. SEIBERLING). The negotiations that took place on this matter had the concurrence of all involved and I want to compliment the gentleman from Washington (Mr. FOLEY) for his role in monitoring this release language negotiating effort as chairman of the House Agriculture Committee having jurisdiction over Forest Service planning and land management activities.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute in order to say that I know the gentleman from Washington (Mr. FOLEY), the distinguished chairman of the Committee on Agriculture, has been very concerned about this problem of release of the lands that are included in the wilderness by the various bills we take up on this subject. I am most gratified by the constructive effort the gentleman has made and to hear the gentleman's remarks. It is a very important problem, one that needed to be addressed. It shows to me when we get all of the interests involved together—that includes the environmental groups, the forest products industry and the National Forest Service as well as representatives of the gentleman's committee and other interested Members, it is possible sometimes to work out a consensus, and happily we have done so in this case.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I think this is a basis for resolving similar issues in other bills that will be brought forward.

Mr. SEIBERLING. I certainly agree and I think we will be able to do that as a result of the work done here.

□ 1330

Mr. FOLEY. I again congratulate the distinguished manager of the bill.

Mr. SEIBERLING. I thank the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I want to rise in support of this legislation and associate myself with the remarks made by Mr. SEIBERLING and Mr. FOLEY. This has been a very difficult, very complex, and very emotional piece of legislation. All of those who had a hand in putting it together deserve to be congratulated. It is a good bill; it is badly needed at this time, and I strongly support it.

Mr. SEIBERLING. I thank the gentleman.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. JOHNSON), the distinguished chairman of the Public Works Committee and someone whose district probably has more of the wilderness areas than any other district in California.

Mr. JOHNSON of California. Mr. Speaker, the bill before us, H.R. 7702, is the product of months of extended discussion and negotiation following hearings on California wilderness legislation which were held late last year.

We began with two major legislative proposals. One incorporated the President's proposals for national forest wilderness designations in California. This measure, H.R. 5586, was introduced after completion of the Forest Service roadless area review and evaluation (RARE II). I was the principal author and cosponsors included Mr. CLAUSEN, Mr. DANIELSON, Mr. PASHAYAN, Mr. COELHO, Mr. THOMAS, Mr. BURGENER, Mr. GOLDWATER, Mr. DORNAN, Mr. SHUMWAY, Mr. GRISHAM, and Mr. DANNEMEYER.

The other, H.R. 5598, introduced by Mr. PHILLIP BURTON and cosponsored by still other California Members of Congress, incorporated conservationist recommendations for national forest wilderness.

Following many discussions, Mr. PHIL BURTON introduced H.R. 7702 which is a replacement for his earlier bill and moves in the direction of the administration's original proposals—more in some cases, less in others.

H.R. 7702 has some positive features from the standpoint of national forest users. It contains language freeing nonwilderness areas from litigation and releasing them from further wilderness consideration for a limited period.

It also excludes key hydroelectric and ski sites from wilderness. It places certain areas previously marked for further planning in immediate nonwilderness status.

On the other hand, this bill places forest lands with 134 million board feet of annual potential timber yield in wilderness, significantly reducing our permanent timber supply.

Furthermore, the bill does not release nonwilderness areas from further consideration for wilderness for the 10- to 15-year period the industry believes necessary. It does not fully recognize livestock grazing as a permanent activity in wilderness areas where such grazing had long been established prior to wilderness designation.

The loss of annual potential timber yield which H.R. 7702 would create must be a matter of grave concern, not only to the timber and lumber business, but to those who build homes for their livelihoods, and to those who need new homes throughout California and the Nation.

The 134 million board feet lost annually is enough timber to provide new housing for almost 400,000 people every year. This is about the number of people expected to be born in California this year. Most of these people, and most of the new homes to be built are in southern California. Just as southern California looks to northern California for much of its water, so too does it look for northern California for wood for homes.

In that part of northern California which I represent here in Congress, the impact of these reductions would be particularly heavy. The reduction in timber yield would not be distributed more-or-less evenly throughout national forests in the State. On the contrary, most of it would come from our areas in the north.

In the Klamath National Forest, for example, this bill would remove over 10 million board feet of annual timber yield in addition to that already removed under the President's proposals.

In the Shasta-Trinity National Forest this bill removes some 16 million board feet of annual timber yield in addition to that already removed under the President's proposals.

For these reasons, Mr. Speaker, H.R. 7702 cannot be described as a fully satisfactory bill.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. Duncan).

Mr. DUNCAN of Oregon. Mr. Speaker, I hesitate really to introduce any kind of a discordant note into this thus far very amicable debate. I know how much work the committee has put into this bill. I know the passions that are involved any time we get into a debate over productivity and the environment. I know from my service on the Interior Committee, many, many years with Mr. Johnson of California and Mr. Udall, the difficulties involved in arriving at any kind of agreement in this field. And, I also believe that politics is the art of the possible, that it may very well be that this is the most that either side can hope for, and that what we really ought to do is go ahead with it.

But, I cannot let the debate go by without indicating to the House that I am disturbed by at least two elements. The first one is the fact that this bill, after the years and the agony of RARE I and RARE II, and the President's recommendation of a little over 1 million acres of additional wilderness land in California to go into the wilderness system, that the committee has brought to the floor of the House this afternoon a bill that adds some 800,000 acres to the President's recommendations—and no one can accuse this administration of not being environmentally oriented.

Now, I really have no idea, having not studied each individual boundary and each individual allocation of wilderness, what the impact is going to be on the resource space of this country. But, I do know that I serve on the Interior Subcommittee on Appropriations, and one of my big jobs has been to try to get the appropriations to maintain the resource space of this country because, I want to suggest to the Members, all wealth ultimately comes out of the ground, and we will come back here tomorrow and debate the nonproductivity of American industry and what we can do to make it more productive and more competitive and how we can get people back to work.

I appreciate the support of the Interior Committee for the work we did on the Appropriations Committee to get a 300 million board feet increase in production and sales in 1981 over what the administration recommended, but I do not know what the impact on this timber production is going to be in this bill. The best estimates I get is that it is going to adversely affect it by somewhere between 120 and 160 million board feet.

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. CLAUSEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Now, if this is the price that has to be paid for relief language, then I am apprehensive as we go through this process State by State that the base, the mineral base and the timber base and the energy base of this country, is going to be so substantially eroded that we will have a difficult time ever again regaining our productive position in the world.

□ 1340

Mr. Speaker, the second thing I am disturbed about is the release language. I am very pleased, frankly, with a cursory reading of the committee report, and I am pleased at the colloquy that took place between the chairman of the Committee on Agriculture and the chairman of the subcommittee. If that language that was contained in the report were in the bill, I think I would be completely satisfied, but it is not. I have been through enough lawsuits to know that a court will look at what the bill says, and if the bill is ambiguous, it will look at what the committee report says. But if it is not ambiguous, and I do not think it is, then the court will not go beyond the colloquy on the floor to the committee report to try to determine legislative intent.

I suppose I ought to tell the Members where I came from today. I wanted to come back to participate in this debate, and yesterday morning at this time I was on a horse riding out in the Three Sisters Wilderness. I spent 3 days up there. That is my concept of what we ought to be doing with wilderness areas.

It is an alpine area. There is timber there. It is beautiful timber; it is not highly valuable timber. It is not useful to the extent it would be if it were at lower elevations for building houses and creating industries, but that does not detract one iota from its esthetic qualities.

That is what we ought to be doing. I am reluctant to take 800,000 more acres in this California bill, setting a precedent for what we do in State after State, and further eroding that bill to the point where, as the gentleman from California (Mr. Johnson) said, we do not have the timber at reasonable cost to build the houses that we need in Chicago, in New York, in Kansas City, and in Baltimore.

The SPEAKER pro tempore. The time of the gentleman from Oregon (Mr. Duncan) has expired.

Mr. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I believe I have only 1 minute left, and I yield myself the balance of my time.

Mr. Speaker, I simply want again to commend the members of the committee and subcommittee, the members from California, other interested parties, and the administration for the really prodigious effort that was made to work out some reasonable compromises which made this bill possible.

The thing I would stress again is that there were 125 million potential board feet of timber in the national forest that were tied up by court injunction in the State of California, and that this bill ends that situation and releases the vast majority of that timber so that it will again be accessible for commercial development.

So from every point of view, there are pluses in this bill. For every interest involved, there are pluses in this bill. That is why we were able to take it up in this manner today.

Mr. Speaker, again I particularly thank the gentleman from California (Mr. Phillip Burton), who contacted all the concerned members of the California delegation and without whose effort this package could not have been put together.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to extend my thanks and appreciation for the time and energy all the members of the committee have put into this effort.

It was hard going. It was an extremely difficult negotiation, and many of the points made and addressed by my friend, the gentleman from Oregon (Mr. Duncan), and my friend, the gentleman from California (Mr. Johnson), were clearly a part of these intense negotiations.

The very fact that there was incorporated into the legislative report language with reference to the so-called conservation areas serves notice, I believe, that there is an opportunity in the further planning process to further fine-tune some of these land areas. It would be my objective to work toward that end as we work to achieve what I perceive to be some requirements for improvement on the Senate side and continue to work with the committee so we can get a better package finally accepted by the Congress, hopefully this year.

Mr. Speaker, I reserve the balance of my time.

● Mr. SYMMS. Mr. Speaker, I rise in opposition to the resolution.

On the day H.R. 7702 was considered by the House Committee on Interior and Insular Affairs, members of the committee and members of the California delegation received a letter from the Western Timber Association and the National Forest Products Association urging amendments to the bill. I am seriously concerned that the points raised in this letter about the effect of this legislation on local dependent industry and communities and America's wood consumers have not been dealt with openly and forthrightly.

I have a number of questions I would like to pose to the chairman to determine the real effect of this legislation on timber productivity in northern California.

My understanding is that regional Forest Service planners indicate the bill will have a disastrous effect on current and planned timber sale programs in northern California national forests. The Resources Planning Act program calls for increasing yields from California national forests in the 1980's to meet unprecedented housing demands. Much of this demand will come from California's own population. Does the committee have information from the Forest Service which specifically relates the effect of the legislation on Forest Service ability to meet timber goals under current programs and under future efforts to meet our Nation's timber needs?

Industry indicates that the legislation would threaten hundreds of jobs and viability of at least two mills and several mill communities. Has the committee given this factor consideration in such a way that assures that this serious result will not occur?

In describing the effect of this legislation, the committee seems to place great weight on the fact that 94 percent of the potential yield of California national forests is unaffected by this particular bill. This is a meaningless approach to analyzing the effects of this legislation on the timber industry, on dependent communities, and on California and national wood needs. This kind of data ignores the fact that over the past several years substantial set-asides of timberlands in northern California for the Redwood National Park and other wilderness areas have already hampered Forest Service abilities to carry out timber sale programs. All it says is that of what remains in the timber base, this legislation will take another 6 percent. We need to face clearly that the timber base in California national forests has been diminished in major proportions over the last few years. We need to understand that timber demands are increasing, not decreasing.

If we are serious about meeting those demands so that American wood consumers will have enough wood at reasonable prices, without relying on uncertain imports from other nations, then we ought to measure our actions by this need. The better way to measure the effect of this legislation is to be sure that the Forest Service is able to meet timber goals it has set forth in its own Resources Planning Act program. My understanding is that this kind of analysis has not been made. We are kidding ourselves if we accept any other kind of analysis until this kind of an impact has been determined. My understanding is the impact of this legislation is unacceptable in these terms; and, therefore, it should be rejected.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 7702, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TEMPORARY CHANGE IN DUTY ON CERTAIN UNWROUGHT LEAD

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6089) to prohibit until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents, as amended.

The Clerk read as follows:

H.R. 6089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following item:

"911.50	Unwrought lead other than lead bullion (provided for in item 624.03, part 2G, schedule 6)……	3% ad val. on the value of the lead content, but not less than 1.0625¢ per lb. on the lead content	No change	On or before 6/30/83"

(b) Before July 1, 1983—

(1) no modification of the temporary column 1 rate of duty in item 911.50 (as added by subsection (a)) may be proclaimed by the President under any authority of law except title II of the Trade Act of 1974; and

(2) no duty or other import fee, except that provided for in such item 911.50 and those provided for under the amendments made by title I of the Trade Agreements Act of 1979, may be imposed on unwrought lead provided for in such item.

SEC. 2 (a) The amendment made by subsection (a) of the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of enactment of this Act, the entry or withdrawal from warehouse, for consumption of any article to which item 624.03 of the Tariff Schedules of the United States applied and—

(1) that was made on or after January 1, 1980, and before the date of the enactment of this Act; and

(2) with respect to which the duty would have been different if the amendment made by subsection (a) of the first section of this Act applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. I yield myself such time as I may consume.

Mr. Speaker, H.R. 6089, as amended by the Committee on Ways and Means, modifies the column 1 (most-favored-nation) rate of duty on unwrought lead from 3.5 percent ad valorem to 3 percent ad valorem but not less than 1.0625 cents per pound, from date of enactment until June 30, 1983. Any change in, or imposition of any duty or import fee other than, the modified duty is prohibited during the 3-year period except as a relief measure against injurious import competition or as a remedy in the form of countervailing or antidumping duties from foreign unfair trade practices. The modified duty would apply retroactively upon request to U.S. Customs on articles entered, or withdrawn from warehouse, for consumption between January 1, 1980, and date of enactment.

The existing MFN rate of duty of 3.5 percent ad valorem on unwrought lead was imposed on January 1, 1980, as a result of a conversion of the previous specific duty of 1.0625 cents per pound to an ad valorem equivalent duty of 5.1 percent, based on 1976 import values, which was then reduced to 3.5 percent in the multilateral trade negotiations concluded last year. The purpose of converting most specific duties to ad valorem rates in the MTN was to eliminate the significant erosion in their protective effect for domestic producers due to inflation. However, in the case of unwrought lead, prices rose sharply in the past 2 years as general inflation and world demand for lead increased. Consequently, the converted 3.5 percent duty imposed on January 1 constituted a substantial increase in duty for lead consumers, such as battery producers, over the specific rate previously in effect, rather than a duty reduction as generally took place in the trade negotiations.

The purpose of H.R. 6089 as introduced, which prohibited imposition of the 3.5 percent converted rate of duty, was to induce a reevaluation of that duty in light of more current lead prices. H.R. 6089, as amended by the Committee on Ways and Means, establishes a new duty for a temporary period representing a compromise between U.S. lead producers and lead consumers and reflecting current lead import prices. The committee has received no objections to the bill as amended from any source and reported it to the House by voice vote.

I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I would like to speak in support of H.R. 6089 which I introduced and which, in the amended version now before us, represents a successful compromise effort. As already described by the distinguished chairman of the Trade Subcommittee, Mr. VANIK, the bill would temporarily reduce the duty on unwrought lead other than lead bullion.

From the beginning, we simply wanted to clear away an inequity that arose unexpectedly when certain tariff conversions agreed upon in the multilateral trade negotiations (MTN) went into effect at the same time our country was experiencing peak inflation rates. As is so often the case, however, conflicting interests saw different paths to a solution. After extensive discussions, producers and consumers of unwrought lead arrived at a mutually satisfactory proposal that addressed the problem yet did not intrude against the interests of any one group. H.R. 6089 now incorporates that compromise proposal, and I hope my colleagues will support it.

The amended bill establishes a rate of duty for unwrought lead of 3 percent ad valorem, but in no case less than 1.0624¢ per lb. on the lead content. Also, the bill prohibits any negotiated change in the duty or any extension of duty-free status for this particular item under the generalized system of preferences (GSP) during the time the bill's provisions are in effect. Neither could unilateral administrative action be taken with respect to unwrought lead under the national security provisions of the Trade Expansion Act of 1962, or under section 301 of the Trade Act of 1974 which provides for a Presidential response to foreign import restrictions and export subsidies. However, the bill does not interfere with the rights and obligations established by our countervailing duty and antidumping laws and leaves intact the import relief and readjustment provisions of the Trade Act of 1974. These provisions would be in effect through June 30, 1983.

Although H.R. 6089 is somewhat more complicated than we had hoped when we began this process, the result is agreeable to the parties of interest and has been accepted by the administration. At the beginning of this process, the administration was legitimately concerned about certain premature benefits the bill might award to Mexico, a country that had recently voided certain bilaterally negotiated concessions when it made the decision not to become a member of GATT. However, Mexico has since renewed negotiations with the United States outside the context of GATT membership, and an agreement on unwrought lead and three other lead items has now been achieved. As a consequence, it is a particularly appropriate time to pass H.R. 6089 in its amended version.

Mr. Speaker, I would like to thank our distinguished colleague from Missouri (Mr. GEPHARDT) for his concern and participation in the lengthy process that made this compromise solution possible. The bill now has broad support and I urge the House to unanimously approve it today.

☐ 1350

Mr. VANIK. Mr. Speaker, I just want to say that our colleague, the gentleman from Minnesota (Mr. FRENZEL), is the one who developed this compromise. It is acceptable to both producers and users of lead in the United States. The entire Ways and Means Committee and this Congress owe the gentleman from Minnesota (Mr. FRENZEL) a debt of gratitude for his dedication in working out a solution to this problem which ultimately resulted in the bill which bears his name.

I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 6089, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Tariff Schedules of the United States to provide for a temporary change in the duty on unwrought lead, and for other purposes.".

A motion to reconsider was laid on the table.

TEMPORARY SUSPENSION OF DUTY ON CERTAIN WRAPPER TOBACCO

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7139) to suspend for 1 year the duties on wrapper tobacco, as amended.

The Clerk read as follows:

H.R. 7139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"903.65	Wrapper tobacco (provided for in item 170.10, part 13, schedule 1)............	Free	No change	Until the entry or withdrawal from warehouse, for consumption of the 2,000,000th pound of such tobacco after the date of the enactment of this item, or until the close of June 30, 1981, whichever first occurs".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7139, as amended by the Committee on Ways and Means, suspends the 36 cents per pound column 1 (most-favored-nation) rate of duty on not more than 2 million pounds of unstemmed wrapper tobacco entered, or withdrawn from warehouse, for consumption after date of enactment or until June 30, 1981, whichever occurs first.

A plant disease called "blue mold" is currently significantly reducing supplies of wrapper tobacco imported from Central America and the Caribbean and also affecting domestic production principally in the Connecticut Valley of New England, resulting in a world shortage of wrapper tobacco. The purpose of the temporary duty suspension is to help reduce costs for the U.S. cigar industry due to short supplies of wrapper tobacco resulting from the effect of "blue-mold" disease.

The bill as amended addresses the concerns of domestic filler tobacco producers that suspending the duty on wrapper tobacco would permit an upsurge in filler imports or diversion of wrapper imports for use as filler by limiting the amount of wrapper tobacco that may enter duty-free to a maximum of 2 million pounds.

The Committee on Ways and Means was also aware of domestic tobacco industry concerns that a temporary duty suspension on wrapper tobacco could create a precedent for providing duty-free entry of imports of other types of tobacco potentially disruptive to domestic production. The committee's report to the House emphasizes that the 1-year suspension of the duty on unstemmed wrapper tobacco is strictly a temporary relief measure to dampen the adverse effects of blue-mold disease on the domestic crop in 1980, and that this provision should not be renewed. The committee also urged the administration to closely monitor imports of wrapper tobacco to assure that this provision does not create a loophole for the duty-free import of filler tobacco.

The committee reported H.R. 7139 as amended by voice vote. I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I join our distinguished colleague in supporting H.R. 7139, a bill providing for a temporary suspension of the duty on unstemmed wrapper tobacco as applied to the first 2 million pounds entered, or withdrawn from warehouses for consumption in the United States.

The bill is temporary in nature and very limited in scope because it was designed strictly as an interim relief measure to lessen the adverse effects of blue mold disease on the 1980 tobacco crop. This disease has affected the major areas of production in Central America, the Caribbean, and the Connecticut Valley in the United States thereby creating a world shortage. Limited supplies, along with declining consumer demand, has forced a cost-price squeeze for American cigar manufacturers that has become especially acute this year. Therefore, the committee has been persuaded that a limited amount of relief in the form of a temporary duty suspension is warranted.

During committee consideration of this bill, there were concerns expressed that the different tariff treatment of wrapper tobacco and filler tobacco which would result from enactment of

H.R. 7139, might lead to circumvention of the filler tobacco duty. If such circumvention occurred, it would have an adverse effect on domestic cigarette manufacturers. Therefore, the committee amended H.R. 7139 so that it included a quantitative limitation on imports of unstemmed wrapper tobacco which by definition could contain large amounts of the filler variety. The quota along with careful monitoring by customs officials should prevent an influx of filler tobacco entering under duty-free status.

Mr. Speaker, the bill as amended has received broad support from the Department of Agriculture, cigar manufacturers, and the tobacco industry in general. I believe the committee has responded to all the concerns raised with respect to this legislation and, as currently drafted, the bill is truly noncontroversial and worthy of our approval today.

I urge my colleagues to support H.R. 7139.

● Mr. BONER of Tennessee. Mr. Speaker, today, the House of Representatives is in the process of considering 12 suspension bills, considered by the House leadership to be "noncontroversial" in nature. Bills such as S. 1863, U.S. *Savannah* Charter Act, or H.R. 7267, the Siletz Tribe Reservation Land Act would supposedly be of little controversy to many of our citizens.

Mr. Speaker, at this time I should like to take issue with one of the suspension bills, H.R. 7139, the Wrapper Tobacco Duty Suspension Act, which will permit over two million pounds of duty-free entry of imported Cigar-wrapper tobacco into the United States.

In May of 1980, I voiced my strong objections to this legislation, on behalf of the dark-fired producers in our Fifth District of Tennessee, which is one of the largest dark-fired tobacco producing regions in the Nation. I have written to Chairman Charles Vanik of the Trade Subcommittee on Ways and Means, indicating my fear that once a precedent is set to permit the duty-free importation of any type of foreign-produced tobacco into this country, further attempts will be made to expand such action by the importation of foreign-produced cigarette leaf, including Flue-cured, burley, dark, and other cigar tobaccos. Tobacco farmers face difficult times in competing in the international market with the low cost of production of foreign-produced tobacco and can ill afford to have duty-free competition of foreign tobacco within our domestic market.

Mr. Speaker, Chairman Vanik indicated to me that the subcommittee and committee considered H.R. 7139 and included language in the House Report designed to prevent a "loophole for duty-free import of filler tobacco." A copy of Chairman Vanik's letter in this matter appears below.

I understand that the long-standing attempt of the domestic cigar manufacturers to obtain tariff relief for imported cigar tobacco and the windfall profit from the reduction and/or elimination of the tariff duty has been opposed by the American producers of tobacco over the years. This latest attempt to secure a 1-year duty-free quota appears also to be profit motivated, since there is considerably more than a 2-year supply of wrapper tobacco in bonded storages in the United States.

Our domestic cigar manufacturers would be hard pressed to justify the need for duty-free imports other than economic windfall that will accrue to them as a result of the enactment of this proposed legislation.

I believe, Mr. Speaker, that the U.S. tobacco producers cannot now, nor will they ever be able to, compete with the cheap labor in developing countries, such as Argentina, Brazil, India, Korea, Malawi, Mexico, Mozambique, Philippines, and Zambia.

I urge my colleagues in the Congress to oppose this legislation when it comes before the House for final consideration. Chairman Vanik's letter follows:

Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C., July 14, 1980.

Hon. Bill Boner,
Cannon House Office Building.

Dear Colleague: I am responding to your letter expressing opposition to H.R. 7139, providing a one-year suspension of duty on imports of wrapper tobacco.

After careful consideration, the Subcommittee on Trade on June 19 and the full Committee on Ways and Means on July 1 ordered the bill favorably reported for House consideration. The Committee amended the bill as introduced to meet the concerns of domestic tobacco industry about possible increased import competition by limiting coverage of the temporary duty suspenson to no more than 2 million pounds of unstemmed wrapper tobacco entering between the date of enactment and June 30, 1981. The Committee was assured by the Department of Agriculture that these amendments will meet the concerns of tobacco producers that suspending the duty on wrapper tobacco would permit an upsurge in filler imports at the same time carrying out the purpose of the bill in providing cigar manufacturers an adequate supply of foreign-grown wrapper during the current shortage.

In addition, the Committee approved the following language for inclusion in its report to the House on the bill:

"The Committee emphasizes that this one-year suspension of the duty on unstemmed wrapper tobacco is strictly a temporary relief measure to dampen the adverse effects of blue mold disease on the domestic crop in 1980, and that this provision should not be renewed. The Committee is concerned about the possibility that wrapper tobacco might ultimately be used as filler tobacco. Consequently, the Committee urges the Administration to closely monitor imports of wrapper tobacco to assure that this provision does not create a loophole for the duty-free import of filler tobacco."

I hope this information is responsive to your concerns.

Sincerely,

Charles A. Vanik,
Chairman.●

Mr. FRENZEL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. VANIK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Vanik) that the House suspend the rules and pass the bill, H.R. 7139, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended to read: "A bill to suspend for not exceeding 1 year the duty on certain wrapper tobacco.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6089 and H.R. 7139.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT AMENDMENTS OF 1980

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5381) to amend the Federal Property and Administrative Services Act of 1949 to reform contracting procedures and contract supervision practices of the Federal Government, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding after section 305 the following new section:

"REMEDIES FOR CONTRACTOR ABUSE

"Sec. 306 (a) (1) Every person who enters into a contract or agreement for the procurement, transfer, or disposition of property or services pursuant to this Act shall certify that, in connection with the obtaining, execution, and performance of such contract or agreement (including any amendment or change order thereto), he—

"(A) (i) has furnished all material information required by the Administrator or his designee and (ii) will furnish all such material information; and

"(B) (i) has not furnished false or misleading material information and has not failed to furnish material information available to him and necessary to prevent any material information previously furnished from being false or misleading and (ii) will not furnish false or misleading nor fail to furnish material information available to him and necessary to prevent any material information previously furnished from being false or misleading.

"(2) Any person who makes a certification under paragraph (1) which is false or who violates the certification required under paragraph (1) (A) (ii) or (1) (B) (ii) to the prejudice of the Government's interest shall be subject to an assessment as determined by the Administrator in accordance with the following schedule:

"(A) an assessment of not less than $1,000 nor more than $15,000;

"(B) an assessment equal to 10 per centum of the consideration agreed to be given by or to the United States under the contract with respect to which the certification was made;

"(C) an assessment equal to the sum of the assessments which may be imposed under subparagraphs (A) and (B);

"(D) an assessment in an amount not less than three nor more than five times the damages to the Government resulting from such false certification or violation plus, at the Administrator's election, consequential damages;

"(E) an assessment equal to twice the consideration agreed to be given by the United States under the contract or agreement with respect to which the certification was made; or

"(F) at the Administrator's election, the restoration to the United States of the money or property obtained under the contract or agreement with respect to which the certification was made and the United States shall retain any money or property given as consideration for such contract.

"(b)(1) An assessment for a violation of subsection (a) of this section shall be assessed by the Administrator through an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with the procedure in section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to whom such order addressed of the Administrator's proposal to issue such order, the nature of the order contemplated, and provide such person an opportunity to request, within fifteen days of the date such person receives the notice, a hearing on the order where such person may show cause why the order should not be issued.

"(2) In determining the type and amount of an assessment, the Administrator may take into account the nature, circumstances, and extent of the false certification or violation, the substantiality of the prejudice to the Government's interest, any pattern of other such false certifications or violations, or the degree of good faith exhibited under the contract.

"(3) Notwithstanding any other provision of law, the Administrator and no other subordinate official may, by written order identifying the reasons and need therefor, compromise, modify, or remit, with or without conditions, any assessment which may be imposed under this subsection. The amount of such assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

"(4) For the purposes of an investigation leading to a hearing or the entering of an order (or for the conduct of a hearing) under subsection (b)(1), the Administrator or his designee is empowered to administer oaths or affirmations, take evidence, require by subpena the attendance of witnesses and the production of any books, papers, correspondence, memorandums, or other records which the Administrator or his designee deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In the case of contumacy by, or refusal to obey a subpena issued to, any person, the Administrator may invoke the aid of any United States district court within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. And such court may issue an order requiring such person to appear before the Administrator or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

"(c) Any person who requested in accordance with subsection (b)(1) a hearing with respect to an assessment and who is aggrieved by a final order assessing an amount to be paid to the Government may file a petition for judicial review of such order with the United States court of appeals for the circuit in which such person resides. Such a petition may only be filed within the thirty-day period beginning on the date the final order making such assessment was issued. In reviewing the order appealed from, the findings of the Administrator as to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and an order shall not be set aside by the court unless the decision to issue it is fraudulent or arbitrary or capricious, or so grossly erroneous as to necessarily imply bad faith.

"(d) If any person fails to pay an assessment (and such amount has not been deducted from any sums owed by the United States to the person charged)—

"(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (c), or

"(2) after a court in an action brought under subsection (c) has entered a final judgment in favor of the Administrator,

the Attorney General shall take action to recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the thirty-day period referred to in subsection (c) or the date of final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such assessment shall not be subject to review.

"(e) The Administrator shall (pursuant to procedures agreed to by the Administrator and the Attorney General) initiate a proceeding under this subsection only as authorized by the Attorney General within one hundred and twenty days after notice to the Attorney General of the intention to initiate such a proceeding. If within such one hundred and twenty days the Attorney General takes no action to restrict the initiation of such a proceeding, the Administrator may initiate the proceeding as if the Attorney General had authorized it.

"(f) The Administrator shall impose on persons found, by a final order under subsection (b), to be in violation of subsection (a)—

"(1) debarment from participating in Government contracts for a period of not less than two or more than five years in the case of a person who is ordered to pay an assessment under subsection (a)(2) (D), (E), or (F); or

"(2) debarment form participating in Government contracts for a period of not less than one month nor more than two years in the case of a person who is ordered to pay an assessment under subsection (a)(2)(A), (B) or (C).

If the Administrator determines that debarment should not be imposed under clause (2) of this subsection, or the Administrator determines it to be in the Government's interest to impose under clause (1) or (2) a partial debarment limited to or with the exception of a particular line of business, class of operations, business subsidiary or other component part or controlled group, he may so remit imposition of debarment provided that a full written statement of the reasons for such determination shall be included in the record of the proceeding.

"(g) Any contract or agreement for property or services the value of which exceeds or is expected to exceed $10,000 entered into under the authority of this Act on or after ninety days after the date of enactment of this subsection shall contain the certification required by subsection (a), an agreement, as a condition, to abide by the procedure set forth in subsections (a)(2), (b), (c), (d), (e), and (f), and a notice of the potential assessments contained therein.

(h) Any assessments collected under this section shall be deposited in the general fund of the Treasury and credited to miscellaneous receipts.

"(i) The assessments and other administrative remedies provided for in subsections (a) through (h) of this section shall be in addition to all other criminal penalties and in the alternative to all other civil remedies provided by law.

"(j)(1) As used in this section, the term 'material information' means information—

"(A) relating to the identity of the parties (including subordinate or indirect parties) or their relationship, or to the place of performance, or

"(B) relating to the price, time, place, parties or their relationship, or quality or quantity of result contemplated in the contract or agreement, the change or correction of which alters or would alter the price, time, quality, or quantity by more than 5 per centum or $10,000 in value, whichever is less; or

"(C) that would have a natural tendency to create a reasonable belief of its materiality.

"(2) As used in this section, the phrase 'to the prejudice of the Government's interest' means the occurrence of any actual or potential reduction of any contractual benefit, consideration, beneficial interest, or expectation running to the United States, and includes but is not limited to any reasonably foreseeable consequential or collateral diminution (including delay) of the Government's property or powers or their beneficial use.

"(k) If any provision of this section, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.".

(b) The amendments made by subsection (a) of this section shall become effective ninety days after the date of enactment of this Act.

(c) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by deleting

"Sec. 306. Waiver of liquidated damages."

and inserting in lieu thereof

"Sec. 306. Remedies for contractor abuse.".

IMPROVED PROCUREMENT PRACTICES

SEC. 2. Section 307 of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following new subsection:

"(e)(1)(A) It is the purpose of this subsection to provide for the establishment and maintenance of rigorous and more nearly uniform procurement practices designed to improve the decisionmaking in such practices by requiring detailed records of the significant stages of contract operations, by requiring a systematic organization of all such records, by requiring personal accountability for all decisions as to each contract, and by requiring periodic review of contracting practices to foreclose existing or new methods of abuse.

"(B) Not later than nine months after the date of enactment of this subsection the Administrator shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(2) The Administrator shall, not later than nine months after the date of enactment of this subsection, establish and maintain a single and exclusive system for control and coordination of all contracts and agreements for procurement of property or services under this Act. Such system shall provide that the Administrator (with respect to the General Services Administration) and any agency head to whom the Administrator has delegated contracting authority (with respect to that agency) will—

"(A) require the approval by the Administrator or agency head of any negotiated contract or agreement the value of which exceeds or may be expected to exceed $10,000 and any other contracts or agreements as may be required to be so approved in accordance with regulations prescribed by the Administrator;

"(B) require the making and keeping of books, records, and accounts that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of Federal funds; and

"(C) impose a system of accounting and internal controls sufficient to provide reasonable assurances that—

"(i) transactions are executed in accordance with the Administrator's or the agency head's general or specific authorization;

"(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles and any other criteria applicable to such statements, and (II) to maintain accountability for such funds;

"(iii) access to funds is permitted only in accordance with the Administrator's or the agency head's general or specific authorization; and

"(iv) the recorded accountability for funds is compared with existing funds at reasonably frequent intervals and corrective action is taken promptly with respect to any differences.

"(3) (A) The Administrator shall by regulation not later than nine months after the date of enactment of this subsection establish a single exclusive system, as part of contract operations, to ensure that for any significant decision (including any decision involving material alteration of price, time, place, parties or their relationship, or results) for a particular contract a memorandum is made as soon as practicable which shall include (i) a statement of the date and nature of such decision, and a statement of the date, nature of and parties to any discussions or communications pertaining to any such decision, (ii) a description of action taken or proposed as a consequence of such discussions or communications, and (iii) the identity, position, and personal signature or endorsement of the Federal officer or employee responsible for making the decision.

"(B) The Inspector General of the General Services Administration shall investigate (or refer to the Inspector General or other appropriate officer of other agencies) such allegations concerning any officer's or employee's failure to comply with the regulations prescribed under subparagraph (A) which may arise in the course of any audit conducted pursuant to subsection (f) or otherwise, as he deems appropriate, consistent with the purpose of this subsection. If the Inspector General of the General Services Administration (or the Inspector General or officer of another agency to whom the matter is referred) determines that such failure is intentional or grossly negligent, he shall refer the matter to the head of the appropriate agency, who shall take or initiate such authorized corrective action as he deems appropriate, except that, in the event the agency head takes no action within one hundred and twenty days, he shall state his reasons for so doing in writing.

"(C) Each Inspector General shall include in each semiannual report required to be submitted under section 5 of the Inspector General Act of 1978 the matters referred under subparagraph (B) of this paragraph and actions taken.

"(D) The Administrator, after consultation with the Inspector General, may provide by regulation for the exemption from the requirements of subparagraph (A) of this paragraph with respect to contracts or agreements which, together with any related contracts with the same or related parties, do not involve an actual or projected expenditure by the Government in excess of $10,000.

"(4) The Administrator shall periodically and regularly review the contracting activities of the General Services Administration, and of any other agency to the head of which the Administrator has delegated contracting authority, for the purpose of eliminating fraud, waste, and abuse. The Administrator shall keep the Congress fully and currently informed with respect to any deficiencies in such contracting activities by including such information in the annual or other reports provided for in section 212 of this Act. In the case of any matter raised in a semiannual report of any Inspector General under section 5 of the Inspector General Act of 1978, such review shall be made within ninety days of the report.

"(5) The Administrator, within ninety days after the date of enactment of this subsection, shall prescribe regulations to eliminate practices which result in fraud, waste, or abuse, including regulations—

"(A) to require that each agency head establish and operate a system through which the agency will report quarterly to the Administrator purchases made from sources within any buying program established by the Administrator or from such other sources as the Administrator may designate by regulation;

"(B) to prohibit the evasion (by such means as multiple contracts by the same party, change orders expanding or extending the contract, or other devices to reduce artificially the initial size of a contract) of procedural requirements based on the relatively small size of any contract;

"(C) to prohibit abusive practices with respect to late bidding, including regulations requiring the invalidation of any late bid which is not received by registered mail containing verification of its timely transmission;

"(D) to prohibit any changes to be made in the terms of a proposed contract prior to actual signing of the contract, but after agency approval thereof; and

"(E) to establish appropriate sanctions for noncompliance with the regulations prescribed under this paragraph, and to establish a formal mechanism for imposing those sanctions.

"(6) Purchases under this title are not authorized unless made from sources within a buying program established by the Administrator or from other sources as provided by the Administrator by regulation.

"(7) The Administrator, after consultation with and advice from the Inspector General of the General Services Administration, shall establish a procedure for the review of contracts and agreements subject to the approval requirement under paragraph (2) (A) for purpose of determining whether, by aggregation or otherwise, such contracts and agreements (except such contracts or agreements the negotiation of which is authorized by statute) can be more economically and efficiently secured by advertised bids or otherwise. The Administrator shall report to the President and the Congress in the annual or other reports provided for in section 212 of this Act on activities under this subsection and shall make any recommendations concerning appropriate changes in procurement procedures.

"(8) As used in this subsection—

"(A) the term 'contract operations' means all phases of making and administering advertised or negotiated contracts for property or services from determination of the nature or kind of contract to be used, the initial notice of contract, request for proposal, invitation for bids, or the initial contact with a contractor for advertised or negotiated contracts through the final settlement of accounts concerning any such contract, and includes any phase which involves amendments to or change orders concerning any such contract or any renewal or other extension or revision of any such contract; and

"(B) the term 'material alteration' means any change in the terms, conditions, or other relevant elements or circumstances of a contract which changes a quantifiable element of a contract by more than three percent or $10,000 in value, whichever is less, or changes any other term of a contract in a manner which may foreseeably operate to the detriment of the Government's interest in the contract.".

REQUIRED AUDIT PROCEDURES

SEC. 3. Section 307 of the Federal Property and Administrative Services Act of 1949 is further amended by adding at the end thereof the following new subsections:

"(f) (1) With respect to contracts or classes of contracts made pursuant to this Act for property and services, the Administrator shall provide by regulation for the establishment of a uniform system of contract audits to be conducted by the Administration or by any agency to the head of which the Administrator has delegated contracting authority or which is otherwise purchasing pursuant to a contract secured by the Administration.

"(2) Such regulations shall include—

"(A) a plan and schedule of both regular and random, unannounced audits of major negotiated contracts;

"(B) establishment of audit criteria and procedures (such as number, character, incidence, and sampling techniques) necessary to ensure a significant probability that any negotiated contract, or any advertised contract that is the subject of either three or fewer bids or other indication of a lack of full competition as the Administrator may determine, with an actual or projected cost in excess of $10,000 will be audited, including—

"(i) regulations governing the classification of contracts by size and character.

"(ii) regulations to ensure that not less than 20 per centum of the negotiated contracts within each such classification (or such other percentage as may be approved by the Inspector General pursuant to paragraph (3)) are audited each fiscal year and to ensure that not less than 10 per centum of each fiscal year's audits are random and unannounced;

"(iii) regulations governing the use of the contingent authority to audit advertised contracts, notice of that contingency in solicitations or contracts, and conditions, circumstances, or indications of a lack of full competition warranting the exercise of that authority.

"(3) (A) Regulations established under this subsection shall be subject to review and approval by the Inspector General of the General Services Administration. During the first three full fiscal years beginning after the date of enactment of this subsection, the Inspector General may make variations in the percentage of contracts to be audited under paragraph (2) (B) (ii) as may be necessary or appropriate in the light of such factors as the nature of the contracts and the availability of resources for conducting audits.

"(B) Each Inspector General shall include in each semiannual report required to be submitted under section 5 of the Inspector General Act of 1978 an evaluation of the availability of resources for the purposes of this subsection and any recommendations concerning more appropriate allocation thereof. As part of the sixth semiannual report subsequent to the date of enactment of this subsection, the Inspector General of the General Services Administration shall include a report containing data on the grouping of contracts by classification and size, whether audits of 20 per centum of the contracts in each classification had been achieved and what results had been obtained, whether that level of audit scrutiny is cost effective or necessary for each such classification, and recommendations as to which classifications of contracts require a certain percent of audit scrutiny to be the most cost effective and in the best interest of the Government.

"(4) The Administrator and any agency head to whom the Administrator has delegated contracting authority shall maintain convenient abstracts of such audits available for public inspection in a public document room, and shall review quarterly the status of outstanding recommendations or proposed recoveries contained in audits.

"(g) In accordance with regulations prescribed by the Administrator, the Administrator and Inspector General of the General Services Administration shall have the right of access to and the right to examine for the purposes of activities required by subsection (f) any directly pertinent books, documents, papers and records of any contractor or subcontractor engaged in the performance of, and involving transactions related to, any contracts or subcontracts.

"(h) To the fullest extent consistent with the purposes of subsections (e) and (f), such subsections shall be subject to the provisions of the Accounting and Auditing Act of 1950 and the Inspector General Act of 1978.".

ALTERATION OF LEASED FACILITIES

SEC. 4. Section 210 of the Federal Property and Administrative Services Act of 1949 is amended—

(1) in paragraph (8) of subsection (a) thereof, by striking out ": Provided, That" and everything that follows through the semicolon at the end of such paragraph and inserting in lieu thereof ", subject to the limitations contained in subsection (l) of this section;"; and

(2) by adding at the end of such section the following new subsection:

"(l) No expenditure or obligation shall be made under the authority of subsection (a) (8) for any work, or for any part thereof, unless—

"(1) the Congress, or a committee or committees of the Congress pursuant to procedure established by statute, gives specific advance approval for the work;

"(2) an explanatory statement describing the overall work including but not limited to: purpose, estimated cost, source of funding, method of procurement, and any determination made pursuant to subsection (a) (8) including a detailed basis therefore, has been provided in advance to the committees of both the Senate and House of Representatives having oversight responsibility for such activity; or

"(3) the cumulative and aggregate work does not directly affect by way of permanent alteration or improvement more than 5,000 net square feet of leased space occupied by the Government.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. Brooks) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. Walker) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is long overdue and should have the overwhelming approval of the House. It is an attempt to deal with some of the problems in the General Services Administration that have been called rather forcibly to public attention recently by grand jury investigations and prison sentences. They have just been doing a lot of things wrong down there.

It has gotten a lot better at GSA since Jay Solomon and Admiral Freeman took over, but we can no longer rely on individual administrators to straighten things out. I learned that the hard way when I was chairman of the subcommittee the gentleman from California (Mr. John L. Burton) now heads. We would come across examples of waste and mismanagement and sloppy administration and we would make recommendations and suggest improvements and the people down there would say, "Oh, yes. You're right. This is bad. We've got to do something about that." And they would sweep out a few corners and straighten out a few files, and pretty soon it would be just the way it was.

So it is clear that we have to mandate improved management procedures in the basic law under which GSA operates. And that is what H.R. 5381 does. It should lead to better procurement practices, better contract administration, better auditing and recordkeeping and greater accountability. These are highly desirable goals.

Last year the Congress passed a bill reported from the Government Operations Committee to extend the life of the Office of Federal Procurement Policy within OMB. This bill mandated OFPP to devise a uniform procurement system for the Federal Government and to report to Congress on this system within 1 year. H.R. 5381 is totally consistent with OFPP's mandate. This bill's provisions will enable GSA to execute its role in a Government-wide uniform and unified procurement system with effectiveness and efficiency.

So the gentleman from California and his subcommittee are to be commended for bringing us this bill. They have worked hard on it. They have studied GSA's operations closely and they have produced a bill that should help that agency do a much better job of carrying out its many responsibilities. It deserves everyone's support.

Mr. Speaker, I yield to my distinguished friend, the gentleman from California (Mr. John L. Burton), chairman of the subcommittee and the author of this legislation.

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding, and I associate myself with his remarks.

I would like to commend not only the chairman of the full committee and the ranking minority member, the gentleman from New York (Mr. Horton), but specifically my colleague, the gentleman from Pennsylvania (Mr. Walker), the ranking member of the subcommittee. We spend many, many, many, many months on this bill since the GSA scandals first came into prominence.

I would like to commend the minority staff and the majority staff, who worked so well on this measure. It deserves every Member's support. This is one of the finest pieces of reform legislation I have ever seen.

At this time I would be happy to yield to my colleague, the gentleman from Pennsylvania (Mr. Walker), for the purpose of a colloquy if the gentleman has a question.

Mr. WALKER. I thank the gentleman for yielding.

Is it the gentleman's interpretation and understanding that the provisions of this bill do not and are not intended to supersede or preempt the authority of the Office of Federal Procurement Policy under Public Law 96-83 or the Inspector General under Public Law 95-452?

Mr. JOHN L. BURTON. That is absolutely correct.

Mr. WALKER. May I ask the chairman of the full committee whether that is also his understanding of the provisions of this legislation?

Mr. BROOKS. It is.

Mr. WALKER. I thank the gentleman.

□1400

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5381. As a cosponsor of the bill and ranking minority member of the subcommittee which held hearings on the bill, I have spent a great deal of time and effort working with Chairman Burton to get this legislation to the House floor. In light of the recent highly-publicized GSA scandals, I feel it is important that the Congress act quickly to plug up the loopholes in procurement procedures which make it possible for such corruption to take place. We owe it to the taxpayers, and we owe it to the majority of honest Government employees whose reputations have suffered by innuendo ever since the scandals broke. H.R. 5381 is an important initial step toward this much-needed reform, and I look forward to working with Chairman Burton in future such efforts.

Mr. Speaker, I do have one concern with regard to this bill, and that is what appears to be last-minute opposition brewing within the Administration. This is particularly unexpected in view of the time the committee staff has spent with the appropriate agencies in an effort to come up with legislation as acceptable to all concerned as possible. Nevertheless, as late as the end of last week, the Department of Justice, the National Aeronautics and Space Administration, the Department of Transportation, and the Office of Management and Budget wrote to Chairman BROOKS of their opposition to H.R. 5381.

The letter from the Department of Justice is particularly mystifying, since the committee staff spent untold hours with the Justice staff to work out language acceptable to the Department, and the amended version of H.R. 5381 reflects many of the stated Justice positions. The Department of Transportation objects to the bill on the basis that it would cost too much to figure out how much Government contracts cost. NASA's letter is also inexplicable, but OMB's opposition is the strangest of all. OMB has never commented on the bill and, in fact, gave tacit approval by means of GSA's testimony. OMB chose not to testify itself.

Mr. Speaker, these belated objections concern me; it makes me wonder just who is behind this last-minute effort on the part of the administration to kill this bill and why. Such an effort is a chilling reminder of a period back in early 1979 when Jay Solomon was forced to resign by the administration for reasons unclear to him and us. Mr. Solomon was perplexed at his ouster in view of the fact that the GSA scandal investigations were proceeding well. At that time Mr. Solomon was quoted in the newspapers to have commented: "Maybe I have been going too fast and too hard. Maybe I have been getting too close to the truth. But what that truth is I don't know." When I questioned him further about this statement at a hearing we held in February 1979, Mr. Solomon stated:

I don't know what we have found down there, but it has made somebody nervous.

Mr. Speaker, it appears that that somebody is still nervous, and that that somebody seems to have a lot of pull with this administration. I urge my colleagues to enact H.R. 5381 in order to begin the process of reform, and I would urge by colleagues in the other body to push for passage of this legislation over agency opposition.

Mr. Speaker, I yield back the balance of my time.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding.

I believe that people in the administration have had second thoughts after they read the bill and after they read the committee report, and I believe that the colloquy between ourselves and the chairman takes care of any prior problems. As far as I know, they have not been in contact with anyone. I am sure they wish to see speedy reform of the GSA, and I am sure we can pass this measure today quite expeditiously.

Mr. WALKER. I thank the gentleman for that clarification. I am pleased to hear that.

I would urge the speedy adoption of the legislation.

● Mr. HARRIS. Mr. Speaker, 2 months ago, I chaired a special hearing along with Senator DAVID PRYOR of Arkansas into contracting procedures at the Department of Energy. Among the many shocking revelations at that hearing was the fact that the Department of Energy had awarded contracts costing tens of millions of dollars to a consulting firm for assistance in formulating energy policy while that very same consulting firm was under contract to Libya, an OPEC member and one of the most aggressive critics of American policy, and to several major oil companies.

The Department of Energy never asked for a complete disclosure of the firm's other clients, a disclosure which would have revealed not only the serious conflict of interest in this case, but also the possible threat to American security that comes with giving a nation like Libya a direct line to U.S. energy information.

To prevent these potential conflicts of interest, Senator PRYOR and I have introduced legislation to require full and complete disclosure by Government contractors of their potential conflicts of interest. The legislation we are considering today—H.R. 5381—complements this legislation I have introduced by providing enforcement mechanisms for those who would mislead the Government by providing false information in contract disclosures.

H.R. 5381 would help eliminate contract abuse by requiring the Administrator of the General Services Administration to personally approve contracts over $10,000, and by requiring better accounting and record keeping of Government contracts. And the uniform system of contract audits required by H.R. 5381 would help uncover waste and mismanagement of tax dollars.

I strongly urge my colleagues to support this legislation that will help stop fraud in Government contracting. This legislation is important, it is overdue, and it should be passed.●

Mr. WALKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 5381, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHN L. BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5381, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NS "SAVANNAH" CHARTER ACT

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill, S. 1863, to authorize the Secretary of Commerce to charter the NS *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina.

The Clerk read as follows:

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is authorized within one year after enactment of this Act, to charter the nuclear ship Savannah to Patriots Point Development Authority, without monetary consideration, for a minimum of five years and a maximum of thirty years, with options to renew for five-year periods thereafter, for use as a museum ship and for other public purposes, but not for transportation, together with such of her fixtures, tackle, apparel, furnishings, and equipment as the Secretary of Commerce, in the Secretary's discretion, determines.

SEC. 2. The charter authorized by section 1 shall include a provision that—

(a) the Secretary of Commerce shall be responsible for inspection and maintenance of the hull below the waterline and that Patriots Point Development Authority shall be responsible for all other maintenance, including the paying for the electrical power for the cathodic hull protection system;

(b) the Patriots Point Development Authority shall save the United States harmless from all liability with respect to the vessel;

(c) the Patriots Point Development Authority shall return the vessel to the Secretary of Commerce at the termination of the charter or any renewal thereof in the same condition, fair wear and tear excepted, as when the charter was entered into; and

(d) the Patriots Point Development Authority shall obtain such insurance and provide such other assurances as the Secretary of Commerce may require to carry out its obligations under this Act.

SEC. 3. The Secretary of Commerce, acting for the United States Government as owner of the vessel, and Patriots Point Development Authority shall apply to the Nuclear Regulatory Commission for a license to possess but not to operate the nuclear utilization facility under which the sole liability of the Secretary of Commerce shall be that the Secretary will bear the financial responsibility for the ultimate disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel in accordance with a plan which the Secretary of Commerce will submit at the time the reactor, nuclear systems, and radioactive components are to be disposed of and which is then approved by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954. The Authority shall be responsible for compliance with the license for the monitoring and security of the reactor and all nuclear systems and radioactive components in the vessel and for filing all reports that may be required as the licensee.

SEC. 4. Any funds appropriated pursuant to authorizations contained in the Acts of October 21, 1975 (89 Stat. 611; Public Law 94-121), July 14, 1976 (90 Stat. 937; Public Law 94-362), August 2, 1977 (91 Stat. 419; Public Law 95-86), and October 10, 1978 (92 Stat. 1021; Public Law 95-431) are authorized to be used for preservation work on the nuclear ship Savannah. Expenditures authorized by the preceding sentence for the preservation of the nuclear ship Savannah shall not exceed that amount which the Secretary of Commerce, in the Secretary's discretion, determines to be necessary to make the vessel suitable for use by the Patriots Point Development Authority pursuant to section 1 of this Act. No part of any funds authorized to be expended by this section shall be obligated or expended except in connection with work which the Secretary of Commerce determines would otherwise be performed on the nuclear ship Savannah if the vessel were to be laid up in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (60 Stat. 49).

SEC. 5. Funds appropriated pursuant to authorizations contained in title III of the Act of September 24, 1979 (93 Stat. 416; Public Law 96–68), are authorized to be expended to tow the nuclear ship Savannah to a site at Patriots Point at Mount Pleasant, South Carolina. Beginning in fiscal year 1981 there are authorized to be appropriated such sums as may be necessary to inspect and maintain the hull of the nuclear ship Savannah below the waterline during the term of the charter and any renewals thereof.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1863 is a bill authorizing the Secretary of Commerce to charter the NS *Savannah* to the Patriots Point Development Authority, an agency of the State of South Carolina.

Patriots Point is a naval and maritime museum in Charleston, S.C., and presently houses the aircraft carrier U.S.S. *Yorktown.*

The NS *Savannah*—which is the first nuclear-powered merchant ship ever constructed—will portray maritime history for the museum's many visitors, serving both an educational and recreational function.

Constructed for the U.S. Government in the late 1950's, it was leased to private carriers and served the U.S. trades during the 1960's. Widespread concern about the risks of nuclear power and environmental considerations, however, led to its being withdrawn from service in 1970. Since then, it has been laid up in South Carolina.

H.R. 5867, which is identical to S. 1863, was reported out unanimously by the Merchant Marine and Fisheries Committee, and has the support of the administration. Therefore, I urge my colleagues to support this legislation.

Mr. DAVIS of South Carolina. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from South Carolina.

Mr. DAVIS of South Carolina. Mr. Speaker, I thank you for this opportunity to speak on behalf of H.R. 5867, which authorizes the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority.

Patriots Point is a naval and maritime museum located in Charleston Harbor in my district. It is an agency of the State of South Carolina created by the State as an educational, recreational, and visitor attraction intended specifically to promote education and knowledge of naval and maritime history and related scientific fields.

Patriots Point is the home of the aircraft carrier U.S.S. *Yorktown* which is used both as its principal exhibit and to house some of its displays. Visitors have a chance to see examples of the aircraft and other equipment which operated on and from the *Yorktown* displayed on the deck and in the hangar areas just as if the ship were still in action today.

It is this sense of realism which the acquisition of the NS *Savannah* will enable Patriots Point to bring to its other exhibits. They plan to use the *Savannah* as the focal point of their presentation of the commercial side of maritime history. I think you will agree that because of its unique character the *Savannah* is unmatched as a home for such a museum.

The Department of Commerce has given its approval to the transfer of the *Savannah*, the Navy has approved and the Nuclear Regulatory Commission says it presents no danger to the public. The Senate has already passed a similar bill and the State is prepared to begin immediately the final preparations to accommodate the *Savannah.*

The passage of this bill would help create an atmosphere in which our citizens would enjoy learning about maritime history and nuclear energy and I urge its approval.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support S. 1863, a bill which authorizes the Secretary of Commerce to charter the nuclear ship *Savannah* to the Patriots Point Development Authority, for use as a museum ship and other public purposes, but not for transportation purposes.

In 1955, President Eisenhower proposed that the United States build the world's first atomic-powered merchant vessel. In 1956, Congress authorized the construction of the nuclear ship *Savannah* as a joint project of the Maritime Administration and the Atomic Energy Commission, with hope that the vessel would demonstrate to the world America's peaceful use of nuclear power and its usefulness to the maritime industry.

The *Savannah* was launched on July 21, 1959, and operated until 1970. Having fulfilled essentially all of the research and development objectives of the program, but proving uncompetitive with steam powered ships the *Savannah* was taken out of service. During its total operating period, the *Savannah* visited 37 foreign ports and traveled approximately a half million miles under nuclear power.

During the 1970's, the fuel core was removed as an essential part of the nuclear decommissioning process required by the Nuclear Regulatory Commission and the vessel then underwent two drydockings in preparation for indefinite layup in the reserve fleet.

The Patriots Point Development Authority, a South Carolina agency, however, has expressed interest in chartering the *Savannah* for inclusion in its museum in Charleston, S.C., which was formed for the purpose of preserving the American naval and maritime heritage.

The maintenance of the decommissioned *Savannah* at the Patriots Point site would be done under a continuing nuclear materials possession-only license from the Nuclear Regulatory Commission and would present no radioactive hazard to the public.

I believe that by establishing the *Savannah* as a part of this museum, we will be helping to remind Americans of both the successes and failures of our maritime and nuclear programs.

The bill was unanimously supported by the committee. I urge its passage.

Thank you.

Mr. ANDERSON of California. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the Senate bill, S. 1863.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5867, was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 1863, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MARINE POLLUTION PROTOCOL IMPLEMENTATION

Mr. ANDERSON of California. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 6665, to implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes as amended.

The Clerk read as follows:

H.R. 6665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act to Prevent Pollution from Ships."

SEC. 2. Unless the context indicates otherwise, as used in this Act—

(1) "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London on February 17, 1978. This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973;

(2) "Convention" means the International Convention for the Prevention of Pollution

from Ships, 1973, including Protocols I and II and Annexes I and II attached thereto;

(3) "discharge" and "harmful substance" and "incident" shall have the meanings provided in the Convention;

(4) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

(5) "operator" means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(6) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(8) "ship" means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms; and

(9) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

SEC. 3. (a) This Act applies to—

(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States.

(b) This Act does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the MARPOL Protocol.

(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

(d) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection, applicable to ships excluded from this Act by subsection (b), shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

Sec. 4. (a) Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In administering and enforcing the MARPOL Protocol and this Act, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.

(b) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol or this Act.

(c) The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this Act, or the regulations thereunder.

Sec. 5. (a) The Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.

(b) A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL Protocol.

(c) A ship required by the MARPOL Protocol to have a certificate—

(1) shall carry a valid certificate onboard in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

(d) An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is onboard, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. This section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

(e) In addition to the penalties prescribed in section 9 of the Act, a ship required by the MARPOL Protocol to have a certificate—

(1) which does not have a valid certificate onboard, or

(2) whose condition or the condition of its equipment does not substantially agree with the particulars of the certificate onboard;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) If a ship is under a detention order under this section, the Secretary of the Treasury, upon the request of the Secretary, may refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 442 of the Tariff Act of 1930, as amended (19 U.S.C. 1443).

(g) A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation, to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation.

(h) A ship unreasonably detained or delayed by the Secretary acting under the authority of this Act is entitled to compensation for any loss or damage suffered thereby.

SEC. 6 (a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(b) In determining the adequacy of reception facilities required by the MARPOL Protocol at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships using the port or terminal, including their principal trades.

(c) If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—

(1) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(2) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.

(d) The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.

(e) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(1) the port or terminal is one required by the MARPOL Protocol or regulations hereunder to have adequate reception facilities; and

(2) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(f) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol.

SEC. 7. (a) As soon as he has knowledge of an incident, the master or other person in charge of a ship shall report it to the Secretary in the manner prescribed by Article 8 of the Convention.

(b) Upon receipt of the report of an incident involving a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall take the action required by Article 8 of the Convention.

SEC. 8. (a) It is unlawful to act in violation of the MARPOL Protocol, this Act, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol in the detection of violations and in enforcement of the MARPOL Protocol. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

(b) Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

(c) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

(1) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol or this Act; or

(2) to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.

SEC. 9. (a) A person who knowingly violates the MARPOL Protocol, this Act, or the regulations issued thereunder shall, for each violation, be fined not more than $50,000 or be imprisoned for not more than five years, or both.

(b) A person who is found by the Secretary, after notice and an opportunity for a hearing, to have—

(1) violated the MARPOL Protocol, this Act, or the regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the MARPOL Protocol, this Act, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed $1,000 for each statement or representation.

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require.

(c) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment or which has been assessed under this section. If any persons fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(d) A ship operated in violation of the MARPOL Protocol, this Act, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) or civil penalty assessed pursuant to subsection (b), and may be proceeded against in the United States district court of any district in which the ship may be found.

(e) If any ship subject to the MARPOL Protocol or this Act, its owner, operator, or person in charge is liable for a fine or civil penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a fine or civil penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 443 of the Tariff Act of 1930 as amended (19 U.S.C. 1443).

Clearance or a permit to proceed may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, the Secretary, acting in coordination with the Secretary of State, may refer the matter to that country for appropriate action, rather than taking the actions required or authorized by this section.

SEC. 10. (a) A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) A proposed amendment to Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol, received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least thirty days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

(c) Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to Article VI of the MARPOL Protocol.

SEC. 11. (a) Except as provided in subsection (b) of this section, any person having an interest which is, or can be, adversely affected, may bring an action on his own behalf—

(1) against any person alleged to be in violation of the provisions of this Act, or regulations issued hereunder;

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary;

(3) against the Secretary of the Treasury where there is alleged a failure of the Secretary of the Treasury to take action under section 9(e) of this Act.

(b) No action may be commenced under subsection (a) of this section—

(1) prior to sixty days after the plaintiff has given notice, in writing and under oath, to the alleged violator, the Secretary concerned, and the Attorney General; or

(2) if the Secretary has commenced enforcement or penalty action with respect to the alleged violation and is conducting such procedures diligently.

(c) Any suit brought under this section shall be brought—

(1) in a case concerning an onshore facility or port, in the United States district court for the judicial district where the onshore facility or port is located;

(2) in a case concerning an offshore facility or offshore structure under the jurisdiction of the United States, in the United States district court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the United States district court for any judicial district wherein the ship or its owner or operator may be found; or

(4) in any case, in the District Court for the District of Columbia.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party including the Federal Government.

(e) In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.

SEC. 12. On the effective date of this Act—

(a) the Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.) is repealed. Any criminal or civil penalty proceeding under that Act for a violation which occurred prior to the effective date of this Act may be initiated or continued to conclusion as though that Act had not been repealed; and

(b) the Oil Pollution Act Amendments of 1973 (87 Stat. 428, Public Law 93–119) are repealed.

SEC. 13. (a) Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended as follows—

(1) by amending subparagraph (C) of paragraph (2) by deleting the word "or" in clause (ii); by deleting the period at the end of clause (iii) and inserting "; or "; and [illegible] clause (iv) as follows:

"(iv) designated as a noxious liquid subs[illegible] II of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973.";

(2) by amending subparagraph (E) of paragraph (3) to read as follows:

"(E) which is constructed or adapted to carry, or which carries, oil or any hazardous materials in bulk as cargo or in residue.".

(b) The Federal Water Pollution Control Act, as amended, is further amended in the first sentence of subsection 311(b)(3), after the words "except (A) in the use of such discharges", by striking the words "of oil"; and by striking the phrase "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended" and inserting in lieu thereof the phrase "the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973".

SEC. 14. (a) Except as provided in subsection (b) of this section, this Act is effective upon the date of enactment, or on the date the MARPOL Protocol becomes effective as to the United States, whichever is later.

(b) The Secretary and the heads of Federal departments shall have the authority to issue regulations, standards, and certifications under subsections 3(c), 3(d), 4(b), 5(a), 6(a), 6(c), and 6(f) effective on the date of enactment of this Act. Subsection 13(a)(2) is effective upon the date of enactment of this Act.

(c) Any rights or liabilities existing on the effective date of this Act shall not be affected by this enactment. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as amended, remain in effect until modified or superseded by regulations promulgated under the authority of the MARPOL Protocol or this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the time has come for the Congress to complete necessary action on the treaty known as the Marpol Protocol of 1978. The treaty was elaborated by an international conference in February 1978 and was partially implemented in this country in October 1978 by enactment of the Port and Tanker Safety Act. However, two steps remain to be taken: Bringing the treaty into force internationally and, concurrently, completing its implementation by the United States. Since the ratification procedures of many other nations are involved, the full process to achieve these goals will require some time to complete. However, the Congress can complete its work on the matter during this session. H.R. 6665, which is before the House today, will complete the required implementing legislation.

The Marpol Protocol was the direct result of U.S. proposals for international action. Responding to a substantial number of tanker casualties on domestic waters during the winter of 1976–77, the U.S. Government went to the Inter-Governmental Maritime Consultative Organization with a detailed set of proposals applying to tankers. These proposals were to adopt new design, construction, and equipment standards and new procedures for vessel inspection and certification. These initiatives were more stringent and extensive than any proposals previously introduced internationally, and were largely adopted in the form of the Marpol Protocol.

While the Port and Tanker Safety Act of 1978 mandated national implementation of many standards of the treaty, it did not implement the Marpol Protocol in all its provisions and was not part of the treaty ratification process. H.R. 6665, when enacted into law, will complete the implementation of the Marpol Protocol provisions, and serve as a companion piece to the Senate's advice and consent to ratification of that treaty.

Within its context, the provisions of the bill would apply to U.S. flag ships, wherever located, and to foreign flag ships entering U.S. ports. The technical annexes I and II of the protocol, which govern oil and chemicals in bulk respectively, would apply only to seagoing ships. The bill delegates to the Secretary of Transportation the authority to administer the provisions of the act. It also requires the Secretary to establish criteria for determining the adequacy of reception facilities of a port or terminal, to make such determinations, and to exclude ships from ports and terminals not having reception facilities certified as adequate. The bill also establishes procedures for certification, inspection, and investigation, and specifies appropriate sanctions.

H.R. 6665 is a modification of a bill, H.R. 10390, introduced in the 95th Congress to implement the International Convention for the Prevention of Pollution From Ships, 1973. The modifications were taken into account for the terms of the new treaty, the Marpol Protocol, which incorporated the original 1973 convention. Most of the substantive provisions of the two bills are identical.

One of the problems encountered in 1978 was the lack of concrete information about existing reception facilities and the demand for new facilities that would be generated by entry into force of the treaty. The time since the 1978 hearings has permitted gathering much of the needed information on existing facilities and the assessment of future needs based on voyage patterns, ship configurations, and trade characteristics. While work remains to be done to place the problem fully in perspective, the assessment thus far indicates that providing for reception facilities is clearly a manageable problem, both economically and technically. An important factor here is the establishment of construction and equipment requirements by the Port and Tanker Safety Act, such as segregated ballast tanks and crude oil washing. These requirements will greatly reduce the accumulation of oily water slops aboard ship and will therefore reduce the need for facilities to receive these slops.

An important modification to the 1973 convention was effected by the 1978 Marpol Protocol. This is the provision that would delay the entry into force of annex II—governing carriage of chemicals in bulk—for a period of 3 years after the articles and annex I—governing oil—enter into force. This was specifically adopted to allow time for the complex procedures and high standards imposed by annex II to be met. The United States acceded to this delay, deemed necessary by many other governments, so that the worldwide regime to reduce oil pollution could be placed into effect as soon as possible. Though the discharge limitations and reception facility requirements of annex II will be delayed, the United States has already implemented annex II in part by adopting rules based on the IMCO chemical code. These rules establish improved safety and construction standards for ships transporting most of the products on the annex II list of "noxious substances."

The testimony taken in 1978 in regard to H.R. 10390 remains pertinent and supportive. Additionally, testimony before the Committee on Merchant Marine and Fisheries in May 1980 was favorable and indicates a need expeditiously to implement the remaining provisions of the Marpol Protocol. Since the hearings in May, the Senate has given advice and consent to ratification of the protocol. We must move quickly and pass this legislation today to facilitate the United States becoming a party to the treaty. This should then encourage other nations to follow suit.

Mr. Speaker, it is time for action on the Marpol Protocol of 1978. Passage today of H.R. 6665, given concurrent action by the Senate, can demonstrate to the world that this Nation's 1977 initiatives to protect the marine environment were serious and resolute, not merely political posturing.

□ 1410

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I would be happy to yield to the distinguished gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 6665, and I want to take this opportunity to commend the members of the subcommittee, which I chair, in the development of this legislation.

This bill will complete the implementation of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973. Its enactment will aid in the reduction of intentional and accidental pollution of our environment from tankers carrying oil and chemicals.

The Senate has already given its advice and consent to ratification of this treaty—and I am confident that they will take early action on this bill. Enactment should materially influence other maritime nations to ratify the treaty so as to permit bringing it into force internationally as soon as possible.

The United States has been and continues to be a world leader in motivating the international maritime community to adopt stringent maritime safety and environmental standards. Since the adoption of the 1954 Marine Pollution Convention—and the enactment of the Oil Pollution Act of 1961, the United States has recognized that pollution of the marine environment, by oil as well as hazardous substances, is a global problem that requires internationally acceptable standards.

This, of course, has not been an easy task. However, since the President's message to Congress of March 17, 1977—after a series of tanker casualties during the winter of 1976–77, in and around the waters of the United States there has been an increased emphasis on and awareness of the need for international cooperation as a primary means of reducing the risks associated with the operation of tankers.

The 1978 Marine Pollution Protocol is a product of the Tanker Safety and Pollution Prevention Conference held in London in February 1978. This conference—which was attended by representatives of 62 nations—was convened at the request of the United States for greater international action.

The United States went to this conference with a detailed set of proposals related to new design construction and equipment standards—and new procedures for vessel inspection and certification. As a package, these initiatives were more stringent and extensive than anything previously proposed internationally. After extensive technical meetings and consultations, the United States was satisfied in obtaining the production of two treaties. One of these treaties was the 1978 Marine Pollution Protocol, which is the subject of this legislation.

The bill, as reported, completes the required legislation to implement this Protocol. The tanker safety equipment, construction, operating requirements, and some vessel inspection and control procedures of the protocol were previously implemented in part by the enactment of the Port and Tanker Safety Act of 1978.

The bill addresses a number of remaining environmental issues related to the intentional and accidental pollution from tankers carrying oil and chemicals.

It provides for implementing many of the standards and regulations of the 1978 Marine Pollution Protocol in those cases where specific requirements have not already been enacted.

The bill includes extensive provisions for the control and establishment of adequate reception facilities for receiving residues and mixtures containing oil or chemicals from ships.

The bill applies to U.S.-flag vessels, wherever located, and to all foreign-flag vessels when within the jurisdiction of the United States.

It provides for the issuance of certificates for the inspection of vessels to assure compliance—and for the detention of vessels that are not in compliance.

It requires the immediate reporting of an actual or probable polluting discharge and complements the reporting requirements of existing domestic law.

It provides for the investigation and monitoring of activities that might be in violation, and for the imposition of criminal and civil penalties. In addition, the vessel is liable in rem and subject to detention.

Finally, it repeals the Oil Pollution Act of 1961, as amended, and makes a number of conforming amendments to related laws.

In conclusion, I urge all Members to support the passage of H.R. 6665, as reported by the Committee on Merchant Marine and Fisheries.

Mr. ANDERSON of California. Mr. Speaker, I have no future requests for time. I yield back the balance of my time.

□ 1420

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 6665 which implements a Marine Pollution Protocol ratified by the Senate on July 2, 1980.

The Marine Pollution Protocol of 1978 represents a 62-nation effort stimulated by the United States following the disastrous winter of 1976–77 during which there were several foreign and domestic tanker accidents in or near U.S. waters. The most notable of these was that of the *Argo Merchant* which grounded and broke up off Nantucket Island, releasing some 23,000 tons of oil into the sea.

A special London conference of 1978, under the auspices of the International Maritime Consultative Organization, responded to the U.S. initiatives with the Protocol implemented by this bill. The bill incorporating the essential provisions of the 1973 Convention for the Prevention of Pollution from Ships, supersedes the 1954 International Convention for the Prevention of Pollution of the Sea by Oil as amended, and adopts improvements to ship and shore facility inspection and certification requirements. The Protocol adds stringent construction and equipment provisions for vessels, especially with respect to ballast tanks and crude oil washing arrangements.

The Port and Tanker Safety Act of 1978 (Public Law 95–474) was the first comprehensive effort of our committee to address the Convention and Protocol recommendations and implemented most of their requirements. We cap that effort today with a bill that completes the required implementing action. It applies to all seagoing U.S. vessels and to all foreign vessels within the navigable waters of the United States. It provides for inspection and certification of such vessels to insure compliance with the Convention, its annexes I and II covering oil and noxious substances, and the Protocol into which they were incorporated. It provides also for the adequacy and certification of reception facilities at U.S. ports and terminals to satisfy the needs of vessels who need to discharge oil, chemical or other noxious liquid residues.

This latter need is most critical. The technical problems associated with the handling of noxious substances which delayed acceptance of the 1973 Convention have been resolved by providing a 3-year hiatus between the entry into force of the 1978 Protocol and the application of annex II noxious substance regulations to signatory parties.

Appropriate sanctions, both civil and criminal, are provided to insure compliance, including authority to deny entry of a vessel to a port or terminal where needed reception facilities are not provided.

Action by the Senate to ratify the Marpol Protocol and favorable action by this Congress to fully implement that international agreement should stimulate favorable action by other nations and also demonstrate the good faith and sincerity of the United States as the principal proponent of its measures.

This bill completes efforts of the United States and of the international community to cope comprehensively with the operational, intentional or accidental discharge of oil or other noxious liquid substances from vessels that have posed a significant pollution threat to the marine environment.

This bill was unanimously supported by the committee. I urge its passage.

● Mr. YOUNG of Alaska. Mr. Speaker, we consider today H.R. 6665, the act to prevent pollution from ships. This legislation is designed to complete the implementation of the Protocol of 1978 relating to the International Convention of Pollution From Ships, known as the "Marpol Protocol." The implementation of the Marpol Protocol began with the enactment of the Port and Tanker Safety Act of 1978.

In order to implement the Marpol Protocol, the bill contains provisions applying the Protocol to all U.S. vessels and to foreign vessels entering our ports, addressing the transportation of oil and chemicals in bulk, establishing vessel and reception facility certification, and requiring the reporting of pollution incidents as soon as the Master or other person in charge of the vessel has knowledge of the incident. Further, the bill contains provisions addressing regulatory and enforcement authority which is primarily vested in the Coast Guard, and other provisions fulfilling the U.S. obligations under the Convention.

Mr. Speaker, section 6 is an important provision of the bill. It authorizes the Secretary to require reception facilities for U.S. ports, determine the adequacy of these facilities, and deny entry of vessels to a port which does not have adequate reception facilities. Thus, local port authorities and terminal operators will be required to provide for adequate reception facilities.

However, under this authority, some smaller ports may not be required to have reception facilities and ships will be permitted to enter. In other words, the Secretary should exercise the authority to determine the adequacy of reception facilities in a reasonable and fair manner so as not to impose unnecessary requirements or regulations which would produce undesirable and unintended results. For example, along the coastline of Alaska, there are many small ports or places where fuel oil is transferred from ships. These ports would be economically unable to construct elaborate reception facilities and, in fact, none would be required for the most part because there is no need to discharge oil or hazardous substances wastes in this type of operation. I understand from my colleague, Mr. LIVINGSTON, that there may be similar circumstances that arise at small ports such as Mireaux and Lyon along the coast of Louisiana. Indeed, these circumstances may well arise elsewhere throughout the United States.

Mr. Speaker, I urge enactment of H.R. 6665.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill, H.R. 6665, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REFUGEE EDUCATION ASSISTANCE ACT OF 1980

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 7859) to provide general assistance and special impact aid to local educational agencies for the education of Cuban and Haitian refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults, as amended.

The Clerk read as follows:

H.R. 7859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Education Assistance Act of 1980".

TITLE I—GENERAL PROVISIONS

DEFINITIONS

Sec. 101. As used in this Act—

(1) The terms "Cuban and Haitian refugee adults" and "Cuban and Haitian refugee children" mean aliens who have fled from Cuba or Haiti and who—

(A) on or after November 1, 1979—

(i) have been admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

(ii) have been paroled into the United States by the Attorney General pursuant to section 212(d)(5) of such Act; or

(iii) are applicants for asylum, or have been granted asylum, in the United States; or

(B) are Cuban-Haitian entrants (status pending) who entered the United States on or after November 1, 1979.

For purposes of this paragraph, any person who is a Cuban-Haitian entrant as described in subparagraph (B) at any time after the date of the enactment of this Act shall be considered to maintain such status for purposes of this Act regardless of any subsequent change in status under any other law.

(2) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) The term "Indochinese refugee children" means aliens who have fled from Cambodia, Vietnam, or Laos, and, on or after January 1, 1979—

(A) have been admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

(B) have been paroled into the United States by the Attorney General pursuant to section 212(d)(5) of such Act; or

(C) are applicants for asylum, or have been granted asylum, in the United States.

(5) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

Sec. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

Sec. 103 (a). The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

Sec. 104. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act.

WITHHOLDING

Sec. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

Sec. 201. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1981, 1982, and 1983 for the purpose of assisting local educational agencies of that State in providing basic education for Cuban and Haitian refugee children. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for Cuban and Haitian refugee children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

(b)(1) Except as provided in paragraph (2) and in subsection (c), the amount of the grant to which a State educational agency is entitled under this title, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of Cuban and Haitian refugee children enrolled in elementary or secondary public schools under the jurisdiction of each local educational agency within that State during the period for which the determination is made;

multiplied by—

(B) $450.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that such amounts (A) are allowed to the State (or to agencies or entities providing services within the State) on the basis of a statutory formula, and (B) are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

Sec. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 201;

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

(4) provide for making such reports as the Secretary may reasonably require to carry out this title.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 203. The Secretary shall pay to each State educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN REFUGEE ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1981, 1982, and 1983 for the purpose set forth in section 302.

(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title—

(A) for fiscal year 1981, shall be equal to the product of (i) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during such fiscal year in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, multiplied by (ii) $750;

(B) for fiscal year 1982, shall be equal to the sum of—

(i) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1982 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were not enrolled in such schools during fiscal year 1981, multiplied by (II) $750; and

(ii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1982 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools during fiscal year 1981, multiplied by (II) $500; and

(C) for fiscal year 1983, shall be equal to the sum of—

(i) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were not enrolled in such schools during either fiscal year 1981 or fiscal year 1982, multiplied by (II) $750;

(ii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools during either fiscal year 1981 or fiscal year 1982 (but not during both such fiscal years), multiplied by (II) $500; and

(iii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools during both of the fiscal years 1981 and 1982, multiplied by (II) $350.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of Cuban and Haitian refugee children and Indochinese refugee children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

(3) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of Cuban and Haitian refugee children or Indochinese refugee children, except that the reduction shall be made only to the extent that such amounts are allocated to the State, or to such agencies or entities, on the basis of a statutory formula. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(4) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and Indochinese refugee children and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

SEC. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section for Cuban and Haitian refugee children and Indochinese refugee children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial assistance provided under this title shall be available to meet the costs of providing Cuban and Haitian refugee children and Indochinese refugee children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Cuban and Haitian refugee children and Indochinese refugee children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATION

SEC. 303. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds rea-

sonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(6) provide assurances—

(A) that to the extent consistent with the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

Sec. 304. (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

(b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this Act.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

Sec. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1982 and 1983 for the purposes of providing for the operation of adult education programs as described under section 402 for Cuban and Haitian refugee adults aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of Cuban and Haitian refugee adults aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies;

multiplied by—

(B) $300.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that such amounts (A) are allocated to the State (or to agencies or entities providing services within the State) on the basis of a statutory formula, and (B) are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee adults and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

USE OF FUNDS

Sec. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to Haitian and Cuban refugee adults aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjuction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (12) and (13) of section 306(b) of the Adult Education Act.

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of Haitian and Cuban refugee adults aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

APPLICATIONS

Sec. 403. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

(3) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. Perkins) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. Goodling) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Refugee Education Assistance Act of 1980 represents a Federal commitment to share in the financial burden of educating the massive influx of Cuban, Haitian, and Indochinese refugees who have recently come to this country.

The sudden and disorderly arrival of hundreds of thousands of Cuban and Haitian refugees to our shores has thrown local educational budgets into disarray. Similarly, the dramatic increase in Indochinese refugee admissions during the past year has heavily impacted some areas of the country.

School districts in many different States have accepted these new Cuban, Haitian, and Indochinese arrivals in good faith. But it is inconceivable that these school districts will be able to provide the refugee children with the necessary educational services entirely from their own funds. If the Federal Government does not shoulder some of the responsibility for their education, great damage will be done to the quality of education for all the children in the affected schools.

Surely it is unfair to call upon State and local educational agencies to absorb the unexpected costs created by a situation which is primarily the result of Federal policy.

The Committee on Education and Labor worked hard to come up with an equitable means of accepting this responsibility. I believe we have found the right approach in H.R. 7859.

This legislation proposes a program of modest cost and limited duration and enjoys support on both sides of the aisle.

Congressman STACK, our colleague from Florida, deserves credit for his leadership in introducing this bill and working hard to see it through committee.

Let me describe some of its major provisions.

H.R. 7859 authorizes three types of assistance to State educational agencies for refugee education. At the outset, I want to make clear that Cuban and Haitian emigres who entered the United States after November 1, 1979, are eligible to participate in the programs under this bill, including those Cubans and Haitians who are not technically considered "refugees" but whose status is pending under administration policy.

Title II of the bill authorizes grants for fiscal years 1981 through 1983 to assist local educational agencies in providing basic education to Cuban and Haitian refugee children. The purpose of this title is to meet the minimal needs of all districts with Cuban and Haitian refugees. These funds are to be distributed on the basis of numbers of Cuban and Haitian refugee children enrolled in public elementary and secondary schools, times a flat rate of $450 per child.

Title III of the bill would provide an additional grant to those districts with the most urgent need and the greatest burdens. Cuban and Haitian refugee children, as well as Indochinese refugee children entering the United States after January 1, 1979, who are enrolled in public and private elementary and secondary schools are counted for purposes of the Title III program.

School districts qualify for Title III aid if their numbers of eligible refugee children equal at least 500 or 5 percent of their total enrollment, whichever is less. Grants are calculated on a sliding scale of $750 per eligible refugee child in the first year of attendance, $500 per child in the second year of attendance, and $350 per child in the third year.

Title IV of H.R. 7859 authorizes grants for fiscal years 1982 and 1983 for adult education programs for Cuban and Haitian refugees. These programs can be provided by the State educational agency, or by local educational agencies and public or private nonprofit agencies, organizations or institutions. Allocations are based on the number of Cuban and Haitian refugees aged 16 or older enrolled in adult education programs in a State, times a flat rate of $300 per adult.

The bill authorizes such sums as may be necessary for the three titles. However, I would like to point out that the authorizations in the bill can be ratably reduced if appropriations are inadequate to fully fund them.

Mr. Speaker, unless we take action soon, this situation will reach crisis proportions in some areas of the country. Unless the Federal Government recognizes its responsibility, there is little hope that these newest arrivals can be successfully integrated into our schools with a minimum of disruption and ill will. Unless we make a commitment now, there is little likelihood that these refugees will become productive members of society later.

I urge you to join with me in passing this needed legislation.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee has summarized very well what we are trying to do with this legislation and has indicated that we worked cooperatively on both sides of the aisle to try to come up with some help for those who are going to need a lot of help when schools open in September. There is no question that those who are heavily impacted are going to suffer tremendously unless they receive some help.

Let me very quickly review what, in my estimation, we have done. In title II we provided grants to State education agencies, to schools providing basic education to Cuban and Haitian children. These schools could receive up to $450 per refugee child if the program is fully funded.

In title III the grants are to the State agencies or districts with substantial increases in the number of Cuban and Haitian children who entered on or after November 1, 1979, and Indochinese children since January 1, 1979. This aid would be to supplemental educational services to school districts in which these children comprise 500 students or 5 percent of the school population. The amounts range from $350 to $750 per child, depending on when the child was enrolled.

In title IV aid amounting to $300 per enrolled adult would go to States for adult education programs for Cubans and Haitians aged 16 or older.

The total cost over 3 years is estimated somewhere between $90 and $127 million, depending on whose figures one takes. The State Department task force has the low figures and the CBO has the high figures.

An amendment which I offered in committee, which was accepted, will ensure that Federal funds received by a State or local school district on a statutory formula basis, under any other Federal program for the purpose of refugee educational assistance must be subtracted from the recipient's entitlement under this bill. However, money received under discretionary grant programs for the same purposes would not be considered in the allocation formula.

If the Federal Government does not accept its responsibility to pick up part of the cost of educating these children, then the financial burden of refugee education will rest with State and local governments. Since these children are entitled to an education under our laws, the costs to the American taxpayers will be the same regardless of which level of government is providing the funds.

☐ 1430

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I would be happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to ask the gentleman this point. Why is it that it was limited only to Cubans, Haitians, or Indochinese when we have other groups coming in and creating the exact same burden on local and State districts?

Mr. GOODLING. I would only say to my colleague that it happened this way because those who were preparing the legislation were concerned over the people the gentleman mentioned. I suppose that is one of the reasons.

Mr. DE LA GARZA. Was there any consideration at all given to other than these groups?

Mr. GOODLING. None that I heard in any of the discussions during our subcommittee or full committee hearings. Another major reason for not including illegal aliens is that they are not applicants for asylum whereas the people covered under this bill are applicants for asylum.

Mr. DE LA GARZA. The gentleman knowing of the problem, because of what the gentleman just stated as far as being a burden on State and local governments, knowing of that problem, would the gentleman feel that he could be of assistance to us who have the exact same problem mainly on the Mexican border?

Mr. GOODLING. I would certainly want the chairman to respond to that, but I would certainly be in favor of having the necessary hearings to look into that situation.

Mr. DE LA GARZA. I appreciate the gentleman's yielding. I will have a dialog with the chairman at a later point. I thank the gentleman.

Mr. GOODLING. Of course, we know if these children are not educated, the likelihood of their becoming dependent on Government aid programs becomes much greater, and, of course, it becomes much more expensive than this program.

The problem was created by national policy and, consequently, the burden of this Federal decision ought not to be forced upon a few selected local areas.

I would like also to talk briefly about something that the chairman mentioned, and that is the amendment that was adopted on the Senate side to their higher education bill and, I believe, agreed to by the conferees. I think if we do not adopt this and give the Appropriations Committee the choice of the two funding approaches, we are going to be hit with a proposal that I do not see how we could possibly, first of all, justify and, second, how we could ever afford. With the Senate amendment and no other legislation, there could be as much as a $3,000 expenditure for each refugee child. So if we do not accept this legislation and give the Appropriations Committee the choice, then we are stuck with a bill that we, one, cannot afford and, two, certainly cannot justify. The Senate amendment would create a new section in the impact aid law, which is one battle we fight every time it comes up for renewal, and a growing number of people are opposed to the way we are handling impact aid. It would create a new section in that impact aid law that would authorize Federal aid to school districts impacted by refugee children. I am not even sure with the way it is written that the amendment on the Senate side would even cover Cubans and Haitians because they have not been defined as refugee children, so I am not sure that they would even be covered, even though I am sure the Senate meant them to be covered. The Senate amendment encompasses all refugee children paroled into the United States after November 1, 1979. As I said, if the Appropriations Committee would fund the Senate proposal, it could mean as high as $3,000 per pupil in some areas. So I would encourage the House to accept our proposal and then hope that the Appropriations Committee, using their good judgment—and I am sure they will, because I do not think they will have an alternative—will certainly follow our side rather than the impact aid amendment on the Senate side.

Mr. Speaker, I reserve the remainder of my time.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STACK).

The SPEAKER pro tempore. The Chair's understanding is that the chairman of the committee yielded back the balance of his time.

Mr. PERKINS. No, the Chair misunderstood me. I did not.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. STACK).

Mr. STACK. I thank the gentleman for yielding.

Mr. Speaker, I associate myself with the statement of the distinguished gentleman from Kentucky, the chairman of the committee (Mr. PERKINS).

Since the problem addressed by the bill was generated by Federal immigration policy, equity demands that the cost be spread to Federal taxpayers across the Nation, rather than to impose the full burden on the local taxpayer in the impacted districts. The taxpayers in these districts are already over-burdened. To the extent that the Congress does not respond to the need, overcrowded classrooms will result. Books and supplies will be insufficient. In short, the quality of education will diminish, affecting the children already in the school system, not to mention that only through a proper education can the refugee children become productive citizens. On the basis of equity to the local taxpayer, concern for the quality of education, compassion for the new arrivals who are, for the most part, pawns in the game of international politics, I urge the adoption of the committee bill.

Mr. WEISS. Mr. Speaker, will the gentleman yield to me?

Mr. STACK. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman's yielding to me. I want to commend the distinguished chairman of the Subcommittee and full Committee on Education and Labor (Mr. PERKINS) as well as the ranking member, the gentleman from Pennsylvania (Mr. GOODLING) for the very successful joint effort that they undertook in relation to this bill, and, of course, especially the distinguished and learned gentleman from Florida (Mr. STACK) who authored this bill and is responsible for its enactment. I think it sets a very important precedent for dealing with other areas, and with other nationality groups who have come to this country.

Mr. WEISS. Mr. Speaker, I rise in support of H.R. 7859, a bill to provide educational assistance to refugee-impacted areas.

The legislation authorizes a new program of grants to State and local educational agencies to meet the educational needs of Cuban and Haitian refugee children. Additional assistance is also provided to areas where there are large concentrations of Indochinese refugees, and funds for adult education programs for Cubans and Haitians.

In the last 5 months, almost 117,000 Cubans and between 15,000 and 35,000 Haitians have entered this country. The Bureau of Immigration and Naturalization Service estimates that between April 30, 1979 and April 30, 1980, the number of Indochinese refugees in this country increased 76 percent, from 196,848 to 346,859. Although the numbers of refugee children and adults have increased dramatically in the last 12 months, the Federal Government has not provided sufficient assistance to local and State governments which are charged with delivering many vital services.

Providing an appropriate education for these children and their families will be both costly and difficult. Local school budgets are already severely strained, and the Federal compensation minimal. Additional teachers must be hired, support services, including counseling, medical services, and language training must be provided, and additional classroom materials purchased.

Testimony given by representatives of State and local educational agencies before the Committee on Education and Labor indicate that the cost of educating these students will be approximately $3,000 per pupil. Because there is a low multiplying factor per student which will not meet the actual need of the school system, the amount of money provided even under this legislation will be clearly insufficient.

Any school district, and particularly that of large urban areas such as New York, Los Angeles or Miami where large numbers of immigrants settle, will not be able to provide the needed services from their own budgets. If Federal resources are not forthcoming, services for children already enrolled in these schools would have to be reduced. And it is especially difficult for those school districts which already enroll a large population of disadvantaged, minority and refugee children to find in their already overtaxed budgets funds for new children whose cost of education are disproportionately high.

It is in the best tradition of this Nation to welcome refugees from all countries where there is political and economic repression. Cities and towns across the country are providing all kinds of services, educational, medical, and cultural which are designed to help the refugees adjust to a new way of life. However, these communities and their citizens should not be penalized because they are willing to provide assistance. The Federal Government must recognize its financial responsibility.

We have been moving in that direction. The supplemental appropriations bill provides funds for refugees under the foreign aid legislation. And the conferees considering the Higher Education Act have made these children eligible under the impact aid program. A conference committee will soon be convened to work on the foreign aid authorization which includes funds for language training, adult vocational education, and general resettlement benefits.

I urge the House to pass this legislation today. Hopefully this is indicative of the Federal Government's recognition of its responsibility to provide financial assistance to all refugees and their local communities.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation and to say to the Members of the House that I think that the proposal worked out by the gentleman from Florida (Mr. STACK) is an equitable situation. It provides additional help and treats those school districts which are similarly situated, mainly those districts which have 500 students of the refugee population, by providing them additional assistance. I think it is a very fair and equitable solution to the overall refugee problem in this country.

But I would also have to say that it is very clear that had not the persistence of the gentleman from Florida (Mr. STACK) prevailed, and his diligence in this effort to provide a solution to a very grievous problem, the plight of the refugees in those local communities that are receiving them would not be brought to the attention of the House. I think that the entire House ought to commend the gentleman from Florida (Mr. STACK) for his diligence in getting consideration of this bill before the Committee on Education and Labor and bringing it to the attention of the full House and, hopefully, of course, to a swift passage here. Also I would like to thank our chairman, the gentleman from Kentucky (Mr. PERKINS), who allowed the committee the time to mark up and to consider this legislation.

Mr. Speaker, I yield back the remainder of my time.

Mr. GOODLING. Mr. Speaker, I just have one question that I would like to ask. I noticed on page 20 of the report what I am sure is a typographical error. Everywhere else it talks about $300 as far as adult education is concerned.

Mr. PERKINS. That is a typographical error.

Mr. GOODLING. That is a typographical error on page 20 that says $600?

Mr. PERKINS. That is a typographical error. Without objection, there is no reason why it should not be changed to $300.

Mr. GOODLING. To $300.

Mr. PERKINS. I think we all understand that, I will say to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I appreciate the chairman's yielding the time to me, and I also want to congratulate him and the ranking member of the committee for getting this bill on the floor as rapidly as they have, and to pay particular tribute also to my friend, the gentleman from Florida (Mr. STACK), who has been the prime mover in bringing this legislation to this point.

I would like to say, Mr. Speaker—and I think it is important that Members do realize this—that this bill does reach out really to practically every community in the country that is involved with refugees that are covered under this act.

☐ 1440

Even comparatively small areas such as Terrytown, N.Y., which is in the district I represent, which does have a large percentage of the refugees, a large percentage in terms of their community, who have come into the country under this act, they are going to be tremendously helped. In fact, without this help the school system there would be impacted in such a way that it might be impossible for them to continue with their normal education program for their young people.

Mr. Speaker, I think it is important to recognize the amounts of money that are involved here and in particular from the general fund where we are dealing with $450 for the basic education of every child covered under this act in a school district. I think this is important legislation, it is vital we move ahead on it rapidly. I certainly want to congratulate all of those who have been actively involved in bringing this to the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I yield to the distinguished gentleman from New York (Mr. BIAGGI) such time as he may consume.

Mr. BIAGGI. Mr. Speaker, I rise in strong support of this bill H.R. 7425, a bill which would amend our Indochinese Refugee Children's Assistance Act to include Cuban, Haitian, and Vietnamese children. Accordingly, I would also like to commend the chairman of our Education and Labor Committee, Mr. PERKINS, for his timely attention to this grave matter. I would especially like to cite my colleague and friend, ED STACK, who was instrumental in bringing this alerting us to the problem which LEA's would have as a result of the large influx of refugees to our shores in the past year.

As New York's senior member of the House Education and Labor Committee, and a resident of the great city of New York, I am all too aware of the burden which is placed upon the school which must educate the youngster whose language and heritage is different to our own. New York has always welcomed—and will continue to do so—newcomers to our shores. But in doing so, we must also accept the responsibility for assuring that these refugees become productive members of our society. While we are more assuredly willing to take on this task, we must also be assured that we will be provided with adequate funds to assist us in this educational process.

New York City has not yet experienced the voluminous wave of refugees from Cuba and Haiti as south Florida has. We do, however, have a growing Vietnamese population. It is essential that we approve this modest program of aid to local school districts so that we can both assure adequate educational instruction to refugee children but not at the expense of the children that are currently enrolled in our Nation's schools who also deserve full and appropriate educational opportunities.

This bill, H.R. 7425, is a measure worthy of our support and I urge its adoption.

Mr. PERKINS. Mr. Speaker, I yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I thank the committee chairman for yielding. I do this also to add my commendation to the gentleman from Florida (Mr. STACK) for the work he has done.

Mr. Speaker, all of the facts that we have referred to here today apply to another group which exists in my area on the Mexican border. There is a very difficult problem where we have an influx of legal and illegal aliens. A Federal court has now ruled in Texas that even though the children are illegal, they still have to be educated by the State and the local school district.

Not wanting to in any way detract from the thrust of this legislation which deals with refugees, I would again like to solicit the assistance of my distinguished friend, the chairman of the committee, to assist us with the problem we have on the border.

Mr. Speaker, let me say to my distinguished colleague I know something about the gentleman's problem. Inasmuch as the court has already ruled that the children must be educated, I feel that hearings on this particular question are timely at the present time. I will call the committee together to give the gentleman hearings and we will try to work something out. There may be some legal obligations where we must educate these children. We will study the decision and work together. I know something about the problem. We will try to give the gentleman some assistance.

Mr. GOODLING. Will the gentleman yield?

Mr. PERKINS. Yes, I do yield to the gentleman from Pennsylvania.

Mr. GOODLING. I believe the Federal Court last week did reverse the ruling in relations to illegal aliens; we would be dealing with legal aliens. In this bill we are dealing only with those people who are applying for asylum. There would be that distinction and we would have to work something out. I think the Federal court did reverse the lower court in relationship to illegal aliens.

Mr. PERKINS. That is the way I understand it.

Mr. DE LA GARZA. Will the gentleman yield further?

Mr. PERKINS. I do yield to the gentleman from Texas.

Mr. DE LA GARZA. No, they did not reverse. They stayed the order pending the appeal, so it is not a complete reversal.

Everything that has been said here today, Mr. Speaker: the need, the compassion, the necessity for action, everything applies. All we needed was to add another definition beyond a Cuban, Haitian, and Indochinese and it is in that that I very respectfully solicit assistance.

Mr. PERKINS. Mr. Speaker, I have always felt, and have been laboring under the impression that there was some doubt about the legality of Government payments to the children prior to the decision being handed down in the last few days but I think now the decision makes it clear. It is legal. We do have an obligation and we will certainly go into that point with the gentleman.

● Mrs. CHISHOLM. Mr. Speaker, I wish to commend my colleague from Florida, EDWARD STACK, for his foresight in introducing this legislation. The Education and Labor Committee is also to be commended for giving this legislation prompt consideration. H.R. 7859 authorizes general assistance and special impact aid to local educational agencies for the education of Cuban and Haitian refugee children and to provide assistance to State education agencies for the education of Cuban and Haitian refugee adults.

Since the administration has refused to use the Refugee Act of 1980 to accommodate these recent refugee arrivals, localities have been saddled with the burden of providing the needed services for these refugees. Nowhere is this situation more evident than in our public school system.

Most of the new Cuban and Haitian refugees have a range of educational problems that necessitate special educational services more expensive than basic instructional programs. These new refugees know little or no English, thus, English language instruction and bilingual education programs are a necessity. Their different cultural backgrounds require programs of cultural orientation. Many, particularly the Haitians, will need nutritional and health care services. School districts will be unable to meet the needs of these children without reducing the quality of education for all the children in their schools.

The special educational needs of Cubans and Haitians has placed an immense fiscal burden on these State and local educational agencies. All of the witnesses in hearings on this legislation agree that they do not have the resources to provide the total funds required to educate these newcomers. While some Members may feel that this legislation is a piecemeal approach, I would remind my colleagues that the administration's refusal to assume the same responsibility for aiding Cubans and Haitians that we have evidenced for other refugees has necessitated this action. I would urge my colleagues to support H.R. 7859 to relieve State and local education agencies from the impossible fiscal burden which now faces them. Education will play a key role in these children's transition into our society. I would hope that my colleagues will give their overwhelming support to H.R. 7859 to assist in this transition.●

● Mr. AKAKA. Mr. Speaker, I would like to take this opportunity to express my support for H.R. 7859, the Refugee Education Assistance Act of 1980. The bill authorizes a new 3-year program of grants to State educational agencies in meeting the educational needs of Cuban, Haitian, and Indochina refugees.

As a former educator, I am especially aware of the difficulties faced by the State school systems in accommodating the children of recent immigrants. There is the primary language problem—they must learn English. Equally important, the children must adjust themselves to a new culture, a new way of life. The refugee children need programs that reach beyond the primary service of developing English proficiency. They need orientation into our society with the help of nutritional, medical, and counseling programs.

I feel that it is the Federal Government's responsibility to fund these programs. The Government must extend its responsibility for the refugees to the area of education. Across the Nation, from Florida to California, schools are already inundated with these children. In Hawaii there are already over 6,000 Indochinese refugees. I am proud to call Hawaii the gateway to the Pacific. However, we can only continue to welcome Indochinese and other refugees if the Federal Government assists us in shouldering the financial burden of absorbing the refugee children into the school system.

Finally, it is important to note that Federal Government funding of refugee education will benefit not only the immigrant children, but also, our own. In this year of inflation and fiscal restraint, the schools are already operating with reduced Federal funds. We must maintain the quality of our educational system and insure that American children continue to receive the same educational opportunities.

The refugee child's school is the place in which he or she learns about American values. The refugees' special educational needs must be met, so that they may be successfully integrated into our society, so that they may contribute to their new homeland as productive and responsible adults.●

Mr. GOODLING. Mr. Speaker, I have no further requests for time.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 7859, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INTERNATIONAL CENTER ACT

Mr. LEVITAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6550) to amend Public Law 90–553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act approved October 8, 1968 (Public Law 90–553, 82 Stat. 958), is amended—

(1) in the first sentence by striking out "sell or lease" and inserting in lieu thereof "develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease,";

(2) by striking out "Van Ness Street, Reno Road, and Tilden Street" and inserting in lieu thereof: "Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility"; and

(3) by striking out "he" and inserting "the Secretary".

SEC. 2. Section 2 of such Act of October 8, 1968 (Public Law 90–553), is amended to read as follows:

"SEC. 2. Upon the request of any foreign government or international organization and with funds provided by such government or organization in advance, the Administrator of General Services as authorized to design, construct, and equip a headquarters building or legation building or related facilities on property conveyed pursuant to the first section of this Act.".

SEC. 3. Section 3 of such Act of October 8, 1968 (Public Law 90–553), is deleted, and sections 4 to 6 of such Act, inclusive, are renumbered as sections 3 to 5, including references thereto. The first sentence of renumbered section 3 is amended to read as follows: "The Act of June 20, 1938 (D.C. Code, secs. 5–413 to 5–428), shall not apply to buildings constructed on property transferred or conveyed pursuant to this Act including section 3 of this Act as in effect January 1, 1980.".

SEC. 4. Section 4 of such Act of October 8, 1968 (Public Law 90–553), as renumbered by this Act is amended by—

(1) inserting "demolition or removal of existing structures, site preparation, and the" immediately after "The";

(2) striking out "and" immediately before "(d)";

(3) inserting "(e) other utilities, and (f) related improvements necessary to accomplish the purposes of this Act," immediately after "the fire alarm system,"; and

(4) inserting "or contiguous to" after "within".

SEC. 5. Section 5 of such Act of October 8, 1968 (Public Law 90–553), as renumbered by this Act is amended by—

(1) inserting ", exchange," after "sale" in the first sentence, and by inserting ", exchanges," after "sales" in the second sentence thereof; and

(2) adding at the end thereof the following: "Until September 30, 1982, the Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes.".

SEC. 6. The Act of October 8, 1968 (Public Law 90–553), is further amended by adding at the end thereof the following new section:

"SEC. 6. This Act may be cited as the 'International Center Act'.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Georgia (Mr. LEVITAS) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. CLINGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6550, a bill reported unanimously by the House Committee on Public Works and Transportation amends Public Law 90–553, enacted on October 9, 1968, and known as the International Center Act, to expand and bring to completion the planned International Center within the federally owned Bureau of Standards site at Van Ness Street and Connecticut Avenue in northwest Washington, D.C.

Passage of the International Center Act in 1968 was essential to partially alleviate the critical shortage of suitable space for location of chanceries and related facilities of foreign governments in the Nation's capital, an issue of increasing concern to the Department of State in the discharge of its Federal functions.

The site for the center, located at the south half of the old Bureau of Standards site in northwest Washington, was to be developed by the Secretary of State from proceeds of sale or lease to foreign governments or an international organization. Development controls and a master plan applicable to the site were approved and adopted by the National Capital Planning Commission on June 3, 1971.

The international center was to provide chanceries for approximately 14 foreign governments and a headquarters building on a parcel, not to exceed 8 acres, for the Organization of American States (OAS). The latter was intended to provide multilingual conference and other facilities needed for a diplomatic center and to obtain a proper density of development, adjacent to the Connecticut Avenue corridor and the Metro system.

In 1973, it was found that sufficient capital was not available from potential purchasing governments to fund the development of the site in absence of clear evidence to complete at least the first phase of site development. Public Law 93-40, signed in May 1973, authorized $2.2 million to allow the Secretary of State to initiate site development. The remaining site development costs would be provided through the sale or lease of property at that center to foreign governments; such sales would also provide funds to reimburse the Treasury for all funds expended from the appropriation of the $2.2 million. The chancery section project ultimately will be constructed at no cost to the Government, and the cost of actual construction of chancery facilities will be borne by the foreign governments.

Development of chancery sites at the international center has proceeded in accordance with master plans and site and building plans approved by the National Capital Planning Commission (NCPC). The General Services Administration has had overall responsibility for demolition, excavation, site preparation, streets, parks, and utilities. Each foreign government then builds its own chancery, at its expense, on land leased at the center.

The chancery lots are being developed in two main phases. This is necessary since the University of the District of Columbia (UDC), occupies two buildings located on four of the chancery lots.

Phase 1 which provides for the preparation of 10 of the planned 14 lots is essentially completed.

As of May 1, 1980, the Department of State has signed leases with seven countries, namely: Jordan, Israel, Ghana, Yemen, Bahrain, Libya, and Kuwait.

Other countries have expressed an interest in these sites and it is anticipated all sites will be exhausted by the end of 1980.

H.R. 6550, as reported, amends the act to provide for a 12-acre expansion area known as the "northwest quadrant", adjacent to the present site to accommodate chanceries and related facilities for up to eight additional governments within the existing federally owned area.

The additional 12 acres together with the 34 acres available under the original act, will accommodate approximately 23 chanceries of smaller to medium-sized foreign missions.

The bill provides for the development of a headquarters facility for an international organization, other than the organization of American States as contemplated in the original act, in order to complete the international center in accordance with the Federal element of the comprehensive plan for the National Capital. The OAS has occupied alternative space, thus. the Department of State, together with the National Capital Planning Commission, has entered into feasibility discussions with another international organization for this purpose.

Lastly, the bill authorizes the Department of State to utilize proceeds realized from the lease, sale or exchange of land in the international center to defray development costs, as is the current practice at the center. The project would be completed without any additional request for appropriated funds. The Secretary is also authorized to utilize proceeds until September 30, 1982, for maintenance and security on those properties within the site which have not been conveyed to a government or international organization, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes.

Mr. Speaker, the U.S. Government, as part of its international obligations, is required to assist foreign governments to obtain suitable premises for chanceries in the District of Columbia in accordance with the Vienna Convention on Diplomatic Relations of 1961, which entered into force as a treaty for the United States on December 13, 1972 (23 UST 32, TIAS 7502). Of equal importance, there is a growing need for reciprocity involving the substantial problems of the U.S. missions overseas. The Department of State is now unable to meet these obligations due to the current unavailability of suitable chancery sites in the District because of security, costs, and restrictive zoning problems. This situation is now creating an adverse impact on our foreign relations and the ability of the United States to support our needs abroad.

Accordingly, enactment of this legislation will assist in alleviating this critical problem by providing additional suitable sites for the location of foreign missions in a securely protected international enclave, as well as assist the United States abroad with respect to our missions, through reciprocity.

Lastly, enactment of this legislation, which has the support of the administration, will also create additional jobs and economic stimulation locally both through the General Services Administration site development and construction of facilities by participating governments.

Mr. Speaker, I urge enactment of H.R. 6550.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6550 will accomplish several objectives of the Federal Government, without a request for additional appropriated funds.

It provides for the expansion and completion of the Federal International Center authorized by Public Law 90-553 in 1968, as follows:

First. by expansion of space within the federally owned site for chanceries of foreign governments.

Second, by substituting the International Telecommunications Satellite Organization (Intelsat) as the public international organization authorized to develop a headquarters building on part of the site, in place of the Organization of American States, as originally planned in the 1968 act.

Third, by providing for the completion of all work required by the Federal side from nonappropriated funds, the surplus of which after repaying Congress a $2.2-million appropriation, would be applied to continued maintenance and security costs, as well as surveys and plans to locate additional areas within the District of Columbia for chanceries, at no additional taxpayer cost.

Development of chancery sites on the original 34 acre parcel authorized by Public Law 90-553 has proceeded in accordance with master plans and site and building plans approved by the National Capital Planning Commission (NCPC). The General Services Administration has had overall responsibility for demolition, excavation, site preparation, streets, parks, and utilities. Each foreign government then builds its own chancery at its expense on land leased at the center.

This bill requests authority to now develop an adjoining 11-acre area known as the "northwest quadrant," within the same Federal site for additional chancery space.

The second major portion of the bill involves the planned site for a headquarters of an international organization. The original act had included a site for the headquarters of the Organization of American States; the OAS has, however, occupied alternative space. The Department, together with the National Capital Planning Commission, has entered into feasibility discussions with Intelsat, an organization now composed of 104 member states, which has been designated by Executive Order 11966 as a public international organization. Intelsat is required to locate its headquarters in Washington pursuant to multilateral agreements definitively establishing the organization in 1973. Development of its headquarters as part of a Federal plan will strengthen the relationship between the United States and Intelsat, an important link in the area of world telecommunications.

Finally, this bill will also assist the United States in obtaining improved sites or facilities abroad, which are required for security as well as other purposes, on the basis of reciprocity.

H.R. 6550 has been supported unanimously by the full Committee on Public Works and Transportation and I ask the House to concur with the committee's recommendation in passing this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVITAS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 6550, a bill providing for the expansion and completion of the International Center in northwest Washington, D.C.

H.R. 6550 would enlarge the chancery

section of the International Center in the District of Columbia to include 11 acres north of Van Ness Street and west of the campus of the University of the District of Columbia and would permit the development of a new headquarters facility for an international organization at the International Center. All of this property is within federally owned land.

Mr. Speaker, during the 25-year period from 1950 to 1975, the number of accredited diplomatic missions in Washington increased from 72 to 130. The period of greatest growth occurred between 1955 and 1965 when 36 new missions were established, many of whom were from lesser-developed areas or are smaller sized governments for whom it is most difficult, although no less important, to obtain secure sites in our capital for their missions.

To address the growing space needs of foreign missions—and of international agencies as well—the Department of State and the National Capital Planning Commission working with the Office of Management and Budget and the General Services Administration, identified the federally owned land, formerly occupied by the National Bureau of Standards, at Connecticut Avenue and Van Ness Street NW., as an appropriate location for the International Center.

Public Law 90-553, approved October 8, 1968, authorized the Secretary of State to develop sites for sale or lease to foreign governments and international agencies on that part of the old Bureau of Standards property bounded by Connecticut Avenue, Van Ness Street, Reno Road and Tilden Street. A parcel, not to exceed 8 acres, was reserved as a site for a new headquarters building for the Organization of American States.

The act provides that the zoning regulations of the District of Columbia shall not apply to buildings constructed at the International Center. In lieu thereof, the act requires that plans showing the location, height, bulk, number of stories, and size of, and the provisions for open space and off-street parking in and around such buildings shall be approved by the National Capital Planning Commission. The Commission has approved a master plan which allots approximately 11 acres, containing 14 sites for a chancery section and another 11 acres for streets and public open space, as well as 8 acres for an international organization headquarters.

To date, interest in the chancery sites has been extremely high and it is anticipated that all available 14 sites will be leased or reserved by foreign governments by the end of 1980.

Thus, while intent of the original act is being carried out, a critical need still exists with respect to finding additional suitable space for the location of chanceries and related facilities of foreign governments in the Nation's Capital. Since enactment of the original international center bill in 1968, suitable space for foreign governments has become even more difficult to obtain, because of cost, security problems, and restrictive zoning. At the same time, reciprocity in relations between governments has become a growing issue.

Enactment of H.R. 6550, which provides for an expansion area, known as the northwest quadrant (adjacent to the present site), to accommodate chanceries and related facilities for up to nine additional governments within the existing federally owned area will assist the United States significantly abroad with respect to reciprocity. The obligation of the United States to provide security for foreign missions, in today's world, is an increasingly important and difficult task; therefore, to locate such missions in close proximity to each other as proposed in this legislation is extremely desirable.

In addition, the bill permits the substitution of another international organization (other than the Organization of American States as provided for in the original act), as well as permit the Secretary of State to develop additional sites for up to four more nations within the area set aside for an international organization. Completion of this aspect of the project will be beneficial in view of the fact that any space within an international organization building developed pursuant to this act, which is or becomes excess to the needs of that organization during any phase of development, would be available on a priority basis and at a concessionary rate for use by foreign governments for chancery purposes or made available to the General Services Administration for which such lease rates shall be comparable with commercial rates in that area.

Lastly, Mr. Speaker, the Secretary of State is authorized to continue to utilize proceeds realized from the lease, sale or exchange of land in the International Center to defray development costs and for related purposes; thus the project will be brought to completion without any additional request for appropriated funds.

Mr. Speaker, I urge enactment of H.R. 6550.

Mr. LEVITAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just take this occasion to thank and express my appreciation to the members of the committee and the subcommittee for the work that was done on this important piece of legislation, and which involved the full cooperation between members of the majority and minority and the staffs.

I urge adoption of H.R. 6550.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. Levitas) that the House suspend the rules and pass the bill, H.R. 6550, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 4231, H.R. 5732, H.R. 6531, H.R. 7130, H.R. 7309, H.R. 7414, and H.R. 7450, the bills considered today on the Consent Calendar.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7262) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Ashley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7262, with Mr. Ichord in the chair.

The Clerk read the title of the bill.

□ 1500

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio (Mr. Ashley) will be recognized for 1 hour, and the gentleman from Ohio (Mr. Stanton) will be recognized for 1 hour.

The Chair, therefore, recognizes at this time the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I present H.R. 7262, the Housing and Community Development Act of 1980, which was reported out of the Banking Committee by a vote of 38 ayes, 3 nays.

Before proceeding, Mr. Chairman, I would like to commend the distinguished Chairman of the full committee, my colleague from Wisconsin, Mr. Reuss, for his cooperationa nd assistance.

I would especially like to express my appreciation to the ranking member of the committee, my colleague from Ohio, Bill Stanton, whose help and counsel have contributed so much to the development of this legislation. I would be remiss, indeed, if I did not also bring to the attention of the Chair the great contribution that all of the members of the Subcommittee on Housing and Community Development have made to the legislation before us today.

Mr. Chairman, this legislation has been the subject of extensive consideration by the committee. It represents a carefully developed response to the H. & C. D. needs of the Nation in the context of the economic realities which face us. The committee has been sensitive to the need to restrain Federal spending; it has been cognizant of the dire state of rental housing; it has been responsive to the need to stimulate the homebuilding industry at a time when that industry is in a near depression state; and it has recognized that in an inflation era the need to assist lower income families to find adequate shelter is even more compelling.

In addition to several limited initiatives, H.R. 7262 provides authorizations for the assisted housing and community development programs of the Department of Housing and Urban Development and the Farmers Home Administration and it also extends the basic HUD and FmHA insuring authorities. In doing so, the committee has taken care to authorize the funding for these programs within the levels contained in the House-passed budget resolution.

Specifically, the bill reauthorizes the community development block grant program at a level of $3.81 billion for fiscal year 1981, $3.96 billion for fiscal year 1982, and $4.11 billion for fiscal year 1983. It similarly reauthorizes the very successful urban development action grant program at $675 million annually through fiscal year 1983. The section 312 rehabilitation loan program would be authorized at $183 million for fiscal year 1981. This amount, together with funds available from loan repayments would support a total program of $235 million. Each of these levels should be sufficient to enable the programs to operate at the same level in fiscal year 1981 as was provided for fiscal year 1980.

The bill authorizes HUD's assisted housing programs at a level sufficient to fund approximately 352,500 units for fiscal year 1981—about 50,000 units more than projected in the President's budget. This growth in assisted units is the result of a number of changes in the program to more efficiently use available funds. Principal among these changes is the committee's rental housing initiative, which I will touch upon shortly. The bill also authorizes $100 million in annual contract authority for a new program for the comprehensive improvement of public housing. This new public housing improvement program is designed to not only improve the physical condition of public housing but its management as well.

In an effort to stimulate the lagging homebuilding industry, the committee has revised the section 235 homeownership program to make eligible families with incomes of up to 120 percent of the area median; increased the program's mortgage limits to $50,000 ($60,000 in high-cost areas); and provided for a recapture of the subsidy at time of sale. It is hoped that this revised 235 program will increase new home construction by between 80,000 to 100,000 new units in the next year. To this end, the committee has provided that this new revised program can be implemented immediately upon enactment of this legislation.

In addition, H.R. 7262 extends for 1 year the FHA authority to insure mortgages under the National Housing Act and increases the maximum insured single-family and mobile home mortgage amounts by 11 percent. It also revises and updates the Brooke-Cranston program by increasing the loan limits and sales price limitations.

Title IV of the bill would revise and simplify the section 701 comprehensive planning program and title V would authorize and extend the various housing programs administered by the Farmers Home Administration.

The major new thrust of the bill before you is the rental housing initiative contained in title II. It is clear to the members of the committee that the Nation faces a crisis in the supply of rental housing and there is no dispute that a combination of high-interest rates, changes in the tax laws, the growth in rent control, and extraordinary inflation rates have all conspired to diminish the relative supply of rental housing.

The result is that we have an alltime low in vacancy rates and the Federal Government has now become the supplier of over half of all new rental housing throughout the country. The bill before you, while building on past experience, represents an innovative approach reflecting today's realities. The committee is satisfied that without a new approach, the rental housing crisis will expand and a more drastic solution will have to be found in the future.

The committee nevertheless felt that the program should undergo a demonstration phase prior to its expansion and the bill, therefore, provides a maximum of 40,000 units to be assisted under the new program in fiscal year 1981.

Let me set forth the basis of our action on this rental initiative. First, we did not want a new program to reduce the number of lower income families that could receive Federal housing assistance. In fact, we wanted, to the extent possible, more such families to receive assistance. Second, we made clear that the new program could not cause a breach of the budget targets. Third, any program developed had to be workable and had to respond to the lessons that we have learned from our past efforts.

Each of these strictures is implicit in the proposal before you today.

Basically the program that the committee is proposing is a production program. It is aimed at significantly increasing the supply of rental housing through a shallow subsidy mechanism. To accomplish this task, several things are necessary: A ready and willing development community; families who are willing to occupy the units; and the provision of Federal assistance to assure that the units will become occupied. Federal assistance must be sufficient to reduce the rental costs so that families will be willing to pay the rentals. In the absence of an expansion of the rental stock, demand for rental units forces all renters to pay more and this creates a particular burden for those of the lowest income who pay as much as 50 percent of their income for rent. The real purpose of this program, then, is to benefit all renters and, most importantly, to benefit lower income renters.

Mr. Chairman, this bill has been carefully crafted by my subcommittee and the full Banking Committee—it attempts to respond to the depressed state of the homebuilding industry and it provides a new effort to stimulate the construction of rental housing, a type of shelter that millions of Americans continue to rely upon.

Mr. Chairman, the bill represents a prudent and rational approach to the community development needs of the Nation and I urge my colleagues to support this legislation.

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7262.

If someone were looking for a microcosm of legislative efforts this year, they would have a perfect example in H.R. 7262. With inflation roaring at unprecedented levels, our committee realized we would have to exhibit budgetary restraint if we are to contribute to our common goal of a balanced budget. At the same time we were acutely aware that the economy was slipping into a depression. We may have been more aware of this than others because the industry that is most affected by cyclical patterns in our economy is the homebuilding industry and by all indications they were heading into a bad year.

The challenge then was to draft legislation within these budgetary restraints that would still provide some needed economic stimulus for the homebuilders. I believe we have done so and for that reason I am supporting the legislation. As long as it remains within our budgetary restraints, I will continue to support it.

It is important to keep in mind, Mr. Chairman, that Government assisted or insured housing is not the primary answer to the problems of the homebuilding industry. The conventional market provides roughly 80 percent of the units constructed each year. The production of these units is dependent upon a stable economy—one in which inflationary pressures are kept in check and interest rates remain affordable. That, and not budget busting Government housing programs, is what the homebuilding industry needs.

This bill is not a budget buster. It is within the budget authority level adopted by the House in their budget resolution. It is, in fact, below last year's bill when we look at contract authority for fiscal 1981. Last year HUD and FmHA had $11.9 billion in fiscal 1980 contract authority. H.R. 7262 on the other hand, authorizes $11.75 billion. I should point out, however, that these savings are a result of decreases in the rural housing programs. The committee more or less went along with the administration's recommendations for funding of FmHA's programs and that recommendation was approximately $590 million below last year's funding level. In this regard, I believe the argument can be made that our rural citizens are bearing a disproportionate share of the Government's economy measures.

Included in H.R. 7262 are four new initiatives. On the surface it appears they will not entail additional funds. That may be a little misleading. Two of these, the public housing comprehensive improvement assistance program and the new section 203 rental housing assistance program are using funds from the overall ACC authority. This, of course, begs the question of future year funding. If the section 8 program is to continue to keep pace with the demand for assisted housing, it will be difficult to do so when the available funding is being divided, not only with public housing, but with a rental assistance program. This year the rental assistance program is basically a demonstration program—and I believe that is a wise decision—but in future years I am sure there will be pressure to expand it. The result will be either a smaller slice of the pie going to low-income housing or larger authorizations.

One of the remaining new initiatives, the expanded 235 program, utilizes previously authorized but unobligated funds. Full utilization of these funds this year, however, would exhaust this as a source of future funding. Unless this expanded 235 program is, indeed, a temporary one that expires as planned on October 1, 1981, there will be demands on Congress to provide additional funds in subsequent years.

I mention this, Mr. Chairman, because both the rental assistance program and the expanded 235 program are a deviation from the past policy of funneling government assistance funds to the truly needy. The section 8 funds, for example, are limited to those families making 80 percent or less of area median income. The expanded 235 program, on the other hand, would be open to families earning 120 percent of median and the rental assistance program open to families earning 150 percent of median income.

While I believe such a deviation from present policy can be justified as a one-time stimulant to the housing industry, or as an experimental program, I also believe we will be setting a dangerous precedent if we make permanent the one program or expand the other before we are absolutely sure this is the way we should be going. Once the Government makes over half of the population eligible for a subsidy program, the demands to increase funding for it will be unbearable.

The final new initiative has no spending restraints and this is one of the minority's major complaints. The administration requested, and the committee agreed to, a temporary mortgage assistance program. Under TMAP, the Secretary would be authorized, as an alternative to acquisition under the existing assignment program, to make monthly mortgage payments directly to the mortgagee on behalf of owners of FHA-insured, single-family dwellings whose monthly mortgage payments are in default.

While many minority members were skeptical as to the viability of the program, our major concern deals with the source of funds to make those payments. All expenditures made under this proposed new program would be made from the FHA insurance fund applicable to the program under which the property is insured. There is no requirement the funds be subject to appropriation act approval. I, and many of my colleagues, believe they should be and we will attempt to secure that requirement on the floor of the House.

Some degree of control is essential if we are to protect the integrity of these insurance funds and also get a better grip on the budgetary process. The Congressional Budget Office in the supplemental report that accompanies this bill had this to say about the TMAP proposal:

> It is not possible at this time to accurately assess the budget impact of the TMAP proposal. A conservatively administered program where the temporary assistance would, in most cases, prevent assignment or foreclosure could result in net savings to the Government.

I would like to point out to my colleagues that "conservative administration" is not a term generally associated with the Department of Housing and Urban Development. More importantly, the Budget Office cautiously concludes that this "could result in net savings to the Government." Conversely, it could result in a net loss. Should the latter occur, we should be able to set limits on the extent of that loss.

Mr. Chairman, I am sure there will be many amendments offered to this bill. One that was offered in committee, and was narrowly defeated on a 23-to-20 vote, deals with the Secretary's authority to establish the FHA interest rate. The amendment would have allowed, in a limited amount of instances, the rate to be negotiated between the borrower and the lender. A very important part of this arrangement would be a guarantee by the lender that the agreed upon rate would be binding on the lender for at least 30 days.

This type of protection has gained added importance in this past half year as the FHA rate has changed almost monthly in an effort to stay in close proximity to the market rate.

Let me give you two examples, Mr. Chairman, of why this is needed. Under the current system of a fixed FHA interest rate ceiling, the borrower has no guarantee that the FHA rate at settlement would be the same rate as when the purchase contract was entered into. The rate can change overnight and the borrower has no choice but to pay the new rate—assuming he still qualifies for the loan at the new rate. That is a problem if the rate increases.

What happens if the rate is lowered as it recently was? In this case the borrower qualifies for the loan but the seller does not want to sell because now the seller must pay points. He has to pay points because in attempting to lead the market down, the Secretary has established the FHA rate too far below the conventional rate. This is precisely what happened less than a month ago when the Secretary precipitously dropped the rate from 13 to 11½ percent. What the seller generally does in a case like this is to raise the price of his house enough to cover the costs of the points he must pay. If he had previously valued his house at $65,000 and he figures he will have to pay $2,500 in points, he simply tells the buyer that if he insists on going FHA the cost of the house is $67,500.

The amendment in question would allow us a way out of this twin dilemma by offering an alternative to the present system. I believe the alternative is workable and that the amendment should be adopted.

There will be other amendments to the bill that I believe should be adopted. I will discuss these at the proper time.

□ 1510

Mr. Chairman, I reserve the balance of my time.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. AuCoin), a member of the committee.

Mr. AuCOIN. Mr. Chairman, I want to commend the chairman of the Subcommittee on Housing and Community Development and the members of that subcommittee on both the majority and the minority side for putting together what I consider to be an excellent piece of legislation.

I wish to refer to three aspects of the bill that will be pending for legislative treatment when we get to the amendment stage.

First, the question of energy block grants. The committee bill contains an addition to the community development block grant program to allow funds to be used for energy conservation purposes.

While I support, approve of, and urged this change, I would prefer to see a separate program—separately authorized and separately funded. I proposed such a program last fall and was pleased to be joined by a number of cosponsors.

We need a community energy conservation program because federally mandated conservation measures are not the total answer. The best example of this is building energy performance standards which are delayed for 2 years under this bill because of widespread criticism about their technical deficiencies.

Community energy conservation programs are based on the principle that energy conservation can best be achieved through community consensus about the methods to achieve meaningful conservation. In one town it may be mandatory weatherization. In another it may be tapping geothermal energy resources.

The Senate has already passed a community energy block grant bill. I understand that the House Commerce Committee may soon move ahead with similar legislation. I am pleased to see those efforts. But at the same time I am concerned because both of those bills would allow the Department of Energy to duplicate the administrative structure that already exists in HUD. I hope the Housing Subcommittee will have input into that bill before it reaches the House floor.

One of the most important elements in a community energy conservation effort is a close linkage between energy conservation and other community improvement efforts. I believe that purpose is best achieved by linking those efforts at the Federal level. That means giving HUD a substantial role in the administration and delivery of a community energy conservation program. I think this bill is an important beginning.

SINGLE-ROOM-OCCUPANCY HOUSING

Bill contains an important change which—for the first time—specifically recognizes the need to provide Federal assistance for single-room-occupancy housing. The bill amends the section 312 rehabilitation loan program by identifying single-room-occupancy housing as eligible for rehabilitation loans. The per unit loan limit is set at $15,000.

I suppose this is not an earth-shaking change in the section 312 statute. But for those communities which are fighting to preserve housing in their core areas and to help their low-income downtown residents, the amendment represents a major positive policy shift. In the past, HUD has labeled single-room-occupancy housing—which typically does not contain an individual kitchen or bathroom—as substandard.

Because of the substandard designation, HUD's programs have not been available to assist the tenants of single-room-occupancy housing units. The result: In cities such as Portland and Seattle, a rapid loss of units due to demolitions and conversions and the displacement of thousands of low-income elderly tenants.

Upgrading single-room-occupancy housing units is a cost-effective method of providing decent housing for those with the most critical housing needs. Under present regulations, these units must undergo substantial rehabilitation in order to qualify for section 8 assistance. Since section 8 standards require individual kitchens and bathrooms, the result is a net loss of units. In one case in Portland, a 200-unit hotel yielded only 89 units after substantial rehabilitation. The amendment to the 312 program does not change the section 8 standards but it does take us a step in that direction.

PREPAYMENT AMENDMENT

An amendment may be offered to this bill to undo an important provision adopted by the Congress last year. This provision put a stop to a massive ripoff of taxpayers' money by developers of Farmers Home Administration rental housing programs.

This amendment generated heated debate last year during the conference committee consideration of the housing bill. In fact, the disagreement between the House and the Senate over this issue held up the conference for over 2 months.

The problem: Farmers Home Administration subsidizes low-interest loans made to developers for construction of rental housing for low-income families. In addition to low-interest loans, developers also get lucrative tax benefits for constructing low-income housing. Because those tax benefits diminish over a 16-year period, developers have found it profitable to sell projects or convert them to condominiums after only a few years—generally 8 to 10—and reap the benefits.

The result: Taxpayers must pick up the tab for replacing units lost from the low-income housing stock. Low-income tenants, including many elderly persons, are displaced because they cannot afford market rate rents or the price of a condominium.

The controversy is over whether or not the Congress can retroactively prohibit developers of Farmers Home Administration rental housing from prepaying loans which they already have. Opponents claim that Congress is changing the rules in the middle of the game.

This provision does not change the rules—it simply reaffirms the original congressional intent that these programs be used to serve low-income households in need of decent housing. Certainly that purpose is not served when developers prepay their loans. As to the legality of this change, the Library of Congress did an extensive analysis of this provision last year prior to the House-Senate conference committee on the housing bill. Their conclusion: Congress can take any action, whether or not it affects existing contracts, if that action is needed to carry out the original intent of the law.

□ 1520

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I would like to congratulate the gentleman most heartily on his last remarks concerning the single-room-occupancy homes. A most tragic thing is happening. Elderly people with nothing more than their social security often live in these homes, having no other.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. AuCoin) has expired.

Mr. ASHLEY. I yield 3 additional minutes to the gentleman from Oregon.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield further?

Mr. AuCOIN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. The elderly very often have nothing more than their social security benefits. In most cases fine people run these homes, friendly, concerned for their guests. The elderly are at home there and happy. There is now no way of helping out by increasing the payment to the person who owns the house, because the poor, old people have nothing more to spend.

This new development would be a great help. I congratulate my colleague.

Mr. ASHLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. Vento).

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 7262, the Housing and Community Development Act Amendments of 1981.

I will keep my introductory statement brief, but I first wish to commend the chairman of the subcommittee for his outstanding leadership. This session he has not only chaired this subcommittee but he has also played an integral role in the fiscal year 1981 budget deliberation, acting as chairman during Mr. Giaimo's illness. Additionally, he is acting chairman of the Merchant Marine and Fisheries Committee and had several bills before us earlier today. Finally, Mr. Ashley was an extremely important member of the landmark conference in the Energy Security Act. Mr. Chairman, I begin to wonder where the distinguished member from Ohio finds the energy to be this active.

Mr. Chairman, I also wish to comment on the ranking member from Ohio, Mr. Stanton, for his very cooperative assistance in the development of the legislation. Although there are very real and sincere differences on many issues before our subcommittee, he has made a positive contribution to the progress of this legislation.

The housing industry has suffered from some of the most difficult conditions it has faced since World War II. While no single piece of legislation can hope to stimulate sufficient production to make up for the disastrous effect of the high-interest-rate policy of the Federal Reserve Board, this legislation will provide for the construction of more than 350,000 units of assisted housing.

H.R. 7262 contains a new middle income multifamily housing program. This shallow subsidy program, when combined with section 8 units, will produce 40,000 units of critically needed rental housing. In other areas, this legislation:

Modifies the 235 program to more realistically reflect the current market;

Reactivates the Brooke/Cranston program;

Provides for a temporary mortgage assistance program for FHA-insured homes;

And increases the Federal Government responsibility to retain HUD-owned property as rental housing.

H.R. 7262 authorizes $3.8 billion for the community development block grant program and $675 million for the urban development action grant program. These programs, which provide assistance to cities across the Nation, have been critical in the renaissance of many of our great urban centers. At the same time, smaller cities have benefited greatly from the added financial resources to meet the needs identified by that community as being the most urgent.

Finally the UDAG program has been extremely successful in rewarding innovative cooperation between public and private concerns for investment in economically distressed areas.

Mr. Chairman, I urge my colleagues to support this legislation. With the acute shortage of housing, the low level of construction, an increasing demand for housing and the dire need in many of our cities for redevelopment, rapid passage of H.R. 7262 is essential. If past conferences are any indication of what we can expect we need every day we can get to achieve resolution with the Senate.

I yield back the balance of my time.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. Lowry).

Mr. LOWRY. Mr. Chairman, I rise in strong support of this legislation. I think it is truly a credit to our committee that in this time of shortsightedness in Government budgeting that we have been able to come out with a very strong housing program for the people of this country. I believe that is a particular credit to our chairman, the gentleman from Ohio (Mr. Ashley), and to the ranking minority member, the gentleman from Ohio (Mr. Stanton). We greatly appreciate the job that has been done by this committee.

I also rise to ask the distinguished chairman of the subcommittee to enter into a colloquy concerning the single-room occupancy portions of this legislation. I draw the attention of the chairman to page 16 of the committee report, and I would like to read that section.

It says:

> The Committee makes a distinction between these persons and those who reside in single-room accommodations on a transient basis. It intends to provide assistance to owners of single-room occupancy buildings that accommodate permanent residents, but not for transient hotels. Therefore, it expects the Secretary to carefully administer this provision and to establish criteria and requirements in order to assure, to the maximum extent feasible, that the buildings that receive the assistance provided in this section are serving to accommodate permanent residents.

During the rental housing task force hearing in Seattle on May 30 and 31 of this year the task force heard a full morning's testimony on the SRO housing situation. A number of groups interested in obtaining Federal assistance for this type of rental accommodations are concerned about this report language. According to the report, loans would be only available to those buildings serving permanent residents.

□ 1530

The witnesses pointed out that while most of the SRO buildings accommodate permanent residents, as much as 30 percent of their units were available for transient residents. Transient residents are charged a higher daily fee than a permanent resident and transients are necessary to have an adequate cash flow for many of these buildings. It was pointed out in these hearings that many of these transient guests were people coming into the area seeking employment, but because of the lack of rental housing had no place to stay on for a short-term basis. Having a certain percentage of its accommodations available to transient guests improves the economic viability of the building itself.

Mr. Chairman, as one of the sponsors, along with the gentleman from Oregon (Mr. AuCoin), who also worked strongly on the SRO inclusion, I would like to see that SRO's, such as the Bush Hotel in Seattle be eligible for this program, even though some of their residents would be of the transient nature.

They do provide essential housing shelter for a class of people who are in desperate need of shelter and who do prefer this type of living accommodations.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. LOWRY. Yes. I yield to my chairman.

Mr. ASHLEY. Mr. Chairman, let me first say that the gentleman from Washington has played a very important part in having this amendment approved in committee, and I would also commend the gentleman on the really excellent work and activity on the rental housing task force which I set up earlier this year with the gentleman from Washington (Mr. Lowry) as chairman.

Let me say that the committee report language the gentleman refers to attempts to target the 312 loans to those SRO buildings that do provide permanent residences for those who desire this type of living accommodation. We do not want these low interest rate loans to be made available to strictly transient hotel type operations. I think that that would be a poor use of public moneys.

It is important that the amendment of the gentleman from Washington be restricted as much as possible. The Department will be developing regulations and handbooks soon after the enactment of this bill to implement this SRO provision. So I would suggest to the gentleman that to the extent feasible the Secretary provide that 312 assistance be made available to buildings that are predominantly providing permanent residency accommodations.

Mr. LOWRY. Mr. Chairman, it was suggested during the course of our hearings in Seattle that many of the so-called transient tenants had no primary place of residence other than the SRO. If I could suggest that HUD in developing regulations might restrict the 312 loans to those SRO buildings that provide permanent residency accommodations, and that even though a certain number of units are available to transient residents, it would be only where it can be determined that these transient residents have no other principal place of residency.

The CHAIRMAN. The time of the gentleman from Washington (Mr. Lowry) has expired.

Mr. ASHLEY. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. Chairman, will the gentleman yield further?

Mr. LOWRY. I yield.

Mr. ASHLEY. As long as the benefits of this low interest loan are available to SRO buildings that are not in the business of short-term hotel and motel operations and are providing a permanent base of residency for the tenants and that the smaller number of units being made available for transients are for those transients who have no other principal place of residency, then I would agree that the 312 loans could be made to this type of building.

Mr. LOWRY. Mr. Chairman, I thank the gentleman for that colloquy. I say to the committee, I believe this is a very important piece of legislation.

Mr. ASHLEY. Mr. Chairman, let me again thank the gentleman from Washington for the lead role that the gentleman has played in the development of this particular facet of the legislation before us.

Mr. Chairman, I yield 6 minutes to the gentleman from Missouri (Mr. Young).

Mr. YOUNG of Missouri. Mr. Chairman, I would like to bring to your attention several problems that my district, St. Louis County, Mo., is having with the community development block grant (CDBG) program as a result of HUD's narrow interpretation of the housing and community development legislation.

When the CDBG program was established in 1974, it was supposed to be a single, flexible program which would finance activities previously eligible under separate categorical grant programs. Both flexibility and local control were supposed to be built into this program.

Unfortunately, this has not been the case. HUD has established rigid regulations which have virtually tied the hands of local community officials. I speak from firsthand experience. In July of 1979, HUD imposed special conditions on St. Louis County's community development application for $8,994,000. The county would not agree to these conditions, and HUD refused to release the county's community development funds.

The main bone of contention between St. Louis County and HUD was over the county's housing assistance plan (HAP). While St. Louis County officials contended that the housing needs of its low-income residents could best be met through the use of existing and rehabilitated housing units, HUD officials insisted that the county meet these needs by building new units.

I think that St. Louis County municipal officials, rather than HUD officials, are better qualified to make such housing policy decisions. And I believe that the main reason that Congress established a "block grant" approach to community development in the first place was so that local planning and decision-making could be incorporated into the community development process. In this year's committee report, the House Committee on Banking, Finance and Urban Affairs reaffirmed the important role that local officials should play in the formulation of the HAP. Let me quote from this report:

> The Committee has become concerned about the Department's actions in connection with the development of the housing assistance plans required pursuant to section 104(a)(4). The Committee wishes to emphasize that the housing assistance plans are intended to be the product of the local government and that HUD's role in reviewing the HAP's is limited by the same standard found in section 104(c) which apply to the CDBG application as a whole.

I firmly believe that the community development program was created on the premise that local officials should play a key role in all aspects of the program. In order to clarify the original intention of this program, one need only look back to 1974 when the CDBG program was created as part of the Housing and Community Development Act. When former President Ford signed this act into law in 1974, he stated:

> In a very real sense, this bill will help to return power from the banks of the Potomac to people in their own communities. Decisions will be made at the local level. Action will come at the local level. And responsi-

> bility for results will be placed squarely where it belongs—at the local level.

Last year, the Banking Committee echoed these thoughts in its report on the Housing and Community Development Amendments of 1979. The report stated that the committee "continues to believe that local officials are generally better able to evaluate the housing needs and goals of their communities than is the Federal Government."

Although HUD finally reached a compromise agreement with St. Louis County this past January over the county's HAP, the Department is still withholding half of the county's 1979 community development funds. This has resulted in the curtailment of community development activities within the county.

HUD is not only dictating the preparation of the HAP; it is also dictating how communities should use their CDGB funds. The Department is using one criterion in judging whether a local government's community development activities are consonant with the intent of the law—does the activity principally benefit low- and moderate-income people?

When the housing and community development legislation was enacted in 1974, Congress outlined three primary purposes for using CDGB funds. These three purposes are to:

First, principally benefit low- and moderate-income people, or

Second, aid in the prevention or elimination of slums or blight, or

Third, to meet other community development needs having a particular urgency.

The Housing and Community Development Amendments of 1978 contained a provision which stated that the HUD Secretary may not disapprove a CDGB application because it stresses any one of the three aforementioned primary purposes to a greater or lesser degree than any other. The 1978 amendments also reaffirmed what had been originally set forth in the 1974 legislation as the primary objective of the CDGB program, which is to develop "viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." I ask you, Mr. Chairman, how can there be three coequal primary purposes for using these funds when one has been singled out as the primary objective of the CDGB program—to principally benefit low- and moderate-income people? Until the law is clarified so that it clearly spells out the intent of the CDGB program, HUD will continue its narrow interpretation of proper community development activities.

In my district, HUD is actually requiring that at least 51 percent of the total number of beneficiaries of any community development project must be of low and moderate income. Mr. Chairman, is it the committee's contention that community development activities should be judged on a numerical basis? Was the congressional intent of this program that narrow? HUD has gotten away with this narrow interpretation of the law because of the ambiguity of the housing and community development legislation.

I would like to note that the 1974 housing and community development legislation outlines a variety of community development activities which may be undertaken by a community. For example, funds may be used to improve streets, street lights, historic properties, water and sewer facilities, and parks and playgrounds, to name only a few. However, I know for a fact that two communities in St. Louis County who had planned to use their community development funds for street repairs have been required to do surveys to prove that at least 51 percent of those who will benefit from these repairs will be of low and moderate income. Requiring communities to justify such an activity is ridiculous when the act itself lists street improvements as a proper use of community development funds.

I received a letter in January of this year from Mr. Robert Embry, the HUD Assistant Secretary for Community Planning and Development, regarding proper community development activities. This letter confirms my contention that HUD is requiring that CDBG funds be used primarily to benefit low- and moderate-income people. I would like to quote from this letter:

> One of the primary purposes of the Act is that the CDBG program principally benefit low- and moderate-income persons. Therefore, whenever either the 3-year project summary or the annual program, as contained in the application, allocate less than 75 percent of total funds to activities which will principally benefit low- and moderate-income persons, a detailed review of the application is conducted by the Department.

I know from my own district's experience that such an application would be disapproved.

Due to the ambiguity of the community development legislation, the CDBG program is subject to various interpretations, depending on who is the HUD Assistant Secretary for Community Planning and Development. Mr. Chairman, communities all over the country are experiencing problems similar to those experienced by St. Louis County. And communities will continue to experience these problems until the legislative intent of the CDBG program is clarified and the role of local governments is defined. I urge the committee to clarify this legislation so that the CDBG program will function as it was originally intended.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Missouri. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, I am sympathetic with the gentleman's concerns. In developing the CDBG program, we sought to give to local governments maximum flexibility in designing a CD program to reflect unique local conditions. However, any local program must be consistent with the achievement of the overall purpose of the CD program, "the development of viable communities by providing decent housing and a suitable living environment, and expanding economic opportunities principally for the benefit of low- and moderate-income persons." To achieve this purpose, the law outlines three permissible categories of activities: One, those which principally benefit low- and moderate-income persons; two, those which aid in the prevention or elimination of slums and blight; and three, those which meet other particularly urgent community development needs. The statute also describes the actual type of activities which a community can undertake. A community can choose among the eligible activities to meet their unique circumstances as long as it can be demonstrated that the activities fit within the three categories. In any event, the activities taken as a whole, over the 3-year program period, must be designed to achieve the overall purpose of the program.

In specific answer to the gentleman's question—the department is clearly not permitted under the statute to force an allocation of funds into any of the three categories, nor to impose rigid numerical goals upon communities. In fact, the Congress made its views known on this subject in an explicit fashion 2 years ago. Let me quote from the report of the conference on the Housing and Community Development Amendments of 1978. The managers stated, "that any percentage limitation of the level of funds to be allocated shall be strictly avoided except for review purposes."

Mr. STANTON. Mr. Chairman, will the gentleman yield at that point?

Mr. ASHLEY. Well, if I could just conclude—well, I yield to the gentleman.

Mr. STANTON. I just wanted to associate myself with the gentleman's remarks on that particular point, just so that the gentleman would know from both sides of the aisle that this is something we have discussed in the committee and I do wish to associate myself with the gentleman's remarks.

Mr. ASHLEY. Well, I appreciate very much the comments of my friend, the gentleman from Ohio, because I think it is appropriate for the record to reflect that the gentleman's concern is one that is shared by Members on both sides. I do not mean just in an esoteric way. We have gone into this matter with the Department and I think in a way that has been constructive.

I would like to make clear, however, that HUD has the responsibility to assure that the overall purpose of the program is being served by the communities to whom funds are directed. Clearly, a city or urban county which does not take seriously this overall purpose should not be permitted to participate in the program. The flexibility and local control which the Congress has given in the program are designed to allow communities to define for themselves how best to achieve the goal. But no community should believe that that flexibility allows them to avoid the obligation of meeting the overall purpose of the program. Therefore, though I agree with the gentleman that the Department should not impose rigid percentage limitations on how to spend funds, I do believe that the Department has the obligation to assure that communities serve the purposes of the program, as required by law.

So let me say, in closing, that this is a delicate area, because what we are trying to do is to cause communities to decide for themselves, based upon their own local circumstances, a program mix in content that best answers their own requirements. At the same time, there is a basic public purpose to be served which has to be defined in the 1974 act, and, of course, local communities are held responsible for meeting that objective; so I thank the gentleman for allowing me to respond to the question.

☐ 1540

Mr. YOUNG of Missouri. I thank the chairman of the subcommittee for allowing me to participate.

Mr. STANTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I am delighted that H.R. 7262, the Housing and Community Development Act of 1980 contains language to correct an inequitable Federal Government decision made in 1954. This action involved the sale of a World War II civilian housing project by the Public Housing Administration to the Valley Homes Mutual Housing Corp., a group of 350 families in Lincoln Heights, Ohio. Lincoln Heights is an all-black community with one of the lowest per capita incomes in the State of Ohio. Approximately 30 percent of the units in Valley Homes are occupied by senior citizens and the total family income in nearly half of the units is below $6,000 per year.

The sale price of Valley Homes was $1.4 million. However, my staff discovered in HUD's files that in 1953, the Public Housing Administration approved the fair market value of the property at $1 million. It was not until my inspection of HUD's records that the residents of Valley Homes became aware of the fact that the Federal Government overcharged them by $400,000. If the original sale had been closed using the fair market value, the loan would have been paid off 12 years ago. Instead, Valley Homes is still indebted to the Government by an amount which is approximately equal to the original overcharge.

Since the residents of Valley Homes have, in fact, paid enough to the Government over the last 26 years to more than cover the value of the property when it was sold to them in 1954, it is only fair that the outstanding mortgage be cancelled. H.R. 7262 would provide the Government National Mortgage Association—the mortgagee—with the authority which GNMA claims it lacks, to cancel the 1954 overcharge. I have been informed that the administration supports this legislation which will rectify the earlier injustice that clearly is inconsistent with the Government's obligation to assure that affordable and decent housing is available to our Nation's poor.

I would like to take this opportunity to thank the gentlemen from Ohio, (Mr. STANTON and Mr. ASHLEY) for their cooperation and support of this measure when it was considered and unanimously approved by the Housing and Community Development Subcommittee.

A similar provision has been incorporated in the Senate version of this measure and should make it possible in conference to correct this long-standing inequity.

Mr. ASHLEY. Mr. Chairman, I yield to my friend, the gentleman from Florida (Mr. LEHMAN), such time as he may consume.

Mr. LEHMAN. Mr. Chairman, I would like to express my support for the committee's bill, H.R. 7262, the Housing and Community Development Act of 1980. Chairman ASHLEY and the members of his subcommittee have worked hard to produce an effective housing bill.

From the standpoint of many of us in Florida and elsewhere, however, there is one thing missing from the bill. The committee has not seen fit to include the condominium and cooperative consumer protection provisions which have now been passed by the Senate.

I have considered offering an amendment which would add the Senate's title V to the legislation before us today. After discussing this with Chairman ASHLEY, however, I have decided not to offer such an amendment. I hope that we can nevertheless count on the chairman's willingness in conference to find an acceptable solution to the recreation lease problem that faces condominium unit owners in Florida.

The hardships which the indexing of such leases imposes on our senior citizens have been documented in several hearings. Hearings were held in 1976 by the Oversight Subcommittee chaired by Mr. MINISH. The Senate Special Committee on Aging held meetings in November 1978. Both Housing Subcommittees, in the House and in the Senate, held hearings last year. The House committee's report on the 1979 HUD authorization bill included language which recognized the hardships caused by recreation leases and held out the possibility of committee action if recreation leases abuses were not alleviated.

Mr. Chairman, I do not believe that these abuses have been alleviated. It is true that many leases have been bought by the unit owners, and equitable settlements should be encouraged.

I am concerned, however, by the results of a survey I took of condominiums and cooperatives in my congressional district. Many unit owners have attempted to enter into buy-out negotiations, but the developer has been unwilling to bargain. Where the developer is willing to negotiate, he manages to exact some rather harsh terms from the unit owners.

One example which I mentioned in my testimony before the Senate Housing Subcommittee dealt with recreational facilities which had an original cost of $318,000 in 1969. The unit owners, as of June, 1979, had paid the developer $2 million in rent. In discussing the possibility of buying the lease, the best offer the unit owners could get from the developer was $9 million. This is a pretty stiff price for the residents, who are primarily senior citizens living on pensions.

Mr. Chairman, I believe that the provisions included by the Senate will provide the unit owners with the kind of bargaining power they need in order to reach equitable settlements.

It is my understanding that the chairman of the subcommittee wants to be sure that the State of Florida has done all in its power to resolve the recreation lease problem in Florida. I wish to assure the chairman that the State has exhausted its means of dealing with recreation lease abuses. Indeed, State laws on this matter have become models for other States across the country. If it were not for Florida's decision to outlaw recreation leases with escalator clauses, this would be a far greater problem across the Nation.

The Florida Legislature has tried to void the leases, but the Florida Supreme Court has ruled that the Florida law cannot be applied retroactively. While persons buying condominiums after 1975 are thus protected, a substantial number of persons cannot achieve relief from oppressive leases except by Federal action.

Mr. Chairman, I applaud the Senate's responsiveness to this problem, and I urge the committee to approach the conference in a true spirit of cooperation in the matter of recreation lease abuses.

Mr. ASHLEY. Mr. Chairman, I yield 5 minutes to my friend, the gentleman from Michigan, a valuable member of the subcommittee (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I rise in support of H.R. 7262. It is a fine piece of legislation, and the distinguished chairman of the Subcommittee on Housing and Community Development is to be commended for his excellent work.

I would also like to take this opportunity to recall with the distinguished chairman of the Housing Subcommittee the comprehensive series of amendments to the Interstate Land Sales Full Disclosure Act which were a part of last year's housing bill. As the gentleman from Ohio is well aware, the 1979 interstate land sales amendments went into full force and effect on Saturday, June 21. Unfortunately, despite a sincere effort on the part of the Department of Housing and Urban Development and its Office of Interstate Land Sales Registration, regulations implementing these legislative changes were not published as final until Friday, June 13, or just 8 short days before the statutorily mandated effective date of the 1979 amendments.

While the regulations themselves did not go into effect until July 14, I was concerned about the confusion that apparently existed in some sectors of the interstate land sales industry during the time lag between the effective date of the statutory changes and the effective date of the new regulations. I was also concerned about practical problems that may prevent the industry from coming into full compliance with both the legislative and regulatory changes during the summer and fall.

I raised these issues with HUD. On June 23 Secretary Moon Landrieu wrote a letter to me which I would like to include in the RECORD at this point:

THE SECRETARY OF HOUSING AND
URBAN DEVELOPMENT,
Washington, D.C., June 23, 1980.

Hon. JAMES J. BLANCHARD,
House of Representatives,
Washington, D.C.

DEAR MR. BLANCHARD: I am writing in response to the interest and concern you have expressed about the impact of the 1979 amendments to the Interstate Land Sales Full Disclosure Act and the recently published implementing regulations. The Department, too, is aware of this impact and is not unmindful that it imposes certain burdens on the land development industry.

The amendments reflect the dual concerns of Congress of lessening the registration paperwork burden on land developers, particularly small developers, and giving additional protections to the land-buying public. I believe that the Department has been responsive to those concerns in its promulgation of regulations implementing those amendments. The regulations reflect substantial comment by land developers and our perception of Congressional intent based upon the conference report accompanying the amendments and statements made in committees and on the floor.

Because we anticipated problems arising from the timing of these changes, several efforts were made to notify developers of the potential impact on them. In January of this year an information letter was sent to more than 6000 persons on the Land Sales mailing list informing them of the immediate effectiveness of the new "intrastate" exemption and advising them that the other amendments would take effect June 21, 1980. This letter also advised that as of that date certain exemptions would be repealed. In late February a second mailing informed developers of the effects the amended Act would have on those who were registered with the Department as well as those who were operating under certain exemptions. Beginning in mid-March holders of the repealed "on-site" exemption were advised by letter that the exemption would not be available after June 21 and suggested that they explore the possible application of one of the new exemptions to their operations. All of these steps were in addition to publishing the proposed regulations on March 28, 1980 and holding public hearings in Washington, Dallas and San Francisco.

The new regulations provide that the statutory and regulatory changes requiring the new revocation language in the Property Reports and modification to the contracts can be accomplished by overprint or paste-overs and do not require filing amendments with HUD. The Department will be flexible in administering the amended statute and regulations through the transition period of the next two months. The rule of reason and the application of common sense will govern enforcement actions. This means that good faith efforts to comply by developers will be the basic yardstick to gauge whether or not an enforcement action is necessary. Naturally, in cases of reckless or intentionally illegal conduct we will act vigorously to enforce the law.

I trust that this statement of policy dealing with HUD's position on the Land Sales amendments during this transitional period eases your concern with respect to the handling of these difficult matters.

Sincerely,

MOON LANDRIEU.

In his letter, Secretary Landrieu points out that his Department "will be flexible in administering the amended statute and regulations" during this summer's transition period from prior law to present law. As the Secretary adds, "the rule of reason and the application of commonsense will govern enforcement actions" under the amended land sales act. I commend Secretary Landrieu for his understanding of the practical problems that face the interstate land sales industry as it comes into compliance with the 1979 amendments and the recently published regulations.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman.

Mr. ASHLEY. I thank the gentleman from Michigan for his remarks. I would like to associate myself with his comments about the 1979 amendments to the Interstate Land Sales Full Disclosure Act. I think we can all agree that Secretary Landrieu's most helpful letter should go a long way toward alleviating the legitimate concerns of many members of the interstate land sales industry.

I might say that I have had discussions with a sufficient number of representatives of the interstate land sales industry so that I can, from firsthand experience, agree with the comments of the gentleman from Michigan. There was somewhat of a hiatus between the effective date of the regulations that made it very difficult for full conformance on the part of the responsible members of the industry. I think that is what the Secretary is directing his comments to in his letter when he says that he will take into account the circumstances the gentleman has described for us.

Mr. BLANCHARD. I thank the chairman.

□ 1550

Mr. ASHLEY. Mr. Chairman, I yield 2 minutes to my good colleague, a member of the subcommittee, the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 7262, the Housing and Community Development Act Amendments of 1980. I wish to commend the distinguished chairman of the Banking, Finance and Urban Affairs Committee (Mr. REUSS) and the chairman of the Housing and Community Development Subcommittee (Mr. ASHLEY) for the effective manner in which they have guided this complex legislation through committee and brought it to the House floor.

H.R. 7262 is one of the most important pieces of housing legislation to be considered by Congress in recent years. It reauthorizes the community development block grant and the urban development action grant programs for 3 additional years, extends the housing grant and loan activities of both the Department of Housing and Urban Development and the Farmers Home Administration through fiscal year 1981, and makes a number of important technical changes in existing housing and community development programs.

In addition, the legislation authorizes a number of new initiatives to address the serious problems posed by the continued decline in the Nation's rental housing stock, the deterioration of existing public housing projects and the current slump in the Nation's housing and mortgage markets.

The housing and community development activities of both HUD and the Farmers Home Administration have demonstrated their effectiveness in helping to improve the living environment and the economic viability of our Nation's cities and towns. This is particularly true in my State of New York, where the combined effects of inflation, declining tax bases and structural and economic decline have seriously weakened the capacity of local communities to finance needed development and rehabilitation efforts. The programs authorized by this legislation provide both the instruments and the support needed to enable these communities to develop and carry-out comprehensive plans to deal with serious housing, rehabilitation and development problems.

Mr. Chairman, while I strongly support this important legislation, I do have a number of reservations regarding specific programs and provisions. Let me emphasize, however, that my reservations are few in number, particularly when one considers the comprehensive nature of the legislation and the many controversial issues involved.

CDBG SET-ASIDE

I am particularly concerned with a provision in section 103 of the bill which seeks to formalize a current HUD practice of setting aside CDBG funding to insure assistance to nonentitlement communities in metropolitan areas. This provision would amend the 1974 act to authorize a $275 million set-aside during fiscal year 1981 exclusively to fund metropolitan small cities grants. The effect of this change is to reduce the amount of CDBG funding available to both metropolitan entitlement communities and nonmetropolitan small cities and towns.

In the Housing and Community Development Act of 1974, Congress intended that CDBG funding be allocated on an 80–20 basis between metropolitan and nonmetropolitan communities, with 20 percent of all assistance going for community development programs in nonmetropolitan communities. The effect of the proposed metro set-aside is to reduce next year's nonmetropolitan share of CDBG funding to a figure representing less than 18 percent of total allocations. While I do not object to HUD's desire to assure assistance for nonentitlement communities, I must object to setting aside such funding in a manner which is contrary to the intent of the 1974 act and which purposely seeks to continue the underfunding of CD programs in nonmetropolitan areas.

I will join with my colleague from Oklahoma (Mr. WATKINS) in sponsoring an amendment to section 103 which seeks to correct this situation and restore the nonmetropolitan share of CDBG allocations to the 20-percent level authorized in 1974.

RENTAL HOUSING INITIATIVE

I also continue to hold serious reservations regarding specific provisions in section 203, which pertain to the proposed middle-income rental housing initiative. During subcommittee consideration of this proposal, I joined with a number of my colleagues in expressing concern that funding intended to serve low- and moderate-income housing needs under section 8 was to be used to subsidize interest rates for middle-income housing. At a time when section 8 funding serves only a small portion of those genuinely in need of housing assistance, a further dilution of program funds in this manner seems not only unsound, but appears to run counter to current efforts to target Federal assistance to persons most in need.

I am also concerned that the restrictions in the program will discourage participation by private lenders and developers. The program contains restrictions on tenant mix, rent levels, interest rates and project use which have discouraged private participation in section 8 projects in the past. Added to this are new provisions permitting a phase-out of Federal subsidies after 10 years and a requirement to repay subsidies during a period of up to 40 years. While I fully understand that these measures provide important safeguards on the use of Federal funds, I must also recognize that they are not conducive to private participation in the program.

I should clarify, however, that even with these reservations, I view the initiative as a serious and innovative effort to deal with the pressing need to replenish the Nation's rental housing stock. It would be inappropriate to merely criticize and dismiss this proposal when it is clear that we have few alternatives at hand to deal with the growing rental crisis. For these reasons, I joined in supporting the AuCoin amendment to retain the proposal, but to limit its initial scope to a demonstration program.

But even as a demonstration effort, problems of private participation and economic feasibility remain. Considerable concern has been expressed that the program will not work in certain areas or that communities attempting the program will suffer the loss of alternative section 8 assistance. To meet these concerns, I have joined with a number of my colleagues from New York to sponsor an amendment to provide the HUD Secretary with discretionary authority to provide section 8 construction and rehabilitation assistance to communities unsuccessfully attempting the program. This would encourage participation in the program, while insuring that if the program cannot be implemented, all or a portion of the funding alloted can be retained in the community and redesignated for use in meeting low- and moderate-income housing needs.

MORTGAGE ASSISTANCE

Another initiative for which I continue to have serious reservations is the proposal, in section 312, for a temporary mortgage assistance program (TMAP). The proposal provides a more restrictive foreclosure avoidance mechanism than that currently provided in HUD's assignment program. If used instead of the current program, this proposal could seriously restrict Federal assistance to low-income homeowners who face the possible loss of their homes due to economic circumstances beyond their control.

During committee consideration of title III, I joined with Representative VENTO in offering an amendment to remove the more restrictive elements of the TMAP proposal. The amendment broadened eligibility for assistance, provided HUD with the authority to impose less restrictive interest rates and provided a means by which a homeowner receiving assistance can be shifted into the assignment program if the higher debt burden under TMAP is likely to cause a new default.

While the committee accepted these changes, I continue to feel uneasy about the program. With recessionary conditions projected well into 1981, it is clear that a large number of low-income homeowners with FHA-insured mortgages will require temporary assistance to avoid foreclosure. If the TMAP proposal is used, as intended, to replace the current assignment program, I think we will see an increasing number of foreclosures among low-income homeowners. What now may seem a means of reducing mortgage assistance costs to the government could well result in considerably higher Federal outlays in foreclosure, acquisition, and maintenance costs.

SECTION 202 LOANS

I must also express concern with the committee's reluctance to include a provision in the legislation to lower, or at least stabilize, the interest rate for elderly housing loans under section 202. Under current law, the interest rate on 202 loans is determined at the beginning of each fiscal year according to a rate reflecting the average cost of all Government borrowing. In fiscal year 1980, this rate was set at 9 percent for construction loans and 8.5 percent for permanent financing. At the time of committee consideration of the legislation, we faced the prospect of a 202 rate in excess of 12 percent during fiscal year 1981.

Given the low fair market rents charged in 202 projects, projected revenue is insufficient to meet the higher costs caused by sharply rising interest rates. While a number of 202 projects will proceed to closing this year at current rates, we have begun to see an increasing number of cancellations. At the higher rates initially projected for next year, it was apparent that few 202 projects would proceed to construction and that production of housing for the elderly and handicapped would come to a standstill.

While interest rates have declined during the past 2 months, the vulnerability of the 202 program to high or unstable rates has shown itself to be a serious problem. I would hope that the committee will undertake a review of the 202 program during the next session, with the intent to providing a means of stabilizing financing for this needed program.

CONCLUSIONS

As I noted earlier, my reservations concerning this legislation are confined to relatively few provisions. Many additional concerns have been adequately dealt with in the legislation. I am particularly grateful to the subcommittee chairman for his willingness to accept compromise language in section 501, permitting the inclusion of spending authority for the home ownership assistance program. This program offers an important means of providing housing assistance to low-income families in rural areas where other housing programs are either impractical or not available.

Mr. Chairman, H.R. 7262 represents a comprehensive approach to meeting the needs of our cities and towns, as well as the problems posed by recessionary conditions. It incorporates both urban and rural concerns, and both Democratic and Republican views and interests. The legislation clearly merits careful consideration and support.

Mr. STANTON. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. GRAY).

Mr. GRAY. Mr. Chairman, I rise in support of this outstanding piece of legislation that has been worked on by the committee, H.R. 7262. However, Mr. Chairman, I notice with great interest that the report accompanying H.R. 7262 contains a section dealing with site selection for low-income housing on page 34. I would like to say that I very much welcome the effort by the chairman, the gentleman from Ohio (Mr. ASHLEY), to address this important issue and all of those in the committee.

In particular I refer to the report's reference to the need for more flexibility on HUD's part in site-selection criteria in order to address the situations in which arbitrary limitations are preventing the construction of assisted units. In my home city of Philadelphia, Mr. Chairman, we have a problem in that the current inflexibility of HUD's guidelines has prevented the construction of badly needed housing in so-called impacted neighborhoods.

This situation has developed because of the previous city's administrations' failure to identify an adequate number of sites in nonimpacted areas. The result has been that housing has not been built or rehabilitated in areas where it is needed most, in neighborhoods suffering the impact of displacement or recycling as we call it in Philadelphia, and in neighborhoods where poor and minority people live.

Early in the 96th Congress I proposed to the Secretary of HUD that at least in Philadelphia's case he allow enough flexibility in the guidelines to get the site selection criteria altered so that housing could be constructed where it is needed most. I suggested to him that instead of the hard and fast guideline of one site in impacted areas for each one site in nonimpacted areas, HUD allow a 3-to-1 ratio. I understand HUD is very near to approving such guidelines to provide for some real local flexibility.

I would like to ask the distinguished gentleman from Ohio (Mr. ASHLEY), the chairman of the subcommittee, if this is his understanding and if this is the intent of the language of this bill and report.

Mr. ASHLEY. If the gentleman will yield, let me say, Mr. Chairman, that I am grateful to my colleague from Pennsylvania for his interest in this particular issue and for the great help he has given the committee with respect to it. HUD site selection criteria for our assisted housing programs is of fundamental importance to the effective operation of those programs. It is correct that the Department will shortly be approving guidelines to provide more flexibility with regard to the location of assisted housing.

The committee report language, which is found on page 34 of the report, refers to and expresses the committee's concern about this difficult issue and expresses our concern about the need to provide greater local flexibility, just exactly as the gentleman has been saying, not just for a few minutes today but for many months. I would say to the gentleman that he has expressed the concerns that are reflected on page 34 of the report, and I would expect that this language will provide a very strong sense of direction as far as the Department of Housing and Urban Development is concerned.

They are interested in the intent of the Congress in the implementation of the legislation that we have developed, and this language found on page 34 does further clarify the intent of Congress with respect to the selection of sites for lower income housing. I am grateful to the gentleman for his opportunity to affirm his understanding of the intent of Congress in pointing to this language by way of example.

Mr. GRAY. I certainly would like to thank the subcommittee chairman for his remarks and concurrence with my understanding, and I certainly commend the entire committee for its efforts in this area, for if we are going to redress the problem of using Federal resources in the most wise fashion, certainly there ought to be this local flexibility applied to the site selection criteria, particularly for urban America.

I yield back the remainder of my time.

Mr. STANTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the gentleman for yielding.

Mr. Chairman, I would like to follow up the question just propounded by the gentleman from Pennsylvania (Mr. GRAY) to the chairman of the subcommittee, the gentleman from Ohio (Mr. ASHLEY). I would like him to address this question: I see on page 34 of the committee report that there is the statement, and I quote:

> The Committee believes that a balance can be struck between these objectives, and urges HUD to consider dropping all references to race and income from its site selection standards.

I ask the chairman of the subcommittee, does he have reason to believe that there is the possibility that HUD will in fact accept this recommendation and drop these references from its standards?

Mr. ASHLEY. If the gentleman will yield, this, of course, was fully discussed with HUD representatives, and it is our understanding further that this is a very real possibility. Frankly, I do not myself consider it to be a proper role of my subcommittee to draft the regulations. I think that is the responsibility of the administration under the Constitution. We do review regulations under a procedure adopted by the Banking Committee 2 years ago.

I want to respond directly to the gentleman and say, yes, I believe that HUD shares the concerns that are expressed in the report language; yes, I believe that the regulations soon to be issued will reflect the concerns which we have expressed here; and, yes, the committee is going to be looking at the regulations to assure that these concerns are met.

We have the ability, I will say to the gentleman again, under a regulation review procedure whereby we can put a hold on the implementation for a period of time of regulations proposed by the Department. I just simply say, as I think my friend from Ohio would say to the gentleman, we intend under this review procedure to be faithful to the concerns expressed in this report as far as the regulations are concerned.

Mr. MOORE. I appreciate the chairman's response. I was preparing an amendment to offer to this bill to in fact accomplish this by law. I will not now offer that amendment, based upon the answer of the chairman of the subcommittee. This will give HUD the opportunity, and the chairman of this subcommittee, and this subcommittee, an opportunity to see if these concerns can be expressed in new regulations. I have the utmost confidence in the subcommittee, its chairman, its ranking minority member, and my fellow Louisianian, Moon Landrieu, the Secretary of HUD.

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I would like to relate a similar incident to that of Philadelphia that has happened in my hometown of Baton Rouge, La., our capital city.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STANTON. Mr. Chairman, I yield the gentleman from Louisiana 1 additional minute.

Mr. MOORE. Mr. Chairman, we have just received 50 lower income housing units to be built in our city. The city council approved the site. The city councilman from that district has approved the site and that city councilman happens to be black. The housing authority has approved the site but HUD has not approved it because of these criteria dealing with race and income. As a result, there is an impasse and the city cannot agree on another site. We are about to lose and, in fact, probably will lose 50 needed lower income housing units because of these regulations not allowing flexibility at the local level that is much needed. So I hope that, in fact, this flexibility will be reflected in new regulations.

The CHAIRMAN. The time of the gentleman has expired.

● Mrs. CHISHOLM. Mr. Chairman, while I support the Housing and Community Development Act being considered today, I am concerned that the House bill, unlike the Senate committee's version, does not contain a provision reauthorizing the Home Mortgage Disclosure Act of 1975 which expired on June 28.

The act's reauthorization is essential if we intend to continue to give to communities the right to monitor where and at what level mortgage and home improvement loans are being made by local depository institutions. Under the act, a neighborhood's residents have been able to encourage depository institutions to lend money in their own areas by reviewing the banks' relevant records. It is important to note that three Federal agencies—Office of Comptroller of the Currency, FDIC and the Federal Home Loan Bank Board—testified that the law is an essential ingredient in enforcing the Fair Housing Act and implementing the Community Reinvestment Act.

The specific provisions in the Senate housing bill include making the HMDA a permanent statute, and establishing a common reporting period on a calendar year basis for disclosure statements. The Board of Governors of the Federal Reserve system is required under the bill to prescribe a standard format for Home Mortgage Disclosure Act statements so that the public can more easily discern what the statements entail. To insure that a larger percentage of the public sees the statements if they so desire, the bill requires Federal financial regulatory agencies to develop and jointly implement means for increasing accessibility of the disclosure statements to the public. Lastly, a central depository of date in each SMSA will be established and disclosure statements for depository institutions will be maintained at each one.

In my opinion, the act's exemptions of banks with assets of less than $10 million and banks which do not have offices in SMSA's insure that there is not unnecessary Federal regulation, and should not be expanded.

As we have seen, home mortgage financing is an important factor contributing to the vitality of low-income neighborhoods. I hope, and expect, that when the House goes to conference on H.R. 7262, our conferees will accept and include within the bill's conference report a permanent authorization for the Home Mortgage Disclosure Act.●

● Mr. BINGHAM. Mr. Chairman, I would like to draw the attention of my colleagues to the section of the Banking Committee report accompanying the Housing and Community Development Act of 1980 on mutual housing associations. I testified before the Housing Subcommittee last March on the potential of mutual housing associations as vehicles for improved production and management of multifamily housing in the United States. With the support of Congressman BLANCHARD, the issue of mutual housing associations was raised in the subcommittee markup of this year's housing bill, and the subcommittee decided to devote a section of its report to mutual housing associations. The report commends and encourages the national demonstration program of four mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank, and urges the Department of Housing and Urban Development to cooperate with the effort. The report also directs the three agencies to submit a report to the Congress by September 30, 1981, on the findings of the demonstration program.

I have been encouraged by the response of both the Federal agencies and the Congress to the mutual housing idea. In addition to the House Banking Committee Report, the Senate has included a section in its housing bill this year encouraging the mutual housing demonstration program being undertaken by the agencies. Mutual housing associations are a form of housing cooperative developed extensively in such Western European countries as West Germany, Sweden, and England. At the center of a mutual housing association is a private, not-for-profit corporation which develops, owns, and manages housing for people of low and moderate income. The corporation is staffed by a full range of housing professionals—lawyers, accountants, housing managers, architects and engineers—to ensure quality production and responsible long term management of the housing.

The people who move into the housing purchase shares and become members of the central corporation. This guarantees them the right to take part in making decisions about the management of their building, as well as the overall operation of the association. The mutual housing association is thus able to combine professional production and management of housing with the resident participation essential to ensure that the housing continues to meet the needs of the people living in it. The MHA avoids the bureaucracy of the public housing authority, while building in the professional expertise often lacking in the traditional low income housing cooperative in the United States. Further, since the mutual housing association owns and manages the housing which it develops, there is a built-in concern for quality production and long-term management often lacking in the private developer.

I believe that mutual housing associations hold great promise as vehicles for superior production and management of desperately needed multifamily housing in our country. My district in the Bronx in New York City is a prime example of this need for more quality multifamily housing. I look forward with great expectation to the demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corp., the Co-op Bank, and HUD, with the support of the Congress.●

● Mr. REUSS. Mr. Chairman, I rise in support of H.R. 7262, the Housing and Community Development Act of 1980. I wish to compliment my distinguished colleague from Ohio (Mr. ASHLEY), our Housing Subcommittee chairman, for the usual fine product that his subcommittee and the Banking Committee has brought to the House. The distinguished ranking minority member of the full committee as well as the Housing Subcommittee, BILL STANTON has carried on the bipartisan tradition on the housing and commuity development legislation and I wish to compliment him on his work on this housing and community development bill.

Our Housing and Community Development Subcommittee is the largest Subcommittee of our Banking Committee, and all of its members participate and work together to produce our important housing legislation.

H.R. 7262 reauthorizes for 3 additional fiscal years our community development block grant program and our urban development action grant program, which have been absolutely essential for the continued economic vitality of our urban communities both large and small throughout the country. This bill also reauthorizes for fiscal year 1981 our very important assisted housing programs and the housing programs for rural areas administered by the Farmers Home Administration. This year's bill contains a innovative and important needed new rental housing program which seeks to stimulate the construction of additional rental housing for low-income and middle-income Americans. While the program is a small one, only 40,000 units for fiscal year 1981, the directions the Committee has taken in developing this program is a response to a nationwide lack of rental housing for all classes of American citizens. I strongly urge my colleagues to endorse and support the committee provision without any changes.

I would just like to briefly comment on two amendments to be offered to the bill. One is a compromise amendment by our colleague from Ohio (Mr. WYLIE), which addresses a number of problems that have developed with regard to his committee amendment pertaining to the UDAG program and historic preservation. It is my understanding that this compromise amendment has been worked out by Mr. WYLIE and our colleague from Ohio (Mr. SEIBERLING), of the Interior Committee I strongly endorse it. I also understand that the chairman of the subcommittee, Mr. ASHLEY, will offer a compromise amendment on the delay of the implementation of the building energy performance standards provision of the committee bill. The gentleman's amendment addresses a number of issues that have been raised and has the support of those who have had some misgivings about the committee provision as well as those who want a longer period of time to implement these building energy performance standards.

Mr. Chairman, I urge all my colleagues to endorse the committee bill as contained in H.R. 7262.●

● Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of the bill, H.R. 7262, the Housing and Community Development Act of 1980, but I do so with some reservation.

Almost 10 years ago when I was elected to Congress, I took a deep interest in the housing problems affecting our country because my district had housing problems characteristic of most urban communities. But moreover, I felt then as I do now that every American should be afforded the opportunity for safe, sanitary, and decent housing. While the legislation before us is a step in that direction, it does not adequately address our real housing needs.

Shortly before I began serving in the House of Representatives, the Congress established a national goal of producing an additional 6 million units of assisted housing over a 10-year period. That goal unfortunately has not been met. To complicate the state of housing, the bulk of a major urban initiative package ended up in the legislative graveyard. Consequently, before we assess the adequacy of the housing policies embodied in this bill, we must take into consideration the impact of rising housing costs, the depletion of the housing stock, and Federal spending constraints on low- and moderate-income persons.

Although this year's authorization provides funding for more than 320,000 units of subsidized housing, it represents a modest increase in assisted housing spread over the next 15 to 30 years. The subsidized housing figure constitutes a significant cut in the level of assisted housing units in fiscal year 1976; the only year in which the 400,000 target was met. Furthermore, only 103,558 will actually result in additions to the housing stock through new construction or substantial rehabilitation under the section 8 housing program. Approximately 175,000 units will assist tenants in existing housing.

Given the housing scenario for low- or moderate-income persons, there is a legitimate need for additional housing units. Of the 5.8 million low-income households, 4.6 million renters and 1.6 million owners, the vast majority are paying 50 percent of their income for housing.

During the last 10 years, the number of affordable rental housing units have disappeared. In 1977, the number of renter households with incomes below $4,000 had fallen to 5,815,000 and the number of low-rent units had dropped to 2,052,000 which created a gap of almost 4 million units. The net loss of affordable rental housing was 500,000 units annually.

These figures are exacerbated by the existence of physically inadequate housing and the displacement problem. By 1977, approximately 6 million households were living in physically inadequate housing: 2 million elderly; 1.5 million nonelderly; 0.7 million single-parent households with children; and 0.5 million couples with no children. Twenty percent of these households met the income eligibility criteria for the section 8 program. But in places like Baltimore where there are presently 13,500 families on the waiting list for section 8 housing assistance, there are no available units.

In addition, nearly 500,000 households annually are displaced by public or private action as reflected in the annual housing survey. This figure does not include those persons displaced because of deterioration, abandonment, conversion or rental increases. Therefore, it is safe to assume that more than one million households are displaced from year to year. Moreover, since the vacancy rates in most major metropolitan areas are below one percent, it has become impossible for low- and moderate-income persons to find housing.

Title I of the housing authorization bill does provide for a 3-year authorization of the community development block grant program and the urban development action grant program but without any substantial changes to the funding formula. In its present form, the dual formula is not sufficiently responsive to the need of low-income and minority communities. Moreover, since the community development block grant funds will decline in real terms because of inflation, the formula for distributing funds will be more important. As such, I would urge the Subcommittee on Housing to examine the dual formula to determine whether it can be refined to increase the accuracy of response to need.

In addition to the absence of any change in the formula for distributing funds, title I does not adequately address the problem of involuntary displacement. Similar to last year's bill, the committee recommended that the Secretary of HUD develop more information on the displacement problem in the form of a followup report. It is, however, instructive to note that the earlier HUD report failed to make specific policy recommendations for addressing displacement of lower income families. Specifically, the committee report suggests that the recipients of community development funds should take cognizance of the effect of such activities on lower income families.

Earlier this year I introduced legislation, H.R. 6736, which would establish Federal policies to assist in eliminating the involuntary displacement of families and individuals from their neighborhoods; assist in minimizing the involuntary displacement of families and individuals from their homes; and provide additional Federal assistance to families and individuals involuntarily displaced from their homes. I would urge the House Conferees to examine my legislative proposal to strengthen displacement provisions in the bill.

Although the section 312 rehabilitation loan program is authorized an additional $183 million, it is estimated to provide funding for only 18,500 units. Given the attractiveness of this program for various communities, the authorization level does not go far enough to meet the real demand. Indeed, present housing market conditions will increase the competition for these funds.

Under title II of the bill, the committee has provided funding for the new multifamily housing initiative. Because the new program provides 32,000 units of subsidized housing for families with incomes that do not exceed 150 percent of the area median, approximately 98 percent of these families would have incomes in excess of $30,000. As such, the program would subsidize housing for a group of families who have not been heretofore assisted by the Federal Government. The decline in housing, higher interest rates, and changes in tax laws notwithstanding, such a program will divert funds away from the needs of lower income families.

The multifamily housing initiative program, as reported, places a requirement that at least 20 percent, but no more than 30 percent, of the units be occupied by tenants assisted under section 8. While I agree with the committee that it is important to economically integrate projects, this arbitrarily derived limitation will, in many cases, be inconsistent with the demographic composition for neighborhood and the housing needs of its current residents. Because many of the areas experiencing comprehensive revitalization have high concentrations of lower income families who are unable to afford the rents required on units under this new program, the majority of participants would be relatively affluent. As such, rather than maintaining or revitalizing neighborhoods, development is more likely to take place in nonurban areas.

I support alternatives that would facilitate the ability to rehabilitate older neighborhoods, avoid the involuntary displacement of lower income families and preserve housing and employment opportunities for current residents by providing the Secretary with a very limited flexibility only to allow projects to be rehabilitated consistent with the respective community's needs.

Another issue of concern to me is the committee's report language regarding rent control, which supports the view that rent control is inimical to the interests of tenants. The committee believes that rent control is a major factor which has contributed to the decline in rental housing. Thus, the opponents of rent control argue that the Federal Government should not help provide housing until communities eliminate such restrictions. I strongly disagree with their contention because it would give those communities which have resisted assisted housing an added justification to restrict the location of projects. Further, there is not an abundance of evidence to support the contention that moderate rent control has caused a decrease in multifamily construction.

I applaud Mr. ASHLEY and members of the Subcommittee on Housing and Community Development of the House Committee on Banking, Finance and Urban Affairs for adding a provision to the bill to stimulate the home building industry. The revisions to the section 235 program notwithstanding, I would urge the Secretary of HUD to insure that those persons at 95 percent of the area median and below and those families being involuntarily displaced be given preference in the 235 program. To the extent that this program vigorously addresses the needs of lower income persons, it will provide homeownership opportunities for persons who to a greater than lesser degree have been excluded from owning their own homes.

Also, the committee's directive urging HUD to consider dropping all references to race and income from its site selection standards is a positive step toward eliminating the arbitrary limitations on the location of assisted housing projects in lower income and minority areas. Indeed equal housing opportunity should be a reality.

The Senate's housing authorization bill, S. 2179, includes some provisions which the House conferees should take into consideration. Title III, section 312 of the Senate bill, amends the existing law regarding the utilization of persons in programs providing direct financial assistance and CBDG programs. The amendment directs the Secretary to the greatest extent possible to award contracts (planning, design, architecture) to firms that are socially and economically disadvantaged whether or not they reside in the area of the project. Although arguments have been raised about such a provision inducing outside competition from minorities in particular areas, I would favor such a provision because it will expand the national opportunities for economically and socially disadvantaged persons in HUD's contracts.

Also, title I, section 104 of the Senate's bill provides that economic development benefit low- and moderate-income persons through either services in their neighborhoods or job opportunities. Such a provision would essentially insure that community development activities were viable for a broader category of persons.

As we move into the eighties, I think it is essential that the housing needs of Americans, particularly lower income persons, be given top priority. The present competition for resources both in the public and private sector places an additional burden on us to develop housing policies which do not merely represent a step in the right direction, but rather provide a basis for achieving some of the abandoned goals established earlier by Congress.

I would urge your support of this bill without any weakening amendment.●

Mr. STANTON. Mr. Chairman, I have no further request for time, and I yield back the balance of my time.

Mr. ASHLEY. Mr. Chairman, I have no further request for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Under the rule, the bill will be considered under the 5-minute rule by title and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 7262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Act of 1980".

The CHAIRMAN. The Clerk will designate title I.

Title I reads as follows:

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

ADMINISTRATION OF COMMUNITY DEVELOPMENT PROGRAM

Sec. 101. (a) Section 102(b) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, for the fiscal years 1981, 1982, and 1983 (1) no data derived from the 1980 Decennial Census, as provided for in subchapter II of title 13 of the United States Code, except those relating to population and poverty shall be taken into account for purposes of section 119 or the allocation of amounts under section 106, and (2) no revision to the criteria for establishing a metropolitan area or defining a central city of such an area published after January 1, 1980, shall be taken into account for purposes of this title, except that any area or city which would newly qualify as a metropolitan area or a central city of such an area by reason of any such revision shall be so considered.".

(b) Section 102 of such Act is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1981 under section 103(a)(1), the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(6)(B) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included. During any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year.

"(e) Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county as described in subsection (a)(6)(B)(i), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).".

(c) Section 104 of such Act is amended by adding the following new subsection at the end thereof:

"(j) In any case in which a metropolitan city is located within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of planning a joint community development program, meeting the application requirements of section 104, and implementing such program.".

ELIGIBLE ACTIVITIES

Sec. 102. (a) Section 101 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out the "and" at the end of paragraph (1) of subsection (a);

(2) by striking out the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof "; and";

(3) by adding the following new paragraph at the end of subsection (a):

"(3) increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.";

(4) by striking out "and" at the end of paragraph (2) of subsection (b);

(5) by striking out the period at the end of paragraph (3) of subsection (b) and inserting in lieu thereof "; and";

(6) by adding the following new paragraph at the end of subsection (b):

"(4) concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.";

(7) by striking out "and" at the end of paragraph (7) of subsection (c);

(8) by striking out the period at the end of paragraph (8) of subsection (c) and inserting in lieu thereof "; and"; and

(9) by adding the following new paragraph after paragraph (8) of subsection (c):

"(9) the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.".

(b) Section 104(a) of such Act is amended by adding the following new sentence at the end thereof:

"The applicant may, at the discretion of the applicant, include (as part of the program summary, formulation, and description requirements described in paragraphs (1), (2), and (3) of this subsection) comparable information with respect to the applicant's energy conservation and renewable energy resource needs and objectives.".

(c) Section 105(a) of such Act is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation which promote energy efficiency), of public works, facilities and site or other improvements—including neighborhood facilities, centers for the handicapped, senior centers, historic properties, utilities (including power generation and distribution facilities using renewable resource energy systems), streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and recreation facilities, (including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities conducted with respect to a river and land adjacent thereto), flood and drainage facilities in cases where assistance for such facilities under other Federal laws or programs is determined to be unavailable, and parking facilities, solid waste disposal, recycling or conversion facilities, and fire protection services and facilities which are located in or which serve designated community development areas;";

(2) by inserting after "rehabilitation" the first time it appears in paragraph (4) the following: "(including rehabilitation which promotes energy efficiency)";

(3) by inserting after "education," in paragraph (8) the following: "energy conservation,";

(4) by inserting after "community economic development" in paragraph (15) the following: "or energy conservation"; and

(5) by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(16) activities necessary to the development of a comprehensive community-wide energy use strategy, which may include—

"(A) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

"(B) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

"(C) an analysis of the manner in, and extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation strategy;

"(D) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

"(E) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

"(F) appropriate provisions for energy emergencies;

"(G) identification of the local governmental unit responsible for administering the energy use strategy;

"(H) provision of a schedule for implementation of each element in the strategy; and

"(I) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy.".

AUTHORIZATIONS

Sec. 103. (a) The second sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for these purposes not to exceed $3,810,000,000 for the fiscal year 1981, not to exceed $3,960,000,000 for the fiscal year 1982, and not to exceed $4,110,000,000 for the fiscal year 1983.".

(b) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $275,000,000 for the fiscal year 1981 shall be added to the amount available for allocation under section 106(c) and shall not be subject to the provisions of section 107.".

(c) Section 103(c) of such Act is amended to read as follows:

"(c) There are authorized to be appropriated for supplemental grant assistance under section 119 not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983.".

PRO RATA REDUCTION OF GRANTS

Sec. 104. Section 106(g) of the Housing and Community Development Act of 1974, as redesignated by section 110(d) of this Act, is amended—

(1) by striking out "fiscal year 1978, fiscal year 1979, or fiscal year 1980" and inserting in lieu thereof "any fiscal year";

(2) by striking out "and hold-harmless" wherever it appears; and

(3) by striking out "(d)(2)" and "(f)

(1) (B)" and inserting in lieu thereof "(c)" and "(e)", respectively.

REALLOCATION OF FUNDS

SEC. 105. Section 106(d) of the Housing and Community Development Act of 1974, as redesignated by section 110(d) of this Act, is amended by striking out "first," and all that follows through the period in the first sentence and inserting in lieu thereof: "first, to other units of general local government in the metropolitan area to which the funds were originally allocated, second, in any metropolitan area in the same State, and, third, in any other metropolitan area."

SECTION 107 DISCRETIONARY FUND

SEC. 106. Section 107(a) of the Housing and Community Development Act of 1974 is amended by striking out "of authority to enter into contracts approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980, an amount equal to 3 per centum thereof shall" and inserting in lieu thereof "approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1981, 1982, and 1983, not more than $90,000,000, for fiscal year 1981, not more than $95,000,000 for fiscal year 1982, and not more than $100,000,000 for fiscal year 1983 may".

DISPLACEMENT

SEC. 107. (a) Section 104(a)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "including activities," in clause (B) and inserting in lieu thereof "activities, and objectives including activities";

(2) by striking out "and objectives," in clause (B); and

(3) by striking out clause (C) and inserting in lieu thereof the following: "(C) takes into account the effect of such activities on the involuntary displacement of low- and moderate-income persons and takes into account appropriate environmental factors;".

(b) Section 101(c)(3) of such Act is amended by inserting the following before the semicolon at the end thereof: "and including persons of low-and moderate-income who are involuntarily displaced from their housing as a result of public or private development activities conducted in connection with a community development program receiving assistance under this title".

(c) The Secretary of Housing and Urban Development shall continue the study on involuntary displacement conducted under section 902 of the Housing and Community Development Amendments of 1978 and shall transmit, not later than March 30, 1981, a report to the Congress which shall contain (1) data collected since the initial report submitted under section 902, and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement.

REHABILITATION LOANS

SEC. 108. (a) Section 312(b) of the Housing Act of 1964 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding the following new paragraphs at the end thereof:

"(5) the term 'congregate housing' means residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility; and

"(6) the term 'single-room occupancy housing' means residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities."

(b) Section 312(c)(4) of such Act is amended—

(1) by striking out "$27,000" in subparagraph (A) and inserting in lieu thereof "$32,000";

(2) by striking out "and" at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon;

(4) by adding the following new subparagraphs at the end thereof:

"(C) in the case of congregate housing, $25,000 per dwelling unit; and".

"(D) in the case of single-room occupancy housing, $15,000 per dwelling unit."

(c) Section 312(d) of such Act is amended—

(1) by striking out "and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979" in the first sentence and inserting in lieu thereof "not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979, and not to exceed $183,000,000 for the fiscal year beginning on October 1, 1980";

(2) by inserting the following before the period at the end of the third sentence thereof: ", and not more than $250,000,000 may be approved in appropriation Acts for such loans with respect to the fiscal year beginning on October 1, 1980"; and

(3) by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Of the amount available for loans under this section during any fiscal year beginning on or after October 1, 1980, the Secretary may utilize not more than one-third of such amount for rehabilitation loans for multifamily properties.".

(d) Section 312(h) of such Act is amended by striking out "1980" each place it appears and inserting in lieu thereof "1981".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 109. The first sentence of section 705 of the Housing and Community Development Amendments of 1978 is amended by inserting after "1980" the following: ", and not to exceed $10,000,000 for the fiscal year 1981".

URBAN HOMESTEADING

SEC. 110. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (g)".

TECHNICAL AMENDMENTS TO THE BLOCK GRANT PROGRAM

SEC. 111. (a) Section 102 of the Housing and Community Development Act of 1974 is amended by striking out "Office of Management and Budget" each place it appears in paragraphs (3), (4), and (8) of subsection (a) and in subsection (b) and inserting in lieu thereof "Department of Commerce".

(b) Section 103 of such Act is amended by striking out subsection (e).

(c) Section 104 of such Act is amended—

(1) by striking out "106(a)" in the first sentence of subsection (c) and inserting in lieu thereof "106(b)"; and

(2) by striking out "(d)(2)" and "(f)(1)(B)" wherever they appear in subsection (d) and (e) and inserting in lieu thereof "(c)" and "(e)", respectively.

(d) Section 106 of such Act is amended by striking out subsections (c), (g), (h), (i), (j), and (l) and redesignating subsections (d), (e), (f), (k), and (m) as subsection (c), (d), (e), (f), and (g), respectively.

(e) The second sentence of section 106(a) of such Act is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "subsection (d)"; and

(2) by striking out "aggregate", "the greater of" and "or its hold-harmless amount computed pursuant to subsection (g)".

(f) Section 106(b)(4) of such Act is amended by striking out "(A) which are entitled to hold-harmless grants pursuant to subsection (h), or (B)".

(g) Section 106(c) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out "allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be";

(2) by redesignating paragraph (3) as paragraph (2);

(3) by striking out "paragraph (2)" wherever it appears in paragraph (2), as redesignated by paragraph (2) of this subsection, and inserting in lieu thereof "paragraph (1)";

(4) by striking out the second sentence of paragraph (2), as redesignated; and

(5) by striking out in the final sentence of paragraph (2), as redesignated, ", Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h)" and inserting in lieu thereof "and Indian tribes".

(h) Section 106(e) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out in the first sentence of paragraph (1) the following: "allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h); and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be";

(2) by striking out "(i)" and "(ii)" in the first sentence of paragraph (1) and inserting in lieu thereof "(A)" and "(B)", respectively, and by striking out "(I)", "(II)", and "(III)" wherever they appear in such sentence and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively;

(3) by striking out "clause (i) of subparagraph (B)" and "clause (ii) of subparagraph (B)" in the second sentence of paragraph (1) and inserting in lieu thereof "subparagraph (A)", and "subparagraph (B)", respectively;

(4) by striking out "subparagraph (B)" in the third sentence of paragraph (1) and inserting in lieu thereof "this paragraph", and by striking out "such subparagraph" wherever it appears in such sentence and inserting in lieu thereof "such paragraph";

(5) by striking out the second sentence of paragraph (2);

(6) by striking out "paragraph (1)(B)" wherever it appears in paragraph (2) and inserting in lieu thereof "paragraph (1)";

(7) by striking out "units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) and" in the last sentence of paragraph (2); and

(8) by striking out "paragraph (1)(B)" in the first sentence of paragraph (3) and inserting in lieu thereof "paragraph (1)".

(i) Section 108 of such Act is amended—

(1) by inserting after "commitments to guarantee" in the first sentence of subsection (a) the following: ", only to such extent in such amounts as provided in appropriation Acts,";

(2) by adding the following new sentence at the end of subsection (a): "Not more than $300,000,000 of notes and other obligations may be authorized in appropriation Acts to be guaranteed under this section during fiscal year 1981."; and

(3) by striking out "Notwithstanding any other provision of this section, the" in subsection (k) and inserting in lieu thereof "The".

(j) Section 116 of such Act is amended—

(1) by striking out subsections (b), (f),

and (h), and by redesignating subsection (g) as subsection (b); and

(2) by striking out in subsection (b), as redesignated, "or from a unit a general local government for a grant pursuant to section 106(h)".

UDAG AMENDMENT RELATING TO GUAM

SEC. 112. Section 119 of the Housing and Community Development Act of 1974 is amended by adding the following new subsection at the end thereof:

"(n) For purposes of carrying out this section, the term 'city' shall include Guam".

STUDY

SEC. 113. The Secretary of Housing and Urban Development shall, not later than January 1, 1983, report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the manner in which such formula is or could be affected by the data derived from the 1980 decennial census.

COMPLIANCE WITH HISTORIC PRESERVATION REQUIREMENTS

SEC. 114. Title I of the Housing and Community Development Act of 1974 is amended by adding the new section at the end thereof:

"COMPLIANCE WITH HISTORIC PRESERVATION REQUIREMENTS

"SEC. 121. (a) Notwithstanding any other provision of law, the Secretary shall prescribe and implement regulations which establish procedures for compliance of projects funded under section 119 with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes," approved October 15, 1966, as amended; and

"(2) 'An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam,' approved June 27, 1960, as amended.

"(b) In prescribing and carrying out such regulations, the Secretary shall provide that—

"(1) the Acts described in paragraphs (1) and (2) of subsection (a) shall apply (for purposes of projects to be carried out in connection with the application for assistance under section 119) only with respect to properties determined eligible for the National Register of Historic Places prior to the end of the 90-day period which begins on the date on which the initial application under section 119 is received for review by the designated clearinghouse pursuant to section 104(e) of this title;

"(2) the applicant for assistance under section 119 shall take into consideration the advice of the State historic preservation officer and the Advisory Council on Historic Preservation when offered within a reasonable period of time (as prescribed by the Secretary); and

"(3) agreements which may be reached between such applicant and the State historic preservation officer relating to the impact and the use of mitigating measures concerned with the effects of projects to be carried out in connection with the application shall be deemed to represent compliance with the applicable sections of the Acts described in paragraphs (1) and (2) of subsection (a) without further review by any governmental entity.

"(c) Regulations issued pursuant to the Acts described in subsection (a) shall conform to the regulations issued by the Secretary under this section."

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 20, line 11, insert "and the Virgin Islands" after "Guam".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 20, after line 20, insert the following:

COMPLIANCE WITH HISTORIC PRESERVATION REQUIREMENTS

SEC. 114. Title I of the Housing and Community Development Act of 1974 is amended by adding the new section at the end thereof:

"COMPLIANCE WITH HISTORIC PRESERVATION REQUIREMENTS

"SEC. 121. (a) Notwithstanding any other provision of law, the Secretary shall prescribe and implement regulations which establish procedures for compliance of projects funded under section 119 with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes," approved October 15, 1966, as amended; and

"(2) 'An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam,' approved June 27, 1960, as amended.

"(b) In prescribing and carrying out such regulations, the Secretary shall provide that—

"(1) the Acts described in paragraphs (1) and (2) of subsection (a) shall apply (for purposes of projects to be carried out in connection with the application for assistance under section 119) only with respect to properties determined eligible for the National Register of Historic Places prior to the end of the 90-day period which begins on the date on which the initial application under section 119 is received for review by the designated clearinghouse pursuant to section 104(e) of this title;

"(2) the applicant for assistance under section 119 shall take into consideration the advice of the State Historic Preservation Officer and the Advisory Council on Historic Preservation when offered within a reasonable period of time (as prescribed by the Secretary); and

"(3) agreements which may be reached between such applicant and the State Historic Preservation Officer relating to the impact and the use of mitigating measures concerned with the effects of projects to be carried out in connection with the application shall be deemed to represent compliance with the applicable sections of the Acts described in paragraphs (1) and (2) of subsection (a) without further review by any governmental entity.

"(c) Regulations issued pursuant to the Acts described in subsection (a) shall conform to the regulations issued by the Secretary under this section."

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. WYLIE AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. WYLIE. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE as a substitute for the committee amendment: Page 20, strike out line 21 and all that follows through line 20 on page 22 and insert in lieu thereof the following:

HISTORIC PRESERVATION

SEC. 114. (a) Section 119(c) of the Housing and Community Development Act of 1974 is amended by—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph after paragraph (6):

"(7) include (A) an identification of all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) an identification of all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; and (C) a description of the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B)."

(b) Section 119 of such Act, as amended by section 112 of this Act, is amended by adding the following new subsection at the end thereof:

"(o) In the case of any application which identifies any property in accordance with subsection (c)(7)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 121 (b)."

(c) Title I of such Act is amended by adding the following new section at the end thereof:

"HISTORIC PRESERVATION REQUIREMENTS

"SEC. 121. (a) With respect to applications for assistance under section 119, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 119 and their relationship with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes,' approved October 14, 1966, as amended; and

"(2) 'An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam,' approved June 27, 1960, as amended.

"(b) In prescribing and implementing such regulations with respect to applications submitted under section 119 which identify any property pursuant to subsection (c)(7)(B) of such section, the Secretary of the Interior shall provide at least that—

"(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the

Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

"(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

"(c) The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of the Act referred to in subsection (a)(1) in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 119.".

Mr. WYLIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WYLIE. Mr. Chairman, I think this amendment has been agreed to by all parties concerned so I will not take a lot of time on it but I think it does deserve a short explanation.

This amendment is designed to provide a timely review of the historic preservation procedures in an urban development action grant project. At the present time there is no procedure for a quick review to finality on the question of whether a structure is or is not historic. What my amendment would do would be to provide a time period within 90 days during which time the National Register of Historic Places would be required to make a determination whether or not a structure in a UDAG project is in fact historic.

Mr. Chairman, the reason for this amendment is because, in many cases, otherwise worthwhile urban development action grant projects have been held up for review by the National Register of Historic Places. In some cases local project money has been withdrawn because someone attempted to delay the project by designating a building which might be old but not otherwise historic as an historic structure and, thereby, place it on the National Register of Historic Places.

As I say, in the present law there is no language which says that the review must be made within a certain period of time.

I had originally offered or proposed to offer an amendment which would have applied across the board from community development block grant programs to innovative community development programs, section 8 programs as well as UDAG projects. At the request of the gentleman from Ohio (Mr. ASHLEY) I limited my amendment to the urban development action grant program which is much more limited in scope than those others that I have mentioned.

I also, in the amendment which was adopted by the committee, suggested that officials at the local level make the determination as to whether a structure was historic in nature. I now recognize, after the heavy artillery barrage from the National Historic Preservationists and others, including the National Trust for Historic Preservation, that there was, indeed, a concern of national significance involved here. So, I have in this substitute amendment said that the applicant, which in most cases is a city or political subdivision, would identify in the application what might otherwise be said to be historic places even if no one came forward who thinks there are some historic places in the urban development project. So there would be protection on all sides.

I might say I would like to compliment the gentleman from Ohio (Mr. SEIBERLING) who has been very generous with his time in helping work out a compromise amendment which I bring to the floor here today. His expertise was especially meaningful. The gentleman from Ohio, Mr. ASHLEY, has been most supportive as has our distinguished chairman, Mr. REUSS. I would also like to compliment Mr. Chris Delaporte of the Department of the Interior for the time he spent on this, Mr. Bob Embry of HUD, Mr. Steve Brennen of my own staff and Loretta Newmann of Congressman SEIBERLING's staff. A lot of people have done a lot of work on this issue. I now have before me letters from the National Trust for Historic Preservation which says:

> The substitute amendment * * * represents a positive contribution toward the solution of the problems that have been caused by a relatively small number of UDAG projects.

The U.S. Conference of Mayors said in their correspondence:

> Although the compromise amendment does increase to a slight degree the preparation necessary for submitting a UDAG application, we believe the added effort is outweighed by its benefits.

They, therefore, support my substitute.

I also have a letter from Preservation Action which opposed my original amendment which I might say was adopted by a voice vote in committee. They now say that Preservation Action applauds me for a successful effort to find appropriate language to the Housing and Community Act regarding UDAG and compliance to the National Historic Preservation. They believe this to be a move in the right direction.

I have correspondence from the National Association of Housing and Redevelopment officials which says:

> The historic preservation process has been one which has caused great difficulties for our members, principally because it is so imprecise. The timing and time schedule in the historic preservation decision-making process are so fluid and unpredictable that it is extremely difficult to plan with any certainty. Your amendment has brought this issue to the forefront.

I think more than anything else, Mr. Chairman, what my amendment does is to bring this issue to the forefront and is an attempt to provide some sort of an orderly process for the review of historic properties in UDAG projects.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, I hope this amendment might be used as a model for review of historic preservation questions in other housing programs. I do feel that this amendment will help protect the Nation's historic resources and at the same time will contribute to the success of revitalizing our national urban areas.

Mr. Chairman, I yield back the balance of my time.

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Mr. ASHLEY. Mr. Chairman, I rise in support of the gentleman's amendment. While the committee believes that the survey evaluation, registration, and protective process as established by the National Historic Preservation Act of 1966 and other laws are crucially important to the preservation of our national heritage, it is a fact that they have sometimes taken so long that they jeopardize equally important and desperately needed development efforts. This is the kind of situation we are trying to avoid.

I think the gentleman from Ohio has struck a very careful balance. We do have competing objectives and competing goals that are involved in this legislation. I support his amendment wholeheartedly. He has been very cooperative in his efforts to work out an amendment that will accomplish the purposes that are inherent in our historic preservation efforts, and at the same time not impede legitimate development activities. So, I congratulate the gentleman and am pleased to support his amendment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am pleased to yield to the chairman, the gentleman from Wisconsin.

Mr. REUSS. Mr. Chairman, I just want to join in the commendation for the two gentlemen from Ohio, who together have worked out a serviceable solution. We want to revitalize our cities, and we want to save historic buildings.

The question is, how do you save historic buildings without clobbering revitalization, and how do you revitalize without clobbering historic buildings? I think these gentlemen have worked it out, and I hope the amendment will be agreed to.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to my colleague from Ohio.

Mr. SEIBERLING. Mr. Chairman, I, too, would like to add my commendation to both the distinguished chairman of the subcommittee and to the gentleman from Ohio (Mr. WYLIE) for working out this very complicated and important problem.

Mr. Chairman, I rise in strong support of Mr. WYLIE's substitute amendment to H.R. 7262, the Housing and Community Development Act of 1980, relating to historic preservation requirements for the urban development act grant (UDAG) program.

The amendment represents a reasonable compromise over the version in the bill reported. It would, I feel, benefit both the UDAG applicants and the historic preservation community. Indeed, I understand that the substitute amendment has the support of the National League of Cities and the U.S. Conference of Mayors as well as the National Trust for Historic Preservation, Preservation Action, and the National Conference of State Historic Preservation Officers.

As originally adopted, I was concerned that the provisions in the committee amendment would significantly alter—and weaken—the existing laws and procedures for the national historic preservation program as it relates to the UDAG program. It would have required the Secretary of the Department of Housing and Urban Development (HUD) to proscribe and implement regulations for compliance with the major historic preservation laws for UDAG projects. It would have set an arbitrary 90-day time limit for determinations of whether properties affected by a project were eligible for the National Register of Historic Places. And it would have allowed UDAG applicants to circumvent any review by the Advisory Council on Historic Preservation—required for all Federal undertakings pursuant to the Historic Preservation Act of 1966—by permitting them to make binding agreements with State historic preservation officers.

Under the rules of the House, the Interior and Insular Affairs Committee has jurisdiction over national historic preservation legislation. As a member of that committee, I have worked with the chairman of the Subcommittee on National Parks and Insular Affairs, Mr. BURTON, on comprehensive legislation to improve the national historic preservation program. The historic preservation laws affect dozens of other Federal programs. Accordingly when I learned of the Banking Committee's action in adopting Mr. WYLIE's amendment to H.R. 7262, I immediately expressed my concerns to Mr. WYLIE, Mr. ASHLEY, and the chairman of the committee, Mr. REUSS, who were most cooperative in expressing a willingness to work out any problems, as we have now done.

Undoubtedly some changes are needed in the present historic preservation procedures relating to UDAG projects. The program is unusual, in that HUD has delegated its environmental and historic preservation responsibilities to the applicants. The problem is how to avoid unnecessary delays with UDAG projects while at the same time assure that the applicants do adequately take into account the interests of historic preservation.

The present procedures relating to UDAG projects need to be better defined and mitigation efforts expedited. Applicants do need a clear process and timetable that meets the requirements for identifying possible historic properties.

ADVANTAGES OF SUBSTITUTE AMENDMENT

Mr. WYLIE's substitute would accomplish the dual goals of avoiding unnecessary delays while assuring that the integrity of the historic preservation program remains intact.

Rather than one 90-day time period initiated at the stage when the application is submitted to the A-95 clearinghouse for review, the substitute amendment would divide the time into two 45-day periods; the first for comments by the State Historic Preservation Officer and the second for determination of eligibility by the Secretary of the Interior. This essentially duplicates the process proposed by the Interior Department's Heritage Conservation and Recreation Service in its May 23, 1980 regulations for all Federal agencies seeking determinations of eligibility for the National Register.

Having been delegated by HUD the responsibility of preparing the UDAG applications and thereby, to that extent, having standing as the responsible Federal agency for UDAG, the applicants must, like any other Federal agency, comply with the historic preservation standards and criteria set by the Secretary of the Interior and the Advisory Council on Historic Preservation. As in the case of other Federal projects, final authority regarding determinations of significance and effect reside with the Secretary of the Interior and the Advisory Council respectively. It is therefore essential that the identification job be properly done by the applicant, so that the time limitations placed on the State Historic Preservation Officer and the Secretary of the Interior do not work to frustrate the historic preservation process.

On the other hand, it is also essential that, once the applicant has completed this process, he or she not be subject to later "surprise" requests for designation of other properties.

In effect, the substitute amendment specifies a process to "front-end" the historic preservation review process. It requires the applicant to afford the State Historic Preservation Officer and the Secretary of the Interior their 45-day review process before HUD may commit funds to the project. While the term "commit" has no specific statutory base, it does reflect the administrative procedures already established by HUD for the UDAG program. So that the effect of the proposed UDAG grant on historic properties can be taken into account as mandated by section 106 of the National Historic Preservation Act, the historic preservation review process should be carried out before final decisions on a project are made.

Ideally, the historic preservation functions would be completed before approval of the project, and this should be HUD's goal. At a minimum, however, it is expected that HUD will, in consultation with Interior and the Advisory Council, define its point of "commitment" clearly and with relationship to the preservation review process.

ADVANTAGES TO APPLICANTS AND PRESERVATIONISTS

Mr. WYLIE's substitute amendment has several advantages both to UDAG applicants and to the historic preservation community.

The advantage to the applicant is the assurance that, once the certification was made, he or she would be considered to have completed all requirements regarding the identification of current and potential sites and their eligibility for inclusion on the National Register. The advantage to preservationists is that potential historic sites will be identified early and information will be available to mitigate the impact of the project on those properties.

Indeed, the substitute amendment specifies that the UDAG application itself must include an identification of all properties affected by the project which are already listed on the National Register, information and documentation of any other properties affected by the project which may meet the criteria for the National Register; and a description of the effect of the project on those properties.

In addition, the Advisory Council on Historic Preservation would be directed to prescribe regulations to provide for expeditious action in making its comments on properties affected by the project which are on or eligible for the National Register, as required under the Historic Preservation Act of 1966.

The amendment does not put a firm time limit on the Advisory Council for the amount of time it may take to agree on a mitigation strategy for historic properties. To do so would impose an arbitrary deadline on a process which can take a good deal of careful and detailed consideration. Furthermore, each project has to be considered on a case-by-case basis.

However, by requiring an applicant to include information about the effect of a project on the identified historic properties and by requiring the Advisory Council to take expeditious action, it is our feeling that mitigation strategies can, indeed, be dealt with as early as possible. While it is important for the applicant to recognize the values of protecting historic properties, it is also important for the Advisory Council to recognize the delicate nature of the agreements reached between the public and private sectors in the UDAG program. Money flees uncertainty, and long, drawn out consideration of simple requests can turn a good deal into a bad deal. We therefore expect the Advisory Council to act promptly on the basis of this amendment, and to truly expedite its process with regard to UDAG projects.

MORE LOCAL PARTICIPATION

Another benefit of Mr. WYLIE's substitute amendment is that it recognizes the increasing desire of local governments to participate in national historic preservation programs. This was one of the major issues addressed at recent hearings on pending historic preservation legislation by the Interior Committee's Subcommittee on National Parks and Insular Affairs.

The need for greater local participation is an issue that our committee will be working on in our comprehensive historic preservation bill.

Indeed, I think it should be pointed out that many cities already have strong historic preservation programs. Over 600 have enacted local ordinances protecting historic properties. The UDAG program itself has been used successfully by a great many cities—including my own, Akron, Ohio—for the rehabilitation and adaptive use of older buildings. According to HUD, 55 UDAG projects involving historic preservation have received over $206 million in funds and have leveraged over $1 billion in investments.

Where conflicts have occasionally occurred, they have attracted much publicity. Mr. WYLIE's substitute amendment should minimize these conflicts and encourage even more efforts to include historic preservation as an active part of the UDAG program.

I think that HUD, in its recent report "Action Grants: Revitalizing and Conserving Cities," accurately summarizes the situation when it stated that:

> The fact that a building or a district is put on the National Register does not in and of itself insure its preservation. What is required to make preservation an everyday reality is a partnership between the public and the private sector that can translate the growing sentiment for preservation into an active will to rehabilitate and reuse whatever is worth saving and to rebuild and redevelop whatever cannot be saved.

Mr. Chairman, I am delighted to support Mr. WYLIE's substitute amendment and I want to commend him and his excellent staff person, Steve Brennan, for their untiring efforts in working out this excellent compromise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE) as a substitute for the committee amendment.

The amendment offered as a substitute for the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHLEY: Page 22, after line 20, insert the following:

PERFORMANCE REPORTS FOR CERTAIN NON-ENTITLEMENT COMMUNITIES

SEC. 115. Section 104(d) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each" in the first sentence and inserting in lieu thereof "Each";

(2) by inserting after the first sentence the following new sentence: "The performance report shall be submitted annually prior to the beginning of each fiscal year; except that, in the case of grantee who receives a grant which is made pursuant to subsection (c) or (e) of section 106 and which the Secretary determines does not fund a comprehensive community development program, the report which is to be made with respect to such grant may be submitted less frequently than annually as determined by the Secretary."; and

(3) by inserting "(or less frequently as the Secretary determines appropriate in the case of a grant for which a report is submitted less frequently than annually in accordance with the second sentence of this paragraph)" after "at least on an annual basis" in the third sentence.

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHLEY. Mr. Chairman, the amendment which I am offering is designed to reduce unnecessary paperwork for those small city grantees under the community development block grant program which are not undertaking a comprehensive community development program.

To put the amendment in perspective, under existing law all communities receiving community development funding must annually file a "grantee performance report" with the Secretary of HUD. This report which must be the subject of extensive public comment includes a detailed discussion of the community development activities the grantee community has undertaken in the previous year, along with an assessment of how these activities relate to the goals of the program and the grantee's identified community development needs.

The preparation of this report is a time-consuming task. The purpose of the reporting requirement is to assure that communities are performing well before they go forward with a new grant. It seems appropriate to require communities with ongoing community development programs to undertake this reporting task. However, this reporting requirement may overburden communities which receive only single-purpose grants and which are not applying for a new grant.

My amendment is designed to eliminate unnecessary annual reports that only add excessive administration burdens to small cities.

The amendment would provide the Secretary of HUD with the flexibility to establish requirements for reporting which best reflect the nature and timing of noncomprehensive programs. These reports would be more appropriately required at the completion of the project, or when the grantee applies for additional funding.

In the interest of promoting efficiency in Government, I urge support of this amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to my colleague from Ohio.

Mr. STANTON. Mr. Chairman, as our chairman has earlier said, this amendment has been worked out with the minority, and it is definitely the intent and purpose of the amendment to cut down on the paperwork and excessive burden these nonentitlement communities have to put forth. We strongly support the amendment.

Mr. ASHLEY. Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LOEFFLER

Mr. LOEFFLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOEFFLER: Page 22, after line 20, insert the following new section:

PUBLIC PARTICIPATION

SEC. 115. Section 104(a) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting the following after "general locations of proposed housing for lower-income persons," in paragraph (4)(C): "including an assessment of the locations most likely to be utilized for such housing,"; and

(2) by striking out paragraph (6)(C) and inserting in lieu thereof the following: "(C) held public hearings to obtain the views of citizens on (i) community development and housing needs, (ii) general locations of proposed housing for lower-income persons, especially the locations specified by the applicant as most likely to be utilized for such housing, and (iii) the impact of such housing on public facilities and services near such locations; and".

Mr. LOEFFLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LOEFFLER. Mr. Chairman, my amendment is very simple. Before I explain it, however, let me first discuss how I came to introduce it.

Last spring, bulldozers showed up on a site in a community which I am privileged to represent. The residents learned that it was to be the site of a public housing project. They also learned that since the project was being built under the turnkey method, all of the relevant contracts had been signed; hence, the project was fait accompli.

An uproar ensued, in part I suspect because some people did not want a public housing project in their neighborhood. In large measure, however, the uproar was caused by the fact that no one knew about the project—quite literally, until the bulldozers moved in. The element of surprise generated significant hostility.

In no way whatsoever do I believe it is my role to interfere in any way with the community development block grant (CDBG) process. Indeed, I applaud the fact that it is one of the few Federal programs which leaves primary decisionmaking in the hands of local officials where it correctly belongs.

This particular situation greatly concerned me, however, since I was well aware of the provisions of the Housing and Community Development Act of 1974, which, very specifically, provide a framework for citizen participation in the community development block grant process. I could not understand, therefore, why there was such dismay in the community at such a late date.

Upon investigation, I learned that the community in question had an excellent record of public hearings on the housing assistance plan (HAP) portion of their CDBG applications. In fact, they had more public hearings than the law prescribed. Clearly, the community was abiding very well by the letter of the law.

The problem, however, was in the spirit of the law. Since the community had declared that every census tract in the city was eligible for public housing, there was a clear lack of specificity involved in the public hearing on the HAP. In effect, when the public hearings were held, citizens were participating without the slightest inkling of where a particular project might be located. School officials had indeed been present at the hearing, but without knowing the site, they could not even begin to discuss intelligently what impact a proposed project might have on relevant neighborhood schools. The same was true for other local service entities—transportation, refuse collection, utility hook-ups, and the like.

When I learned the facts of the situation, I introduced legislation which would have required HUD to allow citizens a public hearing to comment on a CDBG application after sites had been specifically identified and an application had been submitted to HUD by a local community.

This bill was offered for discussion during both subcommittee and full committee markup. It soon became clear during the course of these discussions that the amendment was too stringent. It could have the effect, which I did not at all intend, of hampering the CDBG process itself.

As a result, the amendment I offer today is not the same one that was discussed in committee. I want to make that point very clear to the managers of this bill.

The amendment I offer today is very straightforward.

Under existing law, communities, in the preparation of their housing assistance plans, are required to indicate the general location of proposed housing for lower-income persons. My amendment adds language to this section of existing law calling for "an assessment of the locations most likely to be utilized for such housing."

Further, my amendment states that when public hearings required by existing law are held, there shall be a discussion of "the locations specified by the community as most likely to be utilized for subsidized housing and the impact of such housing on public facilities and services near such locations."

The key words in the amendment are "most likely." Certainly communities may not know each and every site which might be utilized—especially under the turnkey construction method where a community may now know every site which every builder may own or on which they may have options to buy. But there are ways of knowing the sites "most likely" to be utilized. For example, communities certainly have a basic feel for the zoning status of certain census tracts.

They have knowledge of requests for zoning changes. Further, they are certainly aware of expressions of interest by developers which may have indicated their desire to build in locations where they own land or have an option to buy. Communities also have knowledge of available facilities, including transportation and they know the impact on local schools which would make certain sites more desirable than others.

My amendment will not hinder the CDBG process. It will merely prompt communities to provide as much information as possible to local citizens during the course of the public hearings which are already required by existing law.

Perhaps the Committee Report sums it up best when it says on page 13:

> It is essential that citizens, especially low-income and minority citizens, are provided with full and timely information concerning their local community's CDBG strategy, and have adequate opportunity to express their viewpoints.

And on page 223:

> Reasoned judgment can only result from known facts and if the citizens have no facts their right to comment will be meaningless or after the fact, in which case it is more likely to be an exercise in frustration than constructive comment.

Mr. Chairman, I urge that my amendment be adopted.

☐ 1620

The CHAIRMAN. The time of the gentleman from Texas (Mr. LOEFFLER) has expired.

(By unanimous consent, Mr. LOEFFLER was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to my good friend, the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I have been listening very intently to the gentleman in the well.

First, let me compliment the gentleman on bringing his concern to the attention of the committee in the same way that he has brought his concern to our subcommittee and to the full committee. This concern relates to his locality and has to do with a problem that certainly does exist, without a doubt, in other parts of the country. The gentleman from Texas is the one who has brought this to the attention of the subcommittee, and as he just stated a while ago, I, being on the subcommittee, offered an amendment in his behalf in regard to this subject, an amendment that was apparently too stringent.

My problem with the gentleman's amendment at the present time is not the fact that I do not agree with him 100 percent, but it is my thought that what the gentleman wants to do is to stress the "most likely" area. That is the intent of his amendment to be stressed, and that should be in the law at the present time as far as the intent of Congress is concerned.

I say that because what the gentleman stresses is the fact that it was never meant by this Congress to take one meaningless census tract—and that is what they should follow, a census tract—or a series of census tracts that make up an entire city, whether it be the city of Cleveland, San Antonio, Los Angeles, or whatever, and follow that. What we want to do is pin this down to a selective area or the most likely area as the area to be selected in a census tract, not one whole city.

At this point, since I feel the cities should be doing that at this time, I would like to make a suggestion, if the gentleman will yield.

Mr. LOEFFLER. I yield to the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman from Texas (Mr. LOEFFLER) has again expired.

(By unanimous consent, Mr. LOEFFLER was allowed to proceed for 3 additional minutes.)

Mr. LOEFFLER. Mr. Chairman, I yield to my friend, the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I thank the gentleman for continuing to yield.

If we could get the attention of the chairman of the full committee, the fact is that as we go to conference with this legislation, I would hope that we could put it into the report, and that he would join me in this effort, and stress the fact that what we mean is literally what we have said in colloquy here on the House floor, and that is that the area "most likely" is what we intend to mean. We do not mean, when we speak of a census tract, a whole conglomeration of census tracts, or we do not mean to cover a whole city. That is not the intent of what we mean.

Mr. Chairman, I wonder if, as we engage in colloquy here, we could bet the understanding of the subcommittee chairman that that is what we are trying to do, and then, hopefully, the gentleman will withdraw his amendment.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I am pleased to yield to the distinguished chairman of the subcommittee.

Mr. ASHLEY. Mr. Chairman, I would like to work with both of my friends in this regard.

Let me say that, as the gentleman has pointed out, the 1974 law required citizens to participate with respect to the general location of assistance housing. There was a reason for that, and some of us who were around then recall it pretty vividly.

It is very hard to require a developer to come up with a specific site before a housing assistance plan is developed. In other words, what we do is develop a housing assistance plan, and for purposes of developing that plan we try in a general way to indicate the location where assistance housing is going to be located. Then we permit citizen participation.

What I mean to say is that it is very difficult, before an assistance plan or at the time of a housing assistance plan, to involve the developer so that we know the specific locations that may be involved.

So what I am saying is—and I think the gentleman will agree with this; I am sure he does because it is just absolute commonsense—that he should let us try to work this out, and I will work with the gentleman. My word is good. We will see to it, to the extent possible, that where there is reason for a community to believe that a more specific location is desirable or more likely, then that location should be so identified so that the citizen participation with regard to the housing assistance plan can be as specific as possible.

We are not trying to keep people out of the process. After all, we are trying to bring them in. We are trying to do so in a way that is consistent with the activities and the operations of our private sector as they implement the program.

So, Mr. Chairman, on that basis, I would be very happy to try to work, as I say, with both of the gentlemen who have done us a service in bringing this problem to the committee's attention.

The CHAIRMAN. The time of the gentleman from Texas (Mr. LOEFFLER) has again expired.

(By unanimous consent, Mr. LOEFFLER was allowed to proceed for 1 additional minute.)

Mr. LOEFFLER. Mr. Chairman, I thank the distinguished subcommittee chairman and the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs for their assistance in this matter.

I might just point out that I do look forward to working with the ranking minority member and the chairman of the subcommittee to see that we might come to some conclusion that would give citizens of our areas the right to respond in the most narrow sense. I think that is consistent with the thrust of the law and its implementation as well, because when we look at urban renewal projects, we give an opportunity to those who will be displaced to know, before that particular activity goes on, that this will occur, and they have a right then, as they properly should, to come forth and say what the displacement would bring about.

At the same time, those who seek to participate in the decisionmaking process as to where public housing and low-income housing might be located will, to the greatest extent possible and in a responsible fashion, then would have an opportunity to more narrowly address the areas potentially to be selected for public housing.

The CHAIRMAN. The time of the gentleman from Texas (Mr. LOEFFLER) has expired.

Mr. LOEFFLER. Mr. Chairman, in view of the colloquy I had with the distinguished subcommittee chairman and the ranking minority member, I ask unanimous consent that my amendment be withdrawn, and I look forward to working with the gentleman on this matter in the future.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment will be considered as withdrawn.

□ 1630

AMENDMENT OFFERED BY MR. LUNDINE

Mr. LUNDINE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNDINE: On page 10, strike out lines 1 through 7 and insert the following:

(b) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $275,000,000 for the fiscal year 1981 shall be added to the amounts available for allocation under section 106 and shall not be subject to the provisions of section 107. Eighty percent of such $275,000,000 shall be available for allocation under section 106(c) and the remaining 20 percent shall be available for allocation under section 106(e)."

(c) Section 106(e) of such Act, as redesignated by section 111(d) of this Act, is amended by inserting after "20 per centum" the following: "of such amount and any amounts added in accordance with the provisions of section 103(a)(2)".

On page 10, line 8, strike out "(c)" the first time it appears and insert in lieu thereof "(d)".

Mr. LUNDINE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. STANTON. Reserving the right to object, Mr. Chairman, I do not think we have copies of the amendment over here.

The CHAIRMAN. The Clerk will continue reading the amendment.

Mr. STANTON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 3 additional minutes.)

Mr. LUNDINE. Mr. Chairman, I am joining with my colleague from Oklahoma (Mr. WATKINS) to offer an amendment to section 103 of H.R. 7262 to increase funding for nonmetropolitan discretionary grants under the CDBG small cities program.

The amendment responds to an inequity which has existed in the community development block grant program for several years. In the Housing and Community Development Act of 1974, Congress determined that CDBG funding be divided on an 80–20 basis between metropolitan and nonmetropolitan cities, counties, and towns. The legislation provided that 80 percent of the funding be used in standard metropolitan areas (SMSA's) for entitlement grants to urban counties and to cities with more than 50,000 residents. The remaining 20 percent of CDBG funds was to go for discretionary grants to small cities and towns outside standard metropolitan areas.

The legislation also provided for "hold-harmless" payments to urban and rural communities as a temporary means of bridging the gap between levels of assistance received under prior programs and that received under the new block grant program. Hold-harmless payments were authorized for entitlement cities receiving less assistance under the CDBG entitlement formula than they had received under the urban renewal, Model Cities, and other HUD programs. These payments were to be phased-out over a 3-year period as the shortfall in funding was reduced by increased allocations. Hold-harmless payments were also authorized on a transitional basis for cities with less than 50,000 residents which had received assistance under prior HUD programs, but were not eligible for entitlement funds under the program.

Small cities which received neither entitlement nor hold-harmless funding were eligible for assistance under a small cities discretionary grant program. The program authorized competitive single-purpose and comprehensive grants for communities in both urban and rural areas. Funding for rural discretionary grants was to come from the 20 percent nonmetropolitan share of CDBG funding, while funds for discretionary grants in metropolitan areas was to derive principally from money left over after entitlement funding had been allocated and after hold-harmless payments had been made.

In the 1974 act, CDBG funds were to be divided on an 80–20 basis after money had been set-aside for a Secretary's discretionary fund under section 107(a) and for hold-harmless payments under section 103(a)(2). While this had the effect of reducing the amount of funding to be divided, and thus the share going to rural small cities grants, it was generally recognized that these set-asides benefited both urban and rural communities.

In 1975, I served as mayor of the city of Jamestown, N.Y., when the city was among the first to apply for, and receive, hold-harmless payments under the program. Jamestown, a city of less than 50,000 people, had received prior assistance under HUD programs, but did not qualify for entitlement funding.

I raise this point, Mr. Chairman, to emphasize that both urban and rural communities benefited under hold-harmless. While a large percentage of assistance provided under both the hold-harmless and Secretary's fund set-asides went to urban communities, at least 20 percent could be expected to aid cities and towns in rural areas. This expectation, plus the fact that hold-harmless was to continue only during a transition period, muted any criticism that the set-asides reduced the actual amount of the 20 percent rural share of the CDBG program.

A situation has emerged, however, in which hold-harmless payments have ceased, but a sizable amount of funding continues to be set aside under section 103 exclusively for small cities grants in metropolitan areas. During fiscal years 1975–79 funding for these grants increased from $54 million to $233 million, as hold-harmless payments were reduced and funds were shifted to finance urban small cities grants. By fiscal year 1980, no hold-harmless payments were being made, while more than $273 million was being provided under the set-aside for grant allocations to nonentitlement communities in metropolitan areas.

H.R. 7262 seeks to amend the 1974 act to conform with the current situation. It eliminates all reference to hold-harmless and authorizes $275 million in set-aside funding exclusively for metropolitan small cities grants. This continued set-aside is justified in the committee report as necessary "to assure that nonentitlement communities will continue to receive funding under the program."

Perhaps a more accurate description of the reasons for this set-aside was provided by Assistant Secretary Embry during the subcommittee markup. Embry commented that HUD was seeking the continued set-aside because urban nonentitlement communities had become accustomed to the higher levels of assistance provided during 1977–79 and HUD thought it necessary, for planning purposes, to ensure that current funding levels, as well as future increases, continue to be available.

Given the current tightening of funds for this and other programs, I can understand HUD's desire to stabilize funding for nonentitlement grants. I do question, however, the necessity of setting aside funds for this purpose, especially at a time when entitlement funds are not being accepted by some communities and when most communities are unable to spend the entitlements they have received. One recent study, for example, claims that as much as $6.2 billion of the $18 billion in entitlement funding appropriated since 1975 has not been used and remains in the Federal Treasury.

I must emphasize that I do not object to HUD's desire to set funding aside for nonentitlement grants. I do object, however, to the setting aside of funding in a way that flouts the intent of the 1974 act and purposely continues the understanding of community developments grants to nonmetropolitan communities.

Contrary to what a number of my colleagues have been led to believe, this set-aside is not being taken from the metropolitan 80 percent share of CDBG allocations. It is being taken off the top, reducing the total amounts to be distributed to both entitlement communities and nonmetropolitan small cities and towns.

Under the legislation, the nonmetropolitan share of block grant funding is reduced twice by allotments strictly to metropolitan areas—once by the proposed $275 million set-aside for urban small cities, and, again, by the 80-percent allotment for entitlement grants to metropolitan cities and counties. What remains is not the 20 percent provided in the original statute, but an amount representing less than 18 percent of total CDBG allocations.

To be more specific, the legislation would authorize $689 million in CDBG funding to nonmetropolitan areas during fiscal year 1981. This figure represents 20 percent of what is left after $91 million is exempted for the Secretary's discretionary fund, after the $275 million has been set-aside for metro small cities, and after $2.76 billion has been provided for metropolitan entitlements. This represents only 17.8 percent of total funding made available, after exclusion of the Secretary's fund.

Our amendment seeks to correct this situation and return the nonmetropolitan share of CDBG funding to the 20 percent level. It would do so without eliminating the proposed small cities set-aside, without reducing allotments for metropolitan entitlement grants, and without increasing appropriations for the CDBG program.

The amendment provides that any funding set-aside for nonentitlement small cities grants be divided on the same 80–20 basis as provided for overall CDBG allocations. It amends section 103(b) of the bill to provide that, of the $275 million set-aside under section 103(a)(2) of the act, 80 percent is to be used for metropolitan small cities grants under section 106(c), with the remaining 20 percent used for nonmetropolitan grants under section 106(e). The amendment also adds language to section 106(e) to accommodate the funding made available.

The effect of the amendment is to shift $55 million in CDBG small cities funding to cities and towns in rural areas. This would increase the amount of funding authorized for nonmetropolitan communities in fiscal year 1981 to $744 million, a figure representing 20 percent of CDBG allocations (minus the Secretary's fund).

This will mean, as was noted during committee consideration of this amendment, a significant shift in funding from suburban small cities and towns in nonmetropolitan areas. I regret this fact, but must emphasize that such a shift in funds would not now be necessary had an effort not been made in recent years to deprive rural communities of their fair share of CDBG funding through the hold-harmless provisions.

The increase in funding for rural discretionary grants would come at a time when competition for these grants is particularly intense. The need for additional community development assistance is clearly present in rural areas. Rural communities have over 30 percent of the Nation's population, over one-third of the Nation's poor and almost half of the Nation's substandard housing. And yet these communities continue to receive under 18 percent of community development assistance.

Mr. Chairman, I believe that the 1980 census will illustrate that, in terms of population, poverty and housing need, rural communities deserve a larger portion of CDBG funding than the 20-percent share authorized in 1974. However, we are not asking that the rural share be increased above the level agreed upon 6 years ago. We are simply calling on Congress to recognize its earlier commitment to provide the full 20 percent share of CDBG funding to the Nation's nonmetropolitan small cities and towns.

I call upon my colleagues to recognize the question of equity involved in this issue and urge adoption of the amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the gentleman's amendment.

I might say, Mr. Chairman, at the outset, that this amendment was offered in the subcommittee and I believe in full committee, and it was rejected in both instances after full discussion.

Let me point out, Mr. Chairman, that the committee bill includes a provision establishing a set-aside of $275 million for fiscal year 1981 for nonentitlement metropolitan communities. This is somewhat less than the $285 million recommended by the administration, and the lesser amount reflects the prorated reduction in all of the funding categories as a result of the recommended decrease in the total program authorization level from $3.9 billion to $3.81 billion.

This set-aside that my friend, the gentleman from New York, has directed our attention to was established with the program's inception, that is to say, with the inception in 1974 of the Housing and Community Development Act.

□ 1640

Since the beginning of the program, the set-aside has worked. It has worked well. In my judgment, it has worked equitably.

The gentleman says that the money for the set-aside should not be taken off the top of the total amount provided for the community development program. Well, that is his judgment. We decided exactly that it should be taken off the top back in 1974.

The gentleman from Ohio (Mr. STANTON) and I were on the committee at that time. That is what we and others decided. We said after the set-aside has been accommodated, then the remainder would be split on an 80 to 20 basis between urban and rural areas. That is what we have done each year since 1974. I think it should be made clear what the effect of the Lundine amendment would be, if we would now at this date, 1980, 6 years later, say no, we are going to go about this in a little different way. The Lundine amendment would be to take away $55 million from small metropolitan nonentitlement communities and to give it to nonmetropolitan communities.

Now, my friend from New York says, well, they never should have received it in the first place. That is to say that the metropolitan nonentitlement communities never should have gotten the off-the-top treatment that began in 1974. In response, I say that was the time to raise that issue. We thought it was sufficiently important to assure that those small communities, nonentitlement communities but in metropolitan areas, got decent treatment, so that we decided, as a matter of public policy, to take it off the top. That was not the only expenditure that came off the top. The Secretary's 3-percent discretionary fund was taken right off the top. Those two were exceptions to the 80–20 division. After they were accommodated, we then went to the 80–20 to distribute the remainder. That has been the split ever since. Mr. LUNDINE now says this is unfair and that the needs of our rural communities are greater than those of metropolitan areas.

Well, I would like to see the documentation in support of that contention. I would remind Members that nonmetropolitan communities can apply to the Farmers Home Administration and EDA for funding of community and economic development activities.

In fiscal year 1980, $507 million in grants and loans were available to those communities through EDA, and $315 million additional was available to nonmetropolitan communities through the Farmers Home Administration for water and waste disposal grants, industrial development grants, and for economic development planning.

These communities were also eligible for nearly a billion dollars in low-cost loans through the Farmers Home Administration for funding of community infrastructure and economic development needs.

I am not trying to engage in a match, pitting rural against metropolitan nonentitlement communities, but I did not raise the issue; the gentleman from New York did. I am only responding to the amendment. The case was not made before the full committee and was also lost in subcommittee. Our colleague urges that this body reverse the actions taken by the subcommittee and by the full Committee on Banking, Finance and Urban Affairs.

I would urge defeat of the amendment.

Mr. STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our friend from New York should be applauded, not on the logic of the amendment, but for his consistency. This amendment has been with us for a number of years, and the chairman has just eloquently, I think, stated the point of the difference between apples and oranges. Once one comes up with the 80–20 in the battle between the rural areas and the urban areas, really that should not enter into this because we attempted at the time to be very fair on 80–20.

I might add, Mr. Chairman, in opposition to this amendment, I have areas in my district that are not included in an SMSA. I can say, in all fairness, I honestly think the formula the committee has worked out is the best we can achieve.

We originally started out, as I remember, with a $50 million set-aside at the time in 1974 when this came forth and then later was increased to the amount that we have with us today. But as the gentleman from Ohio stated, and I just want to emphasize two of his points. There are other factors: first, was that they do have the programs of the Farmers Home Administration in the rural areas that they do not have in the urban areas, and second, Mr. Chairman, and I think maybe more important, the committee has already asked the Department to carefully examine the 1980 census figures when they come out. We are treading, we know in an entirely new area with the changes that will take place not only in this legislation, but in others with the implementation of the 1980 census figures. And especially in light of that, we have asked the Department to get to us just as quickly as possible the impact that these figures will have on the dual formula.

I think, Mr. Chairman, it would behoove the committee to wait until this committee has these figures next year, perhaps by that time, and hopefully then we can address the problem; and certainly if there are any inequities that do show up with the new formula, I am sure that the committee would be glad to consider those.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

I want to associate myself with the remarks of the distinguished minority member of the Committee on Banking, Finance and Urban Affairs.

I think he made a very valid point a little while ago when he said that the Farmers Home Administration, and I might also mention that EDA devotes a large portion of their moneys to rural areas; but specifically the Farmers Home Administration program is directed to the rural areas.

The block grant program was developed by and large as the main source of funding for urban areas. Already, we have set aside 20 percent of that block grant funding for rural areas.

So, I think that we have recognized the needs of the rural areas. I think that we are taking it into account fully, and I think at the same time we ought to recognize that this is basically what could be said to be an urban grant program. The amendment should be defeated.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from New York.

Mr. GREEN. I, too, would like to associate myself with the remarks of the chairman and the ranking minority member of the subcommittee. I think the point that is to be emphasized is that this is not a simple formula. It is not a simple 80–20. This is a very complex formula. It was put together by the subcommittee before I arrived on that subcommittee, with a great deal of hard work in order to get a formula that would come out right in view of the amounts of money that are obligated to this program. It was not an easy task.

I think it would be very unwise to start tinkering with that formula which was mathematically and politically crafted under great stress in order to produce the result that was produced. To start tinkering with that now, I think, would be very disruptive; and as the gentleman from Ohio has pointed out, with the new census figures soon to be available to us, we are going to have to look at the whole issue of that formula in future years.

So it seems that this in particular would be a poor time to start rewriting that formula.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I have been trying to follow the debate on this amendment. Let me just ask the gentleman if, after the amount is taken off the top, as I understand it, after that is done, you then go to the 80–20 formula? Am I correct?

Mr. STANTON. That is correct.

Mr. KAZEN. Now, will the rural areas get the equivalent of 20 percent, or will they get something close to 17 percent?

Mr. STANTON. Well, one could argue it both ways. One could argue that, to take it off the top, both sides would get a little bit less if $275 million is taken out of the total. One could argue either side would get a little less money.

My answer would be probably yes.

Mr. KAZEN. My concern is that the rural areas will then be getting less proportionally than the urban areas under that formula.

Mr. STANTON. My staff informs me it is $55 million less.

Mr. KAZEN. Less than the rural areas?

Mr. STANTON. Right. This is the way the formula has been set up from the very beginning.

□ 1650

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I only take this time to bring to the attention of the members of this committee that the needs in the rural areas are just as imperative as they are in the urban areas. That under this particular formula that we come in with this afternoon, and I agree with my distinguished friend, this is the formula which will distribute housing funds but the formula is formulated in this legislation, so that there is nothing magic about it. There is nothing sacred about not touching this formula in the deliberations of this bill.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Certainly.

Mr. STANTON. Mr. Chairman, let me associate with the gentleman's remarks concerning the value and the need of additional money in the rural areas. No one is arguing with the gentleman from New York that he is absolutely correct in the additional need for all the money in the pockets of this country that have been neglected as far as the committee has been concerned and that is in the rural areas. Nobody disputes that.

I make just two specific points to the gentleman. No. 1, as the SMSA over the years has grown in area, newer SMSA's have been split and have come into existence since the time the formula was established, which would mean additional moneys for some of those particular rural areas that now fall under SMSA's.

Second, and far more important, though, as we try to stress, we do have in our rural areas and in my district, the Farmers Home Administration which is a vital, necessary part that these urban cities do not have; so one offsets the other.

Mr. KAZEN. Mr. Chairman, let me ask my friend if he can answer this for me. Just this morning I was talking to a man in a rural area that has just talked to an official in Farmers Home. I have FHA involvement in my district. I represent primarily a rural district. He was told by FHA that beginning in October more of their money was going into urban areas.

Now, where does he get that idea? Is it not from this bill and what this committee is proposing at this time? I just want to make sure that the rural areas of this country are treated fairly and equitably and I suspect that under this formula, and as the gentleman has already acquiesced and agreed, they are going to get less money in the rural areas. This I object to, so I definitely hope that this committee will go along with the Lundine amendment and right this inequity that has been written in both the subcommittee and in the full committee by not having taken the gentleman's amendment in those bodies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LUNDINE).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

Mr. GEPHARDT. Mr. Chairman, I move to strike the last word.

This bill seeks to address numerous problems relating to rental housing—increasing the supply, making it affordable to a wide cross-section of income groups, improving and preserving existing units and so on.

I think the bill will go a long way toward meeting these needs, not only through continuation of present programs, but especially through the innovative multifamily housing initiative the committee has developed. I want to commend the chairman and his committee for devising a very promising new program that I believe will make a valuable contribution toward increasing the supply of affordable rental housing.

In my view, however, the root cause of many of these problems lies in the tax laws that have been enacted in an effort to stimulate investment in multifamily housing developments, particularly those that are federally subsidized or insured. All too often, as the tax advantages of such investment decline, so do the projects they are designed to promote. In my district, for example, I have seen some highly successful HUD projects fall into disrepair because the financial incentives are no longer there to maintain them as high quality, moderately priced housing. The experience in my district has been repeated in many cities throughout the country. Several years ago the committee recognized the extent and depth of the problem by providing operating subsidies to the most troubled of these projects.

My concern, however, is that this approach is treating the symptoms rather than the cause. Furthermore, it would seem that the multifamily housing initiative has been structured in the same way as the programs which have produced housing that has failed. The contract term for the proposed developments would be 30 years and the maximum subsidy guaranteed for only 10 years. The normal turnaround time on depreciation, however, is 15 to 16 years. Thus, the viability of such projects will be jeopardized one-third to one-half of the way through the contract term.

It is exceedingly important, in my view, that we achieve greater coordination of direct spending programs and tax incentives for multifamily housing. I would urge the chairman and his subcommittee to join with the Ways and Means Committee in conducting a comprehensive study and review of these laws to identify where they might be in conflict and how they might better conform with each other. With proper modification of spending and tax expenditures in the housing area, I think we can better achieve our goal of providing rental housing that meets high standards and is affordable to a cross-section of income groups. Above all, we can avoid repeating the failures of the past that have been so frustrating for all of us who seek that goal.

Again I thank the chairman for his efforts in this area and I look forward to working with the gentleman and other members of his subcommittee in trying to better conform direct expenditures with our tax expenditures in the housing area.

Mr. ASHLEY. Mr. Chairman, would the gentleman yield?

Mr. GEPHARDT. I would be happy to yield to the chairman of the subcommittee.

Mr. ASHLEY. Mr. Chairman, let me say that I think the gentleman has highlighted a very important issue, one that we have been too long in addressing in the way that the gentleman has suggested. I wholeheartedly agree with them that it is important that those committees dealing with housing, particularly the Committee on Banking and the Committee on Ways and Means, should coordinate activities. It is particularly important to insure that the tax preferences for low-income housing comport with the more direct incentives, as the gentleman has indicated, provided through the Department of Housing and Urban Development and the Farmers Home Administration.

I think it is very appropriate that the Committee on Ways and Means and the Committee on Banking jointly examine the implications of our programs and policies for the development of lower income housing.

In fact, the committee in its report directed the Secretary of HUD to assist us in such a task by preparing a report on the implications of tax preference with respect to the development of lower income housing; so the gentleman from Missouri can rest assured that my subcommittee will endeavor to work closely with the eminent Committee on Ways and Means in the immediate days ahead and thereafter on these matters.

The CHAIRMAN. Are there further amendments to title I?

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct a question to the chairman, the ranking minority member, pertaining to this bill and a problem that has been brought up in my congressional district and especially in my hometown. I think it goes to section 8 of low-rent housing.

I have been told by some of my friends who own properties in my hometown that they are getting like $140 a month for a house. A person of low income rents this house and they go to the HUD office and the HUD office tells them that they are eligible for low-rent housing.

Then the Government tells my friend, who owns this house, who is getting $140 a month, that "You have three bedrooms and two baths so therefore you are eligible to get $180 a month from the Government."

My friend says, "I don't want $180. I want $140 for my house; that's what I need to handle my obligations."

The Government insists that he be paid $180 a month.

This is just one example, there are a lot of examples where the Government is making the owner take more money than he or she is presently renting property for.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. Yes, I yield.

Mr. ASHLEY. Just speaking personally, I do not have any friends who would turn down $180 because they prefer $140 a month.

Mr. MONTGOMERY. Well, they are patriotic. They are concerned about the country. I know that brings some laughter, but some people do have some responsibility and are concerned about the heavy Government spending and if these property owners are receiving extra money this could be happening all over the country and costing the taxpayers millions of dollars.

□ 1700

Mr. ASHLEY. Let me say to the gentleman that the amount of rent that is received by the developers of these section 8 programs is tied to the fair market rents in a given market area. It might be $180, $160 in the gentleman's district or in others, depending on comparable units, comparable rentals in nonsubsidized units. That is what determines the fair market rent. It might be more; it might be less.

There is no uniform standard throughout the country. The fair market rentals are determined on a market basis, market area basis. What is paid to the developer of section 8 housing is the difference between the market rent and that which is paid by the tenant in the housing. The tenant is obliged to pay at least 25 percent of his income toward the shelter. If there is a difference—and, of course, there is, between 25 percent of income and the fair market rent—that difference is paid by the Federal Government. That is the basis of the section 8 program.

Mr. MONTGOMERY. I would say to the gentleman that my constituent does not want more than $140 a month. That is all the house is worth. However, the Government insists that he has to take $180 a month. Why cannot the Government, when it is priced at $140, leave it at $140? How does the Government force this gentleman to take more?

Mr. ASHLEY. I would say to the gentleman I have never heard of that.

Mr. MONTGOMERY. I would say that we had a room full of property owners where the Government was paying over a total of a $1,000 a month of what the property was bringing before it came under low-rent housing.

Mr. ASHLEY. If the gentleman would allow me, there is nothing in the law or the regulations that I know of or staff immediately surrounding me is aware of that would oblige the owner of property being utilized for the section 8 program to accept $180 instead of $140. Obviously there is nothing in the law or regulations of that kind.

Mr. MONTGOMERY. I wish the gentleman would look into that, or have staff look into it. It is taking place in my congressional district and I am sure that it is taking place all over the country. It is just costing the taxpayers a lot of money.

Mr. ASHLEY. I assure the gentleman that I will have a staff member be in touch with his office so that we can pursue this promptly.

Mr. MONTGOMERY. I thank the gentleman.

Mr. ERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the subcommittee chairman, I would like to engage him in a colloquy.

Mr. Chairman, I am concerned that the Department of Housing and Urban Development has paid inadequate attention to the ways this agency can contribute to reducing our national reliance on imported fuels and encouraging the use of an abundant national resource such as coal. This problem was brought to my attention when a public housing authority in my district was faced with the necessity of replacing worn out coal-fired furnaces. The Agency decided to install new gas-fired furnaces, without conducting a cost-benefit analysis regarding whether, over the remaining life of the building, it would be less expensive to install new coal-fired furnaces.

I am also concerned that while the Department of Energy is aware of and is stimulating the development of new energy efficient technologies, no system has been established for transferring that information to the Department of Housing and Urban Development. HUD can play a very important role in encouraging public housing authorities and the builders and renovators of residential buildings to use promising new technologies. Only one example of such a technology is a coal-fired atmospheric fluidized fed boiler that might have been a cost-effective alternative for the public housing authority in my district to examine when it had to replace its old coal-fired furnaces. I had considered offering an amendment designed to deal with these problems, but I now understand that the Department has taken steps to assure that the goal of greater energy conservation is incorporated in the Department's programs.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman.

Mr. ASHLEY. I thank my colleague for his remarks and for his patience in dealing with this problem. In the past year, the Department has modified the requirements of many programs in order to assure greater energy conservation. As only one example, early this summer the Department of Housing and Urban Development issued regulations that should assure that the decisionmaking process followed by your local housing authority regarding furnace replacements will not be repeated.

As of July 1980, no public housing authority may renovate major building systems, such as a heating system, without conducting a cost-benefit analysis of the alternatives. This analysis must take into account replacement costs, operating costs, and projected fuel costs over the life of the system or 15 years, whichever is less. It appears to me that the economic analysis should be based on the lesser of the estimated remaining life of the building or the estimated useful life of the energy conservation measure or energy using system. However, the economic analysis now required by the agency should assure that more cost-effective, energy efficient choices will be made in the future than have been made in the past.

The Department also requires that any construction or renovation insured or financed by the agency, must meet cost-effective energy conservation standards. In addition, this year the Department instituted a demonstration program for public housing authorities to encourage the use of cost-effective conservation improvements. One of the goals of the demonstration is to fund activities that could be easily replicated in other public housing authorities.

I too am concerned that HUD and the Department of Energy coordinate their efforts and establish an efficient system for sharing information about promising new energy efficient technologies. It is very important that the energy conservation policies and research supported by the Department of Energy be implemented wherever possible in the programs of other executive agencies. The example you raised of alerting the local public housing authority to the use of a newly developed technology using coal is an excellent example of the way interagency coordination could result in significant energy conservation benefits.

Nothing in law prohibits this cooperation. I can assure you that the Banking Committee will continue to monitor the relationship between the Department of Housing and Urban Development and the Department of Energy and to encourage increased coordination both in the development of energy conservation standards, and in the use of new energy efficient technologies related to housing.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent Mr. ERTEL was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. I thank the gentleman and thank the subcommittee chairman for his statement and the fact that they have, in fact, changed the regulations to prevent this type of activity from happening again.

I would just want to point out that I live between the bituminous and the anthracite coal regions. The housing authority there had anthracite-burning furnaces in this project and has had since the early 1940's. All of a sudden they changed and they are now putting in natural gas and never really looked at the cost effectiveness of it, never looked at alternative energy sources. In fact, they never even looked at the anthracite which they had been burning before. It just seems to me that if our Nation is ever going to be energy self-sufficient, we have to have a better cooperation between agencies and departments of Government. I am glad to see this change has been made.

Certainly it is a bad example that we have to go through this, and now they have gas burners in those areas right in the middle of the coal fields where certainly it cannot be economic just from a commonsense approach.

I am certainly glad that the Department of Housing and Urban Development has changed their policy. I just wish it had been sooner. I thank the chairman for his cooperation and yield back the balance of my time.

□ 1710

Mr. KAZEN. Mr. Chairman, I move to strike out the necessary number of words.

Mr. Chairman, I take this time to ask the distinguished chairman of the subcommittee a question. Before I do, let me lay some background for it. I understand the procedure in the approved housing plan's being in place in any particular community before they can get their block grant. Then the developer comes in, and according to that act decides where a housing project should be located. Recently down in my part of the country there have been a lot of protests when they have gotten to the point of locating the housing project. It seems that nobody in the community takes an interest when the city councils or the city government approves the act, and then they come to Congress and say, we did not know about it. We go right back to them and say, "Hey, you had a hearing. You should have gone before your local government agency or your city council or anyone else involved and at that time have protested."

I find that the greatest resistance to the siting of these housing projects comes from the school districts.

Mr. Chairman, let me ask the chairman this: Is there any way that we can give some kind of recompense to the school districts who have to suffer the taking away of property from their tax rolls and the increase of students that they must educate with that lesser amount of money? Is there anything that we can do to make that school district whole once that project has been located in that school district and the property taken off the tax rolls?

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I will be delighted to yield to the gentleman.

Mr. ASHLEY. I thank the gentleman for yielding. This is a matter that may well fall outside of the jurisdiction of the Housing Community Development Subcommittee. I think now in terms of the gentleman's question with respect to some kind of a system for compensating school districts for property taken off of the tax rolls, what we do, it seems to me, is we have pursued public policy—which, frankly, I have not agreed with—that has made available so-called impacted aid where a Federal facility, or public housing which is not entirely a Federal facility, has caused what is construed to be an impact on the local educational facilities. That is the general basis of the so-called impact aid to education.

Mr. KAZEN. This Congress has not funded that type of activity in the past.

Mr. ASHLEY. The gentleman is somewhat mistaken, or perhaps I should say I do not understand, then, what the gentleman is speaking to because ever since the 1930's the Federal Government has supported States in the establishment of public housing authorities. Public housing authorities are established pursuant to State law, not Federal law. They are creatures of the State and, as a matter of fact, in most instances of the local community in which they operate.

Mr. KAZEN. This is correct, but no provision has ever been made to make that school district whole for the property that is taken off of the tax rolls due to a housing project going into that district, and this is where most of the objections are coming from. If it is, then I would be delighted to hear the gentleman tell me where that money comes from.

Mr. ASHLEY. My impression is that with respect to the public housing program, there is a payment that is made in lieu of taxes.

Mr. KAZEN. By whom?

Mr. ASHLEY. By local housing authorities.

Mr. KAZEN. Where do they get their money?

Mr. ASHLEY. From the Department of Housing and Urban Development.

Mr. KAZEN. I wish the gentleman would point that out to me so that I could get clear on this.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. Will the gentleman yield further?

Mr. KAZEN. Certainly I will be delighted to yield.

Mr. ASHLEY. I have reference to the basic laws and authorities on housing and community development, where we find the following language:

> If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the annual shelter rents charged in such project.

So there has to be this payment of 10 percent of the annual shelter rents charged in such project to the local political subdivision.

Mr. KAZEN. What is the gentleman quoting from?

Mr. ASHLEY. The U.S. 1936 Housing Act, revised through January 3, 1979, Committee Print 96-6.

Mr. KAZEN. I thank the gentleman. I will look into it because I was under the impression that the school districts were not being compensated for this land taken off of the tax rolls by public housing, and this is where a lot of the objections were coming from to locating housing in certain areas, not so much from the people, although there has been resentment for that, but by the school districts.

Mr. ASHLEY. Let me say to my good friend, whom I have known for so many years, if he will share the particular problems with me and with my staff, he will get very, very good attention.

Mr. KAZEN. I thank the gentleman very much.

Mr. LUNDINE. Mr. Chairman, I move to strike the requisite number of words.

Before we complete consideration of title I, I would like to raise several points regarding the community development block grant program and make an inquiry of the chairman of the Subcommittee on Housing and Community Development. I have been a strong supporter of the community development block grant program, but it has been brought to my attention that local governments are not utilizing this program to its full potential, that funding is not being used in a timely fashion to address the purposes for which the program was intended.

I refer specifically to a study released in June by the Academy for Contemporary Problems, a nonprofit research foundation located in Columbus, Ohio. The Academy recently sponsored a study of the costs caused by delays in both public and private sectors of the economy. Included in the study was an analysis of the project block locations in the block grant program. The study found that approximately $6.2 billion out of the $18 billion entitlement funding allocated under the block grant program since 1975 has not been used and the moneys remain deposited with the Federal Treasury. New York City, for example, has used only 54 percent of the more than $808 million in entitlement funding. Chicago has used less than 54 percent of its entitlement since 1975. Los Angeles, Dallas, Houston, Memphis, and Honolulu show draw-down rates of less than 50 percent during this period.

This study estimates that many entitlement cities currently have unused balances equal to 2 full years of annual entitlement funding. Not only are these funds not being used for needed projects, but the purchasing power of these idle funds is steadily declining. Almost $1.2 billion in purchasing power is being lost to inflation each year. This amounts to a third of the total program under current appropriations.

While this study focuses on entitlement funding, a similar situation does seem to exist with the small cities program. At a recent HUD-sponsored forum on small city development, it was noted that low drawn-down rates are becoming a major problem in that program. HUD estimates that grant recipients have expended less than $1.6 billion out of the $3.5 billion appropriated since 1975. This represents less than half of the total funding of the program.

In light of these reports, Mr. Chairman, I would like to address the subcommittee chairman. I would like to ask if there is any way of ascertaining whether these figures are correct. If they are correct, would the subcommittee consider undertaking a review of the situation to identify the problems and to consider the possible solutions?

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Ohio.

☐ 1720

Mr. ASHLEY. Mr. Chairman, I appreciate the gentleman's concern to see that local governments utilize their community development funds in a timely fashion and in accordance with the intent of Congress.

I must say that the Department finds serious deficiencies in the findings set out in the study referred to by my friend from New York. I have a very high regard for the Institute of Contemporary Problems. It is run by a very good friend of mine. His standing in the academic community is one of the highest. However, I am not in a position, as is perhaps the Department, to reach a conclusion at this juncture with respect to the findings of the study in question.

Secretary Embrey, as the gentleman knows, says that block grant recipients are now spending their allocated grants faster than they receive them. He says the cities and counties are spending at a rate in excess of 100 percent of their current allocations, eliminating the backlog of unspent funds which accumulated during the early years of the program.

In many of these communities, according to Mr. Embrey, they never have participated in HUD programs.

The study of the Institute of Contemporary Problems discusses expenditure rates without distinguishing between spending rates, related to congressional appropriations made in previous years and those made recently. I am advised that it cites the $6.2 billion not drawn down at the end of December 1979 as evidence the program is poorly managed. It fails to mention that the 1980 appropriation of $3.9 billion, 63 percent of the unexpended balance only became available 3 months earlier.

Because most communities commit their block grant applications between January and June, I am told that few had an opportunity to spend any of these funds.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LUNDINE was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. Will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Ohio.

Mr. ASHLEY. The study's discussion of expenditure rates in individual cities does not take into account the availability of funds. It implies spending rates in individual cities lag behind performance. The evidence, using the 54-percent rate for New York and 88 percent for Baltimore is misleading. When the differential was that large, HUD reports New York had received its annual grant only 4 months earlier while Baltimore received its grant 10 months earlier.

More current data showed that both cities now have 70 percent expenditure rates. According to HUD, the study incorrectly argued that variations and expenditure rates do not correlate with the city needs or with other related factors such as city size or program complexity.

The annual evaluations of the block program have shown differences in expenditure rates vary within an expected and reasonable range. Smaller communities with simpler problems and less complex administrative environments have spent money faster than those with the opposite characteristics.

Let me say to my friend from New York I mention these particular HUD comments only to illustrate there is some question about the study's validity. I am not commenting on whether or not this case is well made or that of HUD is well made. In response to specific questions the gentleman has raised on the spending issue in general, I can assure the gentleman the subcommittee will continue its review of the issue in its ongoing efforts to identify problems in the CBDG program and to develop appropriate solutions if such were found to be necessary.

Mr. LUNDINE. In other words, the subcommittee can find out the magnitude of the problem of the unused funds and determine whether or not this is a matter we should take into consideration?

Mr. ASHLEY. I think it is a matter of unusually appropriate oversight activities by the subcommittee. It is something we most certainly should be aware of. I think the gentleman would share my thought that we want all of the facts and the data before us before we reach any fixed positions or opinions in the matter.

I would assure the gentleman that is the case and that the subcommittee will take seriously, as I think it has in the past, this problem.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Lundine was allowed to proceed for 3 additional minutes.)

Mr. LUNDINE. Mr. Chairman, I thank the committee chairman for his assurance and I acknowledge as a member of that subcommittee, that an outstanding job of monitoring the programs in general has been done, but I do feel there is an issue. I am not sure I share the gentleman's question. There is an issue that if a third of the funds we authorized and appropriated indeed have not been utilized for the purposes for which they were intended, then I would be concerned.

Mr. GREEN. Mr. Chairman, would the gentleman yield?

Mr. LUNDINE. I would be happy to yield to my colleague from New York.

Mr. GREEN. Mr. Chairman, I want to say to the gentleman, I had shared the concerns the gentleman expressed in terms of the utilization of the program by my home city, New York City, and the fact that they seemed to be slow in getting into this new program, and indeed I think they were. I think things have improved in recent years but I should point out that these funds are appropriated and become available to HUD in October but that we in New York City do not apply until June and then there is a 75-day review period so we really do not get the funds until the year is almost gone. Then by the time we draw plans and advertise, we are well into the second fiscal year after the funds were appropriated, so it is no surprise that we will always have these outstanding balances.

I might add that New York City was a phase-in city. That is, it was not until the third year of the program that it got the full level of funding so again you have a bulge in the more recent years as compared with the older years and statistically that is almost certain to produce the kind of results to which the gentleman alludes.

Mr. LUNDINE. Mr. Chairman, I appreciate the gentleman's contribution. I am well aware of the sequence of the funding. However, it seems the performance of some cities and others vary considerably and that they may relate as to whether they are carrying out the intended purposes under the act.

Mr. GREEN. If the gentleman will yield further, it could also very much relate to the scale of the projects they undertake and whether they undertake a lot of small projects that can be moved quickly or a few massive projects that take more time.

AMENDMENT OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fisher: Page 22, after line 20, insert the following:

INCLUSION OF CERTAIN INDEPENDENT CITIES IN DETERMINING COMMUNITY DEVELOPMENT GRANT AMOUNTS FOR URBAN COUNTIES

Sec. 115. Section 106(b)(4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

"(A) is not part of any county;

"(B) is not eligible for a grant pursuant to subsection (b)(1);

"(C) is contiguous to the urban county;

"(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

"(E) is not included as a part of any other unit of general local government for purposes of this section. Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible for a grant under subsection (c) or (e) with respect to such fiscal year."

Page 16, strike out lines 19 through 21 and redesignate the subsequent subsections accordingly.

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FISHER. Mr. Chairman, this amendment has been discussed with the distinguished chairman of the subcommittee, with the staff, the minority side is aware of it. I believe there is general agreement on it.

Essentially, Mr. Chairman, the amendment would include two small cities within Fairfax County in the State of Virginia in computing the amount of that county's entitlement to the community development block grant funds. This arises out of the circumstance that under Virginia law such cities are independent of the counties within which they are located. Fairfax County already handles this kind of community study and development activity for the two small cities. These two cities now receive assistance under the discretionary program.

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It makes very good sense to include the two cities of Fairfax City and Falls Church within the county for this purpose. Both cities want it; the county wants it. No significant additional money or less money would be involved, and I urge that this be done.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I do yield to the chairman.

Mr. ASHLEY. Mr. Chairman, I am pleased to rise in support of the amendment of the gentleman from Virginia, which would include certain independent cities in determining the grant amounts of community development funds for already eligible urban counties—and I stress, already eligible urban counties because the purpose of the consequence of the amendment is not to expand the number of eligible urban counties, but quite the contrary, what would be counted is the population of the two individual cities within or contiguous to the urban county in question.

So, the gentleman from Virginia has discussed the amendment with us and has made certain changes which are contained in his amendment which do make it more workable and consistent with our policy direction for the community development block grant program. The amendment that he has offered, I am happy to accept on this side.

Mr. FISHER. I thank the gentleman.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I do yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, the gentleman has been courteous in extending his amendment in advance to the minority and the minority staff. We have no objection.

Mr. FISHER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Fisher).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c) (1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,775,000,000 on October 1, 1980. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. The Secretary, in utilizing the additional authority to enter into such contracts provided on and after October 1, 1980, shall administer the programs authorized by this Act and section 203 of the Housing and Community Development Act of 1980 to provide assistance, to the maximum extent practicable, consistent with section 213(d) of the Housing and Community Development Act of 1974.

"(2) In no case may the Secretary, with respect to the additional authority made available on October 1, 1980, enter into such contracts aggregating—

"(A) more than $637,000,000 for existing units assisted under section 8, including assistance provided under subsection (j) of such section;

"(B) more than $1,038,000,000 for newly constructed and substantially rehabilitated units assisted under this Act, of which not more than $172,000,000 shall be made available for such units assisted under this Act other than section 8; and not more than $229,000,000 shall be made available for units assisted under section 203 of the Housing and Community Development Act of 1980; or

"(C) less than $100,000,000 for units assisted under section 14.

"(3) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

"(4) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(5) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act or section 203 of the Housing and Community Development Act of 1980 when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions."

(b) Section 9(c) of such Act is amended—

(1) by striking out "and" after "on or after October 1, 1978,"; and

(2) by inserting the following before the period at the end thereof ", and not to exceed $862,000,000 on or after October 1, 1980".

PUBLIC HOUSING COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

SEC. 202. (a) The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

"SEC. 14. (a) It is the purpose of this section to provide assistance—

"(1) to improve the physical condition of existing public housing projects, and

"(2) to upgrade the management and operation of such projects,

in order to assure that such projects continue to be available to serve low-income families.

"(b) The Secretary may make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as may be approved in appropriations Acts) to public housing agencies for the purpose of improving the physical condition of existing low-rent public housing projects and for upgrading the management and operation of such projects to the extent necessary to maintain such physical improvements.

"(c) Assistance under subsection (b) may be made available only for low-rent housing projects which—

"(1) are owned by public housing agencies;

"(2) are operated as rental housing projects and receive assistance under section 5(c) or section 9 of this Act;

"(3) are not assisted under section 8 of this Act; and

"(4) meet such other requirements consistent with the purposes of this section as the Secretary may prescribe.

"(d) No assistance may be made available under subsection (b) unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is requested. Such application shall contain at least—

"(1) a comprehensive assessment of (A) the current physical condition of each project for which assistance is requested, and (B) the physical improvements necessary for each such project to meet the standards established by the Secretary pursuant to subsection (j);

"(2) an identification, for each such project, of the equipment systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over the remaining useful life of the project;

"(3) a comprehensive assessment of the improvements needed to upgrade the management and operation of each such project so that decent, safe, and sanitary living conditions will be provided in such projects; such assessment shall include at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the public housing agency which are related to each project eligible for assistance under this section;

"(B) the adequacy and qualifications of personnel employed by such public housing agency (in the management and operation of such projects) for each category of employment; and

"(C) the adequacy and efficacy of—

"(i) tenant programs and services in such projects;

"(ii) the security of each such project and its tenants;

"(iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(iv) other policies and procedures of such agency relating to such projects, as specified by the Secretary; and

"(4) a plan for making the improvements and replacements, and for meeting the needs, described in paragraphs (1), (2), and (3); such plan shall include at least—

"(A) a schedule of those actions which are to be completed, over a period of not greater than 5 years from the date of approval of such application by the Secretary, within each 12-month period covered by such plan and which are necessary—

"(i) to make the improvements, described in paragraph (1)(B), for each project for which assistance is requested, and

"(ii) to upgrade the management and operation of such projects as described in paragraph (3);

"(B) the estimated cost of each of the actions described in subparagraph (A);

"(C) an estimate of the total costs of the replacement of the items identified for each such project pursuant to paragraph (2), including an estimate of the amount of funds necessary to fund the costs which have accrued for the period which ends upon the date on which the application is made, and an estimate of the costs which will accrue during each 12-month period subsequent to such application;

"(D) an operating budget for each such project for each 12-month period covered by such plan, excluding costs described in subparagraphs (B) and (C); and

"(E) an estimate of the financial resources which will be available from all sources to each such project and to the public housing agency (to the extent the resources of the agency relate to such project), and the amounts of assistance which are being requested pursuant to subsection (b) for each 12-month period covered by the plan.

"(e) The amount of financial assistance made available under subsection (b) to any public housing agency with respect to any year may not exceed the sum of—

"(1) an amount determined by the Secretary to be necessary to undertake the actions specified for such year in the schedule submitted pursuant to subsection (d)(4)(A);

"(2) the amount determined necessary by the Secretary to fund the replacement costs which have been identified pursuant to subsection (d)(4)(C) for each project, which have accrued for the period ending at the beginning of such year, and for which payment under subsection (b) has not been made previously; and

"(3) the amount determined necessary by the Secretary to reimburse the public housing agency for the cost of developing the plan described pursuant to subsection (d)(4), execpt that not more than 5 percent of any funds made available to such agency pursuant to subsection (b) shall be made available for such reimbursement.

"(f) Where an application made pursuant to this section proposes demolition of any low-rent housing project or any portion of such a project, the Secretary may not approve such application unless the Secretary determines that—

"(1) timely replacement of the units in such project will be undertaken by the public housing agency;

"(2) the total cost of providing such replacement housing is less than the total cost of rehabilitation of such project, except that the Secretary may waive such requirement where the Secretary determines that the demolition is necessary to meet the purposes of this section; and

"(3) low-income families displaced by such proposed demolition will be provided with decent, safe, sanitary, and affordable housing.

"(g) No assistance shall be made to a public housing agency pursuant to subsection (b) for any year subsequent to the first year for which such assistance is made available to such agency unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the plan described in subsection (d)(4) and approved by the Secretary.

"(h) In making assistance available under subsection (b), the Secretary shall give preference to public housing agencies—

"(1) which request assistance for projects (A) having conditions which threaten the health or safety of the tenants, or (B) having a significant number of vacant, substandard units; and

"(2) which have demonstrated a capability of carrying out the activities proposed in the plan submitted by the agency pursuant to subsection (d)(4) and approved by the Secretary.

"(i)(1) In addition to assistance made under subsection (b), the Secretary may, without regard to the requirements of subsections (c), (d), (e), (g), and (h), make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as approved in appropriation Acts) to any public housing agency in an amount which the Secretary determines is necessary to meet emergency or special purpose needs. Such needs shall be limited to—

"(A) correcting conditions which threaten the health or safety of the tenants of any project (i) which is described in subsection (c), and (ii) with respect to which an application for assistance pursuant to subsection (d) has not been approved by the Secretary;

"(B) correcting conditions (i) which threaten the health or safety of the tenants of any project with respect to which an application for assistance pursuant to subsection (d) has been approved, and (ii) which were unanticipated at the time of the development of such application;

"(C) correcting conditions which threaten the health or safety of the occupants of any low-income housing project not described in subsection (c) and not assisted pursuant to section 8; or

"(D) physical improvements needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.

"(2) The Secretary may issue such rules and regulations as may be necessary to carry out this subsection.

"(j) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including standards which provide for decent, safe, and sanitary living conditions in low-rent public housing projects and for energy conserving improvements in such projects and for energy conserving improvements in such projects and which, to the extent practicable, are consistent with the Minimum Property Standards for Multi-Family Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards on a project-by-project basis in such cases where the Secretary deems such higher standards appropriate for furthering the purposes of this section.".

(b) Section 13 of such Act is amended—

(1) by striking out subsection (a); and

(2) by striking out "(b)" in subsection (b).

(c) Section 6(f) of such Act is amended by inserting "pursuant to section 14" after "modifications" in the first and second sentences thereof.

(d) Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by striking out "modernization of low-income housing projects" and inserting in lieu thereof "carrying out section 14 of such Act".

MULTIFAMILY HOUSING INITIATIVE PROGRAM

Sec. 203. (a) The purpose of this section is to increase the Nation's stock of rental housing, and thereby reduce rental charges paid by tenants for such housing, by encouraging the construction of new or substantially rehabilitated multifamily rental housing projects designed for families with incomes which do not exceed 150 percent of the median income of the area in which the project is located.

(b)(1) The Secretary may make, and contract to make, periodic interest reduction payments (in such amounts as are authorized pursuant to section 5(c) of the United States Housing Act of 1937 and as may be approved in appropriation Acts) on behalf of the owner of a multifamily rental project eligible for assistance under this section.

(2) Such payments shall be made for a period of not more than 30 years to mortgagees holding mortgages secured by such project and upon such other terms and conditions which are consistent with the purpose of this section and are specified by the Secretary.

(3) The amount of such payments shall be established and maintained for each such project at an amount which—

(A) the Secretary determines is the minimum amount necessary to establish the project in the area, taking into consideration that the tenants (other than tenants assisted under section 8 of the United States Housing Act of 1937) of the project shall be paying at least 20 percent and not more than 30 percent of their incomes for rents, and

(B) does not exceed the difference between the monthly payment for principal, interest, and mortgage insurance premium (if any) which the project owner as a mortgagor is obliged to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 7½ percent per annum;

except that—

(i) after the first 10 years of such payments, the Secretary may reduce the payments during the remaining term of the contract but in no case may such payments be reduced in any year by more than 10 percent of the amount of the payments made during the 10th year of such payments;

(ii) the Secretary may increase the payments above the minimum amount established for the project under this paragraph if (I) the Secretary determines that such increase is necessary to assure the financial feasibility of such project, and (II) such increase does not increase the average amount of payments made per mortgage under this section above the difference described in subparagraph (B) of this paragraph; and

(iii) such payments may be increased by an amount necessary to reimburse the mortgagee for its reasonable and necessary expenses in handling the mortgage.

(c) Payments may be made under this section only with respect to a rental housing project—

(1) which is newly constructed or substantially rehabilitated at the time the payments are commenced and which contains five or more dwelling units and is used predominantly for residential purposes;

(2) in which at least 20 percent and not more than 30 percent of the dwelling units are or will be occupied (during at least the first 20 years of such payments) by families assisted under section 8 of the United States Housing Act of 1937 and in which all the dwelling units not occupied by such families are or will be occupied by tenants whose incomes, at the time they initially occupy the units, do not exceed 150 percent of the median income of the area (with adjustments for smaller and larger families, construction costs, unusually high or low median family incomes, or other factors considered by the Secretary to be consistent with the purpose of this section), as determined by the Secretary;

(3) which will meet the requirements of this subsection and subsection (d) for at least 30 years;

(4) which secures a mortgage (A) with a principal amount not more than the amount which could be insured for the project under section 207 of the National Housing Act, and (B) with an interest rate and other terms and conditions which the Secretary determines are reasonable;

(5) the owner of which agrees to give a preference, in determining who will reside in the project, to applicants who are seeking housing as a result of their being involuntarily displaced from rental housing units which were or are being converted into cooperative or condominium units; and

(6) meets other conditions consistent with the purpose of this section and specified by the Secretary, including conditions relating to energy conservation.

(d)(1) Procedures shall be established by the Secretary for review of incomes of tenants (other than tenants assisted under section 8 of the United States Housing Act of 1937) at intervals of 2 years.

(2) If, as a result of carrying out income review procedures, the Secretary finds that there are tenants in the projects whose incomes exceed 150 percent of the median income for the area, the Secretary shall provide that rental payments made by each such tenant shall increase over a 3-year period so that at the end of such period each such tenant will be paying the amount of rent which would be charged with respect to the tenant's dwelling unit if payments were not made under this section with respect to the project.

(3)(A) Any amount received by the owner as a result of the increased rental payments described in paragraph (2) shall be considered as a reduction in the amounts payable by the Secretary with respect to the project under section 8 of the United States Housing Act of 1937.

(B) In any case in which the amounts received by such owner as a result of the increased rental payments exceeds the amounts payable by the Secretary with respect to the project under section 8 of the United States Housing Act of 1937, such excess shall be added to any amount which may become payable under subsection (f).

(e) Notwithstanding any other provision of law, the Secretary shall provide that any project assisted under this section be regulated or restricted, at least until the termination of the payments, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.

(f)(1) The Secretary may waive the requirement of paragraph (3) of subsection (c) during the period of 30 years beginning with the initial payment made under this section with respect to such project only if the Secretary determines that such waiver would be consistent with the purpose of this section.

(2) In the event of such a waiver, the owner of the project shall, except as provided in paragraph (4), repay the entire amount of assistance made under this section with respect to such contract.

(3) The Secretary shall, except as provided in paragraph (4), provide that, if such project fails to be utilized in the manner specified in paragraphs (1) and (2) of subsection (c) after the 30-year period beginning with the initial payment made under this section with respect to the project, the owner shall make a payment to the Secretary in an amount which equals—

(A) the total amount of payments made under this section with respect to such project, minus

(B) an amount derived by multiplying 10 percent of such total amount by the number of years, after such 30-year period, during which such project was so utilized.

(4) The Secretary may reduce, in whole

or in part, the amount payable by the owner under paragraph (2) or (3) to the extent which the Secretary determines is reasonable and necessary to relieve an undue hardship upon the owner of, or families residing in, the project.

(5) Notwithstanding any other provision of law, any assistance made under this section shall constitute a debt secured by the security instruments given by the mortgagor to the Secretary.

(g) The Secretary shall provide that payments made under this section are made only with respect to that part of the mortgage concerning the portion of the project which is used for residential purposes and only for the benefit of the families residing in such projects.

(h) With respect to projects located within the jurisdictional boundaries of a unit of general local government which receives assistance under title I of the Housing and Community Development Act of 1974, the Secretary may not contract to make any assistance under this section unless the unit of general local government has made substantial progress in meeting its annual goals for lower income persons as specified in its annual housing assistance plan submitted pursuant to section 104(a)(4) of such Act.

(i) The Secretary shall, in making assistance available under this section, give a preference to projects which have or will receive financial contributions from a State or local government which will result in lower rental charges to the families residing therein or in lower payments being made under this section with respect to the project; except that such contributions may not relate to notes or other obligations which are issued by such State or local government and the income of which is exempt from Federal taxation.

(j) The Secretary shall, in entering into contracts for assistance for less than 30 years under section 8 of the United States Housing Act of 1937 with respect to residents in any project assisted under this section, provide that such contracts may be extended, at the discretion of the Secretary and subject to the availability of funds at the time of such extension, to a period of 30 years if the Secretary makes a determination that there is a need for housing for lower income families in the area at such time.

(k) The Secretary may make assistance payments under this section with respect to advances on mortgages insured under the National Housing Act during construction; except that payments authorized by this subsection may not exceed one-twentieth of the total amount of payments to be made with respect to the project under this section.

(l) As used in this section—

(1) the term "income" means income as determined under section 8 of the United States Housing Act of 1937;

(2) the terms "mortgage," "mortgagee," and "mortgagor" shall have the meanings given such terms under paragraphs (1), (2), and (3), respectively, of section 207(a) of the National Housing Act; except that the term "mortgage" may also include mortgages or loans secured by other than a first lien on the property;

(3) the term "mortgage insurance premium" shall have the same meaning given such term in section 236(b) of the National Housing Act;

(4) the term "substantially rehabilitated" shall include the rehabilitation in whole or in part of properties which contain dwelling units which are not habitable, are abandoned, or are in imminent danger of abandonment; and

(5) the term "Secretary" means the Secretary of Housing and Urban Development.

(m) Section 104(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "and" at the end of subparagraph (B), by inserting "and" at the end of subparagraph (C), and by adding the following new subparagraph at the end thereof:

"(D) accurately surveys the condition of housing stock in the community designed for persons who have incomes which do not exceed 150 percent of the median income for the area and who are not taken into account in subparagaph (A), (B), or (C); assesses the housing assistance needs of such persons; specifies a realistic goal of the number of rental dwelling units which will be provided such persons as a result of the program described in section 203 of the Housing and Community Development Act of 1980; and indicates the general locations of such dwelling units;".

(n) Section 213 of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "section 203 of the Housing and Community Development Act of 1980," after "Housing Act of 1959," in subsection (a)(1);

(2) by inserting "or" at the end of paragraph (1) of subsection (b);

(3) by striking out "or" at the end of paragraph (2) of subsection (b) and inserting in lieu thereof a period; and

(4) by striking out paragraph (3) of subsection (b).

OPERATING ASSISTANCE FOR TROUBLED MULTI-FAMILY HOUSING PROJECTS

SEC. 204. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "and" after "the fiscal year 1979,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $31,100,000 for the fiscal year 1981".

(b) Section 236(f)(3)(B) of the National Housing Act is amended—

(1) by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out "on or after October 1, 1978," in the first sentence and all that follows through "October 31, 1978,".

RENT SUPPLEMENTS

SEC. 205. Section 101(l) of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out "may" the first time it appears in the first sentence and inserting in lieu thereof "shall, not later than 4 years after the date of enactment of the Housing and Community Development Act of 1980,";

(2) by inserting the following new sentence after the first sentence thereof: "In amending such contracts, the Secretary shall provide that the housing, with respect to which payments are made under this section, be maintained as low- and moderate-income housing during the term of the original contract."; and

(3) by striking out "preceding" in the second sentence and inserting in lieu thereof "the first sentence of this paragraph".

SECTION 235 AMENDMENTS

SEC. 206. Section 235 of the National Housing Act is amended—

(1) by striking out "$32,000", "$38,000", "$38,000", and "$44,000" in the last proviso in subsection (b)(2) and inserting in lieu thereof "$40,000", "$47,500", "$47,500", and "$55,000", respectively;

(2) by striking out "and" immediately after "July 1, 1971," in the second sentence of subsection (h)(1);

(3) by striking out "$32,000", "$38,000", "$38,000", and "$44,000", wherever they appear in subsections (i)(3)(B) and (i)(3)(C), and inserting in lieu thereof "$40,000", "$47,500", "$47,500", and "$55,000", respectively;

(4) by striking out "$44,000", and "$49,000" in subsection (i)(3)(D) and inserting in lieu thereof "$55,000", and "$61,250", respectively; and

(5) by adding at the end thereof the following new subsections:

"(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

"(q)(1) Notwithstanding any other provision of this section except subsection (n), in order to prevent inflationary conditions and related governmental actions or other economic conditions from having a severely disproportionate effect on the housing industry, and to avoid a resulting reduction in the volume of home construction or acquisition which threatens seriously to affect the economy, the Secretary may make and contract to make periodic assistance payments, to the extent of authority available pursuant to subsection (h)(1), to mortgagees or other lenders on behalf of homeowners (including the owners of mobile homes) as provided in this subsection; except that not more than 75 per centum of such authority may be so utilized. The authority to enter into new contracts to provide assistance payments and new commitments to insure mortgages under this subsection shall terminate on September 30, 1981, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present.

"(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

"(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new mobile home consisting of two or more modules and a lot on which the mobile home is situated, where insurance under section 2 of this Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such mobile home and lot has been granted to the institution making such loan, advance of credit, or purchase of an obligation; and

"(B) has a family income, at the time of initial occupancy, which does not exceed 120 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

"(3) Assistance payments to a mortgagee by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage or loan. If approved by the Secretary, assistance payments may be made on behalf of a homeowner who meets the requirements of paragraph (2)(B), who assumes a mortgage insured under this subsection with respect to which assistance payments have been made on behalf of the previous owner, and who assumes the obligations of recapture described in paragraph (14). The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

"(4) Assistance payments on behalf of a mortgagor whose mortgage is insured under this subsection shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage which remains unpaid after applying 20 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at a rate determined by the Secretary which shall not be less than 8 per centum per annum.

"(5) Assistance payments on behalf of the owner of a mobile home shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the mobile homeowner's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under paragraph (11) at the time such loan or advance of credit is made and an interest rate determined by the Secretary which shall not be less than 8 per centum per annum.

"(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or lender for its reasonable and necessary expenses in handling the mortgage, loan or advance of credit.

"(7) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).

"(8) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure under this subsection is computed.

"(9) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

"(10) The Secretary may, in addition to mortgages insured under subsections (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"(11) To be eligible for insurance under this subsection a mortgage shall—

"(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

"(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and has had no previous owner-occupant other than the mortgagor;

"(D) involve a principal obligation (including such initial service charges, appraisal, inspection and other fees as the Secretary shall approve) in an amount (i) in the case of property on which is located a single-family residence, not to exceed $50,000 ($60,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require); (ii) in the case of property on which is located a two-family residence, not to exceed $55,000 ($65,000 in any such geographical area); (iii) in the case of property on which there is located a three-family residence, not to exceed $64,000 ($76,000 in any such geographical area); and (iv) the case of property on which there is located a four-family residence, not to exceed $73,000 ($87,000 in any such geographical area);

"(E) have maturity and amortization provisions satisfactory to the Secretary;

"(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the maximum rate applicable with respect to mortgages insured pursuant to section 203(b);

"(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

"(H) contain such other terms and conditions as the Secretary may require.

"(12) Where the Secretary deems it appropriate, a mortgage assisted under this subsection may provide for graduated payments pursuant to section 245. Notwithstanding the limitations contained in the last sentence of section 245(b), the Secretary may provide assistance under this subsection to assist mortgagors who meet the requirements of section 245(b) and may insure mortgages with varying rates of amortization as provided therein, for not to exceed 100,000 mortgages, and such mortgages shall not be included in the determination of the number of mortgages which may be insured as provided in the last sentence of section 245(b).

"(13) Assistance provided under this subsection shall not be subject to the provisions of section 213 of the Housing and Community Development Act of 1974. Prior to making assistance available under this subsection, the Secretary shall develop a system to allocate such assistance in a manner which furthers and promotes the purposes of this subsection.

"(14) Upon the disposition or nonoccupancy by the homeowner of any property assisted pursuant to this subsection, except any property with respect to which there is an assumption in accordance with paragraph (3), the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the loan balance as of the time of sale over the original loan balance due to the loan being insured pursuant to section 245 of this Act. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.".

CONGREGATE SERVICES PROGRAM AMENDMENTS

SEC. 207. (a) Section 405(c) of the Housing and Community Development Amendments of 1978 is amended by inserting after "for assistance" the following: "to provide congregate services to elderly residents".

(b) Section 405(d) of such Act is amended by inserting after "this title" in the first sentence the following: "for the provision of congregate services to elderly residents".

(c) Section 405(e) of such Act is amended—

(1) by striking out "When" and all that follows through "local agency," in paragraph (1) and inserting in lieu thereof the following: "A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped residents shall consult with the appropriate agency,"; and

(2) by striking out "local" in the first sentence of paragraph (2).

HUD-OWNED MULTIFAMILY PROJECTS

SEC. 208. Section 203(a)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out "they" and inserting in lieu thereof "rental units".

PUBLIC HOUSING FOR INDIAN AND ALASKAN NATIVES

SEC. 209. Section 9(a)(1) of the United States Housing Act of 1937 is amended by striking out "and" before "(B)" in the second sentence, and by inserting the following before the period at the end of the second sentence: ", and (C) with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this Act, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 5 and until such time as the project is occupied".

(b) Section 6(b) of such Act is amended—

(1) by inserting the following before the period at the end of the second sentence: "; except that, for projects to be constructed as a result of assistance provided under this Act and which are to be located in Indian reservations and Alaskan Natives villages, the Secretary shall determine and make the prototype costs available within a reasonable time prior to the beginning of each construction season as is determined to be appropriate for the area in which the project is to be located"; and

(2) by striking out "and" at the end of clause (6) of the third sentence, and by adding the following before the period at the end of such sentence: ", and (8) with respect to remote areas such as may be found in connection with projects developed under the Indian and Alaskan Native housing program assisted under this Act, the extensive transportation required to provide the necessary labor, materials, and equipment to the

project site and any additional conditions that the Secretary determines should be taken into consideration under clauses (1) through (7) for such projects".

SOLAR ENERGY SYSTEMS IN PUBLIC HOUSING PROJECTS

SEC. 210. Section 5 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(1) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 8); the Secretary shall require the installation of a passive or active solar energy system in any such project unless the Secretary determines that such installation would not be cost effective over the estimated life of the system."

SECTION 236 AMENDMENT

SEC. 211. Section 236 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(q) The Secretary may provide assistance under section 8 of the United States Housing Act of 1937 with respect to residents of units in a project assisted under this section. In entering into contracts under section 5(c) of such Act with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than $20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 8, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments."

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. ASHLEY. Mr. Chairman, I ask unanimous consent that the committee amendments to section 201 and section 202 be considered en bloc, and I ask unanimous consent that my amendment to the committee amendments to section 201 be considered en bloc.

The CHAIRMAN. Is there objection to the two requests of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments and the amendment to the committee amendments.

The Clerk read as follows:

Committee amendments: Page 23, line 4, strike out "$1,775,000,000" and insert in lieu thereof $1,648,000,000".

Page 23, line 21, strike out "$1,038,000,000" and insert in lieu thereof "$911,000,000".

Page 23, line 23, strike out "$172,000,000" and insert in lieu thereof "$261,000,000".

Page 24, line 1, strike out "$229,000,000" and insert in lieu thereof "$61,000,000".

Page 26, line 14, strike out "No" and insert in lieu thereof "Except as provided in subsection (e)(4), no".

Page 30, line 14, insert after "(d)(4)" the following: "less any amount which has been provided such public housing agency with respect to such year under paragraph (4);".

Page 30, line 19, strike out the period and insert in lieu thereof a semicolon.

Page 30, after line 19, insert the following:

"(4) In the case of a public housing agency which meets such criteria of financial distress as are established by the Secretary and which has submitted the information described in paragraphs (1), (2), and (3) of subsection (d), the amount determined necessary by the Secretary to enable such agency to develop the plan described pursuant to subsection (d)(4);

except that not more than 5 percent of the total amount of assistance made available to all public housing agencies pursuant to subsection (b) in any year shall be made available for the purposes described in paragraphs (3) and (4).

The amendment offered by Mr. ASHLEY to the committee amendments is as follows:

Amendment offered by Mr. ASHLEY to the committee amendment: In lieu of the amount proposed to be inserted by the committee amendment on line 4 of page 23 of H.R. 7262, as reported, insert "$1,536,000,000"; in lieu of the amount proposed to be inserted by the committee amendment on line 21 of page 23 of H.R. 7262, as reported, insert "$847,000,000"; and, in addition to the other committee amendments to section 201(a) of H.R. 7262, strike out "$637,000,000" in line 18 of page 23 of H.R. 7262, as reported, and insert in lieu thereof "$589,000,000".

The CHAIRMAN. The gentleman from Ohio (Mr. ASHLEY) is recognized for 5 minutes in support of his amendment.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I am pleased to yield to my friend from Ohio.

Mr. STANTON. Mr. Chairman, the reason I asked the gentleman to yield is that I think in discussion with our staff, what the gentleman's amendment does en bloc is to reduce the amount of money we had authorized to bring it in conjunction with the appropriations-passed legislation. Am I right?

Mr. ASHLEY. The gentleman is entirely right.

Mr. STANTON. I think in every case it is a lower figure now in the gentleman's amendment than what we have passed.

Mr. ASHLEY. By a rather substantial amount. I mean in the billions of dollars, as a matter of fact. So, it is not inconsiderable. The purpose of the amendment, as my friend has indicated, is to come into conformity with the dollar amounts that were contained in the budget resolution adopted by this body.

Mr. STANTON. I just wish to assure the gentleman that we have covered this on our side of the aisle, and we certainly have no objection.

Mr. ASHLEY. Mr. Chairman, just for the record let me say that the amendment is designed to assure that funding for the HUD-assisted funding programs is within the budget targets which were passed by the House several weeks ago. As it now stands, the budget authority for the assisted housing program in the committee-passed bill totals $33.2 billion. The amount requested in the budget resolution for these programs was only $31.2 billion.

My amendment simply removes $2 billion of budget authority from the committee bill so that the bill comports with our budget targets. Mr. STANTON was entirely accurate in his description, and I would urge adoption of the amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHLEY) to the committee amendments.

The amendment to the committee amendments was agreed to.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The CHAIRMAN. The committee amendments agreed to were to section 201 and section 202. The Clerk will report the further committee amendments.

The Clerk read as follows:

Committee amendments: Page 46, line 17, strike out "and" the second time it appears.

Page 47, line 9, strike out "(5)" and insert in lieu thereof "(6)".

Page 46, after line 17, insert the following:

(5) by inserting "(1)" before "The" in the first sentence in subsection (c), and by adding the following new paragraph at the end of such subsection:

"(2) Upon disposition or non-occupancy by the homeowner of any property assisted pursuant to this section, except any property with respect to which there is an assumption in accordance with paragraph (1) of this subsection, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, or (B) an amount equal to at least 50 percentum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property."; and

Page 54, line 12, insert the following before the period: ", including conditions encouraging the conservation of land and energy resources."

Page 55, insert "at least" after "an amount".

Page 56, strike out lines 23 through 2 on page 57 and insert in lieu thereof the following:

HUD-OWNED MULTIFAMILY PROJECTS

SEC. 208. Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"(1) preserving the housing units so that they are available to and affordable by low- and moderate-income families and remain available to other families who occupy them at the time of acquisition;";

(2) by striking out "and" at the end of paragraph (1) in subsection (c), by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; and", and by adding the following new paragraph at the end of such subsection:

"(3) maintain the project for purposes of providing rental or cooperative housing."; and

(3) by striking out ", assisted under" and all that follows through "and which is" in subsection (f).

Page 60, after line 7, insert the following:

FAIR MARKET RENTS FOR MODERATELY REHABILITATED SECTION 8 PROJECTS

SEC. 212. Section 8(e)(5) of the United States Housing Act of 1937 is amended by inserting the following new sentence after the second sentence thereof:

"Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 30 percent if such units are located in an area where the Secretary finds cost levels so require."

Page 60, after line 18, insert the following:

SECURITY PROGRAM FOR PUBLIC HOUSING

SEC. 213. (a) This section may be cited as the "Public Housing Anti-Crime Amendments of 1980".

(b) The Congress finds that—

(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

(2) funding to provide more security for public housing can be used to leverage funding from other sources and, thereby, produce more successful anti-crime efforts;

(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more co-targeting of Federal and local anti-crime resources;

(4) as authorized by the Public Housing Security Demonstration Act of 1978, the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on such Program have provided useful suggestions which now can be implemented.

(c) It is, therefore the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Program so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects.

(d) Section 207 of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out subsection (c)(4) and inserting in lieu thereof the following:

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, ACTION, the Community Services Administration, and State and local agencies.

"(5) In order to assess the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under section 14 of the United States Housing Act of 1937."

(2) by striking out "this Act" in the first sentence of subsection (e) and inserting in lieu thereof "the Housing and Community Development Act of 1980"; and

(3) by adding the following new sentence at the end of subsection (f): "Of the authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may utilize up to $10,000,000 of such authority to carry out this section.".

Mr. ASHLEY (during the reading). Mr. Chairman, I ask unanimous consent that all pending committee amendments to title II be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. ANNUNZIO

Mr. ANNUNZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANNUNZIO:

Page 53, line 7, strike out "within one year".

Page 53, line 14, strike out "$60,000" and insert in lieu thereof "$75,000" and on line 17 immediately after "require" insert the following: ", except that the Secretary may increase such amount by not to exceed 75 percent".

Page 53, line 18, strike out $65,000" and insert in lieu thereof "$84,440" and on line 19 immediately after "area" insert the following: ", except that the Secretary may increase such amount by not to exceed 75 percent".

Page 53, line 21, strike out "$76,000" and insert in lieu thereof "$102,210" and on line 22 immediately after "area" insert the following: ", except that the Secretary may increase such amount by not to exceed 75 percent".

Page 53, line 24, strike out "$87,000" and insert in lieu thereof "$118,880" and on line 24 immediately after "area" insert the following: ", except that the Secretary may increase such amount by not to exceed 75 percent".

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Chairman, we are dealing with a bill this afternoon that in theory is designed to help home buyers, home lenders, and homebuilders, but in one important area this legislation will do nothing to help millions of Americans who are desperately trying to buy homes. These home buyers are looking to the Congress of the United States, the elected representatives of the people, for help, as are millions of unemployed construction workers in my own city and in your cities who want work. Yet, here we are in an election year offering a portion of a housing bill that well help very few. The amendment I am offering today is designed to correct a total inequity in the 235 homeownership program.

□ 1740

Mr. Chairman, this is a program designed to help low- and middle-income families own their own homes by having the Federal Government pick up a portion of their mortgage payments. It is not a giveaway program, because by making home ownership available to these people we are creating jobs in the construction industry, and we are creating a whole new class of real estate taxpayers. But unfortunately, because of the artificially low ceilings established in the bill on page 53—and I ask each one of the Members to read that page—few people will be able to take advantage of the 235 program.

I want every Member here today—and I realize that while we are discussing one of the most important pieces of legislation to come before this Congress this year, only a few Members are present—to realize that the bill before us shuts out virtually every home buyer in cities such as New York, Los Angeles, San Francisco, Boston, Washington, Houston, and Dallas, as well as my home city of Chicago. In fact, virtually every big city in the country will not have the opportunity for its citizens to participate in the program. We are legislating here today for only a small percentage of our citizens and are completely ignoring areas where the housing prices are the greatest.

Let me explain. The legislation limits the cost of a single-family house that can be eligible for 235 programs to $60,000. And at the top end of the scale, a four-family residence cannot cost more than $87,000 and be eligible for the program.

I ask Members here today how many new four-family residences in your area can be purchased for $87,000? And for that matter, where can you buy a new home for $60,000, especially when you read the latest inflation figures?

To remedy this situation and to restore some confidence in our people that Congress is trying to solve the housing problem, my amendment would increase the $60,000 single-family ceiling to $75,000 and would make subsequent adjustments all the way up to the four-family residences whose ceiling would be increased to $118,880. This is more realistic and more pragmatic.

I realize that even these ceilings that I am proposing may not adequately work in some extremely high-cost areas. You know that, and I know that, because we are legislating in one of the highest cost areas in the country right here. You cannot touch a condominium for less than $100,000 in this area, and I am making it low.

As I said, I realize that even these ceilings may not be adequate in some extremely high-cost areas, and to cover that situation I have added authority for the Secretary of Housing and Urban Development to increase, by my amendment, the ceilings by up to 75 percent in areas where she feels this is necessary. She does not have to go up to 75 percent; this merely gives her the authority to go up to 75 percent.

I would point out that the Secretary does not have to exercise this authority and does not have to use the entire 75 percent of the increase. This authority is only for 1 year and is designed to get the homebuilding industry back on its feet and allow people who might otherwise be shut out of the housing market to purchase a home.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ANNUNZIO) has expired.

(By unanimous consent, Mr. ANNUNZIO was allowed to proceed for 1 additional minute.)

Mr. ANNUNZIO. Mr. Chairman, the second portion of my amendment is very, very simple to understand. It is designed to reduce the current housing inventory. As we know, there are millions of unsold homes which have never been occupied. Because of the high interest rates, many buyers simply cannot afford to buy these homes. My amendment would also make eligible for the 235 program any home which has already been built but has never been occupied. This would do away with the 1-year limitation which presently restricts the 235 program.

What is wrong with making every home that has never been lived in eligible for the 235 program? If we really want to do something to help housing, let us go all the way. Let us not limit the program to houses that are less than 1 year old.

My amendment is important particularly this year, an election year, because it is going to tell voters who is really interested in solving the housing program rather than tell the voters in this Nation who merely wants to look like they are solving the housing problem.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Annunzio) has again expired.

(By unanimous consent, Mr. Annunzio was allowed to proceed for 1 additional minute.)

Mr. ANNUNZIO. Mr. Chairman, let me make it clear that if you represent a big city or an area where the average cost of a single-family home is more than $60,000, unless you vote for my amendment, you are not going to be helping the home buyers and you are not going to be helping the construction people in my own city where there is over 17½ percent of the construction workers out of work. You are not going to be helping the home-building industry.

My amendment has been endorsed by the National Home Builders Association, and it is my understanding that Members have received letters that have been mailed to them by the Home Builders Association urging them to vote aye on this amendment.

The construction workers of America need this legislation, the home builders need this legislation. I want to tell you, my good friends, that, most of all, the people who need housing need this legislation in order to get mortgages that are adequate to buy homes as they are priced in their areas. And I do not mean priced high, because this is the condition and this is the era they are living in, and they cannot purchase a home when we have a ceiling of $50,000.

Mr. Chairman, I would sure as hell like to buy a home in Chicago for $50,000.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Annunzio) has again expired.

(By unanimous consent, Mr. Annunzio was allowed to proceed for 1 additional minute.)

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. ANNUNZIO. I yield to my distinguished colleague, the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, I would like to congratulate the gentleman from Illinois (Mr. Annunzio) for his proposals here today.

There are so many sections in the country that just will be totally untouched by the legislation we are offering unless we adopt the amendment that the gentleman is proposing. The prices for housing are just totally unrealistic, and I can speak for my own area, that of Maryland, the metropolitan area of Washington.

The gentleman from Illinois (Mr. Annunzio) is absolutely right. There is no housing at that price. Be it good housing, be it poor housing, be it standard or substandard housing, it would be almost impossible to find housing at that price.

So unless we are really kidding the public and kidding people around the country, if we really mean what we say, we will pass the amendment that the gentleman is offering.

The idea of having those homes which have not yet been occupied included in this legislation has, I think, considerable merit. As a matter of fact, it is an idea that has some considerable genius, and I would wholeheartedly support that amendment.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Annunzio) has again expired.

(By unanimous consent, Mr. Annunzio was allowed to proceed for 1 additional minute.)

Mr. ANNUNZIO. Mr. Chairman, I want to congratulate and comend the gentlewoman from Maryland (Mrs. Spellman) and associate myself with her remarks.

I want to say to the gentlewoman and to my good friend, the gentleman from Ohio (Mr. Ashley), the chairman of this subcommittee, as well as to my good friend, the gentleman from Ohio (Mr. Stanton), the ranking minority Member, that I admire both gentlemen very much because they have done a tremendously outstanding job on this piece of legislation, but I want to say to the gentleman in all fairness that we have heard so much about the 1980's, but we are now living in the 1980's. Let me tell you, the 1960's and the 1970's are gone, and you just cannot buy a house now for $50,000.

□ 1750

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment with considerable reluctance because my friend, the gentleman from Illinois (Mr. Annunzio), is an enormously respected member of our subcomittee and full committee, and I have worked with the gentleman on so many pieces of legislation.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I want to point out to my good friend, the chairman, that for 16 years I have been a Member of this House, this is the first time I have offered an amendment to a housing bill. And that is because of the outstanding job, the thorough job, the genteman has done in meeting the housing needs of the people of this country.

Mr. ASHLEY. Mr. Chairman, I appreciate those kind words. I am only sorry that that splendid record of 16 years fell by the wayside a few moments ago.

Mr. ANNUNZIO. I am aware of that.

Mr. ASHLEY. I suppose if he withdrew the amendment, that sterling record would be intact at this very moment.

But I do oppose the amendment, Mr. Chairman.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. Of course I yield to the gentleman, in the hope that good sense and comity will prevail.

Mr. ANNUNZIO. I was just trying to ease the gentleman's conscience.

Mr. ASHLEY. Mr. Chairman, let us understand what this amendment does. It would increase the mortgage limits of the revised 235 program limits which are in the bill at $50,000 in normal market areas, $60,000 in high-cost areas. Instead, it would say now the limits for the 235 homeownership, modest program for homeownership, is going to be the same as those of the regular nonsubsidized FHA single-family limits which the bill raises to $75,000.

Furthermore, this amendment would provide in the high-cost area a factor whereby the Secretary of HUD could increase the loan limit by 75 percent, meaning that a mortgage—listen to this—a mortgage of over $130,000 could be subsidized under this revised section 235 housing stimulus program.

The amendment further provides that all homes built 1 year before the enactment of this bill would be eligible for the subsidy instead of just newly constructed homes.

So if the intention of the committee was to be a production program, to do something about the depressed state of the homebuilding industry, the fact that the Annunzio amendment makes eligible for the elevated 235 mortgage subsidies, homes constructed a year ago, obviously, undercuts the purpose of the committee so far as that is concerned.

Let me say, Mr. Chairman, that I reluctantly agreed to the new mortgage limits contained in the 235 program, and I did so because the intent of our program was to provide a one-time stimulus to the homebuilding industry and to stretch limited subsidy dollars to fund a one-time housing stimulus. We increased the 235 mortgage limits, as I have indicated, from $38,000 to $50,000, and for high-cost areas from $44,000 to $60,000.

The gentleman's amendment departs from the purpose of the 235 program to provide interest subsidy for housing of modest design, to provide assistance for housing costing whatever the local market costs are.

How can we justify taxpayers' dollars subsidizing $130,000 mortgages for the lucky few who would get this subsidy assistance?

For the last 6 years the 235 program has been little used. Within the last 9 months, though, since the housing industry began its precipitous decline, the 235 program has exploded with activity, simply because it is the only real Federal single-family home construction subsidy program in town.

The gentleman from Illinois (Mr. Annunzio) said, well, his amendment is supported by the homebuilders. Small wonder. Small wonder. Look at what the program would do for them. Builders under the program at the present time are building within the $38,000 to $44,000 limits, albeit to standards of modest design.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashley) has expired.

(By unanimous consent, Mr. Ashley was allowed to proceed for 2 additional minutes.)

Mr. ASHLEY. Mr. Chairman, the gentleman's amendment, because it greatly increases mortgage limits and requires larger amounts of Federal subsidies, would dramatically decrease the number of units to be assisted unless we came up with additional funding, which we cannot do under the budget resolution. Since so many areas could be classified as high-cost areas, these higher limits of up to $130,000 to qualified units in many areas of the country would decrease the amount of new units assisted under the committee bill by some 15,000 units. With the 75-percent funding limit under the amendment, some 10,000 fewer units would be assisted.

Finally, the provision of the amendment, including, as I indicated earlier as eligible units built 1 year prior to the enactment of the bill, in addition to newly constructed units, would make eligible for assistance some 300,000 units in the inventory of unsold homes.

The committee's bill anticipated stimulating 80,000 to 100,000 new single-family units, not the existing units, but new single-family units.

So what happens here is that the program with the Annunzio amendment could be used entirely for the purchase of homes in the last 12 months, and it would not contribute $1 to stimulus as far as new homebuilding is concerned.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Minnesota.

Mr. VENTO. I am sure we understand the concern here. This is a recently revitalized program, the 235 program. We made a 36-percent increase in the high-cost areas in this measure alone.

The point is, of course, in terms of dealing with income, this provides for those with income of up to 120 percent or $24,000, the highest income that you could have, to be eligible for this program.

Now, insofar as you raise the total amount or this amendment would propose to raise the total amount of the mortgage and, therefore, the liability, it does nothing with the income side of it. In other words, the income would be no higher and, therefore, the ability to actually meet that obligation would actually be the same. The income would be no higher, but the amount of mortgage would be substantially greater; therefore, that program would assume a greater degree of risk; would it not?

Mr. ASHLEY. Well, either that, or unless there was a limitation on the amount of subsidy per unit; the amount of subsidy in the 235 program would make section 8 look good by comparison.

Mr. VENTO. I can understand the gentleman's problem, but I most reluctantly oppose the amendment. The program does work. We are trying to provide moderate income. This would reduce the absolute number of units. Of course, I think it goes toward the upper end of the spectrum with regard to the housing costs per single units. And I can appreciate the gentleman's problem in Chicago and other high-cost areas, but this program simply does not have the capacity to meet that particular need at this time.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in reluctant opposition to the amendment.

Mr. Chairman, the gentleman from Illinois is too modest. He alluded to the fact a while ago that this was the first amendment that he had ever announced on this floor that he had promoted personally in 16 years. He failed to go on to say, Mr. Chairman, that the reason for that is because his effectiveness is really felt within the committee itself, and it is there where the gentleman's expertise, especially coming from a city the size of Chicago where they do have divergencies of views, which he lends to the subcommittee, that expertise is not on the House floor but within the subcommittee, and I thought the committee should know that, Mr. Chairman.

Reluctantly, though, of course, the chairman of the full committee, with the help of the gentleman from Minnesota, is right. What we have to keep in mind, very quickly, is that we are promoting in the 235 a low- and moderate-income program of homeownership. We have not had that program in recent years. It has come back within the 6 months now. But realistically, Mr. Chairman, the gentleman from Chicago, when he was referring to $60,000 homes to $75,000 homes and from $87,000 for four-family units to $118,000, was not the cost of the home. What the gentleman was referring to was the cost of the mortgage. All you have to do is to be realistic, with the lower and moderate income, with a four-unit, of $120,000 to $130,000, as the chairman said, $130,000 mortgage, not units, in consequences of what the income would have to be to promote that kind of thing to the taxpayers.

□ 1800

Mr. Chairman, in conclusion, I would say that with such reluctant support for the 235 program itself, it is fortunate that nobody is offering an amendment to strike the whole program. I think we had better let bygones be bygones and stick with the total and be thankful for those who like the program, that they got as much as they got.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Annunzio).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ANNUNZIO. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 451]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N.Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta

Patten
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Porter
Preyer
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1810

The CHAIRMAN. Three hundred and fifty-three Members have answered to their names, a quorum is present, and the committee will resume its business.

☐ 1820

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. ANNUNZIO) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 117, noes 247, not voting 68, as follows:

[Roll No. 452]

AYES—117

Addabbo
Ambro
Anderson, Calif.
Andrews, N.Dak.
Annunzio
Applegate
Atkinson
Badham
Bailey
Barnes
Benjamin
Biaggi
Brooks
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Clausen
Coelho
Collins, Ill.
Cotter
Danielson
Davis, Mich.
Dellums
Derwinski
Dingell
Dixon
Donnelly
Duncan, Oreg.
Early
Eckhardt
Evans, Ind.
Fary
Fazio
Findley
Fisher
Fithian
Florio
Gaydos
Gilman
Glickman
Green
Grisham
Guarini
Harris
Hawkins
Heckler
Hollenbeck
Howard
Hyde
Johnson, Calif.
Jones, N.C.
Kazen
Kostmayer
LaFalce
Lederer
Leland
Lewis
Loeffler
Long, La.
Long, Md.
Lujan
Maguire
Martin
Matsui
Michel
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Ottinger
Panetta
Patten
Pepper
Perkins
Peyser
Porter
Rahall
Railsback
Rangel
Ratchford
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Russo
Schroeder
Seiberling
Solarz
Spellman
Spence
Stack
Staggers
Stark
Stratton
Waxman
Weaver
Weiss
White
Winn
Wolff
Wolpe
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—247

Abdnor
Akaka
Alexander
Andrews, N.C.
Anthony
Archer
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Carney
Carr
Carter
Chappell
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
de la Garza
Deckard
Derrick
Devine
Dicks
Dornan
Downey
Duncan, Tenn.
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fascell
Fenwick
Ferraro
Fish
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Hefner
Heftel
Hightower
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Livingston
Lott
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marriott
Mathis
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Patterson
Paul
Petri
Preyer
Pritchard
Quillen
Reuss
Richmond
Ritter
Robinson
Roth
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
St Germain
Stangeland
Stanton
Steed
Stenholm
Stockman
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Whitehurst
Whitley
Whittaker
Whitten
Wirth
Wright
Wyatt
Wylie
Young, Fla.

NOT VOTING—68

Albosta
Anderson, Ill.
Beard, Tenn.
Bolling
Brinkley
Brown, Calif.
Campbell
Cheney
Clay
Conyers
Crane, Daniel
Daschle
Dickinson
Dodd
Dougherty
Drinan
Edwards, Calif.
Edwards, Okla.
Ford, Tenn.
Fowler
Garcia
Hanley
Hillis
Hinson
Holtzman
Johnson, Colo.
Kelly
Leach, La.
Levitas
Lloyd
Lungren
McClory
Marks
Marlenee
Moffett
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Nedzi
O'Brien
Pashayan
Pease
Pickle
Price
Pursell
Quayle
Regula
Rhodes
Roberts
Rosenthal
Rousselot
Santini
Sebelius
Simon
Stewart
Stokes
Tauzin
Thompson
Trible
Ullman
Watkins
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

☐ 1830

Mr. CLINGER and Mr. MARKEY changed their votes from "aye" to "no."

Mr. ROSE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. ICHORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R 7262) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7262.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. ALBOSTA. Mr. Speaker, had I been on the House floor for rollcall No. 452, I would have voted "yes."

THE LATE HONORABLE HAROLD RUNNELS

Mr. LUJAN. Mr. Speaker, I offer a privileged resolution on the death of the Honorable HAROLD RUNNELS.

The Clerk read the resolution, as follows:

H. RES. 761

Resolved, That the House has heard with profound sorrow of the death of the Honorable Harold Runnels, a Representative from the State of New Mexico.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON WEDNESDAY, AUGUST 20, 1980, DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, August 20, 1980.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from California?

There was no objection.

CARTER CAN'T DELIVER

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, 4 years later the Democrats are still promising to reform the tax system.

In 1976 Jimmy Carter called for a "complete overhaul." He branded the tax system a "disgrace to the human race" in his acceptance speech.

The only reform he delivered was more taxation. In the last 4 years the Federal tax on the average American family has risen $2,000.

This year the Democrat platform is once again promising to curb the "three-martini lunch" and "close tax loopholes."

These promises have lost credibility. In 4 years and with a nearly 2-to-1 majority in the House, Jimmy Carter did not deliver.

To dramatize the utter failure of the Carter delivery system, I am including in my remarks an excellent editorial from yesterday's Columbus dispatch which tells it all.

CARTER OUTSTANDING IN IGNORING ISSUES

Outstanding—that is the word for Jimmy Carter in the way the president is ignoring his own miserable stewardship of national affairs the last four years.

It is now evident that in seeking a second term, Carter is bent on not only ignoring his administration's poor and frequently counterproductive record in both foreign and domestic matters, but is shunning the pressing problems facing the nation and its people. Carter is expected to focus his re-election emphasis on attacking Republicans and Ronald Reagon instead of facing responsibility for his own dismal record.

But the American electorate will not permit the incumbent president such a diversion. Only a few hours after the final curtain of the Democratic National Convention, the U.S. Labor Department gave chilling facts.

Inflation at the wholesale level is racing upward at a disasterous rate—in excess of 22 percent on an annual basis.

But Carter is ignoring this.

Carter's employment policy, an issue that topped his 1976 priority list, is in sorry disarray. Four years ago, he pledged to bring the unemployment level down to 3 percent from 7.4 percent when he became president. It now stands at about 8 percent.

But Carter is ignoring this.

Economists say that if unemployment and inflation rates are lumped together, there is a "misery index." Carter made an issue in 1976 of a misery index of 12.6. His administration now shows the same factor at 19.7, an increase of 60 percent.

But Carter is ignoring this.

Instead, he is telling the bewildered people that he is growing on the job and that the White House should not be entrusted to "some actor for on-the-job training."

Well, that "actor" (Ronald Reagan) has had the necesasry training. As governor of California, Reagan pledged a balanced budget, plus areas of tax relief—and delivered on all counts.

But Carter is ignoring this.

In 1976, Carter said he would balance the federal budget. But deficits his first three years have added up to more than $130 billion with 1980 adding some $60 billion and 1981 certain to pile on more.

But Carter is ignoring this.

The Carter administration's monetary policy, if one exists at all, is in shambles. The prime interest rate has hit 20 percent, strangling the money market and ruining many a business, has dropped back to around 11 percent, but remains illusory and unpredictable. The highest prime rate in history prior to Carter was 12 percent, slightly above the present level.

But Carter is ignoring this.

In foreign policy matters, confusion, indecision and nonproductivity abound. The Iranian hostage situation remains without solution. Even when a U.S. rescue mission was attempted, it failed, raising serious questions about this nation's military planning and preparedness.

But Carter is ignoring this.

The president takes great pride in the Camp David accords to solve the Middle East impasse. But the accords have fallen apart and have yielded no solution. Egypt's president, Anwar Sadat, is so concerned that he has called for resumption of Camp David summitry. But he concedes that "our full partner, President Carter" has "preoccupations."

The president may try to focus attention on issues other than his own miserable record, but the American electorate is neither naive nor ill-informed and will make its own judgment.

PRESIDENT CONGRATULATED ON RETARGETING OF NUCLEAR WEAPONS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I want to begin this final August session with a word of congratulation for the President. I mean it sincerely, I applaud him for the removal of our 15-year immoral and unethical policy of "mutual assured destruction; for example, "MAD" the targeting of civilian, innocent population centers in the Soviet Union. The end of that dreadful policy is long, long overdue.

I do not yet know what all of the president's reasons are. Maybe President Carter felt that he would rather do it than see a newly elected President Reagan do it. He is giving tertiary and secondary reasons for doing it, most of them of strategic and military nature. But the main reason is, it flew directly in the face of Judeo-Christian ethical standards, our Bible, indeed, everything that this country has stood for; it was a repudiation of 2,000 years of Western civilization.

I am glad to see this doctrine removed from the canons of modern strategy, and I am willing to give the President and his Pentagon advisers credit for doing it now rather than letting this ugly, basically immoral policy, last another week.

The theory behind the discredited doctrine of mutual assured destruction (MAD) was very simple: it was that the onset of a nuclear exchange would result in the mutual obliteration of both the Soviet Union and the United States. Policy at the highest levels was thus directed toward the insurance of the destruction of civilian population centers of both societies. The object of this line of argument is simply to render nuclear war "unthinkable." The metaphor used by the proponents of MAD was that of two scorpions locked in battle. A combat between them would insure the destruction of both. The theory had captivating internal logic of its own; it appeared plausible. But it was wrong. It could not be more wrong.

It was surely wrong on the strategic grounds cited by its critics. If the theory was to be valid, it had to be held by both the United States and the Soviet Union. Both societies had to think that nuclear war is unthinkable. Both societies had to be committed to holding their populations hostage to nuclear terror. Both societies had to be committed to the view that nuclear war, with all of its horrors, was not a viable option for the remainder of the 20th century. But under critical examination, the theory has always broken down.

The Soviet political leadership has never—I repeat—never accepted the premises of MAD that have become the underpinnings of American nuclear strategy since 1964, when they were first articulated by Robert S. McNamara. They have never considered nuclear war "unthinkable," but have adopted the position that nuclear war is, like all war, an extension of politics—a very "thinkable option."

Soviet theoretical journals in politics and military affairs have held to the position that nuclear war is to be survived, fought and won. Soviet writers have reversed the safety of the Soviet State as the first priority. They have always adopted their force modernization and civil defense programs toward that end. For all of the internal logic of our MADmen, the Soviets simply refused to play the game. The theory was unworkable.

But the theory was, as I said, always wrong. It was immoral. It committed the political and military leadership of this nation to the deliberate destruction of millions of civilians, noncombatants. It made a mockery of the Nuremburg tribunals, the war crimes trials of the Nazis, American declarations of human rights, the notion of military honor and integrity passed on to the graduates of our great service academies, and the entire Judeo-Christian tradition that sought to limit war, to protect the helpless and to scale down the scope of destruction.

I know it will be said that the intention of the proponents was to prevent a general war from occurring. But that is never a legitimate excuse. Good ends do not justify evil means in any coherent moral system that I know. And that maxim was never better applied than to the literally insane doctrine of deliberate mass murder known as mutual assured destruction.

It is incredible that political leaders who could rightfully condemn Lieutenant Calley's massacre of innocent Vietnamese civilians at My Lai could sanction a military policy that would—if it were indeed a credible option—result in mass murder on an unprecedented scale. The previous targeting doctrine was morally indefensible. And nothing, I repeat nothing, that is morally wrong could ever be politically right.

AN OVERLY HELPFUL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker our economic problem is one without easy answers, and I do not presume to come before you today bearing one. I do, however, want to echo the concern of the people of the Second District of Iowa, who, like countless others in this Nation, are looking to us, the Members of Congress, for solutions to our economic problem.

In the month of June, I sent a survey to nearly 10,000 Iowans, all members of the small business community of northeastern Iowa and serving the public in the areas of manufacturing, retail and farm service, and tourism. Respondents varied from corporations which provide jobs for several hundred workers to self-owned enterprises employing only a few family members.

The prevailing theme of responses to this survey from businesses both large and small was an urgent plea to reduce Government regulation.

The people of northeastern Iowa, like the people of your own districts, are experiencing the results of an "overly helpful" government which often interferes with the ventures of private enterprise rather than enhances them.

Although only 6 of nearly 700 respondents stated that they had been forced to close the business, an alarming 47 percent warned that the continuation of their businesses had been seriously threatened by the current economic situation. Over 70 percent told of encountering major cash flow difficulties. Still more tragic stories were relayed by another 42 percent who wrote of being forced to release good workers because of economic factors having nothing to do with the workers' on-the-job performance. These 700 businesses no longer have in their employ at least 3,500 workers.

I found widespread support for a tax reduction. In addition, I was impressed by the overwhelming call for three particular business incentives presently being examined by committee or awaiting House action.

The results of this survey tell me that the people of this country are looking to Congress and the administration for a program to bring economic stability.

It is imperative that we provide a healthy economic arena in which the businesses of this Nation can grow and prosper.

Mr. Speaker, I insert the results of the small business survey be placed on record:

TOM TAUKE SMALL BUSINESS SURVEY

[In percent]

	Most pressing	Least pressing
Question 1. Rank in order of importance the problems facing your business:		
(a) Lack of adequate capital	30	15
(b) Lack of management and technical assistance	2	43
(c) Lack of significant procurement opportunities	2	20
(d) Excessive Government regulations	36	3
(e) Business tax rates	22	5
	Most helpful	Least helpful
Question 2. Rank in order of importance the proposed change in tax laws that would be most helpful to your business:		
(a) Reduced business income tax rates	42	13
(b) Accelerated depreciation schedules	17	45
(c) Reduced social security payroll taxes	33	26
	Yes	No
Question 3. Do you rely on debt financing as the major source of your capital?	54	45
Question 4. The Small Business Administration makes loans to small businesses at an interest rate (currently pegged at 8¼ percent) which is below the going market rate. Does your business need this kind of assistance?	45	50
Because of the limited money available, the waiting period to receive assistance may be 6 months or longer. Under these conditions, would you consider applying to SBA for assistance?	20	72
	Yes	No
Question 5. Legislation is pending in the Education and Labor Committee which would lower the minimum wage for workers under age 18 who are holding their 1st job to 85 percent of the minimum wage during the 1st 6 months of employment. Do you favor this legislation?	84	13
Question 6. H.R. 4460, the Small Business Regulatory Improvement Act, has passed the Small Business Committee and is awaiting House action. It would require agencies to establish a 2-tier system of regulations—one set tailored to meet the needs and concerns of small businesses and the other designed for larger businesses. Do you support H.R. 4460?	79	11
Question 7. Many small businesses are reluctant to defend themselves when charged with violating a Federal regulation because of the high cost of legal services. The House Small Business Committee recently approved legislation providing that any business which is charged with a violation and successfully defends itself would be reimbursed for legal fees and all other defense costs. Do you favor this legislation?	91	4
Question 8. Have present economic conditions:		
(a) Forced you to close the business?	1	75
(b) Threatened the continuation of your business?	47	45
(c) Caused major cash flow problems for your business?	71	23
(d) Caused you to lay off employees?	42	51
Note: See later section on employees.		
(e) Prevented expansion this year?	58	20
(f) Had only a minor impact?	26	56
(g) Caused no problems?	6	66
Question 9. If you answered yes to (a), (b), (c), (d), or (e), which economic conditions were to blame?		
(a) Increased energy prices	47	
(b) Increase in the minimum wage	18	
(c) High interest rates	68	

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EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina, (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am notifying the House today of the U.S. Export-Import Bank's proposed loan guarantees of $40,443,650 to make possible the sale of $62.2 million of U.S. goods and services for the Sayago nuclear powerplant in northern Spain.

In 1976, the Eximbank granted a direct credit of $72.4 million for this project to Iberduero, S.A., Spain's largest electric utility and one of the country's largest privately owned enterprises. The company is now asking Eximbank to guarantee additional private loans for the project. Work on the Sayago plant was delayed by a Spanish Government moratorium on nuclear powerplant construction from 1975 to 1980. During this period, costs escalated rapidly.

This notification of proposed financing was submitted to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, requires that the Bank notify Congress of proposed loans or financial guarantees involving the purchase of nuclear equipment or services. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress following notification.

I am submitting for the RECORD copies of the Eximbank notification giving the terms and details of the proposed financial guarantees. I would welcome any comments or questions my colleagues might have on this proposal.

The Eximbank material follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 29, 1980.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C. July 29, 1980.
SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Spain:

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

On December 18, 1975, Eximbank authorized a direct credit of $148,115,000 to Iberduero, S.A. to facilitate the export of goods and services from the United States to Spain for the construction, operation and initial core fuel load of the Sayago and Punta Endata Nuclear Power Plants in Northern Spain. On October 26, 1976, the amount of the credit was reduced to $72,435,000 as a result of the elimination of the Punta Endata Plant from the scope of the project.

Iberduero has now requested and Eximbank is prepared to provide additional support in the form of a financial guarantee of private loans of $40,443,650 for the Sayago Nuclear Power Plant. Iberduero requires this additional financing for cost escalation resulting from a moratorium, from late 1975 to early 1980, on licensing of the project by the Spanish Government and from general inflationary factors during the interim. Also, Iberduero intends to acquire additional U.S. engineering services for the project.

2. Identity of the borrower

Iberduero, S.A. was created in 1944 as a result of a merger of two electric utility companies. Headquartered in Bilbao, it is the largest electric utility and one of the largest privately owned industrial enterprises in Spain. The utility accounts for more than 20% of Spain's electricity sales.

3. Nature and use of goods and services

The principal goods and services to be exported from the United States will consist of a nuclear steam supply system and components, such as a turbine generator set. In addition, United States firms will perform various related technical services in connection with the design, installation, fuel fabrication and startup operations of the plant.

4. Safety and safeguard aspects

Exports of the nuclear equipment and services will be made within the framework of two agreements: (1) the bilateral "Agreement on Atomic Energy: Cooperation for Civil Uses" between the United States and Spain of August 16, 1957, as amended, and (2) the trilateral agreement "Atomic Energy: Application of Safeguards by the IAEA to the United States-Spain Cooperation Agreement" among the United States, Spain and the International Atomic Energy Agency on December 9, 1966, as amended. Eximbank will require as a condition precedent to disbursement under this guaranteed loan confirmation from the Department of State that exports to Spain for this transaction will be consistent with Section 128 of the Atomic Energy Act of 1954, as amended. In addition, prior to export of the equipment and fuel, licenses must be obtained from the Nuclear Regulatory Commission.

5. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction.

B. EXPLANATION OF ADDITIONAL EXIMBANK FINANCING

1. Reasons

The Eximbank guarantee of $40,443,650 will facilitate the export of $62,221,000 of U.S. goods and services. The additional costs for which Iberduero is requesting financing are required under contracts with United States suppliers of the nuclear steam supply system, the turbine generator set and the nuclear fuel fabrication services. Also, some additional engineering services are being acquired from U.S. participants in the project. For these reasons, Eximbank feels it is appropriate to provide its guarantee support for financing of these costs.

2. The financing plan

The additional costs of the United States goods and services are $62,221,000, which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$21,777,350	35
Private loans guaranteed by Eximbank	40,443,650	65
Total	62,221,000	100

(a) Eximbank Charges

A guarantee fee of 0.5% per annum on the undisbursed portion of the private loans guaranteed by Eximbank and a guarantee commitment fee of 0.125% per annum on the undisbursed portion of the private loans guaranteed by Eximbank will be charged. All fees are payable semiannually.

(b) Repayment Terms

The private loans guaranteed by Eximbank will be repaid by Iberduero as follows: (i) the portion allocated to the nuclear plant equipment costs will be repaid in 20 semiannual installments beginning January 1, 1989 (which is 6 months after the estimated start of commercial operations of the plant); and (ii) the portion allocated to the fuel fabrication and engineering services will be repaid in 6 semiannual installments beginning January 1, 1989.

Attached is certain additional information on Eximbank activity in and economic data on Spain.

Sincerely,

JOHN L. MOORE, Jr.

EXIMBANK EXPOSURE IN SPAIN (AS OF FEB. 29, 1980)

	Outstanding	Undisbursed
Direct loans	$928,461,906.28	$212,285,727.02
CFF loans	913,246.26	440,303.00
Financial guarantees	190,501,714.36	155,629,689.69
Bank guarantees and other	1,794,367.44	1,017,196.08
Insurance:		
Medium term	587,807.22	4,630,721.45
Short term	42,757,732.49	0
Total exposure	1,165,016 804.05	374,003,637.24

DEFAULT AND RESCHEDULINGS

In the past ten years there have been no defaults or reschedulings of Export-Import Bank direct credits for U.S. export sales in Spain.

SPAIN

Area (100 km²)	514.8
Population density (per square kilometer)	74
GDP per capita (1978)	$3,940
DP (1978):	
Expenditures of GDP (percent):	
Private consumption	68
Government	11
Capital formation	20
Exports	16
Imports	−15
Total	100
Origin of GDP:	
Primary sector	
Industry	2
Construction	
Services	
Total	1

	1976	1977	1978	1979(E)	1980
GDP data:					
Nominal (billions of dollars)	$104.5	$115.8	$147.1	$159.5	
Growth rate (real GDP) (percent)	3.0	2.6	2.5	1.8	1.4
Fiscal and monetary data:					
Government deficit (millions of dollars)	$330	$720	$4,337	$5,297	
Deficit as percent of GDP	0.3	0.6	2.9	2.7	
Increase in money supply (percent)	20.7	19.4	16.4	18.3	
Savings ratio (percent)	10.3	9.1	12.9	11.1	11.0
Price data (percent):					
CPI	14.9	24.5	19.7	16.5	16.0
WPI	15.3	17.1	14.0	NA	
Labor data (percent):					
Wages (bill)	21.3	26.5	23.5	16.0	17.0
Unemployment rate	5.3	6.3	8.2	10.1	
Productivity	3.2	3.3	4.6	NA	

External debt (end of period) (millions of dollars):

	1976	1977	1978	1979(E)	1980
Total debt outstanding	$10,235	$12,959	$14,727	[1] $15,863	
Public	4,949	6,790	6,961	[1] 6,849	
Private	5,286	6,169	7,766	[1] 9,014	
Debt service ratio (public debt only)	16.7	12.7	8.3	NA	
Total debt/GDP (percent)	9.8	11.2	10.9	10.0	
Balance of payments:					
Exports, f.o.b	$8,989.0	$10,552.2	$13,527.0	$18,549.0	NA
Imports, f.o.b	−16,316.0	−16,624.8	−17,541.0	−23,019.0	NA
Trade balance	−7,327	−6,072.6	−4,015.0	−4,470.0	−$7,900.0
Tourism (net)	2,679	3,486	4,921	5,421	5,700
Net services	3,033	3,560	4,072	6,132	6,000
Transfers (net)	1,142	1,152	1,452	1,075	NA
Current account balance	−4,294	−2,512	1,509	1,662	−1,800
Capital account balance	2,492	2,393	1,984	510	2,500
Overall balance	−1,802	−118	3,493	2,172	700
Reserves (millions of dollars):					
Foreign exchange	4,704	5,977	10,112	13,224	
Gold (average London price)	1,781	2,133	2,806	9,862	

[1] September.

Exchange rate (Peseta/U.S. dollars): 1976=66.903; 1977=75.967; 1978=76.663; 1979=67.551.

Sources: IMF, IFS, OECD Survey, and Boletin Estavistico Banco de Espana.

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TRIBUTE TO HENRY EDWARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. HUBBARD) is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, at this time I would like to pay tribute to a dear friend of mine, the late Henry Edwards of Clinton, Ky.

Mr. Edwards died on August 1 at Clinton-Hickman County Hospital after a lengthy illness. He was the owner of Henry Edwards Trucking Co. and an active member of the American Legion, the Rotary Club, the Business Men's Association of Fulton, and the 40 and 8 Club.

In addition, Mr. Edwards had received numerous civic honors, including the title of Outstanding Citizen of Hickman County, conferred by the Jaycees.

Henry Edwards, a veteran who loved his country, was a strong supporter of my efforts as a Member of Congress. He and I often discussed issues before Congress and I benefited from his informed views.

Henry Edwards was indeed a helpful friend to me when I first was elected to Congress in 1974.

He is survived by his wife, Ruth, and their three children. Mrs. David "Kathy" Hazelwood of Fulton, Mrs. Tommy "Becky" Roberts and Henry Edwards II, both of whom live in Clinton. Also surviving Mr. Edwards are his sister, Mrs. Sam "Jane" Harper, Sr., of Clinton and three grandchildren.

INGALLS SHIPBUILDING COMPLETES SPRUANCE CLASS DESTROYERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 10 minutes.

● Mr. MONTGOMERY. Mr. Speaker, on Saturday, July 12, the 30th ship of the DD-963 *Spruance* destroyer class officially joined the Navy fleet in commissioning ceremonies at Ingalls Shipbuilding Division of Litton Industries in Pascagoula, Miss.

This was the final step in the original contract, awarded to Ingalls in June 1970, which required total responsibility of the shipyard for the design and construction of the ships.

Under the contract, the shipyard also had responsibility for the installation and testing of all electronic equipment and systems, responsibility for integrated logistics support (ILS) of the 30 ships, including the development of maintenance manuals, training material, and even the classroom and on-hands training of initial crews. The ILS requirement is not only to get the large, sophisticated ship to sea, but to know in advance what is required to keep it operationally at sea for a specified period, and to have the reliability and maintainability built into the ship at delivery for its assigned combatant mission.

Under the ILS concept, Ingalls began determining the requirements for operational readiness in the earliest stages of design. Spare parts and test equipment necessary to meet this requirement were aboard the ships when they left Ingalls following their commissioning ceremonies. These ships were in a more advanced state of operational readiness at commissioning than any other previous combat ships when delivered to the fleet.

The DD-963 destroyers are superb ships. At 563 feet long and displacing 7,800 tons, they are the largest destroyers operating with the Navy fleet. They are the first class of combat ships in the history of the Navy to be powered totally by gas turbine engines. The jet engines offer significant advantages over steam or diesel engines, including requiring less space and weight, offering almost instant starting, and tremendous acceleration. And most important, requiring significantly less shipboard maintenance. This feature, together with the automation designed into the ship by Ingalls provides a combat ready operational ship that requires a manning complement of only 250 officers and men. This is a very significant reduction when compared with ships of equivalent size and combatant capability. At a time when manpower is critical, and a larger percentage of our total defense budget is being allocated to personnel costs, the advantage of the automation designed and built into these ships is obvious.

With variable, reversible pitch propellers, the ships are also highly maneuverable and extremely quiet. They are ideally suited for their primary mission of antisubmarine warfare. But they are also capable of such missions as shore bombardment, support of amphibious assaults, surveillance and tracking of hostile surface ships and blockade duty. Their armament includes Harpoon surface-to-surface missiles and Sea Sparrow surface-to-air missiles, 5-inch guns, torpedoes, antisubmarine rockets, and two ASW helicopters.

This shipbuilding program has been one of the most successful in the history of the Navy. The ships, themselves, have won acclaim throughout the Navy, but particularly from the men who know them best, the captains and crews who sail them. The success of the *Spruance* program, however, is probably best demonstrated by the selection of the basic *Spruance* design to carry newer generations of weapon systems. The *Kidd*-class guided missile destroyers use the *Spruance* design hull gas turbine propulsion and auxiliary systems. And the design has also been selected to carry the Aegis weapons system, the Navy's newest and most capable. In all, 37 ships of three different classes have already been built or ordered using this same basic design, at a savings to the Navy and taxpayers of millions of dollars in design costs.

In addition to the quality of these destroyers, the production record at Ingalls for delivering the *Spruance*-class clearly demonstrates this shipyard's capability to produce large numbers of very sophisticated combat ships.

While delivering all 30 ships of the *Spruance*-class since 1975, Ingalls was simultaneously building and delivering all five ships of the LHA general purpose amphibious assault ship program. During the past 5 years, beginning in September of 1975, Ingalls delivered 35 ships to the Navy, an average of seven a year. At the peak of production, Ingalls produced ships at a sustained rate of one every 6 weeks, and for the first six months of 1980, delivered one ship every month.

This is a production rate unmatched by any shipyard in peacetime, and it indicates to me that we have workers in Mississippi and throughout the country with the skills and the will to produce the ships necessary to strengthen our Navy and all of our defense forces, if only we will give them direction to do so.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Clay (at the request of Mr. Wright), for today, on account of field hearings on H.R. 5040 and plant closing problems, Committee on Education and Labor, Subcommittee on Labor-Management Relations, Eugene, Oreg.

Mr. Drinan (at the request of Mr. Wright), for today, on account of a necessary absence.

Mr. Tauzin (at the request of Mr. Wright), for today, on account of a necessary absence.

Mr. Williams of Montana (at the request of Mr. Wright), for today, on account of official committee business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Grisham) to revise and extend their remarks and include extraneous material:)

Mr. Tauke, for 5 minutes, today.

Mr. Ashbrook, for 30 minutes, today.

Mr. Philip Crane, for 60 minutes, August 19.

Mr. Lujan, for 60 minutes, August 25.

Mr. Sensenbrenner, for 60 minutes, August 27.

(The following Members (at the request of Mr. Wolpe) to revise and extend their remarks and include extraneous material:)

Mr. Dingell, for 15 minutes, today.

Mr. Neal, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Hubbard, for 5 minutes, today.

Mr. Montgomery, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Seiberling, during debate on H.R. 7702, the California wilderness bill, he be entitled to include extraneous material.

Mr. Boner of Tennessee, to insert remarks during debate on H.R. 7139.

(The following Members (at the request of Mr. Grisham) and to include extraneous matter:)

Mr. Michel in two instances.

Mr. Ashbrook.

Mr. Kemp in two instances.

Mr. Courter.

Mr. Dornan.

Mr. Royer.

Mr. Derwinski.

Mr. Beard of Tennessee in two instances.

Mr. Solomon in two instances.

Mr. Lent.

Mr. Hyde.

Mr. Brown of Ohio.

Mr. Bereuter.

Mr. Green.

Mr. Snyder.

Mr. Davis of Michigan.

Mr. Collins of Texas in three instances.

Mr. Leach of Iowa.

(The following Members (at the request of Mr. Wolpe) and to include extraneous matter:)

Mr. Stark in five instances.

Mr. Solarz.

Mr. Luken.

Mr. de la Garza in 10 instances.

Mr. Holland in five instances.

Mr. Mazzoli.

Mr. Rosenthal in 10 instances.

Mrs. Bouquard in five minutes.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Cavanaugh in five instances.

Mr. Van Deerlin.

Mr. Steed.

Mr. Mottl.

Mr. Harris in two instances.

Mr. McHugh.

Mr. Pepper.

Mr. D'Amours.

Mr. Udall.

Mr. Eckhardt.

Mr. Santini.

Mr. Roybal.

Mr. Drinan in two instances.

Mr. Heftel.

Mr. Hubbard.

Mr. Guarini.

Mr. Johnson of California.

Mr. Lehman.

Mr. Nichols.

Mr. McDonald in five instances.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 273. An act for the relief of Maxine Ann Fricioni; to the Committee on the Judiciary;

S. 308. An act for the relief of Rosita N. Pacto; to the Committee on the Judiciary;

S. 453. An act for the relief of Joe L. Frazier of Elko, Nevada; to the Committee on the Judiciary;

S. 2041. An act for the relief of Michael Whitlock; to the Committee on the Judiciary, and

S.J. Res. 192. Joint resolution to designate September 21, 1980, as "National Ministers Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. NEDZI, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 827. An act to establish dispute resolution procedures to settle disputes between supervisors and the U.S. Postal Service;

H.R. 7102. An act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes, and

H.R. 7786. An act to amend Public Law 90–331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidate during the 120-day period before a general Presidential election.

BILLS PRESENTED TO THE PRESIDENT

Mr. NEDZI, from the Committee on House Administration, reported that that committee did on August 1, 1980 present to the President, for his approval, bills of the House of the following titles:

H.R. 827. An act to establish dispute resolution procedures to settle disputes between supervisors and the U.S. Postal Service; and

H.R. 6613. An act to amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

ADJOURNMENT

Mr. WOLPE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 41 minutes p.m.), pursuant to House Resolution 761, the House adjourned until tomorrow, Tuesday, August 19, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4175. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting the ninth annual report on the financial condition and results of the operations of the airport and airway trust fund, covering fiscal year 1979, previously submitted pursuant to section 208(e)(1) of the Airport and Airway Revenue Act of 1970, as amended, and referred to the Committee on Ways and Means; ordered to be printed (H. Doc. No. 96–354).

4980. Communication from the President of the United States, transmitting proposed supplemental appropriations language for fiscal year 1980 for the Merit Systems Protection Board (H. Doc. No. 96–355); to the Committee on Appropriations and ordered to be printed.

4981. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of August 1, 1980, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 96–356); to the Committee on Appropriations and ordered to be printed.

4982. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission, but for which Congress failed to pass a rescission bill; to the Committee on Appropriations.

4983. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of budget authority that was proposed for deferral, but for which

Congress has expressed its disapproval; to the Committee on Appropriations.

4984. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting selected acquisition reports and SAR summary tables for the quarter ended June 30, 1980, pursuant to section 811(a) of Publice Law 94–106; to the Committee on Armed Services.

4985. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 709 of title 32, United States Code, to eliminate the requirement that 30 days notice of termination be given a National Guard technician who serves under temporary appointment, or who voluntarily ceases to be a National Guard member; to the Committee on Armed Services.

4986. A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 511(d) of title 10, United States Code, to eliminate the requirement for all persons to perform an initial period of active duty of not less than 12 weeks and to extend to 270 days the period within which persons enlisted under this section shall commence an initial period of active duty for training, and for other purposes; to the Committee on Armed Services.

4987. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the laundry and dry cleaning activity at Fort Dix, N.J., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4988. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the lawn and vegetation activity at Lexington Blue Grass Depot, Lexington, Ky., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4989. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial services activity at Tobyhanna Army Depot, Tobyhanna, Pa., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4990. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial services activity at Lexington Blue Grass Depot, Lexington, Ky., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4991. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the refuse collection and disposal service activity at Lexington Blue Grass Depot, Lexington, Ky., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Publci Law 96–107; to the Committee on Armed Services.

4992. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the refuse collection services activity at the U.S. Military Academy, West Point, N.Y., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4993. A letter from the Acting Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice that a study has been conducted of the instrument flight simulator operations function at Vance Air Force Base, Okla., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4994. A letter from the Deputy Director, Legislative Liaison, Department of the Air Force, transmitting the semiannual report covering the period ended June 30, 1980, on Air Force experimental, developmental and research contracts of $50,000 or more, by company, pursuant to 10 USC 2357; to the Committee on Armed Services.

4995. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Air Force's proposed sale of certain defense equipment and services to the Netherlands (Transmittal No. 80–84), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4996. A letter from the Secretary of the Treasury, transmitting the annual report on the operation of the exchange stabilization fund for fiscal year 1979, pursuant to section 10(a) of the Gold Reserve Act of 1934, as amended; to the Committee on Banking, Finance and Urban Affairs.

4997. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with Iberduero, S. A. (Spain), pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4998. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report covering the quarter ended June 30, 1980, on the export expansion facility program, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

4999. A letter from the President, Government National Mortgage Association, transmitting the 1979 annual report of the Association; to the Committee on Banking, Finance, and Urban Affairs.

5000. A letter from the Mayor of the District of Columbia, transmitting an actuarial analysis of two emergency bills passed by the Council of the District of Columbia to provide for temporary early-out retirement for uniformed employees of the Metropolitan Police Department and Fire Department with 18 years or more of service and for teachers of the D.C. Public Schools System with 20 years of service regardless of age, pursuant to section 142(d)(1) of Public Law 96–122; to the Committee on the District of Columbia.

5001. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 3–229, "To establish a systematic process for the planned use, application, receipt, budget formulation, and expenditure by agencies of the District of Columbia, of all District revenue, irrespective of funding source; to provide procedures for certain borrowings; and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5002. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. 3–230, "To afford equitable relief to a tax exempt religious organization," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5003. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 2–231, "To extend the provisions of the Rental Housing Act of 1977, and to make certain technical amendments to the Rental Housing Conversion and Sale Act of 1980, and the Rental Housing Conversion Regulation Act of 1980," pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

5004. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 3–232, "To establish standards governing the use of security alarm systems in the District of Columbia, "pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5005. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 3–233, "To authorize the establishment of neighborhood municipal off-street parking facilities to encourage economic development and stabilization in neighborhoods," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5006. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 3–234, "To authorize the Mayor to set rates of pay for certain employees of the District of Columbia government, to grant to the Mayor the power to subpoena witnesses, to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 regarding furloughs, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5007. A letter from the Chairman, Council of the District of Columbia; transmitting D.C. Act 3–235, "To order the closing of a cul-de-sac at the end of 35th Street NE., in Square 4325 (S.O. 79–14) (Ward 5)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5008. A letter from the Chairman, Council of the District of Columbia; transmitting D.C. Act 3–236, "To order the closing of a portion of an east-west public alley abutting lots 35 and 812 in Square 221, bounded by H Street NW., Madison Place NW., Pennsylvania Avenue NW., and 15th Street NW. (S. O. 79–338 revised) (Ward 2)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5009. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 3–237, "To order the closing of the public alleys abutting on lots 817, 17, 819, 820, 13, 81, 80, 806, 821, and 815 in Square 50, bounded by 22d Street NW., 23d Street NW., and N Street NW., and to accept the dedication of land in Square 50 for alley purposes (S.O. 79–47–1 revised) (Ward 2)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

5010. A letter from the Secretary of Education, transmitting proposed final regulations to govern the program of research grants on knowledge use and school improvement, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5011. A letter from the Secretary of Education, transmitting proposed final regulations to govern the program of research grants on organizational processes in education, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5012. A letter from the Secretary of Education, transmitting proposed final regulations to govern nonprofit organization grants under the Emergency School Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5013. A letter from the Secretary of Education, transmitting proposed final regulations to govern the territorial teacher training program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

5014. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Allen C. Davis, Ambassador-designate to Guinea, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

5015. A letter from the Assistant Secretary of State for Congressional Relations; transmitting a report on political contributions made by Charles Meissner, rank of Ambassador while serving as Chief Negotiator for Economic Affairs, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

5016. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of an international agreement to which the American Institute in Taiwan is a party, pursuant to section 12(a) of Public Law 96–8; to the Committee on Foreign Affairs.

5017. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5018. A letter from the Acting Fiscal Assistant Secretary of the Treasury, transmitting a report on the inventory of nonpurchased foreign currencies as of March 31, 1980, pursuant to section 613(c) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

5019. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and services to the Netherlands (Transmittal No. 80–84), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

5020. A letter from the Chairman, Commission on Security and Cooperation in Europe, transmitting a report on implementation of the Final Act of the Conference on Security and Cooperation in Europe 5 years after the signing of the Helsinki Agreement, pursuant to section 6 of Public Law 94–304; to the Committee on Foreign Affairs.

5021. A letter from the President of the United States, transmitting the fifth annual report on executive branch activities implementing the Privacy Act of 1974, pursuant to 5 USC 552a(p); to the Committee on Government Operations.

5022. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed change in an existing records system, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

5023. A letter from the Assistant Secretary of Transportation for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5024. A letter from the Director, Selective Service System, transmitting notice of a proposed new records system, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

5025. A letter from the Supervisor of Benefits, Farm Credit Banks of Spokane, transmitting the annual report on the banks' pension plans for calendar year 1979, pursuant to 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541); to the Committee on Government Operations.

5026. A letter from the Secretary of the Interior, transmitting the annual report covering calendar year 1979 on implementation of the Alaska Native Claims Settlement Act, pursuant to section 23 of the act; to the Committee on Interior and Insular Affairs.

5027. A letter from the Acting Secretary of the Interior, transmitting a report on operations during water year 1979, and a projected plan of operation for water year 1980 for the reservoirs in the Colorado River Basin constructed under the authority of the Colorado River Storage Project Act and the Boulder Canyon Project Act, pursuant to section 602(b) of Public Law 90–537; to the Committee on Interior and Insular Affairs.

5028. A letter from the Acting Assistant Secretary of the Interior, transmitting notice of the proposed modification of stage I of the Grand Valley system, Colorado, pursuant to section 208 of the Colorado River Basin Salinity Control Act (Public Law 93–320); to the Committee on Interior and Insular Affairs.

5029. A letter from the Acting Assistant Secretary of the Interior, transmitting notice of the deferral of payment of the annual construction charge installment due December 15, 1979, for P.P.R.T. Water System, Inc., near Carey, Idaho, pursuant to section 17(b) of the Reclamation Project Act of 1939, as amended; to the Committee on Interior and Insular Affairs.

5030. A letter from the Secretary, Interstate Commerce Commission, transmitting amended notice of a delay in the final decision of the Commission on Docket No. 37322, *Coal, Belle Ayr and Eagle Junction, Wyoming, to Council Bluffs, Iowa*; to the Committee on Interstate and Foreign Commerce.

5031. A letter from the Chairman, Task Force on Environmental Cancer and Heart and Lung Disease, transmitting the third annual report of the Task Force, pursuant to section 402 of Public Law 95–95; to the Committee on Interstate and Foreign Commerce.

5032. A letter from the President, U.S. Railway Association, transmitting a report covering the quarter ended June 30, 1980, on the status of Rail Act valuation proceedings, pursuant to section 202(e)(3) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

5033. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of May 1980 on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

5034. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the report of the Corporation's Employee Compensation and Incentive Commission, pursuant to section 808(b) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

5035. A letter from the Acting Attorney General, transmitting the annual report for calendar year 1979 on administration of the Foreign Agents Registration Act, pursuant to section 11 of the act; to the Committee on the Judiciary.

5036. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

5037. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

5038. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

5039. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority of section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

5040. A letter from the President, Legal Services Corporation, transmitting a report on the study of methods of delivering civil legal assistance to low-income persons, pursuant to section 1007(g) of the Economic Opportunity Act of 1964, as amended (88 Stat. 383); to the Committee on the Judiciary.

5041. A letter from the Chairwoman, Merit Systems Protection Board, transmitting the first annual report of the Board, covering calendar year 1979, pursuant to 5 USC 1209(b); to the Committee on Post Office and Civil Service.

5042. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Texas coast hurricane study, pursuant to Public Law 71, 84th Congress; to the Committee on Public Works and Transportation.

5043. A letter from the Administrator of General Services, transmitting the 1979 status report on public building projects authorized for construction, alteration and lease, pursuant to section 11(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

5044. A letter from the Administrator of General Services, transmitting a report on the feasibility and need for construction of a Federal building in Birmingham, Ala., requested by a resolution of the Senate Committee on Environment and Public Works adopted September 6, 1977; to the Committee on Public Works and Transportation.

5045. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1200 Wilson Boulevard, Arlington, Va.; to the Committee on Public Works and Transportation.

5046. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of certain research and development funds for design and modifications to launch complex 17B at Kennedy Space Center, pursuant to section 3 of Public Law 96–48; to the Committee on Science and Technology.

5047. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on certain property to be transferred to the Republic of Panama, pursuant to section 1504(b) of the Panama Canal Act of 1979; jointly, to the Committees on Foreign Affairs, and Merchant Marine and Fisheries.

5048. A letter from the Comptroller General of the United States, transmitting a report of alternatives to reduce dairy surpluses (CED–80–88, July 21, 1980); jointly to the Committees on Government Operations and Agriculture.

5049. A letter from the Comptroller General of the United States, transmitting a report on the lack of Defense accounting controls over money in Government material furnished to contractors (FGMSD–80–67, August 7, 1980); jointly, to the Committees on Government Operations and Armed Services.

5050. A letter from the Comptroller General of the United States, transmitting a report concerning significant savings possible through more efficient depot maintenance of Army combat vehicles (LCD–80–82, August 7, 1980); jointly to the Committees on Government Operations and Armed Services.

5051. A letter from the Comptroller General of the United States, transmitting a report recommending the Board of Governors of the Federal Reserve System establish a permanent, independent internal audit group (GGD–80–59, August 8, 1980); jointly to the Committees on Government Operations and Banking, Finance and Urban Affairs.

5052. A letter from the Comptroller General of the United States, transmitting a report on liquefying coal for future energy needs (EMD–80–84, August 12, 1980); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

5053. A letter from the Comptroller General of the United States, transmitting a report on the need for more effective regulation of direct additives to food (HRD-80–90, August 14, 1980); jointly to the Committees on Government Operations and Interstate and Foreign Commerce.

5054. A letter from the Comptroller General of the United States, transmitting a report on changing the Federal Bureau of Investigation emphasis on interstate property crimes (GGD–80–43(A), August 14, 1980); jointly, to the Committees on Government Operations and the Judiciary.

5055. A letter from the Comptroller General of the United States, transmitting a report concerning Government agencies needing effective planning to curb unnecessary year-end spending (PSAD–80–67, July 28, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

5056. A letter from the Comptroller General of the United States, transmitting the triennial assessment of the Tennessee Valley Authority, covering fiscal years 1977–1979, pursuant to section 106 of the Government Corporations, Control Act (H. Doc. No. 96–357); jointly, to the Committees on Government Operations and Public Works and Transportation, and ordered to be printed.

5057. A letter from the Comptroller General of the United States, transmitting a report by the National Aeronautics and Space Administration to provide new technology for improving aircraft fuel efficiency (PSAD–80–50, July 28, 1980); jointly, to the Committees on Government Operations and Science and Technology.

5058. A letter from the Comptroller General of the United States, transmitting a report to the lump sum death benefits paid to survivors by the Social Security Administration (HRD–80–87, August 8, 1980); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on July 31, 1980, the following reports were filed on August 8, 1980*]

Mr. ASHLEY: Committee on Merchant Marine and Fisheries. H.R. 5867. A bill to authorize the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina (Rept. No. 96–1220). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHLEY: Committee on Merchant Marine and Fisheries. S. 1442. An act to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges; with amendments (Rept. No. 96–1221). Referred to the Committee of the Whole House.

[*Submitted August 18, 1980*]

Mr. BENNETT: Committee of Conference. Conference Report on H.R. 6974. (Rept. No. 96–1222). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7702. A bill to designate certain public lands in the State of California as wilderness, and for other purposes with amendment (Rept. No. 96–1223). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASHLEY: Committee on Merchant Marine and Fisheries. H.R. 6665. A bill to implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes with amendment (Rept. No. 96–1224). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 5856. A bill to amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel (Rept. No. 90–1225). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 7694. A bill to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam (Rept. No. 96–1226, Part I). And ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report on allocation of budget totals to subcommittees under second concurrent budget resolution revised for fiscal year 1980 and under first concurrent budget resolution for fiscal year 1981 (Rept. No. 96–1227). Referred to the Committee of the Whole House on the State of the Union.

[*Omitted from the Record of August 1, 1980*]

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BOLAND: Select Committee on Intelligence. H.R. 5615. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources; with amendment, referred to the Committee on the Judiciary for a period ending not later than August 26, 1980, for consideration of such provisions of the bill and amendment as fall within its jurisdiction under clause 1(m) rule X (Rept. No. 96–1219, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 7927. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 7928. A bill to establish temporary provisions governing the day and times for the elections of Senators, Members of the House of Representatives, and electors of the President and Vice President; to the Committee on House Administration.

By Mr. BROWN of Ohio:

H.R. 7929. A bill to amend title II of the Social Security Act to provide for a phasing out of the application of the earnings test in the case of individuals age 65 or over; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 7930. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. PORTER, Mr. OTTINGER, and Mr. PICKLE):

H.R. 7931. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of educational filmstrips; to the Committee on Ways and Means.

By Mr. DOWNEY:

H.R. 7932. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount certain retirement benefits, and to prohibit any reduction in unemployment compensation because of the receipt of social security or railroad retirement benefits; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 7933. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980, to provide for the cancellation of certain education loans in the case of individuals who perform service in the Selected Reserve of the Ready Reserve of an Armed Force, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GEPHARDT:

H.R. 7934. A bill to provide that an advisory referendum be conducted as part of each general election to give voters an opportunity to express their views on certain issues of national importance; jointly, to the Committees on House Administration and Rules.

By Mr. GIBBONS:

H.R. 7935. A bill to amend the Internal Revenue Code of 1954 to provide that married couples may file a combined return to which the unmarried rates apply; to the Committee on Ways and Means.

By Mr. McDONALD:

H.R. 7936. A bill to exempt certain blood fractions from the Federal Food Drug and Cosmetic Act for 5 years; to the Committee on Interstate and Foreign Commerce.

By Mr. OTTINGER:

H.R. 7937. A bill to amend the Ethics in Government Act of 1978 to require reporting of the exact value of items required to be disclosed; jointly, to the Committees on Armed Services, the Judiciary, Post Office and Civil Service, and Rules.

By Mr. SANTINI:

H.R. 7938. A bill to designate the hospital known as the Veterans Administration Medical Center, located in Reno, Nev., as the "Ioannis A. Lougaris Veterans Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SCHEUER (for himself, Mr. STAGGERS, Mr. PREYER, Mr. GOLDWATER, Mr. OTTINGER, Mr. ECKHARDT, Mr. Rinaldo, Mr. Reuss, Mr. Stark, Mr. McKinney, Mr. LaFalce, and Mr. Cavanaugh):

H.R. 7939. A bill to amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission; Jointly, to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce.

By Mr. SNYDER:

H.R. 7940. A bill to establish the Falls of the Ohio National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. UDALL (for himself, Mr. Santini, Mr. Marriott, Mr. Cheney, Mr. McKay, and Mr. Kogovsek):

H.R. 7941. A bill to amend section 21 of the Act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Interior and Insular Affairs.

By Mr. VANIK (designated by the majority leader) for himself and Mr. Frenzel (designated by the minority leader) (both by request):

H.R. 7942. A bill to approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes; to the Committee on Ways and Means.

By Mr. ADDABBO (for himself, Mr. Annunzio, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Chappell, Mrs. Chisholm, Mr. Clay, Mr. Corrada, Mr. Dodd, Mr. Duncan of Oregon, Mr. Fazio, Mr. Fish, Mr. Fisher, Mr. Giaimo, Mr. Gradison, Mr. Hansen, Mr. Hefner, Mr. Howard, Mr. Hubbard, Mr. Rosenthal, Mr. Scheuer, Mr. Kemp, Mr. LaFalce, Mr. Lederer, Mr. Lloyd, Mr. McCormack, Mr. McEwen, Mr. Matsui, Mr. Mavroules, Mr. Mitchell of New York, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Myers of Pennsylvania, Mr. Oberstar, Mr. O'Brien, Mr. Pepper, Mr. Pickle, Mr. Price, Mr. Reuss, Mr. Richmond, Mr. Rodino, Mr. Solarz, Mr. Walgren, Mr. Wolff, Mr. Won Pat, Mr. Zeferetti, Mr. Sebelius, Mr. Steed, Mr. Stewart, Mr. Traxler, Mr. Weaver, Mr. Young of Alaska, Mr. Benjamin, Mr. Kramer, Mr. Lagomarsino, Mr. Mazzoli, Mr. Roe, Mr. Williams of Ohio, Mr. Corman, Mr. Derwinski, Mr. Horton, Mr. Peyser, Mrs. Fenwick, Mr. Kostmayer, Mr. McClory, Mr. Guyer, Mr. Coelho, Mr. Conte, Mr. Downey, Ms. Ferraro, Mr. Bingham, Mr. Minish, Mr. Rinaldo, and Mr. Moorhead of California)

H.J. Res. 594. Joint resolution to authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day; to the Committee on Post Office and Civil Service.

By Mr. LUJAN:

H.J. Res. 595. Joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to propose popular referenda as the mode by which the several States may ratify an amendment to the Constitution; to the Committee on the Judiciary.

By Mr. COLLINS of Texas:

H. Con. Res. 398. Concurrent resolution expressing the sense of the Congress that legislation providing for withholding of Federal income tax from dividends and interest will not be enacted; to the Committee on Ways and Means.

By Mr. OTTINGER:

H. Con. Res. 399. Concurrent resolution expressing the sense of the Congress with respect to persons fleeing Eastern European countries; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

519. By the SPEAKER: Memorial of the Legislature of the State of California, relative to educational expenses; to the Committee on Education and Labor.

520. Also, memorial of the Congress of the Federated States of Micronesia, relative to financial aid; to the Committee on Interior and Insular Affairs.

521. Also, memorial of the Senate of the State of Ohio, relative to Conrail; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN of Tenn.:

H.R. 7943. A bill for the relief of Dean Alan Peden; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 7944. A bill for the relief of Eileen Palmer; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 503: Mr. Synar.

H.R. 1297: Mr. Ireland.

H.R. 1918: Mr. Bafalis, Mr. Ertel, and Mr. Gilman.

H.R. 2056: Mr. Marriott.

H.R. 2264: Mr. Blanchard and Mr. Lederer.

H.R. 2443: Mr. Edgar.

H.R. 3357: Mr. Ambro.

H.R. 3677: Mr. Coelho.

H.R. 4358: Mr. Bailey, Mr. Barnes, Mr. Coelho, Mr. Coughlin, Mr. Forsythe, Mr. Goodling, Mr. Hyde, Mr. Lederer, Mr. Leach of Iowa, Mr. Murphy of Illinois, Mr. Stark, Mr. Harris, Mr. Edgar, Mr. Murtha, Mr. Stanton, Mr. Howard, Mr. Trible, Mr. Thompson, and Mr. Lehman.

H.R. 4646: Mr. Markey.

H.R. 4796: Mr. Harris.

H.R. 5060: Mr. Chappell.

H.R. 5099: Mr. John L. Burton, Mrs. Chisholm, Mr. Mottl, Mr. Stangeland, Mr. Ritter, Mr. Nowak, Mr. Weaver, Mr. Traxler, Mr. Barnes, Mr. Guyer, Mrs. Oakar, Mr. Myers of Pennsylvania, Mr. Van Deerlin, Mr. Williams of Ohio, Mr. Vander Jagt, and Mr. Albosta.

H.R. 5225: Mr. Jenrette and Mr. Quayle.

H.R. 5947: Mr. Jacobs, Mr. Stanton, Mr. Campbell, and Mr. Hance.

H.R. 6402: Mr. Erdahl and Mr. Forsythe.

H.R. 6750: Mr. Gibbons.

H.R. 6895: Mr. Murphy of Pennsylvania.

H.R. 7075: Mr. Wampler.

H.R. 7089: Mr. Markey, Mr. Drinan, Mr. Yatron, Mr. Weiss, Mr. Guarini, Mr. Corman, Mr. Traxler, Mr. Simon, Mr. Evans of the Virgin Islands, Mr. Mineta, Mr. Moakley, and Mr. Howard.

H.R. 7287: Mrs. Fenwick, Mr. Young of Missouri, Mr. Frost, Mr. Stark, Mr. Quayle, and Mr. Thompson.

H.R. 7342: Mr. Rousselot, Mr. Ritter, and Mr. Gingrich.

H.R. 7505: Mr. Lederer, Mr. Scheuer, and Mr. Seiberling.

H.R. 7548: Mr. Conte, Mr. Hubbard, Mr. Leach of Louisiana, Mr. Lundine, and Mr. Trible.

H.R. 7562: Mrs. Bouquard, Mr. Winn, Mr. Pritchard, Mr. Barnes, Mr. Leach of Louisiana and Mr. Price.

H.R. 7632: Mr. Jeffries.

H.R. 7702: Mr. Udall, Mr. Beilenson, Mr. John L. Burton, Mr. Coelho, Mr. Dellums, Mr. Dixon, Mr. Edwards of California, Mr. Miller of California, Mr. Stark, Mr. Waxman, Mr. Kastenmeier, Mr. Bingham, Mr. Weaver, Mr. Eckhardt, Mr. Won Pat, Mr. Vento, Mr. Corrada, Mr. Kostmayer, Mr. Markey, and Mr. Murphy of Pennsylvania.

H.R. 7770: Mr. Bailey, Mr. Edgar, and Mr. Lederer.

H.R. 7773: Mr. Hance, Mr. Winn, Mr. English, Mr. Corcoran, Mr. Sebelius, Mr. Bob Wilson, Mr. Van Deerlin, Mr. Dornan, and Mr. Hightower.

H.R. 7793: Mr. Perkins.

H.R. 7795: Mr. Andrews of North Dakota, Mr. Burgener, Mr. Robert W. Daniel, Jr., Mr. Dougherty, Mr. Forsythe, Mr. Hansen, Mr. Hughes, Mr. Kindness, Mr. Lagomarsino, Mr. McDade, Mr. Murphy of Illinois, Mr. Ottinger, Mr. Patten, Mr. Robinson, Mr. Royer, Mr. Solomon, Mr. Stack, Mr. Stangeland, and Mr. Walker.

H.R. 7824: Mr. Sebelius, Mr. Alexander, Mr. Whitten, Mr. Collins of Texas, Mr. Thomas, Mr. Hightower, Mr. Butler, Mr. Gramm, Mr. Hance, Mr. Wampler, Mr. Hinson, Mr. English, Mr. Stenholm, Mr. Paul, Mr. Fish, Mr. Fazio, Mr. Harsha, Mr. Leach of Louisiana, Mr. Wylie, Mr. Watkins, Mr. Montgomery, Mr. Hall of Texas, Mr. Regula, Mr. Hughes, Mr. Whitley, Mr. Anthony, Mr. Evans of Georgia, Mr. Ashbrook, Mr. Robert W. Daniel, Jr., Mr. Burlison, Mr. Hefner, Mr. Frenzel, Mr. Glickman, Mr. Stanton, Mr. Murphy of Illinois, Mr. Andrews of North Dakota, Mr. Railsback, Mr. Kelly, Mr. Vander Jagt, and Mr. Jones of Tennessee.

H.R. 7839: Mr. Andrews of North Dakota, Mr. Burgener, Mr. Robert W. Daniel, Jr., Mr. Dougherty, Mr. Forsythe, Mr. Hansen, Mr. Hughes, Mr. Kindness, Mr. Lagomarsino, Mr. McDade, Mr. Murphy of Illinois, Mr. Ottinger, Mr. Patten, Mr. Robinson, Mr. Royer, Mr. Solomon, Mr. Stack, Mr. Stangeland, and Mr. Walker.

H.R. 7846: Mr. Heftel and Mr. Rousselot.

H.R. 7860: Mr. Frenzel, Mr. Lagomarsino, Mr. Collins of Texas, Mr. Derwinski, Mr. Kindness, and Mr. Forsythe.

H.R. 7865: Mr. Carney, Mr. Lloyd, Mrs. Bouquard, Mr. Flippo, Mr. Glickman, Mr. Royer, Mr. Wolpe, Mr. Pease, Mr. Ritter, Mr. Walker, Mr. Winn, Mr. Kramer, Mr. Goldwater, Mr. Anthony, Mr. Walgren, Mr. Young of Missouri, Mr. Dornan, Mr. Forsythe, Mr. Blanchard, Mr. Watkins, Mr. Hance, and Mr. Roe.

H. J. Res. 56: Mr. Sawyer.

H.J. Res. 216: Mr. Cheney and Mr. Fazio.

H.J. Res. 379: Mr. Akaka, Mr. Alexander, Mr. Anderson of Illinois, Mr. Andrews of North Carolina, Mr. Baldus, Mr. Barnard, Mr. Beard of Rhode Island, Mr. Bingham, Mr. Boggs, Mrs. Bouquard, Mr. Breaux, Mr. Burgener, Mr. John L. Burton, Mr. Campbell, Mr. Chappell, Mr. Cheney, Mr. Corcoran, Mr. Corrada, Mr. Daschle, Mr. de la Garza, Mr. Dellums, Mr. Dicks, Mr. Dixon, Mr. Donnelly, Mr. Dougherty, Mr. Fascell, Mr. Fauntroy, Mrs. Fenwick, Ms. Ferraro, Mr. Fish, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Garcia, Mr. Gingrich, Mr. Goodling, Mr. Guyer, Mr. Hagedorn, Mr. Hamilton, Mrs. Heckler, Mr. Heftel, Mr. Hinson, Mr. Holland, Mr. Hollenbeck, Mr. Hopkins, Mr. Howard, Mr. Hughes, Mr. Jeffords, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Kastenmeier, Mr. Kazen, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lehman, Mr. Lloyd, Mr. Loeffler, Mr. Long of Louisiana, Mr. Long of Maryland, Mr. Lott, Mr. Lowry, Mr. Lundine, Mr. McDade, Mr. Madigan, Mr. Maguire, Mr. Markey, Mr. Mathis, Mr. Matsui, Mr. Mattox, Mr. Mavroules, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moffett, Mr. Moorhead of Pennsylvania, Mr. Musto, Mr. Myers of Pennsylvania, Mr. Natcher, Mr. Neal, Mr. Nedzi, Mr. Nolan, Mr. Nowak, Mr. O'Brien, Mr. Ottinger, Mr.

Panetta, Mr. Patterson, Mr. Pickle, Mr. Porter, Mr. Pritchard, Mr. Quillen, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Rhodes, Mr. Robinson, Mr. Rodino, Mr. Rosenthal, Mr. Rousselot, Mr. Roybal, Mr. St Germain, Mr. Sebelius, Mr. Sharp, Mr. Skelton, Mr. Smith of Iowa, Mr. Smith of Nebraska, Mrs. Snowe, Mrs. Spellman, Mr. Stack, Mr. Staggers, Mr. Stark, Mr. Stewart, Mr. Stratton, Mr. Tauzin, Mr. Traxler, Mr. Van Deerlin, Mr. Vander Jagt, Mr. Volkmer, Mr. Walgren, Mr. Wampler, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Williams of Ohio, Mr. Charles Wilson of Texas, Mr. Wright, Mr. Wyatt, Mr. Yates, Mr. Young of Florida, and Mr. Young of Alaska.

H.J. Res. 465: Mr. Dougherty.

H.J. Res. 488: Mr. Bowen.

H.J. Res. 511: Mr. Patterson, Mr. Bedell, Mr. Robert W. Daniel, Jr., Mr. Moorhead of California, Mr. Dougherty, Mr. Murphy of New York, Mr. Jenrette, Mr. Wampler, Mr. Mattox, Mr. Brown of Ohio, Mr. Won Pat, Mr. Murphy of Illinois, Mr. Hubbard, Mr. Robinson, Mr. Fisher, Mr. Gonzalez, and Mr. Florio.

H.J. Res. 560: Mr. Corrada and Mr. Hyde.

H. Con. Res. 334: Mr. Lederer and Mrs. Chisholm.

H. Con. Res. 344: Mr. Kastenmeier, Mr. Dannemeyer, Mr. Bowen, Mr. John L. Burton, and Mr. Gringrich.

H. Con. Res. 385: Mr. Forsythe, Mr. Porter, Mr. Maguire, Mr. Pepper, and Mr. Wolpe.

H. Con. Res. 393: Mr. Anthony, Mr. Huckaby, Mr. Coelho, Mr. Nolan, and Mr. Symms.

PETITIONS, ETC.

Under clause 1 of rule XXII,

406. The SPEAKER presented a petition of the City Council, New York, N.Y., relative to Interferon; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6417

By Mr. CAVANAUGH:

—Page 24, strike out line 19 and all that follows through line 13 on page 28 and insert in lieu thereof the following:

Sec. 223. Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) (1) Any State, any recipient of financial assistance under section 3, or any recipient designated to receive or dispense funds under section 5 of this Act may submit for approval by the Secretary a program respecting transportation of handicapped persons which has been approved by the metropolitan planning organization after considering and soliciting the views of the community of handicapped persons for whom such transportation shall be provided and other local representatives of the handicapped community. The Secretary, in consultation with the Architectural and Transportation Barriers Compliance Board, shall approve any program (including a program providing transportation of handicapped persons through facilities other than facilities used by the State or recipient to provide transportation to the general public) submitted under this subsection which the Secretary determines meets the requirements of this subsection and other applicable law.

"(2) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection which—

"(A) provides that the State or recipient will provide transportation to handicapped persons in a manner which (i) will provide service no less beneficial for handicapped persons than that which would be required if such application had not been made, and (ii) will—

"(I) provide transportation services throughout the State's or recipient's normal service area at least for the same periods for which the State or recipient provides mass transporation to the general public.

"(II) provide transportation services for handicapped persons on a priority basis;

"(III) provide for no prior registration or approval of handicapped persons who wish to utilize the service;

"(IV) provide for fare rates which are comparable to those of the transit system serving the general public;

"(V) provide the shortest waiting periods possible and, if transportation of handicapped persons is to be provided upon request, provide transportation for a handicapped person not later than 24 hours after receiving the request of such handicapped person; and

"(VI) provide that there will be no restrictions as to the purpose of the trip as desired by the handicapped person; and

"(B) (i) provides, in the case of an urbanized area with a population of 50,000 to 750,000 that at least 50 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons; or

"(ii) provides, in the case of an urbanized area with a population in excess of 750,000, that 100 per centum of the buses purchased are fully accessible to handicapped persons unless the Secretary determines that a different percentage is consistent with the area's program respecting transportation of handicapped persons.

"(3) The Secretary shall approve a program respecting transportation of handicapped persons under this subsection only after soliciting and considering the views of handicapped persons for whom such transportation will be provided and other local representatives of the handicapped community.

"(4) A State or recipient may amend a program approved under this section if (A) the Secretary, in consultation with the Architectural and Transportation Barriers Compliance Board, determines that the program, as amended, complies with this subsection, and (B) such amendment was approved by the metropolitan planning organization after soliciting and considering the views of the community of handicapped persons for whom the transportation is being provided and other representatives of the handicapped community.

"(5) Notwithstanding any other provision of law or any regulation, if a State or recipient has a program approved by the Secretary under this subsection, such State or recipient shall be deemed to satisfy the requirements of this section and any other provisions of Federal law relating to discrimination against handicapped persons to the extent that such provision of law relates to transportation of handicapped persons, except that nothing in this paragraph shall allow discrimination in use of facilities or equipment by handicapped persons able to use such facilities or equipment.

"(6) Each State and recipient for which a program respecting transportation of handicapped persons is approved under this subsection shall annually certify to the Secretary that such State or recipient is complying with such program.

"(7) (A) If the Secretary determines, after notice and an opportunity for a hearing, that a State or recipient with an approved program respecting transportation of handicapped persons is not providing such transportation in accordance with its program, the Secretary shall issue an order requiring such State or recipient to comply with its program.

"(B) If, after the 90th day following the date of issuance of an order under subparagraph (A) of this paragraph, the Secretary determines, after notice and an opportunity for an agency hearing on the record, that the State or recipient is not providing transportation to handicapped persons in accordance with its approved program, the Secretary may withhold a portion not to exceed 25 per centum of Federal funds available to the State or to the recipient under section 3 or 5 of this Act but this shall not apply to funds provided for transportation for the handicapped. If the Secretary later determines that the State or recipient is providing transportation to handicapped persons in accordance with such program, the Secretary may resume making available such Federal funds to the State or recipient.

"(8) This subsection does not apply to any new fixed rail system for the mass transportation of the general public which is constructed after January 1, 1970, nor to the major rehabilitation or extension of any fixed rail system in existence on December 31, 1969.

"(9) Assistance under this Act used to provide transportation for handicapped persons shall not be used in substitution for other Federal funds used to provide transportation for handicapped persons."

H.R. 6711

By Mr. MILLER of California:

—Page 60, line 2, insert "including that of teenage parents" immediately after "student dropout rate".

Page 71, after line 9, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(9) special programs and services to address the needs of and to retain teenage parents.

—Page 60, line 4, strike out "strengthening the transition to work", and insert in lieu thereof the following: "increasing the percentage of youth who seek and secure employment after leaving school,".

—Page 61, after line 14, add the following new paragraph:

(I) the school will coordinate and utilize the methods described under (2) to increase the likelihood that youth participating in programs funded under this Act will secure and maintain employment after leaving school.

—Page 61, after line 14, add the following new subsection:

(3) the estimated cost of effectively implementing the three-year plan required under subsection (a), as described by (b) (1).

—Page 62, line 19, insert "(1)" immediately before "The State".

Page 63, after line 5, insert the following new subsection:

(2) States which have previously established minimum standards in the form of minimum competency, proficiency, or basic skills standards, and which have met the requirements of subsection (1) above are exempt from the requirements of subsection (d).

—Page 63, line 21, after " . . . under this part." insert the following new sentence: "Such method prescribed by the Secretary shall give the greatest weight to those schools which can provide statistical or other documentary evidence demonstrating that large numbers of youth enrolled in the school in each of the previous two years have been unemployed for six or more consecutive months after leaving school. Youth who have participated in post-secondary education or training programs shall not be counted.".

—Page 66, line 11, insert "(1)" immediately before "During"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19 and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii) and (iii), respectively; and after line 23 insert the following new paragraph:

(2) During any fiscal year for which appropriations are made for purposes of this

title, a local educational agency shall use not less than 45 percent of the funds received by it under this part for that year for programs and services for students in grades seven through nine.

Page 86, line 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than 45 percent of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

—Page 66, line 11, insert "(1)" immediately before "During"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19, and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii), and (iii), respectively; and after line 23 insert the following new paragraph:

(2) During any fiscal year for which appropriations are made for purposes of this title, a local educational agency shall use not less than 40 percent of the funds received by it under this part for that year for programs and services for students in grades seven through nine.

Page 86, lien 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than 40 percent of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

—Page 65, strike out lines 8 through 15.

—Page 67, insert after lien 21 the following new sentence: "The council shall establish by-laws regarding its operation.".

—Page 66, line 11, insert "(1)" immediately before During"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19, and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii), and (iii), respectively; and after line 23 insert the following new paragraph:

(2) During any fiscal year for which appropriations are made for purposes of this title, a local educational agency shall use not less than 35 percent of the funds received by it under this part for that year for programs and services for students in grades seven through nine.

Page 86, line 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than 35 percent of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

—Page 68, line 15, strike "make every effort possible to".

—Page 68, after line 7, insert the following: "The chief administrator of the school shall provide to the school site council and the local education agency, upon request, a written description of the criteria and process for selecting students to participate in programs funded under this part.".

—Page 69, line 12, insert new sentence after ". . . section 213(b)(1)": "The principal criterion for determining such progress shall be the percentage of students who have participated in programs funded under this Act who, within four months after leaving school, seek and secure employment, or participate in a postsecondary education or training program, for nine or more consecutive months. Additional primary indicators of progress shall be the percentages of such youth who, within four months after leaving school, are earning the federally mandated minimum wage, who are not directly or indirectly receiving any form of public assistance, and who are full-time or part-time participants in any postsecondary education or training program.".

—Page 70, line 17, strike "schoolwide".

—Page 71, line 22, insert "not more than 15" in lieu of "not less than 25".

—Page 86, line 20, insert "not more than 15"' in lieu of "not less than 25".

—Page 71, line 22, insert "not more than 20" in lieu of "not less than 25".

—Page 86, line 20, insert "not more than 20" in lieu of "not less than 25".

—Page 72, line 10, strike "provides assurances that", and insert "describes how" or "provides a description of how".

—Page 75–line 15, insert after ". . . federally required": "and State mandated".

Page 75, line 25, insert after ". . . under Federal": "and State".

H.R. 7262

By Mr. AuCOIN:

—Page 63, line 12, add the following:

Sec. 212. Section 234(c) of the National Housing Act is amended by adding the following after the word "Act" in the first sentence thereof: "or the project was approved for guarantee insurance or direct loan under chapter 37 of title 38, United States Code.".

By Mr. BROWN of Ohio:

—Page 82, line 24, insert "(a)" after "Sec. 315.".

Page 83, strike out line 4 and insert in lieu thereof the following: "by April 1, 1983".

Page 83, after line 4, insert the following new subsections:

(b) Section 304(a)(1) of such Act is amended by inserting the following new sentences after the first sentence thereof: 'Interim performance standards for new commercial buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least an analysis of the effect such standards would have on the design, construction costs, and the estimated total energy savings (including the types of energy) to be realized from utilizing such energy standards in commercial buildings."

(c) Section 304(a)(2) of such Act is amended by inserting the following new sentences after the first sentence thereof: "Interim performance standards for new residential buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least (A) an analysis of the impact of such standards on builders (especially on small builders) and on the cost of constructing such buildings and the impact of such cost on the ability of low- and moderate-income persons to purchase or rent such buildings, and (B) an analysis of the estimated total energy savings (including the types of energy) to be realized from utilizing such standards in residential buildings."

(d) Section 306 of such Act is amended by striking out "final performance standards" and all that follows and inserting in lieu thereof the following: "interim performance standards promulgated pursuant to section 304(a). Upon the effective date of the final performance standards promulgated pursuant to such section, the head of each such agency shall adopt such procedures as may be necessary to assure that construction of any Federal building meets or exceeds the applicable final performance standards."

(e) Section 526 of the National Housing Act is amended by striking out ", until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective" in the second sentence.

By Mr. LUNDINE:

—On page 10, strike out lines 1 through 7 and insert the following:

(b) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $275,000,000 for the fiscal year 1981 shall be added to the amounts available for allocation under section 106 and shall not be subject to the provisions of section 107. Eighty percent of such $275,000,000 shall be available for allocation under section 106(c) and the remaining 20 percent shall be available for allocation under section 106(e)."

(c) Section 106(e) of such Act, as redesignated by section 111(d) of this Act, is amended by inserting after "20 per centum" the following: "of such amount and any amounts added in accordance with the provisions of section 103(a)(2)".

On page 10, line 8, strike out "(c)" the first time it appears and insert in lieu thereof "(d)".

By Mr. VENTO:

—Page 63, after line 12, insert the following:

RESTRICTION ON USE OF ASSISTED HOUSING

Sec. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any nonimmigrant student-alien.

(b) For purposes of this section—

(1) the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 203 of this Act; and

(2) the term "nonimmigrant student-alien" means (A) an alien having a residence in a foreign country which he or she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States temporarily and solely for purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (B) the alien spouse and minor children of any such alien if accompanying him or her or following to join him or her.

H.R. 7583

By Mr. LEVITAS:

—Page 43, after line 5, insert the following:

Sec. 614. No part of any of the funds appropriated by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

EXTENSIONS OF REMARKS

ANCIENT ORDER OF HIBERNIANS MEET IN NATIONAL CONVENTION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BIAGGI. Mr. Speaker, on the evening of July 31, it was my distinct pleasure to deliver the keynote address to the 80th Biennial Convention of the Ancient Order of Hibernians, the oldest and largest Irish-American group in this Nation.

I was asked to speak in my capacity as chairman of the 133-member Ad Hoc Congressional Committee for Irish Affairs. It is always a special privilege to see my many friends in the AOH for it was their organization which asked that the ad hoc committee in fact be created and that I serve as chairman. That was in September of 1977 and in our brief history we have succeeded in raising the Irish question to new levels of interest in this Nation and the world.

I wish to salute the new officers of the National Board of the Ancient Order of Hibernians:

National chaplain, Most Rev. Thomas J. Drury; National president, John Connolly; National vice president, Joseph A. Roche; National secretary, John W. Duffy; National Treasurer, John K. Henry; National directors, David Burke, George Clough, Roger Furey, Michael Coogan; National editor Hibernian Digest, George Foley; and National historian and official liaison with ad hoc committee, Robert Bateman.

In addition, a word of appreciation for the past national president of the AOH, Thomas McNabb, for all of his great support during the past year.

Peace and justice with full respect for human rights is a goal which should be pursued with full diligence. The United States does have a role to play in assisting the peace process but the final solution for Ireland should be determined by all of the Irish people. Peace cannot come until there is an end to all violence—civilian or official.

I now insert the full text of my speech which I delivered on July 31 at the AOH National Convention.

SPEECH OF HON. MARIO BIAGGI

It is a high honor and privilege for me to deliver the keynote address at the 80th Biennial National Convention of the Ancient Order of Hibernians. I wish to pay special tribute to the leadership of your organization—men who have worked closely with me in my position as Chairman of the Ad Hoc Congressional Committee for Irish Affairs: Bishop Thomas Drury, who has been an inspiration to me for some 10 years, National President Tom McNabb, a man whose support I can always count on, National Vice President Jack Connolly and the National Editor of the Hibernian Digest, George Poley. To all past and present officers of the AOH, I commend you on the fine work you have done, and to all future officers, I look forward to working with you.

Let me also give special recognition to Robert Bateman, your National Historian and Official Liaison between the AOH and the Ad Hoc Committee. Bob is an articulate and effective spokesman for the AOH in Washington and I value his advice and wise counsel on matters of mutual concern.

On September 27, the Ad Hoc Committee will celebrate its third anniversary. The Committee, as many of you know, was formed following a direct request by the Ancient Order of Hibernians, communicated through your past National President Jack Keane. The Ad Hoc Committee, in its brief history, has succeeded in achieving one of our primary goals—to focus attention on the Irish question. We have elevated this issue from a position of obscurity to one which now commends national and international attention.

One manifestation of the Ad Hoc Committee's influence lies in our membership. In our early days, we began with approximately 30 members on the Committee. Our numbers have grown steadily since that time—helped in great measure by an early 1978 personal attack on both myself and the Committee by the former Prime Minister of Ireland, Jack Lynch. In an effort to discredit our Committee, he succeeded in raising our membership from 30 to 87. We then broke the 100-member mark late in 1978 and today we boast 133 Members of Congress. Our members include some of the most distinguished members of the House, including the third-ranked Democrat John Brademas, Chairman of the House Judiciary Committee, Peter Rodino and James Hanley, Chairman of the House Post Office and Civil Service Committee. We are bipartisan as well, with some two dozen Republicans, including my friend, Hamilton Fish.

As Chairman of the Ad Hoc Committee, I see my role as an activist, a crusader, if you will, on behalf of a more positive United States role in pursuit of peace and justice in Northern Ireland. The Ad Hoc Committee's activism takes on many forms. On a regular basis, members of the Committee insert in the Congressional Record important articles and statements on Ireland. The significance of this exercise should be understood. In addition to the 535 Senators and Congressmen and the thousands of Executive Branch personnel who read the Record daily, it is also read by each foreign embassy in the United States. This includes the Embassy of Great Britain, which is very sensitive about its international image. Negative publicity about the situation in Northern Ireland presents a great embarrassment.

The Ad Hoc Committee has also conducted numerous hearings throughout our 33-month history. We have been honored to have as featured speakers such distinguished Irish political figures and statesmen such as Sean Mac Bride, Neil Blaney, Kevin Boland and Michael Mullen. With few exceptions, your organization, as well as the Irish National Caucus, have actively participated in all our hearings.

Perhaps the Committee's most important accomplishment came just over one year ago when the Department of State, as a result of an amendment which I offered on the House floor, agreed to impose an embargo on the sale and export of United States arms to the Royal Ulster Constabulary. This embargo came as a result of the united opposition of the Ad Hoc Committee, the Ancient Order of Hibernians and the Irish National Caucus to a January 1979 sale of 3500 rifles to the RUC. This sale was approved by the Department of State, despite its clear violation of the spirit and intent of Section 502(B) of the Foreign Assistance Act. This provision of U.S. law bars the sale or export of any United States arms to nations or organizations which engage in a persistent pattern of human rights violations. The RUC has been cited on several occasions by such respected international organizations as the European Commission and Court on Human Rights, Amnesty International and the British Government-appointed Bennett Commission for inhumane treatment of prisoners and prison suspects. According to a recent observation by one of Ireland's leading legal authorities, Mr. Rory O'Hanlon, reports of brutality by the RUC remain high.

The decision to impose the suspension was largely due to the work of the Ad Hoc Committee. Yet credit must also be given to President Jimmy Carter, for without his support, the suspension would not be in effect today. Prime Minister Thatcher of Great Britain expressed her objection to the suspension in a December meeting with the President, where he reaffirmed his support for the embargo, which is still in place today. This action, combined with his being the first American President in 60 years to specifically address the Irish question, demonstrates convincingly Jimmy Carter's commitment to peace in Northern Ireland.

A more recent accomplishment of our Committee has been my personal effort to have the Irish question addressed as part of our Democratic Party Platform. On June 13, I appeared before the Platform Committee to urge the inclusion of a strong Irish plank in our Party's 1980 Platform. At that meeting, I stated, "The objective I seek is a simple one. I want the Democratic Party Platform for 1980 to reflect a commitment to advancing the cause of peace, justice and human rights for Northern Ireland." I am pleased to include as part of my speech, the text of the report of the Platform Committee to the 1980 Democratic National Convention.

"Consistent with our traditional concern for peace and human rights, the next Democratic Administration will play a positive role in seeking peace in Northern Ireland. We condemn the violence on all sides. We will encourage progress toward a long-term solution based upon consent of all parties to the conflict, based on the principle of Irish unity. We take note of the Saint Patrick Day statement, '. . . that the solution offering the greatest promise of permanent peace is to end the division of the Irish people' and its urging of '. . . the British Government to express its interest in the unity of Ireland and to join with the Government of Ireland in working to achieve peace and reconciliation.' New political structures which are created should protect human rights, and should be acceptable to both Great Britain and Ireland and to both

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

parts of the community in Northern Ireland."

I will be a delegate at the convention from New York and will make an effort to strengthen some of this language. However, I do believe that the Democratic Party has taken a step in the right direction in their commitment to peace in Ulster. Were it not for the persistence of the Ad Hoc Committee, the AOH and the Irish National Caucus, I doubt such a definitive position would have been adopted.

The triumphs of the Ad Hoc Committee have been tempered by the realities of controversy and criticism. Yet throughout the controversy, we continue, if not flourish. The two most recent events involving the Ad Hoc Committee were the so-called "Donlon Affair" and the recent speech of Irish Prime Minister Haughey.

The Donlon matter might be more aptly called "Much Ado About Nothing." The news reports which were run pointing to the recall of Ambassador Donlon because of his inability to get along with myself and the Ad Hoc Committee, although flattering, were largely fabricated. For the record, the Ad Hoc Committee never called upon Prime Minister Haughey to replace Ambassador Donlon. That would have constituted an inappropriate incursion into the internal affairs of the Republic of Ireland. Yet despite this, we were closely linked to the stories about his recall and when it was announced that he was in fact staying in his post, some prominent Irish-American politicians took a great deal of credit for that action.

Perhaps one of the more interesting aspects of the Donlon issue was the extent to which my colleague Senator Kennedy involved himself. His personal call to Prime Minister Haughey to urge the retention of Ambassador Donlon, was in my eyes, highly unusual, if not totally inappropriate.

For the record, I maintained throughout this incident, "If Ambassador Donlon's role as a spokesman for the policies of Prime Minister Haughey has been clarified, then his retention presents no problem.

Our most recent controversy involved this past weekend's speech by Prime Minister Haughey where he urged that Irish-Americans cease their support of Irish-American organizations which raise funds to support terrorism and violence. Again, for the record, it must be pointed out that no where in the Prime Minister's speech does he specifically mention myself or the Ad Hoc Committee. Despite the fact that the Irish Prime Minister's major political opponent, Dr. Garrett Fitzgerald, called on him to publicly denounce me—the Taoisach chose not to. Yet, according to the Irish, British and American press, his comments were interpreted as being critical of myself and the Committee.

I applaud Prime Minister Haughey's efforts to achieve a united Ireland through peaceful means. I have been urging a united Ireland for the past 10 years. Similarly, I have deplored violence for it serves as the primary obstacle to peace and unity in Ireland. I regret the unfortunate implications associated with the Prime Minister's speech but these implications do not deter us. The Ad Hoc Committee will continue to raise the Irish issue in America and through that process seek to influence Irish thinking.

I believe that the final solution for Ireland cannot be achieved until all parties to the dispute are involved in a solution to promote a lasting peace. The British Government cannot expect to deal only with political parties and expect to emerge with a lasting solution. They must include the Irish Government and all other segments of political thought in Ireland. To exclude is to invite failure.

Prime Minister Thatcher, to her credit, has involved herself in this issue. She has met with Prime Minister Haughey and that is a positive sign. I have urged Prime Minister Thatcher to duplicate the formula which her government used in negotiating a settlement for Zimbabwe-Rhodesia. This was achieved only after all parties, including guerrilla organizations, were brought into the talks. The same formula could work in Ulster and should be tried.

I would be remiss if I did not once again repeat my long-standing renunciation of terrorist acts in Ireland. Violence takes on many forms, the most celebrated being the acts of the paramilitary organizations. Yet there is an even more fundamental form of this type of activity which receive less attention—that being violence practiced under the cloak of officialdom. The systematic denial of human and civil rights to the people of Ulster are indeed a form of violence. Unless all these types of activities are ended, the peace process can never begin and direct rule by Britain will continue.

As Chairman of the Ad Hoc Congressional Committee for Irish Affairs, I pledge to continue my effort to end violence and work for peace. Peace cannot come to Ireland until the British declare their intention to remove their presence from Northern Ireland.

Let me conclude with a word of thanks to the hard-working members of the Ancient Order of Hibernians and the Ladies Auxiliary. Yours is a venerable and highly respected organization. The relationship between the AOH and the Ad Hoc Committee is a good one and I know it will continue. Our policy has and will remain consistent—we will favor no one single Irish-American organization but will rather serve as a conduit for all Irish-Americans. The Committee exists to give a voice in Congress to those organizations who want peace and justice for Northern Ireland.

When we celebrate our third anniversary on September 27, we will look back on what we have accomplished with satisfaction, but not with complacency. There is must left to do and it will take the kind of persistence and commitment which has characterized the Committee from its beginning. It will also require your continued support for our work.

I appreciate your providing me with this opportunity to speak before you tonight. It has been a pleasure to meet so many of you and on behalf of all 133 Members of the Ad Hoc Committee, we thank you again for your support which will allow us to achieve the goal which we all want—a lasting peace for all of Ireland.●

FOOD SECURITY RESERVE ENDORSED

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. McHUGH. Mr. Speaker, in a recent editorial the New York Times endorsed a proposal now under consideration to establish a 4 million metric ton food security reserve of wheat to meet emergency needs.

As some of our colleagues may know, both the House Agriculture and Foreign Affairs Committees have already given their endorsement to reserve legislation, first in 1978 and most recently in 1980. At the same time, the Senate recently attached such a proposal to its version of the child nutrition act amendments.

A conference on that legislation will soon begin, and it is my hope that the managers from the House will accept the Senate provision bringing the food security reserve into existence. As the Times has noted, "the case for a Government-held reserve has long been compelling." Thus, prompt action by the conferees will give this House the opportunity to work its will on the proposal.

For the benefit of those of our colleagues who may not have seen the Times editorial, I am inserting a copy into the RECORD at this point.

AT LAST, A GRAIN RESERVE

Famines have a nasty sense of timing. They frequently occur when it is hardest to mobilize the funds and the will in wealthy countries to relieve mass starvation. That is why an emergency grain reserve, a source of food that could be tapped overnight at the discretion of the Secretary of Agriculture, is so badly needed. By chance, the political opportunity to create a reserve has never been brighter: if the House acts promptly, it will happen this year.

The case for a Government-held reserve has long been compelling. It would minimize red tape in dispatching food aid. As important, it would reduce political opposition to rescue efforts. Since the grain would already be stored in Government silos, there would be no need to appropriate funds to pay for it. And since there would be no need to buy grain in the open market, food shipments would have no direct effect on supermarket prices.

But the reserve idea has never flown because many farm groups opposed it. A Government-held stockpile, they reasoned, would cast a long shadow on the grain market. However clearly the stockpile was earmarked for emergencies, there would always be the temptation to sell it at home in order to depress food prices during periods of high inflation.

This year, however, the political equation has changed. The Agriculture Department bought some four million tons of wheat that would otherwise have been exported to the Soviet Union. And the farm lobbyists who would ordinarily oppose a reserve now see it as the best way to neutralize the effect of such a surplus on market prices.

With support from the Carter Administration, the Senate last week passed a bill transferring the troubling four million tons to a reserve that can be tapped only in times of general shortage, and then only to meet extraordinary needs in poor countries. Two House committees have cleared similar measures. All that remains is action by the full House. It should move quickly, while private and public interests happily coincide.●

PERSONAL EMERGENCY RESPONSE SYSTEMS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. PEPPER. Mr. Speaker, we are all aware that the cost to the Federal Government of nursing home care for the functionally impaired elderly is skyrocketing. In fiscal year 1978, medicaid financed 46 percent of the total national nursing home bill at a cost to the taxpayers of $7.2 billion—representing 40 percent of all medicaid expenditures. This Government expense is expected to increase to $9.5 billion within the next 4 years.

Yet many of the elderly assisted by medicaid in nursing homes neither need nor desire this intensive level of care. Instead, they would prefer to live independently if appropriate community-based services were available to them. Unfortunately, less than 2 percent of medicaid expenditures are now going to home health services, so for many elderly, federally supported institutionalization is the only economically viable alternative. Thus, to the extent that we can prevent the premature and inappropriate institutionalization of the elderly, we will not only help support the ability of the elderly to live independently in the community, but we will also reduce the rapid growth in Federal nursing home costs.

Toward this aim, my colleague from California, Mr. WAXMAN, and I have introduced the 1980 Medicaid Community Care Act, which would encourage States to provide community-based and in-home services to the elderly where these services would reduce the need for institutionalization.

Because Members are frequently asked about the cost effectiveness of such measures, I would like to bring to the attention of my colleagues the results of a study conducted for the Department of Health and Human Services which demonstrates the efficacy of one form of in-home assistance to the functionally impaired elderly in preventing premature or inappropriate institutionalization.

"A Study of the Effects of an Emergency Alarm and Response System for the Aged," conducted by Drs. Sylvia Sherwood and John Morris of the Hebrew Rehabilitation Center for Aged in Boston, for the national center for health services research, evaluated the effectiveness of an in-home personal emergency response system for the elderly. The particular system tested—known as "Lifeline"—allows clients to request aid by simply pressing a button on a portable pocket-sized unit; if the person is unconscious, the "Lifeline" unit senses the inactivity over a period of time and signals for help automatically.

The system has three major components:

Electronic communication equipment in the home which automatically signals for help over existing telephone lines;

A community-based 24-hour response center which receives the incoming alarms, and sends help when required;

Local emergency response organizations such as visiting nurses or police and/or individuals chosen by the user who have agreed to respond to specific calls for help.

The study, which compared 200 elderly, disabled "Lifeline" personal emergency response system users, with a matched control group, made several significant findings:

First. Psychological benefits. "Lifeline" users felt more confident about continuing to live independently. They reported better sleep patterns and moved around their homes with greater ease.

Second. Reduced need for nursing home care. "Lifeline" users averaged only 1 day in a nursing home compared to an average of 10 nursing home days for controls during the 14-month testing period.

Third. Cost benefits. For the largest group of "Lifeline" users—severely functionally disabled and not socially isolated—each $1 spent for PERS services produced a net savings of $7.19 in total long term care costs due to reduced use of both institutional and community services.

Fourth. Screening instrument. The researchers developed a brief, reliable screening questionnaire to identify potential "Lifeline" users with the greatest need and who would benefit the most from such a system.

The study confirms that this kind of personal emergency response system can assist the frail, at-risk elderly to live independently in the community and avoid premature institutionalization while reducing long term care costs. As a community-based system which we can use the Federal health dollar in a socially beneficial, cost-effective manner, improving quality of life for the elderly while slowing the growth of Federal long term care expenditures.●

TRIBUTE TO WARREN BLOOMBERG

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. LONG of Maryland. Mr. Speaker, an old friend of mine, Mr. Warren Bloomberg, Baltimore Postmaster, has just completed his 49th year of service with the U.S. Postal Service. On behalf of the 2,500,000 Marylanders whose postal service has been much improved through Warren's efforts, the 6,300 employees serving under him, and people like myself who cherish his friendship, I rise to mark Warren's contribution to his community and country.

Warren probably knows the Postal Service better than anyone, because he has held down nearly every job there is, from clerk to sectional center manager/postmaster. He is an innovator. For half a century, Warren has never been satisfied with the explanation, "We do it that way because it was done that way in the past." He looks to make improvements. Warren has succeeded in making the Postal Service safer for its employees, and more efficient and responsive for its clients.

Warren Bloomberg has won over 60 awards and commendations from the Postal Service, community boards, and councils, and social service agencies. He acts on his concerns for the hearing impaired, for labor-management relations, for safety at the workplace.

I am proud to know Warren Bloomberg. Our community is a better place because of his interest and concern. I look forward to continuing our friendship, and our professional association, for a long time to come.●

TOURISM IS A VITAL U.S. INDUSTRY

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. SOLOMON. Mr. Speaker, I return to Washington from a work period spent meeting with many business leaders of my constituency, and with a clear notion of the nature of their major concerns. One recurrent element in all of my discussions with area business people was a serious and almost desperate plea to encourage tourism—one of the major industries in my district. I was embarrassed to have to report to my constituents that the House and Senate have yet to agree on the terms of the National Tourism Policy Act—a bill that is essential to the development of a coherent and effective national tourism program.

The importance of the tourism industry to the United States is undeniable in light of the statistics made public during hearings on H.R. 7321. The House Subcommittee on Tourism and Commerce has found that tourism is one of the three largest industries in 43 of the 50 States, with an employment figure of over 6 million, nearly 7 percent of the total national work force. More important is the fact that employment within the industry favors the semiskilled, minority, female, and young segments of the population. Equally noteworthy in these times of escalating unemployment is the subcommittee's finding that the cost of new job creation within the tourism industry is substantially lower than in either the service or manufacturing sectors of the economy.

The advantages of the conscientious and serious promotion of tourism nationally are not solely related to the domestic labor concerns, they also embrace the international economic predicament in which the United States suffers a chronic trade deficit. It is clear that our Nation is the recent leader in tourist visitation by foreign nationals; and recent statistics predict a 19-percent increase in overseas visitors over last year's figures. But in light of the subcommittee's finding that as a nation, we invest the least amount of any major nonsocialist nation for the promotion of foreign tourism—a mere 4 cents per capita annually—can there be any doubt that additional funds, wisely invested to entice greater foreign travel within the United States, will result in even a greater flow of foreign capital to our shores? It seems to me that this is one of the easiest and most prudent methods of helping to reverse our recurrent international trade deficits.

These sentiments are eloquently expressed in correspondence from a leader of the tourism industry in my constituency who shares my frustration over the lack of decisive congressional action in this crucial area. He writes:

> I do not know what it will take to get the President and Washington to understand what the travel industry means to our country. Travel is taken for granted. The President calls it a retreat, Congress calls it a recess, the Supreme Court calls it adjournment and the rest of Washington bureaucracy and government workers call it days off with pay. Every time someone takes a vacation, they give someone a job. Everyone benefits; the airline pilot, the stewardess, the travel agent, the airline flight services, the taxi or bus driver, the bellhop, the front desk clerk, the maid, the waiter, the bartender, the pool boy, busboy, the musician, the night auditor, the golf pro, the car rental agencies, the tourist attractions, the retail sales outlets, the newspapers and other publications, not to mention all the advertising media and services that were used to encourage the person to take their vacation at a particular destination. The list is endless.
>
> In view of the current economic situation, in which the U.S. suffers a severe deficit in trade, an increase in foreign tourist dollars would help considerably to offset the deficit. In 1977, 7.2 billion dollars were left in the United States by foreign visitors; this, with a minimum promotion investment of taxpayers dollars. In 1979 the U.S. became the world leader in separating tourists from their cash. Over $10 billion in hotels, restaurants and other commercial establishments—almost $12 billion after adding foreign tourist revenues of U.S. airlines and other carriers.

Mr. Speaker, as a member of the Congressional Tourism Caucus, I am sensitive to the importance of legislated incentives to encourage a national tourism policy. I have brought the above-mentioned statistic to your attention in hope that, as my colleagues, you will join me in calling for an expeditious resolution on the part of the conferees who will soon be working out the differences between Senate-approved legislation and the House-supported tourism policy legislation. Time is growing short.●

BLACKS AND ABORTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HYDE. Mr. Speaker, one of the most authoritative and influential newspapers in the country is the Chicago Defender. It speaks to and for the black community in a unique and thoughtful manner and enjoys the respect of everyone in our area.

Therefore, it is of particular importance when this major voice in our community has something to say about abortion. I urge my colleagues to read and take to heart their editorial called "Morality and Abortion," published on page 27 of the August 9, 1980, edition:

MORALITY AND ABORTION

> The U.S. Supreme Court was correct in its recent decision allowing individual states to decide whether or not to use Medicaid funds for abortions. The issue is not as clear as many seem to think, nor is the decision as outrageous as it is being portrayed. The High Court did not condemn the practice of abortion; it did not put an intolerable and unnecessary burden on poor people; and it did not contradict previous decisions on abortion.
>
> All the majority of the justices said was that the use of federal funds for abortions is, in most cases, a decision for state legislatures to debate and determine. Those who do not like the situation in Illinois will, therefore, have to argue with the Illinois General Assembly, not the Supreme Court.
>
> The decision was also correct because it may spark a much needed trend in the U.S.—a move away from the indiscriminate approval and routine funding of abortions, a move away from the irresponsible, throw-away society. As a group blacks have never endorsed the idea that pregnancy is a disease or to be disposed of for the sake of convenience or because of whim. Life, even unborn life, has been precious to us. But under the insistent arguments of the pro-abortion forces, many young blacks have adopted the popular theory that the unborn are a burden and they may be killed easily in hygienic conditions without any sense of guilt or responsibility.
>
> That is an evil, inhumane, devestating view. Blacks ought to know more about that subject than any other racial group in America.●

CHERIE HARLEY: A FAIR, DEDICATED, AND CARING TEACHER

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. VAN DEERLIN. Mr. Speaker, the charge is often heard these days that high schools are sending students to college without adequate instruction in reading and writing skills. Our educational system and its teachers are criticized and blamed. Obviously, some changes and improvements are needed. However, to prove that excellence is not a thing of the past, I invite you to read a letter sent to me from a young constituent in Spring Valley, Calif.:

> Hon. LIONEL VAN DEERLIN,
> *Member of Congress,*
> *Washington, D.C.*
>
> DEAR MR. VAN DEERLIN: I would like to recommend my high school English and Expository Writing teacher, Mrs. Cherie Harley, for a letter of congratulations for dedicated service, and to have her name entered into the CONGRESSIONAL RECORD. Not only has Mrs. Harley been a fair, dedicated, and caring teacher, but she has maintained high academic standards for her students.
>
> For the past twenty-one years, Mrs. Harley has arrived at school each morning at 6:30, well before most of her colleagues. Though school does not begin until 8 a.m., Mrs. Harley is always there early, either correcting papers or planning a work schedule for her students. She is a well-organized teacher who works diligently instructing her students in the difficult techniques of essay writing and critiquing, expanding vocabulary, and analyzing literary works. This is only a sample of what goes on in her class; believe me, it is a lot of work—hard work.
>
> Mrs. Harley is fair and very objective, treating all students alike. Though she is strict and demanding, she can also be very humorous and fun to be around. Yet, she takes no nonsense from her students. Work is turned in; discipline is maintained; and usually, any thoughts of cheating or other misbehavior are quickly dispelled from one's mind. Please don't get the impression that she is a martinet; on the contrary, she is an all-around excellent teacher who knows how to handle and get along with her students.
>
> Her classes provide guidance in both values and academics. Not only does one study reading, writing, and speaking, he examines his own personal thinking. The student learns how to use his or her intelligence; he thinks, analyzes, and tries to see why things happen as they do.
>
> Because there are so very few teachers with such dedication to their work and students, those like Mrs. Harley should receive some special recognition, I feel.
>
> I sincerely believe that Mrs. Cherie Harley is an excellent teacher and a lady. She truly deserves any kind of acknowledgement that you can give her.
>
> Sincerely,
>
> KATHERINE SIMMONS,
> *Monte Vista High School.*

Mr. Speaker, certainly, this letter attests to Mrs. Harley's teaching ability, dedication to her work, and the results demonstrated by Miss Simmons' writing ability.

My colleagues, I urge you to join me in congratulating Mrs. Harley for a job well done.●

WALTER REILLY—A SPECIAL MAN

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HARRIS. Mr. Speaker, America owes its freedom in large measure to those brave men and women who have defended our Nation. The sacrifices made by veterans so that liberty could survive are legendary.

A month ago, we celebrated MIA-POW recognition day, in honor of a special group of veterans who were taken prisoner in the course of combat, or who have never been found. These special veterans—former prisoners of war—have a very keen appreciation for the liberty they fought for, and for the freedom Americans sometimes take for granted.

Walter Reilly is a constituent and close friend of mine who was a prisoner of war during World War II from the day after Pearl Harbor until the war's end. His experiences as a prisoner brought him more than a fervent love of freedom. The hunger and the suffering he experienced have given him deep compassion for his fellow man anywhere in the world, where there is hunger and pain. Of special concern to him today is the situation in Somalia, where widespread famine and war have turned the population into a flood of starving refugees, and the continued starvation in Cambodia.

Walter Reilly is a special man from whom all of us can learn more about ourselves, and about our fellow human beings. The Potomac News of Woodbridge, Va., recently published an article about Walter. Because we could all learn a bit from his experiences, I place that article in the CONGRESSIONAL RECORD at this point.

[From the Potomac News, Aug. 14, 1980]

WE'D THINK ABOUT NOTHING BUT FOOD

(By Peter Overby)

Former Prisoner of War Walter Reilly remembers how he heard of the Japanese surrender 35 years ago today.

He was working on a slag heap at a mine. "They told us to go back to camp. The ladies who worked in the kitchen were crying, and we found out the war was over."

He remembers the announcement: "Due to Russia's illegal entry into the war and the inhuman use of the atom bomb, our Imperial Majesty has decreed that the war will end. You will all go home soon."

Reilly was a POW from the day after Pearl Harbor until Aug. 14, 1945.

A career Marine who rose from private to major before retiring, Reilly now lives on Mathews Drive in Woodbridge. But on Dec. 8, 1941, he was riding a baggage train out of Tientsin, China, in charge of five cars loaded with officers' gear and other items being evacuated in the face of the Japanese advance.

The train never reached its destination. The Japanese army intercepted it and took prisoner all the Marines on board.

Aboard the train were the prehistoric skull fragments known as Peking Man. The fragments have not been seen in the almost 39 years since the train was captured.

"I think the Japanese just opened the trunk, saw these brown things and threw them away," Reilly said.

The next month the 205 officers and enlisted men were put in boxcars and sent to Shanghai. The cars were so full the men had to take turns sleeping, Reilly recalled.

At Shanghai the POW's were interviewed by Japanese officers who tried to find men who knew how to drive, work on trucks and do other skilled jobs.

The rest of the men went to work burying gasoline drums at a racetrack. At first they worked six days a week; later they got three days off each month.

When they finished that they were shipped to the Fugi project, where they had to construct a dirt mound 100 by 300 yards and 200 feet high. It took 2½ years.

The Japanese told them it was a monument to their men killed in a 1937 battle.

"But that wasn't what it was at all," Reilly said. "It was a backstop for a rifle range."

Reilly remembered building the mound as deadly, monotonous work under a civilian named Ishihara.

"He killed a lot of people, the way he worked them," Reilly said. "We hated him." One day Ishihara knocked Reilly out with a shot-loaded riding crop.

After discovering a Chinese worker was smuggling food into the camp and possibly helping an escape plot, the Japanese had a shakedown. The Chinese was tortured and killed, and other prisoners were tortured by pouring water into their mouths and noses until they talked.

After the war, Ishihara was sentenced to a long prison term. He died in prison, Reilly said.

The prisoners' diet, Reilly recalled, was three cups of rice daily—about 900 calories. Four pounds of meat was given to every 1,500 men, which "would barely make grease."

For one long period the diet included no salt.

Eventually the prisoners began receiving packages from the International Red Cross, but those provided only intermittent relief. Reilly sad the boxes often went to the Japanese camp commander instead of the prisoners.

Reilly's weight dropped from 172 pounds in 1941 to 110 in 1944. By war's end he weighed about 120.

In addition to work, the thoughts of prison-camp life were on cigarettes, stealing and plotting to escape. Each Red Cross box contained eight packs of smokes. The Japanese gave each prisoner three cigarettes a day—"terrible, awful cigarettes," Reilly remembered. Tobacco was the medium for exchange. A haircut, for example, cost two cigarettes.

Both sides stole from the other, Reilly said. The guards stole rice from the prisoners' allotment, and the prisoners stole anything they could from the Japanese. But when a prisoner tried to steal rice from the others, Reilly said, the men held a drumhead court-martial and sentenced him to 10 lashes.

"Everybody was always trying to escape." Reilly recalled, but few succeeded. Reilly himself plotted a breakout once—but changed his mind when confronted by an electrified fence in a rainstorm. Four officers managed to escape by jumping out the window of a railroad car as the prisoners were traveling to Peking, but four civilians who also jumped were never heard from again.

The POW contingent traveled in 1945 to Peking, then to Pusan, Korea, Tokyo and Hokkaido, the northern-most island in Japan. The prisoners saw the effects of U.S. bombing raids. They also saw mobs of Japanese citizens "roaring at us," Reilly remembered. He said one woman threw a brick at him as he and other POWs went through a subway station.

Not all the time in prison camp was wasted. "I taught three or four people how to read and write," Reilly said. The prisoners also operated entertainment and religious programs, sports events, schools and a library.

When they heard the war was over, Reilly said, "we didn't cheer; we were just too stunned." They went back to their quarters, where one prisoner had a guitar. "We sang for two hours," Reilly said, "just sang and sang . . . any song anybody could think of."

Reilly was coming down with beriberi because of the bad diet. He had rashes and his feet were so swollen he could not wear shoes. He couldn't see out of his left eye.

American paratroopers came to evacuate the weakest prisoners—which did not include Reilly. Army Air Forces and Navy planes dropped supplies.

Even after the war the dying did not stop. A load of supplies broke away from its parachute and crashed into a building at the camp. Two Japanese girls died. Reilly tried to save one of them with a tourniquet, but failed. A liberated POW died when a can of Spam, dropped from a plane, bounced off the ground and hit him in the chest.

The former prisoners went to Guam, then to San Francisco, Reilly, a native of Center Rutland, Vt., was sent to Chelsea Hospital in Boston. He got a three-month leave and a marriage license. He and his wife Helen now have six children.

Reilly is concerned about the plight of refugees in Somalia. "When you look at something like this and you've been that way yourself," he said, "it's hard not to react."

The refugees have no water and no food, he said, but plenty of flies and sores. "We have a carrier out there, and engineer troops. Why couldn't they drop over there and set up water purification points and storehouses and care for those women and children who are dying at 1,000 a week?"

Reilly also contributes regularly to World Vision International, a religious charity raising money for refugees in Somalia and Cambodia.

He described what it is like to be truly hungry. "It's gnawing, thinking of food all the time. Your body just fades away.

"In the beginning we'd think about nothing but women," Reilly said. "In the end we'd think about nothing but food. I'd dream about food—cold milk."

CZECHOSLOVAKIA: 12 YEARS AFTER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. MICHEL. Mr. Speaker, August 21, 1980 marks the 12th anniversary of the Soviet Union's invasion and occupation of Czechoslovakia. I mention this because the attention span of the world is notoriously short insofar as Communist aggression is concerned. We are so used to the fact of such aggression that we usually fall into the same pattern when it occurs: initial outrage, vehement denunciations, token gestures, and then a kind of amnesia that gradually obliterates from memory the facts of the aggression. Who now, for example, talks about Soviet-built tanks rolling into Saigon or Prague?

So I think it is useful to have this brief reminder of what happened 12 years ago. Czechoslovakia was, before the invasion, already a Communist dominated country. The reforms of the Dubcek regime had been carried out within a Communist framework. But even this was too much for Brezhnev. This is how the World Almanac describes what happened:

> * * * Russian, Polish, East German, Hungarian, and Bulgarian armies invaded Czechoslovakia * * * censorship was tightened and the Communist Party expelled a third of its members. In 1972 more than forty liberals were jailed on subversion charges * * * repressive policies remained in force * * *.

Needless to say, this brief summary only tells part of the story. Prague's "brief spring" soon ended and the long winter of Soviet domination and repression began.

That is why many of us were not in the least surprised by the Soviet invasion of Afghanistan. It was a rerun of the Czech invasion in many ways. Why President Carter said that this invasion made him change his mind about Soviet intentions remains a puzzle. Just what did he think Mr. Brezhnev had done in Czechoslovakia?

August 21 is a day that will live in infamy. So long as one Soviet or East bloc soldier or tank remains in Czechoslovakia, the cause of human freedom and human rights is gravely harmed. I think this is something that should be remembered by every American and I wanted to take this time to say it.●

A TRIBUTE TO THE VALIANT RED RAIDERS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. MOTTL. Mr. Speaker, the 10 members of the World War II B-24 bomber crew 8912, met on August 14, 1980, in Cleveland, Ohio, for their fourth reunion. The outfit, tagged the Red Raiders, includes Charles W. Larcom, pilot, from Atlanta, Ga.; Robert L. Schultze, copilot, from Westlake, Ohio; Robert B. Beebe, navigator, from Summerville, S.C.; John W. Scriven III, bombardier, from Acton, Mass.; John J. Forlini, waistgunner, from Reading, Pa.; Leonard A. Mecca, from Farmers Branch, Tex.; Lawrence W. Morehead, engineer, from Goleta, Calif.; Claude A. Bunton, tailgunner, from Houston, Tex.; Al Krause, nosegunner, from Westwood N.J.; and Robert O'Meara, armorgunner, from Grand Island, Nebr.

This outstanding group of men was sent to New Guinea for 2 weeks and made two bombing missions over Borneo. Subsequently, the four-engine B-24 Liberator bomber was transferred to Clark Field where Larcom and the crewmen flew 21 of their 27 combat missions, which were part of the Philippine operations—a concerted bombing assault against strategic targets on Formosa and mainland China.

The missions were long and often lasted 2,000 miles roundtrip over hostile enemy-held territory. Upon their return to Clark Field in September 1945, the men promised amid farewells that there would be a reunion soon. It was not until 1973, 28 years later that the entire crew met again at Atlanta, Ga. The second reunion was held in Lincoln, Nebr., in July 1976; the third in Santa Barbara, Calif., in July 1978; and the fourth was recently held in Cleveland, Ohio on August 14, 1980. At this time, I wish to acknowledge and commend each of these fine men for their courageous and dedicated wartime efforts in service to their country.●

FINANCIAL REPORT OF THE CONGRESSIONAL TEXTILE CAUCUS QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE

HON. KEN HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HOLLAND. Mr. Speaker, the Steering Committee of the Congressional Textile Caucus has had the opportunity to review the quarterly financial statement for the period ending June 30, 1980.

I am, therefore, taking the opportunity to submit the statement for insertion in the CONGRESSIONAL RECORD so that all Members of Congress may review it.

The statement follows:

CONGRESSIONAL TEXTILE CAUCUS FINANCIAL REPORT OF THE CONGRESSIONAL TEXTILE CAUCUS: QUARTERLY STATEMENT OF EXPENSES AND FUND BALANCE FOR THE PERIOD ENDING JUNE 30, 1980:

Statement of expenses	Amount
Telephone	$16.46
Do	68.93
Do	135.83
Do	1.88
Do	81.77
Total	304.27
House Office Supply	12.51
Do	25.92
Do	21.70
Total	60.13
Tom Lankford Printers	133.40
Do	22.00
Do	61.50
Total	216.90
Miscellaneous expenses:	
Women's Wear Daily	56.00
Postage	15.00
Cliffside Conference Center	50.00
Congressional Quarterly	26.50
Total	147.50
Total expenditures	728.80
Fund balance Mar. 31, 1980	11,738.28
Total dues deposited this quarter	1,400.00
Dividends	122.66
Total balance before expenses	13,260.94
Less expenses	728.80
Balance June 30, 1980	12,532.14

●

A NEW TAX PLAN TO AID BUSINESS

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HEFTEL. Mr. Speaker, as you know, our country's economic problems are becoming increasingly worrisome. Many of these problems stem from declining productivity which is caused in part by an inadequate level of business investment. With this in mind, I recently introduced H.R. 7898, a bill which encourages increased investment and, thus, economic growth by providing a simplified first-year capital cost recovery method for business and industry.

Mr. Speaker, there are currently a number of proposals in Congress which address our capital recovery needs. However, I feel that the first-year method has several distinct advantages over other depreciation proposals:

It is perhaps the most administratively simple depreciation system ever proposed.

Because all depreciation is taken in the first year, it would provide for a perfect offset against inflation when fully phased in. This eliminates the need for a complex system of indexing.

Since all depreciable assets are given the same tax treatment, the first-year system eliminates distortions of investment choice due to inconsistent tax policies. It is neutral across all asset classes and thus leads to a more efficient allocation of capital stock.

Harvard economists Dale Jorgenson and Alan Auerbach, pioneers of the first-year system concept, maintain that the proposal would have a significant stimulative effect on the economy. They estimate that the system embodied in H.R. 7898 would increase real gross national product by $25 billion by the end of 1983 and reduce the unemployment rate by almost one-half of 1 percentage point. In their own words, they conclude that the adoption of the first-year capital cost recovery system would:

> * * * provide a very sizeable stimulus to capital formation at the cost of a modest revenue loss to the Federal Government. By enhancing the efficiency of the use of capital, the first-year system would insure that additional capital formation would have the maximum possible impact on productivity and economic growth.

Mr. Speaker, an article by columnist Leonard Silk, describing the first-year capital cost recovery method, recently appeared in the New York Times. In this article, Mr. Silk analyzes the first-year system and contrasts it with the "10-5-3" capital cost recovery legislation introduced by our distinguished colleagues, BARBER CONABLE and JIM JONES. At this time, I submit a copy of this article for the RECORD:

[From the New York Times, July 30, 1980]

A NEW TAX PLAN TO AID BUSINESS

(By Leonard Silk)

The biggest economic issue facing the Presidential candidates and Congress today is whether, how much and how to cut taxes. The tax cut for business is particularly perplexing. Can a cut be divised that would stimulate investment, productivity and economic growth—without exacerbating inflation?

Ronald Reagan clearly believes this possible, although some Republican conservatives, such as Herbert Stein, former chairman of President Nixon's Council of Economic Advisers, now oppose any tax cut, so critical do they regard the problem of bringing inflation under control by restraining demand.

President Carter has been trying to put off the tax debate and Congressional action until after the election. But Senator Russell B. Long, chairman of the Senate Finance Committee and the most influential legislator in Congress on taxation, has indicated that there may be a "lame duck" session of Congress after the election to pass a 1981 tax cut.

This week, Senator Long began to explore in his committee an ingenious new proposal for stimulating business investment without worsening inflation. It was devised by two Harvard economists, Dale W. Jorgenson and Alan J. Auerbach, who call their plan the First-Year Capital Recovery System, because it would give businesses full depreciation of their capital assets in the first year the capital asset was purchased.

This first-year system is addressed to the crucial question of why the nation's capital base is eroding, undermining the economy's productivity, growth and the country's competitive position in the world. The essential reason, according to Professors Jorgenson and Auerbach, is the divergence between the economic depreciation of existing capital assets and the write-offs permitted by tax law. The reason for the widening gap is inflation, which swells replacement costs far above the original costs of capital assets.

Until now a majority of both houses of Congress have hoped to solve the capital erosion problem through the Conable-Jones bill (named for Republican Representative Barber B. Conable Jr. of upstate New York and Democratic Representative James R. Jones of Oklahoma), which is based on the so-called 10-5-3 system for accelerated depreciation. This approach, originally developed by a former Deputy Secretary of the Treasury, Charls Walker, who is now an adviser to Mr. Reagan, would put all capital assets in three classes, with structures to be written off in 10 years, long-lived equipment in five years and short-lived equipment, such as motor vehicles, in three years. The Conable-Jones bill would also retain the investment tax credit, which the Jorgenson-Auerbach first-year plan would eliminate.

Professors Jorgenson and Auerbach insist that the Conable-Jones bill does not solve the critical problem of allowing for the effect of inflation on replacing capital assets—and, in trying to solve it, provides excessively costly allowances in periods of low or moderate inflation. In fact, they point out, at 6 percent inflation, businesses investing in new plant and equipment could enjoy a tax subsidy of 23 percent. This would make capital goods cost less than nothing in periods of low inflation.

The key contribution of the first-year plan is that it bypasses the problem of forecasting inflation. Since the buyer of capital goods gets his depreciation deduction in dollars of the same value that he spent to buy the asset, inflation cannot affect the outcome.

The value of the first-year tax write-off is calculated by discounting the future stream of depreciation allowances, measured in current dollars, to their present worth. The system would employ a discount rate of 4 percent, which represents the average rate of return on physical assets, calculated over many years.

The plan would divide all capital assets into 30 or 40 classes instead of three, reflecting the actual useful lives of assets. The present value of the depreciation of $1 invested in a manufacturing plant might be 50 cents while the present value of $1 invested in a pickup truck might be 80 cents.

The Jorgenson-Auerbach plan would be phased in over five years. The Harvard economists estimate that their system would give a substantial stimulus to capital formation, causing real investment in equipment to increase by $6 billion within five years and investment in nonresidential structures to increase by more than $9 billion in the same period. The greater increase in investment in structures would result from removal of the distortions between economic depreciation and capital consumption allowances under current law.

By 1983, they estimate, the unemployment rate would be half a percentage point less than levels that otherwise would prevail, and the inflation rate would be increased by only four-tenths of 1 percent. Thereafter, they calculate, using the econometric model of Data Resources, Inc., the inflationary effect would decline rapidly.

They estimate that the revenue loss under their first-year system would total $50 billion during the first five years, although there would be a $5 billion gain in the first year because of the elimination of the investment tax credit. They maintain that their plan would spur productivity more than the 10-5-3 plan, but would cost the Treasury roughly half as much in lost revenues.

Since all assets would be depreciated to their present value by consistent methods of combining the actual economic lives of assets and by using a common interest rate, Professors Jorgenson and Auerbach maintain that the distortion of business decision-making about which capital goods to buy would be eliminated, and businesses would invest in assets for economic rates of return rather than for tax advantages.

Simply put, the plan is the reverse of compound interest. It is parallel to the system of discounted cash flow, which virtually all major businesses use in making investment decisions.●

DEPARTMENT OF THE INTERIOR APPROPRIATIONS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. DAVIS of Michigan. Mr. Speaker, when the House recently passed the Department of the Interior appropriations bill, I voted against the legislation despite what I felt was an overall balanced and responsible approach taken by the Interior Appropriations Subcommittee in developing this bill. I voted against the legislation because of a provision in the bill which provides funds for the purchase of land in northern Michigan by the U.S. Forest Service. This land is within the boundaries of the Huron-Manistee National Forest and involves about 25,000 acres presently owned by a utility company. This issue is one over which there is much controversy in northern Michigan and enough opposition that I believe the subcommittee's action was unwarranted at this time. In some of my counties, concern has centered on the loss of tax revenues which would occur when the land is purchased by the Federal Government.

Of additional concern to me and many other people are the growing indications that Federal land acquisition policies are nonexistent and that Federal agencies purchase land on a patchwork haphazard basis, guided by no other goal than the acquiring of as much land as possible. At a time when we are searching for ways to save money, I believe it is not good public policy to spend money on programs with which there are a number of serious criticisms. For a number of reasons, I did not offer an amendment to delete the funds for this purchase, however, should the Senate also include funding for the acquisition, I intend to request the Forest Service to allow public comment on the proposed sale to determine exactly what benefit the public will derive and what the consequences will be to the local communities.●

BACKGROUND OF NISEI WEEK AND LITTLE TOKYO

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. ROYBAL. Mr. Speaker, I am pleased to submit to the RECORD an account of the historical and cultural significance of the Japanese festival, "Nisei Week," held in my district every year.

BACKGROUND OF NISEI WEEK AND LITTLE TOKYO

(By Michael T. Nakajima)

Just as Los Angeles began as a sleepy little pueblo in the 1700's, Little Tokyo, according to records, emerged as a "sleepy little farm community." In 1882 there were only 23 Japanese, all young Issei (first generation) male pioneers residing in adobe houses. Their favorite gathering place was the basement of a Methodist church on the corner of Second Street and Broadway.

By 1905, the Japanese colony had grown to 3000, comprising about one-tenth of Los Angeles' population at the time. A handfull of boarding houses and Japanese cafes located near the corner of North Alameda and Aliso Streets formed the nucleus of the Japanese community.

The first large movement of Japanese to Southern California came in 1906, shortly after the San Francisco earthquake. The disaster-ridden Bay City had little to offer immigrants from Japan, and accorded a less than warm welcome. Los Angeles, on the other hand, was reputed to be a bit more cordial to Asians. During the period between 1906 and 1914, it was estimated that more than 10,000 arrived in Los Angeles, many coming from Portland and Seattle.

The Japanese population in the Los Angeles area now numbers over 150,000. First and San Pedro Streets are generally recognized as the center of Little Tokyo, where restaurants, shops and other establishments beckon tourists and businessmen alike.

Noontime traffic is heavy, with workers and local citizens spending their lunch hours dining in the dozens of restaurants and small cafes. Most of the eateries serve the popular Japanese dishes, including tempura (deep-fried battered shrimp and vegetables), teriyaki (beef or chicken marinated in soy sauce), sashimi (raw fish), or sukiyaki (sliced meat and vegetables). American and Chinese cuisine are also offered at some establishments. In addition, confectionary shops tempt the sweet tooth with varieties of Japanese candies, and manju (sweet rice cakes) in colorful array. Japanese radio, newspapers and television operate in the area, informing Japanese throughout Southern California of events concerning their community. One of the newspapers, the Rafu Shimpo, established in 1903, is the oldest Japanese newspaper in the United States.

Little Tokyo, however, is not all business. Arts typifying the wealth of the Japanese heritage are still carried on. Master instructors maintain studios to teach the ancient and beautiful arts of ikebana (flower arrangement), cha-no-yu (tea ceremony), sumi-e (brush painting), bonseki (miniature landscaping), bonsai (raising dwarf trees), and Japanese classical dancing. Students may also receive instruction in music on such Japanese instruments as the koto, samisen, biwa, and shakuhachi. The well-known martial arts of karate, kendo, judo and aikido are also taught.

Festivals such as Nisei Week fill the Japanese community calendar, helping to maintain an atmosphere of unity among citizens.

The Nisei Week Japanese Festival this year celebrates its 38th year since its conception during the Great Depression in August, 1934. The Nisei, still in their teens, were the sons and daughters of the adventurous Issei pioneers. They spearheaded this event to generate needed business, to emphasize their heritage and to publicize the "Little Tokyo" area in Los Angeles.

Included in the first Festival, chaired by Clarance Arima, were a poster contest, radio broadcasts, fashion show, baby show, cultural programs, dancing, festive music, colorful lanterns and banners, and, of course, the ondo parade through the streets of Little Tokyo.

The second year of the omatsuri, or festival, a "Miss Little Tokyo" contest was added to the list of events. The Nisei Week Queens, past and present, are regal and worthy representatives of the Japanese American community.

The festival continued for only seven years, and with each year more exciting and colorful than the previous. Nisei Week was stopped, despite strong community spirit and unity, after over 100,000 Japanese Americans in California were evacuated during World War II due to prejudicial sentiment, nurtured by fear and ignorance. The Japanese Americans returned to California in 1945 and reinstated Nisei Week in 1949. Since August of that year, Nisei Week has grown larger and more meaningful with each passing year.

Now with the new Japanese Village Plaza completed, redevelopment in full swing, greater involvement of the third, fourth and fifth generations (Sansei, Yonsei and Gosei), and a new feeling of unity among the widespread Japanese communities in Southern California both the Japanese American community and the Nisei Week Japanese Festival are being catapulted into a new life with a future of unlimited possibilities and realized dreams.●

CAVANAUGH AMENDMENT TO H.R. 6417

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. CAVANAUGH. Mr. Speaker, when the Surface Transportation Act of 1980 (H.R. 6417) comes before the House, I intend to offer an amendment which would permit local transit agencies to operate door-to-door van programs as part of a multimodal transportation system to meet the special needs of the handicapped. The amendment provides that any city which decides to provide door-to-door van service for the handicapped must also procure 50 percent accessible—lift equipped—buses whenever it procures new buses and that cities with populations over 750,000 must procure all lift-equipped buses. The amendment, which is similar to the Senate approved Zorinsky-Exon-Williams amendment, provides that the Secretary of Transportation will approve plans on a community-by-community basis and that these decisions can be appealed under the Administrative Procedures Act. The Secretary of Transportation is given broad power to both increase or waive the percentage of accessibility depending upon the plans of the local community. The compromise embodied in the amendment is the preservation of the Federal Government's commitment to accessible transportation and the imposition of stringent requirements on paratransit service in exchange for allowing local communities to decide how best to serve the needs of the handicapped.

The amendment provides an alternative to inflexible Department of Transportation regulations that many medium-sized communities, including Omaha, are discovering do not adequately address the real needs of the handicapped for mobility and whose costs far exceed their benefits. The Department of Transportation regulations require that one-half of all bus fleets must be accessible by 1982, which could be extended to 1989 in the case of extraordinarily expensive compliance. In addition, beginning July 2, 1979, all new transit buses had to be lift equipped. Although there is no prohibition against door-to-door mobility services in the DOT regulations, the costs of compliance with the regulations will force many local transit agencies to abandon their mobility-oriented programs. The Congressional Budget Office has estimated that even assuming that full-system accessibility were achieved that such a system would serve only about 7 percent of the handicapped population at a cost of $6 to $8 billion. However special mobility services would benefit about 26 percent to the handicapped at an estimated cost of $4.4 billion. The debate between proponents of accessible or mobility-oriented systems divides the handicapped community itself. The accessibility advocates see the issue as essentially one of civil rights whereas the mobility supporters argue that although a van system would separate handicapped people from the public it would provide more actual mobility.

In an attempt to address this problem and the concerns of public transit agencies across the country, the Public Works and Transportation Committee adopted the Cleveland amendment by a vote of 29 to 6. The Cleveland amendment allows cities to ignore all accessibility requirements if they provide paratransit services in lieu. Unfortunately, this amendment neglects that segment of the handicapped community that could benefit from accessible transportation.

Under the Cavanaugh amendment any city that elects to provide door-to-door mobility service must purchase 50 percent accessible, lift-equipped, buses whenever procuring new buses and must also comply with six rigorous conditions regarding the kind of mobility service provided. These conditions are that service must be provided throughout the same area as the rest of the transit system, at comparable fares, with no restrictions as the purpose of the trip, with no prior registration, and within 24 hours of when the transit agency receives the request. In addition, the Cavanaugh amendment would reverse current DOT regulations that require transportation to be provided on a first come, first serve basis. This would insure that a transit agency could decide that a request for transportation to a medical facility would take precedence over a request for transportation to a shopping mall.

However, with accessible transportation also available to the handicapped there would be an alternative for all trips, whatever the purpose.

The Metro Area Transit Agency of Omaha and the hundreds of handicapped constituents who have written to me on this issue share my concern over the inflexibility of current DOT regulations. The Metro Area Transit Agency of Omaha currently operates a paratransit service which has provided over 133,000 one-way trips since 1975. However if the regulations are not modified the agency has announced that it will have to phase out its mobility service. The transit agency or MAT was a plaintiff in the case of American Public Transit Agency, and others, against Brock Adams, and others. Although APTA's request for a preliminary injunction was denied, Civil Action No. 79-1697, Judge Louis F. Oberdorfer concluded in part that,

> ". . . While the legislative history of Section 504 does not indicate that Congress conceived itself as enacting or authorizing programs involving large expenditures, this may be more the result of Congressional inattention to the costs of implementing the policy of nondiscrimination announced in Section 504 than a Congressional determination that such expenditures would not be necessary to effectuate that policy . . . ultimately plaintiffs do not object so much to the affirmative effort itself, they object to the form of the effort."

In addition to the court proceedings, MAT has applied to the Department of Transportation for a waiver from these regulations as have several other cities. To my knowledge not one of these waivers has been seriously considered and Omaha's has been denied. The issue here is not if the Federal Government should be involved in providing public transportation for the handicapped, but how it can best meet the needs of the handicapped. It is clear to me that the Department of Transportation's mandating of accessible buses with no exceptions is just as an extreme a solution as allowing local transit agencies to completely ignore that segment of the handicapped community that could benefit from mainstreaming.

Mr. Speaker, I recently received a letter from the executive director of the Paralyzed Veterans of America. Mr. R. Jack Powell, executive director of the Paralyzed Veterans of America. This organization was originally chartered by Congress and has 33 chapters nationwide. The letter is reprinted below.

PARALYZED VETERANS OF AMERICA,
Washington, D.C., August 18, 1980.

HONORABLE JOHN J. CAVANAUGH,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN CAVANAUGH: The Paralyzed Veterans of America (PVA) has recently learned that you will be introducing an amendment to the Surface Transportation Act of 1980 which will provide the opportunity for a combination of accessible public transportation and specialized services to the handicapped. While we are concerned that the integrity of the Department of Transportation's Section 504 Regulations be maintained in any legislation passed by the Congress, your amendment appears to be the first serious effort by the House of Representatives to reach a compromise between supporters of the Section 504 mandate, and communities wishing to preserve their local option.

A preliminary review of the proposed amendment reveals that its language is closely patterned after its Senate counterpart to S. 2720, introduced by Senator Zorinsky (D-Nebraska). Since the passage of the Senate amendment, representatives of many handicapped organizations expressed concern with several provisions of that amendment. In an effort to clarify and improve upon the Zorinsky compromise, this amendment requires Federal funds to be used for the transportation of handicapped persons without setting forth a fixed percentage of monies to achieve this. It provides a specific maximum demand response time for special services. Most important, for cities from 50,000 to 750,000, at least fifty percent (50%) of new buses purchased must be fully accessible unless the Secretary determines that a different percent is consistent with the areas respecting transportation of the handicapped. In cities where the population is in excess of 750,000, one hundred percent (100%) of the buses purchased must be fully accessible unless the Secretary determines otherwise.

Despite specific objections raised by PVA to other provisions in this amendment, its language is far more acceptable than another amendment presently being offered by Representative James Cleveland (R-New Hampshire). The Cleveland amendment precludes any opportunity for a multimodal transportation system. Instead, it merely reinforces separate, unequal and discriminatory special services to the handicapped.

PVA, a national organization chartered by the U.S. Congress, represents veterans of the U.S. Armed Services who have suffered injuries or diseases of the spinal cord, whether service-connected or non-service-connected in origin. All of PVA's members are handicapped within the meaning of Section 504 of the Rehabilitation Act of 1973, as amended.

PVA is committed to ensuring that our nation's public transportation systems become accessible to the handicapped. We encourage all members of Congress to follow the initiative which you will be taking in furtherance of this goal.

Sincerely,

R. JACK POWELL,
Executive Director.●

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. LEHMAN. Mr. Speaker, on July 31, the House was considering H.R. 7831, the Department of Transportation and related agencies appropriation bill, and took up an amendment offered by the gentleman from Texas, Mr. STENHOLM. That amendment would have denied funds to the Department of Transportation for the purpose of planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1975.

While I share Chairman DUNCAN's concern over the long-term costs of requiring transit authorities to provide accessible transit for the elderly and handicapped through regular bus service, I am also in agreement with the arguments of our Transportation Subcommittee's ranking minority member, SILVIO CONTE, principally that this issue should be resolved when the House considers the authorizing language in H.R. 6417, the Surface Transportation Act.

Thus, Mr. Speaker, although I am recorded as having voted in favor of Mr. STENHOLM's amendment, I would like to state now that my position is just the opposite. I oppose the amendment and am pleased that, despite my mistaken vote, it failed to pass.●

GENERAL STEFANIK REMEMBERED DURING SLOVAK SOKOL DIAMOND JUBILEE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. GUARINI. Mr. Speaker, the 14th District that I represent is composed of persons from more that 50 different nationality groups. Collectively, they have made outstanding contributions to the development of our great Nation. Each of them are maintaining their unity through their various fraternal, religious, and civic organizations.

Of major importance to the cohesiveness of each of these groups is the media that provides the necessary communication. Recently, an exemplary association, the Slovak Catholic Sokol, celebrated its diamond jubilee.

The members of the sokol received greetings from dignitaries throughout the world, including Pope John Paul II, Vice President Walter F. Mondale and Governor Brendan T. Byrne of New Jersey, who praised his State's Slovak community of 105,000 individuals. Participating in the gala diamond jubilee celebration were his Excellency Frank J. Rodimer, bishop of Paterson, and Editor John C. Sciranka of the Catholic Falcon, the official publication of the Catholic Sokol.

During this occasion, the sokol—which has the involvement of one of my dear friends, Judge Joseph Talafous of Jersey City—took time out to remember the centennial birthday of Gen. Milan R. Stefanik, the great Slovak liberator.

For the information and guidance of all concerned, I am quoting from the July 16, 1980, edition of the Catholic Falcon:

On Monday, July 21, Slovaks all over the world will celebrate General Milan Rastislav Stefanik's Centennial birthday. He was born on July 21, 1880 in the village of Kosariska, Nitra County, Slovakia of Lutheran Slovak parents. His father was a Lutheran minister.

Since early youth, General Stefanik was interested in astronomy. He studied in Prague and later went to Paris, where he achieved fame and was decorated by the French Academy of Science. During World War I, he joined the French Army and was elevated to the rank of general within three years, which was a most outstanding achievement.

He visited the United States before World War I, on his way to Tahiti. He stopped in the editorial offices of "Slovak v Amerike" in New York and also visited his brother Paul in Newark, N.J.

General Stefanik was the organizer of the Czecho-Slovak Legion with the approval of our U.S. government. In old Russia he was met and aided by our Editor the late Gustave Kosik, who advised him to again visit the United States of America which he did in 1917. Here he met many leaders. He had a very productive meeting with Slovak Catholic priests at the Plaza Hotel in New York City under the leadership of Rev. Joseph Murgas, Rev. Dr. Alexander Dianiska, Rev. John Kubasek, Msgr. Stephen J. Krasula and others. Thus the Million Dollars drive was launched for the liberation of Slovakia and the establishment of the first Republic of Czecho-Slovakia, which was most successful.

The Czecho-Slovak Legion had its Training Camp in Stamford, Conn., which General Stefanik and President Thomas G. Masaryk visited. General Stefanik was on the Allied Military Staff of General John J. Pershing and was officially welcomed in Washington, D.C.

He spent some time in Italy, where he was engaged to an Italian Countess Juliana Benzoni, who still lives in Rome and never married. She was interviewed recently by Father Michael Lacko, S.J. and recalled her love at the age of 85 for this great hero, who died in an airplane tragedy on May 4, 1919 near his birthplace in Slovakia with two Italian pilots at the age of 39.

The Slovaks of Cleveland, O., erected a monument in his honor and the Slovaks of Passaic and its area also honored him with a bronze plaque and a Slovak National tree Lipa (Linden) in May 1937 and continue to pay him tribute each year. In Yonkers, N.Y., a park is named for him. The Centennial Birthday of General Stefanik is included in our S. C. Sokol Diamond Jubilee program. Our Group 15 was named for him. He will always be remembered as a great Slovak liberator.

Mr. Speaker, I am sure that my colleagues in the House of Representatives are pleased to share in this worthy tribute to a great organization and to the memory of General Stefanik, who believed in and worked for freedom for all.●

S. 2208

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BROWN of Ohio. Mr. Speaker, today I am introducing legislation which proposes to phase out, over a 6-year period, the so-called retirement test—or earnings penalty—of the social security program for Americans ages 65 to 71. My bill, which has been introduced in the Senate by the Honorable PAUL LAXALT of Nevada—S. 2208—offers a reasonable approach to this longstanding inequity and is similar to the approach approved by the House of Representatives during its consideration of the Social Security Amendments Act of 1977. Unfortunately, the Senate rejected—or rather, watered down—our effort that year.

Currently, the social security retirement test requires that Americans aged 65 to 71 have their social security benefits reduced 50 cents for each $1 they earn over the federally approved annual exempt amount. In 1980 this amount is $5,000. The final version of the 1977 social security amendments provides for this age limit to drop to 69 in 1982.

My bill, however, would reduce the age to which the earnings limit applies by 1 year, each year, beginning 1980 until 1985 when the earnings limit will have effectively been eliminated.

I need not remind my colleagues in the House that the social security program was intended to provide a minimum income for minimum needs. It was not intended by any stretch of the imagination as a ceiling on retirement income. Those benefits are earned and Americans who have paid into the system are entitled to a return of their payments at age 65, regardless of their employment status at that age, especially since those benefit rates are based to a certain extent on life expectancy.

As it now stands, a worker aged 65, retiring in 1980, can receive between $1,836 and $7,848 annually in social security benefits. That person may continue to work and earn up to $5,000 without suffering reduction in benefits. That would give the individual an annual income of between $6,836 and $12,848—not a substantial sum in these inflationary times.

However, for each $1 that individual earns over the federally sanctioned $5,000, he or she loses 50 cents in social security benefits. In other words, the Federal Government is imposing a minimal living standard and a regressive 50-percent tax on earned income above $5,000 on many retirees. And furthermore, this tax is based solely on an individual's age and willingness to work.

I might point out that social security recipients are not penalized for any amount of unearned income—dividends and interest income—which is as it should be. Why then are they punished for earned income? When we look at it this way, it is clear we are hurting the very people we mean to help: Those who did not earn enough during their younger working years to save and/or invest for their retirement.

I recognize the elimination of the earnings penalty will mean additional social security outlays. However, part of these additional outlays will be offset by the social security taxes these individuals will pay once they resume work.

The Social Security Administration's Actuary Office has estimated my proposal would cost an additional $400 million in 1980, $600 million in 1981 and 1982, $900 million in 1983, $1.4 billion in 1984, and $2.2 billion in 1985. However, these estimates do not take into account the additional revenues these individuals will contribute to the fund. The figures also fail to reflect the additional contributions these individuals will make to our gross national product and to the Treasury through added tax revenues and reduced public assistance expenditures.

Mr. Speaker, this is a reasonable and just approach to this longstanding inequity. I commend it to my colleagues' attention so they might once again approve the principle behind it—just as they did in 1977.

Thank you, Mr. Speaker.●

CORPORATE ETHICS IN DEREGULATION

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. GREEN. Mr. Speaker, we have made long strides down the road toward Government deregulation of key American industries. We have already dealt with trucking and the airlines and we will soon resume consideration of railroad deregulation. Recently, I received a very incisive letter from Mr. John Casey, a friend and constituent of mine from New York City. Mr. Casey makes several relevant and important observations for our debate and draws upon his experiences in business and at the Yale School of Management. Because of his timely comments, I wish to share his letter with our colleagues and ask that it be printed in the RECORD at this time.

SCUDDER, STEVENS & CLARK,
New York, N.Y., June 11, 1980.

Hon. WILLIAM GREEN,
Congress of the United States, House Office Building, Washington, D.C.

DEAR BILL: Good to see you. Twice in a year yet.

I have been working recently on a number of issues concerning corporate responsibility and ethics. Last summer I had a terrific immersion at the Yale School of Management, for example. Related is the whole question of "deregulation" including the desirability of more effective definition of primary state and central government roles.

I think there is a political issue on deregulation which is of some significance. It runs this way:

1. To get government out of business requires more than a pious hope by business or government or abdication by government in favor of the law of the jungle.
2. Each business firm must take a complementary initiative in governing itself responsibly. But if it does so government is well served.
3. The safe harbor of government regulation is not without cost. Business needs to be reminded of the need to look at the long-term benefits of responsibility it carries.
4. Now is the time.
5. Reasons for business' reluctance to take initiatives are complex. We all adjust to our bridles and feel less comfortable with the unfamiliar. But there is a justifiable fear that self-regulation can turn out to be a trap. Unfriendly regulators may stand back during self-regulatory steps and then they can jump in and say "aha—you're dead! Your tightening up on procedures proves you were doing something wrong—pay up in civil suits. Your regulation is a minimum for the future and we will add to it."
6. The credibility of the national Administration may be a key to business willingness to take initiatives in self-regulation knowing there is no trap.

Cheers,
Sincerely,
JOHN L. CASEY.●

AMERICAN FOREIGN POLICY IN JEOPARDY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues the following letter from my constituent, Steve L. Hicks of Mayfield, Ky. As a student of foreign policy, Mr. Hicks is concerned about the manner in which the administration handled the recent death of the Shah of Iran and the negative side effects with regard to American foreign policy. The text of the letter is as follows:

I am stunned at the way in which the Carter Administration has handled the Shah's death. The Shah was an ally and friend of the United States for the past 35 years and when he died, we looked the other way. Our government has used this man's position and nation to our advantage and paid very little respect at the time of his death. We, as a nation, can receive refugees, fugitives, aliens and political advocates from other countries, but we can not assist a man who has helped stabilize a power struggle in the Middle East and who has helped this nation more than all of these people combined.

What are the other leaders of the world who are our allies and who could come under similar conditions in the future to think? Will we abandon them? Will we be somber when they die? Will the United States issue a very meaningless statement? Will we let others say how we honor them? As a student of foreign policy, I see our foreign policy in great jeopardy.

The bottom line in this whole matter is that the militants and the Iranian government are dictating our actions in our foreign policy in the Persian Gulf. This must be stopped or controlled as soon as possible. I hope for this nation's sake that God and our Congressmen like you will help this great nation halt our abandonment of friends. If not, we will be soon isolated from the rest of the world.

Sincerely yours,

STEVE L. HICKS.●

BONN DECLARATION ON TOXIC SUBSTANCES CONTROL

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. ECKHARDT. Mr. Speaker, on June 11–14, 1980, representatives of environmental organizations from the United States and 12 European nations met in Bonn, West Germany, for the first time ever to discuss their common concerns regarding toxic chemicals. The European/U.S. Seminar on Toxic Substances Control was sponsored by the European Environmental Bureau, the Natural Resources Defense Council, the Sierra Club, the Bundesverband Burgerinitiativen Umweltschutz and the Bund fuer Umwelt- und Naturschutz Deutschland, with support from the German Environmental Protection Agency, the Dutch Ministry for Public Health and the Environment, and the German Marshall Fund of the United States.

One result of that meeting was the Bonn declaration. Recognizing that the hazards and benefits of chemicals are shared by all nations, the declaration calls for increased cooperation between the United States and the member states of the European Community in testing both existing and new chemicals. The declaration emphasizes the importance of full public access to health, safety, and environmental data concerning chemicals and need for concerted international action to control recognized dangerous substances, such as PCB's and chlorofluorocarbons.

During the last few years, we and the Europeans have been working to harmonize our different approaches to toxic substances control. The Bonn seminar and declaration represent an important new ingredient in those deliberations—the existence of informed public concern on both sides of the Atlantic. In order to provide this body and the American public with the benefit of the seminar, I insert the text of the declaration in the RECORD:

BONN DECLARATION ON TOXIC SUBSTANCES CONTROL

1. We are representatives of environmental organisations and citizens from twelve European nations and the United States. We differ widely in language, in political opinion and in cultural experience. But we share a common concern. Our fear is that the growing use of chemical substances threaten the well being of present and future generations and the proper working of natural systems which sustain all life.

2. We are aware of the benefits which have been derived from the use of chemicals and we understand the economic importance of such substances. But we are also aware that many chemical substances can be hugely toxic. Some chemicals induce cancer and other diseases, cause changes in the structure of human genes, and produce deformities in unborn children. Others can kill and cripple human beings and other living things.

3. Furthermore, those exposed to the risk of contamination are often not those who obtain the benefits of the use of such chemicals. The effects of such chemicals on human beings and ecological systems may be difficult to detect in a timely manner and impossible to reverse once detected.

4. The need to eliminate poverty, disease, hunger and inequality in a world of growing population, declining resources and rising energy prices will be used by many groups to promote use of some existing chemicals and the development of new chemicals. This justification is highly questionable. We are of the opinion that chemicals may not contribute to the solution of these problems and even where they might, the adverse effects on society and the environment may outweigh the advantages so gained.

5. We recognise that the harmful effects of toxic substances may not be confined to the country of production, use or disposal. Some chemicals effect the atmosphere or the oceans which are the common property of all people; others are carried by the air and water across national boundaries; and others are widely dispersed through trade. Thus, there is a need for cooperation between all nations to address the global risks of toxic chemicals.

6. Therefore we believe it to be the duty of national governments, acting separately and in concert, to continue urgently the task of establishing appropriate legislative and administrative frameworks to regulate or prohibit the production, use and disposal of chemical substances. Such a framework should contain adequate provision for the public to participate in its formulation, implementation and further development.

7. We further believe that it is the duty of those who wish to engage in commerce in new and existing chemicals and of those who regulate this commerce, to investigate their efforts on man and the environment. To this end, procedures should be adopted to assess the hazards of all new chemical substances prior to their manufacture, to test existing chemical substances in an orderly sequence, and to monitor the impact of chemicals upon the environment and human health.

8. In addition, we believe it to be the duty of non-governmental organisations, including trade unions, environmental associations, consumer bodies, to alert and inform the public and their own members, as to the nature and importance of the problems of toxic substance control and the need for citizen action.

9. In carrying out these duties we believe that certain basic principles should be observed, among them:

(i) That the public, including workers should have a right of access to information to interpret technical expertise and the courts;

(ii) That, in cases where opinion is divided, public health and the protection of the environment should be the determinant of governmental policy;

(iii) That the burden of proof lies with those who wish to engage in commerce in chemical substances to demonstrate the risks and to prove their social necessity;

(iv) That in the evaluation of costs, risks and benefits, qualitative as well as quantitative factors be explicitly considered.

10. We do not accept that there is an absolute right to produce any chemical substance that can be synthesized. The main criteria in permitting production should be usefulness to society and the absence of unacceptable risks to health and the environment. In arriving at judgements on a particular chemical substance there should be full participation by the public.

11. In conclusion, we are pledged to cooperate in a dialogue on these issues with government, industry, workers, consumers, and other interests.

RESOLUTION

In light of the foregoing Declaration, we strongly urge the European Community Member States and the United States:

1. To implement fully and vigorously testing procedures for new chemicals under the Sixth Amendment and TOSCA, recognising the further need to improve and strengthen these procedures;

2. To take immediate steps to establish priorities for the testing of existing chemicals and to carry out such testing, co-ordinating these efforts through OECD or other means;

3. To increase the scientific resources available for testing and evaluating chemicals;

4. To provide the public with full access to health, safety and environmental data concerning chemicals;

5. To adopt regulations on the production, use, import, export, export and disposal of chemicals, so as to minimise the risks to health and safety and the environment and, where necessary, to an such chemicals;

6. To establish common criteria for the assessment of chemical risk;

7. To provide the public with a meaningful opportunity to participate in decision-making regarding chemicals;

8. To decrease substantially the generation of hazardous wastes, through the modification of production systems;

9. To act immediately to halt the exports of banned chemicals, and hazardous wastes and technologies, without full disclosure of risks and the informed consent of importing countries;

10. To recognize the dangers posed by chlorofluorocarbons (CFC) to the ozone layer, and, thus to ban the use of CFCs in aerosols, to agree to an immediate cap on CFC production and on a schedule to reduce or phase out production as soon as possible and to increase research on less dangerous alternatives;

11. To take concerted international action to eliminate the dangers posed by PCBs 2,4,5-T, asbestos and other hazardous substances;

12. To provide assistance to those nations with small chemical industries or shortages of technical expertise, so as to help maintain the environmental quality and avoid the degradation of still unpolluted areas;

13. To provide for the representation of environmental organizations in the chemical work of OECD and other international organizations.

Amis de la Terre Belgique, c/o 1 Place Communale, 4291 Lens St. Servais, Belgium.

An Taisce, 41, Percy Place, Dublin 4, Ireland.

Bond Beter Leefmilieu Vlaanderen, Aarlenstraat 25, 1040 Brussels, Belgium.

Bund Umwelt und Naturschutz Deutschland, Oskar Walzel Strasse 17, 53 Bonn, FR Germany.

Bundesverband Burginitiaven Umweltschute, Hellbergstrasse 6, 75 Karlsruhe, FR Germany.

Council for the Preservation of Rural England, 4, Hobart Place, London S.W.1., U.K.

Deutscher Naturschutzring e.V., Kalkuhlstrasse 17, 53 Bonn-Oberkassel, FR Germany.

EEB, 31, rue Vautier, 1040 Brussels, Belgium.

Elliniki Etairia, Panepistimiou 10, Athens, Greece.

Environnement et Santé 16 rue Edouard Beaulieu, 93110 Rosny sous Bois, France.

National Audobon Society, 950 Third Avenue, New York, NY 10022 USA.

National Resources Defense Council, 1725 I Street, Suite 600, Washington, D.C. 20006, USA.

Nature et Progrés, Chateau de Charmarande, 81730 Charmarande, France.

Oko Institut, Schönaeur Strasse 3, D78 Freiburg, FR Germany.

Osterreichische Gesellschaft für Natur und Umweltschutz, Canovagasse 5/IV, 1010 Wien, Austria.

Réseau des Amis de la Terre, 117 av de Choissy, 75013 Paris, France.

Sierra Club, Office of International Environmental Affairs, 800 Second Avenue, New York, N.Y. 10017 USA.

Social Audit, 9, Poland Street, London W.1., U.K.

Société Française Pour le Droit de L'Environnement, c/o Universite de Strasbourg, 18, Place d'Athens, 67 Strasbourg, France.

Environmental Defense Fund, 1525, 18th Street, Washington D.C. 20009, USA.

EREYA. Xenofondas 14, Athens, Greece.

Fédération Française des Sociétés de Protection de la Nature, 57, rue Cuvier, Paris 8, France.

Friends of the Earth, 9, Poland Street, London, W.1., U.K.

The Heritage Trust, 41, Percy Place, Dublin 4, Ireland.

International Institute for Environment and Development, 10, Percy Street, London WIP 1EE, U.K.

Landelijke Verening tot behoud, van de Waddenzee, Voorstraat 18, Postbus 90, 8861 BK Harlingen, The Netherlands.

Stichting Natuur en Milieu, Noordereinde 60, 1243 JJ 's Graveland, The Netherlands.

Swedish Society for Conservation of nature, Kungsholms Strand 125, 112 34 Stockholm, Sweden.

Tennessee Environment Council, PO Box 142 Nashville, Tennessee 37202, USA.

Verening Milieudefensie, Tweede Weteringsplantsoen 9, 1017 ZD Amsterdam, The Netherlands.

Werkgroep Noortzee, Damrak 37, Postbus 723, 1000 Amsterdam, The Netherlands.

W.W.F. Schweiz, Postfach 79, CH 8037, Zurich.●

A DEAN OF THE VINEYARDS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. STARK. Mr. Speaker, today I would like to pay tribute to the youngest and most vigorous nonagenarian in the State of California, Mr. Ernest Wente. On July 6, 1980, Mr. Wente, in the company of his lovely family and friends, celebrated his 90th birthday.

Mr. Wente, or the boss as he is affectionately called by his grandchildren and his two sisters, Frieda Callahan and Hilma Hageman, children of German immigrant Carl H. Wente, are the surviving members of the second generation of Wentes. Not surprisingly, Mr. Wente has demonstrated the same type of pioneering business spirit as his father who originally established the Wente Winery in Livermore, Calif., in the 1880's and 1890's.

But Mr. Wente has other interests besides wine. For as many years he has supervised the vineyards, Ernest has had beef cattle. Even today, at 90 years young, he continues to run 150 head on land adjacent to the winery and divides his time about equally between the two.

I know that I speak for all members of the wine industry as well as those who have enjoyed the distinct privilege and pleasure of Ernest Wente's friendship when I say that I am proud of his accomplishments and I look forward to the celebration of his 100th birthday in July of 1990. Ernest, I toast your health and ageless vigor.●

BIAGGI SEEKS EARLY LEGISLATIVE REMEDY TO END ELDERLY UNEMPLOYMENT INSURANCE PAYMENT REDUCTIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BIAGGI. Mr. Speaker, I wish to discuss with my colleagues an unforseen problem that has emerged regarding unemployment compensation benefits and retirement income. Because of a law passed by Congress 4 years ago, thousands of senior citizens are being penalized solely because they have acted to supplement their small retirement incomes by working.

In 1976, Congress passed Public Law 94-566, the unemployment compensation amendments. This law contained a section which amended the provisions of the Internal Revenue Code which set standards for Federal approval of State unemployment insurance compensation laws to mandate that all States provide that the unemployment insurance benefits paid to any individuals receiving pensions be reduced, dollar for dollar, by the amount of the pension. This section, No. 314, became effective on April 1, 1980.

Implementation of this provision has already taken a harsh toll on older Americans who are seeing a large portion of their meager incomes being unjustly withheld. Everyday I receive letters from angry and baffled constituents in my district who demand to know how Congress could have passed such a devastating bill. Unfortunately, this law discriminates mainly against older persons—my colleagues can attest to this because many have received an equal volume of mail.

When this offset provision was first written, it was conceived to address the situation where an individual had become unemployed and therefore eligible to receive unemployment compensation payments solely because of his retirement. In a case such as this, the retired individual could be collecting both an ample pension and unemployment benefits from his former employer simultaneously.

Unfortunately this portion of the law was drafted in very broad terms and applies to a far greater number of individuals than those who have made the decision to retire and enjoy their comfortable pensions. The truth is that many of those affected are either mandatory retirees who have been laid off or fired, or elderly who receive small social security payments, pensions, or other annuities and only wish to earn an adequate income to keep pace with inflation. I have been informed that up to 14,000 individuals in my home State of New York can expect to lose an average of $66 each week as a result of this law. In the longrun, these elderly New Yorkers will be forfeiting $48 million a year which would normally and rightfully be going into their pockets. Figures from the Social Security Administration clearly illustrate the plight of these people: In 1976 the median private pension or annuity for a man over the age of 65 was just $2,060; a woman over the age of 65 received even less—$1,340.

I believe that it is wrong to deny the elderly the benefits they deserve as unemployed workers. Congress, recognizing this injustice has already acted twice by first setting the date of implementation to October 1, 1979, then extending it to April 1, 1980.

My House colleagues have acted to alleviate this outrage. In February of this year, H.R. 5507 which would amend the Internal Revenue Code of 1954 to modify the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, was passed by a large majority in the House. H.R. 5507 calls for a partial repeal of section 314 by requiring that States decrease unemployment insurance benefits only when a recipient's pension is provided by a base period employer and thereby narrows the present broad language so that the offset would affect only those unemployed workers who were collecting unemployment benefits and retirement payments from the same employer; and further extends the date of implementation to January 1, 1981.

I voted for H.R. 5507 with the hope that it would receive equally prompt attention by the Senate and soon become law. On July 29, an amendment containing the provisions of H.R. 5507 was added to H.R. 3904, the multiemployer pension plan amendments during the Senate floor debate.

I urge my colleagues to seriously consider the consequences of failing to eliminate this offset provision and would like to submit for the RECORD as my closing statement an article that appeared over a month ago in the New York Daily News. I believe that the words, "absolutely brutal" spoken by the unemployment officer accurately describe the unhappy situation that thousands are now faced with. I ask that my colleagues keep these words and the fate of these innocent, hard working people in mind and act quickly to enact the provisions of H.R. 5507 into law.

[From the New York Daily News, July 3, 1980]

NEW JOBLESS RULE PUTS SQUEEZE ON ELDERLY

(By Albert Davila and Jane Perlez)

An estimated 25,000 retired New Yorkers are losing an average $2,000 a year in unemployment benefits each because of a change in the law which took effect this week.

More than half of those people are losing all unemployment benefits they have been collecting. The new regulations affect retired workers who have taken a post-retirement job to supplement their pensions or Social Security.

"Absolutely brutal," said one unemployment officer who has been giving the news to elderly people arriving for their weekly check at the Bond St. center in Brooklyn.

Dejected and confused elderly people milled around the waiting area of the center after hearing of the slash in their incomes.

STEALING MY MONEY

"They're stealing my money," said Carol Nathanson, 68, a cigar and candy store manager of Williamsburg who has been unemployed since April 25. "This is not money they're giving me free. They've taken this money out of my check for many, many years." Nathanson was told of a cut from $91 a week unemployment to $8. She receives $303 a month in Social Security.

Another who learned of the cutoff yesterday was William Haynes, 67, a retired refrigerator mechanic who has been out of work and who said he has a diabetic wife who needs hospital care. "It's impossible to fight the government. It will be real rough paying the rent." Haynes' $96-a-week unemployment was cut off. He receives $362 a month in Social Security.

The new unemployment law was actually written by Congress in 1976. It requires that unemployment benefits be reduced dollar for dollar by the amount an individual is receiving in pension or Social Security benefits.

A GAIN FOR BUSINESS

If a person is getting a $100 Social Security payment per month, any unemployment benefits he may receive would be reduced by $100.

"Very likely few people in Congress understood the impact this would have on people," said David Ford, spokesman for New York State Department of Labor.

Ford said a state study showed 71% of those hit by the cutback are over 65 and 14% are over 72. Approximately 53% of those affected are getting no retirement benefits other than Social Security.

The new law will mean a $50 million gain for businesses, because unemployment insurance costs statewide, paid for by employers, will be reduced by 5%, or $50 million.

Many of those hurt by the new law were forced out of work originally by mandatory retirement laws, Ford said.●

THE FALLS OF THE OHIO—A NATIONAL WILDLIFE REFUGE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. SNYDER. Mr. Speaker, in the heart of Louisville, Ky., lies one of the natural wonders of the world: the falls of the Ohio River. Today I am introducing legislation which would establish the area known as the Falls of the Ohio as a national wildlife refuge.

The Falls of the Ohio is an area located in the Ohio River which includes a unique and world-renowned 300 million-year-old fossilized coral reef which is the only place where the Ohio River flows over bedrock. These wetlands have also become nationally known among ornithologists as one of the most exciting places in the country to see migrating waterbirds, waterfowl, and shorebirds as well as an attraction for fishermen, other outdoor enthusiasts, archeologists, and amateur collectors of artifacts. Perhaps no where else in the world is there an area which offers such geological, ornithological, archeological, and paleontological distinctions within such close proximity to a major metropolitan area.

The coral reef of the falls is one of the finest horizontal exposures in the world of Devonian fossil corals. Nearly 900 nominal species of fossil corals have been founded on specimens collected from approximately 150 feet of coral beds in the falls area. Corals from the Falls of the Ohio can be seen in almost every natural history museum in the world.

To those who understand its significance, it is a natural wonder of the world, a jewel, a treasure house of the Earth's history. Yet it has never been protected, and often it has been a victim of unknowing rock collectors who may hammer out some valuable specimen without realizing they are interfering with the hands of time.

Actually the falls consisted of a series of rapids, falling some 26 feet in a 2-mile stretch beginning at a point near the McAlpine Dam.

For many years before the dam and locks were built, boats and barges heading downstream "shot the falls" at high water with pilots who knew the dangerous course and its pitfalls. They made a specialty of falls operation.

It was in 1817 that Capt. Henry Shreve, with a canny eye on both the law—Robert Fulton and Robert Livingston's steamship patent gave them a monopoly on the steamboat trade—and the falls, built the giant *G. Washington* with a shrewd innovation that altered the course of commercial river operations.

Instead of a tall oscillating vertical cylinder which required deep draft, Shreve substituted a pair of fixed horizontal cylinders he could lay flat on deck. That gave him a tongue-in-cheek possible loophole from the language of the Fulton-Livingston patent. But more importantly, it gave him a shallow draft to run on the falls, not in it. Captain Shreve reportedly boasted, "I can run the falls in a heavy dew."

The falls is also a favorite habitat for wildlife. Among the birds spotted in the falls area are several species of sandpipers, and herons, the snowy egret, piping plover, blue winged teal duck, ringed-bill gull, and the common and black terns.

Several species of heron frequent the area. Stately great blue herons bring their young there to feed, while little green herons nervously prowl the banks. In the evenings, vast numbers of elegant black-crowned night herons wing their way into the area for their nightly sojourn.

The large pools and back-eddies in the lower stretch of this portion of the river harbor large concentrations of waterfowl. Diving ducks like the lesser scaup, canvasbacks, and red-heads feed on the abundant crustacae in these backwater retreats. Goldeneye, buffleheads, and ring-necked ducks vie with them for food, too.

Huge flotillas of puddle ducks use the area as a resting spot in the fall and winter of the year. Wood ducks, mallards, black ducks, widgeon, blue and green winged teal, and pintails migrate into this unique ecological niche every year.

John James Audubon saw an osprey, or fishhawk, nesting when he visited George Rogers Clark at his home in Clarksville, Ind. Also reported by Audubon was a swallow-tailed kite, which has not been seen in Kentucky in this century.

In past years, as many as 75 species of birds, including many waterfowl have been at the falls. The migratory birds that pause and nest on the islands at the falls are an unmatched display of birdlife so far inland. Many of the birds that stop there breed in Canada and Alaska, including Arctic regions, and spend their winters on the gulf coast and in Central and South America.

The area still serves as a haven for some of the most diverse birdlife in the Southeast. Shorebirds such as the sandpiper, plover, killdeer, and snipe are commonplace. Early in the mornings and late in the evenings you can observe them skittering across the flats in search of food.

However, in recent years, a chief concern has been the dramatic decline in the population of these birds. Within recent years, poachers with guns have killed many of the birds and driven off others. Egrets, for example, were familiar sights at the falls in the 1940's and 1950's but are no longer visitors there. This decline in population levels has also been due largely to changes that were made in dam construction near the falls, which has resulted in excess silt accumulation, and serves to dramatically highlight the urgent need to protect this area.

At the same location was a crossing of the ancient buffalo trace, known to have been used by mastodons and by tens of thousands of buffaloes in giant herds, on their way to the salt licks of Kentucky. The buffalo trace continued on through the Cumberland Gap in the southeastern corner of Kentucky, following in general the pioneer route later famous as the Wilderness Road. Its northwestern extension through Bullitt and Jefferson Counties carried pioneers past many of the salt licks—as important to the settlers as to the animals—and then to the falls.

Because of the unusual bottom structure of the riverbed, the area also has an incredibly abundant fish population. Largemouth, smallmouth, and Kentucky spotted bass work the sand bars and shoals in search of minnows. White bass, crappie, and bluegill swim side by side with them. Walleye have been showing up with increasing frequency, and the area supports one of the largest sauger populations in the country. The annual spring sauger run draws fishing enthusiasts from all over the Midwest.

Rough fish such as gar, buffalo, carp, white perch, and paddlefish are so numerous that you can actually see them teeming in the shallows. The catfish clan is well represented, too. Blue, channel, flathead, bullhead, and white catfish abound in the waters.

Yet, despite the efforts, for over 20 years, by interested, hardworking local groups, plans to establish the falls as a bistate park have failed. The legislation which I am introducing today represents an attempt to break the stalement which currently exists, before any more serious harm to the falls and its resources is allowed to occur.

The proposed refuge area extends from the Pennsylvania Railroad bridge downstream to the Kentucky and Indiana Terminal Railroad bridge at New Albany, following the downstream line of McAlpine Dam and curling around the Louisville hydroelectric plant. It would include an estimate 1,000 acres of land and water, the largest recreational open space left in the heart of the Louisville metropolitan area.

It is my belief that the Falls of the Ohio National Wildlife Refuge will represent one of the most unique and interesting wildlife refuges in our country and that it will not only continue to attract the fishermen, nature lovers, and scientists who now visit there, but it will insure that future generations also have an opportunity to appreciate and learn about nature.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. McDONALD. Mr. Speaker, on July 31, 1980, I unavoidably missed three recorded votes. While I was paired on each vote missed, I did not receive a live pair on one of the three votes. Therefore, I would like to take this opportunity to explain how I would have voted had I been present.

No to House Resolution 758 (Roll No. 446), waiving certain points of order against the bill, H.R. 7831.

*Yes to an amendment to H.R. 7831 to prohibit the use of urban discretionary grants for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts (Roll No. 447).

*No to an amendment to H.R. 7831 to provide for the reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, N.Y. (Roll No. 448).●

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*Asterisk indicates that a live pair was received.

GASOLINE RATIONING

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. COLLINS of Texas. Mr. Speaker, the answer to gasoline shortages is not gasoline rationing. The answer is complete oil and gas deregulation. Get the Government out of it. All Government manages to do in any business is to confuse and increase costs. Congress should have voted it down instead of passing it 209 to 205.

Down in Texas we have a newspaper editor with good commonsense—Felix McKnight. When he read the gasoline rationing bill that Congress passed, he picked up his pen and summed it up well. Here is McKnight of the Dallas Times Herald with the key points of his editorial.

> Preparedness is a viture too often ignored by Washington's moguls—as in the case of national defense—but our new, approved standby gasoline rationing plan is the acme of bureaucratic overkill.
>
> Energy Secretary Charles W. Duncan, Jr. candidly confesses that the administration of it is going to be "very, very complex."
>
> Somewhere in between there, we vehicle-driving citizens stand on the edge of a bureaucratic mess we had better pray will never come off.
>
> Briefly, President Carter's approved plan calls for the issuance of five billion rationing coupons, the hiring of 5,000 new Federal and 15,000 State and local employes and an original expenditure of $103 million just to set up the plan. And, once in gear—if ever—it would cost $474 million every three months to administer.
>
> That is two billion dollars a year, folks. But, of course, they have provided a special fee at the pump, probably about two cents per gallon, to cover the costs.
>
> It has caused controversy, doubt and a lot of head shaking. The House, with no partisan lines, voted bare passage, 209-205.
>
> The five billion coupons would be issued based on the number of vehicles registered to a household or business—with business entitled to additional coupon allotments based on historic gasoline consumption.
>
> If you have three automobiles around the house with three drivers, you get three coupon books. If you can afford only one car with three drivers for their various uses, you get one coupon book. You would just drop by the service station, tank up and leave coupons.
>
> Then the aforementioned army of 20,000 (bound to swell as the complexities swell) would gather the coupons, tote them up and wonder what to do about the inevitable disparities and cheating. The Energy Department, in its original report to Congress, warned of complications.
>
> Such as, every three months 153 million ration checks would be mailed—one for every registered vehicle. Motorcycles would get one-fourth of a car's coupon allotment and you moped fans would get one-tenth.
>
> It would involve, in effect, creating an entirely new currency, complete with checking accounts, the Energy Department admits. In one of the real mind-twisters of the plan, extra coupons could be bought and sold freely. Depending on the demand for gasoline and how much gasoline prices increased, a coupon could be worth from $2 to $5, according to the Energy Department.
>
> No big burden to those who can afford three or four cars, but a heavy load to the little guy trying to make it on one car if he needs extra gas at premium coupon prices.
>
> All of this just can't happen at the whim of the White House. The law states that the president can call for the plan to go into effect if there is a 20 per cent gasoline shortage for 30 days. And then either house of Congress could veto that decision before if could be put into effect.
>
> Opponents call it "an unmitigated disaster" and insist upon fairer, more workable emergency preparedness.●

TRIBUTE TO OUR OLYMPIC ATHLETES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. MAZZOLI. Mr. Speaker, I would like to join other Members of the House in honoring our Olympic athletes.

Surely no tribute we can offer will totally make amends for the heartbreak these athletes are experiencing at not achieving the honors they would have undoubtedly won for themselves and their country had they participated in the Moscow Games.

Yet, the courage and dignity with which these unselfish young Americans endured the sacrifice of missing the events for which they had trained for years—indeed for most of their lives—characterize the same spirit of American youth that a few months ago defeated the world champion Russian hockey team.

These young athletes are models of whom we, Americans, can be truly proud.●

HANDGUN VIOLENCE CLAIMS 594 LIVES IN JUNE 1980

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. DRINAN. Mr. Speaker, the roll of handgun dead continues to mount as handgun violence claims additional lives each month. During the month of June 1980, 594 lives were lost because of handgun misuse.

This tragic loss of life could be drastically reduced if the Congress were to take responsible legislative steps to place restrictions on the use of easily concealable handguns. The Kennedy-Rodino Handgun Crime Control Act of 1980 accomplishes this end. I hope the House and the Senate will hold hearings on this important legislation soon.

The handgun body count for June 1980 is a list of media-reported handgun deaths and has been compiled by Handgun Control, Inc.

The list follows:

THE AMERICAN HANDGUN WAR DEAD—JUNE 1980

ALABAMA (14)

H. Beaver, D. Berry, P. Carter, A. Childers, C. Cohill, G. Cole, R. Garth, J. Harris, Jr., E. Keller, J. Loftis, C. Phillips, P. Poole, R. Ruppert, R. Vess.

ALASKA (1)

R. Pfaff.

ARIZONA (11)

C. Cloud, C. Gale, W. Glover, J. Isabell, E. Jenkins, H. Jenkins, R. Masner, G. Sanchez, J. Smithe, I. Tye, A. Villalobos.

ARKANSAS (18)

R. Bogard, L. Burrell, G. Carter, Sr., P. Creech, R. Crump, D. Garrison, W. Hall, S. Houston, C. Jackson, L. Jones, D. Lively, W. Robinson, M. Thurman, G. Webb, T. Wiley, D. Williams, Unidentified male, Unidentified male.

CALIFORNIA (91)

R. Aguirre, W. Anderson, R. Avina, M. Barraza, R. Bath, D. Beede, D. Berklau, R. Boatright, H. Brown, D. Calonsag, R. Casey, M. Calonsag, J. Castellanos, J. Chacon, C. Chandler, A. Chapparo, M. Chew, G. Cline, R. Copeland, P. Cousineau.

R. Crosswhite, C. Danner, J. Diggs, R. Duncan, L. Flores, D. Frazier, J. Fuentes, D. Fulton, M. Gallardo, T. Garwood, R. Germain, D. Gonzalez, E. Gonzalez, R. Goustin, T. Green, W. Guardado, P. Guzman, B. Harbor, R. Hernandez, R. Hitz.

K. Jones, P. Jones, J. Jordan, M. Keola, R. Lindsey, M. Lopez, G. Marano, L. McGhee, H. Mead, H. Mendivil, T. Monahan, M. Mushko, B. O'Bonnon, S. Parr, R. Parra, M. Peterson, J. Ramirez, D. Reed, E. Reyna, Sr., R. Rizzone.

S. Ruiz, L. Santiago, I. Sauer, L. Sea, M. Shamblin, M. Sloan, S. Smith, W. Sorgatz, E. Talbert, A. Taylor, J. Terney, M. Thomas, C. Thornhill, V. Tinkler, D. Trenberth, C. White, E. Wilson, V. Wofford, W. Woodside, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified female, Unidentified female.

COLORADO (16)

E. Alire, J. Begano, J. Brady, C. Dominguez, D. Dunn, F. Espinosa, P. Gallegos, S. Jennings, D. Lanus, J. Lanus, J. Love, E. Medina, L. Romero, B. Tinkey, Unidentified male, Unidentified female.

CONNECTICUT (5)

D. Calise, J. Galvin II, E. Hart, L. Johnson, R. Terrell, Jr.

DISTRICT COLUMBIA (1)

C. Barton.

FLORIDA (29)

A. Bazin, S. Bordas, J. Brannam, D. Brown, G. Brown, A. Cheren, R. Cribbs, B. Davis, J. Davis, M. Dezayas, G. Gold, K. Harris, S. Hinson, R. Hopper, M. Johnson, C. Lima, D. Lowe, J. Mabry, W. McCandles, A. Musselwhite.

T. O'Rourke, A. Redfern, D. Shockley, D. Snell, S. Tommerdehl, R. Treece, A. Trotman, A. Webster, Unidentified male.

GEORGIA (19)

J. Caldwell, J. Carter, E. Chatham, W. Chatham, R. Collier, W. Hawkins, F. Johnson, M. McGinnis, C. Melton, G. Mullis, E. Oliver, Jr., D. Parks, B. Powell, L. Riley, T. Rowe, A. Taylor, C. Wilkerson, R. Wilkerson, J. Williams.

HAWAII (1)

F. Key.

ILLINOIS (62)

T. Angst, M. Avant, K. Barners, E. Brown, D. Butler, E. Cherry, G. Coary, R. Cook, M. Cruz, L. Curtis, V. Curtis, D. Davis, F. Davis, J. Davis, W. Driggers, M. Eastman, P. Figlia, C. Foster, S. Gamez, S. Getela.

R. Gillis, J. Goldman, R. Graham, F. Harding, M. Harris, J. Hartley, D. Hicks, P. Hilton, M. Jimenez, R. Johnson, T. Kolas, C. Lawson, B. Lee, V. Lojanicich, McCray, H. Meigs, J. Merritt, V. Miles, E. Moore, F. Nieves.

M. Parks, J. Patterson, E. Pepin, L. Pointer, W. Proper, R. Robinson, A. Rodriguez, H. Schwartz, R. Schwartz, E. Sherman, M. Smith, C. Stringer, J. Thomas, W. Thompson, L. Timberlake, M. Vales, N. Wallace, B. Watson, J. West, J. Williams, D. Woodall, M. Woodall, Sr.

INDIANA (6)

S. Rogers, L. Skordast, O. Vega, A. Racine, I. Robinson, V. Wooten.

IOWA (2)

M. Devine, P. Devine.

KANSAS (5)

D. Bruner, K. Pringle, R. Sible, I. Walker, Unidentified male.

KENTUCKY (15)

D. Blackburn, V. Browder, M. Burnett, C. Calhoun, V. Dehart, J. Graham, T. Johnson, L. King, Jr., C. Livesay, V. McCarty, M. Neely, H. Ritchie, T. Ritchie, J. Starnes, L. Tracy.

LOUISIANA (21)

C. Allen, Jr., D. Anderson, C. Braud, W. Camejo, R. Cormier, L. Davis, A. Duhe, L. Foret, P. Hatchett, L. Humphrey, A. Jackson, E. Matthews, R. Melton, R. Meredith, A. Petit, W. Robinson, M. Short, C. Simmons, B. Verrett, J. Wallis, Unidentified male.

MARYLAND (14)

D. Davis, E. Dillahay, F. Duncan, M. Hines, W. Hunter B. Kirkland, S. Massey, J. Nicholas, D. Pollack, W. Smith, C. Spell, J. Trotter, V. Ward, S. Woodie.

MASSACHUSETTS (4)

C. Kimball, F. McCullough, S. Snow, L. Zive.

MICHIGAN (13)

Z. Gibson, I. Gill, G. Gubala, L. Harris, R. Harris, R. Hart, R. Jacks, M. Kiszella, D. Neal, T. Pride, P. Reif, C. Searles, D. Stokes, Unidentified male.

MINNESOTA (6)

J. Brown, D. Gustafson, A. Hubbard, T. Kane, D. Olson, K. Ray.

MISSISSIPPI (3)

E. Allmand, C. Darby, L. Dixon.

MISSOURI (28)

W. Bell, O. Brison, B. Britton, J. Brown, C. Cotton, A. Dodds, A. Edwards, G. Erson, T. Estes, F. Evans, T. Evans, P. Ferguson, T. Harris, J. Heston, D. Humphrey, K. Jackson, R. Jefferson, K. Keck, G. Kennison, W. McCaine, T. McGill, J. Moyer, J. Overkamp, L. Parks, C. Taylor, Unidentified male, Unidentified male.

MONTANA (1)

M. Geisser.

NEBRASKA (2)

O. Almarez, S. Almarez.

NEVADA (4)

T. Brady, E. Cole, C. Hinton, Jr., L. Johnson.

NEW JERSEY (6)

R. Anorrim, C. Crawford, B. Ginsburg, J. Grezelak, C. Langone, S. Miller.

NEW MEXICO (3)

H. Felix, C. Notsinneh, J. Segura.

NEW YORK (26)

J. Acierno, R. Alberti, J. Billette, F. Cartagena, U. Casey, E. Champion, J. Colon, K. Cornish, M. Cruz, J. Cutueno, W. Frierson, F. James, J. Keegan, C. Morse, M. Oved, A. Santos, J. Scott, J. Smith, A. Stasinsky, J. Stasinsky, J. Velez, V. Whidbe, D. Wills, R. Wills, Unidentified male, Unidentified male.

NORTH CAROLINA (13)

K. Daniels, W. Davis, S. Hudgins, B. Mabe, J. Nunn, H. Penland, S. Rorie, R. Sherwood, R. Stevens, L. Taylor, E. Williams, M. Williams, Unidentified male.

OHIO (9)

J. Alvarado, E. Evans, R. Garza, J. Hall, H. Hylton, J. Slayman, J. Smith, S. Snider, E. Thompson.

OKLAHOMA (10)

A. Bourque, J. Eslick, B. Frazier, B. Hollenback, P. Hollenback, J. King, J. Lovejoy, A. Pennington, R. Swinford, J. Welborn.

OREGON (4)

J. Eleckel, C. Helms, R. Howard, S. Forbush.

PENNSYLVANIA (14)

K. Davenport, J. Davis, P. Jackson, R. Koontz, L. Lanze, R. Lawrence, A. Lovette, M. McClain, A. Reece, S. Shearer, R. Smith, J. Stevens, D. Ure, J. Volk.

RHODE ISLAND (1)

R. Barboza.

SOUTH CAROLINA (15)

L. Baldwin, G. Barber, E. Brakefield, L. Cakley, M. Duncan, W. Duncan, A. Graham, R. Griffin, A. Haddock, S. Haddock, B. Hedden, K. Krause, R. Mitcham, L. Riley, B. Spain.

TENNESSEE (30)

T. Adams, C. Albright, T. Bacon, B. Barnett, J. Bell, L. Bush, J. Butler, J. Church, C. Covington, H. Davis, W. Foster, J. Fox, Sr., M. Goodrich, R. Gray, S. Guin, R. Hall, M. Hargis, J. Hopkins, J. Jackson, L. Johnson, J. Jonson, A. King, R. Marler, J. Munson, B. O'Neal, C. Puchalski, P. Reynolds, R. Rogers, J. Rosser, A. Stephens.

TEXAS (49)

M. Andrews, J. Barrett, M. Bastardo, M. Blackman, E. Burke, C. Byars, F. Cano, Jr., J. Cantu, D. Carillo, M. Gant, D. Goddard, B. Gregory, B. Gregory, S. Hart, G. Haynes, J. Jaegerman, C. Jones, N. Loring, J. McDaniel, W. McWilliams, N. Malone, O. Malone, A. Martinez.

J. McCloud, J. Merchant, J. Mims, J. Morehead, D. Mueller, R. Mueller, R. Munoz, Jr., T. Nguyen, Jr., F. Paez, K. Pendergraft, P. Preiss, C. Reed, E. Rivera, C. Russell, P. Sanchez, S. Scott, B. Shores, O. Simpson, J. Smith, W. Stout, J. Thibodeaux, L. Thomas, K. Truitt, H. Weathers, J. Williams, J. Yantis.

UTAH (4)

M. McCuistion, O. Olsson, T. Powell, J. Romero.

VIRGINIA (4)

D. Mealy, S. Thompson, J. Treat, J. Wright.

WASHINGTON (11)

D. Allen, L. Dowell, R. Doyle, K. Garay, D. Makin, K. Makin, R. Pierre, C. Pourier, K. Rhoden, K. Wiggins, J. Williamson.

WEST VIRGINIA (2)

Unidentified female, unidentified female.

WISCONSIN (1)

J. Terrill.

PREVIOUSLY UNREPORTED IN 1980

January

C. Gibbs, C. Harris, C. Young.

February

T. Glashien, Unidentified male, Unidenitified male, Unidentified male, Unidentified male.

March

M. Anton, R. Auroa, J. Baker, W. Beck, G. Benavidez, L. Cabello, J. Cervantes, H. Delarosa, F. Delisimo Novic, D. Ellison, M. Fogle, A. Frances, P. Gaona, R. Garcia, L. Hill, A. Holmes, K. Hoskins, W. Hunter, J. Jennings, C. Johnson.

N. Jones, J. Kaminski, S. Kandleman, T. Kerr, D. Kezar, S. Larks, M. Lidgus, V. Limoncello, R. Matesko, G. McKenna, O. Milon, S. Montana, L. Moxat, W. Nelson, J. O'Leary, B. Pettis, G. Popescu, J. Prewitt, T. Purnell, E. Rambosek, R. Rhodes, M. Riordam, J. Rocha, J. Rodriguez.

D. Rouse, J. Rowley, W. Ryter, N. Savlin, D. Schultz, J. Shull, H. Steele, C. Summeries, R. Sumners, J. Swarwacke, L. Tillet, W. Thompson, B. Walsh, G. Ware, R. Wash, W. Weeks, R. Wilks, L. Williams, E. Wilson, M. Wlos, E. Wood, Unidentified female, Unidentified male.

April

P. Arcuri, H. Arrighi, G. Avitio Meraz, B. Bankston, R. Bender, F. Bentancourt, J. Bevins, P. Bizon, R. Blunt, L. Bostick, E. Brice, M. Brown, C. Brownlee, J. Burns, G. Cannell, R. Cavanaugh, E. Clemons, E. Clerk, D. Cole, J. Crowell, J. Cruz, B. Davis.

D. Davis, S. Davis, R. Delrio, J. Demoss, P. Donald, P. Dodds, D. Dvorak, R. Evans, H. Garcia, W. Garrett, R. Gilmore, N. Godfrey, J. Gonzalez, V. Gonzalez, B. Griffin, J. Gwathney, M. Harvey, R. Hernandez, M. Hicks, C. Hill, Jr., A. Hinze, M. Holmes, M. Jackson, W. Jackson, H. Jones, P. Jones, S. Jones, T. Jones, W. Knauz, Jr., J. Kotrba.

T. Leake, L. Lewis, F. Little, L. Luczak, C. Lundvick, L. Lyons, V. Mack, E. Manness, P. Manschula, E. Mathena, J. McCray, G. McGee, P. McKernan, P. McKinnley, M. Meshew, R. Miles, P. Miller, P. Miller, W. Minton, J. Montgomery, V. Murphy, J. Nanny, H. Naranjo, A. Nash, J. Nash, J. Nichols, W. Noble, Jr., P. Oliveri, T. Orr, P. Parks, J. Payne.

L. Perez, R. Petry, W. Phipps, Jr., C. Presley, J. Quiroga, C. Rance, A. Reed, T. Reese, L. Richards, D. Richie, E. Roberts, V. Rogers, D. Salazar, W. Sample, M. Seagroves, V. Sedore, G. Sinkey, J. Slaughter, R. Smith, D. Stidham, A. Torres, E. Varela, H. Vaughn, W. Veal, L. Vonstein, G. Vrabel, R. Warren, W. Washington, E. Wheat, G. White, R. White, G. Wright, M. Yantis, J. Young, Unidentified male, Unidentified male, Unidentified male.

May

C. Applings, T. Armstrong, E. Bowens, A. Brinson, R. Brown, C. Campanella, R. Cox, K. Bracewell, J. Burrage, W. Collins, M. Culpepper, E. Ealin, J. Escarcega, V. Escarcega, D. Faulkner, Jr., W. Fowler, Jr., E. Garza, E. Grice, J. Jewell, Jr., J. Kupper, M. Latulas, K. Lee, N. Lenhart, R. Lenhart, R. Little.

S. Lowe, H. Maccord, D. May, P. McKernan, D. Nicholson, C. Nunn, C. Pearson, H. Perkins, Jr., F. Rush, F. Schwartz, S. Starkey, M. Tanner, B. Taylor, J. Torres, T. Wade, J. Warren, J. Watson, Unidentified female, Unidentified female, Unidentified female, Unidentified female, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male.●

TRIBUTE TO A VALUED MEMBER OF THE EDUCATIONAL COMMUNITY: BILL GAUL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BIAGGI. Mr. Speaker, I come before this body today to pay tribute to a man that many of us here came to know as a valued member of the numbers of professional staffers that keep the wheels of the legislative process in motion with their expertise. Our Education and Labor Committee suffered a tremendous loss last month at the passing of one of our friends and colleagues, Bill Gaul.

To all who knew him and had the pleasure and privilege to work with him, Bill was a man of many talents. His knowledge of higher education legislation was vital to the progress which we have made in this body over the past 15 years since the Higher Education Act was first approved by Congress in 1965. We are currently involved in the conference with the Senate on the reauthorization of this act, and there is not one of my colleagues on this conference who is not painfully aware of the absence of the man who we all came to look to for advice and ideas.

Bill Gaul, in addition to his expertise in education, also was a man of great compassion. He was always ready and willing to lend a hand to those in need of counsel. In a world of political realities, Bill was also a fair and honest man. Whatever battles may have been fought over education legislation, they only served to enhance our respect for his abilities.

This loss of Bill has been a difficult one for all of us who knew him and were touched by him to accept. A deeply religious man, we can take comfort in the fact that his soul now rests in peace with God after many months of suffering.

I extend to his wife, Joanie, and their children my deep condolences on their loss and to assure them that they will always be in our thoughts and prayers.●

CONGRESSIONAL ETHICS

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BEREUTER. Mr. Speaker, recently I had the opportunity to testify before a task force on enforcement of the House Administration Committee on a subject that I know is very close to all of us—our ethics.

The opportunity came in connection with a bill I have introduced, H.R. 6473, which would repeal the grandfather clause in the Federal Election Campaign Act Amendments of 1979 (H.R. 5010). As my colleagues must no doubt know, the grandfather clause permits nearly all incumbent Members of the House of Representatives to convert stockpiled campaign funds to their individual personal use upon retirement from the House—a practice we have nevertheless made illegal for future Members of the House of Representatives.

I feel quite strongly that this grandfather clause must be eliminated through the enactment of my legislation, and I am pleased to share with my colleagues a copy of my testimony before the task force. The testimony follows:

TESTIMONY BEFORE HOUSE ADMINISTRATION COMMITTEE TASK FORCE ON ENFORCEMENT

Mr. Chairman and Members of the Task Force on Enforcement, I want to thank the Task Force for permitting me this time to present testimony on what I consider to be a glaring mistake in the enactment of the Federal Election Campaign Act Amendments of 1979 (H.R. 5010).

It was not with just a little surprise and concern that I first learned about how 434 incumbent Members of the House of Representatives were able to set themselves apart from the rest of the country and future Members in the use of stockpiled campaign funds. With the simple use of a "grandfather clause", we insured in H.R. 5010 that we would be able to convert stockpiled campaign funds to our personal use by simply paying income taxes on the amounts.

The legislation that I, and a bi-partisan group of 32 co-sponsors who have introduced and co-sponsored would repeal this "grandfather clause" and prohibit Members of the House from converting stockpiled campaign funds to their personal use.

At the outset, the term "grandfather clause" in this instance is a misnomer. It should be more appropriately termed an "incumbent's clause", for that is, simply and directly, exactly what it is.

When we enacted H.R. 5010, we were correct in forbidding the practice of converting stockpiled campaign funds to personal use on the part of future Members of the House Representatives. However, we were in error to enact the "incumbent's clause." While political reality, whether actual or perceived, may have suggested that the continuation of such a practice was necessary in order to secure the passage of H.R. 5010, I am convinced that the American people will have little patience with the persistence of such privileges; nor should they.

To set different rules for ourselves is simply a self-serving, unfair incumbent reward plan, and it is recognized as such by the American people. It is now a unique form of social security for politicans—House Members.

The practice of converting stockpiled campaign funds has been decreed by us to be wrong for future Members of House; but we have told the American people it is not wrong for those of us privileged to be seated as Members of the House on January 8, 1980, the date of the enactment of H.R. 5010. If it is wrong or inappropriate for future Members of the House, it is wrong and inappropriate for us. I believe the practice should be barred for everyone, and that is why I introduced H.R. 6473, which carries 32 cosponsors.

Nothing in the bill I have introduced will prevent incumbent Members from disposing stockpiled campaign funds in those situations identified in H.R. 5010—transfers of such funds to charities; national, State or local committees of any political party or candidate; or for any other lawful purpose. In addition, nothing in H.R. 6473 prohibits reimbursement of candidates for individual election expenditures.

The bill I have introduced carries an additional feature. It would eliminate the use of unofficial office accounts by Members of the U.S. Senate, a practice already prohibited for the Members of the House of Representatives. The bill would not permit Members of the Senate to convert stockpiled campaign funds, or any other contributed funds, for official duties.

Shortly after I introduced H.R. 6473, a local political writer who has a column in my home State of Nebraska mildly chided me on the inclusion of the Senate prohibition by noting that "the 'upper body' isn't appreciative of anyone in the 'lower body' telling it how to run its business."

I am here today with a reminder, unnecessary for you I believe, that the American people are not appreciative of different standards of ethics for the House and the Senate; nor should they be. Maybe some members are under the delusion that the two houses of Congress cannot tell each other how to run their affairs, but the American people feel they should have a substantial say in how both houses run their affairs. They are correct.

Why should we tolerate what the public simply will not willingly tolerate? The more we persist in carving our inappropriate privileges for ourselves—whether in the form of an "incumbent's clause" or otherwise—the more suspicions are raised in the mind of the public. It matters little to the public which body of Congress happens to be the offending one . . . their message is clear. Get your house . . . or Senate . . . in order.

The Committee on House Administration and this Task Force on Enforcement are to be commended for holding these hearings—although belatedly. You have before you legislation that, if enacted, would help to reverse the trend of suspicion, distrust, and cynicism the American people have for Congress and its members. I urge the courage to act favorably and immediately on this legislation.●

OUR WEAPONS-MAKING BASE WITHERS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. McDONALD. Mr. Speaker, the United States is no longer the arsenal of democracy that it was during World War II. This fact has been largely ignored by the press and the general public. Even when our Department of Defense is ready to produce a new weapon, the establishment of the production base for that weapon is a major problem. There are a number of reasons for this sad state of affairs. Retired Lieutenant General Eaker recently summarized the situation very well in a column that appeared in National Defense magazine for August 1980. I commend it to the attention of my colleagues who wonder why we are in No. 2 spot in the world and why our weapons cost so much today.

Our Weapons-Making Base Withers

(By Lt. Gen. Ira C. Eaker)

It seems impossible that the aerospace industry in the United States, which built 90,000 airplanes and 500,000 engines in 1944, cannot now supply our Armed Forces 1,000 airplanes and 5,000 engines this year. But it is true.

Neither can U.S. industry, rightly labeled "the arsenal of democracy" in World War II, provide 400 ships for the Navy and the 1,000 tanks for the Army they urgently require this year. The weapons-making capacity of this country cannot even supply the spare parts required to keep our Armed Forces in an acceptable state of readiness. Almost half our planes, ships and armor are unserviceable any day because of inadequate maintenance.

The reason for this shockingly dangerous state of our military power is that we have allowed our weapons-making capacity to wither away. Ever since we negotiated our complete defeat in Vietnam, leaving our vast quantities of weapons and our allies to the merciless enemy, our arms industry has largely disappeared.

For a decade, as annual defense budgets have steadily declined, industry has found its civil production more profitable than its weapons business. Last year, overall, industry made a profit averaging 5 per cent on its military business and 7 per cent on its commercial production. During the last three years, weapons production has become a very high-risk business, because of President Carter's cancellation of most weapons recommended by the military leaders.

One result of the reduced weapon production is a dramatic increase in cost. For example, the 333 engine, used in T-33 jet aircraft, cost $23,500 each in 1947. Today, the F-100 engine used in our latest F-16 fighters costs $2.3 million each.

One defense procurement authority says, "An absolutely critical problem in this whole picture is the situation we find ourselves in with some of the raw materials we must have. Since we import 90 per cent of six or seven strategic materials vital to modern propulsion systems, we are concerned about availability."

He cites cobalt, vital to steel production, where we import 97 per cent of our requirement. The price has recently jumped from $6.85 a pound to $50 a pound. Chromium and titanium (the principal sources of which are Russia, Zimbabwe (Rhodesia) and South Africa) prices have recently jumped from less than $4 per pound to $25 per pound. Our stupid foreign policy, alienating Zimbabwe and South Africa further jeopardizes these critical items.

How did we get in this dangerous situation? Largely, due to inadequate defense budgets. It would not be critical, except that Russia has been increasing her military expenditures 5 per cent annually for 20 years, and is now superior to us—25 per cent in nuclear, strategic forces and more than 300 per cent in general purpose forces. Alas, as the Soviets, after having gained military supremacy, have adopted a more aggressive foreign policy, even our pacifists and unilateral disarmament advocates have recently noted it.●

HAPPY BIRTHDAY, CONGRESSMAN PEPPER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. DRINAN. Mr. Speaker, our distinguished colleague, Congressman Claude Pepper, will be celebrating his 80th birthday on September 8. This day will present a fitting occasion to pay tribute to Congressman Pepper. During his long public career, he has led a tireless and dedicated effort on behalf of the rights of older Americans. Under his skillful leadership, the House Select Committee on Aging has been able to address many of the problems facing older Americans today. The abolition of mandatory retirement in the Federal Government and the raising of the mandatory retirement age from 65 to 70 in the private sector are only two of his many important and varied accomplishments.

I commend to the attention of my colleagues the following article which appeared in the Washington Star on August 17 entitled, "Claude Pepper: Almost 80, Still Salty."

Claude Pepper: Almost 80, Still Salty

(By Janet Staihar)

Congress crusader for old folks, Claude Denson Pepper, is galloping toward his 80th birthday on Sept. 8. And he's ready to go to war with any wet-behind-the-ears politicians who would trample the rights of aged underdogs.

At a time in life when others have packed it in, Pepper—who once was a confidant to Franklin D. Roosevelt and is now the oldest man in the House of Representatives—quickly fights off any slur on the dignity of the elderly.

"Don't get under the assumption that when you get 65, life is over," the Florida Democrat scolds as he fine-tunes one of his hearing aids. "My Lord, how long has that been for me? That's 14 years."

With his flamboyance and penchant for publicity, Pepper, as chairman of the House Select Committee on Aging, has drawn attention to the problems of senior citizens, although his panel is only an advisory, investigative body that cannot produce legislation.

Once Pepper nabs golden-age film and television stars like Ruth Gordon, Lee Strasberg and Jack Albertson to testify on issues dear to the hearts of the aged, his press staff notifies television networks, news services and influential newspapers.

And it isn't a rare occurrence when Pepper, street smart in the ways of the broadcast media, turns to the cameras with booming oratory to blister any witnesses who aren't doing right by the old folks.

Although his actual legislative muscle is limited to jawboning his pet bills through others' committees, Pepper's aggressiveness and his constant pecking away at recalcitrant House members and federal agencies have won important triumphs for the elderly:

Meals-on-wheels for those too incapacitated to leave home.

A $32-million program to combat crime in public-housing projects in which the elderly live.

Amtrak discounts for the elderly.

Pepper, as a member of the Rules Committee, which decides what bills gets onto the House floor, can rake in IOUs from the Democratic leadership and the White House. He cashes them in later to win legislation he thinks is imperative.

In 1978, he called in a pile of chits from House speaker Thomas P. O'Neill and maneuvered through Congress a bill abolishing mandatory retirement in the federal government and raising the retirement age from 65 to 70 in the private sector.

The notion of retirement sticks in Pepper's throat like a lump of peanut butter.

"Me?" Pepper replies to the question of when he might end a career that spans 14 years in the Senate and 18 years in the House. "I have set the year 2000 for my retirement, but I might change my mind."

During a typical afternoon in Pepper's office, elderly people come in regularly to get a glimpse of their hero. Often they drop in only to tell him to fight on and applaud the job he's done.

"People write to me every day that they just want to live with reasonable satisfaction and comfort," says Pepper. "That means to have decent income. In South Miami Beach [part of his district], there are elderly who have to choose between a cup of coffee and a newspaper. Many, many live in abject poverty.

"I would like every person who reaches 65 to be able to continue work and earn all they can without diminution in their Social Security checks," Pepper says of a goal he is shooting for.

He bristles at the notion that old people should be retired to make room for younger workers.

"That's utter tomfoolery!" he says, pounding his desk.

Pepper's own formula for longevity is to "keep on doing what you've been doing" all along, but maybe at a slower pace.

"I was playing golf one day, when I noticed my partner's clubs where lighter than mine," he says. "I tried his and I found I could handle them easier. So I changed to less weightly clubs.

"So that's what you do in life. When you come to a time when there's a need for any sort of change, simply lighten your clubs and change your behavior a little bit, and go right ahead."

Pepper still outpaces aides in the hallways as they puff along trying to brief him on the next topic awaiting his attention.

Four years ago, Pepper had openheart surgery to replace a calcified valve. When he awoke from anesthesia Pepper—with his reddishblond toupee and bulbish nose—jokingly reprimanded the surgeon for not making him 30 years younger and better looking.

The lowest time of his life came two years ago when his wife Mildred, an accomplished artist and a spirited grande dame, died after a long struggle with cancer.

"Claude went numb for over a year," recalls a friend. "He couldn't get a handle on anything. Some of us expected him to fade away. But he has popped back, and it surprised many of us."

Still suffering deeply from the loss of his wife months after she died, Pepper conducted an emotional hearing in which he called in top medical experts to testify on the newest anti-cancer drugs. He was near tears as he chaired the hearing, but aides say it seemed to be the turning point at which he became involved in legislation again.

"I've got a lot to do," Pepper says now. "Except for my terrible burden of loneliness, I enjoy life. It has always been good to me."

Patience wasn't one thing in life that Pepper excelled in, neither as a farm boy in Dudleyville, Ala., nor in his buzz-saw years in the U.S. Senate, where his liberal civil rights philosophy and pro-New Deal views brought him the derisive nickname, "Red Pepper." He went to Washington as a senator at the age of 36.

While at the University of Alabama and Harvard Law School in the 1920s, he waited on tables in cafeterias and emptied coal ashes in a power plant to earn his tuition. But he still managed to find time to graduate with top honors and compete on the track team.

He taught law at the University of Arkansas, where one of his students was senator-to-be J. W. Fulbright. He next practiced law in Perry, Fla., in 1929. When death caused a Senate vacancy in 1936, Pepper was elected without opposition to the term's remaining two years. Only one present member of Congress, Sen. Jennings Randolph, D-W. Va., preceded Pepper to Congress.

As an ambitious senator, Pepper became famous for his support of the 40-hour work week and the civil rights of blacks and other under-privileged classes, his anti-Hitler views and his pro-United Nations stand.

In those days, Pepper carried clout among the liberals, and there was talk in high circles that he was destined for No. 1 or No. 2 spot on Democratic ticket.

"Mistakes, yes, I've made them and if I listened to my wife more often, some tell me I could've been vice president," he says aloud as he looks back over what might have been.

Pepper was defeated for the Senate seat in 1950 by young congressman George Smathers. He bided his time in a Florida law practice, then came roaring back to win election to the House in 1962, a job he has held since.●

COMMEMORATIVE MEDALLION IN HONOR OF MAGGIE LENA WALKER

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, I am again issuing a strong appeal to my House colleagues to join me in paying tribute to a great American black woman. My bill, H.R. 6735, introduced on March 6, 1980, calls for the striking and public sale of a commemorative medallion in honor of Maggie Lena Walker. Ms. Walker had the distinguished honor of being the first woman president of an American bank. The bank survives today in the Consolidated Bank & Trust Co. in Richmond, Va. Since its introduction, 24 cosponsors have joined in this effort to honor a great woman.

Ms. Walker is known as having been an astute businesswoman, dedicated community leader, and organizer. Born in Richmond, Va., on July 15, 1867, Maggie Walker began her public service career at the age of 14, when she joined the Independent Order of St. Luke. Her membership in this organization—which was established for the expressed purpose of helping the sick and burying the dead during the post Civil War period—lasted for the duration of her life. Her accomplishments within the organization during this time included: a secretarial position for the Good Idea Council No. 16; appointment as a delegate to the annual convention at Petersburg, Va.; holding the grand sentinel, right worthy grand chief, and national deputy positions respectively. In her capacity as executive secretary, Ms. Walker established councils in Virginia and West Virginia.

Maggie Walker's lifelong work and dedication to the Independent Order of St. Luke did not preclude her participation in other rewarding activities. Ms. Walker continued her education from the Richmond public and normal schools, to Virginia Union University where she received an honorary master of science degree in 1925. Ms. Walker was a trustee of the university in 1931, and, in that same year, was the director of a training and an industrial school in the District of Columbia and Virginia respectively.

In addition to having taught school from 1883 until 1886, Ms. Walker, in various years, served as president of the Council of Colored Women, Inc.; vice president of the Negro Organization Society of Virginia; executive board member of the NAACP; and, member of numerous other fraternal organizations.

Ms. Walker's home has been designated as a national historic site, and the Maggie L. Walker Historical Foundation continues to work arduously in the area of historic preservation.

H.R. 6735 has been referred to the House Banking, Finance and Urban Affairs Committee's Consumer Affairs Subcommittee. In accordance with this subcommittee's policy, I am actively seeking cosponsorship of H.R. 6735 by a majority of the House. The policy stipulates that such a requirement be met prior to the holding of a hearing on commemorative medallion bills.

Again, I urge my colleagues to please join me in an appropriate tribute to a great American by cosponsoring the Maggie L. Walker Commemorative Medallion initiative.●

TRIBUTE TO HON. KEITH G. SEBELIUS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to join in honoring KEITH SEBELIUS, our colleague whose service in the Congress has proven him to be an extremely able legislator.

As a member of the House Interior Committee, I have come to know and respect KEITH SEBELIUS as a hardworking champion of conservation. Keith will retire at the end of this session, but not without having made his mark on the Congress and on his home State of Kansas where he is well known and revered by the agricultural community he has well served.

I have been honored to associate and work with Keith on the Interior Committee since I first came to Washington in 1974. His hard work and concern as ranking minority member in the National Parks Subcommittee has been proven by his dedication and conscientious manner. During this year's recent consideration of my legislation to establish the Channel Islands National Park, Keith was a key supporter of the bill and worked unhesitantly with me to insure the park's realization. His respect in the Congress, his understanding of the legislation, his sense of compromise and fair judgment, added greatly to insure other Members that our bill to conserve the pristine environment of the Channel Islands should become law.

I have known Keith as a friend—one who will listen and offer practical advice for the most difficult problems. I will miss him, as will the Chamber, in the years ahead. It is with a great respect that I commend my distinguished colleague and friend for his service to the First District of Kansas and to our Nation.●

THE GESMO AMENDMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. UDALL. Mr. Speaker, it is my hope that soon after the congressional break for the Democratic National Convention the House will consider authorizing legislation for the Nuclear Regulatory Commission for fiscal year 1981. Differing versions of this bill—H.R. 6628—have been reported by the Interior and Insular Affairs Committee and the Interstate and Foreign Commerce Committee. When this legislation is taken up, I expect an amendment will be offered directing the NRC to reinstitute the so-called GESMO proceeding—a provision regarded by some as pushing the country toward the reprocessing of spent reactor fuel. I personally oppose such an amendment, and the Interior Committee rejected an effort to include a GESMO provision in its version of H.R. 6628. The issues surrounding the question of whether or not to resume GESMO are many and complex. In anticipation of a future floor debate on this matter, I refer my colleagues to the following article from the June 16, 1980, edition of Energy Daily. The article presents a helpful and insightful summary of some of the key arguments against a statutory directive to resume GESMO at this time.

The article follows:

RESURRECTING GESMO: IS THERE ANYTHING WORTH BRINGING BACK?

The House Commerce Committee last week adopted an amendment to the Nuclear Regulatory Commission's FY 1981 authorization that would direct NRC to finish its GESMO proceeding on the recycle of reprocessed uranium-plutonium fuel in light water reactors.

The vote was 22-20 on the amendment by Rep. Tom Corcoran (R-Ill.), who represents the district in which General Electric's inoperable Morris reprocessing plant is located. A similar (though more radical) amendment failed by one vote in the Commerce Committee's energy and power subcommittee earlier and was rejected also by the Interior Committee in its action on the NRC bill (the committees have joint jurisdiction). The Senate's NRC bill, now ready for floor action, does not contain the GESMO provision. But its presence in the Commerce Committee bill will, in the view of its proponents, at least assure that the issue will be debated on the House floor. A Corcoran aide is even more optimistic, saying he believes a House-Senate conference committee can be convinced to adopt it as well.

Corcoran's idea, according to an aide, is to resume the GESMO proceeding "as soon as possible, so we can find out the true pros and cons of reprocessing," reprocessing would substantially reduce the need for away-from-reactor spent fuel storage facilities such as the one at Morris, which the U.S. government wants to offer to utilities in need of storage space. Proponents of the GESMO amendment claim the investigation is "80 percent complete" and say that if the Congress directs its completion, the President can do nothing about it: "We'll shove this thing down the President's throat like a few other things, if we have to," one told *The Energy Daily.*

GESMO—the NRC's Generic Environmental Statement on the use of mixed-oxide fuel in light water reactors—was begun in the early 1970s when it was assumed utilities would recycle unused uranium and plutonium in irradiated fuel for its residual energy value, estimate at about 20 percent of original value. GESMO was the target of a protracted court suit by the Natural Resources Defense Council and others, and was finally suspended by the Nuclear Regulatory Commission—at the urging of President Carter—on December 23, 1977. The Administration's rationale was that any U.S. action on reprocessing and recycle ought to await the outcome of ongoing investigations—the Nonproliferation Alternative Systems Assessment Program (Nasap) on a domestic level and the International Nuclear Fuel Cycle Evaluation (Infce) worldwide.

GESMO proponents now argue that with the conclusion this year of those two exercises, neither of which condemned reprocessing per se, the U.S. ought to get on with the environmental statement, which is a necessary prerequisite to licensing of a reprocessing plant in this country. They claim that to let it die completely would be a waste of time and resources. A prestigious group of scientists wrote to President Carter earlier this year to ask him to reopen the proceeding, and NRC chairman John Ahearne wrote to Carter adviser Stuart Eizenstat asking him if the Administration planned to do so.

GESMO would appear, nonetheless, to have slim chances under the present Administration and perhaps even under a new one. NRC staff have been looking at the resources that would be required to finish GESMO should the agency be directed to do so, and their initial conclusion is that the old GESMO isn't worth much any more. The basic documents now are as much as eight years old. The staff statement on health and safety impacts was published in 1974. The safeguards section was released in 1977 as a staff report lacking commission approval. The health and safety proceeding is only about half done; intervenors and industry never got the chance to testify. And the safeguards proceeding, of course, was never initiated. An additional waste management impact study also is in the initial stages, according to an NRC official.

It would take "upwards of a year or two" to get a staff task force back together and finish the documents, the official said—a prerequisite for restarting the proceeding. But the basic problem with GESMO runs deeper still. Its original scope, as the name indicates, was limited to the impacts of burning mixed-oxide fuel in light water reactors. NRC did not want to tie its investigation to a much larger EIS on the breeder reactor being prepared by the Energy Research and Development Administration. But the conclusion of both Nasap and Infce is that recycle in thermal reactors is uneconomic, unnecessary and, for most countries, unwise; the real value of reprocessing is for breeder reactor systems. (This is also the policy line pushed by Carter, and its adoption by Infce is seen as the U.S. main victory there.)

"GESMO does not really face the real issue"—that of reprocessing for breeder reactors—said the NRC source. "I don't know what you do with it when it's done." Besides the basic policy shift, Infce and Nasap also generated an avalanche of data on the fuel cycle which GESMO theoretically should take into account. "This is a significantly modified ballgame," the NRC man said. ERDA's breeder study cost tens of millions of dollars and occupied about 100 people, he said. "I don't see how NRC could do with much less than that" for a breeder-related GESMO.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. DERWINSKI. Mr. Speaker, Evidence of the spirit shown during the recent commemoration of "Captive Nations Week" was demonstrated by various news articles from across the country. I would like to direct the Members' attention to several of these articles. First, a news report from the Boston Globe of July 17, which highlights the activities of a Captive Nations' rally held at the statehouse in Boston; second, two reports on the Captive Nations Folk Fair held at Constitution Hall in Washington, D.C. from the the Catholic Standard, and the Alexandria Gazette; third, followed by a report from the Rocky Mountain News of Denver, Colo.; fourth, an article appearing in the Eagle-Times of Claremont, N.H.; fifth, the Miami, Fla. Herald made special note of the 21st observance in their July 20 edition; sixth, the New York News reported on the events in New York City; seventh, the Kalamazoo, Mich. Gazette carried a report on their ceremonies during the week; and eighth, a report from the Buffalo, N.Y. News on the events in that city.

These reports follow:

[From the Boston Globe, July 17, 1980]

75 Attend Captive Nations Rally

Tears came to the eyes of a 64-year-old Latvian woman standing near the back of a crowd on the State House steps yesterday as she described the Soviet takeover of her homeland during World War II.

"When you lose your freedom, you finally know what it means," said Amanda Lejnietis, one of about 75 people who gathered for a noon time rally on Beacon Hill in a tribute to more than 30 nations now under Communist domination.

"I'd rather die than go back while it's under a Communist regime. I wish the United States would free those countries," said Lejnietis, who lives in Jamaica Plain, "I still have my brother there."

The rally was part of the 21st annual Captive Nations Week observance, which is proclaimed each year by the President of the United States and many governors and mayors to focus attention on these nations.

Gov. Edward J. King, who signed the state proclamation, greeted the group, many of whom were dressed in brightly-colored traditional costumes, in the 90-degree heat.

"The injustices that you see here described have no place in the civilized world," said the governor, gesturing towards banners that read: "Demand freedom for Latvia and all enslaved nations" and "We demand free elections for Ukraine."

Chairman of the Captive Nations Week Committee, Orest Szczudluk, said: "The fight for freedom and independence is not just for us who come from Eastern European backgrounds. It is for all Americans. We want national rights as well as human rights for all people."

The rally, sponsored by Afghan, Cuban, Latvian, Lithuanian and Ukranian organizations, included a skit, prayers and speeches.

[From the Catholic Standard, July 17, 1980].

Captive Nations Week To Be Observed Here

Captive Nations Week, officially proclaimed by President Carter, will be observed in Washington by a two-day Folk Fair Saturday and Sunday and be climaxed by a special Mass at 10 a.m. Sunday at St. Matthew's Cathedral for the Captive Nations and the 53 Americans held captive in Iran.

The Captive Nations Folk Fair will be held from 10 a.m. to 6 p.m. both Saturday and Sunday at the air-conditioned Departmental Auditorium on Constitution Avenue, between 12th and 14th Streets, across the street from the National Museum of History and Technology.

More than 20 nationalities will be participating in the Folk Fair. There will be continuous music and free showing of films. The program will feature folk dances and music from many of the captive countries.

Among nationalities to be represented are those from Afghanistan, Bulgaria, Byelorussia, Cambodia, China, Cossakia, Croatia, Cuba, Estonia, East Germany, Equatorial Guinea, Laos, Latvia, Lithuania, Poland, Romania, Slovakia, Ukraine, Vietnam and others.

There will be a display of arts and crafts, books and literature, all of which will be on sale. Admission will be $2 with a $2 admission for the program of music and dances.

Sunday there will be the Mass at St. Matthew's Cathedral. After the Mass, there will be a meeting at the Departmental Auditorium in which prominent speakers from many of the captive nations will address the audience.

On the following Sunday, July 27, the Catholic War Veterans of Washington will hold a rosary memorial service with prayers in the native languages of those in captive nations. The service will be held at St. Dominic's Church, Sixth and E Streets, S.W., with the recitation of the rosary at 11:45 a.m., the celebration of Mass at 12:15 and a reception afterwards in the parish meeting hall. Representatives of various nationalities will attend, many in native dress.

[From the Alexandria (Va.) Gazette, July 10, 1980]

Captive Nations Folk Fair

Captive Nations Week has been proclaimed by President Carter and to celebrate an annual Captive Nations Folk Fair will be Saturday and Sunday, July 19 and 20, in the Departmental Auditorium on Constitution Ave., between 12th and 14th Sts., N.W. From 10 a.m. to 6 p.m. each day, there will be exhibits; display and sale of arts, craft, foods, books and literature; programs of music; folk dances and films. More than 30 nationalities and organizations will be participating in this fair; many of the people will be dressed in their national costumes. The Captive Nations include those people from behind the Iron and Bamboo Curtains and those from Africa, who are under the communist rule. To start the festivities Saturday, at 10 a.m., there will be a ribbon-cutting ceremony with prayers, songs and speeches. Then, Sunday, at 10 a.m., there will be a special Mass at St. Matthew's Cathedral (Rhode Island and Connecticut Aves.) for the Captive Nations and for the 53 Americans held captive in Iran. From noon to 1 p.m., prominent speakers will address the audience in the Departmental Auditorium.

[From the Denver, (Colo.) Rocky Mountain News, July 20, 1980]

Soviet Flag Torched for Captive Nations

Arv Jarasius uses a symbolic Olympic flame to torch a gas-soaked Soviet flag on the west steps of the state Capitol Saturday as a highlight of the "Captive Nations Day" rally. Sen. Sam Zakhem, R-Denver, was a speaker. According to Zakhem, the "imperialistic aggression policies of the Soviet Union have led to the subjugation of such countries as Estonia, Latvia, Lithuania, Ukraine, Poland, Czechoslovakia, Hungary and others—Afghanistan being the latest victim."

[From the Claremont, (New Hampshire) Eagle-Times, July 18, 1980]

Captive Nations Day Is Sunday; List Is Long

Captive Nations Day will be observed throughout this country Sunday.

Here in New Hampshire, author Alfred Lilienthal will be the featured speaker at Sherwood Inn, east of the Epsom Traffic Circle on Routes 4-202-9 at the Trojan Morse at 2 p.m.

Most Americans have no knowledge of this day . . . or could, perhaps, care less.

As a reminder, it is proper to quote the final two paragraphs of a 1959 Presidential Proclamation:

"Now, therefore, I, Dwight D. Eisenhower, President of the United States of America, do hereby designate the week beginning July 19, 1959, as Captive Nations Week

"I invite the people of the United States of America to observe such week with appropriate ceremonies and activities and I urge them to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations."

The list of Captive Nations is long and well-worth listing for our readers.

It started with Russia in 1917; Armenia, 1920; Azerbaidzhan, 1920; Byelorussia, 1920; Georgia, 1920; Kazakh, 1920; Kirghiz, 1920; Ukraine, 1920; Uzbek, 1924; Turkmen, 1924; Outer Mongolia, 1924; Estonia, 1940; Latvia, 1940; Lithuania, 1940; Moldavia, 1940; Albania, 1946; Bulgaria, 1946; Yugoslavia, 1946; Poland, 1947; Romania, 1947; Czechoslovakia, 1948; and North Korea, 1948.

Also, Hungary, 1949; East Germany, 1949; Communist China, 1949; Tibet, 1951; North Vietnam, 1954; Cuba, 1960; Algeria, 1962; Tanzania, 1967; Congo Republic, 1968; Syria, 1968; South Yemen, 1969; Libya, 1969; Somalia, 1970; Guinea, 1971; Iraq, 1972; Afghanistan, 1973; Zambia, 1973; Equatorial Guinea, 1973; Guinea-Bissau, 1975; Cambodia, 1975; Laos, 1975 and South Vietnam, 1975.

[From the Miami Herald, July 20, 1980]

Prisoners

People are free to congregate and to rally and to wave flags as they like, but their mother nations are not, and Saturday the South Florida Captive Nations Committee gathered at downtown Miami's Torch of Friendship to mark the 21st annual Captive Nations Week. The observance, signed into law by President Eisenhower in 1959, addresses itself to 22 nations that have fallen under Soviet rule.

[From the New York News, July 14, 1980]

Plea for Concern Opens Captive Nations Week

(By Sheryl McCarthy)

Urging Americans to be "good Samaritans" to, and not merely "silent observers" of, the millions of oppressed people of the world, the Rev. Edwin O'Brien led a special memorial Mass at St. Patrick's Cathedral yesterday for the citizens of the more than 30 countries under Communist rule.

The service was among the activities here marking the start of Captive Nations Week. In a colorful Fifth Ave. parade, hundreds of persons—whose roots reach back to lands including Byelorussia, Croatia, Poland, Estonia, mainland China, North Vietnam, East Germany and the Ukraine—donned their native costumes and called for an end to political oppression in their homelands.

"How can we pretend to be good Samaritans and followers of Jesus when we choose to be blind or oblivious to the millions of enslaved human beings behind Iron Curtains of repression?" the Rev. O'Brien told more than 2,000 members of the congregation.

NEED NOT LOOK FAR

"And we need not look across the seas or up to the heavens for opportunities to remove convenient blinds of blindness," he said. "Do we choose to be involved good Samaritans or rather silent observers when governments and other powerful institutions continue brazenly to look upon as nonpersons the captive behind the Iron Curtain, the unborn on our doorstep, the minority and the poor and the elderly in our neighborhood?"

[From the Kalamazoo, Gazette, July 17, 1980]

A Deep Heritage—People Gather Here Under Flags of Captive Nations

(By Art Sills)

Peteris Austrins tilted his head back. And he looked up at the flag.

"That is the flag of free Latvia," he said.

The flag—with red and white stripes—stretched out in the breeze on Wednesday afternoon.

"That flag is a forbidden flag to be displayed any place in Latvia today," he said.

"When was the last time you saw it in your own country?"

"In 1944," he said. "The Russian armies came in from the east at that time. We were forced to go to Germany. That was the only choice for us. To sail across to Sweden was impossible."

Austrins is 73, and silver hair showed at the edges of his straw hat.

In Latvia, he was a forester. But his English was faulty so, in his 40s, he went to work in the Kalamazoo paper mills.

Now, on Wednesday afternoon, he was at this "Captive Nations" ceremony.

These nations—Latvia, Estonia, Lithuania—are at a corner of Europe by the Baltic Sea. They are small countries of proud people.

But since July of 1940—with occupation by Soviet troops completed—they have been known as the Captive Nations.

President Eisenhower issued the first Captive Nations proclamation in 1959. "These wrongs of aggression and terror have left a profound impression on the American people," he said.

President Carter issued one this year. He said:

"Mindful of our heritage and our principles, let us take this week to salute the men and women everywhere who are devoted to the cause of liberty and pursuit of human rights in their native lands."

The three countries lost freedom 40 years ago. And there have been these proclamations for 21 years. And the Russian troops remain.

The Russian leaders don't seem terribly impressed by words on paper.

However, hope ran through the ceremony on Wednesday afternoon, at the corner of the downtown mall and Michigan Avenue.

The flags of free Latvia, Estonia and Lithuania were on the row of flagpoles, along with the American flag and the state flag of Georgia.

And a group of 40 people stood in the shade of a birch tree, and they waited for the ceremony to begin.

"Ladies and gentlemen," began Dr. Valdis Muiznieks, his voice fighting against the street sounds of roaring buses and grinding trucks.

Captive Nations Week is a way to tell the people of those countries that "they have not been forgotten," he said.

And he said that the seizure of the American hostages in Iran has given Americans "more understanding of what it means to take away freedom from the people."

Artis Inka was called upon to read the Captive Nations Week proclamation by Kalamazoo Mayor Edward Annen Jr.

Inka, 21, of Chicago, is the son of Latvian immigrants. He is at Western Michigan University for its summer Latvian studies program.

It is the young ones like Inka who will keep the memory of free Latvia alive. The Latvian heritage goes quite deep.

The ceremony was over in 10 minutes, and the group of people, the old ones and the young ones, walked away in the bright sunlight.

Peteris Austrins lingered by the flags for a few moments longer.

[From the Buffalo News, July 10, 1980]

Captive Nations Ceremony To Feature Afghan Flag

(By Paul Carroll)

An Afghan flag will provide a poignant and timely note when Captive Nations Week is observed at a ceremony at noon Monday in Niagara Square.

The annual observance by the Captive Nations Committee of Western New York will include raising of the flags of nine European nations, now living under Communist rule, by girls in national dress, representing the Albanian, Bulgarian, Croatian, Estonian, Latvian, Lithuanian, Hungarian, Polish and Ukrainian peoples.

An Afghan flag will be raised, then struck to half staff, by a member of the Afghanistan Freedom Committee of Buffalo. At half staff it will be differentiated from the flags of the European peoples, "because we have not given up hope that Afghanistan will not become a captive nation," a committee member explained.

The ceremony will include reading of Mayor Griffin's and County Executive Rutkowski's joint proclamation of Sunday to Friday as Captive Nations Week.

An American Legion drill team and honor guard will participate in the ceremony, for which Dr. Edward M. O'Conner is chairman.

William J. Gill, an author, award-winning journalist and consultant on media communications, will speak on "Trade, the Anchilles' Heel of the Soviet Union," at the annual Captive Nations Week dinner, at 6:30 p.m. July 18, in Talbert Hall banquet room of the State University of Buffalo's Amherst campus.

Mr. Gill, a director of the National Captive Nations Committee, is author of "The Ordeal of Otto Otepka."

Service awards will be presented and dancing will follow.●

PERSONAL EMERGENCY RESPONSE SYSTEMS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. PEPPER. Mr. Speaker, we are all aware that the cost to the Federal Government of nursing home care for the functionally impaired elderly is skyrocketing. In fiscal year 1978, medicaid financed 46 percent of the total national nursing home bill at a cost to the taxpayers of $7.2 billion—representing 40 percent of all medicaid expenditures. This Government expense is expected to increase to $9.5 billion within the next 4 years.

Yet many of the elderly assisted by medicaid in nursing homes neither need nor desire this intensive level of care. Instead, they would prefer to live independently if appropriate community-based services were available to them. Unfortunately, less than 2 percent of medicaid expenditures are now going to home health service, so for many elderly, federally supported institutionalization is the only economically viable alternative. Thus, to the extent that we can prevent the premature and inappropriate institutionalization of the elderly, we will not only help support the ability of the elderly to live independently in the community, but we will also reduce the rapid growth in Federal nursing home costs.

Toward this aim, my colleague from California, Mr. WAXMAN, and I have introduced the 1980 Medicaid Community Care Act, which would encourage States to provide community-based and in-home services to the elderly where these services would reduce the need for institutionalization.

Because Members are frequently asked about the cost effectiveness of such measures, I would like to bring to the attention of my colleagues the results of a study conducted for the Department of Health and Human Services which demonstrates the efficacy of one form of in-home assistance to the functionally impaired elderly in preventing premature or inappropriate institutionalization.

"A Study of the Effects of an Emergency Alarm and Response System For the Aged", conducted by Drs. Sylvia Sherwood and John Morris of the Hebrew Rehabilitation Center for Aged in Boston, for the National Center for Health Services Research, evaluated the effectiveness of an in-home personal emergency response system for the elderly. The particular system tested—known as lifeline—allows clients to request aid by simply pressing a button on a portable pocket-sized unit; if the person is unconscious, the lifeline unit senses the inactivity over a period of time and signals for help automatically.

The system has three major components:

Electronic communication equipment in the home which automatically signals for help over existing telephone lines.

A community-based 24-hour-response center which receives the incoming alarms and sends help when required.

Local emergency response organizations such as visiting nurses or police and/or individuals chosen by the user who have agreed to respond to specific calls for help.

The study, which compared 200 elderly, disabled lifeline personal emergency response system users, with a matched control group, made several significant findings:

1. PSYCHOLOGICAL BENEFITS

Lifeline users felt more confident about continuing to live independently. They reported better sleep patterns and moved around their homes with greater ease.

2. REDUCED NEED FOR NURSING HOME CARE

Lifeline users averaged only 1 day in a nursing home compared to an average of 10 nursing home days for controls during the 14-month testing period.

3. COST BENEFITS

For the largest group of lifeline users, severely functionally disabled and not socially isolated, each $1 spent for PERS services produced a net savings of $7.19 in total long-term care costs due to reduced use of both institutional and community services.

4. SCREENING INSTRUMENT

The researchers developed a brief, reliable screening questionnaire to identify potential lifeline users with the greatest need and who would benefit the most from such a system.

The study confirms that this kind of personal emergency response system can assist the frail, at-risk elderly to live independently in the community and avoid premature institutionalization while reducing long-term care costs. As a community-based system which complements existing social support networks, it exemplifies the way in which we can use the Federal health dollar in a socially beneficial, cost-effective manner, improving quality of life for the elderly while slowing the growth of Federal long-term care expenditures.●

DEBATE MOUNTS OVER 1980 CENSUS

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. LEACH of Iowa. Mr. Speaker, the preliminary results of the 1980 decennial census have been released and not everybody is happy with the figures.

No matter how conscientious census takers are in the performance of their duties, some people will always be missed. Every decade a political controversy is generated over the nature, extent, and impact of the census undercount, and what, if anything, should be done to correct it.

In addition, the Constitution requires that the reapportionment of the House of Representatives occurs with each decennial census. Through the turn of the century the number of House seats expanded as the Nation's population increased. In the wake of the 1910 census, however, Congress passed the Apportionment Act of 1911 which set the number of Representatives in the House at 435. The number of House Members has been held constant since then, excepting for brief periods following the admission of new States to the Union.

The controversy has never been so intense as it is today because the distribution of Federal funds has never been so integrally tied to population estimates. Scores of new Federal programs were launched in the sixties and seventies relying on population estimates as the basis for fund distribution. Cities and States that lose population are thus liable to lose money, while those that gain relative to other cities and States will benefit.

At stake in the reapportionment of the House seats in the 1980's is a rural versus urban battle with enormous partisan as well as philosophical ramifications. Also at stake under our unique electoral college system is the legitimacy of Presidential elections. Since the electors from each State selected to cast ballots for President are equal to the number of Senators and Representatives from the State, Presidential legitimacy demands accurate population counts. This legitimacy issue becomes particularly poignant in the event an election is thrown into the House of Representatives. Misallocated representation could cause misintended mischief.

In the reapportionment process States whose population declines in relation to other States automatically lose representation. After almost every census in this century, for example, rural States like Iowa have lost one or more seats. It is only with the 1970's that the trend away from rural living seems to have been reversed.

Generally speaking, suburbs, rural areas, and communities in the Sun Belt have increased in population over the last decade in relation to urban centers. In fact, the 25 congressional districts the Census Bureau projects will lose the most in population are all located in core urban areas. The Congress that is finally established reflecting the movement of population over the 1970's is thus likely to be a little more conservative and less sensitive to urban problems than the present one.

It was no surprise, therefore, that the mayors of New York and Atlanta complained bitterly at a recent congressional hearing in which I participated that their cities have been grossly undercounted. Maintenance of the status quo is patently in their best interest. It just happens not to be a fair reflection of migration trends within American society.

What the large city mayors want is for the Federal Government to allocate an arbitrary undercount to their actually counted population. The problem is that to allow such an undercount adjustment is to allow for the possibility of political manipulation of the figures. The counting of phantom citizens has the same potential effect in our political system as the voting of gravestones. It raises the alarming possibility of nefarious statistical gerrymandering of America by whatever political party controls the White House during the census review process.

So much is at stake in the 1980 census that Detroit, with the support of a number of other large cities, has brought suit in Federal court demanding an upward adjustment in census figures. In order to protect the position of rural States in Congress, I am submitting a legal brief siding with the Census Bureau against the big cities in support of what I consider to be the statistical integrity of the census process.

Ironically, if there is any scandal in the 1980 census, it is that so much Federal money and effort has been expended in urban areas like New York and Detroit that other areas of the country have been shortchanged in terms of the relative amount of resources dedicated to their enumeration.

The size of the count for an area is directly related to effort made. If a disproportionate amount of limited resources is applied to one area, others by comparison, are undercounted. The massive public service advertising undertaken this year by the Census Bureau in urban centers and the expensive recounts undertaken at the behest of urban mayors and Congressmen have been unprecedentedly forthcoming.

Ironically, also, professional statisticians point out that whereas population estimates of middle-class suburbs may be easier to establish than those of urban centers, it is poverty pockets in the rural South and the illegal alien intensive areas of Texas, Arizona, and southern California where undercounts are likely to be the largest. In retrospective studies made of the 1970 census, the Census Bureau now estimates that 3.5 percent of the households in the South were missed, while approximately 2.6 percent of those in the Northeast were. In other words, the adjustment by professional statisticians of the 1980 census figures to compensate for undercounts could well work to the disadvantage of urban areas. It is a political not professional reestimate that the mayors seem to desire.

But to cave in to the pressures of big city mayors is to invite tinkering, litigation, and the dilution of representation for Americans who lack equivalent political clout. Millions of Americans face the prospect of effective disenfranchisement if the political system produces the mirror of America like the politicians wish they could see instead of a mirror reflecting the votes of migrating feet.

In a society that is ever moving, an honest ballot box must reflect an honest head count. The legitimacy of our Government cannot be maintained without maintaining the integrity of the census process.

Without question, professional statisticians given adequate time and resources can improve upon the accuracy of census estimates. The best protection for the public, however, may well lie with the Constitution's actual enumeration criteria. For just as good statisticians can improve on raw data, bad or mismotivated statisticians can manipulate the same data. As Mark Twain so aptly noted a century ago:

> There are three kinds of lies: lies, damned lies, and statistics.

The statistical base of our democracy need not be perfect, but it must be respected. What is at issue is legitimacy, not numerical perfection. Where legitimacy is in question perceptions matter as much as results. Given the three possibilities of actual head count, good reestimation, and bad reestimation, the public is probably best served by the second, but best protected by the first. The Founding Fathers understood that human nature played a fundamental role in government. That is why we have a checks and balances system. That may also be why actual enumeration was established as the most responsible census principle.

Viewing the matter another way, overcounts seem forbidden by the Constitution's insistence on actual enumeration; perfect counts are impossible, by everyone's estimation; and undercounts, however estimated, form a subject for the experts. Of these possibilities, it would seem that the Constitution takes care of the first, logic the second, and expert deliberation the third.

No quantity of unofficial expertise can turn a subjective, politically motivated estimate into anything but an estimate, which is the reason that no quality of official expertise has ever really departed from the actual headcount as the fairest possible base for a democratically apportioned society. The best effort we can make toward the best possible census is the mobilization of all our technology to bring about a maximum headcount. This the Bureau has unquestionably done in 1980.

The main limit to statistical quality is the limitation on resources Congress provided the 1980 census takers. But even here congressional appropriations can only be described as generous. The 1980 census is the first billion-dollar census. More funds were allocated than rural conservatives found prudent, but this was done at the insistence of the more urban oriented majority party. Congress, in other words, made a good faith effort to go to the walls to count as comprehensively as possible urban residents and the Census Bureau followed that mandate to the best of its ability, to the detriment, in fact, of applying comparable resources to rural and suburban districts. The mayors have reason to be concerned with the results of the census, but they lack credible evidence of being legislatively or administratively prejudiced against.

While statisticians agree that urban areas in general were on a relative basis, slightly undercounted in 1970, there is a strong probability they have been relatively overcounted in 1980. Based on population movements in the 1970's urban areas today are overrepresented in Congress. Based on the 1980 census, especially if current migration trends continue, they will remain overrepresented, although to a lesser extent. If anything, it is the farm counties of Iowa that should be bringing the suit the mayors have, with the demand that as much attention to counting take place in rural areas as the Bureau applied to urban.

The legitimacy of the American Republic requires integrity in the census process and public acceptance of census methodology. Statistical refinement, no matter how well intended, is fraught with the potential of manipulation and abuse. Neither the courts nor Congress would appear well equipped to mandate census methodology. The professional anonymity of the Census Bureau is the best guarantor of statistical integrity and Democratic legitimacy.●

PLANNING FOR AN ENERGY EMERGENCY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. DORNAN. Mr. Speaker, as we enter the dangerous decade of the 1980's, the need for an integrated and effective national energy policy is pronounced. Sufficient supplies of domestic energy will be a key factor in our fight to regain our economic and strategic preeminence. But we must protect ourselves: What do we do in an emergency—a cutoff of Persian Gulf oil?

Many of the current problems confronting America are rooted in the inconsistent and ill-conceived energy policies of the past 10 years. Inflation, unemployment, and low productivity may all be attributed, in part, to our excessively high degree of dependence on foreign petroproducts. If America is to regain a sense of economic well-being, free of these problems, we must try to achieve energy self-sufficiency. If we are to provide a margin of safety, we should plan for the worst case scenario—an oil cutoff right now.

In a determined effort to see the United States return to a clear sense of direction in this area, an important conclave recently took place at Stanford University in California; 60 of our Nation's leading experts in the energy field met to review the available options for the United States in the event of another cutoff of Middle Eastern oil. Their conclusions are an important step toward resolving this difficult problem and I submit their statement for the RECORD:

SCIENTISTS AND ENGINEERS FOR SECURE ENERGY AND THE HOOVER INSTITUTION—STATEMENT OF COLLOQUIUM

CONTINGENCY PLANNING FOR AN ENERGY EMERGENCY

A sense of urgency permeated a meeting of 60 of the nation's leading academicians and industrialists concerned with energy problems, convened June 16-18 at Stanford University. Entitled "Contingency Planning for an Energy Emergency", the colloquium dealt with the consequences of a sudden cut-off of oil from the Persian Gulf.

The prolonged interruption of oil supplies from the Gulf by any one of a number of scenarios (for example: revolution or Soviet expansionism) is a real possibility. There was nearly unanimous agreement that the economy of the United States and of its allies would be in jeopardy if this occurred, and that immediate programs to reduce this vulnerability should be instituted.

The colloquium was sponsored by Scientists and Engineers for Secure Energy and by the Hoover Institution. The participants considered how the energy requirements of the United States could be met if the contingency occurred. The physical limits of a national response covering a period of five years from the cut-off were investigated. Topics discussed included: emergency conservation measures; possible expansion of oil supplied from alternate sources; substitution, when possible, of gas, coal and electricity for oil; effects on electric power generation; rationing and other forms of allocation; economic effects and changes in life style; and advance preparations to reduce our vulnerability.

The colloquium findings are:

The initial situation faced by the industrial democracies after a complete cut-off (which is a limiting case of more probable partial cut-offs) would be a short-fall of about 45 percent of their oil supplies, or 16 million barrels/day. According to the existing oil-sharing agreements between the U.S. and the other members of the International Energy Agency, the short-fall would be distributed as follows:

U.S. oil supply would be reduced about 35 percent, by 6 million barrels/day,

Oil supply of our allies would be reduced about 55 percent, by 10 million barrels/day.

As a result, in the United States a Mideast cut-off would:

Cause the transportation system to be greatly disrupted. Private automobile use would be reduced about 50 percent, and other vehicle transportation would be cut about 30 percent;

Cause massive additional unemployment of over 8 million workers, and reduce annual disposable income by over $3,000 per household;

Impair our ability to mobilize effectively to defend ourselves, and imperil the security of the free world;

Lower the Gross National Product by $350-650 billion per year (about 15 to 25 percent).

Further,

Depending on the timing of the cut-off and the region of the country, one could expect the closing off of some housing space, or abandonment of some types of housing which the users might not be able to heat; accelerated movement of people to a warmer climate; relocation of people closer to their places of work; and perhaps even dormitory housing for younger workers near industrial enterprises (as occurred, for example, at Oak Ridge during World War II).

Shopping habits would undergo dramatic changes, and recreational and cultural activities would be greatly curtailed.

In the five years subsequent to an oil cut-off, assuming only present technologies could be effective on a large-scale, replacement of the U.S. oil supply deficit by determined expansion of domestic and other foreign oil supplies, and by substitution of other fuels, would be substantial but still only partial (40-60 percent).

To avoid the vulnerability of our society to these consequences, participants recommended a number of measures. While further measures may be necessary or advisable, there was general agreement that the following should be adopted:

1. The security of the United States requires the implementation of an aggressive program to increase both energy production and the more efficient use of oil. The object of this program should be to reduce vulnerability to loss of imported oil as quickly as possible. Examples of opportunities for increased sources of energy supply are: coal, gas, nuclear power, biomass, and on a longer time scale, shale oil. As was proven during World War II, high level policy organization is an absolute prerequisite for organizing and implementing an effective program.

2. Rapid decontrol of oil and gas prices and abolition of entitlements are the most important ways of providing needed incentives to displace oil imports by inducing real conservation and increasing supply. Equity

concerns, such as undue burdens on people with low incomes, should be dealt with by income transfers rather than by manipulating prices or by allocations.

3. Environmental laws should be administered and perhaps amended to encourage energy production as well as to protect the environment, thus reducing the danger that curtailments caused by an oil cut-off will harm the health and welfare of the American people.

4. Licensing for operation of completed nuclear plants should be expedited in order that plants may be put in production immediately. Partially completed power plants (both coal and nuclear) should be completed on an accelerated schedule. Unnecessary regulatory impediments to other energy facilities (such as pipe-lines, port facilities and drilling platforms) should be removed.

5. Oil for non-transportation uses should be replaced by natural gas and coal- and nuclear-generated electricity as soon as possible. Limitations on production and use of natural gas and electricity should be reduced to permit price competition to determine their relative market shares. Electric utility rates should more nearly reflect the marginal costs of new power plants.

6. The energy industries should with government encouragement jointly prepare emergency plans against an oil cut-off. Among other measures, acquiring spare production and storage capacity should be encouraged.

7. The automotive industries should be encouraged to increase their efforts to produce more fuel efficient automobiles, including electrical and hybrid vehicles.

8. Contingency plans should be made to curtail energy consumption, and to suspend temporarily some procedural requirements and environmental standards, in the event of an oil cut-off. Wide public discussion of these plans at the community and the factory levels should be inaugurated.

9. In addition to our present commercial operational oil reserve (about 30-40 days of total imports), we should begin to fill the Strategic Petroleum Reserve at a rate of 300,000 bbl/day. Note that at a rate of 100,000 bbl/day, it would take 20 years to accumulate an amount of oil which would cover the maximum projected deficit (6 million bbl/day) for four months. To the extent possible, the SPR fill should be achieved by reduction of current oil consumption according to the preceding recommendations.

10. Since the use of oil in Western Europe and Japan for generating electricity is about 3 million barrels per day, it is in our mutual interest to reduce their vulnerability by encouraging and assisting their conversion to nuclear energy and coal.

Implementing the foregoing recommendations would, as time passes, progressively reduce the severity of the initial shock of an oil cut-off and the duration of the recovery period.

The undersigned participants subscribe to the general sense of the above statement as individuals (affiliation for identification only):

Signatories as of July 24, 1980:

Robert K. Adair, Yale University; Donald G. Allen, New England Electric Co. (retired); Hans A. Bethe, Cornell University; Elliot Bloom, Stanford Linear Accelerator Center; Harvey Brooks, Harvard University; Arthur M. Bueche, General Electric Co.; Toby Burnett, Westinghouse Electric Corp.; Peter Camp, General Electric Co.; Roger S. Carlsmith, Oak Ridge National Laboratory; Karl Cohen, Stanford University; Thomas Connolly, Stanford University; Gordon R. Corey, Commonwealth Edison Co. (retired); W. Kenneth Davis, Bechtel Power Corp.; R. Leslie Dugan, SE$_2$; Lloyd E. Elkins, Petroleum Consultant, Tulsa, Okla.; Robert Erdmann, Science Applications, Inc.; Gary J. Feldman, Stanford Linear Accelerator Center; John S. Foster, Jr., TRW, Inc.; Michehl R. Gent, National Electric Reliability Council; Tsahi Gozani, Science Applications, Inc. Elmer E. Hall, Pacific Gas & Electric Co.; Carl E. Hedeen, General Motors Corp. (retired); Carolyn Meinel Henson, L5 Society; Frederick A. L. Holloway, Treasurer, National Academy of Engineering; Richard J. Kessler, Center for Strategic and International Studies; George Marotta, Hoover Institution; Sullivan S. Marsden, Jr., Stanford University; John McCarthy, Stanford University; Robert R. Nathan, Consulting Economist, Washington, D.C.; Kenneth D. Nichols, U.S. Army (retired); W. E. Parkins, Rockwell International; Norman Parlee, Stanford University; S. S. Penner, University of California at San Diego; Robert B. Richards, General Electric Co.; Larry E. Ruff, Brookhaven National Laboratory; Andrew Safir, Business & Transportation Agency, State of California; Benjamin Schlesinger, American Gas Association; Hermah E. Schroeder, E I. DuPont de Nemours & Co. (retired); Paul Seabury, University of California at Berkeley; Frederick Seitz, Rockefeller University; Rudolf Sher, Stanford University; George P. Shultz, The Bechtel Group; Chauncey Starr, Electric Power Research Institute; John S. Taylor, Westinghouse Corp.; Edward Teller, Hoover Institution; Miro M. Todorovich, City University of New York; Robert K. Whitford, Purdue University; Eugene P. Wigner, Princeton University; Bertram Wolfe, General Electric Co.; Charles A. Zraket, The Mitre Corp.●

APPROPRIATION FOR THE CONSUMER PRODUCT SAFETY COMMISSION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. MICHEL. Mr. Speaker, the debate on the appropriation for the Consumer Product Safety Commission creates an opportunity to discuss a very serious situation created by overzealousness at the CPSC.

In 1978, Congress adopted the Emergency Interim Consumer Product Safety Act. Responding to requests from both consumers and industry, that law required the Consumer Product Safety Commission to adopt a standard for cellulose insulation based on current GSA specifications.

Cellulose insulation is a leading method of achieving residential energy conservation. It is manufactured by many small businesses across the country. If these factories go out of business, it will mean more unemployment, and less inexpensive and readily available insulation for home energy conservation.

It was the intent of Congress that establishing a standard would provide stability and safety assurance to purchasers of cellulose insulation, which is a very important part of our national energy conservation effort.

But that is not the way things have worked out. CPSC has ignored the congressional mandate to rely on the GSA standards, and has adopted rather different tests and procedures. Simply put, those tests and procedures are totally unreliable, wildly variable, and incapable of distinguishing complying insulation from noncomplying insulation. For example—

(1) After CPSC changed standards, the failure rate on one portion of the test fell to less than one-tenth of the previous level.

(2) The failure rate on another portion of the text rose to triple the previous level.

(3) Manufacturers whose product had passed independent tests by well known and highly reputable private laboratories, such as Underwriters Laboratories, Factory Mutual and others, found that CPSC tests of the same material were declaring them to be not in compliance.

(4) A series of tests supervised by the National Bureau of Standards found that in only three cases out of seven could laboratories agree on whether a sample would pass or fail on the CPSC tests.

Under these circumstances, CPSC has so far refused to take any action to resolve the scientific discrepancies in their procedures, or to withhold punitive enforcement actions until these problems can be resolved. It seems to me that a worthwhile congressional initiative is again being subverted by a bureaucracy gone wild.

CPSC's tests are not in controversy in a lawsuit in Indianapolis on the validity, accuracy and reproducibility of its cellulose insulation tests. The U.S. Federal district judge denied the Government's motion for an expedited hearing on its motion for a preliminary injunction, but the CPSC went hunting elsewhere and on June 25, filed for seizure of 25,500 bags of cellulose insulation manufactured by Pal-O-Pak.

Like many others in the industry, Pal-O-Pak had passing test results from independent laboratories, including Certified Testing Laboratory of Dalton, Ga., accredited by NAVLAB, but had flunked certain of CPSC's tests.

This action seems to indicate that CPSC is not interested in resolving the problems that exist but rather is interested only in putting additional notches in its enforcement gun. Over 100 similar small businesses are in jeopardy of having the same type of action taken against them.

I have some familiarity with this company and others in the cellulose industry, and I am convinced that they want to work out fair, equitable, and reproducible tests, in cooperation with CPSC. No one gains when CPSC continues to use tests with a very wide inherent variation. In recent years, we in Congress have repeatedly become entangled with the affairs of regulatory agencies because of their failure to behave in a reasonable manner. Several of us have considered attempting to place specific restrictions on CPSC over this matter, but have decided to see what can be accomplished through negotiation. I certainly hope CPSC will take this as an indication of congressional interest in a fair and workable standard, not as a blank check for anything they may devise. The statements by CPSC, the industry, and Congress all are in accord. I trust that CPSC will use the funds we are appropriating today to transform this lipservice into a working reality.●

H.R. 4175

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. SOLARZ. Mr. Speaker, my good and longtime friend, Mr. Max L. Kamiel, is the commander in chief of Long Island Scottish Rite Northern Masonic Jurisdiction, and the president of New York State Masonic Medical Research Laboratory.

These two groups are just part of a larger network of Masonic fraternities which spend over $1 million a day in charitable works. Fraternal organizations, such as the Masons, have demonstrated a strong commitment to a better society by contributing large sums of money to a variety of worthwhile charities. They do so out of a selfless sense of purpose and devotion to their fellow man.

Unfortunately, the high costs of improving and maintaining their facilities threatens their ability to continue to provide this high level of philanthropic service to our society. A bill has been introduced, H.R. 4175, which would permit tax deductions as a means for reducing their building costs and thus allow them to continue to make important and sizable contributions.

Mr. Speaker, I would like to call to the attention of my colleagues, in this regard, the following statement, by Mr. Max Kamiel, in support of his testimony given during the Subcommittee on Select Revenue Measures' hearings on this proposed piece of legislation.

STATEMENT BY MAX L. KAMIEL

Honorable sirs, I think it is appropriate that I expand on my brief statement before the Subcommittee on Select Revenue Measures, June 19th, 1980.

My comments are to be considered as an expression of my opinion as a conscientious citizen, experienced accountant, as well as a loyal Mason, and under these circumstances I am concerned with fiscal responsibility, broad general welfare as well as the future of the fraternal Lodge system.

I am sure that it is not the intent of Congress to demoralize the large numbers of Americans who are intimately involved with the tradition of fraternal organizations, nor does the government wish to threaten the existence of long-standing charities, rather it should be of national concern to stimulate and support those organizations which bring Americans together for high moral purpose. As a matter of fact, the latter is one of the greatest responsibilities of Congress. I simply wish to point out how vital this legislation is to our joint and mutual efforts.

The sad fact is that for the first time in our history we show a decline in membership—directly relating to the general economy, at precisely the moment when our charitable dollar buys less, we are facing a diminution of member donors simultaneously, our lodge buildings are aging in a decrepit condition. We cannot be expected to attract new members—therefore too much of our effort would have to be applied to raising funds for restoration and renovation—rather than for charities. The net loss to society is embarrassing and painful.

When one considers the important discoveries such as the Salk vaccine, which have been financed by contribution rather than public grant, one begins to understand to what degree organized charity is part of our American heritage. It must be preserved, particularly if it results in long term benefit and economy. Much is made of the revenue consequences of H.R. 4175 bill; it is simply stated that five to ten million dollars a year will be lost to the teasury; neglected is the implication that many fold this amount will be jeopardized if the fraternal system fails for lack of tax relief.

The Masonic fraternity alone can document that it spends well over one million dollars a day in charities, exclusive of other fraternities and orders. The arithmetic should speak for itself. The work sponsored by fraternal welfare funds cannot be discontinued and will require government financing. If the funds are not to be forthcoming, the blind, deaf, sick, lame, emotionally disturbed shall be the sufferers.

I am particularly acquainted with the situation here in New York State as the enclosed New York State Senate Resolution honoring the Masonic Medical Research Laboratory attests. We have for twenty years productively engaged in research into such areas a "cardiac arrythmias, blood, gerontology, cancer, vision and muscular dystrophy". Our childrens' camps cater to deprived and crippled kids, regardless of race or religion. It is interesting to note that the democratic manner of selection process has resulted in over 90 percent of the campers not being affiliated with a Masonic member.

The future effect on crime and violence may well ridicule the small sum saved by the extinction of the camps. Organizations such as Catholic Youth, Shriners Hospitals, Research Centers, are all completely supported by our National Masonic fraternity and its sister organizations, the order of Mystic Shrine, Scottish Rite etc. Viability of our organization depends on constantly upgrading and improving our facilities. If we are to generate the massive sums we are now spending in our charities, we are forced to make capital improvements. Most of our facilities are sixty and seventy years old, in correspondingly aging neighborhoods. Renovation in these cases would be less judicious than removal. Tax exemption in such cases is a principle in business, and we simply request similar courtesy.

Instead of protecting commercial profit, we humbly request that the Congress assures the flow of welfare that is derived from fraternal sources. To do this it is necessary to sustain the meeting places where fraternities assemble.

I hope the foregoing will elucidate the problem and convince you of the worthiness of a favorable action on H.R. 4175.●

VETERANS' ADMINISTRATION MEDICAL CENTER IN RENO, NEV.

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. SANTINI. Mr. Speaker, I rise to introduce legislation which would rename the Veterans' Administration Medical Center, located in Reno, Nev., as the Ioannis A. Lougaris Veterans' Administration Medical Center.

For over 40 years, Mr. Lougaris has worked on behalf of the veterans in Nevada. He was instrumental in making the medical center in Reno a reality. In fact, on January 23, 1976, the Veterans' Hospital in Reno presented Mr. Lougaris an accommodation acknowledging that the veterans' facility in Reno stands as a tribute to his dedicated services. Thus, it is only fitting that the Veterans' Administration in Reno bear his name.

I urge the House to act swiftly on this measure, which will make the VA Medical Center a living tribute to this fine, dedicated American. Thank you.

NEW YORK STATE EDUCATION DEPARTMENT FORGES PARTNERSHIP ON BEHALF OF WORKING ADULTS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. BIAGGI. Mr. Speaker, I would like to bring to the attention of my colleagues a program which has been developed between the New York State Education Department and Xerox Corp. For the first time anywhere, workers of a major American corporation will be able to earn college credits and ultimately, a college degree through the regents external degree program and Xerox.

As New York's ranking member of the House Education and Labor Committee, and a cosponsor of all our major higher education initiatives, including the Higher Education Act which provides the bulk of Federal aid to students in institutions of higher learning, I am pleased to see my own State education department involved in this type of program. During the reauthorization of the higher education this year, we were particularly concerned with the nontraditional student and have taken several major initiatives to address their special problems.

This joint program is an excellent example of the kind of partnership which we in the Federal Government should encourage in private industry. While I have always been a strong advocate for adequate funding for our higher education programs, during these times of economic austerity, we must find new and innovative methods for providing increased educational opportunities to those who have been traditionally underserved by the educational community.

I commend to my colleagues attention the following article and encourage you to look at your own State education department activities in this area.

The article follows:

REGENTS AND XEROX CORP. COOPERATE TO AWARD DEGREES

New York State Commissioner of Education Gordon M. Ambach and Xerox Corporation Vice President Martin F. Mayer announced today the establishment of an innovative employee education program. In this first major cooperative plan with industry, Xerox employees will be able to use company training and prior education toward any of the eight college degrees awarded by the Regents External Degree Program (REX).

Commissioner Ambach, in announcing the arrangement, spoke of the Education Department's goal of improving the State's economy by fostering cooperation between the academic community and business and industry. "Education in New York State must serve working adults who have an expanding desire for more education and a need to have their study recognized through college credits, " Ambach said. "We welcome the partnership of one of our State's major industries, Xerox, in advancing educational opportunities for its own employees and, thereby, enhancing our State's reputation for a well-qualified research and technical work force."

Approximately fifty Xerox Training programs have been evaluated for college credit by an office of the New York State Board of Regents, the Program on Non-collegiate Sponsored Instruction (PONSI). Courses evaluated by PONSI may be applied toward college degrees.

Regents External Degree students typically combine credits from past or current college courses, military education, and independent study measured through college proficiency examinations. Many of the Program's graduates, typically working adults in their 30's 40's, and 50's, have found the personal satisfaction and the pragmatic benefit of improved earning potential through their Regents External Degrees.

Xerox Vice President Martin F. Mayer, head of National Service for the Information Systems Group, commented that: "Many Xerox employees in our various field locations throughout the United States have been taking college courses for several years and have gained a great deal of knowledge through experience and Xerox courses, but have no degree to show for their effort. The Regents External Degree program will provide a needed alternative method for consolidating their credits into a degree program uniquely suited to their personal situation."

The Regents External Degree staff have prepared written and audio-visual materials to demonstrate how Xerox courses can be integrated with the REX program. The REX staff will also provide administrative instruction to Xerox Personnel Coordinators at the Information Systems Group Headquarters in Rochester, New York, as well as Xerox Region Headquarters in Greenwich, Connecticut; Dallas, Texas; Chicago, Illinois; Santa Ana, California and Washington D.C.

Xerox employees who enroll in REX will join a student body of 20,000 adults around the world. Since there is no residence requirement for either enrollment or graduation, REX candidates may study at their own pace, wherever they live, while they maintain their professional and personal schedules. Degree requirements are established by some 400 faculty members of New York's colleges and universities. The Regents themselves provide no instruction but assess enrollees' academic performance in terms of standards set by the faculty.

Regents External Degrees are awarded by the University of the State of New York, the oldest state educational organization in the nation. The university is governed by the Board of Regents, and the Commissioner of Education serves as its President.

Fully accredited by the Middle States Association Commission on Higher Education, the Regents External Degree Program has graduated more than 11,000 people since its founding in 1970. Its offices are located in the Cultural Education Center of the Nelson A. Rockefeller Empire State Plaza in Albany.●

JUBILEE OF AUSTRIAN STATE TREATY ECLIPSES ETHNIC RIGHTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. STARK. Mr. Speaker, Dr. Vladislav Bevc of Danville, Calif. has brought to my attention the provision of the Austrian State Treaty that guarantees the rights of the Slovenian minority in Carinthia.

It is Dr. Bevc's view that the rights guaranteed are not being protected and that the signatories to the treaty, including the United States, have ignored their treaty obligations to protect these rights.

This is a concern that is not central to U.S. security interests, and one that involves charges against a nonalined, democratic government. It does not generate much interest because relatively few people are involved. When measured against other rights violations that we all know about and deplore, the situation of the Carinthian Slovenians does not seem that bad. But, as Dr. Bevc points out, the United States has treaty rights to intervene, and it is my judgment that the Bevc analysis ought to be responded to and I have written to the Department of State requesting that they do just that.

The Bevc memorandum follows:

JUBILEE OF AUSTRIAN STATE TREATY ECLIPSES ETHNIC RIGHTS

May 15th was the twenty-fifth anniversary of Austria's State Treaty. Austria's State Treaty is important because it represents a charter under which the United States has treaty rights to intervene in support of human rights in a foreign country, an activity which it often pursues in countries where it must rely only on the moral persuasion and the generally recognized Universal Declaration of Human Rights. In this treaty the United States and its Allies guaranteed the human and ethnic rights of the Slovenian national minority in Carinthia, a province of Austria, rather than satisfy Yugoslavia's claim to the Carinthian territory. The existence of the Slovenians in Carinthia has historically been threatened because they were an obstacle to German expansion to the shores of the Adriatic. The annihilation of Carinthian Slovenians ranked among the top priorities of the Nazis. The 60,000 Slovenians who survived the Third Reich are the present-day minority in Carinthia.

The Treaty guaranteed to the Slovenians in Austria the right to their own national organizations, press and meetings in their own language, participation on equal terms in public life and government, elementary and secondary schools in their own language as well as use of Slovenian in courts and administrative proceedings in Carinthia, topographic names on road signs in the Slovenian language, and prohibition of organizations such as the Carinthian Heimatbund, whose goal it is to deprive the Slovenians of their national character and ethnic and human rights.

As soon as the Allied forces were gone from Austria the Austrian government severely restricted the Slovenian language instruction and its use. The Slovenians in Carinthia have been exposed to incredible political and economic pressure with the objective to divest them of their national character. The Treaty guarantees never were implemented. In 1976, twenty years after the treaty was signed, the Austrian government unilaterally declared that the ethnic rights provisions applied only on that part of the Carinthian territory where a census conducted by German officialdom found the Slovenians to constitute at least 25 percent of the total population. This reduced the territory specified in the Treaty to less than one-third.

Protests conveyed to the government of the United States as one of the signatories of the Treaty whose President declared human rights to be a cornerstone of his foreign policy have fallen on deaf ears and documentation supporting such protests has regularly been disappearing from the records of the Department of State. The chairman of the Congressional Commission on Security and Cooperation in Europe feels that the United States has no obligation under the Treaty to bring the matter before the Four Powers, as the Treaty provides, and that the Slovenians in Austria should somehow be protected by Yugoslavia because of their ethnic affinity to her peoples. A policy of this kind tends to drive the members of the minority into the camp of irredentists instead of ensuring their acceptance as equals in a country of which they are citizens.

In twenty-five years after the Treaty was signed the United States never publicly stated that it expects Austria to observe the Treaty provisions on minorities. The Department of State says it uses private channels to convey its views to Austria on this subject. What these views are can only be concluded from the fact that Austria would not dare to unilaterally revise the treaty in absence of assurances that such revision would be countenanced by the United States. Documents released under the Freedom of Information Act indicate that this may be the case although the government is still holding back on five critical documents in which it made its position known to Austria.

In 1975, in the midst of escalating diplomatic exchanges an impromptu meeting was held between Tito and Austrian Chancellor Kreisky whereupon the Central Intelligence Agency was able to report that "the year end smiled on Austro-Yugoslav relations." Shortly after the meeting Austria enacted its Ethnic Minorities Law which represents a major revision of the Treaty. In 1978, Tito declared that good relations with the governments of the neighboring countries take precedence over any considerations of ethnic minority problems. Tito apparently disposed of the problem in the same way as he did in case of Trieste. Anthony Eden tells in his memoirs that Tito let the British know that he would acquiesce in Trieste being given to Italy if it were made to appear that the solution was imposed by the Western Powers. Indeed, he did some protesting and saber rattling but in the end he accepted some $25 million from the British and the United States and left Trieste to Italy. He might have been similarly influenced in the case of Carinthian Slovenians who are now being advised by his diplomats to conduct a dialogue with the Austrian authorities.

Amidst the happy bustle of festivities in Vienna celebrating the twenty-fifth anniversary of the Treaty the toasts extolling the accomplishments of neutral, western-oriented, democratic Austria cannot possibly be disrupted by asking unpleasant questions about a few thousand Carinthian Slovenians who are inexorably disappearing into the night and fog.●

HARRIS SAYS CURBS ON NATIONAL NOT TIGHT ENOUGH

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. HARRIS. Mr. Speaker, while I am pleased that the FAA has finally implemented coherent operating policies for National and Dulles Airports, the policies do not go far enough to relieve the noise and pollution burden on residents of Old Town, Mount Vernon, and Springfield.

Over 205,000 flights a year now use National, and that is simply too many for the congested flight pattern and population area. Further reductions in National's operations beyond those called for in the policies must be implemented, and more aggressive efforts to promote Dulles and Baltimore-Washington International Airport are needed.

Metrorail service to Dulles is absolutely essential, and I shall continue my work on the House District Committee to obtain it.

Some aspects of the policy are definite improvements. The restrictions on late night operations have been tightened, and no planes whatsoever will take off from National after 10 p.m. in contrast to the current situation which allows takeoffs as late as 11:30 or 11:45.

The implementation of a final growth limit for National—while not as low as I believe it should be—means that the continued facility improvements like the National Airport Metrorail station can relieve congestion both for air passengers and for area residents driving past the airport.

The FAA decision to allow wide-body jets into National beginning January 1, however, is premature. There has been inadequate analysis of safety factors, and the questions raised by several knowledgeable authorities—including the pilots themselves, have not been addressed.

Wide-body jets could provide some noise relief—but safety is and must remain the absolute No. 1 consideration. I believe that the FAA was too hasty in accepting wide-body jets at National.

In addition, I had hoped that after being proved safe, wide bodies would be permitted only with a 2 for 1 reduction of other aircraft to provide real noise relief to Old Town, Mount Vernon, and Springfield.

By allowing wide bodies without further safety analysis, and by not requiring the 2 for 1 reduction, the FAA has erred on two counts.

But overall, the policies represent a great improvement. For the first time ever, National Airport has an operating policy which has the elements of a comprehensive noise reduction program.

I will continue my efforts in Congress to promote Metrorail service to Dulles, and to further reduce traffic at National. The quality of life for the metropolitan area is at stake here, and we must go further to stop the intolerable burden on area residents.●

A TRIBUTE TO FOUR MEMBERS OF THE NEW JERSEY NATIONAL GUARD

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. COURTER. Mr. Speaker, on Sunday, August 17, I had the privilege of participating in an emotional ceremony honoring the memories of four members of the New Jersey Army National Guard.

The men, Capt. William R. Apblett, CWO Robert Goebel, Sp5c Charles Ward and Sp5c Leonard Vellucci, were all killed when their helicopter gunship crashed while on a training exercise at Fort Drum, N.Y. They were members of the 5th Squadron, 117th Cavalry, and the ceremony commemorated the helicopter flight facility at the Picatinny Arsenal, in Dover, N.J., in their honor. The unit uses this facility for its headquarters.

What is important to note is that in an era, where there has been a marked decline in the numbers of Americans coming forth to serve their Nation, these four individuals stand out as shining examples of the best America has had to offer. The sacrifices of these men were in the finest tradition of service by members of the National Guard. They were exemplary models of the citizen-soldier: Dedicated to peace, but ready to defend our Nation and protect it from any domestic or foreign danger. For their dedication, they paid the supreme price, but I know it was not in vain. Their contributions to the security of our country were as important in purpose as any mission performed by our Armed Forces, including the rescue of our hostages from Iran. The principle is the same.

It is my hope that the families of the men who perished will take some comfort that they are not alone in the memories of their loved ones and that the dedication of the flight facility in their honor will continue to be a lasting tribute to them all.

I call on all my colleagues to take note of the activities and sacrifices of our Reserve and National Guard units and the outstanding contributions they make to our communities and national defense and security.●

MR. PRESIDENT STOP ARMING ISRAEL'S ENEMIES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. LENT. Mr. Speaker, we have waited for more than 2 months now for President Carter's response to Saudi Arabia's request for additional equipment to increase the range and attack capability of the 60 F-15 fighter planes the Carter administration mistakenly agreed to sell the Saudis 2 years ago.

At that time, those of us who fought to prevent that sale were given the most solemn assurances by the President and his advisers that the United States would not allow the Saudis to buy equipment to provide the F-15's with an offensive capability. It is past time for the President to live up to that promise.

Instead, however, we get only silence from the White House. I regard that silence as a most ominous indication that the President intends to grant the Saudi request. In fact, a Washington Star report of July 18 quoted a member of the ruling royal family of Saudi Arabia as stating that two high ranking administration officials, Defense Secretary Harold Brown and Security Adviser Zbigniew Brzezinski, made such a commitment in separate meetings with Saudi officials, but planned to delay the announcement until after the November elections. Each day of White House silence lends greater credence to that month-old report.

Mr. Speaker, for the President and his advisers to play politics with this critical foreign policy issue—an issue so vital to peace in the Middle East—is unconscionable. It is a shameful abuse of Presidential powers, and contributes to a further erosion of American prestige and influence abroad.

Even worse, this crass political manipulation of foreign policy increases the danger to Israel—the one strong, loyal, reliable ally the United States has in the Middle East.

This year, President Carter has already weakened the cause of peace in the Middle East with two blunders. He agreed to a major new arms sale to Jordan, and approved the shipment of eight American turbine engines for warships being built for Iraq. Now, it appears, President Carter plans to approve a major increase in the offensive air power of Saudi Arabia.

It is difficult to believe that a President of the United States could be so blind to the danger to American interests in supporting such a buildup of military strength among Israel's enemies. It is a policy of massive stupidity, which could produce a real tragedy for the United States and all of the world, if the Middle East again explodes in warfare.

In the strongest possible terms, I call upon President Carter to reject this course of danger, and refuse Saudi Arabia's request. I call upon the President to provide further military support for Israel to equalize the imbalance created by the tragically flawed decisions to supply more arms to Jordan and Iraq.

The President must take these positive actions for peace in the Middle East, or we all will face the consequences of growing tension and danger is this area so vital to American interests.●

TRIBUTE TO ASSEMBLYMAN JOHN T. KNOX

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. ROYER. Mr. Speaker, on Wednesday, August 20, 1980, the many friends of Assemblyman John T. Knox will gather in Sacramento, Calif., to pay tribute to this outstanding State legislator on the occasion of his retirement after 20 years' public service to the people of the State of California. Of course, it is only fitting that John be so honored, because of the many positive contributions he has made to the California Legislature. The author or coauthor of many important pieces of legislation, Assemblyman Knox has left an indelible impression on the lives of all Californians. I hesitate to cite any particular examples, because to do so is to perhaps omit equally important bills, but some of the more important measures authored by John were the California Environmental Quality Act, the District Reorganization Act, the Corporate Securities Act of 1968, and the Knox-Keene Health Plan Act.

John's bill-writing abilities are only exceeded by his literary skills. A noted author, he has gifted me many times with his learned tomes. I trust that upon his retirement from the assembly, he will devote more of his considerable talents to the creation of many more literary milestones.

An attorney, Assemblyman Knox has contributed much to the legal profession as well. He has been the primary author for State bar legislation for the past 10 years, and was a principal in the recent revision of the nonprofit corporation law. He has also contributed a great deal of his personal time in providing legal representation, at his own expense, to indigents and charitable organizations. While the legislature will suffer from his absence, the legal community welcomes him back to its fold, with open arms, as do the citizens of west Contra Costa County whom he has so ably served.

I therefore request that you, my colleagues, join with me in congratulating John on his many years of successful, stimulating, and productive representation of the people of the 11th assembly district in California, and in wishing him the utmost success in all of his future endeavors.●

RUSSELL CORP.

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. NICHOLS. Mr. Speaker, in the June issue of Textile World, Russell Corp. was highlighted as the Model Mill of the Year. In the article entitled "Russell Fields a Winning Team," the editors of this international textile magazine explain why Russell Corp. is winning in the tough, competitive textile market—good management, good employees, and good luck.

I am privileged to represent the managers, employees, and families of this very outstanding operation. The Russells have been instrumental in manufacturing in Alabama since 1902 and today the company is most ably directed by Eugene Gwaltney, the president who has endeavored to modernize Russell Corp. both from a standpoint of technology and manager-employee relations.

It is my pleasure to salute Russell Corp. as the Model Mill of the Year. It is a deserving award for a hardworking and dedicated Alabama industry.

RUSSELL FIELDS A WINNING TEAM

This year's Model Mill has posted some impressive sales and profits. Commitments to modernization, finance and employees pay record dividends for this vertical firm.

A running back takes the ball on the handoff and churns toward the line. A hole opens and he squirts through. Half a step beyond, a blocked-out lineman makes a desperation lunge and grabs the back's jersey.

There is a fractional hesitation, and the lineman is left with a handful of fabric. The back gains another three or four yards before he is downed in the secondary.

At most textile and apparel companies, such a fabric failure would indicate a problem in quality control. But at Russell Corp., Alexander City, Ala., officials would have a problem if the fabric, in this case, didn't fail. They might also get some angry calls from Coach Bear Bryant at the University of Alabama and other coaches of both amateur and professional teams which buy the company's Tearaway jerseys. Russell's Tearaways are just that: They're supposed to tear.

The Tearaway, because it is a product planned for violent obsolescence, may make the most dramatic, Sunday-supplement example of the difference between Russell and other textile or apparel companies, but it pales in importance when compared with other factors that appear in the company's structure and operations.

Russell is neither a textile company nor an apparel producer. It is both—a rare hybrid of two traditionally separated industries, vertically integrated through spinning, weaving, knitting, dyeing and finishing, garment production and marketing.

The firm manufactures and sells to highly specialized markets (through its athletic area), to both specialized and traditional markets (through its knit apparel function) and to highly styled and volume customers (through its woven fabrics sales). It produces athletic uniforms, knitted lightweight and fleeced sportwear, children's sleepwear and a line of fabrics sold to both retail and to garment cutters. Russell believes—and rightly so—that it is the largest manufacturer of athletic uniforms in the United States.

The company consistently earns a higher return on sales and stockholders' equity than all but a very few concerns in either textiles or apparel. In 1979, net profit on sales amounted to 8.4 percent and return on equity was 22 percent, figures so high as to generate more than slight despair among competitors. In addition, sales volume and profits have risen in every year but one since 1970.

Because of its comparatively small size ($190.6-million sales, 7,000 employees) and operational methods, Russell can move fast to take advantage of market opportunities or make important investment decisions.

President Eugene Gwaltney's unrelenting drive to modernization has kept Russell in the forefront of technology: The company spent $19 million in 1979 and plans to spend $38 million in 1980–81.

Russell is "lucky," repeatedly finding itself in the right place with the right product at the right time. It was already making T-shirts when that boom began. A few years ago it edged into uniforms and sportswear for women. Now, that business is growing rapidly.

MAKING YOUR BREAKS

In fact, when asked what single thing most accounts for Russell's success, Gene Gwaltney answers with one word: "Luck." However, he amplifies that with comments on diversification, capital improvements and flexibility.

"We are a small company," he says, "and we can turn on a dime. Some companies can take six months to a year to decide to spend a half-million dollars. We can get four guys together and we'll spend a million in 25 seconds if we know this is the way to go."

It is worth noting that Russell "luck" frequently results from an astonishing ability to take advantage of circumstances. A good example is the use of wood as fuel for its two steam producing boilers at the Alexander City plants. In the process, the company saves an estimated six-million gallons of fuel oil annually.

The differences between Russell and more traditional, less integrated textiles firms are more striking than the similarities. But similarities do exist, and perhaps the two which are most significant are family control and a strong commitment to responsibility for the health and well-being of employees.

Between them, Russell officers and directors control 43 percent of the company's 5.9-million shares. Board chairman Thomas D. Russell alone controls 18 percent of the stock.

The company was one of the early pioneers in cotton-dust control and recently abandoned a still-serviceable sewing plant in Alexander City to build a new $7.5-million facility for reasons that had as much to do with worker comfort as with increasing productivity.●

HON. PAGE BELCHER

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 18, 1980

● Mr. STEED. Mr. Speaker, it was with deep sadness that I learned of the passing on August 2 of my old friend and colleague, former Congressman Page Belcher, one of Oklahoma's outstanding public servants.

He was an able and reliable Member of the House with whom I was happy to work during his entire 22 years here. Our association was long, warm, and cooperative. Together we participated in all the Federal-level projects that contributed so much to the development and prosperity of Oklahoma during the last three decades. The McClellan-Kerr Arkansas Valley navigation system was the most significant of these, but there were many others. We had many worthwhile experiences that brought practical results.

During the Eisenhower and Nixon administrations we usually had a Republican President and a Democratic Congress. This gave an added significance to the close harmony among other members of our Oklahoma congressional delegation and Page Belcher. It enabled us to have a one-two punch that otherwise would have been imposible. As a result, the State benefited greatly.

Page Belcher was steady as an oak. He served in Congress longer than any other member of his party, 1951 to 1973. He was a good Republican, but he was a better Oklahoman and a better American.

Mrs. Steed and I extend our deepest sympathy to his wife Gladys and their family.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 19, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 20

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings to examine the proposed Federal Trade Commission's rule on mobile home warranty service.
235 Russell Building

9:30 a.m.
Judiciary
To hold hearings on the nominations of Howard E. Sachs, of Missouri, to be U.S. Circuit Judge for the Eighth Circuit, and Richard C. Erwin, to be U.S. District Judge for the Middle District of North Carolina.
2228 Dirksen Building

*Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2082, to exempt nonprofit veterans' and fraternal organizations from the requirement that certain performance royalties be paid to copyright holders.
6226 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider the nominations of Ralph Raikes, of Nebraska, and William D. Wampler, of Virginia, each to be a Member of the Federal Farm Credit Board, Farm Credit Administration.
324 Russell Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 2855, to lift the suspension of grain sales to the Soviet Union; and to review the implementation and effectiveness of the partial export suspension.
5302 Dirksen Building

Budget
Business meeting, to continue consideration of proposed Second Concurrent Resolution revising the Congressional Budget for the Federal Government for fiscal years 1981, 1982, and 1983.
6202 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

Governmental Affairs
To continue hearings on S. 2880, proposed Consultant Reform Act.
3302 Dirksen Building

Rules and Administration
To hold hearings on S. 2, to provide for a review of Government programs every 10 years; and to consider other legislative and administrative business.
301 Russell Building

1:30 p.m.
Conferees
On S. 914, authorizing funds through fiscal year 1983 for public works and economic development programs of the Economic Development Administration.
H-140, Capitol

2:00 p.m.
Appropriations
Transporation Subcommittee
Business meeting, to begin markup of H.R. 7831, appropriating funds for fiscal year 1981 for the Department of Transportation.
1224 Dirksen Building

3:30 p.m.
Conferees
To continue on H.R. 5192, authorizing funds through fiscal year 1984 for higher education programs of the Department of Education.
EF-100, Capitol

AUGUST 21

9:30 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume closed hearings on the Public Integrity Section, Criminal Division, of the Department of Justice.
5110 Dirksen Building

10:00 a.m.
Budget
Business meeting, to continue consideration of proposed Second Concurrent Resolution revising the Congressional Budget for the Federal Government for fiscal years 1981, 1982, and 1983.
6202 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To resume oversight hearings to study the potential impact of international applications of renewable energy resources on the growth of fossil-fuel consumption, the domestic solar industry, and global environmental problems.
3110 Dirksen Building

Finance
Business meeting, to continue markup of proposed legislation to reduce taxes.
2221 Dirksen Building

Foreign Relations
European Affairs Subcommittee
To hold closed hearings on NATO structure and Western Hemisphere security in the 1980's.
S-116, Capitol

Labor and Human Resources
Business meeting, to begin markup of S. 2490, setting minimum requirements and guidelines for the marketing of infant formulas, and consider pending nominations.
4232 Dirksen Building

1:30 p.m.
Conferees
Closed, on S. 2597, authorizing funds for fiscal year 1981 for intelligence activities of the Department of Defense.
H-405, Capitol

3:00 p.m.
Environment and Public Works
Water Resources Subcommittee
Business meeting, to markup a proposed amendment to authorize additional water resources and supply project

studies, and navigation, flood control, beach erosion, and dam safety projects to S. 1641, Water Resources and Development Act (pending on Senate calendar).

4200 Dirksen Building

AUGUST 22

10:00 a.m.

Budget

Business meeting, to continue consideration of proposed Second Concurrent Resolution revising the Congressional Budget for the Federal Government for fiscal years 1981, 1982, and 1983.

6202 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

Business meeting, to continue markup of a proposed amendment to authorize additional water resources and supply project studies, and navigation, flood control, beach erosion, and dam safety projects to S. 1641, Water Resources and Development Act (pending on Senate calendar).

4200 Dirksen Building

Finance

Business meeting, to continue markup of proposed legislation to reduce taxes.

2221 Dirksen Building

Labor and Human Resources

To hold hearings on the nomination of John C. Truesdale, of Maryland, to be a Member of the National Labor Relations Board.

4232 Dirksen Building

AUGUST 25

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on the implementation of airline safety programs.

235 Russell Building

10:00 a.m.

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on S. 2807, and the substance of H.R. 7411, bills designating the United First Parish Church in Quincy, Massachusetts, as the Adams National Historic Site.

3110 Dirksen Building

AUGUST 26

8:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To hold oversight hearings on the socioeconomic effects of nuclear waste sites on nearby rural areas and small communities.

324 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue oversight hearings on the implementation of airline safety programs.

235 Russell Building

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

Labor and Human Resources

To hold oversight hearings to examine the effectiveness of current workers' compensation programs in dealing with occupational disease claims, and to explore alternatives to the present compensation systems (S. 381, 1827, and 2847).

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings on H.R. 7330, authorizing funds for fiscal year 1981 for certain insular areas of the United States; S. 2735, proposed Territorial Assistance Act; and S. 2992, to provide for a review of current energy needs of U.S. trust territories, and to analyze potential applications of sail-assisted technology to reduce energy cost for inter-island transportation.

3110 Dirksen Building

Veterans' Affairs

To hold joint oversight hearings with the Select Committee on Small Business on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

Select on Small Business

To hold joint oversight hearings with the Committee on Veterans' Affairs on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

AUGUST 27

9:00 a.m.

Finance

Health Subcommittee

To hold hearings on S. 2809, to provide for a comprehensive system of noninstitutional long-term care services for the elderly and disabled.

2221 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue oversight hearings on the implementation of airline safety programs.

235 Russell Building

Judiciary

To hold hearings on the nomination of Matt Garcia, of Texas, to be Commissioner of Immigration and Naturalization.

2228 Dirksen Building

Labor and Human Resources

To continue oversight hearings to examine the effectiveness of current workers' compensation programs in dealing with occupational disease claims, and to explore alternatives to the present compensation systems (S. 381, 1827, and 2847).

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

To resume markup of a proposed amendment to authorize additional water resources and supply project studies, and navigation, flood control, beach erosion, and dam safety projects to S. 1641, Water Resources and Development Act (pending on Senate calendar).

4200 Dirksen Building

SEPTEMBER 4

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on the federal regulatory reform policy of the Administrative Law Judge system, focusing on its operation within the agencies and departments under the Committee's jurisdiction.

235 Russell Building

SEPTEMBER 5

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on the federal regulatory reform policy of the Administrative Law Judge system, focusing on its operation within the agencies and departments under the Committee's jurisdiction.

235 Russell Building

SEPTEMBER 9

9:30 a.m.

Transportation Subcommittee

To resume hearings on S. 2913, authorizing funds through fiscal year 1983 for the Federal Aid Highway Program.

4200 Dirksen Building

SEPTEMBER 10

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education For All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

SEPTEMBER 11

9:00 a.m.

Special on Aging

To hold hearing to examine proposals for possible changes to the social security system.

5110 Dirksen Building

10:00 a.m.

Labor and Human Resources

To hold oversight hearings on the implementation of the home energy assistance program.

1432 Dirksen Building

CANCELLATIONS

AUGUST 26

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2952, to provide for a settlement of judgement funds to the Seminole Indian nation by the Indian Claims Commission.

5110 Dirksen Building